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SENATE—*Friday, July 20, 1973*

The Senate met at 9 a.m. and was called to order by Hon. Robert C. Byrd, a Senator from the State of West Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, DD., offered the following prayer:

Our Father God, whose Word teaches us to seek the kingdom of God for God's sake alone, and righteousness for righteousness' sake alone, and has promised that all else shall be added, make the people of this land exemplars of this truth. May we be assured of Thy constant presence illuminating and guiding our work. Teach us to distinguish right from wrong and always to choose the right. When the way is uncertain, speak to our inmost being saying, "This is the way, walk ye in it." At this time of dedication, give us grace to work as instruments of Thy purpose upon the Earth.

We pray in the Redeemer's name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Eastland).

The second assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., July 20, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. Robert C. Byrd, a Senator from the State of West Virginia, to perform the duties of the Chair during my absence.

James O. Eastland,
President pro tempore.

Mr. ROBERT C. BYRD thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, July 19, 1973, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PHONE CALLERS

Mr. SCOTT of Pennsylvania. Mr. President, with tongue firmly lodged in cheek, for fear that in this paranoiac town I may be taken seriously, I would suggest that, hereafter, all anonymous phone callers be required to register under the Lobbying Act. [Laughter.]

WAR POWERS ACT

The PRESIDING OFFICER (Mr. Nelson). Under the previous order, the Senate will now resume the consideration of the unfinished business (S. 440), which the clerk will state.

The legislative clerk read as follows:

S. 440, to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by Congress.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, what is the parliamentary situation? Do I correctly understand that the Eagleton amendment is pending?

The PRESIDING OFFICER. The pending question is on agreeing to amendment No. 364 of the Senator from Missouri (Mr. Eagleton).

Mr. JAVITS. And what is the time on that, Mr. President?

The PRESIDING OFFICER. The time limitation on amendment No. 364 is 1 hour.

Who yields time?

Mr. EAGLETON. Mr. President, I call up my amendment No. 364 and would inquire, is it not the pending business?

The PRESIDING OFFICER. It is the pending business.

Mr. EAGLETON. I thank the Chair.

Mr. President amendment No. 364 is a "housekeeping" type of amendment. In the drafting of S. 440, a typographical error was made on page 5, line 2.

I would ask the Senator from New York (Mr. Javits), as the other principal sponsor of S. 440, if he has had a chance to read amendment No. 364 and does he not agree that this is a clerical mistake?

Mr. JAVITS. Mr. President, I shall speak on my own time, if the Senator from Missouri is agreeable.

Mr. EAGLETON. Yes.

Mr. JAVITS. Mr. President, I yield myself such time as I may require.

The Senator from Missouri is entirely correct. The error is almost self-evident. It occurred in the printing of the bill. It will be noted at the point where the amendment occurs, at the top of page 5, that the words "Armed Forces" should be changed, as the Senator from Missouri has suggested, to "military forces," to have it conform to the body of the text. We appreciate having the error called to our attention, and in this form the amendment should be accepted.

However, since we have time on the amendment, I should like to take a few minutes of that time, before yielding back whatever remains—and I shall not be long—in order to set in frame, as we have had an interrupted debate of this matter, the situation as I see it now.

Let us turn to the primary amendments which will be made in respect of the war powers bill; Senator Eagleton's principal amendment relates to problems involving the CIA and the paramilitary forces.

There will be an amendment by the distinguished chairman of the Committee on Foreign Relations (Mr. Fulbright), respecting deployment. There is a possibility of other amendments aside from these two including possibly a substitute for the whole bill.

There may be other amendments, of course, but those are the primary amendments which have been called to my attention.

I have established this frame of reference for this reason: The war powers bill was passed by the Senate a little more than a year ago by a very heavy vote, 68 to 16. Since that time the bill has been obviously extremely closely scrutinized by many persons having very sharp eyes and very sharp minds. In addition, the Committee on Foreign Relations took the precaution of having another hearing on the war powers bill before actually reporting it to the Senate this time.

This very, very searching scrutiny by commentators, columnists, foreign policy experts, Members of the House and Senate, and academicians, both at home and abroad, have, in my judgment, been a great tribute to the durability of the bill. The fact is that the fundamental structure of the bill has withstood every assault and every scrutiny. This is critically important because the bill is a historic piece of legislation. It represents an effort to define a situation which has not been defined since our Republic was founded. The need to define it now has become unavoidable.

Events in the last two decades have convinced us that it must be defined. Even when we face a situation like that, we hope that very critical problems will not arise which will make us come to a decision.

But the issue of war or peace, the paramount issue of not only our time but of all time, when we face the reality of any difficulty, when American casualties almost exceed the imagination, compels us to come to this decision.

Therefore, I think it should be a matter of very important reassurance to Senators that, notwithstanding the careful scrutiny over such a long period of time—most unusual for any bill—which this bill has received, it has stood the test and stood it well. So well that the other body, which started out a long way from the ideas contained in this bill, has gradually come to the same ideas, albeit in different form, with different methodology, with many deficiencies. But nonetheless the House has come to the same fundamental approach to this very profound problem as is embodied in the Senate war powers bill, as passed last year and as we are again considering it this year.

Mr. President, referring now specifically to what is in essence the coalition which produced this bill before the Senate, that, itself, is testimony to the validity of this thesis, the searching inquiry which has surrounded it and the strength it holds in being presented to the Senate.

Senator STENNIS, the chairman of the Committee on Armed Services, generally considered very staunch in terms of American security—and quite properly so—in his general philosophy encompassing almost any kind of enemy capability which the United States has to face, joined in the original presentation of the bill and has been its constant and diligent supporter. He will, by a statement today which the manager of the bill, Senator MUSKIE, will read, demonstrate his continuing fidelity not only to its concept but also to its language.

It is something which really would be denigrated, so important, is it to our country, if I should say that I am gratified. I think millions of Americans and future generations will be gratified that the chairman of the Armed Services Committee has espoused the single effort which is most likely to control what the Founding Fathers called the "dogs of war."

Senator EAGLETON, though I do not happen to agree with him in his major amendment today—that quite aside, because, again, it does not go to the heart of the bill—has been a masterful partner in the architecture which the bill represents. Again, he has given it a devotion and constancy which I would not wish to denigrate by expressing mere personal appreciation; but it will be appreciated also, in my judgment, by millions of Americans and by generations not yet born, when we have accomplished this historic departure from the past.

Also, Mr. President, I should like to pay my tribute to Senator GOLDWATER, who emerged as probably the principal Senate opponent of the bill, and to others—professors, distinguished men in other callings—who appeared before us to take the bill apart.

I believe in debate; I believe in cross-examination. I consider Senator GOLDWATER one of the really great patriots of our country in terms of its security, and I have admired the fact that not just in words for Senate courtesy, but also in the depth of his feeling, he understood that all of us who advocated the bill—almost two-thirds of the Senate—also had the deepest feeling for the security and the prosperity of our country and peace in the world, but for the survival of American values, beyond everything else, in the decades ahead.

I also pay my tribute to the members of the Committee on Foreign Relations. Senator FULBRIGHT, who has been a constant supporter of the bill—though he differs with some of its details, as he will show by his amendments—has also been a tower of strength to us. Without him, we never could have turned the bill out or moved it to where it is today. Similarly, the majority leader and the minority leader, who are members of the Foreign Relations Committee, have been absolutely invaluable aids in this respect.

Mr. President, I hope Senator EAGLETON will forgive me for saying these things at the beginning instead of the end. These words are always reserved for the end. If the Senator is agreeable, I will yield back the remainder of the time, and we can proceed to his amendment.

Mr. EAGLETON. The Senator from South Dakota has an appointment and would like to speak for 10 minutes on the bill. I am going to yield him 10 minutes of my time, in order to accommodate his schedule, unless there is an objection.

Mr. JAVITS. That is fine. Would the Senator like his amendment adopted first?

Mr. EAGLETON. No. I will yield to the Senator from South Dakota time on the amendment.

Mr. JAVITS. Mr. President, I note that the assistant majority leader, Senator ROBERT C. BYRD, is here, and I wish to pay my tribute to him, too, as a constant, indefatigable cosponsor and supporter and to express my appreciation for his important help in respect to bringing this bill to the position it is in today.

Mr. ROBERT C. BYRD. I thank the Senator for his generous remarks.

Mr. EAGLETON. I yield 12 minutes to the Senator from South Dakota, on the amendment.

Mr. ABOUREZK. I thank the Senator from Missouri for yielding.

Mr. President, for the past 25 years, this Nation has witnessed the dangers of allowing the President a virtually unlimited right to engage in war. The misguided gambols in Cuba and the Dominican Republic, the unpopular agonies of Korea, the shameful struggle in Indochina, stand as grim testament to the dangers of Executive prerogative in matters of war and peace. All of us, therefore, must applaud efforts to reassert the constitutional role of Congress, and to limit the warmaking powers of the President. The efforts which have been expended by the Senate Foreign Relations Committee and individual Senators to achieve this goal have my strong respect and support.

It is, therefore, with reluctance that I find it necessary to register my strong opposition to the provisions of the war powers bill, Senate bill 440. I do so in spite of the fact that I originally agreed to cosponsor this legislation. After careful consideration however, I am now of the belief that this bill will establish a dangerous standard which in fact expands, rather than contracts President's warmaking powers.

The war powers bill establishes a 30-day limit on "undeclared" wars, initiated without congressional approval. The President is empowered to enter into an undeclared war in three very different instances. He may "repel an armed attack upon the United States," a power envisioned by the framers of our Constitution, and with which no one would quarrel. The other two instances are of much more questionable prudence.

The bill would empower the President to repel an armed attack upon Armed Forces of the United States located outside of the continent. This provision would not be deplorable if the Senate exercised its constitutional role in foreign policy and gave consideration and approval to all treaties and commitments made by the United States. This is not currently the case. The President claims the right to make commitments by Executive agreements without the approval, and often without the knowledge of the Senate. He claims the right to place American troops wherever it pleases him. We now have some 2,000 bases or military detachments located in the far corners of this world. By giving the President the power to defend each of them, without congressional consideration of the location and wisdom of their placement, we are simply empowering Presidents to locate troops in such a manner as to provoke attacks to justify Presidential warmaking. This Nation is not ignorant of such practices. The Gulf of Tonkin Resolution resulted from an incident off the coast of North Vietnam which may have been provoked. Indeed it may have been manfactured, in order to justify the bombing of North Vietnam. For Congress to grant the President the right to defend American forces it must first, as Raoul Berger, the noted constitutional historian has so wisely suggested, exercise its constitutional power to insure that such forces are not placed in provocative positions, or used in provocative exercises.

The war powers bill empowers the President to enter into war in order to forestall the "direct and imminent threat of such an attack" on the United States or on American troops abroad. This provision could have been cited by this administration to justify the Cambodian intervention in 1970 and the Laos intervention in 1971, both of which were publicly rationalized as necessary to forestall attacks on American troops. It also could be invoked to sanction a preemptive first strike with nuclear weapons, a capacity which this Nation has refused to renounce. In essence, it constitutes a blank check which will implicate Congress in whatever aggressive war-making a President judges to be necessary.

The dangers of this provision are manifested by our recent experiences in Indochina. Experiences which this bill originally sought to correct for the future, and which caused me to initially applaud the effort to prevent a recurrence of these experiences. Let us look at Cambodia. After thousands of secret B-52 bombing missions for 3 or 4 years, the President, citing "secret" or "classified" reports notified the American people that it was necessary to invade the country to avoid an imminent threat of an attack on American forces in Vietnam. The attack enmeshed this Nation in the defense of a corrupt junta fighting against its own people. This is exactly what occured in 1970. The only difference made by the war powers bill is that, in the future, a President will be able to tell the American public that he has explicit congressional authorization to engage in such an attack, authorization provided by section 3 of this bill. Finally, the war powers bill provides a 30-day limit on Presidential warmaking without congressional approval. Yet it includes a loophole so large, so forgetful of our recent tragic experience as to nullify that provision.

Hostilities can continue without congressional approval beyond the 30-day limit if the President "determines and certifies to the Congress in writing that unavoidable military necessity respecting the safety of the Armed Forces" requires continued fighting to bring about "prompt disengagement." "Prompt disengagement" is exactly what we have witnessed, according to the President, for the past 5 years in Vietnam and Cambodia and Laos. "Prompt disengagement" which has included the dropping of more bombs than at any other time in our history. "Prompt disengagement" which has resulted in attacks against Cambodia and Laos, and the terror bombing of North Vietnam. With this clause the war powers bill not only ignores our recent agonies, but legitimates them, an act which I find unconscionable.

The major shortcoming of this bill, however, is broader than such semantic interpretations. This bill simply abandons the constitutional requirement that no war be entered without prior congressional declaration. It gives to future Presidents the right to claim that Congress has legitimated Executive warmaking. We have witnessed an unconstitutional assertion of power over questions of war and peace by a succession of Presidents. Now in the hope of limiting that assertion, I fear that we will now pass legislation which authorizes much of it. Let me briefly explain.

We should not be misled by Secretary Rogers and other executive spokesmen who suggest that the President now has the constitutional authority to make war. Article I, section 8, clause 11 of the Constitution states that "The Congress shall have power to declare war." James Wilson, the "most learned and profound legal scholar of his generation," and second only to Madison as architect of the Constitution, noted that this power was lodged in Congress so that no "single man (can) involve us in such distress."

The framers of our Constitution feared that rulers tended to make war for reasons of honor, pique, and pride. They sought to make war difficult to enter, because the genius of a democracy was that it was peaceful and peaceloving. Thus, they required that such a momentous decision only be undertaken with the consideration and support of the Congress.

The framers acknowledged only one exception to this rule—the President could use the Armed Forces to repel sudden attacks on the United States. Such attacks threaten the country itself and naturally required immediate response. That was to be the only exception.

We have witnessed and grown frightful accepting of a course of Executive usurpation of this power. The President and his spokesmen claim that his role as Commander in Chief or his inherent power as Chief Executive, provide him with the constitutional right to make war. Yet any constitutional scholar of independence agrees that the framers had no such intention, that neither the grant of Executive power nor the role of Commander in Chief was intended to give the Executive the right to make war unilaterally.

In the end, executive spokesmen must rely on what they claim is a practice of Presidential warmaking—a practice which alters the original distribution of powers in the Constitution. "Adaption by usage"—the administration language is simply a polished label designed to cover the unpalatable claim that the President by his own practice may revise the Constitution and disrupt the division of powers in order to meet his taste or designs.

Administration spokesmen claim that a history of undeclared armed encounters—numbering from 125 to 165—establishes new constitutional authority in the President. These are not strong precedents. A careful analysis by Francis Wormuth, a noted constitutional scholar, shows that 48 had congressional approval, 1 was in self-defense, and 6 were minatory demonstrations, 6 to 8 were clear usurpations.

But the strength of the precedents is irrelevant. To treat such incidents as altering the constitutional allocation of power is to give the President the unilateral right to amend the Constitution. If such a basic alteration in the constitutional scheme is necessary, then let us undertake to achieve it in the manner provided by the Constitution itself—by amendment with submission to the public, and not by unilateral Executive transgression.

This bill, in essence, accepts the administration position, legitimating Presidential warmaking even as it seeks to limit its use. Passage of this legislation will lend congressional authority to Executive war. It will confuse the public, embolden future Presidents, and worst of all, dilute the Constitution. With this bill, Congress puts its imprimatur on the future history of Executive war, and accepts unilateral Executive usurpation as a proper mode of amending the Constitution.

This tendency of Congress to legitimate illegal Executive practices in the hope of limiting them now pervades many of the positive efforts this body is making to limit Presidential power.

For example, most Members of the Senate agree that the Presidential impoundment of over $15 billion is unconstitutional. In many instances, it has represented an item veto, a veto without congressional review. The Constitution gave Congress the power to override Presidential vetoes. Congress was to decide domestic priorities through its power of the purse. Impoundment violates the constitutional schema. To limit this arrogant assertion of Executive license, Members of this body have begun consideration of legislation. Last year, as a first step, we passed a requirement that the President notify us of all impoundments. Immediately, officials of the OMB claimed that such legislation constituted tacit recognition of the legality and constitutionality of impoundment.

The pattern is similar: An Executive usurpation of the powers of Congress under the Constitution; a moderate attempt by Congress in response; and the ensuing claim by Executive spokesmen that such an attempt legitimates the initial usurpation. Moreover, in impoundment as in the Javits bill, Senators have proposed legislation which would authorize impoundments with the proviso that Congress approve them within a given time period. Once again, the Congress would legitimate a clearly unconstitutional Presidential practice in the hope of limiting it.

With such legislation, we are giving away our powers, admitting that the executive branch has a growing monopoly over decisionmaking in this society. As the Roman Senate before us, I fear we will discover that such a course will soon terminate our usefulness, transform us into lobbyists for Executive favors.

If we consider the pending bill seriously we can all predict the result. A President will initiate war in some steamy corner of the world, claiming that an imminent threat to our troops exists. After 30 days he will come to Congress and to the public, and state that American forces are in danger, that we must rally to the flag. There is nothing in the history of this body, or of any legislative body which suggests that we can or would refuse to "support the troops" in a moment like that. That is precisely why the founders of this great Nation provided for a congressional declaration of war prior to its initiation. Moreover, even if Members of this body dared to face down the President, his response would be predictable. With great reluctance and a heavy heart, exercising the powers given him by this bill, he would announce that the fighting must continue to protect the troops in the course of their "prompt disengagement." And in some unknown corner of the world, American men would die, bombs would fall, peasants would be slaughtered, populations uprooted—the President would have his little war, and the Congress would be an accomplice. At such a time, this great body will be known not as prudent, but as incontinent, not as powerful, but as important, not as courageous, but as supine, not as an equal branch of Government, but as an ornament to a warmaking machine we are unwilling to control in spite of public outrage, moral obloquy, and Constitutional mandate. How many years will it be after the passage of this bill? Ten years, five, one year, six months? I strongly urge that we reconsider our course.

I thank the Senator for yielding.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. EAGLETON. I wanted to yield to the Senator from Arizona.

Mr. MUSKIE. To make a brief request?

Mr. EAGLETON. I yield.

Mr. MUSKIE. Mr. President, I ask unanimous consent that James Woolsey, Nancy Bearg, and my legislative assistant, Alan Platt, be allowed the privileges of the floor during the consideration of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I made a similar request for Albert Lakeland, of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, I yield 5 minutes to the Senator from Arizona (Mr. GOLDWATER).

Mr. JAVITS. Mr. President, will the Senator yield to me for 1 minute? If he needs more time, I will yield him 1 minute from my time.

Mr. GOLDWATER. I yield.

Mr. JAVITS. The Senator issued a challenge that we answer 25 points referring to the war powers bill. I have done that and will make available the answers to the Senator from Arizona, and I offer them for the RECORD at this time.

On July 18, 1973, during the war powers debate, Senator GOLDWATER made the following statement:

> I recall the debate last time and the fact that we did not have much time. I am just as disappointed as is the Senator from Colorado in the fact that the Committee on Foreign Relations did not seemingly allow any opposition witnesses. I requested to be heard before the committee, but I was not given a chance to be heard, so I have to be heard on the floor.

Here are the facts:

1. In 1972 the Senate debated the War Powers Act for a total of 11 days. There was no effort made to limit or cut off opposition debate and the bill passed overwhelmingly, 68 to 16.

2. With respect to GOLDWATER's view that "the Committee on Foreign Relations did not seemingly allow any opposition witnesses" in its hearings this year, the fact is, as stated in the hearings: Charles M. Bower, acting legal adviser of the State Department, testified on behalf of the administration in opposition of the bill, as did David Maxwell, a former president of the ABA and member of the State Department Advisory Panel on International Law. Moreover, as indicated on page 53 of the hearing record, the following persons who had indicated opposition to the bill were specifically and personally invited to testify but declined or were unable to do so:

Secretary of State Rogers.
Deputy Secretary Rush.
Prof. Eugene Rostow.
Prof. Arthur Schlesinger, Jr.
Former Secretary of State Dean Rusk.
Former ABA President Eberhard Deutsch.
Former ABA President Charles Rhyne.
Prof. Francis Wormuth.

All of those above were not only personally and individually invited, but each was requested to submit a statement for the record if he were not able to testify in person. Senator DOMINICK submitted a statement for the record, which appears on page 250 of the hearings. Senator GOLDWATER was invited to testify but was necessarily absent in Arizona for the week during which the 2-day hearings took place. At the request of Senator GOLDWATER's office, you personally placed his statement in the record. The statement of Senator GOLDWATER occupies 40 pages of the hearings—from page 116 to page 156.

In addition, it is pertinent to point out that during the course of the Foreign Relations Committee hearings, both in 1971 and 1973, six witnesses appeared in opposition to the war powers bill: Senator GOLDWATER, Prof. John Norton Moore, Secretary of State Rogers, former Under Secretary of State George Ball, Acting Legal Adviser Charles M. Bower and Mr. David Maxwell.

Moreover, extensive critiques of the war powers legislation appear as appendixes in the printed hearings conducted in 1971 and 1973.

Senator GOLDWATER's unanswered "25 Grave, Practical, and Constitutional Problems:"

1. "The bill prevents 'show of force' and other mere deployments of troops or arms."

Comment: It was made absolutely clear during the debate last year and again is made clear in the committee report this year that show-of-force deployments—for example, the movement of the 6th Fleet into the eastern Mediterranean during the 1970 Jordanian crisis—are not restricted by the bill unless and until they involve the Armed Forces in hostilities or in situations where imminent involvement in hostilities is clearly indicated by the circumstances. Should these latter conditions pertain, then, of course, "show of force" would be covered by the bill as that is the entire intention of the bill, which relates to involvement in hostilities.

2. "U.S. Forces cannot be used in defense against any threat which poses a future, rather than immediate, danger to the United States, even if the ultimate safety of the Nation is clearly at stake."

Comment: In fact, under section 3(4) of the bill, the President has ample opportunity to obtain from the Congress specific statutory authority to deal with any legitimate future threat to the security of the United States. However, in the absence of any emergency, which is the situation hypothesized by Senator GOLDWATER, the bill rightly does, of course, require prior congressional authorization pursuant to the Constitution of the United States. In this context, the admonition articulated in 1848 by Abraham Lincoln is, most pertinent and articulate:

> Allow the President to invade a neighboring nation, whenever he shall deem it necessary to repel an invasion, and you will allow him to do so, whenever he may choose to say he deems it necessary for such purpose—and you allow him to make war at pleasure. Study to see if you can fix any limit to his power in this respect . . . If, today, he should choose to say he thinks it necessary to invade Canada, to prevent the British from invading us, how could you stop him? You may say to him, I see no probability of the British invading us but he will say to you be silent; I see it, if you don't.

3. "The bill endangers the entire structure of American mutual security agreements which now stand as the greatest safeguard global peace."

Comment: This generalization is unsupported by fact or compelling argument. The important point is that all of our mutual security treaties contain the provision that its articles are to be carried out "in accordance with Constitutional provisions." In the United States, the "constitutional provisions" with respect to going to war require the approval of both Houses of Congress.

4. "The bill repeals outstanding area resolutions, such as the Middle East Resolution."

Comment: The contrary is clearly stated on pages 23–24 of the committee report, which reads as follows:

> There is a clear precedent for the action anticipated in subsection (4)—the "area resolution." Over the past two decades, the Congress and the President have had considerable experience with area resolutions—some of it good and some quite unsatisfactory. In its mark-up of the war powers bill, the Foreign Relations Committee considered this experience carefully in approving the language of subsection (4). The wording of the final clause of subsection (4) holds the validity of three area resolutions currently on the statute books. These are: the "Formosa Resolution" (H.J. Res. 159 of January 29, 1944); the "Middle East Resolution" (H.J. Res. 117 of March 9, 1957, as amended); and the "Cuban Resolution" (S.J. Res. 230 of October 3, 1962).

5. "The bill blocks U.S. humanitarian relief missions, such as the 1964 joint United States-Belgian rescue operation in the Congo."

Comment: It is not at all clear what Senator GOLDWATER means by "humanitarian relief missions." If such missions involve the Armed Forces of the United States in hostilities or in situations where their imminent involvement is clearly indicated by the circumstances, the war powers bill does indeed and quite properly apply. However, there is, of course, no restriction on humanitarian relief operations per se in this bill, nor, of course, is there any intention of restricting such relief operations which may be appropriate, providing they do not involve the Armed Forces in a war without the approval of Congress.

6. "The bill prohibits any military action by the President designed to defend the overseas economic position of the United States."

Comment: Under section 3(4) the bill provides a procedure for obtainiing congressional authorization for any justified military action in defense of U.S. economic interests, as, if and when concurred in by the Congress. The bill does, of course, prohibit unilateral "gun boat" diplomacy by the President on behalf of U.S. property or interests abroad, as was so often the lamentable practice during the heyday of 19th century imperialism in Europe—and even emulated by American Presidents in the latter part of that century.

7. "The bill prohibits U.S. personnel in the NATO integrated commands from exercising any functions—any functions—during a crisis."

Comment: Section 9 of the bill (page 9, lines 7–15) clearly provides to the contrary. This is additionally made unmistakably clear on page 31 of the committee report.

8. "The bill may trigger World War III by causing foreign adversaries to believe the United States will not respond to threats to world peace, because of legislative restrictions."

Comment: The credibility of U.S. actions in the world require a united home front which can only be achieved when the Congress is joined with the President in decisionmaking and in support of basic U.S. international security policy.

9. "The bill compels a vote by Congress shortly after each crisis occurs and might precipitate a legislative reaction far more dangerous than the response the President has chosen."

Comment: I reject the fundamental premise of this charge—that is, that the Congress is less responsible than the President. I believe that the last 10 years at least has been to the contrary. Moreover, there is nothing in the bill which compels Congress to vote at the peak of a crisis. In emergency situations, the President has 30 days to act without specific statutory authorization. The choice of this long a period is designed precisely to allow Congress to consider each situation thoroughly and dispassionately—in contrast to the experience of Congress with respect to the Tonkin Gulf Resolution. Moreover, the provisions of S. 440 are flexible enough to enable the Congress to decide by majority vote just how it wishes to dispose of each issue—allowing full flexibility to restrain from untimely votes, such as hypothesized by Senator GOLDWATER.

10. "The bill uses three totally different and unexplained terms to describe the nature of the threat which must exist before the President can respond to foreign dangers."

Comment: Section 2 of the bill is a negative statement of "purpose and policy." It is not the operative section of the bill. Therefore, the terminology is not statutory controlling. For statutory purposes the terminology of section 3 is controlling over the slightly varient terminology of section 2, the "purpose and policy" statement. So far as the slightly divergent terminology of the initial paragraph of section 3, as compared with the language of sections 1 and 2 is concerned, there is no difference in meaning or intent. The charge is thus a distinction without a difference.

11. "The 30-day limit of the bill, after which troops cannot be used, even in emergency situations, is unrealistic and dangerous."

Comment: The characterization of section 5 as "unrealistic and dangerous" is purely a subjective judgment. It is not a conclusion that was reached by the overwhelming majority of the Senate, which approved the War Powers Act by a vote of 68 to 16 on April 13, 1972. In point of fact, the sponsors of the legislation believe that it is more unrealistic and more dangerous to allow the President unilaterally to make war without restraints without obtaining the concurrence of the Congress and thus the acquiescence of the American people. The tragedy of our Nation in the undeclared, Presidential war in Indochina which has lasted already for a full decade demonstrates the greater dangers to our Nation and its security of unrestrained Presidential warmaking.

12. "The President could not protect U.S. fishing vessels against attack in territorial waters claimed by another nation."

Comment: Any decision to provide armed naval escort to U.S. fishing vessels certainly ought to require the prior statutory approval of the Congress. Disputed fishing beds are well-known and there would be ample opportunity to obtain a joint Presidential-congressional decision to intervene militarily in a fishing dispute. Certainly the very gradual buildup over a period of years of the British-Icelandic dispute indicates that these are matters which can be considered judiciously in advance rather than on an emergency basis.

13. "The bill provides no authority for immediate action designed to rescue U.S. citizens hijacked on an aircraft flying through international airspace."

Comment: It is difficult to envisage a rescue being attempted in midair. Hijacked aircraft must land, at which point rescue efforts could be undertaken under the provisions of section 3(3). Nonetheless, midair rescues could, of course, be made without restraint by S. 404.

14. "The President lacks any authority under the bill for the protection of U.S. citizens on vessels within international straits."

Comment: It is amply clear from the legislative history of the bill that any good faith reading of the term "high seas" would be within the ambit of S. 440. As used in S. 440, the words "high seas" are used to distinguish international waters from territorial waters as recognized by the United States in accordance with pertinent international agreements. If upon enactment of this legislation a serious ambiguity persists in the judgment of the executive branch, necessary authorization can be requested and obtained under section 3(4) of the bill.

15. "The 30-day time restriction on emergency military actions might pressure a President to go all out by resorting to total war during the short period of time allowed him."

Comment: This charge persumes bad judgment and irresponsibility on the part of the President. The bill assumes good faith and a sense of high responsibility on the part of the President, as well as upon the part of the Congress in guarding the security interests of our Nation. In the opinion of the authors of the bill, it is not feasible or possible to legislate on the basis of presumed bad faith, or irresponsibility on the part of the President.

16. "The bill attempts to do what the Founding Fathers felt they were not wise enough to do, anticipate the unlimited and unexpected variations of future events when defensive measures may be needed."

Comment: The implication of this charge is that total and unfetterd advance authority must be given to the President to wage war at his sole and total discretion. The Constitution of the United States clearly rejects any such working premise, as does S. 440. One cannot legislate on the basis of hypothetical unknowns. Rather, one must legislate on the basis of known factors and situation and hard experience. S. 440 is based upon actual historical experience in contrast to future, unknown, unidentified hypotheses. The authors of the bill believe that this is the correct legislative approach and entails far fewer dangers to our national security.

17. "The Declaration of War clause is an outmoded and invalid basis for passing legislation which prevents Presidential defensive reactions against foreign dangers."

Comment: S. 440 specifically and explicitly deals with situations arising "in the advance of a declaration of war by Congress." Moreover, the constitutional underpinnings of S. 440 go beyond the exclusive constitutional authority of Congress to declare war. Article I, section 8 enumerates other plenipotentiary war powers to the Congress, including the "necessary and proper" clause, the authority "to make rules for the Government and regulation of the land and naval forces" and to "provide for the common defense."

Senator GOLDWATER's view of the intention of the drafters of the Constitution, as shown by his statement: "The Founding Fathers very wisely gave the power to go to war to the President and the power to declare war—which means not much—to the Congress," is just not mine nor do I believe it is that of the sponsors or a great majority of the Senate.

18. "The bill erroneously assumes that the power 'to declare war' means the same thing as the sole power 'to make war'—which, I just explained, it does not."

Comment: S. 440 does not assume that the power to declare war is the same thing as the power to make war. As is well known, the initial draft of the Constitution gave the exclusive power "to make war"—this phrase being retained unchanged as it appears in the Articles of Confederation—to the Congress. On August 17, 1787, during the final revision of the text of the Constitution, James Madison and Eldredge Gary "moved to insert 'declare,' strike out 'make' war; leaving to the Executive the power to repel sudden attacks." This quotation is from Madison's notes on the Constitutional Convention. S. 440 follows very strictly the letter and spirit of the Constitution with respect to the relationship of declaring war and to making war, as intended, proposed and explained by James Madison, the author of this drafting change.

It is significant to note further that S. 440 deals with situations wherein there is no congressional declaration of war, thus clearly contemplating situations in which there is war in the absence of a congressional declaration of war. The purpose of S. 440 is to restore the intended authority of Congress to "decide on war" in view of the modern practice of Presidents who do not request declarations of war from the Congress.

19. "The Necessary and Proper Clause does not give Congress power to define and restrict the constitutional functions of the President."

Comment: The authors of the bill believe that the "necessary and proper" clause of the Constitution gives Congress exactly the power which is defined in that clause:

> To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

S. 440 is a wholly constitutional and proper exercise of the "necessary and proper" clause. In testimony before the Senate Foreign Relations Committee leading constitutional authorities of our Nation have affirmed the constitutionality of S. 440, including specifically the appropriations and constitutionality of its use of the "necessary and proper" clause.

20. "There is not a single statutory precedent for war powers controls covering unnamed geographic areas and unforeseen situations."

Comment: It is not at all unusual for Congress to initiate legislation which has no specific statutory precedent, as the need for such legislation arises in our Nation's history. Therefore, the absence of a specific statutory precedent would not be any more significant with respect to S. 440 than was the case respecting legislation establishing the Department of Atomic Energy, for instance. In point of fact, however, very interesting statutory precedents dating back to the earliest days of our Republic do exist; for example, statute 1 of May 2, 1792, and statute 2 of February 28, 1975, both of which contain provisions and concepts remarkably parallel to S. 440.

21. "Historical usage has conclusively established the constitutional basis of Presidential defensive reactions against foreign dangers on his own authority and initiative."

Comment: Section 3 of S. 440 specifically deals with emergency defensive actions by the President in the absence of prior congressional authorization.

22. "It is an historical mistake of monumental proportions to assume the war powers bill would stop future Vietnams, when under its terms it would not have prevented Vietnam itself."

Comment: This is an expression of opinion which the sponsors of S. 440 do not share. In view of the Senate vote of 1972 on the War Powers Act, it is an opinion that is not widely shared by the Senate as a whole.

23. "The bill creates a dangerous uncertainty for the country in time of crisis by denying to the President any judgment and discretion of his own to determine if an emergency exists which authorizes use of military force."

Comment: Section 3(4) as explained in some length in the committee report provides a means through which the President and the Congress can fashion any degree of flexibility, discretion and judgment which they jointly think necessary and proper in defense of our Nation's security.

24. "S. 440 will incite one of the gravest constitutional crises in American history without a means of resolution, because the Supreme Court treats the use of troops as a political question not subject to judicial decision."

Comment: Our Nation already is in the midst of a grave constitutional crisis with respect to the exercise of our Nation's war powers. S. 440 in fact provides a wholly responsible way out of the constitutional crisis which already exists.

25. "S. 440 ignores the true purpose of the Founding Fathers to prevent a recurrence of the interference with military operations which Washington experienced with the Continental Congress."

Comment: As almost all constitutional historians have pointed out the principal purpose of the Founding Fathers in drafting the war powers provisions of the Constitution was to prevent a concentration of "monarchial" powers over war in the hands of the Executive. Many quotations in this regard have been cited during the Senate debate, and are contained in the hearings and referred to in the committee report.

Mr. GOLDWATER. Mr. President, I thank the Senator from Missouri for yielding to me.

Before I make my remarks, I want to thank the Senator from New York for his very kind remarks about me. I appreciate them and I want him to know that the whole experience has been an enjoyable one. There has been no open fighting about it. He and I disagree as to whether this question should be approached by legislation or by a constitutional amendment. I think that is very fundamental. I do think, however, this discussion—I would not call it a debate, because that would be stretching it too far, but this discussion—on the floor will, I think, if the American people will follow it and the press will follow it and if we can get people talking about it, lead to some attempt to amend the Constitution—not necessarily to take away war powers from the President, but to put more control on them. In that case I would probably vote against such an amendment, but I believe it is the proper approach.

Mr. President, I have made two speeches on this subject. I am not going to be able to be here during the vote because I have to go west because of illness in my family.

THE PRESIDENT'S CONSTITUTIONAL WAR POWERS

Mr. President, the sponsors of S. 440 have asked during the debate for proponents of the bill to come up with some "semblance of authority" for the Presidential war powers. I intend to speak to this point directly at this time and am glad to hear that the sponsors of S. 440 will also be making a reply to the analysis of 25 questions about the bill to which I earlier invited them to respond.

Mr. President, there are four basic constitutional sources of the President's powers over national defense.

First. The President is expressly granted by article II, section 1, all the "executive power" of a sovereign nation, which includes as its natural attribute the primary authority over use of military forces in defense of important national interests.

Second. The President is specifically designated by article II, section 2, as the "Commander in Chief" and as such is charged with the supreme control and direction over the Armed Forces.

Third. The President is expressly granted the right by article II, section 3, to execute the laws, which, as the Supreme Court has recognized in the Neagle case, includes the capacity to base action directly on his own reading of obligations growing out of our international relations.

Fourth. The President is vested with a "constitutional primacy in the field of foreign affairs." This is an implicit power which is recognized by at least six of the present members of the Supreme Court.

Mr. President, constitutional authorities throughout our history have been almost unanimous in concluding that the President is vested with an independent control and direction over the military forces in any situation where he believes there is a threat to our country or its freedoms. The notion that the President is subject to the policy directives of Congress has been rejected by leading jurists time and again. It is only during the last decade or so, after the going got tough in Vietnam, that constitutional revisionists began changing their minds.

The principle of a discretionary right vested in the President to commit troops outside the country as a means of preserving or advancing the national safety is a consistent theme throughout more than a century of authoritative writings. It is most certainly true, as John Quincy Adams remarked in 1836, that the President is bound in duty to strive toward peace with the other nations of the earth. "Yet," Adams warned, "must a President of the United States never cease to feel that his charge is to maintain the rights, the interests and the honor no less than the peace of his country—nor will he be permitted to forget that peace must be the offspring of two concurring wills. That to seek peace is not always to ensue it."

This fundamental and philosophical observation on the condition of mankind echoed the change of heart which had taken place in Thomas Jefferson, who admitted his error in believing that the United States could remain at peace whatever the trend of world events elsewhere. By March 2, 1815, Jefferson had come to realize that "experience has shown that continued peace depends not merely on our own justice and prudence, but on that of others also."

Mr. President, this reflects the same practical attitude which guided the Founding Fathers in the formation of the new Republic. However much the Founding Fathers may have wished to live by a policy of avoiding foreign troubles, they recognized even then, having witnessed the great weakness in the management of military affairs by the Continental Congress, that the Nation cannot be safe unless there is a single Commander in Chief with an unrestricted discretion to resist foreign dangers wherever and whenever they may exist.

In whichever capacity, from his Executive power or as Commander in Chief, Presidents have throughout American history—as already recognized by John Quincy Adams in 1836—committed American troops to danger points outside the boundaries of the United States without a declaration of war. These total almost 200 occasions. These are not instances in which the President merely called out the troops. This list includes only actual battles overseas or landings of American forces on foreign soil, except for fewer than 10 instances when major deployments of forces are included. All of these Presidential actions involved the serious danger of war.

Whatever these Presidents may otherwise have written on the subject, it is an unquestioned fact that almost every one of them has reacted on his own initiative to any crisis which he believed might present, or might develop into, an unacceptable threat against our national security. There is a consistent course of action by which Presidents have always used whatever force they believed was necessary and technologically available at the particular moment to respond to foreign threats.

President Buchanan, to cite an example relied upon to the contrary in the report of the Foreign Relations Committee, sent American troops into armed action abroad on 11 occasions. In one major episode occurring in 1858, President Buchanan risked an all-out conflict with Great Britain by ordering, without authority from Congress, a naval force to protect all merchant vessels of the United States on the high seas from search or detention by the vessels of any other nation. Fortunately, a conflict with Great Britain was avoided at the last moment by her abandonment under this pressure of her claim to the right of visit and search.

Thus, Mr. President, the idea that Presidential troop commitments are a recent development as alleged in the report of the Foreign Relations Committee is a myth. Moreover, the committee is in error in its report when it claims that prior to World War II "Presidential use of the Armed Forces without congressional authorization was confined for the most part to the Western Hemisphere." At least 103 undeclared hostilities have taken place outside the Western Hemisphere and 53 of them occurred before the 1900's.

Another point about these Presidential initiatives that should be noted is the fact that Congress had never until this year passed a law blocking or ordering a halt to any one of them. The question has come up many times and Congress has taken many votes on the issue since the birth of the Nation. For example, efforts were made within Congress to approve resolutions rebuking President Tyler because of his deployment of troops to Texas in 1844; President Polk for his similar deployment of troops into territory disputed with Mexico; President Grant for his sending of a naval force to the Dominican Republic to prevent internal disorder there, and numerous other deployments of American forces ranging from the stationing of troops in Siberia after World War I to the occupations of Haiti and Nicaragua in the 1920's and 1930's. Several votes were taken to restrict the deployment of American forces in these areas but none of the attempts were successful. For Congress to say that this longstanding interpretation may now be reversed, runs counter to the test of constitutional construction which the Supreme Court has applied in resolving other conflicts between Congress and the President.

The Supreme Court has applied the principle of usage as a determining factor in constitutional interpretation in at least two cases involving the power of the President in relation to Congress, *United States* v. *Midwest Oil Company*, 236 U.S. 459 (1915) and *Myers* v. *United States*, 272 U.S. 52 (1926). In Myers, the Court held that Congress could not shift gears after 73 years of a particular practice and start setting limitations on a Presidential practice which it had never before restrained, even though the practice had often been the subject of bitter controversy. The Court held:

> Nor can we concur . . . that when Congress after full consideration and with the acquiescence and long-practice of all the branches of the government, has established the construction of the Constitution, it may by its subsequent legislation reverse such construction. It is not given power by itself thus to amend the Constitution. 272 U.S. 175.

In his letter to me of January 12 of this year, Prof. Myers S. McDougal, perhaps the prominent authority on foreign relations law under the Constitution, agreed that our usage is an important guide to constitutional interpretation.

Professor McDougal wrote:

> The emphasis upon usage, as a test of Constitutionality, in our early article was based upon the notions that a people's genuine "constitution" is in how they live and cooperate under a basic charter and that the most important authority in a democratic community is in the expectations that people create in each other by such living and cooperation. The most important principle of interpretation in any legal system I have studied is that which requires examination of "subsequent conduct" as an index of contemporary expectation.

Thus did Professor McDougal reconfirm his reliance upon historical usage in reaching a conclusion published in 1945 that—

> Several distinct and well-established lines of authority establish the President's independent powers to make protective use of the armed forces of the United States, without awaiting a Congressional declaration of war or any other specific statutory authorization. 54 Yale L.J. 534, 608 (1945).

Though the Supreme Court does not appear to have addressed itself directly to the question of Presidential discretion in the use of Armed Force abroad during an ongoing hostility, at least six members of the current Supreme Court recognize the President is vested with a large area of independent and primary power in this general area. Justice Stewart and Justice White have expressed this view by writing that the Constitution endows the President with "a large degree of unshared power in the conduct of foreign affairs and the maintenance of our national defense." 403 U.S. 713, 729 (1971).

Justice Blackmun has added that:

> Article II of the great document vests in the Executive Branch primary power over the conduct of foreign affairs and places in that branch the responsibility for the Nation's safety. *Id.*, at 761.

Justice Marshall believes that:

> It is beyond cavil that the President has broad powers by virtue of his primary responsibility for the conduct of our foreign affairs and his position as Commander-in-Chief. *Id.*, at 741.

Also pertinent is a holding by Justice Rehnquist, joined by Chief Justice Burger and Justice White, which rests squarely upon the proposition that the executive branch is charged "with primary responsibility for the conduct of foreign affairs." 406 U.S. 759, 768 (1972).

In summary, the perspective of American history and of the real intent of the Framers of the Constitution comes close to justifying the statement made by then President Abraham Lincoln "that measures otherwise unconstitutional might become lawful by becoming indispensable to the preservation of the Constitution through the preservation of the Nation."

This principle, which has been adhered to throughout the long history of the United States, means that the President can take defensive measures, without control by Congress, whenever in his judgment it is necessary to defend the important interests of the Nation. Mr. President, I do not believe that Congress can now change an arrangement which is so firmly imbedded into the Constitution by mere legislation. Congress cannot substitute a different plan of government by any process other than a constitutional amendment.

Mr. President, so that there may be a more complete discussion of the bill and the fundamental issues available to my colleagues, I ask unanimous consent that a West Virginia Law Review article prepared by my legal assistant, Mr. Terry Emerson, on war powers legislation shall be printed in the RECORD.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

[Reprinted from Emerson, War Powers Legislation, 74 West Virginia Law Review 53 (1972)]

WAR POWERS LEGISLATION

I. INTRODUCTION

The Ninety-Second Congress has been marked by the unusual drama of a vigorous and persistent effort by the Legislative

Branch to confront the President, eyeball to eyeball, over the primary issues of war and peace.[1] Nowhere has the contest been joined in a more fundamental way, reaching to the very core of the division of powers between the two political branches, than in the bold thrust by several senators to codify the rules governing the circumstances in which the United States may go to and remain in war.[2]

No less than 19 senators have introduced or cosponsored one of five different bills or joint resolutions seeking to define the instances when the President may use or deploy the Armed Forces of the United States.[3] Taken singly or severally, these measures purport to demark the sole conditions under which the President can initiate military hostilities and to restrict his authority to continue any such hostility beyond a brief period unless and until he has obtained a new and specific authorization from Congress.[4]

It is the purpose of this article to examine the validity of such a legislative approach and, in so doing, to test its practical soundness.

II. DESCRIPTION OF WAR POWERS BILLS

First, it is necessary to know what the War Powers Bills attempt to do. Accordingly, we might start by reviewing the bill, S. 731, introduced by Senator Javits. The other measures then can be discussed in relation to how they differ from S. 731.

In its first section, the Javits bill provides that the "use of Armed Forces of the United States in military hostilities in the absence of a declaration of war [shall] be governed by the following rules. . . ."[5] These rules are (1) the President shall initiate military hostilities only in four prescribed circumstances;[6] (2) the President shall report promptly to Congress whenever military hostilities commence;[7] (3) in no event shall such hostilities be sustained beyond thirty days unless Congress enacts legislation to this end;[8] and (4) the President's authority to sustain such hostilities may be terminated short of thirty days by joint resolution of Congress.[9]

The four situations in which the President is limited to using the Armed Forces are:

"1. to repel a sudden attack against the United States, its territories, and possessions;

"2. to repel an attack against the Armed Forces of the United States on the high seas or lawfully stationed on foreign territory;

"3. to protect the lives and property, as may be required, of United States nationals abroad; and

"4. to comply with a national commitment resulting exclusively from affirmative action taken by the executive and legislative branches of the United States Government through means of a treaty, convention, or other legislative instrumentality specifically intended to give effect to such a commitment, where immediate military hostilities by the Armed Forces of the United States are required."[10]

In addition, S. 731 creates a system by which legislative proceedings shall be expedited whenever a bill or resolution is introduced continuing any military hostility initiated in one of the above four instances or terminating any such hostility.[11] Finally, S. 731 expressly waives its application to hostilities undertaken before its enactment.[12]

By comparison, S.J. Res. 59, introduced by Senator Eagleton, limits the President to committing U.S. forces to action only in three of the four circumstances outlined in S. 731, ommitting any authority for the President to comply with a treaty commitment.[13] In fact, S.J. Res. 59 specifically mandates that no "treaty previously or hereafter entered into by the United States shall be construed as authorizing or requiring the Armed Forces of the United States to engage in hostilities without further Congressional authorization."[14]

Another distinguishing feature of the Eagleton resolution is found in its express declaration that "authorization to commit the Armed Forces of the United States to hostilities may not be inferred from legislative enactments, including *appropriation* bills which do not specifically include such authorization."[15]

In addition, S.J. Res. 59, unlike S. 731, includes a definition of the term "hostilities."[16] In this way, S.J. Res. 59 not only applies to "land, air, or naval actions,"[17] but also to the deployment of American forces abroad "under circumstances where an imminent involvement in combat activities with other armed forces is a reasonable possibility."[18] United States military advisors accompanying "regular or irregular" troops of a foreign country on any combat mission are similarly reached by the definition.[19]

If a governing Congressional authorization exists, of which the resolution itself appears to be one, the President is authorized to order American Forces into a third country with which we are not then engaged in hostilities when in hot pursuit of fleeing enemy forces or when a clear and present danger exists of an imminent attack on our forces by enemy units located in such third country.[20]

One remaining difference between the Javits bill and the Eagleton resolution is the requirement in S.J. Res. 59 that the President shall report periodically on the status of any authorized hostilities,[21] rather than solely at the onset of such actions.[22]

The third War Powers legislation, S.J. Res. 95 by Senator Stennis, is essentially similar to the provisions contained in S.J. Res. 59. The organization of sections is shifted somewhat, and Senator Stennis explicitly adds authority for the President "to prevent or defend against an imminent nuclear attack on the United States,"[23] thereby making precise what is broadly allowed under the other proposals. Finally, S.J. Res. 95 refers to "armed conflicts"[24] instead of "hostilities."[25]

But the main substantive difference between the two joint resolutions lies in the absence from S.J. Res. 95 of an explicit disavowal saying a national commitment cannot arise from a treaty[26] and its omission of the "hot pursuit" provision of S.J. Res. 59.[27] One change in the Stennis resolution which could become important in different circumstances is its non-application solely to the Vietnam conflict.[28] This could mean that if war should break out at some fresh spot in the world, the action would be within the scope of the proposal's limitation even though it had started before the proposal was enacted. But in the event an unexpected military venture should develop before S.J. Res. 59 became law, the action would not be limited by the statute.[29]

S. 1880,[30] introduced by Senator Bentsen, is almost identical with S.J. Res. 95, and the above summary is adequate to describe its provisions.[31]

The fifth War powers legislation is S.J. Res. 18, proposed by Senator Taft. It is most like S. 731 in that it defines four circumstances similar to those of that bill in which the President is restricted to using military force.[32] Unlike S. 731, however, the Taft resolution does not restrain the period of such hostilities to thirty days.[33] Nor does it include any procedure for the speedy consideration of legislation seeking to terminate the action.[34] Furthermore, S.J. Res. 18 extends solely to situations involving the commitment of forces "to combat,"[35] while, S. 731 may possibly be construed to reach a much broader category of troop movements and uses.[36]

Furthermore, S.J. Res. 18 does not contain any provision exempting prior hostilities from its restriction.[37] It does contain a detailed part authorizing the continued deployment of United States troops in Vietnam so long as necessary to accomplish a withdrawal of our forces and the assumption by South Vietnam of its own defense.[38]

III. CONSTITUTIONALITY OF WAR POWERS BILLS

A. Fundamental issues

It is immediately evident that each of the War Powers Bills purports to lay down rigid boundaries which supposedly will govern the situations when the President may and may not use United States military forces abroad.[39] Four of the five measures attempt to specify for how long our troops can be committed even in the limited situations where the President is allowed to act.[40]

But what is the source of Congressional authority over the decision of when and where to wage war? Does the Constitution unequivocally deposit the controlling power over military matters with Congress? Is there a line of court decisions clearly supporting the view that Congress can forbid the sending of troops outside the country? Does historical practice bear out the doctrine of Congressional supremacy over the use of force in foreign affair? Or are the War Powers Bills founded upon misplaced emotions and unproven postulates?

B. Textual arguments in support of legislation

The task of presenting arguments for the constitutional standing of the War Powers legislation has largely been assumed by Senator Javits. On March 5 of this year, he inserted a thorough brief on his bill, incorporating a discussion of the textual arguments and decided cases, into the Congressional Record.[41]

His brief argues that:

"Article I, Section 8 confers on Congress the major war powers—the powers to provide for the common defense; to declare war; to raise and support an army and navy; to make rules for the government and regulation of the land and naval forces; to provide for calling forth the militia to execute federal laws, suppress insurrections and repel invasions; and to provide for organizing, arming, disciplining and governing the military—and the authority to make all laws necessary and proper to the execution of such powers."[42]

From this, the brief concludes "that the role of war policy formulation was intended for Congress and that the role of the President was to be the faithful execution of Congressional policy."[43] Thus, the executive power as Commander in Chief is seen as only a ministerial function,[44] derived from the experience of the framers of the Constitution with the conduct of the Revolutionary War.[45] Like General George Washington, whose commission from the Continental Congress insisted upon Congressional control of that war,[46] the "President, as Commander in Chief was intended to be the executive arm of Congress, carrying out its policy directives in the prosecution of military hostilities."[47]

The concept held by Senator Javits has received support from Professor Richard B. Morris, who recently assured the Senate Committee on Foreign Relations "it is a fair inference from the debates on ratification and from the learned analysis offered by the *Federalist* papers that the warmaking power of the President was little more than the power to defend against imminent invasion when Congress was not in session."[48]

Not all commentators agree. Professor Quincy Wright wrote in 1969:

"I conclude that the Constitution and practice under it have given the President, as Commander-in-Chief and conductor of foreign policy, legal authority to send the armed forces abroad; to recognize foreign states, governments, belligerency, and aggression against the United States or a foreign state; to conduct foreign policy in a way to invite foreign hostilities; and even to make commitments which may require the future use of force. By the exercise of these powers he may nullify the theoretically, exclusive power of Congress to declare war."[49]

Footnotes at end of article.

It is clear the above statement is not principally a modern day concept, erected in awe at the vast scope of Presidential conduct over the last twenty years.[50] Professor W. W. Willoughby, author of a famous three volume work on constitutional law, reached the same finding in 1929. Willoughby declared that the power of the President to send United States forces outside the country in time of peace "when this is deemed necessary or expedient as a means of preserving or advancing the foreign interests or relations of the United States" is a "discretionary right constitutionally vested in him, and, therefore, not subject to congressional control."[51]

The late Professor Edward Corwin, who was selected by Congress to edit the congressionally sponsored *Constitution Annotated*,[52] also recognized the President's authority to commit military forces abroad on his own initiative.[53] In 1944, he wrote that this power "had developed into an undefined power—almost unchallenged from the first and occasionally sanctified judicially—to employ without Congressional authorization the armed forces in the protection of American rights and interests abroad whenever necessary."[54]

In truth, there exists much informed opinion from which one might doubt the restrictive view held by the advocates of War Powers legislation.[55] Contrary to the position asserted by a sponsor of one of these bills, there is no uniform viewpoint or visible weight of opinion establishing that "the proposals are constitutional."[56]

C. Cases used in support of legislation

Regardless of theoretical arguments, what have the courts decided? According to the brief offered by Senator Javits, they have held unfailingly that Congress may curb the Executive's employment of military force,[57] a claim we shall now test.

Three of the cases relied upon by the War Powers brief construe the application of early statutes applicable to the undeclared Naval War of 1798 to 1800, between the United States and France.[58] In point of fact, all of the cases were decided after the event, subsequent to the close of hostilities and had no bearing whatsoever on the conduct of an ongoing war.

The first of the cases, *Bas* v. *Tingy*[59] (also cited as *The Eliza*), involved the factual determination of whether the term "enemy," as used by Congress, referred to French privateers. The sole purpose of the Court's exercise was aimed at determining whether the owner of the *Eliza* had to pay salvage under a special federal law relating to the recapture of ships from the "enemy," rather than under a general statute which provided for payment of a much lesser amount. It is true three justices made sweeping references to the limits which Congress might set on hostilities, but these statements were in no way necessary to the decision of the case.[60]

Talbot v. *Seeman*,[61] decided a year later, involved the same statutes and included a declaration by Chief Justice Marshall to the effect that "the whole powers of war" were "vested in Congress."[62] Though heavily relied upon by sponsors of the War Powers legislation, the decision imposed absolutely no restriction upon the Executive's conduct of an ongoing war. What the Court would decide in the event Congress sought to shackle the President's discretion in the middle of an actual conflict presents a far different situation than the minor incident settled by this case.

The third case, *The Flying Fish*,[63] construed the meaning of a Federal law providing for forfeiture of American vessels employed in commerce with France. While the statute empowered American war ships to seize United States trading ships going into French ports, President Adams directed the navy to capture United States vessels both going into and coming from French ports. After the war was over, the Court held the seizure of a Danish vessel upon leaving a French port was unlawful.

Plainly the Court's discussion of the conflict between the Presidential order and the Act of Congress was dictum. Neither the President nor Congress had directed the seizure of neutral vessels. The capture of a Danish ship was not permitted under either claim of authority. Further, the case was not aimed at stopping the President from using American forces. It turned on the civil obligations of the commander of one American frigate, not on the respective roles of Congress and the President in the making of war.[64]

Another significant factor downgrading the relevance of the above three cases has been raised by Professor John Norton Moore. Speaking before the Senate hearings on War Powers legislation, Professor Moore advised the committee "these cases involved an issue squarely within a specific grant of authority to Congress. That is, the power 'to make Rules concerning Captures on Land and Water.' Under the circumstances it hardly seems surprising or relevant that a congressional act concerning rules for capture was preferred by the Court to a presidential interpretation of that act."[65]

Further question has been raised about this early line of cases by Secretary of State William P. Rogers, who reminded the Senate Committee on Foreign Relations that they were "decided before the doctrine of 'political questions' was formulated by Chief Justice Marshall in *Foster* v. *Neilson*, 27 U.S. (2 Pet.) 253 (1829) and . . . a similar case would probably never reach decision on the merits today."[66]

Indeed, one of the sponsors of S. 731 writes: "Also, it is conceded that should war powers legislation be enacted and result in a confrontation between the President and the Congress, there is little chance of judicial interpretation."[67]

Chronologically, the next decision relied upon in the War Powers brief is the *Prize Cases*,[68] a Civil War judgment regarding the legality of President Lincoln's blockade against the Confederacy. It is claimed this case proves "the Court's insistence upon Congressional authorization as the basis of Presidential war powers."[69] Yet Justice Grier, who wrote the Court's opinion, carefully explained the issue was not whether Congress had authorized the blockade, but whether the President, acting alone, possessed a right to make military action "on the principles of international law, as known and acknowledged among civilized States?"[70]

In upholding President Lincoln's right to meet the insurrection, the Court said: "If a war be made by invasion of a foreign nation, the President is not only authorized but bound to resist force by force. He does not initiate the war, but is bound to accept the challenge without waiting for any special legislative authority."[71] In the author's opinion, this case, far from indicating a superior role for Congress, points to the presence of a duty on the President to answer certain challenges against the nation without waiting for Congress to baptize them with a name.[72]

Another case cited in support of the War Powers bills is *Ex parte Milligan*,[73] in which the Court held that neither Congress nor the President could authorize the trial of a civilian before a military tribunal in a State which had been loyal to the Union during the Civil War. Though the case did involve limits on the power of the President, as well as on that of Congress, the Court's language might well be read as restricting the authority of Congress to impede the President's command of military decisions once hostilities break out. Four of the justices remarked upon the power of Congress in time of war as follows: "This power necessarily extends to all legislation essential to the prosecution of war with vigor and success, except such as interferes with the command of the forces and the conduct of campaigns. That power and duty belong to the President as commander-in-chief."[74]

Another case which may actually enlarge upon the President's power, but has been cited as authority for the War Powers legislation,[75] is *United States* v. *Midwest Oil Company*.[76] This case considered the validity of a Presidential decree which withdrew from private acquisition all public lands containing petroleum. The President had issued the order even though Congress had passed a law making these same lands free and open to purchase by United States citizens.[77]

Nevertheless, the Court found that the Executive had been making similar orders contrary to Acts of Congress for a long time and, as a result, had acquired a power to do what it had been doing.[78] As we shall see in a later part of this article, the *Midwest* doctrine may thereby be applicable to support the practice of Presidents to commit United States troops overseas without Congressional direction.[79]

The remaining decision relied on in the War Powers brief is the "Steel Seizure"[80] case which arose out of President Truman's attempted takeover of the nation's major steel mills. Though the Court held, six to three, the President lacked authority on his own to take possession of private property, even on the ground of his role as Commander in Chief, it is plain the Court's majority treated the case as a domestic issue far removed from matters of day-to-day fighting in a theater of war.[81]

Justice Jackson appears to have expressed the mood of the Court aptly when he wrote:

"We should not use this occasion to 'circumscribe,' much less to contract, the lawful role of the President as Commander-in-Chief. I should indulge the widest latitude of interpretation to sustain his exclusive function to comand the instruments of national force, at least when turned against the outside world for the security of our society."[82]

Accordingly, it is believed the "Steel Seizure" case is mistakenly cited as being applicable to any situation regarding the use of United States troops outside the country for the protection of American interests. In the words of Secretary of State William P. Rogers, "the precise issue in that case was not the President's authority to conduct hostilities but the scope of his power over a clearly domestic matter—labor management relations."[83]

A some what analogous decision, inspiring a multitude of opinions and touching on the fringes of the President's War Powers, with no direct limit on his right to deploy forces, is the *New York Times* case[84] relating to the publication of the so-called Pentagon Papers. In this case, Justice Douglas, joined by Justice Black, aimed a thrust at the President by proclaiming "[n]owhere are presidential wars authorized."[85] But this view was not taken up by any other member of the Court's majortiy, nor is it decisive of the Court's ruling.

D. Source of President's powers over military and foreign affairs

Numerous authorities have described in detail the vast scope of the President's authority to employ force abroad.[86] In general, these observers point to four distinct powers of the President as the root of his independent authority. The powers are centered in his acquisition of all the "Executive Power" of a great and sovereign nation,[87] in his mandate to initiate and conduct foreign policy,[88] in his right and duty to "take care that the laws be faithfully executed,"[89] and in his designation as Commander in Chief.[90]

The very first sentence of article II of the Constitution reads: "The Executive Power shall be vested in a President of the United

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States of America." [91] As Solicitor General Erwin Griswold has recently noted, the grant of Executive power "is not a merely passive grant." [92]

It was Alexander Hamilton who first used this grant in arguing that the President's role in international matters is a positive one.[93] In fact, Hamilton claimed this clause had vested in the President the inherent powers held by any sovereign nation, including the right to form policy which "may, in its consequences, affect the exercise of the power of the Legislature to declare war." [94] The Hamiltonian concept of inherent powers over foreign affairs appears to have influenced Chief Justice John Marshall, who in 1800 while still a Member of the House of Representatives, conceived the familiar quote: "The President is the sole organ of the nation in its external relations, and its sole representative with foreign nations." [95]

In 1971, Justice Harlan, Chief Justice Burger, and Justice Blackmun breathed fresh life into Marshall's characterization by writing: "From that time, shortly after the founding of the Nation, to this, there has been no substantial challenge to this description of the scope of executive power." [96] The reference by these three justices to the President's "constitutional primacy in the field of foreign affairs" was echoed in the same case by Justice Thurgood Marshall who declared: "[I]t is beyond cavil that the President has broad powers by virtue of his primary responsibility for the conduct of our foreign affairs and his position as Commander-in-Chief." [97]

All four justices cited with approval [98] the landmark case of *United States* v. *Curtiss-Wright Export Corp.,*[99] in which the Supreme Court had embraced the doctrine of "inherent" powers over the conduct of foreign affairs. There the nation's highest tribunal held it was dealing with "the very delicate, plenary and exclusive power of the President as the sole organ of the federal government in the field of international relations—a power which does not require as a basis for its exercise an act of Congress . . . ." [100]

The third pertinent power of the President is derived from his duty and right to execute the laws, an implicit authority which often is overlooked in contemporary discussions of the war powers. Professor Quincy Wright has remarked on this authority:

> The duty to execute the laws is not limited to the enforcement of acts of Congress and treaties of the United States, but includes also "the rights, duties and obligations growing out of the constitution itself, our international relations, and all the protection implied by the nature of the government under the constitution." [101]

Corwin has described the implications of this doctrine as follows:

> Thanks to the same capacity to base action directly on his own reading of international law—a capacity which the Court recognized in the *Neagle* case—the President has been able to gather to himself powers with respect to warmaking which ill accord with the specific delegation in the Constitution of the war-declaring power to Congress.[102]

Thus, the implied power of the President to interpret for himself the scope of our international obligations has enabled him to validly exercise powers which might otherwise appear to have been left to the proper authority of Congress.[103]

It has also been judicially determined that "the President's duty to execute the laws includes a duty to protect citizens abroad. . . ." [104] Thus said Justice Nelson, who sitting as a trial judge in 1880 upheld the authority of the President to take whatever action he determines proper to protect "the lives, liberty, and property" of the citizen abroad, without awaiting word from Congress.[105] The corollary right of a citizen abroad "to demand the care and protection of the Federal government over his life, liberty, and property" was subsequently recognized by the Supreme Court,[106] which expressly included this protection among the privileges and immunities of citizenship guaranteed by the Constitution.[107]

Not only is there persuasive domestic law on the issue of intervention abroad for the protection of citizens, but J. Reuben Clark, citing several international authorities, claims:

> There is considerable authority for the proposition that such interposition by one state in the internal affairs of another state for the purpose of affording adequate protection to the citizens of one resident in the other as well as for the protection of the property of such citizens, is not only not improper, but, on the contrary, is based upon, is in accord with, and is the exercise of a right recognized by international law.[108]

In addition, the right of the nation to defend itself, as well as its citizens, is clearly established in both international and domestic law.[109]

A fourth source of the President's powers in the field of war making rests upon his designation as Commander in Chief.[110] This power has been succinctly defined to encompass "the conduct of all military operations in time of peace and of war, thus embracing control of the disposition of troops, the direction of vessels of war and the planning and execution of campaigns," and to be "exclusive and independent of Congressional power." [111]

What little judicial holdings there are on this power suggest it is largely an unfettered one. For example, in 1866, the Supreme Court pointedly stated: "Congress cannot direct the conduct of campaigns." [112] In 1897, the High Court affirmed a decision by the Court of Claims which held: "Congress cannot in the disguise of 'rules for the government' of the Army impair the authority of the President as Commander in Chief." [113]

E. Historical overview of President's war powers

Some twenty-five years ago, James Rogers, a former Assistant Secretary of State wrote: "It must be evident that the control of foreign policy and of the armed forces left to the President by the Constitution and reinforced by a century and half of augmentation, reduces the reservation of the power to 'declare war' to a mechanical step, sometimes even omitted." [114] What had happened to allow Rogers to assert such a bold claim? It was his discovery, unknown and unnoticed by most Americans, that "[t]he Executive has used force abroad at least a hundred times to accomplish national purposes without reference to Congress." [115]

This astonishing total was evaluated by Professor Corwin, who stated: "While inviting some pruning, the list demonstrates beyond peradventure the power of the President, as Chief Executive and Commander in Chief, to judge whether a situation requires the use of available forces to support American rights abroad and to take action in accordance with that decision." [116]

Clearly little wars are not "phenomena new to the national experience," [117] as some authorities, obsessed by the Vietnam war, would have us believe.[118] Indeed, by April of 1971, Senator Barry Goldwater informed the Senate War Powers hearing that research at his direction had "turned up 153 such actions." [119] The Goldwater study is a continuing one and a fresh review of the subject by the author in preparation for future testimony by Senator Goldwater reveals there are at least 192 [120] separate military engagements initiated by the Executive branch without a declaration of war from 1798 to 1971.[121]

The list seems particularly imposing since its total consists of hostilities where actual fighting took place, landings were made on foreign soil, or United States citizens were evacuated. No precedents are listed involving mere deployment of forces or draft simply to maintain an American presence, even if the deployment constituted an alert accompanied by an advanced state of readiness, except for some eight instances in which the risk of war was particularly grave. Nor have any military operations been offered as precedents which were subsequently disavowed or repudiated by the Executive.[122]

Are these precedents "minor undertakings" [123] and "short-lived" [124] as charged by some critics? Are the incidents confined to the Western Hemisphere and contiguous territory up to "the last twenty years or so," with the solo exception of the Boxer Expedition, as claimed by Henry Steele Commager? [125] The author believes the record stands for itself. We might note first that out of the 192 actions listed, 100 occurred outside the Western Hemisphere,[126] 85 of them taking place before "the last twenty years or so." [127] To which fact, we might add that 81 hostilities constituted actual combat operations or ultimatums tantamount to the use of force.[128]

Ninety-three engagements continued for longer than 30 days.[129] No more than 81 of the precedents,[130] less than half, could arguably have been initiated with the support of a legislative instrumentality. At least 43 of the precedents [131] were "calculated and ideological" [132] in the sense that they committed the United States outside its own territory in order to advance major, long-range national interests stretching far beyond the immediate protection of its citizens or territory.

Were the operations minor? In 1854, at a time when American forces did not exceed 50,000 men, Commodore Perry took 2,000 of them to the other side of the world in order to pressure Japan into reaching a commercial treaty with us.[133] Between 1899 and 1901, the United States used 126,468 troops to put down the Philippine Insurrection.[134]

After World War I had ended, we landed 5,000 soldiers at Archangel, Russia, and 9,000 more in Siberia, to aid the anti-Bolsheviks and to forestall Japanese expansionist plans in Siberia.[135] From 1926 to 1933, United States Marines fought more than 150 battles in Nicaragua and lost 97 men in seeking to foil what has been referred to as the "first attempt of Communism to infiltrate Latin America." [136]

In 1927, the United States had 6,000 troops ashore in China and 44 naval vessels in its waters.[137] In numerous other instances, the United States has put ashore hundreds and even thousands of forces on foreign lands.[138]

Put in the perspective of their own times, it is believed these interventions cannot be classified as "minor." Rather, the author would agree with the assessment of Professor Henry Monaghan that:

> [W]ith ever-increasing frequency, presidents have employed that amount of force they deemed necessary to accomplish their foreign policy objectives. When little force was needed (*e.g.,* in our incursions in Latin America), little was used; when larger commitments were necessary, they too were forthcoming. Whatever the intention of the framers, the military machine has become simply an instrument for the achievement of foreign policy goals, which, in turn, have become a central responsibility of the presidency.[139]

Further, the author believes Professor Monaghan is correct in telling us that "history has legitimited the practice of presidential war-making." [140] In Monaghan's words, "A practice so deeply embedded in our governmental structure should be treated as decisive of the Constitutional issue." [141]

With this historical record in back of us, the principle laid down by the Supreme Court in *Midwest Oil* [142] gains added relevance. Here the Court had announced "that in deter-

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mining the meaning of a statute or the existence of a power, weight shall be given to the usage itself—even when the validity of the practice is the subject of investigation."[143]

Certainly, the deployment of forces abroad on the initiative of the President alone is a "long-continued practice" extending backward far longer than the usage found to be valid in the *Midwest Oil* case.[144] Furthermore, Congress has known of and acquiesced in the President's usage for nearly a century and a half now, part of the time arguably in the face of a limiting Congressional statute.[145]

One instance when it is clear the President violated the terms of a Congressional statute attempting to govern his power to deploy troops abroad is the experience of the nation under the Selective Service Act of 1940.[146] The law expressly provided that no draftees were to be employed beyond the limits of the Western Hemisphere except in territories and possessions of the United States.[147]

Notwithstanding the Congressional prohibition, President Roosevelt deployed our troops, including draftees, to occupy Iceland and Greenland several months before World War II had been declared.[148] Iceland, however, is over 2,300 miles away from the closest point in the United States and is invariably placed in the section on Europe in any prominent world atlas. If nothing more, the incident shows Presidents will ignore Congressional limitations when they believe vital American interests are undeniably at stake.[149]

IV. POLICY CONSIDERATIONS

Regardless of the legality or illegality of the War Powers legislation, are the measures wise or proper from a practical standpoint? Can any Member of Congress, or Congress collectively, foresee all contingencies that may arise in the future? Might the War Powers legislation unwittingly turn the tables on its sponsors by exciting a situation or pushing a reluctant President into broader action than he wishes? A partial answer might be evident from the fact that many of the same authorities who have testified in favor of the general concept of War Powers legislation nevertheless have uttered grave concerns about the wisdom of these measures in practice.

For example, McGeorge Bundy warned "no single rule is likely to meet all our needs, and in particular I think it is dangerous to try to deal with the future by legislating against the past."[150] Alexander Bickel has confessed: "Codification seems to me difficult, heavily prone to error, quite possibly dangerous, and unnecessary."[151] William D. Rogers remarked: "I think the Javits proposal requiring the President in effect to get out if Congress does not act within 30 days is dangerous."[152]

These thoughts have been refined and expanded by others who are in outright opposition to passage of War Powers legislation.[153] Secretary of State William P. Rogers cautioned those who might conceive of the War Powers legislation as serving the end of peace by saying: "Moreover, requiring prior congressional authorization for deployment of forces can deprive the President of a valuable instrument of diplomacy which is used most often to calm a crisis rather than enflame it."[154]

To which he added:

"There is another consideration. To circumscribe presidential ability to act in emergency situations—or even to appear to weaken it—would run the grave risk of miscalculation by a potential enemy regarding the ability of the United States to act in a crisis. This might embolden such a nation to provoke crises or take other actions which undermine international peace and security."[155]

Professor James MacGregor Burns, the recipient of a Pulitzer Prize for his skills as a political historian, has gone further. He has testified that any legislation which would encumber the President's ability to respond and adjust to changing world situations as he determines proper will remove the one essential ingredient preventing World War III—flexibility.[156] Dr. Burns warned that imposing artificial restrictions on Executive discretion "may not lead to peace but to war, as foreign adversaries estimate that the United States will not respond to a threat to world peace because of legislative restrictions on the executive."[157]

The fear expressed by Dr. Burns was recently taken up by former Under Secretary of State George W. Ball, who is credited with being a dove in the high ranks of the Johnson Administration. Mr. Ball reminds us that the Neutrality Acts adopted in the aftermath of World War I "very probably" impeded the United States from taking firm steps which would have averted World War II.[158] This illustration leads Mr. Ball to ask how does one draft a statute that will make it possible for Congress to play a role "in shaping fundamental decisions that may lead to war without inhibiting the President in doing whatever is necessary" to avert some future catastrophe parallel to World War II.[159]

Senator Barry Goldwater sounded the same alarm in his appearance before the War Powers hearings. He charged the legislation "will undermine the credibility of our most basic defense agreements such as NATO. With one swipe, our 42 defense pacts will be chopped into 30-day wonders, if that."[160]

Senator Goldwater argued: "Thereby, the proposed bill will place all our treaty obligations in a state of permanent doubt. No ally can ever know if the United States will stand by it for more than 30 days; and even then, it cannot be certain whether Congress will shut off our aid sooner."[161] But there is another side to the coin. If Congress has the right to legislate concerning the rules of war as is argued by the sponsors of War Powers legislation,[162] Congress also possesses the power to order the President into broader hostilities than he wishes. This development could actually occur under a provision of these bills in their present form which establishes a procedure for expedited consideration by Congress of legislation designed to sustain hostilities beyond 30 days.[163]

The danger can be tested against actual history. For example, if the War Power legislation had been in effect at the time of the Cuban missile crisis,[164] Congress would have been required to act swiftly on the matter of continuing the deployment of forces in the Caribbean once the 30-day period possibly allowed by the legislation had expired. Under the telescoped parliamentary procedure created by the legislation, this vote likely would have occurred (Congress then having been in session) within a matter of a few days. Thus, Congress would have voted right at the peak of emotional excitement and public concern over the missile threat.

One can easily suppose in the setting of the time—with enemy missiles being aimed at cities holding 80 million American citizens, with reports arriving of attacks on American reconnaissance planes, and with the killing of an American pilot over Cuba[165]—that a majority in Congress with one eye on elections only weeks away, would have favored legislation directing an all-out bombardment of Cuba or even an invasion.

As Senator Goldwater observed: "Those who look to Congress as the ultimate haven of peaceful thinking might thumb through the pages of Robert Kennedy's short manuscript on the Cuban Missile Crises."[166] In this book, the late Senator Kennedy recounts that of all the deliberations which preceded his brother's broadcast to the nation on the crisis, his session with the leaders of Congress "was the most difficult meeting."[167]

According to Robert Kennedy:

"Many Congressional leaders were sharp in their criticism. They felt the President should take more forceful action, a military attack or invasion, and that the blockade was far too weak a response. Senator Richard B. Russell of Georgia said he could not live with himself if he did not say in the strongest possible terms how important it was that we act with greater strength than the President was contemplating.

"Senator J. William Fulbright of Arkansas also strongly advised military action rather than such a weak step as the blockade."[168]

In light of this illustration, Senator Goldwater asks: "Is it not possible Congress might, when confronted with dramatic pressure for making an immediate decision, vote in favor of a military strike? Are the Members of Congress more immune to emotional, impulsive reactions than other humans?"[169]

In the event Congress should decide to steer our nation into expanded hostilities, the authors of War Powers legislation would leave the President no exit. Their whole argument for the power of Congress to pass such legislation is squarely based upon the proposition that Congress controls the War Powers and that the President must faithfully carry out the directives enacted by Congress.[170] According to the brief offered by Senator Javits, "the President has no right to contravene such legislation."[171]

There is another problem. What about the ability of the President to respond to specific, sudden emergencies? Is the assurance of Irving Brant correct that the War Powers legislation "does not interfere in the least with the handling of any emergency, from minor property damage to nuclear holocaust?"[172]

Perhaps reference to some actual situations will provide an answer. Oddly enough, the proposal introduced by a Senator from New York, himself Jewish, as well as the other War Powers legislation, would prohibit the United States from acting to defend the state of Israel. This result occurs because under the Javits bill, the President may act to comply with a national commitment only if the commitment results exclusively from a "legislative instrumentality specifically intended to give effect to such a commitment. . . ."[173]

But this country has no legislative commitment to defend the security of Israel. There is no treaty or convention or resolution authorizing the United States to assist in preserving Israel's independence.[174] Senator Goldwater has set the scene:

"No matter that Arab fanatics may be seeking to make good on their aim of shoving the Israelis into the sea. No matter that approximately 20,000 Soviet personnel may be manning SA-3 missile sites and advanced jet fighters while massive Egyptian tank forces mount an invasion on disputed Sinai territory. . . . Regardless of the humanitarian exigencies and the dire consequences on European security, the War Powers Bill prohibits an immediate response by the United States to forestall an Arab conquest of Israel."[175]

Senator Goldwater has added:

"Oh yes, we might rush in Air Force transport planes to whisk our own citizens out of danger. We might even send a contingent of marines into cities where our embassies and legations are located to aid them.

"But when our forces are called upon to act for broader purposes—for reasons of vital strategic interests such as saving another nation's people from annihilation—the war powers bill will halt our forces short. This would be carrying out a national commitment."[176]

Nor is the scenario described by Senator Goldwater an implausible one. The United States has already intervened once in the Arab-Israeli crisis in a way that would be specifically curbed under any of the pending War Powers legislation.[177] This incident occurred in June of 1967, during the six-day Middle East war, after President Johnson

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had heard over the hotline that Russia "had reached a decision that they were prepared to do what was necessary, including using the military" to stop the advance of Israeli troops into Arab territory.[178]

As President Johnson understood it at the time "unless the Israelis halt operations within the next five hours the Soviets will take necessary action, including military . . . ." In response President Johnson reports he ordered the U.S. 6th Fleet to move to within 50 miles off the Syrian coast as "a sign that the Soviet Union would have to deal with us." [179]

Though the preceding illustration refers solely to Israel, the identical problem exists under the Javits bill in the case of any other country with which the United States has no national commitment sanctified by action of Congress.

Another situation in which the President would be barred from taking independent action under most, if not all, of the War Powers legislation is the deployment of troops or equipment to back up United States foreign policy objectives in times of great crises, such as the recurrent Communist pressures on free Berlin.[180] In this connection, the Department of the Navy has compiled a list of what it calls 55 "wars/near wars" since 1946, in which naval units were involved, alerted, or redeployed.[181] All of these movements at the initiative of the President would be prohibited under the War Powers legislation to the extent that they back up a national commitment to a foreign country, with the single exception of commitments specifically dependent upon a treaty or convention which could be implemented for 30 days under the Javits bill alone.[182]

One more example, pinpointing a need for broad Executive discretion, is the 1964 Congo rescue effort which saved 2,000 persons, including about 60 Americans, who were being held hostage by Congolese rebels.[183] Former Secretary of State Rusk has described the incident:

"On one occasion, a large number of Europeans, including the staff of the American Consulate and other American private citizens, were being held as hostages by a savage group in the Eastern Congo called Simbas. Private negotiations with the Simbas over a period of weeks had failed to release the hostages. Threats of execution and brutal torture mounted. We and the Belgians decided (with the approval of the government of the Congo) to drop Belgian paratroopers into the area by American aircraft in order to rescue these hostages who were in a truly desperate situation. There could not have been action by the Congress without alerting the Simbas as to what was up; the result would almost certainly have been the summary execution of American Consular Officers and a considerable number of American citizens.[184]

As compelling as the humanitarian interests are in the Congo situation, it is doubtful the joint rescue mission would have been permitted under the rigid lines set by the War Powers legislation. Insofar as the military operation affected 97% of the persons evacuated, it would not have been legal under these proposals because the individuals were not United States citizens.[185] Of course, if the proposals could be construed broadly enough to permit the President to employ troops in another country under the guise of protecting Americans abroad, even though the main purpose or result reaches far beyond that end, the President can initiate the use of force in nearly every conceivable situation without running afoul of the proposals. Today United States citizens can be found in every nation of the world, including Communist China, a fact which would enable the President to employ force abroad at any place he determines necessary under the excuse of protecting our citizens.

This discussion should not be concluded without referring to a fundamental question posed by some critics of Presidential initatives. The flavor is caught in the statement by Henry Steele Commager who claims that, with the exception of the Civil War and perhaps the Korean War:

"[T]here are no instances in our history where the use of war making powers by the Executive without authority of Congress was clearly and incontrovertibly required by the nature of the emergency which the nation faced but that on the contrary in almost every instance the long run interests of the nation would have been better promoted by consultation and delay.[186]

It is difficult to answer matters of subjective judgment. But we know of one instance in which Secretary Rusk believes "consultation and delay" would have led to the massacre of some 2,000 human beings.[187] Would these persons and their families conclude the use of military forces was not clearly required?

If you will ask the citizens of the Southwest whether they think it was necessary for President Tyler and Polk to deploy American troops in Mexican territory to protect the people of what was then the independent Republic of Texas and what is now the State of Texas,[188] you might get a pretty vocal and unanimous reply to the question. Or if you will consider the stakes riding on a swift American response to Russian brinkmanship during the Cuban missile crisis, when inaction would have left the United States impotent to remove missiles which were being aimed at American cities holding 80 million citizens,[189] most would agree "second-thoughts" would have made a terrible difference to the well-being of these 80 million citizens.

The truth is that we just cannot predict what chain of events might have been instituted if we had failed to act in each of these 192 military incidents. To study them under a microscope might be worthwhile for a scholar located in an ivy-covered classroom, but for a President, faced with 20th Century reality, even a week's delay might see the overrun of an important friendly nation or the rise of an irremovable threat to national safety.

V. CONCLUSION

The verdict of history, reinforced by occasional judicial pronouncements, convinces the author that the President possesses a broad authority of independent initiative over the use of military force outside the United States. It is settled beyond question under both domestic and international law, that he can deploy fleets, land troops, order airlifts, or conduct battles in order to protect or rescue United States citizens and officials, together with their property.[190] It is equally obvious he can employ the military forces against an outside enemy who attacks United States territory or poses an imminent threat of such an attack.[191]

The author believes any legislation which seeks to lay down rules restricting in advance the President's ability to use military forces in these circumstances is illegal. The Constitution does not allow Congress to prohibit the President from acting in these defensive situations; nor does it permit Congress to impose statutory limitations on the period of time during which the President may act in these conditions. To this extent, the War Powers legislation is clearly unconstitutional.[192]

The President possesses authority which stretches far beyond that of making an *ad hoc*, limited response to an emergency where there is a widely recognized and immediate threat to the safety of United States citizens or the intergity of United States territory. Whenever the President, as the primary author for foreign policy and the exclusive Commander in Chief of United States forces determines there is a future danger to the ultimate preservation of the United States and its citizens which is highly probable of arising either as a direct or indirect result of a present crisis, he may commit United States forces on his own authority in any way he deems fit for the purpose of defending the future security of this country and its two hundred and ten million citizens.[193]

In the highly complex, interrelated society of the Twentieth Century, where the sudden domination of an ocean strait, or control of a critical resource, or deployment of a radically new weapon, might install an aggressive nation in a position of exclusive superiority from which it might dictate terms to all other countries, the Eighteenth Century concept of repelling "sudden attacks" must be broadened to encompass defense against threats which are probable of becoming irremovable once allowed to develop unchallenged out of present moves. The crucial test in the modern world has to be whether the damaging consequences to United States security are equally grave and equally likely to happen in the natural flow of events as the "sudden attack" which the Framers of the Constitution comprehended in their personal experience.

It is strange indeed that many of the same political liberals who make highly moving appeals for expanding the scope of federal jurisdiction and obligation on behalf of urban relief, hyphenated-Americans, and other social-welfare causes, deny their own preachments about a "living Constitution" when it comes to the President's ability to defend America's freedoms. Their unbending reliance upon brief debates at the Constitutional Convention as conveying the final meaning of the clause "to declared War" marks these commentators as the "strict constructionists" of all time.[194]

The advocates of War Powers legislation have, in general, allowed their repulsion over the tragedly of Vietnam to misguide them into a strained and rigid interpretation of the Constitution which is both wrong and unrealistic. Weaving through almost all testimony in support of War Powers legislation is the theme that there must not be "another Vietnam." [195] In fact, when Senator Javits introduced his bill, his opening sentence declared: "[T]he most compelling lesson of the 1960's for the United States is our need to devise procedures to prevent future undeclared wars as in Vietnam.[196]

The ironical error about using Vietnam as the reason for curbing Presidential initiatives is that Congress itself has been deeply involved with expansion of the Vietnam conflict each step of the way.[197] Senator Goldwater has documented at least 24 acts of Congress supporting our continued presence in Vietnam, both before and after the much discussed Gulf of Tonkin Resolution.[198]

This view has received judicial verification as well. The U.S. Court of Appeals for the Second Circuit ruled on April 20, 1971, that: "The Congress and the Executive have taken mutual and joint action in the prosecution and support of military operations in Southeast Asia from the beginning of those operations." [199]

In concluding, the author does not wish to leave the impression he believes Congress and the public are helpless to influnce decisions on current and prospective foreign military policies. For one thing, a free press admonishing and criticizing the policy of an Executive or the Congress can mobilize public opinion in sufficient strength to change the course of action. Vietnam shows us that much.

For another, Congress can refuse to raise an Armed Force of the size an "activist" President requires to intervene at several points across the globe. As a foreshadow of events to come, the 92nd Congress has for the first time set an annual numerical ceiling on the total authorized active duty strength levels of each of the regular forces.[200]

Next, Congress can and must make indi-

Footnotes at end of article.

vidual determinations about specific military actions as they develop every time it votes on appropriations to continue these actions.[201] In this manner, Congress will be making its decision in the setting of the precise emergency or problem at hand. It will not be trying to erect rules for every kind of predictable and unpredictable event to come in the long-range future, but will be dealing with known facts and a specific request for a certain number of dollars or a certain number of helicopters, fighter aircraft, or other weapons.[202]

Finally, both Congress and the President can adhere to the Constitutional expectation that the two political branches of our government must spend an enormous amount of time working with each other to avoid the possibility of an impasse at moments of crisis. The Secretary of State, Secretary of Defense, and other ranking decision-makers in each administration must be willing to meet with committees and subcommittees of Congress hundreds of times if necessary trying to work together.

For its part, Congress must have the sense of mind and political courage to shape a recognizable position from which the President can be guided. This means the pertinent committees must develop an almost unanimous view on important issues, so that the President can clearly know the position of the Senate, or the House, as a corporate body, rather than having to choose from among the individual points of view of a hundred or so different members. Thereby, the two branches could better move in unison according to the true anticipation of our Founding Fathers.

FOOTNOTES

[1] The Senate alone has spent parts of 61 days of Floor debate on issues affecting the President's war making machinery in the first 143 legislative days of the 92nd Congress. These deliberations centered primarily around H.R. 6531, the Military Draft Extension Bill (45 days), and H.R. 8687, the Military Procurement Authorization Act (13 days).

[2] *See* S. 731, S. 1880, S.J. Res. 18, S.J. Res. 59, and S.J. Res. 95, and 92d Congress, 1st Sess. (1971). *But cf.* H.J. Res. 1, 92d Cong., 1st Sess., passed by the House of Representatives on August 2, 1971, in which "Congress reaffirms its powers under the Constitution to declare war," without specifying any rules for the conduct of military hostilities.

[3] Mr. Javits has introduced S. 731 for himself, Mr. Bayh, Mr. Mathias, Mr. Packwood, Mr. Pell, Mr. Spong, Mr. Weicker and Mr. Williams. Mr. Bentsen has introduced S. 1880 for himself and Mr. Byrd of W. Va. Mr. Taft has introduced S.J. Res. 18. Mr. Eagleton has introduced S.J. Res. 59 for himself, Mr. Inouye, Mr. McGovern, Mr. Montoya, and Mr. Stevenson. Mr. Stennis has introduced S.J. Res. 95 for himself, Mr. Mansfield, and Mr. Roth. On December 6, 1971, after this article was submitted, Senators Javits, Stennis, Eagleton, and Spong agreed to introduce a comprehensive redraft of S. 731. The substantive provisions of this bill, S. 2956, are essentially the same as those in S. 731, with the addition of language borrowed from S.J. Res. 59 providing that authority to use the Armed Forces shall not be inferred from a treaty or appropriation act. S. 2956 was ordered favorably reported by the Senate Committee on Foreign Relations the next day, December 7.

[4] See discussion pp. 54–56, *infra*.

[5] S. 731, *supra* note 2, at 1, lines 3–5.

[6] *Id.* at 1–2, lines 7–13.

[7] *Id.* at 2, paragraph B, § 1.

[8] *Id.* at 2, paragraph C, § 1.

[9] *Id.* at 2–3, paragraph D, § 1.

[10] *Id.* at 1–2, paragraph A, § 1.

[11] *Id.* at 3, § s.

[12] *Id.* at 4, § 3.

[13] S.J. Res. 59, *supra note* 2, pp. 4-5, § 3.

[14] *Id.* at 2-3, § 1.

[15] *Id.* at 3, lines 9-12, § 2 (emphasis added).

[16] *Id.* at 6-7, § 6.

[17] *Id.* beginning at line 25, p. 6, and ending on line 2, p. 7.

[18] *Id.* at 7, lines 2-6.

[19] *Id.* at 7, lines 6-11.

[20] *Id.* beginning at line 12, p. 3, and ending on line 7, p. 4, § 2.

[21] *Id.* at 5, lines 13-19, § 4.

[22] See note 7, *supra*.

[23] S.J. Res. 95, *supra* note 2, at 2, paragraph B, § 2.

[24] *Id.* at 5-6, § 7.

[25] See S.J. Res. 59, note 16 *supra*.

[26] See S.J. Res. 59, note 14 *supra*.

[27] See S.J. Res. 59, note 20 *supra*.

[28] S.J. Res. 95, *supra* note 2, at p. 5, § 6.

[29] S.J. Res. 59, *supra* note 2, at p. 7, § 7. Nor would the fresh hostility be covered by S. 731. See note 12 *supra*.

[30] *Supra* note 2.

[31] See text accompanying note 16 to note 29 *supra*.

[32] S.J. Res. 18, *supra* note 2, at 2-3, paragraph 1-4, Part I. And see note 10 *supra*.

[33] *Cf.* S. 731, *supra* note 8.

[34] *Cf.* S. 731, *supra* note 11.

[35] S.J. Res. 18, *supra* note 2, at 2, line 10, Part I.

[36] S. 731 refers only to "military hostilities" and does not specify whether a purpose of combat is necessary to constitute a hostility. See text accompanying note 5 to note 12 *supra*. *But cf.* remarks of Senator Javits when he introduced his bill in which he refers to "combat hostilities" and "combat actions." 117 Cong. Rec. (daily ed.) S1204-S1206 (Feb. 10, 1971).

[37] *Cf.* S. 731, *supra* note 12.

[38] S.J. Res. 18, *supra* note 2, at 3-4, Part II.

[39] *See* text accompanying note 5 to note 39 *supra*, note 40 *infra*.

[40] *Id.*

[41] *See A Brief on S. 731, to Make Rules Respecting Military Hostilities in the Absence of a Declaration of War*, 117 Cong. Rec. (daily ed.) at S2527–S2531 (March 5, 1971), and *see* Javits, *supra* note 36.

[42] *Brief, supra* note 41, at S. 2523.

[43] *Id.*

[44] *Id.*

[45] *Id. See also* Javits, *supra* note 36, at S. 1205–S 1206.

[46] *See* exhibit 1, Javits, *supra* note 36, at S 1206. *But* cf. view of Professor John Norton Moore that "reliance on the experience under the Articles of Confederation seems a frail reed for interpreting a Constitution promulgated in large measure as a result of dissatisfaction with the experience under the Articles. *Hearings on War Powers Bill Before the Senate Comm. on Foreign Relations*, 92d Cong., 1st Sess. (1971), testimony of Professor Moore inserted in the Cong. Rec. by Senator Goldwater, 117 Cong. Rec. (daily ed.) S6469 (May 10, 1971). Moore's position applies with equal force to the Continental Congress.

[47] *Brief, supra* note 41, at S 2539. The textual arguments of the Javits brief are reminiscent of the battle Jefferson and Randolph lost to Washington and Hamilton over the power of the President to "declare" on "the question of war or peace." When President Washington boldly issued a proclamation of neutrality on April 22, 1793, during the outbreak of war between France and Great Britain, it was a clear defeat for the position argued by Jefferson that only Congress could proclaim neutrality. To Jefferson, since Congress alone had the power to declare war, it alone had the power to declare we were not at war. Washington's rejection of Jefferson's narrow reasoning is generally credited with establishing early the principle of Presidential primacy in the making of foreign policy. See C. ROSSITER, ALEXANDER HAMILTON AND THE CONSTITUTION 84–85 (1964).

[48] *Hearings, supra* note 46. *See* testimony of Professor Richard B. Morris inserted in the Cong. Rec. by Senator Javits, 117 Cong. Rec. (daily ed.) S3359 (March 16, 1971). And *see* testimony of Professor Henry Steele Commager inserted in the Cong. Rec. by Senator Javits, 117 Cong. Rec. (daily ed.) S3353–S3354. *See generally* Note, *Congress, the President and the Power to Commit Forces to Combat*, 81 HARV. L. REV. 1771 (1968).

[49] Wright, *The Power of the Executive to Use Military Forces Abroad*, 10 VA. J. INT'L, 54 (1969).

[50] Wright took the same position in 1920. *See* Wright, *Validity of the Proposed Reservations to the Peace Treaty*, 20 COL. L. REV. 134–36 (1920).

[51] 3 W. WILLOUGHBY, THE CONSTITUTIONAL LAW OF THE UNITED STATES, 1567 (2d ed. 1929).

[52] E. CORWIN, CONSTITUTION ANNOTATED (1952).

[53] Another well-known constitutional authority states the President "possesses the organizational authority to resort to the use of force to protect American rights and interests abroad and to fulfill the commitments of the nation under international agreements." B. SCHWARTZ, COMMENTARY ON THE CONSTITUTION OF THE UNITED STATES, Part I, Vol. II at 196 (1963).

[54] Corwin, *Who has the Power to Make War?*, N.Y. Times, July 31, 1949 at 14 (Magazine).

[55] *Hearings, supra* note 46. *See* testimony of Moore at S6469–S6470; testimony of Secretary of State William P. Rogers inserted in the Cong. Rec. by Senator Goldwater, 117 Cong. Rec. (daily ed.) S7196–S7201 (May 18, 1971); and testimony of the Honorable George W. Ball inserted in the Cong. Rec. by Senator Goldwater, 117 Cong. Rec. (daily ed.) S12619–S12621 July 30, 1971).

Other recent statements recognizing full plenary power in the President to conduct military operations are: remarks by Solicitor General Erwin N. Griswold inserted in the Cong. Rec. by Senator Goldwater, 117 Cong. Rec. (daily ed.) S12967–S12969 (Aug. 3, 1971); Eberhard P. Deutsch, *The President as Commander in Chief*, 57 ABA J. 27–32 (Jan. 1971); Henry M. Pachter, *Reflections of Unilateral Intervention*, prepared for Foreign Military Commitments, FORENSIC Q., 135–38 (May 1969); and *Congress, the President, and the War Powers, Hearings Before the Subcomm. on National Securtiy Policy and Scientific Developments of the House Committee on Foreign Affairs*, 91st Cong. 2d Sess. (Comm, Print 1970), testimony of Dr. W. T. Mallison at 30–39, testimony of Professor Abram Chayes at 135–38, and testimony of William H. Rehnquist at 210–16, 232, and 235.

[56] Spong, *Can Balance be Restored in the Constitutional War Powers of the President and Congress?*, 6 U. RICH L. REV., at 27 (1971).

[57] See *Brief, supra* note 41, at S2529–S2530.

[58] See Appendix "A," *infra*, at 88.

[59] 4 U.S. (4 Dallas) 36 (1800).

[60] *Id.* at 39–45.

[61] Also cited as The Amelia, 5 U.S. (1 Cr.) 1 (1801).

[62] *Id.* at 28.

[63] Also cited as Little v. Barreme, 6 U.S. (2 Cr.) 170 (1804).

[64] *Id.* at 179. In fact, there never has been any Supreme Court holding in time of war which shackled the President's ability to use the forces at his disposal to carry on that hostility. See Ratner, *The Coordinated Warmaking Power—Legislative, Executive, and Judicial Roles*, 44 SO. CAL. L. REV. at 486 (1971).

[65] *See* Moore, *supra* note 46, at S. 6469. *And see* U.S. Const., Art. I, § 8.

[66] *See* Rogers, *supra* note 55 at n.45, S 7201.

[67] Spong, *supra* note 56, at 27. The Supreme Court has consistently refused to tackle cases directly challenging the legality of Presidential military decisions during an on-going war. For example, the Court has turned away every request for a decision on the validity of the Vietnam conflict that has been made

of it. See *Berk* v. *Laird*, 443 F. 2d 1039 (1971); *cert. denied* 40 U.S.L.W. 3166 (Oct. 11, 1971); Massachusetts v. Laird, *motion for leave to file complaint denied*, 400 U.S. 886 (1970); Mora v. McNamara, *cert. denied*, 389 U.S. 934 (1967); Luftig v. McNamara, *cert. denied*, 387 U.S. 945 (1967); and Mitchell v. United States, *cert. denied*, 386 U.S. 972 (1967).

There are earlier cases which indicate the Supreme Court will not consider issues arising out of any statute purporting to regulate the President's deployment of troops. In *Mississippi* v. *Johnson* the Court held it had no power to restrain acts of either Congress or the President regarding the use of troops. 71 U.S. 475 (1866). Some half century later the Court held that the propriety of what may be done in the exercise of the power to conduct foreign relations "is not subject to Judicial inquiry or decision." Oetjen v. Central Leather Co., 246 U.S. 297, 302 (1918).

Then in 1950, the Court stated:

"Certainly it is not the function of the Judiciary to entertain private litigation—even by a citizen—which challenges the legality, the wisdom, or the propriety of the Commander-in-Chief in sending our armed forces abroad or to any particular region . . . The issue tendered . . . involves a challenge to conduct of diplomatic and foreign affairs, for which the President is exclusively responsible."

Johnson v. Eisentrager, 339 U.S. 763, 789 (1950).

Two recent articles which conclude the Court will not entertain the issue of the President's war-making authority are (1) Note, *The Supreme Court as Arbitrator in the Conflict Between Presidential and Congressional War-Making Powers*, 50 Boston U. L. Rev. 78 (1970), and (2) *Undeclared War and the Right of Servicemen to Refuse Service Abroad*, 10–16, Legislative Reference Service, Library of Congress (Nov. 30, 1970). *But cf.* Tigar, *Judicial Power, The 'Political Question Doctrine,' and Foreign Relations*, 17 U.C.L.A. L. Rev. 1135 (1970).

In light of the probable application of the "political question" doctrine to the war powers legislation, Senator Goldwater has charged: "[I]t may incite one of the gravest Constitutional crises in American history." Testimony of Senator Goldwater before Hearings on War Powers Bills, *supra* note 46, inserted in 117 Cong. Rec. (daily ed.) S5637–S5647 (April 26, 1971) at S5637.

[68] 67 U.S. (2 Black) 635 (1863).

[69] See *Brief*, *supra* note 41, at S2529.

[70] Prize cases, 67 U.S. (2 Black) 635, 671 (1863).

[71] *Id.* at 668.

[72] Professor Schwartz claims: "The language of the high Court in the *Prize Cases* is broad enough to empower the President to do much more than merely parry a blow already struck against the nation. Properly construed, in truth, it constitutes juristic justification of the many instances in our history (ranging from Jefferson's dispatch of a naval squadron to the Barbary Coast to the 1962 blockage of Cuba) in which the President has ordered belligerent measures abroad without a state of war having been declared by Congress." B. Schwartz, The Reins of Power at 98 (1963). And see text accompanying note 114 to note 149 *infra*.

[73] 71 U.S. (4 Wall.) 2 (1866).

[74] *Id.* at 139.

[75] See *Brief*, *supra* note 41, at S 2530.

[76] 236 U.S. 459 (1915).

[77] *Id.* at 466–67.

[78] *Id.* at 460–70, 474.

[79] See text accompanying note 142 to note 149 *infra*.

[80] Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579 (1952).

[81] *Id.* at 587.

[82] *Id.* at 645.

[83] See Rogers, *supra* note 55, at S 7198.

[84] New York Times Co. v. United States, 403 U.S. 713 (1971).

[85] *Id.* at 722.

[86] See text accompanying note 49 to note 56 *supra* pp. 8–9. And see note 55 *supra*.

[87] E. Corwin, President: Office and Powers 220 (3d rev. ed. 1948).

[88] See text accompanying note 96 to note 100 *infra*.

[89] See text accompanying note 101 to note 108 *infra*.

[90] See text accompanying note 110 to note 113 infra.

[91] U.S. Const., Art. II, § 1.

[92] Griswold, *supra* note 55, at S 12968.

[93] See Corwin, *supra* note 87, at 217–20.

[94] Cited in Corwin, *supra* note 87, at 218.

[95] Annals, 6th Cong., col. 613 (1800).

[96] New York Times Co. v United States, 403 U.S. 713 (1971) *supra* note 84, at 756. And see separate dissent by Justice Blackmun at 761.

[97] *Id.* at 741.

[98] *Id.* at 741–42, 756.

[99] 299 U.S. 304 (1936).

[100] *Id.* at 319–20.

[101] Wright, *supra* note 50, at 134–35.

And see *In re Neagle*, 135 U.S. 1, 64 (1889), cited by Wright in discussion.

[102] E. Corwin, *supra* note 87, at 240–41.

[103] Corwin has also written:

But the President may also make himself the direct administrator of the international rights and duties of the United States, or of what are adjudged by him to be such, without awaiting action either by the treaty-making power or by Congress, or by the courts. *Id.* at 239.

W. Willoughby observed:

It is also to be noted that the powers constitutionally vested in the President with regard to the control of the foreign relations of the United States makes it possible for him to bring about a situation in which, as a practical proposition, there is little option left to Congress as to whether it will or will not declare war or recognize a state of war as existing. W. Willoughby, *supra* note 51, at 1558.

[104] *See* Q. Wright, The Control of American Foreign Relations 306 (1922); Durand v. Hollins, 8 F. Cass. 111 (4 Blatch 451, CCSD NY 1860).

[105] Durand v. Hollins at 454.

[106] *See* The Slaughter-House Cases, 83 U.S. 36, 79 (1872).

[107] U.S. Const. amend. XIV.

[108] J. Clark, Right to Protect Citizens in Foreign Countries by Landing Forces, 25 (3d rev. ed. with supp. appendix up to 1933: 1934).

[109] *See* Q. Wright, *supra* note 104, at 307; Spong, *supra* note 56, *at* 24; Moore, *The Lawfulness of Military Assistance to the Republic of Viet-Nam, The Vietnam War and International Law;* Am. Soc'y of Int'l L. 237 (1968); *id.* at 583–603; Memorandum by U.S. Dept. of State, *The Legality of United States Participation in the Defense of Viet-Nam,* (March 4, 1966); B. Schwartz, *supra* note 72, at 175.

[110] U.S. Const. art. II, § 2, cls. 1.

[111] Q. Wright, *supra* note 50, at 134; W. Willoughby, note 51 *supra*, at 1567.

[112] *Ex parte* Milligan, 71 U.S. (4 Wall) 2 at 139. *See also* holding by Court of Claims that "In time of war, the Commander in Chief has the same powers as other civilized governments, and the exercise of them needed no ratification to give them effective force." The Court was speaking of the *undeclared* war in the Philippines. Warner, Barnes and Co. v. United States, 40 Ct. Cl. 1, 32 (1904).

[113] Swaim v. United States, 28 Ct. Cl. 173, 221, *aff'd* 165 U.S. 553 (1897).

[114] J. Rogers, World Policing and the Constitution 55 (1945).

[115] *Id.* at 56.

[116] E. Corwin, *supra* note 54, at 14.

[117] *See* R. Dupuy and W. Baumer, The Little Wars of the United States preface (1968).

[118] *See,* e.g., Commager, *supra* note 48, principally at S 3355, and Morris, *supra* note 48, at S 3359.

[119] See Goldwater, *supra* note 67, at S 5637.

[120] See appendix A *infra*.

[121] Other itemized lists of U.S. military operations abroad are: J. Clark, *supra* note 108, at 51–130 (78 incidents without declarations of war and not later disavowed or repudiated); J. Rogers, *supra* note 114, at 93–123 (139 such incidents); State, *infra* appendix A at 36 (135 such incidents); and Legislative Reference Service, Library of Congress, *Background Information on the Use of United States Armed Forces in Foreign Countries* (1970 Revision) at 50–57 (152 such incidents).

[122] See appendix A *infra,* note 3 at 110.

[123] Reveley, *Presidential* War-Making*: Constitutional Prerogative or Usurpation?,* 55 Va. L. Rev. 1258 (1969).

[124] Malawer, *The Vietnam War Under the Constitution: Legal Issues Involved in the United States Military Involvement in Vietnam,* 31 U. Pitt. L. Rev. 213 (1969).

[125] See Commager, *supra* note 48, at S 3355.

[126] See appendix F *infra* at 116.

[127] *Id.*

[128] See appendix D *infra* at 114.

[129] See appendix E *infra* at 115.

[130] See appendix G *infra* at 117.

[131] See appendix C *infra* at 112.

[132] *See* Commanger, *supra* note 48, at S3355.

[133] See appendix A *infra* at 92.

[134] *Id.* at 98.

[135] *Id.* at 102.

[136] *Id* at 103. See R Dupuy and W. Baumer, *supra note* 117 at 168.

[137] Appendix A *infra* at 104.

[138] *Id.* generally.

[139] Monaghan, *Presidential War-Making,* 50 Boston U.I. Rev. 27 (1970).

[140] *Id.* at 29.

[141] *Id.* at 31. *See generally* Griswold, *supra* note 55.

[142] United States v Midwest Oil Co., 236 U.S. 459 (1915).

[143] *Id.* at 473.

[144] Presidents had issued orders withdrawing public lands from private acquisition over a period of 80 years. *Id.* at 469. In comparison, Presidents have been sending troops abroad on their own initiative for more than a century and a half. *See* appendix A infra generally.

[145] The statute reads in pertinent part:

"From and after the passage of this act it shall not be lawful to employ any part of the Army of the United States, as a posse comitatus, or *otherwise,* for the purpose of executing the laws, except in such cases and under such circumstances as such employment of said force may be *expressly* authorized by the Constitution or by act of Congress . . ." (Emphasis added.) H. R. 4867, approved June 18, 1878, § 15 (45th Cong.) 20 Stat. 152.

It is true the law was aimed primarily at the use of troops in suppressing domestic violence or insurrection, but on its face it extends to all use of the Army, without any geographical limitation, for the purpose of executing the laws. As we have seen, the President's right to execute the laws includes a power to enforce international obligations as well as domestic laws. See discussion accompanying notes 101 to 104, *supra.*

Furthermore, it was evident to Congress the law it was debating would be applicable to circumstances much broader than the *posse comitatus* situation described in the act. Members of both Houses indicated their awareness of the provision's reach to situations involving the employment of troops against foreign dangers. See remarks of Senator Matthews where he speaks of "foreign wars" 7 Cong. Rec. 4297 (1878) and remarks of Senator Hoar, *id.* at 4303. One proposed amendment, introduced and defeated during floor debate in the House of Representatives, would have exempted from the law the use of forces "on the Mexican border or in the execution of the neutrality laws elsewhere on the national boundary lines." *Id.* at 3849.

In these circumstances and in view of the broad language of the statute, the author believes it can reasonably be interpreted as purporting to limit the use of the Army in the international theater as well as the domestic one. Thereby the doctrine of constitutional interpretation announced in *Midwest Oil* would squarely provide additional support buttressing the legality of the President's use of troops abroad. Section 15 of H. R. 4867 was repealed in 1956 and restated in broader form as the new section 1385 of title 18, U.S.C. (70 A Stat. 626).

[146] 54 Stat. 885.

[147] *Id.* § 3(e), at 886. Congressional debate on the 1940 Selective Service law shows that when Congress referred to the "Western Hemisphere" it definitely meant only that area of North, Central, and South America which "we have long engaged to protect under the Monroe Doctrine."

The provision is also an unlikely precedent for War Powers legislation because its author, Senator Lodge, conceded on the Senate Floor, "This is a pious hope." It was openly recognized by him and others that Congress could not constitutionally restrict the President's deployment of forces. *See* 86 Cong. Rec. 10092, 10103, 10105, 10116, 10129, 10391, 10742, 10794–10798, and especially 10895–10914, 76th Cong. 2d Sess. (1940).

[148] See appendix A *infra* at 105.

[149] Corwin also argues the U.S. agreement to turn over 50 reconditioned destroyers to Britain in 1940 "was directly violative of at least two statutes. . . ." E. CORWIN, *supra* note 87 at 288–89. And *see* appendix A *infra* at —, and Senate Comm. on Foreign Relations, S. Rep. No. 797, 91st Cong., 1st Sess. (1969) 14–15.

[150] See testimony of McGeorge Bundy, *Congress, the President, and the War Powers, supra* note 55, at 3.

[151] See testimony of Alexander Bickel, *Congress, the President, and the War Powers, supra* note 55, at 45.

[152] See testimony of Attorney William D. Rogers, *Congress, the President, and the War Powers, supra* note 55, at 58.

[153] See testimony of Professor Abram Chayes, who supports legislative efforts to end the Indochina War, but nevertheless vigorously opposes as unconstitutional "bills that seek to lay out a detailed blueprint in advance to govern the relations between the President and the Congress in the exercise of the national war power in all possible contingencies." *Congress, the President, and the War Powers, supra* note 55, at 135.

[154] Rogers, *supra* note 55, at S 7199.

[155] *Id.*

[156] See testimony of Dr. James MacGregor Burns, *Congress, the President, and the War Powers, supra* note 55, at 81–82.

[157] *Id.* Consider the observation of former Ambassador Charles W. Thayer, that:

"It was due largely to the erratic, occasionally irresponsible actions of the ancient Greek assemblies that the city-states' diplomacy was ineffective and defensive collaboration against the Eastern aggressors impossible. Despite growing recognition by Congress and the public of the purpose, methods and needs of an effective diplomacy, so long as the consistent pursuit of long-range interests and aspirations is periodically sacrificed to passing whims inspired by fleeting emotions in Washington, the danger persists of a twentieth century repetition of the Greek debacle. W. THAYER, DIPLOMAT 80 (1959)."

[158] See Ball, *supra* note 55, at S 12621.

[159] *Id.*

[160] Goldwater, *supra* note 67, at S 5637.

[161] *Id.*

[162] *See generally Brief, supra* note 41.

[163] See generally text accompanying note 10 to note 36 *supra*. And *see* S. 731, § 4; S.J. Res. 59, § 4; and S.J. Res. 95, § 4, all *supra* note 2.

[164] See appendix A *infra* at 107.

[165] *See* R. KENNEDY, THIRTEEN DAYS (1969) at 35, 36, 68, 97, and 107.

[166] Goldwater, *supra* note 67, at S 5638.

[167] KENNEDY, *supra* note 165, at 53.

[168] *Id.* at 53–54.

[169] Goldwater, *supra* note 67, at S 5638.

[170] *See generally* testimony of Commager and Morris, *supra* note 48; testimony of Professor Alexander Bickel, inserted in the Cong. Rec. by Senator Javits, 117 Cong. Rec. (daily ed.) S 12387 (July 28, 1971). *See generally, Brief, supra* note 41.

[171] See *Brief, supra* note 41, at S 2528. In case the President should veto any such legislation shoving him into an expanded war, he would be put in the unenviable position of facing a Congress which (1) would likely claim he had thereby deprived himself of any authority to act at all in the hostility concerned and (2) could vote to override his veto.

[172] Brant, *Nixon vs. Constitution in War Powers Debate*, The Washington Post, July 4, 1971, at B–3.

Compare the position of Ambassador Thayer, who views the Foreign Service dangerously handicapped under present Congressional practices, let alone under the complications added by War Powers legislation. For example Thayer recites:

"In his Memoirs, President Truman indicates how the Greek Civil War was very nearly lost to the Communists because of the time needed to get the necessary Congressional action.

"The first warning that the British, then on the verge of bankruptcy, would have to withdraw from Greece not later than April 1, 1946, was telephoned to the President by the State Department on Friday, February 21. Four days later Congressional leaders were notified that some sort of action would be essential. But it was not until seventy-five days later, that the House on May 9, finally approved the measure. Meantime the Communist guerrillas had almost succeeded in overthrowing the Greek government. C. W. THAYER, *supra* note 157, at 78–79."

[173] S. 731, *supra* note 2, at § 1A(4).

[174] Secretary of State Rogers contends "such a restriction could seriously limit the ability of the President to make a demonstration of force . . . to deploy elements of the Sixth Fleet in the Mediterranean in connection with the Middle East situation," which is exactly what President Johnson did in 1967. See Rogers, *supra* note 55, at S 7199, and see discussion, accompanying notes 177 to 179, *infra*. Moore, *supra* note 46, at S6470; S. Comm. on Foreign Relations, note 149, at 26.

Representative Zablocki, Chairman of the House Subcommittee hearings on war powers in 1970, told Senator Javits during the latter's appearance at the hearings: "Let us say that as a result of renewed hostilities in the Middle East the President finds it necessary to intervene on the side of Israel. Your bill does not seem to fit that contingency since the United States has no formal treaty or pact with Israel."

Senator Javits replied: "I would hope that long before any such terribly untoward situation would develop in the Middle East . . . this would have been adopted as a NATO responsibility and then it would come under the fourth item of my own bill." *See Congress, the President, and the War Powers, supra* note 55, at 400–401.

Thus, from Senator Javits' own admission the President could not act independently in defense of the people of Israel under his bill, but would have to await either a decision by NATO to take collective action in support of Israel (no one else has suggested Israel is a NATO obligation) or legislative action by Congress.

No authority considers the Middle East Resolution to be pertinent, apparently because it (1) does not grant any authority to employ force, but simply states a policy that "the United States is prepared to use armed forces," (2) does not apply unless the aggressor country is "controlled by international communism," and (3) provides the employment of force "shall be consonant with the treaty obligations of the United States" and we do not have any defense treaty with Israel. Pub. Law 85–7, a joint resolution to promote peace and stability in the Middle East, approved March 9, 1957 (71 Stat. 5).

[175] Goldwater, *supra* note 67, at S 5637.

[176] Remarks of Senator Goldwater, 117 Cong. Rec. (daily ed.) S 5636-S 5637 (April 26, 1971).

[177] See appendix A *infra* at 109.

[178] The Evening Star (Washington, D.C.), May 12, 1971, D–4; Johnson, *The Vantage Point*, excerpt 8, The Washington Post, Oct. 24, 1971, A1, A14.

[179] *Id.*

[180] See Rogers, *supra* note 55, at S 7199.

[181] U. S. Dept. of Navy, *Summary of Wars/Near Wars Since 1946*, 116 Cong. Rec. S15712–S15713 (May 15, 1970).

[182] See S. 731, *supra* note 173; S.J. Res. 59, *supra* note 2, § 2; S.J. Res. 95, *supra* note 2, § 3, and S. 1880, *supra* note 2, § 3, which prohibit the President from inferring a right to act under any law unless that law "specifically authorizes the use of such forces in armed conflict." *see also* S.J. Res. 18, which prohibits deployments to fullfill a treaty obligation qualified by constitutional limitations or conditions. Since nearly all United States defense treaties "limit" or "condition" our responsibility to act to steps which are "in accordance with" our own "constitutional processes," S.J. Res. 18 would seem designed to preclude Presidential initiatives under all such agreements. *See* S. Rep. No. 794, 90th Cong., 1st Sess. 15. (1967).

[183] See appendix A *infra* at 108.

[184] Unpublished letter of Dean Rusk in personal files of Senator Goldwater.

[185] See testimony of Professor Moore where he warns S. 731 would prohibit "humanitarian intervention similar to the joint United States-Belgian operation in the Congo if the intervention were not for the protection of United States nationals." Moore, *supra* note 46, at S6470.

[186] Commager, *supra* note 48, at S 3357.

[187] See text accompanying notes 185–36 *Supra*.

[188] See appendix A *infra* at 91, 92.

[189] See KENNEDY, *supra* note 165, at 35–36.

[190] See text accompany note 104 to note 108 *supra*.

[191] See text accompany note 109 *supra*.

[192] Even Professor Bickel, who otherwise endorsed War Powers legislation, cautioned: "I don't think the President can be deprived of his power to respond to an imminent threat of attack (as well as to the attack itself); or of his power to respond to attacks and threats against our troops wherever they may be, as well as against our territory; or of the power to continue to see to the safety of our troops once they are engaged, even if a statutory 30-day period has expired." Bickel, *supra note* 170, at S12390.

Almost all commentators grant that the Founding Fathers purposefully left with the President at least "the power to repel sudden attacks." *See, e.g.*, Note, *The War-Making Powers: The Intentions of the Framers in the Light of Parliamentary History*, 50 BOSTON U. L. REV. 1 (1970).

[193] Senator Goldwater has put the same view in these words: "I am convinced there is no question that the President can take military action at any time he feels danger for the country or for its freedoms or, stretching a point, for its position in the world." Goldwater, *supra* note 67, at S5639. *See generally* text accompanying note 86 to note 155 *supra*.

And see position of Bernard Schwartz that: "The unwritten constitutional law of presidential power (if not the text of the basic document) has all but vested in the highest officer the virtual authority to make war whenever deemed necessary to protect the interests of the United States." B. Schwartz, *supra* note 72 at 177.

[194] *See, e.g.*, text accompanying note 41 to note 50 *supra;* Javits, *supra* note 36; Morris,

supra note 48; Commager, *supra* note 48; and Bickel, *supra* note 170.

[195] *See generally,* Bickel, *supra* note 170 at S12388; Commager, *supra* note 48, at S3353: testimony of McGeorge Bundy, inserted in the Cong. Rec. by Senator Javits, 117 Cong. Rec. (daily ed.) S5629 (April 26, 1971).

[196] Javits, *supra* note 36, at S1204.

[197] *See* remarks of Senator Cooper, 117 Cong. Rec. S23722–S23744 (July 10, 1970), with accompanying documents.

[198] *See* remarks of Senator Goldwater, 117 Cong. Rec. (daily ed.) S12446 (July 29, 1971).

[199] Berk v. Laird, 443 F.2d 1039 (1971), *cert. denied* 40 U.S.L.W. 3166 (1971).

[200] During Floor debate on the military draft extension law, Senator Stennis, Chairman of the Senate Committee on Armed Services, asserted this is the first time Congress has set numerical strength levels on the regular forces, as distinguished from the Reserves, and including volunteers, officers, and inductees. *See* remarks of Senator Stennis, 117 Cong. Rec. (daily ed.) at S9589 (June 21, 1971).

See also Senate Report 92–93 on H.R. 6531, 92d Cong., 1st Sess. at 35 (1971); Pub. L. 92–129, Act of Sept. 28. 1971, § 301.

See generally the report by the Congressional Reference Service, Library of Congress, *Regulating the Size of the Armed Force Under Selective Service Law,* 117 Cong. Rec. (daily ed.) S9590–S9591 (June 21, 1971).

[201] For example, following a trip to Saigon in May, 1964, Secretary of Defense McNamara brought back recommendations for increases in American assistance, specifically including an increase in the size of the American advisory personnel and a larger air force for South Vietnam. President Johnson asked for, and obtained, from Congress an additional $125 million in military aid funds earmarked for these purposes. Pub. L. 88–633, 78 Stat. 1009, 1010; Pub. L. 88–634, 78 Stat. 1015 (1964).

In 1965, less than nine months after Congress passed the Gulf of Tonkin Resolution, President Johnson sent to Congress an appropriation request specifically and solely related to the war in Vietnam. In it he asked for $700 million to support an increase in the number of troops in South Vietnam. The House of Representatives approved the money by a vote of 408 to 7 and the Senate approved it by a vote of 88 to 3. 111 Cong. Rec. 9232–9284; Pub. L. 89–18, 79 Stat. 109 (1965).

In each of these instances Congress was confronted with a policy decision to expand the defense commitment in Vietnam in the future. These were not requests for funds to cover past expenses, but to support future policy. Here is the kind of clear-cut decision on a specific issue in which the author believes Congress can play a proper and important role in shaping the advance course of the nation's activities or in shifting present trends, if it wishes.

[202] William H. Rehnquist contends that "at the very heart of the Presidential power as Commander-in-Chief is his sole authority to determine the tactics and strategy which shall govern the way in which hostilities once commeced are conducted." Senate Comm. on Foreign Relations, Documents Relating to the War Power of Congress, the President's Authority as Commander-in-Chief and the War in Indochina, 91st Cong., 2nd Sess. 177 (July 1970).

Thus a distinction should be made between the decision of Congress to cut or reject an appropriation of funds for the conduct of hostilities and the attempt by Congress to dictate rules governing the deployment of forces. For example, the Senate Committee on Foreign Relations was acting within the authority of Congress in October when it voted to reduce the funds sought by the Nixon Administration for military and economic assistance in Cambodia from $341 million to $250 million. Senate Comm. on Foreign Relations, Rep. No. 92–404 at 46–47, 92d Cong., 1st Sess. (1971).

On the other hand, the author believes Congress would have improperly invaded the President's sphere as the primary source of foreign policy and Commander in Chief had it passed the so-called "End the War Amendment," which called for a total withdrawal of U.S. troops from Vietnam by December 31, 1971. This would be an effort by Congress to "direct the conduct of campaigns," something the Supreme Court said, in *Ex parte Milligan,* that it cannot do. For text of amendment, see 117 Cong. Rec. (daily ed.) at S8760 (June 10, 1971). *Cf.* Mansfield Amendment no. 427, which simply declares a policy of withdrawal from Vietnam and "requests" the President to implement it. *See* text at 117 Cong. Rec. (daily ed.) S15111 (Sept. 27, 1971).

In some current instances, Congress has passed quasi-restrictions on the deployment of forces with the acquiescence of the President. Section 843 of The Department of Defense Appropriations Act, 1971, is a case in point. P.L. 91–668. This provision prohibits "the introduction of American ground combat troops into Laos or Thailand," but it was not opposed by the Administration. Nor had the Administration earlier opposed a restriction against the introduction of U.S. ground combat troops or advisors into Cambodia when this provision was placed in the Supplement Foreign Assistance Authorization Act for 1971. See Pub. L. 91–652; and Congressional Research Service, Library of Congress, *Legislation Enacted by the 91st Congress to Limit United States Military Involvement in Southeast Asia,* March 30, 1971.

So long as the President agrees to comply with the limitation (each of these two restate a previously announced intention of President Nixon), the language will have the full force and effect of law. However, it is the author's view that the President could legally defy these and similar restrictions on the use of American forces whenever he determines it is vitally necessary to defend American security.

Mr. GOLDWATER. Mr. President, I ask further unanimous consent that there be printed a chronological list of 199 U.S. military hostilities abroad without a declaration of war, from 1798 to 1972.

There being no objection, the list was ordered to be printed in the Record, as follows:

War Without Declaration

APPENDIX*

A chronological list of 199 U.S. military hostilities[1] abroad without a declaration of war, 1798–1972

1798–1800: Naval-War With France

When John Adams became President in 1797, he faced the serious problem of strained relations between France and the United States, in which France had made it a practice to seize American merchant ships and to manhandle their crews. Adams first attempted to negotiate a settlement, but, when the French demanded exorbitant bribes and loans, his envoys rejected the proposals and departed.

Adams, thereupon, asked Congress for the power to arm merchant ships and take other defensive measures. Congress responded by creating a Navy Department, voting appropriations for new warships, and authorizing the enlistment of a "Provisional Army" for the duration of the emergency. In July 1798, the French treaties and consular conventions were abrogated.

The result was a "quasi-war," during which neither country declared war. The American Navy attacked only French warships and privateers and fought primarily for the protection of commerce. Some ninety French ships were captured during this naval war. On September 30, 1800 a convention was agreed to and peace was achieved. State, 2.

1800: West Indies

On April 1, U.S. Marines participated in the action between the U.S. schooner *Enterprise* and a Spanish man-or-war brig in the West Indies. USMC, I, 40.

1801–1805: War With Tripoli

During the early years of the Republic, the United States, following the practice of several European nations, paid tribute to North African pirates. Shortly after Jefferson became President, the Pasha of Tripoli, dissatisfied with the apportionment of tribute, declared war on the United States (May 1801). Jefferson thereupon sent warships to the Mediterranean. After naval actions and landings under Commodore Preble, an inconclusive treaty of peace with Tripoli was signed in 1805. Congress passed various enabling acts during the conflict but never declared war. State, 3.

1806: Mexico (Spanish territory)

Captain Z. M. Pike, with a platoon of troops and on the orders of General James Wilkinson, invaded Spanish territory at the headwaters of the Rio Grande, apparently on a secret mission. State, 16.

1806–1810: Gulf of Mexico

Americans gunboats operated from New Orleans against Spanish and French privateers. State, 16.

1810: West Florida (Spanish territory)

Governor Claiborne of Louisiana, on orders from the President, occupied with troops disputed territory east of the Mississippi as far as the Pearl River. No armed clash occurred. State, 16.

1813. West Florida (Spanish territory)

On authority granted by Congress, General Wilkinson seized Mobile Bay with 600 soldiers, a small Spanish garrison gave way without fighting. State, 16.

1813–1814: Marquesas Islands, South Pacific (claimed by Spain)

U.S. Marines built a fort on one of the islands to protect three captured prize ships. State, 16.

1814–1825: Caribbean Area

There were repeated engagements between American ships and pirates both ashore and off shore about Cuba, Puerto Rico, Santo Domingo, and Yucatan. In 1882, Commodore James Biddle employed a squadron of two frigates, four sloops of war, two brigs, four schooners, and two gunboats in the West Indies. The United States sunk or captured 65 vessels. Marine detachments participated in at least 14 of these actions. State, 16.

1815: Second Barbary War (Algiers)

In 1812 an Algerian naval squadron operated against American shipping in the Mediterranean. In one attack an American merchantman was captured and its crew imprisoned. In March, 1815, Congress passed an act that authorized the use of armed vessels "as may be judged requisite by the President" to provide effective protection to American commerce in the Atlantic and the

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*This edition includes supplementary information added by the author since the article was originally published.

[1] The list includes only actual battles, landings, or evacuations in foreign territory or waters. Deployments to maintain an American presence, or alerts bringing an advanced state of readiness are not included, except for seven or eight incidents when the risk of war was unusually grave. No military operations known to have been subsequently disavowed or repudiated have been included. The list was prepared with the direction of U.S. Senator Barry Goldwater and is published with his consent.

Mediterranean. A naval squadron of 10 vessels under Commodore Stephen Decatur attacked Algiers, compelling the Dey to negotiate a treaty. Decatur also demonstrated at Tunis and Tripoli. All three states were forced to pay for losses to American shipping, and the threats and tribute terminated. State, 3.

1816–1818: Spanish Florida

During the "First Seminole War," U.S. forces invaded Spanish Florida on two occasions. In the first action, they destroyed a Spanish fort harboring raiders who had made forays into United States territory. In the second, Generals Jackson and Gaines attacked hostile Seminole Indians. In the process, United States forces attacked and occupied Spanish posts believed to serve as havens by the hostiles. President Monroe assumed responsibility for these acts. Moore, 403–406.

1817: Amelia Island (Spanish Territory)

Under orders from President Monroe, U.S. forces landed and expelled a group of smugglers and pirates. Moore, 406–408.

1818: Oregon

The U.S.S. *Ontario* landed at the Columbia River and in August took possession. Russia and Spain asserted claims to the area. Rogers, 96.

1820: West Africa

Marines participated in the capture of seven slave schooners by the U.S. corvette *Cyane* off Cape Mount and the Gallinos River on the west coast of Africa during the period from April 5 through 12. USMC, I, 64.

1820–1822: West Coast of South America

Marines were aboard three of the U.S. ships stationed off the west coast of South America from 1820 until May 1822, to protect American commerce during the revolt against Spain, USMC, I, 65.

1822: Cuba (Spanish Territory)

U.S. naval forces landed on the northwestern coast of Cuba and burned a pirate station. State, 17.

1823: Cuba (Spanish Territory)

Between April and October naval forces made a number of landings in pursuit of pirates, apparently incident to Congressional authorization which became operative in 1822. State, 17.

1824: Cuba (Spanish Territory)

In October, the U.S.S. *Porpoise* landed sailors to pursue pirates during a cruise authorized by Congress. State, 17.

1825: Cuba (Spanish Territory)

In March, British and American forces landed on two offshore Cuban islands to capture pirates who were based there. The action appears to be incident to Congressional authority. State, 17.

1827: Greece

Apparently acting pursuant to legislation, in October and November, United States forces from the U.S.S. *Warren* and the U.S. schooner *Porpoise* engaged in seven actions against pirate vessels off Greece and made landings on three Greek Islands. State, 17.

1828: West Indies

In December, incident to legislation, Marines participated in the capture of the Argentinean privateer *Federal* by the U.S. sloop *Eric* at St. Bartholomew Island, W. I. USMC, I, 67.

1830: Haiti

On June 5, marines participated in the capture of the slave brig *Fenix* by the U.S. schooner *Grampus* off Cape Haitien, Haiti. USMC, I, 67.

1831–1832: Falkland Islands (Argentine)

American forces under Captain Duncan of the U.S. *Lexington* landed to investigate the capture of three American sailing vessels. The Americans succeeded in releasing the vessels and their crews and dispersed the Argentine colonists. State, 17.

1832: Sumatra

A force of 250 men from the *U.S.S. Potomac* landed to storm a fort and punish natives of a town for an attack on American shipping and the murder of crew members. State, 18.

1833: Argentina

Between October 31 and November 15, at the request of American residents of Buenos Aires, a force of 43 marines and sailors landed from the U.S.S. *Lexington* to protect American lives and property during an insurrection. State, 18.

1835: Samoan Islands

On October 11, eighty Marines and sailors burned the principal village on the island to avenge harsh treatment meted out to American seamen. Paullin, 729.

1835–1836: Peru

Marines from the U.S.S. *Brandywine* landed at various times at Callao and Lima to protect American lives and property during a revolt, and to protect the American Consulate at Lima. State, 18.

1837: Mexico

On April 16, marines joined in the capture of a Mexican brig-of-war by the U.S.S. *Natchez* off Brasos de Santiago for illegal seizure of two American merchantmen. USMC, I, 70.

1839: Sumatra

In January, American forces from the U.S. sloop *John Adams* and the U.S. frigate *Columbia* landed at Muckie, Sumatra, to protect American lives and property and to punish natives of two towns for attacking American ships. USMC, I, 70.

1840: Fiji Islands

American forces totaling 70 officers and men, landed on July 12 and 26 to punish natives of two towns for attacking American exploring and surveying parties. State, 18.

1841: Samoan Islands

On February 25, an American force of 70 marines and seamen from the U.S.S. *Peacock* landed to avenge the murder of a seaman. They burned three native villages. USMS, I, 71.

1841: Drummond Island (Kingsmill Group, Pacific Ocean)

On April 6, marines from the U.S.S. *Peacock* landed and burned two towns to avenge the murder of a seaman by natives. State, 18.

1843: China

In June and July, a clash between Americans and Chinese at the Canton trading post led to the landing of 60 sailors and marines from the *St. Louis*. Paullin, 1095–1096.

1843: West Africa

In November and December, four U. S. vessels from Commodore Perry's squadron demonstrated and landed various parties (one of 200 marines and sailors) to discourage piracy and the slave trade along the Ivory Coast and to punish attacks made by the natives on American seamen and shipping. In the process, they burned villages and killed a local ruler. The actions appear to have been pursuant to the Treaty of August 9, 1842, with Great Britain relative to the suppression of the slave trade. State, 18.

1844: Mexico

President Tyler deployed our forces to protect Texas against Mexico, anticipating Senate approval of a treaty of annexation, which was rejected later in his term. Corwin, 245.

1844: China

On June 18, Marines from the U.S. sloop *St. Louis* went ashore at Canton, China, to protect American lives, USMC, I, 72.

1845: African coast

On November 30, Marines joined in the capture of the slave bark *Pons* by the U.S. sloop *Yorktown* off Kahenda, Africa. The action was consistent with the Treaty of 1842. USMC, I, 72.

1846: Mexico

President Polk ordered General Scott to occupy disputed territory months preceding a declaration of war. Our troops engaged in battle when Mexican forces entered the area between the Nueces and Rio Grande Rivers. The fighting occurred three days before Congress acted. U.S. 378.

1849: Smyrna (Now Izmir, Turkey)

In July, the *U.S.S. St. Louis* gained the release of an American seized by Austrian officials. State, 18.

1850: African coast

On June 6, Marines joined in capturing a slave ship by the U.S. brig *Perry* off Luanda, Africa. The action was consistent with the Treaty of 1842. USMC, I, 77.

1851: Turkey

After a massacre of foreigners (including Americans) at Jaffa, the U.S. Mediterranean Squadron was ordered to demonstrate along the Turkish coast. Apparently, no shots were fired, but the display amounted to compulsion. State, 19.

1851: Johanna Island (East of Africa)

The U.S.S. *Dale* delivered an ultimatum, bombarded the island, and landed a force to punish the local chieftain for the unlawful imprisonment of the captain of an American whaler. State, 19.

1852–1853: Argentina

Several landings of marines took place in order to protect American residents of Buenos Aires during a revolt. State, 19.

1853: Nicaragua

American forces under Captain Hollins of the U.S.S. *Cyane* landed at Greytown about March 10 to protect American lives and interests during political disturbances. His activities were approved by the Secretary of the Navy. Moore, 414–415.

1853: China

On September 11, a small Marine force from the U.S. steamer *Mississippi* boarded a Siamese vessel in the Canton River and put down a mutiny. USMC, I, 78.

1853: West Coast of Africa

In accordance with the Treaty of 1842, on December 3, Marines joined in the capture of the slave schooner *Gambrill* by the U.S. frigate *Constitution* off the Congo River on the west coast of Africa. USMC, I, 78.

1853: Smyrna

Martin Koszta, who was an American declarant, was released by his Austrian captors, upon an ultimatum given by Naval Captain Ingraham who trained his guns upon the Austrian vessel on which Koszta was held. Secretary of State Marcy defended the rescue against protest by the Austrian Government. Berdahl, 50.

1853–1854: Japan

Commodore Matthew C. Perry led an expedition consisting of four men-of-war to Japan to negotiate a commercial treaty. Four hundred armed men accompanied Perry on his initial landing at Edo Bay in July, 1853, where he stayed for ten days after refusing to leave when ordered. He then sailed south, landing a force at the Bonin Islands, where he took possession, and at the Ryukyus, where he established a coaling station. In March, 1854, he returned to Edo Bay with ten ships and 2,000 men, landed with an escort of 500 men, and after six weeks signed a treaty with Japanese authorities at Kanagawa. The whole campaign was on executive authority. State, 19.

1854: West Coast of Africa

Pursuant to the Treaty of 1842, on March 10, Marines joined in the capture of a slave brig by the U.S. brig *Perry* off the west coast of Africa. USMC, I, 78.

1854: China

American and British forces consisting of 150 English sailors, 60 U.S. sailors, and 30 merchant sailors landed at Shanghai on April 4 and stayed until June 7 to protect their nationals during a battle between Chinese imperial and revolutionary troops. State, 19.

1854: Greytown, Nicaragua

In July, the commander of an American naval vessel demanded reparation after the U.S. minister to Central America was injured during a riot. When this was not forthcoming, the vessel bombarded the town. President Pierce defended the action of the American commander in his annual message to Congress. Moore, 415–416.

1854: Okinawa

On July 6, a force of 20 Marines from the U.S. steamer *Powhatan* went ashore on Okinawa and seized a religious shrine in punishment of persons who murdered an American. On November 17, Marines and seamen from the U.S. sloop *Vincennes* went ashore again at Okinawa to enforce treaty provisions. USMC, I, 78.

1855: China

There were two brief actions by U.S. warships, the first a landing in May at Shanghai to protect American interests there, the second an attack in August at Hong Kong against pirates. State, 20.

1855: Fiji Islands

In September and October, marines from the sloop-of-war *John Adams* landed four times to seek reparations for depredations against Americans and to force natives to honor a treaty. The landing parties fought skirmishes and burned some villages. USMC, I, 79.

1855: Uruguay

In August and November, U.S. naval forces put sailors ashore to protect American interests in Montevideo. State, 20.

1856: Panama, Republic of New Granada

U.S. forces landed and stayed two days to protect American interests, including the Isthmian railroad, during an insurrection. (By the treaty of 1846 with New Granada, the United States had acquired the right to protect the Isthmus and to keep it open, in return for guaranteeing its neutrality.) State, 20.

1856: China

In October and November, the U.S. warships *Portsmouth* and *Levant* landed 280 officers and men to protect American interests at Canton during hostilities between the British and the Chinese and in response to an unprovoked assault upon an unarmed boat displaying the U.S. flag. The Americans took and destroyed four Chinese forts. The attack by U.S. war vessels without authority of Congress was approved by President Buchanan. Berdahl, 51.

1858: Uruguay

Forces from two U.S. warships landed in January to protect American lives and property during a revolt in Montevideo. The action was taken in conjunction with the forces of other powers at the request of the local government. State, 20.

1858: African coast

On September 8, Marines joined in the capture of a ketch laden with slave food by the U.S. sloop *Marion* off the southeast coast of Africa. The action was consistent with the Treaty of 1842. USMC, I, 80.

1858: Cuban waters

After repeated acts of British cruisers in boarding and searching our merchant vessels in the Gulf of Mexico and adjacent seas, President Buchanan addressed remonstrances to the British Government, against these searches and, without authority from Congress, ordered a naval force to the Cuban waters with directions "to protect all vessels of the United States on the high seas from search or detention by the vessels of war of any other nation." A conflict with Great Britain was avoided only by its abandonment of her claim to the right of visit and search in time of peace. Berdahl, 51; Richardson, 3038.

1858: Fiji Islands

On October 6, about 60 Marines and sailors from the *U.S.S. Vandalia* landed to punish natives for the murder of two American citizens and engaged in a fierce conflict with 300 native warriors. State, 21.

1858–1859: Turkey

American citizens were massacred in 1858 at Jaffa and mistreated elsewhere. In the face of Turkish indifference, the Secretary of State asked the U.S. Navy to make a display of force along the Levant. State, 21.

1858–1859: Paraguay

From October 1858, to February, 1859, an American expedition went to Paraguay to demand redress for an attack on a naval vessel in the Parana River during 1855. Apologies were forthcoming after a display of force, which amounted to compulsion. Congress authorized the action. State, 21.

1859: African coast

On April 21 and 27, Marines joined in the capture of a slave ship near the Congo River, Africa. The action was consistent with the Treaty of 1842. USMC, I, 81.

1859: Mexico

Two hundred U. S. soldiers crossed the Rio Grande in pursuit of the Mexican bandit Cortina. State, 21.

1859: China

On July 31, forces from the U.S.S. *Mississippi* landed at Woosung and Shanghai, where they remained until August 2, to protect American interests and restore order. The American consul had called on the ship for assistance. State, 21.

1860: Kissembo, West Africa

On March 1, 40 Marines and seamen from the sloop-of-war *Marion* landed twice to prevent the destruction of American property during a period of local unrest. State, 21.

1860: Colombia (State of Panama)

On September 27, the Marine guard from the sloop U.S.S. *St. Mary's* landed to protect American interests during a revolt. This may have been authorized pursuant to the Treaty of 1846. State, 21.

1863: Japan

On July 16, when Japanese shore batteries at Shimonoseki fired on a U. S. merchant ship, the U.S.S. *Wyoming* retaliated by firing on three Japanese vessels lying at anchor. The shots were returned, and, by the time the action was over, there were casualties on both sides. The American Minister had demanded redress.

1864: Japan

From July 14 to August 3, U. S. forces protected the U. S. Minister to Japan when he visited Yedo concerning some American claims against Japan. The forces also were designed to impress the Japanese with American power. LRS, IV, 52.

1864: Japan

Between September 4 and 8, naval forces of the United States, Great Britain, France, and the Netherlands jointly forced open the Straits of Shimonoseki, which had been closed in violation of commercial agreements. Shore batteries were destroyed and 70 cannon seized. State, 21.

1865–1866: Mexican border

In late 1865, General Sheridan was dispatched to the Mexican border with 50,000 troops to back up the protest made by Secretary of State Seward to Napoleon III that the presence of over 25,000 French troops in Mexico "is a serious concern to the United States." In February, 1866, Seward demanded a definite date be set for withdrawal and France complied. Though American forces did not cross the border, the threat of foreign military operations was clear and imminent. U.S., 580–581.

1865: Panama

American forces from the U.S.S. *St. Mary's* landed to protect American interests during a revolt. This was apparently implied by the Treaty of 1846. State, 22.

1866: China

Various landings by over 100 marines and seamen were made in June and July at Newchwang to punish an assault on the American Consul and to guard diplomats. State, 22.

1867: Formosa

On June 13, 181 Marines and seamen from the U.S.S. *Hartford* and U.S.S. *Wyoming* landed to punish natives who had murdered the crew of a wrecked American merchantman. Several huts were burned. USMC, I, 91.

1867: Nicaragua

On September 6, Marines landed and occupied Managua and Leon. USMC, I, 92.

1868: Japan

From February 1 until April 4, landings were made at Hiago, Nagasaki, and Yokohama to protect American lives and property during local hostilities. USMC, I, 92.

1868: Uruguay

At the request of local Uruguayan authorities, several landings were made from five U.S. steamers at Montevideo during the month of February in order to protect American lives and property during an insurrection. State, 22.

1868: Colombia

An American force landed at Aspinwall in April to protect the transit route during the absence of local police. This was impliedly permitted by the Treaty of 1846. State, 22.

1869–1871: Dominican Republic

President Grant, having negotiated a treaty of annexation, sent a strong naval force to the island to protect it from invasion and internal disorder, both during consideration of the treaty by the Senate and for months after its rejection. Berdahl, 48.

1870: Mexico

On June 17, the *U.S.S. Mohican* pursued a pirate ship up the Tecapan River near Mazatlan, landed a party of Marines and seamen, and destroyed it during a pitched battle. State, 22.

1871: Korea

In June, American landing forces under Admiral Rodgers captured five Korean forts after a surveying party, granted permission to make certain surveys and soundings, had been attacked. No treaty or convention was in effect. State, 22.

1873: Colombia

In May and September, nearly 200 American forces landed at the Bay of Panama to protect American lives and interests during local hostilities. The actions were impliedly allowed by the Treaty of 1846. State, 22.

1873: Cuban waters

On October 31. the steamer *Virginius,* flying the American flag, was captured some 18 miles from Jamaica by the Spanish steamer *Tornado,* her actual destination having been to make a landing of men and arms in Cuba. In violation of treaty stipulations with the U.S. regarding counsel and trial before a proper court, a summary court-martial was convened and with circumstnces of the utmost barbarity, a total of 53 of the crew and passengers were executed, including a considerable number of Americans. Large meetings were held in this country demanding violent action against Spain and President Grant authorized the Secretary of the Navy to put our navy on a war footing. Every available ship was commissioned or recalled from foreign stations and war looked imminent. Spain yielded and the *Virginius* with her surviving crew and passengers were returned in late December. Also, by an agreement concluded February 27, 1875, Spain admitted the illegality of the capture and the wrongfulness of the summary execution and paid an indemnity of $80,000 to the United States. Chadwick, 314–351.

1873–1882: Mexico

U.S. troops repeatedly crossed the Mexican border to pursue cattle thieves and Indian marauders. Mexico occasionally reciprocated. Such incursions were finally recognized as legitimate by agreements concluded in 1882 and subsequent years. Moore, 418–425.

1874: Hawaii

In February, a party of 150 men from two U.S. vessels landed to preserve order at the request of local authorities. State, 23.

1876: Mexico

On May 16, at the request of the U.S. consul at Matamoras, a small American force was landed to preserve order when the town was temporarily without a government. State, 23.

1882: Egypt

On July 14, over 100 forces from the U.S.S. *Lancaster,* U.S.S. *Quinnebaug,* and U.S.S. *Nipsic* landed at Alexandria, when the city was being bombarded by the British navy, in order to protect American interests there, including the American consulate, State, 23.

1885: Colombia (State of Panama)

On January 18, March 16, March 31, April 8, April 11, April 12, and April 25, American forces landed to protect American property and guard valuables in transit over the Isthmus during local revolutionary activity, an action authorized under the Treaty of 1846. USMC, I, 96.

1888: Korea

On June 19, 25 men from the U.S.S. *Essex* landed at Chemulpo and marched to Seoul to protect American residents during unsettled political conditions. The action was requested by the American Minister. State, 23.

1888–1889: Samoan Islands

In 1886, the German consul announced that the Sanwan group was henceforth a German protectorate, an action that brought the United States and Great Britain together in opposition. By 1889, Germany and the United States were close to a direct confrontation. The United States and Germany, together with Great Britain, shared certain treaty rights in Samoa for the maintenance of naval depots. In November 1888, U.S. Marines landed from the *U.S.S. Nipsic* to protect American interests after civil strife broke out ashore. In January, 1889, German forces landed, and, when those forces were attacked by the natives, German ships shelled the island. This action by Germany aroused the American public, and Congress appropriated $500,000 for the protection of American lives and property on the island and $100,000 for the development of Pago Pago harbor. The United States also ordered two more warships to the scene. All three powers had warships on the scene and an untoward event might have touched off war had not a hurricane in March, 1889, destroyed all the warships except one British vessel. Thereafter, the Germans invited the three powers to a conference, which was agreed to and held in Berlin. In April, 1889, they established a three-power protectorate there. In 1890 the Samoans were divided, the United States acquiring Tutuila. State, 23.

1888: Haiti

In December, American warships made a display of force to obtain the release of an American merchant vessel captured by a Haitian warship. The Haitian Government surrendered the ship and paid an indemnity after Admiral Luce gave an ultimatum ordering its release before sunset. State, 24.

1889: Hawaii

On July 30, at the request of the American Minister in Honolulu, the U.S.S. *Adams* sent a marine guard ashore to protect American lives and property during revolutionary disroder. State, 24.

1890: Argentina

The *U.S.S. Tallapoosa* landed a party in July to protect the American Consulate and Legation in Buenos Aires during a revolt. State, 24.

1891: Navassa Island, Haiti

American forces from the *U.S.S. Kearsarge* landed on June 2 to protect American lives and property during a period of unrest. The action was taken pursuant to Congressional action. State, 24.

1891: Bering Sea

An American squadron operated from June to October, jointly with British naval vessels, seizing four schooners. Rogers, 109.

1891: Chile

In August, 102 Americans of the South Pacific station landed at Valparaiso during a revolt in order to protect the American Consulate and American lives. State, 24.

1894: Brazil

The U.S. Navy engaged in gunfire and a show of force in January to protect American shipping at Rio de Janeiro during a revolt of the Brazilian navy. President Cleveland stated our action "was clearly justified by public law." State, 24.

1894: Nicaragua

In July, American forces landed at Bluefields to protect American interests during a revolt. State, 24.

1894–1896: Korea

On July 24, at the request of the American Minister, a force of 21 Marines and 29 sailors landed at Chemulpo and marched to Seoul to protect American lives and property during the Sino-Japanese War. A Marine guard remained at the American Legation until 1896. State, 24.

1894–1895: China

On December 6, 1894, Marines disembarked from the *U.S.S. Baltimore* at Taku and marched to Tientsin to protect American lives and property during the Sino-Japanese War. The landing party maintained order until May 16, 1895. USMC, I, 98.

1895: Colombia (State of Panama)

Marines from the *U.S.S. Atlanta* landed in March to protect American interests during a revolt. This appears to have been authorized by treaty. State, 24.

1895–1896: Korea

During internal disorders from October 11, 1895, to April 3, 1896, the American Legation at Seoul was protected by Marines from various ships. Ellsworth, 60.

1896: Nicaragua

On May 2, marines were put ashore at Corinto by the *U.S.S. Alert* during revolutionary disorders to protect American interests. USMS, I, 99.

1898: Nicaragua

On February 7, Marines landed at San Juan del Sur by the *U.S.S. Alert* to protect Americans against disorder. USMC, I, 99.

1898–1899: China

American forces guarded the Legation at Peking and the Consulate at Tientsin from November, 1898, to March, 1899, during a period of unrest. President McKinley reported this protective action in his annual message. State, 25.

1899: Nicaragua

On February 24, in response to a petition from foreign merchants during an insurrection, Marines landed to protect life and property at San Juan del Norte and Bluefields. State, 25.

1899: Samoan Islands

Sixty Americans landed on February 14 from the *U.S.S. Philadelphia,* and on April 1 joined a British force in efforts to disperse native rebels. This may have been under color of treaty or statute. State, 25.

1899–1901: Philippine Islands

The United States employed 126,468 troops against the Philippine Insurrection without a declaration of war after the Treaty of Peace with Spain was concluded. Presumably the United States acted to suppress the rebellion under authority of the Treaty of Peace, which transferred to it the sovereignty possessed by Spain in the Philippine Islands. 40C. of Claims. 26–32.

1900–1901: "Boxer" Rebellion (Peking)

In 1900 President McKinley sent 5,000 troops to join the international military force organized for the relief of foreign legations besieged in Peking by Chinese "Boxers." Using troops already mobilized for the Spanish-American War and the Philippine Insurrection, McKinley did not seek authority from Congress. Peace terms were concluded at an international conference, and a peace Protocol was signed September 7, 1901. The Protocol was not submitted to Congress. Because of the obvious inability of Chinese authorities to control local disorders, the United States acquired the right to maintain a guard at Peking for defense of the American Legation and to station military forces at certain points in Chinese territory to keep open communications between Peking and the sea. (Earlier, in 1858, the United States had acquired the right by treaty to station naval vessels in Chinese waters.) State, 3–4.

1901: Colombia (State of Panama)

American forces went ashore in late November and stayed until December to protect American property and to keep transit lines open across the Isthmus during serious political disturbances. This apparently was authorized by the Treaty of 1846. State, 25.

1902: Colombia (State of Panama)

Marine guards landed in April to protect American lives and the railroad across the Isthmus during civil disorders. They continued to land at various times between April and November. This appears to have been authorized by the Treaty of 1846. State, 46.

1903: Honduras

American forces disembarked at Puerto Cortez in March to protect the American Consulate and port facilities during a period of revolutionary activity. State, 25.

1903: Dominican Republic

In April, 29 Marines landed at Santo Domingo, where they remained for three weeks to protect American interests during a period of political disturbances. State, 25.

1903–1904: Syria

A Marine guard landed and remained for a few days at Beirut in April to protect the American Consulate during a Moslem uprising. Also our Mediterranean Squadron demonstrated at Beirut from September to January and at Smyrna the next August. State, 25.

1903: Panama

A revolution leading to the independence of Panama from Colombia broke out in November. Marines landed from the U.S.S. *Dixie* to prevent Colombian troops from carrying out a threat to kill American citizens, after Commander Hubbard had refused to allow the Colombians to transport their troops across the Isthmus. Marine guards remained on the Isthmus from the date of Panamanian independence (November 4, 1903) until January, 1914, to protect American interests during the construction of the Canal. This was allowed under the Hay-Bunau-Varilla Treaty. State, 25–26.

1903–1904: Abyssinia

Twenty-five American marines were sent to protect the U.S. Consul General from November 18, 1903, to January 15, 1904, while he was negotiating a treaty with the Emperor. USMC, I, 109.

1904: Dominican Republic

On January 3, 7, and 17, and on February 11, over 300 Marines landed at Puerto Plata, Sosua, and Santo Domingo to protect American lives and property during a revolt. USMC, 108–109.

1904: Morocco

A squadron demonstrated in Moroccan waters in June to force the release of a kidnapped American. A Marine contingent had landed on May 30 to protect the Consul General. State, 26.

1904: Panama

American troops were used to protect American lives and property at Ancón in November when a revolt seemed imminent. This action seems to have been authorized by treaty. State, 26.

1904–1905: Korea

In January, 1904, over 100 American troops were sent to guard the American Legation at Seoul because of the outbreak of the Russo-Japanese War. They remained until November 1905. In March, 1904, Marines assisted in the evacuation of American nationals. USMC, I, 108.

1905–1907: Dominican Republic

After the Senate failed to ratify a treaty providing that the United States should guarantee the integrity of the Dominican Republic, take charge of its customs, and settle its obligations, President T. Roosevelt nevertheless put its term into effect for two years until in 1907 the Senate ratified a slightly revised version. Berdahl, 41–42.

1906–1909: Cuba

An American squadron demonstrated off Havana, and, in September, marines landed to protect American interests during a revolution. In October, marine and army units landed and took up quarters in many Cuban towns in connection with the temporary occupation of the country under a provisional governor appointed by the United States. This occupation was within the scope of the provision of the 1903 Treaty of Relations between the two countries, which gave the United States the right to intervene to preserve order. The occupation lasted until January, 1909. State, 26.

1907: Honduras

On March 18, during a war between Honduras and Nicaragua, the U.S.S. *Marietta* disembarked 10 men to guard the American Consulate at Trujillo. The U.S.S. *Paducah* also landed forces at Laguna and Choloma on April 28. State, 26.

1910: Nicaragua

In May, one hundred men from the U.S.S. *Paducah* landed at Greytown to protect American lives and property during a revolt. The U.S.S. *Dubuque* also engaged in shows of force. Joined combat was "hourly expected.' State, 26.

1911: Honduras

Sixty men from the U.S.S. *Tacoma* and *Marietta* went ashore at Puerto Cortez during a revolt to protect American interests. The American Commander threatened to use force if necessary. State, 26.

1911–1912: China

American forces made six landings to protect American interests during the initial stages of a revolution. They were stationed at Foochow, Chinkiang, Peking, Hankow, Nanking, Shanghai, and Taku. This may have occurred pursuant to rights acquired during the "Boxer" Rebellion. State, 27.

1912: Panama

During June and July, at the request of local political groups, American troops supervised elections outside the Canal Zone. This was impliedly authorized by the Hay-Bunau-Varilla Treaty. State, 27.

1912: Cuba

In May, American troops landed in eastern Cuba during a revolt and remained for three months to protect American interests. This appears to have been authorized by the Treaty of 1903. President Taft telegraphed the President of Cuba that the action was for protection only. Hackworth, 328–329.

1912: Turkey

A troop detachment from the U.S.S. *Scorpion* assisted in the protection of the diplomatic corps at Istanbul during the Balkan War. State, 27.

1912: Nicaragua

During a civil war, the President of Nicaragua asked the United States to protect its citizens resident there. Acting on a recommendation of the American Minister, President Taft ordered sizable landings of marines in August and September, 1912. Political stability returned to Nicaragua by January, 1913, but a detachment of marines was kept in Managua to guard the American Legation after the rest of the American troops withdrew. The Legation guard was reinforced in 1922 and remained until August 1, 1925. State, 27.

1913: China

U.S. forces landed in July at Chapei and Shanghai to protect American interests. Rogers reports there were many demonstrations and landing parties by United States forces for protection in China continuously from 1912 to 1941. He writes: "In 1927, for example this country had 5,670 troops ashore in China and 44 naval vessels in its waters. In 1933 we had 3,027 armed men ashore. All this protective action was in general terms based on agreements with China ranging from 1858 to 1901." Rogers, 117.

1913: Mexico

In September a few Marines disembarked at Ciaris Estero, during a period of civil strife, to aid in the evacuation of American citizens. State, 27.

1914: Haiti

Marines landed in January, February, and August to protect American citizens during a period of unrest. State, 27.

1914: Dominican Republic

During a period of revolutionary activity, U.S. naval forces fired at revolutionaries who were bombarding Puerto Plata, in order to stop the action. Also, by a threat of force, fighting in Santo Domingo was prevented. State, 28.

1914: Occupation of Vera Cruz, Mexico

On April 9, 1914, an American naval officer and 9 crewmen from the U.S.S. *Dolphin* anchored off the coast at Tampico, Mexico, were arrested and marched through the streets by local authorities. They were released and an apology was extended as soon as the local Mexican commander learned of the incident. Admiral Mayo, commander of the American squadron, also demanded a 21-gun salute to the American flag. The Mexicans refused and President Wilson promptly ordered the North Atlantic battleship fleet to Tampico. On April 20, he addressed Congress in a joint session and asked for authority to use the armed forces. While Congress debated, Wilson learned that a German steamer was headed toward Vera Cruz to unload munitions for Huerta, and he decided to direct the naval action against Vera Cruz, and, after an armed engagement resulting in 400 casualties, the Americans occupied the city on April 21. On April 22, Congress passed a joint resolution which declared that the President was "justified in the employment of the armed forces of the United States to enforce his demand for uneqivocal amends for certain affronts and indignities committed against the United States," but that "the United States disclaimed any hostility to the Mexican people or any purpose to make war upon Mexico." By November 23, 1914, American troops had left Mexican soil. State, 4.

1915: Dominican Republic

On August 15, the 5th Marine Regiment arrived at Puerto Plata to protect American lives and property during a revolutionary outbreak. Their protective mission lasted until October 12, 1915.

1915–1934: Haiti

In July, at the initiative of the Executive, the United States placed Haiti under the military and financial administration of the United States, in part to protect American lives and property and in part to forestall European intervention to collect debts. Marines were stationed in Haiti until 1934. The occupation was sanctioned by a treaty consented to by the Senate in February, 1916, but the first months of the occupation were on executive authority alone. State, 28.

1916–1924: Dominican Republic

President Wilson ordered the occupation of Santo Domingo in May, 1916, owing to local unrest. At one point, 3,000 marines were ashore. The United States placed a military governor in the Dominican Republic but turned political affairs over to the Dominicans in 1922. U.S. troops withdrew in 1924, and a general treaty signed that year formally sanctioned the previous occupation. The Convention of February 8, 1907, also appears to have authorized the landing of U.S. troops. State, 28.

1916: China

American forces landed at Nanking to quell a riot taking place on American property. Apparently this was authorized by an international agreement. State. 28.

1916–1917: Pershing Expedition into Mexico

In October, 1915, the United States recognized the Carranza regime as the *de facto* government in Mexico. At the same time, Mexican rebel, Pancho Villa, directed a campaign against the United States. In January, 1916, Villa's followers massacred 18 American mining engineers in Santa Ysbel, Mexico.

Then, on March 9, 1916, 400 of Villa's men raided Columbia, New Mexico, and killed 17 Americans. The American public was incensed, and Wilson delayed sending an expedition only until he could obtain Carranza's consent. On March 13, 1916, when Carranza's government acceded, Wilson ordered General John J. Pershing to take U.S. Army units into Mexico. On March 16, Pershing crossed the border with 6,000 troops. On the following day, Congress adopted a joint resolution introduced by Senator Robert LaFollette sanctioning the use of the armed forces. Until then, Wilson had been relying on claims of authority under the Acts of 1795 and 1807 relative to employing the armed forces whenever there is "imminent danger of invasion."

Villa eluded Pershing, and the size of the U.S. expedition soon grew to such proportions (12,000 men) that Carranza protested and demanded its withdrawal, threatening war. Wilson on June 18 called out the National

Guard and incorporated it into the Army; 150,000 militia were ordered to the Mexican border. But neither country really wanted war, and the crisis gradually subsided. Wilson decided to withdraw all American troops from Mexico in February, 1917. State, 5–6.

1917: Armed Atlantic Merchant Ships

In February, President Wilson asked Congress for authority to arm U.S. merchant vessels with defensive guns, but Congress refused to pass such a law. Thereupon President Wilson acted, on his own authority, to equip American merchant vessels with guns and gunners assigned to them from the Navy. His action occurred prior to the declaration of war on Germany which did not take place until April 6, 1917. Willoughby, III, 1568.

1917: Cuba

American troops landed in February at Manzanilla to protect American interests during a revolt. Various other landings were made, and, though the revolt ended in April, 1917, troops remained until 1922 because of continued unsettled political conditions. This was authorized by the Treaty of 1903. State, 28.

1917: China

On December 3 and 4, American troops landed at Chungking to protect American lives during a political crisis. Apparently this was done pursuant to the Treaty of June 18, 1858, and the Boxer Protocol of September 7, 1901. Hackworth, 332.

1918–1919: Mexico

U.S. troops entered Mexico to pursue bandits three times in 1918 and six times in 1919. In August, 1918, there was a brief skirmish between American and Mexican troops at Nogales. State, 28.

1918–1920: Expeditions to Russia

Following the Bolshevik revolution in Russia in 1917, Allied expeditions landed, in 1918, at Murmansk and then Archangel. American troops first landed in August, 1918, with most arriving in Archangel Harbor on September 4. Though Armistice Day came on November 11, 1918, the American forces remained until June 27, 1919. At Archangel, the U.S. contributed some 5,208 men and suffered some 549 casualties, including 244 deaths.

The Allies also landed units in Siberia in August and September of 1918 where Bolshevik troops were fighting a force of 65,000 Czech soldiers who were trying to fight their way eastward. The Japanese sent 74,000 soldiers; the Americans sent 8,388; and the British and French provided minor contingents. The American forces began embarking for home on January 17, 1920, and the last units left on April 1, 1920.

President Wilson, who acted without Congressional approval, agreed to participate in the Allied expeditions to aid the anti-Bolsheviks, to help several thousands of Czech troops get back to their homeland, and to forestall possible Japanese expansionist plans in Siberia. State, 6.

1919: Dalmatia

At the request of Italian authorities, U.S. bluejackets were landed at Trau, September, 1919, in order to police order between the Italians and the Serbs. The action, which was entirely without the previous knowledge or consent of Congress, was an extension of the Constitutional principle of police supervision as earlier applied in the zone of the Caribbean. Berdahl, 56.

1919: Turkey

On May 14, a Marine detachment from the U.S.S. *Arizona* landed to guard the U.S. Consulate at Constantinople during the Greek occupation of the city. USMC, I, 121.

1919: Honduras

A small American force went ashore at Puerto Cortez to maintain order in neutral zone during an attempted revolt. State, 29.

1918–1920: Panama

American troops went outside the Canal Zone, on request of the Panamanian Government, to supervise elections and police the Province of Chiriqui. This was authorized by the Convention of November 18, 1903. Hackworth, 331.

1920: China

In March and August, American forces landed at Kiukiang and Youchow to protect American lives and property. This appears to have been authorized by international agreement. Hackworth, 332.

1920: Guatemala

Forty men from the U.S.S. *Tacoma* and *Niagara* went inland to Guatemala City to protect the American Legation and other American interests during local fighting, but were withdrawn after about 10 days. State, 29.

1920–1922: Siberia

The United States stationed a marine guard on Russian Island, Bay of Vladivostok, to protect United States radio facilities and other property. State, 29.

1921: Panama-Costa Rica

American naval squadrons demonstrated for one day on both sides of the Isthmus to prevent war between the two countries over a boundary dispute. This was impliedly authorized by treaty. State, 29.

1922: Turkey

In September forces from several American warships went ashore with the consent of both Greek and Turkish authorities to protect American interests when the Turkish forces were advancing on the city of Smyrna. Hackworth, 333.

1922–1923: China

There were five landings by Marines from April, 1922, to November, 1923 (at Peking, Tientsin, Taku, Tungshan, and Masu Island) to protect Americans during periods of unrest. This appears to have been authorized by international agreements. USMC, I, 122–123.

1924–1925: Honduras

There were intermittent landings from February, 1924, to April, 1925, to protect American lives and property during local unrest. In March, 1924, the *Denver* put ashore 167 men and in September, the U.S.S. *Rochester* landed 111 additional forces. USMC, I, 123–124.

1924–1925: China

From September, 1924, to June, 1925, over seven landings were made by the Marines at Shanghai to protect Americans during a period of unrest. This appears to have been authorized by international agreement. USMC, I, 124–125; Hackworth, 332–333.

1925: Panama

As a result of strikes and rent riots, and at the request of Panamanian officials, 600 troops from the Canal Zone entered Panama City in October and remained for 11 days to maintain order. This conformed to American treaty rights. State, 29.

1926–1933: Nicaragua

When local disturbances broke out in 1926, the Nicaraguan Government requested that American forces undertake to protect lives and property of Americans and other foreigners. In 1927, five thousand soldiers were put ashore.

Rebel political leader, Sandino, who received Communist propaganda and financial support, turned the situation into a real civil war. In January, 1928, Sandino was forced to flee to Mexico by Marine forces, but backed by Communist aid, he returned in 1930 and Nicaragua flared again. By 1933 an all-Nicaraguan Guardia Nacional became strong enough so that all U.S. Marines could leave. In all the marines had engaged in 150 clashes and lost 97 men, 32 in action. Rebel losses were approximately over a thousand.

The occupation was initiated entirely on the executive responsibility of President Coolidge. The Democrat minority bitterly criticized his policy as a "private war" and as "imperialism," but did not question the President's authority. State, 6–7; and Dupuy and Baumer, 168.

1926: China

American forces landed at Mankow in August and September and at Chingwangtao in November to protect American interest. This appears to have been authorized by international agreement. State, 29.

1927–1928: Armed Actions in China

Anti-foreign incidents in China reached a climax in 1927.

In February, a U.S. expeditionary battalion landed at Chaighai and in March, 1,228 marine reinforcements landed there. By the end of 1927, the United States had 44 naval vessels in Chinese waters and 5,670 men ashore. In 1928, when the Nationalists had gained greater control over Chinese territory and purged themselves of Communist support, the United States reached a separate accord with them and, in July, signed a treaty which constituted United States recognition of the Nationalist Government. A gradual reduction of United States forces in China began in the same month. State, 7–8.

1932: China

In February, American forces landed at Shanghai to protect American interests during the Japanese occupation of the city, apparently under treaty. State, 30.

1933: Cuba

During a revolution, United States naval forces demonstrated offshore but no forces landed. This was pursuant to the Treaty of 1903. State, 30.

1934: China

In January, marines from the U.S.S. *Tulsa* landed at Foochow to protect the American Consulate, apparently pursuant to treaty rights. USMC, I, 129.

1936: Spain

From July 27, through September 19, the *Quincy*, carrying a marine guard, served in the Spanish war zone. The vessel touched at several ports, sometimes evacuating American nationals. (Master rolls.)

1937–1938: China

Beginning on August 12, 1937, several marine landings were made at Shanghai to protect American interests during Sino-Japanese hostilities. Marine strength in China, assigned under the International Defense Scheme, reached 2,536 men by September 19. USMC, II, 2–3.

1940: British Possessions in Western Atlantic

On September 3, President Roosevelt informed Congress that he had agreed to deliver a flotilla of destroyers to Great Britain in exchange for a series of military bases granted us on British soil along the Western Atlantic. American troops and ships occupied a number of these points in the following months. The President did not ask approval from Congress. State, 8–9.

1941: Greenland (Denmark)

In April, after the German invasion of Denmark, the U.S. Army occupied Greenland under agreement with the local authorities. Congress was not consulted and the action appears to be contrary to an express Congressional limitation on using troops outside the Western Hemisphere. State, 8–9.

1941: Iceland

By Presidential order, U.S. troops occupied Iceland on July 7, the same day Congress was notified. The President did not consult Congress in advance, and, in fact, the action clearly violated an express restriction that Congress had enacted a year before. Both the Reserves Act of 1940 and the Selective Service Act of 1940 provided that United States troops could not be used outside the Western Hemisphere. Iceland is generally placed with the section on Europe in each World Atlas and is some 2,300 miles away from the United States. State, 8–9.

1941: Dutch Guiana

In November, the President ordered American troops to occupy Dutch Guiana by agreement with the Netherlands Government-in-exile. Again there was no Congressional authority for the military occupation. State, 8–9.

1941: Atlantic Convoys

By July 7, President Roosevelt had ordered U.S. warships to convoy supplies sent to Europe to protect military aid to Britain and Russia. By September, our ships were attacking German submarines. There was no authorization from Congress. Corwin, 203.

1946: Trieste

In July, during the Italian-Yugoslav border dispute in the Trieste area, U.S. Naval units were dispatched to the scene with open warfare imminent. After the Yugoslavs forced down on August 9, and then shot down on August 19, unarmed U.S. Army transport planes flying over the former Italian province of Venezia Giulia. President Truman ordered our troops along the Morgan Line of zonal occupation augmented and the reinforcement of our air forces in northern Italy. The Yugoslav-Russian offensive against Trieste then quieted. Acheson, 195–196.

1946: Turkey

On August 7, Russia demanded that Turkey allow it to participate in the "defense" of the Straits. On August 14, President Truman met with his chief advisers and approved their recommendation to send a powerful naval force, including the supercarrier *Franklin D. Roosevelt*, to join the *U.S.S. Missouri* at Istanbul as an affirmation of U.S. intentions to resist the Russian move against Turkey and the Straits. President Truman informed his advisers that he understood fully that the action could lead to war, but that nevertheless he was determined to prevent Soviet domination of the area. Acheson, 195, 196.

1946: Greece

In September, during the attempted Communist takeover of Greece, naval units were requested by the U.S. Ambassador. One carrier was on the scene. USN, 15712.

1948: Palestine

On July 18, a Marine consular guard was detached from the *U.S.S. Kearsarge* and sent to Jerusalem to protect the U.S. Consular General there. One consular official was assassinated and two Marines were wounded during the Arab-Israeli War. USMC, III, 7.

1948: Mediterranean

On January 7, Fleet Admiral Nimitz implied Marine reinforcements sent from the U.S. to Mediterranean waters served as a warning to Yugoslavia that the 5,000 U.S. Army troops in Trieste were not to be molested USMC, III, 5.

1948–1949: China

A platoon of Marines was sent to Nanking on November, 1948, to protect the American Embassy when the fall of the city to Communist troops was imminent. The guard was withdrawn on April 21, 1949. In November and December, Marines were sent to Shanghai to aid in the evacuation of American Nationals and to protect the 2,500 Americans in the Communist encircled city. USMC, III, 8–9.

1950–1953: Korean Conflict

Communist armies of North Korea invaded South Korea on June 25, 1950. Later that day the United Nations Security Council denounced the aggression, called for an immediate cease-fire, and asked member nations "to render every assistance to the United Nations in the execution of this resolution." On June 27 President Truman announced that he had "ordered United States air and sea forces to give the Korean Government troops cover and support" and had ordered the Seventh Fleet to prevent any attack on Formosa and also to prevent the Chinese Government on Formosa from conducting any air and sea operations against the Communist mainland. The Security Council, on the same day, adopted a resolution "that the members of the United Nations furnish such assistance to the Republic of Korea as may be necessary to repel the armed attack and to restore international peace and security in the area."

The Department of State prepared a memorandum, on July 3, 1950, which defended the authority of the President to take the necessary action to repel the attack on Korea, using the argument that the "President, as Commander in Chief of the Armed Forces of the United States, has full control over the use thereof."

Truce talks began in July, 1951, but it was not until July, 1953, that an armistice was signed. State, 9–11.

1954–1955: Tachen Islands (China)

From July, 1954, to February, 1955, U.S. Naval units were employed in evacuation of U.S. civilians and military personnel. Five carriers were on the scene. USN, 15712.

1956: Egypt

On November 1 and 2, a Marine battalion evacuated over 1,500 persons, mostly U.S. nationals, from Alexandria, Egypt, during the Suez crisis. USMC, III, 34.

1957: Indonesia

On February 14, the 3rd Marines took up station 550 miles northeast of Sumatra ready to intervene to protect U.S. nationals during the Indonesian revolt. USMC, III, 34.

1957: Taiwan

During Communist shelling of Kinmen Island in July, naval units were dispatched to defend Taiwan. Four carriers were on the scene. USN, 15712.

1958: Venezuela

In January, when mob violence erupted in Caracas, a company of marines embarked on board the *U.S.S. Des Moines* and remained on station off Venezuela ready to protect American interests. USMC, III, 36.

1958: Indonesia

In March, a Marine Company, attack squadron, and helicopter squadron were deployed with elements of the Seventh Fleet off Indonesia prepared to protect U.S. citizens and interests. USMC, III, 36.

1958: Lebanon Operation

A period of civil unrest began in Lebanon in May, 1958, led by Moslems who reportedly aided by the United Arab Republic's President Nasser. When a pro-Nasser coup took place in Iraq July 14, President Chamoun of Lebanon appealed for assistance to President Eisenhower. On July 15 President Eisenhower sent 5,000 marines to Beirut to "protect American lives" and to "assist" Lebanon in preserving its political independence. The President publicly stressed the provocative Soviet as well as Cairo radio broadcasts. Eventually, 14,000 American soldiers and marines occupied strategic areas in Lebanon, but with orders not to shoot unless shot at.

On the day of the initial landings, the United States asked the United Nations Security Council to establish an international police force to preserve Lebanon's independence, but the Soviet delegate vetoed the American resolution. Further, the Soviet Union announced that it would hold military maneuvers near the Turkish and Iranian frontiers.

On August 21, the General Assembly passed a resolution calling on the member states to respect one another's territorial integrity and observe strict non-interference in one another's affairs. The resolution requested that practical arrangements be made leading to the withdrawal of troops from Lebanon. On September 26, the United States notified the Secretary-General of the United Nations that it had been possible to withdraw a portion of the American forces and to work out a schedule to withdraw the remainder by the end of October. State, 11–12.

1959–1960: Cuba

In the period from November 20, 1959, to February 15, 1960, the 2d Marine Ground Task Force was deployed to protect U.S. nationals during the Cuban crisis. USMC, III, 42.

1961: Show of naval force in Dominican waters

On May 30, Dominican dictator Rafael Trujillo was assassinated. Political conditions in the Dominican Republic steadily deteriorated during the summer and early autumn. Then, on November 15, General Hector Trujillo and General Jose Trujillo, brothers of the slain dictator, returned to the island. Secretary Rusk stated three days later they appeared "to be planning an attempt to reassert the dictatorial domination of the political and economic life of the country . . ." He added: "the United States is considering the further measures that unpredictable events might warrant."

On November 19, U.S. Navy ships took up positions three miles off the Dominican coast and Navy jet planes patrolled the shoreline. The show of force produced the desired result because the Trujillo brothers and other members of the family departed for Miami before the day was over. According to one authority, "It later transpired that the Kennedy Administration was prepared to order U.S. marines ashore if President Joaquin Balaguer had so requested or if the Trujillos had outsted Balaguer from the presidency." ERR, 449–500.

1962: Thailand

On May 17, the 3d Marine Expeditionary Unit landed in Thailand to support that country during the threat of Communist pressure from outside. On July 1, President Kennedy ordered 1,000 Marines in Thailand to return to their ships, and on July 30, the U.S. completed the withdrawal of the 5,000 Marines sent there. USMC, III, 56–57.

1962: Cuban naval quarantine

On October 24, confronted with a build-up of Soviet surface-to-surface missile bases in Cuba, President Kennedy ordered a quarantine 500 miles wide in the waters around Cuba. The blockade was aimed both at preventing delivery of additional Russian missiles and obtaining the removal of those offensive Russian weapons already in Cuba.

The crisis appears to date from Tuesday, October 16, when the Government's inner circles first began to discuss the idea of a blockade. On October 20, the First Armored Division began to move out of Texas into Georgia, and five more divisions were placed on alert. The Navy deployed 180 ships into the Caribbean. The Strategic Air Command was dispersed to civilian airfields and a B–52 bomber force was ordered into the air fully loaded with atomic bombs.

On October 22, President Kennedy went on television to explain before the nation the situation in Cuba and the reasons for the quarantine. The President first notified Members of Congress that same day. On Tuesday, the 23, the Council of the Organization of American States formally authorized by a unanimous vote "the use of armed forces" to carry out the quarantine of Cuba. Apparently, one day later the blockade went into effect.

Other notable dates include October 27, when the Defense Department announced that 24 troop-carrier squadrons of the Air Force Reserve were being recalled to active duty; October 28, when Premier Khrushchev in a message to President Kennedy, announced he had ordered the dismantling of Soviet missile bases in Cuba; November 11, when Deputy Secretary of Defense Gilpatric announced the United States had counted 42 medium-range missiles being removed from Cuba on Soviet ships; and November 20, when President Kennedy announced he had ordered the lifting of the naval blockade.

On December 6, U.S. Navy planes verified that 42 Soviet jet bombers were being transported home from Cuba. The United States apparently closed the book on the Cuban crisis about this date. LRS, I, 24–25; and LRS, II, 1–18.

1963: Haiti

On May 4, a Marine battalion was positioned off the coast of Haiti for five days when trouble developed in that country. USMC, III, 61.

1964: Congo

In August the United States sent four C–130 transport planes with approximately 100 flight and maintenance crews and paratroopers to protect the aircraft while on the ground. The purpose was said to be to provide airlift for the regular Congolese troops to combat areas during a rebellion against the government of Premier Tshombé and President Kasavubu. Earlier, in July, the United States had sent 68 officers and men to Leopoldville to advise the Congolese army. Both actions followed the withdrawal on June 30 of the last of the 20,000-man force which the United Nations had placed in the Congo in order to keep the peace.

Subsequently, in November, rebels in the Stanleyville area held over a thousand foreign civilian hostages, including 60 Americans, who were subjected to many atrocities and whom the rebels threatened to kill. When negotiations between the rebels and the United States failed, the United States and Belgium arranged to land Belgian paratroopers to undertake a humanitarian rescue operation.

On November 24, the force was airdropped by U.S. transport aircraft in the Stanleyville area and liberated most of the hostages. Belgian paratropers undertook a second rescue operation on November 26, capturing the rebel town of Paulis. In all, about 2,000 foreigners were rescued. President Johnson assumed "full responsibility" for the United States role in the decision to transport the Belgian troops in American planes. Davids, 296–310.

1964–1973: Armed Actions in Laos

At the request of the Laotian Government, unarmed United States jet planes began flying reconnaissance missions over the Plaines de Jarres in May, 1964, in order to gather information on rebellious forces headed by leftist Pathet Lao. After two jets were shot down on June 6 and 7, President Johnson decided to carry out a limited reprisal. On June 9, U. S. Navy jets attacked a Communist gun position in north central Laos, and this was followed by 36 "sorties" which knocked out a number of Communist posts. The United States has continued to play a role of air support in Laos to date. State, 30.

1964–1973: Armed Action in Vietnam

Following the Geneva Accords of 1954 which provisionally divided Vietnam at approximately the 17th parallel, the Communists held control of the northern half of the country while anti-Communists maintained a precarious hold on the south. A U. S. Military Assistance Advisory Group, which assumed responsibility for the training of the South Vietnamese army after the French relinquished command, was steadily expanded as Communist guerrilla activity supported and directed from the north intensified. By 1962 there were 12,000 U. S. advisors.

In August, 1964, at the request of President Johnson following an attack on American naval vessels in the Gulf of Tonkin, Congress passed the Gulf of Tonkin Resolution, unanimously in the House and by a vote of 88–2 in the Senate. The Resolution expressed approval and support of "the determination of the President, as Commander in Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression." Also it provided the United States is "prepared as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom." (South Vietnam is a protocol state of SEATO.) The joint resolution was signed into law on August 10 as Public Law 88–408.

Both this resolution and the SEATO agreement itself have been claimed as authority for United States activities in Vietnam. In addition, several appropriations laws providing for support of the hostilities in Southeast Asia have been judicially determined to represent authority for our engagement there. The Tonkin Gulf Resolution was subsequently repealed by P.L. 91–672 (Jan. 12, 1971).

Since assuming office in January, 1969, President Nixon has ordered the withdrawal of almost 550,000 troops. A peace agreement ending U.S. involvement in the war was announced on January 23, 1973. State, 12–14.

1965: Dominican Republic

A revolt broke out in the Dominican Republic on April 24, 1965, and on April 28 President Johnson announced that Dominican military authorities had requested assistance from the United States in protecting the lives of United States citizens living in that country. The President added that he had ordered the Secretary of Defense to put the necessary troops ashore to protect Americans and that this assistance would be available to the nationals of other countries as well.

The first United States military contingent to the Dominican Republic consisted of 400 men. On May 2 the President announced that he was sending 200 more men immediately and that an additional 4,500 would go at the earliest possible moment. He cited the increasing Communist control of the revolutionaries, as well as the urgent need for food, medical supplies, and other humanitarian assistance to the Dominican people, as reasons for his decision. At their peak 21,500 United States troops were in the Dominican Republic.

On May 5, a five-man OAS peace commission succeeded in achieving a cease-fire agreement among the contending forces and on May 6 the OAS voted to create an Inter-American Peace Force to assist in restoring peace and order. The arrival on May 21 of the first contingent of a Brazilian force permitted the withdrawal of 1,700 United States troops, and as other foreign contingents arrived, additional United States troops were withdrawn. By the end of 1965, the Inter-American Peace Force totaled 9,400. In the meantime, a formula to restore constitutional government, worked out by an OAS Ad Hoc Commission, made considerable progress. The inauguration of a civilian, Hector Garcia Godoy, as provisional president on September 3, 1965, was a major step toward the restoration of stability. State, 14–15.

1967: Syrian Coast

In June of 1967, during the Arab-Israeli War, President Johnson ordered the U.S. 6th Fleet to move to within 50 miles of the Syrian Coast as a message to the Soviet Union it "would have to deal with us" if it entered the conflict. The action was taken as a counter move against the Soviet Union after Premier Kosygin told President Johnson over the hotline that the Soviets had reached an "independent decision" that they were prepared to take "necessary actions, including military" to stop the advance of Israeli troops into Arab territory, and would give the Israelis just five hours to unconditionally halt their operations. Star, D–4; Johnson, 302.

1967: Congo

In July, Lt. General Mabutu, who had now become President of the Congo, was challenged by a revolt of about 170 white mercenaries and a few hundred Katangese troops. The Congolese army numbered around 32,000, but required outside logistical support in order to crush the revolt.

Responding to a direct appeal from President Mabutu, on July 8 the United States sent three C–130 military transport aircraft to the Congo, with their crews, to provide the General Government with "long-range logistical support." Approximately 150 American military men arrived with the planes.

The small American task force immediately began to drop several plane loads of paratropers and their equipment and continued to fly troops until November. On July 15, the first aircraft was withdrawn; on August 4, the second; and on December, the last. LRS, III.

1970: Cambodia

From April 30 to June 30, U.S. troops attacked Communist sanctuaries in order to ensure the success of the program of Vietnamization. LRS, IV, 57.

1970: Jordanian-Syrian Crisis.[2]

On September 17, King Hussein of Jordan moved against Palestinian guerrillas in an effort to reassert the royal authority. Despite a warning by President Nixon, talking to newspaper editors in Chicago, that the U.S. might intervene if Syria or Iraqu threatened King Hussein's Government, some 300 Syrian tanks crossed into Jordan during the next three days. Secretary Rogers condemned the Syrian invasion and the U.S. called on the Soviet Union to use its influence to persuade Syria to pull out.

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[2] Eight military engagements which were subsequently disavowed or repudiated have been omitted from the above list of precedents. These are:

1812: Amelia Island, Spanish territory. United States disvowed General Matthews' occupation of the area when he made himself the head of a revolutionary party. State, 16.

1824: Puerto Rico, Spanish territory. Commodore Porter was later courtmartialed for exceeding his powers when he forced an apology from a group of pirates who had insulted American naval officers. State, 17.

President Nixon moved the Sixth Fleet off the Israeli-Lebanese coast and publicity was given to the dispatch of the helicopter carrier Guam with 1,500 marines to join the Sixth Fleet, to the alert of the 82d Airborne Division in Fort Bragg, N.C., and to the alert of two airborne battalions of the Eighth Infantry Division in West Germany. At the same time the Israelis began a partial mobilization and movements of tanks toward the northern part of the Jordan River Valley in position to attack the Syrian invaders. The U.S. apparently was prepared to intervene militarily, in coordination with Israel, to prevent the overthrow of King Hussein's Government and to rescue 38 American hostages known to be in the hands of Palestinian guerrillas. By September 22, Syrian tanks began withdrawing and on September 25, the crisis ended when King Hussein and Yasir Arafat, the guerrilla chief, agreed on a cease-fire. N.Y. Times, Oct. 8, 1970, at 1, 12.

1842: Mexico. Commodore T.A.C. Jones occupied Monterey in the mistaken belief that war had started between the United States and Mexico. He withdrew and saluted, thereby disavowing his action. State, 18.

1857: Nicaragua. An American naval commander compelled the leader of a rebel group who was trying to seize Nicaragua to leave the country. The American commander's action was tacitly disavowed by the Secretary of State and apparently repudiated by President Buchanan. State, 20.

1866: Mexico. After General Sedgwich obtained the surrender of the Mexican border town of Matamoras, he was ordered to withdraw and his act was repudiated by the President. State, 22.

Late 1880's: Bering Sea. The United States paid nearly $500,000 to Britain in damages resulting from the seizure of British sealers by United States patrol boats outside the three mile limit. U.S., 586.

1893: Hawaii. On January 16, Marines from the schooner *U.S.S. Boston* landed at Honolulu and were dispatched until April 1 to protect American lives and property, after the deposition of Queen Liliuokalani. The action was later disavowed by the United States. LRS, III, 53.

1912: Honduras. A small naval force landed at Puerto Cortez to protect an American-owned railroad there. Apparently Washington disapproved and the men were withdrawn in a day or two. State, 27.

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B. Five U.S. military actions abroad under a declaration of war

War of 1812 (1812–15)

On June 18, Congress approved a declaration of war against England. The war was officially concluded by the Treaty of Ghent, December 24, 1814, but the major battle of the war occurred with an American victory at New Orleans in January, 1815.

War Between the United States and Mexico (1846–48)

Congress declared war on May 11, 1846. The Treaty of Guadalupe Hidalgo ended the conflict on February 2, 1848.

Spanish-American War (1898)

On April 25, 1898, the United States declared war against Spain. The peace treaty ending hostilities was signed in Paris on December 10, 1898.

World War I (1917–19)

The United States declared war on Germany on April 6, 1917, and against Austria on December 7, 1917. The Treaty of Versailles was signed on June 28, 1919. The treaty was never ratified by the United States.

World War II (1941–45)

The United States declared war on Japan, December 8, 1941, and on Germany and Italy, December 11, 1941. The war ended in Europe on May 8, 1945. Japan signed the formal surrender in Asia on September 2, 1945.

C. Fifty major military actions for broad strategic aims

1798–1800: Naval War with France. The U.S. fought primarily for the protection of its free commerce.

1801–1805: War with Tripoli. The U.S. upheld its right of free commerce.

1814–1825: Caribbean Area. The U.S. sunk or captured 65 vessels to protect American commerce.

1815: Second Barbary War. The U.S. acted to provide effective protection to American commerce.

1844: Mexico. President Tyler deployed our troops to protect Texas one year before annexation.

1846: Mexico. President Polk ordered General Scott to occupy disputed territory between the Nueces and the Rio Grande.

1853–1854: Japan. Commodore Perry's expedition of 2000 men and ten ships advanced American commercial interests.

1858: Cuban waters. President Buchanan ordered a naval force to Cuban waters to protect all vessels of the U.S. on the high seas from search or detention by the vessels of war of any other nation.

1864: Japan. U.S. Naval units participated in a joint effort to force open the Straits of Shimonoseki for the free conduct of international commerce.

1865–1866: Mexican border. General Sheridan and 50,000 U.S. troops backed up a demand from Secretary of State Seward that French forces withdraw from Mexico.

1869–1871: Dominican Republic. President Grant sent a strong naval force to protect the Dominican Republic during his efforts to annex the island.

1888–1889: Samoan Islands. Germany and the United States were close to warfare due to their rivalry over naval privileges in the Samoans.

1899–1901: Philippine Islands. The United States used 126,468 troops aganist the Philippine Insurrection in order to preserve and foster any rights it had acquired from Spain.

1900–1901: Boxer Rebellion (Peking). The U.S. sent 5000 troops and marines to relieve foreign legations in Peking and to keep open communication between Peking and the sea.

1903–1914: Panama. Marine guards landed and remained on the Isthmus to protect construction of the Canal.

1905–1907: Dominican Republic. President T. Roosevelt ordered the administration of the affairs of the Dominican Republic by the U.S. in implementation of the Monroe Doctrine.

1906–1909: Cuba. The U.S. temporarily occupied Cuba to preserve order.

1912: Cuba. American troops remained three months to preserve order.

1915–1934: Haiti. U.S. troops occupied Haiti to forestall European intervention.

1916–1924: Dominican Republic. U.S. troops occupied Santo Domingo and supported a military governor in the Dominican Republic.

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[3] Only the primary sources are cited, although in several instances the summary was prepared from a composite of information published in more than one of the sources referred to herein.

1917: Armed Atlantic Merchant Ships. President Wilson armed American merchant vessels with guns and gunners assigned from the Navy.

1917: Cuba. Several American landings were made to preserve order.

1918–1920: Expeditions to Russia. The U.S. contributed some 14,000 men to aid the anti-Bolsheviks and to forestall Japanese expansionist plans in Siberia.

1919: Dalmatia. U.S. troops were landed in order to police foreign territory during disorders between the Italians and Serbs.

1926–1933: Nicaragua. The occupation of Nicaragua foiled the first attempt of Communism to infiltrate Latin America.

1927–1928: China. Nearly 6000 U.S. troops acted to help stabilize China.

1937–1938: China. Some 2500 marines helped preserve order in Shanghai under the International Defense Scheme.

1940: British possessions in Western Atlantic. U.S. occupied military bases on British soil to protect long range national security interests.

1941: Greenland. The U.S. Army occupied Greenland for the same reason as above.

1941: Iceland. U.S. troops occupied Iceland for the same reason as above.

1941: Dutch Guiana. American troops occupied Dutch Guiana for the same reason as above.

1941: Atlantic convoys. U.S. warships were used to convoy military supplies to Britain and Russia.

1946: Trieste. President Truman reinforced U.S. troops along the Italian-Yugoslav border and dispatched naval units to the scene in order to resist the Yugoslav-Russian offensive against Trieste.

1946: Turkey. As a sign of U.S. determination to resist Soviet threats against Turkey and the Straits, President Truman sent a powerful naval force to Istanbul.

1946: Greece. During the attempted Communist takeover of Greece, U.S. naval units were sent at the request of the U.S. Ambassador.

1950–1953: Korean War. U.S. forces acted to assist the Republic of Korea in order "to restore international peace and security in the area."

1957: Taiwan. U.S. naval units were dispatched to defend Taiwan.

1958: Lebanon. A primary purpose of using U.S. armed forces in Lebanon was to assist Lebanon in preserving its political independence.

1961: Dominican Waters. U.S. Navy ships took up positions three miles off the Dominican coast and Navy jet planes patrolled the shoreline to prevent a revolution in the Dominican Republic.

1962: Thailand. Some 5000 marines landed to support Thailand during a threat of external Communist aggression.

1962: Cuban Naval Quarantine. President Kennedy ordered a naval quarantine of Cuba to prevent delivery of additional Russian missiles and to obtain the removal of those already in Cuba.

1963: Haiti. A marine battalion was positioned off Haiti when trouble developed there.

1964: Congo. A task force of four U.S. C–130 transport planes with paratrooper guards was sent to the Congo to provide airlift for the regular Congolese troops against a Communist-assisted rebellion.

1964–1973: Vietnam. American forces have acted to support freedom and protect peace in Southeast Asia.

1964–1973: Laos. The United States has supported the free government of Laos, particularly with air missions.

1965: Dominican Republic. The threat of a Communist takeover and the need to provide humanitarian assistance to the Dominican people were major reasons for the American landings.

1967: Syrian Coast. During the Arab-Israeli war, the U.S. 6th Fleet moved to within 50 miles off the Syrian Coast as a sign to the Soviet Union it "would have to deal with us" if it entered the confict.

1967: Congo. A task force of three U.S. C–130 transports and 150 men ferried Congolese paratroopers in order to crush a revolt aganst Mobutu's government.

1970: Cambodia. U.S. troops were ordered into Cambodia to assist the program of Vietnamization.

1970: President Nixon augmented and moved the Sixth Fleet off the Israeli-Lebanese coast in preparation to halt, if necessary, the Syrian invasion of Jordan and to rescue 38 American hostages.

D. Eighty-two hostilities with actual combat or ultimatums

1798–1800: Quasi-war with France.
1800: West Indies.
1801–1805: War with Tripoli.
1806: Mexico.
1806–1810: Gulf of Mexico.
1814–1825: Caribbean area.
1815: Second Barbary War.
1816–1818: Spanish Florida.
1817: Amelia Island (Spanish Territory).
1820: West Africa.
1820–1822: West Coast of South America.
1822: Cuba.
1823: Cuba.
1825: Cuban Keys.
1827: Greece.
1828: West Indies.
1830: Haiti.
1831–1832: Falkland Islands (Argentina).
1832: Sumatra.
1835: Samoan Islands.
1837: Mexico.
1840: Fiji Islands.
1841: Drummond Islands (Pacific Ocean).
1841: Samoan Islands.
1843: West Africa.
1845: African coast.
1846: Mexico.
1850: African coast.
1851: Turkey (Apparently no shots fired, but the force displayed amounted to a compulsory ultimatum).
1851: Johanna Island (East of Africa).
1853: China.
1853: West Coast of Africa.
1853: Smyrna.
1853–1854: Japan (Commodore Perry's expedition including 10 ships and 2000 men conveyed an imminent threat of using force).
1854: China.
1854: Greytown, Nicaragua.
1854: West Coast of Africa.
1854: Okinawa.
1855: China.
1855: Fiji Islands.
1855: Uruguay.
1856: China.
1858: Fiji Islands.
1858: African coast.
1859: African coast.
1859: Paraguay (The Naval display of force amounted to compulsion).
1863: Japan.
1864: Japan.
1865–1866: Mexican border (General Sheridan and 50,000 American troops backed up the demand of Secretary of State Seward that French forces leave Mexico).
1867: Formosa.
1867: Nicaragua.
1870: Mexico.
1871: Korea.
1888: Haiti (American Commander issued an ultimatum threatening force if necessary).
1888–1189: Samoan Islands (Three powers had warships on the scene during an intense rivalry over claims in the islands. War was close when a hurricane destroyed German and American vessels).
1891: Bering Sea.
1894: Brazil.
1899: Samoan Islands.
1900–1901: Boxer Rebellion (China).
1899–1901: Philippine Insurrection.
1910: Nicaragua (Armed combat was "hourly expected").
1911: Honduras (The American Commander expressly threatened to use force if necessary).
1914: Dominican Republic.
1914: Occupation of Vera Cruz, Mexico.
1915: Haiti.
1916: Dominican Republic.
1916–1917: Pershing Expedition into Mexico.
1917: Armed Atlantic merchant ships.
1918–1919: Mexico.
1918–1920: Expeditions to Russia.
1926–1933: Nicaraguan occupation.
1927–1928: Armed actions in China.
1941: Atlantic convoys.
1946: Trieste.
1948: Palestine.
1950–1953: Korean War.
1962; Cuban naval quarantine.
1964–1973: Armed actions in Laos.
1965: Dominican Republic.
1964–1973: Vietnam War.
1967: Syrian coast.
1970: Cambodia.

E. Ninety-Seven Military Actions Lasting More Than Thirty Days

1798–1800: Quasi-War with France.
1801–1805: War with Tripoli.
1806–1810: Gulf of Mexico.
1813–1814: Marquesas Islands (South Pacific).
1814–1825: Caribbean Area.
1815: Second Barbary War.
1816–1818: Spanish Florida.
1820–1822: West Coast of South America.
1823: Cuba.
1827: Greece.
1831–1832: Falkland Islands.
1835–1836: Peru.
1838–1839: Sumatra.
1843: West Africa.
1843: China.
1844: Mexico.
1846: Mexico.
1852–1853: Argentina.
1853–1854: Japan.
1854: China.
1854: Okinawa.
1855: Fiji Islands.
1855: Uruguay.
1856: China.
1858: Cuban waters.
1858–1859: Paraguay.
1858–1859: Turkey.
1865–1866: Mexican border.
1866: China.
1868: Japan.
1869–1871: Dominican Republic.
1873: Colombia.
1873: Cuban waters.
1873–1882: Mexico.
1885: Colombia.
1888–1889: Samoan Islands.
1891: Bering Sea.
1894: Nicaragua.
1894–1895: China.
1898–1899: China.
1899: Samoan Islands.
1899–1901: Philippine Islands.
1900–1901: "Boxer" Rebellion (Peking).
1901: State of Panama.
1902: State of Panama.
1903: Panama.
1903–1904: Abyssinia.
1903–1904: Syria.
1904: Dominican Republic.

1904–1905: Korea.
1906–1909: Cuba.
1907: Honduras.
1911–1912: China.
1912: Panama.
1912: Cuba.
1912: Nicaragua.
1913: China.
1914: Haiti.
1914: Vera Cruz (Mexico).
1914–1915: Dominican Republic.
1915: Occupation of Haiti.
1916: Occupation of Dominican Republic.
1916–1917: Pershing Expedition into Mexico.
1917: Armed Atlantic merchant ships.
1917: Cuba.
1918–1919: Mexico.
1918–1920: Expeditions to Russia.
1918–1920: Panama.
1920–1922: Siberia.
1922–1923: China.
1924–1925: China.
1924–1925: Honduras.
1926–1933: Nicaragua.
1926: China.
1927: China.
1936: Spain.
1937–1938: China.
1940: Occupation of British possessions in Western Atlantic.
1941: Occupation of Greenland.
1941: Occupation of Dutch Guiana.
1941: Occupation of Iceland.
1941: Atlantic convoys.
1946: Trieste.
1948: Mediterranean.
1948–1949: China.
1950–1953: Korean War.
1954–1955: Tachen Islands (China).
1958: Lebanon.
1959–1960: Cuba.
1962: Thailand.
1962: Cuban naval quarantine.
1964–1973: Laos.
1964–1973: Vietnam.
1964: Congo.
1965: Dominican Republic.
1967: Congo.
1970: Cambodia.

One hundred three military actions by the United States outside the Western Hemisphere

1801–1805: War with Tripoli.
1813–1814: Marquesas Islands (South Pacific).
1815: Second Barbary War.
1820: West Africa.
1827: Greece.
1832. Sumatra.
1835: Samoan Islands.
1838–1839: Sumatra.
1840: Fiji Islands.
1841: Drummond Island (Pacific Ocean).
1841: Samoan Islands.
1843: West Africa.
1843: China.
1844: China.
1845: African coast.
1849: Smyrna (Now Izmir, Turkey).
1850: African coast.
1851: Turkey.
1851: Johanna Island (east of Africa).
1853: China.
1853: African Coast.
1853: Smyrna.
1853–1854: Japan.
1854: African coast.
1854: Okinawa.
1854: China.
1855: China.
1855: Fiji Islands.
1856: China.
1858: Fiji Islands.
1858: African coast.
1858–1859: Turkey.
1859: African coast.
1859: China.
1860: Kissembo (West Africa).
1863: Japan.
1864: Japan.
1864: Japan.
1866: China.
1867: Formosa.
1868: Japan.
1871: Korea.
1874: Hawaii.
1882: Egypt.
1888: Korea.
1888–1889: Samoan Islands.
1889: Hawaii.
1894–1896: Korea.
1894: China.
1895–1896: Korea.
1898–1899: China.
1899: Samoan Islands.
1899–1901: Philippine Islands.
1900–1901: "Boxer" Rebellion (Peking).
1903–1904: Syria.
1903–1904: Abyssinia (Ethiopia).
1904: Morocco.
1904: Korea.
1911–1912: China.
1912: Turkey.
1913: China.
1916: China.
1917: Armed Atlantic merchant ships.
1918: China.
1918–1920: Expeditions to Russia.
1919: Turkey.
1919: Dalmatia.
1920: China.
1920–1922: Siberia.
1922: Turkey.
1922–1923: China.
1924: China.
1924–1925: China.
1926: China.
1927: China.
1932: China.
1934: China.
1936: Spain.
1937–1938: China.
1941: Occupation of Greenland.
1941: Occupation of Iceland.
1941: Atlantic convoys.
1946: Turkey.
1946: Trieste.
1946: Greece.
1948: Palestine.
1948: Mediterranean.
1948–1949: China.
1950–1953: Korea.
1954–1955: Tachen Islands (China).
1956: Egypt.
1957: Indonesia.
1957: Taiwan.
1958: Indonesia.
1958: Lebanon.
1962: Thailand.
1964–1973: Laos.
1964–1973: Vietnam.
1964: Congo.
1967: Syrian coast.
1967: Congo.
1970: Cambodia.
1970: Jordanian-Syrian Crisis.

G. 81 MILITARY OPERATIONS ARGUABLY INITIATED UNDER PRIOR LEGISLATIVE AUTHORITY (NO DECLARATIONS OF WAR)

Year	Military operations	Legislation	Treaty
1798 to 1800	Quasi-War with France	×	
1801 to 1805	War with Tripoli	×	
1813	Spanish Florida	×	
1806 to 1810	Gulf of Mexico	×	
1813 to 1814	Marquesas Islands	×	
1814 to 1825	Caribbean area	×	
1815	Second Barbary War	×	
1817	Amelia Island	×	
1820 [1]	West Africa	×	
1822	Cuba	×	
1823	Cuba	×	
1824	Cuba	×	
1825	Cuban Keys	×	
1827 [2]	Greece	×	
1828 [2]	West Indies	×	
1832 [2]	Sumatra	×	
1835 [2]	Samoan Islands	×	
1838 to 1839 [2]	Sumatra	×	
1841 [2]	Drummond Island	×	
1841 [2]	Samoan Islands	×	
1843 [1 2]	West Africa	×	
1845 [1]	African coast		×
1850 [1]	African coast		×
1851 [2]	Johanna Island, east of Africa.	×	
1853 [1]	African coast		×
1854 [1]	African coast		×
1854	Okinawa		×
1855 [2]	China	×	
1856	Panama		×
1858 [1]	African coast		×
1859 [1]	African		×
1859	Paraguay		×
1860	Panama		×
1864	Japan		×
1865	Panama		×
1867 [2]	Formosa	×	
1868	Columbia		×
1870	Mexico	×	
1873	Columbia		×
1885	Panama		×
1888 to 1889	Samoan Islands	×	×
1891	Navassa Island, Haiti	×	
1894	Brazil	×	
1895	Panama		×
1899	Samoan Islands	×	×
1899 to 1901	Philippine Islands		×
1901	Panama		×
1902	do		×
1903	do		×
1904	do		×
1906	Cuba		×
1911 to 1912	China		×
1912	Panama		×
1912	Cuba		×
1913	China		×
1914	Vera Cruz, Mexico	×	
1916	Pershing Expedition into Mexico.	×	
1916	China		×
1917	Cuba		×
1918	China		×
1918 to 1920	Panama		×
1920	China		×
1921	Panama-Costa Rica		×
1922 to 1923	China		×
1924	do		×
1924 to 1925	China		×
1925	Panama		×
1926	China		×
1927	China		×
1932	China		×
1933	Cuba		×
1934	China		×
1937 to 1938	China		×
1950 to 1953 [3]	Korean War		× (U.N. Charter)
1957	Taiwan	×	×
1958 [4]	Lebanon Operation	×	
1962 [5]	Cuban Naval Quarantine.		× (OAS)
1962	Thailand		×
1964 to 1973	Vietnam	×	×
1964 to 1973	Laos	×	×
1970	Cambodia	×	×

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[1] Indicates operation occurred under act of 1819 or treaty of Aug. 9, 1842, with Great Britain, both relative to the suppression of slavery.

[2] Indicates military activity may have occurred pursuant to broad interpretation of authority conferred by certain acts of Congress against piracy. See act of Mar. 3, 1819 (3 Stat. 510), act of Jan. 14, 1823 (3 Stat. 720), and act of Aug. 5, 1861 (12 Stat. 314).

[3] Though reliance was also placed on the U.N. Charter, the Truman administration based its authority to commit troops squarely on the President's independent constitutional authority. Rogers, discussion supra, footnote 55, at S7197.

[4] In fact President Eisenhower sent troops into Lebanon without seeking specific congressional approval and without specifically basing his authority on the 1957 Middle East Resolution. Id.

[5] According to Secretary of State Rogers, "the Cuban Resolution, unlike the other area resolutions contained no grant of authority to the President." Id.

Mr. GOLDWATER. Mr. President, I understand the sponsors of S. 440 would refute my interpretation of the "declaration of war" clause as a weak power. I have described the declaration throughout this discussion as meaning no more than that Congress possesses the power to proclaim its purpose of bringing the total resources of the Nation into support of an already existing war, or that Congress may by this method provide a way by which the United States could enter into "offensive war," such as might have existed if the United States had acted under the French treaty of 1793 to join France in war with Great Britain.

In making the rebuttal, three points are raised. One is a quotation by Alexander Hamilton relative to the position of the President as Commander in Chief, the second is Thomas Jefferson's famous remark about the "Dog of War," and the third is a statement taken from the Civil War "Prize Cases."

Mr. President, I wish to respond to each of these three points because they illustrate the misunderstanding which in my opinion exists among the sponsors of the legislation with respect to the true purpose of the Founding Fathers. First, let us examine the comment by Alexander Hamilton, in the Federalist No. 69, that the President's function as Commander in Chief is only one of "the supreme command and direction of the military and naval forces." Now, I would ask, Mr. President, if this power alone is not enough to indicate that Congress cannot exercise policy control over the use of the Armed Forces? Certainly, there cannot be two supreme heads of the military and naval forces.

As I have discussed earlier in the debate, Hamilton wrote in a later Federalist Paper, No. 73, a clarification of exactly what he meant by professing that the President retains "the supreme command and direction" over the military forces In Federalist 73, he wrote:

> Of all the cares or concerns of government, the direction of war most peculiarly demands those qualities which distinguish the exercise of power by a single hand. The direction of war implies the direction of the common strength; and the power of directing and employing the common strength forms a usual and essential part in the definition of executive authority.

In other words, Mr. President, Hamilton meant that the direction of military affairs must be managed by a single hand, not by 535 Members of Congress, in order that the Nation could act with promptness, directness, and unity of action.

To argue, as the sponsors of S. 440 do, that Hamilton's mere reference to the declaring of war as appertaining to the legislature means that Congress was thereby given the sole power to go to war is to make an assumption about the whole meaning of the declaration clause which Hamilton himself never made.

Second, I have heard reference made on many occasions by the sponsors of war powers legislation to a statement made by Thomas Jefferson in a letter he wrote to James Madison in 1789, wherein Jefferson stated that:

> We have already given in example one effectual check to the Dog of War by transferring the power of letting him loose from the Executive to the legislative body, from those who are to spend to those who are to pay.

But Madison himself directly contradicted the implication which the sponsors of S. 440 are making from this sentence, which was written in the heat of a debate then occurring between Jefferson and Hamilton over the President's war powers. I would refer my colleagues to the Federalist No. 38, where Madison reveals that the Framers had intentionally removed the direction of war from Congress, where it had been placed under the Articles of Confederation, because, in his words, it is—

> Particularly dangerous to give the keys of the Treasury and the command of the army into the same hands.

In the Federalist No. 19, written by Madison and Hamilton jointly, Madison had also given evidence that the Founding Fathers did not intend to place the sole power to go to war in Congress. Here Madison clearly states that the Constitutional Convention had specifically rejected as a political model, because of its inherent weakness, the example of a then current form of government used in Europe in which the Diet, or legislative body, was vested with the power to make or commence war.

Madison wrote:

> Military preparations must be preceded by so many tedious discussions. That before the Diet can settle the arrangements the enemy are in the field.

Mr. President, I also would like to observe that a major change of view occurred in the position of Thomas Jefferson himself, who later openly admitted his earlier error in believing that the United States could check "the Dog of War" whatever the trend of world events elsewhere. In a letter which he wrote on March 2, 1815, Jefferson acknowledged:

> I had persuaded myself that a nation, distant as we are from the contentions of Europe, avoiding all offences to other powers, and not over-hasty in resenting offence from them, doing justice to all, faithfully fulfilling the duties of neutrality, performing all offices of amity, and administering to their interests by the benefits of our commerce, that such a nation, I say, might expect to live in peace, and consider itself merely as a member of the great family of mankind . . . But experience has shown that continued peace depends not merely on our own justice and prudence, but on that of others also.

Mr. President, this reflects the same practical attitude which guided the Founding Fathers in the formation of the new Republic. However much the Founding Fathers may have wished to live by a policy of avoiding foreign troubles, they recognized from having witnessed the great weakness in the management of military affairs by the Continental Congress, that the Nation cannot be safe unless there is a single Commander in Chief with an unrestricted discretion to resist foreign dangers whenever and wherever they may exist.

Third, the decision of the Supreme Court in the "Prize Cases" is relied upon as authority for the proposition that Congress may curb the Executive's commitment of military force. The decision involved the legality of President Lincoln's naval blockade against the Confederacy. The sponsors of S. 440 argue that since the Court declared that the President "cannot initiate war" this means he cannot go to war.

Again, Mr. President, there is a total misreading of what the Court actually went on to hold. This bare statement is taken totally out of context, even though it was fully explained at a later point in the Court's decision to mean exactly the contrary of what war powers advocates are now claiming it meant. In upholding President Lincoln's right to meet the rebellion, the Court specifically said:

> If a war be made by invasion of a foreign nation, the President is not only authorized but bound to resist force by force. He does *not initiate* the war, but is bound to accept the challenge without waiting for any special legislative authority. (emphasis added) 67 U.S. 635, 668 (1863).

In my opinion, this case, far from indicating a superior role for Congress, means the Court has recognized a duty on the part of the President to answer threats against the Nation without waiting for Congress to baptize them as a declared war.

In fact, the language of the High Court in the "Prize Cases" is taken by most constitutional scholars being broad enough to constitute juristic justification of the many instances in our history in which the President has ordered belligerent measures abroad without a state of war having been declared by Congress. See, for example, B. Schwartz, "The Reins of Power," at 98 (1963).

The "Prize Cases" also make the point, which I have raised throughout this debate, that the President does not "initiate" war when he responds to foreign dangers. As John Quincy Adams remarked in 1836, during his eulogy on the life of James Madison, "peace must be the offspring of two concurring wills." Adams explained:

> War is a state in which nations are placed not alone by their own acts, but by the acts of other nations. The declaration of war is in its nature a legislative act, but the conduct of war is and must be executive. However startled we may be at the idea that the Executive Chief Magistrate has the power of involving the nation in war, even without consulting Congress, an experience of 50 years has proved that in numberless cases he has and must have exercised the power.

Mr. President, I do regret that I have to absent myself from the Chamber, but it is necessary. I do not think my being here is going to alter this decision one bit. I fully expect the bill to be vetoed, as I think it should be. I do not say this in a derogatory way. I still think it is a constitutional matter, not a legislative matter. I think it is very obvious that Members of this body really have not studied it, with the exception of a handful. It is a very interesting study. I have been at it myself for over 9 years, and as I have said on the floor time and time again, experts with whom I have discussed it, including every Secretary of State living, have convinced me that I am right, that the President does have the warmaking power under the Constitution, that the Congress right to declare war means nothing except to declare; and if you look it up in the dictionary, it is a very weak word.

Congress purposely was denied the right to have the country to war by the Constitution because of the terrible experiences that Washington had under the Continental Congress, when we nearly lost that war because of the interferences by Congress in the day-to-day actions on the battlefield, including the replacement of commanding generals, and so forth; and when the Constitution was written, the Founding Fathers provided that the President, as Commander in Chief—not specifically, I will admit that—would have command of the forces as well as all responsibility for enforcing the laws of the land. It gave to the Congress the right—in fact, the power—to raise the armies and the navies, to provide regulations for them, to provide weapons, and so forth and so forth, and also allowed them to call up the militia, which, if you will study that part of the Constitution, meant just that—the militia—in other words, the national police or the National Guard type of activity. But nowhere does it give it power to go to war. We can declare war every 5 minutes, but not one man will leave the shores of America until the President says so.

I know this legislation is designed to change that to some extent, but again I do not believe it is the proper way to approach it.

In closing, I just wanted to again say I think it is very proper that this matter has come before the Congress. It is not the first time. Almost constantly during our 200 years as a Republic the matter has been under discussion—never as forceful as this discussion, nor has it ever reached the head that this has reached. I think it is wise that we have held these hearings and held the discussions on the floor, so that the American people might have a record of what we are talking about, and I would hope the American people——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. EAGLETON. Mr. President, I yield 1 minute to the Senator from Arizona.

Mr. GOLDWATER. Including the academics in this country and all men in politics can read what has been going on the floor here, I think they will have a very complete history of what we are talking about and have a better understanding in regard to what we did and in making any corrections that they may want to make.

In closing, I thank the Senator from Missouri for yielding to me.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. GOLDWATER. I yield.

Mr. MUSKIE. First, I wish to express my regret that the Senator will not be here later, especially for the reason he has stated. I want to thank the Senator for his contribution to this issue. I have studied his statement before the committee, and I have studied his statements on the floor. I know he has given a lot of time and study to the consideration of this issue. I think he has helped illuminate the issue in a very constructive way. I do not agree with many of the conclusions he has reached, but I wanted to take a moment to compliment him for his contribution.

Mr. JAVITS. Mr. President, if the Senator will yield me 2 minutes in opposition, I would like to insert in the Record immediately after the argument by the Senator from Arizona, so that historians or others who read the Record may follow the argument carefully, first, an excerpt from the powers of the President as commander in chief as explained by Alexander Hamilton in Federalist 69, which appears on page 11 of the committee report in these words:

> The President is to be commander in chief of the army and navy of the United States. In this respect his authority would be nominally the same with that of the king of Great Britain, but in substance much inferior to it. It would amount to nothing more than the supreme command and direction of the military and naval forces, as first General and Admiral of the Confederacy, while that of the British king extends to the *declaring* of war and to the *raising* and *regulating* of fleets and armies—all which, by the Constitution under consideration, would appertain to the legislature.[16]

And then an excerpt from a letter of Jefferson to Madison in 1789:

> We have already given in example one effectual check to the Dog of war by transferring the power of letting him loose from the Executive to the Legislative body, from those who are to spend to those who are to pay.[17]

Finally, the Supreme Court of the United States, in the "Prize Cases" of 1862, said:

> By the Constitution, Congress alone has the power to declare a national or foreign war . . . The Constitution confers on the President the whole Executive power. . . . He is Commander-in-Chief of the Army and Navy of the United States. . . . He has no power to initiate or declare a war either against a foreign nation or a domestic state.[18]

Mr. EAGLETON. Mr. President, I am prepared to yield back the remainder of my time on amendment No. 364.

Mr. MUSKIE. Mr. President, I think the amendment has been sufficiently discussed. I am prepared to accept it. The Senator from New York has indicated he is willing to accept it. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri (No. 364) putting the question).

The amendment was agreed to.

Mr. EAGLETON. Mr. President, pursuant to the previous order, is my next amendment the pending business?

The PRESIDING OFFICER. The Senator is correct. The clerk will report amendment No. 365.

The legislative clerk proceeded to state the amendment.

Mr. EAGLETON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 4, line 22, strike out the words "Specific statutory authorization is required for" and insert in lieu thereof the following: "For purposes of this clause (4), 'introduction of the Armed Forces of the United States' includes".

Mr. EAGLETON. Mr. President, amendment 365 is intended to correct a drafting error in section 3.4. That section contains a provision which requires statutory authorization to assign members of the Armed Forces to command or coordinate, et cetera, foreign military forces. Immediately following this provision is another which sets forth the limitations on present treaties and current provisions of law. This provision reads as follows:

> No treaty in force at the time of the enactment of this Act shall be construed as specific statutory authorization for, or a specific exemption permitting, the introduction of the Armed Forces of the United States in hostilities or in any such situation, within the meaning of this clause (4); and no provision of law in force at the time of enactment of this Act shall be so construed unless such provision specifically authorizes the introduction of such Armed Forces in hostilities or in any such situation.

The language in this provision refers back to the language in the introductory sentence of clause (4), but does not pick up the separate provision which concerns the assignment of members of the Armed Forces to advise foreign military forces. The effect of the failure to pick up this language is that treaties and provisions of law in force on the date of enactment are subject to being construed as authorizing the assignment of members of the U.S. Armed Forces as advisers to foreign military forces who may be engaged, or there is an imminent threat that they may be engaged, in hostilities.

To correct this drafting error the words, "Specific statutory authorization is required for" at the beginning of the "advisor" provision, are striken by my amendment and the following phrase is inserted: "For purposes of this clause (4), 'introduction of the Armed Forces of the United States' includes"

This change ties the "advisor" provision to the language used in the subsequent provisions concerning treaties and current provisions of law, as well as to the introductory sentence in clause (4), thereby assuring that all references to the introduction of the Armed Forces of the United States will be tied in and encompass the assignment of U.S. advisers to foreign military forces.

Mr. President, this amendment does not change the original intent of the sponsors, it simply makes that intent clear in legislative language.

Mr. MUSKIE. Mr. President, this is another amendment which represents an improvement in drafting. I think it more clearly reflects the purpose of the section of the bill to which it relates. I am prepared to accept the amendment.

Mr. JAVITS. Mr. President, the purpose of the bill is to make the whole clause four applicable without question. In the drafting originally we believed that by repeating the words with which the clause opened—"pursuant to specific statutory authorization,"—we were doing exactly that. I still believe that is the case. However, the Senator from Missouri (Mr. EAGLETON) suggests that is not necessary for clause four. He feels that we should make the words of clause four applicable to this particular situation which relates to participation in the ways described, to the military forces or the use of the military forces in another country.

I see no objection to it whatever. Draftsmen have a lot of choices of this kind. The Senator from Missouri has contributed so much that I defer to his judgment on this matter. The amendment is a drafting, "perfecting" amendment and it is acceptable.

Mr. MUSKIE. Mr. President, I yield back the remainder of my time.

Mr. EAGLETON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Missouri (putting the question).

The amendment was agreed to.

Mr. EAGLETON. Mr. President, I call up my amendment No. 366.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to state the amendment.

Mr. EAGLETON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 9, line 15, after the period, add the following:
>
> Any person employed by, under contract to, or under the direction of any department or agency of the United States Government who is either (a) actively engaged in hostilities in any foreign country; or (b) advising any regular or irregular military forces engaged in hostilities in any foreign country shall be deemed to be a member of the Armed Forces of the United States for the purposes of this Act.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me for a unanimous-consent request?

Mr. EAGLETON. Mr. President, I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I have cleared this request with the distinguished manager of the bill, the Senator from Maine (Mr. MUSKIE), the distinguished Senator from New York (Mr. JAVITS), the distinguished majority leader, and the distinguished author of the bill.

I ask unanimous consent that the vote on this amendment occur at 12 noon today and that the vote which was previously scheduled on passage of the District of Columbia appropriations bill for 12 noon today now be scheduled for 12:15 p.m. In other words, they will be back to back and the vote on the District of Columbia appropriations bill will immediately follow the vote on the Eagleton amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. JAVITS. Mr. President, if the Senator will yield, I do not want in any way to rush the Senator. However, I wonder if the Senator from Missouri could perhaps tell us whether this is the final amendment that he will be calling up.

Mr. EAGLETON. Mr. President, I have one other amendment contemplated. However, this is the last amendment that I have that is of any great substance.

Mr. JAVITS. Mr. President, I thank the Senator.

Mr. EAGLETON. Mr. President, the bill before the Senate, S. 440, is entitled "The War Powers Act." But according to its preamble, S. 440 does not cover all of the warmaking alternative available to the President. It is intended only to "make rules governing the use of the Armed Forces of the United States."

The purpose of the amendment I propose today is to assure that the war powers legislation passed by the Senate is as all-inclusive as its title implies. My amendment would circumscribe the President's use of American civilian combatants in the same manner uniformed Armed Forces are circumscribed by S. 440 as presently drafted. It would, in other words, prevent a President from engaging American civilians, either directly or as advisers, in a hostile situation without the express consent of Congress. It would also restrict the practice of employing regular or irregular foreign forces to engage in "proxy" wars to achieve policy objectives never specifically approved by Congress.

If adopted, my amendment would make S. 440 a comprehensive legislative mechanism capable of dealing with each of the options available to the President to involve our Nation in hostilities.

I would like to emphasize at the outset that I bear full responsibility for the deficiency in S. 440 that I have just described. My own war powers bill (S.J. Res. 59) was also deficient in this respect and the compromise bill introduced by Senators JAVITS, STENNIS, and me, was passed last year with my full support, and it likewise contained no reference to paramilitary forces. I am, therefore, moving belatedly but with good cause, to correct what I believe to be a major loophole in S. 440.

A few weeks ago Director-designate of the Central Intelligence Agency William E. Colby testified before the Senate Armed Services Committee with respect to his pending nomination as Director of the CIA. One sentence used by Mr. Colby in his testimony influenced me more than any other to take the action I am taking today to amend S. 440. In explaining the CIA operation in Laos, Mr. Colby said:

> It was important that the U.S. not be officially involved in the war.

Mr. President, I think that bears repeating. Mr. Colby pointed out to the Armed Services Committee that in his judgment it was important that the United States not be officially involved in the Laos war.

It was all right to be in the war, but we should not be officially involved in the war, and no one should know much about it.

But, of course, the United States was heavily involved in the war in Laos. We must therefore, ask, why was it so important that the United States not be officially involved? Was it because we did not want the enemy to know? Or was it because Presidents Kennedy, Johnson, and Nixon did not want Congress and the American people to know?

We know much more today about our military involvement in Laos, thanks in large part to the excellent work of my distinguished senior colleague from Missouri, Senator SYMINGTON, and we learn more each day. Recent testimony before the Armed Services Committee revealed that we were bombing in Cambodia and Laos long before such bombing was acknowledged by the White House. And how much more remains to be revealed of our tragic involvement in Indochina?

I am deeply concerned that Mr. Colby's statement would have even more appeal to Presidents were the Senate to pass this legislation without the pending amendment. I fear that Presidents, desiring to pursue what they would rationalize to be limited policy objectives, would be encouraged to avoid the procedures established in S. 440 in favor of covert operations—operations which would assure that "the United States not be officially involved."

The concept of this amendment is really very simple—it is an attempt to make the language of legislation match the realities of war. To anyone engaged in a combat operation, it is irrelevant whether they are members of the Armed Forces, military advisers, civilian advisers, or hired mercenaries. The consequences are the same—they can kill, and they can be killed.

American involvement in hostilities cannot be obscured by semantics. If we become involved in combat to pursue a policy objective other than the emergency defense of the United States, its forces or its citizens, then Congress should authorize that involvement. Either we are involved in hostilities or we are not involved. And that should be the operating principle of the War Powers Act.

Our concern over the error of our involvement in Indochina has led us to carefully examine the origins of that experience. And it has not been easy to find the beginning of that episode of American history.

There was no Pearl Harbor to signal the beginning of the Vietnam war. There was no major attack such as the attack on Fort Sumter. There was no sinking of the *Maine*. There was only a gradually escalating involvement—an involvement which grew out of a political commitment and a mostly covert effort to fulfill that commitment.

We should have learned by now that wars do not always begin with the dispatch of troops. They begin with more subtle investments . . . of dollars and advisors and civilian personnel.

In the case of Laos, our involvement began with a large group of CIA advisors who organized indigenous Laotion forces to engage in hostilities in pursuit of policy objectives established by the executive branch of the U.S. Government.

Although the exact date remains classified, the CIA began to organize and advise Meo tribesmen in Laos sometime prior to 1961. This advisory role continued after the 1962 accords which ostensibly reaffirmed the neutrality of Laos and divided political control of that country among the warring factions. In testimony before the Symington Subcommittee on U.S. Security Agreements and Commitments Abroad, former Ambassador to Laos William Sullivan argued that our clandestine involvement in the Laotion hostilities was "to attempt to preserve the substance of the 1962 agreements."

It is not my intention today to question the merits of the policy Ambassador Sullivan was attemptnig to justify by his statement. I am simply advocating that the President present his justification to Congress, and that he request specific statutory authorization before he pursues a policy objective by means of force.

The Indochina experience has shown us the frightening potential of covert American forces. It is now known that an elaborate program of covert military operations, under the code name Operation Plan 34A, was initiated by President Johnson in February, 1964, and that that program may have led to what was called a provocation strategy, or a plan to provoke the enemy into providing a pretext for bombing North Vietnam.

Operation Plan 34A was implemented in Laos as well as Vietnam. But in Laos there was a slightly different ingredient—civilian pilots under contract to the CIA-associated Air America participated with the Royal Laotion Air Force in an extensive air operation against the Pathet Lao.

U.S. Air Force planes also began operations over Laos in 1964, but they were arriving on the scene more than 3 years after the CIA had first introduced the United States into that hostile situation.

Mr. President, there is an old saying out in my part of the country that from little acorns big oaks grow. The same thing is true with respect to war: from little involvements—little CIA wars—big wars grow. That is why it is important to consider carefully every aspect of a measure labeled a "War Powers Act."

What we are trying to do is refurbish the process by which America goes to war—trying to restructure it, so that it is no longer the decision of one man who happens to occupy 1600 Pennsylvania Avenue. And so that when Americans, whether wearing a uniform or not, are sent into hostile situations around the world, Congress will have a part in the decision. The purpose is to see that the U.S. Congress, under its constitutional mandate, will share and participate in that decisionmaking process—the process to determine how, where, and when we go to war. That, in essence, Mr. President, is what S. 440 is all about.

To leave out of that measure the clandestine operations that a President may wish to carry out by using CIA or civilian personnel is to leave an enormous loophole that, in my judgment, if this bill becomes law, will lead to heartaches in years to come; because I think that Presidential warmaking in the future will be conducted just through this loophole. I am not sure whether it will happen next month or next year, in Berlin or in the Philippines.

Ambassador Sullivan is now about to go to the Philippines as our new Ambassador there. After his warmaking experience in Laos, he may have an opportunity in yet another country torn by internal strife to practice his talents. And if S. 440 becomes the law without including the civilian as the combatant, how many hundreds of people, on the CIA payroll, bearing arms, engaging in combat or advising in combat situations, may ultimately go to the Philippines?

I hope none. I hope we never send another American as a military adviser into a civil war anywhere in the world. But I am not confident that I can say that here today. I am not confident that even the bitter experience that we have had in Vietnam, Cambodia, and Laos was such as to prevent us from the future exercise of folly.

The pitch may be made to whoever is then the President of the United States, "Well, we cannot permit this country to 'fall'; we cannot permit good old Lon Nol to fall." We have to get rid of his brother; we send him on a world cruise, and we are about to send Lon Nol himself on a sabbatical to the United States. I do not know how many people have to be removed from Cambodia to prevent that government from falling. That is a curious way, I might say parenthetically, to prevent a government from falling, by ousting the government. But that is diplomacy American style.

I am not so sure we have permanently learned our lesson in Southeast Asia, and unless we plug this loophole and unless we treat all Americans in military situations alike, whether they are wearing a green uniform, red-white-and-blue, or a seersucker suit with arms—what payroll you are on is really secondary; whether you get it from the Pentagon or whether you become a member of the Armed Forces, the end result is the same: Americans are exposed to the risk of war. And as they are exposed to the risk of war, the country, then makes a commitment to war.

Remember well the word "commitment." A few Americans are captured and made prisoners of war in country x in the world, whether called Sergeant Jones or CIA Agent Jones. Then it becomes "a commitment" and the whole bloody business starts again and again.

Mr. President, I do not wish to dwell on the Indochina experience, but we cannot ignore its lessons. We cannot ignore the obvious implications of the covert activity in Indochina prior to the Gulf of Tonkin Resolution. We cannot ignore the possibility that Congress may have been deliberately hoodwinked into authorizing the Vietnam war by a "provocation strategy" implemented in large part by civilian combatants and advisers.

The potential for use of covert civilian forces by a President to achieve military objectives is presently restricted only by the imagination of man. We have already seen CIA personnel used as pilots and combat adviser. And if we fail to pass this amendment, we may see an even more wide-ranging use of civilian combatants in lieu of uniformed personnel whose activities will be circumscribed by this bill, if it is enacted in its present form.

In drafting this amendment I have taken care to avoid restricting the intelligence-gathering mission of the CIA a necessary and proper function. In most cases U.S. Government personnel may be required on occasion to accompany foreign military forces to observe their activities and report on them. My amendment would not prohibit such activity. It would only prohibit civilian personnel from active involvement in hostilities or from performing an advisory function with forces engaged in combat.

Mr. President, the principle I am advocating today was expressed most eloquently by Senator SYMINGTON when, commenting on the secret war in Laos, he said:

> Under our form of government, no matter what the nature of the enemy, without public support no Administration should wage a foreign war. To deny there is fighting is a travesty, for not only the enemy but also the American participants, including those who are casualties . . . know the truth.

Mr. President, the truth about our involvement in Indochina has only recently been revealed to the American people. And one aspect of that truth now acknowledged is that many of the Americans involved in Indochina were civilians participating in covert paramilitary operations

It is time for Congress to acknowledge the vast potential available to the President to expand his warmaking options beyond the scope we have thus far envisioned for S. 440 if he decides to use civilian combatants rather than military combatants. It is time to acknowledge that Presidents will be encouraged to use these options if we fail to circumscribe them.

That is why I urge my colleagues to give the war powers bill before us today the comprehensive character that will make it worthy of its title by adoption of the amendment which I have introduced.

Mr. JAVITS. Mr. President, will the Senator from Maine yield?

Mr. MUSKIE. I yield.

Mr. JAVITS. I suggest to the manager of the bill that it might be well to sound the quorum bell. This is, really, probably the most important amendment to the pending bill that will be debated today, so that perhaps we can agree to having the time not charged to either side for the quorum call, in order to let Senators know what is actually going on.

Mr. MUSKIE. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum with the time not to be charged to either side.

The PRESIDING OFFICER (Mr. ALLEN). Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. I yield myself 5 minutes.

Mr. President, I oppose, with some reluctance, the amendment of the distinguished Senator from Missouri (Mr. EAGLETON) to broaden the definition of "Armed Forces" beyond the original intent of the war powers bill.

Senator EAGLETON's amendment would bring under the provisions of this act—

> Any person employed by, under contract to, or under the direction of any department or agency of the United States Government who is either (a) actively engaged in hostilities in any foreign country; or (b) advising any regular or irregular military forces engaged in hostilities in any foreign country.

The purpose of this amendment—a purpose which under other circumstances I would strongly support—is to give the Congress greater control over the paramilitary activities of the Central Intelligence Agency. The secret war in Laos has been an instructive example for us all. The fundamental and original mission of the Central Intelligence Agency was to provide our Government with adequate intelligence to protect our Nation's security.

This purpose has now been expanded to include a range of dubious covert activities up to and including the secret war in Laos.

I believe it is urgent for Congress to review very carefully the role of the Central Intellgence Agency and to scrutinize the adequacy of existing legislation concerning the CIA. I am pleased, therefore, that Senator STENNIS has indicated that the Armed Services Committee, which has jurisdiction over the Central Intelligence Agency, will conduct a thorough review of these matters. Questions as to the proper role and function of the CIA and where the line should be drawn between legitimate and illegitimate activities are extremely important and delicate—and they should be examined as thoroughly as possible. I think we need new legislation to define more strictly CIA functions and to insure a sufficient congressional role in overseeing and controlling CIA activities.

Such a review should take place in accordance with the normal legislative procedures of the Senate. I do not believe it is appropriate to raise this matter on the floor in connection with this particular bill. The war powers bill has been in the making for several years. All its provisions have been thoroughly considered and debated in public hearings, in committee, and on the floor of the Senate. Broad Senate support for this bill—across party and ideological lines—has been built upon a delicate balance of interests and concerns. I do not think it is wise at this late date to consider a major new provision to this bill which now comes almost as an afterthought to several years of intense deliberation.

The distinguished Senator from Missouri has made an invaluable contribution to the writing of the war powers bill from the beginning. As a principal author of this bill, his views deserve particular consideration and respect. I am in accord with his broader purpose in proposing this amendment, but I disagree simply with his tactics in offering it to this bill.

As for the amendment to the bill, I should like to see the bill supported by the Senate today so strongly as to give pause to the President if he considers a veto. So I should like to see maximum support mobilized behind it for that reason, and preserve the bill as it is, rather than to jeopardize it with a major change at this time.

I yield to the distinguished Senator from New York (Mr. JAVITS) such time as he may need.

Mr. JAVITS. Mr. President, like the distinguished manager of the bill (Mr. MUSKIE), I have given most respectful thought and attention to the amendment which the Senator from Missouri (Mr. EAGLETON), one of the principal sponsors and architects of the bill, has proposed.

I must oppose the amendment for the reasons stated by the Senator from Maine (Mr. MUSKIE), which I endorse, and also for certain other reasons which are inherent in the problems raised by the amendment.

I wish to recall to the Senate that this bill has been properly put before the Senate previously and again now, not as changing this body's constitutional authority, not, indeed, as changing substantive law, but as a methodology in an area where no methodology has existed before, and where, as has been argued, the rough interplay of political forces is supposed to bring about some kind of rough resolution of what was unforeseen in the Constitution. I believe the best hope for this legislation resides in keeping it as a methodological bill.

The methodology of the bill is of profound importance to our Nation; procedure—or "due process"—is the bedrock of freedom and democracy. At the same time our methodology is "neutral" on the substantive issues which are to be considered and decided in terms of the "due process" we are establishing by this legislation. In effect, we are herein establishing that our Nation can be taken into war only through "due process." This is a major reform, in light of the experience of the last decade. It is a major new protection for our citizens, just as the protection of "due process" is for them with respect to criminal law, et cetera. Some of our colleagues wish to write in substantive policy proscriptions on sensitive issues—usually the still raw issues of the past decade. As much as I may, and do agree and sympathize on the substantive questions, they are not appropriate in a bill which is establishing methodology, or due process with regard to going to war.

Regretfully, because I happen to agree with the Senator from Missouri and the Senator from Maine, these arguments, factual policies, and declarations, involving what are called the continuum, in short, which little incidents lead to war, find no place in the bill, because this is a substantive question. It is not a matter of establishing a method by which both Congress and the President may exercise their constitutional authority. Rather, the amendment goes to the causes of war and what brings them about, in an effort to abate those influences or to abort, in its infancy, a situation which may lead to war.

That is the essence of my position. There are other points which are practical in nature; but essentially I think the gift which we all brought to the bill was to keep it methodological. The fact is that if the Constitution had anticipated the situation as it has now developed, Presidents would not have done what they have done, in my judgment, for almost 200 years. Congress would not have permitted its war power to be eroded and we would not have the situation that arose in the Vietnam war. With respect to the Gulf of Tonkin, in which Congress had joined, there was a dispute over the resolution whereby the President was given a general power of attorney, as it were, when the Congress thought it was giving a limited, specific power of attorney with respect to a particular incident alone.

One big fallacy creeps into the arguments of so many opponents, including the Senator from Arizona (Mr. GOLDWATER). They have an idea that the only way Congress can "declare war" is by passing a "declaration of war" resolution in both Houses of Congress some dark and tragic afternoon which says, "We hereby declare war on Hitler's government." Not at all. There is no such provision in the Constitution that so limits or specifies the power to declare war. We can exercise it any number of ways, so long as we do so by law.

These are reasons why it was necessary to define by methodology how we should exercise our power and the President should exercise his power. This has emerged as an unsettled question in the twilight zone of the Constitution, which we no longer wish to leave to the interplay of political forces.

However desirable the Eagleton amendment may be on substantive, policy grounds, it is out of place in this bill. The Armed Services Committee—and here the Senator from Mississippi (Mr. STENNIS) is on impregnable ground because the Committee on Armed Forces does have jurisdiction—should take it up as substantive legislation. If this amendment should become part of the war powers bill because the Senate thought it desirable to go with the Eagleton amendment, it would complicate the question of conference, as to putting together a conference committee on the part of the Senate which would be truly representative of those with the greatest expertise and the appropriate committee of authority in the CIA field.

The Senator from Missouri (Mr. EAGLETON) has already won a considerable victory in that the Senator from Mississippi (Mr. STENNIS) said in his letter that he is sympathetic to the thrust of the Eagleton amendment; that he is considering and the Committee on Armed Services will work up some way to deal with CIA, based on the revelations we have had. The Eagleton amendment undoubtedly will have very high priority consideration, as it should.

Mr. President, as to the text of the

Eagleton amendment, now we become lawyers and take a look at it. Here again, there are problems.

I would like to point out the defined parameters of the Eagleton amendment:

> Any person employed by, under contract to, or under the direction of any department or agency of the United States Government.

That could include almost anyone; it is not confined to the CIA. Indeed, it is difficult to say what the limits of its coverage may be. Later on, I will explore whether it would cover foreign nationals, and particularly foreign nationals who may be covert intelligence agents of the United States. For instance, would Colonel Penkovsky, who was a member of the Soviet military and who provided so much key intelligence to the CIA right out of the Kremlin, the Soviet General Staff, would he have been covered?

Lots of things lead to war. A man on horseback may lead to war; national hatred could lead to war; anything could lead to war. We cannot deal with all those subjects in this bill.

Another important consideration is that there outside the Armed Forces, was are covered by the bill, is no agency of the United States which has any appreciable armed forces power, not even the CIA. They might have some clandestine agents with rifles and pistols engaging in dirty tricks, but there is no capability of appreciable military action that would amount to war. Even in the Laotian war, the regular U.S. Armed Forces had to be called in to give air support. The minute combat air support is required you have the Armed Forces, and the bill becomes operative. A key control which would not be reached by this amendment even if it could, would be control of the use of money. The fact is that vast sums of money were given to Vang Pao in Laos to pay for mercenary Meo army. The use of Air America, which was a logistical operation, and not a combat operation, presumably would not be reached by the amendment alone it was a key factor in CIA involvement in the secret war in Laos.

Finally, one point of draftsmanship.

It will be noted the amendment starts out with the language, "Any person employed by." That includes a foreign person, as well. There are many clandestine agents who are foreign and employed by, in the sense of being financed, maintained by, and directed by Department of the U.S. Government, which is one of the facts of life. Are they covered by this bill? If they are clandestine agents who are members of foreign armies does this amendment apply? Suppose a member of the Soviet or Chinese, or Vietcong armies is a CIA "controlled American source," does this amendment apply if his unit goes into hostilities?

Substantive law can determine what activities can be engaged in with respect to foreigners in terms of pay, and so forth. Law can determine that, but it is hardly a methodology. You would be dealing there with substantive approaches to the law. Shall the United States employ foreign citizens for these purposes? If it does, in what manner, and how are they controlled, and so forth? Again, this is beyond the ambit of this bill.

The matter was so eloquently and precisely put by the Senator from Maine (Mr. MUSKIE) in what he said in respect of the amendment. It simply does not fit within this context, and considering the historic nature and importance of the context we should not burden it with substantive questions which in addition to all other points made are within the jurisdiction of another legislative standing committee, to wit, the Committee on Armed Services; and where we are not faced with any question of avoiding the issue, but have the word of a man whose word rings as true around here as that of any Senator of the United States, and that is that he proposes to deal with the question.

One other point which is interesting: I, too, have talked with the Senator from Mississippi (Mr. STENNIS) at length. He was very reluctant to make this expression on this particular amendment, because he felt that he wanted no feeling here in the Senate that he was trying to have his voice carry Senators when he was far away from us. He, too, like everybody else, wanted to be subject to debate and cross-examination. But I think the Senator from Maine (Mr. MUSKIE), and I prevailed on him to feel that as he had used his privilege very sparingly and he had this bill so close to his heart, this was a measure in which that was deserved, and I am glad to say he acted accordingly.

Mr. MUSKIE. Mr. President, I yield myself 2 minutes.

Reference has been made to communication with the Senator from Mississippi (Mr. STENNIS), and as the Senator from New York (Mr. JAVITS) has explained, the Senator from Mississippi was very reluctant to appear to be trying to influence votes here when he could not participate personally. But we prevailed upon him, and I take the opportunity to read that letter into the RECORD:

JULY 19, 1973.

Hon. EDMUND S. MUSKIE,
U.S. Senate,
Washington, D.C.

DEAR ED: If I could be on the Floor, I would support you fully as you push for the passage of the War Powers Bill, as reported by the Foreign Relations Committee, without further amendments of any substance.

One amendment of substance is by the Senator from Missouri, Mr. Eagleton, who has done much work and has made a fine contribution to this important bill as it now stands. This amendment has a prohibition of using the C.I.A., or its funds, in war activities of the type we have used in Laos. The experience of the C.I.A. in Laos, as well as more recent disclosures of matters here at home have caused me to definitely conclude that the entire C.I.A. Act should be fully reviewed.

Accordingly, I already have in mind plans for such a review of the C.I.A. Act by the Senate Armed Services Committee and have already started some staff work thereon. All proposed changes, additions or deletions can be fully developed and hearings held thereon at that time. I have already completed, but have not yet introduced some amendments of my own. The proposal by the Senator from Missouri, Mr. Eagleton, to explicitly prohibit any action by the C.I.A. of the type we have had in Laos, or any other activity of that kind could and would be fully considered by the Committee at that time. I could support some major points in that particular amendment as a part of a bill on the subject, but fully oppose the amendment presented as a part of the War Powers Bill.

The bill now before the Senate, as finally written and improved by the Foreign Relations Committee, is an excellent bill and is confined to the Constitutional subject of actually committing the nation to war.

I believe this bill, if confined to its proper subject matter will pass the Senate by a large vote and will emerge from the Conference Committee as a bill with meaning. There are reports, which I hope are erroneous, that a veto is in prospect if this bill passes. If so, I feel so strongly that a meaningful bill relating to the War Powers, and the responsibilities of the President and the Congress, should be passed, and I would strongly urge that that bill pass, the veto notwithstanding. If we clutter the War Powers Bill with other matters we would probably kill what is otherwise a good chance to override a possible veto.

Again, I certainly wish you well, and hope the Committee bill in its present form can be preserved and passed and passed by a large vote.

Most sincere yours,
JOHN C. STENNIS,
U.S. Senator.

I think those who read this letter would agree that this is an extraordinarly strong commitment from the Senator from Mississippi. To have anticipated a veto, and to have indicated with such vigor his intention to press for an override, I think is the kind of action the Senator from Mississippi would rarely take. It is because of his voice, and that of the Senator from New York, and my own understanding of the forces that went into putting this bill together, that I reluctantly oppose the amendment of the distinguished Senator from Missouri.

Mr. EAGLETON. Mr. President, I yield myself such time as I may consume.

I sat here and listened with deep interest to the comments of both the Senator from Maine (Mr. MUSKIE) and the Senator from New York (Mr. JAVITS). They are both men of extraordinary capability and good will, and I suspect that deep down in the inner recesses of their hearts they know I am right. I think they would like to vote for the Eagleton amendment. In fact, I think they believe in it, because what triggered the situation that we find ourselves in today—what triggered the war powers bill pending before this body today—was not the fact that all of us went, during the recess, to academia and hibernated with professors. We did not just sit there and read lots of constitutional lawbooks, statutes, and what have you. It was not because a lot of thought had to be given to the methodology, to use the word used by the Senator from New York. But it was due to the fact that for a decade we had been in an atrocious nightmare in Southeast Asia.

This bill was not conceived in the abstract. It was not conceived in the ethereal. It was conceived in blood—50,000 dead and the whole litany of what occurred in Southeast Asia. That is why we are debating this bill today—not because it is a prosaic idea, but because of our recent tragic experience.

That experience has many facets—not only the Gulf of Tonkin in 1964, and not only Cambodia, but one of the integral facets of our being involved in that operation in Southeast Asia was the fact that we became clandestinely involved in that sector when we should not have been there in the first place. Then, having already become overly involved in a secret, covert way, the war mushroomed and we found we could not extricate ourselves from that nightmarish situation. Eventually 650,000 of our troops were involved and more than 50,000 of them died.

So military activities will be carried on by civilian employees of the Pentagon, because under the war powers bill nothing prevents the Pentagon from hiring or contracting with civilian employees, ex-military people perhaps, but people that are called civilians.

They keep them in their seersuckers and keep them all over the world, just as they did with the Royal Laotian aircraft for bombing in Laos.

The Senator from New York has said that if they come into it with our combat troops, then S. 440 takes hold. But in Laos it was 3 years of CIA war before combat personnel came in. We were already committed. They had their own combat personnel there. They had their own civilians flying aircraft for 3 years before the U.S. Air Force became involved in it. That would have all occurred before S. 440 would take hold. By then we are deeply committed.

My capabilities with definitions are meager indeed, but "commitments" have come to haunt us. After Americans are on the ground, advising, directing, and masterminding, and running the whole military operation, just because they do not have on their "U.S. Army" uniforms.

Let us suppose they just use the words "U.S." Strike the word "Army." Strip that from the regalia. So they wear some fatigues and are paid by the CIA, or indeed the Agriculture Department, as the Senator has said my amendment would cover such a possibility. Any department of the Government could be the sponsor of covert activity.

Let me move on. The Senator from New York talks about a methodology to control war. What we are really talking about in this bill is hostilities. That is the key word in S. 440. How do we get in them? How do we avoid them? Who participates, and under what circumstances? That is what the bill is all about.

This amendment is designed to prevent all American combatants from getting involved in hostilities in a foreign country without the consent of Congress.

I said in my earlier remarks that I do not know what the troublesome areas of the world will be in the future. But we still have some left. The situation in Southeast Asia is by no means resolved.

We will have our new Ambassador going one of these days to Manila, a country where they have some problems of insurrection and civil strife.

With his expertise, perhaps Ambassador Sullivan will get us involved in the Philippines, if he has a mind to. He has experience in that area.

If we pass this bill and leave this gaping loophole of uncontrolled, unilateral Presidential discretion so that civilians can fly, bomb, shoot, and what have you, I think that we are asking for trouble. We are asking for a repeat of exactly what we had sought to avoid by this legislation.

In conclusion, Mr. President, I would like to read briefly from a piece published in the May 1973 Harper's magazine by Fred Branfman, the author of the book "Voices From the Plain of Jars." He is an acknowledged expert on Indochina and has considerable expertise in that part of the world.

I will read two passages if I may. The first one reads:

> There has been an almost audible sigh of public relief since the signing of "The Agreement on Ending the War and Restoring the Peace in Vietnam." True, everyone knows full disengagement will be a slow and complicated business, stretching through months and months. But the important thing seems to be that the United States has agreed to (1) a set of principles sweeping away the familiar justification for U.S. war in Indochina; (2) a set of promises built around the stipulation that the U.S. "will not continue its military involvement or intervene in the internal affairs of South Vietnam." At the very least, we accept the idea that the Paris agreement marks progress; from there, we may be inclined to assume that Vietnam will begin receding into a limbo where American involvement is nonexistent.
>
> The evidence paints a contradictory picture. It shows, instead, that we are "progressing back" to the kind of covert warfare practiced in Vietnam during the late Fifties and early Sixties, and in Laos almost continuously since 1962. In the months since the Paris agreement was signed, there has been a steadily growing record of press reports, public statements by Administration officials, and budget allocations that, taken together, point to resumption of a covert war, leaving us poised only half a step away from a renewed major military commitment in Indochina. No piece of evidence is conclusive in itself, but the overall pattern is distinct. Here's the way I see the logic of the situation, based on newspaper reports, Congressional testimony, official documents, and my own four years' experience watching the "secret war" in Laos.

Mr. Branfman goes on to say:

> PERSONNEL FOR A COVERT WAR
>
> Since April 1, 1973 when U.S. forces were formally withdrawn, American personnel in Vietnam have done essentially what the soldiers did before them. They are under contract to the Department of Defense, the State Department, or the Central Intelligence Agency, performing chiefly military and paramilitary tasks.
>
> Many advisers to the South Vietnamese Air Force and Army are technically civilians, it is true. But almost all have been members of the U.S. Armed Forces, and many were recruited directly from the U.S. Air Force or Army.
>
> There have also been indications that some active-duty U.S. military personnel remain in South Vietnam disguised as civilians. A November 29 *Los Angeles Times* dispatch from Saigon, for example, noted:
>
> While many of the new experts or technicians (or advisers) will be wearing civilian sportshirts, the suspicion is strong that underneath they will have dogtags, or at least retirement papers . . . One staff officer, already sporting civilian clothes much of the time, admits that the biggest change in his office will be the removal of some awards and military knickknacks, including a mounted AK-47 rifle, which would not fit his "new" identity.
>
> It is also quite possible that active-duty military personnel will be sent into South Vietnam on "temporary duty" from Thailand. One indication of this is the announcement that the U.S. military command will move from Saigon to the remote Air Force base at Nakhorn Phanom (NKP) in northeast Thailand. NKP is smaller and has fewer facilities than other U.S. bases in Thailand, such as Udorn or U-Tapao. It has, however, served as a center for U.S. covert activities for years. NKP functioned as a base for the abortive electronic battlefield, for the "Blue Berets" of the Air Force Special Forces, and for the 56th Special Operations Wing, a prop-plane unit used for agent insertion, pilot rescue, and specialized operations like the Son Tay prison raid. Were the U.S. role from Thailand to be limited to logistics support for South Vietnam, it is unlikely that NKP would have been chosen as the new U.S. command post.
>
> Clearly the U.S. withdrawal has been such that it does not compromise the capacity to direct and participate in covert war operations.

Mr. President, I do not vouch for every statement made in the Harper's article as to the inaccuracy. Much of it is speculation.

My prognostication and crystal ball gazing does not tell me that all things will not be all right in the Philippines. However, when we are preparing a piece of legislation that determines under what circumstances we go to war—the most terrible decision that a free country or any country should make—we should at the time we vote on that piece of legislation know what it contains. And it should not contain an imperfection, a loophole, that if exploited, would be literally a mile wide.

It is not good enough to say that we should not rock the boat. Lots of Senators have agreed on this draft of the bill. There is nothing sacred about any piece of legislation that comes to this floor. It is not Holy Scripture. It is not written by divine ordinance. Legislation is drafted by man with all of his imperfections. And sometimes wisdom is a bit belated.

This loophole so far as the CIA is concerned came about because we are still learning more about the war in Laos. I have not learned enough. Mr. Colby's testimony before the Armed Services Committee the other day brought this matter to my attention in terms I simply could not ignore.

However belated the legislative process may be, when an amendment is offered it ought to be considered for what it is, and especially if it is to plug up what I consider to be a significant loophole.

We will have a war powers bill, and it will pass by a substantial vote. It may or may not be signed by the President.

We are not here to write labels on a document. What does the bill cover, or what does it leave uncovered? As of now, what this bill leaves uncovered, is the very means, the very methodology, the very mechanism by which we first entwined ourselves in Southeast Asia. This is the kind of loophole that under no circumstances should be permitted to remain in a bill such as this.

Our memories are sharp enough at this point in time, in 1973, to remember the antecedent origin of our beginnings in Southeast Asia. I think we should act now to assure that such a tragedy cannot recur.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. EAGLETON. I yield.

Mr. FULBRIGHT. Mr. President, I support the amendment of the Senator from Missouri. It seems to me that this is a very essential part of this overall legislation, simply because of our recent experience in Laos.

The Members of the Senate will recall that the CIA undertook to create and did create its own advisors and directors and army that I think at one point reached about 36,000 men, in the neighborhood of 30,000 to 36,000 men. That fact was carefully kept from the Congress and from the public. There is an informal committee of the Senate that is supposed to have informal supervision of the CIA. No attempt has been made to create a formal committee or a joint committee of the Congress.

Former Senator McCarthy of Minnesota and others tried that, as did the majority leader, but we were defeated in those efforts by the powers of the Military Establishment, and it was rejected.

The CIA Committee, the so-called committee that exists, has not met, I believe, in 2 years. I have, as all of us do, the greatest respect and affection for the Senator from Mississippi (Mr. STENNIS), and no one questions his sincerity and his devotion to the defense of the United States, but the facts are that this CIA army was created and paid for without the knowledge of the Senate generally, or Congress generally. There may have been one or two members of the CIA Committee who knew about it. That has never been clear. As I recall, the late Senator from Louisiana, Mr. Ellender, was reluctant to discuss the matter as to how much he knew about the operation in Laos.

So the Senator from Missouri is entirely correct in using that as a recent example of what could be done, and what could also be repeated in the Philippines. That was the principal reason the question was raised about the suitability of Mr. Sullivan. The reason for the action on Mr. Godley has been grossly distorted. It had nothing to do with retribution or punishment, or anything else. It was the experience in Laos, the technique and the devotion which both of *these gentlemen* had developed for that operation, as evidenced by their actions and within the personal knowledge of members of the committee; and we simply thought it was not proper to put men into positions of policymaking, in particular, who might be inclined to feel that this was an appropriate and effective way to deal with situations such as have developed in the Philippines, which are not unlike those which developed in Vietnam.

I think this is a particularly pertinent issue that the Senator from Missouri raises, because otherwise any future President can end-run the law and use the CIA in this fashion. So I am sorry that there are those who are opposed to asserting the role of Congress in this kind of activity. It is a curious thing: every time an effort is made to assert the role of Congress in such matters, there are always reasons raised in connection with past practices as to why it should not be done.

I must say that the prospect of the bill being vetoed, as an argument that we should not strengthen it, does not appeal to me. I cannot imagine any President vetoing this bill and taking the risk of being judged after the fact as to whether he exercised proper judgment about it. I shall discuss that at a later date. But I think there is very little prospect that this bill as reported by the committee would be vetoed, because I cannot imagine why the President would veto it. If we put in something like the Eagleton amendment, to give it some teeth, it is true that it might be vetoed, but I think it might then be overriden, and it would be worth overriding the veto.

Of course, no President is going to like the slightest restriction upon his complete freedom of action to do anything in the military field or in the domestic field. They do not want any restriction even, as evidenced in the last election, on how they go about reelecting themselves. That goes even so far as ignoring the criminal laws already on the statute books. They would also ignore this bill, perhaps, but we have to legislate on the assumption that the President will abide by the law. That is the approach we take. But if the law has no restrictions upon his freedom of action, there is no reason for him to veto it

This bill has some good points in it, and I was extremely reluctant to vote "present" in the committee, because I could not endorse it, particularly section 3, which I shall discuss later. But I submit that the provision offered by the Senator from Missouri, in itself and on its own feet, is well worthwhile. If it is rejected here, as I anticipate from the attitude of the sponsors, who have now lined up a majority of the Senate—and there are only four Members present to hear the debate—I see no particular reason why those who are committed will not vote for it with no knowledge of the Eagleton amendment or any other amendment. So I assume the die is cast as far as the outcome in the Senate is concerned.

I was very much in favor, as indeed everyone is, of the announced objective of this legislation, which is to restrict the untrammeled power of the Executive to take this country into war. I am bound to say that I do not believe legislation can control these things absolutely. It is just the best we can do. If a President is inclined to deceive the Congress, as I believe the late President Johnson was in the Gulf of Tonkin matter, he can hornswoggle and hoodwink Congress, and cause us to take actions which serve his purposes, which we would not do if we knew the truth. That is the type of thing that no legislation can meet. We all supported a bill to limit the power of the President to take us into war on his own initiative, without consultation with Congress, but then there developed a question of opinion as to the need. The difference is not only as to objective—we all agree with the objective—but there are honest, legitimate differences of opinion as to the effectiveness of the means here provided.

Some of the provisions in the bill are good ones, and some, I think, can be improved. I would hope to help to improve them during the course of action here on the floor and in the conference.

But I congratulate the Senator from Missouri. He is certainly making an honest effort to give some substance to this legislation. One of the most glaring gaps in the power of Congress to control our own destiny is the enormous development of the power of the intelligence agencies, in this instance the CIA. Of course, it would apply not only to the CIA, but to the NSA or the DOD or any other agency of that sort. Under the general terms of the amendment of the Senator from Missouri, it would apply to any of those agencies that undertook to covertly engage us in another war on any massive scale such as is here involved. So I shall certainly support it.

I regret very much that the Senator from Mississippi, whom we all respect so much, has from his sick bed sent a letter to discourage this very mild but very significant move toward the reassertion of some congressional control in this area. I again only remind the Senate that on two or three occasions Senators—I know the Senator from Montana, the distinguished majority leader, on one occasion, or maybe both, has taken a very strong part, as Senator McCarthy did, and I did my best with several others. We even had an executive session of the Senate to discuss the matter, and a genuine effort was made to create a committee somewhat like the Joint Atomic Energy Committee to give supervision to the intelligence agencies; and I think, as I look back upon it, it was a great mistake that we did not do that.

We did not do it simply because the same officers and the same people who now oppose this objective were successful in mustering enough votes to kill it. But I think it clearly appears to have been a great mistake not to have done it, because, as to this question of supervision, there just is not any. As to the existing informal committee, I believe it is 2 years or approximately 2 years since it has met. That committee serves not to supervise or inform the Senate about its activities; it serves to protect the CIA from inquiring eyes, be they in the Senate or in the public. It has been effective in preventing anyone knowing what the CIA does, what it spends, and how it operates. We find these things out long after the fact, after they have happened. We found that out about Guatemala. We did not find out about Laos until it had been going on for 2 or 3 years. After awhile these things come out, only after the damage has been done after the commitments, the loss of life, the expenditure of money has taken effect. So if we are to have any power, any influence upon this type of activity, the amendment of the Senator from Missouri (Mr. EAGLETON) should be adopted. I congratulate him on offering it.

It is unpleasant to do anything that disturbs the status quo in the field of intelligence or military affairs. That has been true for 20 years, and I suppose it will be true for another 20 years until Congress itself has enough courage and enough votes, I may say, in the final analysis, to undertake some responsibility in this area. So that I think what the Senator from Missouri has done is to render a great service, regardless of what the outcome will be.

Mr. EAGLETON. Mr. President, I most sincerely thank the distinguished Senator from Arkansas for his presentation and for his laudatory remarks. Naturally, it goes without saying that there is a great deal of wisdom and substance in his remarks.

Mr. President, I am prepared at this time to consider yielding back the remainder of my time.

Mr. MUSKIE. Mr. President, I should like to take a few minutes to respond, if I may, and I yield myself 5 minutes for that purpose.

The PRESIDING OFFICER (Mr. BIDEN). The Senator from Maine is recognized for 5 minutes.

Mr. MUSKIE. Mr. President, I have listened to the distinguished Senator from Missouri (Mr. EAGLETON) and the distinguished Senator from Arkansas (Mr. FULBRIGHT). I disagree with very little they have said. They have stated the basic policy issue which is addressed by the Eagleton amendment. The Senator from Missouri was kind enough to suggest that deep down in my heart I believe he is right. That is correct. He was kind enough to suggest that deep down in my heart I would like to vote for his amendment. I would, but at the right place, at the right time, and on the right piece of legislation.

I disagree with the distinguished Senator from Arkansas, the chairman of the Committee on Foreign Relations, in his comment that those of us who oppose the Eagleton amendment resist the establishment of an appropriate congressional role in controlling the CIA.

In my statement I indicated earlier this morning that my concern was at least as urgent as that of the Senator from Missouri. I agree with the Senator from Missouri that this legislation was conceived in blood. But our problem is how, and when, and by what means do we bring the loose ends together in the public policy field that led us to this tragedy?

The suggestion that we can, somehow, wrap them all up in one legislative package and enact it, without any doubts of a Presidential veto or our ability to override it, is simply unrealistic.

I have sat in this body for the past 9 years and watched Senators FULBRIGHT, MCGOVERN, HATFIELD, MANSFIELD, and so many other Senators trying to get a legislative handle on the problem so that Congress could end the war, only to see effort after effort end in frustration.

Mr. President, it is a matter of tactical judgment as to whether we can load this bill with that much more and still have it "fly." Of course, it is a matter of judgment. But that should not divert us into a debate over who is for what. It is a matter of tactical judgment.

The Senator from Arkansas suggested that it is inappropriate to consider what is legislatively achievable. That is a different kind of argument from the one I heard in the Committee on Foreign Relations a couple of weeks ago in connection with the Cambodian compromise. Everyone except the distinguished majority leader and myself voted for that one, because, they said, "This is what is achievable."

The Senator from Missouri did not vote for this compromise on the floor, and I did not vote for it on the floor, because we both thought more was achievable. That did not mean either side was purer than the other, but it did involve consideration of the tactical question of what is achievable.

I happen to think that the war powers bill in its present form is of sufficient importance to reestablish the balance between the President and Congress, so that if it becomes law we will have achieved something important. I should like to achieve that. I think that to overload it, whether by this or some other amendment, is to risk the possibility of not having that achievement.

That is my tactical judgment. It could be wrong. But that is my reason. I think it stands up. My footnote is Senator FULBRIGHT's own reasoning in connection with the Cambodian compromise—that is, to work for what was achievable, and I honor him for it. He may be right.

Mr. FULBRIGHT. Mr. President, will the Senator from Maine yield?

Mr. MUSKIE. I yield.

Mr. FULBRIGHT. In that case, we already had a veto. There was no speculation about it. We had a veto. There was little doubt in our minds that we would have another. You have not had the veto on this. I do not know whether you will or not. I cannot imagine why the President would veto this Senate bill if we passed it.

Mr. MUSKIE. May I say to the Senator from Arkansas that the distinguished Senator from Arizona (Mr. GOLDWATER), earlier this morning, expressed complete confidence that the President would veto it. The distinguished majority whip, the Senator from Michigan (Mr. GRIFFIN), told me off the floor yesterday that he expected a veto.

May I say further, in response to the Senator's point, that the veto in the case of the Cambodian matter had come close to the end of the fiscal year, and we were coming closer. It was my own "gut" feeling, after 9 years, that we had painted the President into a corner and that it was worth another test. It was worth another test to see whether we could get the 18 additional votes in the House which would be necessary to reverse the override decision on the first veto. That was my judgment. The Senator disagreed. But you certainly demonstrated with your position on this issue that the tactical question of what was achievable is a legitimate one.

Mr. FULBRIGHT. I do not deny that at all.

Mr. MUSKIE. But you denigrated it earlier, and I am trying to raise it to the proper level of serious legislative consideration.

Mr. FULBRIGHT. I would think the merit of the amendment of the Senator from Missouri, if it is put in, is sufficiently great to make this piece of legislation significant. It would give it a much greater chance of overriding a veto than a measure which has really no very serious effect on the President's power.

The PRESIDING OFFICER (Mr. BIDEN). The 5 minutes the Senator from Maine granted himself has expired.

Mr. MUSKIE. Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator from Maine is recognized for 2 additional minutes.

Mr. FULBRIGHT. Mr. President, if the President is foolish enough to veto it, then I do not know why anyone should be too disturbed about overriding it. But if the bill has strength to it, as would be given to it by the amendment of the Senator from Missouri, I would certainly be in favor of overriding a veto.

Mr. MUSKIE. So the Senator acknowledges the importance of tactical judgment which he is now adding to his argument in favor of the Eagleton amendment.

Mr. FULBRIGHT. I never meant to deny the tactical. It is just, in this particular situation, that you are speaking of the generality. I admit to the tactical importance of this particular situation. This is not similar to what we had in the case of Cambodia in the way of a veto. We have not had one yet. If you have a veto and you think this is worthwhile to override the veto, we can meet the question as to whether we weaken or strengthen it, or leave out various parts of it. That has always been acceptable.

If I gave the Senator the impression that the tactical consideration of this question was not significant, then I withdraw it or I misspoke myself. I have for 30 years, engaged in measures which have had that as part of consideration. It is foolish to pass any legislation that we know is going nowhere unless it is an educational matter and we are trying to inform people and it is necessary that it be passed. That is done sometimes. But this is part of legislation. It has been passed. It is not that kind of legislation at all.

I did not mean to give that impression. I certainly do not mean to give the impression that the Senator from Maine is not as entitled to his judgment as I am. In debate, every now and then, it is the nature of debate that differences of opinion crop up. I do not pretend to know any more about it than the Senator from Maine. He is a very distinguished former candidate for the Presidency. That gives him an elevation and a prestige far beyond an ordinary Senator. So I would not mean to insinuate that he is not entitled to his views.

I withdraw or I modify any statement I made that reflected upon the sincerity and good faith of the Senator from Maine in taking the position he does. I was only trying, in a clumsy way, to make an argument in support of the Senator from Missouri's amendment.

Mr. MUSKIE. I think the Senator and I understand each other. I simply want the record to reflect that what separates the Senator from Missouri and the Senator from Arkansas from the Senator from New York and myself is the tactical question of whether it is wise to load this much more on the bill.

Mr. JAVITS. On the veto question, I do not think we are left in any doubt about that. The minority leader of the House read to the House on Wednesday the President's declaration, in which the President said:

> I am unalterably opposed to and must veto any bill containing the dangerous and unconstitutional restrictions found in section 4(b) and 4(c) of this bill.

Those are the key sections which relate to the 120 days—as contrasted with our 30 days—and the question of a sooner enactment by the House of a concurrent resolution shortening the time.

It seems to me that the argument made by the Senator from Maine, the manager of the bill, is entirely appropriate, in view of the fact that—and Senator Stennis' views on this are critically important—we do want to muster the maximum support for a bill the thrust of which is methodology rather than the causes of war.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. FULBRIGHT. I was only saying that those comments were directed at the House bill, not at this bill, and at two provisions which are not in this bill and which are restrictive. So I do not see that that is relevant to the discussion of this particular bill.

Mr. JAVITS. At the very least, it indicates that the President is unalterably against some basic policy and principle which is contained in this bill, as it is in the House bill.

Mr. FULBRIGHT. I am bound to say that this President would be opposed to any bill with the slightest restriction on his complete freedom of action to do as he pleases.

Mr. JAVITS. Then, we agree. That does not denigrate from the fact that we say there is a real danger of a veto.

I say this as the author of this bill, with the great aid of Senator Eagleton, Senator Stennis, and other Senators in the fashioning which was done in the Committee on Foreign Relations. The purpose and intent I had was to arrive at a procedure on the major question of war, and I thought if we could accomplish that, we would have leashed what the Founding Fathers called the Dogs of War. I thought that was what I was doing.

The causes of war are many. If we are going to try to follow all those things, we will be chasing lots of rabbit tracks. I agree as to the CIA, but I think that if we try to crank it into this situation, the fundamental thrust of the bill, its fundamental impact, could be lost.

One thing on which I should like to take issue with my esteemed chairman, with whom I work so closely, is that this is a critically important bill without the CIA amendment. It is an historic break with the past. At long last, we will say how this must be done. All I say is that now, today, there is nothing the President has to look at which tells him what to do. He has freedom of action, unless we stop him, and we have to find a way to stop him that is agreeable to a majority of the Members of Congress or to two-thirds of the Members.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the pending amendment.

The yeas and nays were ordered.

Mr. EAGLETON. Mr. President, it is my understanding, pursuant to the previous order, that the vote on this amendment will occur at 12 noon sharp and that a vote will occur at 12:15 p.m. on the District of Columbia Appropriations bill.

The PRESIDING OFFICER. The Senator is correct.

Mr. EAGLETON. I yield back the remainder of my time.

Mr. MUSKIE. I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time on the bill?

AMENDMENT NO. 361

Mr. FULBRIGHT. Mr. President, I call up my amendment No. 361.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment is as follows:

> On page 8, between lines 20 and 21, insert the following:
>
> "TROOP LOCATION AND DEPLOYMENT
>
> "Sec. 8. (a) The President shall provide, under appropriate injunctions of secrecy to be removed upon due notice from the President, to the Committees on Foreign Relations and Armed Services of the Senate, the Committees on Foreign affairs and Armed Services of the House of Representatives, and the Joint Committee on Atomic Energy the following:
>
> "(1) not later than the fifth day of every month, a comprehensive listing of all Armed Forces of the United States by geographical location as of the last day of the preceding month with notations as to reasons for changes from the report for the immediately preceding month; and
>
> "(2) immediate notification and explanation of the issuance of any order to deploy any major unit of the Armed Forces of the United States from within the United States or the surrounding waters to any other geographical location of the world from one geographical location of the world to another in any case in which—
>
> "(A) the movement results in an increased presence of such Armed Forces in the region to which the unit is deployed for a period in excess of three days; or
>
> "(B) such Armed Forces are in combat-ready status.
>
> "(b) The Congress may restrict or prohibit by concurrent resolution, any deployment of such major unit referred to in subsection (a)(2) of this section. In such event, the President shall, within thirty days, terminate such deployment and transfer any part of such Armed Forces already so deployed to the place from which they were deployed or to the United States, its territories and possessions.
>
> "(c) The provisions of this section shall not apply when an authorization of hostilities by Congress is in effect.
>
> "(d) For purposes of this section, 'major unit of the Armed Forces of the United States' means—
>
> "(1) at least a squadron of aircraft or its equivalent;
>
> "(2) any two or more major combatant boats or vessels (other than ballistic missile submarines); or
>
> "(3) at least a brigade of troops or its equivalent.".
>
> On page 8, line 22, strike out "Sec. 8" and insert in lieu thereof "Sec. 9".
>
> On page 9, line 4, strike out "Sec. 9" and insert in lieu thereof "Sec. 10".

Mr. FULBRIGHT. Mr. President, how much time do I have?

The PRESIDING OFFICER. One hour on the amendment—30 minutes to a side.

Mr. FULBRIGHT. I yield myself such time as I may require.

Mr. President, a most important problem, closely related to the war powers, is the question of authority to deploy the Armed Forces outside of the United States in the absence of hostilities or the imminent threat of hostilities. In the section of the committee report on S. 440 entitled "Explanation of the bill," it is stated that:

> This legislation would not inhibit the President's capacity to deploy the Armed Forces, that is, to move elements of the fleet in international waters.

Prof. Raoul Berger commented in his testimony before the Foreign Relations Committee on war powers:

> Unless Congress establishes control over deployment by statute requiring Congressional authorization, the President will in the future as in the past station the armed forces in hot spots that invite attack, for example, the destroyer *Maddox* in the Tonkin Gulf. Once such an attack occurs, retaliation becomes almost impossible to resist.

In other words, that Tonkin Gulf incident was a classic case of provocation on our part of an attack which established what they alleged to be a cause for going to war—at least, a cause in that case to request the resolution from Congress.

I am reminded in this connection of a memorandum written in 1968 by General Wheeler, then Chairman of the Joint Chiefs of Staff, regarding the deployment of American forces in Spain in the absence of a security treaty:

> By the presence of the United States forces in Spain the United States gives Spain a far more visible and credible security guarantee than any written document.

Both experience and logic show that, to the extent the President controls deployment of the Armed Forces, he also has the de facto power of initiating war.

It seems appropriate, therefore, indeed urgent, to affirm by law the authority of Congress as provided in the Constitution, to regulate the deployment of the Armed Forces in the absence of hostilities or their imminent threat. Such authority derives directly from the Constitution, which specifies Congress' power to "make rules for the Government and regulation of the land and naval forces." In addition, the general power of appropriation necessarily carries with it the power to specify how appropriated moneys shall and shall not be spent. Moreover, the authority of Congress to regulate the deployment of the Armed

Forces in peacetime is scarcely separable from the war power itself, inasmuch as the power to deploy the Armed Forces is also the power to precipitate hostilities or—to take the language of the war powers—to create "situations where imminent involvement in hostilities is clearly indicated. * * *" In the words of a Congressional Research Service memorandum on the subject, dated May 24, 1973,

> Almost every substantive aspect of the armed forces is an appropriate subject for regulation by the Congress; and, since the President is entirely dependent on the Congress for the forces he commands, it follows that Congress can control, directly or indirectly, the objectives for which these forces are used, at least during times of peace.

The Congressional Research Service memorandum also points out other areas in which the Congress has a constitutional responsibility to exercise control over deployment of U.S. forces overseas.

The amendment that I am offering today would serve three important purposes. First, it would require that the executive branch give the Congress, on a regular and continuing basis, detailed information on the peacetime deployment of U.S. forces. Second, it would require the President in peacetime immediately to notify and explain to the Congress "the issuance of any order to deploy any major unit of the Armed Forces of the United States from within the United States of the surrounding waters to any other geographical location of the world or from one geographical location of the world to another in any case in which—the movement results in an increased presence of such Armed Forces in the region to which the unit is deployed for a period in excess of 3 days, or—such Armed Forces are in a combat-ready status." Third, the amendment would give Congress power to restrict or prohibit by concurrent resolution the peacetime deployment of major units. If Congress so restricts or prohibits the President, he would be required within 30 days to terminate the deployment and return the deployed forces to their prior location or to the United States, its territories, and possessions.

The reporting the amendment calls for would not require additional activity on the part of the executive branch. Such classified reports are already prepared regularly by the Defense Department and provided to congressional committees on an irregular schedule. As specified in the amendment, the committees receiving the required reports would be bound to respect the appropriate injunctions of secrecy.

The amendment would not pertain when an authorization of hostilities by Congress is in effect. Thus, the provisions would not be applicable in circumstances otherwise covered in the war powers bill. Essentially, this amendment would be applicable to peacetime deployments and would allow the Congress to exercise its legal controls over the Armed Forces during periods in which the forces are not engaged in hostilities.

There are a number of exclusions from the reporting requirement in order to allow the executive branch necessary flexibility and latitude.

Major units as defined in my amendment would be a squad of aircraft, two or more major combatant vessels, or at least a brigade of troops. Movements of ballistic missile submarines would not be required to be reported under this section, nor would those of individual boats or vessels. I believe that the sizes of the units covered are such as to preclude unnecessary reporting by the executive branch.

The amendment would allow the President to transfer individual members of the Armed Forces administratively and to relocate elements of the Armed Forces to accomplish one-for-one replacement without notification. These changes would, of course, be reflected in the monthly reports. The requirement of immediate notification and explanation would come into force in the event of significant changes in our worldwide force deployments.

Mr. President, I believe this amendment is so clearly in pursuance of the explicit constitutional authority given to Congress to regulate the Armed Forces that there is no question about that aspect.

Again, however, I suppose that any President, as he has become accustomed to untrammeled power, might feel that he has the freedom to do as he pleases and to treat this as no restriction on his power.

Mr. GRIFFIN. Mr. President, will the chairman permit me to ask him a question which goes to the point he has just made?

Mr. FULBRIGHT. Certainly.

Mr. GRIFFIN. As I understand the amendment, it speaks in terms of Congress placing a restriction on the prerogatives of the President. Is that correct?

Mr. FULBRIGHT. That is correct.

Mr. GRIFFIN. By the use of the term "concurrent resolution," I take it that the Senator from Arkansas, the chairman of the committee, intends that this would not require or involve the signature of the President.

Mr. FULBRIGHT. That is my impression. The article in the Constitution gives that right explicitly to Congress.

Mr. GRIFFIN. I wish to quote a provision of the Constitution which I think it at least pertinent because we are talking about constitutional powers. I read from section 7 of Article I:

> Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

It seems to me that this amendment would certainly be changing the law. Admittedly, it requires the concurrence of both Houses of Congress. I wonder what the Senator's answer would be to the point that this does require action by the President.

Mr. FULBRIGHT. Let us assume that the bill is passed and becomes law. It would authorize these decisions or actions to be taken by concurrent resolution. That would be law. It would not have the President's signature or would not have to be overridden.

Mr. GRIFFIN. It seems to me that we would be saying that by passing such a law, we would change the Constitution.

Mr. FULBRIGHT. No, I do not think so. The Constitution provides that Congress shall have power to regulate the Armed Forces, does it not?

Mr. GRIFFIN. Yes, but the Constitution also provides for his signature.

> Every—resolution—to which the concurrence of the Senate and the House of Representatives may be necessary—shall be presented to the President of the United States.

I do not think we can point to one section of the Constitution as a means of avoiding a second. It is a point for consideration, at least.

Mr. FULBRIGHT. Would the Senator contend that if the bill is enacted, giving the President authority to take these actions regarding the deployment, in peacetime, of the Armed Forces, that would not be constitutional? That we cannot, by law, give Congress the authority to pass concurrent resolutions in pursuance of the explicit powers given to it under the Constitution?

Mr. GRIFFIN. I do not think there is any question that Congress has the power to act. The most striking example of the power of Congress was the action taken with respect to cutting off funds for the bombing of Cambodia. Congress has the power. But I do not think we can circumvent that part of the Constitution that provides that the laws that Congress passes would be subject to being sent to the President for his signature.

Mr. FULBRIGHT. There is no question that this law would be presented for his signature. We are not arguing about that. It is this law which prescribes the procedure by which this particular aspect is to be carried out. I would think that that would comply with the provision the Senator is talking about.

Mr. GRIFFIN. I suspect we are not going to be able to resolve this. I only raise it as a point that should not be overlooked. I think, in addition to the other arguments that have been made against the amendment of the distinguished chairman of the committee, there is a question of constitutionality.

Mr. FULBRIGHT. How does the Senator reconcile the all too common practice of Congress giving the President discretionary power by law? We do that in many cases, in regulatory matters, and other areas where we authorized the President by law to do certain things that are otherwise reserved to Congress. We cannot strip the Congress of constitutional powers that are basic, but we give the President much discretionary power without a law or without requiring the continued participation of the Congress. If we give the President that kind of authority, I do not understand why we could not by law give the Congress the discretionary power in this instance, especially as it relates to the power to declare war, which is generally considered exclusively in the power of Congress.

This raises another question. Perhaps the Senator from Michigan has not thought about it. Does he think that Congress could not pass a declaration of war without the concurrence of the President?

Mr. GRIFFIN. No. It is not specified as an exception in the particular language that I have read, and I do not believe that it would be an exception. The Constitution does specify the exception of a motion to adjourn, and because the declaration of war power is spelled out in another section, I do not think it would be an exception. But I do not equate that with the situation the Senator is addressing himself to in his amendment.

Mr. FULBRIGHT. This is closely related to that.

Mr. GRIFFIN. Close is not quite good enough.

Mr. FULBRIGHT. Of course, I confess Congress has not explicitly undertaken it to this extent, but in many of our past actions, as the Senator knows, it has often taken action with regard to the deployment of troops. There was a long debate on the floor about sending troops to Germany. That does not go to the point the Senator is speaking on. There was no question Congress had that basic authority. In most cases in the past we have not chosen to exercise it. The tremendous enlargement of Presidential power has come about because Congress never legislated in the area of congressional responsibility.

Mr. GRIFFIN. I generally agree with the Senator. The Congress has had power all along. The fact is that it has never exercised it.

Mr. FULBRIGHT. It has never exercised it, and in the absence of legislation and any congressional direction, the President takes over, and we have only ourselves to blame, in effect.

Mr. GRIFFIN. But the question I raised is a constitutional one, and that is whether or not, in the absence of a declaration of war, which I will concede ad arguendo would not require the signature of the President, or under a resolution to adjourn under the Constitution, this purpose can be accomplished by a concurrent resolution, which need not be presented to the President for his signature. The language of the Constitution in section 7 of article I seems to be so very clear that at least the question is one that ought to give us some concern.

Mr. FULBRIGHT. Another analogy strikes me. I will ask the Senator if Congress has not on numerous occasions by law given the Executive the power to reorganize the Government and then retained to itself the power to veto it by concurrent resolution without Presidential participation. Is that not a very common practice?

Mr. GRIFFIN. I will say to the Senator a very learned law review article, the pertinent part of which I will have inserted in the RECORD later, discusses the constitutionality of this particular type of legislation, pointed me in the direction of this question here. It is true that we have done that. It is a different situation in that the action is initiated by the President, but there is a good deal of concern in some quarters about whether or not it is constitutional in light of this. It has not been sufficiently tested, I would say, in the Supreme Court.

I think when we go into a matter which involves not just the reorganization of the executive branch of the Government but, rather, a more fundamental area such as the war power, it would be stretching the concept much further and would be much more subject to attack.

Mr. FULBRIGHT. All that is a matter of opinion, but there is the general feeling that the war power is exclusively a congressional responsibility, as much a part of the constitutional authority as raising money. Declaring war is absolutely fundamental. Raising money has much relation to carrying on the war, of course. We undertake to specify the number of troops and the pay of the troops. All of that is related to the war power. We have the responsibility for raising an army and navy. Most of the cases the Senator is speaking of involve the participation of the Congress, with the reserved power of overriding a veto.

I take it the Senator is making the narrow point of the concurrent resolution, and that it ought to be by joint resolution. That is a significant point that arises in this discussion. It has not been tested to a great extent because Congress has never sought to exert the power in many of these areas. There is little judicial history on many of these questions simply because Congress has not seen fit to exercise its power. I think we have rocked along for 200 years on the assumption that each branch of the Government has respect for the other branch. There has been a sort of gentleman's agreement—"You operate within your sphere and we will respect that." Vetoes in the past have been relatively few, especially if Congress is united and in a fairly strong position. Most Presidents have been disposed to accept that in most cases. They rarely veto. But it seems to me that one of the consequences, especially of the war in Vietnam, which has been, outside of the Civil War, I believe the most divisive occurrence in our history, is that there has arisen, as a result, a tremendous difference of opinion between the Senate and the past President. There has been a kind of bitterness and resentment that has broken down what might be called a gentlemen's acceptance of each other's role.

Of course, I participated in it, and I felt extremely disappointed in President Johnson because I thought he had hoodwinked me and the Senate. He had misrepresented the need for legislation which got us into a situation which I thought was absolutely inexcusable. I am sure he did it because he thought it was in the national interest. I do not doubt his patriotism. He just thought we were not to be trusted with the truth and the American people were not to be trusted with the truth. In the election of 1964 he ran on a platform directly opposite to what he had in mind. So the trust in the relations between the Executive and the Congress began to break down.

The war became bitter and tragic, and it undermined our financial condition. Things got worse and worse.

There has been this long period of mistrust between the Executive and the legislative branches. All we are trying to do now is, in a sense, to reaffirm the principles of the Constitution in this legislation. As I have said very often, if we could accept and could resurrect the old spirit of cooperation, we would not need this legislation. The Constitution is clear enough, in my view, if we would follow it and if the Executive would follow it. But the Executive has not followed it.

There has not only been this matter, but we have also had impoundment legislation and Executive privilege legislation, all of which were not considered necessary before because there had been no abuse of power by the executive branch to an extent that required any action by the Congress. It was very restricted. It arose in very minor ways in the past. That is also true with respect to impoundment. There has always been the question of impoundment, but not wholesale impoundment where the Congress felt it was being thwarted in major policy.

If we could rely on the good faith of the Executive, we would not need the bill. However, since we cannot do so, so we do need a bill.

I feel it is an attempt to restore the validity of the Constitution by legislation. It ought not to be necessary. However, under the circumstances, it should be done.

In the case of deployment, there has been little, if any, Executive abuse of power. Usually in the past, Executives have come to the Congress and asked for authority to send troops, as former President Eisenhower did with respect to the Middle East. And the truth was told about that matter. We debated it and approved of it. There was no question then. However, now there is the feeling that the President has developed the idea that, as Commander in Chief, he can do anything he likes to do.

That assertion has brought forth the reaction of the Congress. Congress cannot accept the Executive's theory. We are forced to react in this fashion and act on this legislation. I certainly approve of it.

The only questions that always arise are the means and the best way to accomplish the objective. This is inherent in every bill that comes before Congress. No piece of legislation satisfies everyone. We all have different views as to some aspect of the matter that could be more effective in accomplishing the announced and accepted objectives.

That is about the story, Mr. President. I would hope for the acceptance of a very modest assertion of the power to control deployment which, in itself, as General Wheeler so well said, gives a greater guarantee than any written instrument. He says in effect that "if you put the troops in Spain, we are more likely to come to your rescue than if we had a treaty. Don't worry about it." There was no treaty. We put 10,000 soldiers there. General Wheeler is very much correct on that.

Therefore, to implement our power—responsibility more than power—we must try to control deployments in peacetime so that we do not enter into a war as a result of our deployments.

Again I say that if it were not for the

arbitrary attitude of the Executive that they can put these troops in Spain by executive agreement and without a treaty, I would not be thinking of such a provision.

Again we pleaded with the Executive to submit a Spanish agreement by treaty, which would have been a quite satisfactory procedure. In the absence of a treaty we had no opportunity to approve or disapprove of circumstances which could lead us into an involvement in war. However, they refused.

We have recently had the same sort of thing in a little different area in the taking over or opening of the Bahrein Naval Base and the continuation of the Azores agreement. They are not as direct as the Spanish agreement was. However, where we have these operations of naval bases and troops, they should be submitted to the Senate.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that that part of the Harvard Law Review article dealing with the constitutionality of the concurrent resolution process, to which I referred, be printed in the Record at the conclusion of our colloquy.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

[From the Harvard Law Review, February 1953]

THE CONTROL OF FEDERAL ADMINISTRATION BY CONGRESSIONAL RESOLUTIONS AND COMMITTEES

(By Robert W. Ginnane)

* * * * *

C. CONSTITUTIONALITY OF THE USE OF CONCURRENT RESOLUTIONS

It is one purpose of this article to suggest that there are grave doubts as to the constitutionality of all of the recent statutory provisions described above for the use of congressional resolutions. As stated earlier, these doubts are not particularly engendered by any rigid classification of governmental acts as legislative or executive. That many acts of government may be performed with equal propriety by the legislative branch or the executive branch may be conceded. The objection is rather to the manner of the exercise of power. As one of the checks upon undue concentration of governmental power in a single organ of government, Article I, Section 7, makes presidential approval, or veto subject to being overridden by two-thirds vote of each house, an essential element in the exercise of power by Congress. That the President cannot be excluded from the legislative process by the simple expedient of embodying policy decisions having the force of law in the form of "resolutions" not presented to him is made clear by the second paragraph of Section 7, providing that "Every order, resolution, or vote" requiring the concurrence of Senate and House, except on a question of adjournment, must be presented to the President as in the case of bills—a provision added for the express purpose of preventing evasion of the President's veto.

Since the Constitution plainly requires presidential participation in the exercise of legislative power, a power must be classified as non-legislative to justify its exercise by Congress or one of its branches in a way other than that prescribed.[108] But it is clear that the policy decision and legal consequences of concurrent resolutions used in the ways that have been described—for example, the disapproval of a reorganization plan, the termination of the Attorney General's suspension of deportation of an alien, or the imposition of an arms embargo—are indistinguishable from the policy decision and legal consequences of ordinary legislation. The absence of distinction is particularly evident where the statute provides for termination or repeal by concurrent resolution, since it can hardly be contended that the repeal of a statute is less of a legislative act than its original enactment. The validity of such provisions is further undermined by the specific refusal of the Constitutional Convention of 1787 to except repeal legislation from the requirement that proposed legislation be presented to the President.

This view also finds support in the interpretation given by Congres to Article I, Section 7 in all but the most recent years. In the first explicit congressional statement, in 1879, the Senate Committee on the Judiciary stated that concurrent resolutions which "contain matter which is properly to be regarded as legislative in its character and effect" must be submitted to the President, and that "the nature or substance of the resolution, and not its form, controls the question of its disposition." [109] That this was the view adopted by Congress in practice is demonstrated strikingly by the passage of 150 years after the adoption of the Constitution before statutes began to provide for such uses of congressional reolutions. And until the enactment of such statutory provisions became commonplace, their validity was challenged vigorously in both Senate and House, without regard for party lines, as well as by Attorney General Mitchell and President Roosevelt.

Finally, the scope of the potential application of such provisions is alone enough to suggest a serious question as to their constitutionality. If the modern uses of the concurrent resolution are valid, then Congress is free to provide, for example, that any proposed loan by a federal lending agency may be vetoed by a concurrent resolution, or that the maximum or minimum price for a particular comodity may be prescribed by a concurrent resolution. Again, it would be theoretically possible for Congress to pass, perhaps over the President's veto, legislation providing that each section of the United States Code could be terminated or repealed by concurrent resolution. Not many such statutory provisions would be required to alter profoundly the distribution of power in the Federal Government.

The legal and practical arguments advanced by proponents of such statutory provisions seem unpersuasive. Thus they contend that the operation of the statute merely depends upon occurrence of a condition precedent—the fact or event of Congress passing a resolution, or a fact to be found by Congress. Specifically, they have urged that if the exercise of statutory powers can be made contingent upon findings of fact by an executive officer, as in the tariff cases,[110] or upon the favorable vote of the persons who will be affected by proposed governmental action, as under some of the agricultural marketing statutes,[111] it is "difficult to believe that the effectiveness of action legislative in character . . . may not be conditioned on a vote of the two legislative bodies of the Congress." [112] The answer to such contentions would seem to be that it is one thing for a statute to provide that, after Congress and the President have both performed their legislative roles, the application of a statute may be further conditioned upon an executive officer's finding of fact or upon a favorable vote of interested persons, and it is another thing for Congress to reseve to itself, excluding the President, the power of further determining the application of a statute. It is a non sequitur to say that, since a statute can delegate a power to someone not bound by the procedure prescribed in the Constitution for Congress' exercise of the power, it can therefore "delegate" the power to Congress free of constitutional restrictions on the manner of its exercise. The result—and, indeed, the frankly stated purpose—of such provisions is to exclude the President from decisions of Congress which in their legal consequences are indistinguishable from statutes and which are seemingly the type of policy decisions which Article I, Section 7 requires to be submitted to the President. In brief, it is difficult to avoid the conclusion that the express purpose of the third paragraph of that section to insure that the President's role in the legislative process should not be eliminated merely by giving legislative decisions another name [113] would be thwarted by statutes which reserve final governmental decisions for determinations as "events" by Congress alone.

Another legal basis adduced for such statutory provisions is found in the informal suggestion of the Department of Justice, made in connection with the Reorganization Act of 1949, that a provision for disapproval of reorganization plans by concurrent resolution could be justified as an agreement by the President not to act without consulting Congress or in the face of its disapproval. However, this theory of an agreement to consult would seem to prove both too little and too much. Certainly, the theory would not support provisions which were enacted over the President's veto if the action to be approved is not initiated by the President. On the other hand, this agreement theory goes too far in that it would justify making administrative action subject to disapproval by legislative committees—a highly dubious matter, as is pointed out below. In any event, it would seem that the President's role under the Constitution cannot be altered by agreement.

In the case of the Reorganization Act of 1949, which provided for disapproval by either House of reorganization plans proposed by the President, it is arguable that there is simply a reversal of the chronological order in which Congress and the President usually act in the legislative process. The President has indicated his approval by preparing the plan and each House has indicated its approval by failure to pass a resolution of disapproval. It is not clear, however, whether the power of each House to determine its own procedure [114] can be viewed as including the power to provide that a bill will be deemed passed unless specifically disapproved within a certain period of time. There is at least a question under the Constitution whether the mere inaction of both Houses, which conceivably might reflect little or no deliberation, is an acceptable substitute for the deliberation which is ordinarily assured by the requirement of an affirmative vote. And even if the theory of legislative action by inaction is sound—or indeed, even if proposed executive action is made subject to prior affirmative approval by both Houses as in the latest provisions for approval of deportation suspension—it would seem that the proposal should nevertheless be presented to the President after approval by Congress as prescribed in the Constitution. If such a method for congressional control over reorganizations is to be justified by characterizing it as "legislation," there seems no reason why the constitutional requirements for legislation should not be satisfied, even though the President's approval be a foregone conclusion.

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[108] However, it could then be argued that members of Congress, in their capacities as such, may not perform non-legislative functions. It is settled that Article III judges may not perform non-judicial functions in their capacities as judges. Federal Radio Comm'n v. General Elec. Co., 281 U.S. 464 (1930). Under the doctrine of Springer v. Philippine Islands, 277 U.S. 189 (1928), it would seem that Congress cannot confer excutive powers upon itself or its members, since Article II, § 2 vests exclusive power to appoint federal officers in the President with advice and consent of the Senate (or if Congress so prescribes, in the President alone, in the courts of law, or in the heads of departments). Moreover, Article I, § 6 provides that no person holding any office under the United States Government may be a member of Congress during his continuance in office. See note 160 *infra*.

[109] See pp. 573–74 *supra*.

[110] Marshall Field & Co. v. Clark, 143 U.S. 649 (1892); J. W. Hampton, Jr. & Co. v. United States, 276 U.S. 394 (1928).

[111] Currin v. Wallace, 306 U.S. 1 (1939); United States v. Rock Royal Cooperative, Inc., 307 U.S. 533 (1939).

[112] H.R. Rep. No. 120, 76th Cong., 1st Sess. 6 (1939).

[113] See pp. 572–73 *supra*.

[114] See Christoffel v. United States, 338 U.S. 84 (1948).

The practical justifications seem equally unpersuasive. It has been suggested, notably by Professor Corwin, that in an era of international tension which impels Congress to delegate extraordinary powers to the executive branch, statutory provisions for termination by concurrent resolution are an essential means of preserving our constitutional equilibrium—namely, by giving Congress a compensating power to retract the delegated authority without the necessity of overcoming presidential vetoes.[115] Such a fundamental political consideration, if real, would probably carry great weight with the courts.[116] However, as Madison foresaw, Congress seems to have been able to maintain effective control over its great delegations of power by the device of enacting statutes of short duration, thus providing Congress with regular opportunities to determine whether to renew or modify the grant. Another effective device is that of providing in appropriation acts that no funds shall be used for specified purposes. The adequacy of these techniques is suggested by the fact that Congress has not yet found it necessary to pass a concurrent resolution purporting to terminate a statute or to terminate aid to a particular country.

The federal courts have not yet had occasion to consider the validity of any of these statutory provisions for the use of congressional resolutions. However, the few state court decisions on similar state statutory provisions are either adverse or unpersuasive. Thus the Supreme Court of New Hampshire held invalid a state statute which, like the Federal Reorganization Acts of 1939 and 1945, provided for the submission by the governor to the legislature of reorganization plans which were to become effective if within 25 days "there has not been passed by the two houses a concurrent resolution stating in substance that the [legislature] does not favor the reorganization plan."[117] It found a violation of the provision of the state constitution that "The supreme legislative power, within this state, shall be vested in the senate and house of representatives, each of which shall have a negative on the other,"[118] in that "Each house has undertaken in advance to surrender to the other its constitutional authority to veto or refuse assent to action taken or approved by the other."[119] The dissenting judges regarded the provision as "merely one of the checks or restraints upon the exercise of the subordinate legislative power delegated to the Governor."[120] The rationale of the New Hampshire court would seem equally applicable under the more customary constitutional requirement that both houses of a bicameral legislature must act concurrently, and the decision thus supports the view of the Senate Judiciary Committee in 1945 that neither House of Congress can be deprived of its power to prevent a legislative proposal from becoming law and that therefore each House must be enabled to prevent a reorganization plan from becoming effective.

In contrast, the Supreme Court of Colorado has recently upheld a statute under which the proceeds from certain taxes could be pledged as security for bonds to be issued to finance highway construction, with the proviso "that any such pledge shall first be approved by joint resolution of the Senate and House of Representatives."[121] Article V, Section 39, of the Colorado constitution differs from the third paragraph of Article I, Section 7, of the Federal Constitution only in that the exception from the requirement of submission to the executive of concurrent action on questions of adjournment is followed by the words "or relating solely to the transaction of business of the two houses". The Colorado court upheld the statute on the theory that such a resolution, "not being legislative in character, related solely to the business of the General Assembly." This theory seems hardly tenable and suggests that the legislature could, by enacting such statutes, classify almost any kind of governmental action as its exclusive concern.

The only judicial consideration of provisions for the termination of a statute by concurrent resolution is found in *Matter of Moran v. La Guardia*.[122] A New York statute authorizing New York City to reduce certain civil service salaries during the emergency proclaimed by the statute provided that the provisions should apply "until the legislature shall find their further operation unnecessary." The legislature passed a bill to repeal this statute which was vetoed by the governor. Thereafter, the legislature sought to achieve the same result by passing a resolution not submitted to the governor. A majority of four of the seven judges of the Court of Appeals apparently held that a statute could not provide for its termination by a concurrent resolution, stating that:

> "A concurrent resolution of the Legislature is not effective to modify or repeal a statutory enactment. . . . To repeal or modify a statute requires a legislative act of equal dignity and import. Nothing less than another statute will suffice. A concurrent resolution of the two Houses is not a statute. . . . It resembles a statute neither in its mode of passage nor in its consequences. . . . But more important, its adoption is complete without the concurrent action of the Governor, or lacking this, passage by a two-thirds vote of each house of the Legislature over his veto."[123]

The court obscured the precise basis of its decision, however, by concluding further that the statute did not contemplate termination by a resolution not submitted to the governor. The dissenting judges, pointing out that the termination clause was entirely superfluous if construed to mean that termination could be effected only by a statute, argued that the statute both could and did provide for its termination by a resolution embodying a finding of fact by the legislature. While the veto provisions of the New York constitution[124] are almost identical with the first paragraph of Article I, Section 7 of the Federal Constitution, they do not contain the further provision found in the third paragraph of the latter that every order, resolution, or vote requiring the concurrence of both Houses must be submitted to the President. Accordingly, it would be much easier under the Federal Constitution to conclude that a statute could not provide for its termination by concurrent resolution.

Mr. MUSKIE. Mr. President, I yield 5 minutes to the Senator from Texas.

Mr. TOWER. Mr. President, I disagree strongly with the assertion of the Senator from Arkansas that what Congress is doing here is reasserting it own constitutional authority and giving validity to the intent of the framers of the Constitution.

I believe that the amendment offered by the Senator from Arkansas does great violence to the constitutional role of the President of the United States as Commander in Chief of the armed services. And the latter does equal violence to the constitutional role of the President as the principal spokesman on international matters, as the principal formulator and implementor of American foreign policy.

S. 440 is bad enough and is enough of a violation, in my estimation, of the constitutional prerogatives of the President without adding the amendment offered by the Senator from Arkansas.

A great deal has been said about the relationship between the Executive and the Congress, and that if we had gone along with each branch respecting the other, the thing would have been all right. However, it was said that the President has been indisposed to cooperate with the Congress and that therefore the Congress asserts itself in this matter.

The fact of the matter is that President Nixon was the first President since Zachary Taylor, the first President in 120 years, entering upon his first term of office with both Houses of the Congress in control of the opposition party. There has, I think, been a great deal of partisanship involved to the extent that it might be referred to as constipation between the Congress and the President. And I am not saying that the partisanship is confined to just one branch. I would not want to assert that at all.

The fact is that there is a partisan climate at this moment which augers well, unfortunately, for the passage of legislation of this kind, because this is, I guess we might call it, "Kick the President Season," and there is a mood here in Washington that is not conducive to cool consideration of the merits of legislation of this kind.

I would remind Congress that President Nixon was reelected last year by an overwhelming majority of the votes of the American people. And that was not just an electoral college majority. It was a vast public majority. And the principal issue in the campaign was foreign policy. Two sharply different views were presented in the campaign, on foreign policy and on national security policy. And the policy advanced by the President of the United States received the overwhelming support of the American people.

By passing legislation of this kind, it is my view that we are flying in the teeth of the mandate conferred by the American people on the President of the United States. They have expressed at the ballot box their confidence in his ability to formulate and implement a foreign policy that is in the best interest of the United States.

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[115] See Corwin, Total War and the Constitution 45–47 (1947).

[116] See Myers v. United States, 272 U.S. 52, 134–35 (1926).

[117] Opinion of the Justices, 96 N.H. 517, 83 A.2d 738 (1950).

[118] N.H. Const. Part II, Art. 2.

[119] 96 N.H. at 522, 83 A.2d at 741–42.

[120] 96 N.H. at 529, 83 A.2d at 745.

[121] Watrous v. Golden Chamber of Commerce, 121 Colo. 521, 218 P.2d 498 (1950).

[122] 270 N.Y. 450, 1 N.E.2d 961 (1936).

[123] 270 N.Y. at 452, 1 N.E. 2d at 962.

[124] N.Y. Const. Art. IV, § 7.

We seek here now to hamstring the President. And I am hopeful that the Senate will reject the amendment offered by the Senator from Arkansas that seeks, in effect, to give Congress the control over the deployment of troops.

We have great difficulty in agreeing on a number of things here. And a failure to deploy American troops would be more, I think, than the Congress could expeditiously handle.

Therefore, I believe that the amendment of the Senator from Arkansas should be defeated.

The PRESIDING OFFICER. Who yields time?

Mr. MUSKIE. Mr. President, I yield myself 6 minutes.

May I make clear at the outset that I respect immensely the capability, the knowledge, and the background of the distinguished chairman of the Committee on Foreign Relations, and I often follow his lead in these matters.

With respect to this amendment, the basic position which I take is that it again raises the risk of loading the bill with serious questions that ought not to be loaded upon it at this time. One of the questions has already been discussed by the distinguished Senator and the minority whip—the question of whether or not the concurrent resolution provision is constitutional. A second question is the President's constitutional power to deploy the Armed Forces.

Congress undoubtedly has authority in this field, and the President has some authority in this field. As the Senator from Arkansas so eloquently pointed out, what we have here is another one of those gray areas that is better left alone. Because it is such a gray area, and because the question the amendment raises is a significant one and may be a serious one, I prefer not to add it to the bill at this time. For that reason I shall oppose the amendment.

I yield the distinguished Senator from New York such time as he may require.

Mr. JAVITS. I need just 4 minutes.

Mr. President, this amendment is not unlike the Eagleton amendment. It deals with causes of war. The Senator from Arkansas (Mr. FULBRIGHT), out of his extremely rich experience, says that if you pile troops or forces in a given area, that could enhance the possibility of war.

But, here again, we must stick to the basic purpose of our bill: It is a methodology. It is a way in which to give Congress the opportunity and the frame of reference in law by which it can assert itself in respect to deciding on war—not the causes of war, but war. To be faithful to that purpose, we must reject this amendment.

For those reasons, not because I do not understand or am not sympathetic, or because there is no congressional power—there is; Congress can pass laws about deployment. I must say to the Senator from Arkansas I have grave doubts about a concurrent resolution. I doubt that the congressional power respecting the President's power, where both of them are in a given area, as in warmaking or in deployment, can be asserted other than by law. A concurrent resolution is not law, it is nonstatutory. I think where concurrent resolutions can be used is where you have a power that Congress has conferred under its authority to make general law; and it can take that power back, if the President signs the bill providing that we can take it back into law.

As to constitutional authority, I have grave doubts about it. Incidentally, I do not know whether that has been decided by the courts, but I am giving my best opinion, and am not depending on it for any war powers legislation.

But laying that aside, my point is that it is another question of war we would be trying to deal with. It may be a very important one, like Senator EAGLETON's, but one we simply cannot encompass in this bill.

Another thing I would like to call to Senator FULBRIGHT's attention, because I have little doubt, whether he succeeds or fails here, that this is a subject deep in his mind and he will pursue it. I would like to call to his attention the secrecy problem, a very serious problem in this respect, because he himself contemplates it. He says the President shall provide "under appropriate injunctions of secrecy"—that is page 1, lines 3 and 4, of his own amendment—and that is very necessary, because, after all, that is one of the legitimate secrets of any country, to wit, the deployment of its armed forces.

The question is, How do you break that secrecy, assuming it can be removed on due notice from the President? Suppose the President does not give you due notice? Then when we pass the concurrent resolution, we are breaking the secrecy. I do not say that is impossible; we can live with that, too. Maybe we, too, have to function in some things in secrecy, and be tough enough to discipline a Member who breaks the secrecy, which is something we have never done. But that takes a good deal more thought and refinement than we can put into this bill with an hour's debate.

On the question of constitutionality, I would like to say that while I believe Congress does have power to legislate respecting peacetime deployment, the constitutional interplay between Congress and the Commander in Chief is somewhat different. The respective authorities are different, and perhaps the Commander in Chief's authority is stronger vis-a-vis Congress with respect to the details of the locus of peacetime deployment of the forces under his command. This is an issue which should be explored and clarified in hearings such as we did with respect to the war powers.

Mr. FULBRIGHT. Mr. President, will the Senator yield for clarification?

Mr. JAVITS. Yes.

Mr. FULBRIGHT. I want to emphasize that this applies only in peacetime. Today there are no secrets, I believe, as to where our troops are. Every day we read about 70,000 in Germany, so many in Ethiopia—we read about it almost daily in the press, as to where they are. This applies only in peacetime. I am not undertaking to deploy them in wartime.

Mr. JAVITS. Can the Senator tell us where the Polaris submarines are based and deployed today?

Mr. FULBRIGHT. Mr. President, this amendment explicitly exempts the Polaris submarines. It should not apply to submarines. But they are not affected. I am only talking about the things the amendment talks about.

In the daily press—I read just today how many there are in Japan, and how many in Korea. So when you talk about peacetime, I think it is not really all that secret. I do not think it is a major problem. That is all I am saying.

Mr. JAVITS. What I am saying, Mr. President, in judging the delicacy of what the Senator is trying to do, is that he himself—not I, he—in drafting the amendment, found it necessary to say that the information shall be provided under the appropriate injunctions of secrecy.

Therefore, if the President is not going to dispel the very thing he calls for, but we are going to dispel it, we have to think about that; we cannot just say "Do it."

I say this only to emphasize that this is an intricate, subtle, and difficult subject. It is not a subject that should be disposed of hastily, or superficially, in terms of a quick debate under time limitation. We have had no hearings and only a cursory debate.

The PRESIDING OFFICER. The Senator's 4 minutes have expired.

Mr. FULBRIGHT. Mr. President, will the Senator yield for one observation?

The PRESIDING OFFICER. Who yields time?

Mr. MUSKIE. I yield the Senator such time as he may require.

Mr. FULBRIGHT. This idea that it is delicate and we ought not to interfere, of course, is at the root of our trouble. We have proceeded under this kind of myth of Presidential infallibility for about 30 or 40 years, and everyone is conditioned to believe that in some mysterious way the President is reliable on secrecy, that he has wisdom, and we ought not to interfere with it. This is the root of our problem. I find that there is an assumption in this bill as it comes from the committee that certain sections, like section 6, are sort of based upon an assumption that Congress has to assert its power legislatively. We have gotten into the position that we are so conditioned we cannot do anything. But I do not think it is valid to assume that the Executive is so much more reliable than Congress that he can be absolutely depended upon.

Mr. JAVITS. Mr. President, if I may have 1 more minute to reply, this whole bill is a massive negation of that assumption.

Mr. MUSKIE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. BIDEN). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Arkansas (Mr. FULBRIGHT).

The amendment was rejected.

Mr. JAVITS. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. TOWER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. BIDEN). Pursuant to the previous order, the hour of 12 o'clock noon having arrived, the Senate will now proceed to vote on amendment No. 366 of the Senator from Missouri (Mr. EAGLETON). On this question, the yeas and nays have been ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum briefly.

The PRESIDING OFFICER. The Senator has that right. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CLARK). Without objection, it is so ordered.

The question is on agreeing to amendment No. 366 of the Senator from Missouri (Mr. EAGLETON).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Indiana (Mr. HARTKE), the Senator from Wyoming (Mr. MCGEE), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON) and the Senator from Arizona (Mr. GOLDWATER) are absent because of illness in their respective families.

The Senator from Alaska (Mr. STEVENS) is absent by leave of the Senate on account of illness in his family.

The Senator from New York (Mr. BUCKLEY), the Senator from Colorado (Mr. DOMINICK), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The Senator from Virginia (Mr. SCOTT) is absent on official business.

If present and voting, the Senator from Illinois (Mr. PERCY) would vote "nay."

The result was announced—yeas 34, nays 53, as follows:

[No. 310 Leg.]

YEAS—34

Abourezk
Bayh
Burdick
Byrd, Robert C.
Case
Church
Clark
Cranston
Eagleton
Fulbright
Gravel
Hart
Haskell
Hatfield
Hathaway
Hughes
Inouye
Kennedy
Mansfield
Mathias
Mondale
Montoya
Moss
Nelson
Packwood
Pell
Proxmire
Randolph
Ribicoff
Schweiker
Stevenson
Symington
Tunney
Williams

NAYS—53

Aiken
Allen
Baker
Bartlett
Beall
Bellmon
Bennett
Bentsen
Bible
Biden
Brock
Brooke
Cannon
Chiles
Cook
Curtis
Dole
Domenici
Eastland
Ervin
Fannin
Fong
Griffin
Gurney
Hansen
Helms
Hollings
Hruska
Huddleston
Humphrey
Jackson
Javits
Johnston
Long
Magnuson
McClure
McIntyre
Metcalf
Muskie
Nunn
Pastore
Pearson
Roth
Saxbe
Scott, Pa.
Sparkman
Stafford
Taft
Talmadge
Thurmond
Tower
Weicker
Young

NOT VOTING—13

Buckley
Byrd, Harry F., Jr.
Cotton
Dominick
Goldwater
Hartke
McClellan
McGee
McGovern
Percy
Scott, Va.
Stennis
Stevens

So Mr. EAGLETON's amendment (No. 366) was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. GRIFFIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DISTRICT OF COLUMBIA APPROPRIATIONS, 1974

The PRESIDING OFFICER. Under the previous order the Senate will proceed to vote on H.R. 8658, which the clerk will state by title.

The bill was stated by title, as follows:

A bill (H.R. 8658) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1974, and for other purposes.

The PRESIDING OFFICER. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Indiana (Mr. HARTKE), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming (Mr. MCGEE), and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON), and the Senator from Arizona (Mr. GOLDWATER) are absent because of illness in their respective families.

The Senator from New York (Mr. BUCKLEY), and the Senator from Alaska (Mr. STEVENS) is absent by leave of the Senate on account of illness in his family.

The Senator from Colorado (Mr. DOMINICK) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The Senator from Virginia (Mr. SCOTT) is absent on official business.

If present and voting, the Senator from Illinois (Mr. PERCY) would vote "yea."

The result was announced—yeas 84, nays 3, as follows:

[No. 311 Leg.]

YEAS—84

Aiken
Baker
Bartlett
Bayh
Beall
Bellmon
Bennett
Bentsen
Bible
Biden
Brock
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cranston
Curtis
Dole
Domenici
Eagleton
Eastland
Ervin
Fannin
Fong
Fulbright
Gravel
Griffin
Gurney
Hansen
Hart
Haskell
Hatfield
Hathaway
Hollings
Hruska
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McClure
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott, Pa.
Sparkman
Stafford
Stevenson
Symington
Taft
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—3

Allen
Helms
Talmadge

NOT VOTING—13

Abourezk
Buckley
Cotton
Dominick
Goldwater
Hartke
McClellan
McGee
McGovern
Percy
Scott, Va.
Stennis
Stevens

So the bill (H.R. 8658) was passed.

Mr. BAYH. Mr. President, I move that the Senate reconsider the vote by which the bill was passed.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAYH. Mr. President, I move that the Senate insist upon its amendments and request a conference thereon with the House of Representatives, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. CLARK) appointed Mr. BAYH, Mr. MCCLELLAN, Mr. INOUYE, Mr. CHILES, Mr. EAGLETON, Mr. MATHIAS, and Mr. BELLMON conferees on the part of the Senate.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States, submitting nominations, were communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. CLARK) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations received today, see the end of Senate proceedings.)

WAR POWERS ACT

The Senate continued with the consideration of the bill (S. 440) to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by Congress.

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that I may be permitted to yield to the Senator from North Carolina (Mr. ERVIN) for 5 minutes, without the time being charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, despite the popularity of the so-called war powers bill, I cannot in good conscience support it. The reasons for my opposition are extremely simple. The Constitution clearly makes a distinction between two kinds of wars.

The 11th clause of section 8 of the first article gives Congress the power to declare war. That clearly refers to any offensive war in which the United States may engage. This is made manifest by section 4 of article IV which says:

> The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against invasion; . . .

Now the question occurs, By what official is that power to be exercised? It is clearly to be exercised by the President, because section 2 of article II of the Constitution says:

> The President shall be Commander in Chief of the Army and the Navy of the United States . . .

This bill provides in section 5 that the President of the United States, as the Commander in Chief of the Army and Navy of the United States, cannot exercise his constitutional power, yea, his constitutional duty, to protect this country against invasion for more than 30 days without the consent of the Congress.

We hear much nowadays about the separation of powers. Here is a power and a duty which the Constitution clearly imposes upon the President of the United States, to use the Armed Forces to protect this country against invasion. And here is a bill which says expressly that the President of the United States cannot perform his constitutional duty and cannot exercise his constitutional power to protect this country against invasion for more than 30 days without the affirmative consent of Congress.

Mr. President, those are the reasons for my opposition to the bill. And I thank my good friend, the Senator from Arkansas for his great generosity in yielding me 5 minutes in which to speak at this time.

Mr. GRIFFIN. Mr. President, will the Senator yield for a brief elaboration of his point?

Mr. ERVIN. I yield.

Mr. GRIFFIN. Mr. President, is it not true if we recognize, as this bill does, that the President does have power under the Constitution for 30 days, that it is a little bit unusual and indeed impractical to suggest that we can limit his constitutional power by simple statute and limit it arbitrarily to 30 days?

Mr. ERVIN. The Senator is correct. In my opinion, in spite of the good purposes of the bill and the lofty motives of those who support it, I think the bill is an absurdity as a practical matter.

We used to have a lot of fighting in my old hometown around the court square. We had an ex-sheriff by the name of Alex Duckworth, who drove by there in his buggy one day when two men were in a fight.

The ex-sheriff asked, "Whose fight is this?"

One of the fighting men said, "Anybody's."

The ex-sheriff said, "I am in it."

One of the other men gave him a hefty punch on the jaw and knocked him down. The ex-sheriff jumped up and said, "I am out of it."

This measure is an absurdity. It says that when the United States is invaded, Armed Forces of the United States must get out of the fight against an invader at the end of 30 days if the Congress does not take affirmative action within that time to authorize the President to continue to employ the Armed Forces to resist the invasion. The bill is not only unconstitutional, but is also impractical of operation. In short, it is an absurdity. Under it, the President must convert Old Glory into a white flag within 30 days if Congress does not expressly authorize him to perform the duty the Constitution imposes on him to protect the Nation against invasion.

Mr. GRIFFIN. Mr. President, as a Senator on this side of the aisle, I want to thank a proponent of the bill for yielding time to an opponent of the bill.

Mr. FULBRIGHT. Mr. President, I did not yield the floor.

The Senator asked me if as a matter of courtesy, I would yield to him. I asked that the Senator be given 5 minutes without it being charged to either side. I had the right to the floor under the previous agreement.

Mr. GRIFFIN. Of course.

Mr. FULBRIGHT. Mr. President, I do not want to make a point of it. I do not happen to agree with the Senator from North Carolina. He has fallen prey to the same illusions as many other people in the country, that the only person who is interested in the security of the United States is the President of the United States.

I remember the first time that Secretary of Defense Laird came up to testify before the Foreign Relations Committee. He emphasized that now that he had left the Congress and gone over to the Office of Secretary of Defense, he had a very special responsibility for the security of the United States that overrode everything else and that he was the only man qualified to say what was in the interest and security of the United States.

I am afraid, I must say, with all due deference to a man rendering such important service to our country today, that I think his statement was a statement to the effect that the Congress had no interest in the security of the United States or in protecting the Nation's institutions.

I do not believe that. I think that the President can be misled more easily than Congress as to what is in the security of the United States and as to what is a proper way to protect the independence of Arkansas or North Carolina.

I do not accept the basic assumption that all wisdom resides in the White House, no matter who the occupant is.

Mr. ERVIN. Mr. President, will the Senator yield?

Mr. FULBRIGHT. Mr. President, I yield for a question.

Mr. ERVIN. Mr. President, I want to say that the Senator from North Carolina does not adhere to the assumption that the Senator from Arkansas insinuates he does on this occasion.

The Senator from North Carolina has fought hard to sustain the doctrine of the separation of powers and to secure the recognition of the powers of the Congress. However, the Senator from North Carolina will fight equally as hard to sustain the constitutional powers of the President.

The Senator from North Carolina thinks that the Founding Fathers were acting in great wisdom when they separated the powers of Government by making one public official, the President of the United States, the Commander in Chief of the Army and Navy of the United States, rather than 100 Senators and 435 Representatives.

I thank the Senator from Arkansas for his courtesy.

Mr. HUMPHREY. Mr. President, the Senate's consideration of the war powers bill comes at a critical juncture in our history.

If the Senate adopts the legislation as introduced by my distinguished colleague from New York, it will mark the end of one era and the beginning of another.

For more than a quarter of a century, we have experienced a cold war, regional hot wars, and intermittent and prolonged conflicts with varying levels of American involvement.

At the moment that we are at the threshold of at last halting American involvement in our longest war, the Congress appears ready to redefine its own war powers and those belonging to the President.

It its clear that since the end of the Second World War fast changing military technology and new codes of international political and military behavior have combined with growing Presidential power in spheres of both domestic and foreign policy. The result has been the accumulation of warmaking power in the hands of one man—the President of the United States.

This state of affairs was known well by the men who wrote our Constitution.

They had lived under the rule of a British king. They knew all too well that the absolute warmaking authority of a sovereign ruler was oppressive to his subjects, forced to pay for and die in wars declared in the "national interest" by a monarch.

Determined to avoid the oppression of royal wars, the framers of our Constitution granted the Congress the authority to declare war and the President was vested with the power of Commander in Chief.

In 1789 Jefferson wrote to Madison and commented on this vital separation of authority:

> We have already given in example one effectual check to the Dog of war by transferring the power of letting him loose from the Executive to the Legislative body, from those who are to spend to those who are to pay.

The power to initiate war was firmly lodged with the Congress. As Madison stated, speaking of this principle:

> That the executive has no right, in any case, to decide the question, whether there is or is not cause for declaring war . . .

Congressional possession of warmaking authority is firmly planted in our Constitution. It has been upheld by our highest court, by our Presidents and by great constitutional experts.

Yet today—even as we speak—the Armed Forces of the United States are deployed in a war without the approval of the Congress. They are deployed, because the President believes it in the national interest to bomb Cambodia—to make war by skirting article I, section 8 of the Constitution. This, of course, is not the first instance of a dangerous abuse which we might call "Presidential war." We have seen it before in this and other administrations.

When a President initiates war, he is taking a power away from the Congress.

His act is unconstitutional.

He is breaking the law.

The legislation we are considering today will, in fact, make more remote the possibility that we will again be involved in a presidentially initiated war. It will do so not by reshaping or altering the constitutional powers of the President and the Congress. Rather, the war powers bill defines, delineates, and in some ways refines the powers vested in each branch of Government by the Constitution.

The central focus of the bill is undeclared wars. It governs the use of Armed Forces in the absence of a formal declaration of war. It is true that in today's world, formal declaration of war may be obsolete. But the authority of the Congress to authorize the initiation of war is certainly not obsolete.

Critics of the war powers bill have stated that it is not needed—that historical precedents are sufficient to provide adequate safeguards in the absence of a formal declaration of war.

I do not believe this to be the case.

The steady accretion of Presidential warmaking authority must be halted and limited by new statutory definitions of warmaking authority.

The bill introduced by Senator JAVITS is precise in its definition of circumstances and conditions when American Armed Forces can be introduced into hostilities. Section 3 of the war powers bill delineates by statute the implied emergency warmaking powers of the President. The further 30-day limitation on emergency actions taken under section 3 of the act reconciles the need for such actions in a day of instant communication with the necessity for congressional involvement in deciding great questions of war and peace.

It is important to note that this measure is not designed to tie a President's hands or slow our response to attack. The War Powers Act recognizes the need for quick response to attack. But it does not provide for the prolonged commitment of American forces without the approval of Congress.

In redressing a severe constitutional imbalance, the Congress is in a sense also stating publicly that it is ready to share the terrible burdens of committing a nation to war.

This power has gone unshared for too many years. The result has been the prolongation of a tragic and costly war, the embitterment of a generation, and severe strains on our constitutional system of democratic government.

The war powers bill offers the Congress an opportunity to restore the doctrine of shared power between coequal branches of Government.

The war powers bill offers the Congress an opportunity to prevent future American involvement in never-ending wars.

And, finally, the war powers offers the Congress an opportunity to stop the serious erosion of its own authority in a field vital to the health and security of our Nation.

Mr. FULBRIGHT. Mr. President, I call up amendment No. 387.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 3, line 1, strike out through line 6 on page 4 and insert in lieu thereof the following:
>
> "SEC. 3. In the absence of a declaration of war by the Congress, the Armed Forces of the United States may be employed by the President only—
>
> "(1) to respond to any act or situation that endangers the United States, its territories or possessions, or its citizens or nationals when the necessity to respond to such act or situation in his judgment constitutes a national emergency of such a nature as does not permit advance congressional authorization to employ such forces; or"
>
> On page 4, line 7, strike out "(4)" and insert in lieu thereof "(2)".
>
> On page 5, line 9, strike out "(4)" and insert in lieu thereof "(2)".

Mr. FULBRIGHT. Mr. President, before I make these remarks, I certainly want to reiterate my admiration and respect for the sponsors of this legislation. We have had excellent hearings, and they have produced some very useful information on one of the most important aspects of our Government. And the differences of view, as I have already stated, are related not to the objective of the legislation, but to some of the provisions that go to the means or, as the Senator from New York likes to call it, the methodology of this effort to bring a greater responsibility on the part of the Congress into the warmaking activities of our country.

Obviously we all know that grows out of the extreme tragedy and the extreme injury, the enormous injury, that has occurred to this country as a result of the happenings during the last 10 years.

Mr. President, although the intent of the bill is unexceptionable, it seems to me that the bill could be improved in several respects.

Mr. President, I must say that we discussed this and I offered a similar amendment in the committee. So, it is not a new attitude on my part.

The first problem lies with section 3, which catalogs the various conditions under which the President would be permitted to make emergency use of the Armed Forces. These conditions, in my view, go too far in the direction of Executive prerogative, especially in allowing the President to take action not only to "repel an armed attack"—with which we all agree, I think—but also to "forestall the direct and imminent threat of such an attack" on the United States or its Armed Forces abroad. The danger here is that these provisions could be construed as sanctioning a preemptive, or first strike, attack solely on the President's own judgment. Should the President initiate such a preemptive attack, the 30-day limitation provided for in sections 5 and 6 of the bill might prove to be ineffective, or indeed irrelevant, as a congressional check on the President—all the more for the fact that the 30-day limit on Presidential discretion is by no means absolute. The provisions authorizing the President to "forestall the direct and imminent threat" of an attack could also be used to justify actions such as the Cambodian intervention of 1970 and the Laos intervention of 1971, both of which were explained as being necessary to forestall attacks on American forces.

The emergency powers of the President spelled out in section 3 of the committee bill in their extensiveness may have the unintended effect of giving away more power than they withhold. The extension of the President's power to use the Armed Forces to "forestall" an attack before it takes place may well go beyond the President's constitutional authority. Under the Constitution strictly construed, besides a "sudden attack" on U.S. territory, the only other circumstances warranting unauthorized Presidential use of the Armed Forces are an attack on the Armed Forces of the United States stationed outside of the country and an imminent threat to the lives of American citizens abroad, the latter of which would justify only a brief military operation for purposes of evacuation.

The bill appears to me to deal more or less satisfactorily in paragraph (3) of section 3 with the matter of protecting the lives of Americans abroad; it goes too far in paragraphs (1) and (2), however, in allowing of discretionary Presidential action to "forestall the direct and imminent threat" of an attack on the territory or Armed Forces of the United States.

Rather than spell out what amounts to Presidential discretion to mount a preemptive attack, I am inclined toward a simple abbreviated provision allowing emergency use of the Armed Forces by the President. Alternately, there may be merit in simply abstaining from the attempt to codify the President's emergency powers, which is the approach of Congressman ZABLOCKI's bill, House Joint Resolution 542, adopted by the House of

Representatives on July 18 by a vote of 244 to 170. In practice, it is exceedingly difficult to draw up a list of emergency conditions for Presidential use of the Armed Forces which does not become so long and extensive a catalog as to constitute a de facto grant of expanded Presidential authority. The list of conditions spelled out in section 3 of the committee bill, is, in my opinion, about as precise and comprehensive a list as can be devised, and its purpose, I fully recognize, is not to expand Presidential power, but to restrict it to the categories listed. Nevertheless, I am apprehensive that the very comprehensiveness and precision of the contingencies listed in section 3 may be drawn upon by future Presidents to explain or justify military initiatives which would otherwise be difficult to explain or justify. A future President might, for instance, cite "secret" or "classified" data to justify almost any conceivable foreign military initiative as essential to "forestall the direct and imminent threat" of an attack on the United States or its Armed Forces abroad.

For these reasons I am much inclined either to say nothing about the President's emergency powers as in the House bill, or to include a simple substitute for paragraphs (1), (2), and (3) of section 3 of the committee bill, in which it would simply be recognized that the President, under certain emergency conditions, may find it absolutely essential to use the Armed Forces without or prior to congressional authorization. This approach too has its dangers as it would of irresponsible or extravagant interpretation, but at least it would place the burden of accountability squarely upon the President, where it belongs, and it would also of course be restricted by the 30-day limitation specified in sections 5 and 6 of the bill.

Mr. President, I wish to emphasize this particular point by saying that the matter is one of judgment on the psychology of a reasonable person. If we undertake in advance to specify the conditions under which the President can act, he can rationalize whatever the circumstances are to fit those designated conditions. He will then feel free to proceed as he sees fit and feel authorized in doing it. Without that, I think he would do one of two things: He would be extremely cautious, if it is at all doubtful, or he would consult Congress.

It is the collective judgment of the Congress and the President working together which I think our system regards as of fundamental importance, and it is that aspect of it which this and many other efforts we have engaged in seek to emphasize, that is, that it be a collective judgment. It is my own judgment of the psychology of the situation that the President, having these specifics in hand, would say, "Well, those are the conditions that exist" and proceed out of hand, either without reflecting fully himself upon the conditions, or without consulting Congress to any degree at all.

Under the language of paragraphs (1), (2), and (3) of section 3 of the bill the Executive could cite fairly specific authority for the widest possible range of military initiatives. Under the simpler, more general approach I propose, the President would remain free to act, but without the prop of specific authorization; he would have to act entirely on his own responsibility, with no advance assurance of congressional support. A prudent and conscientious President, under these circumstances, would hesitate to take action that he did not feel confident he could defend to the Congress. He would remain accountable to Congress for his action to a greater extent than he would if he had specific authorizing language to fall back upon. Congress, for its part, would retain its uncompromised right to pass judgment upon any military initiative taken without its advance approval.

This reminds me very much of the use that President Johnson made of the Tonkin Gulf resolution. He used to pull it out whenever anyone raised any question about it, and point to the language. He never did point out that he obtained that language by misrepresenting the facts in the case of Tonkin Gulf.

Confronted with the need to explain and win approval for any use of the Armed Forces on the specific merits of the case at hand, a wise President would think carefully before acting; he might even go so far as to consult with Members of Congress as well as with his personal advisers before committing the Armed Forces to emergency action. For these reasons, it appears to me that a general, unspecified authority for making emergency use of the Armed Forces, though superficially a broad grant of power, would in practice be more restrictive and inhibiting than the specific grants of emergency power spelled out in paragraphs (1), (2), and (3) of section 3 of the committee bill. Alternately—perhaps preferably—the same objective could be achieved by simply leaving out any attempt to codify the President's emergency powers, which is the approach of the House bill.

To deal with these difficulties I recommend the substitution of the following for the introductory clause and first three paragraphs of section 3 of the committee bill—page 3, line 1, through page 4, line 6:

> SEC. 3. In the absence of a declaration of war by the Congress, the Armed Forces of the United States may be employed by the President only—
>
> (1) to respond to any act or situation that endangers the United States, its territories or possessions, or its citizens or nationals when the necessity to respond to such act or situation in his judgment constitutes a national emergency of such a nature as does not permit advance congressional authorization to employ such forces.

Another, related problem arises in connection with section 5 of the committee bill, which specifies a 30-day limitation for emergency use of the Armed Forces by the President. Under the committee bill, this limitation allows of an exception which might in practice prove to be a loophole so gaping as to nullify the 30-day limitation entirely.

The committee bill states that the emergency use of the Armed Forces by the President may be sustained beyond the 30-day period, with or without congressional authorization, if the President determines that unavoidable military necessity respecting the safety of the Armed Forces requires their continued use for purposes of bringing about a prompt disengagement from hostilities. In this connection, it will be recalled that President Nixon prolonged the Vietnam war for 4 years under the excuse of unavoidable military necessity respecting the safety of the Armed Forces. This escape clause could reduce to meaninglessness the entire provision limiting the President's emergency power to 30 days. The approach taken by the House bill is in this respect much superior inasmuch as it allows of no such escape clause. Section 4(b) of the bill passed by the House states simply that, within the 120-day emergency period specified in the House bill:

> The President shall terminate any commitment and remove any enlargement of United States armed forces . . . unless the Congress enacts a declaration of war or a specific authorization for the use of United States Armed Forces.

Although I prefer the 30-day emergency period of the Senate Foreign Relations Committee's bill to the 120-day emergency period of the House bill, the latter, nonetheless, provides more effectively for congressional authority to decide whether or not any given military action may be continued beyond the emergency period.

Another, similar problem arises in connection with section 6 of the committee bill, under which Congress could require the termination of military action within the 30-day emergency period only by act or joint resolution, which of course would be subject to veto by the President.

In addition, section 6 of the committee bill, like section 5, makes a complete exception to the congressional termination power in any case where the President judges that "unavoidable military necessity respecting the safety of the Armed Forces" requires their continued use in the course of bringing about a prompt disengagement from hostilities. The requirement of Presidential signature for an act of termination, combined with the exception of unavoidable military necessity, reduce to meaninglessness the ostensible power to Congress to terminate hostilities within the 30-day emergency period. The approach taken by the House bill in this respect, as in the case of military action beyond the initial emergency period, seems much superior. Section 4(c) of the House bill would authorize Congress to require the Presdient to terminate military action within the emergency period simply by concurrent resolution. Since a concurrent resolution does not require the signature of the President, this approach would eliminate the possibility of Presidential veto of a congressional act of termination. Furthermore, in the matter of terminating military action within the emergency period as well as allowing it to continue beyond the emergency period, the House bill contains no such gaping escape hole as the unavoidable military necessity spelled out in sections 5 and 6 of the Senate committee bill. The House bill, therefore, provides not only for congressional authority to decide whether military action will be sustained beyond the emergency period; it also provides more effectively for congressional authority to terminate military action within the emergency period.

Mr. President, I have been very much troubled by the possible effect, of section 6, in which Congress seems to be saying or assuming that it does not already have the authority to legislate in these cases. It gives itself the power to legislate and then it takes away that power where the President has determined and certified to Congress in writing that there is an unavoidable military necessity respecting the safety of the Armed Forces.

This contemplates action so similar to that which has happened in Cambodia and Southeast Asia that it raises very serious problems in my mind. It seems to me that section 6 would delegate power to the President to prevent Congress from doing what it can now do, by act or joint resolution, to terminate hostilities.

I want to read, just for the record, to emphasize what I have in mind, section 6:

> The use of the Armed Forces of the United States in hostilities, or in any situation where imminent involvement in hostilities is clearly indicated by the circumstances, under any of the conditions described in section 3 of this Act may be terminated prior to the thirty-day period specified in section 5 of this Act by an Act or joint resolution of Congress, engaged pursuant to section 3 (1) or 3(2) of this Act requires the continued use of such Armed Forces in the course of bringing about a prompt disengagement from such hostilities.

It seems to me quite clear we already have that power to terminate, without this bill. That is power which Congress already has, but under section 6 the President could take it away, by determining and certifying to Congress in writing that there is an unavoidable military necessity respecting the safety of the Armed Forces.

Mr. President, it has occurred to me, in reading this, that if this becomes law, then the actions which were taken with regard to the use of our forces in Cambodia—for example the Cooper-Church amendment—would be prohibited. In other words, this action would seem to me to abrogate a power that already belongs to Congress and which Congress has exercised.

To some extent, that power was exercised in the case of Cambodia, but it was not effective because there was a loophole with regard to the bombing; but insofar as the terms provided, it was effective. But article 6 would seem, now, to take away and to reduce the existing power of Congress by an act to terminate hostilities.

The Cooper-Church amendment was hailed at the time as a significant move on the part of Congress to reduce at least our exposure and a continuation of our activities in Cambodia. It did not exclude use of the bombers, although I think the subsequent use, and even the prior use—which we did not know about—went far beyond that contemplated by the language and intent of the Cooper-Church amendment

In any case, this bothers me very much. I would certainly hate to realize that this should be found to have removed from Congress one of the existing powers while we think we are trying to restrict the power of the President. It would certainly, indeed, be ironic if, instead of restricting the power of the President, we restricted the power of Congress to terminate hostilities once they had begun.

Mr. President, I yield the floor.

Mr. JAVITS. Mr. President, I yield myself, in opposition, as much time as I may require.

Mr. President, the distinguished chairman of the Committee on Foreign Relations made the same effort in 1972 when the bill was last considered, with one exception. At that time, he also had included in the same amendment some special provision respecting the use of nuclear weapons.

This consideration which we are asked to undertake now is only a new consideration in that that particular provision has been omitted. It was debated and defeated in the committee markup earlier this year.

The fundamental issue is this: Shall the Congress at the time that it delineates and fights for its own power, specify the parameters of its power in order to specify the parameters of the President's power? Or shall it not? The drafters of the bill came down on the side of delineating both in order to leave both certain rather than both uncertain. If we want to delineate a part of the whole, then we have to delineate the other part, and that is what we tried to do.

The amendment of the Senator from Arkansas goes precisely the other way and adopts what is really by implication the approval of the House bill. We approach it by acknowledging that a President has—as the Founding Fathers anticipated—the authority to repel sudden attacks. That was why the 1787 Constitutional Convention, in its final markup, changed the wording from "make war," which is the way it was first brought in in the Constitutional Convention, and as it was in the Articles of Confederation, to "declare war."

They said they wanted to leave the President the power to repel sudden attacks. They were very prescient, because the word "sudden" is critically important. "Sudden" is the essence of "emergency." And from this we have delineated and codified the emergency situations in updated, contemporary language and context.

So the question is, What is needed to repel an attack in point of time frame as well as force?

We can regulate the time frame. We have taken a period which seemed reasonable, 30 days, and said that is the time frame.

This, in order to be effective as a delineation of authority between the President and Congress, requires that we confirm him in his authority as well. There is, in my judgment, reliable authority for the way in which we have confirmed the President in his authority, and that is the testimony of Professor Bickel of Yale, one of the really outstanding experts in the field. He testified on this bill only a few months ago, on April 11, 1973.

This is what he said:

> A second question that is raised about the declaration of Presidential power in section 3 is whether it would not be better in any case to leave independent, exclusive Presidential powers unstated, so that in any instance of their exercise the responsibility will clearly be the President's alone, and so that no words have been put on paper, however carefully and precisely, which under any circumstances might be given a latitudinarian construction.

That is the very argument made by Senator FULBRIGHT in favor of his amendment.

Professor Bickel then goes on to say:

> The answer to this question that I find persuasive is that the actual draft of section 3 of S. 440 is precise and is, on any fair reading, not only a full implementation of the constitutional grant to the President, but also more restrictive than many a claim of power that has in past years been made by Presidents, and indeed acted upon.
>
> Moreover, as a matter of effective drafting, it seems to me impossible to state with any clarity what is reserved to Congress without stating first what belongs to the President. The task is one of linedrawing, of separating one thing from another, and in doing so one must state what is on both sides of the line.

This, it seems to me, is very authoritative support for the position I have taken.

Mr. President, the 30-day period, which ties into this specification of what constitutional powers the President practically has, takes cognizance of the living fact that an incident can become a war. Therefore, we give that spell of time in which the incident may perhaps cease and not become a war, in which case there would be no ground for congressional action. Where the incident is or is about to become a war, the War Powers Act becomes effective.

Second, we delineate the powers of the President for the purpose of making more clear the powers of Congress; and how they are to intermesh. You cannot delineate a part unless you delineate the other parts to encompass the whole. I think this is fundamental to this bill. We in Congress cannot assume that we are going to get off scot-free.

We must respect the President's power, while we use this opportunity to reestablish our own, and they are not a bit inconsistent. This is really what this bill is all about.

I regard the specification of the authority of the President to be a critically important element of the bill. Specificity is the very thing we have all been looking for. That is why we have been complaining that the "President's men," so-called, claim the moon and the stars for him. We have some truly extraordinary quotations. I will not delay the Senate with reading long quotations, but we have some truly long quotations of what the so-called President's men—to wit, the people who speak of the "strong" Presidency—have been claiming on the part of the President. They claim very illimitable, self-defined authority, especially respecting war and "national security."

Let me read just a few of them, so that the Senate may have an idea of the effort to bring into realistic focus the powers of the President. For example, President Johnson said, in speaking of the Gulf of Tonkin resolution on August 18, 1967:

> We stated then, and we repeat now, we did not think the resolution was necessary to do what we did and what we're doing. But we thought it was desirable and we thought if we were going to ask them [Congress] to stay the whole route and if we expected them to be there on the landing we ought to ask them to be there on the takeoff.

The legal officer of the State Department, testifying in 1966, spoke as follows:

> There can be no question in present circumstances of the President's authority to commit U.S. forces to the defense of South Vietnam. The grant of authority to the President in Article II of the Constitution extends to the actions of the United States currently undertaken in Vietnam.

One final statement. Secretary Acheson really threw down the gauntlet to Congress when he testified in respect to President Truman's plan to station six divisions of U.S. troops in Europe. He said:

> Not only has the President the authority to use the Armed Forces in carrying out the broad foreign policy of the United States and implementing treaties, but it is equally clear that this authority may not be interfered with by the Congress in the exercise of powers which it has under the Constitution.

Mr. President, in view of these very broad claims of Presidential authority to commit us to war and to wage war, if we do not specify statutorily the President will make his own specifications tailored to his situation at the moment. This is just what has become intolerable.

I believe one thing is critically important. If we adopt this amendment, we are defying, it seems to me, the very purpose and intent of our reason for considering the war powers bill, and that is that there is no such thing as independent, absolute, discretionary authority in the President of the United States when it comes to war.

He has to join with Congress. We understand the exigencies and we provide for them, but essentially it provides he does not have a free-wheeling mandate, limited only by time; for the effect of the Fulbright amendment would be to give him absolute, free-wheeling, self-defined authority.

I have heard some words of the Senator from Arkansas (Mr. FULBRIGHT) which deeply disturbed me when I heard them, which carry out this philosophy, which says to the President, "You have 30 days to do what you want." The Constitution does not give that to him and neither does this bill. He has 30 days to defend the United States and its people in an emergency without statutory authorization. He does not have 30 days to do anything. That is not in the Constitution and it should not be the law.

I feel that the specificity we give him deals with the Constitution as conceived and written, with certain pragmatism in terms of the security of the country and at the same time there is a rationalization of power given the President with regard to war.

Finally, this will be a very important issue in the conference with the other body. The House approach is much more like the Fulbright approach. We think it is wrong and very inadequate to the occasion.

I think it would be most unwise for the Senate to give away a considered judgment which has gone through so much distillation and which most recently was passed by a vote of 68 to 16 in 1972.

Mr. President, I hope the amendment is rejected.

The PRESIDING OFFICER. Who yields time?

Mr. MUSKIE. I yield 3 minutes to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. EAGLETON. Mr. President, I shall be brief.

In his statement with respect to section 3 of the bill, the chairman of the Committee on Foreign Relations paid particular attention to section 3, subsections (1) and (2) relating to the President's authority to forestall an attack. And he also mentioned the rescue features of subparagraph (3).

I share some of his apprehension with respect to the forestall clauses. I did not include them in my original draft, but in the compromise bill it was included.

I think the thrust of the Senator from Arkansas' argument would be better directed if in some manner he would focus on the forestall clauses, which I agree may grant too much Presidential discretion. But I think his approach with respect to amendment No. 387 is instead a general articulation of Presidential authority as it is interpreted by the Executive today.

The Senator's other remarks go beyond the Fulbright amendment because the Fulbright amendment deals only with section 3 of the bill. The Senator went on to analyze and comment on sections 5 and 6, the 30-day authorization period sections, and he paid specific attention to the words "prompt disengagement."

This, too, is a troublesome passage of the bill. Last year when it was being debated between the Senator from New York, the Senator from Mississippi, and me, we tried to give a meaningful definition to "prompt disengagement."

What we had in mind in drafting the section was the protection of Armed Forces for the purpose of expeditious disengagement only. The President could not go off on a more expanded mission, or get into an offensive war.

Under that provision the troops are to promptly disengage and they are to be protected solely for the purpose of expeditious disengagement. I am a little vague on this but I had an exchange with the Senator from New York with respect to how long "prompt disengagement" might take. I asked if it could be as much as 3 or 4 years to promptly disengage, and he said "No," that "prompt disengagement" had in mind, by use of the word "prompt," that it could be a matter of weeks or months, but certainly not years.

I would be fearful, as would the Senator from Arkansas, if we codified by "prompt disengagement" some eternal, everlasting process by which troops could be withdrawn, almost one by one, from a theater such as Southeast Asia over a long period of time.

I wish to ask the Senator from New York a question. Will the Senator yield for a question?

Mr. JAVITS. Yes.

Mr. EAGLETON. I direct the attention of the Senator from New York to page 6 of the bill, section 5, line 22, where the words "prompt disengagement" appear. I wish to refresh the Senator's recollection, and correct me if I am wrong. We had a colloquy a year ago on the same subject and we discussed the meaning of "prompt disengagement." In the opinion of the Senator from New York, would "prompt disengagement" be so broad as to permit the withdrawal of troops over 3 or 4 years?

Mr. JAVITS. Not remotely. "Prompt disengagement" means as soon as the tactical security situation permits. Not even the strategic situation; the "tactical security situation." That is the good faith obligation of the President, which the bill seeks to import.

Mr. EAGLETON. We cannot pinpoint it to a clock or a calendar, but I take it the Senator means weeks or months and not a year or years.

Mr. JAVITS. I cannot conceive of that. It would be straining the imagination or credulity. Hopefully, it would never be more than days, or even hours. After all, we have exceptional logistical capabilities for withdrawal.

Mr. EAGLETON. I thank the Senator.

Mr. FULBRIGHT. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Arkansas has 10 minutes remaining on the amendment. The Senator from Maine has no time on the amendment.

Mr. FULBRIGHT. Mr. President, I will be willing to yield back my time after one or two very brief comments.

Mr. President, the Senator from New York is not present. I was only going to comment on one of the statements he made a moment ago. He did not address himself to my question about section 6, that Congress now, without any doubt, has the authority to pass an act or joint resolution restricting an ongoing war or activity. We just proved that in the case of Cambodia.

Section 6, it seems to me, restricts that by giving to the President the right to prevent congressional action by simply certifying the unavoidable necessity of using the Armed Forces, which he has done on several occasions.

I think that is unconstitutional. I do not believe that Congress can by law say that Congress would not have the right to pass an act within the realm of its own constitutional authority.

The Cooper-Church provision said that there should be no use of our forces in Cambodia. And here in section 6, it seems to me, it says that we cannot do that. I question its constitutionality. I do not think that Congress can deprive itself of the power to pass an act or to take any kind of Constitutional action.

The Senator from New York did not address himself to that. However, I reallize that there are certain differenences of view as to this approach. He likes the word "methodology." It is a difference of opinion. None of us know for sure.

The Senator from New York gives his view of what prompt disengagement means. Of course, if he were the President of the United States and we could count on it, I would agree with that.

"Prompt disengagement" from Indochina has been underway for 4 years. The President came into office and said he had a plan to end the war in Vietnam. It has been approximately 4 years. It is not really ended yet, although the major part has ended.

Mr. President, I yield back the remainder of my time.

The **PRESIDING OFFICER.** All time has been yielded back. The question is on agreeing to the amendment of the Senator from Arkansas (putting the question).

The amendment was rejected.

The **PRESIDING OFFICER.** The bill is open to further amendment.

Mr. **GRIFFIN.** Mr. President, I call up my Amendment No. 368.

The **PRESIDING OFFICER.** The clerk will report the amendment.

The legislative clerk proceeded to state the amendment.

Mr. **GRIFFIN.** Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment reads as follows:

Beginning with line 1 on page 2, strike out through the end of the bill and insert in lieu thereof the following:

CONSULTATION

SEC. 2. It is the sense of the Congress that the President should seek appropriate consultation with the Congress before involving the Armed Forces of the United States in armed conflict, and should continue such consultation periodically during such armed conflict.

REPORTS TO CONGRESS

SEC. 3. In any case in which the President without a declaration of war by the Congress—

(1) commits United States Armed Forces to hostilities outside the territory of the United States, its possessions and territories; or

(2) commits United States Armed Forces equipped for combat to the territory, airspace, or waters of a foreign nation, except for deployments which relate solely to supply, replacement, repair, or training of United States Armed Forces; or

(3) substantially enlarges United States Armed Forces equipped for combat already located in a foreign nation;

the President shall submit promptly to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report, in writing, setting forth—

(A) the circumstances necessitating his action;

(B) the constitutional and legislative provisions under the authority of which he took such action;

(C) the estimated scope of activities;

(D) the estimated financial cost of such commitment or such enlargement of forces; and

(E) such other information as the President may deem useful to the Congress in the fulfillment of its constitutional responsibilities with respect to committing the Nation to war and to the use of United States Armed Forces abroad.

CONGRESSIONAL RESPONSIBILITY

SEC. 4. (a) Each report submitted pursuant to section 3 shall be transmitted to the Speaker of the House of Representatives and to the President pro tempore of the Senate on the same day. Each report so transmitted shall be referred to the Committee on Foreign Affairs of the House of Representatives and to the Committee on Foreign Relations of the Senate, and each such report shall be printed as a document for each House.

(b) If Congress is not in session when the report is transmitted, the Speaker of the House of Representatives and the President pro tempore of the Senate shall convene their respective House of Congress to consider any such report of the President.

(c) Not later than five days after receiving any such report, unless a majority of such committee shall report out a bill or joint resolution approving the actions taken by the President, a bill or joint resolution prohibiting the expenditure of any funds, from such date as it considers appropriate, shall be reported with respect to such commitment or enlargement.

(d) (1) A bill or joint resolution reported under subsection (c) of this section shall be highly privileged in each House. It shall be in order at any time after the third day following the day on which such a bill or joint resolution is reported to move to proceed to its consideration (even though a previous motion to the same effect has been disagreed to). Such a motion to proceed to its consideration shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate on such bill or joint resolution, and all amendments thereto, shall not exceed five consecutive calendar days, which shall be divided equally between those favoring and those opposing the bill or joint resolution. Once debate on such bill or joint resolution has begun, no other measure or matter may be considered by that House. A motion to recommit the bill or joint resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which the bill or joint resolution is agreed to or disagreed to.

(3) Motions to postpone, made with respect to the consideration of such a bill or joint resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to such a bill or joint resolution shall be decided without debate.

(e) If, prior to the passage by a first House of Congress of any such bill or joint resolution of that House, such House receives from the second House such a bill or joint resolution, then the following procedure applies:

(1) Such bill or joint resolution received from the second House shall be reported to the first House not later than three days after being received.

(2) On any vote on final passage of such a bill or joint resolution of the first House, such a bill or joint resolution of the second House shall be automatically substituted for the bill or joint resolution of the first House.

(f) If there are differences in such a bill or joint resolution between the Senate and House of Representatives, conferees on the part of the Senate and the House of Representatives shall be appointed not later than two days after the House of Congress passing the bill or joint resolution last passes such bill or joint resolution, unless within those two days both Houses of Congress agree upon the same total amount of outlays of the United States Government with respect to such fiscal year without the convening of a committee of conference. Upon appointment of conferees, the committee of conference shall meet immediately to resolve their differences. The provisions of subsection (d) shall be applicable with respect to the consideration of any report of a committee of conference on any bill or joint resolution.

(g) Subsections (b)–(f) of this section are enacted by the Congress—

(1) as an exercise of the rulemaking powers of the Senate and the House of Representatives, respectively, or of that House to which they specifically apply; and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to the procedure in such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

SAFETY OF UNITED STATES ARMED FORCES

SEC. 5. The commitment of United States Armed Forces or the enlargement of those forces with respect to the actions of the President referred to in any report made under section 3 of this Act shall be continued or terminated only in accordance with law and the Constitution. However, no provision of law shall be construed as terminating any such commitment or enlargement when the President determines and certifies to Congress unavoidable military necessity respecting the safety of the United States Armed Forces requires the continued use of such Armed Forces for the purpose of bringing about a prompt disengagement of those forces.

Mr. **GRIFFIN.** Mr. President, last year, I reluctantly voted for a measure which was similar in many respect to the one before us now. I indicated then that I had serious reservations about its constitutionality, and I hoped that the House would make improvements in it.

Earlier this year I did not object when the Committee on Foreign Relations reported this measure for debate by the Senate. Despite my reservations and concerns, as a member of the Foreign Relations Committee, I believed then, I believe now, that this important measure—which is the product of long study and hard work by the distinguished Senator from New York (Mr. JAVITS)—and other Senators—deserves and is entitled to the consideration and debate which is being accorded it now by this body.

The decision to vote "no" on final passage is a very difficult one for me, particularly since I realize that my vote is likely to be misinterpreted in some quarters. I have concluded that I shall vote against this measure because I am concerned and convinced that enactment of this bill would lead to more wars, not fewer.

I recognize also that the position I take is not likely to prevail when the final vote is taken later today. But I am also convinced that this measure will not become law this year over the veto of the President—and that veto is certain.

Because that is so, I believe it can be useful in the course of this debate, not only to focus on the deficiencies in and objections to the pending bill, but also to point out that there are alternative constitutional routes that could be taken to achieve the essential purpose of S. 440

without tying the President's hands in advance.

The amendment I am suggesting now is put forth for educational purposes—and for future consideration—rather than for immediate action.

I want to demonstrate that there are other ways to go—constitutional ways. At the same time, I realize that this alternative is complex that it has been developed at a late date and that it should be the subject of hearings.

During the last few days, as printed copies of this amendment have been circulating among my colleagues, I have received a number of constructive suggestions which indicate that, while the thrust of the amendment is appropriate and correct—some details still need to be worked out.

Accordingly, I shall not press for a vote on this amendment today. But its very existence as an alternative for future consideration helps, I hope, to put my reasons for opposition to the pending bill in perspective.

Unfortunately, S. 440, before us now, would raise up serious doubts about the authority of the President in times of crisis. It would encourage unfortunate miscalculations on the part of potential enemies; it would seriously impair the conduct of our foreign relations, it would weaken our national defense and thereby it is likely to increase—not lessen—the dangers of war.

I wish to spell out some of the reasons for my doubts about the constitutionality of S. 440, and then I shall briefly explain the alternative route which I suggest. I am convinced that my amendment would accomplish the desired rejuvenation of Congress' role in the exercise of shared war powers while, at the same time, avoiding the constitutional pitfalls embodied in S. 440.

The report of the Committee on Foreign Relations with respect to S. 440, filed June 14, 1973, includes the following statement:

> The essential purpose of the bill, therefore, is to reconfirm and to define with precision the constitutional authority of Congress to exercise its constitutional war powers with respect to "undeclared" wars and the way in which this authority relates to the constitutional responsibilities of the President as Commander in Chief.

Last year, the committee's report in connection with the original bill, S. 2956, filed February 29, 1972, made this statement:

> The purpose of the war powers bill, as set forth in its statement of "purpose and policy," is to fulfill—not alter, amend, or adjust—the intent of the framers of the United States Constitution in order to insure that the collective judgment of both the Congress and the President will be brought to bear in decisions involving the introduction of the Armed Forces of the United States in hostilities or in situations where imminent involvement in hostilities is indicated by circumstances.

The earlier report at another point declared:

> The bill is in no way intended to encroach upon, alter or detract from the constitutional power of the President—

But despite these praiseworthy declarations, I am deeply concerned that the language and effect of S. 440 is to do exactly what the reports say it would not do: It does seek to alter the constitutional powers of the President. Leaving aside questions about the wisdom of such changes, the cold fact is that changes in constitutional powers cannot be accomplished except by amending the Constitution.

Section 5 of S. 440 declares that without prior approval of Congress the Armed Forces of the United States cannot be introduced by the President for more than 30 days, in hostilities, or, in any situation where "imminent involvement in hostilities" is indicated except in the four situations described in section 3.

Clearly, by this provision the proponents of this bill acknowledge that there are situations and times when the President is justified, and empowered under the Constitution, to commit U.S. Armed Forces to hostilities without prior congressional approval. Once that Presidential power is acknowledged, I am at a loss to understand how Congress by statute could constitutionally impose an arbitrary 30-day limitation on such Presidential authority.

Certainly, no arbitrary time limit is expressed in, or can be inferred from, the Constitution itself. The committee report admits that such a limitation is arbitrary. At page 28 of the 1973 report are found these words:

> The choice of thirty days, in a sense, is arbitrary.

Of course, Congress can set limitations and procedures with respect to its own actions, which my substitute amendment would do. But that is a totally different thing than seeking to fix by statute as limitation admitted to be arbitrary upon powers of the President which are derived from the Constitution.

The 1972 report, at page 6, declared:

> The intended effect of Section 5 is to impose a prior and unalterable restriction on the emergency use of the armed forces by the President.

It is clear, I think, that S. 440 seeks to impose: "A prior and unalterable restriction" on the President's constitutional powers.

In addition, I believe the specification in section 3 of only four situations in which the President can use the Armed Forces without prior approval is also an arbitrary restriction on his constitutional powers. How can we be so sure that there are not other situations, not now contemplated, when the President could exercise his constitutional power to employ troops. If there are such other situations, the Congress cannot limit or deny that constitutional power by a simple statute.

It cannot be emphasized too strongly that we have before us a bill—not a proposed constitutional amendment. Some may believe the policy embodied in the bill is wise; some may believe it unwise. But the fundamental issue is whether such legislation is consistent with the Constitution.

Because S. 440 would be unconstitutional, and because in any event, it will not become law over a certain Presidential veto, I believe a practical, constitutional alternative to S. 440 is needed and should be considered. It is for those reasons that I have developed my amendment.

S. 440 provides that the President, for a period of up to 30 days, can introduce U.S. Armed Forces in hostilities, or, in situations where imminent involvement in hostilities is clearly indicated only in response to an armed attack on U.S. territory or against U.S. forces abroad, or to a direct and imminent threat thereof or in the case of assisting Americans in certain cases.

This means that a President would be prohibited in the absence of prior approval by Congress from employing U.S. forces in situations where:

First, there is no armed attack on U.S. territory or U.S. forces, or direct and imminent threat thereof, and

Second, the situation is such that imminent involvement in hostilities could be clearly indicated by the circumstances.

This feature of the bill could have dangerous implications for American foreign policy, or for the safety of the United States, and for the prospects of peace in the world.

The modernization and expansion of Soviet military strength in Europe and the Mediterranean, together with increased Soviet deployment around the world, is a fact which cannot be ignored or avoided.

The United States cannot escape the fact that it, too, must have the ability to deploy forces in support of its foreign policy. The authority of the President to act in some situations not recognized by this bill can be absolutely essential to the maintenance of peace and to the prevention of war.

Let me be more specific.

If S. 440 had been the law in 1962, President Kennedy could not have deployed the U.S. fleet and imposed a quarantine, as he did at the time of the Cuban missile crisis. It will be recalled that at that time, there was no armed attack on the United States or its Armed Forces, nor any imminent threat thereof. But the act of stopping Soviet ships certainly did raise a risk of "imminent involvement in hostilities." If S. 440 had been in effect, President Kennedy's hands would have been tied. Those who say he could have gone to Congress and asked for authority are unrealistic. By the time Congress could have been called back into session to consider such a proposal, the international ball game would have been over.

Similarly, the reinforcement of our Berlin garrison at various critical times was not a response to armed attack or the imminent threat thereof. But actions taken by several Presidents with respect to Berlin have exposed our forces to the risk of "imminent involvement" in hostilities.

President Eisenhower sent troops to Lebanon at a critical point in time. His action was in the interest of peace—not war. There are times and situations when a requirement of prior approval by Congress would be self-defeating and impractical.

The ability of our President to act in

the interest of peace should not be placed under the shadow of doubt and uncertainty that would be created by S. 440.

President Johnson's strategic deployment in the Middle East of 6th Fleet vessels at the time of the Six Day War, coupled with his diplomatic contact with the Soviet Union to avoid miscalculations was a prompt and effective action taken not in the interest of war but in the interest of peace. His action was not in response to an attack upon the United States or our Armed Forces. But that move did expose our Armed Forces to the risk of "imminent involvement in hostilities" and, therefore, would have been prohibited under S. 440.

Some have argued that a Middle East resolution would confer Presidential authority to take such actions with respect to the Middle East. But it is my understanding that that resolution applies only if there is "armed aggression from any country controlled by international communism." Obviously, this provision does not cover some of the situations that could arise in the Middle East.

My point in recalling these examples is to underscore the fact that S. 440 is not a step toward reducing the chances of war. By tying the President's hands in very critical situations, this legislation could actually have the effect of increasing the likelihood of war—not peace.

I realize that the bill is well intentioned. But, unfortunately, it would raise up ambiguities and doubts in situations where the President's power to act should be clear and unqualified.

S. 440 is not only unconstitutional but it is unnecessary to a restoration of the appropriate congressional role.

It is not necessary to attempt to limit the Constitutional powers of the President—"to impose a prior unalterable restriction on emergency use of the Armed Forces by the President"—in order to insure that the Congress can speedily and promptly cut off funds for ventures which do not have the support of Congress.

All that is necessary—as was demonstrated when funds for bombing in Cambodia were cut off—is for Congress to act.

No time limit of 30 days need be imposed on the President's Constitutional powers. Aside from the fact that such a limitation would be unconstitutional, the period could be much too long in some situations—and too short in others.

The amendment I have suggested calls for consultation between the President and the Congress before troops are involved in armed conflict. And section 3 calls for prompt notification to the Congress if and when the President commits or substantially enlarges U.S. troops abroad. I believe that taking action to support the concept of consultation in time would be a wholesome and appropriate step—a step that would implement the intentions of the Founding Fathers, that would enable Congress to take action on the basis of up-to-date information.

My amendment then establishes an expedited procedure for Congress to consider the action of the President and to exercise its power of the purse with respect to the continued use of the Armed Forces in hostilities. Finally, provision is made in the amendment so that any cessation of funding of operations would not imperil the safety of the Armed Forces.

My amendment would not tie the hands of the President in advance. Rather it seeks to restore and make more effective the power which Congress already possesses under the Constitution.

In contrast to the pending bill, my amendment does not attempt to prejudge the circumstances in which our Armed Forces should be employed at some time in the future.

That question is left to the President and the Congress of the future to decide under the circumstances that then prevail. I believe that through this approach wiser decisions can be made than would be the case if we attempt, as S. 440 does, to foresee and anticipate future events now.

The approach of my amendment draws upon the recent experience of Congress when funds for Cambodia were cut off. It seems to me that if that experience proved anything it demonstrated that Congress has the power to act—but sometimes it lacks the will to act.

Such an attitude, it seems to me, calls for legislation—not to restrict the President—but to approve the procedures under which Congress can act, and particularly the Senate where filibusters are a serious obstacle to prompt action.

I shall not press my amendment, Mr. President, but I suggest and urge that the approach embodied in this amendment be seriously studied once it is made clear that S. 440 cannot become law.

Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn. The bill is open to further amendment.

Mr. JAVITS. Mr. President, does the Senator from Minnesota wish to speak now?

Mr. HUMPHREY. Yes, if someone will yield me time.

The PRESIDING OFFICER. Who yields time?

Mr. MUSKIE. Mr. President, I yield 5 minutes to the Senator from Minnesota.

Mr. HUMPHREY. On the bill?

Mr. MUSKIE. On the bill.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. JAVITS. Let me say that I shall reply to the statement of the distinguished assistant minority leader at a later point, and I ask unanimous consent that my remarks may be printed in the RECORD at this point.

Mr. HUMPHREY. Mr. President, I think it would be appropriate that the Senator from New York reply now, and I shall await my time.

Mr. JAVITS. Mr. President, if I may have 5 minutes, I shall not take very long.

Mr. President, I reply, first, because the merits demand a reply, and second, because of my respect for the Senator from Michigan (Mr. GRIFFIN), who, if memory serves me correctly, was one of the cosponsors of our bill.

Mr. GRIFFIN. No.

Mr. JAVITS. No, I guess not. In any case, certainly his opinion is important. He probably bespeaks a good deal of what the administration is thinking. So I should like to reply.

One cannot expect that the bill we propose to pass is palatable to the President. It would not be to any President. Any President would be found to oppose it, to try to give himself all the powers he possibly can hang on to.

It may be remembered that President Nixon, in regard to the Cambodian situation, was precise on that score. He echoed the words of Winston Churchill when he said he was not there to be President in any way to reduce the powers of the presidency. That is what Churchill said about the British Empire. But, Mr. President, I believe that by doing what we are doing, we are avoiding the bait for President Nixon's idea, which is equivalent to what overtook the British Empire. In short, what we are trying to do is, at long last, to bring about an end to the guerrilla warfare between Congress and the President, in which Congress has been constantly bested, with such tremendous tragic cost to our country, before such a violent reaction developed as to really sweep away Presidential authority.

Mr. JOHNSTON. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. JOHNSTON. Would the Senator from New York explain to me, it seems that the purpose of the bill is to prevent the kind of situation we had in Vietnam, yet the language of the bill speaks of introducing our troops into hostilities. As I recall the situation in Vietnam, our troops were originally sent there to guard an Air Force base. We were there to guard that base. They in turn were attacked, as perhaps could have been predicted. That, in turn, would seem to me to trigger the other section of the law which would allow the President, then, to use the troops to repel an attack on those troops.

Is it not true that this would or would not prevent the kind of Vietnam situation which we have had?

Mr. JAVITS. It would prevent a Vietnam situation because the troops who went there to defend that Air Force base—even assuming that those facts are correct—but let us assume that, for the sake of the answer, although I think there is more to it than that—because President Johnson had decided on—the Senator may remember the high-level meetings he held with the President of Vietnam, I think it was either at Manila or Hawaii, in which it was decided that the Vietnamese forces would undertake essentially garrison duties and U.S. forces would fight the war.

But even if the Senator is right—and it is a hypothetical question—if we sent troops into hostilities, and there were hostilities in Vietnam, then this act would immediately apply. Certainly no President, even if there were an actual shooting that day, could deny that there was imminent danger of hostilities which, according to this, would apply.

So it is an a priori situation—to wit,

troops were there at all, whether to guard an Air Force base, which made this applicable and not the exemption contained in the section regarding Presidential powers.

Mr. JOHNSTON. Then the term "introducing hostilities" means introducing troops into the country if hostilities are taking place?

Mr. JAVITS. That is exactly right.

Mr. JOHNSTON. And where they are not employed initially for hostilities?

Mr. JAVITS. That is precisely right. I am obliged to the Senator for sharpening that point.

Mr. President, to continue, I should like to deal with the various items the Senator from Michigan (Mr. GRIFFIN) has in his amendment which he has now withdrawn, because it gives us the opportunity to show precisely how this applies.

I said a minute ago that no one will get off scot-free. We are confirming the President in constitutional authority, which is something that has never happened in the history of this country. That is good for him. We are also confirming ourselves in our authority. It is not one-sided at all. I hope that the President, who has been rather quick about vetoes, will think that over. He may not get another chance, nor may any other President. We may have a constitutional crisis, if the country gets sick and tired of a "President's war," even as Senator Goldwater says, by constitutional amendment. We have passed that before. We may again. We may have a Presidency which is truly emasculated and I do not want to see that, either.

The PRESIDING OFFICER (Mr. HELMS). The time of the Senator from New York has expired.

Mr. MUSKIE. Mr. President, I yield the Senator from New York as much time as he requires.

The PRESIDING OFFICER. The Senator from New York may proceed.

Mr. JAVITS. Mr. President, that is the framework, because this is very important.

Let us take the various instances. First, deployment regarding the Cuban missile crisis. The fact is that missiles were stationed in Cuba by the Soviet Union, essentially, and that, therefore, the President who would propose to stop their ships at sea would know he was in imminent danger of hostilities. So this bill would apply. And why should it not? In fact, the Soviet ships were not stopped by us. They stopped themselves. It is important to note that McGeorge Bundy, who is the closest living person to President Kennedy respecting this matter, has testified that the War Powers Act would not have hamstrung President Kennedy's successful diplomatic moves to resolve the Cuba missile crisis.

Now had the President come to Congress and said, "I need authority to stop those ships," we would have stopped those ships. That was risky business for hundred of millions of people around the world, with nuclear war in the offing; to leave it to one man in the White House—one man—to decide yea or nay. Fortunately we got out of it through diplomacy.

Mr. GRIFFIN. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. GRIFFIN. The Senator, I am glad, does concede that the effect of the bill would be to have made it impossible for President Kennedy to have acted in the Cuban missile crisis without getting prior approval of Congress.

Is not the Senator aware that Congress was not in session at that time?

Mr. JAVITS. This Senator is very well aware of that. Also, that Congress can be called into session in 10 hours. In addition, if I may remind my colleague from Michigan of some history, that crisis was brewing for several weeks. I was on television about it, as were many others, before the President made the decision as to what he would do, that is, that he would stop the Russian ships. We even had a resolution on the books given a lot of authority to the President. He had lots of time in which to deal with Congress. I do not want to be tied to this, but certainly he had a time lag. If he did not have a time lag and the danger was that imminent, he might—I repeat, he might have—in good faith, invoked that provision of this bill which said that if U.S. territory was in imminent danger of attack, that is covered by this bill, too. I would hope that the President would not do that, but, nonetheless, he perhaps could have, if it came to that.

Mr. GRIFFIN. I am interested in having this debate fully reflect the various points of view, so let me say that, as I recall it, President Kennedy made that decision rather late, after it was ascertained, I think by aerial observation, that the missiles were actually on the ships. Certainly we would not criticize him for not making the decision earlier. Once he made that decision, and the ships were on their way, it was too late to call back Congress or to get Congress to consider and pass some kind of resolution of approval before the missiles would have been in Cuba.

Now, to say that because the missiles were in Cuba would have authorized us, under the resolution, is to say that missiles anywhere in the world, or ICBM's for that matter, which are Russian based and which can reach the United States, would allow the same thing. I do not think that the Senator from New York would really mean that. So I point out that I think the effect of the bill would have been impractical and unrealistic in the Cuban missile crisis. President Kennedy's hands would have been tied and he would not have been able to act in the interests of peace, as he did.

Mr. JAVITS. I could not disagree more with the Senator from Michigan.

Mr. MUSKIE. Mr. President, will the Senator from New York yield for a moment?

Mr. JAVITS. I yield.

Mr. MUSKIE. The Senator, of course, is the author of the bill and the careful architect of its provisions. He understands what he intended by this legislation better than anyone else. But in response to the Senator from Michigan, let me make the point first—the historical point—that the President at that point did assemble the congressional leaders——

Mr. JAVITS. Of course he did.

Mr. MUSKIE. At the time he considered the decision. Second, the declaration of war at the time of Pearl Harbor was made within 2 days of the attack on Pearl Harbor. So Congress is capable of acting quickly. But then, let me emphasize a point the Senator from New York made a moment ago. The language of subsection (1) of section 3, which confirms the emergency authority of the Commander in Chief.

> To repel an armed attack upon the United States, its territories and possessions; to take necessary and appropriate retaliatory actions in the event of such an attack; and to forestall the direct and imminent threat of such an attack;

I remind both Senators that the implication from the pictures taken by our aircraft was to the effect that the installation of the missiles posed an imminent threat to the United States.

As the Senator from New York has said, I would hope that, given time, a President would still consult Congress. But one certainly could not challenge his good faith if he were to use that language in those circumstances to invoke the emergency powers.

Mr. JAVITS. The Senator has answered the question exactly as I would, and I wish to add one other point.

No one denies for a minute that you still depend to a great extent upon the Presidency. As to all the loose talk about credibility, and so forth, we all can appreciate and understand that, but you cannot run a country that way. You cannot operate; you cannot pass laws on that theory.

We must assume that, having written it out, the President will obey the law in reasonable good faith. In any case, we will have something to repair to.

I believe that the answer to the Cuban missile crisis is that, given any time at all, the President would have seen his clear duty under this bill to come to us. What gives him the prescience and patriotism that is denied to us? I do not understand it. He is human and mortal, as we are. If you had any doubt about it yesterday, you should not have it today. What is the basis for the assumption that he is infallible and cannot make a mistake and that only we are capable of mistakes?

So much for the Cuban missile crisis.

As to the relief of the Berlin garrison, there was no imminent threat of war. The Senator, himself, said that. We just defeated an amendment by the Senator from Arkansas (Mr. FULBRIGHT) which would have inhibited the deployment of our forces. So the President is perfectly free to deploy the forces of the United States. That covers the Berlin garrison problem.

As to the situation of the troops to Lebanon, there, again, the President should have come to us; and, in fact, he did. He got a resolution which in the terms of that time was valid: if they are attacked by Communist forces or Communist-backed forces.

That was his cover for asking for the resolution, on the ground that the revolt in Lebanon was fomented by the Soviet Union or forces acting at the dictates of their international Communist apparatus. But precisely this law would apply and should apply in that kind of situation. That could have led to an enormous conflagration in the Middle East exactly like that in Vietnam. We are mighty lucky that we got out of it with a whole skin. Certainly, we want this to apply to that kind of situation, and it should.

Finally, as to the deployment of the 6th Fleet in the 6-day war, the answer is precisely the same as that respecting the deployment in respect of the Berlin garrison. The President moved our ships forward in a situation which represented the normal deployment for naval forces of the United States. There was no imminent danger.

Nobody was threatening to attack. They were not involved in hostilities. And the President had complete authority to do that. Had he moved them within the war zone, with a design of taking some part or relieving one or the other of the parties, then he would be subject to this law, and I maintain that he should be. That is why we are doing it.

I understand the views of the Senator from Michigan, and these are appropriate questions to raise and to be debated. But I really feel that the plan of the bill meets the appropriate exigencies. Where we ought to have power, we are given power; and where the President ought to have power, he is given power.

I thought these views should be juxtaposed to those of the Senator from Michigan, and I thank the Senator from Maine.

Mr. MUSKIE. Mr. President, I yield 5 minutes to the distinguished Senator from Minnesota.

Mr. HUMPHREY. Mr. President, earlier today I made a statement and placed in the RECORD a statement in full support of this very important, historic piece of legislation.

I particularly wish to compliment the Senator from New York for his initiative in this area of constitutional law—that is what it is—and the distinguished Senator from Maine for managing this bill on the floor of the Senate and for his intimate knowledge of its details.

The report of June 14, 1973, which has been published on the War Powers Act, as it is known, is possibly one of the most precise and informative documents relating to the relationships between the President and Congress, as pertains to warmaking powers and the authority that each branch of Government has, that has ever been published. We are indebted to the Senate Foreign Relations Committee, the sponsors of this bill, and the staff of that committee for a truly remarkable report. The report contains these words:

> It is legislation essential to our security and well being. It is legislation in the interest of the President as well as the Congress. . . . We live in an age of undeclared war, which has meant Presidential war. Prolonged engagement in undeclared, Presidential war has created a most dangerous imbalance in our Constitutional system of checks and balances. . . . [The bill] is rooted in the words and the spirit of the Constitution. It uses the clause of Article I, Section 8 to restore the balance which has been upset by the historical disenthronement of that power over war which the framers of the Constitution regarded as the keystone of the whole Article of Congressional power—the exclusive authority of Congress to "declare war"; the power to change the nation from a state of peace to a state of war.

Those are the words of the distinguished Senator from New York, and I think they summarize very properly and succinctly what this bill is all about.

I believe that this debate has been truly a course of instruction in the very heart of constitutional government, the relationships between the President and Congress. On the issue of life or death, peace or war, nothing could be more fundamental.

Whether this bill is what it ought to be or not, it is a beginning. It represents an intelligent, instructive effort on the part of Congress to work out the relationships between the Presidency and Congress on the entire subject of national security, particularly as it relates to the use of the Armed Forces of the United States, and under what terms and conditions.

So I would hope, as the Senator from New York has said, that the President would not be too hasty in proclaiming that it will be vetoed. I would urge upon the President that he study the background of this legislation as the testimony before the Foreign Relations Committee was given. I would urge upon the President and his advisers that they read the report on this bill, as filed by the Committee on Foreign Relations. I urge upon the President that we learn the lessons of the second half of the 20th century—namely, that power begets power, that action begets action, and that Presidential power exercised is building precedent upon precedent, and there comes a time when you have to take a look once again and attempt to restore the balance upon which this constitutional system is predicated.

SUBMISSION OF SENATE RESOLUTION 149

Mr. HUMPHREY. Mr. President, one of the best ways to prevent a war is to have communication between the respective nation-states. I am today submitting a resolution which will place the Senate on record as favoring a return to normal relations between the United States and an old historic friend—namely, Sweden—and the means to do this would be the normal exchange of ambassadors.

Since August 1972, almost a full year, we have had no diplomatic relationship with Sweden, a friendly nation, a nation of democratic purpose and democratic institutions, a nation of people who have a great and fierce sense of individuality, and the love of freedom and liberty. Yet the President of the United States has seen fit to break off diplomatic relations and inform the Swedish Government that an ambassador from Sweden would not be welcome here and, of course, not to send an American ambassador there. Why? Because the present Prime Minister of Sweden made some derogatory remarks about our country in 1972 when the bombing was taking place over Vietnam. But he did not say anything that had not been said by Senators, Representatives, or distinguished citizens of this country who disagreed with the President's action.

What the Swedish Prime Minister said was not nearly what had been said from Peking or Moscow. They had conducted a diatribe against this country for years. Yet we reach out to Moscow and Peking and we call them long lost brothers. It is the new diplomacy.

I think countries are entitled to express their points of view, but if the reason we broke relations with Sweden is because we did not like what their Prime Minister said in 1972, I want to know what we are doing in our new détente and spirit of understanding with the Peoples Republic of China and the Soviet Union. The situation does not make sense.

All I am doing here is to ask the President of the United States to restore the relations with the country that is a bridge between the North Atlantic Pact on the one hand and the Soviet Union on the other hand, a country that is a friendly country, which has its sons and daughters by the millions in this country, a country that has elections, a country that believes in civil liberty. I am asking that the President of the United States "get with it" and send an ambassador there and say to the Prime Minister of Sweden that we are prepared to act like mature people; that we are done with this infantile petulance, and it is time we cut it out.

We do not have an ambassador in Moscow. It might not be a bad idea to have one there. I urge on the President of the United States that in the name of diplomacy for peace, for which I commend him, and repeatedly praise him, that he take the steps now to heal some of these wounds in the case of Sweden and because of the importance of relationship with the Soviet Union, that an ambassador be sent there.

Mr. President, this is one of the ways to preserve peace and this fits within the confines of this debate.

Mr. President, the resolution would place the Senate on record as favoring a return to normal relations between the United States and Sweden. The means to do this would be a normal exchange of ambassadors.

At present, there is no American ambassador in Stockholm. Our Ambassador left his post in August of 1972. The administration has not nominated another ambassador for this post, leaving it vacant for almost a year.

The Swedish ambassador left Washington in January 1973. I understand that the administration has made it known to the Swedish Government that it will not welcome his successor. The gentleman who was planning to become the Swedish ambassador to Washington has been given another post by his government.

Mr. President, what appears to be a childish rift between two nations has serious implications for U.S. foreign policy.

It is a matter of great concern to me

and others who feel that the United States has absolutely no right to penalize a nation in this fashion, because its national leadership expresses views which may not be in accord with our own.

The Nixon administration has chosen to attempt to embarrass the Swedish Government by not sending an ambassador to Stockholm. We have also rebuffed any attempts made by the Swedes to normalize relations.

The behavior of the Nixon administration concerning this matter is in direct violation with a Senate resolution passed in September 1969, specifying that diplomatic relations do not depend upon or imply approval views of the governments concerned.

This principle was the guiding force in the 1930's when Franklin Roosevelt recognized the Soviet Union. And this sentiment certainly was in evidence when Mr. Nixon and Mr. Kissinger arranged for a mutual exchange of diplomats with the People's Republic of China.

It is interesting that we choose to penalize the Swedish Government for expressing views critical of our involvement in the war in Indochina and do not bat an eyelash when far more critical and more numerous statements are made by the Soviet Union and the Peoples Republic of China. Of course, I do not believe we should diplomatically penalize any country for statements it made which faithfully reflect the views of large numbers of its people.

We cannot avoid the fact that our policies in Indochina have deeply disturbed large numbers of Scandinavians and Europeans. When Prime Minister Palme was critical of the American bombing of Hanoi in December 1972 his remarks were not aimed personally at the President or any other Americans. While they may have been exaggerated and I personally take exception to them. However, the essence of his frustration, outrage, and disagreement with our policies was shared by many Americans.

Mr. Palme, like all Americans, has a right to express his views without having to experience retribution of any sort.

I have no doubt that Swedish-American relations strengthened by bonds of friendship and kinship will long outlive the present infantile petulance.

However, the principle involved here is how the United States relates to the smaller democratic nations of the world.

Why have we paid so little attention to the ugly tirades of great socialist powers and react so unfairly to criticism of our policies by a small democracy?

Why do we seek to punish diplomatically and embarrass a country which has been our friend for so many years?

During the month of April in a letter, I called upon the President to give this matter his personal attention and remedy this deplorable situation. There has been no response from the White House or from the Department of State.

Apparently, the exchange of views that we so cherish with the People's Republic of China and the Soviet Union is not desired in the case of Sweden.

All Americans—and especially those of Swedish descent—must realize how unfair and untenable our position is.

It is my hope that the Senate Resolution I introduce today will bring to the attention of the President and the State Department the need to nominate with all due haste an ambassador to Sweden.

The time has come to normalize our relations with Sweden and not let the past interfere with the necessary exchange of views so badly needed for future good relations.

Mr. TOWER. Mr. President, I call up my amendment No. 386 and ask that it be stated. It is my understanding that the amendment is out of order, but I was under the impression that the point of order could not be raised until after the time on the amendment had expired or had been yielded back.

Mr. MUSKIE. I am happy to yield time to the Senator.

The PRESIDING OFFICER. The Chair is advised that the amendment is out of order.

Mr. TOWER. I withdraw the amendment for the moment.

Mr. MUSKIE. I am happy to yield to the Senator.

Mr. TOWER. Will the Senator yield to me for 15 minutes?

Mr. MUSKIE. I yield 15 minutes to the Senator from Texas on the bill.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. TOWER. Mr. President, the amendment in question is out of order because it is an amendment to the title of the bill and, therefore, cannot be called up until after the bill is passed.

I will read the amendment. It states:

> Amend the title so as to read: "A bill to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress, and thereby reduce the United States of America to the status of a second rate power."

I know on the face of it that it appears to be a frivolous and facetious amendment, but I offer it not in levity because to me it really says what we are doing here, because it underscores what I conceive to be the impact of this legislation if it is passed and if it is signed by the President or his veto is overridden.

Mr. President, what is proposed in S. 440 is to reduce the United States to a state of impotence in this negotiation with the large superpowers of this world because it imposes a paralysis of military action on the President of the United States. Anyone knows that to negotiate successfully with a superpower, the Soviet Union, you must not only be in possession of great military power, but also you must have the flexibility and the willingness to use it, if necessary.

What this bill does is to proscribe the Chief Executive in this country in a way that no other head of state in a large country in the world is proscribed. They must be laughing themselves silly in the Kremlin over our consideration of this legislation.

Much has been made of the research and constitutional prerogatives of the Presidency of the United States. It seems to me we are trying to do it not only at the expense of the constitutional prerogatives of the President, but also at the expense of the continuance of a tradition in our governmental system, a tradition which has allowed the President freedom of movement in the conduct of diplomacy.

Mr. President, I do not think a better case could be stated against the adoption of the war powers bill than was stated by Mr. Justice Sutherland in the case of *United States* v. *Curtiss-Wright Export Corporation*, 299 U.S. 304, 1936. Here is what he said:

> It will contribute to the elucidation of the question if we first consider the differences between the powers of the federal government in respect of foreign or external affairs and those in respect of domestic or internal affairs. That there was differences between them, and that these differences are fundamental, may not be doubted.
>
> The two classes of powers are different, both in respect of their origin and their nature. The broad statement that the federal government can exercise no powers except those specifically enumerated in the Constitution, and such implied powers as are necessary and proper to carry into effect the enumerated powers, is categorically true only in respect of our internal affairs. . . . The powers to declare and wage war, to conclude peace, to make treaties, to maintain diplomatic relations with other sovereignties, if they had never been mentioned in the Constitution, would have vested in the federal government as necessary concomitants of nationality. Neither the Constitution nor the laws passed in pursuance of it have any force in foreign territory unless in respect of our own citizens (see American Banana Co. v. United Fruit Co., 213 U.S. 347, 356); and operations of the nation in such territory must be governed by treaties, international understandings and compacts, and the principles of international law. . . .
>
> Not only, as we have shown, as the federal power over external affairs in origin and essential character different from that over internal affairs, but participation in the exercise of the power is significantly limited. In this vast external realm, with its important, complicated, delicate and manifold problems, the President alone has the power to speak or listen as a representative of the nation. He *makes* treaties with the advice and consent of the Senate; but he alone negotiates. Into the field of negotiation the Senate cannot intrude; and Congress itself is powerless to invade it. As Marshall said in his great argument of March 7, 1800, in the House of Representatives "The President is the sole organ of the nation in its external relations, and its sole representative with foreign nations." Annals, 6th Cong., col. 613.

That was a man speaking within the same time frame that the Constitution was conceived, framed, and adopted. If we want to talk about the intent of the framers, let us repair to some men who were present in that era and who were commenting on the Constitution at that time.

Justice Sutherland further said:

> It is quite apparent that if, in the maintenance of our international relations, embarrassment—perhaps serious embarrassment—is to be avoided and success for our aims achieved, congressional legislation which is to be made effective through negotiation and inquiry within the international field must often accord to the President a degree of discretion and freedom from statutory restriction which would not be admissible were domestic affairs alone involved. . . . [B]oth upon principle and in accordance with precedent, we conclude there is sufficient warrant for the broad discretion vested in the President to determine

> whether the enforcement of the statute will have a beneficial effect upon the re-establishment of peace in the affected countries.

The opinion goes on to matters that are not necessarily relevant to this debate.

Mr. President, it occurs to me that what we are doing here flies in the teeth of tradition, custom, and usage. In a horse-and-buggy era, this kind of legislation conceivably could have had its place, but not today, not at a time when we have the Middle East crisis, the Lebanese crisis, the Dominican crisis, the Cuban crisis. This is no time for us to fly into the teeth of tradition and constitutional uses.

I have no thought that this bill will be rejected, but I think that those of us who can see the inherent evil in this measure would have been remiss had we not talked about it. Should this bill become law, the United States from this point will be disregarded as a great power with influence over the course of world events.

The **PRESIDING OFFICER.** Who yields time?

Mr. **MUSKIE.** Mr. President, I yield the Senator from South Carolina 10 minutes.

Mr. **THURMOND.** Mr. President, I rise in opposition to the pending bill, S. 440, on the grounds that it is unnecessarily restrictive on the President and may well lead to new problems rather than correct present problems.

Under this bill the President of the United States could take emergency military action—in the absence of a congressional declaration of war—in only four cases:

First. To repel an attack on the United States, or forestall the "direct and imminent threat of such attack";

Second. To repel or forestall an attack on U.S. Armed Forces stationed outside the United States;

Third. To protect U.S. citizens and nations in danger in foreign countries; or

Fourth. Pursuant to some specific statutory authorization short of declaration of war.

The bill further provides that when the President does take emergency action, such action must cease within 30 days unless Congress authorizes continuation of use of the Armed Forces.

Mr. President, in my view this measure fails to meet the objectives of restoring to Congress its power to declare war without at the same time tying the President's hand in emergencies. S. 440 is simply too restrictive of the President's power to act in emergencies. For instance, the bill does not contain any specific provision for the President to use his own judgment and discretion to determine what is an "emergency" sufficient to justify action on which he can base a deployment of our Armed Forces without congressional assent.

The legislation provides only four situations in which an immediate response is allowed, and it may well be questioned whether it is possible to define and describe in advance all possible potential emergency situations to which the President might be called on to respond.

By restricting the President's authority to act to these four specific categories, Congress would tie a future President's hand when some unforeseen crisis arose. It should also be pointed out that some constitutional law experts maintain that the independent authority of the President under the Constitution is substantially broader than the four categories specified in the bill. Therefore, to limit the President's power to these categories may raise the point of constitutionality.

In addition, the question has been raised as to whether this bill would cover such emergency situations as the action taken by President Truman in Korea. In the absence of a declaration of war, the act would prohibit collective action against a sudden armed attack on a nation to which we have no formal national commitments. Thus, if President Truman had been operating under the proposed act a prior declaration of war would have been required before engaging our forces in the Korean war.

This bill also raises the question of whether we could go to the aid of Israel in case of an attack on that country since we have no defense treaty with Israel.

The potential for great power intervention in the Middle East is clearly illustrated by the burgeoning Soviet naval presence in the Mediterranean, Persian Gulf, and Indian Ocean and the presence of Soviet military personnel and sophisticated military equipment in several Mideast countries.

This bill specifically limits the use of U.S. forces to situations where the United States or U.S. forces are attacked or directly and imminently threatened with attack. In the Six-Day War of 1967, for example, the United States itself was not directly threatened with attack nor was there an immediate threat to American forces. However, there was an open and imminent threat made by Russia against Israel. President Johnson's prompt response by moving the 6th Fleet into the danger area in order to forestall Russian pressure on Israel would have been prohibited under S. 440 because no threat had been made against U.S. forces.

Other situations not covered in the four points are sudden attacks on areas which the Nation is committed by treaty to defend—but not by specific authorizing legislation—regional peacekeeping operations, and humanitarian interventions.

Mr. President, the 30-day limitation on Presidential emergency action is another area viewed as excessively restrictive of the President's power. There are those who feel that under the Constitution the President, as Commander in Chief, has the authority to defend the territory of the United States with all resources at his command for whatever period is required. Thus a statute setting a time limit on the President's authority to act to an exact term, as 30 days, may raise grave constitutional questions.

Several other adverse effects may flow from the 30-day provision under which the President's emergency action would be terminated unless continued by Congress.

It could force Congress into a premature decision or end Presidential action before a full assessment could be made of the situation. It might increase pressure to escalate hostilities in order to achieve the objective within this limited time frame. It may precipitate a premature withdrawal of troops and cause more dislocations or possibly endanger their lives.

Finally, it is possible that if for some reason Congress were not able to act within 30 days, the President would be obliged to do whatever he thought best, again raising the constitutional issue at a time of crisis when the Nation could least afford it.

Mr. President, before closing I would like to point out that the Congress has always had the power to shut off funding for any military operation the Commander in Chief might undertake.

In forming our government, Congress was given the authority to declare war and, of course, Congress holds the purse strings to finance the cost of any war.

Therefore, the Congress has considerable authority in this area and I see no reason for new legislation which would limit the President's ability to meet emergency situations.

For this reason and the others mentioned earlier in these remarks I intend to oppose this bill.

If the Congress does pass this bill, I hope the President will see fit to veto it.

Mr. **EAGLETON.** Mr. President, I send an amendment to the desk.

The **PRESIDING OFFICER.** The clerk will report the amendment.

The assistant legislative clerk read as follows:

> On page 9, line 5, beginning with "but", strike out through "Act" the first time it appears in line 7.

Mr. **EAGLETON.** Mr. President, in brief my amendment would strike almost all of the sentence describing the effective date of S. 440 in section 9. Section 9, when originally added to the bill was a viable section, because then we were operating in the context of a continuing war being experienced in Southeast Asia. However, since the introduction of the bill this year and since the hearings on it in the Senate Committee on Foreign Relations and finally its consideration now on the floor of the Senate, we have had intervening events, which, in my opinion, make the continuation of section 9 an anachronism. Among those events has been the withdrawal of troops from Southeast Asia, and more recently the so-called Cambodian compromise by which August 15 was set as the final date for the cessation of all American military participation in Southeast Asia.

The purpose of my amendment is simply to strike out those anachronistic parts which are no longer effective and to assure that the provisions of S. 440 go into effect immediately on the date of enactment.

In addition, this would incorporate in S. 440 identical language to that appearing in the House bill on war powers.

The **PRESIDING OFFICER.** Who yields time?

Mr. **MUSKIE.** Mr. President, I yield myself such time as I may require. I shall be very brief.

The amendment has been under consideration by the Senator from New York (Mr. JAVITS), the Senator from Mississippi (Mr. STENNIS), and me. Developments since the bill was approved by the committee do create something of a problem.

The provision now in the bill has apparently been covered by the so-called Cambodian compromise adopted a couple of weeks ago. Still, we have not arrived at the date of August 15. But in anticipation of the termination of all U.S. military activities in Indochina by that date, the Senator from Mississippi (Mr. STENNIS), the Senator from New York (Mr. JAVITS), and I are willing to accept the amendment.

Mr. President, at this time I yield to the Senator from New York to discuss the matter more fully with the Senator from Missouri.

Mr. JAVITS. Mr. President, the amendment of the Senator from Missouri has given me very great concern, primarily because we must all remember that this is a bill, as I said when we opened the debate, that has gone through an unbelievable examination.

We have always felt and have consistently made the point that there is no retroactive intent in connection with the bill. We would not provide for retroactivity if we adopted the amendment. The bill would say that it would actually take effect on the date of its enactment. Nevertheless, we thought that there had to be no argument about the hostilities in Vietnam. The Senator from Mississippi (Mr. STENNIS) was very strongly of that view.

We felt the same way when the bill went through the committee about the hostilities in Cambodia. Again, notwithstanding the deep objections we had—which goes for the Senator from Missouri and myself and a great majority of the committee with respect to Cambodia—we still did not wish to bring this bill into that kind of retroactivity.

We do now face a different situation, as has properly been argued. We have adopted the so-called continuing resolution with a cutoff date, and we have a right to assume that will represent an end of everything related to the war in Indochina. So, one could say, as the Senator from Missouri has undoubtedly made clear—although I was not present in the Chamber at that particular instance—that this retroactivity clause he seeks to strike is moot. On the other hand, I am sure that it will take some months for the bill to become law. And, without any question, no one ever knows what may occur.

Also there are rumors, and Washington is always full of them, that the President may seek an extension of the August 15 date.

I rather sense that is another reason that the Senator from Missouri is anxious for his amendment, to serve notice that this will not be very kindly received around here. I think that I would be very much in accord with that notice myself.

I would like, before I agree, to make one further appeal to the Senator from Missouri.

We will take the amendment if he wants us to take it. However, I would like to lay one fact before him. The House has stricken the provision, and if we strike it out of here, we will have nothing to confer about on that matter.

In view of the fact that the House struck the section out of House Joint Resolution 542 on the floor, we would have nothing to confer about and nothing to do in conference with this particular question if in the next 30 days or 60 days some new situation should develop. That is the disadvantage. However, I cannot use that disadvantage as a decisive argument against the amendment.

I can only say to the Senator from Missouri that the Senator from Mississippi (Mr. STENNIS) most reluctantly and I most reluctantly and the Senator from Maine (Mr. MUSKIE) most reluctantly will take the amendment, but we would still commend to his consideration the fact that it would be strictly a matter in conference and that we should leave ourselves room for maneuvering in so delicate a situation.

If the Senator feels absolutely decided on this, we will agree to accept the amendment.

Mr. EAGLETON. Mr. President, without any degree of reluctance I say to the Senator from New York that it is anachronistic. It stands for nothing in the context of today's situation. I would like to go forward with the amendment.

Mr. JAVITS. Mr. President, if the Senator will yield for another question, it is our understanding that the only reason for striking this clause is the fact that precisely the question sought to be dealt with by this clause has been dealt with by the so-called Cambodian compromise in the continuing resolution, the date being August 15.

Mr. EAGLETON. The Senator is correct.

Mr. JAVITS. Mr. President, under those circumstances, I have no objection to the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. MUSKIE. Mr. President, I yield back the remainder of my time.

Mr. EAGLETON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Missouri.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. JAVITS. Mr. President, before we go to third reading, may I have 1 minute.

I do not know of other amendments, except one that might possibly be offered.

I beg the deputy minority leader—because we want to be very understanding about this bill—to advise me on the subject.

The Senator from Colorado (Mr. DOMINICK) gave us notice that he was going to offer an amendment, No. 375, and we are about to shut off the consideration of any further amendments.

So, under those circumstances, I suggest the absence of a quorum and ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, will the Senator from Maine yield 5 minutes to the Senator from New Mexico?

Mr. MUSKIE. Yes, I yield 5 minutes to the Senator from New Mexico. Then I shall yield 2 minutes to the Senator from Florida.

Mr. DOMENICI. Mr. President, I do not believe I shall take the full 5 minutes. As Senators know, I came off a campaign recently. I was in a campaign at the height of the Vietnamese war, and during my campaign for this office last fall, I told my fellow New Mexicans that I pledged my support for those measures which would insure an end to this country's involvement in Vietnam. I have, I believe, lived up to that commitment. I also said that I supported the so-called Stennis War Powers Act. I am doing that today.

The Vietnam war divided our country. Families were divided; friendships were strained over differences in opinion. The war was not an "American war" because in a real way Congress had not declared it such as they did at the time of the First and Second World Wars.

Mr. President, I feel that this measure, despite its imperfections, comes closest to supporting the philosophy shared by this country's founders. It was their feeling that the decision to declare war was so awesome that the President needed the advice of the people's representatives. They learned this lesson studying the causes and effects of "older" Government's past decisions.

I agree with their philosophy. The judgment and responsibility for the decision to wage war have to be shared by the people through their elected representatives. We have again learned that lesson by our involvement in Vietnam. God forbid that we should ever have another war of aggression, but if ever such should occur, it should not be "Kennedy's war" or "Johnson's war" or "Nixon's war" but rather an "American involvement."

We have learned the hard way that when the American people through their elected Representatives do not share in a decision to go to war, they do not bring to it their full support and sense of personal obligation. The spirit of patriotism is absent. The principle established by the war powers bill is that this country should not be committed to war without the sanction of the American people through their elected representation.

This bill is constitutionally sound. It would leave the President ample room for emergency military action should the country's security be threatened. I would not support a limiting bill in that regard. The emergency provisions incorporated in the measure permit the President to take a wide variety of actions in defense of the Nation or its citizens and forces stationed abroad. Thirty days seem to be sufficient time for Congress to decide any Presidential action on its merits—to decide if the action was necessary and if it should be continued.

In addition, this measure would insure that the American people could come together in debate to decide if they should fully commit themselves to disengage our military forces for any activity they disagree with. This principle also seems paramount in the Constitution and necessary for a democracy.

I have also been most concerned that the bill would permit the President wide latitude for foreign policy actions. I do not see any curtailment in that area incorporated in this legislation.

The act provides no panacea, but I believe that it can insure that the collective wisdom of the President and the Congress will be brought to bear, as the Constitution provides, when the all-important questions of war and peace are considered.

Justice Joseph Story in 1933 once remarked—

> It should be difficult in a republic to declare war; but not to make peace.

I believe this measure will leave the President sufficient flexibility to negotiate, to freely participate in foreign affairs. At the same time, Congress will once again assume their proper role of advise and consent. This idea represents democracy. This idea is the premise I support.

Mr. JAVITS. Mr. President, I want to thank the Senator from New Mexico very much, not only for his fine contribution, but also for the deep sincerity with which he has made his speech.

Mr. MUSKIE. Mr. President, I, too, thank the distinguished Senator from New Mexico, and I commend him for keeping his campaign promises.

Mr. President, I now yield 3 minutes to the distinguished Senator from Florida.

Mr. CHILES. Mr. President, I look forward to the opportunity to cast my vote in favor of the War Powers Act. I congratulate the sponsors of the act.

I voted for the War Powers Act at the last session of Congress, and I feel that the vote I cast then and the vote I shall cast today are perhaps the two most important votes I have cast since coming to the Senate.

We have just recently engaged in two Presidential wars, in neither of which did Congress fulfill its responsibility to carry out its constitutional role.

I think we should clearly realize that we have before us a bill that is not directed at the President by limiting the power of the President; it is directed at Congress. It is necessary because Congress has failed to carry out its constitutional duties. There is nothing we can do by statute to limit the constitutional authority of the President. This bill requires Congress to carry out its constitutional duties. It seems that we have failed to do that.

Hopefully, by passing a statute relating to ourselves, we can require those who sit here today and those who will sit here in future days to carry out our constitutional duties. That is actually what we are getting at.

If war should ever come again—God forbid that it should—at least we will go into it knowing that it will have been a decision that is in the national interests of the country, that there has been a national debate, and that there is a chance to be heard, under the republican form of government that has been set up.

For these reasons, I look forward to casting my vote in favor of the bill, and I look forward with great hope that this great bill will become law this year.

Mr. JAVITS. Mr. President, I have been advised by the deputy minority leader that the amendment I had in mind will not be offered.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 440) was ordered to be engrossed for a third reading and was read the third time.

Mr. ROTH. Mr. President, I take this occasion to reaffirm my support for S. 440, the War Powers Act of 1973. I have been a strong supporter of war powers legislation since my first year in the Senate in 1917 when I cosponsored a predecessor of the present bill. I am pleased that the essential features of that version, which owed so much to the initiative and wisdom of Senator STENNIS, have been incorporated in S. 440. I also want to commend the senior Senator from New York and the junior Senator from Missouri who have played major roles in shaping this bill.

It is important to have a clear understanding of just what the war powers bill would do and what it would not do. It provides a determining role for Congress in any decision to go to war, but it does not detract—nor as a statute, can it detract—in any way from the constitutional authority of the President as the Commander in Chief of our Armed Forces.

I believe it is clear that the Founding Fathers intended that Congress should have a role in making any decision to go to war when they provided in the Constitution that only Congress shall have the power to declare war. We have learned from our most recent experience with war, however, that there are situations where U.S. participation in a major conflict can result from a series of incremental decisions, none of them in itself seeming to justify a full declaration of war. In such a case, the respective roles of Congress and the President are unclear and can be the subject of bitter controversy, controversy destructive of national unity at the time it is most needed. Americans most probably will have different views on the wisdom and necessity of our entering a war, but debate should focus on the substance of the issue itself, that is, on the risks and implications of making or not making war, and not on the procedures by which the matter is to be decided. The great contribution that war powers legislation could make would be to provide a definite and established procedure for deciding on war. This would give the public the assurance that whatever decision had been reached reflected the wisdom and judgment of both their elected President and their elected Representatives in the Congress.

There are those who fear that war powers legislation might hamper the President's ability to respond quickly in case of an emergency. Others have argued that the bill gives powers to the President that he does not now have. I have given careful thought to both arguments and am convinced that the present bill strikes the proper balance in giving the President enough flexibility to respond to emergencies but not so much that it undermines the principle of shared powers and responsibilities which lies at the heart of our effort. Under the bill the President would be able to take action necessary to respond to prevent an attack or an imminent threat of attack on the United States or its Armed Forces or to evacuate American civilians endangered by hostilities abroad, but his authority to do so would end in 30 days without further explicit congressional approval. I think this is ample time for Congress to meet and make an appropriate decision on whether further action is necessary or warranted.

I hope that war powers legislation will be speedily enacted. I also hope that it will never have to be used. Unfortunately, war powers legislation cannot in itself make the world any safer a place for America. There are other ways we try to do that—by the skillful exercise of diplomacy, by maintaining a national Defense Establishment sufficient to deter any adventurism against us, by encouraging the peaceful resolution of disputes and facilitating greater people-to-people contacts with both our friends and our enemies. I think the President deserves great credit for his many efforts in these respects.

We cannot, by legislation, change the interests or intentions of any other government in the world. We can, however, insure that our own governmental processes for handling danger conform to our democratic principles and concepts of checks and balances and shared responsibility between Congress and the Executive.

Mr. TAFT. Mr. President, the question of the balance to be struck between the executive and legislative branches is at the very heart of our constitutional form of government. Historically, the initiative in foreign policy lies with the President, and I believe practically every Member of this body would agree that the executive branch must perform many important functions in developing and carrying out U.S. policy throughout the world. The power exercised by the President and the excutive branch, however, must not be arbitrary and unrestrained. The Constitution specifically provides, in article I, section 8, that the Congress shall "declare war" and "raise and support armies" with the President under article 2, section 2, provided with the responsibility as Commander in Chief to conduct war, after receiving congressional approval.

Despite this constitutional mandate, however, there have been at least 165 instances during the history of this Nation when American Armed Forces have been committed abroad. On only five occasions has war been declared by the United States; and as to one of those, the Mexican war, the declaration occurred after two battles had been fought with the Congress in 1848 adopting a resolution stating that the war was commenced "unnecessarily and unconstitutionally" by the President.

Apart from declared wars, the Congress has on several occasions, when American troops have been committed in other nations, adopted measures relating to the propriety of the President's action. The legislation which we are considering today would be in keeping with this tradition of legislative approval and input and by no means inconsistent with the intent of the framers of our Constitution.

Abraham Lincoln focused upon this issue some time ago and I believe that his thoughts are very pertinent today. In a letter to Herndon, President Lincoln stated as follows:

> Allow the President to invade a neighboring nation whenever he shall deem it necessary to repel an invasion, and you allow him to do so whenever he may choose to say he deems it necessary for such purpose, and you allow him to make war at pleasure. Study to see if you can fix any limit to his power in this respect. If today he should choose to say he thinks it necessary to invade Canada to prevent the British from invading us, how could you stop him? You may say to him, "I see no probability of the British invading us"; but he will say to you, "Be silent; I see it, if you don't."

During my service in the House while on the Foreign Affairs Committee I introduced war powers legislation, and in January of 1971, when I began my service in the Senate, I introduced similar legislation on this issue. Last session I testified before the Senate Foreign Relations Committee, stating my concern for action in this area and cosponsored the legislation reported by the Foreign Relations Committee, S. 2956. Unfortunately, the House did not act on this matter. This year I am cosponsoring S. 440, and I am hopeful that the Senate will again approve this legislation. I believe it is imperative not only from a constitutional viewpoint but also from a practical position that citizens in this country, and their representatives have a voice in formulation of U.S. foreign policy.

Mr. TUNNEY. Mr. President, this body votes again today on the War Powers Act, one of the most important pieces of legislation to come before the Congress in a generation. Last year, the Senate overwhelmingly adopted this act. The vote underscored bipartisan concern over the deterioration of the constitutional mandate to vest the war-making power in the Congress. The events of the past year, which saw the President pursue unilateral military activities in Indochina, even after the removal of our troops and prisoners of war, indicate that the need for this legislation has not diminished at all. I am confident that it will be adopted once more by the Senate, and hopeful that this year the War Powers Act will become law.

In the 1950's and 1960's Americans found that our Armed Forces were involved in repeated actions: in Korea, in Lebanon, in Vietnam, and in the Dominican Republic. More than 100,000 Americans lost their lives in these actions, and in not one case was there a formal declaration of war by the Congress. This generation saw peace at home, but suffered from repeated war in remote lands far from our shores.

The Constitution vests the power to make war in the Congress. Both the language of the Constitution and the historical records of the Constitutional Convention underline the unequivocal conclusion of the framers of the Constitution that the Congress—not the President—was granted the authority to engage our Nation in war.

The Constitution recognizes, however, that while the Congress has the power to make war, the President has the power to execute it. The President, as Commander in Chief of the Armed Services, has the authority to respond to sudden attacks, conduct a war once it had started, and to command the Armed Forces once they are committed to action.

In an era of nuclear weapons, there is little likelihood that we will even again see the relatively massive armed conflicts like World Wars I and II. Instead, there will be more insurgencies, civil wars, and localized flare-ups which have marked our most recent history. Such situations may not be conducive to a formal declaration of war—in some cases the parties involved are not even sovereign states. But this does not mean that the constitutional balance on warmaking, created almost 200 years ago, is irrelevant. Indeed, the history of our tragic involvement in Indochina shows just how dangerous the abandonment of the constitutional mandate can be. The Congress and the President must move to share once again the decisionmaking power in this vital area of war and peace. New arrangements can and must be made to take account of both modern technology and communications and our historical and constitutional heritage.

In the past 25 years, there has grown a severe imbalance in the relative voice of the Congress and the President in the warmaking function. Despite the Constitution, despite the consistent traditional separation of warmaking power, affirmed by the courts, the executive branch, and the precedent of a century and a half of our history, the past generation has witnessed the dramatic expansion of the role of the Executive in the power to make war.

It has mattered not whether the President was a Democrat or a Republican. In Korea, in Vietnam, in the Dominican Republic, in Cambodia, and in Laos—a startling variety of locations and activities—the President of the United States has committed a large number of American troops—without congressional approval. Once the Congress was included in the process, it was faced with inadequate information, it was brought into the decisionmaking process well after the inception of the crisis, and often it was confronted with a fait accompli.

This is not to deny that many situations might require an American military presence. It is to stress that the methods selected by recent American Presidents for introducing and maintaining American troops in hostilities indicate that defects exist in the process by which warmaking decisions are made. In response to the increasing preponderance of the Executive in this and related areas, it is essential for the Congress to be involved and to be aware.

The War Powers Act should help Congress in this effort. It should restore to the Congress its proper role in the warmaking process. Our foreign policy can only be enhanced when individual members of Congress recognize that they have the responsibility, on an ongoing basis, for evaluating properly the foreign as well as the domestic policies in which our Nation is involved.

The War Powers Act not only restores the proper role of the Congress in the warmaking process. It also reaffirms the proper role of the Executive. It neither denies nor limits his authority. Section 3 of the bill defines the emergency conditions in which the Armed Forces of the United States may be introduced into hostilities in the absence of the declaration of war of Congress. The President can respond to any of these emergencies for a period of 30 days, after which he must go to Congress—in the absence of certain extraordinary circumstances—to sustain the continued use of the Armed Forces.

Beyond these relatively limited and specific categories, the act provides a final, considerably broader, category which allows the President to introduce the Armed Forces in hostilities in the absence of a declaration of war for any reason—but pursuant to specific statutory authorization.

Mr. President, this legislation is urgently needed. It is more important than ever that the people of America, through their elected representatives, should be closely involved in the crucial decisions of war and peace affecting their lives and well-being. This act will do this, and expose these vital decisions to open discussion and consideration, as they should be. Secret, executive warmaking has led to repeated tragedy for this great nation, and contributed more than anything else to the dissension and bitterness which have unnecessarily and tragically plagued our country in the last decade. The passage of this bill will not only restore the Congress to its rightful place in the constitutional scheme of decisionmaking, but it will also help restore the confidence of the American people in their government, and help to heal the wounds opened by our most recent excursions in undeclared warfare.

Mr. HUDDLESTON. Mr. President, I am pleased to cosponsor and support S. 440, the War Powers Act.

Now that our Nation has disentangled itself from a divisive and little-understood war, we have a special opportunity to learn from the mistakes of the past, to build on a somewhat unfortunate experience and to design for a more secure future.

Many developments offer encouragement for success: the opening of doors to China, the visit of Mr. Brezhnev to our country, the promise of continued progress at the SALT talks, the convening of the East-West Security Conference in Helsinki, and the President's reaffirmation of our Nation's continued commitment and special relationship with Europe.

We must not, however, permit these sanguine developments to divert us from a needed period of introspection—not a breast-beating or destructive period—but a constructive one designed to create structures and processes that will preclude our repeating mistakes of the past. Certainly we cannot predict the future and we cannot foretell and forestall all possible misadventures. But we can take steps to prevent a repetition of those events and actions we would prefer to see not happen again.

The war powers legislation before us reflects the best of our efforts to insure wiser courses in the future in the use of U.S. troops abroad.

It is soundly based legislation—not on some new foundation—but upon the concepts of the past and on a government of balanced powers conceived almost 200 years ago.

The principal premise of S. 440 is that the war powers are, under the Constitution, shared powers and that both the Congress and the Executive have prerogatives—and responsibilities—when U.S. Armed Forces are to be involved in hostilities abroad.

The prerogatives of the Executive lie in article II, section 1, of the Constitution which provides that the "Executive Powers shall be vested in a President of the United States of America" and in section 2 of the same article which specifies that the President shall be Commander in Chief of the Army and Navy and shall have the authority to negotiate treaties and appoint ambassadors, both, with the advice and consent of the Senate.

The basis for legislative power in the committing of troops to hostilities abroad rests in article I, section 8 of the Constitution which authorizes Congress to provide for the common defense, to declare war, to raise and support—for up to 2 years at a time—an Army and Navy, to make rules to regulate and govern the military forces; to provide for calling out the militia to enforce laws, suppress insurrection and repel invasion; and to make all laws necessary and proper for carrying into execution its forementioned powers and all other powers vested by the Constitution in the Government of the United States, or in any Department or officer thereof.

The questions which have arisen over the exercise of the so-called war powers derive from interpretations of these powers, the intent of the framers of the Constitution and the practices of history.

Obviously, some of the constitutional provisions referred to are ambiguous and overlapping as to exercise. Furthermore, the courts, thoughout our history, have been reluctant to rule on cases involving these powers, as they relate so directly to the separation of powers.

Still there are interpretations and there are both notes on and writings by the participants in the Constitutional Convention, which provide some guidance on the meaning of the provisions. These interpretations and writings suggest, first of all, that the framers drew a distinction between offensive and defensive actions. Alexander Hamilton, for one, wrote that the Constitution provided that—

> "The Congress shall have power to declare war", the plain meaning of which is, that it is the peculiar and exclusive province of Congress, when the nation is at peace, to change that state into a state of war, whether from calculations of policy, or from provocations or injuries received; in other words, it belongs to Congress only, to go to war. But when a foreign nation declares or openly and avowedly makes war upon the United States, they are then by the very fact already at war, and any declaration on the part of Congress is nugatory; it is at least unnecessary.

Second, the power of the President in the utilization of forces abroad is not unlimited. Thomas Jefferson, noted that—

> We have already given in example one effectual check to the Dog of War by transferring the power of letting him loose from the Executive to the legislative body, from those who are to spend to those who are to pay.

And, Dr. Henry Steele Commager, in testimony before the Senate Foreign Relations Committee, suggested:

> The power to begin a war is lodged very clearly in the legislative branch, and the power to fight a war, to make the war, is lodged in the Executive.

Third, there are constitutional and legal bases for congressional authority to set regulations and prerequisites for the use of U.S. troops abroad. One of these is the latter part of the necessary and proper clause, which empowers Congress to enact laws necessary and proper for carrying out the powers vested by the Constitution in the Government of the United States, or in any Department or officer thereof—in other words, to set procedures for the Executive and executive departments, such as Defense or State, to follow in exercising their authorities. Another, as Prof. Richard B. Morris pointed out in 1971 hearings before the Senate Foreign Relations Committee, is that since—

> Congress was given, under the Constitution, the right to declare war, it has the right to pass enabling legislation to indicate just what war is.

Finally, there are a few—a scant few, to be sure, and mainly from the early years of our Nation—but a few court cases, such as the Eliza, the Flying Fish and Prize cases, which lend credence to the argument that there must be a congressional basis for the exercise of war powers.

I believe, therefore, that there is a very adequate constitutional basis for the war powers legislation before us, and that, as Prof. Alexander Bickel recommended in the 1971 hearings, the way for Congress to reassume the constitutional powers it does have, is to reassume them. Intrinsically, the war powers bill is an attempt to redress the imbalance which, by practice and legislative inaction, grew up between the Executive and legislature and to replace it with an equilibrium based upon shared constitutional authorities and upon the concepts of a balance of powers and a separation of powers.

Beyond this, however, there are two practical bases for the legislation before us. The first, of course, is that we must seek to avoid those involvements which are likely to come to be considered as contrary to our Nation's interest and lacking of our people's support. I would be the first to admit that that is not an easy task. The future does not reside in a crystal ball, revealing events and allowing us the luxury of time to examine and analyze policy options and their implications. And, even if it did, there would be no guarantee against fallacies of our own judgments.

But, not attempting to anticipate situations and not preparing for possible alternatives breeds its own ill results. A divisive war contributes little to a nation. And, there is perhaps nothing less conscionable than asking the young men of a nation to fight in a war with obscure and unnamed objectives and without home support. As Senator JOHN STENNIS, the chairman of the Armed Services Committee so eloquently stated:

> The overriding issue is that we must insure that this country never again goes to war without the moral sanction of the American people. This is important both in principle and as practical politics. Vietnam has shown us that by trying to fight a war without the clear-cut prior support of the American people, we not only risk military ineffectiveness but we also strain, and can shatter, the very structure of the Republic.

At a time when our Nation continues to have a multitude of commitments throughout the world, as outlined in such detail in the study of U.S. Security Agreements and Commitments Abroad, we must continue to seek ways to avoid unwanted entanglements.

Beyond that, however, we must as I noted in the opening paragraphs of these remarks use this time to seek the creation of new procedures and structures to insure a more secure world for ourselves, our children and all Americans to come. To do that, we must build at home and abroad. I have already referred to a number of the promising developments abroad. S. 440 is a promising development at home.

The war powers legislation represents one method by which we can strengthen our domestic processes—one means of bringing the collective judgment of the Congress and the executive branch to bear on the use of our Nation's Armed Forces. It represents one means by which we may, hopefully, have better decisions and greater cooperation in the future in the very significant area of warmaking. It represents one means by which we might not only restore a constitutional balance, but a balance among the views, opinions, and options of those who have been selected to lead and the millions more they represent.

Mr. President, this legislation is the responsible way for Congress to discharge its obligations—not only to provide for this Nation's defense and all that implies—but also to promote peace and security. I urge its adoption by the Senate.

Mr. TALMADGE. Mr. President, the single most important decision we as a nation can make is the decision to go to war.

In our Nation's relatively short history of 197 years, the Armed Forces of the

United States have been committed abroad on 174 separate occasions. Yet, the Congress has formally declared war only five times.

This means that for every war declared by the Congress, we have been involved militarily on over 30 other occasions solely at the direction of the President.

Our Nation has been at war for 16 of the last 23 years, and in the last 10 years alone Presidents have launched major military interventions in seven different nations.

In short, Mr. President, since World War II, our Nation has become greatly overextended throughout the world, militarily, politically, and economically, often without any expressed congressional mandate.

The expansion of Presidential authority and the erosion of Congress' role in foreign affairs generally and in war policy specifically have precipitated a constitutional imbalance of grave proportions.

The purpose of S. 440, the so-called War Powers Act, is to restore that constitutional balance of responsibilities between the executive and legislative branches without hamstringing the President in the performance of his duties as Commander in Chief.

How does this legislation go about accomplishing this goal? Stated simply, it defines the circumstances in which the President, without prior congressional authorization, can unilaterally commit the Armed Forces of our Nation, and the circumstances in which prior congressional authorization is required before the President can act militarily.

The starting point, and rightly so, is the Constitution itself. The bill recognizes that the Constitution vests in the President the power, even in the absence of a congressional declaration of war, to use American forces to repel sudden attacks on U.S. territory or U.S. forces outside this country, and to protect U.S. nationals whose lives are endangered abroad. These emergency powers have been exercised by various Presidents in the past, and there is no question that this authority arises from the President's independent constitutional office as Commander in Chief.

The bill goes to great lengths to preserve and protect these constitutional prerogatives of the President. Recognizing that ours is a troublesome and perilous world, it further empowers him to use the Armed Forces to forestall the threat of a direct and imminent attack on this country or this country's forces abroad.

However, the bill clearly and unequivocally states that any other use of the Armed Forces by the President for any other purpose in any other circumstance is prohibited, unless specifically authorized by Congress by law in advance.

Perhaps most importantly, Mr. President, the bill prescribes procedures by which the Congress may overrule the President's exercise of his emergency war powers.

Any commitment of U.S. forces initiated by the President under the emergency conditions outlined in the bill is limited to 30 days, unless Congress by specific legislation authorizes their continued use.

Moreover, if it disapproves of the President's action, Congress may pass legislation terminating the use of our forces before the 30-day period has expired.

In my judgment, these provisions are the essence of the bill. The President, any President, would stand forewarned against any emergency use of the Armed Forces that did not conform with the law and that would not command the support of the Congress and the American people.

We want no more of this calling of American troops into action because of some vague treaty commitment or executive agreement.

Let us have no more of this implying or inferring after-the-fact approval of a Presidential war because of congressional passage of an appropriations bill providing supplies and ammunition to troops already in the field of battle.

Finally, Mr. President, in cosponsoring and supporting this legislation, my intention is not to criticize those Presidents whose administrations have spanned the Vietnam war. My desire is not to strip the Commander in Chief of his rights and responsibilities under the Constitution. Nor am I motivated by jealousy or animosity toward the executive branch. If any indictment lies, it more appropriately lies with the Congress which has stood mute while its constitutionally vested role in war policy and decisions was eroded.

In answering the question of why, after 197 years, a war powers bill is needed now, let me restate what I said at the outset: The single most important decision we as a nation can make is the decision to go to war. I strongly feel that we must make that decision as a nation. In the recent past, however, the President, acting virtually alone, has determined whether we followed a course of war or peace. This is not right. It is the people who should decide this course, through their elected representatives. The decision is too great for one man to make alone.

The War Powers Act, S. 440, is a step in the right direction toward restoring this authority and this responsibility to the people and creating a better and more effective partnership between the Congress and the executive branch in foreign affairs.

Mr. HRUSKA. Mr. President, I rise in opposition to the bill S. 440 "to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress."

This is a bill which seeks to legislate in a field of constitutional considerations; to try to effect a change in powers granted to the President by the Constitution.

To the extent it does so, it will be totally ineffective, and without force or effect, except perhaps to confuse, delude, and even render affirmative harm.

It is quite clear that wide sympathy for the bill is based upon a desire to do something about future Vietnams. This is understandable because memories of the unhappy episode are still strong and bitter. While such an objective to do something about future episodes is laudable, the bill would be highly counter-productive in this regard. The greater likelihood is that of engendering Vietnam-type situations in the future, rather than preventing them.

The Constitution's meaning regarding deployment of our Armed Forces abroad has become well defined in these past 185 years. This has come about not only through the explicit language of the Constitution, but also through usage in literally scores of instances.

Such development and usage have served our Republic well. Even if a statute could change them, it would not be wise to do so.

But it is respectfully submitted that the pending measure cannot alter that which the Constitution confers. It is to this proposition that I address myself.

Under the Constitution the power to declare war, to raise and support the military, and related powers, are vested in the Congress. The power to command and to deploy the Armed Forces is vested in the President as Commander in Chief. As Prof. Eugene Rostow pointed out in a debate with Prof. Alexander Bickel at Yale Law School last October, this is a typical example under our Constitution of divided power which is also shared. There are many other examples as well.

Before us now is a bill designed to define the limits of the President's authority in this area. This is, so it is claimed, a restorative measure, offered to insure that Congress may freely exercise those powers the Constitution and the courts have said it already has. But in attempting to make specific what the Constitution has left general, and in trying to define in advance the outer limits of the President's authority to act in the interest of national security, S. 440 charts a precarious constitutional course.

Congress cannot by legislation draw to itself power meant to be shared at the least, and at the most to be exercised by a coequal branch of government. If S. 440 does this, it is unconstitutional. If it does not, it amounts to a useless surplusage which could easily lead to misunderstanding both within and outside this country.

Does the power of Congress to participate in the warmaking process need to be restored? I think history argues to the contrary. There have been close to 200 instances in which this country has employed military force. There have been but five formal declarations of war during this period, with perhaps six additional congressional authorizations. This Senator is compelled to agree with Professor Rostow, who asserted during the previously mentioned debate with Professor Bickel at Yale, that there has been no substantial change in recent years in the pattern of constitutional usage regarding the division of the war powers between Congress and the Presidency.

Mr. President, I am most fearful that what we have in S. 440 is not an effort to restore atrophied authority—an authority which is as alive and viable now as it was when the Constitution was framed—but is instead an attempt to amend the Constitution by a simple legislative act.

Cases have been put forward in support of this legislation which, in the opinion of this Senator, represent extremely dubious legal precedent. A prime example is the case of *Youngstown Sheet and Tube Co.* v. *Sawyer*, 343 U.S. 579 (1952). This decision related to a purely domestic effort to take over the major steel mills of this country. If the case stands for anything at all, it is the reaffirmation of the President's authority to act as Commander in Chief in response to external threats as expressed in the following language from the opinion by Justice Jackson:

> We should not use this occasion to "circumscribe", much less to contract, the lawful role of the President as Commander-in-Chief. I should indulge the widest latitude of interpretation to sustain his exclusive function to command the instruments of national force, at least when turned against the outside world for the security of our society.

Other cases such as *United States* v. *Midwest Oil Company*, 236 U.S. 459 (1915), are not only of questionable support for the limitations drawn in S. 440, but may actually provide precedent for the opposition point of view.

These cases and all other relevant decisions need to be analyzed and placed in their proper perspective by recognized constitutional scholars. Existing bodies of opinion need to be gathered within a logical framework of study. The Judiciary Committee is the place to do this, Mr. President, not the Senate floor.

Reasonable men often differ on questions of great moment. The approach taken in this legislation has been generally supported by Professor Bickel of Yale, and opposed by Professor Moore of the University of Virginia—both men distinguished legal scholars. This type of disagreement is not new. But the fact that there is some basic disagreement on what Congress can do under the Constitution by attempting to legislate in this area only underscores the fact that we must proceed with great caution.

We will soon celebrate our 200th year as a Republic. The basic war powers provisions in the first two articles of our Constitution have remained as the guiding principles throughout our history, throughout the almost 200 incidents where armed force was employed by this country outside its borders. It is late in the day for us to now proclaim that we must have legislation now to improve this balance of power, to somehow make it balance better. Mr. President, either something balances or it does not. And as I read the Constitution, the balance is there—and has been all along. The Congress has been playing its role all along, through the use of the pursestrings, regulation of the size of the military, and expressions of viewpoints either in accord with or in opposition to policies taken by the executive branch. If the results have not always turned out to our liking, this does not mean that the Constitution is at fault—only ourselves.

If it is felt that the provisions of the Constitution dealing with war powers are indeed in need of revision, let us then approach this subject in the proper fashion. We have amended the Constitution from time to time. It can be done again, if need be. But I do not believe bills like S. 440 can legally be utilized to do this.

Mr. President, scholarly literature on this subjest is quite volumious. One of the better papers is the one delivered before the Subcommittee on National Security Policy and Scientific Development (Committee on Foreign Affairs) in the House of Representatives on July 1, 1970. The witness was the Honorable William H. Rehnquist, then Assistant Attorney General, Office of Legal Counsel. He is now a Justice of the United States. I ask unanimous consent that the text of his statement be printed at the conclusion of my remarks.

Mr. President, the Senate would do well to reject this pending bill.

There being no objection, the statement was ordered to be printed in the Record, as follows:

STATEMENT OF WILLIAM H. REHNQUIST

Mr. Chairman: I am pleased to appear before the Subcommittee this morning to discuss the constitutional division of war-making authority between the President and Congress. I shall discuss the legal and historical authorities which seem to me relevant on this question. I have tried to make myself familiar with a number of the bills and resolutions which are currently before this Subcommittee and would be happy to answer questions on them. However, my presentation will be addressed to the overall constitutional question presented and will not focus specifically on these proposals.

As Mr. Stevenson has already pointed out, the constitutional question under consideration is an exceedingly difficult one. Both the President and Congress have some measure of authority over war-making. The Congress is specifically granted the powers "to raise and support armies," "provide for the common defense". "to declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water," "provide and maintain a navy," "to make rules for the government and regulation of the land and naval forces," and "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers. . . ." The President, on the other hand, is designated as the "Commander-in-Chief of the Army and Navy of the United States" and is directed to "take Care that the Laws be faithfully executed." This textual allocation of authority readily suggests that a division of the Nation's war power between the President and Congress was intended. An examination of the proceedings of the Constitutional Convention confirms that suggestion. Those proceedings clearly indicate that the Framers did not intend to precisely delimit the boundary between the Executive Branch and that of the Legislative Branch. While the Framers rejected the traditional power of kings to commit unwilling nations to war, they at the same time recognized the need for quick Executive response to rapidly developing international situations.

The accommodation of these two interests took place in the session of the Convention on Friday, August 17, 1787. On that date, the Convention was discussing draft language which would have empowered Congress "to make war". The Convention, of course, ultimately decided to confer instead the power "to declare war". The debate which led to this change, I believe, is illuminating. Charles Pinckney urged that the war-making power be confided to the Senate alone, while Pierce Butler asked that the power be vested in the President. James Madison and Elbridge Gerry then jointly moved to substitute the word "declare" for the word "make," thus "leaving to the Executive," in their words, "the power to repel sudden attacks." Here then was the Convention's recognition of the need for swift Executive response in certain situations. Rufus King supported substitution of the word "declare" on the ground that the word "make" might be understood to mean "conduct war" which he believed to be an Executive function. It is interesting to note that when the first vote on the motion was taken, there were two votes in favor of retaining "make." However, after Mr. King made his point regarding the conduct of hostilities, the representative from Connecticut, Mr. Ellsworth, changed his vote to support the substitution. Thus, the only dissenting vote was that of New Hampshire. Pinckney's motion to strike out the whole clause and thereby presumably vest the entire war-making power in the Executive was then defeated by voice vote.

The Framers were painting with an extremely broad brush; they likely realized that it would be unwise to attempt to fix in detail, and to freeze, the allocation of authority between the President and Congress. The Framers undoubtedly recognized the wide variety of international situations which might arise and saw fit to do no more than announce general contours of the authority of the President and Congress. Several of the pending legislative proposals are, I believe, inconsistent with this salutary approach, and I believe for that reason that their enactment would be unwise.

The Convention debate indicates that the Congress has exclusive authority over some phases of war-making and that the President has similar authority over others. Congress, for example, is the only branch of government which can formally declare war. On the other hand, the President has unrestricted and exclusive authority to repel sudden attacks. It is between these two ends of the spectrum that the question of deployment of troops or commitment of them to limited hostilities arises. In this area of "shared power," an attempt must be made to understand the process of decision leading to the deployment and commitment to combat of our Armed Forces. There are many historical precedents. On numerous occasions the President has consulted the Congress before taking action; on numerous others, he has not. If these precedents demonstrate anything, they demonstrate that different situations require different responses and procedures, and that hard and fast rules should be avoided.

The Cuban missile crisis is a case in point. In that instance, it should be noted that Congress had enacted a joint resolution in September, 1962, before the Russian missiles were discovered. The language of the resolution was quite broad and it arguably authorized President Kennedy's later action. I would suggest, however, that even without that resolution President Kennedy's action was entirely consistent with the constitutional framework. Although there had been no actual attack on the United States and it therefore could not be said that President Kennedy was repelling a sudden attack, the situation was a grave one and the threat to the Nation's security necessitated a speedy and effective response. The situation required immediate action, and there was insufficient time after the discovery of the missiles and launching apparatus for formal consultation with Congress. In my judgment, it would be a great mistake to attempt to prevent a President from responding immediately to a similar threat arising in the future.

I should like to turn my attention now to the suggestion which has now gained currency in some quarters; namely, that Congress in recent decades has relinquished its constitutional authority over war-making to the President. Stated categorically, this contention cannot withstand an examination of the record. In the first place, recent Presidents have repeatedly called upon Congress to share in expressing the determination of the United States to meet foreign aggression.

Congress, of course, enacted the Gulf of Tonkin Resolution at the request of President Johnson. Similarly, Congress enacted resolutions in 1962 in regard to Cuba and in 1958 in connection with the Middle East. In each of these instances, Congress and the President acted together, and thus presented a united front to the world. Where time permits consultation, this unity should be sought for it is unquestionably in the best interests of the nation that Congress and the President speak with a single voice on such a subject.

Congress, then, has exercised its constitutional authority in recent years. This is not to say, however, that Congress must always be consulted before American Armed Forces are deployed or committed to hostilities abroad. There are numerous instances in our history in which Presidents have deployed American Armed Forces outside of the United States in a way which invited hostile retaliation from a foreign power. Congress has on some of these occasions acquiesced in the President's action without formal ratification; on others it has ratified the President's actions; and on still others it has taken no action at all. On several of the occasions, individual members of Congress, and, at the close of the Mexican War, one House of Congress, on a preliminary vote, have protested Executive use of the Armed Forces. While a particular course of Executive conduct cannot conclusively establish a constitutional precedent in the same manner as it would be accomplished by an authoritative judicial decision, a long-continued practice on the part of the Executive, acquiesced in by the Congress, is itself some evidence of the existence of the constitutional authority necessary to support the practice. As stated by Justice Frankfurter in his concurring opinion in *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U.S. 579, 610.

"The Constitution is a framework for government. Therefore the way the framework is consistently operated fairly establishes that it has operated according to its true nature. Deeply embedded traditional ways of conducting government cannot supplant the Constitution or legislation, but they give meaning to the words of the text or supply *& Tube Co.* v. *Sawyer*, 343 U.S. 579, 610:

The historical examples have been marshaled in numerous recent studies of the President's powers, and I will but summarize some of them briefly.

President Jefferson, in 1801, sent a small squadron of American naval vessels into the Mediterranean to protect United States commerce against the Barbary pirates. He was of the view that for these ships to take offensive, as opposed to defensive, action, congressional action would be necessary. Yet it is worth noting that by dispatching these warships to the Barbary Coast to protect United States commerce from piracy, Jefferson invited retaliation.

In 1845 President Polk ordered military forces to the coast of Mexico and to the western frontier of Texas in order to prevent any interference by Mexico with the proposed annexation of Texas to the United States. Following annexation in 1946, Polk ordered General Zachary Taylor to march from the Nueces River which Mexico claimed as the southern border of Texas, to the Rio Grande River, which Texas claimed as her southern boundary, and beyond. While so engaged, Taylor's forces encountered Mexican troops, and hostilities between the two nations commenced on April 25, 1846.

There had been no prior authorization by Congress for Taylor's march south of the Nueces. Justice Grier, in his opinion in *The Prize* cases, commented on this fact, stating:

"The battles of Palo Alto and Resaca de la Palma had been fought before the passage of the act of Congress of May 13, 1846, which recognized 'a state of war as existing by the act of the Republic of Mexico.'" 2 Black 634.

In 1854, President Pierce approved the action of the naval officer who bombarded Greytown, Nicaragua in retaliation against a revolutionary government that refused to make reparations for damage and violence to United States citizens. This action was upheld by Justice Samuel Nelson, a Justice of the Supreme Court of the United States, sitting as a Circuit Justice in *Durand* v. *Hollis*, 4 Blatch. 451 (1860). In his opinion in that case, Justice Nelson said:

"The question whether it was the duty of the President to interpose for the protection of the citizens at Greytown against an irresponsible and marauding community that had established itself there, was a public political question, in which the government, as well as the citizens whose interests were involved, was concerned, *and which belong to the Executive to determine;* and his decision is final and conclusive, and justified the defendant in the execution of his orders as Secretary of the Navy." 4 Blatch. 454–455 (emphasis supplied).

In April, 1861, President Lincoln called for 75,000 volunteers to suppress the rebellion by the southern states, and proclaimed a blockade of the Confederacy. These actions were taken prior to their later ratification by Congress in July, 1861. The Supreme Court upheld the validity of the President's action in proclaiming a blockade in the *Prize Cases.*

In 1900, President McKinley sent an expedition of 5000 United States troops as a component of an international force during the Boxer Rebellion in China. While Congress recognized the existence of the conflict by providing for combat pay, it neither declared war nor formally ratified the President's action.

Similar incidents in Central America took place under the administrations of Presidents Theodore Roosevelt, Taft and Wilson. Naval or armed forces were sent to Panama, Nicaragua, and twice to Mexico in the first two decades of the Twentieth Century. On none of these occasions was there prior congressional authorization.

Prior to the Vietnam conflict, the most recent example of Presidential combat use of American forces without congressional declaration of war was President Truman's intervention in the Korean Conflict. In many senses, this is undoubtedly the high water mark of Executive exercise of the power of Commander-in-Chief to commit American forces to hostilities.

Following the invasion of South Korea by the North Koreans in June, 1950, and a request for aid by the United Nations Security Council, President Truman ordered air and sea forces to give South Korean troops cover and support and ordered the Seventh Fleet to guard Formosa. Ultimately 250,000 troops were engaged in the Korean War which lasted for more than three years.

President Truman relied upon the United Nations Charter as a basis for his action, as well as his power as Commander-in-Chief. The fact that his actions were authorized by the United Nations Charter, however, does not reduce the value of the incident as a precedent for Executive action in committing United States Armed Forces to extensive hostilities without a formal declaration of war by Congress. The United Nations Charter was ratified by the Senate and has the status of a treaty, but it does not by virtue of this fact override any constitutional provision. *Geofroy* v. *Riggs*, 133 U.S. 258; *Reid* v. *Covert*, 354 U.S. 1. If a congressional declaration of war would be required in other circumstances to commit United States forces to hostilities to the extent and nature of those undertaken in Korea, the ratification of the United Nations Charter would not obviate a like requirement in the case of the Korean Conflict.

Presidents have likewise used their authority as Commander-in-Chief to deploy United States forces throughout the world. Critics of President Wilson claimed that his action in arming American merchant vessels in early 1917 precipitated our entry into the First World War.

Similarly, President Roosevelt's critics have asserted that various actions he took to aid the Allies in the year 1941 played a part in our involvement in the Second World War. Whatever substance there may be to these criticisms, the Presidential actions do stand as the constructions placed by those two Presidents on their power as Commander-in-Chief of the Armed Forces.

I do not contend that these historical precedents establish the principle that the President alone has authority to deploy and commit American Armed Forces abroad. I mention them for the purpose of demonstrating that throughout our history our Presidents have, on occasion, deployed American forces without first obtaining congressional authorization. To be sure, our recent Presidents have engaged in the same practice, but in view of the similarity between the practices followed this century and last it cannot be validly contended that congressional authority has eroded in recent years. Far from demonstrating any weakness in our system, the events of the last two hundred years confirm the wisdom of the flexible design set out in the Constitution.

I would close by stating the obvious fact that this is an area in which cooperation between the President and Congress is vitally important. The suggestion that the power of Congress has somehow "atrophied" is untenable. If Congress had occasion to complain of President Truman in 1950, it had equal occasion to complain of President Polk in 1846.

The Framers did not set up a checkerboard of rigidly marked alternately colored squares with one color assigned to the President and the other to Congress. They designed a more flexible plan for joint responsibility which left room for "play at the joints." Indisputably belonging to Congress alone is the decision as to how much money shall be appropriated to the raising and supporting of United States military forces. Indisputably belonging to the President alone is the power to repel sudden attacks, the power to determine how hostilities lawfully in progress shall be conducted, and the power to protect the lives and safety of U.S. forces in the field. The middle ground is understandably less clearly delineated, but there are guideposts based both on historic usage and the language of the Constitution which shed light on the proper allocation of responsibility in particular cases. More than this the Framers wisely did not attempt; and I seriously question whether their decision on this point should, even if it could, be reversed by enactment of legislation now pending before the Committee.

The enactment of legislation which would lay down specific guidelines as to the respective constitutional roles of the President and Congress, runs counter to each of these principles.

Mr. ROBERT C. BYRD. Mr. President, I rise in support of S. 440, the war powers bill, of which I am a cosponsor. No legislation, in my judgment, is more essential than is this bill in the efforts of the Congress of the United States to restore a proper balance between the executive and legislative branches of government.

The significance of this bill, however, goes beyond that immediate and desirable objective. It is important to all citizens as well, inasmuch as the life of every citizen of this Republic can be affected by the far-reaching decisions which may be made with respect to the questions of war and peace.

This bill plows no new ground. It seeks instead, to reaffirm and to reestablish the original intent of the framers of the Constitution. Its aim, in the simplest terms, is to set forth guidelines for the use of the Armed Forces of the United States in so-called "undeclared wars," so that in the future the best judgment of both the Congress and the Chief Executive may jointly be brought to bear upon the problem at hand.

Not only the events of recent years, but also the use of U.S. forces in undeclared hostilities by Presidents in years past, make this legislation necessary. Passage of this bill is especially important at this point in our history when the United States is moving toward a reassessment of its responsibilities and its future role as a world power. The approval of this bill is needed so that in the future there may be no mistake and no misunderstanding about the circumstances in which our Armed Forces may be used without a declaration of war by the Congress.

The authority of the President of the United States to act appropriately in an emergency is not impaired by this bill. Section 3 of this measure spells out in detail the conditions or circumstances under which the President, as Commander in Chief, can act to repel or forestall sudden attacks, or to protect U.S. citizens whose lives might be endangered abroad. Subsections (1), (2), and (3) codify the implied power of the President to act in emergency situations. Subsection (4) of section 3 deals with the delegation by Congress of additional authority to the President through statutory action and establishes a means by which the President and the Congress, working together, could act to deal with any contingency which might arise.

It is this provision of the bill which would be brought into play in any future situation such as that from which we are only now extricating ourselves in Indochina. The language here would require that the Congress participate with the President in any decision to authorize use of the Armed Forces in any situation other than the three emergency categories of sudden attack upon the United States, attack upon its Armed Forces, or the protection of its nationals abroad.

Section 5 of the bill provides the 30-day limitation upon emergency action by the President, and seems to me to be as satisfactory a solution as may be devised to the problem of reconciling the necessity for swift retaliatory action in the event of attack with the constitutional requirement that Congress make the ultimate judgment upon the question of waging war.

It is not my purpose in these brief remarks to go into more detailed aspects of S. 440. Suffice it to say, I think, that this is a bill whose time has come. Presidential warmaking must be brought under control. The Congress must reassert itself in this vital area in which the Constitution makes it so unmistakably clear that the legislative branch bears the ultimate responsibility. The disclosures this week of the hundreds of secret U.S. bombing raids carried out over Cambodia and Laos—and the falsification of reports concerning them—sharply underscores the necessity for action.

If war is too important a matter to be left to the generals, it is also too important a matter to be left to the Commander in Chief alone. This is not to suggest that the Congress is infallible in its wisdom. But in times when national commitments may require action, or in times of national peril, the collective best judgment of the Nation's elected leaders—legislative and executive together—is the Nation's one best hope of following the right course of action.

Mr. DOLE. Mr. President, the War Powers Act before the Senate today is a proposal of substantial importance to the Nation. It steps into one of the Constitution's uncharted gray areas and attempts to establish some clear lines of authority, responsibility and direction where now there is only the ambiguity of yesterday's history and the uncertainty of tomorrow's events and circumstances.

The war power is one of the most important aspects of nationhood. It is a country's ability to defend itself and assert its rights in the world. Over the course of history the war power has been abused by some nations, and the right of self defense has undergone a cancerous mutation into a tool of aggression. But as we look back at other nations and the history of wars between them, we see that the abuse of the war power did not usually originate with the nation itself, its people. Rather this abuse grew out of improper allocation or assumption of the ability to use the war power. Sometimes this wrongful use of the war power could be traced to structural deficiencies in the government. In other cases the structure was sound, but individuals or groups within the structure were unwise, subject to error or manifestly evil.

Our country, however, has had the blessing of a sound constitutional framework which has given full opportunity for good to prosper, has given room for error to be discovered and has never permitted evil to be unleashed.

To fully appreciate the importance of this wise and wonderful foundation for our Republic and understand the evolution of the war power's exercise, it would be appropriate to look back over a period of events beginning 196 years ago next month.

DIVISION OF THE WAR POWER

The draftsmen of the Constitution clearly intended to divide the war power between the President and Congress, but just as clearly, did not intend to precisely define that boundary. They rejected the traditional power of kings to commit unwilling nations to war to further the king's international political objectives. At the same time, they recognized the need for quick presidential response to rapidly developing international situations.

The accommodation of these two interests took place in the session of the constitutional convention on Friday, August 17, 1787, when the enumeration of the powers of Congress were submitted to the delegates. A discussion occurred on the draft language empowering Congress "to make war."

As reported by James Madison, Charles Pickney urged that the warmaking power be confided to the Senate alone, while Pierce Butler urged that the power be vested in the President. James Madison and Elbridge Gerry then jointly moved to substitute the word "declare" for the word "make," "leaving to the President the power to repel sudden attacks." John Sherman expressed a preference to "make" as opposed to "declare," because the latter was too narrow a grant of power. However, he expressed the view that the grant of power to Congress to "make" war would nonetheless permit the President to repel attack, although not to commence war. Gerry and George Mason opposed the giving of the power to declare war to the President. Refus King supported the substitution of the word "declare," urging that the word "make" might be understood to mean "conduct" war, which later was a presidential function.

With only New Hampshire dissenting, it was agreed that the grant to Congress should be of the power to declare war. Pinckney's motion to strike out the whole clause, and thereby presumably to leave the way open to vest the entire warmaking power in the President, was then defeated by a voice vote.

The Framers of the Constitution, in making this division of authority between the executive and the legislative branches, did not make a detailed allocation of authority between the two branches. But nearly 200 years of practice has given rise to a number of precedents and usages, although it cannot be confidently said that any sharp line of demarcation exists as a result of this history.

RECOGNITION OF ARMED CONFLICT SHORT OF "WAR"

Before turning to historical practice for the light which it throws upon the proper interpretation of the President's power, let me first dispel any notion that the United States may lawfully engage in armed hostilities with a foreign power only if Congress has declared war. From the earliest days of the Republic, all three branches of the Federal Government have recognized that this is not so, and that not every armed conflict between forces of two sovereigns is "war." This fact affords no final answer to the constitutional question of the division of authority between the President and Congress in exercising the war power, but it does suggest that the effort to find an answer is not advanced by a mechanical application of labels to various fact situations.

Congress, during the so-called undeclared war with France which lasted from 1798 to 1800, authorized by statute limited use of this Nation's Armed Forces against those of France. The fifth Congress, 1 Statute 578.

In *the Eliza*, a case arising out of this "undeclared war," the Supreme Court described differences between war and other armed conflicts as being differences between "solemn war" and "imperfect war":

> If it be declared in form, it is called solemn, and is of the perfect kind: because one whole nation declaring war are authorized to commit hostilities against all the members of the other, in every place and under every circumstance. In such a war, all the members act under a general authority, and all the rights and consequences of war attach to their condition.
>
> But hostilities may subsist between two nations, more confined in its nature and extent; being limited as to places, persons and things; and this is more properly termed imperfect war; because not solemn, and because those who are authorized to commit hostilities act under special authority and can go no further than to the extent of their commission. *The Eliza*, 4 Dall. 37, 40-41.
>
> (NOTE.—In that case, a French privateer took possession of an American ship that was later recaptured by Americans who claimed entitlement to payment from the ship's owners. The questions arose in interpretation of two statutes as to what they were entitled to. To answer that question, the Court had to decide whether we were at war with France.)

While the Court termed both forms of military action "war," the distinction which it drew likewise separates the declared wars of the 20th century, such as the two World Wars, and the undeclared armed conflicts such as have more recently occurred in Korea and in Southeast Asia. In both of the two World Wars, the declarations of war were viewed by the executive branch to authorize complete subjugation of the enemy, and some form of "unconditional surrender" on the part of the enemy was the announced goal of the allied nations. In Korea and Vietnam, on the other hand, the goals have been the far more limited ones of the maintenance of territorial integrity and of the right of self-determination.

As has been pointed out many times, the United States throughout its history has been involved in armed conflicts short of declared war, from the undeclared war with France in 1798–1800 to Vietnam. I will discuss the more significant of these involvements later.

THE PRESIDENT AS COMMANDER IN CHIEF

Because of the nature of the President's power as Commander in Chief and because of the fact that it is frequently exercised in foreign affairs, there are few judicial precedents dealing with the subject. Such judicial learning as there is on the subject, however, makes it reasonably clear that the designation of the President as Commander in Chief of the Armed Forces is a substantive grant of power, and not merely a commission which treats him as a Supreme Commander.

Chief Justice Marshall, writing for the Supreme Court in *Little* v. *Barreme* (2 Cr. 170) concluded that the seizure of a ship on the high seas had not been authorized by an act of Congress. In the course of the opinion, he stated:

> It is by no means clear that the President of the United States, whose high duty it is to take care that the laws be faithfully executed, and who is commander in chief of the Armies and Navies of the United States, might not, without any special authority for that purpose, in the then existing state of things, have empowered the officers commanding the armed vessels of the United States, to seize and send into port for adjudication, American vessels which were forfeited by being engaged in this illicit commerce, 2 Cranch at 177.

Justice Grier, speaking for the Supreme Court in its famous decision in the *Prize* cases, likewise viewed the President's designation as Commander in Chief as being a substantive source of authority on which he might rely in putting down rebellion:

> Whether the President in fulfilling his duties, as Commander in Chief, in suppressing an insurrection, has met with such armed hostile resistance, and a civil war of such alarming proportions as will compel him to accord to them the character of belligerents, is a question to be decided by him, and this court must be governed by the decisions and acts of the political department of the Government to which this power was entrusted. He must determine what degree of forces the crisis demands. 2 Black 625, 670.

More recently, Justice Jackson, concurring in *Youngstown Sheet and Tube Co.* v. *Sawyer*, said:

> We should not use this occasion to circumscribe, much less to contract, the lawful role of the President as Commander in Chief. I should indulge the widest latitude of interpretation to sustain his exclusive function to command the instruments of national force, at least when turned against the outside world for the security of our society. 343 U.S. 579, at 645.

The limits of the President's power as Commander in Chief are nowhere defined in the Constitution, except by way of negative implication from the fact that the power to declare war is committed to Congress. However, as a result of numerous occurrences in the history of the Republic, more light has been thrown on the scope of this power.

SCOPE OF POWER AS COMMANDER IN CHIEF

The questions of how far the Chief Executive may go without congressional authorization in committing American military forces to armed conflict, or in deploying them outside of the United States and in conducting armed conflict already authorized by Congress, have arisen repeatedly through the Nation's history. The President has asserted and exercised at least three different varieties of authority under the power as Commander in Chief;

First, authority to commit military forces of the United States to armed conflict, at least in response to enemy attack or to protect the lives of American troops in the field.

I might add that this is precisely the type of authority we talked about with reference to the Church-Cooper resolution.

Second, authority to deploy U.S. troops throughout the world, both to fulfill U.S. treaty obligations and to protect American interests; and

Third, authority to conduct or carry on armed conflict once it is instituted, by making and carrying out the necessary strategic and tactical decisions in connection with such conflict.

Congress has on some of these occasions acquiesced in the President's action without formal ratification; on others, it has ratified the President's action; and on still others, it has taken no action at all. On several occasions, individual Members of Congress have protested Presidential use of the Armed Forces. At the close of the Mexican War, the House of Representatives went so far as to pass an amendment to a pending resolution, labeling the war as unnecessary and unconstitutional. On final passage, the amendment was deleted. Although the President's actions, to which there was no opportunity for the Congress to effectively object, cannot establish a constitutional precedent in the same manner as it would be established by an authoritative judicial decision, a long continued practice on the part of the President, acquiesced in by the Congress, is itself some evidence of the existence of constitutional authority to support such a practice. *United States* v. *Midwest Oil Co.*, 236 U.S. 459. As stated by Justice Frankfurter in his concurring opinion in *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U.S. 579, 610:

> The Constitution is a framework for Government. Therefore, the way the framework has consistently operated fairly establishes that it has operated according to its true nature. Deeply embedded traditional ways of conducting government cannot supplant the constitution or legislation, but they give meaning to the words of a text or supply them.

COMMITMENT OF MILITARY FORCES TO ARMED CONFLICT WITHOUT CONGRESSIONAL AUTHORIZATION

President Jefferson in 1801 sent a small squadron of American naval vessels into the Mediterranean to protect U.S. commerce against threatened attack by the Barbary pirates of Tripoli. In his message to Congress discussing his action, Jefferson took the view that it would require congressional authorization for this squadron to assume an offensive, rather than a defensive, stance.

In May 1845 President Polk ordered military forces to the coasts of Mexico and to the western frontier of Texas—still at that time an independent republic—in order to prevent an interference by Mexico with the proposed annexation of Texas to the United States. Following annexation, Polk ordered Gen. Zachary Taylor to march from the Neuces River, which Mexico claimed was the southern border of Texas, to the Rio Grande River, which Texas claimed was the southern boundary of Texas. While so engaged, Taylor's forces encountered Mexican troops, and hostilities between the two nations commenced on April 25, 1846. While Polk, 2½ weeks later requested a declaration of war from Congress, there had been no prior authorization for Taylor's march south of the Neuces.

In 1854 President Pierce approved the action of a naval officer who bombarded Greytown, Nicaragua, in retaliation against a revolutionary government that refused to make reparation for damage and violence to U.S. citizens.

In April 1861 President Lincoln called for 75,000 volunteers to suppress the rebellion by the Southern States, and proclaimed a blockade of the Confederacy. The Supreme Court in the prize cases, 2 Black 635—1863—upheld the action taken by President Lincoln prior to their later ratification by Congress in July, 1861, saying:

> If a war be made by invasion of a foreign nation, the President is not only authorized but bound to resist force by force. He does not initiate the war, but is bound to accept the challenge without waiting for any special legislative authority. 2 Black at 668.

In 1900 President McKinley sent an expedition of 5,000 U.S. troops as a component of an international force during the Boxer Rebellion in China. While Congress recognized the existence of the conflict by providing for combat pay, 31 Statute 903, it neither declared war nor formally ratified the President's action. A Federal court, however, reiterated the early recognition of limited or undeclared war:

> In the present case, at no time was there any formal declaration of war by the political department of this Government against either the Government of China or the "boxer" element of that government. A formal declaration of war, however, is unnecessary to constitute a condition of war. *Hamilton* v *McClaughry*, 136 F. 445, 449 (cir. Ct.D. Kan. 1905).

Presidents Theodore Roosevelt, Taft, and Wilson on more than one occasion committed American troops abroad to protect American interests. In November 1903, President Roosevelt ordered the U.S. Navy to guard the Panama area and prevent Colombian troops from being landed to suppress the Panamanian insurrection against Colombia. In this annual report to Congress in 1912, President Taft reported sending some 2,000 marines to Nicaragua—at the request of the President of Nicaragua—and the use of warships and troops in Cuba. He merely advised Congress of these actions without requesting any statutory authorization.

President Wilson on two separate occasions committed American Armed Forces to hostile actions in Mexican territory. In April 1914, he directed a force of sailors and marines to occupy the city of Vera Cruz during the revolution in that country. The city was seized and occupied for 7 months without congressional authorization. In 1916, Wilson ordered General Pershing and more than 10,000 troops to pursue Pancho Villa into Mexican territory following the latter's raid on Columbus, N. Mex.

The most recent example of Presidential combat use of American Armed Forces without congressional declaration of war, prior to the Vietnam conflict, was President Truman's intervention in the Korean conflict. Following invasion of South Korea by North Koreans on June 25, 1950, and a request for aid by the U.N. security council, President Truman ordered U.S. air and sea forces to give South Korean troops cover and support. He ordered the 7th Fleet to guard Formosa. On June 30, the President announced that he had authorized the use of U.S. ground forces in the Korean war following the collapse of the South Korean army. Ultimately, the number of troops engaged in the Korean conflict reached 250,000, and the conflict lasted more than 3 years. President Truman's action without congressional authorization precipitated the "Great Debate" in Congress which raged from January to April 1951.

While President Truman relied upon the U.N. Charter, as well as his power as Commander in Chief, his action stands as a precedent for presidential action in committing U.S. armed forces to extensive hostilities without formal declaration of war by Congress.

The U.N. Charter, as a result of its ratification by the Senate, has the status of a treaty, but it does not by virtue of this fact override any provisions of the Constitution. Though treaties made in pursuance of the Constitution may under the supremacy clause override specific constitutional limitations. *Geofroy* v. *Riggs*, 133 U.S. 258; *Reid* v. *Covert*, 351 U.S. 487. If a congressional declaration of war would be required in other circumstances to commit U.S. forces to hostilities similar in extent and nature to those undertaken in Korea, the ratification of the U.N. Charter would not obviate a like requirement in the case of the Korean conflict. While the issue of presidential power which was the subject of the great debate in Congress was never authoritatively resolved, it is clear that Congress acquiesced in President Truman's intervention in Korea. See Rees, "The Limited War"—1964; Pusey, "The Way We Go To War"—1969.

DEPLOYMENT OF U.S. TROOPS THROUGHOUT THE WORLD

In February 1917, President Wilson requested congressional authority to arm American merchant vessels. When that authority failed of passage in Congress as a result of a filibuster or extended debate, Wilson proceeded to arm them without congressional authority, stating that he was relying on his authority as Commander in Chief.

Near the close of the First World War, President Wilson announced a decision to send American troops to Siberia. The troops so sent remained for over a year, their withdrawal beginning in January 1920. There was no congressional authorization of such disposition of troops, and the United States had not declared war on Russia.

In 1941, prior to Pearl Harbor, President Roosevelt utilized his power as Commander in Chief to undertake a series of actions short of war, designed to aid the Allied forces in the Second World War. On April 9, 1941, he made an agreement with the Danish Minister for the occupation of Greenland by American forces. In May 1941, Roosevelt issued a proclamation declaring unlimited national emergency, and he ordered American naval craft to sink on sight foreign submarines found in the defensive waters of the United States.

In July 1941, the President announced that U.S. Forces would occupy Iceland in order to relieve British forces there, and that the Navy would perform convoy duty for supplies being sent to Great Britain under lend-lease. In September 1941, Roosevelt stated that he had given orders to the U.S. Army and Navy to strike first at any German or Italian vessels of war in American "defensive waters;" the following month, he decided to carry 20,000 British troops from Halifax to the Middle East in American transports.

President Truman's decision in 1951 to send four U.S. divisions to Europe in discharge of the Nation's NATO commitment occasioned prolonged debate in Congress over his powers to take such action without congressional approval. Congress ultimately acquiesced in the President's action without actually resolving the question, and all of President Truman's successors have asserted and exercised similar authority.

AUTHORITY TO CONDUCT OR CARRY ON ARMED CONFLICT ONCE IT HAS BEEN LAWFULLY INSTITUTED

It has never been doubted that the President's power as Commander in Chief authorizes him, and him alone, to conduct armed hostilities which have been lawfully instituted. Chief Justice Chase, concurring in *ex parte Milligan*, 4 Wall. 2, at 139, said:

> Congress has the power not only to raise and support and govern armies but to declare war. It has, therefore, the power to provide by law for carrying on war. This power necessarily extends to all legislation essential to the prosecution of war with vigor and success, except such as interferes with the command of the forces and conduct of campaigns. That power and duty belong to the President as Commander in Chief.

In the First World War, it was necessary to decide whether U.S. troops in France would fight as a separate command under General Pershing, or whether U.S. divisions should be incorporated in existing groups or armies commanded by French or British generals. President Wilson and his military advisers decided that U.S. forces would fight as a separate command.

In the Second World War, not only similar military decisions on a global scale were required, but also decisions that partook as much of political strategy as they did of military strategy. Should the United States concentrate its military and material resources on either the Atlantic or Pacific fronts to the exclusion of the other, or should it pursue the war on both fronts simultaneously? Where should the reconquest of allied territories in Europe and Africa which had been captured by the Axis powers begin? What should be the goal of the Allied powers? Those who lived through the Second World War will recall without difficulty, and without the necessity of consulting works of history, that this sort of decision was reached by the allied commanders in chief, and chief executive officers of the allied nations, without—on the part of the United States—any formal congressional participation. The series of conferences attended by President Roosevelt around the world—at Quebec, Cairo, Casablanca, Tehran, Yalta, and by President Truman at Potsdam, ultimately established the allied goals in fighting the Second World War, including the demand for unconditional surrender on the part of the Axis nations.

Similar strategic and tactical decisions were involved in the undeclared Korean war under President Truman. Questions such as whether U.S. forces should not merely defend South Korean territory, but pursue North Korean forces by invading North Korea, and as to whether American Air Force planes should pursue North Korean and Chinese Communist planes north of the Yalu River, separating Red China from North Korea, were of course made by the President as Commander in Chief without any formal congressional participation.

It is clear that the President, under his power as Commander in Chief, is authorized to commit American forces in such a way as to seriously risk hostilities, and also to actually commit them to such hostilities, without prior congressional approval. However, if the contours of the divided war power contemplated by the framers of the Constitution are to remain, constitutional practice must include presidential resort to Congress in order to obtain its sanction for the conduct of hostilities which reach a certain scale. Constitutional practice also indicates, however, that congressional sanction need not be in the form of a declaration of war.

In the case of the Mexican War, which was brought about, if not initiated, by President Polk, he requested and obtained a declaration of war. Congress, meeting in 1861 pursuant to the call of President Lincoln, ratified all of the actions he had taken on his own initiative, and apparently refrained from declaring war on the Confederate States only because it did not wish to recognize them as a sovereign nation.

However, the Fifth Congress authorized President Adams to take certain military action against France without going so far as to declare war. More recently, in connection with President Eisenhower's landing of troops in Lebanon and with the Cuban missile crisis in 1962, Congress has given advance authorization for military action by the President without declaring war—71 Stat. 5; 76 Stat. 697.

The notion that such advance authorization by Congress for military operations constitutes some sort of an invalid delegation of congressional war power simply will not stand analysis. A declaration of war by Congress, is, in effect, a blank check to the Executive to conduct military operations to bring about subjugation of the nation against whom war has been declared. The idea that while Congress may do this, it may not delegate a lesser amount of authority to conduct military operations, as was done in the instances referred to above, is utterly illogical and unsupported by precedent. While cases such as *Schechter Poultry Corp.* v. *United States*, 295 U.S. 495 (1935), hold that Congress in delegating powers to deal with domestic affairs must establish standards for administrative guidance, no such principle obtains in the field of foreign affairs. The Supreme Court in *United States* v. *Curtiss-Wright Corp.*, 299 U.S. 304, made this distinction clear.

What must be regarded as the high-water mark of Executive action without express congressional approval is, of course, the Korean war. Although Congress never expressly sanctioned the President's action in committing U.S. forces by the hundreds of thousands to the Korean conflict, it repeatedly voted authorizations and appropriations to arm and equip the American troops. This is not to say that such appropriations are invariably the equivalent of express congressional approval; the decision as to whether limited hostilities, commenced by the Executive, should be sanctioned by Congress may be one quite different from the decision as to whether American troops already committed and engaged in such hostilities shall be equipped and supplied.

CONGRESSIONAL POWER TO RESTRICT THE PRESIDENT

While the President may commit Armed Forces of the United States to hostile conflict without congressional authorization under his constitutional power as Commander in Chief, his authority exercised in conformity with congressional authorization or ratification of his acts is obviously broader than if it stood alone. By the same token, Congress undoubtedly has the power in certain situations to restrict the President's power as Commander in Chief to a narrower scope than it would have had in the absence of legislation. Chief Justice Marshall strongly intimates in his opinion in *Little* v. *Barreme*, 2 Cranch. 1970 (1804), that the Executive action directing the seizure of a ship on the high seas would have been valid had not Congress enacted legislation restricting the circumstances under which such a seizure was authorized. Congress, exercising its constitutional authority to "make rules concerning captures on land and water" may thus constrict the President's power to direct the manner of proceeding with such captures.

Congress has similarly sought to restrain the authority of the President in the exercise of its power to "raise and support armies." In the Selective Service and Training Act of 1940, it was provided that:

> Persons inducted into the land forces of the United States under this act shall not be employed beyond the limits of the Western Hemisphere except in the territories and possessions of the United States, including the Philippine Islands. 54 Stat. 885.

In the year following enactment of this law, President Roosevelt determined to send U.S. troops, including draftees, to Iceland in order to relieve British troops garrisoned there. He chose to strain geography, rather than the law and obtained the opinion of what was apparently a minority-view geographer that Iceland was actually in the Western Hemisphere.

On December 15, 1969, Congress adopted an amendment to the Defense Appropriations bill H.R. 15090 providing that U.S. Forces shall not be dispatched to Laos or Thailand in connection with the Vietnam conflict. It supported this provision offered by the Senator from Idaho as a reasonable exercise of congressional authority.

This is not to say, however, that every conceivable condition or restriction which Congress may by legislation seek to impose on the use of American military forces would be free of constitutional doubt. Even in the area of domestic affairs where the relationship between Congress and the President is balanced differently than it is in the field of external affairs, virtually every President since Woodrow Wilson has had occasion to object to certain conditions in authorization legislation as being violative of the separation of powers between the executive and the legislative branch. The problem would be compounded should Congress attempt by detailed instructions as to the use of American forces already in the field to supersede the President as Commander in Chief of the Armed Forces. Surely this is the thrust of Chief Justice Chase's concurring opinion in *ex parte Milligan*, quoted earlier.

> [Congressional Power] necessarily extends to all legislation essential to the prosecution of war with vigor and success, except such as interferes with the command of the forces and conduct of campaigns. That power and duty belong to the President as Commander in Chief. 4 Wall. at 139.

THE VIETNAM CONFLICT

The duration of the Vietnam conflict and its requirements in terms of both men and materiel would have raised the most serious sort of constitutional question, had there been no congressional sanction of that conflict. However, as is well known, the conflict formally began following an attack on U.S. naval forces in the Gulf of Tonkin in August 1964. At that time, President Johnson took direct air action against the North Vietnamese, and he also requested Congress "to join in affirming the national determination that all such attacks will be met" and asked for "a resolution expressing that support of the Congress for all necessary action to protect our Armed Forces and to assist Nations covered by the SEATO treaty."

On August 10, 1964, Congress passed the so-called Gulf of Tonkin resolution. I ask unanimous consent that the text of this resolution, 78 Stat. 384 (1964), be printed at this point in the Record.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

Southeast Asia Resolution[1]

Whereas naval units of the Communist regime in Vietnam, in violation of the principles of the Charter of the United Nations and of international law, have deliberately and repeatedly attacked United States naval vessels lawfully present in international waters, and have thereby created a serious threat to international peace; and

Whereas these attacks are part of a deliberate and systematic campaign of aggression that the Communist regime in North Vietnam has been waging against its neighbors and the nations joined with them in the collective defense of their freedom; and

Whereas the United States is assisting the peoples of southeast Asia to protect their freedom and has no territorial, military or political ambitions in that area, but desires only that these peoples should be left in peace to work out their own destinies in their own way: Now, therefore, be it

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[1] Text of Public Law 88-408 [H.J. Res. 1145], 78 Stat. 384, approved Aug. 10, 1964.

Department of State Bulletin, Aug. 24, 1964, pp. 272–274.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress approves and supports the determination of the President, as Commander in Chief, to take all necessary measures to repeal any armed attack against the forces of the United States and to prevent further aggression.

Sec. 2. The United States regards as vital to its national interest and to world peace the maintenance of international peace and security in southeast Asia. Consonant with the Constitution of the United States and the Charter of the United Nations and in accordance with its obligations under the Southeast Asia Collective Defense Treaty, the United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom.

Sec. 3. This resolution shall expire when the President shall determine that the peace and security of the area is reasonably assured by international conditions created by action of the United Nations or otherwise, except that it may be terminated earlier by concurrent resolution of the Congress.

Mr. DOLE. In connection with this resolution, Congress noted that whatever the limits of the President's authority acting alone might be, whenever Congress and the President act together, "there can be no doubt" of the constitutional authority.

Since that time, Congress repeatedly adopted legislation recognizing the situation in Southeast Asia, providing the funds to carry out U.S. commitments there, and providing special benefits for troops stationed there. By virtue of these acts, and the Gulf of Tonkin resolution, there was longstanding congressional recognition of a continuing U.S. commitment in Southeast Asia. This recognition and ratification of the President's policies continued even after the Tonkin Gulf resolution was repealed in 1970.

While seeking a negotiated peace and furthering "Vietnamization," President Nixon continued to maintain U.S. troops in the field in South Vietnam. The legality of the maintenance of these troops in South Vietnam, and their use to render assistance to the South Vietnamese troops in repelling aggression from the Vietcong and the North Vietnamese, would have been subject to doubt only if congressional sanction of hostilities commenced on the initiative of the President could be manifested solely by a formal declaration of war. But the numerous historical precedents previously cited militate against such reasoning.

A requirement that congressional approval of Presidential action in this field can come only through a declaration of war is not only contrary to historic constitutional usage, but as a practical matter would curtail effective congressional participation in the exercise of the shared war power. If Congress may sanction armed engagement of U.S. forces only by declaring war, the possibility of its retaining a larger degree of control through a more limited approval is foreclosed. While in terms of men and materiel the Vietnam conflict was one of large scale, the objectives for which the conflict was carried on were by no means as extensive or all-inclusive as would have resulted from a declaration of war by Congress.

Conversely, however, there was not the slightest doubt from an examination of the language of the Gulf of Tonkin resolution that Congress expressly authorized extensive military involvement by the United States. To reason that if the caption "Declaration of War" had appeared at the top of the resolution, that involvement would have been permissible, but that the identical language without such a caption did not give effective congressional sanction, would be to treat this most nebulous and ill-defined of all areas of the law as if it were a problem in common law pleading. Mr. Justice Grier, more than a century ago, in the prize cases said:

> This greatest of civil wars was not gradually developed by popular commotion, tumultuous assemblies or local unorganized insurrections. However long may have been its previous conception, it nevertheless sprung forth suddenly from the parent brain, a Minerva in the full panoply of war. The President was bound to meet it in the shape it presented itself, without waiting for Congress to baptise it with a name; and no name given to it by him or them could change the fact.

If substance prevailed over form in establishing the right of the Federal Government to fight the Civil War in 1861, substance should equally prevail over form in recognizing congressional sanction for the Vietnam conflict by the Gulf of Tonkin resolution, even though it was not in name or by its terms a formal declaration of war.

SEPARATE AND SHARED AUTHORITY

Mr. President, I believe the foregoing discussion indicates that a significant body of practice, precedent and tradition has grown up surrounding the war powers of this country. It shows that the President is charged with real responsibilities in major areas where he and he alone must make decisions and choices. It also shows that the Congress, too, has a proper, legitimate role to play with its own unique and separate authority. There are some clear lines of demarcation and firm divisions of authority.

Of course, the Congress cannot and should not become involved in the tactics and strategy required to carry out national defense policy. And at the same time the President cannot and should not seek to determine that national defense policy solely on his own initiative.

But between these firm and clear areas there is room and a real need for shared decisionmaking and joint leadership. And in my view the War Powers Act before the Senate today is a responsible and necessary attempt to serve the national interest by harmonizing the roles of the legislative and executive branches in the exercise of the war power.

PREVIOUS SUPPORT FOR WAR POWERS ACT

When this measure was first introduced in the 91st Congress in 1970, I joined in sponsoring it. At that time I felt it was a proper and useful attempt by Congress to cast some light in a murky and misunderstood constitutional area. It was reintroduced in the 92d Congress in 1971; however, at that time, we were in the midst of the Vietnamization program, efforts were continuing to reach a negotiated settlement to the Vietnam conflict, and we were still unable to secure information about or the return of our prisoners of war and missing in action.

CONCERN FOR MISCONSTRUCTION OF CONGRESSIONAL ACTION

At that time I felt a genuine concern that an entirely appropriate and useful exercise of the Congress powers in attempting to define the lines of constitutional authority might be misconstrued by the opposite side at the Paris negotiations, and thus endanger the prospects for achieving a negotiated peace and the earliest possible end to the conflict in Southeast Asia. Therefore, I did not rejoin my colleagues in sponsoring this legislation at that time.

Happily, the Vietnam war is now behind us. American forces have been withdrawn. Our prisoners are home. The Paris agreements establish our rights to information on the missing. And there is a real prospect that the Vietnamese parties will be able to arrive at a peaceful determination of their future course. On August 15, barring further congressional authorization, the bombing in Cambodia will stop.

CONCLUSION

This is a unique moment in our history, and it is an appropriate interval for Congress to assert its authority in a proper, constructive, and worthwhile manner.

The War Powers Act will establish a partnership between the Congress and the Presidency in exercising the awesome responsibility of employing this Nation's military might. It should serve to stimulate broader communication between the legislative and executive branches. And in so doing it will serve as a strong unifying influence in a nation which in recent years has too frequently been strained by forces of division, discord, and mistrust between the branches of Government, between groups and among individuals.

I am pleased to support this legislation and believe its passage will mark a proud and hopeful day in the constitutional history of the United States.

WAR POWERS: NOW IS THE TIME

Mr. MONDALE. Mr. President, I support the war powers bill, S. 440. I wish to commend Senators JAVITS, EAGLETON and STENNIS for their thoughtful judgment, scholarly precision, and constitutional expertise in producing such a landmark piece of legislation. Years of conscientious discussion, extended committee hearings, and lengthy congressional debate on the subject of war powers are evident in this bill, and I am pleased to be a cosponsor.

The bill comes to the floor once again with wide support and cosponsorship. It is a bipartisan, nonideological attempt to restore the constitutional balance of power between Congress and the President, not to alter it. It is appropriate that the war powers bill has such consensus, for warmaking decisions involve both political parties in the most profound kind of bipartisanship.

Both the Senate and the House have previously debated—and passed—the War Powers Act, but were unable to reach agreement in conference. The House passed a similar bill which I hope will mean that the two bodies can finally agree to a piece of legislation.

But simply by debating this legislation, much has already been accomplished in recognizing a more precise and more demanding standard of judgment for Congress and the Executive must apply to the use of our Armed Forces. This debate signals congressional intent to take up its delegated responsibility to control the commitment of U.S. military forces. It indicates that the constitutional imbalance resulting from the unilateral expansion of Presidential power in the warmaking field over the past 25 years will at last be corrected.

During this debate, there is one theme which stands out in my own mind—that there is something very wrong with the way Presidents have committed American military forces over the past 25 years. Presidents have usurped congressional power, but only because Congress has placed too much confidence in the Executive. Congress has acquiesced and accepted various Presidential rationalizations and, therefore, must share part of the blame for our involvement in the Dominican Republic, Vietnam, Cambodia, and Laos. But the lack of prior consultation with the Congress in all of these commitments, as well as the recently revealed series of secret military activity in Cambodia cloaked in the name of "national security," makes it imperative that Congress assert its legitimate constitutional authority. For there is no longer any doubt that a constitutional crisis over warmaking powers now exists. If we fail to pass this legislation now, in the aftermath of the most graphic example of the excesses of individual warmaking, we may be sanctioning future Cambodias.

As Alexander M. Bickel of Yale University, one of the country's great constitutional authorities, testified before the Foreign Relations Committee on July 26, 1971 with regard to the Vietnam war:

> The decisions of 1965 may have differed only in degree from earlier stages in this process of growth. But there comes a point when a difference of degree achieves the magnitude of a difference of kind. The decisions of 1965 amounted to all but explicit transfer of power to declare war from Congress, where the Constitution lodged it, to the President, on whom the framers explicitly refused to confer it.

The war powers bill corrects the basic flow of the post-World War II practice toward Presidential wars by reestablishing the balance outlined in the Constitution so that Congress will decide whether and when this Nation goes to war.

In a telegram yesterday to Minority Leader **Gerald R. Ford**, the President threatened to veto the proposed legislation because it would restrict the President's authority to act in the national interest in time of emergency. Yet the bill in no way impairs the President's authority as Commander in Chief to repel attacks upon the United States or its Armed Forces, while it assures that Congress maintains its warmaking authority over the unchecked, unilateral decisions of the President. As the Committee on Foreign Relations stated in the report on the war powers bill,

> In brief, the Constitution gave Congress the authority to take the nation into war, whether by formal declaration of war or by other legislative means, and the President the authority to conduct it.

Section 3 of the bill defines the emergency conditions or circumstances under which, in the absence of a congressional declaration of war, the Armed Forces of the United States "may be introduced in hostilities, or in situations where imminent involvement in hostilities is clearly indicated by the circumstances." The emergency powers of the President, as intended by the Founding Fathers and as confirmed by subsequent historical practice and judicial precedent, are codified.

If the President takes emergency action committing the armed forces in hostilities, he must immediately make a full report of the circumstances, authority for, and expected scope and direction of the military measures he has initiated. If the President is unable to obtain the concurrence to extend his authority, he must terminate his action at the end of 30 days. This will prevent Presidents from undertaking military adventures contrary to the wishes of the American people.

At the Constitutional Convention, the Founding Fathers, sensitive to the warmaking powers of the British kings, were explicit in their desire that the power to declare war and to raise armies be left to the legislature, with the President acting as Commander in Chief after the onset of hostilities. They intended that no single man, no matter how benevolent, could take this Nation to war.

As Jefferson stated in his famous letter to Madison in 1789:

> We have already given in example one effectual check to the Dog of war by transferring the power of letting him loose from the Executive to the Legislative body, from those who are to spend to those who are to pay.

In the early years of the Republic, Presidents acknowledged and carefully respected the war power of Congress. President Madison said that the question of "opposing force to force" was one "which the Constitution wisely confided to the legislative department of the Government."

Daniel Webster, while serving as Secretary of State, said:

> The war making power in this Government rests entirely in Congress; . . . the President can authorize belligerent operations only in the cases expressly provided for in the Constitution and the laws.

Abraham Lincoln expressed his viewpoint on the matter in his protest over the Mexican War while he was a Member of Congress:

> The provision of the Constitution giving the warmaking power to Congress, was dictated, as I understand it, by the following reasons. Kings had always been involving and impoverishing their people in wars, pretending generally, if not always, that the good of the people was the object. This, our Convention undertook to be the most oppressive of all Kingly oppressions; and they resolved to so frame the Constitution that no one man should hold the power of bringing this oppression upon us.

The deception, secrecy, ambiguity of the Indochina experience have made the American people determined that there shall be no future undeclared wars initiated by Presidents and prosecuted without clear-cut national support.

During hearings on the war powers in 1971, Prof. Henry Steele Commager made the following statement:

> Now after twenty years marked by repeated, and almost routine, invasions by the Executive of the warmaking powers assigned by the Constitution to Congress, we can see that more is at stake even than the Constitutional principle of the separation of powers. At stake is the fate of the age-long effort of men to fix effective limits on government; at stake is the reconciliation of the claims of freedom and of security; at stake is the fateful issue of peace or war, an issue fateful not for the American people alone, nor alone for the stricken peoples of Southeast Asia, but for the whole of mankind.

Mr. President, this bill will do much to restore the faith of the American people in both the Congress and the Executive that war policies are not being conducted in clandestine remoteness, but openly within the spirit of this Nation's Constitution.

SENATOR RANDOLPH RECALLS MISLEADING STATEMENTS DURING DEBATE ON WAR POWERS BILL IN 1942

Mr. RANDOLPH. Mr. President—

> Our people want authentic information. They know not what to believe.

These words are certainly relevant in the context of today's discussion of S. 440 and in light of the fact that administration officials in 1971 and 1973 falsified reports to the Senate Armed Services Committee of bombing operations in Cambodia.

I initially made that statement on February 28, 1942, in the House of Representatives during debate on House Joint Resolution 89 of the 76th Congress. This measure, sponsored by Representative Ludlow and Senator Capper, gave Congress the initial decisionmaking to take the power of declaring war "to the people of the United States," except in a case of an invasion of our country or territorial possessions by a military expedition.

I cosponsored this war referendum bill in 1939 and 34 years later I urge passage of S. 440, the War Powers Act of 1973. I quote Senator **Javits**:

> And when the President's authority is so defined, as it will be if the War Powers

Act becomes law, then the issue of authority is determined in an authoritative way, and, I have little doubt, will be carried out to the best of his ability in good faith by any American President.

I strongly support this historic and necessary legislation. Mr. President, I ask unanimous consent that my remarks and colloquy with other members, on the War Powers Act of 1942, be printed in the RECORD.

There being no objection, the excerpt from the CONGRESSIONAL RECORD was ordered to be printed in the RECORD as follows:

Mr. Chairman, I rise at this time during debate on the pending war-powers bill not because what I shall say particularizes on any point which we are now discussing, but because I desire to call attention to what I believe is a very unfortunate and unnecessary situation.

There are far too many announcements being made by our Departments of War and Navy to the American people and to the world which are contradictory and give rise to uneasiness among our citizens and encourage our enemies. I recognize full well that carping criticism of the war effort is undesirable. I would never add my voice to such procedure. In my opinion, however, when a Member of this Congress has a deep feeling regarding our war effort and believes that out of honest discussion there can come truth and light, that Member must never hesitate to make his views known. Thought-provoking criticism, based on a genuine conviction, must be welcomed in this House, rather than discouraged.

I direct your attention to the fact that 3 days ago the Secretary of the Navy announced that the reported attack on the west coast was false and that there were no enemy aircraft approaching from the ocean over California. Less than 24 hours later the Secretary of War made an announcement that the alarm was real. Within a few hours we have the Secretary of the Navy saying the reported raid was false and the Secretary of War saying the supposed attack was real. What are we to believe? It is inconceivable that we continue to have such stories circulated from official sources.

If we are to have clear thinking on the part of the American people in regard in the prosecution of this war, it must stem from the military authorities themselves. How we can expect other than confusion among the patriotic citizens of the United States when such opposing announcements as this are made is beyond my honest comprehension.

There are these of us who have advocated for many, many years that we should have in this country one supreme command and under that command separate authorities for the Army, the Navy, and the Air Force. However, we have been denied even the opportunity to have such legislation heard before the committees of this Congress. I do not wish to discuss that question this afternoon. I have taken time to direct attention of the Congress on previous occasions to failure of our committees to hear discussed in an informative and straight-forward manner such proposals which have been made by the Members of this body.

Mr. REED of New York. Mr. Chairman, will the gentleman yield?

Mr. RANDOLPH. I yield to the gentleman from New York.

Mr. REED of New York. I do not know what the experience of the gentleman or of my colleagues has been, but I am receiving letters wanting to know if this statement or that statement made by different officials is true, and I am not in a position to tell these people what the truth is.

Mr. RANDOLPH. Of course not. Our people want authentic information. They know not what to believe. For the Secretary of the Navy to say one day that the trouble on the west coast was false and for the Secretary of War to say the next day that it was real is absolutely indefensible.

Mr. VOORHIS of California. Mr. Chairman, will the gentleman yield?

Mr. RANDOLPH. I yield to the gentleman from California.

Mr. VOORHIS of California. What concerns me about this matter is the people of our section.

Mr. RANDOLPH. Certainly, they are in the dark.

Mr. VOORHIS of California. They were pretty fine throughout this whole business. All in the world they want is a simple statement upon which they feel they can absolutely rely. I am confident they are going to get that, and I think it is very important that they do get it.

Mr. RANDOLPH. I thank the gentleman, and I join in the hope that a common ground on which we can stand can be soon found. The American people, if told the actual happenings, will always respond to the truth. They are not children. They are sober and understanding men and women.

Mr. HINSHAW. Mr. Chairman, will the gentleman yield?

Mr. RANDOLPH. I yield to the gentleman from California.

Mr. HINSHAW. In connection with the statement by the Secretary of War, may I say that I was told on the following day by three different sources in the War Department, not by the Secretary, that they did not believe it was necessarily enemy planes that came over the Los Angeles area. Then the Secretary of War came out and refuted the statements made by representatives of his own Department.

Mr. RANDOLPH. I am sorry these divergent and misleading statements have been made. If they were rumors I would not discuss them, but I have checked and have found that they were given to the press by the Secretary of the Navy and the Secretary of War. I call on our Commander in Chief to stop this unwarranted situation.

Mr. PELL. Mr. President, the power of waging war is the power of life and death over every man, woman and child in this country. It is a power, therefore, that the U.S. Government can only exercise with the greatest solemnity and care. It is for this reason that the framers of the Constitution desired to insure that the collective judgment of both the Congress and the President should be brought to bear in decisions to engage U.S. forces in hostilities or situations leading to them. Any use of force by one country against another is war, regardless of its size, or whether it is declared or undeclared. And in an age of nuclear weapons, the smallest war can escalate to nuclear annihilation.

In recent decades, this collective judgment called for by the Constitution has been increasingly imbalanced, with the Presidential input far outweighing the congressional. This disequilibrium has frustrated the intent of the drafters of the Constitution and embroiled the Nation in the longest, most devisive and agonizing war in our history.

At an earlier stage, a statutory remedy might have been unnecessary, but we have passed that stage. Congressional action is now overdue. I have long advocated such action in past legislation. I have decried congressional failure to take this action. Therefore, I now urge, more vigorously than ever, that this action be promptly taken by the passage of S. 440.

Failure by the Congress to exert its constitutional authority in the exercise of national war powers would be a failure to learn from the bitter experiences of the Indochina war. History may or may not show that the stand we took to resist North Vietnamese aggression in Indochina was the right one. But already it is abundantly clear that the way we choose to make that stand was a tragically mistaken one.

It was a mistake shared by both Republican and Democratic administrations. The source of the mistake is directly attributable to an absence of congressional input into the military policies that guided—or rather misguided our war effort in Indochina. The result was that we slipped into a protracted, costly war through the back door—a door opened up not by the people of the United States, not by their elected representatives in the Congress, but a door opened up primarily by the Pentagon.

If from the beginning of our military involvement, the Congress had exercised its constitutional war powers, our intervention could well have been of quite a different nature and results. There would have been congressional debate and public discussion of the necessity for intervention, so that if approved, the country would have had a clearer understanding of its purpose and objectives. But such was not the case.

If there had been a better understanding of the nature of the war, where the political factors outweighed the military ones, there would not have been the inappropriate massive military intervention pushed by the Pentagon.

If there had not been a massive deployment of forces using unsuitable sophisticated weapons and requiring an unwieldy infrastructure of bases and support facilities, our military presence would have had the mobility and nimbleness needed to complete its mission.

But the voice of Congress against the creation of a monstrous, lumbering, hamstrung war machine in Indochina could not be heard above the drumbeats of the Pentagon—a machine that devastated the countryside, that killed, maimed and alienated the people it should have protected and at the same time was incapable of dealing with an enemy as fluid as quicksilver.

How tragic that such a voice was not heard. How many lives could have been saved, military and civilian. How much destruction could have been spared, how much divisiveness at home and abroad could have been avoided. How much quicker and more successfully might we have obtained our objectives. If, however, Vietnam taught us one thing—the categorical imperative for the voice of Congress in the process of deciding on and applying American military force, regardless of place, size or nature, then the sacrifices of Vietnam will not have been entirely in vain.

Mr. MUSKIE. Mr. President, I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. MUSKIE. Mr. President, I yield back all my remaining time.

Mr. GRIFFIN. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time has been yielded back. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. McCLELLAN), the Senator from South Dakota (Mr. McGOVERN) are necessarily absent.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Mississippi (Mr. STENNIS), and the Senator from South Dakota (Mr. McGOVERN) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON) and the Senator from Arizona (Mr. GOLDWATER) are absent because of illness in their respective families.

The Senator from Alaska (Mr. STEVENS) is absent by leave of the Senate on account of illness in his family.

The Senator from New York (Mr. BUCKLEY), the Senator from Colorado (Mr. DOMINICK), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The Senator from Virginia (Mr. SCOTT) is absent on official business.

On this vote, the Senator from Illinois (Mr. PERCY) is paired with the Senator from Colorado (Mr. DOMINICK). If present and voting, the Senator from Illinois would vote "yea" and the Senator from Colorado would vote "nay."

The result was announced—yeas 72, nays 18, as follows:

[No. 312 Leg.]

YEAS—72

Aiken
Allen
Bayh
Beall
Bentsen
Bible
Biden
Brock
Brooke
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cranston
Dole
Domenici
Eagleton
Fong
Fulbright
Hart
Hartke
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McGee
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott, Pa.
Sparkman
Stafford
Stevenson
Symington
Taft
Talmadge
Tunney
Weicker
Williams
Young

NAYS—18

Abourezk
Baker
Bartlett
Bellmon
Bennett
Curtis
Eastland
Ervin
Fannin
Gravel
Griffin
Gurney
Hansen
Helms
Hruska
McClure
Thurmond
Tower

NOT VOTING—10

Buckley
Cotton
Dominick
Goldwater
McClellan
McGovern
Percy
Scott, Va.
Stennis
Stevens

So the bill (S. 440) was passed, as follows:

S. 440

An act to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "War Powers Act".

PURPOSE AND POLICY

SEC. 2. It is the purpose of this Act to fulfill the intent of the framers of the Constitution of the United States and insure that the collective judgment of both the Congress and the President will apply to the introduction of the Armed Forces of the United States in hostilities, or in situations where imminent involvement in hostilities is clearly indicated by the circumstances, and to the continued use of such forces in hostilities or in such situations after they have been introduced in hostilities or in such situations. Under article I, section 8, of the Constitution, it is specifically provided that the Congress shall have the power to make all laws necessary and proper for carrying into execution, not only its own powers but also all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof. At the same time, this Act is not intended to encroach upon the recognized powers of the President, as Commander in Chief and Chief Executive, to conduct hostilities authorized by the Congress, to respond to attacks or the imminent threat of attacks upon the United States, including is territories and possessions, to repel attacks or forestall the imminent threat of attacks against the Armed Forces of the United States, and, under proper circumstances, to rescue endangered citizens and nationals of the United States located in foreign countries.

EMERGENCY USE OF THE ARMED FORCES

SEC. 3. In the absence of a declaration of war by the Congress, the Armed Forces of the United States may be introduced in hostilities, or in situations where imminent involvement in hostilities is clearly indicated by the circumstances only—

(1) to repel an armed attack upon the United States, its territories and possessions; to take necessary and appropriate retalitory actions in the event of such an attack; and to forestall the direct and imminent threat of such an attack;

(2) to repel an armed attack against the Armed Forces of the United States located outside of the United States, its territories and possessions, and to forestall the direct and imminent threat of such an attack;

(3) to protect while evacuating citizens and nationals of the United States, as rapidly as possible, from (A) any situation on the high seas involving a direct and imminent threat to the lives of such citizens and nationals, or (B) any country in which such citizens and nationals are present with the express or tacit consent of the government of such country and are being subjected to a direct and imminent threat to their lives, either sponsored by such government or beyond the power of such government to control; but the President shall make every effort to terminate such a threat without using the Armed Forces of the United States and shall, where possible, obtain the consent of the government of such country before using the Armed Forces of the United States to protect citizens and nationals of the United States being evacuated from such country; or

(4) pursuant to specific statutory authorization, but authority to introduce the Armed Forces of the United States in hostilities or in any such situation shall not be inferred (A) from any provision of law hereafter enacted, including any provision contained in any appropriation Act, unless such provision specifically authorizes the introduction of such Armed Forces in hostilities or in such situation and specifically exempts the introduction of such Armed Forces from compliance with the provisions of this Act, or (B) from any treaty hereafter ratified unless such treaty is implemented by legislation specifically authorizing the introduction of the Armed Forces of the United States in hostilities or in such situation and specifically exempting the introduction of such Armed Forces from compliance with the provisions of this Act. For purposes of this clause (4), "introduction of the Armed Forces of the United States" include the assignment of members of the Armed Forces of the United States to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government when such military forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities. No treaty in force at the time of the enactment of this Act shall be construed as specific statutory authorization for, or a specific exemption permitting, the introduction of the Armed Forces of the United States in hostilities or in any such situation, within the meaning of this clause (4); and no provision of law in force at the time of the enactment of this Act shall be so construed unless such provision specifically authorizes the introduction of such Armed Forces in hostilities or in any such situation.

REPORTS

SEC. 4. The introduction of the Armed Forces of the United States in hostilities, or in any situation where imminent involvement in hostilities is clearly indicated by the circumstances, under any of the conditions described in section 3 of this Act shall be reported promptly in writing by the President to the Speaker of the House of Representatives and the President of the Senate, together with a full account of the circumstances under which such Armed Forces were introduced in such hostilities or in such situation, the estimated scope of such hostilities or situation, and the consistency of the introduction of such forces in such hostilities or situation with the provisions of section 3 of this Act. Whenever Armed Forces of the United States are engaged in hostilities or in any such situation outside of the United States, its territories and possessions, the President shall, so long as such Armed Forces continue to be engaged in such hostilities or in such situation, report to the Congress periodically on the status of such hostilities or situation as well as the scope and expected duration of such hostilities or situation, but in no event shall he report to the Congress less often than every six months.

THIRTY-DAY AUTHORIZATION PERIOD

SEC. 5. The use of the Armed Forces of the United States in hostilities, or in any situation where imminent involvement in hostilities is clearly indicated by the circumstances, under any of the conditions described in section 3 of this Act shall not be sustained beyond thirty days from the date of the introduction of such Armed Forces in hostilities or in any such situation unless (1) the President determines and certifies to the Congress in writing that unavoidable military necessity respecting the safety of Armed Forces of the United States engaged pursuant to section 3(1) or 3(2) of this Act requires the continued use of such Armed Forces in the course of bringing about a prompt disengagement from such hostilities; or (2) Congress is physically unable to meet as a result of an armed attack upon the United States;

or (3) the continued use of such Armed Forces in such hostilities or in such situation has been authorized in specific legislation enacted for that purpose by the Congress and pursuant to the provisions thereof.

TERMINATION WITHIN THIRTY-DAY PERIOD

SEC. 6. The use of the Armed Forces of the United States in hostilities, or in any situation where imminent involvement in hostilities is clearly indicated by the circumstances, under any of the conditions described in section 3 of this Act may be terminated prior to the thirty-day period specified in section 5 of this Act by an Act or joint resolution of Congress, except in a case where the President has determined and certified to the Congress in writing that unavoidable military necessity respecting the safety of Armed Forces of the United States engaged pursuant to section 3(1) or 3(2) of this Act requires the continued use of such Armed Forces in the course of bringing about a prompt disengagement from such hostilities.

CONGRESSIONAL PRIORITY PROVISIONS

SEC. 7. (a) Any bill or joint resolution authorizing a continuation of the use of the Armed Forces of the United States in hostilities, or in any situation where imminent involvement in hostilities is clearly indicated by the circumstances, under any of the conditions described in section 3 of this Act, or any bill or joint resolution terminating the use of Armed Forces of the United States in hostilities, as provided in section 6 of this Act, shall, if sponsored or cosponsored by one-third of the Members of the House of Congress in which it is introduced, be considered reported to the floor of such House no later than one day following its introduction unless the Members of such House otherwise determine by yeas and nays. Any such bill or joint resolution, after having been passed by the House of Congress in which it originated, shall be considered reported to the floor of the other House of Congress within one day after it has been passed by the House in which it originated and sent to the other House, unless the Members of the other House shall otherwise determine by yeas and nays.

(b) Any bill or joint resolution reported to the floor pursuant to subsection (a) or when placed directly on the calendar shall immediately become the pending business of the House in which such bill or joint resolution is reported or placed directly on the calendar, and shall be voted upon within three days after it has been reported or placed directly on the calendar, as the case may be, unless such House shall otherwise determine by yeas and nays.

SEPARABILITY CLAUSE

SEC. 8. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to any other person or circumstance shall not be affected thereby.

EFFECTIVE DATE AND APPLICABILITY

SEC. 9. This Act shall take effect on the date of its enactment. Nothing in section 3(4) of this Act shall be construed to require any further specific statutory authorization to permit members of the Armed Forces of the United States to participate jointly with members of the armed forces of one or more foreign countries in the headquarters operations of high-level military commands which were established prior to the date of enactment of this Act and pursuant to the United Nations Charter or any treaty ratified by the United States prior to such date.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MUSKIE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 320, House Joint Resolution 542.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the joint resolution (H.J. Res. 542) concerning the war powers of Congress and the President.

Mr. MUSKIE. Mr. President, I move to strike all after the resolving clause of House Joint Resolution 542 and substitute therefor the text of S. 440, as amended and passed today.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maine.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the joint resolution.

The amendment was ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution (H.J. Res. 542) was read a third time and passed.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. MUSKIE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MUSKIE. Mr. President, I should like to take a moment to congratulate the distinguished Senator from New York (Mr. JAVITS) for one of the most masterful pieces of legislative craftsmanship that it has been my pleasure and my privilege to be associated with. He has done an outstanding job in the service of the Senate and the country, and I congratulate him.

Mr. JAVITS. Mr. President, if the Senator will yield, I greatly appreciate the job Senator MUSKIE undertook. It required him to absorb literally months of work and study, which I have done and others have done, including some very complicated legal questions and constitional questions. He simply astounded me with the skill and grasp he showed in connection with this bill. I am very grateful to him. The Senate has every reason to be grateful to him. He has done the Foreign Relations Committee proud.

Mr. MUSKIE. I thank the Senator.

Mr. JAVITS. Mr. President, I wish to express my appreciation to a number of assistants of my own and of the Foreign Relations Committee, who rendered extraordinary help in respect to the bill.

I would like to thank Peter Lakeland of my own staff, a former Foreign Service officer and a very gifted foreign policy assistant to me for some years, who did a monumental job, which any professional would consider a life's work, in the preparation for this debate, the drafting of the committee report, and the research, all of which went with it.

Then to Seth Tillman, who is one of the assistants to Senator FULBRIGHT, who had a big hand in drafting the committee report, which I thought was a magnificant document; and Mr. Tillman worked under the direction of Carl Marcy, the very honored and very much respected chief of staff of our committee, to whom I also wish to give every credit for bringing the matter to the floor and for the preparation on it.

THE USE OF RECORDING DEVICES

Mr. CURTIS. Mr. President, I wish to speak concerning the use of recording devices. This was brought to the attention of the Nation during the past week by the testimony given by a Senate committee concerning records made by the White House in the last couple of years. There may be arguments pro or con concerning the wisdom of such recordings but it is important that first we clear up a few essential points.

It is lawful for an individual to wiretap his own telephone without notifying the other person on the line and without the use of a beeper. The statements made about the records in the White House revealed a practice which is not in violation of present law. It was not undertaken by the Nixon administration under the old law.

The second point I would like to establish is that similar recordings have been made in the White House under previous administrations. It is not a new practice at all. It has been widely used in the past and I will have something to say about that later. Much can be said in favor of recording conferences, conversations, and discussions. It makes for an accurate record. It prevents error taking the place of a history of the true facts. It avoids misunderstanding. It makes it possible for a followthrough after discussion in full conformity with what was said.

I can recall a visit that I made to the White House early in the Nixon administration concerning rural development. There were one or two staff members in the room and they were very busy taking notes of everything that President Nixon or I said. I was delighted that they were making such a record. That particular discussion is reflected in the rural development program that is now in operation. Important matters were talked about and the fact that a record was kept by the making of notes made it possible for the President's wishes to be carried out. A record preserved by a recording would have saved time and may have been more accurate.

I wanted to satisfy myself as to the practices by previous administrations concerning the recording of conversations, conferences, and telephone calls. I had understood that the White House had collected evidence on this in the form of affidavits. I asked to see those affidavits. I did see them and I read them.

One affidavit that I saw stated that the individual in 1968 was ordered to install a microphone in a small room located between the Oval office of the President and the office of Mr. Marvin Watson. The room, I understand, was used as a Presidential sitting room and used frequently by President Johnson for private meetings and the like.

The affidavit went on to say that a listening device had been installed in the south wall of the room at the baseboard level. A tape recorder was installed in an office below this room and was manually controlled from a switch located under the shelf that supported a portable TV set. The affidavit stated that this equipment was removed at the end of the Johnson administration.

A second affidavit which was shown me at my request reported that the individual knew that there were in existence between 1965 and 1969 facilities whereby the President or designated members of the White House staff could record telephone conversations by the simple act of pushing a button on the telephone or throwing a separate switch which would activate a recording device.

The affidavit said that either at the end of each day or when the recording belt or tape was completed, the recording would be removed and presented to the secretary of the office concerned. Recordings were transcribed by secretaries in the White House staff as directed by the office in which the recorders were installed. The affidavit said that recorders were installed or available on selected telephone lines in the office of the President and the office of his appointment secretary.

It said, in addition, the same capability was available at Camp David, the main ranch house at the L.B.J. Ranch in Texas, and the Presidential offices in the Federal Office Building in Austin, Tex. I recall one sentence that said: "These recorders were not equipped with any warning devices."

In addition, the affidavit stated that the conference table in the Cabinet Room at the White House contained hidden microphones which could be activated at the conference table. The individual stated in his affidavit that in January 1969, President Johnson personally directed him to remove all recording devices from the Cabinet Room and from all telephones.

What I had said about tapping telephone conversations or conversations relates to a person wiretapping his own telephones, a telephone subject to his control. Tapping the wires of somebody else's telephone, of course, is something altogether different. Recently I observed in the news, Vice President Agnew speaking of an experience he had in Santa Fe, N. Mex.

I have the transcript of the news account concerning this happening. I want to read from the transcript of the newscast of Kurt Lohbeck given at 7:05 a.m. on June 28, 1973. Lohbeck said:

> Former New Mexico Governor David Cargo has stated that in 1968 while Spiro Agnew was visiting him at the Governor's Mansion in Sante Fe, he discovered all his private phone lines had been tapped.

Cargo made the statement in light of denials by assistants to the late President Johnson who said he never ordered the bugging.

Then followed the words of Gov. David Cargo of New Mexico who said:

> Governor, then Governor Agnew, and presently Vice-President Agnew, had been our guest in Santa Fe prior to his campaign appearance in New Mexico. In fact, at that time the Governor's office was bugged, the telephones were tapped, we called the . . . both the FBI, we had contacted them, finally, we contacted the telephone company, they came in and debugged the whole system, they were in fact bugged . . . and who installed them? We don't know . . . we were unable to discover it . . . but they were bugged, very definitely bugged, we had to install devices to shield it, we had to put exclusion systems into all of our phones.

Lohbeck went on to say Cargo states the phone taps were not discovered until after Agnew left the Governor's Mansion. The transcript of the broadcast of Lohbeck at 8:05 a.m. on June 28, 1973, said: Former New Mexico Gov. David Cargo has confirmed some reports originating from the Watergate Investigating Committee concerning taps on the phone conversations of Spiro Agnew, then candidate for Vice President in 1968. Cargo says he notified the FBI, who told him to contact the phone company, which he did. The phone company then found numerous taps, and installed an exclusion system to prevent such wiretapping. Cargo says he told Agnew of the taps, but at the time not much attention was given to them.

Lohbeck went on to say reports in Washington indicate that the Johnson administration had ordered logs of Agnew's phone calls.

Mr. President, the account of this recent lawful recording system used by the White House was presented by a Senate Committee as a part of the Watergate television program. I am sure that millions of Americans got the idea that what took place in the White House was in violation of law. That was not the case at all. Can it be that anything is presumed to be revelant to this investigation if it can be used to damage the President?

If a committee of the Congress having jurisdiction believes that the present law should be changed with respect to placing recording devices on one's own phone, they should advance such legislation for the consideration of the whole Congress. It is not right to portray lawful actions in a way which leads the public to believe that they are in violation of the law.

Mr. President, in 1969 I did uncover a case of wiretapping which was clearly unlawful. The offenders were some bureaucrats in the General Services Administration. The man whose telephone was tapped was a sightless young lawyer. He was involved in the handling of matters concerning contract settlements. Information carried over his telephone could have been of great value to contractors and others.

It is to the credit of Robert Kunzig, then Administrator of the General Services Administration, that he put a stop to the practice.

Mr. President, if the committee conducting the Watergate hearings wishes to go into the question of wiretapping, they should do so thoroughly. They should establish what the past practices are and, above all, they should investigate those wiretaps which are clearly unlawful, such as the wiretapping of Vice President Agnew and the wiretapping that took place in the GSA back in 1969.

Mr. President, I ask unanimous consent to have reprinted my statement of July 11, 1969, concerning wiretapping in the GSA.

There being no objection, the statement was ordered to be printed in the Record, as follows:

[From the Congressional Record, July 11, 1969]

ILLEGAL ELECTRONIC EAVESDROPPING IN THE FEDERAL GOVERNMENT

Mr. Curtis. Mr. President, today I am going to disclose, with proof, the existence of illegal electronic eavesdropping in at least one large Government agency. There is added evidence that this same electronic snooping is going on in other agencies of the Federal Government.

This malodorous practice started under the previous administration and was so widespread that it has been impossible to root out in the 6 months that the Nixon administration has been in office. I hope my disclosures today will speed the process.

I think it is a fair statement that a Federal agency cannot, without notifying either employees or caller, listen in on telephone conversations where national security is not involved. To do so, I believe, is a violation of law.

Seven States—California, Illinois, Maryland, Massachusetts, Nevada, New York, and Oregon—prohibit surreptitious eavesdropping by mechanical or electronic device.

Thirty-six States prohibit the specific type of eavesdropping known as wiretapping.

And Congress itself, in the enactment of title III of the Omnibus Crime Control and Safe Streets Act of 1968, outlawed all wiretapping and electronic eavesdropping other than that occurring within certain tightly drawn instances involving suspected organized criminal activity or the national security. In cases involving suspected syndicate crime, listening devices can be used only with court permission. Even in emergencies, court permission must be obtained within 48 hours or the listening device and its use are illegal.

Yet, I have here such a device, taken within the past few weeks from a telephone at a major Government agency. It was brought to my attention by a Government official whose own telephone was being monitored illegally. I have sworn affidavits from him recounting the whole story. But for his honest courage we would know nothing of this illegal activity.

The agency in question is the General Services Administration. I have already discussed this case with Administrator Robert Kunzig of GSA. He is entirely in agreement with me as to the illegality and impropriety of such electronic eavesdropping.

In fact, Mr. Kunzig, when he heard about the use of "snooper button" telephones and monitoring systems within GSA, was shocked. This was shortly after he became Administrator. He at once—on May 6—issued orders forbidding this practice which is both questionable as to ethics and illegal by law.

Someone in GSA apparently did not feel compelled to abide by the Administrator's orders.

I call attention to the fact that the actual discovery of the device I have here was made over a month after Mr. Kunzig's order prohibiting the use of what he termed "telephone monitoring." I further call attention to the fact that these devices were installed and in use prior to Mr. Kunzig's appointment as Administrator.

What I intend to do today is recount for you the shameful story in as straightforward and factual a manner as possible.

This Federal employee, a well-educated, responsible, professional person and, incidentally, highly knowledgeable in the field of electronics, states that many months ago—long before Mr. Kunzig took over under the Nixon administration—he became aware of "excessive electronic noise and a very slight decrease in power" on his telephone line.

Mr. President, I have no personal knowledge of what this sort of thing means.

However, I have consulted experts, and they tell me these are characteristics of a telephone where the distribution of sound and current serves more than two outlets being used by more than two parties in a telephone conversation.

In other words, these are the conditions that exist when a telephone conversation is being monitored by a third party.

On May 5, 1969, our Mr. X was informed by a fellow employee that there was "a listening post" on Mr. X's phone, and that it was then in operation. Another employee present at the time has sworn in an affidavit as to the truth of this conversation as reported.

The next day, May 6, 1969, a memorandum from Mr. X's superior was issued. It stated that the new Administrator, Mr. Kunzig, at a staff meeting on May 6, 1969, announced there was to be no more monitoring of phone calls.

This new policy, according to Mr. X, was transmitted to all offices in the agency. As Mr. X puts it:

"To my knowledge, the request to cease telephone monitoring constituted an attempt to stop the day-to-day practice of using the so-called 'snooper button'."

When asked to describe this "snooper button" system, a representative of the C. & P. Telephone Co. supplied, in writing, this summary:

"Transmitter Cut-Off

"As a key telephone system arrangement, the transmitter cut-off is a feature that enables the telephone user to cease transmission of sound into the telephone without losing the capability of listening to the other person's conversation. Because of its monitoring nature, the installation and use of it has been highly discouraged by the General Services Administration."

According to Mr. X, these snooper buttons have been used in his office to monitor calls of employees to other persons in Government as well as persons outside the Government, without the knowledge of participants in the telephone calls.

Mr. X took no action in May about the information concerning a "listening post" on his phone, since the policy announced by Mr. Kunzig could be expected to end such snooping.

One month later, despite the Administrator's order, there was evidence that in certain offices telephone snooping was continuing. And there was no evidence that such devices had been removed from various telephones.

At this point, Mr. X decided to collect information on the extent of these illegal eavesdropping operations within GSA.

His determination to do so was reinforced by information given him on June 3, 1969, by a secretary to a high official in GSA.

She informed him that she had monitored telephone conversations in Mr. X's division during 1968, and in the division in which she was presently working. The monitoring was through use of the "snooper button." It was done by order of her superior. Finally, and most important and despicable, it was done without the knowledge of those whose phones were being monitored.

The next day, June 4, 1969, Mr. X received even more disturbing information. Another secretary formerly employed in the office of his superior informed him that at that superior's instruction she monitored every telephone call that came into his office.

Mr. Curtis. Mr. President, the point to keep in mind is that this secretary operated a telephone which served all of the lines of all of the employees in that office. All calls coming in and going out of the office, regardless of by whom or to whom they were made, were wired through telephone equipment located on and near her desk.

Thereafter, on the same day, Mr. X discovered that in his office "snooper buttons" remained operable. Mr. X tested them personally for effectiveness, and took photographs of these installations.

For the information of Senators, I have pictures of these infamous snooping devices, in operation as of June 4, 1969.

Since then, Mr. X has talked with several employees in GSA and the Department of the Interior, who confirm the widespread, deliberate, systematic use of "snooper" devices over the past 2 years. In each case, employees were instructed by their superiors to monitor all calls, to take notes, and to make no disclosure of any kind that might make either party to the telephone conversation aware of such eavesdropping.

One more fact: I am sure it will be of interest to Senators to learn that this monitoring included calls from Members of Congress. In fact, one person charged with responsibility for taking notes on such telephone calls said she was specifically instructed to monitor calls from Representatives, Senators, Government officials, and others.

Again, let me point out to Senators that these telephone calls were being monitored without at least one participant, and in many cases both participants, knowing about it, and certainly without their permission.

As to the mechanics of setting up such snooper systems, the telephone company installed these devices at the request of GSA officials. I hope to find out who these officials were, whether they are still with GSA, and if not, what they are presently doing.

The General Services Administration is, after all, a quarter of a billion dollar agency, with almost 40,000 employees.

It lets annual contracts amounting to millions of dollars for the provision of supplies to the Government, and for 1970 alone, spent on the order of $100 million for the acquisition of new facilities.

Thus, there could well be an economic motive for this high level eavesdropping.

The only other possible motive is political at best, and since the facts point to intra-agency use, it seems more likely to be of the cheap, bureaucratic, gutter-fighting variety.

Equally obnoxious is the use of such "snoopers" simply to spy on subordinates, to deny them the privacy to which they are entitled. We have had too many examples of how Federal employee rights are invaded by peeping tom superiors.

It seems to me that both the Senate Government Operations Committee and the Senate Judiciary Committee should find this information of great interest and worth pursuing further.

There is a collateral issue that must be faced. As I have said, the telephone company installs such snooper devices, technically styled "transmitter cutoffs," although it does not advertise the service in its available promotional brochures. The general justification of such devices is that they allow a secretary on a third phone to take notes of a phone conversation between two parties, without the office noise intruding through her phone mouthpiece into the conversation between the principals. I could accept this, I suppose, if I had definite assurance that such devices would be used only in such a situation and, of course, with the full knowledge and consent of the two principals.

Instead, here we have a clear example of how ridiculously easy it is to convert these devices into eavesdroppers, little spies for crooks or paranoids who hope to profit one way or another by denying the honorable right of privacy to others.

I am coming rapidly to the conclusion that such "transmitter cutoffs," as they are euphemistically called, are far too tempting to the crook or the paranoid.

Mr. President, this type of eavesdropping and electronic snooping—where there is not the slightest pretext that the national security is involved—must stop. It must stop now, without equivocation or exception. I am convinced that the new administration wishes to reverse this proliferation of illegal eavesdropping devices throughout Government. I compliment Administrator Kunzig for making this a first order of business within the GSA. I commend his action to other Government agency heads. I could only wish that Mr. Kunzig's subordinates—many of them holdovers from a previous administration—had taken his orders to heart and halted the nefarious practice.

It seems to me, however, that the telephone company should take a long, hard, and careful look at its practice of installing such devices, in light of the misuse that can be made of them. They offer too easy a temptation for the users to turn them into electronic eavesdroppers with unlimited scope. I sincerely request the cooperation of the telephone company in changing this practice.

In closing, Mr. President, let me restate my case.

We know that there has been and apparently still is large-scale electronic snooping going on in one major U.S. agency, the General Services Administration. This is happening not only here in Washington but apparently in regional offices across the country as well.

There is evidence that it is going on in a major Government department—the Interior Department.

I ask, Mr. President, and I think all my colleagues are justified in asking the same question, how much further has this practice permeated our Government?

How many agencies and departments in which no national security is involved are in the habit of listening in on their employees' most private conversations?

I submit that this is a matter which the Justice Department should investigate—and at once. I submit further that our own Committees on Government Operations and the Judiciary should oversee such an inquiry by the Justice Department, to determine that this evil is brought to a complete and total halt.

Mr. President, to be specific, the General Services Administration let contracts, many of which, by the nature of them, cannot be competitive; they are negotiated. The individuals in places of power have been monitoring the conversations of their subordinates to find out what their subordinates know. Is that not an open invitation to corruption? It is a practice that should end.

Mr. President, I yield the floor.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 7935) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rates under that act, to expand the coverage of that act, and for other purposes; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. Perkins, Mr. Thompson of New Jersey, Mr. Dent, Mr. Dominick V. Daniels, Mr. Burton, Mr. Gaydos, Mr. Clay, Mr. Biaggi, Mr. Mazzoli, Mr. Quie, Mr. Erlenborn, Mr. Hansen of Idaho, Mr. Kemp, Mr. Sarasin, and

Mr. HUBER were appointed managers on the part of the House at the conference.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (S. 504) to amend the Public Health Service Act to authorize assistance for planning development, and initial operation, research, and training projects for systems for the effective provision of health care services under emergency conditions.

The PRESIDENT pro tempore subsequently signed the enrolled bill.

TEMPORARY EXTENSION OF CERTAIN HOUSING AND URBAN DEVELOPMENT LAWS AND AUTHORITIES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 233, House Joint Resolution 512, that it be laid before the Senate and made the pending business.

The PRESIDING OFFICER (Mr. HELMS). The bill will be stated by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 512) to extend the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages, to extend authorizations under laws relating to housing and urban development, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution, which had been reported from the Committee on Banking, Housing and Urban Affairs with amendments on page 2, after line 9, insert:

(2) The second sentence of subsection (i) of such section is amended by striking out "and by $200,000,000 on July 1, 1971" and inserting in lieu thereof "by $200,000,000 on July 1, 1971, and by $29,000,000 on July 1, 1973".

At the top of page 3, insert:

(j) Section 10(e) of the United States Housing Act of 1937 is amended by striking out "and $150,000,000 on July 1, 1972" and inserting in lieu thereof "$150,000,000 on July 1, 1972, and $140,000,000 on July 1, 1973".

On page 4, line 3, after the word "by", strike out "such additional sums on and after July 1, 1973, as may be necessary to make grants under this title up to the amounts approved in Acts making appropriations for the fiscal year ending June 30, 1974" and insert "$1,328,000,000 on July 1, 1973"; in line 9, after "(a)", strike out "Section" and insert "The first sentence of section"; in line 11, after the word "by", strike out "inserting after the first sentence the following new sentence: "In addition, there are authorized to be appropriated for such purpose such sums as may be necessary for the fiscal year ending June 30, 1974."." and insert "striking out "and not exceed $200,000,000 for the fiscal year ending June 30, 1972" and inserting in lieu thereof" not to exceed $200,000,000 for the fiscal year ending June 30, 1972, and not to exceed $232,500,000 for the fiscal year ending June 30, 1974"."; on page 5 line 2, after the word "plus", strike out "such additional sums as may be necessary for such purposes" and insert "not to exceed $63,000,000"; in line 10, after "1973", strike out "such sums as may be necessary" and insert "not to exceed $40,000,000"; at the top of page 7, insert a new section, as follows:

TERMINATION OF FEDERAL HOUSING ASSISTANCE MORATORIUM

SEC. 13. (a)(1) The Secretary of Housing and Urban Development shall immediately cease any suspension of Federal housing assistance programs, or any withholding of funds for such programs, and shall carry out such programs in the current and each succeeding fiscal year to the full extent possible pursuant to the contract authority or other funds appropriated or otherwise authorized or made available by the Congress for such programs in each such fiscal year.

(2) The Secretary, in carrying out his responsibilities under this subsection, shall not withhold or delay the approval of applications for contracts under the Federal housing assistance programs, the entry into contracts under such programs, or the expenditure of funds appropriated for such programs. He further shall take no action which effectively precludes or delays the approval of applications for contracts for such programs, the entry into contracts for such programs, or the expenditure of funds appropriated for such programs.

(3) As used in this subsection, the term "Federal housing assistance programs" means the programs established under section 235 and section 236 of the National Housing Act, section 101 of the Housing and Urban Development Act of 1965, title IV of the Housing Act of 1950, the United States Housing Act of 1937, and section 312 of the Housing Act of 1964.

(b)(1) Section 517(c) of title V of the Housing Act of 1949 is amended by (1) striking out the word "may" and inserting in lieu thereof the word "shall", and (2) inserting before the period at the end of the sentence a comma, and the words "in the amounts specified in the appropriations Acts for that purpose: *Provided*, That not less than 60 per centum of such loans in the aggregate be made at the reduced rates provided for under section 521 of this title".

(2) Section 516(a) of title V of the Housing Act of 1949 is amended by striking out the words "is authorized to" and inserting in lieu thereof the words "shall, in the amounts specified in the appropriations Acts for that purpose,".

And, on page 8, after line 15, insert a new section, as follows:

EXPENDITURES TO CORRECT OR COMPENSATE FOR SUBSTANTIAL DEFECTS IN FEDERAL HOUSING ADMINISTRATION INSURED MORTGAGED HOMES

SEC. 14. (a) The text of section 518 of the National Housing Act is amended to read as follows:

"SEC. 518. (a) The Secretary is authorized, with respect to any property improved by a one- to four-family dwelling approved for mortgage insurance prior to the beginning of construction, which he finds to have structural defects, to make expenditures for (1) correcting such defects, (2) paying the claims of the owner of the property arising from such defects, (3) acquiring title to the property: *Provided*, That such authority of the Secretary shall exist only (A) if the owner has requested assistance from the Secretary not later than four years (or such shorter time as the Secretary may prescribe) after insurance of the mortgage, and (B) if the property is encumbered by a mortgage which is insured under this Act after the date of enactment of the Housing Act of 1964.

"(b) If the owner of any one- to four-family dwelling which is covered by a mortgage insured under section 203, 221, or 235 and which is more than one year old on the date of the issuance of the insurance commitment, makes application to the Secretary not more than one year after the insurance of the mortgage (or, in the case of a dwelling covered by a mortgage the insurance commitment for which was issued on or after August 1, 1968, but prior to the date of the enactment of this provision, one year after the date of the enactment of such provision) to correct any structural or other defect of the dwelling which seriously affects its use and livability, or which is attributable to failure of the dwelling to meet applicable State laws or local regulations relating to the public health or safety or which constitutes a violation of the minimum property standards promulgated by the Federal Housing Administration, the Secretary shall, with all reasonable promptness not to exceed forty-five days, make expenditures for any of the purposes specified in subsection (a), unless the defect is one that did not exist on the date of the issuance of the insurance commitment or is one that a proper inspection could not reasonably have been expected to disclose. The Secretary may require from the seller of any such dwelling an agreement to reimburse him for any payments made pursuant to this subsection with respect to such dwelling.

"(c) The Secretary shall by regulations prescribe the terms and conditions under which expenditures and payments may be made under the provisions of this section.

"(d) The Secretary shall take all steps necessary to notify owners of the provisions of this section and section 801 of the Housing Act of 1954 including notification by certified mail. If an owner fails to make application for reimbursement within the time set by this section and if his failure is the result of his not having received notification from the Secretary, the deadline for his application shall be extended to include a reasonable period of time after he actually received notification from the Secretary."

(b) Section 801(a) of the Housing Act of 1954 is amended by adding after the words "the beginning of construction" the following: "or substantial rehabilitation".

The PRESIDING OFFICER. Who yields time?

Mr. SPARKMAN. I yield myself 10 minutes.

Mr. President, I ask unanimous consent that the following staff members have the privilege of the floor: Robert Malakoff, Gary Buckley, Mike Simpson, Thomas Brooks, and Gordon Alexander.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair inquires of the Senator whether he wishes the committee amendments to be considered en bloc.

Mr. SPARKMAN. I ask unanimous consent that that be done.

The PRESIDING OFFICER. Without objection, the committee amendments will be considered en bloc.

Mr. SPARKMAN. Mr. President, the bill before the Senate has as its principal purpose to extend authority to the Secretary of Housing and Urban Development to insure FHA mortgages and to carry out basic housing programs, the authority for which expired on June 30, 1973. It would also:

First. Establish specific dollar authorization ceilings for various housing and urban development programs for fiscal year 1974;

Second. Authorize the Secretary of Housing and Urban Development in consultation with the Administrator of the Veterans' Administration to establish interest rate ceilings for FHA mortgages and VA-guaranteed loans. This authority expired on June 30, 1973, and the rate dropped back to the statutory ceiling of 6 percent;

Third. Assure that Federal housing programs are carried out to the full extent authorized by the Congress by requiring the Secretary of Housing and Urban Development to end any suspension of housing programs or withholding of funds; and

Fourth. Expand protection for homebuyers in other programs under sections 203 and 221 by authorizing expenditures for the correction of serious defects which were failed to be observed by the FHA inspector during the course of his duties in appraising the property prior to insurance.

Despite these efforts, however, the administration has adamantly refused to reinstate the programs. The President sent a message to Congress that he will have a report on a study now being made of all housing programs by September 7 of this year. This has delayed action on new legislation, but our Subcommittee on Housing and Urban Affairs is now holding hearings on new legislation independently of the administration. Our plan is to start considering a new 1973 housing bill at the conclusion of these hearings which end July 31. We may need other hearings after September 7 on the President's proposal, but intend to keep them short and start marking up a bill in September with the hope of having a bill passed this year.

The moratorium on subsidy funds did not affect other FHA and VA housing programs. These have been moving along, but ran out of authority on June 30. It is for these programs that the statutory authority for continuation ran out on June 30, 1973. The resolution before us will reinstate the authority.

This bill is also necessary to provide funding authority to continue all programs through fiscal year 1974.

Mr. President, the most controversial provision of the bill is section 14 which would authorize the Secretary of Housing and Urban Development to make expenditures for the correction of defects of one- to four-family homes financed under the FHA sections 203 and 221 programs.

There has been a lot of misunderstanding about this provision and I am afraid those opposed to it are raising a lot of extravagant claims which I believe are unwarranted.

Mr. President, the passage of this resolution is long overdue. The House of Representatives passed an extension bill on May 21; our Committee on Banking, Housing and Urban Affairs reported the House-passed version with amendments on June 25, 1973. However, because of the logjam of legislation before the Senate prior to the July 4 recess, it was impossible to obtain Senate action. Recognizing this situation and knowing of the urgency of such an extension authority, the committee also reported a simple 30-day extension bill (S.J. Res. 129) having identical provisions to the bill as passed by the House. The purpose of this simple resolution was to keep the programs going until such time as we could iron out differences among members of the Senate on several provisions in the amended House Joint Resolution 512. The matter, therefore, has been at an impasse since late June, and it is most urgent that the Senate complete action on the bill today and move it towards final law as soon as possible.

As the Senate knows, subsidized housing programs have been in a state of suspension since January 7, 1973, when the President froze all Federal subsidy funds for housing and urban development programs. The committee and the Congress was very much upset by the arbitrary action of the administration in cutting off programs that we had every reason to believe were carrying out their basic objective of providing decent housing for lower-income families.

We had an exchange of letters with the administration on this and conducted 2 weeks of oversight hearings on the freeze, and we concluded that the allegations made by the administration that the programs were not working and were inefficient was not correct.

First of all, let me say that the issue of Federal responsibility toward homeowners purchasing homes financed under FHA is an old one. The Congress first recognized it in 1954 when the law was written to require warranties to be made by home builders or sellers on all new homes insured under the FHA program. At that same time, the law required the builder or seller to deliver to the purchaser a written statement on the appraised value of the unit.

In 1964 the Congress went further and passed section 518(a) of the National Housing Act which placed the responsibility upon the Secretary of Housing and Urban Development to make expenditures for structural defects in new homes financed, by the FHA. By this action, the Congress established a definite precedent for what later followed in 1970 when section 518(b) was written into the law to place the same responsibility on the Secretary of Housing and Urban Development with reference to section 235 existing homes.

The Congress took this action in 1970 after we learned of the many serious hardships being placed upon unsuspecting lower income home purchasers who bought homes with an FHA insured mortgage. These people were unaware of the many possible hidden defects that did not turn up until they moved in. They relied upon the FHA, because it is a Government agency and, in fact, they received a copy of an appraisal statement signed by the FHA Commissioner. They had every reason to assume that the inspector or appraiser did his job properly and that they had no need to worry.

The 1970 amendment required HUD to make expenditures only in those cases where the defect existed on the date of insurance and was one that a "proper inspection could reasonably be expected to disclose."

I want to emphasize this latter point, because I believe it is an answer to those who contend that section 518(b) placed FHA in the business of writing defect insurance. The premise is that FHA's inspectors have an obligation to inspect homes and to detect serious defects before issuing an appraisal statement to the homeowner. When the FHA inspector or appraiser fails to detect serious defects which affect the livability of the home and, when a homeowner purchases such a home, the FHA has a responsibility to make good.

Soon after passage of section 518(b) in the 1970 Housing Act, the committee became aware that its coverage was too narrow and we received many complaints from lower-income homeowners who purchased homes under the FHA section 221(d)(2) program. They too were suffering hardships for the same reason as those families purchasing section 235 homes.

We held hearings on this matter in 1970 and recognized the equity of those claims and wrote an expanded provision in the bill before us to broaden the coverage beyond 235 to the 221 program. No bill was passed in 1971, but our Housing and Urban Development Act of 1972, which passed the Senate by a vote of 80 to 1, included such a provision.

As we all know, that bill never became law so that the matter continued to hang without statutory authority.

There has been no opportunity to act on this until last month when the extension resolution came before us. At that time, the complaints on the FHA inspection failures had mounted and it became very clear that the section 518(b) coverage should go, not only to section 235 homes, but also to sections 221 and 203(b) homes. The committee acted accordingly and we have before us section 14 of the resolution which would extend the 1970 law to cover these other programs.

It is rather interesting about HUD's attitude on the amendment. We have never received anything from the administration critical of the existing law nor did the committee receive anything prior to our markup session critical of the bill, S. 855, introduced by Senator STEVENSON on February 15, 1973. Comments from HUD were requested by the committee on February 20 of this year but we received no response to our request.

Claims have been made that these provisions will be very costly to the Government and will be a very difficult program to administer. I recognize that this may be true but we must weigh these arguments against HUD meeting its responsibility to lower income families who have put their lifesavings into a home which has serious livability defects and who need relief. Also it is important to remember that for many of these homes a small HUD expenditure to correct defects is a lot cheaper than having HUD take over the home and having to fix it up and sell it.

Many of us have heard about the large volume of FHA homes acquired by FHA in Detroit. I believe there are over 15,000 sections 221(d)(2) and 203 financed homes in that city from which the families walked away and left them to the FHA. Many of these homes were soon vandalized and all FHA had was a heap of rubble. The average cost to the FHA for these homes is around $7,000. Would it not have been much cheaper to pay the homeowner a small expenditure to fix up the home and correct the defects rather than havirg them abandoned at such a loss to the Government.

Mr. President, sometimes we in the Congress have to make hard decisions. This is one of them. I certainly am not one to authorize the foolish expenditure of Government money. On the other hand. I feel deeply for these homeowners and, in common decency and equity, I believe the Government should meet its obligation to them.

This year, my Subcommittee on Housing held two field hearings and I was able to see for myself the condition of some of the homes about which this amendment is concerned.

I have some pictures here of some of the homes I saw in Chicago. I was appalled by what I saw and am firmly convinced that serious mistakes were made by the FHA in insuring the mortgage on homes of such condition. Nevertheless, they were insured and now I believe the FHA has a responsibility to correct the defects found in them.

I believe that HUD has reacted well to the problems presented to it and has issued new regulations which should meet appraisal deficiencies in the future.

Secretary Romney started bearing down on his FHA appraisers as early as 1970 and issued a series of tightening regulations which I understand have greatly improved the quality of appraisals. I hope, therefore, that the necessity for expenditures for FHA cases since 1971 will be reduced to a bare trickle in the future. With the new regulations and a reasonable degree of supervision, I would expect very little money would be needed under this provision in the future.

Mr. President, some express great concern about the expenditures coming out of the reserve fund. I cannot get too excited about this. The fund was set up to meet all costs and expenses in connection with the writing and paying claims under the FHA insurance program. The mutual mortgage insurance fund has a balance as of the end of 1972 of $1.7 billion, and I believe it is well able to carry this added cost directly attributable to administration of the 203 program.

The other two funds, the General Insurance Fund and the Special Risk Fund, are in a deficit position and are supported by direct borrowing from the Treasury. These funds were set up with the understanding that they were highly risky, and it was expected that eventually appropriations would be made to make up for defects. The expenditures resulting from the 512 provision will add to the deficit, but it is justified as an added cost of FHA doing business.

Mr. President, the Congress cannot delay longer in authorizing expenditures to meet the needs of the families involved in FHA failures. In fairness and justice, these families are long overdue in necessary relief from their Government. I believe we must act now on this matter. We cannot wait for new omnibus legislation, which could be delayed until next year.

Mr. President, there will be an amendment offered relating to this resolution. I am hopeful that in the amended form that this measure may be agreed to.

I reserve the remainder of my time.

Mr. TOWER. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. TOWER. Mr. President, today we are considering a very important piece of legislation. It will provide a much needed and long overdue extension of authorities for the FHA and VA programs.

House Joint Resolution 512 came to us from the House of Representatives as a simple extension bill. It did not emerge from our committee in that manner, however. When we reported the bill, several amendments were added to it. I seriously question the merits of some of these provisions, and it is my intention to offer an amendment regarding one of them.

It was my sincere hope that we could pass these extensions prior to June 30, 1973, the date they expired. Everytime we delay extending these programs, hundreds and thousands of people suffer. These are the people who have saved for and dreamed of owning their own home. They had made plans to vacate their premises and move into a new home, only to find that they had to wait longer than should have been necessary. I think all of us are well aware of the calls we've been getting from our constituents over the past couple of weeks regarding this matter.

Because the legislation calendar was so crowded during the last week before the recess—many of you will remember that we were in session until 11 p.m. on several occasions—and because it was my intention to offer an amendment to delete section 14 of the bill when it came up on the floor, there was a strong possibility that time would not permit us to consider House Joint Resolution 512 prior to the 4th of July recess. In light of this possibility, the committee reported out Senate Joint Resolution 129—a bill which I strongly favored.

Senate Joint Resolution 129 would have extended the FHA and VA programs for 30 days. The purpose behind the proposal was that we could at least extend these programs so that those who had made plans to purchase a home could still do so. It was thought that we should continue the housing programs and any questions that we had regarding House Joint Resolution 512 could be resolved after the July 4 recess. Unfortunately, this bill did not pass prior to the recess.

I was very pleased to see this body move so quickly a few days ago on H.R. 8949. This bill would at least allow the VA programs to continue. I am advised that the President should sign this into law very soon. It is hoped that by our action today we can get the FHA programs moving once again, as well. It is long overdue.

Mr. President, I intend to call up an amendment to delete section 14 from the bill. If other Senators have opening remarks prior to that time, I would be glad to yield the floor. Otherwise, without further ado, I will call up my amendment.

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill as thus amended be regarded for the purposes of amendment as original text.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

H.R. 6717. An act to amend certain provisions of the Land and Water Conservation Fund Act of 1965 relating to the collection of fees in connection with the use of Federal areas for outdoor recreation purposes; and

H.R. 8949. An act to amend title 38 of the United States Code relating to basic provisions of the loan guaranty program for veterans.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. ROBERT C. BYRD).

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, July 20, 1973, he presented to the President of the United States the enrolled bill (S. 504) to amend the Public Health Service Act to authorize assistance for planning, development, and initial operation, research, and training projects for systems for the effective provision of health care services under emergency conditions.

TEMPORARY EXTENSION OF CERTAIN HOUSING AND URBAN DEVELOPMENT LAWS AND AUTHORITIES

The Senate continued with the consideration of the joint resolution (H.J. Res. 512) to extend the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages, to extend authorizations under laws relating to housing and urban development, and for other purposes.

Mr. MUSKIE. Mr. President, passage of House Joint Resolution 512, which is before us today, would not only allow continuation of Federal housing programs, but would also provide an assurance that the Federal Government will use existing law to meet our housing needs.

The programs which this resolution would continue have helped millions of Americans find decent housing and a decent living environment. But last January, the administration halted all new commitments for subsidized housing programs, including the sections 235 and 236 interest subsidy programs, rent supplements, low rent public housing, and college housing. The constitutionality of the administration's action is being challenged in a court suit joined by my home State of Maine.

But gaining relief through the courts could take time, and the housing program in my State cannot afford that time. Mr. President, yesterday the Maine Housing Authority formalized the last substantial construction contract using funds allocated before the freeze. There is no more money.

The significance of the subsidized housing programs to my home State cannot be overemphasized.

The need for livable housing is obvious. For example, according to census figures, 4,600 of 8,000 housing units in Piscataquis County, Maine, lacked full plumbing. Only half the housing units in Hancock County had full plumbing.

Maine has one of the lower per capita incomes in the Nation, but because of a challenging climate and transportation difficulties, the home construction costs are perhaps the highest.

There are literally thousands of families who simply cannot afford to build a home on the private market.

Fully half the new housing starts in Maine last year were subsidized. FHA 235, 236, and 221 programs alone accounted for 1,163 housing units in 1972—nearly one-fifth of total housing starts last year.

The Maine State Housing Authority has estimated that 60,000 units of subsidized housing will be needed over 10 years just to prevent a deterioration of the housing situation in my State.

Using an imaginative and vigorous approach which produced enthusiastic response from private capital sources, 3,164 subsidized units were built in 1972. But that was only half the number of units required last year to meet the goal.

The housing moratorium has put an end even to that partial effort.

Mr. President, it has been said time and time again that Congress is not living up to its commitment in 1968 to build 26 million units of decent housing by 1978. Our pledge was never followed through with a full commitment of funds, and now the administration has abandoned even the promise.

The administration's unfortunate housing moratorium calls for a strong response—including the anti-impoundment language in House Joint Resolution 512. Similar language has already been adopted by the Senate in the HUD appropriations bill, now in conference. I urge the Senate to retain the anti-impoundment language in these two bills.

Mr. President, I hope that housing programs can—and will—be improved. But there is no excuse to cripple our existing housing effort while new, untried proposals are being debated.

Mr. CRANSTON. Mr. President, section 13 of House Joint Resolution 512 orders the Secretary of the Department of Housing and Urban Development to cease the withholding of funds for public housing, sections 235 and 236 of the National Housing Act, rent supplement housing, rural housing programs, and section 312 rehabilitation loans.

Section 13 requires the Secretary of HUD to carry out these needed housing programs to the full extent possible pursuant to the contract authority or other funds previously appropriated or otherwise authorized by Congress. The purpose of this section is to end the moratorium imposed by the administration by carrying out the intention of Congress expressed in previously enacted authorizations and appropriations. This section reaffirms what Congress has always intended when it appropriated money; namely, that funds should be spent to the full extent possible to carry out programs approved by the Congress. This intent has been implicit in previous housing authorization and appropriations acts; it is made explicit in section 13. Despite this difference, the underlying intent remains unchanged: funds appropriated by Congress must be spent to the full extent possible.

Mr. TOWER. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 8, line 16, delete section 14 and the title thereto.

Mr. TOWER. Mr. President, this resolution came to us as a simple extension bill which would extend the authority of certain Federal housing programs and community development programs. This was not the way the bill emerged from the Banking, Housing and Urban Affairs Committee, however.

House Joint Resolution 512 was amended to include specific dollar amounts for housing and community development programs in addition to incorporating S. 855, S. 1349, and S. 1440. S. 855, which is now section 14 of House Joint Resolution 512, would amend section 518(b) of the National Housing Act. This provision authorizes the Secretary of HUD to make expenditures to correct defects affecting use or livability in single family homes insured by the FHA, under the section 235 program, where the defects were present at the time of commitment and could reasonably have been discovered on a proper inspection. House Joint Resolution 512, as presently before us, would enlarge the scope of this program to include houses insured under sections 203 and 221.

I highly favor the section 518(b) program as it presently exists. It has compensated homeowners for defects that existed in their houses at the time they made their purchase. These are defects which should have been discovered but were not discovered by the FHA at the time of appraisal.

Having purchased the homes under the section 235 program, these homeowners were of limited incomes and could not afford the repair of major defects. Our committee found that some FHA appraisers had allowed defective homes to be sold to lower income families under the section 235 program. In our committee report in 1970, in explaining the section 518(b) provision, we found that "most purchasers of homes under 235 understandably believe that the Federal Government, which is providing a substantial subsidy to these families, is protecting their interest in the property." Until that point in time, FHA was primarily in the business of appraising properties solely in order to see that the Government was protected when it insured the mortgage on the property.

But section 235 was a very new program. It was just getting underway, and the emphasis at HUD was on production. Many factors were prevalent at that time: Increased production, little increase in staff, decentralization at HUD of program administration, working with low-income families who often were in the need of counseling but were not able to receive it, and several other factors. All of this led to a situation which resulted in very little control over the quality of the house that was being purchased by a low-income family and insured by the Federal Government.

In these cases, the Federal Government did have a greater interest in these homes than they had in the past. HUD was not merely protecting its interest in the value of the property—there was something more that was owed. HUD was dealing with a new type of client and subsidy payments were being made to assist in the purchase of a house. In light of these facts, because we felt that FHA was now operating under a new program, with new dimensions, we felt that it had additional duties and obligations. And that is one of the main reasons that we provided the assistance that is now incorporated into law as the section 518(b) program.

Now, section 14 of House Joint Resolution 512 would expand the provisions of section 518(b) to the sections 203 and 221 programs. But these programs are different from the section 235 program. Section 203 is the standard single-family mortgage insurance program that has been in existence for years. It contains no subsidy payments and the purchasers who utilize the program are of a much higher income, on the average, than the section 235 purchasers. The section 221 (d)(2) program is also a homeownership program. While it is designed for low- and moderate-income families, it contains no interest-subsidy payments or any other kind of payment. It is strictly a mortgage insurance program.

As can be seen, the sections 203 and 221(d)(2) programs are very different from the section 235 program as far as the Government's financial interest is concerned. All three involve mortgage insurance, but only one, the section 235 program, involves the additional element of a direct Government financial interest in the property. To many, I think, a strong argument can be made that the FHA's responsibility to a purchaser under section 235 is different than that under sections 203 and 221(d)(2). An argument can be made that section 518 (b) is an exception to the traditional role FHA has played, that of providing financing for housing to those who could not ordinarily obtain it, and that this exception should not be extended, as is presently proposed. An argument can be made that FHA's role is singular as that of an insurer of mortgages and not an insurer of mortgages plus an insurer against defects that exist in a house at the time of purchase.

Whatever we think of the position of the FHA, be it strictly that of an appraiser and insurer of mortgages or of the additional roles of inspector and insurer of defects, I do not take the position of being in opposition to a proposal which would provide relief to homeowners who are harmed and suffer as a result of some action or inaction on the part of the Government.

I am aware of the tremendous hardships that have prompted this proposal as originally proposed by the distinguished junior Senator from Illinois. I have been told of the absolutely horrible conditions some of these homes are in. And this condition is not restricted to Chicago, but is present in Pittsburgh, Philadelphia, and other cities in this country. The distinguished chairman of our committee, Senator SPARKMAN, came very close to suffering bodily injury as he was touring a home in the Chicago area, due to its structural deficiency. There is no question that a problem exists which should be rectified. My major concern is that I do not think that section 14 of this proposal is the proper vehicle to provide a solution to this problem.

This proposal contains many provisions which raise several significant questions. It provides that any purchaser of a house insured under section 203 or 221, from August of 1970 to 1 year after enactment of the bill could make a claim against HUD for defects that existed at the time of purchase, but which were not uncovered by an FHA appraisal. This time span could cover a period of 4 years. The degree of difficulty, if not the impossibility of verifying these claims would be enormous.

I cannot imagine how one could determine if a defect existed 4 years ago. Would the purchaser have the burden of proof that the defect existed when FHA made the original appraisal, or would FHA have the burden of proving the contrary? How difficult would it be to determine if a minor problem, which had not been repaired, in fact was the cause of a structural defect that manifested itself well after the inspection? And to what degree of difficulty do we encounter when we try to define structural defect?

In my mind, one of the major problems this bill raises is how this program is to be financed. The bill provides no authorization for appropriations. Presumably, therefore, financing would have to come out of the mortgage insurance funds that have been established to compensate for any claims that might arise as the result of a foreclosure on a house insured under any one of the mortgage insurance programs.

Basically, we are talking about three separate mortgage insurance funds: The mutual mortgage insurance fund, the general insurance fund, and the special risk insurance fund. Presumably, payments relating to section 203 houses would come from the mutual mortgage insurance fund, payments relating to section 221(d)(2) houses would come from the general insurance fund and payments for section 235 houses would come from the special risk insurance fund.

Let us take a brief look at the financial status of these funds. On July 10–11 of this year, just a few days ago, Congressman RANDALL, chairman of the Legal and Monetary Affairs Subcommittee of the House Government Operations Committee held hearings on the financial stability of these funds. At those hearings, the General Accounting Office—GAO—testified that as of June of 1973, it was estimated that insurance reserves of the special risk insurance fund would show a deficit of $290 million and as of June 1974, these reserves would show a deficit of about $524 million. Regarding the general insurance fund, it was estimated that the reserves, as of June 1973, showed a $118 million deficit and it was projected to further decrease to $353 million by June 1974.

Only the mutual mortage insurance fund showed an excess of fund reserves over reserve requirements. I am advised, by HUD, that according to their estimates, the implementation of this program would reduce the mutual mortgage insurance fund to a level which would be below the reserves estimated to be needed for actuarial soundness.

While it is intended to fund section 14 from these insurance funds, a question has been raised, and no clear answer has been given, as to whether or not these funds can legally be used for this purpose. It has been argued that only payments for general expenses in running these programs, and payments made on insurance claims are eligible claims which can be made. This would not include a payment for a defect which existed in a house at the time of the FHA inspection, but which was not discovered at that time.

Regarding the costs of the program, HUD estimates that if claims are made at the same rate as they have been for the section 235 program, then the initial cost could run as high as $305 million with an annual prospective cost of $59 million. If claims are made at a rate which is 10 percent less than the present rate, the initial estimated amount is $178 million and the annual prospective cost is $35 million.

There are other parts of this proposal which raise questions in my mind regarding how effectively the program can be administered. The bill makes it mandatory that the Secretary shall make the payment to correct the defect within 45 days of the application. This time would be almost impossible to comply with.

Another question is what if the owner has abandoned the property for a couple of years, yet still retains title. Presumably he would still be allowed to make a claim under this proposal.

This bill provides that a claim can be made if a defect exists which violates the FHA minimum property standards. The practical problem here is that the FHA does not apply its minimum property standards to existing houses, but only to new construction, and even that is limited to where the FHA can inspect the property during construction. Yet section 14 does not deal with new houses, but houses that are at least 1 year old.

The bill further provides that HUD shall take all steps necessary, including notification by certified mail to all purchasers of homes insured under section 203 and 221, to apprise the mortgagors of its provisions. In addition to being an almost impossible task, it is argued that this might invite claims from those who might have had defects in their houses after an FHA inspection, but who want compensation anyway.

There are other features of this proposal which cause me some concern which I shall not go into at this time.

Mr. President, this is not the type of proposal that should be tacked on to a simple FHA extension bill.

What we are doing here is creating a major new program. I want to emphasize that I am not opposed to expanding and enlarging the section 518(b) program. This program, however, would drastically alter the purpose of the FHA insurance program. No longer would the FHA merely be in the business of making financing more readily available to those who might not be able to secure it on their own. FHA would now wear an additional hat—that of reimbursing homeowners for defects in their property. I submit that more discussion and consideration is necessary before we go off on the course in which we seem to be heading. I do not think we have the facts before us by which we can determine the complete ramifications of this proposal.

I urge the adoption of my amendment.

Mr. BENNETT. Mr. President, will the Senator yield? Are we on controlled time?

Mr. TOWER. We are on controlled time, and the Senator may have as much time as he requires.

Mr. BENNETT. Mr. President, I thank the Senator.

I think I should put into the RECORD the information that the courts have developed with respect to the responsibility of the FHA based on its appraisal of mortgages.

In his letter of July 18, the Senator from Illinois (Mr. STEVENSON) justifies section 14 of House Joint Resolution 512 on the ground that "thousands of innocent homebuyers across the country have been faced with unexpected repairs due to the mistakes of their own Government. These homebuyers, many of whom have low or moderate incomes, trusted their Government and must now pay for their misplaced trust."

The thrust of this theory of liability is that buyers of homes on which the FHA has insured mortgages are within the class sought to be protected by the requirement that the FHA appraise the property. Such theory cannot be substantiated in any legislative history, and it has been expressly and emphatically rejected by the U.S. Supreme Court in *U.S.* v. *Neustadt*, 366 U.S. 696 (1961).

In 1954, Congress added section 226 to the National Housing Act which requires sellers to inform buyers of FHA-appraised value. In hearings before the Senate Committee on Banking and Currency, the following exchange took place between Senator Bennett and Home Finance Administrator Cole:

> Mr. Cole: . . . I agree with the Senator that the home buyer should understand that the Federal Government is not guaranteeing his home.
>
> Senator BENNETT. That is correct. . . . The idea of the inspection service under Title II is to protect the Federal Government, which

> undertakes to insure the loan. The fact that the inspection is made, provides collateral benefits to the property owner. There is no question about that. But in the last analysis the property owner cannot say to the Federal Government, "Well, your inspector inspected my house, and now look what's happened; therefore, you are responsible; therefore, you must come down here and fix it up."

That is a quotation from the hearings before the Senate Committee on Banking and Currency, Housing Act of 1954, 83d Congress, second session, at pages 1402 and 1403.

Citing the above quoted exchange, the Supreme Court described the legislative history as follows:

> It was repeatedly emphasized that the primary and predominant objective of the appraisal system was the "protection of the Government and its insurance funds"; that the mortgage insurance program was not designed to insure anything other than the repayment of loans made by lender-mortgagees; and that "there is no legal relationship between the FHA and the individual mortgagor". Never once was it even intimated that, by an FHA appraisal, the Government would, in any sense, represent or guarantee to the purchaser that he was receiving a certain value for his money. (366 US at 709)

The foregoing is not to say that Congress does not have the power to change long-accepted notions of the FHA mortgage insurance program; of course it does. But when it does—and because of Senator STEVENSON's amendment we may be in that process now—we should all be aware of what we are doing: we are adding a new concept of defect insurance to mortgage insurance for the benefit of, as Senator Stevenson puts it, "innocent homebuyers, many of whom have low or modernate incomes." In essence, we are asking the FHA mortgage insurance system to benefit through a subsidy particular classes of homebuyers who, because of their economic status, are thought to be in such need.

However worthy Senator STEVENSON's idea may be in his amendment, the reason we would be doing so is not that the Government has failed some part of its citizenry, since the duty of the Government was to insure the mortgage, not warrant the property, but rather we would do so on the ground that these homeowners are persons without the means to remedy defects in their homes. The amendment does not cover all defects missed by FHA inspectors, but, as now amended, only such defects in homes owned by lower-income persons. At the same time, the amendment does not cover all lower-income homeowners but only those fortunate enough to have FHA-insured mortgages. I object at this time to his particular solution in section 14 because, as I have tried to say, it is based on an erroneous theory of liability, while at the same time failing to meet the needs of all homeowners.

I believe that if we had had the benefit of hearings on the amendment and if we had a better idea of where we are going on subsidized housing generally, we would be in a position to say much more confidently than we are on the Senator's solution. However, at the present time there are too many uncertainties and apparent inconsistencies in the amendment to permit me to vote responsibly to adopt it.

Mr. President, I welcome this opportunity to bring this record into the record of this debate so that we can know that the Supreme Court has accepted the fact which I stated in the hearings back in 1954, that the purpose of the insurance program was to insure the Government against loss on the mortgages it guaranteed, and not to insure the homeowner against any defect in his property.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. SPARKMAN. Mr. President, I will yield to the Senator from Wisconsin a little later.

Mr. President, I yield myself 5 minutes.

Mr. President, I want to say this in reply to what the Senator from Utah has just said. It is true that at that period of time in the 1960's when the Supreme Court gave that decision in the other case, if I recall correctly, the Supreme Court held that it was a misrepresentation and that therefore the Government was not liable.

However, I want to call attention to the fact that in 1964, 4 years after the Supreme Court made that decision, the Congress amended the law and authorized the Secretary of HUD with respect to one to four family dwellings approved for FHA insurance—prior—construction, which he finds to have structural defects, to make expenditures for:

First, correcting such defects;

Second, paying the claim of the owners of such property arising from such defects; or

Third, to acquire the title to the property.

Then in 1970 we further amended the law, section 518(b), to authorize the Secretary of HUD, with respect to one-family homes approved for FHA insurance under section 235 which are found to have structural or other defects which seriously affect the livability of the dwelling, to make expenditures to correct such defects provided:

First. The claim is made no later than 1 year after insurance of the mortgage or 1 year after the date of enactment of this law for mortgages insured prior to such date, and

Second. The defect existed on date of insurance and is one that a proper inspection could reasonably be expected to disclose.

Furthermore, in 1972, we further amended the law so that it contained a "defects" provision which would have extended existing law to cover residences covered by FHA section 221 back a period of 2 years to 1970. The Banking Committee of the House of Repesentatives had a similar provision.

In 1973, when the committee reported this bill by a vote of 10 to 3, it reinforced this idea of liability for curing the damages caused by defects that should have been found by proper inspection and should have been a part of a proper appraisal. So it is perfectly in line with what we have done.

Let me say this: the Senator from Illinois (Mr. STEVENSON) offered this amendment, and the committee supported him in it. I admit that a great deal of what the Senator from Texas (Mr. TOWER) has said is quite accurate, and that this is a matter that ought to have careful study in order to provide certain means of carrying out the programs that we want. The one he mentioned, for instance, regarding a financing method should be included. We did not have time; we did not go into that deeply enough to provide for all those things. So I would say that the amendment that was offered by the Senator from Illinois and adopted by the committee was more or less a stopgap proposal.

I have discussed this with the Senator from Illinois (Mr. STEVENSON), and as a matter of fact he has joined with me in a proposed amendment which I propose to offer as a substitute for the amendment offered by the Senator from Texas.

Mr. President, I now send to the desk an amendment in the nature of a substitute for the Tower amendment offered by Senator STEVENSON and me.

Mr. TOWER. Mr. President, I yield back my time on the amendment so that the substitute amendment of the Senator from Alabama will be in order.

Mr. SPARKMAN. And I yield back my time on the amendment.

The PRESIDING OFFICER. Will the Senator suspend momentarily?

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield me 1 minute, while the Parliamentarian is looking at the amendment?

Mr. SPARKMAN. I yield.

UNANIMOUS-CONSENT AGREEMENT ON TRUTH IN LENDING ACT AMENDMENTS

Mr. ROBERT C. BYRD. Mr. President, this request has been cleared with the Republican leadership and with the distinguished Senator from Wisconsin (Mr. PROXMIRE).

I ask unanimous consent that at such time as the bill (S. 2101) to amend the Truth in Lending Act, is called up and made the pending business before the Senate, there be a time limitation of 2 hours, to be equally divided between the majority and minority leaders or their designees, with 1 hour on any amendment and one-half hour on any amendment to an amendment, debatable motion, or appeal; and that the unanimous-consent agreement be in the usual form, with the exception of three amendments to be offered by the Senator from Wisconsin (Mr. PROXMIRE), as follows; one having to do with the computation of finance charges on revolving credit, the second on a ban on minimum finance charges, and the third on the regulation of closing costs—these amendments to be in order, regardless of their nongermaneness.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the unanimous-consent agreement is as follows:

Ordered, That, during the consideration of S. 2101, the Truth in Lending Act Amendments of 1973, debate on any amendment in the first degree shall be limited to 1 hour, to be equally divided and controlled by the mover of any such amendment and the manager of the bill, and that debate on any amendment in the second degree, debatable motion or appeal shall be limited to 30 minutes, to be equally divided and controlled by the mover of any such amendment or motion and the author of the amendment in the first degree:

Provided, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further,* That no amendment (except three amendments to be offered by the Senator from Wisconsin (Mr. Proxmire)) that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill, debate shall be limited to 2 hours, to be equally divided and controlled, respectively, by the majority and minority leaders: *Provided,* That the said leaders, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion or appeal.

TEMPORARY EXTENSION OF CERTAIN HOUSING AND URBAN DEVELOPMENT LAWS AND AUTHORITIES

The Senate continued with the consideration of the joint resolution (H.J. Res. 512) to extend the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages, to extend authorizations under laws relating to housing and urban development, and for other purposes.

The PRESIDING OFFICER. Who yields time?

Mr. SPARKMAN. Mr. President, may my substitute amendment be reported? I offer it for myself and on behalf of the Senator from Illinois (Mr. STEVENSON).

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Beginning with line 19 on page 8, strike out all through the end of the joint resolution and insert in lieu thereof the following:

EXPENDITURES TO CORRECT OR COMPENSATE FOR SUBSTANTIAL DEFECTS IN FEDERAL HOUSING ADMINISTRATION INSURED MORTGAGED HOMES

SEC. 14. (a) Section 518(b) of the National Housing Act is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end thereof the following:

"(2) The Secretary is authorized to make expenditures to correct, or to compensate the owner for, structural or other defects which seriously affect the use and livability of any single-family dwelling or two-family dwelling which—

"(A) is covered by a mortgage insured under section 235 of this Act and is more than one year old on the date of the issuance of the insurance commitment, if (i) the owner requests assistance from the Secretary not later than six months after the date of enactment of this paragraph, and (ii) the defect is one that existed on the date of the issuance of the insurance commitment and is one that a proper inspection could reasonably be expected to disclose; or

"(B) is covered by a mortgage which was insured under section 221(d) or 203 of this Act not more than two years prior to the date of enactment of this paragraph, if (i) the owner requests assistance from the Secretary not later than one year after the date of enactment of this paragraph, and (ii) the defect is one that existed on the date of the issuance of the insurance commitment and is one that a proper inspection could reasonably be expected to disclose.

The Secretary may require from the seller of any such dwelling an agreement to reimburse him for any payments made pursuant to this subsection with respect to such dwelling. In carrying out the provisions of this paragraph, the Secretary shall expedite the processing of applications and furnishing of assistance to the fullest extent possible."

Mr. SPARKMAN. Mr. President, the amendment which I propose as a substitute for the Tower amendment relative to section 14 of the bill before us. Senator STEVENSON, the sponsor of the section 14 provision as approved by the committee, is joining me in cosponsoring this amendment.

The purpose of this substitute amendment is to simplify greatly and reduce substantially the coverage of section 14 as reported.

The estimated cost of the substitute amendment would be less than one-half the cost under the committee amendment. This is brought about by limiting the coverage to those FHA 203 and 221 residences with mortgage amounts less than the section 235(i) ceiling—$18,000 up to $24,000 for large single-family homes in high-cost areas. If the amendment is accepted, all housing covered under the revised section 518(b) would have the same mortgage ceiling and, presumably, would cover only the lower-income families. These less sophisticated families often do not realize the risks involved in buying an existing home and, very frequently, do not employ counsel or technical consultants to inspect their homes before purchase.

They are more likely to depend upon their Government and assume that the appraisal report received for FHA was in fact a stamp of approval that the property was in good condition and free of structural and other defects which affect its use and livability.

I ask unanimous consent to include a statement of actions taken regarding protection to FHA mortgagers with respect to serious defects in dwellings.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

DIRECTIVES RECENTLY ISSUED BY THE DEPARTMENT DESIGNED TO IMPROVE THE QUALITY OF PROCESSING AND REDUCE LOSSES TO THE INSURANCE FUNDS

May 19, 1969.—Issued Circular FHA 4400.26 designed to clarify procedures in the field offices with reference to the utilization of Section 223(e).

July 31, 1970.—Issued Circular FA 4441.24 which redefined and reiterated our appraisal policies applying tightened standards to existing properties.

December 11, 1970.—Issued Notice HPMC-FHA 70-103 requiring establishment of a training program for the appraisal of existing dwellings.

December 15, 1970.—Issued Circular HPMC-FHA 4441.27 designed to improve the quality of appraisals under Section 235. The Circular instructed all offices to eliminate Section 235 sales data from the data print outs issued to the appraisers and required that at least one of the three comparables used in the market approach to value be a conventional (non-FHA or VA) sale.

December 23, 1970.—Issued Circular HPMC-FHA 4035.6 requiring intensification of field review in problem areas. In this connection the Chief Appraiser in each office was required to delineate and identify all inner-city transitional and problem areas where there was evidence of substantial speculator activity.

December 30, 1970.—Issued Circular HPMC-FHA 4035.7 instituting criteria for acceptance of mortgagee certifications regarding repair requirements on home mortgage cases; to standardize and clarify certifications relating to structural and mechanical equipment.

January 7, 1971.—Issued memorandum instructing all Regional Administrators to require Area and Insuring Office Directors to conduct one day meetings to be attended by all single-family staff and supervisory appraisers and active fee appraisers. The subject of these meetings was to be the importance of quality appraisal and inspection work and the obligations of field office staffs to the purchasing public.

March 4, 1971.—Issued Change 1 to Circular HPMC-FHA 4035.8 providing additional instructions to the field offices with regard to the processing of the increasing volume of applications involving inner-city and other problem areas dominated by speculators.

April 21, 1971.—Issued Notice HPMC-FHA 71-20 requiring all field offices to review the estimates being used for heating and utilities, maintenance and repairs, taxes and insurance to make certain that the schedules being used realistically reflected the dollar amounts needed to cover these expenses.

May 14, 1971.—Issued Circular HPMC-FHA 4005.16 to provide current policy guidance in the appropriate use of the Section 223(e) program. It promulgated specific requirements with respect to the properties involved in the program and directed that properties must be in compliance with the code enforcement areas, and possess sufficient future economic life to justify the insurance of a long-term mortgage.

August 3, 1972.—Issued Circular HPMC-FHA 4040.2A revising mortgage credit criteria for the home mortgage insurance programs. Specific provision was made to indicate that the income of prospective mortgagors should be considered adequate if the total prospective housing expense (mortgagor's share under Section 235) does not exceed 35% of net effective income, and the combined total of prospective housing expense and other recurring charges does not exceed 50% of net effective income.

August 18, 1973.—Issued Circular HPMC-FHA 4005.18B clarifying situations under which extensions of commitments require field review.

August 9, 1972—Issued Circular HPMC-FHA 444.1 30B which eliminated the need for the Seller's Reimbursement Agreement and escrow deposit for all sellers except speculators who are not rehabilitators.

August 29, 1972—Issued Circular HPMC-FHA 4035.7B clarifying situations calling for contractor certifications and providing for payment by HUD for such certifications. Revision of the certification language with a statement warranting the condition as of date of inspection only constituted a liberalization of procedures.

November 30, 1972—Issued Circular HPMC-FHA 4415.25 revising loan-to-value ratios for 2-, 3-, and 4-family dwellings under Section 221(d)(2) to conform with those previously established under Section 203(b). This constitutes a tightening of procedures since it increased equity requirements.

December 14, 1972—Issued Circular HPMC-FHA 1300.9 requiring flood insurance in special flood hazard areas.

Mr. SPARKMAN. May we have a vote on it at this time?

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. STEVENSON. Mr. President, will the Senator yield?

Mr. TOWER. There is time running on the substitute.

Mr. STEVENSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENSON. How much time is there on the substitute motion?

The PRESIDING OFFICER. Fifteen minutes on each side on the Sparkman amendment.

Mr. SPARKMAN. I yield the Senator from Illinois 5 minutes.

Mr. STEVENSON. Mr. President, first, I think it should be explained for the Record why action on House Joint Resolution 512 was delayed.

This bill House Joint Resolution 512, was reported by the Committee on Banking, Housing and Urban Affairs on June 20, in time for action before the FHA programs expired at the end of the month. No action was taken then, because the Department of Housing and Urban Development and certain Members of the Senate objected to the reimbursement provision we are now discusing.

I still do not know why we could not have faced the issue then as easily as we are today. It was proposed that we extend the FHA programs by 30 days, but that would have placed us in the same position, up against the August recess, as we were then before the Fourth of July recess. We proposed, instead, a 20-day extension of FHA programs. That was unacceptable, and we then proposed a 25-day extension, and that was unacceptable to HUD.

It was at that point that we reached the impasse. Since then, there has been confusion about the reimbursement provisions in this bill.

The amendment offered by the distinguished chairman ought to resolve a good deal of the uncertainty and confusion which has arisen over those reimbursement provisions. What they do, basically, is simply to give the owners of section 203(b) housing and section 221 (d)(2) housing the same rights that the owners of section 235 housing now enjoy. There is nothing new.

The principle was established in 1970, when the section 235 program was established. The people involved are the same. In both cases, they are innocent homeowners, injured by, if not the negligence, the malfeasance of their Government. They buy housing supported by the FHA with the reasonable expectation that it has been inspected and that it has been approved by the FHA. They find out afterwards that is not the case; either the inspection never took place or it was conducted in a negligent way. Then they find they are saddled with an unexpected and oftentimes very high cost of repairs. Then, they either suffer that high cost of repairs, or they abandon the homes. When they abandon the homes, they abandon the mortgages, and the Government has to redeem the mortgages.

Mr. President, this amendment is not only a matter of simple justice for homeowners injured by the neglect of their own Government; it is also a measure that will save the FHA money. The cost of repairing defects is lower than the cost of redeeming mortgages. We have experience on the basis of which I can make that statement. We have the experience with reimbursement rights for structural defects suffered by the owners of section 235 housing.

In the case of section 235 housing, the average reimbursement costs run about $815. The average mortgage redemption cost for section 235 housing runs about $4,000. It is even higher in the case of section 221 housing—about $7,000 in that case.

This amendment will cost the taxpayers nothing. It should save the FHA money. To the extent reimbursements are paid they will be paid out of the funds already mentioned, the principal cost coming from the mutual mortgage insurance fund, which has a balance of $1.8 billion nad a conservatively estimated actuarial reserve surplus about $300 million.

In conclusion, if in the case of the special risk fund or the general insurance fund or mutual mortgage insurance fund replenishment does at some time become necessary, it can be obtained through premiums. It can be obtained through Treasury borrowings by HUD. It can be obtained through authorizations and appropriations; but we are not at that point now, and that is why the bill contains no authorization for appropriations. None is needed.

I urge the Senate to adopt the substitute amendment offered by the distinguished chairman and I thank him for yielding me this time.

Mr. JAVITS. Mr. President, I have read the committee report with great interest. It goes a long way toward meeting what has occurred in connection with the moratorium.

I thank the committee for paying attention to a letter which I joined in, with Senators Proxmire, Hart, Kennedy, and Brooke respecting the urgent need of the cities for continuing the existing programs.

I express my appreciation to the Senator from Alabama (Mr. Sparkman) and the Senator from Texas (Mr. Tower) and their colleagues on the committee.

I ask unanimous consent that the joint letter be placed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., June 19, 1973.

Senator John Sparkman,
Chairman, Senate Banking, Housing and Urban Affairs Committee, New Senate Office Building.

Dear Mr. Chairman: We understand that the Committee will shortly consider H.J. Res. 512, a vital piece of legislation to extend the basic housing and urban development programs for one year.

Since January 5, 1973 we have seen the Department of Housing and Urban Development suspend or terminate most of the basic housing and urban development programs with no alternative programs in sight. Studies are now being conducted on the existing programs and the Administration has made a commitment to come forward with new proposals in September 1973. Even if this deadline is met it is doubtful whether new legislation could be sent to the President before June 30, 1974. Thus it is essential that the present programs go forward until such time as new programs take their place.

Therefore, in addition to the extensions contained in H.J. Res. 512 as passed by the House, we believe the Committee should add an extension of the public housing program, particularly as it relates to operating subsidies, the rent supplement program, and language in section 235 and 236 which would authorize appropriations of such sums as may be necessary to carry out these programs. This is important to show Congressional intent that such programs should continue until June 30, 1974 and not be brought to a standstill by a moratorium.

Most importantly we feel that the Committee should add language to H.J. Res. 512 which would require the Department of Housing and Urban Development to carry out the specific programs contained in the Resolution and vitiate the moratorium. With no substitute programs in place to carry out the provisions of the 1968 Housing Act we are not living up to our commitment to provide decent housing to those who most need it. Subsidized housing units are scheduled to drop from a level of 400,000 to a level of 290,000 in fiscal 1974. This is not acceptable to millions of low and moderate income people who are desperately in need of housing. We feel that the Committee should act and approve language along the lines of S. 1440 introduced by Senator Proxmire or some variant thereof. This is the only appropriate course for the Congress to take in view of the lack of any real alternative at this time.

Sincerely,

Jacob K. Javits,
Philip A. Hart,
Edward W. Brooke,
William Proxmire,
Edward M. Kennedy.

Mr. TOWER. Mr. President, the distinguished chairman, in his usual skillful way, has done a very good job of trying to effect a compromise on this measure. Certainly what he proposes is a vast improvement over section 14.

I am bound to say, however, that it still does not meet all the objections I have and I think the department has. Therefore, as much as I dislike disagreeing with my chairman, I feel constrained to oppose it.

I am prepared to yield back the remainder of my time in opposition to the substitute if the chairman is also prepared to yield back his time, so that we can vote.

Mr. SPARKMAN. Mr. President, I yield back my time.

Mr. TOWER. Mr. President, I yield back my time.

The PRESIDING OFFICER (Mr. Helms). All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Alabama.

The amendment was agreed to.

Mr. TOWER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Texas will state it.

Mr. TOWER. Do we not now have to act on the Tower amendment as amended?

The PRESIDING OFFICER. The answer is no.

Mr. TOWER. Good. I thank the Chair.

Mr. PROXMIRE. Mr. President, will the Senator from Alabama yield?

Mr. SPARKMAN. Mr. President, I yield 10 minutes to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized for 10 minutes.

Mr. PROXMIRE. Mr. President, the resolution before the Senate includes an amendment which I offered in committee to end the moratorium on low- and middle-income housing. Since January 6, the administration put into effect a moratorium that contains no approvals of low- and moderate-income housing in any of the vast housing programs we have designed to provide homes for hundreds of thousands of Americans.

The Record is replete with examples, and it has not been denied in any way, shape, or form, that we still have serious housing conditions in this country. We have, on the basis of HUD's own statistics, 9.6 million substandard houses, including those without plumbing are very dilapidated or which are subject to being overcrowded.

So we have a very big problem. It seems unconscionable that the administration, under any circumstances, should act without the consent of Congress and without coming to Congress for approval—in effect vetoing the deliberate action of the Senate and the House of Representatives.

I want to read to the Senate two short paragraphs in the resolution which would end the moratorium:

We find in section 13(a)(1):

> The Secretary of Housing and Urban Development shall immediately cease any suspension of Federal housing assistance programs, or any withholding of funds for such programs, and shall carry out such programs in the current and each succeeding fiscal year to the full extent possible pursuant to the contract authority or other funds appropriated or otherwise authorized or made available by the Congress for such programs in each such fiscal year.

In paragraph (2) we read:

> The Secretary, in carrying out his responsibilities under this subsection, shall not withhold or delay the approval of applications for contracts under the Federal housing assistance programs, the entry into contracts under such programs, or the expenditure of funds appropriated for such programs. He further shall take no action which effectively precludes or delays the approval of applications for contracts for such programs, the entry into contracts for such programs, or the expenditure of funds appropriated for such programs.

I refer to the report of the committee, which indicates how strongly the Senate Banking Committee feels about this matter and how imperative it is that the administration recognize what we are doing in connection with this restriction. In the report we say:

> In adopting this provision, the committee intends to underscore its opposition to the impoundment of funds and the suspension of housing programs authorized by the Congress, and to re-emphasize its belief that the Executive does not have the constitutional authority to suspend or terminate programs without congressional approval.
>
> The committee took note of the testimony submitted that an estimated 600,000 low- and moderate-income housing units would be lost as a result of the moratorium on subsidized housing.

That was elicited in the course of our hearings after they said they could do something about it, and after they conferred on what the bill itself provides.

In other words, we are taking about 600,000 housing units out of the inventory at a time when we have crowded, unsanitary conditions; when we have as urgent a need for housing as we have ever had, especially for low- and moderate-income housing.

One of the shames of this country is that literally millions of American families cannot afford to buy homes—and we are not providing the kind of housing which is imperative, if they are to be in good health, let alone the environmental conditions that are consistent with a wholesome atmosphere.

We say in the report:

> Furthermore, the committee is concerned that suspension of further urban renewal activities will have serious effects on efforts to revitalize our cities. During extended oversight hearings this year, the committee has heard over and over again from witnesses that continued program interruptions would have disastrous impact on local, State, and individual efforts to achieve decent housing for all.

If this resolution did not contain this language, it would mean that we would again, have another year in which nothing was done to solve our problems. The administration would take no action. Action is what the committee is seeking in the resolution. We say in our report:

> The committee heard substantial testimony indicating that housing for the elderly would be particularly harmed by the Executive cutbacks and that declines in housing production and employment would have far-reaching implications.

It is true that today we have less unemployment than we have had for some time. But just yesterday it was disclosed that the economy has slowed down, and that may have a good influence in stemming inflation. But the gross national product is below the trend rate which would keep people employed. There is every indication that that is going to continue. That means help in fighting inflation; but it can have a disastrous effect on the housing situation in the country, because it occurs at the very time when interest rates are once again coming close to an all-time record. We should recognize that housing is most sensitive to high interest rates. Higher interest rates mean that housing costs will increase sharply. With every fraction of a percent increase in interest rates, hundreds of thousands of people cannot afford to buy homes. We recognize that to stop these programs at this time is particularly bad.

> Particular concern was expressed regarding the impact of the impoundment of some $72 million in funds and the suspension of approvals for rehabilitation loans under the Section 312 loan program. These low interest loans to property owners in renewal areas have, according to testimony received from many mayors, successfully checked trends towards deterioration and abandonment in many cities across the Nation.
>
> While the Committee supports Executive efforts taken in conjunction with Congress to control inflation, the Committee believes that restoration of the programs to the level authorized by Congress is needed to assure achievement of our housing goals.
>
> The Committee supports the idea that many of our housing and community development programs must be reevaluated to determine if they are conceptually sound and administratively workable. Also, there is considerable agreement that many of these programs need changes and improvement both from the administrative and legislative viewpoint. However, the Committee opposes the suspension and effective termination of these programs during such a reevaluation. The Committee believes such actions to be counterproductive to meeting the goal established by Congress in the 1968 Housing Act of building 6 million housing units for low- and moderate-income families over a 10-year period.
>
> In adopting this action to end the moratorium, the Committee realizes the effect of the administrative difficulties in proceeding with the immediate processing of the backlog of applications now subject to the moratorium. It is, therefore, the Committee's intent that the Secretary of HUD proceed with project approvals at an orderly and reasonable rate not inconsistent with the processing rate prior to the moratorium.

This was not an amendment that simply was cavalierly or casually accepted by the committee. It was debated and considered. It was agreed to by a vote of 11 to 3. It was an amendment supported by both Republicans and Democrats. It was an emphatic assertion of the insistence by the committee that the mortarium end, end promptly; that there is a desperate, serious housing need in our country; that it is necessary to have these programs resumed as soon as possible.

I thank the manager of the bill, and I yield the floor.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. PELL. Mr. President, I call up my amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read, as follows:

> At the end of the joint resolution, add the following:
>
> ADMINISTRATIVE PRIORITY FOR APPLICATIONS RELATING TO ACTIVITIES IN AREAS AFFECTED BY BASE CLOSINGS
>
> Sec. 15. The Secretary of Housing and Urban Development, in processing and approving applications for assistance under section 103 of the Housing Act of 1949, section 111 of the Demonstration Cities and Metropolitan development Act of 1966, section 708 (a) (1) and (2) of the Housing and Urban Development Act of 1965 (for grants authorized under section 702 and 703 of such Act), section 312 of the Housing Act of 1964, section 701(b) of the Housing Act of 1954, and section 708 of the Housing Act of 1961, shall give a priority to any State or unit of local government or agency thereof which is severely and adversely affected by a reduction in the level of expenditure of employment at any Department of Defense installation located in or near such State or unit of local government.

Mr. PELL. Mr. President, I ask unanimous consent that the names of Senators Pastore, Kennedy and Brooke be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President. I offer this amendment to House Joint Resolution 512 in order to establish a priority in the processing and approving of applications for certain housing and urban development programs for States and communities hard hit by Defense Department realignments.

As many of my colleagues know, many of our States and communities have suffered as a severe economic blow in recent months as a result of base closures and transfers, but none were hit as hard as Rhode Island.

For in Rhode Island the impact is the most severe in the Nation. An unemployment rate of nearly 11 percent has been projected for my State.

If Rhode Island and the other States hard hit by this recent wave of base closures are to recover, it is essential that they receive the aid necessary to reconvert in an expeditious manner.

Unfortunately, due to the regulations now existing for many of the housing and urban development programs, reconversion assistance to the States such as Rhode Island would not be forthcoming for many years, regardless of the expressed desires of the administration or the Congress, because of the very complicated project evaluation system that now exists.

If Rhode Island and the other States hard hit by defense closures are to reconvert, it is essential that they receive substantial financial aid in the coming year.

The amendment that I am offering will allow the Department of Housing and Urban Development to give priority to States and communities in the coming year which are hard hit by defense closings.

This assistance is badly needed for a number of reasons.

First, if abandoned naval facilities such as Quonset Point are to be reconverted to industrial use, significant water and sewer facilities must be constructed in order to serve the new facilities on those naval facilities.

This goal can be accomplished by giving local communities of this nature a priority in the application process.

Second, most of the local communities such as Newport and North Kingstown, R.I., do not have a sufficient planning staff as is required to prepare properly for the drastic change in the economic base of their towns from naval usage to industrial purposes.

This goal can only be accomplished by giving those communities and States a priority in the application process for additional moneys in the comprehensive planning program.

Third, in the areas surrounding the defense bases that are being closed, there is a definite requirement for a substantial amount of urban renewal and rehabilitation work to be accomplished if a successful reconversion program is to be implemented.

To accomplish this goal, it is necessary to give impacted States and communities in the coming year a priority under the rehabilitation loan program and the urban renewal program.

Fourth, in Rhode Island and other States much land, such as the islands on Narragansett Bay, is being abandoned.

With the use of the open space land program, these naval lands can be saved from unnecessary real estate speculation and be preserved for recreation and conservation areas.

Fifth, if our impacted communities attempt to reconvert from the loss for their naval base, they will need to build new neighborhood facilities to replace those naval facilities that are being shut down.

And for this reason, it would be helpful for these communities to be given a priority in the neighborhood facilities grant program.

Mr. President, I have outlined the primary need for giving impacted communities and States a priority in the housing and urban development programs.

A secondary reason and a reason of equal importance is that these States and communities need additional Federal spending to replace the Federal spending that is being lost by the base closings.

The housing and urban development programs that I have outlined are to a limited extent helping prime the pumps for these communities and States and will mitigate the loss of defense jobs by providing spending for new jobs for the construction industry.

Mr. President, this is a simple amendment. It does not require additional funding. It fits into the spirit of President Nixon's announcement that all efforts will be made to expedite assistance through existing programs for communities and States hard hit by defense closings. This is a needed amendment, and I asked that it be accepted.

Mr. SPARKMAN. Mr. President, I have discussed this matter with the Senator from Rhode Island. I have read the amendment. It seems to me that it seeks simply to do justice. It is a reasonable provision for those people who have been imperiled under the conditions described by the amendment. For my part, I am willing to accept the amendment.

Mr. TOWER. Mr. President, I certainly am in sympathy with what the distinguished Senator from Rhode Island is doing. We have suffered adverse impact in my State from base closings, nothing approaching the magnitude of what has happened in Rhode Island.

As a member of the Committee on Armed Services, I sat in on the hearings in connection with the base closings in Rhode Island, and I am impressed with the adverse impact in that State. I am willing to accept the amendment of the Senator from Rhode Island and to go to conference with it.

Mr. PELL. I thank my colleagues very much.

Mr. SPARKMAN. Mr. President, I yield back the remainder of my time.

Mr. PELL. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Rhode Island.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. Who yields time?

Mr. TOWER. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read, as follows:

At the end of the joint resolution, add the following:

ECONOMIC STABILIZATION

SEC. 15. Section 203 of the Economic Stabilization Act of 1970 is amended by adding at the end thereof the following new subsection:

"(k) In exercising the authority conferred by this section prior to September 12, 1973, with respect to the price level of beef, the President or his delegate shall permit the passthrough of increases in raw agricultural product costs incurred since June 8, 1973, on a dollar-for-dollar basis in the same manner and to the same extent as a passthrough of such increases is permitted in the case of meat and food products other than beef."

Mr. TOWER. Mr. President, phase 4 is upon us. Guidelines have been issued and proposed regulations are circulating for comment. Unfortunately, comment alone will not alleviate the severe posture in which the beef industry now finds itself as a direct result of the continued administratively imposed price ceilings on beef products. Since March 29, beef prices have been subject to ceilings, and the administration now proposes to prolong those curbs until September 12, while lifting ceilings on other food products in order to permit a dollar-for-dollar pass through reflecting increased costs of raw agricultural products.

When questioned on Wednesday concerning the continued controls on beef, Secretary Shultz responded that cattlemen may count on the September 12 date as being the moment for elimination of ceilings, and with such assurance they can now make their plans accordingly. Mr. President, cattlemen and meatpackers in my State have advised me during the past 2 days that the only plans they can make based on continued controls are plans to cease their operations entirely or at a minimum drastically curtail production from current levels.

Indeed, shortages have occurred in past months at meat counters throughout this Nation, but they in no way will compare with those we will encounter during the next few months should the worst fears of those in the industry prove well founded.

On yesterday, a meatpacker from south Texas graphically underscored for me effects of continued controls on his own operation, a plant of some 250 employees processing approximately 1,800 head of cattle per week. Under continued controls as currently levied, he can plan on a net loss per head of $5, or $9,000 per week. Mr. President, the margin upon which a packer bases his operation is not excessive, in fact it is often minimal, and I know of few companies in the packing industry that can absorb losses of this magnitude until September 12. It is nice to be able to plan for the future, but not when those plans include continued heavy financial loss, drastic curtailments of production, eventual closing of operations, and the resultant firing of employees.

This morning's press warns of black-market dealings and under-the-counter transactions. Without question shortages will result in the supermarkets— not tomorrow, or next week, but barring a relaxation of the controls on beef, such as has been granted for other agricultural and meat products, anyone planning a barbecue in September or October might be well advised to purchase the meat before too many days have passed. It simply will not be available in the fall.

Mr. President, I do not question that the retail price of beef would increase as a direct result of the removal of controls. This is recognized by all. But, perhaps far better to confront slight increases in cost today when supplies can be obtained in the supermarket than to confront even greater increases, compounded by shortages in supply, several weeks from now when controls are lifted.

Would it not be more desirable to pay a few cents per pound more now, and be able to purchase and consume the meat, than to be willing to pay even higher prices in September and find the product unavailable in the market?

On June 29, I introduced legislation to remove price controls from meat, poultry and dairy products and feed grain ingredients. I am pleased that the administration, in phase IV, has followed my proposal as reflected in its lifting of controls on each of these products save beef. A first important step has been taken, but until beef is treated likewise, the continued economic stricture is far from equitable and in the long run self-defeating. Therefore, Mr. President, I am today proposing an amendment to the pending legislation which would permit the same dollar-for-dollar passthrough of costs for beef as has been established under phase IV for other food products.

Perhaps it was intended that the September 12 date for the removal of controls on beef would inspire those in the industry to "tighten their belts" and "hold on" for the relief in sight. Unfortunately, inspiration alone will not keep a processing plant in operation when losses exceed profits to such tremendous extents as have been experienced.

And, unfortunately, inspiration alone will not provide a filling meal to those American families who in the early fall seek beefsteak for their tables.

I urge my colleagues to support my amendment.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. TOWER. I yield.

Mr. CURTIS. I ask the Senator to have my name added as a cosponsor of this amendment.

Mr. TOWER. I intended to do so at the conclusion of my remarks.

Mr. President, I ask unanimous consent that the name of the distinguished Senator from Nebraska be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CURTIS. Mr. President, the Senator is to be commended for his amendment. It will lead to further production and ultimately to a greater amount of beef, which means lower prices. Unless it is done, a greater number of packing plants are going to close.

This morning I received information by telephone that a packing plant in a small city will close within about a week if they are forced to sell their product at a substantial loss.

Mr. TOWER. I thank the Senator from Nebraska.

Mr. President, I should like to note that the cattle runs in 11 midwestern markets today were down almost 90 percent from normal. In Sioux City, Peoria, Omaha, Kansas City, St. Louis, St. Joseph, and Sioux Falls, there was a total cattle run today of 975, as compared to a normal run of 9,000. That is the shortage we are facing.

Mr. President, I ask unanimous consent to have this report printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

Report from 7 of the 11 midwest markets on number of cattle run today—July 20, 1973

Today	*Market*	*Normal*
200	Sioux City	2,000
25	Peoria	600
300	Omaha	2,000
100	Kansas City	1,500
100	St. Louis	1,000
200	St. Joseph	1,000
50	Sioux Falls	900
975, total		Total, 9,000

Source: National Independent Meat Packers Association.

Mr. TOWER. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. TOWER. I yield.

Mr. DOLE. I ask the Senator to have my name added as a cosponsor of the amendment.

Mr. TOWER. Mr. President, I ask unanimous consent that the name of the distinguished Senator from Kansas (Mr. DOLE) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I should like to associate myself with the remarks of the distinguished Senator from Texas. I point out that the same is true in Kansas as in Nebraska and Texas and wherever beef is produced. We have had one packing plant closed in the last 24 hours, with a possibility of two other closings within the next 24 hours. So I strongly support the amendment of the Senator from Texas.

Mr. TOWER. I thank the Senator from Kansas.

Mr. PASTORE. Mr. President, I have a strong feeling that this is not the proper place for this particular amendment. I certainly raise a point of order.

Mr. President, I raise the point of order.

The PRESIDING OFFICER. The point of order is not in order until time is expired.

Mr. TOWER. Mr. President, obviously the point of order is going to be raised. Let me simply say that, if we do not do something like this, we are not going to have beef. I just read the runs of cattle today in 11 Midwest markets, and it shows 975 compared with 9,000 normally. Mr. President, if you want no steak at $1 but plenty of steak at $2, that is your option. But, if you mess around with this kind of thing, we are going to be facing serious food shortages throughout the country, and that is why the freeze has been lifted on other foods. If Senators want to tell the American housewife right now that "she ain't going to have no beef," that is what we will be telling her.

Mr. PASTORE. I understand the enthusiasm and the spirit of the Senator from Texas and I understand his parochial problem, as well. But I doubt very much that it is the kind of amendment to be brought up under this bill. That is my only objection. There might be justification for everything the Senator says. I do not quarrel with that. I say this matter should be thrashed out.

The President has just announced phase 4 and the Senator is repudiating the President's phase 4 without giving it a chance to operate. Under the President's program the ceiling on beef products would go off in September. The Senator wants to do it now. I am only saying that this is not the proper time or the proper place. In addition, the consumer interests should be taken into account. If we are going to have beef it might be better to have it at higher prices, but I am saying that this is a HUD bill and the Senator is talking about beef.

Mr. TOWER. The Senator from Rhode Island is not going to make me self-conscious about this bill when we have nongermane items placed on every bill I handle that comes through the Senate. Then, we either get them thrown out in conference, or we never get to conference. We have two vital conferences going on now where the Senate insisted on nongermane amendments. The bills are still languishing in conference. I do not have a sense of guilt or self-recrimination.

Mr. PASTORE. I do not want to wound the Senator's conscience. All I am saying is, give the President a chance. He has said, "Wait until the 12th of September." Let us wait until the 12th of September.

Mr. President, I raise a point of order.

Mr. TOWER. I hope the Senator has the same spirit about helping the President in everything else that comes before us. If so, I would be happy to join him.

Mr. PASTORE. There are some issues that I agree with him on and there are some that I do not, but I dare say that I side with him more times than some Senators on the other side of the aisle.

The PRESIDING OFFICER. The point of order is not in order.

Mr. TOWER. Mr. President, I yield back my time.

Mr. PASTORE. I raised a point of order.

The PRESIDING OFFICER. The point of order is now in order. The amendment clearly introduces a new subject and, therefore, is not germane.

Mr. BAYH. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment as follows:

On page 8, between lines 15 and 16, insert the following:

"(c) The Government National Mortgage Association shall continue to purchase mortgages with respect to which commitments to insure under the National Housing Act were issued prior to July 1, 1973, in the same manner and on the same terms and conditions as such Association purchased such mortgages prior to June 1, 1973."

Mr. BAYH. Mr. President, I have discussed this amendment with the distinguished Senator from Alabama and the distinguished Senator from Texas. This deals with the very simple problem. It applies to the last 2 or 3 days or perhaps the last week of the last fiscal year in which those individuals who had been granted FHA mortgage capability pursuant to the provisions of the statute went to GNMA to have them purchase these commitments and GNMA had run out of money after the commitment had been made by FHA earlier. This would require commitments made in the last fiscal year to be funded.

Mr. SPARKMAN. Mr. President, the Senator from Indiana has discussed this matter with me. I am willing to take it to conference. I would like to say this. I am not certain this will do the job that we want done. The Senator has stated the situation correctly. Certainly, it is one that should be remedied, but between now and the time we hold the conference we will do our best to find out what needs to be done to get these commitments honored.

So far as I am concerned, I am willing to take it to conference.

Mr. TOWER. Mr. President, I have discussed this matter with the Senator from Indiana, and I am perfectly willing to accept it. I am in sympathy with what he is trying to do.

Mr. BAYH. I do not want to interpose my knowledge in this very complicated, important field over that of my two friends from Alabama and Texas, who deal with this at the committee level day in and day out. If they find some other vehicle which is more applicable, I will abide by their judgment. It seems to me that if we get a commitment we should not leave some builders hanging by their teeth.

Mr. SPARKMAN. But the question is whether or not Ginnie Mae has the funds or the ability to get the funds. I believe if the Senator will examine the law, it is under the direction of the President. In other words, the President has to make the funds available to Ginnie Mae, but we can check into that. We may have to do something, but I am glad to associate with the Senator, and I appreciate his thoughts on the matter.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MONDALE. Mr. President, at this point I would like to check with the distinguished floor manager and propose an amendment from a measure which I offered in bill form a year ago to reduce the FHA mortgage insurance premium by 50 percent.

As the Senators know the FHA has collected over $4 billion in insurance premiums since the commencement of the FHA program. They now have in surplus nearly $2 billion of homeowner insurance premiums in excess. The premium which the homeowner pays if the mortgage is FHA insured amounts to one-half of 1 percent of the total that he owes.

In the typical State, there are thousand and thousands of homeowners whose costs of housing are excessive, in part because of these unnecessarily high insurance premiums.

As the interest rates on mortgages rise—and they are rising again—the addition of this one-half of 1 percent, it seems to me, is especially unwarranted.

Last year when I introduced this bill we found we had 128,000 homeowners with FHA mortgage insurance since the time the program went into effect. About 73,000 of them are now paying FHA mortgage insurance.

Mr. SPARKMAN. Mr. President, will the Senator yield to me?

Mr. MONDALE. Yes, I am glad to yield.

Mr. SPARKMAN. Is the Senator offering an amendment?

Mr. MONDALE. I want to describe the amendment and then get the reaction of the Senator.

Mr. SPARKMAN. I think we have to yield the Senator time. How much time does the Senator want?

Mr. MONDALE. I would like 10 minutes, if I may. I may not need all of that, and then I would like the floor managers to respond. I think this is a chance to save the homeowners money.

Mr. President, I will do it in 5 minutes because of new information that just came to my attention.

Mr. President, in Minnesota the average homeowner mortgage insured by FHA last year was $19,000. By reducing the FHA insurance premium in half, we could save the average homeowner approximately $1,000 during the course of the purchase of that home. We could do so without impairing the security of the FHA funds. We could permit more average Americans to own their own homes. We would make FHA insurance more attractive, and it is a program that is in deep trouble.

I think, for all of those reasons, this amendment makes sense.

In addition to the proposal for reducing the premium, which I think becomes imperative now as interest rates rise, we also ask FHA to prepare a report detailing the impact of this cut and what should be done over the long run to this program.

I ask the page to take a copy of my amendment to the distinguished floor manager of the bill.

Mr. SPARKMAN. Mr. President, has the amendment been reported?

The PRESIDING OFFICER. No.

Mr. MONDALE. Mr. President, I call up my amendment.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk proceeded to read the amendment.

Mr. MONDALE. Mr. President, I ask unanimous consent to dispense with further reading of the amendment and ask that it be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the resolution add a new section as follows:

That (a) the insurance premium for any mortgage insured by the Secretary of Housing and Urban Development under the National Housing Act, or any Act supplementary thereto, shall not exceed one-fourth of 1 per centum per annum of the amount of the principal obligation of the mortgage outstanding at any time. With respect to any such mortgage which is outstanding on the effective date of this section, the Secretary shall adjust the insurance premium applicable to such mortgage in conformity with this section at such time (not later than 12 months after such effective date) as the next annual premium amount for such mortgage is determined.

(b) This section takes effect upon the expiration of 30 days after the date of enactment of this Act.

SEC. 2. (a)(1) The Secretary of Housing and Urban Development shall, not later than 90 days after the date of enactment of this Act, report to the Congress his recommendations with respect to transferring as large a part as practicable of the reserves of the Mutual Mortgage Insurance Fund, created by section 202 of the National Housing Act, to the General Insurance Fund and the Special Risk Insurance Fund, created respectively by sections 519 and 238(b) of such Act. In making such recommendations the Secretary shall have regard to (A) the fact that the General Insurance Fund and the Special Risk Insurance Fund are now the principal funds for carrying out the home mortgage insurance programs administered by the Secretary, (B) the fact that the reserves of the Mutual Mortgage Insurance Fund were accumulated in significant part through premium payments by mortgagors whose interests in the properties covered by insured mortgages have been transferred, and (C) the paramount interest of the Government in view of the ultimate underwriting of risk by the United States and the importance of spreading the risk over an extended period of time.

(2) The report required under paragraph (1) shall also include the recommendation of the Secretary with respect to a reduction of the premium for the insurance of any mortgage by the Secretary to a level lower than one-fourth of 1 per centum per annum of the amount of the outstanding principal obligation of the mortgage. If the Secretary determines that it is not practicable to recommend a reduction of the premiums below one-fourth of 1 per centum per annum or if he determines that a premium greater than one-fourth of 1 per centum per annum is necessary then he shall recommend that minimum per centum which he deems to be feasible not to exceed four-tenths of 1 per centum per annum. In making any such recommendation the Secretary shall have regard to the recommendations made under paragraph (1) and shall indicate the actuarial factors assumed.

(3) The report required under paragraph (1) shall also include the Secretary's recommendation with respect to the feasibility of reducing administrative costs by eliminating mortgage insurance premiums in the case of that class of mortgages for the insurance of which premiums are now collected and deposited in the Special Risk Insurance Fund, and his recommendations for reducing mortgage insurance operating expenses in other areas.

(b) In addition to the report specified in subsection (a), the Secretary shall report annually to the Congress (1) his analysis of the financial condition of each of the mortgage insurance funds administered by him in the light of the then current risk experience and actuarial assumptions, and (2) his recommendations, on the basis of such analysis, of the appropriate mortgage insurance premium levels. The first such report shall be made not later than one year after the date on which the report required under subsection (a) is submitted, and subsequent reports shall be made at annual intervals thereafter.

Mr. SPARKMAN. Mr. President, I yield myself 3 minutes.

I naturally have a great deal of sympathy for the proposal of the Senator from Minnesota, but this is one of those things that is not quite as simple as it sounds. After all, the payment which the Senator proposes to cut in two was established for the purpose of supporting and maintaining this program.

I am certain that there is one hand more than is needed immediately, but I think before we could afford to take this kind of amendment, we would want to have hearings. I remember when the question came up many years ago of cutting the premium on the Federal Deposit Insurance. We had lengthy hearings. As a matter of fact, we did not provide for a reduction the first time around, but after another year's time, we went into the question and decided it could be cut. Since that time I believe we have cut the premium on the FDIC.

Much as I sympathize with the objective of the Senator, I do not think we ought to go after something that has the import and impact of this proposal just on the Senate floor without having the facts and figures.

Mr. TOWER. Mr. President, if the Senator will yield, I might comment about the insurance funds. As I recited a minute ago on the amendment to delete section 14, the General Accounting Office testified that as of June 1973 it was estimated that insurance reserves of the special risk insurance fund would show a deficit of $290 million, and as of June 1974 these reserves would show a deficit of about $524 million. Also, regarding the general insurance fund, it was estimated that the reserves as of June 1973 would show a $118 million deficit, and it was projected to further decrease to a $353 million deficit by June 1974.

So I think it would have to be something we would have to look into very closely.

Mr. SPARKMAN. I believe so. If there is a real desire to look into this, if the Senator from Minnesota would introduce a bill, I would be very glad—I hope the Senator from Texas will join me in this statement—to hold hearings to find out the facts about it.

Mr. TOWER. I will be delighted to join in that statement.

Mr. SPARKMAN. But I do not believe this is the way we ought to deal with these funds that play such an important part in supporting the housing program.

Mr. MONDALE. I thank the distinguished floor manager of the bill. I think the losses the Senator from Texas referred to are the reductions under the so-called necessary reserves, which are based upon loss ratios established in 1935. The FHA has a sexual attachment to this fund——

Mr. TOWER. What kind?

Mr. MONDALE. Sexual—s-e-x-u-a-l. They do not care what happens to the average homeowner; they have to have their 1½ of 1 percent.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MONDALE. Mr. President, may I have 2 more minutes to complete this?

Mr. SPARKMAN. I yield 2 minutes to the Senator.

Mr. MONDALE. They have nearly $2 billion in excess, this at a time when housing costs are rising dramatically, interest rates are rising dramatically, the reserves of FHA are rising dramatically. They continue to insist on assessing a premium that has no relation to losses.

I am hopeful we can have those hearings, and I am pleased to hear the floor manager say we can, because that bill, for some reason, has been languishing with no hearings at all for a year.

On that basis, I will withdraw my amendment, and I thank the floor manager.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. SPARKMAN. Mr. President, may I ask if the amendment was withdrawn?

The PRESIDING OFFICER. It was.

Mr. TOWER. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I move third reading.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the joint resolution.

The amendments were ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution (H.J. Res. 512) was read the third time.

Mr. SCHWEIKER. Mr. President, I support the resolution which we are considering today, House Joint Resolution 512, to extend the authority for housing and urban renewal projects for 1 year to June 30, 1974. It is very important that we continue these programs at a viable level during the interim period before we establish new housing and community development legislation.

An important feature also contained in this resolution is an increase in authority for section 236, rental housing, since many of these projects are used to establish housing for the elderly, a critical area of need.

This resolution contains another feature important to thousands of homeowners in many urban areas. Under existing law, purchasers of homes under the FHA section 235 homeowner program can receive compensation for defects that existed at the time of purchase and which could have been disclosed by a proper inspection by the FHA appraiser at the time of the purchase. The provision contained in this resolution would such extend coverage to homes financed under the FHA unsubsidized insurance programs under FHA sections 203 and 221.

In Philadelphia alone it is estimated that there are as many as forty thousand families living in such housing, and many of these homes contain defects which should have been caught at the time of inspection. Violations of local housing codes and violations of FHA minimum property standards would be added to the defects which can require homeowner compensation payments. Finally, HUD would be required to take all steps necessary to notify homeowners of their rights under the defect compensation section.

Many low-income persons have bought homes under FHA programs with confidence in the quality of the FHA inspections and approval process, and too many of these homeowners have suffered because of major defects in these homes requiring costly repairs that should have been revealed through inspection prior to the purchase.

"Buyer beware" should not apply to housing which is bought under the guidelines of the Federal Government. These new provisions should provide real incentives for FHA personnel to provide thorough inspections which protect low-income homeowners from housing defects.

I strongly urge this body to pass this important piece of legislation.

Mr. KENNEDY. Mr. President, today Congress has the opportunity to clearly indicate to the President its intention to reassert its constitutional responsibility to the American people by extending Federal housing, urban renewal and model cities programs.

The administration's decision to freeze all new Federal subsidies for low and middle income housing, all subsidies for public housing for the poorest of our citizens, and to freeze model cities and urban renewal grants after June 30, 1973, was taken without even the most perfunctory consultation with the Congress and its committees. This represented the worst form of government, government by challenge and conflict, in which the executive asserts for itself the power to totally alter established Federal policy and to void the impact of laws approved by the Congress.

In my own State of Massachusetts, the impact of the administration's decision has severely restricted the availability of housing and the availability of jobs and has resulted in incalculable hardships to many of its citizens.

HUD officials have recently studied the impact of the decision. In Massachusetts alone, the freeze has left them with applications for 1,200 units of public housing, 10,000 units of section 236 and 1,200 units of section 235 low and middle income housing. In addition, the estimated State-wide loss of the number of units of housing as a result of the Federal moratorium, from January 5, 1973 through fiscal year 1974, is placed at 12,869 units at an annual subsidy loss of 16.8 million.

It is evident that the impact of this decision extends beyond housing needs alone. For it is a body blow to employment in the construction industry and in related industries. In Massachusetts alone, construction of the units now frozen would have pumped over $250 million into the State's economy.

Thus, this decision has resulted in the delay and even the loss of decent housing to a substantial number of Massachusetts citizens because of the unilateral and highly arbitrary decision to freeze Federal housing subsidies.

It is essential that the moratorium on Federal housing subsidies and on model cities and urban renewal program be ended. I agree that a review of the programs should be an on-going concept, but not at the expense of the millions of Americans who depend on these programs for a decent home.

I have expressed my opposition to the freeze previously and I urge the Members of Congress to override this decision which seriously endangers the constitutional mandate of the separation of powers, by approving House Joint Resolution 512.

I ask unanimous consent to have placed in the Record the estimated impact on housing programs prepared by the Massachusetts Department on Community Affairs.

There being no objection, the table was ordered to be printed in the Record, as follows:

ESTIMATED MASSACHUSETTS STATEWIDE LOSS OF NUMBER OF UNITS OF HOUSING DUE TO FEDERAL MORATORIUM, JANUARY 5, 1973, THROUGH FISCAL YEAR 1974

ANNUAL SUBSIDY

Public housing, 2,636 units, $4.8 million.

Section 236, 3,049 units, $4.2 million.

Section 235, 2,950 units, $2.6 million.

Section 117, 900 units, $1.8 million.

HUD total, 10,335 units, $13.4 million.

Massachusetts Housing Finance Administration, 1,984 units, $3.1 million.

Farmers Home, 550 units, $220,900.

Total for Massachusetts, January 5, 1973 through fiscal year 1974, 12,869 units, $16.8 million.

Mr. TOWER. Mr. President, I yield back the remainder of my time.

Mr. SPARKMAN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the joint resolution having been yielded back, the question is on final passage. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. Abourezk), the Senator from California (Mr. Cranston), the Senator from Mississippi (Mr. Eastland), the Senator from North Carolina (Mr. Ervin), the Senator from Alaska (Mr. Gravel), the Senator from Indiana (Mr. Hartke), the Senator from Arkansas (Mr. McClellan), and the Senator from South Dakota (Mr. McGovern) are necessarily absent.

I also announce that the Senator from Mississippi (Mr. Stennis) is absent because of illness.

I further announce that, if present and voting, the Senator from Alaska (Mr. Gravel) would vote "yea."

Mr. SCOTT of Pennsylvania. I announce that the Senator from New Hampshire (Mr. Cotton), and the Senator from Arizona (Mr. Goldwater) are absent because of illness in their respective families.

The Senator from Alaska (Mr. Stevens) is absent by leave of the Senate on account of illness in his family.

The Senator from New York (Mr. Buckley), the Senator from Colorado (Mr. Dominick), the Senator from Michigan (Mr. Griffin), the Senator from Illinois (Mr. Percy), the Senator from Ohio (Mr. Saxbe), the Senator from North Dakota (Mr. Young) are necessarily absent.

The Senator from Virginia (Mr. Scott) is absent on official business.

If present and voting, the Senator from Illinois (Mr. Percy) would vote "yea."

The result was announced—yeas 81, nays 0, as follows:

[No. 313 Leg.]

YEAS—81

Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bennett
Bentsen
Bible
Biden
Brock
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Curtis
Dole
Domenici
Eagleton
Fannin
Fong
Fulbright
Gurney
Hansen
Hart
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McClure
McGee
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Pa.
Sparkman
Stafford
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams

NAYS—0

NOT VOTING—19

Abourezk
Buckley
Cotton
Cranston
Dominick
Eastland
Ervin
Goldwater
Gravel
Griffin
Hartke
McClellan
McGovern
Percy
Saxbe
Scott, Va.
Stennis
Stevens
Young

So the joint resolution (H.J. Res. 512) was passed.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SPARKMAN. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House of Representatives thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. Helms) appointed Mr. Sparkman, Mr. Proxmire, Mr. Williams, Mr. Stevenson, Mr. Tower, Mr. Bennett, and Mr. Brooke conferees on the part of the Senate.

Mr. ROBERT C. BYRD subsequently said: Mr. President, earlier today, during the consideration of H.J. Res. 512, the distinguished Senator from Alabama (Mr. Sparkman), manager of the bill, offered a substitute to an amendment which was pending and which had been offered by the distinguished ranking Republican member of the committee, Mr. Tower. The Sparkman substitute was adopted by the Senate, the amendment having been sent to the desk and read by the Clerk. In error, the Clerk read the wrong amendment. This is not to say it was the Clerk who made the error, but, in any event, that is what happened. The Senate, with its collective mind, adopted the Sparkman substitute, which I hold in my hand, the correctly worded language. All minds were of the opinion that the Senate was adopting this amendment, which I now send to the desk.

Mr. President, the unanimous-consent request which I am about to make on behalf of the able senior Senator from Alabama (Mr. Sparkman) has been cleared with the distinguished ranking minority member of the committee, the Senator from Texas (Mr. Tower), whose amendment was amended by this amendment in the nature of a substitute offered by the Senator from Alabama.

I ask unanimous consent that House Joint Resolution 512 be reconsidered; that it be returned to the amendment stage of second reading; that it be amended by the amendment which I have just sent to the desk; that it be advanced to third reading and repassed; that a motion to reconsider be laid on the table, and that the Secretary of the Senate be authorized to make any necessary technical and clerical corrections in the engrossment of the joint resolution.

The corrected amendment is as follows:

Beginning with line 16 on page 8, strike out all through the end of the joint resolution and insert in lieu thereof the following:

EXPENDITURES TO CORRECT OR COMPENSATE FOR SUBSTANTIAL DEFECTS IN FEDERAL HOUSING ADMINISTRATION INSURED MORTGAGED HOMES

Sec. 14. (a) Section 518(b) of the National Housing Act is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end thereof the following:

"(2) The Secretary is authorized to make expenditures to correct, or to compensate the owner for, structural or other defects which seriously affect the use and livability of any single-family dwelling or two-family dwelling which—

(A) is covered by a mortgage insured under section 235 of this Act and is more than one year old on the date of the issuance of the insurance commitment, if (i) the owner requests assistance from the Secretary not later than six months after the date of enactment of this paragraph, and (ii) the defect is one that existed on the date of the issuance of the insurance commitment and is one that a proper inspection could reasonably be expected to disclose; or

"(B) is covered by a mortgage which was insured under section 221(d) or 203 of this Act not more than three years prior to the date of enactment of this paragraph, if (i) the owner requests assistance from the Secretary not later than one year after the date of enactment of this paragraph, and (ii) the defect is one that existed on the date of the issuance of the insurance commitment and is one that a proper inspection could reasonably be expected to disclose.

Notwithstanding the foregoing, the Secretary may not make expenditures under this paragraph with respect to any dwelling unit which is subject to an insured mortgage on which the original principal balance exceeded the maximum mortgage amount under section 235(i) of this Act for the geographical area in which the dwelling unit is located. The Secretary may require from the seller of any such dwelling an agreement to reimburse him for any payments made pursuant to this paragraph with respect to such dwelling. In carrying out the provisions of this paragraph, the Secretary shall expedite the processing of applications and furnishing of assistance to the fullest extent possible."

(b) Section 801(a) of the Housing Act of 1954 is amended by adding after the words "the beginning of construction" the following: "or substantial rehabilitation".

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia (Mr. Robert C. Byrd)?

The Chair hears none and it is so ordered.

PHASE IV

Mr. JAVITS. Mr. President, phase IV is the latest in a long series of economic controls by an administration that proclaims its dedication to the free market system. The premature termination of phase II produced new problems and narrowed the options available to the administration in its attempts to manage the economy. There is no doubt that the disruptive effects incurred by phase III will distort the American economy for months to come.

Phase IV is an improvement over phase III, in that it gives encouragement to increased production by allowing costs to be passed through. Price rises are inevitable, especially for food. There is little comfort for the American consumer struggling to make ends meet, but it is preferable to pay higher prices for food that is available than to pay even higher prices for limited supplies of food, which would have been the result had the freeze continued longer. The necessary termination of the freeze on most meat products, on a partial basis until September 12, and under rules similar to other sectors of the economy after that date, ought to provide an incentive for some increase in meat production. It is not going to be an easy road to recovery. Twenty-three meat packers have already shut down during the freeze, and we cannot retrieve the baby chickens and pregnant sows that have already been killed.

I approve the necessary extension of the freeze to September 12 on beef, and then its reversion to the rules applicable to other items in respect of the phase IV program. We shall do this under the exigencies imposed by the freeze and the unsuccessful phase III.

I pay tribute to labor which has shown commendable restraint, so far. Should food costs climb at the prefreeze level of 24 percent annually, there are serious danger signals ahead for a 5.5-percent wage increase standard.

It is clear that we must expand our production of agricultural commodities if we are to have sufficient supplies to feed our own people at reasonable prices, and to have surpluses available for export to the rest of the world. Similarly the American farmer must be assured that he will have reliable markets here and abroad for his expanded production. The export of our agricultural products represents one of the best ways to improve our balance of payments and stabilize the American dollar.

The continued application of export controls, while obviously inevitable in the short run, will in the long run erode our balance of payments and damage our economic relations with nations dependent on U.S. agricultural exports, especially Japan.

Phase IV does not deal satisfactorily with the energy problem. Ceiling prices will apply at both the wholesale and retail levels, except for an exemption for increased crude production. Fuel supplies, especially gasoline and heating oil, need to be allocated. Without a mandatory system for fuel allocation independent dealers will continue to be squeezed, thus restricting competition and encouraging eventual higher prices.

The President goes out of his way, as he has on previous occasions, to emphasize his desire to return to the free market system and even sets the end of 1973 as a goal for terminating controls. While I share the President's belief in a free market system under normal conditions, I point out that this eagerness to return to a noncontrolled price and wage system led to a premature termination of phase II and our present highly inflationary situation. It does not auger well for the proper administration of phase IV that there should be so much administration eagerness to end it before it has even begun.

I am disappointed that the administration has paid so little attention in its planning and its public statements to the way this program is to be run. This is an extremely complicated program requiring great expertise on the part of those administering the controls. The President's appeal to voluntarism in enforcement is meaningful only if he has the means to enforce the rules against those who do not heed the rules. How can those who cooperate be expected to carry on if they know that the standards will not be rigorously enforced against their competitors.

Finally, there must be long term planning in wage and price controls instead of the start and stop policies the administration has followed since 1971. For we should not encourage reliance on an economic slowdown during the latter part of 1973 to reduce inflation. Already the signs point to a downturn in the American economy by the end of the year, and it will require great skill in the administration's economic operations to prevent the economy from sliding from a downturn into a recession. "Fine tuning" is too dangerous where the stakes for our Nation and the world are so high.

FAIR LABOR STANDARDS AMENDMENTS OF 1973

Mr. WILLIAMS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 7935.

The PRESIDING OFFICER (Mr. Nunn) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 7935) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rates under that act, to expand the coverage of that act, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. WILLIAMS. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. Williams, Mr. Randolph, Mr. Pell, Mr. Nelson, Mr. Eagleton, Mr. Hughes, Mr. Hathaway, Mr. Javits, Mr. Schweiker, Mr. Taft, and Mr. Stafford conferees on the part of the Senate.

INDEFINITE POSTPONEMENT OF SENATE JOINT RESOLUTION 129

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Calendar No. 252, Senate Joint Resolution 129, providing for the temporary extension of certain Housing and Urban Development laws, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 306 up to and including Calendar No. 319.

The PRESIDING OFFICER (Mr. Nunn). Without objection, it is so ordered.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

The resolution (S. Res. 137) authorizing additional expenditures by the Committee on Interior and Insular Affairs for routine purposes, was considered and agreed to, as follows:

Resolved, That the Committee on Interior and Insular Affairs is authorized to expend from the contingent fund of the Senate, during the Ninety-third Congress, $25,000 in addition to the amount, and for the same purposes, specified in section 134(a) of the Legislative Reorganization Act approved August 2, 1946.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

The resolution (S. Res. 140) authorizing additional expenditures by the Committee on Interior and Insular Affairs for inquiries and investigations, was considered and agreed to, as follows:

Resolved, That the Committee on Interior and Insular Affairs is hereby authorized to expend from the contingent fund of the Senate $4,400, in addition to the amount and for the same purposes and during the same period specified in S. Res. 231, Ninety-second Congress, agreed to March 6, 1972.

GRATUITY TO KATHERINE HILL

The resolution (S. Res. 146) to pay a gratuity to Katherine Hill, was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Katherine Hill, widow of Thomas D. Hill, an employee of the Architect of the Capitol assigned to duty in the Senate Restaurant at the time of his death, a sum equal to nine months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

GRATUITY TO WILMA F. McGINNIS

The resolution (S. Res. 147) to pay a gratuity to Wilma F. McGinnis, was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Wilma F. McGinnis, widow of Edward F. McGinnis, an employee of the Senate at the time of his death, a sum equal to nine months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON GOVERNMENT OPERATIONS

The Senate proceeded to consider the resolution (S. Res. 131) authorizing supplemental expenditures by the Committee on Government Operations for an inquiry and investigation relating to Government procurement practices, and for other purposes, which had been reported from the Committee on Rules and Administration with amendments on page 1, after line 4, strike out:

(2) In section 5, strike out "$10,000" and insert in lieu thereof "$25,000".

At the beginning of line 7, strike out "(3)" and insert "(2)"; on page 2, at the beginning of line 1, strike out "(4)" and insert "(3)"; at the beginning of line 11, strike out "(5)" and insert "(4)"; and, at the beginning of line 12, strike out "(3)" and insert "(2)"; so as to make the resolution read:

Resolved, That S. Res. 46, Ninety-third Congress, agreed to February 26, 1973, is amended as follows:

(1) In section 3, strike out "$1,830,328" and insert in lieu thereof "$1,920,000.00".

(2) Sections 8 and 9 of such resolution are redesignated as sections 9 and 10, respectively.

(3) Insert immediately below section 7 the following new section:

"SEC. 8. From the date this resolution is agreed to through February 28, 1974, not to exceed $89,672 shall be available for a study or investigation of Government procurement practices (including a review of recommendations submitted to Congress by the Commission on Government Procurement), of which amount not to exceed $15,000 may be expended for the procurement of individual consultants or organizations thereof."

(4) In section 10, as redesignated by clause (2) of this resolution, strike out "$1,840,328" and insert in lieu thereof "$1,930,000.00".

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended, so as to read: "Resolution authorizing supplemental expenditures by the Committee on Government Operations for an inquiry and investigation relating to Government procurement practices".

PRINTING OF INAUGURAL ADDRESSES

The concurrent resolution (H. Con. Res. 185) to provide for the printing of inaugural addresses from President George Washington to President Richard M. Nixon, was considered and agreed to.

THE FEDERAL CIVILIAN EMPLOYEE LOYALTY PROGRAM

The concurrent resolution (H. Con. Res. 219) providing for additional copies of "The Federal Civilian Employee Loyalty Program," was considered and agreed to.

NATIONAL INSTITUTE OF EDUCATION

The concurrent resolution (H. Con. Res. 233) providing for the printing of committee hearings establishing a National Institute of Education was considered and agreed to.

OUR AMERICAN GOVERNMENT

The concurrent resolution (H. Con. Res. 256) to provide for the printing as a House document a revised edition of the House document "Our American Government. What is it? How Does It Work?" was considered and agreed to.

STREET CRIME: REDUCTION THROUGH POSITIVE CRIMINAL JUSTICE RESPONSES

The concurrent resolution (H. Con. Res. 257) providing for the printing of additional copies of the House report entitled "Street Crime: Reduction Through Positive Criminal Justice Responses" was considered and agreed to.

DRUGS IN OUR SCHOOLS

The concurrent resolution (H. Con. Res. 258) providing for the printing of additional copies of the House report entitled "Drugs in Our Schools" was considered and agreed to.

RECYCLED WOOL

The Senate proceeded to consider the bill (S. 1816) to amend the Wool Products Labeling Act of 1939 with respect to recycled wool which had been reported from the Committee on Commerce with an amendment on page 2, line 3, after "(b)", strike out "Subsections" and insert "Subsection (d) is deleted and subsections"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 2(c) of the Wool products Labeling Act of 1939 is amended to read as follows:

"(c) The term 'recycled wool' means (1) the resulting fiber when wool has been woven or felted into a wool product which, without ever having been utilized in any way by the ultimate consumer, subsequently has been made into a fibrous state, and (2) the resulting fiber when wool or reprocessed wool has been spun, woven, knitted, or felted into a wool product which, after having been used in any way by the ultimate consumer, subsequently has been made into a fibrous state."

(b) *Subsection (d) is deleted and subsection* (e), (f), (g), (h), and (i) of section 2 of such Act and all references thereto are redesignated as subsections (d), (e), (f), (g), and (h), respectively.

(c) Section 2(d) of such Act (as redesignated by this section) is amended by striking out ", reprocessed wool, or reused wool" and inserting in lieu thereof "or recycled wool".

SEC. 2. Section 4(a)(2)(A) of the Wool Products Labeling Act of 1939 is amended—

(1) by striking out "(2) reprocessed wool; (3) reused wool" and inserting in lieu thereof "(2) recycled wool";

(2) by striking out "(4)" and inserting in lieu thereof "(3)"; and

(3) by striking out "(5)" and by inserting in lieu thereof "(4)".

SEC. 3. The amendments made by this Act shall take effect with respect to wool products manufactured sixty days after the date of enactment of this Act.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

PROHIBITION OF REDUCTION IN FOREST SERVICE EMPLOYEES

The Senate proceeded to consider the joint resolution (S.J. Res. 134) to prohibit any reduction in the number of employees of the Forest Service during the current fiscal year.

Mr. MANSFIELD. Mr. President, I want to commend the chairman, the Senator from Georgia (Mr. TALMADGE), and the distinguished members of the subcommittee, especially Mr. EASTLAND, Mr. AIKEN, Mr. HUDDLESTON, Mr. BELLMON, and Mr. HUMPHREY, for the detailed consideration they have given to the crisis that confronts the Forest Service and our national forests. Their diligence and careful examination of the issues represents a bipartisan approach. The resolution starts with the foundation fact that, if the national forests are going to meet their capacity to provide all Americans with the goods and services they are capable of producing, then this agency must be adequately staffed. I know of no agency in the entire Federal structure that has a more sincere and capable career staff than the Forest Service. It is a prime example of a decentralized agency. It is a prime example of a dedicated agency.

The Office of Management and Budget, for reasons that totally escape me, has underwitten a series of actions that would totally disintegrate this agency. Its proposal to straightjacket the Forest Service in standard Federal regions designed for "urban-social" programs was just such a step. That has been rescinded.

In the face of a record demand and a record price for lumber, wood products, and logs, the budget for the Forest Service was slashed in counterproductive ways. The road program was cut and the burden transferred to timber sales. The result will be lost revenue, more costly roads, and complications for the timber industry. The reforestation program was cut, yet there is a clear need to upgrade the timber and conservation potential on 20 percent of the 92 million acres of commercial timber land in the natonal forests. Here we are, after almost 70 years of national forest management with over 5 million acres in need of reforestation and over 13 million acres in need of stand improvement.

The committee's call for "a long-range comprhensive program for the Forest Service to expand on and replace the excellent program that President Eisenhower sent to the Congress in 1960," forms the basis for addressing a long-standing problem in a constructive way.

The committee's recommendation for a budget amendment or supplemental request for the balance of 1974 is a sound immediate action step. Thus, the resolution, which has the effect of calling for a personnel floor for full-time permanent Forest Service personnel at a figure that is about the average of the past 5 years, will at least enable the Forest Service to hold at recent levels of accomplishment. I note, however, the committee has wisely and constructively provided for recognition that the level be set so that the additional 450 personnel needed to market and add 1 billion board feet of softwood timber to the sales program can be properly realized.

I must confess that the logic that has been pursued within the administration is difficult to understand. The fact is that the kinds of activities we are talking about will bring in enough revenue so as to offset the cost and, in addition, they will stimulate future economic and conservation benefits that make "dollars and sense."

NEED FOR NEW LONG-RANGE POLICY RELATING TO NATIONAL FORESTS

Mr. HUMPHREY. Mr. President, I support Senate Joint Resolution 134. Our committee has heard from every sector that is concerned about conservation that our national forests are in jeopardy—not from malicious design but from just plain inaction and ill-conceived actions. Rising timber prices, failure to provide for basic conservation needs, atrophied long-term plans developed and implemented more than a decade ago in bipartisan unanimity, budget cuts that deny the Federal Treasury revenues that would more than offset expenditures and reduce the share of revenues hard pressed rural counties derive from the national forests and impoundments that waste more than they save, have all come forward in a budget and policy process that is totally uncoordinated.

Not one witness who came before our subcommittees in the 3 days of hearings that were held was satisfied with the executive branch posture on the national forests. Wildlife, recreation, wilderness, timbering, and every other sort of witness told us the same story. They sympathized with the plight of the other groups but told how their interest was being treated even worse.

The norm in such a situation is to have one group say that another is being favored at their expense. Instead we heard how badly all are faring in securing from the national forests the goods and services that they should be providing for the American people.

Our resolution and our report addresses the present and the future. As you know, the chairman of our committee, Senator TALMADGE, has been spending long days in another important televised proceeding. However, I want the RECORD to show that he has been giving an extra measure of time and devotion to his other important responsibilities. When we met to discuss the situation on the national forests, he had read the record, focused on the issues, and led us in defining the needs and the priorities that require attention.

First, proper personnel levels for the Forest Service; second, a proper budget level for the 1974 fiscal year; and third, a long-range program and the setting of some national goals so that the benefits that the national forests can provide are realized.

I want the President to know that the erosion of national forest conservation goals is not something that just happened yesterday.

Ever since I have been in the Senate, and when I was Vice President, I have observed how there would be a spurt forward then a settling back. We saw how President Kennedy took hold of the wonderful "Program for the National Forests," that President Eisenhower had initially developed, and moved it forward, then the impetus was lost in the latter part of the decade.

The forests are a long-term proposition and they need a long-term commitment that reaches into decades, not a 4- or an 8-year spurt. We are fast approaching the critical juncture when the sheer pressure of our growing population and the decades of neglect will place us in a vise grip. We can meet the need if we take the opportunity.

I want to thank all of those who have an interest in the future of our forest resources for the constructive testimony that they gave our committee.

Mr. PACKWOOD. Mr. President, very shortly, the Senate will be called upon to approve Senate Joint Resolution 134. I would like to take just a minute to express my absolute support for this action taken by the Agriculture Committee.

On a number of occasions, I have commented on the concern that I share with a number of my colleagues over the direction in which the administration appears to be heading in its management of our national forest system. I am increasingly concerned that responsible officials in the administration have completely lost sight of the need for long-term management of this invaluable resource. It is almost as if we are being told that a forest environment can be managed on the same day-to-day basis as the national debt.

Nothing could be further from reality. Our forest resources must be considered and managed as the long-range, infinitely substainable object it is. We simply must break out of the habit of viewing the forest as simply one more budget item that can be manipulated at the whim of some bureaucrat sitting in the Office of Management and Budget.

The forest is the economic life blood of thousands of communities not only in my home State but in many other States around the Nation. The forest is a source of relaxation and recreation for millions of Americans every year. The forest is, in short, an environment—a surprisingly fragile environment—that can only be managed on a long-term, planned basis as an investment in the total wealth of this Nation.

Senate Joint Resolution 134 recognizes this need for stable, long-term planning and management of our national forest environment. I applaud the committee for its action.

Mr. MOSS. Mr. President, I rise to commend the Senate Committee on Agriculture and Forestry for drafting and reporting this joint resolution (S.J. Res. 134) to place a floor under the number of employees in the Forest Service for the current fiscal year.

The resolution is an outgrowth of the hearings held June 26 and 27 by the Subcommittee on Environment, Soil Conservation, and Forestry on the proposal that the Office of Management of Budget had advanced to force the Forest Service regional structure to conform to the existing standard regional Federal boundaries. These hearings were instrumental in convincing the Office of Management and Budget and the Department of Agriculture that the concept was faulty and unsound and to show that it was almost universally opposed, and should be withdrawn. I am happy to say that this action has now been taken.

It became apparent during the subcommittee discussions, and has been verified in staff studies made since that time, that Forest Service personnel was being slowly reduced below the levels at which the service can efficiently perform the expanding responsibilities which are being thrust upon it because of greatly accelerated activity on many fronts—increased timber cutting and sales, increased use of Forest Service lands for recreation, and continuous and extensive grazing of livestock on forest lands, to mention three substantial activities.

In addition, it has been brought out that there are more than 5 million acres of forest land which are in need of reforestation, and some 13 million acres in need of stand improvement.

Although a primary basis for attention from a national standpoint is the growing crunch in the lumber supply industry, and the emphasis the Forest Service is being required to put into timber cutting and sales, in my State of Utah major concern centers around the massive and accelerating use of forest lands for recreation and the continuing need for their use for watershed and grazing purposes. These factors combined with some very special watershed problems on private lands interspersed within national forest lands, which require special supervision, have caused us to worry about how these forest lands, which are carrying heavier and heavier burdens, can be managed and protected by fewer and fewer personnel.

I was shocked to learn that the 1974 personnel budget request for the Forest Service is at about the 1962 level. The request is for 3,210 fewer employees than were on the job in 1967.

The resolution reported by the committee provides that during the fiscal year ending June 1974, the number of permanent full-time people employed by the Department of Agriculture to carry out the work of the Forest Service shall be maintained at not less than 450 personnel above the June 31, 1972, full-time, permanent personnel ceiling. This means that an employment level of 20,854 would be the minimum in the present fiscal year. This is still below the effective staff operating level needed, but it is a step in the right direction in assuring that our national forest lands will be properly administered and protected.

What we have before us is a well considered plan that treats first things first. The floor for employment will hold the erosion in the ability of the Forest Service to provide multiple use benefits to all of our people. The request for a budget supplement will enable campgrounds to be serviced, watersheds protected, even an additional 1 billion board feet of timber to be sold, grazing programs to be maintained, and vital research to continue. Even more, this program will be of positive assistance in maintaining the economy, increasing Federal revenues, and helping local counties which share in these revenues.

I applaud the insight of the committee in treating basic needs of fundamental issues in a comprehensive way, while aiding us in the Intermountain States in preventing the catastrophe of an ill-conceived centralization of regional supervision.

Mr. President, I support this resolution, and ask that it do pass.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That during the fiscal year ending June 30, 1974, the number of permanent, full-time employees employed by the Department of Agriculture to carry out the activities of the Forest Service shall be maintained at not less than four hundred and fifty above the June 30, 1973, permanent, full-time personnel ceiling authorized for such Service by the Department of Agriculture.

TOBACCO ALLOTMENTS IN DISASTER AREAS

The bill (H.R. 9172) to provide for emergency allotment lease and transfer of tobacco allotments or quotas for 1973 in certain disaster areas in Georgia and South Carolina was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, that concludes the call of the calendar.

FEDERAL ELECTION CAMPAIGN ACT—SUPPLEMENTAL REGULATION

Mr. MANSFIELD. Mr. President, on behalf of the Secretary of the Senate in his capacity as Supervisory Officer under the Federal Election Campaign Act, I wish to call attention to a supplemental regulation issued today by the Secretary which deals with the subject of disclosure of earmarked contributions and expenditures. The text of the regulation is as follows:

Office of the Secretary
of the Senate,
Washington, D.C., July 20, 1973.

Supplement No. 1 to the Manual of Law, Regulations and Accounting Instructions Relating To Disclosure of Campaign Funds for Candidates for the U.S. Senate and for Political Committees Supporting Such Candidates

DISCLOSURE OF EARMARKED CONTRIBUTION AND EXPENDITURES

Each candidate, political committee, and other person required to file reports under the Act who receives an earmarked contribution or makes an earmarked expenditure (including any transfer of funds) that is subject to the reporting requirements of the Act and these Regulations shall report the full name and mailing address, occupation and principal place of business, if any, of the donor or any other person who originally earmarked the contribution or expenditure; the name and address of each political committee or candidate for whom the contribution or expenditure is earmarked; and the amount of such contribution or expenditure earmarked for each such candidate or political committee and the aggregate amount earmarked for each during the calendar year.

The reporting required by this regulation shall be in addition to all other reporting of such contribution or expenditure required by the Act and these Regulations; shall be performed by all candidates, political committees and other persons receiving, expending, or transferring earmarked funds; and shall be reported together with all other required information on the appropriate Schedules A–D supplementing Senate Election Forms 2 or 3.

Definition: (To be alphabetically inserted among other definitions in the Manual of Regulations and Accounting Instructions issued by the Secretary of the Senate.)

"Earmark," "Earmarked," and "Earmarking" include all and any designations, instructions or encumbrances (including but not limited to those which are direct or indirect, express or implied, oral or written) which cause or result in all or any portion of a contribution or expenditure being made to or expended for the benefit of a specific candidate or political committee.

IN PRAISE OF JOHN ROLFSON—A FINE REPORTER

Mr. MANSFIELD. Mr. President, in Paris the other day, a long-time friend, John Rolfson, passed away.

He was the chief Paris correspondent for ABC. He was a man who had achieved a reputation for sound thinking, integrity in outlook, and dedication to his work.

John Rolfson was a graduate of the University of Montana at Missoula. He started, I believe, at station KGVO in Missoula. From there he moved to Salt Lake City and eventually to the upper echelons of fine reporters when he became associated with ABC.

None of us knew how sick John Rolfson had been. The newspaper said he had pneumonia. That was true, but he also, I find, had suffered from leukemia in recent months. When he got pneumonia that, of course, added to his complication.

John Rolfson was a good reporter. He was a good man. While he was born in California, he moved at an early age to Montana and went to school in Missoula—grade school and high school, and later at the University of Montana in the same city.

He is survived by his wife, the former Marie-Therese Debauche, two children, Eric Francois and Michelle; his mother, Mrs. Edith Rolfson, who lives in Washington with her daughter and John's sister, Mary Jean Rolfson, and another sister, Mrs. Nancy Brown of Bethesda.

The concluding words of the article entitled "In Praise of John Rolfson," are as follows:

> Rolfson was a very good reporter ard uncommonly retiring for his trade. I'd like to read his memoirs.

Mr. President, I wish to take this occasion to extend to his mother, his father Walter, his wife, and his children, his sisters, and his brother Robert, the deep sorrow which Mrs. Mansfield and I feel in the passing of a good friend who has served his country well and who has been a credit to his profession.

Mr. President, I ask unanimous consent to have the article printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

In Praise of John Rolfson

(By Bernie Harrison)

Last night's "At Ease" session with Harry Reasoner and Howard K. Smith and ABC's Washington-based reporters, it should be noted, was taped Tuesday before the news of the passing in Paris of a colleague, John Rolfson, reached New York. Otherwise the convocation would have been, perforce, a sadder one.

Rolfson, who learned he had leukemia a few months ago, was busily writing his memoirs—"and happy with what he had written," a colleague said—when the complication of pneumonia took him. He had headed the ABC News Paris bureau since 1965.

"He was more than a fine journalist," said Elmer Lower, president of ABC News. "He was a fine and gentle human being."

"I thought he was the best man we ever had on the hill," John Lynch, head of ABC's Washington bureau, mused yesterday, "and I was sorry to see him go there. He loved Paris, though."

Only 47, Rolfson, who was born in Los Angeles, moved with his family to Missoula, Mont., where his father, Walter, and a brother, Robert, still live. He took his first journalism job at the age of 16. By 1948, he had earned a bachelor's degree in history and political science at the University of Montana. After a year as an instructor there, he left for Europe, spending most of his time as a student at the Institute of Political Studies of the University of Paris.

He returned from Paris in 1950 and became news director of KGVO in Missoula. He left shortly thereafter for WNAX Radio in Sioux City, Iowa, and for two years following this assignment he lived in Washington, working as a magazine writer. He returned to radio as a member of the news staff of WMAL, then went with ABC in New York as a news writer and editor.

He returned here in 1960 as an ABC News correspondent and commentator. He spent five years here, traveling with the major candidates during the 1960 election year and becoming a close friend of defeated Republican candidate Barry Goldwater.

In Paris, he covered the Vietnam peace talks and many special assignments elsewhere, including the Middle East.

Rolfson is survived by his wife, the former Marie-Therese Debauche, two children, Eric Francois and Michelle, his mother, Mrs.

Edith Rolfson, who lives in Washington with her daughter and John's sister, Mary Jean Rolfson, and another sister, Mrs. Nancy Brown of Bethesda.

Rolfson was a very good reporter and uncommonly retiring for his trade. I'd like to read his memoirs.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEAVE OF ABSENCE

Mr. ROBERT C. BYRD. Mr. President, in accordance with rule V of the Standing Rules of the Senate, I ask unanimous consent on behalf of the distinguished junior Senator from Nevada (Mr. CANNON) that he be granted a leave of absence from the Senate on next Monday and next Tuesday because of a death in the family.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS ON MONDAY, JULY 23, 1973

Mr. ROBERT C. BYRD. Mr. President, it was intended that the Senate would proceed on Monday, following the disposition of the Public Works appropriations bill, to take up S. 372, the so-called campaign financing bill. In view of the fact that the distinguished chairman of the Committee on Rules and Administration (Mr. CANNON), because of a death in the family, cannot be here on next Monday or Tuesday, the leadership will proceed—and this matter has been taken up with the other side, so that there is a full understanding all the way around—to ask unanimous consent at this time, and, having been authorized by the distinguished majority leader, I so do, that following the disposition of the bill making appropriations for Public Works on Monday, the Senate proceed to the consideration of Calendar Order No. 285, S. 1149, a bill to increase the supply of railroad rolling stock.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I further ask unanimous consent that on Monday, upon the disposition of S. 1149, the Senate turn to the consideration of Calendar Order No. 262, S. 2101, a bill to amend the Truth in Lending Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR FONG, SENATOR McCLURE, AND SENATOR ROBERT C. BYRD ON MONDAY, JULY 23, 1973

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders or their designees have been recognized under the standing order, the following Senators be recognized, each for not to exceed 15 minutes, and in the order stated: Mr. HUGHES, Mr. FONG, Mr. McCLURE, and Mr. ROBERT C. BYRD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, the fourth of the quartet of Senators named may or may not use his time on Monday.

ORDER FOR A PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the recognition of Senators on Monday under the orders previously entered, there be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements limited therein to 3 minutes, at the conclusion of which the Senate proceed to the consideration of the bill making appropriations for public works, H.R. 8947.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, there are various nominations that have been reported by the Committee on Armed Services today. I ask unanimous consent that the Senate now go into executive session and that the Senate proceed to the immediate consideration of those New Reports en bloc.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations reported earlier today will be stated.

NOMINATIONS AT THE SECRETARY'S DESK

The legislative clerk proceeded to read sundry nominations in the Army, Navy and Marine Corps, now at the Secretary's desk.

The PRESIDING OFFICER. Without objection, the nominations are confirmed en bloc.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC WORKS APPROPRIATIONS, 1974

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 8947, with no action to be taken thereon today.

The PRESIDING OFFICER (Mr. NUNN). The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 8947) making appropriations for public works for water and power development, including the Corps of Engineers—Civil, the Bureau of Reclamation, the Bonneville Power Administration and other power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Atomic Energy Commission, and related independent agencies and commissions for the fiscal year ending June 30, 1974, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to consider the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANTITRUST PROCEDURES AND PENALTIES ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the motion to reconsider the passage of S. 782, to amend the antitrust law.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 782) to amend the antitrust laws of the United States, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider.

Mr. ROBERT C. BYRD. I move to lay on the table the motion to reconsider.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider.

The motion was agreed to.

ORDER FOR SENATE TO CONVENE ON SATURDAY, JULY 21, 1973, VACATED

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the previous order for the convening of the Senate tomorrow be vacated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR SENATE TO CONVENE AT 10 A.M. ON MONDAY THROUGH SATURDAY OF NEXT WEEK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the

Senate completes its business on Monday, Tuesday, Wednesday, Thursday, and Friday next it stand in adjournment until the hour of 10 a.m. on Tuesday, Wednesday, Thursday, Friday, and Saturday, respectively.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with statements limited therein to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL MONDAY AT 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 o'clock Monday morning next.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. Robert C. Byrd) laid before the Senate the following letters, which were referred as indicated:

Report Relating to Horse Protection

A letter from the Assistant Secretary of Agriculture, transmitting, pursuant to law, a report relating to horse protection, dated June 7, 1973 (with an accompanying report). Referred to the Committee on Commerce.

Report of Comptroller General

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Actions Needed to Provide Greater Insurance Protection to Flood-Prone Communities", Federal Insurance Administration, Department of Housing and Urban Development, dated July 19, 1973 (with an accompanying report). Referred to the Committee on Government Operations.

Report on Grants Made to Nonprofit Institutions and Organizations for Support of Scientific Research Programs

A letter from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a report on grants made to nonprofit institutions and organizations for support of scientific research programs, for the calendar year 1972 (with an accompanying report). Referred to the Committee on Government Operations.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. Robert C. Byrd):

A joint resolution of the Legislature of the State of California. Referred to the Committee on Public Works:

"Assembly Joint Resolution No. 7

"Relative to the New Melones Dam project

"Whereas, the United States Army Corps of Engineers is planning the construction of the New Melones Dam on the Stanislaus River in the State of California; and

"Whereas, the New Melones Dam Project, which is proposed to have a capacity of 2,400,000 acre feet, is urgently needed to provide flood protection for the Stanislaus River Basin; and

"Whereas, the additional water supply which will be made available by the project for agricultural and municipal purposes will greatly benefit the people of California; and

"Whereas, the project will provide outstanding recreational opportunities for the large urban populations of northern and central California; and

"Whereas, the Board of Supervisors of Stanislaus County, as well as numerous other local agencies, strongly support the construction of the New Melones Dam Project at the earliest possible time; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to proceed with the construction of the New Melones Dam Project on the Stanislaus River in the State of California as quickly as possible upon such construction being permitted under pending litigation; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Chief of the United States Army Corps of Engineers, and to each Senator and Representative from California in the Congress of the United States."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIBLE, from the Committee on Appropriations, with amendments:

H.R. 8947. An act making appropriations for public works for water and power development, including the Corps of Engineers—Civil, the Bureau of Reclamation, the Bonneville Power Administration and other power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Atomic Energy Commission, and related independent agencies and commissions for the fiscal year ending June 30, 1974, and for other purposes (Rept. No. 93–338).

By Mr. CANNON, from the Committee on Rules and Administration, with amendments:

S. 1803. A bill to authorize the waiver of claims of the United States arising out of erroneous payments of pay and allowances to employees of the Government Printing Office (Rept. No. 93–339).

EXECUTIVE REPORTS OF A COMMITTEE

Mr. NUNN. Mr. President, as in executive session, from the Committee on Armed Services, I report sundry nominations in the Army, Navy, U.S. Army Reserve, Naval Reserve Training Corps, Army of the United States, Reserve of the Army of the United States, Naval Reserve, and Marine Corps.

The PRESIDING OFFICER. The reports will be received, and the nominations will be placed on the executive calendar.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. ALLEN (for himself and Mr. Sparkman):

S. 2216. A bill to amend the Wild and Scenic Rivers Act by designating the West Fork of the Sipsey Fork in the State of Alabama for potential addition to the National Wild and Scenic Rivers System. Referred to the Committee on Interior and Insular Affairs.

By Mr. BAKER:

S. 2217. A bill to provide for improvement in the treatment of animals in air transportation. Referred to the Committee on Commerce.

By Mr. HATHAWAY (by request):

S. 2218. A bill to establish the United States of America as an Oceanus Congressional Nation. Referred to the Committee on Foreign Relations.

By Mr. SCHWEIKER:

S. 2219. A bill to provide that the Secretary of Transportation and the Interstate Commerce Commission require common carriers under their jurisdiction to require that smoking aboard aircraft, railroad cars, buses, and vessels carrying passengers, shall be limited to and permitted only in areas that shall be designated for that purpose. Referred to the Committee on Commerce.

By Mr. BAKER (for himself and Mr. Brock):

S.J. Res. 136. Joint resolution providing for the designation of the first week of October of each year as "National Gospel Music Week." Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BAKER:

S. 2217. A bill to provide for improvement in the treatment of animals in air transportation. Referred to the Committee on Commerce.

Mr. BAKER. Mr. President, I introduce today a bill to provide for a study of existing conditions for the handling of animals in air transportation, and for the establishment of Federal regulations and minimum standards in order to insure the humane treatment of those animals.

Each year, America's commercial airlines carry a very large number of animals shipped commercially via air freight and destined for pet shops, zoos, and research laboratories. In addition, thousands of pets are carried in the cargo compartments of airplanes, traveling with their owners as excess baggage. It is becoming increasingly clear, in my opinion, that existing airline regulations governing such shipments are inadequate to protect these animals.

A growing body of evidence compiled by such groups as Consumers Union and the Humane Society of the United States indicates that the conditions under which animals travel by air are unsafe, and, indeed, many animals are injured and even killed as a result of improper and careless handling, inadequate air supply and temperature control in cargo compartments, and a lack of proper crates, kennels, and cages.

Animals are often accepted for shipment in unsturdy containers, which are unable to withstand rough treatment by baggage handlers. Although cargo compartments or aircraft are pressurized, as a result of fire-prevention measures, there is virtually no air circulation in these compartments after they have been sealed. Animals stored within them, therefore, must exist for their entire journey on the amount of air present at loading. If bulky containers are placed on top of or next to those containing animals, air supply is restricted even more. Temperatures in those compartments can vary, according to an article in the March 1973 issue of Consumer Reports, from 0° F. to 104° F.

During loading and unloading, animals are treated in the same manner as other cargo and baggage—sometimes sitting out of doors in heavy rain, snow, or bitter cold. If flights are canceled or delayed because of weather conditions, commercial shipments of animals are often stored unattended in warehouses for hours and days at a time.

Although the Animal Welfare Act has gone a long way toward insuring that animals moving in interstate commerce will be treated humanely, common carriers are specifically exempted from the provisions of that act. While individual airlines have established regulations and guidelines for their own employees to follow in handling animal shipments, these regulations often seem to be overlooked or simply ignored. All airlines limit the liability which they will accept for shipments of animals or carriage of pets, and some refuse to accept any liability whatsoever. The result, Mr. President, is that there is simply no incentive for airlines or individual employees to exercise careful control over the handling of animals, and there are no Federal regulations requiring them to do so.

To aggravate the situation described above, it is evident that the airlines have failed to inform the public fully of the risks involved in shipping pets by air. Some airlines have deliberately misled their customers by making false claims as to the conditions under which their pets will travel. One airline, for example, has instructed its flight attendants to tell customers that their pets will travel in cargo compartments where the "normal temperature is 50° to 70°," when, in fact, temperatures may reach much higher or lower levels. Another airline indicated that pets travel in "air-conditioned aircraft" when, in fact, no airline has air-conditioned baggage compartments.

Although it is my understanding that the Civil Aeronautics Board has plans to research the problems of transporting animals by air, there has evidently been no thorough study made as of this time of airline procedures for shipping animals or of the effectiveness of airline regulations. The bill which I am introducing today would require the Secretary of Transportation, in consultation with the Civil Aeronautics Board, to make a study of all aspects of the handling and treatment of animals in air transportation. The study would encompass procedures for handling animals from the point at which a shipper transfers custody of the animal for shipment by air until the animal is delivered to the consignee at the agreed destination. At the end of 60 days, the Secretary will be required to submit the results of his study to the Congress. Within 60 days after that, he will be required to promulgate regulations, including minimum standards, for the humane treatment of animals in air transportation.

I would hope that these regulations would include the establishment of minimum standards for carrying cases, cages and kennels which are constructed so as to provide protection for animals during loading, unloading and flight. In addition, I would hope that the Secretary would establish regulations governing handling of animals by airline employees, and that consideration can be given to the feasibility from an economic standpoint of requiring airlines to provide some form of temperature control in compartments in which animals are stored aboard aircraft.

Mr. President, in offering this proposal, it is not my intention to imply that air carriers either abuse or mistreat all animals with which they are entrusted; in fact, the incidence of death is relatively low for some carriers. However, just as we refuse to attribute monetary value to human safety, so must we recognize the priceless importance of pets in the lives of millions of Americans and so must we recognize our responsibility to take the necessary steps to insure the humane treatment of animals traveling by air.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection the bill was ordered to be printed in the RECORD, as follows:

S. 2217

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of Transportation, in consultation with the Civil Aeronautics Board, shall undertake a study of existing conditions in the treatment of animals in air transportation. Such study shall include examination of the treatment of animals from the point at which the shipper transfers custody of the animal for shipment by air until the animal is delivered to the consignee at the agreed destination.

(b) The Secretary shall report to the Congress on the results of such study, including his recommendations, not later than sixty days after the date of enactment of this Act.

SEC. 2. (a) Title XI of the Federal Aviation Act of 1958 is amended by inserting at the end thereof a new section as follows:

"HUMANE TREATMENT OF ANIMALS IN AIR TRANSPORTATION

"SEC. 1113. The Secretary shall prescribe, not later than 120 days after the date of enactment of this section, regulations, including minimum standards, providing for the humane treatment of animals in air transportation."

(b) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the heading "TITLE XI—MISCELLANEOUS" is amended by inserting at the end thereof the following:

"Sec. 113. Humane Treatment of Animals in Air Transportation."

By Mr. SCHWEIKER:

S. 2219. A bill to provide that the Secretary of Transportation and the Interstate Commerce Commission require common carriers under their jurisdiction to require that smoking aboard aircraft, railroad cars, buses, and vessels carrying passengers, shall be limited to and permitted only in areas that shall be designated for that purpose. Referred to the Committee on Commerce.

Mr. SCHWEIKER. Mr. President, I introduce a bill to provide that the Secretary of Transportation and the Interstate Commerce Commission require common carriers under their jurisdiction to require that smoking aboard aircraft, railroad cars, buses, and vessels carrying passengers shall be limited to and permitted only in areas that shall be designated for that purpose.

The purpose of this legislation, which I also introduced in the last Congress, is to require that all mass transit facilities which carry passengers provide a designated area for the seating of passengers who wish to smoke. This bill would require that special smoking areas be set aside. The Department of Transportation and the Interstate Commerce Commission would be responsible for setting regulations under this legislation.

Several common carriers have already taken steps in this direction. The CAB has adopted a regulation requiring all airlines to separate smokers and nonsmokers beginning July 10, 1973. The Interstate Commerce Commission decreed April 17, 1972, that all interstate buses separate smokers and nonsmokers. However, the National Association of Motor Bus Owners has appealed this proposal, so it is not presently in effect. I commend the efforts of the CAB and the ICC and believe this should be required in all mass transportation facilities.

The latest report on smoking and health by the U.S. Surgeon General found that tobacco fumes may be dangerous to nonsmokers who inhale them. The Surgeon General's report indicated that nonsmokers in enclosed areas absorb a significant amount of the components of cigarette smoke. The report also indicated that exposure to cigarette smoke can result in the impairment of time interval discrimination, visual discrimination, and certain physiological stresses on persons with heart disease. As most nonsmokers know, and the report points out, smoking often causes nasal irritation to nonsmokers. In fact, the report indicated that nonsmokers experience more nasal irritation than ocular or visual irritation as compared with smokers exposed to similar amounts of smoke in the atmosphere.

A report published in 1970 by the Inter-Society Commission for Heart Disease Resources recommended a prohibition against smoking in large meetings and mass transit facilities.

Another aspect of this problem beyond the relationship of smoking and health which ought to be considered is the problem of fire prevention.

Mr. President, I believe there is a substantial evidence of both the medical desirability and the desire of passengers in mass transportation facilities to separate smokers from nonsmokers. The Surgeon General's report has added a new dimension to this problem by pointing out the significant impact tobacco fumes can have no nonsmokers. Thus, the problem goes beyond the personal desires of smokers, and it is time for us to act to protect the rights of those who do not smoke to breathe clean air.

Mr. President, I ask unanimous consent that the full text of my bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2219

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Public Transportation Smoking Section Act".

Sec. 2. The Secretary of Transportation shall prescribe such reasonable rules and regulations as may be necessary to require that each air carrier under the jurisdiction of the Civil Aeronautics Board shall require that smoking aboard every aircraft operated by it in the carriage of passengers of interstate, overseas, or foreign air transportation, shall be limited to and permitted only in areas that shall be designated for that purpose.

Sec. 3. The Interstate Commerce Commission shall prescribe such reasonable rules and regulations as may be necessary to require each common carrier by railroad, each common carrier by motor vehicle, and each common carrier by water under the jurisdiction of the Commission to require that smoking aboard every railroad car, motor vehicle, or vessel, as the case may be, operated by any such common carrier in the carriage of passengers in interstate commerce, shall be limited to and permitted only in areas that shall be designated for that purpose.

ADDITIONAL COSPONSORS OF BILLS

S. 384

At the request of Mr. Cook, the Senator from South Dakota (Mr. Abourezk) was added as a cosponsor of S. 384, to assist the States in raising revenues by making more uniform the incidence and rate of taxes imposed by States on the severance of coal.

S. 1605

At the request of Mr. Brock, the Senator from Colorado (Mr. Dominick) was added as a cosponsor of S. 1605, a bill to amend the Truth in Lending Act to prohibit discrimination on account of sex or marital status against individuals seeking credit.

S. 1772

(At the request of Mr. Allen, his name was added as a cosponsor of S. 1772, the Black Lung Benefits Act.

S. 2081

At the request of Mr. Nunn, the Senator from Utah (Mr. Bennett), the Senator from Nevada (Mr. Cannon), and the Senator from Arkansas (Mr. McClellan) were added as cosponsors of S. 2081, to amend title IV of the Social Security Act to provide a method of enforcing the support obligations of parents of children who are receiving assistance under such title, and for other purposes.

SENATE CONCURRENT RESOLUTION 41—SUBMISSION OF A CONCURRENT RESOLUTION—ESTABLISHMENT OF POLICY IN VIETNAM

(Referred to the Committee on Foreign Relations.)

Mr. TOWER submitted a concurrent resolution (S. Con. Res. 41), which reads as follows:

S. Con. Res. 41

Whereas the Government of the Democratic Republic of North Vietnam and the Provisional Revolutionary Government (Viet Cong) have failed to live up to Article 8, paragraph (b) and the protocol in Article 10 of the January 27, 1973, agreements and the explanatory statement on the same article contained in the June 13, 1973, agreements, all of which relate to facilitating the location and care of graves of the dead, exhumation and repatriation of the remains as well as to obtain information on those still considered missing-in-action;

Whereas the Congress of the United has declared that the United States will cease all military activity in South Vietnam, Cambodia and Laos by August 15;

Whereas the Lao Patriotic Front (Pathet Lao) has also failed to cooperate in this effort: Now therefore be it

Resolved by the Senate (the House of Representatives concurring), that it is the sense of the Congress that it shall be the policy of the United States that the Government of the United States shall cease forthwith all consideration of aid, trade, diplomatic recognition or any other form of communication, travel or accommodation with the Democratic Republic of North Vietnam or the Provisional Revolutionary Government (Viet Cong) until such time as the aforesaid agreements are complied with to the fullest extent.

SENATE RESOLUTION 149—SUBMISSION OF A RESOLUTION RELATING TO DIPLOMATIC RELATIONS BETWEEN THE UNITED STATES AND SWEDEN

(Referred to the Committee on Foreign Relations.)

Mr. HUMPHREY submitted a resolution (S. Res. 149), which reads as follows:

S. Res. 149

Whereas a close and friendly relationship has normally existed between Sweden and the United States over the years, virtually since the foundation of this Republic, and

Whereas this relationship has needlessly been disrupted over a period of almost a year, as evidenced by the absence of a United States Ambassador in Stockholm since August of 1972, and the tacit refusal of the United States Government to receive an Ambassador from Sweden since January of this year, and

Whereas the Senate has affirmed the position that diplomatic relations do not depend upon or connote approval of the views of the governments concerned: Now, therefore, be it

Resolved, That it is the sense of the Senate that the United States Government and Sweden should restore their normal friendly relations, and confirm this return to normalcy by appointing and dispatching ambassadors to their respective capitals on an immediate basis.

(Discussion of the resolution appears in the debate relating to the War Powers Act.)

AMENDMENT OF TRUTH IN LENDING ACT—AMENDMENT

AMENDMENT NO. 388

(Ordered to be printed, and to lie on the table.)

CLOSING COST AMENDMENT

Mr. PROXMIRE. Mr. President, I submit an amendment to limit closing costs on real estate transactions. The amendment is identical to a provision in the 1972 housing bill which was passed by the Senate on March 2, 1972. Congress took action last year to control escalating closing costs following an exhaustive study by the Department of Housing and Urban Development which showed that closing costs were unreasonably high on real estate transactions. Unfortunately, no final action was taken on the 1972 housing bill and the entire subject died in the 92d Congress.

I believe it is necessary to take prompt action on the closing cost problem at this time. The Senate Banking Committee has just begun hearings on a 1973 housing bill; however it may take several months for this legislation to reach the floor and several more months to pass the entire Congress. In fact, considering the amount of controversy surrounding our housing programs, there is a good chance there may be no housing bill at all in the 93d Congress. Therefore, we must look to another bill to deal with the problem of closing costs if we want to provide some near term relief for the hard pressed home buyer.

The Truth in Lending Act amendments already deal with the subject of closing costs. Section 209 of the legislation strengthens the requirements for disclosing closing costs on real estate transactions. I therefore believe it is appropriate to go one step beyond disclosure and to consider an amendment to regulate closing costs. If we do not act at this time on this bill, it is likely that any meaningful reform will be delayed several months or even years. Every day we delay will cost consumers at least a million dollars.

Mr. President, Congress took action nearly 3 years ago to limit excessive closing costs on FHA–VA mortgage transactions. Section 701 of the Emergency Home Finance Act of 1970 authorizes and directs the Secretary of HUD and the Administrator of the VA to—

> Prescribe standards governing the amount of settlement costs allowable in connection with the financing of such housing in any such area.

Such housing refers to housing assisted by the FHA or the VA. The cost standards established by HUD and the VA are to be based on their estimates of the reasonable charge for necessary services involved in real estate settlements. Thus, HUD and VA have the authority to prohibit unreasonable charges or charges for unnecessary services.

It should be noted that HUD and the VA are directed to issue regulations to limit settlement charges. The authority is mandatory and not discretionary.

Despite the firm stand taken by Congress in 1970 against excessive closing costs, HUD and the VA have been dragging their feet. They have produced an excellent report which fully documents the excessive closing costs being charged. But so far, they have not issued regulations to control these excessive charges. Regulations were proposed last July to limit closing costs in several metropolitan areas, but they have apparently been shelved in response to intensive pressure from real estate lawyers, title insurance companies and others who benefit from high closing costs.

Mr. President, my amendment would do four things:

First, it consolidates the existing authority to control settlement charges which is presently divided between HUD and the VA. My amendment gives the authority to HUD which must act in consultation with the VA;

Second, my amendment expands the scope of the existing law to cover certain conventional mortgage loans purchased by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation;

Third, my amendment requires that regulations limiting closing costs be issued within 6 months;

Fourth, my amendment prohibits kickbacks on real estate transactions. This antikickback provision would cover situations where a builder might refer settlement business to a lawyer in return for a fee or other benefit, or where a lender might refer title insurance business to a title insurance company under similar arrangements. These, of course, are not the only type of kickback arrangements prohibited by my amendment.

Mr. President, the need to control closing costs were clearly documented in the HUD–VA report on settlement costs issued on February 17, 1972.

Secretary of HUD George Romney testified before the Housing Subcommittee on this report on March 1 of last year. In his statement to the committee, Secretary Romney acknowledged that—

> Serious abuses have arisen in this field, and that—these abuses—have resulted in adding significantly to the cost of acquiring a home.

In later testimony he estimated home buyers were paying hundreds of millions of dollars a year in excessive closing charges.

In reviewing the findings of the HUD–VA study, Secretary Romney also presented these conclusions to the subcommittee:

> 1. High settlement costs as well as other problems of settlement stem in no small part from basic inefficiencies in the existing system of conveying, recording, and assuring validity of title to parcels of real estate.
>
> 2. Settlement costs and practices vary widely even within the same geographic area.
>
> 3. Costs are unreasonably high in many areas, but not in all.
>
> 4. Whenever many specialists become involved in the conveyancing process and services are fragmented among them, costs are significantly higher.
>
> 5. State regulation of title insurance and other title related costs are largely ineffective.
>
> 6. In most cases, competition in the conveying industry is directed toward other participants in the industry and not toward the home buying public.
>
> Lenders compete to get business from real estate brokers or escrow companies.
>
> Title companies compete to get business from attorneys, brokers, and lenders.
>
> Frequently this competition takes the form of an elaborate system of referral fees, kickbacks, or commissions as inducements to firms and individuals who direct the placement of business.
>
> No one appears much interested in competing by putting costs to the homebuyer since he is not likely to be in the market for another home in the near future, and will ordinarily accept the services (and charges) of whomever he is referred to.
>
> 7. Charges for services relating to settlement often are not based on factors related to the cost of providing the services.

Frequently they are based on the sales price of the property.

We found that the overall level of charges tends to be lower when the charge for a service is not directly related to the sales price of the property.

> 8. The minimum or recommended fee schedules of local bar associations and local real estate groups often do not reflect the actual work done. The use of such schedules to determine fees tends to increase settlement costs.
>
> 9. Most public systems of keeping land records need to be improved in order to facilitate title search. If title search were simplified, this would tend to reduce title-related and other settlement costs.
>
> 10. It is evident from these findings that serious problems exist in the conveyancing industry and that such problems demand immediate attention in order to assure that the public is not charged more for settlement costs than is reasonable.

Mr. President, the wide variance in closing charges was clearly demonstrated in the HUD–VA study. As Secretary Romney testified, these variances could not be explained solely on the basis of variances in the cost of doing business. To put the matter more bluntly, in many areas the public is being gouged.

For example, the HUD–VA study showed that closing costs on home prices between $20,000 and $24,000 varied across the country from a low of $50 to a high of nearly $2,000. This is a price variance of 40 to 1 for essentially the same service.

The average amount of total closing costs also varied widely between States For example, in Maryland average closing costs came to $1,060 whereas in South Dakota these same charges averaged only $303.

There was also considerable variance between metropolitan areas. Closing costs in the Newark, N.J. area on a $20,000 to $24,000 FHA home averaged $834, whereas closing costs for similar housing averaged only $369 in the Minneapolis area.

There is also considerable variance within the same metropolitan areas. In Los Angeles County, closing costs ranged from a low of $200 to a high of $1,000 for homes in the $20,000 to $24,000 range.

In Chicago, they ranged from a low of $102 to a high of $723 for the same priced housing.

Mr. President, there may be some legitimate reason for explaining some of these differences. Recordkeeping procedures vary from State to State and from community to community. But even when these cost differences are taken into account, the HUD study still found widespread variances. As Assistant Secretary Gulledge put it during the hearings, in some areas it is almost a matter of charging what the traffic will bear.

The average home buyer has virtually no bargaining power to protect himself against excessive closing charges. For most people, the entire settlement process is a deep mystery. The average person only buys a home once or twice in his lifetime. When he shells out $30,000 or $40,000 for a home, he tends to disregard the additional fees and expenses which each participant in the settlement process has been able to extract. The home buyer is a virtual captive in the hands of the lender, the attorney, the real estate broker and others. We must therefore act to protect the home buyer from being ovecharged on home closing costs.

Mr. President, I ask unanimous consent that the text of my amendment be printed in the RECORD at the end of my remarks.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 388

Add the following new title at the end thereof.

TITLE IV—CLOSING COSTS

§ 401. CLOSING COSTS.

(a) Section 701 of the Emergency Home Finance Act of 1970 is amended to read as follows:

"ALLOWABLE CLOSING COSTS IN THE FINANCING OF CERTAIN HOUSING; PROHIBITION OF CERTAIN FEES

"SEC. 701. (a) The Secretary of Housing and Urban Development shall, after consultation with the Administrator of Veterans' Affairs, publish standards governing the amounts of closing costs allowable to be paid by buyers and sellers in connection with the financing of housing designed principally for the occupancy of from one to four families and—

"(1) which is built, rehabilitated, or purchased with assistance provided under the Revised National Housing Act, the National Housing Act, or chapter 37 of title 38, United States Code; or

"(2) which is covered by a mortgage purchased by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

"(b) Unless the closing costs charged in connection with the financing of such housing are allowable under standards published under subsection (a) of this section at the time of such financing—

"(1) no mortgage covering such housing shall be insured or guaranteed under any such Act or chapter unless the Secretary or the Administrator, as the case may be, determines that any excess or non-allowable charge has been repaid; and

"(2) no mortgage covering such housing shall be purchased by such Association or Corporation.

"(c) Standards published under subsection (a) of this section shall—

"(1) be consistent in any area for housing described in subsection (a) of this section; and

"(2) be based on the Secretary's estimates of the reasonable charges for necessary services involved in closings for particular classes of mortgages and loans.

"(d) The Secretary shall from time to time make such recommendations to the Congress as he deems appropriate for legislation to reduce closing costs and to standardize such costs for all geographic areas.

"(e) Any person who accepts or furnishes any thing of value pursuant to any agreement, oral or otherwise, that business incident to or a part of any real estate settlement shall be referred to any person shall be fined not more than $10,000 or imprisoned for not more than one year, or both, except that this subsection shall apply only in the case of a real estate settlement in connection with housing referred to in subsection (a)."

(b) The standards referred to in the amendment made by subsection (a) of this section shall be published not later than one hundred and eighty days after the date of enactment of this title.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1973—AMENDMENTS

AMENDMENT NO. 389

(Ordered to be printed, and to lie on the table.)

Mr. PROXMIRE. Mr. President I send to the desk an amendment to S. 372, the Federal Election Campaign Act Amendments of 1973. This proposal would limit individual contributions to any one candidate for Federal office, including the office of the President, to $100 and would limit the contributions of an individual, together with the members of his family, to all candidates to $1,000.

I intend to call up this amendment for a vote on Monday, July 23.

AMENDMENTS NOS. 390 THROUGH 398

(Ordered to be printed, and to lie on the table.)

Mr. BROCK. Mr. President, I am delighted that the Senate has responded to our call for the speedy consideration of legislation to bring about a thorough and comprehensive reform of our campaign practices laws.

In this regard also, I would like to commend the Rules Committee of the Senate for their diligent work, which has resulted in the reporting out of S. 372, the Federal Election Campaign Act Amendments of 1973.

That legislation incorporates many of the important features which I have urged, and which are contained in my own bill, S. 2159. Specifically, it calls for the creation of a Federal Elections Office, a single repository system for campaign receipts, and the banning of campaign contributions in cash which exceed $100.

Other important areas remain however, and it is my intention to present a series of amendments to S. 372 which will have the effect of making the law tougher with regard to its reporting provisions, fairer with regard to its application to incumbents and challengers alike, and more beneficial to the public with regard to maximizing their ability to reach their personal conclusions as to how they should vote.

The amendments which I submit are these:

First. The newly created Federal Elections Commission shall publish, for all voters, an informational pamphlet, presenting the views of each candidate for Federal office in the voter's State.

Incumbents should be prohibited from using their franking privilege for mass mailings within 60 days of an election in which they are a candidate.

Third. In addition to other requirements, campaigns would be required to obtain and report the social security number of all persons making contributions which must be reported under the current provisions of S. 372.

Fourth. Campaign advertising would be prohibited except in the last 35 days before the election.

Fifth. Provisions would be established for the reporting of anonymous contributions, and for the exposing of earmarked contributions made to multicandidate committees.

Sixth. The present income tax incentives for political contributions would be doubled, adding an additional incentive for small-donor participation in the electoral process.

Seventh. Candidates would be prohibited from financing their own campaigns, thereby eliminating an advantage enjoyed by wealthy persons.

Eighth. Toughened reporting procedures would be created, providing for the weekly reporting of contributions during the last 60 days of a campaign, and of expenditures during the last 30 days. Quarterly reporting would remain for the earlier period of the campaign.

Ninth. The freedom of choice of individuals would be protected with regard to certain noncandidate organizations who may support candidates, thus assuring that such organizations obtain the agreement of the ultimate donor that his contribution may be used in the support of a particular candidate.

There is great cynicism about the electoral process in these times, and much of it is justified. In seeking reform, we must be sure that our efforts are tough, fair, and honest, and that they genuinely redress the grievances suffered under the current system.

We must be sure that they do not give advantage to one candidate, or class of candidates, over another, or to one party over another.

I believe that my amendments strengthen S. 372 in that regard, and I am hopeful that they will be so viewed by this body.

AMENDMENT NO. 399

(Ordered to be printed, and to lie on the table.)

Mr. HUMPHREY submitted amendments, intended to be proposed by him, to Senate bill 372, supra.

AMENDMENT NO. 400

(Ordered to be printed, and to lie on the table.)

Mr. CRANSTON submitted an amendment, intended to be proposed by him, to Senate bill 372, supra.

AMENDMENT NO. 402

(Ordered to be printed, and to lie on the table.)

Mr. EAGLETON. Mr. President, I submit an amendment, intended to be proposed by me, to the bill (S. 372) to amend the Federal Election Campaign Act of 1971.

My amendment lowers the limitations on campaign expenditures below those in the bill reported from the committee. Whereas the committee bill would restrict spending to 15 cents multiplied by the voting age population in the primary, and 20 cents in the general election, my amendment would lower these ceilings to 10 cents in the primary and 15 cents in the general election. The amendment would not alter the floors established in the bill.

I ask unanimous consent that my amendment be printed at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 402

On page 51, line 4 strike "15 cents" and insert in lieu thereof "10 cents".

On page 51, line 21, strike "20 cents" and insert in lieu thereof "15 cents".

AMENDMENTS NOS. 403 AND 404

(Ordered to be printed, and to lie on the table.)

Mr. TUNNEY. Mr. President, if our democracy is to survive, elections must be free and open, and forceful action must be taken against those candidates and their underlings who would sabotage the process.

I am submitting today two amendments to S. 372, the Federal Election Campaign Act Amendments of 1973, which I believe will significantly strengthen our campaign finance laws, and establish a lasting deterrent to future Watergates.

CIVIL DAMAGES AVAILABLE TO DEFEATED CANDIDATES

My first amendment to S. 372 will add a new section 316 to the Federal Election Campaign Act of 1971 to allow a defeated candidate to sue an opponent or any person or committee acting as his agent if any of them has committed substantial violations of the campaign laws which may have affected the outcome of the election.

Under current law, it is virtually impossible for a defeated candidate to win a civil suit against his opponent even though the opponent may have committed serious violations of the campaign laws. This unfair result is caused by the fact that actual damages suffered by virtue of the opponent's practices are hard to prove; courts insist that the defeated candidate show that "but for" the violation of law, the candidate would have won the election. If he cannot show that his defeat was caused by the opponent's practices, then the court will not determine that he is actually damaged. Courts generally refuse to award punitive damages in the absence of actual damages.

My amendment would allow the defeated candidate to collect punitive damages in such a case even though he might not collect actual damages. All he need prove is that a serious violation of the campaign laws took place and that there is the possibility that such violation affected the outcome of the election.

I believe this amendment would serve as a deterrent to those who have felt they could commit destructive acts of political sabotage with virtual impunity insofar as damages are concerned.

The 1972 campaign, as the Senate Select Committee is revealing, was replete with such episodes. False letters imputing ethnic prejudices to candidates, alleging sexual and other improprieties by candidates that had no basis in fact, and damaging "dirty tricks" distorted the political landscape from Florida, to California, to Maine.

If the victims of these vicious smears

could establish the reasonable possibility that they lost their election because of actions like these, they could collect both actual and punitive damages under my amendment.

My amendment would safeguard against frivolous suits. It provides that the Federal Campaign Election Commission established by S. 372 would act as a screening agency for suits brought by defeated candidates. The Commission must find "probable cause" to believe that a substantial violation of the laws within its jurisdiction occurred, and that such violation may have affected the outcome of the election. Only after such a determination is made can a defeated candidate bring an action for damages in Federal district court under section 316.

PROHIBITION OF USE OF CAMPAIGN FUNDS FOR CRIMINAL DEFENSE

My second amendment to S. 372 would add a new section 617 to the Corrupt Practices Act to make it illegal to use campaign funds to pay for any criminal defense. Authority for enforcing the provision would be placed in the Federal Election Campaign Commission.

Under current law there is a possible ambiguity as to whether or not the use of campaign funds for criminal defense purposes is legal. Certain tax code regulations and the Campaign Reform Act of 1971 bear on the situation but the Corrupt Practices Act, the law containing the important criminal provision relating to campaign financing, fails to deal with it. By placing a new section in the Corrupt Practices Act we will clearly inform all campaign treasurers that such a use of campaign funds is illegal and will be subject to fines up to $25,000 and imprisonment up to 5 years. The Elections Commission is given authority to enforce my amendment because it has primary responsibility for reviewing campaign finance records and therefore most easily can spot a violation.

In recent weeks we have seen newspaper reports that the Committee to Reelect the President spent over $80,000 in legal fees in the last quarter alone. Much of this money was spent to defend persons charged with criminal offenses. All this has been done without the consent of those who donated their money to elect a candidate for President.

This is not in any way a partisan issue. According to reports, many Republican Party leaders have spoken out against this use of campaign funds—a practice which may not be unique to this administration or the Republican Party.

It is to insure that this situation will no longer continue that I have introduced this amendment. It clearly states that to use money donated to a campaign for defense costs in a criminal case is illegal. It will not prevent people from donating to special defense funds if they wish to, but those funds will have to be separated from campaign funds.

CRISIS OF CONFIDENCE

We approach the elections of 1974 in the midst of a crisis of confidence resulting from the abuses of some candidates in the election of 1972. We must act now to heal the wounds inflicted upon the body politic by those abuses.

This is the year in which we must take action to close the loopholes in the laws governing the electoral process that have allowed these abuses to occur. In addition, we must be sure that the processes available for enforcement of these laws are effective. We must do this to insure the confidence of our people in their governments, a confidence which has been badly shaken by the revelations in the wake of the Watergate scandals.

IMPROVEMENT OF PENSION AND WELFARE BENEFIT PLANS—AMENDMENTS

AMENDMENT NO 401

(Ordered to be printed, and to lie on the table.)

Mr. STEVENSON submitted amendments, intended to be proposed by him, to the bill (S. 4) to strengthen and improve the protections and interests of participants and beneficiaries of employee pension and welfare benefit plans.

NOTICE OF HEARINGS ON EMERGENCY POWER

Mr. CHURCH. Mr. President, I would like to announce to my colleagues and the public that on Tuesday, July 24, at 10 a.m. in room 4221 of the Dirksen Office Building, the Special Committee on the Termination of the National Emergency will hold its second phase of hearings on emergency powers statutes. The witnesses will be former Attorneys General Justice Tom C. Clark, Mr. Nicholas Katzenbach, and Mr. Ramsey Clark. They will testify on the question of delegated emergency powers.

NOTICE OF HEARINGS ON FUTURE DIRECTIONS IN SOCIAL SECURITY

Mr. CHURCH. Mr. President, the Senate Special Committee on Aging will continue its hearings on "Future Directions in Social Security" with testimony beginning each day at 10 a.m. on July 25 in room 4232, Dirksen Office Building and July 26 in room 1114, Dirksen Office Building. Witnesses will include former Health, Education, and Welfare Secretary, Wilbur Cohen, and representatives of the National Retired Teachers Association-AARP.

ADDITIONAL STATEMENTS

NAVY WASTES OVER A MILLION DOLLARS ON "EFFICIENCY" STUDY

Mr. PROXMIRE. Mr. President, the Navy has paid over a million dollars to a private consultant for an "efficiency" study that should have been used in negotiations for a billion dollar weapon. But the Navy failed to coordinate the study with its own contract negotiator or with other Pentagon officials and the consultant's final report was obtained too late to be used in the negotiations.

The Navy hired a private consultant, A. T. Kearney & Company, to study ways to reduce costs in the Mk 48 torpedo program. The consultant found that direct labor costs in the Mk 48 contractor's plant, Gould, Inc., could be reduced by 19 percent and that overhead costs could be reduced by 23 percent through more efficient management.

STUDY NOT COORDINATED

Unfortunately, the Navy did not properly coordinate the study with other Pentagon officials and the final report of the study was not obtained until after negotiations were nearly completed. The Navy obtained no benefits from its million-dollar study during the negotiations of the contract price.

GAO CRITICISES NAVY

You might say the Navy torpedoed its own study.

I asked the General Accounting Office to assess the Navy's study. GAO concluded that it had "reservations" about the prudence of the Navy's decision to invest over $1 million in the studies without taking the steps necessary to insure that the results would be used in price negotiations.

For years I have been urging the Pentagon to employ should-cost studies, which are based on industrial engineering and financial management principles, to identify ways to reduce waste in military procurement.

Now the Navy, after paying the expense of doing a should-cost study of one of its largest weapon programs, has demonstrated how to waste money while seeking ways to eliminate waste.

COST OVERRUN ON MARK 48 TORPEDO

The Navy awarded the first Mark 48 torpedo development contract in 1964. Over the next several years the program ran up one of the largest cost overruns on record.

In 1964 the total program estimate for the Mark 48 was $642 million. By 1969 the estimate had ballooned to a whopping $3.8 billion.

The cost estimate of the program has since gone down substantially but the reduction was achieved primarily by reducing the number of torpedoes to be purchased.

As of December 1972 the costs were estimated at $1.5 billion, more than twice as much as the original estimate for far less torpedoes.

In 1970 a private consultant, A. T. Kearney & Co., was hired by the Navy to do a series of should-cost studies to determine whether Mark 48 production costs could be cut by improving the operation of the contractor's operations. A total of $1,380,000 was spent for the studies.

What happened subsequently can only be described as a Navy comedy of errors.

SHOULD-COST STUDY DESIGNED TO AID IN NEGOTIATIONS

The primary purpose of a should-cost study is to aid the Government in negotiations with the contractor before a contract is awarded. For example, if known inefficiencies are identified in a contractor's plant, the Government is in a position to insist on a lower price than the one proposed, on the assumption that the contractor can improve his efficiency and reduce his costs.

The Navy began its negotiations of the

first Mark 48 production contract in May 1971 and completed them in June 1971.

It was not until shortly before negotiations were to begin that the Navy negotiator was given copies of the preliminary results of the should-cost studies.

NAVY NEGOTIATOR SAYS COMPANY KNOWS MORE ABOUT STUDY THAN NAVY

However, the Navy negotiator concluded that he could not use the preliminary results in the negotiations because, among other reasons, there had been no early coordination between the consultant and him, and because the contractor, Gould Inc., knew more about the should-cost study findings than the Navy.

Meanwhile, the Navy had asked the Defense Contract Audit Agency—DCAA—and the Defense Contract Administration Services—DCAS—to evaluate the contractor's proposed prices prior to the award of the contract.

But the should-cost study had not been coordinated with DCAA or DCAS. DCAS did not obtain a copy of the study report until months after it was completed, and then only after requesting one. Over a year after the study was completed the DCAA auditor in charge had still not seen the report.

Had the Navy been able to use the results of the study during the negotiations with Gould, Inc., the contract price could have been reduced by millions of dollars.

NAVY FAILS TO MONITOR CONTRACTOR

The should-cost study recommended several improvements in the contractor's operations but even now the Navy has not entered into a formal agreement with the contractor to implement the improvements and has neither requested nor required that action taken on the recommendations be reported to the Navy.

The Navy has not asked DCAA or DCAS to monitor the contractor's actions to implement the improvements.

The Navy failed to coordinate its consultant's study with other efforts to evaluate the contractor's price proposals, failed to use the should-cost study in the negotiations, failed to inform other Pentagon officials of the study's recommendations for eliminating inefficiency in the contractor's plant or of the corrective actions the contractor agreed to take, and failed to monitor and report on the contractor's progress in making the improvements.

If the Navy brass has consciously planned to sabotage its own should-cost study, they could not have done a better job. Somebody up there likes fat.

BENEFITS CLAIMED STUDY CHALLENGED BY GAO

The Navy maintains that the should-cost studies of the Mark 48 were "cost effective" and fulfilled their purpose by aiding the Navy in the selection of Gould as the winning contractor and identifying ways for the contractor to improve his efficiency.

GAO points out, however, that the Navy claims are largely intangible and cannot be measured precisely.

One way to test the Navy's assertion would be to compare unit cost estimates for the Mark 48 prior to the award of the contract with actual unit costs now that a number of torpedoes have been delivered.

NAVY WITHHOLDS UNIT COST ESTIMATES

The Navy has so far withheld unit cost estimates on the ground that such information is classified. It is always suspicious when the Pentagon conceals cost information because only in rare circumstances can the publication of costs be considered harmful to national security.

I am, therefore, requesting that the Comptroller General analyze the unit costs of the Mark 48 to determine whether the Government is paying more or less per torpedo since the first production contract was awarded than was originally estimated and to see whether the recommendations in the should-cost study have been implemented.

MINIMUM WAGE

Mr. DOMENICI. Mr. President, yesterday I faced a dilemma when it came time to vote on S. 1861, a bill to amend the Fair Labor Standards Act. There were many provisions of the bill I wholeheartedly endorsed, including the increase in minimum wages. However, at the same time I felt other clauses in the bill would be detrimental to a large segment of our society.

Specifically, I was concerned that if this bill were passed, students would have a difficult time finding work—as would other young people under 18 years of age. As I have stated earlier this week, I fear that unless a youth differential clause was adopted the already hopeless youth unemployment rate would become even worse. Employers simply will hire more mature, seasoned workers instead of taking a chance on our young people. There is a place for our young citizens to learn the work ethic on the job, but this legislation will close many doors. I listened very carefully to the debate this week and am still of the opinion that the 6-month youth differential salary rate was most responsible and equitable.

Furthermore, S. 1861 will, I believe, hurt the small businessmen in this country. The present law makes certain exceptions in adherence to the minimum wage for those businessmen who gross less than $250,000. An immediate 25-percent increase in salaries, no matter the employee's age or experience, will certainly mean either higher prices or bankruptcy in many instances. In addition, those establishments which make their product on the premises would have to pay the 25-percent increase, should this bill be signed into law. The local bakery and candy store, often the first to hire the young, will be hard hit, not to mention the local theater owner and other smaller establishments. These represent only a few of the types of businesses that would be affected. To expect small businesses to pay an immediate 25-percent now and a 40-percent increase over the present rate in 14 months seemed terribly irresponsible and I found I could not support such a proposal.

Again, I would like to say that I strongly support an honest fair salary for all workers, but this bill has not taken all matters into consideration—and for that reason I reluctantly voted nay.

THE GASOLINE SHORTAGE

Mr. MUSKIE. Mr. President, Tuesday's edition of the Portland, Maine, Press Herald contains the results of the most recent survey conducted by the American Automobile Association which indicates that the effects of the gasoline shortage in Maine and the other New Englast States seem to be easing. In recent days, I have confirmed this impression through conversations with the Maine Innkeepers Association and the Maine Petroleum Association.

This is heartening news, particularly for a State such as Maine which attracts thousands of tourists each week during the summer months. Vacationers need have no concern that they will not be able to purchase as much gasoline as they desire in New England.

Nevertheless, while an improvement in the gasoline supply situation is indeed comforting to Maine consumers, this fact should not be interpreted as eliminating the need for prompt action by Federal authorities to adopt a more effective policy for equitably distributing petroleum products to wholesalers and retailers throughout the country.

The voluntary allocation program which has been in effect for the past 2 months is inadequate and there is ample evidence that it should be replaced with a mandatory program as soon as practicable.

Mr. President, I would like to cite but three reasons which support this conclusion.

First, the Maine congressional delegation initiated a meeting on June 28 in the Maine Office of Civil Defense with Federal, State, and local officials for the purpose of reviewing our State's experience with the voluntary allocation program. At this meeting, it was made absolutely clear that the voluntary guidelines for serving priority customers such as farmers, fishermen, public safety agencies, et cetera were not being implemented. This is largely because of the failure of the major oil companies to issue any instructions whatsoever to Maine's dealers concerning priority allocations.

Consequently, priority customers are being denied needed products, thereby necessitating formal complaints to State and Federal officials. State officials in particular are frustrated by the fact that representatives of the major oil companies operating in Maine responded to inquiries by stating that they could make no decisions on supply allocations at a State level and that any action would have to be initiated by their "home offices." Federal officials, in turn, are hampered by a lack of manpower and the lack of enforcement powers.

Subsequent to this meeting, I have received letters and reports from individual constituents providing further evidence that local distributors in Maine have received no instructions concerning priority allocations. This is causing a particular hardship for farmers who need prompt action on supply requests if they are to harvest their crops.

Second, looking ahead to next winter's heating oil demand, Maine's fuel oil dealers have still received no firm assurances as to the level of supply they will be permitted to purchase in the coming months. This uncertainty, coupled with the difficulty experienced by State officials in obtaining supply commitment information voluntarily from oil companies, is not a good sign for the future.

Moreover, the independent deep-water terminal operators, upon whom we New Englanders rely for over one-third of our heating oil supply, informed me yesterday that total inventories of No. 2 home heating oil as of July 1 are more than 80 percent below 1972 stocks for the same period—355,000 barrels in 1973 versus 2,410,000 in 1972. This situation exists despite the need to build up stored reserves now, prior to the commencement of the winter heating season.

Third, the Federal Trade Commission has filed complaints against the eight largest oil companies in the country, charging that these companies have engaged in a variety of uncompetitive practices to control and limit the supply of crude oil to independent refiners and marketers. It will be several years before the final outcome of the FTC action, based on a yearlong staff study, is known. But the complaints lend further weight to the contention that the actions of the major oil companies have been an important factor in creating the present situation. Such charges further call into question the effectiveness of any voluntary program for fuel allocations.

Mr. President, the information provided by these three sources—my Maine constituents, the independent terminal operators, and a Federal agency charged with antitrust responsibilities—reinforces my conviction that there must be prompt action by the administration to end its voluntary allocation program and to establish, in its place, a tough mandatory program. Only in this way, will we be able to reduce uncertainty in the coming months, enforce an equitable distribution scheme, and insure that we will have effective procedures for pinpointing problems and for dealing with them promptly.

The voluntary allocation program has failed. We can wait no longer for a mandatory program.

ANDREI AMALRIK

Mr. BROOKE. Mr. President, the young Soviet writer Andrei Amalrik occupies a unique position in the intellectual and spiritual life of the world today. He is the rarest of beings, a philosopher. In a world characterized by too easy change and a passion for the new and novel as far as the West is concerned, and by increasingly deadening conformity and repression of thought and spirituality in the Communist world, Andrei Amalrik stands as a lover of truth. He thinks and writes very much in the same vein as Socrates, for Amalrik also has an ear tuned to an inner voice, the voice of truth and clarity. Imprisonment, sickness or the separation from his wife and friends have not distracted Amalrik from being true to his inner imperative.

However, unlike Socrates, who could stand all night in the extreme cold deep in thought, suffering no ill effects, Amalrik suffers from a heart condition and during his second 3-year imprisonment in a labor camp has contracted meningitis which has permanently affected his health.

Two books by Andrei Amalrik which have been published in the West have resulted in his persecution and imprisonment. "Will the Soviet Union Survive Until 1984?" presents an anguished analysis of factors Amalrik sees as inexorably pushing the faltering, rigid Soviet regime and an increasingly restive Soviet populace to the point of disintegration and collapse, despite their avowedly enormous military might. This is no traitorous book, but is rather the anguished cry of a man who longs to save his nation from the destruction to come. Amalrik would alert the Soviet regime and his fellow countrymen to impending doom.

Balancing the world view of "Will the Soviet Union Survive Until 1984?" is the deeply felt but restrained account of his first exile entitled "An Involuntary Journey to Siberia." In this book Amalrik's underlying concern is for the spiritual welfare of his fellow Russians and this shines forth clearly. He depicts his personal experience as a reflection of past errors on the part of the Soviet leadership and also as a harbinger of things to come. But the concern expressed by Amalrik is always a curative one, for he seeks to prove the malaise affecting not only the Soviet Union but the entire world and to suggest a course of thought and action which could lead back to sanity and renewed spiritual health.

Andrei Amalrik was born in 1938. Because he sent an historical treatise to a Western scholar, he was expelled from Moscow University in 1963. While caring for his late father, an invalid, Amalrik worked at various jobs. In 1965, five of his unpublished plays were confiscated by the secret police and he was imprisoned under a charge of anti-Soviet and pornographic writing and exiled to Siberia as a "parasite." In 1966, he was allowed to return to Moscow with his wife, Gyuzel Makudirova, a talented painter whose works are in much demand by foreign collectors. In 1970, Amalrik was arrested on the charge of "spreading deliberately false fabrications, defaming the Soviet State and public order," and was sentenced to a 3-year term in a labor camp. Although his sentence was completed on May 21, 1973, Amalrik was not released. On the contrary, and despite his illness, he is being held in a labor camp while new charges are being prepared against him.

Mr. Amalrik has many friends and admirers in the United States who would welcome him with open arms. Both Harvard University and Georgetown University have invited him to come to this country to undertake further historical research.

Andrei Amalrik is a world genius who must not be lost in this time of crisis. I therefore urge that every possible effort be made to persuade the Soviet leadership to allow Mr. Amalrik and his wife to come to the United States to study and to provide us eventually with an equally penetrating insight into the strengths and weaknesses of our own people and of the world at large.

EXTRADITION AND THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, article VII deals with the question of extradition as it relates to the crime of genocide:

> Genocide and other acts enumerated in article III shall not be considered as political crimes for the purpose of extradition.
>
> The Contracting Parties pledge themselves in such cases to grant extradition in accordance with their laws and treaties in force.

This passage makes two key points: First, that persons would be extradited only "in accordance with their laws and treaties in force" and, second, that a defense against extradition may not be made on the grounds that the crime was a "political" one. It makes clear that the convention would not permit wholesale extradition to take place.

Mr. President, U.S. law explicitly authorizes extradition from the United States to another nation only when there exists an extradition treaty between the two countries. The Genocide Convention is not meant—nor does it purport—to be an extradition treaty. It simply anticipates that, when revising current agreements or negotiating new ones, the United States will include genocide as an extraditable crime.

We would not negotiate such a document unless and until Congress has enacted legislation which would make genocide a crime in the United States. It has been our policy, and that of most other nations, to extradite persons for an offense only if it is a crime in both the country requesting extradition and the country granting it.

Furthermore, when negotiating extradition treaties, our Government takes into consideration what judicial processes are available in the other country to the extradited persons. If a fair trial does not seem to be a realistic expectation, extradition would not take place.

Thus ratification of the Genocide Convention will not open the gates to a rash of extraditions of American citizens to foreign countries where they would not receive due process of law. The convention contains safeguards to prevent such occurrences.

Mr. President, positive action on the recommendation for ratification should be taken now.

WOMEN SHOULD HAVE EQUAL ACCESS TO CREDIT

Mr. DOMENICI. Mr. President, I would at this time like to voice my support for a bill, S. 2191, which is expected to be voted on within the next day or two. I would like to urge the support of my colleagues for this measure.

S. 2101, if passed, would prohibit unfair credit billing practices, improve the administration of the Truth in Lending Act, and prohibit discrimination in consumer credit transactions because of sex or marital status. The first two provisions of the bill are obviously necessary and timely, but I would like to direct the attention of my colleagues to the final provision mentioned in the bill.

Earlier this year I cosponsored legislation introduced by Senator Brock of Tennessee which would prohibit sex or marital status discrimination by banks and between individuals and would also extend this protection to retail credit accounts. These provisions were incorporated in S. 2101.

Mr. President, I do not assume, nor should anyone reading these provisions assume, that there is an absolute right to credit for either men or women. However, men expect the privilege of credit as an ordinary convenience for engaging in financial transactions. There is no justifiable reason why women should not enjoy the privileges and conveniences afforded to men; there is no justifiable reason why women of equal means should not have equal access to credit. This section of S. 2101 would not mean that women ought to be granted credit because they are women. However, it would insure that women must not be denied credit because they are women.

After studying the testimony presented before the committee, it becomes very clear that there is a prevailing attitude in this country against treating women as equals in the adult world. This prejudice, this discriminating attitude must be changed and I can think of no other approach than through legislation. I do not know if such discrimination in the world of economics was ever valid, but I am very certain that it is out of place today.

Working women have become an essential sector of our working economy. The 1970 census shows that 40 percent of the total labor force—4 out of 10 workers are women. We must insure that as women work, they are guaranteed equal access to the credit economy that working men have always enjoyed.

In the National Commission on Consumer Finance hearings, no evidence was introduced to suggest that women were worse credit risks than men—no matter their marital status. The testimony offered before the committee substantiated this fact. Furthermore, statistics were offered which suggested just the opposite was true. Some banks have even admitted that they have no satisfactory statistics concerning the default rate by sex, yet some banks continue to assume that women are bad credit risks.

I am sure we have heard stories of single women needing a male cosigner—no matter his economic status—when applying for a loan, or of women recently widowed or divorced being denied a credit card because of their new marital status. I am also sure that we would agree that this practice is not sound.

I am pleased this provision has been so quickly reviewed by the committee and am hopeful the bill will be strongly supported. The women in this country have long earned their rights to full credit opportunities. This legislation is merely a long overdue recognition of those rights.

CAPTIVE NATIONS WEEK

Mr. BROOKE. Mr. President, the week of July 15–21 is observed by many as Captive Nations Week, It is appropriate for us to take time out from thoughts of personal, domestic and international problems to reflect upon the fate of peoples forcefully included under the rule of others. I speak here specifically of those nations in Eastern Europe who continue to experience the yoke of oppression. This will be the 15th observance of Captive Nations Week.

The search for freedom and personal dignity has been a continuous one through all the ages of history. It has not lost its capacity to inspire men in our own time.

Many of our ancestors experienced "captivity" in the form of religious, racial, or national discrimination or political subjugation by others. This week is a time to recall their experiences and realize how fortunate we are to have overcome, at least in part, these barriers to true human freedom in our own society.

On June 15, 1973 the Lithuanian-American Community Observed a day of remembrance of the invasion of Lithuania by the Soviet Union. This was a sober occasion for a people who, having once experienced life in a country where freedom is severely restricted, can much better appreciate the privileges of freedom in our society. Unfortunately, the experience of Lithuania has been repeated in numerous other countries during the past several decades.

During this week of meditation and recommitment to the concept of freedom for all peoples, let us remember the plight of those who are unable to experience the liberties we enjoy. For instance, in Eastern Europe the vast majority can neither express their views openly and publicly nor can they receive undistorted information about the world. They hunger for the "freedom of information" we take so readily for granted in this country.

A further right they are deprived of is that of free and open communication and personal contact with loved ones. Many families in these "captive nations" have been involuntarily separated. In many cases little if any hope exists at present that they will be reunited. Family unity, a seemingly inalienable right for us, is only a dream for these individuals.

This week then, let us not only express words of concern but also rededicate ourselves to accepting the responsibilities which accompany the freedoms we enjoy. Let us work more actively to preserve and uphold these privileges and bring that day closer when all mankind will share them with us.

DO WE NEED EXPORT CONTROLS ON FOREST PRODUCTS?

Mr. HUMPHREY. Mr. President, the proposed phase IV regulations announced July 18 specifically exempt the lumber and plywood industry from wage and price controls. The reason given in a White House fact sheet is that—

> Price decreases in this sector have been common in recent months, and competitive forces are expected to exert continued restraint on price levels throughout the remainder of the year.

This is recognition of our discussion on July 14 during hearings before the Subcommittee on Foreign Agricultural Policy, concerning export controls on U.S. agricultural commodities. At that time, I pointed out that limitations on log exports were originally based on the need to dampen domestic prices of lumber, but that we had seen lumber prices decline in recent weeks without additional controls. I remain concerned that, as long as the voluntary import restraint agreements with Japan on timber exports seem to be working, we might undermine such a reasonable approach by imposing mandatory controls.

Lumber and plywood prices have dropped dramatically from their peaks in March and early April, when some were advocating restrictions on exports as a means of lowering domestic prices and increasing domestic supply. The fact that the declines—as much as 38 percent in some instances—occurred at the same time that exports continued, Mr. President, certainly questions whether these exports have any significant relationship to the domestic market.

I call attention to a news clipping from the July 19 Journal of Commerce that offers detail on the sharp decline in wood products prices even as exports go on. The article shows that the fears of February when S. 1033 was introduced to set ceilings on log and lumber exports for the next 3 fiscal years, have been proven groundless today.

Overseas markets provide the only other outlet for an industry whose economic history is boom or bust, feast or famine, with more than half of its softwood production tied to the homebuilding industry. We have seen a significant decline in the rate of new housing starts in recent months. There are many forecasts of slower activity during the balance of the year for the wood industry's primary market. With production up and prices down, but with a falling off in homebuilding, this is not a time to foreclose the foreign market, particularly if the facts show that little connection actually exists between export controls and domestic price and availability.

Export trade offers the wood products industry a measure of stability that it must have to maintain mill capacity, to attract investment for modernization and expansion, and to encourage landowners to grow trees. When the bottom fell out of homebuilding in 1970, one more of many downturns in that industry's erratic cycle, a number of mills simply quit. The industry reports even more mills would have shut down if export trade had been denied them. The production capacity that is forcing prices down today would not exist—could not exist—without export markets.

I find no major opposition, either within the wood industry or outside it, to export controls on timber from Federal lands, to protect manufacturers and workers dependent upon Federal timber. A ban on the export of logs from Federal lands, together with strong provisions against substituting Federal timber for exported non-Federal timber, would assure this protection. Indeed, I understand that this will be recommended by the appropriations committees in the fiscal 1974 appropriations for the Forest Service.

But available facts indicate export restrictions on non-Federal logs and lumber could seriously damage the wood products industry, creating more, not less, difficulty for homebuilders and the Nation's economy. There is no assurance that such restrictions would guarantee an adequate domestic supply of wood products at reasonable prices, the stated goal of S. 1033.

Mr. President, I ask unanimous consent that the news clipping referred to from the Journal of Commerce, Thursday, July 19, 1973, be printed in the Record.

There being no objection, the clipping was ordered to be printed in the Record, as follows:

In Anticipation of Phase IV: "Tumbling" Lumber Prices Cited

(By William Pengra)

Portland, Oregon, July 18.—Principal producers of most of the nation's softwood lumber and plywood cited "tumbling" mill and retail price structures in efforts to forestall expected stringent Phase Four control of their commodities.

Press releases from the Western Wood Products Association here and the American Plywood Association, Tacoma, Wash., almost simultaneously called attention to what the two major forest product groups called a "dramatic" reversal of the rising price patterns which earlier this year brought threat of congressional studies and stringent log export limitation legislation.

Bronson J. Lewis, APA executive vice president said the dramatic decline in recent months "demonstrates that there is absolutely no need for strict Phase Four price controls on plywood." Member plants of his organization expect to produce some 18 billion sq. ft. of the product this year, against nearly 17 billion in 1972.

H. A. Roberts, WWPA executive vice president, said, "price ceilings on products and profit margin limitations in Phase Two destroyed the incentive of manufacturers to produce to full capacity. Phase Three regulations permitted price increases and relaxed profit margin limitations under certain conditions. The result was an increase in production, free interplay of the forces of supply and demand, and price reductions brought about increased supplies."

As if to hint what Phase Four controls might do to supply, Mr. Roberts pointed out that a significant gain in production came into play the month after controls were modified, and lumber prices have declined for three straight months.

"We have long recognized that a free market balances itself and that periods of high prices are inevitably followed by dramatic fall-offs as adjustments occur," he said.

According to leading price reporting agencies, key lumber items have fallen off in price as much as 38 per cent since mid-April when the lumber market peaked. Hemlock-fir 2 x 4s dropped 17 per cent, Douglas fir 2 x 4s 22 per cent, and No. 3 common Ponderosa pine boards dropped 38 per cent. The WWPA claimed retail prices followed mill prices downward, according to Cost of Living Council data.

Noting that critics have advocated limitation of lumber exports as a means of lowering domestic prices, Mr. Roberts said, "lumber exports have continued while lumber prices were declining. This is proof that product exports have little, if any, relationship to domestic lumber price levels. Instead, foreign trade provides lumber operators an outlet in times of low domestic demand. Softwood lumber exports amount to about 3 per cent of U.S. consumption." He added that the U.S. imports about 22 per cent of its domestic consumption.

In Tacoma, Mr. Lewis released copies of his letter to Cost of Living Council Chairman Dr. John Dunlop, urging the council "to avoid action which would be counterproductive to maintenance of plywood production and today's low price levels."

RESOLUTION OF THE ALABAMA STATE LEGISLATURE IN SUPPORT OF S. 1772: THE RED LUNG BENEFITS BILL

Mr. ALLEN. Mr. President, by means of a House joint resolution approved by Gov. George C. Wallace on June 28, 1973, the Alabama Legislature endorsed and urges passage of S. 1772. Senators will recall that this bill is sometimes referred to as the "red lung benefits bill" because it would extend to disabled iron ore miners and the dependents of deceased iron ore miners the same benefits presently provided for victims of black lung disease. The debilitating and often deadly effects of red lung disease are quite similar to those resulting from black lung disease.

The Federal Government has recognized a moral responsibility to compensate victims of black lung disease and the dependents of those who have died from the disease. In a larger sense, Congress has recognized that those courageous men who from tunnels in the earth have opened up the vast mineral resources of our Nation are much like pioneers who throughout the centuries have risked their lives in hazardous ventures to open up for mankind resources beyond the horizons of unchartered oceans and unexplored lands.

Mr. President, our miners are a hearty breed of pioneers—they are the salt of the earth. We owe much of our economic progress to the fruit of their labors. We cannot avoid an obligation to compensate them for disabilities which formerly, in a less enlightened age, were considered occupational hazards voluntarily assumed.

Today we know that black lung and red lung diseases are the result of excessive exposure to microscopic coal or iron ore dust over long periods of time. We know that the disease does not manifest its presence in immediate disability or death, and frequently cannot be detected in time for a lasting cure. The unfinished task for us is to provide compensation for victims of red lung disease.

Mr. President, it is my great privilege to cosponsor S. 1772 with the distinguished senior Senator from Alabama (Mr. Sparkman). It will continue to be my privilege to press for its early enactment. With its enactment we will have taken the first step toward fulfilling our obligation to iron ore miners. It is encouraging to me to know that the Alabama Legislature and Governor Wallace have endorsed this bill and by resolution have urged the Congress to pass it and the President to approve it. I request unanimous consent that House Joint Resolution 105, Act No. 71 of the 1973 Legislature of Alabama be printed in the Record.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

H.J. Res. 105

Resolution thanking Senator John Sparkman for introduction of Senate bill 1772 which provides aid to iron ore miners with Red Lung Disease and thanking Senator Jim Allen for his pledge to support the bill. Also thanking Governor George Wallace for his strong support for this bill and his concern for these citizens of our great state

Whereas, the State of Alabama has been blessed with many natural resources; and

Whereas, these natural resources have played an important role in the development of the industrial potential of our state; and

Whereas, the process of extracting some of these resources for industrial use has caused some of our iron ore miners to be inflicted with red lung disease similar to the black lung disease inflicted in coal miners. Now with the advancement of technology and research and the improvement of mining conditions by U. S. Steel and other mining companies, our citizens will be less and less susceptible to these diseases and hopefully these diseases will be prevented in future years; however, this does nothing to help those who have toiled for years in the past and are currently suffering from lung ailments due to iron ore dust in the mines; and

Whereas, many of the fine citizens of our state, both iron ore miners and widows of iron ore miners, are dependent upon the public because of their disability from red lung disease and they are looking to the government to pass legislation to aid them in their plight brought about by years of labor in our mines; and

Whereas, there have been meetings of iron ore miners for the past four years for the purpose of recognizing victims of red lung disease; and

Whereas, Senator John Sparkman has introduced Senate Bill 1772 which provides aid to iron ore miners with red lung disease or their widows, and Senator Jim Allen has pledged his support to the bill; and

Whereas, Governor George Wallace is very interested in seeing something done to aid these people of Alabama, the fruits of whose labor the entire state has benefited from, and has urged passage of the bill; now therefore

Be it resolved by the Legislature of Alabama, both Houses thereof concurring, That the President and Congress of the United States support and pass Senator John Sparkman's Senate Bill 1772 which provides benefits for iron ore miners suffering from red lung disease and their widows.

Be it further resolved, That copies of this resolution be sent to the President, the Chairman of the Senate Labor Committee, and the Alabama Congressional delegation.

CAPTIVE NATIONS WEEK

Mr. HANSEN. Mr. President, I ask unanimous consent to have printed in the Record a statement by the distinguished Senator from Colorado.

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Senator Dominick

In 1959 the Congress unanimously adopted Public Law 86–90 which designated the third week of July each year as Captive Nations Week. At this time, when relations between the United States and the Soviet Union are improving, it is particularly important that we not forget the 100 million East and Central Europeans living under Communist rule.

These captive peoples have proven their desire for liberty. In 1953 there was the East Berlin uprising, and in 1956 the Hungarians revolted. In 1968 the Czechoslovak freedom movement rose only to be quashed by the Soviet Red Army's invasion of Czechoslovakia in violation of the United Nations Charter. In 1970 there were widespread revolts in Poland's Baltic port cities, and last year three young people burned themselves alive to protest Soviet domination of Lithuania.

In our struggle for peace we must consider the Captive Nation's struggle for liberty. Their desire to be free and independent states "constitutes a power deterrent to war and one of the best hopes for a just and lasting peace," in the words of Public Law 86–90.

The West should use the growing force of negotiations as opposed to confrontation to obtain for the people of the Captive Nations the basic freedoms we enjoy—freedom of speech, freedom of movement, freedom of religion and freedom of immigration. An enduring world peace will not be complete until people of these states are free to determine their own destinies.

PHASE IV

Mr. STEVENSON. Mr. President, the freeze brought us shortages, and phase IV will bring us higher prices.

The shortages are with us today, and will get worse. Hog production is declining, beef production is declining, and fresh fruits and vegetables have disappeared from grocery counters all over the country. The supply of poultry will not increase until next spring, and egg production will not increase until February of next year, but demand keeps right on rising.

The lid has been taken off food prices and they are on the way up. In Peoria, the price of live hogs jumped 8 cents a pound in the past 2 days, and wholesale prices of some key pork products rose 35 percent in 1 day. More increases are on the way.

Beef shortages are beginning to appear, but the administration does not deem them acute enough to warrant action. The freeze is retained on beef products until September 12, nearly 5 months after it was imposed. Because of the lag in beef production, the shortage of this vital source of protein may be with us for years to come.

In today's Wall Street Journal, John A. Prestbo foresees bacon at $2 a pound, up from $1.40; pork chops at $2 a pound, up from $1.50; eggs at $1 a dozen, up from 79 cents; and broiler chickens at $1 a pound, up from 65 cents—all within a few weeks.

Such prices are outrageous, but imminent nonetheless. Mr. Prestbo's article sets forth the kind of inflation phase IV will bring us and the freeze's legacy of shortages and black markets. I ask unanimous consent that his article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

At the Dinner Table, Phase IV Means Eating $2 Bacon, $2 Pork Chops

(By John A. Prestbo)

Chicago.—Here are some probable food prices a few weeks hence:

Bacon, $2 a pound, up from $1.40 now. Pork chops, $2 a pound, up from $1.50 now. Eggs, $1 a dozen, up from 79 cents. Broiler chickens 75 to 80 cents a pound—or perhaps even $1—up from 65 cents.

What's more, consumers will find shortages of many foods, in coming months.

For Phase 4, the food and farm people say, is too little and too late.

They say the food industry needs a year or more to restore to full operation the nation's food-production machinery, which was banked during the price freeze of Phase 3½.

"Phase 4 is a short-term favor to the consumer, in that prices won't go up as much now as they could have," says George W. Koch, president of the Grocery Manufacturers of America, a trade group. "But it's a long-term fraud, because eventually prices will rise far higher than they would have if all ceilings were just taken off now."

Adds Harold B. Steele, president of the Farm Bureau organization in Illinois: "Consumers must remember as Phase 4 begins that the higher food prices they may face have been caused to some degree by the fact that controls have discouraged production of food and that it will be many months before any appreciable increase in some food supplies will be coming to market."

And Agriculture Secretary Earl Butz acknowledged yesterday that beef shortages could pop up in some parts of the country during the next two months because beef prices remain frozen until Sept. 12.

4 PERCENT TO 5 PERCENT PRICE RISES SEEN

Under Phase 4, cost increases (and decreases) of raw agricultural products—except beef—since June 8 can be passed along to the consumer on a dollar-for-dollar basis. On Sept. 12, all cost increases can be passed along for all food products including beef. By contrast, nonfood segments of the economy can pass along all cost increases beginning Aug. 12, and a few industries—lumber, public utilities and contract coal—are exempted from controls altogether.

Supermarket executives say they will begin posting higher prices in their stores on Monday. Overall, predicts the National Association of Food Chains, food prices will increase another 4% to 5% by year-end—on top of a 12% gain already this year.

But prices of some products will zoom much higher, reflecting sharply higher raw-product prices since June 8. Prices of live hogs, for example, have increased by about 25%; at Peoria, the price jumped eight cents a pound in the past two days to a record, and yesterday alone the wholesale prices of key pork products jumped 15% to 35%. Thus, the retail prices of pork products will soon be jumping.

When the ceiling imposed March 29 on beef prices is taken off on Sept. 12, retail price rises of 10 cents to 15 cents a pound are likely on most cuts. Meanwhile, though, shortages and black marketeering could develop, experts warn.

A BLACK MARKET?

"Producers may well sell only the cattle they have to and retain others until after Sept. 12, which will aggravate short supply situations," says Don Magdanz, executive vice president of the National Livestock Feeders Association in Omaha. "Beef under ceiling prices will look good as other prices rise, so there will be strong demand. If there is no corresponding increase in beef prices, the next step may be a black market and under-the-counter dealings."

"We are very fearful that many beef operations will be forced to close and that beef will be diverted to buyers who aren't observing the ceilings," says Herrell DeGraff, president of the American Meat Institute. And Allan Wellman, University of Nebraska livestock economist, figures it may be late 1974 or 1975 before more beef is available at supermarkets.

It could take as long to rebuild the nation's hog herd, which was cut sharply under Phase 3½ when the effective selling price was frozen below the costs of production. "It will be a year or more before hog producers start expanding pig production, and it will be 12 to 18 months before increased pork supplies show up at the retail counter," says an official of the National Pork Council. Cranking up production takes a minimum of 285 days, he says.

"The hog farmer is a little fearful," says C. J. Tempas, president of Green Giant Co. "He's thrown the dice on increased expansion twice and has lost twice, even though this last time it looked like he'd win. I think it will take awhile for him to risk throwing the dice a third time."

Poultry farmers also are expected to wait a month or so before expanding their flocks, which will take six to eight months and won't put increased supplies of chicken meat into supermarkets much before next summer. Egg farmers probably will begin rebuilding their laying flocks soon, but that takes seven months. As a result, "there is no way to produce enough eggs to meet demand for the rest of this year," says Gene Masters, executive vice president of United Egg Producers, an Atlanta-based cooperative.

Bumper harvests this fall would help ease feed costs and spur meat and egg production. But even though crops look good now, "they aren't in the bin yet," one expert notes, "and farmers are likely to be cautious about expansion until we're closer to harvest."

In the dairy industry, "Phase 4 won't stop the decline in milk production, but it should slow it a little," says Ben Morgan, executive vice president of Dairymen Inc., a Louisville-based cooperative that markets milk in 12 Southeastern states. "Shortages this fall are inevitable. We barely made it last year, and now we have 4% greater demand and 3%-4% less production."

Mr. Morgan says Dairymen plan to put through a price increase of about six cents a gallon on Aug. 1—the same increase scheduled earlier that was canceled because of Phase 3½—and more rises are on the way. "If we're going to maintain the productive capacity of the dairy industry, further price increases just have to be forthcoming," he says.

Meanwhile, some food industry executives are complaining that Phase 4 doesn't help them out of their cost-price squeeze. For example, the National Canners Association is unhappy that costs other than those for raw agricultural products can't be passed on to consumers until after Sept. 12. Raw-product costs account for only 25% of the production costs of canned foods, the council says.

"Some canners may simply pack this year's crops but hold back selling any until Sept. 12 when they can retrieve some of their other costs such as for labor and cans," a spokesman says. Inventories of canned fruits and vegetables are at their lowest level since World War II.

"We're worse off than we were before," says Mr. Tempas of Green Giant. "Phase 3½ froze our prices at promotional discount levels for many times, and we haven't had any raw-product increases since June 8. But we will be having other cost increases incurred in harvesting and processing our crops. Now we can't recover those costs until mid-September instead of mid-August."

The inability to pass along other costs will "drastically shrink profit margins" of supermarkets, the National Association of Food Chains says. The average profit in the industry last year was 0.6% of sales, a spokesman says, "and this year we'll probably be down to 0.5%."

Still others in the food business are disturbed by the feature of Phase 4 that allows passing along only the raw product price increases since June 8, at least until Sept. 12. "If this feature holds, many feeds probably won't be manufactured for awhile, because the big price increases were before June 8, not after," says Oakley Ray, president of the American Feed Manufacturers Association.

"This rule causes a backlog of dislocations to continue for a couple more months," says a spokesman for the Grocery Manufacturers Association, "and it probably will be Oct. 12 before we can actually pass them along because the rules say that from the time increases are proposed we have to give the Cost of Living Council 30 days to turn them down; only if they don't say anything can we put them through."

In the meantime, though, such products as margarine and salad oils made from soybeans, which were in short supply and staged a major run-up in price before June 8, may not be as plentiful as they used to be.

"Every day that these dislocations continue means shorter supplies and higher prices than we otherwise would have had," says the spokesman for the grocery manufacturers.

ANTIPAY INCREASE COSPONSORS

Mr. HANSEN. Mr. President, I am pleased to include the following Senators as cosponsors of Senate Resolution 144, expressing opposition to an increase in salary during fiscal year 1974 for Members of Congress and the judiciary, and top-level employees of the executive branch:

Senator Allen of Alabama; Senator Bartlett of Oklahoma; Senator Bible of Nevada; Senator Burdick of North Dakota; Senator Church of Idaho; Senator Cranston of California; Senator Curtis of Nebraska; Senator Dominick of Colorado; Senator Gurney of Florida; Senator Fannin of Arizona; Senator Hatfield of Oregon; Senator Helms of North Carolina; Senator McClellan of Arkansas; Senator McClure of Idaho; Senator McGovern of South Dakota; Senator Nunn of Georgia; Senator Roth of Delaware; Senator Talmadge of Georgia; and Senator Thurmond of South Carolina.

Mr. President, the citizens of this country have been very patient and understanding these past few months as Federal officials have struggled to deal with economic problems. They have endured sky-rocketing prices, price freezes that prompted shortages of some food items, and continuing inflation. They have cooperated with phase 1, phase 2, phase 3, phase 3½, and now phase 4, of the ongoing program to end inflation and restore equilibrium to our economy. They should not be expected to endure the insult that an increase in pay of top Government officials would represent.

An example of the attitude with which the average citizen views large pay raises for elected officials was witnessed recently in the State of Washington. Time magazine reports that last April, Washington State legislators voted themselves a 193 percent salary increase—from $3,600 to $10,500 for the roughly 90-days per year spent in legislative session.

Also increased were the salaries of the Governor, the Lieutenant Governor and the attorney general.

Says Time:

> The bill struck a nerve of Naderian outrage in a Seattle furniture salesman named Bruce Helm, 32.

Mr. Helm organized a successful campaign to place the salary issue on the State ballot in November, gathering nearly 700,000 signatures—six times as many as were needed.

There are a number of people in my State who share Mr. Helm's opinion of pay raises for elected officials at this point, and some of them have written me. I ask unanimous consent that samples of their letters, together with the July 16, 1973, Time magazine article about the proposed pay raises in Washington State, be printed at the conclusion of my remarks.

Mr. President, the American people deserve a great deal of credit and praise for their patience and for their cooperation these past few months as efforts have been made to stabilize our economy. They have been cautioned that in times of economic insecurity, everyone must make sacrifices and "tighten their belts" until the crisis is past. The people have made sacrifices, and they have tightened their belts. Now the Congress must follow their example.

There being no objection, the article and letters were ordered to be printed in the Record, as follows:

Helm's Crusade

Last April, Washington state legislators decided that they were not being paid enough for the roughly 90 days per year they spend in Olympia, the capital. They accordingly voted themselves a 193% salary increase—from $3,600 to $10,560. At the same time, they raised the Governor's pay from $32,500 to $47,300, the Lieutenant Governor's from $10,000 to $22,000, and the state attorney general's from $23,000 to $37,950. A number of other salaries were also raised, the total increases amounting to $1,359,059 annually.

The bill struck a nerve of Naderian outrage in a Seattle furniture salesman named Bruce Helm, 32. When the state supreme court upheld the new law—which incidentally gave supreme court justices a $5,000 annual pay raise—Helm began organizing a campaign to place the salary issue on the state ballot in November. Helm and his friends had only 2½ weeks in which to raise the 117,902 voter signatures necessary to place their initiative on the ballot; similar efforts have required 60 days.

But a certain civic indignation seems to be in the air this summer. Volunteers poured in to help. Families leaving on vacation stopped at Helm's headquarters, his father-in-law's furniture store, to pick up copies of the petition to distribute along their routes. Private pilots crisscrossed the state, dropping off petitions and picking them up. Ham operators set up a communications network to coordinate the drive. The Seattle Times, among others, endorsed the drive against "underhanded raids on the treasury." In some wonder, Helm observed: "This isn't just a grass-roots movement. It goes right down to the sod." By last week's filing deadline, the initiative calling for salary rollbacks had gathered almost 700,000 signatures, nearly six times as many as necessary and equivalent to one-third of the state's registered voters. Olympians, prepare for a wage freeze.

Green River, Wyo.,
July 16, 1973.

Hon. Mr. Hansen,
Washington, D.C.

Dear Honorable Mr. Hansen: It is shocking and shameful, when there are so many living on meager incomes, that the Senate would be voting themselves a raise in salary. Vote against it. Attach an amendment on to it that the raise, if passed, be no more than .036% and not be given until July 1974.

We love our country and hate to see it continually going in debt because of so much extravagance in government.

Sincerely,

Mr. & Mrs. John Walker.

Laramie, Wyo.,
July 14, 1973.

Hon. Clifford Hansen,
Senate Office Building,
Washington, D.C.

Dear Senator Hansen: I do believe that you will have the good judgment to vote no on any salary increase for Congressmen. I can hardly believe my ears or what I read since in this time of inflation, the only way it can possibly occur is through a tax increase, now or eventually.

You gentlemen do a good job, but there are not very many who couldn't do as well. I am definitely for a limited number of terms of office for legislators. Why should the President be limited and not Senators and Congressmen?

Where would a pay increase provide any kind of tax relief, more jobs, peace in the world, cost relief, or any other benefit for the people of Wyoming?

It seems to me that this is out of the question. I know there are arguments for it and they are all self-seeking. Please do not reply to this; vote no on any pay increase.

Sincerely,

Merton E. Powell.

RESOLUTION OF THE ALABAMA STATE LEGISLATURE REGARDING OUR MISSING IN ACTION IN SOUTHEAST ASIA

Mr. ALLEN. Mr. President, the Alabama Legislature has adopted a resolution which memorializes the President and Congress to do all in their power to secure the release of and information concerning the 1,321 Americans who are listed as missing in action as a result of our military involvement in Vietnam.

The resolution reflects with eloquence and accuracy the sentiments of the people of Alabama in of our Nation. It provides further evidence of the determination of our people not to default in our obligations to the families and loved ones of our men listed as missing in action or to shrink from taking such actions as may be necessary to fulfill our responsibilities to them.

Mr. President, as elected representatives of the people, we can do no less than make clear to the President and to the government of Hanoi that Congress is determined that no stone will be left unturned and no option available to us will be abandoned until every person listed as missing in action is returned to his home or reliably accounted for. This is our goal—our mission, if you will—and in pursuit of this mission let us firmly fix in mind the nature of the enemy with whom we are dealing so that we may know what may be required.

In the agreements entered into with the government of North Vietnam on June 27, 1973, it was clearly provided in article 8, paragraph (b) that:

> The parties shall help each other to get information about those military personnel and foreign civilians of the parties missing

in action, to determine the location and take care of the graves of the dead so as to facilitate the exhumation and repatriation of the remains, and to take such other measures as may be required to get information about those still considered missing in action.

In the subsequent supplemental agreements of June 13, 1973, the same assurances were given in the same language and with an additional proviso that:

> For this purpose, frequent and regular liaison flights shall be made between Saigon and Hanoi.

Pursuant to these agreements we have established in Thailand a joint casualty resolution center. However, the North Vietnamese have permitted neither frequent nor regular flights to Hanoi. Neither has it assisted in obtaining information nor has it assisted us in our efforts to determine the location of the bodies of casualties. Instead, Hanoi has permitted only two visits by a four-party military team for the purpose of showing them alleged burial sites of U.S. servicemen. Instead of assisting us in the identification of the bodies, Hanoi has refused to permit any sort of effort on our part to determine that the sites contained bodies of persons missing in action. In addition, the Vietcong in South Vietnam refuses to permit searches in territory under its control. In short, Hanoi has arrogantly and blatantly violated its solemn obligations. Let us not forget this fact—nor let Hanoi forget it.

Mr. President, this shameful situation assumes greater significance when it is considered that in order to get the supplemental agreement of June 13, 1973, the United States agreed to abandon air reconnaissance over North Vietnam and to resume mine clearing operations and to resume talks on economic aid to North Vietnam. It is embarrassing for this great Nation to continue making concessions to Communist aggressors to obtain compliance with the terms of an agreement to assist us in fulfilling a humanitarian mission.

Mr. President, the idea of providing economic aid to North Vietnam was repugnant to me from its inception—it is now unthinkable. Concessions must cease. Congress can control the purse strings to prevent economic assistance, but the executive branch of Government must marshal every resource at its command—economic, diplomatic, and military—to the end that Hanoi shall not be permitted to continue its torture of sustained doubt and uncertainty in the minds of the families who have loved ones listed among those missing in action. More can be done—more must be done—to force cooperation from this callous and unconscionable enemy.

Mr. President, I ask unanimous consent that house joint resolution 61, act No. 38 of the 1973 Legislature of Alabama, be printed in the Record.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

H.J.R. 61

Resolution memorializing the President and Congress to do all in their power to secure the release and information concerning the missing in action in Southeast Asia

Whereas, of the valiant fighting men of the U.S. Armed Services who served their country in Southeast Asia, many of their numbers are still listed as Missing In Action; and

Whereas, North Vietnam has still not divulged true and factual information about the Missing In Action revealing the whereabouts or fate of these men; and

Whereas, the families of these service men have endured undue hardship and have waited for days, months, and years on end in hope of obtaining the return of their loved ones; and

Whereas, it is hard for a person to even imagine the torture that these families must go through day after day, wondering, waiting, and praying for some miracle that will return their son, husband, or loved one; and

Whereas, the suffering of the men who are still imprisoned in Southeast Asia cannot be forgotten, and immediate action must be taken to secure their release; and

Whereas, the most heralded aspect of the Peace Treaty was that North Vietnam promised the release of *all* American prisoners in Southeast Asia and their cooperation in obtaining the fullest accounting of the Missing In Action; and

Whereas, the Communists have merely pretended to meet the terms of the Peace Treaty; and

Whereas, the American people must not forget and turn their back on these patriotic men who have sacrificed for the country more than any person can expect; now therefore,

Be it resolved by the Legislature of Alabama, both Houses thereof concurring, That this legislature urges the President and Congress to do all in their power to secure the release or information concerning the members of the Armed Services listed as Missing In Action.

Be it further resloved, That copies of this resolution be sent to the President and to the members of the Alabama Congressional Delegation and be made available to the families of the Missing In Action and the press.

In witness whereof, I have hereunto set my hand and have caused the great seal of the State of Alabama to be affixed by the Secretary of State, at the Capitol in the city of Montgomery on this the 8th day of June 1973.

MIGRANT FARMWORKERS

Mr. FANNIN. Mr. President, in Arizona we have a very promising program to help migrant farmworkers learn new skills so that they may gain control over their own destiny.

This program is operated by Arizona Job Colleges, Inc. Everyone concerned about the plight of migrant farmworkers should be interested in this project which gives low-income workers the opportunity to help themselves to more productive and satisfying lives.

On July 3, 1973, the Casa Grande Dispatch carried an article describing the excellent work being done under this unique program. I ask unanimous conconsent that this article be printed in the Record:

There being no objection, the article was ordered to be printed in the Record, as follows:

AJC Does Its Share To Boost Jobs for Migrant Farmworkers

A butcher, a baker, a candlestick maker—a nursery rhyme everyone associates with childhood dreams about his future in the world of work. For most Americans, the childhood dreams can become a reality, but for some the dreams will remain only fantasy.

Most migrant farm workers have never had a choice of jobs. They were born into the migrant stream and grew up struggling for survival. There was little enough time for dreams of opportunity for education to make those dreams come true.

Arizona Job Colleges, Inc., based in Casa Grande, with resources from the University of Arizona Rehabilitation Center, has attempted to alleviate this problem. Under a $46,000 contract, the university has helped establish an evaluation center at AJC that since February has assisted 150 indigent persons plan new careers.

The clients served by the unit are incoming AJC students and Arizona State Division of Vocational Rehabilitation clients. The AJC students using the center are adults who earned less than $3,200 a year as farm workers.

Hedges' Warehouse, Cottonwood Lane, is the site of the evaluation center. One of four similar operations in the State, the center is coordinated by Dan Curnett and staffed by Sue Curnett, Mike Lesem and Mike Young, all of the university, and by three AJC workers, Chuck Shook, Mary Gobea and Sharon Meehl.

Staff members have done graduate work in rehabilitation at the University of Arizona and at Arizona State University.

Clients are referred to the evaluation unit by AJC counselors or by Division of Vocational Rehabilitation counselors as part of their family rehabilitation training. The students are scheduled for evaluation and transportation is arranged for them.

The evaluation process usually consumes six to eight days.

"Our clients receive a complete assessment of as many factors that would relate to their potential for work placement as possible," Curnett noted.

Each student or client going through the center is given a battery of tests that examines his personality, medical and physical, eye function, intellectual, academic, outside interests and worker traits. The physical testing is performed by the AJC medical staff.

The test results are turned over to the counselors who referred the individuals to the centers. The counselor and the client use the results to assist in decision making and to plan individual job training programs.

"We are a service component in that we only make recommendations and provide information," Curnett stressed. "We do not say what a client should or should not do."

Before the evaluation center became a reality, AJC students were assigned counselors to help them decide what vocational path to follow. No such comprehensive testing or evaluation program, existed, however.

Most AJC students enter the center after they have been accepted into the program and before their training begins.

Shook, now an evaluation technician, was a member of the first AJC graduating class in 1971.

"Had there been an evaluation unit like this when I entered the AJC program more than two years ago I would have made a different and perhaps wiser choice in my vocational training," Shook commented. He said he is sold on the evaluation service and believes it offers a "therapeutic involvement" for clients.

"You don't really know yourself that well before you come here," he added. "The tests you receive help you pinpoint things about yourself. This and the interaction you have with the counselors make for some pretty meaningful information."

Curnett cites an example to support Shook's comment.

"Suppose my test results indicate I could go into auto mechanics after one year of training or into radio-television repair after three years of training. Obviously, I have a choice I can make based on the time I have available to me."

With more families becoming AJC students in coming weeks, an increase largely due to a recent federal grant, the evaluation center is expanding its facilities at Hedges' Warehouse.

AJC president Gary Bellrichard said he hopes to see the center play a larger role in manpower development of the Cast Grande area. The AJC president added he sees the unit as one feature that makes AJC a unique training program.

Unique or not, the evaluation center provides for many of Pinal County's rural poor a foundation of hope.

"Most people who are referred to us are here because their lives just happened," Curnett summarized. "This evaluation process gives them an opportunity to express long-term desires and to give personal direction to their lives."

SIX-STATE CRISIS CONFERENCE ON FUEL FOR FOOD PRODUCTION HELD IN ST. PAUL, MINN.

Mr. MONDALE. Mr. President, the need for a system of mandatory allocations for fuel becomes more apparent and more pressing each day.

Last Saturday a six-State crisis conference on fuel for food production was held in St. Paul, Minn. At that meeting members of the agricultural community detailed the failure of the current voluntary allocations system to provide assurances that adequate supplies of petroleum products will be available to meet the needs of agriculture. In Minnesota with nearly a 15-percent expansion in acreage planted this year, an assurance of 100 percent of last year's supplies is completely inadequate, even if such a commitment were binding. Shortages of propane, gasoline, and diesel fuel required to produce, process, and market farm products could lead to food shortages and a significant increase in prices to consumers.

Therefore, the conference urged the Congress and the executive branch to move immediately to a mandatory fuel allocation system.

The executive branch has the authority to adopt a mandatory allocations program, and such action must be taken without delay.

As evidence of the severity of the fuel crisis in agriculture, I submit for the consideration of the Senate a message from Cy Carpenter, president of the Minnesota Farmers Union and a copy of the testimony presented by Jon Wefald, commissioner of agriculture for the State of Minnesota.

Mr. President, I ask unanimous consent that these statements be printed in full in the RECORD.

There being no objection, the message and testimony were ordered to be printed in the RECORD, as follows:

ST. PAUL, MINN.,
July 17, 1973.

Senator WALTER F. MONDALE,
Russell Senate Office Building,
Washington, D.C.:

On Saturday, July 14, a six-State crisis conference on fuel for food production was held at Saint Paul.

It was apparent from the testimony heard from farmers, suppliers, food handlers and processors, cooperative and commodity spokesmen, that the fuel shortage has not eased up, but that in fact, the crisis is about to become much more widespread and damaging.

With small grain harvest about to begin, or just underway, some local fuel suppliers have already used up their July allocations and are drawing on August allocations.

No one seems able to give assurances that adequate supplies of propane gas will be available for crop drying, turkey production, and other agri-business uses. There were widespread shortages of propane already in the fall of 1972. Now, it appears that the industry will start out 25 percent short of the volume needed to handle a larger crop. Because of the lateness of the planting season, a larger share of the 1973 crop may need drying.

It was also brought out that the inability of farmers to obtain assurances that supplies of fuel and propane will be uninterrupted has caused uncertainty about future production and that there may well be a cutback in production of turkeys, hogs, and other livestock and poultry products.

It was the consensus of these attending and participating in Saturday's conference that the documentation of the situation, its possible result in a sharp reduction of production, and its impact on consumer supplies and prices should be submitted to the appropriate Federal agencies and to Members of the U.S. House and Senate from the six States; Minnesota, Iowa, Nebraska, North Dakota, South Dakota, and Wisconsin.

Witnesses were most emphatic in terming the present voluntary allocation plan a failure and I subscribe to that viewpoint personally. Although the voluntary allocation plan has helped in some isolated instances, it has given the public an impression that the problem is being adequately handled, while in truth, problems are not being met head on.

The oft-repeated statement that, "Agriculture has a No. 1 priority" is untrue. Agriculture is one of eleven uses on the so-called priority list. When one of our farm supply cooperatives runs out of fuel for its farm patrons and requests help, the only result of having an "agricultural priority" is that the cooperative is given a phone number which can be called to purchase fuel at what appears to us to be approaching black market prices.

The conference urged the Congress and the executive branch to move immediately to a mandatory fuel allocation to assure needed supplies to farmers and the food business.

We are appreciative of your genuine concern about agriculture and our family farm system, and know you will give this your most serious consideration.

A summary of the major points made during the testimony and discussion at the July 14 conference follows by mail. Witnesses included:

Jon Wefald, Minnesota Commissioner of Agriculture. E. W. Smith, vice president, National Farmers Union. Robert Hurner, presenting statement of Senator Walter F. Mondale. Tom Muck, presenting statement of Attorney General Warren Spannaus. Allan Burke, South Dakota Farmers Union. Lowell Gose, president, Iowa Farmers Union. Milton D. Hakel, president, Minnesota Consumers League.

Evan Bosch, president, Kandiyohi County Farmers Union. Melvin Miller, State Representative, Minnesota. M. F. Ophaug, vice-president for merchandising, Lindsay Bros. Co. Roy Munson, executive secretary, Minnesota Turkey Growers Federation. Phil Stocker, vice president for general services, Land O' Lakes, Inc. Leonard O. Lashomb, Minnesota AFL-CIO Federation of Labor. Al Bloomquist, American Crystal Sugar Cooperative and Red River Valley Sugar Beet Producers. Robert Regnell, board member, Morrison County Cooperative, Little Falls.

Norman Larson, president, Minnesota NFO. Vincent Ritter, vice-president, Minnesota Farmers Union. George Kliber, board member, Mid-America Dairymen, Inc. Calvin Johnson, Atwater, Minn. farmer. Vernon Lund, manager, Ortonville Cooperative Oil Company. Russell Anderson, president, Big Stone County Farmers Union, Harlow Berg, president, Swift County Farmers Union. Leo Zimmerman, president, Morrison County Farmers Union. Mrs. Caspar Fiedler, farm wife, Stearns County, Minn.

Statements were filed on behalf of: U.S. Representative Donald M. Fraser, Elton Berck, president, Nebraska Farmers Union, Gilbert Rohde, president, Wisconsin Farmers Union, Robert Handschin, economist, Farmers Union Grain Terminal Association, Associated Milk Producers, Inc., Northern Region, Minnesota Pork Producers Association. Minnesota Public Interest Research Group.

CY CARPENTER,
President, Minnesota Farmers Union.

A STATEMENT ON THE FUEL CRISIS, BY JON WEFALD, MINNESOTA COMMISSIONER OF AGRICULTURE

I am grateful for this opportunity as the Minnesota Commissioner of Agriculture to examine with you the energy crisis confronting our greatest industry—agriculture.

Unfortunately, the crisis is an extremely serious one, and of much greater proportions than I am sure that the general public is aware.

Unless there is quick action to impose mandatory fuel allocations we face a potential national disaster of almost unlimited economic and social consequences.

This is the hour of decision.

Further delay in Washington on action to insure equitable and priority distribution of the nation's fuel stocks could mean the loss of much of this year's farm production . . . bankruptcy for thousands of farmers . . . unemployment for a fantastic number of workers in agricultural service and supply firms and in the food processing industry.

It could mean food shortages and hunger on a degree seldom before experienced in these United States.

As a person with a sense of history, I would have to go back at least 40 years to the post depression dust bowl era to even come close to what we are facing.

We cannot take the time to determine if the present fuel crisis is real or manipulated by big business. We need immediate action.

Real or manipulated, we have significant evidence that fuel supplies are short in Minnesota right now. In fact, we are told the supply is going to be even shorter.

We know, here in Minnesota, that the existing supplies of many of our surviving fuel distributors will be exhausted by July 20th—just one week away—and as of this date they have no assurance of any new allocations from their suppliers.

July 20th appears to be a D-Day in reverse.

That is a very critical date for most of this nation's farmers and consumers.

The small grain harvest usually is fully underway in the midwest on that date.

We have a potential record crop in the fields. But without assurance of adequate fuel, our farmers may not be able to harvest that crop. And if the farmers cannot harvest the crop, consumers face critical food shortages, black markets and sky-high prices, and possible hunger for some.

The problem is far more reaching than we like to think about.

That isn't just this year's food and fibre crop standing in the fields . . . it also represents the bulk of the seed and feed for use next year. Food production, like nuclear fission, is a chain reaction.

Mishandling of the fuel crisis can have the same impact on our economy as a nuclear bomb has on a large city.

Agriculture, its supply and service industries, and processors, must have the top priority on mandatory fuel allocations.

Fully informed of the consequences, I am sure that consumers will support that assignment of fuel priority.

From July 20th on through mid-November the tractors, combines, trucks and grain dryers will be running almost constantly, to harvest and deliver the 1973 grain crop into safe storage and into the marketing and processing channels.

These are four peak months of fuel demand for agriculture.

Minnesota this year has 6.2-million acres of corn, 10 per cent over last year.

We have a record 4.4-million acres of soybeans, 23 per cent greater than the previous high in 1967.

Our wheat crop is forecast at 72.4-million bushels—the biggest Minnesota wheat output since 1902.

Forecasts indicate oats production will be up 12 per cent, barley up 18 per cent, flaxseed up 69 per cent, compared to last year. We're also up in potatoes, sugarbeets and hay. Minnesota farmers have cut back on only two crops, rye by 16 per cent and sunflowers by 19 per cent.

It is going to take millions of gallons of fuel to harvest Minnesota's 30-million acres of field crops—and to then prepare the soil for next year's food production.

But we cannot forget the other fuel and energy needs of the farmer either . . . to pump the water for his livestock and irrigation, to power the augers, elevators, welders, feed mills, silo unloaders.

Livestock farmers also have a tremendous fuel need. Our turkey farmers will, moreover, require more than 30-million gallons of fuel to maintain production of one of the most economical and nutritional meat products in the retail market today. It takes a lot of energy to maintain ventilation and lighting and grind the feed for poultry, beef and pork during these hot summer months. And, we are only two months away from the season of need for auxiliary heating to insure the production of young turkeys, pigs and beef and dairy calves.

Livestock and poultry manure has to be loaded and spread on the fields or otherwise properly disposed of consistent with the state's tough pollution control standards.

Minnesota has been fortunate thus far in having had the foresight and early action by Governor Wendell R. Anderson to counterattack the fuel shortage. Since last October, at the Governor's direction, Civil Defense Director Jim Erchul has done a tremendous job of finding emergency fuel supplies—upwards of 50-million gallons for our farm co-ops.

Agricuture must have the fuel it needs to complete that harvest, if consumers are going to have a continued reasonably priced supply of food.

There is no practical alternative. Agriculture has been mechanized and dependent upon petroleum fuels almost exclusively for nearly 40 years.

We don't have the horses or horse drawn equipment and we most certainly don't have the farmers to accomplish this year's harvest by horse or by hand. Few of the modern farmers have either the technology or the equipment to even pick and husk corn by hand. And with the vastly greater acreages they don't have the time or physical capacity, given the pioneer equipment, to do the harvest by hand.

We're all aware, too, of the difficulty of attracting city folks out to do farm work on a steady basis. About 15 minutes of hay bale loading or manure piling usually satisfies the urbanite's taste for farm chores. And then there is the matter of the minimum wage that would come into play on a massive hand labor harvest of the farm crop. You can imagine what a box of corn flakes or a quart of soybean oil would cost at the grocery store.

Minnesota farmers alone have approximately $2.5-billion worth of crops standing in their fields for this fall harvest. We're the nation's biggest producer of oats, turkeys, butter, non-fat dry milk and processing sweet corn. We're one of the nation's top ten suppliers of green peas, honey, milk, corn, barley, hogs, livestock, soybeans, potatoes, sugarbeets and wheat, as well as the hay and seed crops that figure importantly in livestock and poultry meat and dairy products production.

Minnesota farmers, and their millions of consumers, among this nation's farmers and consumers, cannot afford to leave this year's crops unharvested for lack of fuel.

But this isn't just a local problem or a Minnesota problem. It is a national problem. I understand there are five other states represented here today at this fuel crisis conference—North Dakota, South Dakota, Nebraska, Iowa and Wisconsin.

America must make an urgent decision on how to manipulate the fuel gate in the public interest. It deserves a higher priority than the Watergate.

Without immediate federal imposition of mandatory fuel allocations both farmers and consumers are facing another inflationary price shock.

Our rural fuel distributors report the only assurances of limited fuel supplies beyond this July 20th have been offered at a stiff 30 percent price increase . . . from 28 cents per gallon to 39 and 40 cents per gallon. And those are only the current quotations. If we get into a black market situation in a real shortage, the price could skyrocket several times.

I can't guess what the final impact would be on the consumer, but I can estimate the increased cost of fuel Minnesota farmers need in this production year. Even at the current 30 per cent boost pegged for July 20th, that adds about $50-million to Minnesota's farm production costs. (In 1969 Minnesota farmers paid $107-million for petroleum fuels, plus another $43-million for electrical energy basically produced by petroleum fuels. This year's increased production will require at least 15 per cent more fuel.)

That increased cost should be recovered by the farmer and would ultimately be paid by the consumer.

But under the present hastily and ill conceived federal price freeze, the farmer can't afford to pay 30 per cent more for fuel, because the frozen market on processed and retail products won't allow him to recover the added costs.

So, we aren't going to solve the food shortage threat for consumers by merely rationing petroleum fuels.

Skyrocketing production costs have already placed the farmer in a position where he can no longer afford to generously subsidize the consumer as he has actually done for most of the last 25 years.

And Minnesota farmers are still doing an outstanding job of trying to provide consumers an abundant, high quality and reasonably priced supply of food. This year they have increased planted crop acreage by a whopping 14 per cent over last year. Their investment is at an all time high.

But he can't finish the job without fuel or fair prices.

Food prices should be removed from the price freeze. The Secretary of Agriculture has told his boss the freeze has been a colossal mistake and is threatening to cause a national food shortage.

We need consumer support, too, for the 1973 farm act now awaiting resolve in a Congressional conference committee, to restore decent target price support guarantees on our most essential agricultural crops. This is the best bill proposed in years, and in the free market system that has developed within the past year probably wouldn't cost the taxpayers a penny, while stabilizing or perhaps even reducing our domestic consumer food costs.

As I see it, the target price support guarantee for farmers is as vital as adequate fuel. And he needs the additional guarantee of adjustments both in fuel allotments and in prices measured against production costs. I equate these minimum guarantees as minimum guarantees like the minimum wage for the urban worker and hired farm labor, a fair income guarantee the farmer has all too long been denied.

It is absolutely essential, if we are to solve the food crisis, that the farmer is assured all of the economic tools—top priority for adequate fuel at a fair price, and a guarantee of recovery of his production costs and a modest profit for the food and fiber he sells.

Without these guarantees for agriculture, America is in for serious trouble.

We must support the efforts of our sympathetic Congressmen to solve this problem, and we must be willing to defend them against the unwarranted brickboats of those misguided consumer advocates and political strategists who would protect and solicit the consumer right into bankruptcy and hunger.

"Unless there is quick national action to impose mandatory fuel allocations we face a potential national food disaster of almost unlimited economic and social consequences," Minnesota Agriculture Commissioner Jon Wefald warned today.

Wefald, speaking in St. Paul at a six-state Farmers Union sponsored crisis conference on fuel for food production, said there is serious danger that potential bumper field crops may go unharvested unless farmers are assured adequate fuel supplies immediately.

He said a survey made by the State Civil Defense agency within the past week revealed that many farm fuel suppliers will exhaust current allocations by July 20 and that they have no firm commitments of any new fuel stocks beyond that date.

"This is extremely critical, because we are now moving into the grain harvest season. During the next four months tractors, combines, trucks, elevators and grain dryers will be operating at peak capacity to harvest the bulk of 1973 food and fiber production," Commissioner Wefald explained.

"If farmers are unable to harvest this crop for lack of fuel, at a time when there is a virtual world-wide food shortage, it can mean hunger and shortages on a degree seldom before experienced in these United States," Commissioner Wefald declared.

He added a warning that immediate federal mandatory fuel allocations with top priority will not alone solve the rapidly developing national food crisis.

"Federal government must also roll back fuel prices, stamp out black markets now developing and remove food from the hastily conceived 60-day wage-price freeze.

"Even if the federal government assures farmers fuel, at present price quotations the farmers may not be able to afford to buy it. Our farm co-ops are being told they may be able to buy fuel after July 20, but at 39 and 40 cents per gallon instead of the normal 28 cents. "That is a whopping increase of 30 per cent, and applied to Minnesota's farm energy needs represents an additional $50-million bill for the agriculture industry in this state alone. Under the existing price freeze the farmer has no chance to recover that increase, and he might be forced to let the crops remain in the field," Commissioner Wefald warned.

DELAWARE'S GOVERNOR SUPPORTS OVERSEAS AMERICAN VOTERS

Mr. ROTH. Mr. President, on June 28, 1973, I joined the distinguished senior

Senator from Maryland (Mr. Mathias) in sponsoring legislation to insure that qualified voters residing abroad are not denied their right to vote in Federal elections.

The Governor of Delaware, the Honorable Sherman W. Tribbitt, has, by letter, informed me of his support for this proposal. In order that my colleagues may have the benefit of the Governor's comments, I ask unanimous consent that the text of Governor Tribbitt's letter be printed in the Record at the conclusion of my remarks.

There being no objection, the letter was ordered to be printed in the Record, as follows:

State of Delaware,
Dover, Del., June 26, 1973.

Hon. William V. Roth, Jr.,
New Senate Office Building,
Washington, D.C.

Dear Senator Roth: Concerning your Bill to enfranchise overseas Americans, I know Delaware already has granted the franchise to citizens of the State who live abroad.

But I firmly believe national legislation is imperative to insure that the right of all overseas Americans to vote will be protected. Otherwise these citizens will suffer taxation without the benefit of direct representation, a clear violation of this country's founding principles.

Your Bill to protect the voting rights of these Americans has my full support, and I hope to learn you are successful in securing its passage.

Sincerely,

Sherman W. Tribbitt,
Governor.

COAL GASIFICATION

Mr. HASKELL. Mr. President, a month ago a Denver-based firm, Stearns-Roger Corp., announced its plans to team up with El Paso Natural Gas Co. to build the Nation's first complex for conversion of coal into natural gas.

In this time of critical energy shortages it is particularly important for this Nation to explore new sources of energy. The gasification of coal has been looked at as an exciting potential source for much needed gas. That potential source will become a reality if the Stearns-Roger plans are successful.

The sponsors of the project hope that it will be fully operative by 1977 and producing commercial high-energy synthetic gas which will be ready for pipeline transmission. The sponsors plan to consume about 9 million tons of coal a year to produce 250 million cubic feet daily of fuel.

The Senate Interior Committee is currently considering S. 425, the Surface Mining Reclamation Act of 1973. That legislation will provide stringent reclamation guidelines and encourage States to enact strip mining legislation. I feel certain those who are building this coal gasification plant will comply with whatever legislation results once they start their mining operation.

Company officials have pointed out the tremendous economic impact this plant will have on those living in the area. The Navajo Tribe, for example, will receive approximately $2 million a year in royalties from coal production.

I ask unanimous consent to have a newspaper article from the Denver Post which details the plans for this venture printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

El Paso Gas Project: Stearns-Roger To Engineer Coal Gasification Plant

(By Willard Haselbush)

Denver-based Stearns-Roger Corp. has teamed up with El Paso Natural Gas Co. to bring into production by mid-1976 the nation's first complex for conversion of coal into commercial high-energy synthetic gas ready for pipeline transmission.

Progress and goals of the first coal gasification project to materialize out of the national furor over the growing energy crisis were spelled out in Denver last week by J. P. Musick Jr. of El Paso, Tex., manager of community services for El Paso Natural Gas Co.

Musick said Stearns-Roger is providing the engineering expertise and his firm is putting up the more than $420 million it will cost to build the complex capable of producing 250 million cubic feet of cleanburning synthetic gas per day for home and commercial use.

Musick released details of the project now in its early stages on the Navajo Indian Reservation in northwest New Mexico about 35 miles south of Farmington, N.M., some 50 miles from the Colorado state line.

He told members of the Denver Coal Club, an organization of oil company and federal officials studying coal as the largest potential reserve of untapped fossil fuel in the country, that his firm is building the coal-to-gas plant on a 40,286-acre coal lease in what is called the Burnham sector of the Navajo Reservation, southeast of Shiprock, N.M.

In an interview and question-answer period later at the Petroleum Club, Musick said engineering studies now under way, and environmental investigations completed, indicate the new complex will be fully operative in 1977.

He said the coal lease has been proved to contain in excess of 700 million tons of recoverable coal with a sulphur content of only 0.69 per cent and El Paso plans to use it at a rate of about 9 million tons a year to produce 250 million cubic feet daily of new fuel.

Musick said the coal is 150 or less feet under the surface and will be removed by strip-mining, then transported to the nearby gasification complex "for conversion to clean-burning, pollution-free gas."

Areas mined will be carefully refilled and reseeded at once, Musick said. He added that soil studies indicate that dirt beneath the present saline-saturated topsoil is of high quality and could aid the Navajos materially by creating new crop areas.

The synthetic gas manufactured at the Burnham complex will be piped to El Paso's nearby 34-inch San Juan mainline, where it will be comingled with national gas and transported through El Paso's system serving homes and industry in west Texas, New Mexico, Arizona, southern Nevada and California.

Musick says the new man-made gas will arrive none too early.

"As far back as August 1970, El Paso was forced to advise customers it could no longer provide additional natural gas service to the states which will receive the Burnham complex gas," he said. "Our supply deficiency in that area alone is estimated to exceed a billion cubic feet daily by 1976 and we're investigating new imports of liquefied natural gas, stepping up traditional exploration and pushing for the trans-Alaskan pipeline while we build the country's first commercial coal gasification plant to help meet a natural gas shortage of increasingly critical dimensions."

Musick said oil and natural gas firms and numerous government agencies have been experimenting and talking since the 1950s about tapping coal to create gas.

El Paso, he said, will use a method called the "Lurgi process" developed by a West German firm, Lurgi Mineraloiltechnik GmbH. It has been operational at 12 plants in Europe for several months, he said, but El Paso's Burnham complex will be the first U.S. application. The Lurgi Process calls for addition of oxygen and steam to crushed coal under heat and pressure.

According to Musick, the economic and social impact of the multimillion-dollar project—which will be in the construction stage for 30 months—will be gigantic.

"The Navajo Tribe, major beneficiary, will receive about $2 million a year in royalties from coal production and by-products when the complex and mine are fully operational," he said. "The construction phase will require some 3,000 workers and there will be a permanent work force after completion of 941 people with an annual payroll of about $12 million—plus major tax benefits to schools, the state of New Mexico and the federal government."

He said El Paso has agreed as part of the project "to take every reasonable step to guarantee that no part of the area's environment will suffer adverse effect."

BALANCING THE BUDGET

Mr. FANNIN. Mr. President, for several years I sponsored a proposed constitutional amendment which would require the balancing of Federal budgets. This session I served on the joint committee which reported an excellent proposal to require that the Congress act responsibly in appropriating funds. This proposal would encourage the balancing of the budget but without putting the Congress in a straitjacket.

Unfortunately, the Congress has not yet adopted the proposals to bring the needed budgetary reforms. Attempts are being made by the liberal spenders to punch holes in the reforms.

It has long been my contention that excessive Federal spending is the primary cause of inflation. Congress could have put a stop to this, but failed to do so. If any one group in the Nation is to blame for the inflation we now suffer, it is right here in this city and in this complex of buildings.

For the past 2 years President Nixon has been forced to institute economic controls which he and everyone who believes in the competitive, free enterprise system find distasteful. Government controls produce all types of distortions as we have seen demonstrated in recent months.

While I believe that phase IV is the best possible control program, I also believe that it, too, will result in undesirable conditions in certain segments of the economy.

It is essential that we regain control of Federal spending so that we can stabilize our economy and put an end to wage-price controls once and forever.

President Nixon made it abundantly clear that this is one of the keys to his program. I applaud the President for his declaration.

It also was a relief to see that the President and the administration has abandoned the concept of a so-called full-employment budget and the objective now is for a truly balanced budget. To put it mildly, I have been somewhat skeptical of the justification for a full-employment budget.

Mr. President, the Wall Street Journal took note of these developments today in a very good editorial entitled "That Old Time Religion." I say "Amen" to this editorial, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THAT OLD TIME RELIGION

> We can only applaud Treasury Secretary Shultz' avowal yesterday that keeping federal spending in line with income—not Phase 4—is the key to licking inflation.
>
> The fundamental role of fiscal and monetary policy in keeping prices under controls has been proved in so many nations over so many centuries, we wonder how the maxim got lost in 1971 when the nation was led by false prophets into the economic controls wilderness.
>
> Anyone who bothers to glance at the facts of fiscal and monetary policy would have little doubt as to the cause of our recent inflation. Since 1967 the federal government has run cumulative budget deficits of some $97 billion. The necessity to finance this borrowing out heavy pressure on the Federal Reserve to speed money growth, and since 1967 the money supply has grown at more than 6% annually, more than twice the rate of the 1957–1967 decade. When money grows faster than production, you have inflation.
>
> The key to stopping the inflation is not wage-price controls, leaky dams at best, but holding down the deficits and thus allowing more moderate money growth. Thus Secretary Shultz, wants to balance the fiscal 1974 budget. But by now this task will not be an easy one. Years of fiscal irresponsibility have created some serious political and structural obstacles to that objective.
>
> Let us say at the outset that so far this year Congress has not been as big a barrier to fiscal resonsibility as we had feared it might be. The 1974 budget scorekeeping report put out by the Joint Committee on Reduction of Federal Expenditures in late June didn't look half bad, at least relative to our fears.
>
> In effect, it shows that Congress so far has enacted bills that exceed administration budget targets by only $1 billion. The June 1 administration estimate of the fiscal 1974 *budget* deficit was $2.7 billion. Congress had enacted bills that would raise that estimate to only $3.7 billion. At this rate, we seem to be dong a great deal better than last year, when Congress had managed to raise an already substantial deficit projection by $11 billion when the October scoreboard was tallied.
>
> On the other hand, the administration goal is a *balanced* 1974 budget, not a $3.7 billion deficit. If the government cannot achieve balance when the economy is running flat out and revenues are pouring in, it hasn't solved the problem—because when the economy is flat out, the inflationary effect of even a small deficit is substantial.
>
> And let us not assume that Congress has entirely sublimated its spending tendencies. A farm bill that would expose the federal treasury to further large direct subsidy payments has enjoyed surprising success—due partly to a coalition between the farm bloc and labor supporters of the bill's food stamp provisions. It hasn't passed yet but it may take a presidential veto to scotch it when all is said and done. Those strong lobbies of Capitol Hill tradition have not succumbed to pleas for fiscal responsibility.
>
> There are also those structural problems we mentioned. According to the Expenditure Committee's estimate, many federal outlays—Social Security and interest on the national debt, for example—have been built into the budget so that a shrinking portion of the budget is controllable by legislation in any one fiscal year. In fact, Congress has effective control over only 28.6% of the budget outlays estimated for fiscal 1974, according to the Committee.
>
> The other potential difficulty for Mr. Shultz—one that administration policy will more directly influence—is on the revenue side of the ledger. There already are signs of a leveling off of economic activity, although those signs are admittedly equivocal at this point. The Commerce Department's leading indicators of economic activity flipped downward in April but back upward in May. However, many economists forecast a second half cooling of the boom. The big imponderable now is whether the effects of the ill-considered June price freeze and the still unknown consequences of Phase 4 might cool the boom faster than anyone intended or desired.
>
> But we agree with Secretary Shultz that this government can indeed balance its budget if it shows sufficient resolve. And the Federal Reserve will then have little excuse, if it ever had any, for continued inflation of the money supply. The Secretary describes the administration's policy as a return to "that old time religion." To further paraphrase the gospel hymn, it was good enough to produce economic stability in the past and it's good enough today.

COMMUNITY SCHOOL CENTER DEVELOPMENT ACT

Mr. WILLIAMS. Mr. President, the concept of community education is sweeping the Nation. The premise is that public schools belong to the people and can be the center for many community activities. Under a community school program, education is no longer interpreted to mean only those formal kindergarten through grade 12 years, but any experience leading to a more successful handling and betterment of the community. The National Community School Association describes it as a "philosophy which repeats the concept of the little red schoolhouse of the previous generation." Thus, community education would reinstall the schools as the community centers and keep the doors open to the public long after 3:30 p.m.

S. 335, which I reintroduced with Senator CHURCH in this Congress, would promote the development and expansion of a community school system in the United States. S. 335, the Community School Center Development Act, was the topic at hearings held recently by the Subcommittee on Education of the Labor and Public Welfare Committee. Witnesses involved in the community education programs in this country testified as to the need for Federal support of such educational programs and demonstrated the effectiveness of existing programs.

Mr. C. S. Harding Mott, president of the Mott Foundation which has made many grants to the cause of community schools in this country, gave knowledgeable testimony about the status of community schools. Mr. Mott said that although the foundation has willingly supported and advocated community schools for years, it was time the Federal Government be "taking on where we as a foundation must leave off." Mr. Mott stated that the Mott Foundation's goal, "To increase the strength and stature of character in individuals and thereby strengthen our free enterprise system of society," would continue as a major activity of the foundation but that the foundation has "arrived at its maximum budget limitation in support of further development of community education." For these reasons, Mr. Mott "applauds proposed legislation (S. 335) in the area of Community Education." Schools, according to Mr. Mott, are the best community education centers because:

They are centrally located in neighborhoods.

They have facilities adaptable to broad community use.

They have human resources necessary for identification and solution of human problems.

They are owned and supported by the public.

They are nonpolitical.

Mr. Mott went on to say, that the "choice of school facilities is quite obvious. It means we can use facilities and staff that already are extant. In other words, we can piggyback on what already is a big investment and thus avoid costly duplication."

Wilbur Cohen, former Secretary of HEW, and now dean of the School of Education at the University of Michigan, brought years of experience in the field of education before the subcommittee.

In his testimony, Mr. Cohen pointed out that:

> It is clear that parents and community involvement are necessary for effective education. That is why I support the community school center concept. It enables schools to reach out and work with parents and the community. It enables parents and the community to involve themselves with schools, teachers, pupils, and education.
>
> In a recent Gallup Poll, 57 percent of the respondents said that when some children do poorly in school, the chief blame is due to the children's home life, and only 18 percent on the school or teacher, and 14 percent on the children.

Having participated in the development of more than 100 community schools in Arizona and California, Dr. Tony Carrillo, director of the California Regional Center for Community School Development, described how community schools can improve the quality of life in a community. Dr. Carrillo said:

> They can be especially effective in helping minority groups retain their cultural heritage in a pluralistic society while also becoming equipped to join the mainstream of American life.

Dr. Carrillo said that when he looks back to his education, there was a—

> Grand Canyon that existed between the school and our community. We all spoke

> Spanish, yet our teachers were trying to teach us English with all the instruction in a foreign tongue. They were trying to teach us civics, when most of our parents were not citizens themselves.

Mr. President, a community school system, as described in S. 335, would vastly help to alleviate the barriers many in this country face when struggling for an education. When offered the opportunity of community education, people have utilized it. In 1971 there were 1,920 community schools and over 1.5 million people were involved in those programs. With the assistance of Federal support, this number could be increased to millions.

S. 335, the Community School Center Development Act, would enable us to utilize a part of this country that has failed to meet its capacity. The public school plant in this Nation is the largest investment of public funds spent by our Government. Yet, we allow the doors to be closed in midafternoon and all through the summer when community needs are abundant. The schools are logical locations for activities that involve the community as they are generally centrally situated and accessible to all the community. It has been estimated that the cost of such community education programs would only be 6 to 8 percent higher when a school is operated on an extended basis. This country cannot afford to ignore the benefit we have available to us at such a low, modest cost.

Community school education would benefit the young, middle aged, and elderly of this country. A better educational system could only lead to a better society in which to live.

OFFICE OF FEDERAL PROCUREMENT POLICY

Mr. HATHAWAY. Mr. President, a subject which is gaining increasing attention this year is Government procurement. With the report of the Commission on Government Procurement, the Congress received 149 recommendations on how the $60 billion procurement process could be improved. One of the principal recommendations was for the creation of a Federal procurement policy office responsible for a uniform set of regulations and policies applicable to all procuring agencies in the executive branch.

The distinguished Senator from Tennessee (Mr. Brock) recently introduced S. 2198, a bill to create an Office of Federal Procurement Policy. I rise in support of this bill, for I see in it the potential for rectifying many of the problems now plaguing the procuring activities of the civilian executive agencies.

The Government Procurement Subcommittee of the Small Business Committee, which I have the privilege of chairing, held hearings on May 17 and 18 of this year to receive testimony on several of the Procurement Commission recommendations, including the one advocating the creation of a central office of procurement policy. In those hearings, we learned firsthand of the difficulties the small business contractors experience in contracting with the Federal Government. Conflicting policies, tediously long and complicated regulations, and the lack of communication with the procurement policymaking bodies were but a few of the many complaints made. To quote from one witness:

> Small business simply cannot afford to make its voice heard in the myriad locations throughout the Government where procurement policies are being made.

In summary, the subcommittee found substantial support from the small business community, as well as some Government agencies, for the recommendation creating an office as described in this bill. And, let me add, small business contractors have a major stake in Government procurement. They are currently supplying some $12½ billion in goods and services, or about 19 percent of the total expenditures on procurement.

Thus, Mr. President, I am honored to add my name as cosponsor to S. 2198, and I would urge my colleagues likewise to support this legislation and bring about its speedy passage.

GENERAL REVENUE SHARING—THE FIRST ROUND

Mr. MUSKIE. Mr. President, in March, the Subcommittee on Intergovernmental Relations, in a staff study, concluded that—

> The vast majority of cities—both large and small—intended to spend the first round of revenue sharing in the following areas: capital improvements, including streets and roads, public safety, and salary adjustments, including hiring new personnel. Somewhat less frequently mentioned were various forms of tax relief and environmental improvement. Only a small minority of the cities . . . indicated that revenue sharing money would be channeled into social services for the poor or elderly or other forms of recurring expenditures.

These conclusions were reached by the staff on the basis of a questionnaire on Federal grants mailed to more than 2,300 towns and cities in November 1972. Of necessity, the results were tentative and preliminary.

Since March, several other organizations, including the Office of Revenue Sharing, have conducted additional surveys of revenue sharing. This new data on the disposition of the first round of revenue sharing support the preliminary conclusions reached by the subcommittee staff. For a number of reasons, local governments around the country have decided to spend most of the first round of general revenue sharing on capital, nonrecurring projects. This is borne out by another survey limited to the impact of revenue sharing on 25 of the Nation's largest urban parks and recreation departments which has been brought to my attention.

Mr. President, I ask unanimous consent that the "Preliminary Survey of General Revenue Sharing Recipient Governments," prepared by the Office of Revenue Sharing be printed in the Record. I also ask unanimous consent that a reprint of an article, "Urban Parks and Recreation Under the New Federalism," written for the May 1973 issue of Parks and Recreation magazine by Dr. Diana R. Dunn and Linda K. Lee be included at this point.

There being no objection, the survey and article were ordered to be printed in the Record, as follows:

Preliminary Survey of General Revenue Sharing Recipient Governments

(Note.—Figures referred to are not printed in the Record.)

I. SUMMARY OF PRELIMINARY REVENUE SHARING EVALUATION SURVEY

Introduction

The Office of Revenue Sharing (ORS) surveyed a sample of recipients of funds under the State and Local Fiscal Assistance Act of 1972 (the Act) to determine:

How they planned for and spent the initial funds distributed to them; and

How they felt about the administration of the program; i.e., whether improvements could be made to ORS operations.

The revenue sharing recipients surveyed included the 50 states and the District of Columbia, 19 Planned Variation Cities, and 715 units of local government of representative levels and sizes. A short questionnaire was mailed to 768 governments. An additional 17 recipients were interviewed in person to gain a perspective on the responses to the mailed questionnaire.

The questionnaires were designed and the survey conducted by staff members of ORS, assisted by Technology Management Incorporated (TMI), a consulting firm familiar with the revenue sharing program. The survey was conducted during April 1973. At the time they filled out the questionnaire, most respondents had received their first two payments (i.e., those sent in December 1972 and in January 1973) but had not yet received the permanent regulations, the April quarterly payment, or copies of any statutorily required report forms.

The recipient governments surveyed were randomly chosen within sample subsets of the total recipient population which were defined by a set of selected criteria, including type and size of government and the per-capita tax effort of the government. The conclusions of this study, therefore, can be viewed as statistically representative of each of the selected subsets. The more general findings and conclusions, while strongly supported by analysis of the individual subsets cannot be interpreted to statistically represent the "average" recipient or a proportionate share of the general revenue sharing funds distributed. Employing the data collected from both the returned questionnaires and the on-site interviews, TMI performed an analysis which generated the findings, conclusions, and recommendations reported below.

Findings

Recipient governments have had little difficulty in incorporating the planning, appropriation, and expenditure of revenue sharing funds into their normal fiscal procedures. Those who did have some difficulty relate their problem to the timing of the receipt of the initial funds.

Twenty percent of the respondents noted an increase in public participation in their planning and budgeting process as a result of revenue sharing. More than 40% anticipate an increase in public participation.

Capital projects and other nonrecurring expenditures were the most frequently mentioned uses of revenue sharing funds. Many respondents cited uncertainty regarding the long-term continuity of the revenue sharing program as having been a factor in their choice of capital projects.

Seventy-one percent of the respondents had appropriated some or all of the money received to date. Forty-two percent of the respondents had appropriated all of the money they had received; 29% had appropriated none of it. The average appropriation was 75% of the funds received.

The average amount spent of the funds received by responding governments was 14% as of April 1973; 63% of the respondents had spent no money at all.

Eight percent of the respondents intended to use revenue sharing funds to reduce taxes; 40% said that revenue sharing would allow them to avoid an increase in taxes. Seventeen percent of the respondents said that while property taxes were going up, the amount of the increase would be less because of revenue sharing.

The various government associations and the Office of Revenue Sharing were most frequently cited as sources of information regarding the general revenue sharing program and its operations.

Conclusions

The objective envisioned by the legislation's drafters that the planning for use of revenue sharing funds be relatively easy for recipient governments appears so far to have been achieved. It is possible that the permanent regulations and planned use report forms, issued after most recipients responded to the mail survey, might have the effect of either increasing or decreasing recipient planning difficulties (although the on-site interviews yielded no evidence to support this possibility).

Given that the normal budgeting process was used and that the statutory requirement for publicizing planned and actual use reports had not been implemented at the time of the survey, the increase in public participation, though modest, should be encouraging to those who felt this was an important objective of the program. There are indications that the recipients who experienced increased participation were those who encouraged it; e.g., by holding public hearings.

The initial choice of capital and nonrecurring expenditures by many respondents seems natural, in light of the receipt of two checks so close together with little or no advance notice and the much publicized data problems which produced variations between estimated and actual amounts. Several respondents in the on-site interviews, especially units of local government, commented that financing of needed capital projects was difficult if not impossible through their normal sources of funds. There is no way of learning from this survey whether the emphasis on nonrecurring expenditures will continue in future years.

The Act requires that recipient governments use the same procedures with regard to appropriation and expenditure of revenue sharing funds as are used with respect to their own revenues. Given the relatively short time between the receipt of initial funds and the conduct of this survey, the amounts which respondents said they had appropriated and spent appear realistic, and seem to reflect a sincere effort on the part of recipients not only to comply with the legislation, but to make careful decisions regarding the expenditure of these funds.

Since the setting of tax rates most often involves considerable future planning, and since there was, as of this report, little data upon which recipients could base long-range forecasts of revenue sharing receipts, the modest impact on local taxes is as might be expected. This survey, however, cannot provide any insight as to the future impact on local taxes.

Recommendations

The Office of Revenue Sharing should:

provide to recipients forecasts of their future general revenue sharing allocations;

urge recipient governments to encourage public participation in the local planning and budgeting process;

support the government associations and other public interest groups which are providing assistance to recipient governments;

provide suggested, not required, guidelines and planning aids to governments requesting assistance; and

continue to make reports, notices, and other forms simple for recipients to understand and prepare.

II. DETAILED ANALYSIS OF DATA

Introduction

This section provides a more detailed analysis of the major areas of concern to those involved with the general revenue sharing program. Under each major topic area, the answers to survey questions and highlights of the on-site interviews are drawn together to support the conclusions reported in the Summary. The appendices provide more detail on the design and conduct of the survey itself, a copy of the questionnaire used, and compilations of the data.

Planning for the use of General Revenue Sharing Funds

In general, most governments that responded to the mailed questionnaire had little difficulty in planning for the use of the funds received for the first and second entitlement periods (the checks sent in December 1972 and January 1973). Of the respondents, 75% of the units of local government and 80% of the state governments integrated the planning for the use of revenue sharing funds with their normal financial planning processes. That such a high percentage of respondents was able to blend planning for the use of funds which arrived only four months prior to the survey with "normal" budget cycles speaks well for the flexibility of the local planning process, especially given the considerable variations among governments in fiscal years and the timing of financial planning cycles.

Size and type of responding government had relatively little effect on this indicated ability to integrate planning. Counties with greater than average per capita taxes were least likely to answer that they had integrated planning. Yet 61% of the respondent minor civil divisions with lower than average population and per capita tax claimed that they had integrated planning for the use of revenue sharing with their normal budgeting program.

The interviewed governments were also able to integrate revenue sharing planning with regular budgeting. Although several interviewees explained that some "special" procedures had been employed (as part of the planning process) for the first revenue sharing dollars which came as somewhat of a surprise, no real problems materialized and planning was smoothly integrated. Furthermore, it was explained that these special procedures would disappear since the continual flow of general revenue sharing funds could be anticipated. It was frequently added that reliable forecasts of the amounts of future checks would materially assist the planning process.

The timing of the receipt of funds was frequently indicated in both returned questionnaires and interviews as the major source of difficulty for those who could not integrate planning. Twenty-nine percent of respondent state governments and 43% of respondent units of local government that could not (or did not) integrate planning indicated that the timing factor was the problem. Interviews with governments unable to integrate planning similarly reported that timing of receipt of funds was the primary reason.

In addition, in almost every case, the interviewee governments' fiscal procedures had not changed as a result of revenue sharing, thus illustrating the ease with which the funds had been handled from receipt through the planning process. Furthermore, the interviewees did not anticipate "forced" changes in fiscal procedures as a result of the final ORS regulations. Hence, existing local (and state) procedures were deemed adequate to handle general revenue sharing funds (and are expected to do so in the future), thus making a substantial contribution to the ease with which revenue sharing and normal budget planning were integrated.

Another factor (revealed in the interviews) facilitating the smoothness of planning for the initial funds was that the officials interviewed perceived little or no impact of any provisions of the State and Local Fiscal Assistance Act of 1972 (hereafter referenced as the Act) on their flexibility in using the funds. Some governments interviewed expressed reservations and substantial caution concerning this issue. In general, most governments felt that the latitude built into the general revenue sharing program enabled the application of funds to priority problem areas. This was based on their understanding of the information available prior to the release of the final regulations.

Public participation in recipient Governments' planning processes for general revenue sharing

The legislative history of the Act contains frequent reference to the concern of several legislators, especially in the Senate, that the public and public interest groups be involved to the greatest extent possible in the recipient government's decision as to how funds will be spent. As a result, the Act requires that recipients publish in a local newspaper and advise the local media of the contents of the statutory Planned and Actual Use Reports. At the time the survey was conducted, this important part of the legislation had not been implemented.

In response to a question regarding a change in the level of citizen participation to date (i.e., as of April 1973) as a result of general revenue sharing, 20% of the respondents noted more participation. Generally, more populous areas responded positively to this question. However, 48% of the smaller counties with relatively low per capita tax effort noted an increase. Conversely, an increase in citizen participation was noted in only 3% of the responding cities having a small population and a relatively low tax effort.

On-site interviews yielded a similar mixed set of reactions. One city, for example, established a series of public hearings at which administrative proposals for expenditure of general revenue sharing funds were discussed. Another city included the revenue sharing plans in its usual public hearing on the total budget; no one showed up at the hearing as compared to over 200 attendees the year before. In this case, the property tax rate was being lowered (revenue sharing accounted for a portion of the decrease) as opposed to an increase the year before. A New England town which has a town meeting form of government inserted in the annual budget warrant an article on revenue sharing. The article received the same public scrutiny as all other budget items.

The time at which the survey was conducted is critical because the publicity requirements of the Act had not been implemented. Thirty-nine percent of the survey respondents said they expected more citizen participation in the future. The expectation of increased public participation was higher than increases reported to date across all cells in the sample, although as earlier, the higher percentages of positive responses tended to be attributable to the larger, more populous areas. The expectation of increased public participation is assumed to be related to the public requirements soon to be implemented. This assumption was reinforced during on-site interviews. An additional point which was suggested during the on-site interviews was that the smaller governments were less familiar with the provisions of the Act; in one case, the interviewer had to explain the publicity requirement. It could be postulated, therefore, that the somewhat less frequent forecast of increased participation by smaller governments may have been in part attributable to their lack of familiarity with the statutory publicity requirements.

Only 9% of respondent state governments noted increases in public participation, and only 14% expected an increase in the future. During the on-site visits and numerous discussions with state government officials, most have indicated that public scrutiny of the state government's budgeting process is already at a very high level and that it would be unusual to expect significant increases attributable to revenue sharing. A contributing factor may be that, as a general rule, revenue sharing represents a smaller percentage (2% to 3%) of a state government's total budget than it does for a unit of local government.

Several conclusions may be drawn from the survey. First, it appears that those governments that experienced an increase in public participation had taken some initiative to encourage such participation. Second, given the large percentage of respondents who were able to integrate planning of general revenue sharing funds with their normal planning/budgeting process, it would seem unusual if a marked increase in public participation over that which normally accompanies the budgeting process were to have taken place. The on-site interviews indicated that most governments had accorded to their revenue sharing plans the same level and method of publicity given to plans for their own funds, and their revenue sharing plans were not the subject for separate publicity. In addition, some of the interviewed officials indicated that the increases in public participation could in part be attributable to the novelty of the program and the national publicity given the initial funds distribution. Public interest due to this activity could be expected to diminish over time. In summary, therefore, the question of sustained increases in public participation in the local decision-making process can only be answered in the future.

The uses intended for general revenue sharing funds

A majority of units of local government responding to the questionnaire indicated that capital expenditures (72% overall) and public safety operating/maintenance expenditures (57% overall) were among the top three priority applications of general revenue sharing funds. This was consistently true regardless of type, size, or per capita tax effort of the respondent government. Fifty-seven percent of the respondent state governments included capital expenditures on their revenue sharing priority lists while 66% included education.

Priority areas least often identified by respondent local governments were library (6% overall) and social services (8% overall) operating/maintenance expenditures. Respondent state governments placed housing and community development (0%) and economic development (0%) at the bottom of their lists.

Questionnaire responses indicated widespread intention to employ the funds received in the first two general revenue sharing checks in capital-type projects; this was strongly reinforced in the interviews. Buildings, roads, sewage lines, and various kinds of new equipment were felt to be sorely needed by officials of nearly all governments interviewed. The expenditure plans of many interviewees give some indication that some respondents to the mail survey may have included capital and other nonrecurring types of planned expenditures under the operating/maintenance categories. Therefore, the actual intent to use the first entitlement period's funds on nonrecurring expenditures may be even more pervasive than directly indicated by the percentage including these expenditures on their priority list.

The interviews also revealed a number of explanations for the apparent emphasis on capital-type applications to date. First, officials of the visited governments reported that capital improvement and development programs have been neglected in recent history. Several factors were mentioned as sources of this neglect. Local government officials cited statutory restrictions on the sources and amounts of funds available to them. A second factor mentioned by several officials was that bond issues for capital outlays for other than educational purposes have been poorly received at the polls in referenda. This was seen as related to frequent and sizable capital requirements for education.

Another reason given for the concentration of funds on capital expenditures was that certain public interest groups whose advice was respected had recommended capital-type uses for general revenue sharing funds to:

Avoid some of the possible difficulties posed by the prohibitions and restrictions of the Act;

Maximize the "visibility" of the use of the funds; and

Avoid the potential requirement to either reduce a service or raise taxes if the general revenue sharing program were discontinued.

This concern over the long-term continuity of the program is the third major explanation for the emphasis on capital uses. Fifty-one percent of the units of local government responding to the questionnaire and 49% of respondent state governments indicated that this uncertainty was a factor in their selection of capital rather than operating expenditure. Larger cities, with both above and below average per capita tax efforts, were even more emphatic in this answer (67% and 72%, respectively) while small minor civil divisions were somewhat less likely to voice this concern (36% of the respondents with above average per capita tax efforts, 38% of those below).

The dominance of capital expenditures is further indicated. For example, 49% of the respondent state governments and 44% of all respondent units of local government reported that they were planning increases in existing program levels in the capital projects area with the revenue sharing funds received to date (April 1973). However, while capital expenditures are the primary choice of many governments, they are seldom the only planned use. In the case of both state and local respondents, 80% indicated that at least some of the funds received to date were planned for operating or maintenance expenses.

This diversity of use with emphasis on capital projects was further documented by the interviews. In every case, while the majority of the available funds might be targeted for a capital project or program, at least some money was planned for operating-type expenses. These expenses typically included at least a small amount of wages and salaries.

One other indicated use of general revenue sharing funds was in projects financed jointly with other governments. Overall, 21% of the respondent units of local government and 40% of respondent state governments answered yes to a question concerning their intentions in this area. While the local figure may seem modest to those concerned with intergovernmental cooperation and regional problem-solving, the significance of the figure increases because cooperative efforts take larger and longer planning efforts than internal program. The interviews provided supportive evidence that, while jointly financed efforts are not presently a widely planned use of funds, this is due primarily to the program's newness and the short time the funds had been available (as of April 1973).

In summary, it can be concluded that capital applications are the most frequent targets for the first entitlement period's funds. However, in most cases, some funds are being spent in noncapital programs across a broad range of categories and programs. Jointly financed projects are presently being planned by some governments, but only time will tell at what level this type of activity will be funded through revenue sharing. The present emphasis on capital expenditures is seen as attributable in large measure to the newness of the program. Many other factors external to the revenue sharing program have also contributed to expenditure decisions made by recipient governments. It therefore remains to be seen whether future applications of revenue sharing funds will follow the present pattern.

Status of general revenue sharing funds as of April 1973

Respondent units of local governments indicated that, on the average, they had appropriated 58% of the funds received in the first two checks as of April 1973. Respondent state governments indicated an average of 48% appropriation. The average figure for units of local government was relatively constant across the various types of population size and per capita tax strata with a range from 33% (the average for small cities with higher than average per capita tax effort) to 74% (the average for small counties with lower than average tax effort). These average figures are, however, somewhat misleading. In general, most governments had appropriated all of the money received or none of it. This is graphically displayed in Figures 1 and 2. In the case of respondent units of local government, 29% of the recipients had appropriated none of the money received. Forty-nine percent of the respondent state governments had appropriated none of the funds.

Recipient governments were also asked to report how much of the funds received to date had actually been spent. Since expenditure normally follows the appropriation process, the responses, as expected, showed the same "all or none" pattern, with less of the funds having been spent than had been appropriated. While the average percentage expenditure of all the respondent units of local government was 14% (with relative consistency across type, size, and tax effort strata), approximately 63% of the responding local governments had spent none of the money received. Figure 3 shows the distribution of funds spent by local governments. Only two respondent state governments had actually spent any of their money.

The interviews confirmed that, as of April 1973, approximately 50% to 60% of the funds available had been appropriated. However, the interviews provided some insight into why these figures should not be higher. First, since it is a requirement of the Act that governments employ all local procedures in spending the funds, the normal administrative process (timing of public hearings, meeting dates for the legislative body, etc.) was applied to general revenue sharing funds. Given that about three months had passed between the recipients' receipt of their second check and their response to this survey's questionnaire, it would seem unusual if recipients had completed the appropriation process on (let alone actually spent) a higher percentage of the funds received.

Another factor mentioned in the interviews was a note of caution indicated by officials of some governments visited. Even though the final regulations (issued in late April) do not apply to the first entitlement period's funds (which were disbursed under interim regulations), several interviewed officials indicated that they were awaiting arrival of the final regulations prior to any decision-making. If this cautious approach is at all widespread, which is possible given the number of recipients dealing for the first time with the Federal Government, it would affect the length of time between receipt, action, and end use of the funds by many recipient governments.

Overall, it seems that the recipient governments are progressing well in appropriating and expending general revenue sharing funds. It takes time to plan, budget, propose, appropriate, and expend public funds. It will continue to take time in the future. With reliable forecasts of future payments, recipient governments may be able to plan for the expenditure of revenue sharing funds further into the future thereby shortening the time between receipt and expenditure of these funds.

The general revenue sharing funds not yet spent by the governments interviewed had been invested through their standard investment vehicles and in their standard money instruments. The most frequently mentioned instruments were Treasury Bills and Certificates of Deposit. In some cases, the funds have been mixed with available funds in a commingled investment account with proceeds periodically allocated back to the revenue sharing trust account. In other cases, the funds were kept in a segregated investment account or resided in a separate bank account earning standard interest rates. The rates of return earned by the interviewed governments varied between 4.5% and 6.5% per annum.

Anticipated impact of general revenue sharing funds

Given the short time between the receipt of the initial funds and the conduct of this survey and the rate of appropriation and spending of these funds, data on the actual impact of the funds was not available. However, some information was collected on the anticipated and intended effects of general revenue sharing.

Overall, 8% of the respondent recipient units of local government intend to reduce property taxes as a result of revenue sharing's availability, while 17% of the respondent state governments reported similar intent for their income taxes. Among the various sample cells, the only pattern indicated was that minor civil divisions and counties were somewhat more likely to forecast tax reductions than cities.

While these aggregate percentages of respondents planning to reduce taxes are modest, it must be remembered that part of the stimulus for the entire program was the fiscal pressure on local and state governments to raise taxes. In spite of revenue sharing, 17% of respondent local governments indicated their intention to raise taxes, although they indicated that the increases would be smaller than they would have been without revenue sharing.

More frequently, the anticipated impact on local finances of general revenue sharing funds was to enable governments to avoid tax rate increases. This was indicated by 40% of respondent local governments and 63% of large cities (with above average per capita taxes). Twenty-three percent of the respondent state governments reported that revenue sharing funds would forestall income tax increases.

In the interviews, revenue sharing was most often described as having enabled the avoidance of increasing an already heavily burdened property tax or of reaching the statutory limits on the tax rate. Even with revenue sharing funds available, some interviewees cited rising costs and service demands, statutory rate barriers, and voter concern with higher taxes as combining to give their governments a severe financial squeeze.

The interviewees also anticipated the following additional impacts of revenue sharing:

Accelerated trend toward development of planning/budgeting systems and the use of these systems in the planning process;

Increased understanding of local problems on the part of elected or other officials due to citizen participation in revenue sharing planning;

Improved cooperation between units of government due to making funds available for joint projects;

Tax increase avoidance, reducing pressure for emigration from central cities; and

Passage of certain forms of expenditure programs for which no local substitute had been available.

In general, however, these impact statements must be viewed as speculative comments on the part of survey respondents. It will be some time before the true impact of these funds can be accurately measured.

Recipient government sources of information and assistance

The primary sources of information and assistance for units of local government appear to be ORS and public interest/government association organizations; e.g., the National League of Cities, National Association of Counties, National Governor's Conference, and their state and regional subsidiaries and counterparts. The questionnaire returns indicated that, to date, the respondent recipient governments had made little use of paid consultants, accountants, or legal advisors with regard to revenue sharing.

From the interviews, it was learned that the reason local governments have not sought "outside" help was that both ORS and various public interest organizations have provided adequate information. Furthermore, it was frequently explained that the program is simple enough for the recipient governments to "take care of themselves." Several interviewees contrasted revenue sharing with some federal categorical grant programs, in which paid advisors were frequently brought in to assist with the preparation of grant applications, which are not required by the revenue sharing program.

In the interviews, the states were not generally cited as a source of assistance by their subordinate governments. In the case of Massachusetts, however, the State was commended for its aid to local units of government (concerning the revenue sharing program) by the government visited.

Advice to the Office of Revenue Sharing from recipients

The last question on the questionnaire, and usually the last asked in each interview, asked about "other issues" not previously covered. In most cases, there was no reply. Some of the issues raised pertained to the final regulations, which were released after the survey. The remaining replies yielded three specific suggestions to ORS. In paraphrased form it was suggested that the ORS:

Provide to recipient governments forecasts of the amounts they will receive in future periods. Governments of all types and sizes asked for this information to support their planning efforts. Forecasts will greatly facilitate future planning for revenue sharing funds, thereby reducing the time from federal disbursement of funds to local expenditure, especially for those recipients whose budget schedule does not coincide with ORS's quarterly payments.

Provide very general guidelines (on request) to those governments inexperienced with federal funds and who feel they need help. This was not a request for specific requirements or restrictive guidance, but rather for suggestions, ideas, and general advice concerning planning processes, uses of funds, accounting and reporting approaches, and general legal concerns. Corollary suggestions included a newsletter and a step-by-step checklist of the "do's and don'ts" associated with each required report.

Minimize, to every degree consistent with the requirements of the Act, reporting and other paperwork associated with the program. This suggestion was frequent, particularly from small-sized governments of all types. The explanation of the urgency of this request was that most small-sized governments had only small and often parttime staffs available to deal with administration. Excessive detail or volume of reports required by the ORS would, it was suggested, be burdensome in many of these cases.

[From Parks & Recreation magazine, Vol. 8, No. 5, May 1973, pages 22–25, 52–55]

URBAN PARKS AND RECREATION UNDER THE NEW FEDERALISM

(By Diana R. Dunn and Linda K. Lee)

(Note.—Dr. Dunn, former NRPA research director, is associate professor and head, Graduate Program in Recreation and Leisure Studies, Temple University, Philadelphia. Ms. Lee is an attorney in Washington, D.C., and a lecturer in law at George Washington University.)

Will it make any difference?

Probably not.

This is the preliminary conclusion drawn from an analysis of estimates by local decision-makers on the allocation of first-year general revenue sharing funds for parks and recreation. Despite the rhetoric of the Administration and its critics, it appears likely that the nation's urban park and recreation systems will be no better off under a system designed to shift decisions about program priorities from federal to state and local governments—but probably no worse off either.

Cities now recreationally disadvantaged with respect to others will remain so; park and recreation departments now lagging behind police and fire departments in their claims on the local treasury will continue to do so; and special population groups who now say they receive only marginal attention from local park and recreation departments will continue to say so.

Based on past experience it should not be difficult to see the logic of this conclusion, but the numbers game being played in Washington, the uncertainty in federal regional offices and the promise of more for everyone under the New Federalism have produced rampant confusion.

Part of the confusion is semantic. Revenue sharing has been used to describe both the general program enacted by the Congress in 1972 and the Administration's proposals to include in four special revenue packages more than 100 categorical, or line item, programs previously funded separately. Three of these, community development, education, and law enforcement assistance, require legislative enactment. The fourth, manpower, is to be implemented by executive action.[1]

One way to distinguish the various forms of federal assistance being discussed is according to the degree of federal control to be exercised.

General revenue sharing funds are received by the states automatically according to a formula based on population, income and tax effort indicators. No application is required. A substantial portion of these funds pass through to local communities automatically according to a similar formula.

Special revenue sharing funds may be apportioned by formula and may require an application. The funds are to be spent on broad subject areas such as community development or education, but there are no prior federal restrictions on how the funds may be spent within a category.

Block grants do require an application. They may require prior federal approval of projects and some degree of federal control and supervision.

Categorical grants require an application, prior federal approval of specific projects, and supervision right down to the type of building materials to be used, subcontracting provisions, etc.

Definitions under special revenue sharing still must be qualified since none of the proposals have been enacted and available funding for existing programs depends both on their legislative progress and on what is left in the pipeline at the end of the fiscal year.

As of this writing (late March 1973), only the law enforcement assistance special revenue sharing proposal has reached Capitol Hill. The general outlines of community development and education have been spelled out in presidential State of the Union messages, but have not yet been put into legislative language.

Manpower will be implemented through executive action. The President did not request extension of the Emergency Employment Act (PEP), which has focused on providing year-round public service jobs for adults, nor did he seek line item appropriations for the neighborhood youth corps summer recreation or summer youth transportation programs. Some 812,000 jobs were provided through these efforts in 1972, but communities must fund them this year, if they can, through remaining PEP and Manpower Development and Training Act (MDTA) funds for which legislation and $1.3 billion have been requested for 1973, a 20 percent reduction from 1972.

Community development revenue sharing is of most interest to urban park and recreation administrators. On March 8, 1973, the President sent the fifth portion of his State of the Union message to the Congress and discussed his proposed Better Communities Act (BCA). It would provide $2.3 billion a year to "communities to be spent as they desire to meet their community needs." Until it becomes effective, moneys already obligated or programs approved will continue, but no new projects will be authorized (Table 1).

TABLE I.—IMPACT OF PROPOSED SPECIAL REVENUE SHARING ON 4 SELECTED COMMUNITY DEVELOPMENT CATEGORICAL GRANT PROGRAMS

Programs	Estimated outlays[1]			Fiscal 1974 budget request
	1972	1973	1974	
Open space[2]	52	57	70	----------
Neighborhood facilities	23	26	35	----------
Model Cities	500	583	600	----------
Water and sewer facilities	134	130	123	----------

[1] All figures in millions of dollars for calendar year 1973.

[2] This program was terminated on Jan. 5, 1973; no new commitments will be made.

As presented, the BCA is very much like a measure proposed by the President in 1971. A version of it was passed by the Senate in 1972, but the House did not act. The basic provisions of the BCA are as follows:

1. Community development programs, such as open space, neighborhood facilities, model cities, and basic water and sewer facilities, now separately funded categorical programs, are to be included. Although communities may continue to fund these activities, "it would be up to local leaders."

2. BCA funds will flow directly to cities and urban counties on the basis of objective standards, but, according to the President, "in the years immediately following enactment, funds would be used to assure that no city receives less money for community development than it has received under the categorical grant programs."

3. Special provisions are to be included for smaller communities and to define the role of the state governments.

4. Shared revenues under BCA do not need to be matched by local contributions.

5. Recipients "would be required to show the federal government only that they are complying with federal statutes in the way they are spending their revenue sharing money." (Anti-discrimination, federal wage guarantees, and environmental impact statement requirements are included here.)

To assist communities in managing these shared revenues, the President proposes to replace the present Comprehensive Planning Assistance Act (Section 701 of the Housing Act of 1954) with the Responsive Governments Act (RGA) to be funded at a level of $110 million in fiscal 1974. He was critical of the earlier program for placing too much emphasis on planning and too little on budgeting, management, personnel, administration, and information-gathering. "Planning," in the President's words, "has often been irrelevant to the problems and the actual decisions." The RGA would broaden the 701 program and assist state and local governments in "developing reliable information on their problems and opportunities; developing and analyzing alternative policies and programs; managing the programs; and evaluating the results, so that appropriate adjustments can be made."

With problems of legislative language still to be resolved so that the two measures can be sent to Congress for the necessary round of authorization and appropriations hearings and floor enactment, only the most optimistic observer could predict final action by the end of the fiscal year, June 30, 1973. Remaining pipeline funds may lessen the impact of adjustment from categorical to revenue sharing funding, but local park and recreation administrators meanwhile must confront the calendar and budget their activities practically in a vacuum of leadership and information.

As previously noted, general revenue sharing funds are received automatically by states and cities according to formulae. The $30.2 billion included in the 1972 Act for a five-year period amounts to a return of about one percent of federal income tax revenues to the states. Of this total, one-third is reserved to the states without limitation except that it may not be used to provide state matching for remaining categorical programs or for highway construction (due to the existence of the Highway Trust Fund for this purpose). The other two-thirds automatically pass through to the local communities for "ordinary and necessary maintenance and operating expenses" in priority areas including public safety, environmental protection, public transportation, health, recreation, libraries, social services for the poor and aged and financial administration. Education is excluded and is the subject of a separate revenue sharing proposal. Ordinary and necessary capital expenditures authorized by law may also be financed through general revenue sharing funds.

As the details of revenue sharing implementation became known, the reaction of state and local officials was mixed. Originally presented as a supplement to existing forms of federal assistance, revenue sharing received the enthusiastic support of many mayors and governors of both political parties, many of whom testified in favor of the general revenue sharing bill in 1972. But despite earlier rhetoric to the contrary, the Administration's 1974 budget justified the elimination of a number of categorical programs on the grounds of the existence of federally shared revenues. The elimination of the urban open space program is a case in point. The budget explanation stated:

"Provision of local open space is a low priority use for federal resources, since benefits accrue to local residents and should be supported from local financial resources. Local communities may continue to provide public open space through the use of federally shared revenues."

To the beleaguered city official, in the absence of the community development special revenue sharing package, this language appears to put open space in direct competition across the board with all local services, not just those within the community development rubric. The Conservation Foundation summed up the reaction of many local officials:

"They like the idea of revenue sharing, with its greater flexibility and local control. But many mayors and others are not so sanguine about the prospect for these programs in competition with other municipal activities over limited funds."

There is also considerable dispute over how much there will be to divide among competing public service needs. Testifying before the hearings of Senator Edmund Muskie's Subcommittee on Intergovernmental Relations, former HUD Under Secretary Robert Wood described the Administration's revenue sharing program "in effect a $10.9 billion withdrawal" terminating or phasing out 112 social action programs previously costing $16.9 billion with an annual $6 billion general revenue sharing program. Boston, he pointed out, would receive $17 million in general revenue sharing in 1973, "while watching at least $100 million cut from programs such as model cities, the public service employees programs, and public housing."

Even though some of these programs would presumably be funded through a combination of new special revenue sharing and/or block grant legislation, pipeline funding and local resources, local officials found themselves nearing the end of the fiscal year with a confusing numbers game going on in Washington, total confusion at the federal regional office level and a host of unmet needs in every sphere.

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[1] At the same time, proposed budget reductions in other areas will decrease the amount of funding available to states and cities for parkland acquisition. The Land and Water Conservation Fund, administered by the Bureau of Outlook Recreation of the Department of the Interior, receives some $300 million in revenue annually and matches state funds to acquire parklands. Although the full $300 million was appropriated in 1972 and 1973, the President has requested an appropriation of only $55.2 million for fiscal 1974. It should be noted, however, that the President, while sharply cutting the LWCF, has requested a substantial increase for the National Park Service's program of assistance to the states for historic preservation planning and projects, and for a special bicentennial program to fund "historic projects in those major cities which figured importantly in the movement to independence." This item shows a requested increase from $12.2 million in fiscal 1973 to $19.5 million in 1974.

In November 1972, Senator Muskie's Subcommittee addressed a questionnaire to 2,359 mayors and city managers to "uncover the pressure points in our current system . . . (and) to discover the attitudes . . . toward different kinds of federal assistance." The senator released an analysis of the information received from more than 700 small- and medium-sized cities and 71 large cities in late February.

As expected, local officials were enthusiastic about the idea of less red tape and restrictions under block grant or special revenue sharing proposals but were "adamant that block grants or special revenue sharing must not be used as an excuse to lower the dollar amounts of federal money going to the cities." A majority of the mayors of the 71 large cities "oppose any cutbacks in categorical aid." Typical comments released by the subcommittee suggested that the goals of revenue sharing and categorical programs are not the same, and stressed that categorical programs are essential to deal with environmental problems transcending political boundaries. This last observation was in line with pleas from the recipients of categorical grants who claimed that federal funds provided the catalyst for experimentation in meeting social service needs.

On the basis of the first questionnaire, subcommittee staff analysts concluded that the priorities selected by the cities, large and small, were:

Capital improvements;
Public safety;
Personnel adjustments.

Programs mentioned less frequently were tax relief and environmental improvement. Only a small percentage reported plans to use general revenue sharing funds for services to the poor and elderly. The subcommittee report added:

"It is important to note that most of the cities responding to the subcommittee survey did so before the Administration's budget for fiscal year 1974 was announced and before local officials had any indication that they were expected to use revenue sharing funds to replace federal money cut back from social programs."

In an effort to supplement the subcommittee's information, another questionnaire probing some of the same areas was sent in late February to parks and recreation administrators in 25 of the nation's 56 cities over 250,000 population. These were the same cities on which a considerable amount of data had already been gathered in connection with the 25-city study of inner-city open space and recreation opportunity conducted by NRPA for HUD.[2] By then, these officials were presumably aware of the President's 1974 budget message and its implications for federally funded parks and recreation programs. Information received from these administrators on four major questions is revealing.

1. *Preferred Types of Assistance?* A small majority of the respondents (56 percent) feel that the federal system of furnishing assistance in the form of categorical grants prevents them from using federal money in a manner which is best for their communities' park and recreation system and prefer federal assistance in the form of block grants or revenue sharing rather than categorical grants. However, more than two-thirds (69 percent) of the respondents believe that parks and recreation will receive less money through revenue sharing than they did through past categorical grants and a full three-fourths of them think it undesirable for the federal government to cut back its categorical grant program.

2. *Capital or Operating?* Park and recreation administrators estimated or verified that 62 percent of all general revenue sharing funds received in their cities will be directed to capital expenditures; only 38 percent will be used for operations.

3. *Who Will Benefit?* Eighty-two percent of the park and recreation administrators believe that the federal revenue sharing funds received by their cities will be spent generally to benefit evenly the entire city population rather than special population groups such as the poor, aged, inner-city, etc. The same percentage of responding administrators also believe that revenue sharing received by their cities and then earmarked for park and/or recreation purposes will be spent generally to benefit evenly the entire population.

4. *How Will Funds Be Spent?* Tables 2 and 3 reflect the estimates of general revenue sharing funds to be allocated (1) among all public services, and (2) among park and recreation budget categories. Tax relief, public safety, and transportation are expected to receive over half of general revenue sharing funds allotted to these cities; parks and recreation together would receive about 13 percent, forecast the respondents. The administrators were asked to predict how general revenue sharing funds tagged for parks and recreation would be spent. As shown in Table 3, capital improvements and land acquisition will receive the lion's share—63 percent. Programs or facilities for special population groups (poor, aged, handicapped, etc.) are not targeted for substantial special help.

TABLE 2.—*Parks and recreation administrators' estimates regarding the expenditure of revenue sharing funds in their cities*[1]

[In mean percentage]

Function:	
Tax relief	21
Public safety (police, fire, code enforcement, etc.)	18
Transportation (streets, mass transit, etc.)	13
New public buildings or renovation	8
Parks	8
Social services for poor, aged, etc.	7
Environmental protection (sewage disposal, sanitation and pollution abatement)	7
Recreation	5
Health	2
Financial administration	2
Libraries	1
Other	8
Total	100

[1] In calendar 1973

TABLE 3.—*Park and recreation administrators estimates regarding the expenditure of general revenue sharing funds allocated for parks and/or recreation in their cities*[1]

Function	[In mean percentage]
Capital improvements	45
Land acquisition	18
Maintenance and operations	15
New personnel	7
Program leadership—services	6
Programs or facilities for special population groups such as the poor, aged handicapped, etc	5
Salary adjustments	3
Other	1
Total	100

[1] In calendar 1973

Thus a paradox occurs, for, while parks and recreation administrators bemoaned past categorical grant spending restrictions which forced spending for hardware, now that more local control is possible, the same pattern will largely be followed. Geneal revenue sharing will apparently cause no about-face.

As noted, these figures are only estimates and represent wide variations. Houston and Kansas City park and recreation administrators expect to receive a full 30 percent of general revenue sharing funds; Phoenix anticipates 37 percent. On the other hand, estimates for Los Angeles, Seattle and Newark are 3, 4, and 5 percent respectively. Atlanta and Boston administrators expect no funds at all for park and recreation purposes. Atlanta had intended to use its entire general revenue sharing allocation for rebates to water-bill payers, and Boston is earmarking 90 percent for tax relief and 5 percent each for public safety and health.[3]

Overall conclusions based on supposedly sympathetic crystal-ball gazing are confusing and very possibly misleading. A review of other trends does not yet seem to warrant the optimism currently expressed by some park and recreation administrators who expect substantial proportions of general revenue sharing funds to flow into their departments. For example, eight administrators report they anticipate between 9 and 37 percent of their cities' entire general revenue sharing funds—or an average of 20 percent for the eight cities. However, only two of these departments exceeded the average 1970 per capita operating expenditures for cities of their size. That is, *local support for public parks and recreation in six of these cities has been below average.*

The mayors' estimates may be more realistic. According to their responses to Senator Muskie's survey, only *one* of these eight cities should anticipate *any* general revenue sharing funds to flow into its park and recreation system.

The opinions of the mayors will be crucial if the Better Communities Act and the transition from categorical grants to the full program of special revenue sharing take place. One of the tenets of the New Federalism, as President Nixon and his aides have described it, is the concentration of control over federal funds in the hands of locally *elected*—not appointed—officials. The funds will be allocated according to community priorities as perceived by those elected officials.

Thus, unless parks and recreation administrators can mobilize their constituencies at City Hall, they not only will not get more from the New Federalism, they may even get less. One thing is clear. For urban parks and recreation systems, the New Federalism is not a new dollar.

REFERENCES

1. *The Budget of the United States Government, Fiscal Year 1974,* U.S. Government Printing Office, Washington, D.C., 1973.

2. *The Budget of the United States Government, Fiscal Year 1974 Appendix,* U.S. Government Printing Office, Washington, D.C., 1973.

3. *C. F. Newsletter: A Report on Environmental Issues,* The Conservation Foundation, Washington, D.C., February 1973.

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[2] When Dr. Dunn, project director of the 25-city study, left NRPA to join the faculty at Temple University in 1972, the Association subcontracted the balance of this three-year study to the university in order that it might be completed under her direction. To make the conclusions and especially the recommendations of the project as current and relevant as possible, the opinion of the 25 study-city park and recreation administrators was sought with respect to how new federal actions and trends would affect programs in their cities.

[3] Atlanta attempted to transfer funds for firemen's salaries to its water and sewer fund, lower water rates and return the balance to water users in the form of rebates. The United States District Court (N. Dist. Ga., Atlanta Division) on March 15, 1973, issued a permanent injunction against such use of the general revenue sharing funds. (Mrs Ethel Mae Mathews et al. v. Mayor Sam Massell et al.). According to the Treasury Department this is the first known court challenge to the allocation of general revenue sharing funds.

4. *The Federal Budget and the Cities,* a review of the President's 1974 budget in light of urban needs and national priorities, National League of Cities and The U.S. Conference of Mayors, Washington, D.C., 1973.

5. Edmund Muskie, "Mayors Plead for Social Programs," testimony by 12 mayors on proposed cutbacks in social and human resource programs before the Senate Subcommittee on Intergovernmental Relations, *Congressional Record,* February 21, 1973, pp. 4884–4898.

6. Richard M. Nixon, "State of the Union," on Community Development, *Congressional Record,* March 1, 1973, pp. 6013–6018.

7. Richard M. Nixon, "State of the Union," on Quality of Life in Cities and Towns, *Congressional Record,* March 8, 1973, pp. 6894–6897.

8. *Preliminary Results of the November 1972 Survey on Federal Grant Systems Conducted by The Senate Subcommittee on Intergovernmental Relations,* unpublished, 78 pages, mimeographed.

9. "Title 31—Money and Finance—Treasury, Part 51—Fiscal Assistance to State and Local Governments," *Federal Register,* Vol. 37, No. 209, October 28, 1972.

10. "Washington Scene," *Parks & Recreation,* Vol. 7, No. 12, December 1972, pp. 9–10.

11. Robert Wood, "The Impact of New Federalism Proposals on Higher Education," statement before The Subcommittee on Intergovernmental Relations of the Senate Committee on Government Operations, February 23, 1973, 12 pages, mimeographed.

PHASE IV

Mr. HANSEN. Mr. President, I would like to take this opportunity to make a few comments about the phase IV economic controls which were just announced. I share the views put forth yesterday by the distinguished minority leader (Mr. SCOTT) that these controls are good because they are seeking to bring supply and demand into balance and because they have been drawn up in such manner so as to present a mechanism for getting us out of a controlled economic society. I do, however, have a few reservations about these controls, and I am pleased that the public will be allowed to comment until July 31.

I would like to reemphasize my concern about keeping a ceiling on the prices of crude oil and other energy products as well as a rollback of crude oil prices to their May 15 level. Even though increased crude oil production per barrel will be exempt from the ceiling as will an equivalent amount of old oil, we are still not providing enough incentive to increase the supply of these products. Imposing such restrictions on the petroleum industry will only further discourage the search for and the recovery of these vital resources and will also further delay a means of resolving our balance-of-payments deficit.

I also have very serious reservations about the continued ceiling on the price of beef and would encourage the lifting of this ceiling before the proposed September 12 date. Americans are now eating more beef today than they did 20 years ago. In 1952 Americans consumed 56 pounds per person per year as compared with 116 pounds per person at the present time. In attempting to meet this increased demand, beef production has increased 285 percent during this same period. And yet, in this same 20-year period, returns to cattle growers have lagged far behind nearly every other commercial and industrial producer. We must now do all we can to encourage a greater production of beef, and by placing price-depressing controls on this product we will only be contributing to the probability of severe beef shortages in the very near future. Therefore, the sooner these controls are lifted, the better it will be for the American consumer. While beef prices may rise temporarily, there will be the necessary encouragement for increased future supplies.

Aside from these reservations, I am favorably impressed with the fact that the President gives assurance of the termination of economic controls in the future—at a time appropriate to preserve incentives for investment and increased production. The sooner these controls can be lifted, the better it will be for both the consumer and economy in the long run.

Also encouraging was the announcement of returning to the concept of a balanced budget—balanced in the sense that tax revenues should at least equal Federal expenditures. I have stated before my own reservations about the validity of the Full Employment budget, especially in these times of great inflationary pressures, and was most pleased by the President's comment that the key to the success of reducing inflation will be to balance the actual budget rather than just the full employment budget. I wholeheartedly endorse the President on this point and pledge to do all I can to help achieve this goal. It will, however, take a joint effort on the part of Congress and the administration to fully realize this objective, and the public should be made aware of this fact. Huge deficit spending by the Federal Government has been the major impetus of this present inflationary spiral, and only after the budget has been brought into balance can we expect the economy to adequately regulate itself through the forces of supply and demand.

Although this is the most powerful Nation in the world, we are not so powerful that we can defy these basic economic concepts of supply and demand. We must realize that we cannot control our economy through Government edict, but instead we must control it through Government responsibility.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for Monday next is as follows:

The Senate will convene at the hour of 10 a.m. After the two leaders or their designees have been recognized under the standing order the following Senators will be recognized, each for not to exceed 15 minutes and in the order stated: Mr. HUGHES, Mr. FONG, Mr. McCLURE, and Mr. ROBERT C. BYRD.

Thereafter, there will be a period for the transaction of routine business for not to exceed 15 minutes, with statements limited therein to 3 minutes. At the conclusion of routine morning business the Senate will proceed to the consideration of the unfinished business, H.R. 8947, the bill making appropriations for public works for fiscal year 1974. There is a time agreement thereon. The yeas and nays may occur on amendments, if amendments thereto are offered. In any event, there will be a rollcall vote on final passage of the bill.

On disposition of the public works appropriation bill, the Senate will take up S. 1149, a bill to increase the supply of railroad rolling stock and to improve its utilization to meet the needs of commerce, users, shippers, national defense, and the consuming public. There is a time agreement thereon. It is not anticipated that there will be much of a problem with that bill, but Senators are always ready—just as Boy Scouts are always prepared—for any eventuality, and, in any event, there may be a yea and nay vote on final passage.

Upon disposition of S. 1149, the Senate will take up S. 2101, a bill to amend the Truth in Lending Act to protect consumers against inaccurate and unfair billing practices, and for other purposes. There is some controversy in connection with that bill. Yea-and-nay votes are expected on amendments and on final passage, and presumably the Senate will reach final passage on that bill on Monday. However, that is not necessarily assured.

In summation, there will be yea-and-nay votes on Monday.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT TO MONDAY, JULY 23, 1973, AT 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the previous order that the Senate stand in adjournment until the hour of 10 a.m. Monday next.

The motion was agreed to; and at 5:47 p.m., the Senate adjourned until Monday, July 23, 1973, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate July 20, 1973:

Department of Defense

J. William Middendorf II, of Connecticut, to be Under Secretary of the Navy, vice Frank P. Sanders, resigned.

Department of the Treasury

William L. Gifford, of New York, to be a Deputy Under Secretary of the Treasury, vice James E. Smith.

Securities and Exchange Commission

The following-named persons to be members of the Securities and Exchange Commission for the terms indicated:

For the remainder of the term expiring June 5, 1976: A. A. Sommer, Jr., of Ohio, vice A. Sydney Herlong, Jr., resigned.

For the remainder of the term expiring June 5, 1977: Ray Garrett, Jr., of Illinois, vice G. Bradford Cook, resigned.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 20, 1973:

In the Army

The United States Army Reserve officers named herein for promotion as Reserve Commissioned officers of the Army, under the provisions of title 10, United States Code, section 593(a) and 3384:

To be major general

Brig. Gen. Edward Irving Creed, SSN [redacted].

Brig. Gen. Herbert Marshall Martin, Jr., SSN [redacted].

Brig. Gen. Robert Darwin Partridge, SSN [redacted]

To be brigadier general

Col. Chester Lee Finch, Jr., SSN [redacted] Civil Affairs.

Col. James William Hoerner, SSN [redacted] Infantry.

Col. Jack Jew, SSN [redacted] Medical Corps.

Col. Franklin Lane McKean, SSN [redacted] Field Artillery.

Col. William Allen Newton, Jr., SSN [redacted] Medical Corps.

Col. Ben Lewis Rushing, SSN [redacted] Field Artillery.

The Army National Guard of the United States officers named herein for promotion as Reserve Commissioned officers of the Army under the provisions of title 10, United States Code, section 593(a) and 3385:

To be major general

Brig. Gen. Howard Gurney Garrison, SSN [redacted]

To be brigadier general

Col. Fletcher Clement Booker, Jr., SSN [redacted] Field Artillery.

Col. Max Arnold Creer, SSN [redacted] Field Artillery.

Col. Nicholas Joseph Del Torto, SSN [redacted] Infantry.

Col. William Paul Hurley, SSN [redacted] Infantry.

Col. Robert Earl Johnson, Jr., SSN [redacted] Infantry.

Col. Roger Irvin Martin, Jr., SSN [redacted] Ordnance Corps.

Col. Joseph Henry Ritzenhein, SSN [redacted] Infantry.

Col. James Read Stallings, SSN [redacted] Military Police Corps.

The Army National Guard of the United States officers named herein for promotion as Reserve Commissioned officers of the Army under the provisions of title 10, United States Code, section 593(a) and 3392:

To be major general

Col. Thomas Sams Bishop, SSN [redacted] Infantry.

To be brigadier general

Col. Calvin Hubert Lanning, SSN [redacted], Armor.

Col. Richard Austin Miller, SSN [redacted] Infantry.

Col. Albert Ross Morris, Jr., SSN [redacted], Armor.

Col. Thomas Martin Phillips, SSN [redacted] Field Artillery.

Col. Charles Sumner Reed, Jr., SSN [redacted] Corps of Engineers.

Col. Clyde Chester Wright, SSN [redacted] Field Artillery.

1. The following-named Army Medical Department officers for temporary appointment in the Army of the United States, to the grades indicated, under the provisions of title 10, United States Code, sections 3442 and 3447:

MEDICAL CORPS

To be major general

Brig. Gen. Robert Bernstein, [redacted], Army of the United States (colonel, Medical Corps, U.S. Army).

Brig. Gen. Edward Henry Vogel, Jr., [redacted] Medical Corps, U.S. Army.

To be brigadier general

Col. Kenneth Ray Dirks, [redacted], Army of the United States (lieutenant colonel, Medical Corps, U.S. Army).

Col. George Sawyer Woodard, Jr., [redacted] Medical Corps, U.S. Army.

Col. Spencer Beal Reid, [redacted], Medical Corps, U.S. Army.

Col. William Albert Boyson, [redacted], Medical Corps, U.S. Army.

MEDICAL SERVICE CORPS

To be brigadier general

Col. John Edward Haggerty, [redacted], Medical Service Corps, U.S. Army.

2. The following-named officers for appointment in the Regular Army of the United States, to the grade indicated, under the provisions of title 10, United States Code, sections 3284 and 3307;

MEDICAL CORPS

To be major general

Maj. Gen. James Arista Wier, [redacted] Army of the United States (brigadier general, Medical Corps, U.S. Army).

Maj. Gen. Spurgeon Hart Neel, Jr., [redacted] Army of the United States (brigadier general, Medical Corps, U.S. Army).

3. The following-named officers for appointment in the Regular Army of the United States, to the grade indicated, under the provisions of title 10, United States Code, sections 3284 and 3306:

MEDICAL CORPS

To be brigadier general

Brig. Gen. Robert Bernstein, [redacted], Army of the United States (colonel, Medical Corps, U.S. Army).

Maj. Gen. Richard Ray Taylor, [redacted], Army of the United States (colonel, Medical Corps, U.S. Army).

1. The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Hal Bruce Jennings, Jr., [redacted] Army of the United States (major general, U.S. Army).

2. Maj. Gen. Richard Ray Taylor, [redacted] Army of the United States (colonel, U.S. Army) for appointment as the Surgeon General, U.S. Army, with the grade of lieutenant general, under the provisions of title 10, United States Code, section 3036.

IN THE NAVY

Comdr. Paul J. Weitz, Jr., U.S. Navy, for permanent promotion to the grade of captain in the Navy in accordance with article II, section 2, clause 2 of the Constitution.

IN THE ARMY

Army nominations beginning Jack H. Leach, to be colonel, and ending Alan P. Smith, to be first lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on July 9, 1973.

Army nominations beginning Earle L. Denton, to be lieutenant colonel, and ending John W. Sagartz, to be captain, which nominations were received by the Senate and appeared in the Congressional Record on July 9, 1973.

Army nominations beginning Donald J. Acker, to be colonel, and ending Willard B. Woodruff, Jr., to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on July 9, 1973.

IN THE NAVY

Navy nominations beginning James R. Lash, to be lieutenant commander, and ending Timothy H. Meyer, to be ensign, which nominations were received by the Senate and appeared in the Congressional Record on July 9, 1973.

Navy nominations beginning Timothy K. Murphy, to be ensign, and ending Michael B. Sanborn, to be ensign, which nominations were received by the Senate and appeared in the Congressional Record on July 13, 1973.

IN THE MARINE CORPS

Marine Corps nominations beginning Albert W. Campbell, to be colonel, and ending Walter F. Welch, to be second lieutenant, which nominations were received by the Senate and appeared in the Congressional Record and July 9, 1973.

Marine Corps nominations beginning William R. Abele, Jr., to be major, and ending Arthur Yow, Jr., to be chief warrant officer (W-2), which nominations were received by the Senate and appeared in the Congressional Record on July 9, 1973.

HOUSE OF REPRESENTATIVES—*Friday, July 20, 1973*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Keep thy heart with all diligence; for out of it are the issues of life.—Proverbs 4: 23.

Almighty God, our Heavenly Father, mercifully look upon our Nation and come into the hearts of our people that by Thy grace we may be saved from evil ways and may enter the open doors of a better and a higher life in Thy service.

Deliver us from an undue sense of our own importance and lead us to a greater concern about an increase of justice, mercy, and truth in our land.

Deliver us from pride of class, color, or creed, and renew our spirits with truth and love that we may be doers of Thy word and not hearers only.

Draw us closer to Thee and bind us together in the bonds of a common faith and a common devotion that we may be united in spirit as we proclaim liberty, justice, and good will to all.

In Thy holy name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 3630. An act to extend for 3 years the period during which certain dyeing and tanning materials may be imported free of duty;

H.R. 7935. An act to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rates under that act, to expand the coverage of that act, and for other purposes; and

H.R. 8070. An act to authorize grants for vocational rehabilitation services, and for other purposes.

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 59. An act to amend title 38 of the United States Code to provide improved and expanded medical and nursing home care to veterans; to provide hospital and medical care to certain dependents and survivors of veterans; to provide for improved structural safety of Veterans' Administration facilities; to improve recruitment and retention of career personnel in the Department of Medicine and Surgery; and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 504) entitled "An act to amend the Public Health Service Act to provide assistance and encouragement for the development of comprehensive area emergency medical services systems."

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 426. An act to regulate interstate commerce by requiring premarket testing of new chemical substances and to provide for screening of the results of such testing prior to commercial production, to require testing of certain existing chemical substances, to authorize the regulation of the use and distribution of chemical substances, and for other purposes; and

S. 1148. An act to provide for operation of all domestic volunteer service programs by the ACTION Agency, to establish certain new such programs, and for other purposes.

THE SENATE COMES UP WITH A REMARKABLE COMPROMISE TO THE CONTROVERSIAL WEST FRONT OF THE CAPITOL ISSUE

(Mr. STRATTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRATTON. Mr. Speaker, I want to bring to the attention of the House the fact that the Senate yesterday passed the legislative branch appropriation bill, and in connection with the controversial west front project came up with a really remarkable proposal, in fact a remarkable compromise solution to this issue.

First of all, they found out not only that we can successfully restore the west front but we can restore it for a mere $10 million. To be on the safe side they put $15 million for restoration in their bill. Second, they have proposed an arrangement for providing three times the needed office space to the House of Representatives in the Capitol vicinity at just one-seventh of the cost which the long-touted extension proposal would do. Details of this remarkable compromise are contained in the RECORD for July 19, at pages 24831 and 24832.

I believe this remarkable recommendation deserves the most serious consideration by every Member of the House. I hope the conference committee will consider it very carefully and favorably, so we can preserve the Capitol, save the taxpayers' money, and get all the additional office space the House requires.

PERMISSION FOR COMMITTEE ON FOREIGN AFFAIRS TO FILE REPORT ON H.R. 9360

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs may have until midnight tonight to file a report on the bill H.R. 9360.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

MAJORITY LEADER THOMAS P. O'NEILL, JR., SAYS PHASE IV IS LIKE RADIATION TREATMENT

(Mr. O'NEILL asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. O'NEILL. Mr. Speaker, the trouble with phase IV is that it is too much like radiation treatment. You give this kind of dosage when the patient is in such bad shape that you have not anything to lose.

The President's attempt to kill off inflation runs the danger of destroying the entire economic boom of which his administration was so proud. The morning papers tell us that production fell off sharply in the second quarter and that the economy as a whole is headed downhill. How far down nobody knows. But it could be the most devastating drop in the whole economic roller coaster which this administration has been operating for the past 5 years.

Yet the administration still refuses to take the really hard medicine. The President's message made no recommendation for the thorough and equitable tax reform that this Nation needs.

Instead, Secretary Shultz took refuge in an economic sacred cow from the Eisenhower years.

A balanced budget is what we need, Secretary Shultz said, and he called it that old basic religion.

Mr. Speaker, it is going to take a lot more than faith healing to get this economy well.

PROPOSED NEW RULES FOR THE HOUSE

(Mr. VEYSEY asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. VEYSEY. Mr. Speaker, last night, in a flurry of confusion, the House approved H.R. 8860, the farm bill, which may determine the economic and physical health of farmers and consumers in this Nation for 4 years. It is a safe bet that not over a handful of Members really knew what was in the bill on final passage. There was great difficulty in learning exactly what many of the 58 amendments really said.

Frankly, that is a dangerous situation which causes the House to lose credibility with the public.

I would like to propose two changes in the rules to assist in orderly processing of complex legislation on the floor:

First. Copies of all amendments should be available to any Member desiring them at the time the amendment is proposed.

This would require that the amendment be properly prepared. Fast copying machines at the desk should make copies readily available, and the chairman should enforce the rule requiring availability.

Second. The bill should be in print with all amendments included before the vote on final passage is taken.

This might mean 1 day of delay to get the amendments fitted to the bill and in print. What difference would that make on a bill which was debated over a period of a week? Again, fast copying machines might accomplish this chore without delay.

The Members deserve to know what they are voting on before they vote—not the next day. So does the press, and so does the public.

Let us do our legislating with understanding and in an orderly way.

CALIFORNIA CANNERIES STRIKE

(Mr. KETCHUM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KETCHUM. Mr. Speaker, I rise to inform the body that on the eve of the final passage of the farm bill and when we are newly informed of the phase IV controls which we hope will ease agricultural shortages, the California Teamsters Union have walked out of California canneries. The impact of this precipitous action cannot be overemphasized. Tomatoes are in the process of picking and the peach harvest has just begun. A delay of more than a day or two means the end of harvest for these crops and losses in the hundred of thousands of dollars to California's growers with a subsequent and most serious loss to California's farmworkers. In the end the ultimate loser will be the American consumer. I cannot urge in strong enough terms that immediate action be taken to terminate this strike either by an injunction or better yet by the Teamsters Union recognizing the damage they may bring about and returning to work, while negotiations continue.

APPOINTMENT OF CONFEREES ON H.R. 7935—FAIR LABOR STANDARDS ACT OF 1968 AMENDMENTS

Mr. PERKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7935) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rates under that act, to expand the coverage of that act, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky? The Chair hears none and appoints the following conferees: Messrs. PERKINS, THOMPSON of New Jersey, DENT, DOMINICK V. DANIELS, BURTON, GAYDOS, CLAY, BIAGGI, MAZZOLI, QUIE, ERLENBORN, HANSEN of Idaho, KEMP, SARASIN, and HUBER.

PROVIDING FOR CONSIDERATION OF H.R. 8538, PUBLIC BROADCASTING

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 467 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 467

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8538) to amend the Communications Act of 1934, to extend certain authorizations for the Corporation for Public Broadcasting and for certain construction grants for noncommercial educational television and radio broadcasting facilities, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 8538, the Committee on Interstate and Foreign Commerce shall be discharged from the further consideration of the bill S. 1090, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 8538 as passed by the House.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman from Nebraska (Mr. MARTIN), and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 467 provides for an open rule with 1 hour of general debate on H.R. 8538, a bill amending the Communications Act of 1934 and extending certain authorizations for the Corporation for Public Broadcasting.

House Resolution 467 provides it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill. House Resolution 467 also provides that after the passage of H.R. 8538, the Committee on Interstate and Foreign Commerce shall be discharged from further consideration of the bill S. 1090 and it shall be in order in the House to move to strike out all after the enacting clause of S. 1090 and insert in lieu thereof the provisions contained in H.R. 8538 as passed by the House.

H.R. 8538 authorizes the appropriation of funds for the Corporation for Public Broadcasting—CPB—as follows: $55 million for fiscal year 1974, including a maximum of $5 million which must be matched by funds contributed by non-Federal sources. For fiscal year 1975, $60 million is authorized for this purpose, with $5 million matching funds included.

H.R. 8538 also authorizes the following appropriations for the public broadcasting facilities construction program: $25 million for fiscal year 1974; $30 million for fiscal year 1975.

The bill appropriates a total of $80 million for fiscal year 1974, and a total of $95 million for fiscal year 1975.

Mr. Speaker, I cannot address myself to this subject of public broadcasting, without feeling that a word of commendation is in order for a great lady, now deceased, whose long, gallant, and effective fight as a member of the Federal Communications Commission made possible the great boon of public broadcasting for the people of the United States by reserving a VHF channel all over the Nation for that purpose—Frieda B. Hennock.

I am delighted, as I am sure my colleagues are, to honor her great name for this magnificent public contribution she made for public broadcasting has just scratched the surface of its possibilities for the education and recreation of the people.

Therefore, Mr. Speaker, I urge adoption of House Resolution 467 in order that the House may discuss and debate H.R. 8538.

I yield to the gentleman from Nebraska (Mr. MARTIN).

Mr. MARTIN of Nebraska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the able gentleman from Florida (Mr. PEPPER) has thoroughly explained House Resolution 467, and that it provides for an open rule with one hour of debate for the consideration of the bill H.R. 8538, the Public Broadcasting Corporation Act.

The bill authorizes a total of $175 million for the Corporation on public broadcasting, and for public broadcasting facilities.

Mr. Speaker, I support the rule. I know of no opposition to the rule.

Mr. Speaker, I have no requests for time.

Mr. PEPPER. Mr. Speaker, I have no requests for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CALL OF THE HOUSE

Mr. CHARLES H. WILSON of California. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 364]

Addabbo
Badillo
Bell
Blatnik
Boland
Brooks
Burke, Calif.
Carey, N.Y.
Cederberg
Chisholm
Clark
Conyers
Coughlin
Crane
Danielson
Davis, Ga.
de la Garza
Dellums
Dickinson
Diggs
Dingell
Dorn
Fisher
Flowers
Ford, William D.
Fuqua
Gray
Griffiths
Harsha
Hays
Hébert
Ichord
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kemp
Landgrebe
Landrum
Mayne
Melcher
Mills, Ark.
Morgan
Murphy, N.Y.
Nichols
Owens
Patman
Powell, Ohio
Price, Tex.
Reid
Riegle
Rooney, N.Y.
Rostenkowski
Sandman
Schroeder
Sebelius
Shipley
Sisk
Smith, N.Y.
Stanton, James V.
Stephens
Stokes
Stuckey
Talcott
Teague, Tex.
Tiernan
Whalen
White
Whitehurst
Wylie
Young, S.C.
Zwach

The SPEAKER. On this rollcall 362 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PUBLIC BROADCASTING

Mr. STAGGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8538) to amend the

Communications Act of 1934, to extend certain authorizations for the Corporation for Public Broadcasting and for certain construction grants for noncommercial educational television and radio broadcasting facilities and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from West Virginia.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 8538, with Mr. GIAIMO in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from West Virginia (Mr. STAGGERS) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. BROWN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 8538 is a short and simple bill but nonetheless an important one. It authorizes appropriations for the Corporation for Public Broadcasting as follows: $55 million for fiscal year 1974, of which $5 million must be matched by funds contributed from non-Federal sources; and $65 million for fiscal year 1975, with the similar requirement that $5 million of that amount must be matched by non-Federal contributions.

The bill also authorizes the appropriation of funds for the public broadcasting facilities grant program which is administered by the Department of Health, Education, and Welfare. For that program $25 million is authorized for fiscal year 1974, and $30 million is authorized for fiscal year 1975.

In addition, the bill requires that public broadcasting licensees which receive assistance either directly or indirectly from the CPB or in the form of a facilities grant from HEW must retain an audio recording of any program which it broadcasts involving a discussion of an issue of public importance for a period of 60 days.

CORPORATION FOR PUBLIC BROADCASTING

As most of the Members know, Mr. Chairman, the Corporation for Public Broadcasting was established pursuant to the Public Broadcasting Act of 1967. The Corporation is an independent, nonprofit, bipartisan corporation which operates under a board of directors of 15 members appointed by the President by and with the advice and consent of the Senate. Members of the Board of Directors are appointed for staggered 6-year terms. No more than a simple majority of the board of directors may be members of the same political party.

The principal purposes of the Corporation are: First, to assist in the development of high quality programs for presentation over public broadcasting stations, second, to assist in providing interconnection for those stations, and third, to promote the establishment and development of public broadcasting stations while assuring their maximum freedom from interference.

The Corporation actually became operational in 1969 with the appointment of John W. Macy, Jr., as the first president of the Corporation. Under Mr. Macy's wise and able administration the Corporation in about 3 years became an important new means of providing informational, instructional, and cultural programing for the American people. Programs such as "the Advocates," "Black Journal," "Firing Line," "Masterpiece Theater," "Sesame Street," and "the Electric Company" appeared on our television screens for the first time. A national system of interconnection for both public television and public radio stations was brought into existence. Public broadcasting stations were given grants by the CPB to assist them to better serve their listening and viewing audiences.

In the last year, however, several things happened which gave me serious concern about the future of public broadcasting in the United States.

The President last year vetoed H.R. 13918, a 2-year authorization bill which was developed in the Interstate and Foreign Commerce Committee and would have permitted the continued development of the CPB and public broadcasting;

John Macy resigned as president of the Corporation;

The President vetoed the HEW appropriation bill which included an appropriation of $45 million for CPB with the result that the Corporation has had to operate under a continuing authorization of $35 million;

Our former colleague Thomas Curtis who had been appointed to CPB's Board of Directors and elected its Chairman, resigned, and

Dissension developed between the CPB and other elements in public broadcasting.

But recent events have given me reason for cautious optimism. On May 31 of this year a partnership agreement was concluded between CPB and the Public Broadcasting Service which establishes an effective mechanism for resolving problems between those organizations. In addition, the agreement provides for a pass through to public television stations of specified percentages of funds appropriated to the Corporation for unrestricted use by those stations to improve the service they render to their communities.

Another development about which I am very hopeful is that the Corporation has promised that a long-range financing plan for the Corporation will be presented to the committee this September. This is something for which we have waited a long time and which is urgently needed.

Still another development that heartens me is the fact that the bill which the House is now considering was reported to the House with solid bipartisan support and I have every reason to believe that it will become law.

Mr. Chairman, I am aware of the concern expressed by some Members with regard to foreign programing which is shown on public television. I would point out that only 6 hours of such programing was acquired by CPB during fiscal 1973. The cost of this programing represents less than 0.07 percent of CPB's fiscal year 1973 budget for national programing. Much of the foreign programing which has been shown on public television has been funded by private underwriting. This includes series such as "Masterpiece Theater" and "International Performance" for which no CPB funds were used. Certainly there should be no boycott of foreign productions or talent. Nonetheless the public broadcasting community as well as commercial broadcasters should recognize that high quality talent production facilities, and sources of program ideas are available in the United States but are going unused.

Another matter involving programing about which some concern has been expressed is that of programing for minorities and particularly for black Americans. I would observe that the only two program series shown nationally on television which were produced by black Americans—"Black Journal" and "Soul" appeared on public television and were substantially funded by CPB. These series will be continued on public television in the 1973–74 program year. Moreover, several programs of particular interest to black Americans have been or are being produced by local public television stations. For example, WTTW–TV of Chicago produced and distributed nationally "The National Black Political Convention" which afforded viewers the leading blacks in American political life. Other programs of interest to other of our minority citizens are being produced at the local and national level—programs of interest and concerning Chicanos, American Indians, the aged, and women. It is my hope that the increased grants which CPB will make to local public television stations under this legislation and the CPB–PBS partnership agreement will increase and improve the minority programing which is done at the local level.

Furthermore, the Corporation has established a program under which it makes grants to public broadcasting stations to pay up to half the salary and benefits of minority employees for 2 years. These grants are for members of minority groups who are involved in meaningful decisionmaking in public broadcasting, for example, the director of programing at an FM station or the director of minority programing at a television station. The nine most recent grants amounted to $108,000. So far 25 grants have been made and more are expected to be made in 1974. Dr. Gloria Anderson, a black member of the CPB Board of Directors and chairman of the chemistry department at Morris Brown College, Atlanta, Ga., heads the panel which is selecting the recipients of these grants.

BROADCASTING FACILITIES GRANT PROGRAM

In addition to authorizing funds for the CPB, H.R. 8538 also authorizes appropriations for the public broadcasting facilities grant program—$25 million for fiscal year 1974 and $30 million for fiscal year 1975.

Under the program the Secretary of Health, Education, and Welfare makes grants to eligible applicants of up to 75 percent of the cost of acquiring and installing specified radio and television broadcasting apparatus. Grant funds cannot be used for the purchase, construction, or repair of buildings or the acquisition of land.

There are five classes of eligible applicants for grants under the program: First, State or local public school agencies; second, State public broadcasting agencies and commissions; third, tax-supported colleges and universities; fourth, nonprofit community corporations and associations organized primarily to engage in public broadcasting; and fifth, municipalities operating public broadcasting stations. Any grant must—in addition to being used for the acquisition and installation of broadcasting apparatus—be used in furtherance of public broadcasting, which requires that the grantee have or be in the process of obtaining a license from the Federal Communications Commission—FCC—to engage in public broadcasting.

Of the funds appropriated for this program in any fiscal year, not more than 8½ percent may be granted for projects in any one State.

In determining which applications for public broadcasting facilities grants are to be approved, the Secretary of HEW is governed by regulations intended to achieve: First, prompt and effective use of all public television channels remaining available; second, equitable geographic distribution of public broadcasting facilities throughout the several States; and third, provision of public broadcasting facilities adaptable to the broadcast educational uses which will serve the greatest number of people in as many areas as possible.

In 1962, when the educational television broadcasting facilities grant program was enacted, there were 76 educational television stations on the air serving areas occupied by slightly more than 50 percent of the population of the United States. Today there are 237 such stations on the air serving areas occupied by 77 percent of the population. These stations are located in every State, except Montana and Wyoming, and also in the District of Columbia, Puerto Rico, Guam, and American Samoa.

In addition to public television stations, the broadcasting facilities grant program also applies to noncommercial radio broadcasting stations of which there are at present about 600. In the 4 years that such radio stations have been eligible for grants under the program, 40 grants have been made for new public radio stations and 140 for the expansion of existing public radio stations.

Since the beginning of the public broadcasting facilities grant program in 1963, $77.6 million in Federal funds have been awarded, matched by approximately $27.4 million local dollars for project costs alone. In addition to matching project costs, stations must: First, guarantee to operate the equipment purchased for 10 years; second, show evidence of at least the first year's operating funds on hand or certified available; and third, pay all building and land costs from other than grant funds. Thus, the funds which must be generated locally in addition to the matching project moneys are, conservatively, 10 "local" dollars to each Federal dollar; which, translated, means that $77.6 million in Federal funds have generated more than 750 million "local" dollars.

Mr. Chairman, I am aware that some Members of the House have received complaints that public broadcasting stations are competing for commercial business. Let me make it very clear that none of the facilities purchased with grants received under the broadcast facilities grant program may be used for such purpose. Section 392(a)(4) of the Communications Act of 1934 specifically provides that these facilities may only be used for educational purposes. On June 27 when I first became aware of these allegations I wrote to Secretary Weinberger to obtain his assurance that the law in these regards is being observed.

In this connection, a memorandum reading as follows was sent by the Department of HEW to all public television licensees on July 5.

> Noncommercial educational stations who have received Federal money for facilities have signed an assurance required by the Public Broadcasting Act (section 392(a)(4)) that federally supported broadcasting facilities will be used only for educational purposes. No mobile units or other facilities containing equipment purchased with the aid of Federal Funds under the Educational Broadcasting Facilities Program may be made available at any time or under any circumstances for use for commercial purpose, even if the commercial interest pays for the use through gifts, lease charges, or support money which is used to support the noncommercial operation. If any item purchased with the aid of EBFP funds is used by commercial interests for any commercial purpose within ten years after the date when the project was completed, the grant will be revoked and the Federal share must be paid back to the U.S. Treasury.

Mr. Chairman, public broadcasting has come a long way since the broadcasting facilities grant program was first enacted by the Congress in 1962. But it can go a long way further in serving the American people. Enactment of H.R. 8538 is a stride in that direction. I hope that every Member of the House will join me in support of H.R. 8538.

In closing, Mr. Chairman, I want to take this occasion to compliment members of the committee on both sides of the aisle who have cooperated and worked together in getting this legislation enacted. They are deserving of our appreciation, particularly the chairman of the Subcommittee on Communications and Power, Mr. MACDONALD, the other majority members of the subcommittee, LIONEL VAN DEERLIN, FRED ROONEY, JACK MURPHY, and GOODLOE BYRON. Also the ranking minority member of the subcommittee, CLARENCE BROWN, and the other minority members, JIM COLLINS, LOU FREY, and BARRY GOLDWATER. My thanks and appreciation are extended to them also.

Mr. MITCHELL of Maryland. Will the gentleman yield?

Mr. STAGGERS. I am very happy to to yield to the distinguished gentleman from Maryland.

Mr. MITCHELL of Maryland. I do not know whether this is the proper time or not, but during the presentation you caused me to raise several questions in my own mind. Is this the proper time to pose those questions to you?

Mr. STAGGERS. Any time.

Mr. MITCHELL of Maryland. Quite frankly, I am thinking of submitting an amendment to this piece of legislation. The final determination as to whether or not I will submit it will depend on the answers that we get during this entire debate.

Mr. STAGGERS. Fine.

Mr. MITCHELL of Maryland. With regard to the type of programing done under public broadcasting, do you know how they seek to achieve in programing a balanced view of all the diverse elements that make up this great American society? For example, do we know whether or not there is an attempt to achieve a balance in terms of presentations about the Puerto Rican population, the black population, or the Indian population? Do you have any information on that?

Mr. STAGGERS. Let me say most of this is made up by the local stations. We have not tried to interfere with the local stations in saying what should be or what should not be done.

Mr. MITCHELL of Maryland. Mr. Chairman, would the gentleman yield further?

Mr. STAGGERS. I would be happy to yield further to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Chairman, I am aware of the fact that local stations have a great deal of contol. However, Federal dollars do go into this programing, and they are utilized in some fashion for the implementation of this program. Therefore it would seem to me that we have a responsibility to assure that Federal dollars are being used in programing to give a balanced, fair and objective view of the picture of all of the elements that make up America.

By way of illustration, if I may continue further, although these programs are under local control there are Federal dollars coming into them. Could this mean that the States would not be bound by the equal opportunity provisions under title VII?

Mr. STAGGERS. Would the gentleman from Maryland repeat his question?

Mr. MITCHELL of Maryland. Mr. Chairman, I am saying that although the States have control over these programs, and over programing, we have Federal dollars coming in.

Mr. STAGGERS. The States do not. The local station has the control, not the States. As I said before, there is less than $1 in $10 that is paid by the Federal Government for public broadcasting.

Mr. MITCHELL of Maryland. If I may say to the distinguished chairman, the gentleman from West Virginia (Mr. STAGGERS) for whom I have a very intense and high personal regard, and I have often talked about it, it would not matter to me whether there was 50 cents of Federal dollars coming into the programs that are controlled at the local levels, I would object and object strenuously if 50 cents in Federal Government money went into any type of programing which did not take into account equal opportunities under title VII in a program which is fair and objective as far as all minorities are concerned.

Mr. MACDONALD. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Massachusetts.

Mr. MACDONALD. Mr. Chairman, the gentleman from Maryland is stating that there are controls over the programing. There are no governmental controls whatever over the program. They are subject to the same fairness doctrine, and the same access to complaint via the FCC that can be lodged against adult education stations for the type of complaints that may be lodged if they are not living up to their responsibilities. They are licensed by the FCC. They are not overseen by the Federal Government except in so much as when complaints are lodged.

We just got through a very difficult period of time when the Congress woke up and told the administration more or less to stop trying to influence programing and telling people what kind of news or what kind of programs they could see over adult broadcasts. Mr. Whitehead was accused by a number of critics, including myself, for exercising executive control over what is primarily a free enterprise.

I think it is very proper that this adult system of broadcasting be free from any governmental control as to the content of its programing except that if they do, in fact, they are subject to complaint through the regular route of challenges to their license. There is opportunity to make complaint.

Mr. MITCHELL of Maryland. Mr. Chairman, I do not want to belabor the point, but is the gentleman saying that he would like to see this outfit free of control in terms of equal opportunity entirely?

Mr. MACDONALD. Of course not. HEW, that supplies the facilities money, is subject, as any governmental agency is, to all the laws of the land, and among the laws of the land is the Equal Employment and Fair Opportunity Act; they are subject to that, of course, just as all in the United States are subject to it, and properly so, and I would fight to see that that continues.

Mr. CLAY. Mr. Chairman, will the gentleman yield on that point?

Mr. STAGGERS. I yield to the gentleman from Missouri.

Mr. CLAY. I am of the same opinion as the gentleman is that HEW and all other Federal agencies relating to public broadcasts are covered by the law, but apparently HEW and the Federal Communications Commission are not of the same opinion. They are not enforcing the laws as they relate to title VII of the Civil Rights Act.

HEW yesterday sent the gentleman a memorandum in which they outlined to him the steps that they were taking to insure that Federal money was not going to be spent in violation of the nondiscrimination laws, and if the gentleman will look at the last paragraph of that memorandum, he will see why I feel I am justified in offering these two amendments that I am going to offer at the appropriate time. They have interpreted the public broadcast law to mean, and I will quote from their memorandum to the gentleman:

> However, since EBFP deals only in the acquisition and installation of transmission apparatus, the Public Broadcasting Act, Section 398(2) prohibits Federal interference or control over the grantees:

And they quote that language:

> Nothing contained in this part shall be deemed to authorize any department agency, officer, or employee of the United States to exercise any direction, supervision, or control over ETV or radio broadcasting, et cetera.

The Federal Communications Commission has also interpreted that language to mean that they cannot have any control exercised over public broadcasts. For that reason they have never required them to make ascertainment surveys.

Mr. MACDONALD. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Massachusetts.

Mr. MACDONALD. As the gentleman from Missouri well knows, Commissioner Hooks sat in my office upon review and indicated that ascertainment processing was being stepped up. He promised both of us that ascertainment processing would be stepped up, and the gentleman has a letter, as I do, from Commissioner Lee, Rex Lee, who is the Educational Commissioner for the FCC indicating that he already has this ascertainment process working and is going to concentrate on it even more.

Mr. CLAY. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Missouri.

Mr. CLAY. I think that is all fine and good, but the point is there is still legal disagreement even in the FCC as to whether or not they have the authority and the power in order to require ascertainment surveys for public broadcasting. I say it is our responsibility to correct that language and make it crystal-clear that we are not for public broadcasts to be covered under the enforcement provisions of title VII of the Civil Rights Act.

Mr. STAGGERS. Let me say to the gentleman that I am in entire sympathy with the objective that he is trying to achieve. We will try to do this in a way that I think is proper and right. I do not believe that we ought to start amending this act. If we start doing it, we are going to then do something that we did not intend.

We got this report today saying that during the year 1972 the grant for minority programs, excluding "Sesame Street" and "the Electric Company," is $650,000 out of $12.7 million, and in the year 1973 it is $1,150,000 out of $14,700,000. It gives some of the programs, and there are many.

Mr. CLAY. If the gentleman will yield, I am sure the gentleman is not going to try to support those figures as being adequate, fair, and equitable.

Mr. STAGGERS. I am just giving them to the gentleman as they were given to me. Reported here are some of the programs that have been done since October 1971: "Black Journal," "Soul," "Firing Line," "The Great American Dream Machine," "But Not My Kids," and the "Public Affairs Election Assessment," which involved the gentleman from Missouri, Mr. WILLIAM CLAY.

Mr. CLAY. Mr. Chairman, if the gentleman will yield further, when he gets through reading that list, he is going to come up with a grand total of 9½ hours on network television.

All of those programs the gentleman is referring to total 9½ hours, so it is not the number of programs.

Mr. STAGGERS. Does the gentleman know how much total network programing has been done?

Mr. CLAY. It was 852½ hours on network time completely across America last year, and the minority communities got 37 hours of the 852½ hours.

Mr. STAGGERS. There may be less network programing this year because the local stations will be receiving larger grants from CPB.

Mr. CLAY. Will the gentleman yield at that point?

Mr. STAGGERS. I yield to the gentleman from Missouri.

Mr. CLAY. That is what disturbs me. We are talking about giving money with no strings attached to the local stations. How do we control that once it gets into the local hands as far as programing and program content and character of programing at the local points? The minorities have been refused positions on the board of directors. For instance in the District of Columbia, where the population is 80 to 85 percent black, we have not a single black one sitting on the board of directors of Public Broadcasting. In my community also there is not one black man sitting on the board of directors for Public Broadcasting. How do we have any input into deciding what goes into this? How do we control this when we give it to the local stations with no strings attached?

Mr. MACDONALD. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Massachusetts.

Mr. MACDONALD. Mr. Chairman, I call the gentleman's attention to the figures on programing which have been put out by the PBS. I am not sure these are correct but I do not know where the gentleman got his figures.

Mr. CLAY. I got them from the Public Broadcasting Corporation.

Mr. MACDONALD. That is where I got these from. I would like to point out to the gentleman for the fiscal year 1972, 20.8 percent of all scheduled programing was for minority programing, and there is scheduled for fiscal year 1973 to be an increase to 41.8 percent.

Mr. CLAY. Mr. Chairman, I think the people at Public Broadcasting hold this Congress in contempt to issue a figure like that including "Sesame Street" as a minority program. That is contemptuous.

Mr. MACDONALD. It is an integrated program.

Mr. CLAY. It is not a minority program. Let us go back to the original purpose of Public Broadcasting. Public Broadcasting is to insure every individual in the community a certain portion of the air waves that belongs to the public.

Mr. MACDONALD. Mr. Chairman, I cannot yield any further to the gentleman. I would suggest the question be brought up at the time of the gentleman's amendment, which I am sure will be forthcoming.

Mr. CLAY. I wish the gentleman would correct that 20 percent, because they are including "Sesame Street" and a number of other children's programs which have nothing to do with minority broadcasts.

Mr. STAGGERS. Mr. Chairman, I yield 5 minutes to the gentleman from Massachusetts, the chairman of the subcommittee (Mr. MACDONALD).

Mr. MACDONALD. Mr. Chairman, I thank the gentleman from West Virginia for yielding to me.

Unfortunately we have gotten involved in some matters that will be forthcoming as amendments and the bill in its entirety has not had a chance to be explained.

I think the first thing to understand about this bill is that the entire bill is a compromise. It funds for a 2-year period the operations of the Corporation for Public Broadcasting and the stations licensed as noncommercial, educational broadcasters, as well as additional funding for the physical facilities of public television stations.

The level of funding called for in this bill represents a compromise between the amounts authorized by the Congress in a bill passed a year ago, which was vetoed by the President, and the amount the Corporation has been existing on under a continuing resolution during the past year. This bill authorizes the sum of $50 million for fiscal year 1974, plus an additional $5 million if matched by nongovernmental grants and $60 million plus $5 million matching for fiscal year 1975.

The bill also authorizes $25 million for fiscal year 1974, and $30 million in fiscal year 1975 for facilities grants.

I would like to call to the attention of the House that this bill has already passed the Senate with the higher funding, but the Committee on Communications and Power came up with a compromise. These figures are not the original figures that were introduced by the Democratic side, but represent a direct compromise between the Republican members and the Democratic members which eventually came out unanimously.

The background of the bill is a fascinating one, but time does not permit my going into all the various twists and turns that this bill has had over the past year or so. Suffice it to say that there have also been great compromises arrived at and achieved by the dedicated people, both in CPB and PBS, in resolving their disputes, in which it was felt for a time that these disputes would never be resolved. But, they have been resolved and the compromise was reached which was explained to the subcommittee in detail by President James Killian of MIT and Mr. Ralph Rogers of Dallas, who is the president of the Public Broadcasting Station group. They have assured us that they will not be any participants to any arrangement which has connotations of any political influence which would affect their programs. They assured us that they will use the money granted to them by the Congress to carry out the original congressional mandate of the 1967 Public Broadcasting Act.

One point which we were very glad to have cleared up in that agreement was the question of how much money would pass through the hands of the corporation directly to the individual public broadcast licensees for their own local broadcasting operations. As many Members will recall, it was on that so-called issue of "localism" that much debate of a year ago was centered. There now exists total agreement on the need for localism among the various segments of public broadcasting structure.

In the agreement are specific percentages of funds which will automatically pass through the corporation to the local stations, increasing from about 40 percent at the funding level for fiscal year 1974 up to at least 50 percent in later years.

In addition, the CPB passes through dedicated funds—meaning funds which are allocated directly—these also to public radio, because in all the controversy over TV, public educational radio has taken a back seat and is so very important in many parts of our country, especially in the less heavily populated States.

There are a number of safeguards built into the CPB–PBS agreement that insure against anything but the most democratic action. I have announced to those in charge that while the funding is for a 2-year period next year our subcommittee will hold oversight hearings on how the agreements have actually been implemented.

The subcommittee was assured by Mr. Whitehead representing the White House Office of Telecommunications Policy, that the administration had no objection to the 2-year funding authorized by the bill. He did express some question about the amount of funding originally stipulated; since then, a downward adjustment has been made, and both Mr. DEVINE, ranking minority member of our full committee, and Mr. BROWN of Ohio, ranking minority member of my subcommittee, have indicated on the record that they are satisfied with this bill as a compromise.

In closing, let me stress that I recognize as we all do that this bill does not represent the goal for which we have all been striving since 1967, permanent financing for public broadcasting. We continue to be promised a permanent plan, and we can only hope that it will be forthcoming in the near future, hopefully by this September.

Meanwhile, I firmly believe that H.R. 8538 will give public broadcasting a chance to prove itself and to revive the momentum it lost when it was forced to cut back program plans last year. Our subcommittee will be diligent in this oversight responsibility; we are encouraged by the team that public broadcasting has assembled and we urge this body to pass this bill so that they can get on with their plans.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. STAGGERS. Mr. Chairman, I yield the gentleman 1 additional minute.

Mr. MACDONALD. Mr. Chairman, I certainly feel strongly that in light of the cooperation that has been exhibited by all parties to this bill, and by all parties I include the administration; I include the executive; I include Mr. Clay Whitehead; I include the Republican Party and its distinguished ranking minority member of the subcommittee, and the compromises made. This bill does not represent a victory for anybody.

It is a great compromise, and I would hate to see it get involved in a controversy that can certainly be settled some place else except within this bill, at this day, when all these 237 stations are on starvation rations.

They do not know how long they can exist or what programing they will have in the future. I think it is incumbent upon us to put aside some minor disputes, to go ahead and come up with a national broadcasting policy for the country.

Mr. BROWN of Ohio. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, I am speaking today to urge passage of H.R. 8538, the bill which authorizes funds for the Corporation for Public Broadcasting for its operations and program development, $55 million for fiscal year 1974 and $65 million for fiscal year 1975; and for matching facilities grants to noncommercial educational radio and television stations $25 million for fiscal 1974 and $30 million for fiscal year 1975.

This bipartisan bill represents a funding level adequate for orderly growth of educational broadcasting, yet a modest enough figure that we have the best chance for avoiding a Presidential veto. While we expect level of Federal support—now about 20 percent—to gradually diminish in the future in favor of local sources, Federal assistance is still critical at this stage of development.

H.R. 8538 sets authorizations for 2 years, a time period which gives public broadcasting the opportunity to plan realistically for its operation and the challenge to more fully attain the objectives Congress intended for its service to the American people.

This compromise bill should give the advocates and managers educational and public broadcasting in America 2 years to prove its worth to the public, the Congress and the White House—or to destroy what confidence still remains after a stormy couple of years just past.

In 1962, recognizing the significant role television could play in meeting educational needs throughout the United States, Congress enacted the Educational Television Facilities Act. This provided matching grants to establish and expand noncommercial educational television stations. Five years later, responding to the promise of success of this program, and to the recommendations of the Carnegie Commission Report on the potential of noncommercial television, Congress enacted the Public Broadcasting Act of 1967 to establish the Corporation for Public Broadcasting and expanded the grant program to include educational radio facilities. I was disappointed that the 1967 tended to blur the focus on education and tended to increase emphasis on establishing a system competitive to commercial broadcasting.

But the 1967 Public Broadcasting Act, like the 1934 Communications Act, is solidly based on the principles of localism, diversity and service to the public interest in each licensee's service area.

However, as the Corporation has since grown, proper emphasis to these principles has diminished. The original Carnegie Report recommended that:

> The Corporation would exist primarily to make it possible for those stations, one by one to provide the greatest public service to their communities.

There are 237 educational television stations in areas serving 77 percent of the population, as well as 600 noncommercial radio stations now in operation. Each of these stations, at the local level, should be the focal point for strengthening the United States educational or public broadcasting system.

Incumbent on each station is the responsibility to identify salient educational needs of its local community and program accordingly as its resources allow. Each licensee should seek the greatest number of alternative programing sources, but constantly resist the influence that is tied to overreliance on any one source of funding—be it a private citizen, a tax-paying commercial enterprise or a tax-exempt corporation. For example, in the incipient stages of public broadcasting the Ford Foundation grants represented 25 percent of the total income of the public broadcasting system. Now Ford support represents only about 5 percent of such total income. And I feel that reduction in single source influence is desirable. But, the Foundation has recently been the source of over half the annual income of selected licensees. H.R. 8538 carries no restrictions on maximum percentages of support which licensees can receive from one source. However, such a provision may be necessary in the future if the independence of individual licensees is threatened by undue dependence on underwriters or sponsors.

In the legislation today, we recognize that licensees can attain independence, program diversity and responsiveness to local public interests only if they have adequate facilities, strong financial support, necessary time to plan, access to alternative programing sources and a workable structure within which each station can cooperate productively with others and with the Corporation for Public Broadcasting.

The recently agreed to reorganized structure of public broadcasting offers hope that the Corporation for Public Broadcasting and the Public Broadcasting System can now function more effectively. We expect the new 7 point agreement between CPB and PBS upon which the structure is based to be more than a marriage of necessity. The resolution became a reality largely due to the participation of a few men of high stature. We caution all involved to well utilize the conciliatory leadership of local licensees, PBS, CPB, the Congress and the administration to assure that the system endures beyond personalities currently involved.

Especially commendable in the resolution is the provision which increases unrestricted CPB grants for local stations. Increasing the pass-through grants is wholly consistent with a principal objective of the Corporation for Public Broadcasting: to facilitate individual stations' capabilities to program for community needs rather than to some national standard.

It is important, too, to emphasize the provision in point (4) of the agreement:

> The final (PBS) schedule shall reflect the arrangements of programs for interconnection service to stations, and shall not be regarded as a schedule of programs for broadcast by the stations.

True, the Corporation for Public Broadcasting exists in part to serve local stations. But this service cannot be by networking, but by stimulating the development of high quality, heterogeneous programing alternatives. And, in the past, the Corporation for Public Broadcasting has too often concentrated its resources in too few production centers. As the Public Broadcasting Act of 1967 specified, the Corporation for Public Broadcasting was "to promote the availability of high quality programs, obtained from diverse sources."

If the Boards, the stations and especially the operating staffs of public broadcasting do not make the new CPB-PBS agreement workable, the new structure will fail. If it fails, a total restructuring of public broadcasting by Congress would be the only available option. We do not advocate homogeneous thinking among components of public broadcasting but participants must develop a greater spirit of cooperation among themselves.

The organization of the Corporation for Public Broadcasting itself requires continuing self-appraisal to insure that its internal decisionmaking process remains democratic, and that its creative planning does not fall victim to a growing internal bureaucracy. H.R. 8538 does not touch the issue of the Corporation for Public Broadcasting Board membership or appointment procedures. In authorizing operating funds for 2 years, we hope the administration will use this period to insure that the Corporation for Public Broadcasting Board appointees are of professional caliber. In the long run selection criteria and procedures must be as far removed as possible from partisanship of any incumbent administration. Insulating the Corporation for Public Broadcasting from political pressures from whatever source is indispensable to its success. As the last 2 years have established, the system will have its best chance of survival it can avoid the charge that it is being used by anyone to advance partisan political objectives.

Also essential to effective operation in the future is that the system have sufficient time to plan productions. The minimum leadtime necessary to research, plan and produce program concepts is, in most cases, 18 months to 2 years. Less than minimum leadtime usually results in a drop in program quality. And, lower program quality most often means a drop in local financial support. For example, planning for classroom programs is linked to a school planning cycle, usually 24 months. Consequently, the ability of a local station to contribute to classroom instruction will be greatly enhanced by secure funding levels of more than 1 year. A 2-year authorization term, moreover, is a minimum time for hiring and training technical and creative personnel.

Another key element in strengthening local stations is providing them with added flexibility in scheduling for their locale. The facilities grant program authorized in H.R. 8538 and help give stations this flexibility. For a station to receive programs from outside sources such as the Public Broadcasting System interconnection, then air them when and if it chooses, the station must have sufficient video tape recording equipment, which usually means a minimum of four VTR units per station for scheduling flexibility.

To give each existing station this capacity would cost $25 million. But this facilities' need is not the only one. When all matching grants funds appropriated for fiscal year 1973 were spent, 75 applications seeking $20 million for local facilities had not been acted upon, and 30 more applications will be filed this year. Consequently, the $25 million and $30 million authorized for fiscal year 1974 and fiscal year 1975 meets only minimum foreseeable needs for upgrading local stations and giving each greater scheduling autonomy.

With improved facilities, added program funds, more planning time, a better system structure stronger local licensees, and some partisan restraint, public broadcasting can break new ground in continuing education, classroom instruction and teaching innovation. In fiscal year 1972, 34 percent of all on-the-air hours in public television was instructional programing, and the absolute number of hours totaled 241,000, an increase of 20,000 over 1971 and 40,000 over the 1970 total. Since 50 percent of all current noncommercial licensees are school systems, colleges and universities, greater emphasis on needs of each local service area naturally points to greater instructional programing in the future and that suits me fine. There is a need there—a real need that must be met in nonpartisan position if it is to be met at all.

I urge the leaders of public broadcasting to keep these cautions and concerns in mind as they try to fulfill the expectations of the act of 1967.

And I urge Congress to give them the resources and the next 2 years to do so by passing H.R. 8538.

Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. DEVINE).

Mr. DEVINE. Mr. Chairman, I would invite the Members' attention to the additional views I attached to the committee report on this, which is somewhat garbled by the typesetters in the Government Printing Office. Nevertheless, they are represented as additional rather than minority views, because I intend ultimately to support this bill when it does come up for a vote.

Mr. Chairman, when Public Broadcasting became the subject of Federal legislation, and Federal funding, it was a foregone conclusion that Congress would have to exercise continuing surveillance over its activities and be prepared to accept part of the responsibility for its actions. High-flown visions of a quasi-public corporation being given complete and untrammeled authority to spend hundreds of millions of dollars, creating and disseminating television and radio programing with no governmental strings attached, were at best a pipe dream. Congress always would be and should be looking over the shoulder of such a corporation. Any administration, regardless of which party might be in power, would have a keen and continuing interest in its activities and certainly make some suggestions from time to time. That these conditions have developed in the short history of the Public Broadcasting Corporation should not come as a surprise to anyone.

Certain objectives were very clear to the Congress when the Public Broadcasting Act was passed. Perhaps due to the limitations of language, they were not entirely understood. Perhaps they were concepts which could not be carried out in the realities of operation. In any event, some of the things which Congress did not want to happen in the implementation of the act did happen. Congress did not want a concentration of programing sources such as the commercial television companies maintain in New York and the west coast.

Neither did it want any one or a few big money entities to dominate the producing and offering of program material for use by noncommercial stations. Perhaps this was too much to expect, and so far the influence of one or two sources of funds has pretty well dictated what would be available.

Congress did not want another network, so it forbade the corporation authority to create one, recognizing that some kind of interconnection among noncommercial stations was desirable. Certain programs have value, principally because of their currency, and considerably less or no value after the fact. Perhaps here, too, we were naive to think that interconnection plus more programing and timely programing could result in anything but networking in the traditional sense. If programs are available from outside, and the air time is there waiting to be filled, the inclination to accept them without much question is probably overpowering.

The Public Broadcasting Service, a subsidiary of the Public Broadcasting Corporation, in its efforts to obtain the kind of programing it wanted, and its efforts to be completely independent of any judgmental oversight by PBC, created a stir which has boiled along for the better part of a year. At the present time there has been a truce, a compromise, a cease-fire which is intended to solve the problems. I get the impression that PBS and the PBC are still at arms length and not entirely trustful of each other. Time will tell.

In all of this, the position of the noncommercial stations has been most curious. While it would seem they would not look kindly upon the trend to centralized programing, they seemed to come down on the side of the forces which foster it. At the same time they want greater and greater percentages of the Federal money to automatically come through to them without restrictions on its use. This sounded sensible enough to me until lately.

Although it may not be widespread, I have heard of instances in which noncommercial stations have been competing for the business of producing commercial material for use by TV stations. This is direct competition with advertising agencies and independent producing companies. Section 392(4) of the Communications Act requires:

> That such broadcasting facilities (noncommercial educational stations) will be used only for educational purposes.

The money to support noncommercial stations comes from several sources. Under present agreements with PBC larger and larger percentages will come directly from appropriated Federal funds. Much of it comes from school systems, State and local tax dollars and public contributions. The reason for funneling more Federal funds to local stations is to make it possible for them to concentrate on creating better local and regional programs for use by noncommercial stations. If they have enough equipment and talent available to do that job and still compete in the marketplace, they have entirely too much. And there is no excuse for any Federal funds being used to support such stations.

Such commercial activity is in direct violation of the Communications Act besides being a misuse of Federal and other tax money. As far as I am concerned any noncommercial station which is competing for production of commercial material should be not only cutoff from Federal funds but should be required to pay back any amounts they may have received.

If such sanctions are not sufficient to completely eliminate the practice, the Federal Communications Commission should consider the forfeiture of licenses for violation of Section 392(4) of the Communications Act.

Mr. BROWN of Ohio. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. VAN DEERLIN) a member of the subcommittee.

Mr. VAN DEERLIN. Mr. Chairman, I commend the gentleman from Ohio for the leadership the gentleman has given in the subcommittee on this legislation, and the efforts the gentleman from Ohio has made toward shaping the compromise that has been brought to the floor today.

Mr. Chairman, the Public Broadcasting Authorization bill now before the House represents both a compromise and a commitment. As such, it merits approval in the form recommended by the Committee on Interstate and Foreign Commerce.

I say the legislation is a compromise because it carefully balances the need for stations to be able to operate free of Federal influence, against the equally legitimate need for some congressional control over the expenditure of Federal funds.

Compromise is also evident in the fiscal restraints recommended by the committee. While the 2-year authorization would give the public broadcasting system some urgently required leadtime, particularly in the planning and preparation of national programing, the funding levels proposed represent an absolute minimum if our support is to mean anything.

The 2-year authorization, previously agreed to by the Senate, would in itself establish a new commitment on the part of Congress to take the lead in assuring the independent growth of public broadcasting.

Since it was established 6 years ago, the Corporation for Public Broadcasting has been forced to operate on year-by-year authorizations. Last year, as many of our colleagues will recall, Congress tried to improve the situation, but got no help from the administration as the President vetoed our first try at a 2-year bill. The list of administration efforts to hamper public broadcasting is so long it is almost tedious. We have still had no visible action on the long-promised plan for systematic financing of public broadcasting, and many of us remember how the previous president of CPB was forced into resigning in part, by overt White House hostility.

What this all means is that Congress must assume the leadership role in providing public broadcasting with enough flexibility to enable the CPB to produce programs of greater quality which in turn will generate additional financial aid from the private sector. If the American people cannot enjoy quality programing over the public television system, then it is fair to assume they will not support these stations, and we will have been responsible for the death of a noble venture.

The 2-year authorization period serves notice that we intend to protect an institution of free expression that is the property of the American people, and not the instrument of a partisan unit of government. This does not mean that the legislative branch must surrender all its responsibilities. The oversight and appropriations processes will continue to assure that legislative responsibility is being met.

In addition, section 2 of the proposed legislation stipulates that any station receiving assistance from CPB make audio transcriptions of programs in which any issue of public importance is discussed. These tapes must be maintained by the station for 60 days, for possible public scrutiny. Of course, no commercial broadcaster is saddled with this requirement—it comes dangerously close to censorship. For this reason, I must point out that as far as I am concerned the provision in question is in no way a "hunting license" for the Federal Government. Rather, it is a housekeeping device, which I anticipate will be rarely if ever used.

In closing, Mr. Chairman, I would urge our colleagues to accept this bill as perhaps less than perfect but in all likelihood the best we can achieve at this time: At least the legislation will give public broadcasting a little more room to grow, and provide a statutory foundation for additional improvement later.

Mr. BROWN of Ohio. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. ROONEY).

Mr. ROONEY of Pennsylvania. Mr. Chairman, I too would like to commend the gentleman from Ohio (Mr. BROWN) on the outstanding work the gentleman has done in bringing to the floor of the House today a compromise in this bill.

Mr. Chairman, I am proud to lend my strong personal and legislative support to legislation authorizing Federal funds for public broadcasting for fiscal 1974 and 1975. Provisions of that legislation will help provide substantial and vitally needed financial support for programing at both the local and national levels.

In my own district, it will mean that WLVT–TV will be able to continue providing such important community service programs to the citizens of the Lehigh Valley as the live weekly County Commissioners Report where area viewers can phone in questions pertinent to them and their communities and have them answered on the air by their elected officials.

Passage of the 2-year funding measure will also mean continued support for a broad range of cultural, children's, and public affairs programs at the national level to supplement and complement the already excellent locally produced programs on WLVT.

On behalf of the viewers in the Lehigh Valley, I would like here to extend my thanks to WLVT general manager Sheldon P. Siegel and his staff and to Charles W. G. Fuller, president of the Lehigh Valley Educational Television Corp., for their contribution to high quality community and educational television and to assure them that I will continue to support the kind of legislation that will insure the continued development and distribution of local and national programs of excellence for public broadcasting throughout the country.

I include the following:

MINORITY PROGRAMING SUMMARY

	Fiscal year—	
	1972	1973
CPB grants for minority programing (excluding "Sesame Street" and "Electric Company") (dollars)	650,000	1,150,000
Total CPB program grants (dollars)	12,700,000	14,700,000
CPB minority program grants to total grants (excluding "Sesame Street" and "Electric Company") (percent)	5.1	7.8
CPB minority program grants to total grants (including "Sesame Street" and "Electric Company") [1] (percent)	20.8	41.8
	1972[2]	Fiscal year 1973
PBS distribution of minority programs (excluding "Sesame Street" and "Electric Company") (hours)	101	138
PBS total evening hours distributed[3]	902	828
PBS total hours distributed evening and children's [3]	1431.5	1277.5
PBS distribution of "Sesame Street" and "Electric Company"[3] (hours)	396	390
PBS distribution of minority programing to total evening hours [3] (percent)	11	16.7
PBS distribution of minority programing to total hours (including "Sesame Street" and "Electric Company")[3] (percent)	35	41.3

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[1] SS and EC funding: Fiscal year 1972—$2,000,000, fiscal year 1973—$5,000,000.

[2] October 1971—August 1972.

[3] Does not include repeat feeds within week.

MEMORANDUM

JULY 20, 1973.

Re: Fact Sheet on H.R. 8538

This memorandum attempts to analyze CPB funding and PBS distribution of minority programming for the years 1972 and 1973. Though the conclusion in the Fact Sheet that public television should do more programming directed at minorities is undeniable, the dimensions of present efforts is severely understated and therefore incorrect.

In the "Background" section, it is unclear whether "1972" refers to an annual, fiscal year (July to June) or the television year (fall through summer).

Attachment A details PBS distributed programming which is targeted to or is about blacks and other minorities. It concerns programming distributed during the 1971–72 television season or the fall of 1971 through the summer of 1972.

PBS distributed during this period 101 hours of adult programming targeted to minority audiences out of a total of 902 hours or approximately 11% of total hours distributed.

We have been unable to calculate similar figures for the 1972–73 television season because it is not yet complete but the accurate data is available on programming distributed in fiscal year 1973 which begins during the summer of 1972 through the spring of 1973. There is, therefore, a three month overlap with Attachment A and the above noted hours but it similarly takes into account a full year of programming.

During this period, PBS distributed 138 hours of minority programming in prime time out of 828 total evening hours of 16.7%. This represents, therefore, a 52% increase over the previous year.

However, even these figures are somewhat misleading since they ignore children's programming which includes "Sesame Street" and "Electric Company." Both these programs are aimed to the low income urban child in general without regard to race.

However, the target audience is undeniably and principally black. In a recent study by Daniel Yankelovich, Inc., of viewership in New York's East Harlem and Bedford Stuyvesant and in poverty areas of Chicago and Washington, D.C., in which out of 1,217 households interviewed, 99% were black or Spanish-speaking, viewership has increased steadily since 1970. The survey reported that:

"In all categories the results were favorable. . . . Indeed, on the basis of other similar studies, we might well by now have anticipated a leveling off or decline in SESAME STREET viewing. Instead, the program has become virtually an institution with ghetto children."

What follows is a summary of the Yankelovich survey of "Sesame Street" penetration with comparison of results from past studies:

[In percent]

	1973	1971	1970
Bedford Stuyvesant	92	77	90
East Harlem	94	86	78
Chicago	97	95	88
Washington, D.C	67	59	32

These two programs represent 28% of total hours distributed in the 1972 season (396 out of 1431.5). Thus, out of the total number of hours distributed—1431.5—497 or 35% are either targeted directly to monorities or have minority children as a principal target.

In fiscal year 1972 e.g. July 1, 1971 to June 30, 1972, CPB direct expenditures for minority targeted programming was $489,000. $382,000 of this figure was for "Black Journal and Soul." It should be noted, however, that programs of specific interest to minorities occur in the context of other series which are funded by CPB such as "This Week," "Thirty Minutes With," "Firing Line," "Special of the Week," "NET Playhouse Biography," and other series targeted to a general audience. While we have not been able to allocate CPB expenditure on these programs to the previously stated total, the total figure for FY 1972 would undoubtedly bring it up to the $650,000 stated in the Fact Sheet.

A principal fault of the charge that CPB spends only 2% for minority programming is that almost two-thirds of CPB's 35 million appropriation in FY 1972 is devoted to interconnection, administration, operating grants to local stations and special research and training projects. The actual program budget for national programming was $12.7 million in that year. Assuming that $650,000 appropriates expenditures by CPB for minority programming, the appropriate percentage should be 5.18%. Again, however, this percentage ignores entirely "Sesame Street" and "Electric Company" which received $2 million from CPB. A more accurate figure, therefore, is 20.8%.

In FY 1973, CPB made grants from minority targeted programs, program series and programs within series targeted to general audiences of approximately $1,150,000 with children's programs excluded or 7.8%.* This compares to 5.1% the previous year, a 53% improvement. Including "Sesame Street" and "Electric Company" ($5 million) the percentage becomes 41.8%.

For FY 1974, CPB has allocated $825,000 of a national program budget of $13,000,000 to prime time minority targeted programming. This figure will surpass $1,000,000 when minority programs in general audience programming is included. In addition, CPB will again allocate $5,000,000 to "Sesame Street" and "Electric Company." Therefore, the percentage for FY 1974 will undoubtedly exceed 45%. In addition, substantial funds will go directly to local stations as unrestricted grants most of which will be used for local programs. Some of these will be distributed nationally by PBS. Many of these local programs will be minority targeted as in the past. Attachment B reflects examples of minority targeted local programming in FY 1973.

We believe, therefore, that the conclusions reached in the Fact Sheet are inaccurate or misleading. For example:

1. The percentage of CPB funds spend on minority programming in 1972 is not 2% but 20.8%.

2. "Black Journal" and Soul were not the only "Black Network programs" as Attachment A shows. "Black Journal's funding for FY 1974 is at $345,000, the same level as FY 1973. Soul's funding has been reduced from $290,000 to $175,000. "Interface," to be produced by WETA, is budgeted at $305,000.

3. There is no longer a line item in the CPB budget for programming for the elderly. It is hoped that this gap will be filled with private corporate and foundation funds. $70,000 has been allocated to a women's program to be produced in Dallas.

4. National programming for other ethnic minorities is a major gap in nationally distributed programming as Attachment A notes, however, PBS distributed 5 hours of programming devoted to Spanish-speaking and native Americans, some of which was CPB funded. CPB did allocate $20,000 to WNET in New York for "Realidades," directed at the Puerto Rican community. There is considerable local programming in this area.

5. A 1971 Harris survey found that in areas where PTV stations existed 37% of whites viewed public television "last week", while 52% of blacks viewed "last week". More recent studies, in New York, Dallas and Jacksonville, Florida confirm that black viewing of PTV programming is either slightly higher or no lower than viewing by whites.

6. While public television must continue to improve in its overall service to minorities, it is not correct that "programming to educate, uplift, and entertain minorities . . . does not exist in any meaningful way on public television."

7. Through CPB production grants and/or local station grants, 60 PTV stations contributed programming for PBS national distribution, up from 27 in FY 1971 and 42 in FY 1972. The major share of production grants from CPB continue to go to large producing stations for the principle reason that only they are equipped at this time to produce the high-quality programming needed by the local stations and their audiences. Diversification of program production will continue to be difficult so long as CPB funding is retained at present starvation levels.

PBS Programing Targeted at Minority Group Audiences or About Minority Groups

OCTOBER 3, 1971–AUGUST 18, 1972

I. *Programming for and about blacks*

A. "Black Journal": During the 1971–1972 season, 35 half-hour shows in the "Black Journal" series were transmitted, as well as a "Black Journal" special, "Is It Too Late?" which was aired twice. Some of the guests on the programs include Imamu Amiri Baraka, Roy Innis, Angela Davis, Kareem Abdul Jabbar, and Melvin Van Peebles. Others participating on the series were black journalists, politicians, policemen, lawyers, and artists. "Black Journal" provided programs on the National Black Political Convention, African Liberation Day, and on the life and accomplishments of Malcolm X, Frederick Douglass, and Martin Luther King, Jr. Total hours on air, 20½ hrs.

B. "Soul!": The "Soul!" series featured black artists, musicians, poets, playwrights, and other performers. Guests included Nikki Giovanni, James Baldwin, Sidney Poitier, Harry Belafonte, Betty Shabazz, Miriam Makeba, and the Rev. Jesse Jackson. Total hours on air, 44 hrs.

C. Other public affair programs (series and specials):

"Firing Line" No. 19, "Is America Hospitable to the Negro?"—the Rev. Jesse Jackson and William Buckley (10/3/71)

"Great American Dream Machine" No. 25 (12/8/71)

"This Week" No. 17 "But Not *My* Kids"—busing in Richmond, Virginia (1/26/72)

"A Public Affair/Election '72" No. 4, "Assessment: The New Black Power"—Rep. William Clay (D-Mo.) discussed black political strength with a panel of newsmen (2/23/72)

"This Week" No. 21 and No. 22, "Busing: The Politics and the Reality"—busing in McKeesport, Pennsylvania and Tampa, Florida. (2/23/72 and 3/1/72)

"The Busing Issue"—the President's speech on busing followed by a panel discussion including Roy Innis, Ruby Martin, and Paul Delaney (3/16/72)

National Black Political Convention (3/17/72)

"Advocates" No. 97 "Should There Be a Constitutional Amendment Prohibiting Busing?"—witnesses included Leon Panetta and Solomon Goodrich (3/21/72)

"Thirty Minutes with" No. 56—Mayor Richard Hatcher (4/6/72)

"Thirty Minutes with" No. 59—Rep. Shirley Chisholm (4/27/72)

"Wall Street Week" No. 30 "New Members in the Club"—black stockbrokers Willie Daniels and Travers Bell (5/12/72)

"Ron Dellums: A Test of Coalition Politics" (8/8/72) Total hours on air, 9½ hrs.

D. Cultural and dramatic programs (series and specials):

"Bird of the Iron Feather" (10/4/71—12/13/71)

"Hollywood Television Theatre" No. 7 "Neighbors" (11/18/71, 8/17/72)

"Net Playhouse Biography" No. 1 "To Be Young, Gifted, and Black"—biography of Lorraine Hansberry (1/20/72)

"Bill Cosby on Prejudice"—Cosby mocks bigots by imitating their ethnic slurs (2/21/72)

"Special of the Week" No. 28 "Sonny Brown and the Fallen Sparrows"—composer-musician Brown talks of his life in and out of prison. (4/10/72)

"Special of the Week" No. 38 "The Black Composers"—the work of four black composers of "serious" music (6/19/72)

"Special of the Week" #40 "You've Got a Friend—Roberta Flack" (7/3/72)

"Book Beat" #682 *Garvey: True Story of A Pioneer Black Nationalist*—author Elton Fax discusses his biography of Garvey (7/3/72)

"Doin' It"—music and poetry as expressions of the black experience (7/4/72–8/1/72)

"Jazz Set"—series of jazz concerts spanning the entire jazz spectrum (7/6/71–8/17/72)

"Evening at Pops" "Roberta Flack" (7/18/72, 7/23/72) Total hours on air, 18½ hrs.

E. Segments of programs:

"Great American Dream Machine" #16, "Mafundi"—a center for black artists and actors (11/6/71)

"Great American Dream Machine" #32, Interview with Belafonte, Poitier (1/26/72)

"World Press" #158—reaction to Angela Davis trial, acquittal (6/8/72) Total hours on air—approx. 40 minutes

II. PROGRAMING FOR AND ABOUT OTHER ETHNIC MINORITIES

A. Spanish-speaking:

"Soul"! #44—Puerto Rican poet and political activist Felipe Luciano (10/13/71)

"Yo Soy Chicano"—an historical and contemporary look at the Mexican-American people (8/11/72)

"This Exile—This Stranger"—the Cuban exiles in Florida (8/15/72)

"America Tropical"—attempts to restore a revolutionary Mexican-American mural in Los Angeles (8/16/72) Total hours on air, 3 hrs.

B. Native Americans:

"Firing Line" #34, "Who Owns America?"—former Secretary of the Interior Walter Hickel briefly discusses Alaskan and Indian land claims (1/16/72)

"Great American Dream Machine" #33—segment on the new political awareness and activism of native Hawaiians (2/2/72)

"Black Coal, Red Power"—a documentary about the exploitation of coal on the Navajo and Hopi Indian lands in Arizona (5/22/72) Total hours on air, 2 hrs.

III. OTHER PROGRAMS DEALING WITH MINORITY ACCESS TO POLITICAL POWER

"This Week" #36, "Convention '72: The Democrats Try Democracy"—black and Chicano involvements in the Democratic National Convention (6/7/72)

"This Week" #37, "Texas Politics at the Alamo"—new black and Chicano political strength in Texas (6/14/72) Total hours on air, 1 hr.

Attachment B: Minority Affairs

"Unganika," the Swahili word for unite and the title of a series produced by WXXI-TV Rochester, New York, is designed to focus on the cultural, environmental and social issues of concern to the Black community of Rochester.

WTVI Charlotte, North Carolina produced a film on racial conflict in the schools. "Someone Has to Listen" presents a mythical school and follows students dealing with school officials and the community to solve difficulties.

Black American authors' experience in literature from the 1700's to the present is ex-

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*The figure $1,150,000 includes:

"Soul" and "Black Journal"	$635,000
For minority targeted specials and other series, e.g., "Teletemas"	247,000
For targeted programs in general audience programming	268,000
Total	$1,150,000

plored in a series called "Ebony Harvest" produced by WETA-FM Washington, D.C.

"Carrascolendas," a bilingual program designed for Mexican-American children by KLRN-TV San Antonio and Austin, Texas uses Spanish as a native language and English as a second. It is designed to establish a positive self-identity and self-concept in the Mexican-American child.

Through a CPB Community Support Grant KTSC-TV Pueblo, Colorado produces "La Vida de Nosotros" which features local entertainers and provides information of interest to the Chicano citizens.

Sickle Cell Anemia, a hereditary blood disease found almost exclusively in Black people, is an example of the topics discussed on "Sketches in Black", a production of WSKG-TV Binghamton, New York.

Through a grant WBGU Bowling Green, Ohio will produce a series of programs directed toward inner city residents in Ohio. Programs will dramatize three families, Mexican-American, Black and white, to show how they deal with problems like child care personal self-esteem, consumerism, and family and community relationships.

WVIA Scranton-Wilkes-Barre, has activated a minority training program and enrolled two university students. The program offers over 1,000 hours' experience in all areas of television and radio production at WVIA; trainees are also enrolled in the broadcasting curriculum at the Wilkes-Barre campus of Penn State University. The program was made possible by a grant from the Pennsylvania Public TV Network and local funds.

WETA-TV Washington, D.C. produces an informative and entertaining program in Spanish called "Media Hora" for the area's Spanish speaking viewers.

"Realidades", a show aimed toward the interests of the Puerto Rican community is produced by WNBT New York, New York.

KTDB-FM, the Ramah Navajo Radio station in northwestern New Mexico is more than just another non-commercial radio station. For 1500 Navajo Indians it's the newspaper, telephone, and a kind of community center where everyone can take an active part in the station's programs.

COMMENTS REGARDING BLACK AND OTHER MINORITY PARTICIPATION IN PUBLIC BROADCASTING

[July 19, 1973]

ADMINISTRATION

Regarding Boards of Directors of public stations, the majority of PTV stations are licensed to public agencies: state universities (50), public school districts (20), and special agencies established by the state to administer PTV stations (17). The other category of licensee authority is the group called community stations (54), which establish non-profit corporations for the purpose of operating a PTV station. The first categories of public agency licensees have trustees designated by the state or agency according to particular statutes. Some are elected state university regents, where the university is the licensee, or elected school board members, or appointees of the state governor, as in a state commission. Thus the composition of the Board is a matter of statute. The community stations also have many diverse methods of selecting board members. Some have station contributing members elect Directors, others are designated ex officio from the local institutions, e.g. colleges, community groups, still others are derived from board selections. In each case, it is certainly the intent of the PTV licensing procedure that the board be responsible for the operation of the PTV station, and responsive to its own community as effectively as possible.

Regarding particular stations cited as having *no* minority board members, we find that in fact these listed stations *do* have minority board members: *KETC*, St. Louis, *WITW*, Charleston, part of the South Carolina ETV Network, and *WUNF*, Asheville, North Carolina, part of the North Carolina ETV Network.

EMPLOYMENT

While minority employment has not been as large as desired, neither is it presently just "token." In 1972, the FCC reported a total of 666 minority PTV station staff members of a total employed in the stations of 6917, for a percentage of 9.6%. While the per cent figures have declined from 1970, the numbers of minority persons have actually increased, but not as rapidly as total employment in the industry. In 1969, there were 512 minority persons of an industry total of 5,331. In 1970, 646 of 5,447, and in 1971, 539 of 6,744.

We do not know the reasons for this relative decline, but we are aware that industry expansion at least in new stations has taken place in a number of areas of very low minority population. And we are frequently now hearing the complaint from station managers that commercial stations are taking their minority personnel as soon as they have become more experienced. Whatever the reasons, we believe stations are aware of their responsibilities in these areas and that they are attempting to increase minority participation.

The above figures include only stations, and not related agencies such as the Children's Television Workshop, producer of Sesame Street and Electric Company, which figures, if included, would certainly increase the numbers of minority persons in public TV.

MINORITY EMPLOYMENT PRACTICES OF PUBLIC TELEVISION STATIONS, OCTOBER 1972

Results of the second annual employment survey conducted by the Federal Communications Commission. Compiled by the National Association of Educational Broadcasters, Office of Minority Affairs.

PUBLIC TELEVISION STATIONS RESPONDING TO FCC ANNUAL EMPLOYMENT REPORT

Alabama—Education T.V. Commission, Birmingham.

Arizona—KAET, Phoenix and KUAT, Tucson.

Arkansas—KETS, Conway.

California—KEET, Eureka; KCET, Los Angeles; KIXE, Redding; KVIE, Sacramento; KVCR, San Bernardino; KPBS, San Diego; KQED, San Francisco; KTEH, San Jose; and KCSM, San Mateo.

Colorado—KRMA, Denver and KTSC, Pueblo.

Connecticut—Conn. Educational Television Corp., Hartford.

Delaware—WHYY, Wilmington.

District of Columbia—WETA, Washington.

Florida—WUFT, Gainesville; WJCT, Jacksonville; WPBT, Miami; WTHS, Miami; WMFE, Orlando; WSRE, Pensacola; WFSU, Tallahassee; WEDU, Tampa; and WUSF, Tampa.

Georgia—WGTV, Athens; WETV, Atlanta; and Ga. State Board of Ed., Atlanta.

Hawaii—Hawaii E.T.V. Network, Honolulu.

Idaho—KUID, Moscow.

Illinois—WSIU, Carbondale; Chicago E.T.V. Assoc.; WUSI, Olney; and *WILL, Urbana.

Indiana—WTIU, Bloomington; WNIN, Evansville; WFYI, Indianapolis; WCAE, St. John; and WVUT, Vincennes.

Iowa—KDIN, Des Moines and KIIN, Iowa City.

Kansas—KTWU, Topeka and KPTS, Wichita.

Kentucky—Kentucky Authority for Ed. T.V., Lexington and WKPC, Louisville.

Louisiana—WYES, New Orleans.

Maine—WCBB, Augusta; WMED, Calais; WMEB, Orono; and WMEM, Presque Isle.

Maryland—Maryland Public Broadcasting Commission.

Massachusetts—WGBH Ed. Foundation, Boston.

Michigan—WTVS, Detroit; WMSB, East Lansing; WNMR, Marquette; WCMU, Mt. Pleasant; and WUCM, University Center.

Minnesota—Twin City Ed. T.V. Corp. and WDSE, Duluth.

Mississippi—WMAA, Jackson.

Missouri—KCSD, Kansas City and KETC, St. Louis.

Nebraska—KTNE, Alliance; KMNE, Bassett, KHNE, Hastings; KLNE, Lexington; KUON, Lincoln; KRNE, Merriman; KXNE, Norfolk; KPNE, North Platte; and KYNE, Omaha.

Nevada—KLVX, Las Vegas.

New Hampshire—WENH, Durham.

New Jersey—WNJT, Trenton.

New Mexico—KNME, Albuquerque.

New York—WSKG, Binghamton; WNED, Buffalo; WLIW, Garden City; WNET, New York; WNYC, New York; WNYE, New York; WXXI, Rochester; WMHT, Schenectady; WCNY, Syracuse; and WNPE, Watertown.

North Carolina—University of North Carolina Ed. T.V. and WTVI, Charlotte.

North Dakota—KFME, Fargo.

Ohio—WOUB, Athens; WBGU, Bowling Green; WCET, Cincinnati; WVIZ, Cleveland; WOSU, Columbus; WGSF, Newark; WMUB, Oxford; and WGTE, Toledo.

Oklahoma—Oklahoma Ed. T.V. Authority, Norman and KOKH, Oklahoma City.

Oregon—KOAC, Corvallis and KOAP, Portland.

Pennsylvania—Metropolitan Pittsburgh; Public Broadcasting; WLVT, Allentown; WPSX, Clearfield; WQLN, Erie; WITF, Hershey; WUHY, Philadelphia; and WVIA, Scranton.

Rhode Island—WSBE, Providence.

South Carolina—S.C.E.T.V. Commission.

South Dakota—KESD, Brookings and S.D.E.T.V. Board.

Tennessee—WTCI, Chattanooga; WLIT, Lexington; WKNO, Memphis, WDCN, Nashville; and WSIK, Knoxville, Sneedville.

Texas—KLRN, Austin-San Antonio; KAMU, College Station; KERA, Dallas; KUTH, Houston; KNCT, Killeen; and KTXT, Lubbock.

Utah—KOET, Ogden; KBYU, Provo; and KUED, Salt Lake City.

Vermont—Univ. of Vt. & State Agricultural College.

Virginia—Blue Ridge E.T.V. Assoc.; Central Va. E.T.V. Corp.; WVPT, Harrisonburg; and WHRO, Norfolk.

Washington—KPEC, Lakewood Center; KWSU, Pullman; KCTS, Seattle; KSPS, Spokane; KTPS, Tacoma; and KYVE, Yakima.

West Virginia—WSWP, Beckley; WMUL, Milton; and WWVU, Morgantown.

Wisconsin—WHA, Madison; WMVS, Milwaukee; and WMVT, Milwaukee.

Guam—KGTF, Agana.

Puerto Rico—WIPR, San Juan and WIPM, Mayaguez.

ADDITIONAL STATIONS RESPONDING IN 1973 REPORT

Idaho—KAID, Boise and KBGL, Pocatello.

Illinois—WTPV, Peoria.

Indiana—WIPB, Munice.

Michigan—WGVC, Grand Rapids.

STATIONS MISSING FROM THIS REPORT

California—KCVR, San Bernadino.

Illinois—WILL, Urbana.

New York—WNYC, New York City.

South Dakota—KBHE, Rapid City; KDSD, Aberdeen; and KTSD, Pierre.

Texas—KAMU, College Station.

Utah—KOET-KWCS, Ogden.

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*Not found in F.C.C. or provided by the licensee.

SECTION III—FULL-TIME EMPLOYEES (APPLICABLE TO ALL RESPONDENTS)

		All employees[2]		Minority group employees							
				Male				Female			
Job categories[1]	Total (col. 2+3) (1)	Male (2)	Female (3)	Negro (4)	Oriental (5)	American Indian[3] (6)	Spanish-surnamed American (7)	Negro (8)	Oriental (9)	American Indian (10)	Spanish-surnamed American (11)
Officials and managers	782	661	121	10	3	2	1	8			1
Professionals	1,573	1,151	422	51	1	4	22	30	4	2	7
Technicians	1,598	1,533	65	84	9	8	20	7	1	1	1
Sales workers	2	2									
Office and clerical	982	110	872	15			10	72	9		13
Craftsmen (skilled)	264	232	32	28	2	2	4	4			3
Operatives (semi-skilled)	88	83	5	14		1	1	1			
Laborers (unskilled)	22	20	2	6							
Service workers	63	56	7	24			3	5			
Total	5,374	3,848	1,526	232	15	17	61	127	14	3	25
Total employment from previous report (if any)	5,235	3,799	1,436	199	21	14	43	84	.	4	13

SECTION IV—PART-TIME PAID EMPLOYEES (APPLICABLE TO ALL RESPONDENTS)

		All employees[2]		Minority group employees							
				Male				Female			
Job categories[1]	Total (col. 2+3) (1)	Male (2)	Female (3)	Negro (4)	Oriental (5)	American Indian[3] (6)	Spanish-surnamed American (7)	Negro (8)	Oriental (9)	American Indian (10)	Spanish-surnamed American (11)
Officials and managers	22	18	4	1							
Professionals	247	177	70	8	1		8	4			6
Technicians	455	412	43	14	2	1	9	2			2
Sales workers											
Office and clerical	267	76	191	8	1		1	6	3		
Craftsmen (skilled)	142	125	17	3	6	1	4	1			2
Operatives (semiskilled)	279	235	44	26	7		5	6	2		
Laborers (unskilled)	90	69	21	2	9		2	1	5		
Service workers	41	36	5	7			4	1			1
Total	1,543	1,148	395	69	26	2	33	21	10		11
Total employment from previous report (if any)	1,509	1,121	388	59	23	2	22	20	11		13
Total for 1971	6,744	4,920	1,824	158	44	16	65	104	20	4	26
Total for 1972	6,917	4,996	1,921	301	41	19	94	148	25	3	36

[1] Refer to instructions for explanation of all title functions.

[2] Include "Minority group employees" and others. See instruction 6.

[3] In Alaska, include Eskimos and Aleuts with "American Indian."

FULL AND PART-TIME EMPLOYMENT IN PUBLIC TELEVISION STATIONS—MALE AND FEMALE

Job categories	1971 total employees	1971 total minority employees	1972 total employees	1972 total minority employees
Officials and managers	754	14	804	26
Professionals	1,739	119	1,820	148
Technicians	2,054	152	2,053	161
Sales workers	6	0	2	0
Office and clerical	1,206	100	1,249	138
Craftsmen (skilled)	362	46	406	60
Operatives (semi-skilled)	431	37	367	63
Laborers (unskilled)	125	32	112	25
Service workers	67	39	104	45
Total	6,744	539	6,917	666

NATIONAL ASSOCIATION OF EDUCATIONAL BROADCASTERS

MINORITY AFFAIRS—OCTOBER 1972

The fifth annual NAEB report on minority employment in public television stations in the United States shows marked increases in minority employment over last year's report while the percentage of minority employees continues to be below the 12.1% figure for 1970.

The NAEB 1972 report is based upon data secured from the reports to the Federal Communications Commission on their Form 395, Annual Employment Report, submitted May 31, 1972 by the public television licensees.

Statistics reflecting employment in public radio stations are unobtainable because most of the licensees employ less than five individuals and they are not required to file numbers.

This report shows 666 full and part-time minority employees in the total workforce that numbers 6,917. The percentage now is 9.62 as contrasted to 7.9% in 1971 and 12.1 in 1970.

Women are shown to represent 27.77 percent of the workforce in public television stations. There are 1,921 full and part-time female employees out of the 6,917 total positions held.

Dramatic increases of minority employees appear in the ranks of officials and managers, going from 14 to 26 in 1972; professionals increased from 119 to 148; office and clerical 100 to 138; craftsmen up from 46 to 60 and operatives now at 63 from 37 in 1971. There is a slight decrease in laborers, the number dropping to 25 from 32. See the comparison tables for both years.

We must reiterate that in our opinion the FCC's classification is a poor one that makes it impossible to determine how minority people and women are being employed or what kind of movement is taking place for them.

For instance, it is of little value to know that there are 26 minority employees shown as managers and officials unless it is indicated that they are station managers, program directors, Business Affairs Directors or one of the many department directors who "set broad policy, exercise over-all responsibility for execution of these policies, and direct individual departments or special phases of a firm's operations."

If anyone is to be able to make meaningful judgments there must be more specificity. In our view, the FCC should adopt something of the classification system used previously by the NAEB which can be used for the commercial licensees as well.

It was unusually difficult to obtain the information this year. Quite a number of the public television licensees neglected, and in one instance refused, to send copies of their FCC 395 report to the Office of Minority Affairs after various requests had been made in NAEB publications and communications to them, before and subsequent to the filing date.

Within the FCC itself, the difficulty was compounded. This year, the FCC was engaged in preparing the 1971 and 1972 data for computerization while providing the United Church of Christ with the same data for all licensees under a contract. Consequently, we were unable to obtain the 395's we needed from the FCC until October. A great deal of assistance was provided through the office of Commissioner Benjamin Hooks and we are grateful to him.

Still there are nine public television stations missing from this report because their 395's could not be found in the FCC by the time this report was compiled.

Therefore, there are gaps in this report that preclude accurate comparisons with previous reports. But, it is crucial to be aware that reports from 96% of the public television entities serving the American public indicate that the licensed system had only 666 minority employees, representing 9.62% of the entire reported workforce of 6,917 individuals.

LIONEL J. MONAGAS,
Director.

WETA

WETA reports present minority staff employment, including a number of supervisory employees, stands at approximately 16% blacks and other minorities of a staff of approximately 100.

WETA's Board of Directors currently includes eight black and other minority members of a Board of 34 total, for a percentage of 23.5%.

CHALMERS MARQUIS.

July 19, 1973.

Mr. BROWN of Ohio. Mr. Chairman, I yield to the gentleman from Oregon (Mr. DELLENBACK).

Mr. DELLENBACK. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the bill H.R. 8538, authorizing funds for the Corporation for Public Broadcasting, and commend the committee for its achievement in putting together this legislation. I hope it will pass with overwhelming support today.

May I repeat at this time what I have stated on a number of occasions before committees and on the floor of the House. I own a minority stock interest in a corporation which is engaged in broadcasting, being the licensee of a television station and three radio stations.

I do not believe my vote on the bill before us today is in any way influenced by this fact. But, as a believer in and advocate of full disclosure, in fairness, I disclose once again the fact of this ownership.

Mr. BROWN of Ohio. Mr. Chairman, I yield 5 minutes to the gentleman from North Carolina (Mr. Martin).

Mr. MARTIN of North Carolina. Mr. Chairman, I have come down here to support the bill H.R. 8538. I also want to express my concern for a number of incidents where it appears that there has been unfair competition between a few noncommercial stations and their commercial neighbors, whereby the noncommercial stations underbid and obtained contracts in unfair competition with the commercial stations. This point was raised by the gentleman from Ohio (Mr. Devine). I should like to pursue this for just a few moments.

Mr. Chairman, the cases that have been presented are admittedly at this point few and scattered. They are not now any overwhelming pattern, but they are now matters of precedent and, therefore, sound an alarm for the future. My concern then, Mr. Chairman, is that as public broadcasting expands as this bill contemplates, will we let this tendency continue and increase, or will we ask that it stop? I note that it was also the concern of the committee, as read from page 12 of the committee report, and I quote:

> Your Committee has noted with some dismay the allegation that public television stations are competing with privately financed commercial broadcasters for commercial business. Certainly, public broadcasting facilities grants should not be permitted to foster this practice.

Let me note that it is the concern of the Office of Education of the Department of Health, Education, and Welfare. I cite a memorandum to all of the educational television licensees by Mr. Stuart Hallock, the Acting Director of Educational Broadcasting Facilities Program—EBFP.

> Noncommercial educational stations who have received Federal money for facilities have signed an assurance required by the Public Broadcasting Act (Section 392(a)(4) that federally supported broadcasting facilities will be used only for educational purposes. No mobile units or other facilities containing equipment purchased with the aid of Federal Funds under the Educational Broadcasting Facilities Program may be made available at any time or under any circumstances for use for commercial purposes, even if the commercial interest pays for the use through gifts, lease charges, or support money which is used to support the noncommercial operation. If any item purchased with the aid of EBFP funds is used by commercial interests for any commercial purpose within ten years after the date when the project was completed, the grant will be revoked and the Federal share must be paid back to the U.S. Treasury.

Mr. Chairman, both of these particular statements, just read, deal specifically with those stations which receive facilities grants.

I would at this point for clarification seek to put to the gentleman from Massachusetts, the distinguished chairman of the subcommittee, just a couple of questions for the purpose of clarifying the force and effect which this legislative history will have on enforcing the intent of the committee and the intent of Congress.

Mr. MACDONALD. Mr. Chairman, if the gentleman will yield.

Mr. MARTIN of North Carolina. I yield to the gentleman from Massachusetts.

Mr. MACDONALD. I will point out to the gentleman he is correct. It has been called to the attention of the subcommittee, and it is a subject of concern. We took it up with the Department of Health, Education, and Welfare, as the gentleman knows, at his request, and we got back as strong a memorandum as I think is possible for any bureaucrat to write, which I will just read the last line of, which ought to solve this problem for the future. The last line reads:

> If any item purchased with the aid of educational broadcasting funds is used by commercial interests for any commercial purpose within 10 years after the date when the project was completed, the grant will be revoked, and the Federal share must be paid back to the U.S. Treasury by the station that used that publicly-funded facility for commercial purposes.

Mr. MARTIN of North Carolina. I thank the gentleman.

I should like to proceed with one additional concern which I have, which is of a slightly different nature. I should like to continue in a rather hypothetical way with the point, without getting into any one particular case. It has been alleged that there is an educational television affiliate which is engaged in the duplicating of videotape, and which frequently underbids its commercial competition. This particular company does not receive Federal dollars and, therefore, is not subject to the requirement that the gentleman just read. The question is: How is it funded? As I understand, it receives charitable donations from the general public and it also receives some contributions from public broadcasters, perhaps some of whom in turn have received Federal money.

The point is that it appears to me that here are stations which are receiving Federal dollars and are, therefore, not permitted to underbid in unfair competition, but who are also receiving charitable donations; who are then able to shift those charitable donations to create and support a new entity which then does compete with commercial stations.

It seems to me that this is a principle to which we must object. I would ask whether it is the intent of the committee to permit this kind of practice or to seek to discourage it?

Mr. MACDONALD. The gentleman's point is well taken. I would state for the committee that it is the intent of the committee to see that no unfair advantage is taken in any material way by those receiving public funding, direct or indirect, so as to put them in competition with private enterprise.

Mr. BROWN of Ohio. Mr. Chairman, I yield 5 minutes to the gentleman from Nebraska (Mr. Martin).

Mr. MARTIN of Nebraska. Mr. Chairman, I had intended this afternoon to offer an amendment to the Public Broadcasting Act which would have clarified the role of the GAO in auditing the operations of the Public Broadcasting Corporation. This came about and was called to my attention in testimony by Mr. Elmer B. Staats, the Comptroller General, before our Select Committee on Committees, of which I am the vice chairman, along with the gentleman from Missouri (Mr. Bolling), the chairman of the committee. Mr. Staats made the following statement in his testimony before our committee last month:

> There is another area in which GAO needs strengthening if it is to make a maximum contribution to assisting the Congress in its oversight work. This area is access to records of the Executive agencies.
>
> We generally have had good cooperation in obtaining access to records of the executive departments. Over the years most of our problems have been with (a) the Federal Deposit Insurance Corporation, (b) the Department of State and the Department of Defense in those areas which involve our relations with foreign countries, and (c) certain activities of the Treasury Department. In addition to these which persist, we have recently had problems with the Emergency Loan Guarantee Board and the Corporation for Public Broadcasting.

This brought about a colloquy between Mr. Staats and your present speaker in regard to General Accounting Office's responsibility concerning auditing the Public Broadcasting Corporation. There was a difference of opinions as to legal interpretations as to how far General Accounting should go in their audit. In the interest of time however, Mr. Chairman, under permission which I will obtain, I will include these letters from the Comptroller General of the United States written to me on July 3 and July 18.

The letters I have referred to follow:

Comptroller General
of the United States,
Washington, D.C., July 3, 1973.

Hon. Dave T. Martin,
House of Representatives.

Dear Dave: By letter dated June 22, 1973, we forwarded language for a proposed amendment to the Public Broadcasting Act which would clarify GAO's right of access to the records of the Corporation for Public Broadcasting. The access-to-records language now in the Act is similar to the language contained in the legislation for many quasi-governmental entities. This reads as follows:

"The financial transactions of the Corporation for any fiscal year during which Federal funds are available to finance any portion of its operation may be audited by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions and *under such rules and regulations as may be prescribed by the Comptroller General of the United States.*" (Italic supplied.) Subsec. 1(2)(A), 47 U.S.C. 396.

The rules and regulations covering these corporations provide that:

"The primary purpose of audits by the General Accounting Office is to make for the Congress independent examinations into the manner in which Government [corporations] discharge their financial responsibilities. Financial responsibilities . . . include the administration of funds and the utilization of property and personnel only for authorized programs, activities, or purposes, and the conduct of programs or activities in an effective, efficient, and economical manner. Particular emphasis is placed on any aspects suspected or found to require correction or improvement and on the means of accomplishing it."

A more complete text of the purposes, responsibilities, and objectives of these audits under the Comptroller General's regulations is included as an attachment. Our proposed audits of the Corporation have been within the scope which applies to all other Government corporations. However, because of the Corporation's interpretation of this language, it is necessary to clarify our audit responsibility in this area.

Reference is sometimes made to House Report 90-572 which accompanied the House version of the Public Broadcasting Act of 1967 in support of the argument that the Congress did not intend for the GAO to go beyond a certification as to the accuracy of the agency's financial statements. That language is as follows:

"The bill requires an annual audit of the accounts of the Corporation by independent public accountants, and authorizes the Comptroller General of the United States to audit and examine the Corporation's records. . . . The authority of the Comptroller General is limited to the fiscal years during which Federal funds are available to finance the Corporation's operations. . . .

"Provision for a GAO audit was not originally included in H.R. 6736 because it was felt that such audits carry with them the power of the Comptroller General to settle and adjust the books being examined and that this authority would be contrary to the desired insulation of the Corporation from Government control. The Committee is also sensitive to the importance of having the Corporation free from Government control. However, the bill does not provide authority for the settlement of accounts. . . ."

The Government Corporation Control Act and subsequent legislation establishing Government corporations provide that the GAO does not have authority to settle agency accounts; that is to say, it does not have authority to take exception to (prohibit) improper payments made by the agency. This is true of all Government corporations and therefore no particular significance can be read into the fact that the GAO does not have authority to settle such accounts for the Corporation for Public Broadcasting.

The more important point is that GAO does have authority to and does make audits or reviews of the economy and efficiency aspects of such Government corporations.

We believe that it is desirable for the Congress to have independent information as to needed improvements in the management operations and activities administered by the Corporation for Public Broadcasting, as long as Federal funds make up a substantial portion of the Corporation's revenues.

We recognize, however, that the Corporation must remain as free as possible from Government interference in its dealings with non-governmental organizations and particularly in policy matters relating to the selection, content, and scheduling of programs for public broadcasting. In light of the concern that GAO would become involved in these matters, I wish to state unequivocally that it will not become so involved. If you believe it would be helpful in emphasizing this point, I would have no objection to inserting the word "management" before "operations" in the draft language—a revised copy of which is attached for ready reference.

We greatly appreciate your interest in this matter.

Sincerely yours,

Elmer B. Staats,
Comptroller General
of the United States.

Comptroller General
of the United States,
Washington, D.C., July 18, 1973.

The Honorable Dave T. Martin,
House of Representatives.

Dear Dave: This will supplement my letter to you of July 3 in which I suggested an amendment to the Public Broadcasting Act which would clarify GAO's right of access to records of the Corporation for Public Broadcasting.

As you know, the position of this Office has been that the language of the present statute clearly intended that the Comptroller General would have access to information which would enable him to conduct audits in accordance with the principles and procedures applicable to commercial corporate transactions and "under such rules and regulations as may be prescribed by the Comptroller General of the United States." The regulations of the GAO which pertain to such audits were in existence at the time the legislation was enacted and known to the Congress. I enclosed a copy of these rules and regulations with my letter to you of July 3.

The Corporation for Public Broadcasting has in the past taken the position that this Office does not have access to information other than that which is strictly limited to fiscal accounts. That this interpretation is incorrect is clear, I believe, from a reading of the regulations themselves. However, I suggested an amendment which would clarify the intent that the GAO would undertake reviews of the operations of the Corporation to identify needed management improvements together with suggestions as to courses of action which, in our opinion, should be considered to achieve economies, correct management deficiencies, and otherwise strengthen the management of the Corporation.

In my letter to you of July 3, I made it clear that the audits initiated by the GAO would not concern themselves with the relationship of the Corporation with non-governmental organizations with respect to policy and programming matters relating to the selection, content, and scheduling of programs for public broadcasting. I made this commitment in recognition of the objective of the Corporation to remain free of Government interference in relation to such policy matters.

I do feel, however, that there are many areas in an organization of this type which should be reviewed from time to time from a standpoint of determining whether programs and activities are conducted and expenditures made in an effective and economical manner.

Within the past few days, I have had conversations with the Chairman of the Board of the Corporation for Public Broadcasting, Dr. James Killian, and with Mr. Henry Loomis, President of the Corporation. While Dr. Killian has not had an opportunity to consult with all other members of the Board, he advises me that I am free to inform you that the Corporation is prepared to make a commitment that they will accommodate the needs of the GAO for information along the lines of the ground rules and general objectives which I have stated. With this understanding, I am prepared to work with the Corporation in the development of new regulations applicable to the Corporation to incorporate the above objectives and understandings on a basis which would meet the needs of both the GAO and the Corporation. Based on this commitment from the Corporation, the amendment to the Act which I have suggested does not appear to be necessary at this time.

I have read this letter to both Dr. Killian and Mr. Loomis and they have expressed concurrence in it.

I would appreciate it if this could be made a matter of record in the debate accompanying the consideration of the legislation so that the Members of Congress will be aware that satisfactory resolution of the matter is being reached.

I plan to keep you and the committees concerned advised as to progress in the development of the revised regulations.

Sincerely,

Elmer B. Staats.

Mr. Chairman, I would like to point out very briefly some things from Mr. Staats' letter to me on July 18 in which he states that a certain compromise has been worked out by the GAO and Public Broadcasting, and I am quoting now from Mr. Staats' letter:

Within the past few days, I have had conversations with the Chairman of the Board of the Corporation for Public Broadcasting, Dr. James Killian, and with Mr. Henry Loomis, President of the Corporation. While Dr. Killian has not had an opportunity to consult with all other members of the Board, he advises me that I am free to inform you that the Corporation is prepared to make a commitment that they will accommodate the needs of the GAO for information along the lines of the ground rules and general objectives which I have stated. With this understanding, I am prepared to work with the Corporation to incorporate the above objectives and understandings on a basis which would meet the needs of both the GAO and the Corporation. Based on this commitment from the Corporation, the amendment to the Act which I have suggested does not appear to be necessary at this time.

I have read this letter to both Dr. Killian and Mr. Loomis and they have expressed concurrence in it.

Mr. Chairman, the letter further states:

The Corporation for Public Broadcasting has in the past taken the position that this Office does not have access to information other than that which is strictly limited to fiscal accounts.

That this interpretation is incorrect is clear, I believe, from a reading of the regulations themselves. However, I suggested an amendment which would clarify the intent that the GAO would undertake reviews of the operations of the corporation to identify needed management improvements together with suggestions as to courses of action which, in our opinion, should be considered to achieve economies, correct management deficiencies, and otherwise strengthen the management of the corporation.

Mr. Staats goes on to state:

It is not the intent of the GAO in its order to go in and censor the programs in any manner or have any control over the programs or the content of those programs.

Mr. Chairman, I feel very strongly that the GAO should audit all departments of Government and corporations that receive taxpayers' funds. I am glad that a meeting of the minds has occurred between GAO and Public Broadcasting on the subject of the GAO audit. Mr. Chairman, I yield back the balance of my time.

Mr. BROWN of Ohio. Mr. Chairman, the chairman of the committee has asked for the remaining time, so I yield to the gentleman from West Virginia (Mr. STAGGERS).

Ms. ABZUG. Mr. Chairman, will the gentleman yield to me?

Mr. STAGGERS. I yield to the gentlewoman from New York (Ms. ABZUG).

Ms. ABZUG. Mr. Chairman, I have been and I am a great supporter of public broadcasting and educational TV, but I am very concerned, after getting into this matter, that there is a responsibility on the part of Congress to concern itself with the standards and the guidelines which are to achieve a high quality in heterogeneous programing or a high quality obtained from the diverse communities.

There were some very important questions put previously by the gentleman from Missouri (Mr. CLAY) and the gentleman from Maryland (Mr. MITCHELL). I support their observations as to the lack of employment of and programing for minorities in public broadcasting. My question, Mr. Chairman, is this: I have noticed in public broacasting that there is considerable lack of participation of women in employment and decisionmaking nor are there programs in any number which include women or their problems or concerns.

This is a very large group, a homogeneous group assuredly making up more than half of America's heterogenity. I am concerned about the lack of attention to the problem of women.

Could the gentleman tell me how we would be able to be certain that the Corporation on Public Broadcasting will remedy these problems? Will this committee exercise oversight to make certain that they will?

Mr. PRICE of Illinois. Mr. Chairman, whenever this House passes upon legislation affecting public broadcasting, we invariably find ourselves involved in a discussion of the merits of Government subsidy of the media and the corollary issue of Government interference with public broadcasting.

After several years of Government funding of public broadcasting, the results are clear. Public Broadcasting System radio and television stations present alternative programing of the highest quality. Nowhere on a commercial station does one encounter serious drama, public affairs programing, historical narrative, unique sports, or children's programing like that found on public television. It is not an overstatement to say that Government subsidy is responsible for the consistency and expansion of this excellent programing. The authorization we consider today insures continuation of this much-needed source of education, information, and entertainment.

Mr. Chairman, it seems that many are concerned that PBS public affairs programing will fail to present some viewpoint or another, that public affairs programing will be biased, or that personalities may warp the presentation of the political issues discussed.

When these concerns are expressed, it is difficult to tell whether the motivation is concern for fair presentation of divergent viewpoints, fear that one's own political viewpoint will not be expressed, or a desire that a personally repugnant viewpoint will be repressed.

Hopefully, the motivations are all honorable and consistent with a legitimate concern for freedom of expression. However, if the motivations are less than honorable, there exists a danger that the Government will begin to indirectly affect the content of PBS programing. For the Government to endorse an independent public broadcasting system and then to seek to interfere with its choice of programing is inconsistent with every conception of the first amendment.

As to the appropriateness of public affairs programing on our noncommercial stations, I can think of no more proper forum for the discussion of public issues than on public television and radio.

This is not to say, of course, that any political or ideological faction should be allowed to monopolize time on public television and radio. The agreement recently signed by the Corporation for Public Broadcasting and PBS goes a long way toward assuring CPB–PBS responsibility without significantly depriving it of programing freedom. Both national and local interests will be better served through this agreement. Further, the 2-year authorization embodied in H.R. 8538 will facilitate program development, and indicates a tendency toward an even longer term authorization.

Public broadcasting is the most valuable of media assets. Let us vote to strengthen its financial stability, and at the same time resolve to safeguard its independence.

Mr. LEGGETT. Mr. Chairman, public television is rapidly becoming one of the most influential forms of communication and education in this country. This system has proven its desirability by its quality of programing, as for the future, public television still remains one of unlimited potential.

Public television has held fast to the position of promoting only programs of the highest quality from the most diverse sources. I feel this stance can only be taken if the noncommercial educational broadcasting systems are assured of maximum freedom from interference with or control of program content.

The Public Broadcasting Service has attempted to preserve the independent nature and the quality of the noncommercial broadcasting systems. The Corporation for Public Broadcasting has attempted to pollute this action by proposing certain interconnections to secure ultimate control over selection and content of programs shown on public television.

If public television is to continue doing the excellent job it is now doing and rise to its ultimate potential, we must strengthen the independence of the local public television stations.

The CPB must realize its position in this situation. They must see any interconnection with the PBS not as a watchdog to the choice of programs or program content, but as a means to find the most effective ways to assure maximum freedom from interference or control of program content.

To assure quality of programing and service to the greatest number of people, the provisions of this bill are necessary. Public television programing requires considerable research and planning. To sustain this long-range development, considerable funding is required because there are no immediate results to any type of program. This funding is designed to keep the public television system as free as possible from sponsors, private citizens, or tax exempt foundations seeking to dominate program content.

Even though the long-range effects of some of these programs is unknown, I believe it is necessary to act immediately. For in a few years we will be able to examine the first set of "Sesame Street babies" to assure us that the public television system is accomplishing one of the finest public services the communication system has to offer.

Mr. MONTGOMERY. Mr. Chairman, I rise in support of H.R. 8538, Corporation for Public Broadcasting authorization, and urge its approval by my colleagues. I have long been an advocate of educational television and the benefits all of our citizens can derive from educational programing.

While still a member of the Mississippi State Senate, I was privileged to author legislation which established the Mississippi Authority for Educational Television. Mississippi ETV is now a well recognized and accepted part of life in my State. The Mississippi Network has received acclaim from throughout the Nation for its programing and the original documentaries it has produced. I make note of this to point out that the accomplishments of Mississippi ETV would not have been possible without the assistance it has received from the funds we in the Congress provided, coupled with State appropriations.

I am sure this same situation is true throughout the Nation. Public broadcasting is a partnership between the Federal Government, State governments, and private citizens who donate their personal funds. I feel that this is one of the best partnerships that has been formed by the Government and must be continued.

The education of the American people, whether it be through the formal means of schools or informal means of public broadcasting, is one of the most important priorities we have. Therefore, I urge favorable approval of this bill by my colleagues.

Mr. BROYHILL of North Carolina. Mr. Chairman, I rise in support of the public broadcasting legislation—H.R. 8538—which is before the House for consideration at this time. I think that the Interstate and Foreign Commerce Committee, on which I serve, and especially the Subcommittee on Communications and Power chaired by my colleague from Massachusetts has done an excellent job in preparing a responsible and responsive bill. It will serve the growth of the Public Broadcasting System in America and will serve the millions of viewers who are increasingly tuning in their local public broadcasting station.

I would like particularly to mention the broadcast facilities grant program. Since the program's inception in 1962, the number of educational television stations has increased from 76 to 237. The potential viewing audience has climbed from 50 percent of the Nation's population to more than 77 percent. From 1969 to 1971, the number of actual weekly viewers increased 30 percent to nearly 50 million individuals.

Because of the demand for increased education through the television medium, the hours devoted to instructional programing on public television have increased 20 percent since 1970. The success of the facilities grant program has also been instrumental in promoting educational program coverage on the Nation's 600 public radio stations.

As successful as this program has been, it has not been able to keep up with the rate of deserving applicants for grants. Last year, some 75 applications for $20 million in Federal funds were not acted on because of a shortage of money. Another 30 applications are expected this year, raising the request total well above the reasonable $25 million authorized in this legislation.

The broadcast facilities grant program means a great deal to the State of North Carolina and to the rest of the United States. As nearly 50 percent of public broadcast licensees are local school systems, colleges, and universities, this program has promoted continuing education, classroom instruction, and teaching innovations. It is an asset in bringing better quality education to the school-age child and to the adult as well. And it is a necessary program for States such as North Carolina which are expanding and improving their educational programs.

Finally, the broadcast facilities grant program in H.R. 8538 promotes the local independence of the public broadcaster. By allowing him to improve local production equipment and facilities, he can better his local service to the community and exercise more flexibility in his use of nationally produced material.

In short, the facilities grant program is a vital component of good and prudent legislation. I trust that the House will support a better public and educational broadcast system in its deliberations today.

Mr. MURPHY of New York. Mr. Chairman, I stand today to speak in favor of H.R. 8538 which authorizes appropriations for the Corporation of Public Broadcasting totaling $110 million—$50 million for fiscal year 1974 and $60 million for fiscal year 1975. The bill provides an additional $5 million per fiscal year if that sum is matched by nongovernmental sources. H.R. 8538 would also authorize $25 million in fiscal year 1974 and $30 million in fiscal year 1975 for the construction of public broadcasting facilities.

Furthermore, the bill requires noncommercial educational stations that receive assistance, directly or indirectly through CPB or under the public broadcasting facilities program, to retain for a period of 60 days an audio recording of each program they broadcast in which any issue of public importance is discussed.

The purpose of the Corporation for Public Broadcasting is to promote the availability of high quality programs obtained from diverse sources. CPB is dedicated to insuring that the noncommercial educational television and radio broadcast systems have maximum freedom from interference with program content.

CPB is a private, independent, nonprofit corporation. On March 30, 1973, a new public television license organization was created called the Public Broadcasting Service. The purpose of the new PBS is to:

First, operate the interconnection between stations;

Second, deliver a national program service;

Third, provide licensee management information and services; and

Fourth, represent public television licensees before the Congress, the executive branch, CPB, and the general public.

On May 31, 1973, an agreement was made between the Corporation for Public Broadcasting and the Public Broadcasting Service which specified the percentage of appropriated funds which CPB will disburse to the local television stations for their discretionary use. The agreement will help in building strong local services and increase the autonomy and strength of local stations. This is a step forward and promises greater balance between local and national interests in programing and a new era of improved public television service to the people of the United States.

The proposed funding under H.R. 8538 guarantees that the public broadcasters will not be unduly influenced or dominated by either Government grants or by the private sector. The noncommercial nature of public television is designed to avoid program interference from sponsors.

It is absolutely essential that we pass this 2-year bill. It takes longer than 1 year to develop a quality original programing series. CPB's funding must be secure and established if it is to consistently produce superior programs. Long-range appropriations are also beneficial in that they shield the public broadcasters and telecasters from annual interference from the Government and other sources.

Therefore, I heartily support this bill which was developed after extensive hearings by the Communications and Power Subcommittee of the Interstate and Foreign Commerce Committee on which I serve, because it provides CPB and PBS with the funds, facilities, and breathing room necessary for the attainment of the goals outlined in the Public Broadcasting Act of 1967.

Mr. ANNUNZIO. Mr. Chairman, I rise in support of the public broadcasting authorization bill before us today. The 2-year authorization of $50 million for fiscal 1974 and $60 million for fiscal 1975 will give the Corporation for Public Broadcasting opportunity to fully plan programs, will insure continuity for program planning, and will eliminate the hazards of single year authorizations of the past. In addition, the bill authorizes up to $5 million each year if these funds are matched by non-Federal sources.

The amount of $55 million has also been authorized for the improvement of facilities and equipment in local stations. These funds serve a most worthy and crucial purpose in strengthening and upgrading the programing quality of public television stations across the country.

Although balancing local, regional, and national interests of the stations and the public is a complex task, nothing would enhance true localism more than equipping each local station in a fashion that gives it the real capacity to accept or reject, tape, delay, store, broadcast, or rebroadcast programs from any source in a locally determined schedule.

Around 75 percent of local stations do not have adequate video tape recording facilities and priority should be given to applications for video tape recorders under the educational broadcasting facilities program. Public broadcasting informs and entertains millions of Americans and the contributions it has already made to our cultural and intellectual life are immeasurable. The broadcasting facilities grant program of $55 million will enable the local stations to provide better service of this kind on the local level.

In my own city of Chicago and in the 11th Congressional District, which I am privileged to represent, WTTW–TV, channel 11, has made brilliant progress in providing stimulating and innovative programing to our community. Of any public TV station in the country, WTTW–TV is the fastest growing in terms of community support and financial contributions, large and small. Individual contributors have risen from 25,000 to 70,000 in just 14 months.

This year WTTW–TV received 6 of 16 awards for outstanding local television programs presented by the Chicago chapter of the National Academy of Television Arts and Sciences. I congratulate William McCarter, general manager, and the entire staff at WTTW–TV for their outstanding work and their high standards in serving the people of Chicago with such creative excellence, and extend my best wishes to them for their continued success.

Mr. Chairman, at this point in the RECORD, I wish to insert an article from the Chicago Tribune reporting the awards to WTTW–TV. The newsclipping follows:

[From the Chicago Tribune, May 14, 1973]

WTTW–TV Wins Six Local Emmies for Programming

(By Clarence Petersen)

Channel 11 (WTTW–TV) ran away with 6 of 16 awards for outstanding local television programs presented last night by the Chicago chapter of the National Academy of Television Arts and Sciences.

Daniel Schuffman, president of the chapter, announced the local Emmy awards in the 15th annual presentation in the Hyatt Regency O'Hare Motel.

Channel 11 received two awards for a series of musical specials, Made in Chicago. The engineering team for the series and John Kennamer, who supervised the audio mix, received recognition for the programs, which were aired last February.

Other Channel 11 Emmy award winners were: Marshall Izen, the creator, performer, writer, and set designer for the children's series, The Adventures of Coslo.

David Wilson, producer of the program, also received an Emmy.

Producers of Channel 11 programs who received awards were: Gene Bunge and Charles Branham, who co-produced The Black Experience series, and Ken Ehrlich and Paul Fanning, who co-produced Open Air . . . Where has all the Music Gone?"

Mr. TIERNAN. Mr. Chairman, we have before us a bill which provides a 2-year authorization for public broadcasting in the amounts of $50 million the first year and $60 million the second year. I believe that it is vital that this bill be passed.

Public broadcasting needs no defense; its answer to any attack can merely be a reference to its achievements. Public broadcasting provides programs of quality, taste, and intellectual vigor to a nationwide audience, and teaches the children of that audience that learning is fun. More importantly, public broadcasting provides local or regional programing that is of vital interest to one region, locality, or group. This local programing, of necessity shunned by commercial broadcasting, is available only on public broadcasting, and is the area of its greatest impact. Unfortunately, it is also very expensive.

We have noted the achievements of public broadcasting. What we are proposing is to authorize a considerable amount of money to help support it. I believe that a legitimate question about this authorization might be raised. Is public broadcasting a stable, organized entity that will be able to put our money to consistently good purposes, or is it an erratic institution which shows flashes of brilliance but also spends much time in bitter, intramural squabbling? Will our money be wasted? I believe that the events of the past year answered that question resoundingly, that public broadcasting is a stable, permanent institution which we can depend on.

Last year was a pivotal one for public broadcasting, one in which the institution proved its stability and permanence once and for all. Public broadcasting withstood the Presidential veto of last year's 2-year authorization, the Presidential veto of its appropriation contained in the Labor-HEW appropriations bill, the resignation of two chairmen and one president of the Corporation for Public Broadcasting, and a bitter power struggle between the Corporation for Public Broadcasting and the Public Broadcasting Service.

The future growth of the institution of public broadcasting, indeed its very survival, seemed threatened. I am happy to observe, Mr. Chairman, that this "time of troubles" passed, and public broadcasting largely overcame last year's growing pains. With the compromise between CPB and PBS, and the appointment of a vigorous new CPB chairman, Dr. James Killian, public broadcasting emerged stronger than ever.

The future growth and development of public broadcasting are important to each of our districts, and to the entire Nation. A formidable amount of money is authorized by this bill, but as I said before, the most important aspect of public broadcasting, the local aspect, is also the most expensive. A 2-year authorization is needed for planning and production of new technical and program development. The talent is available and this bill will provide both the time and money necessary to utilize that talent. Even a 2-year authorization is a temporary measure, and we know that what the institution truly needs is a long-range, insulated financing plan. I hope to introduce a bill later this year to accomplish this goal. In the interim, this 2-year authorization is needed, and I urge my colleagues to vote in favor of it.

Mr. ADAMS. Mr. Chairman, public broadcasting provides many valuable and educational services for a wide variety of television audiences. One of the best examples of this has been taking place at KCTS–TV in Seattle where the station is showing re-runs of the 1954 Army-McCarthy hearings for 1 hour before its broadcasts of the Watergate hearings. KCTS has visually defined McCarthyism to a generation which has only a vague understanding of this grim episode on congressional history.

The KCTS programs recently were recognized in TV magazine and I would like to insert the article at this point in the RECORD:

Contrast: McCarthy to Watergate

(By Jay Sharbutt)

NEW YORK.—KCTS, a public TV station in Seattle, Wash., is airing a warmup show each night when it broadcasts a videotape of that day's Senate Watergate hearings.

It precedes the Watergate show with reruns of selections from the Senate's Army-McCarthy hearings in 1954, with a three-man panel on hand to contrast those hearings with the one currently under way.

The 1954 hearings were televised live and lasted 36 turbulent days, many of them bitter and tense. A few months after they ended the late Sen. Joseph McCarthy, R-Wis., became the first Senator in a quarter of a century to be censured by his colleagues.

"We're reaching a new audience which has never seen the McCarthy hearings," said Richard Meyer, general manager of KCTS. "The young people who have called up are just completely fascinated.

"And some of them have never even heard about McCarthy, if you can believe it."

Meyer said the Army-McCarthy program of KCTS starts an hour before the videotaped Watergate hearings. The 1954 hearings originally were recorded on kinescope but were transferred to tape at KCTS, he said.

The panelists on the preWatergate program he said, are himself, Bill Shadel and Fendall Yerxa. Shadel and Yerxa are professors of communications at the University of Washington.

Shadel was CBS' chief congressional correspondent at the Army-McCarthy's hearings and Yerxa the city editor of the now-defunct New York Herald Tribune during the McCarthy era, Meyer said.

"Were not spending much time talking—just a little bit at the start and a little bit at the end to put it in perspective," Meyer said.

He said the kinescopes of the Army-McCarthy hearings were supplied by station KING–TV in Seattle, an NBC affiliate which found them in the basement of its studios.

The idea of broadcasting the two hearings back to back came up when the Watergate hearing first began, Meyer said.

"Everybody here was asking, 'is this going to be another kind of McCarthy hearing?' " he said, adding that his colleagues also made comparisons of the issue of executive privilege then and now.

He mentioned it to Eric Bremner, KING's general manager, and said things began rolling when Bremner mused, " 'It seems to me that we carried this [the Army-McCarthy hearings] some 20 years ago. . . .' "

"We have the unedited version of the 1954 hearings, but we're only selecting highlights."

Mr. DORN. Mr. Chairman, it is with great pleasure that I support the improvements in the Public Broadcasting Act contained in H.R. 8538. I have long been a strong supporter of public educational television, both in the State of South Carolina and in the Congress. I joined the majority of Members of this House in passing the Public Broadcasting Act of 1967 and in voting for an increase in appropriations for public broadcasting last year.

In South Carolina we have seen the benefits that can come from a strong, noncommercial television operation. We are all very proud of the South Carolina Educational Television Network. Under the leadership of general manager Henry J. Cauthen and chairman of the board R. M. Jeffries, South Carolina ETV has grown from a successful experiment in 1958 to a system of broadcast stations and closed-circuit facilities which now reach into the homes, classrooms, hospitals, and technical educational centers throughout South Carolina. The South Carolina ETV network is truly a model for all the Nation.

The South Carolina ETV network has been a great asset to the people of South Carolina, both in terms of the kinds of programs produced by our own people in the State and the programs coming to viewers from other sources—national and regional—via the national interconnection, PBS.

The provisions of H.R. 8538 will help make possible the continued development of local programs by, about and for South Carolinians as well as provide a 2-year funding base from which public broadcasting throughout the Nation can begin to move forward toward its goals of long-range planning and development.

Miss JORDAN. Mr. Chairman, one noted scholar, E. B. White, once offered this view of the role of public television:

> Noncommercial television should address itself to the ideal of excellence, not the idea of acceptability—which is what keeps commercial television from climbing the staircase. I think television should be the visual

> counterpart of the literary essay, should arouse our dreams, satisfy our hunger for beauty, take us on journeys, enable us to participate in events, explore the sea and the sky and the woods and the hills. It should be our Lyceum, our Chautaugua, and our Minsky's and our Camelot. It should restate and clarify the social dilemma and the political pickle.

This statement describes both the challenge and the opportunity of public television. It gives expression to the views and problems of groups that would not otherwise have such an opportunity. It is able to take its cameras into ventures which might prove unprofitable for commercial television. It is profitable to air the frustrations of some people through a situation comedy such as "All in the Family," but it is equally important to show the governmental and court sessions where these real frustrations are heard and sometimes acted on. And it is a sad fact, Mr. Chairman, that many problems do not get heard or acted upon until they become spectacular enough to put in print or on film. Public, noncommercial television is often able to highlight problems and possibilities which would otherwise be ignored.

These free expressions are important for any democracy to remain viable, for only by being exposed to a wide range of points of views and by having their own point of view reflected in the media, can the masses of American citizens retain their status in our system as participants, and not just observers. And, Mr. Chairman, I think our public stations are meeting this responsibility.

Public television has encouraged much diversity in its public affairs programing, and deserves our full support. It was public television that gave us coverage of the Senate Foreign Relations Committee hearings on Vietnam in the 1960's. The debate on the admission of the People's Republic of China to the U.N., was covered, and indepth, long run coverage was provided on the 1972 presidential elections. On the local level, public TV stations have televised city council meetings and court proceedings.

In my home State of Texas, KLRN in Austin, will cover the convention drawing up the new State Constitution, if the funds authorized in the bill we are considering today become available. KUHT in Houston, one of the first public TV stations to receive its license, in 1953, also provides unique public service programing. On April 1 of this year, for example, KUHT-TV helped bring government to the people by providing 4 hours of delayed coverage of ad hoc congressional hearings on the impact of the Federal budget on Harris County, Tex., which I held with Representatives BOB CASEY and BOB ECKHARDT. The management of KUHT has informed me that their taped delay broadcasts of the Senate Watergate hearings are drawing the largest viewing audiences in memory.

Public affairs programing is not limited solely to government and politics. Drug abuse, abortion, urban renewal, unemployment, the environmental crises, have all been the subjects of many national and local shows. Such programing helps remove the mystique from our problems, and shows the various branches of government and the private sector working for solutions. Public televsion devotes approximately 30 percent of its time to public affairs, as opposed to 2 to 3 percent for the commercial stations.

Why, then, Mr. Chairman, with this record of remarkably effective and important public affairs programing, has public television been such a subject of controversy in the last few years? Apparently, coverage of controversial subjects has made public television itself controversial. Many people are still inclined to kill the messenger who carries bad news.

The present administration has made no secret of its dissatisfaction with the "news" carried to the people by public television. It has attempted to cloud the accomplishments of PBS public affairs in a veil of "radiclib" labels, and by amplifying the faults that are bound to arise in any human endeavor. One aide from the Office of Telecommunications policy once attacked public affairs programing on PBS as being "unbalanced against us." These vocal warnings in some cases have been translated into action. Often going against the will of the stations and the American people, and even the presidentially appointed, Republican dominated CPB Board of Directors, this administration has applied pressure which has seen the majority of nationally produced public affairs programs made "inoperative."

In the process, it has seriously threatened to destroy the insulation of publicly supported television from politics.

Mr. Chairman, the bill before us today, H.R. 8538, deals with this problem. It would authorize the appropriation of $55 million in fiscal year 1974, and $65 million in fiscal year 1975 for the Corporation for Public Broadcasting. This bill has the support of the Interstate and Foreign Commerce Committee, and the Boards of Directors of CPB and PBS. The most significant sections of this bill are similar to S. 1090, which passed the Senate on May 7 by an overwhelming majority.

The 2-year authorization was set as a compromise between those who wished a year long range commitment to facilitate program and station development and others who wanted a 1-year authorization in order to submit the policies of CPB to an annual review. While assuring some control, 2 years gives enough time to insure a degree of quality in the programing. I favor longer periods of funding for it weakens the possibility of political pressure and allows public television to direct its energies towards better programing.

During the 92d Congress, the President vetoed a bill to extend CPB funding for 2 years. Congress later passed a 1-year authorization appropriating $45 million which was signed into law. However, CPB eventually operated on a continuing resolution for fiscal year 1973 of $35 million, as the President also vetoed the Labor-HEW appropriations bill for fiscal 1973, which contained the CPB appropriation.

I hope this legislation signals an end to the political controversy, stagnation and retrenchment which has been crippling public television for the past few years.

I am especially concerned about the fate of minority affairs programing in public television. I hope that the funds authorized in this bill will allow CPB and PBS to create and maintain such programs as "Soul" and "Black Journal." "Black Journal" was, and remains, the only national black public affairs program. "Black Journal" has served many functions. It has presented news from all over the world of interest to black people, and explored areas of history, the urban experience, and religion which are ignored by other media. And more important, it has presented constructive, diverse, and positive images of black people on the screen.

The polls have shown that the number of black people viewing public television has risen to the point where nearly three-fifths of all black families tune in their set at least once a week to their local PBS station and this is due in no small part to the appeal of "Black Journal." This appeal is understandable in light of "Black Journal's" diversity. It has featured integrationists, Panthers, Republicans, Muslims, Baptists—and the whole spectrum of ideas and philosophies in black America today.

Though not receiving fully adequate funding, "Black Journal" was luckier than its cultural counterpart "Soul," which has been limited to only two specials for next season. I hope that CPB can expand its minority programing with new and innovative shows, while still fulfilling its commitment to its present ones.

As with any human endeavor, public television will always have problems, real and imagined. However, its potential to inform and educate, and its ability to concern itself with a multiplicity of ideas, could have a tremendous positive impact on our American way of life. This potential is being partially fulfilled today. The passing of this bill today will help support its continued operations, unencumbered by the hazards of partisan politics. This bill's passage should be one step towards enabling our public broadcasting system to concentrate its energies toward achieving and maintaining that "ideal of excellence"—and not just an acceptable mediocrity.

Mr. RARICK. Mr. Chairman, few Members of this body would vote taxpayers' money to establish a federally controlled and managed newspaper. Yet, from past experience many of these same Members find little objection in extending a federally controlled broadcasting company and in fact, continuing to enlarge the monstrosity which has already been created.

The argument that public broadcasting television and radio is a "people's news and educational network" simply does not hold water. The people may pay for it but they have no voice in it. And it continues to expand as a "change agent" to influence public opinion, morals, and customs.

The argument is often advanced that public broadcasting—ETV—is necessary because it performs a service that otherwise might not be made available to Americans for lack of sponsors. But like every other advocacy nationalized industry, this too is a false promise.

On a competitive scene the American people always express their preference. This has been the route by which commercial television has been able to keep sponsors and defray the cost of their programs.

No sponsor can long stay in business who pushes radical and unwanted program material. So the commercial market broadcasters, despite the many oppressive rulings of the Federal Communications Commission called "fairness" and "equal time," still afford the viewing audience free entertainment, education, and news directed at the midstream desires of the viewers.

This is not so with public broadcasting which is paid for by the taxpayers and has no sponsors. Therefore, the public has no retaliatory route to express its displeasure with programing or handling of the station policies. Policies are directed from a behind-the-scene advisory committee made up largely of unelected lobby and pressure groups, who enjoy a tax-free status.

Those of us who have watched the continued growth of public broadcasting have also watched the Federal Communications Commission continually erode the powers and independence of commercial broadcasting. If the trend continues, the taxpayers can soon expect to be called upon to subsidize the commercial broadcasters. This will be the beginning of the end of free speech and free press as we in America have historically known it and treated it.

The bureaucratic regulations and controls of public broadcasting and the FCC dictates are already being felt in the journalistic field. Just this week the Florida Supreme Court sustained a State law ordering a Miami newspaper to give political candidates a "right-of-reply" to editorials or letters to the editor. Equal time, public service time, and other so-called fairness theories have long been applied to commercial broadcasting.

It will be interesting to see whether the journalists of our country are now ready to silence their papers to accommodate this new trend toward governmental media.

Mr. Chairman, few in this Chamber would vote for a bill to fund a federally owned and operated newspaper. I for one shall never cast my people's vote to continue this thought-controlling mechanism which threatens to channel the individual thinking of the American people at their own expense.

I ask that a copy of a related newspaper clipping follow.

[From the Washington Star-News, July 19, 1973]

Papers Ordered To Print Replies to Editorials

Tallahassee, Fla.—Newspapers must give candidates they criticize in editorials a chance to reply to charges, the Florida Supreme Court has ruled.

In a 6-1 decision the court upheld a Florida law giving candidates for public office, under certain circumstances, the right of reply.

The court reversed a Dade County Circuit Court decision holding the statute unconstitutional and ordered a new trial in the case of Pat Tornillo, Jr. vs. The Miami Herald Publishing Co.

The editor of the Herald, Don Shoemaker, called the decision "astonishing" and said the paper would appeal the ruling to the U.S. Supreme Court.

Mr. MATSUNAGA. Mr. Chairman, I rise in support of H.R. 8538, a bill to authorize appropriations for the Corporation for Public Broadcasting—CPB. I strongly support legislation designed to strengthen and improve the public broadcasting system, and I am pleased to be able to vote for increased funding for the Corporation.

As the committee report notes, the Corporation received only $35 million in fiscal year 1973, even though $65 million was authorized by the Congress, and even though the administration had indicated a willingness to accept $45 million. H.R. 8538, the bill we have before us, authorizes $50 million for fiscal year 1974 and $60 million for fiscal year 1975, plus $5 million each year for matching funds.

Increasing funding of the Corporation will better enable CPB to fulfill its duties under the Public Broadcasting Act of 1967, especially its duty to "assist in the development of programs of high quality for presentation over public television and radio stations." Furthermore, increased Federal funding will have an escalator effect because by improving program quality increased public funding will also lead to increased private contributions to stations.

Mr. Chairman, I urge the passage of H.R. 8538 and submit for inclusion in the Record a copy of a recent article that provides an example of how public broadcasting can live up to the socially beneficial potential envisaged for it.

The article follows:

[From the Sunday Honolulu Star Bulletin and Advertiser, May 27, 1973]

Working Parents' Dilemma: Child Care

"One of the primary solutions for child care is that the State participate in the development of child care programs. But this should not only be the work of the State, the Federal government should fund more child care services to meet the needs of the children, the parents and community."

So says one of the child care centers directors interviewed by the KHET "Rice and Roses" staff for the special Hawaii Public Television look at the status and availability of child care facilities in Oahu.

"Child Care—the Working Parents' Dilemma," is the "Rice and Roses" feature to be colorcast Monday at 6:30 p.m., with a repeat on Sunday, June 3, at 5 p.m. over KHET Channels 11 and 10.

To film this probing and informative documentary, the "Rice and Roses" cameras and crew visited the Merry-Go-Round Child Care Center, Calvary Lutheran Pre-School, the Kalihi-Palama Family Services Center and the licensed family day care home of Mrs. Madeline Costa.

Kay Higgins, "Rice and Roses" associate producer, conducted in-depth on camera interviews with the directors of the respective facilities—Mrs. Helen Inouye, Mrs. Helen Nixon, Mrs. Diana Oshiro and Mrs. Costa—to more clearly determine the differences in cost and types of child care service available in private, church, federal and family programs.

The significant differences which do exist are more clearly in focus when looked at in the perspective of a television documentary seeking to make honest comparisons between types of available child care programs. And among the many realities which are brought into view, is the unavoidable fact that many working parents are indeed faced with a dilemma when making decisions about child care.

For example, what do parents with children under two years of age do, when the State law does not allow them to be admitted to pre-schools or nurseries? Or what are the alternatives, if any, availabe to parents with a moderate income who cannot afford the costs of the privately run schools?

These are only two of the many important questions which will be answered during the program. Others include suggestions on how to find a suitable day care center which meets both the needs of the parents and the needs of the child, and ways to evaluate child care services.

This "Rice and Roses" special on child care is an informative, honest look at what there is, but what there is, may not be enough.

The series, produced and directed by Monte Hickok, is a KHET Hawaii Public Television production. Kay Higgins is the associate producer.

The CHAIRMAN. The Chair must advise the gentleman from West Virginia that all time has expired.

Pursuant to the rule, the Clerk will read the committee amendment in the nature of a substitute printed in the reported bill as an original bill for the purpose of amendment.

PARLIAMENTARY INQUIRY

Mr. MITCHELL of Maryland. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MITCHELL of Maryland. Mr. Chairman, is it my understanding that this bill can be open to amendment at any point, or have we reached that decision as yet?

The CHAIRMAN. The Chair will advise the gentleman from Maryland that the committee amendment in the nature of a substitute for the bill will be read by sections. Unless the request is made to open the committee amendment to amendment at any point, it would not be open at any point.

Mr. MITCHELL of Maryland. Mr. Chairman, I thank the Chair.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 396(k)(1) of the Communications Act of 1934 is amended to read as follows:

"(k)(1) There is authorized to be appropriated for expenses of the Corporation $50,000,000 for the fiscal year ending June 30, 1974, and $60,000,000 for the fiscal year ending June 30, 1975."

(b) Section 396(k)(2) of such Act is amended by striking out "1973" and inserting in lieu thereof "1975".

(c) Section 391 of such Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 391. There are authorized to be appropriated for the fiscal year ending June 30, 1974, and for the succeeding fiscal year such sums not to exceed $25,000,000 for the fiscal year ending June 30, 1974, and $30,000,000 for the succeeding fiscal year, as may be necessary to carry out the purposes of section 390. Sums appropriated under this section for any fiscal year shall remain available for payment of grants for projects for which applications approved under section 392 have been submitted under such section prior to the end of the succeeding fiscal year."

SEC. 2. (a) Section 399 of the Communications Act of 1934 is amended by inserting "(a) after "SEC. 399." and by inserting at the end thereof the following new subsection:

"(b) (1) Except as provided in paragraph (2), each licensee which receives assistance under this part after the date of the enactment of this subsection shall retain an audio recording of each of its broadcasts of any program in which any issue of public importance is discussed. Each such recording shall be retained for the sixty-day period beginning on the date on which the licensee broadcasts such program.

"(2) The requirements of paragraph (1) shall not apply with respect to a licensee's broadcast of a program if an entity designated by the licensee retains an audio recording of each of the licensee's broadcasts of such a program for the period prescribed by paragraph (1).

"(3) Each licensee and entity designated by a licensee under paragraph (2) which retains a recording under paragraph (1) or (2) shall, in the period during which such recording is required under such paragraph to be retained, make a copy of such recording available—

"(A) to the Commission upon its request, and

"(B) to any other person upon payment to the licensee or designated entity (as the case may be) of its reasonable cost of making such copy.

"(4) The Commission shall by rule prescribe—

"(A) the manner in which recordings required by this subsection shall be kept, and

"(B) the conditions under which they shall be available to persons other than the Commission,

giving due regard to the goals of eliminating unnecessary expense and effort and minimizing administrative burdens."

(b) The section heading for such section 399 is amended by inserting at the end "; RECORDINGS OF CERTAIN PROGRAMS".

Mr. STAGGERS (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

AMENDMENT OFFERED BY MR. MITCHELL OF MARYLAND

Mr. MITCHELL of Maryland. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MITCHELL of Maryland: That (a) section 396(k)(1) of the Communications Act of 1934 page 3 is amended to read as follows:

"(k)(1) There is authorized to be appropriated for expenses of the Corporation $50,000,000 for the fiscal year ending June 30, 1974."

(b) Section 396 (k)(2) of such Act is amended by striking "1973" and inserting in lieu thereof "1974."

And to amend section 391 of the same bill, striking the words "and for the succeeding year such sums not to exceed $25,000,000 for the fiscal year ending June 30, 1974, and $30,000,000 for the succeeding fiscal year," and substituting "such sums not to exceed $25,000,000."

Mr. MITCHELL of Maryland (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I do not have a copy of the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

Mr. BROWN of Ohio. Mr. Chairman, I reserve the right to object until such time as we have had an opportunity to look at the amendment and study it.

Mr. MITCHELL of Maryland. If the gentleman will let me proceed——

The CHAIRMAN. The Chair will advise the gentleman from Maryland the Clerk has not completed the reading of the amendment. There is a reservation of objection.

Mr. BROWN of Ohio. I reserve the right to object, Mr. Chairman, until we have heard the amendment read.

The CHAIRMAN. The Clerk will continue to read the amendment.

The Clerk concluded the reading of the amendment.

Mr. MITCHELL of Maryland. Mr. Chairman, the intent of the amendment is very clear. Succinctly stated, I seek to reduce the appropriation for expenses for the Corporation by 1 year. I know that the committee bill contains $50 and $60 million, and I seek to reduce that by one-half.

Let me lay out my reasons for this, if I may.

I know full well there will be those who will complain that if we make the appropriation for 1 year, we cannot get quality programing. The argument has been advanced that it takes as much as 18 months to 2 years to do quality programing. My counter argument is that until such time as the Corporation becomes more responsive, as I indicated earlier, to the diverse needs of the diverse groups in this population, it may be that we should hold up on further programing.

I am well aware of the fact that by offering this amendment there will be those who will maintain that the author of the amendment is seeking to deprive poor little children of the value of educational programs. I like little children, and I want to see them educated. However, there is an overriding concern, and that concern is whether this quasi-public body will blithely ignore the needs, aspirations, and desires of a considerable segment of the American population.

I know, by offering the amendment, there will be those who will argue that—indeed, the phoney statistics just brought down here today would suggest—there is a great deal of programing aimed at inner cities.

First of all, I believe the statistics that were given to the Members of the committee are phoney. I will elaborate on that a little later on, if I can get the time.

Second, I am talking about the substance of the programing. It is one thing to program a "Sanford and Son" kind of stereotyped thing for an inner city, which does not portray the life of blacks or Indians or any other minority in an adequate fashion.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I do not believe we ought to leave the impression before this body, in the consideration of this legislation, that "Sanford and Son" is an educational television program, something created by the CPB.

Mr. MITCHELL of Maryland. If I gave that impression, I did not mean to do so. I believe I said programs of the same type as "Sanford and Son." I know that program is on commercial television. I am saying of the same type.

Mr. BROWN of Ohio. Would the gentleman identify the type of program he has in mind? Is he considering "Sesame Street" to be a sample of it?

Mr. MITCHELL of Maryland. No, I am not considering "Sesame Street." I will deal with that later.

The gentleman has a listing in front of of him of certain types of programs. I suggest he look that over, and I will respond later.

One thing which disturbs me very much is the fact that the statistics sent down to the Congress attempted to indicate that a great percenage of the programing did indeed involve minorities of all types.

Mr. Chairman, I want to add to the statement made by my colleague, the gentleman from Missouri (Mr. CLAY) that lumped in with that data is the program, "Sesame Street." Although it is true it has value for all people, and although it is true it does touch the lives of all people, it would certainly not, in my opinion, be the kind of program that could be considered a true representative of minority life in this country.

Now, I know that we will be subjected to all kinds of criticisms. I know that there are those who will say that this is unfair. But it seems to me, my colleagues, that somewhere down the line we have got to make up our minds that when public funds are involved, they will be used for the purpose of trying to portray America to Americans as it really is. In addition, that those public funds will be used to involve all segments of the American in programing, advertising, administration, and everything else.

I, for one, have gotten rather weary of voting time after time for pieces of legislation which involve huge sums of Federal money, knowing full well that if blacks are involved at all, they are involved only in a token fashion, and that if Puerto Ricans and other minorities are involved at all, they are involved only in a token fashion.

Mr. CLAY. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from Missouri.

Mr. CLAY. Mr. Chairman, on that point I would like the RECORD to point out that last year on network television for public broadcasting Puerto Ricans, Mexican-Americans, Cubans, and another program for Mexican-Americans received a sum total of 5 hours of network programing. These three minorities received only 5 hours of network programing last year out of a grand total of 852½ network hours.

Mr. MITCHELL of Maryland. Mr. Chairman, I appreciate the comment from my colleague. The comment goes right to the point I was trying to make.

Mr. Chairman, I hope the Members will support my amendment.

The CHAIRMAN. Will the gentleman from Maryland (Mr. Mitchell) explain this for the benefit of the Chair:

The Chair is in some doubt as to just where the amendment goes in the bill. Is it intended as an amendment in the nature of a substitute for section 1?

Mr. MITCHELL of Maryland. The Chairman is correct.

The CHAIRMAN. Will the gentleman from Maryland (Mr. Mitchell) ask unanimous consent that the amendment be modified to the extent that it be considered as a substitute for section 1?

Mr. MITCHELL of Maryland. Mr. Chairman, I ask unanimous consent that my amendment be modified to the extent that it be considered as a substitute for section 1 of the bill.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

Mr. BROWN of Ohio. Mr. Chairman, reserving the right to object, will the gentleman explain to me just where the language would appear in the bill by page and line?

Mr. MITCHELL of Maryland. Mr. Chairman, it would begin on page 3, line 13.

Mr. BROWN of Ohio. Through what line?

Mr. MITCHELL of Maryland. Through page 4, line 8.

PARLIAMENTARY INQUIRY

Mr. BROWN of Ohio. Mr. Chairman, reserving the right to object, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. BROWN of Ohio. Mr. Chairman, assuming there is an objection at this point, what would be the procedure for this proposed amendment being considered by the Committee of the Whole?

The CHAIRMAN. It would be the impression of the Chair that it would be an amendment that would be considered in order somewhere on page 3 of the bill. It would facilitate the proceedings and the deliberations if the gentleman were allowed to modify his amendment, as he is asking in his unanimous-consent request, since it is clear that what he intends to do is to substitute this for the language beginning on page 3, line 13, and extending through page 4, line 8.

It would expedite the proceedings of the committee if there were no objection.

Mr. BROWN of Ohio. Mr. Chairman, further reserving the right to object—and I shall not object—I would appreciate comity from the other side if there were to be additional amendments, in that we might be presented with copies of those amendments prior to their introduction on the floor so that we may have the opportunity to look at the amendments.

We had extensive discussions not with the gentleman in the well, but with some of the other Members of the House who have concerns similar to those of the gentleman in the well and concerns which I have great respect for.

We understand there are to be certain amendments in this area, but it would be very helpful if the minority and in this case the political minority of this House would be given consideration with reference to the opportunity to study and look at the amendments and where they are introduced in this body.

Mr. Chairman, I withdraw my reservation of objection.

Mr. MITCHELL of Maryland. I thank the gentleman for his comments. I am sorry. I find I rarely drift toward the right, but I will try to be cooperative.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The CHAIRMAN. The Clerk will report the amendment, as modified.

The Clerk read as follows:

Amendment offered by Mr. Mitchell of Maryland: Page 3, line 13, strike out page 3, line 13 down to and including page 4, line 8, and insert the following:

That (a) section 396(k)(1) of the Communications Act of 1934 is amended to read as follows:

"(k)(1) There is authorized to be appropriated for expenses of the Corporation $50,000,000. for the fiscal year ending June 30, 1974."

(b) Section 396(k)(2) of such Act is amended by striking "1973" and inserting in lieu thereof "1974."

And to amend section 391 of the same bill, striking the words "and for the succeeding year such sums not to exceed $25,000,000 for the fiscal year ending June 30, 1974, and $30,000,000 for the succeeding fiscal year," and substituting "such sums not to exceed $25,000,000."

Mr. STAGGERS. Mr. Chairman, I rise in opposition to the amendment.

First I would like to pay a compliment to my good friend from Maryland. He is a great representative of his people and his district. I want to assure him that if I could do anything in the world to accommodate him, I would do it.

I think, however, this is the wrong time and place to put in an amendment.

This amendment will cripple public broadcasting. It needs a 2-year authorization to perform its functions effectively.

As I say, I admire the gentleman and know his intentions are the best, but I believe this amendment would be harmful.

Mr. CONYERS. Will the gentleman yield?

Mr. STAGGERS. I will be glad to yield to the gentleman.

Mr. CONYERS. I would like to find out, does the Chairman have the impression that this amendment is reducing the authorization?

Mr. STAGGERS. Oh, no.

Mr. CONYERS. It is not?

Mr. STAGGERS. It is just the fact that they need 2 years for planning and things like that.

I also want to say that the committee intends to have oversight to look into this matter, but we need time.

Mr. Chairman, I would hope that the gentleman from Maryland (Mr. Mitchell) would withdraw his amendment in the light of what I have said. His amendment would cripple the program as we now have it and as it is now planned.

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Chairman, I would ask the gentleman from West Virginia whether I was right in my understanding of what the gentleman said that there will be regular oversight hearings on this with reference to the extent and degree to which minorities of all types are significantly involved in the matter of public broadcasting, as well as other matters?

Mr. STAGGERS. Let me say to the gentleman from Maryland that I did not quite say that. I would say this—we are going to have oversight.

I think that we are being heard loud and clear today when we say we should have a balanced hiring of all races, all creeds, women, men, and what-have-you. I believe this. I believe they can hear us down town.

Mr. MITCHELL of Maryland. I thank the gentleman.

Mr. STAGGERS. The gentleman is welcome.

Mr. MITCHELL of Maryland. Mr. Chairman, in the light of the colloquy that we just had, and in light of the suits now being filed, and in light of the expressed intent for oversight hearings, in which I certainly now ask permission to participate as a witness, under those circumstances I would at this juncture now be prepared to withdraw my amendment.

The CHAIRMAN. The Chair would ask the gentleman from Maryland whether the gentleman is asking unanimous consent to withdraw his amendment?

Mr. MITCHELL of Maryland. That is correct, Mr. Chairman. I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

Mr. BROWN of Ohio. Mr. Chairman, reserving the right to object—and I shall not object—let me just observe that I had some difficulty figuring out what a minority program is when one looks at the programing scheduled in CPB for all the various stations that currently so program. I have a list of the programs, for instance, that have been appearing on CPB regarding busing. I do not know whether that is minority programing or not. If it has black and white participants, is it minority programing, or is it American programing, or is it white programing?

It seems to me that there is an issue that affects us all.

I share the concern of the gentleman from Maryland for certain basic problems in the total public broadcasting spectrum. Balanced American programing is a proper issue of public importance. But I have to suggest to the gentleman from Maryland that I do not think it necessarily means that a program is or is not a black program because all of the participants in it are black, or that it is a black program or a minority program because it deals with specifically a subject that is of some interest to minorities, but also have interest for other aspects of our society.

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. If the gentleman is putting this to me as a question, it is obvious that we do not have the time at this point to give a full and voluminous definition of what is minority programing.

I would now request that at the next convenient time for the subcommittee, I and others who have some concerns in this field might be allowed to come before it to discuss in depth a kind of definition of minority programing.

Mr. BROWN of Ohio. Mr. Chairman, further reserving the right to object, the chairman of the subcommittee (Mr. MacDonald) has, I think, expressed his assurance in his comments with reference to the legislation before us and to individual Members of the House that he intends to have oversight hearings on the whole realm of public and educational broadcasting. The chairman of the full committee has expressed that intent, and the minority ranking member is in a position to insure those hearings.

I can tell the gentleman that I support the idea of having oversight hearings, and I have on a continuing basis. Speaking only for the minority which does often have such opportunity to attend and ask questions and participate, I should be delighted to have this issue covered in such hearings.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

AMENDMENT OFFERED BY MR. CLAY

Mr. CLAY. Mr. Chairman, I offer two amendments, and I ask unanimous consent that they may be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

Mr. BROWN of Ohio. Mr. Chairman, reserving the right to object, I do not know whether the majority members of the committee are going to support or oppose either or both amendments. I am inclined to support one and oppose another.

The CHAIRMAN. The gentleman has asked unanimous consent to consider them en bloc. Is there objection to the request of the gentleman from Missouri?

Mr. BROWN of Ohio. Mr. Chairman, reserving the right to object, I would suggest to the gentleman in the well that he might not submit them en bloc.

Mr. CLAY. Mr. Chairman, I should like to withdraw my request to consider them en bloc.

The Clerk read as follows:

Amendment offered by Mr. Clay: Page 5, insert after line 17, the following:

Sec. 4. Section 392 of the Communications Act of 1934 is amended by adding at the end thereof the following:

"(g) No grant authorized by this subpart shall be made unless there is submitted with the application therefor, information from which it can be determined that the grant recipient is in compliance with all laws, rules, and regulations relating to nondiscrimination in employment practices. Each grant made hereunder shall be accompanied by a certificate by the Secretary (or by such official to which such authority is delegated) that the recipient is so in compliance."

Mr. CLAY. Mr. Chairman, perversion and distortion appear in the CPB attempt to gain a 2-year funding authorization. CPB is now asking for 2-year funding which would, in my opinion, remove Congress further from its oversight responsibiilty. It would give us no immediate vehicle with which to make them responsible to the constituency they serve nor would it provide us with a means of making them directly accountable for the use of public funds.

The Public Broadcasting Act of 1967, CPB has four principal purposes: First, assist in the level of high quality programs for presentation over public radio and television; Second, establish and develop interconnection for such stations; Third, assist in the establishment and development of one or more systems of public broadcasting stations; Fourth, act so as to assure the maximum freedom of noncommercial educational broadcasting systems and stations from interference with or control of program content or other activities.

Since the Public Broadcasting Act—PBA—mandated the Corporation of Public Broadcasting—CPB—to assist the development of quality programs evidently they have fallen short of this goal in terms of the diversity of viewing public. From the $35,000,000 operating budget for 1972–73, CPB spent approximately $650,000 for black programing.

There has been token employment with minorities composing 7.9 percent of the total employment in public television. But these figures become microscopic when we look for minority representation at the decision and policy-making levels.

The most regressive policy of public television has been the limitation placed on programing to, for, and about minority communities, in general, and the black community, in particular.

As token black programs emerge the rest of the minority community must sit and wait for reruns of Chicano or Native American "specials," by providing a little for one group, the other group is discriminated against and the problem is compounded. The elderly and women only receives $200,000 for programing. Mexican Americans, Indians and Puerto Ricans receive nothing. Public broadcasting has a mandated responsibility and a significant percentage of minority program is part of this responsibility, a part which has not been met. This has reached the stage where minority broadcasting is regarded by CPB as more of a concession than a right.

To be specific, CPB announced on February 7, 1973, that "Black Journal," the only black public affairs program, was being refunded at its present level of $345,000, for the fall season beginning October 1973. However, CPB's negative policies will also cause "Black Journal" through no fault of "Black Journal" to lose about $350,000 that it received last year from the Ford Foundation.

At the same time, CPB announced that "Soul," the only black cultural program, would share a reserve of $305,000 set aside for additional black programing. It was further pointed out that "Interface," a black program designed for white audiences was being produced and, depending on its quality would share a portion of the $305,000 reserve with "Soul." "Interface" was allotted $40,000 for a pilot program. On May 15, 1973, CPB announced that the entire $300,000 in the reserve fund would be allotted to "Interface." The rationale offered by Keith Fischer, executive vice president of CPB, was that "Interface" was a preferrable program because it took " a sociological rather than a cultural approach to the black experience." Ironically, as of May 15, 1973, when the announcement was made, "Interface" had not furnished a pilot program.

The above facts point to the following conclusions: First, "Soul," a black cultural program, will be replaced by "Interface," a program oriented to whites but called black. Second, "Black Journal" will be crippled by a limited budget thereby reducing its quality and frequency of broadcast and certainly paving the way for replacement. The train of thought which follows from this could be called subtle systematized institutional racism.

The mere facts that CPB is attempting to reduce funding for "Black Journal" instead of doubling it, arbitrarily phasing out Soul instead of expanding it and probably conniving to replace "Soul" and "Black Journal" at a later date with "Interface," all serve as evidence to substantiate feelings among blacks that the white establishment-controlled mass communications media is malignantly fected with widespread, long standing deeply entrenched racism.

It is apparent that the Corporation for Public Broadcasting like its counterpart in commercial television is of the opinion that blacks are not entitled to a fair share of television programing: cannot determine program content and context, and definitely will not be placed in a position to eliminate gross distortion and misinterpretation of the black experience based on white middle-class value judgment.

Mr. Chairman, the Corporation for Public Broadcasting has a mandate to serve all segments of the community.

In reporting out the 1967 act, Senator Pastore remarked on the intent of Congress with respect to the role of CPB:

> It should be remembered that local stations are the bedrock of this system and as such must be responsive to the needs and desires of the public they serve. It is not intended that they be mere conduits for the productions of other stations or other outside sources." (S. Rept. No. 222, 90th Congress, 1st sess. 7 (1967)

Senator Pastore continued:

> Individual stations, therefore, will retain the responsibility to assess community needs and determine what programs will best meet those needs.

On signing the 1967 act, President Johnson said:

So today, we rededicate a part of the airwaves—which belong to all the people—and we dedicate them for the enlightment of all people. (Compilation of Pres. Documents, vol. 3, No. 45 at 1531 (Nov. 13, 1967).

It is clear that Congress intended CPB to stimulate a greater diversity of local programing which would differ from the fare offered by commercial broadcasters.

While public television was designed to provide "high quality programing for all, "the facts reveal that CPB has not been responsive to the needs of the entire community.

Mr. Chairman, if this bill passes this body in its present form, a substantial amount of Federal money will be given to local public broadcast television stations without adequate Federal controls. This, in my opinion, would be a serious mistake.

LOCAL CONTROL

I am not opposed to local control but am concerned that those who control local public broadcasting be responsive to the people that are served. In too many instances, local control means that public broadcast has used this forum exclusively for their own purposes without concern for the broad public interest. In most instances, blacks, Mexican-Americans, Indians, and women have not been considered as significant factors in the output/input equation of public broadcasting. Even in those limited cases where there have been minority programing, information has been disseminated about the state of black America and other minorities without any input, consultation, or decision by blacks and other minorities.

We talk in glowing, pious terms about the sanctification of local control. Well let me inform you, that local control for all practical purposes mean local boards which lack any minority representation and reflects the lack of that representation in the character and content of programing.

The development and promotion of so-called high quality programs has been formulated by a selected elite, an elite which has not defined nor explained high quality; an elite which has used its own value standards to select "appropriate programing for the masses"; an elite which serves an elite and not all segments of the population. So high quality becomes synonymous with what the elite defines, not what the people want.

The Alabama educational television commission has been sued and the suit attempts to prevent the license renewal of all Alabama educational television stations because the official policy of the State of Alabama is to exclude all black programing. In this instance, local control means that in a State 50 percent black, the official policy is not to show any black programs.

If this Congress is to appropriate moneys for educational television, then we have the responsibility to assure that it is spent in a nondiscriminatory manner.

Public broadcast television stations are not required by HEW, the Corporation for Public Broadcast or other Federal agencies to comply with provisions of title 7 of the Civil Rights Act.

Licenses are granted and renewed—and the taxpayers money is given to these stations without the Government ascertaining as required by law that those stations produce affirmative action programs before those moneys are allocated.

Public money is granted to stations that have all white board of directors, that exclusively program white shows and apparently discriminate in employment against minorities and women.

SUPPORTIVE DATA

Section 394 of the Communications Act empowers the Secretary of HEW to adopt rules governing the administration of the grant program for TV construction. HEW rules relating to the grant program are codified in 45 CFR chapter 1. With respect to minorities, it is salient to note that HEW has adopted no rules which would condition grants on minority representation on station boards of directors, nor does HEW have any regulations relating to minority employment or programing of the stations in order to receive grant moneys. In fact, the U.S. Commissioner of Education announced in March 1971 that in view of the disproportion of outstanding applicants to available funds, applications—in the area of service to the disadvantaged would receive top priority, HEW Office of Education program bulletin PB No. 6, 1971, P. 4. However, in PB No. 7 dated August 8, 1972—a revision of PB No. 6 covering priorities for fiscal year 1973, there is no mention of applications which it seeks to aid and a notice of proposed rulemaking issued on July 18, 1972, by HEW (37 Federal Register 15970, August 8, 1972) codifying priorities for fiscal year 1973 contains no apparent continuation of the priorities relating to "disadvantaged" espouscd in PB No. 6.

Mr. Chairman, there are many in this House who argue that the Federal Government does not have the right to regulate or to interfere in the business of public television. This argument has been so advanced that HEW has refused to promulgate rules or standards for public television stations in order for them to qualify for grants. It has also stymied the FCC in its effort to devise rules of ascertainment for stations in the license renewal process.

I say if the Federal Government can determine which products can and cannot be advertised on commercial television, for example—wine and beer are permitted but not whisky: Pipe tobacco and cigars are permissible but not cigarettes: Can determine how many commercials per hour can be run by a station: Can determine that certain consumer groups are entitled to free television time to respond to paid commercials: Can determine that persons seeking political office are entitled to equal time and can also determine a broad range of program content in many other areas of the industry even though this Government does not contribute $1 in terms of subsidizing commercial television, how can we justify the argument that the Government does not have the right to determine program quality and content for public broadcast, when this Congress is being asked to subsidize public broadcast to the tune of $110 million?

Mr. Chairman, I would like to cite some pertinent data to demonstrate the extent to which blacks and other minorities have been denied equal opportunities in public broadcasting.

BACKGROUND

In 1972 only $650,000 was spent on black programing out of the total CPB budget of $35,000,000. This amounts to 2 percent of the total budget.

In 1972 there were only two black network programs: One concerned with public affairs—"Black Journal"—and the other dealing with black culture (Soul). This year "Soul" is being eliminated and funding for "Black Journal" reduced.

The 1973–74 budget allots $200,000 for programing on the subject of women and the elderly.

There are no allotted expenditures for programing of other minorities such as American Indians, Mexican Americans, or Puerto Ricans.

ADMINISTRATION AND EMPLOYMENT

ADMINISTRATION

A recent survey of the boards of 31 television stations representing 50 percent of the households, found that out of 644 directors, 46—7.14 percent—were members of minority groups. The remaining 597—92.7 percent—were white.

The minority directors could be broken down further as follows:

Thirty-seven blacks—5.4 percent; 7 Spanish-surnamed Americans—1.08 percent; 2 Orientals—0.31 percent; 88 women—13.66 percent; and 556 men—86 percent.

In addition, it should be noted that 10 stations have all-white board of directors.

WGBH Boston; WGBX Boston; KETC St. Louis; KTPS Tacoma; WBIQ Birmingham; WITW Charleston; WUNF Asheville, N.C.; KDIN Des Moines; WJSP Columbus, Ga.; WVPT Harrisonburg-Staunton, Va.

EMPLOYMENT

There has been only token minority employment, and a decrease in that for blacks, Chicanos, Indians, Puerto Ricans. This is revealed by the following percentages:

[In percent]

1970	12.1
1971	7.9
1972	9.2

Of the 125 TV stations surveyed in 1972, 44 employed no minority group members on a full-time basis.

There are 25 minority employees shown as managers and officials. However, this figure is misleading as only three can be identified as station managers, program directors or executives who help establish and execute policies.

Although almost all stations employed women, over half of the women were in office and clerical positions.

Job categories[1]	Total	Minority group employees			Spanish surnamed American	Total minority
		Black	Oriental	Indian		
Officials and managers	782	18	3	2	2	25
Professionals	1,573	81	5	6	29	121
Technicians	1,598	91	10	9	21	131
Sales workers	2	None	None	None	None	None
Office and clerical	982	87	9	None	23	119
Craftsmen (skilled)	264	32	2	2	7	43
Craftsmen (semiskilled)	88	15	None	1	1	17
Laborers (unskilled)	22	6	None	None	None	6
Service	63	29	None	None	3	32
Total	5,235	359	29	20	86	494
Approximate percentage		6.9	0.6	0.4	1.5	9.4

[1] 1972 full-time employees.

III. PROGRAMING AND EXPENDITURES

A. MINORITY PROGRAMING BY CPB IS THE MOST CRASS EXAMPLE OF TOKENISM DISPLAYED IN BROADCASTING:

	Funds	Hours
1. 1972 CPB funds and hours (not including instructional programing):		
Total CPB expenditure	$15,600,000	852½
All minority programing	542,000	37
2. Comparison of minority programs and other programs:		
(a) Minority programs:		
(1) Black Journal	267,000	19½
(2) Soul	200,000	15
(3) Yo Soy Chicano	21,000	1
(4) Black Children's Art and poetry	18,000	½
(5) Mission Media Arts	18,000	½
(6) Ron Dellum's Special	18,000	½
Total	542,000	37
(b) Other programs:		
(1) Great American Dream machine	$893,000	20
(2) Vibrations	673,000	20
(3) This week	446,000	17½
(4) Net Opera	367,000	4½
(5) Boston POPS	303,000	12
(6) Masterpiece Theatre	563,000	48
(7) French Chef	208,000	13
(8) Film Odyssey	410,000	47½
(9) Earth Love/Earthkeeping	396,000	4½
Total	4,259,000	187

SUMMATION

This clearly points to the following:

Only "Black Journal" and "Soul," representing a paltry total of 34½ hours last year, were offered by CPB on a regular basis to serve the black community;

"Yo Soy Chicano," a miserly 1-hour, was devoted to serve the Mexican-American community;

No programing was offered concerning the American Indian, or Puerto Rican;

Because of the disinterest in minority problems exhibited by CPB, blacks and other minorities have shown a disinterest in public television as shown by polls demonstrating that more than 50 percent of the black and other minority population do not watch public TV.

Programing to educate, uplift, and entertain minorities—largely ignored by commercial broadcasters except for the coverage of black criminals and extremists—does not exist in any meaningful way on public television; and

All of this comes at a time when community problem ascertainment surveys by commercial broadcasters invariably list racial problems at the top of the list of issues of community interest.

DISPROPORTIONATE ALLOCATION OF FUNDS

CPB has failed to diversify programing sources—

1971–72, 7 stations out of a possible 223 got over $8 million of the total $9 million given away for TV program production.

It is a gross violation of the intent of Congress to spend tax moneys in such a way that one station—WNET, New York—gets almost $3.5 million while 67 others only get $500 apiece for the purpose of developing quality television programs.

The following are representatives of grants made by CPB in fiscal year 1971:

Stations	Production CPB funding	Other grants from CPB
WNET (New York)	$3,594,678	$109,400
WGBH (Boston)	1,680,500	57,500
KCET (Los Angeles)	1,023,300	78,000
KQED (Pittsburgh)	650,000	77,000
WTTW (Chicago)	685,300	92,500
Children's TV Workshop	500,000	250,000
Total	8,898,778	846,400

Mr. Chairman, in conclusion let me say, if this Congress can let public broadcast continue to operate as it has in the past—then we have admitted that America has no commitment the Preamble, the Bill of Rights, the Constitution or to the laws of the land.

Unless amendments are adopted which would make public television more responsive to the people it supposedly serves, this authorization bill should be defeated. Public broadcasting television stations are not adhering to the provisions of title 7 of the Civil Rights Act. Licenses are granted and renewed and taxpayers' moneys are given to stations without the Government insisting, as required by law, that those stations produce affirmative action programs before those moneys are allocated.

A disproportionate share of funds are going to certain public television stations. In 1971–72 7 out of a possible 223 television stations got over $8 million of the total $9 million given for TV program production. Sixty-seven other stations received only $500 apiece for the purpose of developing quality television programing."

In a recent survey of 31 stations, comprising almost 50 percent of the television households in the country, minority representation on the boards of directors was almost nonexistent. Of the 31 stations examined and their 644 directors only 46—7.1 percent—were from minority groups. In cities like Birmingham, St. Louis, and Columbus, Ga., where the populations are almost 50 percent minority, no blacks were on the boards of directors. These boards are intended to be a binding link between stations and the community. If the directors are not representative of the community, the station serves and do not act as a conduit between the station and its viewers, no mechanism exists to insure that station operation is responsive to the public.

Mr. MACDONALD. Mr. Chairman, I rise in opposition to the amendment. I rise to oppose the amendment for a number of reasons but I think two of the most important will suffice to be discussed at this point.

In the first place there are already on the books of law of the United States sufficient legislative provisions to see to it that the purpose of the amendment, as I understand the amendment in any event, be taken care of.

It seems to me we would be singling out just one of the numerous Government agencies to say that this particular agency has paid no attention to the law of the land. I personally do not believe that to be a fact but I am not disputing the right of the gentleman from Missouri to believe it or his sincerity in bringing forward this amendment.

I would however like to point out to the Members that we held hearings at great length on this whole matter. They were publicized. We had witnesses from all over the country come and testify before us. We had Members of Congress. We had any number of groups representing interests in public broadcasting. I saw and had and heard no communication either at that time nor for that matter at any time during the annual review of this subject, which goes back to 1967, nor a request from the gentleman from Missouri (Mr. CLAY) nor from any other member of the Black Caucus concerning this matter.

I have assured the Congressman from Missouri (Mr. CLAY) that we would look into it, and we already have started doing it, inasmuch as it was called to our attention for the very first time this week. I have here communications which I know the gentleman from Missouri has also seen, inasmuch as we discussed these and I have given him copies. One is from the FCC, and this is signed by H. Rex Lee, Commissioner—and as I stated earlier, he is educational commissioner for the FCC.

In his letter he discusses various pending rulemaking requests concerning ascertainment by educational stations:

> I would like to reassure you that we are moving along on them now that the Order in Docket 19153 is completed, and that we expect a Notice of Inquiry and Proposed Rulemaking to be acted upon in Late August or the first week in September.

It is signed by H. Rex Lee.

That was one of the governmental agencies to which Mr. CLAY addressed his complaint. The second memorandum I would like to call to the attention of the Members is a memorandum from the Department of Health, Education, and Welfare Office of Education. It is addressed to me from Stuart W. Hallock, Acting Director of that office. He goes through a listing which, when we get back into the House, I will ask unanimous consent to have inserted. He goes through the steps which an applicant for a grant from HEW must go through.

He states:

> On page 15 of the application, the applicant in addition to certifying by original signature that all assurances, facts, figures, and representations made in the application are true and correct, he also is served notice that any grant award by the Commission is subject to certain conditions, and that these conditions apply to the project, and further that the money will be refunded if a discrepancy in the law is turned up.
>
> "On page 1 of the application the applicant must indicate the status of compliance with civil rights provisions and must file with DHEW, HEW Form 441 if such is not already on file.

He will not be granted any funds if he does not make this application certifying that he is in compliance.

(By unanimous consent, Mr. MACDONALD was allowed to proceed for an additional 2 minutes.)

Mr. MACDONALD. Then, for another step, final payment to the grantee is made only after these assurances have been given and signed to. The final payment is made only after the inspection of the project and the grantee's financial records pertinent to the Federal financial assistance. They send an onsite inspector who is an EBPF engineer and who ascertains on the site—by among other things looking at the employees—ascertains on the site that the grantee has complied with all conditions of the Federal grant.

Therefore, as I indicated in my original remarks, that I believe in what the gentleman from Missouri is trying to do. However, I think under the circumstances, it is unnecessary at this time. I have assured the gentleman from Missouri and other Members who are interested in this aspect of public broadcasting that we will hold hearings to go into this matter, which I had assured the gentleman we would have gone into completely, thoroughly, and fully had the gentleman from Missouri or any other member of the caucus appeared to testify or to ask questions or even to raise it to the attention of any member of our subcommittee, which to my knowledge nobody did so.

Mr. Chairman, I insert herewith the entire text of the memorandums which I previously referred to:

FEDERAL COMMUNICATIONS
COMMISSION,
Washington, D.C., July 17, 1973.

Mr. ROBERT GUTHRIE,
Interstate and Foreign Commerce Committee, U.S. House of Representatives, Washington, D.C.

DEAR BOB: Fred just spoke with me about your phone conversation. Attached you will find the Commission's *Inquiry* concerning ascertainment of community needs. In my concurring statement I discuss the various pending rulemaking requests concerning ascertainment by educational stations. I would like to reassure you that we are moving along on them now that the *Order* in Docket 19153 is completed, and that we expect a *Notice of Inquiry and Proposed Rulemaking* to be acted upon in late August or the first week in September.

If you have any further questions, please feel free to call upon me.

Sincerely yours,

H. REX LEE,
Commissioner.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
July 19, 1973.

To: Congressman Torbert H. Macdonald.
From: Stuart W. Hallock, Acting Director, EBFP.
Subject: HEW Enforcement Title VI of Civil Rights Act under Facilities Grants to Educational Broadcast Stations.

In its grant process, EBFP takes the following steps to insure compliance with the Civil Rights Act by all applicants:

1. In the application form, copy attached, applicant is requested to familiarize himself with EBFP Regulations and the requirements of 45 CFR Part 80, issued pursuant to Section 601 of the Civil Rights Act of 1964.

2. On page 1 of the application the applicant must indicate the status of compliance with civil rights provisions and must file with DHEW, HEW Form 441 if such is not already on file, copy attached.

3. On page 15 of the application, the applicant in addition to certifying by original signature that all assurances, facts, figures, and representations made in the application are true and correct, he also is served notice that any grant award by the Commission is subject to certain conditions, (Section 60.17 of the Regulations) which the grantee must fulfill at varying periods, some prior to the first payment, some during construction of the project, and some during the ten year period of Federal interest in the project.

4. Final payment is made only after inspection of the project and the grantee's financial records pertinent to the Federal financial assistance, as the Commissioner may deem necessary (Section 60.18(a)(2) of 45 CFR). At this on-site inspection, an EBFP engineer ascertains as authorized in 45 CFR 60.17(f) that the grantee has complied with all conditions of the federal grant, specifically 45 CFR 60.17(i) and (j). A copy of 45 CFR 60 is attached.

He checks to see that the grantee has, as stated in 60.17(i), compiled with the regulations issued by DHEW to implement Title VI of the Civil Rights Act, and, as stated in 60.17(j) that the grantee has incorporated into any contracts exceeding $10,000 for the *installation* of transmission apparatus acquired in the project the provision for equal employment opportunity for all qualified persons without regard to race, creed, color, or national origin.

Final payment can be withheld if these conditions are not met.

5. During the 10 year period commencing with the date of completion of a Facilities project, the grantee must submit an annual Status Report (45 CFR 60.20). Although these are provided mainly to check on the continuation of the eligibility of the grantee and that the facilities acquired with Federal support are continuing to be owned by the grantee and to be used only for educational purposes, HEW can request an update on the status of the operational staff and the station's programing if the Secretary, Commissioner or any duly organized representative requires.

However, since EBFP deals only in the acquisition and installation of transmission apparatus, the Public Broadcasting Act, Section 398(2) prohibits Federal interference or control over the grantees: "Nothing contained in this part shall be deemed to authorize any department agency, officer, or employee of the United States to exercise any direction, supervision, or control over ETV or radio broadcasting, or over the Corporation of Public Broadcasting or any of its grantees or contractors, or over the charter or bylaws of CPB, or over the curriculum, program of instruction, or *personnel* of any educational institution, school system, or educational broadcasting station or system." A copy of the Act is attached.

Mr. COLLINS of Texas. Mr. Chairman, I rise in opposition to the amendment.

I was very impressed by the amendment which was offered by the distinguished gentleman from Missouri. I would like to add that the chairman of our subcommittee (Mr. MACDONALD) did deal with this subject extensively in the hearings. I am interested that this particular approach was taken, because in our hearings the subject of minorities came up frequently in regard to black programing and black hiring. It has come up in regard to public broadcasting and also hearings in regard to licensing private stations.

I believe there is discrimination against minorities. But our problem in the committee was to determine what is a minority and which minority suffers from discrimination, and how do we fairly recognize all of the minorities?

For instance, I take exception to the fact that there is not a single program in this country provided on public broadcasting in behalf of the Irish.

I will tell the Members additional remarks. They tell me there is none for the Japanese, there has never been one for the Chinese, and there has never been one for the Polish community. We have a big German community in Texas. They have never been recognized.

As I went through the list of the minorities, and as we went down through the line, stations never got around to minority groups. The only group that is really effective, as to getting minority representation, was the black group.

The gentleman said that the blacks had 9½ hours. On this point I recalled when we discussed minority programing within the committee, we discussed programing that was specially designed for the black audience. Two things came up with respect to black special programing.

First, in my experience it has been proved that in communities throughout our country there is not any group of listening audience defined as a black audience. Let me cite a figure. There is not a single so-called black program in the country that has been on public broadcasting that has drawn as much as one-half of 1 percent of the potential listening and viewing public. That means only 1 out of 200 people at the most would be interested. Usually there is less than one in a thousand.

I think of the public broadcasting system in terms of the total public audience. With listener appeal so the public would desire to view it.

Mr. CLAY. Mr. Chairman, will the gentleman yield

Mr. COLLINS of Texas. I yield to the gentleman from Missouri.

Mr. CLAY. I believe the gentleman fails to understand the mandate of public broadcasting. It is not to be concerned about how many people are watching it. The rationale for public broadcasting is that it belongs to everybody. If there is only one person in that community who has a particular interest in that program he ought to be entitled to some time on the airways. That is the mandate. It is not supposed to be identical to commercial broadcasting.

And the Irish, too, ought to have some time of programing.

Mr. COLLINS of Texas. I understand what the gentleman is pointing out.

The committee asked, "How would we take care of every minority?"

For instance, in my city we have 1½ million people. How would we be able to fairly provide programs for every minority?

We do not have many Lebanese, but we have never given those Lebanese a minute of time on our public station.

What is equitable? If the gentleman can figure out any proposal, the committee would give it a hearing, as to how to further recognize minorities, as to program allocation, and in respect to recognizing a minority ratio, on whether we should get into a quota on employment.

Ms. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentlewoman from New York.

Ms. ABZUG. I find these comments interesting. I wonder if in the course of the study of this subject the gentleman noticed how many programs were devoted to the concerns of women or the participation by women? I suppose that would be an easier category for the gentleman to deal with. I just wonder if he would like to comment on that?

Mr. COLLINS of Texas. I certainly welcome that addition on TV. Everyone admires women on television. I should like to see more and more of them.

Ms. ABZUG. I should like for my colleague to address himself to that question.

Mr. COLLINS of Texas. I have not seen the statistics. My concern has been with the Irish, and I want to tell my colleague that the Irish to date are batting zero.

Mr. METCALFE. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the distinguished gentleman from Illinois.

Mr. METCALFE. I thank the gentleman from Texas for yielding.

This is about as propitious a time as any to really search our souls and look at the question of whether or not we are dealing with what we term to be minorities. Are we not really in fact ignoring the realities of the history of our country? I would submit that we consider those members of the black and brown races as members of the majority.

I am not directing my remarks specifically to the gentleman from Texas (Mr. COLLINS) but simply ask the question of the entire House. Specifically I ask whether or not a few years ago when we were segregated in our educational system, whether or not we have been segregated on a first fired and last hired basis, and whether or not today we are accorded all the privileges that the Constitution provides for us.

Were the ethnic groups referred to by the gentleman from Texas considered as minorities according to these practices?

The answers to these facts will clearly determine what is commonly referred to as minorities.

I think therein lies the answer to the question as to whether or not we will continue to segregate and separate some in this very diverse community of America, a community representative of all of the countries, and I think that in that way it would be more clear and it will be much easier for all of us to understand what we are talking about when we are speaking of minorities.

Mr. Chairman, I thank the gentleman very much for yielding.

Ms. ABZUG. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I support the amendment offered by our colleague, the gentleman from Missouri (Mr. CLAY). I find it very interesting that the correctness of this amendment concerning so large a number of people in this country is measured by whether or not it was previously raised by a Member of Congress and during the hearings of this committee.

This is particularly so because, as I indicated in the general debate, the basic standard for public television—and I indicated that I support it very vigorously for its educational objectives—is to provide the ways in which programs are brought forth which will give us high quality and heterogeneous programing, that is, high quality programs obtained from and participated in by diverse communities and constituencies.

Why did not the committee, on its own, in the hearings address itself to these propositions?

I accept the criticism that Members of the Congress who are now speaking on this issue should have come before the committee. But I believe it is the responsibility of leading Members in this field who are on the committee to make certain that public television does, indeed, meet the standards which are provided in the act.

Mr. Chairman, there is not only the question of discrimination against minorities that has been referred to by the maker of this amendment and others, but if we will look at the Board of the Corporation for Public Broadcasting, if we will look at the local radio and TV stations, and if we will look at the board of the public broadcasting system, we will find that there are very few minorities represented; we will find very few women represented. In fact there is only one woman on the Board of the Corporation for Public Broadcasting. This lack has a direct relationship in providing an answer as to why programing is not as diverse as indeed it is intended to be by law.

Mr. MACDONALD. Mr. Chairman, will the gentlewoman yield?

Ms. ABZUG. Yes, I yield to the gentleman from Massachusetts.

Mr. MACDONALD. Mr. Chairman, actually the gentlewoman is not quite correct. There were two series of hearings. There was one on public broadcasting and one on licensing in general.

In the hearing on licensing in general, we went into diversity of programing, hiring practices of the stations, and all the things that are being raised here today, because there had been complaints in these areas.

We went into it because we felt it was a condition that should not exist. We did not go into it here because nobody had ever indicated that all of the laws of the land were not being lived up to, although we did inquire of the Public Corporation for Broadcasting as to what they were doing about hiring minorities, and they indicated they had two plans in mind which have since been put into effect and have set aside a certain amount of money in order to encourage and to train minority groups, blacks in particular, to participate in the program.

Second, when they have blacks in it they do such a good job and get such a good grasp of the subject that they get hired away from the low-paying public broadcasting by the private corporations and private broadcasters who have so much more money at their disposal.

So the matter has not been ignored by our subcommittee.

Ms. ABZUG. I am glad to hear that, but in addition to the blacks and other minorities, what about the question of the hiring practices, decisionmaking roles, as well as programing, concerning women in this society? Do you have any data on that?

Mr. MACDONALD. Yes, I do.

Ms. ABZUG. I would like to see what that data is.

Mr. MACDONALD. The data is that there were a group of women's activists who brought complaints against ABC in New York City and CBS and were satisfied at NBC, I believe. We had days of testimony from women's activists who testified they felt they were not getting their fair share. We went into that and discussed it with management, and management agreed they had been neglectful and have taken steps to overcome it which have satisfied those women activists who appeared before us, and they now support the bill.

Ms. ABZUG. I am interested in hearing what testimony there was on the question of the Corporation for Public Broadcasting, specifically, and not on the licensing questions in private broadcasting, because we are considering here the Corporation for Public Broadcasting——

Mr. MACDONALD. That is right.

Ms. ABZUG. What specifically was discussed on that issue in your hearings?

The CHAIRMAN. The time of the gentlewoman has expired.

(By unanimous consent, at the request of Mr. MACDONALD, Ms. ABZUG was allowed to proceed for 1 additional minute.)

Mr. MACDONALD. I tried to point out to the gentlewoman that the reason why it was not gone into in any depth at the hearings on public broadcasting was because nobody raised it at any time to us. As soon as it got raised by Mr. CLAY and others we did something about it. We are now on the back of CPB to have them justify to us what they have done. The figures they have given us, while they are not good, show an improvement. We have it on HEW. I just read the procedures they go through and we have been working on them and they have responded, I might add, optimistically to out entreaties. I think you will see, as they state, an improvement in this entire area.

Ms. ABZUG. If I understand the gentleman's response, there will be an on-going oversight with respect to the issue not only of discrimination in employment, which this amendment covers, but also the question of programing which represents the heterogeneity in our society.

Mr. MACDONALD. I do not believe that Government has any role in programing.

Mr. CONYERS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, there has been a lot of interesting discussion about how we resolved the question of racial discrimination in public broadcasting, but it is really not to the point of this amendment.

This amendment really attempts to clarify existing law. It does not change a thing.

I would like to have the attention of the distinguished subcommittee chairman on this subject.

This amendment does not change existing law. As a matter of fact, what it does is clarify the confusion that has existed regarding the role of the Federal Government in entering public broadcasting in terms of prohibiting racial discrimination.

So what the gentleman from Missouri is trying to do is to make it clear that title 7 of the Civil Rights Act of 1964, relating to employment, does apply to the Public Broadcasting Corporation.

Now, he is not trying to do anything further. There is a great deal of confusion on that subject. I would like to illustrate the extent of that confusion through a memorandum sent to the distingushed gentleman from Massachusetts on July 19 of this year. In this letter, the acting director of the Office of Education of HEW who is concerned with the Civil Rights Act with regard to facilities grants to educational broadcast stations in conclusion stated:

> However, since this operation deals only in the acquisition and installation of transmission apparatus, the Public Broadcasting Act, . . . prohibits federal interference or control over the grantees—

and he quotes the language:

> "Nothing contained in this part shall be deemed to authorize any . . . agency . . . to exercise any direction, supervision, or control over ETV or radio broadcasting, or over the Corporation of Public Broadcasting or any of its grantees or contractors, . . ."

What he is trying to tell us is that there is some confusion with regard to whether the Civil Rights Act of 1964 has application.

So the gentleman's amendment attempts only to clarify that.

Now, I cannot understand why this would be so stoutly resisted by this committee on grounds that we have not told them about it in time. They should have known about it all along.

I yield to the gentleman from Massachusetts.

Mr. MACDONALD. Mr. Chairman, I do not know what it is the gentleman is addressing to me, but if the gentleman is addressing to me, but if the gentleman would read on in the memorandum from Mr. Hallock he is trying to make it clear that the CPB itself, or educational stations which are located within college campuses and such, that neither the CPB nor those educational stations nor its personnel are governed by the same law that governs, say, HEW and funds that come from HEW to facilities.

He is drawing a clear line between what is governmental and has to live up to the law, and what is non-governmental, and therefore over which we have no direct control. That is how I read it.

Mr. CONYERS. Let me ask the gentleman this, and let us get it so that everybody in the Chamber can understand it, has HEW promulgated a rule for implementation of title VII of the Civil Rights Act?

Mr. MACDONALD. Yes, I believe they have. I have a copy here. It is in the Federal Register for Tuesday, January 28, 1969.

Does the gentleman wish me to read it?

Mr. CONYERS. No, I do not want the gentleman to read it to me. I thank the gentleman very much.

Mr. MACDONALD. I would just like to make an observation, if the gentleman from Michigan will yield further, that I quite agree with the gentleman, and it is obviously clear that these people at HEW are subject to the same law as everybody else, and this committee and the subcommittee, and I am sure this Congress will see to it that if they have not been living up to that obligation they will live up to it.

Mr. CLAY. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Missouri.

Mr. CLAY. Mr. Chairman, I do not believe that it is true that HEW has promulgated any rules in regard to the setting up of standards or being in compliance with title VII of the Civil Rights Act.

Now, in March of 1970——

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. CONYERS was allowed to proceed for 3 additional minutes.)

Mr. CONYERS. Mr. Chairman, I yield further to the gentleman from Missouri.

Mr. CLAY. Mr. Chairman, in fact, the Commission on Education announced in March of 1971 that in view of the disproportion of outstanding applicants to available funds, applications in the area of service for disadvantaged would receive top priority, that was in education bulletin 6, dated March of 1971, and is on page 4.

But in public bulletin No. 7, dated August 8, 1972, a revision of public bulletin No. 6 covering priorities for fiscal year 1973, there is no mention of application which seeks to aid, and a notice of a proposed rule after July 18, 1972, by HEW, codifying priorities for fiscal year 1973 contains no apparent words of appropriate relationship to the disadvantaged as espoused in Public Law No. 6.

Mr. CONYERS. Mr. Chairman, we have a very simple amendment here that attempts to clarify an act of 1934. No one disagrees with the import of it. There is general agreement that the Public Broadcasting Corp. has been dragging its feet in this particular area, and I speak as a friend of PBC, as is the author of this amendment. We merely want to assert that there shall be no discrimination in employment policies and that the appropriate titles of the Civil Rights Act which were passed long after this legislation went into effect would be operative. We are making no changes in the existing law, and why we are meeting such resistance on a point everyone agrees to is a complete mystery to me.

Can anyone explain here in this House why we have to resist an amendment that everyone agrees to in principle? I think that this ought to be adopted by the majority of the Members here so we can proceed on with the bill.

I yield back the balance of my time.

Mr. VAN DEERLIN. Mr. Chairman, I move to strike the necessary number of words.

Mr. MACDONALD. Mr. Chairman, will the gentleman yield?

Mr. VAN DEERLIN. I yield to the gentleman from Massachusetts.

Mr. MACDONALD. Mr. Chairman, I agree that a number of people are urging a vote, and I do not intend to take any time except to make it clear in the record that Mr. CLAY said he did not believe a statement I read, and I think it is incumbent upon me to read it into the RECORD as I hold it in my hand. It is the Federal Register, volume 34, No. 18, Tuesday, January 28, 1969. Title 45—Public Welfare.

"Part 60—Federal Financial Assistance for Noncommercial Educational Radio and Television Broadcast Facilities."

I will skip the next paragraph and go to what I indicated to the gentleman:

> The program described in this part is subject to the requirements of Title VI of the Civil Rights Act of 1964 (Public Law 88–352, 78 Stat. 252, 42 U.S.C. Ch. 21) which provides that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. Accordingly, payments made pursuant to the regulations in this part are subject to the regulation in 45 CFR Part 80 issued by the Secretary of Health, Education, and Welfare, and approved by the President, to effectuate the provisions of section 601 of the Civil Rights Act of 1964.

Mr. CLAY. Mr. Chairman, will the gentleman yield?

Mr. MACDONALD. I yield to the gentleman from Missouri.

Mr. CLAY. Mr. Chairman, the gentleman keeps talking about title VI, and we are talking about title VII. There is a vast difference in the two titles.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. MACDONALD. I yield to the gentleman from Michigan.

Mr. CONYERS. I thank the gentleman from California for yielding. I should like to point out that what we are talking about is the promulgation of rules for the implementation of title VII. Is that what the gentleman suggested he was reading?

Mr. MACDONALD. I believe I identified this as clearly as I can read as to what I was talking about. I cannot insert further words here.

Mr. CONYERS. I am just asking the gentleman a question. Is the answer "Yes"?

Mr. MACDONALD. The answer is, I am discussing with the gentleman from Missouri and the gentleman from Michigan the hiring practices and HEW rules and regulations concerning public broadcasting. I have spelled it out in detail, and I can see very little that I can add that would be of any benefit to the gentleman.

Mr. CONYERS. Will the gentleman yield?

Mr. MACDONALD. I yield to the gentleman from Michigan.

Mr. CONYERS. I thank the gentleman for yielding.

Perhaps we are not communicating on this piece of legislation properly. My assertion, and I want to repeat it again, so that if anyone in this body is confused about it will be clear, and it is that the Department of Health, Education, and Welfare has not yet promulgated rules for the implementation of title VII of the Civil Rights Act of 1964. I hope that is crystal clear. I have asked repeatedly of this committee where those rules are. And they have not yet been cited.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. CLAY).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CLAY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 189, noes 190, not voting 54, as follows:

[Roll No. 365]

AYES—189

Abzug
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Armstrong
Aspin
Barrett
Bennett
Bergland
Bevill
Biaggi
Biester
Blackburn
Boggs
Bolling
Brademas
Brasco
Breaux
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton
Carey, N.Y.
Chisholm
Clancy
Clay
Cleveland
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Coughlin
Cronin
Culver
Daniels, Dominick V.
Davis, S.C.
Delaney
Dellenback
Dellums
Denholm
Dent
Diggs
Drinan
Dulski
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Esch
Findley
Fish
Flood
Ford, Gerald R.
Ford, William D.
Fraser
Frenzel
Gaydos
Giaimo
Gibbons
Ginn
Gonzalez
Grasso
Green, Pa.
Gude
Gunter
Guyer
Hamilton
Hansen, Idaho
Hansen, Wash.
Harrington
Harvey
Hawkins
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks
Hillis
Hinshaw
Holtzman
Horton
Howard
Hudnut
Hungate
Jordan
Karth
Kastenmeier
Keating
Kluczynski
Koch
Lehman
Litton
Long, La.
Long, Md.
Lujan
McClory
McDade
McSpadden
Madden
Madigan
Mailliard
Maraziti
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Milford
Minish
Mink
Mitchell, Md.
Moakley
Moorhead, Pa.
Mosher
Moss
Myers
Nedzi
Nelsen
Nix
O'Brien
O'Hara
Patten
Pepper
Poage
Podell
Preyer
Price, Ill.
Pritchard
Quie
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rinaldo
Robison, N.Y.
Rodino
Roe
Roncalio, Wyo.
Rose
Rosenthal
Roy
Roybal
Runnels
Ryan
St Germain
Sarbanes
Schroeder
Seiberling
Smith, Iowa
Stanton, J. William
Stark
Steele
Steelman
Steiger, Wis.
Studds
Symington
Thompson, N.J.
Thone
Thornton
Tiernan
Towell, Nev.
Vanik
Vigorito
Waldie
Whalen
White
Widnall
Williams
Wilson, Charles, Tex.
Wolff
Wright
Wydler
Wyman
Yates
Yatron
Young, Ga.
Young, Ill.
Zablocki

NOES—190

Abdnor
Adams
Alexander
Andrews, N.C.
Annunzio
Archer
Arends
Ashbrook
Ashley
Bafalis
Baker
Beard
Bowen
Bray
Brinkley
Brotzman
Broyhill, N.C.
Broyhill, Va.
Burke, Fla.
Burleson, Tex.
Butler
Byron
Camp
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clark
Clausen, Don H.
Clawson, Del
Cochran
Collier
Collins, Tex.
Conlan
Cotter
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Wis.
Dennis
Derwinski
Devine
Dickinson
Donohue
Dorn
Downing
du Pont
Duncan
Erlenborn
Eshleman
Evans, Colo.
Fascell
Flynt
Forsythe
Fountain
Frelinghuysen
Frey
Froehlich
Fulton
Gettys
Gilman
Goldwater
Goodling
Green, Oreg.
Gross
Grover
Gubser
Haley
Hammerschmidt
Hanley
Hanna
Hanrahan
Hastings
Henderson
Hogan
Holifield
Holt
Hosmer
Huber
Hunt
Hutchinson
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, Okla.
Jones, Tenn.
Kazen
Ketchum
King
Kuykendall
Kyros
Latta
Leggett
Lent
Lott
McCloskey
McCollister
McCormack
McEwen
McFall
McKay
McKinney
Macdonald
Mahon
Mallary
Mann
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Miller
Minshall, Ohio
Mitchell, N.Y.
Mizell
Mollohan
Montgomery
Moorhead, Calif.
Murphy, Ill.
Murphy, N.Y.
Natcher
Obey
O'Neill
Parris
Passman
Perkins
Pettis
Peyser
Pickle
Pike
Powell, Ohio
Quillen
Rarick
Rhodes
Roberts
Robinson, Va.
Rogers
Roncallo, N.Y.
Rooney, Pa.
Roush
Rousselot
Ruth
Sarasin
Satterfield
Saylor
Scherle
Schneebeli
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Snyder
Spence
Staggers
Steed
Steiger, Ariz.
Stratton
Stubblefield
Sullivan
Symms
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Thomson, Wis.
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Veysey
Waggonner
Walsh
Wampler
Ware
Whitten
Wiggins
Wilson, Bob
Wilson, Charles H., Calif.
Winn
Wyatt
Young, Alaska
Young, Fla.
Young, Tex.
Zion

NOT VOTING—54

Addabbo
Badillo
Bell
Bingham
Blatnik
Boland
Breckinridge
Brooks
Crane
Danielson
Davis, Ga.
de la Garza
Dingell
Evins, Tenn.
Fisher
Flowers
Foley
Fuqua
Gray
Griffiths
Harsha
Hays
Hébert
Ichord
Jones, N.C.
Kemp
Landgrebe
Landrum
Mayne
Michel
Mills, Ark.
Morgan
Nichols
Owens
Patman
Price, Tex.
Reid
Riegle
Rooney, N.Y.
Rostenkowski
Ruppe
Sandman
Sebelius
Smith, N.Y.
Stanton, James V.
Stephens
Stokes
Stuckey
Talcott
Teague, Tex.
Whitehurst
Wylie
Young, S.C.
Zwach

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. CLAY

Mr. CLAY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CLAY: Page 5 insert after line 17, the following:

SEC. 3. Section 396(g) of the Communications Act of 1934 is amended by inserting at the end thereof the following:

"(4) The Corporation is prohibited from rendering any financial, technical, or other assistance to any entity which has not first demonstrated that it is currently in compliance with all laws, rules, or regulations intended to ensure non-discrimination in employment practices."

Mr. CLAY. Mr. Chairman, under the Public Broadcasting Act of 1967, CPB has four principal purposes: First, assist in the level of high quality programs for presentation over public radio and television; second, establish and develop interconnection for such stations; third, assist in the establishment and development of one or more systems of public broadcasting stations; and fourth, act so as to assure the maximum freedom of noncommercial educational broadcasting systems and stations from interference with or control of program content or other activities.

The development and promotion of so-called "high quality programs" have been formulated by a selected elite; an elite which has not defined nor explained "high quality"; an elite which has used its own value standards to select "appropriate programming for the masses."; an elite which serves an elite and not all segments of the population. So "high quality" becomes synonymous with what the elite defines, not what the people want.

Since the Public Broadcasting Act—PBA—mandated the Corporation of Public Broadcasting—CPB—to assist the development of quality programs, evidently they have fallen short of this goal in terms of the diversity of the viewing public. From the $35,000,000 operating budget for 1972–73, CPB spent approximately $650,000 for these programs.

There has been token employment with minorities composing 7.9 percent of the total employment in public television, but these figures become microscopic when we look for minority representation at the decision- and policy-making levels.

The most regressive policy of public television has been the limitation placed on programing to, for, and about minority communities in general and the black community in particular.

As token black programs emerge the rest of the minority community must sit and wait for reruns of "Chicano" or native American specials, so by providing a little for one group, the other group is discriminated against and the problem is compounded. Public broadcasting has a mandated responsibility and a significant percentage of minority programs is part of this responsibility, a part which has not been met. This has reached the stage where minority broadcasting is regarded by CPB as more of a concession than a right.

To be specific, CPB announced on February 7, 1973, that "Black Journal," the only black public affairs program, was being refunded at its present level of $345,000 for the fall season beginning October, 1973. However, CPB's negative policies will also cause "Black Journal" to lose about $350,000 that it received last year from the Ford Foundation.

At the same time, CPB announced that "Soul," the only black cultural program, would share a reserve of $305,000 set aside for additional black programing. It was further pointed out that "Interface," a black program designed for white audiences was being produced and, depending on its quality would share a portion of the $305,000 reserve with "Soul." "Interface" was allotted $40,000 for a pilot program. On May 15, 1973, CPB announced that the entire $300,000 in the reserve fund would be allotted to "Interface". The rationale offered by Keith Fischer, executive vice president of CPB was that "Interface" was the preferred program because it took "a sociological rather than a cultural approach to the black experience." Ironically, as of May 15, 1973, when the announcement was made, "Interface" had not furnished a pilot program.

The above facts point to the following conclusions: first, "Soul," a black cultural program, will be replaced by "Interface," a program oriented to whites but called black. Second, "Black Journal" will be crippled by a limited budget, thereby reducing its quality and frequency of broadcast and certainly paving the way for replacement. The train of thought which follows from this could be called subtle systematized institutional racism. The mere facts that CPB is attempting to reduce funding for Black Journal instead of doubling it, arbitrarily phasing out Soul instead of supporting it and funding additional black programs; and conniving to replace Soul and Black Journal at a later date with Interface. All serve as evidence that the white establishment-controlled mass communications media is malignantly infected with widespread, long-standing deeply entrenched racism.

It is apparent that the Corporation for Public Broadcasting like it's counterpart in commercial television is of the opinion that blacks are not entitled to a fair share of television programing; cannot determine program content and context, and definitely will not be placed in a position to eliminate gross distortion and misinterpretation of the black experience which are based on white middle-class value judgment.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, at the request of Mr. Conyers, Mr. Clay was allowed to proceed for 2 additional minutes.)

Mr. CONYERS. Will the gentleman yield to me?

Mr. CLAY. I yield to the gentleman.

Mr. CONYERS. For the benefit of those Members who have just come into the Chamber, can the gentleman summarize the thrust of his amendment?

Mr. CLAY. The purpose of this amendment is to clarify some of the confusion that presently exists at the Public Broadcasting Corporation. They are of the opinion that they do not come under the enforcement provisions of title VII of the Civil Rights Act. They point to some language that was put into the bill in 1962, 2 years prior to the enactment of the Civil Rights Act, which says that this Congress should not interfere in the operations of public broadcasing in any way.

Well, I certainly do not believe that was the intent of this Congress in terms of enforcing or making the Broadcasting Corporation abide by the law of the land.

As a result of their interpretation, the FCC and HEW are doing very little in terms of enforcing the nondiscrimination laws of the land.

Mr. CONYERS. Mr. Chairman, I would ask the gentleman from Missouri (Mr. Clay) if it is fair to say that the gentleman's amendment attempts to make clear that the Civil Rights Act provisions with regard to nondiscrimination in employment applies to the Public Broadcasting Corporation notwithstanding the fact that they are a public entity?

Mr. CLAY. Yes. In addition to that, it imposes on them the responsibility to make sure that they are not giving this money out until there is some evidence that those companies are not discriminating.

Mr. CONYERS. I thank the gentleman.

Mr. BURTON. Mr. Chairman, will the gentleman yield?

Mr. CLAY. I yield to the gentleman from California.

Mr. BURTON. Mr. Chairman, I would like to commend the gentleman from Missouri, our distinguished colleague (Mr. Clay) for offering this very important amendment. I associate myself with the remarks of the gentleman, and I would hope our colleagues would adopt the amendment.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. STAGGERS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would like to associate myself with the remarks of the distinguished gentleman from California (Mr. Burton) in associating himself with the remarks of the gentleman from Missouri and in commending the gentleman from Missouri for bringing this to the attention of the Congress. But I want to quote from a letter that was written to Speaker Carl Albert on July 12 from Henry Loomis, the President of the Corporation for Public Broadcasting, in which he said:

> I would note that we have increased our funding for black programing in the national service from $382,000 in fiscal year 1972, to $692,000 in fiscal year 1973 to $825,000 in fiscal year 1974. This has been done even though the Federal appropriation to CPB has remained at $35 million during each of those fiscal years, as far as we know at the moment.

I object to the amendment because of this that we already have the necessary remedies in the law. The law is on the books, and we can go to those laws. It is superfluous to put this in here.

I would also like to say that if we amend this bill this way it will not pass until some time in October or November, or maybe not this year. It will kill public broadcasting, because if you put this in this bill it will have to go to conference.

I am glad that this has been brought to the attention of the American people the way it has been outlined by the gentleman from Missouri (Mr. Clay), the gentleman from Michigan (Mr. Conyers), the gentleman from California (Mr. Burton), and the gentleman from Illinois (Mr. Metcalfe).

I admire each of these gentlemen, and especially I admire the gentleman from Illinois (Mr. Metcalfe). He represented America at its greatest. I also wish to refer to the distinguished, astute, and gracious lady from New York (Ms. Abzug) for her contribution.

But again I would say to the Members that if we put this amendment in it will not be possible to have a public broadcasting appropriation until sometime later this fall, and perhaps none at all. Just as last year, because of the Presidential veto, and all they have had is a continuing appropriation to work under.

If you want to starve it to death, this is the way to do it. I believe this House is for public broadcasting. I believe everyone ought to vote for it. When it comes to civil rights, I have voted for it every time since I have been in this House, and I intend to continue to do it. I will do everything I can to protect the rights of everyone who is in the minority. But this amendment is not going to help in this regard. It will not do anything that cannot be done now for minority groups. It may seriously impair the advances that have been made in public broadcasting.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Michigan.

Mr. CONYERS. I appreciate the Chairman's remarks. I know he has been a champion of civil rights across the years, long before this Member came to the Congress, so that I think we should make it clear that that is not the question. The question on this amendment is certainly not that we do not want to reserve the right to amend this bill; this is the function of the legislature. We amend all Federal laws. We eliminate some, and we add new ones during every session of Congress. But does our distinguished Chairman and friend of civil rights, the gentleman from West Virginia, know that the Public Broadcasting Corporation has no objection to this amendment?

Mr. STAGGERS. They did not tell me this. I will say to the gentleman this, that I do not believe this is the time nor the place to amend this bill, because if we put it in there, I say we will have to go to conference, and it will hold this bill up, and I do not believe the gentleman from Michigan wants to do that.

I do not believe that the gentleman from Missouri wants to do that either.

Mr. CONYERS. I do not want to kill the legislation, but if the Chairman will tell me where the time and place to amend this legislation is, I will be happy to meet him there.

Mr. STAGGERS. The chairman of the subcommittee said he would be willing to hold hearings, and I will be willing to set them up at the proper time.

Mr. MACDONALD. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, first of all, to all of the Members sitting here I should like to make one thing as clear as I possibly can. I think many Members got confused during the last vote. This vote has absolutely nothing to do with civil rights. It is not a civil rights vote. This is in no way any indication of civil rights or one's views upon it.

The last amendment had some merit, perhaps, even though I felt it to be unnecessary. This particular amendment has absolutely no merit, for it does the same kind of thing we criticized the administration for. Many Members who voted for Public Broadcasting reluctantly because of the appointment of various members of the CPB Board by the administration, the various Members here who rose to their feet—many of whom I see—and decried the tactics of the Nixon administration because it was forcing programing on Public Broadcasting, are now or would be voting to do just that. The only difference would be if this amendment is adopted, it would have the Congress telling the Public Broadcasting what sort of programing it can have.

I should like to point out to the Members that we have no right to do that. During the debate of 1967 that set up this public broadcasting system, we tried to make it clear, as clear as we possibly could, that this quasi-independent agency should be insulated from any governmental interference. I say to these Members who feel that the Congress has a right to tell Public Broadcasting how to program that they are just as wrong as Clay Whitehead and the Nixon administration are. It is this kind of interference that led to the resignation of a former colleague of ours, Mr. Curtis, when he would not do the administration's bidding in saying what programs would be shown on the interconnection.

Mr. FREY. Mr. Chairman, will the gentleman yield?

Mr. MACDONALD. I yield to the gentleman from Florida.

Mr. FREY. Mr. Chairman, I thank the gentleman for yielding.

In reading this amendment I think there is a much more basic problem than has been discussed. In essence, the way the amendment is drawn, every station receiving any assistance from the Corporation on a daily basis would have to certify that it is in compliance with the rules because every day the Corporation is providing both technical and other assistance to people in the chain, and the way this amendment reads, if it is passed, it would put the Public Broadcasting completely out of business. I am sure that is not the intent but that is the amendment we are talking about.

Mr. MACDONALD. Mr. Chairman, I agree with the gentleman.

I would like to point out if there are people in the United States who do not like the programing practices of the Corporation, they have the right and indeed the duty if they feel that the board has been negligent in programing, to challenge the licenses of the licensees that show these programs, just as is done in the commercial aspect of radio and TV. The licenses can be challenged, and as a matter of fact there are some licenses currenty being challenged.

Finally it was stated by the gentleman from Michigan (Mr. CONYERS) that he could not understand why the subcommittee and the committee opposed the amendment when he indicated and stated the Corporation for Public Broadcasting approved of the amendment. I point out to the gentleman that I received today on July 20, 1973, a communication from the Corporation of Public Broadcasting in which in a two-page letter they outline the reasons why they oppose the amendment:

CORPORATION FOR PUBLIC BROADCASTING,
Washington, D.C., July 20, 1973.

Hon. HARLEY O. STAGGERS,
Chairman, House Committee on Interstate and Foreign Commercee, Rayburn Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: The amendment that Congressman Clay intends to offer to H.R. 8538 strives toward an essential and very important goal, namely increased employment of minority groups in public broadcasting. However, this amendment would do this by making unjustified and unprecedented changes in the current method of administering Federal civil rights and equal opportunity laws and by duplicating Federal enforcement activities in this area.

The amendment would make the Corporation for Public Broadcasting responsible for determining compliance by broadcasters and other recipients of CPB funds with the Federal equal opportunity requirements. In other words, it would give CPB, which is a private corporation having no organizational relationship to the Federal Government, a principal responsibility for enforcing equal opportunity laws. Clearly, the enforcement of Federal laws is not and should not be the function of CPB or any other private person. This is a governmental function that should be carried out by a duly constituted Federal department or agency. CPB's congressional charter requires it to promote the development of noncommercial broadcasting and to foster diverse programing. CPB was not intended by Congress to be a Federal policeman.

Ironically, this amendment, in its attempt to eliminate discrimination, places unprecedented obligations on CPB that no other non-governmental body has, and in that way discriminates against CPB. In addition, this amendment would discriminate against CPB grantees by requiring them to first demonstrate their compliance with Federal equal opportunity requirements before becoming eligible to receive CPB funds. That is, a prospective grantee must first prove that it is not guilty of discriminating. This is contrary to one of the fundamental principles that our government is based upon. This amendment would also duplicate and infringe upon the authority of the several Federal agencies that Congress has already entrusted with the enforcement of Federal civil rights laws. This would be a needless duplication of efforts.

I stress that public broadcasting, which we must remember is in its infancy, has made and continues to make significant progress in increasing minority participation. CPB has a minority hiring program and also financially supports minority hiring and employment training by various grantees through CPB's Community Service Grants for public television.

Accordingly, although I fully support the objective of the amendment proposed to be offered, I must oppose it because it is unnecessary.

We have no comments to offer on the amendment that Congressman Clay proposes to offer that would amend Sec. 392 of the Communications Act.

Sincerely,

DONALD R. QUAEJLO,
For HENRY LOOMIS.

So I repeat I hope the Members will bear in mind there is no civil rights in here.

Second, it is putting the Congress in the position we attacked the administration for and that is dictating to the Public Corporation.

I hope this amendment, which is a mischievous one indeed, will be defeated.

Mr. BROWN of Ohio. Mr. Chairman, I rise in opposition to the amendment.

I would like to ask the members of the Committee to listen, if they will, to just what the amendment says, and I quote the amendment:

> The Corporation is prohibited from rendering any **financial, technical** , or other assistance to any entity which has not first demonstrated that it is curerntly in compliance with all laws, rules, or regulations intended to ensure nondiscrimination in employment practices.

The language of that amendment would, as the gentleman from Florida has pointed out, require daily assurance of compliance for anyone from whom the Corporation would receive a phone call of inquiry, or who might be in need of some assistance or information. The Corporation would have to at that point determine whether or not they are in compliance.

It does not make an exception, as I read this, for an effort being made to come into compliance at some future date. It says that they must demonstrate that they are currently in compliance, so the effort to get into compliance would not apparently be satisfactory. The funds apparently are to be prohibited on that basis.

"Other assistance" I assume must mean the most minimal assistance of any kind because it says "any assistance".

Finally the Corporation is almost totally unequipped in terms of either personnel or finances to check everyone on the financial passthrough requirements of the 30-percent money that it passes through to other stations.

I oppose this amendment although I supported the last one because it deals with programing, because I think the language is not properly drawn to try to give at least some leeway in accomplishing what the sponsor of this amendment, I think, wants to accomplish, and finally because I believe we should not at this point be tampering with the programing decisions of the Corporation for Public Broadcasting.

The Corporation of Public Broadcasting is, under the law which we passed in 1967, an independent corporation. It is not a separate entity like the Secretary of HEW, who was the subject of the gentleman's first amendment.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Chairman, this amendment is one sentence long. I do not see anything that deals with programs, or implies that it deals with programs. Is that a fair statement?

Mr. BROWN of Ohio. Mr. Chairman, I think it is not a fair statement because the Corporation makes grants to other entities who then undertake the completion of the programing. Under the provisions of the amendment being considered the Corporation is prohibited from making a grant to an entity which is attempting to come into compliance with the civil rights regulations. I do not think the gentleman intended that.

Mr. CONYERS. If the entity is not required to be nondiscriminatory under the regulations of the United States; namely, the Civil Rights Act of 1964.

Mr. BROWN of Ohio. "Not currently complying with all laws, rules and regulations." I think that is excessively restrictive.

Mr. Chairman, I yield the balance of my time.

Mr. ECKHARDT. Mr. Chairman, I rise to speak against the amendment.

Mr. Chairman, I supported the previous Clay amendment and I believe I have supported every legitimate civil rights measure that has come on this floor, but I oppose this amendment, because I do not believe that the amendment has any effect other than to make the Public Broadcasting Corporation an enforcement authority with regards to other bodies which are already controlled by the Civil Rights Act.

I would like to clarify these facts to the Members on the floor. There has been some indication that this Corporation is itself not controlled by title 7 of the Civil Rights Act. Actually, title 7 states that the term "person" includes one or more individuals, labor unions, partnerships, associations, corporations, and so forth.

It provides that the term "employer" means a person engaged in an industry affecting commerce who has 25 or more employees. This Corporation is a "corporation" and is therefore covered under the term "person." It is an "employer," because it employs more than 25 persons, and it is engaged in commerce.

If the entities which are referred to in this amendment fall under that definition of "employer" in this Civil Rights Act, they are controlled by title 7 of that act.

This amendment by the distinguished gentleman from Missouri (Mr. CLAY) then provides that the Corporation is prohibited from rendering any financial, technical or other assistance to any entity which has not first demonstrated it is in compliance under the Civil Rights Act.

The Corporation and each of those entities are required to comply with the Civil Rights Act. The proper authority to make them comply is the Equal Employment Opportunity Commission, the Justice Department, and certain other Federal agencies, but this Corporation is not organized for the purpose of enforcing any criminal or civil law of the United States.

To call upon this Corporation to determine the question of whether or not there is compliance by every entity with which it deals is to impose upon it a duty which it is totally unequipped to perform. If it were required to perform such duty, its decision might be fair or might be unfair, but certainly that decision should not be made by this Corporation. That power should not be exercised by a corporate entity, composed of 15 persons appointed by Mr. President with no equipment to determine violation or nonviolation.

The Corporation should be required to comply with the act and, as I have shown, it is required to do so. It is my information it is doing so, and I shall attach after my statement the Corporation's statement concerning "Prohibition Against Discrimination Under Programs Receiving Financial Assistance from the Corporation for Public Broadcasting." Its Form A requires that an applicant organization make the following acknowledgment:

> 11. *Non-Discrimination and Other Requirements:* The applicant organization acknowledges that it has received and hereby subscribes to the CPB "Prohibition Against Discrimination Under Programs Receiving Financial Assistance from the Corporation for Public Broadcasting". The applicant organization agrees to comply with all Federal, State and local laws and regulations applicable to the Approved Project, specifically those relating to employment conditions, minimum wage, social security, safety and health, etc.

Thus, I believe that when the Corporation is commanded to comply with the Civil Rights Act, as I have shown it is, and when it does comply with that act and requires those with whom it deals to give assurance of their compliance and, thereafter, uses reasonable means to be assured that such entities perform their agreement, it has fulfilled its full obligation.

The language of the amendment would go further. It would require the Corporation to in turn require a broadcasting station with which it deals to demonstrate its compliance under the Civil Rights Act in advance.

Mr. Chairman, as a matter of sound regulatory legislation, indeed as a matter of due process, I would not set up a corporation without the equipment to find out the facts, which corporation then ultimately has the power to either withhold or extend certain privileges to which the entity would be entitled.

Mr. CLAY. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I am glad to yield to the gentleman from Missouri.

Mr. CLAY. I believe that is a part of the problem we are attempting to get at. The Public Broadcasting Corporation and HEW both have taken the attitude that because of the language in the Public Broadcasting Act of 1967, HEW and other Federal agencies are powerless in terms of getting the Public Broadcasting Corporation and television stations to abide by title VII of the Civil Rights Act.

The gentleman may have noticed the memorandum HEW sent to the gentleman from Massachusetts (Mr. MACDONALD), July 19. They admitted in the last paragraph that according to section 398 of the Public Broadcasting Act they are prohibited from Federal interference over grantees, and they quote the section.

This is the problem. I see no difference between this kind of a remedy and the kind we have imposed on prime contractors when they are subcontracting out.

Mr. ECKHARDT. If this be true, I believe the decision is totally incorrect, because as I read section 7 there is no such limitation contained in section 7. This is a corporation which is engaged in commerce. It has more than 25 persons working for it. If the entities which fall under that definition are not controlled, I hope we are making some legislative history with respect to the Civil Rights Act applying to this Corporation and all other entities which otherwise comply with that definition which may result in the HEW on any other agency involved doing their duty in getting the broadcasting stations to abide by the Civil Rights Act's provisions.

If the gentleman will introduce a bill to clarify this point, I would support it, though I believe it is unnecessary.

Mr. CONYERS. Mr. Chairman, I rise in support of the amendment. I have no other alternative but to respond when so eminent a lawyer in our body as the distinguished gentleman from Texas rises in the name of civil rights to oppose the amendment of the gentleman from Missouri.

First, there is no question that the Public Broadcasting Corporation is caught by the provisions of both titles VI and VII of the Civil Rights Act of 1964.

Let me read the titles of those sections: Title VI, nondiscrimination in federally assisted programs; title VII, equal employment opportunity.

For anyone to claim that this amendment would place upon the Public Broadcasting Corporation too onerous a responsibility is a rather strained view, to put it mildly.

We are not asking the PBC to become an enforcer of title VII of the 1964 Civil Rights Act but rather to become subject to it, like any other corporation. We are merely asking them to do what many other businesses that deal with the Department of Defense are called upon to do every day; that is, to ascertain that they have rules and regulations concerning employment that are nondiscriminatory, and that they are attempting within their best efforts to reduce the problem of racial discrimination in their business as well as those that they do business with.

It is not true that this one-sentence amendment has anything to do with programing. I do not know how that could be read into this provision in any way. We are in no way trying to dictate to PBC as to what they are to do with regard to selection of programs, even though there is a lot of room for improvement in this regard.

And although it is a big problem, this amendment in no way attempts to deal with it. Any measure that concerns itself with discrimination in employment is a civil rights vote, even if the members of the committee fail to perceive it as such.

Should not a public-funded major national media, which happens to be supported by every Member of the Congressional Black Caucus, incidentally, be required to fully comply with all the provisions of the Civil Rights Act of 1964?

This amendment goes no further than that and in no way encroaches on the prerogatives and the responsibilities of CPB. I urge your support of the amendment.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Chairman, it seems to me, as I have listened to this debate, that much of the concern revolves around the language, "any entity which has not first demonstrated it is currently in compliance," and so on.

Is it the gentleman's belief that this would put upon the corporation the affirmative obligation before making any grant of completely reviewing the employment and hiring practices of any potential recipient or grantee to make the affirmative declaration or finding in advance that in all respects the hiring practices were in conformity with title VII of the Civil Rights Act of 1954?

Mr. CONYERS. Mr. Chairman, I would say that the gentleman has put his finger on the major point under discussion, and I do not think that this is the requirement.

I believe they have the responsibility to make sure that the other entities with which they might be dealing are not in themselves in violation of the Civil Rights Act, and their responsibility should go no further than that.

Mr. VAN DEERLIN. Mr. Chairman, I move to strike the last word.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. VAN DEERLIN. I yield to the Chairman of the Committee, the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, I just want to state again that I am opposed to the amendment. There have been good arguments made for and against the amendment.

I believe we understand the issues, and I do not want to prolong this discussion. I think we ought to have a vote on the amendment, not only that, but a vote on the full bill, because I have been informed by the Speaker that when we get through with this bill, we can go home; there will not be any more bills. But before I finish I want to acknowledge the fine job that the gentleman from Missouri (Mr. Clay), the gentleman from Maryland (Mr. Mitchell) and the gentleman from Michigan (Mr. Conyers) have done in presenting and supporting these amendments. I am in accord with their objective but the amendment is not needed to achieve it. Nonetheless they ably presented their points of view and done an excellent job of representing their constituents.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. Clay).

The question was taken; and on a division (demanded by Mr. Clay) there were—ayes 32, noes 88.

So the amendment was rejected.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Giaimo, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 8538) to amend the Communications Act of 1934, to extend certain authorizations for the Corporation for Public Broadcasting and for certain construction grants for noncommercial educational television and radio broadcasting facilities, and for other purposes, pursuant to House Resolution 467, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. COLLINS OF TEXAS

Mr. COLLINS of Texas. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. COLLINS of Texas. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. Collins of Texas moves to recommit the bill H.R. 8538 to the Committee on Interstate and Foreign Commerce.

Mr. STAGGERS. Mr. Speaker, I move the previous question on the motion to recommit.

The previous question was ordered.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

RECORDED VOTE

Mr. STAGGERS. Mr. Speaker, on that I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device; and there were—ayes 363, noes 14, not voting 56, as follows:

[Roll No. 366]

AYES—363

Abdnor
Abzug
Adams
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Ashbrook
Ashley
Aspin
Bafalis
Baker
Barrett
Beard
Bennett
Bergland
Bevill
Biaggi
Biester
Boggs
Bolling
Bowen
Brademas
Brasco
Bray
Breaux
Brinkley
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton
Butler
Byron
Carey, N.Y.
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clark
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Collier
Collins, Ill.
Conable
Conlan
Conte
Corman
Cotter
Coughlin
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Davis, S.C.
Davis, Wis.
Delaney
Dellenback
Dellums
Denholm
Dennis
Dent
Devine
Dickinson
Diggs
Dingell
Donohue
Dorn
Downing
Drinan
Dulski
du Pont
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Flynt
Foley
Ford, Gerald R.
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Grasso
Green, Oreg.
Green, Pa.
Grover
Gubser
Gude
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanna
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harrington
Harvey
Hawkins
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Hosmer
Howard
Huber
Hudnut
Hungate
Hunt
Hutchinson
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Keating
Ketchum
King
Kluczynski
Koch
Kuykendall
Kyros
Latta
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McFall
McKay
McKinney
McSpadden
Macdonald
Madden
Madigan
Mahon
Mailliard
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Milford
Miller
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nix
Obey
O'Brien
O'Hara
O'Neill
Parris
Passman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Podell
Powell, Ohio
Preyer
Price, Ill.
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Rinaldo
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Roush
Rousselot
Roy
Roybal
Runnels
Ruppe
Ruth
Ryan
St Germain
Sarasin
Sarbanes
Saylor
Scherle
Schneebeli
Schroeder
Seiberling
Shipley
Shoup
Shriver
Sikes
Sisk
Smith, Iowa
Snyder
Spence
Staggers
Stanton, J. William
Stark
Steed
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stratton
Stubblefield
Studds
Sullivan
Symington
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waggonner
Waldie
Walsh
Wampler
Ware
Whalen
White
Whitten
Widnall
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wyatt
Wydler
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, Tex.
Zablocki
Zion

NOES—14

Blackburn
Burleson, Tex.
Camp
Collins, Tex.
Conyers
Derwinski
Duncan
Gross
Rarick
Satterfield
Shuster
Symms
Treen
Wiggins

NOT VOTING—56

Addabbo
Andrews, N.C.
Badillo
Bell
Bingham
Blatnik
Boland
Breckinridge
Brooks
Cohen
Crane
Danielson
Davis, Ga.
de la Garza
Eckhardt
Fisher
Flowers
Fuqua
Gray
Griffiths
Harsha
Hastings
Hays
Ichord
Jones, N.C.
Kemp
Landgrebe
Landrum
McEwen
Mayne
Mills, Ark.
Morgan
Nichols
Owens
Patman
Price, Tex.
Reid
Riegle
Roberts
Rooney, N.Y.
Rostenkowski
Sandman
Sebelius
Skubitz
Slack
Smith, N.Y.
Stanton,
  James V.
Stephens
Stokes
Stuckey
Talcott
Teague, Tex.
Whitehurst
Wylie
Young, S.C.
Zwach

So the bill was passed.

The Clerk announced the following pairs:

Mr. Riegle with Mr. Roberts.
Mr. Teague of Texas with Mr. Ichord.
Mr. Rooney of New York with Mr. Landrum.
Mr. Blatnik with Mr. Mills of Arkansas.
Mr. Reid with Mr. Stephens.
Mr. Slack with Mr. Wylie.
Mr. Addabbo with Mr. Talcott.
Mr. Danielson with Mr. Sebelius.
Mrs. Griffiths with Mr. Sandman.
Mr. Morgan with Mr. McEwen.
Mr. Nicholas with Mr. Mayne.
Mr. Fuqua with Mr. Landgrebe.
Mr. Fisher with Mr. Kemp.
Mr. Gray with Mr. Hastings.
Mr. Hays with Mr. Crane.
Mr. Rostenkowski with Mr. Harsha.
Mr. James V. Stanton with Mr. Cohen.
Mr. Stuckey with Mr. Bell.
Mr. Badillo with Mr. Stokes.
Mr. Andrews of North Carolina with Mr. Skubitz.
Mr. Bingham with Mr. Smith of New York.
Mr. Boland with Mr. Whitehurst.
Mr. Breckinridge with Mr. Young of South Carolina.
Mr. Brooks with Mr. Zwach.
Mr. Davis of Georgia with Mr. de la Garza.
Mr. Flowers with Mr. Eckhardt.
Mr. Jones of North Carolina with Mr. Patman.
Mr. Owens with Mr. Price of Texas.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. Pursuant to the provisions of House Resolution 467, the Committee on Interstate and Foreign Commerce is discharged from further consideration of the bill (S. 1090) to amend the Communications Act of 1934, to extend certain authorizations for the Corporation for Public Broadcasting and for certain construction grants for noncommercial educational television and radio broadcasting facilities, and for other purposes.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Staggers moves to strike out all after the enacting clause of the bill S. 1090 and insert in lieu thereof the provisions of H.R. 8538, as passed.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 8538) was laid on the table.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill just passed and include therewith extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. GERALD R. FORD asked and was given permission to address the House for 1 minute.)

Mr. GERALD R. FORD. Mr. Speaker, I ask unanimous consent to proceed for 1 minute for the purpose of asking the distinguished majority leader (Mr. O'Neill) the program for the rest of this week, if any, and the schedule for next week.

Mr. O'NEILL. Mr. Speaker, if the distinguished minority leader will yield to me, I shall be happy to reply.

Mr. GERALD R. FORD. I yield to the distinguished majority leader.

Mr. O'NEILL. Mr. Speaker, the program for the House of Representatives for the week of July 23, 1973, is as follows:

Monday is District day; no bills. H.R. 5356, Toxic Substances Control Act, open rule, 1 hour of debate; H.R. 8929, educational and cultural postal amendments, open rule, 2 hours of debate; and H.R. 8449, national flood insurance expansion, open rule, 1 hour of debate.

For Tuesday, Wednesday, and Thursday, H.R. 8480, impoundment control and 1974 expenditure ceiling, open rule, 4 hours of debate; H.R. 9360, Mutual Development and Cooperation Act, subject to a rule being granted.

There will be no session next Friday.

Conference reports may be brought up at any time, and any further program will be announced later.

Mr. GERALD R. FORD. Mr. Speaker, would the gentleman answer a question, if he can?

Mr. O'NEILL. I shall be glad to.

Mr. GERALD R. FORD. When will we have programed H.R. 8537, the Export Administration Act amendment?

Mr. O'NEILL. That probably will be scheduled for Wednesday of the week we come back from the August recess.

Mr. GERALD R. FORD. Mr. Speaker, I thank the gentleman.

ADJOURNMENT TO MONDAY, JULY 23, 1973

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER. Is there objection as to the request of the gentleman from Massachusetts?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday Rule on Wednesday next be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

FLOOD INSURANCE AMENDMENTS

(Mr. BARRETT asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BARRETT. Mr. Speaker on Monday the House will be considering H.R. 8449, a bill to amend the flood insurance program. Yesterday all of the Members received a dear colleague letter from our distinguished colleague from Florida, Skip Bafalis. Our colleague's letter raised some objections to the bill, H.R. 8449, which I believe to be misleading in a number of places.

Mr. Speaker, I would like to comment on the objections raised in Congressman Bafalis's letter.

It is alleged in our colleague's letter that H.R. 8449 would give the Secretary of Housing and Urban Development authority to set flood levels for each flood-prone community in the country.

The authority to identify the areas of the country having special flood hazards is not contained in H.R. 8449, but in the National Flood Insurance Act of 1968, which authorized a program that has now been in operation for more than 4 years.

More than 2,300 communities are now participating in the program in order to obtain flood insurance at subsidized rates, and areas in 741 communities have already been formally identified as having special flood hazards. All of the 2,300 communities have already adopted, or legislatively agreed to adopt, the 100-year flood standard as the minimum basis for their zoning ordinances. It would be unfair and detrimental to the public interest to undermine at this late date the considerable efforts of so large a number of communities to reduce their future flood losses, simply because of objectives raised by land developers in a particular area.

All that H.R. 8449 would do with respect to identification is to direct the Secretary of Housing and Urban Development to accelerate the identification and ratemaking process, so that higher limits of flood insurance can be made available to more communities sooner. No change in the existing standard is contemplated.

HUD establishes 100-year flood levels hydrologically rather than historically. This is not an exact science and has resulted in some very unusual determinations. The levels being set are sometimes far in excess of the highest known flood levels, and sometimes far below.

The fallacy of the question is its assumption that purely historical data is better than historical plus hydrological data. It is like assuming that the driver who won the race today will necessarily win the race tomorrow, regardless of conditions. It clearly assumes that no hurricane or other flood of substantially greater intensity or magnitude will ever occur in a given place in the future than it has in the past. Under such a theory, a new record flood could never occur in the future, simply because an event of the same size had never occurred before. Thus, occurrences like Camille, Agnes, and the Mississippi River flood this year should not be prepared for in any way before they happen, because each one substantially exceeded the previous historical record in some way.

In reality, the 100-year flood level is a compromise between the typical flood that occurs annually in many areas and the extreme flooding that occurs during storms like Camille, Agnes, or in the recent Mississippi River floods.

There is no implication that a flood of the level indicated could not occur in less than 100 years or that one will necessarily occur at that precise location before the 100 years have elapsed. The level established is simply the best scientific indication available of the flood level that has a 1-percent chance of occurring each year in the area where the determination applies.

The 100-year flood level is thus determined scientifically on the basis of all information available, and is related to what can happen, as well as to what has happened. The technical and engineering methods involved are well established and have been tested over long periods of time and involve a considerable degree of accuracy as to the relative level established. Moreover, it is essential to have a consistent technologically competent standard in administering a national program.

Charlotte County, Fla., for example, has never, in 125 years of recorded statistics, been subject to a flood level in excess of 7 feet. Yet, the flood level established for Charlotte in H.R. 8449 is an amazing 11 feet. This necessarily prohibits construction on 75 percent of the land area in Charlotte.

As elsewhere pointed out, H.R. 8449 as such does not affect the establishment of flood levels; areas of special flood hazards are established pursuant to the National Flood Insurance Act of 1968. Moreover, under the act, construction within identified flood hazard areas is not prohibited in any way. The only requirement for residential construction is that it be elevated so that the level of the first floor of the structure is at least equal to that of the 100-year flood, a result which can be accomplished without great additional expense.

In addition, the statistics cited in the objection are highly questionable. In its formal flood plain study of Charlotte and North Lee Counties in May 1968, the U.S. Army Corps of Engineers cites the hurricane flood of October 1921, as the greatest tidal flood in Charlotte County, producing high-water marks of 11 feet at Punta Rassa, 8 feet at Punta Gorda, and 9 feet at Fort Myers, and completely covering the coastal islands. The next highest tidal flood occurred in September 1920. Another major tidal flood occurred in September 1960. The 100-year flood determined by the corps, according to its report, using averages, would be about 2 feet higher than the 1921 tidal flood and about 5 feet higher than the 1960 tidal flood. The greatest flood of record for the county, moreover, is a rainfall flood that occurred in 1924.

The corps concluded that—

> A recurrence of the tide flood of record should cause substantial damage to present development in the coastal area. In each of the 1921 and 1926 hurricanes, total damages [in the study area] were reported to have been over $1 million. A recurrence of the 1921 hurricane on present development would cause tidal-flood damages estimated between $25 million and $30 million.

There is no valid reason to continue to build without taking such potential losses into account.

If Charlotte County, Fla., or any other flood-prone community does not accept the 100-year-flood elevation established by HUD, no building below this level can be financed through the banks after 1973, regardless of when the building was constructed.

The requirement contained in H.R. 8449 is that an identified flood-prone community must come into the national flood insurance program by 1975 so that its residents will have the opportunity to be more adequately protected against future flood losses by insurance and will not be solely dependent upon disaster assistance loans in order to rebuild their houses after a catastrophe occurs. However, the average cost of flood insurance under the program is only about 10 percent of its actuarial cost, so in return for this subsidy, the 1968 act requires that all future construction be flood proofed or else—with respect to all residential structures—be elevated to the level of the 100-year flood. If the community enters the flood insurance program, mortgage financing within the community is not denied to anyone.

However, if the community disagrees with the 100-year flood level established by the Secretary and does not want to enter the program, H.R. 8449 for the first time gives the community the right of both administrative and judicial appeal, which it did not have under the 1968 act. In addition, H.R. 8449 specifically requires the Secretary to consult with local communities in making his determinations, which he did not have to do before. Moreover, in all but a few rare cases, most of the community is unaffected by the Secretary's determinations, since they apply only to areas that are especially flood prone.

Within the flood-prone area, it makes sense for both the lender and the purchaser to be protected from anticipated flood losses. Thus, the bill does not deny financing to such properties; it simply requires that they purchase flood insurance in the amount of the loan provided, just as bankers normally require fire insurance in connection with similar loans.

RULES COMMITTEE OPENS HEARINGS ON BUDGET CONTROL LEGISLATION

(Mr. MADDEN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MADDEN. Mr. Speaker, yesterday the House Rules Committee opened hearings on the Joint House and Senate Special Committee created by the Congress for the purpose of bringing the control of fiscal and budget problems of our Government back to the Congress.

This special 32-member joint committee has held hearings and taken testimony over several months, and unanimously reported out legislation to be presented to the Congress for consideration after the August recess.

Testimony on the first day of the Rules Committee hearings was given by Committee Cochairman ULLMAN and WHITTEN, and co-Vice Chairmen SCHNEEBELI and RHODES. Further testimony will be taken by the Rules Committee next week from House Members and heads of Government departments.

Mr. Speaker, I include with my remarks a copy of my statement which I made to the Committee on Rules at the *hearing yesterday:*

OPENING STATEMENT ON BUDGET CONTROL HEARINGS

(By Chairman RAY J. MADDEN)

The Rules Committee today begins consideration of H.R. 7130, a bill to improve Congressional control over budgetary outlay and receipt totals. This measure represents the work and unanimous recommendations of the Joint Study Committee on Budget Control, and an identical bill has been introduced in the other body by the sixteen Senate members.

As we begin these hearings I think that it is important for us to recognize the historical significance of the legislations we begin here this morning. In this Congress, we have been faced, to an extent never realized before, with the issue of the appropriate role of the executive and the legislature in fiscal matters. The Constitution clearly provides that Congress has both the power to lay and collect taxes and to provide by appropriation for the expenditure of all monies drawn from the Treasury. Despite the fact that this clearly indicates that Congress is to control both the expenditure and revenue side of the budget, this authority in practice has been eroded to such an extent that only the Office of Management and Budget in the Executive branch really has any control over spending by the Federal Government.

This is the second historic measure that we have considered this year designed to correct this imbalance of fiscal power between the executive and legislature. We have already acted upon a measure designed to limit the Presidential practice of impounding funds which the legislature has directed be spent. Now, we are about to consider a second issue also designed to deal with this imbalance of fiscal control. Taken together, this activity should demonstrate the determination of this Committee and hopefully the Congress, to stem the erosion and reassert the rightful role of Congress in the fiscal affairs of the nation. An objective as worthy as this cannot but help cut across partisan lines and appeal to all members with the interest of Congress at heart.

The Rules Committee is beginning these hearings with a clear recognition of the historic importance that this subject represents. The importance of federal expenditures has sharply grown as a factor in our national economy. The decisions about government spending, and the priorities for that spending have never been so important. The time has come for Congress to assert clear authority and responsibility for control of these critical decisions. In order to do so, we must initiate new procedures that are equal to the task. Today, we begin the process of formulating these mechanisms.

The measures we have before us today are concerned with reasserting Congressional authority over expenditure and revenue totals and their allocation among various expenditure categories.

In a sense at least, the Rules Committee has already recognized the importance of this issue last fall, when in approving a rule for consideration of the debt limitation, we also approved in that rule the creation of a special Joint Study Committee on Budget Control. We now have before us, in our role as a legislative committee, the report of that Joint Study Committee and the bill, H.R. 7130, which embodies its recommendations on the issue of legislative budgetary control.

In acting on this measure at this time, the Rules Committee has a deep responsibility to act on this measure in a thorough-going manner. This is as it should be since the measure that we plan to report as a result of these hearings could well be among the most important, if not the most important, legislation reported by a committee in this Congress. We also have a very real responsibility to consider this legislation in an expeditious manner in order to give assurance that there will be adequate opportunity for Congress to act this year.

Our first two witnesses this morning are the cochairmen of the Joint Study Committee on Budget Control. I think it is particularly significant that these cochairmen, who have served as such a great team in the formulation of these recommendations, are drawn from the two chief fiscal committees that we have in the House: the Committee on Ways and Means and the Committee on Appropriations. I am, of course, referring to Al Ullman, the ranking member on the Ways and Means Committee and Jamie Whitten, the ranking member on the Appropriations Committee. We will hear at this time first from co-chairman Ullman and then from co-chairman Whitten, followed by co-vice chairman Herman T. Schneebeli of Pennsylvania.

RESIDENT COMMISSIONER BENITEZ TO JOIN CONFERENCE DISCUSSION ON MINIMUM WAGE BILL

(Mr. BURTON asked and was given permission to revise and extend his remarks.)

Mr. BURTON. Mr. Speaker, not only in my capacity as chairman of the Subcommittee on Territorial and Insular Affairs which has jurisdiction over matters affecting the Commonwealth of Puerto Rico and the various territories of the United States, but also as a ranking member of the General Subcommittee on Labor which is chaired by our distinguished colleague from Pennsylvania (Mr. Dent), I have had the firsthand opportunity to observe the diligence, wisdom, hard work, and personal character of the distinguished Resident Commissioner from Puerto Rico, Jaime Benitez.

Jaime Benitez was most helpful and made significant contributions to this year's minimum wage bill. His work was so outstanding that the chairman of the full committee, Mr. Perkins, of Kentucky, as well as the subcommittee chairman (Mr. Dent), felt that Commissioner Benitez should serve as a House conferee on this legislation—an honor never before accorded to a Resident Commissioner from Puerto Rico.

We discovered earlier today, to our great surprise and dismay that the House rules, written years ago, do not provide that a Resident Commissioner may serve on a House-Senate conference committee.

I might note that I intend to press to correct this oversight at the earliest opportunity which but for the outstanding stature of Jaime Benitez might continue to have gone unnoticed in the House rules.

However, I am happy to report that the chairman of the full committee with agreement of committee leaders on the other side, have decided that in any event our distinguished colleague, Mr. Benitez, will join with the House conferees in the conference discussion on this bill and most particularly as those provisions which affect the Commonwealth of Puerto Rico and its citizens.

MORE COSPONSORS AGAINST LIVE FETUS RESEARCH

The SPEAKER pro tempore (Mr. Mazzoli). Under a previous order of the House, the gentleman from New York (Mr. Roncallo) is recognized for 1 minute.

Mr. RONCALLO of New York. Mr. Speaker, today I have introduced for the fourth time bills to prevent the use of appropriated funds for live human fetus research and to make such use a Federal crime. I welcome my distinguished colleagues, the gentleman from Florida (Mr. Bafalis), the gentleman from Oklahoma (Mr. Jones), and the gentleman from Ohio (Mr. Powell) to the growing list of cosponsors of these important measures.

The number of Members sponsoring one or both of these bills, whom I will list at the end of this statement, now totals 42, and still there are no hearings scheduled. The House has twice by overwhelming votes gone on record against experimentation on human fetuses separate from their mother and with a beating heart, and the committees to which the bills have been referred still have shown reluctance to come to grips with the subject. My mail from the medical community has been running 10 to 1 in favor of these bills and from laymen 100 percent in favor, and still the House has not been given the opportunity to ban human vivisection on an across-the-board basis.

I do not like to handle this subject through agency-by-agency amendments any more than do the distinguished committee chairmen, so I want to go on record here and now that I am available to the Committee on Interstate and Foreign Commerce and the Committee on the Judiciary and their respective subcommittees at their convenience to discuss the pressing need for these pieces of legislation. I urge them to hold hearings at the earliest possible date and to let the full House work its will to insure that funds we appropriate will not be used for a purpose against the wishes of the vast majority of the Members of this Congress.

At the request of several Members, I would like to clear up four points about these bills. First of all, they are not abortion bills. We are only concerned with the fetus after it has been separated from its mother's life-support system and while it has a heartbeat. Secondly, they would not prevent routine procedures performed on all premature babies which are nonprejudicial to the interests of the particular life involved. Third, they would not prohibit experimental therapeutic procedures where the potential benefit to the life of the patient outweigh the potential risks. Fourth, they in no way deal with the taking of live tissue and organs after the heartbeat has ceased.

I believe that nearly all of the data desired by researchers can be obtained by these methods, or by using subhuman primates as subjects when circulation is necessary. If not, the human race can wait for the data, rather than attack existing human life.

The list follows:

List of Cosponsors Against Live Fetus Research

Angelo D. Roncallo, Primary Sponsor, Joseph P. Addabbo, John B. Anderson, Bill Archer, L. A. (Skip) Bafalis, Clair W. Burgener, Donald D. Clancy, James C. Cleveland, Dominick V. Daniels, James J. Delaney.

Frank E. Denholm, Joshua Eilberg, John N. Erlenborn, Walter E. Fauntroy, Harold V. Froehlich, Robert N. Giaimo, Ella T. Grasso, James R. Grover, Jr., Tennyson Guyer, Margaret M. Heckler.

Elwood Hillis, Lawrence J. Hogan, James R. Jones, William M. Ketchum, Norman F. Lent, Joseph J. Maraziti, Romano L. Mazzoli, Donald J. Mitchell, Morgan F. Murphy, Lucien N. Nedzi.

George M. O'Brien, James G. O'Hara, Peter A. Peyser, Walter E. Powell, J. William Stanton, Leonor K. Sullivan, William F. Walsh, Antonio Borja Won Pat, John W. Wydler, Samuel H. Young, Clement J. Zablocki, and John M. Zwach.

NEW FUNDS FOR RURAL GROUPS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Dakota (Mr. Andrews) is recognized for 5 minutes.

Mr. ANDREWS of North Dakota. Mr. Speaker, on May 11, 1973, the President signed legislation into Public Law 93–32, setting up a revolving fund outside the Federal budget for insured and guaranteed REA loans. This most important new law will rank with earlier landmark amendments to the original REA Act of 1936—the so-called Pace Act of 1944 and the amendments of 1949, which make loan funds available for rural telephone systems. Public Law 93–32 is also an excellent example of government—both the legislative and executive branch—industry, and concerned citizens, working together in a true spirit of cooperation, to compromise and to make certain that problems concerning budgetary impact and inadequate availability of capital for electric systems might be solved.

Mr. Speaker, today I am introducing a bill which should have a most positive effect on the full implementation of the new REA Act. My bill, to amend Public Law 92–181 (85 Stat. 383) relating to credit eligibility for public utility cooperatives serving producers of food, fiber, and other agricultural products, will do much to assist rural systems in obtaining needed capital from the private money market.

As you are undoubtedly aware, the guaranteed loan section of the new REA Act authorizes and encourages the rural electrics to utilize the private sources for some of their financial needs.

The Farm Credit Administration is a logical source for funds for rural systems wishing to borrow money to improve service for their consumers. However, under present law, the Farm Credit Administration is prohibited from making loans to groups whose farm membership is less than 80 percent the total membership.

Mr. Speaker, we require these systems to provide area coverage in rural areas. Many of the rural electrics in my State, and I am certain that it is true in the other 45 States that are served by at least one rural electric, are in a period of change. Many new consumers in rural areas are nonfarm families or towns have expanded into rural areas and the cooperative has been required to serve them. This changes the makeup of the rural electric cooperative. The consumers are still rural people but do not qualify as farmers under the meaning of the Farm Credit Act.

My bill will enable utility cooperatives to borrow from the Banks for Cooperatives if at least 60 percent of the members served are farmers. This is a more realistic figure and one that is more in tune with the continuing changes in rural America. And such an eligibility figure would aid rural systems in better serving their consumer-members, especially as they face the crisis of meeting the ever-increasing demand for electric energy.

Mr. Speaker, adequate financing for rural electric systems and other rural utilities does have strong support from the citizens of North Dakota and from an overwhelming number of my colleagues here in the House, as was demonstrated by the votes earlier this year on the new REA bill. We need to make certain that this bill is implemented and utilized to the fullest extent, as intended by the Congress.

YOUTH OF YESTERYEAR WAS JUST AS LIBERAL

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from California (Mr. Don H. Clausen) is recognized for 10 minutes.

Mr. DON H. CLAUSEN. Mr. Speaker, Jack Craemer is a perceptive newspaperman. I have long been impressed with the way in which he so ably carries out his responsibilities to the public and to his newspaper, the San Rafael Independent-Journal.

A recent editorial of his puts into perspective a subject which receives a great deal of attention and I feel it should be included in the Congressional Record at this point so each Member of Congress and the general public can have an opportunity to read it:

[From the San Rafael (Calif.) Independent-Journal, July 14, 1973]

Youth of Yesteryear Was Just as Liberal

Our youth, we are told, are trying to tell us something. We should listen.

Let's listen to a high school graduation valedictorian.

"We whom you see on this platform tonight are members of the much discussed 'younger generation' . . . Perhaps no generation has been criticized and condemned as much as this one. We are accused of many offenses, but the principal charge against us is that we are revolutionists bent upon overturning society.

"It is true that we are bent upon changing many conditions in society . . . If we were satisfied to let conditions in society remain unchanged, we would not be true sons and daughters of this age of change and progress.

"We are living in the most revolutionary age the world has ever known . . .

"We are standing today on the threshold of an age of intellectual and social freedom, and people are refusing to be longer bound by narrow, restrictive ideas . . .

". . . Do not forget that progress has always been made in the face of the determined opposition of a majority who protested that liberalism would overthrow society.

". . . It is surprising in a world so filled with change that we who embody the very spirit of liberalism should be overturning ideas which appear to us to have no value and are setting up in their places new concepts of life? . . .

"Our (new generation's) mistakes are advertised more than our virtues . . .

"The fundamental ideals and principles of this generation are sound. We are not destructionists; we are only liberal minded. Instead of condemning us, the world will find it more to its advantage to help us.

". . . We are bent on destroying bigotries and foolish restrictions and we hope to pass on to our posterity a better, freer world."

So spoke one voice of youth.

Except that it is singularly devoid of today's overworked phrases, it is pretty much what any articulate young person today might be saying.

But the person who made these high school graduation remarks is now nearing 70. His valedictory speech was given nearly half a century ago.

Today that valedictorian is the president of the Redwood Empire Assn., Andy Flynn of Crescent City, one of Del Norte County's leading citizens.

Half century old 'though they be, the young man's thoughts nonetheless deserve to be thoughtfully considered. They contain a more profound message now than they did 50 years ago.

They remind us that we have always had periodic concern about the seemingly revolutionary attitudes of youth. Change really is nothing new; it's just that youth has a way of assuming that the status quo they first come to know has long endured, when, in fact, it probably is really quite recent. Actually, each modern generation sees widespread social changes. Most do not come painlessly.

It is easy to say that today's revolutionary youth will be tomorrow's conservative pillar of the establishment. But that is a simplistic view.

One might look upon Andy Flynn as a cornerstone of the establishment. If you look closer, you observe that in his capacity as R.E.A. president he has just presided over a rather remarkable refocus of the organizations aims and goals, reorienting them to changing conditions.

Look around Crescent City. A few short years ago the waterfront was a waste land, a kind of public dump. Today it is a beautiful park with green lawn, trees, playgrounds, picnic areas which many, many people, young and old, thoroughly enjoy. A huge, costly indoor swimming pool is there. The most recent addition now nearing completion is a rather spectacular convention and cultural center.

Andy Flynn, the revolutionary of a half century ago, played a part in bringing each of these into being.

In his valedictory Andy also said, "Fifty years from now the world will look back with wonder at many of our manners, customs and ideals, even as we look back with wonder at many of the manners, customs and ideals of 50 years ago."

A wise man once observed that the more things change, the more they are the same.

Difficult as it may be for us to believe a 50-year backward glance, a half century hence, will probably look about the same as a 50-year backward glance today.

TRIBUTE TO PHILIP BRADY

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. McDade) is recognized for 10 minutes.

Mr. McDADE. Mr. Speaker, on last Saturday, I was privileged to attend a testimonial in honor of Mr. Philip Brady, retiring as business manager of Local Union 81 of the International Brotherhood of Electrical Workers.

To that testimonial honoring Phil and his wife Florence, there came an array of distinguished guests from far and wide to pay their own personal tribute to Phil Brady.

He is a man who is not only a senior figure in the industrial labor union life of northeast Pennsylvania, but is one who is thought by many to be its most significant figure.

He is a man who, though always identified with the labor movement in the area, participated in every facet of the life of the community.

When the Lackawanna County United Fund set out to collect money for the countless benevolent programs it supported, Phil Brady could always be counted on to bring solid union support to the LUF.

When a program to promote the industrial development of northeast Pennsylvania was entered upon, Phil Brady could always be counted upon to lead solid union support to this tremendous effort.

When the institutions of higher learning in our area set out to expand, to build new buildings, and to improve the quality of higher education in our community, Phil Brady was there with his fellow trade unionists to work to improve the intellectual life of the region.

All these things, and so many more, the people who came to that testimonial knew about Phil Brady. It was a touching tribute, and one that was richly deserved by Phil, by his wife, and by his family.

The evening was graced with so many distinguished names. Mr. Bob McIntyre, president of Local 81, IBEW, and treasurer of the Pennsylvania State AFL–CIO welcomed the guests, and Msgr. Michael J. Kennedy spoke the invocation.

Jack McNulty, the capable new business manager of Local 81, who has worked at Phil's side for many years, next took over as toastmaster, and after the remarks of Mr. Charles H. Pillard, international president of IBEW and guest speaker for the evening, Jack introduced the distinguished guests in attendance:

Joseph D. Keenan, international secretary, IBEW; Harry Van Arsdale, Jr., international treasurer, IBEW; Andrew R. Johnson, international vice president, third district, IBEW; John E. Flynn, international vice president, second district, IBEW, Thomas E. Malone, international vice president, sixth district, IBEW; Ralph Halloran, international executive council, IBEW; Henry Fornaro, president, Pennsylvania Business Managers Association, IBEW; Harry Boyer, president, Pennsylvania State AFL–CIO; Michael Johnson, vice president, Pennsylvania State AFL–CIO; Harry Block, secretary, Pennsylvania State AFL–CIO; Hon. Eugene J. Peters, Mayor, city of Scranton; Hon. William J. Nelson, Federal judge; John Burns, regional director, Bureau of Apprenticeship Training; Alexander E. Barkan, national director, COPE—AFL–CIO; Hon. Ernest Kline, Lieutenant Governor.

Present also to honor Phil were business managers from 36 other locals of IBEW:

Thomas VanArsdale, Local No. 3.
Jack McCorkle, Local No. 24.
Thomas Noone, Local No. 26.
Ray Schlemmer, Local No. 41.
Edward Murphy, Local No. 43.
Ray Greeley, Local No. 52.
Gordon Ruscher, Local No. 86.
Henry Fornara, Local No. 98.
Howard Grabert, Local No. 126.
Ralph Halloran, Local No. 139.
Charles Crawford, Local No. 163.
Donald Funk, Local No. 166.
Kenneth Williams, Local No. 181.
Roger Bitzel, Local No. 229.
William Johnson, Local No. 237.
Donald Kennedy, Local No. 269.
Henry Rogers, Local No. 313.
Robert Brown, Local No. 325.
Harold Thorpe, Local No. 328.
Charles Rose, Local No. 351.
Pat Damiani, Local No. 363.
Andrew Cuvo, Local No. 367.
Andrew Kubik, Local No. 375.
James Mayall, Local No. 380.
Philip Kelly, Local No. 439.
Fred Wright, Local No. 501.
Roy Zimmerman, Local No. 607.
John Novak, Local No. 610.
Hugh Snow, Local No. 654.
Carl Shermer, Local No. 686.
Edwin Hill, Local No. 712.
Joseph Koreman, Local No. 724.
Allen Minckler, Local No. 806.
Warren Dieffenderfer, Local No. 812.
Edward Bolger, Local No. 840.
Anthony Harzinski, Local No. 1319.

To honor Phil, also, there were 31 leaders of other labor unions:

Peter Conte, Amalgamated Butchers & Meat Cutters.
Henry Dropkin, Amalgamated Clothing Workers No. 72.
James Kenny, Amalgamated Food Employees No. 375.
Charles Johnson, Asbestos Workers No. 38.
Stanley Yarosheski, Bakery Workers No. 53.
Fritz Liebrich, Bartenders No. 134.
Andrew Gaeton, Brewery Workers No. 115.
Anthony Magnotta, Bricklayers No. 18.
Charles Pumilia, Carpenters No. 261.
Helen Milberger, Cigar Makers No. 295.
Michael Barrett, Elevator Constructors No. 76.
Joseph DeGeronimo, Heavy & Highway Equipment.
Lynn Warren, I.A.M. District No. 128.
William Cockerill, I.A.M. District No. 128.
Martin Corbett, I.A.M. District No. 128.
Jack Sobel, I.L.G.W.U.
Edward McHugh, Iron Workers No. 489.
Thomas Morini, Laborers No. 130.
Thomas Harris, Lathers No. 4.
Harold Coslett, Operating Engineers No. 542.
Michael Salerno, Painters No. 218.
Frank Palmassani, Plasterers No. 100.
John Reese, Plumbers No. 90.
Cyril Yanik, Roofers No. 64.
Robert Cavanaugh, Scranton Federation of Teachers.
Joseph O'Hara, Service Employees No. 406.
Jack Jones, Sheet Metal No. 44.
Matthew Flynn, Steamfitters No. 524.
Edward Harrington, Teamsters No. 229.
Jack Lynch, Typographical Workers No. 112.
Henry DePolo, Wilkes-Barre Building Trades.

It was a night to remember, honoring a man to remember.

CONGRESSIONAL SALARIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. YOUNG), is recognized for 5 minutes.

Mr. YOUNG of Florida. Mr. Speaker, I am today introducing a Sense of Congress Resolution directing the Federal Commission on Executive, Legislative, and Judicial Salaries not to include any recommendation for increases in congressional salaries in its report to the President.

It is my understanding that the Commission plans to propose a raise for Members of Congress from the current $42,500 per year to as much as $55,000 per year. This would be a 29.3 percent increase—more than five times that allowed the ordinary American wage earner under the current wage guidelines.

The Federal Salary Act of 1967 is a very cleverly worded statute. Once the Commission's recommendations are transmitted by the President to Congress, they automatically take effect within 30 days unless the Congress enacts a resolution of disapproval. By simple inaction, Members of Congress can thus approve their own raises in pay and yet avoid any public stand on the issue which might bring repercussions from the American people.

On January 3 of this year, I sponsored H.R. 971, a bill to amend the Federal Salary Act and provide a parliamentary procedure to effectively force Congress to take a public position on proposed pay increases for itself, the Federal judiciary, and Government executives.

Mr. Speaker, H.R. 971 has been languishing in the House Post Office and Civil Service Committee without a hearing since the beginning of this session. Yet that same committee has acted with astonishing speed on a Senate bill which would move up the date for submission of the salary recommendations to August of this year, instead of January 1974. When my distinguished colleague from Iowa, the Honorable H. R. GROSS, used this opportunity to draw the committee's attention to its responsibility to amend the statute along the lines of H.R. 971 so that the Congress would have to vote on the salary increases, he was summarily rebuffed. A majority of the committee expressed its willingness not only to allow a back-door pay increase through the Congress, but also to introduce yet another inflationary element into the fiscal 1974 budget.

The timing of this action and the willingness to provide for a public vote on salary increases are highly suspicious when taken together. I suggest that the American public will not tolerate yet another pay increase for Members of this Congress at a time when inflation is rampant, the budget is strained, and American families are severely pinched between rising prices and phase IV limits on their own salary increases.

The very speed of House committee and Senate action on this question bears out my suspicions. This is not emergency legislation in response to a pressing national need. This is not 1 of the 13 major appropriations bills which should have been signed into law 3 weeks ago. It is a self-serving, sneaky, and inflationary attempt to increase congressional and Federal salaries without being responsible to the American people for doing so. And it staggers my mind how quickly such self-interest can galvanize the creaky committee and parliamentary machinery of both Chambers into action. I only wish as much speed were devoted to considering the needs of our working taxpayers, senior citizens, and veterans.

Members of Congress make $42,500 annually—almost four times the median annual income of American families. This does not include our extensive fringe benefits of postage allowances, telephone allowances, stationery accounts, and office equipment expenses. It is my firm belief that no further salary increases for Members are in order at this time. Any such increase would be an insult to the American wage earner, to the senior citizen on a fixed income trying to make ends meet, to the disabled veteran or World War I and World War II soldier who has his pension reduced by every increase in social security benefits. Surely this Chamber has more important questions to consider.

My legislation would relieve the Congress of this whole troublesome problem by simply directing the Commission not to recommend any salary increases for us. Such an omission will relieve the Congress of the ethical burden of approving its own increases without a vote, and it might also enable us to take a more clear-eyed look at the need and expense of other recommendations made by the Commission.

The bill is as follows:

Resolved by the House of Representatives (the Senate concurring),

Whereas inflation caused by deficit spending on the part of the Federal Government reduces the effective income of millions of American families, and pinches those on fixed incomes most severely;

Whereas, any further unbudgeted spending will contribute further to the inflationary cycle;

Whereas the current wage guidelines call for salary increases of not more than 5.5 percent per annum;

Whereas, the Federal Commission on Executive Legislative, and Judicial Salaries plans to recommend an increase in salaries of Members of Congress which would amount to 29 percent per annum;

Whereas, both House and Senate Post Office and Civil Service Committees have now approved legislation calling for such recommendations to be presented by August 31, 1973, making them effective during the current budget year: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the Commission on Executive, Legislative, and Judicial Salaries established by section 225 of the Federal Salary Act of 1967 (81 Stat. 642–645; Public Law 90–206; 2 U.S.C. 351–361) should omit, in its report to the President under subsection (g) of such section 225 on the results of its salary studies conducted in the year 1973, all recommendations for increases in the salaries of Senators, Members of and Delegates to the House of Representatives, and the Resident Commissioner from Puerto Rico.

RISING PRICES AND THE GROWING NUMBER OF GARDENERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 10 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, may I take this time to bring to the attention of the Members of the U.S. Congress an article that appeared in this morning's Washington Post entitled "Rising Prices and the Growing Number of Gardeners." This article reveals that the American public is away ahead of the U.S. Congress. Soaring food prices is the cause of nationwide concern. The average family today can have one real way of fighting high prices and particularly in the urban areas of the country where people have small lots of land that can easily be turned into growing all kinds of nutritious vegetables. This healthy outdoor activity can benefit the entire populace. It can have a direct affect on holding prices down in the food area. Yesterday I offered an amendment to the agriculture bill that would have authorized the Secretary of Agriculture to distribute seeds and plants upon request by the American people. If the average household in America availed themselves of this opportunity it would require approximately 61 million requests. That is if everyone applied. However this amount can be reduced by many million when you take into consideration people who live in apartment dwellings and rooming houses who have no plots of land for garden use. If we allowed the average request up to five packages of seeds and also allowed for those who would request less than five packages of seeds this would reduce the requests considerably. It is also estimated that approximately 15 percent would take advantage of this opportunity. This estimate is very high. However, no more than 40 million packages of seeds would be the approximate annual needs of the entire Nation. This would be most productive.

The Department of Agriculture informed me that the average wholesale price of a package of gardenseeds to the retailer is approximately 20 cents a package. However upon checking with local merchants I find out that the average retail price of seeds is 25 cents a package and they enjoy a 40 percent markup which puts the price down to 15 cents a package. However, when you take into consideration that the Department of Agriculture would be buying up to 40 million packages of seeds at a considerable discount the price per package would be no more than 12 cents a package. Which means that for less than $10 million we could start an effective program here in America, that would have terrific benefits to everyone. The news article follows:

RISING PRICES AND THE GROWING NUMBER OF GARDENERS

(By George Gallup)

("A nationwide Gallup survey conducted in late spring reveals that the number of vegetable gardens in the United States could increase by as many as 3 million over 27 million households with a garden last year.")

PRINCETON, N.J.—Soaring food prices, coupled with the increasing interest in a "return to nature," have apparently served to swell the number of American households that have planted a vegetable garden this year. In fact, a nationwide Gallup survey conducted in late spring reveals that the number of vegetable gardens in the United States could increase by as many as 3 million over 27 million households with a garden last year.

The survey found that nearly four in ten U.S. households (27 million) grew some of their own food in 1972.

The fact that many Americans may be turning to growing their own food as a way to offset rising food costs can, in part, be documented by Gallup surveys over the past six months, which have shown the high cost of living, and particularly food costs, dominating the U.S. public's list of top domestic concerns.

As reported recently, six out of every 10 persons name inflation and high prices as the most important problem facing America. And the public's median estimate of what a family of four needs per week to make ends meet is at a record high of $149 with the median food expenditure also at a record $37 per week.

Present vegetable gardeners are apparently succeeding in lowering their food costs. The survey reported today found that gardeners regard "a saving in food costs" as their main reason for gardening.

There is also a strong suggestion from this survey that many Americans, particularly young adults between 18–29, are turning to gardening as a way to "return to nature."

Also reflecting the desire on the part of many Americans to return to nature or to at least escape the crowded conditions of the urban areas, are the survey findings indicating that two-thirds (66 per cent) of the U.S. population regards "a sizable piece of land up to one acre" as a "very" or "fairly" important criterion for the selection of a new home. More than half (54 per cent) regard "a vegetable garden" as important, and a large majority (68 per cent) of city dwellers say they would prefer to live in a suburban area, small town, rural area or farm. This is shown in the table below:

Persons Who Live in Cities Would Prefer to Live . . .

	Percent
In a city	30
Suburban area	24
Small town	20
Rural area	9
Farm	15
Don't know	2

Following are other highlights of the survey:

Reflecting the economic aspects of vegetable gardening, the survey found that nearly half of the nation's non-gardeners would have a vegetable garden, if it could be proven that by doing so, they could save between $200–$300 per year.

Considerable interest exists among U.S. adults in "community gardening" (where a person with little or no land can travel a short distance and garden a plot of land) a fast-growing phenomenon that is spreading across the nation. For example, more than half of those respondents (59 per cent) who said that they were interested in gardening, but did not have the land, indicated they would be interested in using a "community garden."

WOLFF DEMANDS EXPLANATION FOR FREEZE ON VETERANS EMPLOYMENT SERVICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WOLFF) is recognized for 5 minutes.

Mr. WOLFF. Mr. Speaker, I am concerned that too many veterans are caught in the crunch of our continuing inflation and unemployment. The administration talks a great deal about helping vets to find jobs, but thus far their help seems to be limited to television commercials and banners on the sides of postal trucks.

A public relations campaign, no matter how well designed, cannot do the job alone. The refusal to release funds for this program is inexcusable and incomprehensible. New York is slated for eight of these positions. There are 2 million veterans in New York and they are suffering continuing unemployment. The fact that they are denied counseling which is provided by law indicates a callous indifference to the problems they face.

Mr. Speaker, I am anxious to learn why OMB continues to freeze funds for these positions. This is a punitive action against men and women who have worked hard for this Nation, who have done their best for us, and OMB is turning away from them when they need our assistance.

I include the texts of these letters at this point in the RECORD.

JULY 18, 1973.

Hon. ROY ASH,
Director, Office of Management and Budget, Executive Office Building, Washington, D.C.

DEAR MR. ASH: It has come to my attention that funds have not yet been allocated for seventy field positions to be filled by veterans within the Veterans Employment Service in this year's budget.

According to section 2003, title 38, United States Code, the Secretary of Labor should assign to each state a representative of the Veterans Employment Service with one assistant for each 250,000 veterans within that state. Each representative and his assistant will be appointed in accordance with the provisions of title 5, United States Code, and, as federal employees, will be visible in the Department of Labor budget.

I am sure you will agree that, in this time of rising unemployment, the increasing number of jobless veterans present an urgent problem to which we must address ourselves without further delay. As a firm advocate of the Veterans Employment Service policy to employ veterans, I am concerned about these continuing vacancies. I would appreciate any available OMB information on the status of funding for these important jobs, and the rationale for impoundment of these funds.

Thank you for your assistance.

Sincerely,

LESTER L. WOLFF,
Member of Congress.

JULY 18, 1973.

Hon. PETER BRENNAN,
Department of Labor,
Washington, D.C.

DEAR MR. SECRETARY: I am enclosing a copy of a letter I sent to Roy Ash, Director of the Office of Management and Budget, expressing my deep concern over the OMB's failure to provide funding for more than seventy positions specifically allocated to veteran job counseling.

I would appreciate your assistance in providing me with further information concerning the status of these positions. I would also be interested in your evaluation of the impact on veterans' unemployment these vacancies have created.

Sincerely,

LESTER L. WOLFF,
Member of Congress.

VICTORY OVER INFLATION GARDENS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. TIERNAN) is recognized for 5 minutes.

Mr. TIERNAN. Mr. Speaker, today I am introducing a measure suggested by my colleague, Mr. BURKE of Massachusetts, as an amendment to the Agricultural Act. I do not believe that the House of Representatives fully understood the importance of this measure to the American consumer when it rejected it yesterday. I think it a shame, that in a country which is considering building billion dollar submarines which are nothing more than toys for the big boys in the Pentagon, we cannot afford to supply plants and seeds to those industrious Americans who would plant and cultivate them in the hopes of helping their family eat a well balanced, nutritious diet during this period of unbelievable inflation. Therefore, I am introducing it as a separate measure in the hope that the Agriculture Committee will give this matter immediate attention. My action is a reaffirmation of my pledge to fight inflation while working for real growth in our economy and a higher standard of living for Americans who are willing to work for themselves and their families.

American agricultural products are in high demand around the world. The devaluations of the dollar which have occurred in recent years have made the prices of American foodstuffs quite attractive to those nations whose currencies have risen value relative to the dollar. These foreign nations are now bidding in our domestic market for the food which we produce in direct competition with the American housewife.

When price controls were suggested for agricultural products, the farmers said that they could not make a living if the price of food did not go up. Hence the price of food continues to rise; apparently with little or no chance of ever returning to the relatively inexpensive levels to which the American consumer had grown accustomed.

The median income in the United States for a family of four is only around $11,000. For these families and those earning less, it is a tremendous burden to pay 69 cents for a head of lettuce or for a pound of onions.

I recently asked my constituents to complete a questionnaire that would indicate the national problems which concerned them most. The overwhelming majority of these people responded by saying that inflation was their primary concern. I received replies from mothers and fathers alike who pleaded for some relief from the spiraling costs of food. This bill will give them an opportunity for some relief in a way that could hardly be objected to by even the most conservative Member of this body. Those who continually complain when social legislation is being considered because they feel that a man should work for everything he gets, must agree that giving seeds and plants to those who are willing to plant and tend a garden is a worthwhile proposal.

The Federal Government has supplied seeds and plants to enterprising gardeners on many occasions in the past. During the First World War and World War II, victory gardens were promoted vigorously with great success. Today we are engaged in a war against inflation. In a like manner we should encourage victory over inflation gardens.

ONLY $1.75 A DAY FOR HOSPITAL CARE

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, it is a bit ironic that the President, who left Bethesda Naval Hospital today, was billed only $1.75 a day for the care given him for his week's stay: After all, it was Richard Nixon who recommended in January that the law be changed so that medicare patients would pay a greater share of their hospital bills—10 percent of their care's cost. The purpose of the increase was to give medicare patients a greater "cost awareness" of the price of medical services.

The spiral of medical care costs has been dramatic, and it poses a problem that has yet to be resolved by the Nixon administration. But, surely it is not the elderly who need to be made more aware of medical costs. It is they who are most often confronted by these costs while their own personal budgets are so limited. The President's proposal would have meant an additional $1 billion burden on their personal budgets.

Perhaps the President should try some of his own medicine. Instead of paying just $1.75 a day for his week's care, he should consider making a voluntary payment to approximate 10 percent of the cost of his 8 days of hospital care. Today, the average charge to a patient hospitalized in a semiprivate room—not the Presidential suite at Bethesda—is $175 a day.

This is why I am supporting a comprehensive health care bill to cover the cost of hospital care for all of us. I do not begrudge the President his low-cost hospital care; he should not begrudge the elderly theirs.

THE 5TH ARMY'S OPLAN MISSOURI DESERVES HIGH PRAISE FOR A JOB WELL DONE

(Mr. RANDALL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RANDALL. Mr. Speaker, as our work in preparation for the publication of the Truman memorial volume nears its conclusion, some well deserved acknowledgments are in order. May I suggest words of some gratitude are long overdue.

My attention has recently been directed to the fact that in all of the entries preserved in the CONGRESSIONAL RECORD for publication in the memorial volume, there has been until now a neglect and an omission to take note of and commend those who planned and put into execution what is known as Oplan Missouri, being the funeral operation to conduct the state funeral of former President Harry S. Truman.

Because I was privileged to be present during the days immediately preceding the funeral and also honored to be included as one present for the funeral service in the auditorium of the Truman Library, it is my good fortune to report that the entire funeral plan was executed to perfection. Substantial numbers of military personnel were involved.

The major ceremonial and support elements of Oplan Missouri came from Fort Leavenworth, Kans., Fort Riley, Kans., Fort Leonard Wood, Mo., and Missouri National Guard and from the other services including the Navy, Air Force, Marine Corps, and the Coast Guard.

Fort Leavenworth furnished a total of 450 men including 210 officers, 236 enlisted men, and 4 civilians. All of the escort officers were from the Command and General Staff School of Fort Leavenworth, Kans. In the total were included 39 officers and 164 enlisted men who manned the funeral operations center. The remainder of those from Fort Leavenworth were drivers, military police, and members of the floral detail.

Fort Riley furnished 2,132 personnel including 92 officers, 2,022 enlisted men, and 18 civilians. The great bulk of this personnel were support troops that were used as ushers, military police, drivers, medical, and mess personnel. There were 204 ceremonial troops, in the band.

Fort Leonard Wood furnished 156 enlisted men that worked in the facility control and served as drivers. The Missouri National Guard furnished 289 men serving in a security cordon at the funeral home and who also served as state liaison personnel.

The U.S. Navy furnished 203 men, mostly reserves. The U.S. Air Force sent 371 men. The U.S. Marine Corps provided 341 men and the U.S. Coast Guard detailed 79 men.

While the general direction of Oplan Missouri was under headquarters 5th U.S. Army of Fort Sam Houston, Tex., it should be pointed out that some key personnel came from headquarters U.S. Army, Military District of Washington—MDW—including Maj. Gen. James B. Adamson, who is responsible for planning and arranging of state funerals through the continental United States. Also participating was Lt. Col. Paul C. Miller, the director of ceremonial and support events of the Military District of Washington who could properly be described as the original planner and executor of the entire Truman plan which later assumed the code name, Oplan Missouri.

Information furnished by the 5th Army revealed that the commanding general of Oplan Missouri, also in command of the funeral operations center and in addition serving as commander of all escorts was Lt. Gen. Patrick F. Cassidy.

In my judgment the RECORD would not be complete without noting the commander of all Army troops who was Col.

Gustau J. Gillert, Jr., USA. The commanding officer of the Marine Corps element was 1st Lt. William V. Fello, USMC. The commanding officer of the Navy element was Lt. Michael E. Munjak, USNR. The commanding officer of the U.S. Air Force element was Maj. Clarence R. Smith, USAF, and the commanding officer of the U.S. Coast Guard element was Lt. Comdr. E. R. Williams, USCG.

All of the personnel working under Oplan Missouri deserve high commendation for a job well done. The entire operation moved ahead, perfectly timed, with a smooth precision that revealed much thoughtful planning and an equally excellent execution of the plan.

A SALUTE TO THE MILITARY ESCORTS OF OPLAN MISSOURI

(Mr. RANDALL asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. RANDALL. Mr. Speaker, as we continue to assemble the complete record of the order of service and participants in the state funeral of former President Harry S. Truman at Independence, Mo., it seems fitting and proper there should be a listing in the Congressional Record as a matter of history and then to be included in the Truman Memorial volume, the names of all the military personnel who served as escort officers.

Headquarters of the 5th Army at Fort Sam Houston, Tex., has furnished our office with a list of all of the escort officers. All of these were in attendance at the Command and General Staff School of Fort Leavenworth, Kans. Mrs. Truman was escorted by Col. Royal S. Brown and Mrs. Margaret Truman Daniel's escort was Maj. J. L. Buckner.

It is my privilege to include the names of all of the escort officers utilized under Oplan Missouri listed alphabetically and followed by the names of the guests they were assigned to escort either in the days preceding the funeral or during the day of the funeral service. The escorts are listed herewith:

Escort Officers—Oplan Missouri

Captain Ralph L. Allen escort for Corpsman Scott Boehm; Corpsman Jerry Crunk; Corpsman Charles Rowe; Corpsman Williams Wagner, Captain Raymond R. Andrae escort for Mr. Lucian L. Lucas. Major William R. Andrews, Jr. escort for Mr. Charles Murphy. Major Wesley B. Avery escort for Hon. Floyd L. Snyder. Captain Leo J. Asselin escort for Mrs. Bessie Taylor. Major Joseph W. Bagnerise escort for Mr. Joseph L. Lavery, Major Wardell G. Baker escort for Mr. Frank G. Hoffman. Major Robert A. Bates escort for Mrs. D. A. Luckey; Mrs. Kestin. Major Ralph A. Barkman, Jr. escort for Hon. David A. Stowe. Captain Richard E. Beale, Jr. escort for Mr. Frederick J. Bowman; Mr. Floyd T. Ricketts. Major Clarence G. Berk escort for Mrs. Arletta Brown; Mrs. Geraldine Peterson; Rev. Edward E. Hobby, Major Burton C. Rice escort for Hon. and Mrs. Thomas H. Benton. Major Garland G. Bishop escort for Ambassador Averill Harriman. Major Garland G. Bishop escort for Hon. Clark Clifford. Major Lowell D. Bittrich escort for Mr. Sam Hipsh. Lt. Colonel Robert G. Black escort for Mr. John L. Gordon. Major James H. Bledsoe escort for Mr. C. J. Sampson. Major Kenneth H. Boyer escort for Hon. and Mrs. Robert P. Weatherford. Major Carter H. Brantner escort for Mrs. Harold Balfour; Mrs. Oscar King; Miss Eleanor Minor; Miss Grace Minor; Miss Margaret Woodson.

Captain Victor A. Brown escort for Mr. and Mrs. Robert Sanders, Major Richard A. Buckner escort for Mr. Frank Yeager. Major E. J. Burke escort for State Rep Wall (Rep Gov of LA). Major James E. Burns escort for Mr. F. L. Howard. Major Kenneth R. Buyle escort for Prof. Francis H. Heller. Major Ruben A. Candia escort for Mr. William Coleman Branton. Major Jeff E. Chancey escort for Mr. and Mrs. John T. Southern. Major Hilbert H. Chole escort for Mrs. John H. Lembcke. Lt. Colonel Allan R. Coates, Jr. escort for Dr. and Mrs. Benedict K. Zobrist, Major George G. Collins escort for Hon. and Mrs. Richard M. Duncan. Major David C. Conners escort for Mr. M. R. Evans. Major Joseph C. Conrad escort for Mrs. William Pesek, Major Nelson J. Cooper escort for Hon. John Snyder. Major Joseph W. Corder, Jr. escort for Miss Mary Jo Nick. Major James H. Cowles escort for Mr. Harry Groff. Major Carl L. Cramer escort for Mr. Lorain Cunningham. Major Arthur N. Crowell escort for Mrs. Harry Clarke, Jr. Major Dennis J. Crowley escort for Mrs. Guri Lie Zeckendorf; and Miss Rita Gam. Major W. F. Daly escort for Mrs. James Costin. Major John W. Dargle escort for Miss Molly Sullivan. Major James R. Daughtery escort for Senator Thomas Eagleton. Major Max A. Davison escort for Miss Solveig Simonsen. Major Richard P. Diehl escort for Mr. David E. Bell. Major Edmund J. Dolan, Jr. escort for Mr. Edgar A. Hindle, Sr. and Mr. and Mrs. Edgar A. Hindle, Jr. LCdr Philip F. Duffy, USN escort for RADM Draper Kauffman, USN. Major Douglas E. Emery escort for Hon. Henry A. Bundschu. Major Richard Erickson escort for Mr. Kenneth V. Bostian.

Major Joe B. Foster escort for Hon. Edwin Locke, Jr. Major Dwight H. Fuller escort for Mr Wallace Smith. Major Jan P. Gardiner escort for Mr. Thomas Gavin. Major Darrold D. Garrison escort for Mr. Milton Perry. Major Emroy M. Gehlsen escort for Mr. Dennis Bilger. Captain James D. George escort for Mr. Henry Talge. Major Walter R. Good escort for Mr. Thomas J. Fleming. Major John F. Grecco escort for Mr. F. G. McGowan. Major Robert P. Greene escort for Sen. and Mrs. Hubert H. Humphrey. Major Thermon R. Greene escort for Mr. N. T. Veatch. Major James H. Griffin escort for Mr. and Mrs. John Spottswood. Major Terry J. Guess, USAF escort for Maj. Gen. Clare T. Ireland, Jr. Major Argie E. Haddock escort for Mr. Warren Ohrvall. Major Henry H. Hair, III escort for Dr. and Mrs. Wilson Miller. Major James J. Hallihan, Jr. escort for Mr. Fred L. Younker. Major Michael Hansen escort for Mr. Robert Cress. Major Thomas M. Hanson escort for Mr. Erwin J. Mueller. Major Richard W. Haulser escort for Hon. Christopher Bond. Captain Lee L. Hayden, III escort for Mr. Charles L. Frederick. Major Ashton M. Haynes, Jr. escort for Miss Susan C. Staley. Lt. Col. John P. Heilman escort for Col. and Mrs. Corbie Truman. Major Charles W. Hendrickson escort for Mr. David D. Bridges. Major Charles R. Henry escort for Mr. Michael Flynn. Major Wayne L. Herr escort for Mr. Keith Dancy. Major Maurice G. Hilliard escort for Mr. and Mrs. Louis Compton. Major James L. Hill escort for Dr. Elmer Ellis. Major Ashley R. Hodge escort for Mr. Joseph McGee, Jr. Major Warren F. Hodge escort for Hon Roe Bartle. Major Harold E. Hoitt escort for Mr. James Fuchs. Major Jerry V. Holcombe escort for Mr. Edward Ingram. Major William R. Holmes escort for Dr. Bert Maybee. Major George A. Hooker escort for Dr. Javier Baz. Major Henry R. Hosman escort for Mrs. Gates Wells.

Major Martin R. Hurwitz escort for Mrs. Andrew Grey. Major A. T. Jennette escort for Sg. Wm. Story (Ret.). Major Dean C. Jones escort for Mr. and Mrs. Roy T. Romine. Major Jesse F. Jones, III escort for Mr. and Mrs. Randall Jessee. Major Wm. W. Jones, Jr. escort for Hon. and Mrs. Robert B. Docking. Major Josef C. Jordan, Jr. escort for Mr. and Mrs. Mike Westwood and Mr. Michael Manners. Major Robert J. Kee escort for Mr. F. Weidenman. Major Donald R. Kelsey escort for Mr. and Mrs. John K. Barrow, Jr. Captain Arnold E. Kendall escort for Mr. John H. Martino. Major John L. Kendall escort for Miss Rita Gam. Major John L. Kennedy escort for Mr. Archie Renadli. Major Thomas R. King escort for Hon. and Mrs. Samuel I. Rosenham. Major Wm. K. Kuhn, Jr. escort for Mr. Joyce P. Hall and Mr. Arthur Mag. Major Richard R. Kurtz escort for Miss Patrice Carter. Major Ralph H. Lauder and Major Lynn F. Coleman escorts for Mr. and Mrs. J. C. Truman; Mr. and Mrs. Fred Truman; Mr. and Mrs. Harry A. Truman; Mr. and Mrs. Gilbert Truman and Mr. and Mrs. James Swoyer, Jr.

Lt. Col. John H. Leach, Jr. escort for Mrs. Albert Ridge. Major Robert Letchwroth escort for Dr. and Mrs. Robert E. Bruner. Major Frank V. Lindstrom escort for Mrs. Louis Schlichenmaier. Major John Little escort for Hon. Clark Clifford. Major J. C. Lucas escort for Mr. Edgar Hinde, Sr. Major Wm. A. Luther, Jr. escort for Mrs. Edgar Carroll. Major Dell V. McDonald, USAF escort for Maj. Gen. Robert B. Landry. Major Robert E. McGough escort for Former President Lyndon B. Johnson, Major Thomas I. McKinstry escort for Gen. Donal Dawson (Ret.) Major Joseph R. Maio escort for Mrs. C. H. Allen and Mrs. Anne Smith. Captain Donald L. Meek escort for Mrs. Eddie Jacobson. Major John Mentor escort for RADM Walter Dedrick. Major Donald G. Mitchell escort for Mrs. Frances Nicks. LCDR Richard Montana, USN escort for RADM Owen Siler. Major Billy F. Moore escort for Mr. W. Hugh McLaughlin. Major H. J. Moot escort for Mr. Edward Stuart. Major James W. Morgart escort for Mr. James W. Porter. Major James O. Morton escort for Hon. Harry E. Whitney. Major Wm. B. Murray escort for Mr. Edward Condon. Major Pedro Najer escort for Hon. Ilus Davis.

Major George L. Nipper escort for Mrs. Benjamin Sosland. Captain Robert M. O'Donnell escort for Maj. Gen. Wallace Graham. Major William G. Pagonis escort for Hon and Mrs. Wm. J. Randall. Major Howard S. Paris escort for Mr. Eugene P. Donnelly. Major William O. Perry, Jr. escort for Mrs. Tom Twyman. Major Humphrey L. Peterson, Jr. escort for Mr. Raymond J. Smith. Major David R. Porch escort for Mr. & Mrs. Howard Greene. Major Yancy S. Ramsey escort for Mrs. H. H. Haukenberry, Major Harry G. Rennagel escort for Hon & Mrs. Phillip D. Lagerquist, Major Carlton F. Roberson escort for Mr. & Mrs. Edwin Pauley. Major Walter G. Robertson escort for Mr. Charles Hipsh. Major Charles D. Robinson escort for Mr. Robert E. Adams. Major John R. Robinson, Jr. escort for Mrs. Alex Sachs. Major Rovert B. Rosenkranz escort for Hon Joseph Bolger, Jr. Major Richard H. Ross escort for Mrs. Sam E. Roberts. Major Terry N. Rosser escort for Miss Sue Gentry. Major Tarey B. Schell escort for Mrs. Ralph E. Truman. Major William J. Silvey escort for Mrs. Paul Burns. Major Robert L. Sloane escort for former Mrs. Lyndon B. Johnson. Major Keith Sovine escort for Mr. McKinley Wooden. Major Harold D. Stanford escort for Mrs. Jess Donaldson. Major Charles D. Stephens escort for Mr. Edward Meisburger. Major John D. Sterrett, III escort for Mr. Jacob M. Arvey. Major Gary N. Stiles escort for Ambassador Stanley Woodward. Major Wilbert Stitt, Jr. escort for Mr. Arthur Mag and Mr. Joyce Hall. Major Donald A. Tapscott escort for Lt. Gen. Louis W. Truman (Ret). Major Benjamin D. Taylor escort for Hon. John Snyder and Mr. and Mrs. John Horton. Captain R. H. Terrell escort for Mrs. Roy Hornbuckle. Major Richard H. Timpf escort for Mr. and Mrs. George Miller. Major Lawrence L. Tracy escort for Hon. Thomas R. Finlatter. Major Ronald A. Tumelson escort for Maj. Gen. Harry Vaughn (Ret). Major Robert W. Turner escort for

Mr. Gordon B. Jordan. Major Douglas E. Wade escort for Agent Hutch (Secret Service). Major Arln B. Wahlberg escort for Hon. Warren Hearnes. Major Vaden K. Watson escort for Mrs. E. C. Crow. Major Ralph P. Weber escort for Hon. and Mrs. Darby. Major Robert A. White escort for Mrs. Vieta Garr.

Major Travis W. White escort for Miss Rose Conway and Mrs. Margaret Kurt. Major Gerald P. Williams escort for Mr. W. E. Tierny. Major Robert M. Wolfe escort for Mr. Frank E. McKinney. Major Andrew D. Woods, Jr. escort for Mr. Ralph Taylor. Major Danny A. Young escort for Mr. Ralph Thacker. Major William T. Zaldo, III escort for Former President Lyndon B. Johnson.

The commander of all escorts was Lt. Gen. Patrick F. Cassidy, U.S. Army, who also had the general direction of all major ceremonial and support elements of Oplan Missouri. Under General Cassidy's command was the National Color Guard; Presidential Color Guard; a firing party; the Casket Team; the Joint Guard of Honor, death watch; the Joint Honor Cordon, library steps; and the Joint Body Bearers.

Everyone of those who participated deserve to be cited for a perfectly executed plan, first at the funeral home, then on the line of march and finally at the Truman Library. All military personnel who participated earned the high homage and the compliments of all observers. They all deserve our praise and acclaim for a well-prepared plan of operation carried out with perfect precision.

LOCAL REACTION TO PUBLIC TV AGREEMENT

(Mr. STRATTON asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. STRATTON. Mr. Speaker, the recently announced agreement between the Corporation for Public Broadcasting and the Public Broadcasting System came as good news to all who believe that public broadcasting should serve an educational purpose and be free from political interference. This new partnership will result in more local control over programing and at the same time apparently preserve most public affairs programs that had been threatened to cancellation earlier in the year, although supporters of public TV still have some reservations over the new method of operation.

In that connection, the following news articles relate some of the reactions from my own congressional district to this new agreement:

[From the Albany (N.Y.) Times Union, June 3, 1973]

But It's a Mixed Blessing: Public TV Gains a "Partner"

(By Mickey A. Palmer)

What public television viewers see on their screens from now on will be the product of a new "partnership" between government and private enterprise, according to an agreement announced last week between the Corporation for Public Broadcasting (CPB) and the Public Broadcasting Service (PBS).

Donald Schein, president of local public television station WMHT, is wary of the claimed achievements of the pact, but said it will result in greater independence for local stations.

The PBS, representing the 234 independent stations nationwide, and the CPB, the regulatory agency appointed by the President, have been battling for several months, and more recently negotiating over control of television programing for the stations.

The conclusion of negotiations was announced on a televised press conference Thursday by PBS chairman Ralph Rogers and CPB chairman Dr. James Killian.

The two chairmen announced in a joint resolution that the agreement is intended to "effect a vigorous partnership in behalf of the independence and diversity of public television and to improve the excellence of its programs."

CPB has in effect withdrawn some of its power over the PBS by allowing it to review CPB-funded program selections turning financial control of the PBS over to the independent stations which it represents, and by directly aiding local stations with unrestricted grants

Schein said he didn't feel PBS had gained as much as it should by the agreement. From another viewpoint, however, Schein said, "PBS has really gained quite a bit when it stood to lose so much."

He explained, "When CPB said it was going to take over the reins, there wasn't much left for PBS to control."

Schein attributes the gain more to other events than to the negotiations. One is the Watergate affair and public television's coverage of the Senate hearings.

The other is the resignation of Thomas Curtis, who accused the White House of improper influence on his agency, as chairman of the CPB.

The CPB is now controlled by a majority of Nixon appointees, but Schein said he is pleased that Killian is chairman. Killian had headed the Carnegie Commission whose report in 1967 led to the Public Broadcasting Act.

Both Killian and Rogers affirmed Thursday that the new partnership would be free from political influence except that which comes from budgeting and vetoes.

The pressure that is believed to have led to the elimination of public affairs programs from public television is being replaced by review systems within the partnership.

Perhaps as an example of good faith, two public affairs programs have been refunded for airing throughout the summer: "Washington Week in Review," and William F. Buckley's "Firing Line."

The seven-point agreement between CPB and PBS included provisions that:

Conflicts of opinion on balance and objectivity of programs can be appealed to a monitoring committee consisting of three CPB trustees and three PBS trustees with four votes required to allow the program on the PBS network;

PBS will prepare program scheduling, but it will be subject to review by CPB. This point also includes an appeal procedure which leaves ultimate conflict resolution in the hands of an outsider selected jointly by CPB and PBS.

A partnership review committee of equal numbers of PBS and CPB trustees shall assess the working agreement regularly, meeting at least four times a year.

Ends CPB financing of PBS and agrees to work out a contract for physical operation of the PBS network. PBS will operate, but CPB will fund, the network.

Schein pointed out that by ending CPB financial support to PBS, the organization will now have to depend on member stations for funds. It means that the increase in grants from CPB to local stations will be decreased by the amount contributed to PBS.

If federal funding of public television is increased to $45 million next year, it will mean an increase of about $25,000 for WMHT, said Schein. But the station's contribution to PBS will now be about $10,000, leaving WMHT with a net gain of $15,000.

He said the agreement appears to open a "floodgate" of funding for local programming, but when the figures are worked out they reveal "only a trickle behind the floodgate."

[From the Schenectady (N.Y.) Gazette, June 1, 1973]

PBS Gained Little, TV-17's Schein Says of Accord With CPB

(By Meg Betts)

The agreement reached yesterday by the Corporation for Public Broadcasting (CPB) and the Public Broadcasting Service (PBS), who have been battling for months over who controls what in public television, is both a loss and a gain to PBS, which represents local public TV stations, Donald Schein, WMHT-Channel 17 president, stated.

"I don't feel PBS gained as much as I would have liked to see," said Schein, but added "I suppose PBS gained quite a bit . . . when we stood to lose so much."

The eight-point agreement reached by CPB and PBS was the subject of a live press conference carried by Channel 17 yesterday afternoon between Dr. James Killian, CPB chairman of the board, and Ralph Rogers, chairman of the board of governors of PBS.

Negotiations between PBS and CPB were conducted amidst accusations of political pressure from the White House. Both Killian and Rogers staunchly maintained that the new partnership between PBS and CPB will preclude any political overtones in public television decision-making.

An example of political pressure, said Schein, was CPB's decision to cut off funds for two public affairs programs, William Buckley's "Firing Line," and "Washington Week in Review." Certain officials were reportedly displeased with public affairs programs on public television since all but Buckley's were anti-administration.

The two shows were later continued through the summer by a CPB re-direction of funds allocated for local station's production, when local stations and viewers expresed their discontent.

It didn't look like there would be "much left" for PBS, said Schein, when CPB "decided to take over the reins" of public television control.

Two events, however "helped PBS regain much of what it had lost," said Schein. One was the Watergate scandal and the other, he said, was the resignation of Thomas Curtis, former CPB chairman, who quit as a result of White House pressure on the CPB.

Schein said he was "glad to see Killian in there," since Killian is known to be friendly to public broadcasting and his report "Public Television: A Program for Action" led to the 1967 Public Broadcasting Act.

With some exceptions, the agreement reached satisfied proposals made by the PBS board of governors during negotiations.

When pressed, however, PBS chairman Rogers admitted that CPB, which has control over PBS's funds, will have final decision-making power.

If disagreement occurs over what programs receive CPB funding, the agreement says the "joint decision" of the two chairmen will be final. Rogers, however, said that if an appeal became necessary, PBS would want the CPB chairman "to understand our point of view" and the CPB's decision would be final.

In the scheduling of programs, a disagreement would be resolved, if necessary, by a "third party" chosen by CPB.

Monetary agreements reached by PBS and CPB stipulate that by September PBS will provide the $2.5 million needed to fund its activities. They also agreed to a formula of 30 per cent of the recommended $45 million appropriation going to local stations. PBS had recommended 50 per cent. The appropriation is currently up for approval before the House.

Schein said the agreement appears to open a financial "floodgate" for local stations, but when the mathematics of it are worked out, "there's nothing behind it but a trickle."

Each local station would pay PBS about $10,000 for PBS's operating expenses and would receive an increased amount from CPB. Channel 17 would receive $70,000 next year, $25,000 more than this year. Minus the $10,000 for PBS, the station's gain would be about $15,000 out of a total budget of over $800,000.

Other clauses in the agreement stipulate that non-CPB funded programs which are acceptable under PBS regulations will have access to the network; disagreements over program's balance and objectivity may be appealed to monitoring committee of the PBS trustees and three C trustees, with a majority of four needed to bar a program access.

In addition, a "partnership view committee" will meet four times a year to discuss the partnership over a five-year period; CPB will continue to fund the operation of the work, and the percentage of the funds going to local stations with unrestricted grants will increase as the amount appropriated by Congress increases, up to 50 percent at an $80 million level.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Addabbo (at the request of Mr. O'Neill), for today and Monday, July 23, on account of official business.

Mr. Gunter (at the request of Mr. O'Neill), from 5 p.m. today through Tuesday, July 31, on account of official business of the Committee on Science and Astronautics.

Mr. Jones of North Carolina (at the request of Mr. O'Neill), for today, on account of official business.

Mr. Camp (at the request of Mr. Gerald R. Ford), for the week of July 23, on account of official business.

Mr. Price of Texas (at the request of Mr. Gerald R. Ford), for today, on account of official business.

Mr. Winn (at the request of Mr. Gerald R. Ford), for the week of July 23, on account of official business.

Mr. Wylie (at the request of Mr. Gerald R. Ford) for today, on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Archer) and to revise and extend their remarks and include extraneous matter:)

Mr. Roncallo of New York, today, for 1 minute.

Mr. Andrews of North Dakota, today, for 5 minutes.

Mr. Don H. Clausen, today, for 10 minutes.

Mr. McDade, today, for 15 minutes.

Mr. Young of Florida, today, for 5 minutes.

(The following Members (at the request of Ms. Schroeder) and to revise and extend their remarks and include extraneous matter:)

Mr. Burke of Massachusetts, today, for 10 minutes.

Mr. Gonzalez, today, for 5 minutes.

Mr. Wolff, today, for 5 minutes.

Mr. Tiernan, today, for 5 minutes.

Mr. Murphy of New York, today, for 5 minutes.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Randall, in two instances and to include extraneous matter.

Mr. Stratton.

(The following Members (at the request of Mr. Archer) and to include extraneous matter:)

Mr. Gude.

Mr. Wyatt.

Mr. Frey.

Mr. Shriver.

Mr. Steiger of Wisconsin.

Mr. Keating.

Mr. Hunt in two instances.

Mr. Cohen.

Mr. Findley.

Mr. Schneebeli.

Mr. Wyman in two instances.

Mr. McClory.

Mr. Camp.

Mr. Robison of New York.

Mr. Gilman.

Mr. Young of Florida.

Mr. Derwinski in two instances.

(The following Members (at the request of Mrs. Schroeder) and to include extraneous matter:)

Mr. Mathis of Georgia.

Mr. Gonzalez in three instances.

Mr. Rarick in three instances.

Mr. Harrington in three instances.

Mr. Edwards of California in three instances.

Miss Holtzman in 10 instances.

Mr. Rogers in 10 instances.

Mr. Waldie.

Mr. Burke of Massachusetts.

Mr. Leggett.

Mr. William D. Ford.

Mr. Hanna in five instances.

Mr. Murphy of Illinois in two instances.

Mr. Stark.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1148. An act to provide for operation of all domestic volunteer service programs by the ACTION Agency, to establish certain new such programs, and for other purposes; to the Committee on Education and Labor.

ENROLLED BILLS SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 6717. An act to amend certain provisions of the Land and Water Conservation Fund Act of 1965 relating to the collection of fees in connection with the use of Federal areas for outdoor recreation purposes; and

H.R. 8949. An act to amend title 38 of the United States Code relating to basic provisions of the loan guarantee program for veterans.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 504. An act to amend the Public Health Service Act to authorize assistance for planning development, and initial operation, research, and training projects for systems for the effective provision of health care services under emergency conditions.

ADJOURNMENT

Mrs. SCHROEDER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 3 minutes p.m.), under its previous order, the House adjourned until Monday, July 23, 1973, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1164. A letter from the Associate Deputy Administrator of Veterans' Affairs transmitting a report that the Veterans' Administration has no dining rooms where attendance is limited on the basis of grade or rank, pursuant to section 1102 of Public Law 92-607; to the Committee on Appropriations.

1165. A letter from the Chief of Legislative Affairs, Department of the Navy, transmitting notice of the proposed donation of an HU-16 "Albatross" aircraft, serial No. 51-7187, to the U.N. Korean War Allies Association, Inc., Seoul, Korea, pursuant to 10 U.S.C. 7545; to the Committee on Armed Services.

1166. A letter from the Deputy Assistant Secretary of the Interior, transmitting a report on grants made by the Department of the Interior during calendar year 1972 to nonprofit institutions and organizations for support of scientific research programs, pursuant to 42 U.S.C. 1891; to the Committee on Science and Astronautics.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 3436. A bill to provide for the conveyance of certain mineral rights in and under lands in Onslow County, N.C.; with amendment; (Rept. No. 93-386). Referred to the Committee of the Whole House on the State of the Union.

Mr. MORGAN: Committee on Foreign Affairs. H.R. 9360. A bill to amend the Foreign Assistance Act of 1961, and for other purposes; (Rept. No. 93-388). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 7087. A bill to authorize the Secretary of the Interior to sell reserved mineral interests of the United States in certain land in Missouri to Grace F. Sisler, the record owner of the surface thereof; (Rep. No. 93-387). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDREWS of North Dakota:

H.R. 9442. A bill to amend Public Law 92–181 (85 Stat. 383) relating to credit eligibility for public utility cooperatives serving producers of food, fiber, and other agricultural products; to the Committee on Agriculture.

By Mr. BROTZMAN (for himself, Mr. Frenzel, and Mr. Vander Jagt):

H.R. 9443. A bill to amend the Clean Air Act to provide for more effective motor vehicle emission controls at high altitudes, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BROYHILL of Virginia (by request):

H.R. 9444. A bill to establish additional land use criteria for comprehensive planning, revision of zoning regulations, improved economic opportunity, and an increased tax base in the redevelopment of the District of Columbia; to the Committee on the District of Columbia.

By Mr. CONYERS:

H.R. 9445. A bill to amend title 18 of the United States Code by repealing chapter 102 (the antiriot provision) thereof; to the Committee on the Judiciary.

By Mr. DIGGS (by request):

H.R. 9446. A bill to authorize the government of the District of Columbia to control the manufacture, sale, and storage of alcoholic beverages, and for other purposes; to the Committee on the District of Columbia.

By Mr. DIGGS (for himself, Mr. Fauntroy, Mr. Stark, and Mr. Fraser):

H.R. 9447. A bill to amend the District of Columbia Stadium Act of 1957 to provide for a sharing of the financial obligations of such stadium, and for other purposes; to the Committee on the District of Columbia.

By Mr. ERLENBORN (for himself, Mr. Horton, Mr. Thone, Mr. Regula, Mr. Gude, Mr. Hanrahan, and Mr. McCloskey):

H.R. 9448. A bill to amend the Freedom of Information Act to require that all information be made available to Congress except where executive privilege is invoked; to the Committee on Government Operations.

By Mr. FULTON (for himself, Mr. Broyhill of Virginia, Mr. Abdnor, and Mr. Towell of Nevada):

H.R. 9449. A bill to amend the Social Security Act to provide for medical, hospital, and dental care through a system of voluntary health insurance including protection against the catastrophic expenses of illness, financed in whole for low-income groups through issuance of certificates, and in part for all other persons through allowance of tax credits; and to provide effective utilization of available financial resources, health manpower, and facilities; to the Committee on Ways and Means.

By Mr. GINN:

H.R. 9450. A bill to authorize the Secretary of Commerce to transfer the NS *Savannah* to the city of Savannah, Ga.; to the Committee on Merchant Marine and Fisheries.

By Mr. GRAY:

H.R. 9451. A bill to name the Federal office building, South, in New Orleans, La., as the "F. Edward Hébert Federal Building"; to the Committee on Public Works.

By Mr. HARRINGTON:

H.R. 9452. A bill to postpone the effectiveness of the new regulations proposed by the Secretary of Health, Education, and Welfare for the administration of the public assistance programs; to the Committee on Ways and Means.

By Mr. HOGAN:

H.R. 9453. A bill to amend title 10, United States Code, to equalize the retirement pay of members of the uniformed services of equal rank and years of service, and for other purposes; to the Committee on Armed Services.

By Mr. HUNT:

H.R. 9454. A bill to provide for the awarding of a medal of honor for policemen and a medal of honor for firemen; to the Committee on Banking and Currency.

By Mr. McFALL:

H.R. 9455. A bill to amend title 5, United States Code, to correct certain inequities in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. MEEDS (for himself, Mr. Brademas, Mr. Peyser, Mrs. Mink, Mr. Hansen of Idaho, Mrs. Chisholm, Mrs. Grasso, Mr. Mazzoli, Mr. Badillo, and Mr. Lehman):

H.R. 9456. A bill to extend the Drug Abuse Education Act of 1970 for 3 years; to the Committee on Education and Labor.

By Mr. QUIE (for himself, Mr. Esch, Mr. Hansen of Idaho, and Mr. Forsythe):

H.R. 9457. A bill to transfer St. Elizabeths Hospital to the District of Columbia; to the Committee on Education and Labor.

By Mr. ROE:

H.R. 9458. A bill to strengthen and improve the protections and interests of participants and beneficiaries of employee pension and welfare benefit plans including emergency pension protection; to the Committee on Education and Labor.

By Mr. RONCALLO of New York (for himself, Mr. Bafalis, Mr. Jones of Oklahoma, and Mr. Powell of Ohio):

H.R. 9459. A bill to amend title 18 of the United States Code to make it a Federal crime to carry out any research activity on a live human fetus or to intentionally take any action to kill or hasten the death of a live human fetus in any federally supported facility or activity; to the Committee on the Judiciary.

By Mr. TIERNAN:

H.R. 9460. A bill providing for the distribution of seeds and plants for home gardens; to the Committee on Agriculture.

By Mr. BURKE of Massachusetts:

H.J. Res. 676. Joint resolution authorizing the President to proclaim the third week beginning on a Sunday in November of each year as "National Traffic Safety Week"; to the Committee on the Judiciary.

By Mr. GUBSER:

H.J. Res. 677. Joint resolution authorizing the President to proclaim September 28 of each year as "Teacher's Day"; to the Committee on the Judiciary.

By Mr. PEPPER:

H.J. Res. 678. Joint resolution, a national education policy; to the Committee on Education and Labor.

By Mr. HUBER:

H. Con. Res. 271. Concurrent resolution expressing the sense of Congress with respect to the missing-in-action in Southeast Asia; to the Committee on Foreign Affairs.

By Mr. YOUNG of Florida:

H. Con. Res. 272. Concurrent resolution expressing the sense of the Congress that the Commission on Executive, Legislative, and Judicial Salaries omit recommendations for pay increases for Members of Congress in its report to the President on the results of its 1973 salary studies; to the Committee on Post Office and Civil Service.

By Mr. McKINNEY:

H. Res. 500. Resolution expressing the sense of the House of Representatives that any individual who serves as the Director of the Energy Policy Office should be appointed by and with the advice and consent of the Senate; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. LENT:

H.R. 9461. A bill for the relief of Thomas E. Nicholson; to the Committee on the Judiciary.

By Mr. WALDIE:

H.R. 9462. A bill conferring jurisdiction upon the U.S. Court of Claims to hear, determine, and render judgment upon the claim of Charles Bernstein, of Washington, D.C.; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

RAIN OF PLENTY IN FARM BELT

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. RAILSBACK. Mr. Speaker, last night's Washington Star-News contained an editorial by Charles Bartlett, entitled "Rain of Plenty in Farm Belt." He centers his comments from Moline, Ill., which I am proud to represent. Bartlett's reflections upon this year's farm crop are indeed interesting and refreshing. Mr. Speaker, I include the following for the review of my colleagues:

Rain of Plenty in Farm Belt

(By Charles Bartlett)

Moline, Ill.—These are days which make it refreshing to escape the morass of mistrust that is Washington for the rolling plains which laugh with a harvest when they are tickled with a plow.

The corn is green and growing, so barring an early freeze, the prospects are bright for a record harvest which will ease the tight supply of food, exert downward pressure on grocery prices, contribute significantly to the balance of trade and leave the farmers richer than ever.

It is a blessing normally taken too much for granted. The citizen who laments the rising grocery costs at home would be cheered by the experience of shopping abroad to learn how much foreigners pay for a commensurate diet. Flying over the barren reaches, the large areas of the world where farming is confined to the narrow valleys of rivers, he would contemplate more thankfully this country's liberal endowment of arable land.

Some talk of Australia and the Argentine as potential competitors in the world food market, and yet these two nations together have less than one-quarter of the United States share of cultivable land. The area around Paris is Europe's only approximation of the Great Plains. The American emergence as the most efficient producer of food and feed grains is not yet open to challenge.

So the rising demand for proteins means swelling profits for American farmers, whose gross income will probably rise some 25 percent between 1971 and 1973. Their land is rising in value at about 10 percent a year. But farmers always frown in the sunshine, and the visitor finds them complaining now, uncertain about the economy and unhappy about inflation.

But they have been luckier lately than they will admit. Last winter they were warned that a gasoline shortage would likely hobble their machines. That never materialized. Their spring planting was threatened by unusual rains, but the skies cleared long enough in mid-May to allow them to plant 40 million acres of corn in a dramatic race against the weather.

The corn blight of 1971 raised some dark fears of a shrinking cornucopia. It developed that the hybrids then in use were vulnerable, under prevailing weather conditions, to the growth of a crippling spore. However, the advanced state of corn belt technology made available a new variety of seed for the next planting season and it yielded the largest crop in history. It is almost 40 years since they have had anything approaching a crop failure.

Now the fields are planted fence to fence and the concern is that improved weather in Russia and Asia will mean a world glut of wheat, perhaps in 1974. The farm belt is well aware of its potential to produce excess supplies that will mean low prices and low income for the farmer.

Another concern is with the President's order restricting the export of scarce commodities. American farmers like the fact that they produce 80 percent of the world's supply of soybeans and they are not anxious to inspire new producers abroad. They cannot yet discern whether the President's order on export controls is mere political rhetoric, designed to keep the public patient until new crops come in, or a serious shift of policy. The latter, they believe, would be a mistake.

The farm belt has no choice. It is going to have to swallow its philosophy of scarcity and go all out to meet the world's expanding need for food. So long as Congress provides a price floor, there is no good reason to avoid the challenge.

CAPTIVE NATIONS WEEK

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. FORSYTHE. Mr. Speaker, since 1959, under the administration of the late President Dwight D. Eisenhower, the third week of July has been designated as Captive Nations Week pursuant to Public Law 86-90. During this time, American citizens observe the sobering realities faced by the people in the nations of Armenia, Azerbaijan, Byelorussia, Cossackia, Georgia, Idel-Ural, North Caucasia, Ukraine, Far Eastern Republic, Turkestan, Mongolian People's Republic, Estonia, Latvia, Lithuania, Albania, Bulgaria, Serbia, Croatia, Slovenia, Poland, Romania, and Czechoslovakia.

The Congress must bring to the public's attention the continued violations upon human rights and freedoms by the Communist regimes in these regions.

Consistently these people have spoken out against the violations of their human rights. Workers revolted in Pilsen and East Berlin in 1953. In Poland and Hungary there were widespread uprisings in 1956. Polish students in 1968 revolted against the Communist regime. In the same year, the Czechoslovakian fight for freedom under the leadership of Alexander Dubcek was suppressed by an armed invasion of the Soviet army and its Warsaw Pact satellites. In 1970 there were widespread revolts in the port cities along the Baltic in Poland. In 1972, there were widespread demonstrations in Lithuanian cities. It is the duty of all Americans who believe in American freedoms and the right of self-determination, to stand up for these freedoms around the world.

Living in America, we can easily forget and take for granted the freedoms and liberties that have become a way of life. People of the Eastern and Central European nations cry for these same freedoms. Yet they are deprived of fundamental principles of human dignity by Communist regimes.

During this week, the 15th annual observance of Captive Nations Week, we see the United States improving relations with the Soviet Union, which is to a great extent the result of recent summit talks between President Nixon and Secretary Brezhnev. Although we are grateful for these improved relations, Americans must also look upon the true horrors of the denied people of the captive nations.

Although the official observance of Captive Nations Week lasts for only 1 week, let us remember that the rights and freedoms granted to all Americans insuring our human dignity are being denied to the people of the submerged nations of Eastern and Central Europe.

THE 48TH ANNUAL NATIONAL BAR ASSOCIATION CONVENTION

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. HAWKINS. Mr. Speaker, the National Bar Association has been working on ways to insure equal representation of minorities in the American judicial system; the acceptance of minorities into the Nation's law schools and increasing the number of minority students that pass the State bar examinations. Also, the NBA has been working on proposals to expand and strengthen legal aid services available to lower income groups.

The 48th Annual National Bar Association Convention will be held July 30 through August 4, 1973, San Francisco, Calif., at the Hyatt Regency Hotel.

The history follows:

NBA OBJECTIVE AND HISTORY

The National Bar Association was organized August 1, 1925 in Des Moines, Iowa for the purpose of advancing the science of jurisprudence, improving the administration of justice, serving the independence of the judiciary, working for a more equitable representation of all racial groups in the judiciary of our cities, states and nation, promoting legislation that will improve the economic condition of all the citizens of the United States, aiding all citizens regardless of race or creed in their efforts to secure a free and untrammeled use of the franchise guaranteed by the Constitution of the United States, promoting social intercourse among the members of the American Bar, upholding the honor of the legal profession, protecting the civil and political rights of the citizens and residents of the several states of the United States and working for the integration of the American bar.

The germ of the idea originated with George H. Woodson, a native of Virginia and a practicing attorney of Des Moines, Iowa, joined by C. Francis Stratford and Judge Wendell E. Green of Chicago, on August 1, 1925 in the Polk County Courthouse.

OFFICERS

President—O. T. Wells.

1st Vice President and President Elect—Archie Weston.

2nd Vice President—Charles P. Howard.

3rd Vice President—W. George Allen.

4th Vice President—Carl J. Character.

Secretary—Allie Latimer Weeken.

Assistant Secretary—Wilhelmina Rolark.

Membership Secretary—Elmer C. Jackson.

Treasurer—C. C. Spaulding.

BUDGET REFORM: ENCOURAGING PROSPECTS

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. BELL. Mr. Speaker, I am today reintroducing H.R. 8762, my budget reform proposal, and I am delighted to announce that it has now been sponsored by 20 Members of Congress.

Today is an especially significant day since it marks the beginning of hearings by the Rules Committee on budget reform legislation. The Rules Committee has taken a major step toward enabling the Congress to meet the most serious challenge confronting it.

My budget reform legislation differs from that of the Joint Study Committee on Budget Control chiefly in three areas: the composition of the new Committee on the Budget; the time made available to the House to consider the budget resolution prepared by that committee; and the duties of the joint legislative budget staff and its availability to all the Members of Congress. The goal of my legislation is to make the vitally necessary reform in our budgetary process both workable and responsive to all the Members of this House.

I am, therefore, especially pleased by the testimony presented this morning to the Rules Committee by the distinguished cochairmen of the Joint Study Committee on Budget Control. Congressmen ULLMAN and WHITTEN both indicated that a workable procedure responsive to the will of the House is their goal as well, and suggested changes in the Joint Study Committee's proposal to accomplish it. Their flexibility, notably in the very areas of budget committee composition, time for consideration, and the duties and accessibility of the staff, is extremely heartening and encourages the prospect that viable budgetary process reform will become a reality in this Congress.

The following Members are now cosponsors of my budget reform proposal: Mr. BURGENER, Mr. CLEVELAND, Mr. CONABLE, Mr. DAVIS of Georgia, Mr. FINDLEY, Mr. FROEHLICH, Mr. HASTINGS, Mr. HORTON, Mr. ICHORD, Mr. KEATING, Mr. MANN, Mr. PARRIS, Mr. QUIE, Mr. RINALDO, Mr. ROBINSON of Virginia, Mr. WARE, Mr. WHITEHURST, Mr. WOLFF, and Mr. WON PAT.

LEE HAMILTON'S WASHINGTON REPORT ENTITLED "WIRETAPPING"

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. HAMILTON. Mr. Speaker, I include my Washington Report entitled, "Wiretapping," in the Record.

The report follows:

WIRETAPPING

(By Congressman Lee Hamilton)

In February of this year, King Hussein of Jordan accepted an invitation from me to meet privately with members of the House Foreign Affairs Committee, and the King came to the Committee hearing room for a candid, give-and-take session with us on the sensitive Arab-Israeli dispute. A few hours after he left the room, to my very great embarrassment, a highly sophisticated bugging device was found in the Committee room. The device was taped underneath the conference table and it enabled someone to hear every word spoken at the meeting. The FBI has the incident under investigation, and our Committee rooms are now debugged prior to every meeting with a foreign dignitary.

That was my first direct experience with electronic surveillance. But, apparently, similar experiences are commonplace in this day of sophisticated monitoring devices.

Wiretapping has come a long way from the "dirty business" condemned by Justice Holmes and Brandeis. It has been aided by new technology, approved by the Congress in certain circumstances and by federal judges in others, and it has gained a new respectability. Requests to install wiretaps and bugs are on the rise with private detectives, especially for divorce and business cases, and one survey shows that one-fourth of the politicians and judges in Washington thought they had been bugged or tapped.

The 1968 Omnibus Crime Control Act requires federal and state governments to apply to courts for eavesdropping warrants, except in national security cases. The figures show a clear upward trend:

1969—304 applications, 2 denials.
1970—597 applications, no denials.
1971—816 applications, no denials.
1972—860 applications, 4 denials.

The full extent of electronic surveillance is not known, of course, because eavesdropping in national security cases is not reported and much of it is done secretly.

In 1972, federal and state governments spent $4.3 million to overhear 4,100 Americans engaged in 480,000 conversations. In return, the government achieved 2,861 arrests and 402 convictions.

All of this surveillance has produced a growing uneasiness, fed recently by the sensational disclosures of Watergate and the Daniel Ellsberg trial. Serious questions are raised about the clash of two legitimate interests—the right to individual privacy and the national security. Are we more or less secure with widespread wiretapping? What kind of controls can be placed on wiretapping? Under what circumstances is wiretapping desirable? The most perplexing question for Americans is whether the Constitution can guarantee both the security of the state and the liberty of the individual.

The U.S. has not really developed a national policy toward wiretapping and the value to be placed on privacy. Most Americans would approve wiretaps in cases involving the national security, but this very valid national concern is vague and difficult to define. Without much question, wiretapping represents a serious assault upon freedom and privacy. Justice Brandeis, in a famous 1928 dissent, insisted that the makers of the Constitution conferred upon us "the right to be let alone—the most comprehensive of rights and the right most valued by civilized men."

Since wiretaps obviously pose threats to our liberties, their use must be carefully safeguarded. Safeguards against overuse are provided in the present law in the form of actual and punitive damages and reimbursement of legal expenses, which can hurt a wiretapper's pocketbook if he is found guilty. But vigorous Congressional oversight and effective judicial controls are also important and necessary safeguards to assure against misuse of the power to wiretap.

FEDERAL EMPLOYEE HEALTH PLAN

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. WALDIE. Mr. Speaker, as chairman of the House Subcommittee on Retirement and Employee Benefits, I have a great and continuing concern over the benefits available to Federal employees in their health insurance program.

One issue which has been brought to my attention regards the question of whether duly licensed and/or certified psychologists and optometrists should necessarily be required to perform under the direction or supervision of physicians.

This bill would provide that any participant in the Federal employee program would have direct access to such psychologist and optometrist without prior referral.

Hearings will be held by the subcommittee before we reach a final conclusion on this very important policy matter.

Mr. Speaker, the full text of the bill follows:

H.R. 9440

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8902 of title 5, United States Code, is amended by adding at the end thereof the following:

(J) "If the contract benefits include a service or services which may be provided by a psychologist or optometrist licensed and/or certified as such under applicable State or Federal statutes, then the Federal employee beneficiary, annuitant, or family member covered by such contract shall be free to select such psychologist or optometrist of his or her choice, shall have direct access to the same, without supervision or referral by another health practitioner; and shall be entitled under such contract to have benefits paid to him or on his behalf for such service or services."

Sec. 2. The amendment made by this Act shall become effective with respect to any contract entered into or renewed on or after the date of enactment of the Act.

EQUAL RIGHTS

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. HARRINGTON. Mr. Speaker, although there has been progress toward the goal of equal rights and responsibilities for men and women in recent years, sex discrimination continues to permeate our social, cultural, and economic life.

At the present time there is no constitutional amendment which protects an individual from sex discriminatory practices. The legal status of women has changed very little since the adoption of the 19th amendment in 1920. Some laws which were originally designed to "protect" women have ironically limited their opportunities and equality in the fields of employment, education, credit, insurance, housing, to name just a few.

However, the legal system is not the only force which discriminates against women and impedes their advancement in our society. The concept of sex roles has added to the problem women face in obtaining a major voice in the economic and political decisions which affect their lives. These roles have impaired equal opportunities and self-development of all individuals.

Recent studies have shown that competition, competency, independence, intellectual achievement, and leadership reflect positively on the concept of masculinity but are inconsistent and contradictory to society's concept of femininity.

I would like to include in the Record an article entitled, "Why Women Take—and Keep—Low Paying Jobs," by Mary Rowe, published in Business and Society Review, spring of 1973. The article addresses itself to the discriminatory images of men and women. Because of space limitations in the Record, I have deleted some portions at the beginning of the article dealing with legal and structural barriers to equality.

Oftentimes we are unaware of certain ways of thinking so ingrained in our culture that they precipitate certain behavior patterns. To me this article is valuable because it crystallizes some of these thought and behavior patterns. None of us can change until we recognize the need for change and how to accomplish it.

I do not believe that all the answers to equality of opportunity lie in this article, but I think its points are telling and I recommend it to my colleagues. The article follows:

WHY WOMEN TAKE AND KEEP LOW PAYING JOBS

THE IMAGE OF WOMEN

Legal and structural equality for women will help enormously to provide for equal employment opportunity, but there are many more subtle issues involved in our discriminatory images of men and women. Much imaginative research has been conducted on this topic in recent years. Several studies of children's books and TV demonstrate the inferior lot of girls and women ("role models") in the media. The *Oxford English Dictionary's* illustrations of words pertaining to "women," "mothers," and "women's work" have been found to be full of irrelevant derogatory images, e.g., under *work* (women's): "[her work was to] reform an extravagant husband."

Many a parent has come to realize how very differently he or she treats boys and girls and to muse on the effects this will have on their children's later jobs. And many psychologists are beginning to be seriously concerned about the generic use of "man" to mean "human."

Of all studies in this area, possibly the most illuminating are those which show

how profoundly we equate "adult" qualities with those of adult males. Research on our images of "adults," of "men," and of "women," consistently show that we see adults as independent, creative, aggressive, outgoing, dominant, assertive, self-controlled innovative. Men are seen the same way. Women, however, are conventionally pictured as dependent, adaptive, submissive, quiet, passive, patient, emotional. It is very hard for a woman in our society to be simultaneously "adult" (creative and independent in paid employment outside the home) and "feminine" (patient and dependent in unpaid employment in the home). There are several studies which show it can be done—but it isn't easy. And the conflict set up in women as a result of mutually exclusive goals (adulthood vs. conventional femininity) often results in a deeply debilitating self-hatred, and/or fear of success, as Dr. Matina Horner has so lucidly described.

In the wide area of cultural discrimination against women, I would like to discuss in more detail several reasons why women find it difficult to "compete" for good jobs in the world of paid employment, and in predominately male, hierarchical, pyramidal work organizations where only a few can reach the top.

Our society has difficulty determining what women are worth, or even seeing traditional women's work as "work." Most of the economy is relatively "free" (resources move quite readily, with few exceptions) and most of the economy is monetized (products and services are ordinarily exchanged for money, not for each other). In a relatively free, monetized economy, a good or service is said to be worth its "opportunity cost" (the price or wage it would bring in its next-best use). Thus, a man earning about $25,000 a year and fringe benefits and prestige at ITT would probably earn about the same salary and benefits from ITT's nearest competitor; otherwise, over time he would be sacked or would move. Because we rationally evaluate movable, monetized resources roughly at opportunity cost, there is a strong psychological tendency to also evaluate homemakers' services at *their* apparent opportunity cost—zero. The fact that the market for mothers and housewives is not really "free" (it's relatively difficult to exchange one set of services for another) and that the market is relatively nonmonetized (most housework and child care are not directly reimbursed by wages) gets lost in our thinking.

Women are even more likely to make this error than are men. Quite aside from our mythology that a good mother is "priceless," most men, if pressed, understand their wives' homemaking services to be "worth" thousands of dollars on the open market. For instance, at first glance, most men are likely to be astonished that good day care costs at least $2,000 per child per year; but, on reflection, they will understand that good quality, *monetized* child care is worth a good deal. Many women, however, have difficulty seeing themselves as bona fide working adults worthy of serious salaries. This point of view is formally reflected in our national accounts. The Bureau of Labor Statistics and the Department of Commerce do not count homemaking as contributing to GNP, nor as "work." Women refer to themselves as "not working" when engaged in homemaking—"I stopped work when our second child was on the way." (A woman is probably slightly more likely to think of herself as "working" when in volunteer community activities which receive public recognition.)

The fact that the work of many women is not directly paid or evaluated causes many women to think of themselves as having an opportunity cost of zero, as well as depriving them of the experience of being evaluated at a higher rate. This mind-set sometimes also persists even after a woman has entered the paid labor force, and it results in a lack of ambition and initiative on her part. The lack of recognition of the value of conventional women's work also fosters illegal exploitation in paid employment in situations where women are paid lower wages for equal work. Some men believe it is "all right" to discriminate in paid employment—"After all, women are *never* paid very much, are they?"—and women lack the self-confidence to protest.

Men and women are taught with great care not to compete with each other as adults. There are several hypotheses as to why this might be so. I suggest that boys are carefully taught not to "fight girls" in part because aggression, competition, and sexual drives are very closely linked. Allowing public, competitive, aggressive behavior between adult men and women is very scary in a world where men and women are not supposed to be overtly attracted to each other. This is one reason why adult men so readily react flirtatiously or seductively when dealing with women in situations which may be seen as competitive. (This reaction is very likely to affront or insult an insecure woman and usually ends the competition of very insecure women.) Also, our conventional sexual mores (men aggressive, women passive) make analogous situations like business competition very uncomfortable when women step into the conventional male role. The woman is inevitably assumed to be mimicking "male" sexual behavior and will often arouse very primitive feelings that "underneath, she must be a lesbian."

There may be another, very primitive linkage between sexual behavior and business success. Men *demonstrate* virility; potency is directly linked to a man's ability to change appearance, to "produce," to "show off"; virility is visible, and the product is tangible. Women therefore may not have exactly the same need to acquire visible status or to produce a tangible product in the world of paid work. If this hypothesis is true, women would tend to be less interested in seeking status positions. Men, on the other hand, would be very much concerned with keeping status positions for themselves; it is disconcerting to have a woman demonstrate "virility" by acquiring visibility in business.

In 1972 most boys are brought up by women. In 1850, men were very much more involved in the care of boys—in teaching apprentices, working with sons on the farm, teaching elementary school. In 1850, becoming "adult" meant joining the world of men or women. Men and women often worked together for survival. The nuclear family, however, is a very different child-rearing environment, often involving only one woman, and one or two children home at a time, for very long periods of time. In 1972, becoming "adult," for many men, is equated with escaping female direction and/or domination, and escaping work *with* women. (I am indebted to a colleague, David Warner, for pointing out that this phenomenon also applies to women brought up in too close contact with a domineering mother.) I believe this is one reason why many contemporary men find it difficult to work under or even with women.

Both men and women sense difficulty when a woman is more innovative, or produces more, or is paid more than a male colleague. This is especially true when a wife is more creative in the labor force and/or produces more or is paid more than her husband—a situation which women avoid like the plague and which automatically limits the extent to which they will innovate or seek well-paying jobs. Here again, there is a very primitive energy source for these feelings. Women are seen as creating life itself and as able to nurture life directly from their own beings. For many men, the ability to invent, to "produce" in the process of proving virility, and to support a family is *their* unique gift and possibility in life. If women can reproduce *and* nurse *and* invent *and* produce *and* support a family, do they "need" men? Trained from childhood to repress emotions, a great many men find it difficult to believe and accept that they are of course really *needed*, interpersonally. If all the other demonstrations of "male achievement" can be performed by women, some men feel they have lost their identities and have become obsolescent.

In the face of many, deep discomforts arising from male-female competition in business, many men tend unconsciously and consciously to band together against the "other"—women. Only 2 percent of top business executives are women; men therefore hold the power. No powerful group is ever likely to give up power gratuitously, especially since underpaying women can be profitable in the short run and for individual businesses. Women therefore must compete and fight even harder than the ordinary drive for profits would dictate, if they wish to gain top positions in business. Since women are socialized not to compete with men in the first place, the necessity for political struggle is simply an added deterrent. This also helps explain why women who have somehow "made it" are reluctant to fight on for their sisters.

CAUSE FOR OPTIMISM

Of course there are exceptions. Women who never leave the labor force after age eighteen need never wonder if their "opportunity cost" is zero. Many men and women find ways of working together in business, minimizing interpersonal competition. Men who were cared for in childhood by both men and women, and who have shared real work with girls in childhood, may not need to "escape" women and may readily find women to be good work companions. Men who bottle-feed and care for children, who are in touch with and enjoy their loved ones' deep need for them, are very much less likely to feel threatened with "obsolescence" as males. Secure as "needed" adults, they find it easier to support the achievements of wives and colleagues. Many men find work with women much less difficult as they grow older. Often a man will have sudden insights into his negative feelings about women colleagues—and suddenly find that women are not so threatening as they once seemed. Women in turn often appear to gain self-confidence and initiative as they gain experience in paid employment.

Moreover, there will always be very large numbers of women and men who are deeply concerned about *all* interpersonal competition, not just competition between men and women. Many people of both sexes will prefer housewifery and househusbandry to business success, and many will prefer low-paying jobs which offer deep human satisfactions not obtainable from top business success. Clearly men and women of such persuasion who are socially responsible should be encouraged to live their own lives as they will.

I believe more women can and will become self-supporting. Equal employment opportunity for women will someday be a fact. But until then, we must work on the tangled complex of factors which discriminate against women, not the least of which are our deepest feelings about ourselves.

COMMENTS ON PHASE IV

HON. L. A. (SKIP) BAFALIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. BAFALIS. Mr. Speaker, the announcement of phase IV marks a turning point in the economic policy of our Nation. For agriculture, especially, it marks the welcome end to a heated debate over the wisdom of controls.

This debate has not been over the

question of whether or not the market will work. It will, and it does. The market reflects supply and demand conditions. Market prices signal increases or decreases in production and allocate the product available. The market works with controls. It works without controls.

With controls, the market sends out manipulated and misleading signals. For instance, price ceilings do two things. They tend to call for less production than would be the case if prices were allowed to rise, and they tend to induce more consumption than would be the case if prices were allowed to rise. Scarcity soon results, and shortages will follow unless some form of rationing is implemented. The longer that controls remain in place, the greater the potential distortion. Yet the market itself works. It is just that controls throw exactly the wrong signals into the works, and the results are not as we would prefer.

Without controls, the market sends out accurate signals. Prices indicate exactly what each product is worth considering the state of the economy, the demand for the product, and the supply of it available. In times of shortage, prices increase. That encourages production and tends to cool consumption. When supplies increase, prices level off and consumption picks up.

The market worked during phase III, during the meat price controls, and during the recent food price controls. The problem has been that price controls have curtailed production when the only effective antidote for high prices is increased production.

Price ceilings increased rather than moderated demand, thus placing added upward pressure on prices. As a result, severe shortages and potential scarcity have threatened. Export controls of some products—protein food products particularly—have followed.

Wisely, we have seen that our market system clearly reflects the distortions we impose on it. The results of controls have been found unacceptable. With phase IV, the market for farm products will be gradually freed from the controls which have provided distorted production in recent months—and recent weeks in particular.

Adjustment away from controls will be neither easy nor painless. We face potential shortages in several commodities—meat, milk products, and eggs, specifically. As control pressures are removed, prices of these commodities are bound to increase.

It boils down to this: If we want more food, farmers are only going to produce more if they have prospects for making money by doing so. It takes unshackled farm and food prices, and a commitment that we will not distort the market mechanism again, to provide that assurance.

When production does increase, prices will no doubt moderate—and that will tend to keep production and consumption somewhat in line.

Under phase IV, prices can once again perform their function as an effective allocator of our food supplies—a function which price controls crippled. Fruits and vegetables, especially, depend upon fluctuating prices to move them through the channels of trade. Yet price controls impair the operation of that movement. That is why the supplies of fruits and vegetables have been so erratic this season.

Phase IV reflects the realization that the market system, unfettered by controls, is the best means of obtaining the farm production we want, of allocating the food we have, and of moving our agricultural abundance through the marketing channels from the farm to the table.

ROAD RUNNERS CLUB OF AMERICA CALLS FOR SUPPORT FOR SPORTS LEGISLATION

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. BADILLO. Mr. Speaker, for far too many years competing amateur athletes have been prevented from having any meaningful voice in those decisions, policies and programs which directly affect them. All too frequently runners, swimmers, football and basketball players, and others in a wide variety of amateur sports have become nothing more than pawns in the hands of national sports federations or governing bodies. This situation has been seriously exacerbated by the senseless dispute between the Amateur Athletic Union and the National Collegiate Athletic Association. There can be little question but that this issue, which seriously threatens the very foundation of amateur athletics in this country, came to a head during last summer's Olympic games at Munich.

Since last October a number of meetings of various national sports organizations have been held and certain far-reaching decisions have been made. However, the athlete continues to play little, if any, role in the decisionmaking process, even though he or she may spend hours each day in training and then competing in events and under rules and regulations in which they have had no say. Because of this situation and the recognition that some affirmative action must be taken to end damaging fueds and rivalries and to restore some balance into amateur atheletics in this country, a number of different measures have been introduced in the House and Senate.

Earlier this week the Road Runners Club of America announced its strong support for legislation being developed in the other body by Senator JOHN V. TUNNEY of California. In calling for support for the Amateur Athletic Act of 1973, the Road Runners Club—the majority of whose members are also registered AAU athletes—noted that this measure is necessary to "end the current situation of athletic serfdom." Spokesman for the 40,000 competing long distance runners throughout the country, the Road Runners Club is also one of the most active and effective nationwide organizations promoting physical fitness and competitive amateur running. This organization believes that the Amateur Athletic Act "will herald a new age of physical fitness throughout the country and democracy and excellence in athletics."

Mr. Speaker, as we will hopefully consider legislation relating to amateur athletics within the near future, I believe we should give the Road Runners' statement full and careful consideration. I am pleased, therefore, to present the text of the Road Runners' announcement herewith for inclusion in the RECORD:

ROAD RUNNERS ASK CONGRESS TO SUPPORT AMATEUR ATHLETIC ACT OF 1973

The Road Runners Club of America, the spokesman for the 40,000 competing long distance runners throughout the United States announces its support for the Amateur Athletic Act of 1973.

Recent media coverage of statements by spokesmen for the AAU and NCAA oligopolies have ignored the existence of many other athletic groups and the athletes that do support the Act. Long distance runners have led the amateur athletic world the past 16 years in the promotion of the interests of their sport and other amateur athletes' rights through their democratically controlled organization the Road Runners Club of America. The RRCA experience in the efforts to remove their sport from the influences of those governing cliques whose interest is to maintain their power structure rather than help athletes develop their own sport, makes it imperative that Congress pass the Amateur Athletic Act.

Road Runners feel it is a sound proviso that the so-called governing bodies which control sports on a national level will have to justify periodically their position of power. At this time there is no mechanism to remove from control groups that do not meet the needs of the athletes nor are willing to put on the programs athletic groups desire. The protection of the right of choice of where, when and with whom to compete must be given to the athlete. Athletes must also have the right to choose who should govern them and the manner of such governance. The time has come for athletes to have the same protection under law from overbearing monopolistic practices that other citizens now enjoy.

The Road Runners Club of America was organized in 1957 by active long distance runners to be run by athletes for athletes. At that time there were few long distance races and road runs and only three marathons. Today there are 120 marathons a year throughout the country most of which were organized by the athletes themselves. The RRCA puts on nearly 5000 athlete organized and controlled long distance events a year around the country through its local RRCA affiliates. Many areas of the country today would not have any long distance program if the RRCA concept of athletic controlled programs had not put them into effect.

Some of the major accomplishments originated by the RRCA are:

1. The Run For Your Life and Run For Fun physical fitness programs. RRCA impetus and assistance led to the adoption of these programs on a national level by the "Y" organizations of this country. Present estimates show that, as a result of the RRCA originated concept, an estimated 6.5 million Americans participate in some sort of distance running or jogging for their physical health and wellbeing. The popularity of these programs led to the formation of the National Joggers Association.

2. The concept and proof that distance running is beneficial for all ages followed the successful initiation of the RRCA age-group long distance running program. The RRCA age-group national championships involves over 2000 athletes under the age of sixteen.

3. The over-40 age-group Veterans and Masters Program. Since the RRCA started this program it has enabled the men and women of these most neglected ages to enjoy the thrill of competition and the benefits of physical fitness once more. Many other

sports have now adopted the Masters concept.

4. The prime force responsible for the acceptance and encouragement of the rights of women to participate equally in long distance events. The only association to establish a national program of long distance events for women.

5. Because of the gross inaccuracies of long distance road racing courses in 1957 the RRCA set up the criteria and standards for accurate course measurement. Today, all courses for local and national championships must be certified by RRCA standards. All U.S. Olympic marathon candidates qualify for the trials on RRCA certified courses.

6. Through the RRCA long distance and road running as a sport gained its rightful recognition and status separate and distinct from the conglomerate sport of Track and Field in both its operation and philosophy. The success of the RRCA program is evidence by the vast increase in competitive opportunities for the long distance runner. These in turn have finally established a level of excellence among U.S. distance runners which led to the outstanding performances of the 1972 U.S. Olympic marathon team.

These accomplishments of the atheltic directed and controlled Road Runners Club of America and its progressive influence on all aspects of long distance running prove that athletes can promote and regulate their own sport.

The Amateur Athletic Act of 1973 will remove many of the restrictions which presently hinder athletes who want more control over their own sports, and will bring democracy to the sporting arena. We commend the fine efforts of the Senate and House of Representatives for continuing under much duress their goals to protect the amateur athletes of the United States. The Road Runners Club of America urges each member of the Senate and the House to vote for adoption of the Amateur Athletic Act of 1973.

$10,536,600 IN PRECIOUS FOREIGN EXCHANGE IS THE COST OF EACH DAY'S DELAY OF THE ALASKA PIPELINE.

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. HOSMER. Mr. Speaker, I direct attention to the following letter which should reach each Member's office Friday morning:

JULY 20, 1973.

DEAR COLLEAGUE:

Yesterday at an Interior Committee meeting I estimated off-hand that each day's delay getting Alaskan oil down to the lower 48 states costs the United States about $5.5 million in foreign exchange.

This is because Mideast oil must be purchased if the domestic product is unavailable.

Actually the monetary drain on U.S. resources calculates out at almost twice my quick estimate.

Based on 2 million barrels per day capacity of the proposed Alaskan or Canadian pipelines, it is as follows:

2 mil. bbl Mideast oil at $2.95	$5,900,000
Transportation: (97% by foreign flag vessels) at $2.39	4,636,600
Daily total	10,536,600
Annual total	3,848,859,000

This dramatically demonstrates the economic damage being done to the country by wrangling over a pipeline route.

Let's get going——

CRAIG HOSMER,
Member of Congress.

A STEP IN THE RIGHT DIRECTION

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. SYMMS. Mr. Speaker, yesterday, President Nixon took a small step in the right direction. He declared that it will be the policy of this administration to let the economic system work. I would have preferred a total abolishment of controls and I am still dedicated to that end. The economic system, after all, is the direct expression of the wishes of the people. The economy holds a national election every day. The people of the nation vote with their dollars each day on what they want. They decide between choices, very difficult choices.

This system acts quickly to express the will of the people—through the sum total of all of their decisions each day as they vote with their dollars.

There are some people, many of them in Washington, D.C., who think that a few men sitting in a room can make better economic decisions than the combined judgment of the people. These controllers want strict artificial economic controls. And they want to do the controlling.

The folly of that has been shown in agriculture over the last few weeks. The temporary price freeze of June 12 was a short-run move, based on political expedience not economic commonsense. That freeze on food prices did not put more food in the store. We were headed for shortages. The freeze made some kinds of production in the food chain unprofitable.

We saw on television that the poultry industry was drowning baby chicks because it was unprofitable to raise them.

Hog farmers were sending pregnant sows and heavy gilts—the mothers of their breeding herds—to market.

Why? Because of the dim prospect for meeting their costs if they carried the young animals through to the final marketing. They were in a squeeze.

Farmers respond to price, the same as in any other business.

Farmers are not enthusiastic about a losing proposition. They do not willingly increase production when the prospects for making money at it are poor.

Consumers have learned that you cannot get more by paying less. It does not work in food, just as it does not work elsewhere in the economy.

With no controls the economic system will work. The food production machinery, from farm to retail food store, will turn faster.

Farmers have demonstrated through the years that they are the most efficient of any major segment of our national economy. Output per man hour in agriculture has been increasing twice as fast as in industry. That is why we get our food cheaper than anywhere else in the world in terms of the percent of take-home pay spent for food. That is why our food exports are competitive with the rest of the world. Industry and labor could take a page from the book of agriculture.

The actions taken yesterday in phase 4 appear to be an improvement over phase 3½ and hopefully will not be as destructive to agriculture.

Let us push for phase 5 to be a complete return to the market system and let the individual make the decisions—not the bureaucrats.

PIPELINE DECEIT

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. WALDIE. Mr. Speaker, several questions remain to be answered in our debate over approval of the trans-Alaska pipeline. As such, I call particular attention to some rather pertinent views raised by the New York Times in an editorial of July 18. I am submitting the editorial at this time:

DEBACLE IN THE SENATE

In a shocking display of irresponsibility, the Senate has voted to give the oil industry an exemption from the National Environmental Policy Act with regard to the Alaskan pipeline. Since it is always difficult to combat the oil industry on Capitol Hill because it contributes to so many political campaigns and has so many strategically placed allies, the environmental forces can take some comfort from the hair's-breadth closeness of the key vote, a tie decided in the wrong way by Vice President Agnew. But it is cold comfort.

Fearing what the courts might do if they looked behind the inadequate environmental impact statement issued in behalf of the pipeline by Secretary of the Interior Morton, the oil industry fought hard for the amendment successfully offered by Senator Gravel of Alaska to forbid any judicial review in this instance.

One of the important requirements of the Environmental Policy Act is that a Government agency prove that it has chosen a course of action that does the least environmental damage. In the case of the pipeline, the choice is between a route across Alaska leading to transshipment of the oil in huge tankers to the West Coast or across Canada to the Middle West. The Administration has consistently disparaged the Canadian alternative; and the Canadian Government itself has apparently not been enthusiastically for it.

However, Senator Mondale of Minnesota yesterday released a collection of diplomatic documents which on their face strongly suggest that the State Department has deliberately misled Congress and misrepresented the Canadian Government's position on a pipeline in that country. Canada may turn out to be more receptive to such a pipeline and more open-minded about its terms than the State Department had indicated. The Senate Foreign Relations Committee now has the clear duty to determine whether the Administration has indeed engaged in deliberate deceit.

On the vote itself, the Senators from New York and New Jersey all voted against the amendment as did Senator Ribicoff of Connecticut. Conservation-minded voters, however, are likely to take note of the fact that Senators Weicker of Connecticut, Brooke of Massachusetts, and Schweiker and Scott of Pennsylvania voted in favor of undermining the National Environmental Policy Act. This is a vote that must not be forgotten.

The scene of the battle now shifts to the House of Representatives. A House Interior subcommittee yesterday approved a bill by Representative Melcher of Montana that has substantially the same language as the Gravel amendment. A vote in the full House Interior Committee is expected today.

The fate of Alaska's fragile Arctic environment is of enormous ecological significance to the entire North American continent. Equally important is preserving the integrity of the Environmental Policy Act and its judicial safeguards. As Senator Jackson of Washington, a friend of the Alaskan route and also a long-standing conservationist, said in explaining his opposition to the Gravel amendment: "It sets a dangerous precedent by attempting to exempt a project which all parties admit represents a potential threat to the environment from the requirements of environmental law."

When the public is fully aware of the large implications of this legislation, the public interest may yet speak with a louder voice than the honeyed whispers and raucous shouts of the oil industry which have prevailed up to now. If so, the House of Representatives may yet redeem the Senate's folly. The Administration clearly will not.

PUBLIC BROADCASTING SERVICE AND WATERGATE

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. OWENS. Mr. Speaker, the Watergate hearings have had an interesting effect upon the public and upon the Public Broadcasting Service, which has broadcast, in full, the Watergate hearings. The handling of the broadcasts by the PBS has resulted in many individuals making some substantial financial contributions to their stations, including station KUED, Channel 7, at the University of Utah in Salt Lake City. I think Members might be interested in reading a news article from the Salt Lake City Desret News on June 29 to that effect:

PBS TV Stations Aided by Hearings

Although the educational stations have had to abandon their regular schedules to telecast Watergate hearings in prime time, they are being helped by this action.

This is the feeling of Dr. Rex Campbell, general manager of KUED (Ch. 7) at the University of Utah. He points out that letters have complimented the channel for telecasting the hearings "and nearly every letter contains a check to help us with operations."

He says the station has received a couple of thousand dollars in donations since the hearings started, and these would not have been contributed if PBS had not called attention to the need for funds. Educational stations and the network are operated on government appropriations, which are being slashed: Foundations, state legislatures and contributions.

Dr. Campbell explained that most of the programs KUED is unable to telecast because of the Watergate tapings are carried on KBYU (Ch. 11.) He says some will be telecast Saturday on Ch. 7. He also said the hearings "give us an audience we would not have had before this. We might keep many of them."—Howard Pearson.

THE BOMBING OF CAMBODIA

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. McCLOSKEY. Mr. Speaker, like many other Americans, I have felt a deep sense of dismay over the continuing bombing of Cambodia at a time when, with the August 15 deadline a matter of law, such bombing can only kill people and cannot affect the outcome of either the military conflict or any bona fide diplomatic negotiations.

Many of those asked to carry out this almost inexplicable policy apparently share this dismay.

I recently received a letter from an Air Force captain who has spent 1,400 hours as a B-52 copilot in missions over Southeast Asia. His letter expresses a sense of horror over what we, the world's most powerful nation are doing to one of the smaller nations of the world. His words justify the careful attention of all of us who also seek to serve a nation for which we would hope to once again feel pride and honor.

June 19, 1973.

Hon. Paul N. McCloskey,
U.S. House of Representatives,
Washington, D.C.

Dear Sir: I have chosen to send this letter to you because of your past record as a critic of our involvement in Southeast Asia. The intent of this letter is that it receive the widest possible circulation in the House of Representatives or that it be read during a session of the House, if that is possible and useful.

I am a B-52 co-pilot currently on temporary duty with the 307th strategic wing at Utapao Royal Thai Naval Base. I was graduated from the Air Force Academy in 1969, and at that time I was very proud of being an American and an Air Force officer. Until March 1972, the end of my first Southeast Asia tour in the B-52, I had every intention of making the Air Force a career. Last month, I submitted a letter of resignation to be effective in August 1974, when my current commitment expires.

The reason I plan to resign is my total disillusionment with the current United States foreign policy. Today our military policy appears to be conducted exclusively by President Nixon with total disregard of the Congress and the people. Only Congress can now change the current reckless and immoral policy which is being conducted by the bombing of Cambodia.

During the course of the Vietnam war, prior to March 1972, an average of thirty-three B-52 sorties were flown per day covering eleven targets. At present, during this period of "peace with honor," we are flying thirty-nine sorties per day covering twenty targets. I read today in the June 18, "Pacific Stars and Stripes," that President Nixon has stated that "this year, for the first time in a dozen years, America will be at peace on Independence Day." Another article in the same paper stated that in May 1973, 53,761 tons of bombs were dropped on Cambodia. Somehow my definition of peace and that of Mr. Nixon are quite different.

Americans appear to have been convinced that "peace" means that Asians are no longer killing Americans, but that Americans can continue to kill Asians. Intelligence reports indicate that among other lucrative targets hit by the B-52's was a Cambodian wedding attended by a small group of insurgents and civilians. The number of bombs we are releasing in and around population centers in Cambodia would suggest that we are killing hundreds of civilians as well as creating more orphans and refugees. Contrary to the accepted Christian belief in the United States these dark skinned, mostly Buddhist Cambodians we are killing are people, human beings, just like you and I.

Adding to the senselessness of U.S. policy in Cambodia is a report from the Defense Intelligence Agency that the Lon Nol government is expected to fall by the end of the year even with our continued bombing. This added to the reports that most of the insurgents are non-communists and that the Khmer Rouge grew from three thousand armed members in 1970 to fifty thousand today suggests that United States involvement in this war is all the more ridiculous.

Let me conclude by stating that today while writing this letter I made a decision that I could no longer participate in this immoral war and at 1400 hours I went to my squadron commander to inform him that I was refusing to fly any further missions over Cambodia. Thus far, I do not know what action the Air Force will take against me for this position. What I am asking is that the Members of Congress see the basic moral issue involved and immediately legislate an end to the bombing.

Sincerely,

Donald E. Dawson,
Captain, USAF.

WORK IN AMERICA

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. HARRINGTON. Mr. Speaker, the quality of the American work environment has received so little attention that interest at all levels—Government, business, labor, and the press—has only recently surfaced. Perhaps the best known study of this problem is the report of the special task force in the Department of Health, Education, and Welfare, which was submitted to the Secretary last December.

"Work in America" has begun the discussion of this issue that is so sorely needed.

For the information of my colleagues, I wish to insert in the Record a cogent analysis of the report by Edgar Z. Friedenberg which appeared in the recent issue of Harpers:

The Hostile Delusions of the Working Class

(By Edgar Z. Friedenberg)

"Work in America," the December 1972 Report of a Special Task Force to the Secretary of Health, Education, and Welfare, is something of a landmark among American public documents.[1] It is a bold study of unusual scope and broadly humane principle; then HEW Secretary Elliot Richardson's willingness to sponsor it may have been a factor in the President's decision to transfer him to the Department of Defense, a post where his humane tendencies would have less scope. Mr. Richardson includes in his foreword a brief quotation from an address by Mr. Nixon asserting that ". . . the most important part of the quality of life is the quality of work, and the new need for job satisfaction is the key to the quality of work." Richardson comments: "This report, I believe, confirms both the President's and my observations." His propitiatory gesture does not suffice to conceal, however, the essential contradictions between the position of the report and that of President Nixon on such fundamental issues as the value of generous welfare programs and the pervalence among Americans of what has come to be called—infelicitously and inaccurately—the work ethic.

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[1] By James O'Toole and others. M.I.T. Press, cloth, $10; paper, $2.95.

The major findings of the report are probably already familiar to many readers; its more publicized conclusions are that work is absolutely central to identity in America; who you are, in other words, depends on how you earn your living. Many—perhaps most—Americans, however, feel alienated and constrained by their work, which they cannot adapt to their interests, needs, or even the hourly rhythms of their lives. Moreover, although work satisfaction is clearly related to job status, alienation is now so widespread that "one finds evidence of increasing dissatisfaction with jobs even among such traditionally privileged groups as the nation's 4½ million middle managers." Women, says the report, are trebly disadvantaged; by exclusion from the work force, by discrimination in wages and status once they are admitted to it and by society's refusal to define the duties and responsibilities of the housewife as work at all, which, in our society, means that women are simply taken less seriously than men.

All of this is of prime social importance, though none of it is startling. The conclusion that most readers probably will find startling is that "satisfaction with work appears to be the best predictor of longevity—better than known medical or genetic factors—and various aspects of work account for much, if not most, of the factors associated with heart disease." If this is true—and the evidence seems quite conclusive—then American treatment of the aging amounts to geronticide, with retirement constituting the *coup de mauvaise grâce*. The task force emphasizes especially the irony of maintaining enormously costly programs of medical research designed to combat the terminal diseases of the aged, while the indignities and the frustrations that predispose them to these fatal disorders continue to be heaped upon them by a society that remains unwilling or unable to assess the human costs of economic productivity.

"*Work in America*" is not just a research report, however, and the task force makes very concrete suggestions for remedying the misfortunes and abuses it reports. The most immediately practical of these have to do with reorganizing the work process itself so as to provide jobholders with a sense of greater flexibility and autonomy. Thirty-four "Case Studies in the Humanization of Work" by industries in the United States and Europe are described, and all involve some measure of decentralization of the work process, usually through small, mobile work teams that set their own pace, though not their own overall tasks. Most of these experiments have resulted in considerable increases in productivity as well as job satisfaction; indeed, the task force sees this rise in productivity as a built-in trade-off mitigating the otherwise inflationary effects of the full employment and generous welfare programs it advocates.

The task force makes, I believe, a very strong case for its recommendation that work be humanized; and no rebuttal seems to me either possible or desirable. It does, however, leave out of account certain implications, of both its data and its arguments, for its purposes quite justifiably. Nearly all the thirty-four case studies cited are of relatively small experimental units of much larger organizations that continue otherwise to follow conventional patterns of work organization. There are exceptions: all 400 employees of the American Velvet Company "plan and organize [their] own work and have a profit-sharing plan," thus clothing the iron hand of economic necessity in a most charming glove. And some of the projects of large organizations are quite large in scale themselves: 19,500 factory floor workers at Imperial Chemical Industries and 6,000 at Monsanto Textiles Company participate in similar projects. Nevertheless, they remain the industrial equivalent of early greenbelt experiments in town planning; they were satisfactory in themselves, and the resulting communities remain viable and in many ways superior as places to live. But they did not provide much useful guidance as precedents for solving the complex problems of full-scale urban redesign.

One small bit of information in an earlier part of the report suggests a possible limitation on procedures for humanizing work. The introduction includes a table of "Percentage in Occupational Groups Who Would Choose Similar Work Again." The top-ranking profession for job satisfaction in this list, rather to my astonishment—especially for 1972 data—is that of "urban university professors," 93 percent of whom, it is said, would choose the same profession again. Now, university professors have traditionally enjoyed precisely the kind of working arrangement the task force advocates for the whole of industry, and this does, apparently result in a high level of job satisfaction. The small group is, of course, the academic department, which does possess a great deal of autonomy in designating its own leadership, dividing up its work load, and defining the standards by which its performance is to be judged—usually so ambiguously as to make such assessments impractical, which contribute substantially to our job security. University professors, moreover, have come to define this situation as true autonomy. It is only four years since the chapter of the American Association of University Professors at the university where I was then teaching haughtily declined to participate in a faculty-wide election to designate a bargaining agent for university employees on the ground that "the faculty cannot *represent* the university; it *is* the university."

The AAUP wouldn't talk that kind of nonsense today, I am sure; but the point is that it was nonsense then and always had been, even though many of us believed it, and the belief helped to keep us contented as we nominated on our grants. Yet, as Michael Miles so brilliantly demonstrated two years ago in *The Radical Probe*, university administrations, acting in the interests of their governing boards, control us by exactly the same devices that management uses to control the small, quasi-autonomous work groups recommended in the report. The university administration controls the allocation of funding and can cause a department to wither away if it withholds funds; it effectively controls appointments to departments—for although it cannot usually risk appointing persons unacceptable to a department, it can refuse to appoint or reappoint the members the department desires. Moreover, it negotiates for the department with external agencies; no member of the department can set up a research program with outside funding unless he has the approval of the central grants officer.

The result has kept morale high, but it has also rendered faculty even more docile than they might have been. For the belief in our autonomy made it terribly easy for us to conceal from ourselves that we were, in fact, organization men working uncritically for the Defense Department as surely as if we had been employed by Litton Industries—the dynamic consortium that now includes the United States government. This morale-maintaining function, moreover, is backfiring on us now that times are hard in academe. Academic departments must contain within themselves the hostilities and anxieties that arise when budgets are cut and staff is reduced—a fairly general condition now—and this makes them hellish. A straight, authoritarian chain of command is much easier to fight than a group of colleagues. This is not to suggest that efforts to humanize work are not desirable; but, more fundamentally, being human is much more satisfying in times of prosperity than of adversity, when it may embrace some very nasty conduct indeed.

The task force would, I am sure, agree with this proposition and would point out that the measures it was recommending were intended precisely to reduce the adversity to which employees are now subjected and provide, instead, a substantially increased measure of dignity and security, from which greatly increased productivity might also, as an extra bonus, be expected to flow. Nobody can really argue against that; though anyone who has seen the movie *Miracle on 34th Street* may recall a certain queasiness at the turn of the plot that required him to believe that behaving more humanely was not only worthwhile for its own sake but also vastly more profitable in dollars and cents. This may well be true; but if it is, one would think that a society that has been obsessed with profit for so long would have discovered it long ago. Yet *Work in America* does contain the seeds of an explanation of this apparent paradox, though it never develops that explanation. One need not go much beyond the report's evidence to construct a plausible hypothesis as to why men continue to choose failure, frustration, and death instead of organizing their lives in such a way as to make self-fulfillment possible.

The stumbling block is, quite clearly, the indignation and even rage that are aroused in the breasts of those whose lives have been suffused by and subordinated to the work ethic at the prospect that anybody else may now be given a better chance in life than they had. This grim political reality of *ressentiment* is visible enough in the pages of *Work in America*, though it is never stated as a general proposition. It is there, though, in the task force's discussion of the hostile delusions the American people cherish and act on about shiftless, black welfare bums—delusions that have less basis in reality than the monsters of science fiction, and probably very similar psychic sources. It is also there in this account:

"The first major experiment in Norway [was] carried out in the metal-working industry, a critical but unproductive sector of the Norwegian economy. A dilapidated wire-drawing plant was chosen for the experiment on the ground that if improvements could be realized there, they could be achieved anywhere. But productivity increased so much due to job redesign that the experiment was suspended: the unskilled workers in the experiment had begun to take home pay packets in excess of the most skilled workers in the firm, thus engendering bitterness."

And it is there in an anecdote about a foreman who exploded when he found a team of young cleaning workers reading or sleeping in the early-morning hours, after having finished their stint impeccably in five hours rather than eight, and of the paternal union steward who straightened them out: "'The company has the right to expect eight hours work for eight hours pay. . . . They're spacing it out nicely now and everyone's happy,' he said, satisfied to have settled the grievance within the understood rules." It seems evident that in this case it is the older workers and their values, rather than management—which had no conceivable economic stake in this hassle—who are the source of the problem.

Throughout the report, it appears to me, the task force authors are reluctant to explore the role of working class values and institutions in maintaining the alienation they deplore. They do not utterly neglect it: they note, as the fifth of five reasons for the reluctance of employers to move swiftly in the redesign of jobs, that "in some industries there is opposition from trade unions to the notion of job redesign," and follow this with a mildly critical assessment of the role of the trade unions. But that section begins with the statement: "Clearly, the prime responsibility for improving the quality of working life rests with employers." Indeed, I am struck by the failure of the task force to elucidate at any point the prime political role of working-class *ressentiment* in making such improvement a heroic task. Even when the report reflects some awareness of this obstacle, it appears to envision the wrong task. Altering the American mass attitudes that make humanization of work impossible is going to be less like cutting the Gordian knot than cleaning the Augean stables.

The reticence of the task force seems to me strange even if one attributes it to a sympathy amounting to bias for the difficulties of the working class. For the authors' own arguments make it very clear that *ressentiment* cannot, in any case, be something to blame people for; it is part and parcel of the whole problem of alienation that is the core of the task force's concern. For this very reason, it is a weakness in the report to underplay it. *Ressentiment* has become the fundamental fact of political life in mass industrial society. It is certainly not a peculiarly working-class attribute; it is rife among all people who have been obliged to abandon or falsify their own needs and aims in order to fill roles assigned to them by others more powerful than they. This is to some degree a universal experience; but it does not affect all members of society equally and develops most strongly among those who have invested more of themselves in becoming somebody else's tool. It is probably strongest among such people as salesmen, schoolteachers, policemen, clerks, and newspaper reporters—those who can neither go through their work in a state of mechanical detachment nor allow themselves to be fully human as they perform it. And, perfectly clearly, it is the meat on which our President feeds, that he is grown so great.

But it is among the working class that *ressentiment* is most fully institutionalized and expressed in conventional attitudes and political behavior. Racism in America is not so much an expression of hostility to blacks as of resentment that they should now be receiving, however belatedly, compensatory treatment that whites feel was never given them. Earlier on, Orientals were the target of equally virulent hostility as Herbert Hill, National Labor Director of the NAACP, shows in his recent article, "Anti-Oriental Agitation and the Rise of Working-Class Racism," in the January/February issue of *Society*. Their image was a little different; Orientals were seen not as welfare bums—there being no welfare system to sustain them—but as sly subhumans who traduced the white workingman by accepting wages he could not afford to work for. The issue was powerful enough to fuel the rise of Samuel Gompers—himself a poor immigrant—to the position of founder and president of the AFL and sacred symbol of the American labor movement.

It is hard to assess the actual political force of *ressentiment* in the United States. Campaigning politicians assume that it is paramount, and the social groups among which it is strongest are traditionally regarded as defenders of liberty, in deference to the democratic myth and in the teeth of the evidence. Consequently, no clean test is ever made. The McGovern candidacy was obviously swamped by *ressentiment:* most American voters are just too costive to accept a candidate they believed to be soft on pot and amnesty. But more qualified voters failed to vote than in any previous election; and no major candidate is now likely to take the risk of seeing who would vote for him if he ran on a platform of pervasive liberation and wrote off in advance the support of Daleys and Meanys, or even of the tabloid dailies and blue-collar meanies. The result would polarize the country, and this is assumed to be a terrible thing. To refuse the risk, however, is to accept in advance the dominance of values that the working class itself may be about ready to outgrow. The policies proposed in *Work in America* would, if put into effect, help us all to outgrow them; meanwhile, the attitudes and values prevalent among the work force continue to constitute a massive barrier to the humanization of work, and one to which the authors of the report have given much less emphasis than is its due.

THE GOOD EARTH AND THE TECHNOLOGICAL FUTURE

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. TEAGUE of Texas. Mr. Speaker, recently Mr. Willard F. Rockwell, Jr., chairman of the board and chief executive officer of Rockwell International, gave a penetrating and significant talk before the International Purchasing Conference in New York City. Because of the timeliness and significance of these remarks I am including them in the RECORD for the benefit of my colleagues and the general public:

The Good Earth and the Technological Future

(By Willard F. Rockwell, Jr.)

Ladies and gentlemen, good morning. As much as any group in this country, purchasing executives are aware of the abundance and the shortage of our natural resources.

Today I want to talk about the abundance and that shortage and about the pivotal role of technological development in the great decisions to be made throughout the balance of this century.

If I may borrow a descriptive word from the environmentalists, this spaceship Earth is confronted by very real threats that it may soon be running out of space, running out of energy, running out of air, or, as space technologists would put it, exhausting our life support system.

No one needs to remind us our passenger list is increasing daily—we are more than three billion, seven hundred thousand people at the latest count. The passengers are eating more of our supplies, polluting more, using more energy, and rapidly absorbing space.

The problems we have are global, and they're going to require solutions of comparable proportions.

Those solutions must start now, from us who are aboard now, from the young people we are training to take over. We can't wait for those still unborn to turn over to them the guidance of this planet deep into the 21st Century.

We cannot escape the responsibility during the 27 years remaining in this century of either providing the solutions or making the task easier for those who will come behind us.

Some people are convinced that we are already lost. They believe our present course, with an overpopulated, underfed earth, depleted of finite natural resources within the foreseeable future, is catastrophic.

These are the opinions of some serious, dedicated physical and social scientists who have studied this problem conscientiously. They have given, they believe, every possible consideration to the pluses in the picture and have reached the conclusion that earth has reached its limits of growth.

They have convincing reasoning for their arguments, and their computerized projections stand up under reasonable scrutiny.

You may recall The Club of Rome's sponsorship of a study involving 16 scientists under Dr. Dennis Meadows. Their study entitled "The Limits to Growth" is the product of the greatest technological age this world has ever known. I do not deprecate the team's thoughtful studies and their dedicated concern for this globe of ours.

They utilized in their study a world model, based on computer technology that was not in existence 25 years ago.

Let me repeat that: computer technology and system dynamic modeling techniques were not in existence 25 years ago. If someone had tried to undertake the same kind of world study in 1947, it would have been impossible because there simply was not enough mathematical power available in the world.

The scientists took every precaution, in their viewpoint, to retain credibility.

They have been generous in their extrapolations into the 21st Century, allowing for wide discrepancies in their judgments, for example, of new natural resources being discovered. But with that generous gesture, they have simply shifted their prediction of final catastrophe deeper into the next century.

But with that acknowledgment to the vigor of their study, I contend they haven't given full credit to one key element, the technical ingenuity of this and succeeding generations and the exponential growth of that ingenuity.

I share the view of the educator Peter Drucker that the future impact of new technology is almost always beyond anybody's imagination.

I share the opinion of the scientist John Maddox who said the growth of the world's population is not nearly as inexorable as the environmentalists say.

We are *not* going to sink under the weight of an ever-doubling population. It's presumptuous to believe that the United States, as Newsweek magazine states, may attain population equilibrium in the next 75 years and deny that expectation to the nations of Europe, Asia, Africa, and South America.

I never believed that Lake Erie was dead. It wasn't and it isn't.

I never believed that famine was going to overtake the world in 1970, and it didn't.

I'm an engineer. And I want to stick to that discipline. However, I think this country and this world recently have been confused by sociologists who suddenly speak with more authority on the mechanics of pollution control than do engineers and scientists.

Yet engineers and scientists, whether they like it or not, may be involved in some vast world-wide sociological changes.

It is *they* who will provide the key which will open the door through which the world, if it so wishes, and *only* if it wishes, enters a new era.

We can't permit anything so grave as the survival of the human race to be based on hopeful assumptions. So I say with certitude that technological developments *will* unlock the doors to a future for the world that will be as bountiful as the past 200 years.

Examples of technological innovations that have wrought massive long-range social change are numerous. Historically, the compass and the printing press transformed the entire structure of western European society and led it out of the dark corridors of the Middle Ages to a new geographic and reasoning world.

In our times we've seen, not only the computer, but nuclear energy, television, and now working satellites orbiting the earth. All of them are changing living and thinking patterns throughout the world.

I can speak with assurance about recent technological development. To use the vernacular, I've been where it's at.

In our company with its 10,000 scientific specialists, we have more than 2,000 scientists and engineers who are working full time on research-and-development activities alone. Multiply that scores of times over, and you begin to get just a glimpse of the unceasing world-wide effort to advance our knowledge.

And this has been going on for generations, although it is true in the past 25 years we have made progress that dwarfed much that had gone before. Our scientific growth has been equally as exponential as our usage of resources, our population growth, and our consumption of power.

The point I want to make is that even the most knowledgeable person cannot fully grasp the magnitude of the tecnological activity that constantly is going throughout most of the world.

But you can understand now why someone like the writer Henry James could state when he found himself at the Great Exposition of 1900, his (quote) "historical neck was broken by the sudden eruption of forces entirely new." (End quote.)

At this very moment, if we could gather and catalogue with computer speed the efforts of men in every corner of the world to advance our welfare, we might react with the same dramatic words of Henry James. We too would have our historical necks broken by the sudden eruption of forces entirely new.

The scientists I mentioned, who studied the future of the world and predicted disaster, made a mistake. But it's an understandable mistake and one that has been made before by men of repute and integrity.

Back in 1928 Robert Millikin, one of our most eminent scientists and a Nobel Prize winner, declared flatly that the energy available to man through disintegration of radioactive or any other atoms might be sufficient to keep a few corner peanut and popcorn stands for some years to come, but that was all.

It was only four years later the neutron was discovered, and the nuclear energy power gates were opened wide to the world.

So mistakes can be made in undervaluing the role of technological possibilities.

But by the same token, mistakes can be made in expecting too much too soon.

Technological innovation is only one factor, though an important one, among others that are political, economic, environmental, religious, and intellectual in nature. A good example of that interplay is occurring at this very moment in the area of air, water, and solid waste pollution control.

We have the technical capability to achieve every one of our environmental goals. What we lack is the political unity of standards, realistic development time periods, the nation-wide acceptance of the staggering cost, and global action by all nations.

That's why I said earlier that technology can open doors, but the people of the world must exercise the will and determination to walk through them.

I want to emphasize that in the search for the technological developments that will assure survival, we expect evolution, new applications of technology; but we don't expect miracles.

We can't expect to uncover any new or different physical laws.

We can't expect to uncover any new or different chemical elements.

But we logically can expect new and startling applications of existing knowledge.

How long will it take?

Electricity didn't come into our homes overnight.

Two hundred years ago Ben Franklin didn't realize he had electricity running down that kite line.

Faraday, in 1831, knew what he had; but it took 50 years from his laboratory experiments to the first central station power generators.

Goddard had a thousand years of rocketry behind him before he demonstrated a successful flight of a liquid-propellant rocket engine in 1926. And then another 43 years of engine development were needed before Neil Armstrong stood on the moon.

The closest we've come to a figurative overnight surprise in recent years was the discovery in 1939 of the conditions that accompanied the nuclear fission process. It was only 18 years later that we had our first commercial use of electrical power generated by nuclear energy.

It's an inescapable fact that there is a finite limit to the world's natural resources. But just how many tons of coal, iron, and lead exist is a matter of debate. And just how long those resources will last, even when pin-pointed, is another matter for legitimate debate.

The scientific team I referred to earlier went to commendable lengths to spell out in exact figures the amounts they believed available and the life span in years they believed remained before those supplies were exhausted.

But even as they prepared their thesis, this nation uncovered what has the potential of being the largest single natural resource project in the world, the discovery of a trillion-and-a-half tons of sub-bituminous coal in Montana, the Dakotas, and Utah.

It's in an area that has been explored for a hundred years by thousands of searchers seeking wealth from the ground. Today we have tireless satellite eyes scanning the world with the same question but with far greater determination and with tireless energy.

Since they have published their thesis, this nation has launched the Earth Resources Technology satellite which is uncovering natural resource information on a scale so vast that it's difficult to grasp. That one satellite alone may hopelessly outdate any previously compiled assessment of the world's natural resources.

But no matter how large these resources may become, we cannot escape the fact that they are finite.

It behooves us to use them well, to recycle whenever possible so that the supply we do have will last longer.

Suppose for the moment we were to accept the exponential tables of the science team and agree that by today's standards and with only the help of today's technology, we can see the time when the limit of arable land will be reached, when we can see the exhaustion of our aluminum in 55 years or copper in 48 years and so on.

What would be the immediate role then of technological development?

I view that role as one of buying us time until we can reach an optimum solution or, in a lesser degree, to help us achieve an equilibrium condition where we'll develop as high a standard of living as possible for the *entire* world.

But with so many problems and with the sand sifting through the hour glass, where do we start?

The starting point and the key element to the entire growth problem is the improvement in the availability and utilization of our energy sources.

This is the most important single resource available to man. If one has enough energy, it's possible to deal with the problems of food production, of air, water, and solid waste pollution.

With unlimited, economical energy, it's possible to change salt water to fresh in quantities so vast that a desert becomes a potential garden.

With unlimited, economical energy the task of the scientists, engineers, and sociologists in a score of other areas will be made immeasurably easier in the decades to come.

With unlimited, economical energy, food grows, the waters clear, the air becomes wholesome, and the disposal of solid waste less difficult.

Even recycling, which shows promise of being a significant factor in resource stretch-out, depends on adequate energy.

That's why we strongly support national action to solve the present energy crisis.

We've been drifting. No one has listened to the experts. Everyone has listened to the non-experts. As a result, we have on our hands a self-imposed crisis.

This country pioneered in the development of nuclear energy. Yet only recently construction permits for nuclear plants were halted for about a year because of the opposition of environmentalists. Fortunately, we're underway again.

The immediate threat is not life or death for the nation. The threat is to our standard of living. How many brownouts and dimouts are we willing to accept as part of our way of life? Are we ready to give up air conditioning and elevators as part of existence? To accept gasoline rationing?

I don't think so. Therefore, a fight to maintain a high standard of living becomes a very legitimate part of the challenge facing technology.

The same is true of the fuel crisis. Here again, it's not a matter of life or death for this nation that we import crude petroleum or refined fuels. Overnight we could cut off the 12 percent of imported material, and the sun would still come up in the morning. But that would mean stringent gas rationing, perhaps an outright ban on pleasure traveling; and it might mean the closing of some industries.

I doubt the American people are ready to accept that as the price of self-sufficiency in petroleum. I doubt if they will be ready in 1985 when 30 percent of our total fuel needs may be coming from abroad.

In the 2,000-foot thick oil shale deposits rising from the Colorado River there are 1.8 trillion barrels of oil—six times the 300 billion barrels of crude petroleum in the Mid-East reserves.

President Nixon's recent proposal for a multi-billion-dollar research effort to extract oil and gas from that shale is an excellent demonstration of national determination. If we follow his proposal then the nation will be showing its willingness to walk through one door that technology will open.

There may be literally scores of ways in which we will ultimately solve this energy crisis. Our technology task will be to find the one that will be most beneficial and most economical.

The more trained people we have, the better technological tools we have, the more determination we have to solve our problems, the more likelihood the success curve will turn dramatically upward.

We've made the prior transitions from the Iron Age, to the Steel Age, to the Electric Age, and to the Atomic Age.

Perhaps, with a new national determination, we could make a transition into the hydrogen age; and a new energy age could open for us.

Where is the Robert Millikin who will say that it is impossible?

If science and engineering can move a mountain today, there's no reason why they can't move two mountains tomorrow.

The essential point is that the technology for utilizing a wide variety of energy sources is available. We have the trained people, scientific teams unequalled in any country of the world, who can bridge what seems an unbridegable gap.

Even if we agree that our earth problems have an inexorable exponential growth, I contend that our technological capability to cope with those problems has the same exponential characteristics.

Even if we had remained chained to earth, we could have coped with these problems.

But now our task has been made immeasurably easier, for we have made the transition into space.

In this new realm we have a new opportunity to widen the entire scope of science on earth and the scope of engineering on earth.

The tools are already in space, others are about to be launched, and still others are still in the blueprint stage.

CAPTIVE NATIONS WEEK

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. FASCELL. Mr. Speaker, this week is Captive Nations Week. In 1959 the third week in July was designated in a joint congressional resolution and by a Presidential proclamation so that we as free Americans could express our sympathy for those oppressed peoples in captive nations. Once again I am proud to say that we have always felt, and will always feel, that the cause of the captive nations is a righteous cause, a just and noble cause, and a humane and humanitarian cause.

Next month, on August 21, the Czechoslovakian people and freedom-loving people the world over will commemorate the fifth anniversary of the Soviet Day of Shame. Five years ago the Soviet Union invaded the independent nation of Czechoslovakia and intervened in that nation's rights to determine its own destiny and aspirations. Yet another year has passed and the yoke of oppression continues to squelch the independence of the Czechoslovakian people.

This week, too, we must not forget the plight of the Jews within the Soviet Union who are also prohibited from exercising their basic rights. The same country which continues to violate the independence of another nation also continues to deny its own citizens their freedom.

This is not a week of celebration. Many freedom-loving people throughout the world remain deprived of their most basic human rights. This week, as well as every other week, we must reaffirm our belief that men everywhere must be guaranteed their essential freedom. We must rededicate ourselves to the great task of helping them gain that freedom.

THE ROLE OF TECHNOLOGY AND FEDERAL POLICY

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. HARRINGTON. Mr. Speaker, it seems to me that the time has come for a fundamental reconsideration of the proper role for the Federal Government in the economy as far as social policy is concerned. We have seen many expensive, grandiose ill-defined programs fail over the past few decades. The time has come to develop more modest programs that can succeed.

Such new programs to solve domestic social problems need not be Pollyanna schemes. The Manhattan project, the Marshall plan, and the space program were highly successful. My feeling is that this success derived in large part from the fact that the goals of these programs were very clearly defined—inventing the bomb, reconstructing economies from war damage, and reaching the Moon in 10 years. Similar achievements cannot be expected from large agencies like the Department of Transportation or the Department of Housing and Urban Development which are charged with broad policy responsibility. But they could be expected from relatively small agencies with short lifespans—say 10 years—charged with very specific goals of developing the technology to solve specific problems, and given the manpower, technical expertise, and money necessary to achieve results. Less than 2 percent of the Federal budget is devoted to research and development on civilian programs. It seems to me that perhaps the time has come for the Government to devote greater resources to R. & D. in energy, the environment, transportation, housing, health care delivery, and related areas through the creation of such well-defined agencies charged with solving specific problems that affect the lives of millions of Americans.

An article by Robert F. Mathieson appeared in the New York Times July 15, 1973, entitled "Technology: Road to Economic Progress." I would like to insert that article in the RECORD at this time for the information of my colleagues with regard to this question of the role of the Federal Government and technology in our domestic economy:

[From the New York Times, July 15, 1973]

TECHNOLOGY: ROAD TO ECONOMIC PROGRESS

(By Robert F. Mathieson)

In 1966, Robert Lekachman published "The Age of Keynes." The economist announced the triumph of Lord Keynes's idea—a generation after his death—that government economic policy had finally tamed the "sad cycle of boom and bust."

Unfortunately, as we now know, the economy had to suffer a lot of pain to make up for past excesses. Also, it's not necessary to have a degree in economics to see that supply has not kept up with demand in a number of areas. Some, like food, are short-term imbalances. Others, like energy, are long-term supply problems.

Spurred into action by the boiling price barometer, economists looked into their bag of tools; the best they could come up with was the sledge hammer of tight controls and, in the case of feed grains, rationing. Fine tuning at its best.

In the case of food, the public is learning economics fast. Hold down the price of meat and you smother chicks and slaughter pregnant sows.

It won't be long before the public tells the Government to leave the agricultural market place alone.

Let's come out and say it. The grain deal with the Soviet Union was a very expensive piece of business. At the time it was seen as a step to improve our balance of payments.

Devaluation of the dollar was also supposedly going to be good medicine for the United States economy. It would lower the price of our products in world markets and thus also contribute to improving our trade position.

Experience has taught us that the United States is not immune to bad weather and that a sudden surge in agriculture is not all that good a thing. The energies of Government may be better spent on improving weather forecasting through satellites and analyzing worldwide demand for farm products. Armed with more accurate information our private farm sector has demonstrated that it is well equipped to meet growing domestic and foreign needs.

Devaluation is also a two-sided coin. It does help put downward pressure on export prices. Alone, however, it cannot do the job. Business has to increase its efforts to become foreign-market oriented. It is all too easy to hide behind currency devaluations.

A recession in 1974 cannot offset a dollar that is worth less and less in world markets, or the aftereffects of one-shot trade deals. It can, however, abort the present economic cycle before capital investment goes into operation.

So far, fortunately, monetary and fiscal policies have avoided the damage of an economic overkill. Much like a virus infection, the economic system needs time to bring itself back into balance. New capital spending will not only add capacity and thus reduce cyclical price pressure, but a new plant has the added attribute of giving business the wherewithal to utilize new technology and more efficient production methods and distribution systems.

Energy, however, represents a different problem. The short-term vagaries of nature are less important here than long-term growth trends. Unfortunately, the preoccupation of most economists is still with forecasting the gross national product next year.

In breaking down the components of total demand, economic forecasts will show only more or less consumption, investment and government spending. The one-year focus on controlling the business cycle in terms of the broad aggregate categories of the national income accounts has the economist still thinking in terms of expanding or contracting demand.

The energy problem is seen only as an oil consumption problem. Americans can shift their consumption patterns to conserve more, but the solution is a little more complicated.

The history of human development has traced the evolution of higher levels of energy forms. Shortages in one form or another accelerated the process of developing new ones.

Britain a number of centuries ago cut back the use of timber for other than shipbuilding purposes. Coal became the subtitute and the industrial revolution was born.

In the last 30 years many of us have gone from shoveling coal into the home furnace, to having trucks deliver oil to basement storage tanks, to having natural gas piped in. Why is it so hard to think of solar energy in the next 30 years?

The danger of the present crisis atmosphere surrounding energy is that as with food we are liable to jump at short-run solutions without fully weighing the long-run costs of these solutions.

One example is dependence on energy imports, which, if we run ahead with heavy investment in tankers and harbor facilities, may preclude investment in new domestic energy sources. The costs are not just economic.

One of the major attributes of a market economy is that it emphasizes freedom of choice. To the extent that we are dependent on others for energy we limit our options.

Massive dollar and other foreign reserves built up in other countries become a potential threat. Japan and the European countries have learned to live with imported energy, but it doesn't mean they like it.

The United States does have a choice. And the choice fits in with the whole history of economics and the betterment of man. The question is how can we get more out of the earth's scarce resources? The answer is waste less and find more efficient substitutes.

Oil from the Middle East is the energy source that will have to carry us over for the next few years, if we set our sights on the task, however, we can begin now to accelerate development of indigenous substitutes: coal gasification, oil shale, nuclear energy, geothermal power and eventually solar energy.

The Federal Government will have to provide the leadership.

The Government is already involved in energy policy. At least 50 per cent of the remaining United States oil and gas potential, about 40 per cent of the coal, 50 per cent of the uranium, 80 per cent of the oil shale and 60 per cent of the present geothermal sources are located on Federal lands.

The system of Federal taxes, subsidies, import quotas and price regulations drastically affects the forces of energy supply and demand. Environmental standards affect energy uses. Foreign policy and energy policy are becoming more and more intertwined.

What is most lacking is adequate research support. The accomplishments of this country in technological progress are the envy of the world. It's hard to envision that we will not respond to this challenge.

The very nature of government is to see problems as isolated phenomena and to search for quick solutions. The dynamics that are now taking place go beyond national boundaries and are long run in nature.

Inflation today is not a product of the United States economy but a world problem. The World War II reconstruction period has come to an end and the population boom of the late nineteen-forties and early nineteen-fifties has come to maturity.

New demands are being made on the economic system and an adjustment process is now taking place to meet those demands. These pressures go beyond the business cycle and transcend national boundaries.

Many years ago Nikolai Kondratieff, the Russian economist, identified the presence of long waves in the pattern of economic growth. These waves of 40 or 50 years were found to be more powerful than the shorter business cycle that acted mainly as a brake or accelerator on economic activity.

It seems reasonable to suspect that underneath the current business cycle a sorting out is taking place in the world and a new long-term growth curve is about to be shaped. The United States has a role to play in forming the direction and cohesiveness of this wave. To find and implement its role, it seems obvious that economists and policymakers need to look beyond the present cycle.

Business-cycle economics played a very important role following World War II, when confidence in the future had to be built. The question then was will there be a future and economists concentrated on analyzing demand.

In the second generation the question of how to provide for the future is being asked. Economists will now have to look at the supply side of the equation. This will not only mean more food and more energy but a continuation of technological progress to continue the path of history in extending man's reach for more and more efficient allocation of resources. There is a simple formula that says output is equal to input times efficiency.

The United States is no doubt the richest country in the world in terms of human, capital and land resources. Economics now has a challenge to see how to utilize this wealth more efficiently.

PLANS TO MOVE PROJECT SANGUINE

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. ASPIN. Mr. Speaker, I am calling today upon the new Defense Secretary, Mr. James Schlesinger to reaffirm the Navy's plans to move Project Sanguine from Wisconsin to Texas.

Frankly, Mr. Speaker, I am very concerned that during the game of musical chairs at the Pentagon some change in Project Sanguine's location may have occurred.

As some of my colleagues may know, former Defense Secretary Melvin Laird first ordered Sanguine out of Wisconsin immediately before he left his post as Defense chief. His successor, Elliot Richardson, confirmed Laird's earlier decision in a letter to me. Now I am asking Mr. Schlesinger to once again reconfirm the decision to move Sanguine from Wisconsin to Texas.

One of the reasons I am making this request is the blatantly dishonest information peddled by the Navy during the earlier controversy about Sanguine's location. When I first asked the Navy to move Sanguine from Wisconsin to Texas, the Navy claimed that the Sanguine site would cost 10 to 15 percent more in Texas. At my request, the General Accounting Office—GAO—reviewed the Navy's figures, and, found them to be totally fraudulent. Since the bureaucracy at the Pentagon has been in such disarray and the Navy has been playing fast and loose with its estimate about Sanguine, I am asking the Defense Secretary to reconfirm the decision of the Department of Defense to move Sanguine out of Wisconsin.

My letter to Secretary Schlesinger follows:

JULY 18, 1973.

Hon. JAMES SCHLESINGER,
Secretary of Defense,
The Pentagon,
Washington, D.C.

DEAR MR. SECRETARY: I am writing to you today to reaffirm the Department of Defense's determination to move Project Sanguine from Wisconsin to Texas.

I am very concerned that during recent changes in top management at the Pentagon some change in Project Sanguine's location may have occurred.

As you may know, former Defense Secretary Melvin Laird ordered Sanguine out of Wisconsin immediately before he left his post as Secretary. Secretary Richardson confirmed Secretary Laird's earlier decision in a letter to me. Now I am asking you to once again reconfirm the Pentagon's decision to move Sanguine from Wisconsin to Texas.

Let me thank you in advance for your cooperation in this matter.

Sincerely,

LES ASPIN,
Member of Congress.

A. SIDNEY HERLONG, JR., RETIRES

HON. LOUIS FREY, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. FREY. Mr. Speaker, our former colleague and good friend, A. Sidney Herlong, Jr., has just retired from the Securities and Exchange Commission, terminating almost 40 years of public service.

Sidney Herlong served in this House with distinction for 20 years, as a member of the Post Office and Civil Service Committee, the Agriculture Committee, and, for the last seven terms of his congressional career, as a member of the Ways and Means Committee.

Even before coming to Congress in 1949, he had earned a well-deserved reputation in his home town of Leesburg, Fla., as well as throughout the State of Florida, for his devotion to his constituency.

He had been president of the University of Florida Alumni Association, and following his love of all sports, president of the Florida State Baseball League.

He also served for a short time as postmaster of the Leesburg, Fla., Post Office. Just prior to his election to Congress in 1948, he had served with distinction as Lake County judge for 11 years, and was president of the Florida County Judges Association.

Following his retirement from Congress, President Nixon called upon him once again to serve his country and appointed him to the Securities and Exchange Commission in 1969, to fill an unexpired term.

He was reappointed for a full term in 1971. In accepting Mr. Herlong's resignation from the SEC as of June 30, 1973, the President said:

> You have had a long and distinguished career in public service. As a member of the bar and the judiciary, as a distinguished member of the Congress, and finally, as a Commissioner, you have worked for your country and your fellow citizens in the finest traditions of national service.

I join the President and my colleagues, as well as Sidney's legion of other friends in saluting him for his outstanding record of public service and wishing him health and happiness in his retirement years.

EXPORT ADMINISTRATION BILL A MISTAKE

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. FINDLEY. Mr. Speaker, the export administration bill, H.R. 8547, scheduled for floor consideration Friday is an inappropriate response to the problem of rising food prices. This bill could very well further weaken the dollar abroad and thus contribute to more inflation, not less. It is a grave mistake for Congress even to be considering it.

At the very least, Congress should retain the right to disapprove administration decisions to prohibit or curtail the exportation of U.S. agricultural products, and Congressman SAM GIBBONS and I will offer an amendment to secure that congressional prerogative.

Last year, the United States sold $11 billion worth of agricultural products abroad. At a time when the dollar was exceptionally unstable, our foreign agricultural sales literally kept us afloat economically. Today, when the dollar remains weak, other nations are willing to hold dollars in large part because they need them to buy U.S. agricultural products. Remove the certainty of that by passing this bill and telling the world that we are going to rely upon export controls to meet the problem of rising food costs, and the dollar may well tumble again.

Because of the devaluation of the U.S. dollar, it is now possible for foreign nations to buy more of our foodstuffs than ever before with the same amount of their currencies. However, this bill does nothing at all to restore the stability of the dollar. Nor does it address itself to the issue of increasing U.S. food production which must be at the heart of any effort to curb rising food costs.

For years we have been working to develop markets abroad for American farm products. We have used the certainty of our food supply as a primary tool in negotiations with other nations. This is not the time to do an about-face, especially when it may hurt us as much as those who depend upon American foodstuffs. The export administration bill is unworthy of the American people and the Congress.

I include the following:

TEXT OF AMENDMENT TO H.R. 8547

If the Secretary of Commerce shall prohibit or curtail the exportation of any agricultural commodity pursuant to this section, he shall immediately report such prohibition or curtailment to the Speaker of the House and the President pro tempore of the Senate. If either House of Congress shall by simple resolution disapprove of such prohibition or curtailment, it shall cease with the passage of said resolution.

REASONS FOR THE AMENDMENT

Section 8 of the Constitution specifically provides that "The Congress shall have power . . . to regulate commerce with foreign nations. . . ." This amendment keeps the exercise of the constitutional power a step closer to the Congress and the people.

The Congress is equally capable of making the right judgment upon the necessity of curtailing exports of U.S. agricultural products. The factors to be weighed are essentially political and economic. Involved are questions as to how an embargo will affect our domestic economy and how it will affect our relations with our trading partners. These are the same issues we deal with each year when we pass any appropriation bills which have a fiscal impact or trade bills which affect our trading partners.

Congress has been dealing with these questions for 200 years and should not at this late date completely give up all responsibility in this area. Congress should at least retain the right to vote by the Secretary of Commerce to prohibit or curtail the export of American agricultural products.

The amendment recognizes a distinction between an embargo for national security reasons and one to reduce the inflationary impact of abnormal foreign demand. The former needs to be immediate and unconditional in its impact. The latter is quite different.

The impact of exports on inflation is often subject to wide disagreement among economic experts. For example, whether an embargo on soybeans will curb rising food prices today seems quite questionable. Yet for political reasons the administration has seen fit to limit soybean exports. Congress should have an opportunity to make a judgment as to the necessity and propriety of such export limitations.

What Congressman, whose district has been dealt a disastrous economic blow by the curtailment of agricultural exports, would not want to have the opportunity to initiate positive congressional action to repeal that decision by the Secretary of Commerce?

Remember, American agricultural trade abroad totals more than $11 billion. The impact of an unwise decision by the Secretary of Commerce could be disastrous to American farmers, consumers, and to our balance-of-payments situation.

CRUSADE FOR PRODUCT SAFETY

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. BROYHILL of Virginia. Mr. Speaker, my constituent and longtime friend, Col. G. B. Kidwell, of Arlington, Va., and his crusade of many years for product safety, was the subject of an article printed in the American Logistics Association May–June 1973, issue of its publication the Review. As I believe Colonel Kidwell's safety efforts over the years will be of great interest to all who read this RECORD, I insert the article in full.

CRUSADE FOR PRODUCT SAFETY

(By H. R. Kaplan)

One of the most striking developments of recent years has been the growing public interest in product safety. The dramatic rise of "consumerism" was climaxed in 1972 by the enactment of Federal legislation setting up an independent Consumer Protection Agency. Recently, the legislation was implemented by President Nixon's appointment of a five-member Consumer Product Safety Commission. This development represents a major victory for the average American.

One citizen who has played a prominent part in the drive for safer products is Colonel Gaylord B. Kidwell (USA-Ret.) A member of the American Logistics Association since its founding in 1920 as "The Society of Quartermaster Officers," he is presently Vice President of the Arlington Safety Council of Virginia.

Shortly after retiring from the Army in 1953 after 34 years of service, Colonel Kidwell was caught up in the national concern for the hundreds of young children trapped each year in abandoned refrigerators. The statistics were truly alarming. Between 1953 and 1963, an estimated 150 children aged three to six died from suffocation in abandoned refrigerators. What made the figures even more tragic was that most of these deaths could have been avoided by some simple safety precautions.

For example, six-year-old Almond Ira Blair was found after a 24-hour search at his uncle's house across the street from his home. The boy had been found by police in an old icebox in which he had been apparently trapped while playing. Yet while both manufacturers and the authorities were aware of the hazard, they had been unable to come up with some simple, universally applicable solution to combat it.

Convinced that something had to be done quickly, Colonel Kidwell, a grandfather of five, turned his full attention to the problem. His one-man crusade began with attempts to interest Federal authorities in developing a safety specification covering this hazard. It wasn't long before he found out that the responsibility for product safety was fragmented throughout the Federal establishment. He began to look very much like a frail David taking on the governmental Goliath. But Kidwell persevered, and at last he succeeded in interesting the Federal Safety Council of the Department of Labor in his project. He pointed out that the 1956 Federal regulation requiring manufacturers to equip their refrigerators with doors which could be pushed open from the inside did not go far enough. His objection, later confirmed by government tests, was that very young children, paralyzed by panic, would be unable to take advantage of the push-open feature. One of his own grandchildren, 4-year-old Margaret Grady, took part in the tests. She is now 20, and in her second year at Georgetown University. It has been a long, hard fight.

As Kidwell saw it, the solution was to devise some means of letting air into temporarily or permanently abandoned refrigerators. Something of an inventor, he developed a simple but effective device, consisting of an inexpensive toggle bolt and plate, easily attached to idle refrigerators, and preventing them from closing. The device has since been improved and modified. Kidwell offered his patented invention without charge to the Federal government. He also has four other patents to his credit.

The Colonel's invention has proved so effective that it has been included by the refrigerator industry among several approved solutions to the problem of abandoned units—a sure indication of its success.

Kidwell's enthusiasm and energy attracted to his side some powerful allies, including Congressman Joel T. Broyhill of Virginia, Congressman Kenneth A. Roberts of Alabama, Chairman of the House Subcommittee on Public Health and Safety, as well as such prestigious organizations as the General Federation of Women's Clubs, and the American Academy of Pediatrics. It is beginning to look as though this time the story will have a happy ending. Kidwell, often referred to as "the Ralph Nader of the refrigerator industry," has the satisfaction of having sparked a drive to eliminate needless tragedy. He has also been instrumental in speeding the creation of a Consumer Product Safety Commission with primary jurisdiction over the present crazy-quilt pattern of agency control over product safety. As presently envisaged, the new Commission will serve as a Federal clearing house for all safety legislation. It will provide for centralized management in this area and will include provision for product research and development, testing, and statistical information on which to base safety programming and will offer legislative advice to Congress.

Altogether, the Commission represents a significant safety gain for all consumers of U.S. products. Kidwell's eloquent testimony in July, 1971, before the U.S. Senate's Committee on Commerce was highly influential in bringing the new Commission into being.

One of the most impressive tributes to Kidwell came from Congressman Roberts, who, in a letter to Stephen Ailes, Secretary of the Army, wrote: "Col. Kidwell's voluntary collaboration with the Federal Safety Council in the Department of Labor contributed in the issuance of a new safety device for refrigerators conceived by him and donated to the free use throughout the government and the general public . . . . It was largely through his able device and constructive criticism that this new guide is presently available."

To anyone who thinks that the opportunity for constructive citizenship ends with retirement, Colonel Kidwell's story is an effectual rebuttal.

FEDERAL PAY INCREASES

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. GAYDOS. Mr. Speaker, news dispatches in recent days have brought to the attention of the public the possibility that Congressmen and other Federal officials may be in for another whopping pay increase next year. Speculation has it that the Federal Pay Commission will recommend boosting congressional pay from $42,500 to $50,000. The Commission's initial action in 1968 resulted in the controversial congressional hike from $30,000 to $42,500 and big increases for judges and other Federal officials, including the $100,000 increase which President Nixon accepted for himself.

The Federal Pay Commission, which was appointed by the President in December 1972, had submitted its report and recommendations on pay increases to the President in June of this year. Under existing law the President could then incorporate his recommendations in the budget message in January 1974, which would then become effective without the necessity of a vote by Congress.

It appears that a move is now underway to amend the existing law; S. 1989, which was passed by the Senate on July 9, 1973, would change the procedure so that the Federal Pay Commission would submit to the President its recommendations on pay increases every 2 years rather than every 4 years. In addition, the present law would be amended to require the President to submit his recommendations to Congress not later than August 31 this year. The current Senate bill would also amend the existing law to include pay increases for the Vice President, the Speaker of the House, the President pro tempore of the Senate, and the majority and minority leaders of the House and Senate.

Needless to say I am unimpressed with the proposed amendment as it would mean only that future pay increases for the executive, legislative, and judicial departments would be recommended by the President every 2 years rather than every 4 years. The underlying problem would still exist; namely, that Congress can get a pay increase merely by ignoring the President's recommendations. Why should congressional inactivity be rewarded in such a manner?

I again want to go on record that I am opposed to further congressional pay increases at this time and will do everything I can to stop them. I fought against the $12,500 boost and joined with others in introducing legislation to rescind the increase and abolish the Pay Commission which I still consider to be an artful dodge designed to spare Congressmen the necessity of standing up and being counted on their own financial rewards.

In 1968 I stated that the congressional pay increase of $12,500 could break down both the guidelines set up by President Johnson as well as the other restraints then in effect and trigger an explosion of heavy wage demands throughout the economy which would worsen the Nation's inflation problem. I think experience has dramatically borne this out. The wave of inflation which finally brought on the Nixon wage-and-price controls can be dated from that time.

Not only this, we have already seen the great damage which the failure to deal directly with the question of congressional pay raises has done to the public's respect for and faith in their Government. A credibility gap was opened at that time which has widened since until everyone in public life now finds his motives and actions under suspicion and his profession as "politician" subjected to ridicule and contempt.

ELKIN, N.C., KIWANIS CLUB CELEBRATES 50TH ANNIVERSARY

HON. WILMER MIZELL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. MIZELL. Mr. Speaker, every Member of Congress, indeed, every holder of public office, knows that public service is the most enriching and ennobling pursuit of men.

We have chosen public service as a full-time career, and while it requires of us sizable contributions of time and energy and effort, these investments are profited by the deep sense of satisfaction that comes with seeing the people's needs met, their opportunities expanded, their will obeyed.

But there are those who are equally committed to public service, though in a private capacity. Among the most active of these groups is Kiwanis International, and among the most active chapters of Kiwanis is the Elkin, N.C., chapter which recently celebrated its 50th anniversary.

The Elkin Kiwanis have proven their dedication to community service time and again over the last half century. Their reward has been found in the progress of their community. Their rewards have been great, because their goals and their efforts have been great as well.

Their future pursuits in the next half century and beyond, will, I am sure, prove equally successful, for I have seen, and continue to see, demonstrations of ability and talent and willingness to work abound in the membership of that Kiwanis chapter.

Eight men have been active in the Elkin chapter since its creation 50 years ago, and they were recently honored by their fellow club members.

These men are W. Marion Allen, J. Henry Beeson, Albert O. Bryan, Hardin C. Graham, Roy B. Harrell, Harvey F. Laffoon, George E. Royall, and Richard G. Smith, Sr.

I am sure my colleagues join me in commending these gentlemen for their long years of service and their fellow club members for their work as well.

For their past accomplishments, they have my congratulations. For their future projects, they have my encouragement, my support, and by best wishes for continued success.

The officers, directors and current membership of the Elkin Kiwanis Club are as follows:

LIST OF OFFICERS AND MEMBERS OF ELKIN, N.C., KIWANIS CLUB

OFFICERS—1973

Richard F. Callaway, President; Cline M. Hendrick, Vice President; James F. Amburn, Secretary-Treasurer; and Max A. Brown, Past President.

DIRECTORS

Joe G. Bivins, Herbert J. Caudle, David H. Craig, Bill Davidson, David Dickson, Jr., Herbert P. Graham, Jr., Dr. J. A. Harrell, Joe E. Harris, Bob D. Johnson, and Frank D. Young.

1973 MEMBERSHIP

Allen, William Marion; Amburn, James F.; Anderson, John H.; Atkinson, Richard J.; Baker, Luther G.; Beeson, John Henry; Biggs, Alex; Bivins, Joe G.; Blackwood, Nat J.; Boose, Samuel A.

Boyles, E. Carl; Brown, Max A.; Bryan, Albert O.; Byrd, Quincy E.; Callaway, Richard F.; Campbell, Dwane R.; Carpenter, N. H.; Carson, James; Case, Thomas; Caudle, Herbert J.

Chatham, Hugh G.; Church, Ray S.; Cline, David H., III; Collie, Ray; Craig, David H.; Davidson, Geo. William; Davis, Clarence L.; Dickson, David C. Jr.; Dillon, Van W. Jr.; Dillon, Henry R.

Edwards, Robert L.; Fleming, Thomas J.; Folger, Franklin; Franklin, John M.; Freeman, J. William; Graham, Hardin C.; Graham, Herbert P. Jr.; Hall, Dr. John Moir; Hall, John D.; Hall, Julius L.

Holthouser, Manuel C.; Harrell, Dr. James A.; Harrell, Dr. Roy B.; Harris, Edwin F.; Harris, Joe E.; Harris, Raymond W.; Harris, Wayne T.; Hauff, Ronald L.; Haynes, John Henry; Henderson, Hoke.

Henderson, Raymond E.; Hendrick, Cline M.; Hensel, Harry; Holcomb, Jones D.; Holcomb, Sigmond; Isenhour, George; Johnson, Bob D.; Johnson, Garland; Johnson, Joe R.; Jones, Robert S.

Kane, Roy H.; Kirk, Haddon S., Jr.; Laffoon, H. F.; Layell, Joe C.; Lillard, James K.; Mayberry, Theodore P.; McCarthy, William; McDaniel, E. Worth; McDonald, A. William; McNeil, Dr. Claude A., Jr.

Miller, Fred C., Jr.; Mosley, John F.; Neaves, Charles M.; Norman, Fred C.; Parks, Eldon H.; Pilcher, Philip; Peters, Carl L.; Pruett, Dr. L. Doyle; Reeves, William B.; Royall, George.

Schiebel, Dr. Edward C.; Sheperd, J. W.; Shillinglaw, John E.; Shores, William Ford; Smith, A. M., III.; Smith, David G.; Smith, O. Dewey; Smith, Richard G.; Smith, Richard G., Jr.

Snow, Guy L.; Spainhour, Eugene S.; Swaim, Henry E., Jr.; Tayloe, W. Sid; Taylor, Dr. Vernon, Jr.; Thompson, H. W.; Watson, Avery N.; Wilson, B. E.; Wright, Calvin, C.; Young, Frank D.

IN SUPPORT OF RIGHT TO WORK—VOLUNTARY UNIONISM

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. SYMMS. Mr. Speaker, it is of great concern to me and to many of my colleagues that men and women in the American labor force are compelled to support political activities with which they may disagree. Yet this is exactly what occurs when employees are forced to join a union as a condition of employment. This unique form of compulsion, allowed by the Federal Government through provisions of the National Labor Relations Act, has permitted the unions to collect an estimated annual amount of $1 billion in dues from these "non-voluntary" union members. Many of the political causes supported by union officials and financed through these funds are opposed to by the workers compelled to pay for them. Voluntary support of political activities is one thing, but compulsory support is quite another. As Thomas Jefferson said in 1799:

> To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves is sinful and tyrannical.

Mr. Speaker, at this point I am inserting in the RECORD several news articles deploring the violation of these employees' civil rights:

[From the Washington Post, July 9, 1973]

Compulsory Dues and "Social Unionism"

(By Reed Larson)

We are flattered, as are the rank-and-file workers who support us, at the attention given to the work of the National Right to Work Legal Defense Foundation by columnist John Herling ("Attacks On 'Social Unionism,'" The Washington Post, June 28). Rather than getting into a debate with Mr. Herling about what is "social unionism"; whether or not union officials are "leaders"; and so on, I think two very important points need to be made—points that Mr. Herling, for some reason, overlooked:

1. The Chicago suit Mr. Herling refers to does not object to union "leaders spending dues money for alleged illegal purposes." The case was brought by several rank-and-file members of the United Auto Workers who object to the UAW officials using *compulsory* dues money for political ideological causes they object to. This case is supported by the National Right to Work Legal Defense Foundation, an organization established in 1968 to provide legal aid for workers who are suffering injustices as a result of employment discrimination under compulsory union membership arrangements. It also assists such workers in protecting human and civil rights guaranteed to them under the constitution and laws of the United States. All the suits involving political spending by union "leaders" (including the Chicago UAW case) involve the use of *compulsory* union dues—dues forced from the workers and then used for a myriad of social, political, economic and ideological causes they oppose.

In an opinion on *International Association of Machinists v. Street* (1961), U.S. Supreme Court Justice William O. Douglas (not known for his hostility to organized labor) said:

> The collection of dues for paying the costs of collective bargaining of which every member is a beneficiary is one thing. If, however, dues are used, or assessments are made, to promote or oppose birth control, to repeal or increase the taxes on cosmetics, to promote or oppose the admission of Red China into the United Nations, and the like, then the group compels an individual to support with his money causes beyond what gave rise to the need for group action. . . . I think the same must be said when union dues or assessments are used to elect a Governor, a Congressman, a Senator, or a President. It may be said that the election of a Franklin D. Roosevelt, rather than a Calvin Coolidge might be the best possible way to serve the cause of collective bargaining. But even such a selective use of union funds for political purposes subordinates the individual's First Amendment rights to the views of the majority. I do not see how that can be done, even though the objector retains his rights to campaign, to speak, to vote as he chooses. For when union funds are used for that purpose, the individual is requred to finance political projects against which he may be in rebellion."

2. The second point, Mr. Herling overlooks is that the foundation supported cases are being filed at the *request* of rank-and-file workers. These men and women are workers whose rights are being trampled by both company managers and union officials. With limited resources they have, for far too long, been helpless. In their excellent series last year titled, "The Unions," Washington Post reporters Nick Kotz and Haynes Johnson quoted an unnamed Justice Department lawyer as saying, "The guy fighting for democracy in a union has enormous odds against him. The guys who come in here for help usually walk out disappointed. The federal government doesn't have the tools. The individual union member doesn't have the money to get a lawyer. Anyway, most labor law specialists work either for the unions or management."

At the moment the National Right to Work Legal Defense Foundation is helping workers in more than 50 separate cases. These include: litigation seeking justice for public employees; helping protect teachers who believe that their academic freedom is threatened by requirements that they pay dues to a teachers union or not teach—dues that often are used to finance union political activities; challenging the violation to freedom of speech on the public airways (this is the case involving *William F. Buckley Jr. v. AFTRA* with Mr. Buckley being supported by noted civil libertarian Nat Hentoff and New York Times columnist Tom Wicker); helping Mexican-American farm workers in California subjected to a blacklisting clause which gives union bosses the power to fire workers for criticizing the union or if he doesn't like the color of their skin; and supporting a black Philadelphia movie projectionist who found that the union is using a compulsory hiring hall to discriminate against him because of his race.

It seems to us that these are social causes Mr. Herling and union officials should be in favor of. Most Americans are.

[From the Nashville Banner, Jackson News, Atlantic City Press, June 4, 1973]

"Earthquake" Rumbling in California

(By Frank Van Der Linden)

WASHINGTON.—Another California earthquake is in the making. This time it's a political upheaval.

It could arise from a lawsuit by a group of aerospace workers, aimed at making the big labor unions stop giving millions of dollars a year from their members' compulsory dues to support political candidates and causes.

The beneficiaries of the cash are almost always Democrats and liberal groups, sometimes advocating policies which the union members, themselves, oppose.

George Seay, an employe of the McDonnell-Douglas Corp., and several other workers brought the suit in U.S. District Court in Los Angeles against the International Association of Machinists and Aerospace Workers (AFL–CIO).

They complained that the misuse of their dues money for politicians, groups and ideas they personally oppose, violates their civil rights under the Constitution and federal laws.

Although the district court dismissed the case, the Ninth Circuit Court of Appeals gave the plaintiffs a significant victory by remanding the case for trial, and arguments are expected to begin soon.

"This was a major breakthrough," Idaho Congressman Steven D. Symms said in a recent letter appealing for funds to help the plaintiffs and the National Right to Work Legal Defense Foundation, which is aiding their case.

"Union officials are very concerned about the Seay case," said Symms, a Republican freshman. "If this case is won, unions could be denied the use of millions of dollars each year in compulsory dues to support political candidates."

Symms claimed that "union officials spent an estimated $50 million in 1972 to try to elect George McGovern and a friendly, controllable Congress."

The Idaho congressman said the National Right To Work Legal Defense Foundation needs to raise a minimum of $110,000 quickly to cover attorneys' and accountants' fees and staff costs for research, briefs, complaints and appeals, "before the suit is settled, probably by the Supreme Court."

"By sending your tax deductible gift of $25, $50, $100, or $500 today," Symms wrote prospective donors, "You can play a major role in preventing union bosses from spending millions of dollars in compulsory dues to elect their hand-picked politicians."

The unions can be expected to strike back, hard, at the foundation and its friends in Congress, including the gentleman from Idaho. Labor lawyers will question the foundation's right, as a tax-exempt group, to solicit money to cover legal costs for actions against unions.

Symms' letter bore a replica of his official House of Representatives letterhead, but printed at the bottom was this caveat: "Not Prepared or Mailed at Government Expense."

For months, the foundation's lawyers and accountants have been studying the machinist union's books to prove that the union has been spending compulsory dues—not the "voluntary" contributions allowed by federal law—to finance their favorite political candidates. The books show generous gifts to the Democrats, but not to the Republicans.

If the Supreme Court—which now has four Nixon appointees among its nine justices—should finally rule for the plaintiffs in the Seay case, the Democrats conceivably could lose the largest blocks of cash that fuel their election campaign machinery.

That would be the new California "earthquake."

[From Roll Call, July 15, 1971]

Congress Moves To Curb Union Politicking

(By Allan C. Brownfeld)

As Congress considers the question of campaign spending reform, a number of legislators have pointed out that the real problem is not the amount of money spent on particular campaigns but, in many instances, the source of such funds. While the law sets forth a rather specific standard, that standard has been honored more in the breach than in any adherence. Section 610 of the Criminal Code, for example, prevents national corporations and labor unions from making any campaign contributions or expenditures.

Yet, AFL–CIO President George Meany has been quite frank in exploding the myth that union political activities in federal elections are restricted by this act, or by the Federal Corrupt Practices Act. Last September, Mr. Meany stated that "You know we have these laws on the books—and they have been there for many, many years—Corrupt Practices Act and so forth—and honored, so far as I am concerned, they have been honored by everybody in the breach. I don't know of any candidate for office anywhere that gives a damn where he gets the money so long as he gets it when he gets into a campaign."

During the 1970 elections, labor committees reported spending $5.7 million from "voluntary" contributions from union members—30 per cent more than the Democratic Party itself—in support of candidates considered "friendly." In New Jersey, Senator Harrison Williams, now chairman of the Senate Labor Committee, received at least $120,000—a substantial portion of his entire budget—from such labor committees.

In the 1968 Presidential race, labor officially reported contributing a whopping $7.6 million to all candidates, double what it admitted spending in 1964. Others place an even higher price tag on labor's political efforts, Columnist Victor Riesel notes that "America's labor leaders poured out over $60 million for Hubert H. Humphrey." Theodore H. White details some other AFL–CIO campaign activities in his book, The Making Of The President 1968: 72,225 union men and women canvassing house-to-house, 94,457 Election Day Volunteers serving as car-poolers, baby-sitters, and poll watchers; 55 million pamphlets and leaflets mailed by the AFL–CIO from Washington, 60 million more from local unions.

In many states workers are compelled by law to join labor unions in order to work. Under this unique grant of special privileges by the federal government, approximately one billion dollars is collected each year from wage earners who are forced to pay that money or lose their jobs. Union officials then use a substantial portion of that money in political activities, many of which are opposed by those who have been compelled to pay for them. While labor unions spent an estimated $60 million on behalf of Hubert Humphrey in 1968, public opinion surveys showed that 44% of union members and their families opposed the candidate endorsed by union officials.

It is clear that union political activity is financed by the use of compulsory union dues. Even such a staunch friend of organized labor as Supreme Court Justice William O. Douglas finds this situation highly objectionable. In the case of IAM vs. Street he declared: "The collection of dues for paying the costs of collective bargaining of which each member is a beneficiary is one thing. If however, dues are used, or assessments are made, to promote or oppose birth control, to repeal or increase the taxes on cosmetics, to promote or oppose the admission of Red China into the United Nations, and the like, then the group compels an individual to support with his money causes beyond what gave rise to the need for group action . . . I think the same must be said when union dues or assessments are used to elect a Governor, a Congressman, a Senator or a President . . . when union funds are used for that purpose, the individual is required to finance political projects against which he may be in rebellion."

A bill has been introduced in the Senate by Senator Peter Dominick of Colorado, and in the House by Rep. Philip Crane of Illinois which states that "No labor organization shall use, directly or indirectly, any part of the dues, assessments, or other moneys collected from any person convered by an agreements requiring membership in such labor organization as a condition of employment for any political purpose whatsoever. . . ."

Discussing the bill, Rep. Crane states that ". . . the use of compulsory union dues for political purposes seriously jeopardizes our system of representative government. It dilutes political freedom and outrageously violates the basic rights of workers whose money is being misused. I believed strongly that there can be no meaningful campaign reform legislation unless it puts a stop to these political spending abuses."

The need to get labor unions out of political activity is recognized by the friends of organized labor as well as by its critics. Ten years ago, Justice Hugo Black said: "There can be no doubt that the federally sanctioned union shop contract here, as it actually works, takes a part of the earnings of some men and turns it over to others who spend a substantial part of the funds so received in efforts to thwart the political, economic and ideological hopes of those whose money has been forced from them under authority of law."

There are many different ways in which union dues have been unfairly and illegally used for partisan political purposes. "Campaign contributions made from union treasuries may be made under at least 13 different headings," claims election-financing authority Alexander Heard, chancellor of Vanderbilt University. A favorite ploy is the "nonpartisan" registration drive, actually designed to recruit large numbers of Democratic voters in pivotal states and districts. In 1970 California unions registered nearly 400,000 new voters in behalf of Democratic candidates. Two years earlier, labor recruited 4.6 million voters for Hubert Humphrey. Experts estimate that the 1968 registration drive was financed by more than $2 million in union dues.

Each individual American should have the right to support those candidates and causes with which he agrees, both with his money, his time, and his energy. But, in a free society, no one should be compelled to finance causes and candidates with whom he disagrees with the threat of losing his employment if he refuses. Beyond the fact that it is contradiction to speak of both a free society and one in which men must join private labor organizations before they may work, it is even more unthinkable to speak of campaign spending reform without dealing effectively with the influence of political pressure and financing by labor unions. As Senator Dominick pointed out, ". . . dollar restrictions whether they be on contributions or campaign expenditures are too simplistic to regulate something as individualistic as a political campaign." What we can do, however, is provide for an independent commission to provide full disclosure and publication of all campaign contributions and expenditures, and we can act to stop the abuses of private groups, such as labor unions.

The very integrity of Congress is at stake in this issue. Will men who have received tens of thousands of dollars from labor unions act to curb this flow of funds? Only time will tell.

PLEA-BARGAINING ABUSE, EPITOME OR TURNSTILE JUSTICE, CALLS FOR CRIMINAL JUSTICE REFORM

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. BIAGGI. Mr Speaker, there have been many proposals before the House for improvements in the criminal justice system to reduce crime and rehabilitate convicted criminals. Billions of dollars are being spent through the Law Enforcement Assistance Administration in this regard.

Yet, all of these efforts are wasted if the administration of the judicial system is not extensively overhauled. One area where abuse is frequent is in the use of plea bargaining. This is where the prosecution and the defense attorney get together and permit an accused felon to plead guilty to a lesser charge and thus eliminate the need for a trial.

In some cases, plea bargaining is helpful to relieve temporary overloads in court calendars. However, when chronic overloads necessitate extended use of such a device, or when district attorneys argue that it is easier to obtain a conviction on a robbery case than on a rape charge, then extensive overhaul of the court system is urgently needed. The fact is, the conviction and sentencing and subsequent consideration for parole of a rapist is far different than that of a robber. The latter is a crime against property and certainly a serious problem. The former is one of the most vicious crimes against a person and one that cannot be tolerated or treated lightly by society.

A classic example of the distortion of our criminal justice system made possible by plea bargaining is a recent case that took place in the Parkchester area of my district in the Bronx, N.Y. Three rapist-murders, in what is probably the most bizarre and flagrant misuse of plea bargaining, were able to whittle 187 counts of the most vicious types of crime down to three counts of first degree robbery. This is the epitome of turnstile justice.

After an intensive manhunt was initiated with more than 100 police officers directly assigned to tracking down the three who started their rape-robber rampage in December 1972, they were caught and arrested on March 15, 1973.

The suspects were Philip Rahming, 26; David Hoover, 20; and Dorian Williams, 26. They were arraigned after giving full admissions to the 18 cases of rape and robbery, and were identified by several of the victims. They were arraigned on March 16, 1973—and were held in a total bail of $1,250,000, because of the severity and viciousness of their crimes.

Philip Rahming was on 4 years of parole after serving 3 years for rape, sodomy, and burglarizing. The two other suspects had a total of 15 arrests including rape charges.

At the time of their arrest they made full admissions to the assistant district attorney, Bruce Goldstone, who was the same assistant district attorney who had prosecuted the prior rape case of Rahming.

The modus operandi of the three was to enter an apartment after midnight, hold knives to the throats of the awakened couples, and then tie up the husband and rape and perform sexual atrocities on the wife, in front of her family. They marauded around an apartment terrorizing a family, usually for a period of 3 hours. Then they robbed the apartments and when they were caught, some of the stolen goods were found on their premises.

The three were brought before a grand jury by the Bronx District Attorney's Office, and eight of the victims appeared before the grand jury. The grand jury returned a total of 187 counts against the three, involving rape, sodomy, burglary, robbery, felonious assault, possession of stolen property, and possession of weapons.

Among those who appeared before the grand jury to testify against the three terrorists were Anczel Grau. Today his home is a fortress with permanent bars covering his windows.

Other victims who appeared before the grand jury to testify against the three included one woman who leaped out of the window onto a fire escape after being attacked, another woman who only 5 weeks before the incident had given birth to a baby, and other families that were victims of all the atrocities with which the three were charged. Not only did the victims identify the trio—but the trio, in a flight of braggadccio, identified the victims by pairing the husbands with the wives.

After the indictment of 187 counts against the three was presented and bail was reset at $1,250,000—the Bronx District Attorney's Office entered into plea-bargaining with the defendant's attorney—the Legal Aid Society. The result was that 184 counts were dropped and the three pleaded guilty to one count each of first degree robbery.

Sentencing is scheduled for Tuesday, July 17, by Justice Lawrence Tonetti, in Bronx Supreme Court, 161st Street and Grand Concourse. Several of the victims, including Anczel Grau came to my office to complain.

Mr. Grau told me:

> All they are being charged with is armed robbery—no more than if they held up my wife and me at knife point in the elevator. That is not what happened. The most vicious of crimes took place, and the most vicious of criminal behavior took place against us and the other 17 families that are the known victims. Justice is not being served here. The crimes are not being punished, and in the name of clearing the calendar, these unrehabilitated criminals will be back on the streets again. And others will become the victims.

It is important that we bring forth these cases where our criminal justice system breaks down—where the courts and our penal system cannot adequately deal with the problems and where the criminal is given a "bargain" that will undoubtedly speed him back into the crime cycle. The public cannot benefit by this system. There is no process of rehabilitation—only a faster process, sanctioned by our courts and district attorneys, to put the criminal back on the streets.

If the Grau family and the other victims are frustrated and angry—and you cannot imagine the viciousness of the crimes perpetrated on them by these terrorists—I can fully understand. We are not trying to solve our crime problems and deal justice—we are only fostering a slipshod system of plea-bargaining to ease the burdens of our courts. This is poor solace for these victims—or the next victims of faulty plea-bargaining.

A TESTIMONIAL SALUTE TO FATHER HENRY E. FABRIZIO

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. CARNEY of Ohio. Mr. Speaker, on Sunday, July 15, 1973, I had the pleasure of attending a testimonial dinner in honor of Rev. Henry E. Fabrizio. Father Fabrizio recently retired as pastor of Our Lady of Mount Carmel Church in Youngstown, Ohio after serving there for 21 years, including 12 years as pastor.

During the ceremonies, Father Fabrizio received several awards and tributes from his fellow clergymen, led by Most Rev. James W. Malone, bishop of Youngstown, his parishioners, and public offiicals, for his many years of faithful service to his church and community.

Mr. Speaker, it is indeed a privilege for me to acknowledge the work of Father Fabrizio, whose spiritual leadership has been a great inspiration to all who know him. He is truly a compassionate man and a decent human being.

Mr. Speaker, I insert excerpts from the testimonial program in the RECORD at this time:

FATHER HENRY E. FABRIZIO

Our retiring Pastor of Our Lady of Mt. Carmel Church, Youngstown, was born in Wilburton, Oklahoma on October 14, 1921. He is the son of Lena and the late Samuel Fabrizio. His father was a coalminer, blacksmith and carpenter and his mother, a seamstress. At age two the family moved to Youngstown. He has a brother, Albert and two sisters. Mrs. Margaret Zena, and Mrs. Loretta DeMarinis. He was educated in Youngstown Parochial and public schools, attending Jefferson, (old) St. Ann's in Brier Hill; Hayes Jr. High and was graduated from Ursuline High. He was a member of the National Honor Society. Prior to entering the Seminary, he attended the School of Architecture of Western Reserve University, and was employed locally by the architectural firm of D'Orazio, Goodwin and Damon. While serving as head counsellor of Father Kane's Camp at Lake Milton, he was also employed as a designer of various craft-items for the Cleveland Craft Co. He was awarded by the Butler Art Institute. The royalties merited helped convey further educational expenses. Later he entered St. Charles Prep-Seminary in Baltimore, Md., and completed his studies for the Priesthood at St. Mary's Major Seminary in Cleveland, Ohio. He was ordained on April 29, 1950 by the late Bishop James A. McFadden at St. Columbia Cathedral.

After ordination, his Parish work was interrupted at the Bishop's request for him to attend Kent State University; he then served on the teaching staff of Ursuline High School. He has served as assistant Pastor at St. Nicholas, Struthers, Our Lady of Mt. Carmel, Youngstown; St. Joan of Arc, Canton; St. Rose, Girard. He was appointed Pastor of Our Lady of Mt. Carmel, September 29, 1961. His first endeavor was to rehabilitate the parish's spiritual assets by establishing a Confraternity of Christian Doctrine Program for children and adults. In order to develop a combined force of religious education, social and cultural, more room was needed. Father Fabrizio had faith in the Parishioners of Mt. Carmel. Thus, beginning with a practically zero bank account vs. the Good Will of his people a building fund drive was opened. From the original frontage of 87 ft. there now stands an entirely renovated east block on Summit Avenue, which includes a new educational and social center, remodeled church, new rectory, a Majestic Shrine of cut stone housing, a 7 ft. marble statue of St. Anthony, lighted parking space. The entire new building fund assessment was paid in full by July, 1972. The Parish was honored by an award from the Chamber of Commerce. While the physical improvements may be considered small, relative to other larger Parish Sites, they must be considered among the greatest when compared with the obstacles faced. The challenge was forceful, but the results were fruitful. The large return to the spiritual and other church functions are living witnesses of the Parishioners' Faith. In addition to being moderator of each Parish organization, he is a Judge on the Diocesan Tribunal, Moderator of Mahoning County Council of Catholic Nurses, Council of Catholic Women, Chaplain of K. of C. No. 274, Chaplain of Sheriff Dept., ITAMS Veterans of Post No. 3. For his dedicated service to church and community, he is portrayed in the book called, 'People of Compassion,' published by the McGuffey Historical Society.

Owing to several effects that linger since suffering a stroke, Bishop James Malone and Father Fabrizio have accepted the doctor's advice for him to retire. Today we are proud to honor our Pastor, a man of faith, strong character, leadership and service, Father Henry Fabrizio.

DIOCESE OF YOUNGSTOWN,
Youngstown, Ohio, April 28, 1973.

REV. HENRY E. FABRIZIO,
Our Lady of Mount Carmel Church,
Youngstown, Ohio.

DEAR FATHER FABRIZIO: Already in an earlier letter I have accepted your resignation from the pastorate of Our Lady of Mount Carmel Church in Youngstown, effective July 1, 1973.

At this time, I am writing to acknowledge that you decided upon early retirement on the advice of your physician and with my approval.

Remembering your twenty-three years of service to people in various congregations of this diocese should be a source of genuine satisfaction to you. Especially gratifying are the more than twelve years you have spent as pastor of Mount Carmel.

At Mount Carmel, under your leadership, the parish properties have been enlarged and enhanced; a new catechetical center and new rectory built; and the church entrance and interior renewed.

Since you became pastor of Mount Carmel in 1961, the spiritual life of the people has been strengthened in many ways. More people come to Sunday Mass and more children come for religious instruction. Social ties have been strengthened by various meetings and get-togethers.

With the assurance of my appreciation and with the pledge of my prayers as you look forward to retirement, I remain

Yours sincerely in Christ,
The Most Reverend JAMES W. MALONE,
Bishop of Youngstown.

TESTIMONIAL DINNER—DANCE COMMITTEE

John Cafaro, Chairman.

William Cafaro, Co-Chairman.

Michael Pope, Co-Chairman.

Ann Leone, Secretary.

John Palermo, Treasurer.

Peter Nolfi, Program, Chairman.

Frank J. Valenzisi, Program Treasurer.

Dominic Saulino, Alex Palombo, Oliver Monaco, Michael Lariccia, Nick Minnie, Michael Socca, Joseph Costarell, Nicholas Fortunato.

Anthony J. Ditata, Frank Valenzisi, Nicholas Minnie, Alessio Di Basio, Louis Pizzuto, Edmund Fabrizio, Armond Rossi, Bert D'Amico.

Angela Cercone, Hostesses Chairlady.

Helen DiCiero, Rose D'Amico, Carmel DeVito, Virginia Valenzisi, Louise Babbaro, Josephine Beconder.

Dorothy Rizzuto, Rosemarie LaCivita, Jean Centofanti, Yolando Tucci, Eleanor DiCiero.

Gloria Passarelli, Bounteer Chairlady.

Mary Kotyk, Josephine Saulino, Carmel Scoca, Rosyln Monaco, Victoria Hack, Carol Valenzisi.

Helen Occhipinti, Antoinette Palombo, Ida Sabella, Ann Betty Leonelli, Dorothy Bukovi.

GUEST BOOK

Patricia Rossi, Diana Leone, Diana Hammar, Lynda Leone.

PROGRAM

National Anthem, Nicholas DeToro.

Invocation, Rev. Joseph L. Iati, Pastor of Mt. Carmel Church.

Introduction of Toastmaster, Frank J. Valenzisi, President, Vestibule Club.

Toastmaster, Michael R. Pope, Mahoning County Treasurer.

Remarks, John Cafaro, General Chairman.

Principal Speaker, Rt. Rev. Monsignor Wm. J. Fitzgerald, Retired Pastor, St. Joan of Arc.

Remarks, Congressman Charles J. Carney.

Remarks, The Most Reverend James W. Malone, Bishop of Youngstown.

Remarks, Honorable Jack C. Hunter, Mayor of Youngstown.

Remarks, Rev. Henry E. Fabrizio, Retiring Pastor of Mt. Carmel Church.

Benediction, Rev. Msgr. Benedict C. Franzetta.

Dinner Melodies, Anthony Pesa.

Dance Music, Tom Lopresta.

Organ Compliments of Pezzenti Music Mart.

Presentations given by: Elena Di Ciero, Angela Cercone, Michael Lariccia, Frank J. Valenzisi, Alex de Blasio, Peter J. Nolfi, Atty. Joseph Schiavoni, Ann Leone, A. B. Flask, Carmela Foti, John Palermo, Wm. Holt, Harry Meshel, George Tablack, J. Phillip Richley.

Our Lady of Mt. Carmel Church,
Youngstown, Ohio.

I want to express my gratitude to the people of Our Lady Mount Carmel Church for the warm welcome you gave me as I return once again to serve you.

May our prayers and good wishes go in unison to wish our pastor—Father Fabrizio a retirement blessed with peace, health and happiness. His total dedication of Love-service to his people will be a lasting tribute to us all. You will always be in our prayers Father, and in our hearts.

With the co-operation of all, we hope to continue Father Fabrizio's life-work toward the unification of all the Italians in this city to the mother church—Our Lady of Mount Carmel Church.

Mount Carmel says: "God's speed, Father Fabrizio."

Father Joseph L. Iati.

To Our Beloved Father Fabrizio:

With Great sadness we bid you farewell, but always remember you will be in our prayers and hearts forever.

We now say "Thank You Father" for all your help, kindness and generosity, during the past years and throughout our association at Mt. Carmel. We shall miss you deeply.

We remain, very devotedly and respectfully,

The Mothers of the Crucifix Society,
Helen DiCiero, *President.*
Ann Leone, *Vice President.*
Lena Centofanti, *Vice President.*
Ann Frattaroli, *Recording Secretary.*
Jean Costarell, *Financial Secretary.*
Eleanor DiCiero, *Treasurer.*

Dear Beloved Father Fabrizio:

We humbly wish to extend our sincere felicitations for a very Happy and Healthy Retirement.

We wish to thank you for all the compassion and encouragement, you have shown us throughout the years with us at Mt. Carmel.

May God Bless you, and watch over you for many more years to come.

Very devotedly,
The Members of St. Monica Guild,
Angela Cerone, *President.*
Dorothy Pizzuto, *Vice President.*
Delores Good, *Vice President.*
Rose D'Amico, *Secretary.*
Phyllis DeChurch, *Treasurer.*

Office of the Mayor,
Youngstown, Ohio, April 30, 1973.

Father Henry Fabrizio,
Our Lady of Mt. Carmel Church,
Youngstown, Ohio.

Dear Father Fabrizio: It is with a deep personal sense of regret that I read of your planned retirement as pastor of Our Lady of Mt. Carmel Church.

In looking back over the last few years that I have served the city as mayor, my visits to Mt. Carmel to the Sports Banquets, the CYO Banquets, and other activities, have been a high point. No place have I gone to as mayor have I been made to feel more genuinely welcomed than in your parish. Over the years, I have come to see the warm and deep love that your communicants and the children of your parish hold for you. This has to make a man realize that service to both God and country is, in fact, worthwhile and rewarding.

Again, Father, my congratulations on an outstanding career.

My warmest best wishes in your retirement, and if I may ever be of service to you, I would hope that you would not hesitate to call.

Very truly yours,
Jack C. Hunter, *Mayor.*

Dear Parishioners and Benefactors of Our Lady of Mt. Carmel Church: You are my friends. Words, no matter how laudable, cannot convey the depth of my Pastoral affection felt with and for you during the past twelve years of our many shared experiences. Perhaps, the word 'Friend' explains my feeling best. My Friend, what is a 'Friend'?

A 'Friend' is one attached to another by Esteem, Respect and Affection. To me, a friend means much more as I see a particular significance portrayed in each letter of the word 'Friend'.

F — faith that defies hearsay opinions
R — readiness to praise instead of disapprove
I — integrity that earns respect
E — endearment through long association
N — naturalness that is based on common sense
D — dependability whenever the need arises

Thus, my dear people, with these qualities each one of you is my kind of 'Friend'. And now as time unfolds it is my earnest hope and priestly prayer that I may continue to enjoy your friendship, as my kind of 'Friend', for the remaining years that God will give.

With every best wish and priestly solicitude for you and your family, I remain,

Gratefully yours,
Father Fabrizio.

Ordination to the Holy Priesthood
(Class of April 29, 1950)

Our Blessings and Prayers go with our Classmate Father Fabrizio. However, a feeling of mixed emotions accompany our well wishes because we know that he will no longer be an active Pastor, but we do know that he will remain an active Priest. At our last Class Re-union of a few weeks ago, we all joyfully expressed, "Hank, Good Luck . . . with the Lord's help may you have a healthy and pleasant Retirement."

LIST OF SIGNATURES

Rev. John F. Anderson, Rev. George L. Budimlic, Rev. Msgr. Thomas P. Campbell, Rev. John C. Clines, Rev. Francis D. Curran, Rev. Robert W. Donohoe, Rev. George M. Franko.

Rev. Msgr. Benedict C. Franzetta, Rev. Paul A. Gencur, Rev. Joseph A. Goebel, Rev. Robert J. Jenkins, Rev. William J. Johnson, Rev. Msgr. Francis A. Karowski, Rev. James P. Kenny.

Rev. James R. Kolp, Rev. James P. McCann, Rev. Joesph E. McCausland, Rev. John T. McDonough, Rev. James P. O'Brien, Rev. Edward A. Pevec, Rev. Raymond J. Smith.

Rev. Francis S. Snock, Rev. John P. Turk, Rev. Edward F. Varble, Rev. Msgr. Robert C. Wolff, Rev. Cyril Adamko, Rev. Conrad E. Aleckna, Rev. William A. Appell.

Rev. William E. Bantz, Rev. Robert P. Barrett, Rev. Joseph G. Beene, Rev. Robert E. Brengartner, Rev. Felix Carosso, SSP, Rev. James A. Clarke, Rev. Philip Conley.

Rev. John H. DeMarinis, Rev. George M. Duritsa, Rev. Peter J. Faini, Rev. Msgr. Robert C. Fannon, Rev. Anthony Fasline, Rev. Sebastian Fialko, Rev. Msgr. William J. Fitzgerald.

Rev. Msgr. Gordan Gutman, Rev. Msgr. Clarence A. Halter, Rev. Msgr. Thaddeus A. Heruday, Rev. John N. Hoey, Rev. Joseph L. Iati, Rev. Msgr. Norman P. Kelley, Rev. Edward Kowaleski.

Rev. Joseph R. Lucas, Rev. John F. Lyons, Rev. P. Breen Malone, Rev. Joseph A. Malik, Rev. Thomas J. McCarthy, Rev. Robert J. Novotny, Rev. Msgr. J. Paul O'Connor.

Rev. Robert J. O'Dea, Rev. William J. O'Neil, Rev. Joseph L. Palermo, Rev. LeRoy Paul, Rev. John Pavel, Rev. George P. Popovich, Rev. Msgr. Andrew A. Prokop.

Rev. Msgr. Donald J. Reagan, Rev. Orlando D. Rich, Rev. Michael Ronik, Rev. Robert A. Sabatino, Rev. James F. Stenson.

Rev. Martin Susko, Rev. Raymond J. Thomas, Rev. Paul R. Tobin, Rev. Bernard F. Vacca, Very Rev. Joseph A. Viano, SSP, Rev. William Yurko.

Our best wishes to our Pastor, spiritual leader, and charter member, Father Fabrizio.

We will always remember you as our club founder and leader and we will look forward to your continued advice and presence at our meeting and club functions.

The Vestibule Club,
Frank J. Valenzisi, *President.*

May the Lord be with you, Father Fabrizio.

Officers and Members
Holy Name Society
Michael T. Lariccia, *President.*
Oliver Monaco, *Vice President.*
Joseph Costarella, *Secretary.*
Anthony Ditata, *Treasurer.*

With the Lord's Help may you have A Healthy and Pleasant Retirement.

Our Lady of Mt. Carmel C.C.D. Teachers and Helpers.

Oblate Sisters, Christina Flickinger, Claire Patoray, Concetta Lariccia, Louis DeVicchio, Delores Good, Betty LoCicero, Helen Occhipinti, Delores Pallotta, Primo E. Bovara, Susan Santucci, Agnes Traficant, Peter J. Nolfi, Sandra Cortell, Louise Fata.

Good luck and best wishes (from the Ladies that kept God's House Clean).

Lucy Bucci, Mary Carnevale, Eleanor DeNucci, Carmel DeVito, Carmel Scocca, Victoria Hack, Roslyn Monaco, Gloria Passarelli, Susan Santucci, Josephine Saulino, Connie Peel.

Special to Altar Linens.

Mrs. Rose D'Amico.

Our blessing and prayers go with our Dear Pastor and Friend, Father Fabrizio.

Our Lady of Mt. Carmel Commentators:

Primo Bovara, Vincent Campana, Vincent Carnevale, Bert D'Amico, Louis Detoro, Ralph Detoro, William Detoro, Louis DeVicchio, Matthew Giannini, Walter Good, Vito Marafiote, Dr. James Mazzi, John Palermo.

Communion ministers:

Joseph Caruso, Louis DeVicchio, Anthony Ditata.

Best wishes to Father Fabrizio for his Dedicated Service to St. Vincent De Paul Society and his most charitable attributes and service to his church and community.

Alessio DiBlasio, *President.*
Alex Palombo, *Secretary.*
Michael T. Lariccia, *Treasurer.*
Peter J. Nolfi.
Mike Pope.
Frank Valenzisi.

JUSTICE OR REVENGE?

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. RANGEL. Mr. Speaker, in a recent column in the New York Times, Tom Wicker dealt with the uprising that took place at the Attica Correctional Facility in New York State in September of 1971, and its legal aftermath.

I submit the column for the attention of my colleagues:

JUSTICE OR REVENGE?

(By Tom Wicker)

During the four-day uprising at the Attica Correctional Facility in Setpember, 1971, a total of 43 persons were killed—one correction officer who was assaulted by inmates during the first minutes of the revolt, three inmates apparently murdered by other inmates during the time they held prison yard D, and 37 inmates and hostages killed by gunfire when D yard was recaptured.

Now the preliminary stages of trials arising from these deaths have begun in Buffalo. Sixty persons will be tried under 37 indictments alleging a variety of crimes from minor thefts to kidnapping and murder. All those to be tried under these indictments are present or former inmates.

Yet, said the official report of the New York State Commission on Attica, "the assault of Sept. 13, 1971, and its aftermath were marred by excesses." Not only did 39 persons, including hostages, die but "80 others suffered gunshot wounds . . . one out of every ten persons in D yard that morning was struck by gunfire and more than a quarter of the hostages died of bullet wounds." Among the weapons officially provided and offically fired were "shotguns, loaded with 00 buckshot pellets which would spread at distances exceeding 30 yards and hit unintended targets." The commission said "the conclusion is inescapable that there was much unnecessary shooting." But no state trooper or sheriff's deputy has been indicted.

Governor Rockefeller, the commission pointed out, "had ordered that correction officers, because of their emotional involvement, should be excluded from the assault forces . . . in fact, correction officers joined assault details and discharged weapons in several areas of the prison. Their gunfire killed at least one inmate and one hostage." But no correction officer has been indicted.

The authorities knew that retaking the prison would be a bloody business, but according to the investigating commission "they failed to make adequate provision in advance for the evacuation and treatment of the wounded." It was four hours after the last shots were fired before "emergency surgical procedures began." But no State official or prison administrator has been indicted.

Immediately after the recapture of the prison, inspection officers, and, to a lesser extent, state troopers and sheriffs' deputies, engaged in frequent and systematic acts of retribution against inmates. National Guardsmen and other outside observers, as well as a few troopers and correction officers, confirmed [to the commission] the almost universal inmate descriptions of "widespread beatings, proddings, kickings, and verbal abuse of the vilest nature." But no one who took part in these reprisals has been indicted.

And although the commission found that "no effective steps were taken on Sept. 13 to see that reprisals did not occur and no satisfactory explanation has been given for that failure," no state official has been indicted for this, either.

Of course, the Wyoming County grand jury still is meeting in Warsaw, N.Y., and may bring in more indictments. No inmates, for example, have as yet been indicted for two of the murders of other inmates alleged to have happened during the revolt. Still other inmates may be indicted for yet more crimes. It is even possible that state policemen, correction officers, sheriffs' deputies or state officials may be indicted. The Special Commission, after all, has shown that evidence against them is there for the asking.

But a certain cynicism may be pardoned, everything considered. Across the way in Elizabeth, N.J., for example, Gail Madden and George Merritt will go on trial in Union County Court in October for first-degree murder in the death of a policeman, John V. Gleason, in Plainfield, N.J., on July 16, 1967.

That was three days after the riots in nearby Newark, in which 23 blacks were killed by police and National Guard gunfire. Patrolman Gleason fired into a crowd of blacks that he considered menacing, and wounded Bobby Lee Williams with three shots. The crowd then rushed the policeman and beat him so severely that he died a few minutes later.

Twelve blacks were indicted for first degree murder. They were tried en masse, but only Mr. Merritt and Miss Madden were convicted, although the evidence against them was shaky. After they had served thirty months of their life sentence, appellate courts dismissed the convictions on grounds that the judge had incorrectly charged the jury by citing a conspiracy not mentioned in the indictment. The New Jersey Supreme Court upheld the dismissal but ordered a new trial, and the two defendants served nine more months in jail before a Federal judge ordered them released on bail.

Now they will be tried again, more than six years after John Gleason's death. In the meantime, no policeman, National Guardsman, sheriff's deputy, city or state official has been indicted for any of the 23 killings of black people in Newark in July, 1967.

NATIONAL ENERGY POLICY

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. HOGAN. Mr. Speaker, it is no secret that we are in the midst of an energy problem—and that problem is how to avoid an energy crisis.

The problem requires a two-pronged attack: first, we need to increase the supply of energy sources; second, we must find practical ways to abate our tremendous demand for energy and to use our resources more effectively.

In order to curb our enormous demand for energy, I believe it is vitally important that this country adopt a national energy policy. For until such a policy is developed, we will continue to consume our available resources at a staggering rate and the shortages of supply and soaring energy prices will continue.

I have received a news release from the Maryland Port Administration which announces that the Port of Baltimore recently established a record by importing over a million tons of petroleum during May. This, coupled with the fuel shortages we have been witnessing in this area, is evidence that demand for petroleum products is continuing at a phenomenal rate.

At this point, I insert in the RECORD the press release from the Maryland Port Administration.

The press release follows:

PORT HAS RECORD MILLION-TON PETROLEUM IMPORT MONTH

The port of Baltimore continued a record 1973 petroleum import surge with its first "million-ton" month during May.

Total petroleum imports during that month registered 1,010,255 tons, according to figures just compiled by the Maryland Port Administration, an agency of the Maryland Department of Transportation.

The May tonnage figure represents the highest monthly petroleum handling total for the port on record. It is better than the same figure of a year ago by 200,000 tons, or about 25 per cent.

The record-breaking month brought Baltimore's overall petroleum import totals for the first five months of 1973 to 4,358,157 tons, an increase of more than 570,000 tons or about 15 per cent over the pace set in 1972, one of the most active petroleum import years in the history of the port.

Of the overall May figure of 1.01 million tons, more than 80 per cent or 827,541 tons consisted of fuel oil. Gasoline comprised 5.1 per cent of the total, registering 32,502 tons.

Other commodities included in the figure were 121,608 tons of crude oil; 10,610 tons of kerosene; 7,833 tons of aviation fuel; 5,002 tons of diesel fuel; and 5,159 tons of asphalt. The high percentage of fuel oil and other refined petroleum products comprising the overall figure is the result of a Maryland law prohibiting petroleum refineries in the State.

While the majority of the record one million tons was unloaded at Baltimore's 12 petroleum piers, 368,569 tons of fuel oil or about 36 per cent of the overall total, was handled at a petroleum facility located in southern Maryland at Piney Point. All ships calling at this pier are husbanded from Baltimore, Piney Point's official port of entry.

The 1973 upswing in the port of Baltimore's petroleum imports follows a pattern established for that commodity last year when refinery production in the U.S. began to fall behind the unprecedented demand of the domestic consuming market.

In 1972, petroleum products were the largest single item handled in the port, reaching a total of 9.2 million tons.

DON'T DRINK THE WATER

HON. HOWARD W. ROBISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. ROBISON of New York. Mr. Speaker, until a few years ago, the admonition, "Don't drink the water!" was used only as sage advice for travelers preparing to visit another country. Then, in July of 1970 that warning was sent to the 360,000 Americans who were found by the Public Health Service's Community Water Survey to be drinking water of "potentially dangerous quality."

The results of that survey prompted me to consult with the Cornell University Water Resources and Marine Sciences Center on new legislation which was subsequently introduced to the House as the Pure Drinking Water Act. Our Public Health and Environment Subcommittee has since taken up that proposal, and I applaud the work of my colleagues on that subcommittee, who are most studiously and conscientiously fashioning legislation which promises to put an end to the growing national concern over the safety of household drinking water.

We may soon be able to act on that measure, the Safe Drinking Water Act, which is the product of the testimony and research of virtually every recognized expert in the country. And, I ask my colleagues to join me in moving for quick passage of this legislation, so that when we go home for the August recess we can assure constituents in every part of the country that Congress has taken the aggressive steps necessary to guarantee the safest possible drinking water in every home.

We must do this, because it has been particularly evident during the past year that there is serious national questioning of the adequacy of treatment systems which furnish drinking water. One indication of the considerable attention this problem is getting is an article in this week's Newsweek magazine, "Don't Drink the Water." I insert that article, Mr. Speaker, so that my colleagues can note the pressures that are building for passage of the Safe Drinking Water Act:

DON'T DRINK THE WATER

There was a wave of real fear and anxiety in Duluth, Minn., last month. Environmental Protection Agency scientists discovered an extraordinarily high concentration of asbestos fibers in the city's water supply, presumably dumped in Lake Superior by an industrial firm. Asbestos, of course, has long been associated with cancer. EPA officials doubted that the water should be declared unfit for human consumption, but they did issue a solemn warning to parents: "Prudence dictates that an alternative source of drinking water be found for very young children." Just three months earlier, 176 migrant workers in Florida's Dade County came down with typhoid fever because their water was contaminated with human sewage. In Evansville, Ind., EPA officials found 40 organic pollutants in the city's water system, two of them acutely toxic. In Ames, Iowa, another survey found fifteen poisonous chemicals in the water system.

These incidents may well only suggest the scope of the problem. The fact seems to be that America's drinking water, long deemed the safest and cleanest in the world, has been finally overtaken by the ravages of industrial pollution.

In Washington, Federal officials make no secret of their fear that the nation's outmoded methods of treating drinking water are exposing millions of Americans to cancer-causing agents, viruses, bacteria and a host of exotic new poisons emerging in ever-increasing numbers from industrial plants and factories. At least half the 130 million Americans supplied by municipal water systems drink water that has in fact been discharged from a city or industrial sewer only hours before, treated quickly and often inadequately, and then pumped back into the system. According to the EPA, there is a minimum of 4,000 cases of water-borne illnesses each year. Even more serious, in the view of Federal water experts, are the long-range dangers to health that can result from years of exposure to impure drinking water. "We are not dealing with just acute impacts, but long-term buildups," says the EPA's James McDermott. "We are saying that there are a hell of a lot of things we can't see that we are very concerned about."

DANGEROUS

This concern is heightened almost weekly by government-sponsored studies of the nation's 30,000 to 40,000 municipal water systems. One evaluation by the Department of Health, Education and Welfare, for example, suggests that at least 23 million Americans are drinking water that violates the Federal safety standards, set up in 1962. Of those, fully 8 million people are regularly drinking water that government experts regard as "potentially dangerous." Unfortunately, the 1962 standards only apply to water transported across state lines; inside their boundaries, individual states are left to set up and enforce their own standards. The only action open to the EPA is to prevent interstate carriers, such as airlines and railroads, from carrying water taken from the suspect systems. At present some 25 systems, from Asheville, N.C., to Quincy, Miss., are on the EPA's banned list.

The reasons for the bans run the gamut from excessive bacteria to poor water system plumbing to inadequate sampling and treatment of water supplies. Federal experts agree, however, that the greatest threat to drinking water comes from toxic substances such as arsenic, cadmium, cyanides—and asbestos—that are finding their way into the nation's waters in industrial-plant residues.

At present, 12,000 potentially toxic synthetic organic compounds are manufactured in the U.S., and that number is increasing by 500 annually. But according to a report by the General Accounting Office, many states simply have not bothered to analyze their drinking water for the presence of such poisons. "There has been little research of a scientific nature in the past decade," says McDermott. "The result is that when asbestos is found in Lake Superior, or mercury is discovered in some other waterway, everyone is surprised. We are finding bacteria, viruses and trace metals in drinking water now because we just started looking for them."

When it comes to water treatment, the future is even grimmer. Many of the nation's treatment systems were designed half a century ago to remove coliform bacteria from relatively clean water sources, and to prevent the transmission of typhoid, cholera and dysentery. Those goals have been largely achieved, but the traditional mix of chemical treatment, sedimentation and chlorination is not up to the task of purifying today's technology-polluted water. One of the few sure methods guaranteed to remove such pollutants is to filter the water through charcoal, but at present no more than 35 out of 12,000 public water systems that start off with polluted surface water have installed charcoal filtration systems in their treatment plants.

A major factor militating aaginst prompt—and always expensive—installation of improved water-treatment facilities is inadequate firm evidence to link contaminated water with increased rates of disease and even death. "To be medically sure we will have to wait many years," explains Dr. Irving Selikoff of New York's Mount Sinai Hospital, referring specifically to the possible association of increased cancer risk with the asbestos-tinged water in Duluth.

CRISIS

Already, scientists consider the risk of cancer, genetic diseases and other ailments presented by America's dirty drinking water a problem approaching crisis proportions. Last week the House Public Health and Environment Subcommittee was debating a bill, passed earlier in the Senate on a voice vote, that will give the EPA immediate authority to enforce its drinking-water standards nationwide if states fail to act themselves. That bill seems certain of eventual passage.

Meanwhile, millions of Americans, including a large proportion of Duluth's population, are trying to ease their worries by drinking bottled water. But for them, too, the news is hardly reassuring. An EPA survey of 25 water-bottling plants earlier this year revealed widespread presence of bacteria and other pollutants in the bottled water, poor sanitation in the plants, and water testing so lax that "it compares most unfavorably with community water supplies."

CAPTIVE NATIONS WEEK

HON. MARTHA W. GRIFFITHS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mrs. GRIFFITHS. Mr. Speaker, July 15–21 is the 15th annual observance of Captive Nations Week. Since 1917, the Communist bloc has expanded to cover one-quarter of the Earth's surface. More than 1 billion people live under Communist domination—many without their choice or consent.

Americans have ties of kinship with all the peoples of the world, and we share the basic love of liberty with all men. During Capitive Nations Week, we rededicate ourselves to the principles of freedom and human dignity, while honoring those who continually struggle in their own lands to preserve their national heritage and sovereignty.

In this Congress, I again have introduced a resolution, House Resolution 109, calling for the creation of a Special Committee on the Captive Nations. This committee would examine the problems of the captive nations and their people.

TRIBUTE TO DAVE CHASEN

HON. THOMAS M. REES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. REES. Mr. Speaker, one of California's most distinguished citizens, Mr. Dave Chasen, died last month. Dave's friends are legion, and his restaurant, Chasen's, was famed throughout the world for its wonderful food and magnificent atmosphere.

The finest tribute to be paid Dave was by his good friend, Jimmy Stewart. I would like to place Mr. Stewart's statement in the RECORD:

DAVE CHASEN, 1898–1973

What do you think the odds would be that a baby born of poor parents in Odessa in southwest Russia in 1898 would one day wind up in Beverly Hills, California, successful, famous, and loved by some of the most celebrated people on earth? But God, as you know, moves in a mysterious way His wonders to perform, and when this baby's family left Russia for, of all places, New Britain, Connecticut, the child was at least on the right track. In any case, he had arrived on the right continent. And when the family then settled in a home near the stage door of a Vaudeville theater in New Britain the divine script began to make some sense.

Young Dave Chasen's first step in show business was traditional. Passing through that stage door, he became a small banana in seedy vaudeville acts with which he crossed and recrossed the land, riding in gritty day coaches, sleeping in countless fleabags, eating in greasy spoons and out of tin cans, never dragging down less than a cool eight bucks a week. With a demented red wig and blacked-out teeth, he had become a member of the Noble Company of Clowns, the joy givers to the world.

Now in those days there were giants on the musical stage on Broadway—Al Jolson, Eddie Cantor, Ed Wynn—and when one of that great company, Joe Cook, laid eye on that demented red wig and those blacked-out teeth, young Dave Chasen's transfiguration was sealed. He became as much a part of the eminent Joe Cook as his right arm, and for year after year he was in hit after hit on a Broadway that was then the capital of show business. George White's "Scandals"—Earl Carroll's "Vanities"—"Hold Your Horses"—"Fine and Dandy", to name a few of the hits.

The climax of all Joe Cook shows was a production number that has never known a brother, either before or since. The curtains parted on an enormous erector set filling the entire stage, a stupefying jungle-gym of polished metal tubes, struts, pipes, supports, cunningly arranged gutters, and a tangle of chains and pulleys, not one square inch of it making any sense whatever. And imbedded in this insane tinker-toy, in a comfortable chair suspended in space, was its jewel, a beaming gnome with a demented red wig and blacked-out teeth holding a musical triangle, adding not an iota to any understanding of the spectacle. Then the orchestra struck up the skater's waltz, with Cook sawing away on a fiddle, and a small metal ball was launched on its appointed mission, which was to roll slowly and inexorably through this flabbergasting labyrinth until finally, timed to a split second, it reached its destination and dropped—plop—squarely on its destination, the precise middle of the demented red wig, cueing our hero's single contribution to this most elaborate musical production on Broadway—one sweet little climactic tinkle on the triangle. As audience after audience stormed its appreciation of this one perfect note, the artist acknowledged the ovation with a gesture so simple, so modest, so winning that no one who ever saw it will ever forget it.

For years it was a gesture with which men and boys of good will greeted each other. It was also the key to the soul of this first and greatest of those satellite clowns called stooges—to all the world, Mazltov!

But, the great Joe Cook fell ill. He lingered long and sadly and then he was gone, and with him, Dave's career. In show business it is a very short step from glory to obscurity, and when Dave Chasen left Joe Cook's funeral it was into the darkest of obscurity.

His last appearance with Cook had been in the movies, in Hollywood, and so now it was back to Hollywood that he drifted to pick up whatever bits and pieces he could find. But there were not many. Finally, to eat and for a roof, he bethought himself of an old private art practiced for the pleasure of his friends. He began to barbecue spareribs at home and deliver them in buckets to modest parties and friendly gatherings. At this point in our hero's life the script left much to be desired.

But there was one aspect of Dave's life that many had overlooked. A talent they had forgotten. A talent for friendship. Over the years of both success and failure he had accumulated friends. True friends. Loving friends. Friends who, when they heard of his struggles, were concerned. But what to do?

Well, here is where one is reminded of that line about the "mystery of his ways." Among those friends Dave had accumulated there turned out to be a surprising number who had become great praisers of his spareribs. And when he doubled his production with a very superior chili, there were even more. And so, to make sure that none of these friends would ever have to go without this humble but tasty food, one of Dave's more solvent friends, Harold Ross, editor of the New Yorker Magazine, came up with the base cost of a little one-room-and-kitchen shack where it would always be available. Thus was born Chasen's, on the same spot that it still occupies, but at its christening the apparently dazed proprietor named it, for reasons that still defy explanation, the "southern pit barbecue", a name never once used by any known human being.

Now this was in 1936, 37 years ago, and the exodus of actors from Broadway to Hollywood had reached its full flow. Here were all these displaced New Yorkers making fortunes during the day and whimpering all night for the Great White Way, the Astor, Lindy's, and Winchell's column. As is well known, life offers no more heartbreaking sight than the spectacle of a New Yorker doomed to existence in a healthy and comfortable atmosphere.

And then the word swept through this suburb of civilization: At a certain hour in a joint on Beverly Boulevard a perpetually unemployed piano player named Harry Rosenthal, himself a native New Yorker, sat down at a tiny piano and an almost holy hush fell over the premises. Then, with ritual regularity, the first bars of "Give My Regards to Broadway" turned on the evening. It seemed that a little bit of Broadway had fallen from out the skies one day and was enshrined in this joint called the "Southern Pit Barbecue" where earlier fugitives from the Lambs Club and the Friars, Dave's Original Sparerib and Chili Addicts, had founded a home. All over Hollywood heads lifted and hopes revived as one by one and then in small groups these castaways began to make their way to this branch office of Broadway at 9039 Beverly Boulevard, where a civilized man from a civilized community could gather and converse with other civilized men about such civilized subjects as the New York Giants, Lee and Jake Shubert and Gin Rummy.

And what a pleasure palace it was in those days. Throwing caution to the wind, Dave had added steaks and chops to his menu and brought in a few chairs and tables for the weaker and more fastidious. Still nothing fancy, of course, but members of the more or less fair sex were beginning to show up with their husbands or beaux, and experiments were being made with vegetables. There was even talk of gambling for a night or two with a salad—just to see how it went.

But such progress in the cuisine was only incidental to the main event. Sure enough, precisely at 10 o'clock, that magnificent but permanently unemployed pianist sat himself down at the piano and the moment had come. Just as the British signaled to the world their fealty with "God Save the King", this brave little band of displaced thespians had their anthem: "Give My Regards to Broadway". And by the last note of this musical opening there was rarely a dry eye in the place.

Nor was that all. In those days there was no nightclub anywhere with a show like that at Chasen's every night. If it wasn't Astaire improvising a dance, it was the Italian lark, Jimmy Durante, spellbinding all true music lovers with the magic of his voice. The great Bill Fields, Humphrey Bogart reciting Shakespeare 'til the wee hours of morning. There were no stage waits at all. The least fraction of a second of silence inevitably brought to their feet a quartet of Irish warblers named Jimmy Cagney, Pat O'Brien, Spencer Tracy and Frank McHugh to touch every heart with "When Irish Eyes Are Smiling", "Mavourneen" and other rejects from the emerald isle, following which the great Joe Kerrigan from the Irish players and former patrolman, Ed McNamara of the Paterson, New Jersey Police Force sang softly to each other—tooralooraloora—while a dozen other gifted artists were being prevented only by main force from seizing the floor before the current performer had finished his contribution to the evening.

But since there is a limit to all youthful exuberance, in business as well as humans, those larkish days are long gone and the southern pit barbecue is now Chasen's, an aristocrat among restaurants. And its clientele is no longer even mainly theatrical. Gourmets are like termites in tracking down good food and while there is still chili and occasionally spareribs, the menu now lists items incomprehensible to any but top linguists. It is on every honors list of de duxe kitchens and there are few other heights to be conquered. Dave left while he was well ahead.

But unshared success is enough for few men. For Dave it needed one more blessing, someone to turn to and share it with when the doors finally closed at night, and then Maude King Martin came into his life some 30 years ago. A southern belle, now as well as then, she was both beautiful and intelligent, and she was Mrs. Dave Chasen for the rest of his life, his partner in the business as well, and finally the strength that was failing him. And when Kay, her daughter by a previous marriage, presented him with two grandsons and a granddaughter, he had the family he had always yearned for.

It would be hard to think of what more life could have given Dave—a family sealed in by affection, success in his work and art beyond anything he could ever have imagined, great eminence and the love and respect of people whose love and respect is worth having, and finally the knowledge that no matter how long they lived his family need never know want. If death had to come, how better could he have been prepared for it?

But now that he is gone, and all of us here are the losers in more ways than we can yet realize, let us hold back the tears for a minute or two. Whatever our faiths, most of us would like to believe that there is a some kind of hereafter where in time we will all see each other again. In some cases this may be a questionable fate, but in others it is a comforting thought. We've all had ones we loved that we must always look forward to holding again in our arms.

Let it be only a fancy if you must, but let us think for a moment or two of Dave's reunions—of the flash of joy in his heart when he sees again that oldest of his friends, the great Joe Cook—and then when he embraces the one he loved the most, Ross himself. And then McNamara, that flat-broke man who did what he could in the early days of a faltering joint by showing up nightly as a stand-in for a customer. And then the outrageous but eternally Dave's friend, the terrible-tempered Mr. Bill Fields. And the permanently unemployed pianist, longing even in Heaven for those nights when he opened the festivities with "Give My Regards to Broadway". And that kindest and most entertaining of men, Bob Benchley. And Charlie Butterworth and Jimmie Walker and James Thurber. And then Frank Morgan and the elegant Mr. Lucius Beebe and the terrifying Gene Fowler, warning one and all that if a fight started he would make no pretense of fighting fair. Ben Hecht, Herman Mankiewicz, John McClain, Mickey Neilan, Charlie Mac Arthur—but the list is endless. Old friends all together again—and now Dave's company forever.

JUDICIAL ORGANIZATION AND ADMINISTRATION IN THE DISTRICT OF COLUMBIA

HON. ANCHER NELSEN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. NELSEN. Mr. Speaker, the Committee on the District of Columbia is currently considering H.R. 9056, a bill that would provide substantial changes in the government of the District of Columbia, especially as it relates to the courts, the court system, and judicial administration generally.

Yesterday I received a copy of a letter from the Chief Judge Gerard D. Reilly of the District of Columbia Court of Appeals responding to a request from the chairman of the House District Committee, the Honorable Charles C. Diggs, Jr., of Michigan, to comment on the bill. The views expressed by Judge Reilly are provided in his capacity as Chairman of the Joint Committee on Judicial Administration established by District of Columbia Code 11-1701. He indicated that he was authorized to state that the views expressed in his letter reflect the unanimous recommendations of all the member judges of the committee.

I insert Judge Reilly's letter in the

Record at this point because I believe it is an especially well written letter which addresses some of the problems for which I have some concern as they relate to home rule legislation.

District of Columbia
Court of Appeals,
Washington, D.C., July 16, 1973.

Hon. Charles C. Diggs, Jr.,
Chairman, Committee on the District of Columbia, House of Representatives, Washington, D.C.

Dear Mr. Chairman: I wish to thank you for asking my comments on H.R. 9056.

The principal objective of the bill is to create a municipal charter for the District of Columbia under which limited legislative authority is delegated to the local government, subject to Congressional oversight. The bill provides that if the charter is adopted by popular referendum, the executive powers will be vested in an elected mayor and the legislative powers in an elected council of 13, five of whom shall be elected at large. The bill contains numerous provisions relating to the reorganization of departments and agencies of the District government, the issuance of bonds, and the continuation of Federal payments by direct Congressional appropriations, with audits by the Comptroller General of the United States.

Inasmuch as the bill also proposes some far-reaching changes in the Act of Congress dealing with the District of Columbia judicial system, I shall confine my comments on the bill to those provisions. I refer particularly to Part C of Title IV, Sections 431–434 inclusive, Section 602(c) of Title VI, and Section 718 of Title VII.

Under Part C (Section 432), vacancies in the District of Columbia Court of Appeals and in the Superior Court will be filled through appointment by the elected mayor, with the advice and consent of the elected council, instead of by Presidential nomination and Senate confirmation.

In selecting judges, the mayor is required by Section 434 to make his nominations from a list of not less than three or more than five names for each vacancy submitted to him by a newly created body called the Judicial Nomination Commission. This commission is to consist of seven resident lawyers, four of whom are also to be appointed by the mayor from lists provided him by the District of Columbia bar and the Council respectively, the other three being appointees of the Speaker, the President of the Senate, and the President of the United States respectively. None of the commissioners would be appointed by the judiciary.

Section 432 alters the composition of the five-member Commission on Judicial Disabilities and Tenure. Section 11–1522 of the D.C. Code provides that three members of this body are to be appointed by the President, one by the Commissioner of the District, and one by the Chief Judge of the U.S. District Court. If Section 432 of the bill becomes law, however, the President will play no part in the selection of the Commission, four of the five members to be appointed by the elected mayor when vacancies occur.

Section 718 purports to continue the D.C. Court of Appeals, the Superior Court, and the Commission as provided in the Court Reorganization Act of 1970, subject to the provisions of Part C, Title IV, to which reference has been made, but the duration of such "continuation" seems to be of a temporary character by reason of subsection 602(c), which places only an 18-month's limitation upon the authority of the Council "to pass any act affecting the structure, organization, or jurisdiction of the District of Columbia courts."

From the standpoint of judicial administration, such drastic changes as these in the court system of the District of Columbia seem highly premature. It was less than three years ago that the District of Columbia Court Reform and Criminal Procedure Act (Act of July 29, 1970, Pub. L. No. 91–358) became law. This statute, the product of extended committee hearings and consideration in the House and Senate, lengthy floor debate, and review by the conference managers of both branches of Congress, accomplished the most comprehensive reform of the judicial system in this jurisdiction undertaken in this century. Its enactment also represented the consensus of studies of law enforcement agencies and the practicing bar for improving the fairness and efficiency of the administration of justice in this city.

As you are aware, the 1970 Act did away with the dual jurisdiction of the federal courts here by making the Superior Court (formerly a combination of the General Sessions, Tax, and Juvenile Courts) a trial court of general jurisdiction over all local matters, both criminal and civil, and elevating the D.C. Court of Appeals to the status of the highest appellate tribunal in the District on appeals from judgment of the trial court and petitions for review of orders of the Commissioner, Council, and agencies of the local government. This Act itself has not become completely effective, as the third and final transfer of jurisdiction from the federal district court to the Superior Court will not occur until August 1, 1973. On that date, the Superior Court will have unlimited jurisdiction over civil actions for damages and probate matters, including supervision of the Office of Register of Wills. The validity of those provisions of the Act giving the new trial court complete felony jurisdiction was upheld against Constitutional challenge in the Supreme Court less than three months ago. *See Palmore* v. *United States*, 93 S. Ct. 1670 (slip op. April 24, 1973).

Needless to say, the task of judicial administration of a system which is still in the process of transition has not been an easy one, particularly as the courts are scattered in six different buildings. Nevertheless, despite the tremendous increase in the number of trials and appeals, the calendars of both the trial and appellate court are reasonably current. In this respect, our new D.C. judicial system has become a model for courts in other parts of the country. Its ability to dispose promptly of criminal cases at both the trial and appellate levels has no doubt been a contributing factor to the dramatic reduction in the number of crimes committed in the city, although the figure is of course still too high. In any event, the obvious interest of the federal government in the administration of criminal justice here suggests that the new judicial system should be allowed to mature and gain experience before subjecting it to further major modifications.

It should also be noted that the sections of the bill changing the method of appointment of judges would mark an abrupt departure from tradition. Since time immemorial* (including the period from 1871 to 1878 when the District had an autonomous territorial form of government with a legislative assembly elected by the voters), judges of the District have been appointed by the President, subject to Senate confirmation. If H.R. 9056 were a statehood bill, vesting the power of judicial appointment in the chief executive of the newly established state subject to the confirmation by the elected legislature might be a logical step. But the pending bill does not confer statehood on the District and indeed could not do so without an antecedent Constitutional amendment. The bill expressly reserves ultimate legislative authority in Congress (Section 603), exempts the National Planning Commission and other agencies from control of the local government (Section 602), and makes any legislative action of the council subject to a veto in either house of Congress. Thus the proposed legislation is much more analogous to the kind of county or municipal charter bills which are enacted from time to time by state legislatures to confer some measure of home rule to county or city governments. I know of no state, however, which authorizes officials of cities or counties, even those exercising a great degree of autonomy, to appoint judges of appellate courts or trial courts of general (i.e., unlimited) jurisdiction. To the extent that power to fill judicial vacancies has even been conferred upon mayors of cities, it has been applicable only to petty courts whose functions are limited to the trial of misdemeanors and small claims.

In any event, whatever decision the committee makes as to the ultimate appointing authority, it is submitted that the provisions of the bill dealing with the courts need to be amended in major respects in order to preserve the independence of the judiciary. It must be remembered that the Administrative Procedure Act makes orders of the Commissioner and the Council as well as subordinate administrative bodies subject to judicial review. Hence the Court of Appeals is frequently confronted with cases in which the highest officers of the District of Columbia are litigants in their official capacities. Such controversies include challenged decisions of the Council or the Zoning Commission on highway closings, development of the Georgetown waterfront, and projected rezoning for major commercial developments in residential areas. Trial judges also are frequently called upon to sit in judgment on the local government in such delicate questions as tax assessments and heavy damage claims against the city by contractors.

It is not the function of the court to interfere with the discretion of the municipal bodies in the handling of such matters but it is its obligation to see to it that their actions are exercised within the limits of the statutory authority and procedural standards prescribed by Congress. Thus it is most important that the judges in passing upon such questions should be free of any possible prospect of retaliation with respect to reappointment.

In my opinion, the provisions of the bill relating to the Nominating Commission, the Commission on Judicial Disabilities, and the authority of the Council eventually to pass acts "affecting all aspects of such courts", severely impair the insulation from political pressures which the Judicial Reorganization Act of 1970 sought to bring about. As previously noted, the membership on both commissions will consist of a majority of mayoral appointees.

Chief Judge Greene of the Superior Court in his letter to you on H.R. 9056 has pointed out in some detail the deficiencies of the bill in those respects as well as the desirability of writing into it provisions designed to preserve the tradition of reappointment of judges of proven competence. He has suggested a number of amendments which would greatly improve the judicial sections of the pending bill.

As chairman of the Joint Committee on Judicial Administration established by D.C. Code 11–1701, I am authorized to state that the views expressed in that letter reflect the unanimous recommendations of all the member judges. It is our sincere hope that your committee in amending H.R. 9056 will adopt these recommendations.

Faithfully yours,

Gerard D. Reilly.

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*This practice began in 1801, when the seat of federal government was moved from Philadelphia to Washington, whereupon Congress established the Circuit Court of the District of Columbia (2 Stat. 103, 105), superseded in 1865 by another trial court of general jurisdiction called the District Supreme Court (12 Stat. 762). While it was ultimately held that the latter court had jurisdiction over cases arising under federal statutes, *Swift & Co.* v. *United States*, 276 U.S. 311, 324 (1928), the bulk of the business of these courts dealt with purely District of Columbia matters.

PHASE IV

HON. PIERRE S. (PETE) du PONT

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. DU PONT. Mr. Speaker, phase IV of the new economic policy is a new set of regulations and guidelines to help us move as rapidly as possible toward the day when we can do away with all controls on our national economy.

Phase IV honors President Nixon's commitment to consumers that he would effectively stabilize the retail price of food.

At the same time, the new regulations indicate a clear understanding of the fact that if food production is to be increased we must allow farmers, processors, and handlers to make a profit.

This fact shows unmistakably in the exemption for raw agricultural products—so farmers can increase production—and in the provision for a dollar-for-dollar passthrough of increased costs to allow processors and retailers to continue operations. Stage A allows a dollar-for-dollar passthrough to reflect raw agricultural costs since June 8. Stage B, effective September 12, will allow all cost increases of food manufacturers and processors to be passed through to the ultimate buyer. Ceiling prices on beef also will be ended September 12.

For 40 years we created and added to perennial farm problems through Government interference in the normal operation of commodity markets.

We had a passion—understandable in depression years, but inexcusable since—to interpose Government direction along with Government payments in an attempt to help farmers derive more income than they could get through commercial marketing of their production.

We set high support prices for commodities, put limitations on farm production and provided Government interference in the marketplace.

The most notable accomplishment of our activities in this area, however, has been that farmers are not getting for their commodities what they actually are worth on the market, and tax dollars are being used to make up the difference in payments to farmers.

By continuing to hang onto these expensive and unrealistic programs long past the time when they could be justified, we have added fuel to the raging fires of inflation that now are threatening to get out of hand.

Constructive steps were taken in the Agricultural Act of 1970 to change from a tightly controlled agriculture based on the outdated historical plantings and allotments of yesteryear to a market-oriented program for wheat, feed grains, and cotton.

The economic wisdom of this move has been evident in the surge of increased net farm income. Last year, farmers earned $19.2 billion. This year the net farm income may go above $22 billion.

World demand for grains and oilseeds is growing faster than farmers around the world can keep up. United States farmers with their superior technology and know-how virtually hold the key to world production of livestock and high quality protein foods in their hands.

This year U.S. farmers are bringing back into production 34 million acres of land that were idled under previous Federal crop-control programs.

Farmers now contract much of their grain, soybean and cotton crops for future sale. They carry commodities under Government nonrecourse loans until delivery. This is a legitimate and proper use of Government power. It offers protection to producers when they need it. At the same time it leaves farmers free to make their own production decisions and to do their own marketing.

By sharing some of the risk with farmers, yet without shouldering the high and unnecessary cost of a heavily subsidized agriculture, the public, including consumers, encourages additional needed food and fiber production to meet actual market demands.

Public recognition and acceptance of this responsibility will be highlighted as we move through stages A and B of phase IV. I fervently hope that we will soon be able to cast off all arbitrary and artificial controls and return again to a free economy. Meanwhile, phase IV will help us move in that direction.

THE WATERGATE—THE TERRIBLE PRICE OF AN ISOLATED PRESIDENT

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. SEIBERLING. Mr. Speaker, it seems reasonably clear by now that the tragedy of Watergate has fallen on the Presidency and, therefore, on all of us, in large part because the President made himself a virtual prisoner of the top members of his staff. By setting up Messrs. Haldeman and Ehrlichman, and their colleagues, as buffers between himself and most of the rest of the world, including majority and minority leaders in Congress, Mr. Nixon placed Haldeman and Ehrlichman in a position to decide what the President saw and read and heard and what communications went out from the President.

As a result, Haldeman and Ehrlichman found themselves in a position of enormous power, being able not only to speak and act in the name of the President, but to influence his actions by controlling the flow of information and people to him. Obviously these two men lacked any fundamental understanding of the nature or importance of our constitutional system or of the democratic political process. They did not arrive in their position as a result of a basic interest in the political process but by the accidental fact that they were the members of a public relations firm that happened to be engaged by Mr. Nixon in some of his earlier political campaigns.

Whether consciously or unconsciously, their actions all moved in the direction of consolidating all power in the White House, and in their own hands in particular, to the eventual destruction of the system of checks and balances created by the Founding Fathers.

In a recent issue of New York magazine, Mr. Fred W. Friendly, a former president of CBS News, has written with great wisdom and compelling detail about the high price of a President in an isolation booth. As Mr. Friendly puts it:

> It isn't just the public's right to know that's been obstructed; it's the President's need to know that's been sacrificed . . .

Mr. Speaker, I insert Mr. Friendly's article in the RECORD:

PAYING THE HIGH PRICE OF A PRESIDENT IN AN ISOLATION BOOTH

(By Fred W. Friendly)

Journalists and other defenders of a free press are fond of quoting from Mill, Milton, Madison, Holmes, Brandeis, and Hamilton in his plea for Zenger. These ringing pronouncements have their obvious truths, but it might well be that better shelter can be found in the rather earthy retort a crusty old reporter once growled at a President of the United States.

President Teddy Roosevelt, in a 1906 Gridiron dinner speech, borrowed a term from *Pilgrim's Progress* and created what he intended to be a pejorative phrase—"muckraker"—castigating "the writers who raked the muck of society and never looked up. . . ." The day after that attack, Lincoln Steffens called on Roosevelt in the White House and said, "Well, Mr. President, you have put an end to all those journalistic investigations that made you."

Ironically, the specific investigation that Roosevelt was protesting was an exposé called *Treason of the Senate* which revealed many Senators to be more the agents of big corporations than representatives of the citizens of their states. Eventually, *Treason of the Senate* led to the passage of the Seventeenth Amendment, which called for the popular election of United States Senators rather than by State Legislatures, and this reform was of significant advantage to the programs of Teddy Roosevelt.

Indeed, muckrakers, from Steffens and David Graham Phillips, who wrote *Treason of the Senate*, to Paul Y. Anderson, who helped uncover Teapot Dome, to Bob Woodward and Carl Bernstein, who investigated Watergate, have continuously been the targets of attack and suppression in the name of "law and order." William Allen White, an old colleague of Steffen's, wrote the classic editor's response to those Americans who, in times of stress, are willing to sacrifice "just a little freedom" for tranquility and order. The editorial, entitled "To an Anxious Friend," was an open letter written by White to a reader of *The Emporia Gazette* who was troubled about Editor White's commitment to "boat rocking" and dissent:

"You tell me that law is above freedom of utterance. And I reply that you can have no wise laws nor free enforcement of wise laws unless there is free expression of the wisdom of the people—and, alas, their folly with it. . . . Violence, indeed, is the child of suppression. Only force and repression have made the wrecks in the world."

The current wreck of the White House can be traced to the very kinds of attempts at suppression that Steffens and White warned against. Journalists like Steffens and White attempted to report and interpret the flow of news; the recent gang of White House zealots have tried to stifle and control it. That they would attempt to obfuscate the public's view of the President is bad enough (others have tried it), but the deadliest sin is that they have provided their leader with a distorted view of reality which may make it impossible for him to govern.

The lesson of Watergate, of the plot to nullify the First Amendment, is not just a chronicle of bugging with honor and sabotage with "lofty motives," it is the anatomy of willful national deception and self-deception. It is not just the public's right to know that has been obstructed—it is the President's *need* to know that has been sacrificed and squandered.

And when the final chapter of Richard Nixon's "seven crises" is written, it will not be his foes or the devils in the media, but his friends and surrogates and their bizarre schemes, played out under the guise of zealous devotion and patriotism, which killed what he once called his driving dream.

A generation from now when another President permits his hired hands to attempt to intimidate some future journalists, there must be a documented record of the battle that raged between journalists and the White House since Agnew's Des Moines speech of November 13, 1969. That record will indicate when and how even the "silent majority" finally learned who was really trying to fool them; who was peddling all that "elitist gossip and plugola"; who lied—Dan Schorr or the President who accused him of telling "a small lie"; who told the truth—*The Washington Post* or the Attorney General of the United States; who performed the public service—the news media or the agents of the Committee for the Reelection of the President. That Des Moines speech Patrick Buchanan wrote for Vice President Agnew survives as a document in default. All those shrill warnings of media manipulation are bench marks in reverse for the profession they were calculated to discredit and frighten.

In this documentary history—"Nixon's Seventh Crisis"—a vital exhibit will certainly be that remarkable interview that the President gave to Saul Pett of the Associated Press last January, just a few days before his second inaugural. Twice he made it "perfectly clear" that, unlike his predecessors, he insulates himself from television news and newspapers, lest he, to quote the President's own words," . . . go up the wall." Time and time again in the interview he proclaimed his lack of emotion. In his own words, "I have a reputation for being the coolest person in the room . . ." Four times he insisted that he never reads columnists or watches commentators because "I get my news from the news summary the staff prepares every day, and it's great; it gives all sides. . . . I never watch TV commentators or the news shows when they are about me. That's because I don't want my decisions influenced by personal emotional reactions." In a specific put-down of James Reston, he says: ". . . All that matters is that it comes out all right. Six months from now nobody will remember what the columnists wrote."

Mr. Nixon must just be wrong about that prophecy. In fact, a couple of weeks before Nixon's landslide victory last fall, James Reston speculated on the price he might have to pay for his Watergate silence:

"The Congressmen . . . will be back in January, and then the President will have to persuade them that he didn't really know about those dirty tricks in the campaign, and wants and needs their cooperation . . . but after Vietnam and Watergate, and the election the going is likely to be very rough."

Reston's prophetic warning will seem obvious to future historians searching for clues as to why President Nixon could not have understood that his overwhelming mandate would be replaced by a national mood of shrinking confidence.

Was it possible that the President wasn't aware of what his closest aides most surely knew? For now, we have his promise that he didn't. We also have his word through that remarkable Pett interview that he didn't know what the columnists and commentators were saying about Watergate and all those other V.D.T.s (very dirty tricks). That high, spiked wall Richard Nixon erected between himself and the news media worked both ways. Even on his own terms it denied him an honest picture of what major newspapers, magazines and broadcast organizations were telling his public. Incredible as it sounds, if President Nixon is accurate in his report that he knew nothing about White House staff involvement until March 21, then many Americans had better intelligence on the crime than did their Chief Executive. If he was shielded as much on other crucial matters as he was on this sordid affair, then the most powerful executive on earth was the victim of an intelligence gap to rival that of those broadcasting presidents during the quiz scandals of 1959. They, too, took the responsibility but not the blame.

If President Nixon denied himself periodic access to serious disclosures on Watergate and all its ramifications, was he also ignorant of all those raids on the media committed by his most trusted aides? The President's public utterances would indicate that he disapproved of any such attempts at intimidation. In 1971, in an interview with Allen Drury, he said what Presidents from George Washington to Lyndon B. Johnson believed: ". . . I have one of the most hostile and unfair presses that any President has ever had."

But then Mr. Nixon went further: ". . . I have never called a publisher, never called an editor, never called a reporter on the carpet. . . . That's what makes 'em mad. That's what infuriates 'em. I just don't care . . ."

Some may doubt the credibility of that seemingly self-disciplined credo, but taking the President at his own word that he "doesn't read the columnists" and never called a publisher, editor, or reporter, then there is a frightening gap between the course of action set by the President and what is carried out by deputies who write on his stationery.

President Nixon may have never called a reporter, but Vice President Agnew, Attorney General Mitchell, H. R. Haldeman, John Ehrlichman, Patrick Buchanan, Herbert Klein, Clay Whitehead, Charles Colson and Kenneth Clawson have jointly or severally attacked Dan Schorr, Dan Rather, David Brinkley, Mike Wallace, Walter Cronkite, Sander Vanocur, Anthony Lewis, Katherine Graham, Jack Anderson, Tom Wicker, Bill Moyers, John Hart, Frank Reynolds, Marvin Kalb, Stuart Loory, and a seemingly endless list of other newsmen. Was the President not aware of these attacks?

Mr. Nixon insists he never called a publisher, but can it be news to him that John Ehrlichman, at a breakfast meeting with the head of the CBS News, tried to destroy Dick Salant's faith in Dan Schorr and Dan Rather, and suggested with a smile that Rather be transferred to an assignment in Texas? Did the President not know of the luncheon where Haldeman complained to editors of *The Los Angeles Times* about their coverage of the President? And was the President unaware that when *Newsday* ran a probing series on President intimate Bebe Rebozo, press secretary Ron Ziegler took retribution by not only dropping that newspaper's White House correspondent from the China trip, but also denying him access to routine information that all White House correspondents normally get?

Could the President, who never tried to intimidate a reporter, have been ignorant of the F.B.I. investigation of Daniel Schorr for a job opening never legitimately intended for him at the Council on Environmental Quality? In the summer of 1971 I was one of those contacted by the F.B.I. then investigating Mr. Schorr. I refused to be interviewed and used the opportunity to write J. Edgar Hoover in order to open the entire issue of F.B.I. clearance and investigations. I asked him what job, if any, Schorr was being considered for. He replied:

"DEAR MR. FRIENDLY: I have received your letter of November 12 and while I readily understand the interest and concern which prompted you to write, I regret I am unable to furnish the information you are seeking. I can suggest only that you may wish to direct your inquiry to the White House regarding the investigation of Mr. Schorr. I am sorry I cannot be of help in this instance.

"Sincerely yours,

"J. EDGAR HOOVER."

I remarked at the time that this was the first instance in which a query to a Government official had been bucked upwards. Perhaps Mr. Hoover was trying to tell me something.

If the job offer—never discussed with Schorr—was legitimate, how could a reporter whom the President and four of his closest aides derided and called dishonest be considered for it? What may be a revealing clue came from Patrick Buchanan, the lens through whom Mr. Nixon views the press. Buchanan appeared on *The Dick Cavett Show* March 22, and the record of that evening is probably the most disturbing piece of videotape since his boss's tantrum at the Los Angeles Hilton in November of 1962.

After calling the *Washington Post's* coverage of Watergate "shoddy journalism," Buchanan gave what he considered a "not unreasonable . . . explanation" of why "they were going to offer Mr. Schorr a job.

"If you've got a guy that's hatcheting you night after night maybe you come and say to yourself, "Why don't we offer that clown a job, and give him a big, fat paycheck, and get him off so we can get someone else." That's the only explanation I can give."

That's not hearsay or something Buchanan mumbled to friends late at night in a bar. This was spoken in full view of an audience of millions. Buchanan did add, however, that it was not his decision, and to quote him again, "given Schorr's bigotry and bias against the [Nixon] Administration, the individual that was going to offer Schorr a job made a bonehead play . . ."

Aside from the arrogance of Buchanan's theory, the chill factor comes from his conception of what is reasonable. The President views the performance of the news media through the distortion of this convex lens, this narrow band filter which distorts and views everything in polarized extremes.

This faulty lens transmits images for which the President and the people pay a heavy price. A classic example involves a minor speech Dan Rather delivered to a junior college in his native state of Texas. The CBS News correspondent referred to President Nixon as "the greatest *loner* ever to occupy the White House." In the weeks that followed, Rather noticed that his most reliable contacts in the Administration began to dry up on him—repeated phone calls to White House staffers went unanswered. His competition began to receive routine announcements before he did, causing his editors to ask why he was losing out on stories. Finally, in frustration, Rather sought out a friend on the President's staff who showed him a recent copy of Buchanan's dope sheet and asked, "What kind of treatment do you expect after that Houston speech?" A shocked Dan Rather read Buchanan's version: "Rather called President Nixon the greatest *loser* ever to occupy the White House." When Rather finally caught up with Buchanan, he said he'd put out a correction.

Buchanan's digest is often more of a press agent's scorecard of air time, front-page space, favorable mentions and bad ones than a serious review of what the news media are saying. It is written in a special jargon that neatly separates foes from friends. Some random samples:

"Brinkley really zapped us on that one.

"Reston, too, acknowledges RN [Nixon] is moving on many programs which needed to be cut—but then he say RN is moving "too fast," when if it were a liberal, we'd hear about "hold leadership."

"Mudd gave a typically rhapsodic intro to acknowledged Senate leader in battle with WH [White House] . . . cited Sam [Ervin] as living proof seniority sometimes work—the right man in right place at right time.

"*LA Times* piece on Presidential humor gives RN positive treatment . . . says RN's humor seems to be surfacing more . . . notes various RN quips such as "outhouse" question at news conference . . ."

The Buchanan report, which is really a kind of *Gallagher Report* for the President, would be a joke if it weren't so tragic. Capsulizing and pre-digesting the news in this way is like putting the President on a diet of "uppers and downers"—it robs him and the nation of a sense of proportion and reality.

Even now there is evidence that Mr. Nixon has an unreal vision of how public opinion measures his personal involvement in Watergate and the alleged cover-up. Two weeks ago the Associated Press reported that at a White House dinner, the President told the wife of a Cabinet member, "This is a time of great heartbreak. . . . It always is sad when you find personal friends in trouble."

Other Presidents have been unwilling to recognize that "the political skeleton in the closet" was their own. In *Six Crises*, Richard Nixon, criticizing President Truman's mishandling of the Alger Hiss case, wrote:

"[Truman's] error was sheer stubbornness in refusing to admit a mistake. He viewed the . . . case only in its political implications and he chose to handle the crisis which faced his Administration with an outworn political rule of thumb: leave the political skeletons hidden in the closet and keep the door locked. He denied outright the evidence in front of him. . . . Once the F.B.I. was given the green light in its investigation of the Hiss case, it did a magnificent job. The blame for failing to act before that time rests not on the F.B.I., but squarely on those officials of the executive branch [of the Truman Administration] who had full access to F.B.I. reports and who failed or refused to order a full investigation."

Nixon held Truman directly accountable in the handling of the Hiss case—"a disservice to the nation," he called it—but Hiss was not on the President's staff and had virtualy no personal contact with him, whereas Haldeman and Ehrlichman were in the Oval Office every day. Mitchell had been his chief law enforcement officer and, at the time of Watergate, his closest political aide.

While Haldeman kept Senators, Congressmen and even Cabinet members away from that Oval Office, while Ziegler kept newsmen at arm's length, while the number of Presidential press conferences reached an all-time low and the use of prime-time television exceeded the total prime-time use of the last three Presidents, the narrow flow of news that was allowed to pass through Buchanan's filter was a key factor in the final isolation of the President.

We must not allow ourselves to be naive about how much the President really knew about Watergate and its cover-up, and how much of it was simply jammed communications from within the White House. In one of Richard Nixon's rare news conferences, on October 5, 1972, he said:

"One thing that has always puzzled me about it is why anybody would have tried to get anything out of Watergate. But . . . when we talk about a clean breast, let's look at what has happened. The F.B.I. assigned 133 agents to this investigation. It followed out 1,800 leads. It conducted 1,500 interviews. Incidentally, I conducted the investigation of the Hiss case. I know that is a very unpopular subject to raise in some quarters, but I conducted it. It was successful. The F.B.I. did a magnifient job, but that investigation, involving the security of this country, was basically a Sunday school exercise compared to the amount of effort that was put into this."

The Ervin Committee and Prosecutor Cox will want to examine the records of those 1,500 interviews conducted by those 133 F.B.I. agents. Perhaps the President will, too. Whether those 1,800 leads were legitimate or contrived to fool the President, it is true that all Presidents suffer from various forms of information gaps. Although they have access to all kinds of "for the President's eyes alone" material, they miss much of what reasonably informed citizens see and hear every day. There is something about the rarefied ecology of the White House that limits all Presidents' field of vision: Dwight Eisenhower once stunned me by indicating he had no knowledge of the Edward R. Murrow broadcast about Senator Joseph McCarthy. Reflecting afterward on what he said, I convinced myself that I had misunderstood the General, until 1967, when, after he read a book I had written, President Eisenhower sent me a long letter in which he said it again:

"Regarding McCarthy, I must remind you that in those days I rarely had time to turn on television. Consequently, I did not know very much of what was going on between the television companies and McCarthy. . . . I did not know some of the Murrow broadcasts that were critical of the Wisconsin Senator and was not even aware that I had allies in my determination to defeat a man whom I thought was doing a great disservice to America, by lies, innuendo and false accusations."

Such Presidential "information vacuums" as Eisenhower called them, and the resultant isolation are part of Mr. Nixon's problem. But the final lesson of the current national humiliation, and one that most politicians, including the President, have pointed out, is the obscene cost of our elections.

Peeling away the acts of eavesdropping and sabotage in the Watergate and related cases exposes the corrupt core—money. The Republicans had money to burn, and thus had the temptation to indulge themselves in overkill ventures like Watergate. One way to use the excess money could have been to assist senatorial and congressional candidates in their campaigns, thereby strengthening the Republican Party. Watergate points to a need for reforming the ways we raise and spend political money.

The Citizens' Research Foundation in Princeton, which studies such matters, estimates that above $50 million was spent on the Nixon campaign. (The McGovern campaign spent $28 million.) Much of the Nixon funding came from such sources as Vesco, I.T.T., the dairy lobby, Texas Oil, and the Teamsters Union, none of which could probably justify such massive expenditures without the expectation of privileged treatment in return.

Once we agree that such crude contributions be forbidden, we get down to the tough question of how to finance campaigns. Here the broadcast industry, so self-righteous about all the corruption, is part of the problem This vital and favored industry, which in 1972 sold $59.6 million worth of air time to politicians campaigning at all levels, must no longer be allowed to sell that expensive commodity to candidates who usually can't afford to buy unless they are willing to accept fat-cat contributions that may mortgage their independence.

We are the only major nation on earth that permits air time to be sold to political parties and office seekers. The paradox is that we allow these stations to sell air time to the same politicians upon whom they may ultimately be dependent for their licenses—licenses that allow them to control that air time in the first place—and the public ultimately foots the bill.

Some distinguished commissions, notably a Twentieth Century Fund Commission including Newton Minow, Dean Burch and Alexander Heard, recommended in 1969 that Presidential candidates of the major parties be provided free "Voters' Time" during prime hours on all networks simultaneosuly and that the Federal Government pay the cost of that air time based in special favored rates. Provision would be made to give so-called third and fourth parties access to some free television time.

If this reform was right for 1972, the events of the last ten months add prescience to that proposal. Even the President, in his proposals for a Congressional Commission, suggests looking into finances for air time. My own suggestions for the election of 1976, and perhaps even '74, call for air time for candidates' speeches and debates, to be provided *without cost* by the broadcast industry. The national candidates would get network time. Governors, Senators and Congressmen would get time from as many regional and local stations as would be required to reach their constituencies.

The duration of the campaign must be dramatically shortened. In an age of television, radio and jet travel, four months of campaigning, to say nothing of five months of primaries, is an exorbitant bore. Spot announcements, which are really a license for the permissible lie" with no opportunity for reply, should be banned, as they are in most countries, and as they are by WGN–TV, Chicago, and a few other enlightened stations.

Based on 1972 television expenditures in all elections, including primaries, the cost of TV air time is $37.2 million. That sounds like a lot of money, but if you project it against 704 commercial television stations with a total annual estimated gross of $3.2 billion, it comes to slightly more than 1 per cent of gross revenues.

If you spread that over a four-year period and allow for off-year Senate, House and state elections, it still comes to only half of one per cent per year. Even if you include municipal elections, that's still well under 1 per cent of the gross revenue for one of the most profitable semi-monopolies in this nation to help solve a dilemma that has brought us to the edge of national disgrace. It would be a small price to pay for these privileged licenses. Even the cost figures of less than 1 per cent of gross revenue is lower than it seems. As recommended in the "Voters' Time" proposal, the broadcasters' cost of time provided to candidates could be deducted from their taxable income. It goes without saying that by the next election, public broadcasting will be able to provide a vital electronic platform. But there, too, we need a plan.

The state of siege which has preoccupied journalism for the past three years has been broken, as it always has been, not by protestation, but by performance. For the journalist, however, the severest challenge is yet to be.

President Nixon may lose his power struggle with the Congress. He could be impeached or censured, or more likely he could retreat to inactive isolation, or be stricken with the kind of malaise that so often seeks out leaders who have been humiliated and have lost the will but not the responsibility to govern.

Whether the President manages to ride out this crisis or succumbs to it, The next three years may put this nation to the crucible as it has not been tested since Reconstruction. For if relations are now strained between Congress and the Executive over the bombing of Cambodia, how does the decision-making process take place when other international incidents like Lebanon-Israel, India-Pakistan, or the flight from the dollar, flare up and require instant response?

What safeguards exist should a beleaguered President be tempted to escalate an international incident in a rash attempt to divert public attention from the muck at home? What happens to all our thorny domestic problems when the President and his new surrogates are preoccupied with their own survival? Who adjudicates in the power struggle that may develop between the White House staff and Vice President Agnew, who may find his constitutional authority and his political future caught in the same twilight zone? Richard Nixon found so untenable eighteen years ago? Should that happen, Spiro Agnew may wish to rethink that Des Moines speech about the value of news analysis.

Dos Passo's "Scary present is now." It is a time for relentless digging, but it is also a time for reason and perspective. It is a time for journalism to rearm its right not by preaching but by demonstrating its need to be; not by shouting "I told you so," but by demonstrating its reason for being. Occasionally there is a news story of such consequence that it serves as a watershed for an entire generation as it discovers for itself what Editor White told his Kansas reader—that "repression [not violence] has made wrecks of the world."

Untangling this current wreck will require all the safeguards and restraints which, in their breach, created Watergate. Grand juries don't determine guilt; hearsay isn't convicting evidence, and eight-column headlines and cover-story caricatures can scream the very kind of editorial conclusion that the prudent news story tries to avoid. Guilt by innuendo, by unevaluated leaks, by contrived editing, can be just as reckless as McCarthyism or bugging, or falsification of documents. Oversimplification and rumor, or out-of-context excerpting, can be just as dangerous in the hands of a crusading editor or producer as it is in the hands of a Buchanan or a Colson.

Indeed, this *is* a time of rights—*theirs* as much as *ours,* of reporter's obligation as much as reporter's privilege. A recent conversation between two young prosecutors in the United States Attorney's office, each anxious to write the indictment of former Attorney General John Mitchell, says it all:

"I'd work two years for nothing if I could take Mitchell before the Grand Jury," says one. The other answers, "I'd give two years pay just to warn the S.O.B. of his rights."

NO FOOD STAMPS FOR STRIKERS

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. GAYDOS. Mr. Speaker, employers have coined a catchy slogan namely "No Food Stamps for Strikers" with which they hope to delude their listeners into believing that the Federal Government is conferring some extra-special benefit on workers who go on strike. Like all catchy slogans this one may have some attractiveness when first heard but on further analysis it shows up as the tip of an iceberg of misrepresentation.

First, as the language of the amendment reads it would prohibit the distribution of food stamps to all strikers. What about the worker who, realizing the futility of his frequent complaints to his employer about unsafe or hazardous working conditions, is forced to use the ultimate weapon of a strike to dramatize to his employer the validity of his complaints? What about the worker who in the face of repeated unfair labor practices committeed by his employer, is forced to avoid further harassment by his employer only by going on strike? What about the worker who votes against the strike but must follow the decision of the majority who approved the strike?

How can anyone honestly contend that workers who are forced to go on strike under these circumstances should be denied food stamps for their families when the families of convicted felons as well as 25,600 Cuban refugees receive such Federal assistance?

In previous debate in this House I have heard proponents of this amendment suggest that a felon is not voluntarily incarcerated. But it must be realized that the felon did initially commit a voluntary act, albeit an illegal one. The Cuban refugees made a voluntary decision to avoid further oppression by the Castro government by fleeing to the United States.

I submit that the only test is whether the families of strikers qualify under the standards for all recipients of food stamps; namely, the fact that the family does not have liquid assets of over $1,500.

Second, employers would have us believe that all strikers receive food stamps. Yet the Thieblot-Cowin study so often referred to by the proponents of the amendment, analyzed strikes where only about 30 percent of the strikers received food stamps. In any case, however, this overlooks the fact that the principal beneficiaries of food stamps are the families of the strikers.

Third, employers would have us believe that the issuance of food stamps to strikers has caused both an increase in the number of strikes as well as an increase in the duration of strikes. To support this contention they cite statistics to show that the number of striks has doubled from 1960 to 1970.

I suggest that the matter is not that simple. An analysis of the statistics compiled by the Department of Labor for the period 1950 to 1971 shows a mixed pattern of an overall increase in the number of strikes. As a matter of interest, there were 4,843 strikes in 1950 and 5,138 in 1971. But in 1952 there were 5,117 strikes or only 21 less strikes than in 1971:

1950	4, 843
1951	4, 737
1952	5, 117
1953	5, 091
1954	3, 468
1955	4, 320
1956	3, 825
1957	3, 673
1958	3, 694
1959	3, 708
1960	3, 333
1961	3, 367
1962	3, 614
1963	3, 362
1964	3, 655
1965	3, 963
1966	4, 405
1967	4, 595
1968	5, 045
1969	5, 700
1970	5, 716
1971	5, 138

In analyzing the increase in the number of strikes, it certainly is necessary to take into account the increase in union membership during the period. The Department of Labor statistics are:

1951	16, 750, 000
1961	17, 328, 000
1970	20, 700, 000

These statistics show that whereas there was an increase in union membership of 578,000 in the decade of the 1950's, the increase for the 1960's amounted to 3,372,000. Certainly the tremendous increase in union membership in the 1960's would mean an increase in the number of strikes. This is particularly true when it is realized that the trade union movement is entering heretofore unorganized industries or companies, where a strike is not an unusual activity.

The records of the National Labor Relations Board indicate a steadily increasing number of unfair labor practice charges filed against employers during the period of 1950 to 1972. In 1950, there were 4,472 such charges, in 1960, 7,723, and in 1972, 17,736. With respect to section 8(a)5 of the act, the section which requires employers to bargain collectively with representatives of their employees, there were 1,309 charges filed in 1950, 1,753 in 1960, 4,489 in 1970, and 6,023 in 1972. Whereas the total of all unfair labor practice charges filed against employers increased 72 percent in the 1950's and 76 percent in the 1960's or at almost the same rate; when we focus our attention on section 8(a)5 charges, the picture is much different. While the increase in this type of charge in the 1950's was 33.9 percent, in the period of the 1960's the percentage increase was 156 percent. This would certainly establish an increased proclivity on the part of management in the 1960's to refuse to bargain with representatives of their employees. The only alternative for workers in this situation is to use the ultimate weapon of a strike. I include the following:

Year	Unfair labor practice charges filed against employers	Refusal to bargain charges filed sec. 8(a)5
1950	4, 472	1, 309
1951	4, 164	1, 235
1952	4, 306	1, 226
1953	4, 409	1, 347
1954	4, 373	1, 212
1955	4, 362	1, 213
1956	3, 522	838
1957	3, 655	827
1958	6, 068	1, 039
1959	8, 266	1, 311
1960	7, 723	1, 753
1961	8, 136	1, 676
1962	9, 231	2, 294
1963	9, 550	2, 584
1964	10, 695	3, 088
1965	10, 931	3, 815
1966	10, 902	3, 811
1967	11, 259	3, 819
1968	11, 892	4, 097
1969	12, 022	3, 967
1970	13, 601	4, 489
1971	15, 467	5, 018
1972	17, 736	6, 023

With respect to the duration of strikes it appears once again that the figures do not support the contention that food stamps have increased the length of strikes. The BLS statistics for the period 1956–72 establish a rather erratic pattern with the highest annual average length of strikes being 36.7 days in 1959 and the average of 15.3 days for 1972 comparing favorably with 17.1 days for 1963 the year before the inception of the food stamp program:

	Days
1956	17.4
1957	11.9
1958	11.6
1959	36.7
1960	14.5
1961	11.2
1962	15.2
1963	17.1
1964	13.9
1965	15.0
1966	12.9
1967	14.7
1968	18.5
1969	17.3
1970	20.1
1971	14.5
1972	15.3

Furthermore, the average length of strikes for the 8-year period prior to the passage of the Food Stamp Act in 1964 was 16.95 days, whereas the average for the 8-year period subsequent to 1964 was 16.04 days.

While there appears to have been more strikes in excess of 30 days in 1971 than in 1960, the fact remains that in 1960, 23.1 percent of the workers on strike were involved in strikes over 30 days, whereas in 1971 the percentage was smaller, namely 22.1 percent.

The supporters of this amendment have made frequent reference to the Thieblot-Cowin study, which was completely financed by a fund donated by 4 industrial foundations and 13 companies, but which masqueraded under the aegis of the Wharton School of Finance of the University of Pennsylvania. Clearly the funding of this study casts great doubt on its objectivity. When the infinitesimal percentage of strikes analyzed—0.13 percent—by the study are compared to the statistics that I have recited, it is clear there is no evidence to support the study's conclusion that food stamps have contributed to an increase in strikes and their duration.

There are many who contend that in issuing food stamps to strikers the Federal Government is involving itself in the collective-bargaining process, implying that otherwise the Federal Government remains neutral in the management-worker relationship.

I submit that this is a grand illusion. The Federal Government has been involved in the collective-bargaining process for many years. Just for example, the Wagner Act and the Norris-Laguardia Act are instances where the Federal Government intervened on behalf of the worker. The Taft-Hartley and Landrum-Griffin Acts are instances of Federal Government intervention on behalf of management. With particular reference to strikes the Federal Government has on many occasions obtained injunctive relief to curtail strikes.

For the fiscal year 1972, the NLRB on 257 occasions filed petitions with Federal courts seeking to enjoin strike activity. Additionally, on other occasions the Federal Government has enjoined strikes in matters of national emergency.

There are various ways by which the Federal Government intervenes on behalf of management to minimize the effect of the strike. If a company is performing work pursuant to a Government contract it has the advantage of a "force majeure" clause which excuses delay in completion of the contract due to a strike. It may well be that a company has the benefit of a "price-escalation" clause which allows the company to collect additional costs resulting from a wage increase to its employees.

I submit that if any of my colleagues are really interested in removing the Federal Government from the collective-bargaining process there are many other statutes that they must be prepared to amend. But to pass this amendment and deprive the families of workers of food is not the way to do it. At this time to reverse a process which has been going on since 1964 would certainly not improve the management-worker relationship, but instead would go far to exacerbate the relationship.

When employers object to strikers receiving food stamps what they really want is to have the Federal Government penalize strikers for engaging in lawful activity. Even worse is the fact that this is an insidious attempt by employers to enmesh the families of strikers in the collective-bargaining process on the side of management, yes on the side of management, so that the decision to strike would not depend on the merits of the strikers requests but rather on the ability of the strikers families to resist hunger and starvation.

Congress through the Taft-Hartley Act outlawed the use of the secondary boycott by a union, yet management would have this Congress legitimize the use of a secondary boycott by employers, namely the use of the neutral members of the strikers families to bring pressure on the worker to force him to buckle under to the demands of management.

The constitutionality of the proposed amendment would appear very doubtful in the light of the recent decision of the U.S. Supreme Court in the case of *United States Department of Agriculture et al.* v. *Jacinta Moreno et al.* (—U.S. —) decided on June 25, 1973. In that case the Supreme Court considered the 1971 amendment to the Food Stamp Act of 1964 which excluded from participation in the food stamp program any household containing an individual who is unrelated to any other household member. This amendment was intended to prohibit food stamp assistance to communal "families" of unrelated individuals. The Supreme Court held that the classification established by the 1971 amendment was "wholly without any rational basis" and accordingly the amendment was invalid under the due process clause of the fifth amendment. The following language of the Court is indeed pertinent to the amendment now before the House:

> The challenged classification clearly cannot be sustained by reference to this congressional purpose. For if the constitutional conception of "equal protection of the laws" means anything, it must at the very least mean that a bare congressional desire to harm a politically unpopular group cannot constitute a legitimate governmental interest.

I submit that if the U.S. Supreme Court holds that the Federal Government cannot deprive a politically unpopular group, namely members of a commune from receiving food stamps, it certainly would hold that the Federal Government cannot deprive workers who are exercising their lawful right to strike from receiving food stamps.

THE STOCKPILE PROBLEM

HON. DICK SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. SHOUP. Mr. Speaker, almost every day we see and hear statements warning of the perils that attend our reliance upon Mideast petroleum. The fact that our dependency on these sources has risen to approximately one-third of our consumption is indeed alarming and the volatile character of the areas wherein the oil deposits are located makes it even more so.

Apparently not having learned to fully appreciate the far-reaching implications of this for parallel situations, the administration has expressed a desire to sell stockpiles of strategic materials. The response of the Congress to these proposals must be carefully constructed with proper consideration given to all aspects of the problem. A price-controlling expediency for the present cannot be allowed to jeopardize the Nation's future well-being.

One possible predicate for a reasoned response to the sell-minded administration has recently been formulated by the American Mining Congress. I specifically call attention to that organization's June 1973 publication entitled "The Stockpile Problem." Selected comments from that publication are presented here for the purpose, not of trumpeting the position of a special-interest group, but rather to draw attention to this problem and thereby help avoid the hazard of watching the oil problem with a fixation that allows a condition with equally dire consequences to be generated by an expediency-minded administration.

The comments follow:

THE STOCKPILE PROBLEM

Of the materials now in the stockpile, three-quarters by value represents purchases outside the United States. Only one-fourth was acquired in this country. This nation is the largest producer and consumer of industrial raw materials in the world, but it is self-sufficient in the supply of only two of the metals and minerals classified as strategic and critical—magnesium and molybdenum.

Industry in Japan and Germany, backed by their governments, has negotiated long-term contracts to procure the bulk of the growing production of minerals in the developing countries. This means that the U.S. consumer will not be able to draw on those sources—except through the purchase of refined metal or fabricated goods from Japan and Germany.

Even in cases involving recent price rises of commodities in which U.S. dependence on import sources is less pronounced, successful use of stockpiles as a measure to control price inflation is questionable.

During the Viet Nam War, the Johnson Administration authorized substantial releases of copper (over 400,000 tons) ostensibly for world needs but also in an unsuccessful attempt to stem rapidly rising copper prices. But while President Johnson's famous "jawboning" techniques achieved a rollback in domestic producers' copper prices from 38 cents a pound to 36 cents a pound in late 1965, the stockpile releases were wholly unable to halt the increases in merchant, commodity market and scrap copper prices. Moreover, a prolonged strike in the copper industry and continued booming demand for copper soon pushed the domestic price of copper up, reaching 60 cents a pound by 1970, while the rise of imported copper climbed much higher.

The Administration proposes to liquidate the present copper stockpile of 250,000 tons. Once this is gone, not only will there be no copper in the stockpile but the U.S. Mint will have to enter the market to buy the copper needed to supply the country's essential coinage requirements. The copper stockpile represents about 4% of the volume of Free World production. To try to control the price of a basic international commodity like copper over the long term by disposing of 4% of one year's production is like trying to bail out a sinking lifeboat with a teaspoon.

The present Administration apparently believes that the stockpiles no longer have strategic value. Even if this assumption is correct (and there are serious grounds for questioning the assumption), from an economic point of view this does not appear to be the best time to liquidate these stockpiles. A rising tide of nationalism is evident throughout the world, particularly on the part of those countries whose economies are heavily dependent on commodity exports.

Inflationary trends and the devaluation of the dollar have pushed prices for most stockpile materials well above the original cost of acquisition. Since inflation is expected to persist, these prices are likely to move significantly higher still. Yet the real value of these reserves cannot be measured in terms of dollars but rather in terms of key assets that cannot readily be duplicated in times of national emergency-military or economic. These assets should be preserved for such emergencies.

HONOR POLICE HEROES

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. KEMP. Mr. Speaker, the policeman has long been a symbol of the law to the American people. Through generations, both the personal and family safety of our citizens have been entrusted to the police.

Today, the average police officer must do even more. He finds himself being a mixture of lawman, lawyer, defender of society and social worker—a literally impossible task for any one person.

The policeman or woman may find themselves being asked for help as a friend, counselor, doctor, or minister. Above all, however, he or she represents the law, and apprehends criminals—and too often sacrifices their lives in our protection.

Yet, in spite of everything, the humanitarian side of a police official is ever present, often unnoticed and certainly never sufficiently acknowledged. The police need the constant and ungrudging cooperation, support and respect of the public. Without our law enforcement officers anarchy would reign.

In 1971 and again in 1972 the Conservative Party of New York State called for a statewide observance of Police Memorial Day. Last year the Gunning-Knorr-Jerabek concurrent resolution to honor police heroes was passed in the New York State Legislature which memorialized the Governor to proclaim June 1 as "Police Memorial Day." Again this year the Conservative Party of New York State called for a similar statewide commemoration in honor of our law enforcement officers and a resolution was again introduced in the legislature.

Conservative Party State Chairman Dan Mahoney called upon all citizens to honor police heroes on Friday, June 1, by flying flags at half-mast and by driving their cars with headlights on during daylight hours. "Honor police heroes" buttons and bumper stickers were also made available.

Through the concerted efforts of the citizens of New York State and of Conservative Party leaders at all levels, this day of tribute to our law enforcement officers was again an overwhelming success. Dan Mahoney and the Conservative Party are to be commended for their efforts on behalf of our police, who all too seldom receive adequate recognition.

Mr. Speaker, at this time I would like to pay tribute to the law enforcement officers of western New York who have done so much to make our area a better and safer place to live. I include for the RECORD, letters I have received from Thomas R. Blair, commissioner of police for the city of Buffalo, and from Herbert E. Zimmerman, chief of police of the town of Amherst, Erie County, N.Y., which cite outstanding meritorious services performed by local police officers:

MAY 24, 1973.

Congressman JACK KEMP,
Congress of the United States,
Cannon House Office Building,
Washington, D.C.

DEAR CONGRESSMAN KEMP: Your secretary called to request that we provide you with the names of Buffalo Police Officers who had performed outstanding and meritorious service during the past year, explaining that you would enter them in the Congressional Record.

The following officers of the Buffalo Police Department were cited for outstanding, meritorious service during the year 1972:

Lieutenant Stephen G. Qualey
Patrolman George A. Mitchell
Lieutenant Maurice J. Kennedy
Patrolman William R. Yeates
Lieutenant Rocco R. Navarro
Patrolman Edward Mitchell, Jr.
Patrolman Raymond P. Morath
Patrolman Leslie A. Davis
Patrolman Michael J. O'Keefe
Patrolman James J. Mourgas

We deeply appreciate your continuing interest in the welfare of police officers everywhere.

If we may be of further service, please call on us.

Sincerely,

THOMAS R. BLAIR,
Commissioner of Police.

MAY 24, 1973.

Congressman JACK KEMP,
Cannon House Office Building,
Washington, D.C.

DEAR CONGRESSMAN KEMP: In recognition of National Police Day, June 1, I would like to state that on February 23, 1973, Detectives Peter Manzella and Arthur Janssen, Patrolmen Robert Brown and John Griffin apprehended David Gotthelf who had kidnapped two women and then released them. Gotthelf approached the officers with a loaded shotgun. The officers were unable to use their own weapons because the area was located in a busy shopping mall with many store patrons in the immediate vicinity, and would have resulted in injury to innocent bystanders. The officers disarmed the subject without firing a shot even though exposing themselves to great personal risk.

I would also like to site the arrest of Steve Tartt who was apprehended by this department on May 21, 1973. An estimated street value of 2½ to 3½ million dollars worth of heroin and cocaine was recovered in an apartment leased by Tartt. This arrest was the result of an intensive investigation and surveillance headed by Det. Sgt. William Bambach along with Detectives Arthur Hohensee and Richard Czechowicz.

We trust that this information will be of interest to you.

Very truly yours,

HERBERT E. ZIMMERMAN,
Chief of Police.

FRIVOLOUS AND UNNECESSARY VOTES IN THE HOUSE

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. CARNEY of Ohio. Mr. Speaker, ever since the 93d Congress convened in January, there has been a noticeable increase in the number of times we have been called upon to vote compared with a similar period during the 92d Congress. These votes have consumed a great deal of time and often seemed to be frivolous and unnecessary.

The Democratic Study Group, which does outstanding research, recently issued a special report containing documentary evidence of unnecessary votes in the House and abuse of House rules. The DSG report also suggests several changes which could reduce the number of unnecessary votes.

It is clear that a rule adopted by the House in 1896 to save time is now being used to delay and impede legislative business rather than to expedite and enhance that business. Regardless of our party affiliation, let us all resolve to refrain from dilatory or obstructionist tactics, and to conduct the public's business as efficiently and expeditiously as possible. The American people deserve no less.

Mr. Speaker, I insert the Democratic Study Group special report in the RECORD at this time for the information and consideration of my colleagues:

SUPPLEMENT TO DSG SPECIAL REPORT RECORD TELLER VOTES IN THE 93D CONGRESS, JULY 16, 1973

This is a supplement to DSG Special Report dated July 10, 1973, on Record Teller Votes in the 93rd Congress.

Since issuance of the original report, additional evidence has been developed of unnecessary and dilatory votes in the House as opposed to record teller votes in Committee of the Whole.

In addition, there is clear evidence of abuse of a House rule which enables a single Member to require a record vote in the House.

The House Rules Committee is considering proposals to increase the number of Members required to obtain a record teller vote from 20 to 44. The original DSG report showed that such an increase is unjustified because the increase in record teller votes during the first half of 1973 was due entirely to a sharp increase in legislative activity, not abuse of the teller vote procedure.

FRIVOLOUS AND UNNECESSARY VOTES

The most objective measure of whether recording a vote is frivolous or unnecessary is the closeness of the vote, whether there was truly a major division between the majority and a significant minority or whether a small minority forced a vote on a hopeless question.

By this standard, there is a dramatic difference between record teller votes on amendments in Committee of the Whole and votes taken in the House. For example, 60% of the votes in the House (92 of 155) involved lopsided margins in excess of 200 votes compared with only 11% of all record teller votes in Committee of the Whole (8 of 72).

Similarly, on 43% of the House votes (67 of 155) less than 50 Members supported the losing sides. By comparison, this occurred with only one of the 72 record teller votes.

The conclusion is obvious: There are numerous frivolous and unnecessary votes in the House itself and few in the Committee of the Whole.

ABUSE OF HOUSE VOTE RULE

There are two categories of record votes in the House itself: Those which are taken on demand of 44 or more Members and those which are taken on demand of only one Member who objects to a vote on grounds that a quorum is not present. House Rule XV, Paragraph 4, provides that when such objection is made after a voice vote in the House, there shall be an automatic Yea-Nay vote on the question. (This rule does not apply in Committee of the Whole.)

Thus, during the first six months of 1973, over half of all votes taken in the House (78 of 155) were required by a single Member under Rule XV. Of the remaining 77 House votes, 73 were taken on demand of 44 or more Members and four were required by the constitution (3 veto overrides and election of the Speaker). Thus, there were more record votes in the House on demand of one Member than there were in Committee of the Whole where 20 Members are required to obtain a record teller vote on an amendment.

Comparative analysis clearly indicates abuse of the procedure under which a single Member may require a vote of the entire House.

For example, on 63% of the votes required by a single Member (49 of 78) less than 50 Members supported the losing side compared with 25% of the votes taken on demand of 44 or more (18 of 73) and only 1.3% of the record teller votes (1 of 72).

Similarly, 80% of the votes required by a single Member (62 of 78) involved margins in excess of 200 compared with 40% of the votes taken on demand of 44 or more (29 of 73) and only 11% of the record teller votes (8 of 72).

In short, two-thirds of the House votes with margins in excess of 200 and three-fourths of the House votes where less than 50 Members supported the losing side were votes required by a single Member under Rule XV.

Harder evidence of abuse of Rule XV can be seen in the fact that on 40% of the votes required by a single Member (31 of 78), the Member requiring the record vote (by objecting that a quorum was not present on the voice vote) was recorded as voting the same way the voice vote had gone.

In other words, a record vote was unnecessary insofar as attaining the end result favored by the Member demanding the vote. He or she *had already won* on the voice vote.

By comparison, only 5% of the House votes taken on demand of 44 or more Members (4 of 73) and only 3% of the record teller votes in Committee of the Whole (2 of 72) involved instances where the Member demanding the record vote had already won on the voice or division vote.

SOURCE OF DEMANDS FOR QUORUM CALLS AND RECORD VOTES

During the first six months of 1973, Republicans were responsible for 73% of all quorum calls (70 of 96), 75% of all record votes in the House (114 of 155), but only 57% of the record teller votes in Committee of the Whole (41 of 72).

With respect to House votes required by a single Member under Rule XV, Republicans were responsible for 84% (65 of 78).

Republicans also were responsible for:

78% of the votes involving margins in excess of 200 (78 of 100);

79% of the votes where less than 50 Members supported the losing side (54 of 68); and

89% of the votes where the Member demanding the vote had already won on the voice vote (33 of 37).

See Attachment No. 2 for a list of Members who demanded quorum calls and votes during the first half of 1973 and a breakdown by type vote and party.

POSSIBLE REMEDIES

Increasing the number of Members required to obtain a record teller vote in Committee of the Whole would have absolutely no impact whatsoever on the real problem—unnecessary votes in the House. In fact, there is concern that increasing the requirement for record teller votes will only aggravate the overall problem by increasing the number of quorum calls. (See original report)

Following, however, are three suggestions which could reduce the number of unnecessary votes in the House and in Committee of the Whole:

(1) Amend House Rule XV to eliminate the automatic Yea-Nay vote when a single Member objects that a quorum was not present on a voice vote. While this would require a quorum call if objection were made, it would also require that the demand for a record vote be made after the quorum call and supported by one-fifth of those present. House Rule XV was adopted in 1896 as a means of saving time. However, with the new electronic voting system more time would be saved over the long run by returning to the pre-1896 practice.

(2) Give the leadership authority to shorten the time for votes from 15 minutes to 5 minutes on certain days or during certain hours when several votes are anticipated. This will force Members to stay on floor or risk missing votes, and will therefore, expedite business by avoiding quorum calls and requiring one-fifth of those present to obtain a record vote. (This would assume that the requirement for a record teller vote would also be changed from one-fifth of a quorum to one-fifth of those present, but not less than 20.)

(3) Publicize the names of Members demanding Record Votes and Quorum Calls such as is done by Attachment No. 2. This would focus attention on those who are engaging in dilatory tactics or requiring unnecessary votes for political purposes.

ATTACHMENT NO. 1

UNNECESSARY AND DILATORY VOTES DURING 1ST HALF OF 1973

	Record teller votes taken on demand of 20 members		House votes taken on demand of 44 or more		House votes taken on demand of 1 member		All House votes	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Total	72		73		78		[1] 155	
Votes on which less than 50 members voted on losing side	1	1.3	18	25	49	63	67	43
Votes on which margin between winning and losing sides exceeded 200	8	11	29	40	62	80	92	60
Instances where member demanding record vote had already won on division or voice vote [2]	2	3	4	5	31	40	35	23

[1] This figure also includes 4 votes required by the Constitution: 3 veto overrides and election of the Speaker.

[2] These are votes where the Member demanding the record vote was recorded as voting the same way as the voice vote had gone. In effect, instances where a record vote was unnecessary insofar as attaining the outcome favored by the Member demanding the record vote.

ATTACHMENT NO. 2

MEMBERS DEMANDING QUORUM CALLS AND VOTES DURING FIRST HALF 1973

[Note: Numbers in parentheses indicate the number of votes in that category where the Member demanding the record vote was recorded as voting the same way as the voice vote had gone. In effect, instances where a record vote was unnecessary insofar as attaining the outcome favored by that Member]

Member	Total	Quorum calls	Record votes in House		Record teller votes on demand of 20
			On demand of 1	On demand of 44	
Gross	41 (2)	18	14 (1)	5	4 (1)
Ford, G	25 (4)		4 (2)	17 (2)	4
Wydler	15 (7)	6	8 (7)		1
Scherle	11 (3)	5	3 (3)	3	
Wylie	10 (1)	4	4 (1)	1	1
Hunt	6	4	1		1
Quie	6	1		1	4
Anderson, J	5		1	3	1
Dellenback	5 (4)		3 (3)	2 (1)	
Erlenborn	5 (1)		1 (1)	1	3
Clawson, Del	1	1			
Cohen	1	1			
Derwinski	1		1		
Du Pont	1 (1)		1 (1)		
Dickinson	1	1			
Harvey	1	1			
Hogan	1				1
Harsha	1			1	
Kuykendall	1			1	
Landgrebe	1	1			

ATTACHMENT NO. 2

MEMBERS DEMANDING QUORUM CALLS AND VOTES DURING FIRST HALF 1973—Continued

Note: Numbers in parentheses indicate the number of votes in that category where the Member demanding the record vote was recorded as voting the same way as the voice vote had gone. In effect, instances where a record vote was unnecessary insofar as attaining the outcome favored by that Member

Member	Total	Quorum calls	Record votes in House		Record teller votes on demand of 20
			On demand of 1	On demand of 44	
Davis, M.[1]	5 (1)	3	2 (1)		
Hays[1]	5	2	1	1	1
Mathis[1]	5 (1)	3	2 (1)		
Dennis	4	2			2
Hosmer	4		3	1	
Symms	4 (1)	3	1 (1)		
Wilson, C.[1] (California)	4 (1)	2	2 (1)		
Cederberg	3 (2)	1	2 (2)		
Conte	3 (2)		1 (1)	1 (1)	1
Findley	3	1			2
Hillis	3	2	1		
Minshall	3	2		1	
Steiger (Wisconsin)	3		1	1	1
Teague (California)	3	1			2
Young (Florida)	3 (1)	2	1 (1)		
Giaimo[1]	3	1		1	1
Montgomery[1]	3	3			
Reuss[1]	3			2	1
Roncalio[1]	3	2			1
Roybal[1]	3				3
Ashbrook	2	1		1	
Baker	2	1			1
Blackburn	2	2			
Cleveland	2	1		1	
Davis (Wisconsin)	2 (1)	1	1 (1)		
Grover	2	1	1		
Kemp	2			1	1
Latta	2			1	1
Michel	2			1	1
McKinney	2	1	1		
Roncallo	2 (1)				2 (1)
Rousselot	2	1		1	
Sebelius	2 (1)		2 (1)		
Saylor	2		2		
Snyder	2		2		
Abzug[1]	2			1	1
Alexander[1]	2 (1)		2 (1)		
Flowers[1]	2	1			1
Burton[1]	2				2
Conyers[1]	2				2
Green, E.[1]	2				2
Long, C.[1]	2			1	1
Mink[1]	2		1		1
Mills[1]	2			2	
Perkins[1]	2		1	1	
Rodino[1]	2			1	1
Rogers[1]	2	1		1	
Stratton[1]	2			1	1
Yates[1]	2			1	1
Arends	1	1			
Brotzman	1				1
Broyhill (Virginia)	1		1		
Crane	1				1
Collins	1		1		
Lujan	1				1
Mizell	1				1
McEwen	1			1	
Mailliard	1			1	
Mayne	1 (1)		1 (1)		
McClory	1		1		
Myers	1	1			
Railsback	1				1
Ruppe	1		1		
Robison	1	1			
Steelman	1				1
Talcott	1			1	
Vander Jagt	1				1
Widnall	1			1	
Wiggins	1	1			
Addabbo[1]	1				1
Anderson, G.[1]	1				1
Annunzio[1]	1	1			
Andrews[1]	1	1			
Brooks[1]	1			1	
Donohue[1]	1			1	
Daniels[1]	1			1	
Delaney[1]	1	1			
Eilberg[1]	1			1	
Evins[1]	1			1	
Edwards	1		1		
Flood[1]	1			1	
Gonzalez[1]	1				1
Grasso[1]	1	1			
Hanna[1]	1				1
Holifield[1]	1			1	
Ichord[1]	1				1
Jones[1] (Alabama)	1			1	
Leggett[1]	1	1			
Moss[1]	1			1	
Patman[1]	1				1
Pepper[1]	1				1
Podell[1]	1				1
Pike[1]	1			1	
Rangel[1]	1	1			
Roberts[1]	1	1			
St Germain[1]	1				1
Stanton[1]	1				1
Seiberling[1]	1				1
Smith[1]	1	1			
Waggonner[1]	1			1	
Young[1] (Texas)	1		1		
Subtotal:					
Democrats	94 (4)	26	13 (4)	24 (0)	31 (0)
Republicans	225 (33)	70	65 (27)	49 (4)	41 (2)
Total	319 (37)	96	78 (31)	73 (4)	72 (2)

[1] Democrats.

ST. STANISLAUS, MOTHER PARISH OF WESTERN NEW YORK POLONIA

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. KEMP. Mr. Speaker, I was very proud and pleased to have been invited to participate June 3, along with distinguished guests and several hundred of western New York's Polish-American community, in the 100th anniversary celebration for St. Stanislaus Church of Buffalo, N.Y.

St. Stanislaus has grown from the humble beginning of 365 people gathered on a farm at Fillmore and Peckham in Buffalo, N.Y., to its present status as the spiritual heart of today's Polish-American community of over 350,000. As Rev. Daniel J. Myszka has described the history of St. Stanislaus Parish:

> It was on June 8, 1873, that St. Stanislaus Parish was first organized. Following his ordination on June 7, Father John Pitass was appointed pastor over the 82 families that had recently migrated from Poland to Buffalo, New York. It wasn't long before a church was built. Joseph Berk donated several lots on Peckham and Wilson Streets and it was here, on January 25, 1874, that the first church was dedicated. As more and more immigrants flocked to the area, a much larger church was needed, and so in 1886, the present church was dedicated. To accommodate the growing number of children, a much larger school was completed in 1890. Recognizing the hard work of Fr. Pitass, Bishop Ryan named him Dean of all the Polish-speaking churches in the Diocese, on May 20, 1894.
>
> Upon the death of Dean Pitass in December, 1913, his nephew—the Rev. Dr. Alexander Pitass—took over. Following in his uncle's footsteps, Fr. Alexander proved to be an able administrator and a powerful force in the Polish community. In 1917, he built a much larger convent for the many nuns then teaching at the parish school, and in 1920, he purchased the big, red building that stood diagonally across the street from the church and converted it into the Parish Social Hall. On May 25, 1925, he received the title by which he was to be always remembered: Monsignor Pitass.

A celebrated mass of thanksgiving was held June 3 at St. Stanislaus with the Most Reverend Edward D. Head, bishop of the diocese of Buffalo, leading the noon service. Among his assisting prelates was Bishop Stanislaus Rubin of Rome, Italy, representing Stefan Cardinal Wyszynski, archibishop of Gniezno-Warsaw.

The centennial banquet program for St. Stanislaus included a rendition of the Polish National Anthem, Jeszcze Polska Zginela, by the St. Stanislaus choir; the invocation by the Most Reverend Bernard McLaughlin, D.D., auxiliary bishop of Buffalo; a welcome address by Frank Wardynski, the centennial chairman; Stan Jasinski, president of WUTV, channel 29, as toastmaster; an address by the Honorable Ann T. Mikoll, State supreme court justice; choral selections by the Czarnik quartet, Peter Gorecki, director; the principal address by the Most Reverend Ladislaus Rubin of Rome, Italy, representing Cardinal Stefan Wyszynski; remarks by the Reverend Monsignor Peter J. Adamski, P.A., pastor, St. Stanislaus Parish; and by the Most Reverend Edward D. Head, D.D., bishop of Buffalo; and the benediction by the Most Reverend Pius Benincasa, D.D., auxiliary bishop of Buffalo.

I would once again like to express my very best wishes to the Reverend Monsignor Peter J. Adamski, P.A., and to everyone at St. Stanislaus on the 100th anniversary of the Mother Parish of our Polonia.

Mr. Speaker, I include at this time the address made by the Honorable Ann T. Mikoll, State supreme court justice, at the centennial banquet of St. Stanislaus held June 3 at the Statler Hilton Hotel, Buffalo, N.Y.:

With the death of Msgr. Pitass on July 30, 1944, the Rev. Stanislaus Kulpinski was named administrator until July 2, 1945, when the Rt. Rev. Msgr. Peter J. Adamski was installed as the third pastor. Under Msgr. Adamski's guidance, the parish continued to grow and flourish. In November of 1945, he made arrangements to have the Sunday noon Mass broadcast over the radio for the benefit of the shut-ins who couldn't get to church, and for all of Polonia as well. It proved to be a huge success and is still being heard via Station WXRL.

Ever conscious of the need for higher education, Msgr. Adamski established two high schools in 1946, which eventually became Bishop Colton, for girls, and Bishop Ryan, for boys. In 1960, the new Social Center was opened, replacing the old Parish Social Hall which had out-served its purpose. A popular innovation proved to be the "Sunshine Club" which Msgr. Adamski organized for the Senior Citizens.

The small Polish community of yesterday has grown over these 100 years into some 350,000 Polish-Americans on the Niagara Frontier. And just as St. Stanislaus Parish served as its center in the past, it still remains the heart of Polonia today!

"Our Parish"

I stand here on behalf of my fellow parishioners, in their stead, looking into their hearts and minds, and my own as well, to capture the echo of our thoughts, and the pulse of our emotions as we reflect on this historical occasion.

The Priests, Nuns, you and I, the laypeople of St. Stanislaus—we are all one family. The vastness of this room, the splendor of the setting, the distinction of our guests add to this evening a special aura, but this remains essentially a family occasion, full of special sentiment and reminiscences of times and dates past, and beloved people who are now gone.

For all of us, this anniversary evokes recollections of those who meant the most personally to each one of us—parents and grandparents—our historical links to today's jubilee. I see, as no doubt you do as well, the beloved faces of my own good parents who worshiped here for over 50 years, and recall vividly the personal solace and source of strength this Church and their faith offered them. Their exemplary lives, as did the lives of other parishioners, bore witness to the influence, vigor and success St. Stanislaus Parish enjoyed with its people.

This past week I reread the history of our Parish prepared by a fine historian, Mieczyslaw Hainman, on the occasion of the 50th Jubilee. Again, as always, my heart leaped with pleasure as the story of our people unfolded—their trials, their tribulations, their strengths and their weaknesses—he portrayed them well. Our forebears were strong men and women, no faltering soul would dare the rigors of travel across the Atlantic to an uncertain reception as they did decades ago if they had not great courage and stamina. They were modest and self-effacing people, unsparing of themselves in industry, full of reverence for God and life, devoted to their priests, great family people, loving and warm, hospitable, of irrepressible gaiety, immaculate householders, great cooks, good drinkers too, fine dancers, lovers of music—full of personal pride, dignity and honesty. It was this kind of strong national character they brought to America, and it was from this combination of qualities that St. Stanislaus grew, prospered, and made the old east side of Buffalo what it was, and set unalterably the Polish-American character.

We certainly take pride in the Gothic beauty of our splendid church, the Community Center, our fine school and other buildings, but the essence of St. Stanislaus transgresses the brick and mortar and reposes in its people.

The three priests whose lives were dedicated to the spiritual leadership of this parish are heroic figures: Father Jan Pitass, Msgr. Dr. Alexander Pitass, and our revered Rt. Rev. Pete Adamski, Apostolic Prothonotary, they epitomize the success a good priest can accomplish. The Buffalo community is aware of our regard for our pastor, and the reason for this devotion to our spiritual father is patently clear. His concerned stewardship gave impetus to active parish and civic life. He conceived and executed the beautiful Community Center, and a Catholic high school facility to serve his people. The loveliness of his character, his generous nature, and beneficence to his people took care of our many needs.

Few charities lack him as a patron. Perhaps his most forceful quality has been his unremitting challenge to Polish-Americans to strive to equal the monumental achievements of our forebears in the only way to improvement as he saw it, through a good education. He has been our good father, and a good father to the needy in Poland as well. His annual drive for the blind is characteristic of his many social concerns. Today we pay him special tribute as our Pater Familius—number one in our St. Stanislaus family. Dear Father Adamski, we love you.

I still see before me the handsome, imposing face of Msgr. Dr. Alexander Pitass. It was from his hands I received baptism, communion, my diploma, and much counsel. His eloquent voice is stilled now, but lives in my mind's eye. He was a stirring sermonizer. His character set the tone and style of life in the formative years of many of the adults in this room. Of the old school, firm as a leader, well met in his priestly vocation, he was happy in the service of God and his parishioners. A fine administrator of his parish, he was as well the civic leader of Polonia. From the quarters of his parish house came much of the wisdom and leadership that directed Polish-Americans in all phases of life. We remember him with love, regard and gratitude.

The founder of this parish is now a historical figure of legendary proportions. He was bigger than life. To read a compendium of his accomplishments is to be in awe. A man of iron will, great drive—seemingly indestructible, as a spiritual leader, under difficult circumstances, he breathed life into this parish. He built two church buildings (one of which housed an upper and lower church), a school, a meeting hall, rectory, nunnery. These accomplishments would be sufficient reason to admire him. But this was only one facet of his brilliant life. A fantastic visionary, a great organizer, his modest rectory, reflective of his personal abhorrence of ostentation, was the brain center of Polonia. Here was conceived the idea of the Polish Union of America, the Polish Seminary, the Association for Care of Immigrants, the Polish Catholic Congress, which fought for our ethnic identity, and brought to us Rome's sympathetic attention, and finally, recognition of our devotion to our church, the elevation of two Polish-Americans to bishoprics.

He was motivated by a desire to find a place in the sun for his beloved Poles in America. Through his leadership, St. Stanislaus Parish was copiously generous to our persecuted brethren in Poland. He founded a Polish newspaper that flourished for 33 years—23 under him and 10 years under Msgr. Alexander Pitass. Poles were avid newspaper readers. Absent other media, the newspaper was the highlight of the day. From 1885, and for a period of 38 years, 34 Polish newspapers appeared in Buffalo—imagine that—34 newspapers, but none exceeded the quality and vigor of his creation "Polak w Ameryce".

And, finally, the education of his people—he brought the Felician Sisters to St. Stanislaus, and through their monumental efforts, most Polish-Americans received their primary and secondary education. Today we boast a college run by the Felicians—beautiful Villa Maria.

And yet this was not enough—he inspired, financially launched, and led the formation of innumerable clubs and societies—cultural, civic, political, religious—every aspect of man's needs were taken care of by his inspired creativity. What a giant of a man. We are thrice blessed: Jan Pitass, Alexander Pitass, Peter Adamski—what a triumvirate.

How many of you were educated by the Felicians? Ah, here was the third secret ingredient that made St. Stanislaus achieve nobly. Many of their names are lost from memory by their self-imposed anonymity. We remember our parishioner, the oustanding Mother General of Felicians all over the world—Mother Alexander Kucharska, and all those other nuns who cared for us, loved us, and prepared us for life. To each of you individually we present a bouquet of love and admiration. You are the heroic women who made St. Stanislaus what it is.

Many a priest served our parish well as assistants to our pastors. How many here tonight spent some of their priestly career at St. Stanislaus? To these good priests who gave to each of us a part of their lives—accept our deep gratitude. You are still our family, and we love you in a special way though you are now apart from us.

What a splendid family—Priests, Nuns, Laypeople of St. Stanislaus—congratulations. This is our day. May God keep us in His care, direct our steps to a perfection of Christian virtue, forgive us our trespasses, and may He bless this great land of America which gave Polish-Americans a home under our red, white and blue banner with its guarantees of freedom and liberty. St. Stanislaus—I salute you.

CONGRESSMAN PAUL W. CRONIN'S THOUGHTFUL ANALYSIS ON THE ENERGY CRISIS

HON. WILLIAM S. COHEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. COHEN. Mr. Speaker, the question of our Nation's energy needs is fast becoming one of the key issues of the decade. This issue has particular relevance to New England, where the people are presently encountering spot-shortages of gasoline and face the possibility of shortages of home heating oil this winter.

It is obvious to those of us who have studied the energy crisis that our hopes to meet our energy needs depend on our ability to achieve an overview of the problem. President Nixon's proposal to create a Department of Energy and Natural Resources is a step in the right direction. But, we also need more effective energy machinery here in Congress.

Legislation to create a Joint Committee on Energy has been introduced by my colleague from neighboring Massachusetts, Paul Cronin, and I am proud to cosponsor this important measure. Congressman Cronin has written a very thought-provoking analysis of the need for reform of the congressional energy machinery in the form of a letter to the editor of the Washington Post, which appeared on July 8, 1973.

I include Congressman Cronin's letter in the Record, and hope that we can join together to meet the energy challenge of the 1970's:

LEGISLATIVE DUPLICATION

(By Hon. PAUL W. CRONIN)

Joseph Kraft makes a resourceful case in his June 14 column ("A Vacuum in the Energy and Power Structure") concerning the lack of accountability with regard to energy-related matters. He states, quite accurately, that "a cardinal feature of the . . . energy crisis is that there is no public body responsible for the sharpest problems connected with oil and gas."

In the course of some related research, I have discovered that the same is true from a legislative standpoint. There are presently 38 committees and subcommittees out of a total of 54 that have some jurisdiction over energy legislation. So far this year, 414 separate energy bills have been introduced in the Congress. These were referred to 26 different committees. As a member of two subcommittees that deal with energy-related problems, I have frequently heard the same testimony from the same individuals testifying before the two different subcommittees on which I serve.

This needless duplication of effort is part of the problem. That is why I have introduced legislation to create a Joint Committee on Energy. Composed of both senators and representatives, this major body would have sole jurisdiction over energy legislation. Accountability is an essential element in our effort to solve the energy crisis. We need it in the Congress.

STEEL INDUSTRY SUFFERS FROM EXPORT OF FERROUS SCRAP

HON. MELVIN PRICE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. PRICE of Illinois. Mr. Speaker, we are in the midst of an international steel shortage with the result that our domestic demand for steel and iron products coupled with an unprecedented demand for export is driving consumption of ferrous scrap metal toward an all-time high.

In the supplemental views of the committee report on H.R. 8547, Mr. ASHLEY and Mrs. SULLIVAN point out the essential national interest in the output of the steel and foundry industry that in turn rely on scrap iron or steel for their raw material. They go on to state:

> It is our view that the situation in recent months with respect to the uncontrolled export of ferrous scrap and the prospective imposition of export controls is one in which the policy criteria set forth in the 1969 Act are met, and that the imposition of export restraints in recent months has been warranted.

We know, Mr. Speaker, that the Secretary of Commerce, after long delay has now reversed himself and has invoked the Export Administration Act of 1969. However, not to embargo shipments of iron and steel scrap, but merely to license exports and to cut off more orders for future shipments. I am concerned that his action at this late date may have no real impact on the problem. Further, I believe, we cannot continually go through these crises of short supply and severe inflationary pressure without finally driving out of business many of the small and medium-sized steel mills and foundries. Three times in the last decade, 1969, 1970, and 1972, we experienced severe strain on available supplies of scrap metal as a result of combined high domestic demand and uncontrolled record exports. And here we are in 1973 hearing about the ominous prospect of facing possible shutdowns or slowdowns of mills and foundries as a result of the outward flow of scrap metal.

I am deeply disturbed about the possible impact on employment in our area where steel and iron foundries are prevalent. According to Department of Commerce figures, the current expected domestic and export purchases of scrap will reach 54.4 million tons in 1973, or 18 percent higher than has ever been generated in the history of the country. The 6-month total of exports is 67 percent higher than the whole total of 1972, yet we are continuing to ship ferrous scrap at this very moment.

I am concerned about the need to maintain adequate supplies for our national security needs. As a member of the House Armed Services Committee, I am constantly reminded of the importance of this basic industry to our national defense efforts.

I am gravely concerned about the impact the current situation is having on our overall economy. As a basic industry, the steel industry is important because of the multitude of commodities it produces or generates.

As I mentioned, the steel industry is an important segment of the local economy of the 23d District. Many families work in local steel mills and foundries. Their economic well-being and security depend upon a healthy industry.

Thus it is of great import that the working man and the industry have the opportunity of prospering and growing. To provide this security there must exist a means whereby adequate supplies are available at reasonable prices.

Perhaps it is time to consider imposing automatic restraints on the export of certain vital basic resources whenever heavy domestic demand coupled with abnormal foreign demand threatens both serious inflationary impact and a lack of availability of the basic resource.

PITTSBURGH FBI OFFICE WELCOMES PHILIP R. SHERIDAN

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. GAYDOS. Mr. Speaker, I take this opportunity to welcome to western Pennsylvania the new Special Agent in Charge of the Pittsburgh Office of the Federal Bureau of Investigation—Mr. Philip R. Sheridan.

A veteran of 22 years with the Bureau, Mr. Sheridan comes to us from the Norfolk, Va., office where he had been serving as SAC. He replaces Mr. Ian D. MacLennan, now retired, at the helm of the Pittsburgh office.

Mr. Sheridan should have no difficulty in settling in Pittsburgh. He is a native Pennsylvanian, born in Clearfield County. He enlisted in the Pennsylvania National Guard in January, 1941, and when World War II broke out, Mr. Sheridan found himself on a 32-month tour of duty in the South Pacific. He was discharged from the service in 1949 as an officer in the 27th Infantry Division.

Returning to civilian life, Mr. Sheridan decided to further his education and he was graduated from George Washington University. Two years later he received his bachelor of law degree from the same institution and also embarked on a new career as an agent for the FBI.

After a brief tour of duty at Springfield, Ill., Mr. Sheridan was assigned to the FBI's largest field office in New York City. In 1961 he was transferred to the special investigative division at the FBI headquarters here in Washington. Later he was named assistant SAC at field offices in Tampa, Fla., and Sacramento, Calif. In early 1969 he was moved to Los Angeles, Calif., where he served until October, 1971, when he returned to the Bureau's headquarters as a field inspector. He held that post until his assignment to Norfolk, Va.

Mr. Speaker, on behalf of the people of western Pennsylvania, I welcome Mr. Sheridan back home and wish him the best of success in his new undertaking.

JAMES V. SMITH MEMORIAL

HON. WM. JENNINGS BRYAN DORN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1973

Mr. DORN. Mr. Speaker, Jim Smith's tragic and untimely death has diminished us all. He brought to his tenure in this Body a creative intellect, an enormous capacity for hard work on behalf of his constituents and the entire Nation. As Administrator of the Farmers Home Administration, he demonstrated that he understood the land and its peoples. He understood that the people whom he served represented some of the best that this great Nation has produced. He stood for the respected principles of decency, honor, integrity, and love of country.

Mr. Speaker, I just want to say that Jim Smith was my friend, and the friend of all Americans. I want to express my deepest sympathy to his family at this time.

FRATERNAL ORDER OF THE EAGLES OBSERVES DIAMOND JUBILEE

HON. MELVIN PRICE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. PRICE of Illinois. Mr. Speaker, this year marks the diamond jubilee of one of the Nation's most dedicated organizations, the Fraternal Order of the Eagles. At the end of this month Eagles from every State of the Union, the Canadian Provinces, and Mexico will gather in Seattle for the anniversary convention and celebration.

During three-quarters of a century of service, the Eagles have been active in community programs ranging from sponsorship of youth activities to funding of medical research to organization of senior citizens' groups.

The Eagles were early and staunch supporters of progressive legislation such as social security and workmen's compensation. The Eagles worked hard against age discrimination in hiring and for mothers' pensions and general pension reform.

Millions of Americans who now benefit by these programs owe a debt of gratitude to the Eagles, who believed in the system, worked with it, and helped bring about genuine reform.

The Eagles of my district can be particularly proud at this time, since a past grand worthy president, W. A. "Red" McCawley, hails from Belleville, Ill. Mr. McCawley served with distinction as president and is still active in Eagles leadership.

After 75 years of service and involvement, the Eagles have lost none of their spirit of initiative. Among the current concerns of their ever-growing memberships are the Max Baer Heart Fund, the Jimmy Durante Fund for Crippled Children, and the Golden Eagles, a program which involves senior citizens in community activities.

Mr. Speaker, without organizations like the Eagles this Nation could not have achieved the general prosperity it now enjoys. We can be assured that the Eagles will join us in our continuing efforts to bring respectable economic security to every American, especially to older Americans who rely on pensions.

In 1968, I was honored to address the Eagles' national convention in Houston. At that time we spoke of several problems of the day, including Vietnam, the urban crisis, and the economy. The Eagles responded to these challenges as they have responded for the past 75 years—with responsibility, dedication, and idealism. I am certain that it was in no small part because of the determination of a million Eagles that we can now say these problems have been solved or at least lessened in scope.

May the Fraternal Order of the Eagles soar ever higher in the pursuit of the principles for which they have always worked so hard.

WORDS FOR THE PRESIDENT

HON. JOHN N. HAPPY CAMP

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. CAMP. Mr. Speaker, these days you can hardly open a newspaper or turn on a television or radio without being hit in the face by Watergate. Even worse, too many times the President has been virtually prejudged on the basis of hearsay and innuendo—hardly the American way.

Thus, it was a refreshing change to read an editorial written by Mr. Bill Kennedy, editor of the Southwest Times Record of Fort Smith, Ark., and brought to my attention by my friend, Mr. E. S. Stephens of Fort Smith. I commend this article to my colleagues and would like to insert in the RECORD at this point:

WORDS FOR THE PRESIDENT

Today, we want to say a few words for the President of the United States. In this 11th hour of Watergate when it is so easy to follow the crowd, it is well to remember this man's accomplishments and that an innuendo and veiled accusation do not a fact make.

Alexander Hamilton warned this nation in its infancy that it needed to have not only safeguards to prevent the government oppressing the people, but also to guard against public abuse of its elected leaders.

The right to criticize our leaders is essential to a free society. But it does not imply any inalienable right to villify, particularly on dubious and hearsay evidence.

American political leaders are not kings or lords. But neither are they public doormats, and the American people should not allow them to become so.

Now the hounds are out in full pack, like sharks with the first taste of blood. Get the President is the cry of the day. At whatever cost and by whatever means, get the President.

This impression flows daily from the Senate hearings. But there is no solid evidence that the President did any wrong. No one has yet discredited his assertion that he was unaware of the bugging and coverup beforehand. In fact, some have substantiated that assertion.

It is well to remember that the continuing scandal is a ready-made springboard for some lightweight politicans who would use it to further their own presidential ambitions.

We see no reason why the President would have risked this scandal to know what Democratic Chairman Larry O'Brien was talking about on the phone.

And to our knowledge during his 27 years in the public eye, Mr. Nixon has never been caught in a flat lie. From his first days in the House, then the U.S. Senate, as Vice President and now as President, his life has been an open book.

Do we know as much about the past and motives of those who are attacking him? We do know that a man as forceful and determined as Mr. Nixon is bound to build up a goodly supply of dedicated enemies in those 27 years—all the way back to the time of the Alger Hiss case.

In our view, President Nixon has been steadfast in implementing and carrying out the promises he made to the American people when he was seeking the high office.

He inherited a war, rising crime, riots, civil disobedience, inflation and he has made much progress in these areas. Of his own initiative has created a climate for world peace.

Watergate will pass, but the Presidency as an American institution will go on. The man who occupies that office is our President, the President of all the people. He speaks for us to the whole world, and his troubles are our troubles.

We have only one President at a time. Any man who occupies that office which has been aptly described as "splendid misery" deserves better than this man is now getting.

THE ERIE COUNTY CAMPAIGN EXPENDITURES ACT

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Ms. HOLTZMAN. Mr. Speaker, the daily proceedings of the Senate Select Committee on Presidential Campaign Practices has demonstrated to us all the urgent need for reform in our campaign practices and methods of campaign funding. It appears that far too many elections have become synonymous with exorbitant expenditures and gross conflicts of interest. Although the Federal Election Campaign Act of 1971 was a step forward, far more needs to be done on all levels of American government.

One very notable effort is being made toward campaign reform that I would like to call to the attention of my colleagues. Frustrated by the reluctance of New York State officials to initiate statewide changes in the campaign and election laws, the Democratic majority of the Erie County legislature has created a bill that seeks to place an effective limitation upon the amount of money that can be spent by a candidate in a local campaign. It is legislation deserving of the attention of all localities, and for this reason, I submit the proposal into the RECORD:

THE ERIE COUNTY CAMPAIGN EXPENDITURES ACT

A PROPOSAL

The proposed legislation would build upon existing Section 455 of the Election Law. That section imposes a limitation on amounts expended by a candidate in any election to 10¢ per voter (based upon votes for governor in the last gubernatorial election for affiliated voters of the candidate's party for a primary), with a minimum of $2,500 for a primary and $5,000 for a general or special election, plus a limitation on amounts expended in the election of an individual candidate by all committees taking part solely in his election of an additional 19¢ per voter (with the same minimums as for candidates). The proposed legislation adopts those standards but adds a limitation additionally of amounts which may be spent by committees taking part in the election of more than one candidate of an additional 30¢ per voter for County Executive and 10¢ per voter for other county offices (with the same minimums as for candidates). The major defect in the New York state legislation is the absence of any limitation on amounts spent by committees taking part in the election of more than one individual candidate. This apparently allows complete circumvention of the limits set forth in Section 455.

The legislation goes further than Section 455, however, by limiting expenditures for use of communications media to 60% of the maximum spending limit available *in toto*. The 60% limit on expenditures for communications media is that adopted in the recently enacted Federal Election Campaign Act of 1971 (P.L. 92-225).

ACCESS TO COLORADO RIVER IN GRAND CANYON

HON. FRANK E. MOSS

OF UTAH

IN THE SENATE OF THE UNITED STATES

Friday, July 20, 1973

Mr. MOSS. Mr. President, last November, the National Park Service announced plans to reduce the number of passengers allowed to take raft trips on the Colorado River through the Grand Canyon and to phase out the use of motors on boats traversing those waters. These restrictions were announced without the benefit of environmental studies to determine the visitor-carrying capacity of the river portion of the Grand Canyon or the effects of motor noise or emission levels on the canyon.

Any discussion of the use of the Grand Canyon necessarily must balance two important concerns: First, the protection of the beautiful natural state of the canyon, and, second the desire to permit the optimum number of people to enjoy a quality experience in the canyon. The Congress has charged the National Park Service with this responsibility to provide for the growing number of people attracted to the Grand Canyon with appropriate precautions to maintain the existing environment and not unreasonably commercialize the area or destroy the natural beauty and wildlife. However, without adequate factual studies to support them, any restrictions imposed by the Park Service to discharge their congressional mandate must be considered at face value, arbitrary and presumptuous.

At the time of the announcement of the passenger allocation cutback and the motor phaseout, outfitters providing passenger service on the Colorado River attempted to obtain from the Park Service information relating to the restrictions. When repeated attempts at obtaining justification failed, I requested a meeting in January for the outfitters in Washington with Department of Interior officials. I also wrote the Department detailing the outfitters' concerns. Moreover, I met in my office with Park Service officials seeking the rationale underlying the restrictions. And finally in hearings held June 21 on S. 1296 before the Senate Subcommittee on Parks and Recreation, I questioned National Park Service Director Ronald Walker at some length to determine whether proper consideration of this matter had been given.

Mr. President, my exhaustive and repeated inquiries have forced the conclusion that the Department has acted precipitously and with no factual support to date in their arbitrary imposition of new restrictions on the Colorado River.

In the June 21 hearings on S. 1296 to expand the boundaries of the Grand Canyon National Park, the distinguished Senator from Arizona, Senator Goldwater testified as follows:

> Mr. Chairman, in order to answer one remaining criticism that may be leveled against the bill because of misunderstanding, I would like to state emphatically that nothing, and I repeat nothing, in this bill will have any effect on the river trips or motors or anything pertaining to transportation on the Colorado River. . . The bill does not incorporate any current or proposed rules with respect to transportation on the river, either specifically or by implication, and, in fact, the river is expressly excluded from the Grand Canyon Wilderness Area by a statement on the map which accompanies the bill.

Nevertheless, the Park Service testified in favor of bringing the river under the wilderness provisions of the bill.

The following dialog between Director Walker and myself at the hearing illustrates the difference in our respective positions.

> Mr. Walker. Senator, when I first was appointed Director of the National Park Service this subject came out, the thing that hit me was that there had been no study. I asked what impact the motor was having on the river itself, and no one really knew. I think this is the thrust that the National Park Service is attempting to go into. I would hate to be in a position five years from now when that study is done, to find out there are serious ecology problems with the river. I am glad we addressed ourselves to it, if in fact there is damage being done, then we will be in a position by the time this study is completed, we will have at least done something for it.
>
> Senator Moss. You have said there is no evidence of ecological damage of which you are aware now on the river and yet administratively you have started to turn the numbers down and you have already set a phase out period for the motors on the river before you have any evidence of ecological damage.
>
> My point is, why don't you just maintain the status quo and complete your study. Then, based on what the study shows determine whether you must come down in numbers and whether indeed it is feasible to eliminate all motors on the river.
>
> Mr. Walker. The point I am trying to make is that the National Park Service itself has not made any studies of that nature.

Mr. President, in admitting that no studies were undertaken before imposition of the cutbacks, the Director of the Park Service would have us believe that the purposes of the restrictions is to phase out the motors and cut back on passengers in the event studies taken over the next 5 years might show damage is now being done. I say preserve the status quo until there is solid evidence in existence, on the basis of thorough study, of environmental damage being done in the canyon.

It is an undisputed fact that the greatest impact upon the canyon floor is the constant fluctuation in the Colorado River caused by the varying amount of water permitted to pass through Glen Canyon Dam.

The impact of river travelers is not easy to measure. There exist few facts at present to explain what damage if any is being created.

With respect to carrying capacities, other rivers considered wilderness areas are carrying as many or more passengers as is the Grand Canyon, giving the participants an opportunity to share the wilderness while at the same time maintaining the natural beauty of the areas. On the Snake River in Wyoming, more than 60,000 people per year enjoy the trip from Jackson Lake to Moose Junction in the Grand Teton National Park. In Dinosaur National Monument, 14,145 people in 711 groups completed the 4 day trip in 1971. Both of the above are smaller rivers and the areas are more accessible, yet through good management and careful use, they remain wilderness areas available for the enjoyment of numbers of people.

Before this rash action of the Park Service should be allowed to stand, there are numerous questions for which we need factual answers. These questions all have at heart the problem of access to the Grand Canyon.

For example, what is the basis for ignoring the experience and testimony of the commercial outfitters that a safe trip for the average Grand Canyon passenger can only be conducted with the larger boats? Moreover, what consideration has the National Park Service given to conclusions stated in a report from Arizona State University—Technical Report No. 10: "Colorado River Trips Within the Grand Canyon National Park and Monuments: Socio-Economic Analysis," which reveals that 94.16 percent of past users responding to the study traveled by motorized craft, that 94 percent rated their trip enjoyment as very good to super and that 92 percent stated that a trip down the Colorado River is a wilderness experience and that 60 percent felt that motors were essential to a safe trip through the canyon? What effect will elimination of motors have on the quality and length of trips? Past users have stated that the most limiting factor on their decision to take river trips is the amount of time required to take the trip. Outfitters have stated that elimination of motors will increase from 30 percent to 100 percent the time required to take the Colorado River trip and that passengers will be required to be on the water for longer periods each day, thus decreasing the time for side trips, exploration, and contemplation of scenic areas.

Moreover, what effect will elimination of motors have on the cost of a Colorado River trip? Because of increased insurance costs, additional time and equipment required, and additional boatmen required, the outfitters estimate the cost of a Colorado River trip to the public will double if motors are eliminated. For example, insurance premiums are based on the number of rafts on the river. A motor-powered trip carrying 40 passengers—maximum size trip—can easily accommodate the passengers and boatmen on two rafts. An oar-powered trip could require at least 5 rafts or more than the same number of passengers. In addition, while two boatmen can safely handle the motor-powered rafts, the oar-powered rafts will require a minimum of five and possibly 10 boatmen. These costs of doing business are necessarily borne by the passengers.

A most important concern is the effect the elimination of motors will have on the number of boats on the river and the human impact on the river environs. For each motor-powered raft eliminated from the river two to three oar-powered boats might need to be substituted to carry the passengers, with a corresponding increase in the number of boatmen. Where 40 persons can presently complete a 190-mile trip through the canyon in 5 days on a motorized trip, camping on four beaches and consuming 200 passenger user days, the same trip for 0 persons will take 8 to 10 days on an oar-powered trip and these persons will camp on seven to nine beaches and use up 400 passenger user days with less time off the river to explore and enjoy its environs. The net result is that one-half as many passengers travelling on two to three times as many boats will have the same environmental impact as twice that number of passengers traveling by motor-powered craft.

Furthermore, what effect will elimination of motors have on the sanitation and trash removal programs sponsored by the outfitters? At present, outfitters carry chemical toilets and haul out all trash from beaches and camps. The National Park Service acknowledges this action has contributed to marked improvement in the appearance of the canyon since 1970. If motors are eliminated, the equipment proven best for sanitation—chemical toilets with macerators—and the equipment for cooking—butane tanks—and trash disposal will be extremely difficult to carry by oar-powered craft.

And finally, of vital concern to me is what impact the river restrictions might have on family groups and older Americans who presently choose to travel by larger rafts. I fear the elimination of motors will limit the canyon experience to the young person who can withstand the physical and psychological rigors of small boat travel.

I have received hundreds of letters from all over the country protesting the Department's decision. One letter summed up the concern of many elderly citizens as follows:

ALBANY, N.Y.,
June 16, 1973.

Hon. FRANK MOSS,
Senate Office Bldg.,
Washington, D.C.

DEAR SIR: There is a growing movement gaining momentum, throughout the land, to take away from the many (to whom our parks belong) and restrict usage only to those physically capable. I, personally, do not agree with this "elitist" attitude.

I, personally, am physically able. I am an avid skier, hiker and mountain climber. I am also a National Ski Patrolman, Red Cross First Aid Instructor and am active in many outdoor groups. I am fifty-one years of age.

The reason I am alarmed is because I note restrictions appearing on park use. In particular, (1) Restrictions on Grand Canyon River use in that previous motorized larger rafts are now being prohibited. This "in effect" restricts Canyon Colorado River use to those physically able; (2) Restrictions on access to Rocky Mountain trail regions. There are restrictions, as well, on types of camping permitted and locations. This would prohibit and restrict many areas of our parks so that those "on wheels" could not experience what our park system is set up to preserve; (3) Restrictions on age in that only the younger, more mobile people are able to participate and enjoy; (4) Restrictions against the disabled, infirm and old-age retired.

When you limit a given area or experience *only* to those who can row a raft; hike a given distance; climb a mountain; survive extreme elements; take a risk; or through having wealth or position, then, you have taken away from others (taxpayers and citizens) their so-called "equal rights".

You, who are not always in a position to help "all the people" are being asked now to do what you can to help keep our parks for the use of all of us and hold off encroachment by these elitist, so called "environmentalist groups" who have large lobbies.

Thank you for your courtesy in reading my protest.

Concerned citizen,
HARVEY R. ALFORD.

As difficult as it may be to obtain the balance between access to our national parks and protection of them, it presently is clear that thousands of individuals enjoy and are receiving a meaningful experience in the Grand Canyon without obvious damage to the environment. The public should not be made to suffer the loss of access to this great area of natural beauty without substantial proof of actual damage. I call upon the Department of the Interior to preserve a choice of propulsion methods and grant passenger spaces at the 1972 levels until an adequate study can be completed.

Mr. President, a joint resolution of the 40th Legislature of the State of Utah, a resolution of the Utah Recreation and Park Association, and a resolution of the Western States Boating Administrators Association all call upon the National Park Service to rescind the passenger cutback and reconsider the means of accommodating passengers on the Colorado River in such a way that the ultimate enjoyment of the park can be achieved with minimum ecological imbalance. I ask unanimous consent that these resolutions be printed in the Extensions of Remarks.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

RESOLUTION OF THE STATE LEGISLATURE OF UTAH

A joint resolution of the 40th Legislature of the State of Utah, memorializing the Secretary of the Interior, the Director of the National Park Service, the Superintendent of Grand Canyon National Park, the Superintendent of Canyonlands National Park, the Superintendent of Dinosaur National Monument, and the Congress of the United States to protect and promote proper tourism and preservation of the natural wonders of our waterways in the national parks and monuments.

Be it resolved by the Legislative of the State of Utah:

Whereas, the majority of the river-running companies of Southern Utah are a decided asset to the environment and the economy of the State of Utah; and

Whereas, the river-running companies headquartered in the Kane County area are aiding the local economy by hiring over 70 people; and

Whereas, Kane and Garfield Counties are economically depressed areas with over 14% unemployed; and

Whereas, there is apparent bureaucratic red-tape and discrimination against these river-runners to the extent that they may be forced out of total operation; and

Whereas, these companies are totally committed to a clean, humanly sterile environment in the wilderness areas they visit, leaving behind them absolutely nothing but their footprints; and

Whereas, these companies are being forced to submit to severe reductions in patrons; and

Whereas, some concessionaires who have never functioned at all in the past and who do not have any equipment, any supplies, or any intention of river-running, have been given an equal quota of only 320 patrons with other serious businessmen; and

Whereas, the river-runners had an extremely short notification of the cut-back in the number of patrons allowed to travel with each company; and

Whereas, many river-runners will not be able financially to correspond with patrons who have already booked trips with them for the coming season to tell them that they cannot find a place for them in their boats; and

Whereas, the Kane County area merchants have begun to gear their operations to accommodate the influx of patrons for their river-running companies.

Now, therefore, be it resolved, by the legislature of the State of Utah that we call upon the National Park Service, the Secretary of the Interior and the Superintendents of Grand Canyon National Park, Canyonlands National Park and Dinosaur National Monument to rescind the cut-back on such a blanket restriction, and to reconsider the proper means of accommodating our traveling public in such a way that the ultimate enjoyment of the parks can be achieved with the minimum amount of ecological imbalance, if any.

Be it further resolved, that the legislature of the State of Utah call upon the Congressional delegation from the State of Utah to work avidly for the implementation of this resolution.

Be it finally resolved, that the secretary of the State of Utah, be and is hereby directed, to send copies of this resolution to the Secretary of the Interior, the Director of the National Park Service, the Superintendent of Grand Canyon National Park, the Superintendent of Canyonlands National Park, the Superintendent of Dinosaur National Monument, to the Senate and House of Representatives of the United States and to the Senators and Representatives representing the State of Utah in the United States Congress.

RESOLUTION

The Utah Recreation and Parks Association recognizes recreation as a universal right and stresses that the splendor of nature should not be prohibitive to anyone because of age, physical condition, social status or financial position. This association therefore officially declares its opposition to the proposed removal of outboard motors currently being used on rafts floating through the Grand Canyon on the Colorado River. The following reasons have moved us to oppose such a proposal:

1. Removal of motors would greatly enhance the danger to life since control is a vital factor while maneuvering through extremely dangerous rapids.

2. Removal of motors would necessarily prohibit the aged, the handicapped and the young from viewing some of natures most magnificent creations. Only the most physically fit would therefore be permitted such splendor.

3. Since removal of motors would limit the numbers floating the river, passenger costs would increase to a point where all but the most affluent would be eliminated from such a quality experience.

The Utah Recreation and Parks Association, which is represented by federal, state, municipal, educational, commercial and therapeutic agencies, respectfully submit this resolution for your most serious consideration.

RESOLUTION

Whereas, the National Park Service has announced plans to drastically reduce the number of persons allowed to take raft trips on the Colorado River flowing through the Grand Canyon in Arizona and Cataract Canyon in Utah, partially by phasing out the use of motors on boats transversing these waters by 1977; and

Whereas, the proposed restrictions are reputed to be of a design by over zealous conservationists to have Congress set aside the Colorado River in the Grand Canyon and Cataract Canyon as a wilderness preserve subject to wilderness management standards; and

Whereas, the Western States Boating Administrators Association, taking cognizance of the history of boating on this waterway, finds no evidence that the use of motor powered boats is harming the environment and challenges the National Park Service to demonstrate scientifically wherein they are introducing levels of air, water or noise pollution incompatible with the environment of the Canyons; and

Whereas, at this time in the Grand Canyon car-powered use amounts to only 10 percent of all river use and motorized craft are preferred by most outfitters and private boat operators for safety reasons and the use of motors is definitely a major factor in the phenomenal safety record on the river; and

Whereas, this Association, dedicated as it is to boating safety, is gravely concerned that the arbitrary removal of motors from boats on the swift moving waters of the Colorado will jeopardize the safety and well being of persons on organized raft trips or private boating adventures; and

Whereas, this Association is wary that if the effort to restrict use of motors in Grand Canyon and Cataract Canyon is allowed to go unchallenged, without concrete evidence that there is any problem, it may set a dangerous precedent for the National Park Service in establishing unwarranted restrictions against boating wherever wilderness advocates exert pressure;

Now, therefore, be it resolved, that the Western States Boating Administrators Association in convention assembled at the Grand Canyon, Arizona this 3rd day of May, 1973, does hereby protest any effort on the part of the National Park Service to eliminate use of motors, and objects to a reduction of numbers of persons who may wish to take river float trips through the Grand Canyon and Cataract Canyon, since the Association strongly feels that the proposed actions would accommodate wilderness advocates at the expense of boating safety; and

Be it further resolved, that if the National Park Service means to base its proposed restrictions on pollution considerations this Association asks that they prove without qualification wherein the present level of raft trips and motor powered boats are serious pollution problems requiring restrictions; and

Be it further resolved, that the National Park Service should involve the appropriate state boating agencies in any further considerations of motor restrictions or any other matters related to boating safety; and

Be it further resolved, that the president of this Association be and he is hereby instructed to send copies of this resolution to the Honorable Rogers C. B. Morton, Secretary of the Interior, the Superintendents of Grand Canyon and Canyonlands National Parks, every member of Arizona's and Utah's congressional delegation in Washington, D.C., the Colorado River Outfitters Association, and the Western River Guides Association.

SKYLAB PROVES MAN'S FLEXIBILITY

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. TEAGUE of Texas. Mr. Speaker, the Japan Times of June 28, 1973, points out the value of the first Skylab flight and the potential that our first national space station has in its next two missions as a foundation contributing to the future of our national space program.

I commend this editorial to the reading of my colleagues and the general public:

[From the Japan Times, June 28, 1973]

SKYLAB PROVES MAN'S FLEXIBILITY

The three American astronauts in the first Skyab mission established a long list of impressive records but above all proved that men can not only survive but think and work effectively during prolonged space voyages.

Their achievement makes possible the second Skylab mission. Three more astronauts are scheduled to rendezvous with Skylab July 27 to begin 56 days of occupancy—twice the time spent aloft by the first crew. And the first and two forthcoming missions will represent a big step toward the day when men will be able to visit Mars and the other planets.

American astronauts Charles Conrad, Dr. Joseph Kerwin and Paul Weitz orbited for 28 days, breaking the old record set by the ill-fated Soviet Soyuz crew which remained in space for 23 days and 18 hours. The Soviet spacemen were killed in preparing to descend to earth.

The Americans manned the largest and heaviest spacecraft ever launched. Skylab is 40 meters long and weighs 100 tons. They made 391 orbits around the earth traveling 1,700,000 kilometers—both new records for manned orbiting space flights. And for the first time in space history, they carried out repair work outside an orbiting craft.

For Skylab commander Conrad, the space flight that ended last week was a personal achievement. He now has spent more time in space than any other man—49 days, one hour and eight minutes during four missions. And although Conrad is 43 and older than the other two astronauts, he experienced less trouble in readjusting to the earth's gravity after the crew splashed down in the Pacific Ocean in their Apollo spaceship.

For 24 hours after the astronauts came back, there was concern about their physical condition and some doubts if man could withstand the rigors of weightlessness for such a long period of time. All the astronauts were wobbly on their feet and suffered from dizziness and nausea due to ear and circulatory difficulties in readjusting from zero gravity to the earth's gravity.

However, after 12 hours of sleep, doctors pronounced that all three had made a rapid recovery, and they were given permission to fly to the Western White House at San Clemente to meet visiting Soviet Communist Party Secretary Leonid Brezhnev and President Richard Nixon.

Conrad never had any doubts. Immediately after the splashdown, he declared the mission a success and stated that he and the other two Skylab crew members had proved that men could live and work in extended periods of weightlessness. The doctors later concurred.

But the "fix-it" crew of Skylab did much more than prove men could adjust to weightlessness for four weeks. Through their risky repair work on a solar panel, they saved the entire Skylab project from failure. In Houston, Skylab Director Kenneth Kleinknecht made this interesting observation: "We demonstrated that man, whether he be on the ground or in the air, is the most flexible, adaptive, non-specialized machine in existence today."

We can all draw encouragement from the fact that we are still better than machines and that there is the need, if not the necessity for manned space flights. Only men with tools saved Skylab from disaster.

Although testing the endurance of man in prolonged weightlessness was one objective of the Skylab program, there were others of great scientific importance. The Skylab crew brought back to earth 30,000 photographs of the sun which were the clearest yet taken, 14,000 photographs of the earth's resources and nine miles of magnetic tape which recorded other earth data.

One of the most spectaular observations was made only a few days before the mission ended. The Skylab crew was able to photograph a massive solar flare from the sun measuring 40,233 kilometers in width. Excited scientists were convinced that these photos would help explain this phenomenon which periodically disrupts radio communication on earth and causes magnetic storms that cause power blackouts.

The accomplishments of the first Skylab mission were many and significant not only for the future of space travel but in increasing man's knowledge of the sun and his own earth. We look forward to the even longer missions of Skylab and to the knowledge which will be obtained for the benefit of all of us on earth.

REV. L. H. MESSERSMITH RETIRES

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. McCLORY. Mr. Speaker, one of the greatest influences for good in Illinois' 13th Congressional District is the presence of Rev. and Mrs. L. H. Messersmith. Lauren Messersmith has been the resident minister at the Millburn Congregational Church since 1942, following his graduation from Chicago Theological Seminary.

Mr. Speaker, I have had an opportunity on many occasions to visit Rev. Messersmith's church in Millburn to hear him preach and to benefit from his less formal communications to members of his congregation and many others.

Lauren Messersmith is a straightforward man whose example of unspectacular, but solid Christian living has been an inspiration to all with whom he has come in contact.

Mr. Speaker, assisted by his devoted wife, Marguerite, who has been a first-grade teacher at the Woodland School in Gages Lake, Rev. Messersmith has been more than a Christian minister—he has been a spiritual and community leader in Northwest Lake County. Indeed, the influence of Rev. and Mrs. Messersmith has reached far beyond the immediate area where they serve.

Mr. Speaker, without recounting the many community and civic honors which have been accorded to them, may I state simply that Lauren Marguerite Messersmith have reached into the hearts of the citizens of Illinois' 13th Congressional

District, and have brought forth the best that is in all of us.

Mr. Speaker, it is my understanding that the Messersmiths will do some extensive traveling together, before settling down in a home in Leisure Village at Fox Lake. I am sure that I speak in behalf of all of my constituents who are acquainted with them when I extend to Rev. and Mrs. L. H. Messersmith our appreciation for their lives of Christian service, and for their unselfish devotion to the interests of all of us who reside in the areas where they have served. We join in extending to them our best wishes for good health and happiness together in the years ahead.

REMEMBER CAPTIVE NATIONS

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. DULSKI. Mr. Speaker, this month our great Nation celebrated the 197th anniversary of the Declaration of Independence—independence from oppression and tyranny. This week, by an act of Congress, the President has proclaimed for the 15th year the observance of Captive Nations Week—nations still captives of oppression and tyranny.

Proclamations and speeches will not free the captive peoples in Communist-dominated countries, and it seems that 15 years of observances have produced very little in the way of results. Yet the hopes of the people in Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, and other subjugated nations remain high, and word of valiant struggles for freedom filters through the Iron Curtain. And certainly the time has never seemed better for positive action to be taken.

Recent summit talks between President Nixon and Soviet Party Leader Brezhnev have been hailed as a thawing of the cold war. Detente has begun. The forthcoming European Security Conference in Helsinki and the talks in Geneva offer an ideal vehicle for improving the situation for captive nations. The United States should insist on placing certain of these matters on the agenda, and should never lose sight of the emptiness of Soviet promises and commitments and the reality of Soviet imperialism and brutality.

We do not seek to impose our own Constitution on any other nation, but there are basic human rights to freedom and dignity that are intrinsic to any nation. These rights have been denied to the captive nations, and no honorable agreements between the United States and the Soviet Union can be concluded without decisive steps toward restoration of them.

Let us not forget that true peaceful coexistence is only possible when all pacts are honored and all people respected. Although East-West relations have never seemed more promising, let us not forget that not all share the joys of liberty. As we observe Captive Nations Week, let us not forget the people who live Captive Nations Week each week of each year. Let the need for this observance be abolished.

HOWARD PHILLIPS REPRIEVED

HON. JOHN E. HUNT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. HUNT. Mr. Speaker, now that Howard Phillips has been edged out of his job as the Director of the OEO, by, I might add, a concerted effort by liberals of both parties, it is the duty of each and everyone of us in this body to carry on the job he so diligently and efficiently pursued.

Phillips is gone, but the abuses in Government continue. Here, for your consideration, is the story of Harry Jay Katz, self-styled bon-vivant, world traveler, man-about-town, and as deceitful as one could ever hope to be.

The article is from the July 7, issue of Human Events:

HEW GIVES GRANT TO HIGH LIVER

Taxpayers smarting under a $268-billion federal budget might want to ponder the story of Harry Jay Katz. For Katz and other glib-tongued "grantsmen" are one reason that federal spending long ago galloped out of control.

Katz, 32-year-old son of a wealthy Camden, N.J., family, tried and failed several years ago to open a Playboy Club in Philadelphia. Foiled in the marketplace, Katz turned to Uncle Sam. And there he did not fail.

From mid-1971 to mid-1972, Katz received $57,000 in federal funds for something called the Bicentennial Language Incentive Program (BLIP). The program was supposed to make Camden's inner-city students bilingual so they could work at the 1976 Bicentennial celebration in Philadelphia and the Olympic Games in Montreal.

Katz spent BLIP's $57,000. Not one student was ever trained. Nor, indeed, was the program ever set in motion. But as the Philadelphia *Bulletin* disclosed last week, Katz himself was very much in motion.

The wheeling-dealing entrepreneur used the federal funds to rent limousines, charter airplanes to the West Coast and Canada, send flowers to friends and tour Disney World several times. New Jersey state investigators probed his expenditures and concluded:

"There is no tangible evidence available that indicates that such activities are either directly or indirectly related to the student body of the Camden School District or any New Jersey school district."

In running BLIP, Katz ran up huge tax-paid phone bills, calling such "inner-city" trouble spots as Tel Aviv, Rio de Janeiro and the florist at the Los Angeles Hilton. He spent as much as $214 a day on chartered limousines and thousands of dollars setting up elaborate press conferences to trumpet his program.

On one occasion Katz spent $796 for a round-trip air ticket to Los Angeles—supposedly for himself and James M. Milligan, a staff assistant. But Milligan insists that he never made the trip. "I'd have jumped at the chance," he told the *Bulletin*.

On one of Katz' trips to Montreal, he met Nancy McIntyre, a 27-year-old executive director of Inter-Ed, a local language training program. "He impressed me as a supersalesman who never seemed to get it all together," Miss McIntyre says.

But after he left Montreal, Katz made sure that Miss McIntyre would not forget him. "He sent me a picture of himself wearing a peace symbol and nothing else," she told the *Bulletin*.

And that, taxpayers, is where at least some of your money is going.

NEW YORK DAILY NEWS ON PHASE IV: "PUNT AND PRAY"

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. WOLFF. Mr. Speaker, the administration has unveiled its plans for phase IV and it seems their answer to inflation is a recession, no doubt the least desirable method one can think of for controlling an inflationary economy.

The New York Daily News has written a perceptive editorial analyzing the effects phase IV is likely to have on our economy. I would like to share it with my colleagues and I insert it at this point in the RECORD.

[From the New York Daily News, July 20, 1973]

PHASE IV: PUNT AND PRAY

The "explanations" offered by Secretary of the Treasury George Shultz on Wednesday for the next round of wage and price controls add up to an admission by the administration that efforts to manipulate the economy from Washington have failed.

Except for beef, the freeze on food prices has been lifted. And with that lid removed, it is generally conceded that grocery bills will leap up again.

That's bad news for consumers. But they and administration officials were faced with a choice of poisons: a thaw that would trigger immediate food hikes, or a prolonged curb leading to shortages, scare buying, hoarding, black marketeering and—in the long run—rationing.

President Nixon and his advisers chose the first course as the least damaging, economically and politically. They are counting on natural forces—a slowdown in the business boom and bumper crops of wheat, corn and feed grains— to put a damper on inflation by year's end.

The White House also has put renewed emphasis—underlined by Secretary Shultz in his Phase 4 briefing—on balancing the federal budget so as to end the flood of printing-press money that is driving the cost of living higher and higher. The secretary called it a return to—

The old-time religion—of fiscal responsibility by the government after an era of reckless spending and futile attempts to "fine tune" the economy with clumsy bureaucratic hands.

The economic stresses the nation is now enduring are the result of blundering Big Brotherish attempts to fiddle with the in-built mechanisms that jolt a free economy out of recessions and inflationary highs.

In trying to mastermind a painless path through or around normal business cycles—via rigging of the tax structure, subsidies and handouts, "full employment" budgets, and finally wage and price controls—the government has only worsened the situation.

Let's learn from the hard experience and, from this time forward, turn our backs resolutely on the quacks and crackpots peddling magic nostrums for eternal economic bliss. The price of their government-administered patent remedies is exorbitant.

FREE FEDERAL PARKING

HON. WILLIAM J. KEATING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. KEATING. Mr. Speaker, an article in this morning's Washington Post states that the Environmental Protection Agency is considering action to require employees of that agency to pay for their parking privileges.

EPA is ostensibly considering this action in an effort to provide some leadership in reducing the number of automobiles which come into the District of Columbia each day, and to accomplish this through the encouragement of carpools.

Mr. Speaker, on April 4, 1973, I introduced a bill to require all civilian employees of the Federal Government to pay for the privilege of parking. This bill would also require the allocation of existing parking spaces on the basis of carpools.

We hear more every day about some of the drastic measures which are being considered to reduce the amount of air pollution in our urban areas. We hear of plans to restrict the level of on-street parking, plans to ban all automobiles from certain cities during certain times of the day, plans to restrict the number of deliveries permitted to downtown retailers during normal working hours, and a host of other plans which, if enacted, will mean a whole new way of life for the American people.

The bill which I have introduced in this area, H.R. 6569, calls for no such drastic action. This bill only says that the American taxpayer should no longer be required to subsidize parking arrangements for Federal employees, and that elimination of this unnecessary fringe benefit will help bring about a cleaner environment through a reduction in traffic congestion in urban areas.

Mr. Speaker, I believe it is only a matter of time before Congress views the inevitability of the need for this legislation. I urge my colleagues in the House Committee on Public Works to consider this bill at the earliest practicable date, and I call to the attention of all my colleagues the article which appeared in this morning's Washington Post:

UNITED STATES EYES CUT IN PARKING BY WORKERS

(By Kirk Scharfenberg)

The Environmental Protection Agency is drafting regulations to discourage federal workers from commuting to Washington by car by eliminating government-owned parking spaces or increasing their price, according to reliable sources.

Officials here said they expect the regulations to be announced next week, but an aide in EPA cautioned that the plan has not yet received final approval from the agency.

The EPA decision will be a key indicator of the federal government's commitment to regulate its own pollution, a District of Columbia official said.

According to city statistics, there are at least 28,000 government-controlled parking spaces in the city. Some are free. Many rent for only $5 a month. The average commercial rate in downtown Washington for a parking space is about $3 a day.

It was not clear yesterday whether EPA was also considering moving against the thousands of government parking spaces in the suburbs. The Pentagon, alone, has about 10,000 spaces.

According to local officials working on the clean air program as well as aides within EPA, the EPA plan would require that federal agencies either charge market rates for their parking spaces or eliminate a number of them.

The general goal would be to reduce automobile commuting by at least 15 per cent. About 380,000 commuters enter the District daily by car.

An EPA aide said the precise method by which EPA would propose to reduce the number of federal parking spaces—or increase their cost—has not been determined.

However, several sources said that there have been "delicate negotiations" between EPA and the Office of Management and Budget over the issue. OMB, representing the White House, could order federal agencies to make changes.

In April 1972, OMB circulated a proposal that all subsidized parking be eliminated, but it was never implemented.

Clean-air plans for the Washington area, submitted to EPA by the District, Maryland and Virginia, call for a reduction of parking spaces, including those controlled by the federal government.

However, there has been doubt over whether the local jurisdictions could compel federal action, and EPA reportedly believes it would be more appropriate for the federal government to regulate itself.

"The whole thing," said one EPA aide, "is full of administrative nightmares. Somebody is going to get hurt. Somebody will lose his parking space. It's been a very long week. If they had beds here at EPA. . ."

EPA is scheduled to announce its decision on the clean-air plans submitted by Maryland, Virginia and the District on Tuesday.

The public could then comment until Aug. 15 when the EPA plan would become official.

EPA is expected to accept generally the plans submitted by the three jurisdictions which call for the purchase of 750 new buses, a ban on free on-street parking, a possible $2-a-day surcharge on parking in commercial lots, and restrictions on the development of new parking facilities.

The aim of the plan is to meet federal clean-air standards by 1977. In addition to the question of federal government parking, EPA is also reviewing the local government proposal of limiting airplane taxiing at area airports. EPA has announced a test of such limitations will be made at National Airport but is said to oppose permanent restrictions.

In a related development, the Citizens Association of Georgetown announced yesterday its intention to file suit in 60 days challenging two proposed developments on the Georgetown waterfront on the grounds that they would increase air pollution there by attracting cars.

Challenged by the association are developments proposed by Georgetown-Inland Corp. and the Maloney Concrete Co. The Clean Air Act of 1970 requires that 60 days notice be given.

CAPTIVE NATIONS WEEK

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. GILMAN. Mr. Speaker, I rise to commemorate Captive Nations Week 1973. It is no longer news to anyone that the age of détente is now upon us. The President's trips to China and to the Soviet Union have rung up the Iron and Bamboo Curtains on a new act in the international drama.

The ties of international trade are binding our Nation closer together with those who were former adversaries. We are undoubtedly coming closer together and the prospects of lasting peace are to be applauded.

However, I would like to utter a word of caution before we are all swept away by the euphoria of rapprochement. There are still a billion people in bondage to the nations with which we, of late, have been talking, trading, and generally lessening tensions.

The Western democracies in general and the United States in particular have always held out the promise of deliverance to these peoples. It is my fervent hope that in the headlong rush into new markets we will not make a travesty of their hopes and our promises.

In our pursuit of peace among nations, let us not forget the aspirations of the captive nations for freedom as well as for peace. Let us bear in mind their yearning for the right to self-determination.

FOOD SHORTAGE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. DERWINSKI. Mr. Speaker, I hereby insert into the RECORD an editorial broadcast July 11 and 12 on station WMAQ–TV, channel 5, Chicago. I commend this editorial by Dillon Smith as a very practical commentary on the possible food shortage.

In the process of inserting this editorial, I take the opportunity to emphasize my belief that the effectiveness of the administration's economic controls leaves much to be desired. We need less, not more, governmental tinkering with farm economics since the cost to the consumer of agricultural products are so directly affected by the laws of supply and demand.

This editorial, I believe, contains excellent advice to the listening public of Chicago's channel 5.

The editorial follows:

EDITORIAL

Grocery stores in the Chicago area are starting to run short of food. This could become a serious situation. If people panic, it surely will be serious.

It may seem almost hard to believe, but right now there is a scarcity of chicken of all things. We've never had a chicken shortage before so maybe it would be helpful to explain how this has come about.

The current price freeze on food means that wholesalers and grocery stores have not been allowed to increase their prices on chicken. But the freeze doesn't cover raw agricultural products including the food grains that are used to feed chickens. They have gone up in price, partially due to the scarcity that resulted from the massive sale of wheat last year to the Soviet Union.

The end result is that it costs more to raise a chicken and get it to market than you can sell it for, so a lot of folks in the chicken business are sitting on the sidelines for the time being.

Chicken is not the only product in short supply. We're also facing a scarcity of beef and produce departments may run short of some fruits and vegetables because spring rains and frosts killed off many crops.

Okay, now what can be done about this? The current Phase Three-and-a-half price freeze has been a disaster. Fortunately, President Nixon and his economic advisors seem to recognize that and they are trying to scrap this program just as rapidly as they can.

That is necessary because this price freeze has contributed to the shortage of food. But lifting the freeze will permit food prices to go up. That is hardly a pleasant prospect but it is significantly better than not having any food to buy.

The big concern right now is how consumers will react to this situation. If people panic, if they become scared that they won't have enough food to feed their families, they might start hoarding food.

That is absolutely the worst thing that could happen. Widespread panic buying of food would certainly precipitate a grave shortage that could result in federal rationing of food. If we want to avoid that, we must realize that if we start hoarding food, there's not going to be enough left to go around.

DALE GARST AND CLEAN ENVIRONMENT

HON. GARNER E. SHRIVER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. SHRIVER. Mr. Speaker, the importance of effective sanitation practices in cleaning up the environment in American cities cannot be overly emphasized. The success in cleaning up our cities rests largely upon dedicated men and women who are committed to getting the job done, but get little recognition.

Mr. Dale Garst, of Wichita, Kans., is one of those professional sanitation experts who has achieved the objective of making a large community a truly clean city. Mr. Garst, with whom I have been acquainted for many years, is retiring as director of the Wichita Sanitation Division after nearly 30 years service. Long before today's ecological emphasis and concern, Dale Garst was in the forefront working for sound sanitation practices. His leadership has been outstanding, and he will be truly missed in the forefront of this effort. I am proud to salute him on the occasion of his retirement and wish him well. He is deserving of our appreciation and congratulations.

Under the leave to extend my remarks in the RECORD, I include an editorial from the Wichita, Kans., Beacon which discusses the contributions of Mr. Garst to a clean environment:

ACHIEVED HIS GOAL

A career devoted to keeping Wichita clean comes to an end today.

Dale Garst, who has been director of the city's sanitation division for 23 years, is retiring, ending nearly three decades in the sanitation business.

The Wichita native first started working for the city in 1944 when he became a health department sanitarian. The following year he was named superintendent of the health department's trash collection division and in 1950 became head of the city's refuse department, at the time the city first got into the trash collection business.

He has continued in that post through several administrative changes in city government and even a three-month "leave" to try working for a business concern.

He has seen vast changes in the methods of trash collection and disposal in those 29 years and helped Wichita attain many improvements in sanitation practices.

He once said his only desire was to see Wichita be a clean city. That he achieved this goal is a tribute to his determination and leadership in his field.

PROHIBITING FOOD STAMPS FOR STRIKERS: AN ACTION LACKING BOTH WISDOM AND FAIRNESS

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. HARRINGTON. Mr. Speaker, the passage by the House yesterday of the amendment to prohibit food stamps for workers on strike was an action lacking both wisdom and fairness. Two concerns persuade me of this view. I have misgivings about a collective bargaining system whose balance can now be lost because one side to a dispute may face hunger in defending its legitimate interests. And my reservations are intensified by the prospect of innocent children depending for adequate nourishment on one side's forsaking its negotiating position.

The integrity of the collective bargaining process would have been strengthened, not diminished, by allowing working people and their families to receive food stamps if they qualified in other respects. Many union families would not have so qualified, but the stamps would have insured that members at the lower tip of the income spectrum could participate in strike activity. As for the responsibility of Government, it continues to lie in making certain that collective bargaining is truly an adversary process between two capable parties. It is my opinion that cutting off food stamps will greatly interfere with this process.

This conviction prompts my second objection. We all agree, I am sure, that children in this country, and, for that matter, around the world, must have access to sufficient food regardless of the acts of their parents. We have also established that in the United States there are indeed thousands of children without wholesome diets who are suffering physical and mental harm from which they will never recover. It is troubling enough that Congress has thus far failed to pass the programs to save these youngsters; certainly we should have refrained from anything which might add to their numbers. Now, however, we have adopted a proposal to deny food stamps to the offspring of parents who possess fewer resources than the typical union family and who join their more fortunate coworkers in perfectly legal actions.

If decent food and the option to strike are both basic rights, then we have no business forcing poor workers to choose one or the other, and we should have defeated this amendment.

BICYCLE SAFETY

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. BURKE of Massachusetts. Mr. Speaker, I would like to take this opportunity to call to the attention of my colleagues here in Congress the tireless, unselfish, and civic-minded campaign a hard-working public official and constituent of mine is conducting for the cause of bicycle safety. I am referring to the Traffic Safety Commissioner of the town of Randolph, Mass., Mr. Bernard Davidson. I would be doing Mr. Davidson a great disservice were I only to mention his efforts on behalf of bicycle safety. Mr. Davidson has worked diligently to promote automobile traffic safety in his office of Traffic Safety Commissioner and has joined in many cooperative efforts in this field on the municipal and State levels. Mr. Davidson has also worked with my staff in seeking many overall improvements in the traffic situation in Randolph. I can only laud Mr. Davidson for these efforts and congratulate him for his foresight in recognizing the need for educating the public in bicycle safety. As we all know this healthy pastime is enjoying an unparalleled renewal of popularity and the necessity to reiterate long established basic responsibilities of safe bicycling through spirited public information campaigns is paramount. I am pleased to assist Mr. Davidson in this important effort and am sure that every Member will encourage similar projects in their districts throughout the Nation.

Mr. Davidson exemplifies the hard-working officials on the local level of government who are valuable assets to their communities and it is my every wish that this relevant bicycle safety project will prove beneficial for bicyclists everywhere.

Mr. Davidson has a firm belief, and rightfully so, that if we teach courtesy and safety to every bicyclist these good habits will surface later when behind the wheel of an automobile. The cooperative interaction of safe and careful driving with elementary courtesy which could easily be taught to young people riding bicycles should become a logical step from the sidewalk to the highway, and this simple precaution might help to reduce the carnage on America's roadways. Following is the text of a joint resolution I am introducing authorizing the President to declare a National Traffic Safety Week which hopefully will remind every American of his responsibility to drive in a safe and courteous manner:

H.J. RES. 676

Joint resolution authorizing the President to proclaim the third week beginning on a Sunday in November of each year as "National Traffic Safety Week"

Whereas, statistics indicate a constant increase in the number of deaths and injuries resulting from the operation of motor vehicles; and

Whereas, deaths and injuries resulting from the operation of motor vehicles should be eliminated or minimized; and

Whereas, motor vehicle accidents can be avoided by a concerted effort by elected officials, law enforcement agencies, motorists, and pedestrians to replace indifference and carelessness with vigilance, alertness, and courtesy at all times; and

Whereas, there is a need to demonstrate a deep concern for the tragic waste of human life due to traffic accidents by setting aside a period devoting special attention to the safety and protection of motorists and pedestrians:

Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled. That the President of the United States is authorized and requested to issue a proclamation designating the third week beginning on a Sunday in November of each year as "National Traffic Safety Week", and calling upon the people of the United States and interested groups and organizations to observe that week with appropriate ceremonies and activities.

CHARLES BERNSTEIN

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. WALDIE. Mr. Speaker, today I am introducing a bill which would confer jurisdiction upon the U.S. Court of Claims to hear the case of Mr. Charles Bernstein.

Mr. Bernstein was imprisoned for almost 8 years for a crime that subsequently developed he did not commit, and for which he was granted a full and unconditional pardon by the President of the United States.

Since his release from prison, Mr. Bernstein has surmounted the almost unbearable hardships attached to his years in prison. He has made substantial contributions to our society, including distinguished service during World War II.

It is appropriate, in my view, to now allow Mr. Bernstein the opportunity for final vindication.

Mr. Speaker, the full text of the bill follows:

H.R. 9462

A bill conferring jurisdiction upon the United States Court of Claims to hear, determine, and render judgment upon the claim of Charles Bernstein, of Washington, District of Columbia

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 2513 of title 28, United States Code, and notwithstanding any statute of limitations pertaining to suits against the United States, or any lapse of time, or bars of laches, jurisdiction is hereby conferred upon the Court of Claims to hear, determine, and render judgment upon any claim of Charles Bernstein, of Washington, District of Columbia, for damages sustained by him as the result of his arrest, arraignment, trial, and conviction, in 1933 and his subsequent imprisonment until 1940, for murder in the first degree, an offense for which he was granted a full and unconditional pardon by the President of the United States.

SEC. 2. Suit upon any such claim may be instituted at any time within one year after the date of the enactment of this Act. Nothing in this Act shall be construed as an inference of liability on the part of the United States. Except as otherwise provided herein, proceedings for the determination of such claim, and review and payment of any judgment or judgments thereon shall be had in the same manner as in the case of claims over which such court has jurisdiction under section 1491 of title 28 of the United States Code. Notwithstanding, however, the limitations imposed by section 2513 of title 28 of the United States Code shall not apply to or restrict the jurisdiction conferred upon the United States Court of Claims by this bill.

CAPTIVE NATIONS WEEK

HON. HOWARD W. ROBISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. ROBISON of New York. Mr. Speaker, the events of the past several months in the sphere of international relations, particularly between the Russians and ourselves, have served to create a new aura of conciliation among the major nations of the world. Our quickening sense of "community" is mitigated, however, by the fact that there are many countries today which do not have the freedom to participate in this new world entente. I refer to those Soviet occupied nations of Lithuania, Latvia, Estonia, Poland, Hungary, Rumania, Albania, Bulgaria, and any other nation which is similarly oppressed.

This week marks the 15th observance of Captive Nations Week, a week reserved each year both for recognition of the contribution to America made by those citizens originally from "Captive Nations," and for renewing our pledge to work for a world in which there are no people under any form of subjugation.

Those countries which now enjoy the natural right of self-determination can take hope in the cause of these Baltic and Eastern European peoples by looking to their individual and collective histories as nations. During the past 75 years, the peoples of this area have suffered some of the worst disasters ever to plague mankind. They have provided the battleground for two devasting wars. Their people have been the victims of aggression from many quarters. Yet, these same people have displayed an ethnic and national pride strong enough to withstand the catastrophic events to which they have been subjected.

Hopefully, these nations will soon be allowed to realize their potential as independent contributors to the cause of world prosperity. Congress has extended this hope from our nation by adopting House Concurrent Resolution 416, which calls for the freedom of the Baltic States.

Let us hope, in the name of all humanity, that our entreaties for a free and peaceful world are heeded.

BLESSED IS THAT NATION

HON. HERMAN T. SCHNEEBELI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. SCHNEEBELI. Mr. Speaker, on the Sunday before the Fourth of July, the pastor of First Lutheran Church of Mifflinburg, Pa., delivered a sermon which has since been widely circulated in the central Pennsylvania area.

I have been requested by one of my constituents to review the remarks of Rev. D. Paul L. Reaser and, if appropriate, to share them with my colleagues in the House of Representatives.

Mr. Speaker, I do agree that this message is one of insight and of value to those of us who are privileged to serve in the Congress of the United States, and it is my pleasure to share it with my colleagues:

BLESSED IS THAT NATION

On this Sunday before Independence Day, I want to review with you certain elements in our early life as a nation, to help us and our children see clearly the foundation upon which our Republic was built.

In the Journals of Henry Melchoir Muhlenberg, he made this entry on Sept. 6, 1741: "In Halle, on Sept. 6, I was invited to a meal by Rev. Dr. Francke. Before we sat down, the Rev. Doctor offered me a call to the Lutheran people in the province of Pennsylvania adding that I could accept it on trial for a few years. The poor folk there had been petitioning urgently for this for several years. Because for my part I knew well that I am the servant of my Lord, I could not answer otherwise than that it was all one to me if it was the Lord's will, because a servant depends upon the will of his Lord . . . Accordingly I resolved in God's name to accept the call to Pennsylvania . . ."

Today in our meditations I hope that all of us will recognize that this trust in God, this dependence upon His guidance, is the most common element in the early history of America's life. They firmly believed the scripture which declares, "Blessed is the nation whose God is the Lord" (Ps. 33: 12).

Our Pilgrim Fathers, by the light of the smoking lamp on the Mayflower, before leaving their boat at Plymouth, inserted these words in the Mayflower Compact: "We whose names are underwritten have undertaken for the glory of God to establish . . . the first colony for the advancement of the Christian faith". Over the top of that contract were written these words, "In the Name of God, Amen".

Ten years later, in 1630, other Pilgrims said in the New England Federation Compact, "We all have come into these parts of America with one and the same end, namely to advance the Kingdom of the Lord Jesus Christ." To them, along with all their human faults and frailties, this new land would be a new and noble experiment to demonstrate what would happen to any people who cared and dared to follow Jesus Christ in the many areas of human society and government.

Whether we think of the Puritans of New England, or the Anglicans of Virginia, or the Irish and Scotch and the Germans of Pennsylvania, the Dutch, or the hardy Scandinavians, a living trust in God was common to them all.

Apart from this dynamic faith in God, if you erase that from the documents and declarations of this nation in her infancy and youth, American history has little meaning. One of our Harvard Univ. Historians, after inquiring into the origins and early development of our nation concluded, "No one who has delved deeply in the origin and history of the colonies can . . . deny that the dynamic force in settling New England was English Puritanism desiring to realize itself. The leaders proposed to make over a portion of the earth in the spirit of Christian philosophy: a new church and state, family and school, ethic and conduct . . . A new city of God was their aim."

In the earlier years, the life of the colonies was closely attached to the Motherland, and all colonies were subject to the English throne and English law. In 1660 oppression began when the mother country passed and attempted to enforce the despised Navigation Act. 100 years later, George III, at 22 years of age, dull, uneducated, intolerant and finally insane, came to the throne. He accepted the common European idea that a colony existed only to enrich the mother country. Oppression followed oppression, insult heaped upon insult, injustice added to injustice, until the feeling of Americans erupted like a volcano, causing Patrick Henry to exclaim, "Is life so dear, or peace so sweet, as to be purchased at the price of chains or slavery?" Thousands of pioneer Americans felt the same way.

The first Continental Congress was called in 1774—32 years after Muhlenberg had started his ministry among the Lutheran churches here. That first Congress prepared and sent a petition to the King of England which he refused to receive. A second Congress was called in 1775, and in 1776 the Declaration of Independence was declared. That document united the colonies as nothing else could have done. It encouraged people to endure hardship and privation for the cause of freedom. From that day to the present hour, that document has been the inspiration and hope for many oppressed peoples and nations of the world.

The 56 signers of the Declaration represented all branches of Society. Most of them were well educated. Their average age was 46 years. Rev. John Witherspoon was the only clergyman to sign, and nine of the signers were graduates of the college over which he presided.

As so many steps in America's life, the signing of the Declaration of Independence was a spiritual event. It expressed the deepest feeling and conviction of the people and their leaders. You cannot understand America any other way. At the heart of our tradition is a spiritual reality. "We the people. . ." wrote one of the Founding Fathers, "are as a city set upon a hill, in the open view of all the earth, the eyes of the world are upon us, because we profess to be a people in covenant with God".

When trouble came to them, these hardy people searched their conscience using the 10 commandments as a basis for self-examination, which today would be a good practice for our leaders and our people in this clever, affluent 20th century. A century before Independence, in 1679, after such examination, a group of colonist leaders issued a document giving the following reason for trouble and disagreement among the people of the Massachusetts Bay Colony:

1. "Visible decay of Godliness among professing Christians.

2. Personal pride in the hearts of the people.

3. Church fellowship and worship neglected.

4. Profanation of the Word of God.

5. There is much Sabbath breading."

I believe you would agree that all these conclusions are evident in our contemporary society.

In 1835 an historian wrote a book on American democracy enumerating the reasons why he thought this democracy was a success. The American pioneer, he wrote, was a man who had taken up his residence in the wilderness equippd with a Bible, an ax, and a newspaper. The ax he must eventually lay down; the newspaper could give him at best only passing news of daily events; but the Bible—God's Word to man—was God's promise and guide for eternity.

A chapter later in America's life, we come to the missionaries and revivalists, who operated on the edge of civilization, and without whom an independent church which could stand upon its feet and look the state in the eye would never have succeeded. Jonathan Edwards with his doctrine of the sovereignty of God lifted the church above mere social environment and gave the soul a sense of its significance before God. Jonathan Edwards, John Wesley, George Whitefield, Charles Finney—all belong in this group. We recall how Whitefield stood on the steps of Independence Hall in Phila., preaching to a vast crowd while Ben Franklin measured the distance which Whitefield's voice could carry. Peter Cartright, who introduced Methodism and decent living to the frontier; John Mason Peck another missionary who was responsible for keeping Illinois a free state; Jason Lee who went as a missionary to the Indians; Starr King, whose eloquence prevented California from leaving the union; and many others who preached the Good News of the Gospel and who played important roles in shaping this new nation should be remembered by this generation. In our day, Dr, Billy Graham is a worthy successor to those great evangelists who have been instrumental in sharpening the conscience of their day.

Why do we speak of all this history? Because it is imperative that we should know the ideals and hopes of those who have given us the foundation and source of such blessings as we enjoy. The American Republic has been one of heaven's experiments in democratic government on earth.

A friend of James Russell Lowell, outstanding American poet during the 19th century, asked him, "How long do you think the American Republic will endure?" Lowell replied, "So long as the ideas of its founding fathers continue to be dominant".

There are some who would jump off the ship of state declaring some other form of government is better; and there are some who in like manner would jump off the ship which we call the church, saying, "We don't need the church any longer; that's for kids and elderly ladies".

Well, let me tell you a story. A certain prisoner was being taken by ship to be tried by the highest authority of his government. The small ship was caught in a terrible storm. The sailors wanted to desert the ship. But this prisoner said to the commander and the crew of the ship, "Cheer up. None of us will lose our lives even though the ship will go down. For last night an angel of God whom I serve stood beside me and said, "Don't be afraid, Paul . . . for God has granted your request and will save the lives of all those sailing with you." So take courage! For I believe God. It will be just as He said. But we will be shipwrecked on an island."

Before long the ship hit a sand-bar, the bow of the ship stuck fast, while the stern was beaten by the waves and began to break apart. The commander ordered all who could swim to shore, and others were told to hang on to broken pieces of the ship until they should get help. Everyone of the 276 persons aboard safely got to shore.

If they had jumped overboard into the swollen sea they would surely have perished. But hanging on to even pieces of the ship brought them finally to safety.

That true story in Acts Chapter 27 is also a parable for today. Don't jump off the ship in the midst of storm and stress. You may not think the ship as it is, is worth saving. But clinging just to the pieces may bring all to safety.

Let us not forget that God has the world in His hands. God has the ship of state in His hands: He has a concern for His children. God also established the church and holds it too in His hands. In the midst of stress and storm of the day, hold on, trust in God, He will see us through safely.

"Blessed is that nation whose God is the Lord".

LABOR VIEWS THE ECONOMY

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. EDWARDS of California. Mr. Speaker, it has come to my attention that a lack of confidence in the Nixon administration economic policy has been expressed and published by the central labor council of Alameda County, Calif., in the East Bay Labor Journal. According to this editorial, the President's phases I through III have done virtually nothing to allay the fear of unemployment by the average wage earner, primarily because the goal of our present economic program has not been full employment. I agree that full employment should be one of our most important economic goals, and hope that during phase IV the President will take adequate steps to restore the confidence of the average worker in our economic system.

I feel that the opinion voiced by the East Bay Labor Journal expresses the views of a majority of American workingmen and workingwomen and for that reason, I wish to enter this excellent editorial into the RECORD for my colleagues' interest and information.

KEY TO THE PUZZLE

If you haven't noticed that we are supposed to be in the middle of an economic "boom," that's because you work for a living. Right in the middle of figures showing record prices and profits and sales and interest and credit and production and other things that mean "boom" to the economists, there you are, the wage earner, a figure that points the other way. "Real wages," or what we can buy for the money we earn, has slipped backward for five straight months.

Or maybe you are one out of the five out of a hundred that has made it clear that you want a job and can't find one and are officially one of the unemployed. (If you didn't make it clear, because you don't know what to do with the kids, or are young and just getting started, or old and discouraged, you don't count.) Official or unofficial, it doesn't feel like "boom" to you, either.

As a matter of fact, it doesn't really feel like boom to many economists who have begun to predict a recession soon. Then jobs will be harder to find and to keep; more of us will be in real trouble and many others will be afraid.

Black workers will be afraid of losing jobs to white workers, and the other way around. Old workers will fear the competition of young workers and men will resent the pressure of women for equal job opportunities. Craftsmen will resist changes that will put them out of work and fight harder with other crafts to hang onto their jurisdictions. They will also resist any attempt to limit growth, which means construction, which means jobs.

All this is predictable because it exists all the time; it just gets worse when we can't actually make a decent living. Experience with boom and bust is deep in our bones, and many construction workers go through it every year.

The fear that goes with it—the chronic fear of unemployment—does more to pollute the social atmosphere than anything else.

We recommend this fact as a touchstone for Congressmen who will soon be forced to deal with runaway inflation and other symptoms that no longer respond to the usual medicines. The language of economics can be intimidating—and "inoperative" when it turns out not to be true. But we can no longer afford to "leave it to the experts." As Watergate indicates, the experts are often paid by those who have a selfish interest in misleading us.

If Congressmen will ask what is happening to people, and why, and is it fair, they can hardly avoid the conclusion that full employment should be the goal of every economic program. When every American who wants to work knows that he or she can count on getting a job, a lot of other problems will soon be cut down to size.

WASHINGTON POST-NEW YORK TIMES: YOU'RE NOT ALONE

HON. JOHN E. HUNT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. HUNT. Mr. Speaker, as you and my colleagues are well aware, I am not a "Johnny-come-lately" in my criticism of the news media, particularly as to their handling of the Watergate investigations. When I feel that the media has been unjust and unfair, I shall continue to speak out.

I thought I had seen it all until last night. The most irresponsible, most damaging, most prejudicial television news story yet produced was aired on the WTOP, channel 9 newscast at 11 p.m.

The story supposedly was to demonstrate a new type of "lie detector" manufactured by a company called Dektor located in Springfield, Va.

And now the clincher. How did they demonstrate the machine? You guessed it! They turned the TV on during Mr. Frederick LaRue's testimony before the Ervin Committee and proceeded to analyze it as to truthfulness. Need I tell you their conclusion? For the whole world to hear, or that part of the world that was tuned into the WTOP news, they concluded that Mr. LaRue's testimony indicated a great deal of stress and he apparently was being less than honest with the committee.

Mr. Speaker, there is not one of us here today who does not suffer the burden of strain daily. Are we to assume that the witnesses before the Watergate committee should not, and if they do, it is because they are apparently guilty?

This is a clear case of eavesdropping, Mr. Speaker, the same kind of activity that the media has been so critical of in regard to the Watergate investigation. It is also another example of irresponsible journalism, and trial by the media.

As long as this type of activity goes on there is more reason to terminate the Watergate hearings than there is to continue them.

IAN D. MacLENNAN RETIRES FROM FBI

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. GAYDOS. Mr. Speaker, I rise today to bring to the attention of my colleagues the outstanding record of a man who has won the admiration and respect of the people of western Pennsylvania and law enforcement officers throughout the Nation.

After 32 years with the Federal Bureau of Investigation, Ian D. MacLennan has retired, ending his illustrious career as the special agent in charge of the Pittsburgh Office of the FBI. His retirement leaves a void in the Bureau's ranks which will be most difficult to fill, for Mr. MacLennan exemplifies the very highest standards of the FBI. His dedication and efficiency as a law enforcement officer brought him commendations from his superiors; his warm, genuine friendliness brought him a host of friends, in and out of his profession.

He joined the Bureau in August 1941, and during World War II served as an undercover agent in South America. Over the years he has been assigned to field offices in New Orleans, New York, Cincinnati, in addition to numerous tours of duty at the FBI Headquarters here in Washington. During his tours in Washington, Mr. MacLennan served as chief of the Bureau's Fraud and Accounting Section and, subsequently, became an executive assistant to Mr. Don Parsons, then J. Edgar Hoover's top investigative aide in charge of all FBI operations.

Mr. MacLennan came to Pittsburgh as the SAC in 1962, and under his leadership the office received national attention for the arrest of a man nicknamed "the commuter bandit" by the local news media. The "commuter bandit" held up 16 banks in various parts of the area over a 5-year period before FBI agents, led by Mac, apprehended him. Mac and his agents also played major roles in the investigation of the slaying of the Joseph "Jock" Yablonski family, the union leader whose murder shocked the country.

On July 27, approximately 100 graduates of the National FBI Academy will pay tribute to "Mac" at a testimonial dinner in the Youghiogheny Country Club near McKeesport, Pa. Among those on hand to honor him will be Thomas D. Mansfield, publisher and editor of the Daily News in McKeesport; Walter T. Lofstrom, the city's former chief of police; Special Agent James Treher; Detective Captain John Rybar of McKeesport; Police Chief Willian. Brkovich of Versailles Borough; Police Chief Jack W. Rudolph of Pleasant Hills; John B. Stack, assistant director of administration at the Allegheny County Police Academy; Detective Sgt. Thomas J. Tridico of the Pennsylvania State Police; and Police Chief Daniel Gross of Sharon, Pa., president of the FBI National Academy Associates of Western Pennsylvania.

Mr. Speaker, I consider it a great privilege to have been invited to join these men in honoring Mr. MacLennan, for I hold him in the highest esteem. He is a man among men and one of the finest I have ever known.

ECOLOGICAL ENTHUSIASM

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. WYMAN. Mr. Speaker, almost every one wants cleaner air, cleaner water, and less noise in this country. Reflecting the public will, the Congress enacts laws to help bring this about.

But, we must be careful not to try to go too far too rapidly at the expense of individual livelihood. Moderation, restraint, and balance is needed here as well as in every legislative field. This is particularly important to keep in mind as our growing energy crunch impacts on the ecology.

A recent column by William Buckley appearing in the Washington Star-News is of interest in this connection. The article follows:

THE PARALYSIS IN DRUG DEVELOPMENT

(By William F. Buckley Jr.)

A professor at the University of California charged last week almost parenthetically that 10,000 deaths from malaria in Ceylon in 1968 can be attributed to the late Rachel Carson, whose book "The Silent Spring" brought on the crisis of ecology, to be distinguished from the ecology crisis.

The latter is what we all know about. The former is what happens when one's concerns for the ecology become fanatical. When this happens, for instance, you find yourself saying that it is better to prohibit the use of DDT, because the chemical fallout may poison our grandchildren's clams, than to kill the mosquitoes who may give malaria to our grandchildren's grandparents like tomorrow. The need for balance in the ecological wars is very great.

As also in the related world of drugs. We are, one gathers, very soon to hear that the big scare of a few years ago about cyclamates was exaggerated. It isn't known—or, more accurately, I do not know—whether this means that further research has discredited the research that discredited cyclamates. Or whether a balanced application of the cost/benefit ratio, as the scientists call it, establishes that whereas for everyone who drinks 50 cyclamated Tabs per day and runs the risk of contracting cancer, there are 10,000 who take less than 50 cyclamated drinks per day who are scheduled to die from whatever it is that avoirdupois does to you, which might not have happened if you drank Tabs rather than Cokes.

Prof. Stephen de Felice wrote last year a book called "Drug Discovery—the Pending Crisis", in which he records his dismay over the paralysis in drug development caused largely by the Kefauver-Harris Bill that came in 10 years ago after the thalidomide crisis. It was then that a few deformed children were born, as the result of the use of that drug. What followed, Dr. de Felice says, in his writtings and speeches, was something akin to hysteria.

Moreover, the intellectual basis of the laws that transformed the Federal Drug Administration into an agency for supressing scientific discovery, is incoherent. Much more is known about the deleterious effects of alcohol, say, or tobacco, than was ever suspected about cyclamates. "The effort now required to evaluate a new investigational drug in man would eliminate the Pasteurs, Jenners, Ehrlichs, and Domagks from our drug discovery system," says Dr. de Felice, pointing out that for all the explosions in drug discovery during the 1940s and '50s, which should have resulted in exponential progress during the '60s, very little of radical therapeutic nature was in fact discovered during the '60s.

Prof. Milton Friedman recently called attention to a cost analysis of the FDA's program done by Prof. Sam Peltzman of UCLA, in which the professor attempted by ingenious means to put a dollar value on the net result of the harsh anti-innovative legislation. He began by conceding all over the place that the human tragedy of a deformed child cannot be measured in dollar terms. But it can be measured in terms of a child who was scheduled to die an awful death, but was cured by drugs.

It is his assumption—which by the way Dr. de Felice challenges as being too optimistic—that the FDA cannot stop progress for very long, that brilliant new drugs will flow in from other quarters of the world. But he insists that there is at least a two year time lag directly traceable to the FDA's fanaticism.

MURDER BY HANDGUN: A CASE FOR GUN CONTROL

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. HARRINGTON. Mr. Speaker, yesterday, we noted in the Congressional Record that a 43-year-old man had been shot and killed and was found lying near a tennis court at a Boston public housing project. All that was known about him was his name, his age, and his address.

We have now learned more about the man, Marion B. Shirley, and the increased knowledge makes his death the sadder, because he is no longer a faceless person, but a man with a history and a personality.

According to a report in the Boston Globe, Shirley was the fiscal coordinator for a federally funded rehabilitation program at the Tufts New England Medical Center. He had excellent relations with his fellow workers at the hospital, a spokesman for the university said.

Shirley's life had been filled with tragedy: His wife Barbara, had recently died of cancer, and his 22-year-old son had also died.

We still do not know who shot Marion Shirley, or why. But we know that a handgun was the murder weapon, and that the availability of guns made his murder very easy to accomplish.

As long as there are 90 million guns in civilian hands, no one of us is safe. At any moment, for any reason, we or the people we love could be the victims of a murder. The argument that we need guns to protect ourselves from guns, or that we must commit violence to protect ourselves from violence, leads only to an endless cycle of destruction. The passage of strong gun control legislation is needed to begin to break that chain of violence. And only then will we be able to walk the streets of our country without fear.

THE TERRIBLE TOILET

HON. WENDELL WYATT

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. WYATT. Mr. Speaker, yesterday I called to the attention of my colleagues an article of very far-ranging consequences written by Harold H. Leich and published last Sunday in the Washington Post. The first half of the article was published yesterday and the second half is hereby brought to the attention of my colleagues and the public:

THE TERRIBLE TOILET

(By Harold H. Leich)

Thus modern technology, through various incinerating and composting devices, is already solving the problem of a waterless method of human waste disposal. Maybe each one will find an appropriate niche in the sewerless society of the future—or perhaps some device not yet invented will be the answer.

But even with elimination of the traditional flush toilet, the need will not be reduced for sanitary sewers to carry away waste water from the bathtub, washing machine, and sink.

It does seem odd that the major disposal problem, human body wastes with their heavy burden of pathogenic organisms, is already solved but that relatively inoffensive wash water must still be drained away from each house through an expensive sewer system. So one challenge is left, and here the Lindstroms have come up with a further answer: They have invented a basement unit that cleanses wash water to the point where it can be safely used for lawn sprinkling and car washing. Any surplus is piped into the storm drain with no ecological damage, or it can be used to irrigate farms and forests.

THE ECONOMIC PERSPECTIVE

And so the outlines of a sewerless society are taking shape. In cities and towns of the future, houses would have incinerating or composting systems to dispose of body wastes. In apartment houses, office buildings, and factories, a large self-contained unit would dispose of all human wastes, without the need for a sewer connection. All other domestic waste water would be filtered and cleansed to the point where it could be used for sprinkling or other non-drinking uses, or led away into a storm drain. In certain areas it could be used to bolster a declining water table or to feed recreational lakes.

In any case, no sanitary sewers or central sewage treatment plants would be needed anywhere. (Relatively small plants would still be needed in metropolitan centers to clean off-street storm water of its burden of oil, dirt, and trash.) Of course, industrial wastes and agricultural drainage would still present serious problems to our society, greater in amount than all present municipal wastes. But corrective action is now under way to abate these pollution sources. New legislation will require industry to meet a high standard of water quality. The Soil Conservation Service is encouraging the use of animal-waste lagoons on large farms, and Bionomic is designing modular units to burn animal wastes on the farm and at the processing plant.

But the economics of a sewerless society, based on the cost of household recycling or waste disposal systems such as the "Destroilet," would probably be more costly than community sewerage and wastewater treatment and disposal systems, argues one authority.

Dr. Daniel A. Okun, head of the Department of Environmental Science and Engineering at the University of North Carolina, elaborates on the case for community treatment:

". . . the major problem with water pollution originates in our large urban areas where the density of population militates against solutions household by household. The trend for the future for housing in the United States will be . . . toward high rise, multi-family dwellings. Any study will indicate that sewering these buildings and providing community solutions for treating the wastewaters is bound to be far more economical than household by household solutions."

So the argument is between the concentration of sewage from thousands of homes for central treatment versus a "point of origin" approach in which each house or larger building disposes of its own wastes without a sewer connection. A cost-benefit analysis of this technical subject would be helpful. The advantages of mass production may favor concentrated sewage disposal, and yet . . . it is costing one family $1,400 to connect their vacation home to the sewer of a shore resort. In other places a sewer connection may cost from $400 to $1,700 a house. In Ontario, 300 buyers of lots near a ski resort have learned they cannot build chalets unless they spend $3,000 each to install sewers, since the soil will not accommodate septic tanks. New sewers in the Maryland suburbs of Washington will replace inadequate septic tanks of 1,200 homes at an estimated cost of $5.5 million, or about $4,400 a house, and this does not include any costs for a treatment plant.

SEWERLESS ADVANTAGES

Such capital sums would go a long way to pay for the new technology that entirely eliminates the need for sanitary sewers and treatment plants. (The cost of a Multrum system, including the water purifier, is about $2,000 but mass production should lower this substantially.) So the new technology may not cost more after all. But even if it doubled the cost of traditional methods, the advantages of a sewerless society would far outweigh the added costs:

A major contribution to public health by keeping any trace of human wastes (and their bacteria and viruses) out of the water supply.

Stopping contamination of ground water by septic tanks or leaky sewer lines.

Reduced eutrophication of lakes and estuaries.

Better water quality for outdoor recreation.

A reduction of about 45 per cent in consumption of purified water, leading to great savings in building reservoirs, conduits, and filtration plants and reducing the adverse effects of future droughts. (In an arid land like Israel where water is desperately short, this would be equivalent to discovering a large new fresh-water lake.)

Release of large amounts of desirable land now tied up for treatment plants. (The expanded Blue Plains plant at Washington will cover more than 400 acres of flat, strategically located land.)

Eliminating the expense of a major underground piping system, with continued savings by stopping repeated digging up of streets.

Opening up tracts of land for building houses and factories where extension of sewer lines is not feasible. As these new devices become better known and prove themselves in large-scale trials, the next step is an obvious one. A long transition period will be needed to put them into wide use. First they would be installed in new vacation homes and in the "new towns" that are planned in many areas, eliminating the need for sanitary sewers and treatment plants. They would also be used to bring modern sanitation to existing towns and rural districts which never acquired traditional sewer systems. Next they would prove useful in our expanding suburbs, to avoid ever-increasing loads on present treatment plants. Finally, over many decades, they would penetrate the older areas and displace present flush toilets, maybe block by block, using public funds in whole or in part.

(One consequence of eliminating sewer lines will need careful attention by land-planning agencies. Approval of a sewer into a proposed development has given such agencies a firm control over zoning. Measures will be needed to strengthen the hand of planning agencies in order to prevent haphazard building.)

In the meantime, what about the billions already programmed in this country for sewers and treatment plants? Since converting to the sewerless society will be a task for the decades, we must build new treatment plants for many years to come, even though this new construction is only an interim measure.

A society that spent billions for space travel and its related disposal problems surely can afford a few millions for intensified research into waterless methods of human waste disposal.

CAPTIVE NATIONS WEEK

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. ZABLOCKI. Mr. Speaker, as you know, the week of July 15–21 has been designated Captive Nations Week. The 15th annual observance of this week provides a fitting opportunity for us to reaffirm our political and moral commitments to the millions of individuals whose liberty and independence has been repressed in the captive nations of central and eastern Europe and within Cuba.

Too often we take for granted the freedoms we enjoy as Americans and overlook the plight of our neighbors in captive nations. As we freely pursue our human rights, let us not forget the multitudes of people who remain shackled under Communist repression by frequent and continued violations of their human rights.

Nearly three decades have passed without Communist governments honoring their promises of free elections and other basic rights to the peoples of captive nations. Individuals' freedoms of expression and movement have also long been curtailed by these governments.

The 1970 revolts in the Baltic port cities of Poland, the recent widespread demonstrations in Lithuania, and the loud protestations from Jews responding to the denial of emigration privileges from the U.S.S.R. serve as a constant reminder to us of the strong desire for independence by the overwhelming majority of people in the captive nations. From these mass expressions of discontent and frustration with the curtailment of their natural rights, the message clearly emerges that the peoples of captive nations vigorously oppose Communist repression and tyranny. Hopefully Mr. Speaker, the spirit of these people will hasten the day when man's liberty and independence will be proclaimed and practiced openly and freely throughout the world.

During this 15th observance of Captive Nations Week, let us rededicate ourselves—not only during this week, but throughout the year—to mankind's quest for individual freedom and justice. Only by persistent and dedicated efforts by all Americans and free people throughout the world can the establishment of a new era of peace and liberty become a reality.

WHO'S TO PAY FOR PROJECTS

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. TEAGUE of Texas. Mr. Speaker, since 1968 this body has been awaiting the final report of the National Water Commission. Recently that report came forth. I sincerely hope my colleagues in the House carefully read that report because it recommends sweeping changes in the policies set forth by the Congresses for the past 100 years. I have little faith in the economic and tactical recommendations set forth by the Commission. I sincerely believe that if the Commission's recommendations are adopted this country will never recover from the repercussions.

I recommend to Members of the House and the general public an editorial that appeared in the Bryan, Tex., Eagle, July 12, 1973. The editor asks a very important question and points out some very real problems.

The article follows:

WHO'S TO PAY FOR PROJECTS?

In September 1968 Congress established a seven-member National Water Commission and charged it with reviewing U.S. water development and use policies, and to file a report on its findings.

The report has now been delivered to Congress. Its 232 specific recommendations are now the subject of a hearing in the Senate, conducted by a subcommittee of the Committee of Interior and Insular Affairs. That hearing, and any legislation resulting from it, could have far-reaching effects in Texas.

Of particular significance is the commission's recommendation regarding the cost-sharing of water projects. It would strengthen the federal role in combining water resource planning and land use planning, a move that seems desirable. But its recommendations regarding shifting around of costs could shake up water development projects particularly the construction of new dams and reservoirs.

The commission urges that identifiable beneficiaries of water programs and projects be required to pay the full cost of developments which give them economic benefits. If accepted, that recommendation would force a drastic shift of the cost burden. Now the federal government may bear from 50 to 100 per cent of the cost; using the commission's guide, many flood control, navigation and irrigation projects would be funded almost exclusively from local sources, private or governmental.

The impact of such a policy on projects can't be calculated precisely; after all, no guidelines or even proposed legislation are available. But even if accepted in a modified form, the commission recommendation would doubtless mean a much greater proportion of the project's cost for Texas interests and taxpayers.

Along the same line, the commission recommends that "sound economic principles" must be employed to encourage better use of water resources. It considers consumer willingness to pay as the most reliable economic indicator of proper water use. In other words, if consumers are not willing to pay more for water, they don't really need additional supplies—and higher costs might make existing water supplies sufficient by reducing use.

Those are only a few of the controversial points raised by the commission, and now undergoing congressional scrutiny. But the sampling should be enough to indicate the importance and magnitude of the recommendations of the commission now being considered by Congress.

THE ALASKA PIPELINE—TO BUILD OR NOT TO BUILD?

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. GUDE. Mr. Speaker, as we now know, the Senate has voted to construct the trans-Alaska pipeline. Not only has that body agreed to the necessary amendment to the Mineral Leasing Act granting the right-of-way, but it has also approved an amendment stating that the pipeline meets all the requirements of the National Environmental Policy Act, in an effort to remove the issue from judicial consideration. I would strongly urge my colleagues in the House not to allow themselves to be stampeded into making any precipitous moves on this measure.

In recent months there has been a building crescendo of voices in America telling us why we do and do not need the proposed oil pipeline through Alaska to the port of Valdez. We have had many telling us why we should or should not build a possible pipeline routed through Canada, bringing oil to the Midwest. From one side, we hear that we are in the midst of an emergency energy crisis, which requires drastic action—even action which would circumvent certain laws—such as the granting of an exemption from the requirements of NEPA.

From the other side, we are told that Alaska's environment will be seriously threatened if the pipeline is built, and that the oil which lies under the North Slope will not help solve the present energy shortage for some time. We are told that this pipeline is a temporary measure, stopgap at best.

It is my hope that in this heated argument, cooler heads will prevail. It is difficult, at best, to objectively base any decision as to which route would be best, if one is forced to rely upon the present factual void in which we find ourselves.

We do know that the North Slope fields contain large quantities of oil, which sooner or later will be needed by this country. We do know that certain companies have joined and invested large sums of capital in the trans-Alaska route, the construction of which would have an undeniably beneficial effect upon the economies of both Alaska and the Seattle area.

On the other hand, we know that this pipeline, if constructed, would cross some of the most seismically active terrain in the United States. We know that at the end of the pipeline would be a fleet of supertankers to transport the oil through narrow straits and very rough seas. And we therefore know that we must face the possibility of increased oil spills in northwest coastal areas.

This knowledge is helpful to the extent that it contributes to our ability to make a reasonable decision, but there remain several key questions to which we have no firm answers. Has the possibility of a trans-Canada route been fully explored? What is Canada's attitude? Have the various environmental risks of each route been laid out, side by side, and compared so that we know with some certainty which route is superior? Are we certain that the trans-Alaska route will bring needed oil to Americans sooner, so as to make a significant difference? Are we certain that this oil will not be, in part, exported?

Senators WALTER MONDALE and BIRCH BAYH have offered a plan which, although now rejected by the Senate, would go a long way toward giving us the clear-cut answers we need. That proposal has three integral parts:

First. It directs the Secretary of State to immediately begin talks with Canada over a possible Canadian route and to report on his findings to the Congress within 8 months;

Second. It would have the National Academy of Sciences make a comprehensive 11-month review of both proposals, again with a full report to the Congress; and

Third. It provides for Congressional action within 90 days after submission of both reports.

In an editorial on the subject on July 11, 1973, the Baltimore Sun offered an excellent argument in support of this Mondale-Bayh proposal. The Sun pointed out that even if Congress agrees to an amendment of the Mineral Leasing Act granting the needed right-of-way for the Alaska route, the issue would likely be tied up in the courts for some time to come, with cases based on environmental considerations. The primary grounds for such suits would be that the Interior Department did not adequately consider all alternatives as required by NEPA—in this case, the Canadian alternative. As I have mentioned, the Senate amendment has attempted to remove this project from the courts, but the comments have been raised that this amendment will not be successful in accomplishing its goal.

However, were the NAS to conduct a full and comprehensive review of both routes, and were the State Department to carefully explore the attitude of the Canadian Government, the end result would be a much clearer picture of the situation, and a clarification of which route would offer the least potential damage to the environment. This, in turn, would effect the need for lawsuits, thus helping to expedite construction of the best proposal.

I would strongly urge my colleagues to give careful thought to this proposal, and would like to commend to the House an editorial which appeared in the Washington Post on July 11 for its consideration.

OIL FROM ALASKA: WHERE OR WHEN?

The real issue in the Alaska pipeline fight, as we see it, is whether the long-term national interest would be better served by transporting the North Slope's oil by pipeline across Alaska and then by tankers from Valdez to the West Coast—or by bringing the oil by pipeline across Canada to the Midwest. Champions of the Alaskan route see it differently. To them the central issue is not where but when the oil starts flowing to the lower 48 states. "Time is critically important," Interior Secretary Rogers C. B. Morton wrote in a letter to the editor which appears on the opposite page today. Time is the single factor making the Alaskan route "clearly preferable," the Senate Interior Committee recently found. Sen. Henry Jackson (D-Wash.), opposing delays of any kind, put it dramatically last Monday: "Will Alaska oil be kept in the ground while the American people are running short? Will the nation be forced to rely indefinitely on oil imports from insecure foreign sources?"

This formulation has a number of flaws. The first is that it is hard to say with certainty that the Alaskan route would be more expeditious because it is impossible to say when either pipeline could be finished. Mr. Morton has often said the trans-Alaska project "is ready to be built as soon as present legal obstacles are cleared away," but those obstacles are hardly the sort which can be easily or quickly brushed aside. In barring construction of the Alaskan pipeline last winter, the Court of Appeals ruled on the "very simple point" that the proposed right-of-way across public lands would be wider than the maximum permitted under present law. That problem would be remedied by the right-of-way bill now before the Senate. But the court expressly reserved judgment on the substantial environmental issues involved in the suit, finding those "not ripe for adjudication at the present time." In other words, if and when the right-of-way laws are modernized, the matter will go right back into the courts and could remain there for some time—unless Congress should be stampeded into giving the project an environmental exemption, which would be unwarranted and unwise.

Comparing this prospect with the outlook for a trans-Canadian pipeline amounts to comparing the unpredictable with the unexplored. Because the oil companies and the administration fastened so quickly on the Alaskan route, they have never undertaken an objective assessment of the engineering, environmental, economic and diplomatic factors involved in a Mackenzie Valley undertaking. The greatest single factor, the Canadian government's attitude, is not so much imponderable as it is unprobed. Secretary Morton's description of one key exchange in May 1972 suggests how earnestly Canadian expressions of interest have been entertained. Barely one week after the Canadian energy minister, Donald S. MacDonald, wrote him "a detailed letter" outlining the possible advantages of the Mackenzie Valley way and proposing joint studies, Mr. Morton "forthrightly" replied that the U.S. had decided to go through Alaska instead. Since that official rebuff, the State Department claims to have found "no strong current interest" in a Mackenzie Valley route in Ottawa. This is hardly surprising but it is like complaining about not being invited to dinner—after one has announced that he wouldn't come.

Given all the uncertainties about the courts and the Canadians, it is sheer speculation to claim that the trans-Alaska pipeline could be completed "at least 3 to 5 years and perhaps 7 to 10 years earlier" (State Department) or "2 to 6 years earlier" (Interior Department) or "5–7 years sooner" (Atlantic Richfield). And when the issue of relative time disappears in the fog, there is little left to justify hurtling ahead in Alaska. Indeed, if one discounts the excitement about the "energy crisis"—a crisis which Alaskan oil will not solve—and looks specifically at where that oil could make the most difference, there is every reason to start serious talks with the Canadians in the morning. The trans-Canadian route would, after all, bring North Slope oil directly to the Midwest, a region which is perennially fuel-poor and more dependent on oil from those "insecure foreign sources" than the well-fueled West Coast. This is a consideration which ought to have substantial weight.

So far, the pipeline fight has been a textbook example of how not to resolve such a complex question. This week Sens. Walter Mondale (D-Minn.) and Birch Bayh (D-Ind.) are offering the Senate a way to obtain some real perspective and arrive at a firm decision at a definite time. The Mondale-Bayh amendment would (1) direct the Secretary of State to conduct serious negotiations with the Canadian government and report to Congress within eight months, (2) authorize the National Academy of Sciences to make a comprehensive 11-month review of both pipeline alternatives, and (3) provide for a congressional decision within 90 days after the completion of both studies. This is how the issue should have been handled from the start. As Secretary Morton wrote, "Open-ended delays make for open-ended difficulties." That was not intended as an argument for the Mondale-Bayh amendment, but it is an excellent reason why the amendment should be approved.

THE 14TH ANNIVERSARY OF CAPTIVE NATIONS WEEK

HON. JAMES M. HANLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. HANLEY. Mr. Speaker, I would like to take this opportunity to join with my colleagues in commemorating the 14th anniversary of Captive Nations Week. We must remember, however, that this is a commemoration and not a celebration, for we are considering the plight of those who do not enjoy the blessings of liberty.

It is necessary on this occasion to question the legitimacy of the Soviet colonial power. We must look at the way that the Soviet Union has deceived nations in the past three decades. Let us not forget the situation existing today in Albania, Bulgaria, Czechoslovakia, Lithuania, Latvia, Hungary, Poland, Rumania, East Germany, Estonia, and the Ukraine. These are nations dominated and suppressed. Their people suffer from forced detention and deprivation.

Just 2 weeks ago we honored our own great flag. Our hearts go out to those who do not have the freedom to choose the flag under which they will live. The torture that these nations are subjected to is both cruel and immoral, and the world must continually be reminded of the illegal actions of the Soviet Government. No man should be forced to live within the bonds of slavery; therefore, it is our responsibility to offer encouragement and hope. The people of these nations must be given a reason to believe. If their spirit is free, subsequently, physical freedom will be obtained.

We hope that by this one act we prove to those people of the captive nations that they will be remembered. We will continue to support and give confidence to the oppressed victims of tyranny, until they acquire the freedom they so desire.

May God give them the strength to persevere.

PHASE IV, NO SET-ASIDE, GOOD NEWS FOR AGRICULTURE

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. FINDLEY. Mr. Speaker, with the implementation of phase IV followed shortly thereafter by the announcement from Secretary Butz that there would be no set-aside of farmland in 1974, major steps were made in the direction of freeing American farmers for the expansion of food production that the United States and the world needs.

For too many months now, we have stifled agricultural production with rigid stringent controls and ceilings. Farmers have responded to these controls by cutting back on production. The controls which were designed to cool the fires of inflation in the long run may serve only to cause increases in food prices and a scarcity of some agricultural products.

To expand agricultural production farmers must have the incentive of making a reasonable profit. With all of the nations of the world clamoring for American farm produce, the promise of profit was there. But rigid domestic controls at home denied this promise.

At the same time, we continued to pursue the outdated farm policies of the 1930's by limiting production in defiance of the mounting world demand for American farm products.

The results, food prices climbed here at home, farmers watched profit margins shrink even though prices were up and our balance-of-payments deficit continued to mount.

Phase IV promises to reverse this trend. By utilizing all of our land, our most valuable resource, farmers can produce enough to insure American consumers adequate and reasonably priced food, satisfy our customers abroad, and help reduce our balance-of-payments problem.

Not all of the hurdles have been cleared, however. Beef prices remain under a ceiling until September 12. This ceiling, too, should be removed immediately. The only hope for better beef prices is increased production. And the only hope for increased production is the prospect of a reasonable profit for beef producers.

There also remains a strong sentiment, as reflected in the Export Administration Act, to restrict exports to hold prices down at home. This is folly. If we want farmers to produce to their capacity, they must have markets for their products. To keep our customers abroad, we must serve them.

One of the most potent weapons in our arsenal for peace is the magnificent food production capacity of American farmers.

In times of international tension and conflict, nations must seek self-sufficiency or sources of supply close at hand. But in times of peace and international tranquility, countries feel they can safely look further abroad for their food supplies. As Agriculture Secretary Butz has repeatedly stated, we are now in a period when nations are extending their food lines.

Many nations of the world are now reaching out for the bounty of American farms. Russian leaders have promised their people a better diet. And they are looking to the United States for feed grains and protein supplies to accomplish this. The People's Republic of China also is buying susbtantial quantities of grain and cotton from the United States. At the same time, our longstanding friends in Western Europe and Japan are buying record amounts of U.S. soybeans and other farm produce.

So it is, then, that the announcements Wednesday of phase IV and no set-aside of farmland next year give hope for a brighter future for consumers and farmers alike. The announcement was a first step, and in many ways a small one, toward that future. But it was certainly in the right direction.

AETNA SAVES GAS

HON. ROBERT H. STEELE

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. STEELE. Mr. Speaker, the United States can alleviate its fuel supply shortage only if individuals and organizations across the country take it upon themselves to devise imaginative and workable ways of conserving our energy resources.

I was pleased to discover, therefore, that the Aetna Insurance Co. of Connecticut has voluntarily implemented an experimental program to encourage its employees to save gasoline by commuting in car pools. Aetna offers guaranteed, preferential parking spots near its office building to employees who share the driving with at least two fellow workers.

By reducing the number of cars traveling to work each day, this "give a friend a lift" program not only conserves gasoline, but also reduces traffic congestion, auto pollution, and highway accidents.

Though Aetna's efforts represent just a small step, it demonstrates that concerned citizens can make necessary contributions to the solution of the national fuel crisis that affects us all. Aetna's car pool program offers encouragement and an example to all Americans.

FOREIGN AID

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. WYMAN. Mr. Speaker, it was my privilege to serve as first counsel to the Joint Congressional watchdog Committee on Foreign Aid in the 80th Congress. This was at the time of the Marshall plan.

Initially there was compelling reason for U.S. financial assistance to reconstruct a devastated Europe after World War II. There was no need to make U.S. foreign aid a permanent facet of U.S. foreign policy.

I have protested against this for years. Similarly I have voted consistently against all foreign aid giveaway programs especially those which bilaterally proposed the granting of U.S. tax dollars to another country without a loan and without anything by way of security or tangible returin.

More than 25 percent of this country's huge national debt is due to giving away billions of billions of dollars abroad since World War II. Foreign aid to India over this period has exceeded $10 billion.

It is significant that, at long last, editorially and otherwise, the waste and error of this concept is being recognized. As the Washington Star observes in today's editorial—

> The AID program in India has been a prime example of the extravagance, waste and futility that has been characteristic of too many well-meant American enterprises in foreign countries.

Mr. Speaker, I include, the editorial from which the above quotation was excerpted, at this point in the Record:

AIDING INDIA

Daniel Patrick Moynihan, who in another context invented the expression "benign neglect," will preside over the administration of that prescription in his present role as our ambassador to India. At the insistence of the Indian government, he is in the process of closing out the American aid program which has cost $10 billion over a period of 22 years.

Ironically enough the move is regarded by both governments as a step toward an improvement in Indian-American relations. Probably never in history has $10 billion bought less in the way of international goodwill. Although the program provided much essential help in the lean years since Indian independence, it has recently become a major source of irritation for the government of Prime Minister Indira Gandhi.

Particularly aggravating has been the accumulation of $840 million in rupees held by the United States in the reserve bank of India as the result of Indian payments for large imports of American grain over the years. Although the money cannot be spent without the consent of the New Delhi government, the large amount of interest which it earns represents a drain on the Indian economy. Plans for disposing of the huge account are not yet known, but presumably it will be largely written off.

At the same time, Moynihan will turn over to the Indian government a huge, $6 million complex of apartments and offices in New Delhi, built to accommodate some 260 AID staffers and their families at the height of the program in 1969. Within a year after the completion of the buildings, the AID program was curtailed and the staff rapidly reduced to the 12 remaining Americans. What the Indians plan to do with the installation is unknown.

What has been obvious for some time, however, is that the AID program in India has been a prime example of the extravagance, waste and futility that has been characteristic of too many well-meant American enterprises in foreign countries. It is high time that American-Indian relations were restored to a more normal basis and that the benign neglect which Indira Gandhi evidently desires be the order of the day.

BAD NEWS FOR HOME BUYERS

HON. RICHARD T. HANNA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. HANNA. Mr. Speaker, on July 5 of this year the Federal Reserve Board and the Federal Home Loan Bank Board raised the ceilings on the interest rates that could be paid on savings deposits, both passbook and certificates of deposit—CD's. The change in the ceiling was intended to protect the mortgage market. The theory was and is that the yield on various bonds and notes was so much higher than the interest on savings accounts that funds were going into these money markets rather than into savings accounts, the prime source of mortgage money. The "Fed" feared a repeat of the 1966 and 1969 situations in which the thrift institutions lost deposits resulting in a severe shrinkage of the mortgage market.

As of July 5, 1973, the ceiling on passbook accounts was raised from 5.2 to 5.25 percent for savings and loans and mutual savings banks and from 4.5 to 5 percent for banks. The ceilings for the various certificate of deposits now ranges from 5.25 to 6.75 percent.

While this move was intended to help the prospective home buyer by slowing the outflow of deposits to higher yield investments, the home buyer is going to find the results a mixed blessing at best. It is virtually certain that the new ceilings will mean higher interest rates charged for mortgage loans. Given the already rising rate on mortgages, this is particularly bad news. One could legitimately ask the "Fed" and the Bank Board, what was the greater problem for the home buyer—the threat of savings outflow or the reality of rising interest rates.

These facts about the savings industry are important to understand. First of all, the majority of the deposits of savings and loan associations are in passbook accounts.

Second, the competition in the industry virtually forces the associations to pay the maximum allowed rate. The third fact that must be recognized is that the existing passbook deposits as of July 5 were loaned out in 25- or 30-year mortgages. The interest on these; that is, the return to the institution, is a fixed rate. Yet, the rate of interest paid by the institution must, therefore, take a considerable loss or compensate with a much higher interest rate on new mortgages.

Given the fact that mortgage rates are already so high—in some States they already are at or close to the legal limit—it is possible that the end result will be the same or worse than what the "Fed" is trying to avoid—namely, the cycle of reduced mortgage market activity, reduced homebuilding, unemployment, and so forth.

The basic theory upon which the July 5 decision rests may not be as sound as it appears at first glance. To say that savings are drawn into bonds or Treasury notes by the higher yield makes good theory, but how true it is? There is saving and there is saving. Is it not reasonable that one form of savings is more susceptible to this outflow than others? One can make the argument that the buyer of a 2-year, $5,000 certificate of deposit is a sophisticated saver/investor who may very well have been attracted by the 7.5-percent Treasury bill rather than a 6-percent certificate of deposit. In this case, the new ceilings do close the gap somewhat and may make a difference. But the passbook savers, by far the more numerous, are a different sort. Their interest is in the safety and security of a nest egg. I doubt very much that they even consider the Treasury note as an alternative form of savings. There is, I believe, some serious doubt that the passbook ceiling increase does anything appreciable to insure the supply of mortgage money, but does very definitely mean that the cost of a mortgage will increase.

A particularly dangerous and disturbing part of the new regulations was the elimination of the ceiling on the 4-year, $1,000 minimum certificate of deposit. We have already seen advertisements for returns of 8.25 percent and over on these "wild card" certificates of deposit.

The really high yield of these will most likely be offered by commercial banks for use in making short-term loans. With the high turnover of these loans they can afford to pay those rates. But where will that money come from? It will come from money now in 2-year certificates of deposit at savings and loan associations as they mature in coming months. The funds in savings and loan certificates of deposit provide the basis for mortgage lending. If these funds are attracted to banks for short-term loans, we are left with the situation we were told was being prevented a drain on the supply of mortgage money. The savings and loan associations will be forced to raise their rates to the ceilings in all categories in order to compete at all for money.

The 0.25-percent increase in the savings and loan passbook rate is not enough to attract new funds in significant amounts, nor will it yield much to existing depositors individually. If will, however, add significantly to the cost of funds raised by the thrift institutions without commensurate increases in returns on earnings assets. Thus, since the increase in passbook savings rates will apply to all passbook savings deposits, savings and loan associations will be able to earn higher rates of return from rising capital market rates only in addition to their portfolio of earning assets.

Since the vast majority of a savings and loan association's earnings assets consist of long term mortgages, which turn over rather slowly—8 to 12 year average—the average rate of return of the savings and loan portfolio is just not responsive to changes in the market rate of interest. Thus, a savings and loan is caught in an earnings squeeze as the market forces them to pay higher rates on deposit liabilities while they have little flexibility in increasing the rate of return on long term assets. The association has no alternative but to charge a higher rate of interest on each new mortgage it makes.

Some people may ask, "With everything else going up, why not mortgage interest rates as well?" Mortgage rates are already at the 8 to 8½ percent levels. I suggest that the public's tolerance level for mortgage interest has been reached. There is going to be a sharp decline in mortgage applications which means a decline in home buying, resulting in a decline in homebuilding. The resulting unemployment could be the beginning of a major depression.

What is needed in order to avert this disaster is first of all to reverse the ceiling changes, at least with respect to the 4-year certificate of deposit. Second, we need to develop new means of getting money into the mortgage market. We can no longer assume that the savings behavior of the general public will provide a mortgage base that is adequate to meet the demand for housing. Efforts aimed only at attracting more money into savings are not a solution to the structural problems of the mortgage market. We need to look into policies for the allocation of the necessary capital toward high priority areas—one of which is housing. Only with effective public policies and incentives for the allocation of capital, can we assure that the expansion of the money supply is not inflationary and also insure that the critical national needs are met. We must face up to the reality of being a nation of scarcity. In both physical resources and capital resources, we are no longer the land of plenty.

Having realized this fact we must begin to rethink our methods and values in the allocation of increasingly scarce resources. A loose freewheeling, price-directed, consumption-oriented economy was fine for a nation with more than enough resources. We did not pay much attention to the waste that resulted. We no longer can afford the luxury of freewheeling, catch-as-catch-can allocation. Since we must now allocate scarcity, the job will require some hard value searching and some clear and tough-minded public policies for resource allocation. This general principle is equally as applicable to the production of food, the production of energy, health care delivery and education as it is to housing.

I hope, Mr. Speaker, that the Committee on Banking and Currency will hold oversight hearings on the new ceiling regulations and broaden the subject to include alternative policies that could be adopted to insure the availability of mortgage money.

PHASE IV STORM WARNINGS

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. HARRINGTON. Mr. Speaker, the administration announced on July 19 that the freeze on all food producers except beef would be lifted immediately and that retailers would be able to pass on, dollar-for-dollar, increased costs. It was also announced that the basic elements of phase IV will go into effect on August 12 when the price freeze ends. It is too early to determine whether phase IV will succeed or fail, especially in light of the fact that the administration will solicit and accept recommendations from all segments of American society concerning the specific shape phase IV guidelines should take. I have written the President with my general recommendations for phase IV guidelines, and I urge each of my colleagues to do the same. The more practical advice administration officials consider, the greater the chance to avoid problems similar to those that have been encountered in the past.

On July 19, the Boston Globe carried two articles on phase IV. One article, "Economists Say President Blundered on Wage Curb," by Richard Weintraub, points out that the 5.5 percent guideline for wage increases may be economically unsound and socially inequitable for workers. Another article, "Nixon Gambling on Crop Predictions," by Bruce Davidson, points out how fragile the bases of phase IV actually are.

I would like to insert my letter and both articles in the RECORD at this time for the information of my colleagues:

JULY 16, 1973.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am writing again with regard to the imminent announcement of Phase IV wage and price controls. Administration officials have neither consulted formally with Members of Congress nor held public hearings to determine the needs of consumers. In fact, the only formal consultants have been with the business community. This approach ignores the valuable input consumers and their Representatives in Congress could make toward designing an effective, equitable Phase IV program.

Therefore, I call on you to schedule a brief series of regional hearings before Phase IV is announced. The Freeze is in effect until August 12, and some delay in announcing Phase IV would be worthwhile if the time were used to solicit and consider the views of consumers representatives in all parts of this country.

In addition, I would think it advisable that the Phase IV program have the following characteristics:

1. Adequate staff and support to implement and administer the program. A great deal of technical expertise was lost after Phase II was terminated and the Cost of Living Council staff was reduced. Before Phase IV is announced, similar staff expertise must be gathered or Phase IV will get off to a bad start that may cripple it indefinitely.

2. Controls on any sector should apply to the entire sector. If food products must be controlled, so must the raw agricultural products at farm stage. It is not only unfair to catch processors in the middle, but such a situation is self-defeating in the long run. It simply cannot work.

3. Mandatory controls should go into effect with regard to any sector or major company regardless of the initial guidelines if the prices of that sector or industry increase at more than 3 percent on an annual basis (¾ percent per month) in any consecutive three month period.

4. Companies which import raw materials and intermediate goods must be given some leeway in passing on the increased costs due to the increased price of imports, especially when that is caused by fluctuations of the dollar on international monetary markets.

5. Controls should apply not only to prices, but also to wages and salaries, rents, dividends, and interest rates. I would also encourage you to consider the temporary imposition of an excess profits tax to be applied when the profit residual of any controlled company increases unreasonaby due to approved price increases.

I hope that you and your advisors would consider each of these proposals seriously. They are not meant to be politically motivated or unreasonably critical. They represent, instead, my effort to cooperate with your Administration in your efforts to control and terminate the drastic inflation which continues to distort our economy.

Yours sincerely,

MICHAEL J. HARRINGTON.

ECONOMISTS SAY PRESIDENT BLUNDERED ON WAGE CURB

(By Richard M. Weintraub)

Several Boston area economists generally agreed last night that President Nixon took a necessary step in freeing food prices as part of his Phase 4 program, but that he could be inviting labor trouble by keeping the 5.5 percent wage guideline.

"The food action is good because of the shortages which have occurred, but I don't believe the other measures will prevent a continuation of inflation at the present rate," Prof. H. S. Houthakker of Harvard said in a telephone interview.

"I wonder how long the 5.5 percent wage guideline—which is something of a fiction anyway—can be maintained because it doesn't allow workers to participate in the increases in productivity," Houthakker said.

"It would be fairer to allow wages to rise by the rate of inflation plus normal output per man hour."

Prof. Edwin Kuh of MIT said he finds the wage policy "very, very stiff" in light of general economic conditions.

"Given the tremendous increase in the cost of living in the last six months, to hold wages to 5.5 percent will cause havoc in the labor market and seems quite inequitable," Kuh said. "I don't expect the wage front to hold."

Kuh said that it probably will be into the fall before there is any clear indication of what will happen to the rate of inflation.

"We could judge this program a failure if there is not a significant turn in the rate of inflation by the first of the year," he said.

The economists agreed generally that some action was necessary to try to stabilize the situation but that a program of controls, especially without a massive bureaucracy to enforce it, is at best a temporary solution.

"To a considerable extent, it is still stopgap," said Prof. James Duesenberry of Harvard. "This general program can't work on a long-term basis . . . This can last only for a few months to bridge a gap."

Duesenberry stated that the severe monetary policies being pursued by the Federal Reserve—sharp increases in interest rates, noticeably—are beginning to have some impact in slowing down the pace of the economy.

Houthakker said, however, that while some monetary tools are being used, the supply of money is increasing at a rate of about 10 percent and he believes this still will allow for considerable business expansion.

An expert in "agri-business," Prof. Raymond Goldberg of the Harvard Business School, said that the Phase 4 program at least remedied the "serious mistake" of isolating food prices under the previous program.

"You can't isolate a sector without causing damage. This is what happened under Phase 3½ with food and we had it bid away from us with the export market which wasn't controlled," Goldberg said.

Goldberg said there were two options open to the government in solving the problem with food: one is the program adopted, that of passing on dollar-for-dollar costs, and the other would have been to allow raw agricultural prices to be passed on only to processors and distributors out to set up a system of compensation for them financed through tax revenues rather than passing costs on to the consumer.

"Letting the graduated income tax bear the burden, rather than the ultimate consumer, would have been cumbersome and awkward, but it would have provided less pressure on the wage earner. This means there might be pressure on unions and other groups to seek increased wages and this would start the cycle all over again," he said.

Goldberg said, however, "what the administration selected is certainly better than what we had; we have been shutting off incentives" to the farmer to produce.

NIXON GAMBLING ON CROP PREDICTIONS

(By Bruce Davidson)

President Nixon is taking a gamble. He is gambling that forecasts of big increases in farm production are going to turn out to be correct. He is gambling that there won't be corn blight. Or horrible weather Or soybean fields that can't be harvested. Or an outbreak of hoof-and-mouth disease.

He is betting that there will be something like 6 billion bushels of corn grown this year and 1.6 billion bushels of beans. And that cattlemen will move the steers off cheap pasturage and into feedlots where they'll fatten faster, if more expensively.

Above all, he is gambling that the jump in prices consumers face this morning will stimulate enough agricultural production so the food spiral we've been in this year will level off at last.

In one sense, he had no choice. Our domestic demand for food has held at record levels at the same time international demand has pushed right through the ceiling. The Soviet Union has gotten a lot of attention for the impact its wheat purchases had on American feed and meat prices. But the Japanese, for example, are huge buyers of American agricultural products and they have just finished two days of telling American official visitors in Tokyo that they want more and that it is irresponsible of the U.S. government to keep them out of our markets with such measures as export controls on soybeans.

The Administration hopes farmers will "plant the front yard," as their saying goes of getting maximum acreage during periods of high prices. In spite of the export controls, it wants maximum sales overseas to help out our chronic balance of payments problems and the severe decline of the dollar.

While there are no certainties the Administration does have some precedent going for it on the supply-price question. It has scrapped lumber ceilings because the price of that important product has declined sharply. Soybeans, which have sold for as much as $12.90 a bushel on contracts to be delivered this month, have dropped to $10, and beans to be delivered next spring are below $7. The Administration would like to see them fall to $5 a bushel and corn fall to $1.50 a bushel to stimulate pork and poultry output—but last year beans sold for $3.30 a bushel and corn for as little as $1.31.

If the new program for food seems calculated to increase the availability of food while chopping away at prices, the same cannot be said for petroleum. Substantially all the food we consume is produced in this country. But about a third of our petroleum requirements—16 million barrels a day—are met from foreign sources—Venezuela, Canada, Nigeria. And we are on the verge of becoming a major customer of such Mideast oil producers as Iran and Saudi Arabia.

The new scheme of price ceilings will put a tough question to those who have oil to sell: Should they supply this market of longtime and obviously voracious customers even though it may be less profitable? Or should they instead use their supplies to meet rising demand in Europe, Japan and anywhere else no price controls apply?

Obviously the domestic managers of US oil companies, already under suspicion following the Federal Trade Commission charge that the eight largest of them contrived to achieve an illegal monopoly, will be very cautious about their behavior when it comes to filling gas tanks and oil bunkers. But the Saudis and the Iranians do not have any such considerations and may choose other clients.

So oil, like food, has its element of gamble.

Suppose the gamble doesn't work. What then?

Critics of the program have already challenged its effectiveness. Arch Booth, chairman of the US Chamber of Commerce, has stamped it a "charade" and says controls will be unsuccessful because they are "government edict rather than government responsibility."

That amounts to a call for new cuts in government spending, the usual policy whenever someone talks about "government responsibility," and Mr. Nixon has already implied as much with his demand that the Federal budget for fiscal 1974, in effect as of July 1, be in balance.

When the budget was first proposed in January it included a $12.7 billion deficit, acceptable to the Administration because the economy was not functioning at full employment and the shortfall in revenues represented potential taxes from people out of work and businesses operating below capacity.

Now a fight may first loom over the spending cutbacks implied by Mr. Nixon's call for a balanced budget. Given the existing hostility between Congress and the White House, it seems possible they will not easily reach any agreement on that score. The remaining alternative would be a tax increase, in spite of the Administration pledge to avoid any overall rise in rates. Democratic liberals like Harvard economics professor John Kenneth Galbraith have already called for a surtax on those with incomes above $12,000 or $15,000 and on corporate profits.

The Administration has adopted other people's ideas before, especially to reduce the level of opposition in Congress. The precedent inspires the thought that persistent inflation under Phase 4 might produce a Galbraith-Nixon tax bill in the late fall—Phase 5 of the war on rising prices.

PASQUALE "PATSY" AMOROSE

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. WILLIAM D. FORD. Mr. Speaker, I would like to take a moment to comment on the recent death of a good friend and former constituent, Mr. Pasquale "Patsy" Amorose, of Lincoln Park, Mich.

Patsy Amorose was a truly outstanding person. Born in Italy 85 years ago, he came to the United States as a young boy in 1901. Married in 1916 in Pennsylvania, he moved to Michigan a few years later.

He and his wife Esther, who celebrated their 50th wedding anniversary in 1966, raised five children to be good Democrats—three sons and two daughters. Mr. Amorose was a member of the Lincoln Park Democratic Club, the 15th and 16th Congressional Democratic Organizations, and the Lincoln Park Italian-American Club.

In 1964, his many years of Democratic Party activity was recognized when he was named alternate Presidential elector for the 15th District, and would have cast one of Michigan's electoral votes for President Johnson if the regular elector had been unable to vote.

I am proud to have been the friend of this lifelong good man, and I want to express my sympathy to his family, along with the consolation of knowing that he lived a full and rewarding life.

MISSING IN ACTION

HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. HUBER. Mr. Speaker, lost in the heat of the legislative season and our concern over phase IV and the precarious economic situation in this country is a cause that ought to be dear to all our hearts—that is the cause of the missing in action, who are still unaccounted for in Southeast Asia. As of today there are 1,259 men in this category. Can you picture the anguish of these families as the last POW's were returned and they sat day after day waiting for news—any news—as they have waited these many years.

Now whose fault is it that no information has been forthcoming? I believe the evidence will show that it is the North Vietnamese, the Vietcong, and the Pathet Lao who are at fault. Their requirement to cooperate on this matter was clearly spelled out in the agreements we made on January 27 and June 13 of this year. Aside from two trips to Hanoi, no progress has been made whatsoever. Our teams have viewed some graves in the Hanoi area, but we have not been permitted to exhume one body or visit one crash site in enemy held territory.

I am today introducing a concurrent resolution designed to try and break loose this log jam. Monday, I will be sending out a "Dear Colleague" asking that everyone join me in this humanitarian effort. These families come from nearly every State in the Union. I strongly feel that the least the Congress can do is to take the resolute stand on any further relations or dealings with our former enemy that my resolution provides for and let them and the American people, particularly the families of those still unaccounted for, know that we have not forgotten.

CAPTIVE NATIONS WEEK

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. HELSTOSKI. Mr. Speaker, the third week of every July is observed as Captive Nations Week. This annual event was authorized by the Congress in July 1959, when it passed the Captive Nations Week resolution which President Eisenhower signed into Public Law 86-90 on July 17, 1959. The text of this resolution follows:

PUBLIC LAW 86-90, PROVIDING FOR THE DESIGNATION OF THE THIRD WEEK OF JULY AS "CAPTIVE NATIONS WEEK" ADOPTED BY THE 86TH CONGRESS OF THE UNITED STATES OF AMERICA IN JULY 1959

Whereas the greatness of the United States is in large part attributable to its having been able, through the democratic process, to achieve a harmonious national unity of its people, even though they stem from the most diverse of racial, religious, and ethnic backgrounds; and

Whereas this harmonious unification of the diverse elements of our free society has led the people of the United States to possess a warm understanding and sympathy for the aspirations of peoples everywhere and to recognize the natural interdependency of the peoples and nations of the world; and

Whereas the enslavement of a substantial part of the world's population by Communist imperialism makes a mockery of the idea of peaceful coexistence between nations and constitutes a detriment to the natural bonds of understanding between the people of the United States and other peoples; and

Whereas since 1918 the imperialistic and aggressive policies of Russian communism have resulted in the creation of a vast empire which poses a dire threat to the security of the United States and of all the free peoples of the world; and

Whereas the imperialistic policies of Communist Russia have led, through direct and indirect aggression, to the subjugation of the national independence of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Tibet, Cossackia, Turkestan, North Vietnam, and others; and

Whereas these submerged nations look to the United States, as the citadel of human freedom, for leadership in bringing about their liberation and independence and in restoring to them the enjoyment of their Christian, Jewish, Moslem, Buddhist, or other religious freeedoms, and of their individual liberties; and

Whereas it is vital to the national security of the United States that the desire for liberty and independence on the part of the peoples of these conquered nations should be steadfastly kept alive; and

Whereas the desire for liberty and independence by the overwhelming majority of the people of these submerged nations constitutes a powerful deterrent to war and one of the best hopes for a just and lasting peace; and

Whereas it is fitting that we clearly manifest to such peoples through an appropriate and official means the historic fact that the people of the United States share with them their aspirations for the recovery of their freedom and independence:

Now, therefore, be it Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, that the President is authorized and requested to issue a Proclamation designating the third week of July, 1959, as "Captive Nations Week" and inviting the people of the United States to observe such week with appropriate ceremonies and activities. The President is further authorized and requested to issue a similar proclamation each year until such time as freedom and independence shall have been achieved for all the captive nations of the world.

Pursuant to the resolution, July 15 marked the beginning of Captive Nations Week for 1973, as proclaimed by President Nixon in the following proclamation:

[Proclamation 4229]

CAPTIVE NATIONS WEEK, 1973

(*By the President of the United States of America*)

A PROCLAMATION

As a nation we seek no imposition of our beliefs. But as human beings, we must always keep alive the hope that our great heritage of freedom will one day be enjoyed throughout the world.

As we make progress toward world peace and security, let us continue to show our sympathies for others who aspire to liberty and self-determination. In support of this sentiment, the Eighty-Sixth Congress on July 17, 1959, by a joint resolution, authorized and requested the President to proclaim the third week in July in each year as Captive Nations Week.

Now, therefore, I, Richard Nixon, President of the United States of America, do hereby designate the week beginning July 15, 1973, as Captive Nations Week.

I call upon the people of the United States to observe this week with appropriate ceremonies and activities, and I urge rededication to the high purpose of individual liberty for all men.

In witness whereof, I have hereunto set my hand this thirteenth day of July, in the year of our Lord nineteen hundred seventy-three, and of the Independence of the United States of America the one hundred ninety-eighth.

RICHARD NIXON.

Captive Nations Week is a tremendous moral symbol signifiying that we Americans will never forget the captive nations or accommodate ourselves to their permanent captivity.

The week solemnly calls to the attention of the free world the continuing captivity of East-Central Europe. At this time, more than 28 years since the end of World War II, the East-Central European victims of post-war Soviet aggression—Albania, Bulgaria, Czechoslovakia, Estonia, Hungary, Latvia, Lithuania, Poland, and Romania, are still held in political, military, economic, and social bondage, despite the fact that in the same period almost all former colonially-ruled countries and peoples have been granted their independence.

The captive European nations remain deprived of their fundamental rights, particularly the right to self-determination and national independence. They are prevented from choosing freely their governments and the political and economic system under which they want to live. They are still subjected to harsh political and social discrimination, economic exploitation and spiritual as well as religious oppresson.

Although in the past few years the harsh Soviet regulations in the captive nations have been relaxed to some degree, I wish to emphasize that there is no alternative for full freedom and independence. The changes have been and are taking place on the surface and strictly within the framework of the regimes and with the only purpose of making the Communist system once more workable and more acceptable.

A free East-Central Europe is, therefore, a worthwhile goal which requires clear commitment and practical actions on the part of the powers having a vital stake in keeping Western Europe secure and moving the borders of freedom eastward.

Mr. Speaker, with this conviction, I believe we should appeal to the governments and the peoples of the free world to affirm and prove their determination to help the captive peoples, by all legitimate means, including action before the United Nations, to recover the full exercise of their right of self-determination by means of free and unfettered elections under international control.

The governments and peoples of the free world should carefully distinguish between their friends, the peoples of East-Central Europe and their enemies, the Communist rulers who keep them in bondage.

We live in an era in which man achieved the technical means to destroy the world. The quest for prevention of global nuclear holocaust is one of the overriding issues of our day. Yet the quest can succeed only if the main danger of a nuclear flareup is realized. This main danger is the existence of a closed society in which a handful of men, who have openly voiced their aim to conquer the entire world and who have never excluded the possibility of a progressive war, wield unlimited power. Hence there is only one way to attain security in our atomic age—by limiting the power of men who could launch the world on the path of its self-destruction. Such limitation is inherent in any democratic system of government, in an open society. Extending the area of freedom is, therefore, a matter of life and death to the free world.

In the eloquent words of Dr. Charles Malik, former president of the United Nations General Assembly:

> Only a believing, active, sustained and bold look forward to a free Eastern Europe, a free Russia and a free China is worthy of the magnitude of the gigantic world struggle. A radical distinction must be made between the great peoples of these countries and their Communist governments. Policies should be devised and pursued in conformity with this distinction. The flame of freedom must be kept burning in the souls of the oppressed. The hope of liberation must never be allowed to fade away from their hearts.

Mr. Speaker, it is my earnest hope that the captive European nations will some day witness the only reward they seek—the complete recovery of freedom and independence by the nations that fell prey to Communist dictatorship during and after World War II.

A CRISIS IN NATIONAL MORALS

HON. SAMUEL H. YOUNG

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. YOUNG of Illinois. Mr. Speaker, I want my colleagues, indeed, all Americans, to have the benefit of a most inspired sermon recently delivered by Dr. Ernest J. Lewis, minister of the First Presbyterian Church of Evanston, Ill., titled "A Crisis in National Morals."

In a highly illuminating way, Dr. Lewis focuses on the moral and theological dilemma posed by the Watergate affair; he correlates the questions there raised to a deeper malaise in our society. His message of hope, in conclusion, offers a heartening commentary on the rights and privileges of the American electorate, in this time of soul searching. He suggests a new rededication of the American spirit, with which to lead us out of this darkness, and an important recommitment to mercy, to love, and to God. I commend to you his very profound thoughts and words:

A CRISIS IN NATIONAL MORALS

"The day will surely come when at God's command Jesus Christ will judge the secret lives of everyone, their inmost thoughts and motives; this is all part of God's great plan which I have already told you about." (Romans 2:16, The Living Bible)

This sermon reminds me of the illustration of a little boy who took out the family great dane for a walk. He was asked by a neighbor, "Where are you taking that dog, son?" The lad replied, "He makes the decisions!" When a little boy takes out a great dane, the boy does not make the decisions. It has been like that with this sermon—trying to tackle what is a grave and sad time in our history, as we experience the bombardment of our senses through *print* and mass media with the grief of our nation.

There have been not a few times in these past days when I wished I had stayed with my planned schedule of last summer. The title of the sermon scheduled for today was, "God's Ultimate Weapon". His love. But, I in some way feel I am addressing myself to that basic affirmation of God's love in the midst of our struggle.

For those of us who are aware, who read and care deeply for our nation, surely there is quite a mixture of feelings these days. As I tried to do my own homework in preparation for this sermon, it became abundantly clear that one could go down several paths in addressing the moral crisis in our nation. One could, with integrity, relate a long and great record of nobility and strength in the American enterprise. Whatever else is written, it is a matter of historical record that our democracy in these United States forms the best experiment of men on earth governing themselves. And, included in that record is truly a glorious account of men and women who did not compromise their principles or their convictions, but often paid a high price politically for what they believed was right.

Across the whole world, America still stands as one place on the earth where we have at the heart of government a concern for every human being. It is just this concern which makes it impossible to ignore the subject on a day like this. Our whole understanding of government as Christians and as the electorate is that stable government is essential for the carrying out of justice and righteousness under God.

Now one could, also, take a different tact and with equal integrity write quite a sober, contrasting picture. Beginning in the 1700's and since, there is a record of chicanery, bribery, and malfeasance in high office. This, too, is part of our history. And, if one is to do justice to our American history, one must somehow deal with both records and their apparent contradiction.

It is interesting that just this week the statistics came out from the American Year Book of Churches showing that there are in these United States 131,389,642 people who belong to churches. That figure is significant! Over 60% of the American people avow faith in God.

In the current issue of A.D. Magazine, which is the magazine replacing Presbyterian Life, Kathryn G. Bollinger writes a very probing and sensitive poem:

It must be tough work to be an atheist.
They have to ignore miracle,
A literary masterpiece
Written by a tribe of wandering sheepherders,
And a mass a people who say they
Know you personally.

Perhaps these atheists are aided in their devout belief
Because to believe in not believing,
They are allowed to ignore all morality
Except that which they endorse personally.

Funny,
I believe in many things I have not seen.
Even atheists believe in atoms,
Galaxies, light years, and cave men.
How convenient to ignore
Centuries of documented evidence,
Eyewitness accounts,
And present moment miracles.
Atheist . . .
Maybe I will start a new religion.
Maybe I will stop believing in you.

Now

Poof

You are gone.

When one looks at the record today, whether it be an alderman in the City of Chicago or a two-time governor of the State of Illinois, or those who are in closest proximity to the president of the United States, it would appear that increasingly in our land there are persons in high political office who act out what we might call "practical atheism", where no matter what men say with their lips they act out, "Poof, You're gone", with their lives.

There is a deep sense of urgency and, yet, confusion with which I have approached this sermon. The time has now come when even the calloused and the casual can no longer ignore Watergate as simply a political caper, an amateurish burglary on a small scale. The issue has become too urgent and too pronounced to ignore any longer.

It is a staggering, complex intrigue. As one has put it in print, "It is a pattern of spying, lieing, bribery, payoffs to derogate the entire political system, and they are unworthy of a great democracy." To care, to feel, to love, it would be impossible to ignore. There is a deep sense of sadness, of grief, of bewilderment, of anger.

I have asked many, many people in the last few days of their own feelings concerning Watergate, and I have to confess that the dominant one which I hear is apathy and cynicism. Granted, there are those who have responded on a level of deep concern—a kind of concern of bewilderment of what to do, but nevertheless a heartfelt grief.

Perhaps, the recent issue of Time magazine puts it as well as can be, with the sense of gloom and sadness which hangs over our capital and in the hearts of many of us:

"The collapse of Haldeman's paper empire has cast its own mythological aura over the scene. One wanders along the White House drive these days disbelieving what one hears and sees. Twice before in the past decade it has happened. In the hours after John Kennedy's assassination, the enormity of the event was too much to absorb. In the wake of Martin Luther King's assassination, when parts of Washington were burned and looted, people stood in a stupor on the White House lawn and saw the smoke drift over them and watched as looters broke windows two blocks away in deserted streets.

"Press Secretary Ron Ziegler goes through his rituals of evasion like some man we never knew. Arrogance has given way to patience. Scorn, contempt, and anger have faded into professions of understanding. He presides in front of his pale blue backdrop every morning with a large, uncomprehending sadness behind his eyes.

"One morning last week, reporters scurried from the White House to the Executive Office Building and stood in sad wonder as the Vice President gave a public testimonial to the President's honesty. Asked another Nixonian original in a whisper, was this the first time in history a Vice President had felt compelled to give such a performance?

"Then photographers eddied around the black limousine parked on the White House drive in front of the West Wing. The cameramen focused on the license plate initialed JJW 2, squeezed off a few frames, then rushed on in search of more public fragments of the shadowy drama. The elegant car belonged to Washington Lawyer John J. Wilson. And suddenly the whole scene overwhelmed one's comprehension. The President of the U.S. and his principal advisers were conferring with a criminal attorney."

Not to feel . . . not to feel deep sadness and grief and concern would be incredibly unreal.

The complex answers and implications of Watergate are yet to be discovered. I have deliberately and scrupulously avoided personalities or allegations. They belong to the courts. Yet, the pattern is essentially clear. It remains for the courts to pursue with justice, and we pray with all our being that they shall, that righteous judgement will be made and appropriate punishments meted out. But, the matter will not end there, nor should it. While the *answers* are complex and confusing, this issue, it seems to me, must focus and raise some urgent *questions*—some theological questions—some questions for you and for me as the electorate of these United States to consider.

While we cannot, yet, apparently determine who is responsible, we can ask even a more profound question and that is, "To whom are all men responsible?" The question of evil . . . the nature of man . . . the purpose of government . . . they are just a few of many related questions. And, in no simple, superficial way would I this morning go on a tirade concerning our contemporary evil. I think it not remiss, however, to point out that our culture in its continuing permissiveness, in the "situational ethic" kind of life which we are now living, the image of God as sovereign judge over all the earth is continuing to be blurred. The reality of God as the ultimate arbiter is no longer as clear as it once was. What we see acted out by men in high office is, also, increasingly taking place in the classroom, in our language on the streets, in corporation's life. This all conspires to help produce what we now see so flagrantly in public, political life.

To whom are all men ultimately responsible? This is the prior question. The One who really deals with all the Watergates of our lives. The Book of Genesis states very positively and strongly "Shall not the Judge of all the earth do right?" The judgment and the justice of God are affirmed in God as the Being who oversees all of the affairs of men on earth and to Whom all men are ultimately accountable.

In the Book of Judges in a very cryptic sentence we read, "There was no King in Israel, so every man did what he thought was right in his own eyes." When we become blurred in our view of God, our focus, our standard, our criteria is, therefore, also blurred. It is little wonder that when young people "turn on" today to Jesus, one of the first things they do is to begin to clean up their moral lives as they begin to recognize value judgments in the new ordering of their lives. In direct proportion to the reality of God in our own consciousness and in that of the leaders of our nation, just to that extent, will there be a high sense of morality and obligation to duty.

The familiar illustration is pertinent here of the town where the local jeweler had a large watch in his store window, which he carefully set each day. Each day, also, a town factory worker blew the factory whistle loudly at noon. One day in conversation, they discovered that the worker blew his whistle by the clock in the window, and the jeweler was setting the clock by the noon whistle. Our values and judgments must be made by a higher criteria than ourselves.

In the first chapter of the Book of Romans, Paul gives a very grim and descriptive picture of the looks of a pagan, self-centered society as it disintegrates. Without any sense of God, without any allegiance to Him, the corruption begins to grow, and with his mind man begins to turn all kinds of things into the objects of his worship. He fashions them with his hands and perverts them in lust. His breaking of human relationships then begins to be a way of life on the earth.

It must be said that those who would hold allegiance to Jesus Christ, who would hold high their sense of commitment to Him, must recognize that we are part of the responsibility of this nation as "God's picked representatives," to bear witness that God alone is judge. There is One who will see even the secrets of our hearts. We are the ones who must affirm that. Not simply with our mouths, but with our lives . . . in how we live and in the little things that make up our life styles and our commitments.

To whom is man ultimately responsible? In the political arena, the highest office in our land now carries responsibilities so complex that there are no words to describe it. They are simply stupendous and incredible. The kinds of chicanery that can go on in high office are well known. It seems almost like a running commentary in our pross of our own state, Illinois, of the corruption in high office. But, this fact left by itself does injustice to those who, with integrity, pursue their office with discipline and commitment and go out of their way to maintain a high sense of calling and duty for the common good.

Our current crisis of morals raises another kind of question—not only "Who is ultimate judge?" but what is the contextual situation out of which this kind of evil can grow and be perpetrated?

I suggest to you that part of that responsibility falls heavily upon us as the electorate. In the midst of Paul's judgment as he writes of God as Judge, he offers, also, in a very beautiful way, God's grace. There are three words he uses. As God reminds man of his ultimate allegiance to Him and to the common good of all, Paul reminds us that God's *kindness,* His *forbearance,* His *patience* with human beings is to lead us to a new repentance and life. Those words are beautiful. They are words we need to hear in our hard and crisp and cynical kind of passing off a cliche, "O, that's politics!"

"Kindness", that word was used as "Agathos" when Jesus took a whip in his hand and cleansed the temple. It was a kindness with action, but it was kindness that motivated the action.

There is a different word that is used often in the New Testament. The word is "crestos", which is a mellow word used for good wine. It is a softening. It is the kind of gentleness of a word used when a woman, who was a redeemed prostitute, begins to wash Jesus' feet with perfume and dry them with her hair. He used the word. That is the word used here. God's kindness. Then, God's forbearance. The word is "anoche," which is a word for truce. But, the truce is not to go on forever. Paul reminds us that God gives us these periods when He restrains His power in order that in that period of reflection and reassessment of our life, we may come to Him. It is a strong and beautiful word. Perhaps, the most beautiful of all in this sequence is the word "patience", "mak-ro-thumia". A word which means restrained power. God having the ability to obliterate in His power. But God, out of His great mercy and His love, goes beyond justice. He acts out in our behalf restraint in order that men might repent.

Paul says, "Don't you know that that is the reason for God's kindness?" "To bring you to repentance to Him. And know this, that my gospel says," Paul relates, "there will be a day when Jesus Christ judges every secret thought of every heart, our inmost thoughts and motives."

I tried to ask myself, "In what way do we play some part in the flagrant drama that is going on today so detailed in the public press?" It is a great responsibility to be free! It is awesome! Perhaps, in one deep, theological sense, almost an impossible one, the implications of freedom are profound. They carry with it a deep obligation to care and to become involved.

I wrote out for myself that if I said nothing else clearly in this sermon on a very complex subject, I wanted to say with all my being and fiber, "This is not a time for withdrawal or apathy or cynicism. This is a time for those who claim to be God's people to become involved in a very positive way to make sure that justice and righteousness prevail." But, way beyond that, to see what part we are given by our very freedom to play in these United States where we form the electorate. By our informed minds, by our balance, by our involvement in politics to change the cliche, which I totally repudiate, that all politics must in fact be somehow disgraceful. Ridiculous!

I even pray, sincerely, that some of you young people here today will see as a great calling for your life to enter the high calling of the political arena, to have the responsibility and the great privilege of being God's servant for the common good of all mankind. I ask, whether, perhaps in very subtle ways, we are not, also, contributors to the laxity wherever political power is expressed?

We have in our own congregation some remarkable people. People who hold high office. People who have held high office. People who hold the highest office in this municipality! I realized a few weeks ago, I, myself had not written a letter of encouragement. I asked myself how many letters I should have written over the years, how many times I should have endorsed or supported or even been positively critical of actions of those in office? We are all called upon, as God's people, to be involved. It is a very lonely position to be in a place of power and responsibility. We need constantly to be reminded of that.

There is an illustration, homespun but very real, which comes out of the experience of a man in 1954—Maurice Ewing. He was serving as an oceanographer on an expedition with Columbia University. There, on a two-hundred-foot schooner called Vena, they were caught in a fierce storm. Maurice Ewing, like the rest, was swept overboard. Many were lost. He kept thinking of his family as he clung to debris of the boat. After he was finally rescued, near death, he wrote to his children:

"Dear Bill, Jerry, Hopie, Petie, and especially Maggie—all five of you:

"Yesterday your Daddy was swept into the raging January Atlantic. I nearly drowned. For hours I thrashed about and tried to cling to life. The only thing that kept me going was the knowledge of the love of you children. After awhile, Bill, Jerry, Hopie, and Petie, it was only the voice of little three-year-old Maggie's love which kept coming to me to urge me on until finally I was rescued. Never underestimate the power of your love.

"Your Daddy."

Never underestimate the power of your concern! How lonely a place high responsibility is. It is the very constituencies themselves that put impossible pressures upon those in high office. Oh, the contradictory demands that come! The kind of criticism with which one in high office is constantly bombarded. There needs to be on our part genuinely given the kind of support not only in prayer, but by word and by action to support those who hold high office, that there may be correctives. . . . that there may be an accountability to those of us who bear the vote and the responsibility and privilege of it. . . . but, also, encouragement to be faithful, honest and just to the elected.

In the Bible are many verses that speak of God as the sovereign Lord. John Calvin reminds us that for the good of all mankind, civil magistrates bear rule under the ultimate rule of God, and to the extent that we recognize that we all bear privilege and responsibility, just to that extent will there be honor and integrity in any office or work.

Another homespun illustration. It speaks to what you can do and what I can do and the part we play. Dan Poling had a son. One day the son went through serious surgery. Dan Poling tells the story in later years.

"The boy in those years was permitted to have his father in the operating room. When the boy finally went under the anesthetic, the father was standing there by the operating table. Then, he turned to go. The son had asked him to stay, but he didn't want to get in the way of the doctors and nurses, so he withdrew to another part of the room and waited. When the boy's eyes opened and he came out of the anesthetic, his father was standing there again. And, through cracked lips the boy said, "Dad, you stayed!"

Years went by. Then, one of the great, heroic stories of WW II. Commemorated in a Chapel in Philadelphia called the Chapel of Four Chaplains, there is recounted, again, the true story of heroism. When the Dorchester was struck midship by torpedoes, four chaplains locked their arms together on board that ship and established a sense of peace and order in the midst of devastation and destruction. A rabbi, a priest, and among them Dan Poling's son. Men made it to the life boat, because in the midst of destruction some men stood steady and loyal and loving and faithful. Those chaplains went down with the ship and paid with their lives. And, Dan Poling in later years was to say, he couldn't help but wonder if maybe with his son it was because at one point in his son's life, when he needed it, Dan stayed steady and was there, faithful in the struggle.

Now I don't know all the implications of that for you and for me, but I do call you to a new allegiance in Jesus Christ to reassess what it means to be part of a democracy. We have the responsibility and the privilege of the electorate. We recognize the complexity and the chicanery that can exist within high office. We, also, recognize the responsibility on your part and mine to do whatever we can in our corner of the world to act out our own honesty in our own corporations, in our family life, in the classroom, where we are. To really become a part of God's answer affirming Him as sovereign Lord of the whole earth, to that end let us so rededicate ourselves in this day of darkness in our land and recommit ourselves to righteousness, to mercy, to love, to God in Jesus Christ.

Let us pray—

Almighty God, forgive us for not caring enough. We recognize, as a grand experiment, the heritage of which we are recipients. In this land in which we dwell, in which we are so quickly and so blithely critical, we give Thee deep, heartfelt thanks for our heritage.

We confess and ask forgiveness for all wrong doing and for those moments of weakness, for those awful moments of sin, which have hurt and harmed and cast doubt and grief upon your people.

We pray, O God, within ourselves for a new assessment, a new allegiance, a new involvement, a new kind of responsibility ourselves to the end that we, as a nation and as a people, may be self-consciously and gratefully under Your rule for a common good of all. Through Jesus Christ, Amen.

CHUNNEL

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. TEAGUE of Texas. Mr. Speaker, a recent article by Anthony Michaelis in the Daily Telegraph, June 22, 1973, pointed out graphically the significance and importance of technology to a nation. This article makes a comparison between the Apollo program and the requirements for an English Channel tunnel. Mr. Michaelis graphically demonstrates why high technology programs are essential to the well being of every major country.

The article follows:

IS THE CHUNNEL JUST ASKING FOR THE MOON?

Whatever history's final verdict on the Apollo space missions—and Skylab, whose first crew are due to splash down today, is but an ingenious use of surplus spare parts—its most important lesson for Britain has hardly yet been recognised. This is what has been called "the management revolution," defined by T. Alexander in *Fortune* magazine as "the techniques for directing thousands of keen minds in a mutually enhancive combination of Government, private industry and university."

With the Channel Tunnel about to start in earnest, after 170 years of fruitless discussion, one may well ask if anything has yet been heard of the Apollo lesson by the civil servants, company executives and geology professors who will be responsible for spending hundreds of millions on the final link between Britain and Europe.

Will the optimistic budget of £366 million for the tunnel be kept with the same accuracy as the £10,000 million budget for the Apollo Moon programme? Will the completion date for the tunnel be as strictly adhered to, as was the Apollo schedule to land three men on the Moon within the decade? And will the tunnel planners set themselves the same 99.9 per cent, probability factor for safety, and the 90 per cent chance of success, laid down five years before the Moon landing took place?

In the past 100 years there have been few British successes in "big technology," in the sense of the effective translation of a brand-new idea into a large-scale engineering project. The radar defense chain and Mulberry Harbour are, of course, war-time exceptions. One must go back to the Crystal Palace of 1851 and the railways of the previous decade to find examples. Concorde could yet qualify.

Just what happened in 1930 when Government and industry were rivals, instead of collaborators, should always be remembered. Then private industry built the R100 airship and the Government the R101, the latter crashing tragically on its maiden flight with 48 deaths. At least according to one authority, Mr. Nevil Shute, one of the chief industrial designers of the R100, collaboration between the two teams could have averted the disaster.

Undoubtedly the example of the fruitful collaboration between American Government, industry and university is the real payoff from the Apollo project, however important the greatly accelerated growth of transistor and computer development and the priceless Moon rocks prove to be for pure and applied science. Only once before had the same collaboration occurred, in the production of the atomic bomb in 1945, but then secrecy prevented any real lessons from becoming apparent.

To the Apollo project, each of the three partners contributed its own excellence. Industry could give of its own research and manufacturing facilities as well as technical expertise and flexibility in manpower, which the Civil Service could never match economically. The United States Government's role through the Space Authority (NASA) was primarily integrating and directing, and it acted as the point of transfer of management skill and experience from one industrial company to another. Basic knowledge, whether in astronomy, physiology or any other essential subject, came from the accumulated wisdom of the universities.

For the efficient building of the Channel Tunnel, the combination of these three fields of excellence will be sorely needed.

Let us hope it will not need a tunnel disaster—by no means unlikely if previous large tunnelling projects are taken as a guide—to make the collaboration really effective. In the case of Apollo only the tragic capsule fire of 1967 at Cape Kennedy forged the really intimate links between Government and industry. As a result an almost mystical comradeship came into being, with space engineers often not knowing if Government or industry was their boss.

In the drilling of the tunnel, perhaps only slightly less than in the construction of the Saturn rocket, each decision closely impinges on every other. If one part of the rocket weighed only 1 pound more than originally planned, this meant an extra 10 pounds of fuel, and required the weight reduction of other essential equipment. This in turn led to the extremely expensive re-working of already existing parts, delayed schedules and possibly a compromise in reliability.

THE WATCH-DOGS

In the Apollo project, there could never be the luxury of "Wait and see." Can the tunnel project afford it?

The American space programme demanded the most intimate communication system between industrial contractors and NASA representatives and was achieved by a multitude of formal and informal meetings, mountains of documents (often ridiculed as bureacracy) and the setting up of special Apollo Programme Offices. Their task was to act as watch-dogs on schedules, cost, performance and quality control of all component parts.

These Programme Offices departed from the classical management theory and had to serve two masters: the Apollo programme and the industrial contractors. In case of conflict, decisions were taken by one man at the top, Dr. George Mueller, the Government official at NASA responsible for all manned space operations.

FAME (Forecasts and Appraisals for Management Evaluation) was another new Apollo tool. Consisting of a highly computerised series of hundreds of detailed charts, it was perpetually updated to show the limits beyond which a change made to a single part affected the performance of the whole project.

FAME may well play an indispensable part during the difficult and dangerous drilling operation below the Channel. In a simpler form it could no doubt save British industry much worry and delays.

Take the allocation of contracts to industry, amounting to £9,000 million during the Apollo project. Every board of NASA which allocated a contract worth more than $5 million (£2 million) had to make a formal presentation of its decision-making process to the Administrator (head) and to his two senior assistants, Mr. James Webb, Administrator during the crucial years 1961–68, has described in his book "Space Age Management—The Large Scale Approach" (McGraw Hill) how this procedure of contractor selection led to "a great deal of stimulation, motivation and innovation throughout the organisation."

On the Apollo project up to 500,000 people worked devotedly for eight years and had the highest possible satisfaction—to see their work come to spectacular fruition. They were carrying out one of NASA's favourite dictums: "Project management is merely the art of doing what you said you would." And this, the very lesson of the management revolution, is not secretly hidden in NASA's locked filing cabinets, but open to all who take the trouble to heed it.

Basic to this NASA philosophy was the experience of Dr. Robert Oppenheimer—who had contributed so much to the other example of "big technology," the atomic bomb: "We know that the only way to avoid error is to detect it and that the only way to detect it is to inquire. We know that in secrecy error undetected will flourish and subvert." And it is this very simple truth which also explains why an American first walked on the Moon and not a Russian.

Let me conclude by referring to the most recent British example of what might have become "big technology," the tracked hovertrain. Stemming from a university idea by Prof. Eric Laithwaite, of Imperial College, it was supported by Government finance but then suddenly cancelled and the bits and pieces handed to industry. Who made the fateful decision to stop this promising research, in which Britain led the world, is shrouded in secrecy in spite of the diligent and persistent probing of the Common Select Committee on Science and Technology.

Perhaps only a Royal Commission can teach Government Departments the big Apollo lesson, and thus give British engineers their chance to prove that they are just as good as the builders of the railways, ships, bridges and canals of the last century.

FOURTH ANNIVERSARY OF LANDING ON MOON

HON. LOUIS FREY, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. FREY. Mr. Speaker, today marks one of the most significant events in the history of mankind—the landing of a human being on another planetary body.

It was 4 years ago today—July 20, 1969—that Astronaut Neil Armstrong landed and walked on the Moon, taking "one small step for man, one giant leap for mankind."

Neil Armstrong's achievement was a personal one, but it was also an achievement of more than 400,000 other Americans throughout the United States and the world. The achievement was also one shared by participants from numerous other countries.

The hardware which was produced from our national space program and the facilities developed and used to achieve the first lunar landing and all of the successful landings through Apollo 17 was conceived and built by people.

Every portion of this great technological and scientific feat was an achievement of human mind and body.

Nowhere is this better demonstrated than at Cape Kennedy where the launch of all space vehicles for NASA and other agencies is the final moment of truth.

The Apollo program, in retrospect, was more than a great feat.

It was a positive achievement of man which is continuing to improve our quality of life through the technology we have derived.

The people of our space program are not resting on the laurels of this great achievement but are pressing on with the Skylab and the space shuttle to make space an ever-increasing contributor to the well-being of our Nation and the world.

Apollo provided the beginning, the backbone, and the basis for the achievements to come.

So today we are not only saluting Astronaut Neil Armstrong, but those thousands of other Americans from NASA, private industry, and the numerous universities who participated in this great adventure of mankind.

IN SUPPORT OF FISCAL YEAR 1974 FOREIGN AID BILL

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. WHALEN. Mr. Speaker, on May 30 I joined a bipartisan majority of my House Foreign Affairs Committee colleagues in sponsoring legislation which reforms and restructures the Foreign Assistance Act and our development assistance program. Our proposal has been incorporated in the foreign aid bill which is being reported today. Therefore, I thought this is an appropriate time to insert in the RECORD the wide-ranging editorial support which our measure has received:

[From the St. Louis Post-Dispatch, June 3, 1973]

REFORM PLAN FOR FOREIGN AID

(By William K. Wyant Jr.)

WASHINGTON, June 2.—The House's initiative on foreign assistance reform avoids emotional talk about duty and charity, but it could result in giving the world's neediest millions a greater measure of practical help from the United States.

Put forward Thursday by at least 26 members of the House Committee on Foreign Affairs, a clear majority, the plan emphasizes steps to increase United States trade with the poorest, least developed countries.

It stresses also assistance from this country that takes the form of American technical expertise, farm commodities, and industrial goods in contrast to large-scale transfers of capital, such as the building of dams and factories.

"Projects would be selected," the House members backing the reform said, "which most directly benefit the poorest majority of the people . . . and which enable them to participate more directly in the development process."

The focus is on more than 40 countries in Africa, Asia and Latin America that have per capita incomes of less than $200 a year. Per capita income in the United States is more than $4100.

Three African countries, Burundi, Rwanda, and Upper Volta, have gross national products so small that it works out to only $60 a person. Two more, Somali and Mali, have $70. There are ten countries, including Indonesia, Burma and Bangladesh, at the $80 level.

"We are learning," said the House foreign affairs group headed by Representative Clement J. Zablocki (Dem.), Wisconsin, "that if the poorest . . . can participate in development by having productive work and access to basic education, health care and adequate diets, then increased economic growth and social justice can go hand in hand."

The concept of the proposed foreign assistance reform is credited largely to another Midwestern Democrat, Representative Donald M. Fraser of Minnesota.

Other leaders in the movement include a third Democrat, Representative Dante B. Fascell of Florida, and three Republicans, Representatives Paul Findley of Illinois, Peter H. B. Frelinghuysen of New Jersey, and Charles W. Whalen, Jr. of Ohio.

An important innovation, in addition to the shift in emphasis for country-to-country American development money, would be the setting up of a new Export Development Credit Fund that would make it possible for the poorest countries to buy American goods.

It is argued that the proposed fund, at a level of about one billion dollars annually, would create $90,000 new jobs in the United States while transferring to developing countries things they need for growth.

The House sponsors point out that United States exports to developing countries have been increasing rapidly, by about 48 per cent in the last five years. In 1972 this export volume was more than 16 billion dollars, nearly equal to total United States exports to the recently enlarged European Community and Japan.

Although pointing to the importance of this developing market, the House group called attention to the fact that this nation's exports to the poorest group of developing countries—those with less than $200 per capita income—has been declining.

The new Export Development Credit Fund would make it possible for American businessmen to compete with those of Europe, Japan and other areas in an expanding market involving more than half the people in the world, the sponsors said.

Money would be lent to the poorest nations on long terms at a rate of only 3 per cent. On one billion in soft loans, the interest subsidy would be $40,000,000 a year. This would be paid by using receipts from repayments on past foreign assistance loans, now coming in at about $400,000,000 a year.

"If the United States wants to avoid further losses and perhaps increase its share in this market, there will have to be increased government financing on terms that compete," Zablocki and other sponsors said.

The proposed reform would upgrade the role of the United States assistance director, now John A. Hannah. It would aim at improvement of co-ordination of all federal activities that bear on development—pulling in, for example, trade and financial policy.

In addition, the present title of the agency headed by Hannah, the Agency for International Development, would be jettisoned. The new name would be "The Mutual Development and Co-operation Agency."

Explaining their desire to switch from AID to a name that obviously would be a headline-writer's nightmare, the sponsors said they wanted to "reflect the emerging view that this country has a direct self-interest in the development of the low-income countries because they constitute the overwhelming, and growing majority of the nations and the people of the world."

What President Richard M. Nixon thinks of the House idea will be learned Tuesday when Secretary of State William P. Rogers goes to Capitol Hill to testify before the House Foreign Affairs Committee, of which Representative Thomas E. Morgan (Dem.), Pennsylvania, is chairman.

Hannah had some friendly words for the new concept Thursday. Dr. Morgan and the ranking Republican on the committee, William S. Mailliard of California, have thus far held themselves benignly aloof.

The House initiative may do well. Foreign assistance has been in grievous trouble. Congress did not complete action on the program last year. Sponsors said Thursday their proposals are in line with what President Nixon said in his State of the World message May 3.

But the House approach is a new departure because of its insistence that the development money made available by the United States on a bilateral basis—that is, this country to a recipient country—must be spent in ways that directly benefit the poorest people.

This would be at the expense of big projects from which the benefits "trickle down" to the poor over the course of time.

The Overseas Development Council, a nonprofit and nongovernment agency founded here in 1969, helped with the proposal at the request of the House group.

James P. Grant, council president, said the House foreign aid plan might be the most significant new departure in foreign aid since 1947 when the House Select Committee under Christian Herter was set up to make recommendations on the Marshall Plan for Europe.

It could provide, Grant said, a new lease on life for the foreign assistance effort.

[From the New York Times, June 5, 1973]

Overhauling Aid

Committees in both houses of Congress have moved in recent weeks to revise drastically President Nixon's foreign assistance program, which Chairman J. W. Fulbright of the Senate Foreign Relations Committee has already dismissed as "a relic of the past."

It is not that the $2.9-billion aid request is extravagant in terms either of this country's ability to pay or the needs of the less-developed nations. Even in the improbable event that the portion of the over-all aid budget allocated to economic assistance—$1.6 billion—were fully funded, it would represent a slippage in this country's already low position among donor nations in aid as a percentage of gross national products.

One basic trouble with the President's aid package is that it remains heavily oriented toward military and related assistance, a hangover from an era of politics that has become increasingly obsolete with the progress of detente, the emergence of a multipolar world and the supposed windup of the Indochina war. Much of the $1.31 billion requested by the President for military assistance is of doubtful utility either for the United States or for its proposed recipients. Ignoring the President's proposals, the Foreign Relations Committee has approved a Fulbright-drafted military authorization bill which would drastically reduce arms aid next year and would eliminate all military grant assistance over the next four years.

Equally sweeping and notably constructive proposals on the economic side have been advanced by a 22-member majority of the House Foreign Affairs Committee. Setting aside for the moment the $600 million earmarked for Southeast Asia, which raises special problems deserving close Congressional scrutiny, the House group has proposed that the remaining $1 billion in economic assistance be redirected to focus on the most acute problems of the poorest nations: rural development, food and nutrition, population growth and health, education and human resources development.

In addition, the Congressmen would establish a new $1-billion Export Development Credit Fund for the lowest income countries which would have the dual purpose of aiding development and stimulating United States exports to nations accounting for one-third of the world's population.

Although these and other new House proposals mark a sharp departure from past aid practices and the Administration's program, they represent, in effect, a thoughtful elaboration on recommendations made by a Presidential task force three years ago and move in a direction Mr. Nixon himself advocated in his last State of the World message.

If United States foreign aid is to serve United States interests and the cause of peace in the "radically different world" which was noted in that Presidential message, its purposes and structure should be radically revised along the imaginative lines that the two Congressional committees have begun to chart.

[From the Washington Post, June 11, 1973]

A Promising Aid Proposal in the House

The lengthy travails of American foreign aid have made clear to its supporters the need to make aid at once more effective for its recipients and more attractive to its donors. Pessimists have doubted that these twin goals could either be served adequately, or even combined at all. A bipartisan majority of the House Foreign Affairs Committee, however, has now produced a well-considered and promising proposal meant to do both. Introduced by Rep. Clement Zablocki (D-Wis.), the proposal is intended to strengthen and enlarge the overall economic aid program and to do so in a way calculated to enhance the prospects of the program's passage in Congress. The first without the second is, of course, useless.

So, to satisfy those who have rightfully demanded that aid do more to improve the quality of the lives of the poor, the new proposal would take the same $1 billlion which the administration asks for economic assistance and seek to focus the money more sharply on "human-oriented" needs in population control, agriculture, health and the like. Not every development economist agrees that the poorest of the poor can thus be helped but the approach unquestionably has considerable moral and political merit. Big capital-eating projects such as dams would be left, to an even greater extent than they already are, to the international development agencies.

Then, to satisfy those whose main interest in aid is that it expand American exports, an "export development credit fund" would be established to subsidize another $1 billion a year in easy-term exports to the lowest-income countries. The interest subsidies, costing $40 million, would be funded from repayments of earlier aid loans; repayments now run at $400 million. By training aid on "people not projects" and by hitching to the aid wagon those Americans desiring to help their own economy as well as Americans desiring to help the world's poor, the House sponsors hope to surmount the political obstacles to aid which have grown so high in recent years. To convey the relationship of interdependence which the new proposal reflects and advances, the name of the administering agency would be changed from "Agency for International Development" to "Mutual Development and Cooperation Agency."

It is satisfying to report that, in his department's first formal response, Secretary of State William Rogers Tuesday welcomed the House committee's "thoughtful and positive approach" and noted correctly that AID had itself been moving along similar lines. Mr. Rogers also pronounced himself "especially pleased at the committee's reaffirmation of the central role of the Department of State in over-all guidance of U.S. development policies." Whether the other elements of the government, particularly the White House, will be equally pleased remains to be seen. On that question of bureaucratic politics, a good part of the fate of the House initiative probably hangs. To imagine that any program so multi-dimensional and so worn and frayed as aid can be considered only on its merits is, alas, fantasy.

Nor can the question of congressional politics be ignored. Not every committee of the Congress will rejoice to see the House Foreign Affairs Committee setting up and overseeing a program in what would be for it the new field of direct export promotion. (Foreign aid has always had a heavy aspect of indirect export promotion.) On these grounds, the sooner that Foreign Affairs chairman Thomas E. Morgan (D-Pa.) eases from his current posture of benign aloofness, as one observer calls it, to active sponsorship, the better.

The other big question which will shape the fate of the new economic aid proposal is its political relationship to the equally controversial question of military aid. The administration put the two together in a single package. Predictably the Senate split off the military items—these include general security assistance and grant military aid for Cambodia. Indochina reconstruction funds are also in the administration bill. In welcoming the House economic aid proposal, it was plainly one of Mr. Rogers' purposes to cultivate support for the other items in that bill. Some supporters of the House proposal favor the other items, some don't. A difficult and protracted negotiation is no doubt in store. Whenever and however it ends, we would hope that both Congress and the administration would keep high in mind the prospect for responsible engagement in the world, which the House aid initiative holds out.

DR. RICHARD P. CRINIGAN, NEW PRESIDENT FOR THE NEW YORK STATE OPTOMETRIC ASSOCIATION

HON. SAMUEL S. STRATTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. STRATTON. Mr. Speaker, I want to take a moment to pay a tribute to the newly elected president of the New York State Optometric Association, Dr. Richard P. Crinigan. Dr. Crinigan, who lives in Watervliet and is a native of Albany, is one of my constituents. He takes his new office with an outstanding background both of service to the community and in the area of vision care.

A graduate of Dartmouth College and Columbia University School of Optometry, Dr. Crinigan received his doctorate from the Massachusetts College of Optometry.

Dr. Crinigan just completed a 2-year term of office as president-elect of NYSOA and has also served as president of the Eastern New York Optometric Society.

Moreover he has served his local community well as president of the Kiwanis Club of Colonie, and has chaired the NYSOA Committee on Motorist Vision and Safety.

The New York State Optometric Association has long demonstrated its concern for the vision of New Yorkers and under the leadership of Dr. Crinigan I am certain that this fine organization will continue its record of service to the State of New York.

I know I speak for the people of the capitol district in expressing my pride in Dr. Richard Crinigan's past achievements and in wishing him the best of luck as president of the NYSOA.

CAPTIVE NATIONS WEEK

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. DERWINSKI. Mr. Speaker, earlier in the week many of us joined our respected colleague, Dan Flood, in a special House commemoration of Captive Nations Week.

I commend those men that recognize the validity and continuing significance of the Captive Nations Week. I include and continue my remarks by inserting a commentary of Gen. Thomas A. Lane on the subject of Captive Nations Week which devotes particular attention to the history of the Ukraine, the largest non-Russian nation within the U.S.S.R.

Recently I participated in a special program with the Ukrainian Congress Committee which commented on the tragic famine which the Communist inflicted on the Ukrainian peoples over 50 years ago. However, the tragic difficulties that have befallen the Ukrainian people have not stifled their nationalistic aspirations and they and other peoples continue to look forward to the day when their freedom will be regained.

Captive Nations Suffer Oppression

In the tolerant and friendly relations which ethnic groups develop in the United States, it is difficult to hold in perspective the oppression and even genocide which is practiced in other parts of the world. That is why the annual celebration of Captive Nations Week in the third week of July must remain a focus of our concern.

Ethnic oppression and exploitation is historically associated with imperialism. It may occur in any multi-tribal state or society where one tribe or national group controls the power of government, whether Burundi or Uganda or the Soviet Union. But in modern times, when most of the multi-tribal states of the free world have allowed a sharing in political power, the passionate excesses of the past survive chiefly in the Communist states. There the ethnic differences are exacerbated by the cruelty of a materialistic ideology.

One people who have for centuries suffered the deprivation of their liberties are the Ukrainians. Settled in the rich valleys of the Dnieper, the Dniester and the Boh rivers, north of the Black Sea, the Ukrainians held a rich and bountiful land. Their territory became the target of contending neighbors. In the mid-17th Century, the rulers of the Ukraine turned to the Czar of Muscovy for aid against Poland and Turkey, only to have their country divided between Poland and Russia. A systematic oppression by Peter I was designed to convert the Ukraine into a province of Russia.

In the aftermath of the Russian Revolution, the Ukraine achieved a brief national independence, 1917–1920, before it was reconquered by the Red Russian Army.

During the German invasion of 1941, the Ukrainians soon learned that the Germans came not as liberators but as new oppressors. Ukrainians organized their own partisan army to fight both the Germans and the Russians. The story is richly told by Yuriy Tys-Krokhmaliuk in his new book, "UPA Warfare in Ukraine" (Society of Veterans of Ukrainian Insurgent Army, Inc. $10.00 449 pp.) the story of the Ukrainian Insurgent Army (1942–1952). This army of the people operated against the occupying German and Russian Armies; and during the German occupation, it fought also against Russian Partisans operating behind the German lines. The book is a chronicle of heroic tenacity against insuperable odds.

The Ukrainian Insurgent Army disbanded after the death of its great Commander-in-Chief, Lt. General Taras Chuprynka, but resistance to Soviet oppression has continued. Russian efforts to suppress the language and religion of the Ukrainian people have evoked new and heroic defiance from the young and the intelligentsia of the Ukrainian nation.

A SUMMARY OF THE ENERGY CRISIS

HON. STANFORD E. PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. PARRIS. Mr. Speaker, the Washington Star News recently printed an editorial which summarizes very well the current situation regarding what has become known as the energy crisis.

I insert that editorial in the Record. The editorial follows:

Energy—A Crisis That Won't Wait

No, the country isn't running out of gasoline just yet. This is not, as many Americans had feared, the summer of the great filling station dry-up and the stalling of vacation-bound families all along the highways.

Rather, it is a summer of portents, of our first encounter with real shortages, our first retreat from the high-consumption ideal. We see stations rationing gasoline to their customers, cutting hours of operation and in some cases—if they are independent distributors—shutting down altogether. We are squeaking through, but the signs indicate this is only a foretaste of what's to come next year—and perhaps next winter, where heating and industrial oils are concerned. And with demand racing far ahead of production, the response of both government and the oil industry has been incredibly slow.

At last there is some movement of consequence, however. For the past several days the Senate has been locked in debate on legislation to allow construction of the trans-Alaska oil pipeline, which offers the only hope for a large increase in domestic oil production any time in the near future. Right now the $3.5-billion project is stopped, dead still, by a Supreme Court decision, upholding an old federal statute that doesn't allow enough right-of-way for such a line across federal lands. Changing the law to provide a sufficiently wide corridor is the fervent intent of Chairman Henry M. Jackson of the Senate Interior Committee, and a vote on his proposal is coming up Tuesday.

For several urgent reasons, the national interest demands passage of this measure, and fortunately the Senate seems in a mood to pass it. This is indicated by the two-to-one vote Friday against an amendment that would have held up the Alaska pipeline so the United States could negotiate for a different route through Canada to the Mid- delay of three to five years in tapping the west. That could have meant an additional abundant Arctic oil, which was sheer folly even to consider.

In fact, we think the Senate now should adopt an amendment by Senators Gravel and Stevens of Alaska to lessen the danger of further stoppage by environmental lawsuits, which still might stall the work another year or two. After all the environmentalists—through long delays they already have forced—achieved the inclusion of strong safeguards in plans for the Alaskan line. It's time to begin stringing pipe, for the fast-swelling U.S. reliance on foreign oil threatens a dangerous, destabilizing dollar drain. Add to this the apparent willingness of some Middle East nations to manipulate their vast oil resources as a level on American foreign policy, and the picture becomes grim indeed.

Even if Congress removes all obstacles, however, the Alaskan oil won't be flowing down from the North Slope for another three years or more, and there seems no prospect of any dramatic increase in U.S. refinery production before then. President Nixon waited about three years too long in easing the import quotas, to permit more foreign oil to enter this country. The petroleum industry, for reasons we cannot begin to grasp, let several years pass without building a single new refinery, so that now there is insufficient capacity to process all the foreign oil which the nation needs to import. Nor is there a single deepwater port capable of handling the gigantic new supertankers that will haul the crude oil to these shores from the Middle East and elsewhere.

How could the United States, with all its economic expertise and sophisticated predicting techniques, ever have gotten boxed into such a predicament? In some quarters there's suspicion that the big oil companies were in collusion to create a shortage, force independent dealers out of business and hike prices. It is well that the Justice Department and the Federal Trade Commission have launched studies to determine if there is any substance to these mutterings. But a few basic facts are beyond dispute—that gasoline consumption has far outrun the government's estimates, and that new car production and sales are setting new records. Prosperous America guzzles more and more energy—electricity as well as petroleum—and the day of accounting isn't far ahead.

The fastest that the government can act will not be soon enough, and solid proposals are at hand that must be expedited. The Senate soon will begin hearings on legislation to hasten the building of offshore deepwater ports to receive incoming foreign oil. Anyone doubting the need for this might consider last week's announcement that the first large domestic refinery in three years will be built beside the Mississippi River, above New Orleans. That's good news, but three years will be required for the job, and then the crude oil for this plant—coming from the Middle East—will still have to be unloaded from supertankers at a deepwater port in the Bahamas and towed in barges to the Mississippi. Obviously, this country must have offshore port facilities as quickly as possible, with the best possible environmental safeguards.

And Congress must get cracking, too, on a massive program of research and development across the whole energy field—from solar and fusion electricity to large-scale extraction of oil and gas from coal, which is our only abundant energy resource. This is envisioned in a bill by Senator Jackson that would launch a 10-year, $20-billion effort. Time is critical, for at best we may be well into the 1980s before even the most advanced of these new modes—coal gasification—provides fuel in any significant quantity. And action is imperative on several other measures—to allocate scarce petroleum equitably (which is much better than rationing at this point), and to stimulate refinery construction and natural gas exploration. Congress also should come up with some tax incentives for energy conservation, down to the household level, instead of relying on appeals for voluntary frugality, which is primarily the way President Nixon has chosen.

But the President has become a great deal more concerned over this whole menacing matter in recent weeks. In his second energy message of this year (the first one having been considerably too weak), he came out for a $10-billion federal program over five years, to develop new sources of energy, and that represents quite a leap in White House objectives. Highly encouraging, too, is his plan to reduce the government's energy consumption by 7 percent in the next year, as the model for a new national "conservation ethic." He has proposed a sweeping governmental reorganization to consolidate the multitude of endeavors in the energy-fuels field, and persuaded Colorado's popular and persuasive governor, John Love, to resign and come here to head the enterprise.

So an initiative equal to the challenge at last may be in the making, and the question is whether the many wheels of government can turn fast enough. The first vital tests will be in those Senate votes this week on hastening the availability of all that oil in Alaska.

TESTIMONY REGARDING THE VOTER REGISTRATION ACT

HON. DAWSON MATHIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. MATHIS of Georgia. Mr. Speaker, the House Subcommittee on Elections had the privilege of hearing testimony regarding H.R. 8053, the Voter Registration Act, from Mr. James F. Dowd III, the deputy secretary of state from the State of Missouri.

I found his testimony very pertinent to the proposed legislation, and I am submitting the full text of his statement for the consideration of my colleagues:

TESTIMONY BY JAMES F. DOWD III, DEPUTY SECRETARY OF STATE OF MISSOURI

My name is James F. Dowd, III. I am Deputy Secretary of State of Missouri, appointed to that position by Secretary of State James C. Kirkpatrick.

My purpose in being here is to suggest positive, constructive improvements in H.R. 8053. I'm here to talk about the mechanics of registration, from the Missouri viewpoint.

Missouri is unique in many ways, including the manner in which it conducts its elections. We have counties with registration, and some without; we have counties with registration by mail, and others which do not provide for mail registration.

In the most recent session of our General Assembly, a bill was passed with strong support from both parties which extended voter registration, with registration by mail, throughout the state. It has not yet been signed into law by Governor Bond, but we hope it will be shortly.

I'd like to suggest to the committee that this bill, as presently drafted, will not achieve the ends of its sponsors, but that it could with some basic changes, mostly designed to make it functionally compatible with existing state systems.

To make these suggestions, we must first look at what we feel what is wrong with the bill. In our opinion:

1. The presumption upon which it is based is incorrect

2. The time frame is unnecessarily short

2a. Inadequate time to determine qualifications

3. Postcards have built-in problems of legibility and incompleteness

4. The bill opens the door to the possibility of fraud, and

5. It will require the maintenance of dual registration systems.

1. INACCURATE PRESUMPTION

Our experience suggests that it is not registration which has impeded voter turnout. In the registration counties of Missouri, 74% of the eligible voters were registered for last year's election. Although only 80% of those registered turned out, the percentage of eligible voters that was registered exceeded the percentage of those voters who turned out in the nonregistration counties, where 72% of the eligible voters cast a ballot.

I suggest that the close correlation between the percentage of voters registered in Missouri in our registration counties, and the actual turn out in our non-registration counties (a variance of less than 2%), sugggests that a 72% turn out might have been the maximum that we could hope to achieve, even with a change in our registration procedures.

Based on our experience, HR 8053 is unworkable as it is presently drafted for the following reasons:

2. THE TIME IS TOO SHORT

All the permanent registration systems in use in the country today depend entirely on the fact that voters may register throughout the year. No system of prior registration of which we are aware contemplates that all the registrations would be made within 60 days prior to the election.

We know of no policy reason why the bill should preclude the post office from distributing the registration cards prior to 45 days before the closing of registration. Certainly, we concur with Dr. David Dinkins, President of the Board of Elections of New York City, who suggested that the distribution should take place in January preceding the election, so as to provide sufficient time to process the cards.

2A. THERE IS INSUFFICIENT TIME TO DETERMINE THE QUALIFICATIONS OF VOTERS

Utilization of a nation-wide mail registration system is likely to prompt a change in habits on the part of our county clerks.

They will feel obliged to check more closely into the qualifications of registrants. This will, of course, take some time, substantially more time than is permitted by this bill. Their guard will be up because this bill will not only permit people to register without having to go before a registrar, but also to vote without having been seen by an election official. A twelve year old felon from Illinois could register in Missouri and, if he lies about his qualifications, vote absentee ballots the rest of his life—unless the registrar is permitted sufficient time to check his qualifications.

A basic premise of this bill is that all the determinations that need to be made by a registrar can be made within 30 days, that being the average closing period for registration throughout the country. But if hundreds, or thousands, or tens of thousands of post cards are received on the 31st day prior to the election, it will not be possible for a registrar to make the determinations necessary to fulfill his oath of office.

3. SOME CARDS WILL NOT BE ABLE TO BE PROCESSED

The Missouri experience with mail registration may be helpful to this committee. Even if our cards are complete, some are still unable to be processed.

A good example is the voter who completes his card properly, listing as his voting address "Canton, Missouri" or "Rural Route 1, Harrison, Missouri". In each case, the registrar is unable to assign the voter to a precinct.

The county clerk in Cases County is not helped with the address "Rural Route 1, Harrisonville". Rural Route 1 passes through five different election districts. It is impossible for that voter to be assigned to a precinct, unless more information can be gathered.

Fortunately, our county clerks are a persistent group. First, they try to call the voter. They frequently find, however, that his household is one of the 17% of Missouri households that does not have a phone or which has an unlisted number. He tries to write the registrant soliciting further information, but a reply is all too seldom forthcoming. Registered mail does not work because the voter refuses to accept it, thinking it is a service of process. But finally the day comes when the county clerk spots the registrant and his wife walking down the street, passing the court house, and calls them into his office. He points to a large map of the county on his wall, and asks the voter to point to the location of his house. The husbands points to one spot—the wife to another!

My point here is that these problems, with our limited mail registration system occur too frequently to encourage us that a nationwide post card registration system will be a success.

The difference between a mail voter registration system, and paying taxes, buying automobile licenses and the many other governmental duties that we perform by mail, is that we must somehow tell the registrar exactly where we live in the county in terms of voting precincts.

4. H.R. 8053 PROVIDES AN OPPORTUNITY FOR WIDESPREAD FRAUD

We are not aware of any situation in Missouri where mail registration has been used for fraudulent ends. But the concern of Missouri, and that of other states, is not just proving fraud, and prosecuting the offender after it has occurred.

It is the avoidance of the possibility of fraud in elections which is of paramount interest to the states, and I suggest that this bill, by making such an abrupt change in the manner in which voters will register, will open the door to fraud in a manner which has not been experienced heretofore by the various states.

5. THE BILL WILL REQUIRE THE MAINTENANCE OF DUAL REGISTRATION SYSTEMS, AS WELL AS DUAL BALLOTS

If I accurately read the thoughts of legislative leaders in Missouri, we will not rise to the "bait" of having the federal government pay 130% of our registration system, and will not adopt the federal system as our own.

Since we will have a dual registration system, we will also have the problems that come with it. The first problem will be the necessity for dual ballots, with an introduction of a new "short federal ballot" for voters who have registered only by sending in the post card.

The second problem will be explaining to the voters who have only registered for the federal election why they are not able to vote in state elections.

The net effect of this bill will be to open wide the doors of registration for Missourians who want to vote for their 14 federal officers, while slamming it shut on their right to vote for their 15,000 state, county and municipal officers. This bill does not make it simpler for people to vote, rather, it disenfranchises them, insofar as it will keep them from voting for their Governor, County Prosecutor, and City Alderman. Observed in that light, this bill becomes a fraud, a sham upon the public.

Our first recommendation is that H.R. 8053 not be given favorable approval by this committee. The bill in its present form should not be permitted to pass.

If the committee is of the opinion that it must report out a bill, then we suggest that it must be a modified version of H.R. 8053.

We suggest that H.R. 8053 be amended in the following ways:

1. Eliminate the 45-day requirement.

We suggest the post cards be distributed at least three months prior to an election and preferably 6 months. This might provide sufficient time for registration officials to process the cards after they have been received. If the time is found to be too far in advance, it could be shortened at a later date. We suggest that this would be a wiser legislative move then enacting the bill in its present form, only to find out that 45 days is too short a time period to process the cards.

2. The bill should be amended to exempt States with mail registration systems.

Missouri, like some other states, provides for registration by mail. The imposition of another mail registration system upon those states can only cause confusion. If they are doing the job which the bill would require them to do, why impose it on them.

I suggest that an exemption be extended to any state which permits voters to register by mail, if the state permits registration for any reason and requires that notaries provide their services regarding registration without charge to the voter.

I might point out that Missouri does not fit the exclusion I have just described, insofar as absentee registration is only available to the sick, disabled, or those absent from the county. We do feel that the categories of those eligible to register by mail could be expanded, and are willing to "go that extra mile" if it would avoid dual registration system. We are of the opinion that the notarization of the registration form provides a valuable safe-guard and helps to "insure the purity of the ballot box" while not being unduly restrictive. (Other suggested changes are included in my full statement).

But even with these changes, the bill will not solve the problem of registered voters who don't exercise their right to vote and will still result in a dual system in some states. I return to my first suggestion that the committee not take favorable action on this bill.

Given the climate for change and given the incentive for positive state action by bills such as HR 8053, it is my firm opinion that the states will respond quickly—within the next few years—to provide registration procedures which will meet the intentions of the sponsors of HR 8053 and S 352.

I thank you for your attention and I would be pleased to answer any questions you might have.

THE LEGACY OF APOLLO 11

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. FUQUA. Mr. Speaker, since July of 1969 when Neil Armstrong first set foot on the lunar surface our national space program has had an ever-increasing wealth of technology and new knowledge and practical information of direct benefit to the people of this Nation and of the world. The lunar landing marked a high point in adventure and achievement in our national space program. Neil Armstrong, who took this first step for mankind, is to be admired and again congratulated for his outstanding feat. The unparalleled achievement of the first lunar landing and the subsequent success of the Apollo program must rank among the greatest accomplishments of man in recorded history. But Apollo meant much more than achieving a lunar landing. It was an achievement of technology, management, and human dedication. It provided a wealth of scientific information and solid technological application which has given strength to the programs which have followed.

Even in the face of a declining budget the "bank" of knowledge, skills, and technology has been a continuing resource in achieving our national space program goals since 1969. We must replenish this bank of knowledge and technology and add to it so that the achievements of Skylab and the application of the Space Shuttle for the benefit of our Nation and the world will be realized. In remembering the achievement of the first lunar landing we need to be reminded of the need for strong support for our national space program today and in the years ahead.

CAPTIVE NATIONS WEEK

HON. MORGAN F. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. MURPHY of Illinois. Mr. Speaker, this past week marked the 15th observance of Captive Nations Week. This annual tradition of remembering should not be allowed to become routine. The reasons for initially adopting a congressional resolution to annually recall the plight of 100 million East Europeans are still valid today.

Our most precious freedom as a Nation has been that of self-determination. We have not known the disillusionment and the despair associated with foreign occupation and rule. We have not known the daily struggle to keep spirits high when an oppressed future is all you have to look forward to. We are strangers to the isolation and the hopelessness and the fear of the unknown.

We are what we are as a Nation by choice. The mistakes we make are freely admitted and, upon occasion, publicized. We strive for perfection but necessarily fall far short of our goals. We continue to strive, however, and this is the essence of the democratic form of government.

We are not afraid to laugh at ourselves nor do we shrink in fear when the world laughs at us. We recognize our limitations and try not to profess to be something we are not.

Traditionally, we have stressed individual freedoms. There has been discrimination, inequality and injustice but there has also been a clear determination to overcome our failings and shortcomings as a Nation.

As we remember the people of East Europe during this week and all others, let us rededicate ourselves to the freedoms which made our country great. And let us reaffirm our support for those who today live with the terror of tyranny.

We can and must use economic leverage with the Soviet Union to drive these points home. We as a Nation can go on indefinitely observing Captive Nations Week. But how much longer can we expect the people of the captive nations to fight the oppression?

PORTUGUESE GENOCIDE IN SOUTHERN AFRICA: THE NEED TO HALT HERBICIDE EXPORTS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. RANGEL. Mr. Speaker, two articles that recently appeared in the New York Times concerned themselves with the compelling possibility that Portuguese military forces are conducting genocidal massacres in Mozambique, a Portuguese colony in southern Africa.

I now submit the two newspaper articles for the collective attention of my colleagues in Congress:

PRIESTS COMMENT ON SLAYING REPORT

MADRID, July 11.—Three Spanish Roman Catholic missionaries said today that two fellow priests had personally met survivors of a massacre of at least 400 men, women and children by Portuguese troops in a Mozambique village.

The three missionaries said that they themselves had been expelled from Mozambique on the East African Coast, and that the two priests, who they said were the original sources of a report on the alleged massacre in The Times of London yesterday, were now in prison.

The missionaries, in an interview at the National Seminary of Missions' headquarters in Madrid, described what they said was their part in transmiting the reports.

The missionaries, all seminary members, said that they had given details of the alleged massacre at Wiriyamu village on Dec. 16, 1972, to an English priest, the Rev. Adrian Hastings.

LIKENED TO MY LAI

Father Hastings, in a frontpage article in the London paper yesterday, said he had received reports from missionaries in Mozambique of massacres of Africans comparable to the My Lai killings in South Vietnam. The two priests said to be in prison, in Lourenco Marques, Mozambique's capital, were identified by Father Hastings as the Rev. Alfonso Valverde and the Rev. Martin Hermández.

One missionary, the Rev. Enrique Ferrando, said of Wiriyamu village, "First the Portuguese bombed it from aircraft and after the slaughter they razed it."

The Rev. Julio Moure said, "If no one believes our statements, let them ask the Bishop of Tete," Cesar Alves Augusto, Farraira da Silva, "who flew over the area in a helicopter after the slaughter."

The reported Wiriyamu massacre was said to have been the fourth and worst in a series of mass killings that occurred in the Northern Mucumbura area, bordering Rhodesia, over two years.

All three priests said that they had sent written protests to the Portuguese Premier, Marcello Caetano, and other Portuguese leaders but had received no reply.

"We held our silence for fear of jeopardizing other members of the mission, but after recent events we can no longer hold back," the Rev. Buendia Gomes said.

LISBON PROMISES INQUIRY

LISBON, July 11.—The Portuguese Government said today that it would hold an inquiry into allegations that Portuguese troops had massacred African villagers in Mozambique.

The Ministry of Information, in a statement printed in all Lisbon newspapers, said that the allegations were reported yesterday in The Times of London "with the obvious aim of starting a scandal on the eve of the visit of the Portuguese head of Government and besmirching the nation and the people he represents." Premier Marcello Caetano is to visit Britain next week.

The ministry's statement said that the case "will not fail to be the subject of inquiry in the established way," provided that the site where the most recent massacre is said to have taken place could be found.

The Government said that it had investigated all reports of irregular behavior by troops in Mozambique and punished offenders on the "rare" occasions when charges were substantiated.

NO COMMENT IN MOZAMBIQUE

LOURENCO MARQUES, Mozambique, July 11 (Agence France-Presse).—General Kaulza de Arriga, commander in chief of the Portuguese armed forces in Mozambique, refused comment today on the Times of London report of a massacre at Miriyamu village.

General de Arriaga, a spokesman said, was tired of "fantastic allegations by the friends" of the Mozambique Liberation Front, which is also known as Frelino.

High command sources here noted that in an official comment yesterday Lisbon had said that the village of Miriyamu did not appear on the Mozambique map.

GENOCIDE IS LAID TO LISBON'S ARMY

LONDON, July 10.—A Roman Catholic priest said today that he had received reports from Spanish missionaries in Mozambique of Portuguese army massacres of Africans comparable to the My Lai killings in South Vietnam.

The Rev. Adrian Hastings said in a frontpage article in The Times of London today that he had been told that the Portuguese forces had been "carrying out the systematic genocidal massacre" of villages whose residents were thought to have helped guerillas of the Mozambique Liberation Front known as Frelino.

"The security forces," Father Hastings wrote, "feel free in the knowledge that there are no journalists for hundreds of miles and the victims know no European language; but the Spanish missionaries in the area obtained detailed information and themselves buried many of the victims."

Father Hastings, of the College of the Ascension in Birmingham, England, said that according to the reports a series of massacres, "for ghastliness each rivaling that of My Lai," took place in the area of Mucumbura between May and November, 1971.

He said that he had learned that two priests, the Rev. Martin Hernandez and the Rev. Alfonso Valverde, had attempted to protest and publicize the killings. They were arrested, Father Hastings said, and have been detained without trial in Lourenco Marques, the capital of Mozambique, for the last 18 months.

Many massacres have taken place since their arrest, Father Hastings said, he had been told. The latest, he said, included the killing of "several hundred" persons at the village of Wiriyamu on Dec. 16, 1972. The village was said to have been bombarded and troops brought in by helicopter were said to have ransacked the houses and killed the inhabitants.

Father Hastings gave the names of more than 130 persons, many of them women and children, who he said had been killed by the troops.

In this sordid and ugly light, I have submitted legislation in Congress to ban the exportation of all chemical herbicides to Portugal and the Republic of South Africa—H.R. 8574, the Chemical Warfare Prevention Act of 1973.

In the past months, I have sought to inform this legislative body and the public at large of the use of poisonous herbicides in the Portuguese and South African perpetration of chemical warfare against the citizens of Angola and Mozambique.

It appears that Portuguese and South African airplanes are conducting a massive spraying of food crops, particularly cassava, to stifle support for the liberation movement that is rapidly growing among farmers and peasants in the Portuguese colonies. Much of the herbicide used in this vicious operation comes from the United States.

It is only recently that we have learned of this chemical aggression and its resulting devastation. Just last week we learned of the wholesale destruction of entire villages by the repressive colonial regimes of Portugal and South Africa, genocidal acts which were committed with U.S. supplied weapons.

These Portuguese and South African policies of chemical violence and genocide should be unequivocably condemned and rejected by the United States. By halting the exportation of herbicides that are only useful in warfare, we can see that this is possible.

NATO AND THE GERMAN "WATERGATE"

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. RARICK. Mr. Speaker, many Americans wonder if the assurances of our Government to the Brandt-controlled coalition of West Germany that we will continue 210,000 forces in southern Germany carried with it any reciprocal agreements that the Brandt government will not sell out our men.

Americans who read past the Watergate-Washington front page of the daily papers are very much aware of the "Watergate am Rhine" which constitutes a far greater threat to the German people than those posed by the domestic Watergate to the American people.

The reports of the Brandt party buying two votes from the opposition—the margin needed to swing Brandt's reelection as West German Chancellor—must create an atmosphere of lack of confidence among the West Germans. The announcement that Julius Steiner, former deputy of the West German Bundestag, who reportedly received about $20,000 from Brandt's party to abstain in voting, was far surpassed by the further revelation that he has confessed to being an East German double agent on the payroll of the Warsaw Pact nation.

It certainly seems strange for the American military men to continue as mercenaries in West Germany, 28 years after the war is over, to defend the West German Government from Communist aggression, when the Chancellor of that country was manipulated into power by Communist agents.

If NATO is to be a strong Atlantic alliance to defend our European forefathers and allies from Communist aggression, there must be the constant fear that some of our NATO allies have been compromised, and America's willingness to help them is being exploited as a political ploy.

I include related newsclippings:

[From the Washington Star-News, July 19, 1973]

TALKS LEAVE BONN ENVOY "REASSURED" ON NATO

(By George Sherman)

West German Defense Minister George Leber has concluded two days of talks here reassured that the Nixon-Brezhnev summit agreement against nuclear war changes nothing in the Atlantic alliance.

"I return home with the reassuring conviction that nothing in the Soviet-American agreements has a negative effect on the position of Europe," Leber told newsmen at the German embassy before leaving for Bonn last night.

Yesterday he and U.S. Defense Secretary James B. Schlesinger released a six-point communique reaffirming the NATO strategy of "deterrence and flexible response, including forward defense."

They also agreed that the United States and Europe should press ahead with "important force improvements" in Europe. Leber suggested that "combat efficiency" and "cost effectiveness" of existing forces in Europe, including the American forces there, were the primary aims—not any cutback in forces.

The German minister acknowledged that the agreement between President Nixon and Soviet leader Lenoid I. Brezhnev on June 22 here to take all possible steps against nuclear war have raised "doubts and questions" in West Europe.

America's allies, he said, wondered whether the Atlantic alliance could go on as before now that the two most powerful antagionists have committed themselves to efforts to prevent nuclear war. Since Moscow and Washington have now pledged "urgent consultation" in any crisis threatening nuclear war, he explained, Europeans have asked whether the threat of conventional aggression in Europe would be "de-coupled" from escalation into nuclear war.

West Europeans live with the fear that superior Soviet conventional forces in Europe could "blackmail" West Europe in any crisis if no ultimate recourse to the American nuclear deterrent exists.

But Leber, who conferred yesterday with presidential aide Henry A. Kissinger and spent Tuesday at Camp David with Schlesinger, said he was now convinced that the Soviet-American declaration is only an attempt at "safeguards" against any war breaking out.

Should those paper safeguards fail, he said, echoing arguments of Kissinger, the whole NATO defense structure—nuclear and conventional—remains intact to cope with aggression.

"I am convinced now," said Leber, "that nothing in the Soviet-American agreement calls for a change in the structure of the alliance or hurts its capability to defend against aggression."

Leber said he expects a new two-year German-American agreement later this month or early in August continuing the large German "offset" support for U.S. foreign exchange losses resulting from the costs of 210,000 American forces stationed in Germany.

[From the Los Angeles Times, June 13, 1973]

BRANDT WILLING TO GIVE TESTIMONY IN SCANDAL

(By Joe Alex Morris, Jr.)

BONN.—Chancellor Willy Brandt has expressed willingness to testify before a parliamentary investigating committee looking into allegations of bribery which an opposition leader described Tuesday as "worse than Watergate."

"If they want me to testify, I will come more than willingly," Brandt told journalists aboard his plane returning from his official visit to Israel.

The case involves a former opposition deputy, Julius Steiner, who admitted recently that he was one of at least two Christian Democratic deputies who abstained in a crucial vote of confidence more than a year ago. The abstentions meant the Social-Liberal coalition government headed by Brandt continued in office, at a time when defections from its ranks had resulted in a parliamentary standoff with the opposition.

Steiner also admitted he was a double agent, working for the East Germans and, he maintained, the West German Office for the Protection of the Constitution, the local equivalent of the FBI. This has created a bizarre political epilog here, in which an East German agent helped to save the Brandt government.

Steiner is in hiding, under the protective care of Quick, a conservative Munich illustrated magazine. Tuesday, he authorized the magazine's publisher to say in his name that the parliamentary whip of Brandt's Social Democratic Party, Karl Wienand, had offered him 50,000 marks ($20,000) to switch his vote.

Since the Steiner affair broke into print, a Free Democratic Party deputy who switched to the opposition in protest against Brandt's Ostpolitik has claimed he was offered twice that amount, although he refused it.

The affair came up in Bonn Tuesday at a Christian Democratic Party congress called to elect a new leadership for the next two years and where Helmut Kohl, the minister-president of the Rhineland-Palatinate, was elected party chairman without opposition.

Alfred Dregger, a conservative CDU leader from the state of Hesse, charged that the "scandal in Bonn is worse than Watergate." The Washington scandal concerns only unfair election procedures, Dregger said, but in Bonn it concerned the corruption of a Parliamentary decision.

It was even worse because a foreign power was involved, Dregger added. This was a reference to Steiner's confessed activity for the East Germans.

"This Bonn scandal will show what German democracy is worth," he declared.

Wienand, who first admitted only to casual contacts with Steiner but later confessed he had dealt with the CDU deputy many times, Tuesday offered to resign as parliamentary whip for the SPD in view of the impending parliamentary investigation. The SPD faction rejected his request and expressed full confidence in him.

[From the New York Times, June 11, 1973]

BONN'S "WATERGATE" RIVALS WASHINGTON'S IN CONFUSION

BONN, June 10.—A cartoon in one of West Germany's biggest newspapers last week showed Uncle Sam and John Bull sitting in a coin-operated laundry, with bundles of dirty laundry labeled "Watergate" and "Lambton Sex Scandal." Timidly approaching, with his dirty linen, was Grober Michel, the peasant character with the tassel cap who represents West Germany. His bundle was labeled "The Steiner Case."

The cartoon reflected a scandal over espionage and alleged Government vote-buying that has pushed Watergate off the front pages of West German newspapers. If there is any resemblance between the Watergate scandal and the "Steiner affair," it appears to lie less in the substance than in the way each day brings some new, contradictory statement from a bewildering cast of characters.

ROLE OF DOUBLE AGENT

The furor revolves around an obscure former Opposition lawmaker named Julius Steiner. From self-imposed exile abroad, the 49-year-old Mr. Steiner has told several German publications that he acted as a double agent, taking orders from West German security men to maintain contacts with East German spy-masters who wanted information on his Christian Democratic party.

Mr. Steiner has also announced that he was one of two hitherto unidentified Opposition legislators whose secret abstentions narrowly averted passage of a no-confidence motion in Parliament in April 1972.

The motion was raised by Rainer Barzel, the former floor leader of the Opposition in the lower house, in an effort to oust Chancellor Willy Brandt and halt his drive toward East-West accommodation at its most crucial phase.

Mr. Steiner's admission that he voted against the Barzell motion was immediately connected with unconfirmed reports that two Opposition men who abstained in the key balloting had been bribed to do so by members of Mr. Brandt's ruling coalition of Social Democrats and Free Democrats.

Mr. Steiner denied that he took or was offered money, but his statements were followed swiftly by events that alternately threatened to cast suspicion on the coalition to confuse the issue.

OFFER OF $30,000 REPORTED

Several Opposition legislators swore that they had seen pencil marks on two abstention cards when the votes were counted after the 1972 balloting. They suggested that the marks could have been made by the supposedly bribed Opposition men to show Government talliers that they had stuck to their bargain.

Whatever slender evidence of bribery might have resulted from a recheck of the cards disappeared when the speaker of the lower house told newsmen that an official, against regulations, had kept the cards unsealed in a tin filing cabinet for more than a year, instead of in his safe. The speaker said that the presence of pencil marks, would prove nothing, since the marks could have been made later.

Wilhelm Helms, a member of Parliament who switched from the Brandt coalition by quitting the Free Democrats a month before the vote of confidence, said that he had been offered $30,000 not to break ranks. The defection of Mr. Helms and of four of his colleagues lost Mr. Brandt his ruling majority and helped set the stage for the confidence vote.

A former member of the smaller liberal coalition party to which Mr. Helms had belonged said that he offered Mr. Helms money not to defect. But he added that he made the offer only to test whether the Opposition had offered Mr. Helms a bribe. He said that the party leaders knew nothing of his proposal.

The head of the federal intelligence service offered, under opposition pressure, to brief Parliament on Mr. Steiner's role as a counterspy. Opposition legislators said that the offer to reveal the federal file on Mr. Steiner apparently contradicted previous statements by the agents of the semi-autonomous state government at Stuttgart.

STEINER ACTIVITIES TRACED

While Bonn buzzed with rumors and speculation, additional information on Mr. Steiner came to light, indicating that his involvement in cold-war spying dated to the early nineteen-fifties, when his home state of Baden-Württemberg was still under French military occupation.

Mr. Steiner, whose rise in the Christian Democratic ranks began in 1952, told one interviewer that even then, he occasionally met French agents to pass on inside information about his party.

And he said that he had acted as a double agent once previously. He said that he spied in the Soviet Embassy near Bonn in the late fifties for the federal intelligence service while ostensibly taking part in meetings of a Soviet-German friendship circle that leaned toward Moscow.

[From the Christian Science Monitor, June 6, 1973]

CHARGES OF VOTE BUYING SHAKE WEST GERMANY

(By David R. Francis)

Unsubstantiated charges of parliamentary vote-buying are focusing attention on West Germany's Bundestag.

The charges are that Chancellor Willy Brandt won a close vote of confidence last year after two opposition members were bribed not to vote for their candidate.

One of those accused of accepting bribes, Julius Steiner, denied in an interview with the magazine Quick that he was paid to abstain in the crucial vote. Rather, he said, he abstained to prevent Christian Democratic Union (CDU) leader Rainer Barzel from becoming chancellor. This, he held, would have been a "national catastrophe."

Whatever the case, the ruling presidium of the CDU this week demanded a "ruthless probe" into the allegations about the April, 1972 election.

That presidium was chaired by Dr. Barzel. His defeat in last year's vote of confidence was only two votes short of the necessary 249. It was followed last fall by a decisive defeat in a special election that returned the Brandt government to power.

The bribery charge has been given another sensational angle by Mr. Steiner's claim that he served as a double agent.

In interviews with the press, Mr. Steiner admitted that he was approached by East German agents six days before the confidence vote and agreed to spy on his own party for about $900 a month.

After the first payment, he said, he informed agents of West Germany's counterespionage agency of the offer. They advised him to continue his contacts and not to inform his party of them, he said.

The Interior Ministry in Bonn has confirmed that Mr. Steiner, who did not run for re-election last fall, did deal with the Stuttgart branch of the agency.

The affair could arouse considerable bitterness in the opposition party if it is shown that it was cheated from power by bribery.

So far, however, no solid proof has been offered.

Similarly, last summer, Chancellor Brandt intimated that some of the defectors to the opposition from the government side in Parliament could have had financial motives. He also produced no evidence.

[From Time magazine]

WATERGATE AM RHINE

"I, Julius Steiner, hereby make the worst confession in my life. I am aware that in doing so I am disclosing the greatest scandal in the history of West Germany."

With these words, Steiner, a former Deputy in the West German Bundestag, admitted that in April 1972 he sold his vote to keep Chancellor Willy Brandt in power. Writing in last week's issue of the illustrated weekly *Quick*, Steiner (who is currently in hiding, probably outside Germany), confessed that he received 50,000 marks (about $20,000) from a member of Brandt's Social Democratic Party to abstain in a secret vote of confidence on the Brandt coalition government. By not voting against Brandt, Steiner betrayed his own party, the opposition Christian Democratic Union (C.D.U.), which expected to oust the Chancellor (TIME, May 8, 1972). Thanks to Steiner's abstention, and that of another as yet unidentified C.D.U. deputy, Brandt squeaked through with a razor-thin two-vote margin.

Steiner's confession was the latest, and most startling, in a series of revelations about a political scandal that West Germans have dubbed Watergate *am Rhine*. Although substantially different from the scandal enveloping the White House, the Steiner affair involves not just bribery but cover-up attempts and even espionage. It could cause considerable embarrassment—or worse—for Brandt and his coalition government. Already Bonn's cocktail-party circuit talks of little else but the scandal.

For the past month, the West German press has been publishing stories hinting that bribery had saved the Brandt government. When Steiner's name first appeared, he admitted that he abstained from voting against Brandt, but did so, he insisted, for ideological reasons, not for money. But then, à la Watergate, bits and pieces of evidence surfaced. The national daily *Die Welt* reported that shortly after last year's crucial Bundestag vote, Steiner bought himself two Mercedes and a Mini-Cooper.

Finally Steiner confessed—but not before dropping another bombshell. He claimed that since fall 1972 he had been a double agent, ostensibly supplying East German intelligence with inside dope on the C.D.U., while also reporting to West Germany's own internal security force.

The momentum of the scandal builds as West Germany's press features it on Page One every day. As with Washington's Watergate, newspapers and magazines frantically scramble to dig up new clues with which to scoop each other. Brandt's dispirited C.D.U. opponents have enthusiastically embraced the Steiner affair as a means of discrediting the Chancellor. They have demanded that a Bundestag special investigatory committee, established last week, find out whether Brandt knew about the bribes and whether the internal security force deliberately failed to inform the C.D.U. that Steiner was giving information about the party to East Germany.

The Chanecellor has welcomed the investigation, declaring his willingness to testify before the committee. Yet, even if it appears that he did not know about the bribes, the deepening mess will likely dim his image. More worrisome, the corruption and venality in Bonn that the investigation is revealing could, in the extreme, topple Brandt. His demise could rekindle the familiar fears about the stability of West Germany's relatively young democratic institutions that accompany the nation's major political crises.

TECHNOLOGY MENDS LIVES

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. TEAGUE of Texas. Mr. Speaker, often when we think of the space program, we think of the giant rockets, astronauts, and the spectacular achievements of recent years. In addition to this, much of the technology generated by our national space program is contributing directly to the well-being of all people. One particular example of this has been the development of medical devices which are aiding people in living normal lives where heretofore they would have been invalids for the remainder of their lives.

A recent article by Bob Thomas from the June 26, 1973, issue of Today spells out clearly the importance of the national space program contributions in the medical field:

TECHNOLOGY MENDS LIVES

(By Bob Thomas)

Detailing NASA's contributions to the field of science and technology would be equal in labor to reconstructing the pyramids from individual grains of sand.

To do an honest job is difficult enough. To do a complete job is near impossible.

There are individual stories to be told, and others that affect the lives of thousands and even millions of persons.

Mrs. Celeste Thompson is a California housewife and mother left near totally paralyzed following an attack of polio in 1954. At the time she was 19 years old, and the illness left her with movement of only the neck and head and a slight residual motion of her left thumb.

A year ago, engineers and technicians at NASA's Marshall Space Flight Center, Huntsville, Ala., completed the design of a number of advanced teleoperator systems—including electrically powered, robot-type arms and proportional control devices for mechanical arms.

With NASA assistance and funding through its Technology Utilization Office, the Rancho Calif., adapted these devices to Mrs. Thompson's use. All the devices are operated by sensitive tongue-pressure switches.

Because of that technology, Mrs. Thompson has acquired a state of "self-sufficiency" not enjoyed for almost 20 years. She even corresponds with friends, typing 24 words a minute with relative ease.

Mrs. Thompson's equipment is not inexpensive. Her unit costs about $3,500, but what price can we put on our independence?

Control devices of this nature can be tailored to individual needs, and their potential uses to industry are countless. Wherever remote manipulators are required—be they servicing nuclear reactors, handling toxic or infectious materials or other operations that could prove hazardous to man—the technology could be applied.

Staying with NASA's role in advancing the medical state-of-the-art: there is the electronic pacemakers that keeps the heart beating at a normal rate. An integral part of the pacemaker is the technique of miniaturization perfected in the space program.

Physiological monitoring techniques, similar to those used for Apollo astronauts, are now standard equipment in many of the country's hospitals. Pneumography systems that measure respiratory rates, originally developed for the Gemini program, can detect lung and heart disorders in new-born babies.

A space helmet, designed to obtain electroencephalographic tracings in astronauts under stress, now detects hearing defects in children.

Another spinoff of the space program is the accelerometer that measures muscular tremors and can aid doctors in early diagnosis of neurological ailments such as Parkinson's disease.

And the list goes on: an astronaut's pressure suit has been used to control internal bleeding, a computer used to enhance photographs radioed back from Mars now analyzes human chromosomes, ultra-fast dental drills using minute ball bearings developed through space technology.

There is no end. And we have touched only on the field of medicine.

There have been just as many, and just as impressive, advances in environment, oceans, earth resources and urban studies. NASA technology has expanded the knowledgeable boundaries of weather forecasting, communications, manufacturing and—lest we forget—international peace.

Without realizing it, the advancements from the space age have touched all of our lives.

Fishermen—both the commercial and weekend variety—are better informed of weather, tides and even fish locations because of information gathered by weather satellites. Our food supply is assured because photographs from space can spot agricultural diseases. We are entertained by instant coverage of news and sports events around the world through the science of communication satellites.

And because of all of this—and by the fact that NASA shares its information with the world—we are beginning to experience a handshake friendship that is encircling the globe.

OBJECTIONS TO SONNENFELDT CONFIRMATION MUST BE ANSWERED—PART VI

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. ASHBROOK. Mr. Speaker, the CONGRESSIONAL RECORDS of May 23, 24, 29, and July 16, contain material relating to the nomination of Helmut Sonnenfeldt, now a senior adviser at the highly sensitive National Security Council, for the office of Under Secretary of Treasury. Mr. Sonnenfeldt's confirmation before the Senate Finance Committee was opposed by Mr. John D. Hemenway, a former Foreign Service officer and former colleague of Mr. Sonnenfeldt. In his extensive prepared statement for the Finance Committee Mr. Hemenway raised the question, among others, of the suitability of the nominee in the area of security.

In support of his position Mr. Hemenway offered the names of several individuals who had personal experiences with Mr. Sonnenfeldt on security matters. Among those named was Stephen Koczak, also a former colleague of Mr. Sonnenfeldt's at the State Department who states that he personally witnessed the improper and illegal transfer of information from Mr. Sonnenfeldt to unauthorized foreign nations. Mr. Koczak also asserted that the FBI entered the case and that he was subsequently interviewed by an agent from the Bureau.

In order to get more details on the case I wrote to the FBI for a mere confirmation that Mr. Koczak had, indeed, been so interviewed, realizing that the Bureau was not authorized to divulge specific details in the matter. The FBI correctly referred the matter to the Justice Department, and over a year later, and after the second inquiry, confirmation of the interview was received.

Questions logically arise as to the alleged illegal transfer of information, the sensitivity of the information involved in the alleged transfer, and the final disposition of the case. Hopefully, these questions will be answered in upcoming hearings before the House Internal Security Committee's extensive and continuing review of the Federal employee security program.

The letter of confirmation from the FBI follows:

FEDERAL BUREAU OF INVESTIGATION,
Washington, D.C., June 21, 1973.

Hon. JOHN M. ASHBROOK,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN ASHBROOK: Reference is made to my letter dated May 29, 1973, concerning Helmut Sonnenfeldt which advised that I had forwarded a copy of your letter of May 21, 1973, to the Department of Justice reqeusting that you be furnished with any information relating to Sonnenfeldt which the Department is in a position to provide.

Please be advised that by memorandum dated June 13, 1973, the Deputy Attorney General stated that the Department of Justice has no objection to this Bureau verifying to you that in 1959, Stephen Koczak was interviewed by a Special Agent of this Bureau regarding Helmut Sonnenfeldt.

Sincerely yours,
WILLIAM D. RUCKELSHAUS,
Acting Director.

THE VITAMIN CONTROVERSY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. RANGEL. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

INDEPENDENT PHI BETA KAPPA
ENVIRONMENTAL STUDY GROUP,
New York, N.Y., July 9, 1973.

Hon. CHARLES RANGEL,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN RANGEL: According to Food Chemical News of May 14, 1973 the Department of Health, Education and Welfare formally opposed, in a letter to Chairman Staggers of the House Interstate Commerce Committee, the bills sponsored by over 150 House members, which would short-circuit the Food and Drug Administration's proposed Dietary Food Regulations and Standard for Dietary Supplements that will become operative unless Congress intervenes.

Also on May 14th the New York Times published a misleading article which created a diversion from this issue by an attack on one consumer organization responsible for only a part of the extremely heavy mail urging Representatives to prevent actualization of the FDA's plan.

Since in the course of long and costly hearings numerous consumer organizations testified against the FDA proposal and tens of thousands of protesting letters were sent from all parts of the country, while many able scientists in the field registered their opposition, this issue merits clarification.

THE FUNCTION IS SAFETY

The purpose of the Pure Food and Drug Administration was and is to safeguard the nation's food, an increasingly complex and crucial function which, for a number of reasons including special interest pressures, is far from being adequately performed. There is neither a mandate nor a need for rigid, freedom-constricting, scientifically dubious agency control of food supplements with which varied persons desire to enrich their diet.

It should be understood that nutrition is not an exact science, there are many unknowns; nor is there a "scientific-medical fraternity" with a unified approach. Industry-linked scientists such as Dr. Fredrick Stare advise the government in contradiction to the findings of nutritionists like Dr. George Briggs of the University of California who are concerned about Americans' poor nutrition and regard over one-third of chronic illness responsible for 83% of male deaths as diet-linked. FDA dogmatism is therefore unwarranted.

There are only two vitamins commonly used in supplements which have been shown to be toxic in vast amounts, vitamins A and D. An intake over a period of time by adults of 75,000–200,000 international units daily of vitamin A, for example, and about half that amount by children has been responsible for serious harm. Most of the cases in the literature resulted from mistaken therapy by physicians administering these high pharmacological doses, chiefly to arthritis patients and ill-advisedly to children. Vitamin D in correspondingly enormous doses can cause demineralization of bones. Since there are some self-dosing fanatics medical prescriptions for such high pharmacological doses of these two vitamins are justified.

THE PURPOSE OF THE LEGISLATION

The proposed bills would statutorily define "food supplement" as "food for special dietary use," would amend the definition of "drugs" to exclude "food supplements," and would provide that the FDA can not "limit the potency, number, combination, amount or variety of synthetic or natural vitamin or mineral substance or any ingredient of any food supplement unless such article is injurious to health in the recommended dosage. The last provision covers the question of safety, and the whole is consonant with the will of the people to enjoy legitimate freedom of individual choice and protection from injury. As Dr. Leo Lutwak of the University of Southern California has said, "People have few options and food is one place where they have at least the illusion of control."

Commissioner Weinberger's claim that the bills place the onus of proving harmfulness on the FDA is not valid since if harmfulness is suspected in any food supplement ingredient (and there is an ample research and clinical literature) nothing prevents the agency from exacting proof of safety from the product's proponent. Also, a mechanism exists for preventing false claims in labelling or advertising. The truth is that there is no reason for forcing on consumers a whole new system of controls which involves, as will be indicated, harassment and increased expense.

FDA, AMA AND BIAS

As Justice William Douglas has observed, FDA executives pass freely back and forth from high positions in the food industry and the AMA hierarchy. Commissioner Weinberger's letter to Congressman Staggers expresses a familiar obsession that food supplements in non-pharmacological potencies should be viewed as drugs. He states that "there would be especially detrimental effects if the food supplement-drug were intended for use in a serious disease condition," since the consumer "might delay seeking medical attention." The people, however, are not "like the children in the family" and do not need assistance from the FDA in knowing when to go to a doctor.

The FDA has been consistently concerned with protecting the good image of the food industry over its total spectrum from soil to supermarket. Despite considerable contrary evidence, the agency has maintained that the meals of Americans supply all essential food values and supplements are virtually unnecessary. FDA has resisted "the insurance principle" of supplementation. The official view of the AMA is that people should eat balanced diets (they should, although many do not or can not) and should consult a doctor if malaise is experienced—although as Dr. Jean Mayer of Harvard has deplored, medical schools offer little or no nutritional education, so that diet-caused disorders could be overlooked.

WHY TAKE SUPPLEMENTS?

Many nonsensical supplements (and food items) are offered on the market but there are valid reasons why experienced scientists approve "the insurance principle" of even generous supplementation. (1) A sizeable part of the population, as studies have shown, is deficient in nutrients, a few or many. (2) Some people physiologically utilize nutrients inefficiently. (3) Restaurant meals involve more or less loss of nutrients. (4) Most of us live removed from sources of fresh food. In the Department of Agriculture's Books of Foods, for instance, Louise Gray, Ithaca extension researcher, recorded differences of 2½-fold of vitamin C in tomatoes, similar discrepancies in carotene, a 6-fold range of difference in calcium in the same kind of food, wide variations in iron, and so on. (5) Junk foods have invaded the school lunch programs. (6) Losses of nutrients in food processing have been estimated to vary from 10 to 50%. In Modern Food Processing, Mildred Boggs and Clyde Rasmussen observe: "Quality can be lost at almost every step of processing." Vitamins B and C are water soluble and some are thrown away with water. Vitamins A and D dissolve in fat and oil. Contact with air damages vitamins A, C and D. B–1 is destroyed by heat and sunlight, etc. Exposure to sulfur gas processing, fumigation, pesticide treatment and many chemicals take their toll. Four-thousand to five-thousand chemicals are used in food. For these reasons many scientists favor more flexible and ample supplementation than does the FDA.

WHY THE PROPOSAL REQUIRES CONGRESSIONAL INTERVENTION

1. A somewhat limited list of vitamins and minerals, based on the 1968 recommendations of a National Academy of Sciences-National Research Council Committee, with some increases, is the basis for the official FDA list but a *recommendation*—would be converted by the agency into a rigid *rule*.

In the Journal of the American Dietetic Association (February 1964) Dr. R. M. Engel of the Biochemistry Department of Virginia Polytechnic Institute, observes: "The original objective of (the recommendations) was providing guidelines for planning diets for the population . . . was never meant to be applied to *individuals*. . . . Scientific data indicate that individuals vary in nutritional requirements. Therefore, it would be unrealistic to provide an allowance that would insure good nutritional health in every individual."

The FDA is too restrictive.

2. The official list omits some substances widely regarded as valuable. For example, bioflavonoids are found together with vitamin C in natural foods such as lemons, oranges and peppers. The FDA separates them. Pioflavonoids do not appear on the sanctioned list. Other substances such as choline and inositol, important in fat metabolism, might have been included, as might certain trace minerals.

3. Some of the "official" vitamins and minerals have been assigned potencies which many nutritionists regard as unnecessarily low. One example: vitamin C which has helped and never harmed animal or man in moderate or even relatively high concentrations is assigned a range of only 40 to 90 mg., for no fathomable reason.

4. These vitamins and minerals must all appear in all allowable combinations. If other nutrients are desired (and arbitrarily they cannot be called nutrients) they must be bought separately—and only in the decreed potencies.

The net result: A terrible nuisance, an array of bottles to clutter the home and increase the serious environmental solid waste problem—with increased expense for consumers. Many persons, to get the amounts they now take—often on authoritative recommendation, as is the case in our family and among our friends—would have to buy and consume a ludicrous number of tablets or capsules—if indeed the ingredients remain on the market.

5. Any supplement nutrient which is 1½ times the potency assigned by fiat is a "drug." For instance, the small dose of 135 mg. of vitamin C is a "drug."

When such alleged "drugs" could be treated as prescription pharmaceuticals is unclear.

WHY SOME OUTSTANDING NUTRITIONISTS DIFFER WITH THIS RIGID APPROACH

Dr. Roger Williams, universally esteemed nutritionist who identified and synthesized the important B vitamin pantothenic acid, pioneered and researched on folic acid and for over 20 years directed the Clayton Foundation Biologic Institute, a world center of research on vitamins, enzymes and biochemical relationships; author of outstanding books on biochemical individuality:

"Too little is known about the variation of human needs . . . The information that is available in respect to needs for calcium and amino acids, for example, points clearly to the conclusion that 5-fold variations are by no means uncommon . . . In some respects needs can vary as much as 100-fold and in certain instances, even 500-fold."

The McGraw-Hill Handbook of Nutrition (1965), an authoritative work, contains this statement by Dr. Benjamin G. Burton, biochemist and nutritionist:

"Actually there is little justification in nutritional thinking for the concept of average requirements . . . The typical individual is more likely to be one who has 'average' needs with respect to many nutrients but also . . . some requirements for a few essential nutrients which are far from 'average'."

Dr. Emmanuel Cheraskin, physician, doctor of dentistry and nutritional researcher commenting on differences in nutritional requirements from 2 to 10-fold:

"Healthy young men from the same racial stock showed a 4.5 range in individual calcium requirements."

"For this reason perfectly safe nutrients should be taken in excess of the average need as assurance against possible deficiency."

Nobel laureate Dr. Albert Szent-Gyorgy who isolated vitamin C and was awarded the Nobel prize for studies of its metabolism, also discoverer of the bioflavonids. The FDA declines to accept bioflavonoids as vitamins. Szent-Gyorgy says:

"The flavones (bioflavonoids) are vitamins, their deficiency causing cerebral edema and bleeding—this is not opinion but based on extensive research—and they are valuable with vitamin C in preventing colds." Dr. Szent-Gyorgy believes that he has been greatly benefited by the large amount of vitamin C he takes, 2 grams daily. (The FDA ruling would require him to consume 22 capsules or tablets.) Note: These high amounts are not recommended for children. With prolonged use some adults experience a diuretic effect, while others have no side effects.

Dr. Paul Gyorgy who identified and isolated vitamin B–6 and vitamin B–2 wrote in the American Journal of Clinical Nutrition (Oct. 1971):

"As a protective health measure a daily intake of 25 milligrams of vitamin B–6 is desirable." This is almost ten times the FDA allotment. It is doubtful whether the meals of many people would furnish enough vitamin B–6 to assure anything like the protective health measure advocated by this leading authority on the vitamin.

Nobel laureate Dr. Linus Pauling, who was awarded the prize in chemistry, is devoting his efforts to the biochemistry of food. He has denounced the FDA regulations as unjustifiable:

"The proposal would limit the freedom of the American people . . . with disadvantages to the people."

FOR THESE AND OTHER REASONS

Legislators should not be dissuaded from protecting the public by statutory intervention from a rigid, oppressive and needlessly expensive regulation in a field conspicuous for wide differences of opinion.

It is also high time that informed representatives of the public should participate directly, on a mandatory basis, in decision-making crucially affecting the people.

In multiple ways government science now militates against the freedom and welfare of the citizens-and-taxpayers.

ELISE JERARD, *Chairman.*

[From the Washington Post, Feb. 16, 1973]

CANCER RISKS IN FOOD

A private financed commission was formed yesterday to study food additives, pesticide residues and other contaminants, and food spoilage. The commission will attempt to develop risk/benefit guidelines in these areas.

Commission findings would presumably be applied in the controversy over the U.S. law prohibiting cancer-causing additives in food—the so-called "Delaney Clause."

Sponsors of the organization include the Rockefeller Foundation, the Macy Foundation, National Science Board, Nutrition Foundation, and Food and Drug Law Institute.

The study will be conducted by internationally recognized authorities.

The announcement was made at a press conference yesterday afternoon called by the Nutrition Foundation, which is supported by the food industry.

A spokesman for the foundation said the Citizens Commission on Science, Law and Food Supply will be supported by initial contributions of about $500,000.

Asked after the conference why such a study should not be handled by the Codex Alimentarius Commission—a group set up by more than 90 governments, including the United States, to develop uniform standards for food safety the FDA dodged the question. Various doubts concerning propriety appeared to be involved in this lavishly financed enterprise—$500,000 initially—led by Nutrition Foundation, which is backed by the food industry, and other involved parties. The use of the name "Citizens" Commission is certainly questionable. The need to gather "internationally recognized authorities" to discuss matters which have already been thoroughly scrutinized, leads to some suspicion of bias, inasmuch as the Food and Drug Commissioner and members of the Nutrition Foundation and the food industry have repeatedly demanded that "safe tolerances" be assigned for potential cancer causing substances in foods. Ever since the anti-carcinogen clause was incorporated into the food law the same industrial and bureaucratic elements have been gunning for the so-called Delaney Clause.

A CAUTIOUS DISSENTER IN THE FDA

A memorandum opposing any change in the clause from Alan T. Spiher, Jr., presently Chief of the "generally recognized as safe" review branch in the Division of Petitions Processing at FDA, was made public in hearings recently released by the Select Committee on Nutrition and Human Needs (See Food Chemical News, Feb. 19, Page 27).

Spiher's memo dealt with a revision being considered by the Department of Health, Education and Welfare late in 1969 that would have permitted use of a carcinogenic food additive, after study by experts, where the observed effect "raises no substantial question of safety under the proposed conditions of use."

In his memo, the FDA-er complained that any attempt to change the clause represents "a serious misunderstanding of the intent of the law and the need for conservatism in protecting public health," adding: "No scientific breakthroughs have occurred in understanding cancer or learning whether there is in fact a finite level for a carcinogen below which no effect can be expected." He also argued with the contention that the Delaney clause "leaves no room for scientific judgment."

THE ENVIRONMENTAL PROTECTION AGENCY'S PLANS FOR THE NATION'S CAPITAL MAY BE DANGEROUS TO YOUR FREEDOM

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Mr. ASHBROOK. Mr. Speaker, the Environmental Protection Agency—EPA—has ordered several cities and metropolitan areas to purify their environment by reducing the use of private automobiles.

Some of the data used to justify this drastic step is questionable and the loss of personal freedom resulting from implementation of this "cure" may be worse than the illness.

Brought to their logical conclusion, many of the EPA's recommendations would wreak havoc in the Nation's major industry—producing and selling automobiles—and the host of other industries from steel to transportation dependent upon Detroit's activities.

In Los Angeles, the EPA urged severe limitations on auto use through gas rationing and other devices. Politician and populace rose to decry this folly and to announce it never would be allowed to happen.

In another city, the EPA proposed that cars display stickers of various colors that would show on which day that city's representative government would deign to allow people to bring their private property—cars—into town.

On July 24, the EPA will issue another in its series of infamous edicts, this one for the District of Columbia. It will be based on recommendations received earlier this month from Virginia, the District of Columbia and Maryland, responding to the same noxious statute that established the EPA.

People living in the Capital of this supposedly democratic republic who own cars would be required to display a sticker on their vehicles attesting to their residence and their right to park on city streets.

Nonresident motorists without the sticker would be barred from parking on some or all Washington, D.C. thoroughfares. Details as to times of day, days of the week still are being studied.

Obviously, nonresident motorists would have to use commercial parking facilities or the limited number of free parking lots. But under the EPA proposal, there would be a $2 parking tax added to the current fee at commercial facilities.

Finally, free parking would be eliminated for Federal employees.

This is an absurd plan fraught with fascistic overtones that I find impossible to accept. It would create a bureaucratic complex of as yet unknown proportions and a Government-created windfall for commercial parking concerns, as well as the likelihood of a black market for resident parking stickers.

I cannot believe that the general public in the District of Columbia and the metropolitan area—including thousands of Federal employees, many already seeking early retirement rather than suffer further Federal service—or Senators, Representatives, Cabinet officers, their staffs or the millions of visitors here will appreciate further abridgement of their freedom through such schemes.

I am as much in favor of preserving the environment as anyone, but I want to see substantive scientific evidence of the causes of environmental degradation and well-reasoned solutions that can stand the rigor of scientific inquiry.

It is this continuing aura of science about the EPA that is disturbing. Its enveloping pronouncements are pasted together by scientists beholden to government for their funds and positions.

Where is the scientifically derived data from experts working outside government to support EPA orders?

The shrieks of environmentalists at every request for technological improvement of the human condition also are becoming intolerable. Man is capable of taming his environment and making life easier, not the other way around that proposes that man is at the environment's mercy.

Our current crisis over fossil fuel results, in part, from the environmentalists' successful efforts to block development of alternate energy sources.

Farmers and dairymen should keep watch for EPA inspectors carrying emission control devices.

According to "EPA Log," an agency publication, "Burping cows must rank as the number one source of air pollution in the United States." Studies by ecologists, the "Log" continues, show that "the Nation's cows burp 50 million tons of hydrocarbons into the air each year."

PUBLIC DISCLOSURE OF HOSPITAL FINANCING

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1973

Ms. ABZUG. Mr. Speaker, "More than 90 percent of hospital income is from third party or public sources. The public has a right to know where its money goes."

This is one of several valid arguments presented by Hospital and Drug Employees Local 1199, for full financial disclosure and stricter regulation of the country's hospitals.

I insert in the RECORD an article recently published in 1199 News, entitled: "Hospital Finances: A Deep, Dark Secret."

The article follows:

HOSPITAL FINANCES: A DEEP, DARK SECRET

The cloak of financial secrecy that clothes America's hospital industry is damaging to the entire health field and must be ripped away.

Mounting evidence to back up this position has led concerned observers across the nation to call for stricter regulation of the country's 7,093 hospitals.

A key demand is one that has long been advocated by Local 1199: full public disclosure by hospitals of their finances.

Reasoning behind this demand is threefold:

More than 90 percent of hospital income is from third-party or public sources. The public has a right to know where its money goes.

As long as hospital costs are shrouded in mystery, public misconceptions will flourish about the impact of higher wages for hospital workers.

Dramatic reports publicizing misuse of funds by individual hospitals will continue to smear the entire industry until hospitals start operating in a fishbowl financially.

The New York State Legislature passed a bill last month that at least on the surface gave the appearance of recognizing the need for financial disclosure by voluntary hospitals. The bill was sponsored by two Republicans, Senator Tarky Lombardy, chairman of the Senate Health Committee, and Assemblyman Milton Jonas. It awaited Governor Rockefeller's signature in early June.

The Lombardy-Jonas bill requires all voluntary and proprietary hospitals to file a financial report annually with State Health Commissioner Hollis Ingraham.

But Local 1199 Pres. Leon J. Davis feels there are a number of areas where the bill does not meet the public interest.

Davis feels the measure should be more emphatic in provisions concerning public disclosure of information submitted to the commissioner of health. As written, the bill says such information shall be made available to the public "under such conditions as the commissioner shall describe."

Davis feels the bill should have required greater itemization of hospital costs, particularly administrative and medical staff salaries. As written, the bill would allow reports of salary totals by department without figures on what individuals receive.

Davis also feels hospitals should be required to file fuller information on the occupational and business interests of members of hospital boards of trustees. This would simplify detection of possible conflicts of interest by trustees.

Supporting evidence for the argument that hospitals should open their books to the public was presented in detail in a six-part Washington Post series last fall by reporter Ronald Kessler.

Studying financial abuses at Washington Hospital Center, Kessler discovered:

Rampant conflict of interest in financial dealings of administrators and trustees.

Astonishingly high incomes of up to $500,000 a year for radiologists, anesthesiologists and pathologists, many of whom receive a percentage of the profit of the departments they operate in voluntary hospitals.

Chaotic accounting systems in which prices in some departments such as pharmacy are doubled to make up for losses in other departments.

Duplication of expensive, prestige facilities. For instance, six Washington hospitals can perform open heart surgery, but experts believe such facilities in two D.C. hospitals would be entirely adequate. In fact, with duplicated facilities the limited use each facility gets creates a danger for patients because of under-used equipment and out-of-practice staff.

The Post series stirred up a hornet's nest. Senator Edward M. Kennedy commented:

"The troublesome aspect of these stories is the danger that the situation described in them is probably not unique to the Washington Hospital Center, but may exist on a widespread basis elsewhere."

Richard J. Davidson, executive vice-president of the Maryland Hospital Association, was obviously shaken by the Post revelations. He informed his 55 member hospitals that many of them are guilty of the same sort of conflict of interest, favoritism and lack of competitive bidding that was exposed in the Washington stories.

"If there is even one trustee on your board who personally benefits . . . from his relationship to your institution, you need to know it and you need to end it," Davidson told the Maryland hospitals. He added that such abuses constitute "a malignancy in this industry."

Profiteering by some doctors and administrators and lax money management are not the only arguments for hospital financial disclosure.

Local 1199 filed suit in 1971 in New York State Supreme Court to force financial disclosure of hospitals such as Adelphi and Roosevelt in New York City. The 1199 suit charges Adelphi and Roosevelt "spent untold sums in their efforts to defeat Local 1199." Anti-union activities in election campaigns at Roosevelt and a strike at Adelphi involved "extravagant non-health-related expenditures" that came ultimately from the public's pocket, charged 1199. Yet the hospitals were able to conceal from public view the amounts spent for anti-union legal, public relations and security expenses.

A more recent example of hospital extravagance in anti-union activity came in the 159-day National Hospital Union strike that ended this April at Massachusetts Rehabilitation Hospital in Boston. The hospital told the Boston Globe last month that the strike cost it $900,000 worth of business lost plus another $200,000 spent for security and police. National Hospital Union Exec. Vice Pres. Elliott Godoff estimates another $100,000 was spent by the hospital for public relations and legal fees. The hospital claims the eventual contract settlement costs it about $60,000 per year.

The more than one million dollars spent by the hospital in fighting the union eventually comes from the public pocket.

It is this aspect of hospital financing that has drawn fire from such officials as Pennsylvania Insurance Commissioner Herbert S. Denenberg. "There is no policing of hospitals or health care. It's really incredible," says Denenberg. "Probably the area where the consumer gets the biggest screwing is health delivery."

This is made possible because of the cost-plus basis on which most hospitals are run. Nine out of ten consumers pass their health care costs on to a third party such as Blue Cross, Medicaid or Medicare.

"The doctors and hospital people . . . want everybody to behave like a patient and to roll over and play dead and do what they're told," says Denenberg.

In line with this attitude has been the position of voluntary hospitals on disclosure.

"There is a deliberate conspiratorial effort by hospitals to refuse to disclose their finances to the public," charges 1199 Pres. Davis.

A side effect of financial secrecy by the hospitals is public misconceptions that hospital workers are responsible for rising hospital rates.

In fact, a 1969–1972 study by Humanic Designs Corporation of New York hospitals reveals that the major component of increasing personnel costs is in supervisory and administrative salaries. Non-supervisory workers accounted for only 28 percent of the increased personnel costs during the period studied. Supervisory non-union personnel accounted for about 40 percent of total hospital employment in the institutions studied, and yearly earnings in this category clustered between $19,325 and $23,950.

Hospital costs have also been driven upward by the increasingly intensive and technical nature of hospital care.

Another major component of rising health personnel costs is simply numbers. America's hospitals now employ 2.5 million workers and the figure is growing rapidly. The number of hospital workers increased at a rate of 24 percent between 1955 and 1968.

During the same period, reports Harvard economist Martin S. Feldstein, labor's share of total U.S. hospital costs dropped from 61.7 percent to 59.6 percent.

While labor costs were dropping, the public may well wonder what kind of hospital costs were increasing. In the absence of financial disclosure by the hospitals, no one can be blamed for suspecting the worst.

SENATE—*Monday, July 23, 1973*

The Senate met at 10 a.m. and was called to order by Hon. QUENTIN N. BURDICK, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Dear Lord and Father of mankind, we lay before Thee the solemn duties committed to our hands by the will of people. In the light of Thy presence keep our hands clean and our hearts pure. Above all lesser loyalties may our highest loyalty be to Thee and to Thy law. Hour by hour may our ruling passion be to do justly, to love mercy, and to walk humbly with our God. In these days of trouble and confusion grant us serene and confident spirits to do well the work we have to do for the good of all.

We pray in the name of Him who walked before us with a loving heart. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 23, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. QUENTIN N. BURDICK, a Senator from the State of North Dakota, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. BURDICK thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, July 20, 1973, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so orderd.

WAIVER OF THE CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rule VIII, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AN OBSERVATION

Mr. SCOTT of Pennsylvania. Mr. President, I merely observe that this week is a clean slate for the Senate and I hope that what we inscribe upon it will not only be legible but will also make sense, that it will serve to advance the interests of the Nation, that it will increase respect for the Senate, that it will magnify our works before the people, and that we will be granted forgiveness for any errors we may commit during this 7-day period.

I also hope that all of us may proceed with amity and brotherhood in a constructive approach to the betterment of those whom we are designated, through the franchise of the people, to serve.

May our service be worthy. May we deserve well of the Republic.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Iowa (Mr. HUGHES) is now recognized for not to exceed 15 minutes.

INVESTIGATION OF SECRET CAMBODIAN BOMBING—A PRELIMINARY REPORT

Mr. HUGHES. Mr. President, a number of my colleagues have asked me for information on various points relating to the recent disclosure of secret airstrikes in Cambodia and the falsification of reports to conceal them.

While controversial in its aspects, this is a subject that cuts across political administrations, party lines, and positions of personal bias relating to our national security. It raises profound questions concerning the future of our country and its civilian, democratic rule as set forth in the Constitution. In this, whatever our other differences of opinion, we share common concern.

Since coming to the Senate, I have consistently pressed for maximum disclosure, consistent with the safety of our troops in the field and the security of delicate diplomatic negotiations, of the facts of the conflict in Southeast Asia. This is born of the conviction that if we are to pursue peace or prosecute continuing war, the people and the Congress should have a clear vision of the direction in which the Nation is moving.

If the military and/or its civilian command obscures this clear vision of Congress and the public, we encounter the danger of private or secret warfare that, however well intentioned, is subversive of the constitutional processes.

This, as I see it, is the basic point at issue in the current investigation by the Senate Armed Services Committee into secret bombings and falsification of official reports in Indochina.

You will recall the shock of the American people a few years ago when they learned, from American newsmen, that we had been conducting a secret war in Laos. Now we have learned that we were waging a secret war in Cambodia before the invasion of that country and at a time when we were officially proclaiming its neutrality.

In March of 1969, the United States began sending B–52's to bomb inside

Cambodia. According to Defense Secretary Schlesinger:

> These air operations across the border . . . were fully authorized. The authorization was made after careful consideration and upon determining that the air operations were in the interest of United States objectives in South Vietnam, particularly for the protection of lives of Americans serving in our forces there.

No public announcement was made of this extension of the war into Cambodia. Congress was not asked to approve or authorize this escalation and not officially informed of it even through classified channels, although it is now reported that a few Members of Congress were privately told that the bombing had begun.

On April 16, 1969, President Nixon pledged to recognize and respect the sovereignty, independence, neutrality, and territorial integrity of Cambodia.

This same month, U.S. B-52 strikes in Cambodia were double what they had been in March. The same level of bombing was maintained in May and then doubled again in June.

On May 9, 1969, the New York Times carried a story reporting that the United States had been conducting B-52 strikes in Cambodia. One reason for these strikes, according to the Times, was "a desire by high Washington officials to signal Hanoi that the Nixon administration, while pressing for peace in Paris, is willing to take some military risks avoided by the previous administration."

During 1969, U.S. planes conducted 2,406 sorties against targets in Cambodia, dropping 68,881 tons of munitions.

In the first months of 1970, the United States sent over 300 B-52 sorties into Cambodia each month.

On March 18, Prince Sihanouk was removed as chief of state by unanimous vote of the Cambodian Parliament.

On March 20, according to the New York Times, Vietnamese representatives at the Paris peace talks accused the United States of seeking to widen the Vietnam war.

On April 5, according to a Foreign Relations Committee staff report—

> Two South Vietnamese battalions penetrated 10 miles into Cambodian territory. An American spokesman said there had been no U.S. support for the operation.

During the month of April, U.S. B-52's flew 334 sorties into Cambodia.

On April 30, President Nixon announced the American invasion of Cambodia. In that nationwide broadcast, he said:

> American policy since then (1954) has been to scrupulously respect the neutrality of the Cambodian people.
>
> North Vietnam, however, has not respected that neutrality.
>
> For five years, neither the United States nor South Vietnam has moved against these enemy sanctuaries becasue we did not wish to violate the territory of a neutral nation.

In May, the United States flew 350 B-52 sorties into Cambodia, only 16 more than in the month just prior to the President's April 30 speech.

Mr. President, in January of 1971 I was honored to be appointed to membership on the Committee on Armed Services.

Because of my deep, continuing concern about the course of the war, I began, as a member of that Committee, to assemble information on the war that had not previously been generally known.

I have previously reported to the Senate on matters such as protective reaction strikes over North Vietnam, efforts to obtain declassification of bombing statistics no longer within the rational confines of security information, and the many issues involved in the unauthorized bombing of North Vietnam by forces under the command of Gen. John Lavelle.

My interest focused primarily on the air war—that part of our military operations that was devastating the countryside and maiming and killing civilians, while seemingly having limited effect on the capability of the other side to rally its forces and supply them with war materiel.

On March 31, 1971, when Air Force Secretary Seamans came before the committee to testify, I submitted for written response for the committee record a question about the bombing sorties and tonnages for fighter-bombers and B-52's, by month and by country.

As to B-52 sorties and bomb tonnages in Cambodia, the classified Air Force report to the committee listed a series of zeroes in both columns, from the beginning of the table of statistics through April of 1970, indicating no raids had been made.

As Senators know, the Defense Department has now admitted that those figures were false—that, in fact, there were 3,630 B-52 sorties which dropped nearly 104,000 tons of bombs on Cambodia in the 14 months prior to May of 1970.

In 1973, with a "cease-fire" signed and the last of our ground troops coming home. I asked for a full recapitulation of the figures on the air war, by month and by country.

In mid-May, the Defense Department forwarded to the Armed Services Committee a classified 83-page table of statistics, dating from January 1965 through March of 1973.

For B-52 sorties and bomb tonnage in Cambodia, there was another long string of zeroes from the beginning of the table through April of 1970—another falsified report for the record and files of the Senate Armed Services Commitee.

Pressed to declassify the tables, Secretary of Defense Richardson agreed, and, on July 19, a declassified table was provided the committee and printed in the committee hearings on the Nation's defense posture. In this version, the spaces occupied by zeroes in the classified versions to which I have alluded were left blank.

On July 12, the committee received the nomination of Gen. George S. Brown as Air Force Chief of Staff. On reviewing his biography, I noted that he had been commander of the 7th Air Force and General Abrams' Deputy for Air Operations at MACV headquarters, from August of 1968 to August of 1970.

In my possession was a letter from Maj. Hal M. Knight, Jr., referred to me by Senator PROXMIRE, to whom it was originally addressed, alleging that during the time of General Brown's service in Vietnam, official poststrike reports on B-52 raids in Cambodia had been falsified.

I instructed my staff to locate Major Knight, to determine whether any of his information would bear upon General Brown's qualifications to be Chief of Staff, and apprised Senator SYMINGTON, acting chairman of the committee, of this new development.

On the basis of Major Knight's story, related to my staff by phone the evening of July 12, and on the basis of a White House statement that a leak to the New York Times about B-52 raids on Cambodia in 1969 led to the secret surveillance of certain newsmen and White House staff members, I asked General Brown in open hearing of the Armed Services Committee on July 13 whether, in fact, the United States had bombed Cambodia prior to May 1970. He declined to answer in open session and the committee heard his testimony in private.

The substance of his testimony was, as acknowledged later in letters from General Brown and Defense Secretary Schlesinger, that such raids were conducted in the 14 months prior to May 1970. He stated that he knew of the raids but had no role in the B-52 operations and, therefore, no knowledge that operational reports had been falsified. On the basis of his sworn testimony, I supported his nomination which was confirmed by the Senate on July 14.

Major Knight was called to testify before the committee on July 16. He told of being the operations officer of one of our highly specialized radar sites that guided B-52's to their targets and timed the release of their bombs.

On 20 to 24 occasions between February and May of 1970, Major Knight said, an Air Force officer flew to his radar site in an Army aircraft and delivered a sealed envelope of targeting orders for raids in Cambodia. Using these target coordinates, his radar crew guided the B-52's to their Cambodian targets.

Afterward, Major Knight testified, he and his men prepared poststrike reports, inserting target coordinates for sites in South Vietnam. The written reports, containing the false target coordinates, were sent by secure mail to a Strategic Air Command unit in Saigon. Major Knight then phoned the SAC unit, reported mission accomplished, and, in accordance with orders, burned all of the computer tapes and records that contained the true information about the targets hit by the B-52's.

In rapid succession last week, administration spokesmen made the following admissions: That there had been 3,630 B-52 sorties into Cambodia in these 14 months; that false reports on those bombings had been submitted to the Senate Armed Services Committee; that the decision to deceive the committee had been made by Deputy Secretary Clements and Admiral Moorer, Chairman of the Joint Chiefs of Staff; that in an effort to conceal the Cambodian bombing, at least two reporting channels were established: one to convey accurate information on the targets hit, and another to convey the notion that the targets were in South Vietnam; that the order to falsify the more widely distributed reports originated in the Strategic Air Command, but this was later corrected by the Pentagon spokesman to fix the responsibility on some official in Washington; and that the Cambodian B–52 raids were discussed by the National Security Council, authorized by the then Secretary of Defense Melvin Laird, and approved by the President.

Since then, there have been other public statements from the Pentagon, including one expressing regret over the falsification of reports to the Armed Services Committee.

Former Defense Secretary Laird, General Wheeler, and Mr. Kissinger have publicly disavowed knowledge of the falsification of official reports and have deplored the practice.

Mr. President, in this report to my colleagues, it is not my intention to pass judgment on any individuals or agencies of our Government, but, rather, to lay out the facts now on record in proper sequence and to point out the profound danger which this pervasive pattern of official secrecy and deceit poses to the survival of our constitutional, civilian-controlled system of government.

The fact that these massive military operations and widespread falsifications of official reports could be kept secret so long convinces me that in this jungle of secret warfare and official deceit, there are unchartered depths, perhaps more frightening than what has yet been disclosed, to be brought to light.

I have confidence that we will now get at the truth, thanks to the courage leadership of Senator SYMINGTON and the dedication and good faith of the members of the committee.

For my own part, I deeply believe that the peril to our free institutions created by those practices of official deceit and secret warfare are more ominous than any problem confronting our country.

Whether in military uniform or civilian garb, no group within our society, however well-intentioned, can be permitted to make the momentous decision to wage secret warfare while officially deceiving Congress and the public. This, as history abundantly confirms, is the way that free nations under civilian governance eventually forfeit their freedom.

In closing, I am moved to pay my personal tribute to the few men, of the hundreds or thousands who participated in these unauthorized bombings and falsification of reports, who have had the courage to step forward and make these facts known. I refer to such individuals as Airman Lonnie Franks, who was instrumental in exposing the Lavelle case, and Major Hal Knight, who volunteered to testify on the secret Cambodia bombings.

Major Knight summed it all up better than anything I could say in his recent testimony before the Armed Services Committee. He said:

> I didn't take an oath to support the military, I took an oath to support the Constitution.

Mr. President, I ask unanimous consent that several recent newspaper articles relating to this matter be printed at this point in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, July 22, 1973]

FALSIFYING MILITARY RECORDS

(By Seymour M. Hersch)

WASHINGTON.—It always seems to begin with conviction and misspellings. There was ex-G.I. Ronald L. Ridenhour's description of My Lai 4. Then Airman Lonnie D. Franks told of Gen. John D. Lavelle's unauthorized bombings of North Vietnam.

This time it was a former Air Force major, telling a Senator how he participated in the falsification and destruction of official documents in connection with yet another secret war in Southeast Asia—this one involving 100,000 tons of B–52 bombs in Cambodia.

"The end result was that we reported strikes in South Vietnam when they were actually in Cambodia," wrote Hal M. Knight of Memphis. "I ask why we had to fake the reports and I was told it was necessary for political reasons. It was obvious to me that the practice was so widespread and so many people were involved that it could not have been done unless the authority had come from a very high source."

"I am not opposed to the war but I believe that full disclosure is necessary for the people of this country," wrote Mr. Knight, who is 37 years old and now a graduate student in history. "It is my firm conviction that the American people, through their elected representatives, have the right to know how the war has been conducted."

Mr. Knight's letter was written last January, and eventually found its way to Senator Harold E. Hughes, the Iowa Democrat who had been instrumental in organizing last fall's Senate Armed Services Committee hearings into the Lavelle bombings.

On Monday, Mr. Knight told his story before the committee, including a description of how he destroyed the secret orders for the flight after the missions had been flown.

The Pentagon admitted it had conducted 3,630 previously unannounced sorties over Cambodia between March, 1969 and May, 1970, when the Cambodian invasion took place. The White House acknowledged that President Nixon and his top advisers had personally authorized the bombings, which were kept secret from the American people. But the raids failed nonetheless to drive the Vietcong from their sanctuaries and entrenched bases along the Cambodian-South Vietnam borders.

Then the Pentagon conceded that falsified reports, depicted as a "double-entry" bookkeeping system, were made to hide the secret raids from the military's own internal reporting system. Finally, it was acknowledged that two classified reports sent to the Senate Armed Services Committee in 1971 and earlier this year included the falsified documents. The documents did not list any B–52 raids at all during the 14 months the B–52s were staging almostly nightly attacks.

The disclosures seemed certain to harden Congressional resolve to end the Cambodian bombing by Aug. 15, the deadline accepted by the President in a compromise agreement with Congress. The suggestion was made by Mike Mansfield, the Senate Majority Leader, who said this week that the falsification would "make it difficult if not impossible, to get an extension." Senator Hugh Scott, the Republican leader, similarly said that, although the White House had not yet indicated it would seek an extension of the bombing deadline, any attempts to do so "will be affected by these revelations."

By week's end, three distinct issues had been isolated by Senator Hughes and Stuart Symington, the acting chairman of the Armed Services Committee who joined in expressing his outrage over the deceptions and the lies, Mr. Symington has scheduled full-scale hearings into the secret Cambodian air war, which will deal with the following:

The White House's basic decision to bomb and say nothing at a time the United States was officially professing its respect for Cambodia's neutrality. Mr. Nixon's personal credibility will be at stake, in light of his assurance to the American people on April 30, 1970, the eve of the Cambodian invasion, that "for five years neither the United States nor South Vietnam has moved against enemy sanctuaries (in Cambodia) because we did not wish to violate the territory of a neutral nation."

The military's decision to permit falsified data to be entered into its reporting system, a revelation that seemed to disturb some Senators more than any facet of the inquiry. "This is a totally dishonorable act," proclaimed Senator Hughes. At least three of the top Nixon Administration officials who were involved in making the initial bombing decision in 1969—Dr. Henry A. Kissinger, the President's National Security Adviser; Former Secretary of Defense Melvin R. Laird, and Retired Army General Earle G. Wheeler, the former chairman of the Joint Chiefs of staff—disavowed knowledge of the falsification and denounced it. Mr. Kissinger said of the falsification: "I think it's deplorable."

The deception and deliberate lying to the Senate committee in connection with the Pentagon-supplied reports that did not show the bombing. The Pentagon spokesman, Jerry W. Friedheim, suggested that some members of the committee had been briefed, but at least one of those so named, Senator Symington, denied any knowledge of the extended, 14-month bombing program. "This represents the very basis of democracy and control of the military itself," said Mr. Hughes, who spoke out on the issue throughout the week.

There were a number of mysteries yet to be unraveled, including the question that went begging all week here: How could the military have managed to hide something as awesome as more than 3,600 B–52 strikes in the middle of a not very popular war? Of course, the false reports may have eased this problem somewhat, but still there were the hundreds of B–52 pilots and crewmen who knew they were bombing Cambodia, the technicians who handled the special post-strike photo reconnaissance, and the Army G.I.'s who fought in areas near Cambodia and—as some reported last week—could hear the nightly B–52 raids across the border.

Adding to the mystery is the fact that The New York Times, despite the security, managed to learn about the secret missions and report on them, in May, 1969—barely two months after they began. For all of its importance to high-level officials, the dispatch passed almost unnoticed in Washington, and was not publicly recalled at the time of Mr. Nixon's invasion the following May.

And so it was left to Mr. Knight, a squat, heavy-set man who, like Ron Ridenhour and Lonnie Franks, did not want to be a hero. At one point during his four hours of testimony this week, his motives and loyalties were sharply challenged by Senator Strom Thurmond, the South Carolina Republican who still is an avowed hawk on Vietnam.

"Sir," Mr. Knight told the Senator, "I didn't take an oath to support the military; I took an oath to support the Constitution."

He told how he destroyed the specially flown-in orders on the morning after each Cambodian raid in a burner at the radar site which served to electronically guide the high-flying B–52's to their targets. He told how he then processed cover orders indicating that the missions were flown over South Vietnam and regularly forwarded them to higher headquarters.

"I talked to other guys over there about it and it was very frustrating," recalled Mr. Knight in an interview. They'd say, 'We gotta do it.' I began to wonder whether I was the only sane guy over there or else everybody else was crazy. I was just out of step."

[From the New York Times, July 23, 1973]

PENTAGON HORRORS

A Senate investigation into secret bombing raids in Cambodia is beginning to unravel another sordid tale of cover-up by the Nixon Administration, of contempt for the truth, the law and the Constitution by military and civilian officials extending to the highest levels of Government.

Pentagon horrors exposed by the Armed Services Committee so far include the deliberate falsification and destruction of records in the military's own internal reporting system. These involved fourteen months of heavy, sustained bombing of Cambodia between March 1969 and May 1970, when United States and South Vietnamese troops openly invaded that country. The Pentagon then provided Congress, in 1971 and again just last month, with reports falsely indicating that no such bombings had ever taken place.

The Pentagon has already offered several conflicting versions as to the source of authority for the cover-up. There is no question, however, that the falsification and destruction of records did take place in evident violation of military law. Gen. George S. Brown, the recently named Air Force Chief of Staff who was then chief of air-operations in Southeast Asia, says the cover-up was "in accord with instructions" from higher authority. This is the same plea that was made last year by General Brown's successor in Saigon, Maj. Gen. John D. Lavelle, who was demoted and retired for falsifying reports on subsequent "unauthorized" raids against North Vietnam.

The Cambodian disclosures suggest the need for a thorough re-examination of the Lavelle case as well as a relentless inquiry to determine the identity of all of those responsible for the Cambodian cover-up. Such a search—for those who knew, or those who should have known and who therefore share responsibility—could extend to the highest reaches of the Pentagon, including both military and civilian officials.

Although Henry Kissinger insists that the White House "neither ordered nor was it aware of any falsification of records" on the secret bombing, the President himself is clearly implicated. It has been acknowledged that Mr. Nixon authorized the bombings and urged "special security precautions." If the White House did not prescribe the mechanics of the cover-up, it certainly gave a green light for some form of deception, aimed at misleading not only the world public through statements to the news media, but also deception in official responses to inquiries by the Senate Armed Services Committee. "Obviously it was a blunder of some magnitude," admitted the official Pentagon spokesman last week.

The "blunder" was not confirmed to the ranks of muddled bureaucrats. The President himself contributed directly to the falsified record when he told the American people on April 30, 1970, on the eve of the Cambodian invasion: "For five years, neither the United States nor South Vietnam has moved against these enemy sanctuaries [inside Cambodia] because we did not wish to violate the territory of a neutral nation."

[From the New York Times, July 21, 1973]

DURING SECRET BOMBING IN CAMBODIA, U.S. OFFICIALS SAID THEY OPPOSED IT

(By Robert D. McFadden)

Throughout the clandestine American bombing of Camodia from March, 1969, to May, 1970, United States officials repeatedly and emphatically insisted that American policy was to respect the neutrality, sovereignty and territorial integrity of Cambodia.

Long after the raids had begun, high State Department officials said that they strongly opposed any air or ground attacks in Cambodia. And while military officials made no secret of their desire for such raids, the Nixon Administration repeatedly indicated that they were not even under consideration.

At the end of the secret 14-month campaign, after American B–52's had made 3,630 raids and dropped more than 100,000 tons of bombs on what were believed to be Communist supply and staging areas in Cambodia, President Nixon— who had authorized the secret bombing—went on nationwide television on April 30, 1970.

A NEUTRAL NATION

In announcing his decision to send United States troops into Cambodia then, he declared:

"For the past five years—as indicated on this map that you see here—North Vietnam has occupied military sanctuaries all along the Cambodia frontier with South Vietnam. For five years, neither the United States nor South Vietnam has moved against those enemy sanctuaries because we did not wish to violate the territory of a neutral nation."

Because the sustained bombing campaign, which took place in a remote jungle area, was not public knowledge while it was under way, spokesmen for the President, the State and Defense Departments and the military commands in Southeast Asia never had to confront direct questions about it. Instead, numerous officials misled the press and public indirectly, a check of news accounts of the period indicates.

On March 25, 1969, nearly a month after the bombing began, Ronald L. Ziegler, the White House press secretary, denied reports from Saigon that President Nixon was considering air or ground raids into Cambodia.

On May 9, despite the Administration's secrecy, The New York Times quoted "knowledgeable sources" in the Nixon Administration as having said that B–52's had "raided several Vietcong and North Vietnamese supply dumps and base camps in Cambodia for the first time." But there was no indication at that time or in the ensuing year that the campaign of bombing was extensive or sustained.

Rather, the Administration sought repeatedly to give the impression that it did not want to become militarily involved in Cambodia. It even laid down rules of engagement that prohibited American troops from "hot pursuit" of Communist forces across the Cambodian border, though some artillery and small-craft air strikes were permitted inside Cambodia and called "protective reaction."

DIPLOMATIC TIES RESUMED

The United States sent a charge d'affaires to Phnom Penh in July, 1969, to resume diplomatic relations broken four years earlier after Cambodia complained of American air attacks on her territory. On the occasion of the charge's arrival, an American diplomat told a reporter:

"The Americans are making respect for Cambodia's borders and sovereignty, which they so long withheld, the keystone of their new policy."

Although Prince Norodom Sihanouk, who was then Cambodia's Chief of State, repeatedly protested United States incursions into Cambodia, he never publicly complained—or indicated that he knew about the American B–52 raids.

UNITED STATES APOLOGIZED IN 1970

After a number of incursions by American jets, the United States Government formally apologized to Cambodia on Feb. 20, 1970, over the deaths of about 35 persons in an air strike directed at a Vietcong position.

A note by the United States charge in Phnom Penh, Lloyd M. Rives, expressed concern over violations of Cambodian neutrality. Similar sentiments were expressed by senior American officials in Saigon and Washington on March 27 over a Cambodian incursion by a battalion of South Vietnamese Army troops with American gunship support.

"The South Vietnamese never informed us of the operation or asked for our approval, probably because they knew in advance what our answer would be," said an American official in Saigon. He added: "Coming so quickly after President Nixon's statements about limiting American involvement and respecting Cambodian neutrality, we would have had to say no."

In Washington, spokesmen for the White House, the Pentagon and the State Department on that occasion all strongly reaffirmed that it was a United States policy not to widen the war. Specifically, they said American forces were allowed to fire into Cambodian territory only in self-defense.

At about the same time, as the Government of Prince Sihanouk was falling in a coup d'état that brought Marshal Lon Nol to power, the question of American military aid to the Cambodian Government arose again.

Though Marshal Lon Nol said at one of his earliest news conferences that he would accept aid in the struggle with Communist troops on Cambodian soil, the State Department later said that it had received no request for help. Still later, Cambodia said she needed no help.

The possibility that Cambodia would seek American military help in late March, 1970, was viewed by United States diplomatic sources in Saigon as presenting the Nixon Administration with a "fantastic can of worms." At that time this same diplomat said: "The last thing the Administration wants to do right now is widen the war."

U.S. ACTION WAS ASKED

By the end of March, however, Marshal Lon Nol, who was then Premier, was in fact hinting broadly that United States bombers had been heavily pounding Cambodia for nearly a year—to urge President Nixon not to extend military aid and thus become more deeply engaged in Southeast Asia.

Ultimately, however, President Nixon did send United States troops into Cambodia for a time. His April 30 announcement included these passages:

"Cambodia has been a neutral nation since the Geneva Agreement of 1954—an agreement, incidentally, which was signed by the Government of North Vietnam. American policy since then has been to respect scrupulously the neutrality of the Cambodian people. For the past five years, we have provided no military assistance whatever and no economic assistance to Cambodia. North Vietnam, however, has not respected that neutrality."

[From the Washington Post, July 22, 1973]

HIDDEN HISTORY OF U.S. MOVES IN CAMBODIA EMERGING

(By Murrey Marder)

A hidden history of American military operations began emerging last week that challenges the basic record of United States involvement in the Cambodian war.

The significance of the piecemeal disclosures concerning Cambodia, plus other clandestine U.S. operations in Indochina that are now arousing congressional inquiry, transcends the dispute that suddenly forced the subject to the surface: falsification of records on secret American B–52 bombing of Cambodia in 1969–70.

New facts now available not only overturn the official version of how the United States entered the Cambodian war, but also illuminate the earliest roots of what has become known as the Watergate scandal.

The small nation of Cambodia, which the Nixon administration calls "the last lingering corner" of the Indochina war, now has come full circle in its rebounding impact on the American scene.

What the Nixon administration perceived

as a vital need to conceal its secret actions in Cambodia, and elsewhere in the world, initiated the Watergate psychosis. The congressional rebellion over the sweeping use of presidential power in the Watergate pattern, as an administration official conceded last week, now has undermined presidential influence in the world. The reaction on Capitol Hill to Watergate, in turn, helped to embolden Congress to force a cutoff date of Aug. 15 on American bombing in Cambodia, or any further American combat throughout Indochina.

As a result, the administration now faces the Aug. 15 deadline in a position of extraordinary diplomatic weakness to bargain effectively to extricate the United States from Cambodia. To magnify the administration's dilemma, it may have to negotiate with deposed Cambodian Prince Norodom Sihanouk, who charges that he was removed from power as a result of Central Intelligence Agency and U.S. military machinations.

The riots that ripped American college campuses in the spring and summer of 1970 over the April 30, 1970, crossing of Cambodia's border by American troops were based on a highly limited amount of information then available about the U.S. record in Cambodia.

There was no public knowledge that for the previous 13 months the United States had been conducting massive bombings of Communist "sanctuaries" in Cambodia, with 3,620 B–52 runs between March, 1969, and April, 1970.

Nor does the official public record show, even now, that for years before the open American border crossing, CIA and Special Forces units (Green Berets) were clandestinely supporting anti-Sihanouk forces, known as the Khmer Serei, in operations across the South Vietnamese-Cambodian border.

These secret activities are now liable to exposure in inquiries scheduled on CIA operations throughout Indochina, and further investigation of the falsified bombing reports.

No one can state with certainty what repercussions there might have been on the elections in 1970 and 1972 if the full state of American involvement in Cambodia were known in 1970.

President Nixon said last May 22 that the American reaction to known events in Cambodia reached "critical proportions" in mid-1970. He cited "nearly 1,800 campus demonstrations," "nearly 250 cases of arson on campus," and fatal clashes with law-enforcement forces on the campuses of Kent State University in Ohio and Jackson State University in Mississippi.

Administration alarm over the risk of exposure of its secrets about Cambodia led to creation of the "plumbers" unit in the White House, and the spreading web of officially authorized wiretapping and break-ins to find security leaks.

What concerned the Nixon administration was not so much the kind of information later leaked in 1971 by Daniel Ellsberg in the Pentagon Papers about American activity in Vietnam under the Kennedy and Johnson administrations. The Nixon administration was appalled about the risk of disclosure of its win secret operations and negotiations.

Public attention was focused last week on only the narrowest consequence of Cambodian secrecy, the officially falsified bombing reports. Assistant Defense Secretary Jerry W. Friedheim on Friday acknowledged that senior Pentagon officials made "a blunder of some magnitude" by sending Congress falsified reports that listed 3,630 bombing raids as having taken place in South Vietnam.

If that were all that has been revealed, or is now subject to disclosure in greater detail, the Nixon administration would have suffered an awkward, but not grievous, embarrassment.

Instead, the whole official U.S. history of how the Nixon administration enmeshed itself in Cambodia is now open to question.

On April 30, 1970, President Nixon startled the Nation by announcing that attacks by American and South Vietnamese armed forces "are being launched this week to clean out major enemy sanctuaries on the Cambodian-Vietnam border."

This kind of operation was often proposed to President Johnson by U.S. military leaders, and repeatedly rejected on grounds it would be a dangerous widening of the war with unpredictable consequences.

President Nixon said there was a sudden, drastic change in the situation.

For five years, he said, "North Vietnam has occupied military sanctuaries all along the Cambodian frontier with South Vietnam," using them for "hit-and-run attacks" on American troops across the border.

"North Vietnam in the last two weeks," President Nixon said, "has stripped away all pretense of respecting the sovereignty of neutrality of Cambodia."

The North Vietnamese troops, he said, suddenly had moved westward in the opposite direction of the South Vietnamese border; "thousands of their soldiers are invading the country from the sanctuaries; they are encircling the capital of Phnom Penh." If "this enemy effort succeeds" in controlling Cambodia, the President said, "Cambodia would become a vast enemy staging area and a springboard for attacks on South Vietnam along 600 miles of frontier," jeopardizing the lives of Americans there and the entire U.S. program of troop withdrawals from South Vietnam.

Since 1954, Mr. Nixon said, it had been U.S. policy "to scrupulously respect the neutrality of the Cambodian people."

"For five years," he said, "neither the United States nor South Vietnam has moved against those enemy sanctuaries because we did not wish to violate the territory of a neutral nation. Even after the Vietnamese Communists began to expand these sanctuaries four weeks ago, we counseled patience to our South Vietnamese allies and imposed restraints on our own commanders."

No longer, however, the President said, could the United States sit by "like a pitiful, helpless giant" when "the chips are down."

Last week, U.S. officials, in the course of explaining the falsified B–52 bombing report, gave a drastically different account of how the United States first came to take major military action against the "sanctuaries" in Cambodia.

Very early in the Nixon administration, they said, the subject of U.S. troop withdrawals was directly linked to suppressive military action against the Communist bases in Cambodia.

In March, 1969, Pentagon spokesman Friedheim said on Tuesday, Gen. Creighton W. Abrams, the U.S. commander in South Vietnam, "was beginning to get his forces ready for the first withdrawal increment" of U.S. forces—although that was not announced until June, 1969, an initial pullback of 25,000 men.

Friedheim recalled that Defense Secretary Melvin R. Laird, the prime promoter of the program of U.S. troop withdrawals from South Vietnam, visited South Vietnam in March, 1969.

Laird "went precisely to see in what manner it would be safe to accomplish the withdrawal program that the administration wished to accomplish over the next few years," said Friedheim.

In the discussions with Laird, the spokesman continued, "General Abrams said if you want me to withdraw half a million Americans in a safe way, I would like very much to be able to deal with the threat which comes from these sanctuary areas."

"It was determined that that was a reasonable request for the U.S. commander to make," said Friedheim. The United States, he said, mounted "a major interdiction campaign" of B–52 bombing raids against the sanctuary areas.

The target areas were "essentially the same ones" later to be struck by ground troops. Friedheim acknowledged: the "Fishhook" area where the Cambodian border projects deeply into South Vietnam, "the tri-border area" and other Communist base areas.

A newsman asked Friedheim last Tuesday: "You're sort of implying that the [B–52] raids weren't very effective, that we had to go in on the ground afterwards?"

"Certainly they were not satisfactory in and of themselves apparently, in the military judgment involved," Friedheim agreed.

Through a peculiar combination of circumstances, Prince Sihanouk, who was then Cambodia's ruler, never acknowledged the bombing raids. That was the original U.S. justification invoked for keeping them secret, that Sihanouk privately "acquiesced" in the air attacks because the uninvited Vietnamese Communist presence in his country was expanding to intolerable lengths.

Sihanouk, since his ouster in a coup launched in March 18, 1970, by anti-Communist and pro-American Lon Nol, the current President of the American-supported regime in Cambodia has remained silent about the secret American bombing raids of 1969–70. But Sihanouk has charged that he was overthrown by an American-plotted coup arranged with Lon Nol and his supporters, which Nixon administration officials then and now firmly deny.

The sequence of U.S. operations in Cambodia now spread on the public record, however, and the still unacknowledge history of clandestine American and South Vietnamese operations across the Cambodian border in the 1969–1970 period and earlier years, is bound to revive questions about the circumstances of Sihanouk's overthrow.

Elliot L. Richardson, now Attorney General, on May 24 at a farewell press conference on his brief tenure as Defense Secretary said in a discussion about secrecy in the Indochina war:

"Of course, you know the circumstances under which the bombing of Cambodia was kept secret—I think there were some legitimate considerations in that context when Sihanouk in effect was anxious not to be put in a position in which he was aware of it or had acquiesced in it. But once Sihanouk was out [March 18, 1970] that consideration disappeared."

But that obviously was not the premise on which the Nixon administration bureaucracy operated until last week when the falsification of the bombing reports was first revealed as a result of congressional challenge.

Moreover, the Nixon administration's claim of continuing "military operational and diplomatic sensitivities" still withholds from the public record the history of years of American clandestine involvement in Cambodia.

Although some of these secret activities have leaked into public print, the distinction between official and unofficial disclosures can be enormous in public—and political—consequences. A prime example is that there was a partial disclosure of the secret B–52 bombing of Cambodia as early as May 9, 1969 first printed in The New York Times.

That news leak touched off some of the early alarm inside the Nixon administration which precipitated creation of the White House "plumbers" group. But the intensity and duration of the B–52 bombing was never hinted at until last week, nor was the significance of that prolonged action on the entire course of developments in Cambodia.

Sihanouk once said of his once-placid kingdom of 7 million people, "We are a country caught between the hammer and the anvil."

For years he balanced delicately between the United States, China, North Vietnam and the Soviet Union. In 1965 he broke diplomatic relations with the United States, charging CIA plotting against his regime and flagrant violations of his border by American planes engaged in the Vietnamese war.

Between 1965 and 1969, Sihanouk secretly permitted supplies for the Vietnamese Communist forces to be transported across Cambodia. His underdeveloped nation, he said, had little choice in the matter.

Last month, in an interview in Romania, Sihanouk said that "my greatest mistake was 1963, when I rejected American aid," but he said the terms for aid had become humiliating.

Sihanouk said that to placate his army—then headed by Lon Nol—which was dismayed over the loss of American military assistance, he opened the port of Sihanoukville to Chinese ships to deliver military supplies to Vietnamese Communist forces emplaced on Cambodia's border with South Vietnam.

"There was two-thirds [of the supplies] for the Vietcong, and one-third for my army," Sihanouk said.

But by 1967, Sihanouk began protesting publicly that his nation was getting the worst of the bargain from all directions.

Sihanouk said the North Vietnamese and the Vietcong were supporting "the Khmer Vietcong," or pro-Communist Cambodian rebels against his regime, and "because the Khmer Communists have mistreated us, we are compelled to repress them." But from the other direction, he said, "the Khmer Serei, Americans, Vietnamese, Thai and South Koreans [based in South Vietnam] have joined forces in attacking us."

In June, 1969, however, as he saw signs that the United States appeared to be preparing to pull out of Indochina with its halt to the bombing of North Vietnam in late 1968, Sihanouk feared that he might be left to grapple alone with the Vietnamese Communists in his country; he renewed diplomatic ties with Washington.

The Lon Nol regime, which replaced Sihanouk, presented an outright ultimatum to the North Vietnamese and Vietcong to withdraw, and closed the port of Sihanoukville to their forces.

This was a threat the new regime in Phnom Penh woefully lacked the physical capacity to sustain. It appealed to the United States for urgent military support.

To many U.S. military leaders this was "a golden opportunity" rather than a crisis to be shunned; an opportunity to strike on the grounds at the Communist "sanctuaries" that had survived 13 months of B-52 bombing.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. HUGHES. I am happy to yield to the distinguished majority leader.

Mr. MANSFIELD. I am pleased that Major Knight put it in a nutshell when he said, "I took an oath to support the Constitution"—just as the President of the United States did, and just as every Member of Congress does, and just as every member of the Government is supposed to do.

I note that during the course of this analysis—and I must commend the distinguished Senator for relating the facts as they are—that in page 3, in the second paragraph, the statement is made:

> Congress was not asked to approve or authorize this escalation and not officially informed of it even through classified channels, although it is now reported that a few members of Congress were privately told that the bombing had begun.

As far as the Senators concerned, we operate on the basis of equality. As far as committees are concerned, they are the servants of the Senate as a whole. As far as certain Members being told in private what is being done, and that information was not being given to the rest of the Senate, I want to say I am very much disturbed by such an operation because I think what it tends to do is to break down the equality which should prevail in this body among all Members, and no confidential information of this nature should be given to members of committees in private and not to the full membership.

The **ACTING PRESIDENT** pro tempore. The time of the Senator has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may yield 2 minutes of my time to the Senator from Iowa.

The **ACTING PRESIDENT** pro tempore. The Senator from Iowa is recognized.

Mr. HUGHES. I thank the distinguished Senator from West Virginia.

Mr. President, I thank the distinguished majority leader for his comments in relation to what has been reported by the press as to Pentagon's informing some Members of this body of the beginning of the bombing, and its continuation.

I was shocked by the information as it dribbled out of the Pentagon during the last week or 10 days, because with each new memorandum that went out, new statements were made through their press office to the media at the Pentagon, information which was later denied, changed, and altered resulting in some confusion as to what they were willing to disclose to the country or to the committee. At a later time I will point out the paralleling policies of this Nation, the political pressures, and the attitude of the American people toward war and the expanding war in Southeast Asia, which I think are very interesting.

Once again we have discovered that there was not only a secret war being conducted for years in Laos, but a secret war in Cambodia that began 2½ months after this administration took office—concealed from Congress and the people and devastating in the ramifications it contains for constitutional government in this country.

ORDER OF BUSINESS

The **ACTING PRESIDENT** pro tempore. Under the previous order the Senator from Hawaii (Mr. Fong) is recognized for not to exceed 15 minutes.

(The remarks Senator Fong made at this point on the introduction of a proposed constitutional amendment (S.J. Res. 137) and a series of eight bills (S. 2220 to S. 2227) dealing with changes in the Constitution and immigration and nationality laws, are printed in the Routine Morning Business section of the Record under Statements on Introduced Bills and Joint Resolutions.)

THE ENERGY SHORTAGE IS REAL

Mr. McCLURE. Mr. President, the American people are being deceived and misled by their Government and the national press. They are being told that the present gasoline shortage is either phony or has been solved, depending on whether they are listening to the Federal Trade Commission or the American Automobile Association. They are being told that shortages, both present and predicted, will be avoided by energy R. & D. and that environmental legislation has not contributed to them. They are being told that removing some energy-related functions of the Department of the Interior and then renaming it the Department of Energy and Natural Resources will help solve the administration's problems of coordination of Federal energy operations. The American people are being duped. If we are to avoid crippling economic, environmental, and social disruptions in this society, it is essential that the hard, cold facts concerning our energy crisis be told. Only with the facts can public support be gained for the tough political decisions that lie ahead.

The present gasoline shortage is real. There is no evidence that it was contrived by anyone, contrary to the insinuations of the Federal Trade Commission and its staff. A careful reading of the recently released report will verify that.

Statements such as, "These major firms, which consistently appear to cooperate rather than compete" (emphasis added), illustrate the subjective conclusions that replaced objective facts. I am concerned that the present Chairman of the Federal Trade Commission may not yet fully realize the responsibility and need for objectivity which accompanies this position. It is possible that his previous position as Assistant to the Director of the Domestic Council, John Ehrlichman, did not adequately prepare him for this important, demanding assignment.

The chairman of the Senate Committee on Interior and Insular Affairs recently requested a background paper on the gasoline shortage from the Congressional Research Service of the Library of Congress. In the summary of this paper, prepared by Mr. David M. Lindahl, is found an objective conclusion concerning the gasoline shortage, which I will quote: "Limited refinery capacity, flagging domestic production, and a worldwide shortage of low-sulfur crude resulted in restricted supplies."

Mr. President, I ask unanimous consent that the complete summary be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

The Gasoline Shortage: A National Perspective; a Background Paper Prepared by the Congressional Research Service

SUMMARY

The gasoline shortage is the result of several factors acting in conjunction. Limited refinery capacity, flagging domestic production, and a worldwide shortage of low-sulphur crude resulted in restricted supplies. At the same time demand was rising at rates much higher than before. This imbalance, if it continues, could create serious economic problems. The gasoline shortage has already had a major impact on consumers, farmers, and independent marketers. Unfortunately, there are no quick or simple solutions. The only short-term relief is likely to come from imports of foreign oil and oil products and through conservation efforts. A recurrence of gasoline shortages

> can be expected for at least the next three years until new refineries are built. Until such time as supply once again is sufficient to meet demand, artificial means may be needed to ensure that supplies of gasoline are allocated to those who need them for high priority uses.

Mr. McCLURE. With regard to refinery capacity, the paper states the major problem facing new construction:

> Siting is a major obstacle to new refinery construction that remains a problem. Delaware, for example, has banned refinery construction and other heavy industrial installations along its coasts. Sites in other areas have also been contested on environmental grounds.

The paper goes on to say:

> The export of refinery capacity has been accelerated by siting problems. Even though modern refineries are not nearly as objectionable as were earlier refineries, very few communities have shown a willingness to permit construction. The added costs of pollution controls, siting delays, court injunctions, coastal zone regulations and other problems have led many companies to build their refineries outside the borders of the United States.

It is of interest to analyze the charge that the present shortage was created in order to benefit the major oil companies. Congressional and Presidential response to the shortage has been, however, completely predictable: increased Government control of the oil companies and their operations. The Senate, for instance, has passed the Emergency Fuels Allocation Act of 1973, while the President is preparing a mandatory allocation program. In other words, there was no rational basis for assuming that a gasoline shortage would improve oil company problems, but, as any astute political observer could have predicted, a shortage would result in increased Government regulation and control of the industry.

At the same time, though, that the American public is being told that major oil companies "created" the gasoline shortage, they are also being told that the shortage is no longer a serious problem. One of the major supporters of this thesis is the American Automobile Association.

AAA reports have been responsible for headlines such as "Gas Shortage Easing," but, let us examine closely the date contained in these reports. A week ago, the AAA reported a "measurable" easing of the nationwide shortage. Their own data, however, showed that 46 percent of the stations polled were operating normal hours, compared with 43 percent the week before. In addition, 48 percent were curtailing hours, compared to 49 percent the previous week, and 10 percent were limiting the amount of gasoline motorists could purchase, compared with 11 percent. I do not believe that changes of 1 to 3 percent represent "measurable" easing. Furthermore, their latest report indicates that the situation has further "improved," when "47 percent" of the stations polled were operating normal hours—up from 46 percent the week before. Would it not have been more accurate to report that over half our retail stations were still restricting their hours of operation? A further breakdown, however, of AAA data shows that in a recent survey of service station operations in the New York and New Jersey areas, the AAA checked with 216 major outlets and only 4 independent outlets. I question the validity, if not the motive, of this type of survey.

The harmful effects of such misleading items are, however, evident. On the east coast, vacationing motorists drive blissfully to the beach, creating 8½ mile traffic jams. And, why should they not? Have they not been told that the shortage is "easing"? Why should they reduce their speed to 50 miles per hour, or think twice before making two trips to the store instead of one? They have been told not to worry: The gasoline is there. But, in several critical areas of our Nation, the gasoline is not there. This fact will become evident to the urban vacationer this fall, when food supplies become scarcer. Of course, the Senate will probably pass an Emergency Food Allocation Act of 1973, but I do not think that that will grow many crops.

Farmers in Idaho, and elsewhere, are not getting all the fuel they need. A recent article in the Idaho Statesman, dated July 12, 1973, graphically describes the impact of the real gasoline shortage on agriculture. You can well imagine the feelings of these men and women when they read that "Exxon Halts Allocation of Gasoline," and will provide unlimited supplies to service stations east of the Rocky Mountains. Or, that Phillips Petroleum has increased the quantity of gasoline available east of the Rocky Mountains. Mr. President, I ask unanimous consent that this article from the Idaho Statesman be included in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Farms Face Fuel Bind as Idaho Harvests Near

(By Larry Buser)

Farmers who have increased production over last year, or who have purchased larger tractors, may find themselves in a fuel bind as the potato and wheat harvests approach.

Farmers with tractors that consume more gasoline and whose production increases require more machinery are having to make do with the same amount of gasoline or less than they were allotted last year.

The state executive director of the Agricultural Stabilization and Conservation Service (ASCS), Forest J. Severe, Boise, says the gas supply situation for farmers looks "very suspicious."

He said some farmers have been going to service stations to fill cans with gasoline for farm machinery, apparently because their fuel allocations are insufficient to meet their needs.

The ASCS office receives reports on gas supplies from farmers and gasoline distributors and forwards these reports to Washington to the Interior Department's Office of Oil and Gas. The department in Washington then contacts the oil dealers or their regional distributors to determine what action will be taken.

Severe says attempts to satisfy the 35 or more shortage complaints have "not been very encouraging or very glamorous as far as the effort we're putting into it. I'd say now we're getting about 10 to 15 per cent success" in solving shortage problems.

Art Hunt, executive director of the Ada-Boise County ASCS, says, "Generally if a farmer has received fuel in the past from the same distributor, he shouldn't have too much difficulty carrying out 1973 operations."

He says there was "a frightening scramble" for fuel by some farmers earlier this summer but that now most are "more confident" their gasoline needs will be met. However, he says, those who have increased land or business are experiencing some hardships in trying to obtain more fuel.

Lloyd Brown, ASCS program specialist, says the farmer who has purchased gasoline regularly from a distributor is getting by but might be a little "edgy" about the situation. He says in addition to those who have increased production or who have gone to larger machinery, the farmers who have been "shopping around" rather than purchasing from one dealer are having problems obtaining fuel.

Brown says farmers who are new in the area and have no regular dealer here often "can't get any at all and have to scrounge around and get whatever they can."

However, those who are forced to purchase fuel at service stations must pay about 40 cents per gallon rather than the farm delivery price of 32–35 cents per gallon, up five or six cents from early spring, says Severe.

Farmers in the Burley area are feeling the fuel strain and Mobil and Sinclair oil companies stopped servicing customers this spring. Fred Allen, Atlantic-Richfield dealer who serves much of Cassia County, is "really tight" and he is not permitted to take on any new accounts. Allen says Mobil had been supplying about 50 farmers in the Burley area who are now having "a devil of a time" getting fuel.

He says the Mobil customers had written Washington two months ago requesting allocations but have not been able to obtain necessary fuel. "We tried to help some a little bit and have gotten our hands spanked" by the company for taking on new accounts, he says.

One of Allen's regular customers recently increased his potato acreage and needs more fuel for production. "He's really screaming (for gasoline)," he says. Diesel fuel, Allen says, is also getting scarce.

Area distributors receive gasoline supplies at the beginning of each month, says Allen, and "it's the end of the month we're stretching it." In June Gov. Andrus established a "gasoline shortage hotline." Troubleshooter Pat Vaughan says he received "a flurry of calls near the end of June but which have dropped off considerably since the first of July.

Some farmers had purchased large gasoline storage tanks ranging from 200 to 20,000 gallons earlier this summer but Allen says "They can't get anybody to fill them so they haven't gained anything."

Mr. McCLURE. Mr. President, to solve this present shortage of both gasoline and diesel fuel, and to prevent future shortages of fuel oil, with resultant electric power blackouts and industrial shutdowns, it is vital that the public know the facts. They need to know that there is no allocation or rationing plan which can increase supplies. Government control of supplies can, at best, redistribute shortages. The public also needs to know that energy R. & D. is not going to help meet our present or short-term needs. I have been a strong supporter of increased R. & D., but a realistic evaluation must include the realization that the results are years in the future.

One of the hardest facts to be faced, though, by the American public is the need for reexamination of our national environmental goals and legislation. The future energy needs of our society cannot be met unless this unpleasant task is faced up to. And, we must begin with the Clean Air Act Amendments of 1970.

Regardless of recent statements by environmentalists, air equality control requirements have been one cause of the present fuel shortage. I believe that most people are now aware of the increased fuel consumption of new automobiles. Reports of 6 or 7 miles to the gallon are not uncommon. Despite misleading statements by the Environmental Protection Agency, the fact is that a major portion of that decreased fuel efficiency is due to emissions control requirements imposed by law. Another requirement of the law, though, that is not so easily understood is the limitation on emissions of sulphur dioxide from electric power plants and other industrial fuel users.

On June 28, the EPA released a report by the Sulfur Oxide Control Technology Assessment Panel which concluded that "sulfur dioxide removal from stack gases is technologically feasible in commercial-sized installations." The report admits that "the reliability of currently available systems has been the subject of some question," but the authors "believe that an additional 18 months operating experience—or by 1974—should effectively remove engineering barriers to the application of stack gas cleaning to many facilities." Apparently the companies who manufacture this equipment do not share this belief, because to date none of them will provide enforceable guarantees of reliability for any SO_2 removal system. A recent study of SO_2 removal systems by Battelle's Columbus Laboratories made the following statements about the experience with limestone scrubbing technology in the United States:

> With 40 years of small-scale experience, and now four years of intermittent but much more intensive large-scale development on relatively large units, *the availability of these plants is at most 25 to 30 percent*. Unless there are significant breakthroughs to cope with the problems remaining, it seems possible that *another 2 to 10 years will be required to achieve 100 MW and over*, and some experts seriously question whether such scrubbing will ever be achieved with limestone scrubbing. (Emphasis added)

The concept of reliability with respect to our Nation's electric generating capacity must be emphasized—especially in view of concern by all of us over energy supplies of all types. "Reliability" means the annual average proportion of time that a plant is available for electric generation, whether operated or not. Our Nation's fossil-fuel-fired electric generating plants have an average reliability of nearly 90 percent. To force control devices on these plants which would cut their reliability by even 10 to 20 percent would be disastrous. Of course it is difficult to conceive that the Government would force our country's generating capacity to be substantially reduced by malfunctioning control devices.

The control equipment would have to be bypassed if the plants are to continue to operate to meet the energy demand. It seems senseless to have a huge investment—and we are talking in terms of billions of dollars on a nationwide basis—in a technology that is nonfunctional. The consumers would really "take it in the neck"—or the pocketbook—in higher rates and higher prices if we were to follow that strategy.

Another major unresolved problem is the disposal of waste products from stack gas cleaning systems. The SOCTAP report points out that 100,000 megawatts of functioning flue gas desulfurization equipment would produce 48 million tons of sludge per year, which would cover 160 square miles to a depth of 10 feet assuming a 20-year storage requirement. It is misleading to suggest that the air quality problem is solved when that solution merely created a monumental solid waste problem.

The rationale behind the SOCTAP report is that if the industry is forced to buy the control technology then they will be able to find the engineering solutions to the reliability and disposal problem. The problem with this rationale is that it forces industry to turn their full-scale generating plants into experimental stations. There is no question that the electric industry will purchase and install the SO_2 removal technology if that is what the law demands. However, the people of this country will be footing the bill in terms of increased electric bills and reduced amounts of available electricity. I feel the conclusion that SO_2 flue gas removal technology is now feasible is a decision that is premature and will force an unwise allocation of our country's resources in an unproven technology.

Prior to EPA's adopting the conclusions of the SOCTAP report, I recommend an examination of the points I have raised with respect to that report's conclusions.

In order to meet air quality standards with available technology, the electric utilities have increased their consumption of fuel oil, discarding the abundant domestic coal reserves. In 1972, for instance, the Nation's electric utilities burned 493.9 million barrels of fuel oil, a 24.7 percent increase over 1971. In addition, unnecessary stringent sulphur restrictions on residual fuel oil have forced utilities to increase their consumption of the light distillate oil used for home heating. One estimate of the amount of No. 2 oil and diesel fuel which will be used this year for blending with higher-sulphur residual oil is 186,000 barrels per day. One major utility alone, Commonwealth Edison in Chicago, will use 233 million gallons of No. 2 and diesel fuels to generate electricity this year. When you realize that seven gallons of fuel will provide for the cultivation of an acre of farm land each year, then 233 million gallons is the equivalent of 10 percent of the fuel needed to farm the total cultivated acreage, nationwide.

One solution to this problem would be sulphur content standards for fuels, in those areas where human health would not be threatened.

A program must be developed, and implemented, by Federal, State, and local governments to permit burning of Nos. 4, 5, and 6 fuel oil of up to at least 1 percent sulphur content. This action should be taken before the end of August, if we are to avoid crippling fuel oil shortages this winter. In addition, the use of heavier fuels with sulphur contents of up to 3 percent should be seriously considered, in those regions where human health would not be threatened. I was amazed to read recently of tests conducted at a coal-fired electric power plant in Georgia, burning coal with a sulphur content of about 2 percent. Based on measurements taken at various locations around the plant, sulphur dioxide concentrations were much lower than we have been led to believe they would have been. At the worst location, the SO_2 concentration on the ground was lower than the primary ambient air quality standards by a factor of 8, and lower than the secondary standard by a factor of 6. The primary standards are, of course, those required to protect the public health, allowing a reasonable margin of safety. Secondary standards are required to protect public welfare—property, birds, trees, fish, and so forth.

I believe that the time for reexamination of the Clean Air Act Amendments of 1970, and the implementation of the act, has arrived. Congress passed this law in 1970, based on available information. Recent editorials in the Washington Evening Star express the opinion that the "clean-air ideal that Congress embraced so enthusiastically 3 years ago is coming into hard collision with the fact that its attainment—on the schedule envisioned—simply may not be possible through any rational means." With regard to the Clean Air Act standards, which the Star says "Congress set so blithely and so blindly in 1970," Congress should begin a reexamination, based on the experience and knowledge which has been gained during the past 3 years.

Mr. President, I ask unanimous consent that these two editorials, dated June 19, 1973, and June 25, 1973, be included in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Washington Star-News,
July 19, 1973]

THE CLEAN-AIR COLLISION

The clean-air ideal that Congress embraced so enthusiastically three years ago is coming into hard collision with the fact that its attainment—on the schedule envisioned—simply may not be possible through any rational means. Developments emerging last week from both the Supreme Court and the Environmental Protection Agency reinforce that view. They cast heavier doubt on the nation's ability to meet the air-purity standards set by Congress, to become effective in 1975.

First came the court's decision that air quality cannot be allowed to deteriorate significantly anywhere in the country—even out in the great unpopulated expanses where pollution doesn't begin to approach the limits set by the Clean Air Act of 1970. This interpretation of the act might, if rigidly applied, serve virtually to paralyze growth in underdeveloped areas that are seeking new industry. And dispersal of some industry from the larger congested cities to rural towns should, we think, be a part of the general program to reduce pollution. But the worst impact of the decision may hit the metropolitan centers in a way that relates, detrimentally, to both pollution and energy production. If new electric plants and other utilities cannot be located outside the areas of urban contamination, the problems of depollution and power supply will become much more difficult.

But the extent of this restriction will be unknown until there is clarification by the court, which gave no written opinion, and hence no guidance at all, but only upheld a lower court decree by a tie vote. Further litigation must be awaited to get the needed answers. And meanwhile, some major cities have only the dimmest prospect, or none at all, of meeting the air standards set for the year after next.

That became more starkly apparent last Friday when the EPA rolled out a partial plan for meeting Congress' requirements. An astounding reduction of traffic is contemplated in 18 urban areas—possibly even a total ban on private cars in Los Angeles, and a 60 percent cutback of driving in northern New Jersey. This a good deal more than public opinion can be expected to bear. Certainly the prospective plans for the Washington area (on which we will have more to say later) would come as a jolt to countless wage-earners here.

Taken as a whole, the EPA's ideas for urban sectors, going into effect so soon, could exact intolerable economic penalties and prove politically indefensible. Given a bit more time, the widespread public-transit improvements now underway, and anti-pollution equipment on autos, can greatly ease the pain of transition to cleaner air.

Fortunately, the acting EPA chief, Robert W. Fri, seems to have no delusions about this. In presenting the highly restrictive plan, Fri said he was "not sure these are the results that Congress intended," and that he will "explore with Congress the desirability of extending the deadlines for these areas that are so deeply affected." That is the wise course. Congress should begin reexamining the Clean Air Act, with a view to revisions that would allow more flexibility in reaching some of its goals. The need is for careful coordination, to achieve the final high objectives with the least possible economic damage.

[From the Washington Star-News, July 25, 1973]

Coming To Grips With Reality

For all the clean-air planners' dire warnings of the past year or so about imminent, ultra-harsh sanctions against automobile pollution, it appears now that Washington's problem is not only manageable, but in comparison with some other urban areas presents hardly a serious challenge.

This is partly so, of course, because those other cities are in so much worse shape, not because of an absence of air pollution here.

By the Environmental Protection Agency's own definition, meeting the letter of the law by 1975 in the worst of those other places would require curtailing auto travel in dimensions of 50 to 100 percent. Such measures obviously are politically and economically absurd. And as the EPA virtually conceded the other day, it seems certain both that Congress will do something about the statutes and that the agency itself will be taking a more tolerant attitude toward enforcement.

Thus, in our region's case, most of the steam already has seeped out of such proposals as imposing massive surcharges on off-street parking as a means of discouraging auto travel. The EPA, bowing to technological realities, has become more amenable to stretching out deadlines for anti-pollution devices on older cars. It appears, at the moment, that the main components of an acceptable Washington area plan will involve the purchase of additional buses, conversion of more street space to the exclusive use of buses and car pools, bans (to an undetermined degree) on street parking, and curtailing air pollution at filling stations.

We commend this emphasis on crash programs of improved public transit not only because political and technological reality demands it, but as plain common sense. A significant drop in the use of cars cannot occur in a vacuum, for the travel demands remain. If the decrease is to occur at all, a reasonably adequate alternative means of mobility is a first requisite.

Quite plainly, no one at this point really knows what will occur next in regard to the clean-air standards which Congress set so blithely and so blindly in 1970. Much of the answer will rest with Congress, but not all. If, in the first place, urban areas all over the nation are thinking about vastly increasing their bus fleets—as apparently they are—there is a real question about the ability of industry to deliver them.

For all the uncertainties, however, our local situation has its bright side. After a great deal of unconscionable foot-dragging on the part of Maryland, officials of that state, Virginia and the District reportedly are finally on the verge of agreement on a coordinated plan for the Washington area as a whole. That is a large step forward. And if a plan half-way reasonable is submitted voluntarily to the EPA, our guess is that it will be accepted gratefully, with a sigh of relief.

Mr. McCLURE. During its reeaxamination of the act, I urge my colleagues to consider the implications of imposing needless and costly burdens on our society, particularly at this time of problems and shortages in fuels, agriculture, international trade, and the value of our currency. The Standing Committee on Environmental and Resource Management, of the National Academy of Public Administration, recently issued its report on national energy policy and programs. I would like, at this point, to quote from that report, concerning the impact of environmental controls on our society:

> For the most part, environmental controls must ultimately be left to the states and, in some cases, to regional agencies. The states should be allowed to pursue their own projects to achieve environmental control within the limits of minimum ambient standards to be set by the Federal government. These should be conservative values, and the states should be granted some elbow room. The current procedure of requiring federal approvals, and of federal pressures on the states to propose unrealistic standards, should be abolished. EPA now twists the arms of state agencies forcing them to propose overly strict environmental standards under the threat that the Federal agency will take over if local agencies are not strict enough. The Federal program gives little or no recognition to trade-offs, that is the overall social costs of environmental requirements at any level. The mindless Federal pursuit of environmental extremism—including the pursuit of zero discharge into water and to the total "nondegradation" of the air—is nonsensical on its own terms. More than that, it ignores both the needs and resources of the states and localities in many if not all areas.
>
> Whether speaking about federal-state relationships or relationships within the Federal government, we must improve the coordination between energy decision making and environmental decision making. The separation and exaltation of environmental administration will lead, as in any single-mission program, to the ignoring of trade-offs. Today, Section 101 of the Federal Water Pollution Control Act postulates a national objective of zero discharge of pollutants to navigable waters by 1985, and the Clean Air Act calls for the protection and enhancement of air quality with language which has been read by the courts as meaning total nondegradation. We must consider the implications of both zero discharge to water and nondegradation of the air in terms of the growing scarcity of clean fuels and the vastly higher prices people will pay for energy if it must be produced with a closed cycle technology for both air and water pollution control purposes. Our Federal and state environmental laws must be revised to provide for a rational balance of our various societal objectives, including the provision and use of energy in light of costs and benefits.
>
> In the same vein, we must move away from a Federal policy that prescribes a rigid national standard for allowable emissions. This policy will strain an already limited supply of high quality fuel. Some areas can accommodate more pollutants than others and still have good water and air. In such areas, sources should be permitted to operate at emission and discharge rates commensurate with ambient quality maintenance. Again, flat emission controls impose needless and costly burdens and make impossible a rational balance of environmental and other objectives in light of the costs and benefits.

In summary, Mr. President, the present gasoline shortage is real. There is no evidence to show that it is contrived. The voluntary allocation program is not meeting the needs of farmers, ranchers, and other agricultural producers. And, the shortage of petroleum products will continue and grow worse, if the Congress and the administration do not act. In a free society such as ours, though, that action requires public understanding and support. I urge the national press to help provide all the facts, and choices, which are available. The decisions to be made may be hard, but the hardships of the American people, resulting from indecision, will be harder.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Pursuant to a previous order, the Senator from West Virginia (Mr. Robert C. Byrd) is recognized for not to exceed 8 minutes.

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transition of routine morning business of not to exceed 15 minutes, with statements therein limited to 3 minutes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Hathaway). Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. Burdick) laid before the Senate the following communication which was referred as indicated:

Proposed Amendments to the Budget for 1974—Department of State and Arms Control and Disarmament Agency (S. Doc. No. 93–26)

A communication from the President of the United States, transmitting proposed amendments to the request for appropriations transmitted in the budget for the fiscal year 1974, for the Department of State and Arms Control and Disarmament Agency (with accompanying papers). Referred to the Committee on Appropriations, and ordered to be printed.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, with amendments:

S. 1828. A bill to require the President to appoint, with the advice and consent of the Senate, the head of the Mining Enforcement and Safety Administration, Department of the Interior (Rept. No. 93-340).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. LONG, from the Committee on Finance:

Stanley B. Thomas, of New York, to be an Assistant Secretary of Health, Education, and Welfare; and

William L. Gifford, of New York, to be a Deputy Under Secretary of the Treasury.

The above nominations were reported with the recommendation that the nominations be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. FONG:

S. 2220. A bill to repeal the "cooly trade" laws;

S. 2221. A bill to repeal the Bertillon System of Identification;

S. 2222. A bill to amend the Immigration and Nationality Act to remove the distinction between Eastern and Western Hemisphere immigrants, to establish an immigration ceiling, and for other purposes;

S. 2223. A bill to amend the Immigration and Nationality Act to provide that parents of permanent residents be eligible to file for the second preference category;

S. 2224. A bill to amend the Immigration and Nationality Act to include sons and daughters within the provision relating to waiving the exclusion from the United States for fraud;

S. 2225. A bill to amend the Immigration and Nationality Act to include sons and daughters within the provision relating to exclusion from deportation of aliens excludable for fraud;

S. 2226. A bill to amend section 312 of the Immigration and Nationality Act with respect to certain tests for naturalization; and

S. 2227. A bill to amend the Immigration and Nationality Act to provide for recording of admission for permanent residence in the case of certain aliens who entered the United States prior to October 3, 1965. Referred to the Committee on the Judiciary.

By Mr. BROCK:

S. 2228. A bill to provide for greater disclosure of the nature and costs of real estate settlement services, to eliminate the payment of kickbacks and unearned fees in connection with settlement services provided in federally related mortgage transactions, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. BIBLE (for himself and Mr. CANNON):

S. 2229. A bill to authorize the Director of the Bureau of Mines to extend certain assistance to certain individuals engaged in mineral exploration and development. Referred to the Committee on Interior and Insular Affairs.

By Mr. CURTIS:

S. 2230. A bill to amend the Watershed Protection and Flood Prevention Act, as amended. Referred to the Committee on Agriculture and Forestry.

By Mr. SPARKMAN:

S. 2231. A bill for the relief of George W. Wright. Referred to the Committee on the Judiciary.

By Mr. HOLLINGS (for himself and Mr. MAGNUSON):

S. 2232. A bill to promote commerce and protect the environment by establishing procedures for the siting, construction, and operation of deepwater port facilities off the coast of the United States, and for other purposes. Referred to the Committee on Commerce.

By Mr. CHURCH (for himself, Mr. HATFIELD, Mr. MCCLURE, and Mr. PACKWOOD):

S. 2233. A bill to establish the Hells Canyon National Recreation Area in the States of Idaho, Oregon and Washington, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. WILLIAMS (for himself, Mr. BROOKE, Mr. TOWER, Mr. PROXMIRE, and Mr. MCINTYRE):

S. 2234. A bill to amend the Securities Exchange Act of 1934 to provide for the collection and public dissemination of information concerning the holdings of and transactions in securities by institutional investors, including banks, bank holding companies, insurance companies, trust companies, investment advisers, investment companies, separate accounts, dealers, pension-benefit or profit-sharing trusts and plans, charitable endowment funds, and other funds maintained or utilized for the purpose of collective investment. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. HART:

S. 2235. A bill to establish an equitable private retirement system. Referred to the Committee on Finance.

By Mr. FONG:

S. J. Res. 137. Joint resolution proposing an amendment to the Constitution of the United States with respect to eligibility for the Office of President and Vice President. Referred to the Committee on the Judiciary.

By Mr. CURTIS:

S.J. Res. 138. Joint resolution to amend the Economic Stabilization Act. Referred to the Committee on Banking, Housing and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FONG:

S. 2220. A bill to repeal the "cooly trade" laws;

S. 2221. A bill to repeal the Bertillon System of Identification;

S. 2222. A bill to amend the Immigration and Nationality Act to remove the distinction between Eastern and Western Hemisphere immigrants, to establish an immigration ceiling, and for other purposes;

S. 2223. A bill to amend the Immigration and Nationality Act to provide that parents of permanent residents be eligible to file for the second preference category;

S. 2224. A bill to amend the Immigration and Nationality Act to include sons and daughters within the provision relating to waiving the exclusion from the United States for fraud;

S. 2225. A bill to amend the Immigration and Nationality Act to include sons and daughters within the provision relating to exclusion from deportation of aliens excludable for fraud;

S. 2226. A bill to amend section 312 of the Immigration and Nationality Act with respect to certain tests for naturalization; and

S. 2227. A bill to amend the Immigration and Nationality Act to provide for recording of admission for permanent residence in the case of certain aliens who entered the United States prior to October 3, 1965. Referred to the Committee on the Judiciary.

S.J. Res. 137. Joint resolution proposing an amendment to the Constitution of the United States with respect to eligibility for the Office of President and Vice President. Referred to the Committee on the Judiciary.

Mr. FONG. Mr. President, in the early 1960's, my colleagues and I led a long and hard effort to amend the immigration and naturalization laws so as to eliminate most, if not all, of the discriminatory concepts and provisions then in the law and to add provisions so as to reunite families.

In this effort, we were highly successful—insofar as the Act of October 3, 1965 went in amending the Immigration and Nationality Act.

MAJOR PROVISIONS OF 1965 AMENDMENT OF IMMIGRATION AND NATIONALITY ACT

The Act of October 3, 1965 amended the immigration laws so as to provide for the issuance of 170,000 visas to persons born in the Eastern Hemisphere and 120,000 visas to persons born in the Western Hemisphere, a total of 290,00 visas a year.

(a) Eastern Hemisphere Immigrants:

The Act of October 3, 1965, as I indicated, amended the immigration laws so as to permit the issuance of 170,000 visas to persons born in "each independent country, self-governing dominion, mandated territory, and territory under the international trusteeship system of the United Nations" in the Eastern Hemisphere. A maximum number of 20,000 immigrant visas in any fiscal year was to be available to each such foreign state.

An immigrant born in a colony or other component or dependent area of a foreign state is chargeable to the limitation of the foreign state, with not to exceed 1 percent of the maximum number of immigrant visas available to each state available to any such colony or area.

"Immediate relatives" and "special immigrants" were made admissible without regard to this Eastern Hemisphere numerical limitation.

Immediate relatives were defined by the amendment as "children, spouses and parents of a citizen of the United States"—in the case of parents, the citizen must be at least 21 years of age.

Special immigrants, who had been formerly termed "nonquota immigrants," were defined by the act as persons born in the Western Hemisphere, returning permanent residents, certain former citizens applying for reacquisition of citizenship, ministers of religion and employees or retired former employees of the U.S. Government abroad who had performed faithful service for 15 years and who the Secretary of State approved for such entry because of services in exceptional circumstances.

All persons born in the Western Hemisphere, as I indicated, were treated differently from those born in the Eastern Hemisphere. These differences I shall more fully describe momentarily.

The 170,000 visas for persons born in the Eastern Hemisphere were allocable on the basis of eight categories:

First preference: Up to 20 percent or up to 34,000 visas were made available to unmarried sons and daughters of citizens;

Second preference: Up to 20 percent or up to 34,000 visas were made available to spouses and unmarried sons and daughters of aliens lawfully admitted for permanent residence;

Fourth preference: Up to 10 percent or 17,000 visas, to married sons and daughters of citizens; and

Fifth preference: Up to 24 percent or 40,800 visas, to brothers and sisters of citizens;

Or, in other words, 74 percent of the 170,000 visas or 125,800 visas a year were made available to families of citizens and permanent residents.

Then, 20 percent of the 170,000 visas were made available to certain categories of immigrants based on their qualifications. These were:

Third preference: Up to 10 percent or 17,000 visas were made available to members of the professions or persons possessing exceptional ability in the sciences or the arts who will substantially benefit prospectively the national economy, cultural interests or welfare of the United States; and

Sixth preference: Up to 10 percent or 17,000 visas, to qualified immigrants capable of performing specified skilled or unskilled labor, not of a temporary or seasonal nature, for which a shortage of employable and willing persons exists in the United States.

In addition,

Seventh preference: Up to 6 percent were made available for conditional entry as refugees to aliens in non-Communist or non-Communist-dominated countries who (A) because of persecution fled from any Communist or Communist-dominated country or area or any country in the general area of the Middle East and are unable or unwilling to return on account of race, religion, or political opinion or (B) are persons uprooted by catastrophic national calamity who are unable to return to their usual place of abode; and

Eighth preference: Nonpreference visas. Whatever visas, up to each country's maximum 20,000 visas, were not used in any other category were to be made available to any other such persons desiring to immigrate to the United States.

Labor certification is required for third, sixth, and eighth preference visas. None is required for the other categories.

(b) Western Hemisphere Immigrants:

One hundred and twenty thousand visa numbers were made available to immigrants from the Western Hemisphere, exclusive of immediate relatives of citizens. These are allocated on a first come, first served basis, without limitation as to country, subject to labor certification, but not subject to the Eastern Hemisphere preference system.

(c) Effect of 1965 Amendment of Immigration and Nationality Act:

The old "quota" system was effectively abolished.

In addition, and, most importantly, no person is to receive any preference or be discriminated against in the issuance of an immigrant visa because of race, sex, nationality, place of birth, or place of residence.

An alien who had entered the United States prior to June 30, 1948—instead of the previous date of 1940—if he had continuously resided in the United States up to the date of enactment of the 1965 amendment, was of good moral character and ineligible to citizenship because of his status, was permitted to adjust his status to that of a permanent resident, in the discretion of the Attorney General.

There were other technical and minor amendments of the immigration law, but this was the main thrust of the Act of October 3, 1965, which became fully operative in 1968.

—At long last, quota restrictions on the Asian-Pacific Triangle, which had covered 80 percent of the peoples of the world, were eliminated!

—All persons, regardless of race, sex, nationality, place of birth or of residence in the Eastern Hemisphere and all persons in the Western Hemisphere were afforded equal treatment under our laws!

—Our humanitarian interest in and concern for the peoples of the world and in reuniting families was clearly evidenced! 80 percent or up to 136,000 of the 170,000 visas available to persons from the Eastern Hemisphere countries are now available to refugees and families of citizens and permanent residents of the United States.

We have now had almost 5 years experience under this Act of October 3, 1965, which became fully operative in 1968.

The time is now at hand for a review of what we did.

On the whole, we did a remarkably good job!

All too much in the fashion of our time, I shall not review with you what is right about our immigration and naturalization laws. I shall go directly to what I feel needs correction today.

PROPOSED CHANGES IN CONSTITUTION AND IMMIGRATION AND NATIONALITY LAWS

I am today introducing a constitutional amendment and a series of eight bills to amend the immigration and naturalization law. These fall into four categories:

I. To eliminate discrimination—whether based on citizenship by birth or naturalization, or race, or on the hemisphere in which one is born;

II. To broaden the provisions of the law to enable sons and daughters and parents to be more readily reunited with their families;

III. To facilitate naturalization despite language difficulty; and

IV. To update the adjustment provisions for law-abiding persons ineligible for permanent residence who have been in the country continuously for a considerable period of time.

I. DISCRIMINATION

(A) CONSTITUTIONAL DISCRIMINATION

Constitutional Amendment to Make Any Citizen Eligible for Office of President.

Every person in order to become a naturalized citizen—as well as every citizen and most peoples in the world, has read and studied our Constitution.

It is a tribute to the foresight and wisdom of our Founding Fathers that, with a mere 26 amendments, of which they themselves brought about the first 10, our great Nation under this Constitution is about to celebrate its bicentennial in 1976, a mere 3 years from now.

But, that wonderful Constitution has one very serious drawback—It limits the office of President to "natural born" citizens.

Clause 5 of section 1 of article II of the Constitution now reads:

> No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

Clearly, naturalized citizens are not eligible for the Presidency. This has been recognized by the Supreme Court in *Knauer* v. *United States*, 328 U.S. 654, 658 (1946).

Knauer v. *United States* was a proceeding in which the Government was successful in its efforts to cancel the Certificate of Naturalization of a person of German origin who actively supported Hitler and Nazism on the ground that it had been secured by fraud in that he had falsely and fraudulently represented in his petition that he was attached to the principles of the Constitution and had taken a false oath of allegiance.

Mr. Justice Douglas, in his opinion, at 658, stated:

> Citizenship obtained through naturalization is not a second-class citizenship. It has been said that citizenship carries with it all of the rights and prerogatives of citizenship obtained by birth in this country "save that of eligibility to the Presidency." *Luria* v. *United States*, 231 U.S. 9, 22.

Even in his dissent on the ground that Congress is not given power to take away citizenship once it is conferred, Mr. Justice Rutledge, at 677, stated:

> I do not find warrant in the Constitution for believing that it contemplates two classes of citizens, excepting only for two purposes. One is to provide how citizenship shall be acquired, Const., Art. I, § 8; Amend. XIV, § 1, the other to determine eligibility for the presidency. Const., Art. II, § 1. The latter is the only instance in which the charter expressly excludes the naturalized citizen from any right or privilege the native-born possesses. *Luria* v. *United States*, 231 U.S. 9, 22. I do not think there is any other in which his status is, or can be made, inferior.

Thus, our naturalized citizens are, by the terms of the Constitution, in effect, relegated to second-class citizenship.

They are ineligible to the highest office our country can offer its citizens.

The United States is the poorer for that! We not only hurt our world image of being a country of equality for all under law, but we deprive ourselves of the potential services of many persons, even the one citizen who could best serve our country at a particular time because of an accident of birth.

There has been much speculation on this restriction in the absence of any explanation of the origin or purpose of the presidential qualification clause in the recorded deliberations of the Constitutional Convention. However, whatever the motivation of our forefathers may have been, as then Acting Attorney General Richard G. Kleindienst stated in a letter commenting on this subject to the Honorable James O. Eastland, chairman, Committee on the Judiciary, under date of April 21, 1972:

> Although there may have been some justification for such a restriction 180 years ago, it presumably has no place in the Constitution today. As the Supreme Court observed in *Schneider* v. *Rusk*, 377 U.S. 163, 165 (1964), except for the difference drawn by Article II, section 1 of the Constitution that only the "natural born" citizen is eligible to be President, "the rights of citizenship of the native born and the naturalized person are of the same dignity and are co-extensive."

This built-in discrimination against naturalized citizens should and must be eliminated from our Constitution.

Further, the very term "natural born" citizen is open to controversy. Does it mean only persons born on the soil of the United States and not children born of American citizens living abroad?

This was a question when the candidacy of George W. Romney for the Presidency was being urged.

My Amendment makes it clear that all persons who are citizens of the United States—however that citizenship was acquired—by birth or naturalization, are eligible for the office of President.

Additionally, some question exists as to whether the 14-year residency in the United States is to be immediately preceding the date on which a term of office commences or whether the provision of Article II, section 1 that the person shall have been "fourteen years a resident within the United States" means at any time prior to the taking of office.

President Hoover's right to enter upon the office of President was not challenged although he had not been a resident of the United States for 14 years immediately preceding his assumption of office.

Nonetheless, this ambiguity too is cleared up in my proposed Amendment. Residency in the United States for a total of 14 years at any time preceding the date on which the term of office commences is to be the requirement.

Mr. President, I ask unanimous consent that the text of my joint resolution proposing an Amendment to the Constitution of the United States with respect to eligibility for the offices of President and Vice President be printed in the Record at this point.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

SENATE JOINT RESOLUTION 137

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within 7 years after its submission to the States for ratification:

"Article —

"Notwithstanding the provision of clause 5 of section 1 of Article II of the Constitution relating to citizenship, any person who is a citizen of the United States shall be eligible to the Office of President if he has been a resident of the United States for a total of at least fourteen years at any time preceding the date on which commences the term of office for which he is elected, and if he is otherwise eligible to such office."

(B) RACIAL DISCRIMINATION

Mr. FONG. Two types of racially discriminatory laws are still be found in our statutes. These are the "Cooly Trade Laws" and the Bertillon System of Identification. Both of these discriminate against Orientals.

(1) Cooly Trade Laws:

Webster's New International Dictionary, second edition, unabridged, defines "coolie" or "cooly" as—

> In India, Egypt, and China, and sometimes Japan, especially among Europeans, a native unskilled hired laborer, or a porter or carrier; also, elsewhere, a cheap laborer transported from the East Indies, China, or Japan.

Webster's Third New International Dictionary, unabridged, defines a "coolie" as an unskilled laborer, carrier, or porter or a semiskilled menial usually in or from the Far East, hired for low or subsistence wages. In Africa, a person of Indian origin or descent.

In 1862, Congress enacted what is termed "The Cooly Trade Laws" to correct what was then a widespread practice of exploiting persons of Oriental origin, particularly Chinese and Japanese. These persons were procured abroad and brought to other foreign ports or places—including the United States—where they were disposed of, sold, or transferred as servants or apprentices, or held in service or labor. American citizens were made subject to a fine of $2,000 and a 1-year prison term for engaging in such coolie traffic or building or sailing any vessels for such traffic. Any vessels used in coolie trade and owned by citizens of the United States or registered or licensed in the United States were made subject to forfeiture to the United States.

This law was amended in 1869, again in 1875 and finally in 1911.

The 1875 amendment made it a criminal offense for a citizen or anyone amenable to the laws of the United States to take to or from the United States any subject of China, Japan, or any Oriental country, "without their free and voluntary consent, for the purpose of holding them to a term of service," or for anyone to contract to supply coolie labor. All contracts for a term of such service in the United States were declared void.

In 1911, when the Circuit Courts' duties were transferred to the District Courts, a correcting technical amendment was enacted.

While these laws undoubtedly had a laudable purpose when enacted, today they are obsolete.

The word "coolie" carries a demeaning connotation to the person of Oriental descent to whom it is applied and it is used only when that connotation is intended.

There is no practical need today for such laws; they are merely a source of irritation to persons of Oriental origin.

These "Cooly Trade Laws" should be deleted from our statutes—they should not be a source of racial misunderstanding perpetuated in our statute books.

Mr. President, I ask unanimous consent that the text of my bill repealing the "Cooly Trade Laws" be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2220

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 2158–2163, Revised Statutes, and sections 1, 2, and 4 of the Act of March 3, 1875 (ch. 141, 18 Stat. 477) (8 U.S.C. 331–339), are hereby repealed.

Mr. FONG. (2) Repeal of Bertillon System of Identification:

By the Acts of March 17, 1894, and of April 28, 1904, Congress provided for the Bertillon System of Identification at the various ports of entry, to prevent the unlawful entry of Chinese into the United States. This was a part of the section of the law titled the "Chinese Exclusion Laws."

Webster's New International Dictionary, second edition, unabridged, describes the Bertillon System as a system for the identification of persons by a physical description based upon anthropometric measurements, notes or markings, deformities, color, impression of thumb lines, and so forth.

Webster's Third New International Dictionary, unabridged, describes it as a system for the identification of persons by a physical description based upon anthropometric measurements, standardized photographs, notation and classification of markings, color, bodily anomalies, thumb print impressions, and other data that has been largely superseded by fingerprinting.

In 1943, the other sections of the Chinese Exclusion Laws, of which this section providing for the use of the Bertillon System was a part, were repealed—Act of December 17, 1943, 57 Stat. 600. However, this section was not included in the provisions of that repeal statute even though for some years prior thereto, no moneys had been appropriated to prevent entry of illegal aliens referred to this section.

I feel I need say very little to support repeal of this last, obsolete section of the Chinese Exclusion Laws. The very memory of this discriminatory legislation based solely on race should be eliminated from our statute books.

Mr. President, I ask unanimous consent that the text of my bill to repeal the Bertillon System of Identification be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2221

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Acts of March 17, 1894, Article III, 28 Stat. 1211; April 28, 1904, c. 1762, § 1, 33 Stat. 478 (8 U.S.C. 298), are hereby repealed.

(C) HEMISPHERIC DISCRIMINATION

Mr. FONG. The October 3, 1965 Act amending the Immigration and Nationality Act, as I indicated, eliminated most of the discriminatory provisions of the law.

Under the provisions of the Immigration and Nationality Act prior to the 1965 amendment, as I indicated before, persons born in the Western Hemisphere were "nonquota" immigrants and permitted to immigrate freely.

The 1965 amendment—section 21(e) of the Act of October 3, 1965—limited to 120,000 the number of special immigrants born in the independent countries of the Western Hemisphere or in the Canal Zone—except for immediate relatives of citizens of the United States, who were admissible in any one year. Labor certification was required for such immigrants.

Since there was no provision for a preference system or for a limitation on the number of immigrants admissible from any one country, admission is on a first-come, first-served basis.

While it was never the intent of Congress to discriminate against persons born in the Western Hemisphere—and, in fact, this first-come, first-served basis, was intended to benefit persons born in the Western Hemisphere, in effect it has proven to be disadvantageous to them.

As of July 1, 1973, visa applications filed prior to September 8, 1971 are being processed for persons born in the Western Hemisphere. For most countries in the Eastern Hemisphere, all preference categories are current except for third and nonpreference preferences, which are being processed for applications filed prior to February 1, 1973.

Additionally, while persons born in the Eastern Hemisphere are eligible for adjustment of status in the United States upon application, if eligible, and if an immigrant visa is available to him at the time of approval of the application, persons born in the Western Hemisphere or the adjacent islands must leave the United States and appear before a consular officer overseas in order to adjust their immigration status. This is not only a great inconvenience but a most expensive procedure—especially in my State of Hawaii.

A person born in the Western Hemisphere, who resides in Hawaii and seeks to adjust his status to that of an alien lawfully admitted for permanent residence, must make a 2,500 to 3,000-mile trip to do so. A person born in the Eastern Hemisphere can adjust in Hawaii. This casts an unnecessary and costly burden on the person born in the Western Hemisphere, solely because of his place of birth.

These discriminations based on place of birth should be eliminated.

All persons—whether born in the Eastern or Western Hemisphere—should be treated alike under our Immigration and Nationality Law. My bill does that.

My bill would add the 170,000 visas now available to persons born in the Eastern Hemisphere and the 120,000 visas now available to persons born in the Western Hemisphere so as to make the numerical limitation 290,000—available to all persons, wherever born.

My bill would then make all persons subject to the preference system I first outlined, so that relatives—first, second, fourth, and fifth preference visas—would be reunited; refugees from the Western Hemisphere countries would become eligible for seventh preference visas; professionals and other workers would become eligible for third or sixth preference visas; and, should there be any unused visas in the preference categories, nonpreference or eighth preference visas would be available.

The 20,000 limitation per country would also become applicable to all countries in the Western Hemisphere as well as Eastern Hemisphere.

And, persons born in the Western Hemisphere would be eligible to adjust their status in the United States on the same basis as do persons born in the Eastern Hemisphere.

So as to provide for an equitable adjustment period, priority dates held by persons born in the Western Hemisphere on July 1, 1973 would be retained and visas allotted for the most preferential class to which the immigrant is eligible.

This bill eliminates discrimination in our Immigration and Nationality Act based on accident of birth in the Eastern and Western Hemisphere. This discrimination, too, should be eliminated from our statute books.

Mr. President, I ask unanimous consent that the text of my bill amending the Immigration and Nationality Act to remove the distinction between Eastern and Western Hemisphere immigrants, to establish an immigrant ceiling, and for other purposes be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2222

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 201(a) of the Immigration and Nationality Act is amended—

(1) by striking out in clause (i) of such subsection "45,000" and inserting in lieu thereof "75,000"; and

(2) by striking out in clause (ii) of such subsection "170,000" and inserting in lieu thereof "290,000".

Sec. 2. (a) Section 101(a)(27) of such Act is amended by striking out subparagraph (A) thereof and renumbering subparagraphs (B), (C), (D), and (E) as (A), (B), (C), and (D), respectively.

(b) Section 211(b) of such Act is amended by striking out "section 101(a)(27)(B)" and inserting in lieu thereof "section 101(a)(27)(A)".

Sec. 3. Section 212(a) of such Act is amended—

(1) by striking out in paragraph (14) "to special immigrants as defined in section 101(a)(27)(A) (other than the parents, spouses, or children of United States citizens or of aliens lawfully admitted to the United States for permanent residence),"; and

(2) by striking out in paragraph (24) "section 101(a)(27) (A) and (B)" and inserting in lieu thereof "section 101(a)(27)(A)".

Sec. 4. Section 241(a)(10) of such Act is amended by striking out "(other than an alien who is a native-born citizen of any of the countries enumerated in section 101(a)(27)(A) and an alien described in section 101(a)(27)(B))" and inserting in lieu thereof "(other than an alien described in section 101(a)(27)(A))".

Sec. 5. Section 244(d) of such Act is amended by striking out "is entitled to a special immigrant classification under section 101(a)(27)(A), or".

Sec. 6. Section 245(c) of such Act is repealed.

Sec. 7. Section 349(a)(1) of such Act is amended by striking out "section 101(a)(27)(E)" and inserting in lieu thereof "section 101(a)(27)(D)".

Sec. 8. Section 21(e) of the Act entitled "An Act to amend the Immigration and Nationality Act, and for other purposes", approved October 3, 1965, Public Law 89-236, 79 Stat. 921, is repealed.

Sec. 9. Each special immigrant, as that term was defined in section 101(a)(27)(A) of the Immigration and Nationality Act immediately prior to July 1, 1973, who had a priority date as such an immigrant immediately prior to July 1, 1973, shall be allotted a visa according to the most preferential class for which such immigrant files a visa petition and to which he is entitled under section 203(a) of such Act. Upon according such class to that special immigrant, the date of the filing of his visa petition shall be considered to be the priority date he had as such a special immigrant.

Sec. 10. The amendments and repeals made by this Act shall become effective on July 1, 1973.

II. TO BROADEN THE PROVISIONS OF THE LAW TO ENABLE SONS AND DAUGHTERS AND PARENTS TO BE MORE READILY REUNITED WITH THEIR FAMILIES

Mr. FONG. Back of the various preferences for the issuance of visas to immigrants has been a desire to reunite families. As I pointed out heretofore, 74 percent of all visas are available to families of citizens and permanent residents.

A. PARENTS OF PERMANENT RESIDENTS

While parents of citizens are entitled to "immediate relative" status and admissible outside the quota—section 201(b) of the Immigration and Nationality Act—there is no provision made in the law at present for parents of aliens lawfully admitted for permanent residence to be reunited with their resident alien children.

Permanent residents, too, should be permitted to be reunited with their parents.

My bill proposes to make parents of permanent residents eligible for second preference visas along with the now eligible spouses, and unmarried sons and daughters of aliens lawfully admitted for permanent residence.

The humanitarian need for such amendment, it appears to me, needs no further documentation.

Mr. President, I ask unanimous consent that the text of my bill amending the Immigration and Nationality Act to provide that parents of permanent residents be eligible to file for the second preference category be printed in the Record at this point.

There being no objection, the text of the bill was ordered to be printed in the Record, as follows:

S. 2223

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 203(a)(2) of the Immigration and Nationality Act is amended by inserting after "spouses," the following: "parents,".

B. WAIVER OF EXCLUSION FROM THE UNITED STATES FOR FRAUD ON THE PART OF SONS AND DAUGHTERS OF CITIZENS OR PERMANENT RESIDENTS

Mr. FONG. Mr. President, section 212(i) of the Immigration and Nationality Act reads:

> Any alien who is the spouse, parent, or child of a United States citizen or of an alien lawfully admitted for permanent residence and who is excludable because (1) he seeks, has sought to procure, or has procured, a visa or other documentation, or entry into the United States by fraud or misrepresentation, or (2) he admits the commission of perjury in connection therewith, may be granted a visa and admitted to the United States for permanent residence, if otherwise admissible, if the Attorney General in his discretion has consented to the alien's applying or reapplying for a visa and for admission to the United States.

Under section 212(i) of the Immigration and Nationality Act, an alien who is the spouse, parent or child of a citizen or permanent resident who seeks to or has procured a visa or entry to the United States by fraud or misrepresentation or perjury, may be granted a visa, if otherwise admissible, with the consent of the Attorney General.

Because a child is defined in section 101(b)(1) of the Immigration and Nationality Act as an unmarried person under the age of 21 years, sons and daughters of citizens and resident aliens who are over the age of 21 years are not eligible for this waiver of excludability.

Since it is the firm and settled principle of our immigration law to reunite families, to make this waiver available only to a "child"—as well as parent or spouse—of a U.S. citizen or resident alien surely does not serve the purpose of reuniting families.

All too frequently, the fraud, misrepresentation or perjury is committed by a son or daughter not much over the age of 21 and consists of denying their marital status—not necessarily to obtain a first or second preference visa—available to unmarried sons or daughters of citizens and resident aliens, respectively—as against a fourth preference visa which is available to married sons and daughters of citizens, but rather for fear of incurring a parent's wrath at their having married without the parent's consent.

Congress has long made it clear that it is the intent to keep family units together and preserve family ties, even at the cost of rigorous enforcement of the immigration law.

In keeping with this humanitarian goal, not only children, parents and spouses of citizens and resident aliens should be eligible for this waiver, but sons and daughters should be eligible for this waiver of exclusion. My bill would accomplish this by substituting the words "son, or daughter" for the word "child" now in section 212(i) of the Immigration and Nationality Act.

Mr. President, I ask unanimous consent that the text of my bill amending the Immigration and Nationality Act to include sons and daughters within the provision relating to waiving the exclusion from the United States for fraud be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2224

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 212(i) of the Immigration and Nationality Act is amended by striking out "or child" and inserting in lieu thereof the following: "son, or daughter".

C. WAIVER OF DEPORTABILITY FROM THE UNITED STATES FOR FRAUD ON THE PART OF SONS AND DAUGHTERS OF CITIZENS OR PERMANENT RESIDENTS

Mr. FONG. Section 241(f) of the Immigration and Nationality Act addresses itself to the inapplicability of the provisions of the section to the deportation of an alien excludable at the time of entry as an alien who sought to procure or procured a visa or other documentation, or entry to the United States by fraud or misrepresentation but who was otherwise admissible at the time of entry, and who is the spouse, parent, or child of a U.S. citizen or of an alien lawfully admitted for permanent residence.

Both section 212(i) and section 241(f) were added to the Immigration and Nationality Act by the Act of September 26, 1961 (75 Stat. 655).

Section 241(f) is a companion section to section 212(i), and reads:

> The provisions of this section relating to the deportation of aliens within the United States on the ground that they were excludable at the time of entry as aliens who have sought to procure, or have procured visas or other documentation, or entry into the United States by fraud or misrepresentation shall not apply to an alien otherwise admissible at the time of entry who is the spouse, parent, or a child of a United States citizen or of an alien lawfully admitted for permanent residence.

Immigration and Naturalization Service v. *Errico*, 385 U.S. 214 (1966), involved a native of Italy, who, in 1959, falsely represented to the immigration authorities that he was a skilled mechanic with specialized experience in repairing foreign automobiles. This was done to evade the then applicable quota restrictions. A U.S. citizen child was born to the Erricos in 1960.

Scott, aka Plummer v. *Immigration and Naturalization Service*, No. 91, was also decided in *I.N.S.* v. *Errico*, supra. In the Scott case, a native of Jamaica contracted a proxy marriage to a U.S. citizen solely for the purpose of entry into this country. The court found that she never lived with her husband and never intended to do so. She entered the United States in 1958 and thereafter gave birth to an illegitimate child, who became a citizen of the United States at birth.

In both cases, the immigrant was saved from deportation because of having the necessary familial relationship to a U.S. citizen. This would also have been the case if the familial relationship was to a lawful permanent resident.

The court, at page 220, stated:

> The intent of the Act [P.L. 85-316, Section 7 (1957), reenacted 75 Stat. 665 (1961), 8 U.S.C. § 1251(f)] is plainly to grant exceptions to the rigorous provisions of the 1952 Act for the purpose of keeping family units together. Congress felt that, in many circumstances, it was more important to unite families and preserve family ties than it was to enforce strictly the quota limitations or even the many restrictive sections that are designed to keep undesirable or harmful aliens out of the country.

In *I.N.S.* v. *Errico*, 385 U.S. 214 (1966), the Supreme Court interpreted section 241(f) of the Immigration and Nationality Act so as to save from deportation an alien who misrepresents his status for the purpose of evading quota restrictions, if he or she has the necessary familial relationship to a U.S. citizen or lawful permanent resident, even though the deportation charge did not result directly from the misrepresentation.

In that case, the Supreme Court reviewed the legislative history of section 241(f) and its predecessor statute (Public Law 85-316, 71 Stat. 639 (1957)). The Court concluded that the intent of the predecessor statute, section 7 of the 1957 Act, was "not to require that aliens who are close relatives of U.S. citizens have complied with quota restrictions to escape deportation for their fraud, (stating it) is clear from its language, and there is nothing in the legislative history to suggest that Congress had in mind a contrary result."

The Court stated, at page 224:

> The fundamental purpose of this legislation was to unite families. . . . the Act principally granted relief to persons who would be temporarily or permanently separated from their nearest relatives if the strict requirements of the Immigration and Nationality Act, including the national quotas, were not relaxed for them.

And the Court continued, at page 225, stressing the humanitarian purpose of the statute of "preventing the breaking up of families composed in part at least of American citizens" or lawful permanent residents.

Despite this affirmance by the Supreme Court of the clear expression of intent on the part of Congress to unite families and grant relief from deportation, it has been the policy of the Immigration and Naturalization Service to interpret this section 241(f) in as limited a fashion as possible.

To correct this and further the humanitarian purpose of reuniting families, the word "child" in section 241(f), like the word "child" in section 212(i), should be changed to "son, or daughter," making the two sections consistent, and excluding spouses, parents, sons or daughters of U.S. citizens or of permanent residents from excludability or deportation because of fraud in procurement of a visa or other document, or in entry into the United States.

This humanitarian purpose of reuniting families would be accomplished by my bill.

Mr. President, I ask unanimous consent that the text of my bill amending the Immigration and Nationality Act to include sons and daughters within the provision relating to exclusion from deportation from the United States of aliens excludable for fraud be printed in the RECORD at this point.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2225

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 241(f) of the Immigration and Nationality Act is amended by striking out "or child" and inserting in lieu thereof the following: "son, or daughter".

III. TO FACILITATE NATURALIZATION DESPITE LANGUAGE DIFFICULTY

Mr. FONG. Mr. President, having tried to rectify some of the discrimination in our present Immigration and Nationality Act in the bills I introduced today, and to reunite more members of families, it is now time to turn our attention to the treatment of immigrants when they seek to acquire citizenship by naturalization. It is our duty to enact laws to see to it that they, as well as citizens, are treated equitably under our laws.

The present provision of the Immigration and Nationality Act—section 312—requires that, in order to be naturalized, a person must understand, read, write, and speak English. Only persons who were 50 years of age and had been living in the United States for periods totaling at least 20 years when the Immigration and Nationality Act was enacted in 1952 were exempted from that requirement as were those physically unable to comply with the requirement.

On the other hand, most States have no literacy requirement for voting.

In my own State of Hawaii, the name of a candidate may be printed on the ballot with the Hawaiian or English equivalent or nickname, if the candidate so requests in writing at the time his nomination papers are filed—Hawaii Revised Statutes, section 11–112. If a citizen is illiterate or physically disabled, he is provided the assistance of two election inspectors who are not of the same political party—Hawaii Revised Statues, section 11–139—to assist him in voting. Furthermore, if a person otherwise eligible to register cannot sign his name, the clerk of the county where he registers is authorized to mark the affidavit of registration "Unable to sign"—Hawaii Revised Statutes, section 11–15—and he is then registered as a voter.

New Mexico and several other States, I am informed, authorize ballots and instructions to be printed in English or Spanish.

In 1966, the Supreme Court of the United States in *Katzenbach* v. *Morgan*, 384 U.S. 641 (1966), sustained the constitutionality of section 4(e) of the Voting Rights Act of 1965 which prohibited States from conditioning the right to vote of persons educated in American-flag schools in which the predominant language was other than English.

The Spanish-speaking Puerto Rican citizens of New York had challenged the English literacy test requirement of New York in the *Katzenbach* case.

The Supreme Court in holding the New York law unconstitutional, pointed out, at pages 654–655:

> Congress might well have concluded that as a means of furthering the intelligent exercise of the franchise, an ability to read or understand Spanish is as effective as ability to read English for those to whom Spanish-language newspapers and Spanish-language radio and television programs are available to inform them of election issues and governmental affairs.

It is clear that citizens are deemed to have sufficient knowledge to exercise their franchise intelligently without literacy tests, or with a knowledge of Spanish or Hawaiian, or if, as in the case of the Puerto Rican citizen in New York, they can show they successfully completed the sixth grade, or whatever grade is required under State law, in an accredited school in any State or territory, the District of Columbia or the Commonwealth of Puerto Rico in which the predominant language is other than English.

The Court in *Katzenbach* v. *Morgan*, supra, at pages 656–658, pointed out that the question of whether or not Congress could have gone further in affording relief to persons literate in a foreign language to those educated in non-American flag schools under section 4(e) of the Voting Rights Act of 1965 was not being decided in that case.

Surely, we can go the one step further. We can and should permit potential citizens who are over the age where language comes easily to them—I suggest that it is reasonable to determine that the age of 50 years is such an age in one's life—not to be required to demonstrate an ability to read, write, and speak English in order to qualify for naturalization as a citizen of these United States. We should permit such a person over the age of 50 years to take the literacy test in his own language. The bill which I introduce would do just that.

This bill would enable a person over the age of 50 years, literate in a foreign language, who meets all the other qualifications for naturalization, to take the literacy test in his own language.

Further, it would permit such person over the age of 50 years, literate in a foreign language, to demonstrate, in his own language, his understanding of the fundamentals of the history and the principles and form of our Government needed to be a functioning citizen of the United States.

In addition, my bill would waive the literacy requirement for those persons over the age of 60 years, who have resided in the United States for 20 years, who are illiterate, but who otherwise meet the qualifications for naturalization.

These persons, over the age of 60 years, who have resided in the United States for 20 years, could also demonstrate their understanding of our form and principles of government in their own language, rather than in English.

As I pointed out, when section 312 of the Imigration and Nationality Act became effective in 1952, persons, who were then over the age of 50 years and had been living in the United States for 20 years, were not required to demonstrate an understanding of the English language, including the ability to read, write and speak words in ordinary usage.

Since that time, many good persons, legally admitted for permanent residence, find themselves in the same position—they neither read nor write any language.

It is, I submit, most reasonable to understand and acknowledge the great difficulty a person who has reached the age of 60 without ever having learned to read or write any language will have in trying to learn the intricacies of reading, writing, and speaking the English language with sufficient proficiency to meet a test of literacy in English as is now required by section 312 of the Immigration and Nationality Act.

Therefore, to afford these worthy legally resident aliens, who would otherwise be eligible to become worthy citizens, an opportunity to become naturalized—despite their lack of literacy—this bill would waive all literacy requirements for such persons and permit them to demonstrate in their own language their understanding of the fundamentals of the history and principles and form of government of these United States.

Mr. President, I ask unanimous consent that the text of my bill to amend Section 312 of the Immigration and Nationality Act with respect to certain tests for naturalization be printed in the RECORD at this point.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2226

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 312 of the Immigration and Nationality Act is amended to read as follows:

"REQUIREMENTS AS TO UNDERSTANDING THE ENGLISH LANGUAGE, HISTORY, PRINCIPLES, AND FORM OF GOVERNMENT OF THE UNITED STATES

"SEC. 312. (a) Except as otherwise provided in this title, no person shall be naturalized as a citizen of the United States on his own petition unless he demonstrates an understanding of the English language, including an ability to read, write, and speak words in ordinary usage in the English language. The requirements of this subsection relating to an ability to read and write shall be met if the applicant can read or write simple words and phrases to the end that a reasonable test of his literacy shall be made. No extraordinary or unreasonable conditions shall be imposed upon the applicant.

"(b) The requirements of subsection (a) shall not apply to any applicant who is otherwise qualified to be naturalized and who—

"(1) on the effective date of this Act, is over fifty years of age and has been living in the United States for twenty years;

"(2) upon filing his petition, is over fifty years of age and can demonstrate an ability to read, write, and speak words in ordinary usage in his own language;

"(3) upon filing his petition, is over sixty years of age and has been living in the United States for twenty years; or

"(4) is physically unable to comply with the requirements of such subsection.

"(c) Except as otherwise provided in this title, no person shall be naturalized as a citizen of the United States upon his own petition unless he demonstrates a knowledge and understanding of the fundamentals of the history and the principles and form of government of the United States. In the case of an applicant to whom subsection (b) (2) or (3) applies, such knowledge and understanding may be demonstrated in a language other than English."

IV. TO UPDATE THE ADJUSTMENT PROVISIONS FOR LAW-ABIDING PERSONS INELIGIBLE FOR PERMANENT RESIDENCE WHO HAVE BEEN IN THE COUNTRY CONTINUOUSLY FOR A CONSIDERABLE PERIOD OF TIME

Mr. FONG. Mr. President, the Immigration and Naturalization Service estimates that there are between 1,000,000 and 2,000,000 persons illegally in the United States at the present time.

The Service has neither the personnel nor the funds to deport all these people—even if it should be decided that deportation is the answer to this problem.

Many of these people have been in the country for many, many years. They have acquired American citizen spouses and have American citizen children; they have jobs and so have already affected the labor market.

An alien who can show extreme hardship to himself, his citizen or permanent resident spouse, parent or child under section 244(a)(1) of the Immigration and Nationality Act may apply for suspension of deportation if he has been continuously present in the United States for not less than 7 years immediately preceding the date of such application and proves he is of good moral character, and if neither House of Congress passes a resolution in opposition.

Even if an alien is deportable because of conviction of a crime involving moral turpitude, is an anarchist, Communist or subversive, or a violator of the narcotic laws, or a prostitute or procurer, or convicted of a gun violation, engaged in espionage, violated the Alien Registration Act of 1940 or engaged in importation of persons for immoral purposes, under section 244(a)(2) of the act, he is permitted to adjust his status to that of a permanent resident if he has been in the United States for a continuous period of not less than 10 years following such an act and proves he has been a person of good moral character during all of such period, and if in the opinion of the Attorney General, his deportation would result in exceptional and extremely unusual hardship to the alien, his citizen spouse, parent or child and if the Congress passes a concurrent resolution favoring suspension of deportation.

Under section 249 of the Immigration and Nationality Act, an alien is permitted in the discretion of the Attorney General to make a record of lawful admission for permanent residence, if not inadmissible under section 212(a) insofar as it relates to criminals, procurers and other immoral persons, subversives, violators of the narcotic laws or smugglers of aliens. If the entry was prior to July 1, 1924, the record of entry is made as of the date of entry. In the Act of October 3, 1965, 79 Stat. 920, the date for adjustment was moved up from June 28, 1940, to a new date of June 30, 1948, with a record of lawful admission for permanent residence being made as of the date of approval of the application for persons who have had a residence in the United States continuously since such entry, are persons of good moral character and not ineligible to citizenship.

In the interest of keeping families united and as a matter of trying to effect a more feasible solution to the problem of our illegals, while studying a more permanent solution to this problem, I am introducing a bill to bring the date for making a record of lawful admission for permanent residence up to October 3, 1965, the date of the passage of the amendments to the Immigration and Nationality Act which set up the new preference visa system.

While not an ideal and while far from a total or final solution to the problem of the illegal alien, this bill would enable persons of good moral character who have resided continuously in the United States from October 3, 1965 up to the date of application to make a record of lawful admission for permanent residence and who are not inadmissible under sections 212(a) as criminals, procurers or other immoral persons, subversives, violators of the narcotic laws or smugglers of aliens, and not ineligible to citizenship, to regularize their immigration status and take their place in our society and economy, legally, without fear of deportation proceedings hanging over their heads as a threat to their security.

Mr. President, I ask unanimous consent that the text of my bill to amend the Immigration and Nationality Act to provide for recording of admission for permanent residence in the case of certain aliens who entered the United States prior to October 3, 1965 be printed in the RECORD at this point.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2227

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 249(a) of the Immigration and Nationality Act is amended by striking out "June 30, 1948" and inserting in lieu thereof "October 3, 1965".

SEC. 2. (a) The title preceding section 249 of such Act is amended to read as follows:

"RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN THE CASE OF CERTAIN ALIENS WHO ENTERED THE UNITED STATES PRIOR TO JULY 1, 1924, OR OCTOBER 3, 1965"

(b) The designation of section 249 in the table of contents (Title II—Immigration, chapter 5) of such Act is amended to read as follows:

"Sec. 249. Record of admission for permanent residence of certain aliens who entered the United States prior to June 1, 1924, or October 3, 1965".

Mr. FONG. Mr. President, the Senate Joint Resolution and eight bills I am introducing would, I submit, be a step in the direction of a more equitable and just treatment of all persons under our laws, be they citizens or aliens.

I ask my colleagues to join me as cosponsors of all or any of these bills.

By Mr. BROCK:

S. 2228. A bill to provide for greater disclosure of the nature and costs of real estate settlement services, to eliminate the payment of kickbacks and unearned fees in connection with settlement services provided in federally related mortgage transactions, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. BROCK. Mr. President, it is difficult to overestimate the importance to an individual of the events surrounding the purchase of his home. For most people, buying a home is the largest and most complex financial transaction in which they will ever engage.

Moreover, in spite of the increasing mobility of the American people, the average homebuyer is very, very inexperienced in the matter. In his life, he will go through the process only a very few times, perhaps years and miles apart and almost always with different problems.

A great many people will buy a home only once in their lives. For them, and for all persons buying for the first time, it can be a frightening experience.

The importance, in financial and other terms, of the home purchase, and the inevitable inexperience of the individual home buyer, add up to a special need for the protection of the buyer, and it is to that problem, that legislation I am today inroducing directs itself.

At the outset, I want to reject the idea that our citizens are not capable of thinking for themselves with regard to buying a house, or any other aspect of their lives. The American people do not need the Government to step in and do their thinking for them. What they need is the information on which to make their judgments.

I want to reject some specious solutions to this problem which, like so many grand-sounding ideas with regard to the business of finance, would serve only to dry up sources of credit. At this very moment, the availability of mortgage money is severely limited throughout the country, and consumers will little appreciate it if we worsen the situation by throwing out the mortgage baby with the settlement cost bath.

The need is not to impose large new costs on the lenders, costs which would lead them to further restrict credit. The need is to assure the homebuyer that he has the information he needs in order to thoughtfully carry out the process of homebuying.

Among the various aspects of the homebuying process, perhaps the most confusing of all are settlement costs. The legislation I am introducing today will help clarify the confusion by providing the buyer with the information he needs in order to have a clear picture of what his settlement costs will be.

The bill has four substantive provisions:

First. It establishes a national uniform statement of settlement costs, which would become the standard real estate settlement form for virtually all home purchases in the United States.

Second. It directs the Secretary of the Department of Housing and Urban Development to prepare and distribute special informational booklets to help persons borrowing money to finance a home better understand the nature and costs of real estate settlement services. Included in the booklet will be an explanation of the uniform statement of settlement costs. HUD will distribute the booklets to lending institutions, who are required by the bill to present one to each mortgage applicant at the time of application is made.

Third. It requires lenders to provide borrowers—and to the Government in the case of governmentally assisted loan—the full cost of settlement at least 10 days prior to the settlement date. Utilizing the uniform statement of settlement costs, the lender must provide the borrower an itemized disclosure of each charge arising in connection with the settlement. The lender is specifically charged with responsibility for obtaining any charges which may originate from other sources, and to include these charges in the disclosure. Thus the borrower will know his complete settlement cost, including attorney's fees, taxes, various insurance provisions, credit investigation, title searches, appraisal fees, and the like.

Fourth. It protects the homebuyer from having to pay kickbacks and other unearned fees, by flatly prohibiting such activities, and providing stiff penalties for violation.

Mr. President, this is sound legislation. It protects the consumer without demeaning him, regulates the lender without putting him out of business, and serves the people at a minimal cost.

I am pleased to introduce this legislation, and I urge its careful consideration by this Chamber.

By Mr. BIBLE (for himself and Mr. Cannon):

S. 2229. A bill to authorize the Director of the Bureau of Mines to extend certain assistance to certain individuals engaged in mineral exploration and development. Referred to the Committee on Interior and Insular Affairs.

Mr. BIBLE. Mr. President, on behalf of my colleague, Senator Cannon, and myself, I introduce for proper reference a bill to authorize the Director of the Bureau of Mines to extend certain assistance to certain individuals engaged in mineral exploration and development.

Mr. President, this measure could well be called the small miners' and prospectors' bill. Its purpose is to provide such assistance, financial or otherwise, as the Director of the Bureau of Mines determines as necessary to enable small, independent operators to engage in mineral exploration and development. It was prepared and is introduced at the request of veterans of the search for gold, silver, and other minerals throughout our Western mountains.

Despite the fact that the large mining companies are involved with complex electronic equipment in their continuing search for mineral resources, the burro and the jeep have not been replaced by the helicopter. In testimony before the Senate Interior and Insular Affairs Committee, it has been continually stressed that nearly all of the mineral discoveries over the past century have been the result of individual prospectors making the initial discovery and then being forced for financial reasons to go to the large companies for development.

This bill, if properly implemented, will enable the prospector to again return to the hills in research of the minerals we so desperately need if the United States is to continue to hold its place as a world leaders in this industrial age.

By Mr. HOLLINGS (for himself and Mr. Magnuson):

S. 2232. A bill to promote commerce and protect the environment by establishing procedures for the siting, construction, and operation of deepwater port facilities off the coast of the United States, and for other purposes. Referred to the Committee on Commerce.

Mr. HOLLINGS. Mr. President, I introduce for appropriate reference a bill relating to the siting, construction, and operation of deepwater port facilities off the coasts of the United States.

Mr. President, over the next 3 days a special joint subcommittee of the Senate Committees on Commerce, Public Works, and Interior and Insular Affairs will be conducting hearings into the subject of deepwater ports. Over 30 witnesses from Federal and State governments, private industries, universities, and environmental groups are slated to testify on this important emerging national issue.

This special subcommittee will be considering S. 1751, the Deepwater Port Facilities Act of 1973, an administration legislative proposal addressing this issue. After reviewing this legislation, I have become concerned about its thrust and about its basic features. Accordingly, I and Senator Magnuson are introducing a bill on the same subject which, we believe, is a better alternative to S. 1751.

In the first place, the administration, by designating the Department of Interior as the single lead agency monitoring the development of deepwater ports, has sought to make the issue primarily one of energy. No doubt our energy requirements relate directly to the need for such terminal facilities, but I see the issue as primarily one involving navigation, ships, marine transportation, and marine environment. Accordingly, in this new bill authority over deepwater ports would be given to the Coast Guard as lead agency. The Coast Guard, as a component of the Department of Transportation, is uniquely qualified to manage matters dealing with vessel and port safety, navigation, and protection of the marine environment. On the latter aspect it should be noted that the Department of Interior's outer Continental Shelf safety and environmental protection program has recently received serious criticism, first by the National Academy of Engineering and most recently by the General Accounting Office.

Which leads me to my second point—the environmental protection features of S. 1751. I am sure that the Senate wishes to avoid lengthy litigation on deepwater ports such as we have witnessed in the case of the Alaska pipeline, litigation which might still continue. Federal action on such massive facilities requires environmental credibility. We need to directly involve Federal agencies which have environmental credibility and we need to directly involve citizens with environmental concerns in the deepwater port decisionmaking process. With respect to citizen involvement, S. 1751 would require a public hearing only at the discretion of the Secretary of Interior. Our bill would mandate public hearings.

To obtain environmental credibility we must be concerned about expertise. The draft environmental impact statement on deepwater ports now being circulated by the Department of Interior is largely the work of agencies other than the Department of Interior. These other agencies, namely, the Coast Guard, the Maritime Administration, and the National Oceanic and Atmospheric Administration provided the bulk of the material which went into the draft statement. I might mention that the Sea Grant program, managed by the National Oceanic and Atmospheric Administration, provided the basic input for the Council on Environmental Quality's major study on the marine environment aspects of deepwater ports.

Therefore, Mr. President, this new bill we are introducing would lodge environmental examination responsibility with those best suited to handle it with credibility.

Third, I feel that S. 1751 fails to provide States with a strong input into the plannnig of the entire system associated with deepwater port development; namely, refineries, tank farms, industrial growth, population increases, and so on. For this reason, I suggest that States have federally assisted coastal zone management programs to help them cope with the monumental size of land-side facilities associated with deepwater terminals prior to the development of those facilities. Since this program seeks only to help States make basic planning decisions, but does not give the Federal Government authority to make planning choices, it would be an extremely useful tool for States grappling with land-side impacts. The same is also true with the land-use program, should be it enacted. As a matter of national interest, we in the Congress should insure that a State is ready to help itself in the event a deepwater port is situated off its coast.

Mr. President, these are a few of the changes our bill makes in relation to S. 1751. I urge my colleagues to give this bill serious consideration.

I ask unanimous consent that the bill, in its entirety, be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2232

A bill to promote commerce and protect the environment by establishing procedures for the siting, construction, and operation of deepwater fort facilities off the coast of the United States, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Offshore Marine Environment Protection Act of 1973".

Sec. 2. The Ports and Waterways Safety Act of 1972 (86 Stat. 424) is amended by adding at the end thereof the following new title:

"TITLE III—SITING, CONSTRUCTION, AND OPERATION OF DEEPWATER PORT FACILITIES IN THE OFFSHORE MARINE ENVIRONMENT

"DECLARATION OF POLICY

"Sec. 301. (a) Findings.—The Congress finds and declares that—

"(1) plans now exist for the construction and operation of large-scale deepwater port facilities off the coasts of the United States;

"(2) to protect human health and safety, to prevent damage to the marine environment, and to assure uniform standards, a Federal regulatory mechanism is needed to oversee the siting, construction, and operation of such deepwater port facilities;

"(3) the planned development of such deepwater port facilities involves and affects interstate and foreign commerce, fisheries and wildlife, and navigation and will affect United States citizens and the marine environment over a broad geographical area;

"(4) any such deepwater port facility which is constructed and operated will necessarily generate concurrent development in the coastal zone of adjacent coastal States; and

"(5) there is a need to insure that each coastal State has an approved coastal management program to regulate, control, and direct land use developments within the coastal zone so that Federal and State cooperation will effectively manage and protect both the coastal and marine environments.

"(b) Purposes.—Congress declares that the purpose of this title is to authorize and regulate the siting, construction, and operation of deepwater port facilities and to provide for the fullest possible protection of the marine and coastal environment to prevent any adverse impact which might occur as a direct or indirect consequences of the development of such facilities.

"DEFINITIONS

"Sec. 302. As used in this title—

"(1) 'Application' means any application submitted under this title for a license to construct or operate a deepwater port facility, including renewal, modification, and certification as to environmental features of any such license or application for license.

"(2) 'Coastal State' means any State of the United States in or bordering on the Atlantic, Pacific, or Arctic Oceans, Gulf of Mexico, Long Island Sound, or the Great Lakes, and includes Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia.

"(3) 'Deepwater port facility' means any manmade structure, either fixed or floating, located in the navigable waters of the United States more than five hundred feet to the seaward of the mean low-water mark or located beyond the territorial sea of the United States and which is intended for use as a port or terminal for transportation of goods and commodities from vessels to shoreside.

"(4) 'Citizen of the United States' means any private person, individual, association, corporation, or entity; or any officer, employee, agent, department, agency, or instrumentality of the Federal Government or of the government of any State or political subdivision thereof.

"(5) 'Licensee' means a person to whom a license is issued pursuant to this Act to construct or operate a deepwater port facility.

"(6) 'Marine environment' includes, but it is not limited to, coastal navigable waters, the fish and wildlife resources of the coastal areas and coastal zone, and the recreational and scenic values of such waters and resources.

"(7) 'Secretary' means, except as otherwise specifically provided, the Secretary of the Department in which the Coast Guard is operating.

"(8) 'United States' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands.

"LICENSE TO CONSTRUCT OR OPERATE DEEPWATER PORT FACILITIES

"Sec. 303. (a) General.—No citizen of the United States may construct or operate a deepwater port facility except on the basis of written plans recommended for authorization and approval by the Commandant of the Coast Guard and authorized and approved by the Secretary. Upon such authorization and approval, pursuant to and in accordance with the provisions of this title, the Secretary may issue to, transfer to, or renew for a citizen of the United States a license to construct or operate a deepwater port facility.

"(1) he determines that the applicant is financially responsible;

"(2) he determines that the applicant can and will comply with applicable laws, regulations, and license conditions;

"(3) he has been assured by the appropriate Federal agencies that the proposed facility, as to which a license is sought, will not unreasonably interfere with international navigation or other reasonable uses of the high seas, as defined by treaty, convention, or customary international law;

"(4) he has been assured by the Secretary of State that issuance is consistent with the international obligations of the United States;

"(5) he finds that the issuance would not adversely affect competition, restrain trade, or further monopolization; and

"(6) he has been assured, pursuant to section 304 of this title, that such facility will not pose an unreasonable threat to the integrity of the marine environment in which it is to be located, and that all possible precautions are being taken and will be taken to minimize adverse impact on the marine environment, including the marine environment of the State or States near the coast of which such deepwater port facility will be located.

"(c) Term of License.—License issued under this title shall be for a term of no longer than thirty years, with preferential rights in the licensee to renew under such terms and for such period, not to exceed thirty years, as the Secretary finds is reasonable and appropriate.

"(d) Antitrust Laws Applicable.—The grant of a license under this title shall not be admissible in any way as a defense to any civil or criminal action for violation of the antitrust laws of the United States.

"(e) Transfer of License.—Licenses issued under this title may be transferred after the Secretary determines that the transferee meets the requirements of this title.

"(f) Conditions, Revocation, or Suspension of Licenses.—(1) No license shall be issued under this title unless the licensee or transferee first agrees in writing that—

"(A) there will be no change from the plans and operational systems detailed in the application without prior approval in writing from the Secretary; and

"(B) the license will comply with any reasonable condition or conditions which the Secretary may impose at the date of issuance or transfer of the license or at any time thereafter.

"(2) The Secretary, upon a petition in writing from—

"(A) the licensee;

"(B) a State adjacent to a deepwater port facility constructed or operated by the licensee;

"(C) any department or agency authorized under section 304 of this title to grant or deny any certification; or

"(D) any aggrieved citizen of the United States may, with or without a hearing, modify by addition deletion, or other amendment, the terms and conditions of any license issued, transferred, or renewed under this section.

"(3) The Secretary may, for violation of any condition or for other cause shown, suspend or revoke any license issued, transferred, or renewed under this section.

"(g) National Security.—Notwithstanding the foregoing, the Secretary shall not issue a license under this section and shall cancel or suspend any license issued in any case in which the President determines that it would be contrary to the national security of the United States: *Provided,* That within ninety days of such determination by the President, the Senate, by majority vote, consents to such determination.

"ENVIRONMENTAL CERTIFICATION

"Sec. 304. (a) General.—Prior to the issuance, transfer, modification, or renewal of any license under section 303 of this title, the Secretary of Commerce, through the National Oceanic and Atmospheric Administration, shall grant, with or without any condition or conditions, or shall deny certification of a deepwater port facility, with respect to those features of the facility which would affect the marine and coastal environment. Upon a showing that the location, construction, and operation of such facility does not post an unreasonable threat to the integrity of the marine and coastal environment and that all possible precautions have been taken to minimize anticipated adverse impact on the marine and coastal environment, the Secretary of Commerce may grant such certification.

"(b) Criteria.—The Secretary of Commerce, through the National Oceanic and Atmospheric Administration, shall establish and apply, and may from time to time revise, criteria for reviewing and evaluating deepwater port facilities. Such criteria may include, but are not limited to—

"(1) the effect on ethetic and recreational values;

"(2) the effect on fish plankton, shellfish, and wildlife resources;

"(3) the effect on the oceanographic currents or wave patterns and upon shorelines and beaches, including bays and estuaries and other features characteristic of the adjacent coastal zone;

"(4) the effect on alternate uses of the oceans and navigable waters, such as scientific study, fishing, and other living and nonliving resources exploitation;

"(5) the dangers to such facility occasioned by waves, winds, and weather and the steps which can be taken to protect against such dangers; and

"(6) such other considerations as the Secretary of Commerce deems appropriate or necessary to fully evaluate any deepwater port facility.

"(c) Conditions.—The Secretary of Commerce, through the National Oceanic and Atmospheric Administration, shall, where appropriate, recommend reasonable conditions which shall be incorporated into a license issued, transferred, modified, or renewed under to section 303 of this title to insure that a proposed deepwater port facility does not pose an unreasonable threat to the integrity of the marine environment and that all possible precautions to minimize environmental adverse impact are being taken and will be taken and maintained by the applicant and licensee.

"(d) Approved State Program Requirement.—No certification pursuant to this section shall be issued unless the adjacent coastal State, or States, shall have an approved coastal zone management program pursuant to the National Coastal Zone Management Act of 1972 (86 Stat. 1280). The Secretary of Commerce, through the National Oceanic and Atmospheric Administration, shall consult with the appropriate State authorities concerning existing and prospective coastal management programs, and shall insure the coordination of construction and operation of any deepwater port facility with such related development in the coastal zone as is permitted or contemplated to be permitted within an approved coastal management program of the adjacent coastal State or States.

"(e) Environmental Protection Agency.—The Administrator of the Environmental Protection Agency, prior to the issuance, transfer modification, or renewal of any license pursuant to section 303 of this title, shall grant, with or without any condition or conditions, or shall deny certification of a deepwater port facility. Upon a showing by the applicant that the location, construction, or operation of the proposed facility will not result in failure to comply with or cause a violation of effluent limitations or other standards or requirements imposed by the Federal Water Pollution Control Act, as amended, or the Clean Air Act, as amended, or any other relevant Act which is subject to his administration, the Administrator of the Environmental Protection Agency may grant such certification.

"(f) Secretary of the Interior.—The Secretary of the Interior, prior to the issuance, transfer modification, or renewal of any license pursuant to section 303 of this title, shall grant, with or without any condition or conditions, or shall deny certification of a deepwater port facility. After consultation with the Governor of any State or States off whose coasts such a facility is located or is proposed to be located, to insure that the operation of the facility and directly related land-based activities located outside the coastal zone, as defined by that State or States, would be consistent with the land-use program of such State or States, the Secretary of the Interior may grant such certification.

LICENSING PROCEDURE

"Sec. 305. (a) General.—The Secretary is authorized to issue reasonable rules, and regulations governing application for and issuance, transfer, modification, renewal, suspension, or revocation of licenses pursuant to this title. Such rules and regulations shall be issued in accordance with section 553 of title 5, United States Code, without regard to subsection (a) thereof. Such rules and regulations shall contain a mechanism for full cooperation and coordination with the certification responsibility of the Secretary of Commerce, the Administrator of the Environmental Protection Agency, and the Secretary of the Interior under section 304 of this title.

"(b) Submission of Plans.—Any citizen of the United States making application to construct or operate or to modify a deepwater port facility shall submit detailed plans to the Secretary, the Secretary of Commerce, the Administrator of the Environmental Protection Agency, and the Secretary of the Interior at least two years prior to the expected commencement of construction. However, in the case of any such facility which was constructed in whole or in part prior to the date of enactment of this title or as to which construction was planned to commence prior to two years after such date, the applicant may submit such plans to such parties as soon as possible. The agencies shall agree on, and may from time to time modify, a single fee to be paid by the applicant. Such fee shall be established in an amount which shall be sufficient to cover the full administrative costs.

"(c) Other Authorizations.—An application for a license concurrently filed with the Secretary, the Secretary of Commerce, the Administrator of the Environmental Protection Agency, and the Secretary of the Interior shall constitute an application for all Federal authorizations required for construction or operation of a deepwater port facility. After insuring that an application contains all information required, the Secretary shall forward a copy thereof to those Federal agencies which have or share jurisdiction over any such construction, or operation. No license under this Act shall be issued, transferred, modified to authorize any extension or expansion of such facility, or renewed, until the Secretary has been notified in writing by each such agency that the application is lawful and proper.

"(d) Environmental Impact Statement.—A single detailed environmental impact statement in connection with each license shall be prepared jointly by the Secretary, the Secretary of Commerce, the Administrator of the Environmental Agency, and the Secretary of the Interior. Such statement shall be circulated in compliance with guidelines established by the Council on Environmental Quality.

"(e) Hearing Requirement.—A license may be issued, transferred, renewed, suspended, or revoked pursuant to this title only after notice and a public hearing in accordance with the provisions of section 554 of title 5, United States Code. So far as practicable, hearings held by the Secretary shall be consolidated with hearings held by other agencies. At least one public hearing shall be held in the vicinity of the actual or proposed site of a deepwater port facility.

"ENFORCEMENT OF REGULATIONS AND CONDITIONS ON LICENSES

"Sec. 306. (a) Records.—(a) Each licensee shall establish and maintain such records, make such reports, and provide such information as the Secretary shall reasonably require or request. Each such licensee shall submit such reports and make available such records and information to the Secretary as he shall by regulation require.

"(b) Inspection.—Any officer or employee duly designated by the Secretary, upon presenting appropriate credentials and a written notice of inspection authority to any licensee, is authorized to enter a deepwater port facility or any property within such facility to determine whether such licensee has acted or is acting in compliance with the provisions of the license and the declaration of policy of this title. Such officer or employee may inspect, at reasonable times, records, files, papers, processes, controls, and facilities, and may test any feature of a deepwater port facility. Each inspection shall be commenced and completed with reasonable promptness and such licensee notified of the results of such inspection.

"PUBLIC ACCESS TO INFORMATION

"Sec. 307. (a) General.—Copies of any communication, document, report, or information received or sent by any applicant shall be made available to the public upon identifiable request, and at reasonable cost, unless such information may not be publicly released under the terms of subsection (b) of this section. Except as provided for under subsection (b) of this section, nothing contained in this section shall be deemed to require the release of any information described by subsection (b) of section 552 of title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

"(b) Exception.—The Secretary shall not disclose information obtained by him under this Act which concerns or relates to a trade secret referred to in section 1905 of title 18, United States Code, except that such information may be disclosed—

"(1) upon request, to other Federal Government departments and agencies for official use;

"(2) up request, to any committee of Congress having jurisdiction over the subject matter to which the information relates;

"(3) in any judicial proceeding under a court order formulated to preserve the confidentiality of such information without impairing the proceedings; and

"(4) to the public in order to protect health and safety after notice and opportunity for comment in writing or for discussion in closed session within fifteen days by the party to which the information pertains (if the delay resulting from such notice and opportunity for comment would not be detrimental to the public health and safety).

"RELATIONSHIP TO OTHER LAWS

"Sec. 308. No action taken pursuant to this title shall relieve, exempt, or immunize any person from any other requirements imposed by Federal, State, or local laws, regulations, or ordinances. Nothing contained in this title supplants or modifies any treaty or Federal statute or authority granted thereunder, nor does it prevent a State or political subdivision thereof from prescribing for deepwater port facilities within its jurisdiction higher safety or environmental standards.

"PENALTIES AND REMEDIES

"Sec. 309. (a) Criminal Violation.—Any person who willfully violates any provision of this title shall on conviction be fined not more than $25,000 for each day of violation or imprisoned for not more than one year, or both.

"(b) Civil Violation.—(1) Any person who violates any provision of this title other than willfully shall be liable to the United States for a civil penalty of a sum which is not more than $25,000 for each day of violation. The amount of such civil penalty shall be assessed by the Secretary after notice and an opportunity for an adjudicative hearing conducted in accordance with section 554 of title 5, United States Code, and after he has considered the nature, circumstances, and extent of such violation, the practicability of compliance with the provisions violated, and any good-faith efforts to comply with such provisions.

"(2) Upon the failure of the offending party to pay such civil penalty, the Secretary may commence an action in the appropriate district court of the United States for such relief as may be appropriate or he may request the Attorney General to commence such an action.

"(c) Equitable Remedy.—The Attorney General or the Secretary may bring an action in the appropriate district court of the United States for equitable relief to redress a violation by any person of any provision of this title. The district courts of the United States shall have jurisdiction to grant such relief as the equities of the case may require.

"ADVISORY COUNCIL

"Sec. 310. (a) Establishment.—There is hereby established an 'Advisory Council for Deepwater Port Policy' which shall assist the Secretary in the performance of his duties and obligations under this title.

"(b) Members.—The Council shall consist of fifteen members who shall be appointed by the Secretary on the following basis—

"(1) two, to be selected from a list of not less than four qualified individuals recommended by the American Institute of Merchant Shipping, who shall be representative of shipping management;

"(2) two, to be selected from a list of not less than four qualified individuals recommended by the American Federation of Labor and Congress of Industrial Organizations, who shall be representative of maritime labor;

"(3) two, to be selected from a list of not less than four qualified individuals recommended by the chairman of the Committee on Merchant Marine and Fisheries of the House of Representatives and the chairman of the Committee on Commerce of the Senate as having expert knowledge or experience in a scientific or technical discipline relevant to the development of marine transportation systems;

"(4) two, to be selected from lists of qualified individuals recommended by environmental organizations, who shall be representative of environmental concerns;

"(5) two, to be selected from a list of not less than four qualified individuals recommended by the American Petroleum Institute who shall be representative of the petroleum industry;

(6) two, to be selected from a list of not less than four qualified individuals recommended by the National Academy of Sciences as recognized authorities in the fields of marine biology, ecology, or other scientific area relevant to protection of the coastal and marine environment; and

"(7) three, to be selected from lists of qualified individuals recommended by the Governors of coastal States, who shall be representative of the coastal States.

As used in this subsection, 'qualified individual' means an individual who is equipped by education, experience, known talents, and interests to further the policy of this title effectively, positively, and independently if appointed to be a member of the Council. Each list of qualified individuals shall be accompanied by such biographies and other material on each person recommended and in such form as the Secretary shall direct.

"(c) Terms of Office.—The terms of office of the members of the Council first taking office shall expire as designated by the Secretary at the time of appointment, two at the end of the first year, two at the end of the second year, two at the end of the third year, three at the end of the fourth year, three at the end of the fifth year, and three at the end of the sixth year. Successors to members of the Council shall be appointed in the same manner as the original members and shall have a term of office expiring six years from the date of expiration of the term for which their predecessors were appointed. Any member appointed to fill a vacancy on the Council occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. No member may be reappointed upon the expiration of his term.

"(d) Chairman.—The members of the Council shall select one of their members to serve as chairman of the Council for a period not to exceed one year.

"(e) Staff Support.—The Secretary, the Secretary of Commerce through the National Oceanic and Atmospheric Administration, the Administrator of the Environmental Protection Agency, and the Secretary of the Interior may provide the Council with such staff support as the Council, with the concurrence of a majority of the members of the Council, may request and as any of the foregoing officials deems appropriate.

"(d) Function.—The Council shall assist the Secretary by meeting periodically to confer upon and make specific recommendations concerning the administration and implementation of this title and concerning the submission by the Council of such material, views, and reports as the Secretary, the Secretary of Commerce, the Secretary of the Interior, the Administrator of the Environmental Protection Agency, or a committee of the Congress may request or as the Council may determine to issue concerning any matter relevant to the purposes of this title.

"CITIZEN CIVIL ACTION

"Sec. 311. (a) Action Authorized.—Except as provided in subsection (b) of this section, any person may commence a civil action for injunctive relief on his own behalf, whenever such action constitutes a case or controversy—

"(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any provision of this title or any condition on a license issued pursuant to this title; or

"(2) against the Secretary where there is alleged a failure of the Secretary to perform any act or duty under this title which is not discretionary with the Secretary. Any action brought against the Secretary under this paragraph shall be brought in the district court for the District of Columbia.

The district courts shall have jurisdiction over suits brought under this section without regard to the amount in controversy or the citizenship of the parties.

"(b) Action Barred.—No civil action may be commenced—

"(1) under subsection (a)(1) of this section—

"(A) prior to sixty days after the plaintiff has given notice of the violation (i) of the Secretary and (ii) to any alleged violator,

"(B) if the Secretary or the Attorney General has commenced and is diligently prosecuting a civil action with respect to such matters in a court of the United States, but in any such action any person may intervene as a matter of right.

"(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice of such action to the Secretary. Notice under this subsection shall be given in such manner as the Secretary shall prescribe by regulation.

"(c) Government Intervention.—In any action under this section, the Secretary or the Attorney General, if not a party, may intervene as a matter or right.

"(d) Costs.—The Court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines that such an award is appropriate.

"(e) Other Actions.—Nothing in this section shall restrict any right which any persons (or class of persons) may have under any statute or common law to seek enforcement or to seek any other relief.

"AUTHORIZATION FOR APPROPRIATIONS

"Sec. 312. There is authorized to be appropriated $1,000,000 for the fiscal year 1974, $1,000,000 for the fiscal year 1975, and $1,000,000 for the fiscal year 1976, for administration of this Act.".

Sec. 3. The Administrator of the National Oceanic and Atmospheric Administration, in consultation with the Secretary of the Department in which the Coast Guard is operating, the Secretary of the Interior, the Secretary of Commerce, the Administrator of the Environmental Protection Agency, the Council on Environmental Quality, the Secretary of Housing and Urban Development, the Secretary of Health, Education, and Welfare, and the heads of other appropriate Federal departments, agencies, and instrumentalities; the Governors of the coastal States and the heads of the appropriate departments or agencies of such States and political subdivisions of such States; the scientific community; not-for-profit organizations concerned about protection of the marine environment and coastal zone development and management; and private industry, shall coordinate a study and prepare a plan or plans for the development and protection of the offshore marine environment of the United States. This study and preparation—

(a) may be conducted outside of the National Oceanic and Atmospheric Administration under the direction of a university or recognized research center by an interdisciplinary group, none of the members of which may have a financial interest or conflict of interest (other than any fee paid by the Administrator for serving as a member of such group) with respect to the findings and conclusions of such study and the content of such plan or plans;

(b) shall be completed not less than two years after the date of enactment of this Act; and

(c) shall be submitted, upon completion, by the Administrator to the Congress without prior clearance or review by any other official or agency of the executive branch of the Federal Government. For purposes of this section, there is hereby authorized to be appropriated such sums as are necessary, not to exceed $10,000,000.

By Mr. CHURCH (for himself, Mr. Hatfield, Mr. McClure, and Mr. Packwood):

S. 2233. A bill to establish the Hells Canyon National Recreation Area in the States of Idaho, Oregon, and Washington, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

LEGISLATION TO CREATE THE HELLS CANYON RECREATION AREA

Mr. CHURCH. Mr. President, I send a bill to the desk for appropriate reference, in which I am joined by Senators Hatfield, McClure, and Packwood. The bill is designed to assure that the Hells Canyon area in Idaho and Oregon will be preserved for the enjoyment and benefit of the people.

This bill represents the culmination of months of work and numerous meetings between the four Senators from Idaho and Oregon. The work has, however, been well worth it. For the first time, we have reached a common agreement on a legislative approach to save the Hells Canyon and its surrounding environs.

Like all initial drafts, the bill can undoubtedly be improved. This task, however, must be left to the hearing process. We intend to hold hearings on the legislation in Idaho and Oregon, so that the people of our respective States can fully express their views.

Major features of the bill are:

First. Creation of a Hells Canyon National Recreation Area. The recreation area would include a ¼-mile buffer on either side of the Snake River from Brownlee Dam to Oxbow Dam. Just before Oxbow Dam on the Oregon side of the river and at approximately the damsite itself on the Idaho side of the river the recreation area boundary begins. The recreaton area then surrounds the Hells Canyon and continues on to the northern boundary of the Nez Perce National Forest in Idaho and within the State of Oregon to the Washington State border. A ¼-mile buffer strip continues along the Snake River from the end of the major portion of the recreation area on to the town of Asotin, Wash.

Second. Creation within the recreation area, of a Hells Canyon Wilderness. The wilderness area on the Idaho side follows the course of Deep Creek to the hydrologic divide of the Snake River Canyon and follows that divide with some minor variations on to Pittsburg Landing; the northern boundary of the area is represented by a point approximately 500 feet back from the existing road to Pittsburgh Landing. The boundary was placed back from the road to assure that sufficient flexibility would be allowed for improvement of the road to the landing. On the Oregon side of the river, the wilderness area begins at a point between Oxbow and Hells Canyon Dams and continues, with minor variations, along the hydrologic divide of the Snake River Canyon to the Oregon Washington border. The wilderness area includes, within its boundaries the seven Devils Peaks in Idaho. Black Lake, however, is excluded. The lake is currently accessible by a road used by many recreation enthusiasts during the summer months. There will be no interference with this established use.

Third. A total prohibition on construction of any more dams along the Middle Snake River in Hells Canyon. This provision hardly needs elaboration. We seek to preserve, in its natural state, the deepest gorge on the North American Continent. A current moratorium imposed by the Federal Power Commission upon any dam construction in the canyon will expire in September of 1975. Congress must act to save the canyon before that date overtakes us.

Fourth. Language which protects upstream water rights in Idaho. I have insisted that any legislation dealing with Hells Canyon must include language to protect the present and future rights of the water users upstream in the State of Idaho. This bill contains such language, drafted by the water users themselves.

The language reads:

> No provision of this Act, or any guidelines, rules or regulations issued hereunder, shall in any way limit, restrict or conflict with present and future use of the waters of the Snake River and its tributaries upstream from the boundaries of the Hells Canyon National Recreation Area created hereby, for beneficial purposes, whether consumptive or non-consumptive, now or hereafter existing, including waters used for domestic, municipal, stockwater, irrigation, mining, power, or industrial purposes.

Fifth. A specific directive that existing grazing on public lands within the the recreation and wilderness areas shall be allowed to continue. The original Wilderness Act permits ranchers and stockmen to continue their grazing operations within wilderness areas. We have reiterated that such pastoral uses shall not be infringed upon by the provisions of this bill.

Sixth. Limitations on the current condemnation powers being exercised by the Forest Service in acquiring private lands in Hells Canyon. The members of both the Oregon and Idaho Senate delegations share a common concern over protection of private property rights within the recreation and wildeness Areas created by this bill. Therefore, the bill specifically provides that the Forest Service may not condemn in excess of 5 percent of the private lands lying within the recreation area for the purpose of acquiring title to the land.

Recognizing that methods other than the acquisition of title to the private lands can be utilized to protect the area, the Forest Service is allowed to acquire scenic easements, by condemnation, if necessary without regard to the 5 percent limitation. We have attempted to strike a reasonable balance with this feature. The bill thus enables the Forest Service to protect the natural beauty of the area, without need for acquiring title to private inholdings.

Seventh. Preservation of multiple-use management for all parts of the recreation area, excepting wilderness. The bill also provides for a review of certain lands within the recreation area for possible inclusion within the national wilderness preservation system at a future date. The Rapid River drainage in Idaho is designated for such a study, and all lands lying within the recreation area within the State of Oregon are so designated. During the period of the study, no action may be taken with respect to these lands which would result in destroying their wilderness eligibility. Lands lying outside of the areas designated would continue to be administered in accordance with multiple-use principles, with recreational uses given special emphasis, but without restriction against timber cutting on a selective-cut basis. In addition, the whole recreational area, including the parts designated as wilderness, would be withdrawn from the location of new mining claims, subject, of course, to valid existing rights.

Eighth. Authorization of funds to improve public access to Hells Canyon at Pittsburg Landing on the Idaho side of the river and Dug Bar on the Oregon side. Access by car to the Snake River is thus made available, while the river, itself, can be used for conveyance deep into the heart of the Hells Canyon wilderness. Moreover, lookout points would be provided on both sides of the canyon where sightseers could drive by car and enjoy a broad, panoramic view of the breathtaking canyon.

Ninth. Designation of the Snake River, between Hells Canyon Dam and Asotin, Wash., as part of the National Wild and Scenic Rivers System. Specifically the river would be divided into three segments: From Hells Canyon Dam to Pittsburg Landing, designated as wild; from Pittsburg Landing to Dough Creek, as scenic; and from Dough Creek on to Asotin, Wash., as recreational.

Tenth. Deauthorization of the proposed Asotin Dam, an ill-conceived project opposed by a majority of the people in the area

Eleventh. Development by the Forest Service of a comprehensive management plan for the entire recreation area, with consideration given alternative methods of transportation. While recognizing the existing right of motorboat operators to continue the use of the river, the Forest Service could regulate the use to prevent undue congestion.

Twelfth. The bill provides that no new wilderness may be created within the recreational area without the specific consent of Congress. This is to assure that the views of the people of each State will be fully considered in any future action affecting the area.

In sum, I feel we have written a good bill. Our next step is to take it to the people of Idaho and Oregon for their recommendations. With the help of the people of our respective States, I believe an even better bill will emerge, to assure, for this and future generations, that the unique beauty of the Hells Canyon will be preserved.

I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2233

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, (a) to assure for this and future generations that the natural beauty, historical and archeological values of the Hells Canyon Area and the one hundred and one and fourteenths mile segment of the Snake River between Hells Canyon Dam in Idaho and Asotin, Washington, together with portions of certain of its tributaries and adjacent lands, are preserved, and the recreational and ecologic values and public enjoyment of the area are enhanced, the Hells Canyon National Recreation Area is hereby established.

(b) The Hells Canyon National Recreation Area (hereinafter referred to as the "recreation area") including the Hells Canyon Wilderness Area (hereinafter referred to as the "wilderness area"), shall comprise the lands and waters generally depicted on the map entitled "Hells Canyon National Recreation Area" date ——— 1973 which shall be on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture. The Secretary of Agriculture (hereinafter referred to as "the Secretary"), shall, as soon as practicable after the date of enactment of this Act, publish a detailed description and map showing the boundaries of the recreation area and the wilderness area in the *Federal Register*.

SEC. 2. The lands designated as the Hells Canyon Wilderness Area are hereby incorporated in the National Wilderness Preservation System and shall be administered in accordance with the provisions of this Act and the provisions of the Wilderness Act (78 Stat. 893), whichever is more restrictive, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

SEC. 3. Recognizing the benefits of classification under the Wild and Scenic Rivers Act (83 Stat. 906) the Congress hereby incorporates the below listed segments of the Snake River into the Wild and Scenic Rivers system in the status listed.

(1) that segment of the Snake River from Hells Canyon Dam downstream to Pittsburg Landing (River Mile 247.0 to river mile 214.5 inclusive), being free of impoundments and generally inaccessible except by trail, with watersheds and shorelines essentially primative, is hereby designated a Wild River:

(3) that segment of the Snake River from Pittsburg Landing to Dough Creek (River Mile 214.5 to River Mile 170.7 inclusive), being free of impoundments, with shorelines largely undeveloped, but accessible by road, is hereby designated a Scenic River:

(3) that segment of the Snake River from Dough Creek downstream to the town of Asotin, Washington, (river mile 170.7 to river mile 145.6 inclusive), being free of impoundments but being more or less developed and bordered on its west shoreline by Washington State Highway 129, is hereby designated a Recreational River.

SEC. 4. (a) Notwithstanding any other provision of law, or any authorization heretofor given pursuant to law, the Federal Power Commission shall not license the construction of any dam, water conduit, reservoir, power house, transmission line, or other project work under the Federal Power Act (41 Stat. 1063), as amended (16 USC 791a et seq.), within the Recreation Area, except that the provisions of the FPA (41 Stat. 1063) shall continue to apply to any project (as defined in such Act) and all of the facilities and improvements required or used in connection with the operation and maintenance of said project, in existence within the Recreation Area which project is already constructed or under construction on the date of enactment of this Act.

(b) No Department or agency of the United States shall assist by loan, grant, license, or otherwise the construction of any water resource facility that would have a direct and adverse affect on the values for which the waters of the Area are protected, as determined by the Secretary.

SEC. 5. The Asotin Dam, authorized under the provisions of the Flood Control Act of 1962 (76 Stat. 1173), is hereby deauthorized.

SEC. 6. (a) No provision of this act, or any guidelines, rules or regulations issued hereunder, shall in any way limit, restrict or conflict with present and future use of the waters of the Snake River and its tributaries upstream from the boundaries of the Hells Canyon National Recreation Area created hereby, for beneficial purposes, whether consumptive or non-consumptive, now or hereafter existing, including waters used for domestic, municipal, stockwater, irrigation, mining, power or industrial purposes.

(b) No flow requirements of any kind will be imposed on the waters of the Snake River below Hells Canyon Dam under the provisions of this act, or any guidelines, rules or regulations adopted pursuant thereto.

SEC. 7. (a) The Secretary shall administer the recreation area in accordance with the laws, rules and regulations applicable to the national forests in such manner as will best accomplish the following objectives:

(1) the maintenance and protection of the free-flowing nature of the rivers within the Recreation Area;

(2) conservation of scenic, wilderness, cultural, scientific, and other values contributing to the public benefit;

(3) preservation, especially in the area generally known as Hells Canyon, of all features and peculiarities believed to be biologically unique including, but not limited to, rare and endemic plant species, rare combinations of aquatic, terrestrial and atmospheric habitats, and the rare combinations of outstanding and diverse eco-systems and parts of eco-systems associated therewith;

(4) protection and conservation of the salmon and other fisheries;

(5) protection of archeological and paleon-

tologic sites and interpretation of these sites for the public benefit and knowledge insofar as it is compatible with protection;

(6) preservation and restoration of historic sites associated with and typifying the economic and social history of the region and the American West;

(7) provision for public outdoor recreation in a manner compatible with the aforementioned objectives; and

(8) such management utilization and disposal of natural resources on federally owned lands, including timber harvesting by selective cutting, mining, and grazing and the continuation of such existing uses and developments as are compatible with the provisions of this Act.

(b) the segments of the Snake River designated as wild, scenic, or recreational river areas by this Act shall be administered by the Secretary in accordance with the provisions of this Act and in accordance with the provisions of the Wild and Scenic Rivers Act (82 Stat. 906), whichever is the more restrictive, except that the limitations on land acquisition in the Wild and Scenic Rivers Act shall be superseded by the applicable provisions of this Act. And no provision of this or any other Act shall be construed as a prohibition upon the maintenance of permanent structures along the banks of the Snake River of such design, number, and location, as the Secretary may approve, to furnish necessary sanitary and recreational facilities to the public.

Sec. 8. (a) Within five years after the enactment of this Act the Secretary shall develop a comprehensive management plan for the recreation area. Said plan shall provide for a broad range of land uses and recreation opportunities.

(b) In his review, the Secretary shall give attention to the historic, archeological, and paleontological resources within the recreation area which, as a result of the remoteness of the area, offer significant opportunities for anthropological research. The Secretary shall inventory such resources and is hereby authorized to make such rules and regulations, including recommendations for listing of certain areas in the National Register of Historic Places, as he deems necessary to assure their full protection in an undisturbed state. The Secretary's comprehensive plan shall include recommendations for future protection and controlled research use of all such resources.

(c) As an element of his review and plan, the Secretary shall conduct a detailed study of alternative means of access to, and transportation within, the recreation area, and of necessary public service and administrative facilities.

(d) The Secretary shall review those portions of the recreation area comprising the rapid river drainage in Idaho, and all undesignated lands lying within the recreation area in the State of Oregon as to their suitability or nonsuitability for inclusion within the National Wilderness Preservation System, but no such portions shall become part of such system unless so provided by Act of Congress.

(e) (1) In conducting the review and preparing the plan required by this section, the Secretary shall provide for full public participation and shall cooperate with all interested agencies, organizations, and individuals including the Nez Perce Tribe of Indians, the States of Idaho, Oregon, and Washington and their principal universities, as well as governmental and nongovernmental agencies and organizations concerned with historical, ecological, and land use studies. The Secretaries or directors of all Federal departments, agencies, and commissions having relevant expertise are hereby authorized and directed to cooperate with the Secretary in his review and to make such studies as the Secretary may request on a cost reimbursable basis.

(2) Prior to submitting his plan to the President and the Congress, the Secretary shall comply with the Provisions of Section 8(d) of the Wilderness Act with regard to his recommendations as to wilderness designation.

(f) During the period of his review the Secretary shall administer all Federal lands under study for inclusion within the National Wilderness Preservation System, within the recreation area in such a manner so as not to preclude their possible future designation by the Congress as wilderness.

Sec. 9. (a) The Secretary may not acquire fee simple title by condemnation to private lands within the recreation area in excess of 5 per centum of the privately owned lands existing within the recreation area on the date of enactment of this act.

Subject to the restrictions on acquisition of fee simple title imposed by Subsection (a), the Secretary may acquire lands by donation, purchase with donated or appropriated funds, exchange, bequest or otherwise any lands or interests therein including scenic easements which he determines are needed to carry out the purposes of this Act.

As used in this act the term "scenic easement" means the right to control the use of land in order to protect esthetic values for the purposes of this act, but shall not preclude the continuation of any farming or pastoral use exercised by the owner as of the date of this Act.

(b) In exercising his authority to acquire lands, the Secretary shall give prompt and careful consideration to any offer made by an individual owning any land, or interest in land, within the boundaries described in subsection 1(b) of this Act. In considering such offer, the Secretary shall take into consideration any hardship to the owner which might result from an undue delay in acquiring his property.

(c) The Secretary may utilize condemnation proceedings without the consent of the owner to acquire private lands or interests therein pursuant to this section only in cases where, in his judgment, all reasonable efforts to acquire such lands or interests therein by negotiation have failed, and in such cases he shall acquire only such title as, in his judgment, is reasonably necessary to accomplish the objectives of this Act.

(d) In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property, or interests therein, located within the recreation area and, notwithstanding any other provision of law, he may convey in exchange therefore any federally owned property within the States of Idaho, Oregon or Washington which he classifies as suitable for exchange and which is under his administrative jurisdiction. The values of the properties so exchanged shall be approximately equal, or if they are not approximately equal, they shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require. In the exercise of his exchange authority, the Secretary may utilize authorities and procedures available to him in connection with exchanges of national forest lands.

(e) Nothing in this Act or in the Wilderness Act shall be construed as limiting the authority of the Secretary to acquire mineral interests in lands within the recreation area, with or without the consent of the owner. Upon acquisition of any such interest, the lands and/or minerals covered by such interest are by this Act withdrawn from entry or appropriation under the United States mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

(f) Any land or interest in land owned by the States of Idaho, Oregon or Washington or any of their political subdivisions may be acquired only by donation or exchange.

(g) Notwithstanding any other provision of law, any Federal property located within the recreation area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the puposes of this Act. Lands acquired by the Secretary or transferred to his administrative jurisdiction within the recreation area shall become parts of the recreation area and of the national forest within or adjacent to which they are located.

Sec. 10. (a) The Secretary shall make and publish regulations setting standards for the use and development of privately owned property within the boundaries of the recreation area. Such regulations shall be generally in furtherance of the purposes of this Act and shall have the object of assuring that the use of such privately owned property is consistent with the purposes of this Act and with the long run comprehensive plan of the recreation area. Such regulations shall be as detailed and specific as is reasonably required to accomplish such objective and purpose. Such regulations may differ amongst the several parcels of private land in the boundaries and may from time to time be amended by the Secretary. All regulations adopted under this section shall be promulgated in conformity with the provisions of the Administrative Procedure Act. The United States District Court for the District in which the affected land is situated shall have jurisdiction to review any regulations established pursuant to the first sentence of this subsection, upon a complaint filed within six months after the effective date of such regulations, by any affected landowner in an action for a declaratory judgment.

(b) After publication of such regulations, no interest in privately owned lands shall be acquired by the Secretary by condemnation unless he determines, in his judgment, that such lands are being used, or are in imminent danger of being used, in a manner incompatible with the regulations established pursuant to this section, in which case the Secretary may acquire scenic easements to protect the area from such incompatible use.

Sec. 11. Notwithstanding the provisions of Section 4(d)(2) of the Wilderness Act and subject to valid existing rights, all Federal lands located in the recreation area are hereby withdrawn from all forms of location, entry and patent under the mining laws of the United States, and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

Sec. 12. The Congress hereby recognizes and declares the need to take action to regulate the use of, and protect the surface values of, the Federal lands in the recreation area, and directs that rules and regulations necessarry to carry out this section shall be promulgated and issued by the Secretary of Agriculture. Such regulations shall include, when deemed necessary, provisions for control of the use of motorized and mechanical equipment for transportation over, or alteration of, the surface of such Federal land in connection with any authorized activities on such land.

Sec. 13. The Secretary shall permit hunting and fishing on lands and waters under his jurisdiction within the boundaries of the recreation area in accordance with applicable laws of the United States and the states wherein the lands and waters are located except that the Secretary may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, or public use and enjoyment. Except in emergencies, any regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate state fish and game department.

Sec. 14. (a) The Secretary shall regulate the use and number of motorized and nonmotorized river craft. The use of said craft is recognized as a valid use of the Snake River within the boundaries of the Wilderness and the recreation area. Further, the Secretary shall study the uses and impact of said craft to determine which management options are most consistent with the purpose of the Act.

(b) Ranching, grazing, farming and the occupation of homes and lands associated therewith, as they are present on the date of enactment of this Act, are recognized as traditional and valid existing uses of the recreation area, and nothing in this act may be construed as implying or meaning otherwise.

SEC. 15. Nothing in this Act shall diminish, enlarge, or modify any right of the States of Idaho, Oregon, Washington or any political subdivisions thereof, to exercise civil and criminal jurisdiction within the recreation area or of rights to tax persons, corporations, franchises, or property, including mineral or other interests, in or on lands or waters within the recreation area.

SEC. 16. The Secretary may cooperate with other Federal agencies, with state and local public agencies, and with private individuals and agencies in the development and operation of facilities and services in the area in furtherance of the purposes of this Act, including, but not limited to restoration and maintenance of the historic setting and background of towns and settlements within the recreation area.

SEC. 17. (a) There is hereby authorized to be appropriated the sum of not more than $60,000,000 for improvements of:

(1) the existing road from the town of Imnaha, Oregon, to Dug Bar on the Snake River;

(2) the existing road from White Bird, Idaho, over Pittsburg Saddle to Pittsburg Landing on the Snake River;

(3) either the existing road from Imnaha, Oregon, to Five Mile Point, or an alternate road following generally the same route to Five Mile Point, and thence to Hat Point Lookout above the Snake River;

(4) The existing road from Riggins, Idaho, to Heaven's Gate Lookout above the Snake River.

(b) There is hereby authorized to be appropriated the sum of not more than $10,000,000 for the acquisition of lands and interests in lands.

(c) There is hereby authorized to be appropriated the sum of not more than $10,000,000, for the development of recreation facilities (principally campgrounds) along the four roads as described in subsection 17(a) above and for the development of interpretive visitor's centers at Hat Point in Oregon and at Heaven's Gate in Idaho.

(d) There is hereby authorized to be appropriated the sum of not more than $1,500,000 for the inventory, identification, development and protection of the historic and archeological sites described in section 5 of this Act.

SEC. 18. If any provision of this Act is declared to be invalid, such declaration shall not affect the validity of any other provision hereof.

Mr. McCLURE. Mr. President, 25 years go, Hells Canyon was brought to national attention as the center of political controversy. The argument raged for several years and subsided only with the decision that Brownlee, Oxbow and Hells Canyon dams should be built by Idaho Power Co. The alternative would have been the massive High Hells Canyon Dam to be built by the Federal Government, which would have flooded the lower elevations of the canyon from Deep Creek to Farewell Bend, below Weiser.

Since then the argument has shifted—from Hells Canyon downstream to the Middle Snake, and from High-vs.-low dams to no-dams-at-all. Many people who did battle for the old Hells Canyon fight on the side of "maximum development" now find themselves on the side of "no development." That earlier battle became a partisan one, but today Senator CHURCH and I have joined together in sponsoring legislation which will provide a management plan for this entire region for years to come. I know that I cannot expect any major decision to be without controversy, but this proposal attempts to walk the line of fairness between contending views that will yield the maximum in acceptance and the minimum in contention.

And while some things change, others remain constant. Southern Idaho's devotion to the land and its paramount concern is protected in this bill as far as legislative language can do so—the right of the people of Idaho to decide how best to preserve and use the waters of the Snake River.

Senator JORDAN was Governor of the State of Idaho when the earlier fight was ended, and he wisely insisted then that decisions affecting water use in the Snake River Basin above Hells Canyon must be preserved to the people of Idaho. This same steadfast determination led to the moratorium legislation which he authored. That same unyielding commitment is present in this legislation.

Today we introduce a bill to establish the Hells Canyon National Recreation Area. In some ways it is like the Sawtooth National Recreation Area legislation which became law last year. In other respects it is tailor-made to fit differing circumstances. This proposal is the culmination of several years of efforts to find some kind of preservation for the unique qualities of the region and at the same time recognize legitimate private interests and preserve compatible uses. Jobs and tax base are important, just as are the ageless hills of the Middle Snake. The clear tumbling streams of the Seven Devils are priceless, just as the life of communities dependent upon the resources of the region is beyond price.

Hells Canyon is the deepest gorge in the United States, its matchless reach almost untouched by man's puny dams in its depths. The Middle Snake, with its endless succession of ridges blending into the distant haze, brings a serenity to the soul challenged only by the jumbled waters of its rapids which defeated pioneer efforts to establish boat traffic. The sound of steamboat whistles never became accustomed between these canyon walls, but the jetboat is a commonplace sight to the eagle wheeling on the canyon's currents.

Hells Canyon is host to visitors to its hydroelectric dams, but the stretch below remains free-flowing. There are its remaining natural character. In the stretch of the river and it is being threatened by development of private lands along the shoreline. Either would destroy its remaining natural character. In the introduction of today's bill, we hope to preserve the area as it is.

In the past, three successive bills have passed the Senate which would put a 10-year moratorium on the building of further dams on the Middle Snake. However, in each case, the bills did not get out of the Interstate and Foreign Commerce Committee in the House. As time progressed, the public became more indignant about the prospects of a dam on the Middle Snake and more demanding that some sort of assurances be made that such dam construction would not take place. Although I supported the theory behind the moratorium, I felt it did not solve the problem of public land management or private land development would foreclose our options on a final decision about a management plan for the entire area. I think there has now been established an environmental feeling on our part in Idaho that we have sacrificed enough, and that we do not want to sacrifice any more of the natural beauty of our State. We do not want any more of those kinds of irreversible changes. The time has come for the creation of a final solution to the problems facing the Middle Snake.

But before that could happen, we had to find a way of dealing with the problems of uncontrolled subdivision and commercial development on the private land in the area. When the owners of the larger private holdings in the area indicated their willingness to sell last fall, I supported the efforts to obtain the necessary funds for the Forest Service to acquire those lands. If any protection were to be adopted for the area, these lands would have to be acquired in order to avoid irreversible changes and preserve our options. I felt it was better to acquire them at that time, before the threatened development became a reality—and before a larger sum would have to be paid to out-of-State speculators.

With that barrier crossed, the road was then clear for some positive and final solution to the problem of the Middle Snake. However, as we progressed in our work on this legislation, we had to keep in mind certain realities which would necessarily dictate the kind of plan devised.

The first, of course, was the question of additional dams. This bill calls for a ban on all future dam construction in the area and, as a further mark of our newer attitudes, deauthorizes the Asotin Dam which had been authorized by Congress earlier as part of the Lower Snake navigation.

Some earlier proposals would have placed the Middle Snake in a wilderness category without recognizing the large and growing use of the river by powerboats. I pointed this out 2 years ago and have continued to insist that we do nothing to destroy this recreational opportunity which has become so important to so many of our people.

While boating is primarily for recreation, it is still essential for the working ranches that are located near the river in both Idaho and Oregon. This legislation, also, will replace the clumsy tool of condemnation now being used by the Forest Service under authority granted by Congress. While we are justifiably concerned about proliferating subdivision, there is no need to force people off the land or to destroy private ownership when they want to continue in ranching operations. I will urge that the Forest Service use these alternatives as soon as the legislation passes.

There are three primary areas involved in this bill. The first is the Snake River itself. It is treated for designation under the Wild and Scenic Rivers Act from Hells Canyon Dam downstream, and included for Recreation Area Administration upstream. The second is the Middle Snake which I have discussed extensively because of the complexity of current problems. The third area is the Seven Devils. I have a particular interest there because this is where I grew up. I can not separate my own personal feelings from public judgment. I know and love that area and its people in a way which is not dispassionate or objective. These are truly "The Hills of Home" to me.

My grandfather bought a small ranch on Hornet Creek near Council just after the turn of the century. It was here that I spent my summers during my boyhood. Here I learned the feel of sweat running down by back as we pitched hay in the summer heat, the smell of the hay drying in the field or dusty in the haymow, the joy of a cooling swim in the river at the end of day the tang of a juicy apple in the fall, and the smell of wood smoke on a clear, cold winter day. It was here we went for Christmas and here we groaned after Thanksgiving dinners that stuffed us with all the goodness of an abundant pantry. And it was here, too, that I learned much that I cling to as life unwinds its skein for me. Among these good people, life was real and earnest, good men and women were recognized for their worth, and the bounty of the Lord was there for those who worked hard, were honest and frugal, and did not shrink from duty to God and man. And it was in these mountains that I learned to fish and to hunt. My earliest memories are of trips into the mountains to spots that time and events have changed, and to some that remain the same. My grandfather's brother built the road up Cuddy Mountain to a gold mine that finally closed in the Great Depression. I spent happy weeks at Lost Valley Reservoir with a friend who rented boats to fishermen. And I wandered up trails through woods untouched by man, and explored the workings of the old Peacock mine on Kinney Point. I have watched this area, changing and unchanging, and love it with a love that only a lifetime can build. Bear and Cuprum, Black Lake and the Red Ledge, Landore and the Kleinschmidt Grade, Horse Saddle and Heaven's Gate, No Business Canyon and the He Devil, all have special meaning to me. That is why I have a special interest in forging legislation which will permit the greatest amount of protection for the land and, at the same time, the greatest amount of protection for these people who have loved the land with me.

We have provided for a wilderness that encompasses the peaks of the Seven Devils and the canyon rim-to-rim from Hell's Canyon Dam downstream to Pittsburg Landing. The Rapid River drainage, on the east side of the Seven Devils, has been the subject of public hearings by the Forest Service, and, as I understand the results of those hearings, everyone agreed that it deserves special management. We have directed that it be further studied for suitability for inclusion in the wilderness area. It may be that it will be decided that timber values can be harvested without undue adverse effect upon the water quality and watershed values, but that decision can await the further study and public hearings.

We have directed that other areas on the Oregon side of the river be studied for possible inclusion in the wilderness, but that the remainder of the area in Idaho be managed for multiple use with an emphasis on recreation. We specifically provide that selective harvest of timber and present grazing shall continue. Possible mining is not prohibited, but will be very carefully scrutinized.

We realize that a comprehensive management plan has to be worked out for the recreation area which would provide for a broad range of land uses and recreation opportunities. Therefore, we direct the Secretary of Agriculture to review the area and develop such a plan within five years from enactment of this bill.

Recognizing that different portions of the Snake River are worthy of the benefits and protection afforded in the Wild and Scenic Rivers Act, we designate certain portions of the river as wild, scenic or recreational.

Another consideration was that of the upstream water rights. Although the Middle Snake is often referred to as one of the last free-flowing rivers in the country, we had to keep in mind that the Snake River in its entirety already has a great many reservoirs. Although it is correct that the Middle Snake stretch had some spectacular white water, we had to remember that the water was there at some times of the year through the grace of discharges from impoundments further upstream. And most of that upstream water is being used for irrigation purposes. Therefore, the rights of those upstream water users had to be protected in the legislation, and have been.

And a final consideration was that of the various communities which depend on the timber management on National Forest lands for their livelihood. On the Idaho side alone, there are more than six communities thus affected. Therefore, we had to insure that the boundaries of the Wilderness Area were not so extensive as to preclude selective timber harvesting in the areas being used by those communities. And that has been taken care of also. I am joining in a request directed to the Forest Service to identify the projected impact on the levels of goods and services that can be anticipated under this proposal. Rural communities dependent on these raw materials, as well as the Congress, can better plan for the appropriate management changes with this needed information.

A lot of time and preparation has gone into the introduction of this bill today, and I am very pleased to be one of the sponsors. It is a long-awaited piece of legislation which incorporates the many various points of view on what protection should be afforded the Middle Snake River. I look forward to early field hearings and the opportunity to hear testimony from interested citizens. This is a vital part of the legislative process and the comments received are very helpful as the bill is further studied in the committee. I hope that final action of the bill will be speedy so that its implementation can proceed as soon as possible.

Mr. HATFIELD. Mr. President, I am very pleased to join today with my colleague from Oregon (Mr. PACKWOOD) and the Senators from Idaho (Mr. CHURCH and Mr. McCLURE) in introducing legislation to establish the Hells Canyon National Recreation Area. It is significant that for the first time, the four Senators from Idaho and Oregon have reached agreement on this matter.

The future disposition of this magnificent stretch of the Middle Snake River and its surrounding lands has been of great concern to the citizens of Oregon and Idaho and other Americans who have been fortunate enough to visit the area. Plans have been promoted to construct additional dams, to subdivide the land and to otherwise destroy or degrade the unique values of Hells Canyon.

In the last session of Congress, I joined with the senior Senator from Idaho (Mr. CHURCH) and our former colleague, Senator Jordan, in cosponsoring a moratorium on dam construction on the Middle Snake. This legislation passed the Senate then, as it had in the 91st Congress, without a dissenting vote.

Also during the last session of Congress, the Governors of Oregon, Idaho, and Washington, appeared before our Senate Appropriations Committee to urge that lands along the river in danger of subdivision and development be purchased by the Department of Agriculture and managed by the U.S. Forest Service to assure continuing protection. As a member of that committee, I supported the request and with the support of my colleague from Oregon (Mr. PACKWOOD) and the senior Senator from Idaho (Mr. CHURCH) we were able to provide the necessary funding. Consequently, the Department of Agriculture is now in the process of acquiring these lands.

While each of these actions were necessary at the time, they have only been piecemeal efforts to protect the Hells Canyon area. Earlier this year, I joined with Congressman AL ULLMAN of Oregon in introducing legislation to establish the Hells Canyon National Parklands Area. I am now equally pleased to join with my colleagues in the Senate in sponsoring legisaltion to provide necessary and lasting protection for the area.

As with the legislation I introduced earlier this year, the bill we are introducing today provides for a comprehensive study to determine the best use of the various lands in the area. This could result in varied land classification, including back-country, intensive recreation, or wilderness. Lumbering and grazing would not be precluded from the area and would also be considered in the study. Our legislation would provide immediate wilderness protection and designation of those lands within the canyon rim. Provision is made for full participation of the public in the development of the plan.

Mr. President, the entire Oregon congressional delegation is united in its belief that legislation is needed to provide further protection for the Hells Canyon area. That is the goal of both this bill and the legislation which Congressman ULLMAN and I earlier introduced. Through committee hearings and deliberations, I am confident that differences can be resolved and such protection will be provided.

Mr. PACKWOOD. Mr. President, I join today, with Senators CHURCH and McCLURE, and my Oregon colleague Senator HATFIELD, in introducing long-awaited and long-overdue legislation. The measure to which I refer would establish the Hells Canyon National Recreation Area and has come about as a result of many months of hard and diligent work on the part of many concerned individuals dedicated to the goal of insuring that no dams will be built on the Middle Snake River, that this river will remain unblemished and free-flowing. The Middle Snake forms the border between the States of Idaho and Oregon, and it is particularly encouraging that the Senators from both these States are joining in wholehearted endorsement of legislation which seeks to protect the river and surrounding lands so that generations now and in the future may take pleasure in the area's scenic wonders.

In the 92d Congress I introduced the Hells Canyon-Snake National River bill aimed at stopping dam construction on the river and commercial exploitation along its banks. The threat of such development was increasing daily, and the reasons for abhorring exploitation of the river and surrounding lands were easily justified. Hells Canyon is the scenic climax of the Snake River. Flowing through and shaping some of the most spectacular country on the continent, the big river stretches a thousand miles from Yellowstone to the Columbia. For almost 200 miles along the border of Idaho and Oregon, the Snake River has carved a gorge, the deepest in North America, some claim the world. Viewed from the Oregon side at Hat Point this spectacle of canyon and mountains is one of the most impressive land forms in America—like having the Grand Tetons and the Grand Canyon all in one.

Hells Canyon is more than a freak of nature or a recordbook curiosity. It is a continuum of life and land forms unique on this continent and perhaps on any other. Compressed here within a few miles are all the life zones of North America, ranging from dry desert country at river level to alpine tundra in the Seven Devils above. In wildlife the canyon is rich in both variety and quantity. And yet Hells Canyon is also more than a simple catalog of plants and animals. It is a strange and beautiful place where ebony walls rise from a wild river, a place of steep grassy hillsides that lie brilliantly on the somber undertone of rock. Hells Canyon is a color and a quality of light that changes with the day and the season. It is a quiet and reassuring place, and yet at times a little awesome and frightening.

Although I was able to obtain 3 days of hearings on my national river bill of the 92d Congress, the committee declined to take further action on what was in my view a very crucial piece of conservation legislation. The problem to a large extent was upstream water rights. My old bill did not give the protection to these water rights which others felt should be a mandatory part of any bill to designate the area. The bill now before us does. It provides that waters of the Snake River and its tributaries upstream from the boundaries of the Hells Canyon National Recreation Area shall not be restricted.

When things were looking particularly bad for the Hells Canyon/Snake River area, the public rallied to the consensus that no additional dams should be built; however, a far graver prospect loomed on the horizon. Some of the ranchers in the area were negotiating with real estate developers. The threat of subdivision and commercial development was enough to bring together for the first time in the last Congress many individuals in high places who each sought in his own way to bring about protection of the Hells Canyon/Snake River: Senator CHURCH and I, and Governors Andrus, Evans and McCall joined forces and descended on the White House and the House and Senate Appropriations Committees. Senator CHURCH and I continued to work with members of the Appropriations Committee to see that money was added to the Forest Service allotment of the Land and Water Conservation Fund to finance the acquisition of these critically endangered lands. We succeeded in getting funds included in the appropriation bill, and to stop threats by private operators to sell recreation sites along the river, the U.S. Agriculture Department, through the U.S. Forest Service, has taken the first steps in condemnation proceedings that will result in Federal acquisition of about 15,000 acres of private property. Under Secretary of Agriculture J. Phil Campbell, signed a declaration of taking on May 10, 1973, and sent it to the Justice Department with a request that condemnation action be filed in Federal District Court. As a practical matter, the action means that prime rancher-owned lands cannot be sold to private developers. Court hearings on fair market value on the condemned lands will be held at a designated time.

Now, with meaningful legislation such as this new bill jointly sponsored by the Senators from the States most directly affected by the proposal, we can once again move to save the untarnished natural beauty of Hells Canyon and the Snake River from the encroachments of modern society. Senator CHURCH has been very instrumental in bringing together opposing factions, and we now have a strong base of unified support for our Hells Canyon National Recreation Area bill. I am pleased, also, to have Senator HATFIELD joining us, as these are signs of an encouraging trend toward a consensus on the future of the Hells Canyon/Snake River area. The history of dam proposals for Hells Canyon is perhaps the most confusing in conservation annals. And a part of that history has already ended tragically with the construction of three dams in the upstream reaches of the gorge, Oxbow, Brownlee, and Low Hells Canyon dams. The deepest and wildest part of the remaining canyon has been threatened by what has been called "the last storage project on the Columbia River system." The name of that last dam is High Mountain Sheep. The essence of the bill we will be presenting to fellow Senators is a complete and total ban of all dams on the 101-mile segment of the Snake River between Hells Canyon Dam and Asotin, Wash. In addition, the Asotin Dam is specifically deauthorized under the terms of the bill. In addition, we have made provision for the Secretary of Agriculture to review all the lands within the National Recreation Area and prepare a long-range plan for their mangement with recommendations for future protection of the area. About 70,000 acres on the Oregon side of the river will be included in the National Wilderness Preservation Sytem. In addition to this instant wilderness, those remaining lands in Oregon which are a part of the National Recreation Area will be studied for possible future wilderness designation and for a broad range of land uses and recreation opportunities. Furthermore, all Federal lands under study within the recreation area will be managed in such a way so as not to preclude their possible future designation by the Congress as wilderness.

Although, I would like to see the wilderness provisions strengthened and more in conformity with the Wilderness Act of 1964 as relates to the Secretary of Agriculture's study of the National Recreation Area, I feel that we cannot afford to delay this legislation further at the price of losing a national treasure. Most of the difficulties can be worked out in hearings, when all the conflicting voices can be heard and some consensus reached from our conclusions. But we must move quickly now to set up the hearings and put the wheels in motion toward complete and responsive legislation which will strongly set forth the importance of the whole concept of preserving our ecological values. Basically, the legislation is sound. We have attempted to take into consideration the exact needs of the area and provide ample protection and preservation of scenic, historical, archeological, geological, recreational, botanical, and fish and wldlife values. The battle to preserve this unique treasure has been a long and arduous one, and each small step toward a consensus of opinion has been a victory in itself. The fight to preserve the Snake River has brought together many people and groups from opposite poles of the political spectrum. Our ranks have grown, and it is, I feel, a good omen for the kind of support we may expect in the weeks and months ahead.

By Mr. WILLIAMS (for himself, Mr. BROOKE, Mr. TOWER, Mr. PROXMIRE, and Mr. McINTYRE):

S. 2234. A bill to amend the Securities Exchange Act of 1934 to provide for the collection and public dissemination of information concerning the holdings of and transactions in securities by institutional investors, including banks, bank holding companies, insurance companies, trust companies, investment advisers, investment companies, separate accounts, dealers, pension-benefit or profit-sharing trusts and plans, charitable endowment funds, and other funds maintained or utilized for the purpose of collective investment. Referred to the Committee on Banking, Housing and Urban Affairs.

INSTITUTIONAL INVESTOR FULL DISCLOSURE ACT

Mr. WILLIAMS. Mr. President, I am introducing today a bill on behalf of myself and Senators BROOKE, MCINTYRE, PROXMIRE, and TOWER to require institutional investors to disclose on a regular basis their portfolio holdings and large securities transactions. This is the third bill to result from the recently completed 18-month securities industry study conducted by the Subcommittee on Securities of the Committee on Banking, Housing and Urban Affairs. Legislation growing out of this study has already dealt with problems of exchange membership, commission rates, and the development of an efficient nationwide system for the clearing and settlement of securities transactions. Now our order of business is to address directly the role of institutions in our securities markets and the implications of that role for the small investor and our capital raising mechanisms.

I believe that the most effective way this can be done is by full disclosure by institutional investors of their securities holdings and portfolio transactions. The Institutional Investor Full Disclosure Act will accomplish this task, while providing us with needed information about institutional trading practices and investment policies.

Institutional dominance of our country's securities markets and the closely related problem of the disaffection of small investors have reached a point where the Congress must act promptly if investor confidence in the fair and orderly operation of those markets is to be maintained and fully justified.

Institutional investors have come in recent years to dominate securities trading and to hold enormous influence over the price levels and the nature of price movements.

In 1960, financial institutions accounted for approximately 24 percent of the trading volume on the New York Stock Exchange. Currently, it is estimated that they account for approximately 70 percent of that volume. The figures for share ownership are just as dramatic—and as disturbing. In 1960 institutions held only 17 percent of equity securities. The comparable figure today is over 30 percent.

The staggering expansion—or explosion—of institutional trading and share ownership has had fundamental consequences for the operations of the market. On the one hand, institutional holdings have increasingly tended to concentrate in the securities of the largest and most glamorous of public companies. This phenomenon has created what has recently been dubbed the "two-tier market." This market is one in which 30 or 50 stocks, which are the current institutional favorites, increase in value and attract significant trading volume. At the same time the rest of the market, the thousands of other publicly traded securities, fail to attract sufficient investor interest for their prices to reflect their true value or volume to provide meaningful liquidity.

The potentially dangerous consequences of the phenomenon called the "two-tiered market" are obvious. Sound companies are unable to raise long-term funds. Companies favored by institutions gain unfair advantages over others in their employee compensation abilities and acquisition capabilities. And independent, competently run companies become almost irresistible objects for takeover efforts, particularly by dollar-rich foreign investors.

There is another side to the institutional investor phenomenon, a side of more direct concern to small investors and to those of us concerned with assuring that the markets operate in a fair and orderly manner with respect to such investors. When institutions trade in enormous blocks, strains—perhaps unbearable strains—are placed on our trading mechanisms.

We must face up to the fact that these mechanisms were designed or evolved to deal with a trading pattern characterized by a large number of small transactions. Today we have a market characterized by a relatively small number of large transactions. The growth of the institutional investor and the block trade have brought with them the elimination of much of the pure auction mechanism of the exchange markets. In its place, we have watched develop an essentially negotiated transaction mechanism.

I do not want to suggest that the growth of equity trading by institutional investors is necessarily bad, or that we should at this time in any way place direct regulatory constraints on that trading. But institutional trading has brought about major changes in our marketplace. We must recognize and deal with these changes if we are to protect the small investor and preserve the vitality of our capital raising mechanisms.

One conclusion that flows inescapably from the recognition of these changes in our markets, is the need for the prompt development of a true central market system within which all investors and traders can be assured at all times of having the ability to participate in the best market for any given security. This central market is an objective which the Securities and Exchange Commission is now admirably and actively pursuing. It is also a subject concerning which I will shortly introduce major and far-reaching legislation.

A second conclusion which follows from an understanding of the new institutional preeminence in the markets, is the need to go back to basics—back to the fundamental principle upon which the Federal securities laws were built: Full disclosure. Persons who have the power to control or influence securities prices or trading patterns may or may not need to be regulated, but at a minimum, fairness requires that they disclose to other investors what securities they hold and how they trade.

In the 1930's, the persons with this market power were primarily the issuers and underwriters and specialists. Today they are primarily the finincial institutions. I believe that full disclosure—"truth in securities" as it was called in the 1930's—should be required of institutions as it is of the other groups. The Institutional Investor Full Disclosure Act, which I am introducing today embodies that belief.

The securities acts contain various prohibitions against the manipulation of securities prices and the use of manipulative and deceptive devices. They confer broad powers on the Commission to regulate trading by members of stock exchanges and to require disclosure by various persons.

In 1968 the Congress directed the SEC to study the purchase, sale and holding of equity securities by institutions, in order to determine, among other things, their effect on "the maintenance of fair and orderly securities markets" and "the stability of such markets." The institutional investor study, conducted by the SEC pursuant to that mandate concluded:

> An effective program of government regulations of institutional investors and the securities markets must emanate from empirical analyses of institutional behavior, weighed on the scales of competing policy considerations. . . . [T]he course of future developments cannot be accurately gauged nor can reasoned regulatory policies be plotted without a continuing flow of such information. The Commission believes that gaps in information about the purchase, sale and holdings of securities by major classes of institutional investors should be eliminated, and recommends that the Securities Exchange Act of 1934 be amended to provide the Commission with general authority to require reports and disclosures of such holdings and transactions from all types of institutional investors.

This recommendation was analyzed by the Subcommittee on Securities in connection with its securities industry study. The conclusion was reached—

> That the SEC should obtain regular and comprehensive information regarding institutional transactions which contribute to unusual price movements, so that it will be continuously in a position to impose or recommend appropriate restrictions if they are required.

The Institutional Investor Full Disclosure Act will implement these significant recommendations of the Commission and the subcommittee. The Commission has expressed to me its full support for the objective of this legislation. There can be no doubt that the maintenance of confidence in our securities markets, particularly the assurances that are necessary to bring the small investor back into these markets, requires the Congress prompt consideration of this bill.

Mr. President, I now ask unanimous consent that the full text of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Institutional Investor Full Disclosure Act."

Section 1. Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by inserting after subsection (e) the following new subsection:

"(f)(1) Every institutional investment manager who uses the mails, or any means or instrumentality of interstate commerce, or any facilities of a national securities exchange, directly or indirectly, to effect or to cause to be effected transactions in securities and who exercises investment discretion for or has investment authority over any account or accounts having an aggregate fair market value at any time during the preceding 12 months of at least $10 million, and every registered dealer and exchange member with any trading or investment account or accounts having an aggregate fair market value at any time during the preceeding 12 months of at least $5 million shall file with the Commission such periodic and other reports as the Commission, by rule, regulation or order pursuant to paragraph (4) of this subsection, shall prescribe as necessary or appropriate in the public interest, to assure the maintenance of fair and orderly markets, or for the protection of investors.

"(f) (2) For purposes of this subsection, the term 'institutional investment manager' means—

(A) any bank, or any bank holding company as defined in the Bank Holding Company Act of 1956, or any subsidiary thereof;

(B) any insurance company or any subsidiary thereof;

(C) any separate account;

(D) any investment company;

(E) any investment adviser;

(F) any person, or any group of persons, exercising investment discretion for or having investment authority over any account or accounts of—

(i) any employees' stock bonus, pension or profit-sharing trust which is described in Section 401 of the Internal Revenue Code of 1954, as amended, whether or not it meets the requirements for qualification thereunder;

(ii) any fund, trust, or company within the meaning of Section 202 (a) (5) of the Investment Advisers Act of 1940, which is organized and operated for religious, charitable, educational, benevolent, civic, fraternal, or any of the other purposes described in Section 501 (c) of the Internal Revenue Code of 1954, as amended, whether or not it meets the requirements for qualification thereunder;

(iii) any fund, trust, or company within the meaning of Section 202(a) (5) of the Investment Advisers Act of 1940, which is organized and operated for the benefit of federal, state or municipal employees;

(iv) any other funds, trust, company or pool of assets maintained or utilized for the purpose of collective investment; or

(v) any person or persons other than the person or persons exercising such discretion or having such authority.

"(f) (3) A person shall be deemed to have investment authority over an account if such person (A) is empowered to determine what securities shall be purchased or sold for such account; or (B) makes day-to-day decisions as to the purchase or sale of securities even though some other person may have ultimate responsibility for the investment decisions for such account.

"(f) (4) The Commission, by rule or regulation, shall require every institutional investment manager, dealer and exchange member subject to paragraph (1) of this subsection, to file with the Commission quarterly reports, and reports for such shorter periods as the Commission shall prescribe, containing the following information with respect to accounts over which such institutional investment manager exercises investment discretion or has investment authority and trading and investment accounts operated by such dealer or exchange member:

(A) the name of the issuer, the title, the number of shares of principal amount, and the value of each security held by such accounts;

(B) with respect to any transaction effected by any such account or any series of transactions effected within any 10 successive trading days by any such account or accounts involving at least 2,000 shares of any equity security or 1 percent of the outstanding shares of that class of securities whichever is less:

(i) whether the transaction or transactions involve purchases or sales, or both;

(ii) the trade dates;

(iii) the name of the issuer and the title of the securities;

(iv) the number of shares traded;

(v) the prices at which the shares were traded;

(vi) the market or markets in which the transaction or transactions were effected; and

(vii) such other information concerning the transaction or transactions as the Commission, by rule or regulation, may prescribe.

The Commission, by order, may require any institutional investment manager, dealer or exchange member subject to paragraph (1) of this subsection to file reports containing such information as the Commission shall designate with respect to any transaction or series of transactions effected by any account or accounts over which such institutional investment manager exercises investment discretion or has trading authority or by any trading or investment account or accounts operated by such dealer or exchange member.

"(f) (5) The Commission, by rule or regulation or by order, may unconditionally or upon specified terms and conditions or for specified periods exempt any institutional investment manager, dealer or exchange member subject to paragraph (1) of this subsection or any class or classes of such persons from any provision or provisions of this subsection or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the maintenance of fair and orderly markets and the protection of investors.

"(f) (6) The information contained in all reports filed pursuant to this subsection shall be available to the public information in such form as the Commission, by rule, shall prescribe: *Provided, however,* That any person filing such information may file with the Commission written objection to the public disclosure of such information, and the Commission shall grant confidential treatment to such information for which application has been made if it finds, and publishes its reasons for such finding, that the public disclosure of such information is not in the public interest or would jeopardize the fair and orderly operation of the markets.

"(f) (7) The Commission may adopt such rules or regulations or orders as it deems necessary or appropriate for the protection of investors or in the public interest to preclude unnecessarily duplicative reporting pursuant to this subsection by two or more institutional investment managers who exercise investment discretion or have investment authority over the same account or accounts, or to preclude unnecessarily duplicative reporting that otherwise may be required of institutional investment managers or dealers or exchange members who are required to file reports pursuant to paragraph (4) of this subsection and who also are required to file reports pursuant to any other provision of this title, any provision of the Investment Company Act of 1940, or any provision of the Investment Advisers Act of 1940."

By Mr. HART:

S. 2235. A bill to establish an equitable private retirement system. Referred to the Committee on Finance.

THE RETIREMENT BENEFIT FUND ACT

Mr. HART. Mr. President, I introduce the Retirement Benefit Fund Act.

This proposal has been developed by Mr. Ralph Nader and Ms. Karen W. Ferguson, an attorney with the public interest research group.

A natural question would be, I think:

What in the world is a nonexpert in pension reform and a sponsor and strong supporter of S. 4, the pension bill introduced by Senator WILLIAMS and Senator JAVITS, doing offering pension legislation at this late point in the game?

My shorthand answer is that I view S. 4 and its offspring as developed by the Senate Finance Committee as really the early rather than the late innings of the effort to reform the Nation's pension systems.

That view does not detract from the importance of passing this year a pension bill setting vesting and funding requirements, fiduciary standards, and establishing portability and pension reinsurance programs.

Such provisions are needed now to protect those long-service employees covered by pension plans who will lose out, because their employer shuts the plant gates, or because the pension plan goes broke, or because of unduly restrictive qualification requirements.

Introduction of this bill should in no way slow congressional consideration of such reforms, reforms which will come about largely as a result of the considerable efforts and leadership given this effort by Senator WILLIAMS, chairman of the Labor and Public Welfare Committee, and Senator JAVITS, ranking minority member of the committee.

However, even a layman can understand that these changes will not reform the basic approach of most of today's pension programs which says that many are not served so a few can benefit.

Even a nonexpert can understand the figures which show that as many as three of five workers in the private nonfarm sector do not participate in pension programs because they work for employers who do not have retirement plans—and that the proposed reforms will do little to improve these figures.

Neither will the legislation likely to pass Congress this year provide full equity for the worker who changes jobs often and for good reasons, nor for all surviving spouses of pension programs participants.

The limitations of the reforms now being discussed in Congress are the limitations of a private system based on the premise that large numbers of persons must lose out if others are to benefit. The proposals under study seek to reduce the number of persons losing out by striking a balance between the interests of employees in more secure pensions and the cost to employers of providing such pensions.

We can argue whether the correct balance has been struck, but without challenging what some have called the "lottery" premise on which the present system rests, large number of people will continue to lose out.

Looking toward a future of an even more mobile work force and of an ever greater demand for adequate and secure retirement programs, even the layman begins to understand why we need a pension system based on including all rather than excluding many.

And we cannot get there unless we come up with a system that insures an employee that he will benefit from every pension contribution made on his behalf.

The Retirement Benefit Fund Act seeks to reach that goal while continuing a private pension system.

We could, of course, abandon entirely the idea of a private pension system supplementing social security by greatly expanding the social security system.

Leaving aside the question of whether

the Nation is approaching the point of accepting such a proposal, the idea does raise serious economic concerns.

Private pension funds are now the country's largest single source of private investment capital, capital which is a critical factor in the Nation's economic growth.

Replacing the private pension system with an expanded social security program would mean that this source of capital—$166.5 billion at present—either would disappear from the private investment market or be invested by some type of Government or quasi-government agency.

Either way could lead to discomforting effects on a competitive market.

All of which brings me to still another basic concern about the proposals now before Congress.

My somewhat lengthy involvement with the subject of economic concentration leads me to question the effect new fiduciary standards and vesting and funding requirements will have on the accelerating trend toward dominance of the stock market by a few giant institutional investors.

It has been well reported that as these institutional investors grow, individual investors leave the market.

One result is that the big investors, for understandable reasons, favor a very small number of companies with their investments, and those firms on the "unfavored list" find hard to raise the money they need to remain competitive.

What has developed is something described as a two-tier stock market, with from 70 to 200 companies in the favored tier, and the remaining 90 percent of the companies left to scramble.

John C. Whitehead, chairman of the Securities Industry Association, is quoted as saying:

> If institutional dominance continues on its present course, we can look forward in another decade to complete dominance of our markets and of our corporations by a relatively small handful of institutions—the kind of industrial society that currently exists in Europe and Japan.

A magazine article reports that James M. Roche, former chief executive of General Motors, is fretting about the deplorable state of our capital markets at the precise time in our national history:

> When we face an extraordinary need for capital and for strong vigorous capital markets.

What may not have been as well reported is the large role pension funds play in this trend toward a market dominated by a few institutions.

Of the $166.5 billion in pension fund assets, $100 billion are administered by bank trust departments.

Of that $100 billion, four New York banks invest 43 percent or about $43 billion—and that money is invested in relatively few companies.

A special report in the June 2 edition of Business Week notes, for example, that a major New York bank recently invested 65 percent of a $1 billion pension fund in just seven stocks. And an examination of stocks held by any of the other bank trust departments reveals a similar phenomenon. Fifty-two pension funds administered by the First National City Bank of New York have 35 percent of their common stock investments in 10 companies.

The most frequently proposed solutions to the concentration problem deal with the imposition of size limitations, either on the size of the institutions or on the amount of investments they are allowed to make at any one time, and disclosure requirements. But even if implemented, these solutions will do little to restore the element of individual decisionmaking which is the hallmark of a vigorous economy.

There is another possible solution.

Company pension plans reportedly are the fastest growing sector of the institutional groups.

And this rate of growth can only increase when Congress passes a law establishing new vesting, funding, and fiduciary standards.

It makes sense then to seek to diversify the control over these pension funds.

This, too, is an important goal of the Retirement Benefit Fund Act.

I ask unanimous consent that the Business Week article entitled, "Are the Institutions Wrecking Wall Street?" be printed at the conclusion of my remarks.

Briefly then, the Nader proposal would work this way:

The Security and Exchange Commission would license a number of closely regulated competitive retirement funds.

The individual employee would select a fund in which an employer or the worker could deposit pension contributions.

Unions would be free to bargain over the level of employer contributions.

Pension contributions would be immediately vested and fully funded, and benefits would grow with each contribution regardless of how many times an individual changed jobs.

Pension contributions—including those made on behalf of spouses—would be tax deductible, but there would be a limit on the amount an individual could contribute.

Each employee would receive a passbook—similar to those supplied by savings accounts—showing the total amount credited to his account and projecting yearly pension payments the employee would receive at different retirement dates.

An employee could retire at any time, but only once. Pension payments, based on the amount of money in his account, projected earnings on that account and age at retirement, could begin immediately.

Fund members would have the right to vote for directors and to express views on the fund's investment policies. Funds would be able to make some investments in areas—such as senior citizen housing—of long-range value to retirees.

To protect the funds against domination by a few financial institutions, the bill sets stiff requirements on permitted affiliations of fund officers and directors.

Because contributions would be invested for a longer period than is often the case under the present system, because administrative costs of individual programs would be largely eliminated, and because the system to prospective, estimates indicate the proposed system would not cost most employers more to provide more people with the same average pension benefits.

And because the retirement funds will handle administrative costs, it will be possible for smaller firms which now cannot afford to start pension programs to make contributions on behalf of employees.

The bill provides a 30-year transition period during which employees would receive benefits they would have received under the present system.

Mr. Nader outlined this proposal in a speech which he delivered to the Conference on Employee Benefits on May 24, 1972, and which I inserted in the RECORD on June 15, 1972. Since that time the proposal has been put into bill form by the Yale Legislative Services, a Yale Law School student organization established to provide legislative drafting assistance, at the request of Representative BENJAMIN ROSENTHAL. Tax provisions were added and technical changes were made by the Senate Legislative Counsel's office.

This bill is offered not as a perfect piece of legislation but as a vehicle for discussion on how best to move to a better pension system.

There are controversial policy choices which need to be studied, the most important of which is whether the best route for the future lies toward a nationalized pension system rather than a private pension system.

It is my hope, then, that those who take the time to study this proposal will do so mindful of the two problems it seems to answer—better pension payments for more people and dispersal of market power exercised by institutional investors fueled by pension funds.

I ask unanimous consent that the Retirement Benefit Fund Act, a section-by-section summary of its provisions, a statement discussing the retirement income aspects of the bill prepared by Ms. Ferguson, and a list of questions and answers about the bill be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2235

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

(a) This Act may be cited as the "Retirement Benefit Fund Act."

(b) Table of Contents.—

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FINDINGS AND DECLARATION OF POLICY

SEC. 2(a) The Congress finds that private pension plans in the United States are intrinsically woven into the working and retirement lives of American men and women; that such plans have become firmly rooted into our economic and social structure; that their operational scope and economic impact is interstate and increasingly affects more than thirty million worker participants through the United States; that private pension assets of approximately $150,000,000,000 accelerating at more than $10,000,000,000 annually, represent the largest fund of virtually unregulated assets in the United States; that the growth in size, scope, and numbers of private pension plans is continuing rapidly and substantially; that these rapidly growing pension funds are operated with little reference to the best interests of the participants whom the funds are supposed to benefit; that the Federal authority over the establishment, administration, and operations of these plans is ineffective to secure adequate protection of retirement benefits due to the workers covered and affected; that deficient and inadequate provisions contained in a number of such plans are directly responsible for hardships upon working men and women who are not realizing their expectations of pension benefits upon retirement; that there have been found to be serious consequences to such workers covered by these plans directly attributable to inadequate or non-existent vesting provisions and lack of portability to permit the transfer of accumulated moneys by employees from one employment to another; that terminations of plans beyond the control of the employees, without necessary and adequate funding for benefit payments, have deprived employees and their dependents of earned benefits; that employee participants have not had sufficient information concerning their rights and responsibilities under the plans, resulting in loss of benefits without knowledge of same; that the lack of uniform minimum standards of conduct required by fiduciaries, administrators, and trustees has jeopardized the security of employee pension benefits; that investment of pension fund moneys is becoming increasingly concentrated; that the costs inherent in the operation of the current pension plan system function to inhibit extension of pension plan coverage to countless millions of employees; that the existing law provides no incentive for employees to make their own provisions for retirement or provisions for the financial security of their surviving dependents; and that it is therefore desirable that a new legal framework be created to fulfill and protect the retirement interests of working Americans.

(b) It is the policy of this Act—

(1) to protect interstate commerce, and the interests of American workers by permitting and encouraging the creation of Retirement Benefit Funds, licensed by the Securities and Exchange Commission, for the purpose of receiving, investing, managing, and paying retirement benefits out of payments made to them by or on behalf of individual participants, such Retirement Benefit Funds to provide for full vesting of all payments made on behalf of individual participants so that an employee may change employment without forfeiture of benefits; for management by directors elected by and responsible to fund participants, and for investment by each fund of all monies with the sole aim of serving the best interests of fund participants; and

(2) to provide for insurance of all pension contributions and to assure adequate disclosure and reports to participants and beneficiaries of fund administration and operations, including financial information by the fund to the participant, as may be necessary for employees to have a comprehensive understanding of their rights and obligations to receive benefits from the funds in which they are participants;

(3) to provide incentives for employees to make their own provisions for retirement and provisions for the financial security of surviving dependents;

(4) to establish minimum standards of fiduciary conduct; and

(5) to provide for appropriate and adequate remedies, sanctions, and ready access to the courts for the aggrieved parties.

DEFINITIONS

SEC. 3. As used in this Act—

(1) "Retirement Benefit Fund" and "fund" means a corporation not for profit organized under the laws of any State or the District of Columbia and licensed according to the provisions of this Act for the purpose of receiving, investing, managing, and paying retirement benefits,

(2) "Commission" means the Securities and Exchange Commission,

(3) "beneficiary" means any natural person who may be entitled to receive payments from any fund by virtue of the death of a participant,

(4) "employee" means any individual who receives remuneration for services who is not a self-employed person,

(5) "employer" means a person who gives one or more employees remuneration in exchange for services,

(6) "pre-existing pension plan" means an employee pension benefit plan, other than a profit-sharing retirement plan, established or maintained prior to the date of enactment of this Act by an employer or employee organization, or by both for the purpose of providing retirement benefits to participants or their beneficiaries,

(7) "participant" means any natural person on whose behalf contributions are made to any fund.

(8) "self-employed person" means a person who owns an entire interest in an unincorporated trade or business, or in the case of a partnership, means a partner who owns more than 10 per centum of either the profits or capital interest in such partnership,

(9) "special allowance investment" means an investment in an enterprise the advancement of which the fund directors deem likely to be of particular social utility and of long-range value to the participants as retirees, including investments tending to reduce expenses typically incurred during retirement (such as housing, medical and consumer expenses) which would not be justified solely in terms of their monetary return and the risk involved,

(10) "person" means an individual, partnership, corporation, mutual company, joint stock company, trust, unincorporated organization, association, or employee organization.

(11) "affiliated person" of another person means—

(A) any person directly or indirectly owning, controlling, or holding with power to vote, five percent or more of the outstanding voting securities of such other person;

(B) any person five percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by such other person;

(C) any person directly or indirectly controlling, controlled by, or under common control with, such other person;

(D) any officer, director, partner, copartner, or employee of such other person;

(E) if such other person is an investment company, any investment adviser thereof or any member of an advisory board thereof; and

(F) if such other person is an unincorporated investment company not having a board of directors, the depository thereof; and

(12) "consultant" means any person who advises or represents a fund.

TITLE I—RETIREMENT BENEFIT FUNDS

ORGANIZATION AND GENERAL PROVISIONS

SEC. 101. (a) The Securities and Exchange Commission shall prescribe rules and regulations necessary to carry out the provisions of this Act, including rules and regulations for the operation of Retirement Benefit Funds.

(b) There is hereby established a Retirement Fund Division within the Securities and Exchange Commission, with the power and responsibility of supervising Retirement Benefit Funds according to terms of this Act.

(c) The Commission is authorized to appoint and fix the compensation of such attorneys, actuarial consultants, hearing examiners, and other employees as may be necessary for carrying out the functions of the Retirement Fund Division under this Act, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to Classification and General Schedule pay rates, and the Commission may, subject to such provisions, appoint and fix the compensation of such other officers and employees as are necessary in the execution of the Division's functions. The Commission may procure the temporary and intermittent services of individuals in carrying out the functions of the Division to the extent authorized by section 3109 of title 5, United States Code.

(d) There are hereby authorized to be appropriated such sums as may be necessary to enable the Retirement Fund Division to carry out its functions and duties.

(e) The Commission shall submit annually a report to the Congress covering its activities under this Act during the preceding fiscal year.

LICENSING

SEC. 102. (a) Applications to be authorized to operate as a fund shall be filed with the Commission, in such form and containing such information and documents as the Commission shall by rules and regulations prescribe as necessary or appropriate for the protection of the interests of employees and the public. The information required by the Commission shall include—

(1) the name and address of each affiliated person of applicant and the name and principal address of every company, other than the applicant, of which each such person is an officer, director, or partner; a detailed statement of the business experience relevant to the application of each officer and director of the applicant;

(2) the name under which the proposed fund intends to operate, and the location of the fund's principal place of business;

(3) a recital of the investment policies of the applicant, and of other policies in respect of matters which the applicant deems matters of fundamental policy;

(4) a copy of the corporation's charter, its bylaws, and such other documents relating to the organization and operation of the corporation as the Commission may require; and

(5) any other information deemed necessary by the Commission to effectuate the purposes of this Act.

(b) Upon receipt of such application, the Commission shall examine the condition of such applicant, paying particular attention to the financial condition and demonstrated expertise of the persons described in the application, and to the demand for fund services. If the Commission is satisfied that the interests of employees and the public would be served by permitting the applicant to operate a fund, it shall issue a license to the applicant to so operate, which license shall be for the term of 12 years and renewable. The Commission shall provide public notice of its intention to issue a license and shall entertain comments from any member of the public concerning the suitability of the proposed licensee for a period of 30 days from the provision of said notice.

(c) No fund shall be affiliated with any bank, insurance company, or other financial institution.

(d) Application for license renewal shall be made at least six months prior to the expiration of the existing license. The Commission shall review all applications to determine whether renewal is appropriate.

(e) (1) On petition of 50 pension fund participants or if the Commission has grounds to believe that continued operation of a fund by a licensee is likely to jeopardize the actual and potential pension benefits of participants or is not in the public interest, the Commission shall hold a hearing to determine if a license renewal shall be denied or a license revoked. Adequate public notice, not less than 30 days prior to such hearing, shall be provided

(2) If after a full hearing on the record, with evidence presented from all interested parties and at which counsel for the challenged licensee is allowed to present and cross examine witnesses, the Commission decides, based on the record, that further operation of the fund as constituted may jeopardize the pension benefits of participants or is not otherwise in the public interest, it shall revoke such a fund's license or deny it renewal. The hearing examiner shall in his discretion permit intervention in any hearing by such members of the public as may be necessary to represent interests otherwise unrepresented. Intervenors shall have all the rights of a party at any hearing.

(3) In cases where the Commission has reason to believe that emergency measures are necessary to protect fund participants, it may, with or without prior notice place a fund under the management of a Commission trustee who shall have full powers to operate the fund pending the outcome of a hearing under paragraph (2). If such an emergency trustee is appointed, the management is entitled to a hearing not more than 90 days after it so petitions and a final Commission decision not more than 60 days after such a hearing. If the Commission after a hearing held pursuant to this subsection decides not to revoke or deny renewal to a licensee, control over such fund shall promptly be restored to licensee.

(4) If after a hearing under paragraph (2) the Commission decides to revoke or deny license renewal to a licensee and a trustee has not previously been appointed under paragraph (3), a trustee shall be appointed with full powers to operate such fund until it is terminated or returned to private management pursuant to this section. The trustee shall notify all fund participants of his appointment.

(5) Renewal or non-revocation under this subsection may be conditioned on such alterations in the policies or personnel of the fund as the Commission may deem necessary to protect the interest of the public or of the participants.

(6) After revoking a license, the Commission shall entertain applications from persons desiring to become the licensee of said fund. The Commission may require, as conditions of granting a new license, such changes in investment policy or personnel of the fund as are necessary to insure the financial soundness of the fund.

(7) No fund and no person affiliated with any fund shall be eligible to become a licensee of any other fund held in trust under paragraph (3).

(8) When the right to manage a fund under the control of a trustee is granted to a new licensee, said licensee shall notify all fund participants and beneficiaries of the change in management and each participant and beneficiary shall be provided the opportunity to have all amounts accumulated to his account transferred to another fund.

(9) In the event that no suitable applicant shall apply for a license to manage a fund under the control of a trustee within such reasonable period of time following revocation or non-renewal as the Commission shall prescribe, the trustee shall proceed to terminate the fund by notifying participants and beneficiaries that they must designate another fund to which all amounts accumulated to their accounts may be transferred. The trustee shall arrange with other funds for the continued payment of benefits to retired participants and beneficiaries, and shall pay to those funds amounts appropriate to cover the obligations assumed. Any fund licensed under this Act may be required by the Commission to assume a reasonable share of the obligations of a terminated fund.

(f) (1) The Commission shall establish procedures for the receipt and investigation of all complaints by any member of the public concerning the operations of an existing fund.

(2) Any petitioner or complainant may appeal from any Commission licensing decision to the United States District Court for the District of Columbia Circuit. The decision of the Commission shall be final unless contrary to law or not based on substantial evidence.

DIRECTORS AND OFFICERS

SEC. 103. (a) (1) No fund shall have a board of directors more than 40 percent of whose members are persons who are investment advisors of, affiliated persons of an investment advisor of, consultants to, or officers of employees of, such fund.

(2) No fund shall have a majority of its board of directors consisting of persons who are officers, directors, or employees of banks and insurance companies.

(3) The total number of persons on the board of directors who fit either of the following categories shall not total more than one-third of the directors.

(A) officers or directors of any employer or employer organization, or

(B) officers of any labor organization or its subdivisions.

(4) No fund shall invest in any company of which a director or officer of that fund is a director or officer.

(5) No person shall serve as officer or director of more than one fund at a time.

(b) No person who has been convicted under the law of the United States, or of any State (or of any political subdivision thereof), of robbery, bribery, extortion, embezzlement, grand larceny, burglary, perjury, or any crime described in section 9(a) (1) of the Investment Company Act of 1940 (— Stat. —; 15 U.S.C. 80a–9(a)(1)), or a violation of any provision of this Act, or a violation of section 302 of the Labor-Management Relations Act of 1947 (61 Stat. 157; 29 U.S.C. 186), or a violation of chapter 63 of title 18, United States Code, or a violation of section 874, 1001, 1027, 1503, 1506, 1510, 1951, or 1954 of title 18, United States Code, or a violation of the Labor-Management Reporting and Disclosure Act of 1959 (73 Stat. 519; 29 U.S.C. 401) or a violation of the Welfare and Pension Plan Disclosure Act (— U.S.C. —; 29 U.S.C. 301), or conspiracy to commit any such crimes or attempt to commit any such crimes, or a crime in which any of the foregoing crimes is an element, shall serve—

(1) as a director, officer, consultant, counsel, agent, employee (other than as an employee performing exclusively clerical or janitorial duties) of, or in other fiduciary position of, any fund;

(2) as a consultant to any fund for five years after such conviction, unless prior to the end of such five-year period, in the case of a person so convicted—

(A) his citizenship rights, if revoked or suspended as a result of such conviction, have been fully restored, or

(B) the Commission determines that such person's service in any capacity referred to in paragraph (1) or this paragraph, would not be contrary to the purposes of this Act.

(c) It shall be unlawful for any officer, director or employee of a fund knowingly to permit any person to serve in any capacity referred to in subsection (b) in violation of that subsection.

(d) Any person who is convicted willfully violating this section shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

ELECTION OF DIRECTORS

SEC. 104. (a) (1) The board of directors of a fund shall consist of not less than 15 nor more than 20 members elected for terms of five years. The terms shall be so arranged that not less than 3 nor more than 4 expire each year.

(2) Not less than one-half of the seats on the board of directors shall be reserved for individuals who reasonably anticipate that the fund will represent the major nongovernmental portion of their future retirement income. Beginning one year after the organization of the fund, one or two of the seats becoming vacant each year shall be filled by fund participants or beneficiaries until not less than one-half of the total seats are so occupied.

(b) (1) Funds shall provide in their bylaws for nomination of directors in accordance with the following guidelines;

(A) The first board of directors shall be selected by the license applicant.

(B) Thereafter—

(1) the officers of the fund may nominate a candidate for each seat as the term of the incumbent expires, except, that for the seats reserved for participant and beneficiary board members, the officers of the fund shall have no power of nomination, and

(ii) additional nominations for the board may be made by petitions signed by not less than

(I) 500 of the fund's participants, or

(II) 2 percent of the fund's participants, whichever is smaller.

(c) Campaigning for directorships shall consist only of a distribution of information at the expense of the fund, describing, in the language of the candidate, his qualifications and such positions on investment policy as he regards as important. In any matter distributed by a fund under the preceding sentence each candidate shall be afforded equal space with other candidates in which to make a presentation. The Commission may prescribe the amount of space to be provided each candidate, taking into account the necessity for non-incumbent candidates to make their views known to fund participants and the need to limit the financial burden on funds.

(d) (1) Election ballots shall be distributed and collected by mail, due care being taken by the fund to assure the integrity of the electoral process.

(2) Each participant shall have one vote for each seat to be filled, and may cast his vote cumulatively. The seats reserved for participants and beneficiaries and all other seats shall be separated for the purpose of voting, and cumulative voting is within each category.

(3) The candidates in each category will be ranked according to total votes received. The candidate in each category with the largest vote total shall be awarded a seat on the board of directors, then the candidate with the second highest vote total; and so on, until the number of vacant seats is filled.

(e) (1) Complaints of election irregularities shall be made to the board of directors, who shall establish a single committee within 5 days after the receipt of any complaint to investigate complaints relating to that election. Except as provided in paragraph (2), if the board determines that such irregularities existed, it shall void the election and order a new one. The directors elected in the challenged election shall not be considered a part of the board of directors for the purpose of ruling on the validity of the election, nor are they eligible for membership on the investigatory committee.

(2) If the board of directors rules that there were no irregularities, or that such irregularities as may have existed had no effect on the result of the election, a complainant may appeal to the Commission.

(3) Any fund participant or beneficiary and any candidate standing for election in the challenged election may file a complaint alleging election irregularities.

(4) Upon receipt of a complaint that has been rejected by a fund, the Commission shall conduct an investigation of the election. If irregularities are found, the Commission shall void the election, and order a new election to be held under its supervision.

(5) A decision of the Commission under subsection (4) is reviewable by a United States district court. The decision of the Commission shall be final unless contrary to law or not based on substantial evidence.

(f) Any vacancv occurring on the board of directors other than by expiration of a term of office may be filled by vote of the remaining members of the board for the remaining term of the seat involved.

INVESTMENT POLICY

SEC. 105. (a) No fund shall issue or underwrite any kind of securities, whether in the form of stocks or bonds. Funds shall not issue any debt securities.

(b) (1) The assets (or any portion thereof) of the fund may not be loaned to a company which is the employer of any of the participants, or to an affiliated person of an employer of any of the participants, or to a labor organization representing any of the participants, at a rate of return which is lower than the greater of—

(A) the rate at which the prospective debtor could borrow money for the intended use from commercial banks, or

(B) the gross return on investment experienced by the entire fund during the most recent fiscal year.

(2) The assets of the fund may under no circumstances be loaned to—

(A) any present or past director, officer or employee of the fund, or

(B) any person or company affiliated with a present or past director, officer or employee of the fund.

(3) With respect to all unsecured loans extended by the fund, due attention shall be paid to the credit-worthiness of the prospective debtor, and loans shall be made only in accordance with sound financial principles.

(4) Prospective borrowers shall be informed, prior to the making of any loan, of the requirements of this section. Any loan made in violation of this section shall be voidable at the option of the fund. Any balance due on any such loan on the date on which it is voided shall be due and payable in full, with interest, not later than 30 days after that date.

(5) Any officer or director of a fund who is convicted of willfully causing a loan to be made in violation of this section or who is convicted of knowingly permitting such a loan to be made shall be fined not more than $50,000 or imprisoned for not more than five years, or both.

(c) (1) No licensee shall, unless authorized by a vote of a majority of the participants voting, deviate from its policy in respect to investments, specifically, in respect to concentration of investments in any particular industry or group of industries as recited in its original license application. The Commission shall promulgate such regulations as necessary to insure that the purposes of this section are carried out in a fair and equitable fashion.

(2) A licensee proposing to change its investment policy shall, before seeking a participant approval, submit a detailed analysis of the proposed change, with reasons therefor, to the Commission. If the Commission decides that the proposed changed investment policy is within the guidelines established in this Act regarding concentration, and that is is not contrary to the best interests of fund participants and beneficiaries and will not unreasonably endanger the fund assets, it shall permit the licensee to seek participant authorization for the change.

(3) Proxies shall be valid only to the extent that they authorize a representative to vote for or against the proposed changed investment policy.

(d) No fund shall so concentrate its investments in a single company or industry that—

(1) the stability of the fund would be threatened in the event of a drastic reduction in the value of such concentrated investments, or

(2) the fund has effective control over any company in which it has investments.

(e) Each year a percentage of total fund assets as the Commission may by regulation prescribe shall be allocated for administrative expenses, which expenses shall include but not be limited to all forms of remuneration paid to officers, directors and employees of a fund.

FIDUCIARY STANDARDS

SEC. 106. (a) Every fund shall be deemed to be a trust and shall be held for the exclusive purpose of providing benefits to participates and beneficiaries.

(b) Any person who exercises any power of control, management, or disposition with repsect to any monies or other property of a fund is a fiduciary and occupies a position or trust with respect to such fund, and to its participants and beneficiaries.

(c) A fiduciary shall discharge his or her duties with respect to the fund—

(1) solely in the interests of the participants and beneficiaries,

(2) with the care under the circumstances then prevailing that a prudent man acting in a like capacity and with a like concern for the income security of retirees would use in the conduct of an enterprise with similar aims, and

(3) in accordance with the documents and instruments governing the fund insofar as consistent with this Act.

(d) Nothing in this section shall be construed to prohibit any fiduciary from—

(1) receiving any reasonable compensation for services rendered, or for the reimbursement of expenses incurred in the performance of his duties with the fund, but no fiduciary shall directly or indirectly accept or be the beneficiary of any fee, brokerage, commission, gift, or other consideration for or on account of any loan, deposit, purchase, sale, payment or exchange made by or on behalf of the fund;

(2) receiving any benefit to which he may be entitled as a participant of beneficiary in the fund;

(3) purchasing on behalf of the fund any security which has been issued by an employer whose employees are participants in the fund;

(4) making special allowance investments with up to 10 percent of the assets of the fund;

(5) voting shares held by the fund in accordance with voting preference questionnaires furnished to each participant or beneficiary pursuant to section 205 (f).

(e) (1) Any fiduciary who breaches any of the responsibilities, obligations, or duties imposed upon fiduciaries by this Act shall be personally liable to reimburse such fund an amount equal to any losses experienced by the fund resulting from such breach and to restore to such fund any profits accrued by the fiduciary resulting from his breach of duty.

(2) No fiduciary shall be indemnified by the fund in connection with such a breach.

(3) Any exculpatory provisions in the agreement establishing a fund under this Act or any resolution or agreement by the parties thereto which purports to relieve any fiduciary with relation to any such fund from liabilities for breach of the responsibilities, obligations, or duties declared by this section shall be void as against public policy.

(f) Directors and officers are required to disclose their securities holdings to the Commission and the participants of the fund. To the extent that their holdings coincide with holdings of the fund, those holdings shall be sold or placed in a blind trust for the duration of the director's or officer's tenure.

(g) A fiduciary shall not be liable for a violation of this Act committed before he became a fiduciary or violations committed after he ceased to be a fiduciary.

TITLE II—DISCLOSURE

INAPPLICABILITY OF PRIOR LAW

SEC. 201. The Welfare and Pension Plans Disclosure Act is not applicable to Retirement Benefit Funds established pursuant to this Act. The Commission shall have sole power to enforce the provisions of this title.

INFORMATION DISCLOSED

SEC. 202. (a) The chief executive officer of each fund shall cause to be published (1) a description of the fund, and (2) an annual report. Such description and such report shall contain the information required by sections 203 and 204 of this title in such form and in such detail as the Commission shall by regulation prescribe and shall be executed, published, and filed in accordance with the provisions of this Act and regulations of the Commission.

(b) The chief executive officer of a fund shall furnish to each participant and beneficiary covered thereunder in accordance with subsections (c), (d), and (e) of section 205—

(1) a summary of the annual report,

(2) a year-end statement,

(3) an investment preference questionnaire, and

(4) where appropriate, a voting preference questionnaire.

FUND DESCRIPTIONS

SEC. 203. (a) A description of any fund shall be published as required herein within 90 days after the establishment of such fund and shall be mailed to participants and beneficiaries in accordance with section 205(c)(1).

(b) (1) The description of the fund shall be comprehensive and shall include—

(A) the name of the fund,

(B) the name and address of all directors and officers,

(C) a description of the operation of the fund, written in a manner calculated to be understood by the average participant,

(D) the fiscal year of the fund,

(E) a statement of how participants' benefits are to be calculated,

(F) a statement of investment policies,

(G) a copy of mortality tables used in determining benefits

(H) the procedures to be followed in presenting claims for benefits under the fund and the remedies available for the review or appeal of claims which are denied in whole or part, and

(I) any other data or information which the Commission concludes is necessary if participants and beneficiaries are to have a clear understanding of the chief features of their fund.

(2) Any change in the information required by this subsection shall be reported in accordance with regulations prescribed by the Commission.

ANNUAL REPORTS

SEC. 204. (a) An annual report shall be published with respect to any fund established pursuant to this Act, as required under section 205, within 150 days after the end of the fiscal year of the fund.

(b) The chief executive officer of a fund shall cause an audit to be made annually. Such audit shall be conducted in accordance with generally accepted accounting principles by an independent certified or licensed public accountant. The auditor's opinion and comments with respect to the financial information shall be furnished in the annual report and shall form a part of such report. In addition the results of any special audits, including those that the Commission may by regulation prescribe, shall form a part of such report.

(c) A report under this section shall include—

(1) the aggregate amount contributed by the participants; the aggregate amount contributed by employers and the aggregate amount contributed by spouses; the amount of benefits paid to participants and beneficiaries; the number of participants; the number of beneficiaries; a statement of assets, liabilities, receipts, and disbursements of the fund; a detailed statement of the salaries, fees, commissions, and other administrative expenses charged to the fund, to whom paid, in what amount, and for what purposes; the name and address of each officer, director, consultant, and other fiduciary, his or her official position with respect to the fund, and any other office, position or employment he or she holds;

(2) a schedule of all investments of the fund showing, as of the end of the fiscal year—

(A) the aggregate cost and aggregate value of each security, by issuer; and

(B) the aggregate cost and aggregate value, by type or category, of all other investments, and separately identifying (1) each investment which exceeds $100,000 or 3 percent of the value of the fund, and (11) each investment made pursuant to section 106(d) (4);

(3) a schedule showing the aggregate amount, by type of security, of all purchases, sales, redemptions, and exchanges of securities made during the reporting period a list of the issuers of such securities; and, in addition a schedule showing, as to each separate transaction with respect to securities held or acquired pursuant to section 106(d) (4), the issuer, the type and class of security, the quantity involved in the transaction, the gross purchase price, the date of purchase, and in the case of a sale, redemption, or exchange, the gross and net proceeds (including a description and the value of any consideration other than money), the dates of such sales, redemptions or exchanges, and the net gain or loss;

(4) a schedule of purchases, sales, or exchanges during the year covered by the report of investment assets other than securities—

(A) by type of category of asset the aggregate amount of purchases, sales, and exchanges; the aggregate expenses incurred in connection therewith; and the aggregate net gain (or loss) on sales, and

(B) for each transaction involving investments made pursuant to section 106(d) (4) and for each transaction involving over $100,000 or 3 percent of the fund, an indication of each asset purchased, sold, or exchanged (and, in the case of fixed assets such as land, buildings, and leasehold, the location of the asset); the purchase or selling price; expenses incurred in connection with the purchase, sale, or exchange; the cost of the asset and the net gain (or loss) on each sale; the identity of the seller in the case of a sale, and his or her relationship to the fund;

(5) a schedule of all loans made from the fund during the reporting period or outstanding at the end of the year, and a schedule of principal and interest payments received by the fund during the reporting period aggregated in each case by type of loan, and, in addition, a separate schedule with respect to all loans—

(A) made pursuant to section 106(d) (4),

(B) in default,

(C) written off during the year as uncollectible, and

(D) all other loans,

the original principal amount of the loan, the amount of principal and interest received during the reporting year, the unpaid balance, the identity and address of the obliger, a detailed description of the loan (include date of making and maturity, interest rate, the type and value of collateral, whether or not the loan is insured, and other material terms), the amount of principal and interest overdue (if any) and, as to loans written off as uncollectible, an explanation thereof;

(6) in addition to reporting the information required by this subsection, the directors and officers may furnish other information as to investments or reinvestments of the fund as additional disclosures to the Commission.

(d) Any annual report made under this section shall include—

(1) the number of participants, both retired and non-retired, covered by the fund during the fiscal year to which the report relates,

(2) the number of participants and beneficiaries receiving benefits and the dollar amount of such benefits paid during that year,

(3) the amount of all accumulated net assets as of the close of that year,

(4) the value of all accrued liabilities for benefit payments as of the close of that year,

(5) the total earnings of the fund for the reporting year in dollar amount, and the percentage rate of return on total assets, shown in terms of measurements prescribed by the Commission,

(6) the amount of insurance premiums paid to the Federal Insurance Corporation during that year,

(7) all amounts returned to the fund from the Federal Pension Insurance Corporation during that year, and

(8) such other information as the Commission may by regulation prescribe.

DISCLOSURE TO PARTICIPANTS

SEC. 205. (a) The Commission shall prepare forms for the fund descriptions, annual reports, annual statements, and investment and voter preference questionnaires required by the provisions of this Act and shall make such forms available to the directors and officers of such funds on request.

(b) The chief executive officer of all funds subject to this Act shall file with the Commission a copy of the fund description and each annual report and any other items the Commission may require. The Commission shall make copies of such descriptions and annual reports available for inspection, examination, and copying at the Commission.

(c) The chief executive officer of each fund shall publish plan descriptions and annual reports by—

(1) mailing copies of the fund description (including all amendments and additions thereto) and of annual reports to each participant or beneficiary upon request,

(2) making copies of the fund description (including all amendments and additions thereto) and the latest annual report available for public inspection in the principal office of the fund,

(3) furnishing to any person so requesting in writing a complete copy of the annual report, and charging the costs of copying and mailing the report to the requesting party, and

(4) furnishing to all fund participants and beneficiaries a summary of the latest annual report within 60 days after the end of the fiscal year, including, but not limited to, a schedule of all special allowance investments made during the preceding year and the return thereon during the preceding fiscal year.

(d) The chief executive officer shall mail within 60 days after the end of the fiscal year to each fund participant and beneficiary a year-end statement. The statement shall be written in a manner calculated to be understood by the average participant, and shall include the total contributions credited to his account for the reporting period, the source of the contributions, earnings on accrued contributions, the total amount credited to his account, a projection of yearly income at retirement produced by contributions paid in to date (exclusive of future payments), a projection of yearly income at retirement produced if contributions are made at the current rate at age 65, the assumptions used for any such projections, a statement of the manner in which pension benefits are reduced to provide for benefit payments to surviving beneficiaries, and such other information as the fund may deem appropriate or as the Commission may by regulation require.

(e) The chief executive officer shall furnish an investment preference questionnaire to each participant or beneficiary with his year-end statement. The questionnaire shall be in such form and contain such information as the Commission shall by regulation require and shall include but not be limited to requests for information regarding whether or not the fund should make special allowance investments (as defined in section 106(d)(4)), the percentage of fund assets to be so invested, and areas of special concern in which the fund should invest. The results of such questionnaires shall be furnished to all participants and beneficiaries in accordance with regulations promulgated by the Commission and such results shall be considered by, but shall not be binding upon, the directors, officers, or other fiduciaries of the fund.

(f) On the motion of one or more of the directors, there shall be furnished to each participant or beneficiary a voting preference questionnaire. Such voting preference questionnaire shall solicit information directly relating to the voting of shares held by the fund. The results of such voting preference questionnaires shall be furnished to all participants and beneficiaries in accordance with regulations promulgated by the Commission and must be considered by, but shall not be binding upon, the directors, officers or other fiduciaries of the fund.

(g) The books of the fund shall be open for inspection by any participant or beneficiary on 30 days' written notice.

(h) Upon conviction of willful violation of the provisions of this title, the chief executive officer of any fund shall be punishable by a fine of not more than $1,000, imprisonment for not more than 6 months, or both.

TITLE III—CONTRIBUTIONS; BENEFITS; INSURANCE

CONTRIBUTIONS

SEC. 301. (a) All pension contributions shall be made to funds selected by participants. Contributions may be made on behalf of a participant by the participant or by his or her employer or spouse but no participant may contribute on his or her own behalf during any calendar year amounts totalling in excess of 25 percent of the then current maximum taxable social security wage base, as determined under section 3121 of the Internal Revenue Code of 1954, reduced by all amounts contributed by the participant's employer and spouse. The Commission shall prescribe procedures designating the times and the manner in which contributions shall be made by employers, spouses and participants to funds. Nothing in this section shall limit the right of employers, labor organizations and participants to bargain as to the level of pension contributions to be provided by the employer.

(b) Each fund shall provide each participant with a passbook, indicating the amount of pension contributions paid to the fund on his or her behalf at the time of issue, and containing space for the inclusion of the annual year-end statements required to be furnished each participant under Title II, section 205 (d) of this Act. Upon submission by the participant of his or her passbook to the fund, the fund shall enter thereon a notation of all payments received plus all earnings accrued to date including, where appropriate, an indication of a participant's share of increments in the value of fund assets and of any amounts returned to the fund by the revolving fund of the Federal Pension Insurance Corporation established by section 305 of this title.

TRANSFERABILITY

SEC. 302. (a) No person shall have pension monies deposited with more than one fund at a time. Nothing in this section shall preclude a fund participant from acquiring rights as a beneficiary in monies deposited in another fund pursuant to section 304(b) if at the time of, or prior to, the filing of a declaration of retirement pursuant to section 304(a) the participant or beneficiary requests one or more fund transfers for the purpose of consolidating in a single fund all monies in which the participant or beneficiary has an interest.

(b) A participant or beneficiary may transfer all amounts accumulated in his or her account in one fund to another fund by filing a written transfer request with his or her fund. All funds shall honor transfer requests within 20 days of receipt, except that in no event shall amounts accumulated in the account of an individual participant or beneficiary be transferred more often than once per year, at times and under conditions to be prescribed by the Commission. The year-end statement furnished each participant and beneficiary under section 205 (d), shall specify his or her right to transfer pension monies and the terms on which he or she may do so.

SALES AND ADVERTISING

SEC. 303. (a) Except as provided in this section, no fund shall accept pension contributions from or on behalf of any participant without first furnishing such participant with a copy of its most recent solicitation prospectus and without receiving written notice from said participant that he or she has received and inspected the solicitation prospectus. A solicitation prospectus shall consist of a concise statement of information about a fund to assist a prospective participant in determining whether his or her pension contributions should be paid to that fund. Solicitation prospectuses shall include a fund's name, address, names of directors, officers and consultants, statements of operating results, projected earnings and investment policy, and any other information prescribed by the Commission. The Commission shall prescribe regulations with regard to the length and format of the solicitation prospectus, with regard for the need for information to assist prospective participants in choosing a fund, and the desirability of minimizing the administrative expenses of all funds so as to maximize the benefits to participants and beneficiaries. Every fund shall prepare a solicitation prospectus at times to be prescribed by the Commission.

(b) Notwithstanding the provisions of subsection (a) the Commission may provide during a period not to exceed two years following the effective date of this Act for alternate means by which prospective participants shall be informed about funds, if it appears unduly expensive and cumbersome to provide every prospective participant with a copy of the solicitation prospectus of every fund.

(c) The Commission shall promulgate rules to maximize the return to participants and beneficiaries, and it shall be the obligation of each fund to minimize costs incurred in advertising the nature and existence of said fund and in soliciting prospective participants. In any event, no fund shall employ any salesman, agent, or other representative on a commission or salary basis to solicit individuals or groups of employees to make pension contributions to said fund.

(d) It shall be unlawful for any fund or any representative thereof to make any materially false, falsely disparaging, or misleading oral or written statement or other representation of any kind with the intent to persuade any prospective participant to designate said fund as the depository of his or her pension contributions. The making of the following representations shall constitute prima facie evidence of a violation of this section:

(1) Any statement, suggestion, or intimation that a particular characteristic of a fund distinguishes it from other funds, when in fact such characteristic is common to many or most such funds.

(2) Any statement, suggestion, or intimation that a fund is an instrumentality of the United States Government.

(3) Any statement of past earnings performance of a fund unless it shall be followed immediately by the statement that "The preceding record of earnings represents *past* performance only. There can be no guarantee that the same performance will be repeated in the future."

(c) Whoever is convicted of violating the provisions of this section shall be fined not more than $10,000 or imprisoned for not more than two years, or both.

BENEFITS AND PAYMENT

SEC. 304. (a) Pension benefits are payable to a participant or beneficiary as follows:

(1) At such time as each participant or beneficiary elects to retire, but only one time during his or her life, the participant or beneficiary shall file a "declaration of retirement" with his or her fund. Each fund shall make available declaration of retirement forms as prescribed by the Commission to all participants and beneficiaries. Upon receipt of a completed declaration of retirement form, such fund shall forward a copy to the Social Security Administration, where it shall be filed with the participant's or beneficiary's social security records. Upon filing a declaration of retirement with a fund a participant or beneficiary shall immediately become eligible to receive a lifetime pension benefit.

(2) A participant's lifetime pension benefit shall be an annuity, payable monthly, determined in accordance with nondiscriminatory actuarial standards and methods approved by the Commission and based on all amounts accumulated in the participant's account on the date the participant files a declaration of retirement.

(3) If participants married to each other and possessing separate accounts in the same fund file a joint declaration of retirement, they shall receive an annuity for their joint lives and for the life of the survivor based on the sum of all amounts accumulated in their respective accounts, determined in accordance with non-discriminatory actuarial standards approved by the Commission.

(c) A beneficiary's lifetime pension benefit shall be determined as follows:

(1) If a married participant dies after filing a declaration of retirement and has not stated that he or she does not want his or her spouse to become a beneficiary, the surviving spouse shall immediately become eligible to receive the lifetime pension benefit previously received by the deceased participant.

(2) If a married participant dies before filing a declaration of retirement, the surviving spouse shall automatically be eligible to become a beneficiary at such time as he or she files a declaration of retirement. The surviving spouse's lifetime pension benefit shall be an annuity payable monthly determined in accordance with non-discriminatory actuarial standards and methods and shall be based on all amounts accumulated in the deceased participant's account on the date the beneficiary files the declaration of retirement:

(3) If a married participant dies before filing a declaration of retirement and the participant's surviving spouse also dies before filing a declaration of retirement, each of the participants' surviving dependent children shall become beneficiaries and shall be entitled to receive an equal share of the amounts pension payment the surviving spouse would have received had he or she filed a declaration of retirement on the date of his or her death, until such time as the child becomes 22 years of age unless he is incapable of self-support. At such time as any surviving child becomes ineligible for benefits under this section, the amount to which other surviving children shall be entitled shall be recomputed based on the number of children then remaining eligible. Payments to children may be made directly or to a legal guardian.

(d) Except as provided in (2) and (3) of subsection (c), if a participant dies before retirement, all amounts accumulated in the participant's account shall be paid by his or her fund into the revolving fund of the Federal Pension Insurance Corporation established under section 305 of this title.

(e) The lifetime pension benefit of a participant who has filed a declaration of retirement may be reduced in accordance with non-discriminatory actuarial standards and methods in any case in which the participant's spouse may be entitled to receive the participant's pension benefit upon the death of the participant.

(f) In the event of any dispute between any person and any fund concerning an alleged right to receive a benefit or the amount of a benefit, such person may bring a civil action in the United States district court of the district where such person resides.

INSURANCE

SEC. 305. (a) There is hereby established a corporation to be known as the Federal Pension Insurance Corporation (hereinafter referred to as the "Corporation"). The Corporation shall be under the direction and control of the Federal Deposit Insurance Corporation.

(b) The Corporation shall insure rights of participants and beneficiaries to the extent of (1) all payments made to the fund by any employer or any participant on behalf of the participant or (2) a participant or beneficiary has filed a declaration of retirement pursuant to Section 304(a) the present value of his or her lifetime pension benefit. The Corporation shall insure funds against loss from special allowance investments made pursuant to section 106(d)(4) of this Act to the extent of the principal of such special allowance investments plus interest equal to one-third the average rate of return achieved from investment of the fund's portfolio (exclusive of special allowance investment) in the year in which the special allowance investment is made.

(c) Each fund shall pay an annual premium for insurance under the program to be established by the Corporation. Premium rates established under this section shall be determined by uniform standards for all funds. The premium rates may be changed from year to year by the Corporation, when the Corporation determines changes to be desirable or necessary to give effect to the purposes of this title. Premiums under this title shall be payable at times to be specified by the Corporation.

(d) In carrying out its duties under this title, the Corporation shall establish a revolving fund into which shall be paid all amounts paid to the Corporation as premiums, and all amounts accruing from pre-retirement death of participants as provided in sections 304(d) and 304(c)(2) of this title.

(e) The Corporation shall from time to time when it determines that the amount remaining in the revolving fund will be adequate to serve the purposes of this section remit to funds a portion of the amounts accumulated in the revolving fund in order to maximize the benefits received by participants and beneficiaries. Such amounts shall be remitted in proportion to the amount of assets deposited with each fund at the time such remittance is made, and shall be apportioned to participants' accounts in proportion to the size of their accounts.

(f) The Corporation is authorized to borrow from the United States Treasury such amounts as may be necessary for deposit into the revolving fund to meet the liabilities of the Corporation. Monies borrowed from the Treasury shall bear a rate of interest determined by the Secretary of the Treasury to be equal to the average rate on outstanding marketable obligations of the United States as of the time such monies are borrowed. Such monies shall be repaid by the Corporation from premiums and pension monies accruing from pre-retirement death of participants paid into the revolving fund.

(g) Monies in the revolving fund not required for current operations shall be invested in obligations of, or guaranteed as to principal and interest by, the United States.

TITLE IV—TRANSITION PERIOD

RETIREMENT BENEFIT FUNDS

SEC. 401. Contributions to retirement benefit funds may be made by the following:

(a) Self-employed persons now making pension contributions pursuant to provisions of the Internal Revenue Code of 1954, may

(1) continue to make such contributions but contribute to a fund any difference between the contributions they make to their pre-existing plan and the maximum contribution authorized by section 301(a) of this Act, or

(2) transfer their accrued contributions to a fund.

(b)(1) Employed persons not covered by a pre-existing plan shall be permitted to contribute to a fund each year an amount not in excess of the maximum contribution authorized by section 301(a) of this Act.

(2) Employed persons covered by a pre-existing pension plan shall be permitted to contribute to a fund each year an amount

(A) not greater than 25 percent of the then current maximum taxable social security wage base,

(B) reduced by an amount equal to the employee's wage or salary multiplied by twice the ratio of the employer's annual pension cost to the employer's total annual payroll cost except that there shall be no such reduction in the event that an employer certifies to a fund selected by an employee that the employee's control will prevent the employee from receiving benefits from a pre-existing plan, and

(C) reduced further by amounts contributed to the fund on the employee's behalf by an employer or spouse.

(c)(1) Employers, some or all of whose employees are not covered by a pre-existing pension plan, who may make contributions on behalf of their non-covered employees if the amounts contributed are

(A) the same amount for each employee not covered by a pre-existing pension plan, or

(B) an amount equivalent to the same percentage of the wage or salary of each such employee, and if contributions are made on behalf of all non-covered employees over 25 years of age and on behalf of all non-covered employees under 25 years of age who have the equivalent of 3 or more years of service with the employer, whether such service is full-time, part-time or seasonal.

(2) Employers whose employees are covered by a pre-existing pension plan may decide pursuant to an affirmative vote of 70 percent of the covered employees and retirees, and in accordance with the terms of the pre-existing pension plan, to terminate such plan and distribute all plan assets to accounts for individual employees, retirees and beneficiaries in retirement benefit funds selected by the employees, retirees and beneficiaries.

(3) Employers whose employees are covered by a pre-existing pension plan with assets sufficient to cover all accrued liabilities for vested benefits shall, upon receipt of a petition signed by 3 percent of the covered employees and retirees, conduct an election to determine whether the pension plan should be terminated and its assets distributed to accounts for individual employees, retirees and beneficiaries in retirement benefit funds selected by the employees, retirees and beneficiaries. If 80 percent of the covered employees vote in favor of termination, the employer shall terminate the pre-existing pension plan in accordance with the terms of the plan. For the purposes of this subsection "liabilities for vested benefits" means the present value (determined in accordance with the actuarial standards and methods approved by the Commission) of the immediate or deferred benefits available at regular retirement age for participants and beneficiaries which are non-forfeitable and for which all conditions of eligibility have been fulfilled.

(4) The Commission shall prescribe procedures for the conduct of elections pursuant to subsections 401(2) and (3) and for the distribution of plan assets in the absence of plan termination schedules.

(d) A married person shall be permitted to make contributions on behalf of his or her spouse to a separate account in the spouse's own name in a fund selected by the spouse. Amounts contributed pursuant to this subsection each year shall not exceed 25 percent of the then current maximum taxable social security wage base, reduced by all amounts contributed by the spouse's employer or the spouse on the spouse's behalf.

(e) All amounts contributed to the fund in excess of the limitations contained in section 401 of this Act and in section 301(a) of this Act as well as all amounts contributed to a fund on behalf of a participant who has filed a declaration of retirement pursuant to section 304(a) of this Act shall be returned to the person who has made the contribution.

PRE-EXISTING PENSION PLANS

SEC. 402. (a) To ensure that participants in pre-existing plans who have become and will become entitled to pension benefits under those plans will receive such benefits, all employers with pre-existing pension plans shall adopt one of the following two transitional programs—

(1) Within 30 days of the effective date of this Act the employer shall file with the Commission a statement of intent to modify the pre-existing pension plan in accordance with Commission approved guidelines at the expiration of any applicable collective bargaining agreement or within 90 days, whichever occurs later. These guidelines shall include but shall not be limited to provisions requiring:

(A) The adoption of a schedule calling for the gradual reduction of vesting power over a period no longer than 30 years so that at the end of 30 years, or before, the pre-existing pension plan will provide that all employees over 25 years of age and all employees under 25 years of age with the equivalent of 3 years of service, whether full-time, part-time or seasonal, will acquire either

(i) immediate non-forfeitable rights to deferred defined pension benefits to be paid by the pre-existing pension plan or

(ii) rights to defined contributions of equivalent value paid by the employer on behalf of plan participants to individual accounts in retirement benefit funds selected by the employees. The term "vesting requirements" as used in this subsection refers to provisions requiring that employees work for one or more employers for a specified number of years and until they reach a specified age before acquiring non-forfeitable legal claims to immediate or deferred pension benefits;

(B) The adoption of a schedule providing for the elimination over a 30-year period of all unfunded liabilities accrued by the pre-existing pension plan at the time this legislation is enacted. The term "unfunded liabilities" as used in this subsection means the difference between the value of the accrued liability and the value of the assets of the pension plan as of the date of valuation of the plan. The accrued liability is the liability determined in accordance with actuarial standards and methods approved by the Commission,

(C) The adoption of a procedure whereby upon the written request of any employee with vested rights to a pension benefit, the administrators of the pre-existing plan will transfer an amount of money equal to the discounted value of the employee's vested rights to a retirement benefit fund selected by the employee.

(D) The adoption of a plan provision to the effect that benefit levels provided by the pre-existing pension plan will not be modified without express authorization by the Commission unless such benefit increases are financed entirely by increased employer contributions and by voluntary employee contributions and create no additional unfunded liabilities, as defined in subsection (B).

(E) The adoption of a plan provision to the effect that married participants' benefits will be automatically actuarially reduced (using the valuation standards and methods approved by the Commission) to provide benefits to surviving spouses unless a participant files a written statement with the plan administrator prior to retirement stating that he or she does not want to provide for a survivor;

(F) The adoption of a plan provision requiring the submission of individual statements to the Commission signed by each administrator of the pre-existing pension plan and by any other person who exercises any power of control, management or disposition with respect to the assets of the pension plan, acknowledging that he or she is a fiduciary with respect to such assets who has undertaken to act exclusively in the best interests of all plan participants and retirees and beneficiaries.

(b) Within 30 days after the effective

date of this Act the employer shall file with the Commission a statement of intent to allocate pension contributions paid after the expiration of any applicable collective bargaining agreement or after the close of the then current calendar (or if appropriate, fiscal) year, whichever occurs later, as follows—

(1) the employer shall allocate to an account established for each employee covered by the pre-existing pension plan a portion of the total annual amount to be paid to fund pension plan obligations except that

(A) the same annual amount for each employee or an annual amount equivalent to the same percentage of the annual wage or annual salary of every employee shall be allocated to each employee, and the entire annual amount to be used to fund pension plan obligations and shall be allocated among the covered employees, and that

(B) this subsection shall not apply to pre-existing pension plans terminated pursuant to subsections (c)(2) and (3) of this section.

(2) The amount allocated to each employee employed on the effective date of this Act shall be contributed to the pre-existing pension plan to fund its obligations.

(3) The amount allocated to each employee whose employment begins after the effective date of this Act and who is more than 35 years of age when his or her employment begins shall be contributed to an individual account in the employee's name in a retirement benefit fund selected by the employee.

(4) The amount allocated to each employee whose employment begins after the effective date of this Act and who is less than 35 years of age when his employment begins shall be contributed to the pre-existing pension plan to help fund its obligations. When such new employee becomes 35 years of age, all future contributions allocated to the new employee shall go to an individual account in a retirement benefit fund selected by the employee.

(5) The transition period prescribed by this subsection shall be completed within 30 years.

(A) Ten years from the effective date of this Act, the age limit in subsections (b)(3) and (b)(4) shall be lowered to 30 years. Those employees who at the end of 10 years come within the provisions of subsection (b)(4) and who are then between 30 and 35 years of age shall thereafter have all contributions allocated to them paid to individual accounts in retirement benefit funds of their choice.

(B) Twenty years from the effective date of this Act, the age limit in subsections (b)(3) and (b)(4) shall be lowered to 25 years. Those employees who at the end of 25 years come within the provisions of subsection (b)(4) and who are then between 25 and 30 years of age shall thereafter have all contributions allocated to them paid to individual accounts in retirement benefit funds of their choice.

(C) Thirty years from the effective date of this Act, all contributions for all employees shall be made to individual fund accounts in their names.

(D) At or before the conclusion of the thirty year transition period any deficit in the funding of obligations under a pre-existing plan shall be eliminated by employer contributions.

(3)(A) If a member of the Academy of Actuaries qualified in the evaluation of pension plans or an actuary determined by the Commission to have equivalent qualifications determines, before the end of the transition period, on petition of the employer, and the Commission subsequently certifies on the basis of his evaluation that a preexisting plan will be able to pay all promised benefits, the employer may cease making payments to the pre-existing fund and begin making contributions for all employees to retirement benefit funds.

(B) If an employer is making contributions to a preexisting fund from amounts allocated to employees not eligible for benefits from such fund, on petition of 3 per cent of such non-benefited employees the Academy of Actuaries shall determine whether the pre-existing plan will be able to pay all promised benefits. If the Academy determines that such a plan can pay all promised benefits any affected individual can request the Commission to order the employer to cease making contributions to such a pre-existing fund.

(4)(A) Until a pre-existing plan is terminated or certified by the Commission as able to pay all promised benefits, total employer contributions shall be at least as great a percentage of total employee remuneration as they were in the year during the 3 year period immediately preceding the effective date of this Act in which the lowest percentage of total employee remuneration was contributed to a pension fund. If such a plan has been in existence less than 3 years, the above period shall date back only to the time of establishment of the plan.

(B) An employer shall make no change in pension benefit levels without express Commission approval until a pre-existing plan is certified as able to pay all promised benefits or until 20 years after the passage of this Act, whichever comes first. Thereafter the level of pension benefits shall be freely determined by employer and employees.

(5) (A) Any employer subject to the provisions of subsection 402(b) of this Act may apply to the Commissioner for a hearing to determine a possible exemption from such provisions.

(B) The Commission may exempt an employer wholly or in part from the provisions of this subsection 402(b) if the employer establishes that his business operations will be substantially impaired by a full application of subsection 402(b) to his business. Employees of any employer making a request for exemption shall have a right to intervene in any such hearing as full parties.

(C) The employer or intervening employees may appeal any adverse decision rendered under this section to any federal district court. The determination of the Commission shall be upheld unless it is shown to be contrary to law or not based on substantial evidence.

FEDERAL, STATE AND LOCAL PENSION FUNDS

SEC. 403. No pension funds operated by or for any governmental agency, whether federal, state, or local shall be subject to any provisions of this Act unless the governmental unit elects to establish or modify a pension plan in accord with the provisions of this Act and if it does so shall become subject to all provisions of this Act.

RETIRED WORKERS INCOME SECURITY COMMISSION

SEC. 404. (a) There is hereby established a Retired Workers Income Security Commission which shall study the economic problems of presently and soon-to-be retired workers whose retirement needs will not be met by this legislation. The Retired Workers Income Security Commission shall propose to Congress, within one year of the effective date of this Act, means by which such workers and their survivors may receive a fair retirement income commensurate with their past contributions to the economic well being of the nation. The Secretaries of Labor, Treasury, Commerce, and Health, Education, and Welfare, and the Chairman of the Securities and Exchange Commission shall each appoint one member of the Retired Workers Income Security Commission.

(b) There are authorized to be appropriated $100,000 for the fiscal year ending June 30, 1974, for the purposes of carrying out the provisions of this section.

TITLE V—PENALTIES, ENFORCEMENT

CIVIL LIABILITY

SEC. 501. Any person who violates any section of this Act, whether willfully or negligently, shall be civilly liable for damages resulting from such violation. Actions for violations of this Act may be brought by injured participants or beneficiaries.

CRIMINAL LIABILITY FOR FRAUD AND CONVERSION

SEC. 502. Whoever in any document required by this Act to be submitted to the Commission, published, or kept as part of the records of any fund makes any false statement or representation of fact knowing it to be false or knowingly conceals, covers up or fails to disclose any fact the disclosure of which is required by this Act shall upon conviction thereof be fined not more than $10,000 or imprisoned for not more than five years, or both.

Criminal Liability for Fraud and Conversion

SEC. 503. Whoever—

(a) Embezzles, steals or unlawfully and willfully abstracts or converts to his own use or the use of another any of the assets of a fund; or

(b) by any scheme or device defrauds such fund or makes or submits a false statement of material fact to such fund or its officers, directors, agents, consultants, employees or counsel with the intent to cause such fund to make a loan of any of its assets or disperse the proceeds of such loan or otherwise transfer any of its assets to any person; or

(c) having obtained such a loan willfully converts the proceeds thereof to a use not approved by the fund which either adversely affects the value of any security for such loan or which is in furtherance of any act, plan, or scheme in violation of the laws of the United States or the State in which the proceeds are used, shall upon conviction be fined not more than $10,000 or imprisoned for not more than five years, or both.

INVESTIGATIONS

SEC. 504. (a) The Commission may, in its discretion, make such investigations as it deems necessary to determine whether any person has violated or is about to violate any provision of this Act or any rule or regulation thereunder, and may require or permit any person to file with it a statement in writing, under oath or otherwise as the Commission shall determine, as to all the facts and circumstances concerning the matter to be investigated. The Commission is authorized in its discretion, to publish information concerning any such violations, and to investigate any such facts, conditions, practices, or matters which it may deem necessary or proper to aid in the enforcement of the provisions of this Act, in the prescribing of rules and regulations thereunder, or in securing information to serve as a basis for recommending further legislation concerning the matters to which this Act relates.

(b) For the purpose of any such investigation, or any other proceeding under this Act, any member of the Commission or any officer designated by it is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, paper, correspondence, memoranda, or other records which the Commission deems relevant or material to the inquiry. Attendance of witnesses and the production of any such records may be required from any place in the United States or any State at any designated place of hearing.

(c) In case of contumacy by, or refusal to obey a subpoena issued to any person, the Commission may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, and other records. And such court may issue an order requiring such person to appear before the Commission or member or officer designated by the Commission, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question and any failure to obey such order of the court may be punished by such court as contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found. Any person who shall, without just cause, fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, paper, correspondence, memoranda and other records, if in his power to do so, in obedience to the subpoena of the Commission, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for a term of not more than one year, or both.

(d) Whenever it shall appear to the Commission that any person is engaged in or is about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this Act, or of any rule or regulation thereunder, it may in its discretion bring an action in the proper district court of the United States or the United States courts of any Territory or other place subject to the jurisdiction of the United States, to enjoin such acts or practices, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted without bond. The Commission shall transmit such evidence as may be available concerning such acts or practices to the Attorney General, who may, in his discretion, institute the necessary criminal proceedings under this Act.

(e) Upon application of the Commission the district courts of the United States, and the United States courts of any Territory or other place subject to the jurisdiction of the United States, shall also have jurisdiction to compel any person to comply with the provisions of this Act or any order of the Commission made in pursuance thereof.

(f) The Commission may order testimony to be taken by deposition in any proceeding or investigation pending under said sections at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the Commission and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence before the Commission as provided herein.

(g) Witnesses summoned before the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the case shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

UNANNOUNCED AUDITS

Sec. 505. The Commissioner shall have the power to order "unannounced audits" of any fund when he deems it proper. Such audits shall be carried out by certified or licensed public accountants in accordance with generally accepted accounting principles.

JURISDICTION

Sec. 506. An individual action brought by any single plaintiff to enforce any provision of this Act may be maintained in any state or federal court of competent jurisdiction by any participant or beneficiary. A civil action in any state court arising under this Act may not be removed to any district court of the United States unless the removal is assented to by the plaintiff. Each and every United States district court has original jurisdiction over any litigation arising under this Act regardless of the amount in controversy or the citizenship of the parties.

CLASS ACTIONS

Sec. 507. A class action may be maintained to enforce any provision of this Act by any participant or beneficiary in any United States district court and each United States court of a place subject to the jurisdiction of the United States. Such an action may be brought in any judicial district in the state in which the violation is alleged to have been committed, in the judicial district in which the fund's records relevant to such practice are maintained and administered, or in the judicial district in which the plaintiff is, or would have been a participant or beneficiary but for the violation alleged, but if the respondent is not found within any such district, such action may be brought within the judicial district in which the respondent has its principal office. For purposes of sections 506–511 of this title the judicial district in which the respondent has its principal office shall in all cases be considered a district in which the action might have been brought.

CLASS ACTION NOTICE PROVISIONS

Sec. 508. (a) Actions brought under section 507 of this title shall be brought in accordance with Rule 23 of the Federal Rules of Civil Procedure, except that notice shall be given the members of the class in accordance with the following provisions:

(1) At the time an action is instituted the court shall order a bifurcated trial on the substantive threshold issues, which shall take place after both parties have engaged in preliminary discovery.

(2) If the plaintiff prevails on the substantive threshold issues in the bifurcated trial then, and only then, shall the class be notified with the costs of notice borne by the plan.

(b) The Court shall order that such notice be provided to the class in the plan's annual statement, investment preference questionnaire in cases when this will not produce undue delay, and no provision of Rule 23 shall be interpreted by any court as requiring a specified number or percentage of the participants or beneficiaries of a plan to be named as plaintiffs before they can be deemed to adequately or fairly represent the members of a class.

APPOINTMENT OF ATTORNEYS

Sec. 509. Upon application by a participant or beneficiary and in such circumstances as the court may deem just, the court may appoint an attorney for such a participant or beneficiary and may authorize the commencement of the action without payment of fees, costs, or security. Upon timely application the court may, in its discretion, permit the Commission to intervene in such civil action if it certifies that the case is of general public importance.

ATTORNEY FEES

Sec. 510. The court shall award attorneys fees, costs and court fees to private plaintiffs who successfully bring actions under this Act.

BONDING

Sec. 511. (a) Every administrator, officer, employee of a fund subject to this Act who handles money or other property of a fund shall be bonded as herein provided. The amount of such bond shall be fixed at the beginning of each calendar, policy or other fiscal year, as the case may be which constitutes the reporting year of such plan. Such amount shall be not less than ten per cent of the amount of the money or other property handled, determined as herein provided, except that any such bond shall be in at least the amount of $1,000 and no such bond shall be required in an amount in excess of $500,000. The Commission, after notice and opportunity for hearing to all interested parties, and after consideration of the record, may prescribe an amount in excess of $500,000, which in no event shall exceed ten percent of the amount of money or other property handled. For purposes of fixing the amount of such bond, the amounts handled shall be determined by the amounts handled by the person, group, or class to be covered by such bond and by their predecessor or predecessors, if any, during the preceding year, or if the fund was not in existence during the preceding year, the amount of funds to be handled during the current reporting year, by such person, group, or class, estimated as provided in Commission regulations. Such bond shall provide protection to the plan against loss by reason of acts of fraud or dishonesty on the part of such administrator, officer, or employee, directly or through connivance with others. Any bond shall have as surety thereon a corporate surety company which is an acceptable surety on Federal bonds under authority granted by the Secretary of the Treasury. Any bond shall be in a form or of a type approved by the Commission, including individual bonds or schedule or blanket forms of bonds which cover a group or class.

(b) It shall be unlawful for any administrator, officer, or employee to whom subsection (a) of this section applies, to receive, handle, disburse, or otherwise exercise custody or control of any of the money or other property of any fund without being bonded as required by subsection (a) of this section and it shall be unlawful for any administrator, officer, or employee of such plan, or any other person having authority to direct the performance of such functions, to permit such function, or any of them, to be performed by any such person, with respect to whom the requirements of subsection (a) of this section have not been met.

(c) It shall be unlawful for any person to procure any bond required by subsection (a) of this section from any surety or other company or through any agent or broker in whose business operations such fund or any party in interest in such plan has any significant control or financial interest, direct or indirect.

(d) Nothing in any other provision of law shall require any person, required to be bonded as provided in subsection (c) of this section because he handles money or other property of a fund, to be bonded insofar as the handling by such person of the money or other property of such fund is concerned.

(e) The Commission shall from time to time issue such regulations as may be necessary to carry out the provisions of this section. When, in the opinion of the Commission a fund offers adequate evidence of the financial responsibility, or that other bonding arrangements would provide adequate protection of the participants and beneficiaries, it may exempt such fund from the requirements of this section.

(f) Any person who is convicted of willfully violating the provisions of subsections (b) and (c) of this section shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

TITLE VI—EFFECTIVE DATE

Sec. 601. The effective date of this Act shall be one year after enactment of this Act.

TITLE VII—AMENDMENTS TO THE INTERNAL REVENUE CODE

RETIREMENT BENEFIT FUNDS

Sec. 701. (a) Part I of subchapter D of chapter 1 of the Internal Revenue Code of 1954 (relating to deferred compensation, etc.) is amended by adding at the end thereof the following new section:

"Sec. 408. Retirement Benefit Funds.

"Notwithstanding any other provision of this title, a retirement benefit fund which is organized under, and licensed by the Securities and Exchange Commission as complying with, the Retirement Benefit Fund Act during any taxable year shall be held and considered to be a qualified trust under section 401 (a)."

(b) The table of sections for such part is amended by adding at the end thereof the following new item:

"Sec. 408. Retirement benefit funds."

TRANSFERS

Sec. 702. Section 402 (a) of the Internal Revenue Code of 1954 (relating to taxability of beneficiary of exempt trust) is amended by redesignating paragraphs (3) through (5) as (4) through (6), and by inserting after paragraph (2) the following new paragraph:

"(3) Certain transfers.—For purposes of this section, a transfer of any amount representing a participant's or beneficiary's interest in a participant's or beneficiary's account in a retirement benefit fund described in section 408 shall not be considered a distribution under paragraph (1) if the transfer is made by that fund to a participant's or beneficiary's account in another such retirement benefit fund."

EMPLOYER CONTRIBUTIONS

Sec. 703. (a) Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by redesignating section 124 as 125 and by inserting after section 123 the following new section:

"Sec. 124. Employer Contributions to Retirement Benefit Fund Employee Accounts

"No amount paid by an employer during the taxable year into the account of an employee in a retirement benefit fund described in section 408 shall be included in the gross income of that employee during that taxable year. This section shall not apply to the extent that the provisions of section 402 may require the inclusion of such amounts in the gross income of the employee for that taxable year."

(b) The table of sections for such part is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 124. Employer contributions to retirement benefit fund employee accounts.

"Sec. 125. Gross references to other Acts."

Sec. 704 (a) Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 219 as 220 and inserting after section 218 the following new section:

"Sec. 219. Retirement Savings.

"(a) In General.—In the case of an individual there shall be allowed as a deduction amounts paid by him during the taxable year to his or his spouse's account in a retirement benefit fund described in section 408.

"(b) Regulations.—The Secretary or his delegate is authorized to promulgate such regulations as may be necessary to carry out the provisions of this section."

(b) The table of sections for such part is amended by striking out the last item thereof and inserting in lieu thereof the following:

"Sec. 219. Retirement savings.

"Sec. 220. Cross references."

APPLICATIONS

Sec. 705. The amendments made by the title shall apply with respect to taxable years beginning after the effective date of the Retirement Benefit Fund Act.

DELEGATION

Sec. 706. The Secretary of the Treasury or his delegate shall, as soon as is practicable but in any event not later than 90 days after the date of enactment of this Act, submit to the Committee on Ways and Means of the House of Representatives a draft of any technical and conforming changes in the Internal Revenue Code of 1954 which are necessary to reflect throughout such Code the changes in the substantive provisions of law made by this title.

Are the Institutions Wrecking Wall Street?

"Like the curator of the National Zoo," said G. Bradford Cook, in his last days as chairman of the Securities & Exchange Commission, "I feel constrained to warn: The individual investor has acquired the status of an endangered species."

The individual investor is virtually gone from Wall Street these days—his place taken by the mutual funds, insurance companies, pension funds, and bank trust departments that buy and sell shares in colossal lots.

It is these institutions that dominate the nation's securities markets today, and if their dominance is forcing some long overdue changes in the basic structure of Wall Street, it is worrying a great many people who do not like what the institutions are doing with their enormous resources.

It is a fact that institutions trade stocks in such huge quantities that they accenuate price swings in the market—all the more so because institutions increasingly limit their investing to a relative handful of stocks. What has emerged is a highly volatile market in a few issues, a lack-luster market in most issues—and a closed door to many of the companies that want to take their shares public. Beyond all that—and one prime reason the small investor has deserted the market—are allegations that institutions, because of their huge holdings, are privy to inside information of which the small investor is left ignorant. One example: While institutions got the word about Equity Funding and took to the boats, not one single wirehouse warned retail clients to bail out.

The current state of Wall Street—stock prices down sharply, dozens of brokerage houses in financial distress, the flow of new issues down to a trickle—has spotlighted the dominance of the institutions. But the concern would be there even if Wall Street were booming, because the growing might of the institutions, and the way they use that might, have such profound implications for the future of not only the securities industry, but of U.S. business in general.

"The swing to institutional dominance," says John C. Whitehead, chairman of the Securities Industry Assn. and a Goldman, Sachs partner, "has changed the character of the markets, endangered their valuation capability, and demolished their liquidity." James M. Roche, until recently chief executive of General Motors Corp., frets about "the deplorable state of our capital markets—at the precise time in our national history when we face an extraordinary need for capital and for strong, vigorous capital markets." Roger G. Kennedy, vice-president for financial affairs at the Ford Foundation, says: "I don't believe you can call this a problem, because problem means an abnormality, something that will go away."

But the institutional domination of Wall Street will not go away. Rather, it is becoming more intense every day.

"In 1963," says Whitehead, "institutional investors accounted for 35% of the dollar value of New York Stock Exchange trading volume. That percentage today is over 70%. In some stocks, 90% of volumes is institutional." President Paul Kolton of the American Stock Exchange estimates the total equity holdings of financial institutions today at $310 billion. (Banks hold $170 billion of that, mutual funds $45 billion, insurance companies $42 billion, foundations, investment counsellors, and smaller institutions the rest.) Robert Soldofsky, professor of finance at the University of Iowa, calculates the institutional total will grow to $714 billion by 1980, and to $5 trillion by the end of the century.

THE PASSING OF THE "PRIVATE CLUB" EXCHANGE

There is a positive side to institutional dominance. The institutions have smashed the stock exchange's fixed commission rules that reward inefficiency by requiring all brokers to charge the same commission on a trade. Price competition is forcing Wall Street to change dramatically from what it used to be—a mélange of thousands of firms, most of them small, poorly capitalized, and badly managed. Tomorrow's Wall Street will mostly feature big, well-capitalized, professionally managed houses. The institutions, by seeking stock exchange membership, are forcing the exchanges themselves to change. No longer are exchanges the private clubs they had been. The institutions are forcing the exchanges to reexamine their basic operating practices, and the exchanges of the future—or, perhaps, the single, central, automated exchange of the future—will be more efficient than exchanges have been in the past.

But there is a price tag on all these changes, and it may prove to be a very high one. "If institutional dominance continues on its present course," warns Whitehead, "we can look forward in another decade to complete dominance of our markets and of our corporations by a relatively small handful of institutions—the kind of industrial society that currently exists in Europe and Japan."

The outstanding characteristic of markets overseas is their extraordinary lack of liquidity. In the U.S. today, such illiquidity is fast becoming the rule in the overwhelming majority of stocks. "In the name of playing safe with their clients' money," says chairman James Needham of the NYSE, "large institutional investors have been concentrating their activity in an ever-narrowing circle of investment choices"

To C. V. Wood, Jr., president of McCulloch Oil Corp. and chairman of the newly formed Committee of Publicly Owned Companies, this ever-narrowing circle consists of "70 sacred cows." President Paul Hallingby, Jr., of White, Weld & Co. thinks that "there are 200 or 300 stocks today in which liquidity is impressive." But a Boston executive puts the figure at only "25 to 40."

Morgan Guaranty Trust Co., with the biggest and often the boldest of the bank trust departments, holds 569 different stocks in its vaults, while the Ford Foundation owns 250 issues and Kennedy says, "I wish it were 1,000. If we could find that many well-managed companies that were well researched and carefully studied, we'd be in them."

Less important than what the institutions hold, though, is what they are buying today. Notes Whitehead: "One of our largest banks received over $1-billion in retirement and pension fund money to invest last year. It placed 65% of that in just seven stocks, another 20% in eight others, and the balance in just 15 more."

TWO-TIER WOES AND REWARDS

So there is a two-tier stock market today. In the top tier, says Hallingby of White, Weld, the interest comes from individuals as well as institutions. In the lower tier, by contrast, "we've got the institutions absent and the individual disinterested."

The vast majority of stocks—90% or more—fall into the bottom tier, and with the institutions disinterested and the public absent, the price performance of these stocks has been simply awful. Wood's Committee of Publicly Owned Companies notes that in the 12 months that ended last March, the price of an average NYSE share declined by 23%, while the average decline of an American Stock Exchange share was 33%. Fully 75% of listed companies increased earnings, but only 5% increased price/earnings ratios.

"Between 1968 and 1972," says Whitehead, "our gross national product was up 33%, personal income was up 36%, and personal savings were at an all-time record. Yet stock prices, as measured by key, unweighted indexes, are off 50% from their 1968 peak."

The two-tier market rewards a few companies lavishly. Because they are institutional favorites, they are free to tap the market for additional equity financing, to use their stock for acquisitions, and to reward key people with valuable stock options. It penalizes a great many companies—shutting the door to additional equity financing and making stock options relatively worthless. Because there is market interest in only a relative handful of stocks, newer, smaller companies are finding it increasingly difficult to go public at all. And because the rewards of becoming an institutional favorite are so great, there is a temptation to do almost anything to achieve it—from cooking the books to lavishing favors on the analysts who recommended stocks and the money managers who buy them.

Institutional fascination with just a few issues is dangerous in other ways. When a stock falls out of institutional favor, it can plummet like a stone—with a disturbing impast on the over-all tenor of the market. A classic case is Levitz Furniture Corp., which plunged from $47 to $33 in less than a half-hour last Sept. 29—a fall of nearly 30%. Virtually all the selling was by institutions as it was when Wrigley was hit for 30 points in one day, and when Handleman Co. lost 51% of its value in a single trade.

Because of this "air-pocket syndrome," institutions often cannot get out of stocks they want to sell, and despite the enormous resources of the institutions, many are literally starved for liquidity—locked into stocks they cannot dispose of without suffering heavy losses. It is painfully apparent that a substantial share of the assets of some of the biggest institutions are frozen—especially when the market is as depressed as it has been the past four months.

Perhaps the most disturbing aspect of this is that innumerable pension funds, which look rich on paper, would look considerably poorer if the stocks they are invested in ever had to be sold: many would even be actuarially unsound.

Most of the bank money in the market represents pension fund assets, and most banks have been as guilty as anyone in running with the pack—in narrowing their investing to just a few high-multiple issues.

People have come up with plenty of ways of dealing wtih institutional dominance—from breaking up the institutions into smaller units to limiting the amount of an individual issue that an institution can own, or the amount it can sell. Speaking in New York last week, Donald T. Regan, chief executive of Merill Lynch and vice-chairman of the New York Stock Exchange, warned that "some restrictive formula about institutional sales may have to be worked out. If the number and amount of blocks dumped on the market at one time were reduced, large price swings would be minimized. That protection could only be realized at the cost of putting a limit on the institutions' right to instant liquidity. It may not be too high a cost."

NEW FACTS AND FIGURES

The conventional wisdom on Wall Street is that institutions are a stabilizing force in the market because they are mature, sophisticated investors, armed with plenty of solid research—in for the long haul and not likely to act precipitously. But much of that conventional wisdom is based on a report on institutional investors completed by the Securities & Exchange Commission two years ago, and already sadly out of date.

Whitehead was chairman of a Wall Street committee that provided technical advice to the group that did the study, and he observes that all the data came from 1969 and earlier. "Now there are new facts and figures," he remarks, "facts and figures that didn't exist in 1969, and they are both impressive and alarming."

Morgan Guaranty owns more common stock than any other institution on the face of the earth—$2-billion worth of IBM, $1.1-billion of Kodak, $500-million or more of Avon, Sears, and Xerox. And Morgan executives insist that they have figures showing that their bank still invests for the long haul—that it turned over only 11.5% of its $27-billion portfolio in 1972.

But Morgan also has figures showing that the average mutual fund turned over nearly half of its portfolio last year, and most institutions seem to be going after short-term trading profits more than ever before. That is worrisome because when the institutions trade, they do so in such enormous lots. Charles S. La Follette, senior vice-president of finance at Crown Zellerbach Corp., is concerned about "the pandemonium that would take place if, for example, three institutions sold all their Polaroid or Xerox,"

Foreign investors seem particularly disturbed by this trend. In London, Duncan FitzWilliams of the Foreign & Colonial Investment Trust complains that U.S. institutions "are no better than the old odd-lotters. There are huge swings. If you get many institutions to sell one stock, it falls 20 points in one day."

There is nothing really inexplicable about the transformation of institutions, over the last decade, from investors to traders—and the growing tendency of institutions to trade just a very limited number of issues. "The funds all follow the recommendations of a few well-known research advisers," says Robert H. Lentz, vice-president and chief counsel of Litton Industries, Inc. A thoughtful answer also comes from Sidney Homer, now a limited partner at Salomon Bros., but for years its leading theorist: "There are strong structural reasons why institutions tend to go one way or the other massively and almost in unison. They talk together. They know what the others are thinking and doing. They know their fellows can dominate near-term market trends. Furthermore, if their mistakes are shared with the best people in the biggest institutions, they are not censured as severely as if their mistakes arose from bucking a generally accepted opinion."

THE CORPORATION'S HOMEMADE PROBLEM

While there is thus a reasonable rationale behind institutional movements and institutional portfolio concentration, it is of small comfort to the many corporations presently suffering. It is of equally small comfort that, in many cases the problem is of the corporation's own making.

Company pension plans are the fastest-growing sector of all the fast-growing institutional groups. Already, they account for around 10% of total U.S. equities, by the end of the century, in the estimate of Professor Soldofsky of Iowa, they will account for 26%, or $2.36-trillion.

Meanwhile, in their eagerness to contribute less of their earnings to their employee plans, corporations press their pension fund managers for pie-in-the-sky performance. In one tabulation of the instructions given managers by 40 corporations, 25 were insisting on "performance"; many ask their managers to outperform the S&P by 25% or more, a goal which would have called for a gain last year of nearly 20%.

To Roger Kennedy of the Ford Foundation, such claims appear unrealistic: "We see a total return of 9% or 10% a year as just fine: We think we'll be lucky to get 9% over the next five years."

But the demand for high performance is there, with banks competing against each other for pension fund business—and against insurance companies and investment advisory services as well. The failure to perform can result in the loss of valuable business, so portfolio managers struggle to outdo—or at least stay even with—their rivals. The result is the herd mentality that grips institutions today—presenting corporations with a plethora of problems.

Among the worst of these is the present worthlessness of previously prized stock options. Says McCulloch Oil's Wood: "My executives hold stock options between $12 and $25 a share, but the price of the stock is now less than $10. They've lost part of their compensation, and I don't know what to do about it. You can't give them new options until their old ones have expired. It has affected their morale, of course, but thank God everyone else has been whacked in the same way."

Indeed they have, unless they are lucky enough to own options in an institutional darling. "Employees have knocked their brains out to improve our profit position," laments Robert V. Luongo, senior vice-president finance, for Pennsylvania's Fischer & Porter Co., instrument and control manufacturers, who finds that rewarding them through stock options is now "hardly incentive." "We can no longer say, "Hey guys, you've done a great job, here's another stock 'option.' They'll just come back and say that they haven't been able to exercise their last ones. Some of our people are in their fourth year of holding on to options. They say, 'Don't offer us any more incentives.' We may have to turn around and compensate them through direct salary."

A somewhat similar problem is noted by William A. Buzick, Jr., chairman of Consolidated Foods Corp. He complains that "institutional investors can trade in and out of our stock, and some institutions are less investors than traders. Many of them will sell off a profitable stock to buy something else they see as a bargain." The result of this institutional practice can be, for many companies, a lackluster stock price.

"This," Buzick observes, "goes to the intangible of morale within the company. You have stock purchase plans and pensions, but more than that you've got pride. You want to see your contributions recognized."

WHEN THE P/E RATIO IS TOO LOW

The agony is even more intense for the company that wants to tap the stock market for money. Batten, Barton, Durstine & Osborn, one of the world's largest advertising agencies, made plans last May (when ad agency stocks were selling at an average 15 times earnings) to go public in the fall. By October, however, the average multiple was down to 10. It has now sunk to 7, and the agency, says chief executive Tom Dillon, has shelved its plan for going public. In Dillon's words, "There are manybe 20 people in the agency who are aching a bit" through not being able to become stockholders.

Many companies, today, hardly know where to turn for expansion funds: President William T. Gimbel, of Los Angeles' Reliance Steel & Aluminum Co., says company executives now spend "70% or 80% of our time" hunting for cash because they can't raise money in the stock market. Reginald Jones, Chairman of General Electric Co., recently examined price/earnings ratios of the Standard & Poor's 425 industrials and came up with some rather startling conclusions: 18 companies, with a composite multiple of 47, accounted for an increase equal to all the growth—$111-billion—of the stocks in the index between 1965 and the end of 1972.

"This means that, taken together," says Jones, "the composite stock market valuation of the other 407 companies hasn't increased, during that period, by a dime . . . and the aggregate multiple of these other 407 stocks were only in the nine to 10 range, at the high." Concluded Jones: "The great disparities in valuations cause concern about the ability of the basic industrial backbone of our economy to attract the risk capital needed to continue the economy's growth."

Wood of McCulloch gives a good explanation of the risks of raising equity capital with a low p/e stock: "If a company selling at 10 times earnings sells equity, it has to make a 10% return on that equity to avoid dropping earnings per share. If it's selling at 20 times, by contrast, it only needs to produce a 5% return. If it's selling at 30 times, only 3.3%. You don't mind taking the risk of selling new equity when your multiple is 20 or 30, but nobody in his right mind is going to raise capital through equity when his stock is selling at 10 times." Today, of course, most stocks are selling at 10 times earnings or less.

Speaking specifically of McCulloch, Wood says: "We had planned to raise $25-million in equity this year. We can't afford to sell equity now—so we'll have to raise that money another way. These days, though, a company has only one other choice: to ruin its debt/equity ratio, and once you do that lenders want so many sweeteners you'd better be selling stock."

Wood raises still another problem. "We have fears of being acquired," he says. "When your company gets down to selling around book, it scares the hell out of you. You're bound to be nervous."

Big Board Chairman Needham worries about low multiples bringing a rash of takeovers from abroad. Joseph E. Cole, chairman of Cleveland's Cole National Corp., is concerned about a rash of companies closing down—and resultant unemployment. Cole, who is also finance chairman of the Democratic Party, predicts that "companies are going to have to shut down operations, putting people out of work—unless the small investor can be brought back to the market and companies can raise capital."

Without the individual investor, most business and financial executives agree, the capital markets cannot do their job. Furthermore, it also seems generally agreed, the individual will not return as long as he has his present feelings about the domination of the markets by institutions. Former SEC Chairman Cook referred to the "frequently expressed feeling" that "the cards are stacked against the individual in the market: that institutions get all the good research, the best prices, and—sometimes—inside information." Moreover, quantitative research proves that this is not just a gut feeling. The great majority of investors, recent surveys show, still believe that the stock market has good long-term potential, and even that it remains a good hedge against inflation—though some statistics might indicate otherwise. But they also believe it is being manipulated against them—partly through the unfair advantages of the institutions.

A FIGHTING CHANCE FOR INDIVIDUALS?

What can be done to give the individual an equal opportunity—or, at the very least, a fighting chance? The question, clearly, is subject to deep debate—as indeed is the question of whether anything should be done at all. There are those—such as Dr. Richard M. Cyert, president of Pittsburgh's Carnegie-Mellon University, and Dr. James H. Lorie of the University of Chicago, one of the world's most celebrated market theoreticians—who believe it would be wrong to restrict the freedom of institutions. Others, including Morgan Guaranty, doubt that the problem is as pressing as it presently appears.

In Washington, however, in most parts of Wall Street, and among businessmen all over the country surveyed by Business Week, there is a strong feeling that something has to be done—and quickly.

On Capitol Hill, a House staffer warns: "What we have is a situation not unlike the 1920s. Institutions are basically just a lot of pooled money—and what we are seeing today is the impact of pooling." Adds John E. Moss (D-Calif.), chairman of the House subcommittee on commerce and finance: "I don't think we yet know the full impact of the institution on the markets. But this problem is key to what we will be doing to develop a central market system. It raises a serious question of the nature and depth of the auction market, if one continues to exist at all."

1. All institutions should be legally obliged to reveal their holdings, at least quarterly, and to disclose their trading during the quarter.

2. No institution should be allowed to sell more than a given amount of any given stock in one company.

4. Large institutions should be "broken up."

5. Institutions should be subject to the same restrictions as corporate insiders.

6. Capital gains treatment of small investors should be liberalized, as one means of redressing the balance between individuals and institutions.

There are a number of other suggestions, less widely supported, including limitations—as in commodity markets—on the amount a stock can move in one day; the idea that institutions should—as some are about to on the Philadelphia-Baltimore-Washington exchange—become market makers; a ban on private meetings between corporate managements and institutional shareholders; and a requirement that institutions give 30 days notice of their intention to buy or sell large quantities of any stock in their portfolios.

On Suggestion No. 1 there is near unanimity: This is overdue. Whitehead rather ruefully points out that "the most important recommendation of the SEC's 1971 Institutional Investor Study was that there should be legislation requiring the institutions to disclose their holdings, and their trading, every quarter. How anyone can oppose this sort of essential information gathering is beyond me." One institution that certainly does not oppose it is the Ford Foundation, whose Roger Kennedy says cheerfully: "Sure, we'll disclose as often as you like—every week, if necessary." But Kennedy cautions that too frequent disclosure could conceivably lead to a "follow my leader" type of derby—with everyone, institutions and individuals alike, racing along behind a few favorites. A similar argument is advanced by Morgan Guaranty: "If brokers know our position, and know Morgan is selling, our holdings can be destroyed. Disclosure would work to our client's advantage."

On balance, however, the benefits of disclosure would appear to outweigh heavily such possible drawbacks. For one thing, the revelation that many large institutions—such as the Ford Foundation and Morgan Guaranty—were *not* trading a given stock would probably serve to discourage panic selling (and panic buying) of a security. For another, disclosure would probably reveal that, in many cases, some distinguished institutions were buying what others, equally distinguished, were selling. (For example: While Morgan Guaranty's holdings of Polaroid were up $170-million last year, First National City Bank was selling—to the tune of $55-million.)

For a third reason, many portfolio managers try to follow the leaders, particularly the bank trusts, anyway, relying not on research but on guesswork and rumor as to what the leaders are doing. If they knew what the leaders were doing—and not doing—this argument goes, they would be less likely to react violently to rumors and to dump stocks on the slightest sign of weakness.

Finally, and perhaps most vital, disclosure would increase the confidence of individuals that the markets were not being manipulated by financiers in dark, small, smoky rooms. Says George L. Shinn, new president of Merrill Lynch: "The individual investor feels much more comfortable when he has more knowledge. When people don't know what's happening in the stock market, they either do nothing or they withdraw. We're seeing both symptoms."

Suggestion No. 2—that institutional dumping should be legally limited—is strongly favored, in one form or another, by powerful voices. It is also strongly disfavored by not a few others—notably from the stock exchanges. But in Business Week's survey, the pros seem to outnumber the cons strongly. John Whitehead's firm of Goldman, Sachs—with Salomon Bros., one of the two top institutional brokers—could be expected to suffer from any curbs on institutional trading. Whitehead, nonetheless, sees the situation as so serious that he questions not whether there should be curbs, but what form the curbs should take.

Shinn thinks the question needs more study, but he does think it is reasonable to put limitations both on the size of the blocks and the way they are sold. "The problem with institutions," he says, "is their desire for instant liquidity. They spend weeks or months accumulating blocks and then want to dump them in one day. Curbs should relate to the average daily volume in a stock and probably to its 'float.'"

More drastic are the ideas of the Committee of Publicly Owned Companies, whose Chairman Wood proposes: "Institutions should be kept from selling more than one-quarter of 1% of any company's outstanding stock in one month. An institution selling that much stock hurts, but we can live with it. It's when they drop those two and three percents that you get problems." Another approach comes from La Follette at Crown Zellerbach. He believes that trading could be limited—but by placing limits on daily price movements, as in the commodities markets.

Kolton of the AMEX goes a long way toward accepting the principle of limits on institutional trading. The key question, he feels, is whether institutions will come to grips with their responsibilities—"to their markets, as well as to their beneficial owners."

"If they'll face these responsibilities," Kolton reasons, "there are a number of ways their impact could be controlled." Among those the Amex might favor: the application to institutions of some of the rules it applies to its own registered traders. For instance, such traders must "stabilize" on 75% of their trades—selling on upticks, buying on downs.

INSTITUTIONS FORCE EXCHANGES TO CHANGE

Executives of other exchanges are a lot more enthusiastic about Suggestion No. 3, which would limit the size, or percentage, of institutional holdings. Thomas Phelan, president of the Pacific Stock Exchange, feels that the market is now at a crossroads: "If conditions get any worse, definite limits should be placed on institutional holdings." John G. Weithers, executive vice-president of the Midwest Stock Exchange, is thinking along similar lines: "If you can't get the institutional problem into equilibrium without curbs, curbs are better than not doing it at all."

The Committee of Publicly Owned Companies says bluntly: "The amount of securities of a particular company that an institution or affiliated group of institutions may hold should be strictly limited." Industrialist Jacob O. Kamm, who on June 1 returned to the presidency of American Ship Building Co., does not favor fixing limits on institutional ownership by percentages, but he does believe in legislation that would have another, not dissimilar objective: that of keeping institutions from loading up portfolios with a handful of stocks. The average mutual fund, Robert A. Levy, of Computer Directions Advisors, points out, puts 30% of its assets into 10 stocks, while many funds have more than 50% in only 10 securities.

Speaking for one of the largest institutions, Kennedy of the Ford Foundation mentions that the Tax Reform Act of 1969 imposed some fairly stringent restrictions on foundations. "If we can do it," he says, "so can other institutions." Kennedy does point out that any percentage limitation on ownership might be less beneficial if it were applied equally to companies of all sizes. "In a small company," he says, "an institution may need to own a larger share at the outset to provide the company with needed capital."

BRINGING THEM DOWN TO SIZE

Suggestion No. 4, concerning the size of institutions, has support. "I think the Eisenhower farewell address is an important document," says Kennedy. "I believe that power should be effective—but that it should also be diffused."

There is a strong undercurrent of feeling these days on Capitol Hill, but also out in the business community, that the institutions are just too big—that they should be broken up. Thomas Phelan believes that the size of an institution—as well as the size of its holdings in a company—should be limited. Whitehead notes that the largest U.S. insurance company controls $33-billion in investable funds—11 times the capital of the entire U.S. securities industry.

Representative Wright Patman (D-Tex.), chairman of the House Banking & Currency Committee, has long been in favor of forcing banks to spin off their trust departments. President Cyert of Carnegie-Mellon does not favor other sorts of restrictions on institutions, but he does feel that the regulation of institutional size may someday become necessary. He is not pushing for such a breakup, but he does say: "If the concern is concentration of power, then we should break up the institutions and bring them down in size, rather than try to regulate their freedom of choice."

Suggestion No. 5. Harold S. Coleman, senior partner of Bruns, Nordeman, the brokerage house, favors another approach: Treat institutions as corporate insiders are treated. As insiders, institutions would be obliged to disclose their holdings in stock, as well as their purchases and sales.

As insiders, they would also be discouraged from taking short-term profits in a stock—though Coleman is not ready to carry his idea that far. Should it happen though, the institutions, as insiders, would be forced to turn over any short-term profits to the company involved. And, as insiders, their responsibilities in regard to the use of information would be a good deal clearer than they are today.

In theory, at least, institutions would take big positions only on a long-term basis. Because they could no longer count on bailing out of a large position in a hurry, they would be encouraged to spread their wealth among a greater array of companies. This should also encourage the smaller investor to return to Wall Street—knowing that the major holders of a company's stock would be subject to a more rigorous set of standards.

As to Suggestion No. 6, the Committee of Publicly Owned Companies wants to get the tax laws changed as one means of bringing more small investors back into the market. "We believe," says the committee, "that the first $10,000 in capital gains by smaller investors should be exempted."

The Securities Industry Association would change the tax laws another way—scaling down the capital gains rate according to the length of time the stock has been held. If the stock were held long enough, the investor would pay only a very modest tax. That, says Whitehead, would unleash more than $200-billion—money now locked into positions by the potential capital gains tax bite. At the same time, he estimates, it would yield $20-billion in tax revenues. Meanwhile, the SEC has urged Congress to consider incentives that would encourage investment in small, young companies—the sort of ventures most institutions will not touch.

What all observers are convinced of is what Hallingby of White, Weld calls "the secular trend to institutionalization of savings."

Unless something quite unexpected happens, the flow of money into pension funds—and so into the banks and insurance companies—will continue to grow at a pretty rapid rate. In other words, the financial clout of the institutions will increase—not decrease—in the years ahead.

At the moment, it looks as if this will be allowed to happen without checks or controls: the securities legislation presently stalled on Capitol Hill does not even touch on the dangers of institutional dominance of the markets: Bradford Cook was well aware of the peril—but, since his resignation, the SEC is paralyzed.

If institutional influence increases uncontrolled, the consequences for the capitalist system may be disastrous. As Roche of General Motors has said, "Institutions do not serve the same function in our capital markets as do masses of individuals, and the *vitality* of these markets—based on the increased participation of the individual in corporate ownership—is the capitalist system's life blood.

"Without this vitality," Roche goes on, "many of the business enterprises in our nation . . . will be unable to obtain new public financing . . . to modernize . . . to provide the goods, services, and employment opportunities our nation needs; they could be targets for takeovers by foreign capital; they could face problems of crisis magnitude."

The leading institutional investors:

MOST OF THE TOP 10 ARE BANKS

[billions of dollars*]

Institution:	*Investment portfolios*
Morgan Guaranty Trust	$27.2
Bankers Trust	19.9
Prudential Insurance	18.3
First National City Bank	17.2
U.S. Trust of New York	17.0
Metropolitan Life Insurance	16.5
Manufacturers Hanover Trust	10.9
Mellon National Bank & Trust	10.5
Investors Diversified Services	9.7
Chase Manhattan Bank	9.2

*Excludes real estate investments.

Data: Money Market Directories, Inc.

SUMMARY OF PROVISIONS OF RETIREMENT BENEFIT FUND ACT

TITLE 1—RETIREMENT BENEFIT FUNDS

Section 101. Organization and General Provisions. This section gives the Securities and Exchange Commission rulemaking authority and establishes (and provides for the staffing and funding of) a Retirement Benefit Fund Division within the Commission.

Section 102. Licensing. This section provides for Commission licensing of Retirement Benefit Funds (funds). Persons interested in operating a fund are required to file a license application containing detailed information about the applicant and about the proposed fund. The Commission is directed to examine applications, paying particular attention to the financial condition and demonstrated expertise of the applicant. The Commission is also directed to determine whether there is a need for the services of the proposed fund and to provide opportunity for public comment. If the Commission is satisfied that issuance of a license would be in the interests of employees and in the public interest, it is to issue a license for a 12 year term. Licenses are renewable and the section prescribes detailed license renewal and revocation procedures.

Section 103. Directors and Officers. This section limits the number of persons affiliated with the fund, with other financial institutions, and with employer and employee organizations, who may serve as fund directors. It also precludes certain persons with possible conflicts of interest or who have been convicted of specified crimes from serving as officers or directors of a fund.

Section 104. Election of Directors. This section provides for fund boards of directors consisting of from 15 to 20 members, at least half of whom anticipate that the fund will be the source of the major portion of their nongovernmental income. Fund licensees may select an initial board of directors but thereafter nominations for director are to come from fund officers and, by petition, from fund participants. Provision is made for the dissemination of campaign information, for cumulative voting and complaints of election irregularities. Directors serve 5 year terms.

Section 105. Investment Policy. This section limits the investments that may be made by a fund. Funds may not make loans to persons with present or past affiliations with a fund and may not make low interest loans to employers or labor organizations whose employees or members are fund participants. Funds may not deviate from their declared investment policies without Commission approval and a vote of a majority of fund participants and may not unduly concentrate their investments.

Section 106. Fiduciary Standards. This section applies fiduciary standards to persons exercising any power of control, management or disposition of fund monies, requires them to disclose their securities holdings and provides that such persons are personally liable for any breach of trust. The section specifically allows for such fiduciaries to make a limited number of investments likely to be of particular social utility and of long-range value to participants as retirees ("special allowance investments").

TITLE II—DISCLOSURE

Section 201. Inapplicability of Prior Law. This section states that the Welfare and Pension Plans Disclosure Act is not applicable to funds established under the Retirement Benefit Fund Act and empowers the Commission to enforce this Act's disclosure provisions.

Section 202. Information Disclosed. This section requires each fund to publish a fund description and an annual report and to furnish each fund participant with a summary of the annual report, a year-end statement, an investment preference questionnaire and where appropriate, a voting preference questionnaire.

Section 203. Fund Descriptions. This section specifies the information to be included in fund descriptions. Descriptions are to be written in a manner calculated to be understood by the average participant and are to contain information about benefits, investment policies, and claim procedures as well as other information required by the Commission.

Section 204. Annual Reports. This section provides that each fund must publish an annual report and specifies the information to be included, such as the number of participants and beneficiaries, the amount of assets accumulated and present value of accrued liabilities, fund earnings, amounts paid to and received from the Federal Pension Insurance Corporation, an auditor's report and detailed investment schedules.

Section 205. Disclosure to Participants. This section states that funds must file fund descriptions and annual reports with the Commission and that they must make them available in the fund's principal office and upon request. It also provides that funds must mail a summary of the annual report, a year-end statement (containing specified information relating to a participant's contributions and projected benefits) and an investment preference questionnaire to all participants and beneficiaries each year. The fund may also send a voting preference questionnaire on motion of one or more directors. Preference questionnaires must be considered by but are not binding on fund directors.

TITLE III—CONTRIBUTIONS, BENEFITS AND INSURANCE

Section 301. Contributions. This section provides that all fund contributions are to be made to funds selected by participants. Contributions may be made by the participant, or by an employer or spouse on behalf of the participant, but the section prescribes a limit on the amount that a participant may contribute on his or her own behalf in any given year. The section further requires funds to issue passbooks indicating the total value of a participant's account (contributions, earnings and other increments) and provides for periodic fund updating of passbook entries.

Section 302. Transferability. This section provides procedures for the transfer of monies among funds at the request of a participant and states that participants may have monies deposited with only one fund at a time.

Section 303. Sales and Advertising. This section limits the representations that can be made to prospective participants by a fund. Funds must provide prospective participants with solicitation prospectuses in a form approved by the Commission and containing information which will enable a participant to choose among competing funds, (such as past and projected earnings and investment policy.) Funds are required to minimize advertising expenses and may not employ salesman or other agents to solicit contributions from individuals or groups of employees.

Section 304. Benefits and Payment. This section provides for the payment of benefits to participants and their beneficiaries. At any time, but only once during a lifetime, a participant may file a "declaration of retirement," and shall immediately become eligible to receive a monthly annuity (calculated according to non-discriminatory standards and methods approved by the Commission and) based on the value of all amounts accumulated in his or her account. The section also provides for the receipt of benefits by participants' surviving spouses. Married participants have the option of filing joint declarations of retirement and receiving a joint annuity for their lives and for the life of the survivor. In the absence of a joint declaration, a married participant's benefit is automatically reduced to provide for a surviving spouse unless the participant affirmatively elects not to provide for a spouse. Provision is also made for a surviving spouse of a married participant who dies before filing a declaration of retirement and, in the case of the pre-retirement death of a surviving spouse, for dependent children. The section confers jurisdiction on the federal district courts over all benefit disputes.

Section 305. Insurance. This section established a Federal Pension Insurance Corporation to insure all amounts contributed to a fund by or on behalf of a participant, the present value of the lifetime pension benefits of retired participants and beneficiaries, and, to a limited extent, certain ("special Allowance") investments. The section provides that annual premiums, to be determined by the Corporation, are to be paid by funds to the Corporation's revolving fund, (along with any additional amounts accruing to funds by virtue of pre-retirement deaths of participants without survivors) and that the Corporation is, in turn, authorized to remit any excess amounts to the funds on a proportional basis.

TITLE IV—TRANSITION

Section 401. Retirement Benefit Funds. This section permits certain persons to make contributions to funds. These include self-employed persons, employed persons and spouses, all within specified dollar limitations and employers whose employees are not covered by pre-existing plan or whose employees follow enumerated procedures to terminate an existing pension plan.

Section 402. Pre-Existing Plans. This section requires employers with pre-existing plans to adopt one of two transitional programs. The first of the two programs calls for the gradual elimination of plan vesting requirements and unfunded liabilities over a 30 year period and for an option available to all employees during the transition period to transfer a discounted amount of their vested pension monies to a fund of their choice. The second alternative involves an allocation of pension contributions in such a way that during the transition period new young workers are, in effect, paying for the promised benefits of older employees.

Section 403. Federal, State and Local Pension Funds. This section gives governmental pension plans the opportunity to contribute to funds established by this Act.

Section 404. Retired Workers Income Security Commission. This section establishes a Retired Workers Income Security Commission to study and make recommendations to Congress concerning means of providing a fair retirement income (commensurate with their past contributions to the economic well-being of the nation) for persons for whom this Act comes too late.

TITLE V—PENALTIES, ENFORCEMENT

Section 501. Civil Liability. This section provides civil liability for any willful or negligent violation of the Act.

Section 502. Criminal Liability for False Statements. This section provides penalties for the filing of false reports.

Section 503. Criminal Liability for Fraud and Conversion. This section provides penalties for fraud and the unlawful conversion of fund assets.

Section 504. Investigations. This section empowers the Commission to investigate possible violations of the Act.

Section 505. Unannounced Audits. This section gives the Commission power to order unannounced audits.

Section 506. Jurisdiction. This section confers original jurisdiction on the federal district courts in all cases arising under this Act.

Section 507. Class Actions. This section permits class actions to be brought to enforce the provisions of the Act.

Section 508. Class Action Notice Provisions. The section provide special notice provisions applicable to class actions arising under the Act.

Section 509. Appointment of Attorneys. This section permits courts to appoint attorneys for participants and beneficiaries in appropriate circumstances.

Section 510. Attorneys Fees. This section provides that a court may award attorneys fees, costs and court fees to private plaintiffs who bring successful actions under the Act.

Section 511. Bonding. This section sets for the bonding requirements for those persons affiliated with a fund who handle fund monies or property.

TITLE VI—EFFECTIVE DATE

Section 601. Effective Date. This section provides that the Act is to be effective one year after enactment.

TITLE VII—AMENDMENTS TO THE INTERNAL REVENUE CODE

Section 701. Retirement Benefit Funds. This section provides that retirement benefit funds are to be considered qualified trusts under Section 401(a) of the Internal Revenue Code.

Section 702. Transfers. This section provides that the transfer by a fund of amounts accumulated in a participant or beneficiary's account to another fund is not a taxable distribution.

Section 703. Employer contributions. This section provides that contributions by an employer to a fund on an employee's behalf are not taxable to the employee in the year paid.

Section 704. Retirement Savings. This section provides that individuals may deduct contributions to a retirement benefit fund made on behalf of the individual or his spouse.

Section 705. Application. This section provides that these amendments to the Internal Revenue Code are to apply to taxable years after the date of enactment of the Act.

Section 706. Delegation. This setcion requires the submission of technical and conforming changes in the Internal Revenue Code.

QUESTIONS AND ANSWERS ON RETIREMENT BENEFIT FUND ACT

Q. Why do you think that S. 4 and other pension reforms now under Congressional study are only partial solutions to retirement income problems?

A. They preserve the present "defined benefit" pension system which operates on an exclusionary principle.

Some people will always have to lose out.

Some people will always be excluded.

And there is built in discrimination against the more mobile worker. He can never do as well as the employee who stays with one job (or one union). For example, under a plan which gives 30% vesting after 8 years an employee who works 32 years for one employer would receive $300, while one working for 4 employers for 8 years each would receive only $90.

Also, because of new fiduciary standards and vesting and funding requirements, it will become increasingly difficult financially for a firm without pension plans to start one.

Q. Why, then are you supporting S. 4 at all?

A. S. 4 will protect the pension rights of millions of people now working who would otherwise be hurt by the present system. It is a very important and long-overdue piece of legislation for this generation of workers. My point is that pension reform should start, not end with S. 4.

Q. Why not leave the present private pension system as is, or at least with S. 4 type reforms, and concentrate on improving the social security system?

A. It seems to me that to leave the entire burden on social security, while continuing to subsidize the private system (to the tune of $4 billion a year) would be inordinately expensive. At least as the present social security system now operates, social security benefit levels would have to be increased for everyone, including those persons now receiving private pensions. It is important to note that pension plans "integrated" with social security do *not* solve this problem. The employer, not the employee, gets the benefit of the social security increase. He can reduce his contribution when social security benefits go up (for non-retired employees) and still pay the same promised benefit.

Q. Why not phase out the private system and rely entirely on social security?

A. This would make a great deal of sense from the point of view of employees and their survivors. It may make less sense from an economic standpoint. Pension funds are the largest single source of private investment capital, and our capital needs are immense. A social security take-over would mean either losing this source of capital entirely, or providing for government intervention in the market place, either by direct investment or by investment through a quasi-governmental organization. In my opinion, neither is as acceptable an alternative as a restructured private pension system.

Q. Won't the Administration's proposal allowing individuals to receive tax deductions for their own retirement savings largely take care of the problem of employees not covered by private pension plans?

A. Actually, our bill has a similar proposal. But no, it will not solve the problem. There is too much pressure on persons in this country to spend now. Any private retirement system in this country will have to rely primarily on employer contributions. (The Canadian experience is relevant here. Only 3 or 4 percent of their working population with average incomes or less take advantage of voluntary savings provisions. The Canadian experience is only slightly distinguishable on the ground that 80% of all employees are required to contribute to employer pension plans.)

Q. Are you familiar with the proposal that every employer should be required to provide a minimum pension, based on a specified defined contribution? Those employers that can afford to provide more substantial pensions over and above the minimum could do so on a voluntary basis. This has been referred to as a 3-tier system. The first tier being social security, the second would be the minimum pension and the third tier would be the voluntary and unregulated pension system we now have.

A. While I have not studied that proposal, I have concern about the idea that it would be mandatory—some employers are just too hard pressed to set aside money for retirement (it would really be just a second social security tax). And I certainly don't think that the so-called third tier should be unregulated. Even if S. 4 type limitations were imposed on the third tier, it would still be an involuntary "lottery" and basically unfair and discriminatory. The basic idea of using a defined contribution approach for the second tier, and having an immediately vested, fully funded system is, of course, indistinguishable from our bill. I have been told that if the institutions were selected by employees rather than employers, the system might not add substantially to the economic concentration problem which has been generated by the present system (although since the third tier would continue to be invested as it now is, it would not diminish the problem). But at the same time, the institutions would not be in a position to invest in a manner responsive to the interests and needs of their contributors to the same degree as would a retirement income oriented institution, with contributors able to express their opinions on investment policies and vote on directors.

Q. How many of these retirement benefit funds do you think there will be at the end of the transition period?

A. I don't know. That would be up to the SEC. Perhaps something like 200.

Q. How would you describe these funds?

A. Possibly as something of a cross between a savings bank, a mutual fund and maybe a credit union. They are a bit like Canadian trust institutions (although these institutions also manage personal trusts). But actually the funds would be quite different from all of these.

Q. Wouldn't the same people who are now managing pension funds take over these institutions?

A. Yes, we hope they will, but with a difference. They will have no affiliation with any other financial institution and will be in a position both to seek maximum performance (which many because of their size are not able to do now) and at the same time be responsive to the interests of the people whose money they manage.

Q. What would happen if large numbers of participants suddenly transferred their money out of one fund and to another?

A. The funds will be under very close SEC scrutiny, and since it is more than likely that the cause for such an exodus would be evident long before, the SEC would be in a position to correct the problems leading to such actions. If not, there are provisions for SEC emergency trusteeship in appropriate situations.

Q. You say that an employee is supposed to choose where he wants his pension contributions to go. How does he make the selection? On what basis?

A. The employee will receive a "solicitation prospectus" from funds outlining investment policy and past earnings, among other things. He will also undoubtedly be subjected to fund advertising (limited to yield and investment policy—no salesmen). Some employees may make the decision on the basis of convenience or what their frends are doing. More sophisticated or concerned investors will take more care, and since ultimately almost everyone in the country will have a very substantial stake in one of these funds, the right to choose is likely to have a significant impact on investment policies. It only takes a few activists to make a very substantial effect.

Q. Why are employees limited to only one fund?

A. They are likely to have a much greater interest in the activities of an institution in which $80,000 or more has been invested into their retirement account.

Q. Aren't you asking employees to assume a rather substantial investment risk?

A. The SEC will keep close tabs on the funds (much more so than they do over mutual funds). Moreover, all contributions are insured, as are all annuities (for retirees) and some investments.

Q. Do you really expect employees to tell the fund that they'd like the fund to make low yield socially responsive investments?

A. No. There are investments, however, which serve the direct economic interests of participants, as potential retirees. Mr. Nadar has made the point that a large pension benefit won't do you much good if apartment rentals are higher than your monthly retirement income. Also trustees are frequently faced with choices among equal yield investments, some of which may be of more social benefit to a particular group or locality than others.

Q. Do you really mean to say that for the same contributions that employers are now making to pension funds they will be able to provide the same benefits to more employees?

A. The calculations that we have available are based on average contributions and average benefit levels. (4–5 percent employer contributions and $1654 current average benefit.) The system could not, of course, have produced a $1.7 million pension. And there may be problems in low wage industries which are only able to provide very low benefits to relatively few union members. We hope to get industry and labor cooperation in an entire series of representative calculations.

Q. That just doesn't make sense. How can the same amount of money provide more benefits? How does it work?

A. First of all, we're comparing contributions that employers are now making with the contributions that they would make under the proposed system. An employer's present costs typically include as a minimum all interest that he is paying on unfunded past service liabilities (liabilities incurred for the years that employees worked before a particular pension plan was established).

Second, and most important, we're positing a system in which employer contributions are held and invested for a much longer period of time, allowing for the compounding of very substantial amounts of interest.

Q. But is that a fair comparison? After all, won't the employees have to contribute making payments under the present system?

A. From the employer's perspective it is a fair comparison. His costs will remain constant. This is because the system is basically prospective in effect, calling for a very gradual phase-in over a 30-year transitional period.

Q. Can you explain how the transition you propose would work?

A. Actually, the bill offers two alternative transitional programs. One of the programs calls for the implementation of vesting and funding standards of the sort that would be mandated by S. 4 and similar legislation, followed by the gradual reducing of vesting and funding requirements over time so that, at the end of a 30-year period, there would be full vesting and funding. Contributions could then be made, without additional cost, to the new system. This approach would be most attractive to the larger employers with liberal pension plans who have indicated that S. 4 type standards would not add to their costs. This approach has the additional feature of allowing present plans to continue to cover new employees.

The second transitional program involves a reallocation of pension fund contributions. At present, the employer contributes a certain percentage of payroll to a pension fund each year. That amount is pooled, invested and allocated to pay the pension benefits of persons closest to retirement. Under the second approach, employers would be required to allocate pension fund contributions to individual accounts for employees. Either the same amount or the same percentage of pay would have to be allocated for each employee. This would be essentially a bookkeeping operation. The employer would then pay all amounts allocated to the accounts of employees working on the effective date of the Act to the pre-existent pension fund and that money would be pooled and paid as under the present system. The employer also would pay all amounts allocated to new employees who begin work after effective date of the Act to the pre-existing fund if the employees are less than 35 years of age. The amounts allocated to the accounts of employees 35 and over are to be allocated to individual accounts in Retirement Benefit Funds selected by the employees. Employees entering a pension program for the first time during the first ten years of the Act would not be able to accumulate more than 30 years of contributions. In effect, new workers would be paying for the benefits of older workers.

Employees entering a pension program during the next ten years of the Act could accumulate up to 35 years of contributions; in the final ten years of the transitional period, up to forty years, and all contributions would be made under the new system.

Q. Is there a limit on the amount that an employee can contribute to a fund?

A. There is no limit for employer contributions. But there is a limit for employee contributions. An employee (or individual participant) can contribute no more than an amount equal to one-fourth of the then current maximum social security wage base (now $10,800) reduced by all amounts contributed by his or her employer or spouse.

Q. Does the bill make any provision for housewives?

A. The bill allows any individual to make contrbutions on his or her own behalf or on behalf of a spouse.

Q. Does the bill make any provision for widows?

A. Yes. If a husband (or wife) dies before he has filed a formal declaration of retirement, the survivor will receive a benefit based on the amount in the deceased participant's account, but only at such time as she (or he) formally elects to retire.

And if the participant dies after he or she has retired, the survivor automatically gets the same amount that the participant was receiving, unless prior to retirement the participant stated that he did not want his survivor to benefit. (And did not want to take a reduction in his benefit to provide for a survivor)

Q. Does the bill cover self-employed persons? What about self-employed persons now contributing under a Keogh plan?

A. Yes, the bill covers self-employed persons. Persons now contributing under a Keogh plan could continue to do so if the amounts they were contributing were less than the dollar amount specified in the bill, could contribute the difference to a fund.

Q. Wouldn't people wanting to retire early be hurt by this system?

A. They would certainly have smaller accumulations than persons working longer, but 30 or 35 years could result in a sizable pension. Also persons wishing to retire early could contribute more to their fund, thus increasing the size of their pension at retirement.

Q. Could employees take their pensions with them when they change jobs?

A. Definitely. The system provides full "portability." An employee could keep his contributions in one fund throughout his lifetime regardless of where he works. And if dissatisfied with his fund, he could ask that his funds be transferred to another fund.

Q. Aren't the pension plans you propose very similar to deferred profit-sharing plans and thrift plans?

A. There are similarities but also critical differences. Money from profit-sharing and thrift plans is typically paid out in a lump sum. It does not serve as income function.

Also negotiated pension plans would require employers to contribute specifically defined amounts. Under a profit-sharing plan, amounts vary with profits.

Thrift plans tend to serve short term savings goals and emphasize employee rather than employer contributions.

Q. How would the system affect management-labor negotiations?

A. Unions would bargain for defined pension contributions rather than defined pension benefits.

Q. Isn't the problem of concentration of pension fund assets in bank trust departments being resolved in part by the movement of pension funds away from bank trust departments and to independent investment managers?

A. There is some dispersal of funds, particularly with the new interest split management of funds. But enormous amounts still remain in the bank trust departments. Also I'm not sure that this particular phenomenon is going to really meet the crux of the problem. Independent investment advisers are completely unregulated and are even less responsive to the interests of participants, being exclusively concerned with performance. I don't see that this is the way to reinject independent decision making reflecting a variety of differing objectives, preferences and values into the market.

Q. Are there precedents for the kind of deconcentration you propose?

A. Yes. The Public Utility Holding Act is one example. Probably a less persuasive example at this point is the breaking up of the Standard Oil Company.

Q. You have referred to conflicts of interest that prevent institutions from acting in the best interest of pension plan participants. What are these conflicts, what are their causes?

A. There are several different types of conflicts of interest situations that confront institutional managing pension fund assets. Most are inadvertent. A classic example is when a bank trust department invests pension fund assets 'belonging' to union members in non-union companies (this happens most often with pooled funds). But there are also conflicting situations generated by institutional considerations. For example, potential beneficiaries of a bank-trusted fund. may be adversely affected when the trust department decides to hold onto stock in a failing company, solely because the bank's commercial department would stand to lose substantial amounts if the company cannot afford to repay outstanding loans. (This has happened, despite a theoretical "wall of confidentiality" between trust and commercial departments.") Another different type of conflict which affects insurance companies as well as banks is that which comes about when an employer pressures an institution to act contrary to the interest of participants by the simple expedient elsewhere. A situation of this sort comes about when an employer wants the institution to vote employees pension stock in favor of a merger that may ultimately result in the loss of jobs (and pensions) by those employees.

Q. Wouldn't the concentration and conflicts of interest problems be solved in large part by simply limiting the size of institutions holding pension funds and limiting the amounts that institutions are allowed to invest at any one time.

A. These would certainly go a long way toward solving these problems, but they would not necessarily mean the restoration of a truly vigorous market economy. The individual investor would still remain at a disadvantage, there would still be a tendency for the institutions to 'run in packs', and there would still be no mechanism to bring back into the market the kind of independent judgement, values, preferences, geographical considerations that have traditionally characterized the market and which make it possible for a variety of different types of companies to compete effectively.

Q. The first private pension plans were the kind of defined contribution plans that your system contemplates (They are commonly called money purchase plans), and they, lost out to inflation. How does your system deal with that problem?

A. There are differences between our system and the proposed system. Most important, many of these plans did not invest in common stock. Those that did, didn't pass the increments in value on to the participants, but instead tried to meet certain defined benefits. They also provided for past service of employees working at the time the plan was established, and accordingly were not accumulating as much money for each participant for each year of service.

But there is a "money purchase" system that has worked and has worked well. This is the Teachers Insurance Annuity Association-College Retirement Equities Fund pension plan (TIAA-CREF). That plan covers college professors and other university personnel. It is universally rated as great success. Our proposed system differs in some respects from TIAA-CREF but its basic orientation is the same.

Our calculations are based on very conservative interest rate assumptions designed to discount the impact of inflation.

Also there are cost of living features worked into the system, and more can be added. For example, there might be a voluntary pooling approach for retirees.

Finally, because the funds will attract top-flight financial experts and will be small enough to be competitive, their performance should be considerably better than that of most pension funds today.

Q. Does your proposal require state and local pension funds to make contributions to these retirement benefit funds.

A. The bill makes participation by state and local agencies optional. There are several types of non-private funds that may well want to take advantage of the provisions of the Act. Police pension funds are one example. Pension funds' restrictions on mobility affect law enforcement. Top level police officers are unwilling to accept transfers, even with increased salary and status, when it means loss of a pension. Teachers are another group that require more mobility than most pension systems now afford.

RETIREMENT INCOME ASPECTS OF THE RETIREMENT BENEFIT FUND ACT

(By Karen E. Ferguson, attorney, public interest research group)

EXPLANATORY NOTES

"The Retirement Benefit Fund Act" is designed to provide a meaningful supplement to social security for most members of the private work force and their survivors, while at the same time deconcentrating pension fund investments and making them serve the best interests of participants.

The bill is primarily directed toward younger workers and persons not now covered by the private pension system. At the same time it seems to preserve the pension rights of persons now covered by the pension sytem.

The bill proposes the establishment of a number of competitive retirement income institutions (Retirement Benefit Funds), licensed and closely regulated by the Securities and Exchange Commission. The number of funds to be licensed would be determined by the SEC in accordance, among other things, with the demand for fund services at a given time. There would be an increasing number of funds as the new system becomes fully operative, over a 30-year transition period.

Funds would be operated by persons with demonstrated financial expertise. Both because of their investment objectives and flexibility and because salaries of fund officers would be based on a percentage of the total amount of assets managed by each fund, the funds should be able to attract the best financial minds of the country.

Entire trust departments, willing to sever themselves completely from banks would be eligible to apply for licenses, as would an organization such as the Teachers Insurance Annuity Association—College Retirement Fund (TIAA-CREF), although slight modifications either in that organization, or in the bill. might be necessary, particularly to accommodate the variable annuity aspect of CREF.

Employees (also self-employed persons and spouses) would be permitted to select a fund of their choice on the basis of information contained in an SEC approved solicitation prospectus. Advertising would be limited to statements of investment policies and earnings. Funds would not be allowed to employ salesmen. An employee would be allowed to belong to only one fund at a time but could transfer his account to another fund. Although most employees might choose funds on the basis of geographical or other considerations and would not transfer their accounts, for persons concerned about investment policies and performance (and there could be a significant number of these since ultimately almost everyone would be a fund participant), the option to make the initial selection and to transfer could be extremely important.

Employers would be allowed to make contributions to funds on their employees' behalf, receiving a tax deduction. Pension contributions would be immediately vested (and necessarily fully funded). Employers would be spared the kind of administrative expenses (actuarial consulting fees, attorneys' fees, insurance agents' commissions) that are frequently a deterrent to employers wishing to provide benefits under the present pension system. Bookkeeping expenses would be minimal since most employees in a particular geographic area would tend to join one of a very limited number of funds and aggregate checks to these institutions could be mailed once or twice a year.

Employers and unions would be free to bargain about the level of employer contributions.

The bill also provides that employees could make contributions on their own behalf and on behalf of their spouses, within specified dollar limits. These contributions would be tax deductible when made and taxed to the employee or survivor at retirement.

Each employee would receive a passbook from his or her fund in which the employee could have entered all contributions, plus compound interest, and certain other amounts which may have accrued to his or her account (as a consequence of forfeitures resulting from pre-retirement death of participants without surviving spouses or dependent children). The employee would also receive a year-end statement showing the amounts in the account and the amount the employee could be expected to receive at several different projected retirement dates.

At any time, but at only one time during his or her lifetime, an employee could formally elect to retire and receive an annuity calculated on the basis of the amounts in his or her account and actuarially determined life expectancy as of that date, plus projected post-retirement earnings. This provision is designed to resolve the problem of the mandatory retirement age which comes too early for some employees and too late for others.

The bill provides for survivors and for the insurance of contributions and annuities.

The bill establishes a 30-year transition period. Employees presently covered by pension plans would receive the benefits which they would receive under the present system. Their employers could opt to follow one of two transitional programs. Most employers with liberal pension plans would tend to select the program incorporating an approach similar to that contained in S. 4 and several of the other pending bills, except that it calls for a gradual phasing out of the present pension system. It would be possible to expand that section of the bill to incorporate virtually all provisions of S. 4.

The second program requires the reallocation of pension contributions in such a way that for a relatively brief period of time, new workers under 35 years of age would effectively pay for the promised pensions of older workers. This type of reallocation is not too different from what actually happens under the present system.

Employees would be given the opportunity to express their views on fund investment and stock voting policies, although their opinions would not be binding. This provision is designed to give fiduciaries the authority to make certain investments that many claim they now lack to make certain investments. It would, for example, give fund directors the authority to invest in a particular "special allowance investment," such as investment in FHA insured mortgages. "Special allowance investments" are defined in the bill as "an investment in an enterprise the advancement of which the fund directors deem likely to be of particular social utility and of long-range value to the participants as retirees, including investments tending to reduce expenses typically incurred during retirement (such as housing, medical and consumer expenses) which would not be justified solely in terms of their monetary return and the risk involved". Fund participants would also have the right to vote for fund directors.

Full disclosure and enforcement provisions are included in the bill.

The bill also provides for a commission to study the problems of providing an income supplement for persons now retired who will not benefit from the provisions of this bill, S. 4, or any other pending legislation.

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The Retirement Benefit Act represents a frontal attack on the private pension system as presently constituted. Mr. Nader readily acknowledges the theoretical virtues of the system and—for those who actually receive adequate pensions—its practical virtues, but takes the position that these virtues are not sufficient to warrant the exclusion of so many millions of people from what has become the only meaningful supplement to our concededly inadequate social security system. Persons reaching retirement typically do not have adequate savings and cannot rely on children for support. Their expenses in retirement tend to go up rather than down, and they can't manage on social security checks which still, after all of the recent increases, average only $40 a week for a nonmarried person over 65. He takes the position that under these circumstances, an involuntary lottery, subsidized by all of us as taxpayers in an amount in excess of $4 billion a year, may be a luxury we cannot afford, particularly given the fact that the consequences of the system, at least as presently structured, may well be inconsistant with the requirements of a dynamic free enterprise economy. (These notes are limited to a discussion of the retirement income aspects of the bill. They are not addressed to the equally critical broader economic aspects of the bill.)

To understand Mr. Nader's proposal it is necessary to understand first, who is excluded from the private pension system and second, why they are excluded.

The present private pension system covers only two out of five members of the private non-agricultural work force. Pending pension reform legislation will not increase and may (because of added costs to small employers) diminish this number.

Of the two out of five persons covered by the system, presently at least a third and probably one-half will not receive any private pension benefits in the absence of reform legislation. With enactment of a bill such as Senator Williams and Senator Javits' S. 4 or similar legislation, many more persons covered by the system will benefit, but not enough. The system will continue to leave out persons who through no fault of their own and in response to economic or personal needs change jobs frequently. It will also continue to leave out many of their dependent survivors. In addition it will continue to put longer service mobile employees at a disadvantage since their private pension benefits will almost invariably be less than those of similarly situated employees who stay with one employer or union throughout their work life.

The exclusion of millions upon millions of people is inherent in the structure of the private pension system. The system is based on the premise that large numbers of persons must lose out if others are to benefit. What S. 4 and other reform proposals seek to do is simply reduce the number of persons losing out. They attempt to strike a balance between the interests of employees in more secure pensions and the cost to employers of providing such pensions. But they cannot do more.

To understand why these bills cannot do more it is necessary to understand the pooling (or insurance) principle on which the present pension system is based.

Now, when an employer sets up a pension plan he undertakes to make annual contributions to a pension fund sufficient to pay members of a pool of employees a defined fixed benefit at retirement *IF* they satisfy certain conditions and *IF* the pension plan continues in existence.

Typically, the pool consists of all the employees of an employer (although it may also be limited to only wage or only salaried employees, or may extend to all employees in an industry who are members of a particular union).

The fewer the number of pool members who satisfy the conditions of a particular plan, the less an employer will have to contribute to the pension fund (or, the more he can promise those who do benefit). Thus he has a built-in incentive to limit the number of pool members who can benefit. If he cannot adequately limit the number of employees who will benefit, he can always stop the plan, paying out what he has already contributed, plus earnings, but incurring no further liability. (Some have suggested that smaller employers will be forced to terminate their pension plans if S. 4 type legislation is passed, since that legislation increases the number of employees who will qualify for benefits. The legislation will have minimal impact on larger employers since the actual dollar amounts received by the increased number of beneficiaries will be extremely small.)

This approach is undeniably attractive to those members of the pool who satisfy the conditions and whose plans are not terminated. (and whose defined benefits provide a reasonable social security supplement not subsequently rendered valueless by inflation). They receive either a flat benefit or, more typically, a benefit based on both the number of years they have worked for the employer (or union), including service before the plan was established, and a percentage of their annual earnings—in the better plans, their earnings during the years just before retirement. The benefits are fixed even if the fund experiences investment losses and, occasionally, are increased after retirement.

The present pension system is extremely attractive to employers. Their pension contributions can be small relative to their promises. Also they (alone or in conjunction with a union) can determine the types of benefits (normal retirement, early retirement, disability, survivors benefits) and the categories of employees (within some limitations) who will receive those benefits. Moreover, if the costs of the plan become too onerous, employers can simply exercise their reserved right to terminate their pension plan at any time.

Employers can exert control, both direct and indirect, over fund investment practices and can use plan provisions to realize corporate objectives, for example, ensuring by the use of so-called non-compete clauses, that employees will either remain with the company or at least not be able to pay their skills elsewhere.

The system is attractive to some labor officials, who stand to benefit substantially from the system on a personal level. Also pensions tend to be a useful issue at the bargaining table, and, understandably, a useful means of ensuring continued union loyalty on the part of members without vested pension rights. And a few unions relish their effective control over pension fund assets, control which will not be seriously circumscribed by pending legislation.

Needless to say, the system is also attractive to the banks and insurance companies which manage so much of the pension money.

And, of course, the host of pension actuaries, employees benefit communications specialists, insurance agents who sell pension plans, and pension lawyers, whose livelihoods depend on the continuation of the present system, find it most attractive.

The only people who do not find the system attractive are those whom it hurts or excludes.

These are the people who stand to benefit most from the Retirement Benefit Fund Act. They are unorganized, without a single full-time advocate and it is reasonable to expect that any bill drafted primarily in their interests will meet with little outside support and with massive opposition. Nonetheless, these people are the vast majority of our working population and their dependents, and their interests, demand full and fair consideration.

The Retirement Benefit Fund Act rejects the exclusionary principle of the present private pension system and in its stead offers most members of the private work force the chance to receive a private pension which would roughly approximate the average benefits received under the present pension system—at the same average costs to employers.

The proposed system's ability to pay the same average benefits at the same average costs, to many more employees, needless to say, does not come about by magic.

For one thing, the system is prospective in effect. It ultimately applies only to new young employees (and their survivors) coming into the work force. It thus avoids the necessity of having to give credit to workers who have worked long years prior to the establishment of the pension plan, a major cost to the present system.

Also, employees will get only what has been put in for them (or what they or their spouses have put in for themselves), plus earnings and small additional amounts accruing from forfeitures, and will have no assurance that they will receive a specifically defined benefit, although they will, of course, be continuously apprised as to what sort of retirement income they can reasonably expect under a variety of different assumptions.

In addition, to a minor degree, employees rather than employers will bear the risk of investment loss, but since the funds will be under continuous scrutiny by the SEC (and by participants) and since contributions and annuity payments (and certain investments) are insured, the risk is minimal.

The system works on the assumption that contributions are made on an employee's behalf almost every year of his work life, the contributions are invested, and that earnings are added and compounded for an extremely long time. The system facilitates retirement savings both by making it easy for employers, spouses and employees to make contributions and also be establishing a large number of institutions with a substantial interest in countering this country's overwhelming consume-now orientation.

The system does not mandate contributions. Mr. Nader has suggested that it may be considerably less expensive to raise minimum social security benefits to deal with the specific problem of employees of marginal employers than to continue indefinitely on our present course of substantial annual social security increases for everyone.

Calculations that have been on the benefits likely to be produced by this kind of defined contribution pension system are extremely encouraging, particularly when juxtaposed with the current average private pension benefit figure of $1654 a year.

The following calculations are illustrative. They are based on simplified assumptions, not all of which mirror the provisions of the bill.

(1) Assumptions:

An employee with an annual income of $10,000 payable semi-monthly. The salary remains level for the balance of the employee's working life or until attainment of age 65.

An employer contributes an amount equal to 5% of the employee's pay.

The total employer contribution is retained by the employer until the end of of each calendar year and is then paid to a Retirement Benefit Fund selected by the employee on January 1 of the next year.

The investment expenses of the fund are $30 per participant for the first year of participation and $20 for each year thereafter. (This is based on statements submitted to the New York Insurance Department for collectively bargained pension funds).

Each participant joins a fund as of January 1, with the first payment into the fund made one year later. The participant is age 30 years at the date of joining the fund.

Annuity benefits are payable monthly commencing on the attainment of age 65 years. The present value of the annuity benefits are determined on the basis of the 1971 Group Annuity Mortality Table with interest at 5% a year compounded annually and with 5% added to allow for expenses and for mortality improvement. (For purposes of these calculations, although not provided in the bill, separate present values are used for men and for women).

In the event of death of a participant before age 65 years, his or her accumulated sum is applied to purchase annuities for survivors or is paid in cash to the participant's estate. (This assumption is made to simplify calculations, it differs from the provisions of the bill.)

Calculations:

The account for the participant will accumulate as follows:

End of year	*Accumulation*
5	$2,664
10	6,053
15	10,378
20	15,897
25	22,941
30	31,932
35	43,406

At age 65 (35 years after entry at age 30), the accumulated amount of $43,406 will provide the following monthly payments, with the first payment at age 65 years:

Sex	*Monthly Payment*
Male	$346.44
Female	291.79

Annual payments would equal $4,157.28 for a man and $3,501.48 for a woman. This, of course, does not include social security payments. If the employee had also made a 5% contribution the annual payments would be $8,472.36 for a man and $7,136.04 for a woman.

(2) Assumptions:

An employer contributes 4% of an employee's pay at the end of each year.

The net investment income of the fund is 3% a year.

The employee has a life expectancy of 15 years after age 65.

In the event of death of the employee before age 65, his or her accumulated sum is returned to a beneficiary.

CALCULATIONS

Age contribution starts	Annual pension benefit based on annual wages of—		Annual payout a percentage of wages
	$9,000	$10,000	
20	$2,751	3,057	30.57
25	2,237	2,486	24.86
30	1,795	1,994	19.94

(3) Assumptions:

An employer contributes 4% of an employee's pay.

The employee works 40 years.

The employee receives a salary raise of 3.5% a year.

The net investment income of the fund is 5% a year.

Calculations:

Annual payout as a percentage of final pay equals 17%.

Annual payout assuming final pay equal to $10,800 equals $1,836.

This third set of calculations was put forward by a pension actuary highly critical of Mr. Nader's proposal on the ground that the system would sacrifice the concept of adequate pensions for the concept of a more equitable pension system. What his self-styled "realistic" calculations suggest, however, is that had the proposed system been in effect during the past 40 years, the average employee would be receiving a benefit of $182 more than he is now receiving.

These calculations are rough and are based on averages—they do not accurately suggest the probable pension benefits of a low wage garment worker or a highly paid engineer. They do, however, suggest the general viability of a defined contribution approach to pensions.

There is precedent for following a defined contribution approach to pensions. One of the most successful pension plans—at least in terms of participant satisfaction—is the Teachers Insurance Annuity Association-College Retirement Equities Fund (TIAA-CREF) plan. There are, of course, differences between TIAA-CREF and the proposed Retirement Benefit Funds and TIAA-CREF participants, mostly college professors, are in many respects an a typical group, but in basic orientation there are important similarities.

In addition, although a defined contribution approach is characteristically disparaged by the pension actuaries who are the self-constituted spokesmen of the pension industry, several pension actuaries themselves have advocated adoption of a defined contribution system. Their proposed system would not, to be sure, replace the present defined benefit system, but rather would supplement that system as a way of providing a minimum (and possibly mandatory) private pension for everyone. Their suggestion is that above the minimum, the present pension system should remain completely unregulated.

The defined contribution approach to private pensions is anything but radical. In fact, the most often repeated objection to it is that it is an old-fashioned idea, incorporated in many of the first private pension plans, which didn't work and which, in most instances was subsequently replaced by the present system. This objection, of course, ignores the marked success of TIAA-CREF and the many, some quite substantial differences between the original so-called money purchase plans and the system contemplated by the Retirement Benefit Fund Act. But most important, it begs the question.

The success of most defined benefit plans depends on their ability to exclude. The issue is not whether in theory a money-purchase (i.e. a defined contribution system is able to provide better benefits than *some* persons receive under *some* defined benefit plans. The issue is whether such a system can provide those people who are now receiving and will receive benefits under the defined benefit system with the same benefits and at the same time provide many more equally hard-working, equally deserving people with similar benefits.

Another objection, perhaps more to the point, is that enactment of the Retirement Benefit Fund Act might generate too much saving. If so, the only alternative may be the social security approach. But it may also be that whatever negative effects might ordinarily flow from this kind of accumulation of capital would more than offset by the fact that the capital needs of the nation are immense, and are increasing, and that the institutional structure established by the Act would be sufficiently flexible to be fully responsive to those needs.

These are not the only objections to the bill. Retirees are quite reasonably concerned that the bill only provides for the establishment of a commission to study the problems of persons who have already lost out. They, understandably, want help now. Union officials are concerned that the provisions in the bill designed to expedite the transition to the new system are unduly restrictive. They point to the bill's limitation on negotiated benefit level increases under pre-existing plans and to provisions which provide for the termination of pre-existing plans if specified percentages of plan participants opt for termination. At least one older employee not covered by a pension plan objects to the fact that if he were to go to work for a new employer whose employees are covered under a pre-existing plan (and that employer had opted for the second rather than the first of the two transition programs) he would be excluded from the pre-existing plan and would have too few years of coverage to accrue a substantial benefit under the new system. The proposed system presents cost of living problems (similar to those faced by most pension plans under the present system) that, as presently constituted, the funds will resolve only in part. And there is the basic problem inherent in the defined contribution concept that it will be harder for employees whose salaries increase markedly over their career to achieve a benefit commensurate with their final salary under the proposed system than they would, in theory, assuming they met all plan qualifications, achieve under the present system.

Most of these problems are susceptible to resolution with appropriate technical assistance. Only one, the last, is a problem inherent in the system, and that affects relatively few employees since the average employee's real earnings (discounting inflation) tend to level off fairly early in his career.

As with any proposal in this extremely complex pension area, the Retirement Benefit Fund Act is essentially a blueprint for action. At the least it will engender productive controversy, as did the first several versions of what have now, six years and a million dollars later emerged as S. 4 and its Finance Committee counterpart. At the most it will provide us with a truly equitable and adequate retirement income system.

By Mr. CURTIS:

S.J. Res. 138. Joint resolution to amend the Economic Stabilization Act. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. CURTIS. Mr. President, last Wednesday, July 18, 1973, was a dark day for hundreds of citizens of my State. It was a date that had been awaited for some time—the announcement of phase IV of the Economic Stabilization program.

Many employees of meat packing plants in my State had already been laid off because of the effect of the price ceiling on the ability of meat packers to pass along increased costs. However, the announcement of phase IV brought only the word that the beef processing industry must continue to operate on a loss basis if it operates at all between now and September 12.

Notwithstanding the deplorable financial situation of the meat industry as a result of the ceiling and price freeze to which it has been subjected, Mrs. Housewife is the real loser. Her opportunity to choose among a selection of meat products is rapidly diminishing. Soon she will have to stand in line and hope that there is still some meat available when she gets to the head of the line.

This is not a fairy tale, Mr. President. If the American consumer is to have a choice of meat products in the future this Government will have to get out of the price manipulation business.

The time has come to abandon ill-advised, short-term goals and strive for realistic long-range objectives. The cure for meat prices may result in higher prices in the immediate future but will assure reasonable prices and adequate supplies in the years ahead.

Mr. President, I am today introducing a joint resolution to amend the Economic Stabilization Act and require the President to permit the passthrough of increases in raw agricultural product costs on a dollar-for-dollar basis for beef as is permitted in the case of other meats and food products.

As I have just pointed out, Mrs. Housewife will be the loser if this action is not taken swiftly.

Mr. President, I send the resolution to the desk and ask that it be appropriately referred, and printed in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 138

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 203 of the Economic Stabilization Act of 1970 is amended by adding at the end thereof the following new subsection:

"(k) In exercising the authority conferred by this section prior to September 12, 1973, with respect to the price level of beef, the President or his delegate shall permit the passthrough of increases in raw agricultural product costs incurred since June 8, 1973, on a dollar-for-dollar basis in the same manner and to the same extent as a passthrough of such increases is permitted in the case of meat and food products other than beef."

ADDITIONAL COSPONSORS OF BILLS

S. 1353, S. 1478, S. 1479, AND S. 1480

At the request of Mr. Mansfield (for Mr. Magnuson), the Senator from New Hampshire (Mr. Cotton) was added as a cosponsor of the following bills:

S. 1353. A bill to deduct from gross tonnage in determining net tonnage those spaces on board vessels used for waste materials;

S. 1478. A bill to amend the Communications Act of 1934, as amended, with respect to commissioners and Commission employees;

S. 1479. A bill to amend subsection (b) of Section 214 and subsection (a) (1) of section 222 of the Communications Act of 1934, as amended, in order to designate the Secretary of Defense—rather than the Secretaries of the Army and Navy—as the person entitled to receive official notice of the filing of certain applications in the common carrier service and to provide notice to the Secretary of State where under section 214 applications involve service to foreign points; and

S. 1480. A bill to amend the Communications Act of 1934, as amended, with respect to penalties and forfeitures.

S. 1581

At the request of Mr. Hatfield, the Senator from South Dakota (Mr. Abourezk) was added as a cosponsor of S. 1581, to require the payment of interest on overpayments of tax without regard to date of refund.

S. 1604

At the request of Mr. Brock, the Senator from Kentucky (Mr. Cook) was added as a cosponsor of S. 1604, the "Fair Housing Amendments of 1973".

S. 1605

At the request of Mr. Brock, the Senator from Kentucky (Mr. Cook) was added as a cosponsor of S. 1605, the "Equal Credit Opportunity Act."

S. 1830

At the request of Mr. Ribicoff, the Senator from Connecticut (Mr. Weicker) was added as a cosponsor of S. 1830, the Youth Camp Safety Act of 1973.

S. 1982

Mr. TOWER. Mr. President, I am pleased that the retirement test under social security has again been increased. However, the increase to $2,400 is insufficient to meet the needs of our elderly citizens who now work or would like to obtain gainful employment.

Senator Dominick and I have introduced S. 1982 which would raise the earnings ceiling to $3,000 and would reduce the age of applicability of the test from 72 to 70. This legislation represents a reasonable starting point in an effort to eliminate the retirement test sometime in the future.

Since the bill was introduced the following Senators have joined as cosponsors: Senators Young, Pastore, Domenici, Thurmond, Eastland, Dole, Cook, Hollings, Bartlett, Bentsen, Schweiker, Goldwater, and Scott of Virginia. I ask unanimous consent that these Senators be added as cosponsors of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 2069

At the request of Mr. Eagleton, the Senator from Alaska (Mr. Gravel), the Senator from Hawaii (Mr. Inouye), the Senator from Minnesota (Mr. Humphrey), the Senator from Maine (Mr. Hathaway), the Senator from Rhode Island (Mr. Pastore), the Senator from West Virginia (Mr. Randolph), the Senator from Utah (Mr. Moss), the Senator from Nevada (Mr. Bible), and the Senator from New Jersey (Mr. Williams) were added as cosponsors of S. 2069, the National Reading Improvement Act.

SENATE RESOLUTION 150—SUBMISSION OF A RESOLUTION IN ANTICIPATION OF A RECOMMENDED PAY RAISE

(Referred to the Committee on Post Office and Civil Service.)

Mr. HANSEN submitted a resolution (S. Res. 150), which reads as follows:

S. Res. 150

Resolved, That the Senate disapproves the recommendations of the President with respect to rates of pay transmitted to the Congress during calendar year 1973, pursuant to section 225(h) of the Federal Salary Act of 1967.

ADDITIONAL COSPONSORS OF A RESOLUTION

SENATE RESOLUTION 144

At the request of Mr. Hansen, the Senator from Ohio (Mr. Taft), the Senator from Wisconsin (Mr. Proxmire), the Senator from Arizona (Mr. Goldwater), the Senator from Illinois (Mr. Stevenson), and the Senator from Nebraska, (Mr. Hruska), were added as cosponsors of Senate Resolution 144, expressing the Senate's opposition to an increase in salary during fiscal year 1974 for Members of Congress, the judiciary, and top-level employees of the executive branch.

AMENDMENT OF EXPORT ADMINISTRATION ACT OF 1969—AMENDMENT

AMENDMENT NO. 405

(Ordered to be printed, and referred to the Committee on Banking, Housing and Urban Affairs.)

Mr. TOWER submitted an amendment, intended to be proposed by him, to the bill (S. 2053) to amend the Export Administration Act of 1969, to permit the President to use export controls to curtail serious inflation in domestic prices, and for other purposes.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1973—AMENDMENTS

AMENDMENT NO. 406

(Ordered to be printed, and to lie on the table.)

PUBLIC FINANCING FOR FEDERAL ELECTIONS

Mr. KENNEDY. Mr. President, on behalf of Senator Hugh Scott and myself, I send to the desk an amendment to S. 372. The purpose of the amendent is to provide public financing for Senate and House elections, and to prohibit private financing for major party candidates in all Federal elections, Presidential as well as congressional.

Under the terms of the amendment, public funds will be available to candidates of major parties in Senate and House elections, based on a formula allocating 20 cents for each voter in the jurisdiction in which the election is to be held. Candidates of minor parties will be entitled to public funds under two approaches—either in proportion to the party's showing in the past election, or retroactively on the basis of its showing in the current election.

The provision prohibiting private financing by major party candidates allows minor party candidates to use private funds to reach the level of spending of major party candidates. In addition, the amendment applies only to general and special elections, not to primaries and runoffs, which will continue to be financed by private funds.

Under existing law, future Presidential election campaigns will be financed by public funds through the so-called "dollar checkoff," by which taxpayers indicate on their tax forms that $1 of their tax liability, or $2 on a joint return, is to go into a general fund for financing Presidential campaigns. The amendment I am introducing with the distinguished Senator from Pennsylvania does not involve the tax form, but in other respects, our proposal for Senate and House elections closely follows the law already applicable to Presidential elections.

Mr. President, the most obvious lesson of Watergate is the corrosive power of money in politics. At a single stroke, by enacting a program of public financing for Federal elections, we can shut off the underground rivers of private money that pollute politics at every level of the Federal Government. If Watergate has taught us anything, it is that disclosure is not enough, that sunlight is not an adequate disinfectant for the infectious power of money in political campaigns.

As everyone knows, the United States has the best political system that money can buy, and it is a disgrace to the principles on which our Republic stands. Congress has already gone part way. Already, public funds will be available under existing law to finance the Presidential election campaign in 1976. The time has come to take the next great step toward open and honest government. The time is now ripe—indeed over-ripe—to eliminate private financing in our national elections and to apply the clear, simple principle of public financing to all Federal elections. Only in that manner can we drive the money-changers from the temple of Federal politics.

I am honored and delighted to work with Senator Hugh Scott in a bipartisan effort to reach this goal. The Senator from Pennsylvania has been an outstanding leader on legislation in many areas of election reform. I am pleased to join with him on this new effort, which offers such enormous benefit to Americans concerned about the quality of our Government, and I urge the Senate to accept the amendment we are introducing.

Mr. President, I ask unanimous consent that, following the remarks of the Senator from Pennsylvania, a summary of the principal provisions of the amendment may be printed in the Record, and that the text of the amendment itself may also be printed at that point in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SCOTT of Pennsylvania. Mr. President, I am pleased to join the senior Senator from Massachusetts (Mr. Kennedy) in sponsoring this amendment to provide public financing, through appropriated funds, for general and special congressional elections. The proposal we have drafted is particularly important insofar as it contains a provision, which I suggested, to bar the option of private financing. The absence of this provision in the previous public financing proposals was the reason for my earlier opposition to such plans.

Under the Kennedy-Scott plan, bona fide candidates for the Senate, for example, would be entitled to a Treasury Department payment of the sum to which they are entitled under the spending formulas contained in S. 372; namely, 20 cents per eligible voter or $175,000 whichever is the greater. Primary and runoff congressional elections would continue to be financed by private funds. Presidential candidates would continue to be funded under the so-called checkoff provision in the tax laws.

Our proposal is drafted to utilize the machinery of a Federal Election Commission, which I have been advocating personally for several years. The Senate agreed to such a commission in 1971 only to have it knocked out in conference with the House. The new Commission, if finally enacted, would be charged with the administration of the public funds to be used by congressional candidates. The Commission would also have generous authority to enforce the law, through its own general counsel, in the Federal courts.

As I have previously indicated in testimony before my Committee on Rules and Administration, I think it is worth it to every taxpayer to do something to get a little better election reform in this country. The taxpayers themselves should be condemned if they are not willing to put up a buck for honesty. I would like to see it. I think it is a good thing. Since the Kennedy-Scott proposal would be effective on January 1, 1975, it would be utilized during the congressional elections in the following year.

The Presidential election checkoff provisions in the tax law do not now have a prohibition on the option of private financing. This has always been of great concern to me since I think both political parties should be bound by the act or neither. That should be in the law, rather than an allowance for either party to exercise an option of not being included. At my request, such a provision has been included in the Kennedy-Scott amendment. It would conform the ban on private financing to candidates for all Federal offices.

S. 372, the Federal Election Campaign Act Amendments of 1973, to which the Kennedy-Scott proposal will be offered, contains a number of provisions which were included in bills I sponsored earlier this year. In addition to the Federal Election Commission to monitor and enforce the law, the bill waives the so-called equal time provisions of the broadcasting law for candidates for all Federal offices. If enacted, this will enable broadcasters to grant more free time to bona fide candidates, thus further reducing the cost of campaigning for office. The bill also provides that each candidate have a central campaign committee which would report all contributions and expenditures on behalf of the candidate, regardless of the number of "allied" or "subordinate" committees working on the candidate's behalf.

The use of cash is also severely restricted in the Rules Committee bill. No cash payments, or contributions, in excess of $100 can be made. This restriction is both necessary and enforceable, since the Federal Election Commission has the full power to enforce it.

The Kennedy-Scott amendment blends in nicely with S. 372. It does what must be done. I urge the support of my colleagues.

Exhibit 1

Amendment No. 406

On page 49, between lines 3 and 4, insert the following:

"Sec. 16. The Federal Election Campaign Act of 1971 is amended by inserting at the end thereof the following new title:

" 'TITLE V—PUBLIC FINANCING OF CONGRESSIONAL ELECTION CAMPAIGNS

" 'Sec.
" '501. Short title.
" '502. Definitions.
" '503. Condition for eligibility for payments.
" '504. Entitlement of eligible candidates to payments.
" '505. Certifications by Federal Election Commission.
" '506. Payments to eligible candidates.
" '507. Examinations and audits; repayments.
" '508. Information on proposed expenses.
" '509. Reports to Congress; regulations.
" '510. Participation by Comptroller General in judicial proceedings.
" '511. Judicial review.
" '512. Criminal penalties.
" '513. Congressional Election Campaign Fund Advisory Board.
" '514. Authorization of Appropriations.
" '515. Effective date of title.

" 'SHORT TITLE

" 'Sec. 501. This title may be cited as the "Congressional Election Campaign Fund Act".

" 'DEFINITIONS

" 'Sec. 502. For purposes of this title—

" '(1) The term "congressional office" means the office of Senator or Representative in, or Resident Commissioner or Delegate to, the Congress of the United States.

" '(2) The term "congressional election" means a general or special election for congressional office.

" '(3) The term "Commission" means the Federal Election Commission established under section 308.

" '(4) The term "authorized committee" means, with respect to a candidate of a political party for congressional office, any political committee which is authorized in writing by such candidate to incur expenses to further the election of such candidate. Such authorization shall be addressed to the chairman of such political committee, and a copy of such authorization shall be filed by such candidate with the Commission. Any withdrawal of any authorization shall also be in writing and shall be addressed and filed in the same manner as the authorization.

"'(5) The term "candidate" means, with respect to any congressional election, an individual who (A) has been nominated for election to congressional office by a major party, or (B) has qualified to have his name on the election ballot in the area in which the election is to be held. For purposes of paragraphs (8) and (9) of this section and purposes of section 504(a)(2), the term "candidate" means, with respect to any preceding congressional election, an individual who received popular votes for congressional office in such election.

"'(6) The term "eligible candidate" means a candidate of a political party for congressional office who has met all applicable conditions for eligibility to receive payments under this title set forth in section 503.

"'(7) The term "fund" means the Congressional Election Campaign Fund established by section 506(a).

"'(8) The term "major party" means, with respect to any congressional election, a political party whose candidates for congressional office in the preceding election for such office received, as the candidate of such party, 25 per centum or more of the total number of popular votes received by all candidates for such office.

"'(9) The term "minor party" means, with respect to any congressional election, a political party whose candidate for congressional office in the preceding election for office received, as the candidate of such party, 5 per centum or more but less than 25 per centum of the total number of popular votes received by all candidates for such office.

"'(10) The term "new party" means, with respect to any congressional election, a political party which is neither a major party nor a minor party.

"'(11) The term "political committee" means any individual, committee, association, or organization (whether or not incorporated) which accepts contributions or makes expenditures for the purpose of influencing, or attempting to influence, the nomination or election of one or more individuals to congressional office.

"'(12) The term "qualified campaign expense" means an expense—

"'(A) incurred (i) by the candidate of a political party for congressional office to further his election to such office, or (ii) by an authorized committee of a candidate of a political party for congressional office to further the election of one or more such candidates to such office;

"'(B) incurred within the expenditure report period (as defined in paragraph (13)), or incurred before the beginning of such period to the extent such expense is for property, services, or facilities used during such period; and

"'(C) neither the incurring nor payment of which constitutes a violation of any law of the United States or of the State in which such expense is incurred or paid.

An expense shall be considered as incurred by a candidate or an authorized committee if it is incurred by a person authorized by such candidate or such committee, as the case may be, to incur such expense on behalf of such candidate or such committee. If an authorized committee of a candidate of a political party for congressional office also incurs expenses to further the election of one or more other individuals to Federal, State, or local elective public office, expenses incurred by such committee which are not specifically to further the election of such other individual or individuals shall be considered as incurred to further the election of such candidate for congressional office in such proportion as the Commission prescribes by rules or regulations.

"'(13) The term "expenditure report period" with respect to any congressional election means—

"'(A) in the case of a major party, the period beginning with the first day of September before the election, or, if earlier, with the date on which such major party nominated its candidate for election to congressional office, and ending thirty days after the date of the election; and

"'(B) in the case of a party which is not a major party, the same period as the expenditure report period of the major party which has the shortest expenditure report period for such election under subparagraph (A).

"'CONDITION FOR ELIGIBILITY FOR PAYMENTS

"'SEC. 503. (a) IN GENERAL.—In order to be eligible to receive any payments under section 506, a candidate of a political party in a congressional election shall, in writing—

"'(1) agree to obtain and furnish to the Commission such evidence as it may request of the qualified campaign expenses with respect to which payment is sought;

"'(2) agree to keep and furnish to the Commission such records, books, and other information as it may request;

"'(3) agree to an audit and examination by the Commission under section 507 and to pay any amounts required under section 508.

"'(b) MAJOR PARTIES.—In order to be eligible to receive any payments under section 506, a candidate of a major party in a congressional election shall certify to the Commission, under penalty of perjury, that—

"'(1) such candidate and his authorized committees will not incur qualified campaign expenses in excess of the aggregate payment to which he is entitled under section 504; and

"'(2) no contributions to defray qualified campaign expenses have been or will be accepted except to the extent necessary to make up any deficiency in payments received out of the fund on account of the application of section 506(d), and no contributions to defray expenses which would be qualified campaign expenses but for subparagraph (C) of section 502(12) have been or will be accepted by such candidate or any of his authorized committees.

Such certification shall be made within such time prior to the day of the congressional election as the Commission shall prescribe by rules or regulations.

"'(c) MINOR AND NEW PARTIES.—In order to be eligible to receive any payments under section 506, a candidate of a minor or new party in a congressional election shall certify to the Commission, under penalty of perjury, that—

"'(1) such candidate and his authorized committees will not incur qualified campaign expenses in excess of the aggregate payments to which the eligible candidate of a major party in such election is entitled under section 504; and

"'(2) such candidate and his authorized committees will accept and expend or retain contributions to defray qualified campaign expenses only to the extent tha' the qualified campaign expenses incurred by such candidate and his authorized committees certified to under paragraph (1) exceed the aggregate payments received by such candidate out of the fund pursuant to section 506.

Such certification shall be made within such time prior to the day of the congressional election as the Committee shall prescribe by rules or regulations.

"'(d) Except as provided in subsections (b)(2) and (c)(2) of this section, no candidate of a major party, minor party, or new party, or any of the authorized committees of such candidate shall accept contributions to defray qualified campaign expenses.

"'(e) Except as specifically provided by law, no candidate for election to the office of President of the United States or the office of Vice President of the United States who is or may be eligible to receive payments of public funds to defray qualified expenses of his campaign shall accept contributions to defray such expenses.

"'ENTITLEMENT OF ELIGIBLE CANDIDATES TO PAYMENTS

"'SEC. 504. (a) IN GENERAL.—Subject to the provisions of this title—

"'(1) An eligible candidate for a major party in a congressional election shall be entitled to payments under section 506 equal in the aggregate to the greater of—

"'(A) 20 cents multiplied by the voting age population of the geographical area in which the election for such office is held, as determined by the Secretary of Commerce under the Federal Election Campaign Act of 1971, as amended; or

"'(B) (i) $175,000, if the congressional office sought is that of Senator, Delegate, Resident Commissioner, or Representative from a State which is entitled to only one Representative, or (ii) $90,000, if the congressional office sought is that of Representative from a State entitled to more than one Representative.

"'(2) (A) An eligible candidate of a minor party in a congressional election shall be entitled to payments under section 506 equal in the aggregate to an amount which bears the same ratio to the amount computed under paragraph (1) for a major party as the number of popular votes received by the candidate for such office of the minor party, as such candidate, in the preceding election for such office bears to the average number of popular votes received by the candidates for such office of the major parties in the preceding election for such office.

"'(B) If the candidate of one or more political parties (not including a major party) for congressional office was a candidate for such office in the preceding election for such office and received 5 per centum or more but less than 25 per centum of the total number of popular votes received by all candidates for such office, such candidate, upon compliance with the provisions of section 503 (a) and (c), shall be treated as an eligible candidate entitled to payments under section 506 in an amount computed as provided in subparagraph (A) by taking into account all the popular votes received by such candidate for such office in the preceding election for such office. If the eligible candidates of a minor party are entitled shall be reduced by the amount of the entitlement allowed under subparagraph (A).

"'(3) An eligible candidate of a minor party or a new party in a congressional election whose candidate in such election receives, as such candidate, 5 per centum or more of the total number of popular votes cast for such office in such election shall be entitled to payments under section 506 equal in the aggregate to an amount which bears the same ratio to the amount computed under paragraph (1) for a major party as the number of popular votes received by such candidate in such election bears to the average number of popular votes received in such election by the candidates for such office of the major parties. In the case of an eligible candidate entitled to payments under paragraph (2), the amount allowable under this paragraph shall be limited to the amount, if any, by which the entitlement under the preceding sentence exceeds the amount of the entitlement under paragraph (2).

"'(b) LIMITATIONS.—The aggregate payments to which an eligible candidate of a political party shall be entitled under subsections (a) (2) and (3) with respect to a congressional election shall not exceed an amount equal to the lower of—

"'(1) the amount of qualified campaign expenses incurred by such eligible candidate and his authorized committees, reduced by the amount of contributions to defray qualified campaign expenses received and expended or retained by such eligible candidate and such committees, or

" '(2) the aggregate payments to which the eligible candidate of a major party is entitled under subsection (a)(1), reduced by the amount of contributions described in paragraph (1) of this subsection.

" '(c) Restrictions.—An eligible candidate of a political party shall be entitled to payments under subsection (a) only—

" '(1) to defray qualified campaign expenses incurred by such eligible candidate or his authorized committees, or

" '(2) to repay loans the proceeds of which were used to defray such qualified campaign expenses, or otherwise to restore funds (other than contributions to defray qualified campaign expenses received and expended by such candidate or such committees) used to defray such qualified campaign expenses.

" 'CERTIFICATIONS BY COMMISSION

" 'Sec. 505. (a) Initial Certifications.—On the basis of the evidence, books, records, and information furnished by the eligible candidates of a political party and prior to examination and audit under section 507, the Commission shall certify from time to time to the Secretary for payment to such candidates under section 506 the payments to which such candidates are entitled under section 504.

" '(b) Finality of Certifications and Determinations.—Initial certifications by the Commission under subsection (a), and all determinations made by it under this title, shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 507 and judicial review under section 511.

" 'PAYMENTS TO ELIGIBLE CANDIDATES

" 'Sec. 506. (a) Establishment of Campaign Funds.—There is hereby established on the books of the Treasury of the United States a special fund to be known as the Congressional Election Campaign Fund. The Secretary shall, as provided by appropriation Acts, transfer to the fund such amounts as Congress may appropriate to insure that moneys in the fund will be adequate to meet the entitlements of eligible candidates.

" '(b) Transfers to the General Fund.—The Secretary is authorized to transfer to the general fund of the Treasury such amounts of moneys in the fund as he determines from time to time are in excess of the amounts which eligible candidates are or will be entitled to receive.

" '(c) Payments From the Fund.—Upon receipt of a certification from the Commission under section 505 for payment to the eligible candidates of a political party, the Secretary shall pay to such candidates out of the fund the amount certified by the Commission. Amounts paid to any such candidates shall be under the control of such candidates.

" '(d) Insufficient Amounts in Fund.—If at the time of a certification by the Commission under section 505 for payment to the eligible candidates of a political party, the Secretary or his delegate determines that the moneys in the fund are not, or may not be, sufficient to satisfy the full entitlements of the eligible candidates of all political parties, he shall withhold from such payment such amount as he determines to be necessary to assure that the eligible candidates of each political party will receive their pro rata share of their full entitlement. Amounts withheld by reason of the preceding sentence shall be paid when the Secretary or his delegate determines that there are sufficient moneys in the fund to pay such amounts, or portions thereof, to all eligible candidates from whom amounts have been withheld, but, if there are not sufficient moneys in the fund to satisfy the full entitlement of the eligible candidates of all political parties, the amounts so withheld shall be paid in such manner that the eligible candidates of each political party receive their pro rata share of their full entitlement.

" 'EXAMINATIONS AND AUDITS; REPAYMENTS

" 'Sec. 507. (a) Examinations and Audits.—After each congressional election, the Commission shall conduct a thorough examination and audit of the qualified campaign expenses of the candidates of each political party for congressional office.

" '(b) Repayments.—

" '(1) If the Commission determines that any portion of the payments made to an eligible candidate of a political party under section 506 was in excess of the aggregate payments to which the candidate was entitled under section 504, it shall so notify such candidate, and such candidate shall pay to the Secretary an amount equal to such portion.

" '(2) If the Commission determines that an eligible candidate of a political party and his authorized committees incurred qualified campaign expenses in excess of the aggregate payments to which an eligible candidate of a major party was entitled under section 504, it shall notify such candidate of the amount of such excess and such candidate shall pay to the Secretary an amount equal to such amount.

" '(3) If the Commission determines that an eligible candidate of a major party or any authorized committee of such candidate accepted contributions (other than contributions to make up deficiencies in payments out of the fund on account of the application of section 506(d)) to defray qualified campaign expenses (other than qualified campaign expenses with respect to which payment is required under paragraph (2)), it shall notify such candidate of the amount of the contributions so accepted, and such candidate shall pay to the Secretary an amount equal to such amount.

" '(4) If the Commission determines that any amount of any payment made to an eligible candidate of a political party under section 506 was used for any purpose other than—

" '(A) to defray the qualified campaign expenses with respect to which such payment was made, or

" "(B) to repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions to defray qualified campaign expenses which were received and expended) which were used, to defray such qualified campaign expenses,

it shall notify such candidate or the amount so used, and such candidate shall pay to the Secretary an amount equal to such amount.

" '(5) No payment shall be required from an eligible candidate of a political party under this subsection to the extent that such payment, when added to other payments required from such candidate under this subsection, exceeds the amount of payments received by such candidate under section 506.

" '(c) Notification.—No notification shall be made by the Commission under subsection (b) with respect to a congressional election more than three years after the day of such election.

" '(d) Deposit of Repayments.—All payments received by the Secretary under subsection (b) shall be deposited by him in the general fund of the Treasury.

" 'INFORMATION ON PROPOSED EXPENSES

"Sec. 508. (a) Reports by Candidates.—A candidate of a political party for congressional office in a congressional election shall, from time to time as the Commission may require, furnish to the Commission a detailed statement, in such form as the Commission may prescribe, of—

" '(1) the qualified campaign expenses incurred by him and his authorized committees prior to the date of such statement (whether or not evidence of such expenses has been furnished for purposes of section 505), and

" '(2) the qualified campaign expenses which he and his authorized committees propose to incur on or after the date of such statement.

The Commission shall require a statement under this subsection from such candidates of each political party at least once each week during the second, third, and fourth weeks preceding the day of the congressional election and at least twice during the week preceding such day.

" '(b) Publication.—The Commission shall, as soon as possible after it receives each statement under subsection (a), prepare and publish a summary of such statement, together with any other data or information which it deems advisable, in the Federal Register.

" 'REPORTS TO CONGRESS; REGULATIONS

" 'Sec. 509. (a) Reports.—The Commission shall, as soon as practicable after each congressional election, submit a full report to the Senate and House of Representatives setting forth—

" '(1) the qualified campaign expenses (shown in such detail as the Commission determines necessary) incurred by the candidates of each political party and their authorized committees;

" '(2) the amounts certified by it under section 505 for payment to the eligible candidates of each political party; and

" '(3) the amount of payments, if any, required from such candidates under section 507, and the reasons for each payment required.

Each report submitted pursuant to this section shall be printed as a Senate document.

" '(b) Regulations, Etc.—The Commission is authorized to prescribe such rules and regulations, to conduct such examinations and audits (in addition to the examinations and audits required by section 507(a)), to conduct such investigations, and to require the keeping and submission of such books, records, and information, as it deems necessary to carry out the functions and duties imposed on it by this title, including the coordination of this title with other titles of this Act.

" 'PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS

" 'Sec. 510. (a) Appearance by Council.—The Commission is authorized to appear in and defend against any action filed under section 511, either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard of the provisions of chapter 51 and subchapter III of chapter 53 of such title.

" '(b) Recovery of Certain Payments.—The Commission is authorized through attorneys and counsel described in subsection (a) to appear in the district courts of the United States to seek recovery of any amounts determined to be payable to the Secretary as a result of examination and audit made pursuant to section 507.

" '(c) Declaratory and Injunctive Relief.—The Commission is authorized through attorneys and counsel described in subsection (a) to petition the courts of the United States for declaratory or injunctive relief concerning any civil matter covered by the provisions of this title. Upon application of the Commission, an action brought pursuant to this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28, United States Code, and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited.

" '(d) Appeal.—The Commission is authorized on behalf of the United States to appeal from, and to petition the Supreme Court for certiorari to review, judgments, or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

" 'JUDICIAL REVIEW

" 'Sec. 511. (a) Review of Certification, Determination, or Other Action by the Commission.—Any certification, determination, or other action by the Commission made or taken pursuant to the provisions of this title shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such Court by any interested person. Any petition filed pursuant to this section shall be filed within thirty days after the certification, determination, or other action by the Commission for which review is sought.

" '(b) Suits to Implement Title.—

" '(1) The Commission, the national committee of any political party, and individuals eligible to vote in an election for congressional office, are authorized to institute such actions, including actions for declaratory judgment or injunctive relief, as may be appropriate to implement or construe any provision of this title.

" '(2) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this subsection and shall exercise the same without regard to whether a person asserting rights under provisions of this subsection shall have exhausted any administrative or other remedies that may be provided at law. Such proceedings shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28, United States Code, and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited.

" 'CRIMINAL PENALITIES

" 'Sec. 512. (a) Excess Campaign Expenses.—

" '(1) It shall be unlawful for an eligible candidate of a political party for congressional office in a congressional election or any of his authorized committees knowingly willfully to incur qualified campaign expenses in excess of the aggregate payments to which the eligible candidates of a major party are entitled under section 504 with respect to such election.

" '(2) Any person who violates paragraph (1) shall be fined not more than $5,000, or imprisoned not more than one year, or both. In the case of a violation by an authorized committee, any officer or member of such committee who knowingly and willfully consents to such violation shall be fined not more than $5,000, or imprisoned not more than one year, or both.

" '(b) Contributions.—

" '(1) It shall be unlawful for an eligible candidate of a major party in a congressional election or any of his authorized committees knowingly and willfully to accept any contribution to defray qualified campaign expenses, except to the extent necessary to make up any deficiency in payments received out of the fund on account of the application of section 506(d), or to defray expenses which would be qualified campaign expenses but for subparagraph (C) of section 502(12).

" '(2) It shall be unlawful for an eligible candidate of a political party (other than a major party) in a congressional election or any of his authorized committees knowingly and willfully to accept and expend or retain contributions to defray qualified campaign expenses in an amount which exceeds the qualified campaign expenses incurred with respect to such election by such eligible candidate and his authorized committees.

" '(3) Any person who violates paragraph (1) or (2) shall be fined not more than $5,000, or imprisoned not more than one year, or both. In the case of a violation by an authorized committee, any officer or member of such committee who knowingly and willfully consents to such violation shall be fined not more than $5,000, or imprisoned not more than one year, or both.

" '(c) Unlawful Use of Payments.—

" '(1) It shall be unlawful for any person who receives any payment under section 506, or to whom any portion of any payment received under such section is transferred, knowingly and willfully to use, or authorize the use of, such payment or such portion for any purpose other than—

" '(A) to defray the qualified campaign expenses with respect to which such payment was made, or

" '(B) to repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions to defray qualified campaign expenses which were received and expended) which were used, to defray such qualified campaign expenses.

" '(2) Any person who violates paragraph (1) shall be fined not more than $10,000, or imprisoned not more than five years, or both.

" '(d) False Statements, Etc.—

" '(1) It shall be unlawful for any person knowingly and willfully—

" '(A) to furnish any false, fictitious, or fraudulent evidence, books, or information to the Commission under this title, or to include in any evidence, books, or information so furnished any misrepresentation of a material fact, or to falsify or conceal any evidence, books, or information relevant to a certification by the Commission or an examination and audit by the Commission under this title; or

" '(B) to fail to furnish to the Commission any records, books, or information requested by it for purposes of this title.

" '(2) Any person who violates paragraph (1) shall be fined not more than $10,000, or imprisoned not more than five years, or both.

" '(e) Kickbacks and Illegal Payments.—

" '(1) It shall be unlawful for any person knowingly and willfully to give or accept any kickback or any illegal payment in connection with any qualified campaign expense of an eligible candidate or his authorized committees.

" '(2) Any person who violates paragraph (1) shall be fined not more than $10,000, or imprisoned not more than five years, or both.

" '(3) In addition to the penalty provided by paragraph (2), any person who accepts any kickback or illegal payment in connection with any qualified campaign expense of an eligible candidate or his authorized committees shall pay to the Secretary, for deposit in the general fund of the Treasury, an amount equal to 125 per centum of the kickback or payment received.

" '(f) Unauthorized Expenditures and Contributions.—

" '(1) Except as provided in paragraph (2), it shall be unlawful for any political committee which is not an authorized committee with respect to an eligible candidate of a political party for congressional office in a congressional election knowingly and willfully to incur expenditures to further the election of such candidate, which would constitute qualified campaign expenses, if incurred by an authorized committee of such candidate, in an aggregate amount exceeding $1,000.

" '(2) This subsection shall not apply to (A) expenditures by a broadcaster regulated by the Federal Communications Commission, or by a periodical publication, in reporting the news or in taking editorial positions, or (B) expenditures by any organization described in section 501(c), which is exempt from tax under section 501(a) in communicating to its members the views of the organization.

" '(3) Any political committee which violates paragraph (1) shall be fined not more than $5,000, and any officer or member of such committee who knowingly and willfully consents to such violation and any other individual who knowingly and willfully violates paragraph (1) shall be fined not more than $5,000, or imprisoned not more than one year, or both.

" '(g) Unauthorized Disclosure of Information.—

" '(1) It shall be unlawful for any individual to disclose any information obtained under the provisions of this title except as may be required by law.

" '(2) Any person who violates paragraph (1) shall be fined not more than $5,000, or imprisoned not more than one year, or both.

" 'CONGRESSIONAL ELECTION CAMPAIGN FUND ADVISORY BOARD

" 'Sec. 513. (a) Establishment of Board.—There is hereby established an advisory board to be known as the Congressional Election Campaign Fund Advisory Board (hereinafter referred to in this section as the 'Board'). It shall be the duty and function of the Board to counsel and assist the Federal Election Commission in the performance of the duties and functions imposed on it under this title.

" '(b) Composition of Board.—The Board shall be composed of the following members:

" '(1) the majority leader and minority leader of the Senate and the Speaker and minority leader of the House of Representatives, who shall serve ex officio;

" '(2) two members representing each political party which is a major party (as defined in section 502(8)), which members shall be appointed by the Commission from recommendations submitted by such political party; and

" '(3) three members representing the general public, which members shall be selected by the members described in paragraphs (1) and (2).

The terms of the first members of the Board described in paragraphs (2) and (3) shall expire on the sixtieth day after the date of the first biennial congressional election following January 1, 1975, and the terms of subsequent members described in paragraphs (2) and (3) shall begin on the sixty-first day after the date of a biennial congressional election and expire on the sixtieth day following the date of the subsequent biennial congressional election. The Board shall elect a Chairman from its members.

" '(c) Compensation.—Members of the Board (other that members described in subsection (b)(1)) shall receive compensation at the rate of $75 a day for each day they are engaged in performing duties and functions as such members, including traveltime, and, while away from their homes or regular places of business, shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons in the Government service employed intermittently.

" '(d) Status.—Service by an individual as a member of the Board shall not, for purposes of any other law of the United States, be considered as service as an officer or employee of the United States.

" 'AUTHORIZATION OF APPROPRIATIONS

" 'Sec. 514. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

" 'EFFECTIVE DATE OF TITLE

" 'Sec. 515. The provisions of this title shall take effect on January 1, 1975.' "

On page 49, line 4, strike "Sec. 16." and insert in lieu thereof "Sec. 17.".

On page 50, line 8, strike "Sec.. 17," and insert in lieu thereof "Sec. 18.".

On page 50, line 19, strike "Sec. 18." and insert in lieu thereof "Sec. 19.".

Kennedy-Scott Amendment to S. 372 Public Financing for Federal Elections Principal Provisions

1. The amendment adds a new title, the "Congressional Election Campaign Fund Act," to the Federal Election Code. The new

Act provides public financing for Senate and House elections, and is modeled closely on Senator Russell Long's Presidential Election Campaign Fund Act, passed by Congress in 1971 and amended in 1973, which provides public financing for Presidential elections under existing law.*

2. It provides public funds for general and special elections for the Senate and House, but not for primaries or run-off elections.

3. It makes public financing mandatory for Senate and House elections. Thus, it bars the option of private financing by major candidates. However, a candidate of a major party may use private funds to make up a deficit in his entitlement of public funds. A candidate of a minor party or a new party may use private funds only to reach the level of entitlement of major party candidates.

4. It also bars the option of private financing for Presidential elections. This is the only change made by the amendment in the operation of the dollar check-off in existing law, which offers public financing as an alternative to private financing for Presidential elections.

5. Constitutional and parliamentary considerations indicate that specific amendments to the Internal Revenue Code may not be in order on Senate-originated bills such as S. 372. Therefore, the amendment simply applies the basic principles of the provisions of the dollar check-off to Senate and House elections. Except as provided in this summary, the provisions of the amendment for Congressional elections are essentially identical to the provisions of the dollar check-off applicable to Presidential elections.

6. The amendment establishes a Congressional Election Campaign Fund on the books of the Treasury, to be funded out of general appropriation acts of Congress, and from which public funds will be made available to eligible candidates.

7. Unlike the dollar check-off, the fund for Congressional elections does not involve the tax form. However, amendments to the check-off on the Debt Ceiling Act of July 1, 1973, have now eliminated the so-called "special" accounts, and have left only a "general" account to be allocated by formula among Presidential candidates. As a result, the Presidential Election Campaign Fund in present law is now closely similar to the Congressional Election Campaign Fund to be established by the amendment.

8. The amendment follows the basic formula in the dollar checkoff for allocating public funds among candidates of major and minor parties, but changes the entitlement to 20c a voter, in accord with the spending ceilings in S. 372.

9. A candidate of a "major party"—a party that received 25% or more of the total number of popular votes received by all candidates for the office in the preceding election—is entitled to receive public funds in the amount of 20c per eligible voter.

10. A candidate of a "minor party"—a party that received more than 5% but less than 25% of the popular vote in the preceding election—is entitled to receive public funds in proportion to his share of the vote in the preceding election. A candidate of a minor party may increase his entitlement on the basis of his performance in the current election.

11. A candidate of a "new party"—a party that is not a major party or a minor party—is entitled to receive public funds in proportion to his share of the popular vote in the current election, if he receives more than 5% of the vote in the election.

12. Public funds will be available for expenditures made by a candidate of a major party during the period beginning with the date on which the party nominates its candidate and ending 30 days after the election. Public funds will be available for candidates of other parties during the shortest period in which they are available to a candidate of a major party.

13. Individuals or committees not authorized by a candidate may not spend more than $1,000 during the campaign on behalf of the candidate of a party eligible for public funds.

14. The program will be administered by the new Federal Election Commission, to be established by S. 372. A Congressional Election Campaign Fund Advisory Board is created to advise the Commission in the performance of its duties.

15. The program will go into effect for the 1976 Congressional elections.

AMENDMENTS NOS. 407 AND 408

(Ordered to be printed, and to lie on the table.)

Mr. CHILES. Mr. President, I am submitting amendments today to S. 372, the campaign reform bill.

The first is an effort to limit the length of the campaign itself by putting a limitation on the time period during which communications media can be used for campaign purposes. It would prohibit any expenditure made by or on behalf of and candidate for media purposes in connection with his general campaign for election to Federal office before September 1 of the year of the election.

The second amendment is intended to prevent a campaign during which one or more of the candidates for the Presidency avoids direct confrontation with his or her opponent. This amendment would require the candidate to agree in writing to appear in person with his opponent for 2 half-hour broadcasts prior to the date of the election. These broadcasts would be provided to the candidate without charge and the format would be left to the candidates' determination. The candidates would be prohibited from spending any money on their own behalf for broadcast time in connection with their campaign for nomination for election or for election unless they agree to appear in person with their opponent or opponents during the 60 days preceding the election.

I believe both these amendments have great appeal to the American people. The first, limiting campaigns in terms of time, would have the effect of measurably reducing campaign costs. During a specified time only a certain amount of TV and radio commercials or newspaper ads can be run and if we are successful in reducing the time for running them, we would be successful in reducing campaign costs. I realize that certain constitutional questions may arise in this limitation on expenses for political campaign activities, but I believe the issue ought to be raised and debated because it is in the best interests of the voting public and the candidates themselves since it would result in a reduction in campaign costs and would keep the politicians from engaging in exhaustive, lengthy campaign that can sometimes become downright boring to the American people.

During the hearings on S. 372, concern was expressed over requiring Presidential candidates to appear jointly on television or radio. It was expressed, however, that "confrontation" or "debate" between the candidates seemed to be the most effective and desirable manner to discuss important campaign issues.

Some form of joint participation is, I believe, the most effective way of attracting the audience and getting the issues before the people. I just do not feel a man or woman ought to run for the presidency and then be allowed to duck the issues, avoid interaction with the opponent, and "hide-out" during the campaign. Senator PASTORE made the effective point during the hearings that there are rare instances where one must understand that the character of the situation is such that one of the candidates can be put at a serious disadvantage because of certain peculiar circumstances, but I am most interested in raising this issue for debate.

It is a complex question, but one, I feel, that needs thorough discussion. We need to be mindful not only of the freedom Presidential candidates should have to decide how best to present their candidacies, but how best to conduct a campaign in the best interests of all American citizens—how best to be mindful as well of their freedom to make a real choice between candidates when they vote—a choice based in their understanding of their candidate's position on the current issues.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Thomas K. Kaulukukui, of Hawaii, to be U.S. Marshal for the District of Hawaii for the term of 4 years. (reappointment)

Edward J. Michaels, of Delaware, to be U.S. marshall for the district of Delaware for the term of 4 years. (reappointment)

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Monday, July 30, 1973, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE OF HEARING ON THE MICRONESIAN CLAIMS ACT

Mr. JACKSON. Mr. President, I wish to announce for the information of the Members of the Senate and other interested persons that the Subcommittee on Territories and Insular Affairs has scheduled an open hearing for August 3, 1973, on H.R. 6628, to amend section 101(b) of the Micronesian Claims Act of 1971 to enlarge the class of persons eligible to receive benefits under the claims program established by that act.

This hearing will be held in room 3110 of the Dirksen Senate Office Building and will begin at 10 a.m. on that day.

Anyone wishing to testify or submit a statement for the record in connection with this legislation should so advise the Interior Committee staff.

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* See the "Presidential Election Campaign Fund Act," P.L. 92-178, 85 Stat. 497, 562-575 (December 10, 1971), as amended by the Debt Ceiling Act, P.L. 93-53, 87 Stat. 134, 138-139 (July 1, 1973).

NOTICE OF HEARINGS ON BILLS TO CODIFY, REVISE, AND REFORM THE FEDERAL CRIMINAL LAWS

Mr. McCLELLAN. Mr. President, I wish to announce for the information of the Members and the public that the Subcommittee on Criminal Laws and Procedures will hold open hearings on July 25 and 26, 1973, to continue the study of S. 1 and S. 1400, bills to codify, revise, and reform the Federal criminal laws.

The hearings will commence at 10 a.m. on July 25 and 11 a.m. on July 26 in room 2228, Dirksen Senate Office Building. Subjects to be covered on these days include insanity defense, scheme to defraud, coercion, Indian law, sentencing practices, business law, death penalty, abortion, and corrections.

Additional information on these and further hearings is available from the staff in room 2204, Dirksen Senate Office Building, telephone 202–225–3281.

ADDITIONAL STATEMENTS

EDDIE RICKENBACKER

Mr. BUCKLEY. Mr. President, the death of Eddie Rickenbacker comes as a great shock to all Americans and to all those who love freedom. He was a genuine American hero, a man who graced every area of life he entered into, from his early days as a champion race car driver, to his amazing exploits as an "ace" in the skies over France in World War I, to his outstanding record as a leader in the aeronautics industry. His courage was legendary, as was his outspoken love of our country. Perhaps we can best appreciate what he meant to this country by reviewing his life and asking ourselves this simple question: Where are the Eddie Rickenbackers of today?

Eddie Rickenbacker was a unique American hero. The phrase "a legend in his own time" seems to have been created for this great American. But perhaps more important than his diverse and outstanding record of accomplishment is the underlying quality of character that transformed all he ever undertook. He believed in the American dream when others derided it and he believed in it because he had made it come true in his own life.

Whether he was engaged in a dogfight with enemy planes in World War I or surviving the ordeal of exposure in an open raft in the Pacific Ocean in World War II, the great fighting spirit of the man was always present. Along with his great spirit was an undying faith in God, faith in country; a faith we need more than ever today when it has become fashionable in the many circles to deride the virtues and beliefs he symbolized: an unabashed patriotism, self-reliance, a principled integrity, a deep sense of duty as soldier and citizen, and that tenacious courage he always displayed in the discharge of his responsibilities.

I plan to say more about this great American. But on the day of his death I want the record to show that America has suffered a great and irrevocable loss.

DÉTENTE: SOME REASSESSMENTS

Mr. JACKSON. Mr. President, as the Congress considers the issues that bear directly on Soviet-American relations, nothing is more important than a balanced assessment of recent developments in this area. In the past several weeks, many articles and editorials have appeared which analyze the results of recent Soviet-American negotiations and which ask whether these negotiations are proceeding in accordance with the principle of reciprocal advantage. For we need genuine cooperation—genuine détente. And genuine détente must be a two-way proposition that serves the interests of both sides.

I have gathered a sampling of recent comment for reprinting in the Record. There is no unanimity of opinion, but the considerations raised by these writers are helpful points of departure for evaluating the current management of East-West relations.

I ask unanimous consent to have these articles printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Washington Post, May 25, 1973]

Détente and Human Rights

(By Stephen S. Rosenfeld)

"People in both of our countries will be interested, I am sure, to see and listen to the best works of literature, music, theater and fine arts of the country."

—Leonid Brezhnev, May 21, 1973.

The Soviet leader, speaking in Bonn, has rarely uttered truer words. People in Germany and elsewhere are indeed interested in the Soviet Union's best creative works, and many Russians are similarly interested in the best works of the West.

But Mr. Brezhnev fudged. He skipped mentioning that his government does everything it can to ensure that the best Soviet works—"best" by every measure but its narrow own—are kept from Soviet as well as foreign audiences, and that the best Western works are kept out of the Soviet Union, too.

There is no indication the Kremlin is coming to feel that international relaxation and Soviet power now make it safe to let Soviet creative artists decide for themselves what they wish to create or to let Soviet audiences decide what they wish to read and hear. Westerners might imagine such a policy change would flow logically from detente. The Kremlin evidently sees it as a threat to its own power.

For all that Mr. Brezhnev and other spokesmen indicate that the Soviet Union is assuming its proper place in the company of cultured nations, their determination to keep closed the eyes and ears and minds of their subjects may even have been strengthened by fear of the internal unraveling effects of detente. Foreign radio broadcasts are still jammed; KGB heavies still shepherd Soviet groups traveling abroad; Solzhenitsyn goes unpublished and demeaned in his own land.

This is, of course, old stuff. What is new is the reaction some Westerners now get when they point it out. They are told in effect that such reminders of the reality of Soviet life are relics of the cold war, and that the cause of detente is too precious and fragile to bear such reminders, even if they are true.

The copyright issue is a current case in point. The Russians had never signed the "Universal Copyright Convention" (UCC), choosing instead simply to pirate the works of foreign authors. Last February, under American prodding, they agreed to sign; the effective date is Sunday. Cheered at first to find the Russians finally deciding to play by the international rules, some foreigners soon awoke to the possibility that Soviet officials would abuse the UCC to block foreign publication of unauthorized literature.

McGraw-Hill's Curtis G. Benjamin visited Moscow in April and, on his return, told Publishers Weekly, "As expected, we found Soviet officials annoyed by the several speculative stories that have appeared in the American press"—stories on the theme that by joining the UCC, the Kremlin opens to itself new possibilities of extending internal censorship to all countries adhering to the UCC. Mr. Benjamin added that it makes little sense to argue that the main Soviet motive for adhering to the UCC is to further suppress dissident writers.

No doubt it does make little sense for an American publisher who hopes to do business with the Soviet Union to so argue. But this does not prevent others from noting that in the name of the needs of the time and international good manners, the United States is being asked to condone a Soviet gambit that is anathema to anyone concerned with artistic integrity and the other broader purpose of the UCC.

Many Americans, to be sure, fear that if the United States presses "too much" on such human right issues—copyright, artists, dissenters, nationalities, emigration and so forth—then further political improvements will be jeopardized. Naturally Soviet officials cultivate this fear when they can.

In the West, moreover, it is always a minority which is interested in any particular human rights issue, and that minority is always under at least a tacit burden to show that its concern will not undermine the "larger" cause. This can seem unjust and unfeeling to those supporting a particular issue, but it is a fact of political life.

My own view is that it is not only wrong but politically unjustified to shy away from human rights issues out of apprehension over the impact on political ties. The Soviet leaders do not always respond in full or even halfway satisfactory measure on human rights, but they do respond in some measure. They do for the simple reason that they wish to reap the considerable economic and political fruits of detente.

To ask the ruling Soviet elite to, say, surrender its power is surely "too much." But human rights issues are invariably softened before that stark point is reached. No human rights issue in sight poses anywhere near the bald challenge to the Kremlin that Mr. Nixon posed by mining Haiphong. It is only reasonable to expect the Soviet Union to observe some of the common decencies of the international community it is trying so eagerly to join.

[From the University of Washington Daily, June 18, 1973]

Russian Sailors

We were visited briefly last week by a group of ten Russian sailors whose freighter was taking cargo at a Seattle pier. They were on a tour of Port City and this campus was one of their highlights between Pioneer Square and Ballard. Having lost most of the Russian we learned as a freshman, our conversation with the Russians was limited to smiles, handshakes and the exchange of press cards for Vladivostok city pins.

Pictures were taken, the group left for other parts of its tour. When we drove down to the dock the next day to see them off, their boat had already slipped into the early afternoon.

There remains from this meeting a feeling that, well, it's better to exchange trinkets than to trade threats and lethal hardware. If President Nixon and Russia's Brezhnev meet soon to barter over wheat deals, disarmament and new bilateral unities—we hope that one issue close to this University will be included in the discussions.

Just last month University Prof. Edward Stern invited two Russian physicists to teach here in the Fall as visiting professors. But last week, as we were shaking Russian hands, these two and five other Soviet scientists were beginning a hunger strike directed against their government's obdurate and criminal denials of exit visas.

Each of them has been stripped of position and salary, and each has been denied the right to emigrate to Israel. By requesting what must be an honest freedom, these seven, because of the valuable knowledge which they hold, wait hapless and unproductive for an easing of tyranny.

There is a scene in "The Hunchback of Notre Dame" where Charles Laughton, as Quasimodo, saves the fair-skinned Ezmarelda from death at the hangman's noose. Laughton gurgles an ugly "Sanctuary!" as he sweeps her to safety, befuddling the lust of a despot. So has Nixon the opportunity to find a niche in liberty's church.

[From the Evening Star & Washington Daily News, June 21, 1973]

DÉTENTE MUST BE A TWO-WAY PROPOSITION

(By Crosby S. Noyes)

At this stage of the summit meeting between President Nixon and Soviet Party Secretary Leonid Brezhnev, we still do not know the scope and importance of the agreements that may be reached. We do know, however, the essential fact that the meeting is designed to dramatize.

The United States and Western Europe it seems, are embarked on an irreversible course toward detente with the Soviet Union and no one, including the Russians, seems to know what lies at the end of the road. So far as the West is concerned, even the most general objectives still are undefined.

The necessity for the move almost always is explained in negative terms. The alternative, it is said, is an indefinite continuation of the cold war—meaning, presumably, vocalized antagonism in terms of propaganda, strong ideological tension, the active prosecution of conflicting interests in various parts of the world and a continuing arms race.

Stated in these terms, the alternative of detente seems obviously preferable, almost regardless of what it is. The lowering of voices and tension is accepted in itself as a good thing. It is assumed that the more we talk with each other, the less dangerous the conflicts of interest will become. It is hoped that in time, agreements can be reached that serve the mutual interests of both countries, including, notably, an agreement on strategic weapons systems.

The validity of these assumptions depends, of course, on the extent to which they are shared by the Soviet leaders. And the evidence on this score is not entirely reassuring.

The Russians, indeed, talk a good deal about the need for "peaceful coexistence" with the West, but not very much, if at all, about the relaxation of tensions. Indeed, it has been made clear in all recent Soviet pronouncements on the subject that the renunciation of war as a means of attaining national objectives should intensify the ideological conflict between the "Socialist" and "capitalist" communities. Whatever temporary agreements of convenience may be reached, it by no means implies an end to the inherent antagonism between the two systems which is accepted by every Communist leader as an enduring reality.

So there is another, somewhat more hard-boiled interpretation of the current detente with Russia and the reality behind the summit talks now in progress. Its chief proponent is Sen. Henry M. Jackson, D.-Wash., who is denounced by some as the last of the cold warriors and judged by others to be one of the few public figures who are making much sense at this point on a number of important issues.

The Jackson thesis is quite simple. The Russians, he says, are not seeking closer relations with the West because they have suddenly turned amiable, but rather because they are in serious trouble. The Soviet economy is in critical condition, with severe shortages in many important areas, including food supplies.

In their new contracts with the West, the Soviet leaders are seeking things which they desperately need: increased trade, including large amounts of food grains; scientific know-how and technology for the improvement of their industrial plant and money for the development of their resources in raw materials. They want these things, furthermore, on the best terms they can get, preferably heavily subsidized by American taxpayers, as in the case of the recent wheat deal.

Jackson is not saying that the United States and other Western countries should not do business with the Russians. Indeed, he thinks they should, but on terms that are less one-sided than they have been in the past. He believes, in short, that the Russians should be willing to make important concessions in a number of areas in return for advantageous—and indeed essential—economic exchanges.

One notable example is the second round of the Strategic Arms Limitation Talks which now are in progress. The first round, completed in the course of Nixon's visit to Moscow ast year, represented a victory for the Russians in the form of a substantial numerical advantage in missiles and missile-carrying submarines. In phase two of the SALT negotiations, Jackson believes, the United States should hold out for a rough numerical parity with the Soviet Union in all forms of nuclear weaponry, preferably at somewhat reduced levels.

Other concessions include the coming negotiations on mutual force reductions in Central Europe and—most important in Jackson's view—the freedom of Soviet Jews to emigrate to Israel. The essential point that the senator makes is that a detente with the Soviet Union, to have any real meaning in Western terms, must be a two-way proposition which serves the interests of both sides. This is the yardstick against which the results of the Nixon-Brezhnev meeting should be judged.

[From the Wall Street Journal, June 21, 1973]

CELEBRATING DÉTENTE

Leonid Brezhnev comes to the United States as the living symbol of Soviet-American detente, and the public side of his visit has been one long celebration of a new era of eased tensions. While we are quite willing to join in the festivities, we do not think the celebration should be an uncritical one.

Unquestionably the new spirit of accommodation Chairman Brezhnev and President Nixon have built is an accomplishment of major importance to the world. Apparently it is more important than even Watergate in the eyes of the Senate leadership and the Ervin committee, which has postponed its public hearings because of the Soviet leader's visit. It is certainly true that if actually achieved, a web of enduring understandings between the United States and the Soviet Union could achieve one of mankind's dreams, a world without war, or at least without major war, for a long time to come.

Despite all the atmospherics of summitry, though, it remains terribly difficult to judge whether such a web of understandings is in fact being built. It is of course possible to view the products of Mr. Nixon's detente as the foundation of something lasting, as the first steps in making peaceful negotiation the accepted and natural method of resolving Soviet-American differences. Unfortunately, it is equally possible to view the concrete results as a series of offers even the most malevolent Soviet leadership would acept as short-run victories.

The strategic arms agreement, for example, allows the Soviet Union to retain its numerical lead in land-based missiles while matching and then overcoming the present American lead in submarine missiles. It also prevents the U.S. from exploiting its lead in antimissile technology, and if the Soviets can catch up in multiple-warhead technology, where their deficiencies leave them at a qualitative disadvantage, they might be capable of wiping out the American Minuteman force with a surprise attack. There are plenty of reasons beyond a thirst for good relations to explain Soviet enthusiasm for this agreement.

The wheat sales are similarly disproportionate. The Russians, faced with crop failures and a serious food shortage, managed to buy up a major share of the American wheat crop at guaranteed prices, in some cases even subsidized by the American government. The Soviets are walking away with their grain, using it to avoid a crisis in their society, and the American housewife is footing the bill through higher prices resulting from reduced supplies.

Now we are faced with the possibility of natural gas deals, no doubt one subject of the Nixon-Brezhnev talks. American companies have already begun serious planning on how to tap Siberian fields to help with the American energy crisis, and up to a point this may be all to the good. But apparently the Russians have even larger plans, dependent on credits now to be paid off with gas later. Even ignoring the potential for danger in speculating on future political attitudes, we wonder whether U.S. money and resources could be more wisely employed to develop clean and efficient ways to use the vast American reserves of coal, an even larger store of potential energy than the Middle East's coveted oil.

The pattern seems to be trading short-run specifics for long-run hopes. The notion might be put as giving the Soviets enough bait to bring them into today's deal and then tomorrow's, in the expectation that as they get hooked on the habit they will become less demanding negotiators. If it works the costs will not matter; most of them are only money. But for our part, we very much doubt that any truly enduring relationship can be based on a series of unequal bargains. If detente is to last, it seems to us, it will have to be based on true reciprocity.

We are all for pushing ahead with the detente that has been started; we see no other way for a lasting solution to the problem of nuclear war. But we are also for pushing harder against Mr. Brezhnev and his comrades; the fate of Senator Jackson's Senate-approved resolution calling for equality in intercontinental weapons in the ongoing SALT II negotiations is perhaps the best single test of whether the Americans push and the Soviets respond.

Only after such a test will we learn whether the Soviets are in fact interested in detente for its own sake, and are accordingly willing to bargain on the basis of equality. And only then will we know whether this week's celebrations are fitting or premature.

[From the Worcester Telegram, Worcester, Mass., June 23, 1973]

BEYOND THE BUBBLY

Americans are basically a friendly and trusting people, so it is relatively easy to get carried away with the atmospherics of the Nixon-Brezhnev summitry. Still, pomp and circumstance shouldn't be confused with substance. The big smiles on the Communist chief's face may not be prompted by his genuine fondness for his new capitalist friends alone.

Encouragingly, some sober voices tend to filter through the sound of the 21-gun salutes. One belongs to Sen. Henry Jackson, an advocate of equal U.S.-Soviet trade.

He wisely realizes that the Russians need us more than we need them; Brezhnev simply must have American economic and technological assistance to fulfill some of his regime's promises. Because the list of goods the Soviets may offer in exchange for our help is very short—even if we include energy sources—it is not unreasonable to expect political concessions as part of the deal.

Sen. Jackson is calling for equality in intercontinental weapons in the ongoing SALT II negotiations—something SALT I failed to guarantee. And he suggests that this country withhold "favored nation" privileges from Russia until the Kremlin revises its inhuman and oppressive emigration policies.

Indeed, a true nuclear parity is essential—despite the Brezhnev-Nixon declaration calling for talks that might lead to a ban on offensive weapons. Existing missiles are much more tangible than promises of future accords.

The emigration issue is equally valid. World War II was fought, to a large degree, to defend the right of self-determination, and the same principle has been the focal point of the Indochina conflict. After World War II, a United Nations legal panel investigated the emigration question, concluding that the free and unrestricted movement of individuals is the most basic of natural laws.

Despite the argument that "whether the Russians let the Jews and other minorities go is an internal matter," freedom is a universal concern. If the so-called free world abandons all concern for the oppressed minorities, everybody's liberty may be soon endangered.

SALT and emigration are only a couple of many possible tests of whether the Soviets really altered their long-range goals. If they have, they should not hesitate to listen to reason.

So far, the detente pattern seems to be trading short-run specifics (American grain, missiles, easy credit and computer know-how) for long-run hopes (Russian gas and good will). We ought to do better than that. We ought to achieve reciprocity.

True, handshakes are better than threats, and a smiling Brezhnev is preferable to a menacing Stalin or a shoe-wielding Krushchev. A truly enduring relationship between the two super-powers would be in everybody's interest. But it cannot be based on banter and bad bargains.

[From the Economist, July 7, 1973]

If You Thought the Wall Was Down, Look Again

Robert Frost once reminded the world, in a well-known poem, that something there is that does not love a wall. At Helsinki this week the division between those who like walls and those who do not emerged as the main feature of the meeting of 35 governments, known to the world as the Conference on Security and Co-operation in Europe and to its Finnish hosts, briefly, as Etyk. President Urho Kekkonen struck the keynote in his opening address of welcome when he cited a modern Finish aphorism: one obtains security, said Mr. Kekkonen, not by building fences but by opening gates.

The Finlandia hall, Helsinki's new pride and joy, was designed by Mr. Alvar Aalto for both concerts and conferences, and although there are inevitably quips circulating about this week's assemblage of foreign ministers being a new concert of Europe (and although some local Sibelius devotees complain about the acoustics) the building is in some ways better adapted for music than for diplomacy. To reach the podium on Tuesday the Finnish president found he had to teeter along a rather narrow ledge at the side of the stage. As ever, Mr. Kekkonen kept his balance. As ever, his success in doing so was observed with relief and admiration by Finland's western well-wishers.

But his open-gate doctrine was promptly spurned by Mr. Gromyko who, making the first of the inescapable series of 35 ministerial speeches that are grinding on through the soporific stickiness of a very hot Helsinki week, managed to sound like a verbose cousin of Robert Frost's stubborn New England hill farmer—the one who said so curtly that "Good fences make good neighbors". The Soviet foreign minister's long oration was a tedious reprise of old tunes, even including a reference to Potsdam. One would not have been surprised to hear him evoke Metternich or Tsar Alexander, for his theme was the nailing down of the established European order and no nonsense about such disturbing things as freedom for Europeans to swap ideas. It was in fact the west German foreign minister, Herr Scheel, who finally evoked the Congress of Vienna, by quoting Talleyrand's judgment: "Too frightened to fight each other, and too stupid to agree".

In Mr. Gromyko's speech and in the Polish, Bulgarian and east German echoes that dutifully followed it, the walls that Mr. Valerian Zorin had doggedly defended in the long talks that preceded this meeting were built up all over again. A grudging acceptance of the necessity for a tightly controlled amount of "contacts between institutions, organizations, and people" (a singularly revealing order of priorities) was heavily qualified by insistence that Europeans must have no dealings with each other except on the basis of "strict observance of each state's laws and customs".

This would all have been depressing news if it had been news. The governments of democratic Europe—both allied and non-allied—approached this week's meeting, the formal first stage of a conference that will go on for months, well aware that it will go on for months, well aware that the only chance of getting the Russians to open any gates will be to nag away at them during the long committee sessions that are to be held at Geneva through the winter. The present signs are that they will keep up this nagging without flagging.

Their basic points were well stated by the first western speechmaker at Helsinki, Mr. Anderson, the Danish foreign minister. The time is long past, he said, for "mere declarations of goodwill" (which are all that the Russians are offering). Real results in terms of more freedom of movement and information are, he went on, essential for the success of the conference in terms of both security and co-operation; this kind of progress could "make detente a living reality, not just a lofty subject for congratulatory statements". When Mr. William Rogers, the American Secretary of State, spoke on Thursday he deliberately tried to assuage any unspoken fears that America and Russia would try to settle everything over the heads of the others. It needed saying.

So the long haul is on. What might once have provided a dramatic opening chord for this concert of Europe—the east German government's international debut—has been muted. Accepted as participants without argument or excitement, the east Germans found themselves at once drawn into procedural tangles of a kind that gave them little chance to play a starring role. Their foreign minister, Herr Otto Winzer, was taking his turn to preside when Mr. Dom Mintoff, Malta's prime minister, captured the spotlight on the opening day by pressing his demand for guest appearances by Algerian and Tunisian spokesmen. After one hour's delay the Maltese proposal was shunted into a special committee. But the episode brought forth the suggestion that this conference, which as yet has no pictorial symbol, might fitly choose a Maltese Cross.

[From the Los Angeles Times, July 7, 1973]

Détente and NATO

(By Joe Alex Morris, Jr.)

Brussels.—Outside the sprawling headquarters of the North Atlantic Treaty Organization here stands a huge bronze sculpture representing the four-pointed symbol of the alliance. Birds are nesting in it. They are neither doves nor hawks but their busy and aimless presence is wryly noted by NATO officials, who are increasingly looking at their own role as one of inconsequential fluttering in a world of changing relationships.

This feeling has been growing for a long time, not only at NATO but throughout Europe. It was capped by the visit of Soviet leader Leonid Brezhnev to the United States and the agreement on the "Prevention of Nuclear War" he signed with President Nixon.

Despite American assurances to the contrary, many European leaders are concerned that the growing American-Soviet cooperation is eroding the basis of the Atlantic Alliance. French Foreign Minister Michel Jobert said the danger is "a condominium of superpowers."

NATO officials were caught by surprise by the nuclear agreement. They were not consulted beforehand, as the Americans were pledged to do, and were only informed of the impending agreement a mere six hours before it was announced. This despite the fact that the so-called "nuclear umbrella" is the keystone of NATO defense strategy.

This budding partnership of the U.S. and the Soviet Union has led to new doubts and questioning in Western Europe. An American here described it as a "tremendously volatile" situation, in which the European allies worry about American intent, and doubt American credibility.

Lujo Toncic-Sorin, the Austrian general secretary of the Council of Europe in Strasbourg, warned that U.S.-Soviet cooperation could lead to "a new Yalta." This was a reference to the historic wartime meeting in the Crimea where Roosevelt, Stalin and Churchill settled the fate of post-war Europe.

Europeans are looking at the nuclear agreement in this light. They see the U.S. and the Soviet Union setting themselves up as, to use Jobert's phrase, a super-power condominium exercising their paternal influence to keep the world in order. The result they fear is increased pressures from within for a more neutralist policy to replace the Atlantic Alliance.

NATO officials are puzzled by the American role in two major efforts toward international detente now going on—the European Security Conference which opened July 3 and the negotiations on troop reductions in Central Europe, which are scheduled to start on Oct. 30 in Vienna. In preparations for the security conference, one delegation head here said the Americans played the role of "a friendly observer. They did not lead the West."

The same official said the Americans were so anxious to get troop reduction talks started before Congress orders a unilateral cutback in American forces in Europe that they were ready to give away the principle of a "balanced" reduction on both sides. This is sharply contested by Americans here, who say the intent of balance is still alive. But the word itself was dropped at Soviet insistence.

Other recent developments on the American side have added to this concern. Presidential adviser Henry Kissinger, in a recent speech, stressed that the U.S. has global interests as opposed to the regional interests of Europe. To some Europeans, he seemed to be relegating Europe to the status of the Mideast or Vietnam, an important part of the world but only one of several insofar as American strategy interests were concerned.

What the Europeans fear is the reaction at home to these signals, however cloudy, of big-power collusion and a decreasing credibility of American security guarantees. This concern focuses on West Germany, where the temptation to make a private deal with the Soviet Union at the expense of the alliance is growing with the expansion of Chancellor

Willy Brandt's Ostpolitik, or growing friendship with the Communist world.

Brandt denies this. But there is growing pressure in this direction within his Social Democratic Party.

NATO's problems have been around a long time. The question worrying NATO leaders is whether this new concern about the American commitment will spur the other NATO nations into greater efforts on their own behalf, to take up the slack in the balance of power they fear as the result of U.S. domestic problems and the growing detente with the Soviet Union. There is little optimism here on this score. Instead, the talk is of Finlandization spreading into Central Europe, with the Soviet Union and its massive superiority in conventional arms playing an increasingly dominant role in the geopolitical power game.

In an era of detente, in which the U.S. and the Soviet Union assign themselves the role of joint referees of the game, some responsible Europeans feel it could happen here.

[From the Washington Post, July 11, 1973]

FREE COMMUNICATION AND DÉTENTE

The debate over whether to continue in a new and public form Radio Free Europe and Radio Liberty, the formerly CIA-run stations broadcasting to East Europe and the Soviet Union, crystalizes a basic issue of "detente." Does that goal require the United States to alter old practices simply because the Soviet Union objects to them, or does "detente" permit or require the United States to take certain steps which it may consider right and essential, even though Moscow objects? The RFE-RL question is made all the sharper by the fact that people who agree on the general desirability of improving East-West relations are on different sides of it. Senator J. William Fulbright (D-Ark.), for instance, has long regarded the stations as "irritants" and "relics of the cold war." But in hearings on a bill to put RFE and RL on a new independent footing, the stations have been supported by the likes of elder statesmen Averell Harriman, writer David Halberstam, and Milton Eisenhower, who chaired a presidential commission set up to study the stations' usefulness in these times of Soviet-American change.

We are persuaded that the stations are now, in a sense, more important than ever. They operate essentially as "home services," providing news and comment that Soviet-bloc governments withhold from their own people. In so doing, RFE and RL express the fundamental Western values of free and open communication—values which it would be a travesty to deny in the name of improving relations with a totalitarian society. It is not, after all, as though anyone in Russia or East Europe is forced to listen to RFE or RL broadcasts. For the United States to join the governments of those countries in censoring the material available to their citizens should be regarded as unthinkable.

Moreover, to the extent that the growth and expression of public opinion are possible in the Soviet bloc, RFE and RL play an undeniable if hard-to-measure role. The guiding assumption is that public opinion in those countries will almost always be a liberalizing and moderating force on their regimes, strengthening the hands of those in the leadership who wish to pursue humane domestic goals. Of course the broadcasts amount to interference in the domestic affairs of the countries receiving the broadcasts but, we would argue, it is interference of a perfectly legitimate sort—no less legitimate than, say, Leonid Brezhnev's meeting with the Senate Foreign Relations Committee. The potential political "cost-benefit ratio" of radio broadcasts as against defense expenditures surely makes the radios an excellent speculative investment.

A purposeful effort has been carried forward in recent years to purge RFE and RL of the more violent exile elements responsible for incitement to revolt and other excesses for which the broadcasts were formerly all too well known. That these stations now operate in public view, not under CIA cover, makes the necessary task of ongoing surveillance all the easier. In the Congress, the House has authorized $45 million of a requested $50 million for RL and RFE. In the Senate, the relevant bill is in the Foreign Relations Committee; opponents of the stations, while they may lack the votes to kill them altogether, may be able to enforce a severe budget cut. We trust that floor majorities in both houses will have enough understanding of the value and utility of free communication to fund RFE and RL at an effective level.

[From the New York Times, July 11, 1973]

HASTE IN EASTERN EUROPE

The rather synthetic good fellowship and less than fully credible mutual cordiality that President Nixon and Leonid I. Brezhnev exhibited toward each other during the latter's visit here last month are apparently symptoms of a contagious diplomatic disease. At any rate Secretary of State Rogers seems to have developed a similar syndrome in his recent contacts with the two most unsavory of Moscow's satellites, East Germany and Czechoslovakia.

In Helsinki last week Mr. Rogers discussed possible diplomatic recognition with East Germany's foreign minister. Mr. Rogers at least had the grace to be embarrassed about the necessity of making this approach public, and claimed unconvincingly that the conversation had taken place because the two men sat near each other at a diplomatic dinner. East Germany, after all, is the country which is still given to murdering its citizens when they try to escape, say over the Berlin Wall from East to West Berlin.

East Germany, it is also worth remembering, is now legally recognized as one of the two successor states to the Nazi Germany ruled by Adolf Hitler. As such it shares a good part of the responsibility for the crimes and damage inflicted by the Nazis upon their victims, among whom the Jews of Europe were tragically prominent. West Germany long ago recognized its responsibility in this area and voluntarily paid substantial reparations to Israel and individual Jewish victims. East Germany has still not seen fit to pay a penny or a kopeck toward meeting its heavy share of the debt for Hitler's crimes against the Jews.

From Helsinki, Mr. Rogers flew to Prague, thus becoming the first American Secretary of State to visit there since the 1948 coup that instituted the Communist dictatorship. Mr. Rogers was warmly enthusiastic about helping "to open a new chapter" in Washington-Prague relations. But the Soviet army of occupation that ousted Alexander Dubcek less than five years ago still holds ultimate power in Czechoslovakia, and there is no sign that that most abnormal chapter in Moscow-Prague relations is about to end.

[From the Christian Science Monitor, July 14, 1973]

DÉTENTE—WITH ALL DELIBERATE ALERTNESS

(By Roscoe Drummond)

WASHINGTON.—There is no doubt that the 35-nation European security conference, including the United States, Soviet Union, and Canada, is one of the most exhilarating and promising diplomatic initiatives of this century.

It has taken years to come and now it will be ongoing at a time when much else is also being done to lay the building blocks of a better world.

It comes at the right time and is headed in the right direction.

It is ambitious in its goal, and its goal is to bury the vanishing vestiges of the cold war.

That's good, but it would be a grave mistake to gloss over the fact that there are still deep differences between what the Soviet Union wants detente to mean and what the Western nations want detente to mean.

Soviet Foreign Minister Andrei Gromyko said that Moscow wishes detente to produce very limited East-West "human contacts." He put the Soviet position in pleasantly fuzzy diplomatic language but the thrust of his words was amply clear to the Western foreign ministers. He said:

"This (the idea of widening human contacts between the Communist and non-Communist countries) above all concerns the question of respect for the principles of sovereignty and nonintervention. A departure from this would be rightly considered an attempt to intervene in the affairs of others. This means strict observance of the laws, customs, and traditions of each other. The Soviet Union will proceed from this."

Let's parse that a little. What Mr. Gromyko is really saying is:

That the Soviet Union is willing to expand cultural exchange as long as the Western nations don't invite visits from Russians whom the government wants to keep home.

That the Soviet Union wants scientific and technological expertise in large gobs but doesn't want any free flow of ideas and information which can't be effectively censored from the Soviet population.

That the Soviet Union wants a one-way respect for national frontiers; that is, Western Europe must recognize and respect the frontiers of the Communist countries in Eastern Europe but Soviets may trample the borders of European satellites at will. They do not put it that bluntly, but what they mean is that nonintervention must control Western policy but Soviet intervention in Eastern Europe (as in Czechoslovakia in 1968) is just fine and not to be questioned.

A spokesman for the Soviet foreign ministry dealt with this point gingerly and misleadingly at Helsinki. He was asked if the proposed new guarantee of frontiers would prevent a repetition of the Czech invasion and he said no it wouldn't—in these words:

"In the case of Czechoslovakia there was no interference in the internal affairs but a request by the Czechoslovak Government was met by the Warsaw Pact governments to give it aid. The question of intervention *did not* arise."

The Soviet spokesman did not mention that Alexander Dubcek, the chief of the Czech Government, was waylaid and kept prisoner by the Soviets until others in Prague, obedient to Moscow, could call for the Red Army to come in and rescue them from their own leaders.

These differences may not prevent the conference from making some further headway in dissolving the causes of the cold war. Much has already been done. But the Foreign Minister of West Germany, Walter Scheel, wisely pleads that candor would be better than obfuscation.

"If it were to be shown clearly in the course of our discussions," he said, "that the gap between our views is still too wide, then I think it would be a dictate of honesty to say say so unambiguously."

Robert Conquest, the British Sovietologist, contends that the basic aim of Chairman Brezhnev "is to secure the diplomatic and technological fruits of detente while intensifying ideological and national repression within the Soviet bloc."

Detente will come—in stages—and it will be best to pursue it with all deliberate alertness.

[From the Washington Post, July 14, 1973]

MANY U.S. ALLIES WORRIED BY RECENT SUMMIT

(By Marilyn Berger)

A high State Department official, challenged by a West German legislator to explain just what the United States had gotten out of the two summits with the Russians, had this to say at a conference held in Washington recently.

"I can cite a number of particular areas ... some specific benefits . . . (Before the summit) we couldn't agree on the amount of rent—how many rubles—we should pay for trade offices and apartment space. We reached agreement on this at the summit."

Although he was being quite serious, this official drew a laugh from an audience of Canadians, West Europeans and Japanese. But the laughter was uneasy. For to some of the audience, this just about summed up what good they thought the summit had accomplished. The damage they believed it had wrought became a prime subject for the conference.

The State Department official went on to talk about the improved atmosphere and the relationship between the two leaders, which, he said, should "promote understanding." Over and above everything, he said, the summit was "part of the process of bringing the Soviets into more normal relations with the rest of the world."

This balm did little to soothe the nervousness exhibited by the government officials, legislators and academicians representing some of America's closest allies. The just-completed summit provided a backdrop for discussions that were supposed to be devoted to "the interactions of trade, monetary, energy and security issues in North American-European-Japanese relations." Concern over the impact of the superpowers dealing over the heads of the allies, with little or no consultation, was an undercurrent of the conference, arranged by the Georgetown Center for Strategic and International Studies.

The new summit agreements, complained Roberto Duccia, a high official in the Italian foreign ministry, create superpower condominium. But, he said, "I see no opportunity for the United States to operate in Eastern Europe while there is a lot of opportunity for the Soviets to operate in Western Europe."

Manfred Worner, a Christian Democrat in the West German parliament, was among the most outspoken. The shadow defense minister, for example, was concerned over the new terminology to describe forthcoming negotiations on reduction of forces in Europe. The word "balanced", which the West had always insisted upon, had disappeared. "I'm not quite sure," he said, "that the omission does not mean a substantial change in U.S. policy."

On strategic arms limitations, he complained, the allies were not consulted, but informed two to three hours before the agreement was announced. "If I am to state it simply," he summed up, "I cannot see any advantages in what you got out of the talks with (Leonid) Brezhnew outside of atmosphere. You accepted parity on the strategic level and you have decided to help the Soviets in the field of technology and economy. What have you gotten in exchange?"

When the answer from the U.S. official—who declined to be identified—did not satisfy, Etienne Davignon, director-general of the political section in the Belgian Ministry of Foreign Affairs, tried to give some measure of the impact of the summit in Europe.

"What is the agreement to prevent nuclear war" Davignon asked. "Is it a code of nuclear conduct for the world. If it's not an agreement to manage the world, is it an agreement to manage world peace?" These issues, he said, were all related to "very delicate questions of European integration" which he said was at a critical point. "We know Soviet Russia is not very favorable to European cooperation in defense. We fear the Soviets will use this (agreement) to explain to Western Europe that there is no need for defense."

At such a delicate time, Davignon argued, "consultation is necessary. It is not useful to go out and explain that the agreement is not very important and won't affect NATO. If it's not so important why cannot one tell us beforehand."

Former Under Secretary of State George W. Ball, a late arrival at the conference and a consistent critic of summitry, said that the spectacle of the Brezhnev-Nixon meeting makes it difficult for Americans and Europeans to hate the Russians. "It makes it hard to remember the realities of the power struggle, which is still continuing." He said: "Brezhnev's public words are indistinguishable from any American politician's. It creates confusion and a tendency to think that the struggle of the past is ended."

Ball, who supported the administration in its 1971 successful effort to thwart congressional moves to cut American troop strength in Europe, expressed concern that "the sordid events of the past few weeks" will undercut the administration's position this year. If the United States cuts its strength, West Germany would follow suit, he said, "and you can reach a point where the preponderance of strength is on the Soviet side." This, he said, would have great political impact on Europe.

"There will be no war in Europe," said Professor Walter Laqueur. "There will most probably not even be a threat of war . . . Yet Soviet overwhelming strength will make itself felt in many ways . . ."

The theme, repeated over and over at this conference, was that the summit and its related agreements can interfere with European political integration precisely at a time when the whole purpose of the Western alliance has come under question. Klaus Goldschlag, a senior official in the Canadian foreign ministry explained the problem of dealing with detente today.

"We are now living with a generation that was not present at the creation (of the Western alliance) that asks to be convinced that arrangements we made 25 years ago maintain their validity," said Goldschlag. "There is no question that detente . . . leads to questioning the use of resources for defense. Public opinion questions the purchase of power that is largely unusable. . . . Priorities are different. Now quality of life is considered a higher goal and it is asked whether there might not be as high a return on security through expenditures on development as through expenditures on defense.

"Unless we convince some of those who were not present at the creation . . . that there are, in fact, common interests, it will be hard to justify not only defense expenditures but the alliance itself."

A Japanese university professor, Michimasa Irie, put it succinctly: "The public mood in Japan has changed. There are no adversaries."

The problem, said Pierre Hassner of the French National Foundation for Political Science, is in moving "from cold war to hot peace." He told his European colleagues that "we shouldn't kid ourselves that we will have the same level of (U.S.) troops in Europe . . . We have to think about how to go to the Europeanization of NATO."

Francois Duchene, director of the London-based Institute for Strategic Studies, saw a "very dangerous trend" in a force cutback by the West. He called for a "spectacular reassertion of relations between the Western countries" and for a multilateral fund to remove balance of payments issues from the stationing of American troops in Europe.

But even without the troop question, trade issues loomed large as an adversary problem between the allies.

While the American Congress is trying to develop trade legislation, many of the European participants made it clear that U.S. negotiators would be in for some tough bargaining. Pierre Uri of the Atlantic Institute said that the European Economic Community's common agricultural policy—a major target for American negotiators—would have to change because it hurts the Europeans themselves. But the Europeans in the seats of power saw things differently. Dr. Hans Herbert Weber of the West German Ministry of Finance replied to Uri: "The EEC ministerial council thinks rather along other lines . . . they do not think of ways of changing variable levies or prices in the system."

A similar attitude was displayed by Rep. Joe D. Waggonner (D-La.) who said the United States was providing a "free ride" for countries like France on defense matters which exacerbated an already angry mood in Congress that is based on a perception of not having gotten a fair shake in the Kennedy Round trade negotiations of the sixties.

Another aspect of the problem was brought up by Weber, "Was it really wise," he asked, "for the U.S. to talk about export quotas while the EEC was thinking about a (negotiating) mandate? In Europe there are already comments to the effect that the Americans don't need to export so much to Europe. They have export controls themselves."

A main goal of the U.S. negotiators was to open European markets to American agricultural products. The export controls appear to have confused the issue. Rene Foch of the EEC delegation to the Organization for Economic Cooperation and Development predicted that control of exports would bring an argument within the European community. "Are we going to rely for purchases on a market which depends on the state of agriculture in Russia," he asked, alluding to U.S. grain sales to the Soviet Union.

The answer, to problems of defense and to problems of trade, was more consultation, in the view of the members of this conference. The high American official, who got the message over and over, provided little assurance. "On the question of consultation," he said, "all I can say is we do our best. We do what we can, what we think is appropriate."

AMENDMENT OF YOUTH CORRECTIONS ACT NEEDED

Mr. BEALL. Mr. President, recently there was an article printed in the Star-News concerning the use of the Youth Corrections Act under guidelines established by the Court of Appeals for the District of Columbia. I believe this article bears out my contention that amendment of the Youth Corrections Act is urgently needed to prevent its abuse. There is no question that when the act was first introduced it was intended to be used at the discretion of the trial judge in cases where he felt the young man could benefit from its provision. It has now turned into a loophole through which the most serious offenders escape punishment which would normally be imposed on them. I ask unanimous consent that a copy of the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star, July 6, 1973]

COLLEAGUES DESTROYING YOUTH ACT, JUDGE SAYS

Judge George E. MacKinnon accused some of his colleagues on the U.S. Court of Appeals yesterday of destroying the Youth Corrections Act program here by requiring judges to sentence "roughnecks and sophisticated criminals" to facilities for youthful offenders.

MacKinnon's remarks came in a dissent

in a case in which the majority—Chief Judge David L. Bazelon and Judge J. Skelly Wright—ruled that a 19-year-old who pleaded guilty to charges of armed robbery and attempted armed robbery should have been sentenced under the Youth Corrections Act.

Under the act, a convicted criminal who is less than 22 years old can be given an undetermined sentence in a federal youth corrections facility.

The convicted person can be released whenever authorities feel he has been "rehabilitated."

This contrasts with adult sentences under which a person must serve a specified minimum term in jail.

Bazelon and Wright vacated the concurrent adult sentence of two to 10 years' imprisonment and one to three years' imprisonment which the defendant, Anthony A. Riley, had received from District Court Judge John Lewis Smith, Jr. in March 1972 and ordered that he be resentenced under the youth act.

The judges held that the adult sentence violated recent appeals court rulings requiring that youthful offenders under 22 years old be sentenced under the youth act unless detailed reasons could be given why they could receive "no benefit" from such rehabilitative treatment.

MacKinnon said in his dissent that Riley had an "extensive criminal record" dating back to 1965, consisting of 13 charges that include petty larceny, housebreaking, disorderly conduct, robbery, attempted second degree burglary and armed robbery.

MacKinnon said that "we cannot continue to herd hardened criminals (with records such as Riley's) with eligible youth offenders. To do so harms both the eligible offender and the ineligible offender because neither gets the treatment and supervision he requires."—Mary Ann Kuhn.

HARRY SCHWEIKERT RETIRES FOLLOWING 25 YEARS OF SERVICE TO PARALYZED VETERANS

Mr. RANDOLPH. Mr. President, as chairman of the Subcommittee on the Handicapped, I call attention to the retirement of Mr. Harry A. Schweikert, Jr.—after 25 years of service—from the Paralyzed Veterans of America.

Mr. Schweikert, who is a paraplegic himself, has been an inspiration to other veterans who are themselves handicapped. He has been gainfully employed and has led an active, dignified, and useful life. He opened the Washington office of the Paralyzed Veterans of America nearly a decade ago; has served this organization in many capacities; and has worked closely with the Congress to make its Members more aware of and sensitive to the problems and needs of handicapped veterans.

Harry Schweikert's concern, however, does not stop with veterans; it includes all handicapped persons. For instance, 2 years ago Mr. Schweikert developed an excellent paper on the right of the handicapped traveler to air transportation and presented it to the Civil Aeronautics Board. It is a document upon which the CAB and Federal Aviation Administration could have based a policy and rulemakings for the travel of handicapped persons. Today, CAB and FAA could still use Mr. Schweikert's proposal as a basis for rulemaking, if they will only do so.

In April of this year he authored an article which appeared in Paraplegia News and which pointed out that certain airlines were becoming more restrictive in both attitude and policy toward transporting disabled individuals. As a result of this article, I took steps outlined in the June 12, 1973, Congressional Record, which included contacts with the Air Transport Association of America and the Civil Aeronautics Board to urge a speedy resolution of the problems concerning the air transportation of handicapped individuals. Needless to say, it was gratifying to learn that FAA had issued an advance notice of proposed rulemaking on the safety aspects of air travel for the handicapped. For those of us working in this critical problem area, Mr. Schweikert's counsel and assistance have been invaluable. If the new FAA action leads to a national standard, as I hope it will, it will be attributable in large degree to Harry Schweikert's perseverance and ability.

This represents just one small segment of Mr. Schweikert's activities. His work has encompassed vocational rehabilitation and employment of the handicapped a well as transportation and architectural barrier elimination. It is an understatement to say that he will be missed, not only by veterans but by everyone who is concerned with the rights of the handicapped. I can think of no more fitting tribute to him than to continue his work until every disabled man, woman, and child will have opportunities equal to their peers, to live happy, dignified, and productive lives.

MUTUAL BALANCED FORCE REDUCTION NEGOTIATIONS AND HUNGARY

Mr. THURMOND. Mr. President, recently the preliminary phase of the Mutual Balanced Force Reduction—MBFR—negotiations ended at Vienna and the full conference was agreed on for October 30, 1973.

The preliminary phase of the negotiations was focused on deciding who the participants should be and what forces would be included in a future agreement.

Five NATO powers made a temporary compromise which excluded Hungary from these talks and reduced her to an observer status. The compromise was, however, made without prejudice to Hungary's status at the main conference, according to NATO spokesman Bryan Quarles van Ufford, both at the time of the compromise and at the conclusion of the preliminary talks on June 28.

The exclusion of Hungary appears at best an unwise maneuver. Any MBFR agreement would have a direct bearing on the already precarious military balance in Central Europe and the omission of 40,000 crack Soviet troops in Hungary from the troop reductions would make little sense.

This key point was made recently by Gen. Lyman L. Lemnitzer, former NATO Supreme Commander and former Chairman of the Joint Chiefs of Staff, speaking at the June 14 luncheon of the American Institute on Problems of European Unity in Washington, D.C.:

> It is very difficult to understand from a military point of view the exclusion of Hungary. It is the opinion of many military people with whom I am associated that if accepted permanently, Hungary's exclusion would gravely affect the situation in Central Europe. It certainly does not spell any hope for the satellite countries to achieve a greater degree of sovereignty, and particularly it would not spell hope for Hungary. It gives the Red Army and Red tactical forces a beachhead, or as I would put it, a sanctuary right at the crossroads of Europe where they can move forces and equipment into, and still be excluded from the area of an MBFR agreement.

Mr. President, in view of these circumstances, I am joining my colleagues in both Houses of Congress in urging the administration to stand firm on the temporary character of the compromise and to use its diplomatic influence to grant Hungary the status of a full participant so that the Soviet Union forces in Hungary will also be included in the projected mutual and balanced force reduction.

FOOD PRICES

Mr. RIBICOFF. Mr. President, one thing is certain about phase IV. Prices will continue to skyrocket. Eggs and meat—basic staples in the American diet—are quickly becoming delicacies. Prognosticators are now predicting that beef will soon cost $2 a pound and eggs will soar to $1 a dozen.

The American grocery shopper is reaping the dubious rewards of decades of ill-considered agricultural policy.

The new farm bill now in conference will not only aggravate the situation, but could lock in a new high cost farm policy for 5 more years. In choosing between the House bill and the Senate farm bill there is no choice at all. They are both detrimental to the American consumer and the family farmer.

I urge President Nixon to veto the farm legislation when it comes before him.

I ask unanimous consent that an editorial from the Sunday, July 21, 1973, New York Times be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Assuring Farm Inflation

With food prices rocketing upward this past year, profits of commercial crop growers have been soaring at a fabulous rate. Department of Agriculture statistics tend to minimize the rate of enrichment of large farmers, but even they give important clues. This year, for example, the department estimates farm profits will exceed $22 billion, i.e., they will be 40 per cent higher than they were as recently as 1970.

Meanwhile in Congress, the still-potent farm bloc—with the support, incredibly, of many Representatives from urban working-class districts—has been succeeding in a drive to assure permanent super-prosperity for the nation's commercial farmers by defining inflation-swollen prices as the new norms for future Government subsidies.

An unconscionable new system of farm price supports is contained in the omnibus farm bills that have now passed both houses of Congress and which await reconciliation in conference. For example, a system of "target prices" has been set at levels far beyond any normally known in the past. At any time the market price fell below these inflated "targets," the Government would be required to make good the deficiency by direct payments. This economically expensive inflationary device provides that the "target prices" must be increased regularly in accordance with an index based on production costs.

To the shame of the liberal and pro-labor elements in both branches of Congress, it is only the Nixon Administration and its supporters in Congress who have been trying to stem this potential raid on the Federal Treasury. Until this week it had seemed that the threat of a Presidential veto might force some restraint on the greedy appetite of the farm bloc. But now a deal between liberal and farm bloc representatives has raised the danger that this profit insurance scheme for the country's large farmers will become veto-proof because it will have enough votes to override in both chambers.

There is in effect an alliance for inflation now riding high in Congress. The farm bloc wants and is close to getting guaranteed high prices in the future, building much of this past year's inflationary surge in food prices permanently into the profit structure of American agriculture. Liberal and pro-labor Congressmen want higher minimum wages. The two groups are supporting each other.

There is little comfort to be had in the apparent approval both houses have finally given for a $20,000 ceiling on farm subsidy payments per recipient. Rather, the rush toward appeasing the farm bloc suggests that before the final bill is passed, either the limitation will have been removed or enough loopholes will have been supplied to make its impact negligible.

HOW TO TEACH THE YOUNG ABOUT DEATH

Mr. BEALL. Mr. President, as a member of the Senate Labor and Public Welfare Subcommittee on Children and Youth, I have come to realize that now more than ever one of the greatest natural resources of our country is our younger persons. To say that the future is literally in their hands is an understated truth, for they must be the leaders of tomorrow. As such, they should be provided with the facts to deal with the challenges which will surely confront them in the next decades.

Often an individual is faced with the task of relating information on relatively unpleasant subjects. One of these is death. This subject is dealt with in a remarkably sensitive manner by Jan Peter Ozga and Peter G. Miller in an article entitled "Mommy, What Happens When I Die?" which appears in the spring 1973 issue of Mental Hygiene. I highly commend this brief but enlightening article to my colleagues and ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[Source: Spring 1973 issue of MH (Mental Hygiene), Journal of the National Association for Mental Health]

How To Answer the Question: "Mommy, What Happens When I Die?"

(By Peter G. Miller and Jan Ozga)

DEATH SHOULD NOT BE CONCEALED FROM THE CHILD

Although many enlightened parents are prepared to answer the question, "Where did I come from?", few will discuss another query from their children, "What happens when I die?"

Even as questions relating to birth and sex have been shrouded in fantasy or avoided, the concept of death has frequently been treated with equal irresponsibility. The consensus of many authorities is that death has replaced sex as the taboo subject of our times.

The single greatest problem in discussing death, religious concerns aside, is that it represents the unknown. A Gallup poll taken several years ago indicated that only a quarter of those surveyed believed in life after death.

Today, there is a new awareness of death. In fact, several observers maintain that drug usage (escape and mortality transcendence) is a means of psychologically escaping death. Communal living (strength in numbers) is also viewed as a form of death avoidance.

Most studies reveal that children think of death, but within various conceptual boundaries. They also accept it in several stages.

For instance, before the age 3, children do not have intangible or abstract ideas and so do not understand the concept of death. From 3 to 5, they learn to distinguish between animate and inanimate objects. Although a child may have a limited understanding of death at this time, he will deny its existence.

Children in the 5 to 9 age group become aware of both death and the sorrow it can bring. They observe living things, such as flowers, pets or people dying, and they will agree to the finality of death (getting old, body decay) but not to the universality of it ("not to me"). During this age period, death becomes personified, and children identify such concepts as the *boogey man* or the *angel of death*.

By age 9, or soon thereafter, most children have witnessed death and wondered about its causes and life afterwards. At this time the child finally accepts the fact that he will die. Even so, he continues to believe that the event is so distant that, in effect, it is impossible. Not until children reach the age of 12, do they understand the generality and impersonality of death.

Parents can help their children understand death, an understanding that is important in the development of any child. Regardless of the motivation for inquiry, be honest. No fairy tales. Be objective but not too technical. A child may not be ready for biological or philosophical explanations. Complex discussions may only confuse him. Only answer what is asked.

Often children will ask about death in relation to a specific experience, such as the death of a pet or insect. Parents should sympathize with the child's loss. In explaining death, physical contact should be maintained, while the parent reassures the child that he is loved and that those who care for him will live together for a long time.

In discussing death there are some things parents should avoid.

Never tell a child that a dead person went to sleep. Children hearing this explanation may refuse to go to bed for a long while thereafter or develop other psychological disturbances, such as a fear of the dark.

Never tell a child that God took someone away because He loved them. The child may develop a distorted sense of motivation (reward and punishment), values and morality.

Never use death-related threats to motivate a child. Comments such as "the boogey man will get you" may disturb him, particularly in the personification state of development.

Most authorities agree that by age 7—the accepted age of reason—children are old enough to attend a funeral. A parent's reaction is transmitted to his children and, depending on his understanding of the process, a child should participate in the mourning process.

Children tend to view death as an aggressive act. Shielding the child from the event may cause him to think that he was in some way responsible for the occurrence and the temporary sorrow that followed. Grieving is considered a healthful, natural experience.

Dr. Daniel Leviton, a professor at the University of Maryland, suggests that information should be germane to the child's experience and perception.

In the instance of a terminally ill child, Professor Leviton feels that parents should retain close contact with the child and allow him to use his own mechanisms—verbal or symbolic (drawings, acting, others)—to express his ideas about death.

Dr. Leviton, who teaches *Death Education and Suicide Behavior*, one of 10 such university-level courses in this country, says: "The skillful listener should help him vent his fears and tell him that death need not be painful, for everyone dies."

Dr. Elizabeth Kubler-Ross, considered the world's leading authority on death, believes that children who have ominous feelings about their fate and express them in word and action tend to view their death more positively, more serenely, after they are allowed to express their feelings. As a result, these children adjust to their condition and live their remaining days in relative peace.

"Telling the child he is going to die depends on his ego strength," according to Professor Leviton. Not all children are capable of coping with the truth. If the child does not pursue the subject, it is frequently prudent not to force the issue.

Certain cultures, even within the United States, tend to cope with death better than others. For example, rural residents seem to adjust to the inevitability of death more easily than the urban population at large.

"The city person usually asks me to spare no expense in order to keep a dying relative alive," states Dr. Robert Leachman of St. Luke's Hospital in Houston. "But the rural person, who has lived his life in close contact with the cycle of nature, accepts death more readily as a fact of life."

In part, these different patterns of death acceptance can be attributed to personal orientation. Maryland's Leviton advocates more research in the area of death education, so there will be a greater public understanding of this subject. Through death education, perhaps as part of regular school curriculums, he hopes to "remove the mythology, so people can face death—their own deaths and the deaths of others—and therefore live happier lives."

If a child is to understand life, he must also have some familiarity with death. As Dr. Margaret Nagy comments. "It is really not possible to conceal death from the child nor should concealment be permitted. Natural behavior in the child's presence can greatly diminish the impact of his acquaintance with death." It may be bad news for the "boogey man," but it's good news for kids.

THE SYMBOLIC IMPORTANCE OF THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, there are those who fear that the Genocide Convention might not be effective. I disagree with this appraisal, but regardless, I don't think it can be denied that symbolic acts are important, too.

Genocide is a crime abhorred by the civilized world. The desire to prevent the occurrence of genocide arose after World War II witnessed Hitler's methodical destruction of the Jewish population. The world was outraged and wanted to see to it that this annihilation would never happen again. This led to the creation of the Genocide Convention.

The fact that at least 75 nations have become signatories to this treaty proves that worldwide concern exists. Our country has always prided itself on our humanitarian beliefs, and our human rights record until now has certainly been an admirable one. But I find it hard to understand why, after all our previous efforts, we have stopped here.

There is no question as to the status

of the United States in relation to the rest of the world. There is also no question but that the prestige of the treaty would be enhanced if we were finally to ratify the convention. The Senate has delayed taking affirmative action on this matter for almost 25 years. The time to ratify is now.

VIETNAMESE ORPHANS

Mr. BROOKE. Mr. President, one of the tragic results of any war is the number of children left alone, without parents, without adequate provision for the necessities of life. This tragedy is underscored by the desperate plight of the Vietnamese war orphan. At present, there are at least 800,000 children—the figure may run as high as 1.5 million young Vietnamese—who have lost one or both parents in the war. While some orphans have been taken in by relatives, countless others have been cast adrift in festering refugee camps, jammed into filthy, overcrowded orphanages or simply left to wander the streets to beg or steal. It is estimated that, throughout Vietnam, 700,000 orphaned and abandoned children are without the adequate food, shelter, or clothing necessary for a minimal existence. As one American doctor has said:

> It is a tragedy of life and limb, the magnitude of which we shall never know.

The problem of caring for these war orphans is compounded by the high rate of child desertion by living parents or relatives. Many families, uprooted and impoverished by the war, are no longer able to care for their children. Out of desperation, they have chosen to abandon them in the tragically mistaken belief that these children will be better cared for by Government authorities or charitable facilities. However, those left at orphanages and other institutions cannot thrive—or generally survive—under the present inadequate living conditions. At some Vietnamese institutions, the mortality rate runs as high as 80 percent. Scores of those orphaned and abandoned are maimed and crippled as well—and in immediate need of specialized medical attention. Without proper rehabilitation, they face lives of unproductivity and isolation in a society that has traditionally scorned the weak and disabled.

The Vietnamese Government may not have the proper resources nor the necessary desire to come to the aid of its abandoned children. Although 8 million Vietnamese—roughly half the nation's population—are under the age of 15, the Government allocates as little as 1 percent of its national budget for the care and rehabilitation of its crippled, diseased, or orphaned children. Maj. Gen. Pham Van Dong, Minister for Veterans' Affairs, has offered an unacceptable justification of his government's inattention to the orphans' misery:

> Orphans are not producers. They are spenders at a time when we need productive returns on our investment.

The United States has also been remiss in establishing adequate aid for the orphans of Vietnam, although many of these children were the victims of American bombings.

The wretched plight of an estimated 25,000 of those orphaned and abandoned is more directly tied to the American presence in Indochina; for these 25,000 children were fathered by American servicemen stationed in Vietnam.

These Amer-Asian children have added disadvantages in their already difficult struggles for survival. As children of mixed parentage, they are the objects of discrimination; as fatherless children, they are accorded minimal acceptance by the Vietnamese society, a society oriented around the family unit. They are treated as second or third class citizens in a country where every advantage does not even guarantee survival.

Adoption by suitable non-Vietnamese families is one possible solution that has been suggested to this problem. However, the Saigon Government has followed a policy of discouraging foreign adoptions by establishing stringent and limiting requirements. In some cases these restrictions have been moderated by the personal intercession of President Thieu. Certainly, it is more advantageous for a Vietnamese child to be reared in his own cultural environment. However, as Elsie Weaver of the World Vision Child Care Agency in Vietnam notes:

> The question is not whether a child will be better off raised in his own culture. The choice is not available . . . There are so many babies in the orphanages who will die unless someone rescues them.

As of late, there has been considerable discussion in the Congress, in the press, in the Nation as a whole, on the appropriate forms of American postwar reconstruction aid. I have already publicly stated my belief that our aid should focus on humanitarian relief for refugees and other victims of the war. Clearly, the question of aiding Amer-Asian children is of a more personal—more morally compelling—nature than simply the requests of foreign nations for our financial assistance. These children are half American. Without our help and concern, many will not survive. Their well-being deserves our immediate attention. For, if we choose not to help them, it appears no one else will.

The present process by which Amer-Asians and Vietnamese orphans are admitted into the United States is long and complicated—even for an American father desirous of bringing his offspring back to the United States. An "illegitimate" child born here in America naturally acquires the full rights of citizenship. In contrast, a child born overseas must be "legitimate;" otherwise he must meet a difficult, if not impossible set of legal requirements to be granted entry into the United States. Yet, the demand for adoptable children exceeds the number available in America. Thus, should we not modify our immigration regulations to permit easier entry and adoption of the abandoned Amer-Asian children by suitable American families? Let us make every effort to give these children an opportunity to live and grow in a family atmosphere, away from the destruction of war.

JULY REPORT OF SENATOR SCOTT OF VIRGINIA

Mr. SCOTT of Virginia. Mr. President, I ask unanimous consent that a copy of my July report to the people of Virginia be included in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

BILL SCOTT REPORTS

THE ALASKAN PIPELINE

There is no doubt that America faces a serious energy problem. We have only 6 percent of the world's population, but consume one-third of the earth's total energy output.

Our supply of domestic energy resources is not keeping pace with our increasing demand, and the United States has moved from a position of self-sufficiency and surplus to one of increasing reliance on foreign sources. Unless we act swiftly and effectively, the problem will become more acute.

One of the most debated and controversial phases of the energy problem relates to the construction of the trans-Alaskan pipeline. After extensive debate, the Senate approved a measure that clears the way for construction across Alaska. The bill calls for changes in existing laws regarding rights-of-way because a recent court decision held, in effect, that the Secretary of Interior had no authority to grant rights-of-way across Federal lands in excess of 25 feet in width on either side of a center line.

I supported the Interior Committee bill on right-of-way modifications and those reasonable amendments and substitutes which called for pipeline construction at the earliest possible date. Although it required Vice President Agnew to break a tie vote, the Senate approved the Gravel-Stevens amendment just prior to the final vote on the Committee bill that mandates construction of the pipeline. An amendment urging study of an alternate pipeline route through Canada was decisively defeated earlier.

If construction begins shortly, Alaskan oil could provide an additional 2 million barrels—more than 80 million gallons—of oil daily by 1980 for U.S. consumers.

While we often hear of possible gasoline shortages, this problem also relates to fuel oil and natural gas for home and commercial use and the overall energy problem.

It is understood that more than 6 million barrels of oil are imported each day to help meet current demands. Alaskan oil, however, would reduce U.S. import requirements by 1980 by almost 20 percent. In addition, our balance of payments deficit, at current world prices, would be reduced annually by more than $2 billion. The Committee Report pointed out that nearly 10 billion barrels of oil were discovered on the North Slope of Alaska in 1968, and these vast reserves (including many trillion cubic feet of natural gas) are yet untapped. A pipeline to transport this oil has been planned and studied for more than four years, and it's my understanding that stringent environmental and technological controls have been assured to cover construction and operation activity.

Everyone is interested in a clean environment and a desire to reduce pollution of our air and water. Nevertheless, it seems to me that our efforts should be reasonable and that our actions should not materially reduce our standard of living. I am also concerned about our dependence upon oil and other sources of energy from outside the country which might be cut off by unfriendly nations and plan to continue to vote in favor of the development of our oil, gas, coal, water power, nuclear, solar and other resources in every reasonable way. To do otherwise would jeopardize our country's defense in time of war and our standard of living at all times.

MINIMUM WAGE BILL

The Senate passed a minimum wage bill (S. 1861) on July 19th providing for increased minimum wages for workers throughout the United States. Under the new proposal, minimum wages would be increased from $1.60 per hour to $2.00 per hour for the year following the date of enactment and $2.20 per hour thereafter. The minimum wage for agricultural workers would be increased from $1.30 per hour to $1.60 for the year after the bill is enacted, $1.80 during the second year from this date, $2.00 during the third year and $2.20 an hour thereafter.

Prior to agreeing to S. 1861, the Senate defeated alternative proposals that would have provided increases in the minimum wages over a period of time with lower rates of pay per hour, and others that would have accommodated special employment problems among the youth. I introduced an amendment that would have permitted employers to hire older Americans, those 65 years of age and older, at 85% of the generally prevailing minimum wage. My amendment was not agreed to by the Senate but you can obtain a copy of my remarks upon request.

I have reservations regarding any national minimum wage because economic conditions, age groups, and social situations vary throughout the United States. Certainly, the plight of our older Americans in trying to find meaningful employment in an environment where the government forces employers to pay everyone the same minimum is a case in point.

Although the Senate bill will now go to a Conference Committee with the House, there are clear indications that President Nixon will veto the bill finally agreed upon because he considers it inflationary. Judging from the 64–33 vote in the Senate, there seems every likelihood his veto will be sustained.

NEWSPAPER COLUMN

Approximately fifty of our Virginia newspapers have expressed an interest in receiving a regular report on activities in Washington, and I plan to submit such a column to them twice a month, with the first report being prepared shortly after Congress returns from the summer recess.

CONSTITUENT VISITORS

Constituents from throughout the State have visited the office during the summer months to obtain passes to the Senate gallery or information about sights to see in the Washington area. Among those visiting since the last newsletter were the following: David Schumacher, Portsmouth; Mrs. Carl A. Serger, Hampton; Mr. and Mrs. Robert Winston, Norton; Andre Mailliez, Louisa; J. L. Yearout, Waynesboro; J. Taylor, Fredericksburg; Andrea Katz, Norfolk; Geneva P. White, Martinsville; W. A. Herrick, Virginia Beach; James P. Saunders, Roanoke; Eleanor O. Haskins, Chatham; John D. Neff, Staunton; F. William Thomas, Bristol; and E. R. Varyo, Richmond.

LAND USE PLAN

The Senate has passed and the House of Representatives has under consideration a national land use plan. Under the proposal, there would be a new federal office created within the Department of the Interior to which states would submit plans for use of land within the states. These plans would be developed and, if approved, Federal funds would be made available to assist the states and localities for planning and zoning of all property within the respective states.

While the more than a billion dollars which would be provided states and localities by the Federal Government under the Senate bill is very tempting, planning and zoning of private property in the past has been regarded as a state and local matter over which the Federal Government has had no jurisdiction.

I am always concerned about the Federal Government invading a field previously reserved for state and local governments. This can result in the states becoming subservient and the Federal funds being used as carrots to bring about conformity to Federal requirements.

Private ownership of land is highly regarded in our country but we must of necessity submit to reasonable control over its use by our local planning and zoning boards. Master plans often result in areas being set aside for parks, for residential development, for commercial use, for industrial uses and other purposes. A well conceived master plan is generally in the public interest. However, this measure went so far and the Senate version was so detailed that plans submitted to the Federal Government which would include specifications for septic tanks.

I personally do not feel that the creation of any new Federal office with authorization to spend more than a billion dollars to provide supervision over the use to be made of private property within the various states and localities is a wise use of Federal funds and, therefore, opposed the bill. Copies of my remarks on the Senate floor are available upon request.

STUDENT AID

Our office has examined various programs to provide financial aid to students planning to attend college. In the event you would like to have a copy of this pamphlet, please let us know and we will be glad to make one available to you.

WAR POWERS BILL

Both Houses of Congress have considered legislation to distinguish between the powers of the President and the Congress to declare or to wage war. The so-called War Powers Act would make rules governing the use of the armed forces of the United States in the absence of a declaration of war by the Congress. Under the measure the President would be authorized to repel an armed attack or to forestall the threat of such an attack or to forestall the threat of such an attack upon our country, its territories or possessions, or our armed forces outside of the country. He would also have power to protect our citizens anywhere in the world. The Senate version provides that the Presidential authority would lapse within a period of 30 days unless he reported to the Congress and obtained specific Congressional authority to continue hostilities, and that the Congress could by a Joint Resolution terminate his activities within a lesser period of time. The bill, however, would not apply to hostilities in which the armed forces of our country are involved on the effective date of the act. Some opponents feel that the measure should not have been reported by the Committee on Foreign Affairs without consideration of the Armed Services Committee. While the final form of the measure will be determined in a conference between the House and Senate, there is likelihood of a Presidential veto. In such an event the 244–170 vote in the House indicates that that body would not over-ride a Presidential veto.

AGRICULTURE BULLETINS

Our office has a large quota of Agricultural Bulletins, some of which are listed below. If you are interested in receiving any of these publications, please let us know and copies will be forwarded to you:

"Food for the Young Couple."

"A Guide to Budgeting for the Retired Couple."

"Better Lawns."

"Pruning Ornamental Shrubs and Vines."

"Spring Flowering Bulbs."

"The Tomato Fruitworm . . . How to Control It."

"Money Saving Main Dishes."

"Family Food Budgeting . . . For Good Meals and Good Nutrition."

"Exterior Painting."

"Simple Plumbing Repairs for the Home and Farmstead."

PRAYER

The CONGRESSIONAL RECORD each day includes an account of all activities in both the House and the Senate. I especially enjoyed reading the opening prayer offered by the House Chaplain, Dr. Edward G. Latch, last Tuesday, and I would like to share a portion of it with you:

"If any of you lack wisdom, let him ask of God, who giveth to all men liberally and without reproaching; and it will be given him.—James 1:5.

"Lift us out of the ruts of self-righteousness and self-satisfaction. Help us to hear the music of the spheres, the song of life, and to listen once again to Thy call to all mankind—by faith to walk humbly with Thee and to live with one another in the spirit of good will.

"We pray for our country. Free our leaders and our people from all bigotry and all bitterness and give to us all large minds and great hearts that by giving our allegiance first to Thee we may reap the harvest of a common brotherhood."

BEEF SHORTAGE AHEAD?

Mr. HANSEN. Mr. President, I have written Mr. John Dunlop, Chairman of the Cost of Living Council, urging that the ceiling on meat prices be lifted before the September 12 date recently designated by the President. I hope my request will be considered, for the sake of consumers and beef producers, alike.

It is abundantly clear to consumers shopping today for eggs, milk, pork, and chicken, what happens to the supply when a freeze or ceiling is imposed under demand-heavy conditions. Pork and chicken producers, unable to stand the cost of feeding their stock only to receive a price below their production costs, sold or slaughtered chickens and hogs. The result is a shortage of these products in the supermarkets today, and the guarantee of higher prices for the limited supply that is available.

The same situation prevails in the beef industry. When demand is exceeding the supply, the very worst strategy is to depress prices to producers, thus removing any incentive to increase production. A producer who knows he cannot receive a higher price to cover the higher costs of feed and production is not going to expand his herds. In the words of Secretary of Agriculture Earl Butz—

> You don't get more by paying less.

What happened in the poultry and hog industries under the freeze should be a lesson to us, and it should be obvious that it makes no sense to force similar problems in the beef supply.

In addition to the beef producers who are hurt by the continuation of the price ceiling, the packers also are suffering the consequences of this policy. Producers and feeders are holding their stock from market, awaiting the lifting of the price ceiling. Packers are, as their association put it, "sitting on their hands" waiting for September 12 when they can again obtain animals for slaughter.

This situation will guarantee higher prices for beef after September 12. Removal of the beef price ceiling now would go a long way toward encouraging an increased supply. Further, it would put packer employees back to work and minimize the severe dislocations in this phase of the industry.

Mr. President, I ask unanimous consent that a letter from the National Independent Meat Packers Association be printed in the Record at the conclusion of my remarks.

There being no objection, the letter was ordered to be printed in the Record, as follows:

July 21, 1973.

Hon. Clifford P. Hansen,
U.S. Senate,
Washington, D.C.:

At 4:30 p.m. on July 18, the beef industry was further strangled by the Cost of Living Council. The deed could not have been more effective if phase IV had declared a complete shutdown of the beef packing industry.

Locked in with ceilings below cost, beef packers must sit on their hands, with empty plants and wait for ceilings to be removed on September 12 before they can get cattle to process for the dinner table.

The 111-day meat price freeze virtually destroyed the pork industry. The next 55 days will remove beef from the marketplace. The lighter weight cattle marketed since winter can be withheld from the market and fed to heavier weights while awaiting higher prices on September 12.

The price increase bubble will be minimized if beef price ceilings are removed today. A delay to September 12 will cause higher prices and bankrupt many beef packers who cannot withstand the additional losses In addition, thousands of employees will be idled while packers await cattle marketings in September.

Your assistance in getting beef ceiling prices removed is urgently requested. Removal of ceiling prices today will assure beef on the table and at more reasonable prices.

Very truly yours,

John G. Mohay,
Executive Vice President, National Independent Meat Packers Assn.

STATUS OF 701 COMPREHENSIVE PLANNING FUNDS

Mr. MOSS. Mr. President, in recent weeks considerable concern has been generated in Utah, as well as across the Nation, over the status of 701 comprehensive planning funds as provided in H.R. 8825.

A brief history of this legislation indicates that on June 22, 1973, the House of Representatives voted to accept the House Appropriations Committee recommendation of $25 million for 701 moneys. On June 28, 1973, the Senate Appropriations Committee recommended full funding of $110 million for 701 comprehensive planning as provided in House Joint Resolution 512 which was passed overwhelmingly by the Senate last Friday. The Senate voted to accept the Senate Appropriations Committee report on June 30, 1973. The Senate conferees have been designated to settle the differences between the Senate version and House version. As yet, no conferees have been designated in the House.

I wish to indicate my complete support for full funding of the many worthy programs initiated by 701 planning moneys. These funds are a proven success in assisting State and local governments solve many planning problems. They provide an important coordinating function for federally supported planning activities.

Recently I received two letters that express rather well the accomplishments of 701 comprehensive planning funds in Utah. One is from Mr. Albert L. Bott, executive director, Wasatch Front Regional Council, which represents the five counties of Salt Lake, Weber, Tooele, Morgan, and Davis. The second letter is from Mayor Bart Wolthuis of Ogden, Utah.

Mr. President, because of the appropriateness of these letters to the 701 funding issue, and due to the substantiating material that is provided on the proven accomplishments of these funds, I ask unanimous consent that they be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

Wasatch Front Regional Council,
Farmington, Utah, July 18, 1973.

Senator Frank Moss,
Senate Office Building,
Washington, D.C.

Dear Senator Moss: Thank you for your request to provide you with more detailed information on the accomplishments we have made with 701 funds. This letter will not only describe the success the Wasatch Front Regional Council is enjoying, as a result of the 701 program, but it will also mention some of the plans and programs our local governments have enjoyed.

First, let me describe to you some of the compelling reasons why the WFRC is particularly concerned about the continuation of 701 funds. Perhaps the most important reason for our concern is the fact that the 701 monies received by the Regional Council are almost entirely responsible for our coordinated Land Use Planning Program. We have been able to inventory the whole region in a variety of planning areas, which will set the stage for our master planning in the years ahead. We have completed the master plans of the 5 counties within our region and have made some projections, both graphically and quantitatively of their growth patterns to the year 1985. Rather dramatic conflicts in land use development patterns are apparent. We hope to alleviate these problems through our planning activities. Part of our 701 program for the coming year will be the development of Alternative Regional Growth Patterns to be adopted by all the elected officials in the five counties. This plan adoption by the elected officials from all the incorporated areas in our region will greatly insure the success of the plan implementation.

We have a technical committee (Tech Com) composed of the Planning Directors of the 5 counties in our region, plus the Salt Lake City Planning Director, who meet together regularly to monitor our planning efforts and to add comments where needed. This cooperation of the top planning professionals in our region working toward an equitable regional plan is a direct result of the 701 program.

Perhaps the greatest assist 701 planning has been to regions and local governments alike, has been its extraordinary flexibility. Through it many planning techniques have been developed which have shaped growth patterns of cities, counties, and states all over the country. This single source of funding has been instrumental in developing the coordinative management framework which is presently aiding cities, counties, and regions to better serve the general public. It has been and continues to be one of the great innovative devices in Federal funding. It is now serving as a glue mechanism via the regional council for coordinating the many local plans in the Salt Lake-Ogden SMSA. (The new Salt Lake-Ogden SMSA was created in April of this year by OMB.)

I will now more specifically list some of the accomplishments of the 701 program over the last 12 years. 701 funds were utilized in the development of culinary water, storm water, and sanitary sewer Master Plans in all 5 counties of the WFRC. Comprehensive master plans have been developed for all five counties, and many of the cities within the counties. Recreation and open space master plans have been developed by Salt Lake and Weber Counties in the last two years. Citizen participation in the planning process has been almost exclusively the result of the 701 program. A variety of more detailed specific task oriented master plans have also been accomplished, i.e. Jordan River Parkway, Weber River Parkway, Cottonwood Planning District, revitalization studies of small city CBD's, Little Cottonwood Canyon Master Plan, etc.

Now, I would like to make some comments concerning the reasoning behind the cuts made by the House Appropriations Committee and endorsed by the full body of the House in a relatively narrow vote on Friday, June 22. My remarks are based on a review of the transcribed comments in the Congressional Record (20975–20980, June 22, pages sional Record (June 22, pages 20975–20980). It appears thus far that the 701 program has been a battle of the budget. While reducing the 701 appropriations by $85 million, the House increased the other categorical programs which the President had recommended be cut in anticipation of the Administration's Better Communities Act. It appears that the House would like to continue the categorical grant concept at least until the Better Communities Act has been reviewed and amended.

Another major consideration that appeared in the debate on the floor seemed to be that the Administration's Responsive Government Act will pick up the slack in the 701 program. This act, of course, has not yet been introduced, and will probably meet with prolonged discussion in both House and Senate. It would seem that the full 701 fund appropriation could be used until such time as the R.G.A. is passed or until the R.G.A. is amended to allow 701 funds to continues.

The House also appears to believe that 701 funds in the "pipe-line" are sufficient to handle the next fiscal year's planning demands. However, it should be pointed out that the rate of expenditure formula used in the House Appropriations Committee may have been somewhat premature and did not reflect the true expenditures for the fiscal year; in that a great majority of 701 expenditures come during the last few months of the fiscal year, and are very frequently extended into the next fiscal year.

To summarize, the Wasatch Front Regional Council feels very strongly that the 701 Program should be continued to enable cities, counties, and regional councils to develop and improve their planning practices, and provide a better land management capability.

We appreciate your interest and response to our requests, and hope that we can continue to provide you with comments and information from the regional and local level. May we cordially invite you to attend any of our regional council meetings, should you be in town.

Sincerely,

Albert L. Bott,
Executive Director.

City of Ogden, Utah,
July 2, 1973.

Hon. Frank E. Moss,
U.S Senator,
Washington, D.C.

Dear Ted: I am writing to express our city's concern over the present status of the 701 Comprehensive Planning funds. I understand that the Senate Appropriations Committee has decided to affirm the Administration's request and to stabilize the funding at $110 million, rather than accede to the House Appropriations Committee's $85 million reduction.

Our concern is not unfounded; these monies have been most necessary and useful to the development presently experienced in Ogden City. Briefly, let me outline the general activity that this federal assistance has made possible:

A. The Ogden Redevelopment Agency, once on the verge of floundering has been completely reorganized under the 701 Program and is now actively accomplishing its goals of renewing individual units and entire neighborhoods.

B. Our Central Business District Development Plan, which has consisted only of talk during the past 10 years, has become a reality with the signing of a contract for construction of a downtown mall-type shopping center about to take place.

C. The Ogden Housing Authority, under a 1970 contract for establishment of 250 dwelling units, has now come within 52 units of its goal. But 500 additional Ogden families are still waiting for decent housing which they can reasonably afford.

D. During the past year, two sets of graduate interns have assisted in the preparation of vital studies which otherwise would not have been completed with the city's small administrative staff. The mutually beneficial experience gained by these students has been a key qualification in their successful searches for placement in meaningful municipal jobs throughout the country.

E. Other important items that have been advanced due to the use of the federal assistance are detailed in the appendix.

I strongly urge the maintenance of the $110 million appropriation, because of the profound impact that the 701 Program has had and will continue to have upon our community. A compromise of this position would certainly not be in the best interests of this country's local governments.

Sincerely,

BART WOLTHUIS,
Mayor.

SENATOR BAKER'S REASON FOR OPPOSING THE WAR POWERS ACT

Mr. BAKER. Mr. President, last Friday, the Senate overwhelmingly passed a measure intended to redress the serious imbalance of power between the executive and legislative branches of Government with regard to the use of the Armed Forces of the United States in the absence of a declaration of war. Although I was a cosponsor of that measure and believe strongly in the need for the Congress to reassert its constitutional prerogatives in this regard, I voted against final passage of the bill.

I did so for a very simple reason. Whereas the Constitution does not clearly distinguish between the President's power as Commander in Chief to involve U.S. forces in hostilities abroad and the Congress' power to raise and support the Armed Forces and to declare war, it does distinguish between which of the branches of Government is responsible for repelling invasions or attacks upon the United States, its territories and possessions. Article 4, section 4: states:

> The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against invasion.

The responsibility for that protection does not rest with 535 Members of Congress, but rather with the President of the United States.

Section 2 of the war powers bill states:

> This Act is not intended to encroach upon the recognized powers of the President . . . to respond to attacks or the imminent threat of attacks upon the United States, including its territories and possessions, . . .

And yet, the bill requires the President to terminate all efforts to defend the Nation unless specifically authorized by Congress within 30 days.

I do not question the ability of any President to gain the approval of Congress for defending this country against invasion or attack. Nor do I question the motives of the authors of the bill, for I was a cosponsor of the measure. But rather, I question the constitutionality of that portion of the bill which requires congressional authorization for defense against invasion.

In today's climate and against the background of my concern for the diminishing authority of Congress, especially the Senate in the field of foreign affairs, my vote against this bill may be neither understood nor popular; however, the requirements of the Constitution are paramount and legislative endeavor in relation thereto must not respond to popularity. I hope for an opportunity to support a war powers measure. I feel that the need for statutory elaboration on the constitutional authority of the Congress vis-a-vis the President is great, and so it is that I reluctantly voted against this measure.

GOVERNOR ASKEW DISCUSSES EDUCATION NEEDS

Mr. MONDALE. Mr. President, recently the Education Commission of the States held its annual meeting in my own State of Minnesota. At that meeting, Gov. Reubin Askew of Florida assumed the chairmanship of this highly important commission.

I had an opportunity to review the text of the speech the Governor presented to the annual meeting. In it he reviewed the problems and challenges facing our schools and pointed to some of the promising movement his own State of Florida has made toward equalizing educational opportunities and educational resources among the school districts.

Governor Askew's remarks are thoughtful and challenging. In order that they may be available to my colleagues and to the public, I ask unanimous consent that they be printed at the end of my remarks.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF REUBIN O'D. ASKEW

Nearly a decade ago, Dr. James Conant provided the vision and Terry Sanford furnished the leadership that gave birth to the Education Commission of the States.

The brilliant educator from Harvard and the most able Governor from North Carolina recognized that the Commission's tasks would not be easy and its challenges would not be small.

Yet I doubt that Dr. Conant, Governor Sanford, or any of the other leaders who helped launch E.C.S., could foresee the role thrust upon us in the decade of the 70's.

For events have brought us to a turning point in the history of our Federal system, and we face today both the challenge and the opportunity of helping the States and local school districts to reassume their rightful roles in educational policy-making.

Court decisions, the concept of revenue sharing and, unfortunately, the present leadership crisis in Washington are challenging the States to reassert leadership in education, as well as in other areas of government.

As a Governor, and as your new chairman, I welcome the challenge and I see as E.C.S.'s primary charge the responsibility to help demonstrate the viability of the States in one of government's most important functions.

History has taught us that our people will turn to the Federal Government if there is a leadership vacuum in their statehouses.

I am a firm believer in the principle that government closest to the people can be both more responsive and more efficient, and I can think of no better way to prove it than in the education of our children.

Many politicians, speakers, writers and scholars have filled many volumes over the years with words on the importance of education to a free society.

But Thomas Jefferson, who said so much so well, probably put it best.

"If a nation expects to be ignorant and free," said Jefferson, "it expects what never was and never will be."

As a politician, I know the value, indeed the necessity, of educating all of the American people.

I know that ignorance is the midwife of demagoguery and oppression; that a man or woman's vote can never be as meaningful as it should be if there's no sound basis for using it; and that there's no politician, no lobbyist and no image-maker so clever that he can turn truly informed people against themselves.

I know that education has indeed been the best hope for certain children to escape the cycle of poverty and fear in this country . . . certainly I could not be standing before you today, as your chairman, without the benefit of a public education.

I know, in short, that the education of the people is a guardian of our freedom, and the master key to our future.

I also know that education, as envisioned by Jefferson and others, has been in serious trouble in recent times, public support no longer can be taken for granted.

Seven years ago, 61 percent of the people questioned in a Harris poll expressed confidence in their system of public education. Five years later, however, in 1971, the confidence figure had dropped to 37 percent of those questioned.

According to a new H.E.W. report, more than half of the school bond issues presented to voters around this Nation in fiscal 1972 were defeated. This change of attitude also has been reflected in the withdrawal of thousands of children from our public schools, and in the hostility with which many citizens have regarded anyone connected with public education.

Parents have been upset by discipline problems, by what they perceive to be lack of achievement by their children, and by what appears to them to be an educational system less and less concerned with either the problems of making a living or making a life.

It's not difficult to understand why this has happened.

For at least ten years now, we have placed on the shoulders of our public schools almost alone tremendous social, political and economic burdens . . . burdens that should be borne by the total community, not just the schools, not just the courts, not any one element of our society. Regardless of what that element might be.

We've asked public schools, in far too

many cases, to act as parents as well as instructors . . . and we've been angered by their inability to do so.

We've too often tolerated waste, inefficiency and executive featherbedding in public education, while continuing to ask for more taxes that do less.

And we've not been receptive to the more creative and independent of our educators, but have often allowed them to be penalized for pointing out problems.

But, worst of all, we've allowed our public schools to be effectively isolated from the people, often limiting citizen involvement to the raising of funds for painting the teachers' lounge or to the setting of dates for a cookie sale.

It's no wonder, then, that education has come upon difficult times.

But no one ever said that education was going to be easy.

And I rise on behalf of education today, not as a prophet of doom, but rather as an apostle of hope.

For I see good tidings in recent developments in Florida and other states around this Nation. I see a deeper understanding of the problems of education in many of our legislatures, and a determination to do something about them.

No other single organization is as uniquely qualified and well equipped to help them, as is our education commission of the states. We have within our membership, our staff and our budget the strength to help education fulfill its promise in this great democracy of ours.

We can begin by insisting that all segments of a community, both public and private, carry their share of that community's social, political, economic and cultural burdens.

And if the time has come to involve the community in its own problems, it's also time to involve the community in the school system's problems.

I suggest that we encourage parents and other citizens to participate constructively, and to use their varied talents to help us solve some of the weightier problems of the individual school and the individual school system.

In Florida, we are establishing in each school district advisory committees whose membership will include parents, students and others broadly representative of the individual community.

These committees will involve lay citizens in the planning and evaluation of our schools at every level.

Their creation is part of a quiet revolution Florida is experiencing in the financing and running of our public schools.

Using the recommendations of a statewide governor's citizens committee on education as its guide, the Florida legislature recently enacted bills that will:

Accelerate the shift of a major portion of the financial burden of education from the local level to the state level.

Equalize to a substantial degree the educational opportunities available to all children, regardless of where in Florida they happen to live.

Free local school districts to spend school dollars with the kind of flexibility that encourages innovation and creativity.

And place with each district and each school the kind of accountability that will make our education system more responsive to the real needs of our people.

These are but a few of the things we are attempting to do in Florida. I am particularly proud that our State is continuing to lead the way toward equalization.

We are demonstrating our commitment to take on a greater share of the financial burden of education at the State level to insure equal opportunities for all children throughout our State.

Under the program I signed into law earlier this week, Florida will achieve 81 percent equalization of funds between our richest and poorest school districts.

We intend to continue this effort in Florida, regardless of court rulings, because we think it is right.

While I naturally take considerable pride in what we have accomplished in Florida, I'm equally encouraged by the educational progress that other States are now making.

All these efforts are designed to restore public confidence in our schools, and E.C.S. provides the needed vehicle through which we can share our successes and learn from our failures.

E.C.S. also provides a forum in which State political and educational leaders can thrash out our policy differences and through which we can speak with a common purpose to the Federal Government in Washington.

This is especially important at a time when the Federal Government appears ready to return educational prerogatives to the individual States. And at a time when the Congress is reemerging as a co-equal in our three branches of Government and is beginning to reassert its proper initiative in the policies of our Nation.

From all indications, Congress is not going to pass the President's special education revenue sharing program this year.

Instead Congressmen probably will be seeking to work out their own plan for the revitalization of elementary and secondary education. We must be ready to help them, and to speak with a unified voice for policies representative of our States and our people.

And we must demonstrate that we, too, are prepared to assume our proper role and responsibilities in our Federal system.

We must demonstrate our willingness to reexamine our own tax structures and to require every person and every interest to pay, to the best of their ability, their fair share.

We must convince our people that tax reform is the only appropriate means to tax relief. This means closing exemptions in local property taxes, as well as plugging loopholes in State taxes.

And it means requiring fair, realistic and uniform property assessments within our States.

Elimination of inequities in our tax systems will enable us to tackle the even more difficult task of conquering the inequities in our society.

In our land, education has always been recognized as a means for man to reach for the ideal and to share his own destiny.

In our democratic society, the destiny of the individual must necessarily be the destiny of the Nation. We can only be strong as a nation if we are strong as individuals.

We must therefore direct education toward the individual.

Education must provide the relevant knowledge and training to earn a living, and to live a satisfying and productive life in an increasingly complex world. Our academic and vocational programs, at all levels of our education system, must have as their common goal the preparation of the young for a lifelong love of learning, living and self-realization.

Our funding programs must be designed to make equal and quality educational opportunities available to all our people according to their ability and desire rather than their wealth, their race or place of residence.

Our education programs must be designed to give local school districts, and even local schools, maximum freedom and flexibility in deciding how to best meet the broad goals of state and federal governments.

Beyond high school, our public and private educational opportunities must be less duplicative and more diverse to help meet the demands of a highly technical and fast-changing world.

Our educational goal is not to achieve uniformity but, rather, to fully utilize the rich diversity of our pluralistic society.

Anatole France once said that "to accomplish great things, we must not only act, but also dream; not only plan, but also believe; not only follow, but also lead."

My hope for this commission is that we will continue to plan and dream and believe not only in our own states and nation, but in our people, and in their ability to make things better.

And my prayer is that we will act, individually and collectively, to make the best of our dreams and plans come true for all people, for all time.

Thank you.

THE AMERICAN HORTICULTURAL SOCIETY

Mr. BAKER. Mr. President, as a member of the Board of Directors of the American Horticultural Society, I would like to take this opportunity to call to the attention of my colleagues in the Senate the acquisition of the Society's new headquarters at the historic River Farm Estate in Mount Vernon, Va.

The American Horticultural Society, which was founded in 1922 to promote and expand interest in the horticultural sciences, is the one national organization that serves the interests of all American horticulture.

In February, 1973, the Society was extremely fortunate in acquiring for its permanent home the River Farm Estate located on the George Washington Parkway about 30 minutes from the Capitol and 5 miles from Mount Vernon. This beautiful and historic property of 27 acres, with over 1,000 feet bordering on the Potomac, was purchased by George Washington in 1757 and remained in his family for over a century. This same property received a good deal of publicity about 2 years ago when the Soviet Government attempted to purchase it as a retreat for embassy personnel. Public protest was so intense that it was necessary for Congress to pass a special act declaring the property a national heritage and refusing approval of the transaction.

The American Horticultural Society is establishing River Farm as a National Center for American Horticulture, where all scientific, professional and amateur horticultural organizations who wish to do so can be sheltered under one roof. Coordinating operations and sharing expenses among member societies will reduce operating costs and permit additional funds to be applied to more productive purposes. This centralized national headquarters will give a public impact, force and focus to the values of horticulture that has to date been unattained in this country.

The acquisition of River Farm has enabled the American Horticultural Society to move its computerized Plant Records Center, the only plant science information center in the world, onto the premises. The center, established under a grant from the Longwood Foundation, is developing a data bank on all cultivated ornamental plants in North America and has, at present, over 300,000 plants on record.

Recently, this resource capability attracted a grant from the Department of

Transportation to help plan a practical program to help eliminate the traditional squalor associated with most surface transportation facilities. The Society determined from its computers which trees, shrubs, and ground covers can best survive air pollution and other stresses of the urban environment in each of 10 hardiness zones of the United States. The Society is the only organization that has this information on record for every climate in the country.

The Department of Health, Education and Welfare is also helping support a multidisciplinary effort of the American Horticultural Society to determine the means by which the role of horticulture in environmental education can be used most effectively.

In addition, thanks to a private grant, the society is researching the interaction between plants and people and the impact on emotional and psychological well-being. Studies have shown that when a human being is under stress, it appears that the presence of plants and the opportunity for close association with them can exert a beneficial psychological effect. Subtle man-plant relationships become obvious in the extreme urban environment where field and forest have been replaced by asphalt and brick. The rewards of horticultural therapy have been demonstrated in correctional institutions, mental hospitals, in homes for the elderly and in the ghetto. The summer edition of the society's magazine, The American Horticulturist, has a fascinating article on this subject.

All of the activities of the American Horticultural Society are interrelated. Together they form a background of experience and information for the establishment at River Farm of a teaching center for research and instruction in the esthetic, medical, psychological and scientific application of horticulture in the human urban habitat.

For the general public, the society is now making plans to make River Farm the center of extensive display and demonstration gardens—some established by the National Plant Societies—where visitors can be shown how their own homes may be landscaped to achieve individuality and beauty.

In addition, it is hoped that River Farm will house one of the major horticultural libraries in the country. The Society is already the recipient of an important collection of books to this end. Presently, no such library exists in the Washington area.

Mr. President, River Farm represents an opportunity to preserve an historic heritage, to establish a national center dealing with one of the most important components of the urban environmental crisis, and to create an American Horticultural Headquarters unlike any other in the world.

The Society, which enjoys non-profit status, is seeking substantial contributions to realize the goals I have described, and to secure the perpetuation of this national landmark in a manner appropriate to its distinguished heritage. Its membership is growing at a staggering rate. In just 2 years, individual membership has increased from 2,500 to over 20,000 members. The American Horticultural Society is also a part of a federation of other horticultural organizations, and thus it speaks to about 70,000 persons in all 50 States.

The goal of the American Horticultural Society is simple. It wishes to maintain a living landscape for the enjoyment of future generations, and it is approaching environmental problems on many fronts in a scientific, dynamic and business-like way.

I am proud of my association with the Society, and I'm delighted to offer my congratulations upon the acquisition of the beautiful and historic River Farm headquarters.

NEW MELONES DAM

Mr. TUNNEY. Mr. President, I have long been concerned with the various ramifications of the New Melones Dam to be constructed on the Stanislaus River.

Although I want to see effective measures taken to protect against the ravages of flood in the region, I have long believed that not enough attention was given by the Army Corps of Engineers originally to spell out the specific plans to mitigate the anticipated environmental and recreational consequences of this project, and Congressman JOHN MCFALL and I have sinced worked with the corps to try to rectify that shortcoming.

I would like to bring to the attention of my colleagues several significant developments which have taken place in the past year affecting this project. First, various environmental groups have obtained an injunction temporarily prohibiting any further construction on the dam. The U.S. District Court in San Francisco heard the case and handed down a decision earlier this year, and the case was promptly appealed to the Ninth Circuit Court of Appeals where the matter currently resides.

In addition, on April 5 of this year, the California Water Resources Board unanimously decreed that the impoundment of the three-fourths of the water sought by the Bureau of Reclamation should be denied. The Board found that:

First, the Bureau of Reclamation could not currently utilize the project water in a beneficial manner beyond the four counties surrounding the project;

Second, the current use of the river between camp 9 and Highway 49 is "a unique asset to the State and the Nation;"

Third, some water is needed for fish, wildlife, and water quality, and water can be stored for these purposes; and

Fourth, the value currently available which would be available from hydroelectric power. For these reasons, the Board decreed that the reservoir could not be filled beyond 650,000 acre-feet—approximately one-fourth full, and thus all the waters stored would be dedicated to fish releases and water quality. The legal status of this order of a State agency upon a Federal Agency is not certain at this time.

These developments have affected the appropriations recommendations for fiscal year 1975. The administration originally recommended $18 million for this fiscal year for the construction of this project, and the House reduced that figure to $16 million. The Senate committee has further reduced the recommended appropriation to $15 million in accordance with the revised corps capability in light of the continued halt in construction pending the outcome of the ninth circuit decision. It is possible of course, that even that decision will be appealed to the Supreme Court and no construction will take place at all during this fiscal year.

Regardless of the outcome of these developments, we have continued to press for mitigation of the environmental impact of the Dam. In a number of letters to Col. James C. Donovan, we sought the following minimum guarantees from the Corps:

First. Provision of a white water recreation area between Goodwin's Dam and Knight's Ferry—or some other more desirable location—to allow a white water recreation to those who presently use the area which would be inundated by the new Dam;

Second. Acquisition of flowage easements for downstream areas to accommodate an 8,000 cubic feet per second non-damaging flow and at the same time provide absolute guarantees for perpetual preservation of 4,000 to 8,000 acres of prime riparian habitat from Goodwin Dam to the San Joaquin River;

Third. Acquisition of lands in fee to provide recreational access to the river from Knight's Ferry to the San Joaquin River;

Fourth. Acquisition in fee of the prime spawning gravels for the preservation an enhancement of anadromous fishery resources of the Stanislaus River; and

Fifth. Acquisition under the corps' recreational authority of the desirable caves in the immediate vicinity of the proposed lake either for preservation or for inclusion in the corps recreational master plan.

In response to that request, Colonel Donovan promised in a letter of September 5, 1972 that "firm decisions have been made" under the authorizing legislation to:

Provide a white water recreation area between Goodwin Dam and Knight's Ferry;

Acquire flowage easements over downstream areas to accommodate an 8,000 cubic feet per second non-damaging flow and at the same time preserve some 3,000 acres of prime riparian habitat;

Acquire lands and fee for recreational access to the river from Knight's Ferry to the San Joaquin River;

Acquire in fee the prime spawning gravels for the preservation and enhancement of the anadromous fishery resources of the Stanislaus;

Acquire under the corps' recreational authority the desirable caves in the immediate vicinity of the lake either for preservation or for inclusion in the corps' recreational master plan.

He further advised that "these decisions are firm commitments and are considered definite, consistent with the project authorization and subject only to the appropriations of funds by the Congress and refinement of functional and design details."

Subsequent communications with Colonel Rockwell—Colonel Donovan's successor—have assured me that the corps fully intends to utilize a portion of the appropriations in the pending legislation for downstream land acquisition in pursuance of the aforementioned promise. These efforts merit the highest priority of the corps on this project. I intend to monitor the corps progress in following through on these commitments in the coming fiscal year.

COMMUNITY DEVELOPMENT PROGRAMS

Mr. TOWER. Mr. President, in early March of last year, the Senate passed, after but 1 day's debate, the Housing and Urban Development Act of 1972, an omnibus bill of considerable breadth, one provision of which would have replaced the current community development categorical grant programs with an improved and simplied special revenue sharing procedure. Unfortunately, though boasting an 80-to-1 vote of approval by this body, the legislation failed of final enactment due to certain problems encountered in the House of Representatives.

Since the Senate action of last year, I have on numerous occasions visited with individuals and groups who have expressed special interest in the community development proposals—mayors, renewal officials, private citizens. Repeated inquiries and requests have reached my office urging that the revenue sharing approach be revived at the earliest possible moment. I am pleased that the enabling legislation has again been introduced on both sides of the Hill and that the Housing Subcommittee of the Senate's Committee on Banking, Housing and Urban Affairs is currently conducting public hearings for the purpose of examining the various proposals.

On Monday, July 16, HUD Secretary James T. Lynn appeared before the Housing Subcommittee as leadoff witness for the hearings and reiterated administration support for the realinement of HUD Community Development programs. Today, before the National Urban League, Secretary Lynn forcefully underscored that support and the need for early congressional action.

Mr. President, I associate myself with the remarks delivered today by Secretary Lynn, and ask unanimous consent that the text of his address be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Remarks by James T. Lynn, Secretary, U.S. Department of Housing and Urban Development, at the National Urban League

In the first part of my talk today, I would like to focus on a form of discrimination against a minority group we don't ordinarily think about.

But first, let me set the stage with a few illuminating facts and figures.

With only five percent of the world's population, and about seven percent of its land area, the United States produces more than one-third of the entire world's output of goods and services.

Our annual gross national product is double that of our nearest competitor, the Soviet Union. Our annual exports *alone*—while only four percent of our gross national production—exceed the annual total gross national products of all but nine nations.

Real growth in our economy—not inflated, but real growth—was almost 48 billion dollars in 1972. That growth by itself—6.5 percent—equalled the combined gross national product of Norway, Sweden, Denmark, and the Netherlands. In fact, it was greater than the annual GNP of 90 percent of the countries in the world. Just our *increase* in output was greater than the national output of 90 percent of the world!

From August 1971, when President Nixon announced the new economic policy, to last month, our output increased by 11½ percent, a more rapid growth than in any comparable period in the last 21 years. In this period of 22 months, four and a half million new civilian jobs were created—more than in any comparable period in our entire history. In the last six months alone, 1.6 million jobs have been added.

In the same 22 months since August 1971, real per capita disposable income—the money that's left for spending after taxes and inflation have taken their bite—rose by 7½ percent. In the past year and a half alone, the average working man's annual income has gone up by the equivalent of four weeks' pay.

What has all this meant to our people? In constant 1971 dollars—that means even after taking out the effects of inflation—the number of families with seven to 15 thousand dollars in annual income almost doubled in the two decades since 1951. The number of families with 15 thousand dollars and over swelled from about four percent to almost 25 percent of the population during the same period.

At the same time, the number of minority American families living at the poverty level—also measured in constant dollars to filter out the effect of inflation—declined from almost one-half to less than one-third (33 percent). And the number of minority families making ten thousand dollars and over climbed from a minuscule level, 2½ percent, to 30 percent.

The housing picture reflected the same trend. In the single decade from 1960 to 1970, for example, the number of substandard housing units in the nation was cut in half.

Why do I recite that catalog of very substantial achievement? For a number of reasons.

First, because that kind of productivity and efficiency, the American system, is the only thing that can underwrite all we hope to do in solving the social problems of the United States.

Second, because all that good news is not without its somber side. The enormous head of steam our economy has built up—combined with various other factors—has led to prices rising at unacceptably high rates. That is why the President took the bold actions he put into effect in the middle of June, followed by Phase IV last week, to put a lid on the spiral without getting us into a permanently controlled economy. In addition, although the progress made is very good news, we are all well aware that not all Americans have shared equitably in the fruits of the American success story.

If we were a poor nation, or if the great majority of our people were existing at a bare subsistence level, our only problem would be to raise ourselves out of poverty collectively.

But our problem is different, the stark contrast between the growing number of beneficiaries of our economic system and those who have, in the main, been denied its bountiful benefits.

The fact is that in this affluent nation, the poor are in the minority.

Within this minority making up our poor are many who continue to be discriminated against in the pursuit of a better life by reason of the color of their skin or other senseless reasons. But a very large segment of our poor, whatever their race, are being discriminated against in a little discussed but nonetheless very devastating and cruel way—by the impact of inflation.

After all, those of middle and higher income may be annoyed and irritated—and rightfully so—that inflation nibbles away at their purchasing power. But as a Miamian was quoted in the New York Times of April 9th, "I'd rather pay $15 for a good steak than $5 for a mediocre one." Or, as reported in the same article, sales of fur coats were up 15 percent last year, with sales expected to increase sharply again this year. Or the sale of eight million color TV sets in 1972, up from 6.3 million in 1971.

The headline on that story read: "Many Finding Inflation No Bar to the Good Life."

But for the poor without decent jobs, for the elderly, for those struggling on small fixed incomes, whether from savings or welfare, inflation is no mere annoyance or irritant. For them, for those minorities, inflation hurts, and hurts badly.

An important way to put an end to this kind of cruel discrimination is, of course, to bring inflation under control, and that is why the President's Phase IV move is important.

But there's a great deal more to it than that. President Nixon, with his multi-faceted approach is attacking one of the root causes of inflation: unbridled public spending without a matching rise in revenues.

The real hoax—and the cruel illusion—is that so many of these increases in spending are *supposed* to benefit the poor. But the fact is that in far too many cases the spending programs involved don't get the job done. Either because too much of the money gets eaten up in administration of the program—by government bureaucrats or government-sponsored bureaucracies in the private sector—or because the particular program really doesn't get at the problems that should have higher priorities.

Does this mean that we are preparing to throw out the baby with the bathwater? Or to scrap all our social programs because they have not done everything we had hoped? Certainly not! After all, the Federal budget for human resources has grown steadily over the past four years, and for this year proposes a record level of funding for human resources programs. A figure of 125 billion dollars, in fact, which is almost double the amount spent on social programs in 1969.

To me, this demonstrates not only that we are not throwing out the baby, but also that we are trying hard to improve the lot of our less fortunate citizens.

Yet, the Federal Government, by its very nature and size, is an impersonal entity. It's tremendously difficult for a huge organizational structure to *show* that it cares—and, more importantly, to make that care *count* where the only meaningful payoff is: at the local scene.

That, fundamentally, is why the President and all of us in this Administration are betting so heavily on the New Federalism. The basic thrust of New Federalism is to push the power, the decisions, the authority and the money as far down the managerial pyramid as possible. In other words, to get the real business of the States and the cities and all other communities—which is the well-being of their people—conducted at their own levels. That is where the knowledge of what needs to be done is most germane; that is where the problems have to be lived with every day; that is where we most need the care and the concern.

The first step was general revenue sharing, which was enacted into law last year. The effect of that law is to send back to State and local governments 30 billion dollars over five years—to be spent in any way the local people, through their elected officials, see fit.

The next step is special revenue sharing, which would also send money back to the States and communities, but for four broadly specific purposes: education, law enforcement, manpower training, and community development. Within each of these areas, again, the money can be spent as locally elected and accountable officials see fit.

These four special revenue sharing proposals call for 6.9 billion dollars during the first year of operation. In community development, the amount is 2.3 billion dollars a year beginning July 1st, 1974. The Better Communities Act, containing this Community Development proposal, went to Capitol Hill about three months ago; hearings are now being held by the Housing and Urban Affairs Subcommittee of the Senate.

The 2.3 billion dollars will finance community development activities in lieu of seven HUD categorical programs; model cities, urban renewal, water and sewer grants and related programs. If the local communities determine that they want to spend their Better Communities money on those same things, they are free to do so—but it is *their* decision to make, based upon *their* on-the-spot knowledge of what they really need.

Or they can spend it on any other program or programs that fit within the broad meaning of community development.

The important thing is that the Better Communities Act would give cities, counties, and States far more flexibility in the financing of community development activities—with *local* determination as to how the money is used. And lest you think a motive was to reduce the budget, I should point out that the proposed 2.3 billion dollars annual funding level would exceed the total appropriation level in recent years for the seven categorical programs that are being replaced.

Above all, the Better Communities Act is grounded upon a four-pronged needs formula, determined on the basis of total population, the extent of housing overcrowding and the extent of poverty—with poverty being given double weight in the formula. The money, in other words, will be apportioned in accordance with genuine need—instead of to communities that can afford the best "grantsmanship" teams, or can afford the matching funds that were a precondition to the old HUD categorical programs.

Furthermore, local governments will not be able to finalize their annual plans without review and comment by the people of the community.

Finally, let me read you a section of the Bill itself: Section 9(a) says: "No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, or be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this Act."

And this provision has teeth in it, because not only are the remedies provided for by Civil Rights legislation available to enforce it, but upon violation the Secretary of HUD has the authority to withhold a part or even all of the funds a community would otherwise be entitled to under the Act—and I intend to enforce it.

Clearly, then, the Federal Government is not turning its back on the cities and other local communities. Leadership, overall policy, guidance and funds will, of course, flow to a significant extent from Washington. But it just does not work—and we have all seen that it doesn't work—to have someone in a marble monument on the Potomac—or even a Federal official in the field answerable only to that marble monument—trying to fit a Detroit, a Des Moines, a Newark or a San Jose into a rigid statistical stereotype—when each one has problems uniquely peculiar to itself.

With the money going directly to the communities where it is to be used, and with the great flexibility afforded in its use, the second-guessing from a sprawling, impersonal bureaucracy in Washington will be eliminated. Layers of control, review, paperwork, application, approval and redtape will be eradicated, so that each dollar of revenue sharing money can do a dollar's work.

That point is absolutely basic. Spending billions and hundreds of billions on social programs is not something the Administration is trying to avoid in order to control inflation. As I already pointed out, the 125 billion dollars in this year's budget is a record high. But using that money *effectively* and *efficiently*—so that it does what it is supposed to do; so that it helps the people it is supposed to help; and so that more and more money and more and more programs do not have to be thrown into the breach of failure—*that* is one of the ways the Administration proposes to do the jobs that need to be done but to keep inflation in check while doing so.

That is why programs that have not worked at all, or have worked only marginally, or cost far too much for the little good they did, have been suspended or terminated. *That* is why bold new initiatives in general and special revenue sharing have been undertaken: to do the most good for the people who need it the most, without feeding the fires of inflation that rob the poor most cruelly of all.

That is why, for example, we have the subsidized public housing suspension. Certainly everyone concerned had the best intentions in the world when, to name one example, Pruit-Igoe was built in St. Louis. Yet there they are, all those tens of millions of dollars in shattered hopes, buried by the wreckers ball and the bulldozer. How much, in the process, have we helped the poor families for whom Pruitt-Igoe was to mean a decent home in a suitable environment? Where are they now?

And what has happened to the people who lived in the 198,000 units of subsidized housing that HUD has had to take back by reason of defaults? How much good did we do them—or the estimated 56,000 more families who may find themselves in the same tragic circumstances by this time next year? How much good have we done them while committing taxpayers to 65 to 85 *billion* dollars in subsidized housing payments over the next 30 to 40 years?

There can't be any doubt that the Administration has tried hard to make the subsidized housing laws work. More subsidized housing was generated in the past four years than in the preceding 34 years!

But the poor return, the results of those subsidized housing efforts, in relation to the huge expenditure, are what finally led to suspension of new commitments under existing programs while we make a real effort to find better ways to do the job. Of course, even with the suspension, substantial subsidized housing starts continue by reason of approvals of applications already in the processing pipeline and honoring past commitments. But we want to come up with better ways of working toward housing in which our less fortunate citizens can live with dignity and pride. And in which they can afford to stay as long as they need to.

That is the principal thrust of our HUD housing study, which is now well on its way to completion. Assistant Secretary Mike Moskow and a staff of 80 people are hard at work going over the 500 responses we've received from individuals and groups whose advice, comments and ideas we asked for. That's about 8,000 pages in all, and every one is receiving attention and consideration.

The recommendations growing out of this study will be ready to go to the Hill, as the President promised, by September 7th—about six weeks from now. I earnestly hope that these recommendations will lead to doing a better job in the work to which we are all dedicated—a decent home and a suitable living environment for every American family.

This, then, is what we are talking about:

Cutting out or cutting back programs that have not worked, or that have had minimum effect at maximum cost;

Refusing to adopt new programs that would only mean more of the same old thing—more Federal waste, overlapping, duplication, and overhead;

Putting the money and the power into programs that can work, and can be administered at the level where they can be most effectively applied.

By all these means and others, President Nixon is determined to help those who have not shared properly in the riches of this nation—and yet at the same time hold down the inflationary pressures that eat away at whatever purchasing power the meager incomes of our poor might otherwise have.

These poorer people of our country are, as I said at the beginning, a diminishing minority—which is one measure of how much we in the United States *have* accomplished.

But the fewer poor there are, the harsher is the contrast between their situation and the general affluence of the nation—and the harder it becomes for them to bear their lot. Believe me, we in the administration *do* care, and we want to approach this problem in the best and most effective way. But we are convinced that the New Federalism, revenue sharing, the Better Communities Act, welfare reform, Phase IV economic initiatives, and the continuation and initiation of categorical programs that do work, all within the framework of sound fiscal restraint, are the kinds of things that will do the job better than it has been done so far, and *really* help our less fortunate citizens.

So let's *all* of us—in and out of government—mute the rhetoric, listen to and learn from each other in an atmosphere of mutual respect and get on with that most important job.

CLYDE E. FANT

Mr. LONG. Mr. President, a valued friend, former Mayor Clyde Fant of Shreveport, La., died earlier this month and has left a profound void in civic affairs in Shreveport, Caddo Parish, and Louisiana.

For 16 years, Clyde Fant served as mayor of Shreveport and his achievements will live after him to serve as monuments to his dedication to public service.

So highly did I regard Clyde Fant that I recommended him to become Mayor of Washington, D.C., when our late and beloved President, Lyndon Johnson, asked me who I believed was the most qualified person for the post.

Mr. President, when Clyde Fant declined to run for office again in 1970 because of ill health, he stepped aside quietly and did not indulge in second-guessing the decisions of his successor. But, when it was necessary for him to help convince the voters of Shreveport that several new taxes were necessary for the city, he lent his influence without hesitation.

Because of Clyde Fant's political acumen, the State legislature agreed to share a portion of Louisiana's tobacco tax with its municipalities. His name always was among those in serious speculation for higher political office, including Governor. For 3 years Clyde Fant served on the Advisory Board of the National Council of Mayors and attended the World Conference of Mayor at The Hague, Holland.

Mr. President, Clyde Fant was active in many civic and religious affairs in the Shreveport area. His death will leave Shreveport and Louisiana poorer. Mrs. Long joins me in extending our deepest sympathies to his wife and two sons, Judge Jack Fant of Shreveport and Dr. Clyde Fant, Jr. of the Southwestern Baptist Theological Seminary in Fort Worth, Tex., and his mother, Mrs. John P. Fant of Jefferson, Tex.

I ask unanimous consent to print in the Record a column from the Shreveport Times and an editorial from the Shreveport Journal:

There being no objection, the column and editorial were ordered to be printed in the Record, as follows:

[From the Shreveport (La.) Journal, July 9, 1973]

Clyde E. Fant

The passing of Clyde E. Fant will be taken as a personal loss by thousands of Shreveport citizens because he was a warm personality who was as he said himself, "not lower than the highest nor higher than the humblest."

Clyde Fant was a native of nearby Linden, Tex., and came to Shreveport as an employe of Southwestern Electric Power Co. He entered politics in 1944 when he was appointed to serve the unexpired term of the Commissioner of Public Utilities. In 1946 he ran for the office of mayor, was elected and was reelected in 1950. He did not seek re-election in 1954 but ran for the office again in 1958 and continued to serve as mayor until 1970. He retired from public office because of ill health.

Mr. Fant's political ability succeeded in getting the State Legislature to give the municipalities of the state a portion of the tobacco tax. This made him perhaps Louisiana's most popular mayor and preceding every gubernatorial election his name was mentioned as a possible candidate. His ability was recognized at the national level and for three years he served on the Advisory Board of the National Council of Mayors and attended the World Conference of Mayors at the Hague, Holland.

Mr. Fant was active in many civic and religious endeavors. For many years he served on the Board of Trustees of Broadmoor Baptist Church and was a past president of the Broadmoor Kiwanis Club.

The public accomplishments of Mr. Fant are too numerous to list here. A newspaperman once asked then Mayor Fant what he regarded as his greatest accomplishment in office. He replied that he would let the public decide that. Perhaps his greatest accomplishment was moulding himself into the worthwhile public servant and private citizen that he was.

The Journal extends its sincere sympathy to his immediate survivors who include his wife, Mrs. Margaret Fant, and two sons, Judge Jack Fant of Shreveport and Dr. Clyde Fant Jr., a professor at Southwestern Baptist Theology Seminary, Fort Worth, Tex., and his mother, Mrs. John P. Fant of Jefferson, Tex.

[From the Shreveport (La.) Times, July 8, 1973]

A Friendship View

(By Stanley R. Tiner)

This is one of those maudlin, intensely personal kinds of columns that journalists invariably swear they will never write, and then turn around and write anyway when the time comes.

It is born out of my tenderfoot days as a Shreveport Times reporter covering City Hall in the twilight days of Clyde Fant. It was like being a young sports writer covering Babe Ruth because Clyde Fant was as big-league as any political figure you will meet.

He had the thing that men admire wherever it exists, whether it be in sports, politics, or in just plain life—class.

The death of Clyde Fant, for the moment at least, recalls not memories of the political power that he wielded, nor for an evaluation of the years of his dominion, but rather that death brings recollections of a very human man.

This was the Clyde Fant behind the facade of office, a man concerned very much with other people, with his friends and his family.

HAD RARE GIFT

He had the rare gift (it was perhaps his most important asset) of touching people with his words and his actions. His ability to shift easily through the emotional gears of humor, seriousness, humility and exaggerated grandeur was extraordinary.

He was a "man-in-the-street" politician of the first order and his death robs the state of one of its last such men He took his campaign to the coffeeshop level of almost every man, whether it was in a public restaurant or a private shanty. It was on this personal level that he built success of unusual dimension.

A single event occasionally crystallizes our mental image of a person and in the shadow of Clyde Fant's death his last moments as mayor come to mind.

On the exterior he tended to be steel-tough but on Nov. 10, 1970, tears washed away that image as he told his city goodby.

"I bow out gracefully, wishing each of you the best things in life," he said.

He then quietly exited through a side door and left City Hall with the sounds of a standing ovation still ringing in council chambers.

He never played the role of Monday-morning quarterback, as he had promised he would not, but when called upon to aid in the passage of city ad valorem taxes which had been unexpectedly defeated on the first try, he personally came back and assured their passage.

Clyde Fant simply told the people that they should vote for those taxes and they did. It was the fitting public gesture that said appreciation better than the more formal and planned events to mark Clyde Fant's stepping down from office.

In those days of basked reflection, days that could have been better spent with friends and good cigars down at his favorite local grill. Clyde Fant chose the hardship of further service when Gov. John McKeithen asked him to serve on the Louisiana Tax Commission.

As in everything once he took on the task he did so wholeheartedly. Those who knew him and knew of his efforts on the commission will tell you he worked day and night and spent months reading the tedious laws and regulations relative to his job.

He and his beloved Margaret were a common sight to air travelers to Baton Rouge as they made their weekly trips between the Capitol and Shreveport.

But of all his achievements none was given the prominence in Clyde Fant's recollections than those successes reached by his sons.

Though both are still relatively young men, they have already reached attainment in their fields. Clyde Fant Jr. is a professor at the Southwestern Theological Seminary in Fort Worth and has just returned from a year's study in Germany.

John Fant has been elected to a Caddo District Court judgeship and has already been mentioned prominently for higher office.

The authorship of their lives and the joy of grandfatherhood were the bright spots that shone through Clyde Fant's last painful year of life.

He savoured that year and lived it to the fullest.

He met the prospect of death by promising his Lord that he would do something good for someone on each day that he was given.

He fulfilled that promise with quiet backstreet good deeds to those he knew, and sometimes for those he didn't know, and he died.

My occupation of editorial writer may dictate for some future day a fuller view of the political life of Clyde Fant, but for now such judgments are subjugated to a feeling of loss, and grief.

Farewells to friends do not require more.

POLITICS AND ECOLOGY

Mr. DOMENICI. Mr. President, it is with great pleasure that I bring to the attention of the Senate a report recently compiled concerning the annual meeting and conference of Politics and Ecology held May 2 in Santa Fe, N. Mex. I am especially pleased with the success of these to formerly divergent groups in working together to achieve mutual goals. From the opening message, concerning a look at current environmental legislation, to the concluding paper, dealing with legislative solutions to the energy crisis, I see great effort and potential success in these two powerful groups that are working together for the betterment of all Americans, today and for generations to come. The environmental groups, with their good cause, and the political groups, with their great influence, can together achieve great success for our society. I am pleased to see this progress and hope it is the first indication of many such efforts in the future. Mr. President, I ask unanimous consent to print the report of the Regional Environmental Education Research Improvement Organization's annual meeting and conference in the Record. Many sectors of society have contributed to this report and I believe it will be of great benefit to all who read it.

There being no objection, the report was ordered to be printed in the Record, as follows:

Politics and Ecology—Annual Meeting and Conference

(Note.—Figures and slides referred to are not printed in the Record.)

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Welcome

(By Sunny Butler)

(NOTE.—Sunny Butler is the Vice President of the Education Committee, REERIO.)

It is my pleasure to welcome you to our conference entitled "Politics and Ecology." This subject is a special favorite of mine because to me the influence of people upon one another is a strength more powerful than money.

On the trip up here, Harry Burleigh talked with us concerning projects he was working on. He said that no matter how much money was involved, he found he was stumped unless he could stir up public interest in a project. He said most specifically the interest of women. He talked about involving the League of Women Voters, Garden Clubs and the Audubon Society. I didn't say 'women' because I didn't want to be a 'female chauvinist.'

Maybe I've told you before about my visit with PR people in Albuquerque but it bears repeating because at that particular time I felt I had one of the most important inspirations of my life and it came about in this way: Ron Hamn who was the moderator of that particular conference and some others were having breakfast together and Ron Hamn was talking about this great conflict with regard to the environment and all the different sides that were involved. When I made my speech I said, "Gentlemen, there are no sides to a globe. What we have here is not a conflict, but a mix. I express my ideas and you express yours. We may not agree at this time or in this place, but somewhere out there in the mix, ideas come together and solutions begin to emerge."

As I was preparing to come here today I got a call from the newly elected vice president of the meteorological society, but now this newly elected officer was approaching me to find out my qualifications for speaking with his quote "objective," "scientific," group. He also mentioned the term 'emotionalism.' Of course I reserved my remarks upon this occasion, but you can be sure that when I have my friend as a captive audience I will remind him that "scientific objectivity," technology, and government combined have not prevented us from getting into the mess we are in. True, they will help to get us out, but scientific objectivity and 'emotionalisms' notwithstanding some other terms like ethics, integrity, and principle will have to be applied, if not by officials, then by the people themselves.

As he went on I was reminded of the new head of the Atomic Energy Commission and her statement that environmentalists are not being asked for their credentials and they are these: We are citizens. Citizens have the right to participate and become involved in decisions which affect them and their lives and they definitely have the responsibility to participate in governmental functions *which belong to them*. I am frequently dismayed and disgruntled that so many people in public life, i.e. officials, agencies etc. seem to feel that the governmental bodies which belong to the people should not be influenced and participated in by the people.

Now we come to the essential point—*politics is people*, what they know, and what they do. We hope to catch some sense of the legislation involved, how it affects us, what it means to industry, our localities, and our nation.

I see a glorious hour ahead of us because I see that we are listening to each other as we never have before. I think we shall look back upon this period of coming to terms with the environment as a time of coming together, of working together, all nations, and all people, for a better quality of life for all. Let us remind ourselves often as we go forward together that there is greatness in all of us; in those we call our enemies as well as in those we name our friends. Ultimately our enemies may benefit us even more than our friends because they make us think; and sometimes they even make us change.

Politics—A Look at Current Environmental Legislation

(By Cooper H. Wayman)

(NOTE.—Cooper Wayman is with the Environmental Protection Agency as the Regional Counsel, Region VI, in Dallas, Texas. Prior to this he was Assistant Regional Counsel, EPA, Region VIII in Denver, Colorado.)

It is a pleasure to be here and talk to you about the Environmental Protection Agency and its programs for quality control of our environment.

I would like to say at the outset that I firmly believe we are beginning to make some real progress on the long road to environmental soundness, and that we are going to see steady improvement the rest of the way. I am a born optimist who believes that, whatever the problem, this country has the ability to solve it. A nation that can send men to the moon and bring them back—not once but many times—surely can clean up the environment and keep it clean.

Since the Environmental Protection Agency was created by President Nixon in December 1970, we have spent considerable time in "getting ready," that is, we have been busy setting up the machinery to accomplish our goals. I don't say that all the machinery is in place, but I assure you that soon we are going to see improvement in the quality of our air and water; we are going to reduce noise pollution, clean up our rivers, reduce noise, and more efficiently dispose of our solid wastes.

My optimism stems first from what we already are doing, second from an in-born philosophy of mine that nothing is impossible. I refuse to be a captive of the past. "It can't be done" is no longer acceptable in our society. At this point we have barely tapped our capacities for doing things. The laws of physics and aerodynamics which enabled our astronauts to get to the moon and back existed a million years ago, but not until these laws were sought out were they discovered and applied. Today we live at the very standpoint of opportunity and look out upon a frontier of new ideas. Since ideas are infinite, our opportunities for accomplishment are unlimited. There may be some inconveniences and uprootings in the process, but I believe we are headed for a better world, particularly in those areas that concern the environment.

As you know, a term of considerable significance to the EPA is "Air Pollution Control Implementation Plan." The Clean Air Act of 1970, under Section 110, sets forth the requirement that each state shall develop implementation plans for attainment of standards. An implementation plan in simple terms is the *workable program* designed by respective states to achieve the adopted ambient air standards within the time frame outlined in the Clean Air Act. At the heart of a plan is the *control strategy* which incorporates *emission limitations*.

The EPA Region VI includes Texas, New Mexico, Oklahoma, Arkansas and Louisiana. All these states submitted implementation plans in January 1972 and have subsequently begun administering their respective programs in accordance with the plans. Each state has submitted in accordance with the plans. Each state has submitted revisions for review and approval as the refinements were needed, and EPA has called for revisions where the plans have been found to be deficient. These options are always open as new information becomes available. Also, where a state fails to correct deficiencies, the EPA must promulgate regulations which it feels are required for attainment of National Ambient Air Quality Standards.

In the case of New Mexico, several deficiencies were noted in the originally submitted plan and consequently, portions were disapproved by EPA on May 31, 1972. Since then, the state has corrected some areas of concern. However, as of today, the following portions of the plan remain deficient.

General Requirements: The plan does not provide for public availability of emission data. Of primary concern in this area is that all emissions data should be available to the public. The New Mexico plan allows emission sources to remain confidential under certain conditions.

Control Strategy and Regulations: Sulfur Oxides: The plan does not provide for attainment and maintenance for the national standards for SO_2 in the Four Corners Air Quality Control Region (AQCR). EPA promulgated a corrective regulation on March 23, 1973, which effectively requires 70% control. The compliance date for primary standards is designated as March 15, 1976.

Further, the plan does not provide for attainment and maintenance of secondary standards for SO_2 in the Arizona-New Mexico Southern Border AQCR. The requirements for submittal of this portion of the plan has been deferred until July 1973 to allow further definition of control strategies relating to smelters.

Control Strategy: Particulate Matter. The plan does not provide for attainment and maintenance of national standards for particulate matter in El Paso—Las Cruces—Alamogordo AQCR. Of primary concern in this region, regarding particulate matter, are the emissions designated as Fugitive Dust. These emissions are mainly generated from unpaved roads and agricultural-related practices. The EPA Administrator granted an extension in time for the development of a plan in the New Mexico portion of the region to allow further definition of the problem and allow time for the establishment of emission factors and an adequate control strategy.

Compliance Schedules: The plan does not require increments of progress for schedules extending beyond January 1974. Periodic points of progress need to be identified and monitored to assure compliance within the time frame of the Clean Air Act.

All other portions of the New Mexico plan are deemed approvable at this time. However, as I have indicated, whenever new information becomes available, a call for revision may become necessary. EPA itself may be the new information source. For example, I refer you to the recent decision to delay for one year the attainment of automobile emission reductions. The fully anticipated reduction—90% on 1975 light-duty vehicles below the 1970 model emissions—will not be achieved until 1976. Many of the state implementation plans took credit for federally-regulated reductions in their calculations for attainment of standards by 1975, and a one-year delay will now require a re-evaluation and possibly introduce transportation control measures in some areas not previously designated. What I am pointing out here is the state and EPA must continuously monitor progress and trends toward attainment and maintenance of standards.

The 1972 amendments to the Federal Water Pollution Control Act gave us a whole new set of tools with which to clean up streams. They mandate a sweeping federal-state campaign to prevent, reduce and eliminate water pollution under two general goals: (1) to attain water clean enough for fish, wildlife and recreational uses by 1983; and (2) to eliminate all discharges of pollutants into the Nation's waters by 1985. For the first time, the law extends the federal pollution control program to all U.S. waters; previously, only interstate waters were covered by federal legislation.

The 1972 law establishes a new system of permits for discharges into the Nation's waters, replacing the 1899 Refuse Act permit program. No discharge of any pollutant from any point source is permitted without a permit, and publicly-owned sewage treatment plants and municipally-controlled discharge points, as well as industrial dischargers, must obtain permits.

We have just recently announced that application forms for certain types of discharges are now available from our Region VI office in Dallas. Forms now available are these: Short Form A, for municipal wastewater dischargers; Short Form C, for manufacturing and mining operations; and Short Form D, for wholesale and retail trade, service and commercial establishments, including vessels. These forms and instructions may be obtained by contacting our Permits Branch Chief for the Region VI office in Dallas.

Anyone applying for a federal license or permit must obtain certification from the state that the discharge will be in compliance with the new law. States must give public notice of all applications for certification and may hold public hearings on certification applications.

If a certification by one state will result in a discharge that may affect water quality in another state, a public hearing must be held by the federal agency that issues the license or permit, if requested by the second state. If the permit or license will result in discharges that are not in compliance with water quality requirements, the license or permit cannot be issued. Industries discharging pollutants must use the "best practicable" water pollution control technology by July 1, 1977, and the "best available" technology by July 1, 1983.

EPA will issue guidelines for "best practicable" and "best available" technologies for various industries by October 1973. The guidelines can be adjusted by several factors, including the cost of pollution control, the age of the industrial facility, the process used and the environmental impact of the controls.

By May 1974, new sources of industrial pollution must use the "best available demonstrated control technology."

Discharges of toxic pollutants will be controlled by effluent standards to be issued by EPA no later than January 1974. EPA is empowered to prohibit discharges of toxic pollutants, in any amount, if deemed necessary. The 1972 legislation prohibits the discharge into the Nation's waters of any radiological, chemical or biological warfare materials, or high-level radioactive waste.

Any industry that discharges its wastes into a municipal treatment plant must pre-treat its effluent so that the industrial pollutants do not interfere with the operation of the plant or pass through the plant without adequate treatment. This requirement takes effect no later than May 1974 for new industrial sources of pollution, and no later than July 1976 for existing industrial facilities.

The law also authorizes loans to help small businesses meet water pollution control requirements, and provides for more federal aid to local governments and sets deadlines for stronger control measures.

Federal construction grants of up to $18 billion are authorized over the next three years to help local governments build needed sewage treatment facilities. Actual payment of federal grants will extend over a nine-year period. Under present allocation plans, New Mexico will receive $21.1 million for the three-year fiscal period 1972–1974.

The federal share of the cost of local treatment facilities is now 75%, with state and local governments paying the balance. The maximum federal share was 55% under previous legislation.

In order to qualify for a federal construction grant, sewage treatment plants approved before June 30, 1974 must provide a minimum of secondary treatment. After that date, federal grants may be made only to plants that will use "best practicable" treatment.

All sewage treatment plants in operation on July 1, 1977—whether or not built with the aid of federal grant, and no matter when built—must provide a minimum of secondary treatment. Exception: A plant being built with the help of a federal grant that was approved before June 30, 1974 must comply with the secondary treatment requirement within four years, but no later than June 30, 1978.

Also by July 1, 1977, all sewage treatment plants must apply whatever additional, more stringent effluent limitations that may be established by EPA or a state to meet water quality standards, treatment standards or compliance schedules.

The United States generates 360 million tons of solid waste each year—garbage, trash, cans, bottles and other solid materials. Although the primary responsibility for the management of solid materials resides with state and local officials, federal activity has been directed by Congress into several areas: (1) construction, demonstration and application of waste management and resource recovery systems for the preservation of air, water and land resources; (2) technical and financial assistance to agencies in planning and developing resource recovery and waste disposal programs; (3) national research and development programs to develop and test methods of dealing with the collection, separation, recovery, recycling and safe disposal of nonrecoverable waste; (4) guidelines for the collection, trasnportation, separation and recovery and disposal of solid waste; and (5) training grants in occupations involving design, operation and maintenance of solid waste disposal systems.

The hazards of using chemical pesticides have increased in recent years with the sharp rise in their consumption by agriculture, industry, householders and government. In 1970, United States production of pesticides and related products totaled 1,034 billion pounds, with sales valued at $870 million. Some 800 million pounds of pesticides are used each year in the United States and about 40% is applied by agriculture.

Some 32,000 pesticide products—including insecticides, herbicides, plant growth regulators, rodenticides, bactericides and fungicides—made from one or more of 900 chemical compounds are currently registered with the U.S. Environmental Protection Agency.

The Federal Environmental Pesticide Control Act of 1972 substantially amends the Federal Insecticide Fungicide and Rodenticide Act (FIFRA) of 1947. Here are major provisions of the new law:

The use of any registered pesticide in a manner inconsistent with labeling instructions is prohibited. Pesticides must be classified for "general" use or "restricted" use within two years after October 1974. The states will certify pesticide applicators for use of restricted pesticides. The law allows four years for development of certification programs. Federal standards for certification must be set forth by EPA by October 1973, and the states must submit their certification programs based on these standards to the Agency by 1975. The EPA Administrator may issue a "stop sale, use and removal" order when it appears a pesticide violates the law or its registration has been suspended or finally cancelled. Pesticides may also be seized if they violate the law.

Pesticide manufacturing plants must be registered with the Federal Government (EPA) one year after enactment of the new law.

Federal assistance to the states to enforce provisions of the law and help develop and administer applicator certification programs is authorized.

The EPA Administrator is required to develop procedures and regulations for storage or disposal of pesticide containers. The Agency may issue experimental use permits, conduct research on pesticides and alternatives, and monitor pesticide use and presence in the environment. Indemnification is authorized for certain owners of pesticides registrations which are suspended, then cancelled.

Many of you in the fuel industries are familiar with EPA's pollution contingency plan involving the discharges of oil and hazardous substances. Congress has declared that it is the policy of the United States that there should be no discharge of oil into or upon the navigable waters of the United States, adjoining shore lines, or into or upon the waters of the contiguous zone. The primary thrust of this plan is to provide a federal response capability at the regional level. The On-Scene Coordinator shall determine if the person responsible for the discharge of oil or other hazardous polluting substances has reported the discharge in accordance with the act and is taking adequate action.

In the event the person responsibile for a pollution incident does not take proper and appropriate actions to contain, clean up and dispose of pollutants, or if the discharger is unknown, further federal response must be instituted. Through the resources of the regional office, EPA will provide technical expertise relative to environmental pollution control techniques, including assessment of damage and environmental restoration.

I have touched on some of the highlights of the Agency programs and the new laws under which they are operated. I could not possibly, within the time allotted for this presentation, cover the entire spectrum of EPA activities, but I assure you we want to communicate adequately simply because good communication is the real key to accomplishment.

Also, I would like to emphasize that EPA is taking a reasonable attitude about the whole environmental effort. The pollution dilemma we find ourselves in didn't appear in one day, and certainly it cannot be solved in a day. EPA seeks no villains, no whipping boys. We only want to help clean up the environment in which you live and to preserve it for future generations.

Thank you.

Rio Grande Regional Environmental Project

(By Harry Burleigh)

(Note.—Harry Burleigh is the Executive Director of the Texas Water Development Board in Austin, Texas. He has served in this capacity since March of 1971. Previously he was Chief of Investigations for the U.S. Bureau of Reclamation for Texas in Austin.)

President Thomas, guests, Mrs. Butler, ladies and gentlemen. As you have just learned, I have been asked to discuss with you the Rio Grande Regional Environmental Project.

For all practical purposes, the project had its beginning in the minds of local people as a water supply project. Officials and operators of water districts, the people of Las Cruces, Juarez and El Paso could see that a preponderance of the population was going to place almost impossible demands on a meager water supply, and on that basis came to the Bureau of Reclamation office in Austin, Texas in 1969. Essentially they said to us, "go find some more water for us, we're about out."

Today, as in 1969, it's almost impossible for an engineer or his breed to promote, carry, and furnish a pure, simple water supply project. This was explained to the local people during their visit to Austin. It was our view—and it was suggested to them—there were other water sources available in the El Paso area and instead of developing a water supply project we attempt to integrate the physical and technical investigations relative to water supply into a broader concept—the whole socioeconomic environmental concept—so that if and when we established the fact that there were new water supplies and proposed the development and transmission of such we wouldn't get into a large harangue with the sociologist, the economist, and the environmentalist.

This was a counter proposal by the Bureau of Reclamation, and since my office at that time made the proposal under my direction as the engineer in charge, I want to emphasize that it was not a hypocritical proposal.

In the four decades I have been in this business, I have seen more than one water project I felt that in the long run did not fit well into our changing economy or our changing social conditions. It was with every bit of integrity I possess that I proposed, instead of the old forty-year water supply study, let's study the whole bag—the environment, the social impact, economics and everything—and see if we could get a water-supply project that was really acceptable, not only to the professional but to every facet of our culture.

We proposed the El Paso area as ideal for such a study. The study area, for all practical purposes, stretches from Elephant Butte down to Fort Quitman. If ever there was an isolated area—from everything and everybody—it's this area. The area sobs big tears when you go out there. They feel isolated politically and economically. It's 600 miles to the capital of Texas, 250 to Santa Fe, and 250 miles before you get to the first town west of Tucson. They do feel isolated, and in many ways are isolated.

In our view it was an isolated area that could be a good example to learn if we could integrate the views of the engineers, the economist, the sociologist, the environmentalist into a study that would make everybody happy and not lead to arguments when it came time to build the physical works that the local people in time would evaluate project by project to determine what they wanted in their own interest.

As an engineer I want it known flatly I don't like arguments over projects I have to build because arguments lead to court. For your information, at this moment down in my state I am inter-associated with eight court cases that are holding up projects that have to be developed, and I assure you they will be developed. Everytime one of these projects is held up for one year construction costs go up. Construction costs are going up 9, 10 and 11 per cent a year. If I have to delay, by I, I mean my agency, on a project down on the Gulf Coast that at the moment costs $40 million and is badly needed, the cost—and we're in court in Victoria—because of a year's stalling has increased to $44 million. If that amuses some of the ladies here today, let me remind you that when that water comes out of the tap into your cooking pot it's going to cost you 10 per cent or more than it would have if we hadn't gone to court. This is why at least one engineer in this room will explore every avenue to get together with the environmentalists.

I wasn't being hypocritical when I proposed the RGREP study. I reiterate, I have seen four decades of the water business, and in retrospect, I have seen projects conceived and built that should have been done so with a lot more care and intelligence. This is a criticism of my own profession.

Until several years ago, any engineer out of high school if he heard of someone wanting a project could run out into the country and find a dam site and build a project. Those days are gone, they're gone forever. I think it is good they are gone.

Again, let me point out that the RGREP projects stretch from Chama to Elephant Butte and on to Fort Quitman. It takes in the whole American stateside economy of the Rio Grande Valley. Specifically defined purposes are: (1) improve the declining water resources that we are fighting; (2) to foster improvement in the economic well-being of the citizens of the region through expanded regional development within proper environmental restraints; (3) to protect and enhance the natural environmental resources for the benefit of the citizens of the region, the state and the nation; and lastly, to improve the quality of life environmentally and socially for all of the citizens of the region. As far as I know, RGREP is the first of its kind.

Some of you may be familiar with the West Slope study. The study was supposed to include all orders west of the Continental Divide. The environmental factors were so complex the study has been abandoned. The area to be studied was a microcosm. It was a relatively small area, not the entire western states. It had all the factors, I think that we studied in making reasonable conclusions in the RGREP area. If we pull this off successfully—because of its complexity—it's going to call for the integration of a wide variety of skills and disciplines.

Following this, we have attempted to include in our studies as many skills and disciplines as possible. Essentially this composes our executive committee. Included is the Bureau of Reclamation which gives us entree into the federal agency and its varied facets; the two large cities involved, El Paso and Las Cruces, the region's irrigation districts.

Others involved include a spin-off organization of the Council of Governments—GAIN, which has made a very fruitful inventory of the region's economy and economics; the State Engineer of New Mexico, your very, very able Steve Reynolds from Santa Fe, and my own agency, the Texas Water Development Board in Austin. The colleges and universities are also involved, and probably the bulk of the heavy thinking and new research that will be needed will be done by New Mexico State University at Las Cruces, Texas Tech University at Lubbock, and others in the two involved states.

Now add that all up and that's quite a bundle of skills and brains attacking a new type of job. If we can't pull it off out of that pile of brains and skills in a little microcosm like the Rio Grande Valley, I don't think it can be implemented in vast areas like the entire Missouri basin or the west slope of the Rockies.

RGREP involves an incredible variety of studies. I have a piece of paper here—it looks like legal paper. This is our study outline. On this paper are 65 types of studies that must be made in order to make RGREP workable. These studies include institutional, legal, land, ground water—the whole bag. They all have to be studied in order for them to be an intelligent integration of the engineer and the environmentalist.

From the results of our studies—and we have been involved in the project for two years and it now appears that three or four more years will be needed to complete our work—we hope to present to the residents of the area several alternatives that they can pursue as they move ahead into their future. We hope to pose answers to quizzes and questions that are environmentally desirable and acceptable.

Now I said environmentally acceptable. I could define what environmental means to me as an engineer that has to build water supply projects. I mentioned that we were in eight court cases with many environmentalists, but I don't see any coordinated, consolidated, crystallized goal for the aggregate of the environmentalists. One group wants the land undisturbed; another group wants cleaner water, and another along our coastal estuaries is greatly concerned about the estuaries and their ecological balance. I, too, am concerned.

What I'm saying is that types like me have to work with many types of environmentalists. To date, I have yet to hear from them. To my knowledge, they have not stated what their overall basic gut objective is. I am well aware of their overall effort, their concern here, their concern there, but I have yet to find a defined environmental goal enunciated that would as such relate to people.

In my agency, environment means that any human being should be provided the opportunity to earn a living in circumstances permissive of human dignity and in circumstances of enjoyable rapport with the physiography of his own or other areas to which he may have access.

That is quite a statement. But in our shop that is what we consider environment to be. But it means two things to us. Those who would stop developments will have to learn to compromise with my breed because damage will be done. When somebody gets thirsty enough or somebody wants water badly enough dams will be built. So first it means that those who would stop water development projects by reason of environment will have to learn to compromise with us; secondly, it means that those who have to provide for the physical developments—guys like myself—will have to work with those concerned with the environment and compromise many of the things we would do with the goals and aspirations of the environmentalists.

Now that has not occurred to date. We have tried—most unsuccessfully—for this compromise. We invited most of the Texas environmental leaders to our office recently for two meetings. They came and the results were one of the better arguments of the latter part of this century. But there was no compromising. I tried to the best of my ability to get them to tell us what they wanted from us, what they desired for our environment, what were their stated goals. But to no avail. So we didn't do any compromising. It is very difficult to compromise with someone when you don't know his ground rules.

The definition of environment I gave a few moments ago means to me nothing but compromise. It's time for the physical scientists, the builders of my type and the environmentalists to get together. We can build in many places and in many ways. Our plans do not have to be built the way we lay them out.

That's what RGREP is. It's an attempt by the Jesse Gilmers, the Harry Burleighs, the Steve Reynolds to bring the many disciplines and the various skills into one bundle at one time and come out with a proposed physical project that is acceptable to everyone concerned, a project if you will, that won't languish in court while the costs of its construction go up and up and up. That is all that RGREP is, and I think it can be developed successfully. The skills and brains we have assembled for this project lead me to believe that we can accomplish the objectives we have established for this small microcosm.

I think this study can lead to a brighter future for this region. It will provide better opportunities through expansion of its resources, more and better opportunities for a more abundant way of life for more people, and they can live that life in an acceptable environment.

LAKE POWELL DECISION AND ITS RELATED PROBLEMS

(By Jesse Gilmer)

(NOTE.—Jesse Gilmer has served as the Rio Grand Compact Commissioner for Texas in El Paso since 1968. Formerly he was active as Board Chairman at Tri-State Equipment Company in El Paso, Texas.)

Under the general category, "The Politics and Ecology of Water," I have been assigned the subject of "Lake Powell Decision and It's Related Problems."

For the purpose of this paper, I have selected that portion of Webster's unabridged definition of politics which says, "that politics is the art or science concerned with the guiding or influencing *governmental* policy," and "is a branch of ethics concerned with the state or social organism as a whole rather than the individual person." The word organism in the definition of politics ties us back to the unabridged definition of the word ecology. I borrow the term social organism and use it along with the words politics and ecology to discuss the Lake Powell—Rainbow Bridge problems.

It appears that the first non-Indian to visit the Colorado Delta was Francisco De Ulloa in 1539. Juan De Onate who was explorer as well as colonizer reached the mouth of the Colorado in 1604.

In 1956 the Congress of the United States authorized the construction of Glen Canyon Dam on the Colorado River above Grand Canyon. The dam was built in Arizona, but most of the huge lake lies in Utah. Construction of the dam included building the new town of Page, Arizona and a bridge across the Colorado to carry a new branch of U.S. Highway 89 between Page and Kanab. When the gates of Glen Canyon Dam were closed in 1963, the historical period of the Colorado *as a wild river* within the Grand Canyon *was ended.*

Lake Powell was named for Major Powell the brilliant explorer. When he plowed through the Grand Canyon over a hundred years ago, Major Powell saw, "royal arches, mossy alcoves, deep beautiful glens, and painted grottoes and a vast chamber carved out of the rock."

Because of the sweet sounds which filled the great chamber, he named it the Music Temple. *Lake Powell has drowned Music Temple and the rest of Glen Canyon.*

To the engineer, Glen Canyon Dam is an object of great achievement and beauty. The dam and power plant cost $248 million dollars. It will pay for itself through the sale of power. The lake is one of the earth's beautiful man made objects. Boating, skiing, diving, fishing, swimming, sight seeing and pleasure in general is provided in abundance, because of the facilities.

"The dam is regarded with loathing by the members of the Sierra Club, the Friends of the Earth, and other conservationists groups and individuals who believe that it is wasteful, unnecessary, and a monumental example of the harm that can be done when bureaucrats are faced with the compulsion to pour concrete."

Backed up waters invite vacationists to Lakes Meade and Powell, turn generators, irrigate California fields, feed Los Angeles faucets, and fill San Diego swimming pools.

Situated about six miles from the Colorado River Channel up Rainbow Bridge Creek is one of the world's most beautiful colorful scenic pleasure giving sights: The Rainbow Bridge. The Rainbow Bridge arches 309 feet above the gorge. It spans 278 feet. Rainbow Bridge is large enough, lacking only inches, to frame the United States Capital building. To those of you who would be for or against placing the United States Capital building under the Rainbow Bridge, I must report that during my research I found no plans considering the moving of it there.

The Bridge is described by one author as appearing from a plane "to look like one-half of a butterscotch lifesaver lodged in a crevice."

One author describes the bridge: "Rainbow Bridge! Seeing it, I felt that lifeless matter had been caught in dramatic action. From high on one canyon wall the solid rock seems to stream out and down in fluid motion."

An editor once wrote, "the country surrounding the national monument is unbelievably spectacular. The Great Stone Arch itself is one of the most inspiring wonders we have ever seen. It is the exclamation point at the end of a beautiful sentence."

There are hundreds of arches and bridges in Arizona and Utah, yet Rainbow Bridge overshadows them all.

The first non-Indian American was shown the Rainbow Bridge by a Paiute Indian on August 14, 1909.

With popular interest aroused, President William H. Taft on May 30, 1910 preserved Rainbow Bridge for all time by proclaiming it a national monument.

Before the formation of Lake Powell, the bridge could be reached by flying over it, by walking, or by riding at least 14 miles by horse, or by boat travel from Lee's Ferry of three days duration followed by a six mile hike up rugged Bridge Creek.

The guest book at the monument has been signed by Theodore Roosevelt and Zane Grey.

Between 1910 and 1957, the bridge was visited by 13,000 people.

More than 9,000 persons visited Rainbow Bridge last Memorial Day weekend. This was only made possible because of it's accessibility by way of beautiful Lake Powell.

One million people will visit Lake Powell in 1973, with great numbers able to visit the Rainbow Bridge by water.

A U.S. District Judge has recently ruled that the water level in the still filling Lake Powell must be maintained at least 100 feet below capacity.

The technical and historical aspects of the interstate river compacts and the engineering analysis of the results of the federal court order if sustained have been supplied to me by Mr. Steve Reynolds, New Mexico State Engineer. Mr. Reynolds is the best qualified man in the western United States to supply the facts and interpret their meaning.

The Colorado River Compact of 1922 allocated the consumptive use of 8½ million acre-feet of the waters of the Colorado River system to the lower basin states of California, Arizona, Nevada, Utah and New Mexico. The Compact allocated the consumptive use of 7½ million acre-feet of the waters of the Colorado River system to the upper basin states of Colorado, Utah, Wyoming, Arizona and New Mexico. With respect to the upper basin allocation, the Compact carried an overriding provision that the upper basin shall deliver at Lee's Ferry, a point on the Colorado River about 28 miles below the Utah-Arizona stateline, not less than 75,000,000 acre-feet in any period of ten consecutive years.

Since 1948, at least two things have become abundantly clear. First, the average virgin flow of the Colorado River at Lee's Ferry is more than a million acre-feet *short* of the 15,000,000 acre-feet. Secondly, the river flow is so erratic from year to year that *large* amounts of storage capacity are needed to regulate the delivery to 75,000,000 acre-feet in each ten years, and thus maximize the amount that may be used in the upper basin. It now appears that even with nearly complete regulation of the river, the upper basin will be able to use only about 6.3 million acre-feet of the 7.5 million acre-feet allocated to it.

Working with the states of the upper basin and using the two Colorado River compacts as a framework. The U.S. Bureau of Reclamation planned the Colorado River Storage Project. Core elements of this project are four reservoir units with a total active storage capacity of 31.0 million acre-feet. Lake Powell with an active capacity of 25 million acre-feet is the largest.

Navajo Reservoir, about 40 miles above Farmington is one of the storage project reservoirs. It has an active capacity of 1.5 million acre-feet and was completed in 1962 at a cost of $42,000,000.

The Colorado River Storage Project was authorized in 1956. An important provision of the act is that hydroelectric power revenues in excess of the amount needed to repay the cost of the dams, reservoirs and power plants to be constructed could be used to subsidize irrigation projects authorized by the act or to be authorized by later acts of the congress. New Mexico's share of these excess power revenues is 17%. This share is estimated to amount to $205 million dollars by 2059.

In 1962 the Navajo Indian Irrigation Project and the San Juan-Chama Diversion Project were authorized. The Navajo Project will irrigate 110,000 acres for the benefit of the people of the Navajo tribe. The project is under construction at an estimated cost of $205,000,000. It will divert about 500,000 acre-feet annually and will consume about half that amount. Navajo Reservoir will regulate the water supply for the Indian project and will also regulate water for municipal and industrial uses consuming another 100,000 acre-feet annually. About half of this latter amount has already been contracted for the operation of power plants in the four corners area in New Mexico.

The San Juan-Chama Project will divert an average of 110,000 acre-feet of water annually from San Juan River tributaries in Colorado through the Continental Divide into the Rio Chama system for use in the Rio Grande Basin of New Mexico. The total cost of the project is $89,000,000 and the main diversion works are now virtually complete. The city of Albuquerque has contracted for 48,000 acre-feet of this water. The middle Rio Grande Conservancy District has contracted for 21,000 acre-feet, and 28,000 acre-feet is tentatively allocated for the irrigation of 40,000 acres in four small tributary units in northern New Mexico. Five thousand acre-feet annually has been allocated to maintain a permanent pool at Cochiti Reservoir, the Corps of Engineers' Flood Control Project under construction below the mouth of White Rock Canyon.

New Mexico's share of the power revenues from the Colorado River Storage Project will be used to pay that part of the irrigation project costs which are beyond the ability of the water users to pay.

In 1968, the Congress authorized the Animas-La Plata Project in the same act that authorized the Central Arizona Project. This project would furnish water for irrigation, municipal, industrial, and recreational use in southern Colorado and northern New Mexico. It will use 34,000 acre-feet of New Mexico's upper basin allocation. The total cost of the project is $109,000,000 of which $26,000,000 is allocable to New Mexico.

The law which authorized the Colorado River Storage Project in 1956 contained two provisions to satisfy the environmentalists, or preservationists. Section 1 provides:

"That as part of the Glen Canyon unit, the secretary of the interior shall take adequate protective measures to preclude impairment of the Rainbow Bridge National Monument."

Section 3 provides:

"It is the intention of Congress that no dam or reservoir constructed under the authorization of this act shall be within any national park or monument."

In November of 1970 the Friends of the Earth filed a suit in the U.S. District Court for the District of Columbia seeking to compel the secretary of the interior to comply with these provisions of the Storage Project Act. At first blush, the complaint may seem reasonable in view of the statutory provisions quoted.

We report again, a U.S. district judge has recently ruled that the water level in the still filling Lake Powell must be maintained at least 100 feet below capacity.

This stops filling the lake at one-half capacity.

The Bureau of Reclamation has repeatedly requested funds to construct a barrier dam and other works on Bridge Creek to prevent the waters of Lake Powell from backing into the Rainbow Bridge Monument as the reservoir fills. The cost of the works needed is estimated at $20,000,000.

Congress in making appropriations for the construction of Glen Canyon Dam has inserted in the acts language prohibiting the use of any of the money appropriated for the construction of works to protect Rainbow Bridge Monument. The position of the congress in this matter is explictly based upon studies made by the U.S. Geological Survey which show clearly that there can be no damage to Rainbow Bridge as a result of Lake Powell waters backing up the arroyo which it spans.

In preparing this paper I talked at length with an eminent geologist of the geological survey who headed up a 1959 study to determine for the National Park Service, the Bureau of Reclamation and committees of the Congress possible damage to the Rainbow Bridge by Lake Powell waters. Based on these talks I was convinced that "no structural damage would befall the bridge if Lake Powell should ever fill with water."

"With an abundance of water in the watershed, Lake Powell would on the average be full only 13% of the time. Its water would flow in and out of the bridge monument. Most of the time during Lake Powell operation its water would be completely out of the bridge monument property."

"The bridge's actual underground foundations would not be damaged *in any degree* when Lake Powell is full."

Based on several years association with the Geological Survey, I have absolute faith in its integrity and geological determinations.

Furthermore, most preservationists don't want to see the protective works constructed. It is their view that the construction activity, including roads and the excavation of embankment materials, would insult the environment. Nonetheless, they insist that the provisions of the authorizing legislation should be satisfied; and they contend that this should be done simply by limiting the elevation to which the water of Lake Powell is allowed to rise. *This would be a disaster for New Mexico water resources.*

Many reasonable people say that with the reservoir full there would be no material impairment of the scene. Admittedly, after the reservoir is filled and then drawn down by releases, some vegetation will have been drowned out, a high water line will be noticeable, and there will be some silt visible in the bottom of the canyon, but these effects should not be unacceptable if all factors are taken into account.

The lowest abutment of the bridge is at elevation 3721. When the water is at spillway level, elevation 3700, the surface would be 21 feet *below* the abutment. The water in the arroyo below the bridge would be 46 feet deep.

Steve Reynolds says further, "if the maximum flash flood occurred while the reservoir is full, the lake level would rise another 11 feet but would still be 10 feet below the lowest abutment. The bridge will not be inundated as some accounts might lead you to believe. The bridge rises 309 feet above the bottom of the arroyo which it spans.

What the Friends of the Earth are really asking by their complaint is that the reservoir not be filled above elevation 3600—one hundred feet below spillway level. There is no way for the court to require the secretary of the interior to spend money that the congress hasn't appropriated. Even if money were available, it is now too late to build the barrier dam that would keep Lake Powell out of Rainbow Bridge Monument. And that construction is probably the last thing the Friends of the Earth want. Let's look at the consequences of the court order.

The active capacity of Lake Powell would be reduced from 25 million acre-feet to 12.1 million acre-feet. With that reduction, the upper basin would be able to use only 5.2 million acre-feet instead of 6.3 million acre-feet annually. The amount of water available for use in New Mexico would be reduced by about 100,000 acre-feet annually. The power revenues available to subsidize irrigation projects in New Mexico would be reduced by $43 million.

There would be no water available for the authorized Animas-La Plata Project. The amount of water available from Navajo Reservoir for municipal and industrial uses would be cut by about 36,000 acre-feet, and there would be a 7% shortage in the water supply for the Navajo Irrigation Project and the San Juan-Chama Project.

El Paso Natural Gas Co., motivated by the energy crisis in the United States, is planning to invest in excess of $1 billion in a coal gasification complex on the Navajo Reservation. The company has leased Navajo coal and has requested a contract for 28,250 acre-feet of water to serve this complex; the State of New Mexico supports this request. This development would be precluded.

The State of New Mexico has reserved 7500 acre-feet of the supply available from Navajo Reservoir for a project currently under investigation by the Bureau of Reclamation to furnish a reliable supply for the city of Gallup. This project would be precluded.

Albuquerque and the middle Rio Grande Conservancy District would get only 93% of the water they have contracted for from the San Juan-Chama Project *but the amount of their payments would remain unchanged.*

Perhaps the most disturbing effect is the 7% water shortage that would be visited on the Navajo Indian Irrigation Project and the four tributary irrigation units of the San Juan-Chama Project in northern New Mexico. The people in the project areas have counted heavily on the stimulus that these projects could give their chronically depressed economy. A 7% shortage would seriously cripple these projects and could make some of the tributary units infeasible.

The complainants in the federal district court may be the Friends of the Earth but they are by no means friends of the men of the soil in northern New Mexico.

A spokesman for the Friends of the Earth said an impending water crisis in New Mexico "could have been averted" if the federal government hadn't ignored a law setting limits on the water in Lake Powell.

"They (New Mexico) based their assumptions on an illegal situation." "Had the Department of the Interior obeyed the law, this crisis would have been averted."

"All the ruling does is enforce a law that had been on the books since the dam was authorized."

I ask these questions: Do we subscribe to the definition usually attributed to Gifford Pinchot, the first head of the forest service, i.e., "The management of natural resources for the greatest good of the greatest number in the long run," should be our policy. Under this definition, it seems clear that the improvement in access to Rainbow Bridge and the increase in water supply for the upper basin that will result from allowing Lake Powell to fill to elevation 3700 readily justify the slight esthetic disadvantage that might result from allowing Lake Powell to back into the arroyo below the bridge.

You can see from the situation outlined so far and the status of Lake Powell water control as directed by the U.S. court, that the *greatest of all showdowns* is approaching between conservationists and those who seek to use natural resources to do man's bidding.

We may be approaching the environmental shootout of the century!

I now wish to propose some more questions: Did the congress, over many years, by rejecting the Bureau of Reclamation's appropriation request, alter its position set forth in the authorizing legislation to the extent that Lake Powell waters will now be permitted under the Rainbow Bridge? Does the 1973 intention of congress intend that a dam or reservoir constructed may be within any national park or monument? This would be a new interpretation of the 1956 law.

Does the belief of many people including the geological survey, that no structural damage would ever befall the bridge should Lake Powell fill with water mean that the secretary of the interior has taken "adequate protective measures" to preclude impairment of the Rainbow Bridge?

Are we going to operate a multi-billion dollar economic multiplier system of water and power use at much less than 50% of efficiency by holding the Lake Powell water level one hundred feet below the spillway?

Are we going to deny the beauty of the Rainbow Bridge to the crippled, the elderly, the young, the less affluent who could otherwise enjoy the beauty by passing under the bridge at most hours of the day or night in boats?

If the limit on capacity for Lake Powell remains, will the loss of storage there solve the salt problems on the lower Colorado?

Are we going to start a battle in the congress for repeal of the restricting legislation? A battle which will leave more scars and responsibilities than any of our conservationsts or developers would want or survive?

I urge that working through such groups as "REERIO" those of us on all sides of the Lake Powell-Rainbow Bridge battle band together to form as acceptable a solution as we possibly can.

This challenge is history's greatest opportunity for the engineer, the developer, the park user, the Friends of the Earth, the Sierra Club, the National Audubon Society, the conservationists to emerge with a plan which will be a model for future environmental controversies.

If we battle the problem out with group *against* group, both the winners and the losers will have scars that won't heal and must assume responsibility with all its hurts for the victory or the loss.

As the prestigious "Forbes" magazine states, "attacking the ecology movement today is like sneering at motherhood, but this too we feel should be subjected to rational examination. Like everybody, we are for ecology. But, like everybody we're not entirely sure what we want to preserve—or what we want to pay to preserve it."

An Ecologist's View of the Present and Future Impact of Environmental Legislation

(By William E. Dick-Peddie)

(Note.—William E. Dick-Peddie is Chairman of the Biology Department at New Mexico State University in Las Cruces, New Mexico and has served in this capacity since 1966. His main discipline in Biology is plant ecology. Prior to his appointment as Chairman, Dr. Dick-Peddie was Professor of Biology at New Mexico State University.)

I have been asked to give an overview of legislative impact from an ecologist's viewpoint. To do this I must clarify some items. These are: Ecology as a discipline; ecology as a point of view; and the implications of environmental quality.

Ecology as a discipline deals with living organisms and their relationship to their environment. When considering an organism, its environment is composed of other organisms such as plants, animals and microbes and abiotic features such as temperature, humidity, minerals, gases, etc. Consequently, when someone uses the word ecosystem they are or should be conveying to you that they are aware of the interactions taking place among the living members as well as the interactions taking place with the abiotic (physical) features of a given system. You can see from this that understanding the dynamics of an ecosystem can be extremely complicated. In fact ecologists have yet to find a system, including the Arctic Tundra, which is simple enough to be covered by a predictive model. A predictive model would tell you that *this* modification will cause *these* changes in each of the component units. It has taken the computer age to even lead us to think we might ever succeed in modeling an ecosystem.

It is obvious then that ecology is a synthetic discipline. It attempts to stand back and look at the "wheels-within-wheels" that are operative and then it tries to synthesize these events into some meaningful whole. As a consequence, ecologists possibly more than anyone else are prone to attempt to see the "big picture" and to be acutely aware of interactions in all complex systems. For years we ecologists have attempted to sell this viewpoint, not the discipline, to the public for use in dealing with complex problems. It may have been a mistake because as might be expected we have only been partially successful. Some people have confused this point of view with ecology itself. Some have chosen one arena only in which to think "ecologically" such as pollution, energy, population, land-use, etc. unaware that doing so is not ecological.

The public's misunderstanding of the ecological point of view coupled with its zeal to do something has led to confusion, emotionalism, and inefficient effort. For example, environmental legislation usually addresses a New Mexico is in my opinion a good piece of legislation but the more important issue as to whether or not an area should be subdivided has not yet been addressed.

Agencies, commissions, and boards are created or modified to deal with specific portions of the environment (pieces of the whole). Often these are organized along parallel lines of authority. For example, a water group, a land-use group, a mining group, a development group, and an environmental improvement group may all operate in the same system with virtually equal autonomy. Not only may there be no powerful coordinating umbrella group over these, but there may not even be an over-riding policy to guide their individual activities. To call this situation ecologically unsound is a colossal understatement.

Now let's look at an additional dimension: The concept of environmental quality. This idea adds a subjective element to the complexity of ecosystems. The discovery of fire and the invention of the wheel by man made this species unique because it is the only one capable of modifying its environment. Environments can be modified so that they will no longer support life. However, environmental modifications short of this extreme are called "civilization" or "life style" or "standard of living."

If a society decides that a certain degree of environmental modification is desirable, any additional modification or reduction in modification will be considered to have reduced the quality of the environment.

There is absolutely no point in talking about environmental quality until all segments of a society have reached at least a consensus as to what range of environmental modification they will accept. How many times have you heard a Chamber of Commerce type state that he is for a high quality environment but then you find that there is never an economic development proposal which he is not in favor of? How often have you talked with someone who says we need economic development but then proceeds to propose restrictions which would prohibit such development under our profit system or any other system?

We must understand the relative nature of the environmental quality concept. It should be recognized by everyone that economic development usually initiates a change in the degree or kind of environmental modification. This change will be viewed by various segments single parameter which immediately renders it ecologically unsound. The subdivision legislation just passed in of society as enhancing or reducing the quality of the environment.

In summary, first we must appreciate the ecological viewpoint of interdependent systems. As in ecosystem analysis there is no place for the single factor approach if we are to have effective environmental legislation and if we are to have effective groups carry out or enforce this legislation.

Second, we must face up to the environmental quality issue. The public must decide what quality it wants and then either arrange to pay for it or agree to modify its standard of living. This should constitute the basis for an environmental policy for the state.

In my opinion as an ecologist, environmental legislation and administraiton will continue to exhibit contradictions, overlaps, and inconsistencies until a truly ecological approach is used and environmental quality is viewed realistically.

Significance of Environmental Impact Studies—Points of View From Industry, Government, Education and Environmentalists

(By Fred A. Gross, moderator)

(Note.—Fred A. Gross is Vice President of the Research Committee of REERIO.)

As a nation it used to be fashionable to assert that we obeyed the Holy Scripture "to be fruitful and multiply and take dominion over the earth." It seems fairly clear that we have done so but in so doing I fear we often overlooked the admonition of "careful husbandry" that the sacred text also calls for.

In many ways Environmental Impact Statements are simply a way to ask that one set forth in writing the evidence of his "careful husbandry" as an integral part of his planning.

It is clear that the National Environmental Policy Act of 1969, requiring environmental impact statements for federally supported and regulated activities, is being effectively used at the national level to force government agencies and some corporate interests to rethink many of their policies and programs. NEPA has been commonly regarded as a statute mandating systematic analysis of environmental impact and full public disclosure, but not one establishing substantive standards by which a proposed project or policy may be declared unlawful. In Calvert Cliffs, the U.S. Circuit Court of Appeals held that agencies must make a "finely tuned and 'systematic' balancing analysis" in resolving conflict among environmental, economic, and social values. In some cases, notably California, a state act has been used in a way that created severe disruption of private construction activities in a manner not contemplated by many environmental supporters.

I am certain that with our knowledge of the rate of consumption of our non-renewable resources that environmental pressures are just beginning. Notice I do not claim that our awareness will cause us to act responsibly, but that the "environmental pressures" are just beginning. The forcing function is not public attitudes but rather natural forces—public awareness, public opinion and public actions are responses—not initiatives. Environmental Impact Statements are only feeble legal attempts to cause us to examine those natural forces in our new projects.

It is not clear that the vocal cries of some environmentalists nor the equally strident voices of some industrialists are based on any public mandate, rather I suspect that they are aware that their rhetoric reflects principally only their view of the world. On the other hand I have observed that when the public expresses its view through the vote in this state and many sister states the majority opinion clearly expresses an environmental concern.

Yet, significant though the achievements of environmental impact statements have been, it is not clear whether such environmental actions will turn out to be a strategic weapon in the war against environmental deterioration or one useful mainly for tactical aims. Thus far, relatively few projects or policies deemed environmentally destructive have been definitely stopped or overturned. And most of the preliminary injunctions granted by courts under NEPA probably will be dissolved once the judges have become satisfied that adequate environmental impact statements are in hand.

Today we are to hear the viewpoints of four speakers on the "Significance of Environmental Impact Studies" representing a broad cross section of public and private interests.

Significance of Environmental Impact Studies—An Industry View

(By C. David Bedford)

(Note.—C. David Bedford is employed at the Public Service Co. of New Mexico as Manager of Corporate Planning. He has participated as Public Service of New Mexico representative on various inter-utility committees and is a registered engineer in New Mexico.)

I. The first point that I would like to make on environmental impact studies is to clear up a popular misconception that I believe exists. An environmental impact study is not a new concept that was created by the National Environmental Policy Act of 1969 or Little NEPA, at least not for a public utility.

We may have called it a planning study before and values may have been more closely related to dollars and it definitely received less publicity. But before we could undertake a new power plant or major transmission line project we had to justify it to our management, our stockholders and to the New Mexico Public Service Commission, our regulatory agency. The need for the facility had to be demonstrated and alternatives analyzed and priced out.

In retrospect, most environmental values were considered. A power plant was evaluated on the proximity to its fuel and cooling water supplies, minimum population density along with avoidance of historical and archeological sites and least need for new transmission lines. The environmental values were reflected in dollars—less cost for shorter fuel and water delivery facilities and shorter transmission lines, less cost for less desirable land and right of way, less cost for necessary screening and camouflaging. A transmission line routing was similiarly analyzed. A straight line cost less and had fewer miles of impact. Timber clearing and steep slopes were avoided because of higher construction cost as well as erosion and structure wash-out problems. We routed around valuable and populated land because of higher right of way cost.

The planning procedure was not what we have today. It lacked in the full consideration of the impact of air and water pollution. It fell short in usually not including full disclosure of plans and soliciting inputs from the public. But the consideration of needs, alternatives and impacts is for the most part not a new concept.

II. Perhaps the biggest new factor considered in our present planning process is air and water pollution.

I give credit here to the public pressures stimulated by the environmentalists. Before regulations and enforcement of uniform compliance, an industry member could not undertake a clean-up campaign without becoming non-competitive with other members of that industry because of higher costs. Neither could a public utility go overboard on control equipment for fear that its regulatory agency would rule that it was an unnecessary expense and therefore not chargeable to its customers.

The regulations and enforcement are necessary to effect a clean-up and still keep the members of an industry in a competitive position so that each can stay in business. These controls are also necessary so that a public utility can properly recover its clean-up cost as a proper cost of doing business and a justifiable addition to its rates.

And we have mentioned to several of our

environmentalist friends we expect their support when we seek fair rate relief to recover these additional costs, just as we heard from them telling us to do a better and better job of pollution control.

III. While accepting air and water quality regulations, standards of performance and other environmental regulations as valid and necessary parts of the planning process today, I feel the agencies enacting or changing these rules should themselves be required to support their findings with some sort of impact study. There should be a documented study of the benefits resulting from a tighter control regulation than that required to protect health and property versus the total cost of obtaining that stricter control level. Such a study should include on the cost side the full ramifications of higher product price, possible switch-over to a cheaper but more environmentally damaging product and the increased consumption of natural resources for the construction and operating energy requirements of the additional pollution control equipment. Note, that I said for pollution control levels beyond those needed to protect health and property. And we must indeed have some of these because the federal, state and local regulations are certainly not uniform everywhere and at the levels that the Environmental Protection Agency found to be required.

It also is from my viewpoint unreasonable, except in a demonstrated critical situation, to force a facility owner to retrofit to meet higher standards than were initially adopted when his facility is already in operation or well under construction.

Neither should an owner be forced to risk his money installing unproven control equipment, if he is making reasonable progress in researching and developing and proving out more reliable and more effective pollution controls.

IV. While the points I have mentioned so far about environmental impact studies and compliance with environmental regulations all generally contribute to a better plant or transmission line, there is one significant aspect of our present formal impact studies that is nonproductive. That is the complications resulting from longer lead times to formally prepare, circulate, review and respond to questions. The longer lead time forces us to plan further in advance and, therefore, to contend with many more uncertainties. This in turn drives up the overhead in the planning department and increases the costs of projects. Another result from the formal procedure is to freeze the design at the impact study submittal point and to hesitate to introduce any improvement past this point in time for fear of holding up the entire project. This shows up as a slowed down reaction to changed conditions, extra costs and lower operating efficiency.

V. I would suggest that the environmental impact study procedure will go much more smoothly for the applicant, the reviewing agencies and the interested parties from the general public if the following improvements can be effected:

1. The applicant should begin full disclosure and discussion of his planning as early as possible.

2. The reviewing agencies and others should give this preliminary information early consideration so any overlooked problem areas can be restudied by the applicant.

3. The attitude of the reviewers should be one of constructive criticism; an adversary position should be saved for later, if necessary.

The most recent example I would have to offer on this point is our new San Juan Generating Station's impact study. Some of the best questions from agencies and individuals did not get submitted for our consideration and reply until after the federal lead agency had circulated the Draft Environmental Statement. And one of the questions that was bothering some agencies for quite a while was answered easily once it was asked—yes, there would be separate statements on each unit of the plant, not just one initial statement for the whole four unit plant.

VI. Finally, for the benefit of the applicant, the reviewing agencies and the other interested parties, it is imperative that the Final Environmental Impact Statement be the same for both federal and state approvals. You cannot have the lead state agency approving one line routing or piece of plant pollution control equipment and the lead federal agency approving something different.

For several months on our San Juan to Ojo 345 KV transmission line it appeared that the New Mexico Public Service Commission had approved a routing across the Navajo Indian Irrigation Project and across the Jicarilla Apache Indian Reservation that would not be recommended by the federal lead agency because of the Bureau of Indian Affairs' objections. After a number of conferences, misunderstandings were resolved and agreement reached. But it leaves the state lead agency wondering about its effectiveness and hesitant to render the first decision on the next project.

Furthermore, the Final Environmental Impact Statement must be enforceable by the applicant after it has been approved. In New Mexico a single property owner can refuse the sale of his property or right of way even though both state and federal approvals have indicated this approach has the least environmental impact on the whole area and cause an approved project to be modified, perhaps beyond the extent of the approval. This seems quite unfair to the majority of the property owners, who have had to abide by the state and federal approvals.

Significance of Environmental Impact Studies—A Government Point of View

(By William D. Hurst)

(Note.—William D. Hurst has been employed with the Forest Service since 1937 in the Inter-mountain and Southwestern Regions and in the Washington Office. Currently Mr. Hurst is the Regional Forester, Southwestern Region, Forest Service in Albuquerque, New Mexico.)

The National Environmental Policy Act of 1970 has without doubt altered the approach taken by most agencies of government to the work they perform. While there are some obvious drawbacks to the environmental impact statements required by NEPA, the benefits which the procedure generates outweigh by far the negative aspects of the law. We can say, therefore, that environmental impact studies are desirable in not only doing a better job on the land but in gaining public understanding of Federal agency programs as well as the programs of others who utilize public lands for one purpose or another that exerts a substantial impact on the land.

What are the drawbacks of the system? Here are a few we have encountered in the Forest Service.

1. The system is time consuming and costly. The time frame established to meet the environmental statement process as well as the talents required to make the environmental analysis and write the report are costly, not only in terms of men and money but in the delay the process requires. This aspect of the system was, fortunately, not a great new impact upon the Forest Service because we have been, for many years, making environmental analysis for all actions which disturb the land. We called these multiple use surveys.

2. Opponents of a project can use NEPA, and oftimes quite successfully, to curtail action, delay action or kill a program. Long and costly court actions often result. The opportunities NEPA offers to question every aspect of the environment and even create imaginary environmental problems are endless. Even though such a course does not often prevail, the resulting delays and the legal and administrative actions required to counter an unworthy challenge are costly and discouraging.

On the other hand, the strengths of the system are substantial and overriding. Some of the more obvious are:

1. It requires advanced planning. This is a worthy requirement and one we all recognize and accept.

2. It requires and provides for a high degree of public involvement. This perhaps is its greatest attribute.

3. It requires a careful look by qualified people at the probable effects of the proposed action upon the environment and provides a means of exposing the findings to the interested public. In pre-NEPA days, the studies were usually made by competent people, but they lacked exposure and hence public misunderstanding often resulted.

4. It provides an appeal route that gives the concerned John Q. Public his day in court should he choose this avenue.

5. It provides a platform for debate where facts can be presented and acceptable decisions reached.

6. It places all agencies of government—and others who use public land—on a uniform footing in their approach to maintaining and protecting the environment.

The National Environmental Policy Act environmental statement process requires a consideration of economics as well as environmental impacts. This is a fact often overlooked by the users of the NEPA process. If properly utilized, this economic dimension can add balance to the environmental consideration which on almost any project can, without constraint, be developed into unreasonable and unacceptable proportions.

In summary, NEPA's requirement for environmental impact studies is good. Despite its cost and its other shortcomings, many of which can be eliminated by reasonable men working together, the NEPA process is perhaps the most significant and the most effective system yet devised by man to minimize the effects of man's action on the total environment. As pressures on the land continue to build, NEPA's usefulness will increase. It should be retained and strengthened.

Significance of Environmental Impact Studies—A Point of View From the Education Sector

(By James A. Zwerneman)

(Note.—James A. Zwerneman is the Chairman of the Department of Economics at New Mexico State University. He also serves as Associate Director of the Center for Business Services. His major interests are in research management systems and forecasting methodologies.)

The measure of significance for environmental impact studies is derived from two primary factors. First, the studies must be comprehensive in scope and in depth. Second, the studies must be totally objective in nature and free from normative conclusions. The significance of the environmental impact study will be lessened if these two conditions are not met.

In general, the academic community assumes a critical posture when viewing environmental impact studies. Even if the above two criteria, i.e., comprehensiveness and objectivity, are satisfied, there is a third element to be considered. The credibility of the study team may be questioned if the members of the team are from a single institution, business organization or government agency. An interdisciplinary study team that is also assembled on a multi-institutional or multi-organizational basis will be able to stand up to a technical review and critique much more effectively than would otherwise be the case.

Well designed and produced environmental impact studies can be significant in two different ways. The first index of significance is seen in the improved level of understanding among the study team and review team members. The engineer and the sociologist, the physicist and the economist, the hydrologist and the biologist, can appreciate the other points of view with greater understanding when all are working on a common problem together. The results of the team approach to environmental research should produce a more meaningful analysis than what would have been produced by a series of individual efforts.

More importantly, however, than the improvement of academic scribbling is the significance of the environmental impact study to the community at large. Information that can be channeled into a single instrument is in itself a useful planning tool. A example of this can be illustrated using one of the recently completed studies produced by the New Mexico Environmental Institute for the American Smelting and Refining Company (ASARCO). Even though ASARCO has decided not to locate its proposed Southwest copper refinery in Dona Ana County, the site related data, the economic analysis, and the process analysis will be useful and meaningful to local government decision makers and to the citizenry of the greater Las Cruces region. The study will be helpful as well to ASARCA in planning its new facilities at the alternate site.

In addition to the fact that environmental impact studies can synthesize large quantities of technical data, there is another significant aspect of their utility. Invariably, impact studies uncover and identify subject areas where further research can be both productive and rewarding. To the academician, this provides a stimulus to continue in work that will have a positive bearing and subsequent application.

One of the significant spin-off benefits that can be realized from environmental impact studies parallels that of having the interdisciplinary team. Cooperation between the research team, the sponsoring industrial firm, the appropriate government agencies, private consulting firms, and the universities is essential. Interaction between these groups is just as necessary as interaction among groups if we expect to produce truly comprehensive environmental impact studies. It would appear that persons in all sectors are communicating with each other today better than they have done in the past.

In the final analysis, the environmental impact study can and must serve the purpose for which it is intended. It must systematically provide technical information upon which meaningful decisions can be based. Investment decisions by the firm, environmental statements by the appropriate agency, and planning decisions by local government, are all dependent upon the quality of the information produced in the study. It is therefore encumbent upon the study team to ensure that the study is both comprehensive and objective. One method that can be used to facilitate the quality of the study is to have the work of the study team subjected to a peer review, both during and at the conclusion of the work. Such a procedure is traditionally employed in scholarly pursuits within the university and is readily applicable to environmental impact studies. Concurrence by the review team with the study team findings will substantiate the results. Where differences or omissions are indicated there will be an obvious need to reconcile the differences and to fill in the gaps. The resultant documentation will lend substance to the quality of the impact study.

To the degree that environmental impact studies are undertaken and produced using a truly scholarly-research procedure, they can contribute significantly to the environmental planning and management functions. Studies of a lesser nature are questionable in value to any potential user.

Significance of Environmental Impact Studies

(By Sally Rodgers)

(Note: Sally Rodgers is employed at the Central Clearing House in Santa Fé, New Mexico.)

"The Environment," "The Ecology." Popular phrases. What do they mean? Both of these phrases are incorrectly used interchangeably, but they have specific and complex meanings. The dictionary defines ecology as: ". . . the branch of biology which treats relations between organisms and their environment." Ecology, then, basically deals with interrelationships and interdependencies. A healthy viable eco-system is one which, by definition, is both diverse and balanced. Man's environment is an inter-relating composite of both physical habitat which includes, of course, all basic life support systems and other life forms and our social and economic systems. It's a complex concept and thinking about it and acting on it are relatively new experiences for the majority of us. We know we are causing damage to our life support systems and we know this damage has effects on our economic and social structures.

Environmental impact studies are but one of the needed mechanisms we must use in order to avoid leaving a legacy of diminished quality of life and an economic burden of cleaning up our abuses to future generations.

Because we have no experience with impact statements at the state government level, we must look to the experience and achievement of the federal Environmental Quality Act.

It must be emphasized that thinking of ourselves as part of an eco-system rather than apart from it is a complex and big task. Our government, our society, is similarly complex and big and our laws dealing with the environment must reflect this. Lack of coordination between agencies in decisions affecting both environment and economics has been the rule. Enactment of NEPA (The Environmental Quality Act) has been a major piece of governmental reform legislation in this area. The third annual report of the Council of Environmental Quality reports five clearly beneficial effects of NEPA on the Federal government. The NEPA concept is truly an ecological one. It seeks balance. It requires consideration of alternatives to proposed projects. It requires scrutiny of the risks and negative effects as well as benefits. It ". . . is a major step in bringing national policies in line with modern concerns for the quality of life. For the first time, maintaining environmental quality is acknowledged to be "the continuing responsibility of the Federal Government." The second benefit provides, via the impact statements, "a systematic way for the Government to deal with complex problems that cut across the responsibilities of several agencies." In the past, different agencies have often responded to these problems in a piecemeal, uncoordinated fashion largely because of the lack of a mechanism for shaping comprehensive policy. By forcing interagency consultation and attention to a broad range of effects and alternatives, impact statements foster more sophisticated Government decision-making. It uncovers the need for more comprehensive policies and programs in areas such as energy and transportation. Thus, it is a catalyst for more sensible policy formulation and program development.

Third, it has opened a broad range of Federal Government activities to public scrutiny and participation for the first time. Although many agency procedures were formerly closed, the agencies are now required to explain their decision when significant environmental values are concerned. A written study of environmental effects, including analysis of available alternatives, must be available to the President, the Congress, and the public before an agency acts. The public in turn has an opportunity to evaluate and comment on the agency's analysis. This new element of public participation would contribute to more careful and conscientious decisionmaking.

Fourth, agencies whose personnel have reflected a narrow focus of concerns are being required now to supplement their staffs with persons of different background relevant to environmental issues. NEPA's required "interdisciplinary approach" means that personnel must be hired who bring not only new skills but a fresh viewpoint to the agencies. Over time, this influx should lead to sharper questioning of traditional assumptions within the agencies. Out of it should emerge an institutional viewpoint that is more sympathetic to environmental values.

Fifth, NEPA's initiatives are enforceable in Federal court by citizen suits. This keeps each of these requirements from being an empty exhortation. What NEPA requires of the agencies is often difficult and uncomfortable. Constructive, progessive change usually is.

"By requiring a thorough examination of environmental effects before the Government commits itself to a new course of action, NEPA supplies a needed mechanism for technology assessment. New technologies have been developed and used in the past, usually without sufficient advance assessment of the broad image of environmental changes that they might bring. Our ability to anticipate and thereby to control the environmental effect of technological change has been enhanced." This new ability is not unlike the process we are more familiar with in drug and food safety. Without the FDA scrutiny of the new technological advances in medical drugs, we might have in this country experienced tragedies similar to the European thalidomide babies.

We have an opportunity in New Mexico to institute the similar kinds of progress under our state Environmental Protection Act. During the last session of the legislature, it became clear to all interests, e.g., industry, state agencies and citizens groups, that our "Little NEPA" needs to be amended to conform with New Mexico's needs. The Governor will soon appoint a new Council on Environmental Quality whose task it will be to evaluate the NEPA concept relative to our state's problems and formulate guidelines for state agencies in doing impact studies. The public hearings held by the Council will provide a unique opportunity for all to contribute to New Mexico's growing concern about our environment.

Legislation-Solutions to Problems of the Energy Crisis—Part I—Desired Thrusts of Future Legislation

(By James Lynn Goodrich)

(Note: James Lynn Goodrich is a Professional Engineer working as a Feasibility Consultant in El Paso, Texas. He has worked on a variety of well known engineering and economic programs and devotes a great deal of time to educational activities toward development of our future engineering talent in youth.)

There is a real genuine continuing need for ever increasing supplies of energy for fuel and power to maintain and improve our well-being and economy.

Conventional energy sources for most of the large scale energy uses in the United States of America are, or depend upon, fossil fuels.

Energy can appear in many forms, as in light and heat and in the flow of electric current. Energy can be converted from one form into another. It can appear as the energy of motion, kinetic energy, or it can appear as energy of position, potential energy. It can appear as chemical energy on the atomic or molecular scale and as nuclear energy on the nuclear scale.

The measurement of nergy quantities is stated in units of the *heating value equivalent* in whatever state the energy may exist or appear. The BTU (British Thermal Unit) in the English System of Measures and the joule (J) in the SI—(International Standard System of Units) are the common units for the measurement of energy. In this paper, the BTU is used as the unit of energy measurement and is stated in multiples, as x 10^6 BTU=1 million BTU, or 10^{12} BTU=1 trillion BTU, or x 10^{15} BTU=1 quadrillion BTU.

A quick review of the present U.S. and World Energy situation is essential to gain a good understanding of the subject.

Figure 1 is a graphic chart which illustrates the U.S. and world trends and predictions for the use of fossil fuels:

Natural gas and oil are used at present to satisfy three-fourths (75%) of the U.S. demand of energy and the remaining fourth (25%) is obtained from coal, hydro and nuclear.

Demand for oil in the Free World outside the United States will quadruple by 1985 while the U.S demand for oil is doubling.

Costs of energy are rising rapidly as exploration, mining, extraction, conversion, transportation, transmission and distribution become more difficult and time consuming and subject to more restrictions and obstacles.

The total demand for energy in the United States exceeds the U.S. domestic supply by about 15 per cent, and the gap between supply and demand is increasing rapidly. It is very important to understand that the *difference* in amount of fuels for energy between U.S. domestic supply and U.S. energy consumption must be *imported.*

PROJECTED U.S. ENERGY SUPPLY AND DEMAND, TRILLION BTU

[10^{12} BTU per year]

	1970	1975	1980	1985
Total domestic energy consumption	67, 827	83, 481	102, 581	124, 942
Total projected domestic supply:				
Oil	21, 048	22, 789	24, 323	23, 405
Gas	22, 388	20, 430	18, 030	14, 960
Coal	13, 062	15, 554	18, 284	21, 388
Hydropower	2, 677	2, 840	3, 033	3, 118
Geothermal	7	120	343	514
Synthetic oil				197
Synthetic gas		380	570	940
Nuclear	240	3, 340	9, 490	21, 500
Total	59, 422	65, 453	74, 073	86, 022
Shortage indicated	8, 405	18, 028	28, 508	38, 920
Projected imports and other means for supplying fuels to make up shortage:				
Imported oil	7, 455	15, 284	22, 163	29, 997
Imported gas	950	1, 610	3, 880	6, 280
Additional coal production		756	1, 643	1, 762
Additional residual fuel imports		378	822	881
Total	8, 405	18, 028	28, 508	38, 920

These alarming forecasts could become even worse if the projected coal production does not materialize.

A popular conception of an "energy shortage" is that the petroleum, gas and coal, in their natural state deposits, are completely or nearly exhausted.

Our resources in their natural state are far from being exhausted. Some people feel that as long as there are "reserves" of fuel declared by industry or the government, the supply should not suffer a shortage.

The present energy crisis is the consequence of there having developed a *difference* between the *rate of demand* and the *rate of supply* for *energy service. Energy service* is the provision of energy, as a commodity, to the consumer in the form and at a rate that will meet the consumer's requirements.

The beginnings of the present energy crisis occurred many years ago. Critical shortages in U.S. electric power and fuel supply were evident during War II when the Federal Power Commission on November 23, 1947 issued a bulletin warning all power companies of the situation and urging them to seek relief by means of interconnections with other systems until their installed generating capacity could catch up with demands for power.

There was a cardinal principle, prior to War II, that electric power systems should maintain reserve capacity equal to the rated capacity of the largest unit on the system, so that in event of the failure of the largest capacity unit in the system or the equivalent thereof, the "reserve" would be pressed into service and the consumer would never know there had been a threat to reliability or continuity of supply.

The U.S. has never caught up with the demands for power and other sectors of the energy industry have been equally hard pressed to meet the increasing requirements, with extant restraints.

Changes in the energy industry, by their very nature, require many years to effect, even when planned and without extraordinary restraints.

This is to say that revolutionary methods of extracting energy from unconventional sources, which are feasible, may require 20 years or more to place in service in the volume and numbers that will affect the overall picture.

Therefore, the energy supply must be increased effectively within present technological state-of-the-art, insofar as possible, to minimize the gap between supply and demand. This means, also, that the demand must be trimmed of excess to genuine and realistic uses and economically burdensome losses.

Abundance of energy supplies in the U.S. has been the greatest factor in determining application of rules of regulatory bodies.

A shortage of capacity to deliver energy to the user has developed gradually, while the "rules of abundance" continued to be applied. This can be properly interpreted that artificial restraints have been applied to the laws of supply and demand, and that for some time, energy has been supplied to consumers at considerably below true total costs.

We are faced with a realistic economic problem which must be solved by technology implemented by political clout. But how?

Reduction of heat rejection losses through increased efficiency and recovery of waste by-products of energy conversion is the greatest single area of technical approach to alleviation and overcoming of the present energy crisis.

Slide No. 2 is a graphic chart which illustrates a very important idea, the relationship between thermal efficiency and heat rejection rate. This relationship is seemingly unimportant when fuel cost is low and the supply is plentiful; but it cannot be ignored when fuel is scarce and the price is high.

Small increases in thermal efficiency produce proportionally larger savings in units of energy supply which would otherwise be wasted as rejected heat. For example: When your equipment is operating at 25% thermal efficiency, you are throwing away to waste three (3) units of energy for each one (1) unit you utilize. While, at a thermal efficiency of fifty (50) percent, you throw away to waste only one (1) unit of energy for each (1) unit you can utilize. The total heat rejected per unit product output Q total equals 1 minus n, divided by n, where n=Overall Thermal Efficiency.

Slide No. 3 applies the heat rejection equation, 1 minus n, divided by n, equals Q total, to estimate present and attainable trends of overall thermal efficiencies of the total of electric power generation in the U.S.

The same principle applies to heat losses of energy conversion and energy transfer and to utilization equipment and systems as well as conversion processes.

Scarce and high priced energy will render energy-intensive industries unprofitable, uncompetitive and prohibitive unless the waste energy "overhead burden" is effectively reduced.

Higher cost and scarcity of energy will signal engineering and architectural changes in commercial and industrial buildings and homes, and will command changes in design criteria for insulation, lighting, heating, cooling, water supply and plumbing and other energy utilization conditions.

Immediate and near-term effective increases in the U.S. domestic energy supply capacity can only be achieved through improvements in efficiencies, elimination of waste, and the recovery and reutilization of waste energy resources. In the mid-term and less immediate, new sources of energy must be discovered, developed and placed in service on a large scale.

There is no way that the widening gap between U.S. domestic energy supply and demand can be closed *other than* by a massive National commitment to a high-technology and engineering assault on all aspects of the problem implemented by political clout.

Dr. Edward Teller, noted physicist said on March 11, 1973.

"The United States has the choice of reemphasizing research and technology or succumbing by the end of this century to membership in society that does not recognize free speech." With specific reference to the energy crises Dr. Teller described a variety of solutions to the energy problem, such as nuclear reactors, coal gasification, various revolutionary uses of oil, but said:". . . the real answer lies in careful research and technology."

"There can be only disaster arising from unawareness of the casualties and effects inherent in our technologies," was voiced by Marshall McLuhan.

R. Buckminster Fuller, eminent authority on revolutionary design for efficiency and utility, the geodesic dome and dymaxion among others, said:

"I find man utterly unaware of what his wealth is or his fundamental capability is. He says time and again: 'We can't afford it.' For instance, we are saying now that we can't afford to do anything about pollution but after the costs of not doing something about pollution have multiplied many fold beyond what it would cost to correct it now, we will spend many fold (additional) what it would cost to correct it now."

There are many proposed technical solutions to the energy crisis through unconventional methods and means. Most of these will require from 15 to 30 years to prove and place in use on a large scale which will have significant impact on the problem, but none-the-less they must be pursued vigorously to bring them into being to replace the diminishing supply of non-renewable energy sources.

In the meanwhile, it is imperative that the U.S. proceed on the basis of present conventional energy sources, conversion and delivery technology, to develop and achieve a higher state-of-the-art in efficiency and conservation so that the gap between supply and demand can be minimized without penalizing the real genuine need for fuel and power. The *GAP* between supply and demand is not so much the *amount* of energy, but rather the *rate* of delivery which means *capacity*. Capacity often may be increased at some expense of efficiency, as well as by increasing efficiency and eliminating waste.

The solutions of energy problems is technical. However, implementation of the technical solutions must be by political means—legislation. Political solutions in the U.S. derive from the people.

A Joint Engineering Legislative Forum was held in Washington early in 1973 to provide mutually helpful dialog on matters of Congressional concern which require engineering and technical approaches. The Forum focused on energy and a series of bills in Congress basically designed to force the emergence of a coherent "energy policy" in the U.S.—a vastly complex problem that ranges from nuclear and hydroelectric power plants to oil imports.

Bills such as S. 70, S. 357, S. 419, S. 424 and S. 454 (along with companion bills in the House) seek to set up some sort of policy making body or advisory commission (one even calls for a semi-private corporate setup) that would advise the President and Congress as to National energy priorities, supervise research and development projects (such as those now underway to find a means of converting coal to gas, getting oil from shale and tar sands, making use of thermal power), and increasing the efficiency of energy distribution systems.

"Today over 60 federal agencies directly or indirectly influence energy decisions. If there is any coordination among these agencies, no one is aware of it. Not only does the right hand not know what the left hand is doing, but the right hand can take action which is contradictory to the objectives of the left hand. The Department of the Treasury regulates oil importation policies, while the Department of the Interior works to develop our domestic reserves. The Federal Power Commission regulates the rates of natural gas and electricity, but if nuclear power is involved, then the AEC is in charge. Meanwhile, the Environmental Protection Agency must ensure that environmental standards are met in order to comply with the Clear Air and Clean Water Acts," quoting Senator Ernest F. Hollings, South Carolina Democrat (hopefully not our context). Continuing, Senator Hollings said: "The solution which I propose is a high-level, full-time, three-member council with authority and responsibility to evaluate our total energy needs. This council would establish a national energy policy for maximum utilization of our resources, and it would give this policy cohesion and continuing direction. This proposal is embodied in S. 70, . . . It would not have the problem of getting a quorum. It would be a full-time, viable working group. In addition to formulating and implementing a national energy policy, the council would become the central point for the collection and analysis of energy information and statistics. For the first time, Congress, the President and the American public would know where to turn for intelligent and inclusive information. The council in turn can provide the vehicle for disseminating information, particularly on the need to increase conservation of energy. Further, the council would be independent of all existing federal agencies, and it would have the authority to oversee and coordinate their individual policies and programs. The growing environmental concern, which demands cleaner sources of energy and methods of energy utilization, brings us more squarely to the realization that we have sadly neglected development of technology to meet the growing demand. What we need now is a national commitment to a technology of abundance. This commitment must become a reality if our long-term needs are to be met at reasonable prices, both in dollars and in terms of the environment. In order to launch such a commitment, we need a Federal effort with the same sense of urgency with which we embarked upon the Apollo program. By pulling together the mass of technical talent which is needed, by giving it the kind of financial support which it needs and deserves, we can begin to achieve our long-range goals." (End of statements by Senator Ernest F. Hollings.)

The National Energy Forum of the United States National Committee of the World Energy Conference was held in September 1971 in Washington, D.C. and energy problems were defined by some of the most knowledgeable people in the field of energy problems. Their Forum deliberations were assisted by a comprehensive study of the nation's energy problems by Arthur D. Little, Inc. of Boston, Mass. In 1971, there was common agreement among the most knowledgeable that the United States is in dire need of a viable U.S. Energy Policy. There was less than unanimity as to what the policy should contain and how it should be implemented.

Every important nation on earth except the United States has a national energy policy. The United States cannot afford to wait another year to adopt, by Congressional action, a viable and dynamic U.S. National Energy Policy.

We must remember that the difference between demand and supply of energy, of course, represents the amount of *imports* we must bring in each year, if it can be found, and if we have the supertankers to transport it, and if we can pay the prices that will prevail with the competition of other Free World countries.

In conclusion, it should be emphasized that the highest priority in our legislative program and the greatest thrust should be for the passage of a viable and dynamic U.S. National Energy Policy. It appears that Senator Jackson's bill S.70 has the best chance of accomplishing that objective. Companion bills deserve the same emphasis so that the measures can be approved by Congress and the President and become operative.

Mere passage and approval of the U.S. National Energy Policy Act, or whatever it may be called, is just the first step. Additional legislative thrusts must follow adoption of a National Energy Policy, to ensure that essential funding is approved every year to perform all of the functions called for, or essential to implement the Energy Policy Act, including, (1) energy management, (2) research and development, (3) collection of energy information and data and its analysis, and (4) dissemination of meaningful, intelligent, and inclusive information, frequently and regularly to the Congress, the President and the American public. Related to the legislative thrust required for energy problems, are environmental quality, conservation of other natural resources besides energy, maintenance of national defense, technological and engineering manpower resource management and improvement, and NASA's funding for development of an operational capability for exploitation of earth resources by the use of near-earth space (up to synchronous orbits).

Even with dedication to a national commitment of the same sense of urgency as the Apollo program, the "energy crisis" will not be overcome much before the end of the 20th century, if then. The "energy crisis" can be, must be, and will be overcome and the rewards will be much greater than the cost. Everyone should know and believe this.

Legislation—Solutions to Problems of the Energy Crisis—Part II—Partial Solution Within Existing Legislation

(By David N. Raffel)

(Note: David N. Raffel is Director-Owner of PROTANS Consultants in El Paso, Texas. Mr. Raffel is formerly Vice President and Chief for Latin America work of Harza Engineering Company. He has first hand experience with environmental consequences of meeting our population's increasing demands for power and water.)

A LEGISLATED PREDICAMENT

Every legislation enacted which in one way or another contributed to the present and very real energy crisis was enacted in the hope of improving the ultimate well being of the general public. It was just unfortunate that the various individual laws interacted in such a way as to bring us to our present predicament. A good example of that is our attempt to control the amount of sulfur introduced into the air we breathe.

Laws were enacted limiting the sulfur content of the fuels that can be used by the utilities. The laws not only set standards but imposed enforceable penalties for noncompliance. That legislation eliminated a portion of the coal and oil produceable in the United States from use as fuel. At the same time, and in an attempt to solve a problem of national security and balance of payments, the amount of foreign low sulfur oils which could be imported to the United States was limited. Those imported oils might have supplemented domestic supplies and replaced fuels of higher sulfur content.

The timing of the legislation is significant. The laws were made before alternative fuel sources could be developed. The laws forced a shift away from fossil fuels and toward nuclear fuels. But other laws concerning heat rejection from both nuclear and fossil fueled plants and concerning public participation in the siting and licensing process delayed construction and operation of nuclear fueled plants. The sulfur content laws came before resolution of disagreements between the federal government and the natural gas industry, so the gas industry delayed exploration and development of new resources.

The laws also came before the utilities and their equipment suppliers could design and manufacture and install adequate sulfur removing equipment. They came before any significant amount of "new technology" means of generation could displace the need for fossil fuel burning plants. Yet, our need for central station generation of electricity continues increasing in both magnitude and as a percentage of total energy consumption.

We may recall that electric utilities provide only part of our energy. Home heating and cooling, commercial heating and cooling, industrial consumption, use of internal combustion engines for power and transportation presently consume a large portion of our total fuel than the electric power utilities. Those other uses create a disproportionately large share of the total environmental pollution.

Some alternatives which might diminish the total damage to our environment are:

a. Improving the efficiency of the myriad small home and industrial electrical and combustion devices.

b. Shifting toward public transportation instead of private transportation.

c. Increasing the proportion of homes, offices, and factories which are heated and cooled by electricity generated at central utility plants. Larger central station generating plants are more efficient, less polluting consumers of fuel than the smaller units which they replace.

Keeping that in mind, let's look at the pattern of utility energy generation. Figure 1 is a typical system load curve for a week. Time and day are given along the bottom and the amount of energy delivered to the various utility customers at any time is the height of the curve. The generating equipment is governed so that it delivers just the amount of electricity demanded by the customers and never more, and hopefully, never less. The lower portion of the electricity generated at any time of day is called the base load. The higher portion is called the peak load.

UTILITY PEAKING

Since fuel is consumed when starting up and picking up load by a thermal unit, the utility tries to have as few starts as possible. Since the base load is generated all day long, the utility prefers that the base load electricity be generated by the units having the least total costs for operation. It happens that the present nuclear fueled plants produce electricity at lower total cost than the more efficient modern fossil fueled plants. So the utility elects to use nuclear fueled plants to generate the base load electricity.

As the demand for electricity increases at various times during the day, the utility operates less and less economical and less efficient thermal fueled units. The selection is for the more efficient, but their availability soon runs out and older, less efficient equipment is finally operated to meet the peak of the load. If available, alternative generating equipment may be operated to meet the peak. Those alternatives now include conventional hydroelectric plants, pumped storage hydroelectric plants, Diesel-electric plants, gas turbines, combined cycle units with gas turbines, and in one instance the geothermal units.

Increasing use of electricity for heating and cooling is the major means of shifting energy consumption toward less polluting central station generation. We can expect that diminishing the total environmental pollution by shifting toward central utility production of energy will not diminish the future differences between the peak and the base load.

Our present research and development of geothermal and solar and magnetohydrodynamic plants has not yet reached a stage where we can build the major peaking plants of the 1980's with that kind of equipment. And it is the 1980's we are talking about, not the 1970's. The time between decision to build and going on the line with commercial energy is so long at present that no plant not already started through the licensing process will be serving loads before the mid-1980's.

Let's consider how we might meet the peak loads with existing technology in such a way that total additional pollution in meeting those loads is minimized or reduced. We are also looking for a way of doing that so total allocation of our limited material resources is minimized. We are looking for a way that is practical for generating large amounts of electricity on peak, within the existing legislation constraints and with minimum total damage to the quality of our environment.

As an alternative to generating on peak with older fossil fueled plants, utilities use hydroelectric plants if they have them. Hydroelectric plants can be of two distinct types. One is the conventional hydroelectric plant, using either the natural deliveries of water from the stream or regulating the natural flows in reservoirs. Flood excesses can be stored for release later when the natural flow is low. The other type is the pumped storage plant.

Many hydroelectric and pumped storage plants are built with the machinery halls excavated in rock, underground. An extensive mining, tunneling, and shaft excavation technology already existed and was extended to solve the special problems of that kind of excavation.

THE PUMPED STORAGE CONCEPT

Figure 2 is a simple schematic showing the basic features of a pumped storage project. The conventional project is at the left. There is an upper reservoir for storing potential energy, an intake/discharge control structure, a water conduit called a penstock, which could be in a shaft or exposed, a guard valve, the basic pumping/generating equipment in a powerhouse or in an underground cavern, a second intake/discharge control structure, and a lower reservoir.

Conventional pumped storage has been used since the late 1940's for generating on peak in situations where water supply is limited. Basically, a portion of base load generating capacity which is not supplying the load for several hours of the day is used to pump water to an upper reservoir, where it is stored. Later, the water is dropped back through the hydroelectric generating machinery to the lower reservoir, generating energy when it is needed on peak. The reservoirs can be natural bodies of water or they can be man-made. The pumped storage reservoirs which are man-made are not ordinarily used as recreation lakes because of rapid and large changes in water levels throughout the operating cycle.

The pumping and generating energy fit the utility load as shown on this second weekly load curve, Figure 3. This pattern supplies the same customer loads as Figure 1. The peak of the load is met by generating with pumping storage units. The magnitude of the peak varies substantially from hour to hour. The base of the load plus the pumpback energy is supplied by the base load units. In that manner, the base load units are operating at nearly constant load and optimum efficiency all the time. The remainder of the load is supplied by other thermal units which are at nearly constant load and nearly best efficiency while they are operating. More energy is needed for pumping during off peak hours than is later recovered when generating on peak, because there are machine losses and hydraulic losses. But, by generating the pumpback energy with the least expensive base load energy, the utility avoids inefficiencies and higher fuel costs generating on peak with thermal units. The patterns of most utility system loads and the necessary amounts of base load generating units generally permit installing pumped storage equal to 10% to 15% of the total system capacity.

It is characteristic of hydroelectric and pumping machinery that the higher the head, or fall, of water, the smaller are the machines, the reservoirs, the structures, and the civil works required for generating a given number of kilowatts on peak. Figure 4 shows the relative costs at different head of machinery and structures and, most significantly, the volume of water required to be stored, pumped, and stored again. The amounts are given as proportions of the amounts when operating at 352 feet maximum generating head. That is the head at the Ludington Pumped Storage Project on the east shore of Lake Michigan, where the world's largest reversible pump-turbines are now operating.

Obviously, given favorable sites, the allocations of labor and materials to build a pumped storage peaking plant decrease as the head increases. It is also obvious that water consumption by evaporation and leakage and environmental defacement decrease as the volume of water handled and the reservoir sizes decrease when the head increases.

The economics of very high head pumped storage plants have not been considered much in this country because of the scarcity of sites with large differences in elevation near major load centers. Pumped storage plants built and proposed in the United States have been limited to the head technically developable with the reversible Francis type pump-turbines. Those machines are practical for relatively efficient operation at heads as high as 1400 to 1700 feet. Efficiency decreases rapidly at the upper limit of the head range.

In Europe, where large topographic differences in elevation exist near major population centers, single stage pumped storage plants are operating at heads of 3000 feet and more, using separate Pelton type turbines and multistage pumps.

HIGH HEAD UNDERGROUND PUMPED STORAGE

The right side of Figure 2 shows an underground pumped storage project. The only difference between the underground and the conventional is that the lower reservoir of the underground project is mined in the solid rock. Location of the power cavern is not the distinguishing feature. Several proposals to plan underground pumped storage projects have been made and one is now being built in Finland, where the lower reservoir is an abandoned mine. The underground portion of the project may be beneath land or beneath a body of water—the so-called "offshore" development—where land near the major load center is scarce or unavailable at a practical cost.

The following are the principal advantages of going underground:

a. Ability to site the plant near the load center, thus reducing transmission losses at the time when the load is greatest and transmission losses per mile will be the highest.

b. Reduction of the amount of thermal-generated energy needed for pumpback by reducing transmission losses.

c. Reduction of the amount of land corridor and labor and materials needed for transmitting the energy to the load center.

d. Reduction of the amount of peaking generating plant above ground and in public view.

e. Freeing some of the land above the facilities for public use as parks, etc.

Partly because of inertia, underground pumped storage proposed in the United States to date has been limited to heads appropriate for reversible Francis style pump-turbines. Two-stage (one above the other) developments using reversible machines have been proposed as a means of reducing the total excavated volume per megawatt of peaking capacity. There is talk of developing reversible machines capable of operating efficiently at higher heads than now possible. But there is no reason to wait the years required for achieving that tour de force, even if the operating range for such machines can eventually be extended.

There is absolutely no reason why much higher heads, on the order of 3000 feet or more, should not be developed now in a single stage with separate pumps and turbines. The heads will be available by going underground to the lower reservoir. Such a project is shown at the right side of Figure 2, for comparison with the highest head conventional pumped storage. There is a small surface reservoir, the intake/discharge control structure, the penstock, the powerplant in a cavern, a lower control structure, and a mined pillar and cavern underground reservoir. A typical head for an economical underground pumped storage project is about 1000 meters or more, say 3500 feet. That is a high head by most standards, but it is not greater than the depth of many mines.

With the head developed in one stage, there will be less total excavation than if the head is developed in two stages because there will be no intermediate regulating reservoir and because the separate machines are more efficient than reversible machines, which are a compromise between design for pumping and design for generating operation. The high head underground pumped storage project is a development with a small surface reservoir. The volume required at 3500 feet head is only one tenth the volume required at 350 feet head. The quantity of rock excavated and subsequently sold, used to line the upper reservoir, or otherwise used as fill, the cost of the pumping/generating facilities, and the surface defacement will similarly be less for a high head underground pumped storage project than for a plant with lower head. Water consumption will be less and makeup supply allocated will be less.

Of course, a safe high head underground pumped storage plant cannot be sited just anywhere. But the geotechnical criteria for selecting a site for such a project can be met near many of our major load centers. Geotechnical criteria of primary importance are those related to the subsurface conditions which will have an influence on the stability for construction of shafts, underground powerplant caverns, and underground storage reservoirs and on the long term stability of the underground storage reservoir under operating conditions. The geotechnical criteria include the following:

a. *Sound Rock*

1. The rock mass and the rock should be relatively free of major structural features that will influence its stability in large, unlined caverns during both excavation and long term operation. This includes structural features that may be susceptible to erosion by the water flowing through the rooms or to deterioration as a result of the daily fluctuations of water in the subsurface reservoir.

2. The rock should have a minerology that that is not susceptible to weathering, which could deteriorate the strength of the rock during operation of the facility.

b. *Adequate Thickness, Distribution, and Depth.*

1. The rock unit should have adequate thickness for the safe placement of the openings for the underground powerplant and for the underground storage reservoir.

2. The geometric configuration of the rock unit should be favorable for the placement of the underground powerplant and the underground storage reservoir.

3. The depth of the rock units should be sufficient to develop the intended head for generation.

c. *Water Tightness*

1. The permeability of the rock mass should be low to prevent either inward seepage and filling of the subsurface reservoir or outward seepage and leakage from the subsurface reservoir.

2. The permeability of the rock mass should be of the type that can be controlled by standard methods. Provisions can be made for treating local zones of secondary permeability, such as along joints or bedding. However the cost to control intergranular, or primary, permeability throughout an underground storage reservoir would most likely be prohibitive.

The geotechnical aspects of surface reservoir siting are also of primary importance. Evaluation should be made to ensure that the surface reservoir can be made relatively watertight and that the reservoir slopes will be stable under large and rapid changes of water level. Besides the technical considerations, the effect of a high head underground pumped storage project on the total environment should be evaluated.

TOTAL UTILITY SYSTEM WASTE HEAT REJECTION WITH PUMPED STORAGE

The bulk of the pumpback energy will be generated by the most economical base load thermal plants. If the base load units are nuclear fueled, waste heat rejected by them during pumpback will be about one and one half times as great as with fossil fueled base load pumpback. However, the nuclear plant waste heat will be about the same as waste heat from the older fossil fueled plants which would otherwise be used for peaking, per unit of electricity generated. Besides lesser operating efficiency of the fossil fueled peaking units, energy is consumed and wasted when they are starting up and shutting down and while they are following the peak of the load at inefficient part load operating conditions. That additional waste will not be as great, however, as the difference between the pumpback energy and the energy generated on load by the pumped storage plant. Thus, if there is a nuclear base, there will likely be greater total utility waste heat rejected to the environment with pumped storage on peak than with thermal units on peak. If there is a fossil fueled base, total utility waste heat rejected to the environment will likely be about the same, with pumped storage or with thermal peaking.

TOTAL UTILITY WATER CONSUMPTION WITH PUMPED STORAGE

Total utility water consumption would be about in proportion to the total utility waste heat rejection. There will be an additional long term water consumption with pumped storage because of the evaporation and leakage from the reservoirs. With a 3500 feet head underground pumped storage project, the surface reservoir will occupy only about 50 acres of land and the underground reservoir will be slightly larger. With such head and, say, 1000 megawatts peaking capacity, total water consumption at both the upper and lower reservoirs would be about 325 acre feet per year.

TOTAL UTILITY FIRM WATER SUPPLY DURING CRITICAL DRY PERIODS WITH PUMPED STORAGE

A cooling pond for 1000 megawatts of thermal peaking capacity would occupy about 1000 acres, or 20 times as much surface land as the upper reservoir of a high head underground pumped storage project. To reduce that land requirement, utilities in the southwest would build mechanical draft cooling towers. The towers would mar the landscape and create fog plumes on cold days. They would occupy less land than the upper reservoir of the high head underground pumped storage project, but we are not considering a large land area anyway.

A 1000 megawatt thermal peaking plant with cooling towers here in the southwest will consume 15 to 20 acre feet of water per day by evaporation and almost the same amount additional for tower blowdown.

That amounts to 8,000 to 10,000 acre feet per year, if operated on peak 8 hours per day, or consumption at the rate of 15 to 20 cubic feet per second when operating. *That is an amount about ten times as great as the rate of makeup supply for an alternative high head underground pumped storage plant!* And the makeup supply must exist at the same time as makeup for the base load units operating at their full capacity.

It wasn't many years ago that the Mississippi River level was so low that water could not be passed through the Union Electric Company's condensers at St. Louis. Their generating plants could not be operated at all. Without a firm supply of cooling water for a thermal plant, the plant cannot be counted on for generation. If the supply is not available every day of every year, then other generating capacity will have to be built or obtained by interchange for meeting the peak of the load, even if only for a day or two.

Consider a critical dry period or an emergency when makeup water is not available for a high head underground pumped storage project and when cooling and blowdown water is not available for a thermal peaking plant. The pumped storage plant will be operable at nearly its full capacity. The capacity will be reduced only by the ratio of evaporation and leakage losses during the critical period to the normal volume of water in the pumped storage system. Later, when makeup water is again available, the volume can be replenished to its normal amount.

In contrast, the alternative thermal peaking unit (normally requiring about ten times as much daily makeup as an equivalent capacity high head underground pumped storage plant and thus more frequently susceptible to reduction in the needed supply) will be completely out of service. Thus, we can appreciate the significance to the public and to the utility of a difference in the required allocation of firm water supply during a critical dry period. In water short areas, this matter should not be overlooked.

LOW VALUE BRACKISH OR SEA WATER

In regard to both total water consumption and firm allocation, there is an intriguing possibility in regions where brackish or sea water lies deep underground. Given careful exploration and planning, a high head underground pumped storage project can use brackish or sea water instead of the much higher quality water needed for makeup, cooling, and blowdown at a thermal peaking plant. Certainly, the proper materials must be selected and they cost more per pound than materials suitable with fresh water. Yet, there are several hydro-electric plants operating year after year with sea water. The extra cost of the special materials would necessarily be balanced against the value of freeing a higher quality water for other uses.

If high quality water were valued at only $15 per acre foot for irrigation, then using brackish water would be justified if the extra expenditure for materials were about $120,000. But if the high quality water were eventually valued as municipal and industrial water, then using brackish or sea water might justify an additional expenditure for materials of three quarters of a million dollars.

TOTAL UTILITY ATMOSPHERIC POLLUTION WITH PUMPED STORAGE

There will be no at site atmospheric pollution with pumped storage peaking. Most of the pumpback energy will be generated by the large base load units which are equipped with the most effective pollution control equipment and systems. With thermal peaking, if the peaking units are not at the same place as the base load units, then there will be some atmospheric pollution at two or more places instead of only at the base load plant sites.

WHY CONSIDER HIGH HEAD UNDERGROUND PUMPED STORAGE?

Underground pumped storage at high head is a here and now technology. If should be considered as an alternative to other means of peaking for the following reasons:

a. The necessary technology for shaft and cavern deep mining exists.

b. Given adequate planning and site selection, high head underground pumped storage is economical. There may be situations in which existing mines can be used for the lower reservoir, as in Finland.

c. High head underground pumped storage causes minimum topographical defacement because surface reservoirs are small. The plant can be close to the load center, thus minimizing requirements for right-of-way and structures for transmission. The powerplant and the lower reservoir will be safely out of sight.

d. Underground pumped storage peaking minimizes fossil fuel consumption when all or most of the pumpback energy is generated during off peak hours with the then excess capacity of base load nuclear fueled plants. That pumpback energy costs 3 mills per kilowatt hour or less, compared with 6 to 7 mills per kilowatt hour for fossil fueled peaking.

e. High head underground pumped storage minimizes the total utility system requirement for firm water supply during critical dry periods.

f. Well planned and well executed underground pumped storage will not destroy the underground environment and it will not pollute the groundwater basin.

Several additional advantages to the electric power utilities are summarized below:

a. Very high head underground pumped storage projects with separate pumps and turbines can be started simply, can change from pumping to generating mode very rapidly, and can pick up load in a very short time.

b. Investment in transmission facilities can be low and system transmission stability can be high, with the peaking capacity operated near the major load centers.

c. Land purchase requirements decrease as the head increases and part of the facilities are put below ground.

d. Total utility disbursements for fuel and investment tied up in fuel reserves can be reduced. This is increasingly significant because we are already experiencing doubled costs for fossil fuels and can expect further increases.

It seems in the interest of the general public and of the electric power utilities that high head underground pumped storage should be considered as an alternative whenever other means are proposed for meeting the peak loads of the 1980's and thereafter. Many utility systems can use 10% to 15% of their total capacity as pumped storage. Economical high head underground pumped storage plants can be built with existing technology and within existing legislation, with minimum deterioration of the environment.

TRADITIONAL ECONOMIC METHODS FAIL TO CORRECT U.S. ECONOMIC PROBLEMS

Mr. HARTKE. Mr. President, the traditional economic tool for correcting a disequilibrium in the balance-of-payments mechanism has not worked. No one can say with any assurance that the two dollar devaluations will restore the United States to a position of surplus. There is, however, evidence that the strong medicine of devaluation is not at all effective in combating our trade deficit.

Exports from Germany continue to pour into the United States despite our two dollar devaluations and the recent German mark revaluation. Overall, German exports, despite the much higher prices demanded for mark-valued products, showed a 20.9-percent increase for the first 5 months of 1973 compared to the same period in 1972. German exports to the United States increased by a record 18.2 percent during this period.

Exports to the United States in May of this year amounted to $440.65 million up from $397.15 million in May 1972. Imports into the United States increased by 22 percent in 1972. They continue to climb at this annual rate. Export volume only increased by 8 to 14 percent in 1972. Devaluation has not given an impetus to exports in general.

Devaluation has also not been very successful in attracting foreign investment to the United States. Volkswagen was considering putting an assembly plant in the United States but has made no moves in this direction because the dollar parity fluctuates so drastically from day to day. This is hardly the basis upon which these firms can make any long-term plans or even short-term calculations. So they put off any decisions to invest in the United States and the potential jobs for Americans are not realized.

Devaluation has made our agricultural products extreme bargains, draining our supplies and pushing up domestic prices. Phase IV promises even higher food prices, adding to our already outlandish annual agricultural price inflation rate of 32 percent.

We can ill afford waiting around until the positive effects of devaluation materialize. Thus far, it has not brought about the kind of adjustments which are necessary. It has been detrimental. Our dollar, although still one of the world's reserve currencies, is being buffeted back and forth by speculators and creating severe strain on the world's monetary and trading structure. The potential has been created for a major shift in international trading relationships in the next few months, and it will not be in the favor of the United States.

NEW LEGAL SERVICES CORPORATION

Mr. JAVITS. Mr. President, it is my expectation that the Subcommittee on Employment, Poverty, and Migratory Labor will proceed in the very near future, hopefully before the August recess, to consider the administration's proposal and other proposals for the establishment of a new legal services corporation.

The Senate Committee on Labor and Public Welfare has before it S. 1815 and amendment No. 132, essentially the administration's proposal, which I introduced to ensure its consideration, and S. 706 and amendment No. 5, introduced by Senator MONDALE, which I cosponsored, which is basically the bill agreed to in conference last year, but unfortunately dropped in anticipation of its veto by the President, largely over the failure to reach agreement on the way to appoint the board of directors of the corporation.

The House of Representatives has already acted upon the administration's proposal having made a number of changes in committee and also on the floor—in the latter case changes which I consider on the whole to fall short of the need.

Mr. President, when I introduced the administration's proposal on May 15, 1973, I indicated that each of the provisions of that measure would have to be judged by the very principles enunciated by the President in his messages on the subject—not only in terms of intent but their potential effects. These principles are: the independence of the corporation, freedom of the attorney-client relation—and maintenance of a vital program. I pledged that I would seek to eliminate the elements which could tend to politicize the program and to support elements that could serve to professionalize it.

In this regard I noted particularly that:

> The views of the organized bar and the attorneys in the current program with respect to these and other provisions will—as in the past—be a strong guiding force in the final legislation which results.

I am very pleased, therefore, that a number of very distinguished members of the National and New York Bar came to Washington this past Wednesday, July 18, 1973, and make known to me and to other Members of the Congress their views with respect to the House-passed bill and the proposals to be considered in the Senate.

It must be constantly reassuring to those who conduct the program, as it is to me, that lawyers of such stature as Robert Meserve, president of the American Bar Association, and Orville Schell, president of the Association of the Bar of the City of New York, would personally meet the elected representatives in behalf of a professional legal service program.

Mr. Schell transmitted to my office joint statement endorsed by the New York State Bar Association, the Association of the Bar of the City of New York, the New York County Lawyers Associations, the Legal Aid Society, the Community Action for Legal Services—CALS—and Community Law Office—an extensive and impressive array of the key associations concerned with legal services.

The statement indicates that each of these organizations is strongly committed to the entertainment of a National Legal Services Corporation which:

> (a) is adequately funded to meet the compelling need for legal representation of eligible indigent clients;
>
> (b) permits legal services lawyers to provide the same representation to indigent clients that the private bar provides to its clients:
>
> (c) has sufficient flexibility in its personnel policies and in the use and application of its funds to permit an innovative attack on the problem of providing legal representation to the indigent; and
>
> (d) is not restricted by statute in the kind of cases that it can take or the nature of the legal assistance it can provide to eligible clients.

On the basis of these criteria, the statement concludes:

> We believe that H.R. 7824, as passed by the House fails to satisfy the foregoing principles and is, therefore, unsatisfactory.

Mr. President, I agree with this conclusion and, as the legislation is considered by the Committee on Labor and Public Welfare, I pledge every effort to insure their implementation in the areas of concern noted in the statement—legislative and administrative advocacy, full representation, and the continuation of backup centers, as well as other areas of concern.

I also acknowledge with satisfaction the receipt by my office of a petition—signed by 1,509 lawyers and candidates for admission to the bar in New York State—endorsing a resolution sponsored by the New York Law Associates in support of a resolution passed by the House of Delegates of the American Bar Association on February 16, 1973, urging the formation of a strong legal services corporation and in the interim continuation of the existing program at an adequate level of funding.

Mr. President, I also wish to express my strong support for the continuation of a meaningful legal services program under OEO in the interim until a national legal services corporation is established. In that connection, I note the following very promising development:

The action of the House of Representatives in voting to appropriate $71.5 million for the current program in OEO for fiscal year 1974; I expect to testify before the Senate Committee on Appropriations tomorrow in support of that appropriation; earlier the Appropriations Committee, at my request, included as report language on H.R. 7447, the second supplemental appropriations bill, a commitment to fund the existing program. Pursuant to that commitment, the program is now being conducted under a continuing resolution.

The commitment made in writing to me by the Acting Director of OEO, Alvin J. Arnett, in response to a letter dated June 28, 1973, from me and 10 other members of the Labor and Public Welfare Committee and the Senate to continue the vital backup centers at least through December of this year;

The commitment made by Acting Director Arnett just last Friday in his confirmation hearing before the Committee on Labor and Public Welfare, in response to questions which Senator Schweiker and I posed, that he does not intend to make any major changes in the goals or conduct of the legal services program and he will tend toward funding of existing projects in carrying out the programs throughout this fiscal year. With respect to his commitment not to affect any major changes in the program, I note also that he has advised Robert Meserve, president of the American Bar Association, of his intent to withdraw and not pursue at this time any new regulations for the program; Mr. Phillips had previously published regulations that in my opinion would have greatly changed the program and limited so-called law reform cases and restricted representation in cases involving assistance for the establishment of community development corporations and other organizations.

I ask unanimous consent that there be printed in the RECORD a copy of the statement by the New York Bar Association to which I referred earlier, together with the exchange of letters I had with the Acting Director of OEO, Alvin J. Arnett, regarding backup centers, and a copy of the resolution sponsored by the New York Law Associates to which I also referred.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE PROPOSED NATIONAL LEGAL SERVICES CORPORATION (H.R. 7824 AND S. 1815)

On May 15, 1973, the Administration introduced its long-awaited bill seeking to establish a National Legal Services Corporation (H.R. 7824). The bill, changed substantially by the Committee on Education and Labor and amended extensively by the House of Representatives prior to passage on June 21, has been sent to the Senate for consideration. Companion legislation has been introduced in the Senate (S. 1815 and amendment 132 thereto).

SUMMARY OF RECOMMENDATIONS

Each of our organizations is strongly committed to the creation of a National Legal Services Corporation which:

(a) is adequately funded to meet the compelling need for legal representation of eligible indigent clients;

(b) permits legal services lawyers to provide the same representation to indigent clients that the private bar provides to its clients;

(c) has sufficient flexibility in its personnel policies and in the use and application of its funds to permit an innovative attack on the problem of providing legal representation to the indigent; and

(d) is not restricted by statute in the kind of cases that it can take or the nature of the legal assistance it can provide to eligible clients.*

We believe that H.R. 7824, as passed by the House, fails to satisfy the foregoing principles and is, therefore, unsatisfactory. We unanimously call upon the Senate, in its consideration of S. 1815, to reaffirm these principles by adopting, at the very least, those essential amendments described below to the cited paragraphs in H.R. 7824 and S. 1815.

1. Adequate funding

Prospects for adequate funding of the Corporation and the legal service programs operating thereunder are seriously threatened by:

(a) the specific authorization (Sec. 6(e) of H.R. 7824) for local courts to impose potentially staggering court and counsel fees upon such programs, even where no such costs could be imposed on private attorneys, with the additional problem that a concern with possible defunding inhibits a program from adequately asserting clients' rights; and

(b) the severe restrictions against the use of non-Corporation funds (Sec. 10(b) of H.R. 7824), which may have the adverse effect of virtually eliminating substantial funds *now contributed* to such programs by state and local governments, foundations and the private Bar.

In addition, we note that since neither H.R. 7824 nor S. 1815 contains an authorization or appropriation of funds, separate legislation will be required to enable the Corporation to even begin to carry out its responsibilities.

2. Equal representation

The opportunity—indeed, the obligation—for legal service lawyers to render the same type of representation to poor clients as the private Bar furnishes to its clients is embedded in the Code of Professional Responsibility, in the Constitution's guarantees of Equal Protection and Due Process and in the concept of our adversary system. Yet H.R. 7824 and S. 1815 undermine the goal of equal representation by:

(a) prohibiting (Sec. 7(a)(5) of H.R. 7824 and Sec. 6(e)4 of S. 1815) legal service programs from many forms of legislative or administrative advocacy both as members of the Bar with the obligation to contribute to the improvement of the law and even in cases where such advocacy is required by the interests of the clients, while permitting such advocacy by private attorneys for competing interest groups;

(b) severely inhibiting legal services programs from advising clients of applicable laws and remedies (Sec. 6(b)5 and 7(b)4 of H.R. 7824; Secs. 6(b)5 and 7(b)5 of S. 1815) because such advise may "encourage" the use of such laws and remedies, despite the fact that attorneys are professionally bound to advise their clients of applicable legal alternatives and despite the fact that encouraging wider understanding of such laws and remedies may reduce the frequency of litigation and the cost of legal services;

(c) subjecting restrictions on the ability of legal services programs to advise clients of corporate and organizational alternatives available under the law (Sec. 7(b)5 of H.R. 7824 and Sec. 7(b)6 of S. 1815) even where such laws created for profit can be helpful to such clients, or assisting them in meeting the requirements of such laws even though such non-litigation counseling is a primary service for the private clients.

In each of these cases, we believe, H.R. 7824 and S. 1815 must be modified to preserve the appellate and advocacy capabilities of legal service programs to the same extent that such capabilities exist within the Bar generally.

3. Personnel Policies and Innovative Approaches to legal Problems

Despite the desparate need for more qualified men and women to meet the legal needs of the poor and for innovative approaches to these needs, H.R. 7824 will make it more difficult for legal service programs both to obtain qualified staff attorneys and to pursue such approaches. In particular:

(a) de-centralized national back-up centers are eliminated entirely (Sec. 6(a)(3) of H.R. 7824), despite the obvious contribution they have made to thorough research and analysis by legal service lawyers—a contribution directly parallel to that which libraries, continuing legal education programs and numerous research associates make to the private Bar. Two other sections dealing with other subjects (Secs. 6(b)4 and 7(b)3 of H.R. 7824 and Sec. 7(b)3 of S. 1815) may be read to have the same effect of excluding back-up centers and should be clarified or eliminated;

(b) both full and part-time attorneys associated with legal service programs are prohibited from virtually all participation in the political process (Sec. 7(a)(6) of H.R. 7824 and Secs. 6(b)5 and 7(a)7 of S. 1815), including non-partisan campaigns. These limitations surpass those imposed on full-time government employees by the Hatch Act. To the extent that they do, we believe them inappropriate and oppose their enactment.

(c) local bar associations must be requested to recommend applicants who must then receive preference for all available staff attorney positions (Sec. 7(a)(8) of H.R. 7824). Although consultation with local bar associations is desirable, the bill as presently constituted provides that recommendations from the local bar association must receive preference and this may inhibit the independence of the program.

4. Restrictions on cases and services rendered

Highly objectionable provisions of H.R. 7824 arbitrarily restrict either the particular clients which legal service programs may represent or the types of remedies which may be sought on behalf of those clients. We believe strongly that once the promise of rights is made to a group of citizens and a lawyer-client relationship established, legal service lawyers—like all lawyers—must be free to pursue (within the framework of the Code of Professional Responsibility) all available remedies for vindicating their clients rights—regardless of whether those clients or those rights are popular or unpopular with the majority of any community, court or legislature.

Notwithstanding these fundamental principles, neither the Corporation nor any legal service program funded by it may represent an indigent client who:

(a) is under 18 and lacks parental consent for such representation (except in severely restricted cases (Sec. 7(b)(6) of H.R. 7824). This subsection raises a question concerning an emancipated person who is under the age of 18 and the bill should, at a minimum, be amended to exclude emancipated persons. Moreover, the proposed Corporation may well wish to issue guidelines outlining the circumstances under which such representations may be undertaken. Such matters appear to be inappropriate for inclusion in the legislation establishing the Corporation and should be left to the Corporation's Board of Directors.

(b) has been convicted of a criminal charge and seeks relief in a civil action arising out of alleged acts or failures to act connected with the criminal conviction and which is brought against an officer of the court or against a law enforcement official (Sec. 9(b) (1) of H.R. 7824).

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*These principles were contained in a Resolution adopted by the House of Delegates of the New York State Bar Association on June 29, 1973.

In addition, even if eligible for representation, no client is permitted to assert any claim with respect to:

(c) his right to attend an integrated school (Sec. 7(b) (7), (10) of H.R. 7824);

(d) her right to a non-therapeutic abortion (Sec. 7(b) (8) of H.R. 7824); or

(e) the Selective Service Act (Sec. 7(b) (9) of H.R. 7824).

We find in each of these cases an unacceptable deviation from the principle that the rights of poor clients are as equally entitled to respect, and enforcement, as the rights of all other citizens.

* * * * *

For the reasons stated above, we strongly urge all members of the Congress—and particularly those concerned with the continued role of law and fair play in our society—to create a truly *professional* Legal Services Corporation in accordance with both the principles set forth at the outset of this report and the specific recommendations set forth above.

New York State Bar Association.

U.S. Senate,
Washington, D.C., June 28, 1973.

Mr. Alvin J. Arnett,
Director, Office of Economic Opportunity,
Washington, D.C.

Dear Mr. Arnett: As members of the Senate Committee on Labor and Public Welfare and others concerned with the legal services program, we urge you to utilize, and obligate existing funds appropriated for fiscal year 1973 and funds that we expect the Congress to appropriate for fiscal year 1974, to continue the current support centers at least through December 31, 1973, or until a national legal services corporation can be established.

As you know, the sixteen support centers throughout the Nation currently funded by the Office of Economic Opportunity provide essential specialized legal assistance for legal services attorneys and their clients, thus serving as the vertebrae of the entire program, in such crucial areas as employment, migrant and other law.

The Economic Opportunity Act Amendments of 1972, signed into law by the President on September 19, 1972, provides that of the authorized amounts in each of the fiscal years 1973 and 1974, the Director of the Office of Economic Opportunity shall "reserve and make available" not less than $71.5 million for legal services programs. On October 31, 1972, the President signed into law (P.L. 92-607) the Supplemental Appropriations Act, 1973, appropriating $71.5 million for legal services for the current fiscal year 1973.

And, under recent decisions in the Federal courts, the Office of Economic Opportunity is obligated to make fiscal 1973 funds available before the close of this fiscal year for continuation of the legal services, as well as other OEO programs.

Moreover, with respect to fiscal year 1974, the Congress has already made clear its intent that the legal services program, including support centers should continue to be funded through fiscal year 1974 in the Office of Economic Opportunity, pending the establishment of a national legal service corporation.

The House has passed both H.R. 8877, the Labor-HEW Appropriations Act, 1974, specifically including $71.5 million for continuation of legal services under OEO through fiscal year 1974, and pending action by the Senate on that measure, H. Res. 636, continuing the legal services program, at the rate of $71.5 million through September 30; the latter will be acted upon by the Senate this week.

It is also already clear that the Senate favors similar actions; in connection with H.R. 7447, the Second Supplemental Appropriations bill, the report of the Senate Committee on Appropriations, dated May 18, adopted by the Senate on May 31, states:

"In the budget submitted to Congress on January 29, the President indicated that a proposal would be forthcoming to establish a new legal services corporation. Since this legislative proposal has just been submitted (May 11), the Committee is somewhat concerned that the fiscal year will end and no funds will be available to continue the 900 neighborhood offices *and sixteen support centers* now in operation throughout the country. Since there is existing authority under the Economic Opportunity Act and further, since appropriations for legal services covering FY 1973 have been enacted this program would normally be covered under a continuing resolution at a level of $71,500,000. Should the Congress fail to complete action on the FY 1974 legislative proposal and subsequent appropriation, the Committee would work to ensure that this program is provided for under a continuing resolution based on existing authority and present level of funding." (emphasis added).

We support fully the concept of a national legal services corporation, and expect prompt action by the Committee on Labor and Public Welfare on the Administration's proposal, which has already passed the House.

But in the interim, until the corporation can be established and ongoing, it is essential that these vital back-up centers be fully funded in accordance with Congressional intent.

We recognize that the future of legal services support centers under a new corporation is an issue in dispute and we will welcome a review of that question in the context of considering legislation to establish a new corporation. However to permit these centers to go out of existence in the meantime would serve only to undermine the objective evaluation that is necessary, cause a diminution in current effective legal services for the poor and constitute a demoralizing and cost-ineffective break in continuity, should it later be determined that such centers are to be a part of the program under a new legal services corporation.

Even if legislation to establish a national legal services corporation is promptly enacted—as we hope it will be—it is doubtful that it could be fully ongoing before January 1, 1974. Accordingly we urge that you take appropriate affirmative action on pending applications under their terms for continuation, and in any event at least through December 31, 1973 or until a new corporation is ongoing.

Sincerely.

Jacob K. Javits, Richard S. Schweiker, Edward W. Brooke, Alan Cranston, Thomas F. Eagleton, Harold E. Hughes, Harrison A. Williams, Jr., Claiborne Pell, Walter F. Mondale, Edward M. Kennedy, and William D. Hathaway.

Office of Economic Opportunity,
Washington, D.C., June 29, 1973.

Hon. Jacob Javits,
U.S. Senate,
Washington, D.C.

Dear Senator Javits: This responds to your letter of June 28 regarding funding of legal services back-up centers.

Prior to receipt of your letter, I had, as an administrative matter already lifted the month-by-month funding arrangement for these centers. In lieu of the month-by-month, I directed funding be made in each case for a six month period. I think that action, in effect, substantially meets the concern of your letter.

Sincerely,

Alvin J. Arnett,
Acting Director.

We the undersigned lawyers and candidates for admission to the Bar support the following resolution passed by the House of Delegates of the American Bar Association on February 16, 1973, and urge that no legal services programs be disbanded or disrupted pending appropriate legislation setting up a national independent legal services corporation:

Whereas: There is a continuing need for legal services for the poor.

Whereas: There are federally funded Legal Services Programs to meet this need in each of the states.

Whereas: These programs are facing an expanding demand for legal services and increased operating expenses.

Whereas: The funding for these programs has not increased since 1970 in spite of the increase in demand and operating expenses.

Whereas: This Association continues to support the need for adequate programs to provide this representation.

Now, therefore, it is resolved:

1. The United States government should increase the level of funding of Legal Services programs to enable them to provide adequate legal services to eligible clients and to prevent a serious deterioration of the quality and quantity of service because of increased expense and mounting caseloads.

2. Government at all levels and lawyers from both the public and private sectors should take every step necessary to insure that legal services lawyers remain independent from political pressures in the cause of representing clients.

3. The Congress of the United States should enact a legal services corporation of a design consistent with the foregoing principles and the need to maintain full and adequate legal services for the poor.

THE PEACE MOVEMENT AND THE MIDDLE EAST

Mr. HATFIELD. Mr. President, with the decline of our active military involvement in Southeast Asia the peace movement has been searching for ways in which to refocus its energies. One of the most needed areas of attention from both the perspectives of our national interest and the hopes for world peace is the dilemma faced in the Middle East.

In an attempt to focus on possible approaches the peace movement might take in this regard Mr. Robert Vogel, a Quaker member of the American Friends Service Committee, and Secretary of the Southern California Clergy and Laity Concerned, wrote a most perceptive article for the May 21, 1973, edition of the American Report which I ask unanimous consent to have printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Middle East: Struggle for Peace

(By Robert S. Vogel)

Now is the time for the U.S. peace movement to take up the challenge of peace in the Middle East. This article addresses the very complex problem of a resolution to this conflict and examines the possible role of the American peace movement.

Ever since its birth 25 years ago, the state of Israel has not been officially recognized by the Arab states or the Palestinian organizations. Unofficially some Arab Government leaders and many Palestinians recognize the fact that Israel exists and must be accepted. Israel now occupies and administers all the lands won during the 1967 Six Day War; the Sinai, Gaza, the West Bank, and the Golan Heights. It has incorporated East Jerusalem into Israel proper. There is no peace because no formula has yet been devised which will satisfy the national objectives of all the parties. Thus an armed truce continues with the constant danger that further armed conflict may break out at any time.

For many the Arab-Israeli conflict has become wearisome and frustrating. The literature is replete with justifying arguments and one-sided histories. Each party insists it is for peace, but then spells out conditions that are totally unacceptable to the other. Coupled with this is the lack of critical self-analysis or proposed actions which might create a climate for mutual accommodation. Although social critics do exist on both sides, they wield little political influence.

TERRITORY AND NATIONALISM

Much of the conflict centers around geography. Officially the Israeli Government, concerned primarily with survival and acceptance by the Arab states, takes the position that all territories are negotiable, but border settlements must be negotiated with the Governments involved. At the same time, leading Israeli officials have announced that Israel will not give up the Golan Heights or East Jerusalem; will oppose the creation of an independent Palestinian state or entity on the West Bank; wants to make the Jordan River its military, if not its political frontier; may be willing to share the Sinai with Egypt; and insists that the Gaza strip never become part of any foreign country again. Further, these officials, reflecting what polls reveal as the majority political opinion in Israel today, have said that Israel insists on direct negotiations, wants no international guarantees, and is prepared to negotiate with Governments directly involved on the payment of compensation for the refugees.

No Arab Government will long endure if it accepts a humiliating peace. Loss of territory is not as intrinsically important as it is an index of humiliation. King Hussein of Jordan insists on the return of the West Bank and East Jerusalem. The Egyptian Government insists on the return of the Sinai. Egypt announced early in 1971 that it would sign a peace agreement based on full implementation of U.N. Security Resolution 242, which it interpreted to mean total withdrawal of Israel's armed forces from the Sinai and Gaza, demilitarized zones astride borders, a U.N. peace-keeping force at Sharm el Sheikh, and freedom of navigation in the Suez Canal and the Straits of Tiran.

The inability of Palestinian Arab nationalists to form their own independent state and the resultant frustration has been a primary source of tension and conflict in the Middle East. Since the early 1920's Palestinian Arab nationalism clashed with Zionist nationalism over control of the territory between the Mediterranean and the Jordan River. But the Palestinians have lost all the territory to their foes because they have been weak and divided, and because they became dependent on and victims of competing Arab states which sought to gain control over this new political force. Thus in the September 1970 civil war in Jordan, the Palestinian guerrillas lost both popular support and backing by Arab Governments and were, at length, driven to find sanctuary and support primarily in Syria.

Although weak, poorly organized, and split ideologically, the Palestinian movement has the support of most Palestinians and Arabs because it is seen as representing the victims of injustice. Whether the Palestinians will ever achieve autonomy or independent statehood will depend on both the Arab states and Israel. Unless there is a clear recognition of the Palestinians and their rights to self-determination, the Middle East will remain an area of tension and conflict rather than peace and development.

JUSTICE AGAINST JUSTICE

Both sides emphasize their distinctive claims to the land. Although not all Jews would agree, the claim to the land from which they were expelled 2,000 years ago is based on religious, historical, and political arguments. For the religious Jew, Palestine is the land promised by God to Abraham and his descendents forever. It is the land in which Jewish history has had its most glorious and formative episodes, and in which despite nearly 20 centuries of exile, Jewish settlers maintained some foothold, often under great hardship. The promise of ultimate return has been a source of inspiration and encouragement to generations of Jews in Diaspora. The Passover prayer, "next year in Jerusalem," and the prayer at meals, "and rebuild Jerusalem, the holy city, speedily and in our day," reflect this yearning.

The discrimination and brutal treatment of Jews over the centuries, essentially by the Christian West, culminated in the genocidal policies of Hitler. These all gave added impetus to Zionism, the movement for a Jewish homeland and for a Jewish state—a place where any Jew would be welcome as a citizen.

The Arab claims to the land are equally as powerful though quite different in nature. While acknowledging that a great injustice has been visited upon the Jews, Arabs ask why they should be made to pay the price for the brutalities of the West. They point out that Arab inhabitants have made their homes and tilled their fields in this area since the 7th Century A.D. and have remained like the Jewish inhabitants a constant element in the population.

Their displacement after many centuries lends pathos to the situation. The strongest single element in their identity has been the sense of belonging to the soil of Palestine. Their loss of property through circumstances often beyond their control has caused bitter resentment, and no Palestinian Arab would question for a moment the justice of his claim either to be restored to his original home and property or be compensated for the loss.

So while justice clashes with justice, each side wants the exclusive use of the land and denies it to the other except in minority status. Efforts to partition the old British mandate by the United Nations in 1947 were unsuccessful. The Jewish Agency for Palestine accepted the portion allotted to it; the Arab leaders refused to consider any partition. Today, as a result of war, Israel has under its control the former mandate of Palestine, including more than one million Palestinians. Undaunted by these set-backs, the Palestinian liberation organizations continue to seek a new biternational state of Palestine shared by both Israelis and Arabs. Since such a state would be predominantly Arab, with uncertain status for the present inhabitants, this goal is unacceptable to most Israeli groups. For it would end the state of Israel and deny self-determination for the Israelis. Consequently, a political stand-off.

SOLUTIONS AND ACCOMMODATIONS

While there probably can be no military solution to the problem of the Arab-Israeli conflict, it is hard to convince the parties involved that political and diplomatic avenues are viable. The fact remains that it has been through military methods that the present truce lines have been established and maintained to date, and that diplomatic initiatives through the U.N. and other third parties have made only limited progress. The chief efforts have been the 1967 U.N. Security Council Resolution 242 which seeks an over-all settlement by linking Israeli withdrawal from Arab territory with Arab *de jure* recognition of Israel and an end to the state of belligerency.

This resolution which has been subject to many interpretations continues to be the main hope for some progress toward a settlement. For most observers, the resolution, with all its inadequacies, is the only basis for an Israeli-Egyptian settlement. Such an agreement might then create the climate in which other Arab States and the Palestinians, now weak and divided, could find a psychological and political basis for reconciling themselves to Israel's existence.

It may well be that over-all solutions are not possible today. Yet, in the absence of a political settlement, changes do take place. About 50,000 Palestinian Arabs are working in Israel proper. Military-agricultural settlements are being established in these territories. The "open bridges" policy across the Jordan river has worked to the mutual advantage of Israel and Jordan; and in the summer of 1972 about 150,000 Arabs crossed into the West Bank for up to four-month visits. Jordanian tour groups can enter and leave Israel via the Jordan bridges rather than through Cyprus or Greece. Municipal elections in the West Bank have given a degree of local autonomy to Arab communities. East Jerusalemites are now included in Israel's old-age pension scheme. And Arab mothers and children are granted allowances under the national insurance laws.

In short, some adjustments are taking place. Whether they will lead to something lasting and mutually satisfactory remains to be seen. But some form of association, however politically organized, is slowly emerging between Israel and the occupied or administered territories.

Clearly the Israelis and Palestinian Arabs are going to have to learn to live together in mutual respect and absence of exploitation, or go through more bloody experiences which would be tragic for all concerned. What is still denied the more than one million Arabs in the territories is independence, political representation, and national rights. If these problems are not satisfactorily resolved, then sooner or later they are likely to emerge to haunt those who proclaim peace when there is only a lull in the conflict.

FUELING THE CONFLICT

The big powers have been involved in the Middle East conflict. Both the U.S. and U.S.S.R. have been concerned with stability in the area. While they seek to restrain the Governments of both sides from highly risky military adventures, they help to fuel the conflict by selling or giving arms to their clients. The Soviet Union arms Syria and Egypt; the U.S. provides sophisticated aircraft for Israel and at the same time supports the Governments of Lebanon and Jordan in their military repression of the Palestinian guerrilla forces.

But the primary interests of the big powers in the Middle East is economic. It is one of the ironies of history that the Arab states sit on approximately 70 percent of the world's known oil reserves. Western Europe, Japan, and, increasingly, the United States are dependent on this source of power, so critical to their development. The oil rich Arab states, sensing the value of their natural resources, are already increasing the price of crude oil. Whether in addition, they will make demands for political concessions is speculative, but certainly within the range of the possible.

Why has the U.S. peace movement not addressed itself to the Middle East conflict? Two reasons suggest themselves: 1) involvement with Indochina and other more immediate concerns; 2) fear of the reaction of its Jewish and Arab constituents. The often emotional reactions of some segments of these communities have been a deterrent to sober, objective inquiry.

Rabbi Maurice Eisendrath, President of the Union of American Hebrew Congregations (U.A.H.C.), writing in U.A.H.C.'s *Dimensions* in the Fall of 1970, took note of this problem, and criticized the Jewish establishment of America for suppressing any "protest against a single scintilla of official Israeli foreign policy." He noted the "incredible freedom of expression that is manifest in Israel today," quoted extensively the criticism of Israeli policies by loyal Israeli citizens and members of the Knesset, and made a strong plea for an independent voice of American Jewry.

What then is the role for the U.S. peace movement? (Those organizations which work for a world of peace and justice through nonviolent methods.)

First of all, the peace movement must recognize its own limitations. It is not a government and its movement is not united. It is addressing itself to social conflict where the parties are governments and organizations which represent powerful political and economic interests.

Second, it must take both a pro-Israeli and a pro-Arab stance. It must be concerned for the rights and interests of both peoples. This does not mean that it is neutral or detached; for it is an exponent of a policy of reconciliation.

Third, the peace movement must understand the nature of the conflict, how it developed, and the claims by all sides for justice. Trying to determine historical justice is a blind alley. The debate which has raged for more than a quarter of a century, based on conflicting claims, can never be fully resolved to the total satisfaction of the parties. However, a clear recognition that the claims and feelings of each side are real can be one step toward resolution.

Fourth, the U.S. peace movement should give full backing and encouragement to those groups within Israel and within Arab societies that are seeking non-violent solutions. It needs to help publicize in the U.S. the diversity of opinion within Israel, the debate within the Labor party on the Palestinian problem, and the existence of groups for social change throughout the region.

Fifth, the peace movement should not support a policy of supplying arms to any of the parties involved. It can, however, support through economic assistance those groups which are trying to build hospitals, schools, to colleges, and technical training institutes to encourage social development. It can assist efforts for empowerment of people in nonviolent enterprises. And finally, it can create an international fund to assist both Palestinian and Jewish refugees who have been victims of the conflict.

Finally, the peace movement needs to help the United States recognize that it has been part of the problem as well as, hopefully, part of the solution. The United States and Western European Governments need to accept the responsibility for their own past anti-semitism which included both Jews and Arabs. Since U.S. policy is important in the Middle East, the U.S. peace movement has an obligation to study the situation and to take a responsible role in doing whatever it can to influence the course of that policy.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. Hathaway). Is there further morning business? If not, morning business is concluded.

LEAVE OF ABSENCE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from South Dakota (Mr. Abourezk) be excused from attendance on the Senate during this week and next. This week he is officially absent to attend the Aeronautics Symposium in Moscow, and next week he will be officially absent to attend a meeting of the U.N. Committee on Disarmament in Geneva.

The PRESIDING OFFICER. Without objection, leave is granted.

PUBLIC WORKS APPROPRIATIONS, 1974

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the unfinished business, H.R. 8947, which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 8947) making appropriations for public works for water and power development, including the Corps of Engineers—Civil, the Bureau of Reclamation, the Bonneville Power Administration and other power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Atomic Energy Commission, and related independent agencies and commissions for the fiscal year ending June 30, 1974, and for other purposes.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. Time for debate is limited to 2 hours to be equally divided and controlled by the majority and minority leaders or their designees, with one-half hour on any amendment, debatable motion or appeal.

Mr. ROBERT C. BYRD. Mr. President, on behalf of the majority leader, I yield his time to the distinguished manager of the bill the Senator from Nevada (Mr. Bible).

Mr. BIBLE. Mr. President, I yield myself such time as I may use.

The PRESIDING OFFICER. The Senator from Nevada may proceed.

Mr. BIBLE. Mr. President, we have under consideration H.R. 8947, a bill making appropriations for Public Works for water and power development, including the Atomic Energy Commission, the Corps of Engineers—Civil, the Bureau of Reclamation, the Bonneville Power Administration and other power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, and related independent agencies and commissions for the fiscal year ending June 30, 1974, and for other purposes.

Mr. President, the hearings on the bill started on February 27 and continued through June 26. The subcommittee held 42 sessions for the purpose of taking testimony and two executive sessions for the purpose of marking up the bill. The committee received testimony and statements of 1,500 witnesses—actually, about 1,000 witnesses appeared before us—which included representatives of various organizations and local communities, many Governors and State agencies' heads, more than half of the Members of the Senate, and a large number of Members of the House.

As Members of the Senate know, our esteemed colleague, the distinguished Senator from Mississippi, John C. Stennis, is the chairman of the Public Works and AEC Appropriations Subcommittee. We have missed his guidance, counsel, and wisdom.

I have talked with him by telephone on numerous occasions and visited with him personally at Walter Reed, regarding the progress and preparation of this bill, and I believe I can say that he supports the actions and recommendations before the Senate. We, of course, continue our prayers and best wishes for his continued recovery.

I want to express my appreciation to the members of the subcommittee for their assistance in the lengthy hearings on this bill, particularly the distinguished Senator from Oregon (Mr. Hatfield) the ranking minority member of the subcommittee, who has been of invaluable help. Special mention should be made of the work of the distinguished Senator from New Mexico (Mr. Montoya) who handled practically all of the hearings on the Atomic Energy Commission. He also rendered valuable assistance throughout the hearings and the preparation of the bill.

Senators McGee, Bellmon, Stevens, and Schweiker also chaired hearings during this long period of time. I believe that we have brought a bill to the floor of the Senate that will meet with its approval.

Mr President, the committee report explains the recommendations of the committee and I shall not take the time to detail all of the action and changes.

OVERALL SUMMARY

The 1973 public works and AEC appropriations totaled $5,658,156,000.

The budget estimates submitted in the President's 1974 budget totaled $4,757,469,000, which is more than $900 million less than last year's appropriation.

The bill as reported to the Senate provides $4,797,902,000 in new obligational authority; which is $40,433,000 above the budget estimate and $121,507,000 over the bill as passed by the House, and $860,254,000 less than last year's appropriation. Let me quickly point out, however, that there is included in the reported bill an authorization and appropriation in the amount of $25 million for interim financing of Indian roads and bridges which should be considered as a part and separate inasmuch as it would not normally be included as an appropriation in this bill. I shall explain the reasons for its inclusion later and will propose further action on this matter in a few minutes—the effect of which will be reducing the bill by withdrawing the $25 million amendment which we added in committee.

Not including this $25 million interim financing authority, the reported bill for Public Works and AEC items is $15.4 million over the budget and $96.5 million above the House bill.

Mr. President, this bill deals primarily with water resource and power development. In providing funding for these prorgams, we assure needed electric power, a more adequate water supply, flood control, additional and improved waterways for navigation, recreation, and other essential services for our expanding population.

This bill also strengthens the defense of our Nation by providing for research and development by the Atomic Energy

Commission—for military and military related missions—and for development of nuclear energy for peacetime purposes.

The bill has five titles, consisting of—title I, the Atomic Energy Commission; title II, the Corps of Engineers—Civil Works; title III, the Bureau of Reclamation, and Power agencies, Department of the Interior; title IV, related independent agencies—power and water resource commissions; and title V, general provisions.

TITLE I—ATOMIC ENERGY COMMISSION

For the Atomic Energy Commission the committee recommends an appropriation of $2,348,338,000, which is a reduction of $81 million below the budget request, and $45,950,000 above the House bill. Most of the reduction under the budget results from the reductions in the authorization.

The recommended appropriation of $1,722,563,000 for operating expenses and $625,775,000 for construction and equipment provides more funds to nonmilitary than to military activities.

The committee recommends increases in several programs above the House amounts to promote the use of nuclear power for peaceful purposes. Many programs of the AEC, which are not well known to the public, are contributing immeasurably to our health and to improving our environment.

TITLE II—CORPS OF ENGINEERS—CIVIL

The water resources program of the Corps of Engineers deals primarily with improvements for navigation, flood control, water supply, power, and recreation.

For the Corps of Engineers, the committee recommends $1,536,971,000, which is a decrease of $413 million from last year's appropriations.

Within the total amount for the corps, $57,356,000 is provided for general investigations, an increase of $4,456,000 above the budget and $3,417,000 over the House.

As in the past, the committee prefers not to make specific allocations of its increases to individual investigations. It desires, however, to call to the attention of the Corps of Engineers the testimony concerning the need for initiating unbudgeted surveys and increases in budgeted studies.

For construction, general, which also includes preconstruction planning, the bill provides $874,407,000, which is $15,890,000 over the budget and $9,838,000 above the House. The report carries the specific allocations to the projects. I believe a copy of this report is on the desk of each Senator.

For flood control, Mississippi River and tributaries, the committee has recommended $150 million, which is $40 million more than the budget, and $11 million more than the House. The increase is needed to advance the project and fill the gaps which are so evident as a result of this past spring's disastrous floods. The importance of this project can be realized when one considers that the drainage from almost half of the area of the continental United States funnels through the Mississippi River and its tributaries. It is estimated by the corps that the flood control works in place prevented $5.8 billion in damages this spring, and that cumulative damages prevented to date amount to $14.6 billion. The detailed allocations are listed in the committee report.

For operation and maintenance, the recommendation provides $414,625,000, which is $1,625,000 more than the budget estimate, to operate and maintain all of the completed projects.

For the flood control and coastal emergencies appropriation, $7 million is provided, the same as the budget and the House. This appropriation is required to finance flood emergency preparation, flood fighting and rescue operations, and repair of flood control and Federal hurricane protection works. In 1973, $136 million was appropriated, of which a large portion was associated with the Hurricane Agnes disaster. The committee has received testimony relative to the serious problems created as a result of the Mississippi River floods. Funds to repair and restore those damaged flood control works are derived from this appropriation. While some fiscal year 1973 funds from this account were used to prepare and fight the Mississippi River floods, funds to repair and restore the works in place have not been provided. In many places, the water has just recently receded enough to enable the corps to determine the extent of the damages. I shall return to this serious matter after completing the summary of the report bill.

For general expenses, the committee has approved the budget request of $32,883,000, the same as the House allowance.

TITLE III—DEPARTMENT OF THE INTERIOR: BUREAU OF RECLAMATION

For the Bureau of Reclamation, the committee is recommending $371,960,000, which, as I view it, is far too little. It is $95,857,000 below last year's appropriation, and it is such a lesser figure because of fiscal restraint. This amount provides $37,117,000 more than the budget estimate and $15,602,000 over the House.

I should point out that the budget for the Bureau was cut by OMB about as deep as any. While the recommended amount is still substantially below the 1973 appropriations, the committee has provided increases in the general investigations, construction, and rehabilitation, and one or two other appropriation accounts of the Bureau. The report lists all of the activities and projects with the committee recommendation.

The committee has also funded the several power agencies of the Department of the Interior—the Alaska Power Administration, the Bonneville Power Administration, the Southeastern and Southwestern Power Administrations, and the Underground electric power transmission research program.

TITLE IV—INDEPENDENT AGENCIES AND COMMISSIONS

In addition to AEC, the Corps, and the Bureau of Reclamation and power agencies, funds are recommended for the independent agencies and various water commissions, such as the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, and the Water Resources Council—$352,151,000 in new budget obligational authority is recommended for these agencies, including $270 million for the Appalachian programs, $27 million for the Federal Power Commission and $45,676,000 for TVA. There are no changes from the House allowances for these agencies and commissions. The report shows the recommendation for each and the total amount is less than the 1973 appropriation and the budget estimates.

TITLE V—GENERAL PROVISIONS

The committee has added a new section 502 under "title V—general provisions" in the bill which provides for an extension of the availability of appropriations provided in the Second Supplemental Appropriations Act, 1973.

Section 301 of the Second Supplemental Appropriations Act, 1973 (Public Law 93-50) reads as follows:

> No part of any appropriation contained in this act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Since the supplemental was not enacted until the first day after the "current fiscal year," agencies were technically barred from obligating some of the funds appropriated under accounts no longer available for obligation after June 30, 1973. The language in section 502 of this bill confirms the intent of Congress to allow the obligation of all funds appropriated in the supplemental, including those which technically became unavailable after June 30, 1973. For this purpose, obligations will be permitted for 20 days following the enactment of this bill. Appropriations made available for longer periods will be unaffected by this section.

It is the committee's intention that obligations made within the 20-day period allowed by section 502 shall be considered for purposes of the 1974 Continuing Resolution (Public Law 93-52), part of the "current rate."

Mr. President, in conclusion, the committee feels that this is a good bill. We believe that we have a bill which is fiscally prudent, restrained, and responsible. It is an important bill; is in the national and public interest; and provides for progress in our country.

I ask unanimous consent to have printed in the RECORD a table which shows the present value to the Nation of completed projects for water supply, power development, flood control, navigation, reclamation, and recreation.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

PROJECT BENEFITS—COMPLETED PROJECTS

The present value to the Nation of completed projects for water supply, power development, flood control, navigation, reclamation, and recreation is evident from the following table:

PROJECT BENEFITS

Annual water supply benefits

Gallons of water furnished, 11,000 billion.
Number of people served, 20 million.

Annual power benefits

Installed generating capacity (kilowatts) 42.5 million.

Net generation (kilowatt hours) 215.2 billion.

Gross revenues, $1.06 billion.

Flood control benefits to date

Estimated value of flood damage prevented, $31.7[1] billion.

Expenditures for flood control facilities, $7.2 billion.

Annual navigation benefits

Annual traffic tonnage, 1.6 billion.

Reclamation benefits

Acres irrigated, 9 million.

Annual value of crops produced, $2.1 billion.

Recreation benefits

Annual visitor days, 403 million.

Mr. BIBLE. I particularly call the attention of Senators to the value of this table in view of the frequent attacks that have been made on the bill in the past in calling this a pork-barrel bill. I think such attacks are unfounded. It is no such thing, in my judgment. If one analyzes the power and flood control projects and the recreational benefits which are detailed in this very thorough table, he will come to a different conclusion.

Just underscoring one point, flood control benefits to date, which is used in the focus of most attacks, it is estimated that the value of flood damage prevented by completed projects is $31.7 billion. All this was accomplished at a Federal expenditure of $7.2 billion. Just in that one category alone, projects have repaid the cost by about 4.5:1. This is illustrative of the value that should be associated with these projects which are in the Nation's best interests.

At this time I am delighted to yield the floor. My distinguished colleague, the senior Senator from Oregon, as I said earlier, has been invaluable in the marking up of this bill and in conducting many of the hearings, and I know he has a few remarks he would like to make.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, I commend the distinguished acting chairman of the Public Works and Atomic Energy Commission Appropriations Subcommittee. In Senator STENNIS' absence, Senator BIBLE has done a tremendous job in bringing this bill to the floor of the Senate. The job he has done is even more remarkable when you consider that he also has the responsibility of chairing the Interior Appropriations Subcommittee. I am also a member of that subcommittee and I can assure Senators that Senator BIBLE is doing a fine job there as well.

Mr. President, I want to thank the distinguished Senator from Nevada for his very kind cooperation throughout the hearings and markups of this bill.

This would be an appropriate time also to recognize the important input and role played by the staff of the Committee on Appropriations. For many years the staff leader of the majority party was Ken Bousquet. His long years of service there gave him a background and comprehension of all the projects that are considered and acted upon by the Committee on Appropriations.

It was thought by many that when the time came for Ken Bousquet's retirement his shoes would be hard to fill, but I would like to say that Proctor Jones has taken over that responsibility and has done a remarkable job not only of acquainting himself with present requests, but also for having a vast understanding of past projects on which present ones are built. I thank him for his extraordinary work for this committee.

This may sound like a plug for the needs of the minority party, but I wish to say that Jim Bond, who is our minority staff member, has done an extraordinary job in keeping me informed on the activities of the subcommittee, and this is all the more extraordinary if one considers that he serves on two other subcommittees of the Committee on Appropriations; so this kind of broad range responsibility gives him not only fewer hours in which to work, but he does an excellent job with all these subcommittees.

The fiscal year 1974 appropriation request for Public Works and the Atomic Energy Commission as reported by the committee is, I believe, a good and sensible bill. While we are somewhat over the budget, when you consider the number of requests we have had, and the nature of this particular bill, I think we are within a safe range of the budget.

The distinguished acting chairman has already done an excellent job of explaining the bill. However, there are a few items I would like to comment on.

Under the AEC section of the bill we have provided increased funding for some very worthwhile programs in applied energy technology and controlled thermonuclear research; as well, we have concurred with the House in providing funding for geothermal research. Mr. President, as I have said in the past, these are programs that I believe the AEC should emphasize. Here we are talking about activities that actually help improve the well-being of our people and the state of our environment. Here we are not talking about bombs, the big atomic bombs we build. We are not talking about the business of building big powerplants, which are very important and I support them, but the programs I have mentioned might be able to broaden the base of public support and understanding that I believe the AEC deserves.

Mr. President, far too often this bill is described by some as "pork barrel" or "Christmas tree" legislation. These are undeserving labels. Funds provided in this bill for water and power development go a long way in providing a better quality of life for our people, and in helping to advance the general economic development of our country.

The demand of the country for more power is obvious. With this bill I believe we are taking an integrated approach in trying to provide increased power generation, as well as searching for new sources of marketable power supplies We are attempting to put more power on the line as soon as possible, while looking into the future by continuing with planning and construction of hydroelectric projects, and going ahead with research and development of solar, geothermal, and nuclear energy. This, together with the research provided by funds in the Interior appropriations bill on production and utilization of coal resources, including gasification and liquefaction—and research on improved petroleum and natural gas extractions techniques, will provide the integrated approach to the energy problem that I believe is necessary.

Mr. President, there are three other very important programs in the bill that I should mention. These are recreation, irrigation, and navigation and harbor improvement. An offshoot from many of our water and power projects has been the development of recreation areas around these projects. This has been a great benefit for our citizens as is shown by the increased visitation each year. In many cases the production of fish and wildlife has improved significantly. A good example of this is the wetlands that were created by various water developments in the Columbia Basin project.

The committee has also provided funds for irrigation purposes. We are able to use the vast amounts of water stored in reservoirs to irrigate land that might not otherwise be productive. The benefit of irrigation is all but self-explanatory, and with continued development it is hoped that this aspect of our water and power projects will help to improve the supply and price of foodstuffs.

In the area of navigation and harbor improvement we are providing funds to insure the free flow of goods in and out of our harbors and navigable waterways. I personally know of the importance of this, having seen the closing of some harbors in Oregon and Washington on several occasions.

Mr. President, we have worked long and hard on this bill, and I believe it to be a good piece of legislation. It is my hope that the Senate will pass the bill substantially in the same form that it was reported by the committee.

Again, I want to give my thanks and praise to the distinguished acting chairman of the subcommittee, as well as to the distinguished chairman and ranking member of the full committee.

At this time I would like to ask the Senator from Nevada one question, so that we may have the record clear as to some work of the committee that does not appear in the actual report. My question has to do with the Yellowtail-Wyodat transmission line, with which the chairman is very familiar.

Last year we had some committee report language which more or less addressed itself to this continuing problem, which is nearly resolved. I think it would be well to place in the RECORD at this point some statement as to the future of this transmission line.

Mr. BIBLE. I am happy to respond to the distinguished Senator from Oregon. As he well knows, the problem of building this line has been with us for a number of years. It is not a new problem. It is a new problem in a different area, but it is a question of private power versus public power and the duplication of powerlines.

As the Senator said, language was written into the report a year ago. The

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[1] Includes $7.4 billion damages prevented during recent Mississippi River flooding.

House concluded not to put any such type language in their report or any type mandate or prohibition of any kind within the bill itself.

There is provided within this bill some $650,000 to initiate the powerline, but I was advised, on the very day that we went to our markup in the full committee, that it appeared that an agreement had been reached or was about to be reached. It is my judgment that in the face of that record and in the fact of language in the preceding Bureau of Reclamation bill report of a year ago, fiscal 1973, there is eonugh pressure upon both the private sector and the public sector to resolve this problem. So it was for that reason that we put no language in at all. There is, as I say, $650,000 in the bill for the purpose of constructing this Bureau of Reclamation transmission line.

I am sure that if those who are sitting around the negotiating table continue to negotiate and reduce their agreement to writing, certainly the Bureau of Reclamation is not going to spend that amount of money. I think the record is good in that respect. I think there is sufficient pressure to bring them around to signing on the dotted line.

Mr. HATFIELD. I thank the Senator for his comments, because they reflect my opinion exactly. I think the taxpayers need not spend money to duplicate power transmission lines where an agreement should be reached, and where we have proved that they can be reached in the Pacific Northwest, as the Senator knows. And any way we can keep pressure on them to get to an agreement is in the interest of the taxpayers and the operation of these facilities.

Mr. BIBLE. That is why we have done exactly that. If we can do that, we will have a final signing of the agreement. It is just a matter of a short time in the future until the agreement is completed. It is not completed as of today. I do not want to mislead anybody. But there is every prospect that there will be an agreement.

Mr. HATFIELD. Certainly it is our expectation, as we received the information in the committee.

Mr. BIBLE. That is my information, as well.

Mr. President, I yield to the Senator from North Dakota.

Mr. YOUNG. I thank the Senator.

Mr. President, I want to commend the distinguished acting chairman of the Subcommitte on Public Works of the Committee on Appropriations (Mr. BIBLE) and the distinguished Senator from Oregon (Mr. HATFIELD) for their work in bringing out a very fair and reasonable bill.

My friend from Nevada has been working for many years for irrigation projects. He is one of the strongest proponents for these projects I have ever known in the Senate. If it were not for these irrigation projects, we would have a much more serious food problem today than we have now. It never would have been possible to bring about what I call this great empire in the western half of the United States if it had not been for irrigation.

This bill also contains much needed money for navigation. The late Senator Allen Ellender, who headed this committee for many years, was a great proponent of navigation. If it were not for him, our transportation problem would be much more serious than it is today. Through his efforts, we now have a far better navigation system in all our rivers than would otherwise have been possible.

He also was responsible for the improvement of harbors over the United States. It was not popular to fight as he did for those projects.

I just want to give credit for these worthwhile accomplishments in the public works appropriation bills, not only in this bill but in previous bills.

Mr. BIBLE. I thank the Senator from North Dakota.

I yield now to the Senator from North Dakota (Mr. BURDICK).

Mr. BURDICK. Mr. President, now that the Senate is about to vote on the public works appropriations bill, I would like to express my thanks to Senator BIBLE, Senator HATFIELD, and all the members of the Appropriations Committee for their diligent work. Contained in the bill was $17.78 million which will continue construction of the project which will deliver more benefits to North Dakota than any other Federal endeavor—Garrison Diversion. It is calculated that the irrigation of 250,000 acres of North Dakota cropland will yield a total benefit of $107 million annually to the people of the State. Further, it will bring much needed municipal and industrial water to many of our cities and communities. In a rural area such as North Dakota, this is a significant impact. Mr. President, the project has had extensive planning and the people of my State are anxious for its completion. Favorable action today will allow the construction to continue toward that end. Again, in behalf of North Dakota, I thank the committee and the Senate, and urge approval of this bill.

Mr. BIBLE. I appreciate the sentiments of the Senator from North Dakota.

Mr. President, I am going to yield next to the Senator from Washington. But before I do, I ask unanimous consent that the committee amendments except the committee amendment beginning at the top of page 22, section 305, be agreed to en bloc and that the bill as thus amended be regarded for the purpose of amendment as original text, provided that no point of order shall have been considered to have been waived if the request is agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments agreed to en bloc are as follows:

On page 1, line 4, after the word "appropriated," insert "and shall be made available for expenditure except as specifically provided by law,".

On page 2, line 22, after the word "vehicles", strike out "$1,681,263,000" and insert "$1,722,563,000".

On page 3, line 24, after the word "aircraft" strike out "$621,125,000" and insert "$625,775,000".

On page 4, at the beginning of line 24, strike out "$53,939,000" and insert "$57,356,000'; and, on page 5, line 1, after the word "That", strike out "$1,000,000" and insert "$1,175,000".

On page 5, line 17, after the word "construction", strike out "$864,569,000" and insert "$874,407,000".

On page 6, line 11, after "(33 U.S.C. 702a, 702–1)", strike out "$139,000,000" and insert "$150,000,000".

On page 7, line 7, after the word "navigation", strike out "$403,625,000" and insert "$414,625,000".

On page 8, line 1 after the word "expended", strike out "$1,000,000" and insert "$700,000".

On page 10, line 7, after the word "expended", strike out "$15,880,000" and insert "$17,350,000".

On page 10, line 22, after the word "expended", strike out "$184,360,000" and insert "$196,065,000".

On page 11, at the beginning of line 22, strike out "$24,526,000" and insert "$26,903,000"; and, in the same line, after the word "which", strike out "$23,926,000" and insert "$26,303,000".

On page 13, line 15, after the word "program", strike out "$18,372,000" and insert "$18,422,000".

On page 14, line 3, after the word "fund", insert a colon and "*Provided*, That the Post Falls Irrigation District, Rathdrum Prairie Project Idaho, be eligible for use of emergency funds herein appropriated under the Act of June 26, 1948 (62 Stat. 1052), with repayment to be accomplished under conditions satisfactory to the Secretary of the Interior."

At the top of page 26, insert a new section, as follows:

SEC. 502. Notwithstanding the provisions of section 301 of the Second Supplemental Appropriations Act, 1973 (Public Law 93–50), appropriations contained in that Act shall remain available for obligation for a period of 20 days following the enactment of this Act into law.

Mr. BIBLE. Mr. President, I now yield myself such time as I may require, inasmuch as the pending matter is the committee amendment appearing at the top of page 22, section 305.

At the time of the full committee meeting to markup and report this bill last Thursday, July 19, a serious problem was brought to the attention of the committee, resulting in the pending committee amendment. The committee recommended including this provision to provide $25 million in new contract authority for road construction programs of the Bureau of Indian Affairs. This amount represents one-third of the budget estimate in new obligational authority for the Bureau in fiscal year 1974. Normally, the authority would be provided in the Federal-Aid Highway Act. However, at the time of committee action, it was believed that the highway legislation, which was involved in conference committee, would not be completed before the August recess. Subsequently, after reporting this bill, the highway legislation conference committee agreed to file a conference report last Friday, thereby obviating the need for the authority recommended in this bill. If the conference committee had not agreed, and without the interim authority recommended in this bill, the Interior Department reports that the road construction program for Indian reservations would terminate by July 31, 1973, creating unacceptably high Indian unemployment in areas of limited economic resources.

I am pleased that the highway legislation conference report is forthcoming. Accordingly, I am authorized by the committee—the committee members I have talked to—to withdraw the committee amendment at this time.

The PRESIDING OFFICER. The committee amendment is withdrawn.

Mr. BIBLE. Mr. President, I want to join in the compliments paid to Mr. Proctor Jones, who replaced Mr. Kenneth Bousquet, and who is doing terrific work on the committee and deserves all the compliments he has received.

I have always said, in passing these bouquets, that I hope they are reflected in an increase in salary, but that, of course, is up to the chairman of the committee.

Likewise, the same compliments can be paid to Dave Gwaltney and Jim Bond.

I particularly want to mention Dorothy Ward, who has been doing such an outstanding job, and who was formerly the strong right arm on the Interior Appropriation Subcommittee and who is now doing great work on the Public Works Subcommittee. She has been of invaluable help to us. I understand that she has announced her intention to retire and she has our best wishes for health and happiness in her well-earned retirement.

Now I yield 5 minutes to the Senator from Washington (Mr. MAGNUSON).

Mr. MAGNUSON. I thank the Senator.

Mr. President, I want to join in the compliments that have been paid to the staff. No one knows better than the Senator from Washington what a difficult bill this is and what hard work the Senator from Nevada put in on the bill. There are literally hundreds of witnesses to be heard. Everyone wants his own project as a priority item. One has to draw a pretty fine line to figure out which projects are needed in the country and which should be delayed.

That brings me to the subject I want to speak on. The committee saw fit, on behalf of the Senator from Oregon, myself, and other members of the committee, to put in the bill a comparatively small amount of money to keep the hydroelectric projects in the Pacific Northwest moving ahead. These projects will benefit the entire area served by the Bonneville Power Administration.

This seems to me to be a very wise program. No one will disagree with the fact that we have an energy crisis in this country today. We have hydroelectric projects that are well underway and some others that are 10, 15, or 20 percent underway. They are all there, just waiting for us to complete them. I have spoken about the energy crisis. The Senator from Oregon has spoken about it, and I suppose that almost everyone else on the committee has mentioned it, and most Members of the Senate have also.

It seems penny wise and pound foolish not to complete the projects, because they are already constructed. They may well produce the lowest cost hydroelectric power in the United States. We need the power. And we are talking about millions of kilowatts of power that can help to reduce the existing energy crisis in the Nation.

I am pleased that the committee saw fit to put in the bill $450,000 for Little Goose, $450,000 for Lower Granite, and $330,000 for Lower Monumental fan units 4, 5, and 6 at each of these respective dams.

The committee recommends further that we expedite the work and get those generators on the line as soon as possible. The Senator from Oregon and I have talked about this problem for a long time. We need to develop potential of the Bonneville system.

There is no sense to let it sit there when we have an energy crisis.

I hope that we can sustain each of these amendments in the conference committee, because it makes good sense to keep these projects on schedule. It means a great deal of difference to the energy crisis in the United States. If it will relieve the energy problem in the Pacific Northwest, it means that we can use some petroleum resources in other areas of the country.

I think that we are on sound ground. The Senator from Nevada and other members of the committee have agreed with us, including the Senator from North Dakota and others. We deeply appreciate this.

We think that it is a wise move to make.

Mr. President, this is not as if we were starting something new. These projects are waiting for funding to produce additional kilowatts of low-cost hydroelectric power.

The Senator from North Dakota reminds me that there is no pollution involved in the hydroelectric project. It furnishes clean, low-cost power. We ought to take advantage of such potential to help take care of the energy shortage.

Mr. HATFIELD. Mr. President, if the Senator would yield, I think that the Senator will agree that for all practical purposes, we are not starting to get new sites, such as building new dams in the Columbia or Snake River areas. Therefore, it seems all the more important to us at the present time and in the future.

Mr. MAGNUSON. Mr. President, every year we wait, if we do not keep them on schedule, the best information I have from the Corp of Engineers is that the costs increase from 10 to 12 percent.

The administration and the Office of Management and Budget for a long time have sought to pour cold water on efforts to go ahead.

I would hope that we can sustain these amendments in conference.

Mr. President, the committee has previously recommended $1,055,000 for the second Bacon Tunnel and siphon. We have provided this funding in a prior year. However, the administration has seen fit to impound the money. This means the key to opening up another feasible and wise project, the development of the second half of the Columbia Basin project, is delayed.

The committee saw fit to add language urging the Nixon administration to release entire $1,055,000 in order to get this project started.

The House has consistently suggested, and sometimes in almost the strongest language I have ever seen in a conference committee report, that the impounded money be freed.

The Senator from Oregon and I have been talking about projects that will pay back funds to the Treasury. It is a loan. We pay it back with 3-percent interest. We are right up to date with our payments. And with the energy crisis, I do not see how any reasonable person could deny the committee action on these projects.

Mr. President, I thank the Senator from Nevada for his outstanding support as acting chairman of the Public Works Appropriation Subcommittee. He has provided great leadership in this important field.

Mr. BIBLE. Mr. President, I certainly appreciate the statement of the Senator from Washington. His sentiments are sentiments with which I fully concur and agree.

I am particularly happy that the Senator from Washington and the Senator from Oregon are working together on this. We will do our level best to prevail.

Mr. President, I yield myself 5 minutes on the bill.

On June 25, 1973, the House Committee on Appropriations reported this appropriation bill, which was considered and passed by the House on June 28, 1973. On June 25, 1973, the same day the House committee reported the bill, the Senate subcommittee received testimony from Maj. Gen. Charles C. Noble, president of the Mississippi River Commission and Division Engineer, Lower Mississippi Valley Division, who was requested to brief the subcommittee on the disastrous Mississippi River floods which began in the St. Louis area in mid-March. At this hearing, and in response to my questions, it was learned that the corps had serious problems confronting it as far as repairing and restoring battered and damaged flood control works. Furthermore, the requirements are such that funds should be available now to repair and restore the damages. General Noble, in response to my question, stated that most of the critical work, or as much as could possibly be done, should be accomplished by December 1, when the high water season normally begins again, in order to be prepared for any eventuality. Water is still standing in many places and I understand that it is receding rather slowly in those areas.

The corps testified that approximately $105 million is needed to repair and restore the damaged levees, flood control structures, and other in-place works.

We have learned that a request for a budget amendment, to the original $7 million budget estimate transmitted to the Congress in January for the flood control and coastal emergencies appropriation, was prepared and submitted to the Secretary of the Army, who, in turn, submitted the amended request to OMB, where it apparently rests in the bosom of bureaucratic entanglement. I have had many discussions with committee members and colleagues as to the best procedure to follow in this situation. This is a matter that must be met at some point. The corps has testified that it is needed now; OMB is probably sitting on the request, knowing that the Congress would undoubtedly approve the additional needed funds; and then we can be accused of being "budgetbusters."

Mr. President, under the Public Law 99, the emergency fund account, the Corps of Engineers can draw from any funds available to it to perform emergency work. Accordingly the corps can draw from any of the 1974 appropriations made available to perform the necessary repair and restoration work in the areas affected by the Mississippi River floods, and it is the intention of the committee that the corps accomplish this work as soon as possible from funds available. Since a budget amendment is in preparation and the committee would have more detailed and firmer information as to the requirements from the executive branch, we anticipate providing the necessary funds to replenish the flood control and coastal emergency fund in the first supplemental bill that comes before us. And I believe that it will be within the next few months, and in any event certainly prior to sine die adjournment. In the meantime, as I say, the corps may use any available funds to perform the required work.

Mr. President, I urge and press the OMB on this as strongly as I can. And I am joined in that effort by the distinguished senior Senator from Arkansas (Mr. McCLELLAN) and the distinguished ranking minority member of the subcommittee, the senior Senator from North Dakota (Mr. YOUNG), the distinguished ranking minority member of the subcommittee, the Senator from Oregon (Mr. HATFIELD) and other members of the committee.

So I would hope that we would receive a supplemental budget request at a very early date.

Mr. President, do we have anyone else to be heard? Are there any amendments to the bill?

The PRESIDING OFFICER. The bill is open to amendment.

Mr. BIBLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIBLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CLARK). Without objection, it is so ordered.

Mr. BIBLE. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. BIBLE. Mr. President, I again suggest the absence of a quorum and we will hope that the Senator who wants to offer his amendment will get here before I ask for third reading of the bill.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BIBLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATHAWAY. Mr. President, the bill before us today contains $800,000 for the Dickey Lincoln School hydroelectric power project.

The project as originally authorized by Congress in 1965 would be located on the St. John River in northeastern Maine. It would provide comprehensive development and conservation of the St. John River Basin.

Electric power will constitute the major benefit from the project, with onsite annual power generation of 1.2 billion kilowatt-hours to provide low cost power for Maine and New England.

Not only would the Dickey project provide a nonpolluting source of power, it would provide flood control and recreational benefits as well.

The advent of low cost power and flood protection would contribute significantly to the advancement and future development of the economic climate of the State of Maine.

The project would be located in an area of Arostock County which has been classified as an economic development area. Numerous employment opportunities would arise as a result of the project construction and the future operation and maintenance would result in substantial relief to this economically depressed area.

The most current Corps of Engineers estimate of Dickey's cost is about $273 million. To date $2.1 million has been appropriated for preconstruction planning on the project.

Despite increased construction costs due to inflation in recent years, the benefit-to-cost ratio of the project is still nearly 2 to 1—much higher than many other public works projects the corps—at the behest of Congress—has undertaken.

And of course the costs of Dickey's hydroelectric power must be looked at in comparison to the cost of alternative power sources. We have a shortage of coal and oil, and the prices of these materials is going up. So, too, are the prices of fissionable materials for nuclear power plants. Moreover, as a nonpolluting, renewable resource, Dickey Lincoln is far less costly to our environment than are the alternatives.

Both for its feasibility and its contribution to the power supplies of the Northeast, funds for Dickey Lincoln should be approved.

In the past, the principal opposition to the project has come from private investor-owned utilities. Their powerful opposition has resulted in the deletion of Dickey funds in the House on a number of occasions. To diffuse some of this opposition, the House Public Works Committee reported out a resolution late in 1971 authorizing a restudy of the St. John River power potential, with a view toward constructing a smaller facility with power, recreational, and irrigational benefits confined to the State of Maine.

It is for a study of the St. John River Basin oriented toward this smaller, more parochial project for which the House appropriated $50,000.

This figure represents a compromise that would benefit Maine, and for that reason it is commendable. But this compromise compromises the consumers of the Northeast, where power brownouts and blackouts are becoming an annual affair. Dickey Lincoln's peaking power could help keep the lights on in the Northeast.

I hope the conferees will carefully consider the energy crisis and the need for Dickey's peaking power. As our energy consumption continues to rise and our energy supplies continue to dwindle, there is a need to utilize the vast hydroelectric power potential of the St. John River.

Mr. MUSKIE. Mr. President, I am pleased that the Senate Appropriations Committee has included in H.R. 8947 a sum of $800,000 for the Army Corps of Engineers to complete its planning and engineering design for a hydroelectric power generating plant on the St. John River in northern Maine.

The Dickey-Lincoln School project, as it is known, has been authorized by the Congress since 1965. At a time when the "energy crisis" is very much a topic of public debate, I would like to reiterate to my colleagues the anticipated benefits of this project—830,000 megawatts of power for New England and New York State from a nonpolluting generation source.

Last week, the Senate completed debate on the trans-Alaskan oil pipeline. We heard a great deal of talk about the environmental hazards associated with petroleum as well as the critical need for taking prompt action to increase our Nation's supplies of oil for fuel. At the same time, the Senate recognized that one of the major factors causing the increased demand for petroleum products is the use of fuel oil by electrical power generating plants.

Mr. President, too often, the solutions proposed to the "energy crisis" are seen in terms of "tradeoffs" between the environment and energy. The Dickey-Lincoln School project, I would like to emphasize, involves no such tradeoff and would meet the objectives of both those concerned with the environment and those concerned with the limits on the supply of fossil fuel. The Dickey-Lincoln project would provide power without any added drain on our supplies of oil. Moreover, none of the safety and health hazards associated with nuclear power generation are present.

If the Congress is truly serious about dealing with the energy crisis, then I would urge them to consider the Dickey-Lincoln School project as an alternative to more fossil fuel and nuclear power plants.

The costs associated with the construction of such alternatives explain, in part, the continuing favorable benefit-cost ratios assigned to this project. Mr. President, at this point I ask unanimous consent that a summary of the latest analysis of the Dickey-Lincoln School project supplied to me by the Army Corps of

Engineers be inserted in the RECORD at the conclusion of my remarks. The analysis, prepared by the Army Corps of Engineers, gives clear justification for the project on economic grounds.

For the past 9 years, my colleagues in the Senate have consistently supported the project, and I appreciate the support for the full $800,000 appropriation which they have given it today.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

BENEFIT-COST RATIOS FOR DICKEY-LINCOLN SCHOOL (PROVIDED BY THE ARMY CORPS OF ENGINEERS, JULY 1973)

Interest rate (percent)	Annual charge	Annual benefit	B/C ratio
3¼	$17,305,000	$32,987,000	1.9
5½	27,525,000	32,987,000	1.2

The Dickey-Lincoln School Lakes hydroelectric power project alone is clearly economically feasible having a benefit to cost ratio of 1.9 to 1 at a 3¼ percent interest rate. The 3¼ percent interest rate has been retained in accordance with provisions included in the Water Resources Council's revisions to the discount rate used for Federal water resource projects effective 26 December 1968. The then prevailing interest rate could be retained on any project for which reasonable assurances of local cooperation were received prior to 31 December 1969. These assurances were received from the State of Maine. However, even at a 5½ percent interest rate the benefit-cost ratio would be 1.2 to 1.

ESTIMATED COSTS DICKEY-LINCOLN SCHOOL LAKES (100-YEAR PROJECT LIFE)

Interest rate	Cost in thousands: 3¼ percent	Cost in thousands: 5½ percent
Investments: Dickey-Lincoln School:		
First cost	$348,000	$348,000
Interest during construction	28,200	46,115
Subtotal	376,200	394,115
Transmission:		
First cost	117,225	117,225
Interest during construction	5,709	9,671
Subtotal	122,934	126,896
Total investment	499,134	521,011
Annual charges:		
Interest and amortization	12,747	21,779
Operation and maintenance	1,491	1,491
Major replacements	242	187
Loss of land taxes	96	96
Subtotal	14,576	23,553
Transmission	2,729	3,972
Total annual charges	17,305	27,525

Annual benefits of Dickey-Lincoln School Lakes Alone

Power:	
Capacity: 830,000 KW x 0.95 x 21.50	$16,953,000
Energy:	
372,000,000 KWH x 0.95 x 0.0116	4,099,000
782,000,000 KWH x 0.929 x 0.0116	8,427,000
Downstream: 350,000,000 372,000,000 KWH x 0.006	2,100,000
Total power value	30,879,000
Miscellaneous:	
Area redevelopment [1]	799,000
Recreation	1,250,000
Flood control	59,000
Total miscellaneous	2,108,000
Total annual benefits	32,987,000

[1] Computed at 3¼% interest rate. If computed at 5½% interest rate the change would not be of sufficient magnitude to affect B.C. ratio.

Mr. DOLE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read, as follows:

On page 5, line 17, strike "$874,407,00" and insert for lieu thereof "$874,487,000."

Mr. DOLE. Mr. President, I offer an amendment to the 1974 public works appropriations bill to provide $80,000 in planning funds for the Cedar Point Lake project on the Cottonwood River in Kansas.

This money, when added to the $140,000 remaining from last year's appropriation, would enable the planning stage for this project to be completed at the earliest possible date.

I point out that the Corps of Engineers has estimated that if this dam had been in operation during this spring's heavy rainfall and runoff, damages in the basin would have been virtually eliminated, so, instead of $1,680,000 in damages, only some $20,000 would have been encountered.

I believe it is important to move forward as quickly as possible in cases where such clear evidence of a project's need is present.

I have no other comment to make, unless the chairman or the ranking member of the committee have questions.

Mr. BIBLE. Mr. President, the Senator has offered an amendment that would provide $80,000 for continued planning of Cedar Point Lake. There is $140,000 in reserve. The requested amount by amendment is for $80,000, which would make available a total of $220,000 for this project.

I am not at all convinced that the House will take this figure, in view of the amount in the reserve account; nor am I convinced, even if the House takes it, that the Bureau of the Budget will spend it.

However, since the Senator from Kansas is a Member of the body in power—on the administrative level that is—it may be that he can persuade OMB to take a different viewpoint than they have in the past. I am not going to oppose this matter or ask for a rollcall vote. I will accept the amendment and take it to conference, but I cannot promise what will happen to it in conference.

Mr. DOLE. I appreciate that.

Mr. President, I yield back the remainder of my time.

Mr. BIBLE. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. BIBLE. I ask unanimous consent that I may ask for a quorum call without it being taken out of my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIBLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIBLE. Mr. President, as I understand the parliamentary situation, the bill has been read the third time.

The PRESIDING OFFICER. That is correct.

Mr. BIBLE. I yield 5 minutes to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, with reluctance, I intend to vote against H.R. 8947, the Public Works appropriation bill. I will vote against it reluctantly because I want to thank the distinguished Senator from Nevada, who has handled this bill so well, as he always does.

No one goes into more detail and thoughtful consideration of all matters in a bill than does the distinguished Senator from Nevada. He has considered projects in my State with great care and fairness.

I commend the committee for bringing these appropriations down from the fiscal year 1973 level by $860.2 million. But the bill still appropriates a whopping $4.8 billion, an excessive cost at a time when the need for fiscal restraint is so great.

The bill contains a number of environmentally destructive and economically undesirable projects; $13 million is appropriated for construction of the Teton Dam project in eastern Idaho. This 300-foot high dam will drown the rugged Teton Canyon and wipe out 17 miles of the river running through it, destroying one of the Nation's most spectacular hunting and fishing grounds. In order to justify this project the Bureau of Reclamation must prove that its benefits would exceed the cost of the project itself. Not surprisingly, the Bureau managed to come up with a benefit-cost ratio of 1.2 to 1. However, by pinpointing areas of inflated benefits, independent analysis has reduced this figure to 0.73 to 1. The Bureau had based its own calculations on an annual interest rate of 3.25 per cent—a ridiculously low figure. Using a more realistic rate such as 6 per cent, the benefit-cost ratio is further reduced to 0.4 to 1. Congress must not continue to fund such projects which destroy the environment and at the same time manage to cost more than twice the worth of their supposed benefits.

One of the worst projects funded by the bill is the Oakley—Springer—Dam in Illinois. The Corps has asked for $1.5

million for land acquisition and construction in fiscal year 1974. Total cost estimates for this project have nearly tripled to $80.9 million since it was authorized in 1962. The Oakley Dam proposal has been convincingly attacked by the Environmental Policy Center as one of the most wasteful of all Corps of Engineers proposals. The Corps' own benefit-cost figures indicate that the benefits from the project are only 6 percent greater than the cost. Defects in that analysis put the ratio far below 1 to 1. Supporters of the project claim that it will greatly improve the water supply for the area and provide great flood control benefits for farmlands. This ignores the fact that alternate water supplies at far less cost are already available and the project will end production on three times as much farmland as it will protect in an average year.

The Committee on Allerton Park, a group organized to fight the dam which will gravely damage a wildlife preserve given to the University of Illinois as an outdoor laboratory and ecological research center, has listed four compelling reasons why this project should not be funded for fiscal year 1974:

First. The fiscal year 1974 request—$1.5 million—is primarily for land acquisition and construction. Triple this amount—$4.6 million—has been allocated to the project in the past and has not yet been spent according to the Senate Public Works testimony for fiscal year 1973. Thus the Corps should have more than enough carryover funds to meet any needs in fiscal year 1974.

Second. The project is presently tied up in litigation in Federal court in Illinois. A suit challenging State participation is about to be refiled in an Illinois circuit court. Funds for the Telico Dam have been held up pending the outcome of litigation. There is no reason to appropriate money for Lake Springer if there is a chance that court action will stop the project outright or prohibit the expenditure of funds through injunctive action.

Third. Illinois Gov. Daniel Walker set down five conditions that he said would have to be met before the project moves ahead. It will take time to meet these conditions, if they can be met at all. We see no reason to appropriate money until they are met since failure to meet these conditions would leave the project without a local sponsor.

Fourth. The project is highly controversial and clearly not needed as a source of water for Decatur.

Mr. President, these and other projects are far too costly for the benefits they provide. I believe such aspects of the bill need further study and I intend to vote against the bill itself as reported.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. PROXMIRE. I am happy to yield to the Senator from Oregon.

Mr. HATFIELD. I would like to ask the Senator if his comments regarding this bill are strictly selective rather than general because I recall his support for three Wisconsin projects.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HATFIELD. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. HATFIELD. I note in the LaFarge Lake and channel improvement there is $2.8 million as a budget allowance which is $200,000 less than the Senate has approved. I note the Northport Harbor project and the State Road and Ebner Coulee projects. Those are three Wisconsin projects, which I take it the Senator would support on behalf of his own State. I assume they would not be included in his general remarks about the bill.

Mr. PROXMIRE. The Senator knows perfectly well that he puts the Senator from Wisconsin on a spot, and he is absolutely right in doing so. But the Senator from Oregon's reasoning would mean there is no way a Senator could vote against the bill if there were projects which he approves.

There are projects in Oregon that I could support; there are projects in many other States that I could support. I have singled out some projects which I think are particularly bad. I oppose the cost of the bill. I think we should cut wherever we can.

I commend the Senator from Nevada for reducing the bill from what it was last year. There are projects that I approve, and projects which I disapprove. This is an enormous bill, including billions and billions of dollars. Certainly I do not want to be put in opposition to every single, last project in the bill.

By and large, this is a bill which greatly benefits the western part of our country, but not the eastern part. Oregon is about the same size as Wisconsin in area but not in population. But Oregon gets about 20 times as much money as does the State of Wisconsin, and it has done so consistently over the years. I do not object if Oregon can justify its projects.

Mr. HATFIELD. Speaking as a conferee, going to a conference with the House, I assume that the Senator from Wisconsin would like to have us stand firm on Wisconsin projects rather than to yield on them, if we have to readjust the overall number of projects.

Mr. PROXMIRE. The Senator is correct.

Mr. BIBLE. The only observation I was going to make is one that the Senator from Oregon has already made. I am sure that the Senator from Wisconsin has not made our task any easier, because House Members have the very, very unusual habit of carefully reading the Record to see what has been said, and they will read what the Senator from Wisconsin has said on the floor of the Senate today. We do not want to do a disservice to the Senator's very worthwhile Wisconsin projects, so we will battle along and do the best we can.

Actually, this is really a very good bill. It is $15.4 million over the budget; it is about $885 to $900 million less than the amount appropriated last year.

Mr. PROXMIRE. The Senator will recall that I voted against last year's bill, and also the bill of the year before.

Mr. BIBLE. I know. But now we have reduced it close to $900 million since last year. I hope that is getting closer and closer to where it will fit in with the Senator from Wisconsin's ideas of fiscal responsibility.

Mr. PROXMIRE. It is, indeed.

Mr. HATFIELD. Mr. President, I yield 3 minutes to the distinguished Senator from West Virginia.

SENATOR RANDOLPH AGAIN EMPHASIZES IMPORTANCE AND SUPPORT FOR CAREFULLY CONSIDERED PUBLIC WORKS PROGRAMS

Mr. RANDOLPH. Mr. President, I am appreciative of the cooperation of Senator Alan Bible and Senator Mark Hatfield, the two gentlemen who are handling this very important bill.

In our work on the Committee on Public Works, we have responsibility of giving very careful consideration and very careful markup to all the measures that flow from our authorization process to the Subcommittee on Public Works Appropriations.

The Public Works projects for which funding is contained in the bill before the Senate have been reviewed in detail. The approval of the Committee on Public Works is not given lightly even though our country continues to have great need for a wide variety of public facilities.

We are frequently subjected to the charge that public works projects are merely pork-barrel activities distributed solely on the basis of political influence. Members of Congress—particularly those who serve on the Public Works Committee and the Public Works Appropriations Subcommittee—know that this is not true. All projects must be fully justified as to their need and as to the return they will provide on the investments of public funds necessary to bring them into being.

Mr. President, there occasionally are dramatic examples of the value to the American people of Public Works investments. Throughout the spring of this year the Mississippi River Valley suffered from prolonged and extensive flooding. Millions of acres were inundated and the losses were heavy. Damage in the flood has been estimated at approximately $500 million. What is less widely known, however, are the staggering losses that would have occurred without the existing flood protection that was available in the stricken region. The Corps of Engineers estimates that had there been no flood control system in effect in the Mississippi Valley, damages this year would have amounted to more than $7.6 billion. In the years that the construction of flood protection facilities has been underway, the Federal Government has invested less than $2 million in the Mississippi Valley. The savings this year alone has repaid that investment about threefold.

Desirable as many Public Works projects are, we obviously cannot approve every recommendation that is made to us. Our Subcommittee on Water Resources, ably chaired by Senator Mike Gravel, carefully reviews every proposal for projects. Extensive hearings are held and many witnesses are heard, including those both for and against individual projects. Members of the Subcommittee on Water Resources, including Senators Bentsen, Burdick, Clark, Biden, Scott of Virginia, Buckley, Stafford, and Mc-

Clure, devote considerable time to these project proposals before making their decisions.

As chairman of the Committee on Public Works, which authorizes the projects contained in today's bill, and as an ex-officio member of the Appropriations Committee, I commend especially the work of Senators McClellan, Bible, and Hatfield for their diligence and for their consideration of these projects at the appropriations level. The legislation before the Senate indicates a realistic financial balance for a responsible Public Works program.

I congratulate the members of the Appropriations Committee and join very, very strongly in support of this urgently needed measure.

Mr. MONTOYA. Mr. President, today the Senate has before it H.R. 8947, the fiscal year 1974 appropriation bill for Public Works—AEC.

I want to commend my colleagues, and especially Senator Bible, for the diligent manner in which they conducted hearings on this measure and brought it to the floor. This task was especially difficult this year due to the unfortunate absence of Senator Stennis. His expertise and skill in the area of Public Works—AEC is well known to all Senators. His absence was, therefore, deeply felt by all members of the subcommittee who look forward to having him back next year.

The committee was fortunate, however in having Senator Bible ready to take over the reins. The Senate knows Senator Bible as the able chairman of the Interior Appropriations Subcommittee. By now they know that he is equally able at Public Works—AEC.

Mr. President, this is a sizable bill. We are appropriating $4.8 billion for a multitude of projects—for concrete dams and for abstract research. My interest extends to every item in the bill, but I especially wanted to call my colleagues' attention to several items which are of special importance to me and to my State.

The first of these concerns Brantley Dam, for which the committee included $325,000 for preconstruction planning. Although the House, through an oversight did not include any money for Brantley, I understand that Congressman Evins has promised Congressman Runnels that the money would be retained in conference if the Senate added it.

The money is needed so that work on Brantley Dam may proceed. The proposed Brantley Dam is no ordinary reclamation project. It is primarily a replacement structure—a dam to replace the existing McMillan Dam which, after many years, is structurally weak and a recognized hazard.

In 1969, the McMillan Dam was evaluated by the Bureau of Reclamation as part of that Agency's "Safety of Dams" investigation. After careful study, the BOR concluded that the spillway of this facility was inadequate to pass a flood. In the event of heavy and sustained rains, water rising in Lake McMillan would over-top the dam, causing it to fail and sending a wall of water into Carlsbad.

Mr. President, major floods occur along the Pecos River on the average of once every 11 years. We know that sooner or later the McMillan Dam must be replaced. I am glad that the Senate has taken the position that this should be done sooner, before a catastrophe, rather than later, after one has occurred.

A second item of concern to me is the Elephant Butte irrigation system in southern New Mexico. The current system is composed of earthen canals, some of which are 100 to 150 years old. The Bureau of Reclamation merely tied these old canals together in 1915 to produce the current system. This old system is inefficient now. It wastes precious water and is costly to operate.

What is proposed is a modernization of this system. Use of closed conduits and other improvements should increase substantially the water available to farmers in the region. This will enable them to begin producing vegetables and should improve the economic vitality of the region on which once grew cotton and has been hard hit by the use of synthetic fabrics.

The administration and the House had included $60,000 for a study of the modernization of the Elephant Butte system. The Senate has included the entire $100,000 which the BOR has the capability to spend on a study of the so-called Archer plan. I commend this action on the part of the Senate.

A third concern of mine is for the proposed National Security and Resources Study Center, to be built at Los Alamos, N. Mex. This project consists of an office/seminar building and an adjoining building to house the technical library at Los Alamos Scientific Laboratory.

Despite U.S. predominance in the world of science, this country has no center where groups of scientists can come together under secure surroundings, to conduct seminars lasting 2 to 6 weeks. The building of the study center at Los Alamos would rectify this situation.

Moreover, the new library, which would be available to persons using the seminar facilities, is badly needed. Los Alamos Scientific Laboratory has one of the best technical libraries in the world, but it is being thinned out because of a lack of space. The thinning process is damaging the quality of the collection.

This project has the endorsement of the Atomic Energy Commission, of H. Guyford Stever, Director of the National Science Foundation, and of W. C. Gribble, Jr., the Army Chief of Research and Development.

I note, also, that the full committee of the Senate has restored the $17.7 billion which the House cut from the weapons program. I endorse this restoration.

I also endorse the action of both the House and the Senate in adding $4.7 million to the administration request for research in geothermal energy. The inexhaustible heat of the earth itself, if properly tapped, offers a potentially inexhaustible source of energy for the world. At a time when the severity of the energy crisis is every day more and more apparent, I think it is highly appropriate that $4.7 million be spent for research into this area.

Finally, Mr. President, I wish to endorse the action of both House and Senate in restoring funds for the Animas-La Plata project in southwestern Colorado. This project is part of the overall plan for water development in northwest New Mexico and southwest Colorado. Moreover, this project is going to provide a supply of water sufficient to meet the needs of the Ute Indians in southwest Colorado and also to provide enough additional water to meet the needs of the town of Mancos, Colo. The new supply of water will solve a potentially difficult situation which pits the needs of the town of Mancos for water against the rights of the Ute Indians to the same water.

Mr. President, I believe the committee bill is a good bill, a responsible bill. I hope that when we go to conference, the Senate conferees will fight for the Senate bill and I further hope that the projects I have discussed will be retained.

Mr. RIBICOFF. Mr. President, I wish to thank the distinguished acting chairman of the Appropriations Subcommittee on Public Works (Mr. Bible) and members of the subcommittee and full committee for including in this bill $700,000 for the U.S. Army Corps of Engineers to begin construction of the last stage of the Still River Flood Control Project in Danbury, Conn.

I was Governor of Connecticut when the floods of August and October 1955 devastated the State. Among the most severely damaged communities at that time was Danbury where the Still River overflowed its banks and inundated major sections of the city.

As a result of that disaster the Army Corps of Engineers developed a three-stage plan for preventing similar occurrences. As of this date two of the three stages have been completed. Construction on the final stage was to be started soon but the administration eliminated the necessary funds from the corps' fiscal year 1974 budget request.

The perils inherent in the administration's cutback became obvious on February 2, 1973, when after heavy rains the Still River flooded again. Had the weather conditions not improved Danbury would have experienced a major disaster.

It would have been tragic if, after so much work has been done and so much local and Federal money, time and effort have been expended, the project was curtailed.

I know the citizens of Danbury who have to live with the fear of another disastrous flood join me in thanking the committee for reallocating the necessary funds to keep this important project going.

Mr. DOLE. Mr. President, I am pleased to voice my support for the fiscal year 1974 funding of water resource developments in Kansas.

At the outset I would say that the most persuasive testimony on behalf of the expenditures under consideration today is to be found out in the States.

TWO TYPES OF TESTIMONY

There are two kinds of testimony. One was seen in the flood-ravaged areas of various rivers, where the spring's heavy rainfall and runoff brought record flood crests and wide scale damage and destruction. Of course, the Mississippi River's flooding received the widest publicity, but other rivers also overflowed their banks, and in the State of Kansas flood damages prompted the designation of 54 counties as Federal disaster areas. I would note that the Arkansas River and its tributaries were the major source of this damage—more than $3.5 million. It was grim testimony, painfully etched on the faces of homeowners, farmers, and businessmen who saw the ugly brown waters sweep over their property and wash away investments, dreams, and years of effort. These scenes have been recorded before in other years, in many areas in numerous States, and each time the message of death and human suffering and loss is the same.

But this year we have also seen a different kind of testimony as heavy rains and melting snow set runoff records throughout the Midwest. This testimony was seen particularly in the Missouri and Kansas River basins in Kansas. In these areas thousands of acres of low-lying farmland which, while soggy and wet, only needed a few days of drying sun and wind to be ready for the tractors and plows and are now producing record crops. Families went about life pretty much as usual instead of sandbagging their homes and moving furniture to second floors. Anxious but thankful glances were cast by businessmen toward the nearby rivers which, although bankfull and churning with silt and debris, remained within their banks or levees.

And most impressively, this testimony was seen in the growing impoundments and remaining reserve capacities of lake after lake constructed with Federal appropriations over the years. It was estimated that only some $200,000 in flood damages were suffered in all the Kansas-Missouri River Basin in Kansas. This is an amazingly small figure when compared to the hundreds of millions in damages these same areas experienced in years before the construction of these projects.

I would point out also that although Kansas flood damage in the Arkansas basin was in excess of $3.5 million this year, without the existing projects and improvements it is estimated that damages would have run nearly three times as large.

Both kinds of testimony are powerful. But fortunately, this year there is more of the good kind than ever before. And with the continued support from Congress, we will, hopefully, have more and more positive evidence of these projects' values each year.

FISCAL YEAR 1974 APPROPRIATIONS

Turning to the specifics of funding the fiscal year 1974 program for Kansas, I would first agree, generally, with the budget requests which have been submitted. Of course, we would all like to see every project completed at a maximum rate, but there are limitations in terms of overall Government spending policies designed to control inflation and the simple fact that everything cannot be done at once.

GENERAL INVESTIGATIONS

In the category of general investigations and studies, I believe the importance of continued progress and forward movement is vitally important to an orderly program. I believe the Senate Committee has acted wisely in increasing the funds for flood control and navigation studies. In Kansas the Great Bend-Tulsa Navigation Study is a top priority. A great deal has been accomplished in making the Arkansas one of the world's greatest commercial waterways, but the job is not yet finished, and we cannot afford to slack our efforts at this point.

PLANNING

Preconstruction planning category deserves careful attention. Once a project receives the green light it is important to move forward to meet the recognized needs to which it is intended to be responsive. Progress on projects is naturally slow enough, and if great delay is caused in the planning phase serious consequences can easily result, both in terms of continued damage by flooding and the toll of inflation on total cost. I was particularly pleased to note the approval of increased planning funds for the El Dorado local flood protection project—$50,000—and the Onaga Lake project—$110,000. The total planning funds for five projects is $667,000.

CONSTRUCTION AND MAINTENANCE

Administration construction fund requests were generally felt to be adequate, for delays in these areas have chiefly been due to factors outside the control of Congress or the executive branch. Maintenance requests are generally adequate. I would point out both the Senate and House Committees have approved the additional $600,000 for construction of the Clinton Lake project.

CONCLUSION

So, Mr. President, I would close by again expressing my belief in the need for strong funding support for wise and well-planned water resource development projects.

Water is a precious natural asset. Left unmanaged, it can be capricious and harmful; but subjected to thoughtful, prudent and far-sighted control, it can enrich the lives of millions and contribute significantly to the improvement of our American way of life. The bill before us today represents sound support for these projects, at a level which reflects the need to limit Federal expenditures in the fight against inflation and is at the same time responsive to the necessity of providing good management for a great national resource.

Mr. SCHWEIKER. Mr. President, as a new member of the Appropriations Committee and the Public Works Subcommittee, I would like to compliment the acting chairman of the subcommittee, Senator BIBLE, the ranking Republican, Senator HATFIELD and, of course, the subcommittee staff, for the fine work they have done on the fiscal year 1974 Public Works Appropriations bill. I would like to thank them in particular, for the help they have given me, as a new member, in my work on the subcommittee.

Our appropriations bill for fiscal year 1974, at $4.8 billion is over $860 million less than last year's appropriation, and certainly a responsible bill in today's tight fiscal situation.

This bill also contains over $40 million in construction funds for flood control projects in Pennsylvania, a very timely and important area to my State and to the entire Northeast, in view of the damages which resulted from Hurricane Agnes last year. The 10 projects under construction are scattered broadly around the State, ranging from the Raystown Lake, Tyrone, and Dubois projects in the central part of the State, to Blue Marsh Lake near Reading in the east, Tioga-Hammond and Cowanesque in the north, and Chartiers Creek, Woodcock Creek, and Union City in the west. A number of other flood control and recreation projects are already authorized and in the planning and/or land acquisition stages pending the beginning of construction.

Other funds are also included in this bill with an important impact upon Pennsylvania, among them $1.5 million for the Appalachian Regional Commission, which will include a total Federal commitment to the Scranton Mill section subsidence project of over $5 million, almost $70,000 for the Delaware River Basin Commission, $765,000 for the continuation of the Susquehanna River Basin Study, under provisions of Public Law 92–500.

Pennsylvania was very badly hit by Agnes, and there remain many unmet needs, which only some form of Federal help can meet. In my new responsibilities as a member of the Appropriations Committee, I will continue to make every effort to see that our needs are well represented, and our requirements are fairly met by the Federal Government.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Minnesota (Mr. MONDALE), and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), the Senator from Alaska (Mr. GRAVEL), the Senator from South Dakota (Mr. ABOUREZK), and the Senator from South Dakota (Mr. MCGOVERN) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON) is absent because of illness.

The Senator from Massachusetts (Mr. BROOKE), the Senator from Colorado

(Mr. Dominick), and the Senator from Ohio (Mr. Taft) are necessarily absent.

The Senator from Nebraska (Mr. Hruska) and the Senator from New York (Mr. Javits) are absent on official business.

On this vote, the Senator from Ohio (Mr. Taft) is paired with the Senator from New Hampshire (Mr. Cotton). If present and voting, the Senator from Ohio would vote "yea" and the Senator from New Hampshire would vote "nay."

The result was announced—yeas 82, nays 3, as follows:

[No. 314 Leg.]

YEAS—82

Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bennett
Bible
Brock
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Church
Clark
Cook
Cranston
Curtis
Dole
Domenici
Eagleton
Eastland
Ervin
Fannin
Fong
Fulbright
Goldwater
Griffin
Gurney
Hansen
Hart
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Huddleston
Hughes
Inouye
Jackson
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McIntyre
Metcalf
Montoya
Moss
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Randolph
Ribicoff
Roth
Schweiker
Scott, Pa.
Scott, Va.
Sparkman
Stafford
Stevens
Stevenson
Symington
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—3

Biden
Proxmire
Saxbe

NOT VOTING—15

Abourezk
Bentsen
Brooke
Cannon
Cotton
Dominick
Gravel
Hruska
Humphrey
Javits
McGovern
Mondale
Muskie
Stennis
Taft

So the bill (H.R. 8947) was passed.

Mr. BIBLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIBLE. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. Bible, Mr. McClellan, Mr. Magnuson, Mr. Robert C. Byrd, Mr. Pastore, Mr. McGee, Mr. Montoya, Mr. Hatfield, Mr. Young, Mr. Hruska, Mr. Case, Mr. Stevens, Mr. Schweiker, Mr. Bellmon, and Mr. Randolph conferees on the part of the Senate.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the following bills of the Senate, each with an amendment, in which it requested the concurrence of the Senate:

S. 1090. An act to amend the Communications Act of 1934, to extend certain authorizations for the Corporation for Public Broadcasting and for certain construction grants for noncommercial educational television and radio broadcasting facilities, and for other purposes; and

S. 1888. An act to extend and amend the Agricultural Act of 1970 for the purpose of assuring consumers of plentiful supplies of food and fiber at reasonable prices.

ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (S. 59) to amend title 38 of the United States Code to provide improved and expanded medical and nursing home care to veterans; to provide hospital and medical care to certain dependents and survivors of veterans; to provide for improved structural safety of Veterans' Administration facilities; to improve recruitment and retention of career personnel in the Department of Medicine and Surgery; and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. Burdick).

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

AMENDMENT OF AGRICULTURAL ACT OF 1970

Mr. TALMADGE, Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1888.

The PRESIDING OFFICER (Mr. Clark) laid before the Senate the amendment of the House of Representatives to the bill (S. 1888) "to extend and amend the Agricultural Act of 1970 for the purpose of assuring consumers of plentiful supplies of food and fiber at reasonable prices," which was to strike out all after the enacting clause, and insert:

That the Agricultural Act of 1970 is amended as follows: Title I is amended to read as follows:

"TITLE I—PAYMENT LIMITATION

Sec. 101. Notwithstanding any other provision of law—

"(1) The total amount of payments which a person shall be entitled to receive under one or more of the annual programs established by titles IV, V, and VI of this Act for the 1974 through 1978 crops of the commodities shall not exceed $20,000.

"(2) The term 'payments' as used in this section includes all price support payments, set-aside payments, diversion payments, and resource adjustment payments but does not include loans or purchases, or any part of any payment which is determined by the Secretary to represent compensation for public access for recreation.

"(3) If the Secretary determines that the total amount of payments which will be earned by any person under the program in effect for any crop will be reduced under this section, the set-aside acreage for the farm or farms on which such person will be sharing in payments earned under such program shall be reduced to such extent and in such manner as the Secretary determines will be fair and reasonable in relation to the amount of the payment reduction.

"(4) (a) In any case in which the owner or operator of a farm leases any portion of the farm to one or more persons, the payment limitation applicable to such person as prescribed by this section, shall be reduced in the same proportion as the allotment remaining in the farm bears to the total allotment prior to such lease: *Provided*, That the payment limitation shall also be reduced on the leased portion of the farm in proportion to the allotment accredited to such portion if the lessee is a member of the lessor's family or is a corporation in which the lessor or member of his family is a stockholder, or a partnership in which the lessor or a member of his family is a partner.

"(b) In any case in which the owner or operator of a farm sells or leases any portion of the acreage allotment for the farm to one or more persons, the payment limitation prescribed by this section shall apply in the same manner as if the lessor or seller had not leased or sold the acreage allotment.

"(5) The Secretary shall issue regulations defining the term 'person' and prescribing such rules as he determines necessary to assure an effective and economical application of such limitation: *Provided*, That the provisions of this Act which limit payments to any person shall not be applicable to lands owned by States, political subdivisions, or agencies thereof, so long as such lands are farmed primarily in the direct furtherance of a public function, as determined by the Secretary."

DAIRY PROGRAM

Milk Marketing Orders

(2) Section 201 is amended by—

(A) amending section 201(e) by striking out "1973" and inserting "1977", and by striking out "1976" and inserting "1980", and

(B) adding at the end thereof the following:

"(f) The Agricultural Adjustment Act as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, is further amended by:

"(1) striking the period at the end of subsection 8c(17) and adding in lieu thereof the following: ': *Provided further*, That if one-third or more of the producers as defined in a milk order apply in writing for a hearing on a proposed amendment of such order, the Secretary shall call such a hearing if the proposed amendment is one that may legally be made to such order. Subsection (12) of this section shall not be construed to permit any cooperative to act for its members in an application for a hearing under the foregoing proviso and nothing in such proviso shall be construed to preclude the Secretary from calling an amendment hearing as provided in subsection (3) of this section. The Secretary shall not be required to call a hearing on any proposed amendment to an order in response to an application for a hearing on such proposed amendment if the application requesting the hearing is received by the Secretary within ninety days after the date on which the Secretary has announced his decision on a previously proposed amendment to such order and the two proposed amendments are essentially the same.

"(2) inserting after the phrase 'pure and wholesome milk' in section 8c(18) the phrase 'to meet current needs and further to assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs'."

Milk Price Support, Butterfat Price Support Suspension

(3) Section 202 is amended by—

(A) striking the introductory clause which precedes subsection (a);

(B) effective April 1, 1974, inserting in subsection (b) before the period at the end of the first sentence in the quotation the following: "of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs"; and

(C) inserting in subsection (b) in the first sentence "80 per centum" in lieu of "75 per centum".

Veterans Hospitals

(4) Section 203 is amended by striking out "1973" and inserting "1977".

Dairy Indemnity Program

(5) Section 204 is amended by—

(A) striking out "1973" and inserting "1977"; and

(B) striking subsection (b) and substituting therefor the following:

"(b) Section 1 of said Act is amended to read as follows:

" 'Section 1. The Secretary of Agriculture is authorized to make indemnity payments for milk or cows producing such milk at a fair market value, to dairy farmers who have been directed since January 1, 1964 (but only since the date of enactment of the Agriculture Act of 1973 in the case of indemnity payments not authorized prior to such date of enactment), to remove their milk, and to make indemnity payments for dairy products at fair market value to manufacturers of dairy products who have been directed since the date of enactment of the Agricultural Act of 1970 to remove their dairy products from commercial markets because of residues of chemicals registered and approved for use by the Federal Government at the time of such use. Any indemnity payment to any farmer shall continue until he has been reinstated and is again allowed to dispose of his milk on commercial markets.' "

(6) Title II is amended by adding at the end thereof the following:

'Dairy Import Licenses

"Sec. 205. Section 22 of the Agricultural Adjustment Act (7 U.S.C. 624) is amended by adding at the end thereof the following:

" '(g) The President is authorized to provide that dairy products may be imported only by or for the account of a person or firm to whom a license has been issued by the Secretary of Agriculture. In issuing a license for dairy products not currently being imported but sought to be imported under this section during any period after the enactment of the Agriculture Act of 1973, the Secretary shall make licenses available for a thirty-day period before issuing licenses to other applicants to domestic producers and processors who agree to import such dairy products: *Provided, however*, That such licenses shall not be sold, transferred or assigned. For purposes of this subsection, dairy products include (1) all forms of milk and dairy products, butterfat, milk solids-not-fat, and any combination or mixture thereof; (2) any article, compound, or mixture containing 5 per centum or more of butterfat, or milk solids-not-fat, or any combinations of the two; and (3) lactose, and other derivatives of milk, butterfat, or milk solids-not-fat, if imported commercially for any food use. Dairy products do not include (1) casein, caseinates, industrial casein, industrial caseinates, or any other industrial products, not to be used in any form for any food use, or an ingriedent of food; or (2) articles not normally considered to be dairy products, such as candy, bakers goods, and other similar articles: *Provided*, That dairy products in any form, in any such article are not commercially extractable or capable of being used commercially as a replacement or substitute for such ingredients in the manufacture of any food product.'

PRODUCER HANDLERS

"Sec. 206. The legal status of producer handlers of milk under the provisions of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, shall be the same subsequent to the adoption of the amendments made by the Agriculture Act of 1973 as it was prior thereto."

WOOL PROGRAM

(7) Section 301 is amended by—

(A) striking out "1973" each place it occurs and inserting "1977", and by striking out the word "three" each place it occurs; and

(B) adding at the end thereof the following:

"(6) Strike out the first sentence of section 708 and insert the following: 'The Secretary of Agriculture is authorized to enter into agreements with, or to approve agreements entered into between, marketing cooperatives, trade associations, or others engaged or whose members are engaged in the handling of wool, mohair, sheep, or goats or the products thereof for the purpose of developing and conducting on a national, State, or regional basis advertising and sales promotion programs and programs for the development and dissemination of information on product quality, production management, and marketing improvement, for wool, mohair, sheep, or goats or the products thereof. Advertising and sales promotion programs may be conducted outside of the United States for the purpose of maintaining and expanding foreign markets and uses for mohair or goats or the products thereof produced in the United States.'."

WHEAT PROGRAM

Wheat Production Incentives

(8) Effective beginning with the 1974 crop section 401 is amended by striking out "1971, 1972, and 1973" and inserting "1971 through 1977" and section 107 of the Agricultural Act of 1949, as it appears therein, is amended by—

(A) amending section 107(a) to read as follows:

"(a) Loans and purchases on each crop of wheat shall be made available at such level as the Secretary determines appropriate, taking into consideration competitive world prices of wheat, the feeding value of wheat in relation to feed grains, and the level at which price support is made available for feed grains: *Provided*, That in no event shall such level be in excess of the parity price for wheat or less than $1.49 per bushel."

(B) substituting the word "payments" for the word "certificates" in section 107(b);

(C) striking the quotation mark at the end of section 107(b); and

(D) adding at the end of the section the following:

"(c) Payments shall be made for each crop of wheat to the producers on each farm in an amount determined by multiplying (i) the amount by which the higher of—

"(1) the national weighted average market price received by farmers during the first five months of the marketing year for such crop, as determined by the Secretary, or

"(2) the loan level determined under subsection (a) for such crop

is less than the established price of $2.05 per bushel, adjusted for each of the 1975 through 1977 crops to reflect any changes in the index of prices paid by farmers for production items, interest, taxes, and wage rates, times (ii) the allotment for the farm for such crop, times (iii) the projected yield established for the farm with such adjustments as the Secretary determines necessary to provide a fair and equitable yield: *Provided*, That any increase that would otherwise be made in the established price to reflect a change in the index of prices paid by farmers shall be adusted to reflect any change in (i) the national average yield per acre of wheat for the three calendar years preceding the year for which the determination is made, over (ii) the national average yield per acre of wheat for the three calendar years preceding the year previous to the one for which the determination is made. If the Secretary determines that the producers are prevented from planting, or if planted, prevented from harvesting any portion of the farm acreage allotment to wheat or other nonconserving crop, because of drought, flood, or other natural disaster or condition beyond the control of the producer, the rate of payment on such portion shall be the larger of (A) the foregoing rate, or (B) one-third of the established price. The Secretary shall provide for the sharing of payments made under this subsection for any farm among the producers on the farm on a fair and equitable basis."

Termination of Wheat Certificate Program, Farm Acreage Allotments

(9) Section 402 is amended by inserting "(a)" after the section designation and adding the following at the end of the section:

"(b) (A) Section 379b of the Agricultural Adjustment Act of 1938 (which provides for a wheat marketing certificate program) shall not be applicable to the 1974 through 1977 crops of wheat, except as provided in paragraphs (B) and (C) of this subsection.

"(B) Section 379b(c) of the Agricultural Adjustment Act of 1938, as amended by subsection (a) of this section (which provides for a set-aside program), shall be effective with respect to the 1974 through 1977 crops of wheat with the following changes:

"(i) The phrase 'payments authorized by section 107(c) of the Agricultural Act of 1949' shall be substituted for the word 'certificates' and the phrases 'certificates authorized in subsection (b)' and 'marketing certificates' each place they occur.

"(ii) The word 'domestic' shall be stricken each place it occurs.

"(iii) The second sentence of section 379b (c) (1) is amended to read as follows: 'If a set-aside of cropland is in effect under this subsection (c), then as a condition of eligibility for loans, purchases, and payments authorized by section 107(c) of the Agricultural Act of 1949, the producers on a farm must set aside and devote to approved conservation uses an acreage of cropland equal to (i) such percentage of the wheat allotment for the farm as may be specified by the Secretary and will be estimated by the Secretary to result in a set-aside not in excess of thirteen and three-tenths million acres in the case of the 1971 crop; plus, if required by the the Secretary, (ii) the acreage of cropland on the farm devoted in preceding years to soil conserving uses, as determined by the Secretary.'

"(iv) The third sentence in 379b(c) (1) is amended to read as follows: 'The Secretary is authorized for the 1974 through 1977 crops to limit the acreage planted to wheat on the farm to a percentage of the acreage allotment.'

"(v) '1971 through 1977' shall be substituted for '1971, 1972, and 1973' each place it occurs other than in the third sentence of section 379b(c) (1).

"(vi) After the second sentence of section 379b(c) (3) the following shall be inserted: 'The Secretary may, in the case of programs for the 1974 through 1977 crops, pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentences.'

"(C). Sections 379(d), (e), (g), and (i) of the Agricultural Adjustment Act of 1938, as amended by subsection (a) of this section, shall be effective for the 1974 through 1977 crops amended to read as follows:

"'(d) The Secretary shall provide for the sharing of payments made under this section for any farm among producers on the farm on a fair and equitable basis.

"'(e) In any case in which the failure of a producer to comply fully with the terms and conditions of the program formulated under this section precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as he determines to be equitable in relation to the seriousness of the default.

"'(g) The Secretary is authorized to issue such regulations as he determines necessary to carry out the provisions of this title.

"'(i) The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.'

"(D) Section 379c of the Agricultural Adjustment Act of 1938, effective only with respect to the 1974 through 1977 crops of wheat, is amended to read as follows:

"'SEC. 379c. (a)(1) The farm acreage allotment for each crop of wheat shall be determined as provided in this section. The Secretary shall proclaim the national acreage allotment not later than April 15 of each calendar year for the crop harvested in the next succeeding calendar year. Such national allotment shall be the number of acres he determines on the basis of the estimated national average yield for the crop for which the determination is being made will produce the quantity (less imports) that he estimates will be utilized domestically and for export during the marketing year for such crop. If the Secretary determines that carryover stocks are excessive or an increase in stocks is needed to assure a desirable carryover, he may adjust the allotment by the amount he determines will accomplish the desired decrease or increase in carryover stocks. The national acreage allotment for any crop of wheat shall be apportioned by the Secretary among the States on the basis of the apportionment to each State of the national acreage allotment for the preceding crop (1973 national domestic allotment in the case of apportionment of the 1974 national acreage allotment) adjusted to the extent deemed necessary by the Secretary to establish a fair and equitable apportionment base for each State, taking into consideration established crop rotation practices, the estimated decrease in farm acreage allotments, and other relevant factors.

"'(2) The State acreage allotment for wheat, less a reserve of not to exceed 1 per centum thereof for apportionment as provided in this subsection, shall be apportioned by the Secretary among the counties in the State, on the basis of the apportionment to each such county of the wheat allotment for the preceding crop, adjusted to the extent deemed necessary by the Secretary in order to establish a fair and equitable apportionment base for each county taking into consideration established crop-rotation practices, the estimated decrease in farm allotments, and other relevant factors.

"'(3) The farm allotment for each crop of wheat shall be determined by apportioning the county wheat allotment among farms in the county which had a wheat allotment for the preceding crop on the basis of such allotment, adjusted to reflect established crop-rotation practices and such other factors as the Secretary determines should be considered for the purpose of establishing a fair and equitable allotment. Notwithstanding any other provision of this subsection, the farm allotment shall be adjusted downward to the extent required by subsection (b).

"'(4) Not to exceed 1 per centum of the State allotment for any crop may be apportioned to farms for which there was no allotment for the preceding crop on the basis of the following factors: suitability of the land for production of wheat, the past experience of the farm operator in the production of wheat, the extent to which the farm operator is dependent on income from farming for his livelihood, the production of wheat on other farms owned, operated, or controlled by the farm opertor, and such other factors as the Secretary determines should be considered for the purpose of establishing fair and equitable farm allotments. No part of such reserve shall be apportioned to a farm to reflect new cropland brought into production after the date of enactment of the set-aside program for wheat.

"'(5) The planting on a farm of wheat or any crop for which no farm allotment was established shall not make the farm eligible for an allotment under subsection (a)(3) nor shall such farm by reason of such planting be considered ineligible for an allotment under subsection (a)(4).

"'(6) The Secretary may make such adjustments in acreage under this Act as he determines necessary to correct for abnormal factors affecting production, and to give due consideration to tillable acreage, crop rotation practices, types of soil, soil and water conservation measures, and topography, and in addition, in the case of conserving use acreages, to such other factors as he deems necessary in order to establish a fair and equitable conserving use acreage for the farm.

"'(b)(1) If for any crop the total acreage of wheat planted on a farm is less than the farm allotment, the farm allotment used as a base for the succeeding crop shall be reduced by the percentage by which such planted acreage was less than such farm allotment, but such reduction shall not exceed 20 per centum of the farm allotment for the preceding crop. If no acreage has been planted to wheat for three consecutive crop years on any farm which has an allotment, such farm shall lose its allotment. Producers on any farm who have planted to wheat not less than 90 per centum of the allotment for the farm shall be considered to have planted an acreage equal to 100 per centum of such allotment. An acreage on the farm which the Secretary determines was not planted to wheat because of drought, flood, or other natural disaster or condition beyond the control of the producer shall be considered to be an acreage of wheat planted for harvest. For the purpose of this subsection, the Secretary may permit producers of wheat to have acreage devoted to soybeans, feed grains for which there is a set-aside program in effect, guar, castor beans, cotton, triticale, oats, rye, or such other crops as the Secretary may deem appropriate considered as devoted to the production of wheat to such extent and subject to such terms and conditions as the Secretary determines will not impair the effective operation of the program.

"'(2) Notwithstanding the provisions of subsection (b)(1), no farm allotment shall be reduced or lost through failure to plant the farm allotment, if the producer elects not to receive payments for the portion of the farm allotment not planted, to which he would otherwise be entitled under the provisions of section 107(c) of the Agricultural Act of 1949.'"

Repeal of Processor Certificate Requirement

(10) Section 403 is amended by inserting "(a)" after the section designation and by inserting at the end thereof the following:

"(b) Sections 379d, 379e, 379f, 379g, 379h, 379i, and 379j of the Agricultural Adjustment Act of 1938 (which deal with marketing certificate requirements for processors and exporters) shall not be applicable to wheat processed or exported during the period July 1, 1973 through June 30, 1978; and section 379g is amended by adding the following new subsection (c):

"(c) The Secretary is authorized to take such action as he determines to be necessary to facilitate the transition from the certificate program provided for under section 379d to a program under which no certificates are required. Notwithstanding any other provision of law, such authority shall include, but shall not be limited to the authority to exempt all or a portion of wheat or food products made therefrom in the channels of trade on July 1, 1973, from the marketing restrictions in subsection (b) of section 379d, or to sell certificates to persons owning such wheat or food products made therefrom at such price and under such terms and conditions as the Secretary may determine. Any such certificate shall be issued by the Commodity Credit Corporation. Nothing herein shall authorize the Secretary to require certificates on wheat processed after June 30, 1973.'."

Suspension of Wheat Marketing Quotas

(11) Section 404 is amended by striking "1971, 1972, and 1973" wherever it appears and inserting "1971 through 1977", and by striking "1972 and 1973" and inserting "1972 through 1977".

State Agency Allotments, Yield Calculations

(12) (a) Section 405 is amended by striking out "1971, 1972, and 1973" and inserting "1971 through 1977"; and by repealing paragraph (2) effective with the 1974 crop; by inserting "(a)" after the section designation; by changing the period and quotation mark at the end of the section to a semicolon; and by adding at the end of the section the following:

"(b) Effective with respect to the 1974 through 1977 crops section 301(b)(13)(K) of the Agricultural Adjustment Act of 1938 is amended by adding after 'three calendar years' the following: '(five calendar years in the case of wheat)', and section 708 of Public Law 89-321 is amended by inserting in the second sentence after 'determining the projected yield' the following '(except that in the case of wheat, if the yield is abnormally low in any one of the calendar years of the base period because of drought, flood, or other natural disaster, the Secretary shall take into account the actual yield proved by the producer in the other four years of such base period'."

Suspension of Quota Provisions

(13) Section 406 is amended by striking out "1971, 1972, and 1973" and inserting "1971 through 1977".

Reduction in Wheat Stored To Avoid Penalty

(14) Section 407 of the Agricultural Act of 1970 is amended by adding at the end thereof the following: "Notwithstanding the foregoing, the Secretary may authorize release of wheat stored by a producer under section 379c(b) of the Agricultural Adjustment Act of 1938, as amended, prior to the 1971 crop, whenever he determines such release will not significantly affect market prices for wheat. As a condition of release, the Secretary may require a refund of such portion of the value of certificates received in the crop year the excess wheat was produced as he deems appropriate considering the period of time the excess wheat has been in storage and the need to provide fair and equitable treatment among all wheat program participants.".

Application of the Agricultural Act of 1949

(15) Section 408 is amended by striking out "1971, 1972, and 1973" and inserting "1971 through 1977".

Commodity Credit Corporation Sales Price Restrictions

(16) Section 409 is amended by striking out "1971, 1972, and 1973" and inserting "1971 through 1977".

Set-Aside on Summer Fallow Farms

(17) Section 410 is amended by striking out "1971, 1972, and 1973" and inserting "1971 through 1977".

FEED GRAIN PROGRAM

(18) Effective only with respect to the 1974 through 1977 crops of feed grains, section 501 is amended by—

(A) striking out that portion through the first colon and section 105(a) of the Agricultural Act of 1949, as it appears therein, and inserting the following:

"SEC. 501. (a) Effective only with respect to the 1971 through 1977 crops of feed grains, section 105(a) of the Agricultural Act of 1949, as amended, is further amended to read as follows:

" 'SEC. 105. Notwithstanding any other provision of laws—

" '(a) (1) The Secretary shall make available to producers loans and purchases on each crop of corn at such level, not less than $1.19 per bushel nor in excess of 90 per centum of the parity price therefor, as the Secretary determines will encourage the exportation of feed grains and not result in excessive total stocks of feed grains in the United States.

" '(2) The Secretary shall make available to producers loans and purchases on each crop of barley, oats, and rye, respectively, at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value of such commodity in relation to corn and the other factors specified in section 401(b), and on each crop of grain sorghums at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value and average transportation costs to market of grain sorghums in relation to corn.'."

(B) adding at the end thereof the following:

"(b) Effective only with respect to the 1974 through 1977 crops of feed grains, section 105(b) of the Agricultural Act of 1949, as amended, is further amended to read as follows:

" '(b) (1) In addition, the Secretary shall make available to producers payments for each crop of corn, grain, sorghums, and, if designated by the Secretary, barley, computed by multiplying (1) the payment rate, times (2) the allotment for the farm for such crop, times (3) the yield established for the farm for the preceding crop with such adjustments as the Secretary determines necessary to provide a fair and equitable yield. The payment rate for corn shall be the amount by which the higher of—

" '(1) the national weighted average market price received by farmers during the first five months of the marketing year for such crop, as determined by the Secretary, or

" '(2) the loan level determined under subsection (a) for such crop

is less than the established price of $1.38 per bushel, adjusted for each of the 1975 through 1977 crops to reflect any changes in the index of prices paid by farmers for production items, interest, taxes, and wage rates: Provided, That any increase that would otherwise be made in the established price to reflect a change in the index of prices paid by farmers shall be adjusted to reflect any change in (i) the national average yield per acre of feed grains for the three calendar years preceding the year for which the determination is made, over (ii) the national average yield per acre of feed grains for the three calendar years preceding the year previous to the one for which the determination is made. The payment rate for grain sorghums and, if designated by the Secretary, barley, shall be such rate as the Secretary determines fair and reasonable in relation to the rate at which payments are made available for corn. If the Secretary determines that the producers on a farm are prevented from planting or if planted, prevented from harvesting any portion of the farm acreage allotment to feed grains or other nonconserving crop, because of drought, flood, or other natural disaster or condition beyond the control of the producer, the rate of payment on such portion shall be the larger of (A) the foregoing rate, or (B) one-third of the established price.

" '(2) The Secretary shall, prior to January 1 of each calendar year, determine and proclaim for the crop produced in such calendar year a national acreage allotment for feed grains, which shall be the number of acres he determines on the basis of the estimated national average yield of the feed grains included in the program for the crop for which the determination is being made will produce the quantity (less imports) of such feed grains that he estimates will be utilized domestically and for export during that marketing year for such crop. If the Secretary determines that carryover stocks of any of the feed grains are excessive or an increase in stocks is needed to assure a desirable carryover, he may adjust the feed grain allotment by the amount he determines will accomplish the desired decrease or increase in carryover stocks. State, county, and farm feed grain allotments shall be established on the basis of the feed grain allotments established for the preceding crop (for 1974 on the basis of the feed grain bases established for 1973), adjusted to the extent deemed necessary to establish a fair and equitable apportionment base for each State, county, and farm. Not to exceed 1 per centum of the State feed grain allotment may be reserved for apportionment to new feed grain farms on the basis of the following factors: suitability of the land for production of feed grains, the extent to which the farm operator is dependent on income from farming for his livelihood, the production of feed grains on other farms owned, operated, or controlled by the farm operator, and such other factors as the Secretary determines should be considered for the purpose of establishing fair and equitable feed grain allotments.

" '(3) If for any crop the total acreage on a farm planted to feed grains included in the program formulated under this subsection is less than the feed grain allotment for the farm, the feed grain allotment for the farm for the succeeding crops shall be reduced by the percentage by which the planted acreage is less than the feed grain allotment for the farm, but such reduction shall not exceed 20 per centum of the feed grain allotment. If no acreage has been planted to such feed grains for three consecutive crop years on any farm which has a feed grain allotment, such farm shall lose its feed grain allotment: *Provided*, That no farm feed grain allotment shall be reduced or lost through failure to plant, if the producer elects not to receive payment for such portion of the farm feed grain allotment not planted, to which he would otherwise be entitled under the provisions of this Act. Any such acres eliminated from any farm shall be assigned to a national pool for the adjustment of feed grain allotments as provided for in subsection (e)(2). Producers on any farm who have planted to such feed grains not less than 90 per centum of the feed grain allotment shall be considered to have planted an acreage equal to 100 per centum of such allotment. An acreage on the farm which the Secretary determines was not planted to such feed grains because of drought, flood, or other natural disaster or condition beyond the control of the producer shall be considered to be an acreage of feed grains planted for harvest. For the purpose of this paragraph, the Secretary may permit producers of feed grains to have acreage devoted to soybeans, wheat, guar, castor beans, cotton, triticale, oats, rye, or such other crops as the Secretary may deem appropriate, considered as devoted to the production of such feed grains to such extent and subject to such terms and conditions as the Secretary determines will not impair the effective operation of the program.'."

(C) striking out "1971, 1972, 1973" where it appears in that part which amends section 105(c)(1) of the Agricultural Act of 1949 and inserting "1971 through 1977", and by amending the second sentence of section 105 (c)(1) to read as follows: "If a set-aside of cropland is in effect under this subsection (c), then as a condition of eligibility for loans, purchases, and payments on corn, grain sorghums, and, if designated by the Secretary, barley, respectively, the producers on a farm must set aside and devote to approved conservation uses an acreage of cropland equal to (i) such percentage of the feed grain allotment for the farm as may be specified by the Secretary, plus, if required by the Secretary (ii) the acreage of cropland on the farm devoted in preceding years to soil conserving uses, as determined by the Secretary."

(D) amending the third sentence of section 105(c)(1) to read as follows: "The Secretary is authorized for the 1974 through 1977 crops to limit the acreage planted to feed grains on the farm to a percentage of the farm acreage allotment.",

(E) striking out paragraphs (1) and (3) of subsection (e), and striking out all of subsection (g),

(F) inserting after the second sentence of section 105(c)(3) the following: "The Secretary may, in the case of programs for the 1974 through 1977 crops, pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentences."

COTTON PROGRAM

Suspension of Marketing Quotas for Cotton, Minimum Base Acreage Allotment

(19) Section 601 is amended by—

(A) striking out "1971, 1972, and 1973" wherever it appears therein and inserting "1971 through 1977",

(B) striking "1970, 1971, and 1972" from paragraph (2) and inserting "1970 through 1976",

(C) effective beginning with the 1974 crop, striking out the following from section 344(a) in section 601 "for which a farm base acreage allotment is established (other than pursuant to section 350(e)(1)(A))",

(D) striking "1974" from paragraph (3) (1) and inserting "1978", and by striking "1972 and 1973" from paragraph (4) and inserting "1972 through 1977",

(E) effective beginning with the 1974 crop, adding at the end of section 350(a) in paragraph (4) of section 601 the following: "The national base acreage allotment for the 1974 through 1977 crops shall not be less than eleven million acres.",

(F) effective beginning with the 1974 crop, striking "soybeans, wheat or feed grains" from the last sentence of section 350(e)(2) in paragraph (4) of section 601 and inserting "soybeans, wheat, feed grains, guar, castor beans, or such other crops as the Secretary may deem appropriate",

(G) effective beginning with the 1974 crop, striking the words "an adjoining" in the first sentence of section 350(h) as found in paragraph (4) of section 601, and inserting in lieu thereof "any other nearby",

(H) effective beginning with the 1974 crop, striking subsection 350(g) in paragraph (4) of section 601 and redesignating subsection (h) as subsection (g).

Cotton Production Incentives

(20) Section 602 is amended by—

(A) striking "1971, 1972, and 1973" wherever it appears therein and inserting "1971 through 1977", by striking "the 1972 or 1973 crop" where it appears in that part amending section 103(e)(1) of the Agricultural Act of 1949 and inserting "any of the 1972 through 1977 crops", and by striking out "acreage world price" in that part amending section 103(e)(1) of the Agricultural Act of 1949, and substituting "average price of American cotton in world markets";

(B) in that part amending section 103(e)(1) of the Agricultural Act of 1949 striking out "two-year period" whenever it appears therein and substituting "three-year period"; and by striking out that part beginning with "except that" in the first sentence and substituting "except that if the loan rate so calculated is higher than the then current level of average world prices for American cotton of such quality, the Secretary is authorized to adjust the current calculated loan rate for cotton to 90 per centum of the then current average world price.";

(C) effective beginning with the 1974 crop, amending section 103(e)(2) of the Agricultural Act of 1949 as it appears in such section 602 to read as follows:

"(2) Payments shall be made for each crop of cotton to the producers on each farm at a rate equal to the amount by which the higher of—

"(1) the average market price received by farmers for upland cotton during the calendar year which includes the first five months of the marketing year for such crop, as determined by the Secretary, or

"(2) the loan level determined under paragraph (1) for such crop

is less than the established price of 38 cents per pound adjusted for each of the 1975 through 1977 crops to reflect any changes in the index of prices paid by farmers for production items, interest, taxes, and wage rates: *Provided*, That any increase that would otherwise be made in the established price to reflect a change in the index of prices paid by farmers shall be adjusted to reflect any change in (i) the national average yield per acre of cotton for the three calendar years preceding the year for which the determination is made, over (ii) the national average yield per acre of cotton for the three calendar years preceding the year previous to the one for which the determination is made. If the Secretary determines that the producers on a farm are prevented from planting, or if planted, prevented from harvesting any portion of the allotment to cotton, because of drought, flood, or other natural disaster, or condition beyond the control of the producer, the rate of payment for such portion shall be the larger of (A) the foregoing rate, or (B) one-third of the established price. The payment rate with respect to the producer who (i) is on a small farm (that is, a farm on which the base acreage allotment is ten acres or less, or on which the yield used in making payments times the farm base acreage allotment is five thousand pounds or less, and for which the base acreage allotment has not been reduced under section 350(a)), (ii) resides on such farm, and (iii) derives his principal income from cotton produced on such farm, shall be increased by 30 per centum; but, notwithstanding paragraph (3), such increase shall be made only with respect to his share of cotton actually harvested on such farm within the quantity specified in paragraph (3)."

(D) effective beginning with the 1974 crop, section 103(e)(3) of the Agricultural Act of 1949 is amended (A) by striking out all of the first sentence after the word "multiplying" and substituting "the farm base acreage allotment for the farm for the crop by the average yield established for the farmer." and (B) by striking out the second sentence.

(E) the fourth sentence of section 103(e)(4)(A) of the Agricultural Act of 1949 as found in section 602 is amended to read as follows: "The Secretary shall permit producers to plant and graze on set-aside acreage sweet sorghum, and the Secretary may permit, subject to such terms and conditions as he may prescribe, all or any of the set-aside acreage to be devoted to hay and grazing or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, oats, rye, or other commodity, if he determines that such production is needed to provide an adequate supply, is not likely to increase the cost of the price-support program, and will not adversely affect farm income."

(F) inserting after the second sentence of section 103(e)(5) of the Agricultural Act of 1949 as it appears in such section 602 the following: "The Secretary may in the case of programs for the 1974 through 1975 crops, pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentences."

Commodity Credit Corporation Sales Price Restrictions for Cotton

(21) Section 603 is amended by striking out "1974" and inserting "1978", and by deleting "110 per centum" and inserting in lieu thereof "115 per centum".

Miscellaneous Cotton Provisions

(22) Sections 604, 605, 606, and 607 are each amended by striking out "1971, 1972, and 1973" and inserting "1971 through 1977."

Cotton Market Development

(23) Section 610 is amended by inserting after the words "shall be" in the second sentence the following words "10 million dollars." and by striking the balance of said sentence, and further by striking out "1972 and 1973" and inserting "1972 through 1977" in the third sentence.

Cotton Insect Eradication

(24) Title VI is amended by adding at the end thereof the following:

"Sec. 611. Section 104 of the Agricultural Act of 1949, as amended, is amended by adding a new subsection (d) as follows:

" '(d) In order to reduce cotton production costs, to prevent the movement of certain cotton plant insects to areas not now infected, and to enhance the quality of the environment, the Secretary is authorized and directed to carry out programs to destroy and eliminate cotton boll weevils in infested areas of the United States as provided herein and to carry out similar programs with respect to pink bollworms or any other major cotton insect if the Secretary determines that methods and systems have been developed to the point that success in eradication of such insects is assured. The Secretary shall carry out the eradication programs authorized by this subsection through the Commodity Credit Corporation. In carrying out insect eradication projects, the Secretary shall utilize the technical and related services of appropriate Federal, State, private agencies, and cotton organizations. Producers and landowners in an eradication zone, as established by the Secretary, and who are receiving benefits from any program administered by the United States Department of Agriculture, shall, as a condition of receiving or continuing any such benefits, participate in and cooperate with the eradication project, as specified in regulations of the Secretary.

" 'The Secretary may issue such regulations as he deems necessary to enforce the provisions of this section with respect to achieving the compliance of producers and landowners who are not receiving benefits from any program administered by the United States Department of Agriculture. Any person who knowingly violates any such regulation promulgated by the Secretary under this subsection may be assessed a civil penalty of not to exceed $5,000 for each offense. No civil penalty shall be assessed unless the person shall have been given notice and opportunity for a hearing on such charge in the county, parish, or incorporated city of the residence of the person charged. In determining the amount of the penalty the Secretary shall consider the appropriateness of such penalty to the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation. Where special measures deemed essential to achievement of the eradication objective are taken by the project and result in a loss of production and income to the producer, the Secretary shall provide reasonable and equitable indemnification from funds available for the project, and also provide for appropriate protection of the allotment, acreage history, and average yield for the farm. The cost of the program in each eradication zone shall be determined, and cotton producers in the zone shall be required to pay up to one-half thereof, with the exact share in each zone area to be specified by the Secretary upon his finding that such share is reasonable and equitable based on population levels of the target insect and the degree of control measures normally required. Each producer's pro rata share shall be deducted from his cotton payment under this Act or otherwise collected, as provided in regulations of the Secretary. Insofar as practicable, cotton producers and other persons engaged in cotton production in the eradication zone shall be employed to participate in the work of the project in such zone. Funding of the program shall be terminated at such time as the Secretary determines and reports to the Congress that complete eradication of the insects for which programs are undertaken pursuant to this subsection has been accomplished. Funds in custody of agencies carrying out the program shall, upon termination of such program, be accounted for to the Secretary for appropriate disposition.

" 'The Secretary is authorized to cooperate with the Government of Mexico in carrying out operations or measures in Mexico which he deems necessary and feasible to prevent the movement into the United States from Mexico of any insects eradicated under the provisions of this subsection. The measure and character of cooperation carried out under this subsection on the part of the United States and on the part of the Government of Mexico, including the expenditure or use of funds made available by the Secretary under this subsection, shall be such as may be prescribed by the Secretary. Arrangements for the cooperation authorized by this subsection shall be made through and in consultation with the Secretary of State. There are hereby authorized to be appropriated to the Commodity Credit Corporation such sums as the Congress may from time to time determine to be necessary to carry out the purposes of this subsection.'."

(25) Section 374(a) of the Agriculture Adjustment Act of 1938, as amended, is hereby amended by adding the following new sentence: "Where cotton is planted in skiprow patterns, the same rules that were in effect for the 1971 through 1973 crops for classifying the acreage planted to cotton and the area skipped shall also apply to the 1974 through 1977 crops."

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(26) Title VII is amended—

(A) by striking out "1973" and inserting "1977" in section 701; and

(B) by adding a new section 703 as follows:

"Sec. 703. Title IV of such Act is amended by adding at the end thereof the following:

" 'Sec. 411. No agricultural commodities shall be sold under title I or title III or donated under title II of this Act to North Vietnam, unless by an Act of Congress enacted subsequent to July 1, 1973, assistance to North Vietnam is specifically authorized.' "

MISCELLANEOUS PROVISIONS

(27) Title VIII is amended as follows:

Beekeeper Indemnities

(A) Section 804 is amended by striking out "December 31, 1973" and inserting "December 31, 1977".

Export Sales Reporting

(B) By adding the following new sections:

"SEC. 807. All exporters of wheat and wheat flour, feed grains, oil seeds, cotton and products thereof, and other commodities the Secretary may designate produced in the United States shall report to the Secretary of Agriculture, on a weekly basis, the following information regarding any contract for export sales entered into or subsequently modified in any manner during the reporting period: (a) type, class, and quantity of the commodity sought to be exported, (b) the marketing year of shipment, (c) destination, if known. Individual reports shall remain confidential but shall be compiled by the Secretary and published in compilation form each week following the week of reporting. All exporters of agricultural commodities produced in the United States shall upon request of the Secretary of Agriculture immediately report to the Secretary any information with respect to export sales of agricultural commodities and at such times as he may request. Any person (or corporation) who knowingly fails to report export sales pursuant to the requirements of this section shall be fined not more than $25,000 or imprisoned not more than one year, or both. The Secretary may suspend the requirement for publishing data with respect to any commodity or type or class thereof during any period in which he determines that there is a domestic supply of such commodity substantially in excess of the quantity needed to meet domestic requirements, and that total supplies of such commodity in the exporting countries are estimated to be in surplus, and that anticipated exports will not result in excessive drain on domestic supplies, and that to require the reports to be made will unduly hamper export sales. Such suspension shall not remain in effect for more than sixty days unless extended by the Secretary. Extensions of such suspension, if any, shall also be limited to sixty days each and shall only be promulgated if the Secretary determines that the circumstances at the time of the commencement of any extension meet the conditions described herein.

"SEC. 808. The Secretary shall, within sixty (60) days from the enactment of this Act, submit to the Congress a detailed report indicating what steps are being taken to implement the recommendations of the Comptroller General of the United States in his Report to the Congress dated July 9, 1973, entitled Russian Wheat Sales and Weaknesses in Agriculture's Management of Wheat Export Subsidy Program (B 176943).

"Wheat and Feed Grains Research

"SEC. 809. In order to reduce fertilizer and herbicide usage in excess of production needs, to develop wheat and feed grain varieties more susceptible to complete fertilizer utilization, to improve the resistance of wheat and feed grain plants to disease and to enhance their conservation and environmental qualities, the Secretary of Agriculture is authorized and directed to carry out regional and national research programs.

"In carrying out such research, the Secretary shall utilize the technical and related services of the appropriate Federal, State, and private agencies.

"There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, but not more than $1,000,000 in any fiscal year.

"Emergency Reserve

"SEC. 810. (a) Notwithstanding any other provision of law, the Secretary of Agriculture shall under the provisions of this Act establish, maintain, and dispose of a separate reserve of inventories of wheat, feed grains, and soybeans for the purpose of alleviating distress caused by a natural disaster.

"Such reserve inventories shall include such quantities of grain that the Secretary deems needed to provide for the alleviation of distress as the result of a natural disaster.

"(b) The Secretary shall acquire such commodities through the price support program.

"(c) Except when a state of emergency has been proclaimed by the President or by concurrent resolution of Congress declaring that such reserve should be disposed of, the Secretary shall not offer any commodities in the reserve for sale or disposition.

"(d) The Secretary is also authorized to dispose of such commodities only for (1) use in relieving distress (a) in any State, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands and (b) in connection with any major disaster determined by the President to warrant assistance by the Federal Government under Public Law 875, Eighty-first Congress, as amended (42 U.S.C. 1855 et seq.), or (2) for use in connection with a state of civil defense emergency as proclaimed by the President or by concurred resolution of the Congress in accordance with the provisions of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251–2297).

"(e) The Secretary may sell at an equivalent price, allowing for the customary location and grade price differentials, substantially equivalent quantities in different locations or warehouses to the extent needed to properly handle, rotate, distribute, and locate such reserve.

"(f) The Secretary may use the Commodity Credit Corporation to the extent feasible to fulfill the purposes of this section; and to the maximum extent practicable consistent with the fulfillment of the purposes of this section and the effective and efficient administration of this section shall utilize the usual and customary channels, facilities, and arrangements of trade and commerce.

"(g) The Secretary may issue such rules and regulations as may be necessary to carry out the provisions of this section.

"(h) There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

"Imported Commodities

"SEC. 811. Notwithstanding any other provisions of this Act, the Secretary shall encourage the production of any crop of which the United States is a net importer and for which a price support program is not in effect by permitting the planting of such crop on set-aside acreage and with no reduction in the rate of payment for the commodity.

"Emergency Supply of Agriculture Products

"SEC. 812. (a) Notwithstanding any other provision of law, the Secretary of Agriculture shall, under the provisions of this Act, assist farmers, processors, and distributors in obtaining such prices for agricultural products that an orderly, adequate and steady supply of such products will exist for the consumers of this nation.

"(b) The President shall make appropriate adjustments in the maximum price which may be charged under the provisions of Executive Order 11723 (dated June 13, 1973) or any subsequent Executive Order for any agricultural products (at any point in the distribution chain) as to which the Secretary of Agriculture certifies to the President that the supply of the product will be reduced to unacceptably low levels as a result of the freeze or subsequent modification thereof and that alternative means for increasing the supply are not available.

"(c) Under this section, the term 'agricultural products' shall include meat, poultry, vegetables, fruits and all other agriculture commodities."

(28) By adding the following new title X:

"TITLE X—RURAL ENVIRONMENTAL CONSERVATION

"SEC. 1001. Notwithstanding any other provision of law, the Secretary shall carry out the purposes specified in clauses (1), (2), (3), (4), and (6) of section 7(a) of the Soil Conservation and Domestic Allotment Act, as amended, section 16(b) of such Act, and in the Water Bank Act (16 U.S.C. 1301 et seq.) by entering into contracts of three, five, ten, or twenty-five years with, and at the option of, eligible owners and operators of land as determined by the Secretary and having such control as the Secretary determines to be needed on the farms, ranches, wetlands, forests, or other lands covered thereby. In addition, the Secretary is hereby authorized to purchase perpetual easements to promote said purposes of this Title, including the sound use and management of flood plains, shore lands, and aquatic areas of the Nation. Such contracts shall be designed to assist farm, ranch, wetland, and nonindustrial private forest owners and operators, or other owners or operators, to make, in orderly progression over a period of years, such changes, if any, as are needed to effectuate any of the purposes specified in clauses (1), (2), (3), (4), and (6) of section 7(a) of the Soil Conservation and Domestic Allotment Act, as amended; section 16(b) of such Act; the Water Bank Act (16 U.S.C. 1301 et seq.); in enlarging fish and wildlife and recreation sources; improving the level of management of nonindustrial private forest lands; and in providing long-term wildlife and upland game cover. In carrying out the provisions of this title, due regard shall be given to the maintenance of a continuing and stable supply of agricultural commodities and forest products adequate to meet consumer demand at prices fair to both producers and consumers.

"SEC. 1002. Eligible landowners and operators for contracts under this title shall furnish to the Secretary a plan of farming operations or land use which incorporates such practices and principles as may be determined by him to be practicable and which outlines a schedule of proposed changes, if any, in cropping systems or land use and of the conservation measures which are to be carried out on the farm, ranch, wetland, forests, or other land during the contract period to protect the farm, ranch, wetland, forests or other land and surrounding areas, its wildlife, and nearby populace and communities from erosion, deterioration, pollution by natural and manmade causes or to insure an adequate supply of timber and related forest products. Said plans may also, in important migratory waterfowl nesting and breeding areas which are identified in a conservation plan developed in cooperation with a soil and water conservation district in which the lands are located, and under such rules and regulations as the Secretary may provide, include a schedule of proposed changes, if any, to conserve surface waters and preserve and improve habitat for migratory waterfowl and other wildlife resources and improve subsurface moisture, including, subject to the provisions of section 1001 of this title, the reduction of areas of new land coming into production, the enhancement of the natural beauty of the landscape, and the promotion of comprehensive and total water management study.

"SEC. 1003. (a) Approved conservation plans of eligible landowners and operators developed in cooperation with the soil and water conservation district or the State forester or other appropriate State official in which their lands are situated shall form a basis for contracts under this title. Under the contract the landowner or operator shall agree—

"(1) to effectuate the plan for his farm, ranch, forest, wetland, or other land substantially in accordance with the schedule outlined therein;

"(2) to forfeit all rights to further payments or grants under the contract and refund to the United States all payments or grants received thereunder upon his violation of the contract at any stage during the time he has control of the land if the Secretary, after considering the recommendations of the Soil and Water Conservation District Board, or the State forester or other appropriate official in a contract entered into under the provisions of section 1009 of this title, determines that such violation is of such a nature as to warrant termination of the contract, or to make refunds or accept such payment adjustments as the Secretary may deem appropriate if he determines that the violation by the owner or operator does not warrant termination of the contract;

"(3) upon transfer of his right and interest in the farm, ranch, forest, wetland, or other land during the contract period to forfeit all rights to further payments or grants under the contract and refund to the United States all payments or grants received thereunder unless the transferee of any such land agrees with the Secretary to assume all obligations of the contract;

"(4) not to adopt any practice specified by the Secretary in the contract as a practice which would tend to defeat the purposes of the contract;

"(5) to comply with all applicable Federal, State, or local laws, and regulations, including those governing environmental protection and noxious weed abatement; and

"(6) to such additional provisions as the Secretary determines are desirable and includes in the contract to effectuate the purposes of the program or to facilitate the practical administration of the program: *Provided,* That all contracts entered into to effectuate the purposes of the Water Bank Act for wetlands shall contain the further agreement of the owner or operator that he shall not drain, burn, fill, or otherwise destroy the wetland character of such areas, nor use such areas for agricultural purposes: *And provided further,* That contracts entered into for the protection of wetlands to effectuate the purposes of the Water Bank Act may include wetlands covered by Federal or State government easement which permits agricultural use, together with such adjacent areas as determined desirable by the Secretary.

"(b) In return for such agreement by the landowner or operator the Secretary shall agree to make payments in appropriate circumstances for the use of land maintained for conservation purposes as set forth in this title, and share the cost of carrying out those conservation practices and measures set forth in the contract for which he determines that cost-sharing is appropriate and in the public interest. The portion of such cost (including labor) to be shared shall be that part which the Secretary determines is necessary and appropriate to effectuate the physical installation of the conservation practices and measures under the contract, but, in the case of a contract not entered into under an advertising and bid procedure under the provisions of section 1009(d) of this title, not less than 50 per centum or more than 75 per centum of the actual costs incurred by the owner or operator.

"(c) The Secretary may terminate any contract with a landowner or operator by mutual agreement with the owner or operator if the Secretary determines that such termination would be in the public interest, and may agree to such modification of contracts previously entered into as he may determine to be desirable to carry out the purposes of the program or facilitate the practical administration thereof or to accomplish equitable treatment with respect to other similar conservation, land use, or commodity programs administered by the Secretary.

"Sec. 1004. The Secretary is authorized to make available to eligible owners and operators conservation materials including seeds, seed inoculants, soil conditioning materials, trees, plants, and, if he determines it is appropriate to the purposes of this title, fertilizer and liming materials.

"Sec 1005. (a) Notwithstanding the provisions of any other title, the Secretary may establish multiyear set-aside contracts for a period not to extend beyond the 1977 crop. Producers agreeing to a multiyear set-aside agreement shall be required to devote this acreage to vegetative cover capable of maintaining itself throughout such period to provide soil protection, water quality enhancement, wildlife production, and the natural beauty. Grazing of livestock under this section shall be prohibited. Producers entering into agreements under this section shall also agree to comply with all applicable State and local law and regulation governing noxious weed control.

"(b) The Secretary shall provide cost-sharing incentives to farm operators for such cover establishment, whenever a multiyear contract is entered into on all or a portion of the set-aside acreage.

"Sec 1006. The Secretary shall issue such regulations as he determines necessary to carry out the provisions of this title. The total acreage placed under agreements which result in their retirement from production in any county or local community shall in addition to the limitations elsewhere in this title be limited to a percentage of the total eligible acreage in such county or local community which the Secretary determines would not adversely affect the economy of the county or local community. In determining such percentage the Secretary shall give appropriate consideration to the productivity of the acreage being retired, if any, as compared to the average productivity of eligible acreage in such county or local community which the Secretary determines would not adversely affect the economy of the county or local community.

"Sec. 1007. (a) The Secretary of Agriculture shall appoint an advisory board in each State to advise the State committee of that State (established under section 8(b) of the Soil Conservation and Domestic Allotment Act) regarding the types of conservation measures that should be approved to effectuate the purposes of this title. The Secretary shall appoint at least six individuals to the advisory boards of each State who are especially qualified by reason of education, training, and experience in the fields of agriculture, soil, water, wildlife, fish, and forest management. Said appointed members shall include, but not be limited to, the State soil conservationist, the State forester, the State administrator of the water quality programs, and the State wildlife administrator or their designees: *Provided,* That such board shall limit its advice to the State committees to the types of conservation measures that should be approved affecting the water bank program; the authorization to purchase perpetual easements to promote the purposes of this title, as described in section 1001 of this title; the providing of long-term upland game cover; and the establishment and management of approved practices on multiyear set-aside contracts as provided in section 1005 of this title.

"(b) The Secretary of Agriculture, through the establishment of a national advisory board to be named in consultation with the Secretary of the Interior, shall seek the advice and assistance of the appropriate officials of the several States in developing the programs under this title, especially in developing guidelines for (1) providing technical assistance for wildlife habitat improvement practices, (2) evaluating effects on surrounding areas, (3) considering aesthetic values, (4) checking compliance by cooperators, and (5) carrying out programs of wildlife management authorized under this title: *Provided,* That such board shall limit its advice to subjects which cover the types of conservation measures that should be approved regarding the water bank program; the authorization to purchase perpetual easements to promote the purposes of this Act, as described in section 1001 of this title; the providing of long-term upland game cover; and the establishment and management of approved practices on multiyear set-aside contracts as provided in section 1005 of this title.

"Sec. 1008. In carrying out the programs authorized under sections 1001 through 1006 of this title, the Secretary shall, in addition to appropriate coordination with other interested Federal, State, and local agencies, utilize the services of local, county, and State committees established under section 8 of the Soil Conservation and Domestic Allotment Act, as amended. The Secretary is also authorized to utilize the facilities and services of the Commodity Credit Corporation in discharging his functions and responsibilities under this program. The Secretary shall also utilize the technical services of the Soil Conservation Service, the Forest Service, State forestry organizations, soil and water conservation districts, and other State, and Federal agencies, as appropriate, in development and installation of approved conservation plans under this title.

"Sec. 1009. (a) In furtherance of the purposes of this title, the Secretary of Agriculture is authorized and directed to develop and carry out a pilot forestry incentives program to encourage the development, management, and protection of nonindustrial private forest lands. The purposes of such a program shall be to encourage landowners to apply practices which will provide for the afforestation of suitable open lands and reforestation of cutover and other nonstocked and understocked forest lands and intensive multiple-purpose management and protection of forest resources so as to provide for production of timber and related benefits.

"(b) For the purposes of this section, the term 'nonindustrial private forest lands' means lands capable of producing crops of industrial wood and owned by any private individual, group, association, corporation, or other legal entity. Such term does not include private entities which regularly engage in the business of manufacturing forest products or providing public utilities services of any type, or the subsidiaries of such entities.

"(c) The Secretary shall consult with the State forester or other appropriate official of the respective States in the conduct of the forestry incentives program under his section, and Federal assistance shall be extended in accordance with section 1003(b) of this title. The Secretary shall for the purposes of this section distribute funds available for cost sharing among and within the States only after assessing the public benefit incident thereto, and after giving appropriate consideration to the number and acreage of commercial forest lands, number of eligible ownerships in the State, and counties to be served by such cost sharing; the potential productivity of such lands; and the need for reforestation, timber stand improvement, or other forestry investments on such land. No forest incentives contract shall be approved under this section on a tract greater than five hundred acres, unless the Secretary finds that significant public benefit will be incident to such approval.

"(d) The Secretary may, if he determines that such action will contribute to the effective and equitable administration of the program established by this section, use an advertising and bid procedure in determining the lands in any area to be covered by agreements.

"(e) In implementing the program under this section, the Secretary will cause it to be coordinated with other related programs in such a manner as to encourage the utilization of private agencies, firms, and individuals furnishing services and materials needed in the application of practices included in the forestry incentives improvement program. The Secretary shall periodically report to the appropriate congressional committees of the progress and conduct of the program established under this section.

"Sec. 1010. There are hereby authorized to be appropriated annually such sums as may be necessary to carry out the provisions of this title. The programs, contracts, and authority authorized under this title shall be in addition to, and not in substitution of, other programs in such areas authorized by this or any other title or Act, and shall not expire with the termination of any other title or Act: *Provided,* That not more than $25,000,000 annually shall be authorized to be appropriated for the programs authorized under section 1009 of this Act."

Sec. 2. Section 301 of the Act of August 14, 1946 (Public Law 79–733), as amended (7 U.S.C. 1628), is hereby repealed.

FOOD STAMPS

Sec. 3. The Food Stamp Act of 1964, as amended, is amended—

(a) That (a) the second sentence of section 3(e) of the Food Stamp Act of 1964 (7 U.S.C. 2012(e)) is amended—

(1) by striking out "or"; and

(2) by inserting before the period at the end thereof of the following: ", or (3) any narcotics addicts or alcoholic who lives under the supervision of a private non-profit organization or institution for the purpose of regular participation in a drug or alcoholic treatment and rehabilitation program."

(b) Section 3 of the Food Stamp Act of 1964 (7 U.S.C. 2012) is amended by adding at the end thereof the following new subsection:

"(n) The term 'drug addiction or alcoholic treatment and rehabilitation program' means any drug addiction or alcoholic treatment and rehabilitation program conducted by a private nonprofit organization or institution which is certified by the State agency or agencies designated by the Governor as responsible for the administration of the State's programs for alcoholics and drug addicts pursuant to Public Law 91–616 'Comprehensive Alcohol Abuse and Alcohol Prevention, Treatment, and Rehabilitation Act' and Public Law 92–255 'Drug Abuse Office and Treatment Act of 1972' as providing treatment that can lead to the rehabilitation of drug addicts or alcoholics."

(c) Section 5 of the Food Stamp Act of 1964 (7 U.S.C. 2014) is amended by adding at the end thereof the following new subsection:

"(d) The Secretary shall establish uniform national standards of eligibility for households described in section 3(e)(3) of this Act: *Provided,* That the standards established by the Secretary shall take into account payments in kind received from an employer by members of a household, if such payments are in lieu of or supplemental to household income."

(d) Section 5(c) of the Food Stamp Act of 1964 (7 U.S.C. 2014(c)) is amended by adding at the end thereof the following "For the purposes of this section, the term 'able-bodied adult person' shall not include any narcotics addict or alcoholic who regularly participates, as a resident or nonresident, in any drug addiction or alcoholic treatment and rehabilitation program."

(e) Section 10 of the Food Stamp Act of 1964 (7 U.S.C. 2019) is amended by inserting at the end thereof the following new subsection:

"(i) Subject to such terms and conditions as may be prescribed by the Secretary in the regulations pursuant to this Act, members of an eligible household who are narcotics addicts or alcoholics and regularly participate in a drug addiction or alcoholic treatment and rehabilitation program may use coupons issued to them to purchase food prepared for or served to them during the course of such program by a private nonprofit organization or institution which meets requirements (1), (2), and (3) of subsection (h) above. Meals served pursuant to this subsection shall be deemed 'food' for the purposes of this Act."

(f) By amending subsection (a) of section 7 of the Food Stamp Act of 1964 (7 U.S.C. 2016(a)) to read as follows:

"The face value of the coupon allotment which State agencies shall be authorized to issue to any households certified as eligible to participate in the food stamp program shall be in such amount as the Secretary determines to be the cost of a nutritionally adequate diet, adjusted semi-annually by the nearest dollar increment that is a multiple of two to reflect changes in the prices of food published by the Bureau of Labor Statistics in the Department of Labor, to be implemented commencing with the allotments of January 1, 1974, incorporating the changes in the prices of food through August 31, 1973, but in no event shall such adjustment be made for households of a given size unless the increase in the face value of the coupon allotment for such households, as calculated above, is a minimum of $2.00.

(g) By adding at the end of subsection (h) of section 10, the following: "Subject to such terms and conditions as may be prescribed by the Secretary, in the regulations issued pursuant to this Act members of an eligible household who are sixty years of age or over or elderly persons and their spouses may also use coupons issued to them to purchase meals prepared by senior citizens' centers, apartment buildings occupied primarily by elderly persons, any public or nonprofit private school which prepares means especially for elderly persons, any public or nonprofit private eating establishment which prepares meals especially for elderly persons during special hours, and any other public or nonprofit private establishment approved for such purpose by the Secretary."

(h) By striking out "June 30, 1972, and June 30, 1973" in the first sentence of subsection (a) of section 16, and substituting "June 30, 1972, through June 30, 1977."

(i) Section 3(b) of the Food Stamp Act of 1964 (7 U.S.C. 2012(b)) is amended to read as follows: "The term 'food' means any food or food product for home consumption except alcoholic beverages and tobacco and shall also include seeds and plants for use in gardens to produce food for the personal consumption of the eligible household."

(j) Section 3(f) of the Food Stamp Act of 1964 (7 U.S.C. 2012(f)) is amended by striking the second sentence and inserting in lieu thereof the following new sentence: "It shall also mean a political subdivision or a private nonprofit organization or institution that meets the requirements of section 10(h) or 10(i) of this Act."

(k) Notwithstanding any other provision of law, a household shall not participate in the food stamp program while its principal wage-earner is, on account of a labor dispute to which he is a party or to which a labor organization of which he is a member is a party, on strike: *Provided,* That such ineligibilty shall not apply to any household that was eligible for and participating in the food stamp program immediately prior to the start of such strike, dispute, or other similar action in which any member of such household engages: *Provided further.* That such ineligibility shall not apply to any household if any of its members is subject to an employer's lockout.

(l) Section 3 of such Act is further amended by adding at the end thereof the following new subsections:

"(o) The term 'labor organization' means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or condition of work.

"(p) The term 'strike' includes any strike or other concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective-bargaining agreement)."

(m) By inserting at the end of section 3(e) of the Food Stamp Act of 1964 the following new sentence: "Residents of federally subsidized housing for the elderly, built under either section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), or section 236 of the National Housing Act (12 U.S.C. 1715z–1) shall not be considered residents of an institution or boarding house for purposes of eligibility for food stamps under this Act."

CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT AMENDMENTS

Sec. 4. The Consolidated Farm and Rural Development Act is amended as follows:

(a) Section 306(a) of such Act is amended by adding at the end thereof the following:

"(13)(A) The Secretary, under such reasonable rules and conditions as he shall establish, shall make grants to eligible volunteer fire departments for up to 50 per centum of the cost of firefighting equipment needed by such departments but which such departments are unable to purchase through the resources otherwise available to them, and for the cost of the training necessary to enable such departments to use such equipment efficiently.

"(B) For the purposes of this subsection, the term 'eligible volunteer fire department' means any established volunteer fire department in a rural town, village, or unincorporated area where the population is less than two thousand but greater than two hundred, as reasonably determined by the Secretary."

(b) Section 310B(d) of subtitle A of such Act is amended by adding at the end thereof the following:

"(4) No grant or loan authorized to be made under this section, section 304, or section 312 shall require or be subject to the prior approval of any officer, employee, or agency of any State.

"(5) No certificates issued by the Secretary or any private entity evidencing beneficial ownership in a block of notes insured or guaranteed under this title shall be subject to laws administrated by the Securities and Exchange Commission: *Provided,* That the Secretary shall require any private entity offering such certificates to place the insured or guaranteed notes in the custody of an institution chartered by a Federal or State agency to act as trustee and shall require periodic reports as to the sale of such certificates: *Provided further,* That any sale by the Secretary of such certificates shall be treated as a sale of assets for the purpose of the Budget and Accounting Act of 1921."

RURAL DEVELOPMENT ACT AMENDMENTS

Sec. 5. The Rural Development Act of 1972 is amended as follows:

(a) Section 401 of such Act is amended by substituting the words "fire" and "fires" for the words "wildfire" and "wildfires", respectively, wherever such words appear.

(b) Section 404 of such Act is amended to read as follows:

"Sec. 404. Appropriations.—There is authorized to be appropriated to carry out the provisions of this title $7,000,000 for each of three consecutive fiscal years beginning with the fiscal year for which funds are first appropriated and obligated by the Secretary of Agriculture carrying out this title."

SEC. 6. This Act may be cited as the "Agriculture Act of 1973".

Mr. TALMADGE. Mr. President, I move that the Senate disagree to the amendment of the House on S. 1888 and ask for a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. TALMADGE, Mr. EASTLAND, Mr. MCGOVERN, Mr. ALLEN, Mr. CURTIS, Mr. AIKEN, and Mr. YOUNG conferees on the part of the Senate.

ROLLING STOCK UTILIZATION AND FINANCING ACT OF 1973

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of S. 1149, which the clerk will report.

The assistant legislative clerk read as follows:

Calendar No. 285 (S. 1149), a bill to increase the supply of railroad rolling stock and to improve its utilization to meet the needs of commerce, users, shippers, national defense, and the consuming public.

Accordingly, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce with an amendment to strike out all after the enacting clause and insert:

TITLE I—FORMAL PROVISIONS

SHORT TITLE AND TABLE OF CONTENTS

SEC. 101. (a) This Act may be cited as the "Rolling Stock Utilization and Financing Act of 1973".

(b) Table of contents.

TITLE I—FORMAL PROVISIONS

Sec. 101. Short title and table of contents.
Sec. 102. Findings and purposes.
Sec. 103. Definitions.

TITLE II—RAILROAD EQUIPMENT FINANCING

Sec. 201. Establishment of Board and Fund.
Sec. 202 Authorization to guarantee equipment obligations.
Sec. 203. Issuance of notes or obligations.
Sec. 204. Audit of transactions.
Sec. 205. Default.

TITLE III—INCREASED ROLLING STOCK UTILIZATION

Sec. 301. National rolling stock information system.
Sec. 302. Utilization measurement and oversight.

TITLE IV—RAILROAD EQUIPMENT CORPORATION

Sec. 401. Prerequisites to establishment.
Sec. 402. Railroad Equipment Corporation.
Sec. 403. General powers of Corporation.
Sec. 404. Financing.
Sec. 405. Conversion to nongovernmental Corporation.
Sec. 406. National rolling stock information system.
Sec. 407. Use of equipment supplied by the Corporation.
Sec. 408. Commission review.
Sec. 409. Enforcement.
Sec. 410. Annual report.

TITLE V—GENERAL PROVISIONS

Sec. 501. Protective arrangements for employees.
Sec. 502. Separability.

FINDINGS AND PURPOSES

SEC. 102. (a) FINDINGS.—The Congress finds and declares that—

(1) There is at present a shortage of general service railroad freight cars available to producers of goods and manufacturers of products.

(2) This shortage results both from an inadequate number of such cars and from their underutilization.

(3) This shortage of available general service railroad freight cars has caused—

(A) losses to producers of goods and manufacturers of products which have resulted in higher prices to consumers of goods and products;

(B) losses to railroads of revenue, thereby threatening their financial condition.

(b) PURPOSES.—The Congress hereby declares that the purposes of this Act are—

(1) to improve the utilization and distribution of rolling stock to meet the needs of commerce, users, shippers, the national defense, and the consuming public;

(2) to assist railroads in acquiring additional rolling stock and equipment or facilities to provide expeditious service to meet the increasing demands of the Nation's economy; and

(3) to assist in achieving full employment by assuring adequate equipment necessary to transport the products of American industry.

DEFINITIONS

SEC. 103. As used in this Act—

(1) "Board" means the Obligation Guarantee Board established under title II of this Act.

(2) "Car-pooling company" means a company that furnishes rolling stock to three or more railroads on a shared ownership or cooperative or condominium-type basis.

(3) "Commission means the Interstate Commerce Commission.

(4) "Corporation" means the Railroad Equipment Corporation authorized under title IV of this Act.

(5) "Directors" means the Board of Directors of the Corporation.

(6) "Equipment or facilities" includes data processing and other computer technology; machines and systems for loading and unloading rolling stock; yards and terminals for originating, modifying, or terminating the movement of rolling stock; and other equipment or facilities, including ferries and related shoreside facilities designed primarily for the transportation of rolling stock by water, necessary to improve the utilization of rolling stock.

(7) "Equipment obligations" means a bond note, conditional sale agreement, equipment trust certificate, lease obligation, security agreement, or other obligation issued or granted to finance or refinance rolling stock or equipment or facilities.

(8) "Fund" means the Obligation Guarantee Fund.

(9) "Holder" means, unless otherwise provided, the holder of an equipment obligation. If a bank or trust company is acting as agent or trustee for the holder of the equipment obligation, such bank or trust company shall be regarded as the holder.

(10) "Includes" should be read as if the phrase "but is not limited to" were also set forth.

(11) "Lease" means a contractual arrangement under which the legal owner of rolling stock or equipment or facilities furnishes such rolling stock or equipment or facilities to a railroad or a car pooling company and such railroad or car pooling company receives the benefits, through reduced rentals, of any tax benefits available.

(12) "Lease obligation" means all of the lessee's payment obligations under a lease including rentals, termination payments, and tax indemnification payments.

(13) "Obligor" means the debtor under an equipment obligation. The term includes the original obligor and any successor or assignee of such obligor who is approved by the Board.

(14) "Railroad" means a common carrier by railroad, as defined in section 1(3) of the Interstate Commerce Act (49 U.S.C. 1(3)), and includes, where the Board makes an appropriate finding, a railroad controlled by another railroad within the meaning of paragraph (b) of such section. The term does not include the Corporation.

(15) "Rolling stock" includes any type of new or rebuilt standard gauge locomotive, caboose, or general service railroad freight car the use of which is not limited to any specialized purpose by particular equipment, design, or other features. General service railroad freight car includes a boxcar, gondola, open top or covered hopper car, and flatcar. The Board may designate other types of cars as rolling stock upon a written finding, with reasons therefor, that such designation is consistent with the purposes of this Act.

(16) "Secretary" means the Secretary of Transportation.

(17) "State" means any State or the District of Columbia.

TITLE II—RAILROAD EQUIPMENT FINANCING

ESTABLISHMENT OF BOARD AND FUND

SEC. 201. (a) BOARD.—There shall be established in the Department of Transportation an independent agency to be known as the Obligation Guarantee Board. The Board shall be composed of six members and a chairman. Two of the members shall be the Secretary of Transportation and the Secretary of the Treasury, or their duly authorized representatives, who shall serve ex officio with the same powers as other members of the Board. The President shall, within ninety days of the enactment of this Act, appoint the other members and the chairman of the Board, by and with the advice and consent of the Senate, on the following basis—

(1) three, to be selected from lists of qualified individuals recommended by shippers and organizations representative of significant shipping interests including small business users of railroad transportation services;

(2) one, to be selected from lists of qualified individuals recommended by consumer organizations, community organizations, and recognized consumer leaders;

(3) one, to be selected from lists of qualified individuals recommended by the national organization of the State commissions, referred to in sections 202(b) and 205(f) of the Interstate Commerce Act (49 U.S.C. 202 (b), 205(f)), who shall be a member of a State agency authorized by the law of any State to set rates for transportation by railroad.

As used in this subsection, a list of qualified individuals shall consist of not less than three individuals.

(b) FUND.—An Obligation Guarantee Fund is established. The fund shall be administered by the Board as a revolving fund to carry out the provisions of sections 202 through 205 of this Act. Moneys in the fund shall be deposited in the Treasury of the United States to the credit of such fund or invested in bonds or other obligations of the United States approved by the Secretary of the Treasury.

(c) COMPENSATION.—A member of the Board who is not otherwise an employee of the Federal Government may receive $150 per diem when engaged in the actual performance of duties vested in the Board plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

(d) TERMS OF OFFICE.—The terms of office of the members first taking office (other than those of the two members who shall serve ex officio) shall expire as designated by the President at the time of nomination, three at the end of the third year, and two at the end of the sixth year. The member appointed by the President, by and with the advice and consent of the Senate, to be chairman of the Board shall serve as chairman until his term of office as a member expires and a successor is duly appointed. Successors to members of the Board shall be appointed in the same manner as the original members and shall have a term of office expiring six years from the date of expiration of the term for which their predecessors were appointed. Any member appointed to fill a vacancy on the Board occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

AUTHORIZATION TO GUARANTEE EQUIPMENT OBLIGATIONS

SEC. 202. (a) GENERAL.—The Board is authorized, in accordance with the provisions of this section, to guarantee and to make commitments to guarantee the payment of interest on and the principal balance of an equipment obligation prior to, on, or after the date of execution or the date of disbursement of such obligation: *Provided*, That no equipment obligation in the form of a lease obligation shall be guaranteed unless and until the Board finds, after notice and an opportunity for comment by interested persons and publication in the Federal Register of this finding and the reasons therefor, that no other reasonable means of equipment financing or refinancing is reasonably available to the applicant and that approval of the guarantee application will serve the public interest. Each guarantee of an equipment obligation shall be made in accordance with the provisions of this Act and such rules as the Board may prescribe to reasonably protect the interests of the United States. Each application for the guarantee of an equipment obligation shall be made in writing to the Board in such form and with such content as the Board prescribes. An application shall be granted if the Board determines that the proposed, negotiated, or executed equipment obligation is eligible for a guarantee under this Act. Each guarantee and commitment to guarantee shall be extended in such form, under such terms and conditions, and pursuant to such regulations as the Board deems appropriate, consistent with the purposes of this Act. Each guarantee and commitment to guarantee shall inure to the benefit of the holder of the equipment obligation to which such guarantee or commitment applies. In the case of a lease obligation, the guarantee shall run to and be for the benefit of any holder thereof. In no event shall any such holder receive or be entitled to retain payment from said guarantee in a total amount which, together with any other recovery, including a security interest in the rolling stock or equipment or facilities, exceeds the actual loss of such holder.

(b) MAXIMUM PERMISSIBLE GUARANTEE.—Except as otherwise provided, the Board shall not guarantee payment of the principal of an equipment obligation in an amount in excess of 50 per centum of the value of the rolling stock or equipment or facilities which are being financed or refinanced thereby. The Board may guarantee an amount not in excess of 80 per centum of such value upon a finding made in writing by the Board and published with detailed reasons therefor in the Federal Register that the applicant would not otherwise be able in its present financial condition to acquire such equipment or facilities or rolling stock on reasonable terms and conditions and that such acquisition by the applicant is necessary to achieve the purposes of this Act. In the case of a lease obligation, the Board may guarantee payment of the entire principal together with the amount necessary to guarantee to the lessor, upon default of such obligation, the cost of tax recapture under sections 47 and 1245 of the Internal Revenue Code of 1954 (26 U.S.C. 47, 1245), upon a finding made in writing by the Board and published with detailed reasons therefor in the Federal Register that the applicant is a railroad which has filed a petition for reorganization under section 77 of the Bankruptcy Act (11 U.S.C. 205); that such petition has been approved; and that the judge in such proceeding certifies to the Board that the railroad is making all reasonable efforts to achieve reorganization and that such guarantee is reasonable and necessary. In all cases, the Board shall make a determination of the value of the rolling stock or equipment or facilities which are being financed or refinanced thereby, and such determination of value shall be conclusive and not subject to review in any court.

(c) MODIFICATIONS.—The Board is authorized to approve any modification of any provision of a guarantee or a commitment to guarantee such obligation, including the rate of interest, time of payment of interest or principal, security, or any other terms and conditions, upon a finding in writing by the Board that such modification is equitable and not prejudicial to the interests of the United States under this Act. Such approval shall not be granted without prior consent by the holder of such obligation.

(d) MAXIMUM OBLIGATIONAL AUTHORITY.—The aggregate unpaid principal amounts of equipment obligations and interest thereon which may be guaranteed by the Board under this title shall not exceed $2,000,000,000 at any one time; and at least 70 per centum of the aggregate shall guarantee equipment obligations financing or refinancing rolling stock.

(e) RATE OF INTEREST.—Interest (exclusive of premium charges for guarantee and service fees) shall be payable on each equipment obligation, other than a lease obligation guaranteed by the Board. The rate of interest shall not exceed the per centum per annum rate on the unpaid principal of such obligation determined by the Board to be reasonable upon consideration of the range of interest rates currently prevailing in the private market for similar obligations. In the case of lease obligations guaranteed by the Board, such lease obligation shall contain a rental rate which reflects an effective interest rate not to exceed a per centum per annum rate on the unpaid principal of such obligation determined by the Board to be reasonable upon consideration of the range of effective interest rate prevailing in the private market for similar obligations.

(f) NOTICE.—Upon receipt of an application for an equipment obligation guarantee, the Board shall cause a notice of such application to be published in the Federal Register and shall invite and afford interested persons an opportunity to submit comments on such application at a proceeding to commence within twenty-one days of the date of the publication of such application. General notice of such proceedings shall be published in the Federal Register. Such notice shall include—

(1) a statement of the time, place, and nature of the proceedings; and

(2) a description of the subjects and issues involved.

(g) REQUIREMENTS FOR GUARANTEES.—No equipment obligation shall be guaranteed under this Act unless the Board makes a finding in writing that—

(1) the equipment obligation (other than a lease obligation) is secured by rolling stock or equipment or facilities which are being financed or refinanced thereby;

(2) payment of the equipment obligation is required by its terms within fifteen years of the date of its execution;

(3) the leasing, financing, or refinancing of the rolling stock or of equipment or facilities directly related to improving the utilization of rolling stock is justified by the present and probable future demand for transportation services to be rendered by the applicant;

(4) the operations of the applicant are sufficiently efficient as of the date of application as to give reasonable assurance that any rolling stock in the control of such applicant or which may come within the control of such applicant will be economically and efficiently utilized;

(5) the purchase or lease of the rolling stock or equipment or facilities will serve to meet demonstrable needs for rail transportation services and to provide shippers with adequate rolling stock for their transportation needs;

(6) the probable value of such rolling stock or equipment or facilities is sufficient to provide the United States reasonable security and protection in case of default and repossession by the holder of the equipment obligation or in case of possession or purchase by the Board; and

(7) the incurrence of such obligation will result in a net increase in the total load-carrying capacity of such obligor's rolling stock.

(h) CONDITIONS OF GUARANTEES.—No guarantee or commitment to guarantee an equipment obligation shall be extended under this Act unless the obligor first agrees in writing that so long as any interest or principal on such obligation is due and payable—

(1) there will be no net decrease in the load-carrying capacity of such obligor's rolling stock;

(2) there will be no increase in discretionary dividend payments over the average amount paid during the five years preceding the enactment of this Act without prior approval of the Secretary in writing, based on findings, published, with reasons therefor, in the Federal Register, made after public hearings with opportunity for submission of comments by all interested parties, that such increase in dividends will not decrease the ability of the obligor to provide improved car service;

(3) the obligor will not use assets or revenues related to or derived from railroad operations in nonrailroad enterprises without prior approval of the Secretary in writing based on findings, published, with reasons therefor, in the Federal Register, made after public hearings with opportunity for submission of comments by all interested parties, that such use of assets or revenues will not decrease the ability of the obligor to provide improved car service;

(4) the obligor shall take all reasonable and practical steps possible, in accordance with such guidelines as may be established by the Secretary and the Commission, to improve the equitable distribution and efficient and expeditious use of all rolling stock and equipment, including cooperating with the Secretary in programs under title III of this Act.

(i) BREACH OF CONDITIONS.—The Secretary is authorized and directed to commence an action in the district courts of the United States to enjoin any activity found by the Secretary to be in violation of the conditions specified in subsection (h) of this section. In addition, any person who knowingly violates or contributes to the violation of any of the conditions specified in such subsection shall be subject to a civil penalty, to be levied by the Secretary, of not to exceed $10,000.

(j) LEASE OBLIGATION.—Before guaranteeing lease obligation under this section the Board shall find that—

(1) the terms of the lease or leases provide that in event of default by the lessee and demand for payment by the Board that the Board shall have the right in its discretion—

(A) to demand possession of the leased property from the lessee or to purchase the leased property for fair market value but in no event for an amount greater than the sum of lease rentals and other financial obligations for the remaining term of the lease; or

(B) to permit the lessor to repossess the leased property from the lessee for the purpose of leasing in good faith at not less than fair market value to other lessees provided that any amounts collected from such lessees in excess of the amount to which the lessor would have been entitled under the original lease, plus costs, shall be paid over to the United States and deposited in the fund and that in the event any amounts collected from such lessees are less than the amount to which the lessor would have been entitled under the original lease, plus costs, then such difference shall be paid to the lessor from the fund; and

(2) the terms of the lease shall provide that, in event of default, any amounts paid to the holder of the lease obligation in settlement, including amounts received from the Board pursuant to the guarantee, are income and proceeds from the equipment subject to said lease and subject to claims of any holder of an equipment obligation in an amount equal to the holder of the lease obligation's outstanding obligation to said holder under any equipment obligation.

(k) Investigation Charge.—The Board shall charge and collect from the obligor such amounts as it may deem reasonable for the investigation of applications for a guarantee, for the appraisal of properties offered as security for a guarantee, or for the issuance of commitments. Such charges shall not aggregate more than one-half of 1 per centum of the original principal amount of the obligation to be guaranteed.

(l) Premium Charge.—The Board shall set a premium charge of not more than 1 per centum per annum for an equipment obligation guaranteed under this Act. The premium charge shall be computed on the basis of the principal amount of the equipment obligation which is outstanding. The premium charge shall be paid when the obligation is first guaranteed by the Board, and thereafter annually, on the anniversary date of such guarantee.

(m) Administrative Costs.—All moneys received by the Board under this title shall be deposited in the fund. An amount which shall not exceed five per centum of the total annual premium charges collected under subsection (l) of this section may be used by the Board to pay administrative costs and expenses incurred by it pursuant to this title.

ISSUANCE OF NOTES OR OBLIGATIONS

Sec. 203. (a) Authority.—The Board is authorized to issue notes or other obligations to the Secretary of the Treasury in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Board, with the approval of such Secretary, may prescribe. Such obligations may be issued whenever the moneys in the fund are not sufficient to pay any amount which the Board is required to pay under an agreement under section 202 of this Act. Such obligations shall bear interest at a rate to be determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States on comparable maturities during the month preceding the issuance of such obligations. The Secretary of the Treasury is authorized and directed to purchase any such obligations and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities under the Second Liberty Bond Act, as amended. The purposes for which securities may be issued under such Act are extended to include any purchase of notes or other obligations issued under this subsection. At any time, the Secretary of the Treasury may sell any such obligations; and all sales, purchases, and redemptions of such obligations by the Secretary of the Treasury shall be treated as public debt transactions of the United States. Funds borrowed under this subsection shall be deposited in the fund and redemptions of any such obligations shall be made by the Board from the fund.

(b) Disposition of Property.—Notwithstanding any other provision of law, the Board is authorized to perform any acts which it considers necessary, in its discretion, to complete, recondition, reconstruct, renovate, repair, maintain, manage, operate, charter, lease, rent, sell, or otherwise dispose of any property or other interests acquired by the Board under an agreement pursuant to section 202 of this Act.

(c) Evidence.—No contract or commitment to guarantee an equipment obligation entered into by the Board pursuant to this Act shall be terminated, canceled, or otherwise revoked, except in accordance with lawful terms and conditions prescribed by the Board. Such a contract or commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this Act and that such obligation has been approved and is legal as to principal, interest, and other terms. Such a contract or commitment shall be valid and incontestable in the hands of a holder as of the date when the Board entered into such contract or commitment, except as to fraud, duress, mutual mistake of fact, or material misrepresentation by or involving such holder.

AUDIT OF TRANSACTIONS

Sec. 204. (a) General.—The financial transactions of the Board shall be audited by the Comptroller General of the United States, in accordance with such rules and regulations as he may prescribe. Representatives of the Comptroller General shall have access to all books, accounts, records, reports, files, and other papers, things, or property pertaining to such transactions by the Board and necessary to facilitate an audit. Such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such property of the Board shall remain in the possession and custody of the Board.

(b) Access to Information.—The representatives of the Comptroller General shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by any obligor for which the Board has guaranteed an equipment obligation to the extent they pertain to such obligor's financial transactions and are deemed by the Comptroller General to be necessary to facilitate any audit of the financial transactions of the Board. Such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such property of such obligor shall remain in the possession and custody of the obligor.

(c) Report.—The Comptroller General shall make a report of each such audit to the Congress. Such report shall contain all comments and information which the Comptroller General deems necessary to inform Congress of the financial operations and condition of the fund and any recommendations which he deems advisable. Such report shall indicate specifically and describe in detail any program, expenditure, or other financial transaction or undertaking observed in the course of such audit which the Comptroller General deems to have been carried on or made without lawful authority. A copy of such report shall be furnished to the President, the Secretary, the Commission, and the Board at the time it is submitted to the Congress.

DEFAULT

Sec. 205. (a) General.—If there is a default in any payment by the obligor of principal or interest due under an equipment obligation guaranteed under this title, which has continued for thirty days, the holder of such obligation or his agents have the right to demand payment by the Board of the unpaid interest on and the unpaid principal of such obligation. Such payment may be demanded after or before the expiration of such period as may be specified in the guarantee or related agreements, but not later than ninety days from the date of such default. Within such period as may be specified in the guarantee or related agreements but not later than thirty days from the date of such demand, the Board shall promptly pay to the obligee or his agent the unpaid interest on and the unpaid principal of such obligation. However, the Board shall not be required to make any such payment if, prior to the expiration of such period, the Board finds that there was no default by the obligor in the payment of interest or principal or that such default has been remedied.

(b) Rights of Board.—If the Board makes a payment under subsection (a) of this section, the Board shall have all the rights in any security which it held with respect to its guarantee of such obligations as are conferred upon the Board under any security agreement with the obligor. Notwithstanding any other provision of law, the Board is authorized, in its discretion, to complete, recondition, reconstruct, renovate, repair, maintain, operate, charter, rent, sell, or otherwise dispose of any property acquired by it pursuant to such security agreement with the obligor. The terms of any such sale or other disposition shall be as approved by the Board.

(c) Payment.—Any amount required to be paid by the Board pursuant to subsection (a) of this section shall be paid in cash.

(d) Action Against Obligor.—If there is a default under any contract or commitment to guarantee an equipment obligation, the Board shall take such action against the obligor or any other parties liable thereunder as is, in its discretion, necessary to protect the interests of the United States. Such a suit may be brought in the name of the United States or in the name of the holder. Such holder shall make available to the United States all records and evidence necessary to prosecute any such suit. The Board shall have the right, in its discretion, to accept a conveyance of title to and possession of property from the obligor or other parties liable to the Board and may purchase the property for an amount not greater than the unpaid interest on and unpaid principal of such obligation. If the Board receives, through the sale of property, an amount greater than the amount paid to the obligee under subsection (a) or (b) of this section together with the expenses of collection, the Board shall pay such excess to the obligor.

TITLE III—INCREASED ROLLING STOCK UTILIZATION

NATIONAL ROLLING STOCK INFORMATION SYSTEM

Sec. 301. (a) Plan.—(1) The Secretary shall, not more than six months after the date of enactment of this Act, designate a plan or alternative plans to establish a national rolling stock information system which shall be designed to facilitate equitable distribution and expeditious utilization of rolling stock operated within the continental United States and/or owned directly or indirectly by railroads and car-pooling companies. Such a system shall be capable of furnishing such information as the Secretary determines to be necessary for the expeditious utilization of rolling stock, including information related to the—

(A) length of time each piece of rolling stock is moving and loaded, moving and unloaded, idled and loaded, and idled and unloaded;

(B) owner, type, size, and capacity, year of manufacture, identifying number, and special features of each piece of rolling stock;

(C) origin and destination of cargo;

(D) railroad in control of rolling stock movement, expected time of interchange, and degree of utilization of each piece of rolling stock by the controlling railroad; and

(E) current status and location of each piece of rolling stock, time such status and location is expected to change, and anticipated future commitments of such rolling stock.

(2) The Secretary shall develop such plan or plans after consultation and discussion with the Secretary of Defense, the Director of the National Aeronautics and Space Administration, the executive officers of major private manufacturers and suppliers of information location and retrieval systems, shippers, railroads, the Commission, and any other Government agency, private organization, or private citizen that presents a useful submission regarding such a system. The Secretary is authorized to pay reasonable expenses, including honoraria, for individuals invited by him to present their submissions in person. The Secretary shall cause such plan or plans to be published in the Federal Register and shall invite interested persons to comment thereon at a public hearing pursuant to section 553 of title 5, United States Code, to be held not less than ninety days after the date of such publication. After such hearing, and not more than one year after the date of enactment of this Act, the Secretary shall publish the final plan for a national rolling stock information system. This final plan shall include technical specifications and other details for the equipment required under such plan. Such plan shall include means for coordinating or integrating such system with any existing information systems to the extent the Secretary finds such coordination will contribute in an expeditious, cost effective, and technically feasible manner to the implementation of an effective national system. The Secretary from time to time may cause such plan to be modified or amended, pursuant to section 553 of title 5, United States Code.

(b) Implementation.—Following the publication of the final plan required under subsection (a) of this section, the Secretary shall take all action necessary, including the issuance of rules, regulations, and guidelines, to cause such plan to be implemented within a reasonable time. The Secretary is authorized to contract with and provide technical assistance to individual railroads or groups of railroads working together, including the sharing of costs and the funding in part of demonstration projects, to assist in the establishment of the national rolling stock information system.

(c) Antitrust Laws Inapplicable.—The antitrust laws of the United States are inapplicable to the extent necessary to carry out the purposes of this section as to any person who contracts with the Secretary or acts in conformity with the final plan under subsection (a) of this section.

(d) Center.—The Secretary may establish and maintain or assist in establishing and maintaining a centrally locted national rolling stock information center. The Secretary of Defense may assist the Secretary to establish such center. Such center may operate as a depository and dissemination center for all such information as may be provided by the national rolling stock information system. The Secretary may make information gathered in such center available to any person subject to such rules as the Commission might prescribe to insure the confidentiality of certain kinds of competitive information supplied for use in connection with the system.

(e) Report.—The Secretary shall report semiannually directly to the Congress, without modification of such report by any other Federal agency, with respect to the progress made in implementing the national system provided for in subsection (a) of this section. Such reports shall include recommendations for such additional funding as may be necessary to make the national system fully effective.

(f) Authorization of Appropriation.—There is authorized to be appropriated to the Secretary out of money in the Treasury not otherwise appropriated, the sum of $10,000,000 for purposes of this section.

UTILIZATION MEASUREMENT AND OVERSIGHT

Sec. 302. (a) Rolling Stock Utilization Index.—Not less than ninety days after the enactment date of this Act, the Secretary shall develop and promulgate an index to measure the degree of utilization of rolling stock. The Secretary shall cause to be compiled data required by such index. At least once each quarter per annum, the Secretary shall publish such index, together with a report setting forth any changes in such utilization and his evaluation of the reasons therefor.

(b) Commission Report.—The Commission shall publish a report on utilization of rolling stock thirty days after the publication of each report by the Secretary under subsection (a) of this section. The Commission in its report shall consider and comment upon the latest such report by the Secretary.

(c) Enforcement.—The Secretary shall, with the assistance of the Attorney General, make full use of existing law to bring about improvements in the utilization of rolling stock. The Secretary shall have such standing as is necessary to bring or intervene in proceedings before Federal regulatory agencies and courts. Attorneys appointed by the Secretary may appear for and represent him in any such case or hearing.

(d) Utilization Study.—The Secretary shall prepare a study on the utilization of freight cars and means to improve such utilization including consideration of per diem and other car hire charges, demurrage, car service rules and orders of the Commission and of the railroads, the practice of assigning cars to specific traffic or shippers, payments for use of privately owned cars, and publicly and privately owned carpools. The Secretary shall submit legislative recommendations based upon such study within two years after the date of enactment of this Act.

TITLE IV—RAILROAD EQUIPMENT CORPORATION

PREREQUISITES TO ESTABLISHMENT

Sec. 401. (a) General.—The Corporation authorized by section 402 of this Act shall be established only if—

(1) two years or more after the date of enactment of this Act—

(A) the Commission finds, in accordance with section 553 of title 5 of the United States Code, that there is still, as a result of inadequate utilization or inadequacy of supply or both, a continuing shortage of rolling stock in the Nation. In determining whether there is such a shortage, the Commission may consider, without incorporating in such a finding, the following factors—

(i) whether any category of rolling stock is not available to meet a demand equivalent to the average peak demand for such category of rolling stock in the four years prior to the time of such finding;

(ii) any governmental program, regulation, or action affecting demand for or supply of freight cars;

(iii) the extent, duration, and impact of seasonal peaks in demand for rolling stock;

(iv) the local, regional or national scope of any reported problems of demand or supply related to rolling stock;

(v) the impact of severe weather conditions which disrupt marketing, distribution, or railroad operating factors;

(vi) the ability of shipper to load more cars if available;

(vii) the extent to which any failures to furnish cars promptly result from factors not subject to railroad control.

The presence of any or all such factors shall not preclude a finding by the Commission that there is a continuing shortage of rolling stock; or

(B) the Secretary finds that there has not been a significant increase in the utilization of rolling stock since the date of enactment of this Act;

(2) six months after an affirmative finding under either subparagraph (A) or (B) of paragraph (1) of this subsection, the Commission or the Secretary finds that efforts to form and operate a not-for-profit non-governmental corporation, or corporations, to acquire, maintain, and provide a free running national pool of rolling stock have not succeeded or have been inadequate in size, scope, and operation to establish the feasibility of a national pool, or have failed to employ innovative concepts for equitable distribution and expeditious use of rolling stock; and

(3) the Congress by affirmative concurrent resolution, authorizes the establishment of the Corporation.

(b) Reports.—Two years after the date of enactment of this Act and on the anniversary date thereof each consecutive year thereafter for five years, the Commission and the Secretary shall each transmit to the President and the Congress a report on rolling stock which shall include each finding made since the previous such report, if any, pursuant to subsection (a) of this section. If the Corporation authorized by section 402 of this Act is not established in accordance with the provisions of subsection (a) of this section, such Corporation shall nonetheless be established seven years and six months after the date of enactment of this Act if—

(1) in the final reports made by the Commission and the Secretary under this subsection—

(A) the Secretary or the Commission finds that the creation of a corporation to acquire maintain, and provide general service railroad freight cars and other rolling stock; to manage a pool of such rolling stock; and to develop and employ innovative concepts for the equitable distribution and expeditious use of such stock would contribute significantly to improvement of the utilization and distribution of rolling stock; and either

(B) the Commission finds that there is still, as a result of inadequate utilization or inadequacy of supply, or both, a continuing shortage of rolling stock in the Nation; or

(C) the Secretary finds that there has not been a substantial and significant increase in the utilization of railroad rolling stock; and

(2) the Congress, by affirmative concurrent resolution, authorizes the establishment of the Corporation.

RAILROAD EQUIPMENT CORPORATION

Sec. 402. (a) Authorization.—There is hereby authorized to be established, in accordance with the provisions of section 401 of this Act and of this section, a corporation to be known as the Railroad Equipment Corporation. The Board of Directors first appointed shall be deemed the incorporators, and the incorporation shall be held to have been effected from the date of the first meeting of such Board.

(b) Purposes.—The purposes of the Corporation are to acquire, maintain, and provide general service railroad freight cars and other rolling stock; to manage a pool of such rolling stock; and to employ innovative concepts for equitable distribution and expeditious use of such stock to meet the needs of the national economy and the national defense.

(c) Status.—(1) The Corporation shall be a government corporation of the District of Columbia subject, to the extent not inconsistent with this Act, to the District of Columbia Business Corporation Act (D.C. Code

29-901 et seq.) and administered by a Board of Directors.

(2) The Corporation shall not be subject to the provisions of the Interstate Commerce Act (49 U.S.C. 1 et seq.) or of any other law with respect to railroads, except that the Corporation shall be deemed to be a railroad as to—

(A) sections 1(10) through 1(17) of the Interstate Commerce Act (49 U.S.C. 1(10)–1(17));

(B) the Railway Labor Act, including the representation of employees of the Corporation for purposes of collective bargaining, the handling of disputes between railroads and their employees, employee retirement, annuity, and unemployment systems, and other dealings with employees;

(C) the Federal Employers Liability Act; and

(D) safety, as to which the Corporation shall be subject to the same laws and regulations as any common carrier under part I of the Interstate Commerce Act.

(d) BOARD OF DIRECTORS.—The Board of Directors of the Corporation shall consist of eleven persons who shall be appointed by the President by and with the advice and consent of the Senate, pursuant to this subsection. The initial directors shall be appointed within one hundred and twenty days after Congress, by affirmative concurrent resolution, authorizes the establishment of the Corporation. The President shall appoint the members and their successors on the following basis—

(1) three, to be selected from a list of qualified individuals recommended by the Association of American Railroads or its successor, one of whom shall be a representative respectively of eastern-, western-, and southern-territory railroads;

(2) one, to be selected from a list of qualified individuals recommended by the parent body of the American Federation of Labor and Congress of Industrial Organizations or its successor, who shall be representative of railroad labor;

(3) one, to be selected from a list of qualified individuals recommended by the National Academy of Sciences as persons with expert knowledge or experience with data processing and information systems and the application of computer technology to systems management;

(4) four, to be selected from lists of qualified individuals recommended by shippers, organizations representative of significant shipping interests including small shippers, consumer organizations, community organizations, and recognized consumer leaders, who shall be representative of consumers of transportation services and consumers of goods and products shipped by railroad;

(5) one, to be selected from a list of qualified individuals recommended by the Secretary of Defense; and

(6) one, to be selected from a list of qualified individuals recommended by the Secretary of Transportation.

As used in this subsection, a list of qualified individuals shall consist of no less than three individuals.

The President shall appoint one of the members, by and with the advice and consent of the Senate, to serve as Chairman for a term of four years. A member of the Board of Directors who is not otherwise an employee of the Federal Government may receive $150 per diem when engaged in the actual performance of his duties plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

(e) TERMS OF OFFICE.—The terms of office of the members first taking office shall expire as designated by the President at the time of nomination. Four shall expire at the end of the third year, four at the end of the sixth year, and three at the end of the ninth year. Successors to members of the Board of Directors shall be appointed in the same manner as the original members and shall have a term of office expiring nine years from the date of expiration of the term for which their predecessors were appointed. Any member appointed to fill a vacancy in the Board of Directors occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

(f) GENERAL.—The Directors shall direct the exercise of all the powers of the Corporation. So long as there are four members in office, the Directors are empowered to execute the functions of the Corporation. Four of the Directors shall constitute a quorum for the transaction of such functions.

(g) ANTITRUST LAWS INAPPLICABLE.—The antitrust laws of the United States are inapplicable to the extent necessary to carry out the purposes of this title as to any person who contracts with the Corporation with respect to the operation or maintenance of rolling stock or the design or implementation of a national rolling stock information system or the use of information from such system.

GENERAL POWERS OF CORPORATION

SEC. 403. To carry out the purposes of this title, the Corporation is empowered to—

(a) build, rebuild, purchase, own, lease, control, and manage rolling stock or equipment or facilities;

(b) acquire or contract for the use of physical facilities, equipment, and devices useful in developing equitable distribution and in maintaining expeditious use of rolling stock;

(c) build, rebuild, operate, maintain, and repair its rolling stock, equipment, and facilities or enter into agreements and contracts for the performance of such work and for the performance of all services and work incidental thereto and consistent with prudent management;

(d) conduct and contract for research and development that may lead to new and practical technologies, systems, and methods for the efficient and economical movement, distribution, solicitation, collection, loading and unloading, packaging, and processing of freight shipments involving railroads;

(e) sue and be used, complain and defend, in its corporate name and through its own attorneys; adopt, alter, and use a corporate seal, which shall be judicially noticed; adopt, amend, and repeal such bylaws, rules, and regulations as may be necessary for the conduct of its affairs; conduct its business, carry on operations, maintain offices, and exercise the powers granted under this Act in any State;

(f) purchase, lease, or otherwise acquire, own, hold, improve, use, or deal in and with any property (real, personal, or mixed, tangible or intangible) or interest in property, wherever situated; sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of property and assets; accept gifts or donations of any property or services in aid of any purpose of the Corporation;

(g) appoint such attorneys, employees, agents, consultants, and other personnel as it deems necessary; define the duties of personnel and determine and pay compensation for their services. Except as otherwise provided in this Act, such personnel and directors of the Corporation shall not be subject to laws relating to Federal employees with respect to appointments, promotions, adverse actions, hours of work, rates of compensation, allowances, leave, unemployment compensation, compensation for work-related injuries, and Federal benefits for retirement, life insurance, and health benefits; and

(h) enter into contracts, execute instruments, incur liabilities, and do all things necessary or incidental to the proper management of the affairs and the proper and prudent conduct of the business.

FINANCING

SEC. 404. (a) PER DIEM SURCHARGE.—Each railroad, except a switching and terminal railroad, shall pay to the Corporation a per diem surcharge of fifty cents per carday on each unit of rolling stock for each day that such a railroad incurs a car hire charge for the use of such unit of rolling stock. The Directors shall impose such per diem surcharge not later than sixty days after taking office under section 402(f) of this Act and shall terminate it when it has collected such sum as may be necessary for the purposes of this title but not less than $10,000,000 nor more than $30,000,000. Surcharges are payable on the tenth day of the second month succeeding the month in which the charge accrues. Within six months of the termination of such surcharge, the Corporation shall refund to any railroad or group of railroads under common management and control any payments made by such railroad or railroads in excess of ten per centum of the total paid by all railroads.

(b) NEGOTIABLE DEBENTURES.—The Corporation shall issue to each railroad a negotiable debenture in the amount of the surcharge paid under subsection (a) of this section. The debenture shall bear and pay interest at a rate to be determined by the Secretary of the Treasury to be the current rate for similar debentures in the open market. The par value of such debentures shall be due and payable December 31 of the thirtieth year after the date of issuance thereof or the first business day thereafter if such date is a Saturday, Sunday, or holiday. Such debentures are debts of the Corporation but are subordinate to all other such debts. The United States of America does not guarantee either the par value or the interest on such debentures.

(c) REFUND OF PER DIEM SURCHARGES.—(1) In the event of partial or complete liquidation of the Corporation, any assets remaining after payment of the Corporation's obligations and expenses will be distributed pro rata to the railroads, not to exceed in any case the amount paid as per diem surcharges under subsection (a) of this section plus accrued interest, if any. The remainder of such assets will be paid into the Treasury of the United States and credited to miscellaneous receipts.

(2) In the event of complete liquidation of any railroad subject to this Act, the Directors of the Corporation may, if and when funds are available, refund to such railroad a sum not to exceed the amount paid in as per diem surcharges under the provisions of subsection (a) of this section plus accrued interest, if any.

(d) INCURRENCE OF DEBT FOR CAPITAL PURPOSES.—The Corporation is empowered to incur debt for capital purposes. Such debt may be incurred in the form of bonds, debentures, equipment trust certificates, conditional sale agreements, or any other form of securities, agreements, or obligations. So long as all the capital stock of the Corporation is owned by the United States, the payment of principal and interest on all obligations issued by the Corporation is guaranteed by the United States. Such guarantee shall be expressed on the face of the obligation. So long as any capital stock is owned by the United States, payment of principal and interest on obligations issued by the Corporation may, in the discretion of the Directors, be guaranteed by the United States. Such guarantee shall be expressed on the face of the obligation. Guaranteed obligations shall not exceed $1,000,000,000 in principal amount outstanding at any one time. Such obligations may be redeemable at the option of the Corporation before maturity in such manner as may be stipulated therein and shall be in such forms and denominations, have such maturities, and be subject to such terms and conditions as shall be determined by the Directors, with the approval of the Secretary of the Treasury. The Corporation may also incur debt not guaranteed by the United States, in addition to that provided for under subsection (b) of this section.

(e) Purchase of Obligations by Treasury.—The Secretary of the Treasury may elect to purchase the obligations of the Corporation guaranteed by the United States in an amount not to exceed $1,000,000,000 in principal amount outstanding at any one time, under such terms, including rates of interest, as he and the Corporation may agree, but at a rate or yield no less than the current average yield on outstanding Treasury securities of comparable maturity, as determined by the Secretary of the Treasury.

(f) Public Debt Transaction.—For the purpose of any purchase of the obligations of the Corporation, and to enable him to carry out his responsibility relating to guarantees made pursuant to this section, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchases of the obligations of the Corporation under this Act. The Secretary of the Treasury may at any time sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations of the Corporation acquired by him hereunder. All redemptions, purchases, and sales by the Secretary of the Treasury of the obligations of the Corporation shall be treated as public debt transactions of the United States.

(g) Authorization for Appropriations.—(1) In order to facilitate the formation and the implementation of the objectives of the Corporation, there is hereby authorized to be appropriated, out of money in the Treasury not otherwise appropriated, the sum of $10,000,000 to be used to acquire capital stock of the Corporation, such sum to continue to be available until expended.

(2) There are authorized to be appropriated to the Secretary of the Treasury such sums as may be necessary to pay the principal and interest on notes or obligations issued by him as a consequence of any guarantee made under this section.

(3) In the event of any default on any guaranteed obligation, and payments in accordance with a guarantee by the United States, the Attorney General shall take appropriate action to recover the amount of such payments, with interest, from the Corporation or other persons liable therefor.

(h) Lawful Investment and Exemption From Regulations and Restrictions.—Securities guaranteed under this section shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or any officer or officers thereof shall be deemed to be exempt securities within the meaning of laws administered by the Commission. The limitations and restrictions as to a National or State bank dealing in, underwriting, or purchasing investment securities for its own account, as provided in section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), and section 5(c) of the Act of June 16, 1933 (12 U.S.C. 335), shall not apply to securities guaranteed under this section.

(i) Capital Stock.—(1) The Corporation is authorized to issue and have outstanding capital stock in such amounts and of such classes as it shall determine. At no time shall the aggregate of the shares of the capital stock of the Corporation owned by a single railroad or by any person controlling one or more railroads, as defined in section 1(3)(b) of the Interstate Commerce Act (49 U.S.C. 1(3)(b)), directly or indirectly through subsidiaries or affiliated companies, nominees, or any person subject to its direction or control or by any other stockholders, or any syndicate or affiliated group of such stockholders exceed 5 per centum of such shares issued and outstanding.

(2) The requirement of section 45(b) of the District of Columbia Corporation Act (D.C. Code, sec. 29-920(b)) as to the per centum of stock which a stockholder must hold in order to have the rights of inspection and copying set forth in that subsection shall not be applicable in the case of holders of the stock of the Corporation, and they may exercise such rights without regard to the percentage of stock they hold.

(3) Capital stock of the Corporation offered and sold to the public shall be offered in compliance with all applicable laws of the United States governing the offering and sale of securities by private corporations.

(j) Audit and Expenditures.—(1) So long as any capital stock of the Corporation is owned by the United States, "Railroad Equipment Corporation" shall be subject to the provisions of the Government Corporation Control Act (31 U.S.C. 841 et seq.).

(2) Except as otherwise provided in paragraph (1) of this subsection, the Corporation is authorized to make such expenditures and to enter such contracts, agreements, and arrangements as it deems necessary, upon such terms and conditions and in such manner as it decides. This authorization includes the power to make a final settlement or compromise of all claims and litigation by or against the Corporation.

(3) Nothing in this subsection shall be construed to deny the Corporation the power to obtain audits of its accounts and reports concerning its financial condition and operations by a firm or firms of certified public accountants. Such audit and reports would be in addition to those required by this subsection.

(4) Section 101 of the Government Corporation Control Act (31 U.S.C. 846) is amended by (1) striking out "and" in the last clause thereof; (2) striking out "." at the end thereof and inserting in lieu thereof the following: "; and Railroad Equipment Corporation.".

CONVERSION TO NONGOVERNMENTAL CORPORATION

Sec. 405. (a) Plan for Public Sale.—As soon as practicable, a panel composed of the Secretary of Transportation, the Secretary of the Treasury, the Chairman of the Securities and Exchange Commission, the Chairman of the Commission, and the Chairman of the Directors of the Corporation shall submit to the President and to the Congress a plan for the public sale of stock in the Corporation after finding that a market exists for the sale of such stock and that the purposes of this Act will be served thereby. This plan shall include, among other elements, a program which—

(1) will require refinancing, or the establishment of a reserve fund or other method, in order to protect the public interest against defaults on obligations of the Corporation guaranteed by the United States; and

(2) will assure that the sale of the stock will result in a wide dispersion in the ownership of the stock.

(b) Requirements.—The plan for sale of stock to the public shall specify a program for systematically reducing the amount of obligations of the Corporation guaranteed by the United States and shall propose a capital structure for the Corporation designed to insure sound financial and operating performance. Unless the Congress disapproves the plan within six months following submission of the plan to it, stock shall be sold in accordance with the plan.

(c) New Board Members.—Upon the sale of stock to the public, the Board of Directors may be enlarged by the addition of members elected by owners of such stock. In no event, however, shall the Board of Directors exceed fifteen members while any capital stock in the Corporation is held by the United States. During such period, the rights and privileges of owners of such stock, including determination of the number of directors to be so elected, shall be set forth in the bylaws of the Corporation.

(d) Proceeds of Sale.—The proceeds from the sale of stock to the public shall be applied to the retirement of the stock held by the United States. Upon the retirement of all the stock held by the United States, the terms of office of the members of the Board of Directors appointed under section 402(d) shall terminate as provided by the plan under subsection (a) of this section. Thereafter, all except three of the Directors shall be elected by the owners of the stock. The President shall have authority to appoint such three directors, by and with the advice and consent of the Senate—

(1) one, to be selected from a list of qualified individuals recommended by the parent body of the American Federation of Labor and Congress of Industrial Organizations;

(2) one, to be selected from a list of qualified individuals recommended by the Federal Trade Commission after consultation with organizations of consumers; and

(3) one, to be selected from a list of qualified individuals recommended by the Commission, after consultation with organiations of shippers.

As used in this subsection, a list of qualified individuals shall consist of no less than three individuals.

(e) Position of United States.—Upon the retirement of all the stock held by the United States—

(1) the Corporation shall pay an annual fee to the United States equal to the difference between the amount of interest actually paid upon outstanding guaranteed obligations and the amount which would have been paid, as determined by the Secretary of the Treasury, if such obligations had not been guaranteed by the United States, plus one-fourth per centum;

(2) the Corporation shall make every effort to refinance obligations in order to terminate the liability of the United States arising from its guarantee of obligations; and

(3) the Secretary of the Treasury may no longer purchase or guarantee the notes or other obligations of the Corporation.

(f) Default.—If the Coroporation defaults in the payment of obligations guaranteed by the United States, the United States is authorized to take control of the Corporation and a new Board of Directors shall be appointed pursuant to section 402(d) of this Act.

NATIONAL ROLLING STOCK INFORMATION SYSTEM

Sec. 406. (a) Establishment.—If a national rolling stock information system, as defined in section 301 of this Act, is not operating effectively when the Corporation is established, it shall establish such a system. If the Corporation undertakes to establish such a system, the Secretary shall grant it access to and authority to use all information, studies, designs, equipment, facilities, computer programs, and other things acquired or developed under section 301 of this Act. The Secretary shall give the Corporation all possible assistance to further the purposes of this section.

(b) Information Access.—Data and other information derived from the national rolling stock information system shall be made available on an equal basis to the Corporation, shippers, railroads, the Commission, the Secretary, and interested members of the public, subject to rules to be issued by the Commission to preserve the confidentiality of certain types of competitive information furnished for use in connection with the system.

(c) Report.—The Corporation shall report to the Congress annually on the progress made in implementing such national system. Each report shall include recommendations as to any additional funding deemed necessary to make the national system more effective. The Commission shall publish a report on such system thirty days after the publication of each report by the Corporation under this subsection.

USE OF EQUIPMENT SUPPLIED BY THE CORPORATION

Sec. 407. (a) User Charges.—The Corporation shall establish and maintain a schedule of charges for the use of general service railroad freight cars and other rolling stock, and equipment directy related to the utilization of rolling stock. The rates shall be such as will, in the judgment of the Directors, enable the Corporation to meet its operating and administrative expenses, including depreciation and carrying-charges for indebtedness, and to provide sufficient earnings to facilitate the conversion of the Corporation to private ownership in accordance with section 405 of this Act as soon as possible. Such charges shall in no case exceed one hundred and fifty per centum of the cost to the Corporation of acquiring, owning, maintaining, and operating the rolling stock for equipment being so used. In establishing such charges, the Corporation shall consider prevailing rates and conditions for similar equipment.

(b) User Charges Precluded.—The Corporation shall not assess any charges for rolling stock located on a railroad where that rolling stock is not required by such railroad for use in originating traffic: *Provided*, That—

(1) such rolling stock is not the subject of a car service order by the Corporation or the Commission; and

(2) such railroad furnishes appropriate notice to the Corporation pursuant to terms and conditions established by it regarding the use of such rolling stock.

(c) Conditions on Use.—The Corporation shall establish—

(1) reasonable rates of compensation for storage of excess rolling stock on the property of any railroad, through negotiation with such railroad;

(2) terms and conditions governing the use of its equipment, including requirements for identification of rolling stock, as are in its judgment appropriate to effectuate the purposes of this Act. Such terms and conditions may be modified and amended from time to time; and

(3) just and reasonable car service rules, regulations, and practices, and car distribution directions with respect to its rolling stock. Such rules, regulations, and practices shall be established after consulting with the Commission, railroads and car distribution agencies. They shall, together with car distribution directions issued thereunder, take precedence over any rules, regulations, or practices in conflict therewith which are issued or applied by any railroad or group of railroads. Such rules, regulations, and practices may be modified and amended from time to time.

(d) Compliance With Conditions.—Each railroad shall comply with such car service rules, regulations, and practices as may be established, together with such car distribution directions as may be issued, pursuant to this section.

(e) Interchange of Cars.—No railroad may refuse to transport any general service railroad freight car owned or supplied by the Corporation, whether loaded or empty, subject to any applicable safety regulations, reasonable interchange rules, reasonable line clearances, reasonable weight limitations, and user charges set under this section. No railroad shall be entitled to any compensation from the Corporation for moving empty Corporation-owned rolling stock from any point on its line of railroad to any point or another line of railroad, between any points on its line of railroad, or as a bridge carrier between points on two or more other lines of railroad: ***Provided*, That such stock** was moving under a car distribution directive (1) issued by the Commission or (2) issued by the Corporation for the purpose of distributing Corporation-owned cars for loading.

COMMISSION REVIEW

Sec. 408. The Corporation shall be subject to sections 1(10) through 1(17) of the Interstate Commerce Act, and the orders of the Commission thereunder to the extent applicable. Upon petition of any person affected by any charge, rule, regulation, practice, term, condition, or directive of the Corporation, or upon its own motion, the Commission shall make an investigation and shall order any charge, rule, regulation, practice, term, condition, or directive which it finds not to be in conformity with this Act, or to be inconsistent with any rule, order, or directive of the Commission pursuant to applicable provisions of sections 1(10) through 1(17) of the Interstate Commerce Act to be canceled, annulled, amended, or suspended as the Commission shall find to be appropriate.

ENFORCEMENT

Sec. 409. (a) General.—In an appropriate civil action, the Corporation may apply to any district court of the United States which has jurisdiction over the parties and in which venue is properly laid under section 1291 of title 28, United States Code, for an order or judgment to enforce compliance with any obligation owing to it under or in accordance with any provision of this title or under or in accordance with any agreement or regulation entered into or issued pursuant to this title. Nothing contained in this action shall be construed to relieve any person from any punishment, liability, or sanction which may be imposed otherwise than under this Act.

(b) Equitable Relief.—(1) If the Corporation, any railroad, or any person fails or neglects to comply with any rule, regulation, or practice established under this title, fails to pay any charge imposed under this title, fails or refuses to comply with any car distribution direction or other order issued under this title, or fails to obey any directive by the Commission to pay charges, any district court of the United States having jurisdiction over the parties and in which venue is properly laid under section 1291 of title 28, United States Code, may grant relief. Upon a petition by the Commission or by the Corporation, such court shall have jurisdiction to grant such relief as may be necessary or appropriate to prevent or terminate such failure or refusal.

(2) If the Corportaion, any railroad, or any other person violates or threatens to violate any provision of this Act or any rule, regulation, or order issued under this Act, any district court of the United States having jurisdiction over the parites and in which venue is properly laid under section 1291 of title 28, United States Code, may grant relief. Upon a petition, or, in the case of a labor agreement, upon the petition of any employee affected thereby or a duly authorized representative of such employee, such court shall have jurisdiction to grant such equitable relief as may be necessary or appropriate to prevent or terminate such violation.

ANNUAL REPORT

Sec. 410. The Corporation shall cause to be prepared and transmit simultaneously to the President and the Congress an annual report commencing one year after its establishment. Such report shall include—

(a) a comprehensive and detailed review and summary of the operations, activities, and accomplishments of the Corporation under this Act;

(b) an account of the state of railroad freight services in the United States, including the number of rolling stock, by classes, acquired and owned by the Corporation and the number acquired and owned by the railroads; and

(c) a statement of the Corporation's receipts and expenditures for the previous year, an explanation of the method for determining the type and amount of rolling stock purchased, and the criteria used in distributing rolling stock.

The Commission and the Secretary shall from time to time, but not less than once every two years, investigate and evaluate the performance of the Corporation in light of the purposes of this Act and each shall cause to be prepared and transmit, simultaneously to the President and the Congress a report thereon.

TITLE V—GENERAL PROVISIONS

PROTECTIVE ARRANGEMENTS FOR EMPLOYEES

Sec. 501. (a) General.—In carrying out their functions under this Act and as a condition precedent to the execution of any contract, the guarantee of any obligation, and the approval or inducement of any other action under this Act, the Board, the Secretary, and the Corporation shall take adequate steps to protect the interests of affected employees. Each contract as to which any railroad or car-pooling company is either a party or a beneficiary shall include fair and equitable arrangements, as certified by the Secretary of Labor, to protect the interests of individual railroad employees who are or who may be affected in their employment by such contract. Such protective arrangements shall include the arrangements specified in section 405 of the Rail Passenger Service Act of 1970, as amended (45 U.S.C. 565); section 13 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1609); and section 6 of the High Speed Ground Transportation Act of 1965, as amended (49 U.S.C. 1636).

(b) Building and Rebuilding Contracts of Corporation.—The Corporation, in awarding contracts for the building or rebuilding of rolling stock under title IV of this Act, shall conform to prevailing practices in the railroad industry at the time of each such contract in dividing such work between railroads with facilities for building and rebuilding rolling stock and nonrailroads with such facilities. Such contracts, as are awarded to railroads, shall be performed through the use of the facilities and the employees of such railroads and shall not be subcontracted. In awarding such contracts, the Corporation shall be guided by the relative proportions of such building and rebuilding as was performed in railroad as opposed to nonrailroad facilities during the five-calendar-year period preceding the award of such contract. Variations from these proportions shall not exceed 5 per centum if the total amount of building and rebuilding declines from levels at the date of enactment of this Act. If the Corporation fails to maintain required relative proportions in distributing such work to railroad facilities under such contracts, the fair and equitable employee protective arrangements required by subsection (a) hereof shall become effective. Notwithstanding the foregoing, no contract shall be awarded for the building or rebuilding of rolling stock by such Corporation unless such work meets the minimum specifications established by the Corporation in accordance with the purposes of this Act.

(c) Job Training.—Railroad employees adversely affected by any action taken pursuant to this Act designed to provide for more effective use and distribution of rolling stock shall be reassigned and, if necessary, retrained to perform the new tasks covering the functions which they had performed prior to such action. The performance of such functions shall be considered to be within the same craft or class as that in which such railroad employees were classifield prior to such change and the rights of such employees to the same representation shall be preserved. A railroad employment position which is affected by any such change may be eliminated as it becomes vacant through the death or voluntary resignation or retirement of the employee holding such position: *Provided,* That the rate of attrition of such positions in any calendar year shall not exceed:

(1) four per centum of the total number of affected employees of such railroad, as determined by the Secretary of Labor, or

(2) a per centum equal to the average of the actual rate of attrition of the total number of affected employees of such railroad for the preceding three calendar years, as determined by the Secretary of Labor, whichever is greater.

(d) OTHER LAWS.—In his administration of the provisions of this Act, the Secretary of Labor shall consolidate the program authorized herein with the companion programs under the Rail Passenger Service Act of 1970, as amended (45 U.S.C. 565); the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1609); and the High Speed Ground Transportation Act of 1965, as amended (49 U.S.C. 1636). The Secretary of Labor shall uniformly develop, interpret, and apply the procedures and standards under these several laws.

(e) REPAIR AND MAINTENANCE CONTRACTS.—To the extent practicable, the Corporation shall award contracts for the repair and maintenance of its rolling stock to railroads with facilities for performing such work.

(f) CONSTRUCTION CONTRACTS.—The Board (pursuant to title II), the Secretary (pursuant to title III), and the Corporation (pursuant to title IV) shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors and subcontractors in the performance of construction work financed with the assistance of funds received under any contract or agreement entered into under this Act shall be paid wages at rates no less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. The Board, the Secretary, or the Corporation shall not enter into any such contract or agreement without first obtaining adequate assurance that required labor standards will be maintained on the construction work. Health and safety standards promulgated by the Secretary of Labor pursuant to section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) shall be applicable to all construction work performed under such contracts or agreements, except any construction work performed by a railroad employee. Wage rates provided for in collective-bargaining agreements negotiated under and pursuant to the Railway Labor Act or the National Labor Relations Act shall be considered to be in compliance with the Davis-Bacon Act; the highest of such wage rates shall be the applicable standard for all laborers and mechanics not covered by any such agreement and employed by contractors and subcontractors engaged in the building and rebuilding of rolling stock pursuant to title IV of this Act.

SEPARABILITY

SEC. 502. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

The PRESIDING OFFICER. The time on the bill is limited to 1 hour, to be controlled and divided by the majority and the minority leaders or their designees, with one-half hour on any amendment, debatable motion or appeal.

Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARTKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARTKE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 1149.

How much time does the Senator yield himself?

Mr. HARTKE. I yield myself such time as I may need.

Mr. President, for the information of the Senate I do not think that this debate will be very long. There has been pretty much agreement in the Commerce Committee upon what we are planning to do here.

The committee, in reporting this bill, recognizes that the Interstate Commerce Commission has had to deal with freight-car shortages since its first case after the act was passed in 1887. That is, basically, it is time we end the shortage of freight cars in the United States.

It goes without saying that the railroad situation in America today is in the throes of a very deep crisis. One of the problems we have is that there is this perennial shortage of freight cars. Appeals are made by the various shippers, and the railroads, in turn, try to accommodate the requests of the shipping public. The end result is that the actual cost to the United States in lost time, lost effort, and loss of proper utilization of cars which has to be corrected.

We have had long hearings. The bill itself is basically in three parts. The first part provides for the creation of a guaranty fund, which would utilize the credit of the United States to insure continuing obligations to purchase rolling stock. The second deals with proper utilization of the freight cars; and the third requires the creation of a railroad equipment corporation, to acquire rolling stock and establish a national rolling stock pool if the problem is not otherwise solved.

Basically, in the event that proper utilization is not achieved by the railroads themselves, there is a triggering device to provide for a Federal corporation to proceed to do what the railroads, in such case, have failed to do. However, the triggering device is such that it would still require the actions of the Federal corporation to be brought back to Congress, and would provide for a last look before we proceed to what many people feel would be a first step toward nationalization of our railroad system.

It is not the intent of the committee to interfere in any way with private operation of the railroads. It is not the intent of the committee to provide for any precedent in this fiield. It is its intent to alleviate the shortage of railroad cars in the United States, and to make possible the financing of necessary railroad equipment.

Mr. President, I pay tribute to the distinguished Senator from Kansas (Mr. PEARSON), who has worked very diligently in this field, and who has seen firsthand the difficulties which have occurred as a result of the shortages.

I think we have provided a very satisfactory solution, one which is in the interest of the shippers, of railroad management, of railroad labor, and of the country generally.

Mr. PEARSON. Mr. President, will the Senator yield?

Mr. HARTKE. I yield.

Mr. PEARSON. I compliment the Senator from Indiana for bringing forth this legislation from his subcommittee, which represents 2 years' effort in the formualtion of steps to make some progress toward the solution of this perennial and now very long-term shortage in this vital part of our national transportation system.

Mr. President, I am pleased to serve as floor manager for the minority during Senate consideration of the Rolling Stock Utilization and Financing Act of 1973, commonly called the "freight car bill." This legislation is the product of several years of Commerce Committee attention to the chronic freight car shortage which has plagued our Nation's railroads, shippers and consumers of products transported by rail.

As reported by your committee, S. 1149 constitutes the most far-reaching assault on the freight car problem ever debated in this body. Lesser measures enacted in past years have simply proved inadequate to the challenge. This bill mandates and encourages a broad range of initiatives, on the part of both industry and Government, to improve utilization of the rolling stock fleet and to expand it. Having considered in depth the provisions of S. 1149, your committee has concluded that, with the good-faith cooperation of the industry, this measure will be responsive to the documented needs of the users of rail transportation in America.

Mr. President, I submit initially that while this legislation reflects a determined congressional policy and governmental effort to assist in resolving the freight car problem, it is in no sense a radical proposal. The bill does not contemplate nationalization of the problem, and it certainly does not contemplate nationalization of the industry—or any part of it. The committee bill would enhance the opportunities of good private sector rail management to improve service and become more efficient by providing loan guarantees for the purchase or lease of rolling stock, facilities, and equipment. It would provide technical and financial assistance for the development of a computerized car information system and a national car information center.

In the event that these provisions prove inadequate, the Congress will have the opportunity to consider the creation of a quasi-public railroad equipment corporation to acquire and manage a "demonstration" pool of rolling stock. The proposed corporation would also have authority to implement the national rolling stock information center if it is not already in existence.

The bill provides adequate time for the railroads to take advantage of the loan guarantees and technical assistance before congressional action on a resolution to create the corporation. Thus, your committee has embraced the proposition that private sector management should be called upon, and given the opportunity, to meet the freight car challenge without significant Federal intervention. But the bill provides, in the public interest, a Federal response in the event that all else fails.

Mr. President, the committee has conducted extensive hearings on the pending legislation. Hearings were held in Washington, D.C., on a comparable measure in the 92d Congress, and in this Congress. Field hearings were conducted in Oregon and Dodge City, Kans. The hearing record is replete with documentation of two fundamental problems—the capacity of the Nation's rail car fleet is inadequate, and the fleet is underutilized because of inefficiencies in the distribution and handling of cars.

In 1972 the railroads transported 780 billion ton-miles of revenue traffic—the highest in history and freight car shortages were minimal due to consistently improving management. During the first 6 months of 1973, however, the Nation experienced its greatest car shortage in history—an average daily shortage of between 30,000 and 40,000 cars in some months. This shortage was due, primarily, to a substantial increase in agricultural export commitments. The best estimate is that January to June 1973 was not an anomaly, that traffic volume will increase steadily throughout this decade—with a need for an additional 617,000 cars costing the railroads and other investors some $8.8 billion to procure.

The U.S. Department of Transportation, in the course of 1971 hearings, estimated that an additional 130,000 cars are needed now—an investment of $2.3 billion to meet current demand.

Mr. President, our hearing record demonstrates that a financially weak railroad cannot allocate adequate capital for new equipment and facilities. And because of its failure to obtain needed equipment, the railroad loses traffic and becomes financially weaker. The Penn Central, for example, lost $35 million in revenue between 1964 and 1970 because of its failure to acquire sufficient grain hoppers. According to a Penn Central trustee, the railroad lost $6.48 million in potential revenues between January 1, 1973, and April 27, 1973, because of its inadequate hopper fleet.

The committee bill is responsive to this problem. The committee contemplates that financially weak railroads, and railroads in reorganization, will be the priority consumers of Federal equipment obligation guarantees for the purchase or lease of rolling stock. The guarantees will be in a revolving fund, with not more $2 billion outstanding at any one time. The guarantees will serve not only to expand the fleet, but also to assist marginal roads in meeting their obligation to implement their share of the national computerized information system.

Mr. President, the committee is cognizant of the dismal fact that the average freight car is in movement only 12 percent of its lifetime. It is moving with a load only about 7 percent of the time. The average car moves loaded an average of only 32 miles per day. These statistics, admittedly, are misleading. If a shipper orders cars and delays loading, the problem in that instance is hardly the fault of the railroad. If a port is congested with ships but has few loading docks, the railroads cannot be blamed for the resulting backlog of cars awaiting service. Branch line service cannot be economical on a daily basis in most cases. The shipper who receives empty cars on Monday, and has them collected loaded on Thursday has no compaint against the railroad—but the procedure is devastating to the percentages in computing utilization. And finally, grain elevators during harvest hope to stockpile cars in advance of the anticipated glut. Kansas farmers harvested 380 million bushels of wheat in recent weeks—an almost impossible burden on the country elevator, terminal and rail systems.

Nevertheless, Mr. President, the hearing record clearly establishes that improved efficiencies in the use of the existing fleet can dramatically relieve the chaotic conditions which the shortage has chronically brought to shippers in peak periods of demand. The railroad industry is to be commended for inaugurating, at considerable cost, the rudiments of a nationwide computerized information system. The industry has concluded that such a system not only will serve shippers, but also strengthen financially the railroads. The committee bill contains carefully drawn language which will assist in the timely implementation of the system envisioned by the industry. Inherent delays in resolving differences among dozens of independent companies with respect to the design of the system will be obviated by the Secretary's determination, after due regard has been paid to the interests of all railroads, as well as the interests of shippers.

One railroad official testified that, after installation of the information system on his lines alone, the company was able to handle comparable traffic with 6 percent fewer cars. If the same efficiencies can be obtained nationwide, the result will be the equivalent of about $2 billion in new equipment. It is in everyone's interest to proceed promptly with the finalization of the information system.

Mr. President, the recent wheat harvest in my State of Kansas once again documented the need for legislation comparable to that before the Senate today. Our farmers harvested the largest wheat crop in history. Grain was piled on the ground in various locations throughout the State because of the car shortage. Elevator operators were forced to turn away farmers who needed, in the most urgent terms, access to storage facilities. The railroads made a good effort, but, as expected, the roads which had invested less in new equipment were least able to serve their customers. Cars which had been positioned in the eastern district arrived to ease the shortage, but they could have arrived sooner and been of more timely relief. The lessons of the 1973 harvest reinforce the lessons of past years: more cars are needed by the marginal roads, particularly, and computer-assisted location and disposition of available equipment will be of material aid in marshalling our resources for peak demand periods.

Mr. President, I am pleased to recommend favorable Senate action on the pending bill.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. HARTKE. I yield to the Senator from Washington.

Mr. MAGNUSON. Mr. President, let me outline for the Senate what a long and difficult struggle this has been to meet the freight car shortage. Years ago, we used to have bills—I do not know how many I have introduced and the Senator from Kansas has introduced—that usually dealt with the shortage west of the Mississippi River. I remember one time, way back, I had a freight car bill; the Commerce Committee reported it out, and we had a vote. Every Senator west of the Mississippi River voted for it, and every Senator east of the Mississippi voted against it; and they outnumbered us at that time.

Since that time, the freight car shortage, as the distinguished Senator from Indiana has pointed out, has become almost nationwide, and I need not repeat what I have said many times on this floor, that this is a matter that has been before the regulatory agency since 1887. As a matter of fact, I like to cite this, because it shows what a difficult problem this has been:

In 1887, when the Interstate Commerce Commission was created, docket No. 1—what do you think it was? A petition from some farmers in North Dakota to relieve them of the freight car shortage to get their grain, at that time, to the port of Duluth; and the matter has been before the ICC ever since that time.

The Senator from Indiana has performed yeoman service on this measure, and the Senator from Kansas and other members of the committee as well, and we are hopeful that the passage of this measure will be a step forward. We do not know that it is a panacea, but at least it is time that Congress took hold of this matter and did something about it; and this bill, although it is complicated, we believe is even a better bill than that which passed the Senate by a vote of 81 to 0 last year.

Again I express, as the chairman of the committee, my deep appreciation to the Senator from Indiana, the Senator from Kansas, and others who have worked so hard to try to work out something that will do some kind of a job on this freight car shortage.

I might say just one thing more: Since 1887, this matter has been getting worse every year. Last year we had the worst freight car shortage of all time. I need not tell the occupant of the chair (Mr. CLARK) and others what I mean by that. It affects everyone. All the best information we can get is that this year will be even worse unless we do something about it.

Mr. President, as I have indicated, last year the Senate passed, by a vote of 81 to 0, S. 1729, a bill to alleviate freight car shortages. This bill was not considered by the House and consequently did not become law. Today we have before us the successor to S. 1729, S. 1149, the Rolling Stock Utilization and Financing Act of 1973. This year the Nation is experiencing the worst freight car shortage in its history. It is appropriate, therefore, that the Senate today once again provide a comprehensive solution to the freight car shortage problem, a solution the country has been awaiting since the ICC considered freight car shortages as the first item on its first docket in 1887. I am hopeful that the House will also soon take action on this important bill to alleviate the freight car shortage.

The problem, which once only affected western farmers during harvest season, can no longer be dismissed as merely affecting a particular industry in a particular region during a particular season. The dilemma continues to worsen, in spite of the ICC's attempts to solve the problem through regulation. Our Nation's agricultural products rot on sidetacks because there are no boxcars to move them to markets. Housing costs skyrocket because of lumber shortages aggravated by railroad inefficiencies and the inability of cash-poor railroads to purchase modern equipment.

As the freight car shortage adversely affects all Americans, it produces severe problems for Washington State shippers and consumers. For example, the shortage of railroad freight cars and ineffective utilization of existing freight cars has repeatedly been a problem affecting the harvest of agricultural commodities in the State. The shortage of boxcars has also been a long-lasting and predominant problem for the forest products industry in the Pacific Northwest. The Washington potato industry may be forced to reduce its production in the near future due to a shortage of refrigerator cars because none have been rebuilt in the last 15 years and the average car is over 25 years old. This spring, wheat farmers in Washington and other major agricultural centers in the country lost untold millons of dollars due to the freight car shortage. Farmers must pay a penalty on uncompleted contracts, and elevator operators and farmers who are unable to pay back loans suffer very heavy losses as a result of delayed shipments and losses on contracts.

From the standpoint of the paper, lumber, plywood, and other forest products industries, the issue of shortages is a familiar one. The forest products industry is one of the largest users of freight cars; yet it is often unable to obtain equipment to meet its demands for paper, lumber, and plywood shipments.

Despite the fact that the forest products industry collectively represents, as shippers, the largest single source of revenue to the railroads in the United States, freight cars are often diverted to other shippers while forest products sit unable to move to market because of the freight car shortage.

Agriculture loses not only when it is unable to ship its products but when it is unable to get the fertilizer necessary to grow those products. This spring, Florida fertilizer producers were short 3,000 to 5,000 cars and behind in their shipments from 17 to 30 days. As a result of this, crops were late all over the country. Like farmers all over the country, Washington wheat farmers, already adversely affected by a late freeze, were forced to further delay crops because they were unable to secure adequate fertilizer supplies. This fall, a shortened growing season will result in a shortage of grain and resulting losses for farmers, higher food prices, and an increased food shortage.

The shortage not only harms shippers. It affects every American consumer. If shipments are delayed or crops are not planted or the harvest lies rotting in warehouses and in the streets, there will be shortages and there will be higher prices. As America faces an energy crisis, coal producers in West Virginia cannot get enough hopper cars to carry their coal to market. Food prices are going up, but farmers are suffering losses because they cannot move their surplus grain. The freight car shortage has been directly related to the soaring prices of feed grains for beef, cattle, and poultry and of lumber and other basic commodities. Housing prices, for example, are higher than ever before in history because builders cannot get the lumber they need.

Both the Department of Labor and the President's Cost of Living Council have recognized the freight car shortage as a very serious problem. Farm editors have termed the freight car shortage a "constant, persistent, chronic problem" in the Western States.

How extensive is the freight car shortage? On July 7, at a time when the shortage is usually quite low, the ICC reported a shortage of 29,825 cars, of which 13,836 were general-service boxcars, the type most in demand.

The need, then, for a solution to the freight car problem is obvious. The Congress and the Nation have waited long enough for the regulatory agencies and the railroads to act. S. 1149 provides a legislative solution to the freight car problem.

The nature of this serious problem is simple. Freight car shortages are the result of two separate and distinct factors:

First, poor utilization of existing rolling stock; and

Second, an inadequate supply of rolling stock. As noted in the report of the Senate Committee on Commerce on S. 1149:

> It is unanimously conceded that the general freight car fleet is poorly utilized. The average freight car is in movement only 12% of the time. It is moving with a load only 7% of the time; the rest of the time is empty movement. The average freight car moves loaded an average of only 32 miles per day.

What do these underutilization figures mean? The Department of Transportation has estimated the shortage of freight cars to be about 130,000 cars, about 9 percent of the existing railroad owned fleet. A mere 9 percent increase in car-utilization—increasing load movement to 7.63 percent of the time— would eliminate this car shortage without the need for investment in additional cars. The need, then, for increased utilization is obvious. The Congress and the Nation have waited long enough for the regulatory agencies and the railroads to implement operational efficiencies. This bill provides the needed strong incentive to increase freight car utilization.

The second problem is a shortage of general service freight cars. While the railroads have invested heavily in special service cars, the investment in general service cars, primarily box cars, has declined. Also, while the stronger railroads have sufficient funds to acquire cars for their own needs, weaker railroads have inadequate access to the capital market. High interest rates reduce the number of cars they can purchase. At the same time, these weaker railroads, because they must rely upon cars from other railroads, pay out a considerable amount in payments, thereby further reducing their ability to make any investments. Further adding to the dilemma, the weaker railroads lose several millions of dollars by not having sufficient cars available. Without outside assistance to break the cycle there seems to be no hope for movement. This bill provides that outside assistance.

Mr. President, this problem has been with us for almost a century. It has been studied by the ICC since its formation with few tangible results from the studies. The railroads have promised the Nation again and again that they would alleviate the problem. Instead, efficiency and freight car utilization have not noticeably improved and the number of freight cars has declined. Most notably, class 1 railroad ownership of general service freight cars has declined from 352,121 in 1972 to 336,542 in 1972; railroad ownership of plain gondolas has decreased in the last year from 185,622 to 158,335 and the number of service hopper cars owned by these railroads has declined in the last year from 385,779 to 335,686. This decline comes in the face of a historically unprecedented traffic increase. In the face of stagnant utilization figures and the fact that with more and more traffic, there are fewer and fewer cars to use, our shippers face a bleak future without some future assurance that the legislation proposed by this bill will get to the heart of the problem.

It has taken the Congress nearly a century to move in this area. As far as I know, no one denies that there is a problem; no one denies the need for prompt and aggressive remedial action. When passed by the Senate last session, this bill was a good bill. With the improvements incorporated into S. 1149, I think it is even a better bill. For, finally, the Congress will be saying to the Nation and to the railroad industry: It is time that we get our products to the marketplace on time at the lowest pos-

sible cost and if the industry cannot accomplish such simple goals, the Government, however reluctantly, will step in to assist the railroads in producing a better freight transportation system.

Mr. President, the bill as reported by the committee has three major elements. I ask unanimous consent that the purposes and description of the bill as contained in Senate report 93–303 be printed in the RECORD at this point.

There being no objection, the excerpt from the report was ordered to be printed in the RECORD, as follows:

PURPOSES AND DESCRIPTION

The bill as reported by the Committee has three major elements: The first provides for creation of a guarantee fund, backed by the credit of the United States, to insure obligations incurred for the acquisition of rolling stock, and equipment or facilities. The second provides for Federal efforts to improve utilization of freight cars and other rolling stock by means of—

(a) technical and financial assistance for the development of a computerized car information system and a national car information center,

(b) development and quarterly publishing of an index measuring freight-car utilization,

(c) a study by the Department of Transportation of ways to improve utilization, and

(d) action by the Department under existing law to improve utilization.

The third part provides that, in the event of continuing failure by industry and the private sector to solve the problem of shortages of railroad freight cars, there may be direct government action to establish a new institution in the industry mandated to innovate, to experiment with, and to demonstrate improved practices in freight car utilization and management.

The third part provides for a railroad equipment corporation to acquire rolling stock, to manage such rolling stock as a pool, and to develop a national rolling stock information system (if one is not in existence) if the private sector of the economy is unable, with the assistance provided by the first two parts of the bill, to satisfactorily solve the freight car shortage.

S. 1149 provides clear direction to the industry to attack the problem of inadequate freight car supply and underutilization. It provides financial assistance and time and latitude for the private sector of the economy to work out its own solutions to the problem. But it also contains positive inducements, in the form of potential direct government action if the problem is not privately solved. The end result envisioned by the legislation is improved service for the entire rail system, not merely enhancement of the private interests of individual railroads.

(1) TO INCREASE CAPACITY

In order to increase the car supply, the measure would establish an Obligation Guarantee Fund for rolling stock and also equipment or facilities, backed by Federal credit (section 201), to guarantee creditors against loss under equipment obligations with eligible railroads, car pooling companies or other applicants. The fund would be administered by an independent agency to be known as the Obligation Guarantee Board. The Board would decide whether or not to guarantee equipment obligations.

Equipment obligation guarantees would improve the credit rating of railroads, car pooling companies and other applicants that would otherwise experience difficulty in securing equipment financing. They would also lower the interest rates for financing, thereby reducing a significant cost in equipment acquisition and increasing equipment acquisition by purchasers with weak credit ratings and low profits.

The risk to the government of extending guarantees should be low. Because railroads need equipment to continue operations, the incidence of default on equipment obligations, even by bankrupt railroads, is not great. In the event of a default, the equipment can be repossessed and resold to another railroad without difficulty. Even though the risk of loss is relatively small, public funds are being extended for private benefit to solve a serious transportation need and the use of such funds must be carefully circumscribed.

Section 202(g) details findings required to be made before an equipment obligation may be guaranteed by the Obligation Guarantee Board. These findings are intended 1) to prohibit guarantee of an obligation unless the rolling stock acquired thereby provides reasonable security for the fund, 2) to improve utilization by requiring a finding, where applicable, that the common carrier operations of railroads or the operations of car-pooling companies are sufficiently efficient at the date of application for a guarantee to assure economic utilization of rolling stock acquired as a result of a guarantee, 3) to assure that rolling stock acquired as a result of a guarantee will contribute to reduction of the shortage of rolling stock and 4) to assure that the purchase or lease of rolling stock made possible by a guarantee will insure an adequate car supply. When acquired through a guaranteed obligation, rolling stock should to some extent increase the obligor's load carrying capacity.

Paragraph (h)(1) requires that there will be no net decrease in the load carrying capacity of rolling stock. Discretion is left to the Board to determine, in view of the conditions in each case, or by general rule, the amount and means of measuring such a decrease. While an obligor's capacity may not increase after initial purchase made possible by guarantees, he is expected to maintain that initial increase in capacity.

Paragraph (h)(2) is intended to prohibit the direct or indirect financing of increased dividend payments by the Board without prior approval of the Secretary based on findings, after public hearings, with opportunity for submission of comments, that such increase in dividends will not decrease the ability of the applicant to provide improved car service.

It is expected that in making a determination that an increased dividend will not decrease the ability of the obligor to provide improved car service, the Secretary will most carefully scrutinize the finances and car service operations of the obligor seeking to increase such dividends. It is left to the discretion of the Board to determine what constitutes increases in dividends; changes in the number of shares that alter the per share dividend and changes in the amount of the equity investment that alter the total paid in dividends might in certain cases, be permissible.

Paragraph (h)(3) restricts the use of assets or revenues related to or derived from railroad operations for nonrailroad enterprises without prior approval of the Secretary based on the same findings required in paragraph (h)(2). This provision is designed to keep railroads in the transportation business and to avoid the siphoning-off of revenues and assets into businesses, such as real estate investments, not related to the performance of common carrier railroad service.

For the purposes of paragraphs (h) (2) and (3), it left to the discretion of the Secretary to determine what, in the case of each particular obligor, constitutes inability to provide improved car service.

Paragraph (h)(4) is directed toward improved utilization and requires obligors granted equipment obligation guarantees to cooperate with the Secretary in programs pursuant to Title III to improve utilization.

Subsection (i) authorizes and directs the Secretary to commence an action to enjoin any activity in violation of the conditions specified in subsection (h) of this section. In addition, any person who knowingly violates or contributes to the violation of any of the conditions specified in such subsection shall be subject to a civil penalty not to exceed $10,000. By permitting the Secretary to enforce the conditions, no action need be taken, such as suspension of guarantees, which would contribute to the problem thought to be alleviated by this measure.

(2) TO INCREASE ROLLING STOCK UTILIZATION

The bill provides for the following action to improve car utilization:

(1) Establishment of a national computerized rolling stock information system including a centrally located national rolling stock information center to give timely information on location and other factors relating to rolling stock (Section 301);

(2) Development and quarterly publishing of an index of freight car utilization by the Secretary of Transportation with his analysis of changes in utilization (Section 302);

(3) Quarterly reports by the Interstate Commerce Commission and analysis of utilization (Section 302);

(4) A two year study by the Secretary of Transportation on ways to improve freight car utilization and a report by the Secretary containing legislative recommendations (Section 302); and

(5) A mandate to the Secretary of Transportation to take action under provisions of existing law (and also under Section 202(h) (4) which requires companies for which obligations have been insured to cooperate with the Secretary to improve utilization) (Section 302). Equally important measures to improve utilization are the provisions authorizing the guarantee of obligations entered into to finance the acquisition of equipment or facilities necessary to improve the utilization of rolling stock. The establishment of the Railroad Equipment Corporation, if necessary, is also an action to improve utilization since it is expected that the Corporation will be able to utilize cars more efficiently than railroads presently do. The possibility that the Corporation may be established in the absence of improved utilization by roalroads is a spur to the industry to improve utilization.

The variety of provisions to improve utilization emphasizes the importance of improved utilization as a factor in solution of the freight car problem. Without efforts to improve utilization and concomitant improve in quality and reliability of rail service, no measure can hope to provide any sort of lasting remedy for freight car shortages. Simply to pump increased investment into enlarging a freight car fleet that is as poorly used as is the existing fleet would be a waste of money. Improved utilization must be regarded as an important element of this bill and a necessary condition for any form of financial assistance.

National rolling stock information system.—The first step toward system-wide improved utilization is to bring about establishment of a nationwide computerized rolling stock information system. With an appropriate system that furnishes information about the physical characteristics of all cars in the general service fleet and timely reports of their location and status, progress should be made toward more effective movement of empty cars to the location of loads. Further, such a system should furnish information about car movement that is essential for improved coordination of the operations of the individual railroads. It should permit more accurate estimates of delivery time and quicker tracing of cars—and more importantly, shippers' loads—that have gone astray. In addition, such a system should provide historical information for analyses showing bottlenecks and other trouble spots in the rail system and quantification of the cost of such disruptions. These analyses would make possible more accurate evaluation of alternatives to improve the service of the rail system. Historical data should also be used for national rolling stock demand and supply forecasts which would identify regional and seasonal freight car needs and facilitate action to meet such demands. Finally, such a system should be a channel of communication between the railroads on a number of matters and, as such, facilitate coordination of their operations.

Of course, mere establishment of a car information system will not improve utilization. It is only a tool that must be used if it is to have the desired effect. It is expected that the rail industry, already considering such a system, will move toward its rapid establishment and operation with the technical and financial assistance and leadership by the Secretary of Transportation that is provided in the bill. It is further expected that a national rolling stock information system must be effectively used if there is to be sufficiently improved utilization to forestall establishment of the Railroad Equipment Corporation. Finally, if the industry does not establish such a system with the assistance provided in the bill, the Railroad Equipment Corporation is empowered to establish it (Sec. 406).

Section 301 does not envision an enormously complicated and expensive system. Computer and communications systems of varying capacity and function currently exist on a very substantial portion of the railroads. The immediate task is to link together these existing systems so that a national system is established. This can and should be done quickly and should result in immediate rail service improvement, for example, better tracing of lost cars and more efficient distribution of empty cars. Of course, although the initial national system may be simple and quickly accomplished, the national plan designated by the Secretary to provide this initial national system should be a foundation for a more sophisticated system and be capable of expansion over the course of time at the most technically and economically feasible rate. At this time, however, it is more important to bring an adequate initial national car information system into existence quickly than to take the time necessary to develop and construct a sophisticated system that fully exploits the highest technology available, as long as the national plan designated by the Secretary shall be capable of eventually fully exploiting the highest technology now available.

Each stage in the development of the system should be designed to insure that in the future the most sophisticated system practicable may be built upon the prior foundation established to meet the most immediate needs for better car utilization information.

Section 301(f) provides a total authorization of $10 million for the development of a national rolling stock information system. It is important that the efforts of the Secretary in this area result in the installation and use of a national information system by the railroads and not merely in the writing of another report that will never be implemented. However, it is expected the authorization will be rationed out as seed money, funds to be utilized where private funding is not available to insure the success of the system. Regulations issued by the Secretary to cause the implementation of the system should be designed to force maximum use of available private money. Since the railroads as well as the public would profit from the increased utilization of rolling stock, the industry has a public obligation to make the investment necessary to increase utilization. Since the bill would make additional funds available for this purpose through its loan guarantee provisions, direct Federal subsidization of a car information system should be largely unnecessary.

Section 301(a) authorizes the Secretary to designate a plan to establish a national rolling stock information system in close cooperation with shippers, railroads, information system experts, the Interstate Commerce Commission and other qualified individuals. Since the system must be used by the rail industry to be effective, Section 301 (a) contemplates use of and interconnection with existing and future information systems installed by individual railroads, as appropriate, and, therefore, authorizes the Secretary to contract with individual railroads and with formal or informal groups of railroads to establish such a national system. In addition to contracting with railroads, the Secretary, under existing law, has sufficient authority to enter into contracts with others for design and development work on the system.

The Secretary would be authorized to designate a plan for a national system and to cause its implementation rather than simply to make recommendations to the rail industry concerning its design and development. This authority was granted so that the Secretary would exercise leadership and bring together different viewpoints in this sometimes divided industry. It is expected that the Secretary will consult regularly with railroads, shippers, the Interstate Commerce Commission and other parties during the design and implementation of the system. Such consultation will be important, not only to develop a practical and useful design, but also to insure its acceptance and use.

Section 301(a) also sets forth certain types of information that a car information system must be capable of furnishing to insure the expeditious utilization of rolling stock such as physical characteristics of rolling stock, and its origin, destination, location, availability for future loadings. The Secretary may also require other types of information to be furnished such as loaded or empty status. The types of information specifically listed are important and should not be deleted from the system's capability. They are basic building blocks of information that can be assembled in different ways to provide a complete picture of rolling stock movement. Perhaps not all of such information may be completely used in the initial stages of the system, but it is vital to the system's future expansion that it have the capability to furnish such information. If such capability is not included in the original system, it will be more costly later to remodel the system to accommodate it.

General terms are used to indicate the type of information to be included in the system. The Secretary is left discretion to specify in greater detail the nature of that information. For example, "location" may initially only refer to a car's location within an appropriate region and on a particular railroad. It may later be refined to give more precise position. As another example, "anticipated future commitments" is a prediction of time and place of future availability of the car. The Secretary may establish criteria for such prediction based on the reliability of the railroads' scheduled delivery time as well as on estimates of shippers' release of empty cars.

Index, studies and use of existing law to improve utilization.—The provisions of Title III have two purposes: to increase scientific, reliable data on utilization, and the availability of such data, and to make sure that existing law is used to its fullest extent to improve utilization. To this end the Secretary of Transportation is directed to develop and publish an index measuring the degree of utilization of freight cars and to issue quarterly reports on changes in utilization. The Interstate Commerce Commission is directed also to publish reports on utilization and to consider the Secretary's latest report. These independent, but related, reports should provide Government and industry with the views of the Secretary, who is charged with development of a national rolling stock information system, and with the views of the Commission, the regulating body. In addition, the Secretary is directed to make a two-year study of utilization and to present recommendations for legislation. While the studies and reports required of the Secretary and the Commission under this Title are distinct from the findings set forth in section 401 that would forestall establishment of the Railroad Equipment Corporation, it is, of course, anticipated that the background and information developed as a result of Title III reports and studies will be useful with regard to such findings. Finally section 302 directs the Secretary to make use of existing law to improve utilization, for example, by initiating proceedings before the Interstate Commerce Commission. Furthermore, section 202(h)(4) requires companies that have received obligation insurance to agree to cooperate with the Secretary in programs to improve utilization pursuant to Title III.

Improved cooperation and coordination of operations.—As noted above, this bill is designed to give the industry necessary financial assistance (within limitations to protect the public's interests), technical assistance, latitude for innovation and reasonable time to solve the freight car problem. It is expected that there will be increased cooperation between members of the industry and that some of their differences will be put aside in order to achieve the common goal of better performance by the entire rail system. It is expected that the industry will move quickly toward establishment and effective use of a national car information system and that individual railroads will, as necessary, upgrade and improve their individual computer systems so that accurate information can be fed into the national system in a timely manner. It is expected that the industry will experiment with techniques such as car-pooling for improved management of their freight car fleet. It is expected that the industry will develop means of measuring and responding to the national demand for cars of various types. Finally, it is expected that the industry will search out and implement methods for improving the quality and reliability of rail service.

(3) RAILROAD EQUIPMENT CORPORATION

If the railroad industry fails to solve the freight car shortage problem within 2½ years and there has not been established a private, not for profit car pooling company, even with the financial-technical assistance provided by Titles II and III, incorporation of the Railroad Equipment Corporation is authorized by section 402 if the incorporation is approved by a concurrent resolution of Congress (Sec. 401). Whether or not there is a private car pooling company in existence, if, at the end of 7½ years, the rail industry fails to solve the freight car problem, the corporation would come into existence upon a concurrent resolution by Congress. The Corporation would have the power to acquire rolling stock (its obligations would be backed by Federal guarantees up to $1 billion) and to operate such rolling stock as a pool. It would be directed to employ innovative concepts for the equitable distribution and efficient and expeditious use of such rolling stock.

The Corporation would not control a large part of the Nation's freight cars. A $1 billion investment in rolling stock would result in acquisition of between 50,000 and 75,000 freight cars, only about 4% or 5% of the number of cars in the present railroad fleet. In essence, the Corporation would demonstrate the effectiveness of car-pooling and other ideas for improved freight car utilization. It would serve as a yardstick against which to measure the performance of the railroads' car utilization.

Being independent of the rail industry, the Corporation would bring a fresh point of view for efficient management and utilization of rolling stock. It would be removed from the separate proprietary interests that confine the actions of the individual railroads and often place them in contention with one another to the detriment of system users. Having the entire Nation as the scope of its operation, the corporation would see its tasks from the viewpoint of the entire rail system. It would be able to monitor the movement of its cars no matter what railroad they are located on. Not being limited by artificial railroad boundaries, it would be better able to match empty cars with loads. It could deal more effectively than the industry with the accumulation of its empty cars in the East by ordering their return directly to location of loads in other regions of the country. It need not be concerned with returning its cars to a "home road."

If the Corporation is established, it will be vested with the public interest and will therefore have a special obligation to meet the interests of shippers, including the small shipper, and consumers. Its board of directors will be appointed by the President and will be drawn from the full range of those affected by the freight car problem (shippers, railroads, consumers and labor) and will also have a computer systems expert (Sec. 402). In the event of conversion of the Corporation to private ownership and management, provision is made for continued public appointment of three directors to represent the public interest in the decisions and policies of the Corporation.

The Corporation is intended to be a seedbed for the development of new ideas and new techniques for the provision and distribution of rail equipment. The Corporation should make the use of rolling stock more flexible and responsive to the seasonal and economic needs of all shippers. It is expected that the Corporation will encourage innovation in the relative roles of railroads and shippers and may furnish cars directly to shippers at their request.

There may well be the initiative in the private sector needed to bring forward other innovative concepts to meet the problems for which this legislation is designed. Establishment of the Corporation is not intended to prevent or inhibit such private initiative.

Some may object to the Corporation as being one more body in the proliferation of government agencies. However, the Corporation can not come into being unless industry fails to remedy the long-standing freight car problem. This bill makes available to industry all of the assistance it can reasonably seek from the Government and time to put its house in order. If it does not, there will be no alternative to direct Government action to alleviate the problem.

The bill would also provide means for conversion of the Corporation from Government ownership and control to private ownership and control as soon as is practicable (Sec. 405). Thus, once the Corporation demonstrates the viability of its approach and its value to the Nation's rail system, it can be moved out of the Government and into the private sector by sale of its stock on the public market and repayment of the Government's investment. Experience with conversion of the Federal National Mortgage Association, Federal Land Banks, Production Credit Associations Banks for Cooperatives and others demonstrates the feasibility and value of this approach. If the Corporation is established, it is anticipated that it would be speedily converted to the private sector.

The rail industry, as is to be expected, opposes establishment of the Corporation because it would mean some loss of the industry's dominance of car service. However, creation of the Corporation means that the industry has not solved by itself a problem of vital concern for the public. The concerns of the industry should not be placed before the interests of the public.

Establishment of the Corporation should not be equated to nationalization of the railroads. The Corporation would not replace any railroad or assume the functions of a railroad. Its fleet would be very small in comparison to the size of the railroad fleet—4% to 5%. It would rely on the railroads for movement of its cars. The Corporation would be a car furnishing company, similar in many respects to existing independent car lines. To be sure, the Corporation would bring an increased measure of Government presence to the industry. But this degree of Government presence is much less than will be required in the long-run if action is not taken now to remedy the freight car problem and to bring about generally improved service by the industry. Further, means are provided to terminate Government control of the Corporation by selling its stock to the public and converting it to a private corporation.

The Railroad Equipment Corporation is the strongest inducement for industry action.— The provision of section 401 that the Corporation may come into existence upon findings that the freight car shortage problem has not been solved is vital to accomplishment of the objectives of the bill. Without this provision there will be no incentive for the rail industry to take necessary, and long-neglected, action to remedy the freight car problem. Past experience shows that the industry will not take such action voluntarily. The industry's failure is understandable, because of each railroad's proprietary vantage point. However, the industry must be given a powerful reason for taking action broader in scope than the direct business interest of the individual railroad.

The hope is that the industry will take the necessary action by itself in order to avoid imposition of a solution by the Government. If that possibility is not sufficient inducement, then there is no alternative and some form of direct Government action will be necessary.

In order to provide a strong incentive, it must be certain that the Corporation may be established unless the freight car problem is solved by industry. However, the Railroad Equipment Corporation would not be established until the railroad industry had a reasonable period of time to solve the freight car shortage problem. In recognition of the different circumstances that may then prevail, section 401, in addition to the prerequisite findings by the Interstate Commerce Commission and the Secretary of Transportation regarding the continuing shortage and underutilization of rolling stock, requires an affirmative concurrent resolution by the Congress then in session to authorize establishment of the Corporation.

Mr. MAGNUSON. Mr. President, I believe that the Commerce Committee has fashioned a very unique instrument for combatting a problem as old as railroading. I propose that the Congress put that instrument into action.

Mr. President, I am sure that the people of my home State will applaud this action, because it affects not only our wheat growers, but our lumber industry, and I might say for the Record, too, that the lumber industry is still the single largest shipper for ordinary freight cars there is in the United States.

Mr. HARTKE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MAGNUSON. Mr. President, the statement which I have just placed in the Record gives a long history of the bill and what I consider to be very sensible action on the part of the Commerce Committee.

Mr. HARTKE. Mr. President, the leadership of the chairman of the Commerce Committee has always produced legislation in the best interests of the Nation. I want to thank him for his kind words and to compliment him on his leadership in this and in so many other fields which have been of material benefit in the field of transportation.

Now, Mr. President, I submit a series of technical clarifying amendments to S. 1149 and ask unanimous consent that they be considered and agreed to en bloc. These amendments will help achieve the purposes of the bill and will clarify some confusion caused by the language remaining in the bill from earlier drafts which was unnoticed during the committee markup.

The PRESIDING OFFICER (Mr. Clark). Without objection, the amendments are considered and agreed to en bloc.

The amendments considered and agreed to en bloc are as follows:

S. 1149

On page 53, line 1: strike the number "50" and insert the number "80".

On page 53, line 4, strike the number "80" and insert the number "95".

On page 53, line 6, strike the words "the applicant" and insert the words "an applicant railroad".

On page 53, line 10, following the words "applicant" insert the word "railroad".

On page 76, lines 16–18, delete the words: "employee retirement, annuity, and unemployment systems, and other dealings with employees;" and insert the words: "and other dealings with employees, and the Railroad Retirement Unemployment Insurance Act with respect to employee retirement, annuity and unemployment systems;".

On page 102, lines 17–23, delete the following: "Health and safety standards promulgated by the Secretary of Labor Pursuant to section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) shall be applicable to all construction work performed under such contracts or agreements, except any construction work performed by a railroad employee."

Mr. HARTKE. Mr. President, I have no further comments to make.

Mr. PEARSON. Mr. President, I am ready to vote.

Mr. HARTKE. Mr. President, I yield back the remainder of my time.

Mr. PEARSON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute as amended.

The committee amendment in the nature of a substitute as amended was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I speak in support of S. 1149, the Rolling Stock Utilization and Financing Act of 1973. This legislation is needed, in my judgment, because of our country's expanding economy, because of the burden that is being placed upon its energy reserves, because of environmental concerns, and, most importantly, because of the importance of strengthening and reemphasizing the vital role which the Nation's railroads play in meeting our Nation's overall transportation and security needs.

The objective of this bill is to assist the railroad industry in providing the number of general service freight cars needed to adequately serve the U.S. economy, to improve the utilization of those cars, to upgrade coordination of railroad operations, and to provide a means for meeting the demands of the future.

The bill provides for the creation of a guarantee fund to insure obligations incurred for the acquisition of rolling stock, equipment, and facilities. It provides for Federal efforts to improve the utilization of rolling stock through technical and financial assistance for the development of a computerized car information system and a national car information center; through establishment of an index measuring freight car utilization; through a Department of Transportation study of ways to improve utilization; and through action by the Department under existing law to improve utilization.

The bill also provides, in the event the private sector does not act affirmatively and adequately to obtain the number of freight cars needed and to improve utilization of the freight car fleet, that direct Government action may be taken by concurrent resolution of Congress to establish a railroad equipment corporation that would acquire and manage a pool of rolling stock and develop a national rolling stock information system.

The main thrust of this bill, Mr. President, is to encourage the railroad industry itself to act to solve its problem. Its major purpose is to supply incentive to the segmented railroad systems of our country to work together in a more effective way to give shippers the cars they need when they need them and to deliver and return those cars to other points of need with better dispatch.

The freight car shortage has been a perennial problem. It has plagued industrial, agricultural, coal mining, and other bulk product shippers for more years than anyone can remember. Written accounts of the early development of coal mining in my State of West Virginia list car shortages as one of the earliest headaches with which the coal industry had to deal. It is a headache that has continued to this day. Over the years it has not been uncommon to find that mines could not work because there were no cars in which to ship the coal. In recent months, I am informed, the car situation has continued to be spotty or bad in a number of coal mining localities.

In may 1971, Mr. Carl E. Bagge, president of the National Coal Association, in testimony before the Senate Special Subcommittee on Freight Car Shortages, said that—

> There was then an immediate need for appropriate legislation to provide rail haulage equipment to move coal from the mines to consumers. . . . We cannot overemphasize this need for additional equipment. The present fleet is wholly inadequate to move current coal production, and we therefore strongly support legislation which will help overcome the deficiency in car supply.

Mr. Bagge then cited a resolution adoped by the National Coal Association's board of directors, which contained these words:

> The Administration, and the Congress, should do whatever is necessary to restore the ability of the railroads of this country to transport to the consumers the coal which is essential to provide the great quantities of electric power which are and will be required to maintain a dynamic and independent economy.

All of our economy, of course, and not the coal industry alone, is affected by the shortage of railroad cars, which is actually growing worse as time goes on. In 1971, the Department of Transportation forecast a one-third increase in rail freight transportation between 1971 and 1980, and said that the installation of 617,000 cars of 80-ton capacity would be needed to meet the demand.

It should be noted that class I railroad ownership of cars declined overall from 1,702,016 cars in 1961 to 1,464,613 cars in 1971. This occurred while traffic was increasing by something like 35 percent. The decline in the number of cars is most noticeable in general service cars, such as hoppers, gondolas, and boxcars. The total number of serviceable open-top hopper cars owned by all class I railroads declined from 411,857 units on January 1, 1963, to 373,509 on January 1, 1971.

In 1972, U.S. railroads hauled more than 780 billion ton-miles of revenue traffic, the greatest in history, and many persons apparently were lulled by the fact that car shortages were relatively moderate. But for the first 6 months of this year the car shortages have been the worst in history—for example, an average daily shortage of 33,165 cars in the week ending May 12, 1973, according to the committee report on this bill—attributable to the fact that traffic volume this year is 19 percent above the record year of 1972.

There are many more statistics that could be cited, but these, I believe, will serve to underscore the fact that there is a real and pressing need for more cars.

But as important as is the matter of providing additional rolling stock, equally important is the matter of bringing about better utilization of rolling stock. It may come as a shock to many persons, but the average railroad car moves with a load only 7 percent of the time and only 32 miles a day. The rest of the time the average car is moving empty, is standing in a railroad yard, is on a spur to be loaded or unloaded, or is out of service for repairs. The utilization figures for American railroads are woefully bad.

Modern technology can help to remedy that situation. The more progressive roads have installed their own computerized systems to keep track of their cars. But what is needed is an industry-wide, nationwide computer system linking all railroads. Most railroad cars move from one railroad to another and even across the continent. Their owner may not know where they are. One road may use another road's cars for months without returning them, even though the owning railroad may have need of its cars.

There are Interstate Commerce Commission rules which are supposed to regulate this situation, but either they do not work as they should or they are not enforced. What should be set up is a central agency to keep up with, and direct the use of, the Nation's entire fleet of railroad cars. It makes little sense for cars which may be needed by one railroad in West Virginia to be left standing idle on another railroad's sidetrack in Ohio or Pennsylvania. Yet, that is what happens because of the industry's segmentation, fragmentation, and tradition of competition rather than cooperation.

It is to be hoped that, if this bill passes—and it should pass—its incentives will be great enough to induce railroads to work more closely with one another, and to seek the swift establishment of an effective computerized national car-pooling system which will substantially increase railroad car utilization.

The Committee on Commerce, which has reported this bill, emphasizes that if the railroads themselves do not act positively to improve the car situation, then—and only then—would the Government move, through congressional action, to set up the railroad equipment corporation which this measure provides. And even if that were to become necessary, the eventual aim would be to convert the corporation to private ownership and operation as quickly as possible. The whole objective of this bill is to provide the incentive and the means for the railroads to cure the car shortage themselves and thereby improve their service to the public, their own operations, and bolster their proprietary interest and profits at the same time.

Railroads can move more freight longer distances at less cost than can any other transportation system except water—thereby helping to conserve energy at a time of energy crisis. They can move freight with relatively little pollution—thus serving our national environmental objectives. They offer the only practical way to move in bulk the coal upon which our Nation must surely increasingly depend in the future. And in America's dynamic and expanding economy, our Nation's rail network is the one transportation system—a system already fully in being—that continues to be underutilized.

S. 1149 can help to remedy that underutilization. It can help in our energy crisis and in the efforts to preserve our environment. The overall impact of this bill, in my judgment, can be beneficial to the U.S. economy as a whole.

Mr. CLARK. Mr. President, every day, more and more people in this country seem to be talking about agriculture. They are talking about it and learning about it. That new awareness is welcome, even though it has some unpleasant beginnings—like phase III and IV, the Soviet wheat deal, the balance of payments, higher food prices, and real food shortages. Neither the consumer nor the international economist can take agriculture for granted. They cannot afford to, and as a result, they are beginning to ask questions about agriculture and food, how it gets from the field to the table now, and how it ought to get there.

The bill before the Senate today, S. 1149, the Rolling Stock Utilization and Financing Act of 1973, holds part of the answer. The legislation recognizes the critical shortage of railroad freight cars in this country, and it outlines a plan to do something about it. The premise is not difficult to understand. Transportation and agriculture are inseparable. All the corn and wheat and feed grain in the world will be worth very little if it cannot be moved from the field to the market. Higher prices and serious shortages will be assured if there are not enough railroad cars to move food to the dining room table. And, all the potential that agriculture holds to improve this country's international economic position will be wasted if agricultural products are stranded in the Midwest.

Right now, the shortage of railroad freight cars is one of the most difficult and serious problems in Iowa. But tragically, it is really nothing new. Farmers, shippers, processors, and warehousemen have been living with it for years. As the distinguished chairman of the Senate Commerce Committee, Warren Magnuson, has recalled, the boxcar shortage was the topic of the committee's agenda when he first joined it, and that was 28 years ago.

Under normal circumstances, the railroad system was usually able to just get by, but circumstances have not been very normal over the last few years. The Soviet wheat deal brought with it the need to transport a 2-year supply of grain in less than a year. As the demand for feed grains increased, so did the demand for railroad cars to transport it. But the supply of feed grain has long since surpassed the supply of railroad cars, and as higher grocery prices are demonstrating, one is not much good without the other.

Earlier this year, the Senate passed Senate Resolution No. 59 in an effort to relieve the transportation knot. The resolution urged a moratorium on the disposal of Government-held wheat and corn, a policy that was only compounding the boxcar shortage. Unfortunately, the Department of Agriculture chose to disregard it.

While the farmers of Iowa and the Nation have steadily increased their productivity, the railroads have not. Since World War II, the production of railroad box cars has decreased. There were more than half a million cars in operation in 1960, but now there are less than half that many.

This legislation is an attempt to turn that situation around. It provides for an obligation guarantee fund for rolling stock that should generate more freight cars to handle the Nation's farm production. Another provision of S. 1149 would improve the effectiveness of the rolling stock now in operation. Right now, the "system" of rail transportation is more a patchwork than a coordinated network. This legislation would help the railroad industry step into the computer age, and the impact would be felt from the farm to the grocery store to the seaport.

The need for this kind of legislation is undisputed. In Houston not long ago, 719 freight cars were unloaded onto waiting ships in 1 day. That same day, more than 2,400 freight cars were waiting in line to be unloaded. Dr. Phillip Baumel and Robert Wisner of Iowa State University have reported a similar challenge in Iowa—this summer, grain elevator operators will be trying to move grain to market, but as things stand now, total transport network will not be able to handle about 50 million bushels of Iowa's product.

Everyone has predicted that the full harvest will be bountiful, and that is encouraging news. But a record harvest rapidly loses its value if it cannot be shipped to the marketplace. With that in mind, this legislation makes commonsense. It deserves the support and the approval of the Congress.

THE FREIGHT CAR SHORTAGE

Mr. PACKWOOD. Mr. President, I rise today to support S. 1149.

The whole problem of the continuing and growing shortage of freight cars, and specifically of general-purpose boxcars, has been one of the most extensively examined of any in my memory. It has ramifications not only throughout the Nation's transportation system but also throughout the entire economy.

In point of fact, a severe car shortage in the years 1903, 1904, 1905, and 1906 led to the creation of the Oregon Railroad Commission. I really find it hard to believe that here we are, 70 years later, discussing the same problem. And we haven't yet been able to solve it, although we certainly have tried to talk or study it to death.

I admit that I am not entirely convinced that the present bill, S. 1149, will solve it either. But my frustration level has reached a point at which I am prepared to support any reasonable measure that will produce some forward motion.

I am not enamored of creating yet another quasi-governmental agency. I hate to believe that we can't solve this problem without interposing the Government between the shippers and the railroads. But the fact remains that we have listened to promises for 70 years, and I don't believe that we can afford any more vague promises of relief being just around the corner.

In the course of investigating this problem, I have talked with and heard from both shippers and railroad personnel who are affected by it in Oregon. I also understand and appreciate the problems being faced by the grain shippers and granger lines of the Middle West. The difficulties and dislocations they have suffered, largely as a result of the huge grain shipments to the Soviet Union, are monumental. And the very problems that they have faced have had severe side effects in my State.

Mr. President, I would like at this time to ask unanimous consent that an editorial from the Roseburg News-Review be printed at this point in the Record as it reflects some valuable thinking on the problems that this car shortage is causing shippers in that area.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Charley Comments: Solution Proposed to Lumber Crisis

(By Charles V. Stanton)

I'd like to believe that the sage (?) advice offered in this column from time to time would echo in the halls of the Congress. I would like, too, to think that heads of our federal administration would read my "Comments." Surely the country's problems could be solved immediately! But I have no such belief.

Currently our national administration is expressing concern because of high lumber prices. The Congress is debating log shipments to Japan. Increased lumber production is authorized as one way in which to bring down the cost of building homes.

Why all this debate? Why all this jawboning about the cost of housing?

If the federal government wants to know how to get more lumber on the market; how to promote lower prices through retail competititon, the answer is obvious, I believe.

The aims and desires of the "Hill" could be solved in 48 hours.

How?

Just get us some freight cars!

LUMBER STOCKPILED

Increasing lumber manufacture, in my opinion, isn't the answer. Here in the Pacific Northwest we have great surplus stores of lumber and plywood. Probably we could supply, from our stockpiles, by far enough material to give the building industry, all the lumber and plywood it needs.

Our mills are facing curtailment of production simply because they've run out of room in which to store their output until they can get railroad cars.

If Washington is so "riled up" about lumber shortages, let our august solons devise a way to transport our great surplus to market.

Instead of adding to the glut, why not give a little thought and energy to shipping lumber instead—or in concert with—agricultural products to which cars now are being assigned?

What good is increasing production when the finished product can't be delivered to market?

PROBLEM IS MUDDLED

It seems to me Washington's knowledge of the timber industry, at least here in the Pacific Northwest, is lacking in many respects.

Too, it is difficult to understand some of the proposals and actual decisions emanating from the National Capital.

Lumber, according to the President, is a vital commodity in national economy. The Administration orders an 18 per cent increase in the allowable cut. That will mean more board feet of timber will be made available from federally managed forests to the sawmills of the Northwest.

Bringing the volume from the National Forests and the timber lands managed by the BLM up to the allowable cut permitted under the sustained yield program ordered by the Congress is fine. Right now, however, we're cutting all the timber available with the existing road system.

If we're to cut more timber, and still keep within the amount we're supposed to take out, we'll need a vast increase in mileage of access roads.

But the administration's "economy" policy prohibits any extensive road building program on federal lands.

PLANTING ESSENTIAL

While ordering the Forest Service and BLM to make more stumpage available, the administration has knocked more than $100 million off the budget the Forest Service says it must have just to carry on the existing burden. How then is the Forest Service to meet the expense of adding sufficient numbers of employes to ready timber sales for contract, prepare environmental reports, do all the essential paper work, etc.

Nor is money to be available to replant acreage to be denuded by cutting more timber than previously contemplated.

It requires from 50 to 150 years to grow a Douglas fir tree from seedling to merchantable size. The time varies according to location.

If we're to cut our timber on a sustained yield program, it is vitally necessary that we replant logged off lands as quickly as possible.

So we have the present policy of increasing the cut, yet denying money for roads to get at uncut timber, reducing the budget below the point where manpower needed for an extended program is lacking, failing to provide for reforestation.

And all that when the solution is simply getting some way for transportation of the stored surplus!

Some wisdom!

Mr. PACKWOOD. Mr. President, I believe firmly that the railroads that serve Oregon are trying hard to do a good job. Southern Pacific, for instance, which is the principal line serving Oregon, has spent approximately $300 million for capital expenditures in the last year. This figure represents nearly 25 percent of the total spent by the entire industry—and Southern Pacific, although one of the most profitably run railroads of our Nation, is far and away from being the largest. Southern Pacific has also been a leader in buying new and rebuilt cars—last year its effort was about 25 percent of the total of the railroad industry.

The problems facing Oregon shippers today—and yesterday, and tomorrow—do not stem from the inability of the rail lines serving Oregon to provide sufficient equipment for our shippers. They stem in part from the simple fact that boxcars built for Oregon and other northwestern shippers are sitting on somebody else's tracks. A great deal of noise has been made about the fact that it is far cheaper to pay the very low per diem rates charged for using another line's cars than it is to build your own cars. A number of people have tried to get these per diem rates raised to a reasonable level. They have hit nothing but a stone wall. Between the ICC and some of the eastern lines I do not hold out much hope that we can alleviate our difficulties this way.

As many have pointed out, we are dealing with a two-pronged problem. The first is the physical shortage of general purpose boxcars. We have but to look at the declining numbers of general purpose boxcars available today compared to a few years ago. For example, in 1956 there were 720,000 cars in the national fleet. Today there are about 550,000. The projection for 1979 is even worse—only 460,000 cars. Many try to claim that because of increased capacity and utilization factors this decline is more apparent than real. I hope they don't try selling that story to the lumber and plywood shippers in Portland and Roseburg and Eugene—because those men are not going to buy it.

We may have enough boxcars in the national fleet to handle normal requirements—whatever that may be—but it is obvious that we cannot cope with a crisis. Normal levels simply will not bend to accommodate the movement of large grain harvests or the increased lumber demanded by a booming housing market, let alone the kind of crunch created by massive grain shipments abroad. And let us not kid ourselves that the grain exports to the Soviet Union are a one-shot deal. More grain is bound to be shipped abroad in coming years, and we must have a transportation system that can cope with periodically increased loads.

It would not solve our difficulties just to deal with the first half of this problem by building more boxcars, however. We must simultaneously improve the utilization of the existing boxcar fleet. I think that some of the railroads have made real strides in this direction, particularly in the use of computers to provide up-to-the-minute information on the status of cars and loads. A great deal more needs to be done, however, and I believe that S. 1149 has addressed itself to this problem. I strongly urge that particular attention continue to be focused on this aspect of the current crisis.

My State ships four or five loaded boxcars eastward for every one that it receives with a load. This is not news, it has been this way for years, and it is a major cause of our troubles. But I suggest to you that Oregon lumber and wood products are vital to the homebuilding and construction industries of this Nation. They are a keystone of our economy and in consequence there must be a solution to provide Oregon shippers with a means to get their lumber to market.

There are many reasons that the prices of lumber and other wood products are so high. My legislation, S. 1033, to control the export of timber from the United States, is one critically important approach to solving this problem.

I suggest to you, however, that improving rail service to and from Oregon and other western lumber-producing States is another. I was told only a few weeks ago about a shipper in Roseburg, Oreg., who had 80 carloads of lumber ready to be shipped. He received exactly one boxcar. One boxcar, Mr. President. It is painfully apparent that it does not do eastern and middlewestern homebuilders, construction companies, or do-it-yourself consumers any good to have 80 carloads of lumber sitting in Roseburg, Oreg. waiting for a train that is not going to arrive.

It is costing the shippers, and the railroads, and you and me—any time we want to build just a few shelves in the garage—a lot of money. We must improve the utilization of the cars currently in the boxcar fleet. We must increase the number of general purpose wide-door boxcars available to carry the vitally needed supplies from the producers of the raw materials to the manufacturers and consumers of those materials. Because, if we do not, I can tell you right now that we are going to price our eastern and middlewestern markets right out of sight. If you do not believe me, go down to one of your local lumber suppliers. You will be very lucky if he has any lumber that fits your needs. If he does you will be even luckier if you can afford enough of it to build whatever it was you had in mind.

In consequence, I find myself supporting a bill that has some features about which I am less than enthusiastic. But I have listened to my constituents in Oregon who have lumber to ship—and no way to ship it. I have listened to the consumers in this area who need lumber, but find it priced out of sight and limited in selection. I have listened to representatives of the railroads who are trying their best to cope with a crisis that is beyond the capabilities of their system. Many of those in the railroad business have strong objections to some features of this bill, and I believe that some of their points are well taken. I dislike creating a rolling stock authority and interposing it into an already over-regulated industry. But I am sick to death of hearing about this supposedly insoluble problem. I sympathize with that shipper in Roseburg with his 80 carloads of lumber and one boxcar—and I sympathize with the consumer in Fairfax, Va., too.

So I say, Mr. President, that it is now the responsibility of this Congress to take some action that will get the job done. The railroads have promised improvement for years, and some have made good on those promises, but most have not. National data can be cited that shows improvement in utilization and modernization—but looked at more closely it shows that the western railroads are the principal providers.

Mr. President, I can look right out the window of my office to Union Station and I can see where the boxcars built by the western lines are sitting—they are right there under our noses. This is a national problem and is not one that can be solved on a piecemeal basis. None of us wants to see this crisis reach a point at which no solution is possible without all-out Federal intervention.

I believe that the Congress has waited and waited and waited, hoping that this problem would go away. Well, it has not. And it will not. Today it is facing us squarely in the eye and each time we blink it gets worse. We are faced with a difficult problem with unpalatable solutions. I urge you to join with me in supporting this bill, S. 1149. It may not be all things for all the interests involved, but it appears to be the best hope we have to force a solution to this truly critical national problem.

It is my greatest hope that the railroads, the shippers, the consumers, and the Government can sit down together and speak with one voice to propose some other solution. One that will not create another Government agency. One that will keep the Federal Government out of the railroad business. One that will provide the adequate service that every citizen has a right to expect from a nationwide transportation system. But unless we enact this legislation, which has real teeth in it, we run the risk of spending yet another 5 or 10 or even more years talking about the problem. I fear that if we do not act, if we waste any more precious time, our choices will have banished completely.

Mr. President, I would like to ask unanimous consent that at the close of my remarks a useful summary prepared by the American Plywood Association as a special report entitled "Where Have All the Railcars Gone?" be included in the Record.

In closing, I again urge my colleagues to think about this problem and its effects on our Nation. It certainly is not new and it is not very exciting—but it is basic. We must take this step to force progress toward the efficient and profitable use of one of our most valuable national assets, our railroads.

There being no objection, the article was ordered to be printed in the Record, as follows:

Where Have All the Railcars Gone?

The current boxcar shortage is now reaching the intensity of the 1966 crisis—the worst in history. At latest report, the softwood plywood industry in the West is 1,200 cars a week short out of a total of 2,424 cars required.

The problem is particulary acute in the West, but is also being felt throughout the South. Some mills are as much as 75 percent short of their car requirements. One company could not obtain any cars this week. This state of affairs is aggravating a wood products price-supply spiral that was already in effect well before the impact of the current car shortage.

The Interstate Commerce Commission has been notified that the continuing shortage in the Pacific Northwest of wide-door boxcars and flats is seriously affecting the ability of the forest products industry to meet the high demand for wood products, and could result in mill closures if the car supply situation is not alleviated quickly.

THE CAUSE

The cause is plain: not enough railcars to go around in a booming economy. The large volume of Russian grain now moving is the most immediate reason for the shortage, but the roots of the problem go much deeper. The nation faces a persistent, year-in year-out boxcar crisis, underlined by an accelerating decline in car ownership—from 720,000 cars in 1956 to 550,000 today. The alarming projection for 1979 is only 460,000 cars.

It's true that the rail carriers have increased the carrying capacity of their equipment, and that fewer cars have been needed to haul more tonnage. If production were stable year after year, these factors might indicate an adequate car supply outlook. However, the nation's total production based on GNP continues to increase. Even while the railroads are spending about 10½ cents out of every freight revenue dollar on equipment, boxcar availability will continue to decline.

REMEDIAL EFFORTS IN VAIN

Through the efforts of the Association of American Railroads and of most individual lines, continued attempts are being made to alleviate the growing car supply problem.

Increased locomotive horsepower has contributed greater mobility and speed; a greater degree of cooperation between shippers, railroads and governmental authorities has been attained; many roads have accelerated movement of empty cars in expedited train service with the same priority as loaded cars; the Interstate Commerce Commission has issued three service orders designed to keep cars moving; and many other steps have been taken, or are contemplated, including a Senate resolution calling on the President to form a committee for "study of the problem."

But in spite of the best efforts of the A.A.R. and others, the reality of inadequate car supply is with us, and worse may be in store.

Recent Senate hearings focused on a bottleneck of 1,700 railcars and nine ships waiting at one grain port alone.

The Interstate Commerce Commission has the authority to do many things, but in the final analysis they hold more hearings and issue service orders addressed to small portions of the problem. The railroads are faced with more business than they are able to handle—more than they ever thought possible. With seven Eastern roads in a sensitive financial position, the railroad industry is in no shape to even come close to a solution.

DO WE RELY TOO MUCH ON RAIL SHIPMENT?

Once again the softwood plywood industry faces the question: Is there too much dependence on the railroads?

"Clearly, the answer is yes," said APA Transportation Manager Clifford R. Ellenwood. "We may be at the point of realizing that we've too long been accustomed to cheap transportation. A much broader utilization of motor carrier and water transportation is going to be mandatory through this decade, with the inevitability of extra loading costs for vans and generally much higher transportation costs."

Now is the time for an industry movement to have the Jones Act repealed to allow intercoastal water transportation, Ellenwood suggested. "We can make an all-out appeal to Sea-Land to reinstate their intercoastal container service. But most of all we have to recognize that when we've been using the cheapest form of transportation, and part of that transportation has been removed from our use, we can't expect to move the same volume at the same cost."

HOW SEVERE IS THE CURRENT SHORTAGE?

Analysts of the transportation industry agree that the current supply crisis will extend through the summer to perhaps as late as September. The plywood industry can take several positive measures in the short term to help minimize the effects:

1. order only the cars that are actually needed;
2. load cars as quickly as possible;
3. encourage customers to unload as quickly as possible.
4. route shipments over the most direct route.

"Mills can also help by keeping the Association fully informed about their car shortages on a week-to-week basis," said Ellenwood.

APA is also supporting a move to introduce emergency legislation directing the I.C.C. to allow trucking firms to carry plywood through the immediate issuance of temporary permits.

The Plywood Association and others have sent wires to I.C.C. requesting exclusion orders directing the immediate return to wood products producing areas of wide-door and flatcars, empty or unloaded, from all other railroads in the country.

Plywood manufacturers are urged to wire the Interstate Commerce Commission, Washington, D.C., 20423, informing the Commission of their individual needs and concerns.

EFFORTS TO SECURE LONG-TERM RELIEF

While all of these short-term measures are being applied, efforts to obtain long-term relief are continuing.

Later this month, Senator Warren G. Magnuson (D-Wash.) will introduce a bill to help reduce the boxcar shortage through creation of a Government Guarantee Loan Fund for rolling stock purchases, and other measures.

The plywood industry is also calling for repeal of the Jones Act which now prohibits the use of foreign flag vessels at cheaper rates for shipments to the East Coast. Industry committees have taken this position at recent meetings, and are communicating their views on the subject to Congressional leaders.

Through its transportation specialists, the plywood industry will encourage the construction of motor carrier vans and trucks wide enough for flat loading of plywood panels. An 8'7" wide trailer would be ideal for the industry's purposes.

PAPER INDUSTRY STATEMENT

During the past week, APA staff has met with a transportation specialist on the staff of Senator Robert Packwood (R-Ore.), and attended a joint meeting of the Forest Industries Council Transportation Committee and the American Paper Institute Transportation Committee in Washington, D.C., and a meeting of the Western Wood Products Association Traffic Committee in San Francisco. A policy statement for API covering the northeastern railroad problem is now being referred to the solid wood products industry for consideration and support.

The API policy statement calls for a plan to restructure the Eastern railroads into two or more economical, viable and competitive systems, including consolidations of facilities and elimination of uneconomic trackage. It also seeks actions and legislation to provide alternatives to strikes for the resolution of labor disputes during bankruptcy proceedings.

FUTURE PROSPECTS

To sum up, every approach is being tried that can in any way cut through the rail boxcar tangle. Some of the short-term remedial actions now under way should provide at least a measure of relief in the months ahead. On a more long-range basis, the best hope for a solution may be the energetic pursuit of alternative methods of transportation.

Mr. HUMPHREY. Mr. President, this Nation's rural transportation system currently is dangerously inadequate and it is deteriorating.

Farmers, grainhandlers, forest products manufacturers, and other rural businessmen continue to be hurt seriously by a terribly inefficient system for moving their goods to market. While rural citizens bear the immediate costs of rail abandonments, boxcar shortages, and poor farm-to-market roads, the urban consumer suffers the consequences of these deficiencies in the higher prices he or she must pay for the food, fiber, and forest products of rural America. Unless something is done about this problem soon, rural transportation can be expected to get even worse as urban demand for the products of our farms and forests expands.

For this reason, I offered an amendment to the agriculture appropriations bill, when it came before us last month, calling for an intensive study of our rural transportation system and requiring that specific recommendations for improvement be made to Congress. This amendment was approved unanimously by the Senate. I urge the Senate conferees on this bill to do all they can to see that the order for this important study is included in the final bill.

The bill before us today represents a major step in dealing with one of the most serious of our rural transportation problems—the box car and hopper car shortage. I wholeheartedly endorse this legislation and urge all of my colleagues to give it their support.

This Nation continues to suffer from a

serious shortage of box cars and hopper cars. There simply are more things to be carried to market by rail than there are cars available to move them. Even without the massive shipments of grain to the Soviet Union last year, the problem would have been very serious because of expanded world demand for American agricultural commodities and growing domestic requirements for forest products.

Every day I hear from farmers in Minnesota who cannot move their products to market because of railroad car shortages. Grain elevator operators find themselves in a very difficult position with full storage capacity and no freight cars available to ship goods to market. The forest products industry also is in a desperate position because of inadequate freight car availability.

The urgency of the "box car" shortage was highlighted at the National Governors Conference. The Governors singled out this "box car" shortage for special attention at their annual meeting in June. In their report the Governors stated:

> There continues to be a serious crisis in this Nation with respect to the movement of our grain supply. We have historically faced the annual problem of providing sufficient boxcars for the transport of this commodity. The effect of this problem is felt by every farmer, grain elevator operator, and consumer in the Nation.

I completely agree with the Governors. This problem does affect all consumers. Unless our farmers can get their products to market in a timely and orderly manner, the food supply/demand relationship will result in inflationary increases in food prices.

Last Thursday, Secretary Butz announced that there would be no Government set-aside of land in 1974 for feed grains, soybeans, wheat, and cotton, thus freeing up 19 million additional acres for production. Given the trouble farmers are having moving grain, expanding acreage is only a partial solution. If we do not have enough boxcars to move our current grain production, how will we be able to handle the expanded harvest we hope for in the years to come?

Mr. President, title II of the bill before us establishes an Obligation Guarantee Board composed of six members and a chairman appointed by the President with the advice and consent of the Senate. I would hope that at least one of the seven members of the board will be chosen from among those nominated by shippers of agricultural commodities, including forest products, or by organizations of these shippers. It seems only fair that our agriculture and forestry interests, who have been hurt most and longest by the shortage of boxcars, be assured of a voice on the Obligation Guarantee Board.

Mr. President, we must pass the "Rolling Stock Utilization and Financing Act of 1973" today. We must then do all we can to assure that its provisions are carried out as rapidly as possible.

I compliment my good friend Senator Magnuson and his colleagues on the Committee on Commerce for developing and reporting this important legislation.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Nevada (Mr. Cannon), the Senator from Alaska (Mr. Gravel), the Senator from Minnesota (Mr. Humphrey), the Senator from South Dakota (Mr. McGovern), and the Senator from Maine (Mr. Muskie) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. Abourezk) is absent on official business.

I also announce that the Senator from Mississippi (Mr. Stevens) is absent because of illness.

I further announce that, if present and voting, the Senator from South Dakota (Mr. Abourezk), the Senator from Minnesota (Mr. Humphrey), and the Senator from South Dakota (Mr. McGovern) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. Cotton) is absent because of illness.

The Senator from Colorado (Mr. Dominick) and the Senator from Ohio (Mr. Taft) are necessarily absent.

The Senator from Nebraska (Mr. Hruska) and the Senator from New York (Mr. Javits) are absent on official business.

The Senator from New Mexico (Mr. Dominici) is detained on official business, and, if present and voting, would vote "yea."

The result was announced—yeas 80, nays 6, as follows:

[No. 315 Leg.]

YEAS—80

Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bennett
Bible
Biden
Brock
Brooke
Burdick
Byrd, Robert C.
Case
Chiles
Church
Clark
Cook
Cranston
Curtis
Dole
Eagleton
Eastland
Ervin
Fannin
Fong
Fulbright
Griffin
Gurney
Hansen
Hart
Hartke
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Hughes
Inouye
Jackson
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McIntyre
Metcalf
Mondale
Montoya
Moss
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott, Pa.
Sparkman
Stafford
Stevens
Stevenson
Symington
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—6

Buckley
Byrd, Harry F., Jr.
Goldwater
Helms
McClure
Scott, Va.

NOT VOTING—14

Abourezk
Bentsen
Cannon
Cotton
Domenici
Dominick
Gravel
Hruska
Humphrey
Javits
McGovern
Muskie
Stennis
Taft

So the bill (S. 1149) was passed, as follows:

S. 1149

An act to promote commerce and to meet the need of consumers of goods and products by increasing availability of railroad rolling stock and equipment through improved utilization techniques and financial guarantees for new acquisitions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—FORMAL PROVISIONS

SHORT TITLE AND TABLE OF CONTENTS

Sec. 101. (a) This Act may be cited as the "Rolling Stock Utilization and Financing Act of 1973".

(b) Table of contents.

TITLE I—FORMAL PROVISIONS

Sec. 101. Short title and table of contents.
Sec. 102. Findings and purposes.
Sec. 103. Definitions.

TITLE II—RAILROAD EQUIPMENT FINANCING

Sec. 201. Establishment of Board and Fund.
Sec. 202. Authorization to guarantee equipment obligations.
Sec. 203. Issuance of notes or obligations.
Sec. 204. Audit of transactions.
Sec. 205. Default.

TITLE III—INCREASED ROLLING STOCK UTILIZATION

Sec. 301. National rolling stock information system.
Sec. 302. Utilization measurement and oversight.

TITLE IV—RAILROAD EQUIPMENT CORPORATION

Sec. 401. Prerequisites to establishment.
Sec. 402. Railroad Equipment Corporation.
Sec. 403. General powers of Corporation.
Sec. 404. Financing.
Sec. 405. Conversion to nongovernmental Corporation.
Sec. 406. National rolling stock information system.
Sec. 407. Use of equipment supplied by the Corporation.
Sec. 408. Commission review.
Sec. 409. Enforcement.
Sec. 410. Annual report.

TITLE V—GENERAL PROVISIONS

Sec. 501. Protective arrangements for employees.
Sec. 502. Separability.

FINDINGS AND PURPOSES

Sec. 502. Separability.
and declares that—

(1) There is at present a shortage of general service railroad freight cars available to producers of goods and manufacturers of products.

(2) This shortage results both from an inadequate number of such cars and from their underutilization.

(3) This shortage of available general service railroad freight cars has caused—

(A) losses to producers of goods and manufacturers of products which have resulted in higher prices to consumers of goods and products;

(B) losses to railroads of revenue, thereby threatening their financial condition.

(b) Purposes.—The Congress hereby declares that the purposes of this Act are—

(1) to improve the utilization and distribution of rolling stock to meet the needs of commerce, users, shippers, the national defense, and the consuming public;

(2) to assist railroads in acquiring addi-

tional rolling stock and equipment or facilities to provide expeditious service to meet the increasing demands of the Nation's economy; and

(3) to assist in achieving full employment by assuring adequate equipment necessary to transport the products of American industry.

DEFINITIONS

SEC. 103. As used in this Act—

(1) "Board" means the Obligation Guarantee Board established under title II of this Act.

(2) "Car-pooling company" means a company that furnishes rolling stock to three or more railroads on a shared ownership or cooperative or condominium-type basis.

(3) "Commission" means the Interstate Commerce Commission.

(4) "Corporation" means the Railroad Equipment Corporation authorized under title IV of this Act.

(5) "Directors" means the Board of Directors of the Corporation.

(6) "Equipment or facilities" includes data processing and other computer technology; machines and systems for loading and unloading rolling stock; yards and terminals for originating, modifying, or terminating the movement of rolling stock; and other equipment or facilities, including ferries and related shoreside facilities designed primarily for the transportation of rolling stock by water, necessary to improve the utilization of rolling stock.

(7) "Equipment obligation" means a bond, note, conditional sale agreement, equipment trust certificate, lease obligation, security agreement, or other obligation issued or granted to finance or refinance rolling stock or equipment or facilities.

(8) "Fund" means the Obligation Guarantee Fund.

(9) "Holder" means, unless otherwise provided, the holder of an equipment obligation. If a bank or trust company is acting as agent or trustee for the holder of the equipment obligation, such bank or trust company shall be regarded as the holder.

(10) "Includes" should be read as if the phrase "but is not limited to" were also set forth.

(11) "Lease" means a contractual arrangement under which the legal owner of rolling stock or equipment or facilities furnishes such rolling stock or equipment or facilities to a railroad or a car pooling company and such railroad or car pooling company receives the benefits, through reduced rentals, of any tax benefits available.

(12) "Lease obligation" means all of the lessee's payment obligations under a lease including rentals, termination payments, and tax indemnification payments.

(13) "Obligor" means the debtor under an equipment obligation. The term includes the original obligor and any successor or assignee of such obligor who is approved by the Board.

(14) "Railroad" means a common carrier by railroad, as defined in section 1(3) of the Interstate Commerce Act (49 U.S.C. 1(3)), and includes where the Board makes an appropriate finding, a railroad controlled by another railroad within the meaning of paragraph (b) of such section. The term does not include the Corporation.

(15) "Rolling stock" includes any type of new or rebuilt standard gauge locomotive, caboose, or general service railroad freight car the use of which is not limited to any specialized purpose by particular equipment design, or other features. General service railroad freight car includes a boxcar, gondola, open-top or covered hopper car, and flatcar. The Board may designate other types of cars as rolling stock upon a written finding, with reasons therefor, that such designation is consistent with the purposes of this Act.

(16) "Secretary" means the Secretary of Transportation.

(17) "State" means any State or the District of Columbia.

TITLE II—RAILROAD EQUIPMENT FINANCING

ESTABLISHMENT OF BOARD AND FUND

SEC. 201. (a) BOARD.—There shall be established in the Department of Transportation an independent agency to be known as the Obligation Guarantee Board. The Board shall be composed of six members and a chairman. Two of the members shall be the Secretary of Transportation and the Secretary of the Treasury, or their duly authorized representatives, who shall serve ex officio with the same powers as other members of the Board. The President shall, within ninety days of the enactment of this Act, appoint the other members and the chairman of the Board, by and with the advice and consent of the Senate, on the following basis—

(1) three, to be selected from lists of qualified individuals recommended by shippers and organizations representative of significant shipping interests including small business users of railroad transportation services;

(2) one, to be selected from lists of qualified individuals recommended by consumer organizations, community organizations, and recognized consumer leaders;

(3) one, to be selected from lists of qualified individuals recommended by the national organization of the State commissions, referred to in sections 202(b) and 205(f) of the Interstate Commerce Act (49 U.S.C. 202 (b), 205(f)), who shall be a member of a State agency authorized by the law of any State to set rates for transportation by railroad.

As used in this subsection, a list of qualified individuals shall consist of not less than three individuals.

(b) FUND.—An Obligation Guarantee Fund is established. The fund shall be administered by the Board as a revolving fund to carry out the provisions of sections 202 through 205 of this Act. Moneys in the fund shall be deposited in the Treasury of the United States to the credit of such fund or invested in bonds or other obligations of the United States approved by the Secretary of the Treasury.

(c) COMPENSATION.—A member of the Board who is not otherwise an employee of the Federal Government may receive $150 per diem when engaged in the actual performance of duties vested in the Board plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

(d) TERMS OF OFFICE.—The terms of office of the members first taking office (other than those of the two members who shall serve ex officio) shall expire as designated by the President at the time of nomination, three at the end of the third year, and two at the end of the sixth year. The member appointed by the President, by and with the advice and consent of the Senate, to be chairman of the Board shall serve as chairman until his term of office as a member expires and a successor is duly appointed. Successors to members of the Board shall be appointed in the same manner as the original members and shall have a term of office expiring six years from the date of expiration of the term for which their predecessors were appointed. Any member appointed to fill a vacancy on the Board occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

AUTHORIZATION TO GUARANTEE EQUIPMENT OBLIGATIONS

SEC. 202. (a) GENERAL.—The Board is authorized, in accordance with the provisions of this section, to guarantee and to make commitments to guarantee the payment of interest on and the principal balance of an equipment obligation prior to, on, or after the date of execution or the date of disbursement of such obligation: *Provided*, That no equipment obligation in the form of a lease obligation shall be guaranteed unless and until the Board finds, after notice and an opportunity for comment by interested persons and publication in the Federal Register of this finding and the reasons therefor that no other reasonable means of equipment financing or refinancing is reasonably available to the applicant and that approval of the guarantee application will serve the public interest. Each guarantee of an equipment obligation shall be made in accordance with the provisions of this Act and such rules as the Board may prescribe to reasonably protect the interests of the United States. Each application for the guarantee of an equipment obligation shall be made in writing to the Board in such form and with such content as the Board prescribes. An application shall be granted if the Board determines that the proposed, negotiated, or executed equipment obligation is eligible for a guarantee under this Act. Each guarantee and commitment to guarantee shall be extended in such form, under such terms and conditions, and pursuant to such regulations as the Board deems appropriate, consistent with the purposes of this Act. Each guarantee and commitment to guarantee shall inure to the benefit of the holder of the equipment obligation to which such guarantee or commitment applies. In the case of a lease obligation, the guarantee shall run to and be for the benefit of any holder thereof. In no event shall any such holder receive or be entitled to retain payment from said guarantee in a total amount which, together with any other recovery, including a security interest in the rolling stock or equipment or facilities, exceeds the actual loss of such holder.

(b) MAXIMUM PERMISSIBLE GUARANTEE.—Except as otherwise provided, the Board shall not guarantee payment of the principal of an equipment obligation in an amount in excess of 80 per centum of the value of the rolling stock or equipment or facilities which are being financed or refinanced thereby. The Board may guarantee an amount not in excess of 95 per centum of such value upon a finding made in writing by the Board and published with detailed reasons therefor in the Federal Register that an applicant railroad would not otherwise be able in its present financial condition to acquire such equipment or facilities or rolling stock on reasonable terms and conditions and that such acquisition by the applicant railroad is necessary to achieve the purposes of this Act. In the case of a lease obligation, the Board may guarantee payment of the entire principal together with the amount necessary to guarantee to the lessor, upon default of such obligation, the cost of tax recapture under sections 47 and 1245 of the Internal Revenue Code of 1954 (26 U.S.C. 47, 1245), upon a finding made in writing by the Board and published with detailed reasons therefor in the Federal Register that the applicant is a railroad which has filed a petition for reorganization under section 77 of the Bankruptcy Act (11 U.S.C. 205); that such petition has been approved; and that the judge in such proceeding certifies to the Board that the railroad is making all reasonable efforts to achieve reorganization and that such guarantee is reasonable and necessary. In all cases, the Board shall make a determination of the value of the rolling stock or equipment or facilities which are being financed or refinanced thereby, and such determination of value shall be conclusive and not subject to review in any court.

(c) MODIFICATIONS.—The Board is authorized to approve any modification of any provision of a guarantee or a commitment to guarantee such obligation, including the rate of interest, time of payment of interest or principal, security, or any other terms and conditions, upon a finding in writing by the Board that such modification of equitable and not prejudicial to the interests of the United States under this Act. Such approval shall not be granted without prior consent by the holder of such obligation.

(d) Maximum Obligational Authority.—The aggregate unpaid principal amounts of equipment obligations and interest thereon which may be guaranteed by the Board under this title shall not exceed $2,000,000,000 at any one time; and at least 70 per centum of the aggregate shall guarantee equipment obligations financing or refinancing rolling stock.

(e) Rate of Interest.—Interest (exclusive of premium charges for guarantee and service fees) shall be payable on each equipment obligation, other than a lease obligation guaranteed by the Board. The rate of interest shall not exceed the per centum per annum rate on the unpaid principal of such obligation determined by the Board to be reasonable upon consideration of the range of interest rates currently prevailing in the private market for similar obligations. In the case of lease obligations guaranteed by the Board, such lease obligation shall contain a rental rate which reflects an effective interest rate not to exceed a per centum per annum rate of the unpaid principal of such obligation determined by the Board to be reasonable upon consideration of the range of effective interest rates prevailing in the private market for similar obligations.

(f) Notice.—Upon receipt of an application for an equipment obligation guarantee, the Board shall cause a notice of such application to be published in the Federal Register and shall invite and afford interested persons an opportunity to submit comments on such application at a proceeding to commence within twenty-one days of the date of the publication of such application. General notice of such proceedings shall be published in the Federal Register. Such notice shall include—

(1) a statement of the time, place, and nature of the proceedings; and

(2) a description of the subjects and issues involved.

(g) Requirements for Guarantees.—No equipment obligation shall be guaranteed under this Act unless the Board makes a finding in writing that—

(1) the equipment obligation (other than a lease obligation) is secured by rolling stock or equipment or facilities which are being financed or refinanced thereby;

(2) payment of the equipment obligation is required by its terms within fifteen years of the date of its execution;

(3) the leasing, financing, or refinancing of the rolling stock or of equipment or facilities directly related to improving the utilization of rolling stock is justified by the present and probable future demand for transportation services to be rendered by the applicant;

(4) the operations of the applicant are sufficiently efficient as of the date of application as to give reasonable assurance that any rolling stock in the control of such applicant or which may come within the control of such applicant will be economically and efficiently utilized;

(5) the purchase or lease of the rolling stock or equipment or facilities will serve to meet demonstrable needs for rail transportation services and to provide shippers with adequate rolling stock for their transportation needs;

(6) the probable value of such rolling stock or equipment or facilities is sufficient to provide the United States reasonable security and protection in case of default and repossession by the holder of the equipment obligation or in case of possession or purchase by the Board; and

(7) the incurrence of such obligation will result in a net increase in the total load-carrying capacity of such obligor's rolling stock.

(h) Conditions of Guarantees.—No guarantee or commitment to guarantee an equipment obligation shall be extended under this Act unless the obligor first agrees in writing that so long as any interest or principal on such obligation is due and payable—

(1) there will be no net decrease in the load-carrying capacity of such obligor's rolling stock;

(2) there will be no increase in discretionary dividend payments over the average amount paid during the five years preceding the enactment of this Act without prior approval of the Secretary in writing, based on findings, published, with reasons therefor, in the Federal Register, made after public hearings with opportunity for submission of comments by all interested parties, that such increase in dividends will not decrease the ability of the obligor to provide improved car service;

(3) the obligor will not use assets or revenues related to or derived from railroad operations in nonrailroad enterprises without prior approval of the Secretary in writing based on findings, published, with reasons therefor, in the Federal Register, made after public hearings with opportunity for submission of comments by all interested parties, that such use of assets or revenues will not decrease the ability of the obligor to provide improved car service;

(4) the obligor shall take all reasonable and practical steps possible, in accordance with such guidelines as may be established by the Secretary and the Commission, to improve the equitable distribution and efficient and expeditious use of all rolling stock and equipment, including cooperating with the Secretary in programs under title III of this Act.

(i) Breach of Conditions.—The Secretary is authorized and directed to commence an action in the district courts of the United States to enjoin any activity found by the Secretary to be in violation of the conditions specified in subsection (h) of this section. In addition, any person who knowingly violates or contributes to the violation of any of the conditions specified in such subsection shall be subject to a civil penalty, to be levied by the Secretary, of not to exceed $10,000.

(j) Lease Obligation.—Before guaranteeing any lease obligation under this section the Board shall find that—

(1) the terms of the lease or leases provide that in event of default by the lessee and demand for payment by the Board that the Board shall have the right in its discretion—

(A) to demand possession of the leased property from the lessee or to purchase the leased property for fair market value but in no event for an amount greater than the sum of lease rentals and other financial obligations for the remaining term of the lease; or

(B) to permit the lessor to repossess the leased property from the lessee for the purpose of leasing in good faith at not less than fair market value to other lessees provided that any amounts collected from such lessees in excess of the amount to which the lessor would have been entitled under the original lease, plus costs, shall be paid over to the United States and deposited in the fund and that in the event any amounts collected from such lessees are less than the amount to which the lessor would have been entitled under the original lease, plus costs, then such difference shall be paid to the lessor from the fund; and

(2) the terms of the lease shall provide that, in event of default, any amounts paid to the holder of the lease obligation in settlement, including amounts received from the Board pursuant to the guarantee, are income and proceeds from the equipment subject to said lease and subject to claims of any holder of an equipment obligation in an amount equal to the holder of the lease obligation's outstanding obligation to said holder under any equipment obligation.

(k) Investigation Charge.—The Board shall charge and collect from the obligor such amounts as it may deem reasonable for the investigation of applications for a guarantee, for the appraisal of properties offered as security for a guarantee, or for the issuance of commitments. Such charges shall not aggregate more than one-half of 1 per centum of the original principal amount of the obligation to be guaranteed.

(l) Premium Charge.—The Board shall set a premium charge of not more than 1 per centum per annum for an equipment obligation guaranteed under this Act. The premium charge shall be computed on the basis of the principal amount of the equipment obligation which is outstanding. The premium charge shall be paid when the obligation is first guaranteed by the Board, and thereafter annually, on the anniversary date of such guarantee.

(m) Administrative Costs.—All moneys received by the Board under this title, shall be deposited in the fund. An amount which shall not exceed five per centum of the total annual premium charges collected under subsection (l) of this section may be used by the Board to pay administrative costs and expenses incurred by it pursuant to this title.

ISSUANCE OF NOTES OR OBLIGATIONS

Sec. 203. (a) Authority.—The Board is authorized to isssue notes or other obligations to the Secretary of the Treasury in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Board, with the approval of such Secretary, may prescribe. Such obligations may be issued whenever the moneys in the fund are not sufficient to pay any amount which the Board is required to pay under an agreement under section 202 of this Act. Such obligations shall bear interest at a rate to be determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States on comparable maturities during the month preceding the issuance of such obligations. The Secretary of the Treasury is authorized and directed to purchase any such obligations and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended. The purposes for which securities may be issued under such Act are extended to include any purchase of notes or other obligations issued under this subsection. At any time, the Secretary of the Treasury may sell any such obligations; and all sales, purchases, and redemptions of such obligations by the Secretary of the Treasury shall be treated as public debt transactions of the United States. Funds borrowed under this subsection shall be deposited in the fund and redemptions of any such obligations shall be made by the Board from the fund.

(b) Disposition of Property.—Notwithstanding any other provision of law, the Board is authorized to perform any acts which it considers necessary, in its discretion, to complete, recondition, reconstruct, renovate, repair, maintain, manage, operate, charter, lease, rent, sell, or otherwise dispose of any property or other interests acquired by the Board under an agreement pursuant to section 202 of this Act.

(c) Evidence.—No contract or commitment to guarantee an equipment obligation entered into by the Board pursuant to this Act shall be terminated, canceled, or otherwise revoked, except in accordance with lawful terms and conditions prescribed by the Board. Such a contract or commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this Act and that such obligation has been approved and is legal as to principal, interest, and other terms. Such a contract or commitment shall be valid and incontestable in the hands of a holder as of the date when the Board entered into such contract or commitment, except as to fraud, duress, mutual mistake of fact, or material misrepresentation by or involving such holder.

AUDIT OF TRANSACTIONS

Sec. 204. (a) General.—The financial transactions of the Board shall be audited by the Comptroller General of the United States, in accordance with such rules and regulations as he may prescribe. Representatives of the Comptroller General shall have access to all books, accounts, records, reports, files, and other papers, things, or property pertaining to such transactions by the Board and necessary to facilitate an audit. Such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such property of the Board shall remain in the possession and custody of the Board.

(b) Access to Information.—The representatives of the Comptroller General shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by any obligor for which the Board has guaranteed an equipment obligation to the extent they pertain to such obligor's financial transactions and are deemed by the Comptroller General to be necessary to facilitate any audit of the financial transactions of the Board. Such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such property of such obligor shall remain in the possession and custody of the obligor.

(c) Report.—The Comptroller General shall make a report of each such audit to the Congress. Such report shall contain all comments and information which the Comptroller General deems necessary to inform Congress of the financial operations and condition of the fund and any recommendations which he deems advisable. Such report shall indicate specifically and describe in detail any program, expenditure, or other financial transaction or undertaking observed in the course of such audit which the Comptroller General deems to have been carried on or made without lawful authority. A copy of such report shall be furnished to the President, the Secretary, the Commission, and the Board at the time it is submitted to the Congress.

DEFAULT

Sec. 205. (a) General.—If there is a default in any payment by the obligor of principal or interest due under an equipment obligation guaranteed under this title, which has continued for thirty days, the holder of such obligation or his agents have the right to demand payment by the Board of the unpaid interest on and the unpaid principal of such obligation. Such payment may be demanded after or before the expiration of such period as may be specified in the guarantee or related agreements, but not later than ninety days from the date of such default. Within such period as may be specified in the guarantee or related agreements, but not later than thirty days from the date of such demand, the Board shall promptly pay to the obligee or his agent the unpaid interest on and the unpaid principal of such obligation. However, the Board shall not be required to make any such payment if, prior to the expiration of such period, the Board finds that there was no default by the obligor in the payment of interest or principal or that such default has been remedied.

(b) Rights of Board.—If the Board makes a payment under subsection (a) of this section, the Board shall have all the rights in any security which it held with respect to its guarantee of such obligations as are conferred upon the Board under any security agreement with the obligor. Notwithstanding any other provision of law, the Board is authorized, in its discretion, to complete, recondition, reconstruct, renovate, repair, maintain, operate, charter, rent, sell, or otherwise dispose of any property acquired by its pursuant to such security agreement with the obligor. The terms of any such sale or other disposition shall be as approved by the Board.

(c) Payment.—Any amount required to be paid by the Board pursuant to subsection (a) of this section shall be paid in cash.

(d) Action Against Obligor.—If there is a default under any contract or commitment to guarantee an equipment obligation, the Board shall take such action against the obligor or any other parties liable thereunder as is, in its discretion, necessary to protect the interests of the United States. Such a suit may be brought in the name of the United States or in the name of the holder. Such holder shall make available to the United States all records and evidence necessary to prosecute any such suit. The Board shall have the right, in its discretion, to accept a convenience of title to and possession of property from the obligor or other parties liable to the Board and may purchase the property for an amount not greater than the unpaid interest on and unpaid principal of such obligation. If the Board receives, through the sale of property, an amount greater than the amount paid to the obligee under subsection (a) or (b) of this section together with the expenses of collection, the Board shall pay such excess to the obligor.

TITLE III—INCREASED ROLLING STOCK UTILIZATION

NATIONAL ROLLING STOCK INFORMATION SYSTEM

Sec. 301. (a) Plan.—(1) The Secretary shall, not more than six months after the date of enactment of this Act, designate a plan or alternative plans to establish a national rolling stock information system which shall be designed to facilitate equitable distribution and expenditious utilization of rolling stock operated within the continental United States and/or owned directly or indirectly by railroads and car-pooling companies. Such a system shall be capable of furnishing such information as the Secretary determines to be necessary for the expeditious utilization of rolling stock, including information related to the—

(A) length of time each piece of rolling stock is moving and loaded, moving and unloaded, idled and loaded, and idled and unloaded;

(B) owner, type, size, and capacity, year of manufacture, identifying number, and special features of each piece of rolling stock;

(C) origin and destination of cargo;

(D) railroad in control of rolling stock movement, expected time of interchange, and degree of utilization of each piece of rolling stock by the controlling railroad; and

(E) current status and location of each piece of rolling stock, time such status and location is expected to change, and anticipated future commitments of such rolling stock.

(2) The Secretary shall develop such plan or plans after consultation and discussion with the Secretary of Defense, the Director of the National Aeronautics and Space Administration, the executive officers of major private manufacturers and suppliers of information location and retrieval systems, shippers, railroads, the Commission, and any other Government agency, private organization, or private citizen that presents a useful submission regarding such a system. The Secretary is authorized to pay reasonable expenses, including honoraria, for individuals invited by him to present their submissions in person. The Secretary shall cause such plan or plans to be published in the Federal Register and shall invite interested persons to comment thereon at a public hearing pursuant to section 553 of title 5, United States Code, to be held not less than ninety days after the date of such publication. After such hearing, and not more than one year after the date of enactment of this Act, the Secretary shall publish the final plan for a national rolling stock information system. This final plan shall include technical specifications and other details for the equipment required under such plan. Such plan shall include means for coordinating or integrating such system with any existing information systems to the extent the Secretary finds such coordination will contribute in an expeditious, cost effective, and technically feasible manner to the implementation of an effective national system. The Secretary from time to time may cause such plan to be modified or amended, pursuant to section 553 of title 5, United States Code.

(b) Implementation.—Following the publication of the final plan required under subsection (a) of this section, the Secretary shall take all action necessary, including the issuance of rules, regulations, and guidelines, to cause such plan to be implemented within a reasosable time. The Secretary is authorized to contract with and provide technical assistance to individual railroads or groups of railroads working together, including the sharing of costs and the funding in part of demonstration projects, to assist in the establishment of the national rolling stock information system.

(c) Antitrust Laws Inapplicable.—The antitrust laws of the United States are inapplicable to the extent necessary to carry out the purposes of this section as to any person who contracts with the Secretary or acts in conformity with the final plan under subsection (a) of this section.

(d) Center.—The Secretary may establish and maintain or assist in establishing and maintaining a centrally located national rolling stock information center. The Secretary of Defense may assist the Secretary to establish such center. Such center may operate as a depository and dissemination center for all such information as may be provided by the national rolling stock information system. The Secretary may make information gathered in such center available to any person subject to such rules as the Commission might prescribe to insure the confidentiality of certain kinds of competitive information supplied for use in connection with the system.

(e) Report.—The Secretary shall report semiannually directly to the Congress, without modification of such report by any other Federal agency, with respect to the progress made in implementing the national system provided for in subsection (a) of this section. Such reports shall include recommendations for such additional funding as may be necessary to make the national system fully effective.

(f) Authorization of Appropriation.—There is authorized to be appropriated to the Secretary out of money in the Treasury not otherwise appropriated, the sum of $10,000,000 for purposes of this section.

UTILIZATION MEASUREMENT AND OVERSIGHT

Sec. 302. (a) Rolling Stock Utilization Index.—Not less than ninety days after the enactment date of this Act, the Secretary shall develop and promulgate an index to measure the degree of utilization of rolling stock. The Secretary shall cause to be compiled data required by such index. At least once each quarter per annum, the Secretary shall publish such index, together with a report setting forth any changes in such utilization and his evaluation of the reasons therefor.

(b) Commission Report.—The Commission shall publish a report on utilization of rolling stock thirty days after the publication of each report by the Secretary under subsection (a) of this section. The Commission in its report shall consider and comment upon the latest such report by the Secretary.

(c) ENFORCEMENT.—The Secretary shall, with the assistance of the Attorney General, make full use of existing law to bring about improvements in the utilization of rolling stock. The Secretary shall have such standing as is necessary to bring or intervene in proceedings before Federal regulatory agencies and courts. Attorneys appointed by the Secretary may appear for and represent him in any such case or hearing.

(d) UTILIZATION STUDY.—The Secretary shall prepare a study on the utilization of freight cars and means to improve such utilization including consideration of per diem and other car hire charges, demurrage, car service rules and orders of the Commission and of the railroads, the practice of assigning cars to specific traffic or shippers, payments for use of privately owned cars, and publicly and privately owned carpools. The Secretary shall submit legislative recommendations based upon such study within two years after the date of enactment of this Act.

TITLE IV—RAILROAD EQUIPMENT CORPORATION

PREREQUISITES TO ESTABLISHMENT

SEC. 401. (a) GENERAL.—The Corporation authorized by section 402 of this Act shall be established only if—

(1) two years or more after the date of enactment of this Act—

(A) the Commission finds, in accordance with section 553 of title 5 of the United States Code, that there is still, as a result of inadequate utilization or inadequacy of supply or both, a continuing shortage of rolling stock in the Nation. In determining whether there is such a shortage, the Commission may consider, without incorporating in such a finding, the following factors—

(i) whether any category of rolling stock is not available to meet a demand equivalent to the average peak demand for such category of rolling stock in the four years prior to the time of such finding;

(ii) any government program, regulation, or action affecting demand for or supply of freight cars;

(iii) the extent, duration, and impact of seasonal peaks in demand for rolling stock;

(iv) the local, regional or national scope of any reported problems of demand or supply related to rolling stock;

(v) the impact of severe weather conditions which disrupt marketing, distribution, or railroad operating factors;

(vi) the ability of shippers to load more cars if available;

(vii) the extent to which any failures to furnish cars promptly result from factors not subject to railroad control.

The presence of any or all such factors shall not preclude a finding by the Commission that there is a continuing shortage of rolling stock; or

(B) the Secretary finds that there has not been a significant increase in the utilization of rolling stock since the date of enactment of this Act;

(2) six months after an affirmative finding under either subparagraph (A) or (B) of paragraph (1) of this subsection, the Commission or the Secretary finds that efforts to form and operate a not-for-profit nongovernmental corporation, or corporations, to acquire, maintain, and provide a free running national pool of rolling stock have not succeeded or have been inadequate in size, scope, and operation to establish the feasibility of a national pool, or have failed to employ innovative concepts for equitable distribution and expeditious use of rolling stock; and

(3) the Congress, by affirmative concurrent resolution, authorizes the establishment of the Corporation.

(b) REPORTS.—Two years after the date of enactment of this Act and on the anniversary date thereof each consecutive year thereafter for five years, the Commission and the Secretary shall each transmit to the President and the Congress a report on rolling stock which shall include each finding made since the previous such report, if any, pursuant to subsection (a) of this section. If the Corporation authorized by section 402 of this Act is not established in accordance with the provisions of subsection (a) of this section, such Corporation shall nonetheless be established seven years and six months after the date of enactment of this Act if—

(1) in the final reports made by the Commission and the Secretary under this subsection—

(A) the Secretary or the Commission finds that the creation of a corporation to acquire, maintain, and provide general service railroad freight cars and other rolling stock; to manage a pool of such rolling stock; and to develop and employ innovative concepts for the equitable distribution and expeditious use of such stock would contribute significantly to improvement of the utilization and distribution of rolling stock; and either

(B) the Commission finds that there is still, as a result of inadequate utilization or inadequacy of supply, or both, a continuing shortage of rolling stock in the Nation; or

(C) the Secretary finds that there has not been a substantial and significant increase in the utilization of railroad rolling stock; and

(2) the Congress, by affirmative concurrent resolution, authorizes the establishment of the Corporation.

RAILROAD EQUIPMENT CORPORATION

SEC. 402. (a) AUTHORIZATION.—There is hereby authorized to be established, in accordance with the provisions of section 401 of this Act and of this section, a corporation to be known as the Railroad Equipment Corporation. The Board of Directors first appointed shall be deemed the incorporators, and the incorporation shall be held to have been effected from the date of the first meeting of such Board.

(b) PURPOSES.—The purposes of the Corporation are to acquire, maintain, and provide general service railroad freight cars and other rolling stock; to manage a pool of such rolling stock; and to employ innovative concepts for equitable distribution and expeditious use of such stock to meet the needs of the national economy and the national defense.

(c) STATUS.—(1) The Corporation shall be a government corporation of the District of Columbia subject, to the extent not inconsistent with this Act, to the District of Columbia Business Corporation Act (D.C. Code 29-901 et seq.) and administered by a Board of Directors.

(2) The Corporation shall not be subject to the provisions of the Interstate Commerce Act (49 U.S.C. 1 et seq.) or of any other law with respect to railroads, except that the Corporation shall be deemed to be a railroad as to—

(A) sections 1(10) through 1(17) of the Interstate Commerce Act (49 U.S.C. 1(10)-1(17));

(B) the Railway Labor Act, including the representation of employees of the Corporation for purposes of collective bargaining, the handling of disputes between railroads and their employees, and other dealings with employees, and the Railroad Retirement Act and the Railroad Unemployment Insurance Act with respect to employee retirement, annuity and unemployment systems;

(C) the Federal Employers Liability Act; and

(D) safety, as to which the Corporation shall be subject to the same laws and regulations as any common carrier under part I of the Interstate Commerce Act.

(d) BOARD OF DIRECTORS.—The Board of Directors of the Corporation shall consist of eleven persons who shall be appointed by the President, by and with the advice and consent of the Senate, pursuant to this subsection. The initial directors shall be appointed within one hundred and twenty days after Congress, by affirmative concurrent resolution, authorizes the establishment of the Corporation. The President shall appoint the members and their successors on the following basis—

(1) three, to be selected from a list of qualified individuals recommended by the Association of American Railroads or its successor, one of whom shall be a representative respectively of eastern-, western-, and southern-territory railroads;

(2) one, to be selected from a list of qualified individuals recommended by the parent body of the American Federation of Labor and Congress of Industrial Organizations or its successor, who shall be representative of railroad labor;

(3) one, to be selected from a list of qualified individuals recommended by the National Academy of Sciences as persons with expert knowledge or experience with data processing and information systems and the application of computer technology to systems management;

(4) four, to be selected from lists of qualified individuals recommended by shippers, organizations representative of significant shipping interests including small shippers, consumer organizations, community organizations, and recognized consumer leaders, who shall be representative of consumers of transportation services and consumers of goods and products shipped by railroad;

(5) one, to be selected from a list of qualified individuals recommended by the Secretary of Defense; and

(6) one, to be selected from a list of qualified individuals recommended by the Secretary of Transportation.

As used in this subsection, a list of qualified individuals shall consist of not less than three individuals.

The President shall appoint one of the members, by and with the advice and consent of the Senate to serve as Chairman for a term of four years. A member of the Board of Directors who is not otherwise an employee of the Federal Government may receive $150 per diem when engaged in the actual performance of his duties plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

(e) TERMS OF OFFICE.—The terms of office of the members first taking office shall expire as designated by the President at the time of nomination. Four shall expire at the end of the third year, four at the end of the sixth year, and three at the end of the ninth year. Successors to members of the Board of Directors shall be appointed in the same manner as the original members and shall have a term of office expiring nine years from the date of expiration of the term for which their predecessors were appointed. Any member appointed to fill a vacancy in the Board of Directors occuring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

(f) GENERAL.—The Directors shall direct the exercise of all the powers of the Corporation. So long as there are four members in office, the Directors are empowered to execute the functions of the Corporation. Four of the Directors shall constitute a quorum for the transaction of such functions.

(g) ANTITRUST LAWS INAPPLICABLE.—The antitrust laws of the United States are inapplicable to the extent necessary to carry out the purposes of this title to any person who contracts with the Corporation with respect to the operation or maintenance of rolling stock or the design or implementation of a national rolling stock information system or the use of information from such system.

GENERAL POWERS OF CORPORATION

SEC. 403. To carry out the purposes of this title, the Corporation is empowered to—

(a) build, rebuild, purchase, own, lease, control, and manage rolling stock or equipment or facilities;

(b) acquire or contract for the use of physical facilities, equipment, and devices useful in developing equitable distribution and in maintaining expeditious use of rolling stock;

(c) build, rebuild, operate, maintain, and repair its rolling stock, equipment, and facilities or enter into agreements and contracts for the performance of such work and for the performance of all services and work incidental thereto and consistent with prudent management;

(d) conduct and contract for research and development that may lead to new and practical technologies, systems, and methods for the efficient and economical movement, distribution, solicitation, collection, loading and unloading, packaging, and processing of freight shipments involving railroads;

(e) sue and be sued, complain and defend, in its corporate name and through its own attorneys; adopt, alter, and use a corporate seal, which shall be judicially noticed; adopt, amend, and repeal such bylaws, rules, and regulations as may be necessary for the conduct of its affairs; conduct its business, carry on operations, maintain offices, and exercise the powers granted under this Act in any State;

(f) purchase, lease, or otherwise acquire, own, hold, improve, use, or deal in and with any property (real, personal, or mixed, tangible or intangible) or interest in property, wherever situated; sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of property and assets; accept gifts or donations of any property or services in aid of any purpose of the Corporation;

(g) appoint such attorneys, employees, agents, consultants, and other personnel as it deems necessary; define the duties of personnel and determine and pay compensation for their services. Except as otherwise provided in this Act, such personnel and directors of the Corporation shall not be subject to laws relating to Federal employees with respect to appointments, promotions, adverse actions, hours of work, rates of compensation, allowances, leave, unemployment compensation, compensation for work-related injuries, and Federal benefits for retirement, life insurance, and health benefits; and

(h) enter into contracts, execute instruments, incur liabilities, and do all things necessary or incidental to the proper management of the affairs and the proper and prudent conduct of the business.

FINANCING

SEC. 404. (a) PER DIEM SURCHARGE.—Each railroad, except a switching and terminal railroad, shall pay to the Corporation a per diem surcharge of fifty cents per car-day on each unit of rolling stock for each day that such a railroad incurs a car hire charge for the use of such unit of rolling stock. The Directors shall impose such per diem surcharge not later than sixty days after taking office under section 403(f) of this Act and shall terminate it when it has collected such sum as may be necessary for the purposes of this title but not less than $10,000,000 nor more than $30,000,000. Surcharges are payable on the tenth day of the second month succeeding the month in which the charge accrues. Within six months of the termination of such surcharge, the Corporation shall refund to any railroad or group of railroads under common management and control any payments made by such railroad or railroads in excess of ten per centum of the total paid by all railroads.

(b) NEGOTIABLE DEBENTURES.—The Corporation shall issue to each railroad a negotiable debenture in the amount of the surcharge paid under subsection (a) of this section. The debenture shall bear and pay interest at a rate to be determined by the Secretary of the Treasury to be the current rate for similar debentures in the open market. The par value of such debentures shall be due and payable December 31 of the thirtieth year after the date of issuance thereof or the first business day thereafter if such date is a Saturday, Sunday, or holiday. Such debentures are debts of the Corporation but are subordinate to all other such debts. The United States of America does not guarantee either the par value or the interest on such debentures.

(c) REFUND OF PER DIEM SURCHARGES.—(1) In the event of partial or complete liquidation of the Corporation, any assets remaining after payment of the Corporation's obligations and expenses will be distributed pro rata to the railroads, not to exceed in any case the amount paid as per diem surcharges under subsection (a) of this section plus accrued interest, if any. The remainder of such assets will be paid into the Treasury of the United States and credited to miscellaneous receipts.

(2) In the event of complete liquidation of any railroad subject to this Act, the Directors of the Corporation may, if and when funds are available, refund to such railroad a sum not to exceed the amount paid in as per diem surcharges under the provisions of subsection (a) of this section plus accrued interest, if any.

(d) INCURRENCE OF DEBT FOR CAPITAL PURPOSES.—The Corporation is empowered to incur debt for capital purposes. Such debt may be incurred in the form of bonds, debentures, equipment trust certificates, conditional sale agreements, or any other form of securities, agreements, or obligations. So long as all the capital stock of the Corporation is owned by the United States, the payment of principal and interest on all obligations issued by the Corporation is guaranteed by the United States. Such guarantee shall be expressed on the face of the obligation. So long as any capital stock is owned by the United States, payment of principal and interest on obligations issued by the Corporation may, in the discretion of the Directors, be guaranteed by the United States. Such guarantee shall be expressed on the face of the obligation. Guaranteed obligations shall not exceed $1,000,000,000 in principal amount outstanding at any one time. Such obligations may be redeemable at the option of the Corporation before maturity in such manner as may be stipulated therein and shall be in such forms and denominations, have such maturities, and be subject to such terms and conditions as shall be determined by the Directors, with the approval of the Secretary of the Treasury. The Corporation may also incur debt not guaranteed by the United States, in addition to that provided for under subsection (b) of this setcion.

(e) PURCHASE OF OBLIGATIONS BY TREASURY.—The Secretary of the Treasury may elect to purchase the obligations of the Corporation guaranteed by the United States in an amount not to exceed $1,000,000,000 in principal amount outstanding at any one time, under such terms, including rates of interest, as he and the Corporation may agree, but at a rate or yield no less than the current average yield on outstanding Treasury securities of comparable maturity, as determined by the Secretary of the Treasury.

(f) PUBLIC DEBT TRANSACTION.—For the purpose of any purchase of the obligations of the Corporation, and to enable him to carry out his responsibility relating to guarantees made pursuant to this section, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchases of the obligations of the Corporation under this Act. The Secretary of the Treasury may at any time sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations of the Corporation acquired by him hereunder. All redemptions, purchases, and sale by the Secretary of the Treasury of the obligations of the Corporation shall be treated as public debt transactions of the United States.

(g) AUTHORIZATION FOR APPROPRIATIONS.—(1) In order to facilitate the formation and the implementation of the objectives of the Corporation, there is hereby authorized to be appropriated, out of money in the Treasury not otherwise appropriated, the sum of $10,000,000 to be used to acquire capital stock of the Corporation, such sum to continue to be available until expended.

(2) There are authorized to be appropriated to the Secretary of the Treasury such sums as may be necessary to pay the principal and interest on notes or obligations issued by him as a consequence of any guarantee made under this section.

(3) In the event of any default on any guaranteed obligation, and payment in accordance with a guarantee by the United States, the Attorney General shall take appropriate action to recover the amount of such payments, with interest, from the Corporation or other persons liable therefor.

(h) LAWFUL INVESTMENT AND EXEMPTION FROM REGULATIONS AND RESTRICTIONS.—Securities guaranteed under this section shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any office or officers thereof, and shall be deemed to be exempt securities within the meaning of laws administered by the Commission. The limitations and restrictions as to a National or State bank dealing in, underwriting, or purchasing investment securities for its own account, as provided in section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), and section 5(c) of the Act of June 16, 1933 (12 U.S.C. 335), shall not apply to securities guaranteed under this section.

(i) CAPITAL STOCK.—(1) The Corporation is authorized to issue and have outstanding capital stock in such amounts and of such classes as it shall determine. At no time shall the aggregate of the shares of the capital stock of the Corporation owned by a single railroad or by any person controlling one or more railroads, as defined in section 1(3)(b) of the Interstate Commerce Act (49 U.S.C. 1(3)(b)), directly or indirectly through subsidiaries or affiliated companies, nominees, or any person subject to its direction or control or by any other stockholders, or any syndicate or affiliated group of such stockholders exceed 5 per centum of such shares issued and outstanding.

(2) The requirement of section 45(b) of the District of Columbia Corporation Act (D.C. Code, sec. 29–920(b)) as to the per centum of stock which a stockholder must hold in order to have the rights of inspection and copying set forth in that subsection shall not be applicable in the case of holders of the stock of the Corporation, and they may exercise such rights without regard to the percentage of stock they hold.

(3) Capital stock of the Corporation offered and sold to the public shall be offered in

compliance with all applicable laws of the United States governing the offering and sale of securities by private corporations.

(j) Audit and Expenditures.—(1) So long as any capital stock of the Corporation is owned by the United States, "Railroad Equipment Corporation" shall be subject to the provisions of the Government Corporation Control Act (31 U.S.C. 841 et seq.).

(2) Except as otherwise provided in paragraph (1) of this subsection, the Corporation is authorized to make such expenditures and to enter such contracts, agreements, and arrangements as it deems necessary, upon such terms and conditions and in such manner as it decides. This authorization includes the power to make a final settlement or compromise of all claims and litigation by or against the Corporation.

(3) Nothing in this subsection shall be construed to deny the Corporation the power to obtain audits of its accounts and reports concerning its financial condition and operations by a firm or firms of certified public accountants. Such audit and reports would be in addition to those required by this subsection.

(4) Section 101 of the Government Corporation Control Act (31 U.S.C. 846) is amended by (1) striking out "and" in the last clause thereof; (2) striking out "." at the end thereof and inserting in lieu thereof the following: "; and Railroad Equipment Corporation.".

CONVERSION TO NONGOVERNMENTAL CORPORATION

Sec. 405. (a) Plan for Public Sale.—As soon as practicable, a panel composed of the Secretary of Transportation, the Secretary of the Treasury, the Chairman of the Securities and Exchange Commission, the Chairman of the Commission, and the Chairman of the Directors of the Corporation shall submit to the President and to the Congress a plan for the public sale of stock in the Corporation after finding that a market exists for the sale of such stock and that the purposes of this Act will be served thereby. This plan shall include, among other elements, a program which—

(1) will require refinancing, or the establishment of a reserve fund or other method, in order to protect the public interest against defaults on obligations of the Corporation guaranteed by the United States; and

(2) will assure that the sale of the stock will result in a wide dispersion in the ownership of the stock.

(b) Requirements.—The plan for sale of stock to the public shall specify a program for systematically reducing the amount of obligations of the Corporation guaranteed by the United States and shall propose a capital structure for the Corporation designed to insure sound financial and operating performance. Unless the Congress disapproves the plan within six months following submission of the plan to it, stock shall be sold in accordance with the plan.

(c) New Board Members.—Upon the sale of stock to the public, the Board of Directors may be enlarged by the addition of members elected by owners of such stock. In no event, however, shall the Board of Directors exceed fifteen members while any capital stock in the Corporation is held by the United States. During such period, the rights and privileges of owners of such stock, including determination of the number of directors to be so elected, shall be set forth in the bylaws of the Corporation.

(d) Proceeds of Sale.—The proceeds from the sale of stock to the public shall be applied to the retirement of the stock held by the United States. Upon the retirement of all the stock held by the United States, the terms of office of the members of the Board of Directors appointed under section 402(d) shall terminate as provided by the plan under subsection (a) of this section. Thereafter, all except three of the Directors shall be elected by the owners of the stock. The President shall have authority to appoint such three directors, by and with the advice and consent of the Senate—

(1) one, to be selected from a list of qualified individuals recommended by the parent body of the American Federation of Labor and Congress of Industrial Organizations;

(2) one, to be selected from a list of qualified individuals recommended by the Federal Trade Commission, after consultation with organizations of consumers; and

(3) one, to be selected from a list of qualified individuals recommended by the Commission, after consultation with organizations of shippers.

As used in this subsection, a list of qualified individuals shall consist of no less than three individuals.

(e) Position of the United States.—Upon the retirement of all stock held by the United States—

(1) the Corporation shall pay an annual fee to the United States equal to the difference between the amount of interest actually paid upon outstanding guaranteed obligations and the amount which would have been paid, as determined by the Secretary of the Treasury, if such obligations had not been guaranteed by the United States, plus one-fourth per centum;

(2) the Corporation shall make every effort to refinance obligations in order to terminate the liability of the United States arising from its guarantee of obligations; and

(3) the Secretary of the Treasury may no longer purchase or guarantee the notes or other obligations of the Corporation.

(f) Default.—If the Corporation defaults in the payment of obligations guaranteed by the United States, the United States is authorized to take control of the Corporation and a new Board of Directors shall be appointed pursuant to section 402(d) of this Act.

NATIONAL ROLLING STOCK INFORMATION SYSTEM

Sec. 406. (a) Establishment.—If a national rolling stock information system, as defined in section 301 of this Act, is not operating effectively when the Corporation is established, it shall establish such a system. If the Corporation undertakes to establish such a system, the Secretary shall grant it access to and authority to use all information, studies, designs, equipment, facilities, computer programs, and other things acquired or developed under section 301 of this Act. The Secretary shall give the Corporation all possible assistance to further the purposes of this section.

(b) Information Access.—Data and other information derived from the national rolling stock information system shall be made available on an equal basis to the Corporation, shippers, railroads, the Commission, the Secretary, and interested members of the public, subject to rules to be issued by the Commission to preserve the confidentiality of certain types of competitive information furnished for use in connection with the system.

(c) Report.—The Corporation shall report to the Congress annually on the progress made in implementing such national system. Each report shall include recommendations as to any additional funding deemed necessary to make the national system more effective. The Commission shall publish a report on such system thirty days after the publication of each report by the Corporation under this subsection.

USE OF EQUIPMENT SUPPLIED BY THE CORPORATION

Sec. 407. (a) User Charges.—The Corporation shall establish and maintain a schedule of charges for the use of general service railroad freight cars and other rolling stock, and equipment directly related to the utilization of rolling stock. The rates shall be such as will, in the judgment of the Directors, enable the Corporation to meet its operating and administrative expenses, including depreciation and carrying-charges for indebtedness, and to provide sufficient earnings to facilitate the conversion of the Corporation to private ownership in accordance with section 405 of this Act as soon as possible. Such charges shall in no case exceed one hundred and fifty per centum of the cost to the Corporation of acquiring, owning, maintaining, and operating the rolling stock or equipment being so used. In establishing such charges, the Corporation shall consider prevailing rates and conditions for similar equipment.

(b) User Charges Precluded.—The Corporation shall not assess any charges for rolling stock located on a railroad where that rolling stock is not required by such railroad for use in originating traffic: *Provided*, That—

(1) such rolling stock is not the subject of a car service order by the Corporation or the Commission; and

(2) such railroad furnishes appropriate notice to the Corporation pursuant to terms and conditions established by it regarding the use of such rolling stock.

(c) Conditions on Use.—The Corporation shall establish—

(1) reasonable rates of compensation for storage of excess rolling stock on the property of any railroad, through negotiation with such railroad;

(2) terms and conditions governing the use of its equipment, including requirements for identification of rolling stock, as are in its judgment appropriate to effectuate the purposes of this Act. Such terms and conditions may be modified and amended from time to time; and

(3) just and reasonable car service rules, regulations, and practices, and car distribution directions with respect to its rolling stock. Such rules, regulations, and practices shall be established after consulting with the Commission, railroads and car distribution agencies. They shall, together with car distribution directions issued thereunder, take precedence over any rules, regulations, or practices in conflict therewith which are issued or applied by any railroad or group of railroads. Such rules, regulations, and practices may be modified and amended from time to time.

(d) Compliance With Conditions.—Each railroad shall comply with such car service rules, regulations, and practices as may be established, together with such car distribution directions as may be issued, pursuant to this section.

(e) Interchange of Cars.—No railroad may refuse to transport any general service railroad freight car owned or supplied by the Corporation, whether loaded or empty, subject to any applicable safety regulations, reasonable interchange rules, reasonable line clearances, reasonable weight limitations, and user charges set under this section. No railroad shall be entitled to any compensation from the Corporation for moving empty Corporation-owned rolling stock from any point on its line of railroad to any point on another line of railroad, between any points on its line of railroad, or as a bridge carrier between points on two or more other lines of railroad: Provided, That such stock was moving under a car distribution directive (1) issued by the Commission or (2) issued by the Corporation for the purpose of distributing Corporation-owned cars for loading.

COMMISSION REVIEW

Sec. 408. The Corporation shall be subject to sections 1(10) through 1(17) of the Interstate Commerce Act, and the orders of the Commission thereunder to the extent applicable. Upon petition of any person affected by any charge, rule, regulation, practice, term, condition, or directive of the Corporation, or upon its own motion, the Commission shall make an investigation and shall order any charge, rule, regulation, practice, term, condition, or directive which it finds not to be in conformity with this Act, or to be inconsistent with any rule, order, or directive of the Commission pursuant to applicable provisions of sections 1(10) through 1(17) of the Interstate Commerce Act to be canceled, annulled, amended, or suspended as the Commission shall find to be appropriate,

ENFORCEMENT

SEC. 409. (a) General.—In an appropriate civil action, the Corporation may apply to any district court of the United States which has jurisdiction over the parties and in which venue is properly laid under section 1291 of title 28, United States Code, for an order or judgment to enforce compliance with any obligation owing to it under or in accordance with any provision of this title or under or in accordance with any agreement or regulation entered into or issued pursuant to this title. Nothing contained in this section shall be construed to relieve any person from any punishment, liability, or sanction which may be imposed otherwise than under this Act.

(b) Equitable Relief.—(1) If the Corporation, any railroad, or any person fails or neglects to comply with any rule, regulation, or practice established under this title, fails to pay any charge imposed under this title, fails or refuses to comply with any car distribution direction or other order issued under this title, or fails to obey any directive by the Commission to pay charges, any district court of the United States having jurisdiction over the parties and in which venue is properly laid under section 1291 of title 28, United States Code, may grant relief. Upon a petition by the Commission or by the Corporation, such court shall have jurisdiction to grant such relief as may be necessary or appropriate to prevent or terminate such failure or refusal.

(2) If the Corporation, any railroad, or any other person violates or threatens to violate any provision of this Act or any rule, regulation, or order issued under this Act, any district court of the United States having jurisdiction over the parties and in which venue is properly laid under section 1291 of title 28, United States Code, may grant relief. Upon a petition, or, in the case of a labor agreement, upon the petition of any employee affected thereby or a duly authorized representative of such employee, such court shall have jurisdiction to grant such equitable relief as may be necessary or appropriate to prevent or terminate such violation.

ANNUAL REPORT

SEC. 410. The Corporation shall cause to be prepared and transmit simultaneously to the President and the Congress an annual report commencing one year after its establishment. Such report shall include—

(a) a comprehensive and detailed review and summary of the operations, activities, and accomplishments of the Corporation under this Act;

(b) an account of the state of railroad freight service in the United States, including the number of rolling stock, by classes, acquired and owned by the Corporation and the number acquired and owned by the railroads; and

(c) a statement of the Corporation's receipts and expenditures for the previous year, an explanation of the method for determining the type and amount of rolling stock purchased, and the criteria used in distributing rolling stock.

The Commission and the Secretary shall from time to time, but not less than once every two years, investigate and evaluate the performance of the Corporation in light of the purposes of this Act and each shall cause to be prepared and transmit, simultaneously to the President and the Congress a report thereon.

TITLE V—GENERAL PROVISIONS

PROTECTIVE ARRANGEMENTS FOR EMPLOYEES

SEC. 501. (a) General.—In carrying out their functions under this Act and as a condition precedent to the execution of any contract, the guarantee of any obligation, and the approval or inducement of any other action under this Act, the Board, the Secretary, and the Corporation shall take adequate steps to protect the interests of affected employees. Each contract as to which any railroad or car-pooling company is either a party or a beneficiary shall include fair and equitable arrangements, as certified by the Secretary of Labor, to protect the interests of individual railroad employees who are or who may be affected in their employment by such contract. Such protective arrangements shall include the arrangements specified in section 405 of the Rail Passenger Service Act of 1970, as amended (45 U.S.C. 565); section 13 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1609); and section 6 of the High Speed Ground Transportation Act of 1965, as amended (49 U.S.C. 1636).

(b) Building and Rebuilding Contracts of Corporation.—The Corporation, in awarding contracts for the building or rebuilding of rolling stock under title IV of this Act, shall conform to prevailing practices in the railroad industry at the time of each such contract in dividing such work between railroads with facilities for building and rebuilding rolling stock and nonrailroads with such facilities. Such contracts, as are awarded to railroads, shall be performed through the use of the facilities and the employees of such railroads and shall not be subcontracted. In awarding such contracts, the Corporation shall be guided by the relative proportions of such building and rebuilding as was performed in railroad as opposed to nonrailroad facilities during the five-calendar-year period preceding the award of such contract Variations from these proportions shall not exceed 5 per centum if the total amount of building and rebuilding declines from levels at the date of enactment of this Act. If the Corporation fails to maintain required relative proportions in distributing such work to railroad facilities under such contracts, the fair and equitable employee protective arrangements required by subsection (a) hereof shall become effective. Notwithstanding the foregoing, no contract shall be awarded for the building or rebuilding of rolling stock by such Corporation unless such work meets the minimum specifications established by the Corporation in accordance with the purposes of this Act.

(c) Job Training.—Railroad employees adversely affected by any action taken pursuant to this Act designed to provide for more effective use and distribution of rolling stock shall be reassigned and, if necessary, retrained to perform the new tasks covering the functions which they had performed prior to such action. The performance of such functions shall be considered to be within the same craft or class as that in which such railroad employees were classified prior to such change and the rights of such employees to the same representation shall be preserved. A railroad employment position which is affected by any such change may be eliminated as it becomes vacant through the death or voluntary resignation or retirement of the employee holding such position: *Provided*, That the rate of attrition of such positions in any calendar year shall not exceed:

(1) four per centum of the total number of affected employees of such railroad, as determined by the Secretary of Labor, or

(2) a per centum equal to the average of the actual rate of attrition of the total number of affected employees of such railroad for the preceding three calendar years, as determined by the Secretary of Labor.

(d) Other Laws.—In his administration of the provisions of this Act, the Secretary of Labor shall consolidate the program authorized herein with the companion programs under the Rail Passenger Services Act of 1970, as amended (45 U.S.C. 565); the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1609); and the High Speed Ground Transportation Act of 1965, as amended (49 U.S.C. 1636). The Secretary of Labor shall uniformly develop, interpret, and apply the procedures and standards under these several laws.

(e) Repair and Maintenance Contracts.—To the extent practicable, the Corporation shall award contracts for the repair and maintenance of its rolling stock to railroads with facilities for performing such work.

(f) Construction Contracts.—The Board (pursuant to title II), the Secretary (pursuant to title III), and the Corporation (pursuant to title IV) shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors and subcontractors in the performance of construction work financed with the assistance of funds received under any contract or agreement entered into under this Act shall be paid wages at rates no less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. The Board, the Secretary or the Corporation shall not enter into any such contract or agreement without first obtaining adequate assurance that required labor standards will be maintained on the construction work. Wage rates provided for in collective-bargaining agreements negotiated under and pursuant to the Railway Labor Act or the National Labor Relations Act shall be considered to be in compliance with the Davis-Bacon Act; the highest of such wage rates shall be the applicable standard for all laborers and mechanics not covered by any such agreement and employed by contractors and subcontractors engaged in the building and rebuilding of rolling stock pursuant to title IV of this Act.

SEPARABILITY

SEC. 502. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

The title was amended, so as to read: "A bill to promote commerce and to meet the need of consumers of goods and products by increasing availability of railroad rolling stock and equipment through improved utilization techniques and financial guarantees for new acquisitions, and for other purposes."

Mr. HARTKE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MAGNUSON. Mr. President, after all these years, it gives me great pleasure to move to table that motion.

The motion to table was agreed to.

Mr. HARRY F. BYRD, JR. subsequently said: Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HARRY F. BYRD, JR. What time was the rolling stock legislation laid before the Senate and made the pending business?

The PRESIDING OFFICER. The Journal Clerk will check.

At 12:50 p.m.

Mr. HARRY F. BYRD, JR. At 12:50 p.m.?

The PRESIDING OFFICER. The Senator is correct.

Mr. HARRY F. BYRD, JR. What time did the vote occur?

The PRESIDING OFFICER. At 1:02 p.m. the vote began.

Mr. HARRY F. BYRD, JR. I thank the Chair.

TRUTH IN LENDING ACT AMENDMENTS OF 1973

The PRESIDING OFFICER (Mr. BIDEN). Under the previous order, the Senate will proceed to the consideration of S. 2101, which will be stated by title.

The legislative clerk read as follows:

> A bill (S. 2101) to amend the Truth in Lending Act to protect consumers against inaccurate and unfair billing practices and for other purposes.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished majority leader I yield time that was under the control of the majority leader to the distinguished manager of the bill (Mr. SPARKMAN).

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the following staff members be granted privilege of the floor: Ken McLean, Steve Paradise, Mike Burns, Pat Abshire, Reginald Barnes, and Emily Card.

The PRESIDING OFFICER. Without objection, it is so ordered.

The time for debate is limited to 2 hours, with the time equally divided and controlled by the majority leader and minority leader.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time under the control of the distinguished minority leader be yielded to the Senator from Tennessee (Mr. BROCK).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPARKMAN. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SPARKMAN. Mr. President, this bill, S. 2101, contains three titles. Title I is termed the "Fair Credit Billing Act." This title is designed to help consumers resolve credit billing disputes in a fair and timely manner and to prohibit certain other practices arising out of the use of credit cards or revolving charge accounts. Under this title creditors are required among other things to acknowledge customer billing inquiries within 30 days and resolve those inquiries within 90 days. Creditors cannot send dunning letters, threaten the consumer with adverse credit report, or take other action to collect a disputed amount or report such amount as delinquent until the creditor has complied with the requirements for resolving billing inquiries.

Creditors who fail to comply with these requirements forfeit the amount in dispute up to $50 whether or not the bill is an error.

In addition to establishing a system for resolving billing disputes, the bill seeks to prohibit other unfair billing practices with respect to revolving or open-end credit accounts. The substantive provisions of the bill on this subject are as follows:

First. Creditors cannot impose a finance charge on a revolving credit account unless the customer's statement is mailed at least 14 days prior to the date by which payment must be received. An exception is provided if a creditor fails to meet the 14-day requirement as a result of an act of God or other circumstance beyond the creditor's control.

Second. Creditors cannot impose a finance charge on revolving credit accounts if the customer's payment is received before the due date.

Third. Creditors must promptly credit a customer's revolving charge account for any excess payment or refund the amount of the excess if requested.

Fourth. Merchants honoring credit cards issued by banks or other third parties must promptly notify the card issuer of any return of mechandise or similar adjustment.

The bill also seeks to prohibit certain anticompetitive practices between credit card issuers and retail merchants who participate in the credit card plan. Under this provision of the bill credit card issuers cannot prohibit merchants who honor the card from offering a discount to cash customers. Also credit card issuers cannot require merchants to maintain deposits or purchase other services as a condition for participating in the credit card plan.

The bill is designed also to strengthen the legal rights of customers who use credit cards issued by banks or other third parties. Under these provisions of the bill banks or other financial institutions which issue credit cards cannot offset credit card bill against a customer's checking or savings account unless a court order has been obtained. Also a customer who purchases defective merchandise with a credit card issued by a bank or other third party can withhold payment and assert the same legal claims and defenses against the card issuer that he has against the merchant who sold the merchandise, provided the transaction exceeded $50 and occurred in the same State where the customer lives or within 100 miles of his residence.

Title II of the bill contains a number of largely technical amendments designed to improve the operation of the Truth-in-Lending Act. Most of these amendments were recommended by the Federal Reserve Board and the National Commission on Consumer Finance.

The most significant provision under this title limits the creditor's maximum liability in a class action suit brought under the Truth-in-Lending Act to $100,000 or 1 percent of the creditor's net worth whichever is lesser. This does not apply to the amount of actual *damages*—if any—which can be recovered in a class action suit.

Title III is termed the Equal Credit Opportunity Act and prohibits any creditor from discriminating against any person on account of sex or marital status in granting or denying credit. This prohibition against discrimination applies to all credit transactions whether for consumer, business, or other purpose and includes cash loans, installment sales, mortgage loans, and the opening or closing of a revolving charge account. The prohibition also covers the imposition of more restrictive terms and conditions on a prospective credit transaction as well as the approval or denial of credit.

Mr. President, I believe this is a good, comprehensive bill. It contains elements of S. 914 which was introduced by Senator PROXMIRE and S. 1630 introduced by Senator BROCK and me. It was carefully considered by the Committee on Banking, Housing and Urban Affairs, and I urge its adoption by the Senate.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BROCK. Mr. President, I yield myself such time as I may consume.

Mr. President, we have spent a great deal of time on this legislation last year, year before, and again this year. A number of bills have been introduced. The Senator from Wisconsin (Mr. PROXMIRE) has been extremely active in the area, as have the distinguished chairman of our committee, the Senator from New Jersey (Mr. WILLIAMS), I, and other Senators.

I think, in essence, this bill represents and reflects a rather remarkable spirit of compromise in an effort to resolve what is a problem for the American consumer, and that relates to fair credit billing activities.

The record is replete with statements of consumers who have been billed by robot and by computer, day in and day out, month in and month out, and have been threatened with a loss of access to records and threatened with a loss of credit ratings, without any really adequate protection under the law. We must deal with that particular problem in a way that reflects the versatility and flexibility of our free market system, but within that versatility that protects the interest of the consuming public.

The Truth in Lending Act amendments now before the Senate represent an important step toward protecting consumers against inaccurate and unfair billing practices. The amendments improve the administration of the Truth in Lending Act and prohibit discrimination in consumer credit transactions on account of sex or marital status. That happens to be a field in which I have an enormous interest, because last year, in our hearings with the National Commission on Consumer Finance, we heard a number of witnesses testify to the circumstances of discrimination against women, either because of their sex or because of their marital status.

The bill is an effort to deal in specific terms with that problem and to prevent its recurrence. I think it reflects a remarkable accomplishment on the part of the committee, and I hope that Congress will see fit to pass the bill without objection.

Both the full Committee on Banking, Housing, and Urban Affairs and the Subcommittee on Consumer Credit spent a considerable length of time deliberating on the bill, and the full committee has now reported a reasonable measure which is deserving of the support of the Senate without major modification.

Basically, S. 2101 represents a combination of three bills. On February 20, 1973, Senator PROXMIRE introduced S. 914 to prohibit unfair credit billing practices and amend the disclosure provisions of truth in lending. The Senator from Alabama (Mr. SPARKMAN) and I introduced S. 1630 as an alternative which added the recommendations of the National Commission on Consumer Finance for amendments to the Truth in Lending Act and a section on credit card fraud to the Fair Credit Billing Act amendments. In addition, separate bills had been introduced by the Senator from New Jersey (Mr. WILLIAMS) and myself to prohibit discrimination by creditors on account of sex or marital status.

The Subcommittee on Consumer Credit held hearings on S. 914 and S. 1630 and recommended a revised bill to the full committee incorporating provisions from both of these bills. The full committee later met and, after amending the revised bill recommended by the subcommittee, added a new title III to incorporate the substance of our bills on sex discrimination.

The basic provisions of the bill would:

Provide for prompt and fair resolution of billing disputes.

Prohibit anticompetitive practices between card issuers and retail merchants who participate in credit card plans.

Strengthen the legal rights of customers who use credit cards issued by banks or other third parties.

Improve the administration of the Truth in Lending Act.

Place limits on a creditor's maximum liability in class action suits brought in truth in lending.

Prohibit a creditor from discriminating against any person on account of sex or marital status. I urge its enactment without crippling amendments.

PROVISIONS DELETED BY THE COMMITTEE

Mr. President, I should like to address myself for a few moments to the provisions deleted from the bill by the committee.

The committee turned down two proposals which would have regulated the method of computing finance charges on open end consumer credit plans.

The first proposal limited any creditor who operates an open end consumer credit plan under the terms of which the obligor has the option of avoiding the finance charge by paying his outstanding balance to the use of the adjusted balance method of computing finance charges. The second proposal, which was contained in the subcommittee's recommendations being considered by the committee, permitted the use of both the adjusted and average daily balance methods of computing finance charges. Neither proposal permitted the use of the previous balance method of computing finance charges.

Both of these proposals making illegal the use of the previous balance method of computing finance charges were turned down by the committee.

The previous balance method is a method of computation under which the outstanding balance in the obligor's account at the beginning of the billing cycle is used exclusively as the balance to which the periodic rate or rates are applied. It is the simplest method of computing finance charges and the one used by many small retail firms offering open end credit. The majority of the committee were concerned over the impact that outlawing the previous method would have on the small business firms which used this method. In addition, as the majority saw it, this was a piecemeal approach to Federal rate regulation.

The amount of finance charge is dependent upon both the periodic rate set under State usury laws and the balance method of computation. The committee felt that it would not be appropriate at this time for the Federal Government to intervene into this area of rate regulation which has been the exclusive prerogative of the States. The method of applying rates should be determined by the States as it is now in conjunction with all of the other factors considered when establishing usury or rate statutes.

Another provision deleted by the committee from the subcommittee's recommendations would have prohibited creditors from imposing a minimum finance on any account unless such charge is imposed uniformly on all accounts to recover billing costs.

Testimony before the subcommittee indicated that the minimum finance charges are important to the small retailer who must recover the cost of providing the service of billing customers each month. There are fixed costs which are not covered by 1½ percent on balances of $10 or $15. The minimum finance charges, as a result of truth in lending, generally do not exceed 50 cents. The retail witnesses felt that customers would not react favorably to the requirement in the provision that finance charges be imposed in the month of purchase as this would deprive them of the free period now available under most open end consumer credit plans.

The majority were concerned that the elimination of the minimum finance charge would force small retailers to abandon their open end credit plans and go over to bank credit cards. Availability of credit to low- and moderate-income consumers could be curtailed. In addition, as some members of the committee saw it, the Federal Truth in Lending Act simply is not the place for this form of rate regulation. It should be left up to the States to decide where the minimum finance charge makes economic sense, as they are now doing.

At the present time, finance charges are regulated by State law. States differ in their pattern of regulation. In one instance, a State may allow a lower rate of finance charge to be imposed but may allow a minimum charge. Another State may allow a higher rate of finance charge and prohibit a minimum charge. Many States have, in fact, either restricted or prohibited such charges. If, however, the Federal Government were to make a minimum charge illegal, it would supersede State law and apply to all States and would not take into consideration the differences which now exist in the States in their regulation of finance charges.

I have received from small retailers in Tennessee numerous telephone calls and telegrams indicating that a Federal law prohibiting the previous balance method of computing finance charges and the minimum finance charge would cause them great hardships. The small businessmen who have contacted me tell me that such an approach on the Federal level would put them at a great disadvantage in competing with the large retail firms and could force them to use bank credit cards. I feel that it would be most unfair to small businessmen for us to legislate in this area at this time.

I urge the passage of the bill without crippling amendments.

In the interest of the legislative process, I reserve the remainder of my time.

Mr. PROXMIRE. Mr. President, will the Senator from Alabama yield me a brief amount of time on the bill?

Mr. SPARKMAN. Yes, I yield 5 minutes to the Senator from Wisconsin.

Mr. BROCK. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. PROXMIRE. I am happy to yield.

Mr. BROCK. Mr. President, I ask unanimous consent that the following staff members be permitted the privilege of the floor: Tony Cluff, Tony Wood, and Tom Brooks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I wish to congratulate the chairman of the committee (Mr. SPARKMAN) and the Senator from Tennessee (Mr. BROCK) for their hard work on the bill. Both of them have spent a great deal of time on the bill and have strengthened it in many respects.

This is a controversial kind of a law to try to enact. It does affect both consumers and businessmen. It is a bill on which it is hard to secure agreement. It causes very strong feelings on the part of businessmen as well as consumer organizations.

On this kind of legislation, it is most important to have people with the concern and the intelligence shown by the Senator from Alabama (Mr. SPARKMAN) and the Senator from Pennsylvania (Mr. BROCK) working on it.

They have put in a tremendous amount of time and effort on this bill and have a bill which does have good provisions in it. However, in all candor, I can only support the bill reported by the committee, but only with considerable reluctance and with the hope that it can be strengthened on the floor. The bill contains a number of good provisions which will improve our credit system. For example, the bill requires creditors to resolve customer billing inquiries in a fair and timely manner; it restricts the so-called holder in due course doctrine on credit card transactions; it prohibits other unfair billing practices; and it outlaws discrimination in credit on the basis of sex or marital status. These are all worthwhile reforms and they have my wholehearted support.

However, the bill reported by the Senate Banking Committee is also deficient in three areas. It does not contain a provision regulating the manner in which creditors compute finance charges on their revolving charge account plans. Such a measure was included in my original bill, S. 914, but was deleted by the committee. Second, the bill as reported does not contain a prohibition against minimum finance charges. Such a prohibition was also contained in my original bill, S. 914, but was similarly deleted by the committee. Third, the bill as reported drastically weakens the civil penalties under truth in lending contrary to the specific recommendations of the Federal Reserve Board.

I am going to offer amendments to remedy 2 of these 3 deficiencies. I understand that the Senator from Utah (Mr. Moss) will offer an amendment to remedy the civil penalties provision. If these amendments are successful, I believe we will have a strong and effective bill, and one which will obtain the enthusiastic support of consumer groups. This support by consumer groups is necessary if we expect the bill to clear the House of Representatives. On the other hand, if these strengthening amendments are defeated, I believe we will have only a marginal consumer protection bill and one which will not be vigorously pushed in the House. Under these circumstances, it is likely the bill will die in the House as did similarly weakened legislation on the same subject last year.

Mr. President, the bill before us has three titles. Title I prohibits unfair credit billing practices; title II improves the administration of the Truth in Lending Act; and title III prohibits discrimination in consumer credit transactions on account of sex or marital status.

TITLE I—FAIR CREDIT BILLING

Title I of the legislation is termed the Fair Credit Billing Act, and is based on legislation I introduced in the 91st, 92d, and 93d Congress. It is designed to help consumers resolve billing disputes in a fair and timely manner and to prohibit certain other practices arising out of the use of credit cards or revolving charge accounts. As reported by the committee, the proposed Fair Credit Billing Act has the following key objectives:

RESOLUTION OF BILLING ERRORS

The legislation seeks to establish a system for insuring that billing disputes or inquiries are resolved in a fair and timely manner. This objective is achieved through the following substantive provisions:

First. Creditors are required to acknowledge customer billing inquiries within 30 days and to resolve those inquiries within 90 days. An inquiry is resolved by either correcting the customer's bill or explaining why the original bill is correct.

Second. Creditors cannot send dunning letters, threaten the consumer with an adverse credit report, or take other action to collect a disputed amount or report such amount as delinquent until the creditor has complied with the requirements for resolving billing inquiries.

Third. If a customer continues to dispute a bill after receiving the creditor's explanation, the creditor may not report the disputed amount as delinquent to a credit reporting agency unless the creditor so notifies the customer and tells the credit reporting agency the amount is in dispute.

Fourth. Creditors must report any subsequent resolution of a disputed amount to any credit reporting agency which was first notified of the dispute.

Fifth. Creditors who fail to comply with the foregoing requirements forfeit the amount in dispute up to $50 whether or not the bill was in error.

Sixth. Creditors must indicate on their monthly bills an address for handling billing disputes and disclose twice yearly the customer's right to have these disputes resolved as provided in the bill.

REGULATION OF OTHER BILLING PRACTICES

In addition to establishing a system for resolving billing disputes, the legislation seeks to prohibit other unfair billing practices with respect to revolving or open-end credit accounts. The substantive provisions are as follows:

First. Creditors cannot impose a finance charge on a revolving credit account unless the customer's statement is mailed at least 14 days prior to the date by which payment must be received. An exception is provided if a creditor fails to meet the 14-day requirement as a result of an act of God or other circumstances beyond the creditor's control.

Second. Creditors cannot impose a finance charge on revolving credit accounts if the customer's payment is received before the due date.

Third. Creditors must promptly credit a customer's revolving charge account for any excess payment or refund the amount of the excess if requested.

Fourth. Merchants honoring credit cards issued by banks or other third parties must promptly notify the card issuer of any return of merchandise or similar adjustment.

ANTICOMPETITIVE PRACTICES

The legislation also seeks to prohibit certain anticompetitive practices between credit card issuers and retail merchants who participate in the credit card plan. The substantive provisions are as follows:

First. Credit card issuers cannot prohibit merchants who honor the card from offering a discount to cash customers.

Second. Credit card issuers cannot require merchants to maintain deposits or purchase other services as a condition for participating in the credit card plan.

RIGHTS OF CREDIT CARD CUSTOMERS

The legislation also seeks to strengthen the legal rights of customers who use credit cards issued by banks or other third parties. The substantive provisions are as follows:

First. Banks or other financial institutions which issue credit cards cannot offset an unpaid credit card bill against a customer's checking or savings account unless a court order has been obtained.

Second. A customer who purchases defective merchandise with a credit card issued by a bank or other third party can withhold payment and assert the same legal claims and defenses against the merchant which sold the merchandise, provided the transaction exceeded $50 and occurred in the same State where the customer lives or within 100 miles of his residence.

TITLE II—AMENDMENTS TO THE TRUTH IN LENDING ACT

Mr. President, title II also contains a series of largely technical amendments designed to improve the administration of the Truth in Lending Act. Most of these amendments were recommended by the Federal Reserve Board or the National Commission on Consumer Finance and are described in the section-by-section summary included with this report.

The most significant provision under title II limits a creditor's maximum liability in a class action suit brought under truth in lending to $100,000 or 1 percent of the creditor's net worth, whichever is the lesser. I believe these limits are inadequate and should be increased.

TITLE III—EQUAL CREDIT OPPORTUNITY

Title III is termed the Equal Credit Opportunity Act and prohibits any creditor from discriminating against any person on account of sex or marital status in granting or denying credit.

This title is based on legislation originally introduced by Senator WILLIAMS and Senator BROCK and was added to the fair credit billing legislation in the form of an amendment sponsored by Senator WILLIAMS, Senator BROCK, and myself. Credit discrimination based on sex or marital status was clearly documented in the report of the National Commission on Consumer Finance as well as other studies. Based on these findings, I believe a statutory prohibition against discrimination based on sex or marital status is long overdue. This type of senseless and arbitrary discrimination must be eliminated from our credit system. The prohibition in the bill against discrimination applies to all credit transactions, whether for consumer, business, or other purposes, and includes cash loans, installment sales, mortgage loans, and the opening or closing of a revolving charge account. The prohibition against discrimination also covers the imposition of more restrictive terms and conditions on a prospective credit transaction as well as the approval or denial of credit.

NEED FOR FAIR CREDIT BILLING

The need for fair credit billing legislation is brought on by the rapid increase in revolving or open-end credit plans which bill consumers on a monthy basis for the purchases during the preceding month. Many creditors operating open-end credit plans have computerized their billing and collection systems to the point where an individual consumer with a particular problem is finding it increasingly difficult to obtain a relevant response to his inquiries.

Also, because of the rising cost of credit, many retailers have converted from the traditional 30-day charge account to a revolving charge account where the consumer is charged for credit if he does not pay in full within the traditional 30-day period. In other cases, credit cards issued by banks or other third parties have altered the legal nature of the more traditional two-party credit transaction involving only a merchant and a consumer. All of these developments in the credit industry have brought benefits to the consuming public. But there have also been problems which the fair credit billing legislation is designed to remedy.

THE CREDIT CARD REVOLUTION

Credit cards have been one of the fastest growing forms of consumer credit. While credit cards were once an exclusive instrument of the rich, they are now used by every segment of society. A recent study by the Institute for Social Research of the University of Michigan shows that 35 million families, or roughly one-half of all families, use at least one credit card. More surprising, the study also revealed that 20 percent of families with incomes under $5,000 use at least one credit card. More than 17 million families use three or more cards and about 6 million families use nine or more cards.

The study also showed that 25 million families use cards issued by retail merchants; 24 million families use gasoline company credit cards; 12 million families use bank credit cards; and 9 million families use travel and entertainment cards. Those families who use credit cards make credit card purchases of $26 billion a year, or about $750 per family. Federal Reserve Board figures indicate that by the end of 1972, American consumers owed $40 billion on their open-end credit accounts of all types or roughly $400 per family. For the average family credit cards, charge accounts, and monthly bill paying have become a way of life.

RESOLVING BILLING ERRORS

Numerous complaints have been received by Members of Congress from consumers using credit cards who have had difficulty in resolving errors appearing on their monthly credit statements. The Federal Trade Commission has received nearly 2,000 complaints in this area. Similar complaints have been received by consumer protection agencies throughout the country. A survey taken by the Minneapolis Tribune shows that one out of every three consumers have been involved in at least one billing error problem.

Most consumer complaints about billing errors involve a common pattern. In a typical case, the consumer might discover a billing error on one of his monthly charge accounts or credit card statements. Or he might need further information about a particular item appearing on his statement. He writes to the creditor but receives no satisfactory response. In the meantime, he receives a series of computer-written dunning letters. These letters may threaten the consumer with a bad credit rating or other legal action unless the amount in dispute is paid.

After literally months or years of carrying on correspondence with a computer, many consumers give up in frustration and pay the disputed amount even though they feel they do not owe such amounts. Some eventually resolve the dispute through sheer persistence, although it may take many months or even years of patient letter writing. Some are able to get their billing problems corrected by writing to the president of the company or to their Congressman or Senator. A few hire attorneys to press their claim. One consumer witness testifying last year told of spending $150 in legal fees to get a $22 billing error corrected.

The bill requires that upon being notified of a billing error, the creditor must acknowledge the notification in 30 days and take positive action to resolve the error within two complete billing periods, but in no event later than 90 days. An error is resolved either by making appropriate corrections in the consumer's account or by explaining why the original amount billed was correct. In the latter case, the creditor is required to investigate the error and provide the consumer with copies of the transaction in question if requested. The requirement for an investigation is intended to preclude a creditor from making an automatic form letter response without actually looking into each billing inquiry.

While the creditor is investigating a billing inquiry, he is prohibited from reporting to a credit bureau that the amount in dispute is delinquent. He also is barred from taking action to collect the amount in dispute including threatening the consumer with an adverse credit report. Many consumers are now intimidated into paying an unjust bill because of these questionable collection tactics.

If a consumer still disputes the accuracy of a bill after it has been explained to him in accordance with the law, the creditor can begin his normal collection activity; however, if he reports the amount as delinquent to a credit bureau, he must indicate the amount that is in dispute and must notify the consumer that the amount was reported as delinquent and must give the consumer the name and address of the credit bureau involved.

Any creditor who fails to meet these requirements forfeits the amount in dispute up to a maximum of $50 whether or not the amount billed actually was in error.

Creditors are also required to inform consumers of their rights under the Fair Credit Billing Act at least twice a year and disclose an address for receiving billing inquiries on or with their monthly billing statements.

All of these provisions are designed to establish a fair and equitable system for the resolution of billing disputes. They are fair to the consumer and workable to the credit industry. They have been carefully reviewed last year and this year by the committee and were adopted unanimously. Most of the requirements are already being met by responsible creditors and there is no reason why all creditors cannot or should not meet those same standards.

RESTRICTION OF HOLDER IN DUE COURSE

Mr. President, the bill reported by committee also contains a modified restriction of the so-called holder in due course doctrine on credit card transactions. A similar provision was deleted by the committee last year by a one-vote margin. This year, the provision was adopted in committee without a single objection. I am glad to see that we have finally reached a consensus on the need for restricting the holder in due course doctrine on credit card transactions. The provision reported is not as strong as I would have liked. Nonetheless, I believe we have made a reasonable beginning.

Perhaps the best way to understand how the holder in due course doctrine operates on credit card transactions is to take a typical example. Suppose a consumer buys a $500 TV set from a retailer by using his bank credit card. When he gets the set home he discovers the set does not work and the retailer does not respond to his complaint. The normal reaction is to withhold payment until the retailer repairs or replaces the defective set. It is then that the consumer learns about an obscure provision in his credit card agreement with the bank. The consumer must continue making payments to the bank for the defective TV set regardless of any legitimate claim or defense he may have against the merchant. If he had bought the set through the merchant's own credit plan, he could have withheld payment from the merchant and if the merchant sued to collect, the consumer could raise as a defense the fact that the TV set was defective. These legal rights evaporate on three-party credit card transactions involving a merchant, a consumer and a card issuer—generally a bank.

In order to remedy this problem, the bill prevents waiver of defense clauses from being inserted in any credit card agreement. As reported, the bill subjects third party credit card issuers as well as other credit card issuers to all claims—other than tort claims—and defenses arising out of a credit card transaction provided: First, a good faith attempt has been made by the cardholder to obtain satisfaction from the merchant; second, the amount of the transaction exceeded $50; and third, the transaction occurred within the cardholder's State of residence or within 100 miles of his residence, whichever is greater.

When these conditions are met, a consumer can withhold payment for shoddy merchandise purchased with a bank credit card or other card and assert his legal claims or defenses against the card issuer in any subsequent legal action. These rights, of course, are not subject to waiver by the consumer as is the case with other rights under truth in lending.

I am personally doubtful of the need for the $50 restriction and the geographic restriction, and I am hopeful that in time they can be dropped. Once we gain experience under this provision, I believe it will become evident that there is no great need to preserve the holder in due-course doctrine on small transactions or on out-of-State transactions beyond 100 miles from the consumer's residence. Nonetheless, a majority of committee members seemed to be persuaded that some restrictions were needed and we therefore had to reach a compromise in order to achieve any progress.

Mr. President, the bill contains a number of other provisions to prohibit unfair billing practices and to improve the administration of truth in lending. These provisions are spelled out in the committee report and I will not take the time of the Senate to describe them here. In summary, I believe the legislation is good as far as it goes, but it needs to be substantially strengthened if we are to protect consumers from some of the most serious billing abuses.

Mr. President I thank the distinguished manager of the bill and I yield back the remainder of my time on the bill.

The PRESIDING OFFICER. Who yields time?

The bill is open to amendment.

Mr. PROXMIRE. Mr. President, I call up amendment No. 363.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

On page 15, line 25, insert the following new section to Chapter 4:

§ —. Computation of finance charge

No creditor who operates an open-end consumer credit plan under the terms of which the obligor can avoid incurring a finance charge by paying his outstanding balance or portion thereof by a specified date shall impose a finance charge against any balance in the obligor's account unless the creditor has: (i) previously sent the obligor a billing statement indicating the amount of such outstanding balance at the end of the last billing cycle and the subsequent date by which payment must be received to avoid the imposition of a finance charge; and (ii) deducted from such outstanding balance any subsequent payments received or credits made in the obligor's account by such date.

Mr. PROXMIRE. Mr. President, I understand that under the unanimous-consent agreement I have a half hour on this amendment.

The PRESIDING OFFICER. There is a half hour on each side, a total of 1 hour on each amendment.

Mr. PROXMIRE. Mr. President, I do not expect to take much time, and I hope to have a rollcall vote when the debate is concluded.

I yield myself 10 minutes on the amendment.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized for 10 minutes.

Mr. PROXMIRE. Mr. President, my amendment is designed to regulate the manner in which creditors compute their finance charges on revolving charge accounts. This amendment in no way limits the legal rate of interest which creditors can charge on these accounts. Most States permit a maximum charge of 1½ percent a month or 18 percent a year on the unpaid balance. My amendment would not change those rate ceilings. It simply requires all creditors to use the same method for determining the unpaid balance against which a rate of finance charge is applied.

Many if not most consumers think that all revolving credit plans are the same because they all charge 1½ percent on the unpaid balance. Nothing could be further from the truth. The hooker lies in the term "unpaid balance." No State or Federal law defines the unpaid balance upon which a finance charge is based. Each creditor is free to use his own definition.

Mr. President, the reason why my amendment is so important, is that the truth-in-lending law represented the beginning of a change designed to give consumers information and require disclosures so that they would know where they could shop for the lowest cost credit.

The truth-in-lending law has been criticized by many because it is not effective. They say that people still do not use it. Consumers are confused. They cannot tell whether one kind of credit which offers credit at 18 percent is higher or lower than another which seems to offer credit at an annual rate of 15 percent or 10 percent a year, because the billing systems are different.

As long as we have that difference in billing systems, it will be impossible for most consumers to shop intelligently for credit. He may think he is getting a better deal if he goes for the lower rate. That will not necessarily be true. He may be paying a higher interest rate if he takes the lower rate because the billing system might be different.

My amendment would provide that every creditor would use the same kind of billing system. Then the consumer would be free to determine which rate is the lower.

I think it is very important that the consumer be given this opportunity, because it is clear that he is not being given that opportunity at the present time.

Every study has indicated that the overwhelming majority of people are not able to determine or will not take the time to determine which kind of a billing system will give them the lower rate.

Because of this loophole in our credit laws, creditors have developed a welter of billing systems whose only purpose is to increase finance charge revenue and whose only effect is to confuse and baffle the customer. For this reason the truth-in-lending law did not work in this area.

There are at least five different billing systems currently in use and unless legislation is passed, the number is likely to increase. Each system uses the standard rate of 1½ percent a month or 18 percent a year; however, the actual amount of finance charge can vary by as much as 5 to 1 or more, depending upon the computation method used by the creditor. How can we have truth in lending when finance charges can vary by 500 percent or more even though everyone discloses the same rate?

The Truth in Lending Act tried to deal with the problem by requiring each creditor to disclose his billing system. However, the disclosure approach simply has not worked. Consumers do not really understand the different systems in use. A recent poll showed that despite truth in lending, 80 percent of consumers did not know how their finance charges were figured on their revolving charge account.

One system used by many retailers, large and small, is the previous balance system. Under this system, if a consumer has an opening balance of $100 and pays $90, the creditor bases his finance charge on the previous balance of $100 instead of the remaining balance of $10. In effect, the creditor charges interest on money which has already been paid.

The previous balance system has been severely criticized by the FTC, by the Federal Reserve Board, by State courts, by consumer groups, and even by some creditors. Six States have abolished the system, although creditors are free to use other systems which may cost the consumer even more money.

There are also a number of average daily balance systems in use. Under these systems, the creditor bases his finance charge on the customer's average daily balance over a 30-day period. However, these systems contain the same retroactive features of the previous balance system. If a consumer does not pay his opening balance in full by the end of the 30-day period, the creditor goes back in time and charges a finance charge against balances in the account prior to the due date.

Moreover, one variety of the average daily balance system developed by Montgomery Wards charges consumers for current purchases before they are even billed. Under the Wards system, many consumers wind up paying higher finance charges than they would have under the previous balance system. Wards uses their average daily balance system in the six States where the previous balance system has been banned. Thus consumer protection legislation in these States has resulted in an even greater consumer ripoff.

The fairest and most equitable method for assessing finance charges is the adjusted balance method. It is the method required by my amendment. Under the adjusted balance method, the creditor first bills the customer for his balance due and then deducts any payments or credits received on time before applying a finance charge. For example, if the consumer had an opening balance of $100 and paid $90, the creditor would assess a finance charge only against the remaining balance of $10.

The mandatory use of the adjusted balance system is strongly supported by the Consumer Federation of America which represents hundreds of consumer groups all across the Nation. It is already used by a number of creditors including banks, oil companies, and retailers. The adjusted balance system is simple and can be used by any creditor, large or small. It does not require computers or other complex machinery. If a creditor can multiply $100 by 1½ percent he surely can subtract the customer's payments from this amount and multiply the smaller balance by 1½ percent.

Mr. President, the thrust of my amendment is simple. It requires creditors to use one uniform billing system on revolving charge accounts. In this way, consumers can compare the cost of one plan with another by comparing the rate. Consumers can understand a finance rate. They cannot understand the differences between billing methods. I am amazed that the Congress has permitted the credit industry to confuse and mislead their customers for so long.

Mr. President, letting creditors determine their own computation method on revolving charge accounts is like letting butchers determine their own weights and measures. Imagine the public outcry if each butcher could use his own standard weights and measures. All butchers could charge the same price for hamburger—$1.29 a pound. And yet the actual amount of hamburger could vary tremendously depending upon the standard weight used by each butcher. We obviously would not permit this intolerable situation to continue for very long. Public pressure would force the Government to step in and impose one standard system of weights and measures on all butchers.

We have the same exact situation on revolving charge accounts. Each creditor charges the same rate, but the actual amount of finance charge depends upon the billing system used by the creditor. The only reason the public hasn't screamed is that most people do not really understand the different billing methods. It is therefore up to us as legislators to protect the public from this abuse.

Mr. President, I believe the adoption of a single billing system will strengthen the Truth in Lending Act by enabling consumers to compare the relative cost of different credit plans. But I also believe that in the long run, my amendment will help the credit industry. I realize there is tremendous opposition to my amendment by creditors. But I believe this opposition is shortsighted and is based primarily on the natural inclination to oppose change.

My amendment will help the industry by making it more competitive. It will increase consumer confidence in the industry by taking the confusion out of revolving credit plans. It will eliminate many customer complaints about the previous balance system and other retroactive systems. The FTC has already received over 2,000 complaint letters on the previous balance system. Finally, my amendment will treat all creditors equally and insure that no creditor can gain an unfair competitive advantage by cutting prices and recovering costs through a tricky billing system.

Mr. President, I believe the arguments raised against my amendment by the credit industry are shortsighted and ill founded. For example, it has been argued that the Federal Government should not stifle innovation and free enterprise by requiring only one billing method. This argument ignores the fact that we have imposed standardization in many other fields when necessary to avoid confusion including the adoption of standard weights and measures. The only purpose behind the proliferation in billing methods is to raise the creditor's yield. The consumer receives no benefit from different billing systems—only higher finance charges.

Another argument made by creditors is that some of the higher cost billing methods including the previous balance system are used by smaller retailers who need the extra revenue to stay in business or remain competitive. However, expert testimony before the committee revealed that a retailer's total revenues would decline by about two-tenths of 1 percent as a result of changing from the previous balance to the adjusted balance system. This does not seem to be sufficient to cause anyone to go out of business or become less competitive particularly since large retailers as well as small retailers would be affected equally. As I say, six States have already abolished the previous balance system and there is no evidence that small retailers have gone out of business or have been adversely affected in those States.

Still another argument made by creditors is that they need flexibility in billing systems to make up for an inadequate rate ceiling. It is alleged that the rate ceiling in many States is too low to permit a retailer to break even on his credit operation and that a mandatory requirement to use the adjusted balance system would make a bad situation worse. This argument actually makes the strongest possible case for Federal regulation of billing methods. It is a tacit admission that creditors have used different billing systems as a device to get around State interest rate ceilings. If these ceilings are too low on revolving credit, creditors, instead of adopting a policy of violating the spirit of the law, should appeal directly to the State legislatures for relief. By changing his billing method, a creditor can achieve a de facto increase in the effective interest rate without legislative approval or consumer knowledge. Whatever may be the proper rate ceiling, a creditor should not be allowed to indirectly increase that ceiling by changing his billing method. This type of subterfuge has no place in our credit system.

Mr. President, I believe the time is long overdue for Congress to act in this area. It is high time we took the confusion out of credit. I urge the Senate to adopt my amendment, and I reserve the remainder of my time.

Mr. SPARKMAN. Mr. President, I ask unanimous consent that during the consideration of this measure, Mr. Jerry Allen and Mr. John Miller be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. BROCK. Mr. President, I yield myself 10 minutes.

Mr. President, I marvel at the eloquence of the Senator from Wisconsin, who is a very able and skilled debater, and presents his arguments with a great deal of cogency and effect, for which I compliment him, though I am not sure I always agree with what he says. This is one case where I do not.

The Senator states the proposition that this is not going to cost the retailers any money. Well, I would respond by saying it is not going to benefit the consumers very much; so what is all the hassle about?

According to the testimony we had before the committee, the only study that was done with definitive value before the Commission last year was done by Professor Ray McAllister of North Texas State University. He testified on some of the results of a research project in which he has been engaged for the past 18 months with regard to the types of billing methods by creditors, finance companies, and banks in computing finance charges.

Let me review the facts. The previous balance method, on the average, costs 15 cents a month more than the adjusted balance method. For at least one-half the customers, the previous balance method costs 6 cents a month more, or up to that difference.

The question is, if the dollar saving is minimal to the customer and, as the Senator says, if the actual increase in income to the creditor is minimal, according to the businessman, what is the problem?

The problem is very simple. This amendment, No. 1, does put the Federal Government into the business of regulating interest rates.

Very clearly and very simply, all the States—or virtually all—have gone to the 1½ percent a month service charge. So if we now eliminate any from competition with regard to the computation of rates, we are placing the Federal Government in the position of setting the exact rate structure in the 50 States.

Mr. President, let me talk to you about the more important problem that I have with the amendment, which deals with credit in its largest sense, that is, in its availability to the less-advantaged people of this country.

For years, there was no such thing as credit to moderate- or low-income families. It was a facility made available only to the very rich. However, as the marketing concepts broadened and became more adaptable and more flexible, the business came to realize the economic benefits that could be gained by involving all the people of this country in the marketplace. So they created an open-end credit plan which would allow almost any family access to the marketplace. They established certain procedures whereby it generally became the accepted practice, that is, we would not have to pay any interest if we paid the account within 30 days of making the charge.

How is that going to be changed with the Proxmire amendment?

What we have today are large and small retailers involved in this credit availability process whereby they are making goods and services available to those who do not have the cash otherwise.

What happens?

The small retailer is less qualified than the large one, because no one feels that the large ones will suffer very much under any circumstances. What happens? By Federal action, the so-called J. C. Penney plan, if applied to the small department store, the 5-and-10-cent store, what have you, in Oshkosh, Chattanooga, Memphis, or Mountain City, will make it almost impossible for any small businessman to continue to operate his own credit plan. He does not have a computer. He does not have access to one. What will he do? He will go to the bank and say, "Look, I cannot afford to take this plan's criteria. I cannot afford to provide credit to my middle- and low-income customers under the law." All he can do is go to the bank and say, "Let us work out a provision whereby I can use a bank credit card or a bank credit system."

What does that cost the customer? The low-income and the middle-income customer who patronizes the independent department store in Oshkosh, right off the bat, will have to pay 5 percent off the top in terms of the merchandise price.

Is 5 percent of the total purchase going to be worth the saving of 6 cents a month in the billing charge?

I suggest to you, Mr. President, that we will not have saved him one dime but will have cost him a great deal of money because we will have forced the customer into a much more expensive method of carrying on his purchase of goods and services.

Mr. President, what have you done to the merchant who says, "Well, I am sort of in the middle. I have a middle-sized business. It is not big enough to use computers. I am operating on my own credit plan." What will he do in response to this amendment? He will have to cut out the 30-day credit plan of his because that is the only way he can compete.

What have we done to the customer? We will have cost him the 30-day no-interest payment that he is getting today, the 30-days' worth of free time.

How much have we done for the customer if we pass this amendment, which simply says that all we want to do is to provide one method of a rate computation in the United States, that it is simple and easy to understand, and we are making the marketplace an easier place for the consumer to get along in, so that he knows what is happening to him.

But the effect of the amendment will be something very different.

What have we done for the consumer if we cut off the 30-day free period? What we have done for the consumer if we put him on a finance system which will cost him 7 percent more money in terms of total purchases, because the whole year is apportioned with that institution into a much more expensive method of credit computation and credit calculation?

What have we done for the poor family of limited means which cannot qualify for a bank credit card but which does have access to the little meat market, the corner grocery store, the small drugstore, because they know the man who owns the store and the family that runs it, who say to the consumer, "I will give you credit and a free period of 30 days in which to pay if you will buy your merchandise from me."

What happens to that family when they lose all access to credit because we are trying to simplify a credit code for them?

What have we done? The fact is, we will have done no favor for the consumer. We may have simplified, but in the process of simplification we will have cost the consumer money. We will have limited access of the lower middle income family to credit.

I cannot accept or support the amendment whatever its good intent—and I do not argue that at all—that has the effect of reducing credit availability and increasing its cost. That is why I am opposed to the amendment. It should be rejected.

Mr. SPARKMAN. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER (Mr. McClure). The Senator from Alabama is recognized for 5 minutes.

Mr. SPARKMAN. Let me ask the Senator from Tennessee, who is saying what have we done for the consumer, under the conditions he describes, what have we done for that little retail merchant?

Mr. BROCK. We have put him in an impossible situation. He could not live with this amendment.

Mr. SPARKMAN. Has it not been amply represented that this system the Senator from Wisconsin seeks to impose is what is generally known as the J. C. Penney system?

Mr. BROCK. That is right. It would be a mandate for all retailers.

Mr. SPARKMAN. Are there not about five different systems which are usable?

Mr. BROCK. That is right.

Mr. SPARKMAN. The plan of the Senator from Wisconsin would require all of them to operate under a single system, would it not?

Mr. BROCK. That is right.

Mr. SPARKMAN. Is it not true that that operation, I was about to say requires, but certain virtually requires the use of computers in order to keep up with the data?

Mr. BROCK. It requires computers if one is big enough to shift to computers, or to require that they abandon their own credit system.

Mr. SPARKMAN. That is what I was going to bring out. In other words, the average retail stores, as I know it in my hometown and probably as the Senator knows it in east Tennessee, is not equipped to use computers; is that not correct?

Mr. BROCK. They really cannot——

Mr. PROXMIRE. Mr. President, will the Senator from Alabama yield to me at that point?

Mr. SPARKMAN. I yield.

Mr. PROXMIRE. I do not understand why the two Senators keep arguing that this has anything to do with the requiring of computers by small business. This is the average adjusted balance method. It is a simple method for many small businesses who are using it now. It does not require any computers.

Mr. SPARKMAN. Let me say this. I know that the retail stores down in Alabama have told me this simply will not work because they are not able to use computers.

Mr. PROXMIRE. The Senator is talking about the adjusted balance system? I am sure that there are many hundreds of retailers in Alabama who are using it, as they are in Wisconsin and Tennessee. This is something that any small businessman can use. The principle behind the amendment is simple, it puts up a standard method such as we use with weights and measures.

Or should we let the retailer use any system they want to use, to the complete confusion of the consumer, so that they have no idea of what the rate is? The previous balance is one thing. The adjusted balance is something else. The daily balance is something entirely different. All we are doing in this amendment is to require one kind of scale, one kind of measuring system.

Mr. SPARKMAN. Traditionally, making rates such as that has been left with the individual States and not with the Federal Government. Furthermore, this is the selection of one plan out of some five and it would eliminate all the others. I think the amendment is not good. We thrashed that out in committee. We had this very question in committee. The majority of the committee voted for the plan represented in the bill, which I think is a good plan.

Mr. PROXMIRE. Mr. President, I understand that the Senator from Maine would like to speak briefly on this matter, and he will return to the Chamber shortly. I yield myself 2 minutes of my time, simply to summarize my argument in favor of the amendment.

First, Mr. President, this amendment would increase competition, meaningful competition. The competition would not be on the basis of who can offer a plan which appears to offer the best deal to the consumer but does not. It would be on the basis of the same kind of billing system so that computation would be very clear and simple and understandable for a consumer.

Furthermore, as the Senator from Tennessee admitted, in his typical honesty, this would result in a lower cost for the consumer. It would save him money. The Senator from Tennessee says the amount is not great, but it would save the consumer money. For a consumer who uses credit a great deal and has a small amount of income, the savings could be significant. It could be several dollars over the period of a year. Many low-income people have to budget their dollars very carefully.

I think the fundamental argument for this is whether or not we have a fully meaningful truth-in-lending statute. If we do not provide standardization in billing systems, credit systems would continue to be just as confusing as if you walk into a grocery store to buy hamburger, and instead of charging on the pound basis, the merchant charges on some other system; or, instead of having a scale which would have the pound equal to 16 ounces, he has a scale which had a pound equaling 15 ounces. It is as simple as that.

Mr. President, I yield the floor, and I reserve the remainder of my time.

Mr. **SPARKMAN.** Mr. President, I ask unanimous consent that a staff member, T. J. Oden, and Miss Elinor Bachrach, who is a staff assistant to Senator HATHAWAY, be permitted the privilege of the floor during the consideration of this measure.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Who yields time?

Mr. **BROCK.** Mr. President, I should like to respond briefly to the question regarding the small businessman and retailers.

The Senator from Wisconsin has said any small businessman can use his prescribed system without any increased cost or without any major shift from current practices other than the method of computation itself.

I cannot accept that as a fact, because I do not know of any testimony received in that regard. As a matter of fact, we had hundreds and hundreds of letters from small businessmen, not just from Tennessee but from every State, and without exception—at least, in my own correspondence—they have pleaded that this amendment not be adopted because it would virtually double their cost of staying in the credit business, if they could stay in business at all.

Mr. **PROXMIRE.** Mr. President, will the Senator yield on that point?

Mr. **BROCK.** I yield.

Mr. **PROXMIRE.** Does the Senator know of any testimony at all—we had substantial testimony in which there was opposition to this amendment, as the Senator knows—from any source that the adjusted balance system would cost more? Can the Senator tell me on what page in the hearings this occurs and what witness testified to that point?

Mr. **BROCK.** I have a letter in my office—I am not sure whether it is part of the record, but it may be—in which a businessman in Memphis states, if I recall correctly, that he has four employees doing calculations in his credit department, and the number would have to be increased to eight. In other words, it would double his cost of doing business.

Mr. **PROXMIRE.** May I say to the Senator that that testimony was not presented in the hearing, and it was not subject to cross-examination. The people who opposed this amendment were very articulate and intelligent and well organized. They knew exactly what they were doing and spent a great deal of money getting the best possible case against the amendment, and this argument was not made at all in the hearing. I submit that if that argument had been made and was subject to cross-examination, we could have torn it to pieces, because there is no indication that more people would be required. If a businessman used the adjusted balance system, his yield might be reduced, and in that way he might have less revenue.

Mr. **BROCK.** I am perfectly willing to carry the argument on that fact alone, if the Senator wishes. If he wants to talk about small business, their margin of profit is absolutely minimal. They do not have any giant reserve and contingency fund they can fall back on when something comes out of Washington that changes their operation. What do they do? If they do not make a profit, they do not stay in business, so obviously they are going to try to adapt. How do they adapt under the Senator's amendment? The first thing they can do is to raise prices to the consumer. That goes to the cash customer as well as the credit customer. Who is the cash customer? The very lowest income family.

The second reaction, if he cannot go that route, is to say, "I cannot afford a credit plan at all, so I am going to turn the whole problem over to the bank"; and the bank has a credit card plan. That costs the consumer 5 percent more on his purchase. There is a 5-percent inflation factor built in. It eliminates the opportunity for the poor family to get credit, because they do not have the opportunity for credit from the bank.

So the Senator is going to increase competition, and he is going to do it by limiting flexibility. He is going to save the consumer money at a cost of higher prices and perhaps less credit availability. The Senator is going to help the small businessman by forcing him to abandon his credit plan, by going to a bank, and by increasing his cost. The small businessman has to cover the increased cost somehow.

Mr. **PROXMIRE.** Right off the bat, when I began speaking, I said that the reduction in income by the method I have proposed would be two one-hundredths of 1 percent of total revenue. It is true that there is no gain without pain. You cannot have gain for the consumer without some kind of cost to the seller. But it is the same kind of conservance as if we mandated uniform scales so that nobody could have a 15-ounce pound, that the pound would be 16 ounces for all. Obviously if we did not permit a 15-ounce, 12-ounce pound, it would mean that everybody—small butchers and others—who was selling on the basis of a 15-ounce pound would be out a little.

My argument is that until we get this system on a uniform basis so that every creditor who goes in to borrow money knows what the situation is and where the deal is best and where the rate is the least, truth in lending will have no real significance.

Those who oppose truth in lending and did so successfully for 7 years before we could get it out and passed and into law will continue to prevail, unfortunately, because the effectiveness will be limited. With 80 percent of the people not understanding the truth-in-lending law and not being able to use it effectively, with perhaps 99 percent of the people not being able to take the time to determine, on the basis of the billing system, where the better deal is, truth in lending simply is not providing the kind of information to the customer that it should.

This amendment would permit it to do so.

Mr. **BROCK.** Mr. President, you cannot have gain without pain, most of the time, I suppose. But you certainly have to calculate the cost of the potential, and in this case I think it is prohibitive.

Mr. **PROXMIRE.** I yield 5 minutes to the Senator from Maine.

The **PRESIDING OFFICER.** The Senator from Maine is recognized.

Mr. **HATHAWAY.** I thank the Senator for yielding.

Mr. President, I should like to speak in support of the amendment offered by my distinguished colleague, the Senator from Wisconsin.

The amendment to require use of the adjusted balance method of computing finance charges is essentially an amendment to require fair and equal treatment of all credit customers, and of all retailers who extend credit.

As the Senator from Wisconsin has explained, the current system, allowing the use of a variety of methods for computing finance charges, results in widely differing amounts being charged to the customer, depending on which method is employed. Although theoretically the finance charge in each case is 1.5 percent per month, the cost to the customer varies markedly according to the method used.

I firmly believe that this violates the intent of the Truth in Lending Act, which requires full disclosure of all credit practices to the consumer. Furthermore, permitting use of these different systems, some of which have a much higher yield than others, effectively allows creditors to charge interest rates in excess of those stipulated under State usury laws.

All of these methods, except for the adjusted balance method, involve retroactive finance charges, which are also unfair to the consumer. Every system allows the consumer a 30-day grace period for paying his bill. If he pays in full by the end of that period, then no finance charge is levied against him. Essentially he has been given 30 days of free credit.

However, if the customer makes just a partial payment during that time, then under all methods except adjusted balance, he has to pay a finance charge on the balance outstanding in his account during the 30-day grace period. Some methods charge him for the full amount, some for the average daily balance—taking into account the period in which he paid in part and, therefore, owed less, some even include current purchases during that time, on which the grace period has not even begun.

What this amounts to in every case is that the customer is charged for credit which was given free to the other customers who paid in full. This is obviously unfair treatment, resulting in higher costs for the person who pays for his purchases in installments. When you consider that the person most likely to make use of credit purchase plans is the low-income customer, who may not be able to pay in full during the first 30 days, then it becomes even more apparent that retroactive finance charges are unfair to the customer who is subjected to them.

The adjusted balance method is preferable because it gives equal treatment to all customers. The customer is charged a finance charge only on the outstanding balance in his account at the end of the grace period, minus any current purchases he may have made during that period. Thus he gets free credit during the grace period, whether he pays in full or in part. If all retail merchants are required to use the adjusted balance method, then all consumers will know where they stand as regards finance charges levied on them by all stores at which they shop.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. HATHAWAY. I yield.

Mr. PROXMIRE. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. HATHAWAY. Mr. President, finally I would make the point that I think that requiring use of the adjusted balance method is fairer for the retailer as well. In many States, use of the previous balance method has been outlawed, and it is generally agreed that this is an inequitable method, resulting in high costs to the consumer. On the other hand, the average daily balance method used by some of the larger store chains, although fairer in allowing credit for partial payments, requires use of a computer, which is too expensive for all but the larger retailers. The adjusted balance method is easy to use and accessible to all merchants, however large their operation.

In conclusion, I urge adoption of this amendment, on the grounds that the adjusted balance method gives fair and equal treatment to all consumers and to all retailers.

Mr. BROCK. Mr. President, I am ready to yield back my time but first I wish to make one point.

There are so many families in this country with very limited means; they work hard and they make $3,000, $4,000, $5,000 a year; and they are just barely making it. They need access to credit because they do not have large amounts of cash. But they budget themselves very carefully and they meet the payment period. They cannot afford to make the cash payments. They need the credit account, and they need to be able to pay it off.

If this amendment has the effect of eliminating the 30-day grace period there is a great injustice to those people who are trying to maintain their budget daily, weekly, and monthly. It is a hard task but they are doing a good job. I think our legislation should be trying to improve the overall picture and I do not think this amendment achieves that objective.

Mr. PROXMIRE. Mr. President, the Senator from Tennessee argues that the amendment will hurt the person with a small income. If that is the argument against it, then think of it in terms of commonsense. The industry is very much opposed to this amendment; consumer groups are overwhelmingly in favor of the amendment. They support it. There is no question about that.

I yield to the Senator from Maine.

Mr. HATHAWAY. I thank the Senator from Wisconsin for yielding. Perhaps he made this point while I was away from the Chamber briefly, but it seems to me that the argument of the Senator from Tennessee is highly speculative and erroneous when it is stated that if this amendment is agreed to they would not have the 30-day grace period. I think it will be continued. The retailers want consumers who cannot pay cash. Even though, as the Senator from Tennessee points out, it may cost some of them additional money, I am sure they are going to maintain this practice to keep those customers.

Mr. PROXMIRE. I am ready to yield back my time.

Mr. BROCK. I yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Nevada (Mr. Cannon), the Senator from Alaska (Mr. Gravel), the Senator from South Dakota (Mr. McGovern), and the Senator from Minnesota (Mr. Humphrey) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. Abourezk) is absent on official business.

I also announce that the Senator from Mississippi (Mr. Stennis) is absent because of illness.

I further announce that, if present and voting, the Senator from South Dakota (Mr. Abourezk) and the Senator from Minnesota (Mr. Humphrey) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. Cotton) is absent because of illness.

The Senator from Colorado (Mr. Dominick) and the Senator from Ohio (Mr. Taft) are necessarily absent.

The Senator from Maryland (Mr. Mathias) is necessarily absent to attend the funeral of a friend.

If present and voting, the Senator from Ohio (Mr. Taft) would vote "nay."

The result was announced—yeas 33, nays 56, as follows:

[No. 316 Leg.]

YEAS—33

Aiken
Biden
Burdick
Case
Church
Clark
Fulbright
Hart
Haskell
Hathaway
Hughes
Jackson
Javits
Kennedy
Magnuson
Mansfield
McClure
McGee
McIntyre
Mondale
Moss
Muskie
Nelson
Nunn
Pastore
Pell
Proxmire
Ribicoff
Saxbe
Schweiker
Stafford
Tunney
Williams

NAYS—56

Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bennett
Bible
Brock
Brooke
Buckley
Byrd, Harry F., Jr.
Byrd, Robert C.
Chiles
Cook
Cranston
Curtis
Dole
Domenici
Eagleton
Eastland
Ervin
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Hartke
Hatfield
Helms
Hollings
Hruska
Huddleston
Inouye
Johnston
Long
McClellan
Metcalf
Montoya
Packwood
Pearson
Percy
Randolph
Roth
Scott, Pa.
Scott, Va.
Sparkman
Stevens
Stevenson
Symington
Talmadge
Thurmond
Tower
Weicker
Young

NOT VOTING—11

Abourezk
Bentsen
Cannon
Cotton
Dominick
Gravel
Humphrey
Mathias
McGovern
Stennis
Taft

So Mr. Proxmire's amendment (No. 363) was rejected.

Mr. SPARKMAN. Mr. President, I move that the Senate reconsider the vote by which the amendment was rejected.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 362

Mr. PROXMIRE. Mr. President, I call up my amendment No. 362.

The PRESIDING OFFICER. The amendment will be stated.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with and that the amendment be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 15, line 25, insert the following new section to chapter 4:

§ Prohibition of minimum finance charges

(a) No creditor who operates an open-end consumer credit plan may impose a minimum finance charge on any consumer account unless such charge is—

(1) in the nature of a fixed finance charge for the purpose of recovering billing expenses and is imposed uniformly on all accounts without regard to the amount of credit outstanding or the amount of repayment; or

(2) imposed uniformly on all accounts in which the minimum periodic payment required by the terms of the plan has not been received during the two preceding billing periods.

(b) The exceptions to subsection (a) do not authorize the imposition of such charges where they are not otherwise authorized by State law. A creditor who imposes such charges may not state or imply that such charges are required or authorized by Federal law.

Mr. PROXMIRE. Mr. President, I shall speak briefly; I do not expect to use all my time by any means.

I should like to say, in connection with the last amendment, that last year the same amendment was lost on a tie vote, 38 to 38. This year the amendment was rejected by a vote of 56 to 33. The big reason for that difference is that this amendment was lobbied very effectively. I congratulate Montgomery Ward for such an effective lobbying job. They led the lobby charge. They won. We had no equivalent lobbying power to throw against them.

We had a good discussion of the

amendment. The Senator from Tennessee (Mr. BROCK) and the Senator from Alabama (Mr. SPARKMAN) did a fine job on the other side. I am sure they were very eloquent. But virtually no Senators were on the floor to hear the debate. It is very obvious that one cannot get this kind of switch by not knowing what is going on. So what was it that won this smashing victory? What went on was very solid, effective lobbying work by industry, especially by that fine organization headquartered in Chicago—Montgomery Ward.

Mr. President, the amendment I have called up now prohibits minimum finance charges on revolving charge accounts.

Minimum finance charges are a device whereby creditors can charge low-income consumers a higher rate of interest. Moreover, if the charge is 50 cents or less, the creditor does not have to disclose the annual rate of interest under Truth-in-Lending. Because of 'his disclosure gap, many creditors impose a 50-cent minimum finance charge on their revolving charge accounts.

Creditors who use minimum finance charges impose them whenever the minimum charge of 50 cents exceeds the charge which would result by applying the standard 1½ percent rate to the unpaid balance.

Mr. President, this is clearly and obviously a low-income amendment. The purpose of the amendment is to prevent the kind of skyrocketing interest charges which would result, for example, when one buys an item for $3, $4, $5, or even $10. The minimum finance charge may be applied. There is no requirement under the Truth in Lending Act that this minimum charge be reported. If the consumer pays a few days after that, the consumer pays a rate of interest which could be 100 percent or 200 percent, or more.

For example, if the unpaid balance is $10, a finance charge based on the standard 1½ percent rate would come to 15 cents. The creditor would thus apply the minimum finance charge of 50 cents. A charge of 50 cents against a $10 balance is equivalent to a monthly rate of 5 percent or an annual percentage rate of 60 percent—far in excess of the legal rate ceiling. However these high rates do not have to be disclosed under Truth in Lending.

Minimum finance charges operate primarily as a tax on low-income consumers. They are applied only to those consumers who maintain small balances and who cannot afford to pay their balances in full within the traditional 30-day period. These tend to be low-income consumers.

One of the arguments used to justify minimum finance charges is that they compensate the creditor for his bookkeeping expense involved in preparing and sending out monthly statements. This argument might be valid if a flat minimum charge were imposed on all monthly accounts regardless of size or manner of payment. It costs just as much to mail out a monthly statement to a rich customer living in the suburbs as to a welfare mother living in a ghetto. However the rich consumer tends to his bill in full thereby avoiding any finance charge. The low-income consumer cannot afford to pay in full. Therefore, the minimum finance charge is a selective tax levied against the poor.

Mr. President, I ask unanimous consent that the name of the Senator from Maine (Mr. HATHAWAY) be listed as a cosponsor on this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Another argument advanced to justify minimum charges is that they are needed as an incentive to induce the payment of small balances by recalcitrant consumers. According to this argument, a consumer might ignore repeated bills for small amounts such as $5 even if the amount is increased by a 1½-percent finance charge each month. A 1½-percent finance charge on a $5 balance amounts to only 7 cents, which is not much of a penalty on those who tend to be neglectful of their bills.

My amendment has been carefully drafted to permit minimum finance charges in justifiable circumstances. Minimum finance charges would be permitted first if they were in the nature of a service charge imposed on all monthly accounts regardless of size or manner of payment; and second, where the customer has not made any payment into his account for 2 successive months. The first exception would permit creditors to impose a flat monthly charge on all their accounts as a method for recovering billing expenses provided such charges were otherwise authorized by State law. The second exception would permit creditors to use the minimum charge essentially as a collection tool. These two exceptions meet some of the specific criticisms raised by the credit industry last year when a similar provision was deleted from S. 652.

Despite these concessions, members of the committee were besieged with communications from the credit industry pleading for a retention of minimum finance charges. For example, committee members received a letter from Montgomery Ward, one of the Nation's largest retailers, arguing that a prohibition on minimum finance charges will put small retailers out of business. One must commend this public spirited and seemingly disinterested concern for the welfare of small business. However, it should also be pointed out that Wards is a principal user of minimum finance charges and imposes them in every State where it is legally possible to do so.

Expert testimony before the committee revealed that the revenues from minimum finance charges are less than three one-hundredths of 1 percent of total revenue. Thus it is ludicrous to talk about anyone going out of business. The credit industry has not produced one shred of evidence to prove that retailers have been adversely affected in the nine States where minimum finance charges are not permitted.

Mr. President, we have had a full opportunity for retailers to give us that evidence if it existed. They have the experience of nine States which, as I say, have outlawed the minimum finance charge. They should be able to give us the specific evidence, since they have operated under this experience, but they have been able to adduce none. In view of their concern and the amount of time, effort, and money they have spent lobbying against this amendment, I am convinced that if there were any evidence to show this would be costly to retailers, the evidence would have been adduced and presented to the committee when the hearings were held.

Mr. President, the amendment I am offering is identical to a provision contained in my original bill, S. 914. This amendment was approved by the Subcommittee on Consumer Credit. However, it was deleted in full committee by the close vote of 9 to 7. The committee bill will thus permit the continuation of minimum finance charges in 41 States to the detriment of low-income consumers. My amendment would prohibit this consumer abuse in all States. I urge the Senate to adopt my amendment.

I might say that I am grateful to the chairman of the committee, who voted for my amendment both in the subcommittee and in the full committee, and I appreciate that support very much.

Mr. President, I reserve the remainder of my time.

Mr. BROCK. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. Does not the Senator from Alabama control the time in opposition?

Mr. SPARKMAN. Mr. President, I yield the time I would otherwise have to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. BROCK. Mr. President, back when I was growing up, once in a while you would hear a story about a parent who wanted his child not to do something, and he would say "You do that, and the boogyman is going to get you."

We have modernized the art. We have now raised the boogyman to the legislative halls of the Senate, in attempting to identify who is for and who is against the bill.

I do not know who supported the last amendment and I do not know who supports this one, with respect to big people and little people, but if the Senator from Wisconsin is concerned about the support of Montgomery Ward, I hope he will accept the fact that there are an awful lot of small people who feel perhaps a lot more strongly than that particular giant organization on the matter.

With regard to the minimum finance charge question, this 50 cents that is levied on accounts, I think the same sort of logic applies as did on the last amendment. I am not going to go into an extended debate on this matter; I think we have explored the issue, as the Senator from Wisconsin has said, rather thoroughly. But I would like to point out one or two facts.

First, there will not be any giant lobbies organized on behalf of or against this particular amendment, because the giants do not worry so much about minimum finance charges. The few that have them will not lose anything if they are eliminated. Most of them do not have them anyway. There is no massive lobby operating on behalf of small business in this country, and there are not many lobbyists acting on behalf of the consumer who happens to be of low or moderate income, who might lose his credit because this amendment was carried, if it is.

That is the real question. That is the real point. Again, it is not the intent of the amendment that I debate. I do not argue with the Senator's statement. I do not argue with his logic, his case, his motivations, or his intentions. I simply state to the Members of this body that if the amendment carriers, it is my honest conviction that an awful lot of low-income people in this country are going to get hurt.

They are going to get hurt, because they are going to lose access to the credit system. Again, we do not do a service to the consumer by saying, "I am going to save you 50 cents this month, but in the process I am going to make it impossible for you to get any credit at any price, because I am going to make it so uncomfortable for the merchant to serve a low-income class of customers that he is going to have to raise his standards and effectively preclude you—you, the family with $3,000 or $4,000 or $5,000 a year income—I am going to have to preclude you from the marketplace in this free market economy of ours."

The minimum charge is not the point. He is a customer who has a $28 outstanding balance. The interest on that bill, at 1½ percent a month, would be 42 cents. That 8 cents is the cost of the letter, that is added to this bill to guarantee he has access to the marketplace. I wonder if he considers that an exorbitant charge. I wonder if he thinks perhaps it would be better when he has no credit at all.

It is not the big people who are practicing the minimum charge. It is not the big companies which are making a profit out of it. It is not the big customers who have to worry about it. It is the very people that the Senator from Wisconsin points out, the small businessmen and the small customers, the fellow who has a very limited family income.

I state to the Senate just as clearly as I can that while I support the Senator's intention of trying to ameliorate this condition, I cannot in good conscience accept an amendment which has in effect the opposite direction from its stated purpose, that effect being to raise the cost of merchandise, to raise the cost of credit, or worse, to eliminate any access of credit at all to the low-income family.

I know the tendency of Congress is to think of itself as an all-wise body, the source of all wisdom. I know the tendency of people here is to say that all we have to do to solve a problem is to pass a law. Too often, we do just that. We pass a law that looks gorgeous on paper, it makes an awful lot of sense on paper, and it looks great, but we do not realize the impact of such a law on the people it is designed to help.

In this case, I think the Senate will recall the vote last year. The vote of the committee, in the considered judgment of the majority of the committee, was that this amendment, despite its good intent, would have a bad effect, an effect damaging to the interests of the low- and middle-income people of this country.

I, therefore, hope that the amendment will be rejected.

Mr. TOWER. Mr. President, will the Senator from Tennessee yield?

Mr. BROCK. I yield.

Mr. TOWER. Is this not the kind of amendment that tends adversely to impact on the small business establishment rather than the larger one?

Mr. BROCK. Yes. The big companies do not care. They could not care less. They do not make any money out of it, nor do they even practice it. It is the small businessman who maintains the minimum charge for one reason only, and that is what it costs him to do business, what it costs him to provide a limited amount of credit to a customer that is not the big, rich, continuing buyer.

It costs at least 50 cents to process the account. It costs more than that, as a matter of fact, because we have reduced it already to 50 cents. I would imagine that the average cost to handle a credit account would run to about $2.50. Now we will say to him, "You cannot put a new charge on him for service to a poor family," so what is he going to say? He is going to say, "I cannot afford to serve that family." That means that the low-income family will not have access to the marketplace or to the credit system and I do not think we have a right to do that.

Mr. PROXMIRE. Mr. President, the Senator from Maine would like to speak, but let me simply say it does not make any sense to argue that this will hurt the low-income family. Once again, we have the record of who testified for and who testified against. I have a letter from Montgomery Ward, which I will place in the RECORD later, opposing the amendment. They use the system of a minimum finance charge in every single State where they are able to do it. The Senator from Tennessee was unable to show—and I do not think that anyone else has been able to show—that in the nine States where the minimum finance charge is prohibited the low-income person is hurt in any way at all.

Mr. President, we should recognize that there is no way we can help the little man by requiring that when he makes a small purchase and makes a payment in a limited time, that he has to pay an unconscionably high interest rate. If this is the way we want to help him, I would hate to see a 60-percent, or a 100-percent, or a 120-percent interest rate.

I would hope that on the basis of commonsense, Senators will support the amendment.

I ask unanimous consent that the letter be printed at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. I now yield to the Senator from Maine such time as he may require.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JUNE 26, 1973.

Hon. WILLIAM PROXMIRE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PROXMIRE: I wish to share with you my great concern over two provisions of S. 914 as amended recently in proceedings of the Sub-Committee on Consumer Credit of the Senate Banking, Housing and Urban Affairs Committee. . . . *Effect of Ban on Minimum Finance Charge.*

The requirement to assess a minimum finance charge on all accounts or not at all will be equally destructive especially to the smaller retailer: (1) it will force him to abandon his traditional 30 day charge account plan for many of his customers; (2) if he is forced by competition to give up the minimum finance charge, he will lose a low cost collection tool for small balances, and (3) he will lose a partial recovery of billing costs.

The same results predicted for him under the Adjusted Balance Method will force him out of business or force him to give away his customers to the third party credit card issuers. I, for one, hope that will not happen.

Senator, we enlist your support of retailing's position with respect to the damaging provisions of Sections 167 (on balance methods) and 168 (on minimum charges) and ask that you vote to delete these onerous provisions of S. 914.

Respectfully yours,
ASHLEY D. DESHAZOR,
Vice President and Corporate Credit Manager, Montgomery Ward.

Mr. HATHAWAY. Mr. President, I want to make the additional point—as I said before on the other amendment, and it seems the argument is even stronger here—against the very speculative argument of the Senator from Tennessee that it would cut off all credit for the low-income person if we eliminate the minimum finance charge, and that this would mean just a few pennies per month for each customer, including the low- and moderate-income person.

Certainly, the merchant will not give up the business he gets from that customer just because of the 25-cent or 30-cent loss he may incur for not being able to charge the 50-cent minimum. It seems to me to be speculative to say that this will cut out credit to the low-income person.

I do not believe we appreciate how much this would mean to the low-income person. It would mean a great deal. He is in the position where he may have a great many dependents, not very much money, and he is depending on every penny he has to spend, so that every penny he can save, he really is trying to save. We should be rewarding his efforts in trying to save those pennies, and make them go as far as they can for him, by not discriminating against him in finance charges. Thus I urge that we eliminate this unjust minimum finance charge.

Mr. PROXMIRE. Mr. President, I have one more point to make to the argument made that this will hurt the small retailer. As I pointed out, this is a matter of three one-hundredths of 1 percent, or three ten-thousands of his income. That is all the loss that would be incurred. That is all he would lose by this amendment. It is insignificant, insofar as the retailer is concerned. But so far as the consumer is concerned, that is, the low-income consumer, this could be $6 a year, and that would make a difference to him. It might make the difference of whether he could buy a Christmas present for his child with that.

That is what is involved in this amendment. It is a small amount which means a great deal to people in the low-income brackets.

I hope that we can get a majority of Senators in favor of this amendment.

Mr. BROCK. Mr. President, I am simply saying that some things done for the best of purposes sometimes have the worst results. I do not think we can deny the logic of the testimony we heard from the very small business people of this country who say that they simply cannot make credit available on the scale that they do if we make it prohibitive in terms of cost.

Surely, they can raise their prices. That will have an inflationary impact. Some will do it. But for those that do not, if we make the change in standards so that poor families do not have that credit access, I just cannot understand how anyone can think we will have done a service to those families. We may have saved them 50 cents, but we will have cost them a great deal more than that, and that will be access to credit under the free market system. That is the effect of this amendment.

I yield back the remainder of my time.

Mr. PROXMIRE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. McClure). All time on this amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Wisconsin (Mr. Proxmire).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Nevada (Mr. Cannon), the Senator from Alaska (Mr. Gravel), the Senator from South Dakota (Mr. McGovern), and the Senator from Minnesota (Mr. Humphrey) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. Abourezk) is absent on official business.

I also announce that the Senator from Mississippi (Mr. Stennis) is absent because of illness.

I further announce that, if present and voting, the Senator from South Dakota (Mr. Abourezk) and the Senator from Minnesota (Mr. Humphrey) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. Cotton) is absent because of illness.

The Senator from Colorado (Mr. Dominick) and the Senator from Ohio (Mr. Taft) are necessarily absent.

If present and voting, the Senator from Ohio (Mr. Taft) would vote "nay."

The result was announced—yeas 39, nays 51, as follows:

[No. 317 Leg.]

YEAS—39

Bible
Burdick
Case
Chiles
Church
Clark
Eagleton
Fulbright
Hart
Haskell
Hathaway
Huddleston
Hughes
Inouye
Jackson
Johnston
Kennedy
Long
Magnuson
Mansfield
McGee
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Pastore
Pell
Proxmire
Ribicoff
Schweiker
Sparkman
Stevenson
Symington
Tunney
Young

NAYS—51

Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bennett
Biden
Brock
Brooke
Buckley
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cook
Cranston
Curtis
Dole
Domenici
Eastland
Ervin
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Hartke
Hatfield
Helms
Hollings
Hruska
Javits
Mathias
McClellan
McClure
Packwood
Pearson
Percy
Randolph
Roth
Saxbe
Scott, Pa.
Scott, Va.
Stafford
Stevens
Talmadge
Thurmond
Tower
Weicker
Williams

NOT VOTING—10

Abourezk
Bentsen
Cannon
Cotton
Dominick
Gravel
Humphrey
McGovern
Stennis
Taft

So Mr. Proxmire's amendment (No. 362) was rejected.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HRUSKA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 8658) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1974, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. Natcher, Mr. Stokes, Mr. Tiernan, Mr. Chappell, Mr. Burlison of Missouri, Mr. McKay, Mr. Roush, Mr. Mahon, Mr. McEwen, Mr. Myers, Mr. Veysey, Mr. Coughlin, and Mr. Cederberg were appointed managers on the part of the House at the conference.

TRUTH IN LENDING ACT AMENDMENTS OF 1973

The Senate continued with the consideration of the bill (S. 2101) to amend the Truth in Lending Act to protect consumers against inaccurate and unfair billing practices, and for other purposes.

Mr. TOWER. Mr. President, I call up an amendment that is at the desk and ask that it be read in its entirety.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 19, strike lines 13 through 19 and insert in lieu thereof the following:

"(f) No provision of this section or section 112 imposing any liability shall apply to any act done or omitted in good faith (1) in conformity with the Act, or with any rule, regulation, or interpretation thereof by the Board, or (2) in conformity with any reasonable interpretation of a significant ambiguity in, or significant conflict between, said Act, rules, regulations, or interpretations, notwithstanding that after such act or omission has occurred, such Act, rule, regulation, or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason. Any act done or omitted in conformity with the standards and conditions set forth in the preceding sentence shall not subject the creditor to liability under State law where State requirements conflict with those of Federal law."

Mr. TOWER. Mr. President, I yield myself such time as I may require.

Mr. President, I have considered the possibility of pressing the present amendment to this bill today which would deal with the problem of good faith compliance with the Truth in Lending Act and its requirements, when those requirements are ambiguous or even conflicting. The existing good faith compliance section of the bill, section 206, deals only with protecting good faith compliance with regulations which may later be declared invalid by a court. While this is fine as far as it goes, it does not meet the problem of ambiguous or conflicting requirements which subject creditors to costly difference-of-opinion litigation, even though they have made good faith efforts to comply.

My proposed amendment attempts to deal with this problem in terms of language exempting from liability acts or omissions done "in conformity with any reasonable interpretation of a significant ambiguity in, or significant conflict between, said act, rules, regulations, or interpretations" which covers the Federal area, and an additional clause of similar import to cover conflicts between State and Federal requirements. The Federal Reserve Board, however, has objected to the use of terms like "reasonable interpretation" and "significant ambiguity or conflict," because they fear that creditors could use this language to provide coverage for purposeful avoidance of truth-in-lending requirements, since almost any situation may involve several reasonable courses of action. I do not myself feel that these terms would excuse any non-good-faith efforts because a judge is virtually always in a position to assess whether the course taken by a creditor is bona fide or not, by reviewing the legal analysis relied upon by the creditor, by reviewing the state of refinement of the regulations and cases at the time the creditor's decision was made, by reviewing what the Fed staff may have advised the creditor on the matter, and so forth.

However, I recognize that, pragmatically, Members of the Senate will generally not want to override the expert opinion of the Fed on such a technical question as the proper language for assuring that good faith efforts are protected from liability, while at the same time not impairing the Fed's enforcement powers. The Fed feels that under the act as it would read after being amended by this bill, they would have adequate authority to deal with ambiguities and conflicts by using clarifying regulations and rulings and letters, and that, at most, some statutory language strengthening the preemptive status of Federal law over State law might be desirable.

I do not completely agree with the Fed on this matter, and I think that creditors will still face many ambiguous or conflicting requirements even if the Fed makes a maximum effort at ironing out such differences by regulations and rulings. I would prefer to clarify the status of these good faith efforts in the statute, in order to prevent needless litigation, the result of which will ultimately be increased costs to the borrowing public.

I will not press this amendment on the bill here today, but I hope that the House will have adequate time on this measure to review other alternatives with the Fed and to add language to the bill which will help establish the nonliability of creditors who attempt to comply in good faith with ambiguous or conflicting requirements. I have seen only today some alternative language suggested by creditors that would exempt from liability efforts in "substantial compliance" with disclosure requirements, or efforts in "substantial compliance" with all rules, regulations, and interpretations of the Board.

These alternatives may well accomplish the basic purpose of avoiding litigation that does not lead to supporting a public policy in this area, but, again, they may also be resisted by the Board because of their apparent dislike of a general "reasonable man" standard in the act. Certainly the courts should work out a "substantial compliance" defense as a matter of judicial doctrine, but as far as I know only one case has used that concept to date. Hence it may well be that some statutory action in this field will be required in order to resolve this troublesome problem.

I merely want to alert the Senate to the problem today and to the possibility of some language being reported back from an eventual conference on this bill which will hopefully resolve this problem.

Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. PROXMIRE. Mr. President, I call up my amendment, No. 388, and ask that it be stated. As long as there are enough Senators on the floor at this time, I ask for the yeas and nays.

The PRESIDING OFFICER. The clerk will read the amendment first.

The legislative clerk read the amendment, as follows:

Add the following new title at the end thereof:

TITLE IV—CLOSING COSTS

§ 401. Closing costs

(a) Section 701 of the Emergency Home Finance Act of 1970 is amended to read as follows:

"ALLOWABLE CLOSING COSTS IN THE FINANCING OF CERTAIN HOUSING; PROHIBITION OF CERTAIN FEES

"SEC. 701. (a) The Secretary of Housing and Urban Development shall, after consultation with the Administrator of Veterans' Affairs, publish standards governing the amounts of closing costs allowable to be paid by buyers and sellers in connection with the financing of housing designed principally for the occupancy of from one to four families and—

"(1) which is built, rehabilitated, or purchased with assistance provided under the Revised National Housing Act, the National Housing Act, or chapter 37 of title 38, United States Code; or

"(2) which is covered by a mortgage purchased by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

"(b) Unless the closing costs charged in connection with the financing of such housing are allowable under standards published under subsection (a) of this section at the time of such financing—

"(1) no mortgage covering such housing shall be insured or guaranteed under any such Act or chapter unless the Secretary or the Administrator, as the case may be, determines that any excess or nonallowable charge has been repaid; and

"(2) no mortgage covering such housing shall be purchased by such Association or Corporation.

"(c) Standards published under subsection (a) of this section shall—

"(1) be consistent in any area for housing described in subsection (a) of this section; and

"(2) be based on the Secretary's estimates of the reasonable charges for necessary services involved in closings for particular classes of mortgages and loans.

"(d) The Secretary shall from time to time make such recommendations to the Congress as he deems appropriate for legislation to reduce closing costs and to standardize such costs for all geographic areas.

"(e) Any person who accepts or furnishes anything of value pursuant to any agreement, oral or otherwise, that business incident to or a part of any real estate settlement shall be referred to any person shall be fined not more than $10,000 or imprisoned for not more than one year, or both, except that this subsection shall apply only in the case of a real estate settlement in connection with housing referred to in subsection (a).".

(b) The standards referred to in the amendment made by subsection (a) of this section shall be published not later than one hundred and eighty days after the date of enactment of this title.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second?

The yeas and nays were ordered.

Mr. PROXMIRE. Mr. President, this amendment limits closing costs on real estate transactions. The amendment is identical to a provision in the 1972 housing bill which was passed by the Senate on March 2, 1972. Congress took action last year to control escalating closing costs following an exhaustive study by the Department of Housing and Urban Development which showed that closing costs were unreasonably high on real estate transactions.

The principal problem with closing costs is that there is such a tremendous difference, as I am going to point out, 40 to 1, for almost precisely the same services.

Unfortunately, no final action was taken on the 1972 housing bill and the entire subject died in the 92d Congress.

I believe it is necessary to take prompt action on the closing cost problem at this time. The Senate Banking Committee has just begun hearings on a 1973 housing bill; however it may take several months for this legislation to reach the floor and several more months to pass the entire Congress. In fact, considering the amount of controversy surrounding our housing programs, there is a good chance there may be no housing bill at all in the 93d Congress. Therefore, we must look to another bill to deal with the problem of closing costs if we want to provide some near term relief for the hard pressed home buyer.

The Truth in Lending Act amendments already deal with the subject of closing costs. Section 209 of the legislation strengthens the requirements for disclosing closing costs on real estate transactions. I therefore believe it is appropriate to go one step beyond disclosure and to consider an amendment to regulate closing costs. If we do not act at this time on this bill, it is likely that any meaningful reform will be delayed several months or even years. Every day we delay will cost consumers at least a million dollars.

Mr. President, Congress took action nearly 3 years ago to limit excessive closing costs on FHA-VA mortgage transactions. Section 701 of the Emergency Home Finance Act of 1970 authorizes and directs the Secretary of HUD and the Administrator of the VA to "prescribe standards governing the amount of settlement costs allowable in connection with the financing of such housing in any such area." Such housing refers to housing assisted by the FHA or the VA. The cost standards established by HUD and the VA are to be based on their estimates of the reasonable charge for necessary services involved in real estate settlements. Thus, HUD and the VA have the authority to prohibit unreasonable charges or charges for unnecessary services.

It should be noted that HUD and the VA are directed to issue regulations to limit settlement charges. The authority is mandatory and not discretionary.

Despite the firm stand taken by Congress in 1970 against excessive closing costs, HUD and the VA have been dragging their feet. They have produced an excellent report which fully documents the excessive closing costs being charged. But so far, they have not issued regulations to control these excessive charges. Regulations were proposed last July to limit closing costs in several metropolitan areas, but they have apparently been shelved in response to intensive pressure from real estate lawyers, title insurance companies and others who benefit from high closing costs.

Mr. President, my amendment would do four things:

First, it consolidates the existing authority to control settlement charges which is presently divided between HUD and the VA. My amendment gives the authority to HUD which must act in consultation with the VA.

Second, my amendment expands the scope of the existing law to cover certain conventional mortgage loans purchased by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation;

Third, my amendment requires that regulations limiting closing costs be issued within 6 months, so we will get action.

Fourth, my amendment prohibits kickbacks on real estate transactions. This antikickback provision would cover situations where a builder might refer settlement business to a lawyer in return for a fee or other benefit, or where a lender might refer title insurance business to a title insurance company under similar arrangements. These, of course, are not the only type of kickback arrangements prohibited by my amendment.

Mr. President, the need to control closing costs was clearly documented in the HUD–VA report on settlement costs issued on February 17, 1972.

Secretary of HUD George Romney testified before the Housing Subcommittee on this report on March 1 of last year.

So we have had hearings on it. In fact, we have had three days of hearings, and the hearings have been published and are available.

In his statement to the committee, Secretary Romney acknowledged that "serious abuses have arisen in this field, and that—these abuses—have resulted in adding significantly to the cost of acquiring a home." In later testimony he estimated home buyers were paying hundreds of millions of dollars a year in excessive closing charges.

In reviewing the findings of the HUD–VA study, Secretary Romney also presented these conclusions to the subcommittee:

First. High settlement costs as well as other problems of settlement stem in no small part from basic inefficiencies in the existing system of conveying, recording, and assuring validity of title to parcels of real estate.

Second. Settlement costs and practices vary widely even within the same geographic area.

Third. Costs are unreasonably high in many areas, but not in all.

Fourth. Whenever many specialists become involved in the conveyancing process and services are fragmented among them, costs are significantly higher.

Fifth. State regulation of title insurance and other title related costs are largely ineffective.

Sixth. In most cases, competition in the conveyancing industry is directed toward other participants in the industry and not toward the home buying public.

Lenders compete to get business from real estate brokers or escrow companies.

Title companies compete to get business from attorneys, brokers, and lenders.

Frequently this competition takes the form of an elaborate system of referral fees, kickbacks, or commissions as inducements to firms and individuals who direct the placement of business.

No one appears much interested in competing by cutting costs to the homebuyer since he is not likely to be in the market for another home in the near future, and will ordinarily accept the services—and charges—of whomever he is referred to.

Seventh. Charges for services relating to settlement often are not based on factors related to the cost of providing the services.

Frequently they are based on the sales price of the property.

We found that the overall level of charges tends to be lower when the charge for a service is not directly related to the sales price of the property.

Eighth. The minimum or recommended fee schedules of local bar associations and local real estate groups often do not reflect the actual work done. The use of such schedules to determine fees tends to increase settlement costs.

Ninth. Most public systems of keeping land records need to be improved in order to facilitate title search. If title search were simplified, this would tend to reduce title-related and other settlement costs.

Tenth. It is evident from these findings that serious problems exist in the conveyancing industry and that such problems demand immediate attention in order to assure that the public is not charged more for settlement costs than is reasonable.

Mr. President, the wide variance in closing charges was clearly demonstrated in the HUD–VA study. As Secretary Romney testified, these variances could not be explained solely on the basis of variances in the cost of doing business. To put the matter more bluntly, in many areas the public is being gouged.

For example, the HUD–VA study showed that closing costs on home prices between $20,000 and $24,000 varied across the country from a low of $50 to a high of nearly $2,000. This is a price variance of 40 to 1 for essentially the same service.

The average amount of total closing costs also varied widely between States. For example, in Maryland average closing costs came to $1,060 whereas in South Dakota these same charges averaged only $303.

There is no reason why closing costs should be more than 3 times as much in Maryland as in South Dakota, or why Maryland should be the most expensive State in the Union for that cost.

There was also considerable variance between metropolitan areas. Closing costs in the Newark, N.J., area on a $20,000 to $24,000 FHA home averaged $834, whereas closing costs for similar housing averaged only $369 in the Minneapolis area.

There is also considerable variance within the same metropolitan areas. In Los Angeles County, closing costs ranged from a low of $200 to a high of $1,000 for homes in the $20,000 to $24,000 range. In Chicago, they ranged from a low of $102 to a high of $723 for the same priced housing.

Mr. President, there may be some legitimate reason for explaining some of these differences. Recordkeeping procedures vary from State to State and from community to community. But even when these cost differences are taken into account, the HUD study still found widespread variances. As Assistant Secretary Gulledge put it during the hearings, in some areas it is almost a matter of charging what the traffic will bear.

I might say that right now—today—in view of the very high interest rates on home mortgages, in view of the fact that those interest rates are going up, one way Congress can help home buyers is to provide action, within a reasonable period of time, on holding down these closing costs. For many home buyers, those costs simply make it impossible for them to buy homes, because the downpayment, the initial cost, is what keeps many home buyers out of the market.

The average home buyer has virtually no bargaining power to protect himself against excessive closing charges. For most people, the entire settlement process is a deep mystery. The average person only buys a home once or twice in his lifetime. When he shells out $30,000 or $40,000 for a home he tends to disregard the additional fees and expenses which each participant in the settlement process has been able to extract. The home buyer is a virtual captive in the hands of the lender, the attorney, the real estate broker and others. We must therefore act to protect the home buyer from being overcharged on home closing costs. My amendment does that.

I want to stress that this amendment is identical to a provision in the 1972 Housing bill which was passed by the Senate on March 2, 1972. So Congress has taken action. The Senate has taken action. I am simply asking that we do it in a way that it can become the law.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SPARKMAN. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SPARKMAN. Mr. President, I do not believe this amendment should be agreed to. The Senator from Wisconsin stated that last year—the year before last, I believe, in fact, was the first time—we instructed the Secretary of the Housing and Urban Affairs Department to prepare suggestions on closing costs.

This was done. It was agreed to in the bill that we sent over to the House last year. However, the House did not complete the legislation. In other words, HUD has this instruction from the Senate already. As I understand it, HUD, working with VA, is considering these things right now. Furthermore, we are having House hearings now in the committee. And on July 30 that subject is scheduled to be discussed in the hearings.

Why should we interfere with something that is in process and is scheduled for a complete airing on July 30? I do not believe that this is the place that this legislation ought to be taken up. I hope that the amendment will be rejected.

The **PRESIDING OFFICER.** Who yields time?

Mr. **SPARKMAN.** Mr. President, I yield such time as it may require to the Senator from Tennessee.

The **PRESIDING OFFICER.** The Senator from Tennessee is recognized.

Mr. **BROCK.** Mr. President, I do not know if this is the time or the place to debate the merits of the rent regulations or the closing regulations. I think that the Senate has demonstrated its intent to do something about the problem. We expect to follow through with this.

Mr. President, I want to add one thing to what the Senator from Alabama has said. I have seen Congress act a lot of times to circumvent committees and the hearings process because people have felt that the problem has to be dealt with. This may be the time to do it. It is not always wrong. However, sometimes we make a mistake by so doing.

If we are going to take this route, we have to have an awfully compelling case for taking it up. We have scheduled further hearings on this matter. We have already taken some action and have delegated authority to the Secretary of Housing and Urban Development. We have had extensive witnesses scheduled to come before the committee. The witnesses include people from the American Bar Association, the American Land Title Association, the Florida Mortgage Bankers Association, the New Jersey Mortgage Bankers Association, the Montgomery County Bar Association, the Bar of Georgia, and many others.

That is a pretty intelligent group. They should be able to offer a good deal of thought to the debate and the quality of it and the substantive results that come from it.

I am willing to wait a little time to take an additional look at the total problem rather than to deal with it piecemeal.

I would like to bring to the attention of the Senator from Wisconsin that one of the figures he cited, as I recall, compared the closing costs of $1,000 in the State of Maryland and $300 in the State of South Dakota.

If I can be so bold, I would like to point out that in Maryland the transfer taxes and registration fees are the highest in the Nation. They amount to, if I remember the figures correctly, about 70 percent of the cost of closing a house in Montgomery County. What we have is a differential stated by the Senator that very largely constitutes the difference between the $300 and the $1,000. All communities look at the component parts of those figures. The 70 percent of the $1,000 is in the form of State taxes. It is a mechanism by which the State of Maryland generates revenue and would be under no circumstances subject to jurisdiction and control by this or by any other legislation we could submit.

Mr. President, I think that is illustrative of the complexity of the issues and the difficulty we have in dealing with something that is important. We are dealing with it in an ad hoc fashion without adequate consideration by the full committee. In fact, as I view the matter now, the Secretary of Housing and Urban Development has full authority to deal with the problem of closing costs. I would like to read the relevant section, section under 12 United States Code 1709(a).

Mr. **PROXMIRE.** Mr. President, would the Senator yield on his last point?

Mr. **BROCK.** I yield.

Mr. **PROXMIRE.** Mr. President, I am glad the Senator has raised the point. He reinforces my statement strongly. If we take the taxes out entirely and leave in the other services, title-related costs, the difference is not 3 to 1. It is 10 to 1. In other words, New York charges 10 times as much as North Dakota. So, the argument I am making is that we can argue on these figures all afternoon. The point is that HUD already has knowledge of this. There is not any question that one could not justify the differences based on services. After months of study HUD found you could not.

Mr. **BROCK.** Mr. President, the Senator can argue his figures. However, perhaps it would be well to put in the RECORD the figures we have on the typical group of counties as to the amount of total settlement costs in these counties that were studied, as I recall, by HUD last year. The amount was $1,900, and the average closing costs that would be regulated by the Senator's amendment is $282, or 14 percent.

So that we do not overstate the problem, it is important to note the magnitude of what we are trying to deal with and the complexities of it.

I do not think that we have the time nor the endurance to debate the case at this point. In fact, I could agree with the Senator from Wisconsin. However, the question is, How do we get there?

Mr. President, I started to read the law that has been already passed. It reads:

> "(a) The Secretary is authorized, upon application by the mortgagee, to insure as hereinafter provided any mortgage offered to him which is eligible for insurance as hereinafter provided, and, *upon such terms as the Secretary may prescribe*, to make commitments for the insuring of such mortgages prior to the date of their execution or disbursement thereon. [Emphasis added.]

Pursuant to that, the Secretary of Housing and Urban Development has promulgated regulations on the settlement costs. The regulations are rather specific. I grant the need for more study of the matter. However, I do not think that we should study the matter on the floor of the Senate. I do not think that we achieve a true resolution of a fundamental, extensive, and highly complex problem by a floor amendment which has not been considered by the committee this year. The matter is subject to consideration not a month from now or 6 months from now, but next week.

We have a lot of outstanding witnesses coming before the committee to present this matter. And it seems to me that for the legislative quality, it would be well for us to wait until they have appeared before the committee and that we allow the committee to act in its wisdom in considering the matter.

Mr. **PROXMIRE.** Mr. President, if ever a subject has been studied to death, this is it. We have 241 pages here, and we have a HUD report of 148 pages that comes to the clear conclusion that closing costs should be regulated. We have the unanimous position taken by the committee last year. The Senate has already acted on this matter as a body.

To say that we need further delay for another week is ridiculous. It means that we would consider this on a housing bill. That housing bill has to take into consideration many things. We have to be real optimists to assume that it would be passed by the Senate this fall. It would not pass Congress until next year.

Every day we delay on this matter it means that it costs home buyers in this country $1 million a day.

We have had adequate consideration. We know about this; we have studied it. HUD has studied it; they have made their recommendation. All we want is action.

Of course, the lawyers are against this, and of course the title firms are against it. They have come up and lobbied against it. They want to delay it. They would be delighted to delay it another 4 or 5 years. But we have the information before us; it is not a matter of not having had enough information, or not having had time.

Mr. **COOK** and Mr. **HATHAWAY** addressed the Chair.

Mr. **PROXMIRE.** Mr. President, I yield whatever time he may require to the Senator from Maine.

Mr. **HATHAWAY.** I thank the Senator from Wisconsin. I just want to make clear that under the amendment, as I understand it, there would be an opportunity for more hearings under the Administrative Procedure Act.

Mr. **PROXMIRE.** The Senator is absolutely correct. Despite all the study and hearings, we do not say it has to go into effect tomorrow. We say within 6 months. Otherwise, it would drag on year after year after year.

Mr. **HATHAWAY.** So that the same interested parties who would appear at the hearings next week, if they were held, can come in and have the opportunity to appear before the Secretary of Commerce and make whatever arguments they would make before the committee?

Mr. PROXMIRE. The Senator is correct.

Mr. HATHAWAY. I thank the Senator.

Mr. COOK. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. COOK. I listened to the Senator's arguments on the introduction of his amendment. He talked in terms of "kickbacks."

Would the Senator give me an example of what he means? For instance, in our State we have lawyers in small localities who are authorized to write title insurance. They are authorized agents. That is the way the system works. It works with Lawyers Title Co. and all the major title companies in the United States. An individual says, "I think I would like to have title insurance." We are not an abstract State. He writes that insurance, or writes the application for that insurance. At the time someone in his office, or he, that individual, runs that title on in and makes a title report.

Does the Senator include him within the terms of subsection (e) on page 3, that when he is paid a percentage of the premium, that constitutes and amounts to a kickback?

Mr. PROXMIRE. Mr. President, in the first place, HUD would spell this out in regulations. The kind of kickback I am talking about is the referral fee system, where a lawyer simply refers the matter to a title company and will get a fee paid to him, not for doing legitimate work, but for the referral.

Mr. COOK. The Senator is talking about an abstract company, not a title company?

Mr. PROXMIRE. The amendment covers any referral, whether to an abstract company, or otherwise.

Mr. COOK. I must say I am very much in favor of what the Senator is saying, but when I read the language it does not really say that to me, and the only way, in the rural parts of the United States that I am talking about—not only in my State, but all 50 States—the only way that an individual can get title insurance on his home is through a local attorney who is authorized to write insurance through major insurance companies which, first of all, are authorized by every State insurance commissioner of the respective States.

I find I would like to be for the Senator's amendment, but I am not satisfied with the answer of the Senator from Wisconsin. I think in essence what he is saying is that every authorized attorney in rural America who is authorized to make application for title insurance for and on behalf of a client in the purchase of a home, a building, or a tract of ground is going to be placed in a position that if he receives a percentage of the fee as the result of writing that insurance, it constitutes a kickback under the amendment and is thereby illegal.

We would not be helping the homeowner in the United States. We would be penalizing the lawyer, obviously. But more than that, we would be penalizing the homeowner or purchaser of the ground, in the fact that they could not under any circumstances obtain title insurance. I am very much concerned about that, and hope that the Senator can explain it.

Mr. PROXMIRE. I certainly understand the Senator's concern. As I say, we are acting, No. 1, to require HUD to make regulations in this area. HUD is authorized to recognize the problems in different geographic areas. Certainly, in rural areas they have different problems than they have in the big cities.

Generally, as long as a lawyer performs a legitimate service, he is entitled to make a charge for such service. If it is simply a referral, under those circumstances the charge would not be permitted. In other words, if he is acting as an agent, he is compensated as an agent.

Mr. COOK. There is nothing about the agency that is referred to in the amendment. It merely says:

> Any person who accepts or furnishes anything of value pursuant to any agreement, or otherwise, that business incident to or a part of any real estate settlement shall be referred,

And so forth.

I suggest that that does not apply to the field of agency. It does not apply to a qualified agent for the purpose of rendering service to a prospective purchaser of land or property. I cannot even see that it is within the framework of renewals, because we know obviously that many referrals are made, and that they are not illegal referrals.

I agree with the Senator that if a person does not do the work but refers it to a lawyer who does the work, that may constitute an illegal action. I am not convinced in my own mind that that is illegal, because we have provided in the canon that it is not illegal.

I am for what the Senator is seeking.

Mr. PROXMIRE. We all know that the Senator is an able lawyer and has had distinguished experience as a judge. I simply say to the Senator that this is the precise language, this is the precise amendment that was unanimously approved by the Senate, last year. It was passed by the Senate. It has been considered in detail. The Senator can raise objection to almost any law or any provision, but this language has been given very careful consideration. It seems to me, under the circumstances, that we should act now in view of the savings that would be made all over the country.

Mr. BROCK. Let me summarize by saying that the Senator from Kentucky has made my case far more eloquently than I could. He is one of his State's most distinguished attorneys, and he has a particular focus regarding the pending amendment.

I do not feel that the amendment adequately deals with the problem. I recognize the existence of the problem, but if we are going to go after kickbacks, let us do it in a way that spells out exactly what it will mean for the protection of the home buyer, the title company, and all the rest of those who are concerned. This amendment does not do that.

If I may point out, even the HUD report itself, although it is not as strong as HUD would state it is, makes that point, as does one by Arthur D. Little, which is of recent vintage. I just do not think we can act so precipitously as this on a matter that is of such consequence. I simply do not believe we need to eliminate the committee process by this kind of amendment, which has not been considered this year, without having a better reason than we seem to have had presented to us at this time.

Mr. PROXMIRE. The Senator from Tennessee knows how much I admire and respect him; but I wonder if he really means "act precipitously." After all, how can we act precipitously when we have had 3 solid days of hearings; when the committee has acted before; when we have the same amendment that was adopted by the Senate before; when we have had consideration by HUD and 130 pages of hearings by HUD?

If that is acting impulsively, I think we have acted more impulsively on many other occasions.

Mr. BROCK. Mr. President, the Senator from Nebraska has asked me to yield him 5 minutes on a subject not directly related to the amendment. I should like to yield to the Senator from Nebraska.

Mr. CRANSTON. Mr. President, I wholeheartedly support the distinguished Senator from Wisconsin (Mr. PROXMIRE) for proposing in section 209 of S. 2101 that in real estate transactions a creditor would be required to make a full disclosure of closing costs at the time of the loan commitment. This is an extremely worthwhile and necessary provision. For too long, home buyers have gone into closing without any idea of what they would have to pay in settlement charges. At closing, it is too late for the home buyer to challenge realistically costs which seem to him unnecessary or excessive. I commend the Senator from Wisconsin for sponsoring this valuable provision.

I agree with Senator PROXMIRE on the need for legislation that would protect the home buyer from inflated and unwarranted charges. However, I do not believe that the Truth in Lending Act is the appropriate legislative vehicle. Senator PROXMIRE's proposal that requires HUD to set maximum closing cost charges was part of last year's Senate-passed 1972 Housing and Urban Development Act. A different version of closing cost legislation was developed in the House Banking and Currency Committee's bill. I do not believe that closing cost legislation should be divorced from housing legislation regardless of the merits of a particular proposal.

This week and continuing into next week, the Senate Housing Subcommittee will hold hearings on housing and community development legislation. These hearings will include an examination of the closing cost issue. Approving Senator Proxmire's amendment now would make these hearings on closing costs a futile exercise insofar as closing costs are concerned. It is true that the Senate approved the Proxmire proposal in last year's Senate housing bill, but the Senate also approved in this housing bill a variety of proposals which are being reviewed again by the Senate Housing Subcommittee—proposals which are conceptually and administratively complex.

Clearly, legislation that requires governmentally set prices for services provided by lawyers, title insurance companies, mortgages, escrow and settlement companies, and others raises many questions: Are equitable prices possible? can you account for different regional and local practices? how considered will Federal regulation be with State laws? will price regulation eliminate marginal businesses? can HUD handle the task of setting prices for each SMSA and monitor what prices are being charged? All these questions deserve a second hearing by the Senate Housing Subcommittee and by the Senate. They were by no means all answered adequately in the preliminary hearings.

The HUD–VA joint report on mortgage settlement charges was delivered to the Senate Banking, Housing, and Urban Affairs Committee in March 1972—too late to be of use in formulating the 1972 Housing and Urban Development Act. The Senate passed this Act on March 2, 1972.

In July 1972, the Department of Housing and Urban Development published maximum closing costs for six SMSA's in the Federal Register. To date, the committee has not studied HUD's analysis of the 826 comments the Department received.

I believe that both the HUD–VA joint report and the comments on the HUD proposed charges should be examined by the Members of the Senate Housing Subcommittee before closing cost legislation is approved. The upcoming hearings by the subcommittee provide that opportunity.

There is a large difference between price disclosure, as required by S. 2101, and price regulation, as proposed in the Proxmire amendment. I do not think this difference should be bridged in the Truth in Lending bill but should be taken up separately by the Senate Housing Subcommittee as part of this year's housing legislation.

Mr. SPARKMAN. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 2 minutes.

Mr. SPARKMAN. Mr. President, on this amendment proposed by the Senator from Wisconsin, I have said something to the effect that hearings are scheduled on this very subject for July 30. The matter is moving. We have given them the authority and, in fact, the direction long ago, to issue regulations. They came out with proposed regulations. Then, sometime back—not long ago—we had a letter from the Secretary of Housing and Urban Development saying that they were having an audit made of the study on which they reported. Just Saturday, I received from the Secretary of Housing and Urban Development copies sufficient for every member of the Housing Subcommittee to have one, giving that audit.

Now I must say, frankly, that I do not know just what the audit amounts to or what effect it may have. It shows at least that HUD is still working on the suggestion we gave to the Secretary of Housing and Urban Development to come out with proposed regulations.

Mr. PROXMIRE. Mr. President, will the Senator from Alabama yield?

Mr SPARKMAN. I yield.

Mr. PROXMIRE. It is not true that HUD has had 3 years on this?

Mr. SPARKMAN. They have had a good bit of time. I am not sure it is 3 years, but whatever it is—yes, they have had a good long time. But the point I am making is that they did come out last year with proposed regulations. The bill we passed failed to get through the House, so work has been going on all the time and HUD is actually working on it now. Our committee is working on it now, and hearings have been scheduled, and witnesses are appearing on July 30. That is not very long off.

Mr. PROXMIRE. Mr. President, let me conclude by saying once again that this will cost the home buyers of this country $1 million a day. The Senate has already acted once on this. There is no reason why we could not save consumers this amount of money. If we do not act at this time, it is clear there will not be any relief for home buyers for many months to come—maybe more than a year.

Mr. President, I yield back the remainder of my time.

Mr. SPARKMAN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. McClure). All time on this amendment has been yielded back.

The question is on agreeing to the amendment No. 388 of the Senator from Wisconsin (Mr. Proxmire).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Nevada (Mr. Cannon), the Senator from Alaska (Mr. Gravel), and the Senator from South Dakota (Mr. McGovern) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. Abourezk) is absent on official business.

I also announce that the Senator from Mississippi (Mr. Stennis) is absent because of illness.

I further announce that, if present and voting, the Senator from South Dakota (Mr. Abourezk) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. Cotton) is absent because of illness.

The Senator from Colorado (Mr. Dominick), and the Senator from Ohio (Mr. Taft) are necessarily absent.

The result was announced—yeas 38, nays 53, as follows:

[No. 318 Leg.]

YEAS—38

Allen
Bayh
Bible
Brooke
Burdick
Byrd, Robert C.
Case
Church
Clark
Dole
Eagleton
Ervin
Fulbright
Hart
Hartke
Hathaway
Hughes
Humphrey
Inouye
Jackson
Javits
Kennedy
Magnuson
Mansfield
McGee
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Pastore
Pell
Proxmire
Ribicoff
Schweiker
Symington
Tunney

NAYS—53

Aiken
Baker
Bartlett
Beall
Bellmon
Bennett
Biden
Brock
Buckley
Byrd, Harry F., Jr.
Chiles
Cook
Cranston
Curtis
Domenici
Eastland
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Haskell
Hatfield
Helms
Hollings
Hruska
Huddleston
Johnston
Long
Mathias
McClellan
McClure
McIntyre
Nunn
Packwood
Pearson
Percy
Randolph
Roth
Saxbe
Scott, Pa.
Scott, Va.
Sparkman
Stafford
Stevens
Stevenson
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NOT VOTING—9

Abourezk
Bentsen
Cannon
Cotton
Dominick
Gravel
McGovern
Stennis
Taft

So Mr. Proxmire's amendment (No. 388) was rejected.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BROCK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 343

Mr. MOSS. Mr. President, I call up my amendment No. 343 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 21, line 1, strike out "lesser of $100,000" and insert in lieu thereof "greater of $50,000".

Mr. MOSS. Mr. President, this is a very simple amendment but one which has a great impact. I will describe it quickly.

Mr. SPARKMAN. Mr. President, will the Senator yield to me briefly?

Mr. MOSS. I yield.

Mr. SPARKMAN. Mr. President, I yield my time on the bill to the Senator from Tennessee (Mr. Brock). I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from Utah may proceed.

Mr. MOSS. Mr. President, I ask unanimous consent that the names of the Senator from Michigan (Mr. Hart) and the Senator from Wisconsin (Mr. Proxmire) may be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOSS. Mr. President, the amendment which I offer today is designed to reverse the topsy-tervy class action arrangements in the present bill. Instead of placing a ceiling of $100,000 or 1 percent of the net worth of the creditor in a class action, my amendment would make a creditor who fails to comply with the truth-in-lending law liable to a class of consumers for the amount of damage which the court determines appropriate but not to exceed the greater of $50,000 or 1 percent of net worth. In other words, the decision as to the appropriate level of damage is left to the court as is the case in most legal disputes.

In order to insulate creditors from class actions that could destroy them financially, the court may not assess damages against the liability of any particular creditor in the amount in excess of 1 percent of the net worth of the creditor as of the end of the creditor's fiscal year immediately preceding the fiscal year in which the violation of the truth-and-lending law occurred. In order to deter thinly financed entrepreneurs from violating the truth-and-lending law with impunity fee at $50,000 ceiling would hold.

The Federal Reserve Board has recommended in its 1972 report on truth and lending that this limitation, the greater of $50,000 or 1 percent of net worth, be the class action liability limit. The Federal Reserve Board in making this recommendation is attempting to strike a balance between excessive costs and a reasonable deterrent. I firmly believe that the Federal Reserve Board's recommendation is reasonable and would serve as a deterrent and in the case of a violation of the truth-and-lending law would efficiently be served as an appropriately damaged level. Under the bill as it now exists, the ceiling is $100,000 or 1 percent of net worth whichever is the lessor. In a case where it is a widespread violation by a large corporation, the total amount of $100,000 would not serve at all as a deterrent. It would be a minimal injury, perhaps equivalent to the petty cash of a large corporation which may have otherwise been contributed to a political campaign. That too in violation of the law.

By turning around the provision as reported by the committee my amendment would enable the judgment—if the court renders the judgment for a violation—to be of sufficient amount. If there are many people in the same class action, and it is a large institution, it would be a large enough deterrent and it would be an effective penalty provision. Thus, in order to give meaning to the civil liability provision, it is necessary to place some ceiling on it but the ceiling recommended by the committee does not in any way serve as a deterrent or penalty.

I might note that last year when we considered the same legislation I based my support for this amendment on a letter that had been sent by the Vice Chairman of the Federal Reserve System. This year it is not the word of one man, it is the report of the entire Federal Reserve Board. The provisions recommended by the Federal Reserve Board which are printed on pages 36 and 37 of the committee report are most illuminating and, I ask unanimous consent that they be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

CLASS ACTIONS AND CIVIL LIABILITY; CLASS ACTION LIABILITY LIMIT

The trend of the cases is away from allowing class actions for the enforcement of Truth in Lending. Very likely, this trend is an outgrowth of judicial concern over the possible magnitude of recovery by a large class, given the statutory minimum of $100 per person. While the Board shares this concern about possible liability, which might in some cases run into millions of dollars and may be disproportionate to any conceivable injury sustained by consumers, it also believes that potential class action liability is an important encouragement to the voluntary compliance which is so necessary to insure nationwide adherence to uniform disclosure. Consequently, it believes that any inquiry into the justification for class actions should not be restricted to whether the possible liability in such suits exceeds the actual damages incurred by the class members. Equally important, in the Board's view, is the prophylactic effect of the threat of class action exposure. That threat elevates a possible Truth in Lending law suit from the ineffective "nuisance" category to the type of suit which has enough sting in it to insure that management will strive with diligence to achieve compliance.

While the Board believes that this class action vehicle in some form should be preserved for appropriate Truth in Lending suits, it is conscious of the difficulty of formulating an equitable rule which will preserve its effectiveness without, at the same time, exposing legitimate business to unwarranted claims in frivolous law suits. In the Board's view, the best way to meet this problem is to set an upper limit on the aggregate amount of possible class action recovery (the greater of $50,000 or 1 percent of net worth is suggested in the Board's recommended amendment), while, at the same time, giving the courts the authority to set the amount of actual recovery within this limit in light of the circumstances of the particular case—for example, the severity of the violation and the size of the offender.

Mr. MOSS. Mr. President, I reserve the remainder of my time.

Mr. TOWER. Mr. President, on behalf of the Senator from Tennessee I yield such time as he may require to the distinguished Senator from Utah (Mr. Bennett).

Mr. BENNETT. Mr. President, I am sorry to find myself in a position of opposition to my junior colleague, but I think he has the situation backwards.

He is concerned about a violation on the part of big companies whose lawyers would be able to keep them out of trouble.

The Senator would impose a penalty of $50,000 or 1 percent of net worth, whichever is greater, which would put out of business any company whose net assets were $50,000 or less.

I am concerned with protecting the little businessman who does not have a stable of important, skillful lawyers, who runs his credit department with people who do not understand all the intricacies of the law, whose clerks might make a mistake which would put him in violation; and if he were in violation, the minimum that could be imposed on him is $50,000.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. BENNETT. I yield.

Mr. PROXMIRE. Did the Senator say minimum fine?

Mr. BENNETT. $50,000 or 1 percent, whichever is greater.

Mr. PROXMIRE. Those were maximums, I understand.

Mr. MOSS. Yes, they are maximum limits. The court, of course, would fix the penalty.

Mr. BENNETT. But it is 1 percent or $50,000. If the court decides 1 percent is $1,000, it has to impose a $50,000 fine. It would have no choice.

Mr. MOSS. No, it would be the other way. If the net worth of the company is below 1 percent, 1 percent is below the $50,000 and that becomes the ceiling. If the net worth is greater than $50,000, it can go up to wherever 1 percent takes it.

Mr. BENNETT. Of course, it could be $50,000 or 1 percent, whichever is greater. The court would have to impose $50,000 or 1 percent, whichever is greater. If 1 percent is $1,000, and $50,000 is more, he has to impose the greater. It seems to me the language is very clear on its face. I am not a lawyer but I do not understand it to be otherwise. It seems to me the words mean what they say.

Mr. MOSS. There is no mandatory imposition of the penalty. The court has to assess the penalty, but in making the assessment certain limits cannot be exceeded. Under my amendment it could not exceed 1 percent of the net worth and it cannot exceed $50,000.

Mr. HASKELL. Mr. President, will the Senator from Utah yield for a question?

Mr. BENNETT. I believe I have the floor, and I would like to finish my statement.

Mr. President, the approach which the committee took was a reasonable one. It would provide for a penalty of $100,000 or 1 percent of the creditor's net worth, whichever is less, for each violation of the Truth in Lending Act. This would provide ample liability in preventing any creditor, regardless of size, from continuing to violate that act.

It must be remembered that this amount would be exclusive of the sums which could be collected in suits where actual damages are incurred through violations of this same act.

This is not a penalty for damages; this is a punitive penalty on top of the damages. It does not affect the $100 minimum which can be recovered by an individual for any violation of the law. It would allow, however, for a class action recovery in the case of any violation whether or not the consumer has actually incurred any damages. In light of this, the liability imposed for violations would be substantial enough to insure compliance, yet reasonable enough to avoid being punitive.

In spite of this, the amendment sought by Senator Moss would broaden enormously the scope of creditors' liability under class action suits. It would increase unconscionably the liability which creditors would be subject to under the Truth in Lending Act.

The amendment which is being offered would allow for a maximum liability of $50,000 or 1 percent of a creditor's net worth, whichever is greater, for each violation of that act. As you can well imagine, this has the potential for raising the liability of creditors to an amount that is clearly out of line with the severity of any possible violation, particularly in light of the fact that in the case of such violations no actual damages may be incurred.

Under the present law a minimum recovery of $100 is allowed even if no actual damages have been incurred. The purpose of this was to make it worthwhile for an indivdual to bring an enforcement action even if actual damages amounted to only a few dollars. However, if this minimum were to be applied in class action suits where the class involves a large number of individuals, the amount for which the creditor could be liable would be astronomical. Indeed, the courts have clearly preceived this as a possibility and have questioned the appropriateness of the class action suit under such circumstances. For example, in the case of Ratner against Chemical Bank of New York, Judge Frankel pointed out:

> That the allowance of thousands of minimum recoveries like plaintiff's would carry to an absurd and stultifying extreme the specific and essentially inconsistent remedy Congress prescribed as the means of private enforcement. (54 F.R.D. 412, 414 (S.D.N.Y. 1972).)

As a result, nearly all of the 20 Truth in Lending class action suits decided since then have held that the class action form under such circumstances was not appropriate.

The amendment providing for a penalty of $50,000 or 1 percent of creditor's net worth, whichever is greater, is not a sound approach to the problem. It holds the same potential for punitive and extraordinarily large punishments for violations which have made the courts hesitant to apply present provisions to class action suits. It would result in millions of dollars being required in payment for violating the act, whether or not damages had actually been incurred.

The amounts for which creditors would be potentially liable is staggering. For example, it could result in liabilities for major oil companies in the following amounts: Exxon, $123 million; Texaco, $72 million; and Mobil, $52 million. The potential liability for other major creditors would also be enormous: General Motors Acceptance Corp., $9.5 million; Ford Motor Credit Corp., $4.8 million; and Household Finance Corp., $7.9 million. In the case of some of the Nation's largest commercial banks, the results could be the following: Chase Manhattan Bank, $17.4 million; First National City Bank of New York, $17.2 million; and Bank of America, $15.3 million. For approximately 90 percent of the Nation's commercial banks, $50,000 would be more than 1 percent of their net worth.

All of these sums could be for a violation that may be strictly technical in nature, and in cases for which actual damages may not be incurred by any consumer. Of course, the sums are not confined to only the largest creditors. Even the smallest creditors would be affected by this amendment, and the sums for which they are potentially liable could work a severe hardship on their ability to continue to provide credit and service their customers.

For example, it is obvious that the $50,000 minimum liability for any creditor being sought by this amendment could exceed the net worth of those firms whose net worth is less than $50,000. This would be disastrous and would completely destroy the ability of such firms to stay in business. Indeed, for any firm with a net worth of less than a quarter million dollars this amendment would destroy their means for staying in operation. These firms do not have the liquidity to handle the sums which would be imposed as penalties under this amendment. The committee bill, however, would assure that the penalty could not exceed any firm's net worth, avoiding the possibility that small creditors will be put out of business by the imposition of any penalty.

It must also be remembered that this liability does not include the costs of such action to the creditor or the payment of "reasonable" attorney fees in a successful enforcement of the law, which could also be quite substantial. To identify a class and send notices alone could amount to millions of dollars if the class were large enough.

The Moss amendment would encourage class action suits against the largest creditors, who generally have the best compliance records and who, as I said, have the best legal staffs and would best be able to protect themselves.

They would be open to charges of violations which may be technical in nature and in the legal interpretation of which might be some minor disagreement. In view of this, and the fact that a violation may not be for actual damage incurred, it is not in the public interest to encourage such litigation.

In conclusion, it seems to me to be highly illogical to place into statutory form a civil penalty which does not apply to all violators equally. The amendment would vary the penalty according to the size of the creditor. It means that while any two creditors may have the same violation, they may be subject to different penalties, depending strictly on their size. The committee bill minimizes this by placing a maximum penalty for all violators.

I strongly urge adoption of the bill as reported out by the committee. This will encourage creditors to seek compliance and permit suits to be brought in cases where real abuse has occurred.

Mr. President, I ask unanimous consent that a series of tables on this subject be printed in the RECORD at this point.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE 1.—NET WORTH[1] OF MAJOR CREDIT CORPORATIONS

	Net worth[1]	1 percent of net worth
Montgomery Ward Credit Corp. (Feb. 2, 1972)	$158,747,618	$1,587,476
Penneys (J. C.) Financial Corp. (Jan. 29, 1972)	145,832,089	1,458,321
Sears, Roebuck Acceptance Corp. (Jan. 31, 1972)	369,163,663	3,691,637
General Motors Acceptance Corp. (Dec. 31, 1972)	948,002,595	9,480,026
Ford Motor Credit Corp. (Dec. 31, 1972)	481,200,000	4,812,000
Chrysler Finance Corp. (Dec. 31, 1972)	345,856,288	3,458,563
Household Finance Corp. (Dec. 31, 1972)	792,072,000	7,920,720

[1] Includes capital stock, surplus and retained earnings; excludes long-term notes and debentures.

Source: Moody's.

TABLE 2.—NET WORTH OF THE 100 LARGEST BANKS IN THE UNITED STATES BY DEPOSITS[1] (DEC. 31, 1972)

Bank	Net worth[2]	Percent of net worth
1. Bank of America National Trust and Savings Association, San Francisco	1,530,779,000	15,307,790
2. First National City Bank, New York	1,720,824,000	17,208,240
3. Chase Manhattan Bank National Association, New York	1,744,478,978	17,444,790
4. Manufacturers Hanover Trust Co., New York	813,885,465	8,138,855
5. Morgan Guaranty Trust Co., New York	1,060,100,008	10,601,000
6. Chemical Bank, New York	867,925,000	8,679,250
7. Bankers Trust Co., New York	580,580,000	5,805,800
8. Security Pacific National Bank, Los Angeles	543,495,251	5,434,953
9. Continental Illinois National Bank and Trust Co., Chicago	705,420,000	7,054,200
10. First National Bank, Chicago	620,263,000	6,202,630
11. Wells Fargo Bank National Association, San Francisco	486,437,405	4,864,374
12. Crocker National Bank, San Francisco	366,098,853	3,660,989
13. United California Bank, Los Angeles	402,639,446	4,026,394
14. Mellon Bank National Association, Pittsburgh	461,782,000	4,617,820
15. Irving Trust Co., New York	323,439,538	3,234,395
16. National Bank of Detroit	437,961,893	4,379,619
17. Marine Midland Bank, New York	207,958,098	2,079,581
18. First National Bank, Boston	379,981,500	3,799,815

Bank	Net worth[3]	Percent of net worth
19. Union Bank, Los Angeles	208,000,000	2,080,000
20. Franklin National Bank, New York	225,706,474	2,257,065
21. First Pennsylvania Bank & Trust Co., Philadelphia	246,455,000	2,464,550
22. Republic National Bank, Dallas	149,457,000	1,494,570
23. Cleveland Trust Co	270,280,422	2,702,804
24. South-First National Bank	178,519,643	1,785,196
25. Girard Trust Bank, Philadelphia	204,166,197	2,041,662
26. First National Bank, Dallas	139,704,240	1,397,042
27. Philadelphia National Bank	207,240,588	2,072,406
28. Harris Trust and Savings Bank, Chicago	194,649,667	1,946,497
29. National Bank of North America, New York	201,403,000	2,014,030
30. Detroit Bank and Trust Co	171,887,103	1,718,871
31. Wachov a Bank & Trust Co. National Association, Winston-Salem, N.C	175,937,913	1,759,379
32. Bank of California, National Association, San Francisco	118,677,000	1,186,770
33. Manufacturers National Bank, Detroit	154,872,000	1,548,720
34. Valley National Bank, Phoenix, Ariz	164,202,366	1,642,024
35. North Carolina National Bank, Charlotte	148,748,308	1,487,483
36. Northern Trust Co., Chicago	172,275,595	1,722,756

Footnotes at end of table.

TABLE 2.—NET WORTH OF THE 100 LARGEST BANKS IN THE UNITED STATES BY DEPOSITS[1] (DEC. 31, 1972)—Continued

Bank	Net worth [2]	Percent of net worth
37. First National Bank of Oregon, Portland	180, 512, 163	1, 805, 122
38. United States National Bank of Oregon, Portland	166, 310, 280	1, 663, 103
39. Bank of New York	150, 407, 632	1, 504, 076
40. Fidelity Bank, Philadelphia	155, 520, 882	1, 555, 209
41. Citizens & Southern National Bank, Atlanta, Ga	170, 291, 604	1, 702, 916
42. Pittsburgh National Bank	172, 114, 285	1, 721, 113
43. National City Bank, Cleveland	164, 322, 000	1, 643, 220
44. Security National Bank, Hempstead, N.Y	126, 865, 000	1, 268, 650
45. Marine Midland Bank-Weston, Buffalo, N.Y	132, 281, 430	1, 322, 814
46. National Bank of Commerce, Seattle	90, 257, 523	902, 575
47. First City National Bank, Houston	107, 850, 031	1, 078, 500
48. First Wisconsin National Bank, Milwaukee	105, 135, 965	1, 051, 360
49. Texas Commerce Bank National Association, Houston	106, 521, 859	1, 065, 219
50. Connecticut Bank & Trust Co., Hartford	95, 017, 737	950, 177
51. First National Bank of Arizona, Phoenix	102, 170, 177	1, 021, 702
52. Hartford National Bank & Trust Co., Connecticut	91, 147, 143	911, 471
53. Central National Bank, Cleveland	115, 493, 689	1, 154, 937
54. First Union National Bank of North Carolina, Charlotte	109, 840, 597	1, 098, 406
55. Michigan National Bank, Lansing	80, 992, 227	809, 922
56. American Fletcher National Bank & Trust Co., Indianapolis, Ind	70, 434, 174	704, 342
57. Industrial National Bank of Rhode Island, Providence	80, 107, 000	801, 070
58. National Shawnut Bank, Boston	84, 339, 676	843, 397
59. Maryland National Bank, Baltimore	105, 096, 000	1, 050, 960
60. Indiana National Bank, Indianapolis	89, 093, 651	890, 937
61. Northwestern National Bank, Minneapolis, Minn	95, 833, 579	958, 336
62. Western Pennsylvania National Bank, Pittsburgh	83, 511, 849	835, 118
63. Provident National Bank, Philadelphia	99, 204, 000	992, 040
64. Virginia National Bank, Norfolk	97, 200, 169	972, 002
65. State Street Bank & Trust Co., Boston	102, 534, 613	1, 025, 346
66. First Western Bank & Trust Co., Los Angeles	77, 076, 210	770, 762
67. First National Bank, Minneapolis, Minn	110, 780, 319	1, 107, 803
68. American National Bank & Trust Co., Chicago	63, 518, 662	635, 187
69. First National Bank, Memphis, Tenn	82, 997, 438	829, 974
70. Mercantile Trust Co. National Association St. Louis, Mo	130, 685, 864	1, 306, 859
71. Trust Co. of Georgia, Atlanta	80, 826, 000	808, 260
72. First National Bank, Atlanta	106, 645, 763	1, 066, 458
73. Manufacturers & Traders Trust Co., Buffalo, N.Y	94, 943, 286	949, 433
74. First National State Bank of New Jersey, Newark	82, 139, 428	821, 394
75. New England Merchants National Bank, Boston	74, 087, 347	740, 873
76. First National Bank, Miami	75, 056, 892	750, 569
77. Riggs National Bank, Washington, D.C	93, 895, 463	938, 955
78. Union Planters National Bank, Memphis	76, 921, 281	769, 213
79. Union Commerce Bank, Cleveland	91, 092, 422	910, 924
80. County Trust Co., White Plains, N.Y	86, 043, 057	860, 431
81. Peoples Trust of New Jersey, Hackensack, N.J	76, 940, 000	769, 400
82. Ohio National Bank, Columbus	80, 949, 459	809, 495
83. National Commercial Bank and Trust Co., Albany, N.Y	68, 564, 200	685, 642
84. Banco Popular de Puerto Rico, San Juan	62, 597, 857	625, 979
85. Lincoln First Bank of Rochester, Rochester, N.Y	71, 899, 474	718, 995
86. First National Bank, St. Paul, Minn	96, 712, 098	967, 121
87. United States National Bank, San Diego	61, 027, 645	610, 276
88. Bank of the Commonwealth, Detroit	64, 535, 029	645, 350
89. Bank of the Southwest National Association, Houston	81, 606, 989	816, 070
90. American Security and Trust Co., Washington, D.C	80, 873, 181	808, 732
91. First National Bank, St. Louis, Mo	86, 146, 336	861, 463
92. First & Merchants National Bank, Richmond, Va	69, 681, 007	696, 810
93. Society National Bank, Cleveland	60, 896, 669	608, 967
94. Bank of Hawaii, Honolulu	62, 192, 789	621, 928
95. Michigan Bank National Association, Detroit	62, 210, 145	622, 101
96. National Newark and Essex Bank, Newark, N.J	69, 696, 844	696, 968
97. First-Citizens Bank and Trust Co., Smithfield, N.C	71, 133, 794	711, 338
98. First National Bank, Birmingham, Ala	70, 749, 254	707, 493
99. Equitable Trust Co., Baltimore, Md	58, 155, 909	581, 559
100. Bank of Tokyo Trust Co., New York	52, 807, 045	528, 070

[1] Data from the American Banker, Feb. 13, 1973.

[2] Net worth comprised of capital, surplus and undivided profits.

TABLE 3.—AVERAGE NET WORTH OF INSURED COMMERCIAL BANKS BY AMOUNT OF DEPOSITS, DEC. 31, 1972

[In thousands of dollars]

		Banks with deposits of—									
	All banks	Less than 1 million	1 million to 2 million	2 million to 5 million	5 million to 10 million	10 million to 25 million	25 million to 50 million	50 million to 100 million	100 million to 500 million	500 million to 1 billion	1 billion or more
Total net worth [1]	48, 022, 582	7, 700	95, 948	881, 687	2, 086, 148	5, 130, 414	4, 359, 466	3, 851, 711	8, 182, 583	5, 152, 857	18, 274, 068
Number of banks [2]	13, 500	66	471	2, 567	3, 262	4, 088	1, 608	738	532	96	72
Average net worth of commercial banks	3, 557	117	204	343	640	1, 255	2, 711	5, 219	15, 381	53, 676	253, 807

[1] Net worth is comprised of capital stock, surplus, undivided profits, and reserves for contingencies, and other capital resources.

[2] Insured commercial banks operating throughout 1972.

Source: Federal Deposit Insurance Corporation.

Mr. BENNETT. Mr. President, I strongly urge the adoption of the bill as reported by the committee, and the rejection of the amendment. I fear that the people who have put this amendment together have had their eyes on the big companies and thought what a wonderful idea it would be if we could get 1 percent of the net worth of some of the giant oil companies and banks; but in doing so, they require the court to assess no less than $50,000 as a penalty on every little merchant who is found in violation, because the bill does not say "maximum." It says "the greater of $50,000 or 1 per centum of the net worth of the creditor."

I hope the Senate will not impose that kind of burden on the little merchants in the United States. If it does, I am sure the courts will never enforce it.

Mr. MOSS. Mr. President, the Senator feels that, for some reason, those who are proposing this amendment want to drive out of business, perhaps, some of the big corporations. As a matter of fact, this proposal is recommended by the Federal Reserve Board unanimously. I have never heard anyone before say the Federal Reserve Board is out to wreck the banking business or drive any of our big corporations out of business.

I am afraid that the whole matter has been distorted. What we are talking about here, if Senators will refer to page 20 of the bill, is the actual damage sustained as a result of this failure.

In the case of a class action, where it is not a single individual it will be such amount—and I am on line 22 of page 20—"such amount as the court may allow, except that as to each member of the class no minimum recovery shall be applicable, and the total recovery in such action shall not be more than the lesser of $100,000 or 1 percent above the net worth of the creditor;"

That is the actual damage suffered. If it does not come near these ceilings, we do not have to worry about it. However, in this bill where it says "not more than the lesser" that is the villain. It says "shall not be more than the lesser of $100,000 or 1 per centum of the net worth of the creditor;"

That means that if we have a big corporation—and the Senator was citing Exxon—and they had a violation of the provision with respect to a whole class of people, the greatest amount the court could assess for that whole class of people would be $100,000. Maybe each would get $5 apiece of $1 apiece.

This turns it around and says that the court when it assesses the penalty shall assess it within certain limits and cannot exceed $50,000 under any circumstances except where the net worth of that corporation is a big one. Then the court can shift to 1 percent of the net worth.

No corporation can suffer a penalty of more than 1 percent of their net worth, no matter how much the corporation is in violation.

Mr. BROCK. Mr. President, will the Senator yield?

Mr. MOSS. I will yield in a moment.

On page 21 when we talk about how a court shall determine the amount of award in any class action, we say "the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failures of compliance by the creditor, the resources of the creditor, the number of persons adversely affected, and the extent to which the creditor's failure of compliance was intentional."

This is all within the power of the court, the judge, to decide. He has to find that there is a violation and that there have been damages. He has to decided what the damages are, and he has certain limits that he cannot exceed.

Mr. BROCK. Mr. President, will the Senator yield?

Mr. MOSS. I yield to the Senator from Tennessee.

Mr. BROCK. Mr. President, I think that the Senator inadvertently misstated himself or I misunderstood him. He said that in no case under his amendment could the court award damages in excess of 1 percent of the networth.

Mr. MOSS. The Senator is correct.

Mr. BROCK. That is not the way the Senator's amendment reads. The Senator's amendment says "and the total recovery in such action shall not be more than the greater of $50,000 or 1 per centum of the net worth of the creditor;"

So, if I have a little company that is worth $100,000, it would mean a fine of $50,000.

The Senator should not have a dollar figure in there if the amendment is to mean what he says. That would be the only way to achieve the results stated by the Senator.

A small company would be wiped out and bankrupt. There is no way in which they could survive that kind of judgment.

Mr. MOSS. It says "the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failures of compliance by the creditor, the resources of the creditor, the number of persons adversely affected, and the extent to which the creditor's compliance was intentional."

So, if the Senator had a $100,000 corporation and the matter was presented to the judge, he would not put him out of business in the first instance. Perhaps we have judges who are that unobserving. However, that is the reason that we have appellate courts. However, basically we believe in the court system, and we believe that a court will find a fair judgment against a creditor to compensate the plaintiff.

The only thing we are trying to talk about here is that if we put on a ceiling, it can never exceed $100,000.

Mr. BROCK. Mr. President, if we have total faith in the courts, we would not have any ceiling there at all. We would say, "Fine them anything you want." However, I do not have total faith in the courts. I think that it is up to Congress to fix this penalty.

We tried to compromise this matter within reasonable limits. However, I think that the Senator could get us into a situation in which we would be in trouble. We have a lot of good judges. There may be some that do not have the wisdom they should have.

Mr. HASKELL. Mr. President, if the Senator from Utah would yield, are we talking about the limiting of actual damages or are we talking about penalties?

Mr. MOSS. The Senator is correct. We are talking about the limit of actual damages. And the total recovery cannot be more than 1 percent of the net worth of the creditor.

Mr. HASKELL. Mr. President, for a point of clarification, if we are talking about the limit of actual damages, in my mind, it is one thing. If we are talking about a penalty, it is something entirely different.

I am merely seeking clarification.

Mr. PROXMIRE. Mr. President, if the Senator will yield, the Senator does have a good point. While there is no limit on actual damages, under the Truth in Lending Act, there are almost never any actual damages. The only effective penalty is the penalty to which the junior Senator from Utah addressed his amendment.

How do we show damages on a disclosure violation? It is virtually impossible.

Mr. HASKELL. As a practical matter, we are talking about a penalty.

Mr. PROXMIRE. The Senator is correct.

Mr. MOSS. Mr. President, the court would consider the actual damages and other things, the frequency and persistence of failures of compliance by the creditor, the resources of the creditor, the number of persons adversely affected, and the extent to which the creditor's failure of compliance was intentional.

Mr. President, I would be willing to yield back my time very shortly. I simply want to say that if my amendment is rejected and if we go back to the language in the bill now, it would mean that under no circumstances could any corporation be assessed a penalty greater than $100,000. If we visualize a violation by a company such as Exxon, and that violation had spread all over the United States to anyone that had an Exxon card of one kind or another, and if it were proved that this was intentional, still the total assessment against that big corporation would be $100,000. That is not an adequate deterrent.

However, if we turn it around the other way and say that it can be up to 1 percent of the net worth of that corporation, then there is a real deterrent on that corporation to prevent a violation of the truth-in-lending law.

Mr. President, I turn back, as I did before, in citing the Federal Reserve Board, and point out that I had always thought the Federal Reserve Board were among the most careful and conservative people who served in the Government service. And when the Federal Reserve Board unanimously recommended the language of my amendment, it was quite persuasive to me that it will not wreck our whole economic system.

I think that we very well could follow that recommendation, and I urge the adoption of the amendment.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. MOSS. I yield to the Senator from Wisconsin.

Mr. PROXMIRE. I commend the Senator from Utah enthusiastically on his amendment. It is an excellent amendment. It is an absolutely vital amendment, if we are to have any effective class action litigation under the Truth in Lending Act.

The Senator makes two points that I think should be underlined. No. 1, this is what the Federal Reserve Board recommends. The Federal Reserve Board has authority to enforce this act under the truth in lending law. They have had experience with it. They have worked with it for 4 years, and know what is needed to make it effective. They say there is need for the kind of provision the Senator proposes in his amendment.

The second point which the Senator has made so well at the conclusion of his statement is, How silly can you get? A $100,000 penalty; what good would it do to assert a $100,000 penalty against Sears, Roebuck? Sears, Roebuck sells $11 billion a year. The Bank of America has a net worth of $1.7 billion. One hundred thousand dollars is really chicken feed. To file suit in the case of these big giants, would be a complete waste of time; you would provide a penny or two to each injured party.

Mr. President, I congratulate the Senator from Utah on his amendment. I suggest that without it, we would have a toothless truth in lending law.

Mr. BROCK. I yield myself 4 minutes.

Mr. President, I believe the debate has reached its zenith. I am sure it is not the intent of the Senator from Wisconsin or the Senator from Utah, but this amendment to me represents the lawyers' gravy train of 1973. What fun they are going to have with this, taking on the fat cats and all the rest. If we put a 1 percent figure out there, that is great bait for the attorneys to look at the 1 percent that will get them the highest fee and allow the greatest opportunity for public recognition.

Sure, they are going after the big guys. Of course they are. That is where the money is. But is it where the problem is? No. No one has suggested that. As a matter of fact, the record of this legislation is that we have superlative compliance records on the part of most of the large creditors. The problem is with the people who are not able to comply because of limited staff and capacity.

This amendment will clobber the little guy and not achieve anything other than to make an awful lot of lawyers very rich who go after the big ones and ignore the problem that does exist in some areas with respect to small firms. It will be ignored, because there is too much to be made on the other side of the coin.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. BROCK. I yield.

Mr. PROXMIRE. Is it not true that under the present law, the limit is $100 from each person who is suing as a minimum, to a maximum of $1,000? That means the total could go from $1 billion to $10 billion, under the present law.

So what the Senator from Utah does and what the Federal Reserve Board would do would be to provide a limitation on present liability that is very substantial. But what the committee has done in the bill is to provide an utterly ridiculous limitation of $100,000 on a giant, which is peanuts and an insult to our intelligence, and makes it ineffective to file a class-action suit. If you want to kill class action by subterfuge, vote no on Moss, that is what the committee bill does. If you want a responsible limit recommended by the Federal Reserve Board vote for this amendment.

Mr. BROCK. In other words, what we are going to do is motivate the attorneys to go after the guys with the big reputation and the big cash, regardless of whether that is where the problem exists.

In response to the Senator's question let me read again from the language of Judge Frankel in the Ratner case, which was referred to by the senior Senator from Utah (Mr. BENNETT). Judge Frankel said:

> The allowance of thousands of minimum recoveries like plaintiff's would carry to an absurd and stultifying extreme the specific and essentially inconsistent remedy Congress prescribed as the means of private enforcement.

That has been accepted by virtually every court since that decision as being logical and right. I think it is. I think it makes sense. The Senator would go back and build all over again all of the problems in the original bill, except that in this case we specifically authorize class action suits, and say, "Katie, bar the door, no more than 1 percent of the assets."

So all they have to do is go after these guys that have all the money, and ignore the problem that exists with the smaller business.

Frankly, I think the amendment is counterproductive.

Mr. HART. Mr. President, today I wish to add my support to Senator Moss' amendment to the truth-in-lending bill, S. 2101. His amendment would change the limitations on maximum class action damages resulting from abuses in disclosure, billing practices, and discrimination.

The bill suggests a maximum limit of $100,000 or 1 percent of the net worth, whichever is less. Senator Moss' amendment would change the maximum limit to $50,000 or 1 percent of the net worth, whichever is greater.

Thus the maximum, suggested by Senator Moss, would provide an economic incentive for compliance with the law. In short, it would give the consumer the necessary clout for dealing with a large corporation.

The actual damages resulting from abuses of disclosure, billing practices, and discrimination are usually negligible or extremely difficult to prove. For that reason, we set up a minimum award of $100 for an individual action in our original act. But lawyers' fees and the costs of suits are such that the only truly effective means of enforcing the sound provisions of this act is by class suits. Since the courts have refused to certify class suits under the Truth in Lending Act as it now stands, it is necessary to enact some limitation. But the limitation has to be realistic.

A maximum of $100,000 is not realistic. To a small firm, or an individual, $100,000 seems like an enormous sum. But to a large multimillion dollar bank, credit card company or chain store, this is chickenfeed. Their legal fees alone would cost more than that. The object in this type of class suit is not so much to compensate the injured party, but to give an economic incentive to companies for compliance with the law.

The Federal Reserve Board, intimately familiar with the structure of the credit industry, recommended that the maximum be set at the greater of $50,000 or 1 percent of net worth. They emphasized "the prophylactic effect of the threat of class action exposure. That threat elevates a possible truth-in-lending lawsuit from the ineffective nuisance category to the type of suit which has enough sting in it to insure that management will strive with diligence to achieve the compliance."

This limit does have teeth in it. It is obvious that few judges would actually award a sum totaling 1 percent of the net worth of American Express, Bank of America, Montgomery Ward's, or Sears Roebuck. But he will have the discretion to award a sum which such institutions will feel and will have to justify to their stockholders.

All the other laudatory provisions of the Truth-in-Lending Act, and the amendments we are considering here today, will be lost without a sanction. This amendment may seem technical at first glance, but in my view it represents the very heart of our whole endeavor to correct credit abuses in this country.

The equal credit opportunity section forbidding discrimination because of sex and marital status in credit decisions, is another important step forward. Some banks and credit card companies seem to have the view that the worth of money depends on the sex of the person who earns it. I cosponsored Senator BROCK's bill dealing with sex discrimination in credit practices, and I am delighted that the full Banking Committee accepted it.

The changes made by the committee regarding the computation of finance charges and minimum finance charges are not in accord with my views. I am not convinced that small retailers need the protection of practices which I consider unfair.

The PRESIDING OFFICER. Who yields time?

Mr. MOSS. Mr. President, I am willing to yield back the remainder of my time. I just want to make one more comment, and then I will be prepared to vote.

First, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. MOSS. Mr. President, let me say one more thing about this $100,000 ceiling. Sears, Roebuck alone has 10 million customers. Suppose an action were brought against Sears, Roebuck, and it was found that they had violated the truth in lending law as against all those customers. They would recover a penny apiece. That points out the futility of having a ceiling of $100,000.

If you are dealing with a problem, and you have to acknowledge there is a problem, there is a violation, there is something the court can make a finding on, and then we are talking about where does the penalty go, well, for only a penny apiece for all of those people, Senators can see it is utterly ridiculous to retain the ceiling of $100,000.

Therefore, I am willing to yield back the remainder of my time and proceed with the vote.

Mr. BROCK. I yield back the remainder of my time.

The PRESIDING OFFICER. (Mr. McCLURE). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Utah (Mr. MOSS). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from South Dakota (Mr. McGOVERN), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON) is absent because of illness.

The Senator from Colorado (Mr. DOMINICK) is necessarily absent.

The Senator from Massachusetts (Mr. BROOKE) is detained on official business.

The result was announced—yeas 36, nays 53, as follows:

[No. 319 Leg.]

YEAS—36

Bible
Biden
Burdick
Byrd, Robert C.
Case
Chiles
Church
Clark
Eagleton
Fulbright
Hart
Haskell
Hathaway
Hughes
Humphrey
Jackson
Javits
Kennedy
Magnuson
Mansfield
McGee
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Proxmire
Randolph
Ribicoff
Saxbe
Schweiker
Stevenson
Tunney
Williams

NAYS—53

Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bennett
Brock
Buckley
Byrd, Harry F., Jr.
Cook
Cranston
Curtis
Dole
Domenici
Eastland
Ervin
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Hartke
Hatfield
Helms
Hollings
Hruska
Huddleston
Inouye
Johnston
Long
Mathias
McClellan
McClure
Nunn
Packwood
Pearson
Percy
Roth
Scott, Pa.
Scott, Va.
Sparkman
Stafford
Stevens
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Young

NOT VOTING—11

Abourezk
Bentsen
Brooke
Cannon
Cotton
Dominick
Gravel
McGovern
Pastore
Pell
Stennis

So Mr. Moss' amendment (No. 343) was rejected.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BROCK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. BROCK. Mr. President, I have four technical amendments; and, for the information of the Senate, I do not believe there will be any request for a record vote on final passage.

Before I offer the amendments, to which there is general agreement, I should like to pay my respects to the committee and to the chairman of the committee for his usual graciousness and courtesy to the members. The Senator from Alabama has demonstrated again his ability and his integrity and his commitment to full participation on the part of members.

I think we have an excellent bill. If I can point out one achievement of the bill that is significant above all others, it is that this bill, for the first time, really effectively deals specifically with the problem of credit discrimination against women and deals with it in a manner that is cogent and to the point, and I think it will resolve the basic problem in many ways. I express my thanks to my colleagues for supporting that particular title III, which Senator Williams and I cosponsored.

Mr. President, I have four technical amendments at the desk which I ask unanimous consent to have considered en bloc.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendments will be stated.

The legislative clerk read the amendments, as follows:

> On page 3, delete the last sentence on lines 1-4 and substitute the following sentence:
>
> "With respect to each of 2 billing cycles per year, at semiannual intervals, the creditor shall transmit such statement to each obligor to whom the creditor is required to transmit a statement pursuant to section 127(b) for such billing cycle."
>
> On page 17, line 10, insert the following:
>
> Delete the phrase "is stated in the advertisement" and substitute therefor the phrase "is imposed".
>
> On page 23, strike out lines 10 and 11, and insert in lieu thereof the following:
>
> "The exemption provided by section 104 (1) does not apply to the provisions of sections 132, 133, and 134, except that a card issuer and a business or other organization which provides credit cards issued by the same card issuer to ten or more of its employees may by contract agree as to liability of the business or other organization with respect to unauthorized use of such credit cards without regard to the provisions of section 133, but in no case may such business or other organization or card issuer impose liability upon any employee with respect to unauthorized use of such a credit card except in accordance with and subject to the limitations of section 133."
>
> On page 27, after line 12, insert the following new section:
>
> Sec. 216. Disclosure by card issuers.
>
> Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding the following new subsection:
>
> "(d) Card issuers who also engage in other than open-end credit transactions shall not be required to make disclosures required by this section with respect to such transactions."
>
> Renumber succeeding sections in title II.

The PRESIDING OFFICER. Do Senators yield back their time on the amendments?

Mr. BROCK. I yield back my time.

Mr. SPARKMAN. I yield back my time.

The PRESIDING OFFICER. All time on the amendments has been yielded back.

The question is on agreeing to the amendments en bloc.

The amendments were agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. DOMINICK. Mr. President, on a previous occasion I voiced my strong support and intentions to vote for S. 2101—amending the Truth in Lending Act—and urged that my colleagues do the same. I commend them on the passage of this worthy piece of legislation.

The passage of this bill will prohibit unfair credit billing practices, improve the administration of the Truth in Lending Act, and prohibit discrimination in consumer credit transactions because of sex or marital status. The provisions to eliminate discrimination on the basis of sex or marital status in credit transactions stem from legislation introduced earlier in the year by the distinguished Senator from Tennessee (Senator Brock). I was honored to have been a cosponsor of that bill and I am pleased that its main features were included in S. 2101 so as to insure a timely enactment into law.

Mr. MATHIAS. Mr. President, I rise today to express my strong support for title III of the Truth in Lending Act amendments, prohibiting discrimination in credit transactions on the basis of sex or marital status. Guaranteeing the economic rights of women is an area of legislation that has too long been ignored. I am very pleased that the Committee on Banking, Housing and Urban Affairs has addressed this area and commend the members of the committee for their efforts.

The Banking Committee has substantiated the findings of the National Commission on Consumer Finance which held hearings last summer on the question of unfair credit practices for women. Hearings before both groups established that women experience substantial discrimination in applying for credit. Among the findings are:

Single women have more trouble obtaining credit than single men;

Creditors are often unwilling to extend credit to a married woman in her own name;

Creditors usually required a single woman who has been extended credit to reapply for credit, usually in her husband's name, when she marries—men generally do not have to reapply;

Women who are divorced or widowed encounter difficulties reestablishing credit.

Mr. President, there are startling facts. The inequities are glaring, and the hardships faced by women are entirely unjustified. We are living in a credit society. The vast majority of our population must secure a loan to finance a new car, a new home, and most other major purchases—11.5 percent of the heads of families in this country are women. To discriminate against women in applications for retail credit, mortgages, bank loans, is not only unfair, but harmful to our economy and our family life.

There has been, however, some progress in this field in recent months. Next year, for example, Manhattan will note the opening of the First Women's Bank and Trust Co., designed to serve the special needs of women. In a June 1 article in the Christian Science Monitor, the bank's acting coordinator, Ellen Preiss stated its purposes:

> The bank is going to focus on women's special financial needs, which other banks have not done. We're going to make sure that women get equal treatment in terms of credit, which other banks have neglected because of their attitudes and myths about women—specifically that they're not serious about business and that they're poor credit risks.

In addition, the National Bank Americard this year dropped its requirement that member banks request all applicants to submit financial information about their spouses and to permit single women to retain their accounts after they marry.

The First National City Bank of New York has named a woman to its credit division and will now accept alimony and welfare income as proof of ability to repay a loan. But we have a long way to go. Only legislative action at the Federal level will start to correct today's credit inequities.

The Commission and the committee determined that many of the bases for discrimination against women by creditors are totally unfounded. Today women are no less likely than men to remain employed over extended periods of time, and there is virtually no sound reason why women should be underrated as credit risks. The economic status of women has changed considerably over the past two decades—40 percent of all wage earners in the country are women—a one-third increase from their numbers in 1951. It follows, then, that women should be entitled to the same credit benefits as men when they meet the same standard criteria.

Mr. President, the provisions of title III of the Truth in Lending Act amendments seek to end discrimination based on sex or marital status in connection with credit transactions. This measure does not dictate to lending institutions the terms upon which credit may be granted. Rather, the bill is designed to ensure that credit applications are treated individually on the basis of the merits of the applicant. Creditors are free to determine standards by which to judge such applicants.

I encourage my colleagues to be responsive to the needs of 53 percent of our population by extending equal credit opportunity to women.

Mr. BELLMON. Mr. President, in an economy which is increasingly dependent on credit, it is unfair and unjust to deny any segment of the population equal treatment under the law. The necessity of legislation to correct this problem has been clearly documented in the findings of the Natioanl Commission on Consumer Finance and is increasingly a matter of public concern. Because of this need, I introduced S. 2084, a bill to prohibit discrimination against individuals seeking credit on account of sex or marital status. While the committee bill differs from S. 2084 in several technical respects, it reaches the same problem, that is to protect the rights of women and single people in obtaining credit.

I would urge the Senate to adopt this provision and extend the same rights to credit worthy women and credit worthy single people so as to give them the same benefits and rights currently enjoyed by other segments of our society. The committee is to be congratulated for acting to solve this problem in such an astute manner. It is now the time for the Senate to act accordingly.

USE OF CASH DISCOUNTS

Mr. CRANSTON. Mr. President, section 167 will prevent action by card issuers to prevent merchants from imposing a differential between a merchant's "cash" price and his card price. It is not at all clear that such differentials should be allowed; card transactions allow a merchant to increase his volume at reduced per-unit costs, producing savings for all customers. Similarly, there are cost elements to the merchant attributable only to cash customers, such as cash registers, counting cash, safeguarding cash, risk of theft.

The committee has decided nonetheless that differentials should be permitted, therefore card issuers are faced with two problems arising from the fact that the sales slips they receive from the merchants will contain only the charge card price, and there is no way to require accurate disclosure by the merchant to the card issuer of the "cash" price in effect at the time of the card sale. The first problem arises under truth in lending; the differential itself seems to be a finance charge that the card issuer would be unable to disclose, not knowing what it was, and the unknown cash price would appear to be the base to which the card issuer's periodic rate or annual rate should be applied to compute the finance charge. Section 167 at present deals with only part of the former aspect of this problem, by making discounts up to 5 percent not a part of the finance charge. It provides no comfort where a greater differential exists, and provides no help at all to card issuers who wish to know what the actual base is against which their finance charge rates should be applied.

The second problem, a similar one, arises under State usury laws. The cash/charge card differential may well be interest in many States, and the unknown cash price may be the base against which interest rates should be applied. If a creditor is using the maximum interest rate but is applying it against a charge-card price that is higher than the cash price, the interest charge will exceed the maximum interest allowable against the lower cash price. Usury law violations are different from State to State and are thus a very real problem.

The card issuer faces related problems of being unable to comply with the disclosure requirements of truth in lending.

I hope that the House will work on alternatives with respect to the difficulties that have arisen under section 167 with respect to the problems faced by the cardholder when the differential is more than 5 percent and as to the disclosure requirements under the truth in lending law.

EQUAL FINANCIAL OPPORTUNITIES FOR WOMEN

Mr. STEVENS. Mr. President, I am very pleased to cosponsor with the distinguished Senator from Tennessee (Mr. BROCK) S. 1604 and S. 1605. S. 1604 amends the Fair Housing Amendments to prohibit discrimination on the basis of sex against individuals applying for housing. S. 1605 amends the Truth in Lending Act to prohibit discrimination on the basis of sex or marital status against individuals seeking credit.

Many women, single and married, depend on their income for the livelihood of themselves and their families. While credit is not a right and may be refused for cause, the equality of access to credit and housing should not be denied on the basis of sex and should be guaranteed by the Federal Government.

I note from the Senator from Tennessee's introductory statement that 40 percent of the labor force are women who are the sole support of their famiiles. In many cases the credit standing of a working wife is taken into account in granting credit to the entire family. If the wife is the victim of discrimination, so is the family.

These bills will benefit not only these families themselves, but also, ultimately, the entire business community. Additional income will be generated. Construction will increase. More consumer goods will be produced as a result of this legislation. I do not believe I am overly optimistic when I say that these bills will permeate throughout the economy. These bills remove traditional shackles of discrimination and require that credit be granted—or denied—only on the basis of individual financial stability. Credit granting institutions will be required to evaluate each applicant individually and not on the basis of sex or marital status.

Most importantly, by enacting this legislation, the United States will take an important step forward as a leader in this area of civil rights. This legislation will serve as an example for other nations. Women everywhere will be able to turn to this legislation as an example in their fight for equal rights.

This legislation will not impose any additional disability upon women. It will not require that they become cosigners of any notes or mortgages. It does, however, assume that if they do become legally liable, they will come under the same legal obligation as men to repay the loan under the contractual terms of the instrument.

S. 1604 and S. 1605 will cast women into a central role in the American economy. Both bills reaffirm Congress trust and confidence in the ladies of this country. I hope that the Senate Banking Committee acts upon S. 1604 speedily. Both bills are in the very finest tradition of America.

I am pleased to note that S. 1605 was incorporated into S. 2101. I urge my colleagues to support this provision of S. 2101.

I request unanimous consent to place in the RECORD at this point an article that appeared in the Washington Post last February 24 describing the plight of one Arlington, Va., couple. S. 1604 will, hopefully, avoid the repetition of incidents of this type.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WIFE SAYS LOAN TIED TO NO-CHILD VOW

(By Jay Mathews)

An Arlington woman has complained to federal officials that a Falls Church mortgage company made her promise to remain childless by means of birth control, abortion or a vasectomy on her husband before approving her home loan application.

The mortgage company officer involved denied yesterday he required the promise of an abortion or vasectomy but said he asked for evidence she was practicing birth control to assure she would not lose her $11,000-a-year job as magazine editor.

The Veterans' Administration is now investigating Carol K. Lewicke's charge that the Floyd E. Davis Mortgage Corp. officer required the signed statement from her because her husband's income as a Navy enlisted man wasn't enough to cover the loan.

Loan application statements on childbearing plans required of married female applicants by mortgage companies are common enough for VA officials to have dubbed them "pill letters" or "baby letters."

"We would just as soon they not submit these damned statements to us," one VA loan official said.

Mortgage lenders in the area say the practice is not uncommon—particularly with young women who have recently married—but they say it is an improvement over days when many lenders refused to base loans on the incomes of any married women under 30.

National women's groups, also investigating Mrs. Lewicke's complaint, have charged in recent years that mortgage lenders often refuse to take a working wife's income into account or make it more difficult to obtain a mortgage based on her income rather than her husband's.

In a December statement submitted to the Federal Deposit Insurance Corporation, three large women's rights groups said, "A most specious byproduct of the creditor's morbid fear of uncontrolled pregnancy (is) the solicitation and use by lenders of statements concerning the birth control practices of a married woman applicant."

"The whole thing was just unreal," said Mrs. Lewicke, 26, an assistant editor for Environmental Science and Technology Magazine, in an interview yesterday, "I didn't believe that something like this could happen in this country."

"I've just about had it with Mrs. Lewicke and her emotional problems," said Leon A. Graybill, vice president of Davis Mortgage and the man who granted the VA-approved loan. He said he only sought simple assurances that Mrs. Lewicke's income would be a "normal and continuing part of the family income."

Instead, he said, she wanted to promise she would get an abortion if she became pregnant or her husband would get a vasectomy if she stopped taking birth control pills.

Graybill said he filed away the Lewicke's notarized statement concerning abortion and vasectomy with the notation "do not use" written on them. He said he sent the loan application to the VA with a letter from Mrs. Lewicke's gynecologist that she was practicing birth control and was unlikely to become pregnant because she only ovulated three times a year.

Graybill and other mortgage lenders said an applicant's statement that she is practicing birth control is not legally binding and is only a guide for a lender in making his decision to lend. Even if Mrs. Lewicke has a child, no action can be taken against her as long as she and her husband keep up the $213 a month mortgage payments, Graybill said.

The Lewickes have been living in their $27,000, brick, two-bedroom house at 1833 George Mason Dr. since last summer. They said yesterday that once the loan was approved and Mrs. Lewicke told Graybill she planned to complain to federal officials, Graybill began to deny he had insisted on the statements regarding abortion and vasectomy.

"It was a pretty raw deal," said Martin A. Lewicke, a petty officer 2d class in the Navy. "But wanting the house as badly as we did, we had to go along with what the man said."

Graybill said it is common practice for mortgage lenders to ask for assurances from a young, married woman applicant that she is practicing birth control or intends to continue working even if she has children.

"We are in business to lend money at a profit," Graybill said. If a baby comes, he said, "the husband does not go home and take care of the children . . . If her income stopped, they would not be able to make payments," because her husband makes only about $6,000 a year.

If a woman has held a job steadily for several years, and has been married about as long, she will often qualify for a mortgage loan without special statements, no matter if she has children or not, Garybill said.

He said he considered the loan to the Lewickes "marginal" because they had only been married four months. He said mortgage lenders found young couples often separated after a short period of marriage and then could not meet mortgage payments.

EQUAL CREDIT OPPORTUNITY PROVISIONS OF FAIR CREDIT BILLING ACT

Mr. WILLIAMS. Mr. President, the Committee on Banking, Housing and Urban Affairs has reported out S. 2101, the Fair Credit Billing Act which contains a provision to prohibit discrimination based on sex or marital status by creditors and credit card companies. I am particularly pleased that this provision was included when the committee adopted an amendment sponsored by Senators BROCK, PROXMIRE, and myself. This amendment was very similar to S. 867, the "Equal Credit Opportunities Act," which I introduced earlier this year.

There is no doubt that discrimination against women occurs in all types of credit transactions. This fact was well documented by witnesses who appeared before the National Commission on Consumer Finance, which held hearings on the problem last year. It is time the Congress takes a legislative initiative with the goal of ending this serious problem.

Discrimination against women limits their access to credit cards, their capacity to purchase homes or improve those homes and their ability to buy a business or purchase an automobile. There are 6 million families in America whose head of household, a woman, is the object of discrimination. And in a Nation where consumer credit is a way of life, it is untenable that these families should not have an equal opportunity to use the credit principle, which can enable them, with intelligent use, to meet emergency situations, to manage money better, and provide a higher standard of living. Because of sex discrimination in employment, many of these women make little money, and the ability, for example, to purchase school clothing for their children during sales or at the beginning of the school year, and then to spread the payments for these necessities over a long period of time, is not only useful but can be essential.

A number of cases have been cited in which a young wife has been asked by a mortgage lender to provide an affidavit of sterility, or a letter from her doctor attesting to the fact that she uses birth control, before the lender will count her salary as well as her husband's in his decision on whether or not to grant them a mortgage. Divorced and widowed women have a most difficult time arranging credit in their own names, as the credit of a man and wife are often considered to his credit, not hers, and a woman who has handled the family finances and paid the bills for many years may find, upon divorce, that she is treated as though she has no credit worthiness whatsoever.

All too often, the reason why creditors differentiate in their treatment of men and women applying for credit is based on traditional, stereotyped notions of woman's role and lifestyle. Although the National Commission on Consumer Finance held hearings last May, and the Joint Economic Committee has just heard testimony on the problem, there seems to be no evidence of studies which indicate that women are poorer credit risks than men. On the contrary, studies done on the issue in the past 20 years, and there have been only a few, conclude that women are, in fact, better credit risks than men or that sex is not a valid determinant of creditworthiness. A recent study, cited Thursday in the Joint Economic Committee hearngs, is the 1970 study of the National Bureau of Economic Research, entitled "Home Mortgage Delinquency and Forclosure." It found no demonstrable relationship between marital status and mortgage loan risk.

Witnesses representing the Center for Women Policy Studies, which has been given a $40,000 Ford Foundation grant to study the credt problems of women, testified Thursday:

> While our investigation of the economic justification for sex discrimination in credit practices is not yet complete, preliminary results lead us to believe that there is no justification for dealing with men and women differently in credit matters.

If there is no economic justification for this discrimination, and it is clear that credit discrimination works hardship on millions of American women, then we have the obligation to take the necessary legislative steps to eliminate discrimination based on sex or marital status in credit transactions. I ask my colleagues in the Senate to join the 42 cosponsors of bills to eliminate credit discrimination based on sex and marital status. We must end the absurd system which subjects women to these demeaning standards.

Mr. HUDDLESTON. Mr. President, I am pleased to support S. 2101, which amends the existing Truth-in-Lending Act. The original truth-in-lending legislation represented a landmark in providing information on credit terms to consumers. For the first time, it required that customers be fully advised of the annual interest rate they would be paying on credit purchases.

Today's legislation seeks to move toward additional protection of the consumer in utilization of credit. There is perhaps no more frustrating experience than for a consumer to be incorrectly billed only to discover that his main recourse is continuing and unsatisfactory correspondence with a computer. No one likes to correspond with a machine. And, the situation is particularly disturbing when the machine fails to reflect correspondence or respond to it. We have heard case after case of consumers being billed for the shoes they did not buy; for the washer which arrived with a leak; or for the dress which was returned. All too often the only thing the consumer can do is undertake a persistent, patient, and lengthy campaign of letter writing, telephone calls, taping over the computer holes in the bill or cutting additional ones; pay the bill even though he does not owe it; or take the chance of having a bad reference filed with a credit bureau. Obviously, none of these alternatives are very attractive—or very fair to the consumer.

Title I of this legislation seeks to eliminate such possibilities and replace them with a workable system not overly burdensome on business, but responsive to consumer needs. Under it, companies would have to respond within 30 days to a consumer billing complaint and the matter would have to be resolved within 90 days, either through correction of the bill or an explanation of why the original bill is correct. During the period of resolution, companies could not send dunning letters, threaten the consumer with a bad credit report or take other action to collect the disputed bill. If after the 90-day period the bill is still in dispute, the creditor may not report the matter to a credit agency unless he advises the consumer and unless he notifies the agency that the amount is in dispute. Creditors must notify the agency of any subsequent resolution of the bill. Failure to do so would result in the company's forfeiture of the amount in dispute up to $50.

This is, in my opinion, a straightforward and realistic approach to perhaps the most aggravating consumer problem today. It will assure customers of attention to their billing complaints. It will not place undue requirements upon creditors. It will eliminate consumer harassment by computers and mail. It will limit the threat and use of adverse credit reports as a means of intimidating customers.

My commitment to consumer protection is a longstanding one, going back to my days in the Kentucky General Assembly. In my view, the pending legislation represents those expanding types of measures which the experiences of our people have, in recent months and years, continuously proved necessary. As such, I support this legislation and hope that it will find its way to prompt enactment.

Mr. JACKSON. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

The PRESIDING OFFICER. Do Senators yield back the remainder of their time?

Mr. SPARKMAN. I yield back the remainder of my time.

Mr. BROCK. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Nevada (Mr. Cannon), the Senator from Alaska (Mr. Gravel), and the Senator from South Dakota (Mr. McGovern) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. Abourezk) is absent on official business.

I also announce that the Senator from Mississippi (Mr. Stennis) is absent because of illness.

I further announce that, if present and voting, the Senator from South Dakota (Mr. Abourezk) and the Senator from Alaska (Mr. Gravel) would each vote "yea."

Mr. Griffin. I announce that the Senator from New Hampshire (Mr. Cotton) is absent because of illness.

The Senator from Colorado (Mr. Dominick) and the Senator from Alaska (Mr. Stevens) are necessarily absent.

The Senator from Massachusetts (Mr. Brooke) is detained on official business.

The result was announced—yeas 90, nays 0, as follows:

[No. 320 Leg.]

YEAS—90

Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bennett
Bible
Biden
Brock
Buckley
Burdick
Byrd,
 Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Church
Clark
Cook
Cranston
Curtis
Dole
Domenici
Eagleton
Eastland
Ervin
Fannin
Fong
Fulbright
Goldwater
Griffin
Gurney
Hansen
Hart
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott, Pa.
Scott, Va.
Sparkman
Stafford
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—0

NOT VOTING—10

Abourezk
Bentsen
Brooke
Cannon
Cotton
Dominick
Gravel
McGovern
Stennis
Stevens

So the bill (S. 2101) was passed, as follows:

S. 2101

An act to amend the Truth in Lending Act to protect consumers against inaccurate and unfair billing practices, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Truth in Lending Act Amendments of 1973".

TITLE I—FAIR CREDIT BILLING

§ 101. Short title

This title may be cited as the "Fair Credit Billing Act".

§ 102. Declaration of purpose

The last sentence of section 102 of the Truth in Lending Act (15 U.S.C. 1601) is amended by striking out the period and inserting in lieu thereof a comma and the following: "and to protect the consumer against inaccurate and unfair credit billing and credit card practices."

§ 103. Definitions of creditor and open end credit plan

(a) The first sentence of section 103(f) of the Truth in Lending Act (15 U.S.C. 1602(f)) is amended to read as follows: "The term 'creditor' refers only to creditors who are card issuers, or who regularly extend, or arrange for the extension of, credit which is payable by agreement in more than four installments or for which the payment of a finance charge is or may be required, whether in connection with loans, sales of property or services, or otherwise."

(b) Section 103(i) of such Act (15 U.S.C. 1602(i)) is amended to read as follows:

"(i) The term 'open end credit plan' refers to a plan prescribing the terms of credit transactions which may be made thereunder from time to time and under the terms of which either a finance charge may be computed on the outstanding unpaid balance from time to time thereunder, or a credit card is issued."

§ 104. Disclosure of fair credit billing rights

(a) Section 127(a) of the Truth in Lending Act (15 U.S.C. 1637(a)) is amended by adding at the end thereof a new paragraph as follows:

"(8) A statement, in a form prescribed by regulations of the Board, of the protection provided by sections 161 and 170 to an obligor and the creditor's responsibilities under sections 162 and 170. With respect to each of two billing cycles per year, at semiannual intervals, the creditor shall transmit such statement to each obliger to whom the creditor is required to transmit a statement pursuant to section 127(b) for such billing cycle."

(b) Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended to read:

"(c) In the case of any existing account under an open end consumer credit plan having an outstanding balance of more than $1 at or after the close of the creditor's first full billing cycle under the plan after the effective date of subsection (a) or any amendments thereto, the items described in subsection (a), to the extent applicable and not previously disclosed, shall be disclosed in a notice mailed or delivered to the obligor not later than the time of mailing the next statement required by subsection (b)."

§ 105. Disclosure of billing contact

Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end thereof a new paragraph as follows:

"(11) The address to be used by the creditor for the purpose of receiving billing inquiries from the obligor."

§ 106. Billing practices

The Truth in Lending Act (15 U.S.C. 1601–1665) is amended by adding at the end thereof a new chapter as follows:

"Chapter 4—CREDIT BILLING

"Sec.
"161. Correction of billing errors.
"162. Regulation of credit reports.
"163. Length of billing period.
"164. Prompt crediting of payments.
"165. Crediting excess payments.
"166. Prompt notification of returns.
"167. Use of cash discounts.
"168. Prohibition of tie-in services.
"169. Prohibition of offsets.
"170. Rights of credit card customers.
"171. Relation to State laws.

"§ 161. Correction of billing errors

"(a) If a creditor, within sixty days after having transmitted to an obligor a statement of the obligor's account in connection with an extension of consumer credit, receives at the address disclosed under section 127(b)(11) a written notice (other than notice on a payment stub or other payment medium supplied by the creditor if the creditor so stipulates with the disclosure required under section 127(a)(8)) from the obligor in which the obligor—

"(1) sets forth or otherwise enables the creditor to identify the name and account number (if any) of the obligor,

"(2) indicates the obligor's belief that the statement contains a billing error and the amount of such billing error, and

"(3) sets forth reasons for the obligor's belief (to the extent applicable) that the statement contains a billing error,

the creditor shall, unless the obligor has, after giving such written notice and before the expiration of the time limits herein specified, agreed that the statement was correct—

"(A) not later than thirty days after receipt of the notice, send a written acknowledgement thereof to the obligor, unless the action required in subparagraph (B) is taken within such thirty-day period, and

"(B) not later than two complete billing cycles of the creditor (in no event later than ninety days) after the receipt of the notice and prior to taking any action to collect the amount, or any part thereof, indicated by the obligor under paragraph (2) either—

"(i) make appropriate corrections in the account of the obligor, including the crediting of any finance charges on amounts erroneously billed, and transmit to the obligor a notification of such corrections and the creditor's explanation of any change in the amount indicated by the obligor under paragraph (2) and, if any such change is made and the obligor so requests, copies of documentary evidence of the obligor's indebtedness; or

"(ii) send a written explanation or clarification to the obligor, after having conducted an investigation, setting forth to the extent applicable the reasons why the creditor believes the account of the obligor was correctly shown in the statement and, upon request of the obligor, provide copies of documentary evidence of the obligor's indebtedness. In the case of a billing error where the obligor alleges that the creditor's billing statement reflects goods not delivered to the obligor or his designee in accordance with the agreement made at the time of the transaction, a creditor may not construe such amount to be correctly shown unless he determines that such goods were actually delivered, mailed, or otherwise sent to the obligor and provides the obligor with a statement of such determination. After complying with the provisions of this subsection with respect to an alleged billing error, a creditor has no further responsibility under this section if the obligor continues to make substantially the same allegation with respect to such error.

"(b) For the purpose of this section, a 'billing error' consists of any of the following:

"(1) A reflection on a statement of an extension of credit which was not made to the obligor or, if made, was not in the amount reflected on such statement.

"(2) A reflection on a statement of an extension of credit for which the obligor requests additional clarification including documentary evidence thereof.

"(3) A reflection on a statement of goods or services not accepted by the obligor or his designee or not delivered to the obligor or his designee in accordance with the agreement made at the time of a transaction.

"(4) The creditor's failure to reflect properly on a statement a payment made by the obligor or a credit issued to the obligor.

"(5) A computation error or similar error of an accounting nature of the creditor on a statement.

"(6) Any other error described in regulations of the Board.

"(c) For the purposes of this section, 'action to collect the amount, or any part thereof, indicated by an obligor under paragraph (2)' does not include the sending of statements of account to the obligor following written notice from the obligor as specified under subsection (a), if—

"(1) the obligor's account is not restricted or closed because of the failure of the obligor to pay the amount indicated under paragraph (2) of subsection (a), and

"(2) the creditor indicates the payment of such amount is not required pending the creditor's compliance with this section.

Nothing in this section shall be construed to prohibit any action by a creditor to collect any amount which has not been indicated by the obligor to contain a billing error.

"(d) Pursuant to regulations of the Board, a creditor operating an open end consumer credit plan may not, prior to the sending of the written explanation or clarification required under paragraph (B)(ii), restrict or close an account with respect to which the obligor has indicated pursuant to subsection (a) that he believes such account to contain a billing error solely because of the obligor's failure to pay the amount indicated to be in error. Nothing in this subsection shall be deemed to prohibit a creditor from applying against the credit limit on the obligor's account the amount indicated to be in error.

"(e) Any creditor who fails to comply with the requirements of this section or section 162 forfeits any right to collect from the obligor the amount indicated by the obligor under paragraph (2) of subsection (a) of this section, and any finance charges thereon, except that the amount required to be forfeited under this subsection may not exceed $50.

"§ 162. Regulation of credit reports

"(a) After receiving a notice from an obligor as provided in sector 161(a), a creditor or his agent may not directly or indirectly threaten to report to any person adversely on the obligor's credit rating or credit standing because of the obligor's failure to pay the amount indicated by the obligor under section 161(a)(2), and such amount may not be reported as delinquent to any third party until the creditor has met the requirements of section 161 and has allowed the obligor the same number of days (not less than ten) thereafter to make payment as is provided under the credit agreement with the obligor for the payment of undisputed amounts.

"(b) If a creditor receives a further written notice from an obligor that an amount is still in dispute within the time allowed for payment under subsection (a) of this section, a creditor may not report to any third party that the amount of the obligor is delinquent because the obligor has failed to pay an amount which he has indicated under section 161 (a)(2), unless the creditor also reports that the amount is in dispute and, at the same time, notifies the obligor of the name and address of each party to whom the creditor is reporting information concerning the delinquency.

"(c) A creditor shall report any subsequent resolution of any delinquencies reported pursuant to subsection (b) to the parties to whom such delinquencies were initially reported.

"§ 163. Length of billing period

"(a) If an open end consumer credit plan provides a time period within which an obligor may repay any portion of the credit extended without incurring an additional finance charge, such additional finance charge may not be imposed with respect to such portion of the credit extended for the billing cycle of which such period is a part unless a statement which includes the amount upon which the finance charge for that period is based was mailed at least fourteen days prior to the date specified in the statement by which payment must be made in order to avoid imposition of that finance charge.

"(b) Subsection (a) does not apply in any case where a creditor has been prevented, delayed, or hindered in making timely mailing or delivery of such periodic statement within the time period specified in such subsection because of an act of God, war, natural disaster, strike, or other excusable or justifiable cause, as determined under regulations of the Board.

"§ 164. Prompt crediting of payments

"Payments received from an obligor under an open end consumer credit plan by the creditor shall be posted promptly to the obligor's account as specified in regulations of the Board. Such regulations shall prevent a finance charge from being imposed on any obligor if the creditor has received the obligor's payment in readily identifiable form in the amount, manner, location, and time indicated by the creditor to avoid the imposition thereof.

"§ 165. Crediting excess payments

"Whenever an obligor transmits funds to a creditor in excess of the total balance due on an open end consumer credit account, the creditor shall promptly (1) upon request of the obligor refund the amount of the overpayment, or (2) credit such amount to the obligor's account.

"§ 166. Prompt notification of returns

"With respect to any sales transaction where a credit card has been used to obtain credit, where the seller is a person other than the card issuer, and where the seller accepts or allows a return of the goods or forgiveness of a debit for services which were the subject of such sale, the seller shall promptly transmit to the credit card issuer a credit statement with respect thereto and the credit card issuer shall credit the account of the obligor for the amount of the transaction.

"§ 167. Use of cash discounts

"(a) With respect to a credit card which may be used for extensions of credit in sales transactions in which the seller is a person other than the card issuer, the card issuer may not, by contract or otherwise, prohibit any such seller from offering a discount to a cardholder to induce the cardholder to pay by cash, check, or similar means rather than use a credit card.

"(b) With respect to any sales transaction, any discount not in excess of 5 per centum offered by the seller for the purpose of inducing payment by cash, check, or other means not involving the use of a credit card shall not constitute a finance charge as determined under section 106, if such discount is offered to all prospective buyers and its availability is disclosed to all prospective buyers clearly and conspicuously in accordance with regulations of the Board.

"§ 168. Prohibition of tie-in services

"Notwithstanding any agreement to the contrary, a card issuer may not require a seller, as a condition to participating in a credit card plan, to open an account with or procure any other service from the card issuer or its subsidiary or agent.

"§ 169. Prohibition of offsets

"(a) A card issuer may not take any action to offset a cardholder's indebtedness arising in connection with a consumer credit transaction under the relevant credit card plan against funds of the cardholder held on deposit with the card issuer unless—

"(1) such action was previously authorized in writing by the cardholder in accordance with a credit plan whereby the cardholder agrees periodically to pay debts incurred in his open end credit account by permitting the card issuer periodically to deduct all or a portion of such debt from the cardholder's deposit account, and

"(2) such action with respect to any outstanding disputed amount not be taken by the card issuer upon request of the cardholder.

In the case of any credit card account in existence on the effective date of this section, the previous written authorization referred to in clause (1) shall not be required until the date (after such effective date) when such account is renewed, but in no case later than one year after such effective date. Such written authorization shall be deemed to exist if the card issuer has previously notified the cardholder that the use of his credit card account will subject any funds which the card issuer holds in deposit accounts of such cardholder to offset against any amounts due and payable on his credit card account which have not been paid in accordance with the terms of the agreement between the card issuer and the cardholder.

"(b) This section does not alter or affect the right under State law of a card issuer to attach or otherwise levy upon funds of a cardholder held on deposit with the card issuer if that remedy is constitutionally available to creditors generally.

"§ 170. Rights of credit card customers

"(a) Subject to the limitation contained in subsection (b), a card issuer who has issued a credit card to a cardholder pursuant to an open end consumer credit plan shall be subject to all claims (other than tort claims) and defenses arising out of any transaction in which the credit card is used as a method of payment or extension of credit if (1) the obligor has made a good faith attempt to obtain satisfactory resolution of a disagreement or problem relative to the transaction from the person honoring the credit card; (2) the amount of the initial transaction exceeds $50; and (3) the place where the initial transaction occurred was in the same State as the mailing address previously provided by the cardholder or was within 100 miles from such address, except that the limitations set forth in clauses (2) and (3) with respect to an obligor's right to assert claims and defenses against a card issuer shall not be applicable to any transaction in which the person honoring the credit card (A) is the same person as the card issuer, (B) is controlled by the card issuer, (C) is under direct or indirect common control with the card issuer, (D) is a franchised dealer in the card issuer's products or services, or (E) has obtained the order for such transaction through a mail solicitation made by or participated in by the card issuer in which the cardholder is solicited to enter into such transaction by using the credit card issued by the card issuer.

"(b) The amount of claims or defenses asserted by the cardholder may not exceed the amount of credit outstanding with respect to such transaction at the time the cardholder first notifies the card issuer or the person honoring the credit card of such claim or defense. For the purpose of determining the amount of credit outstanding in the preceding sentence, payments and credits to the cardholder's account are deemed to have been applied, in the order indicated, to the payment of: (1) late charges in the order of their entry to the account; (2) finance charges in order of their entry to the account; and (3) debits to the account other than those set forth above, in the order in which each debit entry to the account was made.

"§ 171. Relation to State laws

"(a) This chapter does not annul, alter, or affect, or exempt any person subject to the provisions of this chapter from complying with, the laws of any State with respect to credit billing practices, except to the extent that those laws are inconsistent with any provision of this chapter, and then only to the extent of the inconsistency. The Board is authorized to determine whether such inconsistencies exist. The Board may not determine that any State law is inconsistent with any provision of this chapter if the Board determines that such law gives greater protection to the consumer.

"(b) The Board shall by regulation exempt from the requirements of this chapter any class of credit transactions within any State if it determines that under the law of that State that class of transactions is subject to requirements substantially similar to those imposed under this chapter or that such law gives greater protection to the consumer, and that there is adequate provision for enforcement."

§ 107. Conforming amendments

(a) The table of chapters of the Truth in Lending Act is amended by adding immediately under item 3 the following:

"4. Credit Billing ------------------- 161".

(b) Section 111(d) of such Act (15 U.S.C. 1610(d)) is amended by striking out "and 130" and inserting in lieu thereof a comma and the following: "130, and 166".

(c) Section 121(a) of such Act (15 U.S.C. 1631(a)) is amended—

(1) by striking out "and upon whom a finance charge is or may be imposed"; and

(2) by inserting "or chapter 4" immediately after "this chapter".

(d) Section 121(b) of such Act (15 U.S.C. 1631(b)) is amended by inserting "or chapter 4" immediately after "this chapter".

(e) Section 122(a) of such Act (15 U.S.C. 1632(a)) is amended by inserting "or chapter 4" immediately after "this chapter".

(f) Section 122(b) of such Act (15 U.S.C. 1632(b)) is amended by inserting "or chapter 4" immediately after "this chapter".

§ 108. Effective date

This title takes effect upon the expiration of one year after the date of its enactment.

TITLE II—AMENDMENTS TO THE TRUTH IN LENDING ACT

§ 201. Advertising; more-than-four-installment rule

(a) Chapter 3 of the Truth in Lending Act (15 U.S.C. 1661–1665) is amended by adding at the end thereof a new section as follows:

"§ 146. More-than-four-installment rule

"Any advertisement to aid, promote, or assist directly or indirectly the extension of consumer credit repayable in more than four installments shall, unless a finance charge is imposed, clearly and conspicuously state, in accordance with the regulations of the Board:

" 'THE COST OF CREDIT IS INCLUDED IN THE PRICE QUOTED FOR THE GOODS AND SERVICES.' "

(b) The table of sections of such chapter is amended by adding at the end thereof a new item as follows:

"146. More-than-four-installment rule.".

§ 202. Agricultural credit exemption

Section 104 of the Truth in Lending Act (15 U.S.C. 1603) is amended by adding at the end thereof a new paragraph as follows:

"(5) Credit transactions primarily for agricultural purposes in which the total amount to be financed exceeds $25,000."

§ 203. Administrative enforcement

(a) Section 108(a) of the Truth in Lending Act (15 U.S.C. 1607(a)) is amended by striking out paragraph (4) and by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(b) Section 108(a) of the Truth in Lending Act (15 U.S.C. 1607(a)) is amended by adding at the end thereof a new paragraph as follows:

"(6) the Farm Credit Act of 1971, by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association."

§ 204. Liens arising by operation of State law

Section 125 of the Truth in Lending Act (15 U.S.C. 1635) is amended—

(1) by striking out "is" the first time it appears in the first sentence of subsection (a) and inserting in lieu thereof ", including any such interest arising by operation of law, is or will be"; and

(2) by inserting after "obligor" the second time it appears in the first sentence of subsection (b) the following; ", including any such interest arising by operation of law,".

§ 205. Time limit for right of rescission

Section 125 of the Truth in Lending Act (15 U.S.C.1635) is amended by adding at the end thereof a new subsection as follows:

"(f) An obligor's right of rescission shall expire thee years after the date of consummation of the transaction or upon the sale of the property, whichever occurs earlier, notwithstanding the fact that the disclosures required under this section or any other material disclosures required under this chapter have not been delivered to the obligor."

§ 206. Good faith compliance

Section 130 of the Truth in Lending Act (15 U.S.C. 1640) is amended by adding at the end thereof a new subsection as follows:

"(f) No provision of this section or section 112 imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board, notwithstanding that after such act or omission has occurred, such rule, regulation, or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason."

§ 207. Liability for multiple disclosures

Section 130 of the Truth in Lending Act (15 U.S.C. 1640) is amended by adding at the end thereof a new subsection as follows:

"(g) The multiple failure to disclose to any person any information required under this chapter to be disclosed in connection with a single account under an open end consumer credit plan, other single consumer credit sale, consumer loan, or other extension of consumer credit, shall entitle the person to a single recovery under this section but continued failure to disclose after a recovery has been granted shall give rise to rights to additional recoveries."

§ 208. Civil liability

(a) Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640 (a)) is amended to read as follows:

"(a) Except as otherwise provided in this section, any creditor who fails to comply with any requirement imposed under this chapter or chapter 4 of this title with respect to any person is liable to such person in an amount equal to the sum of—

"(1) any actual damage sustained by such person as a result of the failure;

"(2)(A) in the case of an individual action twice the amount of any finance charge in connection with the transaction, except that the liability under this subparagraph shall not be less than $100 nor greater than $1,000; or

"(B) in the case of a class action, such amount as the court may allow, except that as to each member of the class no minimum recovery shall be applicable, and the total recovery in such action shall not be more than the lesser of $100,000 or 1 per centum of the net worth of the creditor; and

"(4) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court.

In determining the amount of award in any class action, the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failures of compliance by the creditor, the resources of the creditor, the number of persons adversely affected, and the extent to which the creditor's failure of compliance was intentional."

(b) Section 130(b) of such Act (15 U.S.C. 1640(b)) is amended by inserting after "this section" the first place it appears the following: "for any failure to comply with any requirement imposed under this chapter,".

(c) Section 130(c) of such Act (15 U.S.C. 1640(c)) is amended by striking out "chapter" and inserting in lieu thereof "title".

(d) Section 130 of such Act (15 U.S.C. 1640) is amended by adding at the end thereof a new subsection as follows:

"(h) A person may not take any action to offset any amount for which a creditor is potentially liable to such person under subsection (a)(2) against any amount owing to such creditor by such person, unless the amount of the creditor's liability to such person has been determined by judgment of a court of competent jurisdiction in an action to which such person was a party."

(e) The amendments made by sections 206, 207, and 208 shall apply in determining the liability of any person under chapter 2 or 4 of the Truth in Lending Act, unless prior to the date of enactment of this Act such liability has been determined by final judgment of a court of competent jurisdiction and no further review of such judgment may be had by appeal or otherwise.

§ 209. Full statement of closing costs

Section 121 of the Truth in Lending Act (15 U.S.C. 1631) is amended by adding at the end thereof a new subsection as follows:

"(c) For the purpose of subsection (a), the information required under this chapter shall include a full statement of closing costs to be incurred by the consumer, which shall be presented, in accordance with the regulations of the Board—

"(1) prior to the time when any downpayment is made, or

"(2) in the case of a consumer credit transaction involving real property, at the time the creditor makes a commitment with respect to the transaction.

The Board may provide by regulation that any portion of the information required to be disclosed by this section may be given in the form of estimates where the provider of such information is not in a position to know exact information."

§ 210. Business use of credit cards

(a) Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631–1644) is amended by adding the following new section at the end thereof:

"§ 135. Business credit cards

"The exemption provided by section 104 (1) does not apply to the provisions of sections 132, 133, and 134, except that a card issuer and a business or other organization which provides credit cards issued by the same card issuer to ten or more of its employees may by contract agree as to liability of the business or other organization with respect to unauthorized use of such credit cards without regard to the provisions of section 133, but in no case may such business or other organization or card issuer impose liability upon any employee with respect to unauthorized use of such a credit card except in accordance with and subject to the limitations of section 133."

(b) The table of sections of such chapter is amended by adding at the end thereof a new item as follows:

"135. Business credit cards.".

§ 211. Identification of transaction

Section 127(b)(2) of the Truth in Lending Act (15 U.S.C. 1637(b)(2)) is amended to read as follows:

"(2) The amount and date of each extension of credit during the period and a brief identification on or accompanying the statement of each extension of credit in a form prescribed by regulations of the Board sufficient to enable the obligor to identify the transaction, or relate it to copies of sales vouchers or similar instruments previously furnished."

§ 212. Exemption for State lending agencies

Section 125(e) of the Truth in Lending Act (15 U.S.C. 1635(e)) is amended by striking the period at the end thereof and adding the following: "or to a consumer credit transaction in which an agency of a State is the creditor."

§ 213. Liability of assignees

(a) Chapter 1 of the Truth in Lending Act (15 U.S.C. 1601–1613) is amended by adding at the end thereof a new section as follows:

"§ 115. Liability of assignees

"Except as otherwise specifically provided in this title, any civil action for a violation of this title which may be brought against the original creditor in any credit transactions may be maintained against any subsequent assignee of the original creditor where the violation from which the alleged liability arose is apparent on the face of the instrument assigned unless the assignment is involuntary."

(b) The analysis of such chapter is amended by adding at the end thereof a new item as follows:

"115. Liability of assignees.".

§ 214. Credit card fraud

Section 134 of the Truth in Lending Act (15 U.S.C. 1644) is amended to read as follows:

"§ 134. Fraudulent use of credit card

"(a) Whoever knowingly in a transaction affecting interstate or foreign commerce, uses or attempts or conspires to use any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card to obtain money, goods, services, or anything else of value which within any one-year period has a value aggregating $1,000 or more; or

"(b) Whoever, with unlawful or fraudulent intent, transports or attempts or conspires to transport in interstate or foreign commerce a counerfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained; or

"(c) Whoever, with unlawful or fraudulent intent, uses any instrumentality of interstate or foreign commerce to sell or transport a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained; or

"(d) Whoever knowingly receives, conceals, uses, or transports money, goods, services, or anything else of value (except tickets for interstate or foreign transportation) which (1) within any one-year period has a value aggregating $1,000 or more, (2) has moved in or is part of, or which constitutes interstate or foreign commerce, and (3) has been obtained with a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card; or

"(e) Whoever knowingly receives, conceals, uses, sells, or transports in interstate or foreign commerce one or more tickets for interstate or foreign transportation, which (1) within any one-year period have a value aggregating $500 or more, and (2) have been purchased or obtained with one or more counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit cards; or

"(f) Whoever in a transaction affecting interstate or foreign commerce furnishes money, property, services, or anything else of value, which within any one-year period has a value aggregating $1,000 or more, through the use of any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained—

shall be fined not more than $10,000 or imprisoned not more than ten years, or both."

§ 215. Grace period for consumers

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended—

(1) by amending subsection (a)(1) to read as follows:

(1) The conditions under which a finance charge may be imposed, including the time period (if any) within which any credit extended may be repaid without incurring a finance charge, except that the creditor may, at his election and without disclosure, impose no such finance charge if payment is received after the termination of such time period."; and

(2) by amending subsection (b)(10) to read as follows:

"(10) The date by which or the period (if any) within which, payment must be made to avoid additional finance charges, except that the creditor may, at his election and without disclosure, impose no such additional finance charge if payment is received after such date or the termination of such period."

§ 216. Disclosure by card issuers

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding the following new subsection:

"(d) Card issuers who also engage in other than open-end credit transactions shall not be required to make disclosures required by this section with respect to such transactions."

§ 217. Effective date

This title takes effect upon the date of its enactment, except that sections 209 and 211 take effect upon the expiration of one year after the date of its enactment.

TITLE III—EQUAL CREDIT OPPORTUNITY

§ 301. Short title

This title may be cited as the "Equal Credit Opportunity Act".

§ 302. Discrimination

(a) Title I of the Truth in Lending Act (15 U.S.C. 1601–1665) is amended by adding at the end thereof a new chapter as follows:

"CHAPTER 5—PROHIBITION OF DISCRIMINATION BASED ON SEX OR MARITAL STATUS

"Sec.
"181. Prohibited dicrimination.
"182. Civil liability.

"§ 181. Prohibited discrimination

"It shall be unlawful for any creditor or card issuer to discriminate on account of sex or marital status against any individual with respect to the approval or denial of any extension of consumer credit or with respect to the terms thereof or with respect to the approval, denial, renewal, continuation, or revocation of any open end consumer credit account or with respect to the terms thereof. Section 104 of this title does not apply with respect to any transaction subject to this section.

"§ 182. Civil liability

"The provisions of section 130 of this title shall be applicable to any creditor or card issuer who violates section 181."

(b) The table of chapters of such title is amended by adding at the end thereof the following new item:

"5. Prohibition of discrimination based on sex or marital status.................. 181".

§ 303. Effective date

This title takes effect upon the expiration of sixty days after the date of its enactment.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GRIFFIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENTS

Mr. ROBERT C. BYRD. Mr. President, I yield myself 1 minute on behalf of the Senator from Alabama (Mr. Sparkman), on the bill.

As in executive session, I ask unanimous consent that at such time as the nomination of Mr. Vincent R. Barabba to be Director of the Census is made the pending question before the Senate, there be a time limitation of 1 hour thereon, to be equally divided between the Senator from Wisconsin (Mr. Proxmire), and the Senator from Wyoming (Mr. McGee); and that time on any debatable motion or appeal be limited to 10 minutes, to be divided between the majority and minority leaders or their designees.

The PRESIDING OFFICER (Mr. McClure). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow, after routine morning business is closed, the Senate proceed to the consideration of S. 1983, the bill to provide for the protection of fish and wildlife species; that upon the disposition of that bill the Senate go into executive session to consider the nomination of Mr. Vincent R. Barabba; and that upon the disposition of the nomination, the Senate return to legislative session and proceed to the consideration of S. 1559, a bill to provide financial assistance to enable States and local governments to assume responsibilities for job training, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (H.R. 9172) to provide for emergency allotment lease and transfer of tobacco allotments or quotas for 1973 in certain disaster areas in Georgia and South Carolina.

REMOVAL OF INJUNCTION OF SECRECY FROM INTERNATIONAL COFFEE AGREEMENT, 1968, AS EXTENDED, AND THE CUSTOMS CONVENTION ON THE INTERNATIONAL TRANSIT OF GOODS

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the International Coffee Agreement, 1968, as Extended—Executive O, 93d Congress, 1st session—and the Customs Convention on the International Transit of Goods—ITI Convention—opened for signature at Vienna, June 7, 1971—Executive P, 93d Congress, 1st session—transmitted to the Senate today by the President of the United States, and that the agreement and convention with accompanying papers be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's messages be printed in the Record.

The PRESIDING OFFICER. Without objection, the agreement and convention, with accompanying papers, will be referred to the Committee on Foreign Relations, and the President's messages will be printed in the Record, as requested.

The messages are as follows:

To the Senate of the United States:

I am transmitting herewith, for the advice and consent of the Senate to acceptance, the International Coffee Agreement 1968 as Extended. This modified and extended agreement, which was adopted by the International Coffee Council in its Resolution No. 264 of April 14, 1973, deletes all operative economic provisions but preserves the structure of the International Coffee Organization through September 30, 1975.

The International Coffee Agreement 1968 as modified and extended will continue the decade-long cooperation on world trade in the most important agricultural commodity export of the developing world. But, in view of the changed coffee market outlook from one of surplus to one of tight supply, the extended agreement no longer contains provisions for intervening in the market. It will keep the International Coffee Organization alive as a forum for studying and discussing the world coffee economy, for monitoring coffee developments and, when the members deem it appropriate, for negotiating a new coffee agreement to serve the interests of coffee producers and consumers.

I believe continuing United States participation in the extended agreement will advance our interests in two ways. First, by that participation we can demonstrate concretely our readiness to work together with developing nations on matters of vital economic interest to them. Secondly, we can ensure that we will have a voice in the negotiation of any new international trade arrangements on coffee—arrangements in which we as the importers of almost 40 percent of international traded coffee have a significant stake. I am confident that we can achieve both these objectives in a manner fully consistent with the interests of our consumers.

I am also transmitting, for the information of the Senate, the report submitted to me by the Department of State explaining the provisions of the International Coffee Agreement 1968 as modified and extended, and providing background on the operation of the Agreement and on the current state of the world coffee economy.

Richard Nixon.

The White House, *July 23, 1973.*

To the Senate of the United States:

I am transmitting herewith, for the advice and consent of the Senate to ratification, the Customs Convention on the International Transit of Goods (ITI Convention) opened for signature at Vienna June 7, 1971.

For the information of the Senate, I am also transmitting the report of the Department of State with respect to the Convention.

The Convention is designed to meet the present need to facilitate international transport while, at the same time, providing the customs control arrangements necessary for such transport. The Convention provides for new, uniform control and documentation procedures which carriers of Governments party to the Convention would be able to use at their option.

The Convention would help open the way for United States exporters and carriers to benefit in Western Europe and other markets of the world from the simplified and uniform procedures for which it provides.

I recommend that the Convention be given early and favorable consideration by the Senate.

Richard Nixon.

The White House, *July 23, 1973.*

RESOLUTION BY AMERICAN SOCIETY OF MAMMALOGISTS

Mr. MAGNUSON. Mr. President, I ask unanimous consent to have printed in the Record a resolution passed June 16, 1973, by the American Society of Mammalogists at their annual meeting in Asilomar, Calif. This resolution expresses the unanimous opinion of the society relative to the "Proper Management of Puget Sound Killer Whale Populations."

There being no objection, the resolution was ordered to be printed in the Record, as follows:

For the Proper Management of Puget Sound Killer Whale Populations

Whereas, no organized study of the numbers, population dynamics, or movements of killer whales found in Puget Sound has been undertaken; and

Whereas, commercial utilization of killer whales in Puget Sound has been in progress since 1964, removing several young killer whales each year from Puget Sound waters; and

Whereas, it is unknown what fraction of the annual increment of this killer whale population is being removed from Puget Sound; and

Whereas, studies of other marine mammals including cetaceans have shown that individual pods, herds, or other subpopulation groups inhabit certain marine areas year after year (i.e., have home ranges similar to other mammals); and

Whereas, studies of other marine mammals have shown that frequent or repeated disturbance causes changes in distribution and abundance; and

Whereas, the annual removal of young killer whales from Puget Sound could, over a period of years, cause a population decline there;

Therefore be it resolved, that the American Society of Mammalogists supports the contention that young killer whales should not be removed annually from Puget Sound until adequate studies have demonstrated that such removal will not be detrimental to this population.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized tomorrow under the standing order, there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT TO 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 11 o'clock a.m. After the two leaders or their designees have been recognized under the standing order, there will be a period for the transaction of routine morning business of not to exceed 15 minutes, with the usual 3-minute limitation on statements therein. At the conclusion of routine morning business, the Senate will take up S. 1983, for the protection of fish and wildlife species under a time limitation. A yea-and-nay vote will likely occur thereon.

The Senate will then go into executive session to take up the nomination of Vincent R. Barabba to be Director of the Census, with a 1-hour limitation on the nomination, and a yea-and-nay vote will occur thereon.

On disposition of the nomination, the Senate will resume legislative business and will take up S. 1559, the job training bill. Yea-and-nay votes are expected.

ADJOURNMENT TO 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand adjourned to 11 a.m. tomorrow.

The motion was agreed to; and at 5:35 p.m. the Senate adjourned to tomorrow, Tuesday, July 24, 1973, at 11 a.m.

HOUSE OF REPRESENTATIVES—*Monday, July 23, 1973*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Only fear the Lord and serve Him faithfully with all your heart; for consider what great things He has done for you.—I Samuel 12: 24.

O Thou who art the Creator and the Sustainer of Life, who hast given us the gift of days and hours, help us to use our time in faithful devotion to Thee and to our country.

Save us from disillusionment of mind and discouragement of heart amid the trials and turmoils of this present time. Make us strong in faith, steadfast in courage, and stouthearted in spirit as we face the tasks of this week.

We commit our Nation unto Thee, praying that we, the people, may prove ourselves worthy of the sacrifices built into the foundations of our Republic. May vital religion, intelligent good will, private and public integrity become the mood of our age—and may it begin with me.

In the spirit of Christ we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a bill and concurrent resolutions of the House of the following titles:

H.R. 9172. An act to provide for emergency allotment lease and transfer of tobacco allotments or quotas for 1973 in certain disaster areas in Georgia and South Carolina;

H. Con. Res. 185. Concurrent resolution to provide for the printing of inaugural addresses from President George Washington to President Richard M. Nixon;

H. Con. Res. 219. Concurrent resolution providing for additional copies of "The Federal Civilian Employee Loyalty Program," House Report 92–1637, 92d Congress, 2d session;

H. Con. Res. 233. Concurrent resolution providing for the printing of committee hearings establishing a National Institute of Education;

H. Con. Res. 256. Concurrent resolution to provide for the printing as a House document, a revised edition of the House document "Our American Government. What Is It? How Does It Work?";

H. Con. Res. 257. Concurrent resolution providing the printing of additional copies of the House report entitled "Street Crime: Reduction Through Positive Criminal Justice Responses"; and

H. Con. Res. 258. Concurrent resolution providing for the printing of additional copies of the House report entitled "Drugs in Our Schools."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills and joint resolutions of the House of the following titles:

H.R. 6691. An act making appropriations for the legislative branch for the fiscal year ending June 30, 1974, and for other purposes;

H.R. 8658. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1974, and for other purposes;

H.J. Res. 512. Joint resolution to extend the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages, to extend authorizations under laws relating to housing and urban development, and for other purposes; and

H.J. Res. 542. Joint resolution concerning the war powers of Congress and the President.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 6691) entitled "An act making appropriations for the legislative branch for the fiscal year ending June 30, 1974, and for other purposes, reported with an amendment," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Hollings, Mr. McClellan, Mr. Bayh, Mr. Eagleton, Mr. Cotton, Mr. Schweiker, Mr. Young, and Mr. Case to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 8658) entitled "An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1974, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Bayh, Mr. McClellan, Mr. Inouye, Mr. Chiles, Mr. Eagleton, Mr. Mathias, and Mr. Bellmon to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the Joint Resolution (H.J. Res. 512) entitled "Joint resolution to extend the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages, to extend authorizations under laws relating to housing and urban development, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Sparkman, Mr. Proxmire, Mr. Williams, Mr. Stevenson, Mr. Tower, Mr. Bennett, and Mr. Brooke to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 7935) entitled "An act to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rates under that act, to expand the coverage of that act, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Williams, Mr. Randolph, Mr. Pell, Mr. Nelson, Mr. Eagleton, Mr. Hughes, Mr. Hathaway, Mr. Javits, Mr. Schweiker, Mr. Taft, and Mr. Stafford to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 440. An act to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress;

S. 782. An act to reform consent decree procedures, to increase penalties for violation of the Sherman Act, and to revise the expediting act as it pertains to appellate review;

S. 1816. An act to amend the Wool Products Labeling Act of 1939 with respect to recycled wool; and

S.J. Res. 134. Joint resolution to prohibit any reduction in the number of employees of the Forest Service during the current fiscal year.

CONFERENCE REPORT ON S. 1636, AMENDING THE INTERNATIONAL ECONOMIC POLICY ACT OF 1972

Mr. PATMAN submitted the following conference report and statement on the bill (S. 1636) to amend the International Economic Policy Act of 1972:

Conference Report (H. Rept. No. 93–389)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1636) to amend the International Economic Policy Act of 1972, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That section 205 of the International Economic Policy Act of 1972 is amended—

(1) by striking out "(1) The President.";

(2) by redesignating clauses (2) through (7) as clauses (1) through (6);

(3) by inserting after clause (6), as redesignated, the following:

"(7) The Secretary of Transportation."; and

(4) by striking out the last sentence and inserting in lieu thereof the following: "The President shall designate the Chairman of the Council from among the members of the Council."

Sec. 2. Section 209 of the International Economic Policy Act of 1972 is amended by striking out "1973" and inserting in lieu thereof "1977".

Sec. 3. Section 210 of the International Economic Policy Act of 1972 is amended by striking out "1973" and inserting in lieu thereof "1974".

SEC. 4. Section 207(a) of the International Economic Policy Act of 1972 is amended by redesignating paragraph (4) as paragraph (6), by striking out "and" at the end of paragraph (3), and by inserting immediately after paragraph (3) the following new paragraphs:

"(4) a comparative description and analysis of the following subject matter, with respect to the United States, the European Community and principal countries within the European Community, Japan, and whenever applicable, the Union of Soviet Socialist Republics—

"(A) research and development expenditures, and productivity and technological trends in major industrial and agricultural sectors;

"(B) investment patterns in new plant and equipment;

"(C) industrial manpower and training practices;

"(D) tax incentives and other governmental financial assistance;

"(E) export promotion practices;

"(F) share of the export market, by area and industrial and agricultural sectors;

"(G) environmental practices;

"(H) antitrust practices; and

"(I) long-range governmental economic planning programs, targets, and objectives;

"(5) a review of the relationship between the United States Government and American private business with respect to the categories of subject matter listed in subparagraphs (A) through (I) of paragraph (4) and any other appropriate areas of information, together with recommendations for appropriate policies and programs in order to insure that American business is competitive in international commerce; and".

SEC. 5. Notwithstanding the provisions of section 208(a) of the International Economic Policy Act of 1972, any future Executive Director of the Council on International Economic Policy appointed after the date of the enactment of this bill shall be appointed by the President, by and with the advice and consent of the Senate.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the Senate bill and agree to the same.

Wright Patman,
Thomas L. Ashley,
Thomas M. Rees,
Parren J. Mitchell,
Fernand J. St Germain,
Richard T. Hanna,
Edward I. Koch,
Andrew Young,
John Joseph Moakley,
William B. Widnall,
Ben Blackburn,
Garry Brown,
Albert W. Johnson,
Stewart B. McKinney,
Bill Frenzel,
Managers on the Part of the House.

John Sparkman,
William Proxmire,
Harrison A. Williams,
Adlai Stevenson,
John Tower,
Wallace F. Bennett,
Bob Packwood,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1636) to amend the International Economic Policy Act of 1972, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House struck out all of the Senate bill after the enacting clause and inserted a substitute amendment.

The committee of conference has agreed to a substitute for both the Senate bill and the House amendment. Except for clarifying, clerical, and conforming changes, the differences are noted below:

The Senate bill allowed the President to appoint the Chairman of the Council on International Economic Policy from among the statutory members of the Council or any other person the President named as a member of the Council. The House amendment allowed the President to appoint a Chairman of the Council from among the statutory members. The conferees accepted the Senate provision.

The Senate bill provided, with certain exceptions, that employees of the Council may be appointed without regard to civil service provisions governing appointment in competitive service. There was no comparable provision in the House amendment. The Senate receded to the House.

The Senate bill repealed the provision of the International Economic Policy Act of 1972 providing for an expiration date. The House amendment changed the present expiration date from June 30, 1973, to June 30, 1975. The conferees accepted the compromise date of June 30, 1977.

The Senate bill made appointment of the Executive Director of the Council subject to Senate confirmation, including the incumbent. The House amendment made appointment of any Executive Director other than the incumbent subject to Senate confirmation. The conferees accepted the House provision.

The Senate bill authorized $3,000,000 to be appropriated for fiscal year 1974 and the same amount for fiscal year 1975. The House authorized $1,400,000 to be appropriated for fiscal year 1974. The conferees accepted the House provision.

The House amendment added the Secretary of Transportation to the Council. No comparable provision was included in the Senate bill. The conferees accepted the House provision.

The House amendment required the annual report transmitted by the President to Congress under section 207 of the International Economic Policy Act of 1972 to include comparative description and analysis of certain specific activities, policies, and programs of the United States, the European Community and its principal members, Japan, and whenever applicable, the U.S.S.R. The amendment also required that the report include analysis concerning the relationship between the United States Government and American business and recommendations for programs and policies to insure that American business is competitive in international commerce. No comparable provision was included in the Senate bill. The conferees accepted the House position.

Wright Patman,
Thomas L. Ashley,
Thomas M. Rees,
Parren J. Mitchell,
Fernand J. St Germain,
Richard T. Hanna,
Edward I. Koch,
Andrew Young,
John Joseph Moakley,
William B. Widnall,
Ben Blackburn,
Garry Brown,
Albert W. Johnson,
Stewart B. McKinney,
Bill Frenzel,
Managers on the Part of the House.

John Sparkman,
William Proxmire,
Harrison Williams,
Adlai Stevenson,
John Tower,
Wallace F. Bennett,
Bob Packwood,
Managers on the Part of the Senate.

APPOINTMENT OF CONFEREES ON H.R. 8658, DISTRICT OF COLUMBIA APPROPRIATIONS, 1974

Mr. NATCHER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 8658) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1974, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky? The Chair hears none, and appoints the following conferees: Messrs. Natcher, Stokes, Tiernan, Chappell, Burlison of Missouri, McKay, Roush, McEwen, Myers, Veysey, Coughlin, and Cederberg.

MAJORITY LEADER THOMAS P. O'NEILL, JR., SAYS FIRST HALF OF 1973 WAS AN ECONOMIC DISASTER

(Mr. O'NEILL asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. O'NEILL. Mr. Speaker, new Labor Department figures reveal the magnitude of the economic disaster which the Republican administration has inflicted upon this Nation.

Since President Nixon lifted phase II controls last January, food prices have gone up at an unbelievable annual rate of 25 percent. Altogether, the cost of living went up at an annual rate of 8 percent in the first half of the year, compared with 3.4 percent during all of 1972.

Yesterday we had the spectacle of the Secretary of Agriculture saying on nationwide television that the grain sale to the Soviet Union had very little to do with the rise in food prices this year. He said that the Nation could stand such a drain on our food reserves, although, at the same time, he admitted that he did not know how big the sale was going to be.

He now estimates that the sale was $1 billion—"only" 20 percent of the $5 billion increase in food exports in 1972. That sounds like good business for the export trade. I wish the Secretary had shown as much concern about feeding the folks right here at home.

Today we face so-called spot shortages of beef, and the prices of pork and poultry are going so high that they will effectively "ration" those commodities, the Secretary said.

This is the result of the policy of scarcity pursued by this administration and I think the administration has a lot to answer for to the American people.

VOLUNTEER SERVICE OF DR. J. H. THOMAS

(Mr. MAYNE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MAYNE. Mr. Speaker, among the most significant advances under the Nixon administration has been the very commendable encouragement of voluntarism. The strong backing provided by the President, his family, and the administration under his leadership has given a needed boost to activities of volunteers throughout America. Through Federal partnership with volunteer associations, individual volunteers have been given new opportunities to solve problems rather than turn to Washington, D.C. for possible Federal assistance.

One of the most successful of the newer volunteer programs formed under the concept of "new federalism" has been Project U.S.A. Three years ago, the administration formed the National Health Service Corps, a volunteer arm of the Public Health Service which assigns doctors, nurses, and other health care personnel to communities in need of their services. Last year, the NHSC and the American Medical Association formed a partnership in effect, creating "Project U.S.A.," a contract service under which the AMA locates.

Mr. Speaker, I will insert further statements on this subject later in the Record today.

RESTAURANT SHUTDOWNS DUE TO CUTOFF OF BEEF SUPPLIES

(Mr. VANIK asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. VANIK. Mr. Speaker, news has just reached me this morning from restaurants in my community that meat shortages may force widespread closings and shutdowns next week.

At the same time, I have received word that during the past several weeks, cold storage facilities have been filled with food and meat supplies by speculators standing by to make a windfall profit once the price lid is off beef.

I am today requesting the Cost of Living Council, the Internal Revenue Service, and the Department of Justice to investigate the reported stockpiling and withholding meat supplies which are causing shortages and higher prices to the American consumer.

PROVIDING FOR CONSIDERATION OF H.R. 5356, TOXIC SUBSTANCES CONTROL ACT OF 1973

Mr. MATSUNAGA. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 493 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 493

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5356) to regulate interstate commerce to protect health and the environment from hazardous chemical substances. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Hawaii (Mr. Matsunaga) is recognized for 1 hour.

Mr. MATSUNAGA. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. Del Clawson), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 493 provides for consideration of H.R. 5356, which, as reported by our Committee on Interstate and Foreign Commerce, would provide for a planned program to protect in depth our health and our environment from hazardous chemical substances. The resolution provides an open rule with one hour of general debate, the time being equally divided and controlled by the chairman and the ranking minority member of the committee.

The proposed rule provides that after general debate, the bill shall be read for amendment under the 5-minute rule, at which time it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce, now printed in H.R. 5356 as an original bill. At the conclusion of such consideration, the rule further provides that the committee shall rise and report the bill to the House with such amendments as may have been adopted, and that any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall then be considered as ordered on the bill and amendments thereto to final passage, without any intervening motion except one motion to recommit with or without instructions.

Mr. Speaker, the need for this legislation arises from the staggering proliferation of chemical compounds in recent times. There are 1.8 million registered chemical compounds in this country. About 250,000 chemicals are added to the list each year, and between 300 to 500 new chemical compounds are introduced annually into commercial use.

Of course, many of these substances pose no danger to health or to the environment. However, it is almost axiomatic that as we increase the number of chemical substances in commercial use, we also increase the risk of serious harm to man and his environment by these chemicals.

To be effective, legislation in this area must be aimed at preventing harm. Clearly, by its very nature, chemical damage, once caused, may be irreversible. Accordingly, H.R. 5356 provides, among other things, for the testing and screening of chemicals to determine their adverse effects prior to marketing.

Even prior testing and screening may not be adequate safeguards against some chemical substances, the toxicity of which may not cause immediate danger to humans and the environment, but the cumulative effect of which over a period of time may cause serious injury to exposed persons or damage to the environment. H.R. 5356 therefore also provides for an information system to develop a technology of predicting the hazardous quality of each chemical substance.

H.R. 5356 also gives the Administrator of the Environmental Protection Agency, the implementing authority, the power to go to court to protect the public from an imminently hazardous chemical substance, and also to make administrative inspections and seizures of chemical substances. A Chemical Substances Board would be established in the EPA to advise the Administrator in his exercise of authority under this bill.

Mr. Speaker, from the standpoint of projected cost, this bill authorizes appropriations not to exceed $9.2 million, $11.1 million, and $10.1 million for fiscal years 1974, 1975, and 1976, respectively. Considering the greater costs in corrective measures after the damage is done, these annual expenditures will no doubt prove to be worthy investments in safety.

Mr. Speaker, I urge the adoption of House Resolution 493 in order that H.R. 5356 may be considered.

Mr. DEL CLAWSON. Mr. Speaker, House Resolution 493 provides for the consideration of H.R. 5356, the Toxic Substances Control Act of 1973. This bill will be considered under an open rule with 1 hour of general debate. The rule also makes the committee substitute in order as an original bill for the purpose of amendment.

The primary purpose of H.R. 5356 is to give the Environmental Protection Agency the means for comprehensive control of toxic substances.

Among the numerous provisions in the bill, the following are some of the most notable:

First. EPA Administrator could require manufacturers or importers to test chemical substances under prescribed test protocols;

Second. EPA Administrator is to prepare a list of chemical substances which pose a substantial danger to health or environment;

Third. Bill establishes a premarket screening of test data before manufacture or distribution of a chemical substance on the danger list;

Fourth. EPA Administrator is authorized to adopt rules prohibiting or limiting the manufacture of a chemical substance or requiring the labeling of such a substance if necessary to protect against unreasonable risk.

Fifth. EPA Administrator may apply to a U.S. district court to protect the public from an immediately hazardous chemical substance;

Sixth. Bill permits administrative seizure of chemical substances or products containing them manufactured in violation of this legislation or of agency rules; and

Seventh. Enforcement of the bill may

be obtained through civil injunction or through imposition of civil and criminal penalties.

The cost of this bill is estimated to be $9,200,000 for fiscal year 1974, $11,100,000 for fiscal 1975, $10,100,000 for fiscal 1976, $9,800,000 for fiscal 1977, and $9,800,000 for fiscal 1978.

Mr. Speaker, I urge the adoption of House Resolution 493 in order that the House may debate H.R. 5356.

Mr. MATSUNAGA. Mr. Speaker, I have no requests for time.

Mr. DEL CLAWSON. Mr. Speaker, I have no requests for time.

Mr. MATSUNAGA. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SCHERLE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 351, nays 4, not voting, 78, as follows:

[Roll No. 367]

YEAS—351

Abdnor
Abzug
Adams
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Ashbrook
Bafalis
Baker
Barrett
Bennett
Bergland
Bevill
Biester
Bingham
Blackburn
Boggs
Boland
Bowen
Brademas
Brasco
Bray
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Butler
Byron
Carey, N.Y.
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clark
Clausen, Don H.
Clawson, Del
Cochran
Cohen
Collins, Ill.
Conable
Conlan
Conte
Conyers
Corman
Cotter
Coughlin
Crane
Cronin
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, S.C.
Davis, Wis.
Delaney
Dellenback
Dellums
Denholm
Dennis
Dent
Derwinski
Devine
Dickinson
Dingell
Dorn
Downing
Drinan
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Fascell
Findley
Fish
Flood
Flowers
Flynt
Ford, William D.
Forsythe
Fountain
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Grasso
Green, Oreg.
Green, Pa.
Griffiths
Gross
Grover
Gude
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harsha
Harvey
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holt
Horton
Hosmer
Howard
Huber
Hudnut
Hungate
Hunt
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Keating
Ketchum
King
Koch
Kuykendall
Kyros
Latta
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McKay
McSpadden
Macdonald
Madden
Madigan
Mahon
Mailliard
Mallary
Mann
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Miller
Mink
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Brien
O'Neill
Owens
Parris
Passman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Powell, Ohio
Preyer
Price, Ill.
Pritchard
Quie
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Riegle
Rinaldo
Robinson, Va.
Robison, N.Y.
Rodino
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Roush
Rousselot
Roy
Roybal
Runnels
Ruppe
Ruth
Sandman
Sarasin
Sarbanes
Satterfield
Saylor
Scherle
Schneebeli
Schroeder
Sebelius
Seiberling
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Staggers
Stanton, J. William
Stark
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stokes
Stratton
Stubblefield
Studds
Sullivan
Symington
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vanik
Veysey
Vigorito
Waggonner
Waldie
Walsh
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—4

Collins, Tex.
Goodling
Rarick
Symms

NOT VOTING—78

Addabbo
Ashley
Aspin
Badillo
Beard
Bell
Biaggi
Blatnik
Bolling
Burke, Calif.
Camp
Chisholm
Clay
Cleveland
Collier
Culver
Davis, Ga.
de la Garza
Diggs
Donohue
Dulski
Evins, Tenn.
Fisher
Foley
Ford, Gerald R.
Fraser
Fuqua
Gaydos
Gray
Gubser
Gunter
Hanna
Harrington
Hastings
Hébert
Heinz
Holifield
Holtzman
Hutchinson
Kemp
Kluczynski
Landgrebe
Landrum
McKinney
Maraziti
Michel
Milford
Mills, Ark.
Minish
Minshall, Ohio
Mitchell, Md.
Mizell
Murphy, Ill.
Murphy, N.Y.
O'Hara
Patman
Podell
Price, Tex.
Quillen
Reid
Roberts
Roe
Rooney, N.Y.
Rostenkowski
Ryan
St Germain
Stanton, James V.
Steele
Stephens
Stuckey
Talcott
Teague, Tex.
Thompson, N.J.
Vander Jagt
Widnall
Winn
Wolff
Wyman

So the resolution was agreed to.

The Clerk announced the following pairs:

Mr. Thompson of New Jersey with Mr. Widnall.
Mr. Hébert with Mr. Cleveland.
Mr. Rooney of New York with Mr. Bell.
Mr. Addabbo with Mr. Beard.
Mr. Blatnik with Mr. Hastings.
Mrs. Chisholm with Mr. Fraser.
Mr. Fisher with Mr. Gubser.
Mr. Murphy of New York with Mr. Heinz.
Mr. Roe with Mr. Camp.
Mr. Holifield with Mr. Kemp.
Mr. Murphy of Illinois with Mr. Collier.
Mr. Kluczynski with Mr. Michel.
Mr. Reid with Mr. Hutchinson.
Mr. Minish with Mr. Mizell.
Mr. Gray with Mr. Clay.
Miss Holtzman with Mr. Diggs.
Mr. Donohue with Mr. Quillen.
Mr. Dulski with Mr. Maraziti.
Mr. Fuqua with Mr. Landgrebe.
Mr. Gaydos with Mr. Talcott.
Mr. Gunter with Mr. Price of Texas.
Mr. O'Hara with Mr. Vander Jagt.
Mrs. Burke of California with Mr. Winn.
Mr. Culver with Mr. Patman.
Mr. Wolff with Mr. Wyman.
Mr. Teague of Texas with Mr. Rostenkowski.
Mr. Stephens with Mr. Roberts.
Mr. St Germain with Mr. Steele.
Mr. James V. Stanton with Mr. Aspin.
Mr. Ryan with Mr. Davis of Georgia.
Mr. Mitchell of Maryland with Mr. Podell.
Mr. Hanna with Mr. Stuckey.
Mr. Harrington with Mr. de la Garza.
Mr. Badillo with Mr. Evins of Tennessee.
Mr. Biaggi with Mr. Foley.
Mr. Ashley with Mr. Gerald R. Ford.
Mr. Landrum with Mr. Milford.
Mr. Mills of Arkansas with Mr. Minshall of Ohio.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO SIT DURING HOUSE SESSION TODAY

Mr. MELCHER. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be allowed to meet this afternoon while the House is in session during consideration of bills under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Montana?

There was no objection.

TOXIC SUBSTANCES CONTROL ACT OF 1973

Mr. STAGGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5356) to regulate interstate commerce to protect health and the environment from hazardous chemical substances.

The SPEAKER. The question is on the motion offered by the gentleman from West Virginia.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 5356, with Mr. FLYNT in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from West Virginia (Mr. STAGGERS) will be recognized for 30 minutes, and the gentleman from North Carolina (Mr. BROYHILL) will be recognized for 30 minutes.

The Chair recognizes the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 5356, a bill designed to supplement existing Federal laws to protect health and the environment from hazardous chemical substances.

This bill arises out of legislative proposals submitted by the administraton and is based upon a study conducted by the Council on Environmental Quality. It is designed to give EPA comprehensive authority to protect health and the environment from hazardous chemical substances.

Despite the numerous Federal laws already enacted, there are conspicuous gaps in the regulatory machinery which permit dangerous chemicals to be distributed in the marketplace. This legislation will fill those gaps by giving EPA authority to control chemical hazards which may not be satisfactorily controlled under other Federal laws.

In the last Congress, a bill of similar purpose passed the House by a record vote of 240 to 61. Time did not permit a conference with the Senate to work out differences and the legislative effort was lost. The bill H.R. 5356, which is before us today is substantially identical to the bill which passed the House in the 92d Congress.

Appropriations of $9.2 million for fiscal year 1974; $11.1 million for fiscal year 1975; and $10.1 million for fiscal year 1976 are authorized.

Mr. Chairman, both the number and quantity of chemical substances in commercial use are increasing each year. For this reason the risk of producing substances which can cause grave and irreversible environmental damage or health problems is also increasing. There is a great need for increased knowledge concerning th effects of these chemical substances and for regulation to deal with those which are found to be hazardous. For these reasons, I urge passage of this bill.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield myself 5 minutes.

Today the House is considering H.R. 5356, the Toxic Substances Control Act of 1973. In the past few years, Congress has affirmed and reaffirmed its commitment to a better national environment. During these years, we have enacted substantive legislation which has aided in the national crusade to clean up our streams and rivers, cut hazardous air pollution, and established a cleaner, more healthful environment in which Americans can work and play. I think that Congress and the Nation can be pleased with the progress that has been made under these laws.

H.R. 5356 is a necessary part of the battle to provide a clean and safe national environment. It is designed to supplement existing Federal laws by giving to the Environmental Protection Agency comprehensive authority to develop a systematic approach to the task of protecting health and the environment from hazardous chemical substances. This legislation is proposed as an effort to fill gaps in existing laws. Rather than dealing with specific elements of the environment such as air or water pollution, this bill would give to the Environmental Protection Agency the means to focus on the entire range of activity by which chemical substances enter our environment—from manufacturer to consumer use and disposal.

By 1971, the Chemical Abstracts Service Registry Numbers System had registered 1.8 million chemicals. Several thousand new chemicals are added to the list each year and between 300 and 500 new chemical compounds are introduced annually into commercial use.

Despite the numerous laws which have been enacted over the last 10 years to protect health and the environment, many chemical substances find their way into the marketplace and into the environment which pose great potential for harm. It is generally accepted that as the numbers of chemical compounds in commercial use increase, the risk of producing substances which will cause grave and irreversible environmental damage or health problems also increases.

Existing legal authorities to cope with these problems are inadequate. Present Federal Government controls over the introduction of toxic substances into the environment are of two types. The first is control over the initial production and distribution of a substance. Basically, this control is limited to pesticides, drugs, and food additives. Although this technique can be very effective, current authorities cover only a very small portion of the total number of toxic substances and do not deal with all uses of a substance which may produce toxic effects.

The second kind of control is media-oriented and thus directed at air and water pollution from various sources. In theory, this type of authority can be used to control toxic substances but there are several limitations to the effective applications of such controls. The minute quantities of many toxic substances pose grave difficulties for the media based authorities that deal primarily with large quantity effluents. Toxic substances enter the environment through many uncontrollable points such as the normal disposal of consumer products. Finally, toxic substances are not exclusively air or water pollutants. The multiplicity of ways in which one can be exposed to these substances makes it exceedingly difficult for media-oriented authorities to consider the total exposure of an individual to a given substance. This consideration is necessary for the establishment of adequate environmental standards.

A few examples of toxic substances can illustrate the ways in which toxic substances have become a part of our environment and have affected human life. Compounds of nickel and beryllium can accumulate in the lungs and cause fatal diseases. Lead poisoning is still a recurring problem from many sources. Some preliminary studies indicate that exposure to low levels of cadmium from sources present in the everyday environment may lead to hypertension and heart disease. Recent incidents of mercury poisoning, from a variety of environmental contacts, has underscored its problems when its distribution is uncontrolled.

Synthetic organic chemicals hold an even greater potential than the metals and metallic compounds for danger as hazardous substances. In recent years, a vast number of synthetic organic chemicals have been introduced into the environment. Our understanding of many of these is quite limited. Oftentimes, even their chemical composition has not yet been identified. Their capability for environmental and health damage is far less understood. PCB's, polychlorinated biphenyls, for example, has caused a great deal of environmental concern. It, like DDT, is fat soluble and can be absorbed by human tissues.

Legislation very similar to this was passed by Congress late last session. The Senate also passed toxic substance legislation. However, conflicts between the two bills precluded final action before the adjournment.

Basically, H.R. 5356 would do the following:

PURPOSE OF THE LEGISLATION

This legislation is designed to supplement existing Federal laws by giving to the Environmental Protection Agency comprehensive authority to develop a systematic approach to the task of protecting health and the environment from hazardous chemical substances. Rather than dealing with specific elements of our environment such as air or water pollution, this bill would give to the Environmental Protection Agency the means to focus on the entire range of activity by which chemical substances enter our environment—from manufacturer to consumer use and to disposal.

BASIS FOR THE LEGISLATION

By 1971 the Chemical Abstracts Service Registration Numbers System had registered 1.8 million chemical compounds. Approximately 250,000 chemicals are added to this list each year and between 300 and 500 new chemical compounds are introduced annually into commercial use.

Despite the numerous laws which have been enacted over the last 10 years to protect health and the environment, many chemical substances find their way into the marketplace and into the environment which pose great potential for harm. And, it is generally accepted that, as we greatly increase the numbers of chemical compounds in commercial use, we increase the risk of producing substances which will cause grave and irreversible environmental damage or health problems.

This legislation is designed to provide a means of testing and, in certain cases, screening chemical substances to determine their adverse effect prior to marketing so that harmful chemicals can be withheld from commercial use. This bill would also permit the Federal Government for the first time to assemble data on the total load of processed chemicals which are being introduced into the environment.

BRIEF SUMMARY

In its barest terms this bill would—

First, authorize the Administrator of the Environmental Protection Agency to adopt rules restricting the distribution or use of a chemical substance or require labeling of such substance;

Second, permit the Administrator to require testing of chemical substances by manufacturers, processors and importers;

Third, direct the Administrator to establish a list of substantially dangerous chemical substances;

Fourth, require persons intending to manufacture or distribute a chemical substance which has been identified as substantially dangerous and is contained on the published list to submit test data to the Administrator prior to the manufacture or distribution of such substance. The Administrator would have an opportunity to determine whether the intended manufacture and distribution would pose an unreasonable risk to health or the environment;

Fifth, permit the Administrator to apply to U.S. district court to protect the public from imminently hazardous chemical substances;

Sixth, establish a system for the accumulation of data on the numbers, quantity, uses and byproducts of chemical substances which are manufactured in or imported into the United States;

Seventh, establish a chemical substances board to advise the Environmental Protection Agency in the exercise of authority under this bill; and

Eighth, permit administrative inspections and seizure of chemical substances manufactured or distributed in violation of requirements of the bill or agency rules.

Enforcement of the bill may be obtained through court injunctive process and through imposition of criminal and civil penalties. Private persons are also permitted to bring court actions to compel compliance with the requirements of the bill. Interested persons are required to be given opportunity to orally present their views, data, or arguments in any rulemaking proceeding by the Administrator. Moreover, the Administrator, upon judicial review, is required to support his administrative findings with substantial evidence. In certain cases an opportunity for cross-examination is also permitted.

COSTS

The bill reported by subcommittee does not contain specific authorization levels for fiscal years 1974 through 1976. These amounts have been left blank awaiting the submission of cost data from the Environmental Protection Agency.

LEGISLATIVE BACKGROUND

This legislation finds its beginnings in a report published in April 1971 by the Council for Environmental Quality. The Council's report indicated a high priority need for a program for testing and control of hazardous chemical substances.

In the 92d Congress, drawing upon the recommendations of the Council on Environmental Quality, the Environmental Protection Agency submitted legislative proposals designed to carry out the Council's recommendations. Initial legislative hearings were held before the Senate Commerce Committee which substantially changed the administration bill by adding provisions for premarket screening, citizen suits, testing of existing chemicals, and controls on the transportation of hazardous substances in U.S. navigable waters. This bill was passed unanimously by the Senate in May 1972 by a vote of 77 to 0.

In May 1972 the Subcommittee on Commerce and Finance held hearings on the administration bill and the Senate-passed measure. Following several days in executive session, the subcommittee reported a clean bill which represented an accommodation between the legislative recommendations of the Environmental Protection Agency and those of the Senate-passed bill. The full committee met over a 3-week period in executive sessions in consideration of this bill. In the end, it was reported with only minor amendment by the committee and passed the House on October 13, 1972.

Instead of requesting a conference, the Senate made several amendments to the House bill and sent it back. The principal change was to authorize EPA to require premarket screening of all chemical substances manufactured in commercial quantity after the effective date. In the House, objection was heard to a unanimous consent request to take up the bill again and before the matter could be resolved the 92d Congress adjourned.

H.R. 5356 which has been reported by the subcommittee, largely tracks the provisions of the bill which passed the House in the last Congress. Hearings were held on May 15 and 16 on this bill together with an administration proposal, H.R. 5087. After 3 days in executive session, the subcommittee reported H.R. 5356 with certain amendments by voice vote.

Of particular interest to my colleagues is the section dealing with the rulemaking authority of the EPA with respect to this toxic substances legislation. The rulemaking authorities granted in section 6 of this legislation carefully insure flexibility for rapid response to toxic substances yet protects the right for individual expression of opinion. The administration shall give interested parties an opportunity for oral argument as well as written statements. Opportunity for cross-examination is permitted under certain circumstances. Finally upon judicial review, administrative findings are required to be supported by substantial evidence. Section 6 also requires the Administrator in any rule promulgation to consider all relevant factors including: First, the effects of the substance on health and the magnitude of human exposure; second, the effects of the substance on environment and the magnitude of environmental exposure; and third, the benefits of the substance for various uses and the availability of less hazardous substances.

H.R. 5356 is a necessary supplement to existing law. It fills the gaps that now exist in Federal health and environmental laws. It will promote a more selective and comprehensive program to control the introduction of health and environmental damaging substances into the environment. I would urge the House to pass H.R. 5356 as reported out of committee.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BROYHILL of North Carolina. I yield myself 1 additional minute.

Mr. WYLIE. Will the gentleman yield?

Mr. BROYHILL of North Carolina. I yield myself 1 additional minute.

Mr. WYLIE. I would like to ask the gentleman from North Carolina how this bill applies to the pesticides control section placed in the Department of Agriculture bill which we passed last week. I ask that because the gentleman from North Carolina (Mr. MIZELL) offered an amendment which would provide that the Department of Agriculture would administer the law with respect to the distribution and use of pesticides by farmers. An amendment was adopted on the House floor which would say that pesticide control as relates to farm programs would remain under the Department of Labor where it is now. I suggested while the debate was going on should not all pesticide control be administered by EPA. I am wondering for these reasons what effect this bill would have on the pesticide control section of the Agricultural Act?

Mr. BROYHILL of North Carolina. I would ask the gentleman, if he will look at section 9 of the bill. This is a section not only on exemptions but a section which relates this act to any other environmental Act that may be on the books.

There are certain areas in which this act would not apply, and there are other areas in which, of course, the act does apply, but only under certain circumstances.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield myself 1 additional minute.

If the gentleman from Ohio will look at section 9 of the bill, it says that it shall not apply to pesticides as defined in the Federal Insecticide, Fungicide, and Rodenticide Act.

Mr. WYLIE. I read that, but that act is not a part of the Agricultural Act.

I will take another look at section 9, but I do not think it covers my question.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 5 minutes to the gentleman from Nebraska (Mr. MCCOLLISTER).

Mr. MCCOLLISTER. Mr. Chairman, I wish to add my support to the toxic substances bill which was reported by the full committee of Interstate and Foreign Commerce. I would point out that it has several distinct advantages over the bill passed by the other body.

I refer first to section 5—limited premarket screening of substantially dangerous chemical substances in our bill, as compared with premarket screening of new chemical substances in the Senate bill. I think the key words here are "limited" and "substantially dangerous." I see no reason to unduly penalize an industry which provides such a wealth of useful substances by presuming that each one will pose a threat to health or environment. That assumption could cost chemical manufacturers a tremendous amount, only to discover the substance is absolutely harmless.

I think we tend to write legislation, particularly in Interstate and Foreign Commerce, which places a heavy financial burden on smaller companies, when it is generally the larger elements of the industry we are attempting to control. If we can single out those chemicals which are substantially dangerous, we should be able to eliminate some of the unnecessary expense of testing.

In this provision, as well as in section 4, under the Administrator's rulemaking authority, I approve of the more formal hearing procedures as opposed to the informal setup in the other body's version. It is vitally important that chemical manufacturers be given ample opportunity for oral and written presentation of views and that a transcript be kept of any oral presentation. In section 6—regulations applicable to hazardous chemical substances—in addition to the provision for oral presentation, the Administrator must include an opportunity for cross-examination to the extent he considers it appropriate. Thus, in each of these three sections, judicial review would be based on substantial evidence on the record as a whole.

The House bill also includes an important exemption from reporting for small business concerns. The Code of Federal Regulations cited in this bill defines a small business concern as one which: Together with its affiliates, is independently owned and operated, is not dominant in its field of operation, does not have assets exceeding $7½ million, does not have net worth in excess of $2½ million, and does not have an average net income, after Federal income taxes, for the preceding 2 years in excess of $250,000—average net income to be computed without benefit of any carryover loss.

H.R. 5356 prohibits the Administrator from requiring any chemical manufacturer, processor or importer classified as a small business to submit reports except with respect to a chemical substance for which a test protocol has been prescribed, which is on the published list of substantially dangerous chemical substances under section 5, or those applicable under the hazardous chemical substances regulations in section 6(a).

It does provide however, that if the small business is substantially engaged in the development of one or more new chemical substances, the Administrator may order reports on the new chemicals.

I urge my colleagues to give favorable consideration to this legislation with particular attention to these sections.

Mr. PRICE of Illinois. Mr. Chairman, the safety and physical well-being of each American is threatened by the introduction of toxic substances into our ecological systems. Daily, seemingly harmless substances are being fed into our environment and are allowed to accumulate, posing a threat to our environment and the Nation's health. In order to protect the Nation from these environmental dangers, an effort must be made to prevent the poisoning of the environment and the incumbent dangers to the health and safety of the American people.

H.R. 5356, the Toxic Substances Control Act of 1973, is an important step toward the ultimate cleansing of the environment and the prevention of an environmental menace to the National health. The Toxic Substances Control Act will act as a sort of preventative medicine on the many diseases which threaten us from within the environment.

The Toxic Substances Control Act is not designed to impede technological advancement nor is it an attempt to hamper research and development efforts. In fact, the act will stimulate greater efforts to develop new materials that are environmentally sound and new and safer means of utilizing these and other substances. H.R. 5356 does not slow down or hinder the advancement of the Nation. On the other hand, it will stimulate technological innovation, will enhance employment in the search for sound ecological alternatives and will be a blessing to the health and security of the Nation.

H.R. 5356 also provides for the detection and prevention of the use of materials which would be harmful to the Nation's health. It provides the Environmental Protection Agency with greater authority for the protection of the environment. Currently, much of the thrust of the EPA is to cure problems caused by the inadequate and unsafe treatment of the environment. This act gives the EPA the power and the authority as well as the ability to prevent the toxification of the Nation through a program which will include the testing of new substances and an analysis of the effects of the substances.

Through this program, the EPA will be able to collect and accumulate data concerning the effects of chemical compounds known or being developed. In this manner, the EPA will be able to preserve the integrity of our ecological systems.

A major factor of the Toxic Substances Control Act is that it provides the EPA with a predictive capacity. The EPA will be required to study and analyze the effects of chemical substances on the ecology before they are used or added to the ecological systems. The EPA, through H.R. 5356, will be required to determine the health effects of products before they are available for use. Currently, many products are being used without apparent or obvious harmful effects. The great accumulation of substances may create harmful circumstances, beyond recognition at early stages. This act will remedy this situation by providing for a program which will prevent imbalance, predict health hazards and preserve a clean and healthy environment.

Mr. Chairman, the health of the Nation depends upon the maintenance of a stable and safe environment. We can best assure the American people of a safe environment and a healthy life if we scour the ecological system of dangerous compounds. This requires more than an attack upon the symptoms of the disease of filth and pollution. We need to attack the cause of the problems and to prevent them. H.R. 5356, the Toxic Substances Control Act of 1973, is a much needed proposal, will help to improve the national health and deserves to be approved by this Congress.

Mr. SYMMS. Mr. Chairman, this bill, H.R. 5356, Toxic Substance Control Act of 1973, is another attack on the free marketplace and a threat to small businesses. The bill purports to protect the environment and human health by establishing the regulation of toxic chemicals, compounds, and substances. The bill gives the EPA unprecedented police power, especially in the areas of intrastate commerce.

Nowhere in the verbose language of this bill does it define the term "toxic." This makes the bill open-ended; therefore, it can be used for purposes of harassment or enforced arbitrarily and capriciously. Table salt can be toxic, and so can Coors Beer, or the ink on libertarian-conservative campaign literature.

How did we ever live this long without this legislation? It is amazing that du Pont has not killed us all by now.

Mr. Chairman, I urge the defeat of this bill.

Mr. BROYHILL of North Carolina. Mr. Chairman, I have no further requests for time.

Mr. STAGGERS. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 5356

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; CONTENTS

SECTION 1. This Act may be cited as the "Toxic Substances Control Act of 1973".

TABLE OF CONTENTS

Sec. 1. Short title; contents.
Sec. 2. Declaration of policy.
Sec. 3. Definitions.
Sec. 4. Test protocols.
Sec. 5. Limited premarket screening of substantially dangerous chemical substances.
Sec. 6. Regulations applicable to a hazardous chemical substance.
Sec. 7. Imminent hazards.
Sec. 8. Reports.
Sec. 9. Exemptions and relationship to other laws.
Sec. 10. Chemical Substances Board.
Sec. 11. Research.
Sec. 12. Administrative inspections and warrants.
Sec. 13. Exports.
Sec. 14. Imports.
Sec. 15. Confidentiality.
Sec. 16. Prohibited acts.
Sec. 17. Penalties.
Sec. 18. Injunctive enforcement and seizure.
Sec. 19. Environmental prediction and assessment.
Sec. 20. Cooperation of Federal agencies.
Sec. 21. Study of chemical substances classification system.
Sec. 22. State regulations.
Sec. 23. Judicial review.
Sec. 24. National security waiver.
Sec. 25. Authorization for appropriations.

DECLARATION OF POLICY

SEC. 2. (a) The Congress finds that—

(1) man and the environment are being exposed to a large number of chemical substances each year;

(2) among the many chemical substances constantly being developed and produced are some whose manufacture, distribution,

use, or disposal may pose an unreasonable risk to health or the environment; and

(3) the effective regulation of interstate commerce in such chemical substances necessitates the regulation of such chemical substances in intrastate commerce as well.

(b) It is the policy of the United States that—

(1) hazardous and potentially hazardous chemical substances should be adequately tested with respect to their effect on health and the environment and that such testing should be the responsibility of those who manufacture, import, or process such chemicals;

(2) adequate authority should exist to regulate the distribution and use of chemical substances found to pose an unreasonable risk to health or the environment, and to take action with respect to chemical substances which are imminent hazards; and

(3) authority over chemical substances should be exercised in such a manner as not to unduly impede technological innovation while fulfilling the primary purpose of this Act to assure that such innovation and commerce in such chemical substances do not pose an unreasonable risk to health or the environment.

(c) It is the intent of Congress that the Administrator shall carry out this Act in a reasonable and prudent manner, and that he shall consider the economic and social impact of any action he proposes to take under this Act.

DEFINITIONS

SEC. 3. (a) As used in this Act:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "chemical substance" means (A) any organic or inorganic substance of a particular molecular identity; (B) any uncombined radical or element; or (C) any mixture.

(3) The term "mixture" means any mixture which (A) occurs naturally, or (B) is produced by an industrial chemical process and which is marketed or used without separation into its constituents.

(4) The term "environment" includes water, air, land, all living things therein, and interrelationships which exist among these.

(5) The term "importer" means any person who (A) imports a chemical substance for distribution in commerce for commercial purpose, or (B) reimports a chemical substance, which was manufactured or processed in whole or in part in the United States for distribution in commerce for commercial purpose.

(6) The term "manufacturer" means any person who manufactures a chemical substance.

(7) The term "manufacture" means to produce or manufacture.

(8) The term "processor" means any person engaged in the preparation of a chemical substance for distribution or use either in the form in which it is received or as part of another product.

(9) The term "test protocol" means—

(A) a test designed to determine the effect of a chemical substance on health or the environment, including a test designed to determine the effect of the manufacture, processing, distribution, use, or disposal of such substance on health or the environment,

(B) the procedures or standards to be used in making such test, and

(C) the results to be achieved from such test which the Administrator determines are necessary to evaluate whether such chemical substance poses or is likely to pose an unreasonable risk to health or the environment.

(10) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, American Samoa, or the Trust Territories of the Pacific Islands.

(11) The term "to distribute in commerce" and "distribution in commerce" means to sell in commerce, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce.

(12) The term "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation between a place in a State and any place outside thereof.

(13) The term "United States", when used in the geographic sense, means all of the States (as defined in paragraph (10)).

(b) Any action which may be taken by the Administrator under any provision of this Act with respect to a chemical substance may be taken by the Administrator in accordance with that provision with respect to a class of chemical substances. Whenever the Administrator takes action under a provision of this Act with respect to a class of chemical substances, any reference in this Act to a chemical substance (insofar as the reference relates to such action) shall be deemed to be a reference to each chemical substance in such class.

TEST PROTOCOLS

SEC. 4. (a) If the Administrator finds that testing of a chemical substance in accordance with a test protocol for such substance is necessary to protect against unreasonable risk to health or the environment, he may, by rule, (1) prescribe a test protocol for such substance, and (2) require, in accordance with subsection (d), that one or more persons perform the test called for in such protocol.

(b) In making the finding required under subsection (a), the Administrator shall consider all relevant factors, including—

(1) the effects of the chemical substance on health and the magnitude of human exposure;

(2) the effects of the chemical substance on the environment and the magnitude of environmental exposure;

(3) the extent to which the test protocol is reasonably predictive of the potential effects of the chemical substances on health or the environment;

(4) any data concerning the safety of the chemical substance which may affect the requirements of the test protocol; and

(5) the extent to which a risk to health or the environment can be reasonably or more efficiently evaluated by testing the component chemical substances which comprise a mixture or series of mixtures in lieu of testing any or all mixtures of the same chemical substance components in different component ratios.

(c) A test protocol under this section may include tests for carcinogenesis, teratogenesis, mutagenesis, persistence, the cumulative and synergistic properties of the substance and epidemiological studies of the effect of such substance.

(d) A rule under subsection (a) may require each person who is a manufacturer, processor, or importer of the chemical substance to which a test protocol applies to perform the test called for in the test protocol. In the case of a test protocol for a chemical substance for which there is more than one manufacturer, processor, or importer, the Administrator may, in appropriate cases, permit the manufacturers, importers, or processors who are required to perform the tests called for in a test protocol to designate one or more of their number, or, to designate a qualified independent third party, to perform the required tests and permit the sharing of costs of such tests. If manufacturers, importers, or processors required to perform the tests are not able to agree upon a designee within a reasonable time, or if the agreed-upon designee is not acceptable to the Administrator, (1) the Administrator may order one or more of such manufacturers, processors or importers, or designate a qualified independent third party, to perform the required test, and (2) he may order those manufacturers, processors or importers who do not conduct the tests to provide fair and equitable contribution for the costs of such tests in an amount determined under rules of the Administrator.

(e) After allowing a reasonable time for completion of the required tests, the Administrator may order any manufacturer, processor, or importer who is required to perform the tests called for in a test protocol under this section to transmit to the Administrator the test data developed pursuant to such test protocol.

(f) Subject to section 15 (relating to the confidentiality of certain information), upon receipt of test data under subsection (e) the Administrator shall promptly publish in the Federal Register a notice which identifies the chemical substance for which test data have been received, lists the uses or intended uses of such substance, and describes the nature of the tests performed and the data which were developed; such data shall be made available, consistent with the terms of section 15, for examination by interested persons. Notice under this subsection shall identify the chemical substance by generic class unless the Administrator determines that more specific identification is required in the public interest.

(g) Any rule under this section and any amendment or revocation of such a rule shall be promulgated pursuant to section 553 of title 5, United States Code, except that the Administrator shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation.

LIMITED PREMARKET SCREENING OF SUBSTANTIALLY DANGEROUS CHEMICAL SUBSTANCES

SEC. 5. (a) Within eighteen months after the date of enactment of this Act, and from time to time thereafter, the Administrator shall, by rule, identify and publish in the Federal Register a list of chemical substances (or chemical substances with respect to a particular use or uses) which the Administrator finds are likely to pose substantial danger to health or environment. For the purposes of this section, "substantial danger to health or environment" means an unreasonable risk of death, of widespread or severe personal injury or illness, or of widespread or severe harm to the environment.

(b) (1) In making the finding required under subsection (a), the Administrator shall consider all relevant factors including—

(A) the effects of the substance on health and the magnitude of human exposure;

(B) the effects of the substance on the environment and the magnitude of environmental exposure; and

(C) any benefit of the chemical substance and the availability of less hazardous substances for any use of such substance.

(2) In determining whether (A) one or more mixtures, or (B) chemical substances which are components of such mixtures, should be listed under subsection (a), the Administrator shall consider whether the risk to health or the environment is associated with such mixtures or components or both and whether such risk can be more reasonably evaluated by testing the mixtures or by testing one or more components of such mixtures.

(c) A chemical substance listed under subsection (a) which was manufactured and distributed in commerce for commercial purpose prior to its listing may not be manufactured or distributed in commerce for a new use unless at least ninety days prior to such manufacture or distribution, the person intending to manufacture or distribute the chemical substance for such new use submits to the Administrator test data developed in accordance with a test protocol promulgated under section 4 which is applicable to such intended use, or (in the absence of such a test protocol) test data which such person believes shows that the intended new use of the chemical substance would not pose an unreasonable risk to health or the environment.

(d) A chemical substance listed under subsection (a) which was not manufactured or distributed in commerce for commercial purpose prior to its listing may not be manufactured or distributed in commerce unless at least ninety days prior to such manufacture or distribution, the person intending to manufacture or distribute such substance submits to the Administrator test data developed in accordance with a test protocol promulgated under section 4 which is applicable to the manufacture, distribution, use or disposal of such substance, and (to the extent that such a test protocol does not apply to the manufacture, distribution, use, or disposal of such substance) test data which such person believes shows that the manufacture, distribution, use, and disposal of the chemical substance would not pose an unreasonable risk to health or the environment.

(e) A person intending to manufacture or distribute in commerce a chemical substance for which no applicable test protocol has been prescribed under section 4 may petition the Administrator to develop and issue a test protocol for such substance or for the intended use of such substance. The Administrator shall either grant or deny any such petition within sixty days of its receipt. If the petition is granted, the Administrator shall diligently proceed to develop a test protocol for such substance. If the petition is denied, the Administrator shall publish in the Federal Register the reasons for such denial.

(f) (1) The Administrator may exempt any person from the obligation to submit data under subsections (c) and (d) of this section if he determines that the submission of test data by such person would be duplicative of data previously submitted in accordance with those subsections, but no such exemption may take effect before the date of termination of the premarket screening for which the data on which the exemption is based were submitted.

(2) If the Administrator, under paragraph (1), exempts any person from submitting data under this section because of the existence of previously submitted data and if such exemption takes effect during the reimbursement period for such data (as defined in paragraph (3)), then (unless the parties can agree on the amount and method of reimbursement) the Administrator shall order the person granted the exemption to provide fair and equitable reimbursement (in an amount determined under rules of the Administrator)—

(A) to the person who previously submitted data on which the exemption was based, for a portion of the costs incurred by him in complying with the requirement under this section to submit such data, and

(B) to any other person who has been required under this paragraph to contribute with respect to such data.

An order under this paragraph shall be considered final agency action, for purposes of judicial review.

(3) For purposes of this subsection:

(A) The reimbursement period for any previously submitted data is a period—

(i) beginning on the date of termination of the premarket screening for which the data were submitted, and

(ii) ending five years after such date of termination (or, if later, at the expiration of a period after such date equal in length to the period which the Administrator determines was necessary to develop the previously submitted data).

(B) The termination of the premarket screening for which data were submitted is the earliest date (after submission of such data) on which the person who submitted such data is no longer prohibited (by this section or by reason of a proposed rule made immediately effective under subsection (i) or section 6(d) from proceeding with the manufacture and distribution with respect to which the data were submitted.

(g) The Administrator may for good cause shown extend the ninety-day period under subsection (c) or (d) of this section for an additional period not to exceed ninety days. Subject to section 15 of this Act, notice of such extension and the reasons therefor shall shall be published in the Federal Register and shall constitute a final agency action subject to judicial review.

(h) Subject to section 15 (relating to the confidentiality of certain information), upon receipt of test data under subsection (c) or (d) the Administrator shall promptly publish in the Federal Register notice which identifies the chemical substance for which test data have been received; lists the uses or intended uses of such substance; and, describes the nature of the tests performed and the data which were developed. Such data shall be made available, consistent with the terms of section 15, for examination by interested persons. Notice under this subsection shall identify the chemical substance by generic class unless the Administrator determines that more specific identification is required in the public interest.

(i) If on the basis of available data or the absence of acceptable data under subsections (c) and (d), the Administrator proposes a rule to regulate such chemical substance under section 6 of this Act within the ninety-day period specified in subsections (c) and (d) or within the period as extended in accordance with subsection (g), such proposed rule may take effect immediately, pending completion of the administrative proceeding required under section 6 of this Act. After such rule is proposed and takes effect, the Administrator may refer the rule to a committee formed under section 10(c) of this Act. The Administrator shall refer such rule to such committee if requested by any interested person.

(j) Rules under this section which identify chemical substances as likely to pose substantial danger to health or the environment or any amendment or revocation of such rules shall be promulgated pursuant to section 553 of title 5, United States Code, except that the Administrator shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation.

(k) The Administrator may, upon application, exempt any person from the foregoing requirements of this section, for the purpose of permitting such person to manufacture and distribute in commerce a listed chemical substance for test marketing purposes (1) upon a showing by such person that the manufacture and distribution of such substance for those purposes would not pose an unreasonable risk to health or the environment, and (2) under such restrictions as the Administrator considers appropriate.

REGULATIONS APPLICABLE TO A HAZARDOUS CHEMICAL SUBSTANCE

SEC. 6. (a) If the Administrator finds that a rule under this section respecting a chemical substance is necessary to protect against unreasonable risk to health or the environment, he may prescribe a rule consisting of one or more of any of the following types of requirements:

(1) Requirements prohibiting the manufacture or distribution in commerce of such chemical substance or limiting the amount of such chemical substance which may be manufactured or distributed in commerce.

(2) Requirements prohibiting the manufacture or distribution in commerce of such chemical substance which may be manufactured or distributed in commerce for such use or uses.

(3) Requirements that such chemical substance or article containing such substance be marked with or accompanied by clear and adequate warnings and instructions with respect to its use or disposal, in such form and bearing such content as the Administrator determines to be appropriate.

(b) (1) (A) Rules under this section may be limited in application to specified geographic areas.

(B) The authority of the Administrator to prescribe a rule under subsection (a) (2) prohibiting the manufacture and distribution in commerce of a chemical substance for a particular use shall include authority to prescribe a rule prohibiting the distribution in commerce of a chemical substance for a particular use in a concentration in excess of a level specified in such rule.

(2) (A) No rule may be prescribed under subsection (a) (1) of this section which limits the amount of a chemical substance which may be manufactured, imported, or distributed in commerce unless the Administrator finds that the risk to health or environment associated with such chemical substance cannot be prevented or reduced to a sufficient extent by means of a rule prescribed under subsection (a) (2) prohibiting the manufacture or distribution in commerce of such substance for particular use or uses or by means of a rule prescribed under subsection (a) (3).

(B) No rule may be prescribed under subsection (a) (2) which limits the quantity of a chemical substance which may be manufactured, imported, or distributed for a particular use or uses unless the Administrator finds that the risk to health or environment associated with such substance cannot be prevented or reduced to a sufficient extent by means of a rule prescribed under subsection (a) (3), or by means of a rule under subsection (a) (2) prohibiting the distribution in commerce of a chemical substance for a particular use in a concentration in excess of a level specified in such rule.

(3) (A) Rules described in subsection (a) (1) of this section which limit the amount of a chemical substance which may be manufactured, imported, or distributed in commerce, and rules described in subsection (a) (2) which limit the quantity which may be manufactured, imported, or distributed for a particular use or uses, shall include provision for assigning production, importation, or distribution quotas to persons who wish to manufacture, import, or distribute the chemical substance. The permissible quota for each such person shall be determined in accordance with criteria prescribed under subparagraph (B).

(B) The Administrator shall by rule prescribe cirteria which shall take into account all relevant factors, including—

(i) effects on competition,

(ii) the market shares, productive capacity, and product and raw material inventories of persons applying for quotas,

(iii) emergency conditions, such as fires or strikes, and

(iv) effects on technological innovation.

The last sentence of section 23(c) shall not apply to rules under this subparagraph (B).

(c) In issuing such rules under subsection (a) the Administrator shall consider all relevant factors including—

(1) the effects of the substance on health and the magnitude of human exposure;

(2) the effects of the substance on the environment and the magnitude of environmental exposure; and

(3) the benefits of the substance for var-

ious uses and the availability of less hazardous substances.

(d) The Administrator shall specify in any rule under subsection (a) the date on which it shall take effect, which shall be as soon as feasible. Where the Administrator determines that the manufacture, processing, distribution, use, or disposal of a chemical substance is likely to result in harm to health or the environment prior to the completion of a rulemaking proceeding under subsection (a) respecting such substance and where the Administrator determines that such action is necessary in the public interest, he may declare a proposed rule under subsection (a) immediately effective pending completion of the rulemaking proceeding.

(e) If the Administrator has good cause to believe that a particular manufacturer or processor is manufacturing or processing a chemical substance in a manner which permits or causes the adulteration of a chemical substance and if the Administrator determines that, as a result of such adulteration, the chemical substance poses an unreasonable threat to health or the environment—

(1) the Administrator may require such manufacturer or processor to submit a description of the relevant quality control procedures followed in the manufacturing or processing of such chemical substance; and

(2) if he thereafter determines that such quality control procedures are inadequate to prevent the adulteration of the chemical substance, the Administrator may, after notice and opportunity for hearing pursuant to section 554 of title 5, United States Code, order the manufacturer to revise such quality control procedures to the extent necessary to remedy such inadequacy.

For the purposes of this subsection, a chemical substance shall be deemed to be adulterated if it bears or contains any added substance or contaminant which itself, or in combination with the chemical substance, presents an unreasonable risk to health or the environment.

(f)(1) Rules under subsection (a) shall be promulgated pursuant to section 553 of title 5 of the United States Code; except that in promulgating any such rule, (A) the Administrator shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions; (B) a transcript shall be kept of any oral presentation; and (C) during any such oral presentation the Administrator shall include an opportunity for cross-examination as provided in paragraph (2).

(2)(A) Except as provided in paragraph (B), during any such oral presentation, the Administrator shall include an opportunity for cross-examination to such extent and in such manner as the Administrator considers necessary and appropriate in view of the nature of the issue or issues involved and the number of the participants and the nature of their interests.

(B) If only a single interested person seeks to avail himself of an opportunity for cross examination in a proceeding to promulgate a rule under subsection (a), or if the Administrator determines that all persons who seek to avail themselves of such an opportunity are members of a single class sharing an identity of interest, the Administrator shall afford such single interested person or representative of such class (as designated by the participants of such class) an opportunity to conduct cross-examination to the same extent that cross-examination is permitted under section 556 of title 5, United States Code.

IMMINENT HAZARDS

SEC. 7. (a) The Administrator may file an action in United States district court—

(1) against an imminently hazardous chemical substance and any article containing such substance for seizure of such substance or article under subsection (b)(2) of this section, or

(2) against any person who is a manufacturer, processor, distributor, or retailer of such chemical substance or article.

Such an action may be filed notwithstanding the existence of a rule under sections 4, 5, or 6 of this Act, and notwithstanding the pendency of any administrative or judicial proceeding under any provision of this Act. As used in this section, the term "imminently hazardous chemical substance" means a chemical substance which presents imminent and unreasonable risk to health or the environment. The risk to health or the environment shall be considered imminent if it is shown that the manufacture, processing, distribution, use, or disposal of a chemical substance is likely to result in harm to health or the environment prior to the completion of an administrative proceeding under this Act.

(b)(1) The district court in which such action is filed shall have jurisdiction to grant such temporary or permanent relief as may be necessary to protect health or the environment from the unreasonable risk associated with the chemical substance or article containing such substance. Such relief may include (in the case of an action under subsection (a)(2)) a mandatory order requiring (A) notification of such risk to those purchasers of such chemical substance or an article containing such chemical substance which are known to the defendant; (B) public notice; (C) recall; and (D) the replacement or repurchase of such chemical substance or article containing such substance.

(2) In the case of an action under subsection (a)(1), the chemical substance or article containing such substance may be proceeded against by process of libel for the seizure and condemnation of such substance or such article in any United States district court within the jurisdiction of which such substance or article is found. Proceedings in cases instituted against a chemical substance or article containing such substance under the authority of this section shall conform as nearly as possible to proceedings in rem in admiralty.

(c) Where appropriate, concurrently with the filing of an action under this section or as soon thereafter as may be practicable, the Administrator shall initiate a rulemaking proceeding under section 6 of this Act.

(d)(1) An action under subsection (a)(2) of this section may be brought in the United States district court for the District of Columbia or in any judicial district in which any of the defendants is found, is an inhabitant, or transacts business; and process in such an action may be served on a defendant in any other district in which such defendant resides or may be found. Subpenas requiring attendance of witnesses in such an action may run into any other district. In determining the judicial district in which an action may be brought under this section in instances in which such action may be brought in more than one judicial district, the Administrator shall take into account the convenience of the parties.

(2) Whenever proceedings under this section involving identical chemical substances or articles containing such substances are pending in courts in two or more judicial districts, they shall be consolidated for trial by order of any such court upon application reasonably made by any party in interest, upon notice to all parties in interest.

(e) Notwithstanding any other provision of law, in any action under this section, the Administrator may direct attorneys employed by him to appear and represent him.

REPORTS

SEC. 8. (a)(1) Except as provided in subsections (b) and (c), the Administrator may, by rule, require any manufacturer, importer, or processor of any chemical substance to submit reports to him annually, and at such more frequent time as he may reasonably require, containing any or all of the following:

(A) The names of any or all chemical substances manufactured, imported, or processed by the manufacturer, importer, or processor thereof.

(B) The chemical identity and molecular structure of such substances insofar as is known to such manufacturer, importer, or processor, or insofar as such are reasonably ascertainable.

(C) The categories of use of each such substance, insofar as they are known to such manufacturer, importer, or processor, or insofar as such are reasonably ascertainable.

(D) Reasonable estimates of the amounts of each substance manufactured, imported, or processed for each such category of use.

(E) A description of the byproducts, if any, resulting from the manufacture, processing, or disposal of each such substance, insofar as they are known to such manufacturer, importer, or processor, or insofar as such are reasonably ascertainable.

(2) For purposes of this subsection, the term "byproduct" means a chemical substance produced as a result of the manufacture, processing, use, or disposal of some other chemical substance.

(3) The Administrator may, by rule, exempt manufacturers, importers, or processors from all or part of the requirements of this section if he finds that such reports are not necessary to carry out the purposes of this Act, or if he finds that such reports would provide information which duplicates information otherwise available to him.

(b)(1) Subject to paragraph (2) of this subsection, the Administrator shall have no authority under subsection (a) of this section to require any manufacturer, processor or importer of any chemical substance to submit reports to him in the manner therein provided except with respect to a chemical substance or an article containing such substance—

(A) for which a test protocol has been prescribed under section 4(a) of this Act;

(B) which is contained in the list of chemical substances which the Administrator has by rule identified and published in the Federal Register under section 5(a) of this Act; or

(C) which are covered by a rule under section 6(a) of this Act.

(2)(A) The limitations on reporting contained in paragraph (1) of this subsection shall apply only to a manufacturer, processor, or importer which is a small business concern; except that if the Administrator determines that such a concern is substantially engaged in the development of one or more new chemical substances, he may order such concern to make reports with respect to any new chemical substance developed by it.

(B) For purposes of this subsection, the term "small business concern" means a manufacturer, processor, or importer which is (i) a small business concern within the meaning of the section 121.3–11(a) of title 13 of the Code of Federal Regulations (as in effect on the date of enactment of this Act) or (ii) any other concern which is independently owned and operated and not dominant in its field of operations, and which the Administrator of the Small Business Administration by rule defines a small business concern for purposes of this subsection, taking into account relevant factors such as concentration of output in the industry of which it is a part, total number of concerns in such industry, and the size of such concern relative to the size of industry leaders.

(c) The Administrator may not require any manufacturer, importer, or processor to submit reports under this section with respect to any chemical substance which he manufactures, imports, or prepares for distribution for use as a standard or reagent and for research or laboratory purposes.

(d) Whenever the Administrator determines that such action would be necessary to allow him to carry out his responsibilities and authorities under this Act, he may by publishing a notice in the Federal Register invite and afford all interested persons an opportunity to provide in writing information respecting the health or environmental effects of a chemical substance.

EXEMPTIONS AND RELATIONSHIP TO OTHER LAWS

SEC. 9. (a) This Act shall not apply to—

(1) tobacco and tobacco products;

(2) any pesticide (as defined in the Federal Insecticide, Fungicide, and Rodenticide Act) when manufactured or distributed in commerce for use as a pesticide; or

(3) drugs, devices, or cosmetics (as such terms are defined in sections 201 (g), (h), and (i) of the Federal Food, Drug, and Cosmetic Act) and food. The term "food" as used in this paragraph means all food, as defined in section 201(f) of the Federal Food, Drug, and Cosmetic Act, including poultry and poultry products (as defined in section 4 (e) and (f) of the Poultry Products Inspection Act), meat and meat food products (as defined in section 1(j) of the Federal Meat Inspection Act), and eggs and egg products (as defined in section 4 of the Egg Products Inspection Act).

(b) The Administrator shall have no authority under sections 5, 6, and 7 of this Act to take action to prevent or reduce an unreasonable risk to health or the environment associated with a particular chemical substance or article containing such substance if such risk to health or the environment could be prevented or reduced to a sufficient extent by actions taken under any other Federal law; including the Atomic Energy Act of 1954, the Clean Air Act, the Federal Water Pollution Control Act, the Federal Hazardous Substances Act, the Occupational Safety and Health Act of 1970, the Consumer Product Safety Act, subpart 3 of part F of title III of the Public Health Service Act (relating to electronic product radiation), and the Acts administered by the Secretary of Transportation relating to the transportation of hazardous substances.

(c) If it appears to the Administrator that any chemical substance may pose an unreasonable risk to health or the environment which could be prevented or reduced to a sufficient extent by actions taken under other Federal laws, he shall transmit any data received from manufacturers, importers, or processors, or data otherwise in his possession which is relevant to such risk to the Federal executive department or agency, independent regulatory agency or other authority of the Federal Government with authority to take legal action.

(d) In administering the provisions of this Act, the Administrator shall consult and coordinate with the Secretary of Health, Education, and Welfare and the heads of any other appropriate Federal executive department or agency, independent regulatory agency or other authority of the Federal Government. The Administrator shall report annually to the Congress on actions taken to coordinate with such other Federal agencies and actions taken to coordinate the authority under this Act with the authority granted under other Acts referred to in subsection (b) of this section.

CHEMICAL SUBSTANCES BOARD

SEC. 10. (a) There shall be established in the Environmental Protection Agency a Chemical Substances Board (hereinafter referred to in this section as the "Board") consisting of twelve scientifically qualified members. The Administrator shall appoint eleven members of the Board from a list of at least twenty-two individuals recommended to him by the National Academy of Sciences, and the Secretary of Health, Education, and Welfare shall appoint one member of the Board from whatever source he desires. Not more than one-third of the members of such Board shall be in the employ of or have any significant economic interest in any manufacturer, importer, or processor of chemical substances. Members of the Board shall serve one term of four years, except that one-half of the members initially appointed shall serve one term of two years. Members of the Board shall not be reappointed for consecutive terms. One of the members shall be designated by the Administrator to serve as Chairman of the Board.

(b) The National Academy of Sciences, in consultation with the Board, shall maintain a directory of qualified scientists, to assist in carrying out the provisions of this section. Such scientists may also be utilized as consultants to the Chemical Substances Board

(c) Except when acting under section 5(i) or the last sentence of 6(d) of this Act, before proposing any rules under section 4, 5, or 6 of this Act, the Administrator shall refer his proposed action and the available evidence to a committee selected by the Administrator from members of the Board and the directory of consultants to the Board maintained under subsection (b), except that the Secretary of Health, Education, and Welfare may appoint one member of such committee from whatever source he desires. Concurrently with such referral, the Administrator shall publish in the Federal Register a notice of the referral identifying the proposed action. Such committee shall include scientifically qualified persons not more than one-third of which are in the employ of or have a significant economic interest in any manfacturer, importer, or processor of, or any person who distributes in commerce, any chemical substance which may, directly or indirectly, be affected by the proposed action. The committee shall conduct an independent scientific review of the proposed action and shall report its views and reasons therefor in writing to the Administrator, within a reasonable time, not to exceed forty-five days, as specified by the Administrator. Such time may be extended an additional forty-five days if the Administrator determines the extension necessary and such committee has made a good faith effort to report its views and reasons therefor within the initial forty-five-day period. All such views shall be given due consideration by the Administrator. If the committee fails to report within the specified time, the Administrator may proceed to take action under this Act. Subject to section 15 of this Act, all proceedings and deliberations of such committees and their reports and reasons therefor shall be available for public examination. The report of the committee and any dissenting views shall be considered as part of the record in any proceeding taken with respect to the Administrator's action.

(d) The Administrator may also request the Board to convene a committee to consider other actions proposed to be taken under this Act. In such case all provisions of this section shall apply.

(e) The Administrator is authorized to reimburse the National Academy of Sciences for expenses incurred in carrying out this section.

(f) Members of the Board or committees who are not regular full-time employees of the United States shall, while serving on business of the Board or committee, be entitled to compensation at rates fixed by the Administrator, but not exceeding the daily rate applicable at the time of such service to grade GS-18 of the classified civil service, including traveltime; and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(g) Section 14(a) of the Federal Advisory Committee Act (relating to termination) shall not apply to the Board.

RESEARCH

SEC. 11. The Administrator is authorized to conduct such research and monitoring as is necessary to carry out his functions under this Act. To the extent practicable, such research and monitoring shall not duplicate the efforts of other Federal agencies. In order to carry out the provisions of this section, the Administrator is authorized to make contracts and grants for such research and monitoring.

ADMINISTRATIVE INSPECTIONS AND WARRANTS

SEC. 12. (a) (1) For the purpose of inspecting, copying, and verifying the correctness of records, reports, or other documents required to be kept or made under this Act or for the purpose of otherwise facilitating the carrying out of his functions under this Act, the Administrator is authorized in accordance with this section, to enter any factory, warehouse, or other premises in which chemical substances are manufactured, processed, stored, held, or maintained, including retail establishments, and to conduct administrative inspections thereof.

(2) Such entries and inspections shall be carried out through officers or employees (hereafter in this section referred to as "inspectors") designated by the Administrator. Any such inspector, upon stating his purpose and presenting to the owner, operator, or agent in charge of such premises (A) appropriate credentials and (B) his administrative inspection warrant or a written notice of his other inspection authority, shall have the right to enter such premises and conduct such inspection at reasonable times.

(3) Except when the owner, operator, or agent in charge of such premises so consents in writing, no inspection authorized by this section shall extend to—

(A) financial data;

(B) sales data other than shipments data;

(C) pricing data;

(D) personnel data;

(E) research data (other than data required by this Act); or

(F) process technology other than that related to chemical composition or the industrial use of a chemical substance.

(b) A warrant under this section shall not be required for entries and administrative inspections (including seizures of chemical substances or products containing chemical substances manufactured in violation of rules issued under this Act)—

(1) conducted with the consent of the owner, operator, or agent in charge of such premises; or

(2) in any situation where a warrant is not constitutionally required.

(c) Issuance and execution of administrative inspection warrants shall be as follows:

(1) Any judge of the United States or of a State court of record, or any United States magistrate, may, within his territorial jurisdiction, and upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by this title, and seizures of property appropriate to such inspections. For the purposes of this subsection the term "probable cause" means a valid public interest in the effective enforcement of this Act or rules thereunder sufficient to justify administrative inspections of the area, premises, building, or contents thereof, in the circumstances specified in the application for the warrant.

(2) A warrant shall issue only upon an affidavit of an officer or employee having knowledge of the facts alleged, sworn to before the judge or magistrate, and establishing the grounds for issuing the warrant. If the judge or magistrate is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, or building to be inspected, the purpose of such inspection, and, where appropriate, the type of property to be inspected, if any. The warrant shall identify the items or types of property to be seized, if any. The warrant shall be directed to a person authorized under subsection (a)(2) of this section to execute it. The warrant shall

state the grounds for its issuance and the name of the person or persons whose affidavit has been taken in support thereof. It shall command the person to whom it is directed to inspect the area, premises, or building, identified for the purpose specified, and, where appropriate, shall direct the seizure of the property specified. The warrant shall direct that it be served during normal business hours. It shall designate the judge or magistrate to whom it shall be returned.

(3) A warrant issued pursuant to this section must be executed and returned within ten days of its date, unless, upon a showing by the United States of a need therefor, the judge or magistrate allows additional time in the warrant. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person making such inventory, and shall be verified by the person executing the warrant. The judge or magistrate, upon request, shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

(4) The judge or magistrate who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall file them with the clerk of the district court of the United States for the judicial district in which the inspection was made.

EXPORTS

SEC. 13. (a) This Act shall not apply to any chemical substance or article containing such substance if (1) it can be shown that such substance or article is manufactured, processed, sold, or held for sale for export from the United States (or that such chemical substance was imported for export), unless such chemical substance or article is, in fact, manufactured, processed, or distributed in commerce for use in the United States, and (2) such chemical substance or article containing such substance when distributed in commerce, or any container in which it is enclosed when so distributed, bears a stamp or label stating that such chemical substance or article is intended for export; except that (A) any manufacturer, processor, or exporter of such chemical substance shall be subject to the reporting requirements of section 8 of this Act; and (B) this subsection shall not apply to any chemical substance or article containing such substance if the Administrator finds that the chemical substance or article will, directly or indirectly, pose an unreasonable risk to health within the United States or to the environment of the United States.

(b) If submittal of test data is required for a chemical substance under section 4 or 5 of this Act, or rules applicable to such substance or article containing such substance have been prescribed or proposed under section 5 or 6 of this Act, the Administrator, subject to section 15 of this Act, may furnish to the governments of the foreign nations to which such chemical substance is exported, or is intended to be exported, notice of the availability of the data submitted to the Administrator under section 4 or 5 concerning such chemical substance, and notice of any rule applicable to such substance or article containing such substance which has been prescribed or proposed by the Administrator under section 5 or 6 of this Act.

IMPORTS

SEC. 14. (a) The Secretary of the Treasury shall refuse entry into the customs territory of the United States (as defined in general headnote 2 to the Tariff Schedules of the United States) of any chemical substance or article containing such substance offered for entry if it fails to conform with rules promulgated under this Act, or if it is otherwise prohibited under this Act from being distributed in commerce. If a chemical substance or article is refused entry, the Secretary of the Treasury shall refuse delivery to the consignee and shall cause the disposal or storage of any substance or article refused delivery which has not been exported by the consignee within three months from the date of receipt of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe, except that the Secretary of the Treasury may deliver to the consignee such substance or article pending examination and decision in the matter on execution of bond for the amount of the full invoice value of such substance or article, together with the duty thereon, and on refusal to return such substance or article for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding them from the country, or for any other purposes, such consignee shall forfeit the full amount of such bond. All charges for storage, cartage, and labor on substances or articles which are refused admission or delivery under this section shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.

(b) The Secretary of the Treasury, in consultation with the Administrator, shall issue regulations for the enforcement of subsection (a) of this section.

CONFIDENTIALITY

SEC. 15. All information reported to or otherwise obtained by the Administrator or his representative under this Act, which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, shall be considered confidential and shall not be disclosed, except that such information may be disclosed to other officers or employees concerned with carrying out this Act (including the Chemical Substances Board and committees formed under section 10), or when relevant in any proceeding under this Act, except that disclosure in such a proceeding shall preserve the confidentiality to the extent possible without impairing the proceeding. All information reported to or otherwise obtained by the Administrator or his representative including information which contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, shall be made available upon request of the duly authorized committees of the Congress.

PROHIBITED ACTS

SEC. 16. It shall be unlawful for any person to—

(1) fail or refuse to comply with section 4, 5, or 6 of this Act or any rule or order prescribed under those sections, or with any restriction under section 5(k) of this Act;

(2) fail or refuse to comply with section 8 or any rule or order thereunder;

(3) fail or refuse to permit access to or copying of records, or fail or refuse to permit entry or inspection or take any other action as required under section 12 of this Act; or

(4) fail or refuse to comply with instructions with respect to the use or disposal of a chemical substance where such instructions are required by rule prescribed under section 6(a)(3) of this Act and where such failure or refusal to comply results in or is likely to result in death, severe personal injury or illness, or severe harm to the environment.

PENALTIES

SEC. 17. (a) Any person who knowingly violates section 16 of this Act shall be subject to a civil penalty not to exceed $25,000 for each day of violation. For the purposes of this subsection, the term "knowingly" means (1) the having of actual knowledge, or (2) the presumed having of knowledge deemed to be possessed by a reasonable man who acts in the circumstances, including knowledge obtainable upon the exercise of due care.

(b) Any person who willfully violates any provision of section 16 (other than section 16(2)) of this Act, after having received notice of noncompliance from the Administrator, shall, in addition to or in lieu of a civil penalty imposed under subsection (a), on conviction, be fined not more than $25,000 for each day of violation or imprisoned for not more than one year, or both.

INJUNCTIVE ENFORCEMENT AND SEIZURE

SEC. 18. (a) Upon application by the Attorney General, the district courts of the United States shall have jurisdiction to restrain any violation of section 16 or to compel the taking of any action required by this Act or rule issued thereunder. Such actions may be brought by the Attorney General, on the request of the Administrator, in any United States district court of proper venue. In any action under this section, process may be served on a defendant in any other district in which the defendant resides or may be found, and subpenas for witnesses may run into any other district.

(b) Any chemical substance or article containing such substance which was manufactured or distributed in commerce in violation of an applicable rule prescribed under section 6, or in violation of section 5 of this Act, shall be liable to be proceeded against, by process of libel for the seizure and condemnation of such substance or such article in any United States district court within the jurisdiction of which such substance or article is found. Proceedings in cases instituted against a chemical substance or article containing such substance under the authority of this section shall conform as nearly as possible to proceedings in rem in admiralty. Actions under this subsection may be brought by the Attorney General on the request of the Administrator.

ENVIRONMENTAL PREDICTION AND ASSESSMENT

SEC. 19. The Administrator shall, in cooperation with the Council on Environmental Quality and other Federal agencies, develop the necessary personnel and information resources to assess the environmental consequences of the introduction of new chemical substances into the environment.

COOPERATION OF FEDERAL AGENCIES

SEC. 20. Upon request by the Administrator, each Federal agency is authorized—

(1) to make its services, personnel, and facilities available (with or without reimbursement) to the Administrator to assist him in the performance of his function; and

(2) to furnish to the Administrator such information, data, estimates, and statistics, and to allow the Administrator access to all information in its possession as the Administrator may reasonably determine to be necessary for the performance of his functions as provided by this Act.

STUDY OF CHEMICAL SUBSTANCES CLASSIFICATION SYSTEM

SEC. 21. The Council on Environmental Quality, in consultation with the Administrator, the Secretary of Health, Education, and Welfare, the Secretary of Commerce, and the heads of other appropriate Federal, State, and local departments or agencies, the scientific community, and the chemical industry, shall coordinate a study of the feasibility of establishing (1) a standard classification system for chemical compounds and related substances, and (2) a standard means for storing and for obtaining rapid access to information respecting such materials.

STATE REGULATIONS

Sec. 22. (a) Nothing in this Act shall affect the authority of any State or local government to regulate any chemical substance, or to establish and enforce standards for test protocols for chemical substances to protect health or the environment, except that—

(1) if the Administrator prescribes a rule under section 6 of this Act applicable to a chemical substance, a State or local government may not, after the effective date of such rule, establish or continue to enforce any restriction of its own applicable to such substance for purposes similar to such rule, other than a total ban on use or distribution; and

(2) if the Administrator prescribes a rule under section 4 of this Act applicable to a chemical substance, a State or local government may not after the effective date of such rule establish or continue to enforce any standards for test protocols applicable to such substance or class for purposes similar to those of a rule under section 4.

(b) The Administrator may by rule, upon the petittion of any State or local government or at his own initiative, exempt State and local governments from the prohibitions of subsection (a) of this section with respect to a chemical substance if such exemption will not, through difficulties in marketing, distribution, or other factors, result in placing an unreasonable burden upon commerce.

JUDICIAL REVIEW

Sec. 23. (a) Not later than sixty days following promulgation of a rule under sections 4, 5, and 6 of this Act, any person adversely affected by such rule, or any interested person, may file a petition with the United States Court of Appeals for the District of Columbia or for the circuit in which such person resides or has his principal place of business for judicial review of such rule. Copies of the petition shall be forthwith transmitted by the clerk of the court to the Administrator or other officer designated by him for that purpose and to the Attorney General. The Administrator shall transmit to the Attorney General, who shall file in the court, the record of the proceedings on which the Administrator based his rule as provided in section 2112 of title 28, United States Code, and shall include the transcript of any oral presentation of data, views, or arguments required under sections 4, 5, and 6.

(b) If the petitioner applies to the court for leave to adduce additional data, views, or arguments and shows to the satisfaction of the court that such additional data, views, or arguments are material and that there are reasonable grounds for the petitioner's failure to adduce such data, views, or arguments in the proceeding before the Administrator, the court may order the Administrator to provide additional opportunity for oral presentation of data, views, or arguments and for written submissions. The Administrator may modify its findings, or make new findings by reason of the additional data, views, or arguments so taken and shall file such modified or new findings, and its recommendation, if any, for the modification or setting aside of its original rule, with the return of such additional data, views, or arguments.

(c) Upon the filing of the petition under subsection (a) of this section, the court shall have jurisdiction to review the rule to which the petition relates in accordance with chapter 7 of title 5 of the United States Code and to grant appropriate relief, including interim relief, as provided in such chapter. Rules promulgated by the Administrator under section 4, 5, or 6 of this Act and reviewed under this section shall not be affirmed unless the findings required to be made under those sections are supported by substantial evidence on the record taken as a whole.

(d) The judgment of the court affirming or setting aside, in whole or in part, any rule promulgated by the Administrator which is reviewed in accordance with the terms of this section shall be final, subject to review by the Supreme Court of the United States upon certiorari or certified, as provided in section 1254 of title 28 of the United States Code.

(e) The remedies provided in this section shall be in addition to and not in lieu of any other remedies provided by law.

NATIONAL SECURITY WAIVER

Sec. 24. The Administrator may waive compliance with any provision of this Act upon request of the Secretary of Defense and upon a determination by the Administrator that the requested waiver is necessary in the interest of national security. The Administrator shall maintain a written record of the basis upon which such waiver was granted and make such record available for in camera examination when relevant in a judicial proceeding under this Act. Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for national security purposes, unless, upon the request of the Secretary of Defense, the Administrator determines to omit such publication because the publication itself would be contrary to the interests of national security.

AUTHORIZATION FOR APPROPRIATIONS

Sec. 25. (a) There is hereby authorized to be appropriated not to exceed $9,240,000, $11,100,000, and $10,100,000 for the fiscal years ending on June 30, 1974, June 30, 1975, and June 30, 1976, respectively, for the purposes and administration of this Act. No part of the funds so authorized to be appropriated shall be used to construct any research laboratories.

(b) To help defray the expenses of implementing the provisions of this Act, the Administrator may, by rule, require the payment of a reasonable fee from any person required to submit test data under sections 4 and 5 of this Act. Such rules shall not provide for any fee in excess of $2,500. In setting the amount of such a fee, the Administrator shall take into account the ability to pay of the person required to submit the data and the cost to the Administrator of reviewing such data. Such rules may provide for the sharing of the expense of such a fee in any case in which the expenses of testing are shared under section 4(d).

Mr. STAGGERS (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

AMENDMENT OFFERED BY MR. MOSS

Mr. MOSS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Moss: On page 94 after line 9 add a new Section 24 as follows and renumber all succeeding sections.

CITIZEN CIVIL ACTION

Sec. 29. (a) Except as provided in Subsection (b) of this section, any interested person may commence a civil action for injunctive relief on his own behalf—

(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any rule, order, or restriction prescribed under section 4, 5, or 6 of this Act, or

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary. Any action under paragraph (a)(1) of this subsection shall be brought in the district court for the district in which the alleged violation occurred. Any action brought under paragraph (a)(2) of this subsection shall be brought in the district court of the District of Columbia, or in the district court for the district in which the plaintiff is domiciled.

The district courts shall have jurisdiction over suits brought under this section, without regard to the amount in controversy or the citizenship of the parties.

(b) No civil action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to sixty days after the plaintiff has given notice of the violation (i) to the Administrator, and (ii) to any alleged violator of the rule, or (B) if the Administrator (or Attorney General on his behalf) has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with the rule, but if such action is commenced after the giving of notice any such person giving such notice may intervene as a matter of right in such action; or

(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice of such action to the Administrator, except that such action may be brought ten days after such notification in the case of an action under this section for the failure of the Administrator to act under section 6.

Notice under this subsection shall be given in such manner as the Administrator shall prescribe by rule.

(c) In any action under this section, the Administrator, if not a party, may intervene as a matter of right.

(d) The Court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award reasonable fees to for attorneys and expert witnesses to the prevailing party, whenever the court determines such an award is appropriate.

(d) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any rule or order to seek any other relief.

(f) For purposes of this section, the term "person" means an individual, corporation, partnership, or association, and (subject to subsection (a)(1)(B)) any State, municipality, or political subdivision of a State.

(g) When any actions brought under subsection (a)(1) of this section involving the same defendant and the same issues of violations are pending in two or more jurisdictions, such pending proceedings, upon application of the defendant reasonably made to the court of one such jurisdiction, may, if the court in its discretion so decides, be consolidated for trial by order of such court, and tried in (1) any district selected by the defendant where one of such proceedings is pending; or (2) a district agreed upon by stipulation between the parties. If no order for consolidation is so made within a reasonable time, the defendant may apply to the court of one such jurisdiction, and such court (after giving all parties reasonable notice and opportunity to be heard) may by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the applicant's principal place of business, in which all such pending proceedings shall be consolidated for trial and and tried. Such order of consolidation shall not apply so as to require the removal of any case the date for trial of which has been fixed. The court granting such order shall give prompt notification thereof to the other courts having jurisdiction of the cases covered thereby.

(h) This Section shall apply only with respect to civil actions filed more than two years after the date of re-enactment of this Act.

Mr. MOSS (during the reading). Mr. Chairman, I ask unanimous consent that the amendemnt be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. BROYHILL of North Carolina. Mr. Chairman, reserving the right to object, I should like to ask the gentleman from California, Is this exactly the same language that was in the bill when the bill was considered by the committee? Have there been any changes made?

Mr. MOSS. This is identical language, with the exception that it does not become operative until 2 years after the enactment of the legislation.

Mr. BROYHILL of North Carolina. I thank the gentleman.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MOSS. Mr. Chairman, I will not take the 5 minutes. I believe that this now reflects a clear consensus of the members of the committee that the reinsertion of the citizens' civil action provision will best serve the needs of the public and of the administrator in enforcing this act but we do permit a 2-year period of time for an orderly phasing-in and acquaintance with this by the industry.

I know of no oppostion and urge adoption of the amendment.

Mr. BROYHILL of North Carolina. Mr. Chairman, I rise in opposition to the amendment. I am concerned about putting this provision into this act at this time. This is new legislation, as stated by those of us who spoke on both sides during general debate. The purpose of this legislation is to fill the gaps in the legislation which is already on the books, but in filling those gaps it does give the Administrator new grants of authority. Most importantly, it gives and adds to the Administrator certain responsibilities for which the Administrator is going to have to assign considerable staff and is going to have to assign considerable financial resources. In other words he is going to have to take staff and financial resources and establish certain priorities.

If we have this citizen suit section in the bill at the outset of this new program I am concerned that any citizen, no matter how well meaning he may be, can completely tear apart any set of priorities the Administrator might have. The Administrator might have set a set of priorities which he feels is most important. He says, "let us get this accomplished first," and then some other priority would be second on the list, and something else would be third on the list. But some group could come in and through suits or harassment or otherwise in the courts completely tear apart any plan the Administrator might have for logically administering this law.

I would hope the Committee would turn down this amendment. Then let us consider this in 3 years and determine at that time whether or not the citizen suit section would be necessary. I am most concerned about it in the beginning of the program, that the Administrator have some flexibility in setting his priorities and not have them imposed upon him by some court decisions.

For these reasons, Mr. Chairman, I oppose the amendment.

Mr. MOSS. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL of North Carolina. I yield to the gentleman from California.

Mr. MOSS. Mr. Chairman, I stated that I knew of no opposition. It was my understanding following the discussions with the members of the committee that the amendment as modified and delayed for 2 years removed the opposition.

Mr. BROYHILL or North Carolina. Mr. Chairman, if the gentleman would permit me, I think perhaps other Members are in agreement but I am concerned about this, and that is the reason I still feel as I do.

Mr. MOSS. I had felt the gentleman's concern had been taken care of by the 2-year delay in the implementation of the provisions of the civil penalties section, and I pointed out that it was part of the original package requested by the administration and by the Administrator.

I wanted to point that out and I thank the gentleman from North Carolina for yielding to me to make that clarification.

Mr. DINGELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, in support of this amendment I wish to add my concurrence in the statement of Mr. Moss, the gentleman from California. In addition to reiterating my continued agreement with the statement of dissenting views in the Report of the Interstate and Foreign Commerce Committee on H.R. 5356, I wish to add the following remarks.

The Consumer Interests Foundation case study of the judicial impact of State environmental legislation—entitled: Do Citizen Suits Overburden Our Courts?—revealed that without exception citizen suits had not imposed a burden upon State judicial administration. Our own Federal experience under the Clean Air Act has indicated that citizen suits have not overburdened the Federal judiciary.

Opponents of this amendment may ask—why therefore include a citizen's suit provision if the provision will not be utilized? Opponents will conclude—if the provision is utilized to provide the utmost benefit it is only logical to assume that an overburdening of the judiciary is not overburdened because relatively few suits are brought under the provision, it is not likely to be a significant enforcement device and its omission is therefore of little consequence.

I dispute the first conclusion because experience has proven that citizen suits do not overburden the judiciary. I dispute the alternative conclusion because the enforcement utility of this provision does not require initiation of thousands of citizens' suits. The strength of the provisions lies in its in terrorem effect. Both industry and administrative agencies must take cognizance of the likelihood of such lawsuits and their attendant publicly in adopting a course of action. Often a single lawsuit can and does affect industry or agency behavior in a wide range of related matters.

The citizen suit provision which this amendment would restore hopes to effect compliance with the act through its mere existence, not necessarily through its repeated utilization. The limited scope of the provision, as demonstrated by, for examples, its restriction to injunctive relief and its notice requirements, clearly indicates the prophylactic purpose of the Amendment.

If I may be permitted an analogy, under this citizen suit provision consumer and environmental groups can and will remain effective watchdogs over industrial and administrative agency action, but they need not bite to protect the public interest—the "beware of dog" warning set forth in this amendment should suffice.

Mr. Chairman, I urge adoption of this amendment.

Mr. YOUNG of Illinois. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Illinois.

Mr. YOUNG of Illinois. Mr. Chairman, I would like to state I have conversed with the gentleman from Michigan (Mr. Dingell) and other Representatives on the other side of the aisle with respect to this proposed amendment.

I, of course, was one of those persons who proposed deletion of the citizens' civil action suits in the committee. As far as I am concerned it is true that the change which has been made in the citizens' civil action suits, by delaying the effective date of that section for 2 years after the enactment of this bill, is satisfactory because my main and principal objection was the problem the EPA would have in trying to develop the test protocol rules and to develop the administrative machinery to properly administer this act.

I felt that they should have at least a 2-year respite before they would have to be defending citizens' suits. For that reason, I am satisfied with the proposed amendment. I believe my colleague from Nebraska (Mr. McCollister) shares that feeling. I do intend to support the amendment.

Mr. DINGELL. Mr. Chairman, I thank the gentleman. I know that this amendment is offered on behalf of several Members, including my colleague from Texas (Mr. Eckhardt).

Mr. ECKHARDT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we have a letter dated July 11, 1973, from Mr. David D. Dominick, assistant administrator of the Environmental Protection Agency, which I think very conclusively refutes the contention that the citizens' suits would delay action here. However, in discussion with members of the minority on the subcommittee, we felt it unnecessary to put this citizens' suit matter into effect before 2 years, which seems to me is very reasonable restraint on the part of all members of the subcommittee who discussed this question together.

However, I do think it is worthwhile to point out that Mr. Dominick, with the vast experience that he has under the Clean Air Act containing the same citizens' suit language, or very similar language, has said:

> The citizens' civil action provisions of these statutes have not created a situation where suits have been either ill-founded or in such numbers as to be unmanageable.

Mr. Chairman, I assume this is the reason why the administration recommended the language in the beginning, but out of an abundance of caution and with the discussion we have had with both Mr. McCollister and Mr. Young, we on the majority side of the subcommittee thought it would serve no good purpose to put this into effect immediately. Therefore, the amendment which Mr. Moss has offered, which we think is generally in accord with our discussions and we understand is acceptable to Mr. Young, we have made this language quite reserved, and we hope that it can be supported by the body.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Moss).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GOLDWATER

Mr. GOLDWATER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Goldwater: Page 74 line 9 insert the following subsection: (e) The Administrator shall include with every action proposed to be taken under this Act a detailed statement on (1) the economic impact of such proposed actions, including, but not limited to, consideration of the effects on particular business enterprises and labor forces, the effect upon industries using or manufacturing the subject substances, and the effect upon the national economy; (2) any adverse economic effects which cannot be avoided should the proposed action be implemented; (3) alternatives to the proposed action; and (4) the relationship between local economic impacts and national or sub-national economic objectives.

Mr. GOLDWATER. Mr. Chairman, my purpose today is to offer an amendment to the Toxic Substances Control Act of 1973 which would make absolutely clear the intent of Congress that the Environmental Protection Agency, in promulgating regulations under this act, must not merely "consider" the economic implications of its proposals, but must prepare an economic impact statement.

It is not the purpose of this amendment to impede the Administrator in the exercise of his discretion but rather to effect the exercise of that discretion by requiring an economic focus of the same definition and probity as his historic environmental focus.

The concept of this amendment is not sui generis there is language in the very bill which suggests congressional interest in the consideration of economic impacts. In fact, some of that language is present because the committee saw fit to adopt one of my amendments. In each instance, however, the language is not directive.

In section 2(b)(3) it states:

> It is the policy of the United States that authority . . . should be exercised in such a manner as not to unduly impede technological innovation.

It goes on to say:

> While . . . assur(ing) that such innovation and commerce . . . do not pose an unreasonable risk to health and environment.

That does not require much of the Administrator.

Section 2(c) expresses the "intent of Congress that the Administrator shall consider the economic impact of any action he proposes to take under this act." That language gets closer, but it is not directive, and it does not require a record of the Administrator's consideration of economic impact.

Section 5(b)(1)(C) says "the Administrator shall consider" among other things in requiring premarket screening, "any benefit of the chemical substance." Again, this language does not require a record of that consideration.

And finally, section 6(c)(3) states that "In issuing rules" regulating hazardous substances, "the Administrator shall consider the benefits of the substance." Once again, no record is required.

I think this language measures the "sense" of the Congress, but fails to give sufficient definition to the "intent" of the Congress. It is the purpose of my amendment to correct that semantic deficiency.

The importance of sharpening the expression of congressional intent is clarified by several historic facts. The former Administrator of the Environmental Protection Agency, Mr. Ruckelshaus, ruled out consideration of economic impacts. He stated that EPA "has no obligation to promote commerce, only the critical obligation to protect and enhance the environment." One should hardly expect EPA to "promote commerce" but that is quite different from disregarding economic impacts.

The National Environmental Policy Act requires environmental impact statements for major Federal actions and Congress has time and again emphasized that these statements must include consideration of economic impacts. To little avail, I might add.

This was clearly stated, however, in the Conference Report on Agricultural-Environmental and Consumer Affairs Appropriations for fiscal year 1972. It was restated in debate on the Federal Water Pollution Control Act Amendments of 1972.

And it was stated again in the House report on EPA appropriations for fiscal year 1974 where notice was made of EPA's inadequate review of the effects of its regulations.

This is not merely a tale of an agency disregarding the law, and we are all familiar with that, but it is not certain that EPA must comply with the requirements of NEPA. The precise question has not yet been adjudicated, but there are conflicting decisions involving this issue.

Against the background of congressional intent and the history of agency disregard for that intent, I believe that Congress must clearly and unequivocably provide that EPA must prepare environmental-economic impact statements in connection with its administration of H.R. 5356.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, is the gentleman asking that we have a statement made by the Administrator before he has an opportunity to hear the objections to the rule?

As I read the amendment, it says that the Administrator shall include with every action proposed to be taken the statement of how the rule would affect individual businesses.

Now, does the gentleman realize that in this act this subcommittee went farther than in any other previous act in this regard?

The CHAIRMAN. The time of the gentleman from California (Mr. Goldwater) has expired.

(On request of Mr. Eckhardt and by unanimous consent, Mr. Goldwater was allowed to proceed for 1 additional minute.)

Mr. ECKHARDT. Mr. Chairman, does the gentleman realize that in this bill we have even given those who are affected by the act the right of cross-examination under certain restrictions?

Now, how would the Administrator know how it affects each individual business at the time he promulgates the rule? It seems to me he would have to await the testimony of the businesses themselves before he would know how to answer this question.

It says here:

> The Administrator shall include with every action proposed to be taken.

That would be his promulgation, his original notice of an intent to promulgate a rule. It would make this a prerequisite to his requirement of reports; it would require him to give all of this information with respect to each of the specific things the Administrator does before the Administrator has an opportunity to hear what objections may be made by industry.

Mr. Chairman, does the gentleman have an answer to that proposition?

Mr. GOLDWATER. Mr. Chairman, I believe the amendment is fairly self-explanatory, and, of course, that would basically be the answer.

Mr. STAGGERS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I rise to oppose the amendment reluctantly, because I know the gentleman from California (Mr. Goldwater) is a very valuable and concerned Member of the Committee, and is doing what he believes is right. But I might say that the concern raised by the gentleman from California is already met by language which appears on page 49 put in the bill, and it arises out of an amendment of his which was offered and accepted in the full committee:

The amendment reads as follows:

> It is the intent of Congress that the Administrator shall carry out this Act in a reasonable and prudent manner, and that he

shall consider the economic and social impact of any action he proposes to take under this Act.

As the gentleman from Texas has said, the language of the amendment offered by the gentleman from California (Mr. GOLDWATER) says the administrator shall include with every action proposed to be taken under this act a detailed statement. It goes into four different things. We have over 800 manufacturers of synthetic organic materials in America and over 605 manufacturers of inorganic materials, which would make over 1,405 impact statements that he would have to get out and study each one of them and send men out into the field to study. We would have to take an army or more than an army to go into the field and find out the impact on each firm so that he can make the report called for by the gentleman's amendment.

When the gentleman put his amendment into the bill during the committee's deliberation he did a good job. I think it is full and wise, but enough to say, as the bill presently does that:

> (c) It is the intent of Congress that the Administrator shall carry out this Act in a reasonable and prudent manner, and that he shall consider the economic and social impact of any action he proposes to take under this Act.

For that reason I oppose the amendment. I reluctantly oppose the amendment because I think it would impose a terrific hardship on the administrator and the American people, for that matter.

Mr. WHITTEN. Mr. Chairman, I rise in support of the amendment.

(By unanimous consent, Mr. WHITTEN was allowed to proceed for 5 additional minutes.)

Mr. WHITTEN. Mr. Chairman, I move to strike the requisite number of words. As you know, I have been chairman of the subcommittee of the Committee on Appropriations that has been hearing the appropriations requests for the Environmental Protection Agency for 3 or 4 years or since its organization. I recognize the need to protect and improve the environment, but we need to be practical to get maximum results.

Each year we have brought out a bill providing funds and personnel for EPA, beyond the amounts and the number, permitted for agency use, by the Office of Management. I believe we have provided a good bill, and an excellent report which really is a plea for commonsense, for balance.

I hope I may have the attention of my friend from West Virginia.

Congress has not passed a bill on the total environment. We have passed bills which became law, the major ones being; the Clean Air Act, Federal Water Pollution Control Act, Solid Waste Disposal Act, Federal Environmental Pesticide Control Act of 1972, Noise Control Act of 1972, and the Marine Protection, Research, Sanctuaries Act of 1972, and the list goes on almost ad infinitum.

Director Ruckelshaus of EPA told our committee that the cost under present law would be $287 billion over the next decade to clean up the environment if we could do it at all.

Now, many of the environment acts Congress has enacted, are dependent upon future discoveries and inventions. There are persons within the sound of my voice who are very proud of having gotten rid of DDT. It has been prohibited by order of the EPA Administrator with the exception of very minor uses. Yet over a period of 35 years it has never been known to do injury to a human being when properly used. It has saved millions of human lives, millions of illnesses and billions of board feet of timber, and tons and tons of wood products. Still Mr. Ruckelshaus stopped the use of DDT, leaving the public dependent upon dangerous and expensive, "approved" substitutes. He issued numerous pages of warnings in the Federal Register on the dangers of these substitute materials which they have allowed us to use, to the point where you cannot go into the field in most cases where such substitutes have been used for days after their application.

Not only that, but the EPA Administrator is running a school to teach employees and users the dangers of those substitutes he is requiring us to use because he has ruled out DDT. May I say that when Mr. Ruckelshaus did rule out DDT, he took such action in the face of the findings of the hearing examiner and in my opinion, contrary to the evidence before him.

Let me ask you this: Some of you are lawyers and others are not. Do you mean to tell me that this bill, as you have written it, tells the Administrator of EPA that he can go in and do anything and we will find out how much damage has been done after the fact?

Mr. ECKHARDT. Will the gentleman yield on that question?

Mr. WHITTEN. May I finish first?

May I say that the amendment here says, the EPA Administrator, before he acts, shall find out what the consequences of his action may be. It is a very common everyday rule in court that you cannot go on a fishing expedition and charge somebody and then have them bring in all of their books and see whether you had any occasion to charge them or not.

Mr. ECKHARDT. Will the gentleman yield?

Mr. WHITTEN. I will yield to the gentleman. He is a very excellent lawyer. Let me finish first.

But to turn loose the EPA Administrator—and so help me goodness, I feel sorry for him—and may I say there is little or no coordination between the regional agencies and the EPA Administrator in Washington.

Here is what we are doing, through the CEQ they are setting up rules and regulations, and through the EPA they are issuing orders. They are closing and running out, the Virginia town of Saltville, and did not know what was going to happen until it had happened. Here we are asking in this amendment, Mr. Administrator, before you can authorize people to do everything under the sun that you tell them to do, or before you go into court, have a case. Let us let you look into this matter before you upset the applecart. I do not know that you could do anything better than to read to the Members all the original acts on this subject. It would take a week. We have lots of fine people here, but this environmental activity today has kind of gotten like God, motherhood, and home, if there is a proper title to it, and this makes it mighty hard to vote against it. But if we study how this works we will find out that the public works projects in this country are being delayed from 9 months to a year, with increased damage to the environment while they try to get together.

The head of the Council on Environmental Quality hired Arthur D. Little, Inc., to make a study, and promised them a great deal of money to make a study as to what he should do. And I told the Director who I read is going to be the EPA Administrator, I said, "What do they know about it?" He said, "They will get some people." He said, "They are the biggest engineering firm of its kind in the country."

I said, "I practiced law before coming here. Arthur D. Little, Inc. is big because it renders service and the service is to bring in what is desired. The company will bring in a report like you want. That is the reason they are big."

He said, "Well, I am going to let them be objective."

Mr. Chairman, the report was unsatisfactory to the Administrator. He had it reviewed. When it came back, it did suit him for it had been changed.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. WHITTEN. Mr. Chairman, I ask unanimous consent that I may proceed for an additional 2 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

Mr. DINGELL. Mr. Chairman, reserving the right to object, and I certainly will not object, I hope that my friend, the gentleman from Mississippi will yield to me if he secures this additional time.

Mr. WHITTEN. I certainly will if I can get the time.

Mr. DINGELL. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Let me finish my statement answered before in brief and then I will yield.

When Arthur D. Little brought in the original report it had two sections that did not and does not suit the Administrator. They were then sent out for review, and lo and behold, the final report shows those sections eliminated from the final report.

Subsequently, I said to the Administrator, "Surely you are for those two sections." And he said, "No, I am against them."

All I am saying, my friends, is that the Environmental Protection Act as it states, was set up to "stimulate the health and welfare of man." And I say to the Members that we should have no dictator, but if we do, we should require that he know the likely results of what he does. I say that the Director of the Environment Protection Agency should be required to know that there is ground for filing any action before he files or directs it, as well as the effect of his actions.

Now, I will yield. I believe that I promised to yield to the gentleman from Texas (Mr. ECKHARDT) first.

Mr. ECKHARDT. Mr. Chairman, I would like to state to my distinguished colleague, the gentleman from Mississippi (Mr. WHITTEN) that the only way this body acts is after a rule has been made, as is provided in section 6 of the act.

Mr. WHITTEN. But who makes the rule, I would ask my colleague, the gentleman from Texas?

Mr. ECKHARDT. The EPA makes the rule.

Mr. WHITTEN. That is right, and if they can make that rule——

Mr. ECKHARDT. Mr. Chairman, will the gentleman from Mississippi permit me to complete my explanation? The gentleman, I believe, asked a question of me, I thought.

Mr. WHITTEN. That is right.

Mr. ECKHARDT. There is no way that this agency can act until some manner of rule is made after the most complete hearing that is provided in any administrative act before the Congress, as my colleagues on the other side of the aisle, I am sure, will agree with me, or, in the case of imminent hazards, where the Administrator can go forward and show the reason in court. That is not some action that is taken previous to full consideration of economic impact.

The CHAIRMAN. The time of the gentleman has again expired.

(By unanimous consent, Mr. WHITTEN was allowed to proceed for 1 additional minute.)

Mr. WHITTEN. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I wonder if the gentleman from Mississippi would comment on this: I am one of the authors, as the gentleman well knows, of the National Environmental Policy Act, and I think this amendment would substantially amount to carrying forward the requirements of that, and I wonder if the gentleman from Mississippi is aware, first of all, that the National Environmental Policy Act requires a study of the things that we are discussing here where there is a major Federal action which has significant impact on the environment. Parenthetically that it would apply to actions in air pollution or would apply to actions of the EPA to the requirements of this bill.

As the gentleman well knows, it also would apply to many EPA actions with regard to those permitted under the Water Pollution Act. So the gentleman is effectively seeking to, but not succeeding in, implementing many actions that would be required by that particular section of the National Environmental Policy Act.

Mr. WHITTEN. I have long advocated protection and development of our environment. I believe I have worked toward that end effectively. What disturbs me and my thoughts which are supported in our hearings is the fact that we have granted so much authority, so much responsibility to the Environmental Protection Agency that no director and no agency can effectively operate an industry including agriculture can no longer afford the investment to meet consumer needs. We can no longer be sure of meeting consumer needs much less meet our foreign market demands so essential to restoring the value of our money. This bill would simply throw another wrench in the machinery.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. DINGELL, and by unanimous consent, Mr. WHITTEN was allowed to proceed for 2 additional minutes.)

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Michigan.

Mr. DINGELL. As the gentleman from Mississippi recalls, I directed a question to him to which I should like to have a response. I pointed out that NEPA does require consideration of the economic impact of the acts of the Administrator.

Mr. WHITTEN. Yes, in regard to that, but he has refused to perform. Under the NEPA statement he has not.

Mr. DINGELL. Regarding any instances that the gentleman from Mississippi has where EPA has failed to comply with NEPA and considered the economic impacts under the law, I would say to the gentleman, bring it to my attention and I will see to it that NEPA does consider the economic impact.

Mr. WHITTEN. I will be glad to do so.

Mr. DINGELL. I would ask the gentleman for specifics, because I feel very strongly this should be done.

Mr. WHITTEN. I think if we would check the number of actions he has taken and match it against the number of times he might have filed an environmental impact statement, and if it totaled as much as 1 percent, I would be surprised.

The gentleman from Michigan, I think, and I want to get the maximum results, but in order to get them, we have to be very, very careful that we do not set up a dictatorship in our own country, who, in carrying out well meaning laws of Congress, destroys our economy, injures our health, limits our production, thereby cutting our necessary exports and leaving all of us hungry.

Mr. COLLINS of Texas. Mr. Chairman, I support the Goldwater amendment and I am also completely in agreement with the commonsense statements made by Mr. WHITTEN, the distinguished gentleman from Mississippi. Previously we had heard the statement made that there will be extensive hearings available. What this amendment tries to do is to simplify the hearing procedures. In fact, in our committee discussions it was pointed out that it is completely possible to spend $400,000 in getting one single chemical substance approved. What we are trying to do here is to clearly define procedures and to set up definitive action versus this wide discretion, so that EPA can simplify the procedures.

The Chemical Service Registry number system has registered nearly 2 million chemical compounds. Just imagine that, and we are adding 250,000 chemicals each year to the list.

I am also interested in the present Federal laws on this subject that we already have on the books. The Members will be interested in how many of them there are. We have laws now that are able to regulate chemical substances in every way. For instance, we have the very comprehensive Federal Food and Cosmetic Act, the Poultry Inspection Act, the Federal Meat Inspection Act, the Egg Products Inspection Act, the Federal Insecticide, Fungicide, and Rodenticide Act, the Atomic Energy Act, the Clean Air Act, the Federal Water Pollution Act, the Federal Hazardous Substance Act, the Occupational Safety and Health Act, and the Consumer Product Safety Act. We have adequate laws on the books right now.

I am quite frank to state I do not completely understand this bill. Of the 435 Members of Congress, I feel sure that there are very few in our body who are complete authorities on this proposed bill.

We saw in the 1971 report of the Council of Environmental Quality that everything—everything—in our environment is composed of chemical substances. For that reason the definition of chemicals has been cast in very broad terms, so we are providing very wide powers on a broad subject where the utmost complications are apt to develop.

When I was back in Texas recently I was talking to a small group out in Irving, Tex. One of the leading citizens who is noted for his commonsense said:

> I think Congress is going to perform the greatest service to this country when they take a recess for the month of August.

There is much logic in this. I am not sure but what the moratorium is the greatest thing we are going to do all year.

He added that Congressmen today judge their ability on how many new laws they can put on the books. But as he was a small businessman, he would be better off if we would stop passing laws and give him a rest.

I believe people in this country are beginning to tire of the mountains of legislation and paperwork requirements we are turning out in Washington.

Right now we have so many functions assigned to the Environmental Protection Agency that if they were operating on a 60-hour-a-day basis they could not keep up with all their responsibilities. Our desire in Congress is to protect the health and the environment, and we in turn are delegating authority to a single officer of the Government granting him power to prohibit manufacture and to prohibit distribution and to limit amounts. This one man has unlimited powers in what we are providing in this act.

One of the greatest statements in our Nation's history was made by David Crockett, our great Texas hero, when he said:

> Be sure you are right and then go ahead.

I think we would do well this hot July day to review the matter as to what is right. This bill needs further study, it needs more research and more testing. For the good of America we will be doing a very real favor to the folks at home that make up our average citizen. I am talking about the friendly, solid towns like Richardson and Irving and Farmers Branch and Carrollton. You have great communities like these towns back in your district. Folks at home are saying they would rather spend more time on their own business and not so much time on all this redtape we keep manufacturing in Congress.

Mr. MOSS. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, it is unfortunate that all the Members do not have before them this amendment, because if they want to strangle people and if they want to have costly Government and if they want to impose impossible obligations, then they should adopt the amendment, because before a rule can be proposed, promulgated for consideration, promulgated as the basis for hearings, the Administrator would be faced with including with the announcement of the intention to promulgate, the economic impact of such proposed actions including but not limited to consideration of the economic impact of such proposed actions, effects on particular business enterprises and labor forces, the effect upon industries using or manufacturing the subject substances, and the effect upon the national economy, any adverse economic effects which cannot be avoided should the proposed action be implemented, alternatives to the proposed action, and the relationship between local economic impacts and national or subnational economic objectives—whatever that language means, and I think it defies interpretation.

Mr. Chairman, this is before a rule can be proposed. It is also before a study can be proposed. It is also before a test protocol can be proposed. In other words, before the Administrator can take any action to inform himself, he must go through this entire panoply of burdensome requirements which he could not possibly undertake and in good faith meet the objective of the amendment.

This is a strangulation by amendment. I have no doubt that I would have the administration's position here had I the slightest idea in advance that such a broad, far-reaching amendment was to be proposed. I was not accorded, as the subcommittee chairman, the courtesy of a copy of the amendment until just before it was introduced here on this floor.

I thought that we had taken care of the objections of my distinguished colleague from California. I thought that the language I agreed to and accepted in the subcommittee and included on page 49 of this bill met the desire that there not be a headlong rush into any action.

As the distinguished gentleman from Texas (Mr. ECKHARDT) has pointed out, rarely if ever have we seen an administrative process which guarantees such full and complete due process as is proposed in this legislation. This is not something that was lightly, carelessly and thoughtlessly drafted. It is one upon which the committee worked in good faith for a long time.

I might state for the record, because I think it should reflect the fact that this is a committee and a subcommittee that does work closely together in an effort to resolve those problems which all of us are concerned with, certainly we are concerned with the arbitrariness of agencies, and certainly we are concerned with the imposition of burdens upon our industries and upon our fellow citizens.

However, the burden contained in this amendment—and I cannot too strongly underscore it—is of the most onerous type that we could possibly conceive. It imposes impossible, unfeasible, uneconomic and unreasonable requirements upon the agency.

Mr. Chairman, I strongly urge that the amendment be defeated.

Mr. BROYHILL of North Carolina. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I realize the concern that the gentleman from California has with the force and effect of this bill, but I want to assure him that the committee has gone to great lengths in drawing up the rulemaking authority that is contained in this bill to carefully give rights to all interested parties to be heard on the record, and of course the economic interests are going to be heard at that time.

The rulemaking authority that is granted in this bill is specifically tailormade in order to take care of many of the concerns that have been expressed by the gentleman from California. The rulemaking authority here goes far beyond the normal rulemaking authority that we find in the Administrative Procedures Act. It gives protection to those that are in the business of manufacturing and distributing these chemical substances that may be harmful or pose a risk to the environment or to the health, to put their concerns on the record and to have an adequate review.

Those of us who are familiar with the Administrative Procedures Act are familiar with the fact that in many cases, unless we write into the legislation otherwise, that the rule will be upheld unless it is found that the action is arbitrary and capricious. If the members will turn to section 23 of this bill, they will see that we went much further than that. We say that the rule will be upheld if it is found that the evidence is substantial on the record. That is a far greater burden on the Administrator to put that sort of language in the basic law.

Then, I think the members should turn to section 9, which is concerned with the relationship to other laws. This legislation is designed to fill the gap. The Administrator is not going to be able to use this act before he does any other act that is on the books. He first has to use the other acts that have been written in this Congress before he can use this act.

We should look at what the real effect of this amendment will be. What if there is an imminent hazard which poses a substantial risk to health or the environment. What if someone is dumping dangerous chemical substances into a stream, or is about to put a product on the market which very clearly poses a substantial risk to health or the environment? Are we going to say that the Administrator has to come forward with an economic impact statement in cases like that? Certainly we know there is going to be an economic impact, but this amendment will be putting such a burden on the Administrator that he will not be able to act at all.

I believe it has been correctly pointed out here what the effect of the amendment will be, if it is put into the bill, as offered by the gentleman from California.

Section 2 of the bill, as agreed to in the full committee, is meaningful. It is not only meaningful for what the words say, but also in respect to some recent court decisions on policy statements included in acts like this. These policy statements do have great effect. Members will find a recent court decision concerning the Clean Air Act where the policy statement was given some great meaning in the decision.

I believe that the amendment which was adopted by the committee in section 2 of the bill does have great meaning, that the Administrator is not going to be acting arbitrarily or capriciously. He is going to be considering all sides and at the same time taking action he needs to take to get at the problems which do exist.

Mr. HEINZ. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL of North Carolina. I yield to the gentleman from Pennsylvania.

Mr. HEINZ. I should like to associate myself with the comments of the gentleman, and further I should like to point out that this is the second time the Toxic Substances Control Act has come before the Congress, that is, once this year and once last year.

As the gentleman clearly points out, in the bill before us, as considered in the full committee, this amendment was not discussed. I believe the gentleman has made a persuasive case for rejection of the amendment.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL of North Carolina. I yield to the gentleman from Mississippi.

Mr. WHITTEN. I have the highest regard for the gentleman, but I would point out that if he will check the number of acts we have passed through the Congress to give authority to the EPA, the Administrator could stop any of these substances from ever being put together, to go into commerce. I cannot conceive of any place where he does not have the authority now.

Mr. BROYHILL of North Carolina. If the gentleman will look at section 9 of this bill he will see that this is a fill-the-gap type of legislation and does not take precedence over other acts, particularly those administered by the Department of Agriculture.

Mr. WHITTEN. The point is that I do not believe any place has been overlooked. I believe we have duplicated most restrictions five or six times.

Mr. HUNT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, this amendment to require an economic impact statement as a part of environmental decisions specifically under the Toxic Substances Control Act is an important addition to the law. Although it cannot be said that the subject of economics has been entirely written out of environmental statutes, the language of sections 101 and 102(b) of the National Environmental Policy Act is not categorically directive on the one hand and it is not categorically applicable to the Environmental Protection Agency on the other hand.

It is obvious that affirmative action on this amendment is necessary to cure those defects and give effect to the apparent intent of the Congress as expressed in the original statute.

EPA has rejected the applicability of NEPA except where it has been to its advantage. This bureaucratic legerdemain has effected the disappearance of intelligent, rational inclusion of economic impacts in the weighing of environmental decisions.

I think it is high time we set straight the record and the Agency on the matter of congressional intent.

A vote for this amendment is a vote for restoring the power and dignity of the Congress. It is our job to insist upon proper consideration of all relevant factors by agencies with which we share our regulatory powers.

We live in a measurably and necessarily economic world; to ignore the consequences of our actions and the actions of our bureaucratic surrogates on the economy would not reflect the commitment which we as representatives of the people must have for their welfare.

This proposal will not depreciate the effort to improve our natural environment, but it will require that effort to be harmonized with our economic environment.

I urge your support of this amendment.

Mr. DINGELL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the amendment, I have no doubt, is well intended, and I am sure the gentleman who offers this amendment is entirely sincere in his offering of the amendment.

The point of the matter is, however, that the amendment was not considered by the committee. There have been no hearings held upon the amendment. The views of the appropriate committees and the views of the appropriate governmental agencies have not been solicited. There is no record for the interpretation of the amendment, and no one, I would venture to say, including the distinguished gentleman from California who offers this amendment, knows precisely what it does.

For the House to adopt an amendment of that kind at this time, I believe, would be extremely unwise. This body should know what it is doing when it is operating in this delicate area of the environment and economics.

I am sure the gentleman from California has sought to have the balance set forth both with respect to the environment and with respect to economics. But I am not satisfied that the gentleman has accomplished that goal, and I am not satisfied that any Member here in this chamber, including the author of that amendment, knows precisely how this amendment or its language would affect, for example, the National Environmental Policy Act, as well as the statutes under which EPA acts for protection of the environment. And I am not satisfied that any Member here understands the complex interaction of all of the circumstances and all of these different statutes. So, Mr. Chairman, I believe that this amendment should be deferred to a later time, and I am sure the gentleman from California (Mr. Moss), who is chairman of the subcommittee, would be more than pleased to consider this amendment at the appropriate time if it were to be offered as a separate piece of legislation and were referred to his subcommittee. I am equally satisfied that the chairman of the Committee on Interstate and Foreign Commerce, the gentleman from West Virginia (Mr. STAGGERS), would consider this amendment as a separate piece of legislation, if separately offered after the appropriate departmental reports had been secured.

Certainly, speaking as the chairman of the subcommittee which has jurisdiction over the National Environmental Policy Act, I would consider an amendment of this kind if it were to be offered as an appropriate separate piece of legislation.

Mr. Chairman, I will point out to my colleague, the gentleman from California, and to my other colleagues present that this piece of legislation has been considered at other times on the floor and has been rejected. It has been offered and it has not been adopted. I will point out that no Member of this Congress should have any doubt that the National Environmental Policy Act requires a clear consideration of the economic impacts and the social impacts of matters related to actions to be taken. I speak unequivocally as the author of that legislation in this House, pointing out the requirement of the National Environmental Policy Act as to matters of that kind be considered.

Mr. Chairman, I will point out as chairman of the subcommittee that considers these matters that if any Member has any questions as to whether or not the requirements of the National Environmental Policy Act relating to social and economic questions are being sufficiently considered, that Member should feel free to bring them to me, and I shall see to it that those matters are gone into by my subcommittee and by EPA.

But I will point out to my colleagues that I know of no instance in which any Member of this body or any other person has brought that question to my subcommittee.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from California. I thank the gentleman for yielding.

Mr. ROUSSELOT. The gentleman indicates there are very few other instances where this kind of economic impact ruling is required either of a governmental agency or others.

Mr. DINGELL. No. That is not what I have said. I said the National Environmental Policy Act now requires there be consideration of economic and social impacts of major actions affecting the environment.

Mr. ROUSSELOT. But not to the depths required in this amendment.

Mr. DINGELL. On the contrary, in great depth and at least the depths required here.

Mr. ROUSSELOT. We make this kind of economic impact requirement now by both Federal and State law. Economic impact studies are required in the field of real estate, and in the use of Federal funds for hospital placements. There are many ways in which administrators of present laws are required to seriously consider the economic impact on given actions of Federal agencies.

Mr. DINGELL. That is right.

Mr. ROUSSELOT. And I do not think it is an unwise practice from now on to require this, especially in the field of environment, when we are talking about the long range impact on labor forces and business enterprises.

Mr. DINGELL. I would like to ask the gentleman if he can make an unequivocal statement that he understands all of the ramifications of this particular amendment.

Mr. ROUSSELOT. I think I do.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. DINGELL was allowed to proceed for 2 additional minutes.)

Mr. ROUSSELOT. If the gentleman will yield further, I have read this very carefully, and I believe the language is clear, concise, and to the point.

Mr. DINGELL. The gentleman believes, but can he make that categorical statement?

Mr. ROUSSELOT. I believe it is carefully enough drawn so that the Administrator, who has the responsibility already under the NEPA that you have already described, would already be familiar with the very language the gentleman describes. I do not think it is so sophisticated or unclear that it cannot be clearly arrived at with regard to a decision prior to the time the decisions are made.

Mr. DINGELL. I have yielded to my friend from California. I want to know does he know all of the statutes that the amendment would amend either directly or by implicaton?

Mr. ROUSSELOT. I am sure I could not recount all of them, but I consider the principles and concepts of the amendment to be sound.

Mr. DINGELL. You see, I work daily with this legislation and I must confess to the gentleman I am not able to tell him all of the ramifications of the amendment, either. It may be a very good amendment. It may not. We have a law on the books which does require consideration of the economic and social impacts in the decisions. I am not able to tell him how it will interact.

Mr. KAZEN. Will the gentleman yield?

Mr. DINGELL. I yield to the gentleman.

Mr. KAZEN. That is the thing that disturbs me. You say, we have it in the act now.

Mr. DINGELL. That is right.

Mr. KAZEN. And all over this country they are holding hearings now in all the metropolitan areas where they are being shown what the economic impact on those cities is, and they in EPA have completely ignored that testimony.

Mr. DINGELL. Let me tell my friend from Texas that if he has any complaints with regard to that matter and will bring them to my attention as chairman of the subcommittee having jurisdiction over the NEPA, I will be more than pleased to go into it, and if the gentleman will offer legislation of that kind drafted in that way that comes to my committee, I will be glad to give him a hearing on it.

What I am saying is this legislation is very complex. The amendment is most complex. No hearings have been held on it. If this body wants to legislate wisely, prudently, and well, let us reject the amendment and let us hold hearings on something of this kind and then let us go forward and bring legislation to the floor on it.

Mr. McCOLLISTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would, had I received a different recommendation from the parliamentarian at this time, have offered an amendment in the way of a substitute for that amendment offered by the gentleman from California (Mr. GOLDWATER) but I am advised that the substitute would not be in order because it would pertain to a different section.

If this amendment is defeated—and I shall vote against it—then I shall offer an amendment which will pertain to section 6 dealing with the rulemaking powers of the EPA and limiting the effects of the amendment to section 6.

As others have said, this is a very complicated, intricate, and sophisticated piece of legislation. I am inclined to agree with the gentleman from California, the subcommittee chairman, and the ranking minority member, the gentleman from North Carolina, that because of the complications of the bill the amendment proposed by the gentleman from California would be far-reaching. I think the effects of it would be unpredictable.

If the amendment is defeated I would at that time offer an amendment to section 6 which I think will accomplish what the gentleman from California (Mr. GOLDWATER) wishes to accomplish.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. McCOLLISTER. I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Chairman, I thank the gentleman for yielding. I might state that while I am the author of the amendment I have no pride of authorship in the amendment. I think we all understand the intent and purpose of my amendment, and that legitimate questions may have been raised by the gentleman from Texas (Mr. ECKHARDT) and my colleague, the gentleman from California (Mr. MOSS). I intend to support my amendment and may I point out that my amendment is necessary because too often in the past we have only implied the intent of the Congress, and never before have we stood on our feet and spelled out precisely the actions administrators should take in regard to these very far-reaching regulations and the economic impact these actions have on our economy.

We live necessarily in an economic world, and we must relate to it, and we must deal with it realistically and in a definitive manner.

So, Mr. Chairman, I will support the proposed amendment to be offered by the gentleman from Nebraska (Mr. McCOLLISTER) if in fact my amendment is defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. GOLDWATER).

The amendment was rejected.

AMENDMENT OFFERED BY MR. M'COLLISTER

Mr. McCOLLISTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCOLLISTER: Page 68, line 3, add a subsection "(g)" to read as follows:

"The Administrator, at the time he promulgates any final rule, shall include a detailed statement on (1) the economic impact of such action, including, but not limited to consideration of the effects on particular business enterprises and labor forces, the effect upon industries using or manufacturing the subject substances, and the effect upon the national economy; (2) any adverse economic effects which cannot be avoided should the proposed action be implemented; (3) alternatives to the proposed action; and (4) the relationship between local economic impacts and national or subnational economic objectives."

Mr. McCOLLISTER. Mr. Chairman, the amendment applies to section 6 only, and is a new paragraph (g). The former amendment, just defeated, pertained to all the other sections including the important section 4 on test protocol, section 5, which pertains to limited premarket screening, section 8 on reporting, and other sections which are equally important.

As I say, this amendment pertains only to the rulemaking section 6.

Rulemaking under section 6 deals with such questions as requirements prohibiting or limiting manufacture or distribution of chemical substances, requirements limiting or prohibiting the manufacture or distribution of chemical substance for a particular use or uses, and other things such as label warning requirements. I think that the amendment is more appropriate in this regard. The gentleman from Mississippi (Mr. WHITTEN) has spoken eloquently already, and others, on the need for consideration on an economic impact statement which the Administrator should include at the time of his detailed statement. I think that the cause of the amendment has already been well spoken for.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. McCOLLISTER. I yield to the gentleman from California.

Mr. ROUSSELOT. The gentleman is assured now in the redrafting of this amendment that it overcomes what he considers to be the deficiencies as previously discussed?

Mr. McCOLLISTER. We have discussed the amendment with counsel and believe that it does overcome the deficiencies to which I referred.

Mr. ROUSSELOT. But it still helps in the intent to make sure that the Administrator is required to look into the economic impact on businesses and labor force and other things that may occur as a result of potential rulings and more important the Administrator must make those findings known; is that correct?

Mr. McCOLLISTER. I think what it does is to amplify and to elaborate on the very excellent statement that is made in section 2(c) where the Administrator is mandated to carry out the act in a reasonable and prudent manner and to consider the economic and social impact of any action he proposes to take. I believe the amendment gives more substance to that and makes the intent of the Act clearer.

Mr. ROUSSELOT. So it is merely expanding upon that section already included in the act that the gentleman has fully discussed in committee; is that correct?

Mr. McCOLLISTER. That is my belief.

Mr. ROUSSELOT. I appreciate the gentleman's statement. I will support the amendment of the gentleman from Nebraska, which is similar in content to the substance of what Mr. GOLDWATER was trying to do.

Mr. STAGGERS. Mr. Chairman, I rise in opposition to the amendment with the same reluctance that I did on the other one, because I know the intentions of the gentleman from Nebraska are good. I should just like to point out one or two points. Section 6 is the key regulatory section of this bill. The amendment offered by the gentleman from Nebraska would materially restrict the Administrator's ability to use his authority. Let me emphasize that this section already provides for an oportunity for not only written statements but for oral hearings, and that any rulemaking must be made after consultation with the Chemical Substances Board and he must be able to support his findings with substantial evidence.

As has been stated before, I know of no more precautions that have ever been taken on a bill of this kind before the Congress than we have right here. Let me show the Members some of the things that are coming into being today that we have to look ahead to.

If we were only going to stick our heads in the sand and say everything is going along fine, that would be all right, but things are happening in America and all over the world. The Chemical Service Registry number system has registered 1,800,000 chemical compounds. Approximately 250,000 chemicals are added to this list each year—250,000 of them each year—and between 300 to 500 new chemical compounds are introduced annually into commercial use.

Despite the numerous laws which have been enacted over the last 10 years to protect health and environment, many chemical substances on their way to the marketplace and into the environment would pose a great potential for harm. In the last 20 years, the U.S. consumption of metals and new metallic compounds has dramatically increased. For example, in the 20 years from 1948 to 1968 U.S. consumption of beryllium is estimated to have increased by 7,300 tons or 507 percent. Our consumption of cadmium increased by 2,700 tons, or 70 percent. The commercial use of synthetic organic compounds is growing at an even more startling rate. These are things we want to look ahead to and to do something about. If we wanted to stop here and say everything is safe and put it into operation, fine, but I think we ought to be looking out for our children and future generations. We have taken every precaution to provide procedural protections for manufacturers, but we must remember that we are here to protect the interests of all of the people and not special interests. We are here for the interests of all of the people in every way.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Texas.

Mr. KAZEN. I appreciate the distinguished chairman's yielding to me.

Is this provision about holding hearings and then promulgating rules the same language that was used in the Clean Air Act?

Mr. STAGGERS. This is much more burdensome, much more protective, and goes much farther than the Clean Air Act.

Mr. KAZEN. This is what I am afraid of, Mr. Chairman, because in the Clean Air Act those hearings that are being held all over the country today are an exercise in futility, and we are going to hear about them here in the Halls of Congress, the rules were promulgated but were not put into effect until after the public hearings, and then the public hearings did nothing to change their minds.

They already had their minds made up as to what the rules were going to be and the public hearings were just window dressing. I think it is all going to come back to the chairman of the committee within a very short time and this type of law must be changed.

Mr. STAGGERS. Mr. Chairman, just before anybody misinterprets this I would like to say we have made provision for judicial review to guard against administrative abuses or excesses.

The gentleman from Texas suggested to me the other day that certain things were occurring in EPA that perhaps were not just occurring in his area but in some other areas of the country. Our committee intends to hold hearings on some of the things they are doing. They say they want to come up with certain laws that will not require them to do certain things they are doing now. We hope we can get some common sense. Maybe we were too strict and too strong and wanted things done too soon. We realize it and I think they realize it. We will have to take a look at it and if necessary make some new laws.

The CHAIRMAN. The time of the gentleman from West Virginia has expired.

(On request of Mr. WHITTEN, and by unanimous consent, Mr. STAGGERS was allowed to proceed for 2 additional minutes.)

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Chairman, of all my colleagues I do not know of anyone who wants to do everything good for everybody any more than the gentleman from West Virginia. I want the RECORD to show that.

Mr. STAGGERS. I thank the gentleman.

Mr. WHITTEN. I would like to call the attention of the gentleman to page 53 of the report from our own subcommittee on the hearings which say that among other things the Environmental Protection Act was provided to stimulate the health and welfare of man. The point I wish to make is that after mountains of hearings we find if the Administrator exercised all the authority vested in the Environmental Protection Agency and if he carried that out, all the people in this country would be hungry within a week. I see many things included here but we cannot point to a single thing except the transportation that is not covered in one or other acts now. He can stop manufacture or prohibit use of everything. Everything looks as if it is covered in several other acts. But be that as it may, I am trying to serve no interest except the interest of the American people. Certainly I do not question the intentions of my friend, the gentleman from West Virginia, but good intentions gone astray can do a great deal of trouble.

Mr. STAGGERS. I believe I must pay the same tribute to the gentleman from Mississippi as he paid to me. I think he is one of the finest Members in this Congress. I know his son and his family. I know his interest is for the good of America. But let me say that many of these things do not apply in some of the laws on the books.

These are exemptions. It says:

EXEMPTIONS AND RELATIONSHIP TO OTHER LAWS

SEC. 9. (a) This Act shall not apply to—

(1) tobacco and tobacco products;

(2) any pesticide (as defined in the Federal Insecticide, Fungicide, and Rodenticide Act) when manufactured or distributed in commerce for use as a pesticide; or

(3) drugs, devices, or cosmetics (as such terms are defined in sections 201 (g), (h), and (i) of the Federal Food, Drug, and Cosmetic Act) and food. The term "food" as used in this paragraph means all food, as defined in section 201(f) of the Federal Food, Drug, and Cosmetic Act, including poultry and poultry products (as defined in section 4 (e) and (f) of the Poultry Products Inspection Act), meat and meat food products (as defined in section 1(j) of the Federal Meat Inspection Act), and eggs and egg products (as defined in section 4 of the Egg Products Inspection Act).

Those things are all exempted. But one must not forget for one minute that new products and new chemicals in the number of 250,000 each year are coming into production and somebody has to check on them.

Mr. WHITTEN. He has just repeated what all we have on the books now.

Mr. STAGGERS. That is correct.

Mr. WHITTEN. And in order to determine whether this provision applies in a particular case or not, does the gentleman realize we could be in court for 2 or 3 years? If we keep on with this course of action, we will find that no one can afford to invest to produce, and if he produces he cannot sell. If he cannot sell we do not eat.

Mr. STAGGERS. There are 250,000 products that could kill your son or mine and we say they shall not use them.

Mr. MOSS. Mr. Chairman, I move to strike the last word and I rise in opposition to the amendment.

Let me say I oppose this amendment with real reluctance because the proposer of the amendment is one of the most constructive Members I have worked with.

He has been on my subcommittee since he came here as a freshman Member of the House. He tries in good faith to help us work out the very many difficult problems that we consider in that subcommittee and in the committee. I think this is another case where he really is trying with a great deal of concern to again narrow the areas of disagreement.

However, I find that I have a great problem in imposing on an administrator of a Federal agency requirements to make findings which I myself cannot understand. I do not know what the relationship between local economic impacts and national or subnational economic objectives might be. Nor have I the slightest concept of where that administrator might go to determine where there is established a criteria to guide him in determining national or subnational economic objectives.

Because of the concern of my colleague from California (Mr. GOLDWATER) we did on page 49 of the legislation include language saying that

> It is the intent of Congress that the administrator shall carry out this act in a reasonable and prudent manner, and that he shall consider the economic and social impact of any action he proposes to take under that act.

Again, with the caution which I believe we can on both sides of the aisle and on both sides of this particular amendment agree characterizes the work of this subcommittee, we put in this language that in issuing public rules under subsection 6, the subsection proposed to be amended, the Administrator shall consider all relevant factors including the effects of the substance on health and the magnitude of human experience, and it goes on to say, the effects on the environment, the effect of various uses and availability of less hazardous substances.

In other words, we tell him, "Look at the alternatives." We want to have the attention of the Administrator to the public interest, but not in utter disregard for the interests of the affected businesses. I do not know, carefully reading the language which has been added here, exactly what additional we would want him to do. I think it might lead to either a very broad hunting expedition seeking all sorts of facts which might be relevant or irrelevant and totally defeat the intent of the proposers of the amendment, or it might lead to window dressing, because I do not think from a definitive standpoint these kinds of findings can be made.

To write them in advance of the effect of a rule under this legislation, I think again imposes a most onerous requirement. Were I the Administrator, I would urge that under no condition this kind of ambiguity be imposed upon me.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. MOSS. Of course, I yield to my friend from California, a member of the committee and a very distinguished member.

Mr. GOLDWATER. Mr. Chairman, let me say that I do want to thank the gentleman from California for his consideration in the committee on this aspect of the bill, that deals with economic considerations.

However, I would perhaps answer the chairman's question what this amendment actually does. I think the gentleman knows full well what it does, and that is to spell out in a definitive manner precisely how to proceed in regard to consideration of the economic impact.

The amendments that I offered in subcommittee and in the whole committee, and the language contained in the bill which the gentleman has read to us, is permissive. It allows discretion. What the amendment offered by my colleague from Nebraska would do is to state definitive action; that the Administrator will definitely consider the economic impact.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. Moss was allowed to proceed for 3 additional minutes.)

Mr. MOSS. Mr. Chairman, I do not want to be argumentative, but let me say, in the fullest good faith, I do not understand the relationship between, and I am quoting, "local economic impacts," and "national or subnational economic objectives."

Nor do I, after 21 years of service in this body, know where I would go to establish this information.

Faced with this burden, I would be without a choice but to try to impose upon an unduly burdensome and inquisitive record, which might be far more onerous than anything we can impose by the language itself, as to the need to go to every single manufacturer operating in a subnational area, once I had determined what a subnational area might be.

It could be the Pacific coast. It could be the State of Oregon. It could be the State of Washington. It could be the State of California, or the counties below the Tehachapi Mountains.

I do not know what a subnational area is. I do not believe anyone else does. The areas are not allied to the standard metropolitan statistical areas, where we have certain functions which relate.

I do not know the "adverse economic effects which cannot be avoided should the proposed action be implemented."

I do not know how to establish what those adverse economic effects would be, in dealing with chemicals, which are, of an inherent nature, somewhat unpredictable. I do not know precisely what could be avoided.

Again, out of caution, I would have to have the fullest and most inquisitive type of hearing in order to satisfy myself as the Administrator.

Mr. Chairman, I would urge that this amendment be defeated. If there is a fuller clarification needed, we should try to build on the language on page 49, in the Conference Committee.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from California.

Mr. GOLDWATER. Just to help clarify the gentleman's understanding as to "local", "national" and "subnational", I would say that subnational would be anything larger than local and less than national.

Mr. SHUSTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment.

We are told in this body that the Administrator of EPA is wise enough to determine those chemicals which are going to be harmful. We are told that the Administrator of EPA is wise enough to determine those chemical products which should be sold on the market and those which should be removed.

But we are also told that he is not wise enough to determine the economic impact of such decisions. I just do not believe that. Indeed, I say that if the Administrator of EPA does not have that capability, if EPA does not have that capability, that we had better see to it that they get it, because in this Nation we do not find ourselves compartmentalized. We do not find ourselves concerned with the environment only, nor do we find ourselves concerned with the economy of our country only. We operate as a system. We operate as an interrelated society.

Mr. Chairman, I suggest that where environmental impact occurs, it is highly probable that economic impact occurs also. We have been told that if the Environmental Protection Agency has a responsibility for determining economic impact, they may go on a hunting expedition or indeed they may look for window dressing.

There are a few hunting expeditions I would like to outline to this body right now. I could take the Members on a hunting expedition to a small town in Pennsylvania, the town of Lewistown. Indeed I heard some Members say a few moments ago that to argue for the economic impact statement is to argue for the "special interests." Well, I am here to argue for "special interests." In Lewistown, Pa., there are 2,300 "special interests" walking the streets because they lost their jobs as a result of environmental decisions.

Over in Roaring Spring, Pa., there are 500 "special interests" who may find themselves walking the streets because of environmental decisions.

In Johnstown, Pa., where my good friend, the gentleman from Pennsylvania (Mr. Saylor) hails we have been advised that 4,500 "special interests" may be walking the streets because of an environmental decision.

In Tyrone, Pa., 600 "special interests" were walking the streets because of an environmental decision.

So I stand here pleading guilty to representing those "special interests." And I say that each of the Members representing districts across America has hundreds, if not thousands, of "special interests." These are "special interests" who would like to work but may find themselves out of a job because of an environmental decision.

Mr. Chairman, we are not asking that the Environmental Protection Agency should stop making these analyses, or that they should indeed stop handing down decisions. We are asking that they be required to consider the economic impact as well as the environmental impact.

Mr. Chairman, I would like to tell the Members about one last "special interest." This is a "special interest" of just a few miles of highway in my congressional district, where several people have been killed in the last few years, because it is a very treacherous highway. Yet when we tried to get a new and safe highway through there, the environmental interests successfully delayed it because, among other reasons, it was going to go through a bird sanctuary.

So I stand here today defending the "special interests" of the people in my district and the districts of other Members, too, and I suggest that the amendment offered by the gentleman from Nebraska (Mr. McCollister) goes a step in the direction of this Congress putting a bridle on that horse which is running wild down the street, the Environmental Protection Agency, an agency which is properly concerned about the environment, but which should indeed also be deeply concerned about the economic impact of its environmental decisions.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman yielding.

I rise in support of Mr. McCollister's amendment, which is designed to provide some balance in the administration of this program H.R. 5356. As it stands now the bill is highly toxic to the American chemical industry. It purports to control "toxic" substances and empowers EPA to order fabulously expensive tests to be conducted without even defining the word "toxic" or setting any standard to limit the discretion of EPA officials.

I am not saying that we should not attempt to control toxic substances and protect the environment, but we cannot attempt to solve every problem that exists in the country by taking actions in a vacuum, without considering the effects of our regulatory activities on the economy.

The movement to protect "the consumer" or "the environment" at all costs is based on the current belief in some circles that we live in a "post-industrial" society in which the concern for our ability to maintain a productive economy has given way to a regard only for the consumption and distribution of goods which presumably will rain down upon us from the sky.

This amendment requires the administrator to consider "economic impact" prior to a ruling and not after the fact. This concept has been needed for some time.

The gentleman, I believe, has pointed out very correctly that the Administrator of this act has substantial powers.

Now, in answer to the question that the gentleman from California (Mr. Moss) has raised; under section 5 of this act, the Administrator has been asked to classify in great detail all the chemicals that have impact on the environment. I think at that same time it would be very easy to include the economic impact concepts that the gentleman from Nebraska has asked that we include in his amendment. As the gentleman from Pennsylvania has already stated, coupled with the findings to categorize various chemicals, it should not be difficult to secure facts concerning the economic impact which might shut down or stop the production of those chemicals.

Mr. SHUSTER. Right.

Mr. ROUSSELOT. Would the gentleman not agree?

Mr. SHUSTER. Absolutely.

Mr. Chairman, I believe, in closing, the most significant point to remember here is that the amendment offered by the gentleman from Nebraska corrects the defects of the original amendment offered. It corrects the defects, and at the same time it provides more balanced consideration of the economic impact as well as the environmental impact.

AMENDMENT OFFERED BY MR. ECKHARDT TO THE AMENDMENT OFFERED BY MR. M'COLLISTER

Mr. ECKHARDT. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT to the amendment offered by Mr. McCOLLISTER:

Amend the amendment by adding the words "under this section" after the words "any final rule" on line 3 and by striking the word "particular" on line 6 and all after the word "forces" on line 7 and add "and the effect on the national economy."

Mr. DELLUMS. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. One hundred seven Members are present, a quorum.

Mr. ECKHARDT. Mr. Chairman, the result of this amendment would be that the amendment, as amended, would read as follows:

The administrator, at the time he promulgates any final rule under this section, shall include a detailed statement on the economic impact of such action, including, but not limited to, consideration of the effects on business enterprises and labor forces and the effect on the national economy.

Mr. Chairman, I would like to ask unanimous consent to strike the 1 in parentheses.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. GROSS. Mr. Chairman, reserving the right to object, what does the gentleman want to strike?

Mr. ECKHARDT. Just the number 1 in parentheses, since there was a list of things and we have eliminated the other items.

Mr. GROSS. Do you want to make it 2 or 3 or what?

Mr. ECKHARDT. No. Just put nothing in there instead of a 1 in parentheses.

Mr. GROSS. Put nothing in there? That would be all right for the entire bill. I would go along with that.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ECKHARDT. Mr. Chairman, I have no objection whatsoever to Mr. McCOLLISTER's purpose if I understand it. I understand his purpose is to go only to the rule section in the first place. I have no objection whatsoever to requiring that in making the rule there be a finding on the effect on business enterprises and labor forces and the effect on the economy. The only thing I wish to avoid in this amendment is any requirement that the administrator necessarily anticipate every particular effect on every particular business.

Also the extremely detailed provisions in the rest of the amendment would be dealt with.

However, I do believe that the general language I used in this amendment embraces all of the items that the gentleman included in his original amendment and I would appreciate an aye vote on it.

Mr. BROYHILL of North Carolina. Will the gentleman yield for the purpose of asking the gentleman from Nebraska a question?

Mr. ECKHARDT. Surely.

Mr. BROYHILL of North Carolina. Is it the intention of the gentleman from Nebraska that this amendment be limited to the rule-making authority granted to the administrator under this section?

Mr. McCOLLISTER. Will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman.

Mr. McCOLLISTER. I will say to the gentleman from North Carolina, as I said at the time of the introduction of the amendment, that it is indeed limited to the rule-making section 6.

Mr. BROYHILL of North Carolina. It does not affect the imminent hazard section or the reporting section or any other?

Mr. McCOLLISTER. No other section than section 6.

Mr. BROYHILL of North Carolina. It would seem to me, if the gentleman yields further, that your amendment is far clearer, and although there would still be a burden on the administrator with this amendment for the language as you have suggested it to come up with an economic impact statement concerning the rule, the administrator would not have to anticipate every economic impact.

The administrator probably would not have all the answers. It would seem to me that the amendment the gentleman from Texas has proposed would be far clearer, and I would support the language offered by the gentleman as an amendment to the amendment of the gentleman from Nebraska.

Mr. ECKHARDT. I thank the gentleman from North Carolina.

I may say, Mr. Chairman, that if my amendment passes as a substitute I would then vote for the amendment offered by the gentleman from Nebraska (Mr. McCOLLISTER) as amended.

Mr. McCOLLISTER. Mr. Chairman, would the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Nebraska.

Mr. McCOLLISTER. Mr. Chairman, it seems to me that one defect that is inherent in the proposed substitute, which perhaps could be cured by a little legislative history on the subject, is the use of the term national economy, which to me would seem to not focus on perhaps individual areas of the country that might be very adversely affected and yet have a negligible effect on the national economy as a whole.

Could the gentleman tell me what the gentleman means?

Mr. ECKHARDT. I merely lifted that language from the original amendment, but I assume that the original amendment really means economy without that qualification, that is, economy in scope as wide as national, but certainly not limited to national as opposed to specific effects which may be local.

Mr. McCOLLISTER. Is the gentleman saying that if there is some given regional area of the country on which the economic statement has a very adverse effect that that should be taken into consideration by the administrator?

Mr. ECKHARDT. I would think that the magnitude of that effect should be measured against the magnitude of injury if the product were released on the market, yes.

Mr. McCOLLISTER. I thank the gentleman.

Mr. MOSS. Mr. Chairman, would the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from California.

Mr. MOSS. Mr. Chairman, with the amendment as further defined as to intent through the questions raised by the gentleman from Nebraska (Mr. McCOLLISTER), I would certainly urge the chairman of the full committee, the gentleman from West Virginia (Mr. STAGGERS) to accept and support the amendment.

And I want to be clear that my understanding that the gentleman from Nebraska—if the gentleman from Texas will yield to the gentleman from Nebraska to respond to a question.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. ECKHARDT was allowed to proceed for 2 additional minutes.)

Mr. ECKHARDT. I yield to the gentleman from California.

Mr. MOSS. The intent of the gentleman from Nebraska was to establish, I think we can say, that, if the economy of the southern district of California region, which I represent, was clearly affected, that this would be taken into consideration, and it is in that context that the gentleman from Nebraska raised the point in the dialog with the gentleman from Texas (Mr. ECKHARDT).

Mr. McCOLLISTER. If the gentleman from Texas will yield, yes; it was in that context.

Mr. MOSS. Then, if the gentleman from Texas will yield further, I would urge the chairman of the full committee to accept on behalf of this side the amendment.

Mr. STAGGERS. Will the gentleman yield?

Mr. ECKHARDT. I yield to the distinguished chairman of the committee.

Mr. STAGGERS. Mr. Chairman, after listening to the colloquy I reluctantly would accept the amendment, because I still think it is defective, but for the sake of harmony in the House and to try to work out something for the good of the Nation, I would, on this side of the aisle, for those for whom I speak, reluctantly accept the amendment.

Mr. GOLDWATER. Mr. Chairman, would the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from California.

Mr. GOLDWATER. If I may ask the gentleman a question, does the gentleman interpret the language which his amendment leaves as not at least limiting the Administrator to consider, after the economic findings, it does not limit him to consider alternatives to his action?

Mr. ECKHARDT. I agree with the gentleman. The Administrator should consider the alternatives, and I believe he is called upon to do so elsewhere in the act.

Mr. GOLDWATER. I thank the gentleman. Certainly with regard to the other section, section 4, that was eliminated and in the consideration of local, national and subnational economic objectives, certainly the Administrator upon his economic findings would by necessity, it would seem to me, take into consideration local problems or regional problems or, in fact, national problems.

Mr. ECKHARDT. Yes. I think that was covered in my discussion with Mr. McCollister that I agree that the national economy embraces the economy generally and includes any effect on portions of it.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. Goldwater, and by unanimous consent, Mr. Eckhardt was allowed to proceed for 2 additional minutes.)

Mr. GOLDWATER. I thank the gentleman.

Mr. DINGELL. Mr. Chairman, I rise simply for the purpose of making certain inquiries of my friend, the gentleman from Texas, the gentleman who now is the author of the amendment. I note that it is required that under the amendment the Administrator of EPA must give consideration to economic impact. I am somewhat curious as to how this would interact with the requirements of the National Environmental Policy Act which says he must consider the environmental impact. I would assume that it would not impose the requirement that his judgments with regard to the economic impact or his pronouncements with regard to economic impact should achieve a prior or more important position than his judgments with regard to the environmental impact. Am I correct in that assumption?

Mr. ECKHARDT. I think that is correct. I must say I am not really the parent of this amendment. I only have a peripheral relationship to it, because I think it is substantially the McCollister amendment, but I would agree that all this would do is make clear, as I think should be the case, and as I think the act otherwise indicates, that a decision with respect to releasing toxic substances under this act should take into account the economic impact on businesses, on labor, and on the economy generally. I think it has nothing to do with the duty of the agency to take into account the questions involving the environment except that this factor must be considered and may not be ignored.

Mr. DINGELL. The reason I raise the question is that under section 1022(c) the National Environmental Policy Act requires that in connection with major actions having a significant impact upon the environment, the Administrator of the agency involved must set out a whole series of conclusions on economic, social, and environmental impact, and the alternatives as required by section 102(2) (c) in an environmental impact statement. I am assuming that what we are doing here is simply requiring that he shall consider the economic impact along with the other things required by section 102(2) (c) and not consider them as being in any fashion superior.

Mr. ECKHARDT. I do not envisage this amendment as having any amendatory effect on that language.

Mr. DINGELL. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. Eckhardt) to the amendment offered by the gentleman from Nebraska (Mr. McCollister).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nebraska (Mr. McCollister), as amended.

The question was taken; and the Chairman announced that ayes appeared to have it.

Mr. GOLDWATER. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Eckhardt: On page 75, strike lines 3 through 17 inclusive and insert:

"(b) (1) The Administrator shall have no authority to take action under sections 5, 6, and 7 of this Act to prevent or reduce an unreasonable risk to health or the environment associated with a particular chemical substance or article containing such substance if such risk to health or the environment could be prevented or reduced to a sufficient extent by actions taken under any other Federal law (other than a law referred to in paragraph (2) of this subsection), including the Atomic Energy Act of 1954; the Federal Hazardous Substances Act; the Occupational Safety and Health Act of 1970; the Consumer Product Safety Act; subpart 3 of part F of title III of the Public Health Service Act (relating to electronic product radiation); and Acts administered by the Secretary of Transportation relating to the transportation of hazardous substances.

"(2) The Administrator shall coordinate actions taken under this Act with actions taken to enforce the Federal Water Pollution Control Act and the Clean Air Act. He shall use the authorities contained in those Acts to regulate chemical substances, unless he determines that a risk associated with a chemical substance would be more appropriately regulated under this Act."

Mr. ECKHARDT. Mr. Chairman, this is substantially the language of the subcommittee on this section. The difficulty with the language of the act itself is that it may raise jurisdictional questions when the Administrator uses this act as against some other act under which he has authority. It seems to me that it is far better to provide that the Administrator shall in effect be the coordinator of actions as to those actions over which he has authority. He must under the amendment determine that a risk associated with a chemical substance would be more appropriately regulated under this act or he must use the Clean Air Act or the Clean Water Act or some other act under his authority.

With respect to those actions though that are not under his authority and with respect to action of agencies other than his own agency, this action must totally be held in abeyance for the agency which was specifically authorized to act under its specific legislation.

As the gentleman from North Carolina (Mr. Broyhill) has correctly pointed out, and I think as the chairman of the full committee has pointed out, the real purpose of this act is to fill in gaps, fill in the interstices not covered by other acts. I do not intend to alter that general purpose, but I do feel that it is important that the language calling upon the Administrator to choose the more specific act not be stated in blanket, jurisdictional terms, because, if it is so stated, then after the elaborate rulemaking process and the careful processes required in this act, a jurisdictional question may be raised subsequent to the hearing that would in effect set all of that process aside.

That is the purpose of the amendment and I feel that it does not alter the general purpose of the act in any way but simply makes it more likely that action will be final when it is finally taken under this act.

Mr. YOUNG of Illinois. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I want to rise also in support of the amendment offered by the gentleman from Texas (Mr. Eckhardt). I think that the amendment will strengthen the act. I think this will happen because it will still preserve the dichotomy which was put into this act by the committee, in that the Administrator will still have to go to the other agencies or he will have to defer to action under other agencies and under other laws if the danger can be remedied by these acts or by those persons administering those acts.

By the same token, it does permit the Administrator of EPA to choose and determine within the acts he himself administers as to which particular act will be more effective.

Therefore, I support the amendment. I think it will be a salutary amendment.

Mr. KYROS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment was considered in committee. What actually happened was, the bill as it stands now is the same bill that came before this body last year. There are plenty of weapons in it, an arsenal of weapons that permits the EPA to choose from the Clean Air Act, the Clean Water Act, or the Toxic Substances Act in order to proceed against any violator.

This amendment as offered by the gentleman from Texas would mean that the EPA could proceed on any of three bases at any one time. This act is not even in operation, the Toxic Substances Act. It was only supposed to fill up the gaps left by the Clean Air Act, the Clean Water Act, and other Federal statutes.

It would seem to me we should permit this act to go into operation and watch the enforcement problems and the EPA reaction. I think it is theoretical because I do not think there will be any problems. If there are problems, we can then proceed to correct them, but giving this enormous power suggested by the gentleman from Texas to the EPA where the Administrator may move with three weapons at any one time, it would seem to me a more rational way to approach this is what the committee finally did; it chose to leave the act just as it stands, just as it was prepared very carefully last year, which provides that EPA use administration authority to choose between the Clean Air Act, the Clean Water Act, and proceed with the Clean Air Act or the Toxic Substances Act.

Mr. BROYHILL of North Carolina. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, as the gentleman from Texas stated, this legislation has been characterized as legislation to fill in a gap. It is not intended to replace these other acts that are on the books which the Administrator is using and are designed to deal with certain specific problems.

Extensive hearings were held on each one of these bills. Extensive hearings were held on the authority given to the Administrator on each one of these acts. They were designed to control specific areas or problems. We did not focus on this authority in our hearings. My concern is that if we should adopt this amendment, really what we have done is to legislate in a vacuum, because we do not really know the effect this will have on other authorities that have been given to the Administrator in other bills.

No one would know which law he was under unless EPA told him, so I think the best course of action would be to vote down this amendment and leave it as it is.

Mr. HARVEY. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL of North Carolina. I yield to the gentleman from Michigan (Mr. HARVEY).

Mr. HARVEY. Mr. Chairman, I just wish to associate myself with the remarks of my friend from North Carolina. I believe that this amendment proposed by the gentleman from Texas is really a lawyer's nightmare.

I say that because I do not know how any lawyer could advise his clients when he did not know which act was involved, when he was concerned with three of them and perhaps even more.

Mr. Chairman, I do not see how we can expect any businessman or officer of a corporation possibly to advise his employers in the corporation when he does not even know what act it is under.

I oppose this amendment, and I again associate myself with the remarks of the gentleman from North Carolina (Mr. BROYHILL).

Mr. MOSS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the original amendment in committee which struck this language was offered by the gentleman from Maine (Mr. KYROS). I opposed it very vigorously at that time, and I oppose it now, because this is, in my judgment, a particularly objectionable amendment. It would require an enforcement procedure by the same Administrator which might be the least suited to the purposes of the Government, for adequate enforcement of the law, and would require him to proceed under that provision which would be least effective.

Sometimes that can create problems. The Administrator cited this example of polychlorinated biphenyls, the PCB's we have all heard about.

I read from the report:

> Polychlorinated biphenyls, (PCBs) have recently been found to be widespread environmental contaminants. One of the uses of PCBs which has been shown to contribute significantly to the environment levels of PCBs is leakage from hydraulic equipment, which is used in a wide variety of industrial processes. Leakage of PCBs from such equipment will often find its way into the effluent from such point sources and hence into the water. Arguably, the section providing for the establishment of effluent standards for toxic pollutants of the Federal Water Pollution Control Act could be used to prohibit such discharges. To date, however, analytical methodology for the detection of low levels of PCBs is not well developed. It would, then be extremely difficult, to enforce an effluent standard against violators. Given that there are substitutes for PCBs for use as hydraulic fluids, it would be far more effective to use the authority of the Toxic Substances Control Act to prohibit their use.

I recite this from the report because we are dealing with a very highly technical area.

I confess I am not a lawyer, but I have been working as a legislator for at least a quarter of a century. I know that we can create other kinds of nightmares than just nightmares for lawyers. We can create them for Administrators. We can create them for average citizens. We can create them for communities.

I believe that implicit in the limiting which would be achieved, if this Committee fails to adopt the amendment, is that we would be creating those additional types of nightmares.

I regard it as nonsensical for a committee, after careful consideration of the merits of legislation, to report it out and say to the Administrator, "You are going to wear x number of hats but you are going to operate in compartments and when you put on hat A you are not to know what goes on over in B or C is improper. The fact that you might be able to do a better and more economical job if you knew what happened in B makes no difference. We are going to dictate to you the precise route that you take.

Even if there is no good logic for it. We do not want effective administration of laws; we do not want the most feasible, the most economical administration. If this law creates conflict and foolishness, we want to indulge ourselves in conflict and foolishness.

Mr. Chairman, this amendment—and I urge my good friend, the gentleman from Maine, to support it—corrects a little bit of foolishness on his part. I strongly urge the adoption of the amendment offered by the gentleman from Texas.

Mr. KYROS. Mr. Chairman, will the gentleman yield?

Mr. MOSS. Of course I yield to my colleague, the gentleman from Maine (Mr. KYROS).

Mr. KYROS. Mr. Chairman, I will say to my distinguished subcommittee chairman and dear friend and respected mentor that last year the gentleman himself drew this very bill and brought it to the floor with this "bit of foolishness" in it.

Mr. MOSS. Last year we took a bill submitted by the Environmental Protection Agency, by the Administrator, and we carefully worked over the legislation, and we found upon reviewing it this year, when we again introduced the same bill, that we could do that miraculous thing, we could perfect it.

The CHAIRMAN. The time of the gentleman from California (Mr. Moss) has expired.

(By unanimous consent, Mr. Moss was allowed to proceed for 2 additional minutes.)

Mr. MOSS. Mr. Chairman, that is all I am urging my friend, the gentleman from Maine, to do, to join me in perfecting and making more rational the legislation which is now before this committee.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I thank the gentleman from California for yielding.

I am sure that he would join me in saying that there is no Member on this floor with whom either one of us less frequently disagrees than with the gentleman from Maine.

Mr. MOSS. If the gentleman from Maine were not such a delightful person, I would not have taken the liberties which I have taken on this floor.

Mr. ECKHARDT. Mr. Chairman, I will say this: There is one thing I would like to clarify, and perhaps the gentleman from Maine may find some reason to interpret the language the way he did, but it is certainly not so intended.

The language does not intend to permit the Administrator to proceed through but one channel. I believe the language that states that he must determine that a risk associated with a chemical substance would be more appropriately regulated under this act makes it more in accord with that regulation. That is certainly the intent of the author of the amendment.

Mr. MOSS. Mr. Chairman, that is clearly the intent of this Member in giving his support to the amendment.

Mr. ECKHARDT. Further I would like to ask the gentleman if he does not agree with me in this: That assuming that the Administrator must make that election and recognizing, of course, that the law will not reach an offender unless the offense is described in the appropriate law; everyone who may be affected by this amendment will have notice, both through the law and through the action of the Administrator?

Mr. MOSS. Mr. Chairman, that is my understanding and that, of course, is my feeling.

Mr. HARVEY. Mr. Chairman, I move to strike the last word.

Mr. BROYHILL of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. HARVEY. I yield to the gentleman from North Carolina.

Mr. BROYHILL of North Carolina. Mr. Chairman, I thank the gentleman for yielding.

It is true that the bill we passed last year said that the Administrator would have no authority under the entire act unless he first operated under the other acts. This time we made, I believe, a meaningful compromise. We do not take away the Administrator's authority here to take action on testing of chemical substances, as the gentleman from Michigan knows. Is that correct?

Mr. HARVEY. The gentleman is correct.

Mr. BROYHILL of North Carolina. Mr. Chairman, we do not say that he has to go to the other acts first if there is need to test chemicals. We preserve all of his authority here to get reports which he will need under section 8, and which will be necessary to establish beyond doubt those chemicals which are dangerous to health and to the environment. Is that not correct?

Mr. HARVEY. That is correct.

Mr. BROYHILL of North Carolina. So all we are saying is under sections 5, 6, and 7 there is some limitation, but this is a 3-year bill, and I think what we ought to do is come back and take a look at it and determine what relationship this act should have to the other acts that have been put on the books and take a look at it at that time.

Mr. HARVEY. Mr. Chairman, I thank the gentleman from North Carolina and urge again that the amendment be defeated.

Mr. DINGELL. Mr. Chairman, I rise in support of the amendment.

The amendment is really very simple. So that we all have this clearly before us, it simply allows the administrator of EPA to make a prudent choice among the tools of the law which the Congress entrusted to him which would be most appropriate to the problem which is at hand. It says if we have given him water pollution control legislation, he might use that power and if we have given him air pollution control legislation, that he might use powers under the air pollution law, or he might use the toxic substances legislation authorized by H.R. 5356 upon the problem. To do otherwise would require the administrator to make at his peril and at the peril of the public interest a determination as to questions of law. It would literally force the administrator to operate under a situation where, should it turn out that if the administrator chose wrongly and a different law could have been utilized, that then he would be required to start all over. He would then have suffered, perhaps, one or two or three or possibly an even more years delay. The natural consequence of that situation would be that the agency would be reluctant to utilize the statute we are now considering in cases where it could clearly have been applied. It would adversely affect the power to regulate environmental or consumer dangers not effectively addressed by other statutes.

The result of failure to adopt the amendment before us would be inefficiency, economic waste, with the environment, the consumers, and the population at large suffering unnecessary damage and consumers and taxpayers paying the price. It would evolve necessarily that we would have much less efficient and economic administration under circumstances where not only consumers but also businessmen affected would oftentimes be in doubt as to where the most appropriate remedy lay.

For that reason, Mr. Chairman, I urge adoption of the amendment now before us to give the administrator flexibility which will be necessary to him, to consumers, to businessmen, in order to enable him to deal effectively with toxic substance problems at their inception and before these dangers and problems have actually become real and widespread environmental public health dangers.

I urge the adoption of the amendment, because it is reasonable and imposes no excessive burden on anyone.

Mr. McCOLLISTER. Will the gentleman yield?

Mr. DINGELL. I yield to the gentleman.

Mr. McCOLLISTER. I want to compliment the gentleman on his statement and associate myself with him on it, and I, too, speak in support of the amendment.

Mr. DINGELL. I thank my friend from Nebraska.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

The question was taken; and on a division (demanded by Mr. BROYHILL of North Carolina) there were—ayes 33, noes 29.

RECORDED VOTE

Mr. BROYHILL of North Carolina. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 193, noes 192, not voting 48, as follows:

[Roll No. 368]

AYES—193

Abzug
Adams
Addabbo
Anderson, Calif.
Annunzio
Armstrong
Ashley
Badillo
Bafalis
Barrett
Bergland
Biaggi
Biester
Bingham
Blatnik
Boggs
Boland
Brademas
Brasco
Breckinridge
Brown, Calif.
Buchanan
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton
Carey, N.Y.
Carney, Ohio
Casey, Tex.
Chisholm
Clark
Clausen, Don H.
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
Cronin
Culver
Daniels, Dominick V.
Danielson
Delaney
Dellums
Dennis
Dent
Dingell
Donohue
Drinan
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Esch
Evans, Colo.
Fascell
Findley
Fish
Flood
Flynt
Ford, William D.
Frenzel
Frey
Fulton
Gaydos
Giaimo
Gibbons
Gilman
Gonzalez
Grasso
Gray
Green, Oreg.
Green, Pa.
Gude
Hamilton
Hanley
Hanrahan
Hansen, Wash.
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Helstoski
Hicks
Holifield
Holtzman
Howard
Hungate
Johnson, Calif.
Johnson, Colo.
Jordan
Karth
Kastenmeier
Kazen
Koch
Lehman
Long, Md.
McCollister
McCormack
McDade
McFall
McKinney
Macdonald
Madden
Madigan
Maraziti
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Minish
Mink
Mitchell, Md.
Moakley
Mollohan
Moorhead, Pa.
Morgan
Moss
Murphy, N.Y.
Natcher
Nedzi
Nix
Obey
Owens
Patman
Patten
Pepper
Perkins
Pike
Poage
Podell
Powell, Ohio
Price, Ill.
Pritchard
Quie
Randall
Rangel
Rees
Regula
Reuss
Riegle
Rinaldo
Rodino
Roncalio, Wyo.
Rooney, Pa.
Rosenthal
Roush
Roy
Roybal
St Germain
Sarasin
Sarbanes
Saylor
Schroeder
Seiberling
Shipley
Sisk
Smith, Iowa
Staggers
Stark
Steed
Steele
Steelman
Steiger, Wis.
Stokes
Studds
Sullivan
Symington
Teague, Tex.
Thompson, N.J.
Thone
Tiernan
Udall
Van Deerlin
Vanik
Vigorito
Waldie
Whalen
White
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wright
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Ill.
Zablocki

NOES—192

Alexander
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Arends
Ashbrook
Baker
Beard
Bennett
Bevill
Blackburn
Bowen
Bray
Breaux
Brinkley
Brooks
Broomfield
Brotzman
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Carter
Cederberg
Chamberlain
Chappell
Clancy
Clawson, Del
Cleveland
Cochran
Collins, Tex.
Conable
Conlan
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Dellenback
Denholm
Derwinski
Devine
Dickinson
Dorn
Downing
Duncan
Edwards, Ala.
Erlenborn
Eshleman
Evins, Tenn.
Flowers
Forsythe
Fountain
Frelinghuysen
Froehlich
Gettys
Ginn
Goldwater
Goodling
Griffiths
Gross
Grover
Gubser
Guyer
Haley
Hammerschmidt
Hansen, Idaho
Harsha
Harvey
Heinz
Henderson
Hillis
Hinshaw
Hogan
Holt
Horton
Hosmer
Huber
Hudnut
Hunt
Ichord
Jarman
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Keating
Kemp
Ketchum
King
Kuykendall
Kyros
Latta
Lent
Litton
Long, La.
Lott
Lujan
McClory
McCloskey
McEwen
McKay
McSpadden
Mahon
Mallary
Mann
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Mayne
Michel
Miller
Mitchell, N.Y.
Moorhead, Calif.
Mosher
Myers
Nelsen
Nichols
O'Brien
Parris
Passman
Pettis
Peyser
Pickle
Preyer
Railsback
Rarick
Rhodes
Robinson, Va.
Robison, N.Y.
Roncallo, N.Y.
Rose
Rousselot
Runnels
Ruppe
Ruth
Sandman
Satterfield
Scherle
Schneebeli
Sebelius
Shoup
Shriver
Shuster
Sikes
Skubitz

Slack
Smith, N.Y.
Snyder
Spence
Stanton, J. William
Steiger, Ariz.
Stratton
Stubblefield
Stuckey
Symms
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Thomson, Wis.
Thornton
Towell, Nev.
Treen
Ullman
Vander Jagt
Veysey
Waggonner
Walsh
Wampler
Ware
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wydler
Wyman
Young, Alaska
Young, S.C.
Young, Tex.
Zion
Zwach

NOT VOTING—48

Abdnor
Aspin
Bell
Bolling
Brown, Mich.
Camp
Clay
Collier
Diggs
Dulski
Fisher
Foley
Ford, Gerald R.
Fraser
Fuqua
Gunter
Hanna
Harrington
Hastings
Hébert
Hutchinson
Kluczynski
Landgrebe
Landrum
Leggett
Mailliard
Milford
Mills, Ark.
Minshall, Ohio
Mizell
Montgomery
Murphy, Ill.
O'Hara
O'Neill
Price, Tex.
Quillen
Reid
Roberts
Roe
Rogers
Rooney, N.Y.
Rostenkowski
Ryan
Stanton, James V.
Stephens
Talcott
Winn
Wolff

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENTS OFFERED BY MR. YOUNG OF ILLINOIS

Mr. YOUNG of Illinois. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Illinois: Amend Section 3(a)(9)(A) to insert the words "or the use of a chemical substance." After the words "chemical substance" in the first line of said subsection (A).

Mr. YOUNG of Illinois. Mr. Chairman, I also have a second amendment which I would like to have read now, which is a companion amendment to section 4(a).

Mr. Chairman, I ask unanimous consent that both amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

PARLIAMENTARY INQUIRY

Mr. CASEY of Texas. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CASEY of Texas. Mr. Chairman, what page does this amendment refer to? I ask that the amendment be reread.

The CHAIRMAN. Without objection, the amendment will be rereported.

There was no objection.

The Clerk reread the amendment.

PARLIAMENTARY INQUIRY

Mr. GROSS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GROSS. What page of the bill does the amendment go to?

The CHAIRMAN. The Chair will state it is on page 50 of the reported bill.

The Clerk will report the second amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Illinois: Amend Section 4.(a) to insert "or of the use of a chemical substance" after the word "substance" in the first line of Section 4.(a).

The CHAIRMAN. The gentleman from Illinois (Mr. YOUNG) asks unanimous consent that the two amendments be considered en bloc. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. YOUNG of Illinois. Mr. Chairman, the purpose of the amendments is to clarify what I believe was the intention of the drafters of this bill, and that intention was to permit the Administrator to specify a test protocol for the use of a chemical as well as——

Mr. MOSS. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Illinois. I yield to the gentleman from California.

Mr. MOSS. We have looked at the amendments submitted by the gentleman from Illinois, and we on this side have no objection to the amendments and would be prepared to accept them.

Mr. YOUNG of Illinois. I should like to explain briefly what the amendments do, so that the Members will know.

I want briefly to state that the purpose of the amendments is to give the Administrator more flexibility so that he can limit the test protocols to a special use of a chemical substance, rather than to have test protocols that go to the entire possible effect of a chemical substance on human health or the environment. I believe these amendments would merely clarify what was the intention of the drafters.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Illinois. I yield to the gentleman from West Virginia.

Mr. STAGGERS. I repeat what the subcommittee chairman, the gentleman from California (Mr. Moss) said. I do not believes this alters the bill in any way substantively, and I would say we should accept the amendments.

Mr. YOUNG of Illinois. I thank the chairman and the gentleman from California (Mr. Moss) very much for accepting my amendments.

Mr. BROYHILL of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Illinois. I yield to the gentleman from North Carolina.

Mr. BROYHILL of North Carolina. We have had an opportunity to examine the amendment on this side, and we agree with the gentleman from West Virginia that these amendments do not alter the intent of the legislation, and we will accept the amendments.

Mr. YOUNG of Illinois. I thank the gentleman from North Carolina (Mr. BROYHILL) for accepting the amendments.

The CHAIRMAN. The question is on the two amendments offered by the gentleman from Illinois (Mr. YOUNG) which are, by unanimous consent, being considered en bloc.

The amendments were agreed to.

AMENDMENT OFFERED BY MR. YOUNG OF ILLINOIS

Mr. YOUNG of Illinois, Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Illinois: Amend section 5.(k) by adding the words "or specially limited purposes" after the word "purposes" in the fourth line thereof.

Mr. YOUNG of Illinois. Mr. Chairman, under this act, which is a very broad act, section 5 deals with premarket screening of chemicals. Actually, the EPA has opposed this section, saying it is unnecessary in view of other powers in this act, under section 6 and section 4.

The purpose of my amendment is to broaden somewhat, but still in a limited way, the exemption which can be granted by an Administrator under section 5(k). That section presently provides that:

> The Administrator may, upon application, exempt any person from the requirements of [pre-market screening] for the purpose of permitting such person to manufacture and distribute in commerce a listed chemical substance for test marketing purposes.

Mr. Chairman, in my opinion, "test marketing purposes" is too narrowly defined. I would like to broaden that exemption to permit the Administrator to grant an exemption for other specially limited purposes. I believe that this gives more flexibility to a very broad, all-inclusive act, and I believe it is proper to entrust the Administrator to have such flexibility. I do not think it should be limited to just test marketing.

Now, there are any number of types of specially limited purposes that one might wish to use a chemical for in a very specially limited manner which should be permitted, but if the Administrator does not have the power to do it, to grant such an exemption, he would have to deny such a use.

Bear in mind that that particular denial might not at all be in the interests of the public, because the specially limited use that is desired might be of such a limited nature that there would be no economic value to requiring the expensive testing which can be required and is required under limited premarket screening for a very specially limited use.

So I believe that this amendment will improve the flexibility of the act, that it is not broadening itself and opening up the barn door, but it will be limited, as the Administrator may think appropriate and necessary with the expertise which he should have in administering this act.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. YOUNG).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. YOUNG OF ILLINOIS

Mr. YOUNG of Illinois. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Illinois: Amend section 17.(a) by striking the second sentence thereof.

Mr. YOUNG of Illinois. Mr. Chairman, this amendment, I believe, is quite important to all of us, and I particularly appeal to those Members who feel that they owe a special duty to support the rights of the individual citizen of this country.

This particular amendment will eliminate a presumption of "knowing" in this act, which I believe can create a lot of mischief for a lot of innocent people whom we do not intend to subject to the possibility of a civil penalty of up to $25,000 a day, as section 17(a) provides.

Section 17(a) does specify that any person who knowingly violates section 16 of this act will be subject to such a penalty. Let me point out here that section 16 of the act, if the Members will read it, provides that it will be a violation of section 16 if one fails to file a report which is required under rule 8.

Now, one would be subject to a fine of up to $25,000 per day.

Let me point this out with respect to the subject of civil penalties or civil fines: First of all, there is some constitutional question as to whether any part of section 17, with a civil penalty of $25,000, is necessarily legal and valid. The reason is that when we delegate the power to an administrative agency to make a judicial determination of a punishment, we are giving them the power to make criminal determinations or determinations pertaining to criminal activity, because even though we call this a "civil penalty," the courts could very well construe this to be a penalty which is in the nature of punishment and which is, therefore, an improper delegation of power to the Administrator.

Mr. Chairman, I think, particularly in view of the fact that this section on penalties encompasses a violation of section 16, which, as I mentioned before, includes a failure to file a report. It also would include a person who failed to comply with the disposal requirements of section 5 of the act.

In other words, if you have a limitation or a requirement that you dispose of a particular chemical substance in a particular way and some consumer is not aware of that but he should have been, he could be held liable under section 17, but you are going to put a person who innocently disposes of a chemical substance without knowing he is violating the act in jeopardy of a $25,000 a day fine.

For that reason my amendment simply seeks to eliminate the constructive determination of "knowingly" which is imposed by the second section. In other words, it is not enough that you act knowingly, but the penalty also comes into play where a person is presumed to have knowledge that is deemed to be possessed by a reasonable man who acts in the circumstances, including knowledge obtainable on the exercise of due care.

That is a very difficult standard to be applied and is certainly one that should not be used under the circumstances of this law, which is a new law and a complex law and a law that the EPA administrator himself admits he will have difficulty in fashioning proper remedies for and where there is a wide divergence of opinion between experts in this field.

I feel it would be much more protective of the people of this country to eliminate that second section. It still leaves in the act the fact that if you actually know you are violating the law, you are subject to the civil penalties, but this amendment takes out that presumption, which could be very unfair in this area of complicated law.

I urge you to support the amendment.

Mr. ECKHARDT. Mr. Chairman, I rise in opposition to the amendment.

This is an amendment that Mr. YOUNG introduced in the committee and which was defeated, and I think for good reason, although I must say this:

I believe with a more careful division of certain reporting provisions from those provisions that are necessarily enforcible on the basis of the term "knowingly" as here defined, his objectives might be reached in conference.

Let me point out that the language used in section 17(a) is amelioratory language and is more favorable language to the accused than the language which appears in most administrative procedure bills. In most administrative bills there is no qualification of "knowingly" at all. That is, a violation of the act in fact, whether the person knew it or not and knew he was violating it or not, becomes illegal. That is true in the Motor Vehicle Safety Act, the Food, Drug, and Cosmetics Act, and the Hazardous Substances Act.

So what we did in the Consumer Products Safety Act in the last session of Congress is this: We decided we ought to put in "knowingly," but we ought to define it and we ought to define it as not necessarily actually knowing the act which a man takes is illegal. He ought not to be able to make his ignorance an advantage; he ought not be able to act with impunity and assert the defense of ignorance. He should be charged with knowledge if he should have known; a reasonable man under circumstances should have known that that which he did was illegal.

What would happen if you did otherwise? It would simply hold those guilty who may be somewhere down the line of authority and the persons who really made the effective decision would say "Oh, I did not know about it. I was just chairman of the board."

Joe Bloke, who was running the plant, knew about it, and therefore he has to pay the $25,000 penalty.

So you have to put in a definition for "knowingly," or you destroy the effect of the civil penalty.

I suggest to my colleagues here that the language that we use for the definition of "knowingly" is about as careful language as could possibly be drawn. Indeed, it must also be pointed out that the ultimate decider of these facts is the court, which will decide the question of "knowingly" under this definition de novo. The result is not that the agency makes a final determination which cannot be overturned. It seems to me in order to be held civilly liable the "knowingly" standard must be put into effect under the definition here. If we do not keep that in, it seems to me we undermine the enforcement provisions.

Mr. BROYHILL of North Carolina. Mr. Chairman will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from North Carolina.

Mr. BROYHILL of North Carolina. Mr. Chairman, I think the gentleman is correct, and I am going to support the gentleman and oppose this amendment. But let me cite an example. Is it not true that, say, an officer of a company called down and told the shipping clerk or someone down in the plant to dispose of some dangerous substance, and maybe he did not have actual knowledge as to what that material was that was disposed of, but it was the man in the office who told him to do it; it seems to me that then this language could get at the man who was really responsible.

Mr. ECKHARDT. I certainly agree with the gentleman from North Carolina. I think the language should not be stricken.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, as far as I can see, what the bill does here is, first, condemn a violation which is done knowingly and then in effect it defines "knowingly" in terms of due care, and what a reasonable man ought to have known under the circumstances. So in effect, all we are doing, it seems to me, is saying that, "knowingly" means negligently. And I wonder why it does not say "negligently" in the first place if that is what we are trying to do.

Mr. ECKHARDT. That might have been good language.

Mr. YOUNG of Illinois. Mr. Chairman, would the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Illinois.

Mr. YOUNG of Illinois. Mr. Chairman, I would submit that the answer the gentleman gave to the gentleman from North Carolina (Mr. BROYHILL) as I read the law, is 100 percent wrong, and that is that the young man who is sent out by the senior officer in the corporation to dump the chemical in the river should have known what he was doing. It could be very well argued that he is the one who is responsible, and he should have had the presumption or knowledge that he is dealing with a very dangerous substance, and under this section he would be convicted. And that is the reason why I offered this amendment to take out that possibility; in other words, the fellow who dumped the chemical in the river does not get the possibility of a fine of $25,000.

Mr. ECKHARDT. It just seems to me that we should place the fine where the real fault lies.

Mr. MOSS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I do not believe I will use the full 5 minutes. The language here before us is language that was developed by the committee last year in the writing of the final version of the law creating the new Commission on Consumer Product Safety. It reflects the work of many of us because this was a very sticky point in conference with the other body. And that is why the definition of "knowingly" here undoubtedly is analogous to negligence, but it does not impose an undue or unreasonable burden upon a man who is managing an enterprise to expect him to have the obligation to be responsible. To be responsible for the actions which are finally taken. For in the normal discharge of his duties, he is expected to have the facts in his possession. It imposes a reasonable requirement that a prudent person supervising an operation of this type would take great pains to see what was already in his possession.

Mr. McCOLLISTER. Do I understand this legislative history that has just occurred, that we are defining "knowingly" as akin to "negligently?"

Mr. MOSS. I said analogous. I gave the gentleman the history of this exact language because, as the gentleman knows, we took it from the act creating the Commission on Consumer Products Safety. This is the language which was agreed to in committee and in conference.

Mr. McCOLLISTER. If the gentleman will yield further, it seems to me that a fine of $25,000 per day for negligently knowing is a rather severe penalty, and I had not intended to support the gentleman's amendment until hearing this colloquy, but as a result, having heard it, I can do no other but to support the amendment, because it seems to me a $25,000-a-day fine, civil or criminal, as the case may be, is unduly harsh.

Mr. MOSS. Of course, the gentleman is always free to vote as his conscience dictates, but the gentleman can change his mind. I still say this reflected very careful judgment as a result of the many hours we spent in committee, and I think here there is a reasonable standard. I would urge the defeat of the amendment.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from California.

Mr. WIGGINS. I thank the gentleman for yielding to answer a question that is bothering me.

Section 17(a) of the act sets the standards of a knowing violation; section 17(b) deals with a willful violation. Section 17(b) puts criminal penalties on it; 17(a), civil penalties. What is the difference in the state of mind in a person who knowingly violates section 17(a) from that of a person who willfully violates section 17(b)?

Mr. MOSS. Of course, the gentleman knows I am not a lawyer, and so I am not going to attempt to give him any technical rule here as to the kind of evidence one might have to present to a court. But I know that we felt here in the matter of "knowing the definition of that there would be certainly constructive knowledge of the action." Willful "would be with clear and complete knowledge and understanding of what was happening, and to go ahead notwithstanding that." "Willful" has a pretty good definition in laws and in case law.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WIGGINS. Mr. Chairman, I move to strike the last word.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Indiana.

Mr. DENNIS. In further pursuance of what my friend, the gentleman from California (Mr. WIGGINS) was asking the distinguished gentleman from California (Mr. MOSS) it seems quite clear to me, as has already been mentioned here, that "knowingly" as here defined is defined in terms of presumed knowledge or of having knowledge deemed to be possessed by a reasonable man under the circumstances, including knowledge obtained upon the exercise of due care. So, as I said a moment ago, and as the gentleman from Nebraska (Mr. MCCOLLISTER) said, as I read the section, and the gentleman from Texas and the gentleman from California really agreed with us, "Knowingly" here simply means negligently or carelessly.

The gentleman from Nebraska said we will have a $25,000 a day fine for negligence. The question is do we think we should or should not?

Mr. WIGGINS. The language of 17(a) is strained and tortured. It relates to persons who knowingly violate the act and yet we define "knowingly" by saying he need not have knowledge. It is a contradiction in terms. I defer to the committee as to whether $25,000 a day is a suitable fine for willfull violation, but it seems the section is very poorly drafted.

Mr. ECKHARDT. The language says "a reasonable man who acts in these circumstances." This means I think that a chemist, for instance, a person who should have the specific knowledge of the nature of the chemical would be operating under a higher standard of duty because in his circumstances he should know more for instance than the clerk who may be sending it out from the shipping department.

Mr. WIGGINS. Under the definition section of the bill, is the knowledge of an employee imputed to the ownership of the company?

Mr. ECKHARDT. Depending on whether or not he should have had knowledge of the circumstances in which he is operating.

Mr. WIGGINS. But if a shipping clerk has actual knowledge, is that actual knowledge imputed to an owner for the purpose of levying a fine of $25,000 a day on the owner?

Mr. ECKHARDT. Not necessarily.

Mr. WIGGINS. Possibly?

Mr. ECKHARDT. Possibly, if as a prudent man he should know.

Mr. WIGGINS. It seems to me that $25,000 a day is intended for the company and does not apply to shipping clerks. In other words, the purpose of the bill is to stick a manufacturing firm with the $25,000 fine and not the employee.

Mr. ECKHARDT. I agree.

Mr. WIGGINS. So it may be necessary to impute some knowledge which may be possessed by an employee to an otherwise innocent manager of a corporation.

Mr. ECKHARDT. Only if the manager should have under his circumstances knowledge of what the employee is doing.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would very much appreciate having the attention of both the author of the amendment and my good friend, the gentleman from Texas (Mr. ECKHARDT) who serves as a resident counsel on the committee. I hope the gentleman from Texas (Mr. ECKHARDT) will give me his close attention here. As I understand it criminal statutes may be divided into three types.

The type which says nothing about knowingly or willful, in which case we have the crime being consummated by the simple commission of the act.

We have the second type where we apply the word "knowingly," which simply means the individual intended the consequences of his act and that he did intend that which would be the probable and normal consequences of the act without any particular awareness of the fact that the particular act was criminal in character.

Then the third or the last category would apply to willful or willfully malicious acts, the kinds of acts where the individual first of all knew of the criminal statute, intended to commit the act, and proceeded to do it, in which event the law impugns the necessary willfulness and malice and the requirements for willfully or willfully and maliciously violating the law are met.

Am I correct in my assumption?

Mr. ECKHARDT. I think that is correct if the first category was intended to apply to civil penalties. I am not sure that the person who has no knowledge of doing the act which may violate a law could have criminal penalties imposed upon him.

Mr. DINGELL. I agree with the gentleman. I was referring to the language in the statute. Then we have the fact that for all intents and purposes the courts over the years have interpreted in the first two categories of criminal acts as being one and the same. In other words, the individual intended to do a particular act without any particular awareness or knowledge that there was a criminal penalty or it was a criminal act.

I raise these questions, because essentially, as I read the language here, although the committee has come forward under subparagraph 2 at line 15, referring now to the specific language.

> The presumed having of knowledge deemed to be possessed by a reasonable man who acts in the circumstances, including knowledge obtainable upon the exercise of due care,

I do not think that particular language adds anything to the definition of "knowingly." As a matter of fact, as I read that particular language, it does not do anything because it does not expand the nature of the action insofar as adding any new element of willfulness or knowledge. It simply says the individual intended the consequences of his act, or could be presumed to intend the consequences of the act. Am I correct in that?

Mr. ECKHARDT. I think that is right. I think when we say "knowingly," it is a common law concept.

Mr. DINGELL. This is how I read our endeavor here today. I come reluctantly to the conclusion that we are having a rather extensive difference over something which really has no difference. It may be a distinction, but in point of fact I doubt seriously if there is a difference.

Mr. Chairman, I did not rise for the purpose of engaging in dialectic or semantics with my colleagues, but if we were to strike subsection (2), as does the amendment offered by the gentleman from Illinois, or strike all language dealing with the word, "knowingly," or if we were to leave things just about as they are, we would be roughly where the common law has us with regard to the interpretation of the word "knowingly." Am I correct in that?

Mr. ECKHARDT. I think that is right. The difficulty, of course, is that we have no Federal common law, really. We have to rely upon common law that might apply to a great number of different jurisdictions, so all we try to do here by defining "knowingly" is tie up the loose ends.

Mr. DINGELL. It occurred to me, although not wanting to engage in these lawyer-like efforts, but every once in a while it appears necessary—it would appear the adoption of the amendment would not hurt the bill and would not particularly change the common law definition of "knowingly." We would find, whether or not the amendment was adopted, that we would be in the same place where common law would leave us. All required for the penalty provisions to apply would be for an act or omission to be carried foreward with the Commission or omission being intended, without any particular intent to violate law. Indeed no awareness of law would be required.

(By unanimous consent, Mr. DINGELL was allowed to proceed for 1 additional minute.)

Mr. DINGELL. So, if we adopt the amendment we are about where the common law leaves us, and if we do not, we are about where the common law leaves us with regard to the definition of "knowingly."

Therefore, in the interest of comity, it would strike me that we would do no violence to the bill, and I would urge adoption of the amendment of the gentleman from Illinois.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. YOUNG).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. YOUNG OF ILLINOIS

Mr. YOUNG of Illinois. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Illinois: Amend Section 23(c), second sentence thereof by striking said sentence and inserting in lieu thereof the full sentence: Rules promulgated by the Administrator under Section 4, 5, or 6 of the Act shall be promulgated after hearing with full opportunity for cross examination and the burden of proof shall be on the proponent of the Rule or order, and shall not be affirmed under judicial review unless the findings required to be made under these sections are supported by substantial evidence on the record taken as a whole.

Mr. YOUNG of Illinois. Mr. Chairman, the purpose of this amendment is to see that full due process is given under the terms of this very broad, new, comprehensive act to regulate toxic substances.

A reading of the act shows there are generally three ways that the Administrator will proceed with respect to the regulation of toxic substances which he finds pose an unreasonable risk to health or the environment.

Mr. MOSS. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Illinois. I yield to the gentleman from California.

Mr. MOSS. Has the gentleman a copy of the amendment he is proposing?

Mr. YOUNG of Illinois. Yes.

The three ways that the Administrator will act are as follows:

First, he will require test protocols of those chemicals that he determines are of a sufficient toxic substance or have the propensity of a sufficient toxicity to require the testing to determine the effects of those chemicals. That type of test can be extremely expensive to those persons involved. Some businesses will not be able to comply with such a test protocol if it is imposed upon them. So we have to be very careful in connection with giving those individuals a full process of administrative hearings.

By that I mean there ought to be a full hearing given on such requirement. There ought to be the opportunity to cross-examine all the people who will be submitting information, oral testimony and written testimony with respect to the record in that case. And there should be a burden placed upon the Administrator of EPA to prove that the action he proposes to take is proper under the law. The burden should not be on the individual who is seeking to be allowed to continue to manufacture a chemical substance. Rather the burden should be on the Administrator.

The second sanction which the Administrator may use has to do with pre-market screening. Here again this is a device which can be very expensive to the parties involved. The Administrator can, as a result of such pre-market screening, limit the use of a chemical, prohibit the use of a chemical, take other types of administrative actions.

Here again it is important that the parties who are interested be given the opportunity for a full administrative hearing with all the fairness that that type of procedure encompasses. By that I mean the opportunity of cross-examination, with the burden of proof again being placed upon the proponent of the rule, and of course with the right of judicial review, and with the fact that any findings have to be supported by substantial evidence on the record as a whole.

The third method of procedure that the Administrator has is the regulation of toxic substances or dangerous substances. Here again the Administrator has broad powers to fashion remedies which can be quite devastating to those particular businesses or individuals who are involved in certain cases.

Here again that type of situation should provide for full administrative due process.

So the purpose of this amendment under section 23(c) is to afford the people who may be affected under 4, 5, and 6 with those basic rights of protection, to see that any determinations or rules which are issued which affect them are properly adopted with the sanctions and safeguards that this amendment will provide.

Mr. ECKHARDT. Mr. Chairman, I rise in opposition to the amendment.

I am truly alarmed by this provision, and rather surprised that my colleague from Illinois would, in this section of the bill respecting judicial review, in effect reverse all of our careful work, beginning on page 67, with respect to a special kind of rulemaking in these proceedings.

What we have basically done on this subcommittee, and it has been a bipartisan task, has been to try to devise a tailor-made type of procedure for those administrative acts which have direct effect on particular industries without hogtieing the administrative agency itself.

Mr. Chairman, whenever we make rules, we must make them for perhaps a 100 different industries, and if we provide the whole panoply of cross-examination under section 554 and, of course, those sections of the Administrative Procedures Act which necessarily follow if 554 is in effect, we permit everyone, if they be in any way affected by the rule, the right of some cross-examination, and we provide a process by which the entire administrative procedure may be completely thwarted.

Now, what we have attempted to do here on page 67 is to say that since there is possible action which may hurt some individuals, some companies, by not permitting them to produce a chemical, those companies can have limited cross-examination within the reasonable determination of the Administrator.

We have gone even further than that. We have said that where there are several different companies differently affected, they may decide on representation in groups and obtain cross-examination. But if we do not do that, we utterly destroy the Administrator's ability to make a rule. There would be no no end to the rulemaking process.

What this amendment does is that it rather subtly, in the section which has to do with judicial review, goes back and writes an entirely different process with respect to rulemaking.

Now, aside from the fact that we should not do this, it creates a strangely schizophrenic bill which, under its rulemaking section provides a special type of tailor-made rulemaking and then, in the judicial review section, provides the 554-type rulemaking with complete and unlimited cross-examination.

I am just alarmed at that kind of result.

Mr. YOUNG of Illinois. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Illinois.

Mr. YOUNG of Illinois. Mr. Chairman, as to section 4, which is the section on test protocols, the way it presently reads, there is no right of an interested party to cross-examine, is there, in connection with the rulemaking procedure under section 4?

Mr. ECKHARDT. Under section 4? I do not believe there is, no.

Mr. YOUNG of Illinois. Further, as I recall, it only permits an opportunity to have oral testimony introduced to the Administrator in connection with any such rulemaking.

In the rulemaking under section 4, which, as I recall, is limited now to section 553, there is no record required to be made except insofar as that is expanded upon somewhat by the provisions of section 4, which provide for an opportunity to make an oral presentation and, if an oral presentation is made, the right to have a transcript made.

I will ask the gentleman from Texas (Mr. ECKHARDT) is it not also true with respect to section 5 that again the same conditions prevail, that there is no right of cross-examination of a party who would be affected by section 5? And by that I mean the premarket screening, the kind a person would submit to, premarket screening with respect to a particular chemical substance or its use.

Mr. ECKHARDT. Well, the thing is that sections 4 and 5 provide for the establishment of certain criteria to determine what chemicals should not go on the market. In section 6, though, it provides regulations applicable to hazardous chemical substances in order to determine them to be hazardous.

PREFERENTIAL MOTION OFFERED BY MR. GROSS

Mr. GROSS. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. GROSS moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

Mr. GROSS. Mr. Chairman, we have had the usual situation to contend with here this afternoon and it is mostly attributable again to the attorneys. To snatch a minute away from them is hard to do. Yes, they have had another field day here this afternoon.

Mr. Chairman, I rise to try to find out something about what is going on—by way of costs. I have looked through the report and, while I am sure it is an unintentional omission, I find nothing to indicate how much money we are spending for all the other programs in connection with environment.

Can anyone tell me how much we are spending; how much we have spent in the past 2 or 3 years, and how much is proposed to be spent next year on environment? I know what is proposed in this bill, but is there anything in the report to tell us how many millions we are spending on all programs?

Mr. SHUSTER. Will the gentleman yield?

Mr. GROSS. I will yield to anybody who can shed some light on this.

Mr. SHUSTER. When the gentleman talks about spending on environment does he mean how many millions of dollars are being spent by the Federal Government?

Mr. GROSS. That is right.

Mr. SHUSTER. Or how many billions of dollars will be spent by the American consumer?

Mr. GROSS. First, how many millions of dollars are now being spent on environment by the Federal Government?

Mr. SHUSTER. I assume the gentleman will agree that what we have spent on this question, while it is quite large, is quite small compared to how much the American consumer will have to spend.

Mr. GROSS. Can the chairman of the Committee on Interstate and Foreign Commerce help me in any way on how much we have spent and why we have to spend additional millions under the provisions of this bill?

Mr. STAGGERS. Will the gentleman yield?

Mr. GROSS. Yes. I am glad to yield to the chairman.

Mr. STAGGERS. I would say to him that this has nothing to do with this bill. This is a gap that we claim has to be slowed down if we are going to protect America.

Mr. GROSS. I heard the gentleman say awhile ago that it was a burdensome bill, and the gentleman from Illinois said that it was a broad bill. I am convinced that both are true. But how much money are we spending now on environment and on this business of instant salvation?

I may say to the gentleman that I do not know, except for things spiritual, that you can get instant salvation in anything.

How much is being spent now?

Mr. STAGGERS. I will tell the gentleman what we propose in this bill, but I cannot tell him what is being spent, because we do not have jurisdiction over everything.

Mr. GROSS. Am I to believe the committee, when it was approving this add-on to the millions already being spent on so-called environment, failed to inquire as to how much is already being spent and whether this bill could possibly be justified under the circumstances?

Mr. STAGGERS. I might say to the gentleman that there are several other bills not before this committee that have to do with environment.

Mr. GROSS. I understand that.

Mr. STAGGERS. And we did not go into that. I did not go into it, I can say to the gentleman. We can find it out for you.

Mr. GROSS. It would not do us very much good here this afternoon, would it?

Mr. STAGGERS. Will the gentleman yield further?

Mr. GROSS. Yes, I will.

Mr. STAGGERS. The thing that is important now is the bill before us and to get it passed and to find out what it costs. I think it is important to America that this bill does pass and now.

Mr. GROSS. This bill calls for a minimum of $30.5 million in addition to all of the other millions of dollars being spent this year for environment and for instant salvation.

You know, you could not turn on the radio or television a few days ago but what you were told of the imminent peril that was outside every door and window by reason of the stagnant air and the haze that hung over Washington. I fully expected to see two or three additional pages of obituaries when the breeze finally started to come through and drove away the haze that had enshrouded Washington.

I fully expected to see hundreds of deaths listed in the papers for every person who had had a little heartburn, or something of that kind was expected to be dead, and gone, or at least among the early departed. Somehow or other it did not happen.

We can go on here and spend these millions that are included in this bill for environment, bleed ourselves to death, and what in the world have we accomplished? I say to the Members that the best thing we could do for the welfare of the citizens of this country would be to turn off the air conditioning go home and thus stop this spending before it bankrupts all of us.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Iowa (Mr. GROSS).

The preferential motion was rejected.

Mr. DENNIS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have been looking at the amendment offered by the gentleman from Illinois (Mr. YOUNG) and it deals with the section of page 93 of the bill having to do with the matter of review of rules which have been adopted. And the gentleman adds to that section which deals with the review of rules a provision about the promulgation of rules, and he simply says this:

> Rules promulgated by the administrator under section 4, 5 or 6 of the act shall be promulgated after hearing with full opportunity for cross examination and the burden of proof shall be on the proponent of the rule or order.

And that is all that this amendment does.

It is perfectly true, as the gentleman from Texas has pointed out, that this is inconsistent to a certain extent with the provisions dealing with the promulgation of rules under section 6 of the bill, because there the right of cross-examination is limited. Only under the consent of the administrator when he thinks cross-examination should be allowed in one instance, or in another instance, if it is a class matter there can only be one member of the class who can cross-examine.

So I would say, so what? The right of cross-examination is limited back there, but should it be? Perhaps the amendmend offered by the gentleman from Illinois (Mr. YOUNG) should go back in section 6 rather than in here. I would not argue about that.

We also have sections 4 and 5 dealing with test protocol and limited pre-market investigations which do not have any provisions at all for cross-examination. So the gentleman has elected to use the review section to provide not a limited cross-examination, but the full right of cross-examination in all of these sections, such as you have in the courts.

What is the great objection to doing that? I am a great believer in the right of cross examination. Why not? We cross-examine in the courts of law. We cross-examine before the National Labor Relations Board. We cross-examine before countless boards, bureaus and commissions, and it is the greatest engine for truth yet discovered. It is the very essence of due process of law.

As a libertarian I am 100 percent for it, and I know that my friend, the gentleman from Texas (Mr. ECKHARDT) is for it, ordinarily.

I do not see anything wrong with this amendment. The hearing examiner ought to know his business. He ought to be able to hold cross-examination down to a reasonable scope and degree so that not too much time should be consumed and so that time will not be wasted. But, as has been said, this is a sweeping bill to provide rules and regulations to deal with a whole industry, so why not extend the right of cross-examination?

I am not on the committee, and therefore I did not study the bill in committee, I will admit. I just read the amendment, and it just seems to me to be the simple provision of something we ought to do.

Mr. MOSS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have been trying to recall when the Committee on Interstate and Foreign Commerce resorted to following the full formula of administrative procedures for rulemaking, and I cannot, notwithstanding my more than 17 years of service on that committee. At least for the last 7 years on the Committee on Commerce and Finance we have had a well-defined bipartisan effort underway to fashion less cumbersome procedures, still affording adequate due process. This proceeding that we have recommended in this legislation conforms totally to the product which has been brought before this House time and time again by the Committee on Interstate and Foreign Commerce and its various subcommittees. It is the committee that deals with problems which fall peculiarly into the field of administrative law. I must confess I am not a lawyer, but I would say that probably were I one, and seeking an opportunity to insure that there would be a bonanza for all practitioners in the field of administrative law, I could not too strongly urge the adoption of this pending amendment.

But urging upon the Members a procedure which provides for orderly hearing, for due process, and for a fine regard for the public interest and for the removing of onerous burdens on boards and commissions and individual supplicants before them, I urge that the Members vote against this amendment. It is not well considered, and the gentleman from Illinois knows that it was debated more extensively than almost any other proposal he offered in the subcommittee and in the full committee and was rejected. It has been debated time and time again long before his emergence as a Member of the House, and it has been defeated because it was not in the interest of the best procedure for handling. This is analogous to a quasi-legislative function, and here there would be fashioned the fabric more suitable for a quasi-judicial function. In this instance one can have three full hearings: in the premarket screening, in the test protocol, and in the rule implementing it. I think it is not in the public interest, and I urge the Members—and I am not minimizing the complexity—that they reject this. It is not good legislation.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

I would like to explain to the House the reasoning that has moved the committee toward the language adopted by the committee. I would explain to the House the reason for rejection of the amendment. If my colleagues will look at proceedings before the ICC or proceedings before the FCC or any of the regulatory agencies, they will find such proceedings go on for years and years and years. If one will look to the FCC, he will find the kind of rulemaking that would be sanctified by the amendment before us was used in a case which dates to 1937, the clear channel proceedings. If one wants to see the kind of rulemaking that would be provided in the amendment, look at proceedings before the Federal Power Commission or the Federal Trade Commission where the full proceedings authorized by the Administrative Procedures Act come into play. These last for decades and more.

And as the gentleman from California has observed we see here a lawyers' bonanza. We see cases which begin and where cross-examination and submission of exhibits begin and go on interminably, with any number of parties proceeding in turn with proceedings go on into the dim and unforseen future. One sees this in such cases as the ICC and CAB operating under the full requirements of the Administrative Procedures Act, there we see cases begin and they go on forever. That is the kind of proceedings sanctified by the amendment.

The procedures set out in the committee print before us at page 93 meet the full requirements of due process. Everyone has an opportunity to present testimony, to be heard, to make statements, and to have his views printed upon the record. But in any event the proceeding finally does end, in contrast to that which we would see under the amendment.

Mr. McCOLLISTER. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Nebraska.

Mr. McCOLLISTER. Is the gentleman saying he does not approve of cross-examination as a device to extend the record and get the record more fully developed?

Mr. DINGELL. No, I am not saying that. It is within the power of the Administrator of the Environmental Protection Agency to allow cross-examination under the procedures which are set forth here.

Mr. McCOLLISTER. Under section 6 that is true, but not under sections 4 and 5.

Mr. DINGELL. Under the provisions that are under amendment, but under the provisions of the bill as presented to the House it is not necessary that he do so, and therein lies the difference.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, I have in my hand here a memorandum from the Administrative Conference of the United States, in the new Executive Office Building, adopted December 14, 1972. One part of it says:

> In future grants of rulemaking authority to administrative agencies, Congress ordinarily should not impose mandatory procedural requirements other than those required by 5 U.S.C. § 553, except that when it has special reason to do so, . . .

I would say I would be against the amendment because the procedures recommended by the gentleman's amendment are inappropriate to the task we assign the EPA. They are too formal and not proper procedures as suggested by the Administrative Conference of the United States.

Mr. Chairman, I am opposed to the amendment.

Mr. BROYHILL of North Carolina. Mr Chairman, I move to strike the last word.

Mr. Chairman, I take the floor to oppose the amendment suggested by my friend, the gentleman from Illinois (Mr. YOUNG).

I feel we have very carefully reviewed the rulemaking authority we are granting the Administrator under this section. Particularly under section 6 we do grant the right of cross-examination. It is a fact as the gentleman from Michigan has pointed out that granting of the full panoply of the cross-examination right in other agencies has not been used always for the purpose of eliciting information or getting at the facts, but has been used at times for the purposes of undue delay. For these reasons I feel we should stay with the rulemaking authority carefully tailored in this bill and we should vote against the amendment.

I would also point out we have gone far beyond, in the rulemaking authority, the normal rulemaking found in section 553 of the Administrative Procedure Act, to give all parties more rights than they normally have under that particular section of APA.

Mr. YOUNG of Illinois. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL of North Carolina. I yield to the gentleman from Illinois.

Mr. YOUNG of Illinois. Mr. Chairman, does the gentleman not agree that under section 4 which involves rulemaking from the standpoint of test protocols, there is no rulemaking process as presently drafted, and under section 553 which is involved and under which rulemaking is to be done it is informal and the burden of the agency with respect to the sustaining of its rulemaking authority is much less than it would be under section 556 or 557 of the Administrative Procedure Act?

Mr. BROYHILL of North Carolina. Mr. Chairman, in responding to that, I want to say that is not entirely correct. It is true that under the rulemaking procedure that would be used, it would be used under section 553, but there are some exceptions. First, oral testimony would be permitted. Second, under any court review of that rule, it would be governed by section 23 of the bill which, as the gentleman knows, says that the substantial evidence proven shall prevail rather than the arbitrary and capricious rule.

Mr. YOUNG of Illinois. At any rate, with respect to the fact that there have been several statements about this bill being good for lawyers, it is my opinion that it would be good for chemists also.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. YOUNG).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. YOUNG of Illinois. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 159, noes 236, not voting 38, as follows:

[Roll No. 369]

AYES—159

Abdnor
Alexander
Andrews, N.C.
Archer
Arends
Armstrong
Ashbrook
Bafalis
Baker
Beard
Blackburn
Bowen
Bray
Breaux
Brinkley
Brown, Mich.
Broyhill, Va.
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Casey, Tex.
Cederberg
Chamberlain
Clancy
Clawson, Del
Cochran
Collins, Tex.
Conlan
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Ga.
Davis, Wis.
de la Garza
Denholm
Dennis
Derwinski
Devine
Dickinson
Dorn
Downing
Edwards, Ala.
Erlenborn
Eshleman
Flynt
Fountain
Frelinghuysen
Frey
Froehlich
Giaimo
Ginn
Goldwater
Gonzalez
Goodling
Gross
Grover
Haley
Hanrahan
Harvey
Henderson
Hicks
Hogan
Holt
Huber
Hudnut
Hungate
Hunt
Ichord
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Tenn.
Kazen
Kemp
Ketchum
Latta
Leggett
Lent
Litton
Long, Md.
Lott
McClory
McCollister
McKinney
Madigan
Mahon
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Mayne
Michel
Miller
Montgomery
Moorhead, Calif.
Myers
Nelsen
Nichols
O'Brien
Parris
Passman
Poage
Powell, Ohio
Price, Tex.
Quie
Railsback
Randall
Rarick
Regula
Rhodes
Robinson, Va.
Roncallo, N.Y.
Rousselot
Runnels
Ruppe
Ruth
Sandman
Satterfield
Scherle
Schneebeli
Shoup
Shuster
Sikes
Sisk
Snyder
Spence
Steelman
Steiger, Ariz.
Stubblefield
Stuckey
Symms
Taylor, Mo.
Teague, Calif.
Teague, Tex.
Thomson, Wis.
Towell, Nev.
Treen
Ullman
Vander Jagt
Waggonner
Walsh
Ware
White
Whitehurst
Whitten
Williams
Wilson, Bob
Wyatt
Wydler
Wyman
Young, Alaska
Young, Ill.
Young, S.C.
Zion

NOES—236

Abzug
Adams
Addabbo
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
Badillo
Barrett
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blatnik
Boggs
Boland
Brademas
Brasco
Breckinridge
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Ohio
Broyhill, N.C.
Buchanan
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton
Carey, N.Y.
Carney, Ohio
Carter
Chappell
Chisholm
Clark
Clausen, Don H.
Cleveland
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
Cronin
Culver
Daniels, Dominick V.
Danielson
Davis, S.C.
Delaney
Dellenback
Dellums
Dent
Diggs
Dingell
Donohue
Drinan
Duncan
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Flowers
Ford, William D.
Forsythe
Fraser
Frenzel
Fulton
Gaydos
Gettys
Gibbons
Gilman
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Gude
Guyer
Hamilton
Hammerschmidt
Hanley
Hansen, Idaho
Hansen, Wash.
Harsha
Hastings
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hillis
Hinshaw
Holifield
Holtzman
Horton
Hosmer
Howard
Johnson, Calif.
Jones, Ala.
Jones, Okla.
Jordan
Karth
Kastenmeier
Keating
Kluczynski
Koch
Kyros
Lehman
Long, La.
Lujan
McCloskey
McCormack
McDade
McEwen
McFall
McKay
McSpadden
Macdonald
Madden
Mailliard
Mallary
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nix
Obey
O'Hara
Owens
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Podell
Preyer
Price, Ill.
Pritchard
Rangel
Rees
Reuss
Riegle
Rinaldo
Robison, N.Y.
Rodino
Rogers
Rooney, Pa.
Rose
Rosenthal
Roush
Roy
Roybal
St Germain
Sarasin
Sarbanes
Saylor
Schroeder
Sebelius
Seiberling
Shipley
Shriver
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Staggers
Stanton, J. William
Stark
Steed
Steele
Steiger, Wis.
Stokes
Stratton
Studds
Sullivan
Symington
Taylor, N.C.
Thompson, N.J.
Thone
Thornton
Tiernan
Udall
Van Deerlin
Vanik
Veysey
Vigorito
Waldie
Wampler
Whalen
Widnall
Wiggins
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Wright
Wylie
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zwach

NOT VOTING—38

Bell
Bolling
Camp
Clay
Collier
Conable
Dulski
Fisher
Foley
Ford, Gerald R.
Fuqua
Gubser
Gunter
Hanna
Harrington
Hébert
Hutchinson
King
Kuykendall
Landgrebe
Landrum
Milford
Mills, Ark.
Minshall, Ohio
Mizell
O'Neill
Quillen
Reid
Roberts
Roe
Roncalio, Wyo.
Rooney, N.Y.
Rostenkowski
Ryan
Stanton, James V.
Stephens
Talcott
Winn

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENTS OFFERED BY MR. ARMSTRONG

Mr. ARMSTRONG. Mr. Chairman, I offer two amendments and ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. ARMSTRONG: Page 94, line 11, strike out "may" and insert "shall".

On line 13A, strike out "Administrator" and insert "President".

On page 94, line 24, after "security" change the period to a comma and insert the following: "in which event the Administrator shall submit notice to the House Armed Services Committee and the Senate Armed Services Committee."

Mr. ARMSTRONG. Mr. Chairman, I believe there may be no controversy about these proposed amendments, and therefore, my explanation will be correspondingly brief.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. ARMSTRONG. I will be happy to yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, I would like to say to the House that the time has come, I believe, for a vote on this bill. I think it is an important bill. We are trying to plan ahead for those who are to come after us, and also for today, too. We do have problems. Thank God we have had enough foresight to cure them before they can overtake us, like in other nations who did not have such foresight to provide for the protection of their water, their vegetation, and atmosphere, and destroyed their civilizations.

I think that just as soon as these amendments are considered that we should vote on this bill.

As far as the amendments themselves are concerned, I think they really implement this bill, perhaps, so that we have substituted "President" for "Administrator" on what is national security. I believe that should be.

And in the second amendment I believe the point there is just to implement the first amendment.

On this side we are happy to accept the amendments offered by the gentleman from Colorado (Mr. ARMSTRONG). I believe they are really an improvement to the intent and purpose of the bill.

Mr. ARMSTRONG. Mr. Chairman, I thank the gentleman from West Virginia.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Colorado (Mr. ARMSTRONG).

The amendments were agreed to.

Mr. CASEY of Texas. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have been around here for several hours, and it seems to me that this bill was in such disagreement among the members of the committee that unless one were a member of the committee one could not get recognition.

I am opposed to this bill, and I will tell the Members why: You know, the committee very thoughtfully put down on page 18 of their report a list of all the services we now have with respect to the environment, all the different agencies that we have created. They also point out that there are 1.8 million chemicals listed in the chemical abstracts service registry numbers system, which is a private endeavor, I presume. Also the fact that there are 2,500 being added every year.

Within 90 days the Administrator has to publish in the Federal Register a list of the chemicals that he thinks might be dangerous to the health and the welfare of our people and our Nation. Further, that anyone who proceeds to produce any new chemical, and that means that, as indicated, there are 2,500 of them a year, then that requires 2,500 new applications, reports, and evaluations.

They say this is to fill a gap. All I have heard are arguments today about procedure; 48 pages of the bill and 25 sections. I have not heard enough about this gap that we are attempting to fill with those 48 pages of the bill, and 25 sections, and with an expenditure of approximately $9-point-something million, the first year, and up to $11 million and something, and over the life of the bill, the full term of this legislation, of some $30 million.

Mr. Chairman, I am reminded of when I was a small youngster, and I raised tropical fish. And when I bought a certain bowl of fish the gentleman who sold them to me said—

> Now, this one is going to have babies, and when it does, you had better get them out of the bowl real quick.

I said, "Why?" He said—

> Because that momma is over-protective, and she will get excited when she sees you, and she will eat the fish.

So, this mother EPA is beginning to eat us, in case you did not know it. It is overly protective, and we created it.

Just to give the Members an example, we in our haste and in our anxiousness to protect all of the people of this Nation passed the air quality bill, the Air Control Act. I did not read the fine print; neither did anybody else. Only one Member in this House voted against that bill when it passed. If one starts reading the fine print, what we gave them authority to do was not only control emission on smokestacks on plants, but on automobiles. We argued for days here about emission control on automobiles. We wasted our time. We gave it to them carte blanche.

They have already issued preliminary orders. One cannot put in a shopping center; one cannot put in a parking lot or hospital; one cannot enlarge a plant; one cannot enlarge a medical center unless they say it is all right. The bill specifically gives them the right of traffic control, and then it has a broad statement—

> and such other actions as they deem necessary to clear the air.

This is a good lawyer's bill. It is going to take up a lot of the slack for the unemployed lawyers, because anyone who manufactures any chemicals is going to need plenty of lawyers to find out where they are with reference to this bill; and anyone who votes for it thinking it is just kind of a harmless, protective bill is going to be surprised at the authority that is assumed. I say I do not think that the American public needs all the protection we have been giving them, and I do not think that the gap that has been referred to is in existence.

We have our remedies now. We have our other agencies: OSHA, the Air Pollution Control Act, Water Pollution Control Act. We have our action and the right of action in court. HEW can take any harmful substance off of the market by just going into court. We do not need 25 sections and 48 pages of a bill to do it.

Mr. HOSMER. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I had not intended to speak, but the wisdom of what the gentleman from Texas who preceded me in the well had to say was rather outstanding and I want to compliment him on it. Year after year I have been in this Congress and listened to people want to get bills passed saying that people cannot do this, that, or some other thing. And here is another one of them. By the time we get through, we would not be able to do a darned thing in this country. I think it is about time we stopped being negative. This is supposed to be a "can do" country, not a "cannot do" country. Let us stop voting for negative things just because someone says they are good and holy and satisfy the environment. We have to live in this country, too.

I have a clipping out of the Los Angeles Times that somebody gave me. It is one of Bill Buckley's columns. It starts out:

> Recently a professor at the University of California charged almost parenthetically that 10,000 deaths from malaria in Ceylon in 1968 can be attributed to the late Rachel Carson. . . .

Simply because we had this great business about DDT, and when we knocked off the DDT, people started catching everything else, because the bugs and mosquitos were getting at us. The result is a lot more people died than would have otherwise.

The same thing is true about cyclamates. Some of the Members will remember the emotionally charged debates we had in this very room about those cyclamates, and how they were going to make everybody last forever, and everybody was going to be a thousand years old before they died. Now they find that the studies discrediting the cyclamates have themselves been discredited by subsequent studies. We probably killed a lot of people by stopping the cyclamates and letting people get fat and dying from heart attacks.

I am going to vote "no" on this bill until somebody can convince me that it means progress for the country and is not something like another left-wing shackle around ourselves. Let us be careful about getting ourselves locked up in the grave of "do-nothingism."

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. HOSMER. I yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding.

I have a copy of the report of the Agriculture Appropriations Subcommittee with respect to an environmental and consumer protection appropriation bill. The testimony before that committee this year indicated that in order to meet the pollution problems and the standards associated with air pollution, water pollution, and solid waste disposal over the next decade will cost $287 billion. I said 287 billions of dollars, not 287 million.

Mr. HOSMER. Yes, and all for social science, not for getting anything done but just for regulating ourselves.

Mr. GROSS. I understand that information was supplied by former EPA Director Ruckelshaus.

Mr. HOSMER. I thank the gentleman.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. FLYNT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 5356) to regulate interstate commerce to protect health and the environment from hazardous chemical substances, pursuant to House Resolution 493, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole?

Mr. BROYHILL of North Carolina. Mr. Speaker, I demand a separate vote on the so-called Eckhardt amendment to section 9 of the bill.

The SPEAKER. Is a separate vote demanded on any other amendment? If not, the Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

> Amendment: On page 75, strike lines 3 through 17 inclusive and insert:
>
> "(b)(1) The Administrator shall have no authority to take action under sections 5, 6, and 7 of this Act to prevent or reduce an unreasonable risk to health or the environment associated with a particular chemical substance or article containing such substance if such risk to health or the environment could be prevented or reduced to a sufficient extent by actions taken under any other Federal law (other than a law referred to in paragraph (2) of this subsection), including the Atomic Energy Act of 1954; the Federal Hazardous Substances Act; the Occupational Safety and Health Act of 1970; the Consumer Product Safety Act; subpart 3 of part F of title III of the Public Health Service Act (relating to electronic product radiation); and Acts administered by the Secretary of Transportation relating to the transportation of hazardous substances.
>
> "(2) The Administrator shall coordinate actions taken under this Act with actions taken to enforce the Federal Water Pollution Control Act and the Clean Air Act. He shall use the authorities contained in those Acts to regulate chemical substances, unless

he determines that a risk associated with a chemical substance would be more appropriately regulated under this Act."

The SPEAKER. The question is on the amendment.

The question was taken; and the Speaker announced that the noes appeared to have it.

RECORDED VOTE

Mr. MOSS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 189, noes 202, not voting 42, as follows:

[Roll No. 370]

AYES—189

Abzug
Adams
Addabbo
Anderson, Calif.
Annunzio
Armstrong
Ashley
Aspin
Badillo
Bafalis
Bergland
Biaggi
Biester
Bingham
Blatnik
Boggs
Boland
Brademas
Brasco
Breckinridge
Brown, Calif.
Buchanan
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton
Carey, N.Y.
Carney, Ohio
Chisholm
Clark
Clausen, Don H.
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
Cronin
Culver
Danielson
Dellums
Denholm
Dennis
Diggs
Dingell
Donohue
Drinan
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Esch
Evans, Colo.
Fascell
Findley
Fish
Flood
Flynt
Ford, William D.
Fraser
Frenzel
Frey
Fulton
Gaydos
Giaimo
Gibbons
Gilman
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Gude
Hamilton
Hanley
Hanrahan
Hansen, Wash.
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Helstoski
Hicks
Holifield
Holtzman
Howard
Hungate
Johnson, Calif.
Johnson, Colo.
Jordan
Karth
Kastenmeier
Kluczynski
Koch
Leggett
Lehman
Long, Md.
McCollister
McCormack
McDade
McFall
McKinney
Madden
Mailliard
Maraziti
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Minish
Mink
Mitchell, Md.
Moakley
Mollohan
Moorhead, Pa.
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Obey
O'Hara
Owens
Patten
Pepper
Perkins
Pike
Podell
Powell, Ohio
Price, Ill.
Pritchard
Quie
Randall
Rangel
Rees
Regula
Reuss
Riegle
Rinaldo
Rodino
Rogers
Rooney, Pa.
Rosenthal
Roush
Roy
Roybal
St Germain
Sarasin
Sarbanes
Saylor
Schroeder
Seiberling
Smith, Iowa
Staggers
Stark
Steed
Steele
Steelman
Steiger, Wis.
Stokes
Studds
Sullivan
Symington
Thompson, N.J.
Thone
Thornton
Tiernan
Udall
Van Deerlin
Vanik
Vigorito
Waldie
Whalen
White
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Wright
Wylie
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Ill.
Zablocki

NOES—202

Abdnor
Alexander
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Arends
Ashbrook
Baker
Barrett
Beard
Bennett
Bevill
Blackburn
Bowen
Bray
Breaux
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clawson, Del
Cleveland
Cochran
Collins, Tex.
Conlan
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Dellenback
Derwinski
Devine
Dickinson
Dorn
Downing
Duncan
Edwards, Ala.
Erlenborn
Eshleman
Evins, Tenn.
Flowers
Forsythe
Fountain
Frelinghuysen
Froehlich
Gettys
Ginn
Goldwater
Gonzalez
Goodling
Gross
Grover
Guyer
Haley
Hammerschmidt
Hansen, Idaho
Harsha
Harvey
Hastings
Heinz
Henderson
Hillis
Hinshaw
Hogan
Holt
Horton
Hosmer
Huber
Hudnut
Hunt
Ichord
Jarman
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Keating
Kemp
Ketchum
Kuykendall
Kyros
Latta
Lent
Litton
Long, La.
Lott
Lujan
McClory
McCloskey
McEwen
McKay
McSpadden
Macdonald
Madigan
Mahon
Mallary
Mann
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Mayne
Michel
Miller
Mitchell, N.Y.
Montgomery
Moorhead, Calif.
Mosher
Myers
Nelsen
Nichols
Nix
O'Brien
Parris
Passman
Pettis
Peyser
Pickle
Poage
Preyer
Price, Tex.
Railsback
Rarick
Rhodes
Robinson, Va.
Robison, N.Y.
Roncallo, N.Y.
Rose
Rousselot
Runnels
Ruppe
Ruth
Sandman
Satterfield
Scherle
Schneebeli
Sebelius
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, N.Y.
Snyder
Spence
Stanton, J. William
Steiger, Ariz.
Stratton
Stubblefield
Stuckey
Symms
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Thomson, Wis.
Towell, Nev.
Treen
Ullman
Vander Jagt
Veysey
Waggonner
Walsh
Wampler
Ware
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wyatt
Wydler
Wyman
Young, Alaska
Young, S.C.
Young, Tex.
Zion
Zwach

NOT VOTING—42

Bell
Bolling
Camp
Clay
Collier
Conable
Daniels, Dominick V.
Delaney
Dent
Dulski
Fisher
Foley
Ford, Gerald R.
Fuqua
Gubser
Gunter
Hanna
Harrington
Hébert
Hutchinson
King
Landgrebe
Landrum
Milford
Mills, Ark.
Minshall, Ohio
Mizell
O'Neill
Patman
Quillen
Reid
Roberts
Roe
Roncalio, Wyo.
Rooney, N.Y.
Rostenkowski
Ryan
Stanton, James V.
Stephens
Talcott
Teague, Tex.
Winn

So that amendment was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Rooney of New York for, with Mr. Fuqua against.

Mr. Rostenkowski for, with Mr. Fisher against.

Mr. Roe for, with Mr. King against.

Mr. Delaney for, with Mr. Landgrebe against.

Mr. Dominick V. Daniels for, with Mr. Quillen against.

Mr. Clay for, with Mr. Talcott against.

Mr. Harrington for, with Mr. Mizell against.

Mr. Hanna for, with Mr. Hutchinson, against.

Mr. Reid for, with Mr. Gubser against.

Mr. James V. Stanton for, with Mr. Hébert against.

Mr. Dent for, with Mr. Camp against.

Mr. Dent for, with Mr. Camp against.

Mr. Foley for, with Mr. Collier against.

Mr. O'Neill for, with Mr. Conable against.

Mr. Ryan for, with Mr. Teague of Texas against.

Until further notice:

Mr. Stephens with Mr. Gunter.

Mr. Mills of Arkansas with Mr. Bell.

Mr. Roberts with Mr. Gerald R. Ford.

Mr. Milford with Mr. Minshall of Ohio.

Mr. Landrum with Mr. Roncalio of Wyoming.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the amendment adopted by the Committee of the Whole.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (S. 426) to regulate interstate commerce by requiring premarket testing of new chemical substances and to provide for screening of the results of such testing prior to commercial production, to require testing of certain existing chemical substances, to authorize the regulation of the use and distribution of chemical substances, and for other purposes, a similar bill to the House bill just passed.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. GROSS. Mr. Speaker, reserving the right to object what is proposed before the House? Is it the substitute Senate bill?

The SPEAKER. The Chairman is calling up the Senate bill for the purpose of striking out all after the enacting clause and inserting the provisions of the House-passed bill.

Mr. GROSS. At the proper time, Mr. Speaker, I would like to have a vote by the yeas and nays on that, although they were not obtained on the passage of the House bill.

The SPEAKER. The Chair did not recognize any Member desiring to have a vote. Was the gentleman on his feet?

Mr. COLLINS of Texas. Mr. Speaker, I wanted recognition at the time.

The SPEAKER. The gentleman should have addressed the Chair. The Chair certainly put the question, and the Chair apologizes if any Members were seeking recognition. The Chair did not hear the gentleman address the Chair.

Mr. COLLINS of Texas. Mr. Speaker, did the Speaker see me standing?

The SPEAKER. The Chair saw the gentleman, but did not know he was seeking recognition.

Mr. COLLINS of Texas. I have a recommittal motion at the desk, Mr. Speaker.

I yield to the gentleman from Iowa.

The SPEAKER. The Chair would request that the proceedings be vacated if the gentleman will tell the Chair he was standing seeking recognition. The Chair is not going to pass any Member up intentionally who is seeking recognition.

Mr. COLLINS of Texas. Mr. Speaker, all I wanted was a rollcall vote on final passage. I would like to ask unanimous consent——

The SPEAKER. Without objection, the proceedings under which the bill was passed and a motion to reconsider laid on the table will be vacated.

Mr. THOMPSON of New Jersey. Mr. Speaker, I object.

The SPEAKER. Is there objection to the consideration of the Senate bill?

Mr. GROSS. Mr. Speaker, I object to it.

Mr. THOMPSON of New Jersey. Mr. Speaker, I withdraw my objection.

The SPEAKER. Without objection, the proceedings under which the House bill was passed and the proceedings subsequent thereto shall be vacated.

There was no objection.

The SPEAKER. The question is on the passage of the House bill, H.R. 5356.

Mr. COLLINS of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device; and there were—yeas 324, nays 73, not voting 36, as follows:

[Roll No. 371]

YEAS—324

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Armstrong
Ashley
Aspin
Badillo
Bafalis
Barrett
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blatnik
Boggs
Boland
Brademas
Brasco
Bray
Breaux
Breckinridge
Brinkley
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton
Butler
Carey, N.Y.
Carney, Ohio
Carter
Cederberg
Chamberlain
Chappell
Chisholm
Clark
Clausen, Don H.
Cleveland
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
Cronin
Culver
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
Delaney
Dellenback
Dellums
Denholm
Dent
Derwinski
Diggs
Dingell
Donohue
Downing
Drinan
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Flowers
Flynt
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Grover
Gude
Guyer
Haley
Hamilton
Hanley
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harsha
Harvey
Hastings
Hawkins
Hays
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holtzman
Horton
Howard
Huber
Hudnut
Hungate
Hunt
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jordan
Karth
Kastenmeier
Keating
Kemp
Kluczynski
Koch
Kuykendall
Kyros
Latta
Leggett
Lehman
Lent
Long, La.
Long, Md.
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McKay
McKinney
Macdonald
Madden
Madigan
Mailliard
Mallary
Maraziti
Martin, N.C.
Mathias, Calif.
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Miller
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Brien
O'Hara
Owens
Parris
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Podell
Preyer
Price, Ill.
Pritchard
Quie
Railsback
Randall
Rangel
Rees
Regula
Reuss
Riegle
Rinaldo
Robison, N.Y.
Rodino
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Roush
Roy
Roybal
Ruppe
Sandman
Sarasin
Sarbanes
Saylor
Scherle
Schneebeli
Schroeder
Seiberling
Shipley
Shoup
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Staggers
Stanton, J. William
Stark
Steele
Steelman
Steiger, Wis.
Stokes
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Symington
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Udall
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waldie
Walsh
Wampler
Ware
Whalen
White
Whitehurst
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Zablocki
Zion
Zwach

NAYS—73

Archer
Arends
Ashbrook
Baker
Beard
Blackburn
Bowen
Brooks
Burleson, Tex.
Byron
Casey, Tex.
Clancy
Clawson, Del
Cochran
Collins, Tex.
Conlan
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Wis.
de la Garza
Dennis
Devine
Dickinson
Dorn
Goldwater
Gonzalez
Goodling
Gross
Hammerschmidt
Holt
Hosmer
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Ketchum
Litton
Lott
McSpadden
Mahon
Mann
Martin, Nebr.
Mathis, Ga.
Mayne
Michel
Montgomery
Passman
Patman
Poage
Powell, Ohio
Price, Tex.
Rarick
Rhodes
Robinson, Va.
Rousselot
Runnels
Ruth
Satterfield
Sebelius
Shuster
Spence
Steed
Steiger, Ariz.
Symms
Teague, Tex.
Treen
Ullman
Waggonner
Whitten
Young, S.C.
Young, Tex.

NOT VOTING—36

Bell
Bolling
Camp
Clay
Collier
Conable
Dulski
Fisher
Foley
Ford, Gerald R.
Gubser
Gunter
Hanna
Harrington
Hutchinson
Ichord
King
Landgrebe
Landrum
Milford
Mills, Ark.
Minshall, Ohio
Mizell
O'Neill
Quillen
Reid
Roberts
Roe
Rooney, N.Y.
Rostenkowski
Ryan
St Germain
Stanton, James V.
Stephens
Talcott
Winn

So the bill was passed.

The Clerk announced the following pairs:

Mr. Rooney of New York with Mr. Roberts.
Mr. Dent for, with Mr. Camp against.
Mr. Gunter with Mr. Bell.
Mr. St Germain with Mr. Talcott.
Mr. Reid with Mr. Landgrebe.
Mr. Roe with Mr. Camp.
Mr. Fisher with Mr. King.
Mr. Clay with Mr. James V. Stanton.
Mr. Stephens with Mr. Gubser.
Mr. Ryan with Mr. Conable.
Mr. O'Neill with Mr. Gerald R. Ford.
Mr. Hanna with Mr. Hutchinson.
Mr. Harrington with Mr. Collier.
Mr. Landrum with Mr. Minshall of Ohio.
Mr. Dulski with Mr. Mizell.
Mr. Foley with Mr. Winn.
Mr. Ichord with Mr. Quillen.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 426) to regulate interstate commerce by requiring premarket testing of new chemical substances and to provide for screening of the results of such testing prior to commercial production, to require testing of certain existing chemical substances, to authorize the regulation of the use and distribution of chemical substances, and for other purposes, a bill similar to H.R. 5356 just passed by the House.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read as follows:

S. 426

An act to regulate interstate commerce by requiring premarket testing of new chemical substances and to provide for screening of the results of such testing prior to commercial production, to require testing of certain existing chemical substances, to authorize the regulation of the use and distribution of chemical substances, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. (a) This Act may be cited as the "Toxic Substances Control Act of 1973".

(b) Table of contents.

Sec. 1. Short title and table of contents.
Sec. 2. Findings and policy.
Sec. 3. Definitions.
Sec. 4. Test standards.
Sec. 5. Premarket screening of new chemical substances.
Sec. 6. Existing chemical substances.
Sec. 7. Restrictions of use or distribution.
Sec. 8. Imminent hazard.
Sec. 9. Seizure.
Sec. 10. Reports.
Sec. 11. Exemptions and relationship to other laws.
Sec. 12. Chemical Substances Board.
Sec. 13. Research.
Sec. 14. Administrative inspections and warrants.
Sec. 15. Exports and imports.
Sec. 16. Confidentiality.
Sec. 17. Prohibited acts.
Sec. 18. Penalties and remedies.
Sec. 19. Citizen civil actions.
Sec. 20. Environmental prediction and assessment.
Sec. 21. Cooperation of Federal agencies.
Sec. 22. Health and environmental data.
Sec. 23. State regulations.
Sec. 24. Regulations, procedures, and judicial review.
Sec. 25. National security waiver.

Sec. 26. Recordkeeping of recipients of Federal assistance.
Sec. 27. Authorization for appropriations.

FINDINGS AND POLICY

SEC. 2. (a) The Congress finds that—

(1) Human beings and the environment are being exposed to a large number of chemical substances each year.

(2) Among the many chemical substances constantly being developed and produced there are some which may pose an unreasonable threat to human health or the environment.

(3) The effective regulation of interstate commerce in such chemical substances necessitates the regulation of transactions in such chemical substances in intrastate commerce as well.

(b) It is the policy of the United States that—

(1) New chemical substances and hazardous or potentially hazardous existing chemical substances should be adequately tested with respect to their safety to human beings and the environment. It should be the responsibility of those who produce such chemicals, to conduct such tests.

(2) Adequate authority should exist to restrict the distribution and use of chemical substances found to pose an unreasonable threat to human health or the environment.

(3) Authority over chemical substances should be exercised in such a manner as not to unduly impede technological innovation while fulfilling the primary purpose of this Act to assure that such innovation and commerce in such chemical substances does not pose an unreasonable threat to human health or the environment.

(4) As set forth herein, citizens should be encouraged to participate and to assist in carrying out the purposes of this Act.

DEFINITIONS

SEC. 3. As used in this Act—

(1) "Administrator" means the Administrator of the Environmental Protection Agency.

(2) "By product" means a chemical substance produced as a result of the production, manufacture, processing, use, or disposal of some other chemical substance.

(3) "Chemical substance" means any organic or inorganic substance of a particular molecular identity, or any uncombined chemical radical or element.

(4) "District of the United States", which court shall serve jurisdiction over actions arising under this Act, includes the District Court of Guam, the District Court of the Virgin Islands, the District Court of the Canal Zone, and in the case of American Samoa and the Trust Territory of the Pacific Islands, the District Court of the United States for the District of Hawaii.

(5) "Environment" includes water, air, land, all living things therein, and the interrelationships which exist among these.

(6) "Existing chemical substance" means any chemical substance which has been produced or imported into the United States in commercial quantities prior to one hundred eighty days after the date of enactment of this Act.

(7) "Indemnity" means any payment made to a person as reimbursement for loss or damage other than a payment made in accordance with a judgment of any court in an action brought at common law or under section 1346 of title 28, United States Code.

(8) "Intermediate chemical substance" means any chemical substance to the extent that such substance is converted chemically or used as a catalyst in the manufacture of other chemical substances subject to this Act.

(9) "Laboratory reagent" means any chemical substance produced, distributed, or used for scientific experimentation or chemical research or analysis.

(10) "Manufacturer" means any person engaged in the production or manufacture of chemical substances for purposes of sale or distribution in commercial quantities, or an importer of such substances.

(11) "New chemical substance" means any chemical substance which has not been produced or imported into the United States in commercial quantities prior to one hundred eighty days after the date of enactment of this Act: *Provided*, That after such substance is first produced or imported in commercial quantities it shall be regarded thereafter for purposes of this Act as an "existing chemical substance".

(12) "Person" includes an individual or a corporation, joint-stock company, partnership, association, business trust, organized group of persons, whether incorporated or not, receiver or trustee of any of the foregoing, State, municipality, or political subdivision of a State.

(13) "Processor" means any person engaged in the preparation of a chemical substance or a product containing such substance for distribution or use either in the form in which it is received or as part of another product, as defined by regulations of the Administrator.

(14) "Protect health and the environment" means protect against any unreasonable threat to human health or the environment resulting from the use or distribution of a chemical substance or any product containing such substance, taking into account the benefits of such use or distribution as compared to the risks of such use or distribution to human health or the environment.

(15) "Restrict the use or distribution" means to prescribe the amount of a chemical substance or a product containing such substance which may be sold to given types of processors, or to limit the type of processor to whom such substance or product may be sold, or to prescribe the amount of such subtance or product which may be utilized by a given type of processor, or to limit the sale of such substance or product or the manner in which such substance or product may be used, handled, labeled, or disposed of by any person, including self-monitoring requirements for manufacturers and processors to insure that the substance or product being manufactured or processed is of reasonably consistent composition. Such restriction on use or distribution may be applied on a geographic basis and may include a total ban.

(16) "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States.

(17) "Test protocol" means a standardized procedure for performing tests as required by this Act pursuant to regulations promulgated by the Administrator, the results of which will provide a basis for judging the effects of a chemical substance on human health or the environment.

TEST STANDARDS

SEC. 4. (a) Within one year after the date of enactment of this Act and from time to time thereafter, the Administrator shall issue proposed regulations to establish such standards for test protocols for various chemical substances or classes of chemical substances or uses thereof and for the results to be achieved therefrom as are necessary to protect health and environment. Such regulations shall apply to those chemical substances or classes or uses of chemical substances which are produced in commercial quantities and which the Administrator has reason to believe may pose an unreasonable threat to human health or the environment. To the extent feasible, such regulations shall indicate the use or distribution of a chemical substance which will be permitted upon and only upon the attainment of specified test results.

(b) In issuing the proposed regulations required under subsection (a) and in issuing any subsequent final regulations, the Administrator shall consider all relevant factors including—

(1) the effects of the chemical substance on health and the magnitude of human exposure;

(2) the effects of the chemical substance on the environment and the magnitude of environmental exposure;

(3) any benefit of the chemical substance and the availability of less hazardous substitutes for any use or distribution of such substance;

(4) the extent to which the test protocol is reasonably predictive of the potential adverse effects of the chemical substance on health or the environment; and

(5) any data concerning the safety of the chemical substance which may affect the requirements of the test protocol.

(c) Test protocols established under this section may include tests for carcinogenesis, teratogenesis, mutagenesis, persistence, the cumulative properties of the substance, the synergistic properties of the substance and other types of hazards, and epidemiological studies of the effects of the chemical substance.

(d) The Administrator shall specify in any proposed or final regulations developed under this section the date on which such regulations shall take effect, except that such regulations shall take effect as soon as feasible allowing sufficient time for the execution and reporting of required tests as may be required by sections 5 and 6 of this Act.

PREMARKET SCREENING OF NEW CHEMICAL SUBSTANCES

SEC. 5. (a) One hundred and eighty days after the date of enactment of this Act, and thereafter, any manufacturer of a new chemical substance shall notify the Administrator, at least ninety days in advance of the commercial production of such substance, and when tendering such notice such manufacturer shall submit to the Administrator the information referred to in section 10(a) of this Act insofar as it pertains to such substance. If in the judgment of the Administrator a substance is of no unreasonable environmental or public health threat, he may reduce the number of days after submission of such information during which commercial production may not occur. The Administrator shall give priority attention to information covering a substance where serious economic or other hardship will result from unnecessary postponement of commercial production.

(b) After the effective date of regulations promulgated pursuant to section 4 of this Act, any manufacturer of a new chemical substance (i) to which such regulations are applicable and (ii) who first produces or imports such substance into the United States in commercial quantities after the effective date of such regulations, shall submit to the Administrator in lieu of the information required in subsection (a) of this section, at least ninety days in advance of the commercial production or importation of such substance, the test data developed in accordance with such regulation for the intended use or distribution of such substance.

(c) Subject to section 16 of this Act, the Administrator shall promptly publish in the Federal Register the identity of such chemical substance, the use or distribution intended, and a statement of the availability of any test data submitted.

(d) If warranted by data or the absence of data available to him, the Administrator may propose by regulation to restrict the use or distribution of any new chemical substance in accordance with section 7 of this Act. If such regulation is proposed prior to the expiration of the ninety-day period referred to in subsection (a) or (b) of this section such proposed restrictions on use or distribution shall apply, pending the outcome of administrative proceedings on such proposal, to any subsequent commercial production of such new chemical substance as if such proposed regulation were final. After such regulation is proposed, the Administrator may refer it to the Board referred to in section 12(c) of this Act. The Administrator shall refer such proposal to such Board if requested by any interested party.

(e) The Administrator may extend the date after which a new chemical substance may be commercially produced under this Act for any particular use or distribution beyond ninety days from the submission of information required under this section for an additional period, not to exceed ninety days, for good cause shown. Subject to section 16 of this Act, notice of such extension and the reasons therefor shall be published in the Federal Register and shall constitute a final action subject to judicial review in accordance with section 24(d) of this Act.

(f) If the Administrator fails to propose a restriction on use or distribution with respect to a chemical substance within ninety days of submission of information or data under subsection (a) or (b) of this section (or in the case of information submitted under subsection (a) such shorter period of time as the Administrator may consider appropriate) or to extend the time, pursuant to subsection (e), for consideration of information submitted, commercial production of such chemical substance may begin. Nothing in this section shall be construed to prohibit the Administrator from restricting the use or distribution of any chemical substance pursuant to section 7 of this Act after commercial production of such substance has begun or from taking action against any substance which is found to be an imminent hazard pursuant to section 8 of this Act.

(g) (1) The Administrator may exempt any person from the obligation to submit test data under this section if he determines that the submission of test data by such person would be duplicative of data previously submitted in accordance with this section, except that such person shall not commercially produce such new chemical substance prior to the commercial production of the new chemical substance for which test data were submitted under this section. Any chemical substance or member of a class of chemical substances or any manufacturer or processor thereof referred to under the pending sentence shall be subject to all the other provisions of this Act.

(2) If the Administrator, under paragraph (1), exempts any person from submitting data under this section because of the existence of previously submitted test data and if such exemption takes effect during the reimbursement period for such data (defined in paragraph (3)), then (unless the parties can agree on the amount and method of reimbursement) the Administrator shall order the person granted the exemption to provide fair and equitable reimbursement (in an amount and subject to conditions determined under rules of the Administrator)—

(A) to any person who previously submitted test data on which the exemption was based, for a portion of the costs incurred by him in complying with the requirement under this section to submit such data, and

(B) to any other person who has been required under this paragraph to contribute with respect to such data.

An order under this paragraph shall be considered final agency action, for purposes of judicial review.

(3) For purposes of paragraph (2), the reimbursement period for any previously submitted test data is a period—

(A) beginning on the earliest date (after submission of such data) on which a person who previously submitted test data on which the exemption was based was no longer prohibited from proceeding with the manufacture and distribution in commerce of a chemical substance to which such data applied, and

(B) ending two years after such date (or, if later, at the expiration of a period after such date equal in length to the period which the Administrator determines was necessary to develop the previously submitted test data).

EXISTING CHEMICAL SUBSTANCES

SEC. 6. (a) The Administrator shall issue, within one year after the date of enactment of this Act and from time to time thereafter, proposed regulations specifying those existing chemical substances or classes or uses of chemical substances which are produced or imported into the United States in commercial quantities and which the Administrator has reason to believe may pose an unreasonable threat to human health or the environment. Concurrently with each proposal to specify such existing chemical substance, the Administrator shall propose regulations under section 4 of this Act, if he has not previously done so, which are applicable to each existing chemical substance so specified. On or before the effective date of any applicable regulation under section 4 of this Act, any manufacturer of an existing chemical substance shall furnish the test data developed in accordance with such regulations to the Administrator. Subject to section 16 of the Act, the Administrator shall, upon receipt of such test data from a manufacturer, promptly publish in the Federal Register the identity of such existing chemical substance, the uses to which the substance is put, and a statement of the availability of test data.

(b) The Administrator may, in appropriate cases, permit manufacturers of an existing chemical substance for which testing is required under subsection (a) of this section to designate one or more of their number or to designate a qualified independent third party to perform the tests required under subsection (a) of this section and permit the sharing of the costs of such tests. If such manufacturers are not able to agree upon a designee within a reasonable time, or if the agreed-upon designee is not acceptable to the Administrator, the Administrator may order one or more of such manufacturers or may designate a qualified independent third party, to perform the required tests, and may order such manufacturers to contribute to the costs of such tests.

(c) Manufacturers of existing chemical substances for which testing is required under subsection (a) of this section shall not be required to submit test data which would duplicate applicable test data submitted previously by other manufacturers. Such chemical substances and the manufacturers and processors thereof shall be subject to all other provisions of this Act. In the event a manufacturer is exempted from submitting data under this subsection, the Administrator shall order the person granted the exemption to provide fair and equitable reimbursement in accordance with procedures set out in section 5(g) of this Act.

(d) Whenever a manufacturer of an existing chemical substance proposes to commercially produce such substance for a use or distribution for which a regulation under section 4 of this Act is applicable and with respect to which the Administrator has not received test data for such use or distribution pursuant to subsection (a), the manufacturer shall be required to follow the procedures of this section notwithstanding the fact that no objection has been raised to other uses. Whenever a manufacturer of an existing chemical substance proposes to commercially produce such substance for a significant new use, as defined in regulations to be issued by the Administrator, one hundred and eighty days following the date of enactment of this Act, and thereafter the manufacturer shall be required to follow the procedures of section 5 of this Act before such substance may be commercially produced for such use or distribution.

RESTRICTIONS OF USE OR DISTRIBUTION

SEC. 7. (a) If warranted by data available to him, or in the absence of acceptable test data required under section 5 or 6 of this Act, the Administrator may issue proposed regulations (1) to restrict the use or distribution of any chemical substance or products containing such substance to the extent necessary to protect health and the environment; (2) to require that any or all persons engaged in the distribution of the chemical substance or product so regulated give notification to purchasers or other recipients of the substance or product of such restrictions in such form and manner as the Administrator determines is necessary to protect health and the environment including labeling requirements on such chemical substances or products containing such substances with appropriate warning provisions and directions for use and disposal; and (3) to require such other action as may be necessary to carry out such restrictions including recalling and remedying, replacing, or refunding the purchase price of such products or substances.

(b) In issuing proposed regulations under subsection (a) and in issuing any subsequent final regulations, the Administrator shall consider all relevant factors including—

(1) the effects of the substance on human health;

(2) the effects of the substance on the environment;

(3) the benefits of the substance for various uses;

(4) the normal circumstances of use;

(5) the degree to which the substance is released to the environment;

(6) the magnitude of exposure of human beings and the environment to the substance; and

(7) the availability of less hazardous substitutes.

The Administrator shall specify in the regulation the date on which it shall take effect, which shall be as soon as feasible. All data relevant to the Administrator's findings shall be available to the public subject to section 16 of this Act.

(c) Whenever the Administrator has good cause to believe that a particular manufacturer or processor is producing or processing a chemical substance or product not in compliance with a particular restriction on use or distribution requiring reasonably consistent composition of such chemical substance or product—

(1) he may require such manufacturer or processor to submit a description of the relevant quality control procedures followed in the manufacturing or processing of such chemical substance or product; and

(2) if he thereafter determines that such noncompliance is attributable to the inadequacy of the manufacturer's or processor's control procedures, he may, after notice and opportunity for hearing pursuant to section 554 of title 5, United States Code, order the manufacturer or processor to revise such quality control procedures to the extent necessary to remedy such inadequacy.

(d) Notwithstanding the provisions of section 11(a)(1) of this Act, no indemnity payment shall be made to any manufacturer, wholesale distributor, retailer, or other vendor of a chemical substance or to any other person as a result of any action taken under this section under any other provision of this Act, or under section 15 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135).

(e) Notwithstanding any provision of section 11 of this Act, the Administrator shall by contract or other arrangement commission a study of all Federal laws administered by the Environmental Protection Agency for the purpose of determining whether and under what conditions, if any, indemnification should be accorded any person as a result of any action taken by the Administrator under any law administered by such agency. This study shall—

(1) be conducted outside of the Environmental Protection Agency under the direction a university or recognized research center by an interdisciplinary group, none of the members of which may have a financial interest or conflict of interest (other than any fee paid by the Administrator for serving as a member of such group) with respect to the findings and conclusions of such study;

(2) include an estimate of the probable cost of any indemnification programs which may be recommended;

(3) include an examination of all viable means of financing the cost of any recommended indemnification;

(4) be completed no less than two years from the date of enactment of this Act; and

(5) be submitted, upon completion, simultaneously to the Administrator and to the appropriate committees of the Congress without prior clearance or review by the executive branch.

(f) Notwithstanding the requirements of section 11 of this Act, section 15 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135) is hereby repealed.

IMMINENT HAZARD

SEC. 8. (a) An imminent hazard shall be considered to exist when the evidence is sufficient to show that the manufacture, processing, distribution, use, or disposal of a chemical substance or product containing such substance will result in any unreasonable threat to human health or the environment prior to the completion of an administrative hearing or other formal proceeding held pursuant to this Act.

(b) If the Administrator has reason to believe that an imminent hazard exists he may petition an appropriate district court of the United States, or he may request the Attorney General to do so, to restrict the use or distribution of the chemical substance or product responsible for the hazard, or to take such other action as is authorized under section 7 of this Act. The Administrator shall simultaneously, if he has not done so, propose any regulation which may be warranted under section 7 of this Act.

SEIZURE

SEC. 9. (a) Any chemical substance or product containing such substance which the Administrator finds (1) is manufactured, processed, distributed, used, or disposed of in violation of section 5, 6, or 7 of this Act, where there is reason to believe such substance or product poses an unreasonable threat to human health or the environment, or (2) constitute an imminent hazard under section 8 of this Act shall be liable to be proceeded against by the Administrator or the Attorney General on libel of information and condemned in any district court of the United States within the jurisdiction of which such substance or product is found. Such substance or product shall be liable to seizure by process pursuant to the libel. In cases under this section, the procedure shall conform, as nearly as may be, to a proceeding in rem in admiralty.

(b) Any substance or product condemned under this section shall, after entry of the decree, be disposed of by destruction or sale as the court may, in accordance with the provisions of this section, direct, and the proceeds thereof, if sold, less the legal costs and charges, shall be paid into the Treasury of the United States; but such substance or product shall not be sold under such decree contrary to the provisions of this title or the laws of the jurisdiction in which sold; *Provided,* That after entry of the decree and upon the payment of the costs of such proceedings and the execution of a good and sufficient bond conditioned that such substance or product shall not be sold or disposed of contrary to the provisions of this Act or the laws of any State in which sold, the court may by order direct that such substance or product be delivered to the owner thereof to be destroyed or brought into compliance with the provisions of this Act under the supervision of an officer or employee duly designated by the Administrator. The expenses of such supervision shall be paid by the persons obtaining release of the substance or product under bond.

(c) When a decree of condemnation is entered against the substance or product court costs and fees, and storage and other property expenses, shall be awarded against the person, if any, intervening as claimant of the substance or product.

REPORTS

SEC. 10. (a) The Administrator shall require all manufacturers of chemical substances or, where appropriate, processors to submit reports to him annually and at such more frequent times as he may reasonably require containing any or all of the following—

(1) the names of any or all chemical substances produced, imported, or processed in commercial quantities by the manufacturer or processor thereof;

(2) the chemical identity and molecular structure of such substances insofar as is known to him or is reasonably ascertainable by him;

(3) the categories of use of each such substance, insofar as they are known to him or are reasonably ascertainable by him;

(4) reasonable estimates of the amounts of each substance produced or processed for each such category of use; and

(5) a description of the byproducts, if any, resulting from the production of each such substance, and, insofar as they are known to him or are reasonably ascertainable by him, from the processing, use, or disposal thereof.

(b) The Administrator may, by regulation, exempt manufacturers from all or part of the requirements of subsection (a) of this section if he finds that such reports are not necessary to carry out the purposes of this Act.

(c) Whenever the Administrator determines that such action would be necessary to assist him to carry out his responsibilities and authorities under this Act, he may publish a notice in the Federal Register to invite and afford all interested persons an opportunity to provide to him in writing information with respect to the human health or environmental effects of a chemical substance or products containing such substance.

EXEMPTIONS AND RELATIONSHIP TO OTHER LAWS

SEC. 11. (a) This Act shall not apply to—

(1) pesticides and chemical substances used in such pesticides, except that if a chemical substance which constitutes such a pesticide or such an ingredient is or may be used for any non-pesticidal purpose which is not regulated by the Federal Insecticide, Fungicide, and Rodenticide Act, this Act shall apply to such other uses;

(2) foods, drugs, devices and cosmetics subject to the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321), as amended, foods subject to the Federal Meat Inspection Act (56 Stat. 351), the Egg Products Inspection Act (21 U.S.C. 1031), and the Poultry Products Inspection Act (21 U.S.C. 451), and chemical substances used therein, except that if such an item or substance is or may be used for any purpose which is not regulated by such Acts this Act shall apply to such other uses;

(3) any source material, special nuclear material, or byproduct material as defined in the Atomic Energy Act of 1954 (42 U.S.C. 2011), as amended, and regulations issued pursuant thereto by the Atomic Energy Commission;

(4) the transportation of hazardous materials insofar as it is regulated by the Secretary of Transportation;

(5) except for section 10 of this Act, intermediate chemical substances, unless the Administrator finds that such chemical substances cannot be sufficiently regulated by the Clean Air Act (42 U.S.C. 1857), as amended, or the Federal Water Pollution Control Act (33 U.S.C. 466), as amended;

(6) restrictions on use or distribution under section 5(d) or section 7 of this Act (other than restrictions initiated for the purpose of obtaining test data) with respect to any chemical substances on the basis of its presence in industrial effluents or emissions, unless the Administrator finds that its presence in such industrial effluents or emissions cannot be as effectively controlled by the Clean Air Act, as amended, or the Federal Water Pollution Control Act, as amended;

(7) laboratory reagents, except those where there is reason to believe the manufacture, processing, distribution, use, or disposal of the reagent may produce an unreasonable threat to human health or the environment;

(8) tobacco and tobacco products; and

(9) any extraction of any mineral deposit covered by the mining or mineral leasing laws of the United States, unless the Administrator finds, by regulation, that such extraction of such mineral deposit poses an unreasonable threat to human health or the environment which cannot be effectively regulated under any other provision of law.

(b) To the extent that such chemical substances are subject to regulation by other Federal laws, including the Occupational Safety and Health Act of 1970 (29 U.S.C. 651) and the Consumer Product Safety Act (86 Stat. 1207), the Administrator shall not regulate the use or distribution of a new or existing chemical substance on the basis of any possible hazard to employees in their place of employment, or the hazard directly to consumers resulting from the personal use, enjoyment, or consumption of marketed products which contain or might contain the substance: *Provided,* That the Administrator shall take such hazards into account in determining what standards for test protocols, results to be achieved therefrom, and restrictions on use or distribution are appropriate.

(c) If it appears to the Administrator that any such substance may pose a hazard when transported, or when used on or in food or as a drug or cosmetic, he shall transmit any data received from manufacturers or processors or data otherwise in his possession which is relevant to such hazards to the Federal department or agency with authority to take legal action if a hazard is found to exist.

(d) The Administrator shall coordinate actions taken under this Act with actions taken to implement the Federal Water Pollution Control Act and the Clean Air Act, and shall, where appropriate, use the authorities contained in such Acts to regulate chemical substances.

(e) The Administrator shall consult and coordinate with the Secretary of Health, Education, and Welfare and the heads of other appropriate Federal agencies in administering the provisions of this Act. The Administrator shall report annually to the Congress on actions taken to coordinate with other Federal agencies and actions taken to coordinate the authority under this Act with the authority granted under other Acts referred to in this section.

(f) This Act shall not be construed as superseding or impairing the provisions of any other law or treaty of the United States.

CHEMICAL SUBSTANCES BOARD

SEC. 12. (a) There shall be established in the Environmental Protection Agency a Chemical Substances Board (hereinafter referred to as the "Board") consisting of twelve scientifically qualified members. The Administrator shall appoint eleven members to the Board from a list of individuals recommended to him by the National Academy of Sciences, and the Secretary of Health, Education, and Welfare shall appoint one member to the Board from whatever source he desires. No more than one-third of the members of such Board shall represent the chemical industry. None of the members of such Board, other than chemical industry representatives, may have any significant economic interest in the chemical industry. Members of the Board shall serve one term of four years, except that one-half of the members initially appointed shall serve one term of two years. Thereafter, one-half of the members of the Board shall be appointed every two years. Members of the Board shall not be reappointed for consecutive terms. One of the members shall be designated by the Administrator to serve as Chairman of the Board.

(b) The Administrator is authorized—

(1) at the request of the Board to enter into appropriate arrangements with the National Academy of Sciences to provide assistance to the Board in the conduct of independent scientific reviews required by this section; and

(2) at his own discretion, to request such additional scientific advisory services from the National Academy of Sciences as may be required in carrying out other provisions of this Act.

In making such arrangements with the National Academy of Sciences, the Administrator shall assure that conflicts of interest do not exist in the membership of any study committees subsequently convened which will prevent an objective scientific review of the questions referred to the National Academy of Sciences by the Board.

(c)(1) Except as provided in section 5(b) of this Act, before proposing any regulations under section 4, 6, or 7 of this Act, the Administrator shall refer his proposed action and the available evidence to the Board and shall, concurrently with such referral, publish in the Federal Register a notice of the referral identifying the proposed action. The Board shall conduct an independent scientific review of the proposed action and shall report its views and reasons therefor in writing to the Administrator, within a reasonable time, not to exceed forty-five days, as specified by the Administrator. Such time may be extended an additional forty-five days if the Administrator determines that the extension is necessary and that the Board has made a good-faith effort to report within the initial forty-five day period. All such views shall be given due consideration by the Administrator. If the Board fails to report within the specified time, the Administrator may proceed to take action under this Act. The report of the Board and any dissenting views shall be considered as part of the record in any proceeding taken with respect to the Administrator's action.

(2) The Administrator may, at his discretion, also request the Board to consider other actions proposed to be taken under this Act. In such case all provisions of this section shall apply.

(d) The Administrator is authorized to reimburse the National Academy of Sciences for expenses incurred in carrying out this section.

(e) Members of the Board who are not regular full-time employees of the United States shall, while serving on business of the Board, be entitled to compensation at rates fixed by the Administrator, but not exceeding the daily rate applicable at the time of such service to grade GS–18 of the classified civil service, including traveltime. While serving away from their homes or regular places of business, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

RESEARCH

SEC. 13. The Administrator is authorized to conduct such research and monitoring as is necessary to carry out his functions under this Act. Such research and monitoring may be undertaken to (i) determine proper standards for test protocols and results to be obtained therefrom under section 4 of this Act, (ii) determine what existing chemical substances might present unreasonable hazards under section 6 of this Act, (iii) monitor chemical substances in man and in the environment as is necessary to carry out the purposes of this Act, and (iv) confirm the results of tests required by this Act. To the extent possible, such research and monitoring shall not duplicate the efforts of other Federal agencies or the research required of manufacturers under this Act. In order to carry out the provisions of this section, the Administrator is authorized to make contracts and grants for such research and monitoring. The Administrator may construct research laboratories for the purposes of this Act (i) after fully utilizing the personnel, facilities, and other technical support available in other Federal agencies, (ii) when authorized by the Congress to plan, design, and construct such laboratories, and (iii) subject to the appropriation of funds for this purpose by the Congress.

ADMINISTRATIVE INSPECTIONS AND WARRANT:

SEC. 14. (a)(1) For the purpose of inspecting, copying, and verifying the correctness of records, reports, or other documents required to be kept or made under this Act and to otherwise facilitate the carrying out of his functions under this Act, the Administrator is authorized, in accordance with this section, to enter any factory, warehouse, or other premises in which chemical substances or products containing such substances are manufactured, processed, stored, held or maintained, including retail establishments, and to conduct administrative inspections thereof.

(2) Such entries and inspections shall be carried out through officers or employees (hereinafter referred to as "inspectors") designated by the Administrator. Any such inspector, upon stating his purpose and presenting to the owner, operator, or agent in charge of such premises (A) appropriate credentials and (B) his administrative inspection warrant or a written notice of his other inspection authority, shall have the right to enter such premises and to conduct such inspection at reasonable times.

(3) Except when the owner, operator, or agent in charge of such premises so consents in writing, no inspection authorized by this section shall extend to—

(A) financial data;

(B) sales data other than shipment data;

(C) pricing data;

(D) personnel data;

(E) research data (other than data required by this Act); or

(F) process technology other than that related to chemical composition or the industrial use of a chemical substance or a product containing such substance.

(b) A warrant under this section shall not be required for entries and administrative inspections (including seizures of chemical substances or products containing chemical substances manufactured in violation of regulations issued under this Act)—

(1) conducted with the consent of the owner, operator, or agent in charge of such premises; or

(2) in any other situation where a warrant is not constitutionally required.

(c) Administrative inspection warrants shall be issued and executed as follows—

(1) Any judge or magistrate of the United States or a judge of a State court of record may, within his territorial jurisdiction, and upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by this Act, and seizures of property appropriate to such inspections. For purposes of this subsection, "probable cause" means a valid public interest in the effective enforcement of this Act or regulations issued thereunder sufficient to justify administrative inspections of an area, premises, building, or the contents thereof, under the circumstances specified in the application for the warrant.

(2) A warrant shall be issued only upon the affidavit of an officer or employee having knowledge of the facts alleged, sworn to before the judge or magistrate and establishing the facts alleged and the grounds for issuing the warrant. If the judge or magistrate is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, or building to be inspected, the purpose of such inspection, and where appropriate, the type of property to be inspected, if any. The warrant shall—

(A) identify the items or types of property to be seized, if any;

(B) be directed to a person authorized under subsection (a)(2) of this section to execute it;

(C) state the grounds for its issuance and the name of the person or persons whose affidavit has been taken in support thereof;

(D) command the person to whom it is directed to inspect the area, premises, or building identified for the purpose specified, and, where appropriate, to seize the identified property;

(E) direct that it be served during normal business hours; and

(F) designate the judge or magistrate to whom it shall be returned.

(3) A warrant issued pursuant to this section must be executed and returned within ten days of its date of issuance unless, upon a showing by the United States of a need therefor, the judge or magistrate allows additional time. If property is seized pursuant to such warrant, the person executing the warrant shall give a copy of the warrant and a receipt for the property taken to the person from whom or from whose premises the property was taken, or shall leave such copy and receipt at the place from which the property was taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person making such inventory. Such inventory shall be verified by the person executing the warrant. The judge or magistrate, upon request, shall cause a copy of such inventory to be delivered to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

(4) The judge or magistrate who has issued a warrant under this section shall attach

to the warrant a copy of the return and all papers filed in connection therewith and shall file them with the clerk of the district court of the United States for the judicial district in which the inspection was made.

EXPORTS AND IMPORTS

SEC. 15. (a) Notwithstanding any other provision of this Act, no chemical substance or product containing such substance shall be deemed in violation of this Act when intended solely for export to any foreign nation except that—

(1) test data which would be required to be submitted under section 5 or 6 of this Act if such substance were produced for domestic use, shall be submitted to the Administrator in accordance with such sections;

(2) such chemical substance shall be subject to the reporting requirements of section 10 of this Act, and

(3) no such substance or product containing such substance may be exported if the Administrator by regulation finds that such substance or product as exported and used will, directly or indirectly, pose an unreasonable threat to the human health of persons within the United States or to the environment of the United States.

(b) If submittal of test data is required for a chemical substance under section 5 or 6 of this Act, or restrictions on use or distribution have been proposed or requested for a chemical substance or product containing such substance under section 7 or 8 of this Act, the Administrator, subject to section 16 of this Act shall furnish to the governments of the foreign nations to which such substance or product containing such substance may be exported (1) a notice of the availability of the data submitted to him under section 5 or 6 of this Act concerning any such substance or product, (2) any restrictions on use or distribution of such substance or product that have been imposed or proposed or requested by him or the Attorney General with respect to such substance or product.

(c) The Secretary of the Treasury shall refuse entry into the United States of any chemical substance or product containing such substance offered for entry if it fails to conform with regulations promulgated under this Act. If a chemical substance or product is refused entry, the Secretary of the Treasury shall refuse delivery to the consignee and shall cause the disposal or storage of any substance or product refused delivery which has not been exported by the consignee within three months from the date of receipt of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe, except that the Secretary of the Treasury may deliver to the consignee such substance or product pending examination and decision in the matter on execution of bond for the amount of the full invoice value of such substance or product, together with the duty thereon, and on refusal to return such substance or product for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding them from the country, or for any other purpose, said consignee shall forfeit the full amount of said bond. All charges for storage, cartage, and labor on substances or articles which are refused admission or delivery under this section shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.

(b) The Secretary of the Treasury, in consultation with the Administrator, shall issue regulations for the enforcement of subsection (c) of this section.

CONFIDENTIALITY

SEC. 16. (a) Copies of any communications, documents, reports, or other information received or sent by the Administrator or the Chemical Substances Board under this Act shall be made available to the public upon identifiable request, and at reasonable cost unless such information may not be publicly released under the terms of subsection (b) of this section.

(b) (1) The Administrator or any officer or employee of the Environmental Protection Agency or the Chemical Substances Board shall not disclose any information referred to in section 1905 of title 18, United States Code, which has commercial value and which, if disclosed, would result in significant competitive damage to its owner, except that such information may be disclosed by the Administrator—

(A) to other Federal Government departments, agencies, and officials for official use, upon request, and with reasonable need for such information;

(B) to committees of Congress having jurisdiction over the subject matter to which the information relates;

(C) in any judicial proceeding under a court order formulated to preserve the confidentiality of such information without impairing the proceeding;

(D) if relevant in any proceeding under this Act, except that such disclosure shall preserve the confidentiality to the extent possible without impairing the proceeding; and

(E) to the public in order to protect their health, after notice and opportunity for comment in writing or for discussion in closed session within fifteen days by the manufacturer of any product to which the information appertains (if the delay resulting from such notice and opportunity for comment would not be detrimental to the public health).

In no event shall the names or other means of identification of injured persons be made public without their express written consent.

(2) Nothing contained in this section shall be deemed to require the release of any information described by subsection (b) of section 552, title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

(c) Any communication from a person to the Administrator or any other employee of the Environmental Protection Agency concerning a matter then under consideration in a rulemaking or adjudicative proceeding in the Environmental Protection Agency shall be made a part of the public file of that proceeding unless it is a communication entitled to protection under subsection (b) of this section.

PROHIBITED ACTS

SEC. 17. The following acts and the causing thereof are prohibited—

(1) the failure to comply with any final regulation or order issued by the Administrator or the Secretary of the Treasury pursuant to this Act;

(2) the failure to provide information as required by section 5, 6, or 10 of this Act;

(3) the failure to permit entry and administrative inspection pursuant to section 14 of this Act;

(4) the manufacture, processing, sale, distribution, or importation into the United States of a chemical substance or product containing such substance whenever such manufacture, processing, sale, distribution, or importation is known to be or should have been known to be for use in violation of regulations promulgated under section 4 or 7 of this Act, and the use, including disposal, of any such substance or product when such use or disposal is known or should have been known to be in violation of such regulations; and

(5) the failure of any person who purchases or receives a chemical substance or product containing such substance and who is required to be given notice of restrictions on use or distribution of such substance or product pursuant to section 7(a) (2) of this Act, to comply with such restrictions on use or distribution.

PENALTIES AND REMEDIES

SEC. 18. (a) Any person who willfully violates section 17 of this Act shall on conviction be fined not more than $25,000 for each day of violation or imprisoned for not more than one year, or both.

(b) (1) Any person who violates section 17 of this Act other than willfully shall be liable to the United States for a civil penalty of a sum which is not more than $25,000 for each day of violation. The amount of such civil penalty shall be assessed by the Administrator after notice and an opportunity for an adjudicative hearing conducted in accordance with section 554 of title 5, United States Code, and after he has considered the nature, circumstances, and extent of such violation, the practicability of compliance with the provisions violated, and any good-faith efforts to comply with such provisions.

(2) Upon the failure of the offending party to pay such civil penalty, the Administrator may commence an action in the appropriate district court of the United States for such relief as may be appropriate or he may request the Attorney General to commence such an action.

(c) The Attorney General or the Administrator may bring an action in the appropriate district court of the United States for equitable relief to redress a violation by any person of any provision of section 17 of this Act. The district courts of the United States shall have jurisdiction to grant such relief as the equities of the case may require.

CITIZEN CIVIL ACTIONS

SEC. 19. (a) Except as provided in subsection (b) of this section. any person may commence a civil action for injunctive relief on his own behalf, whenever such action constitutes a case or controversy—

(1) against any person (including the United States or any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) alleged to be in violation of any regulation or order promulgated under section 4 or 7 of this Act, or

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary with the Administrator. Any action brought against the Administrator under this paragraph shall be brought in the District Court of the District of Columbia.

The district courts shall have jurisdiction over suits brought under this section, without regard to the amount in controversy or the citizenship of the parties.

(b) No civil action may be commenced—

(1) under subsection (a) (1) of this section—

(A) prior to sixty days after the plaintiff has given notice of the violation to the Administrator and to any alleged violator of the regulation or order, or

(B) if the Administrator or Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with the regulation or order: *Provided*, That any person may intervene as a matter of right in any such actions;

(2) under subsection (a) (2) of this section prior to sixty days after the plaintiff has given notice of such action to the Administrator. Notice under this subsection shall be given in such manner as the Administrator shall prescribe by regulation.

(c) In any action under this section, the Administrator or the Attorney General, if not a party, may intervene as a matter of right.

(d) The court, in issuing any final order in any action brought pursuant to subsection

(a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such an award is appropriate.

(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any other statute or at common law to seek enforcement of any regulation or order or to seek any other relief.

(f) When any actions brought under this subsection involving the same defendant and the same issues of violations are pending in two or more jurisdictions, such pending proceedings, upon application of the defendant reasonably made to the court of one such jurisdiction, may, if the court in its dircretion so decides, be consolidated for trial by order of such court, and tried in (1) any district selected by the defendant where one of such proceedings is pending; or (2) a district agreed upon by stipulation between the parties. If no order for consolidation is so made within a reasonable time, the defendant may apply to the court of one such jurisdiction, and such court (after giving all parties reasonable notice and opportunity to be heard) may by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the applicant's principal place of business, in which all such pending proceedings shall be consolidated for trial and tried. Such order of consolidation shall not apply so as to require the removal of any case the date for trial of which has been fixed. The court granting such order shall give prompt notification thereof to the other courts having jurisdiction of the cases covered thereby.

ENVIRONMENTAL PREDICTION AND ASSESSMENT

SEC. 20. The Environmental Protection Agency shall, in cooperation with the Council on Environmental Quality and other Federal agenices, develop the necessary personnel and information resources to assess the environmental consequences of the introduction of new chemical substances into the environment.

COOPERATION OF FEDERAL AGENCIES

SEC. 21. Upon request by the Administrator, each Federal agency is authorized—

(a) to make its services, personnel, and facilities available with or without reimbursement to the greatest practicable extent within its capability to the Administrator to assist him in the performance of his functions; and

(b) to furnish to the Administrator such information, data, estimates and statistics, and to allow the Administrator access to all information in its possession, as the Administrator may reasonably determine to be necessary for the performance of his functions as provided by this Act.

HEALTH AND ENVIRONMENTAL DATA

SEC. 22. The Council on Environmental Quality, in consultation with the Administrator, the Secretary of Health, Education, and Welfare, the Secretary of Commerce, and the heads of other appropriate Federal, State, and local departments or agencies, the scientific community, and the chemical industry, shall coordinate a study of the feasibility of establishing (1) a standard classification system for chemical compounds and related substances, and (2) a standard means for storing and for obtaining rapid access information respecting such materials.

STATE REGULATIONS

SEC. 23. (a) Nothing in this Act shall affect the authority of any State or local government to impose more stringent restrictions on the use or distribution of chemical substances or products containing such substance, or to establish and enforce more stringent standards for test protocols for various classes and use of such substances and products and for the results that must be achieved therefrom, to protect health and the environment, except that—

(1) if the Administrator issues a final regulation under section 7 of this Act restricting the use or distribution of a chemical substance a State or local government may not enforce any such restriction of its own for purposes similar to this Act after the effective date of such regulation, other than a total ban on use or distribution; and

(2) if the Administrator issues a final regulation under section 4 of this Act a State or local government may not enforce any standards for test protocols and the result to be achieved therefrom after the effective date of such regulation.

(b) The Administrator may by regulation, upon the petition of any State or local government or at his own initiative, exempt State and local governments from the prohibitions of subsection (a) of this section, or from the prohibitions contained in any other Federal law administered by the Environmental Protection Agency against the regulation by State or local governments of the manufacture, use, or distribution of chemical substances or products containing such substances with respect to a substance or product if such exemption will not, through difficulties in marketing, distribution, or other factors, result in placing an unreasonable burden upon commerce.

REGULATIONS, PROCEDURES, AND JUDICIAL REVIEW

SEC. 24. (a) At his own initiative, or upon the petition of any person, the Administrator is authorized to issue regulations to carry out the purposes of this Act and to amend or rescind such regulations at any time.

(b) The Administrator shall publish any regulations proposed under this Act in the Federal Register at least sixty days prior to the time when such regulations shall become final. The Administrator shall also publish in the Federal Register a notice of all petitions received under subsection (a) and, if such petition is denied, his reasons therefor. Such notice shall identify the purpose of the petition and include a statement of the availability of any data submitted in support of such petition. If any person adversely affected by a proposed regulation files objections and requests a public hearing within forty-five days of the date of publication of the proposed regulation, the Administrator shall grant such request. If such public hearing is held, final regulations shall not be promulgated by the Administrator until after the conclusion of such hearing. All public hearings authorized by this subsection shall consist of the oral and written presentation of data or arguments in accordance with such conditions or limitations as the Administrator may make applicable thereto.

(c) Proposed and final regulations issued under this Act shall set forth findings of fact on which the regulations are based and shall state the relationship of such findings to the regulations issued.

(d) Any judicial review of final regulations promulgated under this Act and final actions under section 5(e) of this Act shall be in accordance with sections 701–706 of title 5, United States Code, except that—

(1) with respect to regulations promulgated under section 4, 6, or 7 of this Act, the findings of the Administrator as to the facts shall be sustained if based upon substantial evidence on the record considered as a whole; and

(2) with respect to relief pending review, no stay of any agency action may be granted unless the reviewing court determines that the party seeking such stay (i) is likely to prevail on the merits in the review proceeding and (ii) will suffer irreparable harm pending such proceeding.

(e) Except as expressly modified by this section, the provisions of chapter 5 of title 5 of the United States Code shall apply to proceedings conducted by the Administrator under this Act.

(f) If the party seeking judicial review applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court either (1) that the information is material and was not available at the time of the proceeding before the Administrator or (2) that failure to include such evidence in the proceeding was an arbitrary or capricious act of the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, and to be adduced upon the hearing, in such manner and upon such terms and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file with the court such modified or new findings and his recommendations, if any, for the modification or setting aside of his original order.

NATIONAL SECURITY WAIVER

SEC. 25. The Administrator may waive compliance with the provisions of this Act, in whole or in part, upon receiving information from the Secretary of Defense that such waiver is in the interest of national security. Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for good cause shown by the Secretary of Defense in the interest of national security, unless the Administrator has been requested by the Secretary of Defense to omit such publication because such publication would be contrary to the interests of national security.

RECORDKEEPING OF RECIPIENTS OF FEDERAL ASSISTANCE

SEC. 26. (a) Each recipient of Federal assistance under this Act, pursuant to grants, subgrants, contracts, subcontracts, loans or other arrangements, entered into other than by formal advertising, and which are otherwise authorized by this Act, shall keep such records as the Administrator shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project of undertaking in connection with which such assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of three years after completion of the project or undertaking referred to in subsection (a) of this section, have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients which in the opinion of the Administrator or the Comptroller General may be related or pertinent to the grants, subgrants, contracts, subcontracts, loans or other arrangements referred to in subsection (a).

AUTHORIZATION FOR APPROPRIATIONS

SEC. 27. (a) There is hereby authorized to be appropriated such sums as may be necessary, but not to exceed $9,940,000, $11,550,000, and $10,300,000 for the fiscal years ending on June 30, 1974, June 30, 1975, and June 30, 1976, respectively, for the purpose and administration of this Act. No part of the funds so authorized to be appropriated shall be used to plan, design, or construct any research laboratories unless specifically authorized by the Congress by law.

(b) To help defray the expenses of implementing the provisions of this Act, the Administrator may by regulation require the payment of a reasonable fee from the manufacturer of each chemical substance for which test data is required to be submitted under this Act.

(c) On or before August 1 of each year, the Administrator shall prepare and submit concurrently to the President and to the Congress budget estimates to carry out the provisions of this Act and all other authority of the Administrator for the following year. Whenever the Administrator submits any budget requests, supplemental budget estimates, legislative recommendations, prepared testimony for congressional hearings, or comments on legislation to the President or to the Office of Management and Budget, he shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to request or require the Administrator to submit his budget requests or estimates, legislative recommendations, prepared testimony for congressional hearings, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STAGGERS moves to strike out all after the enacting clause of the bill S. 426 and to insert in lieu thereof the provisions of the bill H.R. 5356, as passed, as follows:

SHORT TITLE; CONTENTS

SECTION 1. This Act may be cited as the "Toxic Substances Control Act of 1973".

TABLE OF CONTESTS

Sec. 1. Short title; contents.
Sec. 2. Declaration of policy.
Sec. 3. Definitions.
Sec. 4. Test protocols.
Sec. 5. Limited premarket screening of substantially dangerous chemical substances.
Sec. 6. Regulations applicable to a hazardous chemical substance.
Sec. 7. Imminent hazards.
Sec. 8. Reports.
Sec. 9. Exemptions and relationship to other laws.
Sec. 10. Chemical Substances Board.
Sec. 11. Research.
Sec. 12. Administrative inspections and warrants.
Sec. 13. Exports.
Sec. 14. Imports.
Sec. 15. Confidentiality.
Sec. 16. Prohibited acts.
Sec. 17. Penalties.
Sec. 18. Injunctive enforcement and seizure.
Sec. 19. Environmental prediction and assessment.
Sec. 20. Cooperation of Federal agencies.
Sec. 21. Study of chemical substances classification system.
Sec. 22. State regulations.
Sec. 23. Judicial review.
Sec. 24. National security waiver.
Sec. 25. Authorization for appropriations.

DECLARATION OF POLICY

SEC. 2. (a) The Congress finds that—

(1) man and the environment are being exposed to a large number of chemical substances each year;

(2) among the many chemical substances constantly being developed and produced are some whose manufacture, distribution, use, or disposal may pose an unreasonable risk to health or the environment; and

(3) the effective regulation of interstate commerce in such chemical substances necessitates the regulation of such chemical substances in intrastate commerce as well.

(b) It is the policy of the United States that—

(1) hazardous and potentially hazardous chemical substances should be adequately tested with respect to their effect on health and the environment and that such testing should be the responsibility of those who manufacture, import, or process such chemicals;

(2) adequate authority should exist to regulate the distribution and use of chemical substances found to pose an unreasonable risk to health or the environment, and to take action with respect to chemical substances which are imminent hazards; and

(3) authority over chemical substances should be exercised in such a manner as not to unduly impede technological innovation while fulfilling the primary purpose of this Act to assure that such innovation and commerce in such chemical substances do not pose an unreasonable risk to health or the environment.

(c) It is the intent of Congress that the Administrator shall carry out this Act in a reasonable and prudent manner, and that he shall consider the economic and social impact of any action he proposes to take under this Act.

DEFINITIONS

SEC. 3. (a) As used in this Act:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "chemical substance" means (A) any organic or inorganic substance of a particular molecular identity; (B) any uncombined radical or element; or (C) any mixture.

(3) The term "mixture" means any mixture which (A) occurs naturally, or (B) is produced by an industrial chemical process and which is marketed or used without separation into its constituents.

(4) The term "environment" includes water, air, land, all living things therein, and interrelationships which exist among these.

(5) The term "importer" means any person who (A) imports a chemical substance for distribution in commerce for commercial purpose, or (B) reimports a chemical substance, which was manufactured or processed in whole or in part of the United States for distribution in commerce for commercial purpose.

(6) The term "manufacturer" means any person who manufacturers a chemical substance.

(7) The term "manufacture" means to produce or manufacture.

(8) The term "processor' means any person engaged in the preparation of a chemical substance for distribution or use either in the form in which it is received or as part of another product.

(9) The term "test protocol" means—

(A) a test designed to determine the effect of a chemical substance or the use of a chemical substance on health or the environment, including a test designed to determine the effect of the manufacture, processing, distribution, use, or disposal of such substance on health or the environment,

(B) the procedures or standards to be used in making such test, and

(C) the results to be achieved from such test which the Administrator determines are necessary to evaluate whether such chemical substance poses or is likely to pose an unreasonable risk to health or the environment.

(10) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, American Samoa, or the Trust Territories of the Pacific Islands.

(11) The term "to distribute in commerce" and "distribution in commerce" means to sell in commerce, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce.

(12) The term "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation between a place in a State and any place outside thereof.

(13) The term "United States", when used in the geographic sense, means all of the States (as defined in paragraph (10)).

(b) Any action which may be taken by the Administrator under any provision of this Act with respect to a chemical substance may be taken by the Administrator in accordance with that provision with respect to a class of chemical substances. Whenever the Administrator takes action under a provision of this Act with respect to a class of chemical substances, any reference in this Act to a chemical substance (insofar as the reference relates to such action) shall be deemed to be a deference to each chemical substance in such class.

TEST PROTOCOLS

SEC. 4. (a) If the Administrator finds that testing of a chemical substance or of the use of a chemical substance in accordance with a test protocol for such substance is necessary to protect against unreasonable risk to health or the environment, he may, by rule, (1) prescribe a test protocol for such substance, and (2) require, in accordance with subsection (d), that one or more persons perform the test called for in such protocol.

(b) In making the finding required under subsection (a), the Administrator shall consider all relevant factors, including—

(1) the effects of the chemical substance on health and the magnitude of human exposure;

(2) the effects of the chemical substance on the environment and the magnitude of environmental exposure;

(3) the extent to which the test protocol is reasonably predictive of the potential adverse effects of the chemical substances on health or the environment;

(4) any data concerning the safety of the chemical substance which may affect the requirements of the test protocol; and

(5) the extent to which a risk to health or the environment can be reasonably or more efficiently evaluated by testing the component chemical substances which comprise a mixture or series of mixtures in lieu of testing any or all mixtures of the same chemical substance components in different component ratios.

(c) A test protocol under this section may include tests for carcinogenesis, teratogenesis, mutagenesis, persistence, the cumulative and synergistic properties of the substance and epidemiological studies of the effect of such substance.

(d) A rule under subsection (a) may require each person who is a manufacturer, processor, or importer of the chemical substance to which a test protocol applies to perform the test called for in the test protocol. In the case of a test protocol for a chemical substance for which there is more than one manufacturer, processor, or importer, the Administrator may, in appropriate cases, permit the manufacturers, importers, or processors who are required to perform the tests called for in a test protocol to designate one or more of their number, or, to designate a qualified independent third party, to perform the required tests and permit the sharing of costs of such tests. If manufacturers, importers, or processors required to perform the tests are not able to agree upon a designee within a reasonable time, or if the agreed-upon designee is not acceptable to the Administrator, (1) the Administrator may order one or more of such manufacturers, processors or importers, or designate a qualified independent third party, to perform the required test, and (2) he may order those manufacturers, processors or importers who do not conduct the tests to provide fair and equitable contribution for the costs of such tests in an amount determined under rules of the Administrator.

(e) After allowing a reasonable time for completion of the required tests, the Administrator may order any manufacturer, processor, or importer which is required to perform the tests called for in a test protocol under this section to transmit to the Administrator the test data developed pursuant to such test protocol.

(f) Subject to section 15 (relating to the confidentiality of certain information), upon receipt of test data under subsection (e) the Administrator shall promptly publish in the Federal Register a notice which identifies the chemical substance for which test data have been received, lists the uses or intended uses of such substances, and describes the nature of the tests performed and the data which were developed; such data shall be made available, consistent with the terms of section 15, for examination by interested persons. Notice under this subsection shall identify the chemical substance by generic class unless the Administrator determines that more specific identification is required in the public interest.

(g) Any rule under this section and any amendment or revocation of such a rule shall be promulgated pursuant to section 553 of title 5, United States Code, except that the Administrator shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation.

LIMITED PREMARKET SCREENING OF SUBSTANTIALLY DANGEROUS CHEMICAL SUBSTANCES

SEC. 5. (a) Within eighteen months after the date of enactment of this Act, and from time to time thereafter, the Administrator shall, by rule, identify and publish in the Federal Register a list of chemical substances (or chemical substances with respect to a particular use or uses) which the Administrator finds are likely to pose substantial danger to health or environment. For the purposes of this section, "substantial danger to health or environment" means an unreasonable risk of death, of widespread or severe personal injury or illness, or of widespread or severe harm to the environment.

(b)(1) In making the finding required under subsection (a), the Administrator shall consider all relevant factors including—

(A) the effects of the substance on health and the magnitude of human exposure;

(B) the effects of the substance on the environment and the magnitude of environmental exposure; and

(C) any benefit of the chemical substance and the availability of less hazardous substances for any use of such substance.

(2) In determining whether (A) one or more mixtures, or (B) chemical substances which are components of such mixtures, should be listed under subsection (a), the Administrator shall consider whether the risk to health or the environment is associated with such mixtures or components or both and whether such risk can be more reasonably evaluated by testing the mixtures or by testing one or more components of such mixtures.

(c) A chemical substance listed under subsection (a) which was manufactured and distributed in commerce for commercial purpose prior to its listing may not be manufactured or distributed in commerce for a new use unless at least ninety days prior to such manufacture or distribution, the person intending to manufacture or distribute the chemical substance for such new use submits to the Administrator test data developed in accordance with a test protocol promulgated under section 4 which is applicable to such intended use, or (in the absence of such a test protocol) test data which such person believes shows that the intended new use of the chemical substance would not pose an unreasonable risk to health or the environment.

(d) A chemical substance listed under subsection (a) which was not manufactured or distributed in commerce for commercial purpose prior to its listing may not be manufactured or distributed in commerce unless at least ninety days prior to such manufacture or distribution, the person intending to manufacture or distribute such substance submits to the Administrator test data developed in accordance with a test protocol promulgated under section 4 which is applicable to the manufacture, distribution, use or disposal of such substance, and (to the extent that such a test protocol does not apply to the manufacture, distribution, use, or disposal of such substance) test data which such person believes shows that the manufacture, distribution, use, and disposal of the chemical substance would not pose an unreasonable risk to health or the environment.

(e) A person intending to manufacture or distribute in commerce a chemical substance for which no applicable test protocol has been prescribed under section 4 may petition the Administrator to develop and issue a test protocol for such substance or for the intended use of such substance. The Administrator shall either grant or deny any such petition within sixty days of its receipt. If the petition is granted, the Administrator shall diligently proceed to develop a test protocol for such substance. If the petition is denied, the Administrator shall publish in the Federal Register the reasons for such denial.

(f)(1) The Administrator may exempt any person from the obligation to submit data under subsections (c) and (d) of this section if he determines that the submission of test data by such person would be duplicative of data previously submitted in accordance with those subsections, but no such exemption may take effect before the date of termination of the premarket screening for which the data on which the exemption is based were submitted.

(2) If the Administrator, under paragraph (1), exempts any person from submitting data under this section because of the existence of previously submitted data and if such exemption takes effect during the reimbursement period for such data (as defined in paragraph (3)), then (unless the parties can agree on the amount and method of reimbursement) the Administrator shall order the person granted the exemption to provide fair and equitable reimbursement (in an amount determined under rules of the Administrator)—

(A) to the person who previously submitted data on which the exemption was based, for a portion of the costs incurred by him in complying with the requirement under this section to submit such data, and

(B) to any other person who has been required under this paragraph to contribute with respect to such data.

An order under this paragraph shall be considered final agency action for purposes of judicial review.

(3) For purposes of this subsection:

(A) The reimbursement period for any previously submitted data is a period—

(i) beginning on the date of termination of the premarket screening for which the data were submitted, and

(ii) ending five years after such date of termination (or, if later, at the expiration of a period after such date equal in length to the period which the Administrator determines was necessary to develop the previously submitted data).

(B) The termination of the premarket screening for which data were submitted is the earliest date (after submission of such data) on which the person who submitted such data is no longer prohibited (by this section or by reason of a proposed rule made immediately effective under subsection (i) or section 6(d)) from proceeding with the manufacture and distribution with respect to which the data were submitted.

(g) The Administrator may for good cause shown extend the ninety-day period under subsection (c) or (d) of this section for an additional period not to exceed ninety days. Subject to section 15 of this Act, notice of such extension and the reasons therefor shall be published in the Federal Register and shall constitute a final agency action subject to judicial review.

(h) Subject to section 15 (relating to the confidentiality of certain information), upon receipt of test data under subsection (c) or (d) the Administrator shall promptly publish in the Federal Register notice which identifies the chemical substance for which test data have been received; lists the uses or intended uses of such substance; and, describes the nature of the tests performed and the data which were developed. Such data shall be made available, consistent with the terms of section 15, for examination by interested persons. Notice under this subsection shall identify the chemical substance by generic class unless the Administrator determines that more specific identification is required in the public interest.

(i) If on the basis of available data or the absence of acceptable data under subsections (c) and (d), the Administrator proposes a rule to regulate such chemical substance under section 6 of this Act within the ninety-day period specified in subsections (c) and (d) or within the period as extended in accordance with subsection (g), such proposed rule may take effect immediately, pending completion of the administrative proceeding required under section 6 of this Act. After such rule is proposed and takes effect, the Administrator shall refer the rule to a committee formed under section 10(c) of this Act. The Administrator shall refer such rule to such committee if requested by any interested person.

(j) Rules under this section which identify chemical substances as likely to pose substantial danger to health or the environment or any amendment or revocation of such rules shall be promulgated pursuant to section 553 of title 5, United States Code, except that the Administrator shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation.

(k) The Administrator may, upon application, exempt any person from the foregoing requirements of this section, for the purpose of permitting such person to manufacture and distribute in commerce a listed chemical substance for test marketing purposes or specially limited purposes (1) upon a showing by such person that the manufacture and distribution of such substance for those purposes would not pose an unreasonable risk to health or the environment, and (2) under such restrictions as the Administrator considers appropriate.

REGULATIONS APPLICABLE TO A HAZARDOUS CHEMICAL SUBSTANCE

SEC. 6. (a) If the Administrator finds that a rule under this section respecting a chemical substance is necessary to protect against unreasonable risk to health or the environment, he may prescribe a rule consisting of one or more of any of the following types of requirements:

(1) Requirements prohibiting the manufacture or distribution in commerce of such chemical substance or limiting the amount of such chemical substance which may be manufactured or distributed in commerce.

(2) Requirements prohibiting the manufacture or distribution in commerce of such chemical substance for a particular use or uses or limiting the amount of such chemical substance which may be manufactured or distributed in commerce for such use or uses.

(3) Requirements that such chemical substance or article containing such substance be marked with or accompanied by clear and adequate warnings and instructions with respect to its use or disposal, in such form and bearing such content as the Administrator determines to be appropriate.

(b)(1)(A) Rules under this section may be limited in application to specified geographic areas.

(B) The authority of the Administrator to prescribe a rule under subsection (a)(2) prohibiting the manufacture and distribution in commerce of a chemical substance for a particular use shall include authority to prescribe a rule prohibiting the distribution in commerce of a chemical substance for a particular use in a concentration in excess of a level specified in such rule.

(2)(A) No rule may be prescribed under subsection (a)(1) of this section which limits the amount of a chemical substance which may be manufactured, imported, or distributed in commerce unless the Administrator finds that the risk to health or environment associated with such chemical substance cannot be prevented or reduced to a sufficient extent by means of a rule prescribed under subsection (a)(2) prohibiting the manufacture or distribution in commerce of such substance for particular use or uses or by means of a rule prescribed under subsection (a)(3).

(B) No rule may be prescribed under subsection (a)(2) which limits the quantity of a chemical substance which may be manufactured, imported, or distributed for a particular use or uses unless the Administrator finds that the risk to health or environment associated with such substance cannot be prevented or reduced to a sufficient extent by means of a rule prescribed under subsection (a)(3), or by means of a rule under subsection (a)(2) prohibiting the distribution in commerce of a chemical substance for a particular use in a concentration in excess of a level specified in such rule.

(3)(A) Rules described in subsection (a)(1) of this section which limit the amount of a chemical substance which may be manufactured, imported, or distributed in commerce, and rules described in subsection (a)(2) which limit the quantity which may be manufactured, imported, or distributed for a particular use or uses, shall include provision for assigning production, importation, or distribution quotas to persons who wish to manufacture, import, or distribute the chemical substance. The permissible quota for each such person shall be determined in accordance with criteria prescribed under subparagraph (B).

(B) The Administrator shall by rule prescribe criteria which shall take into account all relevant factors, including—

(i) effects on competition,

(ii) the market shares, productive capacity, and product and raw material inventories of persons applying for quotas,

(iii) emergency conditions, such as fires or strikes, and

(iv) effects on technological innovation.

The last sentence of section 23(c) shall not apply to rules under this subparagraph (B).

(c) In issuing such rules under subsection (a) the Administrator shall consider all relevant factors including—

(1) the effects of the substance on health and the magnitude of human exposure;

(2) the effects of the substance on the environment and the magnitude of environmental exposure; and

(3) the benefits of the substance for various uses and the availability of less hazardous substances.

(d) The Administrator shall specify in any rule under subsection (a) the date on which it shall take effect, which shall be as soon as feasible. Where the Administrator determines that the manufacture, processing, distribution, use, or disposal of a chemical substance is likely to result in harm to health or the environment prior to the completion of a rulemaking proceeding under subsection (a) respecting such substance and where the Administrator determines that such action is necessary in the public interest, he may declare a proposed rule under subsection (a) immediately effective pending completion of the rulemaking proceeding.

(e) If the Administrator has good cause to believe that a particular manufacturer or processor is manufacturing or processing a chemical substance in a manner which permits or causes the adulteration of a chemical substance and if the Administrator determines that, as a result of such adulteration, the chemical substance poses an unreasonable threat to health or the environment—

(1) the Administrator may require such manufacturer or processor to submit a description of the relevant quality control procedures followed in the manufacturing or processing of such chemical substances; and

(2) if he thereafter determines that such quality control procedures are inadequate to prevent the adulteration of the chemical substance, the Administrator may, after notice and opportunity for hearing pursuant to section 554 of title 5, United States Code, order the manufacturer to revise and remedy such inadequacy.

For the purposes of this subsection, a chemical substance shall be deemed to be adulterated if it bears or contains any added substance or contaminant which itself, or in combination with the chemical substance, presents an unreasonable risk to health or the environment.

(f)(1) Rules under subsection (a) shall be promulgated pursuant to section 553 of title 5 of the United States Code; except that in promulgating any sulch rule, (A) the Administrator shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions; (B) a transcript shall be kept of any oral presentation; and (C) during any such oral presentation the Administrator shall include an opportunity for cross-examination as provided in paragraph (2).

(2)(A) Except as provided in paragraph (B), during any such oral presentation, the Administrator shall include an opportunity for cross-examination to such extent and in such manner as the Administrator considers necessary and appropriate in view of the nature of the issue or issues involved and the number of the participants and the nature of their interests.

(B) If only a single interested person seeks to avail himself of an opportunity for cross examination in a proceeding to promulgate a rule under subsection (a), or if the Administrator determines that all persons who seek to avail themselves of such an opportunity are members of a single class sharing an identity of interest, the Administrator shall afford such single interested person or representative of such class (as designated by the participants of such class) an opportunity to conduct cross-examination to the same extent that cross-examination is permitted under section 556 of title 5, United States Code.

(g) The Administrator, at the time he promulgates any final rule under this section, shall include a detailed statement on the economic impact of such action, including, but not limited to, consideration of the effects on business enterprises and labor forces and the effect on the national economy.

IMMINENT HAZARDS

SEC. 7. (a) The Administrator may file an action in United States district court—

(1) against an imminently hazardous chemical substance and any article containing such substance for seizure of such substance or article under subsection (b)(2) of this section, or

(2) against any person who is a manufacturer, processor, distributor, or retailer of such chemical substance or article.

Such an action may be filed notwithstanding the existence of a rule under sections 4, 5, or 6 of this Act, and notwithstanding the pendency of any administrative or judicial proceeding under any provision of this Act. As used in this section, the term "imminently hazardous chemical substance" means a chemical substance which presents imminent and unreasonable risk to health or the environment. The risk to health or the environment shall be considered imminent if it is shown that the manufacture, processing, distribution, use, or disposal of a chemical substance is likely to result in harm to health or the environment prior to the completion of an administrative proceeding under this Act.

(b)(1) The district court in which such action is filed shall have jurisdiction to grant such temporary or permanent relief as may be necessary to protect health or the environment from the unreasonable risk associated with the chemical substance or article containing such substance. Such relief may include (in the case of an action under subsection (a)(2)) a mandatory order requiring (A) notification of such risk to those purchasers of such chemical substance or an article containing such chemical substance which are known to the defendant; (B) public notice; (C) recall; and (D) the replacement or repurchase of such chemical substance or article containing such substance.

(2) In the case of an action under subsection (a)(1), the chemical substance or article containing such substance may be proceeded against by process of libel for the seizure and condemnation of such substance or such article in any United States district court within the jurisdiction of which such substance or article is found. Proceedings in cases instituted against a chemical substance or article containing such substance under the authority of this section shall conform as nearly as possible to proceedings in rem in admiralty.

(c) Where appropriate, concurrently with the filing of an action under this section or as soon thereafter as may be practicable, the Administrator shall initiate a rulemaking proceeding under section 6 of this Act.

(d)(1) An action under subsection (a)(2) of this section may be brought in the United States district court for the District of Columbia or in any judicial district in which any of the defendants is found, is an inhabitant, or transacts business; and process in such an action may be served on a defendant in any other district in which such defendant resides or may be found. Subpenas requiring attendance of witnesses in such an action may run into any other district. In determining the judicial district in which an action may be brought under this section in instances in which such action may be brought in more than one judicial district, the Administrator shall take into account the convenience of the parties.

(2) Whenever proceedings under this section involving identical chemical substances or articles containing such substances are pending in courts in two or more judicial districts, they shall be consolidated for trial by order of any such court upon application reasonably made by any party in interest, upon notice to all parties in interest.

(e) Notwithstanding any other provision of law, in any action under this section, the Administrator may direct attorneys employed by him to appear and represent him.

REPORTS

SEC. 8. (a) (1) Except as provided in subsections (b) and (c), the Administrator may, by rule, require any manufacturer, importer, or processor of any chemical substance to submit reports to him annually, and at such more frequent time as he may reasonably require, containing any or all of the following:

(A) The names of any or all chemical substances manufactured, imported, or processed by the manufacturer, importer, or processor thereof.

(B) The chemical identity and molecular structure of such substances insofar as is known to such manufacturer, importer, or processor, or insofar as such are reasonably ascertainable.

(C) The categories of use of each such substance, insofar as they are known to such manufacturer, importer, or processor, or insofar as such are reasonably ascertainable.

(D) Reasonable estimates of the amounts of each substance manufactured, imported, or processed for each such category of use.

(E) A description of the byproducts, if any, resulting from the manufacture, processing, or disposal of each such substance, insofar as they are known to such manufacturer, importer, or processor, or insofar as such are reasonably ascertainable.

(2) For purposes of this subsection, the term "byproduct" means a chemical substance produced as a result of the manufacture, processing, use, or disposal of some other chemical substance.

(3) The Administrator may, by rule, exempt manufacturers, importers, or processors from all or part of the requirements of this section if he finds out that such reports are not necessary to carry out the purposes of this Act, or if he finds that such reports would provide information which duplicates information otherwise available to him.

(b) (1) Subject to paragraph (2) of this subsection, the Administrator shall have no authority under subsection (a) of this section to require any manufacturer, processor, or importer of any chemical substance to submit reports to him in the manner therein provided except with respect to a chemical substance or an article containing such substance—

(A) for which a test protocol has been prescribed under section 4(a) of this Act;

(B) which is contained in the list of chemical substances which the Administrator has by rule identified and published in the Federal Register under section 5(a) of this Act; or

(C) which are covered by a rule under section 6(a) of this Act.

(2) (A) The limitations on reporting contained in paragraph (1) of this subsection shall apply only to a manufacturer, processor, or importer which is a small business concern; except that if the Administrator determines that such a concern is substantially engaged in the development of one or more new chemical substances, he may order such concern to make reports with respect to any new chemical substance developed by it.

(B) For purposes of this subsection, the term "small business concern" means a manufacturer, processor, or importer which is (i) a small business concern within the meaning of the section 121.3–11(a) of title 13 of the Code of Federal Regulations (as in effect on the date of enactment of this Act) or (ii) any other concern which is independently owned and operated and not dominant in its field of operations, and which the Administrator of the Small Business Administration by rule defines as a small business concern for purposes of this subsection, taking into account relevant factors such as concentration of output in the industry of which it is a part, total number of concerns in such industry, and the size of such concern relative to the size of industry leaders.

(c) The Administrator may not require any manufacturer, importer, or processor to submit reports under this section with respect to any chemical substance which he manufactures, imports, or prepares for distribution for use as a standard or reagent and for research or laboratory purposes.

(d) Whenever the Administrator determines that such action would be necessary to allow him to carry out his responsibilities and authorities under this Act, he may by publishing a notice in the Federal Register invite and afford all interested persons an opportunity to provide in writing information respecting the health or environmental effects of a chemical substance.

EXEMPTIONS AND RELATIONSHIP TO OTHER LAWS

SEC. 9. (a) This Act shall not apply to—

(1) tobacco and tobacco products;

(2) any pesticide (as defined in the Federal Insecticide, Fungicide, and Rodenticide Act) when manufactured or distributed in commerce for use as a pesticide; or

(3) drugs, devices, or cosmetics (as such terms are defined in sections 201 (g), (h), and (i) of the Federal Food, Drug, and Cosmetic Act) and food. The term "food" as used in this paragraph means all food, as defined in section 201(f) of the Federal Food, Drug, and Cosmetic Act, including poultry and poultry products (as defined in section 4 (e) and (f) of the Poultry Products Inspection Act), meat and meat food products (as defined in section 1(j) of the Federal Meat Inspection Act), and eggs and egg products (as defined in section 4 of the Egg Products Inspection Act).

(b) The Administrator shall have no authority under sections 5, 6, and 7 of this Act to take action to prevent or reduce an unreasonable risk to health or the environment associated with a particular chemical substance or article containing such substance if such risk to health or the environment could be prevented or reduced to a sufficient extent by actions taken under any other Federal law; including the Atomic Energy Act of 1954, the Clean Air Act, the Federal Water Pollution Control Act, the Federal Hazardous Substances Act, the Occupational Safety and Health Act of 1970, the Consumer Product Safety Act, subpart 3 of part F of title III of the Public Health Service Act (relating to electronic product radiation), and the Acts administered by the Secretary of Transportation relating to the transportation of hazardous substances.

(c) If it appears to the Administrator that any chemical substance may pose an unreasonable risk to health or the environment which could be prevented or reduced to a sufficient extent by actions taken under other Federal laws, he shall transmit any data received from manufacturers, importers, or processors, or data otherwise in his possession which is relevant to such risk to the Federal executive department or agency, independent regulatory agency or other authority of the Federal Government with authority to take legal action.

(d) In administering the provisions of this Act, the Administrator shall consult and coordinate with the Secretary of Health, Education, and Welfare and the heads of any other appropriate Federal executive department or agency, independent regulatory agency or other authority of the Federal Government. The Administrator shall report annually to the Congress on actions taken to coordinate with such other Federal agencies and actions taken to coordinate the authority under this Act with the authority granted under other Acts referred to in subsection (b) of this section.

CHEMICAL SUBSTANCES BOARD

SEC. 10. (a) There shall be established in the Environmental Protection Agency a Chemical Substances Board (hereinafter referred to in this section as the "Board") consisting of twelve scientifically qualified members. The Administrator shall appoint eleven members of the Board from a list of at least twenty-two individuals recommended to him by the National Academy of Sciences, and the Secretary of Health, Education, and Welfare shall appoint one member of the Board from whatever source he desires. Not more than one-third of the members of such Board shall be in the employ of or have any significant economic interest in any manufacturer, importer, or processor of chemical substances. Members of the Board shall serve one term of four years, except that one-half of the members initially appointed shall serve one term of two years. Members of the Board shall not be reappointed for consecutive terms. One of the members shall be designated by the Administrator to serve as Chairman of the Board.

(b) The National Academy of Sciences, in consultation with the Board, shall maintain a directory of qualified scientists, to assist in carrying out the provisions of this section. Such scientists may also be utilized as consultants to the Chemical Substances Board.

(c) Except when acting under section 5(i) or the last sentence of 6(d) of this Act, before proposing any rules under section 4, 5, or 6 of this Act, the Administrator shall refer his proposed action and the available evidence to a committee selected by the Administrator from members of the Board and the directory of consultants to the Board maintained under subsection (b), except that the Secretary of Health, Education, and Welfare may appoint one member of such committee from whatever source he desires. Concurrently with such referral, the Administrator shall publish in the Federal Register a notice of the referral identifying the proposed action. Such committee shall include scientifically qualified persons not more than one-third of which are in the employ of or have a significant economic interest in any manufacturer, importer, or processor of, or any person who distributes in commerce, any chemical substance which may, directly or indirectly, be affected by the proposed action. The committee shall conduct an independent scientific review of the proposed action and shall report its views and reasons therefor in writing to the Administrator, within a reasonable time, not to exceed forty-five days, as specified by the Administrator. Such time may be extended an additional forty-five days if the Administrator determines the extension necessary and such committee has made a good faith effort to report its views and reasons therefor within the initial forty-five-day period. All such views shall be given due consideration by the Administrator. If the committee fails to report within the specified time, the Administrator may proceed to take action under this Act. Subject to section 15 of this Act, all proceedings and deliberations of such committees and their reports and reasons therefor shall be available for public examination. The report of the committee and any dissenting views shall be considered as part of the record in any proceeding taken with respect to the Administrator's action.

(d) The Administrator may also request the Board to convene a committee to consider other actions proposed to be taken under this Act. In such case all provisions of this section shall apply.

(e) The Administrator is authorized to reimburse the National Academy of Sciences for expenses incurred in carrying out this section.

(f) Members of the Board or committees who are not regular full-time employees of the United States shall, while serving on business of the Board or committee, be entitled to compensation at rates fixed by the Administrator, but not exceeding the daily rate applicable at the time of such service to grade GS–18 of the classified civil service, including traveltime; and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(g) Section 14(a) of the Federal Advisory Committee Act (relating to termination) shall not apply to the Board.

RESEARCH

Sec. 11. The Administrator is authorized to conduct such research and monitoring as is necessary to carry out his functions under this Act. To the extent practicable, such research and monitoring shall not duplicate the efforts of other Federal agencies. In order to carry out the provisions of this section, the Administrator is authorized to make contracts and grants for such research and monitoring.

ADMINISTRATIVE INSPECTIONS AND WARRANTS

Sec. 12. (a)(1) For the purpose of inspecting, copying, and verifying the correctness of records, reports, or other documents required to be kept or made under this Act or for the purpose of otherwise facilitating the carrying out of his functions under this Act, the Administrator is authorized, in accordance with this section, to enter any factory, warehouse, or other premises in which chemical substances are manufactured, processed, stored, held, or maintained, including retail establishments, and to conduct administrative inspections thereof.

(2) Such entries and inspections shall be carried out through officers or employees (hereafter in this section referred to as "inspectors") designated by the Administrator. Any such inspector, upon stating his purpose and presenting to the owner, operator, or agent in charge of such premises (A) appropriate credentials and (B) his administrative inspection warrant or a written notice of his other inspection authority, shall have the right to enter such premises and conduct such inspection at reasonable times.

(3) Except when the owner, operator, or agent in charge of such premises so consents in writing, no inspection authorized by this section shall extend to—

(A) financial data;

(B) sales data other than shipments data;

(C) pricing data;

(D) personnel data;

(E) research data (other than data required by this Act); or

(F) process technology other than that related to chemical composition or the industrial use of a chemical substance.

(b) A warrant under this section shall not be required for entries and administrative inspections (including seizures of chemical substances or products containing chemical substances manufactured in violation of rules issued under this Act)—

(1) conducted with the consent of the owner, operator, or agent in charge of such premises; or

(2) in any situation where a warrant is not constitutionally required.

(c) Issuance and execution of administrative inspection warrants shall be as follows:

(1) Any judge of the United States or of a State court of record, or any United States magistrate, may, within his territorial jurisdiction, and upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by this title, and seizures of property appropriate to such inspections. For the purposes of this subsection the term "probable cause" means a valid public interest in the effective enforcement of this Act or rules thereunder sufficient to justify administrative inspections of the area, premises, building, or contents thereof, in the circumstances specified in the application for the warrant.

(2) A warrant shall issue only upon an affidavit of an officer or employee having knowledge of the facts alleged, sworn to before the judge or magistrate, and establishing the grounds for issuing the warrant. If the judge or magistrate is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, or building to be inspected, the purpose of such inspection, and, where appropriate, the type of property to be inspected, if any. The warrant shall identify the items or types of property to be seized, if any. The warrant shall be directed to a person authorized under subsection (a)(2) of this section to execute it. The warrant shall state the grounds for its issuance and the name of the person or persons whose affidavit has been taken in support thereof. It shall command the person to whom it is directed to inspect the area, premises, or building, identified for the purpose specified, and, where appropriate, shall direct the seizure of the property specified. The warrant shall direct that it be served during normal business hours. It shall designate the judge or magistrate to whom it shall be returned.

(3) A warrant issued pursuant to this section must be executed and returned within ten days of its date, unless upon a showing by the United States of a need therefor, the judge or magistrate allows additional time in the warrant. If property is seized pursuant to a warrant, the person executing the warant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person making such inventory, and shall be verified by the person executing the warrant. The judge or magistrate, upon request, shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

(4) The judge or magistrate who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall file them with the clerk of the district court of the United States for the judicial district in which the inspection was made.

EXPORTS

Sec. 13. (a) This Act shall not apply to any chemical substance or article containing such substance if (1) it can be shown that such substance or article is manufactured, processed, sold, or held for sale for export from the United States (or that such chemical substance was imported for export), unless such chemical substance or article is, in fact, manufactured, processed, or distributed in commerce for use in the United States, and (2) such chemical substance or article containing such substance when distributed in commerce, or any container in which it is enclosed when so distributed, bears a stamp or label stating that such chemical substance or article is intended for export; except that (A) any manufacturer, processor, or exporter of such chemical substance shall be subject to the reporting requirements of section 8 of this Act; and (B) this subsection shall not apply to any chemical substance or article containing such substance if the Administrator finds that the chemical substance or article will, directly or indirectly, pose an unreasonable risk to health within the United States or to the environment of the United States.

(b) If submittal of test data is required for a chemical substance under section 4 or 5 of this Act, or rules applicable to such substance or article containing such substance have been prescribed or proposed under section 5 or 6 of this Act, the Administrator, subject to section 15 of this Act, may furnish to the governments of the foreign nations to which such chemical substance is exported, or is intended to be exported, notice of the availability of the data submitted to the Administrator under section 4 or 5 concerning such chemical substance, and notice of any rule applicable to such substance or article containing such substance which has been prescribed or proposed by the Administrator under section 5 or 6 of this Act.

IMPORTS

Sec. 14. (a) The Secretary of the Treasury shall refuse entry into the customs territory of the United States (as defined in general headnote 2 to the Tariff Schedules of the United States) of any chemical substance or article containing such substance offered for entry if it fails to conform with rules promulgated under this Act, or if it is otherwise prohibited under this Act from being distributed in commerce. If a chemical substance or article is refused entry, the Secretary of the Treasury shall refuse delivery to the consignee and shall cause the disposal or storage of any substance or article refused delivery which has not been exported by the consignee within three months from the date of reciept of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe, except that the Secretary of the Treasury may deliver to the consignee such substance or article pending examination and decision in the matter on execution of bond for the amount of the full invoice value of such substance or article, together with the duty thereon, and on refusal to return such substance or article for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding them from the country, or for any other purpose, such consignee shall forfeit the full amount of such bond. All charges for storage, cartage, and labor on substances or articles which are refused admission or delivery under this section shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee

(b) The Secretary of the Treasury, in consultation with the Administrator, shall issue regulations for the enforcement of subsection (a) of this section.

CONFIDENTIALITY

Sec. 15. All information reported to or otherwise obtained by the Administrator or his representative under this Act, which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, shall be considered confidential and shall not be disclosed, except that such information may be disclosed to other officers or employees concerned with carrying out this Act (including the Chemical Substances Board and committees formed under section 10), or when relevant in any proceeding under this Act, except that disclosure in such a proceeding shall preserve the confidentiality to the extent possible without impairing the proceeding. All information reported to or otherwise obtained by the Administrator or his representative including information which contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, shall be made available upon request of the duly authorized committees of the Congress.

PROHIBITED ACTS

SEC. 16. It shall be unlawful for any person to—

(1) fail or refuse to comply with section 4, 5, or 6 of this Act or any rule or order prescribed under those sections, or with any restriction under section 5(k) of this Act;

(2) fail or refuse to comply with section 8 or any rule or order thereunder;

(3) fail or refuse to permit access to or copying of records, or fail or refuse to permit entry or inspection or take any other action as required under section 12 of this Act; or

(4) fail or refuse to comply with instuctions with respect to the use or disposal of a chemical substance where such instructions are required by rule prescribed under section 6(a)(3) of this Act and where such failure or refusal to comply results in or is likely to result in death, severe personal injury or illness, or severe harm to the environment.

PENALTIES

SEC. 17. (a) Any person who knowingly violates section 16 of this Act shall be subject to a civil penalty not to exced $25,000 for each day of violation.

(b) Any person who willfully violates any provision of section 16 (other than section 16(2)) of this Act, after having received notice of noncompliance from the Administrator, shall, in addition to or in lieu of a civil penalty imposed under subsection (a), on conviction, be fined not more than $25,000 for each day of violation or imprisoned for not more than one year, or both.

INJUNCTIVE ENFORCEMENT AND SEIZURE

SEC. 18. (a) Upon application by the Attorney General, the district courts of the United States shall have jurisdiction to restrain any violation of section 16 or to compel the taking of any action required by this Act or rule issued thereunder. Such actions may be brought by the Attorney General, on the request of the Administrator, in any United States district court of proper venue. In any action under this section, process may be served on a defendant in any other district in which the defendant resides or may be found, and subpenas for witnesses may run into any other district.

(b) Any chemical substance or article containing such substance which was manufactured or distributed in commerce in violation of an applicable rule prescribed under section 6, or in violation of section 5 of this Act, shall be liable to be proceeded against, by process of libel for the seizure and condemnation of such substance or such article in any United States district court within the jurisdiction of which such substance or article is found. Proceedings in cases instituted against a chemical substance or article containing such substance under the authority of this section shall conform as nearly as possible to proceedings in rem in admiralty. Actions under this subsection may be brought by the Attorney General on the request of the Administrator.

ENVIRONMENTAL PREDICTION AND ASSESSMENT

SEC. 19. The Administrator shall, in cooperation with the Council on Environmental Quality and other Federal agencies, develop the necessary personnel and information resources to assess the environmental consequences of the introduction of new chemical substances into the environment.

COOPERATION OF FEDERAL AGENCIES

SEC. 20. Upon request by the Administrator, each Federal agency is authorized—

(1) to make its services, personnel, and facilities available (with or without reimbursement) to the Administrator to assist him in the performance of his function; and

(2) to furnish to the Administrator such information, data, estimates, and statistics, and to allow the Administrator access to all information in its possession as the Administrator may reasonably determine to be necessary for the performance of his functions as provided by this Act.

STUDY OF CHEMICAL SUBSTANCES CLASSIFICATION SYSTEM

SEC. 21. The Council on Environmental Quality, in consultation with the Administrator, the Secretary of Health, Education, and Welfare, the Secretary of Commerce, and the heads of other appropriate Federal, State, and local departments or agencies, the scientific community, and the chemical industry, shall coordinate a study of the feasibility of establishing (1) a standard classification system for chemical compounds and related substances, and (2) a standard means for storing and for obtaining rapid access to information respecting such materials.

STATE REGULATIONS

SEC. 22. (a) Nothing in this Act shall affect the authority of any State or local government to regulate any chemical substance, or to establish and enforce standards for test protocols for chemical substances to protect health or the environment, except that—

(1) if the Administrator prescribes a rule under section 6 of this Act applicable to a chemical substance, a State or local government may not, after the effective date of such rule, establish or continue to enforce any restriction of its own applicable to such substance for purposes similiar to such rule, other than a total ban on use or distribution; and

(2) if the Administrator prescribes a rule under section 4 of this Act applicable to a chemical substance, a State or local government may not after the effective date of such rule establish or continue to enforce any standards for test protocols applicable to such substance or class for purposes similar to those of a rule under section 4.

(b) The Administrator may by rule, upon the petition of any State or local government or at his own initiative, except State and local governments from the prohibitions of subsection (a) of this section with respect to a chemical substance if such exemption will not, through difficulties in marketing, distribution, or other factors, result in placing an unreasonable burden upon commerce.

JUDICIAL REVIEW

SEC. 23. (a) Not later than sixty days following promulgation of a rule under sections 4, 5, and 6 of this Act, any person adversely affected by such rule, or any interested person, may file a petition with the United States Court of Appeals for the District of Columbia or for the circuit in which such person resides or has his principal place of business for judicial review of such rule. Copies of the petition shall be forthwith transmitted by the clerk of the court to the Administrator or other officer designated by him for that purpose and to the Attorney General. The Administrator shall transmit to the Attorney General, who shall file in the court, the record of the proceedings on which the Administrator based his rule as provided in section 2112 of title 28, United States Code, and shall include the transcript of any oral presentation of data, views, or arguments required under sections 4, 5, and 6.

(b) If the petitioner applies to the court for leave to adduce additional data, views, or arguments and shows to the satisfaction of the court that such additional data, views, or arguments are material and that there are reasonable grounds for the petitioner's failure to adduce such data, views, or arguments in the proceeding before the Administrator, the court may order the Administrator to provide additional opportunity for oral presentation of data, views, or arguments and for written submissions. The Administrator may modify its findings, or make new findings by reason of the additional data, views, or arguments so taken and shall file such modified or new findings, and its recommendation, if any, for the modification or setting aside of its original rule, with the return of such additional data, views, or arguments.

(c) Upon the filing of the petition under subsection (a) of this section, the court shall have jurisdiction to review the rule to which the petition relates in accordance with chapter 7 of title 5 of the United States Code and to grant appropriate relief, including interim relief, as provided in such chapter. Rules promulgated by the Administrator under section 4, 5, or 6 of this Act and reviewed under this section shall not be affirmed unless the findings required to be made under those sections are supported by substantial evidence on the record taken as a whole.

(d) The judgment of the court affirming or setting aside, in whole or in part, any rule promulgated by the Administrator which is reviewed in accordance with the terms of this section shall be final, subject to review by the Supreme Court of the United States upon certiorari or certified, as provided in section 1254 of title 28 of the United States Code.

(e) The remedies provided in this section shall be in addition to and not in lieu of any other remedies provided by law.

CITIZEN CIVIL ACTION

SEC. 24. (a) Except as provided in Subsection (b) of this section, any interested person may commence a civil action for injunctive relief on his own behalf—

(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any rule, order, or restriction prescribed under section 4, 5, or 6 of this Act, or

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary. Any action under paragraph (a)(1) of this subsection shall be brought in the district court for the district in which the alleged violation occurred. Any action brought under paragraph (a)(2) of this subsection shall be brought in the district court of the District of Columbia, or in the district court for the district in which the plaintiff is domiciled.

The district courts shall have jurisdiction over suits brought under this section, without regard to the amount in controversy or the citizenship of the parties.

(b) No civil action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to sixty days after the plaintiff has given notice of the violation (i) to the Administrator, and (ii) to any alleged violator of the rule, or

(B) if the Administrator (or Attorney General on his behalf) has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with the rule, but if such action is commenced after the giving of notice any such person giving such notice may intervene as a matter of right in such action; or

(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice of such action to the Administrator, except that such action may be brought ten days after such notification in the case of an action under this section for the failure of the Administrator to act under section 6.

Notice under this subsection shall be given in such manner as the Administrator shall prescribe by rule.

(c) In any action under this section, the Administrator, if not a party, may intervene as a matter of right.

(d) The Court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award reasonable fees for attorneys and expert witnesses to the prevailing party, whenever the court determines such an award is appropriate.

(d) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any rule or order or to seek any other relief.

(f) For purposes of this section, the term "person" means an individual, corporation, partnership, or association, and (subject to subsection (a)(1)(B)) any State, municipality, or political subdivision of a State.

(g) When any actions brought under subsection (a)(1) of this section involving the same defendant and the same issues of violations are pending in two or more jurisdictions, such pending proceedings, upon application of the defendant reasonably made to the court of one such jurisdiction, may, if the court in its discretion so decides, be consolidated for trial by order of such court, and tried in (1) any district selected by the defendant where one of such proceedings is pending; or (2) a district agreed upon by stipulation between the parties. If no order for consolidation is so made within a reasonable time, the defendant may apply to the court of one such jurisdiction, and such court (after giving all parties reasonable notice and opportunity to be heard) may by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the applicant's principal place of business, in which all such pending proceedings shall be consolidated for trial and tried. Such order of consolidation shall not apply so as to require the removal of any case the date for trial of which has been fixed. The court granting such order shall give prompt notification thereof to the other courts having jurisdiction of the cases covered thereby.

(h) This Section shall apply only with respect to civil actions filed more than two years after the date of enactment of this Act.

NATIONAL SECURITY WAIVER

Sec. 25. The Administrator shall waive compliance with any provision of this Act upon request of the Secretary of Defense and upon a determination by the President that the requested waiver is necessary in the interest of national security. The Administrator shall maintain a written record of the basis upon which such waiver was granted and make such record available for in camera examination when relevant in a judicial proceeding under this Act. Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for national security purposes, unless upon the request of the Secretary of Defense, the Administrator determines to omit such publication because the publication itself would be contrary to the interests of national security, in which event the Administrator shall submit notice to the House Armed Services Committee and the Senate Armed Services Committee.

AUTHORIZATION FOR APPROPRIATIONS

Sec. 26. (a) There is hereby authorized to be appropriated not to exceed $9,340,000, $11,100,000, and $10,100,000 for the fiscal years ending on June 30, 1974, June 30, 1975, and June 30, 1976, respectively, for the purposes and administration of this Act. No part of the funds so authorized to be appropriated shall be used to construct any research laboratories.

(b) To help defray the expenses of implementing the provisions of this Act, the Administrator may, by rule, require the payment of a reasonable fee from any person required to submit test data under sections 4 and 5 of this Act. Such rules shall not provide for any fee in excess of $2,500. In setting the amount of such a fee, for the Administrator shall take into account the ability to pay of the person required to submit the data and the cost to the Administrator of reviewing such data. Such rules may provide for the sharing of the expense of such a fee in any case in which the expenses of testing are shared under section 4(d).

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To regulate interstate commerce to protect health and the environment from hazardous chemical substances."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 5356) was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate disagrees to the amendment of the House to the bill (S. 1888) entitled "An act to extend and amend the Agricultural Act of 1970 for the purpose of assuring consumers of plentiful supplies of food and fiber at reasonable prices," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Talmadge, Mr. Eastland, Mr. McGovern, Mr. Allen, Mr. Curtis, Mr. Aiken, and Mr. Young to be the conferees on the part of the Senate.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

APPOINTMENT OF CONFEREES ON HOUSE JOINT RESOLUTION 512, TO EXTEND THE AUTHORITY OF THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT WITH RESPECT TO THE INSURANCE OF LOANS AND MORTGAGES

Mr. PATMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 512) to extend the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages, to extend authorizations under laws relating to housing and urban development, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference requested by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees: Messrs. Patman, Barrett, Mrs. Sullivan, Messrs. Ashley, Moorhead of Pennsylvania, Stephens, St Germain, Gonzalez, Reuss, Widnall, Brown of Michigan, J. William Stanton, Blackburn, Mrs. Heckler of Massachusetts, and Mr. Rousselot.

APPOINTMENT OF CONFEREES ON S. 1888, AGRICULTURE AND CONSUMER PROTECTION ACT OF 1973

Mr. POAGE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 1888) to extend and amend the Agricultural Act of 1970 for the purpose of assuring consumers of plentiful supplies of food and fiber at reasonable prices, together with the House amendment thereto, insist on the House amendment, and agree to the conference requested by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. CONTE. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

FURTHER LEGISLATIVE PROGRAM

(Mr. McFALL asked and was given permission to address the House for 1 minute, to revise and extend his remarks.)

Mr. McFALL. Mr. Speaker, I take this time to advise the Members of the program for the balance of the day and, tentatively, for the balance of the week.

We will proceed to take up the rule on H.R. 8929, Educational and Cultural Postal Amendments, at this time. Hopefully, we will complete the 2 hours of debate or as much of it as possible this evening, but we would not take up the 5-minute rule.

Tomorrow, we will begin consideration of H.R. 8480, impoundment control and 1974 expenditure ceiling. When we complete that bill tomorrow or the next day, we will begin the foreign aid bill, H.R. 9360.

The completion of the postal amendment bill will be taken up after we finish the other two bills. Hopefully, then, we will get to the national flood insurance expansion bill before the end of the week.

PROVIDING FOR CONSIDERATION OF H.R. 8929, EDUCATIONAL AND CULTURAL POSTAL AMENDMENTS OF 1973

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 495 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 495

Resolved, That upon the adoption of this resolution it shall be in order to move, clause 27(e), rule XI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8929) to amend title 39, United States Code, with respect to the financing of the cost of mailing certain matter free of postage or at reduced rates of postage, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Florida is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman from California (Mr. DEL CLAWSON) and pending that I yield myself such time as I may consume.

For the moment, Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. TEAGUE).

Mr. TEAGUE of Texas. Mr. Speaker, in the 1970 Postal Reorganization Act, the Congress put the Postal Service on a break-even, pay-as-it-goes basis, primarily on the assumption that the application of modern business techniques by cost-effective corporate managers would make the new Postal Service efficient and economical. That assumption has been proved wrong by the poor performance of the new Postal Service we have all witnessed and heard about from our constituents. And in adopting the break even principle, we clearly overlooked its effect on nonprofit community oriented organizations that use the mails extensively in order to serve their members and benefit the country.

I for one had no conception in 1970 of the magnitude of the postal rate increases that would be imposed on nonprofit organizations. If I had, I certainly would not have favored the Postal Reorganization Act in its present form.

The postal rate increases imposed on nonprofit organizations range from 200 percent to over 800 percent more than they were paying in second-class postage prior to May of 1971. In absolute dollar terms the projected increases are astounding and the financial impact clear. For example, the second-class postage on the American Legion magazine will rise from about $200.000 a year in 1971 to more than $1 million a year in 1980.

This magazine is mailed to all members of the Legion and to schools, libraries and veterans hospitals throughout the country and overseas. The magazine provides information on legislation and other matters of concern to veterans and their dependents and contains articles on patriotism, national security, youth programs, and the history and culture of our country. The editorial content averages 75 percent and the advertising content is 25 percent or less in each issue. Under the present schedule of rate increases, by 1980 the cost of mailing this magazine will be prohibitive unless relief is granted by the Congress.

Publications of other veterans organizations as well as the religious, fraternal, farm, and labor groups are equally affected. I am advised that the postage on Rev. Belly Graham's magazine, Decision, will increase from $11,000 a month to almost $165,000 a month when fully in effect.

The principal inequity of the present rate schedule is the per-piece-charge—surcharge—of up to 1.5 cents because this additional cost does not adjust for publications with a low percentage of advertising income. The per-piece-charge applies equally to all publications regardless of size. It makes no distinction between a 50-page magazine and a 4-page newsletter. This surcharge is in addition to the basic rate established for such mail. Until the new schedule of rates became effective a per-piece-charge had never been imposed upon second-class nonprofit mailers.

For over half a century prior to enactment of the Postal Reorganization Act, the Congress had provided preferential mail rates for publications of veterans organizations and other nonprofit mailers who disseminate information of benefit to their members and to the public. I do not believe the Congress intended to abandon the traditional treatment accorded these organizations.

The Postal Rate Commission has assigned to nonprofit mailers the second highest rate increase of all classes of mail in an apparent effort to "close the gap" in the second-class rate structure for nonprofit organizations as opposed to regular rate publications. Comparisons between the second-class structure of regular rate publications and publications of authorized nonprofit organizations, and a comparison of income/postage ratios make it clear that the rates for nonprofit organizations are a complete and dramatic departure from the rate concept traditionally accorded preferential second-class users.

In its enthusiasm to balance its budget, the Rate Commission has callously ignored those provisions of the Postal Reorganization Act and 55 years of congressional policy concerning the rate treatment of nonprofit community oriented organizations. The rates discriminate against a class of publications which are least able to absorb the increases and whose history has been one of disseminating news and useful information in the public interest rather than becoming income oriented through the sale of large amounts of advertising.

Postal costs have already risen significantly and are anticipated to go up another $2 billion over the next 2 years. Under the Postal Reorganization Act, additional rate increases will have to be imposed to recover these costs. Veterans organizations rely almost entirely on membership dues, not only to pay for the cost of publishing their newspapers and magazines, but also to accomplish all of the objectives for which they exist. Advertising revenue received by other publications, particularly in the profit field, is not available to the veterans organizations. Their principal source of income is through subscription revenue which is part of the dues structure of each organization. The veterans organizations cannot arbitrarily raise their subscription prices in order to absorb the increased postal costs. They must await approval of their membership to modify the dues structure and this is not easily accomplished.

Obviously, the postage increase under the new rate schedule represents a severe financial burden to the veterans organizations. Every dollar that must be devoted to increased postage is taken away from the worthwhile purposes these organizations fulfill. When the Postal Reorganization Act was passed. I think all of us anticipated that reasonable postal rate increases would be required for all mail users, including nonprofit organizations. But I seriously doubt that any Member had the slightest inkling that rates would be increased to the extent that they have.

The veterans organizations simply cannot bear this radically higher postage without serious impairment of their other functions or without eliminating their publications which are the only direct link of communications they have with their members. Either result is detrimental and should not be permitted to happen.

I do not believe that a slavish adherence to the Postal Service break-even requirement should be permitted to affect the nonprofit community-oriented organizations as seriously and as detrimentally as will be the case unless the Congress takes action.

H.R. 8929 is designed to alleviate to some extent the extreme financial impact of these higher postal rates. This is consistent with Congress historic and consistent policy of providing nonprofit institutions with a low-cost means of distributing their publications and communicating with their members through the mails. In my opinion, H.R. 8929 merely corrects an oversight contained in the Postal Reorganization Act and remedies an unintended and harmful effect. Enactment of this legislation will make it clear that the Congress continues to recognize the enormous contribution that the veterans organizations make to their communities, their States and to this Nation.

Mr. PEPPER. Mr. Speaker, House Resolution 495 provides for on open rule with 2 hours of general debate on H.R. 8929, a bill to provide relief from postal rate increases for certain mailers.

House Resolution 495 provides that the provisions of clause 27(e), rule XI of the Rules of the House of Representatives are waived.

I will state to my able friend from Iowa, whose inquiry I anticipate, if I may, that the occasion for this request for a waiver by the Rules Committee is this: The committee had before it H.R. 7554. The committee, on the 21st of June, I believe it was, voted, with a quorum present, by a record vote of 33 to 10, to report out the committee bill, H.R. 7554, with amendments. The bill and the amendments were voted favorably by the committee.

Mr. DERWINSKI. Mr. Speaker, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from Illinois.

Mr. DERWINSKI. The gentleman said the vote was 33 to 10. It was 13 to 10.

Mr. PEPPER. I am sorry. It was 13 to 10. I understand that there are 25 members of the committee, and 23 voted, and the vote to report out the bill was 13 to 10.

The committee voted to report out a clean bill, which would embody H.R. 7554 and the amendments in a single clean bill.

On the day following that meeting of the committee there was introduced a clean bill, embodying exactly H.R. 7554 plus the amendments that had been voted upon favorably by the committee. There was not a subsequent meeting of the committee upon the clean bill. But the clean bill embodying what was voted upon exactly by the committee, as H.R. 8929, was reported out and presented to the Rules Committee. The situation was reported to the Rules Committee, and the Rules Committee voted to recommend consideration of the bill to the House, but recommended that there be a waiver of points of order so that any technicality which might arise out of that situation would be cured by the waiver of the rule, if the House adopted the waiver of the rule.

If I have not stated the facts correctly I will ask the able gentleman from New York, the chairman of the subcommittee, if he would care to make any correction in the statement I have made.

Mr. HANLEY. No. The facts are as the gentleman has stated them.

Mr. PEPPER. I thank the gentleman.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, I thank the gentleman for yielding.

I believe one slight correction should be made. A clean bill was introduced 2 days after the committee voted on the proposition, and I would have to differ again with the gentleman in his statement that this is an open rule. It is not an open rule since it waives a point of order.

Mr. PEPPER. Mr. Speaker, it is an open rule.

Mr. GROSS. The Committee on Rules in effect is doing the homework for the Committee on Post Office and Civil Service in that they did not abide by the rules of the House and vote on a clean bill.

Mr. PEPPER. Mr. Speaker, H.R. 8929 grants relief from postal rate increases for mailers of large commercial publications, books, and sound recordings on a temporary basis, and for mailers of nonprofit and other preferred rate publications, small commercial publications, and books and sound recordings to and from libraries.

The total cost of the bill from the present time until 1980 is $865.5 million.

H.R. 8929 also exempts the Postal Service from the Budget and Accounting Act.

Mr. Speaker, I urge adoption of House Resolution 495 in order that we may discuss and debate H.R. 8929.

CALL OF THE HOUSE

Mr. YOUNG of Florida. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. McFALL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 372]

Anderson, Ill.
Barrett
Bell
Bevill
Blatnik
Boland
Bolling
Burton
Camp
Clark
Clay
Collier
Conable
Conyers
Dent
Diggs
Dulski
Evans, Colo.
Evins, Tenn.
Fisher
Foley
Ford,
  Gerald, R.
Fraser
Giaimo
Gibbons
Green, Pa.
Gubser
Gunter
Hanna
Harrington
Harsha
Hébert
Horton
Hutchinson
Ichord
Jarman
Kemp
King
Kuykendall
Landgrebe
Landrum
McFall
Melcher
Milford
Mills, Ark.
Minshall, Ohio
Mizell
Murphy, N.Y.
Nichols
O'Brien
O'Neill
Pike
Poage
Quie
Quillen
Reid
Roberts
Roe
Rooney, N.Y.
Rosenthal
Rostenkowski
Ryan
St Germain
Shoup
Sisk
Stanton,
  James V.
Steiger, Wis.
Stephens
Talcott
Tiernan
Widnall
Wilson,
  Charles, Tex.
Winn

The SPEAKER. On this rollcall 360 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PROVIDING FOR CONSIDERATION OF H.R. 8929, EDUCATIONAL AND CULTURAL POSTAL AMENDMENTS OF 1973

Mr. PEPPER. Mr. Speaker, I yield to the gentleman from California (Mr. DEL CLAWSON).

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 495 provides a rule with 2 hours of general debate for the consideration of H.R. 8929, Educational and Cultural Postal Amendments. The rule also includes a waiver of clause 27(e) of rule XI. This rule requires the presence of a quorum when a bill is reported. In this case the committee, with a quorum present, agreed to report a clean bill, but never actually held a meeting officially reporting out the clean bill. Therefore, the waiver is necessary in order to prevent a point of order against consideration of the bill.

H.R. 8929, the bill made in order under this rule, would provide huge and unwarranted windfalls to certain profit-oriented newspaper, periodical, and magazine publishers and high-volume distributors of books and records. It would accord "favored status" to selected mailers by: First, stretching out, from 5 to 9 years and in biennial increments, the phased rate increases for profit-oriented second-class publications and fourth-class books and records; second, providing for a one-third discount on the first 100,000 copies of each issue of profit-oriented second-class publications and on the first 250,000 copies of each issue of nonprofit second-class publications; third, providing a 50-percent subsidy for any future rate increases for nonprofit publications.

Upon the general taxpayer would fall the burden of this generosity—approximately $950 million during the next 7 years. Beyond 1980 these continuing subsidies would prove equally exorbitant and inequitable.

The proposed legislation is completely contrary to priniciples underlying the Postal Reorganization Act of 1970. Once again it involves the Congress in the postal ratesetting process. It not only makes the already complicated second-class rates more confusing and complicated, but by locking into permanent law references to former rate classifications that were repealed by the act, it perpetuates an archaic classification structure.

Enactment of H.R. 8929 would prove a serious and costly error. It violates the structuring of postal rates and destroys the effective operation of the Postal Rate Commission. It is an unwarranted raid on the Federal Treasury for the unneeded benefit of a selected few.

Mr. Speaker, I am opposed to this bill and the rule. Upon completion of debate on the rule, I will ask that the House defeat the rule. This will prevent the House from wasting time on a bill which never should have been reported out of committee, and in fact was reported out only by a narrow margin.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, I commend the gentleman from California for a very profound statement. While we are debating the rule I would like to return to a point that was discussed by the gentleman from Iowa just before we had the quorum call—and obviously it was not the intent of the quorum call to have the Members listen to me but I will take advantage of it anyway, and I might as well make that point again.

I am reading from a report on the action of the full committee on July 21, 1973, and I quote from this committee statement:

> By a vote of 13 to 10, the committee ordered reported a clean bill, relating to reduced postal rates for second and special rate fourth-class mail matter, incorporating the text of H.R. 7554, as amended by the committee.

The gentleman from Iowa (Mr. GROSS) properly made the point at the time the committee acted that this bill was not before us and was not introduced until a day or two later, a very interesting procedure which is covered by the rule waiving points of order.

I would suggest to the Members that regardless of their views on this bill itself that this is the kind of precedent we should not be setting and it makes for bad legislation. I think the rule should be defeated and we should let the committee produce a proper vehicle for final consideration and then we will not have any argument about the need for a protected rule.

I think this is a classic case of sloppy legislation which it behooves the House to reject out of hand.

This bill by the way is one of the rare creatures that cannot be improved by amendment and has got to be defeated outright. This is necessary because the proper procedure was not followed in the committee.

Mr. Speaker, I urge rejection of the rule.

Mr. DEL CLAWSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Speaker, anyone who has read the committee report is probably wondering how this bill ever got to the place where it is today. Let me say that the vote in the Post Office and Civil Service Committee was a close 13 to 10, and in the Rules Committee it was 7 to 5. I might hastily add I was one of the five who voted not to report this bill.

When we look at the contents of this bill we begin to wonder how the special interests—and this is a special interest bill—can in one sweep practically undo the work of the new Postal Rate Commission we heard so much about a couple of years ago during the debate on the postal reorganization bill. This bill is attempting to negate the work of the Rate Commission to at least head the Service in the direction of paying its own way. It has been stated by the gentleman from California this bill would grant an estimated $950 million surplus to these special interest groups.

I know the Members probably have already heard from a goodly number of them. A good many have cried crocodile tears, but when we turn to the minority views of the committee report, we find they are making money; they are not going out of business; and the tears are not so real.

For example, Reader's Digest, one of the most successful publishing enterprises in the world, would get a windfall of $14.8 million under this bill. This is virtually double the postal subsidy it already receives. It is equally ridiculous that Time, Inc.. whose net income last year was $22 million, should reap a subsidy of $12.5 million, twice the subsidy it is already receiving. The Wall Street Journal, with a 1972 income profit of nearly $20 million, would have its postal subsidy doubled from $17.3 to $34.7 million.

This all would occur at a time when we are hearing from the Postmaster General that we should expect a 25-percent increase in first class rates next year. Actually they are asking of the average taxpayer, the user of the 8 cent and soon to be 10 cent stamp, is for him to pick up this $950 million subsidy for the big corporations so they can report higher profits.

We haven't heard much about this legislation. I have not heard anything about it back in my district, nor have I read much about it in these subsidized publications I wonder why? Doesn't the public have a right to know it is paying these huge subsidies?

I predict, however, that the members are going to be asked to explain the reason for an increase in the first class rates when they occur. Try then to explain the reason for the increase in that stamp from 8 cents to 10 cents without mentioning the $950 million subsidy you are trying to put in this bill.

This is an unjustified raid on the Treasury if I have ever seen one, and certainly it will put an additional hardship on the low-income individual who is going to be using first class mail and paying 10 cents to mail his letter.

The publishers of these very profitable magazines are already paying the first step of the 1972 rate increases, and not one—not one publication has failed financially as a result of this initial first step. As a matter of fact, Time, Inc., had first quarter earnings this year of 73 cents as opposed to 42 cents in the first quarter of last year.

Costs other than postage have also been rising—newsprint, machinery, wages, and so forth. There is no evidence to suggest that postage costs are significantly high in relation to other publishing costs. The cost of second-class postage, of course, really plays a very small role in the economic picture of publishing magazines. Advertising, circulation, manufacturing, and production constitute, in the aggregate, almost 80 percent of the total magazine expenses, according to the Magazine Publishers Association.

Second-class postage costs are under 5 percent of these total costs. That is what we are dealing with here today. As a matter of fact, the Magazine Publishing Association's own figures show no substantive change in postage cost between 1966 and 1971, where the percentages have gone from 4.65 percent in 1966 to 4.94 percent in 1971.

Data from the 6,500-member National Newspaper Association—which, incidentally, opposes this legislation—reflects that before increases, second-class postage approximated a mere 2 percent of the total cost.

I, for one, find it hard to believe that the magazine industry, the newspaper industry, the book publishing industry, or any other part of it, has been imperiled by rate increases approved to date. They simply have not made a case that they should be subsidized by the American people in this legislation to the tune of $950 million. Nor should the people who do not subscribe to magazines, books, records, and so forth, be asked to further subsidize the postage for those who choose to receive them.

Mr. Speaker, by this time the Members have probably guessed that I do not support this legislation. I intend to vote against the rule as the House should not be asked to consider it. I urge you to defeat the rule and if we must have legislation to help nonprofit publications stay in business, then let the committee return to the House with the bill to do just that and only that.

Mr. DEL CLAWSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Speaker, I should like to read briefly from the New York Times of July 17, slightly less than a week ago. It states as follows:

> The Magazine Publishers Association—specialist in upbeat reports—has outdone itself with its June statement. Not only did the members of the Publishers Information Bureau ring up the highest monthly ad revenues ever—$109.8-million, a 10 per cent increase over June, 1972—marking the 30th consecutive month of increases—but it also closed out a six-month period without parallel in magazine history. Collectively, it is estimated, member publications increased their revenues 8 per cent to more than $636-million and their ad pages 6 per cent to 42,460 over the first half of last year.

It concludes by saying:

> Wow! Golly! Gee!

Apparently in enthusiastic approval of this report.

This bill ought never to have come out of the Committee on Post Office and Civil Service. Having come out of that committee, it ought not to have been given consideration by the Rules Committee.

This is bad legislation, as has been previously stated. It provides for a subsidy of almost a billion dollars to publications, many of which are showing excellent profits.

The bill is labeled, among other things, as the Educational and Cultural Postal Amendments of 1973. As we stated in the minority views on this bill, it is educational only as a lesson in raiding the Treasury. It is cultural to the extent of its cultivation of special interest groups.

Mr. Speaker, I suggest that the Members of the House would do themselves a favor this evening to defeat this rule, end the consideration of this legislation here and now, and go on to other business.

Mr. DEL CLAWSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. KEATING).

Mr. KEATING. Mr. Speaker, I rise in opposition to the bill and in opposition to the rule.

During fiscal year 1974, the U.S. Postal Service will receive Federal subsidies on the order of $1,373,096,000. Passage of H.R. 8929 would raise this total to $2,323,096,000. And the provision of the bill which would limit future rate increases to 50 percent of the otherwise applicable costs could substantially increase this already staggering figure. Before Congress can even begin to consider imposing the cost burden of these massive additional subsidies on the taxpayer, we must raise the issue of fairness.

Fairness, in the words of the Postal Reorganization Act, obliges the Postal Service—

> To apportion the costs of all postal operations to all users of the mail on a fair and equitable basis.

Accordingly, the act requires that each class of mail produce enough revenue to cover the costs directly attributable to its handling. I would maintain that current practice does not conform to the spirit of this act because second-class mail and parcel post are already receiving indirect subsidies at the expense of the other classes of mail.

I would further maintain that this situation is already unfair and should not be exacerbated by the passage of legislation which would authorize direct subsidies to favored mailers at the general expense.

I base my first assertion on the figures which Mr. Benjamin F. Bailar, Senior Assistant Postmaster General, submitted to the Committee on the Post Office and Civil Service last May. At that time, Mr. Bailar stated that institutional costs which cannot be directly attributed to any given class of mail account for roughly half of the total costs of postal service. Thus, it stands to reason that each class of mail should bring in revenues covering approximately 200 percent of its attributable costs. This, however, is not the case. It is not even a goal. When all phasing steps are complete, Mr. Bailar projects that the different classes of mail will stand in the following relationship to each other:

[Cost coverage as a percent of attributable costs—In percent]

Class of mail:	
First class	198.0
Priority mail	312.5
Third class regular rate bulk	203.5
Parcel post and catalogs	159.8
Second-class regular rates	129.5

From Bailar's statistics, it is clear that the projected rate levels do not distribute institutional costs evenly over all classes of mail. Proportionately, parcel post and second-class mail contribute far less toward these costs than the other classes of mail do.

Since the Postal Service has a monopoly on letter carrying, I do not think that any other types of mail should be given favored status. It is unfair to the individual citizens and businesses who must send their letters via U.S. mail. It is unfair to independent mail carriers who must compete with the Postal Service for the package and magazine delivery business without relying on letter revenues to meet overhead costs. And it is unfair to the other media which must compete with magazines for advertising without benefit of Federal subsidies.

It is preposterous to ask the American people to spend over $950 million in order to subsidize such publications as Time and the Wall Street Journal, each of which showed net profits in excess of $20 million last year. The present structure of the postal rate system provides enough in the way of hidden subsidies to such publications. Passage of H.R. 8929 would result in gross unfairness to the American people.

Mr. DEL CLAWSON. Mr. Speaker, I have no further requests for time, and I reserve the remainder of my time.

Mr. PEPPER. Mr. Speaker, I yield such time as he may consume to the chairman of the subcommittee which reported this bill, the gentleman from New York (Mr. HANLEY).

Mr. HANLEY. I thank the gentleman.

Mr. Speaker, I know the hour is late. Certainly the few minutes we have to debate the rule here tonight is not going to allow the opportunity to respond to all the implications that have been thrust about during the course of the last 20 or 30 minutes.

The fact of the matter is that this legislation was considered in a previous Congress. The gentleman from Arizona (Mr. UDALL) at that time was chairman of the subcommittee. The gentleman conducted 19 days of rather intensive hearings. Economic jeopardy was very clearly understood.

Those who are to derive a subsidy from this measure are the American public, not the publishers, as some Members have indicated here tonight.

Some have evidenced concern about the first-class postage stamp. I am concerned about that first-class patron, too, and the increase he or she might be subjected to. I am equally concerned about the increase in the way of subscription cost that citizen is going to be subjected to if we do not provide the relief that is contained in this measure.

Mr. Speaker, we have heard a great deal about the Reader's Digest and the Wall Street Journal and others, but we have not heard anything about the nonprofit entities which are accommodated through this legislation, the nonprofit entities incidentally upon which we impose an 800-percent increase in their rate.

Is that fair? Once again we are not dealing with postal rates per se, and it is not the intention of this committee at all to undercut the activity of the U.S. Postal Service Rate Commission. Actually what we are considering here is a policy matter.

Now, was it the intent of the Congress when we enacted the postal reform legislation to deprive citizens of their traditional access to subscriptions to newspapers, publications, and so forth, that our Founding Fathers determined they should have so that we would have an informed citizenry?

Mr. Speaker, I am referring to publications such as, for instance, religious magazines. Let me quote the effect of this legislation on Decision magazine, published by Billy Graham, for what it is worth. The postal bill for that entity will increase from $11,340 to $164,640 a month at the end of this phase.

Now, these are the people whom we seek to accommodate through this legislation. I would hope very much that we would get on with the rule, adopt the rule, and I believe we can respond quite well to the implications that have been thrust upon us here tonight.

Mr. HENDERSON. Mr. speaker, will the distinguished gentleman yield?

Mr. HANLEY. I yield to the gentleman from North Carolina.

Mr. HENDERSON. Mr. Speaker, inasmuch as the gentleman has mentioned Decision magazine published by Billy Graham, I would like to take the opportunity to advise the House that if the rule is adopted, I will oppose this bill, and the first argument I will use is why we should subsidize Decision magazine published by Dr. Billy Graham. And I believe that if we can vote against that nonprofit publication, we ought to vote all the rest of them down.

Mr. Speaker, I urge that this rule be defeated so that we may not be forced to go through that exercise.

Mr. PEPPER. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, if I read the mood of the House at this hour with any accuracy, this rule is in real trouble, and I want to state my feeling on it, and, I hope that I may change a mind or two.

I voted against this bill coming out of the committee. As now constituted, it is a "Christmas tree" which ought to be buried somewhere in the archives of unwise legislation. I will vote against it unless it is amended substantially.

However, I plead with the Members not to vote down the rule, because there are very serious questions raised. We held extensive hearings last year, and the chairman of the subcommittee again held hearings this year. The magazine industry, the little magazines, which support so much culture in this country and make possible the exchange of ideas are in serious trouble.

Mr. Speaker, we at least ought to listen to the debate. We at least ought to see if we can clean up this bill and put it in a satisfactory form and send it off to the Senate before we vote it down. I believe it is a very unwise and dangerous thing at this hour to vote down the rule. I urge that the Members adopt the rule, even though I have the gravest kind of doubts about the legislation.

Mr. DEL CLAWSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, to correct the record, there are too many Members on the floor to let the gentleman from New York (Mr. HANLEY) get away with his not-for-profit argument. This bill is not intended to help the poor religious magazines as far as profit is concerned. For every dollar of subsidy added to this bill for a not-for-profit publication, there is $7 added for for-profit publications. The "not-for-profits" are being used as a sweetener in an otherwise very sour piece of legislation.

Mr. DEL CLAWSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa (Mr. SCHERLE).

Mr. SCHERLE. Mr. Speaker, in this debate on H.R. 8929 I am reminded of our lengthy consideration of the Postal Reorganization Act on the floor of the House on June 18, 1970. Members will recall at that time I raised a question concerning the preferred status of science of agriculture magazines shipped for delivery in zones 1 and 2. I was concerned that they be granted the preferred rate. Despite the assurances of this distinguished body, I have since learned that the Postal Rate Commission granted the preferred status to such magazines for their advertising content only.

Mr. Speaker, I am pleased to note on page 3 of report No. 93-369 that the Congress has corrected this anomaly and by law has placed the entire magazine; namely, both the editorial and the advertising content of science of agriculture magazines shipped for delivery in zones 1 and 2, under the preferred rate. As the report states, without this adjustment the nonadvertising or editorial content would have been paying a higher rate than the advertising content.

I commend the chairman of the committee for this correction and believe that it is in the best interest of Wallace's Farmer, the Nebraska Farmer, and other important magazines dedicated to the science of agriculture that are issued in the various regions of the United States.

The continued flow of vital information to the American Farmer is in the national interest, and I believe, will benefit agriculture in all regions of the United States. For surely maintaining this conduit of scientific information from the laboratory to the land has been the main purpose of our dedicated agriculture magazines and with all the shortages threatening this Nation and other nations of the World, I, for one, want the agriculture magazines encouraged to continue their good work for America.

Mr. PEPPER. Mr. Speaker, I yield such time as he may consume to the able gentleman from Michigan (Mr. WILLIAM D. FORD).

Mr. WILLIAM D. FORD. Mr. Speaker, unfortunately, all of the debate here has taken place concerning such publications as the Reader's Digest and its organization gorging itself on the lifeblood of the American consumer. What has not yet been discussed is the attitude of this Congress and this Government toward the free flow of ideas and information to the citizens of this country.

Mr. Speaker, during the years since the Nixon administration has come into being we have witnessed an unprecedented attack on the communications media. We have seen our most prestigious newspapers and magazines attacked by the highest Government officials. We have seen our television networks condemned. The past few years have been the most dangerous in our history for the American tradition of freedom of the press and for the free flow of information. We have, during this same period, witnessed the demise of some of our greatest magazines—first Colliers, then Look, and finally, Life, and if you please, the Saturday Evening Post, which was a specific source of public knowledge in the mind of Ben Franklin when he initiated the basic premises upon which the U.S. Postal Service was founded.

The legislation we are now debating is simply designed to insure that the free flow of ideas and information will continue, uninterrupted. Freedom of information is essential to the freedom of man, not all Americans have access to higher education or expensive means of expression, but in the spirit of Franklin's leadership all Americans should and must have access to the best expressions of fact and opinions on issues of every degree of importance. In supporting this legislation, the Congress can demonstrate to the American people, that unlike the Nixon administration, we do not fear the free flow of ideas and information, and we believe that education is never restricted to the schoolroom.

We can show the American people that, unlike the Nixon administration, we are not antagonistic to the institutions of education and communication which have been traditionally indicative of the distinction between of the American constitutional democracy as opposed to the totalitarian forms of government which have been identified in the past with communism and fascism.

Nevertheless, Mr. Speaker, it would appear the opponents of the rule would prefer to put forward the most unpopular targets they can conceive. I may tell you, if you vote with them to get the Readers Digest, you will also be getting some other people as well: You will be getting every school and every library in this country, and most prominent among the victims you will get is the rural libraries who receive 90 percent of their materials through the mail. Because a very important part of this bill, and one I have been working on now since the 92d Congress with the distinguished gentleman from New York (Mr. HANLEY) is that provision which would continue the congressional intention that second-class matter, such as magazines, and, in addition, the legislation which I proposed which would include special fourth-class matter, such as books and other educational materials, would continue to have, because of its educational and cultural nature, special handling.

The Postal Rate Commission was not at all upset by this part of the bill. I will tell you at the appropriate time that we will put in the RECORD the comments of the Postal Rate Commission. The gentlemen there said we should protect this Commission, if possible.

Mr. HAYS. Will the gentleman yield?

Mr. WILLIAM D. FORD. I yield to the gentleman.

Mr. HAYS. All I can say is I am going to vote for the rule for one simple reason, that is, under this present Postal Service, if they carry magazines as well as they do first-class mail, we not only ought to subsidize the magazines, but we ought to pay them for going in the mail.

Mr. WILLIAM D. FORD. The Postal Rate Commission has written to our committee about this proposal.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. PEPPER. I yield the gentleman 2 additional minutes.

Mr. WILLIAM D. FORD. As a matter of fact, the objections by the Postal Rate Commission as to the form of the bill at the time they wrote to us have been almost entirely met by the committee.

There was in the legislation when it was originally introduced a provision that would have given a 50-percent discount—in effect—to magazines and newspapers. That has been stricken now, as the chairman indicated, except with respect to nonprofit publications, and I assume you have heard from some of them.

There was also a provision for a rate discount for commercial magazines for the first 250,000 of any press run which the committee lowered to 100,000 copies, is intended to take care of the small magazine that is operating on a marginal basis.

I may say to those of you from the agricultural areas all you have to do is take a look at how many agricultural magazines are mailed to your constituents now and how many were mailed 5 years ago, and you will discover that more than half of them have ceased publication during that period of time.

One of the principal reasons is the long-term contracts they have with their people for the delivery of the mail. There is nothing new in this bill except the extension of the time when the rate will take effect, as was confirmed by the Postal Rate Commission in their letter to the Post Office and Civil Service Committee.

What this bill does is to reaffirm the legislative principle in the 1970 Postal Reorganization Act. In that act all of you who voted to create the Postal Corporation voted for a provision in the law which says that the full second-class rate will not be applied in the year in which the rate increase is instituted by the Rate Commission but will be applied instead in five annual steps. All this bill says is that when you jump the rate as much as has happened in the first class rate case, you will apply it in five steps occurring every other year instead of every year. In this particular case it will stretch it out to 9 years instead of 5. In no way does it attempt to set the level of the rate but only the time period in which it will be applied. The principle is not new, and let me emphasize again, it only changes the time during which the stretchout will be applied.

If you refer to the CONGRESSIONAL RECORD, you will see that you have the assurance of the supporters of the Postal Corporation, that if we found 5 years was not adequate, they would be back on the floor asking you to assure them that the congressional intent was not lost.

Mr. SAYLOR. Mr. Speaker, this afternoon I find myself in a strange position in that I agree with the comments of the USPS, more commonly known as the "unusually slow postal system," with regard to the provisions of H.R. 8929.

The bill is mislabeled as the Education and Cultural Postal Amendments Act, when it is, in fact, a "fat cat" subsidy bill for the for-profit mailers of the United States. For some unexplained reason, the majority of the House Post Office and Civil Service Committee believes that the rate for mailing letters written by my constituents should be enough to cover the administrative costs of delivering those letters, but that the monster- mailers should be supported out of the taxpayer's pocket. I do not understand the logic behind the legislation but I can assure you that I will oppose another raid on the taxpayer's billfold by the so-called quasi-public USPS in the name of educational and cultural necessity.

Mr. HECHLER of West Virginia. Mr. Speaker, the rule on this giveaway grab ought to be soundly defeated, and I intend to cast a solid vote against this raid on the Treasury. Despite the massive propaganda drive and furious lobbying by numerous wealthy publishers, it simply does not make any sense for the taxpayers of this Nation to raise the ante and dish out more dollars to subsidize those who are already doing rather well financially through low postage rates. Furthermore, action to take up this bill will also open the door for other Treasury raids by the junk mailers and everybody else.

The best way to defeat this bill is to defeat the rule, and bury this bill once and for all.

What is worse, if Congress enacts this senseless piece of legislation, it will result in a very early hike in first-class mail rates. Why on earth should Reader's Digest double its $14 million subsidy over the next 4 years while the first-class mailer—John Q. Public—takes it on the chin?

In 1972, Time magazine realized a profit of $22 million, and Time's subsidy under second-class rates would rocket from $12.5 million to $25 million over the next 4 years by the terms of H.R. 8929. The poor Wall Street Journal will get over $17 million in subsidy in the next 4 years, but if we pass this rule and bill the collapsing Wall Street Journal will rake in $34 million in Government subsidy alone. This is an outrageous misuse of Government power to help those who do not need help, and to put the burden on the backs of those who must mail their letters first class.

The Postal Service estimates that this bill will cost $949.9 million to the American taxpayers over the next 7 years. Statements by objective sources like Standard & Poor's indicate conclusively that the newspaper and magazine publishing industries are not hurting, but are prospering as never before, thanks to the already-existing subsidies. Now is the last time when we should be hiking these outrageously high second-class subsidies.

I certainly hope that this rule is defeated, and then we will not even have to consider this bill at all.

Mr. PEPPER. Mr. Speaker, this is an open rule with 2 hours of debate. There will be ample opportunity for every Member of the House to express his or her views on this matter. I hope the rule will be adopted.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The **SPEAKER** pro tempore (Mr. McFALL). The question is on the resolution.

The question was taken, and the Speaker pro tempore announced that the noes appeared to have it.

Mr. HANLEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 180, nays 202, not voting 51, as follows:

[Roll No. 373]

YEAS—180

Abnor
Abzug
Adams
Addabbo
Annunzio
Ashley
Aspin
Badillo
Bergland
Biaggi
Bingham
Blatnik
Boggs
Brademas
Brasco
Bray
Breaux
Breckinridge
Brinkley
Brotzman
Brown, Calif.
Brown, Mich.
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Carey, N.Y.
Carney, Ohio
Casey, Tex.
Chisholm
Cohen
Collins, Ill.
Conte
Corman
Cotter
Culver
Daniels, Dominick V.
Danielson
Delaney
Dellenback
Dellums
Denholm
Dingell
Donohue
Drinan
Eckhardt
Edwards, Calif.
Eilberg
Esch
Evans, Colo.
Fascell
Fish
Flood
Ford, William D.
Fraser
Fulton
Gaydos
Giaimo
Gilman
Gonzalez
Grasso
Gray
Hamilton
Hanley
Hansen, Wash.
Harvey
Hawkins
Hays
Heckler, Mass.
Helstoski
Hicks
Holifield
Holtzman
Horton
Howard
Hudnut
Johnson, Pa.
Jones, Ala.
Jones, Okla.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Kluczynski
Koch
Kyros
Leggett
Lehman
Long, La.
McCloskey
McCollister
McFall
McKay
McKinney
McSpadden
Macdonald
Madden
Matsunaga
Meeds
Melcher
Metcalfe
Mezvinsky
Miller
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Moorhead, Pa.
Morgan
Murphy, N.Y.
Myers
Natcher
Nedzi
Nix
Obey
O'Hara
Owens
Patten
Pepper
Perkins
Pettis
Pike
Poage
Podell
Powell, Ohio
Price, Ill.
Randall
Rangel
Rees
Reuss
Riegle
Rodino
Roncalio, Wyo.
Rooney, Pa.
Roush
Roy
Roybal
Ruppe
Ruth
St Germain
Sarasin
Sarbanes
Schneebeli
Schroeder
Seiberling
Sisk
Smith, Iowa
Staggers
Stark
Steele
Steelman
Stokes
Stratton
Studds
Sullivan
Symington
Teague, Tex.
Thompson, N.J.
Thone
Thornton
Tiernan
Udall
Van Deerlin
Vigorito
Waldie
Walsh
Wampler
Whalen
White
Williams
Wilson, Charles, Tex.
Wolff
Wright
Wyman
Yates
Yatron
Young, Tex.
Zablocki

NAYS—202

Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Archer
Arends
Armstrong
Ashbrook
Bafalis
Baker
Beard
Bennett
Bevill
Biester
Blackburn
Bowen
Brooks
Broomfield
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burlison, Mo.
Butler
Byron
Carter
Cederberg
Chamberlain
Chappell
Clancy
Clark
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Collins, Tex.
Conlan
Conyers
Coughlin
Crane
Cronin
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Dennis
Derwinski
Devine
Dickinson
Dorn
Downing
Duncan
du Pont
Edwards, Ala.
Erlenborn
Eshleman
Findley
Flowers
Flynt
Forsythe
Fountain
Frelinghuysen
Frenzel
Frey
Froehlich
Fuqua
Gettys
Gibbons
Ginn
Goldwater
Goodling
Green, Oreg.
Griffiths
Gross
Grover
Gude
Guyer
Haley
Hammerschmidt
Hanrahan
Hansen, Idaho
Harsha
Hastings
Hechler, W. Va.
Heinz
Henderson
Hillis
Hinshaw
Hogan
Holt
Hosmer
Huber
Hungate
Hunt
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Keating
Ketchum
Landrum
Latta
Lent
Litton
Long, Md.
Lott
Lujan
McClory
McCormack
McDade
McEwen
Madigan
Mahon
Mailliard
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Mayne
Mazzoli
Michel
Montgomery
Moorhead, Calif.
Mosher
Moss
Murphy, Ill.
Nelsen
Nichols
Parris
Passman
Preyer
Price, Tex.
Pritchard
Railsback
Rarick
Regula
Rhodes
Rinaldo
Robinson, Va.
Robison, N.Y.
Rogers
Roncallo, N.Y.
Rousselot
Runnels
Sandman
Satterfield
Saylor
Scherle
Sebelius
Shipley
Shoup
Shriver
Shuster
Sikes
Skubitz
Slack
Smith, N.Y.
Snyder
Spence
Stanton, J. William
Steed
Steiger, Ariz.
Steiger, Wis.
Stuckey
Symms
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Thomson, Wis.
Towell, Nev.
Treen
Ullman
Vander Jagt
Vanik
Veysey
Waggonner
Ware
Whitehurst
Whitten
Widnall
Wiggins
Wilson, Bob
Wilson, Charles H., Calif.
Wyatt
Wydler
Wylie
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Zion
Zwach

NOT VOTING—51

Anderson, Ill.
Barrett
Bell
Boland
Bolling
Burton
Camp
Clay
Collier
Conable
Dent
Diggs
Dulski
Evins, Tenn.
Fisher
Foley
Ford, Gerald R.
Green, Pa.
Gubser
Gunter
Hanna
Harrington
Hébert
Hutchinson
King
Kuykendall
Landgrebe
Milford
Mills, Ark.
Minshall, Ohio
Mizell
O'Brien
O'Neill
Patman
Peyser
Pickle
Quie
Quillen
Reid
Roberts
Roe
Rooney, N.Y.
Rose
Rosenthal
Rostenkowski
Ryan
Stanton, James V.
Stephens
Stubblefield
Talcott
Winn

So the resolution was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Rooney of New York for, with Mr. Talcott against.

Mr. Rostenkowski for, with Mr. Peyser against.

Mr. Quillen for, with Mr. Camp against.

Mr. Harrington for, with Mr. Hutchinson against.

Mr. Burton for, with Mr. Landgrebe against.

Mr. Dent for, with Mr. Collier against.

Mr. Gunter for, with Mr. O'Brien against.

Mr. Rosenthal for, with Mr. Kuykendall against.

Mr. Rose for, with Mr. Winn against.

Mr. James V. Stanton for, with Mr. Quie against.

Mr. Barrett for, with Mr. King against.

Until further notice:

Mr. Green of Pennsylvania with Mr. Evins of Tennessee.

Mr. Hanna with Mr. Fisher.

Mr. Hébert with Mr. Milford.

Mr. O'Neill with Mr. Gerald R. Ford.

Mr. Clay with Mr. Ryan.

Mr. Stephens with Mr. Bell.

Mr. Reid with Mr. Mizell.

Mr. Diggs with Mr. Foley.

Mr. Dulski with Mr. Minshall of Ohio.

Mr. Mills of Arkansas with Mr. Anderson of Illinois.

Mr. Roe with Mr. Conable.

Mr. Patman with Mr. Gubser.

Mr. Pickle with Mr. Stubblefield.

Mr. Roberts with Mr. Boland.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL ANNOUNCEMENT

Mr. DENT. Mr. Speaker, on rollcall No. 373 I was in conference with the Senate and was late by 1 second. Had I been here, I would have voted "yea."

PERSONAL ANNOUNCEMENT

Mr. BURTON. Mr. Speaker, on rollcall No. 373 which was just completed, I am recorded as not voting. Had I been present, I would have voted "yea."

REQUEST FOR PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO MEET DURING 5-MINUTE RULE TOMORROW

Mr. MELCHER. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be permitted to meet while the House is in session during consideration of bills under the 5-minute rule tomorrow, July 24, 1973.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Montana?

Mr. SAYLOR. Mr. Speaker, I object.

The **SPEAKER** pro tempore. Objection is heard.

SCHOOL BUSING, BY CHOICE

(Mr. VAN DEERLIN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. VAN DEERLIN. Mr. Speaker, we tend to look on school busing as a procedure under which children, against their own wish and that of their parents, are taken from their neighborhood school and forced to attend a school miles away—all this, of course, in the name of racial integration. Many insist busing is a program to benefit blacks at the expense of whites. They argue, often vehemently, that busing will not raise the level of minority schools, but instead will drag down the standard of schools in white areas. They might laugh at a suggestion that white children from an affluent neighborhood would voluntarily ride a bus for an hour to attend classes in a poorer, integrated area.

In my district in San Diego, however, many children in the first through sixth grades are doing just this. They are taking part in something called the Magnet School project, designed to demonstrate that if a school attains a high standard of academic achievement, and if it offers a rewarding program of satisfying accomplishment, it can attract enrollment whether the teachers and students are black or white, brown or yellow.

San Diego's Encanto Elementary School was selected as a test for this proposition. A number of factors governed the selection of the school—a major one being that the site included a multiethnic student population, yet one that was racially imbalanced. Almost equally important, a significant number of staff members—notably the principal, Jack Klein, and Mrs. Sarah Olinde—along with parents, had indicated a commitment to quality education in integrated classrooms.

The school is situated in an area of Southeast San Diego where most homes are in the lower price range. An explanation of the program, along with an invitation to participate, was sent to parents of children elsewhere in the city. The program got underway in January of this year. Although this was in the middle of the school year, 23 students were enrolled, leaving their neighborhood schools and taking a bus ride of up to an hour to Encanto.

Scant publicity was given to the program, but a close check was kept on the students to determine how they fared, and whether they were benefitting. The results, including responses from the children themselves, indicated an astounding degree of success. The youngsters by a vast majority said they liked it better than their former school, found it just as easy to make friends, and thought the new school considerably more challenging.

Even without publicity, word of the program's achievements has spread. Already 60 students have been enrolled for next fall, and more are being accepted each week.

The Magnet project in Encanto does not involve a special school with unusual facilities, or handpicked faculty offering new and different courses. Rather, it is a school with an idea—an idea which has sparked the desire in teachers to make it work. Additional ingredients are the support and goodwill of parents.

Given these, Mr. Speaker, the picture of school busing we have seen with sickening frequency—of screaming mothers venting their emotions for the TV news cameras, of confused children, of pleading administrators and obdurate judges—this could become a bogey of the past.

STATEMENT OF CHARLES E. WIGGINS BEFORE THE U.S. HOUSE OF REPRESENTATIVES RELATING TO THE HOBBS ACT

(Mr. WIGGINS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. WIGGINS. Mr. Speaker, I have today introduced a bill designed to plug a major loophole in an important criminal statute, the Hobbs Act (18 U.S.C. 1951), created by the 5-4 decision of the U.S. Supreme Court on February 22, 1973, in *United States* v. *Enmons*, No. 71-1193.

The *Enmons* case involved a direct appeal by the United States to the Supreme Court from the judgment of a Federal district court in Louisiana dismissing the Government's indictment under the Hobbs Act as not stating an offense. The defendants were members and officers of a union which was on strike seeking a new collective bargaining agreement with the Gulf State Utilities Co. The indictment charged that the defendants and others conspired to obtain the property of the company in the form of wages and other things of value with the consent of the company, "such consent to be induced by the wrongful use of actual force, violence and fear of economic injury—in that the—defendants—did commit acts of physical violence and destruction against property owned by" the company, including firing high powered rifles at transformers and blowing up a transformer substation.

The Hobbs Act provides in pertinent part that:

> Whoever in any way or degree obstructs, delays, or affects, commerce or the movement of any article or commodity in commerce, by . . . extortion or attempts or conspires so to do, . . . shall be fined not more than $10,000 or imprisoned not more than twenty years, or both.

Extortion is defined as the "obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear."

In an earlier case, *United States* v. *Green*, 350 U.S. 415 (1956), the Supreme Court had held that an indictment charged an offense under the Hobbs Act by alleging extortionate acts by union members to obtain wages from an employer for wholly fictitious services. The Government in *Enmons* argued that the act was intended to proscribe all extortionate conduct to obtain the property of another, irrespective of whether the objective of the accused could be attained by lawful means, as through collective bargaining in a labor dispute.

The district court held, however, and the Supreme Court agreed, that the law reached only "instances where the obtaining of the property would itself be "wrongful" because the alleged extortionist has no lawful claim to that property." The majority, finding an ambiguity in the terms "wrongful force" or "wrongful violence," determined that there was no intent in Congress to have the Hobbs Act apply to acts of extortion committed in pursuance of legitimate union ends during bargaining disputes, notwithstanding that the 79th Congress, in 1945, had specifically eliminated a clause in the prior act exempting the "payment of wages by a bona fide employer to a bona fide employee." The deletion was occasioned by a decision of the Supreme Court in 1942 that the clause protected the activities of a union which extorted moneys from out of town trucking firms whose trucks sought to enter New York City via the Holland Tunnel. The minority in *Enmons*, composed of Justices Douglas, Burger, Powell, and Rehnquist, argued that the language and history of the statute were clear that all illegal extortionate activities affecting interstate commerce were meant to be proscribed regardless of whether committed by employees, unions, or others and without regard to whether the end sought was attainable through legitimate collective bargaining methods.

It is appropriate for Congress once again to respond to the Supreme Court's action with respect to the Hobbs Act, since the majority's interpretation of the Hobbs Act in the *Enmons* case creates a major loophole for extortionate activities by racketeers who may also be union members and creates an irrational and plainly unintended distinction between extortion to obtain wages for fictitious services and extortion to obtain higher wages for work being performed. It is the illegal means—extortion—which should be punished, whether or not the end is obtainable by legitimate means.

The proper interpretation can be assured and the existing loophole closed by the simple deletion of the word "wrongful" from the statute's definition of "extortion," since it was the alleged ambiguity in the terms of "wrongful force" and "wrongful violence" which enabled the majority of the Court to adopt the strained construction it did. The definition of "extortion" in 18 U.S.C. 1951 would then read as follows—deletion shown in brackets:

> The term "extortion" means the obtaining of property from another, with his consent, induced by [wrongful] use of actual or threatened force, violence, or fear, or under color of official right.

Mr. Speaker, there can be no fear that this amendment would render ordinary picket line violence, in the course of a labor dispute with an employer affecting commerce, a violation of the Hobbs Act. As the minority of the Court in Enmons pointed out and as the Government in its brief conceded, low-level acts of violence during a strike are not within the scope of the act since these are the byproduct of frustration engendered by a prolonged collective bargaining negotiation or dispute and are not done with any intent to extort property from an employer.

Mr. Speaker, the simple amendment

which this bill proposes would accomplish a significant result. It would restore the Hobbs Act to the position it was intended by the 79th Congress to occupy more than 25 years ago, that is, legislation punishing all extortionate conduct affecting interstate or foreign commerce without exception. This is not an anti-labor proposal. Organized labor cannot seriously contend, just as an employer could not, that extortion to achieve a collective bargaining goal is a legitimate kind of activity which the Federal Government should not proscribe. The amendment I propose would simply restore the original understanding and scope of the Hobbs Act which was unexpectedly altered by the Supreme Court's ruling last term. I urge that the bill be enacted without delay.

A DEMOCRAT ON WATERGATE

(Mr. DEVINE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. DEVINE. Mr. Speaker, since most of the eastern media as well as the networks seem to belong to the "lynch-mob," perhaps the views of a highly respected Democrat, former officeholder, might add a little balance to the views on "Watergate."

A DEMOCRAT ON WATERGATE

(NOTE.—The following letter to the Editor of the Cincinnati Enquirer was written by Charles Sawyer of Cincinnati who was the Democratic nominee for Governor of Ohio in 1938, Ambassador to Belgium under President Roosevelt and Secretary of Commerce under President Truman.)

I am a Democrat. I have participated in and observed politics for a long time. I am a realist, I hope, and perhaps even a cynic with reference to politics. As a Democrat I am happy and relieved that my party is not involved in the so-called Watergate matter. I am, moreover, quite willing to admit that Democrats at various times and places have been guilty of irregularities or even crimes—some of which have been made public.

I am moved to suggest that the persons in both parties who are, to the point of nausea, undertaking to display their self-righteous indignation, should be exposed for what they are—either completely dishonest in their proclamation of virtue, or so ignorant of what goes on in politics that they are not entitled to be heard. I believe many of my fellow Democrats, and probably many Republicans, despise the self-righteous politicians who are trying to capitalize on the misfortunes of Richard Nixon.

In all the years that I have watched politics, I have never seen a campaign as mean and indefensible as the effort headed by the New York Times, the Washington Post and most of the television news media to crucify Richard Nixon.

I have said many times (not always in jest) that Republicans are stupid politically. In no case has my theory been more completely vindicated than in Watergate. The one thing properly chargeable to President Nixon is that, as a seasoned politician, he permitted his campaign for re-election to be run by men who were not politicians, who knew nothing about politics, and not one of whom had ever been elected to public office. One would have thought that such a mistake would not be made by Mr. Nixon. But we all make mistakes, and he is like the rest of us in that regard.

The publicity which this matter has received is completely out of hand. Rarely does anyone undertake to analyze the motives behind this episode. None of the men involved made this burglary attempt in order to benefit himself personally. They did not get in to steal money. They went in apparently impelled by some unexplained motive—at least so far unexplained adequately—which, however mistaken, did not involve any personal benefit. The whole episode is inexplicable. It was wholly unnecessary, and badly conceived.

One question which has occurred to me but has not, so far as I know ever been answered, is: What part was played in this affair by the concern about Castro? Why did the men in the Committee to Re-elect the President think it was of any importance or would be helpful to involve the Cuban problem in Mr. Nixon's campaign?

This, of course, is merely one of many things which have not as yet been explained. My own feeling is that the episode has been overworked and the Senate committee has contributed to no result of any benefit to the American people. In fact, this monotonous piling up second- and third-hand hearsay evidence has already dragged on far too long.

I do not agree with many things which President Nixon says and does, but I believe he is not stupid. That is why I believe he had nothing to do with the Watergate effort.

Personally, I am sick of the Watergate publicity. I believe the average American is sick of it, too. It is being exploited by publicity-seekers in both parties and, in particular, by the enemies of the President. In fairness to my own party, I believe that most of our leaders have been restrained and fair. I would include Sen. George McGovern (D-S.D.) in this group. I would not, however, include Sen. William Fulbright (D-Ark.), who suggested that the President and vice president should resign. He knows that this will not happen President Nixon is not a quitter. He rather welcomes than avoids a fight.

Not only will President Nixon not resign, but why in Heaven's name, should Mr. Agnew resign? It has never been charged or intimated that he had the slightest connection with Watergate. If Fulbright and others in both parties are so anxious to ditch Mr. Nixon, why don't they do what is called for by the U.S. Constitution—impeach him? That course is open to them. It is not a course which I, as a Democrat, recommend. Jim Farley recently pointed out the folly of any such action, but it can be tried.

I, of course, do not condone for one minute the things which were done by the Nixon committee. Those who have committed crimes should be punished. Let this be our sole objective.

I am moved to make one further comment. As I have watched the developing and mounting volume of attack on and criticism of President Nixon, I have tried to think of what other man there is in public life today, in either party, who could have taken the punishment which he has taken day after day, week after week and month after month, from the news media and television, and still retain, as he has done, his sanity, his ability to function (involving a constructive readjustment of his own staff), and his determination to ride out this storm. In my judgment, most prominent Washington officeholders would have caved in under the pressures to which he has been subjected.

When the lawyer for James McCord, who is trying desperately to save himself, says that his own client is a liar, and McCord's second lawyer states that their objective now is to "go after the President," should not the sensible and bored voters of this country tell them all to close the show, and let those who may have committed wrong be tried by the efforts of the man appointed by the President—a Democrat, Archibald Cox—to punish whatever wrongdoing has been perpetrated?

MILITARY RECORDS MUST BE PROTECTED

(Mr. DORN asked and was given permission to address the House for 1 minute to revise and extend his remarks and include extraneous matter.)

Mr. DORN. Mr. Speaker, I have received many expressions of concern about the disastrous fire on July 12 in the Military Records Center in St. Louis. This fire severely damaged the sixth floor of the Military Records Center and there was considerable water damage on other floors. It did not affect the Veterans' Administration own Records Processing Center in the St. Louis area, which is located about 10 miles away. The damage to service records in the fire will have no impact on the 13 million veterans and dependents currently receiving VA benefits. In these cases, the Veterans' Administration has already assembled the necessary records, and in many cases, copies of all medical records, and these are intact in the VA files in the Agency's 57 regional offices, or at the VA's 169 hospitals and 2 insurance centers.

Fortunately, the Veterans' Administration also maintains other backup files which contain essential military service information. Although these backup files do not contain medical records, they will be helpful in processing any new applications for benefits from veterans whose military records might have been destroyed in the fire. Since 1968 the Veterans' Administration has kept computer master records on 3 million Vietnam era veterans discharged since that date. In addition, the VA maintains a computerized master index record on more than 32 million veterans, living and dead. These records contain information on dates and branches of service, character of discharge and other information which is useful to the Veterans' Administration in adjudicating claims.

The most difficult problem will be in the case of those veterans applying in the future for VA service-connected disability compensation, whose military and medical records may have been destroyed in the fire. Fortunately, the servicemen being separated with serious disabilities are often given copies of their medical records by the military. Where such records do not exist, the Veterans' Administration will be required to follow other methods of developing the veteran's claim. The Veterans' Administration would already know if the veteran has basic eligibility as far as period of service and character of discharge is concerned. A current veteran's VA medical examination would be used to establish the present extent of any disability, and in those cases where records have been lost, it would be necessary for the Veterans' Administration to assist in developing the veteran's claim through affidavits from the veteran, his family, military personnel with whom he served, and hometown doctor's records.

The impact of this fire will be serious enough on the administration of the veterans' programs. Had the entire building been lost, it would be a disaster. I understand that there have been fires in this building previously, which should have served as a warning to responsible personnel that additional steps should be taken to duplicate and protect these important records. I certainly hope that we will now profit from this costly lesson and take steps to duplicate and protect servicemen's records.

If there is any doubt about the Army's capacity to take these steps, I advocate that the Veterans' Administration automatically request the medical records of all personnel upon discharge so that a duplicate copy can be maintained in the Veterans' Administration files. I am asking the Veterans' Administration to explore this possibility and report back to the Veterans' Affairs Committee.

TESTIMONIAL DINNER HONORING DR. HORACIO AGUIRRE

(Mr. FASCELL asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. FASCELL. Mr. Speaker, all over the world the struggle for freedom continues unabated—its need ever present. People want strong leaders in every walk of life who are dedicated to principles which inspire men to the higher planes of life and whose efforts promote and protect freedom for all. When men of this caliber are found and recognized by those who live and work with them, it is an exciting and important event.

On July 21, 1973, such an event of hemispheric significance took place in Miami Beach, Fla. There a testimonial dinner was held for an outstanding man, Dr. Horacio Aguirre; the 20th anniversary of an outstanding newspaper which he publishes, Diario Las Americas; his brother Francisco; and their families.

What also distinguished this great occasion was that there were not only leaders from the Greater Miami community where Diario Las Americas is published, but also leaders from the government of the State of Florida, the U.S. Government and many governments and countries in Latin America. Dr. Horacio Aguirre, his brother Francisco, and Diario Las Americas are well known and respected throughout the Western Hemisphere. During the last 20 years, they have been truly a constant force for hemispheric solidarity.

Diario Las Americas has been a staunch leader in the struggle to promote freedom and improve relations in the community, State, and country and with equal fervor and fearlessness throughout Latin America—always in a constructive manner, with the high principles and values of its director, Dr. Horacio Aguirre.

No wonder, therefore, that this testimonial banquet was one of the largest ever held in Greater Miami and was attended by many people from the North American and Latin community—there were mayors, councilmen, judges, representatives, Senators, former presidents of countries, State cabinet officials, U.S. Congressmen, foreign ministers, ambassadors, consuls, and the president and many members of the Inter-American Press Association.

This was a stellar affair. I was proud and honored to join the thousands in the distinguished group to pay tribute to a universally admired publisher and Inter-American leader, Dr. Horacio Aguirre, publisher of Diario Las Americas; his equally distinguished brother Francisco; their lovely wives, Helen and Gladys; and their wonderful families.

Diario Las Americas, a Spanish language daily, under the leadership of Dr. Horacio Aguirre, has taken its place as one of the great newspapers of influence in this hemisphere.

The principal speaker of the testimonial banquet was a truly inspirational one, Dr. Manolo Reyes. Dr. Reyes is one of the outstanding and respected leaders of the Greater Miami community. As vice president of Latin American news for channel 4 television station, he is listened to and seen by hundreds of thousands of viewers. His news reports are a principal and vital bridge in the community for the large Latin population.

He is recognized as the leader in the struggles for freedom in this hemisphere and particularly in his dream that his beloved Cuba shall one day be free of tyranny.

OPEN SPACE MONEY IN HUD APPROPRIATION BILL

The SPEAKER pro tempore (Mr. Mazzoli). Under a previous order of the House, the gentleman from Illinois (Mr. Rostenkowski), is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, on June 22, 1973, the House passed H.R. 8825, the Housing and Urban Development appropriation bill for fiscal year 1974. An amended version of this bill passed the Senate on June 30, 1973. A conference has yet to be held on these bills.

I think it is most important at this time to note that there is a major discrepancy with regard to the appropriations for the Open Space program between the House and Senate versions of the bill. The House has provided $70 million in its bill for Open Space for fiscal year 1974. The Senate passed bill contains no appropriations at all for Open Space.

As the House has recognized, adequate funding of the Open Space program is essential for the purchase of park lands in our metropolitan areas. It is very simply, the only program that enables cities to preserve open space in our cramped urban communities. As it presently stands, the Open Space program has had to cutback on its services to metropolitan communities during fiscal year 1973. For example, in 1972, my Eighth Congressional District in Chicago received $42,560.00 for nine separate park sites. These funds were allotted from $1,060,000.00 grant to the city of Chicago. In 1973, my district received no funds from Open Space, and the city received only $701,092.12. Such a sizable cut would seem to reflect a significant change in priorities on the Federal level. The HUD area office in Chicago has reported requests for Open Space funds for the present fiscal year amounting to well over $10 million. Since there is no money available for this year as yet, the requests have been necessarily returned to the city.

I congratulate the members of the House Appropriations Committee for their support of Open Space appropriations. Now, it is essential that conferees soon be appointed by the House in order to expedite the passage of the entire HUD Appropriation bill; and that those conferees insure that the House appropriation level for Open Space remains intact in the final bill.

FEASIBILITY STUDY FOR HIGH-SPEED GROUND TRANSPORTATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. Hogan) is recognized for 10 minutes.

Mr. HOGAN. Mr. Speaker, I am today introducing legislation authorizing the Secretary of Transportation to conduct a feasibility study for an experimental high-speed ground transportation system between Washington and Annapolis and a high-speed marine vessel system between the Baltimore-Annapolis area and the Yorktown-Williamsburg-Norfolk area.

The anticipated influx of visitors to these areas at the time of the Bicentennial presents an ideal opportunity both to test the feasibility and desirability of these advanced systems, while providing practical methods of transporting our many visitors to and from the historical sites of the area.

The high-speed ground system proposed is a tracked air cushion vehicle which could utilize the median strip of the John Hanson Highway, terminating at the New Carrollton station where Metro and the Metroliner will meet, thus providing a connection to all of Washington, Baltimore, and northeastern cities. Moreover, by joining an existing rapid-rail system, rather than coming into the central city, and utilizing an existing highway median, costly right-of-way and city construction features are avoided.

The proposed marine transportation system between the Baltimore-Annapolis area in Maryland and the Yorktown-Williamsburg-Norfolk area in Virginia would make use of new concepts in high-speed marine transportation, such as the surface effect vessel, vessels utilizing hydrofoils, or hovercraft.

As part of the study, the Secretary of Transportation would be required to consider questions of social advisability, environmental impact, and economic practicability. The study must include such factors as possible growth patterns resulting from the system, anticipated effects on competing modes of transportation, and the advisability of placing it in another location. The Secretary of Transportation would also be directed to determine the degree to which the system could become operationally self-sustaining, since continual operating subsidies would be undesirable.

I am pleased to have 10 Members of the House as cosponsors of this legislation with me. They are:

Mr. Brasco, of New Jersey; Mr. de Lugo, of the Virgin Islands; Mr. Downing, of Virginia; Mr. Fauntroy, of the

District of Columbia; Mr. GOLDWATER, of California; Mrs. HOLT, of Maryland; Mr. PARRIS, of Virginia; Mr. TIERNAN, of Rhode Island; Mr. WHITEHURST, of Virginia; and Mr. WON PAT, of Guam.

This bill is identical to S. 797, the Bicentennial Advanced Technology Transportation System Demonstrations Act, as introduced in the Senate. S. 797 was passed by the Senate on June 14, 1973, with an amendment which provided that the Secretary of Transportation must find that "the system or systems can be completed by July 4, 1976." I had planned to introduce legislation which was identical to that passed by the Senate. However, it appears more logical that any completion deadline must be set after the feasibility study and not before. Therefore, the 9 months limit for study and report as provided on the original version would appear to be sufficient. Until there is a study I frankly doubt whether a deadline for construction can be set.

The hour is late for our Nation to have an effective and efficient high speed rail and marine transportation facility which moves people. With Metro and Metroliner terminal facilities and beltway parking avaliable we have a nearly perfect terminus for metropolitan Washington. For Annapolis the facility would be a commuters' picnic from both Baltimore and Washington. For the tourist it would be a "must" on a visit to the Nation's Capital and to the Williamsburg historic shrines.

Because of the objective to have the system operational for the Bicentennial, I hope there can be prompt action on the part of the Committee on Interstate and Foreign Commerce and by my colleagues when the bill reaches the floor.

Mr. Speaker, at this point I would like to insert the full text of the bill:

H.R. 9479

A bill to direct the Secretary of Transportation to make a comprehensive study of a high-speed ground transportation system between Washington, District of Columbia, and Annapolis, Maryland, and a high-speed marine vessel transportation system between the Baltimore-Annapolis area in Maryland and the Yorktown-Williamsburg-Norfolk area in Virginia, and to authorize the construction of such system if such study demonstrates their feasibility

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Bicentennial Advanced Technology Transportation System Demonstration Act".

SEC. 2. (a) For the purpose of providing the millions of citizens of the United States and foreign nations who will visit the National Capital area during the Bicentennial of American Independence celebration with a pleasant, efficient, and unique way of seeing the historic cities and sights of such areas and providing practical demonstrations of technologically advanced transportation systems which will attract national and international attention and recognition and demonstrate to the world that the United States will continue its leadership in the world of tomorrow, the Secretary of Transportation is hereby authorized and directed to make an investigation and study for the purposes of determining the feasibility, social advisability, environmental impact, and economic practicability of (1) a tracked air-cushioned vehicle or other high-speed ground transportation system between Washington, District of Columbia, and Annapolis, Maryland, with appropriate intermediate stops, and (2) a surface effect vessel or other high-speed marine transportation system between the Baltimore-Annapolis area in Maryland and the Yorktown-Williamsburg-Norfolk area in Virginia.

(b) In conducting such investigation and study, the Secretary—

(1) shall consult with appropriate Federal, State, local, and District of Columbia agencies; and

(2) may enter into contracts or other agreements with public or private agencies, institutions, organizations, corporations, or individuals without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

(c) The Secretary shall report the results of such investigation and study, together with his recommendations, to the President and the Congress no later than nine months after the enactment of this Act.

(d) There is authorized to be appropriated for purposes of this section a sum not to exceed $300,000.

SEC. 3. If after carrying out the investigation and study pursuant to section 2, the Secretary of Transportation recommends the establishment of either the transportation system described in subsection (a)(1) or (a)(2) of such section or both such systems, he may, to the extent funds are appropriated for the purpose of this section, enter into such contracts and other arrangements as necessary for the construction and operation of such system or systems, except that the system described in such subsection (a)(1) may not be constructed unless the State of Maryland furnishes the necessary rights-of-way, to the extent such rights-of-way are presently owned by such State within existing highway alinements or acquired by such State with funds authorized under this Act and determined usable for such system by the Secretary of Transportation.

PHASE IV, FOOD, AND FUEL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER. Mr. Speaker, the phase IV announcement by President Nixon last week is good news for consumers and good news for farmers.

The effort of the action is that we are going to have more plentiful food in the months ahead.

Farmers will be able to plan without fear that the Government is going to come along at the last minute and freeze them into an unprofitable situation.

Farmers will continue to show that they are the most efficient and productive sector in the economy.

But some conditions are beyond the control of farmers For instance, farmers cannot harvest and dry this fall's crop unless they have the fuel to do it.

We don't feed oats to the mule anymore to get our horsepower on farms. We put fuel into the tractor. And we use fuel to dry crops so that they will not spoil. So unless farmers have enough fuel to do the job, they will suffer—and consumers will suffer.

We must do everything that we can to see that farmers have first call on the fuel supplies to save their crops and keep those counters filled down at the supermarket.

I call on the oil industry and the Energy Policy Office and the Department of Agriculture to take every precaution now to see that we have enough fuel on farms this fall.

Secretary of Agriculture Butz has called for this assurance in a meeting at the Department of Agriculture. The Secretary knows that fuel is vital to farmers. The Secretary knows that if we are going to have adequate food we must have adequate fuel.

Food and fuel go together. They are twins. This is something that we must all understand. If fuel is short on the farm, food will be short. Only if fuel is adequate food can be plentiful.

I urge the fuel industry to work with farmers to see that they not only have adequate bulk supplies nearby, but that they have the storage facilities on farms to carry farmers through periods of heavy use of fuel. If this requires some credit, I hope that the industry will work with farmers to see that they have the credit to install the storage.

This is something that we can do now to see that the crops that are growing out there right now are harvested, dried, and stored properly this fall.

This is important to farmers and to consumers.

WOMEN'S RIGHT TO CREDIT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Massachusetts (Mrs. HECKLER) is recognized for 5 minutes.

Mrs. HECKLER of Massachusetts. Mr. Speaker, I am today introducing a bill that I quite frankly consider is one of the most significant pieces of legislation relating to women before the 93d Congress. Every women's rights proposal—to be successful—needs the strong support of enlightened men, and I hope that my colleagues will give this proposal their careful consideration.

This legislation—in the simplest terms—will prohibit discrimination based on sex or marital status against individuals seeking credit.

The need for such legislation is critical. Documented studies have proven that single women have more trouble obtaining credit than single men. I might note that while this legislation is limited to personal credit transactions, I have introduced a mortgage credit amendment to the "minibus" housing bill, which passed the Housing Subcommittee, which will make it possible for responsible single women to receive mortgage loans.

Married women are deeply affected by credit discrimination as well. We are far beyond the day when the so-called little woman kept her pin money in the sugar bowl saving for a rainy day. Women now constitute 44 percent of the labor force, and in these changing economic times deserve as much right to access to credit as do men.

It is documented that creditors are often unwilling to extend credit to a married woman in her own name—despite the fact that in some instances she may be the major breadwinner in the family.

We know that women who are divorced or widowed have trouble reestablishing credit.

And it is an unfortunate fact that creditors are often unwilling to count the wife's income when a married couple applies for credit.

Today, women are in the professions, the factories, the stores and offices—in fact are earning steady incomes in all walks of life.

If women are to be such active participants in the economic scheme of things, then women are entitled to equal involvement in the way America does business.

Let me point out that this legislation certainly does not call for extending credit to individuals who are not worthy of credit. It is a bill that will work to the credit of those who are in a position to pay their bills. Responsible working women can pay their bills promptly, and we feel that Congress should act prompty.

I might note that similar legislation has been introduced in a multiplicity of forms in recent months. That is all to the good. It shows that such legislation has solid support. But we are taking a pragmatic step today; the bill which we are introducing is identical in language to one that has already received the unanimous support of the Senate Banking Committee. If we can achieve passage of this legislation in the House—and we feel that we can—then the battle will be won efficiently and expeditiously.

One example of the problem that this legislation is aimed at solving occurred in my own office. My legislative assistant, earning a good salary, happened to be the breadwinner in her family. Her husband was attending graduate school, and did not hold a job. Yet when she applied for retail credit, the firm involved insisted that it be in her husband's name. This gave him the credit rating, of course, and should something drastic happen to that marriage, or to the husband, this young woman who had been paying all the bills would have no credit rating at all.

That is just one example. There have been, and are, thousands of other similar instances.

It is my hope that this legislation can be passed, in this session, so that this discrimination, a carryover from our economic past, can be eliminated once and for all.

TOOLS FOR VETERANS

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Delaware (Mr. du Pont) is recognized for 5 minutes.

Mr. **du PONT**. Mr. Speaker, today I am introducing legislation that will assist young veterans in their attempt to become productive members of the country's work force. My bill proposes to give money to veterans for the purchase of tools needed to start work upon completion of vocational apprenticeship programs.

Recently discharged veterans are currently eligible to enter Government-sponsored veteran apprenticeship programs that teach a variety of crafts, including such skills as carpentry, masonry, and auto mechanics. The apprentice program is supposed to fulfill the two-fold task of teaching veterans the necessary skills for meaningful and productive jobs as well as providing the country with a new source of badly needed skilled craftsmen. Many returning soldiers who complete the program are unable to get jobs, however, because they do not have the resources with which to purchase the necessary tools. An equipment expense of $100 to $150 is prohibitive for an unemployed person.

I first became aware of this problem after talking with members of the Wilmington—Manpower—Training Skills Center staff. This center, ably headed by Mr. John Pickett, is one of the agencies in my home State of Delaware that offers apprenticeship programs to veterans. In my discussions with Mr. Pickett and Mr. B. G. Washington, one of the center's job counselors, it became clear that many veterans had successfully completed the apprenticeship program, but were unable to purchase the necessary equipment to start work in their newly-learned trade. Further interviewing of recently trained craftsmen by myself and my staff has confirmed this distressing fact. It is apparent that because of this small stumbling block, many well-trained, ex-GI's are forced to accept unskilled jobs or go on welfare.

As it now exists, the vocational apprenticeship program is a double waste of the taxpayers' dollar. We spend large sums to train veterans in a trade, but due to a lack of seed money for tools, these craftsmen are unable to start work. The government is then forced to spend much larger sums to support them on welfare. This is a tragic squandering of both talent and Federal money.

It distresses me that in this day and age, when contractors say we are facing a severe shortage of highly skilled workers, we are letting this valuable source of manpower slip away. If we can provide books and other benefits for persons who enter college on VA scholarships, we should equally provide beginning tools to those who are enrolled in vocational training programs.

OUR MIA'S MUST NOT BE FORGOTTEN

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Kemp), is recognized for 10 minutes.

Mr. **KEMP**. Mr. Speaker, nothing has so united and inspired the American people than have our returning POW's, who even in the darkest hours of their ordeal kept alive an unshakable faith in their country.

But in our joy over the return of these brave men, we must never forget our obligation to the 1,300 members of our Armed Forces who are currently listed as missing in action—MIA—in Indochina.

I have just returned from my third trip to Southeast Asia and my personal visit to the area has reinforced my determination that we must not rest until each MIA is either accounted for or returned to his family. Unremitting efforts must be made to secure the cooperation of all parties in the Indochina conflict to insure full compliance with article 8, section b, of the January 27, 1973, Agreement on Ending the War and Restoring Peace in Vietnam which states:

> The parties shall help each other to get information about those military personnel and foreign civilians of the parties missing in action, to determine the location and take care of the graves of the dead so as to facilitate the exhumation and repatriation of the remains, and to take any such other measures as may be required to get information about those still considered missing in action.

In the supplemental agreements of June 13, 1973, there appears the statement:

> In conformity with Article 8(b) of the Agreement the parties shall help each other to get information about those military personnel and foreign civilians of the parties missing in action, to determine the location and take care of the graves of the dead so as to facilitate the exhumation and repatriations of the remain, and to take any such other measures as may be required to get information about those still considered missing in action. For this purpose, frequent and regular liaison flights shall be made between Saigon and Hanoi.

And furthermore, the protocol to the January 27 agreement "concerning the return of captured military personnel and foreign civilians and captured and detained Vietnamese civilian personnel" states in article 10, "with regard to dead and missing persons," that—

> (a) The Four-Party Joint Military Commission shall ensure joint action by the parties in implementing Article 8(b) of the Agreement. When the Four-Party Joint Military Commission has ended its activities, a Four-Party Joint Military team shall be maintained to carry on this task. Disagreement will be referred to the International Commission on Control and Supervision (Article 17 of the Agreement).

Mr. Speaker, despite these clear agreements, to date the Department of Defense teams set up for the purpose of investigating crash sites, exhuming remains, and conducting similar investigations, have not been permitted by the North Vietnamese and the provisional revolutionary government—the Vietcong—to visit the sites our people need to, or even to exhume the remains in graves shown to us.

No visits to possible crash sites have been allowed in Vietcong territory and only two trips have been made to North Vietnam—on May 11 and May 18. Our teams were shown alleged U.S. graves in Hanoi, but no exhumation of bodies was allowed.

Mr. Speaker, the families of these 1,300 men live day to day fluctuating between hope and despair. We owe them no less than a full and expeditious resolution of the status of our MIA's.

I would like to commend my distinguished colleague from Michigan, the Honorable Robert J. Huber, for introducing a House concurrent resolution, that I plan to cosponsor, which will make clear the determination of Congress concerning the MIA issue and will let the families of the MIA's know that we are aware of the inexcusable failure of the government of North Vietnam and the Viet Cong to comply with the agreements and our humanitarian request which is securely grounded in every known precept of international law.

The resolution states in part:

> That it is the sense of Congress that it shall be the policy of the United States that the Government of the United States shall

cease forthwith all consideration of aid, trade, diplomatic recognition or any other form of communication, travel or accommodation with the Democratic Republic of North Vietnam or the Provisional Revolutionary Government (Viet Cong) until such time as the aforesaid agreements are complied with to the fullest extent.

Such agreements meaning article 8, paragraph (b) and the protocol in article 10 of the January 27, 1973, agreements and the explanatory statement on the same article contained in the June 13, 1973, agreements.

Mr. Speaker, I urge my colleagues' support of this resolution and I hope for its early consideration and passage.

I include at this time, Mr. Speaker, an article from U.S. News & World Report which was furnished to me by the National League of Families of American Prisoners and Missing in Southeast Asia. There is still no accounting for any of the American military men missing in Indochina—after months of intensive effort. The question is: Why?

The article follows:

MYSTERY OF MISSING GI's

Almost forgotten in the wake of the Vietnam truce are the 1,300 U.S. servicemen still listed as "MIA"—missing in action—in the Indo-China war.

Despite massive efforts over the past four months to find out what has happened to these men, the mystery appears to have deepened, not lessened.

The cease-fire agreement signed last January 27 provided for an accounting of the American MIA's, with Communist commanders to supply lists of known dead and to enable teams to search for bodies and possible survivors.

Thus far, U.S efforts to obtain this accounting have run into one roadblock after another, thrown up by Communist officials in North Vietnam, Laos and Cambodia—as well as by the Viet Cong in South Vietnam.

FRUSTRATION

Families of the men missing in action are angry and frustrated. They are demanding that the U.S. Government find out what has happened to these men—establish whether they are dead or alive. On June 3, hundreds of relatives of the missing men staged a silent vigil at the Lincoln Memorial in Washington to call attention to the tragic situation.

Speaking for the relatives is the National League of Families of American Prisoners and Missing in Southeast Asia. On May 30, Mrs. Herman L. Knapp, national co-ordinator of the League, told a committee of Congress that after four months, "these are the facts"—

North Vietnam is known—by Hanoi's own claims—to have captured men who were not returned, not listed as dead, and not accounted for.

No National Red Cross team has ever been allowed to visit and inspect the places where American prisoners were held.

No arrangements have yet been worked out for the return of the remains of the 55 men North Vietnam claims died in captivity.

No prisoners held in Laos have been sent back, and no accounting made of the dead.

The nine POW's supposedly repatriated from Laos actually had been held in North Vietnam.

Now, said Mrs. Knapp, "we are asked to believe that 300 other Americans still missing in Laos have disappeared into thin air."

BARGAINING PAWNS?

Among families of the MIA's, there is growing suspicion that some captured Americans are still alive in North Vietnam and Laos, being held as pawns for further bargaining with the U.S. over final terms of the war's settlement.

This same tactic, the MIA families point out, was used by the North Vietnamese after the French were forced out of Indo-China in 1954. At that time, several hundred prisoners were held back, returned months and years later. The French Government was also asked to pay a fee for the remains of each soldier who had died in the war in Communist-held territory.

U.S. officials are reluctant to comment on this possibility. But one says openly: "We do not think that everyone now on the missing list is dead."

Behind the hope expressed by both the League and some Government officials that there are survivors is a file of solid evidence that at least 53 of the MIA's were captured alive. In each case, the evidence was strong enough for the man to be listed officially as a war prisoner, rather than missing in action or killed in action. And there are indications, less concrete, concerning 15 or 20 more.

Photos released by Hanoi, for example, show some of the U.S. airmen who obviously were alive and well after being shot down. These pictures were taken by the Communists themselves and distributed to news agencies. But the men have never been accounted for. They have simply disappeared.

A sampling of these case histories, taken from Pentagon and League files, is given on these pages.

FACILITIES FOR SEARCH

American efforts to get official information on what has happened to the 1,300 missing men center now in a group of 175 U.S. military men and civilian specialists based in Thailand near the border of Laos.

1,284 "MIA'S"—WHO THEY ARE, WHERE THEY WERE LOST

	Air Force	Navy	Marines	Army	Total
As of early June—					
North Vietnam	322	133	25	3	483
South Vietnam	69	5	70	329	473
Laos	265	13	14	16	308
Cambodia [1]					20

[1] Branches of service unreported.

Source: U.S. Dept. of Defense.

This group, located in what is known as the Joint Casualty Resolution Center, has dossiers on each of the missing men, complete with their dental X-rays, fingerprints, descriptions of once-broken bones and other identifying features, plus locations of where each of their planes crashed.

Teams equipped with this information, and some highly sophisticated search equipment, were set up to visit about 1,200 crash sites scattered throughout the rugged terrain of North Vietnam, Laos, Cambodia and Viet Cong areas of South Vietnam.

They are to seek out, identify and exhume the bodies of dead U.S. servicemen, and—hopefully—track down any surviving ones. Hundreds of local guides will assist.

To date, only two quick visits have been permitted into North Vietnam, one on May 11 and the other on May 18. Both of these visits were to Hanoi. The JCRC searchers were shown three graves the first time, 21 the second. They were not allowed to establish positive identification, to examine the bodies, or to exhume any of them for shipment back to the United States.

Granite headstones, 8 inches wide and 10 inches above the ground, marked each grave in Hanoi. Names on the headstones all were written in Vietnamese, with initials in English printed below the names.

"We still don't know why the North Vietnamese gave these people Vietnamese names," says an officer who was there. "But the initials below the names were the English-language ones for the persons buried there."

Those 24 men, Hanoi claims, were known prisoners of war who died, rather than MIA's There was no accounting for the rest of 55 American military men and 5 civilians who, the North Vietnamese say, died in captivity.

HANOI'S REFUSAL

Even though the U.S. teams have made very specific requests about where they wish to look, Hanoi has not agreed to searches in any other part of North Vietnam. Said one American:

"The North Vietnamese always respond with the answer that planes were shot down all over the countryside, and that a search would be difficult if not impossible."

Within South Vietnam, teams have visited five crash sites in Government-held territory, but found only one body, that of an unidentified pilot who crashed eight years ago.

The search teams have not yet been permitted to enter any Viet Cong-held territory in the South.

Each Tuesday and Friday, U.S. representatives meet with the Viet Cong at regular meetings of the Four-Power Joint Military Team in Saigon. There, they always raise the subject of sending in teams to search Communist-held areas for specific crash sites. The Viet Cong representatives refuse to discuss it.

Says one U.S. official in Saigon:

"We don't want to press them too hard at this stage, because maybe that would mean a longer wait before they become cooperative."

SEARCHERS' THEORIES

U.S. authorities say privately that they are assuming some prisoners died in captivity because they did not receive proper medical attention or were tortured beyond survival.

It is conceivable too, they say, that a pilot captured in a remote village may have been photographed, but then beaten and killed by angry villagers. Photos of these men might have gotten into the propaganda mill without anyone realizing they were dead or dying.

Other more bizarre possibilities are being suggested, such as some prisoners having voluntarily stayed behind, or some having been killed by other POW's.

In Laos, the search for approximately 300 missing Americans has been ready to start for months, only to run up against another kind of Communist roadblock.

Under terms of the Laotian cease-fire, the teams were to be permitted to enter the country to search specific sites and look for signs of any survivors—but only after a coalition government had been established in the Laotian capital. This has not yet occurred, and the teams are not yet permitted in.

In Cambodia, there are reports of 20 missing Americans—some of whom are among 18 war correspondents lost in that country.

The Communists deny holding any POW's and refuse entry to the teams into territory that they hold.

MANY RUMORS, NO EVIDENCE

Is there any real chance that some of the missing are still alive? That depends on whom you ask. For example—

There are rumors aplenty in Saigon. One which crops up repeatedly tells of a group of tall, bearded Caucasians—obviously Americans—seen on two occasions about a year ago, under guard inside a jungle area of Laos.

At the Pentagon, Dr. Roger Shields, director of POW/MIA affairs for the Defense Department, will say only that 1,354 Americans were classified as missing two months ago, and about 70 of these have since been declared officially dead. More "changes of status," he says, are being made on a case-by-case basis.

"There is no positive evidence of any survivors anywhere in Indo-China at this time," Dr. Shields reports.

At the State Department, Frank A. Sieverts, the official in charge of MIA affairs, spells out three types of efforts now going on to get an accounting. These include: (1) detailed questioning of all returned war prisoners for possible leads; (2) a diplomatic drive for more information from governments in Southeast Asia. and (3) a search for possible survivors and bodies of the missing dead.

Mr. Sieverts says the debriefing of returned POW's has not brought to light any promising leads. "In fact," he goes on, "the United States has gotten no information to indicate that there are any survivors of the 1,300 classed as missing."

PRESSURE ON REDS

Behind the scenes, Mr. Sieverts suggests, pressure is being applied to get Communist officials to permit the search teams to look at crash sites—90 per cent of which are in Red-held territory—and to offer rewards to local natives for information leading to either bodies or survivors.

Families of the missing men, through their League, do not speculate about the likely number of survivors. But Col. J. Scott Albright, chairman of the League's committee on identification and discrepancies, put it this way:

"Last January 27, when our Government finally was handed an official list of POW's who were to be repatriated, more than 50 families learned for the first time that their 'missing' man was actually alive. . . .

"If we could trust the North Vietnamese, then our problem today would be a simple one. They say they have returned all of our prisoners of war; they say they have given us a list of all the men who died in captivity; they say they will assist us in accounting for those men who are still missing.

"But when they have lied to us so often in the past, when they have deceived us and misled us and when so many inconsistencies abound in the claims they have made, it is most difficult for many of our families not to believe that there are Americans still alive in Communist hands, and that others who could easily be accounted for have not been accounted for."

WHY—A MYSTERY

Just why Communist officials have refused in the past to admit holding American captives whom they later released, and why they would refuse to account for either living or dead Americans whom they may now be holding, remains a mystery.

Greatest hope for survivors centers on Laos, where most of the 308 downed American fliers crashed in territory controlled by the North Vietnamese, not the Communist Pathet Lao. As Colonel Albright sees it:

"It is inconceivable that men who fell into the hands of North Vietnamese in Laos would be treated in any different way than they were in North Vietnam."

In North Vietnam, Dr. Shields reports, latest accounting shows that 49 per cent of the shot-down U. S. fliers managed to survive and were ultimately repatriated as war prisoners.

It is on such reasoning that hope remains that at least a few of the 1,300 men now missing may still be alive. Frustrations, meanwhile, mount over the endless roadblocks placed in the way of efforts to account for the MIA's.

Behind Hopes That Some "MIA's" Are Still Alive—

A sampling of more than 50 cases now documented in files at the Pentagon and at the League of Families:

Navy Lt. Ronald Dodge: Shot down on May 27, 1967. Lieutenant Dodge survived the crash, talked with his fellow pilots on his radio from the ground. Later, his photo was circulated by Hanoi as that of a captured American, and it appeared on the cover of a French magazine. But he was never included in a North Vietnamese POW list, was not returned, still has not been accounted for.

Air Force Capt. Samuel E. Waters: Shot down in North Vietnam on Dec. 13, 1966. Captain Waters was seen to eject successfully and parachute to earth. Three days later, a Hanoi newspaper reported that Captain Waters had been captured. A month later, a Bulgarian newspaper carried an article quoting him by name and carrying a photo of his personal armed-forces identification card. He, too, never appeared on any POW list, and has not yet been accounted for.

Navy Lts. (j.g.) Walter O. Estes and James E. Teague: Shot down near Haiphong on Nov. 19, 1967. A radiophoto transmitted by the official North Vietnam News Agency, and received in Warsaw, carried photographs of the ID cards of both men, with the caption that they were "captured in Haiphong." Later, their crew members were repatriated, and so were two other fliers whose ID cards were shown in the same radiophoto. But neither of these two Navy fliers was heard from again.

Air Force Capt. John M. Brucher: Ejected from his crippled aircraft near the Laotian border on Feb. 18, 1969. Radio reports said he had landed in a tree and was unable to free himself from his parachute. An American rescue team reached the area the following day, but found only his empty parachute still hanging in the tree. Captain Brucher has not been heard from or accounted for.

Army Capt. Gary B. Scull: Disappeared on May 12, 1970, when a bunker at Quangtri, in South Vietnam, was apparently overrun by enemy forces. Later, the area was searched, but no sign of Captain Scull was found. There has been no report of his capture by either the Viet Cong or North Vietnamese.

Air Force Capt. Richard H. Van Dyke: Shot down in North Vietnam on Sept. 11, 1968. According to the Pentagon, Captain Van Dyke ejected safely from rear seat while the pilot flew the crippled plane to sea and was rescued. Captain Van Dyke was seen to parachute into a rice field. Three days later a Hanoi newspaper reported that an American in the same area was captured after coming down slowly by parachute. Hanoi now claims to have never heard of Captain Van Dyke.

THE SHAH OF IRAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. PODELL) is recognized for 5 minutes.

Mr. PODELL. Mr. Speaker, the United States receives many visitors to its shores, and the American people welcome them all as is befitting a hospitable nation. Some of the visitors are old friends, renewing ties of long standing, and other visitors are new acquaintances whom we hope will become our friends. One of our old friends is returning to the United States, the Shah of Iran, and I want to take this opportunity to welcome the Shah and extend to the people of Iran my sincere hope that the friendship between the United States and Iran will continue to prosper and to grow.

Iran is an ancient nation, and in fact celebrated its 2,500th anniversary 2 years ago. Iran has known days of glory and power when the name Persia was recognized across the world as a synonym for empire. Persian poets, mathematicians, artists, astronomers, and statesmen are liberally scattered through the pages of history and in the artistic, scientific, and cultural heritage of mankind. But the power of the Persian Empire faded, as did the glory of Rome or the splendor of Greece, and the people of Iran were bypassed by the wave of progress and modernity that swept through the Western World.

In our own time, we have witnessed the rebirth of the ancient nation of Iran, a rebirth made possible because the Iranian people were determined that they should be members in full standing of the community of nations, and that their place should be earned by their own work and effort. Under the leadership of the Shah of Iran, the inheritors of the Persian Empire have rebuilt and renewed their land until today Iran is considered to be one of those few nations in the modern world to have bridged the gap between the underdeveloped and the developed nations. It is a source of pride to the American people that we were able to help the Iranian people and to assist them with technical and financial aid. It is also gratifying to know that whatever assistance we did provide to the Iranian people was not a gift squandered for luxuries but was a helping hand accepted in humility and with the resolve and assurance that it would be put to good use.

Our aid program to Iran has ended, but the abiding friendship established over the years remains firm. It is our hope that the friendship between Iran and the United States will be as enduring as the Persian people themselves, who, despite their trials, have remained constant for over two millenia. We welcome the Shah of Iran as a representative of his people and as an able leader of a dynamic nation.

RIGHT TO FINANCIAL PRIVACY ACT OF 1973

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. STARK) is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, I recently introduced legislation to provide stringent regulations for the disclosure of an individual's financial records. This bill, H.R. 9424, known as the Right to Financial Privacy Act of 1973, was introduced in the Senate by Senator ALAN CRANSTON, and cosponsored by Senators HUMPHREY, ERVIN, BROCK, MATHIAS, GRAVEL, PACKWOOD, and TUNNEY.

Under the Bank Secrecy Act of 1970, all financial institutions were required to keep complete records of all transactions. The Secretary of the Treasury was delegated authority to require complete records of any such institution's customers. The financial institution might also be required, upon request of the Treasury Department, to submit the entire financial history of a particular customer to the Treasury.

The intent of Congress in passing the act was to provide to law enforcement authorities a sufficiently broad framework for criminal investigation. The practical question of access to this information, however, was never squarely addressed. The right of the individual to privacy was presumed to be implicit, and therefore not a point of contention in passing the legislation. It was generally understood that there must not be easy access to these records, but the act did not require the issuance of a subpena to obtain the information.

The bill I have introduced, H.R. 9424, resolves all the ambiguities in existing law relating to an individual's financial records. It clearly safeguards the individual's right to privacy with respect to his financial transactions and history. Specifically, the Right to Financial Privacy Act establishes four means of access to private records held by financial institutions: customer consent, administrative subpenas and summonses, search warrants, and judicial subpenas. Correspondingly, the act places an obligation on the financial institutions not to disclose information from customer records unless one of the above requirements has been met. In addition, it is stipulated that the information obtained by the Government must be used only for those purposes for which it was originally solicited.

The need for this act, while not resulting directly from the Bank Secrecy Act, stems from subsequent controversy over the precise interpretation of an individual's fourth amendment rights. At Senate hearings held last year on legislation to amend the recordkeeping laws, the Secretary of the Treasury admitted that subpenas are not required for the release of financial information. He suggested that as the 1970 act had not specifically addressed the matter of access to records, the Treasury could not take arbitrary administrative action to do so. It was therefore up to a bank to determine whether or not a subpena was necessary before records would be provided without the consent of the customer. The Treasury would take no position to supersede the bank's judgment.

In this situation, the privacy of a customer's financial records is dependent on the whim of his bank. Without his knowledge or consent, his entire financial history may be divulged. As he is unaware of official scrutiny, he cannot possibly challenge the dissemination of the information. There are no safeguards to protect this confidentiality.

In June 1972, I filed suit with the northern California ACLU and the California Bankers Association to test the constitutionality of this reporting system. The suit, asking for an injunction of the Bank Secrecy Act on the grounds that it authorized illegal search and seizure, was later joined by the Wells Fargo Bank. Bank of America representative Robert Fabian publicly voiced his own similar objections to the dangers inherent in the reporting provisions of the Act. He declared that "the regulations could undermine people's confidence in the banking system and the Government."

A Federal judge in San Francisco issued a temporary restraining order to prevent the act from taking effect. Subsequent to an appeals court decision, the Supreme Court is now deciding whether or not to hear the case.

This bill that I have introduced is not inconsistent with the essence of the Bank Secrecy Act. It recognizes the critical need for a thorough system of recordkeeping and reporting and upholds the requirements for reporting of information, subject to the previously mentioned limitations. Finally, the bill explicitly limits to two situations the Secretary of the Treasury's ability to require an institution to transmit reports or to keep records on customers. Such reports must either be required by the Internal Revenue Code, or by a supervisory agency. This, then, effectively repeals contrary provisions of titles I and II of the Bank Secrecy Act. However, I do not believe that their deletion in any way weakens the Bank Secrecy Act, or undermines its intent. Instead I believe it can only strengthen it, by removing any lingering doubt over possible or potential unconstitutional applications of its provisions.

This bill has already stimulated discussion. In particular, two areas of doubt have been raised, and I would like to attempt to answer them at this time. The first is criticism raised by certain members of the law enforcement sector—that the limits placed on the Secretary's right to obtain reports will inhibit important criminal investigation. I believe that the legal processes still open to any law enforcement officer under this Act are sufficient. This act simply guarantees that customers be notified and have an opportunity to respond to any attempt to gain access to their records except where the standard of probable cause has been met. Within the bounds of the fourth amendment rights, that is all that is constitutionally possible.

Others have objected to consideration of this act at this time on the grounds that airing of the issue may bias the upcoming decision of the Supreme Court to review the appeals case. It must be remembered, however, that legislative action will take precedence over court action in such a way as to render that appeal inoperative. If passed, this act answers all the charges filed in the original California suit.

I would like to include for the information of my colleagues an excerpt from a supporting statement by the California Bankers Association. On July 19, the Association wrote that:

> We should make it clear that, although the Association places a high value on maintaining the financial confidentiality which bank customers have come to expect, it certainly does not wish to deny in any way the necessary prerequisites of effective law enforcement. The Association feels, however, that it owes its highest responsibility to the banking public who have entrusted some of their most personal records of private financial affairs to our care. The public expects these records to be held in the highest confidence and the California Bankers Association welcomes legislation which would safeguard their expectations.

This act answers the need for such legislation. It is, as "The American Banker" has said, a compromise bill reached among several versions introduced in both houses last year, specifically between Senators CHARLES MATHIAS and JOHN TUNNEY. Broad bipartisan support has been registered in both Houses. This most basic right to privacy must be addressed, and it is my hope that many of my colleagues will join me in reintroducing this bill.

INFLATION GARDENS AND EVERY AMERICAN'S RIGHTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 5 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, in the preamble to our Constitution the Founding Fathers interpreted the role of the Constitution as the guarantor of domestic tranquility and the promoter of the general welfare. Hence it is the sacrosanct duty of the Congress to insure that these inviolable rights of every American are preserved and defended with all expedience. The ravaging effect on our economy that has been the result of unchecked inflation in no uncertain terms challenges, indeed hurls down the gauntlet at, domestic tranquility and the general welfare. Therefore the Congress is charged with the responsibility to meet the challenge of inflation and protect the clearly recognized general interest of the Nation.

The rampant march of food price increases continues unabated and constitutes a dissolution of the domestic tranquility for 6 out of every 10 Americans. Recently imposed economic controls saddled the Nation with the highest rise in food prices ever recorded and obviously were not beneficial to the general welfare of the country. It is precisely the general welfare of the Nation that is at stake and for that reason I find justification in the spirit of the Constitution for the right of every American to have the means at his disposal for the provision of a garden in which he or she can cultivate food products and take same recourse to high food prices. My amendment to the Agriculture Extension Act authorizing the Secretary of Agriculture to provide packets of seeds to every citizen upon request has generated nationwide support. This support springs from a rapidly spreading cognizance on the part of the public that it is their every right to protect themselves from inflationary food prices and that it is the duty of the Nation's Government to assist them in this effort.

During the extended debate on the Agriculture Act legislation a rhetorical question often came to mind that caused me some consternation. What gives us the right to take the taxpayers' money and dole out hundreds of thousands of dollars in farm subsidies to wealthy big farm corporations and then turn around and deny the average American family several packages of seeds? By such action Congress ignores its constitutional duty insofar as it provides for the welfare of the few and the rich to the detriment of the general welfare of the broad public. This is not a complex issue but one that offers a contrast as stark as day and night. It is a clear question that draws the line between the interests of the average American and the profit grabbing beneficiaries of high priced food.

I would like to include in the RECORD a copy of a newspaper article from the Christian Science Monitor of July 21, 1973. This article describes the many benefits beyond the important and obvious economic ones that come out of these "inflation gardens." It is apparent that the public is well ahead of the Congress on this issue and we here in Washington had best take heed of this "back to the soil" movement.

Following is the text of that article:

Retired "Green Thumbers" Battle Inflation

(By Helen W. Kortz)

There are more than 100 residents living in a condominium community southeast of Denver who have turned to active "green thumbers."

A suitable plot was donated to them by a land-owning good Samaritan. This was virgin ground being held for a development in the far off future. Its location is most desirable since it adjoins the retirees' apartment homes.

Each gardener has his own 20 by 21 foot plot on which he plants to his own choosing whether it be a vegetable or flower garden. However, with the upsurge of food costs today, not many consume their valuable space for anything but what they can eat.

INFLATION GARDEN

One elderly lady who was busily working her garden plot remarked: "I can well remember how the victory gardens from World War II helped alleviate the food shortage. Well, I call this our 'inflation garden' to alleviate the high cost of vegetables. You might call it the 'I' garden for inflation," she added.

"I spent many weeks thumbing through the seed catalogs," an avid gardener said. "You see, with our limited garden plot we need to make every inch count. As for myself, I like to plant the traditional vegetables and save a small space to try out one new innovation. If my wife and I like the new vegetable, I'll replant it the following year, if not, I'll choose another usual specimen."

SENSE OF ARTISTRY

One lady gardener who tends to be artistic, plants her plot in this manner. In the center she has created a three-tier pyramid strawberry bed by the use of the metal garden edging, has run a pipe for irrigation up through the center, filled the spaces around with good soil. From this, she obtains fruit throughout the whole summer. Around this pyramid, she plants lettuce, radishes, carrots, and onions. The outer rim is planted with higher growing vegetables.

Another gardener placed a birdhouse on a high pole in the center of his plot. He plants his beans around the pole and allows them to twine up and around the wires attached to the pole. "I did this to attract the birds. They in turn have aided in keeping the insects under control," he said.

"Gardening is hard work, but most of us need this exercise, besides it gives me a great deal of satisfaction in raising my own fresh vegetables. Then too, it helps to stretch the food dollar," an elderly "green thumber" said.

SPACE SAVING

To conserve space, many gardeners stake their beans, cucumbers, and tomato plants to poles and allow low growing vegetables such as melons and squash and pumpkins to grow between their few rows of sweet corn.

This community garden is by no means just an ordinary garden, it is a thing of beauty. The whole garden area has been fenced in to keep out trespassers. At the entrance gate stands a bulletin board for the convenience of the gardeners should they want to leave a message for a neighbor.

On a nearby tree, a large outdoor thermometer is attached so that everyone can keep track of the daily temperature. One gentleman erected a flag pole which he himself tends to each day. At daybreak one can see him pulling up the flag and at dusk he is always on hand to pull it down.

BENCHES AND CHAIRS

Near and around an old cottonwood tree there are benches and chairs conveniently placed so that the gardeners can rest and chitchat a bit. The loveliest of flower gardens bloom profusely from the gate entrance and down the center garden path. Friendliness and a neighborly atmosphere prevail throughout the whole gardening project. A closeness is felt everywhere.

Actuate a gardening project in your own neighborhood. If you live in the suburbs, you're sure to find plenty of vacant, unused areas that are free to use for the asking. Influence neighbors and friends to join you in the program.

You could employ a work and share base or garden a plot on your own. You'll discover a project such as this will be a welcome addition to any neighborhood; also an exciting venture involving the whole family.

In a matter of weeks you'll be on your way in combating high food prices just like the apartment-living retirees have.

Why not start your inflation garden now?

WOMEN AND CREDIT DISCRIMINATION: THE SENATE ACTS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. Abzug) is recognized for 10 minutes.

Ms. ABZUG. Mr. Speaker, I am pleased to announce that this afternoon the Senate passed an equal credit opportunity measure as part of the Truth-in-Lending Amendments of 1973. This measure, which is the Senate version of my Equal Credit Opportunity Act (H.R. 9110), would bar discrimination on the basis of sex or marital status in the extension, terms, or renewal of any loan, credit card, mortgage, or retail credit. It would also bar discrimination in the extension of credit for commercial purposes.

Mr. Speaker, my bill has 70 cosponsors and broad bipartisan support. In the other body the companion measure was introduced by Senators Harrison Williams and Bill Brock.

In May 1972 I testified before the National Commission on Consumer Finance and on that day introduced in the House three bills that would prohibit credit discrimination because of sex or marital status. Those bills were the first of their kind to be offered in either the House or the Senate. I said when I introduced those bills—and unfortunately it is still true today:

Women in this country are treated as if they were totally dependent and unreliable when they apply for loans, consumer credit or mortgages. Under the present state of the law in many states, women have no credit rights at all.

In most states, women who are married, or have ever been married, find that credit, like domicile, follows the husband. A married woman thus receives credit only through her husband as his ward and not as an individual. She is a non-person for credit purposes. Credit cards and accounts are virtually always issued in the name of the husband and not the wife regardless of whether the woman is the applicant and regardless of whether she is a better credit risk. This is also true in many cases when women apply for mortgages or other kinds of loans.

All credit institutions—whether they be banks, department stores, credit unions, or mortgage companies—are able to do this because at present, neither the United States nor the individual states have passed legislation to prohibit credit discrimination based upon sex. Viable and vigorous legislation of this nature is needed in every state to correct this incredulous and dehumanizing practice against women.

I would like to cite a few cases where women in responsible business and professional positions have been denied credit in their names and told that they could only obtain credit through their husbands.

From a woman in Chicago, there is a typical story about Bank Americard:

"In April of 1970 I received a form letter notifying me as a First Card Holder that all First Cards would be revoked as of May 1, 1970, and that all holders in good standing would receive a Bank Americard to replace it. I had no reason to expect not to receive this new credit card, but it appears that to the First National Bank of Chicago members in good standing must be standing in a Men's room somewhere. My male friends received their cards automatically. I received only credit card applications. This surprised me because I had used my First Card not infrequently (once I reported an infraction on your First Card rules on the part of a member store, in letter and then by phone at request), paid my bills promptly also, and in April 1970 the sum of $2,232.24 in a Savings Account in your bank. My husband used his card much less than I, he paid his bills promptly also, and in April 1970 had $669.89 in his Savings Account in your bank. He received his card without question. I wrote two letters to the Bank. To the first letter I received another credit card application. The second letter was answered by a phone call from a Mr. Fletcher who proceeded to try to ask me the questions on the credit application over the phone. This irked me, and as soon as I mentioned my husband's experience with his replacement card Mr. Fletcher changed his tone and I assume brightened my prospects of approval. He said he would have to process my application through a computer and when I talked to him later that afternoon he said that yes, I could have a Bank Americard, but he didn't want to send it out so near to Christmas because it might be in jeopardy in the Christmas mail with so much part time help. I would have my new card in January. I waited until March and then all but closed my account with your bank as you can see by the accompanying xerox copy of both my husband's and my bank books showing the pertinent time period. I will never willingly put another penny in your bank, nor will I allow any money which I control to be entrusted to your care. If all the females who have been treated in this same high-handed fashion would take similar action I'm sure that you would have cause for much more regret than the removal of my $2,000 from a savings account. I hope someday they shall."

From Indiana, a woman describes her experiences with the Gulf Oil Company:

"My husband uses his card for business and keeps careful records of gas, repairs etc. for his car. I use my car and use my own credit cards for gas, etc. so that when the bills pile in, he knows right away which belong to which car.

"Last January, I sent in the standard credit card application form to Gulf Oil with all information provided as it pertained to me—a wage earner in the 5 figure range, employed for the past 4 years . . . and received a letter in reply requesting that the form again be completed, by my husband! My husband has had an active account with Gulf Oil for several years. . . . Needless to say, we no longer have any business with Gulf Oil. I was really quite insulted and we promptly terminated our account."

These two examples—and there are many more like them—indicate that regardless of her credit-worthiness, a married or formerly married woman achieves the use of credit only as an appendage of the husband.

The Diner's Club blatantly sets forth this policy on its application by providing for "family head applicant" and "supplemental card" for the wife (with written permission from the husband).

Single women find that when they get married creditors will usually either notify them that their account is cancelled and ask for the return of the credit card, or find out the name of the husband and re-issue the account to him.

Women who become divorced find that they have no credit rating and cannot get credit since all accounts during marriage were in the husband's name. The huband takes the credit rating with him, unaffected by the change in marital status. Women who had business and good credit ratings prior to marriage are amazed to find that they suddenly have no credit rating, even though in the same business and just as credit-worthy as before.

Credit discrimination on the basis of sex is not only irrelevant and unfair but a peculiarly paralyzing form of denial of opportunity: without credit, a woman cannot get loans and therefore cannot go into business.

With the support of many of the national women's organizations such as the National Women's Political Caucus and the National Organization for Women, as well as many local groups and individuals, we were able to generate great interest in these measures. At the beginning of the 93d Congress. I reintroduced these bills with 22 cosponsors. I worked closely with the interested groups, with economists and other experts in the field and redrafted these three measures into one combination and reintroduced one bill. This new version now has 70 cosponsors.

The list of cosponsors follows:

List of Equal Credit Cosponsors

Mr. Addabbo, Mr. Ashley, Mr. Badillo, Mr. Bell, Mrs. Boggs, Mr. Burke, Mr. Boland, Mr. Brademas, Mr. Brown (Calif.), Mr. Cederberg.

Mrs. Chisholm, Mr. Collins (Ill.), Mr. Conte, Mr. Conyers, Mr. Corman, Mr. Coughlin, Mr. Daniels, Mr. Dent, Mr. Diggs, Mr. Eckhardt, Mr. Edwards (Calif.).

Mr. Fish, Mr. Flowers, Mr. Ford, Mr. Fraser, Mr. Gaydos, Mr. Gibbons, Mr. Gonzalez, Mrs. Grasso, Mr. Gude, Mrs. Hansen (Wash.), Mr. Harrington, Mr. Hastings, Mr. Hawkins.

Mr. Helstoski, Ms. Holtzman, Mr. Hungate, Mr. Lehman, Mr. Lent, Mr. McCloskey, Mr. Meeds, Mr. Melcher, Mrs. Mink, Mr. Mitchell (Md.), Mr. Moakley, Mr. Moss.

Mr. Murphy (N.Y.), Mr. Nix, Mr. O'Hara, Mr. Owens, Mr. Pepper, Mr. Pike, Mr. Podell, Mr. Rangel, Mr. Rees, Mr. Reid, Mr. Riegle, Mr. Roe.

Mr. Rosenthal, Mr. Roush, Mr. Roybal, Mrs. Schroeder, Mr. Seiberling, Mr. Stokes, Mr. Studds, Mr. Tiernan, Mr. Waldie, Mr. Wolff, Mr. Won Pat.

The text of my bill follows:

H.R. —

A bill to prohibit discrimination on the basis of sex or marital status in the granting of credit

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Equal Credit Opportunity Act".

FINDINGS AND PURPOSE

Sec. 2. The Congress finds that there is a need to insure that the various financial institutions engaged in the extension of credit exercise their responsibility to make credit available with fairness, impartiality, and without discrimination on the basis of sex or marital status. Economic stabilization would be enhanced and competition among the various financial institutions engaged in the extension of credit would be strengthened by an absence of discrimination on the basis of sex or marital status, as well as by the informed use of credit which Congress has heretofore sought to promote. It is the purpose of this Act to require that financial institutions engaged in the extension of credit make that credit equally available to all creditworthy customers without regard to sex or marital status.

Sec. 3. (a) Title I of the Consumer Credit Protection Act (Public Law 90-321) is amended by adding thereto a new chapter as follows:

"Chapter 4—PROHIBITION OF DISCRIMINATION BASED UPON SEX OR MARITAL STATUS

"Sec.
"151. Prohibited discrimination.
"152. Civil liability.
"153. Effect upon other laws.

"§ 151. Prohibited discrimination

"It shall be unlawful for any creditor, card issuer, or other person to discriminate against any person on account of sex or marital status in connection with the approval or denial of any extension of credit, or with respect to the issuance, renewal, denial, or terms of any credit card. Any denial of credit or variation in terms or restriction on the amount or use of credit imposed by a creditor in whole or in part on the basis of sex or marital status shall constitute discrimination within the meaning of this section.

"§ 152. Civil liability

"(a) Any creditor, card issuer, or other person who violates section 151 of this Act shall be liable to the person aggrieved in an amount equal to the sum of—

"(1) the principal amount of credit applied for, except that the liability under this paragraph shall not be less than $100 or greater than $1,000 in an individual action, or greater than $100,000 in a class action, and

"(2) such punitive damages as the court may allow, and

"(3) in the case of any successful action to enforce the foregoing liability, the costs of the action together with a reasonable attorney's fee as determined by the court.

"(b) The district courts of the United States shall have jurisdiction to hear and determine actions to enforce the liability created by this section without regard to the amount in controversy. Such jurisdiction shall be concurrent with that of State courts.

"§ 153. Effect upon other laws

"This chapter shall not annul, alter, or affect in any manner the meaning, scope, or applicability of the laws of any State relating to prohibition against discrimination on the basis of sex or marital status except to the extent that such laws are inconsistent with the provisions of this chapter or regulations promulgated thereunder, and then only to the extent of such inconsistency."

(b) The chapter analysis at the beginning of title I of the Consumer Credit Protection Act (Public Law 90-321) is amended by adding at the end thereof the following:

"4. Prohibition of Discrimination Based Upon Sex or Marital Status..... 151".

Sec. 4. Section 104 of the Consumer Credit Protection Act (Public Law 90-321) is amended by striking out "This title does" and inserting in lieu thereof "Chapters 1, 2, and 3 of this title do".

Sec. 5. Section 121 of the Consumer Credit Protection Act (Public Law 90-321) is amended by redesignating subsection (b) as subsection (c) and by adding a new subsection (b) as follows:

"(b) Each creditor and card issuer shall disclose clearly and conspicuously, in accordance with regulations of the Board or other appropriate regulatory agency, the criteria upon which judgments of creditworthiness are made. Each creditor or card issuer shall provide in writing to any person whose application for a credit card or other extension of credit is denied the specific basis for such denial. The requirements imposed by this subsection shall not affect any other requirements of disclosure or explanation under the Consumer Credit Protection Act."

Sec. 6. This Act shall take effect thirty days after the date of its enactment.

THE ENERGY CRISIS AND THE OIL INDUSTRY PROFITS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. Kastenmeier) is recognized for 5 minutes.

Mr. KASTENMEIER. Mr. Speaker, the more we hear about the so-called energy crisis from the multimillion dollar tax deductible, self-serving propaganda blitz conducted by the Nation's oil companies, the greater the profits seem to grow for the oil industry.

The returns are coming in now for the second quarter profit picture for 1973. Cities Service reported that earnings rose nearly 28 percent in the second quarter. Gulf Oil indicated its second quarter net income rocketed 82 percent. The first half net income for the Nation's fourth largest oil company climbed to a record $360 million. Exxon, the Nation's largest petroleum company, announced a 54-percent gain in profits for the second quarter. Its earnings were estimated at $510 million for the quarter and $1.018 billion for the first half of 1973.

It is anticipated that the other large oil companies will report sharp advances for the second quarter in the near future.

TEMPORARY REPLACEMENTS FOR NHSC PHYSICIANS WHO ARE UP FOR ANNUAL VACATIONS OR FOR POSTGRADUATE EDUCATIONAL LEAVES

(Mr. MAYNE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MAYNE. Mr. Speaker, I am very pleased that one of the first volunteers under "Project U.S.A." was J. H. Thomas, M.D., of Sibley, Iowa, in the Sixth Congressional District which it is my honor to represent. His determined efforts cut through the red tape and enabled him to provide his volunteer services as a temporary replacement for National Health Service Corps physicians providing health services for migratory workers in rural Florida. I am proud of Jim Thomas' fine contribution to the program, and of the solid backing he was given by his family in undertaking this new venture.

Dr. Thomas' experiences have been well described in the June 18 American Medical News article "Volunteers Serve Because 'They're really needed'." I believe many other physicians, nurses, and other health care providers would be similarly interested in providing their volunteer services through "Project U.S.A.," helping create an excellent back-up medical force or reserve capable of meeting needs of communities short of health personnel. I insert the article at this point in my remarks, in order that this material may be given the wide circulation it deserves:

VOLUNTEERS SERVE BECAUSE "THEY'RE REALLY NEEDED"

Why should a small town family physician from the midwestern plains spend two months writing letters and making phone calls, virtually demanding a chance to provide medical care—without pay, if necessary—to migrant farm workers in rural Florida? And why does a state-employed physician from Connecticut drive a converted school bus 2,000 miles cross-country to spend 30 days working at an isolated community clinic in northern New Mexico?

Well, for J. H. Thomas, MD, Sibley, Iowa, and Jean E. Sullivan, MD, Southbury, Conn., the answer is disarmingly simple: The opportunity was there, and it was something they felt they should do.

The opportunity was created by Project USA, a relatively new—and perhaps unlikely—partnership involving two traditional adversaries, the American Medical Association and the federal government. The stage for this partnership was set three years ago with the formation of the National Health Service Corps (NHSC), a volunteer arm of the Public Health Service which assigns doctors, nurses, and other health care providers to medically needy communities. In three years, the AMA has become one of NHSC's most powerful supporters; and Project USA is the most recent demonstration of that support.

The project, started last year, is a contract service under which the AMA locates temporary replacements for NHSC physicians who are up for annual vacations or postgraduate educational leaves. Through none of its own doing, the project was dismally slow in getting off the ground; it had to wait out that federal hiring freeze declared early this year by the Nixon Administration. The freeze is no longer a factor, however, and Project USA is about its business.

Dr. Thomas and Dr. Sullivan were among the first volunteers to get field assignments—though in Dr. Thomas' case, getting an assignment proved to be no easy trick. "I received a flyer from AMA headquarters the first week in December," says the 49-year-old Iowa physician. "The appearance of the envelope rather struck me—I recall it had some red stripes on it—so I opened that up in the early part of going through my mail. And inside was a folder announcing the existence of Project USA.

"Well, this idea kind of caught my fancy," he continues, "I was immediately interested. So I brought the folder home that evening and showed it to my wife. I said, 'You know, this sounds like a very worthwhile project, and before my career is over I'd like to participate in something like this.' She told me, 'The most important thing is that it interests you. And if it interests you, go ahead and pursue it.' "

And he did. Dr. Thomas had a reply card back to the AMA within 24 hours. Then came an exchange of correspondence with the AMA's Walter H. Kimotek, then coordinator for Project USA, followed by a Civil Service application, and a long period of waiting. Dr. Thomas received his Civil Service appointment in early February, but that was right smack in the middle of the federal freeze on new hiring. So there was more waiting. "I waited a couple of weeks and nothing happened," Dr. Thomas recalls, "so I called the AMA.

"Here I was, ready, willing, and anxious to serve—I didn't care where—and time was running short. See, I had told the Project USA people that I wanted to serve in January, February, or March because of family commitments later in the year. But Mr. Kimotek told me there was nothing he could do because the federal hiring freeze was still on. So I told him I was willing to serve without pay. I didn't volunteer for financial reward; I just wanted to serve." Kimotek promised to check out the possibility of a non-paid volunteer assignment.

And in the meantime, darned if Dr. Thomas didn't call his Congressman. "I thought, 'Gee, here's an aroused citizen, a fellow out in the boondocks of Iowa; he wants to serve and they won't let him.' This seemed inconsistent to me, so I thought I'd make a little noise. I called my Congressman . . . Rep. Wiley Mayne (R., Iowa)."

Rep. Mayne's office was eager to help, but a check with the National Health Service Corps uncovered the fact that Dr. Thomas, even if he served for nothing, would not be covered by Uncle Sam's malpractice insurance. It was still no deal. Undaunted, Dr. Thomas called the Medical Protective Co., Ft. Wayne, Ind.—his liability carrier—and found out there were no restrictions on his policy. He could practice anywhere he wanted.

"This is what finally got the ball rolling," says Dr. Thomas. "I asked my underwriter to send letters confirming my coverage. And Kimotek was able to get the licensure matter cleared through the board of medical examiners in Florida."

That's how Dr. Thomas happened to arrive in Immokalee, Fla., for a 10-day assignment starting March 18. In retrospect, the Sibley physician says the period leading up to his assignment was definitely tougher than the assignment itself.

While in Florida, Dr. Thomas spent part of one week covering for Immokalee's three NHSC physicians while they attended a meeting in Atlanta, then stayed around another week to fill in while one of Immokalee's physicians was off checking another Corps site. On the days he worked solo at the Immokalee clinic, Dr. Thomas estimates he saw an average of 40 to 50 patients—most of them impoverished migrant workers or their families.

"I see 50 to 60 patients on a normal day here in Sibley," says Dr. Thomas, "so I didn't have a bad time with the volume; I was used to that. But the clinical materials, the pathology, was vast—just enormous. I saw diseases down there that I hadn't seen since I was in medical school: tuberculosis, active pulmonary disease, parasitic disease, skin disease—lots of sick, sick people."

The NHSC Medical team in Immokalee (*AMN*, Dec. 11, 1972) operates out of clinic facilities that "leave much to be desired," reports Dr. Thomas—a judgment that probably would bring nods of agreement from the town's Corps doctors. "The nearest hospital is something like 40 miles away, and laboratory facilities are virtually nonexistent," says the Iowa volunteer. "You had to practice medicine flying by the seat of your pants, and I'm not used to that. But I will say it was a challenge; and I think I adjusted fairly well. At least I did the best I could."

Compared to the county satellite clinic in Immokalee, the clinic in Tierra Amarilla, N. Mex., looks like Mayo. True, the nearest hospital is even farther away than Immokalee's—reached only by hazardous mountain roads—but the clinic itself, part of a growing co-op, is generally adequate for handling the day-to-day needs of its Chicano community. The local NHSC contingent includes a physician and a dentist; there is also a non-Corps MD who works full-time at the clinic.

The NHSC doctor in Tierra Amarilla is 27-year-old Phillip A. Hertzman, MD, a St. Louis native who began his Corps tour last July. Earlier this year when Dr. Hertzman scheduled three weeks of vacation around a one-week post-graduate course in internal medicine, it was Dr. Jean Sullivan who drove three-quarters of the way across the country to fill in for him.

Dr. Sullivan, 48, who works as resident physician at a state-run training school for the mentally retarded in Southbury, Conn., first learned about Project USA last winter through a story in *American Medical News*. Though she originally applied for an assignment in Montana, she's glad now that she accepted the chance to cover for Dr. Hertzman. "I was really quite lucky to fall into the Tierra Amarilla assignment," she says, "because it turned out to be a very pleasant experience for me and my four children."

Since her assignment followed the federal freeze on new hiring, Dr. Sullivan experienced none of the bureaucratic difficulties encountered by Dr. Thomas. Her biggest problem was getting a converted school bus-camper and four children, age 9 to 13, from Southbury to Tierra Amarilla. She managed, though it did take about 20 hours longer than anticipated.

She arrived in Tierra Amarilla about 4 p.m. April 14 and stayed through May 14. The 30-day assignment featured a little bit of everything: Making a "house call" to the county jail to see a prisoner who was suffering withdrawal symptoms; performing an anatomy-lesson autopsy on a prairie dog for the benefit of the clinic staff; treating Apache Indians who apparently preferred her services to those of the Indian Service doctor; and taking night calls at the clinic.

"I hadn't been told about the night calls," says Dr. Sullivan, "but it was kind of interesting—kind of lonesome, too, with that wind whistling around the eaves all night."

Asked about her general reception in Tierra Amarilla, Dr. Sullivan confides, "I think they may have been a little uneasy about having a woman physician. I guess it was a first for that area, maybe for the county—so there was a little hesitation at first. One interesting thing, though, I noticed an awful lot of the local women rushing in to get their pelvic examinations before I left."

Dr. Sullivan also handled one childbirth while she was in Tierra Amarilla—and frankly wishes she'd had more. "But even one delivery was a thrill after 15 years out of obstetrics," she says. "And fortunately, everything worked out well for the mother . . . and the doctor. Really, it was just exciting to get back into a little more general-type practice than I have at the training school."

"Also," she adds, "it was interesting to see local people work at making their own clinic go. I even got to go to a benefit dance for the clinic."

As one of Project USA's first volunteers, Dr. Sullivan is asked if she has any advice for physicians who will be participating in the program later this year. "I think you have to be prepared to hang loose and let people tell you what they want of you," she replies. "Coming into a situation for just a short time, you don't want to create shock waves. So, generally, if you give people a chance, they'll let you know where you can be of service."

Going into an area like Tierra Amarilla, adds Dr. Sullivan, it also helps to know, or learn, Spanish—"even if it's only six or seven words, because it lets the people know that you respect their culture."

As for Project USA itself, Dr. Sullivan advises, "If you don't get involved, you'll never know what you're missing. I really am grateful to the AMA—and that's a new feeling, by the way—for making this opportunity available and publicizing it."

Sibley's Dr. Thomas expresses similar sentiments, saying he'd accept another assignment if he had a chance. "I think this project has great merit," he declares. "It has great potential because there must be thousands of guys like me around the country, guys who'd be willing to leave their practices for short periods of time and fill in at places where they're really needed.

"It's a rewarding thing for physicians. And I think the project might serve as an excellent back-up medical force to help take care of the medically impoverished people of this country."

EQUAL CREDIT FOR ALL WITHOUT REGARD TO SEX OR MARITAL STATUS

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I am very pleased today to be joining with Representatives Margaret Heckler and Matthew Rinaldo in introducing legislation to prohibit discrimination on the basis of a person's sex or marital status in credit applications. The compelling need for such legislation has been demonstrated both by numerous individual complaints and by two sets of hearings—those in May 1972 before the National Commission on Consumer Finance on Consumer Credit and those held in December 1972, by the Federal Deposit Insurance Corporation dealing with mortgages and other bank credit practices.

The legislation we are introducing today would prohibit these widespread discriminatory practices in both consumer and commercial credit applications. No longer can we tolerate the inequitable exclusion of such a large percentage of our population—women constitute over 40 percent of the Nation's work force—from our credit economy. No longer can we accept the case, as documented in the hearings, of a 40-year-old working woman, the head of her household, who could not get a mortgage for her house without the signature of her 70-year-old father who was living on a pension.

The same bill that we are introducing today has already been reported out of the Senate Banking Committee as part of a larger bill, and we are hopeful that our joint cosponsorship of this bill will give further impetus to prompt action on this most important area of legislation. I see this bill as the legislative vehicle for obtaining hearings on the entire subject of equal credit for women before the Consumer Affairs Subcommittee of the Banking and Currency Committee. A number of Members, myself included, have introduced separate bills on the subject, and it is my intention at the hearings on this subject to press for increased coverage to eliminate any ambiguities that might exist in the proposed legislation.

Equal credit opportunity for women is not a partisan matter, and that is why I am delighted to be cosponsoring this legislation with my colleague, Margaret Heckler, Republican of Massachusetts.

Discrimination in credit applications is a very widespread practice. Just today I received a letter from a woman who, in her own personal experience, has several times and in several States been subjected to this discrimination. The incidents detailed in this letter are very descriptive of the kind of inequities that women seeking credit are subjected to, and I am inserting the text of the letter here in the Record for the benefit of my colleagues:

July 15, 1973.

Edward I. Koch,
Washington, D.C.

Dear Congressman: I am glad to see that someone is finally investigating discriminatory insurance and credit practices. The ways in which I have been discriminated against since I have become a married woman have been many. Unfortunately, with credit, the discrimination can be so subtle that it is impossible to put in a letter. I hope that these instances of more obvious discrimination will help your committee and that eventually legislation will be passed to stop it entirely.

My husband and I were married in New Jersey in 1969. At that time he was in the service and held the rank of E-4. I had a GS-5 position with a laboratory in the area. Before we were married, I had opened two charge accounts—one with Montgomery Ward and the other with Bamburgers. After we were married, Bamburgers allowed me to keep my account, but I had to change the name to Mrs. Allan Drake. They would not permit me to use Judy P. Drake.

Wards changed the account immediately to my husband's name and refused to give us separate accounts or an account in both names. Later, we moved to Alaska and mail-ordered large amounts of merchandise from Wards. My husband had to sign all the orders. Orders with my signature were returned even though we had cosigned the credit application and I was our principal support during much of that time. While still in New Jersey we tried to get a charge account at Bradlees. We were turned down because his rank was only E-4 and they did not give credit to servicemen below the rank of E-6. The credit department freely admitted that had I been single, my job would have been sufficient to get me an account.

While in Fairbanks, I was attending the University of Alaska on a $400 a month fellowship. My husband worked as a mechanic at various garages in the area. None of the male graduate students had trouble getting credit from Penny's, Standard Oil Co. or Sears. While my stipend and circumstances were similar, I could get none because my husband was "only a mechanic."

When I went to a doctor in Fairbanks, I received a bill as follows: Name: Allan Drake; Item: Judy Drake. When I complained that my husband didn't even attend this clinic, and I had earned the money to pay the bill, I was informed that if I wanted to see a doctor I had better go along with the system, as all the clinics operated the same way. The receipt was also issued to him, even though paid by me with *my* hard-earned money.

For a while my husband was unemployed and I was working as a lab technician at U. of Alaska. I made $4.16/hr. and my salary was our only source of income. I went to Beneficial Finance to get money to buy a used truck. They told me they couldn't lend me the money unless my husband signed. About a week later he went in to make the same loan. Even though I was our sole support at that time, he easily got the loan without my signature.

While I realize that my experiences have not been dramatic as some others, I do hope that they help your committee realize that some real inequities exist, and to propose legislation to get rid of them.

Sincerely,

Judy P. Drake.

UMTA MUST INSIST ON THOROUGH GRAND CENTRAL STUDY

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, the New York Times carried an excellent editorial today on a matter of considerable importance to New York City: the location of a mid-Manhattan terminal for the Long Island Railroad. The Federal Government is involved because of the possibility of Federal funding of the project through UMTA.

In dispute is whether the Metropolitan Transportation Authority in New York should move ahead with its plans for a $342 million terminal at Third Avenue and 48th Street while inadequate consideration has been given to utilizing an existing facility, Grand Central Station. Grand Central lies just a few blocks away from the proposed Third Avenue site and is now underutilized. At the same time, it provides a convenient nexus for a number of modes of rapid transit in New York City.

Pending is the question of whether the MTA really will give Grand Central the consideration it deserves and that's required by Federal law for such federally funded projects. This will be answered in great part by how fully UMTA administers the Federal law requiring full consideration of all alternative locations for any federally funded construction project. The New York Times editorial expresses the concern shared by many of us in the New York that the required study of Grand Central may only be pro forma. It is important that this not happen and that instead the study be thorough and objective.

For the interest of our colleagues, the editorial follows:

Terminal Probe

The Metropolitan Transit Authority's plan for an eastside Long Island Rail Road terminal on Third Avenue is being tentatively questioned by the Federal Urban Mass Transit Administration. It should be—and severely.

That appeared to be exactly what U.M.T. Administrator Frank Herringer intended to do when he first asked New York State to consider expanding and modernizing Grand Central Terminal to serve the same purpose. Since then, however, the attitude of the Urban Mass Transit Administration, which would have to do two-thirds of the funding, has changed to the point where it will apparently be satisfied with little more than a *pro forma* report from M.T.A. stating why Grand Central won't do.

It is entirely possible that the M.T.A. is correct in its judgment that the Third Avenue site would be preferable. Traffic at Grand Central, underused as that station is, might still be too great at peak commuter hours to allow it to serve Long Island riders as well as those it now accommodates. Nevertheless, such are the advantages the Grand Central plan might afford that it is incredible that a $341-million project would be contemplated without absolute certainty that the existing facility would be inadequate.

Mr. Herringer originally suggested that the old station might offer the same benefits as the Third Avenue site "at a lower cost and with less disruption of the surrounding area." The Third Avenue site would impose some 30,000 peak-hour pedestrians a day on the largely residential neighborhood of Turtle Bay, between 41st and 51st Streets east of Lexington Avenue. It would mean years of drilling, digging and disruption. Furthermore, the Grand Central location not only offers substantial savings in money but also the great advantage of having existing subway links in all four directions.

Representative Edward I. Koch, who has taken the lead in forcing Federal attention to the alternative, states that so far the M.T.A has given the Grand Central plan hardly more than a quick brush-off. It deserves a great deal more than that. It deserves the kind of definitive and impartial probing that can only be done by an independent agency and that would leave no room for further doubt.

THE LATE EDDIE RICKENBACKER

(Mr. DEVINE asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. DEVINE. Mr. Speaker, we learned today of the passing of one of America's greatest heroes, Capt. Edward V. Rickenbacker.

Born in Columbus, Ohio, in 1890, he first gained recognition as a winning driver in automobile races. When he enlisted in the U.S. Army, he was assigned as chauffer to Gen. John Pershing.

In World War I, Captain Eddie was a member of the 94th Aero Pursuit Squadron, and was classified as an "ace" shooting down 26 enemy planes. His insignia became renown, the "Hat in the Ring." Among his many decorations, he received the Congressional Medal of Honor.

The world watched with great concern and apprehension while Eddie was on a mission for the War Department during World War II, survived a plane crash in the Pacific, and was rescued after 3 perilous weeks adrift in a liferaft.

Eddie Rickenbacker, former president and chairman of the board of Eastern Airlines was admitted to the Aviation Hall of Fame in 1965.

Mr. Speaker, to perpetuate the memory of this great American, I have introduced a bill to rename Lockbourne Air Force Base in my district in Ohio, in his honor.

CAREY QUESTIONS LATEST HEW REORGANIZATION

(Mr. CAREY of New York asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CAREY of New York. Mr. Speaker, the Department of Health, Education, and Welfare is planning to reorganize the Health Services and Mental Health Administration into the Health Resources Administration and the Health Services Administration.

These proposed administrative changes, as outlined very broadly on page 18260 of the Federal Register of July 9, 1973, would seem to set the stage for what Dr. Arthur Lesser, in his statement of resignation as Program Director for Maternal and Child Health Care, protested:

> Would amount to the first step in the elimination of categorical programs. It is another disregard for the intent of Congress.

For further information on this issue and the protest resignation of this highly respected, veteran health professional, please see my remarks on page 22627 of the June 30, 1973, CONGRESSIONAL RECORD.

Mr. Speaker, I have been joined by 34 of my House colleagues in requesting an explanation of this latest HEW "efficiency" shakeup. These gentlemen share my concern that this plan is of questionable legality and wisdom, particularly in light of recent congressional approval of project funding for maternal and child health care programs funded under title V of the Social Security Act. In this particular regard, I am pleased to be joined in this letter by Congressman FLOOD, chairman of the House Labor-HEW Appropriations Subcommittee—which subcommittee reported a bill funding this program and the projects it administers. This bill passed the House overwhelmingly and has been sent to the Senate.

Mr. Speaker, in conclusion, I should like to include in the RECORD, the text of the joint letter sent to Mr. Weinberger and the names of the Members who have joined me in this inquiry:

JULY 20, 1973.

Hon. CASPAR WEINBERGER,
Secretary, Department of Health, Education and Welfare, Washington, D.C.

DEAR MR. SECRETARY: The lack of current information regarding the proposed reorganization of Health Services and Mental Health Administration into the Health Resources Administration and the Health Services Administration is causing anxiety, and it is hoped that your response to this inquiry might convey Administration proposals as they might affect the effective achievement of program goals directed by the Congress. Specifically, concern is mounting that the new organizational structure will be incapable of fulfilling the purpose for which each individual program had been initially established.

The organization proposed reflects a new Bureau of Community Health Services comprised of Maternal and Child Health, Family Planning, Migrant Health, Neighborhood Health Centers, National Health Service Corps and Health Maintenance Organization. The director of each of these programs will become an Assistant Bureau Director. It appears that each program will be treated similarly regardless of whether they are equal in scope, history, funding, accomplishments, expectations or mandate. In addition, while the Director of Maternal and Child Health Service for example, maintains apparent responsibility for the program, he has no line authority over employees justifiably employed with Title V funds, since the personnel are redistributed among the various offices, save five or six employees who will work on the Assistant Bureau Director's immediate staff, primarily as apologists.

This reorganization plan, unlike previous plans, appears to dismantle the maternal and child health program components rather than merely give them new administrative superiors. This appears as not only unsound health policy and unwise administrative practice, but a disregard for the populations to be served and the compassionate mandate which established and maintains the MCH program.

This reorganization fails to assure that programs will advance at the accelerated pace which is so vital. The Congress maintains a very active interest in maternal and child health programs, as manifested by the strong support Title V project extension received recently in both Houses. The maternal and child health program has been established for 38 years, and has continued through years marked by distinguished accomplishment. The proposed reorganization is not a solution for the problems of the program, which admittedly may exist, nor would it provide improvement for the program.

The anxiety of the Congress with the new reorganization plan has intensified recently with press accounts regarding the resignations of Arthur Lesser and Dr. Gordon MacLeod, two highly regarded program directors. Each official has stated that his resignation stems from the incompatibility of reorganization and program objectives. Dr. Lesser has stated, "This is the first step in the elimination of categorical programs. It is another disregard for the intent of Congress."

In light of the seriousness of this issue, and the relative scarcity of information, it would be appreciated that your response include comments on these questions:

1. Why has no revised appropriations request been submitted to reflect the reorganization?

2. Are there plans to change program allottees as required by Section 36799 of the Revised Statutes and the HEW Accounting Manual Chapter 2-10 (6/26/67)?

3. How will each allottee be able to maintain supervision and accountability of personnel working in other offices?

4. Will each office have assigned staff to work exclusively on each of the programs, or will there be an "equivalent time" arrangement to assure that programs receive staff support proportionate to appropriations for direct program operations?

5. What recourse is available to the Assistant Bureau Director when offices are not responsive?

6. What are the long range plans since five of the programs are operating under one year extensions and maternal and child health program is under permanent authority? Is it the ultimate intention to phase out these six categorical programs?

7. Might the Department initiate this reorganization July 1, 1974, after the Congress decides upon the future of these categorical programs?

8. When will the retails of the plans be available for public review?

9. Will comments on the plan be solicited and considered before it is initiated?

10. When might the Congress expect to be fully informed of administrative plans?

11. Will Congressional approval be sought?

The Committee on Ways and Means and, indeed, the entire Congress, would prefer to leave administrative organization and detail to the Executive. However, when administrative changes seem imminent, and these changes appear to run counter to the policy intent of the law, it becomes incumbent on the Congress, and even more so on the Executive, to engage in a dialogue which protects the intent of the Congress, maintains the integrity of the programs under discussion, preserves true administrative flexibility, and permits the Executive department in question to retain the confidence of the Congress in like matters.

It is our concern that the Department of Health, Education and Welfare administer all programs mandated to it by the Congress in the most efficient manner consistent with the program goals determined by the Congress. However, it is equally our concern that various categorical and other programs not be done to death through administrative legerdemain—a process that deprives programs of adequate fiscal and administrative support and strong professional leadership and then declares to the Congress that these starving and stumbling programs are clearly ineffective and surely inefficient, and should be terminated or blended with an even more amorphous administrative unit, which itself is earmarked for destruction.

Your early response to both the specific questions and the larger philosophical one is appreciated. Advance communication through this informal means would seem to be preferable to repeated last minute legislative resuscitation by the Congress—action necessarily less well designed than is desirable.

Sincerely,

HUGH L.CAREY.

The following Members of the House joined Congressman CAREY in his letter of inquiry to HEW:

Bella S. Abzug, Joseph P. Addabbo, Mario Biaggi, Jonathan B. Bingham, Edward P. Boland, Frank J. Brasco, James A. Burke, John Conyers, James C. Corman, Ronald V. Dellums, Don Edwards, Dante B. Fascell, Daniel J. Flood, Donald M. Fraser, Michael Harrington, Robert W. Kastenmeier, and Edward I. Koch.

Peter Kyros, Lloyd Meeds, Patsy T. Mink, Robert N. C. Nix, Claude Pepper, Bertram L. Podell, Charles B. Rangel, Thomas M. Rees, Robert A. Roe, Benjamin S. Rosenthal, Dan Rostenkowski, William R. Roy, Fernand J. St Germain, Paul S. Sarbanes, Patricia Schroeder, Frank Thompson, and Charles H. Wilson.

Carey Questions Possible Ill Effects of HEW Reorganization Plan

Washington.—Congressman Hugh L. Carey, (D-N.Y.) was joined today by 34 of his House Colleagues in requesting an explanation from H.E.W. of an administrative reorganization that Carey believes will have very serious ill-effects on Maternal and Child Health Care programs throughout the Nation.

Carey's letter to Secretary Weinberger was prompted by the continued H.E.W. assault on Health and other programs the Department is supposed to foster and see successful. The Congressman is increasingly dismayed at seeing the present Secretary of Health, Education, and Welfare destroying progressive, human needs programs passed by the Congress and administered in the recent past by such distinguished men as Abraham Ribicoff, Anthony Celebreeze, Wilbur Cohen and John Gardner.

In a letter to H.E.W. Secretary Weinberger, Carey asks, in eleven specific questions, for clarification of the Department's intentions with regard to Maternal and Child Health Care, and other categorical health programs being lumped together for purposes that may be "efficient", but which have been condemned by deeply worried health care professionals as destructive of the health care goals the Congress intended in creating them.

"The anxiety of the Congress with the new reorganization plan has intensified recently with press accounts regarding the resignations of Drs. Arthur Lesser and Gordon McLeod, two highly regarded directors of affected programs. Each official has stated that his resignation stems directly from the incompatibility of reorganization and program objectives. Dr. Lesser stated, "This is the first step in the elimination of categorical programs. It is another disregard for the intent of Congress."

The Congressman, further declared, "It is the concern of the Congress that the Department of Health, Education and Welfare administer all programs mandated to it by the Congress in the most efficient manner. However, it is equally our concern that various categorical programs not be done to death through administrative legerdemain—a process that deprives programs of adequate fiscal and administrative support and strong professional leadership and then declares to the Congress that these starving and stumbling programs are clearly ineffective and surely inefficient, and should be terminated or blended with an even more amorphous administrative unit, which itself is earmarked for destruction."

In closing, Carey stated that if the Department of H.E.W. expects to regain the confidence of the Congress and retain authority in administrative reorganizations affecting policy goals set by the Congress, "Advance and thorough communication would seem to be preferable to repeated last-minute legislative resuscitation by the Congress."

The following Congressmen have added their names to the letter sent by Congressman Carey:

Bella S. Abzug, Joseph P. Addabbo, Mario Biaggi, Jonathan B. Bingham, Edward P. Boland, Frank J. Brasco, James A. Burke, John Conyers, James C. Corman, Ronald V. Dellums, Don Edwards, Dante B. Fascell, Daniel J. Flood, Donald M. Fraser, Michael Harrington, Robert W. Kastenmeier, and Edward I. Koch.

Peter Kyros, Lloyd Meeds, Patsy T. Mink, Robert N. C. Nix, Claude Pepper, Bertram L. Podell, Charles B. Rangel, Thomas M. Rees, Robert A. Roe, Benjamin S. Rosenthal, Dan Rostenkowski, William R. Roy, Fernand J. St Germain, Paul S. Sarbanes, Patricia Schroeder, Frank Thompson, and Charles H. Wilson.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Mitchell of New York) to revise and extend their remarks and include extraneous material:)

Mr. Hogan, for 10 minutes, today.

Mr. Miller, for 5 minutes, today.

Mr. Forsythe, for 5 minutes, today.

Mrs. Heckler of Massachusetts, for 5 minutes, today.

Mr. du Pont, for 5 minutes, today.

Mr. Kemp, for 10 minutes, today.

(The following Members (at the request of Mr. Studds) and to revise and extend their remarks and include extraneous matter:)

Mr. Bingham, for 10 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Podell, for 5 minutes, today.

Mr. Stark, for 5 minutes, today.

Mr. Burke of Massachusetts, for 5 minutes, today.

Ms. Abzug, for 10 minutes, today.

Mr. Kastenmeier, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Bingham, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the Congressional Record and is estimated by the Public Printer to cost $731.50.

Mr. Randall in four instances and to include extraneous matter.

Mr. Hechler of West Virginia and to include extraneous matter during debate on House Resolution 495, today.

(The following Members (at the request of Mr. Mitchell of New York) and to include extraneous material:)

Mr. Blackburn.

Mr. Archer.

Mr. Steiger of Arizona in two instances.

Mr. Ashbrook in three instances.

Mr. Conte in two instances.

Mr. Johnson of Pennsylvania.

Mr. Derwinski in two instances.

Mr. Wyman in two instances.

Mr. Hogan.

Mr. Sebelius.

Mr. Bray in two instances.

Mr. Findley.

Mr. Dellenback.

Mr. Heinz.

Mr. Forsythe.

Mr. Walsh.

Mr. Mitchell of New York.

Mr. McClory in two instances.

Mr. Davis of Wisconsin.

Mr. Lent.

Mr. Huber.

Mr. Bafalis in five instances.

Mr. Kemp in two instances.

(The following Members (at the request of Mr. Studds) and to include extraneous matter:)

Mr. Edwards of California in three instances.

Mr. Minish.

Mr. Fraser in five instances.

Mr. Gonzalez in three instances.

Mr. Rarick in three instances.

Mr. Hungate.

Mr. Moorhead of Pennsylvania in 10 instances.

Mr. Culver in six instances.

Mr. Rees in three instances.

Mr. Howard in six instances.

Mr. Matsunaga in 10 instances.

Mr. Carey of New York.

Mr. Harrington in three instances.

Mr. Jones of Tennessee.

Mr. Rostenkowski.

Mr. Drinan.

Mr. Kyros.

Mr. Burke of Massachusetts.

Mr. Patman.

Mr. Evins of Tennessee in five instances.

Mr. Reuss.

Mr. Stark in 10 instances.

Mr. Anderson of California in two instances.

Mr. Nedzi.

SENATE BILLS AND JOINT RESOLUTION REFERRED

Bills and a joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 440. An act to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress; to the Committee on Foreign Affairs.

S. 782. An act to reform consent decree procedures, to increase penalties for violation of the Sherman Act, and to revise the Expediting Act as it pertains to Appellate Review; to the Committee on the Judiciary.

S. 1816. An act to amend the Wool Products Labeling Act of 1939 with respect to recycled wool; to the Committee on Interstate and Foreign Commerce.

S.J. Res. 134. Joint resolution to prohibit any reduction in the number of employees of the Forest Service during the current fiscal year; to the Committee on Agriculture.

ENROLLED BILLS SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 9172. An act to provide for emergency allotment lease and transfer of tobacco allotments or quotas for 1973 in certain disaster areas in Georgia and South Carolina.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bill of the Senate of the following title:

S. 59. An act to amend title 38 of the United States Code to provide improved and expanded medical and nursing home care to veterans; to provide hospital and medical care to certain dependents and survivors of veterans; to provide for improved structural safety of Veterans' Administration facilities; to improve recruitment and retention of career personnel in the Department of Medicine and Surgery; and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on July 20, 1973, present to the President, for his approval, bills of the House of the following titles:

H.R. 6717. An act to amend certain provisions of the Land and Water Conservation Fund Act of 1965 relating to the collection of fees in connection with the use of Federal areas for outdoor recreation purposes; and

H.R. 8949. An act to amend title 38 of the United States Code relating to basic provisions of the loan guaranty program for veterans.

ADJOURNMENT

Mr. STUDDS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 58 minutes p.m.), the House adjourned until tomorrow, Tuesday, July 24, 1973, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of the Rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 8056. A bill to provide financial assistance for research Arkansas River Basin compact, Arkansas-Oklahoma; with amendment (Rept. No. 93-391). Referred to the Committee of the Whole House on the State of the Union.

Mr. PATMAN: Committee of conference. Conference report on S. 1636 (Rept. No. 93-389). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of California:

H.R. 9463. A bill to amend the Public Health Service Act to provide for the screening and counseling of Americans with respect to Tay-Sachs disease; to the Committee on Interstate and Foreign Commerce.

By Mr. BEVILL:

H.R. 9464. A bill to strengthen and improve the protections and interests of participants and beneficiaries of employee pension and welfare benefit plans; to the Committee on Education and Labor.

H.R. 9465. A bill to amend title II of the Social Security so as to liberalize the conditions governing eligibility of blind persons to receive disability insurance benefits thereunder; to the Committee on Ways and Means.

By Mr. BRAY:

H.R. 9466. A bill to limit certain legal remedies involving the involuntary busing of schoolchildren; to the Committee on the Judiciary.

By Mr. BURKE of Massachusetts:

H.R. 9467. A bill to amend the Internal Revenue Code of 1954 to provide income tax incentives to improve the economics of recycling waste paper; to the Committee on Ways and Means.

By Mr. BURKE of Massachusetts (for himself, Mr. Tiernan, Mr. Nix, Mr. Cotter, Mr. Studds, and Mr. Moakley):

H.R. 9468. A bill to authorize the Secretary of Agriculture to distribute seeds and plants for use in home gardens; to the Committee on Agriculture.

By Mr. CARNEY of Ohio:

H.R. 9469. A bill to strengthen and improve the protections and interests of participants and beneficiaries of employee pension and welfare benefit plans; to the Committee on Education and Labor.

By Mr. DELLUMS:

H.R. 9470. A bill to provide for an autonomous elected Board of Education for the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. DENHOLM:

H.R. 9471. A bill to amend Public Law 92-181 (85 Stat. (383) relating to credit eligibility for public utility cooperatives serving producers of food, fiber, and other agricultural products; to the Committee on Agriculture.

By Mr. DERWINSKI:

H.R. 9472. A bill to amend the State and Local Fiscal Assistance Act of 1972 to make it clear that local governments may use amounts freed by revenue sharing for tax reduction; to the Committee on Ways and Means.

By Mr. DEVINE:

H.R. 9473. A bill to change the name of the Lockbourne Air Force Base, Ohio, to the Eddie Rickenbacker Air Force Base; to the Committee on Armed Services.

By Mr. DORN (for himself, Mr. Teague of Texas, Mr. Haley, Mr. Dulski, Mr. Roberts, Mr. Satterfield, Mr. Helstoski, Mr. Edwards of California, Mr. Montgomery, Mr. Carney of Ohio, Mr. Danielson, Mrs. Grasso, Mr. Wolff, Mr. Brinkley, Mr. Charles Wilson of Texas, Mr. Hammerschmidt, Mr. Saylor, Mr. Teague of California, Mrs. Heckler of Massachusetts, Mr. Zwach, Mr. Wylie, Mr. Hillis, Mr. Abdnor, and Mr. Walsh):

H.R. 9474. A bill to amend title 38 of the United States Code to increase the monthly rates of disability and death pension, and dependency and indemnity compensation, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. du PONT:

H.R. 9475. A bill to provide an allowance for tools to eligible veterans pursuing apprenticeship training programs; to the Committee on Veterans' Affairs.

By Mr. FISH:

H.R. 9476. A bill to provide for the awarding of a medal of honor for policemen and a medal of honor for firemen; to the Committee on Banking and Currency.

By Mr. FULTON (for himself, Mr. Broyhill of Virginia, and Mr. Denholm):

H.R. 9477. A bill to amend the Social Security Act to provide for medical, hospital, and dental care through a system of voluntary health insurance including protection against the catastrophic expenses of illness, financed in whole for low-income groups through issuance of certificates, and in part for all other persons through allowance of tax credits; and to provide effective utilization of available financial resources, health manpower, and facilities; to the Committee on Ways and Means.

By Mrs. GRASSO:

H.R. 9478. A bill to amend title II of the Social Security Act to provide that an individual otherwise eligible may be paid full widow's or widower's insurance benefits at age 55, or reduced widow's or widower's insurance benefits at age 50 (age 45 in case of disability); to the Committee on Ways and Means.

By Mr HOGAN (for himself, Mr Brasco, Mr de Lugo, Mr. Downing, Mr. Fauntroy, Mr. Goldwater, Mrs. Holt, Mr. Parris, Mr. Tiernan, Mr. Whitehurst, and Mr. Won Pat):

H.R. 9479. A bill to direct the Secretary of Transportation to make a comprehensive study of a high-speed ground transportation system between Washington, D.C., and Annapolis, Md., and a high-speed marine vessel transportation system between the Baltimore-Annapolis area in Marlyand and the Yorktown-Williamsburg-Norfolk area in Virginia, and to authorize the construction of such system if such study demonstrates their feasibility; to the Committee on Interstate and Foreign Commerce.

By Mr. KASTENMEIER (for himself, Ms. Abzug, Mr. Badillo, Mr. Burton, Mrs. Chisholm, Mr. Conyers, Mr. Dellums, Mr. de Lugo, Mr. Diggs, Mr. Edwards of California, Mr. Eckhardt, Mr. Fraser, Mr. Gude, Ms. Jordan, Mr. Koch, Mr. Leggett, Mr. Mazzoli, Mr. Metcalfe, Mr. Nix, Mr. Pepper, Mr. Podell, Mr. Rangel, Mr. Rooney of Pennsylvania, Mr. Rosenthal, and Mr. Stark):

H.R. 9480. A bill to amend the Voting Rights Act of 1970 to prohibit the States from denying the right to vote in Federal elections to former criminal offenders who have not been convicted of any offense related to voting or elections and who are not confined in a correctional institution; to the Committee on the Judiciary.

By Mr. KASTENMEIER (for himself and Mr. Won Pat):

H.R. 9481. A bill to amend the Voting Rights Act of 1970 to prohibit the States from denying the right to vote in Federal elections to former criminal offenders who have not been convicted of any offense related to voting or elections and who are not confined in a correctional institution; to the Committee on the Judiciary.

By Mr. McSPADDEN:

H.R. 9482. A bill to improve the conduct and regulation of Federal election campaign activite and to provide public financing for such campaigns; to the Committee on House Administration.

By Mr. MOAKLEY:

H.R. 9483. A bill to amend title 5 of the United States Code in order to apply to National Guard technician certain retention and overtime work benefits now extended to Federal employees, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 9484. A bill to amend title II of the Social Security Act to provide that the remarriage of a widow, widower, or parent shall not terminate his or her entitlement to widow's, widower's, or parent's insurance benefits or reduce the amount thereof; to the Committee on Ways and Means.

H.R. 9485. A bill to amend title II of the Social Security Act to provide that an individual who resides with and maintains a household for another person or persons (while such person or any of such persons is employed or self-employed) shall be considered as performing covered services in maintaining such household and shall be credited accordingly for benefit purposes; to the Committee on Ways and Means.

By Mr. ROBISON of New York (for himself, Mr. Steiger of Wisconsin, Mr. Anderson of Illinois, and Mr. Esch):

H.R. 9486. A bill to establish within the Peace Corps a special program to be known as the Vietnam assistance volunteers program; to the Committee on Foreign Affairs.

By Mr. RODINO:

H.R. 9487. A bill to amend titles 39 and 5, United States Code, to eliminate certain restrictions on the rights of officers and employees of the Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. RONCALLO of New York (for himself, Mr. Bafalis, Mr. Jones of Oklahoma, and Mr. Powell of Ohio):

H.R. 9488. A bill to prohibit the use of appropriated funds to carry out or assist research on living human fetuses; to the Committee on Interstate and Foreign Commerce.

By Mr. ST GERMAIN:

H.R. 9489. A bill to provide for the inclusion of emergency power equipment in federally assisted multifamily housing facilities which are designed for occupancy in whole or substantial part by the elderly, and to authorize Federal loans to finance the provision of such equipment for those facilities; to the Committee on Banking and Currency.

H.R. 9490. A bill to amend title 38, United States Code, to provide for the payment of certain preservice educational loans made by veterans; to the Committee on Veterans' Affairs.

By Mr. STEELE (for himself and Mr. McKinney):

H.R. 9491. A bill to authorize the disposal of approximately 258,700 short tons of copper from the national stockpile and the supplemental stockpile; to the Committee on Armed Services.

By Mr. TAYLOR of North Carolina (for himself, Mr. Landrum, Mr. Dorn, and Mr. Mann):

H.R. 9492. A bill to designate the Chattooga River in the States of North Carolina, South Carolina, and Georgia as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. VANDER JAGT (for himself, Mr. Symington, Mr. Rinaldo, and Mr. Stuckey):

H.R. 9493. A bill to amend the Public Health Service Act to expand the authority of the National Institute of Arthritis, Metabolism, and Digestive Diseases in order to advance the national attack on diabetes; to the Committee on Interstate and Foreign Commerce.

By Mr. WHITEHURST:

H.R. 9494. A bill to provide for the continued supply of petroleum products to independent oil marketers; to the Committee on Interstate and Foreign Commerce.

By Mr. WIGGINS:

H.R. 9495. A bill to amend section 1951 of title 18 of the United States Code; to the Committee on the Judiciary.

By Mr. CHARLES WILSON of Texas (for himself and Mr. Saylor):

H.R. 9496. A bill to amend the Outer Continental Shelf Lands Act and to authorize the Secretary of the Interior to regulate the construction and operation of deepwater port facilities; to the Committee on Interior and Insular Affairs.

By Mr. DORN (for himself, Mr. Dan Daniel, Mr. Gettys, Mr. Broyhill of Virginia, Mr. Edwards of Alabama, Mr. Price of Texas, Mr. Martin of Nebraska, Mr. Bevill, Mr. Broyhill of North Carolina, Mr. Snyder, Mr. Zion, Mr. Smith of Iowa, Mr. Flowers, Mr. Shuster, Mr. Coughlin, Mr. Eshleman, Mr. Johnson of Pennsylvania, Mr. Ware, Mr. Williams, and Mr. Pettis):

H.R. 9497. A bill to amend title 38 of the United States Code to increase the monthly rates of disability and death pension and dependency and indemnity compensation, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. DORN (for himself, Mr. Heinz, Mr. Spence, Mr. Beard, Mr. Ruppe, Mr. Esch, Mr. Brown of Michigan, Mr. Vander Jagt, Mr. Lent, Mr. Sandman, Mr. Steiger of Arizona, Mr. Don H. Clausen, Mr. McDade, Mr. Duncan, Mr. Nichols, Mr. Burke of Massachusetts, Mr. Preyer, Mr. Bowen, Mr. Breaux, Mr. Martin of North Carolina, and Mr. Davis of South Carolina):

H.R. 9498. A bill to amend title 38 of the United States Code to increase the monthly rates of disability and death pension, and dependency and indemnity compensation, and for other purposes; to the Committee on Veterans' Affairs.

By Mrs. HECKLER of Massachusetts (for herself and Mr. Koch):

H.R. 9499. A bill to amend the Consumer Credit Protection Act to prohibit discrimination on the basis of sex or marital status in the granting of credit, and to make certain changes with respect to the civil liability provisions of such act; to the Committee on Banking and Currency.

By Mr. PARRIS (for himself and Mr. Broyhill of Virginia):

H.R. 9500. A bill to authorize and provide for the construction of the 4-Mile Run project, in the city of Alexandria and Arlington County, Va.; to the Committee on Public Works.

By Mr. YOUNG of Illinois:

H.R. 9501. A bill to amend the Occupational Safety and Health Act of 1970; to the Committee on Education and Labor.

H.R. 9502. A bill to amend the Controlled Substances Act to permit the referral to drug counseling or treatment programs of certain first-time marihuana offenders and to remove certain age restrictions against the expunging of certain official records; to the Committee on Interstate and Foreign Commerce.

H.R. 9503. A bill to provide a penalty for the robbery or attempted robbery of any narcotic drug from any pharmacy; to the Committee on the Judiciary.

H.R. 9504. A bill to amend the Internal Revenue Code of 1954 to raise the limitations on contributions by self-employed individuals to certain retirement plans; to the Committee on Ways and Means.

H.R. 9505. A bill to amend the Internal Revenue Code of 1954 to provide relief to certain individuals 65 or more years of age who own or rent their homes, through a system of income tax credits and refunds; to the Committee on Ways and means.

By Mr. RIEGLE:

H.J. Res. 679. Joint resolution, a national education policy; to the Committee on Education and Labor.

By Mr. BRAY:

H. Con. Res. 273. Concurrent resolution expressing the sense of the Congress that the Commission on Executive, Legislative, and Judicial Salaries omit recommendations for pay increases for Members of Congress in its report to the President on the results of its 1973 salary studies; to the Committee on Post Office and Civil Service.

By Mr. YOUNG of Illinois:

H. Con. Res. 274. Concurrent resolution requesting the President to proclaim the 14th day in October of each year as "National Friendship Day"; to the Committee on the Judiciary.

By Mr. FISH:

H. Res. 501. Resolution to establish a congressional internship program for secondary school teachers of government or social studies in honor of President Lyndon Baines Johnson; to the Committee on House Administration.

By Mr. GUDE (for himself, Mr. Fraser, Mr. Brademas, Ms. Burke of California, and Mr. Podell):

H. Res. 502. Resolution expressing the sense of the House that the U.S. Government should seek agreement with other members of the United Nations on prohibition of weather modification activity as a weapon of war; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII,

284. The SPEAKER presented a memorial of the Legislature of the State of California, relative to extension of the Federal Emergency Employment Act of 1971 and various summer youth opportunities programs; to the Committee on Education and Labor.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of California:

H.R. 9506. A bill for the relief of Shigeru Nakano; to the Committee on the Judiciary.

By Mr. GUDE:

H.R. 9507. A bill for the relief of James A. Horkan; to the Committee on the Judiciary.

By Mr. MARAZITI:

H.J. Res. 680. Joint resolution authorizing the President to award the Legion of Merit to Dr. Emanuel M. Satulsky, major, U.S. Army (retired); to the Committee on Armed Services.

EXTENSIONS OF REMARKS

AMERICAN LIBRARY ASSOCIATION SAYS "THANK YOU" TO HOUSE OF REPRESENTATIVES

HON. SPARK M. MATSUNAGA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. MATSUNAGA. Mr. Speaker, the American Library Association, at its recent annual conference in Las Vegas, unanimously adopted a resolution thanking the U.S. House of Representatives, and particularly the members of the House Appropriations Committee, for saving federally funded library programs.

The House passed, on June 26, 1973, H.R. 8877, a bill making fiscal year 1974 appropriations for library programs at the following levels: Library Services and Construction Act—$58,709,000; title II of the Elementary and Secondary Education Act—$90,000,000; title II—a and b—of the Higher Education Act—$15,000,000.

The House-passed bill would make possible the continuation of essential library services for millions of American citizens, the American Library Association said in its resolution, which was forwarded to me by Prof. Yukihisa Suzuki of the University of Hawaii Graduate School of Library Studies. Professor Suzuki is a councilor of the American Library Association and was instrumental in obtaining the unanimous adoption of the "Thank You" resolution.

The full text of the resolution follows:

RESOLUTION EXPRESSING APPRECIATION OF MEMBERS OF U.S. HOUSE OF REPRESENTATIVES

Whereas fiscal year 1974 begins on July 1, 1973; and

Whereas the President's budget recommends zero funding in FY 1974 for all library programs authorized by the Library Services and Construction Act, title II of the Elementary and Secondary Education Act, and title II-A&B of the Higher Education Act; and

Whereas the United States House of Representatives on June 26 passed the bill, H.R.

8877, making fiscal year appropriations for the Departments of Labor, and Health, Education, and Welfare; and

Whereas the House-passed bill would appropriate FY 1974 funds for the library programs at the following levels: Library Services and Construction Act—$58,709,000; title II of the Elementary and Secondary Education Act—$90,000,000; title II-A&B of the Higher Education Act—$15,000,000;

Now therefore be it resolved that the American Library Association expresses its appreciation and gratitude to the Appropriations Committee of the United States House of Representatives and to the entire House of Representatives for its long-standing support of library programs; and

Be it further resolved that both the Committee and the House of Representatives be especially commended, at this crucial time when all library programs would otherwise be slated for extinction by the President's budget, for passing H.R. 8877, a bill which would make possible the continuation of essential library services for millions of American citizens.

PUBLIC HEALTH AND CLEAN AIR STANDARDS

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. WYMAN. Mr. Speaker, a Senate committee—Public Works—wants the National Academy of Sciences to analyze the Clean Air Act—1970—standards in relation to public health and necessity and advise Congress as to their required level. The price tag for this is said to be in excess of $300,000.

In regard to fields other than automobile emissions there may be merit in this proposal and a rationale for the time delay involved—October at the earliest. But for automobiles it is perfectly clear, and EPA itself has confirmed the fact, that the emissions requirements in the Clean Air Act of 1970 are unnecessarily high.

Automobiles must be designed years ahead of production. Tooling and die assembly takes months of advance planning. Catalytic converters are questionable at best, as well as costly.

There is no justification for requiring the entire Nation to have gadgetry on cars in every part of the U.S.A. costing hundreds of dollars more for each car and consuming more gasoline per mile, unless those cars are to be operated in those parts of the Nation having genuine emissions-related pollution problems that genuinely harm the public. In a majority of the geographical area of the United States there is no need for this in terms of public necessity.

For more than a year I have had pending in Congress a bill to reduce the emissions requirements for automobiles to a level that will protect the public health, conserve gas and oil, and help with various and sundry major problems such as balance of payments which is directly attributable in large measure to the oil we must purchase abroad. This bill should be heard and reported without further delay. There is no need for a National Academy study to report the obvious too late to avoid more costly waste.

In this connection I urge a thoughtful reading of today's lead editorial in the Wall Street Journal:

A MOST IMPORTANT REVIEW

Considering the issues that are at stake, it is encouraging to see Congress moving toward a thorough review of the air-quality and auto-emission standards that were set as a result of the 1970 Clean Air Act. The Senate Public Works Committee has asked the National Academy of Sciences to analyze existing data and offer a short-term evaluation by October and to make a longer term study of health effects data by the end of next year. It only remains for Congress to approve the $315,000 the committee has requested for these studies.

While there's no telling what the Academy will come up with, our fervent hope is that its study will clarify the distinction between air standards that are absolutely necessary regardless of cost, and those that are desirable but need to be balanced against the enormous costs and cultural upheavals the current standards would require. This distinction has been made neither by the Congress that wrote the 1970 Act nor by the agency that administered it.

As a result, the automobile industry is being rushed into the dubious technology of catalytic converters as the only possible means of meeting the interim standards by the autumn of 1974. The oil refining industry is being forced to a total conversion to unleaded gasoline. And dozens of cities are being forced to consider and implement traffic control and gas rationing schemes that would abruptly alter life-style patterns, commerce and transportation. All this is being required to meet standards for which scientific and technical justification is astonishingly thin.

There's no question the standards should be high enough to insure that the air Americans breathe has no serious impact on their health. It's also desirable that the air around us be as esthetically pleasing as is practically possible. But it is not just as obvious that we, as a nation, want to guarantee that there be absolutely no marginal consequences from emissions from autos or from stationary sources.

This, though, is what the Environmental Protection Agency sought to do in setting the national ambient air standards. As it reads its congressional mandate, EPA believes it must insure that the sickest man in Chicago can be able to stand on the busiest corner of his city on the smokiest day of the year and experience no unpleasantness from the air he breathes. And because that street corner is the worst spot in the nation, the standard to bring it to "ambience" must apply everywhere in the United States. This means that all the autos in the nation have to be equipped with pollution-control devices sufficient to bring the worst street corner in the nation to that ambient level.

In other words, the EPA has strung together a series of worst-case scenarios, added in safety factors at each point, multiplied the factors together, and has come out with numbers that may not have been attained in parts of the Garden of Eden. We would expect the same result if Congress gave the Pentagon an order to insure against nuclear attack and a blank check to pay for the program; we would have missiles in every back yard and a bomb shelter in every basement. The only difference we can see is that Pentagon costs are borne directly by the taxpayer; the EPA edicts are borne indirectly by the consumer.

The resolution for review by the National Academy of Sciences is co-sponsored by Senator Muskie, who authored the 1970 Act. Chairman Jennings Randolph of the Senate Public Works Committee has been aggressive in moving it along. Congress has recognized that the standards are of huge economic and political importance, and should not be set in a manner that totally ignores costs or public preferences. It has begun to realize it cannot plunge ahead guided solely by technicians as single-minded as the EPA staff has been.

There have been perceptible signs that EPA has resisted the idea of a full-blown review by the National Academy; it understandably senses a diminution of its own power. Yet an independent analysis is clearly a prerequisite to the public's acceptance of the environmental clean-up costs it will be asked to bear. If the Academy's review concludes that current requirements really are essential to healthy air, we will at least have some confidence the huge costs will not be wasted.

If, as we think far more likely, the Academy's preliminary study concludes that the EPA and the 1970 Act went overboard, there is yet time to avoid the blunder that threatens to cost the nation dearly and undermine support for environmental improvement. There is yet time, though not much, for Congress to make a mid-point correction in the course we're on toward cleaner air.

THE FOOD INFLATION

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. VANIK. Mr. Speaker, yesterday, America's foremost architect of food inflation—Secretary Earl Butz—predicted that higher retail prices would "in effect" ration chicken, pork, and other foods. The Secretary completely overlooks the market disruption and general price escalation which followed the Soviet wheat transaction.

In the indisputable chronology of events, domestic food price inflation began with the Soviet wheat deal and the devaluation of the American dollar which reduced the price of American food to foreigners.

The American farmer cannot expect that the present foreign sales advantage resulting from devaluation will be a permanent and lasting circumstance. Currencies will adjust and the dollar will again stabilize. The devaluation advantage in agricultural exports is a temporary thing and must be expected to vanish.

At the same time, the American farmer cannot expect that foreign purchases for hard money will indefinitely continue. The world need for food is beyond dispute. However, the foreign capacity to purchase at world market prices will subside unless there is a permanent infusion of taxpayer-supported subsidies, loans, credits or gifts.

American agriculture must realize that its current flush of foreign sales is developing a permanent breach with the American domestic market. The American consumer is becoming angry and thoroughly disillusioned with intolerable prices for food which leads to individual family decisions to accept voluntary rationing—to eat less—because of high prices.

This price rationing policy will develop a permanent and lasting schism between the farmer and the American consumer. The consumer will retaliate by eliminating all farm subsidies, all farm supports, and all taxpayer-supported credits and loans for foreign sales. The consumer indignation will multiply with price escalation and the traditional mutual support relationship between farmer and consumer will disappear.

There is a depreciating validity to the argument that foreign agricultural sales will provide a permanent and lasting method of aiding the balance of payments. In the past year, foreign agricultural sales have risen to $11 billion. However, these same foreign agricultural sales have contributed to domestic market disruptions which have cost the American consumer over $20 billion in increased domestic prices. The balance-of-payments advantage was completely "washed out" by domestic price escalation which will in turn have to be added to the cost of all American production. Food price inflation results in wage inflation which will raise the price of American manufactured products in the world market, thereby decreasing exports and aggravating the balance of payments.

The administration policies of voluntary food rationing by high prices must result in a taxpayer-consumer insistence for the rationing of agricultural subsidies, loans, credits, and the gifts which were employed over the past 40 years to stabilize agriculture and farm income. It is incredibly stupid to provide taxpayer subsidized credits for export sales which boost the prices we must pay at home.

TEAMSTERS PENSION FUND AND ORGANIZED CRIME

HON. SAM STEIGER

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. STEIGER of Arizona. Mr. Speaker, I would like to call your attention to an article which appeared in the September 1972 issue of the magazine Overdrive. The article is entitled "Teamsters Meeting Endorsing Nixon Is Front for Pension Fund Schemes" and is authored by Jim Drinkhall.

The article follows:

Justice Department's Organized Crime Strike Force Begins Massive Investigation Into Nevada Pension Fund Loans

(By Jim Drinkhall)

MEETING OF TEAMSTERS AND OTHER CRIMINALS

Overdrive's investigation has revealed that over 60 top members of the Teamsters Union, organized crime figures and other twilight operators had gathered for the purpose of discussing various schemes involving the Central States Pension Fund. Included in this assorted grab-bag of characters were embezzlers, bribers, kickback artists, ex-convicts, and other felons. The IBT's endorsement of the President was decided prior to the La Costa meeting; in fact, it was made when Nixon agreed to spring Hoffa from the jug. The only member of the Executive Board who didn't agree to the action of the rest was Harold Gibbons, who would have been dumped from the Teamsters hierarchy long ago except for his involvement with many of these men in various shadowy deals.

When not conspiring among themselves, they spent their time on the golf course and at other activities, including numerous trips to Las Vegas. The Teamsters jet aircraft parked at nearby Palomar Airport went to Vegas so often that their flights were referred to as the "Teamsters' Las Vegas Commuter Airlines." On one day, a Teamsters jet was observed landing, but no passengers got out after it parked. The reason for this was that the plane had been only sent in to deliver Frank Fitzsimmons' golf clubs!

THE POPULARITY OF PALOMAR AIRPORT

La Costa Country Club, financed by over $50 *million* from the Pension Fund, was originally developed by associates of organized crime figures. Although it is easily accessible by commercial airlines because of nearby Lindbergh Field in San Diego, many persons (like Allen Dorfman, Detroit Mafia figure Tony Giacalone and other criminals) prefer to come into Palomar Airport via private plane. The reason is simple: the airport is not under the control of the Federal Aviation Administration. Therefore, the strict logging of the aircraft which land and depart is not required. Palomar air traffic controllers usually log in an aircraft's identification number when it first makes radio contact with the tower. However, if the plane lands or takes off without making radio contact with the tower, there is no record that it was ever at the airport. In addition, if the controllers are busy handling a number of planes, they do not even log in all the planes which do call in. This was observed a number of times with Teamsters aircraft; particularly on flights to Las Vegas.

Two planes (both jets) which brought in Teamsters officials and their henchmen are worth noting. One is a DH 125 Hawker-Siddeley, registered to the Union Insurance Agency, 8550 West Bryn Mawr, Chicago. Union Insurance is controlled by Allen Dorfman, and it handles hundreds of millions of dollars of Teamsters business. It is also worth pointing out that the Central States Pension Fund is located at the same address as Union Insurance.

DORFMAN, SINATRA AND THE FUND

The other plane is a 12-seat (plus bar and bed) Grumman Gulfstream. It is registered to the Trustees of the Central State Pension Fund, 8550 West Bryn Mawr, Chicago. Overdrive has discovered, though, that the Fund does not own the plane. It has been leased from Union Insurance Agency since May of this year. Union, it has been learned, bought the plane for $3 million from Frank Sinatra (The reason Union paid $3 million for a used plane when a new one costs the same amount is a question which has not been answered). When not on secret Teamsters "business," the plane is based at Pal-Waukee Airport in Wheeling, Illinois, a Chicago suburb.

Since this plane is registered to the Fund, one might suppose that it is used for Pension Fund business. But if so, then why would it have come into Palomar Airport from out of state at least 25 times between the beginning of this year and August 12? One such trip just happened to coincide with the "Tournament of Champions" at La Costa in April. Golf games have not been known to be too important for the welfare of the members, though the exercise might help Fitzsimmons lose some fat.

While the Teamsters Executive Board was meeting with Nixon at the Western White House in San Clemente, another type of meeting was being held back at nearby La Costa.

MEETINGS AT LA COSTA

There, on the grounds of the country club, Dorfman, Al Baron and Irvin Kahn were engaging in a two-hour whispered meeting. The sight of three grown men huddled together in broad daylight and whispering to each other would be comical if it were not for their backgrounds and the subjects under consideration.

THE NEW "SPECIAL CONSULTANT"

Al Baron is a relatively new name with the Fund, primarily because he has been in the background of its activities. In 1971, Baron pulled down close to $100,000 in fees from the Fund, although it is not certain just what his function is. It is known, though, that he is close to Dorfman, and is considered extremely reliable. Perhaps it is for these reasons that Baron has recently been appointed as "special consultant" to the Fund. Baron is officially replacing Dorfman in this capacity. It is believed that this public replacement occurred because of Dorfman's recent kickback and fraud convictions, and is merely window-dressing. Overdrive's monitoring of Dorfman's activities of late shows clearly that Dorfman is still the key man with regard to Fund loans.

Some of their talk centered around the financial situation of Kahn. For a number of years, Kahn, together with Morris Shenker, the financial genius and lawyer for organized crime figures, has borrowed well over $100 million from the Pension Fund for various ventures.

Later on, the meeting broke up, and the trio went to the country club. There, Dorfman had some talks with Fund trustees Al Matheson and Don Peters, Kahn, meanwhile, had a "meeting" to attend.

MORE MONEY FOR KAHN AND SHENKER

Kahn met Shenker, and the two went to the Seville Room of the country club. Gathered there were various Fund trustees. Much of the discussion at this meeting concerned the $150 million which Kahn and Shenker had borrowed for a land development project called Penasquitos, and which is located almost right next to La Costa. At present, the delinquency of these series of loans is serious, even considering the lax, haphazard rules of the Fund. Kahn and Shenker, it seems, want even more money pumped into this project. Also discussed was another Kahn-Shenker scheme: the purchase of the Dunes Hotel in Las Vegas with money from the Fund.

Although the purchase of the Dunes seems probable, it may well be that this additional Fund loan in Nevada will encounter more problems than the Fund trustees realize. As reported last month, a number of Dunes executives are under federal indictment for skimming profits out of the gambling proceeds prior to their being counted for income tax purposes. But in addition to that, Overdrive has learned that one or more Dunes executives has gotten "careless," and as a result, the IRS is expected to move in with criminal prosecutions.

JUSTICE DEPARTMENT INVESTIGATION

But that is minor compared to what is coming up shortly. Overdrive has discovered that the Justice Department's Organized Crime Strike Force has begun a massive investigation into Pension Fund loans in Nevada to determine whether enough evidence can be obtained to prove that kickbacks were made to obtain the loans. Of special interest to the investigators, according to information already obtained through a probe conducted by Overdrive, are the "curious circumstances" involving the money that has gone into Circus Circus. Dorfman has jetted into Las Vegas more than once to keep the hotel-casino afloat in the face of IRS action. His last visit there was the weekend after the La Costa meeting, when he appeared for the opening of the hotel.

Of interest to a number of people was the attendance at the La Costa gathering of James R. Hoffa's son, who is also employed in more than one capacity with the Union, and has been tied into business deals with Dorfman.

VALLEY STEEL AND THE FUND

Being related to Hoffa provides no small benefits. Hoffa's daughter, for example, is married to Robert Crancer, the son of the owner of Valley Steel Products Company in St. Louis. Between 1963 and 1967, Valley borrowed over $12 million from the Pension Fund. A recent check of Fund records indicates that they still owe the Fund almost $7 million.

You can understand more about Valley Steel from an incident which took place in 1966. Toward the end of the year, Local 21 negotiated a contract for Valley's 103 owner-operators. It contained practically no increase in benefits for the operators, so they turned it down, 103 to 0, then voted 98 to 5 for a strike, on November 11. The same proposal was submitted again, and on December 1, it too was turned down, 76 to 18. According to truckers who were there at the time, orders came directly from Hoffa that under no circumstances were the owner-operators to go out on strike. They were told to ratify the agreement, or else. Through a combination of "pressures" from the company and Local 21, the truckers gave in and accepted the agreement.

NIXON ENDORSEMENT

While various criminals connected with the Fund were conducting business as usual, the public was being shown only the side which appeared respectable. Nixon was officially endorsed by the International, but for the dubious value of that, the price he paid seems exorbitant, not to mention the fact that it indicates the depths of Nixon's greed and corruption.

HOW NIXON SOLD OUT

Since Fitzsimmons and the gang agreed to support the President, these incidents have occurred:

Hoffa was given a presidential pardon. The terms of his release are sufficiently vague to cause some concern among Justice Department officials. There is a real question about who will have authority over him after next March and if, in fact, anyone will. Hoffa has indicated to several people that he is planning to get right back in control of the Union.

The Justice Department has stated that it will not prosecute one of Frank Fitzsimmons' sons, Richard, for misuse of funds. Information given by the Labor Department to the Justice Department indicated that Richard, the recording secretary for Local 299 in Detroit, had allowed his wife and two daughters to charge more than $1,500 worth of gasoline on Union credit cards. Richard himself was said to have charged clothes for himself the same way. A spokesman for the Justice Department, however, said that "what the Labor Department gave us was a bunch of assumptions, and you can't take assumptions to court." He further stated that no one in the higher echelons of the Justice Department ever knew of the case, and that the decision not to prosecute wasn't made by political appointees but by career lawyers within the Department. One Justice Department official who is noted for his honesty and accuracy has told Overdrive the same thing. He also added that he believed that if there had been a case against the younger Fitzsimmons, and that if it had come to the attention of higher officials, it most likely would have been dropped.

A Nixon-sponsored bill which would have prevented major strikes in the transportation industry was suddenly disowned by Nixon, giving its chance of passage the kiss of death. There is little doubt among those familiar with the situation that Nixon's support was withdrawn solely because the Teamsters were against it.

NEWSPAPERS AND FUND LOANS

Adding strength to the phony image of respectability which the Teamsters are desperately attempting to foster are newspapers like the *Las Vegas* in Las Vegas, and the *Manchester Union Leader* in Manchester, New Hampshire. Both papers recently reprinted a three-part series of an interview with Hoffa and his views on prison reform which ran in the *Detroit News*. The picture Hoffa paints of himself in the interview is that of Jimmy the Reformer, Protector of the Downtrodden and One Concerned for Justice for All.

While the *Detroit News* gives a generally balanced coverage of "Who Is Stealing How Much In The Teamsters Union," the same can't be said for the *Sun* or the *Union Leader*.

As detailed last month, the publisher of the *Las Vegas Sun*, Hank Greenspun, obtained (and later repaid) a $500,000 loan from the Fund, although he had trouble keeping up the payments.

Prior to the *Union Leader's* running the Hoffa series, an interesting sequence of events occurred. One was the reward offered several years ago by William Loeb, the publisher. He offered $100,000 reward for evidence which would lead to Hoffa's release from prison. A concern for justice, one is led to believe; but Overdrive has uncovered information which shows that Loeb was either paying tribute to the Teamsters for services rendered, or was merely acting as a puppet.

William Loeb, Overdrive has learned, borrowed over $2 million from the Central States Pension Fund ($2,082,656, to be exact). These loans were made back in 1963 and 1965. Yet just recently, Overdrive has obtained documents showing that Loeb still owes the Fund $1,500,000. Some people might say that Loeb's actions paint an interesting picture of his dedication to fairness and the truth.

The officials of the Teamsters Union, and especially those men who manipulate the Central State Pension Fund, will always strive to give the appearance of honesty, integrity and respectability. But behind that thin veil, one will always discover the sickening stench of corruption. Attempting to give respectability to these men is like putting perfume on a pig.

MEMORIAL TO THE LATE JAMES V. SMITH

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. JONES of Tennessee. Mr. Speaker, it was with great sadness that I heard the news of the untimely death of my good friend, the Honorable James V. Smith.

As a Member of this body from Oklahoma and later as the Administrator of the Farmers Home Administration, Jim served his country with distinction and honor. I knew him personally for many years and always had a deep respect and admiration for him.

A short time before I first came to Congress, Jim took over the position of Administrator at the Farmers Home Administration, and there is no question that his service in that capacity proved to be of great benefit to the people of the district I represent. FHA funding doubled under his leadership and these additional funds worked to the advantage of rural Americans.

Jim Smith was devoted to young people, and he worked tirelessly to help young people interested in farming The Future Farmers of America was one of his favorite organizations, and he gave a great deal of time and effort to its programs called "Building Our American Communities" which has as its goal the rebuilding of a vigorous rural America.

Mr. Speaker, I extend my deepest sympathy to his family and loved ones, for this is certainly a trying time for them. The fateful accident which took the life of James V. Smith deprives us not only of a friend, but a truly great American.

WISCONSIN ATTORNEY GENERAL WARREN COMMENTS ON VOTER REGISTRATION

HON. GLENN R. DAVIS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. DAVIS of Wisconsin. Mr. Speaker, at a time when the Committee on House Administration has under consideration the so-called post card registration bill, it is worthwhile to consider the practical effects of this legislation. Attorney General Robert Warren of Wisconsin has expressed his reservation in an analytical manner, and I believe his comments warrant the consideration of the Members of the House:

COMMENTS BY WISCONSIN ATTORNEY GENERAL

As an elected official, I readily agree with the basic tenets of the proposed S. 352, the Voter Registration Act—that is, the need to extend the voting franchise to all eligible Americans and, thereby, to seek to ensure the fullest possible participation in the election process.

The maintenance of a representative and responsive government at all levels demands that we make every effort to encourage citizen participation in the affairs of government.

Studies exist which suggest that in some instances in the past difficulties imposed by registration laws have, in fact, precluded participation in the election decision making process for certain segments of the population. To the extent that this has occurred, we must seek to effect change.

However, with respect to the practical ramifications of S. 352, I have certain reservations.

The bill changes the function of voter registration from a responsibility traditionally left to the states to a federal one. In the process, it establishes a new and costly federal bureaucracy to administer provisions of the bill. This comes at a time when there is a general demand for decentralization of government and the return of power to the states. This also comes at a time when government spending demands the closest scrutiny.

Furthermore, there is little in the way of convincing evidence to justify the conclusion that passage of this particular bill would, in fact, achieve its purported objective, which is an increase in voter participation.

For example, in states where no preregistration is required or where voting coupons have been used in the past, voter participation percentages for federal elections do not differ significantly from those of other states.

A Census Bureau survey conducted after the 1968 election to determine the extent of voter participation and the reasons for nonparticipation concluded that more than half of those not registered did not register because they were not interested, never got around to registering, or disliked politics. Of the remainder, only 13.5 percent listed as reason for their lack of participation a cause which might in some way have been altered by mail registration.

Since the postcard registration bill does not make the use of postcards mandatory for state and local elections, the bill could lead to the need to maintain dual registration lists at the local level. One list would have to be maintained for postcard registered individuals eligible to vote only in federal elections and the other for those who registered in person and were, therefore, eligible for all elections. Localities would be forced to provide two sets of ballots or voting machines on election day.

Furthermore, the bill raises the likelihood of numerous postcard registrants facing frustration on election day upon discovery that they were ineligible to vote in any but a federal election. The possibility for confusion would seem to be especially likely in cases of voters seeking to record a change of address who might be tempted to use the postcard as a convenient means of reregistering.

However, since postcard registration applied only to federal elections, postcard use would, in effect, disenfranchise the voter from all state and local elections.

Placing the Voter Registration Administration in the Bureau of the Census might ultimately undermine and compromise the reputation of any agency which has, in the past, enjoyed widespread public confidence. Politicizing the Census Bureau would increase the likelihood that yet another public agency would be subjected to the public skepticism and mistrust directed toward many aspects of government today.

Finally, the creation of the Voter Registration Administration with its potential to maintain a national voter registration list also raises the ugly possibility of a national administration using such a list for personal political advantage.

At a time when Americans earnestly seek new safeguards to prevent corrupt campaign practices, it would seem most unwise to provide such obvious potential for political abuse at the highest levels of government.

CAPTIVE NATIONS AFFIRM RESOLVE

HON. WILLIAM F. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. WALSH. Mr. Speaker, less than 2 weeks ago, 1,000 persons gathered in MacArthur Park in Los Angeles, Calif., to adopt a resolution and affirm their resolve to rid the countries of Eastern Europe of the yoke of communism. I think that resolution, adopted by a group of Hungarian Freedom Fighters on July 14, is worthy of the attention of my colleagues:

Whereas, Captive Nations Week was established 14 years ago by Public Law 86-90 of the United States Congress, and

Whereas, at this year's 15th observance little has changed since last year, except for Russian attempts to finally abolish all resistance to Soviet terror, not only in the satellite colonies and the Soviet Union but also abroad, and

Whereas, on June 18th, 1973, an open letter to visiting Party Chief Leonid I. Brezhnev was published in our capital by American organizations speaking for Americans of Czech, Slovak, Hungarian, and Polish descent, and

Whereas, stating the negation in East-Central Europe of almost all principles and rights contained in the Declaration of Human Rights, that letter called for removal of all Soviet troops and secret police from the Soviet-exploited countries; an end to their economic exploitation; and assurance of the right to emigrate to those Soviet citizens, residents, and political prisoners who desire to leave the Soviet Union, and

Whereas, said letter called on L. I. Brezhnev for the return of those oppressed countries to freedom from Soviet military and ideological domination, in liberty and justice;

Now, therefore, we, Americans for Freedom of Captive Nations, assembled in the Freedom Rally at the Hungarian Freedom Fighters' Monument, MacArthur Park, Los Angeles, California this fourteenth day of July, 1973,

Resolve, to join those just demands of the Baltic States, Cuba, and all formerly free nations of Europe and Asia, which have been enslaved by the Communist World Conspiracy, led by the Kremlin Mob.

We further call on all Americans who uphold the Bill of Rights, to never recognize the Soviet domination of the Baltic States, Cuba, East-Central Europe, Balkan, and Asian Countries.

We call on all Americans to never condone in words or even thoughts any summit meeting, treaty declaration, or tacit understanding which promotes or acknowledges the subjugation of our sisters and brothers.

We call on all Americans to promote universal refusal of the cruel pollution of human minds and of the brutal denial of personal and national human rights, as exemplified by the imperio-colonialist policies of Soviet Russia.

We call on all Americans to stand for an unbreakable peace through the cooperation of *free* states with equal rights. Such states may develop their own cultural and self-realizing lives to the benefit of all mankind, in contrast to their present oppression by an inhuman, genocidal, and ethnocidal Soviet system.

SLOWDOWN ON RESEARCH

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. BRADEMAS. Mr. Speaker, I insert in the RECORD the following article, "Slowdown on Research," published in the July 2, 1973, Time magazine:

SLOWDOWN ON RESEARCH

Dr. Arthur Kornberg, Nobel laureate and Stanford University professor of biochemistry, who made that gloomy statement in March before the House Subcommittee on Public Health and Environment, was not exaggerating. In its proposed budget for the fiscal year beginning July 1, the Nixon Administration has drastically cut federal support for research projects, medical schools and hospitals. As a result, many doctors and scientists fear that American medical research—long pre-eminent in the world—could be severely hobbled and perhaps set back by as much as a decade.

If the budget proposals are approved, the ax will fall on a wide range of medical institutions and programs. Two years ago, for example, the National Institute of General Medical Sciences, which supports a variety of projects in the field of genetics, had a budget of $28.3 million for new research grants; next year it will get $5,000,000. General research support grants, administered by the National Institutes of Health's Division of Reserve Resources, have been cut from $55.2 million to $17 million. Research fellowships and training grants, essential to the training of medical researchers and instructors, are being phased out completely. Although funds for training totaled $185.5 million in fiscal 1972, the Administration is asking for only $125.9 million next year, all of it to honor commitments already made. Once those now receiving fellowships complete their courses, the program will end.

On the face of it, the funds for basic research seem to have held their own in the Administration's new budget. In 1972 this "investigator-initiated" research got $564.3 million; next year the amount proposed will actually increase slightly to $582.8 million. But many doctors feel that the figures mask an alarming change in direction that will have a long-range effect. The Administration is actually budgeting $460.6 million for continued funding of research already under way; the $122.2 million that is left for new research projects is $85 million less than in 1972. As a result of that reduction, the National Cancer Institute's allocation for new research is being chopped from $32 million to $24 million.

The alarm has also been sounded at the nation's medical schools, which count on the Government for almost 50% of their operating budgets; in the new budget, they will get 15% less money next fiscal year than this, and 25% less than they had hoped for. The University of Washington's medical school, for one, stands to lose at least $7,000,000 in federal grants. As a result, it is cutting back on its training of nurses and pharmacists, and may lose 100 faculty members. The University of Pennsylvania School of Medicine plans to increase tuition by 6%, even though more than half of its student body now needs financial assistance to get through school. A study by the Association of American Medical Colleges predicts that U.S. medical schools may have to discharge as many as 1,400 faculty members unless additional funds become available.

Cuts in research funds will also have a direct effect on patient care in many communities. The University of Michigan, which will lose $700,000 in general research grants, is terminating a research project that has provided drug treatment for patients with cancer of the colon. When the reductions are fully effective, Children's Hospital Medical Center in Boston will lose half of its trainees in pediatric cardiology; they are primarily supported by the National Heart and Lung Institute. "We can't accept fewer patients," says the program's director Dr. Alexander Nadas, "so the quality of care must be affected."

Nadas is even more concerned about the long-range effect of the budget. "The funding cuts will make a major impact on teaching, on care and on research," he says. "It will be years before we can recoup. Once they turn the faucet off, you cannot easily turn it on again, because there will be nothing to come out."

COST EFFECTIVENESS

Despite the obvious blow to medical research and care, the Administration has been stoutly defending its budget slashes. Says Dr. John Zapp, Deputy Assistant Secretary of Health, Education, and Welfare: "We are convinced that direct support of the training of biomedical scientists for careers in research is at this time an unnecessary and unproductive expenditure of public funds." As the Administration sees it, the need for large numbers of research scientists has passed, and training too many more could lead to an oversupply. The Administration also believes that scarce federal funds should be used to apply knowledge that is already in hand, and that those who seek careers in research should pay for their own training.

Doctors and medical researchers are generally cynical about the cutbacks. Some see them as a form of revenge by President Nixon on a scientific community that has largely opposed him politically. A handful attribute the new budget to simple shortsightedness. "Those guys in the White House must think they're never going to get sick," says a Manhattan virologist. But most medical men blame the slashes on the cost-accounting mentality that now seems to prevail at HEW. Says Dr. James Watson, who won the Nobel Prize for deciphering the structure of the DNA molecule: "The thought that 'directed' and 'planned' research should get us there faster apparently seems more and more obvious to the legal accountant bosses of HEW, schooled in the virtues of corporate planning sessions that have produced unassessable successes like the Band-Aid and the Mustang."

In anticipation of the cutbacks, some medical schools are appealing to state legislatures for funds—thus far without notable success. Others are seeking private support for research. Dr. Robert Felix, dean of the St. Louis University School of Medicine, has devoted himself to hustling funds full time since his school lost about $1,000,000 of its $11 million budget. "Now I know how a prostitute *feels*," he says. "But there's no way around it."

There still may be hope for Felix and his fellow deans. Congress has already passed an omnibus health bill restoring five programs—including hospital construction, regional medical program, and public health and allied health training—that the Administration had tried to kill. Moreover, the measure passed by such an overwhelming margin (372 to 1 in the House; 72 to 19 in the Senate) that President Nixon last week quietly signed it into law. Now Congress is trying to salvage other health measures. The House, under the leadership of Representative Paul Rogers of Florida, has passed a $415 million training and fellowship bill that is also expected to win Senate approval. The House Appropriations Committee is attempting to restore all NIH items to or above the 1972 funding level and reestablish the old ratio between new and ongoing research grants. If Congress succeeds in saving these programs, it can still prevent both the lights in the laboratories and the luster of American medicine from being dimmed.

THE ABUSE AND MISUSE OF THE EDUCATION TAX DOLLAR

HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. HUBER. Mr. Speaker, the Council for Basic Education is an excellent organization which must be admired for its dedication to quality education. For many years, the council has given top priority to the importance of teaching children the basic skills of reading and arithmetic.

The council's monthly Bulletin keeps its readers abreast of the latest trends in education. Unfortunately, the Bulletin is often forced to report on a sad state of affairs in education. A recent Bulletin article reports on the nature of title III projects of the Elementary and Secondary Education Act, which are currently operating in Massachusetts.

To quote from the article:

> In 1972, there were 46 projects under Title III in Massachusetts . . . Most of them deal with those vague and unfocused areas in which so many educational reformers nowadays like to operate; career development, "communication", humanities, human relations, open education, affective education in areas, that is, where subject matter and definite bodies of knowledge play a small part.

I fear that this trend away from intellectual areas toward those which concern our emotions may be reflected in future low achievement among our youth. Given the sinking test scores in cities all across the country, it is with grave misgivings that I view the programs offered under title III of the Elementary and Secondary Education Act as listed in the accompanying article.

It is out of a concern for what may happen to our youth in such programs in the schools that I commend to my colleagues the reading of this excellent article from the Bulletin:

WHERE SOME OF THE MONEY GOES

In honor of spring we were determined to lead off this month with a positive and constructive article that would show the promise of better things to come in education. Unfortunately for that resolve we have been reading the Winter 1973 issue of *Kaleidoscope*, published by the Massachusetts Department of Education. After seeing how the taxpayers' money is being spent for education, as reported in this publication, we feel the urge—indeed, the necessity—to forego sweetness and light this month and do some pointing-with-alarm.

This publication describes how Massachusetts spent some $4,800,000 in 1972 (part of it Federal, part local money) for Title III projects under the Elementary and Secondary Education Act authorized by Congress. You will recall that Title III makes federal grants to the states for innovative and experimental projects in the schools or for what the U.S. Office of Education calls "the demonstration of creative solutions to a diversity of educational problems.'

In 1972 there were 46 projects under Title III in Massachusetts. Some of these projects are undoubtedly useful, especially those having to do with reading instruction, education for the gifted and the retarded, bilingual education, and experiments with the year-round school. But the majority do not strike us as being demonstrations of "creative solutions." Most of them deal with those vague and unfocused areas in which so many educational reformers nowadays like to operate: career development, "communication," humanities, human relations, open education, affective education—in areas, that is, where subject matter and definite bodies of knowledge play a small part. We give below thumbnail sketches of some of these hazy projects as well as what they cost in 1972 in both federal and local funds.

At Danvers there is a project known as *Self-Direction Through Group Dynamics*, which includes a little of everything—"new minicourses in group dynamics," "a combined physical education-group dynamics approach," "humanities education," "teaching awareness and coping with social learning," "training in outdoor tasks and group discussion skills." Cost: $75,000 in Federal funds and $30,000 in local funds.

Operating from headquarters in Amherst there is an *Occupational Resource Center*, which "seeks to promote creativity in career education." Paraprofessionals are trained whose main job seems to be to hand out "occupational career kits" in 22 centers around the state. The price tag: $69,431 Federal and $172,225 local.

At Medford there is a project called *Arts for Intergroup Relations Education* (*AFIRE*), serving 11 districts. The K-8 curriculum combines "intergroup-interpersonal relations and the visual and performing arts . . . [and] deals with five issues of concern with respect to children: prejudices, groups, emotions, conflict, and people change." Cost: $79,019 Federal, $33,000 local.

In Billerica, *An Experience with the New Humanities* (for 400 seventh-graders) employs "student/teacher rap sessions" and utilizes "the viewpoint of students within the urgency of what's happening now." It is entirely unclear as to what's happening now as far as any academic program is concerned, but we are told that in meeting the "problem-projects chosen by the students, resource needs included materials from English, social studies, music and art." The project, we learn, "has replaced geography in the school curriculum." $29,100 Federal and $62.500 local for this one.

Then there is the *Network of Innovative Schools*, to which almost 100 public and private schools belong. One of its main functions seems to be to hold workshops on such topics as the civil rights of teachers, open education, exploring the creative potential of teachers, designing "social psychological curriculum," implementing and managing change in schools, identification of goals, development of Learning Activity Packages for individualizing instruction, etc., etc. This cost $53.000 Federal funds in 1972 (more expected for '73), plus $50-$200 for each affiliated school.

The Regional Early Childhood Education and Resource Center, serving four towns, provides training to teachers which "will enable them to implement child-centered, activity-oriented programs for their classes." Unlike most of the descriptions in the booklet, this one includes an outside evaluation and is frank enough to say that there is no significant difference in the cognitive achievement of the experimental open classrooms set up by the Center and traditional classrooms, although there is a difference in the affective areas, where "definite patterns [unnamed] have emerged." This one costs $80,176 of Federal money, $42,874 local.

Among the projects are several that are nothing more than our old friend the Field Trip, disguised and prettied up but costing a good deal more than field trips of yesteryear when the principal expense was apt to be the cost of hiring the bus to get the kids there. In Quincy there is *Project LINC* (*Learning in the Community*), which gives students "on-site experiences" in law offices, city departments, banks, and businesses. Cost: $51,184 and $4.200.

In Springfield *ECOS* (*Environmental Center for Our Schools*) provides an "interdisciplinary environmental study program," in the city park, for fourth, fifth, and sixth graders. They take "discovery hikes," "learn climbing skills," get involved in "a group exercise in survival," and have the benefit of that great learning experience, the picnic lunch. All this for $97,365 and $43,065.

In Sturbridge there is a *Three Dimensional Project*, which arranges for students in ten towns to visit the well-known Sturbridge Village, a reconstructed farming community of the early 1800's. In the bad old days a teacher would probably take her charges there and use her mother wit to answer questions and point out interesting aspects and lessons of the village. Now teachers are "trained" in workshops how to plan "a social science unit using the community." $69,000 and $20,000 buy this particular field trip.

Leaving field trips, we find that at Montague there is a *Curriculum of Affect for Responsive Education* (*CARE*, naturally) which teaches "humanistic education" to children in grades K–6. These five- to eleven-year-olds are encouraged to soul-searching by asking such questions as Who am I? Do I count? To whom do I belong? How do I relate? Am I in charge of my own destiny or is all this being decided for me? (Yes, kiddies, it *is* being decided for you.) As costs go among these projects, this probing of youthful psyches comes fairly cheap, $43,040 and $8,359.

The most sweeping objectives among those innovative programs is that describing *Project Adventure*, operating in the Hamilton district: it "seeks to transmit a sense that life should be entered into fully, actively and compassionately." This involves a community-based outdoor equipment center, outdoor adventure trips, a recycling program, multi-disciplinary courses "which are unified by the commitment to accomplish a major task," and (inevitably) a series of workshops for teachers. Cost of this Life-More-Abundant project $86,800 and $37,000.

One is not only depressed by the nature and cost of the projects but by the quality of the prose in which they are described. Surely the authors of these descriptions, writing in a combination of educanto, governmentese, and the terminology of psychology or psuedo-psychology, could be had up on charges of corrupting the language. Jargon-words and phrases abound; feedback, orientation, group dynamics, rap session, intergroup relations, communication skills. Teachers become resource persons, change-agents, cadre members, facilitators. Those who give children a list of items to look for in nature class are called scavenger consultants. Kindergarten materials become manipulatives. The people in these projects never visit schools; like celestial beings, they make visitations. A task is never accomplished or carried out, it is always implemented; nothing is ever examined or searched for, but explored. Things of which there are many are always expressed in the combining multiform: multi-level, multi-media, multi-ethnic. The degradation of the prose reaches its nadir when we are told that the task of one team of teachers is to "define and prioritize possible areas for improvement."

Massachusetts, as we pointed out in the beginning of this article, spent close to $5,000,000 in Federal and local funds in 1972 for programs of this nature. Nationally, $143.4 million (in 1971) was budgeted for Title III programs. Are the Massachusetts projects typical of projects in other states? If so, the taxpayer has the right to ask if such programs are essential and to wonder if there are not more productive ways to spend the educational dollar.

American schools, as CBE has been saying for the past seventeen years, are in need of change, experimentation, and innovation if they are to perform successfully the task assigned them by society. Primarily that task is still seen by most people to be that of making young people proficient in word, number, and scientific and historical knowledge. Too many of today's innovations are a retreat from the hard business of teaching and learning. If this kind of innovation persists the schools are going to get some strong, multi-level feedback from those old change-agents, the taxpayers.

ANNOUNCEMENT OF HEARINGS ON H.R. 187, TREATMENT AND REHABILITATION OF NARCOTICS ADDICTS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. EDWARDS of California. Mr. Speaker, I would like to announce that the Subcommittee on Civil Rights and Constitutional Rights of the House Committee on the Judiciary will hold hearings on H.R. 187, to amend title 18 of the United States Code to enable the Federal criminal justice system to deal more effectively with the problem of narcotic addiction, to amend the Omnibus Crime Control and Safe Streets Act of 1968 to enable the State and municipalities to deal more effectively with that problem, and for other related purposes.

The hearings will begin on Monday, July 30, 1973, at 10 a.m., 2237 Rayburn House Office Building. The subcommittee will hear testimony from Dr. Robert DuPont, Director, Special Action Office for Drug Abuse Prevention, and Mr. Andrew Schaffer, assistant U.S. Attorney, Southern District of New York.

Those wishing to testify or to submit statements for the record should address their requests to the Committee on the Judiciary, U.S. House of Representatives, Washington, D.C. 20515.

NASA ADAPTS FORMULAS TO LIFE

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. TEAGUE of Texas. Mr. Speaker, each day the high technology programs of NASA are offering opportunities to help answer problems of pollution waste, management, transportation, housing, and other issues of immediate importance to all of us.

Bob Thomas, Today staffwriter, offers in a recent article, an interesting analysis of the Office of Technology Utilization NASA and its contributions to making known to the public the contributions of space and its potential.

I commend the reading of this article to my colleagues and the general public:

NASA ADAPTS FORMULAS TO LIFE

(By Bob Thomas)

NASA did not (repeat NOT) invent Teflon.

True, it contributed to an advance in the state-of-the-art—that is created technology which didn't exist previously—but credit for the research and development of that magic of kitchenware belongs to the DuPont Corp.

No one is quite sure where the misconception about NASA and Teflon first arose, but the Technology Utilization Offices at Kennedy Space Center are extremely anxious to squelch the rumor.

"We have credits of our own without stealing from DuPont," says Lee DuGoff, KSC's assistant TUO officer.

And NASA's TUO department does have credits—about 700,000 to be exact. They run the gamut from 'A': Aberration liquid micrugy chamber and microsyringe designs allow more efficient micro-manipulations, to 'Z': Zirconium Oxide, granular two-phase insulation systems.

It is not necessary to understand every complicated aspect of technology to appreciate the result. Case in point: most persons enjoy the ease of shiftless driving, but relatively few can explain the principle of an automatic transmission.

And as DuGoff points out, it is not important to be conversant with subjects such as liquid micrurgy chambers and two-phase insulation to enjoy their contributions to the advancement of science.

History points out that a major factor in America's world leadership role has been a belief in the rewards of exploration and investments in science and technology—in areas of medicine, surgery, biology, transportation, electronics, physics, communications, manufacturing, education, chemistry, aerospace, ad infinitum.

DuGoff believes the public, generally, is too quick to associate the space program with astronomical dollar figures. "We hear of $295 million for the Skylab workshop and $2.6 billion for the entire project. We know of the investments but not of the rewards."

But he thinks that attitude might be changing because data returned from early space experiments is now beginning to show results.

"The reservoir of space-related knowledge now being tapped," DuGoff said, "is slowly but surely helping to solve the nation's—and the world's—most pressing problems.

"We are finding answers to the problems of health, air and water-pollution control, waste disposal, urban transportation, crime control, food supply, housing and education. And these problems must be corrected—fully corrected—if we are to perpetuate an organized and peaceful civilization."

Man, 1,000 years from now, may well wonder what sort of creature was his 20th Century ancestor to ever question the value of space exploitation, but then ponder this paragraph from a commission report:

"The committee judged the promises and offers of this mission to be impossible, vain and worthy of rejection: that it is not proper to favor an affair that rested on such weak foundations and which appeared uncertain and impossible to any educated person, however little learning he might have."

That excerpt came from the report of the Talavera Commission in Spain, 1491, considering a proposal made by someone called Christopher Columbus.

BOOM TIMES IN THE GULF

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. HOWARD. Mr. Speaker, the reliance of the United States on the Middle East has long been of common acceptance. Some of us have warned that the United States will eventually have to find other sources of oil—or other sources of energy, lest we become so totally reliant on the Middle East that we could compromise ourselves financially and politically.

Yesterday, in the Washington Post, Jim Hoagland, that newspaper's Middle East correspondent, wrote an in-depth article on a tour he recently took of the region's chief oil producing nations.

Mr. Hoagland, in his article, points out that the so-called "energy crisis," which has made headlines in almost every newspaper in the United States, is bringing new financial and military power to many of the poor lands throughout the Persian Gulf.

As chairman of the Subcommittee on Energy of the House Committee on Public Works, I am aware of the concern that my colleagues in the House and Senate have over the problem of energy. It is for this reason that I urge all Members to read this article because of its importance to all of us.

The article follows:

BOOM TIMES IN THE GULF

(By Jim Hoagland)

Hoagland, The Washington Post's Middle East correspondent, recently completed a reporting tour of the region's chief oil-producing countries.

BEIRUT.—In Saudi Arabia, rapidly growing into one of the world's financial powers an American construction firm is proposing to build a $5 billion industrial complex.

In equally wealthy Kuwait, the government reportedly is telling the Western-owned Kuwait Oil Co. that it wants 51 per cent of the company's ownership immediately instead of the 25 per cent the company had reluctantly agreed to yield six months ago.

In Iran, squadrons of F-4 Phantom fighter-bombers that the government has purchased with its growing oil revenues sweep off the runaway at Tehran Airport throughout the day. Across town, an Italian businessman sits in an office of the National Iranian Oil Co. and pleads unsuccessfully with the Iranians to sell him half a million barrels of oil on the spot, at any price they want to name.

In Abu Dhabt, a tank-like armored car rolls incongruously down the middle of the seafront Corniche, a grand boulevard built by the sheikh of Abu Dhabi to rival those of

Nice and Cannes. Abu Dhabi Town has perhaps 30,000 residents, half of them seminomadic herders.

The energy crisis is bringing new financial and military power to once desparately poor lands throughout the Persian Gulf. The decade that oil consumers in the West and Japan see as one of potentially crippling shortage is seen in the Arab world and Iran as a period of growing affluence, unparalleled opportunities and grave new problems.

"We do not think it is a crisis," says Hisham Nazir, who as president of Saudia Arabia's Planning Organization is one of the Arab world's key economic policy makers. "We lived through the times when we did not get the value for our oil we needed.

"We were pleading with the companies to increase production and with the United States to eliminate the [import] quota system, but nobody listened. Now the situation is reversed but the United States can live through a time of market problems."

BREAKING THE MONOPOLY

Persian gulf governments, once doormats of the multinational business world, are rapidly changing not only their own societies but also the structure of the international oil trade in ways that consumers in industrialized countries already feel but often do not understand.

They are forging new marketing patterns that eventually will allow them to determine where much of the Persian Gulf oil output will be sold. In cooperation with the Western companies, they are achieving record peacetime price levels that continue to jump every month.

The governments have done this by breaking into the ownership monopoly of Persian Gulf oil established early in this century by American, British, French and Dutch companies. Having dealt themselves into part ownership of the oil companies, the Arab states and Iran are proving to be as profit conscious as any Wall Street banker.

These changes and the predictions of a growing energy crunch for industrialized nations have arrived roughly at the same time. The exceedingly tight market for oil gives great leverage to the governments of the Persian Gulf the only area outside the Communist world capable of producing enough new oil to meet the rising global energy demands.

There have been more significant changes in oil operations in the Middle East in the past two years than there were in the previous two decades. And, despite the hopes of western companies at the start of this year that they had achieved two agreements that ensured a period of stability, new changes and uncertainty are clearly on the way.

The two agreements are:

The "participation" accord. Saudi Arabia, Kuwait, Abu Dhabi and Qatar were allowed by the companies to buy 25 per cent shares of the company operations inside their territories on Jan. 1. Government ownership gradually increases to 51 per cent in 1982 under the plan, often called "nationalization on the installment plan."

The "Tehran" pricing agreement. Signed in the Iranian capital in 1971, this accord established a fixed schedule of increases in the prices paid by the major oil companies to the oil-producing countries for crude petroleum. The agreement is supposed to last until 1975.

Confidence in both agreements is wilting under the pressures of the frantic scramble by consuming nations for any available oil at prices the producers can set on a take-it-or-leave-it-basis, pressures aggravated by the continuing dollar crisis.

"The participation agreement will be torn up within a year if not sooner," one oil company economist predicts gloomily, "and the prices of the Persian Gulf oil that was supposed to help us handle the energy crisis cheaply could well be double what they are today."

There are grounds for such pessimism. Top-level Saudi officials concede privately that they are in no hurry to draw up the implementing agreement that will spell out in detail how "participation" works. Company officials see this, and the evident failure of the Saudis to begin paying for the 25 per cent share they acquired Jan. 1 as warning signs of new demands. And Saudi officials say they too will insist on a new participation agreement if Kuwait's reported bid for an immediate 51 per cent share succeeds.

The "posted" price of a barrel of Saudi Arabian crude oil has jumped to $2.95, a 20 percent rise since the first of the year and more than the total increase during the 10 years between 1960 and 1970.

SUGAR IN THE CAKE

The rush of money into the oil producing countries of the Middle East generates new ambitions and hopes, some of them tough-minded and pragmatic, others wildly grandoise. The comon theme to long-range policy thinking out here is the necessity of using the oil revenue to build national economic structures that can stand on their own when all the oil is drained off or replaced by other sources of energy.

The most realistic governments "know that they only have 15 to 20 years to make their running," says a European diplomat. "They have to use the energy crisis to increase their chances."

Saudi Arabia and Iran are devising independent strategies of guaranteeing long-term supplies of oil only to multinational companies prepared to help them build up other industries with inputs of technology materials, access to marketing outlets in America, Europe and Japan, and joint venture capital.

"If you want a long-term contract from Saudi Arabia, we will want to know what you can do for Saudi Arabia," Petroleum Minister Sheikh Ahmed Zaki Yamani said recently in the Hejaze Mountain town of Taif. Help toward industrializing "will be a condition" of any major oil deal.

"We don't want to be faced with a bunch of equipment sellers," added Nazir in Jeddah. "We want people who are interested in joint ownership of industries here."

Iran's Prime Minister Abbas Hoveida phrased his country's ambitions this way in Tehran: "This nation within 20 years has to be close to the industrialized nations, on level with France, England and Belgium. The oil revenue is just the sugar in the cake of our economy."

Two Middle Eastern oil producers with significant population pressures, Iran and Algeria, have been fast off the mark in channeling oil revenue into building an alternative economic base, centered on minerals and petro-chemical industry. But for sparsely populated countries like Saudi Arabia and Kuwait, which already have to import large numbers of foreigners to work at all levels, industrialization may yet turn out to be a mirage.

STOCKS AND WEAPONS

Long-term revenue-producing investment is the other obvious answer. Kuwait has begun an aggressive and sophisticated investment program, which this spring added items like an $84 million Hilton hotel and office center in Atlanta to a growing portfolio estimated to have more than $2 billion in investment abroad.

Saudi financial managers, perhaps overreacting to the wasteful spending and financial laxness that brought about the ouster of King Saud in 1964, are highly conservative. They keep most of Saudi Arabia's growing billions in short-term bank deposits.

Iran's ambitious development and military programs eat up all of the country's oil income. Iranian foreign debt is currently spiraling upward, in fact, as the country uses its good long-term financial prospects to seek more credit now. Iranian officials say this is also a hedge against inflation.

Much of the oil money is being recycled back into Western countries through an awesome arms race in the Persian Gulf. Saudi defense spending this year will top $1 billion, while Iran's will be double that. In Iran, the government has quietly disbanded its top economic planning council because defense spending has made it impossible for the government to meet a legal requirement that 80 per cent of the oil revenue go to the council.

The United States and the Soviet Union, ostensibly working for detente elsewhere, are stepping up the number of military advisers and trainers for the sophisticated hardware they are shipping into this region. The 1,000 Russian advisers estimated to be in Iraq will soon be matched by a similar number of American trainers and technicians in Iran.

The strategic importance of the Gulf is growing with each day as Iran and Saudi Arabia open new oil wells. Since the summer of 1970, oil production in non-Communist countries has increased by 8 million barrels a day. Over 7 million came out of the Persian Gulf, and more than half of the increase came from one country—Saudi Arabia.

TEN CENTS A BARREL

The patterns that the energy crisis is helping to shatter date back decades, to the time when Western oil men could easily extract sprawling concessions out of the traditional rulers of this area and then pump out as much or as little oil as they wanted at prices they largely determined themselves.

Because it lies close to the surface, Middle Eastern oil is the cheapest in the world to produce. A 42-gallon "barrel" of Saudi or Kuraiti oil costs 10 to 12 cents to produce. Investment per daily barrel of production in the Middle East averaged $254 in 1971, against $4,971 in the United States.

This means that Middle East oil production historically has been the most profitable part of the entire oil industry. Every dollar of production costs has to be matched by four or five dollars for tankers, refineries, marketing outlets and other "downstream" investments that yield far smaller profit margins.

Until the beginning of this year, about 90 per cent of this production legally belonged to just eight international companies, who controlled about 51 per cent of the estimated 52 million barrels a day produced in the world last year.

In the gulf, the eight "majors" work the concessions jointly, with different lineups of partners in each of the major countries. Most of the oil is exported to Japan and Western Europe, although American usage is rising sharply.

Five American companies—Exxon, Gulf, Mobil, Standard Oil of California and Texaco—control the lion's share of gulf production. The three other majors are British Petroleum, the French Petroleum Company and Royal Dutch Shell. The importance of these eight companies can be measured by their payment of about $7 billion to Persian Gulf countries last year. They kept about $2.5 billion in net profits from their Eastern Hemisphere oil trade, according to estimates by American banks.

IDENTIFY OF INTERESTS

Paradoxically, the energy crisis is a time of record profits and production for these companies, but also of diminishing control over the oil they produce.

Predictions that participation would reduce the companies to being buyers and sellers of oil at the mercy of unstable Middle Eastern governments seem greatly overdrawn so far.

The scenes of lengthy negotiations over "participation" and the frequently turbulent bargaining sessions over the price increases demanded by the gulf countries create the image of two groups of adversaries locked in combat. In fact, there are some strong identities of interests, between the companies and producing countries that participation may strengthen. "The gulf states don't want to take over the companies, but to *become* the companies," says a Western petroleum attache.

"We could have achieved all the financial gains participation will bring simply by raising taxes," says Abdulwahab Mohamed, Kuwait's under secretary of the Ministry of Finance and Oil. "What we want is to train our cadres and to gain experience in production and management in cooperation with the companies."

Saudi Arabia's Yamani, who carefully nurtured the participation idea through years when the oil companies were denouncing it as too radical, explains Saudi Arabia's approach this way:

"Our interest is to keep the oil companies with us. We are not in love with the oil companies, but we are in love with Saudi Arabia. We need the technology the companies can provide"—the exploring for new reserves, increasing production, and providing marketing and transport facilities.

Nationalization, which Yamani has called the alternative to participation, "links the companies' interests to the consumers. If the companies are buyers of our oil, they will do their best to lower prices. As sellers now, they seek higher prices. . . . It is in our interests to have the majors continue an important role" in production, where the largest profits are.

Yamani asserts that "leaving the producers and the consumers face to face" is not in the interests of the consumers either. They cannot exercise any pressure on producers. They will have to compete for the "oil" and drive up prices.

Iran is largely in the same position vis-a-vis the companies. Although Iran has proclaimed a 100 per cent takeover of its oil resources, the consortium of Western companies has just been hired to manage the fields and has been given a long-term contract for oil at prices aligned with those of the Arab countries of the gulf.

SELLING IT THEMSELVES

The most immediately important aspect of participation is that the countries are going to have increasing quantities of oil to market in their own, outside company channels if they want to. If this year's sale of government-owned oil provides any guideline, this can be used to escalate the prices the companies and their consumers will have to pay, and could have important political implications.

As signed by Saudi Arabia, Abu Dhabi and Qatar, the participation accord gives the government a 25 per cent share of ownership, paid for an inflated book value figure that implicitly takes into account lost future profits for the companies. It stays at a quarter interest until 1978, when government ownership begins to increase 5 per cent annually until it reaches 51 per cent in 1982.

A different formula is used for determining the share of oil production the gulf states get to market themselves. The amount available this year is what would in normal times be a symbolic 2.5 per cent of total production. But the market is stretched so tautly that Saudi Arabia's auction of its 300,000-barrels-a-day participation share in May has had an impact on the entire oil market. The producing countries are revising their estimates of how much financial advantage they can gain by taking a much bigger share of the production, much sooner than the companies want them to.

"The only way they can get more oil to market right away is to upset participation," says an official of a major oil company. Under the present timetable, the gulf countries will have the option of directly selling about half of the 40 million to 50 million barrels a day that should be coming out of the Persian Gulf in the 1980s.

It could come a lot sooner. Kuwait's government has failed to obtain approval of the the participation agreement from parliament, and has announced that it is to reopen negotiations with the companies later this month to seek a greater ownership share.

Estimates of when the countries will be able to set up efficient marketing companies of their own range from Yamani's admittedly "ambitious" five years to a 15-year estimate by Reza Fallah, director general of the National Iranian Oil Co.

The demand for oil is so great that the national companies are getting little experience in complicated marketing. When Saudi Arabia quietly invited some companies to the desert capital of Riyadh to negotiate prices for Saudi "participation crude" the word raced through the oil industry and representatives of more than 60 companies descended on the town.

To pare the list, the Saudis dropped the negotiations idea and set their own price at $2.55 a barrel. Twenty-five companies stayed in and all got a share of the 300,000-barrels-a-day commitment, Abdel Hadi Tahir, director general of Saudi Arabia's Petromin company, said recently.

With an escalator clause geared to the dropping value of the dollar in world monetary markets included in the contract, the price for the Saudi participation oil moved to $2.70—a full dollar a barrel more than the major oil companies pay to Saudi Arabia for their 75 per cent share of production under the Tehran "posted" pricing agreement.

It is also 40 to 50 cents a barrel more than the price the companies agreed to pay for "buy back" oil—the 97.5 per cent remaining portion of Saudi Arabia's initial 25 per cent share. Authoritative Saudi officials make no secret of their feeling that the "buy back" prices are going to have to be renegotiated upward immediately, and company officials fear this could be the edge of the attack on the agreement as a whole.

Some major companies are using the Saudi sales to argue for similar hikes from their customers. Exxon is reported by reliable industry sources to have told Japanese companies that bought the Saudi oil that they would have to count on paying the same price to Exxon in the future.

PROVING THEIR VIRILITY

The economic advantages sought in price hikes are not the only, or perhaps even the main, motivating factor in the Persian Gulf states' drive for higher prices today. Each new price rise is becoming a political and nationalistic symbol as leaders boast of how much more they got than the other countries. "Nobody feels they can afford to be left behind," observes a diplomat laconically. "You prove your virility in gulf politics these days by getting a 20-cents-a-barrel increase."

Yamani and his counterpart in Abu Dhabi, Mana Sayed al Otaiba, predict that participation will bring in enough extra revenue in the first two years to pay completely for their countries' 25 per cent share. Saudi Arabia is to pay $500 million, while Abu Dhabi's outlay is $150 million.

"The payments will go straight into the pockets of the companies, of course," one Kuwaiti official says. "Consumers who complain about the Arabs driving up prices should remember that, and that the Middle East oil that retails in Western Europe for $14 a barrel after being refined has $8 in local European taxes in the price. We only get a fraction of any price increase."

If Saudi Arabia and Abu Dhabi stick to ambitious production increases, the companies will receive at least as much oil as they did last year at the Tehran price, which means that their profits will not be affected by participation.

While the thrust of prices is definitely upward, both Saudi Arabia and Iran are much less hawkish on prices than are most of nine other members of the Organization of Petroleum Exporting countries (OPEC). Both have publicly stressed recently the need to keep price hikes at "reasonable" levels.

"Iran very realistically does not want to hasten the end of the fossil fuel era by making alternative energy sources economically competitive with oil," says a diplomat in Tehran. "There seems to be quite a sophisticated grasp here of all of the implications of the energy crisis."

STEEL, SHIPS, REFINERIES

In the countries that have had oil wealth for more than a generation, the old images of burnoose-wearing sheikhs in giant Cadillacs squandering fortunes in the midst of general poverty are fading. Younger men who have learned economic development or business management at Harvard or the London School of Economics are establishing new priorities and ambitions, backed by the growing rush of dollars.

The move to link oil supply to the drive for industrialization is clearly picking up speed. Occidental, an American independent, is seeking one of the new concession areas Saudi Arabia will award this year, and has come in to help the government set up a fertilizer exporting industry.

In Abu Dhabi, British Petroleum is helping the government finance a $35 million refinery, and had provided an interest-free loan of $50 million for other projects.

Saudi officials stress that they are willing to match dollar for dollar foreign investment in industrial projects there. They argue that the closeness of the world's cheapest source of energy should be a major attraction for energy-intensive industries.

The Saudis are mainly interested in companies that can guarantee marketing outlets for the products to be produced there, and who can introduce new industrial technology. General Electric, Marcona of San Francisco and two Japanese firms are teaming up to build a major new steel plant that the Saudis hope will eventually be the core for a shipbuilding industry.

And the Saudi government is currently discussing with Bechtel Corp., a Los Angeles-based construction company, still tentative plans for an industrial complex that would cost $5 billion to build. It would include refineries, agro-industry projects and petrochemical plants sited near the Dhahran oil fields.

American, German and Japanese firms, evidently responding to concern about the envirornmental damage caused to their own countries by giant refineries, are actively negotiating with job-hungry Iran to locate new refineries there. The increased costs that transporting refined products will bring may be balanced off by the chance to export pollution.

MIRAGES AND PHANTOMS

Whether the gulf societies will be able to absorb industrial projects on the scale now being discussed remains a tough question. At this stage, it is difficult to see tiny Abu Dhabi coming up with the "refineries, gas-based industries, petrochemical industries, aluminum plants and iron and steel mills" that Otaiba predicted in a recent expansive speech.

Most of Abu Dhabi's money is going into establishing a basic infrastructure in the tiny desert land, and to prestige projects that the ruler, Sheik Zayed Ben Sultan, evidently feels will foster a sense of nationalism in the recently formed Union of Arab emirates which he heads.

He is rapidly expanding his military forces, which will soon include a squadron of Mirage fighter-bombers, to consolidate his political influence with his less wealthy partner sheikdoms in the union.

In this, Abu Dhabi is only following—Iran, Iraq and Saudi Arabia. Many gulf officials openly voice unprovable suspicions that the Soviet Union, Britain and the United States encourage some degree of instability in the area to take back some of the accumulating mountains of cash through weapon sales.

High level Saudi officials said earlier this month that negotiations had not yet opened on a proposed sale of Phantoms by the United States to Saudi Arabia. One cabinet minister suggested that if the number for sale did not exceed the single 18-plane squadron that has so far evidently been authorized by Washington, "it will not be interesting for us."

Leading executives of Western oil companies operating in this area implicitly suggest in some of their private comments that the protective shadow the United States can cast through such deals provides one of the best long-term hopes they have for being allowed to increase production and continue to play important roles here.

"The Saudis have to have a reason to deplete their only resource at a rate favorable to the West but not to them," said one executive. "Maybe the fact that we are standing with them against external dangers will be the crucial one."

But there is little certainty in such comments today. After two years of revolutionary change in the Middle Eastern oil industry, few on either side take anything for granted these days.

Kuwait's petroleum under secretary, Abdulwahab Mohamed, was asked a few weeks ago whether the Western companies would be allowed to keep 49 per cent of the local operation until the year 2025, when the concession finally runs out.

A smile danced across his face as he thought about the question. "If you look at the agreement, that is certainly what it says." And then he laughed heartily.

NIXON WORKERS GET AGENCY JOBS

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. **FRASER**. Mr. Speaker, for more than 20 years, Mr. John R. Murphy served very competently as the director of the Fort Snelling Veterans' Administration Center in the Twin Cities. On June 19, he was first notified, via a teletype message, that he was being transferred to Detroit as of July 1.

My protests to VA Administrator Donald Johnson were answered by Mr. Frank W. Naylor, Jr., who wrote:

> It is our belief that for the maximum utilization of Mr. Murphy, it is necessary to expand his capabilities.

Naylor's complete response follows my remarks.

It was with considerable interest that I read the Washington Post July 19 story "Nixon Aides Now Fill Key Agency Jobs." Mr. Naylor is one of these aides. The article follows, and in view of my experience, I call especial attention to its final four paragraphs.

VETERANS' ADMINISTRATION,
Washington, D.C., June 19, 1973.

HON. DONALD M. FRASER,
House of Representatives,
Washington, D.C.

DEAR MR. FRASER: The Administrator has asked me to respond to your inquiry of June 8, 1973, concerning the transfer of Mr. John R. Murphy from St. Paul to Detroit.

It is our belief that for the maximum utilization of Mr. Murphy, it is necessary to expand his capabilities. The Veterans Administration does not rotate for the sake of rotation. At some point a Station and a Director reach a plateau in performance. It is our belief that Mr. Murphy will do an exceedingly fine job in using new procedures and techniques in day to day management of his respective station. We want to offer new goals and challenges, and the reassignments we have made can accomplish this.

To this end, we are certain that this transfer will effect and further the overall quality of service rendered by the Veterans Administration.

Sincerely,
FRANK W. NAYLOR, JR.,
Executive Assistant.

NIXON AIDES NOW FILL KEY AGENCY JOBS

(By Sanford J. Ungar)

Although many people who worked in the White House during President Nixon's first term and in his reelection campaign are now in legal trouble arising out of the Watergate affair, many more are in power in Cabinet departments and independent federal regulatory agencies.

It became clear shortly after last November's presidential election that Mr. Nixon wanted to make the government more "responsive" by putting individuals with established loyalty to the White House into key positions.

Except for a few well-publicized major appointments, including the nominations of Frank C. Carlucci as under secretary of the Department of Health, Education and Welfare and Alexander P. Butterfield as administrator of the Federal Aviation Administration, the success of the effort has not previously been clear.

But according to partial surveys conducted by congressional committees and The Washington Post, it has resulted in the distribution of well over 100 people throughout the federal bureaucracy.

This practice, of course, is not original. Andrew Jackson introduced the "spoils system" early in the 19th Century and every administration has rewarded its political allies with governmental appointments.

In the case of the present administration, people once employed by the Committee for the Re-election of the President, the Inaugural Committee, the White House or within the Executive Office of the President, are now serving in roles ranging from policy makers to clerks and typists.

They arrived at their new jobs, for the most part, quietly and without fanfare—sometimes even without the knowledge of the agency head they work for.

In the view of some leaders on Capitol Hill, such as Rep. Harley O. Staggers (D-W. Va.), chairman of the House Interstate and Foreign Commerce Committee, the phenomenon poses grave prospects of executive and political domination of theoretically independent agencies.

CRP, at its peak, employed 425 people, according to a spokesman, and The Post's partial survey indicates that at least 30 per cent of them have obtained federal employment since the 1972 election.

Staggers' Special Subcommittee on Investigations polled the Department of Commerce and 12 other agencies under is jurisdiction recently and discovered that 84 people previously tied to the President's campaign or the Executive Office have been farmed out into the agencies ranks.

By far the biggest response came from the Commerce Department, where 25 employees with links to the President, including two departmental executives have arrived since the election.

The best known, of course, is Jeb Stuart Magruder, who, after serving as deputy campaign director of CRP and executive director of Mr. Nixon's inaugural committee took over the Commerce Department's Office of Policy Development last March.

Magruder resigned after he became implicated in the Watergate scandal, but many others were left behind.

Alex M. Armendaris, for example, who was director of CRP's "Spanish-speaking committee" for a full year, became director of the department's Office of Minority Business enterprise last April 10. He had previously been a consultant to the President's Advisory Council on Minority Business.

John F. Evans, who was assistant director of the White House Domestic Council under former presidential aide John D. Ehrlichman for 2½ years, moved over to become an assistant to Commerce Secretary Frederick B. Dent.

As the Commerce Department explained in its response to Staggers, Evans "performs duties which encompass the entire scope of the department's programs and activities."

Close behind the Commerce Department was the Environmental Protection Agency, which listed 20 people, including seven consultants, who came aboard after being closely associated with the campaign or the Executive Office.

Some had relevant experience with such units as the Council on Environmental Quality or the Office of Science and Technology.

But others came from clearly political backgrounds—for example, EPA's public affairs director, Ann L. Dore, who had worked with CRP since Deecember, 1971, and George Mehocic, who served four months with CRP before becoming a "confidential representative" to the White House for an assistant administrator at EPA.

Two former employees of CRP, Theodore Wigger and Alice C. Johnston, are now working in the environmental agency's Boston regional office.

James W. Hunt was a $70-a-day consultant to EPA for four months beginning last December after working with CRP's state organization in Illinois. A graduate student from California, Brian L. Gauthier, who worked with CRP in that state, earned $54 a day for three months for providing "expert advice" to the director of EPA's office of Education and Manpower Planning.

The former administrator of EPA, William D. Ruckelshaus—who served more recently as acting director of the FBI and is now awaiting a major Justice Department appointment—said yesterday through a spokesman that he recognized only 3 of the 22 names on the agency's list.

Ruckelshaus explained that he personally approved those three on the basis of their qualifications, but did not understand how the others got their jobs.

The Agriculture Department hired 17 people from CRP and three from the White House after the election, in a variety of positions, but many have already left for other jobs.

One who is still there, serving as a "confidential assistant" to Agriculture Secretary Earl L. Butz, is Stephen B. King, the former CRP security guard who served as a bodyguard for Martha Mitchell, wife of former Attorney General John N. Mitchell, and allegedly injected her with a sedative in California on the weekend of the Watergate break-in last June.

There were a number of surprises on the lists provided to Congress and The Washington Post by the departments.

For example, one woman, Nancy H. Steorts, who formerly worked at CRP, showed up on the Commerce Department list as an "expositions officer." But the Agriculture Department insisted yesterday that she is special assistant to Butz for consumer affairs.

One of the agencies where the arrival of White House loyalists has caused the greatest consternation is the Veterans' Administration.

VA Administrator Donald E. Johnson recently sent a letter to Sen. William Proxmire (D-Wis.), chairman of the Senate Appropriations Subcommittee with jurisdiction over the VA budget, with a list of 11 former CRP personnel now working for him, seven of them on his personal staff.

One long-time VA employee concerned with direction of the agency's hospitals across the country, who asked that his name not be publicly disclosed, said yesterday that he was astonished by the extent to which the White House has injected itself into VA affairs.

He compared the situation to "the formation of conglomerates, where a vice president or administrative assistant is sent out from the home office to call all the shots."

Research for this story was done by Bridget Gallagher of The Washington Post's national news staff.

INFORMS CONSTITUENTS

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. CONTE. Mr. Speaker, the past 3 months have been marked by many important developments in the Congress and throughout the Federal Government. In my ongoing effort to keep my constituents of the First District of Massachusetts informed, I am now sending out another newsletter summarizing some recent developments and also supplying the tabulated results of the questionnaire I mailed to my constituents 3 months ago.

At this time, I submit a copy of this newsletter for the RECORD:

JULY, 1973.

WASHINGTON NEWSLINE

(By Congressman SILVIO O. CONTE)

DEAR FRIENDS: In the three months since I wrote you last, the Watergate affair and other scandals have swept across our national scene like a plague. As painful as it is to wash this dirty linen in public, there is no other choice. To remain a free people, our institutions must be capable of uncovering the full truth when public officials, no matter how high their station, resort to illegal and unethical practices and thus make a mockery of the public trust they hold.

It's not enough merely to decry this sad episode in our history. Positive steps must be taken to help guard against its recurrence. The criminal investigations and Senate hearings constitute one necessary approach. Another is to reform our election laws. Surely the vast amount of cash that flooded the last presidential campaign contributed greatly to the corruption we are now learning about. To offset that I've introduced the Clean Elections Act which would place strict limits on the amount one person could contribute to a candidate in a federal election. It would also establish a strong, independent Federal Elections Commission with power to investigate and prosecute violations of the election laws.

For similar reasons, I also am pushing my bill to replace the two dozen presidential primaries with one National Primary. Hopefully, this would shorten the presidential election season and relieve the dangerous demand for more and more funds to finance these extravaganzas.

Even with Watergate, however, life goes on and so does the business of government. I have been very busy in a variety of other areas already this year. These include efforts to straighten out our energy policies, help reduce the outrageous cost of food by reforming farm policy, force an immediate end of our bombing in Indochina, provide more equitable benefits to our 6 million Vietnam veterans, restore Congress' authority over government spending and warmaking, and open the Highway Trust Fund to mass transit.

In addition, I've spent long hours in Appropriations Committee where, I'm pleased to say, my Labor-HEW and Transportation Subcommittees have completed their work and had their bills passed by the House before this fiscal year began.

As always, I will be coming home to our 1st District often in coming weeks and I hope to see as many of you as possible. In the meantime, Corinne and I wish you a very pleasant summer.

Cordially yours,

SILVIO.

QUESTIONNAIRE

Answers to my 1973 Questionnaire to our 1st District are listed at the end of this news letter. This year I received 9,000 responses for a return of about 13%. Thank you.

FREEZE HITS HUD

I am very disturbed by the Administration's suspension of virtually all federal housing, community development and Model Cities programs. The House has passed legislation to extend these programs for one year until satisfactory replacements can be developed, but the Senate has yet to act on this bill.

To illustrate these programs' importance to our 1st District and our need to ensure that efforts in this area are continued, consider how our District has benefitted from Housing and Urban Development programs in the years since I came to Congress.

For our District, from 1959 to now, HUD has:

Financed 2,275 units of low-rent public housing, including 1,058 units of elderly housing, totalling $20 million;

Awarded over $23.5 million in urban renewal grants;

Loaned over $4 million to colleges for construction of 2,842 living units;

Awarded $2 million in grants for urban planning, $1.3 million in water and sewer grants, $852,745 for open space land acquisition and development, $169,000 for historic preservation, and $78,000 for neighborhood facilities;

Awarded $4.7 million in Model Cities grants;

Insured mortgages for $40 million.

THE OIL SHORTAGE

Recent months have seen major steps taken to relieve this country's oil shortage. In April, import quotas on oil were abolished—action I had been urging for 14 years. And in May, a voluntary gasoline allocation policy was ordered to try to equalize the effects of the shortage throughout the country.

Yet, New England's oil picture is far from rosy. To determine our exact situation, I recently held two ad hoc Congressional hearings in the region, one in Holyoke. Compared with 1972, this year's New England supply-demand ratio looks like this:

Gasoline: Supply, down 5 percent; demand, up 8 percent.

Home heating oil: Supply, down 8 percent; demand, up 10 percent.

Industrial heating oil: Supply, down 22 percent; demand, up 5 percent.

It is obvious further steps must be taken. I will be pushing for the construction of several new refineries in New England, the development of alternative sources of energy, and curtailment of consumption and conservation of fuel supplies.

QUESTIONNAIRE RESULTS

(Questions composed and mailed in April 1973)

1. Do you approve of the way President Nixon is handling his responsibilities: a. in domestic affairs? Yes—30 percent, No—70 percent; b. in foreign affairs? Yes—54 percent, No—46 percent.

2. Do you believe the President should have the power to refuse to spend funds that have been authorized and appropriated by law? Yes—32 percent, No—68 percent.

3. In determining our budget priorities, should the government: a) reduce spending on human and natural resource programs? 9 percent; b) reduce spending on defense programs? 49 percent; c) maintain current balance? 42 percent.

4. With regard to our domestic economy, do you favor:

(Answers in percent)

a) continuation of Phase III? 12.

b) return to mandatory wage-price *controls* of Phase II? 19.

c) return to Phase II, add mandatory controls on profits and dividends? 31.

d) a complete *freeze* on wages and prices? 29.

e) no controls whatsoever? 9.

5. Should raw agricultural products be subject to some controls? Yes—72 percent, No—28 percent.

6. Do you favor extending U.S. financial aid to assist in the reconstruction of North Vietnam? Yes—15 percent, No—85 percent.

7. How should we treat Americans who evaded the draft to escape service in Vietnam?

(Answers in percent)

a) grant them unconditional amnesty? 11.

b) grant them amnesty providing they perform a certain number of years of military or alternate public service? 56.

c) prosecute them with the possibility of jail sentences being imposed? 33.

8. Would you be willing to pay more for products and services if their manufacture and use could be made virtually pollution free? Yes—63 percent, No—37 percent.

9. Do you favor President Nixon's proposal to abolish existing categorical grant programs (direct federal grants to individual sponsors for specified purposes) and replace them with block grants for the states and localities to use according to locally determined needs, within prescribed guidelines? Yes—70 percent, No—30 percent.

10. Regarding proposals for a national health program, which do you favor?

(Answers in percent)

a) an all-inclusive health delivery program financed and operated by the federal government? 42.

b) a compulsory private health insurance program financed by employer-employee contributions and regulated by the federal government? 27.

c) legislation limited only to meeting catastrophic health expenses? 16.

d) no new legislation in this area? 15.

11. Do you favor changing our electoral system to allow for election of the President solely by direct popular vote? Yes—85 percent, No—15 percent.

12. Do you listen to my weekly report broadcast over local radio stations? Yes—48 percent, No—52 percent.

ANNOUNCEMENT OF HEARINGS ON THE CIVIL RIGHTS ASPECTS OF GENERAL REVENUE SHARING

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. EDWARDS of California. Mr. Speaker, the Civil Rights and Constitutional Rights Subcommittee of the House Committee on the Judiciary will hold hearings commencing on July 27, 1973, in room 2237, Rayburn House Office

Building. The subject of the hearings will be the civil rights aspects of general revenue sharing. The subcommittee will hear testimony from Mr. Graham Watt, Director of the Office of Revenue Sharing.

Interested persons may submit testimony to the House Committee on the Judiciary, 2137 Rayburn House Office Building, Washington, D.C. 20515.

BERNIE CAMPBELL: ARKANSANS REGRET HIS RETIREMENT

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. ALEXANDER. Mr. Speaker, Arkansas and the National Park Service have suffered a great loss in the retirement of Bernard T. Campbell. This man was a moving force in the development of parts of our State as tourism and recreation areas. My old friend John Fleming of the Arkansas Gazette staff has always been more eloquent with words than I, so I would like to share with you at this point his column lamenting Bernie Campbell's retirement:

[From the Arkansas Gazette, July 1, 1973]

So Long, Bernie, and Good Luck

(By John Fleming)

There are some folks in this old world that you figure will never grow old and retire. Although I have known for a long time that the day was approaching, it was with surprise and regret that I found out Bernie Campbell has pulled up stakes and gone off to Florida where the Chamber of Commerce tells you its warm in winter and cool in summer but never mentions the fungi that grows on your shoes if you leave them in a closet too long.

In the case of Bernard T. Campbell, the National Parks Service's gain was the State Department's loss. Here is a man who would have fitted into the diplomatic service like a tailor-made glove. Who else could have accomplished the feat Bernie performed during the period when the Buffalo National River was a mere gleam in the eye of the National Park Service? He had Sunday dinner at the home of one of the most ardent opponents of this proposition! During the period when it was dangerous for proponents of the National River plan to reveal their identity in the area, Bernie Campbell spent hundreds of off-duty hours wandering through Buffalo River country discussing the pro and cons of the project in that calm, even manner that makes him a pleasure to converse with whether you are in agreement or not.

Although his principal duty was the supervision of Hot Springs National Park, he gave generously of his own time to make the Buffalo National River a reality. In an indirect way, he was responsible for much of the vital strategy planning that went into the long battle that culminated with the enactment of the law establishing the National River.

In the mid-50s, when Bernie was assigned to the Everglades National Park in Florida, he built a home near Homestead looking forward to the day of his retirement. Here is where he and his lovely wife will certainly enjoy some well-earned leisure. It is certainly true, despite the fungi, that, as Bernie puts it, this area is "unique and beautiful in its own way."

Although he has forsaken the rolling hills for the flat sawgrass country, Bernie Campbell has left a mark of his presence in Arkansas that never will be erased. I'm sure his many Arkansas friends wish him the best of everything.

SPAGHETTI HELPS BAND TO VICTORY IN VIENNA

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. HUNGATE. Mr. Speaker, I would like to bring to the attention of my colleagues the following articles which appeared in the July 16, 1973, St. Louis Globe-Democrat and St. Louis Post-Dispatch honoring the McCluer High School band:

Spaghetti Helps Band to Victory in Vienna

Spaghetti and first place in the International Band Festival in Vienna, Austria, may sound unrelated—but not to the 65 members of McCluer High School's band.

It took a lot of spaghetti to make the prize possible for the McCluer teen-agers.

The band won first prize in concert band competition at the festival during the weekend, competing against groups from all over the world.

The festival is sponsored by the Association for Cultural Exchange.

To make sure all band members would be able to participate in the competition, from July 6 through last Sunday, fund-raising activities were sponsored to help those who could not afford the expense on their own.

Spaghetti dinners were followed by candy sales, concerts and a basketball game between the National Football League All-Stars and the McCluer faculty. A parent-teacher organization, the McCluer Band Boosters, Inc., was formed to spearhead fund-raising activities.

The band followed up its victory in the concert band competition with another honor, the Austrian State Award for the most outstanding band in the competition. One band member, Diane Bibko, a flutist, won a music scholarship in the festival's solo competition.

"If you saw how the kids worked, you would know there was no luck involved," said Richard De Moulin, a board member of the band boosters group. "They worked their little bodies off and did a great job."

The band was jubilant at its successful visit to Vienna, he said, "I'm sure they'll be flying home without the plane."

McCluer High's Band Wins Austrian Festival

McCluer High School's band returns to St. Louis tonight with first-place honors from the International Band Festival in Vienna, Austria.

Roger Bredenkamp, McCluer principal, said he had received indirectly the news that the 65-member band had won the prize.

"My daughter took a telephone call Saturday in which the caller said our band had won first place," he said. "But we won't know all the details until the band returns tonight."

He said that the band had been able to make the trip to the festival, which is sponsored by the Association for Cultural Exchange, as a result of support by the McCluer Band Boosters, Inc., a parents group.

"Basically, the parents raise the money to finance the trip," he said. "The kids sold candy, bumper stickers, and the parents asked community enterprises to donate toward the band's trip."

In addition to its first-place victory, the band is said to have won the Austrian State Award for the most outstanding band in the competition. Miss Diane Bibko, a flutist, won a music scholarship in the festival's solo competition.

PRESERVING OUR EDUCATIONAL FREEDOMS

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. BURKE of Massachusetts. Mr. Speaker, I would like to call to the attention of my colleagues in the House of Representatives a letter received by the House Committee on Ways and Means relative to hearings conducted on amendments to the Internal Revenue Code. I believe that the information in the letter from Monsignor Spiers has important applicability to the tradition of educational freedoms and equality of opportunity that are inherent and inalienable guarantees provided for every American. The issue of educational freedom for the wealthy only poses a dangerous threat to the rights of parents to exercise the rights of their children in education as confirmed by the Pearce decision of the Supreme Court in 1925. I urge every Member to carefully weigh the suggestions of this letter I am including in the Record in light of the values of freedom and diversity we have a duty to preserve.

Herewith is the text of the communication received by the committee from the Citizens for Educational Freedom:

Citizens For Educational Freedom,
Washington, D.C.

Dear Mr. Burke: We are grateful for the opportunity to communicate written testimony to members of the committee who are considering amendments to the Internal Revenue Code.

In behalf of the membership of Citizens for Educational Freedom, a national, nonsectarian organization which emphasizes the rights of parents in education, as well as in behalf of the millions of parents directly involved, we wish to urge your committee to amend the Code to provide a tax credit for part of the tuition which parents pay for nonpublic education, whether this be on the *graduate, college, secondary, or elementary level.*

The amendment would allow credit on 50 percent of tuition, with a stated per pupil maximum and a graduated scale for the various levels, as for example:

Graduate or college: maximum, $400/student;
Secondary: maximum, $300/student;
Elementary: maximum, $200/student.

RATIONALE OF CREDIT

The government now allows credit for a variety of reasons. Such credits are allowed not because of some innate generosity of the government, but for the public purpose of the common good. For example, credits are allowed corporations for business expansion since this will result in more employment which benefits the country. Credit is also allowed for retired persons on the theory that aiding and encouraging persons to remain self-supporting will reduce the number on relief rolls and thus maintain lower taxes.

Supporters of credit for nonpublic education tuition have a similar argument. By an amendment which would permit *parents to use some of their own tax money,* the burden on all taxpayers would be lessened because the amount of credit would be far less (about one-fourth) than the per pupil cost of educating these students in the public school system.

CONSTITUTIONALITY OF TAX DEDUCTIONS AND CREDITS

The concept of tax credit and deduction is an accepted fact in the past and current Internal Revenue Code. Furthermore, the Supreme Court has stated on several occasions that tax deductions for *direct contributions* to churches, synagogues, houses of worship do not violate the Constitution nor any of its Amendments.

Since this is so, "a fortiori", it follows that contributions or payments by parents to schools, whether they be church-related or not, would be constitutional and the Internal Revenue Code could be amended to provide such.

When the government permits a citizen a tax credit or deduction for a contribution to religion, it does thereby compel another to support such beliefs. When a parent would be allowed a credit or deduction from his own taxes, it is similarly true that another citizen is not being forced to pay with his taxes for the child of the other citizen to attend a nonpublic school.

Finally, the difference between a tax credit and deduction is only one of degree. There is no essential difference: one is computed on gross income; the other is computed from taxes owed.

CONCLUSION

There are only two actors in this school drama: *the parents and the government*. As the situation now develops, educational freedom for parents to select values is a *function of wealth* and is available only to citizens with high income. This is alien to the spirit of the Constitution and its Amendments!

Unless action is taken soon to aid parents in the exercise of their rights in education which was confirmed by the Supreme Court in the 1925 *Pearce* decision, irreparable harm will occur to both the public system of schools (particularly in all of the already overburdened and financially plagued metropolitan districts) and to the nonpublic system throughout the country.

We, therefore, respectfully request that members of the committee exercise their taxing authority *to amend the Internal Revenue Code* to provide credit on tuition which parents expend in the education of their children, whether this be on the college, secondary, or elementary level.

Sincerely,

EDWARD F. SPIERS, Ph. D.,
National Executive Director.

INDEPENDENCE DAY—1973

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. FORSYTHE. Mr. Speaker, New Jersey residents who work in Philadelphia for many years have protested the imposition of the city wage tax upon them, inasmuch as they utilize few of the services supplied by the city, and have no voice in city affairs.

On Independence Day, this year, the Non-Resident Taxpayers Association held a ceremony at the Liberty Bell, protesting the tax. The following remarks were presented by Paul K. Pavlides, public relations chairman of the Association:

INDEPENDENCE DAY—1973

Let no one here today hold the opinion that we who are about to participate in this brief ceremony do so in a spirit of frivolity or disrespect. For no group of citizens, now or in the past, was or is more dedicated to the principles enumerated in the document whose adoption we celebrate today than are we—the officers and members of the Non-Resident Taxpayers Association.

Today we honor the memory of those courageous patriots who signed the Declaration of Independence 197 years ago. Persecuted, harassed and tyrannized to the limits of human tolerance, they patiently endured, until it was no longer endurable, the ever increasing tyranny of subjection to a government in which they had no representation, of mock trials from which no justice accrued, of harassment by swarms of appointed officials, and of oppressive taxation for which they had given no consent.

Despite the fact that history has shown that men are more disposed to suffer, while evils are sufferable, than to right the wrongs to which they have become accustomed, nevertheless, tyranny never diminishes of its own accord and it was inevitable that the colonists would ultimately challenge that erosion of their freedoms. Thanks be to Almighty God that our forefathers were granted the wisdom, the courage, and the resolution necessary to achieve the bold goals set forth in their Declaration of Independence.

Today as we place this wreath at the foot of the Liberty Bell, we do so not only in honor of the signers of the Declaration of Independence but also in memory of Freedoms so dearly won but now lost again.

It is truly ironic that this city, just famed as the "Cradle of Liberty" is today the perpetrator of several of the very tyrannies practised by King George III and explicitly enumerated in the Declaration of Independence. I can think of no more appropriate example that, "the price of freedom is eternal vigilance", than Philadelphia's imposition of the Wage tax on non-residents. Had this levy been challenged at its inception, there is little doubt it would have been invalidated. Today, however, after 30 years of unchallenged existence, the practice of nonresident taxation has acquired a degree of respectability, even an aura of legitimacy, and almost—but not quite—a public acceptance of its inevitability.

But just as the tyranny grew and spread in 1776, so too it grows today. In an effort to enforce its hated taxation, Philadelphia cajoles, harasses, threatens, and (until recently) arrests any who refuse to submit to its jurisdiction. Archaic and unconstitutional laws are employed. Unauthorized and incomplete arrest warrants are issued. Exorbitant bail is demanded and never returned. Jury trials are denied or indefinitely postponed. Change of venue is denied and kangaroo courts—with judges dependent on city leaders for the tenure of their office—dispense mock justice. And finally, employers are made to become tax collectors and enforcers for the city—using the threat of disciplinary action of dismissal to coerce the employee into submission.

The Non-Resident Taxpayers Association of Pennsylvania and New Jersey reaffirms, on this July 4, 1973, its determination to eliminate from the City of Philadelphia (and by this precedent, from the entire nation) the cancer of non-resident taxation. For this reason we do solemnly publish our opposition to this unjust form of taxation and declare that as citizens of these United States and of our respective States and Municipalities we ought not be and in fact are not legally subject to income taxation by the City of Philadelphia. And, in support of this declaration, and after the example of our forefathers, with a firm reliance on the protection of Divine Providence, to this cause we mutually pledge our strongest efforts, our financial assistance, and our sincerest loyalties.

HOMEOWNERS SUFFER UNDER FEDERAL RESERVE POLICY

HON. WRIGHT PATMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. PATMAN. Mr. Speaker, we are now seeing the fruits of the Federal Reserve Board's callous disregard for the economic well-being of the great majority of the American people and particularly consumers and home buyers. Since July 5 of this year, when the Federal Reserve Board, the Federal Deposit Insurance Corporation, and Federal Home Loan Bank Board raised the ceiling on the payment of interest on savings accounts and certificates of deposit, I have received thousands of letters from savings and loan associations from all across the country deploring the most recent surge of interest rates and the growing stranglehold big banks are allowed on the economy.

This concerted effort to raise interest rates and tighten money, as the evidence shows, places a highly unfair burden on the great majority of American consumers and home buyers. As a result of the increases in savings rate, which was in reality instigated by the Federal Reserve Board, we now, in effect, have cut off the savings flow into the savings and loan associations. Because of this, funds for mortgages will be or are now nonexistent. Homebuilding will come to a stop and the growing housing needs of the country will be unmet. To meet this crisis, it is evident that long-range solutions should be developed immediately. Among these are:

First, that the Federal Reserve be required to use its mechanisms to allocate credit in the public interest—to areas of greatest need, such as homebuilding, small business, and agriculture.

Second, that basic structural changes be required to bring the Federal Reserve System under congressional appropriations review, and audit by the General Accounting Office.

Third, that the Federal Reserve be required to carry out its policies in a consistent and orderly fashion, particularly in regard to the level of money supply. That monetary policy—including the setting of the money supply—be consistent and coordinated with other agencies of the Federal Government.

Fourth, that the Federal Reserve be required to make its public records public so that the American people and the Congress can determine whether the agency is operating within the law and consistent with the policies established by the Congress and the executive branch.

Fifth, that the President of the United States be required to assume his constitutional responsibility to execute the laws in regard to monetary policy and that he establish firmly that the Federal Reserve is subject to the same supervision as any other agency.

At this time I would like to include in the RECORD several letters which illus-

trate the problems the savings and loan associations are facing in attempting to meet the housing needs of this Nation:

THE CAPITAL BUILDING
& LOAN ASSOCIATION,
Baton Rouge, La., July 13, 1973.

Hon. WRIGHT PATMAN,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. PATMAN: Last Thursday, July 5, the Federal Reserve came out with higher rates for banks to pay on saving accounts and certificates of deposit which resulted in narrowing the spread between Savings & Loans and banks which had existed prior to Thursday.

The regulation "Q" rates we have been operating under since the Crunch of 1966 have served to successfully bring into Savings & Loans sufficient funds to adequately finance homes at a modest interest rate.

However, with these new guidelines the money is flowing out of Savings & Loans into banks under certain sections of the new rate structure, and these funds are not going into home loans; but, to sophisticated high-priced investments. And the limited number of loans the Savings & Loans can now make are at a higher rate because of the rise in interest rates allowed under the new ruling as well as those higher rates paid for borrowed money.

This whole fiasco will result in cutting off funds to most home buyers and raising the rates of the few who are able to obtain loans, thus adding to the very severe inflationary spiral in which we find ourselves.

Therefore, any help you can give toward resolving this problem, even to the extent of rolling back rates to former levels and keeping government financing under control so that its obligations don't top our private industry savings rates, is urgent and will be greatly appreciated by a large segment of the people, especially homeowners, builders, and realtors.

Sincerely,

E. A. SALASSI,
President.

KANKAKEE FEDERAL SAVINGS &
LOAN ASSOCIATION,
Kankakee, Ill., July 16, 1973.

Hon. WRIGHT PATMAN,
Sam Rayburn Office Building,
Washington, D.C.

DEAR CONGRESSMAN PATMAN: Your criticism of the Federal Reserve and the FDIC for initiating the drastic increase in savings rates was well taken. Mortgage rates have been increased all across the country because of this unnecessary action.

During the first six months of this year, savers of this Association increased their savings accounts by more than 5.5 million dollars, which is an annual rate of increase of more than 11%, which compares most favorably with the under 10% increase for 1972. Thus the rise in savings rates was completely unnecessary for funds for this mortgage market.

In keeping with this Association's concern for the economical home financing for the citizens of this area, our prime rate on single family mortgages (80% of appraisal) was 7%, with the most typical loan being closed at 7¼%. Loans of up to 95% were made at 7½%. Our closing fee was a flat $150 for all single family loans regardless of size. From this low service fee, we have paid all of the out of pocket expenses such as credit report, recording fees, etc.

Due to this banker-imposed increase, we have been forced to raise our savings rates in order to meet competition. Effective today, our prime mortgage rate has been set at 7½% and it is doubtful if we will maintain that very long. We have discontinued the 90–95% loans.

In deference to the service rendered by our veterans, we have been making VA loans at 7% and charging the seller only three points. Pending Congressional approval of a 7¾% VA rate, we have established ten points from the seller which will probably stifle any such sales.

I am reasonably sure that our loan rates both for conventional and VA were the lowest in the country. In spite of these increases announced today, I believe our rates are still the lowest.

During the past six months we have made more than $9 million dollars in first mortgage loans. The termination of the high percentage loan program and the increases set forth above will no doubt slow down our lending for the second six months and, of course, will make it substantially more expensive for the home buyer. As a lifetime Republican, I am about ready to be converted since it appears that the profit-hungry metropolitan bankers are calling the tune with this administration. They are making it very difficult for a community-oriented mutual savings and loan to serve the people of its area in the way that is best for the community.

Thanks again for your effort on behalf of the people.

Sincerely yours,

JAMES G. SCHNEIDER,
President.

AMERICAN FEDERAL SAVINGS &
LOAN ASSOCIATION,
Tacoma, Wash., July 19, 1973.

Hon. WRIGHT PATMAN,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. PATMAN: The old story about competition being good for you is true in most instances, but I feel the present certificate rate war and other differences that have been practiced by our "friendly competitors", is going to end up with us "giving the farm away". I am not going to quote any statistics on the advantages of an $800 million thrift organization over say a $30–$75 million organization. I am sure you are well aware of this data. It just appears that we are losing a bit of dignity in our industry and while our only alternatives seem to be to trim our overhead and tighten our belts, which is always a good practice, the most probable way for most institutions to meet this high cost of money will be to pass it on to the ultimate borrower.

Usually savings and loan associations find that 70–80 per cent of their mortgages are in the single family, owner-occupied homes. One month ago our prime rate was 7¼%; the prime today is 8¼%, and I predict, if the high yield certificate remains, by the end of the year, we will be looking at 9–10% on single family homes and, of course, the maximum the state will allow (12%) on commercial and multiple unit loans. Can our borrower pay this rate? I don't believe he can.

We are again facing the biggest problem our country has—*inflation*—and I feel our industry is being forced into feeding the flames of this highly underrated infestation. There are other things to consider with the curtailing of the homebuilding market; we again have the chain reaction of less homes, less jobs and so on. So much for the lesson in economics . . .

I must admit, Mr. Patman, I am becoming a bit disenchanted with the present administration. Possibly just a short note to you saying, "we need your help, please bail us out again" would have been all that was necessary. However, this is a serious situation and will become even more so as time goes by. We must not underestimate its consequences. Along with our U.S. Savings League in Chicago and your help, I am sure a satisfactory solution will be adopted and put into effect in the very near future. Please, Mr. Patman, give this the priority it demands.

Sincerely,

C. WILLIAM BRASIER,
President.

LEGISLATION TO REDUCE AIR FARE FOR SENIOR CITIZENS GAINS SUPPORT

HON. SPARK M. MATSUNAGA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. MATSUNAGA. Mr. Speaker, on the first legislative day of the 93d Congress, I introduced a bill, H.R. 765, to amend the Federal Aviation Act of 1958 to authorize reduced rate transportation for senior citizens, students, and others on a space-available basis. Similar legislation has since been introduced in the House and Senate.

I am pleased to note that the proposed legislation is gaining wide support throughout the country. Only recently the Participant Advisory Board of Hawaii adopted a resolution endorsing such legislation. I submit said resolution for insertion in the RECORD:

PARTICIPANT ADVISORY BOARD RESOLUTION
NO. 8

Supporting U.S. Legislation, S. 11 and H.R. 2698 to secure air fares for certain groups, including Senior Citizens;

Whereas, reduced air fares have been granted to persons under age 22 with the so-called "Youth Fares" under the discretionary authority of the Civil Aeronautics Board; and

Whereas, such discounts have been found to be discriminatory and are scheduled to be phased out on June 1, 1973; and

Whereas, air travel to the United States mainland is the only available mode of transportation for Hawaii's people; and

Whereas, many of Hawaii's youth are residing in the mainland and deserve visits by friends and relatives for morale purposes; and

Whereas, the limited and fixed income among retirees make it financially difficult to visit children or to enjoy the wonders of the continental United States; and

Whereas, Legislation is now before both Houses of Congress to secure fares for senior citizens and other groups; and therefore, be it

Resolved, that the Participant Advisory Board go on record supporting the Congressional attempts to obtain discount rates for senior citizens.

Further, that true copies of this Resolution be distributed to certain members of Congress and Hawaii's Congressional delegation,

Also, that the Hawaii State Commission on Aging, Honolulu Committee on Aging, American Association of Retired Persons, American Association of Retired Teachers, Senior Action Congress, Kokua Council of Hawaii and other interested senior citizen groups be asked to support this action by writing similar letters.

ALASKAN PIPELINE

HON. H. JOHN HEINZ III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. HEINZ. Mr. Speaker, it is no secret that our country is experiencing increasing fuel shortages. It is imperative, therefore, that the Congress consider carefully the route by which Alaskan oil will be transported to the rest of the United States.

I feel that the trans-Canadian route is preferable, both environmentally and economically. The trans-Alaskan line would pass through the most earthquake-prone region of North America, and would require extensive shipment of oil via supertankers to the west coast. Spills resulting from quake-induced ruptures or at-sea accidents would pose a serious environmental hazard. Moreover, frequent at-sea accidents along the Canadian west coast would likely cause serious damage to the shoreline and waters and endanger United States-Canadian relations.

An important economic advantage in the trans-Canadian line lies in improved access to the oil from the energy-starved East and Midwest. Of even greater importance than the question of where the oil should be delivered, though, is the vital economic stake the United States has in securing and expanding its domestic supply of oil and petroleum products.

The first order of business, however, must be the amendment of current statutes which would limit any pipeline right-of-way across Federal land to 25 feet on each side of the line. I have cosponsored H.R. 6694, a bill which would broaden the current limits, as established in 1920, to permit construction of a pipeline. Such a limitation makes little sense today and should be modified, whether the Alaskan or Canadian route is selected. In fact, since the law has been on the books so long and the pipeline plans are now several years old, I cannot understand why there was no effort to change this unrealistic constraint as early as 1971, when the problem must have been apparent to informed individuals.

In addition to voting on widening the public land right-of-way, which I favor, the House will undoubtedly soon consider a companion measure to prohibit any further court challenges, environmental or otherwise, of the trans-Alaskan route. I must frankly say that I cannot support such an override of existing laws and the principle of due process. There is little evidence that such an override is justified, and it sets what seems to me an extremely unwise precedent.

For your information, I have also cosponsored the Anderson bills, H.R. 8477 and 8478, which call for an unbiased study and report of both proposed routes by the GAO, and serious consultation with the Ottawa Government to begin immediately. Legislation along these lines is needed, I am afraid, largely because there is little evidence that the administration has made a good-faith effort to examine the Canadian alternative. Indeed, it appears to have dragged its heels on an issue of great economic importance to our region of the United States.

A GREAT EVANGELIST—FOR SOIL SAVING—IS STEPPING DOWN

HON. KEITH G. SEBELIUS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. SEBELIUS. Mr. Speaker, we have heard quite a bit during this session of Congress about the relative merits of the rural environmental assistance program, about the problem of high food costs and, just this past week, we have been going through perhaps too much debate regarding new farm legislation.

I make mention of these points because they are related and because we too often tend to look for simple and quick solutions to problems that are complex and that will take time to answer.

Several weeks ago, our Kansas State conservationist retired from the Soil Conservation Service. Lee T. Morgan dedicated 38 years of his life to restoring and preserving our natural resources so that we, in turn, can protect and save our environment and so that we can continue to lead the world in production and quality of food and fiber.

I would commend the example of Lee Morgan to all of my colleagues. In a recent article in the Salina Journal, John Schmiedeler wrote of Lee's contributions to our State and to our Nation. As John so aptly put it:

> Lee spent 38 years of his life working to guarantee that the Dust Bowl is a chapter of history which will not be repeated.

Lee himself summed up the success of his career when he said there is a new awareness in our society that resources are for people and more and more are becoming concerned with resource conservation. I think the following article exemplifies very well the kind of contribution our Nation will need to protect and save our resources for future generations:

A GREAT EVANGELIST—FOR SOIL SAVING—IS STEPPING DOWN

(By John Schmiedeler)

When Lee T. Morgan left Kansas State college with a degree in agricultural economics back in 1934, he wanted nothing but a chance to be a farmer in Southwest Kansas, his home.

But farmers do not recall the year of 1934 with affection. The disaster of the Great Depression had been compounded by the Dust Bowl. In 1934, there wasn't enough rainfall in Stevens county to grow weeds, Morgan remembers.

So Morgan spent the next 38 years of his life working to guarantee that the Dust Bowl is a chapter of history which will not be repeated.

This week, Morgan retires from the Soil Conservation Service as state conservationist for Kansas.

SCS, nee Soil Erosion Service, was born of desperation. The top soil of the fertile Great Plains disappeared in towering clouds. Okies in flivvers clogged the roads to California, leaving behind ravaged farms, unpaid mortgages and the bones of starved cattle.

The Congress of Franklin Roosevelt's New Deal acted.

"I had heard about a possible job with what was called the Rural Rehabilitation Corporation (now Farmers Home Administration)," Morgan recalled, "and went to Manhattan to apply. I was hired and then was assigned to a drouth relief cattle-buying program. In this job I had contact with many country agents. Several of them told me they were joining a new service, the Soil Erosion Service. I applied."

In February, 1935, Morgan became a student trainee with the service at Dalhart, Tex.

"We earned 40 cents an hour planting trees and we often had to quit work because of dust storms."

A few months later, he had permanent employment with what had become the Soil Conservation Service, an agency of the Department of Agriculture. As long as there has been SCS, Morgan has been there.

He was a district conservationist at Hereford, Tex., one of the first 6 organized districts in the country.

He went to Washington, D.C. in 1939 and helped plan organization of the now-familiar conservation districts. He has held posts in Colorado, New Mexico, Arizona and was state conservationist for Idaho for 12 years before returning to his native Kansas 2½ years ago to complete his career.

Morgan looks back with satisfaction, but he'd much rather look ahead where he finds exciting prospects.

"There's a new awareness of quality in our society," he said. "More and more people are concerned with resource conservation and there's a new awareness that resources are for people. The impact on people of all our practices is rightly being stressed.

"The future is just as exciting as the past has been."

While the principal job of SCS will continue to be with the owners and operators of the farms and ranches of the nation, Morgan sees expanded duties. "We're getting involved with highway work, industrial development and many other areas in which conservation concern is needed.

"Down the road is action by Congress in defining a national land use policy. That means the states will have to develop a policy. What land is best suited for agriculture? How should industrial expansion be handled? Where should highways be built? These and other questions will concern the conservationist."

Many people and institutions are involved in the success of SCS. Morgan has worked for all 4 SCS administrators—Hugh Hammond Bennett, the conservation evangelist who sold Congress and the land grant colleges on the "rightness" of conservation; Dr. Robert Salter; Donald Williams, the man most responsible for the small watershed concept in flood control, and Kenneth Grant, the present administrator who has brought the emphasis on quality.

There are men like the late Clifford Hope, the Kansas Congressman who guided the Great Plains concept through Congress, and R. I. Throckmorton, the Kansas State teacher who put the university's resources squarely behind the conservationists. Sen. Frank Carlson helped with vision and work.

"THE REAL HEROES"

And there are the uncounted number of farmers and ranchers who heard the conservation gospel and accepted it. Morgan believes these are the real heroes.

"Many things are involved," he said. "For example, I've always been proud of the Kansas Bankers association. It has supported soil and water conservation. You know, when the farmer sees his banker interested in something, he's likely to feel he should be interested also. The land grant colleges have been great and will continue to be a force. But success always gets back to the man on the land."

Morgan finds satisfaction with what has been accomplished in the relatively few years of SCS. And his greatest satisfaction is in the development and growth of local conservation districts.

"You cannot say too many nice things about the men who have contributed their time, energy, money and determination as local district supervisors. This is at the heart of conservation. And it's an excellent example of self-government.

"I think it's important that there be local autonomy. The Service can set standards and offer technical assistance. But the local districts select priorities and in many ways are the essential ingredient of the whole effort."

MASSIVE EDUCATION JOB

Conservation has required a massive job of education. "My father used to pride himself on the straight furrow of his plow. And there wasn't an inch of stubble showing. He taught me the same way.

"When I went home and did some contour plowing, he insisted I was doing grave damage.

"And now, in every part of Kansas, from corner to corner, there is wide acceptance of conservation practices on farms and ranches. Often people not acquainted with farming do not understand the input of the farm operator and land owner in conservation. Because there has been some cost-sharing by the federal treasury, some tend to see it as another subsidy.

"Well, farmers have told me of the expense and difficulty of farming terraced land. It costs them time and money. But they do it because they're convinced they must keep the soil in place.

"Silt—nothing other than displaced soil—is the greatest water pollutant in the nation in volume. Land owners and farm operators ought to be commended and thanked for the job they are trying to do in keeping the soil where it belongs.

LONG WAY TO GO

"We've a long way to go. In Kansas, which is a leading state in conservation practices, we have less than one-half of the needed work done on farms and ranches. That doesn't even take a look at things such as highway construction, strip mines, building sites. There's a busy and exciting future."

What now as retirement beckons?

There are 3 grown children in the west and grandchildren for Morgan and his wife, Bernice, to visit.

"We lived for 12 years in Boise, Idaho, and when we told the children we were coming back to Kansas they objected to us leaving the West. Our daughter, Mrs. Donna Stellick of Seattle, has a baby due in August. She has a 2-year-old son, Josh.

"A son, Gary, is a lawyer at Caldwell, Ida., with 2 daughters and a son and our eldest daughter, Mrs. Shirley Knox, and 3 daughters live at Salt Lake City. We're going to visit them and take another look at Boise."

But conservation won't be forgotten. Morgan is a charter member of the Soil Conservation Society of America and he plans to continue active in it. The National Association of Conservation Districts plans a tour of Europe later this year and of Japan and Australia next year.

"We're looking into those tours. The group would be great. Conservation has taken us many places and we've left friends everywhere."

Until the journeys start, Morgan plans to "check the grass" at the Elks Country Club.

MONETARY REFORM

HON. ALBERT W. JOHNSON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. JOHNSON of Pennsylvania. Mr. Speaker, I would like to include in the RECORD, for information of the Members, the statement on the subject of monetary reform, by the Honorable Paul A. Volcker, Under Secretary of the Treasury for Monetary Affairs, before the Subcommittee on International Finance of the House Banking and Currency Committee, on Thursday, July 19, 1973. The statement follows:

STATEMENT BY THE HONORABLE PAUL A. VOLCKER

Mr. Chairman and Members of the Subcommittee:

In the year since the Subcommittee's earlier hearings no progress toward international monetary reform, important steps have been taken toward the negotiation of a reformed world trade and payments system. New measures have also been introduced for handling the immediate monetary problems which nations faced. Consequently, the formal negotiating process has been paralleled by a pragmatic, evolutionary process. I believe these processes properly should react upon each other; in the negotiating process we should be sensitive to the political and economic realities exposed by events, while our reactions to those events should be shaped with an awareness of our longer run goals for the monetary system.

The main steps taken during the past twelve months to move toward reform are, I am sure, already familiar to the Subcommittee:

In July of last year, agreement was reached on a forum for the reform negotiations—the Committee of Twenty—and the scope of their deliberations. This important procedural move gave assurance that the reform effort would be a comprehensive one, that the negotiations would be undertaken at a politically responsible level, and that the forum would be a limited but broadly representative group. The main technical work has been done by a subordinate committee of the Committee—the so-called Deputies—under the Chairmanship of Jeremy Morse, formerly an Executive Director of the Bank of England.

In September, Secretary Shultz, building in part on the expressed views of other nations, tabled a comprehensive and interlocking set of reform proposals. These proposals have since been elaborated in further detail. They take as one point of departure the concept that a system of stated exchange rates—par or central values—supported by convertibility into an international reserve asset should be the "center of gravity" of the new exchange rate regime. However, a substantially greater degree of flexibility in exchange rate practices than characterized the Bretton Woods System would be permitted, partly through wider margins around par values and partly through permitting countries to float in some circumstances under appropriate IMF surveillance. To support this exchange rate framework, the proposals envisage more effective disciplines to encourage prompt and effective restoration of balance in international payments, partly through the use of fluctuations in levels of international reserves as an "objective indicator" of adjustment needs. I believe these proposals set forth a balanced, effective, and logically consistent system that would provide equitable and evenhanded treatment to all nations.

These American proposals have provided a focus for much of the discussion. While no equally comprehensive set of proposals has been advanced as an alternative, other countries have pressed for modifications in some features; in some instances, they have set forth more sharply different views on one aspect or another of the system. A tentative "outline" has been developed for discussion purposes, attempting to identify points of consensus as well as the differences to be reconciled.

I should also note that in two areas closely interrelated to monetary reform—trade and investment—new important initiatives have also been launched in the past year.

In May of this year, comprehensive trade legislation was submitted to the Congress, to give the President necessary tools to engage in multilateral trade negotiations scheduled to begin formally in September. Other nations are also in the process of developing negotiating approaches. Consequently, prospects remain favorable that, as we reach conclusions on the monetary system, we can look forward to a reduction of trade barriers and the introduction of fair trading rules consistent with the objectives we seek in the new monetary order.

Earlier this month, after extensive discussion, the OECD agreed upon a wide-ranging work program, that we hope can break new ground with respect to the issues associated with international investment, complementing the review of trade and monetary rules.

I believe the Committee of Twenty is tackling the challenge of monetary reform in a workmanlike way. While frequency of meetings is no measure of progress, it is perhaps a useful yardstick of the intensity and breadth of the effort. Since September the Deputies, coming together each month or two, have met for 15 days; several technical groups have prepared papers between meetings; and the Ministers have themselves held two meetings. A third Ministerial working session is scheduled for the end of July.

I can well understand the concern and impatience for more visible evidence of concrete accomplishment in the form of a finished agreement. However, I have never felt it realistic to believe a new agreement governing our monetary relationships for a generation could be hammered out in a matter of weeks or months. The work of the past year has been, I think, an essential prerequisite for ultimate success: the debating of different concepts of reform; a technical analysis of alternative mechanisms; and a useful cross-fertilization of ideas and viewpoints. In the process, much has been learned by all the participants, and much of the underbrush cleared away, so that we can understand the fundamental points of consensus and where basic disagreements may still lie.

It seems to me essential, too, that both legislative and public interest be better focused on these issues, for agreements on the monetary system have important implications for the conduct of national economic policies and the relationships among nations.

As part of the clarification of views on all sides, I believe there is now better understanding of certain points that we have emphasized in presenting our own proposals. Most importantly, we have insisted that the various elements in the monetary system—convertibility, the exchange rate regime, the adjustment process, and the supply and the nature of international reserve assets—must be developed as part of a balanced and consistent whole. Thus, if a system of convertibility is to work effectively, we need a technique for assuring that the incentives to adjust apply not just to deficit countries losing reserves, but evenhandedly to surplus and deficit countries. The tolerance we wish to permit for temporary imbalances in the system—and some tolerance is necessary—must be consistent with the availability of reserves to finance imbalances. There must be a broad consistency between the amount of reserves that countries in practice wish to hold and the availability in the system of such reserves. The assets used as international reserves should not be subject to speculative distortions, and must be available for nations to use freely and flexibly.

Unless a new monetary system achieves such balance and consistency, new strains and breakdowns seem sure to arise. The necessary disciplines and pressures will bear unevenly on different countries. Instead of assuring a new stability, we will inadvertently create uncertainty and political tension.

I believe it is fair to say that the members of the C-20 in principle have already reached certain more or less unanimous conclusions. We are joined in a search for more effective mechanisms to assure more timely and effective balance of payments adjustment operating symmetrically on both surplus and deficit countries—the lack of which contributed heavily to the breakdown of the Bretton Woods system.

There is a general willingness to accept the proposition that international incentives and pressures may be necessary to "discipline" the adjustment process. At the same time, most countries want to leave in the hands of individual countries as wide a range as possible of discretion as to how the adjustment is made—while discouraging those forms of adjustment that damage the fabric of international trade and payments.

We have agreed that the exchange rate regime should be based on stable but adjustable par values, with floating rates a useful technique in particular situations. We have agreed that there should be better international management of global liquidity, that the role of gold and reserve currencies should be reduced, and that a modified SDR (perhaps renamed) should become the principle reserve asset. We have agreed that more effective means are needed to deal with problems of short-term capital flows, although a considerable amount of disagreement remains as to the appropriate role of controls in that effort.

Agreement on these points is important and a source of encouragement. I do not, however, delude myself into thinking that the area of agreement on these points, important as they are individually, is enough to ensure the over-all consistency, balance, and coherence of which I spoke. In particular, we have much ground to cover to make these principles operational, in the sense of specific and defined rules of behavior acceptable to all.

As one illustration, in concept we all want a better process of balance of payments adjustment. But in practice, that dull and abstract phrase "balance of payments adjustment" translates into difficult economic judgments and sensitive political issues for any government. Who is to decide what action will be taken, when, and by which country? In practice, we need to find workable answers to those questions, and answers satisfactory to the trading community as a whole, as well as to individual nations. We must, for instance, settle the appropriate scope for national discretion, the role of the International Monetary Fund, and the extent to which "objective indicators" can be usefully employed. In all these areas, a full consensus has not yet been reached.

The target we set last September was to reach agreement on the broad outline of reform by next September's IMF meeting in Nairobi. Our objective, between now and September, remains to identify as broad an area of agreement as feasible, so that work can proceed on the operational rules to implement those principles. As this implies, Nairobi will not end the work of reform; under the most favorable of assumptions, there will be much more to be done, by way of forging the operational rules and preparing necessary legislative action.

For this reason, it is of particular importance that we have a workable interim system while we proceed with reform. In the past two years the monetary system has been subjected to sharp upheaval and unprecedented changes—two major currency realignments, including substantial devaluations of the dollar, and more recently decisions by a number of the major industrial nations to allow their currencies jointly or individually to float.

The general arrangements under which a number of these currencies are floating were worked out at a joint meeting of the Group of Ten and the European Community last March 16. The participating governments made clear that while they assumed no general obligation to intervene in exchange markets to maintain specified margins, official intervention in foreign exchange markets could be useful at appropriate times to facilitate the maintenance of orderly market conditions. That understanding and undertaking guides and motivates our approach toward intervention. To assure our continuing capacity to carry out such operations, reciprocal credit, facilities have been enlarged.

Since March there have been sizeable movements in some market exchange rates, particularly between the dollar and some European currencies. I believe, and many others believe, that the appreciation of certain currencies vis-a-vis the dollar has moved farther than warranted or needed to restore long-term international payments equilibrium, including specifically equilibrium in our balance of payments.

In appraising the recent movements in exchange rates, I would note that the sharp moves have been confined almost entirely to the European countries participating in a joint float—the so-called "snake." Indeed, the dollar has remained rather steady for months against the currencies of countries accounting for some three-quarters of our trade. This includes our major trading partners outside Europe—Japan, Canada, and most of the developing countries—as well as some important European countries, for example, the U.K. and Italy.

In appraising this recent experience, I would draw several conclusions of relevance to longer term reform:

First, in a situation marked by large payments disquilibria built up over a long period of time, with accompanying uncertainties and speculative tendencies, attempts to maintain fixed currency relationships led to repeated strains and crises. These strains were aggravated by the fact that the disequilibria strongly affected the main currency of the system—the dollar. In a situation of this sort, in contrast to the available alternatives, the floating of currencies has provided a broadly acceptable *modus operadi* during the period before equilibrium can be restored, and the present evidence suggests flows of trade and long-term investment have not been seriously affected.

Second, I believe this experience underlines the importance, in terms of achieving more stable currency relationships, of establishing equilibrium in the payments of the United States. No international monetary reform can substitute for that requirement. We can, as part of the reform process, reduce the degree to which the system has been dependent on the dollar, but we cannot escape the facts that the United States will remain the largest economic unit, and that the health of our currency is important to other countries as well as to ourselves.

Third, the interim arrangements now in place are not a substitute for long-term reform. They do not provide the framework of agreed and reasonably clear rules needed to meet the longer term requirements of the system. That is the task of reform.

Fourth, as implied by my earlier remarks, the difficulties we have encountered demonstrate the dangers of allowing payments imbalances to build up over an extended period. Although the February devaluation was almost universally regarded as adequate, the inevitable lag in its effects and the resultant period of uncertainty until those effects can show through fully, have contributed to the market disturbances which followed. This underscores the need for effective incentives for countries—for the U.S. as well as others—to adjust promptly to emerging disequilibria. This, again, is the task of reform.

Fifth, the instability of the private market for gold, with sharp gyrations in its price, has demonstrated again the unsuitability of that metal as the central reserve asset of a new system.

Finally, while a number of countries have increased the use of controls on short-term capital in an attempt to deal with the massive flows of mobile funds which can occur in today's world, the limitations on the effectiveness of such controls have been demonstrated once again. Such controls do not appear to be an adequate response to the problem of speculation and imbalance.

I noted earlier that the Ministers will be meeting in Washington at the end of this month. This meeting is designed to encourage a full and frank exchange of substantive views on the issues developed by their Deputies. You should not anticipate immediate resolution of the issues on the table, for the meeting is not intended to force agreement where basic issues are unresolved and differences in approach and analysis remain evident. In other words, it is a working, preparatory meeting, rather than a meeting for reaching final conclusions or for laboring over a vague communique.

We do believe it can be an important meeting, in the sense that responsible political officials need an opportunity to explore the principal problems and possibilities fully and informally together, testing their thinking, one against another, before sound conclusions are possible. We also anticipate that the Ministers, on the basis of their discussion, will want to set out a work program for Nairobi and beyond.

In this manner, I believe the process of developing the needed concensus on monetary reform is proceeding. I particularly welcome this opportunity to explore the issues with you today, for no one could be more conscious than I that our efforts must rest on a broad base of legislative and public support

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TRIBUTE TO CHARLES P. HUGHES

HON. THOMAS M. REES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. REES. Mr. Speaker, a man I admire and respect will retire this month after over 35 years of active membership in the International Brotherhood of Electrical Workers. Charles P. Hughes, senior international representative of IBEW, has been a trail blazer of innovative programs, not only in the labor movement, but in community action as well. His dedicated efforts range from organizing locals in the Western United States to service on the Civil Service Commission in Torrance, Calif.

Charles Hughes is a devoted family

man who has set a fine example for his children and grandchildren of leadership and betterment of his fellow man. An avid sportsman—soccer, football, tennis, and professional baseball player with the Northwest League in the early 1930's—Hughes has assimilated the fine quality of sportsmanship into his daily activities throughout his auspicious career.

I would like to add my personal tribute and the resolution offered by Charles P. Hughes' fellow workers in the International Brotherhood of Electrical Workers.

TRIBUTE TO CHARLES P. HUGHES

Whereas, Brother Charles P. Hughes has been a member of the International Brotherhood of Electrical Workers for over 35 years; and,

Whereas, he has dedicated 30 of those years to the service of the international office as an international representative; and

Whereas, during these years, he has made an outstanding contribution to the cause of Labor and to the Brotherhood by his unselfish devotion and the use of his knowledge, skills, and leadership; and

Whereas, his warm, friendly, and genuine concern for the members he so ably served has earned our deep respect and gratitude; now, therefore,

Be it Resolved that his many friends and associates extend to Chuck and his wife, Dorothy, our sincere wish for a long, healthy, happy, and well earned retirement.

CAPTIVE NATIONS WEEK—1973

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. McCLORY. Mr. Speaker, the observance of Captive Nations Week—1973, may take on a different aspect than in earlier years. Since last year's observance, we have experienced new overtures with the Soviet Union and with the People's Republic of China. In addition, there have been improved relations between our country and many other nations of Eastern Europe which continue to be under the influence of the Soviet Communist state.

Mr. Speaker, in renewing my support and my hope for liberation of those residents of the captive nations who remain under Communist domination, I feel that there has been no noticeable change in their conditions. Their lack of freedom persists. Restraints upon their movement continue. And there are no signs that either liberation or autonomy will be granted to the once independent nations of Estonia, Latvia, Lithuania or the other nations commonly embraced by the expression "Captive Nations."

Mr. Speaker, there is perhaps greater need today than in prior years to guard against diminishing our support for the people of the captive nations. Arrival of a period of détente should not lull us into the belief that conditions in the Soviet orbit have changed insofar as individual freedom is concerned. Our efforts to secure expanded rights for the citizens of the captive nations must remain vigorous and active. As the leader of the free world we must, by proper use of our economic and diplomatic powers, continue to exert pressure and influence on the Soviet Union to reconsider its policies of restraint and suppression on the people of the captive nations.

Mr. Speaker, we must not lose sight of the rights of the captive nations to enjoy an independent national life in their homeland, and to achieve a state of sovereign equality with the other nations of the world.

Mr. Speaker, Captive Nations Week—1973 is a time for rededicating ourselves to the cause of freedom and individual liberties.

ENERGY CRISIS

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. HOWARD. Mr. Speaker, the Subcommittee on Energy of the House Committee on Public Works has been following the so-called energy crisis in great detail.

As chairman of that subcommittee, I have been keenly interested in what appears to be an all-too-close relationship between the oil industry and the Federal agencies which are charged with the responsibility to regulate the oil industry.

In the Sunday, July 22, 1973, issue of the New York Times, an article by correspondent David Bird covered this issue in depth. Because of the overwhelmingly interest in the energy shortage by the Congress, I commend this article to the attention of other Members.

GASOLINE SHORTAGE PUTS SPOTLIGHT ON TIES BETWEEN GOVERNMENT AND OIL INDUSTRY

(By David Bird)

The much-publicized gasoline shortage and recent charges of corporate wrongdoing brought by the Federal Trade Commission have thrown a fresh spotlight on the close relationships between the oil industry and Government regulators.

Traditionally America's major oil companies have been close to the Government, often to the point of blurring the dividing line between the two.

Executives have shuttled between the industry and the agencies of the Government concerned with oil and it has been the industry's statistics and studies that have been at the base of the nation's oil policy.

CONCERN SHARPENS

In other parts of the Government, too, there is a pattern of close relations between the regulators and the regulated, but critics charge it is carried much further in the case of the oil industry.

There were justifications that these close ties were in the interest of national security, that the Government needed all the help it could get because oil was so vital. Others say that no one really cared as long as the oil kept flowing.

But when the gasoline pumps started running short this summer there was a much sharper concern about what the oil companies were doing among themselves and with the Government.

The oil companies say what happened this summer was merely a case of capacity's not being able to meet the United States ever-growing need for more fuel.

There were, however, angry charges that the shortages were part of a conspiracy on the part of major oil companies to force prices up, drive out competition and secure new sources of supply for themselves that had been blocked by the growing environmental movement.

COMPLAINT FILED LAST WEEK

The charges of conspiring to monopolize the refining of petroleum products were formally made last week in a complaint filed by the Federal Trade Commission. They have been denied by the industry.

Many critics of the industry—including the commission staff—say that a conspiracy is not even necessary because the Government simply helps the industry, as part of their close relationship, to get what it wants.

"The [oil] industry operates much like a cartel, with 15 or 20 integrated firms being the beneficiaries of much Federal and state policy." a recent commission staff report said. "Thus, the Federal and state governments with the force of law do for the major companies that which would be illegal for the companies to do themselves."

The gasoline shortages this summer never became severe before they eased, but in their wake they left higher prices at the pump for the motorist, less competition and a public and political climate more favorable toward going ahead with plans to use such things as Alaskan oil, which had been blocked by environmentalists.

GOVERNMENT HELP ALLEGED

Critics of the industry point out that this was just what the major oil companies wanted and that they had a good deal of help—either through action or inaction—from the Government.

One of the major Federal agencies that provide information on which Federal policies are based and then carries out the polices is the Office of Oil and Gas in the Interior Department. It has a staff of 150 in Washington and in the country.

That office is now directed by Duke R. Ligon, a lawyer who came to Federal service from Oklahoma and the Continental Oil Company. The office has a tradition of being directed by men from the oil industry who return to the industry after they leave the Government.

Mr. Ligon's predecessor was Gene P. Morrell, who also was an oil-industry lawyer before he came to the Government. Mr. Morrell is now a vice president of the Lone Star Gas Company.

"There is not one sliver of evidence that the shortages are part of a conspiracy by the oil companies," Mr. Ligon said the other day, sitting in his corner office at the Interior Department at the end of a long hall decorated entirely with large photographs of oil rigs, tankers and refineries.

Although there are many arms of the Federal Government that act as spokesmen for their respective groups, such as the Department of Agriculture for farmers and the Department of Labor, for workers, Mr. Ligon denies that he is pressing any one cause.

INDUSTRY PAYS FOR BUDGET

"I have an obligation to all the American people," he said. But he also says no one is required to provide energy for the American people.

"That's what private enterprise is all about," he said, adding that "private enterprise can take care of it if prices are not held down too low."

The oil industry has helped to shape the country's oil policy in other ways.

The National Petroleum Council is made up of 119 oil-industry executives appointed by the Secretary of the Interior. The council's function is to advise the Secretary of the Interior on petroleum policy. Its members meet twice a year (January and July) in the

Interior Department Auditorium in Washington.

The council's $800,000 a year operating budget is paid for entirely by industry and it oversees studies that are carried out by oil-company staff members. The council is about to present to the Secretary of the Interior a study on the United States energy outlook.

A member of the oil industry is also regularly on duty working in the Federal Government on loan from the industry. The current member is Robert Bowen of the Phillips Petroleum and analyze data on the oil industry that goes to the Administration's Oil Policy Committee, which is headed by Deputy Treasury Secretary William E. Simon. The executive secretary of the Oil Policy Committee is Mr. Ligon.

The basic tools that Federal and state governments have given the oil industry are the depletion allowance and restrictions on production and imports that have kept prices up.

The depletion allowance enables petroleum companies to deduct 22 per cent of the value of crude oil production from their gross income for tax purposes. The write-off is justified on the ground that it encourages exploration for new petroleum sources.

But the depletion allowance has helped to consolidate the power of the major companies, which are "integrated," that is, they control most or all of the processes involved in bringing oil out of the ground and getting it to the consumer as a finished product.

Independents are smaller and usually have only one segment of the petroleum process such as refining or marketing.

MAJORS ENJOY ADVANTAGE

The majors are thus at an advantage because they can charge a large part of their expenses to getting the crude out of the ground, where the tax advantage is the greatest, and carry their other operations, such as refining, which does not enjoy the depletion allowance, at a low profit level or at no profit at all.

The current shortages are attributed by the major oil companies largely to a lack of refineries because they are not pendent refinery operators have found it impossible to build new refineries because they are not profitable in competition with the major oil refineries, which are operated at a loss.

This year's gasoline shortage can be traced at least in part to last winter's fuel oil shortage.

Refineries distill a barrel of crude oil (42 gallons) into a variety of products from gasoline through various grades of heating oil to tar.

A refinery cannot produce all of one product, gasoline, for instance, from a barrel of crude. But by adjustments it can maximize production of one product and minimize another.

Thus during the heavy summer driving season more gasoline is produced and in the winter heating season more fuel oil is made.

Late last summer, when the oil industry might have shifted from gasoline to fuel oil to make sure there was enough for the winter, it kept producing gasoline.

The industry last fall assured the public—and Government officials who might have been able to do something about the shortage—that there would be no fuel-oil crisis deep enough to do anything so drastic as removing the import quotas that had kept out foreign oil so it could not drive down the price of domestic crude.

Last January, when the shortage of fuel oil became apparent, George A. Lincoln, director of the Federal Office of Emergency Preparedness, expressed irritation at the industry for continuing "on its gasoline binge too long" and not building up the necessary fuel-oil inventory.

Frank N. Ikard, president of the American Petroleum Institute, the oil industry's trade association, said at the time that the shift from gasoline to fuel oil could not be adjusted enough to make a difference.

But Mr. Lincoln reported that, faced with the easing of import quotas and the implied threat of having them dropped altogether, the oil companies suddenly found they could increase their production of fuel oil by 6 per cent.

But the domino effect of the squeeze already had been set in motion. By producing more fuel oil last winter the industry was setting up a gasoline shortage this summer by taking away from production needed oil to build up the gasoline stocks.

There were suggestions last winter that perhaps the Federal Government should gather its own statistics rather than rely on the industry's. But no such effort was made.

Mr. Ligon said recently that, while the Government did have its own figures, they usually were not as current as those from industry. The American Petroleum Institute puts out a weekly statistical bulletin showing production and stocks of different fuels all over the country. Figures from the Federal Bureau of Mines, Mr. Ligon said, are quarterly and arrive more slowly.

"Of course we use A.P.I. figures," Mr. Ligon said.

Recently the institute issued a statement noting that there had been a growing number of charges that the oil companies had conspired to create the shortage.

It labeled these charges as false and said that they were being "made without a shred of supporting evidence."

The institute said it would "welcome an objective study on the causes and nature of the current energy shortage."

It added that it was "convinced that such a study will show that the energy shortfall is not artificial and is not a plot by the oil companies to 'get what they want,' but is a matter of skyrocketing consumer demand for oil products at a time when efforts to increase supplies are being thwarted by forces outside the oil industry."

RESTRICTIONS CITED

To go with its protest against the conspiracy charges the institute produced a study of its own. The study asserted that it had mainly been environmental restrictions that had kept the industry from building more refinery capacity or from building the Alaska pipeline to tap the rich North Slope deposits of crude that had been discovered there.

The institute's study said that industry profits trailed those of other industries and that prices of gasoline and fuel oil trailed the general increases in prices in the last 10 years.

But in the early years of that decade fuel prices were held down because with apparently abundant supplies independents were able to compete with the majors. With the shortages beginning last fall independent's increasingly have been frozen out of the market and prices have shot up since then.

The institute study notes that the average retail prices for regular gasoline rose 30.9 per cent from 1963 through April, 1973, compared with a rise of 42.5 per cent for all consumer goods and services.

The institute did not point out such rises in the last year that have meant such things as the State of New York's having to pay as much as 46 per cent more for the gasoline it uses in government vehicles and New York City's having to pay as much as 51 per cent more.

Concerning profits, the F.T.C. staff study said that special tax advantages like the depletion allowance "provide crude producers with substantial 'unreported profits.'"

The commission report concluded that "there is considerable reason to believe that the after-tax profit shown understates the true profit of oil companies."

On May 1, President Nixon, in the face of a growing shortage of petroleum products suspended the oil-import-control program that had protected the domestic industry for years.

According to the commission staff the major oil companies began to change their attitude when it looked like there would be a backlash of more Government control if the public reacted too strongly to the shortage.

The commission staff noted that in the past the major oil companies attributed their lack of expansion directly to environmental problems.

PROBLEMS "SUDDENLY OVERCOME"

"However, now that import controls have been removed and governmental intervention into the industry has become a strong threat, those companies have suddenly overcome their environmental problems," the commission report said.

"Exxon has announced plans to build additional refining capacity of 600,000 barrels per day. Other large firms also plan new refineries in the near future."

Senate investigators who have been looking into multinational corporations like the oil companies that operate in several countries at a time say those major oil companies are now anxious to move "upstream" and take even firmer control of those operations further from the well.

For years, these investigators say, the major oil companies have used their control of oilfields—either through actual ownership or ownership of pipelines or other means of transportation—to monopolize the market.

BIGGER PROFIT SHARE DEMANDED

But now because of increasing dependence on much vaster foreign reserves of oil, other countries are demanding a larger share of the profits. With independent refiners and marketers still on the scene, a large oil company would not have as much leverage in dealing with an oil-rich foreign land. If the major company refused to meet the demanded price at the wellhead, the foreign government could offer the supplies to an independent as a threat.

With the independent refiner and marketer eliminated or reduced to an inconsequential role, that threat could not be used.

Marketing gasoline at the retail level has traditionally been an unprofitable business. The major oil companies have preferred to lease their stations to dealers who would work long hours on their own rather than have to pay employes who might not have as much incentive to sell extra gasoline.

With the squeezing out of the independent station that sold unbranded gasoline at lower prices, the company-brand stations have been able to raise their prices and have thus become more attractive for the major oil companies to operate outright.

While the F.T.C. staff report takes a strong and independent line, that line is a long way from being translated into Administration policy or even any meaningful action. Any antitrust action the commission might begin would take years to take effect through administrative and court processes. By that time the majors could have accomplished their goal of driving out the independents.

The commission prides itself on taking an independent stand in its investigations, but its own study notes that even after 50 years of examining practices in the gasoline industry it has not brought about any real changes.

"Despite the staff's success in bringing and winning cases before the commission and in the courts, as well as in obtaining compliance orders," the F.T.C. report said, "the petroleum industry over the last 50 years has managed to circumvent the orders in many cases by subtle changes in policy or practice."

In his energy message of last April 18 President Nixon proposed a voluntary allocation program to help independent operators get supplies of fuel. Under the program the majors were to give a share of their fuel to the independents. The voluntary program was administered by Mr. Ligon's Office of Oil and Gas.

Asked recently if the voluntary program was working, Mr. Ligon replied "Yes, it's working."

But Ed McDermott, a lawyer for the Society of Independent Gasoline Marketers of America, said "we have gotten absolutely zero under the voluntary program run by the Office of Oil and Gas."

"There were no teeth," he added. "The majors just told them to go to hell."

Partially to remove Federal oil policy from the Interior Department and its close association with the industry, the separate Oil Policy Committee, now headed by Deputy Secretary Simon, was set up.

In a letter last June 28 to Senator Thomas J. McIntyre, Democrat of New Hampshire, who has expressed concern that the voluntary program is not working, Mr. Simon said:

"I recognize your concern about the operation of the voluntary allocation program. We, too, feel that the program is not working as effectively as it should and are now drafting a mandatory program to take its place."

The next day at the Western White House in San Clemente, Calif., President Nixon released his new energy program. It said nothing of changing the voluntary program and opposition was indicated to any mandatory program.

Asked about the differences between the President and his Oil Policy Committee, a spokesman for Mr. Simon said "we should not have had those words in our letter."

IMPORT QUOTAS OPPOSED

S. David Freeman was named head of the energy policy staff of the White House Office of Science and Technology during the Johnson Administration in 1967. He continued in that post into the Nixon Administration until he resigned in August, 1971.

Mr. Freeman has long opposed the oil-import quotas. He called them a "drain-America-first" policy that might enrich oil companies in the short run but in the long run would leave America even more dependent on foreign sources.

PHASE IV WILL ADD BILLIONS TO U.S. FAMILY GROCERY BILLS

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. ROSENTHAL. Mr. Speaker, the Nixon administration anticonsumer bias is nowhere better demonstrated than in its feeble attempts to cope with the current food price emergency.

Because the administration lacked the courage and foresight to freeze key raw agricultural commodities months ago, food prices have continued to skyrocket during practically every phase of its economic stabilization program.

Real farm income increased 14 percent last year. Food processors recorded record profits and, of course, food prices themselves reached historic high levels.

With the recent announcement of phase IV food price regulations, the President has guaranteed another round of severe inflation at the supermarket counter and has added billions of dollars to the American family's grocery bill. Once again he has dipped into the pockets of every consumer in order to cover up his administration's gross mismanagement of the Nation's food supply.

What has brought us to this tragic state of affairs where millions of consumers can no longer afford to feed their families three nutritious meals 7 days a week and where food shortages at the supermarket are becoming a reality?

Obviously, the causes are many and complex: Bad weather in some parts of the country has caused a shortage of certain fruits and vegetables; inflation and the psychology of inflation throughout the entire economy has tended to push prices up in the food sector and some have suggested that excessive Government spending, especially in the defense sector, is also a factor.

My own view, reached after considerable study and deliberation, is that outrageously high food prices are a direct result of the gross mismanagement of the Nation's food supply by Secretary of Agriculture Earl Butz and the President.

Mr. Speaker, the high cost of feed grains—soybeans, corn, cottonseed used to feed livestock, hogs and poultry—is responsible for the huge increase in the retail price of beef, pork, chicken, eggs, milk, cereal and bakery products—and the administration is responsible for the high cost of grain. Feed grain prices, which have tripled in cost over the last year, are a basic result of four factors:

First. the United States-Soviet grain deal and other excessive grain sales abroad;

Second. The failure to impose controls on the price of key feed grains before their cost threatened poultry, hog, and other animal producers;

Third. The failure to recognize in 1971 and 1972 that the United States and world food supply-and-demand situation should have resulted in an increase in available acreage for production rather than continuing to pay farmers not to produce, and

Fourth. The sale of every Government decision to the highest campaign contributor.

Secretary Butz, it must be said, was the chief architect of these policies of mismanagement and neglect and the President must assume full responsibility for them.

The fact that phase IV removes the ceiling on all retail food prices—beef ceilings will come off on September 12, 1973—is sufficient reason to doubt its wisdom. But equally disturbing is the fact that no adequate data has been developed regarding the reason for the removal: to allow poultry and animal producers to pass along to the consumer the admittedly high price of feed grains used to feed their animals.

Americans should be told—if the administration has the answers—how many grain companies are presently holding grain that will be sold to animal farmers? What prices are they asking? What kind of profits will they make?

In short, I suspect that 210 million American consumers are paying and will continue to pay for the unconscionable profits of a handful of grain dealers.

If the Secretary of Agriculture had not sold off one-quarter of all U.S. grains to the Soviet Union—at a cost to the taxpayers of $300 million in wasteful subsidies to a few international grain traders and a cost to the consumers of billions of dollars in higher food prices—and if he had frozen feed grain prices, we would not now be confronting the present food price emergency. Even today, as incredible as it may seem, Secretary Butz has committed 400 million bushels of next fall's wheat, corn, and soybean crops to Russia and the People's Republic of China—causing speculators on the commodities market to up the price of November soybeans—the key feed grain—25 percent since July 1. It is equally incredible that the Department of Agriculture's Foreign Agricultural Service will spend $13 million in 1973 to promote the sale abroad of U.S. agricultural commodities in short supply here.

My efforts and those of others to assist the food shopper have not, unfortunately, fully succeeded. The Secretary of Agriculture, who calls concerned consumers "cheap-food advocates," has continued politicking for higher and higher food prices. I have called on him repeatedly to freeze the price of raw agricultural commodities, but he has insisted it would create shortages. Many of us suspected then and we all know now it was the failure to impose such controls that has brought us to the brink of empty shelves in the supermarket and empty cupboards at home.

In March of this year 75 Members of Congress cosponsored my bill to create a new congressional committee to reform our antiquated food policies and study the reasons for high prices—a task that the agri-business oriented House Agriculture Committee could never perform.

In April of this year, I convened a meeting in Washington of boycott leaders from across the country to discuss strategy for bringing food prices down. As a result of that meeting, a new National Consumer Congress was formed, which, hopefully, will result in a permanent consumer lobbying force throughout the country.

Recently, I wrote a letter signed by a number of other Congressmen, urging the Cost of Living Council not to sell out the consumer when phase IV food price regulations were promulgated.

Obviously, the consumer has not fared well in an administration whose only real constituency can be found within the pages of Fortune's 500 biggest corporations. Nor will consumers fare well in the battles to come unless they organize in the same way and to the same extent as the agri-business interests and until a Federal Consumer Protection Agency is established in Washington to serve as their voice before and within the Government.

Mr. Speaker, American consumers have reached the breaking point insofar as food prices are concerned. Their pocketbooks are not bottomless pits and they must not be made to bear any longer the brunt of the administration's disastrous economic policies.

ENGINEERS APPLY SPACE TECHNOLOGY TO DOWN-TO-EARTH PROBLEMS

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. TEAGUE of Texas. Mr. Speaker, Mr. David F. Salisbury, staff correspondent of the Christian Science Monitor, in a recent article cited the opportunity that exists for employing space technology in solving our day-to-day problems right here on earth. Mr. Salisbury discusses the recent establishment of the Urban Systems Projects Office at the Johnson Space Center in Houston, Tex. This is but one example of the way in which the technology derived from our national space effort is and can be applied to the problems of better living here on Earth, not only for the people of this country but for the world. The article follows:

ENGINEERS APPLY SPACE TECHNOLOGY TO DOWN-TO-EARTH PROBLEMS

(By David F. Salisbury)

Engineers who helped put men on the moon are being challenged to look at a community on earth as if it were a spaceship and design its life-support systems accordingly.

That is what the Urban Systems Project Office here is doing. Working under an agreement with the Department of Housing and Urban Development, they are attempting to apply aerospace methods to the problem of cutting down pollution and conserving natural resources without changing people's life-styles.

"We're still in the concept stages," explains project manager Edward L. Hays. "We hope to start building a demonstration plant by 1974. You can work with a pencil and paper for years and only get so far."

Just over a year ago when this office was formed, its first major undertaking was to retread aerospace "cadets" to familiarize them with the hardware and organization of a community. A space-suite engineer became a water and liquid waste specialist. A person who analyzed such expendables as food or fuel quantities on Apollo missions studied solid waste management on Earth.

FRAGMENTED APPROACH

This team of experts found traditional ways of providing basic services to be inefficient and outmoded. Sewage companies treat sewage. Electrical companies provide electricity. Oil companies deliver heating oil. Water districts provide water.

"This fragmented approach was acceptable," they said, "as long as energy resources appeared infinite, environmental impacts were small, and developable land was not in short supply. This is no longer the case today and will be even less so in the future."

So they proposed integrating all these various systems in ways that would maximize the efficiency of each and minimize environmental impacts. Applying this philosophy to a hypothetical 500-unit apartment house, they have found that impressive savings are possible.

By producing the electricity at the site and using the generator's "waste heat" for drying clothes and for space and water heating, and using solid wastes as an extra source of heat, the amount of fuel a community uses can be cut down by 35 percent.

By distilling and recycling waste water (again using heat that would otherwise be wasted) and using partially reprocessed water for secondary uses such as watering lawns, the apartment complex could reduce total water consumption by as much as three-fifths without cutting down on the number of showers the apartment dwellers take.

They calculate a 50-percent reduction in thermal pollution, 35 percent in air pollution, 80 percent in liquid waste, and a 65 percent reduction in solid waste disposal. This is due to using heat more efficiently, recycling much of the water, and burning the solid wastes.

"Right now the utilities are very interested in our project," Mr. Hays explained. "But they've got to have something concrete to chew on."

NO EXOTIC TECHNOLOGY

So the next step wil be to convert these calculations into reality. According to Mr. Hays, the demonstration plant that they plan to build will use "off-the-shelf" items—no exotic space technology.

Even so, the system will be more expensive to build than the old type of housing complex. Mr. Hays feels that this will greatly influence its acceptability.

"Suppose I show you two similar houses," he illustrated. "One costs $5,000 more than the other. Even if I tell you that the expensive one is better designed and insulated and will save you $10,000 over 20 years, which would you buy?"

But, he added, we must begin to be mindful of long-term consequences.

Earth really is a spaceship beautifully "designed" to support life during its immense cosmic journey. The best way to preserve "spaceship earth" may well be to design every community as carefully as a spaceship must be designed. At least that is what Mr. Hays and those working with him are committed to do.

CHARLES CHRISTIAN BUNDSCHU

HON. WM. J. RANDALL

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. RANDALL. Mr. Speaker, every community in our land proudly recognizes the outstanding leadership of its citizens. That is why we should never fail to take the time to pause and mourn the passing of big men who contributed to the building of the community in which they lived.

It is for such reasons that I have asked unanimous consent that an editorial from the Examiner be read into the RECORD in order that it may be preserved as a part of the archives to honor the memory of that distinguished citizen of Independence, Mo., Charles Christian Bundschu.

Without knowing what member of the staff of the Examiner had authored the editorial, let me observe that it must have been by one who knew well the life of C. C. Bundschu. The writer points out that Mr. Bundschu was a member of a pioneer family. Let me add that his father, Anton J. Bundschu, founded the first department store in Independence, Mo. This well-written editorial quite appropriately points out that this fine citizen made many contributions to the progress of the community he loved. It was because of his participation in civic enterprises that earned for him a reputation of one of the most respected men of the entire area.

He served in World War I and also during the Mexican Border War. The editorial so well describes the even disposition of this fine gentleman. He was one who had a good sense of humor. He was kind and considerate and though a man of stature he was always humble.

Mr. Speaker, it is my privilege and honor to read into the CONGRESSIONAL RECORD the editorial as it appeared in the Independence Examiner for July 20, 1973:

CHARLES CHRISTIAN BUNDSCHU

Soldier, sportsman, businessman, community leader—Independence has lost one of its finest citizens—C. C. Bundschu.

A member of a pioneer Independence family, C. C.'s roots were planted deep in the community he loved and served so well during the years the Bundschu family operated Independence's largest department store.

Whenever a meeting was held to discuss improving the central business district of Independence, C. C. was there to help with suggestions and work. Most, who knew and worked with him, would agree he was one of the most respected businessmen in Independence.

C. C. had a remarkably even disposition. It was hard to ruffle his feathers . . . his chuckle was almost a trademark. His honesty and integrity were above reproach. One time during the war days of gas rationing, someone offered him a few extra gas ration stamps, which he immediately refused.

Although a graduate engineer, he was an astute retailer. The A. J. Brundschu Company was widely known and widely respected. Its prosperity waned only when the retail giants changed Americans' shopping habits with the advent of the huge shopping centers designed for a mobile population.

C. C. was an avid hunter and fisherman. Many were his friends who sat with him in the duck blinds or tramped the fields for coveys of quail. Just a couple of weeks ago, he took some of his grandchildren on a fishing trip to Pomme de Terre.

He was a soldier, having served in the field artillery during the Mexican border war and in World War I. He loved to tell of humorous incidents which occurred while he was wearing the uniform.

C. C. lived by a set of Christian principles which made him seem stern at times. His ideals were so high that most would find them impossible to attain. He was kind and considerate . . . he was friendly to all. Even though a man of considerable stature, he was always humble.

He was devoted to his wife and family. He was unshakable in his convictions.

We could fill pages praising C. C. Brundschu, his attributes were so many.

We're going to miss him. Independence will miss him.

Not many men of his stature pass our way in the short span of a lifetime.

AMENDMENT TO H.R. 8480

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. REUSS. Mr. Speaker, when H.R. 8480, the anti-impoundment bill, comes up on Tuesday, July 24, 1973, I intend to offer an amendment deleting title II of the bill, which sets a spending ceiling of $267.1 billion for fiscal 1974.

The text of the amendment follows:

Strike out title II (beginning on line 11, page 11, and ending on line 10, page 14).

Page 1, strike out lines 3 and 4.

GLENN TUCKER JUST GETTING STARTED AT 80

HON. WILLIAM G. BRAY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. BRAY. Mr. Speaker, the following editorial from the Raleigh, N.C., News and Observer pays a well-deserved tribute to a former Hoosier, Glenn Tucker, who has just, at age 83, brought out his 12th book—"Mad Anthony Wayne and the New Nation."

Glenn, a long-time friend, started his journalistic career in Indiana after graduation from DePauw University prior to World War I. He served as an infantry officer in France. After the war he joined the New York World Bureau in Washington, D.C. His reporting is partially responsible for the Federal Communications Act. He left journalism, entered public relations, then went back to journalism and for a time was Washington correspondent for the Indianapolis News. As Ralph Waldo Emerson noted:

> Cato learned Greek at eighty . . .

I do not know if Glenn is studying Greek or not, but I would not be a bit surprised.

The article follows:

Tucker Just Getting Started at 80

Glenn Tucker of Fairview, who turned from newspapering to writing history and biography late in middle age, is just reaching his stride at 80 with his twelfth volume, "Mad Anthony Wayne and the New Nation." Physically, Tucker fits the description written by the late Robinson Jeffers: "The heads of strong old age are beautiful/Beyond all grace of youth."

But instead of savoring, or looking back, Tucker is busily making plans for additional history books and biographies, and he brings to this second phase of his life the same zeal and ebullience he brought to reporting when he was covering the White House during the latter part of Woodrow Wilson's tenure.

He is older than Browning was when the militant poet trumpeted, in "Rabbi Ben Ezra," "Grow old along with me/The best is yet to be." But the intrepid Englishman would have to get up early to match Glenn Tucker's unbounded optimism for life. And when a man lives, has reverence for life, each sunrise is an exhilarating bonus, a marvelous challenge. That's way some people never grow old, albeit, it is the absence of this incessant spirit of high adventure that superannuates so many today when they have just turned thirty.

Although Mr. Tucker is not a "Tar Heel born," he typifies the best to which the most eloquent native son is supposed to aspire. Indeed, his excellent biography of Zeb Vance and his labors on behalf of the Western North Carolina Historical Society give him a prominent seat at the head table whenever the select foregather.

And in 1973 he carries on that splendid American tradition of the excellent historian produced by a news room and not by a graduate school. While one doesn't profess to remember all of the brilliant alumni, one thinks of such newspapermen-turned-historians as Gerald Johnson, Jonathan Daniels, Douglas Southall Freeman, Carl Sandburg, Virginius Dabney and, of course, Glenn Tucker.

CONTINUED FUNDING OF DEATH IN SOUTHEAST ASIA

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, on February 1, 1973, I called to your attention a matter of grave concern to this Congress—the continuation of fighting in Laos and Cambodia. In deference to the President, Congress has permitted continued funding of the bombing in Cambodia through August 15, 1973. Current indications are that we in Congress may be asked to extend this date.

Mr. Speaker, the American dollar is still undoubtedly the prime factor in the continued fighting in Southeast Asia. I urge my colleagues to again read my February 1, 1973, comments which follow:

Need for Further Reductions in Supporting Assistance Appropriations

Mr. Moorhead of Pennsylvania. Mr. Speaker, I call to your attention a matter that should be of grave concern to this Congress. On January 24, President Nixon declared a cease fire for Vietnam effective January 27, 1973. It is difficult to understand why it was necessary for our fighting forces to finish out the week—during which four more American fighting men were killed—but it would seem that the fighting in Vietnam is finally nearing an end. Sadly, the same does not appear to be true for Laos and Cambodia.

A contributing factor to the continuation of the fighting in Laos and Cambodia is undoubtedly the amount of American dollars supplied to feed the existing corruption. As long as powerful groups of individuals in Laos and Cambodia can make a dollar on the war, they will attempt to continue the fighting.

During the last Congress, the Foreign Operations and Government Information Subcommittee, which I chair, prepared reports showing the gross lack of control over the expenditure of millions of dollars under U.S. grant programs to both Laos and Cambodia which are administered by the U.S. Agency for International Development—Need a copy? Phone 225-3741. In replying to our reports, Agency officials have advised me that they have carefully reviewed the reports but that nothing will be done to establish proper U.S. controls over these programs.

Over the past 20 years, one scandal after another has surfaced in our foreign assistance operations. Past programs in both Laos and Cambodia have been especially troublesome. To cover up the continued corruption in these countries, AID officials have devised schemes whereby the United States contributes millions of dollars purportedly to pay the foreign exchange costs of imports needed by the Lao and Cambodian people. However, our officials have been especially careful not to create any real control over this expenditure of the taxpayers money. In fact, the AID mission director in Laos reported that over $50 million of the $95 million made available to Laos for imports over a recent 4-year period could not be accounted for by commodity imports into Laos. Our officials in both Laos and Washington readily confessed that they do not know what the Lao did with the $50 million.

During our hearings on the economy and efficiency of U.S. economic assistance programs in Cambodia, AID officials clearly explained their reasoning for establishing a special exchange fund to finance imports for Cambodia when they testified that the fund would finance "those kinds of things that we either did not wish to, or legally could not finance out of a commodity import program."

Our officials rationalize that concealed corrupton cannot hurt the U.S. foreign assistance program. Are we as responsible representatives of the American people going to permit this uncontrolled expenditure of millions of U.S. tax dollars to continue?

Mr. Speaker, during the closing days of the 92d Congress, we passed a continuing resolution for the funding of our foreign assistance programs. In doing so, Congress indicated that final funding for the administration's $894 million supporting assistance appropriation request would not exceed $600 million. Every Member of the 93d Congress should be carefully considering the authorization and appropriation of funding for AID's supporting assistance programs which will be up for a vote before the Congress very shortly. With proper U.S. control over the expenditure of these funds, it would be necessary for the Congress to appropriate less than half the amounts it has been providing for supporting assistance purposes. Clearly, we must speak to our AID officials in the only language they understand—the language of the appropriated dollar.

ITT'S HOLDINGS A CONGLOMERATE SUPERMARKET

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. EVINS of Tennessee. Mr. Speaker, the distinguished former economist of the Federal Trade Commission, Prof. Willard F. Mueller, now with the University of Wisconsin, has testified that the interrelated, massive conglomerate operations of ITT range from banking to home furnishings, lawn fertilizer, insurance, banking, foods, car rentals, publishing and extensive operations as a Government defense contractor.

Because of the interest of my colleagues and the American people in this most important subject, I place an article from the Progressive magazine in the Record herewith.

The article follows:

The Way ITT Is

(Willard F. Mueller, University of Wisconsin economist, before the Senate Monopoly Subcommittee, November 12, 1971)

As a consumer you can buy a home and live in one of ITT-Levitt's planned communities; buy furnishings for your home with personal loans from one of ITT's finance subsidiaries; fertilize your lawn with ITT's Scott fertilizer; insure your home at ITT-Hartford Fire Insurance; buy your life insurance from one of ITT's life insurance subsidiaries; invest your savings in ITT-Hamilton Management mutual funds; munch on ITT-Continental bakery products; savor an ITT-Smithfield ham; buy cigarettes and coffee from ITT-Canteen vending machines; stay at hotels or motels owned by ITT-Sheraton; rent a car from ITT-Avis; buy books from ITT's Bobbs-Merrill publishing division, or attend one of ITT's technical and business schools. . . .

Moreover, part of each of your tax dollars spent on defense and space programs goes to ITT, which is one of the nation's leading prime defense contractors. ITT maintains Washington's "hot line" to Moscow, mans the Air Force Distant Early Warning (DEW) system and the giant Ballistic Missile Early Warning System (BMEWS) sites in Greenland and Alaska, the large NASA facility at Cocoa Beach, Florida, and the Defense Department's Western Test Range in California.

CAPTIVE NATIONS WEEK

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. ANDERSON of California. Mr. Speaker, this past week, July 15-21, marked the 15th observance of Captive Nations Week which is recognized both here and abroad. Since July 1959, when Congress passed and President Eisenhower signed Public Law 86–90, we have observed this commemorative week.

Despite the changing foreign policy of the United States in past years, we cannot deny that many nations in Europe and Asia, as well as other sectors of the world, remain captive today.

Therefore, Captive Nations Week provides an opportunity for Americans to show their solidarity and support for the aspirations of the people of Eastern and Central Europe for freedom and self-determination.

Since World War II, we have seen the birth of new nations, especially in Asia and Africa. Obviously, these fledgling countries illustrate man's desire to be truly free. But during these same years, we have seen similar attempts at freedom stunted and repressed by force.

We also wish to let captive nations know that we disdain policies which frustrate a country's desire for self-government. We feel that by denying self-determination to a nation, the rights and freedoms of its citizens are prohibited from becoming a reality.

For decades, citizens of Eastern and Central Europe have lived under the domination of a foreign government—the Soviet Union—which has not permitted the freedoms to which we are accustomed in this country. And this repression, while not directly affecting our people, must be shared by all of us, since no person can be completely free, no person can live without fear of repression, as long as some are lacking freedom.

As long as some are denied basic freedoms—free travel, free expression, the free exercise of religion, the freedom to assemble, the freedom to select their own leaders—a part of our own liberty is withheld.

Thus, their cause is our cause.

The urge for freedom transcends geographical boundaries; it is not limited to one nationality, nor is it the exclusive reserve of those of us privileged to live in this country.

Rather, self-determination and self-government are universal values which are sought by all men. And, as long as some are denied these rights, we must continue to speak out and raise our voices—not to arbitrarily impose our will—but in defense of a free choice by a free people.

The people of Latvia, Estonia and Lithuania; the men and women of Czechoslovakia and Hungary, deserve the right to determine their own destiny today, as much as the people of the 13 colonies did in the 18th century.

Mr. Speaker, I wish to let our captivated friends know of our continued support for their cause. As a nation, we must show our concern for the peoples of nations which have been denied the opportunity of being equals in the world community.

As we commemorate Captive Nations Week, let us hope that recent international agreements by the United States will help all captive nations attain freedom and independence. But until such a time when those millions have the basic rights which they deserve, let us pledge to speak out in behalf of these oppressed people.

While the United States is making progress toward world peace, let us not forget to show our sympathies to those who hope to live as freely as we do in America. Individual liberty for all is a goal which all of us must work towards and support—not just for a week—but until that time comes when all are free, and the yoke of repression has been removed.

ROBERT STRICKLAND NAMED HEAD OF GEORGIA BANK

HON. BEN B. BLACKBURN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. BLACKBURN. Mr. Speaker, Hubert F. Lee, founder and editor of the publication Dixie Business, has prepared a column in the edition for the summer 1973 of one of Georgia's leading banking authorities, Robert Strickland.

Mr. Lee's article reads as follows:

ROBERT STRICKLAND HEADS TRUST CO. OF GEORGIA

(By Hubert F. Lee)

The election of Robert Strickland, 45, as president of the Trust Company of Georgia on April 17, 1973 brought nostalgic memories of the Atlanta I knew half a century or so ago.

His father was executive vice-president of a bank in 1922 when I asked him to help conduct a banking school for the Atlanta Junior C. of C.

His father was a greater leader in 1946 when he died of cancer while president of the Trust Co. of Georgia.

Bob, Jr. (III), attended Marist where he played guard on the football team. He excelled in debating and ROTC.

Bob received his Bachelor of arts degree in Business Administration at Davidson College.

He joined Trust Company in 1948 at the bottom of the ladder that in 25-years he climbed to the presidency.

Bob enrolled in the Atlanta Law School at night.

When George Craft introduced Bob as a member of Atlanta Rotary Club, Chet Covey wrote in the December 1, 1969 ROTANY in Atlanta bulletin:

"Bob has progressed with unusual speed and if I were to hazard a guess I'd say that he will some day step in to the place that his dear father once occupied. . ."

The army drafted him for the Korean war and Bob spent 2 years at Camp Benning where he advanced to three striper.

Willis Johnson, Jr., former editor of Southern Banker and now vice-president of Trust Company, sent out the news release April 17, 1973:

Top level changes have been announced in the management of Trust Company of Georgia and its holding company, Trust Company of Ga. Associates.

A. H. Sterne, 60, was elected chairman of the board of Trust Co. of Georgia.

Mr. Sterne, who has served as president since 1964, succeeds George S. Craft, 63, who will continue active as chairman of the executive Committee.

Robert Strickland, Jr., 45, was elected president of Trust Company, second largest banking company in Georgia, while Bradley Currey, Jr., 42, was named vice chairman.

During 1972, both Messrs. Strickland and Currey had been elected to the position of senior executive vice president, with each elected to the boards of Trust Co. of Ga. and Trust Company of Georgia Associates.

Wm. R. Bowdoin, 59, remains as vice chairman of Trust Company as well as chairman of Trust Co. of Ga. Associates.

James B. Williams, 39, formerly chairman of First National Bank & Trust Co. of Augusta, an affiliate in the Associates group, has been elected president of Associates.

W. Evans Bruner, 60, formerly executive vice pres., has been elected vice chairman of associates.

In 1922, Bob Strickland, Sr. helped my Altanta Jr. C. of C. Banking Committee conduct a school of banking.

Here is a clipping from the Atlanta Jr. Chamber Official Publication for May 15, 1922 listing top bankers who gave their time and talents:

"EXCELLENT COURSE IN BANKING TO BE OFFERED

"One of the best and most complete educational courses ever offered by the Junior Chamber will get under way on Tuesday night, June 6th. It will be a thorough course in modern day banking.

"The course will consist of two lectures each week for three weeks. They will be held on Tuesday and Thursday nights in the assembly hall of the Chamber of Commerce.

"In giving this course to the members of the Junior Chamber the men at the top of the banking profession have been secured to give the lectures.

"Those who are interested in banking could not receive a better course anywhere than the one offered by the Junior Chamber.

"The men who will give the lectures are as follows:

"Mr. R. L. Adams, Secretary Bankers' Trust Co.;

"Mr. E. A. Banker, Jr., Vice-President Lowry National Bank;

"Mr. W. M. Bell, Cashier, Federal Reserve Bank;

"Mr. R. F. Maddox, President Atlanta National Bank;

"Mr. Robert Strickland, Sr., Vice-President Fourth National Bank;

"Mr. W. V. Crowley, Cashier, Citizens & Southern Bank.

"No organization could get higher grade or a better list of instructors than these.

"All members are urged to let the Secretary know at once if they desire to take this splendid course."

Bob Strickland, Sr. was one of the top leaders who formed the Georgia Agriculture and Development Board, which then Governor Ellis Arnall told about in an article in the FALL 1945 issue of Dixie Business.

The organization today is known as the Georgia Department of Community Relations headed by Gen. Louis W. Truman.

DIXIE BUSINESS in the Spring 1946 issue featured the 1946 meeting of the Ga. Associated Industries whose speaker was Bob Strickland, Sr.

As Bob died later in 1946 of cancer I feel a little blessed to have covered his 1922 banking lecture for the Atlanta Jaycees and one of his speeches in 1946 when he was selling the importance of Research to business leaders.

Here is part of the report from the Spring 1946 issue of Dixie Business:

Robert Strickland, president of the Trust Company of Georgia, Atlanta, feature speaker at the annual meeting, spoke on "Industrial Research in Dixie." A vice chairman of the Southern Research Institute, Strickland declared that "There must be support in applied research. We must provide jobs in these new fields in order to keep our young boys and girls in our own section."

MUDDLING WITHOUT MARKETS

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. ARCHER. Mr. Speaker, it has long been my conviction that all forms of wage and price controls attack only the symptoms, and not the causes, of inflation. It is for that reason that I have consistently opposed granting powers in that regard to the executive branch.

Experience teaches us that governmental attempts to "repeal" the law of supply and demand will ultimately lead to shortages and black market situations. There can be no doubt that the recent "phase 3½" price freeze has caused adverse effects on the supply of foods, placing many poultry, meat, dairy, and vegetable producers in a position of loss. Perhaps the only "good" to emerge from that distressing situation will be a realization by the American public of the folly of any long-term controls.

Last April 6, the Wall Street Journal published an editorial which, in effect, correctly predicted the ill effects which now beset the average consumer. The Journal's remarks are still pertinent and should be seriously considered as we now head into phase IV. The sooner we can return to a system of supply and demand and an open market the sooner we will be able to create a more stable economy—and avoid future phases XXX, XL, and L.

The editorial follows:

[From the Wall Street Journal, Apr. 6, 1973]

MUDDLING WITHOUT MARKETS

The parallel between the problems of the Soviet Union and those of the United States might not be obvious, but it exists.

The parallel we speak of is in the problems of the marketplace. American housewives have been unhappy with meat prices and Congressmen are screaming for new, tougher price controls on meat, rents and who knows what else.

In Russia, where state controlled prices have been a fact of life since the revolution, housewives recently have been more unhappy than usual over shortages of food and other consumer goods. So the government has responded, with yet another "economic reform," which, we would guess, will be no more effective in meeting consumer needs than have those of the past.

Needless to say, the Russian housewives have the worst of things by far, and have had for as long as anyone can remember. But then, Soviet government started much longer ago to try to repeal the laws of market economics. For all practical purposes, the United States government only joined in this noble experiment in August 1971. But the way things are going, it may not be long before the U.S. has a non-market economy that works as badly as has the Soviet Union's nonmarket economy.

It is not too late to profit from Russia's bad example, although we would have to admit that as we write this the House Banking Committee sounds increasingly as if it has been getting its basic research from the inner reaches of Gosplan. Possibly it comes from those countless toilers who spend their lives poring over wholesale price lists trying to decide, more or less intuitively, whether hairpins, tack hammers, hatracks and hay forks should be marked up, or down, a kopeck.

It would not be overstating the case to say that the fundamental weakness of the Soviet economic system lies within its mindless effort to manage prices by state fiat. The consequencies abound through the land. Residential blocks or perhaps even entire cities sometimes have no services that Westerners take for granted—maybe dry cleaning establishments are missing, or eyeglass stores. Or the constant swings from surfeit to shortage in consumer items—one year there is a surplus of clothes pins, the next, none at all to be found. And through it all, the letters to Pravda and Economic Gazette argue the question, "Who's to blame? The farmers? The factory managers? The coal miners?"

If that is the way the letters to The New York Times and The Wall Street Journal are beginning to sound, it is no slight coincidence.

In fact, the ones to blame are the theorists who insist that the consumer benefits when the state substitutes its economic management for market forces. It is a beguiling concept. The market forces sometimes are painful when prices of some necessity go up. So the state removes the pain by ordering the prices to stay put. The Russians decided a long time ago that the idea had such simple beauty that they built their economic system upon it.

It's a little too simple, however. Markets and prices allocate resources (we sometimes wonder why we have to keep repeating this) and do it with far greater efficiency than could a million planners armed with a million computers. A free market is itself an all-encompassing computer, the best ever designed, constantly accepting billions of buying decision inputs, assigning values to the goods bought and thereby allocating a nation's finite productive resources to satisfy those human needs and wants that the buying decisions reflected.

Why don't the Russians try the market approach? A conjectural answer is that while the existing system is maddening for consumers, it is comfortable for the managerial bureaucracy. It doesn't take much creative thought to respond to an order from Moscow to produce 10 million alarm clocks and sell them at 2 rubles apiece. Who can be blamed if nobody wants that many alarm clocks? A more profound answer might be that Soviet authorities fear the long-term consequences of a real decentralization of decision making power. Economic and political power are not unrelated.

So the Soviet government came up with yet another token decentralization. It set up a group of large government "corporations" to take over management of groups of industrial plants. Some of the decision making authority over the plants formerly exercised by government ministries will be transferred to the corporations. We won't hold our breath awaiting the renaissance.

But we might hold our breath while Congressmen and officials flirt with the beguiling concept of economic control which has brought the Russians so much grief. You might say it can't happen here. But you might also say that it already is happening.

BLAKE LOWRY RETIRES

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. FINDLEY. Mr. Speaker, on Friday, July 6, 1973, I attended a retirement dinner in Litchfield, Ill., honoring Blake Lowry, Montgomery County game warden for his 34 years of service to conservation in the State of Illinois. Friends and relatives from as far away as Florida, California, and the State of Washington were in attendance. The dinner was held not just to applaud a retiring public servant, but to recognize a man of rare talents and devotion to the job of making his world a better place for all of us.

During his career, Mr. Lowry instructed over 5,000 youths in his firearms safety programs. To date, no student who has ever taken this instruction has been involved in a firearms accident or violation. Mr. Lowry became widely known for his presentations on conservation and ecology to youth groups, and civic and service organizations. In addition to his regular duties, he presented weekly programs on Illinois conservation for several years.

Blake's philosophy is that the best way to enforce conservation laws is to make the youths of the State aware of the laws and why they are necessary. His days off and much of his vacation time was taken up by providing outdoor experiences for the handicapped children in Montgomery County.

One of Blake's proudest accomplishments was being one of several conservation law enforcement officers to give birth to the civil service system and the merit system in the Department of Conservation in the State of Illinois.

During his tenure as game warden in Montgomery County, Blake Lowry helped organize and run the first bird dog field trial in the State of Illinois. He originated the first firearms safety program in the Department of Conservation and he was a member of the first bowling team in the Department of Conservation.

Blake has been active in bird dog field trials nationwide. He has judged all of the major field trials in Illinois and the Lowry strain of English Setter bird dogs are well known throughout the Midwest.

Blake Lowry was an outstanding athlete, playing for the well known Red and White baseball team of Litchfield, Ill. for many years. For 10 years he coached a Little League team and one of his undefeated teams represented Litchfield in the Ray Schalk Evergreen Park playoff in Chicago, which they won.

Mr. Lowry plans to remain active in his retirement, taking part in field trials and developing his line of bird dogs.

Mr. Speaker, Blake Lowry serves as an example to us all of leadership, devotion to principle, practical wisdom, and above all, humanity.

NEW DEVELOPMENTS IN GREECE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. EDWARDS of California. Mr. Speaker, with the growing problems and the deteriorating political situation in Greece I think it is important for my colleagues to keep abreast of developments, and for that reason I have entered the following articles into today's CONGRESSIONAL RECORD.

These articles reflect the growing concern our western partners have about the Papadopoulos regime and the United States continued support of it. I think that both articles point to the need for a thorough reevaluation and reconsideration of our policies in regard to Greece and the Papadopoulos regime. The suggestion from reliable sources that the Central Intelligence Agency may have been directly involved in removing the government of one of our allies and replacing it with a military dictatorship deserves serious investigation.

I heartily recommend the article "Colby Hints CIA Greek Coup Link" by Oswald Johnston which appeared in the Washington Evening Star and Daily News on July 10. I also call my colleagues close attention to the problems in United States-Greek relations discussed in the July 10 Christian Science Monitor by John K. Cooley in his article "Greek Colonels, U.S. Tourists, and the 6th Fleet."

COLBY HINTS CIA GREEK COUP LINK

(By Oswald Johnston)

SYMINGTON. At any time has Mr. Papadopoulos been an agent for the CIA?

COLBY. He has not been an agent. He has been an official for the Greek government at various times, and in those periods from time to time we worked with him in his official capacity.

The persistent and widespread assumption by many critics of American policy towards Greece that the Central Intelligence Agency was involved in the military coup there has been given unexpected backing by one of the CIA's most experienced career spies.

He is William E. Colby, President Nixon's nominee to head the CIA. Colby denied during his Senate confirmation hearing last week that the agency actually engineered the 1967 coup.

But his subsequent admission that the agency had "worked with" the leading colonel in the military regime, George Papadopoulos, is being interpreted by knowledgeable observers as the first formal admission by a U.S. official of the extensive contacts the CIA had developed with Papadopoulos before the coup took place.

During his testimony, Colby promised to give the Senate Armed Services Committee further details in executive session. Further testimony has been scheduled for today, at a closed hearing in which it is understood Colby will be asked about the CIA budget and other unresolved questions involving the agency's authority as well as the Greek question.

During last week's hearing, Colby also promised to discuss in secret the shadowy Forty Committee the high-level agency, chaired by Henry A. Kissinger through which the President transmits authorization for clandestine CIA operations abroad.

Much of the relationship between the CIA and the Greek colonels has leaked out in bits and pieces in the years since the coup.

Papadopoulos, a former intelligence officer according to his official biography, is known to have been a key official in KYP, the Greek intelligence bureau, which during the pre-coup period reportedly got direct subsidies from CIA operatives in Athens.

The question of direct cash payments to Papadopoulos also was raised at Colby's hearing by Sen. Stuart Symington, D-Mo., acting Armed Services Committee chairman and the sole senator present at the session.

Colby, who claimed to have "researched" the question of any CIA-coup connection after a widely publicized news report in the London Observer repeating anew the charges of CIA complicity with the colonels, was unable to make a direct denial.

"I cannot answer that one, Mr. Chairman, for sure," Colby admitted. "I just do not know. I do not believe we did personally. I can say that we did not pay him personally, I am sure."

Taken with Colby's veiled admission of CIA contacts with Papadopoulos "from time to time . . . in his official capacity," that response is interpreted as tantamount to an open acknowledgement of CIA subsidies of the KYP.

In the view of one knowledgeable former CIA operative who has kept close tabs on the agency, Colby's testimony on this point clearly implies close and continuing cooperation between the CIA and Greek intelligence during the years before the coup.

The testimony accordingly gives further weight to the theory, never proved but firmly believed by many responsible critics of U.S. support of the Athens regime, that Washington fully expected—and tacitly encouraged—a right-wing royalist coup in the spring of 1967 to forestall the expected electoral victory of the mildly leftist Center Union party of George Papandreou.

According to this reading of the situation, the coup was expected to have been carried out, with support of King Constantine, by the Greek military establishment.

The theory further holds that Papadopoulos, through his intelligence contacts, got wind of the plan and staged a pre-emptive coup of his own with the backing of anti-royalist extreme right-wing colleagues in the Greek armed forces.

The little that is known about CIA operations in Athens before the coup supports this thesis, and Colby's recent admissions support it further.

The CIA station chief in Athens from 1962 to the end of 1967 was John M. Maury, now the agency's official in charge of congressional relations. In the recollection of Americans knowledgeable in the workings of the U.S. Embassy in Athens at the time, where Maury was listed as a first secretary, his main task was to keep up the close relations that existed between U.S. policy and The Royal palace.

The presence of Andreas Papandreou, the premier's son, in the government as the minister in charge of internal security affairs heightened U.S. displeasure with the first left-leaning government in Athens since the early 1950s. The younger Papandreou who has since become a vociferous exponent of the theory that the CIA engineered the 1967 coup, moved early on to cut off the direct CIA subsidy to the KYP.

It is an open secret that Washington firmly sided with the King in his politically debilitating struggle with the Papandreou government a struggle that early finally led to governmental paralysis and set the stage for the coup.

GREEK COLONELS, U.S. TOURISTS, AND THE 6TH FLEET

(By John K. Cooley)

ATHENS.—This year, Americans will be nearly half of about 2 million tourists visiting Greece.

Most come to enjoy the traditional sites of antiquity like the Acropolis and the temples of Delphi; to sample Greece's clear skies and seas and the good cuisine and lighthearted music.

Vital as they are to Greece's booming economy, the American tourists and innumerable personal links between the 9 million Greeks and over a million people of Greek extraction in the United States, are only parts of the complex Greek-American relationship.

On June 1 a new phase of this relationship opened. George Papadopoulos, the former Greek artillery colonel and intelligence officer who has ruled since he and a group of fellow-conspirators seized power in April, 1967, deposed exiled King Constantine.

He ordered drafting of new constitutional amendments ensuring that he would remain at the head of an authoritarian republic for at least seven years more—all to be confirmed in a referendum July 29, in which abstention will be punishable crime.

One of the first things the Papadopoulos government said was that the new republic would be a "constitutional, presidential, Western-type democracy" (in Greek, demokratia means either democracy or republic, as one chooses).

The stress was on "Western." Mr. Papadopoulos's opponents and even some of his supporters instantly identified the phrase as a bid for American support; to sell the idea that parliamentary elections promised for 1974 actually would be the long-hoped-for return to parliamentary rule.

SYMPATHY AROUSED

There was some West European and American sympathy for ex-King Constantine and for exiled former Prime Minister Constantine Karamanlis, both of whom denounced the colonels' move as illegal.

Aware of this sympathy—U.S. Ambassador to Greece Henry J. Tasca described Mr. Karamanlis to U.S. congressmen as "a very able man" who "served his country very well" as prime minister from 1955 to 1963—the colonels made haste to implicate both King Constantine and Mr. Karamanlis as alleged leaders of the unsuccessful May 23 Greek Navy revolt.

Both denied the charge. Both let it be known they hoped the United States would realize the damage done to Greece's role in the North Atlantic Treaty Organization (NATO), and solicited U.S. and NATO help. It was not forthcoming.

Even the most casual visitor who talks politics in Greece today realize one fundamental fact: virtually all Greeks, from the Macedonian peasant to the sophisticated Athenian businessman, believe that the U.S. supports the colonels' regime 100 percent. Most are equally convinced that the U.S. put the regime in power.

Greeks universally believe that the U.S. supports the dictatorship in exchange for the considerable military advantages it enjoys in Greece: stationing of nearly 11,000 U.S. military personnel and dependents; use of Athenai military air base, adjoining Athens airport; military communications facilities, and, most recently, the home-porting of U.S. Sixth Fleet units in Athens, which has increased friction and criminal incidents, provoked mainly by U.S. personnel.

Last March, when Athens university students protested the government's refusal to let the students elect their own chosen council members or to make needed academic reforms, they were met by a huge turnout of the regime's military police, the ESA (students call it the "SS," comparing it with that formation in pre-1945 Nazi Germany).

When the ESA brutally attacked the students and arrested many, the student reaction, for the first time ever, was to give their demonstration an anti-American tone: "Americans Go Home" and "Yankees and Dictatorship, Out!" were some of their slogans.

AMERICANS TARGETED

Sabotage and terrorism by resistance groups—who have so far avoided almost any loss of life—are most often directed against American property or automobiles.

These students are too young to share their parents' bitter memories of the 1944–49 civil war, when American assistance rescued a Greece exhausted by World War II and the German occupation, or their parents' gratitude for that aid.

That assistance was worth about $3.9 billion from 1946 to 1970. Grant aid stopped in 1962, as the Greek economy recovered through the reforms of former Prime Minister Karamanlis. But military assistance to Greece's armed forces, guardians of one of NATO's most strategic pieces of real estate, has totaled about $1.8 billion and still continues.

The 160,000-man Greek armed forces deploy 11 divisions to guard 625 miles of frontier.

However, Mr. Papadopoulos's government, and most Greeks, no longer expect invasion by Slavic hordes from the north. The regime's opponents argue that the defense argument for U.S. support of the colonels is invalid, since, they say, Greeks have lost faith in the U.S. as a supporter of democracy, and the recent Greek naval mutiny showed that "unity of the armed forces" behind Mr. Papadopoulos was a myth.

DEFENSE ASSESSED

With perhaps 200 top Navy officers out of 18,000 naval personnel detained, and the Air Force and Army also under watch by security commissars, some foreign observers would agree with British Col. Gordon Waterhouse, once a liaision officer in wartime Greece: The Greek army, he told the British Parliament, "is no more use for purposes of external defense than the French or Italian armies were in 1940."

Early U.S. efforts to influence Mr. Papadopoulos to liberalize his regime after April, 1967, were mainly clumsy, off-again, on-again embargoes of heavy arms shipments. When King Constantine failed in his amateurish December, 1967, attempt to rally the armed forces and get rid of the colonels, most of the senior Greek officers with NATO experience or U.S. training, loyal to him, were retired or jailed.

Certain U.S. congressmen tried to graft restrictions on aid to Greece onto various U.S. foreign aid laws. Their most determined effort, the Hays Amendment of July, 1971, was overruled by President Nixon in the national security interest.

The colonels were accommodating when the U.S. needed special staging facilities for a naval and air buildup during the Jordan crisis of September, 1970. There followed a year when, despite congressional sniping, Vice-President Spiro T. Agnew and other Nixon administration leaders visited Greece, amid fanfares by the Athens regime.

Last January, Mr. Papadopoulos showed independence by renouncing all free U.S. military aid, $9.7 million worth this year. Now Athens pays cash, or gets credit, for purchases like the 38 Phantom F-4's promised under terms less liberal than those given Israel, as France competes with the U.S. for Mideast, Greek, and Turkish arms markets.

The question now is what, in practical terms, the U.S. could or should do?

The regime's opponents reply: "End moral support; stop ostentatious visits by your military brass; shut off the spare parts and military training pipelines."

U.S. officials operating in Greece reply that this would wreck NATO. "Besides," they add, "the colonels have proven they react brutally to outside pressure. U.S. ambassadors like John Peurifoy intervened clumsily in Greek affairs in the early 1950's. West German rescue of one of the regime's opponents two years ago, and Greek-language broadcasts of news unfavorable to the regime from Radio Cologne have not advanced freedom in Greece, and they have severely chilled Bonn-Athens relations.

OPPOSITION SILENCED

The same U.S. officials, however, recognize that the July 29 referendum is being prepared without any freedom for the opposition to express its views in print, broadcast, or public forum.

If some of the best political brains and talents continue to be excluded from Greek public life, the 1974 parliament, if it ever comes into being, may be only a tame body supporting a government like that of President Thieu in South Vietnam, they say. Neither will the referendum be a free choice, since the colonels indicate that even in the impossible case of a no vote, Mr. Papadopoulos will still be President for the next seven years and the King cannot return.

Despite an economic growth rate of nearly 11 percent, a recent inflation is reaching the same alarming proportions seen elsewhere in the West. Greeks grumble openly about the regime.

In October, only 14,000 university students will be accepted out of 55,000 applicants. Their seniors will return to class mindful of those wounded and detained, together with lawyers and professors who defended them, by the military police.

The armed forces, in the wake of the Navy troubles of May, are again subject to purges and inquisitions, raising the prospect of possible new rebellions.

Seen in this framework of domestic discontent, American action in Greece—or the far more likely eventuality of American inaction—is unlikely to be as crucial a factor as most Greeks think.

THE NEW ATTACK ON PEARL HARBOR

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. GAYDOS. Mr. Speaker, almost 28 years have passed since a beaten Japan surrendered totally to us in a ceremony aboard the U.S.S. *Missouri* and in the presence of Gen. Douglas MacArthur and other leading heroes of the Far East phase of World War II.

The historic event came to my mind with even more meaning when I happened to read in Time magazine, in the last issue before our recent July 4 recess, this blunt remark by a Honolulu cab driver:

> What the Japanese couldn't do during World War II, they are doing now with bags of money—taking over these islands.

The cabby, obviously one of that world-wide class of perceptive observers, was referring to the exploding Japanese take-over of Hawaiian hotels, golf courses, stores, private estates, travel agencies and open acreage. Some $250 million already has been invested by these people in the islands' tourist industry, Time says, and the figure keeps climbing. Time reports that the investment pattern, as much as its size, worries Hawaiians. If the current rate continues the Japanese will have control of this, the State's biggest business, within 5 years.

So who did win the war which ended in Japan's surrender almost 28 years ago? The air assault on Pearl Harbor eventually led to Japan's complete military disaster at our hands. But now, armed more effectively with devalued U.S. dollars made in their one-sided dealings in our market, the Japanese investment attack in Hawaii, as well as right here, is succeeding beyond belief. And we are doing nothing to combat it. We sprang to action when the bombers struck. We are sitting back while the Japanese businessmen attack.

I have said much about the Japanese investment penetration of our mainland industries. The jobs of workers in my Pennsylvania district right now are being threatened by a new $18 million steel mill being constructed for a Japanese syndicate at Auburn, N.Y. Most every section of our vast land is finding oriental Marco Polos gathering up information for the purpose of buying or building plants by which they can enter the U.S. market and reap profits once enjoyed by American interests. How long, I ask, can we as a Congress and Government let this continue—this movement toward placing more and more of our workers in the hands of Japanese employers?

We had a slogan, as I remember, during World War II to the effect that we would "Remember Pearl Harbor," and we did so and in short time avenged fully the sneak attack made on our forces there. Little did any of us dream then that, within less than 28 years, an apathetic U.S. Government would permit a situation to develop whereby the businessmen of the Nation guilty on that "Day of Infamy," as Franklin Roosevelt described it, would end up owning a goodly number of the hotels, much of the beach front, many of the private estates, and acres and acres of the open land within sight of our Hawaiian bastion.

NEWSLETTER AND OPINION QUESTIONNAIRE TO WISCONSIN SIXTH DISTRICT

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. STEIGER of Wisconsin. Mr. Speaker, this past weekend I have sent a newsletter and questionnaire card to residents of Wisconsin's Sixth Congressional District. The text of my newsletter and opinion poll follow:

WASHINGTON REPORT

(By Congressman BILL STEIGER)

Dear Friend:

Probably the most important part of this newsletter is the opinion poll you will find enclosed. The questions are brief, and I hope you will take a few minutes to answer them. As soon as the responses are tabulated, I will report them to the House of Representatives and mail them to you in my next newsletter.

During recent weeks, while TV cameras concentrated on the Nixon-Brezhnev summit and on the Ervin Committee hearings in the Senate, the House has spent long days (and nights) working on legislation.

But, more than other matters before Congress, the grave misdeeds unfolding before the Ervin Committee call for comment. One thing must be said above all. It is emphatically untrue that "everybody does" the sort of things that former Nixon aides are admitting they have done. Elected officials everywhere are appalled.

When former Attorney General Kleindienst recently learned that one of his phone conversations had been tape-recorded by John Ehrlichman, a newsman asked for his reaction. Kleindienst told him sadly: "Words cannot express." That feeling, I think, is shared by most Americans.

No odious political act can be tolerated or dismissed. As the necessary search for the facts continues, it is heartening to know that the new chief domestic advisor to the President is former Wisconsin Congressman Melvin Laird. During the 16 years he served in the House, Mel Laird represented many of you who reside in Adams, Marquette and Waushara counties—now part of the 6th District.

As always, I pledge to do my utmost in representing you, and I hope you will contact me whenever you want to share your thoughts on legislation or matters relating to the federal government.

Best Wishes,

William A. Steiger,
Member of Congress.

REPORT ON LEGISLATION

Many small businessmen have told me they have trouble deciphering precise responsibilities under the Occupational Safety and Health Act (OSHA). Since 1971, when the safety law took effect, I've worked closely with employers and employees, trying to make the law effective in reducing on-the-job injuries, as well as to correct any unfair burden it might create for employers attempting to comply with new, complex standards.

OSHA consultation

As a result of our discussions, I have reintroduced a bill (H.R. 5996) to give small businesses a chance to obtain OSHA advice. The bill authorizes the Labor Department to agree to requests for on-site consultation and technical assistance (not inspection) from employers with 25 or fewer employees.

OSHA is the first serious effort in the deadly serious field of job safety. It is not surprising that its complicated requirements often cause misunderstanding. By advising employers how to comply with OSHA standards, employee and employer both should gain through safer, healthier work conditions.

When hearings were held on this bill last year, testimony overwhelmingly supported this approach, and the bill won strong bipartisan support. An end of the session logjam kept it from consideration on the House floor, but I anticipate affirmative action during the 93rd Congress.

Shoreline protection

Public beaches and landowners along Lake Michigan have long been plagued by problems of shore erosion. This year particularly, many homeowners in Manitowoc and Sheboygan counties incurred great expense in protecting themselves against lake water.

In hope of finding ways to prevent further damage and hardship, I have introduced: 1) a bill to allow the Army Corps of Engineers to design, construct, and share the cost of shoreline works protecting private and public land; 2) a measure allowing shoreline property owners to deduct property losses due to erosion as casualty losses on their income tax; and 3) a five-year program to develop low-cost erosion control techniques for the Great Lakes. The House Public Works Committee has held hearings on the five-year program, and this may become part of the Rivers and Harbors Act later this summer.

"Help Yourself"—a brochure describing alternate methods of shore protection—has just been published by the Corps of Engineers. Written expressly for people near the Great Lakes, it is available free of cost from my Washington office.

Volunteer Army

Compulsory military service ended at midnight, June 30. The decision to allow the induction authority to expire reflects widespread optimism about the success of the all-volunteer armed services.

Every young man still must register during the 40 days before and 30 days after his 18th birthday. But none will be called for physical examination.

Creating a volunteer force is only the first step in streamlining the military. The current compensation system is awkward, outmoded, and far too costly. We can achieve significant savings by taking a few bold steps: changing the retirement system, holding down "grade creep," revising the pay schedule, using incentives provided in the Special Pay Act, and replacing some personnel with less expensive machinery. I am now developing these steps into a proposal to present during the Armed Services Committee hearings this year.

Capitol west front

Once again Congress may be on the verge of building an extension to the U.S. Capitol. I voted against extending the West Front, but we lost the House by 6 votes. The bill is now before the Senate Appropriations Committee.

The West Front is the last remaining original wall of the Capitol. Everyone agrees it needs repair and restoration, but the House-passed bill would expand the Capitol by up to 290 new offices at a cost of $58 million. If approved by the Senate, the extension may also distort the impressive architectural balance of the Capitol. To quote the late James McSheehy: "It has all the earmarks of an eyesore."

The farmer and the freeze

Although a few other issues receive more attention, the problem of greatest concern to most Americans is continued inflation. In the past two years we have experienced government controls imposed as an emergency solution to the problem. I consistently oppose wage and price controls because they merely mask the immediate inflationary symptoms while leaving untreated the underlying processes responsible.

One who is especially hurt by inflation is the family farmer. The recent price freeze only adds to his woes. A rural Greenleaf man writes: "Farmers were just getting back to the price level where they were 20 years ago. This is a credit economy where farmers have a $70 billion farm credit debt which is to reach $120 billion by 1980."

While food prices are the most visible inflationary sector of the economy, this is a problem we cannot correct by controls. A freeze does not increase farm productivity, it clearly does not increase the food supply on a grocer's shelves, and it does not (in the long run) bring down the cost of food.

The effect of a freeze is just the opposite. Due to a continuing rise in the cost of raw agricultural products, such as feed grains, which are exempt from the freeze, shortages in agricultural products may develop. Egg producers and dairy farmers are forced to sell, rather than feed, their laying hens and milking cows.

While I am encouraged that the President expects an early end to the freeze (possibly by mid-month), I am disappointed a freeze was ever imposed. I hope Phase 4 will be less disruptive and that more attention will be given to developing a national policy to attack the basic inflation-generating forces in our economy.

NEW OFFICE IN MANITOWOC AND NEW OFFICE HOURS

To improve service to 6th District residents who live east of Lake Winnebago, I have opened a new office in downtown Manitowoc. It is located at 904 S. 8th St., and Fred Seefeldt, my home secretary, is there each Tuesday morning from 9 to 11:30.

Mr. Seefeldt works in Sheboygan on Tuesday afternoons, between 2 and 4:30, at the Sheboygan Post Office. He is in Fond du Lac on Wednesdays, from 2 to 4:30 p.m., at the Old Post Office Building in Fond du Lac.

Our office at the Oshkosh Post Office is staffed Monday through Friday by Mrs. Paul Fergot. Phones at all four district offices are covered by a 24-hour answering service every day of the week.

ACADEMY ADMISSIONS

The service academies this month admitted eight youths who had been nominated last year from the old 6th District. Admitted at the Naval Academy were: Michael R. Hamel, Kohler; Greg Koszalinski, Menasha; Stuart Elwing, Campbellsport; Donald Link, Hubertus; and William Bratt, Mequon. At West Point are Peter E. Klein, Plymouth and Jack D. Regan, Kohler; and at the Merchant Marine Academy, Steven B. Batterman, Neenah.

I have heard from a number of students interested in competing for academy entrance in 1974. New application procedures will soon be mailed to those who have written. This year's deadline for applications will be November 30.

STEIGER OPINION POLL

Please check one box per question. One column is for men, the other for women.

1. Would you favor extending Daylight Savings Time to year-round basis?

2. Should Congress pass a law protecting the claimed right of newsmen not to reveal the identity of sources?

3. Which action do you favor on amnesty?

(a) granting amnesty to draft evaders in return for a period of alternative work.

(b) granting unconditional amnesty.

(c) no amnesty.

4. Which course do you favor on abortion?

(a) allowing the Supreme Court decision on abortion to stand.

(b) amending the Constitution to restore to the States the power to regulate abortion.

(c) amending the Constitution to prohibit abortion in all but extreme circumstances.

Now that postmarks no longer tell where a card was mailed, county-by-county tabulation of this poll is more difficult. Will you please help, by indicating your county?

EUGENE D. MORAN

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. CONTE. Mr. Speaker, I would like to bring to the attention of this Chamber the death of one of the finest sportsmen, conservationists, and protectors of fish and game that Massachusetts or any other State has ever seen.

Eugene D. Moran, wildlife manager for the western district of the Massachusetts Division of Fisheries and Game, died suddenly last week at his Dalton, Mass., home in my First District. I mourn his passing both as a personal friend and as an outdoorsman.

Gene Moran grew up in a time and place that allowed a young boy to fish, hunt, and roam the outdoors with few intrusions. Luckier than most, Gene found what he loved at that early age and stayed with it all through his life.

His love of the outdoors, and the wildlife that inhabits it, was a passion that caused him to put in the extra work, to walk the extra mile, that makes the difference between doing a good job and a great job.

His death impoverishes his friends and his causes, just as his life enriched them. To his widow Sarah, his daughter and his four sons, I extend my deepest sympathy and, I am sure, the sympathies of all in this great Chamber.

Mr. Speaker, Eugene Moran's life and accomplishments deserve to be known and recognized by all who care about our environment and its creatures. I am including for the Record, articles on Mr. Moran from the Berkshire Eagle and the Springfield Union editions of July 19, 1973.

The articles follow:

[From the Berkshire Eagle, July 19, 1973]

Gene Moran Dies at Age 62; State Wildlife Manager Here

Eugene D. Moran, 62, western district wildlife manager here since 1956 for the state Division of Fisheries and Game, died last night after being stricken with a heart attack while mowing the lawn at his home, 30 Burr Drive, Dalton.

A native of Chicopee and graduate of Chicopee High School in 1929, Mr. Moran made a career of his boyhood interest in hunting and fishing and life in the outdoors. He was a graduate of the first wildlife courses given at the Stockbridge School, University of Massachusetts.

Joining the Division of Fisheries and Game, he worked on game farms and as an assistant fish culturist prior to 1942, when he enlisted in the Navy. His four-year service during World War II was spent mostly in the South Pacific.

CONSERVATION OFFICER

Following his discharge, Mr. Moran was in fish culture work until switching over to the Division of Law Enforcement in 1948 as a conservation officer. His first assignment was in the Southern Berkshire district, where he filled in for three months for the late John E Buckley of Great Barrington, who was ill. He then was transferred to the Amherst district.

Mr. Moran was named wildlife manager for the central district in June 1955, as result of his standing on a Civil Service list. He had taken college courses in wildlife management and other subjects and received a law degree from Western New England College (formerly Northeastern), Springfield, in 1956.

He was named western district wildlife manager that fall, succeeding E. Michael "Bill" Pollack, who was promoted to chief game biologist.

As head of the western district, Mr. Moran had a staff of seven working out of headquarters on Hubbard Avenue. The district covers most of Western Massachusetts and a few towns on the other side of the Connecticut River.

The job of district wildlife personnel is not a clock-punching one. Although they report early, quitting time sometimes is late. Mr. Moran was in demand for night appearances at meetings of sportsmen's clubs, the county league of sportsmen's club and other groups. He frequently was called on to show movies on wildlife subjects to these and other groups.

Most recently he had worked with Leo M. Daly, western district fisheries manager, on the kokanee salmon project at Onota Lake. He put in many night hours in this pursuit.

He taught wildlife course in the evening division at Berkshire Community College and also had a weekly program, "Berkshire Sportsman," on Channel 2.

A communicant of St. Agnes' Church, Dalton, Mr. Moran was a member of the Dalton Knights of Columbus and the Dalton Rod and Gun Club. He had lived in Dalton for the past 17 years.

SURVIVORS

He is survived by his wife, the former Sarah Scanlon, whom he married 27 years ago; a daughter, Joann of Dalton; four sons, Dennis P. of Clifton Park, N.Y., John M. of Falmouth, and Michael E. and Thomas H. Moran, both of Dalton; two brothers, John and William of Chicopee Falls, and a sister, Mrs. Anne Denis of Springfield.

Services will be Saturday from the Dery Funeral Home, Dalton, followed by a Liturgy of Christian Burial at St. Agnes' Church. Burial will be in Ashuelot Street Cemetery, Dalton.

Calling hours at the funeral home will be Friday from 2 to 4 and 7 to 9. In lieu of flowers, donations may be made to St. Agnes' Church.

[From the Springfield Union, July 19, 1973]

The Sportsmen Ought To Know This

(By Frank Sousa)

"Hey, Frank, I think the sportsmen ought to know this."

Western District Fish & Game manager Gene Moran always started his telephone calls to me this way.

For next to his family, the sportsmen came second. And that has to be pretty high priority on any man's rating scale.

From the day he could walk, Gene had a fishing pole in one hand, a slingshot in the other and a dog tailing along behind.

One of his first jobs was a good one. Good in the sense that it offered security. It was for $15 a week in the Springfield Armory as a blacksmith. He put aside a couple bucks to send little brother Shin to a conservation course that was being offered.

But Shin told him, "You're the student, you go."

And Gene went. That was the start.

Next he signed up for the two-year wildlife course at the University of Massachusetts, leaving the security of the Armory to study to become "something that there weren't any openings for."

And sure enough, despite the fact the Division of Fish & Game had few or no persons on the staff who had majored in college in wildlife, there were no openings. Except as a laborer. He took it.

Eventually there was an opening for a Natural Resource officer. Gene, always a student, studied for it, and passed with flying colors.

Then the exam for manager of the Western Division came up and again he topped the list. Except politics entered the picture at this point. It appeared to be too high a post for a man who wasn't a politician's pansy.

The politicians soon discovered that soft-spoken Gene also had a hard nose.

Coming from a closely knit Irish family that shared the family white shirt, and having played hide and seek in the clouds while in an unarmed communications World War II with a predator Jap Zero . . . Gene knew there was a time to stand.

His victory was one for the sportsmen. For ever since it has been, I think the sportsmen ought to know this.

He took me under his wing when I first started writing this column. It was his way to look for the nobody neophyte.

When he became manager he still got into the field as often as possible.

He loved to bird hunt in areas hunters cried were hunted out. He used to say, "There's only one thing slower than me, and that's my old English setter, here."

It was the idea of being in the field. Corny, but true, being in the game was the thing.

He was hunting one day when he spotted a nice rack buck. He pointed out the trophy to an old gentleman nearby, who shot it.

Gene's answer when asked why he didn't take it himself—"I probably couldn't have hit it anyways." He probably was right.

Each time when he called with his "I think the sportsmen ought to know," and gave out the little bits of info he thought would help them, he'd then say, "How's Churchill?"

And why not. He considered himself Churchill's grandfather. For wasn't his old female Churchill's grandmother.

Gene and I were fast friends. Always will be. Despite this, his natural honesty always showed through. He'd say, "A lot of the guys in the Berkshires think you're even a better photographer than a writer."

What he was saying, without saying it, is that he not only did not understand my writings at times but that some of the guys in the Berkshires didn't understand it.

It takes a long time to understand some things. But Gene said he would stick with my writing until the day it made some sense.

It takes time. I learn a little each day. I finally am beginning to understand that after chasing that little whippersnapper Churchill for 13 years, that I've finally caught him. And now the old setter is the only thing in the field slower than me.

That's life. You enjoy it while you're young and happy. And then remember it to be old and happy.

Gene yesterday called brother Shin to ask how Dotty, Shin's wife, was.

Gene himself wasn't feeling all that good. In fact just a short while after checking on how Dotty was, Gene died.

And I'm sure that Gene would say, "I think the sportsmen ought to know this."

After all, sportsmen came second, right behind family and that's pretty high priority on any man's rating scale.

PEACE WITH HONOR?

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. RANGEL. Mr. Speaker, for the last several months I have periodically spoken out on the problem of political prisoners in South Vietnam. Despite the denials of President Thieu, it is quite evident that the South Vietnamese Government is presently holding at least 100,000 civilian prisoners in American constructed jails. The only crime these civilians have committed is peacefully opposing President Thieu's leadership. Yet they are subjected to torture that leaves large numbers of them physically deformed or incapacitated for life—many others die.

The mass media, the American people and the U.S. Government have all chosen to ignore the horrendous actions that are carried out under the orders of President Thieu.

Part of the responsibility for these crimes does, however, lie with the American people, and the U.S. Government. For none of the prisoners who are presently dying and enduring this torture would be there if it had not been for U.S. interference in the Vietnamese civil war. American money and blood built the prisons that are presently being used. American money still supports the Vietnamese police, who are in charge of the prisons, and the prisoners themselves.

In an attempt to disguise its political repression the South Vietnamese Government is trying to reclassify many of the civilians as common criminals.

Unfortunately, many Americans do not believe that this torture, murder, and reclassification has been, and is now, taking place. Anthony Lewis, in a New York Times column notes, however, that documentation of these inhuman actions is widespread. The people of the United States, and the Congress, can no longer ignore what is happening in South Vietnam.

I would like to place in the RECORD the column by Mr. Lewis. It is well worth the attention of my colleagues.

The article follows:

PEACE WITH HONOR

(By Anthony Lewis)

LONDON, July 15.—"Torture during interrogation, or as a disciplinary measure within prisons, is no longer even motivated by a desire to gather 'intelligence' . . . torture is widely used not only as an instrument of intimidation but as an end in itself . . . in many instances torture has become no more or less than a matter of habit."

Those are some phrases—some of the milder ones—from a report recently issued by Amnesty International, the highly respected independent organization concerned with political prisoners around the world. The subject was the situation of the 100,000 or more civilians detained by the Saigon Government.

The report described in revolting detail what is done to human beings in the prisons and interrogation centers of South Vietnam; the use of electricity, beating, water, the crippling and death that result. It named victims and described cases in convincing detail. It called the situation, altogether, "one of the most serious cases of political repression in the world today."

The Amnesty report rated a few paragraphs in some serious British and American newspapers. Most of the mass media paid no attention at all. It was just some more of the familiar horror of Vietnam.

It is not surprising that people turn off the moral pain of Vietnam. There are limits to outrage, to tears. Tales of misery, however true, eventually weary the audience. People instinctively protect themselves from being incapacitated by despair.

But individual escape cannot end public responsibility. Mass injustice anywhere claims the concern of mankind, for it diminishes and threatens all of us. Nor can the cases of mistreatment of American war prisoners in North Vietnam excuse massive and continuing official terror in the South.

Can the stories be true? That is what some people in the West would ask, finding it difficult to face the horrors reported. But there is no escape that way. For the situation of political prisoners in South Vietnam has been seen and graphically described by a wide variety of observers: American Congressmen, correspondents, doctors and many others.

The leading British commercial television company, Granada, did a careful program on Saigon's political prisoners. Among others, it interviewed two American physiotherapists, Jane and David Barton, in a hospital in Quang Ngai.

"People come to the prisoner ward at the hospital often immediately after they've been tortured," Jane Barton said, because prison officials "prefer not to have a dead body at the interrogation center. . . . The torture that we see the results of most frequently is [attaching] electrical wires to people's toes, or fingers, or sensitive parts of their bodies."

The Bartons had films and still photographs of some of the victims. Two were women who had been beaten on the head until their skulls fractured and they became paralyzed on one side of their bodies. One was a young girl, the other a 67-year-old woman.

Granada also showed 60-year-old Mrs. Ba Shau, who was blinded by lime thrown in her face by guards when she was held in the tiger cages on Con Son Island. Granada showed other freed prisoners from Con Son being treated by a former American Air Force doctor, John Champlain. Dr. Champlain described how various prisoners lost the use of their legs by being confined in the cages or shackled to their beds.

The Saigon Government of Nguyen Van Thieu is marvelously cynical in its discussion of these matters: It says that there are no "political prisoners" at all: Everyone in its jails is either a common criminal or a "Communist."

In fact, as everyone in South Vietnam knows, people are arrested for having sheet music of an antiwar song, for carrying rice at night, for any reason that strikes a police whim. Many are not tried but held indefinitely on suspicion. Just two weeks ago a union leader held without trial after a strike for higher wages was reported to have been tortured to death.

In evident embarassment over its political prisoners, the Thieu Government has been reclassifying them as guilty of common crimes such as disturbing the peace—often again without trial, of course. And it has announced that it will turn over to the Vietcong, as "Communists," some of the best-known persons arrested because they opposed the war or Mr. Thieu. A neat solution.

It is especially wrong for the United States to avert its public eye from these realities. For the police system of South Vietnam is an American creation. The Central Intelligence Agency devised the Phoenix program to hunt out V.C. suspects, which began the official torture. William Colby, the new director of the C.I.A., testified that between 1968 and May, 1971, alone 20,587 suspects were killed.

More than $14 million in American money is still available or budgeted for aid to the Saigon police and prisons. Rather than helping, the United States should be protesting police inhumanity in South Vietnam.

EMPHASIZE MORE FOR OIL AND GAS EXPLORATION

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. COLLINS of Texas. Mr. Speaker, today there is much in this country about how we should allocate the supply of gasoline, fuel, oil, and natural gas. Let us also, remember the fact that trends anticipate that energy demand will double in the next 10 years.

The emphasis in Congress should be on encouraging plans for increasing the available supply. A few years ago, America was self-sufficient with oil and gas; yet, today one-third of our oil and gas is imported.

Positive action requires incentives for more exploration, realistic prices in relation to current costs, environmental modfication adjustments, and more emphasis on development of oil and gas within the United States.

I was impressed with a factual and enlightening speech made by Frank Pitts. Frank Pitts is one of our leading independent oil men and understands oil and gas from the grassroots. Here are the key sections of the speech before the Rotary Club of Dallas last week where energy is put in proper perspective by Frank Pitts:

ENERGY SPEECH BY L. FRANK PITTS

The energy crisis is no illusion, it's real—it's going to be with us for quite a while—to live with it, and eventually overcome it, will require total dedication of our people—and a substantial investment—in patience as well as money.

Only 3 short years ago if I had stood here and prophesized that our capital city—Austin—and the third largest metropolitan area in our wonderful State, San Antonio, would be suffering because they did not have enough natural gas to operate their electric power plants.

The energy crisis is no illusion, it's real—

Who would have believed it! Yet—today—the city officials there are asking people to up the temperature of their homes and offices from 72° to 82° and to minimize the use of lighting and power usage—thereby utilizing every device and opportunity possible to reduce the demand for natural gas.

Why has this come about? Why?—particularly in this State that has been so lavish in shipping tremendous volumes of this wonderful energy to aid and comfort millions of citizens in other States—hundreds, yes, even thousands of miles distant.

During the past several months we have seen some dramatic changes in attitudes by the citizen-consumer concerning his energy supplies.

In the past, our Nation has known nothing but fuel abundance. We now are suffering, to a limited extent thus far, the penalty for delay in exploration and drilling for oil and gas resulting in electric power brown-outs—empty fuel tanks, closed schools, stranded trucks and tractors, and factories with locked doors.

The basic fact is that our nation's appetite for fuel is enormous. America, with only 6% of the world's population, consumes 33% of the world's energy and the demand continues to grow.

The Nation's requirements for energy will about double between now and 1985.

NATURAL GAS IS SCARCE

Presently, our supply of natural gas is enough to last 12 years. Ten years ago, we had 20 years' supply.

In 1971, we had only 8 years' supply of oil compared with 10 years' supply in 1961. We are currently importing near 30% of our oil—most of it from the Tinder Box Area of the Middle East—and it is estimated that by 1985, we will be importing between 50% and 60%.

NUCLEAR POWER—WHERE IS IT?

Today, we have the equivalent of only ten plants of 1,000 megawatts each, in operation, and about 45 planned or under construction. On line schedules are being retarded by technical difficulties and environmental restraints.

Investment? Enormous capital inputs will be necessary to provide for our energy requirements. A plant producing 250 million cubic feet of gas daily may cost 250 to 300 million dollars—to meet our energy needs, the required capital outlay will probably reach a level of several hundreds of billions of dollars.

NEAR-TERM SHORTAGES—WE CAN NOT ESCAPE THEM

We may be able to relieve our near-term energy problems through appropriate government and industry action, but there is no realistic probability of a complete escape from them. This is true because of the long lead times—often five to eight years—required for the development of major new energy supplies.

Up until recently, we have heard about the great quantity of oil and gas that Texas and Louisiana could produce. Today, these two states are producing all of the oil and gas they can efficiently produce. Nothing is being held back from the consumer.

Increased oil and gas imports will provoke a large, deficit in the U.S. balance of trade. By the early 1980's, this could be in the $20 to $30 billion dollar range, compared to less than $3 billion dollars.

Furthermore, these men are acutely aware of the damage to our international position from the outflow of dollars caused by the purchase of foreign oil.

The Middle East has 85% of oil reserves of western world outside U.S.A. and Canada; therefore, they can control the world energy market any way they wish—including shutting off the supply, if they so desire, or raising the price to whatever level suits their own self-interests. Today we are in stiff competition with Europe and Japan for Middle East's oil; it is definitely a seller's market.

The bureaucrats and politicians want a "whipping boy" for higher fuel prices and shortages and apparently their target is the oil companies. All the criticism the last few weeks and months hasn't found or produced one barrel of oil or one thousand cubic feet of gas. If they'd turn the spotlight on themselves instead of pointing an accusing finger at someone else, maybe conditions would change for the better.

ENERGY COSTS ARE BOUND TO RISE

We have seen the lowest price for energy that we will ever see in our lifetime. There is only one way for prices to go, and that is up.

WHAT CAUSED THE ENERGY CRISIS?

To explain what caused the energy crisis, here are some observations which may be helpful.

GASOLINE

Because gasoline supply probably affects more people, I will discuss it first.

Is there really a gasoline shortage? Yes, but not critical, we are not out of gasoline. There is enough for basic purposes. Refineries are producing more gasoline, but consumption has increased faster and has outstripped supply.

In the five-year period from 1962 to 1967, gasoline demand increased at a growth rate of 18 percent. In the next five years, demand spurted at a rate of 57 percent over the previous five-year rate. And thus far, this year, another 25-percent increase.

This is dramatic growth. Why? There are several reasons.

1. New car sales are at record highs.
2. People drive their cars more.
3. New cars, with pollution controls and safety devices mandated by Government, consume more gasoline.

NATURAL GAS

About 1954 the Federal Power Commission placed artificial prices on natural gas which have proven to be low, forcing natural gas into a non-competitive situation with other fuels.

Maintenance of this policy probably more than anything else, helped accelerate the drain on our energy reserves because:

First, the low price of natural gas caused people to use more.

Second, gas economics were insufficient to interest investors to search for new oil and gas sources.

THE ENVIRONMENTIALIST HAVE CONTRIBUTED TO THE ENERGY CRISIS

Congress has passed needed legislation to protect our environment. But today, many people are justifiably concerned that this issue is being escalated beyond reason.

First, the largest reserves of oil and gas discovered in our country in recent years are offshore and in Alaska.

Restrictions on offshore petroleum development have hindered production off California, in the Gulf of Mexico and offshore east coast.

The largest energy market in the world is along our east coast from Washington to Boston. The people in this area refuse to allow drilling offshore where there are two huge basins that have great potential. So far, no well has been drilled.

Second, opposition to the construction of the trans-Alaskan pipeline has seriously delayed the ultimate delivery or North Slope oil to markets in the lower 48 States.

Third, restriction by major cities against sulphur emissions into the air have sharply curtailed the role of coal—the fuel in greatest supply in the U.S.—while further straining our oil and gas reserves. These restrictions also limit the kinds of crude oil that can be delivered and where they can be used.

Fourth, environmental considerations have made it increasingly difficult for oil companies to construct new refineries and terminals. And without increased refining capacity, no amount of available domestic or imported crude oil can alleviate our present energy problem.

Fifth, Federal automobile emission standards have increased gasoline consumption in new cars and required substantially more crude oil to produce the same amount of unleaded gasoline. Studies have shown that emission control devices on 1973 cars have reduced gasoline mileage by approximately 15 percent and this percentage will increase markedly—possibly as much as 25 percent by 1976—as these standards get tougher.

COAL

America is blessed with broadly scattered coal reserves and estimated to be sufficient to furnish our total basic energy needs.

With annual consumption of 600 million tons, we have proven reserves for some 200 years. In addition, all Western States hold vast quantities of oil-shale from which relatively high grade oil can be extracted at cost, competitive with the probable price of imported oil.

WHAT CAN GOVERNMENT DO!

First, we strike a better balance between environmental goals and energy requirements. The present strict air quality standards should be relaxed so that coal and heavy fuel oil can be substituted for heating oil and natural gas.

With coal reserves sufficient to last for hundreds of years, using this abundant resource in some of it's traditional markets for electric power generation will help ease the drain on our oil and gas supplies. It will also free up natural gas or heating oil for home use.

Hold automobile emission standards roughly at their present levels.

Second, energy prices should be allowed to find their own competitive level in the marketplace. This would provide the necessary economic incentive to bring forth more exploration activities, more productive capacity and more refineries in this country. And incidentally, it may also serve to dampen demand.

Third, institute a coordinated national energy policy that spells out clearly our commitment to the development of new energy supplies. This policy must be coordinated at the Federal level so that we can avoid the duplication, delays and sometimes contradictory judgments affecting our business that presently result from having 64 agencies in Washington with some say in energy matters. The appointment of Colorado Governor John Love to head the new White House energy office is an encouraging step in the direction of better coordination.

EXTENDING THE DÉTENTE

HON. JOHN DELLENBACK

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. DELLENBACK. Mr. Speaker, in January of this year I joined my colleague from Ohio (Mr. WHALEN) and nine other Republican Congressman in releasing a paper calling for a fresh look at our policies toward Cuba with the aim of lessening tensions in the Western Hemisphere.

It has been more than a year since President Nixon took the historic and highly commendable step of journeying to the Soviet Union and the People's Republic of China to open our lines of communication with these two long-standing antagonists. Progress has been steady since that time and has focused most recently in the reciprocal trip to the United States by Mr. Brezhnev and the newly opened office of liaison with the People's Republic of China. This is surely a most propitious time to consider carefully extending the detente which the President is already building with Russia and China to include our small Communist neighbor, Cuba.

Following up on the subject matter of the paper we released 6 months ago, Mr. WHALEN wrote a challenging article for last Saturday's Washington Post discussing his personal views on the current Cuban situation. Whether or not we would support our Nation at once going as far as Mr. WHALEN suggests, his views are provocative and stimulating and I commend his remarks to the attention of my colleagues:

TIME FOR A NEW CUBA POLICY

(By CHARLES W. WHALEN, JR.)

The recent Nixon-Brezhnev summit and the less visible OAS meetings now being held in Lima, Peru, raise logical questions about our Cuban policy, one of the last vestiges of our cold war posture. Although a low priority on the agenda, Cuba undoubtedly was discussed by President Nixon and General Secretary Brezhnev. In the Lima sessions delegates are considering "proposals to revamp the inter-American system." Within this change, Peruvian or Chilean representatives undoubtedly will offer a resolution permitting OAS member states to resume relations with Cuba (a similar motion, offered by Peru in 1972, lost by a 7-13-2 margin). At both of these forums of private and public diplomacy one can visualize the discomfort of the United States spokesmen in attempting to justify a Cuban policy which is clearly outdated and inconsistent with the international detente which the President himself, has so effectively fostered.

Although Brezhnev may not have pressed the Cuban issue with the President, there is reason to believe that the Russians are interested in a U.S.-Cuban rapprochement. This is strongly suggested by recent authoritative articles in the Soviet official press. These news reports stem, perhaps, from Russian frustration with the limited returns on their $1.5 million per day investment in Cuba. Or perhaps they reflect a growing disenchantment with Castro. Regardless of the Soviet's view of Cuba, one thing is clear: a reduction of the Soviet military presence on that island is in the best interests of the American nations. Further, a triangular U.S.-Cuba-Soviet dialogue could lead to positive negotiations on this issue.

At the Lima meeting, an extremely close tally on the Cuban issue is likely. Panama and Venezuela hold the key to the vote outcome. Although both of these countries have given strong indications that they plan to normalize relations with the Cuban government, whether they will do so in the context of the OAS is uncertain. Argentina is the latest entrant to the fold of those nations which have reestablished diplomatic relations with Cuba, joining Mexico, Peru, Chile, Guyana, Barbados, and Trinidad and Tobago.

This crumbling of the 1964 OAS ban, when member countries collectively severed commercial and diplomatic ties with Cuba, is unmistakable and irreversible. Cuba's subversive activities have lessened perceptibly in the hemisphere since Che Guevera's unsuccessful 1967 efforts in Boliva. Thus, in the eyes of most Latin governments, Cuba no longer poses a serious threat to their existence. Furthermore, while there are those in the United States who minimize the "analogy of the Nixon approach to Peking," this rationale for a possible Washington policy shift is not lost on our neighbors to the south. As one of our diplomats recently noted, most Latin ministers and presidents say to themselves: "If the United States can switch on China, they can switch on Cuba." These Latin officials, therefore, no longer take seriously our anti-Cuban exhortations. Moreover, they have no desire to be embarrassed as were the Japanese with our China shock.

How long will it take for us to realize that our Cuban policy is nonproductive? My discussions with certain administration representatives lead me to believe that they are told not to think about a change in our Cuban doctrine. Rather, they apparently are being encouraged by their superiors to search for other dubious reasons to support our present hardline. The traditional justifications for preserving activities, the Soviet military presence, our present stance—Cuba's subversive and the "obligations" of the OAS ban—obviously are weakening in substance and are being de-emphasized by high officials. The charge that Castro is not interested in improving relations (in contrast to Mao Tse-tung's and Chou En-Lai's receptive attitudes when we opened relations with China) now is used increasingly to justify our intransigence.

Fidel Castro's May 1 speech did exude hostility to the United States. Yet his talk contained some interesting new twists. Castro indicated that: (1) Cuba is willing to cooperate with any Latin American nation, not just socialist countries; (2) Cuba would consider joining a regional organization whose membership did not include the United States; and (3) Guantanamo is not the "main thing." While one must admit that Castro's predictability is suspect, United States' officialdom, to avoid possible future embarrassment, should not ignore his latest comments.

Why are we so inflexible in terms of our Cuban policy? There are those who believe that the President is very sensitive to the Cuba matter. Some claim that the President's unfavorable impression of Castro, stemming from his 1959 private conference with the Cuban leader at the U.N. still lingers. Others maintain that the President is strongly influenced by his Cuban-American neighbors in Florida. Still another version has it that the President does not take kindly to the savage treatment accorded him in the Cuban press. Whatever the reason, I believe that the time is ripe for the President to come to grips with this nagging issue.

The most important reason for improving relations with Cuba lies in the unity of the inter-American system. A more relaxed political atmosphere and improved hemispheric relations most assuredly will occur if a U.S.-Cuban détente is reached.

The Cuban issue has divided OAS member nations in recent years. Its discussion has dominated much of this organization's deliberations, thereby severely limiting its effectiveness. Defiance of the OAS ban by other Latin countries will further exacerbate hemispheric relations, accelerate the erosion of the OAS, and embarrass the United States and those nations which adhere to our intractable position. Thus, removal of this cancer is imperative.

Eliminating the Cuban issue not only will reduce tension among American states but will permit re-direction of hemispheric policy. It will enable the OAS to focus attention in more urgent priorities such as trade, economic development and regional integration. A significant contribution toward the realization of these objectives will occur if the United States conforms its Cuban attitudes to our new, pragmatic approach to China and Russia.

POSITION ON HEW BUDGET, REORGANIZATION OF THE U.S. OFFICE OF EDUCATION AND TITLE V, ESEA

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. ASHBROOK. Mr. Speaker, I recently received a letter from Martin W. Essex, Ohio Superintendent of Public Instruction, opposing the U.S. Office of Education's plans to proliferate its bureaucracy by establishing 10 regional offices nationwide.

It is a senseless plan, typical of what passes for thinking in the USOE and Dr. Essex's concern about the proposal is particularly noteworthy in view of his position as second vice president of the prestigious Council of Chief State School Officers.

The general education subcommittee of the House Education and Labor Committee, of which I am a member, held a hearing on the USOE regionalization proposal on June 26. I was attending the International Labor Organization's annual convention at the time.

I understand that the chief witnesses, Frank C. Carlucci, Under Secretary of Health, Education and Welfare and John R. Ottina, Education Commissioner-designate, failed to make a case for the proposal and showed an ignorance of common education facts great enough to amaze those who have not previously caught the USOE spokesmen's act.

In addition, witnesses failed to reveal any support for regionalization outside their own office. By dint of searching cross-examination, my colleagues on the subcommittee, Representatives JOHN BRADEMAS of Indiana and WILLIAM D. FORD of Michigan, demonstrated the continuing efforts of HEW and the USOE to subvert the expressed intent of Congress and to interpret specific Federal laws to suit their own purposes.

Another serious charge was that the USOE has failed miserably as an advocate of educational improvement. The some charge has been made by chief State school officers and other education groups.

In passing, I appreciate Mr. BRADEMAS' asking the witnesses questions prepared in my behalf by my staff.

My views on regionalization—or decentralization as Carlucci calls it—on extending title V of the Elementary and Secondary Education Act and the recently approved HEW appropriations are explained in my response to Dr. Essex's letter and I ask leave to include both below.

Byron W. Hansford, executive secretary of the Council of Chief State school officers, wrote Hon. DANIEL J. FLOOD, chairman of the House Appropriations Subcommittee on Labor-HEW, to express his council's deep concern about regionalization.

The council's quarterly, Stateline, reports:

> This "additional layer of federal bureaucracy at the regional level," said Hansford, "will interfere with state and local decision-making."
>
> Citing already existing confusion in USOE coordination of Title I, ESEA, over comparability, regulation, audit exceptions, contract irregularities and backdating, the CCSO executive declared that more delegation of authority to regional offices will "further retard the development of consistent policies."
>
> Hansford also objected to "unsolicited propagandizing" by HEW Regional Commissioners during meetings held around the country to discuss the Administration's education special revenue sharing plans.

HEW's practice of not letting the left hand know what the right hand is doing is illustrated by the fact that in early June, Ottina wrote chief State school officers that there was little likelihood that education revenue sharing, dressed up as the Better Schools Act, would pass. Yet Ottina and his staff continued to travel nationwide complete with confusing charts, to push for support for the act. At the June 26 hearing Ottina and Carlucci also urged passage of the act Ottina only days before had said was dead for all intents and purposes. Representative BRADEMAS remarked that Ottina's efforts might be more profitably spent elsewhere.

The next day, Caspar Weinberger, Secretary of Health, Education, and Welfare, was telling the annual meeting of the Education Commission of the States that the act was alive and well.

I include the following:

STATE OF OHIO,
DEPARTMENT OF EDUCATION,
Columbus, Ohio, May 30, 1973.

Hon. JOHN M. ASHBROOK,
U.S. Representative, House Office Building, Washington, D.C.

DEAR JOHN: The current Secretary of HEW, the Honorable Caspar Weinberger, has been adamant in his determination to assign Office of Education personnel to 10 regional offices. This concept has met with general disappointment for several reasons. Prior experiences confirm that another layer of bureaucracy would add delay and confusion to the federal programs in education.

Secondly, experiences confirm that such personnel would be required to make varied judgments or obtain interpretations from Washington.

Thirdly, the propensity to engage in local school management by regional office personnel would create a duality which would be time-consuming and disruptive; in this context, present procedures have reached a state of maturity which has attained an efficient operation. The heritage of state management of education would be subjected to potential federal direction; the states have been cautious in their efforts to maintain local control of schools. This heritage has been a vital factor in the perpetuity of the Republic.

Fourthly, ultimately more personnel would be required in the education section of the 10 regional offices and the additional personnel would offer little hope for a more efficient and effective operation of schools.

Fifthly, the Congress has not approved this concept. It should be subjected to evaluation before being placed in operation.

The continuous reorganization of the Office of Education has been most unfortunate. Each new commissioner or HEW secretary engages in a drastic redesign and shuffling of personnel. The time is long overdue for a semblance of stability and continuity. The deployment of manpower to the 10 regional offices would generate further unnecessary confusion. The Deputy Commissioners for education in the Chicago office have moved in and out in revolution-door fashion. Fortunately, the states have few relationships with them, but the continuous change generates a waste of time because each wants to become acquainted but has very few reasons for such acquaintance. The more appropriate action would be to eliminate the assistant commissioners in the regional offices. Their limited higher education functions could be served by other persons.

As you know, I rarely communicate with the Congress, but this proposal is of such lack of merit that I feel impelled to bring its elements to your attention.

Your consideration will be appreciated.

Cordial regards,

MARTIN W. ESSEX,
Superintendent of Public Instruction.

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 18, 1973.

DR. MARTIN W. ESSEX,
Superintendent of Public Instruction, State of Ohio, Department of Education, Columbus, Ohio.

DEAR MARTIN: Many thanks for your May 30 letter explaining your opposition to the U.S. Office of Education's plans to establish 10 regional offices nationwide.

I oppose the idea and will vote against it. My staff advises that if the June 26 hearing of the general education subcommittee of the House Education and Labor Committee is any guide, neither the subcommittee nor the Congress will accept the idea. My colleagues on the committee, Representatives John Brademas of Indiana and William D. Ford of Michigan, treated Frank C. Carlucci, under secretary of Health, Education and Welfare and John R. Ottina, education commissioner-designate, who testified for regionalization, to withering criticism of regionalization; the Better Schools Act; failing to be advocates for education; ignoring federal law; interpreting federal statutes to suit their own purposes and thereby willfully, persistently ignoring the expressed intent of Congress.

That is quite a statement of charges against those entrusted by the President to lead the fight for educational improvement.

I have asked Ottina to provide details on the growth of his office during the past few fiscal years and to react to the poll of Phi Delta Kappa members reported in the May *Kappan* in which fraternity members rejected the notion that regional education research and development centers and laboratories have benefited children during the facilities' seven years of operation.

If so specific and comparatively easy an office to control is of little benefit to youngsters, of what use is another bureaucratic administrative layer that will allow the USOE to whip-saw school officials between a regional office and headquarters in Washington? The USOE's history is replete with such action. Its history is one of needless proliferation of personnel, offices, papers, programs, and a profligate waste of tax money, without materially increasing what pupils know.

I will keep you advised of the commissioner-designate's response to my inquiries.

I also understand that you and other chief state school officers were concerned that Title V of the ESEA, providing about $38 million for improving state departments of education would not be continued. As you probably are aware, the House accepted the Appropriations Committee's recommendation that the program and the funds be continued and I believe the Senate will agree.

After considerable thought and with some reservations, I believe Title V merited my "yes" vote.

The USOE evaluations of Title V programs—for what they are worth—are mixed. My personal observation from your department's activities and those in other states is that many state departments of education have used the money wisely to benefit pupils.

Programs have been upgraded through employment of specialists that would have been unavailable without Title V funds. Management capability has improved and many states are developing accountability models.

All this may improve education. On the other hand, I understand that Title V funds also have been used for many ill-conceived projects that are products of fuzzy thinking. Some have been similar to so-called "innovative" programs under Title III of ESEA that have caused great concern throughout the United States because of their attempts to propagandize children in the socialist ethic.

My favorable vote for Title V is given with the understanding that I will expose every Title V and Title III program inimical to our nation's democratic heritage.

While I was out of the country attending the International Labor Organization's annual conference on behalf of the House Labor subcommittee, the fiscal 1974 appropriations for the Departments of Labor and Health, Education and Welfare came to a vote.

I would have voted against the HEW appropriations for several reasons. Few, if any of the programs have accomplished the lofty goals set for them by any valid criteria. The requested amounts of money are too high. Many of the programs are not within the purview of a federal government. It is time to stop raising false hopes among the poor and others that the road to personal and social salvation lies through Washington.

Critics will carp about my alleged insensitivity to school children. People in education use the plea, "it's for the children," as a license to throw good money after bad and to destroy minds.

My vote against funding programs that have failed to prove their worth by any rational means, or by the usually irrational means offered by "educators," is precisely because of my sensitivity to children.

I appreciated your information letter on regionalization. I hope that you will continue to keep me posted on such problems. Be assured that I continue to be most concerned about the education of children and that I will do all I can to see that it is improved. Please feel free to use this letter as you see fit.

Kindest personal regards,

JOHN M. ASHBROOK,
*Representative to Congress,
17th District.*

HEROIC SERVICE BEYOND THE CALL OF DUTY

HON. PETER N. KYROS

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. KYROS. Mr. Speaker, several weeks ago in Gardiner, Maine, there occurred an incidence of heroic bravery which I would like to call to the attention of my colleagues. Early on a Saturday morning, on July 7, Patrolman Kenneth N. Douglas, of the Gardiner Police Department, responded to a fire alarm. Upon arrival at the scene, he was alerted by a young neighborhood paperboy, Elmer Maschino, that there was an occupant trapped in the building. Patrolman Douglas attempted to arouse the occupant by gunshot, but when this failed, he entered the building at great personal risk, aroused the occupant, and led him to safety.

The city of Gardiner has seen fit to recognize both Patrolman Douglas and young Elmer Maschino for their alertness and bravery by official resolution of commendation. I take pride in calling these resolutions to the attention of my colleagues:

RESOLUTION NO. 73-29: A RESOLUTION COMMENDING POLICE OFFICER KENNETH N. DOUGLAS

Be it resolved by the City Council of the City of Gardiner, Maine:

Whereas, Patrolman Kenneth N. Douglas of the City of Gardiner Police Department while on patrol duty in the police cruiser at 4:10 a.m., Saturday morning, July 7, 1973, responded to a police radio call to proceed at once to a reported fire at Harrison Avenue, and upon arrval at the scene was informed by a neighborhood paperboy that there was a man in the upstairs apartment of the burning building, and

Whereas, Patrolman Douglas immediately fired three shots beneath the bedroom window in an effort to arouse the occupant, which action proved unsuccessful, and

Whereas, Patrolman Douglas climbed up the back stairs to the apartment and saw that all was aflamed inside and still could see a closed door at the far end of the kitchen, and

Whereas, Patrolman Douglas unhesitantly entered the apartment at great personal risk to kick open the bedroom door, and

Whereas, after leaving the apartment for a breath of air, again, re-entered the flaming apartment at even greater personal risk and successfully aroused the occupant and led him to safety,

Therefore, be it resolved by the Mayor and City Council of the City of Gardiner, Maine that Patrolman Kenneth N. Douglas of the City of Gardiner Police Department be commended for his heroic action above and beyond the call of duty at great risk of his personal life and successfully rescued David Flannery from the burning building, and

That it be further resolved, that a copy of this Resolution be given to Kenneth N. Douglas, and

Be it further resolved that the Commissioner of Public Safety forward copies of this Resolution to the Governor of the State of Maine and various public safety organizations so that this heroic action can be given appropriate recognition.

Resolution No. 73-30: A Resolution Commending Newspaper Boy Elmer Maschino

Be it resolved by the City Council of the city of Gardiner, Maine:

Whereas, Elmer Maschino, the neighborhood paperboy while on his route during the early morning hours on Saturday, July 7, 1973, alerted Police Officer Kenneth N. Douglas, who was responding to an alarm, that there was an occupant trapped in the burning apartment house located at 17 Harrison Avenue, and

Whereas, this prompt action on the part of Elmer Maschino resulted in the saving of the life of David Flannery,

Therefore be it resolved by the mayor and City Council of the City of Gardiner, Maine that Elmer Maschino be commended for his alert action in saving a life, and

Be it further resolved that a copy of this Resolution be given to Elmer Maschino, and

Be it further resolved that the Commissioner of Public Safety forward copies of this Resolution to the Governor of the State of Maine, the Daily Kennebec Journal and various safety organizations in order that this action can be given appropriate recognition.

REPRESENTATIVE LENT ADDRESSES GRADUATES ON WATERGATE

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. LENT. Mr. Speaker, in the past several months, the main topic of conversation in this country has been the "Watergate affair," and my constituents in the Fourth District of New York have been no exception to this trend. Last month, I had the privilege of serving as commencement speaker at exercises for 900 graduates of New York Institute of Technology in Old Westbury, N.Y. My topic was Watergate, its effects on the American political system, and what might be done to see that no more "Watergates" occur in the future. So that my constituents and my colleagues might see my remarks, I include them in the Record at this point:

Remarks of the Honorable Norman F. Lent

Graduating seniors, Dr. Schure, Dr. Karr, Members of the Board of Trustees, faculty, parents and friends—I appreciate the opportunity to share this occasion with you today, and I might just add that it's a personal honor for me, as a public official and as a politician, to have been invited to fly up from our Nation's Capital to deliver your commencement address.

I'll venture to say that, despite Dr. Shure's glowing introduction, most of you out there have never laid eyes on me until today.

I'm not one of the stars of the Watergate Television Show.

I haven't been subpoenaed, indicted or granted immunity.

As a matter of fact, my telephone isn't even being bugged.

I stand here today, one of four U.S. Representatives from Nassau County, as living testimony to the fact that our system of government is still alive and well; to assure you that back in Washington, D.C., our Congress and government are still functioning as usual, despite the stories that headline our daily newspapers.

Nonetheless, it is a fact of life that this, your day of graduation, your commencement, comes at a time when our entire National way of doing things is under serious question. It comes at a time when our government has been shaken by scandal—when our economy must be shored up by government controls—when we are struggling to check pollution of the air we breathe and the water we drink. It comes at a time when we're standing eyeball to eyeball with a world-wide energy crisis—when, in some quarters, our entire well-being as a Nation is in doubt.

Now I realize that current events and recent headlines are not usually the stuff of commencement speakers. They usually deal in vast themes and classic thought—in Plato and Aristotle and that crowd. But in preparing my remarks for this morning, I thought to ignore our current situation would only be to turn our backs on reality.

In the view of some of our Nation's detractors, the current Watergate controversy has proven the foundations of our system are shaky and our political processes corrupt.

These are the people who have lost faith in our Nation's future.

They say we're incapable of coping with the issues of inflation, war and peace; foreign trade; and tax reform.

They're saying we're choking ourselves because we just can't solve our pollution problems.

They say we're living a bumper-to-bumper existence because we can't unsnarl our transportation difficulties or control the growth of our population.

They say we're fouling up everything we touch and their vocabularies contain generous doses of "can'ts," "won'ts" "shouldn'ts," "don'ts," and "nevers."

Most ominous of all, however, they say that your faith—the ability of young people to believe in the system and to confide and work within it—has been deeply wounded, and they say the scar may never heal.

Now, I would be the first to concede that many of their points, as far as they go, are valid. We do face many problems. We're all cognizant of the fact that more needs to be done in many areas.

And yet, it seems to me the problems of 1973 are no more unique or difficult than the great problems we faced in the past. And our current crisis, distasteful as it is, pales into insignificance where compared with the great crises of our past.

A Nation that survived the dark days of Valley Forge, the burning of the Capitol in 1814, the Civil War and Reconstruction, the Great Depression, Pearl Harbor, an unpopular Vietnam war—that Nation should certainly be able to take in stride the discovery of serious misconduct and corruption on the part of a few men who abused their power and violated their trust.

That should not condemn our system.

I sincerely believe that our institutional strength remains sound even if our faith in some individual office holders does not

After all, it will be "The system"—not in a vindictive nor vengeful way, but in pursuit of full justice—that will have discovered and judged and punished those who contemptuously tried to go around it.

It will be "The system" that will have ferreted out the guilty, protected the innocent and restored the confidence of those who may have come to doubt it.

In the process, I believe "The system" will have restored and strengthened itself. It will have reasserted its claim on our loyalty, its claim on our trust.

And, as always, we will be the winners.

But our system, ladies and gentlemen, does not owe its strength and durability to the prophets of doom and the naysayers. It owes its strength to the doers. And this, I think, is where you come in.

Until the last year or two, our youth, while serving as a tremendous force employing its zeal and idealism, too often spun its collective wheels because those qualities were seldom tempered by a sense of practicality.

I think that if you'll examine *yourselves* on this important day, you'll find that *you* are virtually the *first* generation of college graduates to be blessed with both a healthy skepticism *and* the tools and abilities to do something about those things that have rightfully troubled you.

You've grown up in one of the most turbulent periods of our country's history and you've seen, first hand, the massive problems we face.

But, most importantly, you've spent four years not just learning the theory of why we might be experiencing these problems, but you've spent them learning how to take on and beat the problems.

And so the unique period in which you've grown up, combined with your fine educational training here at New York Tech, gives you an advantage I suspect many of your parents and people our age wish we had—the ability to look at the world realistically, without benefit of either rose-colored glasses *or* tears of despair. The ability, in short, to cut through the veil of life and see that, while very few things are perfect, even fewer problems are insoluble.

And I think if you can carry this viewpoint with you into your individual pursuits, you just can't help but make a very convincing favorable impression on our way of life.

You are, whether or not you yet want to be, the first generation of graduates to possess the *near ideal* mix of education, technical training, enthusiasm and a sense of realism to allow most of you to move into your post-graduate years as journeymen rather than having to spend your entire twenties as apprentices.

At this point, I hope you'll allow me to impart just two or three concluding suggestions:

First of all, get involved in your communities. Join your local civic groups and political parties—make your voice heard; yes, write your Congressman, and chisel away at the things that irk you. Give everything you encounter the once-over—but when you've sized things up, respond in the positive way we know you can, rather than join the negative chorus. *Be the doers, not the doubters.*

I say this, ladies and gentlemen of the graduating class, because many of the problems we witness today are plainly due to a lack of citizen involvement.

Secondly, in the exercise of your healthy skepticism, do not lose your grip on optimism. Have the faith in our Nation and its system that has sustained your parents and your teachers and their forebears for almost 200 years. And do not fail to appreciate their accomplishments and the heritage they are passing on to you.

Let us remember that since the records of man have been kept, most people were poor and only a few were comfortable

Today in America, most people are comfortable and only the few are poor.

Let us remember that, as significant as this day may be to you, it is made even more significant by the fact that we meet here in freedom and peace.

And for that alone, we owe a lifetime of doing, not doubting.

Thank you very much for this opportunity to be with you today, and the best of luck to all of you.

SUPPORT FOR MASS TRANSIT OPERATING ASSISTANCE

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. MINISH. Mr. Speaker, the 1973–74 issue of the National Governor's Conference Policy Positions contains a significant statement of opinion by the Governors on the subject of Urban Public Transportation.

As chairman of the Urban Mass Transportation Subcommittee and sponsor of H.R. 6452, to provide operating assistance to the Nation's mass transit systems, I am pleased that the Governors' conference is lending its valuable support to the concept of Federal operating subsidies for mass transit.

If we are to overcome the pollution and congestion of our urban areas and alleviate the energy crisis, the Federal Government must assume a partnership role with States and localities in providing adequate financial support for mass transit.

The Governors' conference statement follows:

> URBAN PUBLIC TRANSPORTATION
>
> States are employing broad and varied tools to aid public transportation systems. Every State has exercised its authority to form areawide public transit districts, and to grant them taxing authority and bonding powers. Several States are now providing direct capital grants for the construction of mass transit facilities. States are involved in providing operating subsidies, and States have used their powers of taxation and tax exemption to stimulate the development of transit service.
>
> State action is a must because of the nature of mass transit problems. The State has the responsibility to give each urban region the assistance it requires, but also a responsibility to coordinate among the individual units in that region. The State can usually help resolve conflicts between city and suburban political subdivisions.
>
> Many States have found that they are required to expend greater amounts of monies to assist local governments as they develop their capital transit programs. A large portion of these state dollars are in the form of operating subsidies to maintain a minimum level of service. The National Governors' Conference supports the necessary congressional action to assist the Nation's faltering public transit agencies through federal grants for operating subsidies. The distribution of these monies would be based on population, revenue, passenger and vehicle mileage traveled, with respect to a particular shared effort in responding to the needs of the traveling public within these urban centers.
>
> The development of adequate, modern systems of urban mass transit is essential to the continued life of the urban areas within our States. To accomplish this purpose, the National Governors' Conference urges the following action:
>
> A. Adequate funding of the Urban Mass Transportation Act of 1970 to meet the needs of both the large urban areas requiring subway or rail transit systems, and the growing urban areas requiring bus transportation facilities.
>
> B. To achieve meaningful input, each State must be involved in all mass transit planning endeavors at the most preliminary stage. The assurance of proper implementation of these transit plans would require that the federal assistance program be channeled through appropriate state agencies. To receive approval, applications for assistance under this Act should be consistent with the existing statewide and regional comprehensive transportation plan. As the States broaden their role in the public transportation program, they should make available at the request of the local unit of government, both technical and financial assistance in developing transit programs. In providing this assistance, States wishing to broaden their involvement in public transportation should develop a full-time transit staff, and provide a substantial amount of the local share for approved mass transportation grant projects. To assist the States in establishing technical assistance programs and expertise, funds for technical assistance should be made available for UMTA. Each State would then make this assistance available to the smaller units of local government. Establishment of this level of state involvement would eliminate many of the inter-governmental relations issues presently existing.
>
> C. The Governor or his designee should have authority to set priorities for the funding of public transportation projects within the State, and these priorities should be honored by the Federal Department of Transportation.
>
> D. The Congress should act to exempt public and private transit systems from the federal gasoline tax, thereby providing these systems with a form of badly needed financial relief that has already been provided at the state level in several cases.

ACADEMIC FREEDOM AND THE AGENCY SHOP

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. CRANE. Mr. Speaker, American education is the subject of a concerted campaign by organized labor to force teachers throughout the country into labor unions. At the present time, competition between the National Education Association and the American Federation of Teachers is taking place in many school districts.

Discussing the current moves toward forced unionization Solveig Eggerz, writing in the April 5 issue of Roll Call, notes that:

> A goal of the National Education Association is to totally control the education establishment by forcing teachers to pay union dues, a coercive act which would make a teaching fee a condition of employment. This knocks down previously guaranteed teacher tenure. In 19 states teachers are protected by right-to-work laws, but Wisconsin and Hawaii have already authorized compulsory unionism.

To underscore this trend, Catherine Barrett, president of the NEA, does not hesitate to declare her goal quite openly. She recently stated that:

> I believe we have arrived as professionals. We are the biggest potential striking force in the country and we are determined to control the direction of education.

Miss Eggerz writes:

> The key issue in recent strikes in Washington, D.C., Philadelphia, and New York, was the demand by union bosses for a compulsory agency shop. The victims are the children, who miss weeks of school, and teachers, who wish to remain outside the local union.

The challenge to academic freedom inherent in the forced unionization of teachers was the subject of a recent talk by Dr. Russell Kirk, the distinguished author, academician, and editor of the University Bookman, before the annual meeting of the board of directors of the National Right-to-Work Committee in Washington, D.C. on May 11, 1973.

Dr. Kirk declared that:

> Even the right to intellectual work is insecure nowadays. What we call "academic freedom" is, in essence, a protection of the right-to-work with one's mind. The doctrine of academic freedom maintains that the teacher and the scholar should be reasonably free to teach and pursue the truth. Sometimes the truth is unpopular; therefore we endeavor to secure teacher and scholar against arbitrary interference with their work . . . just now one of the chief perils to academic freedom is the device called the "agency shop."

Dr. Kirk notes:

> The agency shop requires that all persons employed in a certain concern . . . must submit to the bargaining authority of some association, commonly called a union.

Dr. Kirk states:

> The teacher who is forced into such a union against his will, or is forced to pay a fee to it has lost something: his freedom of choice. And if his continued employment becomes dependent upon the will of some union, he may find it necessary to conform his lectures and his writing to views approved by that union—of which he may not even be a member. If the masters of that union hold strong ideological views of one sort or another, the professor may find it necessary to be intellectually servile.

At a time when we are more and more concerned with the freedom of the individual it is difficult to believe that we stand on the brink of forced unionization in the field of education.

I wish to share with my colleagues Dr. Kirk's thoughtful analysis of this problem, and insert his talk into the RECORD at this time:

> ACADEMIC FREEDOM AND THE AGENCY SHOP
>
> (By Russell Kirk)
>
> It is an honor to address defenders of the right to work. "The only true freedom is freedom to work," Irving Babbitt wrote half a century ago. All other rights depend upon the right to work, Babbitt argued; for if we are prevented from doing our work, life scarcely is worth living; indeed, we may not survive. We must find our happiness in work, or not at all, said Babbitt. With Aristotle, he held that the highest form of work is the work of the intellect.
>
> I am concerned today with the challenging work of the intellect, the most rewarding of all kinds of work. My principal point is this: even the right to intellectual work is insecure nowadays. What we call "academic freedom" is, in essence, a protection of the right to work one's mind. The doctrine of academic freedom maintains that the teacher and the scholar should be reasonably free to teach and pursue the truth. Sometimes the truth is unpopular; therefore we endeavor to secure teacher and scholar against arbitrary interference with their work. In theory, the "professor" is a person who strongly professes his belief in certain truths. Unless he is reasonably free to pursue and expound those truths, he cannot accomplish his work. Thus academic freedom is a natural right: I mean that it arises from the nature of intellectual labor.

From time to time, academic freedom confronts danger in one quarter or another. Just now, one of the chief perils to academic freedom is the device called the "agency shop." As I hardly need tell those present here, the agency shop requires that all persons employed in a certain concern, or perhaps in a large industry, must submit to the bargaining authority of some association, commonly called a union. And to that association or union, all persons so employed must pay a fee, or dues, whether or not they are members of that union, and whether or not they wish to have that union, or any other body, represent them in collective bargaining.

Now how can the agency shop be a peril to academic freedom? Cannot the professor or teacher merely continue to teach and to research as he always had done, after paying to some union a tribute called a fee, or dues? Has the professor lost anything except a little of his salary?

Yes, he has lost something: his freedom of choice. And if his continued employment becomes dependent upon the will of some union, he may find it necessary to conform his lectures and his writing to views approved by that union—of which he may not even be a member. If the masters of that union hold strong ideological views of one sort or another, the professor may find it necessary to be intellectually servile—or else to take up some other line of work, if he can. In his moving book The Captive Mind, the Polish exile Czeslaw Milosz describes just how servile men of intellect may become, when their society falls under the domination of ideologues and their advancement or survival depends upon conformity to ideology.

A good many American professors and teachers already are aware of the danger to their profession and their freedom of mind. In January, I addressed the annual convention of the scholars who have formed University Professors for Academic Order (a name which may be changed, at my suggestion, to University Professors for Academic Order and Freedom). The UPAO, at that meeting, adopted a resolution which expresses their resistance to pressures from both government and teachers' unions—pressures which reduce academic order and academic freedom.

In this resolution, the members of UPAO distinguished between a voluntary association of faculty members, which can protect academic freedom, and involuntary membership in, or submission to, a nonprofessional organization which reduces the academic freedom of those whom it professes to represent. The members of UPAO resent such governmental activities as the "Affirmative Action" program, which would establish in colleges and universities, as elsewhere, employment quotas founded upon ethnic and sexual differences. They resent equally the threat that they may be compelled to subordinate their own interests and convictions to some involuntary union—thrust upon them, perhaps, by the action of government, which grants special privileges to the officers of such unions.

The members of UPAO, and professors and teachers generally, have reason for misgiving. During the past decade, we have seen the swift unionizing of millions of public employees—often compulsory unionization, with political power at its back. To require any public employees to join some union against their will, or to pay fees to such a union that may be spent for purposes opposed to the interests and convictions of those who pay the money, is very dangerous public policy. By its nature, government is a monopoly. In any community nowadays, ordinarily, there exists but one police force, one fire department, one department of sanitation, one post office system (autonomous corporation though it nominally is), one apparatus for the collection of revenue and the disbursing of public funds. If the people employed in such a monopoly are subject to the will of officers in a union, in some emergency the authority of government might be defied successfully by the men who dominate the union. Then even the most essential public services, including the ordinary enforcement of law and keeping of the peace, would depend upon the mood and the ambitions of people controlling the union. The real government might be the union itself.

So compulsory unionization of public employees is a more alarming matter than compulsory unionization of employees in commerce or industry. Some degree of competition still prevails almost everywhere in the "private sector," and so a strike in commerce and industry may be endured; after a fashion, ordinary life proceeds. But if vital public services are afflicted by a strike, the civil social order is disrupted—or worse. Therefore the federal government, and most state governments, have refrained from giving to unions the power to control public employees against their wishes, even though such power is possessed by unions in the "private sector."

This is true of public instruction. The vast majority of college and university students are enrolled in institutions supported by public funds; an even vaster majority of elementary and secondary pupils attend public schools. If effectual control of the educational apparatus were to pass from the hands of public trustees and administrators to the hands of union leaders, then eventually what is taught in the system of public instruction, and what persons are employed to do the teaching, would be determined by union organizations not subject to ordinary political processes. Under such circumstances, the educational system would cease to be genuinely public, and its policies would be those of a kind of union elite. This surely would result in great increase of costs, for the beneficiaries of expenditure would control the expenditure. More important, this would result in intellectual servility, all too probably.

For the national teachers' union, whether the National Education Association or the American Federation of Teachers, and their state and local affiliates, have ceased to be professional associations of the sort approved by University Professors for Academic Order—if, indeed, they ever were. Their concern nowadays is not for the improvement of public instruction, really, but with power and money for their own union organizations. Worse still, these teachers' unions have a discernible ideological bent, hostile toward genuine learning and toward genuine academic freedom.

The ideological bias of the teachers' unions has been most perceptible in California and Michigan, probably; in many cases, a utopian radicalism has come to prevail among teachers' union officials. On a national level, the political hunger and anti-intellectual objectives of the present National Education Association are sufficiently suggested in some remarks of Mrs. Catherine Barrett, now president of the NEA, and in the NEA's booklet "Schools for the 70's." Mrs. Barrett looks forward to the time when the NEA will be the most powerful force in America, with a vast political budget, electing and defeating candidates at every level. When that happy day arrives, "We will need to recognize that the so-called 'basic skills,' which currently represent nearly the total effort in elementary schools, will be taught in one-quarter of the school day. The remaining time will be devoted to what is truly fundamental and basic."

What does President Barrett mean by these phrases? Why, she advocates a "problem-oriented curriculum," which would instill correct opinions about "war, peace, race, the economy, population, the environment"—in short, the most controversial issues. If parents should disagree with the triumphant NEA—well, it would be somewhat tardy for them to disagree, power already having passed to a union monopoly. If professors and teachers should dissent from Mrs. Barrett and her colleagues, who will control the NEA's costly propaganda-apparatus—perhaps they can find jobs somewhere else. The system of public instruction would be captive to ideology. At best, this would be an ideology of "ritualistic liberalism," alien to the beliefs of most Americans; possibly it would be a thoroughly radical ideology. If one would control a nation totally, first obtain thorough control over the schools. Under such a domination, no room would remain for the liberties of the mind.

The opponents of such compulsion, as everybody here knows, possess little money; the teachers' unions have grown rich at the cost of teachers who would prefer not to be represented by them, and who often disagree altogether with the unions' educational and political slogans and tactics. Yet courage still counts for much. Cheerfulness keeps breaking in, and you and I do not despair.

So I come full cycle, back to academic freedom—which is freedom from ideology, freedom from obsessive political activism, freedom from centralized power over the intellect, freedom to teach and study and think. If any class of people ought to be able to bargain for themselves as individuals, or to advance their common interests through genuine professional associations, those people are the professors and teachers. If we deny freedom of choice to such people, there will be precious little liberty left for anybody in our society, within a few years of decades. Being treated as if he were one of an unthinking herd, incompetent to make his own decisions, is the ultimate insult to a man of learning. If the Academy is spared from such an insult, it will owe much to the energies of the National Right to Work Committee.

EDDIE RICKENBACKER: THE LOSS OF A GREAT AMERICAN

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. ASHBROOK. Mr. Speaker, the death of Capt. Eddie Rickenbacker is a great loss to all those who knew him and to all Americans. Captain Rickenbacker led a full and eventful life. From the age of 12 he was a worker for those things which have made America great. He was a pioneer auto racer. In World War I he became one of America's first aces as a pilot battling the Germans. He was awarded the Croix de Guerre with four palms, the Legion of Honor, the Distinguished Service Cross with nine oak leaf clusters, and the Congressional Medal of Honor among other decorations.

The long and varied career of Captain Rickenbacker always bore witness to the kind of honest and courageous man that he was. When retiring from the leadership of Eastern Airlines, he said:

> I am going to expand my crusade to save the American way of life for future generations.

He was never afraid to speak up for the things that made America great. He was a strong advocate of our free enterprise system.

Eddie Rickenbacker's loss is not only being heavily felt by his family but also by all those Americans who have benefited by the American system. The crusade to save the American way of life has lost a leading fighter. As one who appeared with him on the speakers platform a number of times, I of course agreed with his strong conservative and pro-American position. He was a great American, an able spokesman for our cause and a dedicated citizen whose accomplishments speak for themselves.

STARS AND STRIPES FOREVER

HON. WM. J. RANDALL

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. RANDALL. Mr. Speaker, many fine essays have been written about our beloved American flag. I am sure we have all seen the writings of our patriotic citizens who have put their thoughts on paper in the first person, as if the flag itself were speaking to those of the country for which it stands as a symbol.

There has recently come to my attention one of the finest first person descriptions of the American flag it has been my privilege to know about. It is so well written and so inspiring that I concluded it is something that deserved to be published in the CONGRESSIONAL RECORD and thereby sharing it not only with my constituents but also sharing it with my colleagues and through the pages of the CONGRESSIONAL RECORD, the American people.

Francis H. Cox, the author of "Stars and Stripes Forever" is a valued constituent who is a resident of eastern Jackson County, Mo. He serves as principal of the Franklin Smith School in Blue Springs, Mo. Although he is a native of eastern Tennessee he has lived in Jackson County, Mo., for 25 years and has been a resident and citizen of Blue Springs, Mo., for the past 7 years.

Mr. Cox served in the Army in World War II. He tells me it was his military service that nurtured his great respect and love for our national colors. It takes only a brief conversation with Frank Cox to conclude that he is a truly patriotic American. Mr. Cox is a past commander of the Irwin Kirkwood Post No. 386, American Legion, Kansas City, Mo.

It takes only a glance at the good work of Mr. Cox to note the staccato style by which he recalls to mind to those persons, places, and events most associated with the flag of the United States—Betsy Ross; the Continental Congress; Valley Forge; Fort McHenry; Francis Scott Key; San Juan Hill; the Argonne Forrest; Flanders Field; Pearl Harbor; Corregidor; Iwo Jima; Anzio; Bastogne, and Vietnam.

Mr. Speaker, I am privileged to have the honor to read into the RECORD at this point the work of my distinguished constituent, Francis Cox, entitled "Stars and Stripes Forever":

STARS AND STRIPES FOREVER

I am the flag of the United States of America. My conception was in the dreams of liberty and in the hopes of freedom. A little old lady by the name of Betsy Ross made me, and her sewing basket was my cradle. I was never an orphan, however, I was adopted by the Continental Congress in 1777 and became known as the National Emblem.

I am now 185 years of age and have traveled extensively and witnessed many things. I witnessed the bitter cold at Valley Forge and was with General Washington on that frigid Christmas night when we crossed the Delaware.

I also witnessed the firing of Fort McHenry by the British in the twilight of day and influenced Francis Scott Key to write the "Star Spangled Banner" which is now our national anthem. I was also with Andy Jackson at the Battle of New Orleans. I was carried through the Halls of Montezuma to the Shores of Tripoli. Yes, I was there at Appomatox on that gray morning when Lee surrendered his sword to Grant.

I charged up San Juan Hill with Teddy Roosevelt and his Rough Riders. I visited the Marne and the Argonne Forest and kept a lonely vigil over the white crosses and watched the poppies grow on Flanders Field.

Yes, I witnessed the sadness and the fear on the faces of brave men at Pearl Harbor. I waved bravely at Corregidor and Bougainville and was raised to fly on Iwo Jima. I also attested to the braveness in those great souls at Anzio, St. Lo, and Bastogne. I was carried across the rice paddies of Korea and I know the agony of the men and the blood spilt by them in that far away land of Vietnam.

To many people I am many things. To some I am yesterday, today, and tomorrow. I am a glorious child, a grand old man, or a most gracious lady.

I also possess many names. I am called "The Red, White and Blue," "The Star Spangled Banner," "The Stars and Stripes," "The Grand Old Flag," and just plain "Old Glory."

I am in the homes of the poor, the mansions of the rich, veteran hospitals and the lodges of organizations. I am in the White House with the President. I am in the churches, cathedrals, and synagogues. I am with the Boy and Girl Scouts, and in the classrooms of the schools where the children pledge allegiance to me.

I have been draped over the caskets of Presidents, admirals, generals, humble privates and the Unknown Soldier. So you see, I have seen history develop and unfold.

My hope and aspirations are now to fly over our great country at peace with the world. Someday I firmly believe I will have that experience. After all, I am the Stars and Stripes Forever.

SWEDEN ENACTS PRIVACY LAW

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. DRINAN. Mr. Speaker, I know that Members of Congress will be deeply interested in an article from the July 19, 1973, issue of Electronics by Robert Skole, which describes the world's first measure set up to keep an eye on personal data banks.

This device became operational on July 1, 1973, after the Swedish Prime Minister and the Social Democratic Government of Sweden pushed through the world's first national law protecting the privacy of citizens from computers.

Following the article is a "box" that accompanied this article which describes the provisions of Sweden's new privacy law.

The following article notes that the United States has not done much to protect privacy since the passage by the Congress of the Fair Credit Reporting Act. The article notes that the limits on what the Department of Justice and the FBI can do with arrest records and other data in the National Crime Information Center are not very clear or satisfactory. This significant article follows:

COMPUTERS: SWEDEN ENACTS PRIVACY LAW

(by Robert Skole)

Sweden is combatting the threat of invasion of privacy by computer data banks. With experts around the world watching, the Swedish Data Inspection Board started operating on July 1 as a watchdog—with teeth—under the world's first national law preventing undue encroachment of citizens' privacy by private data banks. The law regulating establishment and operation of data banks actually goes into effect July 1, 1974—but the inspection board starts operating now to give companies and state agencies a year to comply.

There are 4,000 to 5,000 personal registers in Sweden, among them roughly 500 operated by state or local government agencies. For those 500, the law makes an exception, having the board serve only in a consultant's position. This distinction is perhaps the only point in the law that caused serious debate in its smooth ride through parliament: industry and some political parties wanted the laws to cover all data banks, with no exceptions. But the Social-Democratic government argued that parliament itself provides control of Government systems—and if there are abuses, an individual can appeal to the parliamentary ombudsman.

The government knows all too well about parliamentary control. Last year it sought funds for personnel for a big daddy of all data banks—a central personal register with the information on all Swedes that's now kept by provinces. Data in these banks is public under a 1766 Swedish law, which has been extended to include automatic data processing. But parliament nevertheless objected to the central register and rejected the appropriation, even though the government had to make good on contracts already signed for the computers.

CENSUS SALE

The privacy law was triggered in large part by a public outcry several years ago over a special census for data that was going to be sold. At the same time, attention was drawn to the provinces' practice of selling information on individuals when one refused to sell its tapes to an ITT subsidiary. The case went to court, which ruled that the province must treat the tapes as any other public document—and make them available to the public.

Having so much personal data readily available has made Sweden a paradise for direct-mail companies or market researchers. To top it off, all Swedes have personal numbers—given at birth or on immigration—which are valuable for data processing in this nation of millions of Andersons, Eriksons, Svenssons, Karlsons, and Petersons [*Electronics*, Aug. 17. 1970, p. 115].

Curiously enough, industry had no real objections to the law. In fact, computer specialists have been asking for years for a privacy law or ground rules to be established before any public reaction against data banks could result from their abuse and reach a point that would affect computer development.

BROAD COVERAGE

The law will affect such data banks as payroll records, personnel lists, customer lists, subscriber lists, direct mail lists, credit rating lists, and, in a word, any register, handled by automatic data processing, in which an individual can be identified.

Jan Freese, deputy director-general of the board, says these range from the giant registers containing millions of names—like those kept by direct-mail firms or insurance companies—down to small company records. The smallest he saw had 27 names, in a company with a very complicated piece-work payment system. At this point, specialists involved with the law do not see that it will mean anything as far as hardware is involved. However, once the board starts to make specific rulings on cases, there could be demand for some hardware—such as additional memory capacity for logging transactions to provide a record of who gets what information, or for providing scrambling and descrambling equipment to insure privacy when filling board demands. Also, there could be additional work for programers, and computer service companies will be facing additional work to upgrade their customers' data banks to meet board requirements.

MORE TO COME

The only personal registers covered by the law are those set up for automatic data processing. The law does not cover manually operated systems—if there are any. However, another law that will be presented to parliament next year covers all—automatic or manual—credit rating reporting and personal filing systems. This law will have some tough restrictions—including the fact that only Swedish companies can provide such services. Thus, credit reporting will be covered by both the data bank law and the special credit law—when the systems are computer-based.

Sweden's law making all public records open to the public has meant that an individual knows what a state or municipal data bank contains on him. But until now he has had no control over private data banks. "What we have done is extend the principle of public information in the private sector, when it deals with personal information," says Freese.

One important section of the new law extends the rule of obligation to observe secrecy—a rule that applies to such professions as medicine, social work, and some government officials when they are concerned with personal information—to private data bank operators. If the board rules that a data bank operator must be silent, he is then covered by this ruling.

The director general of the Data Inspection Board is a jurist and career civil servant, Claes-Goeran Kaellner, who knows very little—if anything—about computer data banks. But the law requires that a majority of laymen make up the nine-man board, with only three experts. One is Aake Pernelid, managing director of the state computer consulting system (right now busy setting up an on-line system to link all pharmacies to a central computer). Another member is P. G. Vinge, a computer security specialist with the federation of Swedish industries, and former head of the Swedish counter-espionage service. Others are mainly parliament members from different parties.

AMERICA

What is the U.S. doing to protect the rights of individual citizens when it comes to government and private data banks? "Not much at all in the private sector since the Fair Credit Reporting Act," admits one congressional legal expert on the subject. And on the Government side, limits are still fuzzy on what the Department of Justice and its FBI can do with arrest record and other data in the National Crime Information Center.

Of the Fair Credit Reporting Act and its impact on private data banks, an attorney for the Senate Subcommittee on Constitutional Rights observes that individuals must take a positive action to exert their rights to notice, access, challenge, and correction of errors in private data banks—even those of some insurance companies.

But "the individual must know the record is being kept first before he can act," the lawyer points out, adding the situation is not much different than in Sweden. Usually, the requirement to notify an individual of the record is couched "in the most vague, broad, and nonhelpful language" that the record keepers can come up with.

IT'S THE LAW

While Sweden's new privacy law permits the Data Inspection Board to act only as an adviser in the case of government data banks, it gives the board sweeping power over private installations. Here are the main points:

A personal register (a data bank containing names or lists where an individual can be recognized) can be kept only with permission of the board.

No information can be kept of highly personal, sensitive matters—such as data on a person's alcoholism, arrest record, psychiatric treatment—except with special permission from the board.

No registration can be made of an individual's religious or political views (although parties or churches can keep membership lists).

The board will rule on how each data bank can be set up and used.

Each individual will have the right to get a free printout—in understandable form—of what a data bank contains on him.

Anyone can sue a data bank if it spreads false information on him.

An individual can demand (and get the board to enforce the demand) that corrections be made, or that his or her name be eliminated from a bank.

Data banks cannot be moved outside the country without permission.

Operators of data banks can be made to notify individuals that their names and other information are being kept in the register.

Operators of such banks must make provision for logging of transactions, and must also provide any security systems that the board demands.

Revisions in type or extent of material, and how a bank is used, can be made only with board permission.

Penalties for violations can lead to a fine or maximum of a year in prison.

SEX DISCRIMINATION

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mrs. MINK. Mr. Speaker, in so many subtle ways, all of us as parents contribute to the development of our children by what we encourage or discourage. When we do this on the basis of the sex of the child then we are participating in sex discrimination.

So often we discuss sex discrimination for its effects upon women; seldom do we pay any attention to the cruel and irreparable damage it can also do to men.

Boys are supposed to all be "manly" and excel in sports and be motivated toward the "manly" professions. Boys are not supposed to say they want to be teachers, or nurses, or secretaries. Boys are not supposed to help "mommie" in the kitchen. Why?

Our schools compound these stereotypes. Teachers consciously or subconsciously sex stereotype their pupils by even the simple distribution of classroom function. Textbooks universally are guilty of relegating certain roles to one sex and not the other. Their complicity is not only in the pictures, but in the stories themselves.

I submit an article which recently appeared in the Parade magazine of July 1, 1973, regarding this problem which I found of great interest. In this connection hearings on my bill, H.R. 208, the Women's Educational Equity Act, will begin this week on July 25 and 26 at 9:30 a.m. both mornings in room 2261 with the following public witnesses:

Arvonne Fraser, president, Women's Equity Action League.

Dr. Bernice Sandler, Project on the Status and Education of Women, Association of American Colleges.

Joy R. Simonson, president, Interstate Association of Commissions on the Status of Women.

Dr. Nancy K. Schlossberg, American Council on Education.

Kitty Cole, project director, Resource Center on Sex Roles in Education, National Foundation on the Improvement of Education.

Bernice Frieder, chairman, Education Task Force, National Council of Jewish Women.

Ellen Morgan, coordinator, Task Force on University Compliance, National Organization for Women.

Jennifer Ryan, National Student Lobby.

Dr. Charles L. Lewis, executive director, American Personnel & Guidance Association.

Women's Action Alliance.

National Women's Political Caucus.

The article follows:

DO KIDS' SCHOOLBOOKS DISTORT SEX ROLES?

(By Ilene Barth)

PRINCETON, N.J.—In the world of children's reading books little boys are still made of frogs and snails and puppy dog tails, and little girls remain sugar and spice and everything nice. But this traditional view of the sexes in elementary schoolbooks is being challenged by a group of serious-minded mothers from Princeton, N.J.

They call themselves Women on Words and Images (WOWI), and at first glance, surrounded by their children, dogs and husbands, they do not appear much different from the stereotypical images they are attacking. But their work—a study of 2760 stories in 134 schoolbooks by 14 different publishers—has turned a core group of six women into professional campaigners to revise the readers of this country's schoolchildren in primary grades.

The women firmly believe that the textbooks in use now hurt *all* young readers, both boys and girls. Mrs. Rogie Bender, mother of two boys and two girls, says, "Girls are constantly insulted in these books by being compared unfavorably to boys. And the texts are bad for my sons, too. Little boys are always being brave, choking back tears, and often receive praise for doing stupid things.

For example, one book has a story about a small boy wrestling an alligator."

The women's specific findings, which may shake up the educational publishing industry, include:

MALES DOMINATE

More than two-thirds of all stories are about boys or men.

Boys are presented in active, creative situations like building walkie-talkies, or using their wits in capturing hijackers, dealing with a genie, or solving problems for girls or even mother.

Girls are pictured quietly watching boys play, or in domestic activities like cooking, cleaning the house, or sewing. Often girls are teased by boys for their stupidity when they make mistakes.

Men are illustrated in a variety of occupations, 147 in all. Women are shown in only 26 occupations, most of them mere extensions of household labor—cooking in a school cafeteria, for example.

Fathers solve problems for everyone and frequently participate in joint activities with their kids.

Mothers, however, rarely have a life apart from housework, seldom leave the kitchen, and are more likely to scold than play with their children.

PUBLISHERS PRESSURED

These points are powerfully illustrated in a booklet and slide show produced by WOWI. What started as one woman's indignation over her child's reading materials three years ago has now been parlayed into a massive effort to pressure publishers into change. Originally organized under the umbrella of the National Organization for Women, the group made presentations before publishers, educators, and PTA groups for free. Now independent, the women not only mean business, they are in businesses. They work as paid consultants to publishers, rent out their slide show, and have sold 15,000 copies of their study, "Dick and Jane as Victims," at $1.50 apiece.

Profit-motivated and professional as the women have become, their cause is still uppermost in their minds. "It took me 30 years to wake up from the storybook images of women," says one WOWI member. "I know these books are damaging."

How have publishers reacted to these charges? Caught by surprise, they have defended themselves by pointing out that there was little concern about sex roles when their books were initially published. Series are revised at three-to-10-year intervals, and many editors have promised to loosen sex-role straitjackets when books come up for review.

"I thought the Dick and Jane study was great and true," says Craig Boultinghouse, the woman who is executive editor of the Macmillan Reading Program.

Macmillan plans to use some new artwork in a few of its readers picturing boys and girls doing things together. "Mother won't always be in a dress and apron," predicts Ms. Boultinghouse. "She'll wear clothes appropriate to different activities."

William Hooks, Bank Street Publications chairman, concurs. "In anything new we write," he says, "we'll try to improve the balance between girls and boys and be more flexible in our situations."

But both Hooks and Ms. Boultinghouse stress economic obstacles to quick change. "It takes half a million dollars to launch a new series, and a few millions more before the publisher makes a profit," explains Hooks. "No one is willing to drop or do complete overhauls of series which now exist. Changes will come—but over a period of years."

This does little to satisfy the Princeton-based critics, who feel the changes will come too slowly to benefit children now in school. "I think publishers are dragging their feet," says Cynthia Eaton. "They moved much more quickly when asked to racially integrate their books."

To prod publishers to act faster, the WOWI women have begun to lobby the Council of Great City Schools and state committees which approve textbooks. They also urge concerned parents' groups to put pressure on their children's schools for new books, and on the government to condemn old texts as discriminatory.

Meanwhile, the women continue to "educate" editors, fearing that even with the best intent in the world, publishers will perpetuate mistakes. The women point to one book illustration of a girl on skates falling down. In the old version the girl was white and wore a dress. In the new, updated episode she's dark-skinned and wears slacks, but the text still reads, "She's just like a girl, she gives up."

And even if significant changes become incorporated into schoolbooks, the women will have new battles to fight. They have recently begun to look at the informal aspects of education, and there, too, they are unhappy with what they see.

"At my son Michael's school, boys and girls form separate lines to enter school each morning," Mrs. Bender reports. "If a boy misbehaves, his punishment is to stand in the girls' line."

WOMEN AND THE NEWS

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. FRASER. Mr. Speaker, on July 19, the Washington Post carried two stories about women. One article concerned the efforts of Anne Armstrong, counselor to the President, and Jayne Spain, Vice Chairman of the Civil Service Commission, to hire and promote more women to middle and top management positions. This is welcome news.

The second article was not as encouraging. I commend the thoughtful comments of Mr. Robert C. Maynard to my colleagues:

WOMEN AND THE NEWS

(By Robert C. Maynard)

Women in Washington have been complaining that they were poorly served last week by their local morning newspaper. The evidence in support of their contention is well worth considering.

One of the complaints is a matter of questionable word choice in a headline and the other two concern the judgment of Washington Post editors regarding the placement of stories and the coverage of stories.

The headline that aroused the ire of several women appeared on the first page of the Metro section on Thursday, July 12. It said:

SCHOOL JOB MAY GO TO WOMAN EDUCATOR

"Why *woman* educator?" several women asked. If the frontrunner for head of the D.C. schools had been a man, and had been from Chicago—as Barbara Sizemore is—the headline probably would have said "Chicago Educator" or "Illinois Educator." Almost certainly, it would not have said, "Man Educator."

To compound the injury, Ms. Sizemore was not, as the story made clear, the only woman under active consideration. Of the five finalists listed in the story, two were women. The other is Harriet G. Jenkins, former assistant superintendent of the Berkeley, Calif., schools.

That fact alone ought to suggest the inappropriateness of headlines emphasizing the sex of candidates for professional positions.

While women in executive positions should no longer be treated in newspapers as novelties, it is still true that women are battling on several fronts for economic equality. It is this fact that forms the basis for the other two complaints.

One concerns the placement of a story describing the problems of women in the job market and the other concerns the meager coverage in both local newspapers of the annual convention of the National Welfare Rights Organization.

On July 11, the obituary page of The Washington Post—Page B 10—carried a report of a hearing the previous day of the Joint Economic Committee, which is looking into the problems of women and work.

Representatives of the President's Council of Economic Advisers told the committee that discrimination accounts for some of the difference in the pay that men and women receive. Sex discrimination, they testified, might account for 30 per cent less pay to women than men receive.

Paul A. Samuelson, the Nobel Prize winning economist from MIT, told the committee that "The typical woman worker is lucky if she earns 60 per cent" of what the typical male worker earns, "even though tests show that her I.Q., diligence and dexterity cannot account for the difference in pay and status."

Nobody has ever made a credible correlation between the exposure an issue receives and the society's ability to solve the problem. But many of the women who complained about the problem of sex discrimination being relegated to the obituary page would agree with the woman who said:

"The testimony at these Joint Economic Committee hearings is of huge interest to those of us uppity females who keep hoping that someday there will be no need for that kind of testimony, that someday women can hope to be more than secretaries and nurses and clerks and librarians and telephone operators . . ."

Even so, the 500 women who made up the delegation to the National Welfare Rights Organization would be happy, in many instances, to be able to gain acceptance in some of those categories.

One of the central issues before them was whether welfare was not too narrow a definition of their concerns. Some even suggested they should change the name of the group to the National Women's Rights Organization, arguing that welfare is an issue almost exclusively affecting women.

They received Rep. Bella Abzug and Gloria Steinem cordially and debated the issue of how far toward the feminist movement they should move. In the end, they stuck with welfare, but the very fact that a predominantly black women's group should begin such discussions is significant. For quite some time, black women's groups have taken the position that "women's lib has little to do with the black community."

It would have been helpful to learn in the newspapers the depth of NWRO feeling that it is time to look afresh at feminism as it has been discussed in the larger society.

It would also have been helpful to know more about the reaction of an organization that claims 125,000 members to hearing its former leader, George Wiley, urge NWRO to embrace a concept of economic justice that goes beyond welfare to such issues as tax reform and the restructuring of health care delivery.

It might have been possible to learn of yet another growing phenomenon in the black community, which came very much to life at the NWRO convention.

The women of NWRO voted to give up some portion of their food stamp allotments to the 6 million victims of the famine in Africa. "We may be hungry," one of the delegates is reported to have said during the debate on this subject, "but we aren't starving to death."

Across the country, blacks of modest means have begun to take up collections of food and funds for the drought victims of Africa's Sahel. But it is striking that those women at the very bottom of the country's economy would vote to give up some of what they have for this effort. Jesse Jackson of Operation PUSH was one of the speakers who urged them in that direction and they agreed.

Neither The Post, the Evening Star nor The New York Times found time from Watergate to check out those story possibilities.

Post editors point out that this newspaper covered the Friday banquet NWRO gave, but it was a very brief story on a party, not coverage of the convention.

Television, which is so frequently criticized for ignoring or handling superficially those stories that newspapers consider important, provided NWRO with far more coverage.

NBC had a crew on hand for two full days of the convention, and WTOP carried several informative stories with filmed interviews and sound bites from speeches

Watergate and vacations were given as the reason The Post didn't cover the story of the NWRO. Those editors who would have handled it pointed out they also chose not to cover the convention of the American Bankers Association. "We treated the rich and the poor alike," one editor said.

United Press International covered the convention, but conceded to this newspaper that it used on its wires only one tenth of what its reporter filed. Watergate was much on their minds, they said.

According to those in attendance, there were even a couple of Watergate angles at the NWRO convention. Rep. Abzug suggested that President Nixon should do "penance" for Watergate by having the first family live for one year on the earnings of a welfare family.

Ralph Abernathy, who just resigned as head of the organization the late Rev. Martin Luther King Jr. founded, the Southern Christian Leadership Conference, said John Mitchell should follow the example of the late Dr. King and "turn himself in for arrest" as King did in Birmingham just 10 years ago.

But the question is whether a meeting of women, representing a membership of more than 100,000, should even need a Watergate angle to be covered these days. It seems to me that the substance of their concerns should be enough to engage our interest on the merits.

It is hard to say whether newspaper coverage would be a part of the solution, but it is almost certain that ignoring these issues is part of the problem.

A PROABORTION STANCE FOR JEWS IS "SUICIDAL"

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. HOGAN. Mr. Speaker, the continuing controversy over the issue of abortion in this country has involved many religious groups for many various reasons.

The Jewish community has become involved in this issue as evidenced by a recent move to oust proabortion leader, Zad Leavy, from his post as chairman of the executive committee of the B'nai B'rith Anti-Defamation League.

At this point I would like to have inserted into the RECORD an article expressing the Jewish community's need to continue in the pro-life movement:

A Proabortion Stance for Jews Is Suicidal

LOS ANGELES.—Dr. Kenneth Mitzner, president of the League Against Neo-Hitlerism, today called upon leaders of the Jewish Community to remove pro-abortion leader Zad Leavy, a Beverly Hills attorney, from his post as chairman of the Executive Committee of the B'nai B'rith Anti-Defamation League. Dr. Mitzner's statement was motivated by Leavy's scheduled appearance at an abortion symposium on the UCLA campus Saturday, June 30th.

"Most major persecutions of our people from 1144 to 1945 were fueled by the accusation that we practice child murder as a custom or religious rite," Dr. Mitzner said. "Similar accusations and a general upsurge of bitterness and hostility toward the Jewish community have been developing over the abortion issue, especially the leadership role of some members of the Jewish community in the promotion and practice of abortion. The leaders of the Anti-Defamation League are the men we expect to protect us from the guilt-by-association thinking which blames all Jews for the acts of some. Instead Leavy is a perfect example for the enemies of our people to point to. The Jewish community is committing suicide by keeping Leavy in such a sensitive post."

Leavy is the former law partner of State Sen. Anthony Beilenson author of California's permissive 1967 abortion law. He is a frequent speaker at pro-abortion meetings and played a prominent role in the litigation attacking the constitutionality of abortion laws. He was also a leader in obtaining the backing of the California Bar Association for legalized abortion.

Dr. Mitzner said he regretted having to bring this issue out in public. After Leavy spoke at another pro-abortion meeting in March, the League Against Neo-Hitlerism sent letters to about 100 Los Angeles County rabbis informing them of the situation and the danger to the Jewish community. "As far as we know," Dr. Mitzner said, "nothing happened. Now we have no choice but to bring the issue up publicly. If we don't people unfriendly to the Jewish community will."

Mr. Mitzner said that all pro-life, anti-abortion organizations were sensitive to the danger of an anti-Semitic backlash. "All of us go out of our way to emphasize the great contributions that many Jews and Jewish groups have made to the fight against abortion. But that's the part of our message which gets through the least effectively. There are tens of millions of Americans who see abortion as a 'Jewish cause.' Some day soon, someone is going to come along and tell them it's a 'Jewish plot'."

SALUTE TO SKYLAB

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. TEAGUE of Texas, Mr. Speaker, Mr. Robert Hotz in a recent editorial which appeared in Aviation Week and Space Technology of July 9, 1973, outlines well the significance of the recently completed first of three Skylab missions. Because of the importance of his comments to the future activities in our national space effort, I am including this editorial in the RECORD for the benefit of my colleagues and the general public.

The editorial follows:

Salute to Skylab

Skylab was a triumph of man's ingenuity, endurance and indomitable spirit. It was a tremendous demonstration of why man is vital to the broad expansion of space missions that looms for the next decade, and it demonstrated on live television for every taxpayer who cared to watch exactly what the space shuttle is all about. Oddly enough, it appears that the public interest in Skylab's suspense serial was much higher in Europe than in the land of its creation.

The three-man Skylab crew achieved three principal accomplishments:

They salvaged 80% of a successful mission and a $2.5-billion investment from the prospect of total disaster. They not only repaired the critically crippled Skylab for their own mission but left it in good enough condition to handle the remainder of the shuttle crews.

They proved that man can live and work usefully for extended periods in space. Manned spaceflight has gradually progressed from the Vostok and Mercury era, when man was primarily a passenger of limited utility in a spacecraft, through Gemini, Soyuz, Apollo, Salyut to Skylab, where his functions were manifold and his spacecraft merely a transportation system to take him to his work.

They opened new vistas on the scientific work that can be accomplished from a space platform that cannot be done on earth.

Last September at the Society of Experimental Test Pilots Symposium in Beverly Hills, Pete Conrad worried that boredom would be the biggest problem facing his crew in Skylab. Somehow that problem never materialized on this mission. Pete provided a virtuoso performance in his leadership of the Skylab crew, demonstrating the value of his spaceflight seasoning on Gemini 5 and 11 and as commander of the Apollo 12 lunar landing mission and earning along with Dr. Joseph Kerwin and Paul Weitz the title of "The Master Tinkers of Space."

The versatility of their performance was incredible: from deploying a solar umbrella to cool their laboratory; the marathon sawing through the strap that had prevented solar panel deployment; banging with a ball peen hammer to unstick a jammed regulator in the Apollo telescope mount battery module, to delicately brushing particles to clean the occulting disk of the solar corona experiment.

The scientific harvest was rich enough to engage the world's physicists for years in analyzing the tremendous and unique details on solar activities documented in more than 30,000 photographs taken by the Skylab crew.

Earth resources experiments produced more than 16,000 high-quality photographs and about 45,000 ft. of tape recording from sensors that will provide significant guidance to this rapidly expanding role of space contributions to life on earth. As a measure of space progress, the scientific data alone returned from Skylab weighed more than the entire Mercury capsule with John Glenn aboard.

Although it will take months to analyze all of the accumulated medical data, it is obvious that Skylab marked another milestone of man's progress in developing his usefulness during spaceflight. The 24-day medical data lost earlier, when the crew of Soyuz-11 died during re-entry, was regained and man's ability to voyage beyond a month in space validated. The really significant contribution of the ensuing Skylab missions will be the detailed measurement of these biological parameters in extended spaceflight. The role of the onboard space doctor pioneered by Dr. Kerwin will grow in the future. As Dr. Oleg Gazenko, the top Soviet space biologist, told us recently in Moscow:

"The spacecraft of the future wil look more and more like a doctor's office."

But perhaps most important of all Skylab's many great achievements was the demonstration of the vast, intricately coordinated network of technical resources and human skills that underlies all U.S. manned spaceflights like the bulk of a giant iceberg invisible under the sea until disaster threatens.

This capability, on which the success of the entire U.S. manned spaceflight program is based, first surfaced publicly during the epic Apollo 13 flight when it meshed with the flight crew to avert disaster. It converted the lunar landing module into a "lifeboat" that brought the crew safely back from its circumlunar voyage. During Skylab, it mobilized these same vast and diversified resources to focus on the specific problems of heat shields and power sources. The speed and certainty with which solutions to these problems in orbital space were designed, constructed, tested and deployed into space were probably the most amazing achievement in the long list of Skylab accomplishments.

This is a unique resource little understood by either the public or the Congress when it starts chipping bits and pieces off the NASA budget. Already, in addition to providing a solid technical foundation on which a more useful and successful space program can be built, it has saved several billion dollars in salvaging missions such as Apollo 13 and Skylab that would otherwise have ended in tragedy and waste.

The opening phase of Skylab has taken another measurable step forward in expanding man's role in space operations. It promises to provide a vital evolutionary link between the Apollo system and the space shuttle. It is also bringing closer the day when large scientific laboratories will operate regularly in space staffed by specialists and served by the reliable space transportation systems now being pioneered between the earth and orbital altitudes.

ROBERT HOTZ.

NEW U.S. CHALLENGE: EXPORTS TO MIDEAST

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. HOWARD. Mr. Speaker, as the United States grows more every day, our needs for more energy increase.

Some people feel there is really no energy shortage at all while others feel we are on the brink of disaster.

Yesterday a most interesting article appeared in the New York Times which describes the attitudes of most of America's industries toward this subject.

The article, written by William D. Smith, is the result of a survey taken by the New York Times of 25 major corporations which are not directly involved in the production, refining, distribution, or marketing of oil and gas.

The article is most interesting and informative and I respectfully urge other Members of the House to read this article:

NEW U.S. CHALLENGE: EXPORTS TO THE MIDEAST

(By William D. Smith)

Most of America's industries appear to be taking this nation's declining self sufficiency in energy and concomitant problems seriously but in stride.

Some companies, however, seem to be paying mostly lip service to meeting the changing energy situation, according to a survey by The New York Times. The survey covered more than 25 major corporations not directly involved in the production, refining, distribution and marketing of oil and gas.

As might be expected, companies that are mostly heavily dependent on energy supplies for their essential business—such as chemical and trucking concerns, airlines and railroads—are taking the most constructive steps to conserve energy and meet any potential problems.

Some of the companies reported savings of 7 to 15 per cent in energy use as a result of conservation programs.

All of the companies, however, said their fuel costs had gone up.

Ironically, a number of companies said they had switched in the last few years from coal to natural gas or oil for environmental reasons. Such switches are now playing a role in the tightening of supplies of gas and oil and contributing to the nation's overall energy difficulties.

The aspect of the energy question that appeared to be least understood was the almost certain need for sharply increased export sales by American companies, particularly to the oil-producing nations, as part of an effort to help offset the United States' growing costs for imported energy.

Despite this lack of comprehension, the Middle Eastern countries alone will be receiving revenues of more than $60-billion a year by 1980 and will likely have more discretionary cash than any other region of the world.

A major exception from this lack of attention was the General Motors Corporation. Its overseas division last month announced the creation of a new position of executive vice president and general director of the Middle East and African markets. In naming Walter H. Gussenhoven to the post, G.M. said the position was established to "give increased attention to these important markets."

The Ford Motor Company, for its part, is blacklisted by the Arab countries for its dealings with Israel. The Chrysler Corporation has no special Middle East program.

Other companies, including Eastman Kodak, Procter & Gamble, International Paper, Westinghouse Electric and International Business Machines, also said they had "no plans or programs" for increasing exports to the oil-producing states.

The lack of drive for what would seem a dream market for capital as well as consumer goods is partially explained by the fact that the United States has traditionally never been a trading nation.

Exports of goods and services last year accounted for only 6.4 per cent of this country's gross national product, compared with about 25 per cent for Britain; 23 per cent for West Germany and 12 per cent for Japan. In fact only 8 per cent of all American business concerns are in any way involved in export-import trade.

Even fewer companies are doing business with the Middle East. In recent years the United States, while increasing its total sales in that area, has been losing some of its market share to the Japanese, the West Germans and the British.

Because of recent dollar devaluations, this trend is being reversed.

"Americans still aren't in there competing the way they should be," said Charles C. Bonin, president of the American-Arab Association for Commerce and Industry.

David Mizrahi, editor of The Mideast Report, a newsletter, contends that, although there is some Arab ill will toward Americans because of the United States' policy toward Israel, there is still considerable friendship and desire for American products.

Mr. Bonin contends that American companies suffer in the Middle East compared with companies from Europe and Japan because the United States embassies provide little support activity. "Things are decidedly improving, but there is still a long way to go," he commented.

No effort has as yet been made by any United States Government agency to increase American commercial interests in the Middle East as a market area.

While export programs to help meet the nation's growing cost of importing petroleum appear to lack impetus, American industries have begun to feel effects of a tightening energy supply and distribution system.

Most of the companies in the Times' survey said that they had experienced some energy-related problems such as brownouts, blackouts and occasional plant shutdowns because of shortages of fuel over the last 12 months but that such difficulties were minor in nature or short in duration.

As to meeting possible future problems, most of the companies said they had started new energy conservation programs within the last three years. Many of the programs are under the supervision of division heads or are the responsibility of separate profit centers.

About half the companies had created special task forces to oversee, coordinate and plan energy policy.

At the RCA Corporation, for instance, a corporate energy planning and conservation committee was formed in January. Headed by the company's staff vice president in charge of facilities, it is developing long-range plans to maintain operations in the face of possible cutbacks in supplies.

At Pepsico, Inc., a special energy committee was set up several months ago with representatives from various divisions to devise company conservation and energy strategy.

An energy council was formed late last year by I.B.M. to implement conservation programs and assess the possible impact of energy shortages on operations.

The General Electric Company has a program that consists of consultants who make a physical review of every G.E. manufacturing facility both in the United States and overseas. The plants are checked on a three- to five-day visit. G.E. has conducted more than 250 surveys since the program was instituted, with an average saving in utility usage of 10 or 15 per cent at each plant. The company said that the program also created an exchange of information on conservation practices.

At the Youngstown Sheet and Tube Company the energy task force consists of the vice-president of engineering, the vice president of planning, the vice president of raw materials and the purchasing director.

Some companies have created a new executive position to handle energy matters Hercules, Inc., in June named Jack G. Copeland Jr. to the new post of vice president in charge of energy and petrochemicals feedstocks. In making the announcement, the company said, "The worldwide petroleum situation, with its impact on the future supply of energy and oil-derived petrochemical feedstocks, is of such long-term importance to Hercules that the new position is being created."

Other companies such as General Motors have taken a similar approach. In several instances the post has been combined with environmental responsibility.

Ironically, the Green Giant Corporation, the processed-food company, has been looking unsuccessfully for several months to find an energy coordinator.

The degree of management of the growing importance of energy considerations is hard to gauge, but some top executives are obviously deeply involved in their company programs.

At the Rohr Corporation, Burt F. Raymes, chairman, is the chief planner of his company's conservation program.

Edward S. Donnell, president and chief executive officer of Montgomery Ward, is another top executive who has taken a personal hand in the company energy program. At the American Retail Federation's annual meeting, Mr. Donnell called on the retailing industry to take the lead in conservation as well as promoting energy-saving products.

A growing number of products are being marketed to the consumer on the basis of being energy savers. Air-conditioner manufacturers probably have taken the lead along these lines. It is a rare ad these days that does not mention the device's energy-saving status.

The Philco-Ford Corporation is promoting a new refrigerator-freezer line that the company contends saves about a third or more electricity in comparison with competitive products.

The Duro-Test Corporation has brought out a new light bulb that is supposed to consume 10 per cent less electric power without any loss of light.

No products have been discontinued because of the energy situation. However, one of the nation's most important products—the automobile—may be in the process of being seriously altered. In recent months the percentage of the market held by small cars has been increasing. No less an authority than Henry Ford 2d, head of the Ford Motor Company, predicts that small cars will represent more than half of the market within a few years.

Sales of recreational vehicles and pleasure boats have been sharply cut back, partially because of energy considerations.

Some companies have increased their business as a result of the "energy crisis." Usually these are companies that produce products or services for use in the oil, gas and utilities industries.

The management consulting firm of Arthur D. Little reported that there had been a dramatic increase in the number of organizations seeking its help on energy matters.

E. I. du Pont de Nemours & Co. has created an Energy Management Service to make energy-saving techniques available to other large power users on a commercial basis.

Specific conservation methods differ from industry to industry.

At Cooper Jarret, Inc., a trucking concern, its president, William B. Baker, sent a personal letter to each driver asking him to turn off his engine at every possible moment and enclosed with the letter a decal, bearing a list of "do's and don'ts" to be pasted on the truck's dashboard. The truckers have also been asked to drive at speeds most conducive to energy conservation.

Schenley Distillers, Inc., has revised production schedules and is operating its distilleries during the summer to take advantage of greater fuel availability during the nonheating season. The practice however, has its adverse effect because the cost of grain is higher during the summer.

Montgomery Ward has ordered higher temperatures in its stores in the summer and lower in the winter. The company has begun to provide bicycle racks outside its stores for customers and employes. In addition, the retail chain has printed a million brochures listing 65 tips on how to "Save Energy, Save Money" for distribution to customers.

American Airlines, United Air Lines and Trans World Airlines have a transcontinental capacity agreement on reducing the number of flights. This saved the three carriers some 120 million gallons of jet fuel last year.

HOUSE OF REPRESENTATIVES—*Tuesday, July 24, 1973*

The House met at 12 o'clock noon.

Rev. James H. Cunningham, rector, the Church of Our Saviour, Charlottesville, Va., offered the following prayer:

Almighty God: Creator, Redeemer, and Sanctifier; by whose providence we have been given this great portion of Thy creation for our heritage. And by whose grace we have endured and prospered to this day.

In these days of uncertainty and turmoil give us a sense of purpose and direction. Help us to know Thy way and to walk in it. For only in seeking and doing Thy will shall we as a people fulfill our destiny.

Send Thy grace unto the President, the Vice President, the Speaker of the House, and the Members of this legislative body that they may be inspired and impelled by Thee to lead our people to the blessings of unity, integrity, and tranquillity.

In Thy holy name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed, with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 8947. An act making appropriations for public works for water and power development, including the Corps of Engineers—Civil, the Bureau of Reclamation, the Bonneville Power Administration and other power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Atomic Energy Commission, and related independent agencies and commissions for the fiscal year ending June 30, 1974, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 8947) entitled "An act making appropriations for public works for water and power development, including the Corps of Engineers—Civil, the Bureau of Reclamation, the Bonneville Power Administration and other power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Atomic Energy Commission, and related independent agencies and commissions for the fiscal year ending June 30, 1974, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BIBLE, Mr. MCCLELLAN, Mr. MAGNUSON, Mr. ROBERT C. BYRD, Mr. PASTORE, Mr. MCGEE, Mr. MONTOYA, Mr. HATFIELD, Mr. YOUNG, Mr. HRUSKA, Mr. CASE, Mr. STEVENS, Mr. SCHWEIKER, Mr. BELLMON, and Mr. RANDOLPH to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2101. An act to amend the Truth in Lending Act to protect consumers against inaccurate and unfair billing practices, and for other purposes.

THE REVEREND JAMES H. CUNNINGHAM

(Mr. ROBINSON of Virginia asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. ROBINSON of Virginia. Mr. Speaker, the prayer today was offered by a valued constituent of mine, the Reverend James H. Cunningham, rector of the Church of Our Saviour (Episcopal) of Charlottesville, Va.

The Reverend Mr. Cunningham has had a most interesting career, and I believe it has been most appropriate that he be invited by our beloved Chaplain, Dr. Latch, to visit with us today, in that Mr. Cunningham had extensive service in the Federal Government prior to his call to the ministry.

He was born in Wheeling, W. Va., but was reared here in the Nation's Capital, where he attended the public schools and was graduated from the Georgetown University School of Foreign Service in 1946.

For approximately 10 years, he worked in Government, principally in the Department of Commerce.

Thereafter, he was associated with the Charles Pfizer Co., a pharmaceutical firm, for 4 years.

On receiving the call, he entered Virginia Theological Seminary in 1957 and was graduated in 1960.

The Reverend Mr. Cunningham continues to serve his first church, in Charlottesville, where he holds the deep affection of his congregation and the high respect of the community.

It is a privilege to offer these few words to introduce him to the House.

APPOINTMENT OF CONFEREES ON H.R. 8947, PUBLIC WORKS-ATOMIC ENERGY COMMISSION APPROPRIATIONS, 1974

Mr. EVINS of Tennessee. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 8947) making appropriations for public works for water and power development, including the Corps of Engineers—Civil, the Bureau of Reclamation, the Bonneville Power Administration, and other power agencies of the Department of the

Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Atomic Energy Commission, and related independent agencies and commissions for the fiscal year ending June 30, 1974, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee? The Chair hears none, and appoints the following conferees: Messrs. Evins of Tennessee, Boland, Whitten, Slack, Passman, Mahon, Rhodes, Davis of Wisconsin, Robison of New York, and Cederberg.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 8947, PUBLIC WORKS-ATOMIC ENERGY APPROPRIATIONS, 1974, UNTIL MIDNIGHT, JULY 25, 1973

Mr. EVINS of Tennessee. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tomorrow night, July 25, to file the conference report on H.R. 8947, the public works for water and power development and Atomic Energy Commission appropriations, 1974.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

CONCERNING THE FARM BILL

(Mr. CONTE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. CONTE. Mr. Speaker, later today, a motion will be made to send the farm bill to conference.

I want to make sure that my colleagues understand exactly what is happening and why I am opposed to it.

The farm bill has been gutted. For consumers and taxpayers, who must shoulder its burdens, the farm bill leaves only slim pickings at very high prices.

The next step in the pillage of the farm bill comes today with the appointment of conferees.

I had intended to introduce a motion today that the House instruct its conferees to insist on the strict House language on payment limitations on Federal subsidy payments. This would salvage the only decent provision left in the bill.

But I may never get to offer my motion because the forces who have always catered to the subsidy hungry, big farm interests will offer a "sweetheart motion"—a motion so unimportant that its motives are obvious.

As only one proper motion to instruct is allowed, their ploy, of course, is to prohibit us from insisting on the strict payment limitation language.

It is a dirty trick and a sham to use a "sweetheart motion" to bury a controversial issue that a majority of the House Members have supported time and again. It is a frustration of the legislative process.

I intend to offer my motion to instruct the conferees on the payment limitation language as an amendment to the original motion to instruct. I urge my colleagues to support this amendment so that we can salvage something of the heart of this farm bill for the consumers and taxpayers of the Nation.

TRIBUTE TO MORMON PIONEERS

(Mr. HANSEN of Idaho asked and was given permission to address the House for 1 minute, and to revise and extend his remarks and include extraneous matter.)

Mr. HANSEN of Idaho. Mr. Speaker, today Idaho and many other parts of the Nation are observing Pioneer Day—the anniversary of the Mormons' entry into the Salt Lake Valley, 126 years ago.

The LDS Church has been a powerful force in the building of our Nation. Within a few years following their arrival in the Salt Lake Valley, the Mormons had established hundreds of communities in Idaho, Utah, Nevada, Arizona, Wyoming, and California. Their membership—which had started with six men and is now over 3 million—has since spread to all parts of the Nation and many parts of the world.

When the Mormon pioneers came they were poor in material goods. But they brought with them boundless energy, resourcefulness, a willingness to work hard, and to sacrifice. By applying these qualities of character to their task they contributed greatly to the material progress of the Mountain States. They built a civilization out of the wilderness. They caused the desert to bloom and the valleys to become productive.

They also left another legacy of much greater value to the Nation, particularly during this time of national crisis. They were sustained by a deep faith in God, a willingness to work together and to help each other. They set an example that this generation of Americans could do well to follow.

With the same faith, courage, and vision that enabled the early pioneers to overcome the difficulties they faced, we can also overcome the problems that confront the Nation today.

We are deeply indebted to the pioneers for their contribution to the building of America. We can best honor those who entered the Salt Lake Valley 126 years ago, however, by learning and applying in our own lives and in our own day the lessons their experiences has taught us.

Today, on Pioneer Day, let us remember the pioneer spirit and pay tribute to the courage and devotion of those who helped build our Nation.

APPOINTMENT OF CONFEREES ON S. 1888, AGRICULTURE AND CONSUMER PROTECTION ACT OF 1973

Mr. POAGE. Mr. Speaker, pursuant to clause 1 rule XX of the rules of the House and at the direction of the Committee on Agriculture, I move to take from the Speaker's table the bill (S. 1888) to extend and amend the Agricultural Act of 1970 for the purpose of assuring consumers of plentiful supplies of food and fiber at reasonable prices, together with the House amendment thereto, insist on the House amendment, and agree to the conference requested by the Senate.

Mr. Speaker, I would merely suggest that this is the motion to send the Agricultural Act to conference. Unless we proceed now and do this, we may spend another 2 weeks as profitlessly as we spent the last 2 weeks. I would therefore hope we would move along and send this bill to conference without further delay.

Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. Poage).

The motion was agreed to.

PREFERENTIAL MOTION OFFERED BY MR. PRICE OF TEXAS

Mr. PRICE of Texas. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Price of Texas moves that the managers on the part of the House, at the disagreeing votes of the two Houses on the bill S. 1888, be instructed to insist on the provisions of paragraph (26) of section 1 of the House amendment at page 38, lines 1 through 8 which read as follows:

"(B) by adding a new section 703 as follows:

"Sec. 703. Title IV of such Act as amended by adding at the end thereof the following:

"'Sec. 411. No agricultural commodities shall be sold under title I or title III or donated under title II of this Act to North Vietnam, unless by an Act of Congress enacted subsequent to July 1, 1973, assistance to North Vietnam is specifically authorized.'"

Mr. PRICE of Texas. Mr. Speaker, my motion to instruct conferees is designed to insure the ban of any aid to North Vietnam under Public Law 480 unless Congress by a separate act authorizes aid to that nation.

It was developed in the hearings that under present law it is possible for title II grants to be made to North Vietnam.

I, for one, believe that this would be most unwise and that Congress should have the final say on any foreign aid to this Communist nation.

Mr. Speaker, I move the previous question on the motion.

The SPEAKER. The question is on ordering the previous question.

Mr. CONTE. Mr. Speaker, I have an amendment to the preferential motion.

The SPEAKER. The Chair will state that ordering the previous question is the business before the House at this time.

The question is on ordering the previous question.

The question was taken, and the Speaker announced that the ayes appeared to have it.

Mr. CONTE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device; and there were—yeas 244, nays 155, present 1, not voting 33, as follows:

[Roll No. 374]

YEAS—244

Abdnor
Alexander
Andrews, N.C.
Andrews, N. Dak.
Arends
Baker
Barrett
Beard
Bergland
Bevill
Biaggi
Blackburn
Bolling
Bowen
Brasco
Bray
Breaux
Breckinridge
Brinkley
Brooks
Brown, Calif.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Burton
Butler
Byron
Carney, Ohio
Carter
Casey, Tex.
Chappell
Clancy
Clark
Clausen, Don H.
Clawson, Del
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Cotter
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Denholm
Dent
Devine
Dickinson
Dorn
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Evans, Colo.
Evins, Tenn.
Flood
Flowers
Flynt
Foley
Ford, Gerald R.
Fountain
Frey
Froehlich
Fuqua
Gaydos
Gettys
Gilman
Ginn
Gonzalez
Goodling
Gray
Griffiths
Gubser
Guyer
Haley
Hammerschmidt
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harsha
Hastings
Hawkins
Hays
Hébert
Hechler, W. Va.
Henderson
Hicks
Holifield
Holt
Huber
Hungate
Hutchinson
Ichord
Jarman
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kazen
Ketchum
King
Kuykendall
Landrum
Latta
Lehman
Litton
Long, La.
Lott
McClory
McCollister
McCormack
McEwen
McFall
McKay
Madigan
Mahon
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mazzoli
Meeds
Melcher
Mezvinsky
Miller
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Mizell
Mollohan
Montgomery
Moorhead, Calif.
Morgan
Myers
Natcher
Nedzi
Nichols
Nix
Obey
O'Brien
O'Hara
O'Neill
Owens
Parris
Passman
Patten
Pepper
Perkins
Pickle
Poage
Podell
Powell, Ohio
Preyer
Price, Tex.
Pritchard
Quillen
Randall
Rarick
Regula
Reid
Rhodes
Roberts
Robinson, Va.
Rogers
Roncalio, Wyo.
Rooney, N.Y.
Rose
Rousselot
Roybal
Runnels
Ruth
Ryan
Sandman
Sarbanes
Satterfield
Scherle
Schroeder
Sebelius
Seiberling
Shoup
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Staggers
Stark
Steed
Steele
Steiger, Ariz.
Stubblefield
Stuckey
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thone
Thornton
Treen
Udall
Ullman
Veysey
Vigorito
Waggonner
Walsh
Wampler
Ware
White
Whitehurst
Whitten
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wright
Wyatt
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, S.C.
Young, Tex.
Zablocki
Zwach

NAYS—155

Abzug
Adams
Addabbo
Anderson, Calif.
Anderson, Ill.
Annunzio
Archer
Armstrong
Ashbrook
Aspin
Bafalis
Bell
Bennett
Biester
Bingham
Boland
Brademas
Broomfield
Brotzman
Brown, Mich.
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Cleveland
Collier
Collins, Ill.
Conte
Conyers
Corman
Coughlin
Crane
Cronin
Daniels, Dominick V.
Dellenback
Dellums
Dennis
Derwinski
Diggs
Dingell
Donohue
Drinan
Dulski
Duncan
du Pont
Erlenborn
Esch
Eshleman
Fascell
Findley
Fish
Forsythe
Fraser
Frelinghuysen
Frenzel
Fulton
Giaimo
Gibbons
Goldwater
Grasso
Green, Oreg.
Green, Pa.
Gross
Gude
Hamilton
Hanley
Harrington
Heckler, Mass.
Heinz
Helstoski
Hillis
Hinshaw
Hogan
Holtzman
Horton
Hosmer
Howard
Hudnut
Hunt
Johnson, Colo.
Karth
Kastenmeier
Keating
Kemp
Kluczynski
Koch
Kyros
Lent
Long, Md.
McCloskey
McDade
McKinney
Macdonald
Madden
Mailliard
Mallary
Maraziti
Mayne
Metcalfe
Michel
Minshall, Ohio
Moakley
Moorhead, Pa.
Mosher
Moss
Murphy, Ill.
Nelsen
Pettis
Peyser
Pike
Price, Ill.
Quie
Railsback
Rangel
Rees
Reuss
Riegle
Rinaldo
Robison, N.Y.
Rodino
Roncallo, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
St Germain
Sarasin
Saylor
Schneebeli
Shuster
Stanton, J. William
Stanton, James V.
Steelman
Steiger, Wis.
Stokes
Stratton
Studds
Sullivan
Thompson, N.J.
Thomson, Wis.
Towell, Nev.
Van Deerlin
Vander Jagt
Vanik
Waldie
Whalen
Widnall
Wiggins
Wolff
Wydler
Wyman
Yates
Young, Ga.
Young, Ill.
Zion

PRESENT—1

Grover

NOT VOTING—33

Ashley
Badillo
Blatnik
Boggs
Camp
Carey, N.Y.
Cederberg
Chamberlain
Chisholm
Clay
Downing
Fisher
Ford, William D.
Gunter
Hanna
Harvey
Johnson, Pa.
Landgrebe
Leggett
Lujan
McSpadden
Mann
Milford
Mills, Ark.
Murphy, N.Y.
Patman
Roe
Roy
Ruppe
Shipley
Stephens
Tiernan
Winn

So the previous question was ordered.

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Stephens.
Mr. Murphy of New York with Mr. Downing.
Mr. Fisher with Mr Mann.
Mr. Gunter with Mr. Landgrebe.
Mr. Carey of New York with Mr. Milford.
Mr. Blatnik with Mr. Mills of Arkansas.
Mr. McSpadden with Mr. Harvey.
Mr. Roe with Mr. Johnson of Pennsylvania.
Mr. Shipley with Mr. William D. Ford.
Mr. Tiernan with Mr. Chamberlain.
Mr. Roy with Mr. Cederberg.
Mr. Hanna with Mr. Lujan.
Mr. Ashley with Mr. Camp.
Mrs. Chisholm with Mr. Leggett.
Mr. Clay with Mr. Badillo.
Mr. Winn with Mr. Ruppe.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. PRICE) to instruct conferees.

Mr. GROSS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device; and there were—yeas 371, nays 35, not voting 27, as follows:

[Roll No. 375]

YEAS—371

Abdnor
Adams
Addabbo
Alexander
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Ashbrook
Aspin
Bafalis
Baker
Barrett
Beard
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Blackburn
Boggs
Bolling
Bowen
Brademas
Brasco
Bray
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clark
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Collins, Tex.
Conable
Conlan
Cotter
Coughlin
Crane
Cronin
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Denholm
Dennis
Dent
Derwinski
Devine
Dickinson
Diggs
Dingell
Donohue
Dorn
Dulski
Duncan
du Pont
Edwards, Ala.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Fish
Flood
Flowers
Flynt
Foley
Ford, Gerald R.
Forsythe
Fountain
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Gross
Grover
Gubser
Gude
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harvey
Hastings
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holt
Horton
Hosmer
Howard
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kazen
Keating
Kemp
Ketchum
King
Kluczynski
Koch
Kuykendall
Kyros
Landrum
Latta
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McKay
McKinney
Macdonald
Madden
Madigan
Mahon
Mailliard
Mallary
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Mezvinsky
Michel
Miller
Minish
Mink
Minshall, Ohio
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Murphy, Ill.
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Brien
O'Hara
O'Neill
Owens
Parris
Passman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rarick
Regula
Reid
Reuss
Rhodes
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, N.Y.
Rooney, Pa.
Rose
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Saylor
Scherle
Schneebeli
Schroeder
Sebelius
Seiberling
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waggonner
Walsh
Wampler
Ware

Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yatron
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—35

Abzug
Anderson, Calif.
Ashley
Bingham
Boland
Burke, Calif.
Burton
Chisholm
Conte
Conyers
Corman
Culver
Dellums
Drinan
Eckhardt
Edwards, Calif.
Findley
Fraser
Harrington
Hawkins
Helstoski
Holtzman
Kastenmeier
Metcalfe
Mitchell, Md.
Moss
Podell
Rees
Riegle
Rosenthal
Stark
Stokes
Waldie
Yates
Young, Ga.

NOT VOTING—27

Anderson, Ill.
Badillo
Blatnik
Camp
Carey, N.Y.
Clay
Downing
Fisher
Ford, William D.
Gunter
Hanna
Harsha
Hébert
Johnson, Pa.
Landgrebe
Lujan
McSpadden
Mann
Milford
Mills, Ark.
Murphy, N.Y.
Patman
Roe
Roy
Shipley
Tiernan
Winn

So the motion was agreed to.

The Clerk announced the following pairs:

Mr. Blatnik with Mr. Downing.
Mr. Murphy of New York with Mr. Hanna.
Mr. Hébert with Mr. Milford.
Mr. Tiernan with Mr. Mills of Arkansas.
Mr. Shipley with Mr. Roy.
Mr. McSpadden with Mr. Mann.
Mr. Roe with Mr. William D. Ford.
Mr. Carey of New York with Mr. Gunter.
Mr. Clay with Mr. Badillo.
Mr. Fisher with Mr. Patman.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. The Chair appoints the following conferees: Messrs. POAGE, FOLEY, SISK, RARICK, JONES of Tennessee, TEAGUE of California, WAMPLER, GOODLING, and MAYNE.

PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO MEET TODAY DURING HOUSE SESSION

Mr. MELCHER. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be allowed to meet during the session this afternoon while the House is considering legislation under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Montana?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 8070, AUTHORIZING GRANTS FOR VOCATIONAL REHABILITATION SERVICES

Mr. PERKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 8070) to authorize grants for vocational rehabilitation services, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky? The Chair hears none, and appoints the following conferees: Messrs. PERKINS, BRADEMAS, Mrs. MINK, Messrs. QUIE and ESHLEMAN.

APPOINTMENT OF CONFEREES ON H.R. 8825, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT APPROPRIATIONS, 1974

Mr. BOLAND. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 8825) making appropriations for the Department of Housing and Urban Development; for space, science, veterans, and certain other independent executive agencies, boards, commissions, and corporations for the fiscal year ending June 30, 1974, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts? The Chair hears none, and appoints the following conferees: Messrs. BOLAND, EVINS of Tennessee, SHIPLEY, ROUSH, TIERNAN, CHAPPELL, GIAIMO, MAHON, TALCOTT, MCDADE, SCHERLE, RUTH, and CEDERBERG.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. BOLLING. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

IMPOUNDMENT CONTROL AND 1974 EXPENDITURE CEILING

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 477 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 477

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8480) to require the President to notify the Congress whenever he impounds funds, to provide a procedure under which the House of Representatives or the Senate may disapprove the President's action and require him to cease such impounding, and to establish for the fiscal year 1974 a ceiling on total Federal expenditures. After general debate, which shall be confined to the bill and shall continue not to exceed four hours, to be equally divided and controlled by the chairman and ranking minority member of the Commtitee on Rules, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Nebraska (Mr. MARTIN).

Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I am not clear as to whether there is serious opposition to the rule. Therefore, I shall not argue a case in connection with that potential opposition at this time. All I will say is that the rule is an open rule providing four hours of floor debate on what I consider to be an enormously important and an enormously difficult subject, a subject which the House should consider in its proper perspective.

The question of impoundment and regularizing impoundment proceedings is a matter that really has nothing to do with party or partisanship. It is a fundamental question of the Constitution and of the relationship among the various branches of Government. It has been my privilege to work on the particular legislation for most of the last 6 months, and I think it is very important that the matter be given adequate and careful consideration. As I know of no fight on the rule at this point in time, I reserve the balance of my time.

I yield to the gentleman from Nebraska (Mr. MARTIN).

Mr. MARTIN of Nebraska. Mr. Speaker, I thank the gentleman for yielding. In reply to the gentleman's statement, I wish to state that as far as I am concerned, I do not know of anyone who is going to ask for a rollcall vote on the rule itself nor on the previous question.

Mr. GERALD R. FORD. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the distinguished minority leader, the gentleman from Michigan.

Mr. GERALD R. FORD. The gentleman and I have discussed this legislation and related matters on several occasions. I know he has been in a number of discussions with the distinguished ranking Republican, the gentleman from Nebraska (Mr. MARTIN). I should have preferred another approach to the problem that this resolution seeks to remedy, but the gentleman and the Members on that side of the aisle have decided to take this course at this time and postpone the consideration of budget reform to another date. I think the two might have been combined, but be that as it may, that does not seem feasible on this occasion today.

What I am concerned about is, will the gentleman, speaking for himself and any others that he can speak for, give us on our side some assurance that the Committee on Rules will pursue the hearings that they are now carrying on and hopefully give very serious consideration to the reporting out of budget reform legislation?

Mr. BOLLING. I will try to reply to that in two sections. The first I think is important because it shows the intent of other Members aside from myself. The Rules Committee began hearings on that matter the other day, and it began with a statement by the chairman, a very serious statement, indicating the seriousness with which he regarded the matter. The Members, the cochairman, and two of the vice chairmen of the Joint Study Committee, then proceeded to testify before the Committee on Rules in a manner which to me was most encouraging, and I think to the other members of the Committee on Rules, in that they demonstrated no rigidity.

They were flexible about the membership and about the process. They were very firm about the necessity for prompt action. I would say that my impression was very clear that a substantial majority of the members of the Rules Committee sought to go forward on the matter in an expeditious fashion to devise legislation which would be I believe perhaps an improvement over the report of the Joint Study Committee. I was very much encouraged. That is the first half of my statement.

The second half can be absolutely, flatly, totally completely unequivocal. I personally am and have been for years totally committed to the notion that the Congress must accept the responsibility involved in the creation of a process whereby we have a unified budget. I think that the time has come to have it. I think that the conditions exist so that we will have it. So as a matter of principle I can tell the gentleman I hope we will have it and expect that we will have it if it is at all possible in this session of Congress.

That is my personal view. I will want to be completely honest with the gentleman. There are some very important difficulties. There are rumors for example that Congress, and I do not believe them, might adjourn by the middle of October. It might be extremely difficult to accomplish the purpose I would have. So as an objective matter of principle I am wholly in favor of our reporting to the floor under an open rule a procedure that seems reasonable to accomplish the purpose of the Joint Study Committee.

Mr. GERALD R. FORD. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from Michigan.

Mr. GERALD R. FORD. The gentleman's assurances as to his personal views and his analysis of the views of members on the Rules Committee reassures me as to his good faith in that we can expect some affirmative action by the Committee on Rules.

The gentleman knows that there was a serious effort made by 16 Members of the other body and 16 Members of the House, a bipartisan group, to come up with a proposition best known as the Ullman-Whitten proposal. I know there are many in this body who have reservations about this part or that portion of the proposal, but I think there is an overwhelming sentiment to do something affirmative to improve our consideration of the Federal budget.

I know the public is demanding that. So with the pressure from the public and the assurances that have been given by the gentleman, and I have had conversation with others on the gentleman's committee and the Democratic leadership, at least I am willing to expect that there will be some action and that we will have our day in court under an open rule on the floor of the House sometime hopefully and expectantly before we adjourn this session. On those assurances, Mr. Speaker, I at least will not fight the rule on this occasion.

Mr. BOLLING. Before I yield to the gentleman from California, I would like to say not facetiously that I believe the support for the gentleman's position and my position is massive and bipartisan.

I would like to say on the rule, although we will have greater opportunity to discuss the matter of impoundment later under the 4 hours of general debate, that I happen to believe that the matter that we will discuss this afternoon should be looked upon in the same fashion. There are, I know, a number of people who feel that this is a partisan effort by a particular Congress to reach a particular President's actions. I do not believe I would be dealing as seriously with the matter of impoundment, and so forth, if I thought that was all that was involved. I feel very strongly that this matter of impoundment, which is properly in my judgment treated separately from the matter of the budget, is extraordinarily important from the point of view of the Congress as a whole without regard to party.

I will say later in some detail why I believe that.

If I may, at this point I would like to yield to the gentleman from California (Mr. Sisk).

Mr. SISK. Mr. Speaker, I thank the gentleman from Missouri for yielding to me.

I think we are right, Mr. Speaker, to support 100 percent the statement made by my colleague from Missouri. I am thoroughly dedicated to expeditious action in connection with the budget bill, the Ullman bill, which is pending before us. I would hope that we might be able to have it before the House at the earliest possible time.

I think we all recognize that cannot be before the first of August because of the shortness, but certainly as soon thereafter as possible. I want to support fully the statement made by my colleague from Missouri (Mr. Bolling). I assure my friend from Michigan (Mr. Gerald R. Ford) that I think there is dedication on the part of the committee to get this bill out as quickly as possible.

Mr. MATSUNAGA. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from Hawaii (Mr. Matsunaga).

Mr. MATSUNAGA. Mr. Speaker, I wish to join the gentleman from Missouri in assuring the minority that there is every sincere effort being exerted to get the Ullman-Whitten bill out of the Rules Committee. As the gentleman from Michigan probably knows, hearings will continue this Thursday on the Ullman-Whitten bill. From what I have been able to determine, I find that the overwhelming majority of the members of the Rules Committee are in favor of reporting a bill out.

There are certain reservations which we have. I, myself, have certain reservations to the measure as introduced. However, I do intend to vote for reporting the measure out.

What is more important I might add, is that the Speaker himself has urged members of the Rules Committee to give serious consideration to reporting the budget bill out.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the distinguished majority leader.

Mr. O'NEILL. Mr. Speaker, I rise to ask support for the rule under which H.R. 8480—the impoundment control and 1974 expenditure ceiling—will be considered.

The rule is open and liberal, providing for 4 hours of general debate and then amendments. The bill is not locked in concrete; and any Member who wishes to amend its provisions will have that opportunity.

The Rules Committee held thorough and lengthy hearings on impoundment control before reporting out H.R. 8480 as a clean bill. The same committee is now devoting the same careful study and consideration to budget-control legislation.

It would be precipitous and ill-advised to attempt to link a bill that is still in its committee stage with one now ready for action by the full House.

H.R. 8480, is aimed at the separate and distinct problem of Presidential impoundments. It also deals with our immediate economic difficulties by imposing a ceiling on fiscal 1974 expenditures.

So the two bills are quite different in their scope and purpose. However, they are not incompatible. It is entirely possible to consider one bill without prejudice to the other, and if both should be ultimately enacted into law, there would be no conflict between them.

That is why I request again that the House adopt the rule to consider H.R. 8480 and let the Rules Committee proceed with its hearings on Whitten-Ullman. I am pleased that we have come to an agreement on the rule.

Mr. McFALL. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the distinguished majority whip, the gentleman from California (Mr. McFall).

Mr. McFALL. Mr. Speaker, the House should adopt the rule and resolve itself into the Committee of the Whole for the consideration of H.R. 8480—the impoundment control and 1974 spending ceiling bill.

H.R. 8480 is a major piece of legislation that deserves the undivided attention of the House. Nongermane amendments would merely burden the measure and confuse the issue before the House. Particularly, it is important that this bill be kept free of entanglement with budget-control legislation. Although the titles may sound similar these two kinds of legislation differ widely in their nature and content. The Rules Committee is now holding hearings on budget control. The bill on the floor today deals with impoundment, and the House should confine its debate today to that subject.

Mr. MARTIN of Nebraska. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, following up on the colloquy just held between the distinguished minority leader (Mr. Gerald R. Ford) and the gentleman from Missouri (Mr. Bolling) I would like to state that the five Republican members on the Rules Committee are most anxious to proceed expeditiously with reporting legislation to set up a legislative budget and a budget committee in the House.

This is a most important issue, and as far as the five Members on our side of the aisle are concerned, we are united in this effort. There will undoubtedly be some changes made in the Ullman-Whitten bill which is before us and which is the responsibility and work of the Rules Committee itself. I hope that we come out with a bipartisan bill in the end that all the Members of the House can support. I want to echo the support on our side of the aisle for this legislation.

Mr. Speaker, House Resolution 477, as the gentleman from Missouri has explained, provides for 4 hours of debate and an open rule on H.R. 8480, a bill to require the President to notify the Congress whenever he impounds funds, to provide a procedure under which the House of Representatives or the Senate may disapprove the President's action and require him to seek such impounding, and establish for the fiscal year 1974 a ceiling on total Federal expenditures.

Mr. Speaker, I am opposed to this bill. It is a political maneuver designed to cause a confrontation between the executive and legislative branches. This bill will not correct the problem it is supposed to solve. In the long run, it will produce harmful results which will further aggravate the problem. The problem is summarized in the opening lines of the statement of purpose in the committee report. I quote from the report:

> The purpose of this bill is to provide for more effective and responsible congressional control over both the expenditure and nonexpenditure of funds by the executive branch.

Mr. Speaker, we are all in favor of congressional control over the budget. However this bill does not improve the situation. The present congressional budget machinery makes it difficult to decide among competing priorities. No single committee has the responsibility to decide whether or not total outlays are appropriate in view of the current situation. As a result, each spending bill tends to be considered by Congress as a separate entity, and there is very little assessment of relative priorities among different spending programs. This kind of congressional budget procedure tends to produce large deficits consistently. In order to keep Government spending and the related inflation under control, the Executive is forced to make the hard choice about where the cuts will come. The Executive has not seized control of the budget. Congress has abdicated.

The real solution to this problem is for the Congress to establish effective budget control machinery as quickly as possible. Just last week, the Rules Committee finally began hearings on the recommendations of the Joint Study or Budget Control Committee, proposing effective congressional budgetary machinery. The solution to the problem of lack of congressional control over the budget is expeditious action on budget control machinery, not the anti-impoundment bill.

This bill, H.R. 8480, provides a procedure to force the President to spend funds, which otherwise would be impounded. This is not a solution. It only aggravates the problem of excessive spending. At the same time, in a move which requires political double-think the bill provides a 1 year spending limit. This is a short-term political gimmick to give an air of fiscal responsibility to a bill which can only lead to increased expenditures of taxpayers' money.

Let me review briefly a few of the major provisions in the bill. Title I of the bill establishes the procedure by which Congress can force the President to cease impounding. The President is required to notify Congress within 10 days after any impoundment of funds. Since impoundment is defined broadly in this bill, this reporting requirement will require expensive and wasteful administrative procedures in order to comply with the provisions of the bill. The special message notifying Congress would be referred to the Appropriations Committees of the House and Senate. The impounding would have to cease immediately if either House passed a simple resolution disapproving the impoundment within 60 days.

Mr. Speaker, a simple resolution disapproving an impoundment would be of doubtful legal effect in this situation. If we concede the necessity of an additional positive congressional action to require additional positive executive action, then surely Congress must act through a bill or joint resolution. A simple resolution would be inappropriate and ineffective.

H.R. 8480 also provides that the Comptroller General is to notify Congress of any impoundment not reported by the President, and in such cases, that notification would trigger the disapproval procedure.

Title I disclaims any intent to deal one way or the other with the constitutional powers of either the President or the Congress, or to ratify past impoundments, or to affect pending claims concerning any impoundment.

Title II establishes a spending ceiling of $267,100,000,000 for fiscal year 1974. The President is required to meet the spending ceiling by making roughly proportional cuts in all except a few specified programs. So long as these cuts are in accord with the proportionality requirements they would not be subject to the impoundment control procedure under title I. The budget ceiling in title II has no effect beyond fiscal year 1974.

Mr. Speaker, the spending ceiling is a short-term political gimmick to give an air of fiscal responsibility to a bill which in the long run can only force increased expenditure of the taxpayers' money. The long-term effect of this bill will be to require the President to spend money which otherwise would not be spent by requiring him to spend impounded funds. Yet, in order to avoid being labeled as "big spenders," the supporters of this bill have added a 1-year spending ceiling, which is even lower than the President's proposed budget for fiscal year 1974. This is an attempt to play both sides of the issue. On the one hand, the President is told to spend the amounts appropriated even when this may be far in excess of his proposed budget. At the same time, the President is directed to restrict spending to a level below his own budget. The result of this political gimmickery is irresponsible legislation. It is a scheme to allow the Congress to overspend irresponsibly, and then require the President to make the necessary but unpopular budget cuts.

The Committee on Rules last week began hearings on establishing a Budget Committee in both the House and Senate with the power to set an overall legislative budget for all Federal expenditures. The legislative budget bill contains provisions which make it mandatory that the Congress stay within the legislative budget. This is the proper manner in which to approach this entire problem.

I strongly support legislation to establish a legislative budget with teeth in the provisions, but I just as strongly oppose the passage of this anti-impoundment legislation, which does not come to grips with the problem facing the Congress in regard to control over our expenditures.

Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. Anderson).

Mr. ANDERSON of Illinois. Mr. Speaker, I thank the gentleman from Nebraska for yielding time to me.

Mr. Speaker, as a member of the Committee on Rules, it would be possible for me to make my remarks, I realize, during that period which we have reserved under the rule for general debate. However, I come to the well at this time to further allay the fears of the gentleman from Missouri and state that I will not contest or attempt to defeat the rule this afternoon.

I had previously in a "Dear Colleague" letter under date of July 23, 1973, addressed the Members and informed them of my intention to attempt to vote down the previous question on the rule for the purpose of offering what would otherwise be a nongermane amendment. That amendment would have simply provided that the provisions of this anti-impoundment legislation would not become effective until such time as Congress had enacted and there were in effect provisions of law dealing in a comprehensive manner with the reform of the congressional budgetary process.

I had become convinced, No. 1, that effort would not succeed. No. 2, I do not want to do anything that would be calculated in any way to harm what I think ought to be the most serious objective of this 1st session of the 93d Congress, and that is to pass effective and meaningful budget reform legislation.

Therefore, I shall not seek to defeat the previous question. But I would be lacking in candor if I did not also use my time this afternoon to express the firm conviction that at a time when we are talking about priorities in our country and, more particularly, spending priorities, the priorities in this Congress are sadly out of whack when we take 4 hours this afternoon and perhaps many hours under the 5-minute rule to debate and to vote through a bill on anti-impoundment when we should be spending our legislative day and our legislative time on budget reform legislation.

That bill languished for 3 months in the Committee on Rules before we were able to get the concession that hearings should begin, and I am thankful that they have begun and I am thankful for the assurances we have had here this afternoon from the distinguished gentleman from Missouri (Mr. BOLLING), the gentleman from California (Mr. SISK), and the gentleman from Hawaii (Mr. MATSUNAGA), and I believe others that a sincere and sustained effort is going to be made to conclude those hearings in a timely fashion, and the committee therefore will report out a budget reform bill.

However, I repeat that if we had taken care of our budgetary problems at this end of Pennsylvania Avenue in the manner that we should have, there would not be any necessity for anti-impoundment legislation this afternoon.

I regret the fact that we have reversed the order of consideration of these particular measures.

Mr. BELL. Will the gentleman yield?

Mr. ANDERSON of Illinois. I am pleased to yield to the gentleman.

Mr. BELL. I want to commend the gentleman for his comments and associate myself with his statement.

I think one of the most important projects we have before the Congress this year is to work on the budget reform bill. I would agree with the gentleman that this should certainly come before this impoundment legislation.

Mr. ANDERSON of Illinois. I want to say again I have been reassured by the comments I have heard on the floor this afternoon of the intentions to proceed expeditiously with this legislation.

It is, of course, a well-known fact that the road to perdition is paved with good intentions, and I suppose the legislative highway is littered with the skeletal remains and the bones of bills proposed in good faith and on which hearings were held and then somehow they never saw the light of day.

I hope it will never be necessary for me to take the well of this House and remind this body at some future date that my hopes for budget reform legislation were somehow not realized.

I want to alert the House to the fact that I will offer some amendments during the course of the afternoon or when we come to the point where amendments are in order, because I do not believe that this bill as presently written is a very good bill dealing with impoundment. I think insofar as it fails to exempt necessary impoundments under the Antideficiency Act from the provisions of title I it is poor legislation and should be amended accordingly. Insofar as this bill provides for prorata reductions by the President if we exceed the ceiling called for in the bill of $267.1 billion——

The SPEAKER. The time of the gentleman has expired.

Mr. MARTIN of Nebraska. Mr. Speaker, I yield the gentleman 2 additional minutes.

Mr. ANDERSON of Illinois. At a time when we are professing to be interested in reclaiming congressional power over the budget—and rightfully so—it is somehow inconsistent, I feel, to say that if we do not meet the ceiling, we will dump it in the lap of the President and tell him, "You go ahead and make a prorata reduction of those amounts we have appropriated in excess of the ceiling." I fail to see the consistency of that position, and I will offer an amendment that if we exceed the ceiling, Congress should assume the responsibility for that fact by the passage of an appropriate concurrent resolution revising the ceiling heretofore agreed on.

I feel also this legislation is deficient in that it provides a single House could approve of a Presidential impoundment. When we are dealing with the appropriation process, which we are, then surely we ought to provide for a concurrent resolution, at least, and we ought to have the concurrence of the House and the Senate on a matter that is dealing with the appropriation of public funds.

I will offer these amendments in the hope that we can improve this legislation.

Mr. BOLLING. Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee (Mr. FULTON).

Mr. FULTON. Mr. Speaker, the legislation which we are scheduled to consider today can significantly aid in our effort to restore the constitutional balance of power between a Federal executive with a demonstrated lust for power and our Federal legislative branch from which certain constitutional prerogatives have been, temporarily at least, usurped.

At the same time this legislation contains authority to place a congressionally mandated ceiling on Federal spending this year of $267.1 billion, more than $1.5 billion below the spending authority requested by the President in his budget message.

Our Constitution provides for the possibility of a Chief Executive of one political party and a legislative branch made up of a majority of members of a different political persuasion. However, other than the safeguards of checks and balances there is no provision in the Constitution to guarantee a harmonious relationship.

In the past harmony often has been achieved in this situation by casting aside partisan political differences and a willingness to work in a bipartisan spirit for that which is best for the Nation. This was perhaps best exemplified in the field of foreign affairs during the 8 years of the two administrations of President Eisenhower.

However, such a relationship cannot endure, if indeed it can be established, under an assault of vetoes, impoundment of funds for congressionally approved programs and other unilateral initiatives of dubious constitutionality designed to establish national priorities by executive fit. Unfortunately, this is the history of the current administration over recent months and the genesis of the legislation before us today.

This legislation is necessary because the President has by far exceeded any authority granted him by the Congress or the Constitution to withhold spending authorized by the Congress.

Under the Anti-Deficiency Act as amended in 1950 a President is given authority to withhold funds on a limited basis for use as a management tool to promote efficiency in government. Until recently impoundments have generally been instigated for this purpose.

However, this administration has used impoundment as a tool to alter national priorities approved by the Congress and supported by the people. Impoundment has been used to cripple or kill housing programs, environmental protection programs, human need programs and others. In effect it has been used as an item veto of programs approved by the Congress but not meeting the approval of the Executive.

In other words the individual judgment of the Chief Executive is permitted to outweigh and overrule the collective and considered judgment of the 535 voting Members of the Congress.

There is no doubt this was not the desire of the framers of the Constitution. It is not the desire of the majority of the Members of the House and Senate nor is it the desire of the majority of the American public.

While the procedures set forth in this legislation may not be the best, they certainly appear to be feasible. They at least adhere to the constitutional precept of majority rule, a precept which has been much abused in this and the previous administration.

A spending ceiling may be a distasteful concept to many who see so many needs unmet in America, particularly human needs. However these are exceptional times. Unless we restore order to our economic affairs our desire to provide for the needy and deserving among us for years to come may be diverted in a frantic attempt to ward off destruction of our economic system and a resultant decay in our standard of living.

The tap root of our national ability to provide for any individual, needy or self-supporting, is a strong and expanding economy. Stifle the economy over a long period of time and the root withers, perhaps dies.

Therefore the spending ceiling must not be viewed as a constraint on our desire to fund necessary Federal programs or an admission of any inability to confine ourselves to responsible spending. Rather it is a very necessary short-term medicine which must be taken in order to restore a healthful vigor to our economy. By accepting this discipline today we really, in effect, vote to provide ourselves with greater options and opportunities in the future when Federal revenues grow in a prospering and hopefully full employment economy.

Thus, Mr. Speaker, passage of this legislation before us will help restore the balance of power in Government in establishing priorities through appropriating and spending Federal revenues, while, at the same time, move to assure that these revenues will, within desirable bounds, increase in the months and years to come to provide both the executive and the legislative the wherewithal to consider, propose and vote moneys to meet our national needs whose priorities shall be established by the Congress through proper appropriate consultation with the executive.

Mr. BOLLING. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. BRADEMAS).

Mr. BRADEMAS. Mr. Speaker, I rise in support of the legislation.

Mr. BOLLING. Mr. Speaker, I yield 7 minutes to the chairman of the Committee on Rules, the distinguished gentleman from Indiana (Mr. MADDEN).

Mr. MADDEN. Mr. Speaker, the pending resolution, H.R. 8480, is legislation worked out by the House Rules Committee after it concluded extensive hearings on the original impoundment bill and other impoundment legislation submitted by several of our colleagues. The Rules Committee heard numerous witnesses during the days when the committee took testimony, including Senator ERVIN, who was sponsor of the impoundment legislation passed in the other body.

We have produced a stronger, more workable procedure which can command wide support among Members of all political and economic philosophies. This bill demonstrates congressional commitment to fiscal responsibility and its concern for the separate and equal status of the executive and legislative branches. A great number of Members and other witnesses deserve our thanks for the constructive suggestions and commentary which helped the committee frame a balanced and fairer bill.

Other new provisions of the impoundment bill under this rule and resolution—

Require the President to impound appropriated 1974 funds, within specified limits, if necessary to keep fiscal 1974 spending within the ceiling;

Direct the Comptroller General to assist with the enforcement of this legislation and authorize him to bring lawsuits, if necessary, to force compliance; and

Disclaim any intent to deal one way or the other with the constitutional powers of either the President or the Congress, or to ratify past Executive impoundments, or to affect any pending claims against impoundment, including those now undergoing litigation.

Three revisions in procedures would—

Make the congressional veto of an impoundment contingent upon action by only one House instead of both Houses, as provided in the earlier bill;

Require Congress to consider each impoundment message as a whole and prohibit Congress from disapproving only part of an impoundment; and

Require the Appropriations Committees of either House to act on a disapproving resolution within 30 days or surrender it to a discharge motion supported by one-fifth of the Members of the affected House.

Impoundment of fiscal 1974 funds is restricted as follows: The President is directed to impound such sums as necessary to keep spending within the $267.1 billion ceiling; however, the President must make his cuts proportionally in budget categories across the board, except that he must exempt from impoundment funds for interest, veterans' benefits, social insurance payments, public assistance maintenance grants under title IV of the Social Security Act, food stamps, military retirement pay, medicaid, and judicial salaries.

Further, the President may cut no individual program or activity by an amount which would be 10 percentage points greater than the total impoundment percentage. Thus, if the President must cut spending by an overall 3 percent to stay within the budget ceiling, he could cut no single account by more than 13 percent.

Fiscal 1974 impoundments, made in accord with this law, would be exempt from impoundment review by the Congress. However, 1974 impoundments in violation of the law and impoundments occurring in future years would be subject to congressional review, as follows:

Within 10 days of an Executive impoundment, the President would be required to transmit to both Houses of Congress and the Comptroller General a notice giving detailed information on the impoundment. If the President later decides to revise the impoundment message, he would have to submit within 10 days a supplementary message explaining the changes.

Upon receipt of an impoundment notice, the Congress would have 60 days to consider a resolution of disapproval. Such resolutions may originate in either House and must be referred to the Appropriations Committee which would have 30 days in which to act, failing which a discharge motion supported by one-fifth of the Members of the affected House would free the resolution for floor consideration. The resolution is highly privileged and debate would be strictly limited. A resolution passed by majority vote of either House would require the President to cease the impoundment.

The Comptroller General would be assigned two major functions by the new law: He would submit to Congress an anaylsis of each Executive impoundment message, including his opinion as to whether the impoundment is in accordance with law; secondly, the Comptroller General is empowered to inform Congress of any impoundment not reported by the executive branch, and such action would trigger the review procedures outlined in this law. The Comptroller General is authorized to choose his own attorney and to sue any agent of the executive branch to force compliance with this impoundment law.

SENATOR ERVIN TESTIFIES

One of the numerous witnesses before the Rules Committee in behalf of impoundment legislation was Senator SAM J. ERVIN, JR., who commented on a decision by the Eighth U.S. Circuit Court of Appeals in St. Louis which this year has ruled that President's Nixon's impounding of Federal highway construction funds is illegal. Then he goes on to state that the President has impounded some $15 billion of Federal programs on housing, water pollution control, rural conservation, education, highways, and other areas; and the newspaper article commenting on the decision reports that five other States joined with the State of Missouri in condemning his procedure. They are Florida, Arkansas, Oklahoma, Tennessee, and Idaho.

Senator ERVIN also quoted Supreme Court Justice William H. Rehnquist in a New York Times article on February 1, 1973, as stating:

> With respect to the suggestion that the President has a Constitutional power to decline to spend appropriated funds, we must conclude that the existence of such a broad power is supported by neither reason nor precedent.

ANTIDEFICIENCY ACT

Mr. Speaker, during the debate today numerous comments will be made regarding the President's taking advantage of the Anti-Deficiency Act in his impoundments. Senator ERVIN set out in his testimony that the Anti-Deficiency Act is confined to practically three conditions, to wit: First, where there has been a change in the requirements of a project which render the expenditure of the total amount appropriated unnecessary to accomplish the project; or where by more efficient methods a project can be carried out without spending the entire fund; or where, in the third place, there has been a change in circumstances between the time the appropriation was made and the time for the expenditure of the appropriation.

Senator ERVIN also recalled an impoundment experience in President Truman's administration:

> Congress had anticipated that the Second World War would go on for a considerable period of time and had appropriated moneys to enlarge military hospitals and to build a new aircraft carrier, thinking it would be needed in the war.
>
> Then peace came unexpectedly, and it became unnecessary to spend these funds. President Truman under the third section of the anti-deficiency law withheld them. I think that is a very good thing. The Comptroller General is our agent. I think it is well for us to give him final authority in that one case because he is really our adviser and our agent looking after our interests.

A large number of Congressmen and Senators have cosponsored impoundment resolutions. I do hope that during this debate the Members of the House will give close attention and analyze the different methods for effective impoundment legislation that may be submitted through amendments or changes in the pending bill.

One of the most fallacious arguments which you will hear during the debate on impoundment is the baseless propaganda that the Congress has been a spendthrift body and that the executive department has been the Federal economizer, trying to protect the taxpayers of the Nation.

Nothing could be further from the truth. The Ways and Means Committee reports that when President Nixon assumed office in January 1969, our national debt was approximately $358 billion. Since his inauguration, President Nixon has requested Congress to raise the national debt six different times.

A few weeks ago the President requested that the national debt be raised another $20 billion. The Congress did not grant his request but continued the request until next November, at which time, no doubt, the President's $20 billion request will be granted, at least for that amount and maybe more. Including this $20 billion, the national debt in November will total approximately $485 billion.

We all remember the President's 1968 campaign promise that his one ambition if elected would be to reduce the national debt. President Nixon has raised the national debt one-fourth of the total amount of our national debt since the days of George Washington.

The Appropriations Committee reports that since President Nixon's inauguration the Congress has reduced his annual budgets approximately a total of $30 billion. Of this amount the Congress, through antipollution legislation, transportation expansion, education, health, welfare, and so forth has spent some of this reduction. But the total expenditures of the Congress during the last 4 years has been well under the annual budget submitted by the President during his term in office. It is unfortunate that the news media do not reveal the true facts to the American taxpayers that it is not the Congress that should enjoy the title of "Federal Spendthrift."

The pending anti-impoundment legislation is probably the most important legislation this Congress will be called upon to enact, as it may in future years prove to have been the start of Federal particiaption in our economic expansion, help curb inflation, and restore prosperity and employment throughout the country.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. BOLLING. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8480) to require the President to notify the Congress whenever he impounds funds, to provide a procedure under which the House of Representatives or the Senate may disapprove the President's action and require him to cease such impounding, and to establish for the fiscal year 1974 a ceiling on total Federal expenditures.

The SPEAKER. The question is on the motion offered by the gentleman from Missouri (Mr. BOLLING).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 8480, with Mr. FASCELL in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Missouri (Mr. BOLLING) will be recognized for 2 hours, and the gentleman from Nebraska (Mr. MARTIN) will be recognized for 2 hours.

The Chair recognizes the gentleman from Missouri (Mr. BOLLING).

Mr. BOLLING. Mr. Chairman, I yield myself 30 minutes.

Mr. Chairman, I have prepared a statement of some length in connection with the debate of title I of this bill. In its preparation I have had the help of a large number of people in and out of the Congress, individual Members, witnesses before the Rules Committee, witnesses before the Select Committee which is in the process of studying committee organization and procedure in the House, and staff members and experts from key committees of the House, the Congressional Research Service, Members and staff members of the other body and, of course, my personal staff.

This statement is somewhat long but it is short as it could be to serve the purpose of fully informing the Members of the concept, the content, and the real purpose of this legislation. Consequently, I ask unanimous consent for permission to read.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. BOLLING. Mr. Chairman, furthermore, I do not intend to yield until I have completed this statement.

Mr. Chairman, my statement is divided into a series of sections:

First. The purpose and approach of H.R. 8480.

Second. Comparison with S. 373.

Third. Statutory references in H.R. 8480.

Fourth. Analysis of minority and separate views.

Fifth. Separate views of the gentleman from Illinois (Mr. ANDERSON).

THE PURPOSE AND APPROACH OF H.R. 8480

The impoundment bill reported by the House Rules Committee maintains the sharing of powers between the legislative and executive branches established by the Constitution. It recognizes that the legislative branch has the duty to formulate national policies and that in this role Congress must determine how public funds are to be spent. It also recognizes that as the head of the executive branch, the President has day to day responsibility for carrying out policies and for the expenditure of moneys. Both roles are preserved in a formula which enables Congress to review and disapprove any impoundment action taken by the President. The formula has been used for a quarter of a century to enable the President to propose, and Congress to review, plans to reorganize Federal agencies.

H.R. 8480 requires the President to notify Congress of any impoundment action and provides for the termination of any impoundment disapproved by either House of Congress during a 60-day period. There also is provision for discharge of a committee from consideration of a resolution of disapproval if it has failed to report within 30 days.

The need for this legislation arises out of the unprecedented action of the President in withholding funds voted by Congress. While the exact amount of impoundments is in dispute and depends on whose definition of the term is being used, there can be no doubt that the President is using his impoundment power to terminate or curtail a broad range of programs enacted and funded by the Congress. There is virtually no kinship between the routine use of reserves by past Presidents to manage the Nation's finances and the large scale effort of the current administration to unilaterally change and disregard policies adopted by Congress.

In my opinion it is so probable as to be almost a sure thing that unless this Congress takes nonpolitical and nonpartisan steps to respond reasonably and effectively to this approach the next Democratic President whoever he is and whenever he is elected will find it expedient to use this same procedure. Why not? All Presidents in modern times regardless of party have taken the new powers developed or seized by their predecessors in the never-ending contest between the three branches of our Government for power and at a minimum used them and sometimes built on them.

Congress long has recognized the desirability of flexible executive power to regulate the flow of funds to programs and agencies. As far back as 1905, Congress directed Federal agencies to establish procedures for apportioning their funds over the course of the year in order to avert deficiencies. H.R. 8480 in no way impairs the continued ability of the President to apportion funds and to establish reserves. These actions can be taken without specific approval of Congress. But when the President under cover of the Anti-Deficiency Act or some other claim of statutory authority, withholds funds for the purpose of negating the intent of Congress, it is appropriate that Congress have the opportunity to intervene and register its disapproval. When no resolution of disapproval is adopted, the impoundment action will continue in force. But when either House of Congress disapproves, the impoundment must cease immediately because the disapproval demonstrates that the President's action is not in accord with the will of Congress. The disapproval of only one House suffices because the President's action in impounding is a change in the policy already adopted by both Houses. By its disapproval, the House or Senate vetoes the Presidential change in policy.

Thus H.R. 8480 strikes a balance between congressional control of the purse and executive flexibility. It does not require that Congress act in every instance that funds have been withheld nor does it delegate to the Comptroller General the power to determine whether a Presidential impoundment is authorized by the Antideficiency Act. The procedures formulated in H.R. 8480 would enable Congress to focus on those impoundments which it wishes to disapprove. In this way, it creates a simple process that is both manageable and effective.

COMPARISON WITH S. 373

S. 373 passed by the Senate diverges from H.R. 8480 in a number of ways. While both bills strive to bring executive impoundment under close congressional scrutiny and control, they follow different routes to the same end. Apart from differences in detail, the chief divergences are: First, S. 373 hinges on action by both the House and Senate rather than by a single House; second, S. 373 provides for the cessation of any impoundment not approved within 60 days; third, S. 373 gives the Comptroller General an important role in determining whether an impoundment is within the authority of the Anti-Deficiency Act; fourth, S. 373 does not provide for referral of Presidential impoundment messages to congressional committees and for the use of committees for reporting impoundment resolutions; fifth, the Senate bill enables Congress to disapprove part of an impoundment.

Simple versus concurrent resolution. The argument for concurrence by both Houses rests on the proposition that impoundment resolutions establish national policy regarding expenditures and programs and hence the policies should be made by Congress rather than by one of its Houses. This line of reasoning leads S. 373 to a concurrent resolution rather than the simple resolution provided in H.R. 8480. However, H.R. 8480 recognizes that an impoundment resolution always deals with a matter concerning which Congress already has established policy. An impoundment can occur only after Congress has appropriated—or otherwise made available—funds for an agency or program. An impoundment, therefore, is a Presidential attempt to alter an established policy. When an impoundment takes place, the issue for Congress is whether to allow or to veto the change. For this reason, H.R. 8480 equips each House of Congress with the power to block a proposed change, for once a single House has expressed disapproval, the President no longer has a legislative possibility for securing a change in policy.

It might be added that the legislative veto procedure envisioned in H.R. 8480 corresponds to the process used for proposed reorganizations by the President. In both instances, the President is trying to change an adopted policy, and in both it should take the disapproval of a single House to maintain the status quo.

Approval versus disapproval. A related disparity between the two bills pertains to the manner in which Congress expresses its view on impoundment. H.R. 8480 provides for disapproval, with impoundments not disapproved during a 60-day period continuing in effect. S. 373 provides an approval procedure, with impoundments not approved during the 60-day period ceasing.

In line with the argument stated above, S. 373 treats an impoundment as ordinary legislative business which therefore requires positive action by Congress, while H.R. 8480 looks to a congressional veto of a proposed change. Each bill is open to some risk that in the absence of congressional action, some unintended result might occur. Thus, through oversight or the burden of congressional business, the House or Senate might neglect to consider disapproval or approval of an impoundment. Of course, both bills have comparable features for expedited consideration of impoundment resolutions, but it is nonetheless possible that some of the large number of executive actions falling within the definition of impoundment might slip through the net. The risk is greater, however, in the Senate version for it provides automatic cessation of any action that has not been approved. Even with the advisory service assigned to the Comptroller General, many separate actions might require congressional action. H.R. 8480 has the advantage that Congress need not act on every instance but can select those impoundments which warrant its consideration.

The Role of the Comptroller General. Both bills provide for transmittal of all impoundment messages to the Comptroller General who must then inform Congress whether, in his opinion, the impoundment is in accord with statutory authority. In addition, both bills require the Comptroller General to notify Congress of any impoundment not reported by the President and they empower the Comptroller General to bring court actions to secure compliance with the impoundment procedures.

However, S. 373 goes a big step further in delegating to the Comptroller General the responsibility for determining whether an impoundment is in accord with the Anti-Deficiency Act. This virtually places the Comptroller General in the position of deciding what matters shall be brought before Congress for action and, even more important, the status of those impoundments not approved by Congress. Thus, if Congress does not adopt a resolution of approval under S. 373, the impoundment would stand or fall depending only on the decision of the Comptroller General as to whether it is within the scope of the Anti-Deficiency Act. In effect, Congress delegates to the Comptroller General an important legislative function.

This role of the Comptroller General is made necessary by the approval procedure used in S. 373. Inasmuch as it would be impossible for Congress to act on the potentially thousands of impoundments covered by S. 373, the bill provides a weeding out process by the Comptroller General. But the problem of a flood of congressional actions is avoided in the House bill because Congress can select which actions it wishes to consider for disapproval. This obviates the need for a large Comptroller General role such as would be established by S. 373.

Committee action. H.R. 8480 provides for the processing of impoundment resolutions through the Appropriations Committees, while S. 373 provides for direct floor action without benefit of committee review. In order to mitigate the possibilities that a resoluton would be bottled up in committee, H.R. 8480 specifies that a committee would be discharged upon petition by 20 percent of the Members of either House or Senate and majority vote by that body.

There are several advantages to committee consideration. An impoundment action deserves the same kind of careful review that is furnished for other legislative business. In the absence of committee review, the possibility is greater that relevant facts may not be uncovered and that important factors would be neglected. The committee could examine all the evidence, give its recommendations to its House, and then allow Members to decide on the basis of the facts and views laid before them.

Moreover, the potentially large volume of impoundment actions facing Congress—in fiscal 1973 there were more than 100 which may have been outside the Anti-Deficiency Act—makes it essential that Congress have the benefit of careful study before it decides what to do.

With their comprehensive jurisdiction over spending measures, the Appropriations Committees are the logical candidates to consider impoundment resolutions. They can examine the impact of impoundment on the intent of Congress and on the overall financial posture of the Federal Government. They are in a position to ascertain the costs and the savings which may derive from impoundments and the effects of these actions on the quality and availability of Federal programs. All these are matters concerning which Congress ought to be informed at the time it acts on an impoundment resolution.

Partial approval or disapproval. S. 373 allows congressional approval of an impoundment in whole or in part. While it would be desirable to enable Congress to pinpoint its intent in regard to a particular impoundment, there is some question as to whether a simple or concurrent resolution is an appropriate device. Neither of these types of resolution is sent to the President for signature; consequently, they may not be used in lieu of bills or joint resolutions for the conduct of legislative business. This is one of the reasons why Congress does not amend reorganization plans but accepts or rejects them in whole.

Statutory references in H.R. 8480. H.R. 8480 contains three references to other legislation or sources.

One. Section 107—page 10, line 22—repeals section 203 of the Budget and Accounting Procedures Act of 1950. Section 203 was added in 1972 and amended in March 1973 to provide a procedure for the reporting of impoundments by the President. The substantive provisions of section 203 are incorporated in title I of H.R. 8480, and thus the repeal of this section does not mean any loss of congressional control of impoundments.

Two. Section 202(b)—page 12, line 16—exempts public assistance maintenance grants under title IV of the Social Security Act from the pro rata reserve. These grants cover aid to families with dependent children.

Three. Section 202(b)—page 12, line 14—refers to the list of budget accounts on pages 167–312 of the 1974 budget. These accounts are the basic categories by which programs are operated and spending is controlled. Each account represents a discrete activity or program. Ordinarily a number of budget accounts are aggregated to form a subfunction or a unit of appropriation. The budget accounts listing pinpoints the programs and activities authorized by Congress.

AN ANALYSIS OF MINORITY AND SEPARATE VIEWS

House Report No. 93–336 on the impoundment bill contains the minority views of four members of the House Rules Committee—pages 15–19—and the separate views of the gentleman from Illinois (Mr. ANDERSON)—pages 21–23. These minority and separate views express a number of objections to H.R. 8480. Each of the objections is considered in the following paragraphs.

Constitutional separation of executive and legislative power. The minority position argues that separation of powers would be breached by allowing the Congress to intervene in executive actions. In fact, however, the reverse is true for an impoundment is little else but an executive intervention in legislative policymaking. If the minority wishes to preserve a complete separation of the two branches, they should propose the banning of all executive impoundments. H.R. 8480 recognizes—as the Constitution does—that our system of government is based on a commingling of powers, with Congress setting national policy and holding control over expenditures. This congressional role is protected in H.R. 8480, but in a way that gives the executive a substantial amount of financial and program flexibility.

If H.R. 8480 violates the separation of powers doctrine, would the minority also claim that the reorganization plan procedures also are improper? Yet the President recently requested another renewal of the Reorganization Act under which either House can veto a proposed reorganization.

Contradicts the Anti-Deficiency Act. The claim is made that routine reserves allowed by the Anti-Deficiency Act for prudent financial management would come under the new anti-impoundment procedures. It is further claimed that "nearly all impoundments are routine administrative actions." Whatever the validity of this view in the past, it certainly does not apply to 1973 when billions of dollars have been cut from dozens of old and new programs for the purpose of ending them despite the express intent of Congress.

Ideally, one would draw a distinction between reserves and impoundments and adopt new procedures only for the latter. But this is not practicable, in good part because the administration has impounded under the guise of setting up reserves. It has been the administration—not the Congress—which has obliterated the line between routine reserves and impoundments.

While all executive actions which delay or withhold funds must be reported to Congress, in no way does H.R. 8480 deter the President from taking actions which in his judgment are required for proper financial management. Such actions take effect at once and are continued unless one House disapproves within 60 days. Presumably, if Congress disapproves an impoundment, it is declaring that the withholding of funds has not been in accord with the Anti-Deficiency Act, but an attempt to violate its will. Genuine financial reserves will not be affected by H.R. 8480.

Expensive and wasteful reporting procedures. The claim is made that the broad definition of impoundments would require a vast monitoring and reporting system, most of which would be used for routine actions.

The definition is deliberately broad so that the executive should not be able to contrive evasions. The recent use of impoundments by the President demonstrates the need for broad language. The President ordered EPA not to allot $6 billion in contract authority for water pollution treatment facilities, yet this amount was not included in his list of reserves sent to Congress. Nor does the official impoundment list include funds—such as manpower—withheld when the President requested their rescission, or the 18-month housing moratorium. It does not include any of the money that is being withheld from HEW–DOL which was appropriated by Congress in a continuing resolution. In short, anything less than a comprehensive definition of impoundment and a comprehensive reporting system would invite the President to thwart the intent of this legislation. An adequate reporting system would not be costly and is a small price to pay for ensuring that the duly enacted will of Congress is adhered to.

The use of a simple resolution. The minority argues that a simple resolution to disapprove impoundments would be of doubtful legal effect and that Congress would have to act through a bill or joint resolution. It is strange indeed that the argument is not applied to the procedure for congressional review of reorganization plans, after which the impoundment device is modeled.

Why a simple resolution? Because Congress already has appropriated the funds so there is no additional need for positive congressional action. The funds are fully available without any further congressional action. But when the President impounds, it suffices for one House to indicate that the action is not in accord with its will. By its resolution of disapproval, that House indicates its intent that the appropriation not be blocked.

Current impoundments are no different from those in the past. The minority cites various past impoundments to buttress its claim that the current administration is conforming to precedent. Among the past impoundments cited are: President Truman's withholding of Air Force funds in 1949; President Eisenhower's refusal to spend Nike-Zeus money in 1960; President Kennedy's cutoff of B–70 bomber funds in 1961; and a series of program cutbacks by President Johnson in 1966 and 1967.

There are two responses to this argument. One is that Congress never has authorized the impoundment of funds to terminate programs. Most of the previous actions cited by the minority were taken against the will of Congress. H.R. 8480 represents the culmination of many years of congressional effort to do something about executive impoundments. Even if President Nixon merely were conforming to past practice, this would be no justification for his actions.

But in addition, there are important differences between current and past impoundments. The actions taken by Presidents Truman, Eisenhower, and Kennedy all related to the procurement of weapons. One can argue that in his role as Commander in Chief, the President has constitutional power to determine which weapons shall be purchased. Furthermore, none of these Presidents terminated military procurement. The Air Force did not stop purchasing airplanes and bombers, the Defense Department did not cease research on an antimissile system.

The actions taken by President Johnson in 1966 and 1967 came during the peak Vietnam buildup period and covered deferrals of $5.3 billion in funds. As was announced by the President when those actions were taken, the purpose was to postpone the expenditure of funds, not to terminate programs. Many of the funds held back in 1966 were released in 1967 as economic conditions warranted. This clearly is not the case today. The President's declared purpose has been to put an end to dozens of authorized programs. No past President has used his impoundment power for this purpose.

Recent impoundments have been due to the budget crisis and do not violate the will of Congress. The minority argues that the debt limit justifies and necessitates the impoundment of funds for otherwise it would not have been possible to keep within the statutory limit. A comparable argument is made that through their separate actions in 1972, the House and Senate accepted the President's $250 billion spending ceiling and thereby invited or compelled the President to impound.

Neither argument is valid. When estimated borrowing threatens to exceed the debt limit, a President normally goes to Congress to ask that the ceiling be raised. President Nixon himself has gone to Congress with such a request at least once a year. In fact, he requested a raise in the debt ceiling in May 1973, before this fiscal year was completed. Hence, if the President was concerned that spending would force a breach in the debt limit, his remedy was to propose an increase in the limit, not to impound programs.

It is a bizarre argument that if the House and Senate pass different bills which have some common elements, that those common elements are deemed to be adopted. But this is precisely the logic which is used to justify impoundments to preserve a $250 billion spending ceiling. When the ceiling was removed in conference, it lost all legal force and could not be used by the President to justify impoundments. It bears noting that in both the House and Senate, the $250 billion ceiling was conditioned on specific procedures for keeping within the limit. Only if the specifics were agreed to would the ceiling have any force. Thus, when the House and Senate were unable to agree on a method for maintaining the $250 billion level, it was deleted from the bill.

The transparency of the argument that impoundments have been motivated by the budget crisis is their selective use by the President. Not by happenstance, the cuts fall on those community and human programs that the President does not like. Not a single penny of military programs is to be terminated via impoundments. In short, the President has been impelled by political ideology not by financial exigencies.

The 1974 spending limit is a gimmick that will lead to higher spending. Admittedly, title II is a stopgap until permanent budget control legislation is adopted. But the minority cannot have their cake and eat it, arguing on the one hand that the United States is in the throes of a budget crisis, and on the other, that Congress is irresponsible in putting a lid on 1974 spending.

The minority prefers Presidential impoundments to congressional determination of priorities. They would delay any remedy until permanent budget controls have been perfected, or alternatively rush to emplace controls that have not been fully developed or tested.

Favored programs are exempted from the pro rata cuts. Eight programs have been exempted from title II's pro rata reserves, but not because they are favored but because of their special characteristics. The exempt programs fall into three categories: First, interest payments which are mandatory obligations and cannot be cut; second, judicial salaries which are exempt in order to preserve judicial independence; and third, the others are income maintenance programs. Cuts in these areas would have a direct and adverse impact on the most vulnerable portions of the population, the poor, the dependent children, the elderly, and the ill. Necessary reductions in Federal spending should not mean a cut in the monthly paycheck of social security recipients or the value of food stamps given to indigents.

SEPARATE VIEWS OF THE GENTLEMAN FROM ILLINOIS (MR. ANDERSON)

In his separate views, the gentleman from Illinois (Mr. ANDERSON) argues in support of the approach taken in H.R. 8876 which he has introduced. The main thrust is to tie impoundment legislation to budget reforms by coupling a bill based on the report of the Joint Study Committee to a modified impoundment bill.

While this approach is appealing, it also is premature. Significantly, the Joint Study Committee was silent on the impoundment issue; it preferred to treat the issue of budget reform apart from impoundment. And the two issues ought to be separate for they address different types of spending problems. Budget reform relates to the capability of Congress to set overall spending limits; impoundment relates to the practice of the President to withhold funds from particular programs.

A matter as complex as budget control cannot be handled without a period of careful study in committee. There are many controversial issues to be decided such as the composition and powers of the new budget committees. On these and other matters the gentleman from Illinois' (Mr. ANDERSON) own bill offers some significant revisions in the Joint Study Committee's approach. Undoubtedly, many other suggestions will be forthcoming at committee hearings and markups. In addition, the budget reform bill has numerous complex provisions relating to the new concurrent resolution process devised by the Joint Study Committee. A Senate committee has been at work a number of months on this legislation and it would be sensible to get a clear picture of what is emerging in the other body before taking final action in the House.

The simplest way to discredit budget reform is to make it unworkable. A precipitous rush to the Joint Study Committee formula would have exactly this effect. Not only is it essential to compose a bill that is technically workable, it also is necessary to build understanding and support in Congress for radically new budget methods. All this takes time and ought not be done hastily.

The gentleman from Illinois (Mr. ANDERSON) sees a conflict between title I with its impoundment controls and title II which compels pro rata reserves. But this most certainly is not the case. A pro rata reserve is not an impoundment but a bookkeeping device to keep within spending limits. An impoundment, on the other hand, is an executive action, to change spending priorities.

The gentleman from Illinois (Mr. ANDERSON) further charges that title II is irresponsible because it imposes no spending discipline on Congress while it forces the President to live within a spending limit. This is not the case, however. The $267.1 billion ceiling is a very real and potent constraint on Congress whose Members are aware that if they take action to exceed the limit, some of the programs they favor will have to be cut. Congress is not passing the buck to the President. It is legislating a spending limit which is binding on all branches of Government, and it is using the Executive power to carry out the spending ceiling.

If title II is discarded, the result will not be adoption at once of the joint committee approach but another year without spending controls. There is no reasonable possibility to implement a full-blown system for fiscal 1974. Title II offers a responsible and workable interim approach with the expectation that Congress will adopt a full system in time for fiscal 1975.

Mr. BOLLING. Let me say I appreciate the attention of those who have listened to this statement. It is the first time since I used to handle housing bills that I have made a lengthy statement of this sort, and I did it this time, as I did then, in order to express as fully as possible what I believe to be the points at issue in the matter, and by taking the trouble to go into them in detail, to express at least one Member's view of the enormous and totally nonpartisan importance of this matter.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, I want to commend the gentleman in the well for taking the time to make the statement that he has just made. I have listened to the gentleman very intently, and I will say that I generally concur therein. As the distinguished gentleman in the well well knows, during the first 4 years of the Nixon administration the President proposed a budget which resulted in the spending of in excess of $100 billion more than we took in. The President alone does not have dirty hands; the Congress also has dirty hands. We did cut somewhere in the neighborhood of $30 billion from the spending proposed, but we also added back $30 billion in other places. So the Congress substantially accepted what the President proposed.

I happen to be one of the Members who feels very strongly that spending in excess of $100 billion in only a 4-year period of time is the primary cause of the monetary problems that we are experiencing today.

So I want to commend the gentleman for the work he has done on this legislation. But I would say to the gentleman, and I should like to have his opinion on this, I feel very strongly that it is not feasible to separate the impoundment issue from spending controls. I feel that they are so inexplicably related that if we do separate the two, we are relieving the Congress of pressure to enact any effective budgetary control measures.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BOLLING. Mr. Chairman, I yield myself 5 additional minutes.

Mr. Chairman, I yield to the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. And we have separated them in this bill, I believe, because we have the spending ceiling temporary and we have the impoundment provisions permanent. I hope that the gentleman in the well will accept an amendment making the impoundment provisions temporary also.

Mr. BOLLING. I would not be prepared to do that, because I think they are genuinely separate issues. I would adduce again as an argument the very simple fact that the joint subcommittee, which reported some time after work was begun on the impoundment measure, completely left out impoundments. I happen to believe that both issues are critical.

They are critical to exactly the same thing but they are not related to each other very much. They are critical as to whether the Congress survives as a representative institution. If we do not control in an overall fashion the question of spending and taxing on an annual basis I am convinced that we will be vestigial in 10 years. The people of this country simply are not going to put up with a body which is not responsible as far as the value of their dollar is concerned and as far as the level of employment is concerned. That is the reason that for so many years I have been advocating a whole variety of things, including a budget process in the Congress.

But the impoundment issue is a different kind of thing because it does not make any difference who does it, as soon as a President decides that he unilaterally has the power to select among programs, the Congress has lost its fundamental power of the purse.

There is no question about the fact that the two issues affect each other but they are separate issues. I happen to believe and have committed myself as strongly as I can individually, with no hidden balls or shells involved, to the notion that we would bring something out. But I fundamentally believe they are different issues and I think the best proof is the fact that those 32 Members who reported unanimously—I cannot remember whether it was in March or April, long after we had started on impoundment—left out impoundment completely.

Mr. ICHORD. I would say to the gentleman I agree with the gentleman from Missouri that the President has arrogated to himself a power which practically amounts to an item veto. I am very much concerned about it. I think that the President has been wrong. I am opposed to impoundment, but I also feel very strongly if we are to solve the impoundment issue, and the gentleman well knows we will experience all kinds of contortions in our efforts to establish budgetary controls. I believe that we will never pass permanent budgetary control legislation if we keep the impoundment provisions as permanent legislation. The Congress will no longer have the pressure to act.

For that reason, unless an amendment is adopted, calling for the impoundment provisions to expire at the end of fiscal year 1974, I not only intend to vote against this measure but I also intend to write the President requesting a veto. I hesitate to use a threat which I hear coming from the other side altogether too often, but I do intend to ask him for a veto of it because I feel so strongly that we will never be able to work out budgetary control procedures once the pressure is removed.

Mr. BOLLING. That is one nice thing about this House of Representatives. Each one has a right to disagree with each other.

Mr. CEDERBERG. Mr. Chairman, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from Michigan.

Mr. CEDERBERG. I would like to ask the gentleman where he got the figure of $267.1 billion for an expenditure ceiling?

Mr. BOLLING. I think there are a variety of ways. It is sort of fun to go into such a thing with the gentleman from Michigan because I know he is sophisticated on this matter. It was arrived at on the basis that I would like to try to explain in great detail but as the gentleman knows I would have to go back to the desk and get some of the details. It was arrived at in a variety of ways, and one was in the full knowledge that whatever spending limit we had at this particular time we would recognize it as being a goal or a target, because it may well be President Nixon will be seeking to increase the spending in the 1974 budget very substantially beyond the $267.1 billion we proposed or $268 billion, whatever he proposes.

I have spent 20-odd years on the Joint Economic Committee, just as the gentleman has, on the Appropriations Committee, and I know these ceilings are inevitably moving and changing targets. We came up with a judgment that we could have a responsible ceiling with a variety of different concepts that would be that lower figure and indicate our determination to join the President in trying to stem inflation. But the specifics are very varied and the real truth of the matter is, as the gentleman well knows, that within general spending areas anybody can have any budget he wants.

Mr. CEDERBERG. The gentleman realizes, does he not, that some of the appropriation actions we have already taken are way above what the President's spending ceiling was?

Mr. BOLLING. I also realize, and I know the gentleman does and I am delighted he is the first one to ask me about this kind of question, that we are talking about spending and not appropriating.

Mr. CEDERBERG. I am also.

Mr. BOLLING. And there still is a very great opportunity for a great deal of adjustment, and I know the numbers game as well as the distinguished gentleman, the ranking minority member of the Appropriations Committee does.

I know the numbers that are involved and how we cut appropriations for each of the last 20 years. I know about all the back door spending, and I know all the different techniques the gentleman knows. We really are not talking about anything very serious, except that if we pass this and get it through Congress and the President signs it, the Congress will then have to take another step before we can spend in fiscal 1974 beyond that ceiling. That is its effect.

Mr. CEDERBERG. Mr. Chairman, I do not want to take too much time and will try to get some of my own time later, but it just seems to me a rather inconsistent approach to propose an expenditure ceiling which is $1.6 billion below the President's recommendation, while at the same time we have already taken actions here which require expenditures in excess of what the President has recommended in his own budget. I am talking about outlays, not new obligational authority, which this Congress has increased by some $900 million over the President's requests.

How can the President remain within that ceiling we say we are going to have of $267,100,000,000 without impounding funds? As I understand the first title in this bill, it is to limit impoundments or to do away with them. It is a great inconsistency.

Mr. BOLLING. I believe the gentleman does not understand at all what is in title I.

Mr. CEDERBERG. I think I do.

Mr. BOLLING. Then we will recognize that we do not eliminate impoundments; we do not take any position on the propriety of the President's using the power as he has. We are entirely neutral in that regard, and it does not seem to me that there is any problem involved at all.

Mr. CEDERBERG. If the gentleman will yield further, this is an interesting approach, but I listened to the chairman of the Rules Committee. Mr. MADDEN of Indiana, and I happened to testify before the committee when the gentleman had the Rules Committee meet before the television lights in the Rayburn Building—and the whole purpose, if the gentleman will read the record, was to deny the President the right of impoundment. That is the theme of the whole thing.

Mr. BOLLING. I think, if the gentleman will take the trouble to read the hearings all the way through, he will find what I had to say about it. He will find a slightly different view expressed. I am not taking any responsibility for anybody else's views except my own. I made a speech, I think before we had the hearings, to the mayors of this country, to which I linked the two separate issues. I am not speaking for anybody else, but speaking for myself.

I happen to believe that the issue deserves the kind of consideration I am trying to give it. I hope everybody in the House will try to give it the same consideration, just as I think the budget issue deserves the same kind of consideration.

Perhaps the gentleman missed the paragraph wherein I said that if this were not done by this Congress now, we face precisely the same problem from a Democratic President in the future. I am trying very, very hard to make it clear that this is a problem of congressional control for which we ought to take full responsibility.

Mr. CEDERBERG. If the gentleman will yield briefly, let me say that it is not only a problem for future Democratic Presidents. The Democratic Presidents in the past had the same problem, and used the same impoundment procedure, with increased percentages.

Mr. BOLLING. Not the same procedures. I think the gentleman did not hear that part where I said earlier there was a difference, a very substantial difference, because in each case that has been cited, the President in modern times was stretching out or actually impounding military funds. The President has a different function as President and as Commander in Chief.

The CHAIRMAN. The time of the gentleman from Missouri has again expired.

Mr. BOLLING. Mr. Chairman, I yield myself 2 additional minutes.

Mr. CEDERBERG. Mr. Chairman, let me conclude by saying of my distinguished friend from Missouri, I have always found, when he has approached a subject, he has done it in a fair and honest way, and I appreciate that very much. I realize that he has made a great study of this problem, and I compliment him for it.

My own personal opinion is that I happen to believe that this bill is completely inconsistent in the two titles, and I will hope to try to point that out.

Mr. BOLLING. That, it seems to me, as I said earlier in connection with the remarks of my friend from Missouri, is what the ballgame is all about. We disagree; we discuss; we decide.

Mr. RANDALL. Mr. Chairman, will the gentleman yield?

Mr. BOLLING. I yield to my colleague from Missouri (Mr. RANDALL).

Mr. RANDALL. Mr. Chairman, in the earlier discussions I understand at this point the matter was not raised, in seeking to vote down the rule on the previous question, of adding the joint congressional budget.

Would the gentleman indicate in his view that we will get to consider that later?

Mr. BOLLING. That was discussed at some length in the colloquy between the minority leader and myself. I expressed the general view, which was later supported by the distinguished gentleman from California and the distinguished gentleman from Hawaii, that the Rules Committee was going to produce a bill on that subject, though perhaps not identical. I expressed my own view, which is the strongest possible support for that, and the hope it will be done this year. I believe it will be.

Mr. RANDALL. With those considerations I intend to support, of course, H.R. 8480, and I simply want to add to the remarks of commendation that all of us on the Missouri delegation, I am sure, are proud of the work of our dean, and we compliment him.

Mr. BOLLING. I thank the gentleman.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from Texas.

Mr. ECKHARDT. I wish to commend the gentleman from Missouri for his very lucid statement of the proposition presented here and I also wish to commend the Rules Committee for dealing with an extremely difficult and complex problem which I believe is at the very forefront of our congressional concern.

As the gentleman knows, I have had some preference for the Ervin approach, as opposed to the Mahon approach.

The CHAIRMAN. The time of the gentleman from Missouri has again expired.

Mr. BOLLING. Mr. Chairman, I yield myself 1 additional minute, and I yield further to the gentleman from Texas.

Mr. ECKHARDT. I note that the bill which has come from the Rules Committee goes a very long way toward solving the principal constitutional objection I had to the Mahon approach.

I was concerned about the Mahon approach, which I thought made the concurrent resolution fungible with the general legislative authority of Congress and therefore making it subject to veto under article I section 7 of the Constitution.

I understand the present bill merely provides a condition subsequent by which one of the Houses may insist that the impoundment was not permitted. In other words, Congress would make it clear that it did not intend in the original legislation to permit impoundment, provided the condition subsequent, that is, the resolution of one body showed that such body did not agree.

I certainly do wish to compliment the committee on that approach. I believe it is a very workable approach. I believe it avoids the almost certain confrontation we would have had with the President under the Mahon bill when the President attempted to veto a concurrent resolution.

I particularly wish to compliment the committee.

Mr. BOLLING. On behalf of the Rules Committee, I thank the gentleman.

The CHAIRMAN. The time of the gentleman from Missouri has again expired.

Mr. BOLLING. Mr. Chairman, I yield myself 2 additional minutes.

Mr. REUSS. Mr. Chairman, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from Wisconsin.

Mr. REUSS. I thank the gentleman for yielding.

I, too, want to commend the gentleman very sincerely for the historic statement he has made here this afternoon.

The gentleman has said that there is before us an impoundment bill which represents a distillation of the best wisdom on the subject. I believe that is an accurate description.

The gentleman has also said that so far as he is concerned the Committee on Rules will be reporting out in due course, and with all dispatch, a congressional budget control bill, and that it can be enacted this year.

I applaud both those statements.

The gentleman has said it has been a long time since he has made a long statement. He should do it more often, so far as I am concerned.

Mr. BOLLING. I thank the gentleman.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from New Jersey.

Mr. RODINO. I, too, wish to commend the gentleman for the statement he has made before the House today, and to applaud the action of the committee. I believe it is long past due.

Mr. Chairman, the recent impoundment actions of the President are a serious interference with the constitutional power of Congress to make laws. If the President is permitted to decide which laws and programs he will carry out and which he will not enforce through the tactic of impounding funds, then it is truly the power of the American people that will be eroded.

The framers of the Constitution had great faith in the ability of the American people to act wisely through their elected Representatives in Congress and to use their wisdom to make the laws.

In enacting legislation to control water pollution, to build highways, to improve the educational opportunities of our young people, and to raise the level of health care, Congress was responding to the needs and desires of the people. It was ultimately the people, acting through their elected Representatives, who determined that funds should be appropriated to carry out those laws.

In impounding funds for these programs without the approval of Congress, the President encroaches on the power of the people to make laws through their elected Representatives. It is, therefore, essential that Congress now take action and enact the Impoundment Control Act in order to prevent the continued unauthorized withholding of funds.

Legislation is necessary to deal with impoundment because the absence of definite standards and guidelines in the present laws, which do give the President a certain amount of discretion over appropriated funds, apparently is an invitation to the President to attempt to prevent the spending of funds for certain programs.

The President has some statutory authority to refuse to spend appropriations, for example, when savings can be effected in programs, or to apportion funds over the life of a program. But, this authority which is founded in the Antideficiency Act (31 U.S.C. 665) is very narrow, as decisions by Federal courts have indicated. It does not authorize the wholesale impoundment of funds for specific programs, although this is what the President has been doing.

It is time for Congress to insure that the President does not usurp the authority of Congress over appropriations by exercising discretion over funds which Congress has never delegated to him.

The pending legislation is a major step toward eliminating the controversy over impoundment. The procedures established by the Impoundment Control Act will insure that, in the future, impoundment will be controlled and supervised in an appropriate manner by Congress.

The proposed legislation also is an important step in the direction of greater congressional supervision generally over the operations of the executive branch. Close supervision of budgetary matters is essential to establishing the kind of congressional oversight that is necessary to insure that activities of the executive branch are within the authority delegated to it by Congress.

To be sure, there have been acts of impoundment in the past. But, these were infrequent and sporadic. The scale of recent impoundment actions is unprecedented. They demonstrate the need for the Impoundment Control Act and for the precautions and procedures that it will provide. Therefore, I strongly support the pending legislation.

Mr. BOLLING. Mr. Chairman, I thank the gentleman from New Jersey.

The CHAIRMAN. The time of the gentleman from Missouri (Mr. BOLLING) has expired.

Mr. BOLLING. Mr. Chairman, I yield myself 1 additional minute.

The CHAIRMAN. The Chair advises the gentleman that he is close to the 1-hour time limit. The gentleman has consumed 55 minutes.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Chairman, I thank the gentleman for yielding. I thank the gentleman for his fine remarks and also for his personal commitment, as well as the efforts of his colleagues on the Committee on Rules in the matter of the congressional budget.

I am sure the gentleman agrees with me that as important as this proposal is, it is in no way a substitute of any kind for congressional action toward a congressional budget.

Mr. BOLLING. Absolutely. They are separate matters, and as far as I am concerned, I have said repeatedly that we must act on the other matter as well.

Mr. ULLBAN. Mr. Chairman, it is my hope that that matter will come up late in September or early in October, and under a reasonable schedule I know that it could. I know also that the gentleman from Missouri will do all he can to get the matter on the floor.

Mr. MARTIN of Nebraska. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, I, too, would like to commend the gentleman from Missouri for a very scholarly statement. I did not agree with all of his statement, but I still would like to congratulate him for the excellent presentation which he has made.

Mr. Chairman, H.R. 8480 is legislation to provide a procedure under which the

House of Representatives, or the Senate may disapprove the President's actions in regard to impounding funds and require him to cease such impounding. It also establishes for the fiscal year 1974 a ceiling on total Federal expenditures.

The legislation is very poorly drawn and contradicts itself in that in section 1, it provides a mechanism for overriding impoundment of funds. Whereas in the second section, the bill places a ceiling on total expenditures for fiscal year 1974, but in addition directs the President to reduce expenditures across the board by up to 10 percent, except for certain programs which are exempted.

The bill provides that the President must notify both the House and Senate within 10 days after impounding funds. The President's message, which must be a separate message on each impoundment action, goes to the Appropriations Committee. Either the House or the other body may take action within 60 days, nullifying the President's action. If such action is taken by either body, the President must immediately release the funds which he has impounded.

The bill further provides for a method by which a motion to discharge the committee may be made by any individual favoring the resolution. It may be made, however, only if supported by one-fifth of the Members of the House involved, a quorum being present, and is highly privileged. Debate on the discharge resolution is limited to one hour and debate on the resolution to disapprove of the President's impoundment action is limited to not more than 2 hours; equally divided between those favoring and those opposing the resolution. A copy of the President's message to the Congress must be sent to the Comptroller General.

The Constitution makes no provision for the legislative branch of the Government to veto Presidential action. There is grave doubt among constitutional lawyers as to the constitutionality of this procedure.

The proper vehicle, Mr. Chairman, by which fiscal responsibility would rest in the hands of the Congress is through the passage of legislation to establish a Budget Committee and a legislative budget with teeth in the legislation to stay within the ceiling.

The Rules Committee started hearings on this legislation last Thursday, and I hope will expeditiously conduct these hearings and report out a bill for consideration on the floor of the House in the not too distant future.

The Legislative Budgetary Control Act, which would set up a Budget Committee in both the House and the other body, is the proper manner in which to solve the fiscal dilemma, which exists between the legislative and executive branches of our Government.

The definition of impoundment of funds is loosely drawn in the bill included in section 103 of the bill and I quote:

> (1) withholding or delaying the expenditure or obligation of funds (whether by establishing reserves or otherwise) appropriated for projects or activities, and the termination of authorized projects or activities for which appropriations have been made, and
>
> (2) any other type of executive action or inaction which effectively precludes the obligation or expenditure of available funds or the creation of obligations by contract in advance of appropriations as specifically authorized by law.

In the broadest sense there are four types of impoundments. The first type is that which is mandated by Congress. For example, $158,854,000 of the $2,500,000,000 appropriated in 1973 for Food Stamps is in contingency reserve by act of Congress.

The second type is that which is defined in the Anti-Deficiency Act of 1905 (31 U.S.C. 665) as amended. These impoundments generally are noncontroversial. The act authorizes reserves to be established to meet contingencies. $837,000 of VA funds for medical administration presently are in reserve for this purpose. The act also allows reserves for savings. These may result from efficiency—Congress once appropriated $1,000,000 to eradicate the Mediterranean Fruit Fly, but the executive accomplished this purpose for half the cost. Or savings may come when an unexpected occurrence makes expenditure of the appropriation unnecessary.

Finally the act allows deferral of expenditures to achieve the "most effective and economical use" of the funds. All the Defense money impounded this year is deferred for this reason; it will be released when adequate plans and projects have been approved.

The third type of impoundment is a deferral to slow down the rate of expenditure, as in the case of aid-to-highway money since 1967.

The final type of impoundment is a reduction or termination of a program, as in the ending of REAP and the Urban Rehabilitation Loans.

There has been a long history of impoundment of funds by the executive branch of the Government. The first recorded impoundment occurred in 1803. In late 1802 the Spanish port of New Orleans was closed to east coast shipping and Mississippi flatboat trade. Meanwhile, Napoleon's France prepared to take over the Louisiana Territories. Congress, angered, and fearing war with France, appropriated $50,000 for Mississippi gunboats in February 1803. The purchase of Louisiana, announced July 4, 1803, ended all danger of war. Jefferson therefore deferred construction of the gunboats until the next year, to allow careful study of the best military design. This precedent clearly falls within the definition of the Anti-Deficiency Act, as it is a deferral to achieve the "most economical use of funds" and resulted from an unexpected occurrence after the date of appropriation.

There is very little information about impoundments prior to World War II. In 1941, as war approached, Roosevelt deferred public works and highway projects, claiming the funds were needed for defense purposes. This is the first large-scale example of a deferral to slow down spending. There were protests from Congress and, as the level of deferred projects approached a half billion dollars by 1943, some attempts were made to enact mandatory language.

In 1949 Congress appropriated money to increase the number of Air Force Groups from 48 to 58. Truman impounded the additional money, stating that 48 groups were enough. This is the first large-scale example of the fourth type of impoundment, to reduce or terminate unwanted programs. Congressional intent on the issue was not clear, however, since the Senate originally had voted against the extra groups, and acceded to the House bill only because of pressure to adjourn, and under the expectation that Truman would impound the money.

In 1950 Truman canceled construction of the supercarrier U.S.S. *United States*, a major project termination.

In 1958, 1959, and 1960 Eisenhower impounded development funds for the Nike-Zeus ABM system, leaving only research funds. After 3 years, Congress stopped pushing the project.

In 1961 Congress added $180,000,000 for speedy development of the B–70 bomber system. Kennedy impounded the extra funds. In 1962, it added the money again, and considered the insertion of mandatory language in the authorization. It backed down on the mandatory language under pressure from the White House, and Kennedy again impounded the add-on money.

In 1967, with the Vietnam war escalating, Johnson impounded over $5,000,000,000 from domestic and non-Vietnam defense programs. This was the first time since World War II that major civilian works were affected. Johnson's cutbacks were across the board, and constituted deferrals rather than reductions in most cases.

In 1968, 1969, and 1970 Congress passed spending ceilings, implicitly forcing impoundments. In 1970 and 1971 impoundments, though at a high level, followed standard patterns with a few exceptions such as cuts in the model cities program. In fiscal 1973 the administration is using impoundment in a wide area of domestic programs, to reduce or terminate unwanted programs.

Mr. Roy Ash, Director of the Office of Management and Budget testified before the Rules Committee at our hearings on this legislation on April 5. In part, he stated as follows:

> It is our view, Mr. Chairman, that the need to establish effective budget controls is a problem that squarely confronts both the Legislative and the Executive branches, and that its magnitude far transcends any disagreement between them. Budget controls are absolutely imperative if we are going to avoid a tax increase, and still another round of inflationary pressures, and can only come about when the Congress has won its *own* battle to reform its *own* fiscal machinery.
>
> The Congress could, therefore, more fruitfully devote its time and energy to Constructing and adopting procedures which will permit it to deal comprehensively with control of budget totals and the actions it must take to live within those totals.

Again, I reiterate, Mr. Chairman, this is the vehicle through which the Congress can get control over total spending. That can be done only through the bill on which the Rules Committee is currently holding hearings, and it provides for a Budget Committee to set a legislative budget and with teeth to stay within the total budget limitations. Very likely the House will pass this legislation this afternoon, but there is no doubt, but that the President will veto the bill. Further, there is little doubt, but what the Congress will sustain the President's veto. As a consequence, this debate on this measure is a debate of futility.

The CHAIRMAN. The time of the gentleman has once again expired.

Mr. MARTIN of Nebraska. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Chairman, first of all I should like to commend the previous speakers, whether I agree with them or disagree with them, because this is a bill on which there has been meaningful debate in the Committee on Rules. There have been extended hearings, and there certainly has been a divergence of opinion. For my own position, I oppose this legislation but very strongly favor the enactment of budgetary control legislation.

Since I have been in the Congress, I have sensed a need for budget control legislation. It just seems incomprehensible to me to be voting on expenditure after expenditure without any type of budget control and then expect somehow for the President, whether he be Democrat or Republican, to finally come up with the necessary balancing act to make everything come out all right. Then when we reach a point such as we have reached several times in the past, not only in this administration but in prior administrations, where there has to be some impoundment of funds, we immediately position ourselves so that we criticize the President for doing that which we have forced him to do. To say the least, this is the height of fiscal irresponsibility, and I cannot subscribe to it.

Certainly everyone in this Congress realizes that we have to keep upping the national debt because we operate in the red year after year.

All during the discussion in the Committee on Rules, and certainly today on the floor, the thought has been running through my mind as to how we could ever as Members of Congress, if this legislation should by chance ever become law, force the President of the United States to spend funds that he does not have?

I know immediately somebody will say, Why, all we have to do is increase the debt ceiling and permit him to borrow more money. They forget one thing, that that same President has to sign the legislation to increase the debt ceiling. We could pass it over his veto. However, when we come to the place where we cannot pass it over his veto, he refuses to sign the legislation, and it does not become law, and then where are we? We are on the horns of a dilemma, and every Member knows it.

This hypothetical situation shows or reveals the ridiculousness of this type of legislation. It is all right to talk about impoundment, and it certainly is discussed back home when one of our favorite projects has been the subject of impoundment.

The gentleman from Nebraska has alluded to some of the precedents where Presidents have impounded funds, and certainly I subscribe that it is the duty of any Chief Executive to impound funds that he believes should not be spent in the best interests of the country. The practice of impounding funds, through various techniques and for various reasons, reaches back as far as President Jefferson, who declined to spend an appropriation for gunboats in 1803. President Franklin Roosevelt was the first to make extensive use of impounding devices to control total Government spending, inflation, and related economic effects.

Yet, during the course of hearings on this bill, we have heard the charge that current impoundments are "different." This charge is totally without foundation. While I do not necessarily agree with the substantive arguments in question, or with the specific impoundments actions taken thereunder, there is ample precedent for Presidential impoundments. Let me review a few examples:

In 1949, President Truman refused to spend congressional appropriations to enlarge the Air Force. The President's justification:

> Increasing the structure of the Air Force above that recommended in the 1950 budget would be inconsistent with a realistic and balanced security program, which we can support in peacetime and would interfere with orderly planning for the three services based on a unified stategic concept. I am therefore directing the Secretary of Defense to place in reserve the amounts provided by the Congress in H.R. 4146 for increasing the structure of the Air Force.

In 1960, President Eisenhower refused to spend congressional appropriations for initial production of the Nike-Zeus. The President's justification:

> It is the consensus of my technical and military advisers that the system should be carefully tested before production is begun and facilities are constructed for its deployment. Accordingly, I am recommending sufficient funds in this budget to provide for the essential phases of such testing. Pending the results of such testing, the $137 million appropriated last year by the Congress for initial production steps for the Nike-Zeus system will not be used.

In 1961, President Kennedy refused to spend congressional appropriations for the B–70 bomber, and the Dyna-Soar space glider project. The following justification was given by then-Secretary of Defense McNamara:

> The progress of the administration's accelerated defense build up makes unnecessary the use of additional defense funds appropriated by the Congress above the amount requested by the administration. The extra money which Congress urged upon the Administration was composed of $514.5 million for additional B–52 bombers; $180 million to press development of the B–70 long-range supersonic bomber; and $85.8 million for the Dynasoar rocket-aircraft research vehicle project. The decision to continue our present program was made after a most thorough review of all aspects of the matter. * * * The clear conclusion of this latest analysis was that the program progress of the Administration's accelerated defense buildup makes unnecessary the use of additional funds appropriated.

In 1966, upon signing the Agriculture and Related Agencies Appropriation Act of 1967, President Johnson stated:

> * * * the total of appropriations effectively provided in the bill—after taking into account both increases and decreases—is $312.5 million above my budget request. During a period when we are making every effort to moderate inflationary pressures, this degree of increase is, I believe, most unwise. Rather than veto this bill and add still further to an already crowded congressional calendar, I intend to exercise my authority to control expenditures. I will reduce expenditures for the programs covered by this bill in an attempt to avert expending more in the coming year than provided in the budget.

In his 1966 message to the Congress on fiscal policy and stable economic growth, President Johnson said:

> Certain actions have become clearly necessary to protect the interest of our people in stable prosperity and I intend to take those actions now. I am going to cut all federal expenditures to the fullest extent consistent with the well-being of our people. I am prepared to defer and reduce Federal expenditures: by requesting appropriations for Federal programs at levels below those now being authorized by the Congress, by withholding appropriations provided above my budget recommendations whenever possible, and by cutting spending in other areas which have significant fiscal impact in 1967.

President Johnson subsequently announced a $5.3 billion reduction in fiscal 1967 Federal expenditures. The President said:

> Today with the $5.3 billion reduction in Federal programs, we have taken another step to preserve our prosperity. By that action, we will stretch out, postpone, withhold, and defer the less essential items of our programs.

Mr. Chairman, as we can see from these precedents, impounding is a well-established executive practice, in which Congress has generally acquiesced. Impounding has been used by Presidents of both political parties.

Just today before the Committee on Rules the chairman and other members of the House Foreign Affairs Committee appeared for a rule on the Foreign Assistance Act, now called the Mutual Development Cooperation Act of 1973. I predict that many of these members who were before our committee asking for a rule, who helped prepare and subscribe to its report, will be voting for this anti-impoundment legislation when we vote on it today. However, I would like to call to their attention an item appearing on page 11 of their committee report which reads as follows:

> Opponents of the foreign assistance program are critical not only of the unexpended balances but of unobligated balances which are also described as sizable. They argue that the Executive has asked for and Congress has voted more money than can be used. This complaint rests on the theory that money appropriated must be spent regardless of the changing circumstances. The committee does not endorse an imprudent approach in dispensing public funds. If a particular program does not materialize as planned it is a mark of sound management to withhold the obligation of funds.

Mr. Chairman, even though I do not support the foreign aid bill I support this language which was put in the committee report. I ask, how can you subscribe to this position and vote for the anti-impoundment bill? On the bottom of that same page it sets forth all of the unobligated funds and particularly with the Department of Defense, the foreign assistance program, and the Department of Agriculture program and others. We have a sum total on June 30, 1973, of unobligated, unreserved funds of $184 billion.

Do we want to turn this $184 billion loose on the American economy? If we pass this legislation it could be turned loose, or a sizable portion of it. Do we want this much more red ink and the inflation it could bring? This is what we are talking about today. We are not talking about some small project in our district that has been held up. We are talking about all of these unexpended, unreserved funds.

This is a very serious question. Certainly as I indicated at the outset I intend to vote against this bill, but I intend to support budgetary control legislation which will put proper restraints on this body and the other body so that we can at least start to get our fiscal house in order.

Mr. MARTIN of Nebraska. Mr. Chairman, I yield 10 minutes to the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Chairman, this is the finest example I ever saw of the House attempting to put the cart before the horse. I think everybody who has spoken here has indicated that he would like to have the budgetary system brought under control. My question is: Why do we not do it? Why do we kill or try to kill the only means by which budgets have been put under control before we adopt a system, for the purpose of establishing control over the budget?

We have available the mechanism for doing that. It is a bill in the Rules Committee to establish budget control. I am very pleased with the manner in which the Rules Committee is handling it. They propose to get the legislation out as soon as they possibly can. I hope they will. I know they will try. But I do not know what the haste is as far as this bill is concerned. Why is it not prudent to wait until the budgetary control bill is enacted, and then perhaps we can see whether or not an anti-impoundment measure is necessary?

I have always felt that if the Congress of the United States exercised its responsibilities under the Constitution, providing for a means of controlling budgets, and if those means were followed faithfully and the budgets were in fact under control, that there would be no reason for any President to impound in such a way as to offend the Congress. Such control does not now exist, and I believe that until it does, this legislation should not be passed and should not even be considered.

Anyway, here we have it. There has been much said about the reason for impoundments, and I would like to do what I can to shed a little bit more light on this. I am not going to review the various instances of impoundments which have been made by other Presidents. This has been well said by others.

I would like to say to my good friend from Missouri (Mr. BOLLING) that I cannot help but be intrigued by the manner in which his fine legal brain was able to determine that President Kennedy really did not terminate a program when he ended the B–70. I am sure that the present President, and I think probably past Presidents, would be greatly amazed if they realized their role as Commander in Chief went so far as to dictate to the Congress the type of weapons systems which the Congress should adopt and build.

The gentleman, however, is very persuasive and I am sure many people were persuaded. I have to inform him that I was not, in that particular instance.

However, looking beyond the reasons that this President has had for impoundments, let us look at really what he has impounded. The figure is about 3 percent—3 percent of the total budget was impounded in the last fiscal year. If we were to assume that 3 percent were to be impounded each fiscal year, we would come up with a figure of somewhere between $5 and $6 billion. Actually, of course, taking cases as they were, the President did impound $6.5 billion last year in order to come within the $250 billion ceiling which was imposed.

I say that it was imposed, even though I am fully aware of the fact that the ceiling was not in the debt limit legislation which was adopted by the Congress when it finally went to the White House for signature. It was not actually in that legislation because of a technicality. But everybody knew that the Congress expected the President to try to hold the expenditures to $250 billion. In fact, my good friend, the chairman of the Ways and Means Committee, in response to a colloquy from me at the time the debt ceiling bill conference report was on the floor, stated that in his mind there was no doubt that we intended to impose a spending ceiling on this President. So, the President did his very best and was very successful in operating the Government within that ceiling in fiscal 1973. I would think that we would be praising the President for doing what the Congress indicated it wanted him to do, instead of castigating him for impoundments.

It is obvious that he can only stretch the cloth as far as the cloth will stretch. We have given him a limitation, and then we have given him spending authority which was in excess of that limitation. Obviously, he either had to break the limitation or he had to impound, and he did impound. That type of impoundment will be done in future years, particularly under the bill which we have before us today.

This bill provides that in the event there is spending authority in excess of the ceiling, that the President may impound proportionately. This, I think on the face of it, sounds like a fair approach, but when we examine it, we find it is not fair, it is not proper, and probably is not very smart, because although the bill sets forth, as it properly should, certain sacred cows, certain areas in which impoundments cannot be made and which are not applied in this bill, the implication is that in order to keep below the ceiling which is imposed here, the President will have to do some impounding proportionately.

Where will he impound? It boils down to two places, roughly. One is defense and one is domestic spending, other than those areas which are exempted by the bill. So, the President of the United States will find it necessary to cut proportionately.

If he cuts the Federal Communications Commission, or the Securities and Exchange Commission, or the cancer program proportionally, what he will have to do is to cut people, because this is the main expenditure for which these Departments spend money. This is cutting where it hurts. But, so far as the Department of Defense is concerned, there are lots of ways the President could impose a proportional cut without cutting people at all and without hurting too much so far as the Department is concerned. He could, if he desired, cut whole weapons systems. Yet, because he must cut proportionally, he cannot make the obvious, easy cuts.

I might say also this bill is imperfect in that it does not allow any leeway for consideration of special circumstances, circumstances in which perhaps a program in a given Department would be found to be unnecessary after the appropriations are made. There is no provision made for that.

So I say to the Members that the way in which this bill is set forth is not wise. It does not give the flexibility which is required after the Congress has done its work.

Let me say, Mr. Chairman, I do not like the idea of impoundments any better than anybody else does. As a Member of the House I resent the idea that the Executive can impound, can end programs, and so on and so forth. But again may I repeat that until we find a better way to control spending, until we take that better way and make it a part of the budget procedure of the House and the Senate, then in my opinion this bill should be defeated. It will be taking away the only protection, the only bulwark the people of the United States, the taxpayers, have against unwise spending which would be foisted upon them by some actions of Congress which might be perfectly well intended but which would nevertheless result in huge budget deficits and further inflation.

Mr. DEL CLAWSON. Mr. Chairman, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from California.

Mr. DEL CLAWSON. Mr. Chairman, the importance of establishing national priorities in a reasonable manner as a basis for the orderly operation of the Federal Government is nowhere better demonstrated than in H.R. 8480, the anti-impoundment bill currently under consideration. It is demonstrated conversely—and that is appropriate—because I submit that this legislation presents the House with unique, unfortunate opportunity to demonstrate "the power of negative thinking."

The bill ignores the crucial need to establish procedures so that Congress can legislate program priorities within fiscally responsible budget totals. Instead priority is given to an attack on the Executive impoundment procedure, inviting sure veto and possible constitutional confrontation.

The Constitution leaves no doubt concerning the roles of the Congress and the President. They are defined unequivocally: The Congress legislates, and the President executes those laws. This bill, however, seeks a fundamental change in the long-established relationships between the legislative and executive branches and would severely hamper the Executive's responsibility to "execute" the laws enacted by the Congress. The bill would involve the Congress directly in the day-to-day management of Federal programs in a way which is certain to hamstring the legislative process as well.

By constitutional arrangement, and by the dictates of sound management, officers of the executive branch use discretion to pace the level and rate of spending throughout the year to assure the most effective and economical conduct of Government programs and to avoid deficiencies.

If enacted, this bill would make the exercise of these basic Executive responsibilities subject to congressional veto. Thus, H.R. 8480 would reduce the President's ability to respond promptly and effectively to program needs and to changes in economic conditions. At a minimum, responsible execution of Federal responsibilities calls for Government spending to be lowered when the economy is getting overheated, and there are those who will insist that Government spending is the key. But no matter the economic school of thought, this bill would frustrate its implementation.

Title II of the bill establishes an outlay ceiling for fiscal year 1974 and requires the President to meet the spending ceiling by making arbitrary "proportionate" cuts by functional categories. This provision departs from the principle of selective reductions based on the relative merits and priorities of Government programs. Furthermore, it will create havoc in a number of agencies whose activities are primarily labor intensive. For example, for activities of the FBI, drug control, Federal prisons, Internal Revenue Service, Federal Aviation Administration, Customs, passports, regulatory functions, and so forth—a cutback in appropriations is quickly translated into reduced spending and may require a reduction in force. On the other hand, agencies dealing with activities such as procurement, construction, and defense weapon systems might not realize the effects of a cut in appropriations until 1 or more years later.

The proportionate reduction-type approach is a shotgun approach which does not permit program evaluation to assure that the incremental dollar is spent most effectively for the highest priority programs. It would allow some agencies to go relatively unscathed while requiring others to cut back essential and important programs immediately.

It might be argued that in the present legislation, Congress is acting consistently, with its own well-established record of inconsistency. During the 92d Congress with apparent agreement between the House and Senate on a debt ceiling of $250 billion, spending was closer to $261 billion.

In the same dubious tradition of inconsistency the legislation before us establishes a level of appropriation lower than the President's budget, and simultaneously it adds a costly piece of governmental machinery. It requires reports on hundreds of routine administrative actions not now covered by such paperwork, and at untold cost.

An additional inconsistency. Recognizing that the next national crisis may well be the threat of engulfment in a flood of Federal newsprint the General Accounting Office has been ordered to conduct a stern review of Executive paperwork. H.R. 8480, however, directs the establishment of monitoring and reporting procedures which can only increase the proliferation of paperwork to unheard-of levels.

But the contradiction with most serious implications, is for the Congress to insist on its constitutional power of the purse while simultaneously denying itself the machinery to carry out that responsibility and in effect shifting the decisions on national directions, and priorities as this legislation does, to the executive branch.

It is my belief that responsible exercise of the power of the purse dictates that the House reject H.R. 8480 and turn promptly to consideration of practical proposals to structure the budget to meet established national needs. Such responsible action would defuse the impoundment issue and reaffirm the balance between the executive and legislative powers as established by the Constitution. The choice would be to use the legislative machinery positively rather than negatively.

Mr. LONG of Louisiana. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Tennessee (Mr. EVINS).

Mr. EVINS of Tennessee. Mr. Chairman, I want to declare my strong support for H.R. 8480 which, in my view, will protect the Congress from further excessive, arbitrary and unlawful impoundments by the executive branch.

This bill will also provide for a budgetary ceiling of $267 billion—a rigid ceiling—which is $1.6 billion less than the President's budget.

I am opposed to mingling this bill with so-called budget control legislation which proposes, among other things, to establish new committees and change the rules of the House and Senate—obviously proposals that will require extended debate and separate consideration. This should be considered separately.

The basic premise of this bill is to restore to the legislative branch—the Congress—the appropriations power which has been substantially eroded over the years to the executive branch.

I should like to point out that in 10 separate Federal court cases, nine Federal courts have held that excessive impoundments are illegal—this proves that the executive branch is acting wrongfully and illegally by assuming power which under the Constitution is vested in the Congress.

While we all recognize that most Presidents have impounded appropriated funds in limited amounts—none have gone as far or been as excessive in amounts as impounded by President Nixon and the present Office of Management and Budget.

As an example of this unconstitutional and illegal practice, I should like to point out further that the Office of Management and Budget in fiscal 1971 impounded and withheld appropriations for every public works project in the country added to the administration budget request by the Subcommittee on Public Works Appropriations.

Every single congressional add-on was impounded, Mr. Chairman—and our committee was singled out for special punitive attention—the work of our committee was negated, delayed and slowed down for a full year until the funds were released.

I want to point out further that the Comptroller General of the United States—the Honorable Elmer B. Staats—in testimony before committees of the Congress has stated as follows:

> We are not aware of any specific authority which authorizes the President to withhold funds for general economic, fiscal or policy reasons.

General economic policy has been the administration's stated reasons for massive impoundment coupled with its own conclusions that certain progressive programs enacted by the Congress should be terminated by executive fiat and impoundments.

Not only has General Staats declared such impoundments to be without authority—but also the courts have so held that impoundments are illegal.

This bill simply puts teeth into the constitutional provisions setting out the powers of the Congress by requiring that any impoundment must, in effect, be subject to review by the House and Senate.

Furthermore, the budgetary ceiling which this bill proposes is $1.6 billion below the President's budget recommendation.

This reinforces custom and tradition in the Congress which has customarily cut presidential appropriation requests for 25 years.

The issues here relate to priorities—whether to substantially increase the defense budget and spend billions for foreign aid, as the administration proposes—or whether to give a greater priority to domestic needs of our people at home.

In other words, the administration wants to dictate to the Congress across the board how every dollar shall be spent—and any deviation is labeled "budget-busting" when in reality Congress is simply asserting its constitutional power of the purse to set its own priorities.

We have seen this administration withhold appropriations arbitrarily and at will—wage war without consent of Congress—negate legislation through executive fiat—and drastically revise and restructure authorized programs of the Federal Government without the constitutionally required approval of the Congress.

The American people according to a recent Gallup poll overwhelmingly endorsed the provisions of this bill.

The American people want to strengthen the Congress—and certainly the Members of Congress should be sensitive not only to the will of the people but to the fact that the constitutional power and authority of Congress must be restored, reasserted, and preserved.

This is a good bill.

A historic bill which should go a long way toward halting the drift of appropriations power and authority from the Congress to the executive branch.

This bill should help return "the powers of the purse" to the Congress.

Its passage is long overdue.

Mr. MARTIN of Nebraska. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Chairman, I think today's little exercise on H.R. 8480 could most aptly be described as "let-it-all-hang-out day," for I doubt if there are any among us whose district has not been hurt at one time of another by one type of impoundment or another; and this bill does provide a vehicle, indeed an outlet to protest those impoundments and release a lot of pent-up steam on behalf of our constituencies. So, I suppose from that standpoint alone, this is a useful exercise though one of very limited scope and dubious legislative value or effect. In fact, one of my colleagues on the Rules Committee has termed this bill, as it now stands, a rather "worthless," "silly" and "meaningless" measure because it is going to be vetoed and the veto will probably be sustained, and where will that leave us?

I do not come before this committee as an apologist for or a proponent of Presidential impoundments in perpetuity; I find impoundments just as distasteful and unwelcome as the next person. At the same time, I recognize the very hard choices and unpalatable alternatives which confronted the President in attempting to hold fiscal 1973 outlays under $250 billion which he felt was the most the economy could sustain without further inflationary damage. And I also recognize that the Congress gave him very little assistance in making those choices and holding spending to that level. Indeed, on one day we embraced the President's ceiling, and then, in the same bill, we turned around and repealed it 1 day after enactment. In that same bill we created a Joint Committee on Budget Control to give us final recommendations the following February on how to reform our spending procedures in the Congress; but the February deadline rolled around and the joint committee issued a preliminary report and asked that it be given until the end of the year to issue a final set of recommendations.

After some considerable pressure and prodding, the joint committee did come forth with a final report and a bill on April 18 of this year, and I think the joint committee is to be commended on its fine efforts. And yet, while everyone seemed primed for budget reform at the beginning of this session, interest suddenly cooled with the prospect of real budget reform staring us in the face in the form of H.R. 7130.

In the meantime, the gentleman from Texas (Mr. MAHON), in cooperation with the leadership on the other side of the aisle, introduced an impoundment control bill, H.R. 5193 on March 6, 1973. The House Rules Committee began hearings on this bill less than 25 days later, and concluded those hearings in 2 months on May 21. Then, on June 7, a new bill was introduced by the chairman of the Rules Committee, H.R. 8480, which differed substantially from the Mahon bill on which the hearings had been conducted. And yet, without further hearing, the latter bill was reported by the committee on June 27.

Despite the fact that the Rules Committee concluded hearings on impoundment in the latter part of May, and despite the fact that the Joint Study Committee's budget reform bill has been pending in rules since April 18, it was not until June 27 that the Rules Committee finally got around to conceding the beginning of hearings on budget reform, and it was not until July 19, 3 months and a day after the introduction of the bill, that hearings actually began.

The point I am trying to make of all this is that we have our own priorities in this body strangely out of whack. In attempting to rush this impoundment control bill through ahead of budget reform legislation, we really are not solving any problem, we are only creating new problems for ourselves. We are saying, in effect, let us end Presidential spending controls now and maybe do something about controlling congressional spending later; if spending should get way out of hand in the interim, so be it; we are working on it.

But Mr. Chairman, at this critical juncture in our Nation's economic history, I submit that we can ill-afford to adopt such approach. The President made a forthright appeal to the Congress last week during his phase IV message to assist him in the anti-inflation effort by exercising fiscal restraint. And yet, 1 short week later we are considering legislation which would force the President to abandon the fiscal restraint he has been exercising while doing nothing about substituting for those restraints our own set of spending control procedures. This should be what we are considering today, and not a bill which simply adds another confrontation coal to the fires of constitutional crisis.

I think there is an opportunity today to improve this bill in such a way that it does hold forth a more constructive approach to this whole problem. I have proposed an amendment which would help accomplish this goal. It would strike the pro rata Presidential impoundment authority in title II for fiscal 1974 and in its place substitute a procedure whereby the Congress would be accepting full authority for observing the fiscal 1974 expenditure limitation.

I hope the Members of this body will accept this amendment as well as the other amendments which I intend to offer in an attempt to improve this legislation. In brief, those other amendments would: First, make it possible to exempt from the impoundment control procedures those routine impoundments which, in the determination of the Comptroller General, are clearly in accordance with the Anti-Deficiency Act; second, provide for concurrent rather than simple resolutions of disapproval; third, make it possible to selectively package the concurrent resolutions of disapproval; fourth, make it easier to discharge the Appropriations Committees from further consideration of such resolutions if they have not been acted upon within 30 days; and fifth, make it possible to amend these concurrent resolutions of disapproval on the floor of each House. I have included the full texts of these amendments in the "Dear Colleague" letter which I circulated yesterday, and they can also be found in the July 10 RECORD at page 23147.

Mr. Chairman, I think it might be useful and appropriate in concluding these remarks to put this whole issue of impoundments in proper perspective. Impoundments, as defined by this legislation, are not something which has been invented by the present administration. They have been practiced by Presidents dating back to Jefferson. Nor are the impoundments practiced by the present administration greater in terms of total outlays than those practiced under the previous two administrations. According to the impoundment report issued by the Office of Management and Budget on July 13, 1973, the total amount of funds being held in reserve as of June 30 of this year was $7.7 billion or a $700 million reduction from the last reporting date which was April 14. The latest reserve figure amounts to 3.1 percent of estimated total budget outlays for fiscal year 1973.

That compares with a range of from 7.5 percent to 8.7 percent between fiscal years 1959 and 1961. At the end of 1967, the amount of reserves as a percentage of total outlays was 6.7 percent. At the end of fiscal 1972 it was 4.6 percent. And keep in mind that we are talking about only 3.1 percent of total outlays in fiscal 1973 as compared with an average range of 6 percent over most of the last decade. So, as a percent of total outlays, the fiscal 1973 reserves are about half the average reserve percentage of the last 10 years.

To put this matter in further perspective, the lion's share of the impoundments do not come down on the human resource side of the budget, as contemporary popular myth would have us believe, but rather on the space-defense-public works side of the budget. The latter category accounted for some 70 percent of the impounded funds in fiscal 1973, while only 9 percent of impounded funds were in the areas of community development housing, education, manpower, health, and income security.

I think it is especially important to keep these facts and figures in mind as we deal with this legislation today, for we might otherwise be left with the impression, from what is said, that the impoundments which are being practiced today are somehow of an unprecedented magnitude and scope and are aimed primarily at human resource programs. Such allegations just do not have any basis in fact.

Nevertheless, I for one am willing to accept an impoundment control bill with modifications so long as it recognizes budget reform as at least a coequal priority. I take this position partially in the spirit of compromise, and partially on the basis of my strong belief that the Congress should be exercising its constitutional prerogatives in the area of spending, both in terms of setting priorities and controlling expenditures.

I think if this body does accept the amendments which I intend to offer and proceeds in an expeditious and thoroughgoing manner to establishing congressional budget reform machinery and procedures we will, in the words of our present Budget Director, "have taken a major step toward defusing the impoundment issue."

We can, by our action here today, Mr. Chairman, begin to defuse that issue or only further confuse that issue. I would hope that this body is now ready to take the more constructive approach and thereby put confrontation politics behind us. Let us recognize that in budget control legislation, and not in impoundment control legislation alone, we have an unprecedented opportunity to achieve the most monumental of congressional reform in this century. Let us get on with it.

Mr. Chairman, I think the time has come for this body to clearly indicate for the record its intention to restore congressional control over the budget process.

Quite frankly, I feel nothing could be more germane to the problem of impoundments than the need for congressional control over the budget process. For if we had the will and determination and machinery to exercise effective spending control at this end of Pennsylvania Avenue, we would not be confronted with the problem of how spending control was being exercised at the other end of the avenue. Last fall, as part of the debt limit bill, both Houses of Congress adopted a $250 billion expenditure ceiling; and yet, the bill which finally emerged from conference contained a provision which repealed that provision the day after enactment. The President subsequently set about to do all he felt he legally could to hold spending within that limit. While there were those who dismissed the $250 billion ceiling as unrealistic and an election year political gimmick, the fact is, as reported to us last week by the President, that he was actually able to hold spending under $249 billion—and keep in mind that that still meant a $17 billion deficit. The reductions made by the President were not popular and were primarily responsible for the legislation which is before us today. But ask yourselves, what would that deficit have been if he had not taken those actions? How much graver would our economic situation be today if he had spent everything which the Congress authorized and appropriated?

It should seem obvious from this experience that our first priority should be to establish our own enforceable spending ceiling and to order spending priorities within that limitation. And yet, we have a bill before us today which would deny the President authority to hold down spending while doing next to nothing about our own propensity to push up spending. Oh, there is a provision in title II of the bill which grants the President the authority to make pro rata impoundments in fiscal 1974 if the Congress should overspend. But does not it seem a bit ironic in a bill which is purportedly aimed at controlling impoundments that we would be granting the President unprecedented new authority to make sweeping, across-the-board impoundments? And does not this constitute an open invitation for the Congress to play all sorts of games with appropriations bills in anticipation of the pro rata cuts, while completely avoiding and evading the central responsibility of making our own spending priority decisions within an agreed-upon limit? H.R. 8480, as it now reads, is not a responsible and responsive bill; it is a scenario for constitutional confrontation and political game playing. One of my Democratic colleagues on the Rules Committee put it another way when he said this bill is "worthless," "silly," and "meaningless." He went on to say that when we have a real opportunity to strike a blow for our prerogatives, we run for cover.

I would submit to you today that we do have a real opportunity to strike a blow for our prerogatives by enacting a comprehensive budget reform bill. For if we put our own fiscal house in order, we would obviate the need for impoundments. On April 23 of this year, I received a letter from Budget Director Roy Ash in which he said, and I quote:

> If the Congress can develop its own procedures to establish and maintain an appropriate budget total, and to set its priorities within (or very close to) that total, the Congress will have taken a major step towards defusing the impoundment issue.

Mr. Chairman, I realize that some of my colleagues on this side of the aisle are not enthusiastic about any impoundment control bill; and I realize that some of my colleagues on the other side of the aisle are not terribly enthusiastic about any budget reform bill. But I also know that the American people are looking to the Congress today, at a time when our economic and political systems are in great turmoil—are looking to the Congress for new leadership and for constructive and responsible action. They are not interested in more confrontation headlines which will only exacerbate the crisis of confidence in Government. They are looking for signs that will restore their faith in Government.

Today, in H.R. 8480, we can continue down the path of confrontation politics and further erode the confidence of the people in their Government; or we can, by going on record for budget reform as a first priority, set out on the new path of constructive cooperation and responsible leadership and begin to restore that sagging confidence.

Let me simply say in closing that while budget reform legislation has been pending in the Rules Committee for 3 months, only last week did we begin hearings on that legislation. There is now talk from the leadership about enacting a budget reform bill before the end of this year, and this is essential if it is to be in place and in operation in time for our fiscal 1975 spending activities and decisions. I fear that our interest in budget reform may again wane and we will again be plagued by that recurring fiscal nightmare which is our chaotic and calamitous budgetary process if we deceive ourselves by thinking that the bill which this resolution makes in order is a solution to the present fiscal crisis in the Federal Government.

Mr. MATSUNAGA. Will the gentleman yield?

Mr. ANDERSON of Illinois. I am pleased to yield to the gentleman.

Mr. MATSUNAGA. I thank the gentleman for yielding.

I would like to agree with the gentleman in the well that perhaps the budget bill ought to have been considered by the House first. However, as a member of the Committee on Rules, the gentleman has had the experience, just as I have had, in voting for appropriation measures even before the authorization measures had been approved by the Congress. In this case we have had the anti-impoundment bill before us from the very beginning of the year, and it was not until the special Joint Committee on the Budget reported the budget bill to the Committee on Rules that we have had the budget bill before us. The time element has determined for us the order in which the bills are to be considered.

As the gentleman in the well has been assured by the leaders on this side of the aisle, we do fully intend to pursue the budget bill and I for one will do all I can to bring it on to the floor.

Mr. ANDERSON of Illinois. I thank the gentleman for his contribution. I know that the gentleman from Hawaii for one is completely sincere in that statement.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. BOLLING. Mr. Chairman, I yield 5 minutes to the gentleman from Florida (Mr. PEPPER).

Mr. PEPPER. Mr. Chairman, and Members of the Committee, I am pleased to have had the honor to be one of the sponsors of this legislation from the Committee on Rules. I believe it to be more than a coincidence that the Congress is considering at this time this measure to restore, or to reclaim, if you prefer, the power of the purse from the Executive, and is at the same time considering a resolution to restore, or to reclaim, as it were, the power to make war which, by the present and previous Executives has been exercised by the Chief Executive of the country.

I believe it was Thomas Jefferson who said that:

> A republic, while not always the wisest, is in the long run the safest depository of power.

The ancient struggle between the House of Commons and the King was over the control of the purse. The King wanted to make war at his will, but he needed the concurrence of the House of Commons to provide the funds with which to wage that war. Naturally, he, like other Executives, would often become impatient with the reluctance of the legislative body to provide the funds that the royal will wished to expend. Just so, Executives in the present and in the past have been impatient with the tardiness of the Congress is doing what they would like done, in changing the laws when they would like them to be altered or repealed, and in declaring war, after long debate, if at all instead of the Executive having the power to mandate the Armed Forces of the United States when he desired to do so.

And when Congress has been reluctant or tardy in the assertion of its authority, it is rather natural that the Executive should have proceeded according to what, in his opinion, was in the public interest.

But again, Jefferson said that a Republic in the long run is the safest depository of power and a Republic means for the warmaking power and the power of the purse to be in the representatives of the people.

Now we are providing by resolution, already through the House, and I hope it will soon become the act of Congress, that the President cannot enter into war or engage in hostilities for any appreciable time without the concurrence of the Congress of the United States, the warmaking power being reserved to the representatives of the people.

Now we are saying in this resolution today that the President may, because of what he considers his legal authority presently existing or because of changed circumstances or the public interest as he sees it, say to the Congress, "I do not believe it desirable that your appropriation be literally carried out or expended, therefore I advise you that I do not propose to expend it as you have authorized me to do," giving his reasons therefor. Then under this measure we are considering today, if the Congress does not acquiesce; if both Houses do not give silent agreement to the President's attempt to withhold funds appropriated and not faithfully carry out the law of the Congress; if one House disagrees, then the action of the President is futile. This is in the public interest.

Mr. Chairman, and my colleagues of the committee, we are today considering another most important step, like the one we took here the other day in regard to the war-making power, in reclaiming power that the Congress alone should possess, the power to determine the expenditure of the public money and, above even that, the power to determine the priorities for which the public money shall be spent.

The Congress determines the public need; the Congress determines the public interest; and the President's constitutional obligation, as the forefathers particularly provided, is to take care that the laws be faithfully executed. The Constitution could have provided that the President shall execute the laws but those wisest of all men, those men who, as Gladstone said, struck off the greatest single document that ever came at a given time from the mind and hand of men, those men added two things further than just executing the law as the obligation of the President. They said in the Constitution that the President shall "take care that the laws be faithfully executed."

Therefore, it seems to me that the Constitution is clear and that we are following the Constitution by the reassertion of our legislative power over the purse in this resolution.

Mr. MARTIN of Nebraska. Mr. Chairman, I yield 10 minutes to the distinguished gentleman from Michigan (Mr. CEDERBERG).

Mr. CEDERBERG. Mr. Chairman, I cannot help but recall that early in this session one of the burning issues appeared to be the question of impoundments, and, as a result of this publicity on impoundments, the distinguished Committee on Rules did not hold hearings on impoundments in its hearing room here in the Capitol, but took a hearing room in the Rayburn Building so that everybody could appear on television and so that the public of our country could then be advised and notified of the importance of this question of impoundments. Here we are.

Mr. BOLLING. Mr. Chairman, will the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman from Missouri.

Mr. BOLLING. The Committee on Rules met there, I think, as I remember, specifically at the request and certainly with the concurrence of the minority so that people like Mr. Ash would have an opportunity to be heard fully in a room that was not as crowded as our own hearing room.

Mr. CEDERBERG. I had not heard that it was at the request of the minority, but I am delighted that we did have an opportunity to be heard fully.

However, let us see where we are now with this great and overriding question of impoundments. Here we are after the hearings have been held by the Committee on Rules, and we are debating it here today. There are 435 Members in the House, and we have about 25 on the floor. The Press Gallery, I think, is relaxing comfortably, so I see really the question of impoundments is not very exciting these days.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Would the gentleman want to have me offer the point of order that a quorum is not present? I shall be glad to do so.

Mr. CEDERBERG. No, I do not think I could really add anything more to the question, and I would not want to disturb Members who are in committee meetings.

I think the question we have before us now is one that has been debated for so long and so well understood and so well handled by the President that it is not even of any concern to the country any more. The simple facts are this. I listened to my good friend, the gentleman from Missouri (Mr. BOLLING) regarding the question of the $250 billion spending ceiling, and that somehow that ceiling did not have any effect at all.

The simple facts are, whether the Members like it or not, the Senate and the House passed a $250 billion spending ceiling. Because the House and Senate conferees could not agree on how to make the necessary reductions, they added a clause which voided the ceiling. However, the ceiling language is in the bill, and both House and Senate passed the ceiling. If this does not indicate to me that the Congress was interested in a spending ceiling in that area, then I do not understand it.

Let me tell the Members further that the spending ceiling was adhered to, and I do not think it brought any great trauma from around the country. Oh, there were a few executive secretaries in some of these lobbying agencies whose jobs depend upon making a noise in a situation like this. And I applaud them for it. They ought to be fired if they do not.

So we have now instead of spending $261 billion which was mandated by the Congress, that we are living within a spending ceiling of $250 billion, and I do not think anybody was very hurt by it at all.

Where are we today? I have listened with interest to my good friends on the other side saying really there is not any politics in this issue at all. There is never really any politics in this issue unless we have one party in the White House and the other party in the Congress.

There never was. There never was any furor over impoundments during the Johnson administration nor the Kennedy administration, and yet there were as many impoundments. Oh, we can have an argument that there are different kinds of impoundments, but the simple facts are we would not be having this kind of issue if we did not have different political parties in control in the White House and in the Congress. It is as simple and fundamental as that.

I suggest, if Members have not already done it, that they read the hearings of the Rules Committee. The first thing I would suggest is they read the statement of the chairman of the committee on this issue, and if that is not a political document on impoundment I have never read one. I will not take the time to read what it says, but if that is not political I do not know anything about politics.

Second, I have not seen him here on this debate on this very crucial subject.

I would suggest the Members read page 54. I had inserted in the hearings an article entitled "The Politics of Impounded Funds," reprinted from the George Washington Law Review, by Mr. Louis Fisher. This is an interesting document, and I would recommend that all Members read it.

Mr. BOLLING. Mr. Chairman, will the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman from Missouri briefly.

Mr. BOLLING. I wanted to mention that the chairman of the Rules Committee was here and participated.

Mr. CEDERBERG. Fine. I really did not mean anything disparaging by that. I know there are other things that he has that are much more important than this important subject we have here today, which turns out not to be very important.

What about this bill? This is one of the most interesting two-headed monsters I have ever seen. In one part of the bill it says that we are going to deal with the question of impoundments, so we can make the President spend more money. We are not complaining about impoundments because he is spending too little. We are complaining because we want him to spend more.

So it goes into all kinds of details, and is an administrative monstrosity which puts an unusual and almost impossible burden on the Office of Management and Budget.

I might say this is an organization which is under attack, and we will probably have amendments next week to reduce the actions and activities of the Office of Management and Budget, at the same time this impoundment bill puts a huge workload on it.

We in the Appropriations Committee will be inundated with letters coming in by the hundreds because there are hundreds of impoundments items which will have to be investigated and reported by the General Accounting Office.

But what do we do in the other part of the bill? The President has recommended a budget of $268.7 billion. This bill sets a spending ceiling of $267.1 billion which would be a cut of $1.6 billion in the President's budget. What have we done so far in the House of Representatives just this year in this regard? On the Labor-HEW appropriation bill, we went $1.2 billion over the President's budget, but actually it is $1.8 billion because we took $600 million in the budget for advanced funding of community health centers, and used that $600 million for other programs where most of it will be spent in fiscal 1974. So in effect what we have is $1.8 billion in one bill. In the Independent Offices, HUD, Space Science, we are $500 million over.

That is only the first 6 months of this session. According to the figures that are put out by the Joint Committee on Reduction of Federal Expenditures, the House has gone $922 million in expenditures over and the Senate $2,255,000,000. On the one hand we do not want the President to impound, so we reduce his budget by $1.6 billion. On the other hand, we increase all these appropriations which have spending impacts. So if this bill is adopted, the President has to impound.

Does anyone disagree with that? He has got to impound. We are telling him he cannot impound unless it would be a percentage across all of those agencies except those that are exempted in the bill. What will happen? In many areas such as narcotics, customs agents, the Internal Revenue Service, are personnel oriented. If we cut 3 or 4 or 5 percent, we have to cut people out of those areas. That does not even make any sense as a method by which we are going to try to control this kind of budget.

I am all for spending limitations. I voted for every one of them, and I do not think I have ever been known as a big spender around here. I attended the Joint Committee on the Budget hearing and I am going to testify before the Rules Committee on Thursday.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. MARTIN of Nebraska. Mr. Chairman, I yield 2 additional minutes to the gentleman from Michigan (Mr. CEDERBERG).

Mr. CEDERBERG. The thing I do not like about the current proposals of the joint committee is that they would set up congressional OMB which prepare a congressional budget for the executive agencies. If the Members do not think that is going to cost 500 to 700 employees, plus going down two different roads and duplicating everything, they are wrong. I have serious reservations about that.

I still maintain that the real impact of this bill does not concern many people any longer. There is not any question in my mind that if this bill were to be sent to the President, he would not have any choice but to veto it, and I would hope that he would.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. Mr. Chairman, the gentleman has made the point that other Presidents have impounded funds. The gentleman from Missouri, who spoke in the well earlier, said that action by prior Presidents could be explained away by the fact that their impoundments were made with reference to military appropriations by the President as Commander in Chief.

I would just like to point out that President Johnson impounded highway trust funds. I know, because the move affected a section of interstate highway being constructed in my district. I would say to the gentleman that this had little relationship to military appropriations.

Mr. CEDERBERG. May I just plead that, along with all the rest of us, when President Johnson was impounding highway funds I was up here condemning him for it. I was against impoundments, and in some areas I am still against impoundments. However, why do we not face up to the fact that we are talking about a political issue whose impact as far as the American people is concerned is not very broad? As a matter of fact, the impoundment actions that have been taken so far have been in the best interests of the taxpayers.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman from Colorado (Mr. EVANS).

Mr. EVANS of Colorado. Mr. Chairman, I think we are trying to find some way to resolve this difference between the executive branch and the legislative branch. I have listened very carefully to the many points the gentleman has made, and I have one question.

(At the request of Mr. EVANS of Colorado and by unanimous consent, Mr. CEDERBERG was allowed to proceed for an additional 2 minutes.)

Mr. EVANS of Colorado. Mr. Chairman, I understand there are feelings that this is political. Personally, I wish we had resolved this issue in the Johnson administration. I criticize myself for not having done so.

My question is this: No matter what method we come to in Congress for getting responsible budgets and appropriations, the final question still occurs that the President would disagree unilaterally, whether Democratic or Republican, and disregard the will of the Congress. Does the gentleman have a suggestion on this?

Mr. CEDERBERG. Of course I have a suggestion. If the Congress lives within the budget as proposed, we will not have any trouble with impoundments. I think one of the reasons we get into this problem is because we—and I am part of this organization—have been fiscally irresponsible.

We have been pushing upon the executive branch expenditures far in excess of what it has requested. This was true under the Johnson administration and is true under this administration.

One of the problems we get is that these bills come in here, they all look good politically, we vote for them, and then worry about what the Appropriations Committee has to do later.

Mr. EVANS of Colorado. I take it from what the gentleman says that what we have to do to solve this problem is to have harmonious agreement between the executive branch and the legislative branch.

Mr. CEDERBERG. No, we need harmonious agreement between the actions here on the floor, the Appropriations Committee, and the other body, and live within fiscal restraints.

Mr. EVANS of Colorado. Does the gentleman not envision many times when the Presidency and the Congress might be under the same party and yet they still might have a disagreement on decisions? Should we not prepare for that?

Mr. CEDERBERG. I do not disagree with that, but I do not believe that problem came up because of fundamental disagreement at all. It was because of the fact that we had an increase in the debt limit and we have spent $100 billion more than we have taken in in the past 4 years. I hear political statements, "Look what happened under your administration; $100 billion more." Every dime was appropriated by the Congress and demanded to be spent by the Congress; and it would be more than that, if the Congress had its way.

Mr. BOLLING. Mr. Chairman, before I yield further I should like to make one small comment. I believe I will try to arrange a nonpartisan debate between the chairman of the Rules Committee and the ranking minority Member of the Committee on Appropriations.

Mr. CEDERBERG. Mr. Chairman, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from Michigan.

Mr. CEDERBERG. We had a little debate in the hearings. It is in the front of my portion of hearings.

Mr. BOLLING. I believe the gentleman said the audience was small here, and perhaps it was smaller there. Perhaps we should have a larger audience.

Mr. Chairman, I yield 5 minutes to the gentlewoman from Texas (Miss JORDAN).

Miss JORDAN. Mr. Chairman, the impoundment control and spending ceiling legislation we are considering in the House today is a partial response to a constitutional crisis over control of the Federal pursestrings. The present administration, flouting the Constitution, laws, and tradition has been driving toward complete domination of all decisions about how and where the Federal Government is to spend the people's money.

The administration's principal weapon in this drive has been the impoundment of billions of dollars of congressionally appropriated funds.

This weapon has shaky legal foundations but powerful political ones, since the President has charged that the fiscal irresponsibility of the Congress makes the drastic impoundment procedure necessary. Until Congress reforms its procedures for appropriating funds and balancing expenditures and revenues, that charge will continue to be made with telling effect on public opinion.

The necessity for such reform was strongly underlined by a group of 30 freshman Democratic Representatives in April of this year. In an unprecedented special order on the constitutional crisis precipitated by Presidential impoundments and other practices, we joined in a resolution which read, in part, as follows:

> The undersigned freshmen Members of the 93rd Congress hereby express their endorsement of the Joint Committee on the Budget and affirm their commitment to the people to assist the Congress in providing an adequate means for comprehensive congressional review of the budget and to formulate more equitable laws for the purpose of raising revenues and to reassert that the raising of these revenues and the establishment of national priorities is the responsibility and duty of the legislative branch of government.

When the Joint Committee released its final report, this same group of freshman Members of Congress reaffirmed our sense of urgency about the need for a new system of fiscal discipline, but declined to give a specific endorsement of the Joint Committee's recommendations.

We freshman Democrats have not been alone in deploring the encroachments by the executive branch on the congressional power of the purse. The practice of impoundment in particular has met nearly universal, but to date largely ineffective, opposition in the Congress. And, despite at least nine Federal court decisions declaring specific impoundments illegal, the practice continues, making legislation like H.R. 8480 necessary.

This bill establishes a reasonable procedure by which Congress can require the President to cease an impoundment of appropriated funds. If either the House or the Senate passes a resolution disapproving an impoundment within 60 days of Presidential notification, the impounded funds would have to be released. Earlier in this session, I cosponsored legislation which would have required the President to win the approval of both Houses of Congress in order to sustain an impoundment, but the bill before us today strikes me as a workable compromise.

However, Mr. Chairman, this is not meant to imply that there are not improvements which can and should be made in this bill, or that it is an adequate response to the need to reassert congressional control over the budget. For example, I think the Congress should have the flexibility to disapprove only selected parts of any Presidential message on impoundments, and that the full House should be able to amend any disapproval message on the floor of the House after it has been reported by the Appropriations Committee. I note that the committee feels that such action would be of doubtful legality; that is, amending a simple resolution. Further, H.R. 8480 gives the President the authority to make prorated reductions in all Federal expenditures if congressional appropriations should exceed the $267.1 billion spending ceiling mandated in this bill. It is clearly inconsistent for the Congress to reassert its control over impoundments on the one hand and then to reverse itself by giving that control away on the other. If our appropriations exceed the spending ceiling, we should be forced to bite the bullet ourselves and providing for increasing revenue or raising the debt ceiling or reducing expenditures to harmonize appropriations with the expenditure ceiling.

Even more important than these changes, Mr. Chairman, is the necessity for a thorough reform of congressional procedures for dealing with the budget. We cannot allow H.R. 8480 to become our sole response to this problem. That temptation will be a strong one, since this bill deals the most noxious and well-publicized aspect of the budget control problem, and might allow some Members of this body to return home with the claim that H.R. 8480's ceiling on expenditures demonstrates Congress new-found fiscal responsibility. In fact, there remains a pressing need for developing new congressional mechanisms for examining and shaping the budget in a coherent, coordinated manner which match income and expenditure, which provide information and evaluation independent of the executive branch, which bring authorizations and appropriations into line with each other. We cannot allow ourselves to relax our drive for reform of budget procedures until such changes have been made, regardless of our success with the legislation before us today.

H.R. 8480 is more than a cosmetic on the fabric of the budgetary process. It is a necessary step in Congress reaffirmation of its presence—I urge its passage.

Mr. BOLLING. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin (Mr. REUSS).

Mr. REUSS. Mr. Chairman, I intend to offer an amendment to H.R. 8480 to strike title II, which sets a fiscal 1974 spending ceiling of $267.1 billion.

I have nothing against a spending ceiling. I supported the President's $268.7 billion target early in the year, although I disagreed with his allocation of funds within the target. The whole Whitten-Ullman budget reform proposal, of which I am a cosponsor, is based on the notion of a spending and authorization ceiling.

But the spending ceiling in H.R. 8480 is simply an irresponsible attempt to out-Nixon Nixon. The events leading to this legislation were as follows: one, Nixon proposes $268.7 billion ceiling; two, the Senate denounces Nixon budget cuts for 5 months and then passes spending limit of $268 billion, slightly lower than the President's; three, the House, similarly critical of Nixon's "low" budget ceiling for half the year, dreams up a $267.1 billion ceiling, thus cutting the targets of both the President and the Senate.

We have far too little information about economic conditions and the impact of this bill. In two volumes of hearings on impoundment, this spending ceiling is discussed rarely, and never in the detail which H.R. 8480 spells out. We need an economic analysis from the Joint Economic Committee, estimating the size of the surplus or deficit needed to bring full employment and price stability. We need figures from the Appropriations Committee, showing the spending requirements of the public sector. And we need from the Ways and Means Committee an estimate of the financial requirements of the private sector and some recommendations regarding a tax increase, decrease, or reform in fiscal 1974. Without this information we cannot and must not put our heads in a noose by adopting a spending ceiling.

Mr. Chairman, I have four specific objections to Title II: the ceiling is too low, the bill gives the President too much discretion, the formula for cutting is unwise and possibly unworkable, and the whole procedure is premature.

This ceiling is too low. Let us look at the cuts which would be necessary, given conservative assumptions about the trend of unrestrained expenditures in fiscal 1974, even to stay under the President's $268.7 billion ceiling.

Congress has already voted measures worth an additional $1 billion in outlays.

Because of inflation, uncontrollables, if they follow the averages for the past 5 years, will rise about $6 billion. The interest on the public debt is a good example of uncontrollable increases. Interest has exceeded the original estimate each year by an average of $1.6 billion. The administration announced in June, 1973, that fiscal 1974 interest would be $1.4 billion over the January estimate. With interest rates continuing to rise sharply, the 1974 increase should prove considerably greater, perhaps as great as the $2.5 billion increase in fiscal 1970—like the present, a time of severe credit crunch.

Several recent court decisions have ordered the release of impounded funds; H.R. 8480 works towards a similar end. Release of these funds could add at least $6 billion to the budget.

Adding the above amounts, cuts of about $13 billion—$1 billion for congressional spending, $6 billion for the increase in uncontrollables, $6 billion for the release of impounded funds—would have to be made to stay within the President's original figure. On top of this, another $1.6 billion would have to be cut—raising total cuts to $14.6 billion—to stay within the $267.1 billion ceiling proposed in H.R. 8480.

This is bad budgetmaking. Inflation has already undercut government activities. In January, a $268.7 billion outlay total was called an "austerity budget"; after an 8.7 percent increase in the Consumer Price Index, $268.7 billion should be recognized as a "starvation budget." To balance the budget we should raise revenues through tax reform and make judicious cuts in expenditures—perhaps along the lines suggested by the recent Brookings Institution study — rather than reduce expenditures further and in an arbitrary manner.

My second objection to title II is that it gives the President far too much authority. The intent of the bill is clearly to restrict Presidential discretion by forcing him to make cuts proportionally. Through imprecise language, the bill fails in that intent.

First, the bill says only that the cuts must be proportional among "each functional category and to the extent practicable, subfunctional category." This gives the President wide leeway. For instance, under the "functional category" of Commerce and Transportation, the President could conceivably cut Post Office pensions and mass transit, while leaving intact Federal subsidies for ship construction. Congress would lose all semblance of setting national priorities.

Second, the bill allows the President to make cuts in any program up to 10 percent greater than the "net percentage of the overall reduction in expenditures." Ten percent is actually quite a lot of latitude. By comparison, Congress each year in its action on appropriations changes each item in the President's budget proposals by less than 5 percent, on the average. H.R. 8480 would give the President twice that latitude.

My third objection to title II is that the "formula" by which cuts are to be made is unwise—hitting too few programs too hard—and possibly unworkable.

The bill specifically exempts some $136 billion worth of uncontrollable expenditures. This means that the full brunt of the cuts would fall on only $132.7 billion—less than half of total outlays. Of this $132.7 billion, another $56 or $66 billion is relatively uncontrollable—that is, it involves contracts, prior-year obligations, housing payments, supplemental security income, et cetera. So only about $76 billion—between one-third and one-fourth of the federal budget—is genuinely controllable.

Cutting $14.6 billion from less than half the budget will mean severe reductions for a limited number of programs. Programs which can be cut will have to be cut, on the average, between 11 and 19 percent.

What are the programs most likely to be cut under this proposal? Child nutrition programs, health manpower and services, aid to education, manpower and emergency employment funds, Indian education and welfare, could be cut to the bone.

Furthermore, ambiguous language in section 202(b)(2) raises the possibility that the formula is actually unworkable. It is not clear whether "net percentage of the overall reduction" refers to the average percentage cut in total expenditures, or the average cut in non-exempted expenditures. If the latter, the formula, due to the disparity in size between total outlays and controllable outlays, will be unworkable at certain levels of restrained expenditures. Assuming that $132.7 billion is controllable, the formula becomes unworkable at unrestrained expenditures of $291 billion; if only $76 billion is controllable, the formula breaks down at $277 billion, a figure well within existing spending projections.

My final objection to title II is that it is premature. For Congress to set a spending ceiling at this point would be arbitrary. To give the President wide discretion to make cuts would be irresponsible. The Rules Committee is now holding hearings on H.R. 7130, the proposal for congressional budget reform reported out by the Joint Study Committee on Budget Control. With certain improvements, this bill can set up an effective congressional budget process. We need a spending ceiling. Let us adopt one in the context of total congressional budget decisionmaking.

It is argued by some who recognize serious problems with the spending ceiling that Congress must have a fiscal responsibility vote, that the President will veto the bill anyway, that it does not really matter whether the bill makes any sense. I say that this is a fiscal irresponsibility vote. The ceiling is a dangerous abdication of congressional authority, badly conceived, badly drafted, and with every potential for embarrassing its supporters. Let us pass up this easy vote and concentrate on serious budget reform.

Mr. BOLLING. Mr. Chairman, I yield 5 minutes to the gentleman from Hawaii (Mr. MATSUNAGA).

Mr. MATSUNAGA. Mr. Chairman, as one of the sponsors of H.R. 8480, and a member of the Rules Committee which wrote the bill in its present form, I urge passage.

This legislation is the product of some of the most extensive and thought-provoking hearings ever held by the Rules Committee, and I commend the distinguished chairman of our committee, my good friend, the gentleman from Indiana (Mr. MADDEN), for his initiative and leadership in the course of those hearings.

Members of Congress from both Houses, constitutional scholars and administration spokesmen all contributed to the dialogue which produced H.R. 8480 in its present language.

Mr. Chairman, despite the exchange of different views which we have already heard this afternoon and can expect to hear in the course of the debate, the bill does not pose a partisan issue. Rather, it involves a clarification of the relationship between the two independent, coequal branches of government, the executive and the legislative. I can imagine in the future a Democratic President and—God help us—a Republican Congress, experiencing the same difficulties we find today. I, for one, would expect to find myself making the same argument then as I am making today—that Congress must reassert its constitutionally mandated duty to determine priorities, to set the policies which any President is required by the Constitution to execute faithfully.

Impoundment, to be sure, is not a new practice, and it is certainly true that Presidents other than the incumbent, impounded. Moreover, Congress has authorized the President to impound under certain circumstances. The anti-Deficiency Act, for instance, gives the President the power not to spend appropriated funds if the congressional purpose is accomplished with the expenditure of lesser amounts. For example, if Congress appropriated $100 million to find a cure for cancer, and a cure was found after only $25 million was spent, no one would argue that the Constitution requires the President to spend the remaining $75 million.

Unfortunately, Mr. Chairman, impoundment by the Executive in recent years has gone well beyond this limited purpose. Whole programs have been threatened with extinction in the name of budget-cutting.

In a number of recent instances, including highway trust funds and OEO, Federal courts have rejected the administration's arguments, and forced compliance with congressional spending decisions. In effect, H.R. 8480 merely regularizes the procedures to be followed in reviewing controversies of this type.

One point raised by the Executive in defense of its practices has been that Congress has given it inconsistent mandates, that in addition to specific program appropriations the President must comply with laws requiring him to take steps to control inflation. That would be more persuasive if the response had been an across-the-board cut of a certain percentage. Instead, this administration has chosen to use this "inconsistency" in congressional directions to justify the phasing out or even termination of programs which did not agree with the administration's plans or philosophy. Nonetheless, it seems clear to me that H.R. 8480 responds directly to this particular administration argument. In effect, H.R. 8480 would give Congress the opportunity to say, "If we have given you inconsistent direction in the past, we hereby clarify our intent. Cease this particular impoundment—or, continue it."

The mechanism set up in H.R. 8480 is in my judgment a workable approach, which represents a reasonable compromise between what have become known as the "Mahon" and the "Ervin" approaches. As the Senate-passed Ervin bill would do, H.R. 8480 would prevent one House of Congress from overturning a spending decision originally made by both Houses. On the other hand, the requirement of the Mahon approach that Congress take affirmative action to void a Presidential impoundment is retained. Either House could, by passing a simple resolution, disapprove of a particular impoundment. If neither took positive action within 60 days, the impoundment could continue.

One final provision of H.R. 8480, Mr. Chairman, is the ceiling it sets on fiscal year 1974 expenditures. That ceiling is established at $267.1 billion, or $1.6 billion less than the amount asked for by President Nixon in his budget message. This is not mere gimmickry, as some have maintained, Mr. Chairman. It is a rational attempt to keep spending within reasonable limits. It provides a mechanism for making roughly proportional cuts in all nonmandatory programs. In other words, it retains in Congress the prerogative of deciding which programs will continue, which will be increased, and which will be terminated.

H.R. 8480 is a responsible piece of legislation, one responsive to needs that have been demonstrated over the past several years. The procedures contained in the bill will make our Government function more smoothly, regardless of which party controls the White House or the Congress. I urge all of my colleagues, on both sides of the aisle, to support H.R. 8480.

Mr. O'NEILL. Mr. Chairman, will the gentleman yield?

Mr. MATSUNAGA. I am happy to yield to the distinguished majority leader.

Mr. O'NEILL. Mr. Chairman, briefly, let me run over the provisions of H.R. 8480 once again.

Title I is the impoundment-control portion. It provides that the President must notify the Congress within 10 days of any impoundment after which Congress has 60 days in which it may veto any impoundment by a vote of either House. A resolution of disapproval would have to go through either Appropriations Committee, but there is a provision to begin discharge proceedings after 30 days if one-fifth of the Members wish it. The bill does not contain the congressional item veto that appeared in an earlier version because constitutional authorities felt that such a provision might be unconstitutional. Finally, title I would enlist the assistance of the General Accounting Office in analyzing impoundment messages and making sure that the President reports all impoundments as directed.

Title I addresses itself to the President's excesses and abuses, during the past few years, of the very limited impoundment authority in the Anti-Deficiency Acts and in unwritten tradition. Historically, it has been the understanding between President and Congress that impoundment is to be used as an administrative tool to promote efficient management.

However, President Nixon has stretched this very limited, very specific authority into a broad and arbitrary means of seizing a dangerous amount of power. The President has used impoundment to thwart the will of Congress, to pick and choose among the laws enacted by Congress and to enforce only those that please him. It is the obligation of Congress to preserve its power of the purse and to defend its responsibilities from the expansion of an overly ambitious executive.

Title II of the bill is the 1974 spending ceiling. It says that the Government may spend no more than $267.1 billion this fiscal year. That figure is $1.6 billion less than the President recommended in his budget message last January, and the bill would direct the President to impound funds if necessary to stay within the ceiling. However, the President would be required to impound equitably across the board, with the exception of public assistance, veterans benefits and other items which are exempted, and there would be an absolute limit on the amount he could take from any category. He could not use this impoundment to kill any programs.

There has been some concern that this title might impose undue hardship on certain programs, should impounded funds be released by the administration. The argument goes that if housing funds, for example, are released, an across-the-board reduction under title II would take proportionately more from Defense—which has only its 1974 authority—than from housing which would have its 1974 money plus released funds from 1973.

I think Members have little to fear on that score. The President has shown little disposition to release impounded funds. If he had, there would be scant need for this legislation.

As Members know, the Senate has already acted on this matter. The Ervin bill was passed last May 10, and the Senate has tried to tack its provisions onto other bills as riders in an attempt to encourage House action.

The Rules Committee and the leadership have given this issue long and thoughtful consideration. It is time now for the House to make a disposition. I urge Members to adopt the rule and to take up and pass H.R. 8480.

Mr. BOLLING. Mr. Chairman, I yield 5 minutes to the gentleman from Louisiana (Mr. LONG).

Mr. LONG of Louisiana. Mr. Chairman, as a member of the Committee on Rules and also as a sponsor of this legislation, I recommend its enactment. I further join with the gentleman from Missouri, the gentleman from Hawaii, and the gentleman from California in a commitment to pursue, aggressively, the matter of budget control legislation. Contrary to the view of my distinguished friend the gentleman from Missouri, I feel such legislation is an essential part of the entire package.

If we read the plain words of the Constitution, they certainly give Congress the power of appropriation. With it, I think, goes the responsibility for determining how public funds are to be spent.

Nobody can say that the words today have the same effect as they did in 1787 when they were written, or even as they had in 1967, before the present administration took control of the White House and undertook their widespread and, I think, unprecedented impoundment campaign.

There are many reasons why spending control has gravitated from Capitol Hill to the White House, but none is more immediate or direct than the impoundment practices of the President and his agents. Impoundments make a mockery of the separation-of-powers doctrine. They destroy the basis for an independent and effective legislative branch. Every impoundment is in defiance of a legislative act. Congress appropriates; the President withholds. Congress makes policy; the President negates it. Congress establishes a program; and the President terminates it. The common element of every impoundment is the challenge to the purpose and existence of the legislative branch.

For this reason it seems to me, Mr. Chairman, that the very first step in rebuilding the budget and appropriations process in the Congress must be to curb the unconstrained and growing use of impoundments, because only after Congress has taken its stand on this issue does it make sense for it to restructure its appropriations machinery.

Those who would challenge Congress to act responsibly in the spending of money must first recognize that responsibility cannot flourish where power is absent. Congress cannot be asked to take responsibility for the whole of Federal spending when it has a tenuous and uncertain voice in individual program decisions. It is pure myth to expect Congress to set the totals when it cannot control the parts.

The issue must be faced squarely by joining together in a single bill a congressional procedure for controlling unilateral impoundments with a congressional decision on total 1974 spending. The two features go together just like Mutt and Jeff, because only when impoundments have been brought under effective control is it feasible to establish a ceiling on spending.

Without impoundment legislation a limitation on total spending would invite more abuse and disregard of legislative intent.

Today this House can take a stand on two issues that, I believe, agitate the American people: First, a control on total spending and an end to far-reaching impoundments that have brought sudden death to essential services and essential programs. Let there be no doubt that the vote that we are taking is for both a control of spending and for control of executive discretion.

It is not an issue of Republican versus Democrat or Liberal versus Conservative. On these issues there can be no partisan division. I doubt that there is a single Member in this body who does not favor spending control, and I doubt that there is a single Member in this body who does not feel that the President has gone too far in his impoundment practices. A "yes" vote on this bill will accomplish, in my opinion, both of these objectives.

Mr. BOLLING. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman, I take the well because I had been one of those who disagreed with the predecessor bill, the Mahon bill, because I thought it had certain constitutional problems that would ultimately result in a confrontation on the question of whether or not a concurrent resolution was vetoable. That reason has been removed from this bill.

I think that this is the best approach that is now being offered with respect to controlling impounding.

I must respectfully disagree with the distinguished gentleman from Michigan (Mr. CEDERBERG).

I feel that this bill is not designed to force the President to spend more money but rather to require the President, any President to faithfully execute the laws. That is the issue involved in this bill.

As a matter of fact, there are many ways that the President can spend less money and be in compliance with this bill.

I would like to say, though I agree in general with the gentleman from Louisiana, I do somewhat disagree with his contention concerning the impropriety of impoundment generally. I think that the wrong of impoundment is the argument that the right to impound stems from the power of the President, that it in some manner stems from the Constitution. It does not except possibly in the narrowest instances, and I cannot even think of an instance at the present time. It may be said, almost absolutely, that any right which exists to impound must stem from an implication of a congressional act, a law.

That, of course, is what this legislaton recognizes. In the report it is stated accurately that hundreds of bills come before Congress each year which contain seeds of impoundment and that some withholding of funds occurs as a result of the implications of those bills which are passed into law. This legislation very wisely does not reverse, does not turn loose funds impounded, automatically after 60 days, as the Senate bill does. It permits either House to look at the impoundment and determine whether or not it was within the original purpose of the bill as that House understands it, and then to take action if the impoundment is of that improper nature that the gentleman from Louisiana points out, and to take action to prevent that money from being impounded as for instance so as to destroy a desirable program, to undermine the purpose of the legislation. That is what this bill does.

It permits extensive withholding of expenditures by the President in hundreds of acts, which are passed during the course of a session. It only reserves the power in each body of Congress to say, "Mr. President, we intended that the program go forward, and you may not in the name of frugality destroy a desirable program."

In addition to that, title II of the bill sets out one category of withholding of funds by the President that we cannot in either body touch. Neither body can prevent him from impounding, so to speak, those funds which are held back proportionately, across the board except for those exempted funds, in order to keep under the ceiling of title II. This is not within the reach of either body's legislative veto.

It strikes me that this bill gives plenty of room for frugality, plenty of room for withholding the expenditure unnecessary of funds, but at the same time it accomplishes the major purpose of the legislation, that is to require that the President faithfully execute the laws of the land.

Mr. BOLLING. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Chairman, during the 5-minute rule, I or the gentleman from Maryland (Mr. SARBANES) or the gentleman from Michigan (Mr. WILLIAM D. FORD) will probably offer an amendment to section 102 of the bill. Since this Congress first began formulating impoundment legislation I have steadfastly maintained that the best approach for congressional review of impoundments is for both Houses to approve the impoundment.

Mr. DINGELL. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Evidently a quorum is not present. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 376]

Annunzio
Ashley
Badillo
Buchanan
Burke, Calif.
Camp
Clark
Clay
Conyers
Devine
Diggs
Esch
Evins, Tenn.
Fish
Fisher
Fraser
Gray
Gubser
Gunter
Hanna
Hastings
Hawkins
Hébert
Holifield
Jarman
Johnson, Pa.
King
Kuykendall
Landgrebe
McSpadden
Melcher
Milford
Mills, Ark.
Morgan
Patman
Railsback
Reid
Riegle
Roe
Runnels
Shipley
Sisk
Skubitz
Staggers
Stuckey
Teague, Tex.
Ullman
Whitten
Winn
Zion

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. FASCELL, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 8480, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 383 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. When the Committee rose, the Chair had recognized the gentleman from Texas (Mr. PICKLE) for 5 minutes.

Mr. PICKLE. Mr. Chairman, when the quorum call was ordered I had just started on a statement in which I had advised the House that when the 5-minute rule would come I intended to offer an amendment, or else it would be offered by Mr. SARBANES or Mr. WILLIAM D. FORD of Michigan, and would be an amendment to section 102 of the bill.

Mr. Chairman, since this Congress first began formulating impoundment legislation, I have steadfastly maintained that the best approach for congressional review of impoundments is for both Houses to approve the impoundment.

The bill as it presently stands would negate an impoundment if one House disapproved the impoundment.

I have serious questions about the rightness of this approach.

I think we are going to have serious constitutional problems with the approach outlined in the committee bill.

Let us look closely at what is involved legislatively with anti-impoundment procedures.

The Congress appropriates moneys. The President signs the appropriations into law—he makes it the law of the land.

Then the Executive impounds the money. In short, the Executive nullifies a law or part of a law.

To say that the Congress, by doing nothing, allows a law to be nullified by executive fiat is a gross abdication of congressional authority. It is to allow the Executive—not the Congress—to make the law.

On the other hand, to have the Congress approve an impoundment is to do no more than to ask the Congress to pass a modified appropriations bill.

Again, I say that the Constitution clearly states that the power over appropriations shall lie with the Congress. The only way an appropriation passed into law should be changed is by a further congressional action.

That would be the only legal way to change an appropriation.

Modifying an appropriation can be done legally through the Antideficiency Act, a law set by the Congress. Changing an appropriation by congressional approval of an impoundment would afford us another, legal tool in this field.

I know many will say there is no constitutional question involved in impoundment because the method used in the committee bill is like that used in the Reorganization Act.

But the Reorganization Act is not like the procedure involved in impoundment. A reorganization is a proposal. That is all—a proposal. It is not like an appropriation.

Impoundment, however, concerns withholding funds which have been appropriated by law. Changing them requires changing the law, which ought only be done by the Congress.

Mr. Chairman, many impoundment bills have been introduced. The committee has worked with these various bills, and the final draft proposed by the committee has mainly changed technical procedural differences between the earlier versions. There has, of course, been added a budget ceiling, which I prsonally feel is a good addition.

But, Mr. Chairman, one part of the impoundment represents the heart of the matter; and the heart of the matter is, "How does the Congress approve or disapprove an impoundment?"

The answer to this question is not alone procedural, nor does it represent a technical question. Congress should exercise its full constitutional obligations in this matter. The only way to do this is to require affirmative action by both Houses of Congress before an impoundment can stand.

I will not take the time of the House repeating the various statements many of us have made on the impoundment question.

I only say that the power of the Congress is the power of the purse.

The ebbing of the power of the legislative branch has all too often in history marked the path toward one-man or bureaucratic-run government. This is the antithesis of democracy. This is really what we are talking about here today.

The Congress must maintain its constitutional power over the purse.

To say that the nullification of a law through impoundment is a correct procedure unless the Congress specifically says no, is giving up too much of our crucial legislative authority to the Executive.

On the other hand, to say that the whole Congress must specifically ratify an impoundment is merely to follow the basic legislative principle that the Congress has final say over spending.

It is to say that the Congress shall maintain full control of one of its main powers.

It is to say that the Congress shall be an equal branch of this Government.

Nothing else will suffice if this Government is to remain a Republic ruled by law.

By way of summary, Mr. Chairman, I say the amendment we will offer is to say that before there can be an impoundment there must be affirmative approval by both Houses of the Congress. This avoids all the constitutional problems, and it seems to me that it puts it on a clear and fundamental basis. It does acknowledge that there is no right for impoundment. It goes to the heart of the matter, and says there can be impoundment if both Houses will grant it.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. Mr. Chairman, I think the gentleman from Texas (Mr. PICKLE) has made a very powerful argument in support of a course of action which is necessary in the constitutional crisis we now face. I intend to support the amendment when we get to the 5-minute rule. It seems to me that the best way to reestablish congressional power over the purse strings is to insist that Presidential impoundment of funds appropriated can only be legalized if given affirmative approval by the Congress.

Mr. PICKLE. I thank the gentleman from West Virginia very much.

Mr. MARTIN of Nebraska. Mr. Chairman, I yield to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, it is long past time for Congress to give serious consideration to the issue of impoundment of funds. We have neglected this responsibility in the past, in my opinion, because there has been great political affinity between the Congress and the President. Congress has not been eager to challenge excesses in the exercise of executive authority when it would involve an embarrassing confrontation with the majority's political leader or an obviously popular President of the opposing party. No such restraints exist at the present time. The majority in this Congress is hardly able to control its enthusiasm for provoking a challenge to the authority of Richard Nixon in the context of the impoundment controversy, or any other handy issue appropriate for that purpose.

The legislation on the floor today is one of the few beneficial byproducts of this burning animosity for Richard Nixon which the majority makes no effort to conceal. The basic impoundment issue needs to be confronted and if it takes a Richard Nixon in the White House and a Democratic majority in Congress to force the issue to the fore, so be it. It is unfortunate, however, that such an important question must arise in a partisan political setting. Regrettably, the pending legislation reflects the current, ugly political mood which pervades this city.

The central question is whether the President possesses the authority to withhold the spending of funds previously appropriated by Congress. If such authority exists, it must be found in the Constitution, the statutes enacted by Congress, or, as some have contended the inherent authority of the President to act in the public's economic interest. The question should be analyzed in terms of these asserted foundations for executive impoundment authority.

In these remarks, I do not intend to deal with each of these propositions with the degree of scholarship that the subject matter properly demands. Time allows only a few pointed observations with respect to each.

Let me deal first with the easy issues.

The proposition that the President possesses inherent authority to impound funds is without merit. Our system confers inherent power on no official, institution, or agency of government. Inherent power is reserved solely to the people. The people have delegated portions of their total authority to various units of government with the understanding that the delegatee must have reasonable flexibility to do that which is necessary and proper to exercise the authority delegated. But all else the people have reserved unto themselves.

To recognize the doctrine of inherent Presidential authority, beyond that which has been delegated or as is necessary and proper to exercise authority expressly conferred, is to recognize virtual limitless power in the President. Such a doctrine may be appropriate in a monarchy, but it is wholly inconsistent with our constitutional Republic.

I turn now to the question of the statutory authority of the President to impound funds. It is not necessary to dwell at length on this question, since if such authority exists under antideficiency or other laws, such authority is surely subject to repeal or modification by Congress. The present legislation if enacted into law would supersede any existing statutory authority of the President in this field. The crux of the matter, therefore, is whether the proposed statutory scheme is wise. I intend to consider this matter after first disposing of the remaining contention that the Constitution itself confers impoundment authority on the President, any statute to the contrary notwithstanding.

The constitutional authority of the President is to be found primarily in article II of that document. It is an "executive power" and can be summarized by the command that he shall "faithfully execute the office of President." It is the "office" of the President to "recommend to their [Congress] consideration such measures as he shall judge necessary and expedient," and to execute the laws passed in accordance with the constitutional procedure. Nowhere can lawmaking authority be found or fairly inferred as being vested under the Constitution in the President. Although impoundment is essentially a negative act, it is indistinguishable for purposes of analysis from a repeal pro tanto of an act of Congress. Repealers are as much a part of the exclusive domain of lawmakers as any other legislative act.

Although I should like to develop this question in greater detail, I cannot find from any review of the Constitution or its history that the President possesses constitutional authority to impound funds previously enacted by Congress, without its consent.

Perhaps it is necessary to respond to an argument made frequently today. There is historical precedent, it is said, for Presidential impoundment of funds. This is, of course, true. But the precedents should be accorded little weight unless these prior acts were supportable under the law. I am willing to concede that Presidents have acted in the past under some statutory authority, at least as they have generously construed that authority. But we are discussing a new law. If enacted, no President hereafter would be able to rely upon the uncertain statutory authority of the past to justify a future impoundment.

In summary, Mr. Chairman, if impoundments are an occasional necessity if the President is to manage the programs which Congress has committed to his execution, that authority must be granted by statute. Present statutory authority is uncertain at best. We should legislate clearly and concisely in this field and we should do so now.

The question thus before us is whether in the pending legislation, we would act wisely and well. I regret that, in the present form the bill takes, the answer is "No."

Title II of the bill imposes a spending ceiling of $267.1 billion. The difficulty is that Congress seeks to restrain the President by this ceiling, when it is the Congress, not the President, which authorizes the spending in the first place. The reason for this misplaced restraint is simple politics which, as I have said, unfortunately pervades this legislation. Title II is a political gimmick by which Congress seeks to force the President to make the cuts which Congress is obviously unwilling to make on its own.

Those who have argued persuasively that spending is a prerogative of the Congress have fatally flawed their logic by authorizing a system of Presidential impoundments in title II.

Quite apart from the logical inconsistency of this position, title II authorizes impoundments in an irresponsible manner. Pro rata reduction of spending makes no sense at all. Impoundments can be justified only on a highly selective basis where a change of circumstances requires a current reappraisal of the assumptions upon which legislation was originally enacted.

There is a need for impoundment legislation. I want to support a responsible bill, but H.R. 8480 is wide of the mark.

Mr. MARTIN of Nebraska. Mr. Chairman, I yield to the gentleman from California (Mr. VEYSEY).

Mr. VEYSEY. Mr. Chairman, I thank the gentleman for yielding. I rise to associate myself with the remarks of the distinguished gentleman from Michigan (Mr. CEDERBERG).

Mr. Chairman, we have before us today an impoundment control proposal which violates my concept of the intent of the Constitution of the United States. It defies a concept which I have nurtured since my first thread of understanding of our system of government—and my first elementary school class.

I am speaking of a basic premise of the Constitution—that the responsibilities and authorities of the executive and legislative branches of our Government should be independent and that neither should be subservient to the other.

It has always been my humble opinion that it is the responsibility of the Congress to appropriate funds for the operation of the Government and the corresponding responsibility of the executive branch to administer the spending of those funds.

This legislation, H.R. 8480, seems to assume that Congress has the authority to undo, by statute, a provision of the Constitution, and for that reason I find it incredible that it is on the floor of this House awaiting our up or down vote.

If this division of responsibilities were not abundantly clear from the language of the Constitution—and I believe that it is—then how can one dispute the actual procedures and guidelines charted by the framers of the Constitution beginning with the First Congress?

The first President to assume responsibility for the spending of the funds appropriated by the Congress was George Washington. In 1803, Thomas Jefferson impounded an appropriation for gunboats. The practice we have called impoundment in recent years has always been with us, and has always been an important, integral part of our governmental process.

In the business world, it might be called budget management.

In the Federal Government, the Congress sets the budgetary guidelines—it sets the maximum amount that can be spent—and the Executive assumes the role of manager of that budget.

If there are occasions when circumstances change after funds are appropriated by the Congress, or if by some rare chance there is reason to believe that Congress has been overzealous in its appropriations process, or overly optimistic in its assessment of the tax revenues—it has been the traditional and constitutional role of the executive branch to take such considerations into account.

Any move by the Congress to deny or to subvert this very necessary part of our system of checks and balances is, in my judgment, alien to the principles of government upon which this country was founded.

Along with this basic confrontation with the Constitution, the bill before us would be at odds with my concept of our system of checks and balances.

It would force the end to any Presidential impoundment should either House—the Senate or the House of Representatives disapprove of the withholding of funds.

This, in my estimation, is an undesirable precedent to establish—and an extremely dangerous one.

There are serious potential difficulties with the logistics of the proposed budget cuts. The section of the bill which cuts the budget ceiling by a billion dollars is admirable—and I find that to be one of the few provisions of this legislation which has real merit.

However, the pro rata provisions—requiring across the board cuts when impoundments are made—would surely lead us into a new kind of poker game right here in the Congress, and in every Department of Government.

Every voice asking for moneys would automatically up their demand—playing for a position that would allow them to withstand projected cutbacks.

The pro rata provision completely ignores the need to inject judgment and commonsense into budget management. For while a specific cut in the defense budget—perhaps the elimination of a particular project—might be highly desirable, such a cut would generate a need to make pro rata slashes in other fundings.

Mr. Chairman, I submit that this provision would infect the appropriations process with an epidemic of absurdity. It taxes my imagination to try to visualize the mess we would find ourselves in.

The only positive aspect of this legislation which I can find is the proposed reduction in the budgetary ceiling by some $1 billion.

And this point, I would say, graphically outlines the real question and the real need which brought us to this showdown over Presidential impoundments.

That need is for the Congress to get control of its own process—and its own responsibilities.

Mr. Chairman, I am convinced that the President is within his constitutional realm in managing the spending of funds to stay within the current $268 billion budget. The fact that Congress now suddenly is called upon to vote upon a $267 billion ceiling by those who made the impoundments necessary—those who oppose the President cutting any funds to stay within a $268 billion ceiling—tells me that Congress has some responsibilities of its own which are going unattended.

Mr. MARTIN of Nebraska. Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota (Mr. NELSEN).

Mr. NELSEN. Mr. Chairman, I do not propose to have miraculous remedies for the problem, but I just want to make some observations. I remember years ago there was a very famous radio program, Major Bowes, and it employed an applause meter to determine which of the performers was entitled to the No. 1 prize. When I watch the political manipulation occurring in our country, I begin to draw the conclusion that many times "applause meter" politics is being played. We talk about the Congress appropriating; we talk about the Congress authorizing; but when funds are impounded, Congress screams.

I want to note that the greatest contributor to inflation in our country has been the Congress of the United States of America. Later on, I want to call the Members' attention to some very, very famous speeches that were made on this floor last session, not by Republicans but by Democrats. I say that in a complimentary way.

It so happens that I have a very deep concern about the welfare of my country. My parents were immigrants. They were poor. Yet this great Nation has since given me the opportunity of being in this body. Many times we country boys who come to town here stand back and do not say much, and we listen to the pros talk.

Frankly, I just want to reemphasize what I said: The Congress of the United States is responsible for the inflationary trend more than any other segment of our society.

May I refer to the gentleman from Arkansas (Mr. MILLS). Last session he stood by his desk and made one of the most courageous speeches I have heard in a long time, wherein he pleaded for a ceiling on spending. He pointed out that the Congress of the United States has not met its responsibility. It has shown no restraint, and we have to do something about it. He pleaded for a ceiling on spending and he is a Democrat.

The next speaker was the gentleman from Mississippi (Mr. COLMER) chairman of the Committee on Rules—a Democrat—who said we are at the financial crossroads.

The next speaker was the gentleman from Texas (Mr. MAHON) a Democrat, who said we have got to find a better way to avoid financial disaster.

But the Congress goes on appropriating money, authorizing more money all the time, without any regard to the total budget, and without regard to the total stability of the fiscal policy of the United States.

Now we see our dollar in disrepair in the world money market. The United States of America no longer stands out as that strong country with a strong fiscal policy, the great leader. It is because we in the Congress do not have the guts to say:

> We think your idea is a good one, but this is all we can afford this year, and we will move next year toward your objective.

I see in the Separate Views regarding this measure a statement by the gentleman from Illinois (Mr. ANDERSON). He says, and I quote:

> We could easily obviate the need for impoundments if we were willing to overhaul our congressional budgetary machinery and install an effective mechanism for controlling our spending activities.

Mr. Chairman, those of us who live out on the farm, who went through a depression, did not buy all of our machinery in 1 year. We bought it piece by piece as we could afford it. We did not mortgage our farm and lose it. We hung on and carefully proceeded toward our objective.

As I view our congressional activities, I believe we search for the applause meter approach too often and fail to recognize that if the country is to survive, a strong fiscal policy is a part of the foundation that must be preserved. I think we in the Congress of the United States many times fail to recognize that. I hope we find a better way to take a look at the total budget, to take a look at our total income, and then try to tailor our spending so that it meets our income. We must keep our country fiscally strong, keep it stable, because that is the foundation on which America is built.

Mr. BOLLING. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. McFALL).

Mr. McFALL. Mr. Chairman, I support this legislation.

Mr. Chairman, H.R. 8480 would prescribe further guidelines on the uses of impoundment by the President. It would be a logical extension of the impoundment legislation enacted in 1905 and 1950—the Antideficiency Acts—and of the unwritten but acknowledged use of impoundment by Presidents to promote efficient management.

This is not a bill aimed at preventing economy in government. In fact title II does quite the opposite: it requires the President to stay within a spending ceiling for 1974 or to impound to meet that ceiling.

In similar fashion, title I does not prevent the President from making reasonable withholdings of funds if he can get a job done for less than Congress has appropriated. All of us in Congress expect prudent and economical management from the executive branch.

But what we do not want is the usurpation of authority that impoundment has come to represent in these past few years. President Nixon has converted what was essentially a financial management tool into a major instrument of policy revision.

He extended impoundment beyond its accepted purposes and employed it to reduce Federal programs or in some cases to abolish them altogether. He severely curtailed the highway program and the water pollution control program—both multibillion-dollar programs—and he tried to do away with the Office of Economic Opportunity altogether.

The President said, in many of these instances, that he was acting to stem inflation. In other cases, he said he was weeding out programs which had outlived their usefulness and should be abolished.

In some of these instances, the President may be right. But he does not have the authority to act, as he has, without congressional approval. He does not have power to change national policy, enacted by the Congress and signed into law by the President. He cannot arbitrarily decree that a long-established program shall be terminated, or that a new one mandated by Congress shall not come into existence. Neither inflation nor an outdated program gives the President the right to act unilaterally without the consent of Congress.

H.R. 8480 would establish a check-and-balance system governing all future impoundments. The bill would give the President a means of ascertaining the will of Congress on a given impoundment.

If, for example, he can show that funds for highways or sewage plants should be deferred because of inflation or other reasons, the Congress could give its assent. If he felt that a particular program should be terminated, he could obtain the approval or disapproval of the Congress.

This bill does not in any way prohibit the President from achieving economies or proposing such changes in programs as he thinks necessary. But it does reaffirm the responsibility of Congress to concur or to disapprove of his actions, and it provides for an orderly procedure for such consideration by the Congress.

THE COURTS

During the past year or more, the courts have been almost unanimous in ruling against the administration on impoundment lawsuits brought by State or local jurisdictions whose funds were withheld. Some persons have said that the court rulings are a vindication of the position of Congress.

Although I am heartened by such rulings, I do not feel that they deal adequately with the problem of impoundment, particularly as a constitutional question. In all instances, the courts have ruled on the narrow grounds of the instant case and have made no attempt to determine the constitutionality of the President's impoundment action. The cases were decided simply on the basis of language in the legislation expressing an unequivocal congressional mandate that certain amounts be spent for certain purposes.

Quite simply, future impoundment litigation will be decided—as it should be—on congressional intention. Obviously, neither a Federal court nor any other body is as well qualified to determine the intentions and priorities of the Congress as the Congress itself. H.R. 8480, in effect, would vest in the Congress the final determination of its own intentions and its own priorities in cases where actions by the Executive place them in doubt.

In addition, enactment of this law would obviate the need for piecemeal judicial actions, which usually involve excessive expenditures of time and money and the unnecessary risk that intended Federal benefits will be lost or unevenly distributed.

And finally, Congress should not let the courts act for it; Congress should act affirmatively on a great constitutional issue that affects Congress as an institution.

The Senate counterpart bill—S. 373, sponsored by Senator ERVIN—passed the other body on May 10. Our own bill has been in the hearing and incubation stages for several months. It is our turn to act.

Mr. ANNUNZIO. Mr. Chairman, I stand in support of H.R. 8480. It is time for this body to take steps to restore the legislative branch to its historic and constitutional role. It is time to restore the division of powers between the executive and legislative branches to the form and delicate balance that the architects of this Government constructed.

The practice of impounding funds, so prevalent in the present administration, corrupts the Constitution, distorts the intention of its framers, and in so doing denies the prerogatives and responsibilities of this Congress.

Impounding corrupts the basic constitutional principles of checks and balances and separation of powers. It distorts the intention of the framers to give Congress the power—the sole power—to appropriate money, a power considered essential to representative government. James Madison argued in Federalist 58:

> This power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any Constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure.

The Constitution nowhere provides for an item veto, yet the selective impounding of funds provides the President with just such an instrument of power. The Constitution charges the President with the responsibility of "faithfully" executing the laws, but by impounding funds authorized and appropriated by law, the President denies the law, with no opportunity for Congress to override his action.

It is our responsibility to reestablish the separation of powers. It is our responsibility to reassert congressional control of the Federal purse. We cannot delay any longer. We must act now.

I believe that the legislation before us today is the appropriate vehicle to begin to reestablish the separation of powers and reassert congressional control of the purse.

Title I of this bill specifics impoundment control procedures. It requires the President to notify Congress when he or his agents impound funds which have been duly authorized and appropriated by Congress. The President must explain his actions to the Congress by means of a special message and then the Congress may judge if his actions are appropriate and in the best interest of the Nation.

The President will no longer be permitted to circumvent the will of Congress. He will not be permitted to eliminate programs authorized and funded by Congress if either House, within 60 days of receiving an impoundment message, passes a simple resolution disapproving it.

In short, this bill helps to reestablish the rights and responsibilities of the Congress to control Federal spending. The decision as to how to allocate our Federal funds cannot be delegated to the will and caprice of executive officials.

I support this bill for a second reason. If the Congress is willing to reassert itself in gaining control of Federal spending, we must also make a concerted effort to reduce and eliminate waste and duplication in Federal spending. We must carefully and fully review existing programs, examine plans for new programs, and set priorities for spending. Title II of this bill provides for a ceiling on fiscal 1974 expenditures. I believe that such a provision is a proper step to adopt if the Congress is to meet its obligations and responsibilities to the Nation.

Mr. PODELL. Mr. Chairman, the United States is in the midst of a constitutional crisis. During the last two decades, the executive branch has encroached upon powers rightfully belonging to the other branches of Government. It is the obligation of Congress to reassert its constitutionally designated role. H.R. 8480, the "anti-impoundment" bill, can be one more step in the process of legislative revitalization.

The will of Congress has repeatedly and unconstitutionally been thwarted by the executive branch. Programs and projects which have gained the support of a socially conscious Congress, have been castrated by an unyielding Executive. Billions of dollars in lawfully appropriated money have stagnated in the limbo of impoundment.

There is nothing in the Constitution to justify Presidential impoundment of funds. Whether or not he agrees with the legislative intent, the Executive's primary obligation is to enforce the laws of the land. The framers of our Constitution had too much experience with tyrants to allow one man to choose which laws to enforce and which laws to ignore.

At this point, I feel it is important to relate a brief story which clearly portrays our present state of legislative impotence.

For several years, the Coney Island-Bensonhurst area in my congressional district has been plagued by inadequate sewage treatment facilities. Old and rotting equipment has led to the pollution of a small body of water, the Coney Island Creek, which borders on many crowded residential communities. Consequently, the area has developed a serious health hazard and poses a threat to the safety of my constituents.

I was quickly informed of this problem by the residents of the Coney Island-Bensonhurst area. Both the New York City Environmental Protection Agency and the New York State Department of Environmental Conservation agreed that upgrading of the existing sewage facilities was absolutely necessary for the health and well-being of the community. Particularly, the "Owl's Head" treatment plant was a constant polluter of the creek area. The project was given priority status for incoming Federal funds, and I promised my constituents that I would do everything in my power to increase anticipated appropriations.

Last year, after many months of hard work by both myself and my colleagues in the House and Senate, the amount of money appropriated for sewage treatment was significantly increased. Although the President did veto this legislation, the Congress exercised its constitutionally granted power to override. I was confident that there would soon be enough available funds to finance the Coney Island project, and I happily relayed the news to my constituents.

Then, to my utter shock, President Nixon unconstitutionally impounded $6 billion of the lawfully appropriated money. One hundred and thirty-two million of this amount was slated for New York City. I have just recently received word from the New York State Department of Environmental Conservation that the impoundment will make it impossible for several deserving Brooklyn projects to be funded. One of these projects is the "Owl's Head" plant in the Coney Island area.

What shall I tell my constituents? That the legislative process has failed them? That they will just have to suffer under intolerable conditions because the President of the United States refuses to carry out the will of Congress? What can I tell them?

Earlier this session, I introduced a bill which would have forced the President to submit all proposed impoundments for congressional approval. The bill before us today is slightly weaker in its procedural structure and I would prefer the enactment of my original legislation. However, it is imperative that the Congress act now. Inaction will be tantamount to acquiescence. The American people are demanding a return to congressional equality and my constituents are demanding an answer. I know my colleagues will join me in support of this important legislation.

Mr. FRENZEL. Mr. Chairman, I rise in opposition to the Mahon-Madden impoundment resolution. I do so with some ambivalence, because I am among the large numbers of Members of Congress who have suffered the frustration of seeing impoundments made in areas where I felt spending was absolutely necessary.

The impoundment procedures exercised currently, and by Presidents of recent memory, seem to me to be damaging to my concept of local determination by local governments. Now, certain impoundments represent substantial program cuts or complete program terminations. In this situation, local governments cannot carry out their plans which usually are dependent on State and Federal funds to match their own local levies. The same is true with certain State functions. In many cases impoundment has caused a great lack of incentive to local governments to supply local services, because those governments get discouraged when others of their programs have been frustrated.

Nevertheless, I feel impoundment is a vital power of the executive branch, especially in the last several decades of our country's history, as Congress has too often succumbed to the irresistible urge to tax the people of this country beyond their willingness.

I believe that impoundment powers should be defined by law. I believe that impoundment powers should be limited by law. But, although I consider the Mahon version far superior to the "Nelly bar the door" Ervin version, I do not believe that either recognizes the need for the Executive to exercise control of spending in a complex and swiftly changing economic environment.

My choice for a responsible policy on impoundment is set forth in a bill I have introduced today using the Mahon bill as a base. Specifically, it makes the following changes in the Mahon bill:

First, in section 102 the disapproval by either House of Congress is changed to require disapproval by the Congress by concurrent resolution.

Second, section 4, which establishes a set of rules for handling disapproval by resolution is no longer needed because both Houses have rules to handle concurrent resolutions. It is deleted.

Third, section 106, the general authority for the Comptroller General to sue the Executive is deleted because under the new section 107, resolutions disapproving impoundments would be infrequent and could be accompanied by a grant of powers to an appropriate agency to sue if necessary.

Fourth, title II, a ceiling on fiscal year expenditures, is deleted because section 107 is intended to provide sufficient safeguards and incentive for fiscal 1974 and other years as well.

Fifth, the most significant change is the addition of section 107 which provides that there shall be no impoundment of funds which have the effect of reducing the total spending available for a specific program or activities by more than 15 percent and provides that total impoundment shall not exceed 5 percent of the Federal budget. The 15-percent reduction is based on the budget accounts listed in the budget of the U.S. Government for the fiscal year involved or, if larger, as authorized and appropriated or otherwise made available by the Congress.

The effectiveness of this proposal, like the effectiveness of either the Mahon or Ervin proposals is really dependent on the approval by the Congress of a responsible budgeting procedure such as that recommended by the Ullman-Whitten Committee, which is now pending in the Rules Committee of this House. All these proposals are further dependent on a reorganization of the authorizing committees which establishes clearer lines of responsibilites and eliminates competition, duplication and overlap. Absent these determinations by the Congress, the establishment of an impoundment procedure of any kind is likely to work to the detriment of the people, since the Congress would be giving up what recent history has shown would be the only effective check on its enthusiasm for spending beyond the country's means.

Where I believe my proposal is superior to the one pending before this House is that is would cause fewer confrontations between the Executive and the legislative branches because of the stipulated allowance for impoundments. The Congress would have a guarantee that no program could be either eliminated or gutted. On the other hand, impoundments would be more likely to be sustained because the Congress would have to go through the more difficult procedure of passing a concurrent resolution to override an impoundment.

My proposal has, therefore, a strong basis that impoundments are often necessary, particularly in our large and changing highly-complex economy.

The trade off here is to make a congressional override of an impoundment more difficult, but at the same time to guarantee that impoundments will be limited and cannot eliminate any particular program.

As in any proposal, there are dangers in mine. This proposal does not deal effectively with the problem of a Senate filibuster. The obvious reason for this is that the Senate has its own rules for handling concurrent resolutions in which I am reluctant to meddle. On the other hand, I would not object to others inserting language which could guarantee a prompt response by the other body.

A more serious risk in this proposal is that there is not enough incentive for Congress to accept its own responsibility for fiscal responsibility and priority setting. Under my proposal an irresponsible Congress could well overappropriate knowing that the President's ability to impound has been limited to an overall 5 percent. Some of this risk is reduced by the normal process of veto, which can be sustained by only one-third of either House.

Generally, my proposal seeks to balance the role of the legislative and the executive branches. It assumes that impoundment is a useful executive tool but allows for an override system using the traditional processes of the Congress. In my judgment, it is a far more sensible approach than the Ervin bill which is wholly unacceptable and the Mahon bill which makes impoundment overrides far too easy, especially in the other body which is wont to accept the persuasions of anyone of its Members on any fiscal question.

I urge the House to consider this proposal, because I sincerely believe that it is a superior approach to the issue of impoundment.

Mr. BADILLO. Mr. Chairman, H.R. 8480, the impoundment control and expenditure ceiling legislation, is a proper and necessary response to an unprecedented campaign by the Nixon administration to override the will of Congress in establishing national priorities through the legislative and appropriations processes. It has come about because this administration set itself up as the sole judge of how Federal funds were to be spent and which already enacted programs would be allowed to function.

Unlike the temporary and limited impoundments undertaken by previous administrations, which largely took the form of funding deferrals, the Nixon administration's policy has been massive and permanent impoundments—item vetoes of congressional appropriations—and largely among urgent domestic programs aimed at meeting human needs.

The administration's impoundment estimates total $8.7 billion—a frightening figure under any circumstances. A more accurate estimate, however, was prepared by the Library of Congress, which found that, in addition to the impoundments acknowledged by the administration, there was an additional $9 billion impounded, including:

The sum of $6 billion in Environmental Protection Agency contract authority for water sewage treatment facilities; $382 million in rescissions in fiscal 1973 appropriations—proposed in the fiscal 1974 budget—including $283 million in manpower training funds; $1.9 billion in Labor/HEW funds appropriated by continuing resolution but unspent because of the President's decision to hold spending by those departments $1.9 billion below the amount provided by Congress in the vetoed fiscal 1973 appropriation; $1 billion held up by administrative actions such as the recently declared illegal moratorium on subsidized housing, manpower enrollments, cutoff in FHA emergency loans, and changes in social service regulations.

These impoundments have affected the entire Nation, but aimed as they were at social programs based on human needs, they have had the most devastating impact in the central cities. Unless H.R. 8480 is enacted without crippling amendments, the urban fiscal crisis will be worsened to an inhuman extent.

In my own city of New York, the dimensions of the administration's impoundment policies are mind-boggling. Members of the New York City congressional delegation received this week a breakdown of the impoundment impact in the current fiscal year by program area. As a dramatic illustration of how the Nixon administration's arrogance is affecting the Nation's largest city, I present herewith that memorandum:

PROGRAM AREA AND ANTICIPATED LOSS IN FISCAL YEAR 1974 TO NEW YORK CITY IN MILLIONS OF DOLLARS

EDUCATION

Title I (Aid to the Disadvantaged). HEW desires to impose the "hold-harmless" concept to 73–74 funding of Title I programs. Instead of receiving $310 million, the State of New York will receive $255 million. The City receives 62% of all Title I funds. The potential loss to the City is: $34.0.

Higher Education program losses due to Administration plans to reduce institutional aid, are at least: $3.0.

Milk subsidy payments to the Board of Education have been cut by: $1.4.

HEALTH

Training and Research (Health Manpower and Research Grants) Assistance cut-backs: $35.0.

Personal Health Services (Neighborhood Health Centers) Cut-backs: $2.0.

LABOR

Summer Youth Program (Difference between 7/10/73 release of $12.1 million to the City, and the Summer 1972 funding level of $21.0 million: $8.9.

Labor Department Contract Reimbursements covering 1972–73 Concentrated Employment Program, Job Corps, On the Job Training, and New Careers Program: $7.9.

Emergency Employment Act PEP funds not allocated in 1973–74 because the Administration did not request extension of the program: $28.0.

HOUSING

Open Space Grant program; funds are frozen: $2.4.

Basic Water and Sewer Grant program; funds are frozen: $6.3.

Lack of subsidy under the 236 Subsidized Housing Program for over 7,700 units, that are under construction or could be started by the end of the fiscal year, and the total value of which would be about $308 million. Funds are frozen: $15.5.

PUBLIC HOUSING

Loss of subsidy for the Public Housing Program for 14,000 units that would be available for HUD assistance during 1973–74, and the total value of which would be about $525 million. Funds are frozen: $31.6.

Modernization subsidy; funds are frozen: $10.0.

SOCIAL SERVICES PROGRAM

Day care programs: Due to the federal ceiling on social service expenditures, a significant change takes place in the funding formula for expansion of the City's day care program. Instead of a sharing formula in which the Federal Government assumes 75% and the State and City the remainder, now it is a 50/50 split between the Federal Government and the State and City Governments. Based on an estimated 73–74 day care budget of $124.1 million, the loss of federal funding based on the change of formulas amounts to: $31.0.

Senior Citizen Centers: The City desires to expand its senior citizen centers to 163 by 7/1/74. Because of the ceiling and the formula changes, the City will probably not receive its minimum need of: $3.0.

Other social services program (e.g., homemakers, family planning, adoption, youth services, DSS staff) cut-backs due to the formula changes: $26.0.

OEO/CAP would be dismantled under the Administration's Budget. The amount the City's Community Development Corporations would need to continue their current level of operation is: $20.0.

RECREATION

Outdoor Recreation grant program; funds are cut back: $4.2.

WATER POLLUTION CONTROL

Potential loss under the November 1972 decision by the U.S. EPA to not release full state allotments mandated by the 1972 Amendments (City's successful law suit is still being appealed by the U.S. Government.): $132.5.

Total, $402.7 million.

Mr. PRICE of Illinois. Mr. Chairman, we are considering legislation which will go far toward restoring to Congress its constitutional power of the purse. Presidential impoundment has been abused to the point where it seriously contravenes the intent of the representatives of the American people. When the Congress says, "We want to spend this amount of money to solve this problem," and the President can arbitrarily say, without using an overridable veto, "I am not going to spend the money; I am going to let the problem go unsolved," the power of the Congress to make law is seriously encumbered, and as a result the right of the people to representation in this Government is seriously curtailed.

Impoundment is without a doubt uncountenanced by the Constitution. The President's own Supreme Court appointee, Justice William Rehnquist, possibly the most scholarly and conservative constitutionalist on the Court, said in 1969:

> With respect to the suggestion that the President has a constitutional power to decline to spend appropriated funds, we must conclude that existence of such a broad power is supported by neither reason nor precedent.

Lower Federal court judges are apparently in agreement with this interpretation. As of June 10 of this year Federal courts had rejected impoundment in eight of nine cases. Just yesterday Federal District Judge Charles R. Richey ordered the administration to reinstate federally subsidized housing programs which it stopped funding last January. Judge Richey deemed the impoundment unconstitutional and said:

> It is not within the discretion of the executive to refuse to execute laws passed by Congress, but with which the executive presently disagrees.

Judges of every judicial philosophy have rendered these decisions against the administration actions.

There are several grave constitutional objections to impoundment. First, it seriously violates the separation of powers between the executive and legislative branches of this Government. The Constitution provides that the power of Congress to raise and spend money is subject to no check but a veto which can in turn be overridden by the Congress. An impoundment action, which cannot be overriden, is of course not a constitutional veto. It seems only consistent that an administration which regards separation of powers as so sacred in other areas would be more sensitive to the same issue when it comes to impoundment.

Section 3 of article II of the Constitution entrusts the President with the faithful execution of the laws enacted by Congress. Failure to spend money which Congress has appropriated and earmarked for a particular program is not consistent with that mandate.

The most constitutionally disturbing aspect of impoundment is that it places in the hand of the President an absolute veto of legislation. The Constitution is emphatic that a law be subject to passage over the President's veto. In Federalist No. 69 Hamilton wrote eloquently on the "qualified negative" of the President, saying that the proposed Constitution insured a system where the Chief Executive, unlike the King of England, could not absolutely reject the will of the representatives of the people. Impoundment often amounts to an absolute negative, a conscious effort to halt programs which the President is unable to halt through traditional legislative means.

It should be noted that H.R. 8480 includes a 1974 expenditure ceiling. Sound expenditure control deserves support and congressional machinery for dealing with the issue should be implemented. It is the constitutional considerations, hower, which finally dictate that H.R. 8480 must be passed.

This bill includes most of the features essential to ending abuse of impoundment. The bill requires that all impoundments be promptly reported to both Houses of Congress. It applies not only to the President, but also to the Director of the Office of Management and Budget, the head of any department or agency, or any officer or employee of the United States. It provides for appropriate court action to secure compliance with the will of Congress.

The crucial issue, however, is and will ultimately be the operation of the control mechanism itself. Should an impoundment be dealt with negatively, that is, allowing it to continue unless Congress expressly rejects it within a stated time? Or should the mechanism be affirmative, that is, having the impoundment cease automatically unless Congress expressly approves of it within a stated time? H.R. 8480 embodies the former, negative mechanism.

Certainly the negative mechanism will provide us with an adequate means by which impoundments can be ended, and for this reason H.R. 8480 deserves enthusiastic support.

It should be noted, however, that a Senate bill, S. 373, embodies the affirmative mechanism where by an impoundment would cease in the absence of congressional approval of it. The basic difference between these two mechanisms lies in the placement of the burden of action. In H.R. 8480 the burden is on the Congress to cease an impoundment, while in S. 373 the burden is on the administration to have it approved. The question, then, is where the burden should be placed in order that impoundment control have the greatest restorative effect upon the separation of powers. The fact that it is the Congress which seeks to reassert its legislative powers may suggest that the burden should lie with the executive branch. If the executive has indeed usurped the legislative prerogative, to place the burden on the Congress may be rather unwarranted restraint. Because implicit in the negative approach of H.R. 8480 is a recognition of the President's right to impound funds.

Further, under H.R. 8480 the President could veto the anti-impoundment resolution itself. Thus, in a certain situation where the President had vetoed both authorization and appropriations bill and both vetoes had been overridden, and he had then vetoed an H.R. 8480 impoundment resolution, the Congress would have to vote on the legislation a sixth time before it finally became effective. If the burden were placed on the executive to have an impoundment approved, this could not happen.

There are some problems with the S. 373 affirmative mechanism. Many trivial, routine impoundments would have to be approved by the Congress and might disrupt the normal legislative process. S. 373 attempts to solve this problem by having the Comptroller General decide whether any impoundment is authorized by the Anti-Deficiency Act. If it is, no congressional action needed be taken to approve of it. This does, of course, mean delegation of congressional power to review Presidential impoundments. However, this delegation seems no less desirable than that of H.R. 8480, which directs the Comptroller General to provide Congress with information concerning impoundments reported by the President, to notify Congress of any impoundment not reported by the President, and to bring civil actions on behalf of Congress to enforce compliance with the legislation. Both bills bear an attendant risk that some unconstitutional impoundments may go unreported. The risk is minimal, however, because of direct legislative jurisdiction over the Comptroller General.

Another possible solution to the legislative disruption problem under an affirmative system might be to provide that only impoundments above a certain dollar amount would require congressional approval.

These are subjects for the consideration of the conferees. I merely suggest that we must make the final impoundment control law not a half-hearted grumbling which the President will ignore, but a resolute declaration which he must heed. Let us reassert our power to legislate, which is in the final analysis the power of the American people over the will of a single man.

Mr. ALEXANDER. Mr. Chairman, I rise today in support of passage the bill before us today. The Presidential practice of impounding funds which the Congress has appropriated for use in carrying out the programs which it has authorized is one of the most serious issues of our times.

We must face up to it. Congress must assert itself as a coequal branch of the Federal Government system and exercise its rights and responsibilities, assigned by the Constitution, in the area of setting national priorities and Federal spending.

The problem which we consider today is a complex one. Impoundments have ambiguous legal status and an uncertain history. Today we have an opportunity to act to provide some clarification on the legal status. The problem of impoundments revolves around the Congress constitutional power over the national purse and responsibility to legislate and the constitutional responsibility of the President to:

> Take care that the laws be faithfully executed. (Article II, Sec. 3, U.S. Constitution.)

Now is the time for Congress to squarely face the challenge thrown out by the executive branch, reform itself and recapture control of the Federal budgetmaking process. The Congress must make it clear to the executive branch that the budget will be developed by and the national priorities will be set by the 535 elected representatives of the people—as intended by the Constitution.

As Members of the Congress we must act responsibly. We must develop a fiscal policy that holds the line on Federal spending and spends as wisely and efficiently as possible in response to the needs of the Nation.

For too long we have been tricked by the illusion that all the Nation's ills will yield to doses of money—and that we have enough to bring about the cure.

The fact is that not all the problems will be solved with money and even if they would, the Nation's taxpayers simply cannot magically cough up enough money to solve all the problems at once, or, even in a very short period of time.

The people know this to be true. And they are fed up with simplistic spending answers which dig deeper into their pocketbooks through taxes and inflation created by Federal programs which spend more money than is taken in by the National Treasury.

And, because they are fed up, and, because they recognize that Congress has let slip too much of its budgetary responsibility, the executive branch feels it can, with impunity, ignore the will of the Congress.

The responsibility for the constitutional dilemma in which we find ourselves falls equally heavy on the shoulders of the executive branch and the Congress. It results from Congress failure to keep its hold on the budgetmaking procedure and to insist on the executive branch using appropriated funds as is intended by the Congress or refrain from doing so only at the direction of the Congress. It also results from the executive branch's insistence on twisting existing laws in such a way as to allow it to claim the right of a line item veto—a right which does not exist in the Constitution.

It is a truth easily understood by the heads of even the smallest households, businesses, or industries that if you regularly spend more money than you take in you risk bankruptcy. The fact is that the Federal budgets approved by the Congress, while usually not exceeding the President's requests, have more often than not called for spending more than the Treasury takes in.

Through such actions as the passage of the Anti-Deficiency Act, the Budget and Accounting Act, and debt ceiling legislation, the Congress has charged the executive branch with considerable responsibility in the apportioning of funds and controlling the national debt. But, in no case has the Congress delegated to the Executive the authority to impound funds so as to achieve the ends of the economic and/or social philosophy of the incumbent administration. Yet, increasingly, with this administration, that has been the justification given for fund impoundments.

The very limited authority which has been delegated to the Executive has been used by it to resist or distort the intent of Congress that certain priorities be observed in spending Federal funds to address the needs of the Nation. And, it has been used to insulate the executive branch budget decisionmakers in the Office of Management and Budget from the need to be responsive to the Congress.

Impoundment is not a new development which came about with the arrival of President Nixon. It has a history almost as long as that of our system of government. Both Republican and Democratic Presidents have employed it to refuse to make expenditures authorized by the Congress.

As of January 29, 1973, this administration had impounded $8.7 billion. During the past decade, Presidents have made impoundments ranging in the neighborhood of 6 percent of the total unified budget. President Thomas Jefferson apparently was the first to use the impoundment device for refusing to spend as authorized by the Congress.

The time for budgetary reform is now. And, the major burden for making those reforms lies with the Congress. There is no indication that the executive branch will voluntarily give back to the Congress the powers it has grabbed away. So, Congress must take those powers back.

The President says that he is justified in refusing to spend as Congress has authorized because Congress has not lived up to its responsibilities in budgetary matters. And he is right—as far as he goes. He is tragically wrong, though, to believe that the people want the budgetmaking and spending powers of the Federal Government gathered into the hands of an executive branch which operates on the 1-man rule principal.

They want that power to reside in the Congress as the Constitution intends it to.

There are a number of proposals now before the Congress which are major steps in that direction. This impoundment legislation which we are discussing here; the proposal to require that the director and the deputy director of the Office of Management and Budget be confirmed by the Senate and the work of the Joint Committee To Study Budget Control are among these.

Congress must act swiftly to establish a fiscal policy which holds the line on spending. It must resist efforts by the Executive to abolish programs which are performing well meeting the needs of the people and to substitute new, unproven programs which have as their principal virtues their novelty and the support of the administration.

Congress must clearly reestablish itself as the setter of national priorities and the Federal budget.

Congress must reform and equip itself to handle the job of budgetmaking and controlling Federal spending—and do that job in such a way that the spending does not lead us ever deeper into the morass of national debt.

Passage of legislation requiring congressional action on impoundments by the President, and requiring that the President make those decisions known to the Congress within a clearly specified time limit is an important part of the task Congress must perform to properly discharge its budgetary responsibility.

Therefore, I urge this Committee and the Congress to approve legislation requiring the President to respond to direction from the Congress in this matter of impoundments.

Thank you for giving me this opportunity to comment on this critical question.

Mr. BOLLING. Mr. Chairman, I have no further request for time.

Mr. MARTIN of Nebraska. Mr. Chairman, I have no further request for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—IMPOUNDMENT CONTROL PROCEDURES

Sec. 101. (a) Whenever the President, the Director of the Office of Management and Budget, the head of any department or agency of the United States, or any officer or employee of the United States impounds any funds authorized or made available for a specific purpose or project, or orders, permits, or approves the impounding of any such funds by any other officer or employee of the United States, the President shall, within ten days thereafter, transmit to the House of Representatives and the Senate a special message specifying—

(1) the amount of the funds impounded;

(2) the date on which the funds were ordered to be impounded;

(3) the date the funds were impounded;

(4) any account, department, or establishment of the Government to which such impounded funds would have been available for obligation except for such impoundment, and the specific projects or governmental functions involved;

(5) the period of time during which the funds are to be impounded;

(6) the reasons for the impoundment, including any legal authority invoked by him to justify the impoundment; and

(7) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the impoundment.

(b) Each special message submitted pursuant to subsection (a) shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the Committee on Appropriations of the House of Representatives and to the Committee on Appropriations of the Senate; and each such message shall be printed as a document for each House.

(c) A copy of each special message submitted pursuant to subsection (a) shall be transmitted to the Comptroller General of the United States on the same day it is transmitted to the House of Representatives and the Senate. In order to assist the Congress in the exercise of its functions under sections 102 and 104, the Comptroller General shall review each such message and inform the House of Representatives and the Senate as promptly as possible with respect to (1) the facts surrounding the impoundment set forth in such message (including the probable effects thereof) and (2) whether or not (or to what extent), in his judgment, such impoundment was in accordance with existing statutory authority.

(d) If any information contained in a special message submitted pursuant to subsection (a) is subsequently revised, the President shall within ten days transmit to the Congress and the Comptroller General a supplementary message stating and explaining such revision. Any such supplementary message shall be delivered, referred, and printed as provided in subsection (b); and the Comptroller General shall promptly notify the House of Representatives and the Senate of any changes in the information submitted by him under subsection (c) which may be necessitated by such revision.

(e) Any special or supplementary message transmitted pursuant to this section shall be printed in the first issue of the Federal Register published after such transmittal.

(f) The President shall publish in the Federal Register each month a list of any funds impounded as of the first calendar day of that month. Each such list shall be published no later than the tenth calendar day of the month and shall contain the information required to be submitted by special message pursuant to subsection (a).

AMENDMENT OFFERED BY MR. ANDERSON OF ILLINOIS

Mr. ANDERSON of Illinois. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Anderson of Illinois: On page 3, at line 23, after the period add the following: "If the Comptroller General determines that the impoundment was

> in accordance with section 3679 of the Revised Statutes (31 U.S.C. 665), commonly referred to as the 'Antideficiency Act', the provisions of section 102 and section 104 shall not apply. In all other cases, the Comptroller General shall advise the Congress whether the impoundment was in accordance with other existing statutory authority and sections 102 and 104 of this Act shall apply."

Mr. ANDERSON of Illinois. Mr. Chairman, the amendment which I have offered is identical to that contained in the Senate-passed Ervin bill, S. 373. This amendment would exempt from the impoundment control procedures of this act those impoundments which, in the determination of the Comptroller General, are clearly in accordance with the authority granted to the President under the Anti-Deficiency Act. Subsection (c) (2) of the Anti-Deficiency Act provides that in apportioning any appropriation, reserves may be established to provide for contingencies or to effect savings as a result of changing requirements, greater efficiency of operations, or changing circumstances.

Mr. Chairman, I think such an exemption of routine and noncontroversial impoundments is absolutely essential if we are to avoid being bombarded by and having to consider hundreds of impoundment resolutions. To quote from the Senate report on the Ervin bill:

> Testimony adduced at the hearings . . . indicated that hundreds of impoundments of a routine nature are made each year under the Antideficiency Act, and that consequently Congress would be flooded with resolutions of approval if congressional action were required on each of these.

Mr. Chairman, there will be some who will attempt to make the point that while this exemption may be necessary in the Ervin bill, which automatically terminates an impoundment after 60 days if no action is taken by the Congress, it is unnecessary in the Madden bill, in which an impoundment is approved unless one House of Congress passes a resolution of disapproval.

But I would submit that this exemption is just as essential in the Madden bill since, if a routine noncontroversial and perfectly legitimate Antideficiency impoundment happens to be coupled with a controversial impoundment in the same message, there is no way in the Madden bill for separating the two. The resolution of disapproval must deal with the entire message. We would therefore be placed in the unfortunate and perhaps unconstitutional position of having to disapprove an impoundment which is simply in the best interests of affecting a savings or providing for a contingency. So, I think it is especially important under the Madden bill that we have this prior screening procedure by the Comptroller General to weed out the routine and noncontroversial impoundments which are clearly within the authority granted by the Anti-Deficiency Act.

Now, there may be some who are reluctant to grant this discretionary authority to the Comptroller General because there is some difference of opinion as to what is and is not permitted under the Anti-Deficiency Act. But I think the testimony of the Comptroller General, in which he narrowly defines and proscribes the limits of that authority, should offer ample assurance on this matter. In Mr. Staats' words, and I quote:

> There is abundant legislative history in connection with the enactment of the Antideficiency Act to support our conclusion that this legislation goes no further than authorizing the President to establish reserves to provide for contingencies, to reflect savings, and to take into account changes in requirements subsequent to the appropriation action, and to reserve funds because of changing circumstances. We are not aware of any specific authority which authorizes the President to withhold funds for general economic, fiscal, or policy reasons.

Commenting on this statement, the Senate committee report on the Ervin bill establishes the legislative history on this point by stating, and I quote:

> The committee intends for the Comptroller General, in carrying out his duties under S. 373, as amended, to subscribe to the restricted view of the Antideficiency Act voiced by Mr. Staats during the hearings and to make his determinations accordingly.

I would simply want to reaffirm that view in this body in making the legislative history on this amendment. I fully concur with the interpretation of the Comptroller General in construing the authority granted under the Anti-Deficiency Act.

I therefore urge adoption of this amendment.

Mr. BOLLING. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I do so with some reluctance, because I know the gentleman from Illinois has given this matter serious consideration and offers the amendment in good faith. But I do so because my basic interest in this legislation is to have one piece of legislation that deals with restoring to the Congress the power to carry out its constitutional duties.

While I am aware that the Comptroller General is often described as the creature of the Congress, he has a more complicated creation than that. What we would do by adopting this amendment would be to give to the Comptroller General the power to make a decision as to congressional intent which I believe we should retain for ourselves.

Under the Ervin bill, the Senate bill, it was essential that the Comptroller General play a major role, at least in the judgment of the other body, because they were going to have to approve every impoundment. Clearly the other body was not prepared to accept this duty, nor do I believe we should, of dealing with every single impoundment on a positive basis. That might raise considerable confusion as to whether it was a problem under the Anti-Deficiency Act and so on and so on and so on.

So this bill we are dealing with today deals only with the exceptional case, where the Congress through a process clearly defined, of limited duration, decides that a matter is important enough to justify vetoing the President's impoundment. That involves a decision as to whether it is an impoundment or not. It really is very difficult to decide in some cases whether an impoundment is an impoundment, a proper exercise of carrying out the law under the Anti-Deficiency Act, and so on.

It just seems to me it is not reasonable for us to delegate a fundamental interpretation of our own action. What did we mean when we did so and so? Does it properly follow under the Anti-Deficiency Act, or do we consider it an impoundment?

I see no reason to delegate that authority to the Comptroller General. I believe we have set up a process which very clearly would work. It would be needed in a limited number of cases, because only in a limited number of cases would we be acting on whatever action the President took.

Therefore, I oppose the amendment as delegating this power from the Congress to the Comptroller General, power that we ought to keep in our own hands, and I suggest that the Senate did it because of the nature of their bill and we do not have to do it because of the nature of our bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ANDERSON).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ANDERSON of Illinois. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 180, noes 229, not voting 24, as follows:

[Roll No. 377]

AYES—180

Abdnor
Anderson, Ill.
Andrews, N. Dak.
Archer
Arends
Armstrong
Ashbrook
Bafalis
Baker
Beard
Bell
Bray
Brinkley
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Butler
Carter
Cederberg
Chamberlain
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collier
Collins, Tex.
Conable
Conlan
Conte
Coughlin
Crane
Cronin
Daniel, Robert W., Jr.
Davis, Wis.
Dellenback
Dennis
Derwinski
Devine
Dickinson
Drinan
du Pont
Edwards, Ala.
Erlenborn
Esch
Eshleman
Findley
Fish
Ford, Gerald R.
Forsythe
Frelinghuysen
Frenzel
Frey
Froehlich
Gilman
Goldwater
Goodling
Gross
Grover
Guyer
Hammerschmidt
Hanrahan
Hansen, Idaho
Harvey
Hastings
Heckler, Mass.
Heinz
Hillis
Hinshaw
Hogan
Holt
Horton
Hosmer
Huber
Hudnut
Hunt
Hutchinson
Jarman
Johnson, Colo.
Keating
Kemp
Ketchum
Kuykendall
Latta
Leggett
Lent
Lott
Lujan
McClory
McCloskey
McCollister
McEwen
McKinney
Madigan
Mailliard
Mallary
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mayne
Miller
Minshall, Ohio
Mitchell, N.Y.
Mizell
Moorhead, Calif.
Myers
Nelsen
O'Brien
Parris
Passman
Pettis
Peyser
Powell, Ohio
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Regula
Rhodes
Rinaldo
Robinson, Va.
Robison, N.Y.
Roncallo, N.Y.
Rousselot
Ruppe
Ruth
Sandman
Sarasin
Saylor
Scherle
Schneebeli
Sebelius
Shoup
Shriver
Shuster
Skubitz
Smith, N.Y.

Snyder
Spence
Stanton, J. William
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Symms
Talcott
Taylor, Mo.
Teague, Calif.
Thomson, Wis.
Thone
Towell, Nev.
Treen
Vander Jagt
Veysey
Waggonner
Walsh
Wampler
Ware
Whitehurst
Widnall
Wiggins
Wilson, Bob
Wyatt
Wydler
Wylie
Wyman
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Zion
Zwach

NOES—229

Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
Barrett
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blackburn
Boggs
Boland
Bolling
Bowen
Brademas
Brasco
Breaux
Breckinridge
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Byron
Carey, N.Y.
Carney, Ohio
Casey, Tex.
Chappell
Chisholm
Clancy
Clark
Collins, Ill.
Conyers
Corman
Cotter
Culver
Daniel, Dan
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
de la Garza
Delaney
Dellums
Denholm
Dent
Diggs
Dingell
Donohue
Dorn
Downing
Dulski
Duncan
Eckhardt
Edwards, Calif.
Eilberg
Evans, Colo.
Evins, Tenn.
Fascell
Flood
Flowers
Flynt
Foley
Ford, William D.
Fountain
Fraser
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Ginn
Gonzalez
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Gude
Haley
Hamilton
Hanley
Hansen, Wash.
Harrington
Harsha
Hawkins
Hays
Hechler, W. Va.
Helstoski
Henderson
Hicks
Holifield
Holtzman
Howard
Hungate
Ichord
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kluczynski
Koch
Kyros
Lehman
Litton
Long, La.
Long, Md.
McCormack
McFall
McKay
Macdonald
Madden
Mahon
Mann
Mathis, Ga.
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Minish
Mink
Mitchell, Md.
Moakley
Mollohan
Montgomery
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nichols
Nix
Obey
O'Hara
O'Neill
Owens
Patten
Pepper
Perkins
Pickle
Pike
Poage
Podell
Preyer
Price, Ill.
Randall
Rangel
Rarick
Rees
Reid
Reuss
Riegle
Roberts
Rodino
Rogers
Roncalio, Wyo.
Rooney, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Runnels
Ryan
St Germain
Sarbanes
Satterfield
Schroeder
Seiberling
Sikes
Sisk
Slack
Smith, Iowa
Staggers
Stanton, James V.
Stark
Steed
Stephens
Stokes
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Symington
Taylor, N.C.
Thompson, N.J.
Thornton
Tiernan
Udall
Van Deerlin
Vanik
Vigorito
Waldie
Whalen
White
Whitten
Williams
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Wright
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki

NOT VOTING—24

Badillo
Blatnik
Camp
Clay
Fisher
Gubser
Gunter
Hanna
Hébert
Johnson, Pa.
King
Landgrebe
Landrum
McDade
McSpadden
Michel
Milford
Mills, Ark.
Patman
Roe
Shipley
Teague, Tex.
Ullman
Winn

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. HEINZ

Mr. **HEINZ**. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HEINZ: Page 2, line 1, after "United States" insert ", at any time on or after the date of the enactment of this Act and before July 1, 1974,".

Page 4, line 14, strike out "each month" and insert in lieu thereof ", in each month which begins on or after the date of the enactment of this Act and before July 1, 1974,".

Mr. **HEINZ**. Mr. Chairman, this is the first of two amendments that I must necessarily offer for my purpose, this amendment being to section 101 of the bill. If this amendment should prevail—and I certainly hope that it shall—I would offer another necessary amendment to achieve my purpose to section 107 of the bill.

Mr. Chairman, what my amendment, very simply, does is that it amends title I by limiting the anti-impoundment provisions in this bill solely to this fiscal year, which is exactly the same period that the spending ceiling provisions in this bill provides for in title II. I offer this amendment as a friend of the principle embodied in the bill, as a friend of meaningful and wise spending ceiling legislation, which, in my view, can and should and must go hand-in-hand with sensible anti-impoundment legislation.

I believe we need such legislation, but I believe at the present time that the bill in its present form is not adequate to the task. I believe, instead, that if we are to be consistent in our purpose and to be fair to the objectives of the bill that a spending ceiling provision and an anti-impoundment provision should apply to exactly the same time period. As the bill stands now, this simply is not the case. We set a permanent anti-impoundment provision and a temporary, in fact, a 1-year spending ceiling provision. It is not simply for the sake of consistency that we should limit the anti-impoundment provisions for 1 year.

The fact of the matter is in spite of a considerable job done by the committee and the distinguished gentleman from Missouri there are a great many things we do not know about this bill. There are a great many things we do not know about how it is going to work. We do not know for example really how the GAO or anybody else is going to determine what an impoundment is. I was on the phone to GAO this morning and they told me that very frequently they will not be able to tell us whether an impoundment takes place until after the fiscal year is over and the money is returned to the Treasury. In which case the remedy for an impoundment is impossible because the funds would then no longer be spendable.

Second, there are problems that can arise when an administration's spending pushes up against the debt ceiling that this body has not seen fit to raise, and yet under the provisions of this bill, as I understand it, we would force the President to spend that money if one House, one body intended for him to spend that money.

There are a great many problems with this bill and I would sincerely urge each and every Member here to consider my amendment seriously as a means of putting this bill on no more than a trial basis for the period of 1 year.

Mr. **ANDERSON** of Illinois. Mr. Chairman, will the gentleman yield?

Mr. **HEINZ**. I yield to the gentleman from Illinois.

Mr. **ANDERSON** of Illinois. Mr. Chairman, I congratulate the gentleman from Pennsylvania for offering this amendment.

I think one additional reason could be given why it is an excellent amendment, that is hopefully by July 1, 1974 we will have redeemed the promise made on the floor of this House this afternoon that the Rules Committee is going to report out and this House is going to act on meaningful budgetary reform legislation. If that happens we will have largely solved the problem and there will not be any necessity for the kind of intricate machinery set up under title I of this bill. I think if we are really going to hold people's feet to the fire on budgetary reform we should seriously consider the gentleman's amendment.

The **CHAIRMAN**. The time of the gentleman from Pennsylvania has expired.

(On request of Mr. BROWN of Michigan and by unanimous consent, Mr. HEINZ was allowed to proceed for 2 additional minutes.)

Mr. **MAHON**. Mr. Chairman, will the gentleman yield?

Mr. **HEINZ**. I yield to the gentleman from Texas, the chairman of the Appropriations Committee.

Mr. **MAHON**. Mr. Chairman, I would hope that we could approach this bill in a nonpartisan way. I find much to support in this amendment. I myself feel this ought to be a 1-year bill both with regards to the impoundment review provision and the expenditure ceiling. There was to have been a similar amendment offered on this side of the aisle. But I believe some accommodation can be worked out. The gentleman has offered his version. I intended to support some such amendment, so I support the amendment offered by the gentleman from Pennsylvania.

Mr. **HEINZ**. Mr. Chairman, I thank the gentleman from Texas, the chairman of the Appropriations Committee, and I appreciate his support of my amendment because my amendment does exactly what the gentleman from Texas wants it to do.

Mr. **PREYER**. Mr. Chairman, will the gentleman yield?

Mr. **HEINZ**. I yield to the gentleman from North Carolina.

Mr. **PREYER**. Mr. Chairman, I had planned to offer a similar amendment. I therefore support the amendment offered by the gentleman from Pennsylvania. I am very much opposed to impoundment. As practiced, I think it is unconstitutional, and I do not think it saves any money or leads to lower taxes. I do think we must limit it to 1 year in order to keep the pressure on for budgetary reform. Impoundment is important, but budgetary reform is vital. The only way we can make Congress a viable institution is by setting up proper machinery for budget making, similar to the Ullman-Whitten bill. I fear if we do not keep the pressure on by limiting impoundment to a single year, an impoundment bill would become a permanent thing, we would let the impoundment language stand and let the President make the decisions, and we would never get meaningful budgetary reform.

Mr. HEINZ. I thank the gentleman from North Carolina. I think he makes some very good observations. I appreciate his support of my amendment. I understand, he would have offered a substantially similar amendment had I not offered this amendment.

Mr. MATSUNAGA. Mr. Chairman, will the gentleman yield?

Mr. HEINZ. I yield to the gentleman from Hawaii.

Mr. MATSUNAGA. Mr. Chairman, does the gentleman intend to support the bill if his amendment is to be adopted?

Mr. HEINZ. I understand there are some other amendments to be offered and it would be premature for me to make a judgment but I think unless there are some very bad amendments offered I would expect to support the measure.

Mr. BOLLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, obviously the Rules Committee has not had a meeting, but I have canvassed a number of members and find that the amendment is acceptable to them.

I think it is a very good amendment, and I urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. HEINZ).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 102. Any impoundment of funds set forth in a special message transmitted pursuant to section 101 shall cease if within sixty calendar days of continuous session after the date on which the message is received by the Congress the specific impoundment shall have been disapproved by either House of Congress by passage of a resolution in accordance with the procedure set out in section 104. The effect of such disapproval shall be to require an immediate end to the impoundment.

Mr. BOLLING (during the reading). Mr. Chairman, I ask unanimous consent that section 102 of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

AMENDMENT OFFERED BY MR. ANDERSON OF ILLINOIS

Mr. ANDERSON of Illinois. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ANDERSON of Illinois: On page 4, strike line 24 through line 2 on page 5, and insert in lieu thereof the following: "by the Congress by passage of a concurrent resolution in accordance with the procedure set out in section 104 of this Act."

Mr. ANDERSON of Illinois. Mr. Chairman, this amendment strikes the provision of H.R. 8480 which now permits either House of Congress to terminate an impoundment by the passage of a simple resolution of disapproval, and in its place substitutes a requirement, identical to that contained in the original Mahon bill, that both Houses must act on the disapproval resolutions. I might also mention that the Senate-passed Ervin bill provides that resolutions of approval and disapproval be concurrent rather than simple.

Mr. Chairman, I am rather surprised at the simple resolution procedure provided for in the Madden bill given the prerogatives of this body in the area of spending. For what we are saying in this bill is that the other body alone may make the sole determination to terminate an impoundment, no matter how legitimate and necessary we in this body may feel that particular impoundment is. And I think we are all well aware of the propensity of the other body to outspend this body. I think the Madden bill as it now stands constitutes a clear abdication of this body's prerogatives in the appropriations process, and furthermore, that it is an open invitation to the other body to completely tie the hands of the President in attempting to effect savings. The least we can do is to reserve to ourselves the clear authority to review and act on each and every impoundment message.

The other point I would make is that if we do not allow for concurrent resolutions of disapproval, there is no way we can amend these resolutions either in the Appropriations Committees or on the floor. As the Madden bill now stands, the procedure is identical to that under which we consider executive reorganization plans, that is, a simple resolution of disapproval which cannot be altered in any way, for obvious reasons; for if one House amended such a resolution and then disapproved the impoundment it would not be fair to the other House which had under consideration, in effect, a different proposition, that is, the original and unaltered Presidential message.

I think it is far preferable to provide for concurrent resolutions of disapproval so that both bodies may deal on a selective basis with the President's message, and not be forced to accept or reject the message in its entirety. I, therefore, later intend to offer two other amendments, if this one is accepted, the first of which would permit for the introduction of resolutions which deal selectively with an impoundment message, and the second of which would permit the amendment of these resolutions on the floor of both Houses.

There are those who will argue that the requirement in the bill that a special message be submitted whenever funds are impounded "for a specific purpose or project" requires a separate message on any individual item for which funds are withheld. But the bill does not define "purpose or project," and I would point out that this same language was contained in the Mahon bill, H.R. 5193, and the author of that bill conceded that it would still be possible for the President, in his words, to strategically package his impoundment messages. I do not think we should give the President this advantage which may make it more difficult to pass a resolution of disapproval. I instead agree with the chairman of the Appropriations Committee that the Congress should have the prerogative to strategically package its resolutions and deal on a selective basis with the impoundments contained in a message, and deal selectively with only one impoundment with respect to the amount of the impoundment we disapprove. But if we are to do this, we must change the procedure from a simple resolution of disapproval to a concurrent resolution.

That is the thrust of the amendment now before us, and I urge its adoption.

Mr. BLACKBURN. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Georgia.

Mr. BLACKBURN. I want to associate myself with the remarks of the gentleman. I believe his amendment certainly justifies the support of all the Members of this body. I congratulate the gentleman on his amendment.

Mr. ANDERSON of Illinois. If Members want to protect the prerogatives of the House, which I understood was the purpose of the exercise this afternoon, they certainly do not want to give to the other body the right alone, without any concurrence by the House, to disapprove an impoundment. I believe we ought to retain that power for ourselves.

Mr. ECKHARDT. Mr. Chairman, I rise in opposition to the amendment.

The gentleman has not even mentioned the possibility of his amendment requiring that the concurrent resolution then go to the President and become subject to the President's veto.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman from Texas yield?

Mr. ECKHARDT. I will when I have commenced my statement.

Mr. ANDERSON of Illinois. On that point particularly, if the gentleman will yield, I believe in the debate we had just a few days ago on the subject of the War Powers Resolution we had ample legislative history here on the floor to the effect that the precedents of this House clearly establish that the force and effect of a concurrent resolution are not such as to require Presidential approval.

Mr. ECKHARDT. I thank the gentleman, but I believe the precedents of this House will not reverse the Constitution. The provisions in the Constitution which govern this point are extremely explicit. They are as follows:

> Every Order, Resolution, or Vote to which the Concurrence of the Senate and the House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, * * *

Being disapproved, of course, it would require a two-thirds vote to pass the matter over his veto.

That is in the Constitution; that is not in the rules.

There is an extremely interesting legal opinion on the question which was printed for the first time in the June 1953, Harvard Law Review. It was contained in an article by Robert H. Jackson, Associate Justice of the Supreme Court of the United States.

At the time of the events here described, he was the Attorney General of the United States. Precisely the same question came up at that time. At that time Senator Connally introduced a bill in Congress which was subject to going out of effect upon a concurrent resolution of both Houses so determining. Since President Roosevelt did not want to oppose the passage of the bill at that time, he filed a legal opinion with the Attorney General, and I believe he was absolutely right in his statement.

He stated in the legal opinion signed by Franklin Delano Roosevelt as follows:

> The Constitution contains no provision whereby the Congress may legislate by concurrent resolution without the approval of the President.

Mr. Chairman, what he was saying is that in the case of a bill which contained a provision that would permit Congress later by concurrent resolution to remove the strictures of that law, to alter that law, such later action was itself done by the concurrence of both Houses and was, therefore, subject to the constitutional requirement that it be submitted to the President.

Well, obviously if we write into this bill the provision that the President shall report when he is impounding funds and then this body by concurrent resolution may tell him to cease impounding the funds, and then that concurrent resolution goes to the President, he is going to veto it. He had impounded the funds in the beginning; he is certainly going to use his right to veto.

If this proposition is arguable on the other side—and I think it is; as a matter of fact, Senator Connally argued the matter on the other side—if it is arguable on the other side, then we run into a direct confrontation with the President, because I feel sure that the President would veto such a legislative veto of his impoundment even if a respectable legal argument could be made that he did not have such power.

Then where do we stand? We have passed a concurrent resolution which he says is vetoable; he vetoes it; he continues the impoundment, of course.

If we pass this amendment to this act today, he will seriously cripple the legislation that is before this body at this time.

Mr. Chairman, I strongly urge that we vote against such an amendment to this bill.

The CHAIRMAN. The time of the gentleman from Texas (Mr. Eckhardt) has expired.

(On request of Mr. Brown of Michigan, and by unanimous consent, Mr. Eckhardt was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Chairman, I am fascinated by the gentleman's argument.

Is it the gentleman's argument that under the Constitution one House can act more effectively by a resolution than two Houses acting concurrently? Is that the gentleman's interpretation of the Founding Father's provision in the Constitution?

Mr. ECKHARDT. Yes, in this instance it is. The gentleman's question is very well put.

Mr. Chairman, the reason for it is this: That Congress may delegate authority without keeping any control over that authority, with no strings with which it may pull the authority back. In other words, Congress may delegate, for instance, control of some of its powers. It may delegate to any agency of Government its right to act. It may delegate to one of its subordinate bodies, to a committee, or to one of its Houses the right to act.

But when Congress purports to delay final action until concurrent action by both bodies may be taken—as soon as it does that, it permits itself to take wide-ranging action at such later date and this is subject to veto.

Mr. BROWN of Michigan. Mr. Chairman, would the gentleman acknowledge that the Houses acting concurrently with the force of law can delegate to the two Houses acting concurrently anything they can delegate to one House without the President's signature.

Mr. ECKHARDT. No, because when they attempt to do that, then the delegated ultimate authority to be exercised by the two Houses is fungible with Congress' ordinary, broad legislative authority. For instance, the resolution could be amended in either House and the process involved would be indistinguishable from any other legislation. Therefore it would fall under the provisions of article I, section 7 of the Constitution and would be subject to Presidential veto.

Mr. BROWN of Michigan. I would suggest if the gentleman is arguing against the concurrent resolution seriously, he is arguing against the power of either House to act as this bill proposes.

Mr. ECKHARDT. No. That is not true at all. As a matter of fact, there is plenty of precedent in previous laws which permit a condition subsequent to legislative action.

Mr. BOLLING. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am tempted to leave this question to the good hands of the gentleman from Texas (Mr. Eckhardt). He made the constitutional argument very clear. But it seems to me it may be necessary to rehearse the situation that is involved here.

The Senate passed a bill which says no impoundment of any kind goes into effect unless it is approved. The House is considering a bill which says that if there are impoundments, the Congress may, under a very specific procedure, veto them.

There was an awful lot of thought that went into this. I am not claiming my side of the argument is necessarily correct, but I started out on one side and was convinced that the other side had the better of the argument.

I started out as a legitimate proponent of the Mahon bill. However, as I considered the matter, I recognized the facts of the argument just made by the gentleman from Texas, which is that as soon as we go to a concurrent resolution, in my judgment, we have gone to a veto of a resolution.

The process we are setting up and the process we are trying to set up is a process on all fours with the process that has worked over a period of years on recognization. We have a situation that exists; a law has been passed appropriating funds; the law has passed the whole Congress; it has passed the President either by his approval or by his veto being overriden. We have a status quo, at which point the President moves in and not under color of law and not under the Anti-Deficiency Act decides that he will change the policy by unilateral action. If we seek to veto that by concurrent resolution, then we send it back to him for a veto but the procedure we propose essentially follows the well-established procedure, the other procedure, by which we alter a policy of status quo, the Reorganization Act.

The President then says "I want to change this policy that the Congress and I willy-nilly have established. I want to change it, and therefore I am impounding funds." We do exactly and precisely the same thing that we do in Reorganization Acts. The Reorganization Act is on all fours with this.

This is the logic of the position, and I think it is an overwhelming logic.

Mr. BROWN of Michigan. Will the gentleman yield?

Mr. BOLLING. Certainly.

Mr. BROWN of Michigan. I would suggest that an appropriation bill is somewhat different from a Reorganization Act. The initiative and the impetus for an appropriation bill is the Congress, whereas in the Reorganization Act the impetus and the initiative is the Executive.

Let me just say, if I may, that it seems to me, with what I consider to be the irresponsible and oftentimes almost reconcilable action of the other body, I do not think this House ought to become a handmaiden for its prerogatives.

Mr. BOLLING. I had a great-uncle who used to come up and visit me when I first came to the Congress and he used to say something essentially like that. He would say the only thing wrong with the Congress was easily cured, namely, to abolish the Senate. However, until some such thing is done—and I am not recommending it—they are a precisely equal body. I am not arguing whether they are better or worse or good or bad. What I am arguing is how to have an effective regularized position of the Congress vis-a-vis the President on the question of impoundment.

I do not believe that the point about the other body has any real pertinence. I think we have to try to figure out the best way to have a civilized approach to an extraordinarily difficult problem which is going to be with us for a very long time.

Mr. BROWN of Michigan. Mr. Chairman, if the gentleman will yield further, let us assume that this body happened to agree with the decision of the President, at some point in time, to impound funds. What is our alternative to concur with the action of the President by passing a bill which requires the concurrence of the Senate when it has adopted a resolution not to concur in impoundments? This House is the fiscal House, and all money matters have to originate in the House.

So it seems to me it would be better if the gentleman would amend his position to say the prerogative for a nonconcurrent resolution is the prerogative of the House, period.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. BOLLING was allowed to proceed for 1 additional minute.)

Mr. BOLLING. Mr. Chairman, I would be more inclined to take that as a serious argument if it met the argument that the gentleman from Texas (Mr. ECKHARDT) made, and that I have tried to make. We are trying to deal with a constitutional problem of some consequence, and not with what kind of a Senate we have today or the kind of a House we may have tomorrow.

Mr. BLACKBURN. Mr. Chairman, will the gentleman yield to me?

Mr. BOLLING. I yield to the gentleman from Georgia.

Mr. BLACKBURN. I appreciate the gentleman yielding.

Am I to understand the gentleman to mean that it would be uncivilized for this body to act in this regard? The gentleman from Missouri says that the gentleman is looking for a civilized manner in which to handle this. So I would ask the gentleman from Missouri would it be uncivilized for us to deal with this problem?

Mr. BOLLING. No. The bill we have before us says that the President has been impounding for a variety of reasons, and we are trying to figure out a technique by which to deal with the problem. I consider this civilized, rather than assuming only one House exists, or only the Executive exists.

I am glad the gentleman from Georgia asked for the clarification.

Mr. MATSUNAGA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I urge my colleagues to vote against the pending amendment.

As some of the speakers expressed during the general debate on this bill, we begin with the assumption that the President is going to veto the bill. The committee members accordingly decided to eliminate all the reasons, if possible, that the President could use, based on constitutional grounds, to veto the bill. The question arose during the hearings that where a concurrent resolution is required, regardless of what you call it, it is in effect a joint resolution which needs to be signed by the President, and facing, of course, the risk of Presidential veto.

As a matter of fact, Senator ERVIN stated that you cannot change an onion into a flower by calling it a flower, just as you cannot change a joint resolution into a concurrent resolution by calling it a concurrent resolution. Because of this constitutional question, and because we have ample precedents, as in the case of the Executive Reorganization Act, where one of the two bodies may veto the action of the President, we of the Rules Committee thought it would be better that we provide for either one of the two Houses with the power to veto.

I, therefore, urge my colleagues to stick to the version of H.R. 8480, which will not raise the additional constitutional question which the proposed amendment would raise.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. MATSUNAGA. I yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, I would like to ask my distinguished colleague, the gentleman from Hawaii, if he is correct that you cannot change a joint resolution to a concurrent resolution by calling it one, if that is true, why did the gentleman's side of the House only a few days ago vote for a war powers bill which attempted to do that very thing on the very basis that you could do that?

Mr. MATSUNAGA. I was quoting, as the gentleman undoubtedly heard me quote, Senator ERVIN, a distinguished and well-known authority on constitutional questions, and because there were other testimonies corroborating his position we decided to take the safe course.

Mr. BOLLING. Mr. Chairman, will the gentleman yield?

Mr. MATSUNAGA. I yield to the gentleman from Missouri.

Mr. BOLLING. I thank the gentleman for yielding. It might interest the gentleman from Indiana to know that both the gentleman from Texas (Mr. ECKHARDT) and I voted against the war powers.

Mr. MATSUNAGA. Mr. Chairman, I yield back the remainder of my time.

Mr. PEPPER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it seems to me there are two very cogent reasons why this compromise resolution that the committee reported out and sponsored on the floor here today should be adopted. They are, first, the President has the authority to make recommendations to the Congress at any time he wishes under the Constitution. What in substance he does under this resolution is if he disapproves of an expenditure that the Congress has authorized, if he thinks that the law justifies withholding of the expenditure, if he thinks the circumstances have changed, if he thinks that the public interest dictates that the money is not to be expended, he in substance recommends to the Congress that he not spend the money. If Congress acquiesces, after due notice, in the President's recommendation, the legislative authority has not been flaunted; it has not been disdained. If the Congress is silent, by neither House disapproving the President's action, it acquiesces by its silence in the recommendation received from the President.

Second, the amendment offered by the gentleman from Illinois in requiring the Congress to enact a concurrent resolution to disapprove the President's action in impounding funds will require the Congress in substance to repass the appropriation. Another possible burden this amendment might impose arises from the difference in the procedures of this and the other body. I do not believe that the able gentleman has provided in his amendment against the filibuster in the other body, which often occurs or may occur there. So the gentleman by his amendment would impose upon the Congress, in order to get its will carried out by the Executive, the necessity of passing the appropriation impounded again, which encounters the possibility of delay that procedurally may occur in the other body.

So the compromise offered by the majority of the Committee on Rules providing that the disapproval of either House voids the impounding of the President is a very desirable compromise. I hope the amendment will not be agreed to.

Mr. MAHON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am not sure that I can qualify as a very profound constitutional lawyer. I have a feeling, however, that the constitutional issue cannot be resolved through the enactment of this bill. I do intend to vote for the bill in its present form or as it is amended, because I think we need to move this bill through the Congress. The question remains, how are we going to make the President expend the funds that are being impounded? The committee bill proposes a disapproval resolution passed by either House. If we want to make it abundantly clear what the congressional intent is, it would be better, in my judgment, to provide for a concurrent resolution. This procedure provides for action by both Houses in the confrontation with the President. Action by both Houses would make crystal clear the position of the Congress in regard to the matter in dispute.

I do not think that under the committee bill or under the amendment we are going to make the President necessarily expend the funds. But some procedure is needed to help us move toward a better resolution of the question of impoundment.

In his original approach to this question, Senator ERVIN provided for the veto by approval of a simple resolution by just one House, but he has thought better of that. The bill that has passed the Senate now provides for the concurrent-resolution approach.

I think the bill before us today has met some other problems very well. It prevents strategic packaging of impoundments by the Executive in a given "special message" by requiring that each impoundment be treated separately.

I think the committee is right, also, in recommending that we should not undertake to amend the impoundment action, because we would run into the argument that positive legislative action requires the signature of the President. In my view, the amendment before us is flawed somewhat by providing for such amendment.

We should provide for a vote up or down either by one House or by two Houses. I am inclined to favor action by both Houses on an impoundment as being more compelling in a confrontation between the Congress and the President.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ANDERSON).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ANDERSON of Illinois. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 205, noes 206, not voting 23, as follows:

[Roll No. 378]

AYES—205

Abdnor
Anderson, Ill.
Andrews, N. Dak.
Archer
Arends
Ashbrook
Bafalis
Baker
Beard
Bell
Bevill
Biester
Blackburn
Bray
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Carter
Casey, Tex.
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collier
Collins, Tex.
Conable
Conlan
Conte
Coughlin
Crane
Cronin
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Wis.
Dellenback
Dennis
Derwinski
Devine
Dickinson
Downing
Duncan
du Pont
Edwards, Ala.
Erlenborn
Eshleman
Fish
Flowers
Flynt
Ford, Gerald R.
Forsythe
Fountain
Frelinghuysen
Frenzel
Frey
Froehlich
Fuqua
Gilman
Ginn
Goldwater
Goodling
Green, Oreg.
Gross
Grover
Gubser
Guyer
Hammerschmidt
Hanrahan
Hansen, Idaho
Harsha
Harvey
Hastings
Heinz
Henderson
Hillis
Hinshaw
Hogan
Holt
Horton
Hosmer
Huber
Hudnut
Hunt
Hutchinson
Jarman
Johnson, Colo.
Keating
Kemp
Ketchum
Kuykendall
Landrum
Latta
Lent
Lott
Lujan
McClory
McCollister
McDade
McEwen
McKinney
Mahon
Mailliard
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Mayne
Michel
Miller
Minshall, Ohio
Mitchell, N.Y.
Mizell
Montgomery
Moorhead, Calif.
Myers
Nelsen
Nichols
O'Brien
Parris
Passman
Pettis
Peyser
Powell, Ohio
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Rarick
Regula
Rhodes
Rinaldo
Robinson, Va.
Robison, N.Y.
Roncallo, N.Y.
Rousselot
Runnels
Ruppe
Ruth
Sandman
Sarasin
Satterfield
Scherle
Schneebeli
Sebelius
Shoup
Shriver
Shuster
Sikes
Skubitz
Smith, N.Y.
Snyder
Spence
Stanton, J. William
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stratton
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Thomson, Wis.
Thone
Towell, Nev.
Treen
Ullman
Vander Jagt
Veysey
Waggonner
Walsh
Wampler
Ware
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wyatt
Wydler
Wylie
Wyman
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Zion
Zwach

NOES—206

Abzug
Adams
Addabbo
Albert
Alexander
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
Barrett
Bennett
Bergland
Biaggi
Bingham
Blatnik
Boggs
Boland
Bolling
Bowen
Brademas
Brasco
Breaux
Breckinridge
Brinkley
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton
Byron
Carey, N.Y.
Carney, Ohio
Chisholm
Clark
Collins, Ill.
Conyers
Corman
Cotter
Culver
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
de la Garza
Delaney
Dellums
Denholm
Dent
Diggs
Dingell
Donohue
Dorn
Drinan
Dulski
Eckhardt
Edwards, Calif.
Eilberg
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Flood
Foley
Ford, William D.
Fraser
Fulton
Gaydos
Gettys
Giaimo
Gibbons
Gonzalez
Grasso
Gray
Green, Pa.
Griffiths
Gude
Haley
Hamilton
Hanley
Hansen, Wash.
Harrington
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Helstoski
Hicks
Holifield
Holtzman
Howard
Hungate
Ichord
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kluczynski
Koch
Kyros
Leggett
Lehman
Litton
Long, La.
Long, Md.
McCloskey
McCormack
McFall
McKay
Macdonald
Madden
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Minish
Mink
Mitchell, Md.
Moakley
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nix
Obey
O'Hara
O'Neill
Owens
Patten
Pepper
Perkins
Pickle
Pike
Poage
Podell
Preyer
Price, Ill.
Randall
Rangel
Rees
Reid
Reuss
Roberts
Rodino
Rogers
Roncalio, Wyo.
Rooney, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ryan
St Germain
Sarbanes
Saylor
Schroeder
Seiberling
Sisk
Slack
Smith, Iowa
Staggers
Stanton, James V.
Stark
Steed
Stephens
Stokes
Stubblefield
Stuckey
Studds
Sullivan
Symington
Thompson, N.J.
Thornton
Tiernan
Udall
Van Deerlin
Vanik
Vigorito
Waldie
Whalen
White
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Wright
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki

NOT VOTING—23

Armstrong
Badillo
Camp
Chamberlain
Clay
Findley
Fisher
Gunter
Hanna
Hébert
Johnson, Pa.
King
Landgrebe
McSpadden
Madigan
Milford
Mills, Ark.
Patman
Riegle
Roe
Shipley
Teague, Tex.
Winn

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. BOLLING. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker having resumed the Chair, Mr. FASCELL, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 8480) to require the President to notify the Congress whenever he impounds funds, to provide a procedure under which the House of Representatives or the Senate may disapprove the President's action and require him to cease such impounding, and to establish for the fiscal year 1974 a ceiling on total Federal expenditures, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. BOB WILSON. Mr. Speaker, on rollcall No. 344, providing for passage of H.R. 8949 which would establish flexible interest rate authority for VA home loans, I was recorded as "not voting." I was here and I voted "aye." I was deeply concerned over the lack of final congressional action to assure the continued availability of these home loans and would like this to be shown in the RECORD.

THOMAS F. PHILLIPS, CITY EDITOR, SCRANTON TRIBUNE

The SPEAKER pro tempore (Mr. MCFALL). Under a previous order of the House, the gentleman from Pennsylvania (Mr. MCDADE) is recognized for 10 minutes.

Mr. McDADE. Mr. Speaker, on July 16, the Scranton Tribune announced that Mr. Thomas F. Phillips had been named city editor emeritus, and that his place as city editor would be filled by Mr. Frank F. Sempa.

Tommy Phillips has been city editor of the Scranton Tribune for most of my life. Across his desk in that position have come news stories beyond counting, and his work as city editor has been acclaimed by every person who knows the newspaper world and who has read that paper.

The city editor is the very nerve center of the daily newspaper. From his desk goes the assignment of reporters and photographers to cover the stories that must be covered, and back to his desk goes the copy to be put together in the makeup of the daily edition. Unless he has a news sense that is precise and always functioning, the paper will die. The life of the Scranton Tribune is ample testimony to the news sense of Tommy Phillips.

Tommy is a delightful man. He is expansive, with a certain sense about him that tells you to come in and sit down. And many a reporter did just that. There is a saying in Scranton that more reporters learned their trade around the kitchen table of Tommy Phillips than anywhere else in our region. It is this same warmth, this same gregarious love of people, that put him on a first-name basis with virtually everyone in our area and with virtually everyone of note in the Commonwealth of Pennsylvania for the past 30 years. He is, in brief, the complete man, and the complete newspaperman.

We are fortunate that he will continue as city editor emeritus, as a columnist, and reporter on special assignment. He has given all of us a picture of what a rare talent can accomplish, and we need more of that talent in the future. He is being replaced as city editor by Frank Sempa who has been a newspaperman for the past more than 30 years. I know that he will continue the great tradition.

With your permission, Mr. Speaker, I will here append an article from the Scranton Tribune of July 16, 1973:

> PHILLIPS GIVEN EMERITUS STATUS; SEMPA ADVANCED TO CITY EDITOR
>
> A transfer of editorial assignments in the News Room of The Scrantonian and The Tribune was announced Saturday by Al Williams, managing editor of the newspapers.
>
> Thomas F. Phillips, city editor of The Tribune for some three decades, has been city editor emeritus and will continue with the Scrantonian-Tribune as a columnist and will handle special supplements.
>
> Promoted to city editor is Frank F. Sempa, who has been a reporter and deskman for The Scrantonian-Tribune since the late 1930s.
>
> Also joining The Scrantonian-Tribune staff as a deskman-reporter is Robert L. Campbell, formerly a staff writer for The Scrantonian-Tribune who has spent the past three years with The Associated Press in Philadelphia and Washington.
>
> Phillips is a son of late W. Clyde Phillips and Nellie Jennings Phillips. A native of Scranton, he attended Scranton public schools and St. Thomas College, now the University of Scranton, where he received his A.B. degree.
>
> He started in the newspaper business as a reporter and sports writer for The Scrantonian, later became editor of the Wilkes-Barre Telegram before returning to the staff of The Scrantonian-Tribune where he since has served as city editor. During his tenure with these newspapers he has covered every major beat as a reporter and has edited copy on practically every desk in the News Room.
>
> Married to the former Ada Aronson, the couple has a daughter, Ellen Phillips Ladouceur.
>
> Phillips has been active as a member of Scranton Lodge of Elks and the Purple Club. He also has been active for many years with the Heart Fund.
>
> A charter member of Scranton Local 177, The Newspaper Guild, he has served as its president and was elected delegate to the annual Guild convention in St. Louis, Mo., in 1957.

HEADED FOR A COLLISION THAT WILL DO UNFATHOMABLE DAMAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ROBISON) is recognized for 15 minutes.

Mr. ROBISON of New York. Mr. Speaker, last Thursday I inserted a Wall Street Journal editorial in the RECORD having reference—as it was entitled—to "The Oval Office Tapes."

I utilized the editorial, with some amplification in my own thoughts and words, as a plea—sent to the White House with a covering letter—for favorable consideration of the so-called Ervin committee's request for access to those taped conversations which were pertinent to its current Watergate inquiry. That letter—and plea—has not as yet been acknowledged nor, given yesterday's events, do I now expect it will be.

In any event, we are now headed, by virtue of the President's negative reaction, into an unprecedented and probably lengthy legal, or constitutional, conflict, the outcome of which cannot be foretold. The only certain outlook is for additional weeks, if not months, of uncertainty while—as I said last week—the Nation marks time when all about us are problems crying out for solutions which, in turn, depend largely upon firm and positive national leadership.

It still seems to me, Mr. Speaker, that things need not be so ordered—or disordered. Whatever may be the President's side to this issue of the tapes has not yet been fully disclosed to any of us, except in the most general terms. That side requires, I think, some amplification on his part which may, or may not, be forthcoming. But one item does seem clearer to me, now, than it did last week. That is, while there are obviously more reasons for denying the pertinent tapes to the Ervin committee on the grounds of either executive privilege or the doctrine of separation of powers, there are, conversely, less reasons for doing so when after all, a part of the Justice Department and, thus, of the executive branch.

Looking, first, at the Ervin committee, one can begin to harbor doubts about the general direction its inquiry has taken without, at the same time, being understood as suggesting there should be no such congressional inquiry. The latter is not my position, but as I noted here weeks ago in another statement the Ervin committee seems only really interested in one thing—that being the extent of Presidential involvement in either Watergate or its attempted coverup. As I have also suggested, if this is so then, in a sense, "impeachment proceedings" have already begun.

Regardless of that possibility, it does seem true that—as the further Wall Street Journal editorial I shall insert in a moment points out—"the Ervin committee has been becoming less and less judicious and more and more prosecutorial . . . (so that) the White House could be excused for seeking a more balanced forum for releasing evidence subject to differing interpretations."

I am not suggesting that either Senator ERVIN, or other member of his committee, nor its staff members are trying to be anything other than fair or as objective as possible under the circumstances. Given the political nature of this committee, however—creature of Congress as it is—and trying to look behind the President's surface explanation for his refusal to give it the tapes in question, in an effort to better understand the problems he foresees if he voluntarily does so, I shall not further pursue this issue in behalf of the committee.

But the special prosecutor's request—and now his subpena—is something else again. It has been reported that, in issuing that subpena, Mr. Cox declared that "no man is above the law." The President is undoubtedly reviewing his position again, in light of the Cox subpena and that statement, and in so doing I would hope he will also consider this line from the following editorial—

> What can the Executive be forced to release if it cannot be forced to release evidence pertaining to common crimes that subvert the political process itself?

In the end, that may be a question that the Supreme Court—alone and however reluctantly—will have to answer. But in the next 2 days—since I understand the Cox subpena requires an answer by this Thursday—I would further hope that Mr. Nixon will, before rejecting it out of hand, again give thought to his role in all this, and to the cost to the Nation—if not to himself—of further weeks of uncertainty, expanding controversy, additional erosion of the President's support in the country, and a further slackening of his power to govern.

Now, Mr. Speaker, I do not know what those tapes will—or will not—prove. It may well be we have all blown their actual value up higher than we should; only Mr. Nixon really knows as to that. But I, for one, do not believe matters can go on much longer as they are—whether the tapes are released to Mr. Cox, or not. The President's attitude seems unnecessarily rigid to me, though the questions of timing and of choice of forum for showing some further willingness to cooperate with the people's desire to know the truth are his, not ours, to decide.

The search for that "truth" ought to go on in a way fitting the American system; and, in the interest of an effective Presidency, Mr. Nixon should make a further contribution to it. Perhaps "rescue" is not the proper word; I suspect the White House would prefer that I not use it. But, if Mr. Nixon is to be rescued from his present difficulties, that only can come, I suggest, from greater, not less, disclosure. The possible outfall from continued Presidential unwillingness to even seek some sort of compromise—especially regarding the pending Cox subpena—is not pleasant to contemplate, as witness the thrust of the fourth paragraph in today's lead editorial in the Wall Street Journal as now set forth:

> ON COURSE FOR CRISIS
>
> If the President's statement on release of the White House Watergate tapes means what it seems to mean, we are now facing a question far more fundamental and far more serious than either the burglary or the cover-up. The White House position amounts to an assertion that the President can decree the law regardless of the other two branches of government, and if this issue comes to an ultimate test the results are likely to be disastrous to Mr. Nixon himself.
>
> The President refused the Ervin committee's requests for the tapes and now the committee has issued subpoenas for them and for presidential papers related to Watergate. This will be tested in the courts, but there is no indication that the President is disposed to obey the eventual verdict if it goes against him. If separation of powers means the Legislative Branch cannot compel the release of the tapes, after all, it follows that neither can the Judical Branch. Indeed, the White House specifically said it could not release the tapes to Special Prosecutor Archibald Cox because then they would end up in the Judicial Branch. Mr. Cox also subpoenaed the tapes yesterday.
>
> The stakes in this crisis become clear in envisioning the following course of events: To resolve a conflict over the subpoena, a court rules that the committee should have access to certain of the tapes under certain

limitations. The administration appeals to a special session of the Supreme Court, which upholds the ruling. The President continues to withhold the tapes, defying not only the Senate but the high court.

Congress starts to think less of burglary and more of the rule of law; if the President can make such decisions unilaterally, who needs Congress or the Court? To maintain its own self-respect, Congress reaches for its ultimate constitutional recourse, and it is the issue not of the burglary or the cover-up, but of the withheld tapes that triggers the start of impeachment proceedings.

Now, there is some distance to be traveled and many branches in the road to be passed before this destination is reached. The Ervin committee and Mr. Cox might not be willing to push their demands to such lengths. For that matter, as the Watergate affair has unfolded the President has backed away from several seemingly adamant positions, and that could happen again.

We could understand the White House position, in fact, if there were any hint of room for compromise. The Ervin committee has been becoming less and less judicious and more and more prosecutorial; the White House could be excused for seeking a more balanced forum for releasing evidence subject to differing interpretations. There are also considerable practical difficulties to be negotiated. Just what tapes should be released, for example? Perhaps, despite all the appearances, enough of a compromise can be worked out to avoid a complete crisis.

There is also a chance, similarly, that the President could prevail in the courts. The White House argues that if executive privilege protects anything, surely it protects direct conversations with the President. But, the committee and Mr. Cox will argue, what can the Executive be forced to release if it cannot be forced to release evidence pertaining to common crimes that subvert the political process itself? If there is no effective sanction against using the Executive Branch for, say, ballot-stealing or political goon squads, what is the meaning of constitutional government?

It is by no means clear that the President would have the stronger of the two arguments to begin with, and the case would be decided in circumstances that are highly adverse to his case. Withholding the tapes inevitably creates the impression that they are incriminating; if they were released immediately even ambiguous tapes would have tended to help the President's case. More generally, the Watergate scandal has been so sordid that it cries out for some sort of resolution, in fact for precisely a clean breast of all the facts. We cannot understand how the prerogatives of the presidency are protected by having the issue of executive privilege decided under these circumstances.

We can only hope that as events unfold the President proves less rigid than he seems so far. At the moment we seem locked on a course for crisis, headed for a collision that will do unfathomable damage to both the President and the nation.

CONSUMER PROTECTION NEEDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Hampshire (Mr. Wyman) is recognized for 5 minutes.

Mr. WYMAN. Mr. Speaker, 35 million families—or almost one-half of all the families in this country—use at least one credit card. Last year American consumers owed over $30 billion on their open-ended credit accounts, or roughly $400 per family. Increasingly, credit card buying and the paying of bills at the end of the month, is becoming an American ritual—a fact of consuming life.

With this much business being transacted by credit card, severe problems are arising. Billing errors and problems occur, and anyone who has ever corresponded with a computer knows how difficult it is to rectify a mistake or attempt to clarify confusion on a computer.

Consumer complaints about billing errors follow a common pattern. Typically, a consumer will discover an error on one of his charge accounts or credit card bill statements. Or he will not understand an item on a revolving finance charge. He will write to the creditors to explain his case or simply to make an inquiry. Then he waits and waits. Rarely will the consumer get a response. But what he will receive is a series of letters from the computer informing him he has not paid his bill, please pay this bill, then pay this bill or legal action will commence.

After this treatment—or after months of correspondence with the computer—people just give up and pay the disputed or misunderstood amount even though they do not feel they owe it. Some persistent souls actually do resolve these account disputes after years of patient effort. And as we all know, many bring their problems to their Congressmen and ask our help in resolving that continually growing finance charge for a product returned 8 months ago. Some write to Ralph Nader and some hire attorneys; one irate consumer testified before the Congress that he had spent $150 in legal fees to correct a $22 billing error.

Consumer protection is needed in this field. A method to quickly and fairly resolve credit billing disputes is a must when it is considered that the Federal Trade Commission received over 2,000 complaints on this concern last year, and a major newspaper survey found that 1 out of every 3 consumers have been involved in at least 1 billing problem.

Accordingly, I have introduced a bill to give the consumer help in resolving the end of the month bill paying ritual.

The bill has three titles: Fair Credit Billing; Amendments to the Truth-in-Lending Act; and Equal Credit Opportunity.

Title I, the Fair Credit Billing requires that creditors respond to customer inquiries within 30 days. It prohibits threatening letters. And it requires notification to the customer if the creditor is going to notify a credit agency that an account is delinquent. But importantly, if the account is still in dispute that must be clarified to the credit agency as well. The shrinking billing period is prohibited: A creditor cannot impose a finance charge on a revolving credit account unless the customer's bill statement is mailed at least 14 days prior to the payment due date. And no checking or saving accounts may be tapped to offset bills due to a bank credit card without a court order.

Title II, the Amendments to the Truth-in-Lending Act, acknowledges the good-faith efforts on the part of lendors to comply with that act. It also acknowledges the discrepancy that now exists between the Federal Reserve Bank guidelines under the act and the recent court decisions, and rectifies this problem.

Title III, Equal Credit Opportunity, simply brings lending into the modern era and prohibits discrimination on the ground of sex in granting credit.

Mr. Speaker, I urge the early hearing and adoption of this legislation.

INVESTIGATION OF GOVERNMENT EXPENDITURES FOR PRIVATE RESIDENCES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Bingham) is recognized for 10 minutes.

Mr. BINGHAM. Mr. Speaker, on June 29—see pages 22419–22421, Congressional Record of June 29—I called upon Comptroller General Elmer Staats, the head of the General Accounting Office—GAO—to initiate a full investigation of the Government funds which were reportedly spent on the President's private residences in California and Florida and on the Vice President's private home in Maryland. I requested that the GAO make a full analysis of the expenditures for permanent improvements, furnishings, landscaping, and facilities for these homes in order to determine the specific purposes for which the funds were spent, whether any violation of Federal law was involved, and whether any claim may be made by the Federal Government upon the President and Vice President to reimburse the Treasury.

My request for this investigation was given national news coverage, and Americans from all over the country have written to me conveying their grassroots indignation with the Government excess and arrogance demonstrated by these expenditures. I would like to share some quotes from these letters with my colleagues.

> I have read today in the Congressional Record of the $2 million spent on home improvements for the President and Vice-President. I am made as hell. What can I do?—Los Angeles, California.
>
> This even beats the Harding Administration. I can only say thank you.—Elgin, Illinois.
>
> Mr. Nixon has solved the housing problem—for Mr. Nixon!—Fullerton, California.
>
> Bravo! Bravo! Bravo! Bravo! Bravo!
>
> You are to be commended for having the courage to attack the brazen, bare-faced raid on the taxpayers' money for improving the private homes of President Nixon and Vice President Agnew.—Baltimore, Maryland.
>
> San Clemente is beginning to look like the Taj Mahal.—Temple City, California.
>
> President Nixon has done more in the "name of security" than anyone before him. For the life of me I can't see where a golf course or shrubs are needed for security.—Tacoma, Washington.
>
> We are sick and tired of being fleeced, lied to, used and abused in the name of "security"—when it comes down only to Nixon's personal financial security.—Santa Monica, California.
>
> The fact that Messrs. Nixon and Agnew hid behind the phrase "in the name of national security" is really not excusable to this Republican taxpayer.—Binghamton, New York.

Mr. Nixon spoke today of fiscal responsibility and I hope he will begin to realize that also means him.—Fullerton, California.

Surely two homes are not needed for the relaxation of a President. I do not know one person who does not resent the use of such amounts on a private home.—San Luis Obispo, California.

With whom does inflation begin and end? It makes me damn mad.—Pasadena, California.

Many of us wonder why we need three or four White Houses.—Highland, Indiana.

He wanted so much to live in the White House?—La Grange Park, Illinois.

In view of the President's thoughts relative to the energy crisis and the economy, why doesn't he try to conserve aviation fuel by eliminating the frequent trips to Key Biscayne and San Clemente?—Hinkley, California.

How did President Harry Truman get along at Independence, Missouri, without bulletproof glass? I will take Harry any day.—Oak Park, Illinois.

President Nixon is living in royal splendor when many, many old people and young infants are in squalid circumstances.—Los Angeles, California.

Warmest well wishes for success in uncovering all of the dirty facts.—Bronx, New York.

It is evident, Mr. Speaker, that widespread disenchantment with the reverse Robin Hood philosophy of the present administration, which takes from the working person to aggrandize the rich and powerful, has set in around the Nation. It is my understanding that the Government Activities Subcommittee of the House Government Operations Committee is planning an investigation of the Government expenditures for these private home improvements. I urge my distinguished colleagues on that subcommittee to take note of the demoralizing effect upon the national spirit which this outlay of Government funds for personal purposes has had.

The distinguished national journalist, Russell Baker, has written an apt column on this subject in the New York Times entitled "Real Estate Blues," and I am inserting it in the RECORD at this point:

REAL ESTATE BLUES

(By Russell Baker)

"I had always thought it would be an awful thing to be President of the United States," writes a man from Iowa, "but I am having second thoughts since reading about the household improvements President Nixon has had installed in his California and Florida houses. In fact, I am now thinking seriously about announcing my candidacy for President, since I have read somewhere that the Secret Service takes a protective interest even in mere candidates.

"As I understand it, the $1 million or more in public money spent to improve the President's houses was laid out by the Secret Service to make his houses more secure. My own house is a security agent's nightmare. I estimate it would take $250,000 to put it in shape for simple basic security—the kind I suppose they give to mere candidates.

"I was particularly fetched when I read about the new wiring system the Secret Service had installed in San Clemente to eliminate a fire hazard, as well as the expensive pruning job they had done to make sure no tree limbs would fall on the President if he took a walk.

"I don't know about my wiring, but there is a fierce piece of termite damage under my dining room floor, or maybe it was carpenter ants that did it. House-eating bugs are all the same to me. In any case, I suppose the Secret Service has an expert who can tell the difference.

"I have been told that the supports under the floor can be replaced for maybe $1,500. To me that is an awful lot of money. About the same amount, I would guess offhand, as $250 billion is to the Federal Government.

"If I was a candidate for president, I assume, the Secret Service would not let me go into that dining room again until they had tapped Uncle Sam for the $1,500 and done whatever ought to be done under there. If I were President, I gather, they would put me in a whole new teakwood parquet floor—I don't know what that is actually, but it sounds rich—and shore up the house with steel beams.

"What got me seriously interested in this was the fact which I read way back on page 73 of some newspaper behind all that Watergate blather. The item said the improvements made for security cost more than the purchase price of both the President's houses.

"My first thought on that was, 'Well, here's a howdy-do! If this sort of thing is going to keep up, maybe we ought to make Presidential candidates in the future tell us how much we're going to have to pay to make their houses secure if they get elected.'

"I mean would all those young idealists have been so eager to vote for McGovern last time if they had known it was going to cost, say $5 million to make his private houses secure?

"The reasons I have been against being President up to now are (1) I hated the idea of living in Washington and (2) I couldn't stand having to associate with the kind of people Presidents spend their time with. Have you looked closely at those people on the televised hearings? Scarcely a man has come to that witness chair who hasn't made the hair stand up on the back of my neck. And when it isn't them, it's somebody like Brezhnev or Gromyko. I read somewhere that they were a relief for the President. Imagine having the kind of job where sitting around with Brezhnev is a relief!

"This thought still gives me pause, as the old-time novelists used to say before they all gave up and got rich writing sex manuals. However, President Nixon's example that I would no longer have to live in Washington is persuasive, especially since my natural disposition to go right on living in Iowa would bring the Secret Service flying in with a trunk full of money to get my house in shape.

"I'll tell you, friends, I am getting on in life, and there are not going to be many more raises at the shop, and this old house sops up money like a sponge.

"There is a leak in the cellar that would take about $103,000 to stop, I suspect. I've never dared to get an estimate, because I paid only $30,000 for the whole house. If I was President, I imagine, the Secret Service would have to haul the whole old cellar away and put in a new aluminum one so I could go down there without risk of catching the croup.

"I've got a back door that my son and most of his friends could get in and out of in the middle of the night regardless of locks—they're adolescents, and you know what that means. Cans of beer going up those back steps when they think I'm sleeping the sleep of the decrepit. I'll bet the Secret Service could give me a five-or-ten-thousand-dollar lock for that door that not even an 18-year-old boy could figure out. You know how dangerous it can be for a President to have beer cans going up the back steps at midnight.

"Once I got the old house fixed up by Uncle Sam I might even make a fair imitation of a President. I'd love to make one of those pious speeches laying it on the idlers and loafers who sit around asking what the Government can do for them instead of asking what they can do for themselves."

INFLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO) is recognized for 10 minutes.

Mr. ADDABBO. Mr. Speaker, my constituents in the Seventh Congressional District of Queens, N.Y., are among the most abused consumers in the Nation. Everything, from rents to transportation to clothing and food and education, costs more in New York City than in other sections of the Nation.

And I might say that the constituents of the Seventh Congressional District are pretty sensible people. Things cost enough in Queens without someone going out of his way to deliberately make matters worse. And when that happens, my friends and neighbors in Queens want to know why. I consider that a very rational question for people to ask.

Just the other day, I received a postcard from a Mr. V. W. Davis of Jamaica, a community within Queens. Mr. Davis said simply that—

> He is shocked and outraged to learn that the U.S. had negotiated to send additional millions of grain to Russia and China.

He goes on—

> After the chaos and inflation caused by last year's giveaways when we had millions of tons in storage, the continuance and further implementation of such deals to our enemies is an outrage.

Mr. Davis said he wants to know where I was, and presumably the rest of Congress as well, when these deals were made. "The voters will remember," he concludes.

Well, I would like to respond to Mr. Davis and to all Americans who are fed up with skyrocketing food prices that the Congress is as angry and mad as the rest of the consumers are. And I expressly hope that voters do remember who was responsible for today's outrageous inflation.

No one in this Chamber today denies the President's rights to negotiate with other nations. It is his responsibility to do so, but he should never forget he is supposed to represent the best interests of Americans in his negotiations. Certainly the Russian Government feels more kindly about the United States as a result of these grain deals. You and I would display great affection for anyone who gets you out of a mess and digs into his own pocket to do so. Unfortunately for you and I, the President dug in our pockets when he made the grain deal with Russia.

Today's massive food price increases are a direct result of that decision by the President, a decision, incidentally, which was made in the typical secret fashion of the Nixon administration. And has become so abundantly clear in the Senate hearings on the grain deal, even those officials who were supposed to know what was going on were not always let in on the secret. The Congress, certainly, was once more the last to know.

I think we in the Congress ought to let the American people know that although we were unable to stop the original grain deal and the subsequent option purchase, we have acted since that time to tighten up the administration's ability to work this kind of deal in the future.

I think America knows who got them in this mess just as it knows how much we in the Congress have done to try to stop further abuses of this nature. If that is self-serving, let it be so because that is the way it is. Let the voters remember, because after this administration finishes with them, it is about all they will have left.

INTERNATIONAL TRADE SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. GIBBONS) is recognized for 5 minutes.

Mr. GIBBONS. Mr. Speaker, one of the most important economic and foreign policy issues confronting the United States today is reform of the international trade system. The two key elements in our effort to make the international trade system more responsive to the economic realities of today are the forthcoming round of multilateral trade negotiations beginning in Tokyo this fall, and passage by the Congress of constructive and farsighted trade legislation.

Earlier this month one of our distinguished colleagues from Iowa, JOHN CULVER, the chairman of the Foreign Affairs Subcommittee on Foreign Economic Policy, addressed the League of Women Voters National Conference in International Trade. In a penetrating speech he suggested how the executive branch and Congress could fashion the trade legislation needed to best serve U.S. foreign economic policy for the years to come.

Because of the need for well-grounded information and creative ideas on this matter, I insert Mr. CULVER's speech in the RECORD:

SPEECH BY CONGRESSMAN JOHN C. CULVER, CHAIRMAN, HOUSE FOREIGN AFFAIRS SUBCOMMITTEE ON FOREIGN ECONOMIC POLICY, BEFORE THE LEAGUE OF WOMEN VOTERS CONFERENCE ON INTERNATIONAL TRADE

It is a very great privilege to be asked to talk with you on the prospects in international trade. I am not sure that the tables should not properly be turned. For I have been on the listening end when the League has presented testimony on trade issues, and I am fully aware of both the depth of interest and depth of study which you have given to these issues. Moreover, the fact and issue brochure which you have circulated on trade this year provides a remarkably concise and penetrating exploration of the main themes in the current debate on trade. Rather than covering the same panorama, on which I can cast relatively little fresh light before this audience, I should like to place stress on two or three principal hinge points in the debate already underway and likely to intensify in the weeks ahead. I particularly want to touch on the adjustment aspects of trade legislation, and to suggest some ways in which we can achieve a better and yet workable balance between the Executive and Congress in the complex yet cumulatively historic negotiations which the next years will bring.

I need hardly stress that the consideration of the trade bill by Congress and the imminence of concurrent trade and monetary negotiations can have momentous consequences in the impulses they give both to our foreign policy and to the future character of our economy. How we handle the trade bill will be a shaping force for U.S. foreign economic policy for years to come. It could have paralyzing effects; it can be liberating. This is not an isolated or intramural domestic drama. How the trade bill and associated issues are handled is integral to the positions of our trading and economic partners and to the confidence they place in our economic good sense, stability, and staying power.

The uncertain prospects and timetable of the trade bill is one factor, for example, in the currently vulnerable position of the dollar abroad. The outcome of trade legislation will be a major index for countries in assessing the nature of United States foreign policy—whether we are realistically concerned primarily to limit untenable and debilitating security commitments or whether we are unrealistically attempting to devise some form of indiscriminate modern day political and economic isolationism with all the pitfalls that creates for the world community.

Equally the consideration of trade legislation—an event which does not occur more than once in a decade—or at even longer intervals—has large portents for our domestic economy as well. Though the United States in raw arithmetical terms is less dependent on the flow of international trade than many industrialized nations, nonetheless it is of heightening importance as it is plain to see not only in our historic relationships with the countries of Western Europe, but also in our unfolding new relationships with the Soviet Union, Eastern Europe, China, and of course, Japan. And if one considers so large a question as the future of our domestic energy sources, the pivotal importance of trade is inescapable. But a spreading awareness of the changes in world trade brings with it a greater sense of dependency, of accelerated change, and of competitive vulnerability here at home. That is why it is especially important to seize the opportunity to mesh a trade adjustment and manpower policy with trade negotiations and initiatives.

For the past four decades the United States has pursued a generally outward-looking foreign trade policy—a policy designed to seek expanded trade, from which all nations could benefit economically and politically. The United States did not take this course until after learning, from the hard experience of the Depression and Smoot-Hawley tariff years, the grave disadvantages of indiscriminate trade restrictions—political isolationism and retaliatory trade barriers, which in turn forced many American businesses to lay off workers. Since 1934 and the enactment of the Reciprocal Trade Act, and especially after World War II, the United States has encouraged cooperative and interdependent international economic policies.

On balance, the result of our outward-looking foreign economic policy coincided with unparalleled US economic growth, stimulated increased sales aboard, strengthened economic and political relations with foreign countries, and an increased standard of living at lower costs to consumers in the developed countries, including the United States.

In recent years, however, there has been growing concern in the United States about our mounting trade and balance-of-payments deficits, combined with a persistent and intolerable 5 to 6 percent domestic unemployment rate and surging inflation. We are confronted with these facts, but have generally been unable to reach a consensus as to their root cause, and more important have to date, been unable to develop truly constructive solutions.

Some concerned citizens have pointed to unfair trade practices engaged in by foreign companies and governments, which have gone unchallenged by the executive. Others have suggested that the root of our employment and trade difficulties are to be found in our domestic economy, through the lack of economic policies effectively controlling inflation and the failure to develop and rely on forward looking economic policies to stimulate innovation, productivity and vigorous competition.

In spite of these various views, three facts are clear. First, millions of American workers are gripped by the fear that imports are undermining their job security, and they are joined in this fear by diverse industries which feel the pressure of foreign competition. Second, the concerns being voiced by labor and management in the adversely affected sectors of our economy are genuine concerns, and cannot be ignored or answered by resorting to the vague conceptual slogans of either "free trade" or "protectionism." Finally, the post World War II economic system and era have come to a close, and a new set of domestic and international economic policies, relationships and institutions need to be developed.

These events are clear signals that the United States must develop and pursue fresh concepts to meet the problem of economic dislocations caused by imports and further economic interdependence. This points unmistakeably to the need for new trade legislation to confront the requirements of greater job security and opportunities for American workers—and in a way is truly humane, effective economically, and consistent with the best interests of the US role in the world economy.

In April and May of last year, the Subcommittee on Foreign Economic Policy, of which I am Chairman, held seven days of hearings to examine workable mechanisms for economic conversion as an alternative to trade wars. During these hearings, the subcommittee received testimony from knowledgeable private witnesses drawn from former government officials, universities, public interest groups, labor and business, as well as from key government officials. The League of Women Voters made an outstanding presentation.

The general consensus reached during the hearings was that trade adjustment assistance in its present form is burial assistance, but that a trade adjustment assistance program could be designed to provide prompt and effective assistance to workers, firms and communities who need it, at a lower cost to the economy, and without the foreign policy disadvantages of import restrictions.

For the purpose of providing a workable alternative to trade restrictions and trade wars, I introduced HR 4917—The Trade Adjustment Assistance Organization Act of 1973. The bill, which has the bipartisan cosponsorship of 45 members, is based on the recommendations made in the Subcommittee's report on adjustment assistance, and is, in my opinion, a reasonable and constructive means of making trade adjustment assistance a workable answer to economic dislocations caused by imports.

The Administration, however, does not seem to recognize the critical importance of trade adjustment assistance. At the same time that the Defense Department's Office of Economic Adjustment is preparing for a substantial extension of their often successful program of assistance to communities impacted by defense cutbacks, the Administration has seen fit to virtually abandon the concept of trade adjustment assistance in its trade recommendations to Congress.

Unhappily, the Trade Reform Act of 1973, as submitted by the Administration:

Proposes to decrease worker benefits.

Proposes not only to reduce the level of benefits, but to also lower the duration of benefits.

Completely abolishes substantive adjustment assistance to firms and industries. By abolishing this assistance, firms and industries are encouraged to seek relief in the form of quotas and tariffs instead of dealing with the fundamental problem of making themselves more competitive.

In addition, the Trade Reform Act of 1973 provides inadequate job search and relocation allowances; and no provisions for the worker to retain his health insurance. Moreover, there is no provision for allowing older workers the option of early retirement; and no provision for an early warning system so that adjustment programs could be initiated before firms and workers actually are in trouble.

The United States deserves a more effective and humane trade adjustment assistance program than the one offered by the Administration in the Trade Reform Act of 1973.

The emphasis today must be put on a better delivery system, more substantive assistance and an early warning network to spot in advance those industries and companies which are running into the company is beyond hope and it can enroll workers into training programs before they are unemployed and their skills become obsolete. The government must anticipate problems and identify industries which need assistance. But, most important, the assistance must be adequate, practical and quick. Otherwise, we will always be in a position of doing too little, too late, and there will be no viable political alternative to protectionist tariffs and quotas.

HR 4917, the Trade Adjustment Assistance Organization Act of 1973, provides, I believe, the proper emphasis for an effective trade adjustment assistance program, and I hope the Ways and Means Committee will give the concepts contained in it favorable consideration as it develops its own legislative proposals.

In terms of cost, trade adjustment assistance is designed to provide assistance aimed specifically at the firms and workers who need it at a lower price to the economy and without the disabling foreign policy disadvantages of import restricting relief, such as increased tariffs and quotas.

Careful estimates indicate that an effective trade adjustment assistance program will cost not less than $150, nor more than $500 million.

These estimates must be compared to the costs of import restrictions. First, import restrictions can provoke trade wars which could seriously undermine our general economic health. As in the 1930's, American jobs and exports will be lost, not gained, because of trade wars. Second, import restrictions damage the US consumer by reducing competition for domestic producers and permitting them to raise prices. It is estimated that present US trade restrictions now cost US consumers as much as $7 to $15 billion every year.

In short, trade adjustment assistance is far less costly than import restrictions, and I am grateful that the League has endorsed the bill I have introduced.

The Trade Adjustment Assistance Organization Act of 1973 also directly reflects a broader issue which presented itself during our hearings on trade adjustment assistance—the issue of developing a national industrial conversion and manpower training program.

We live in an era of "future shock." The social and human costs of economic dislocation caused by rapid technological change, changes in consumer tastes, Government procurement programs, international trade, and other factors, make the development of effective adjustment mechanisms imperative where such dislocations occur.

Viewed in the context of the various factors which can cause economic dislocations, it is hard to justify helping workers suffering unemployment for some reasons while neglecting others whose unemployment arises from different causes equally beyond the workers control. To a firm or worker thrown out of business by impersonal forces, it makes no difference to him whether the cause is increased imports, changing consumer choice, technology, or rapid and sudden shifts in Government programs.

Moreover, as our orientation toward a military economy winds down, and as the 1970's bring a new awareness of the human and environmental problems which confront the Nation, we must develop a national priorities and economic conversion program which will serve to shift industry from less productive areas to those for which there is a need for greatly expanded services, manpower and capital investments—health, education, energy, housing, pollution control, mass transportation, and rural and urban development.

To deal more effectively with the problems of unemployment, inflation, low productivity, lack of competitiveness, worker dissatisfaction, and redirecting our economic priorities, the United States must commit itself to the development and implementation of national manpower power and industrial policy programs.

However, with the imminence of new multilateral trade negotiations, it is all the more timely to concentrate on developing a workable trade adjustment assistance program, which can also serve as a demonstration model for a national manpower and industrial program.

In submitting the Trade Reform Act of 1973, President Nixon has asked the Congress for wide authority to retaliate against restrictions on US exports; levy import surcharges; lower or raise trade barriers; and other trade rule changes. In its cumulative effect, the Trade Reform Act of 1973 would give the President far more authority over the foreign trade of the United States than any president has ever had before.

This delegation of authority comes at a time when the President has been challenging Congress on issues of executive versus legislative power—by claims of executive privilege, by impounding appropriated funds and by numerous vetos. In addition, the powers the President is asking for represent a double-edged sword since they can be used for protectionist and partisan political interests, as well as for statesmanlike reformation of the international trading system.

The executive, however, must have wide latitude in negotiating tariffs and trade arrangements. Furthermore, many of the actions needed to liberalize world trade rules and improve the US trading position cannot be handled by the Congress.

But the Congress too has a vital interest and fundamental role to play in shaping US foreign economic policy, and should, therefore, develop constructive means to exercise their responsibility.

First, the Ways and Means Committee and the Congress must closely scrutinize the Trade and Reform Act of 1973 and provide a reasonable and workable Congressional check on those powers which accord the President unusually new and broad authority.

Second, the Congress should form a bipartisan joint committee which would monitor the trade negotiations and the President's use of Congress' grant of authority. This special joint committee would convey the views of the Congress to the President in an effort to better coordinate trade policy during the trade negotiations as well as keep the Congress informed of the negotiations as they proceed.

It should be non-legislative, but broad enough to embrace bipartisan representation from Committees other than just Ways and Means and Finance, such as the Foreign Affairs, Banking and Currency and Agriculture Committees.

It should not be the primary aim of this Joint Committee to be a continual kibitzer or close daily monitor of the trade negotiations. However it is equally important during the forthcoming negotiations, which will enter new terrain—especially in non-tariffs and agricultural trade barriers—that there just not be periodic announcements of surprise trade packages for which there is neither the proper political environment or public acceptance. There must on trade issues be a cross-fertilization of ideas as well as information, and such a special joint committee can provide a proper framework and useful conduit.

What our experience has increasingly underscored is that trade and monetary negotiation and the necessary adaptations in the world system will require time, persistence, and skilled judgment, both professional and political. These problems will not evaporate with the passage of trade legislation, with the convening of formal trade negotiations, or with an automatic sequence of programmed decisions. Their solution requires more than expert prescription alone; they demand also political insight, leadership, and a proper interplay between the President, Congress, and the public. That is why I emphasize the need for a Joint Committee in Congress. That is also why a meeting of this character and the disinterested and sustained advocacy of the League of Women Voters so well fortifies the informed understanding necessary for the adoption of a responsible trade bill and for the strengthening of the world economy.

NOWHERE TO GO BUT UP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. PODELL) is recognized for 30 minutes.

Mr. PODELL. Mr. Speaker, in football, when it is fourth down and yards to go, a team punts and hopes for the best. This seems to be what the Nixon team has done in phase IV.

With his back literally to the wall, President Nixon last week announced his latest economic game plan. Hopefully, it will be more successful than some of his past attempts at coaching football. Frankly, I am seriously worried about the attitude expressed by the President in his message announcing phase IV. It seems that the President has abandoned all hope of controlling the recent disastrous rises in food prices that have plundered the purses of my constituents and of all the people in this country in the last few months.

This somber attitude may be indicative of a more realistic approach to this Nation's economic problems. Where before we had gladhanding platitudes and exhortations not to be concerned, that the situation would soon be better, the White House now tells us not to expect too much in the way of inflation control. While the President's message was filled with promises that if certain conditions were met, it would be possible to control inflation, it was all too easy to read between the lines. What I read was that, in spite of the President's best intentions, inflation will not be controlled until certain fundamental changes are made in our economic thinking. We are unlikely to see such changes—therefore, we may as well get used to paying ever higher prices for the necessities of life.

The President's message is replete with warnings that unless we balance the budget we shall be forever doomed to being dragged along the inflationary spiral. Now, balancing the budget has been a favorite theme of every President in this Nation's history. It is, to borrow a phrase from Shakespeare, a consummation devoutly to be wished. I think that the budget can be balanced. But the question is, How is that goal to be achieved? For in every attempt to balance the budget, cuts must be made in Government programs and employment. And no matter where the cuts are made there will be people hurt, because they have lost their jobs, or areas hurt because they have lost a longstanding source of income.

It is a pretty safe guess, Mr. Speaker, that when the President speaks of balancing the budget, he stands ready to do so by impounding funds desperately needed by our cities, our children, our aged, and our poor. The courts of this Nation have said to the President that his powers do not extend to transgressing the will of the Congress by impounding funds which we have duly voted. Will the President be willing to drastically reduce spending on unnecessary Defense Department projects? Would he be willing to cut back spending on short-term military and subsidy programs, and invest instead in long-term human resources programs? Has he ever considered seriously the necessity to a nation supposedly at peace of such a bloated defense budget?

The Brookings Institution recently issued a report in which it was said that this Nation is allocating its available resources in an inefficient manner. Too much of our income is being allocated to the military and other areas which have only a short-range benefit, at best.

Coupled with this is the way in which we garner the resources which we then misallocate. Our tax structure, which once was touted as the most progressive in the modern world, has become so riddled by loopholes and exceptions as to be regressive in its effects. The greatest burden, in percentage of income actually paid in taxes, has fallen on the middle classes. This is certainly not new information. But, as prices continue to rise, not only for food, but for every necessity of modern life, we shall be hearing much more about the inequities of the tax system.

President Nixon intimates in his phase IV speech that it will be necessary to control inflation by controlling demand for products. This means taking more money out of the people's pockets, which in turn means higher taxes. If taxes are to be raised, will they be raised fairly? Will the giant corporations who make hundreds of millions of dollars in profits each year be asked to shoulder their share of the burden of running this country? Or will we see yet another onslaught against the pocketbook of the middle class?

Simply controlling the amount of money available for spending will not control inflation. Nor will cutting down on Federal expenditures. The picture is much broader than that. We will have to take a long, hard look at just where we spend our money and why. We will have to reexamine our fundamental assumptions about income taxation, in order to make our tax system truly progressive. We will have to decide not just whether or not we want our budget balanced, but whether it is to be balanced in favor of life or death.

The fight against inflation is more than that; it is a fight to make our Nation livable again. It is unfair to say to the housewife that she will have to eat less and pay more money for it, while at the same time continuing to pay farmers not to grow food. It is unfair to let farmers and packing houses go out of business because the high cost of feed grains makes it unprofitable for them to grow their flocks to maturity, and at the same time sell over one-quarter of our grain crop overseas. It is not just unfair, it is ridiculous, to tell the American consumer that he must reduce his level of demands for food and manufactured products, while the Pentagon spends more and more money every day on boondoggle projects.

I can understand why President Nixon did not make any firm projections about food and other prices leveling off. He has not simply gone out of the business of predicting economic trends. He undoubtedly will refuse to make the hard decisions necessary to revitalize the economy of this Nation. It was not until his back was literally against the wall that he imposed the freeze on meat prices and ordered an increase in the acreage under cultivation. President Nixon, in spite of his rhetoric to the contrary, did not make these decisions. They were made for him by a convergence of economic conditions and public outrage.

The same attitude of "I'm doing this against my better instincts" is apparent throughout the text of his phase IV address. And it is this attitude of extreme reluctance which may be ultimately more dangerous to our Nation's economic well-being than either inflation or controls. For what the President is saying, in spite of all his warnings of how tough the new program will be, is that he would rather not control prices at all, and that he would rather let inflation run rampant.

The President, by dragging his feet, is giving tacit approval to the current trend toward higher prices. He is admitting that he is helpless to cope with ever-higher prices, and he is further admitting that it will not greatly disturb him to see prices continue to rise. He sees this as a sign of a healthy economy. I and my constituents see this as a sign of a government which does not act on behalf of the vast majority of people in this country. As far as the President is concerned, prices have nowhere to go but up.

PROPOSED REGULATIONS FOR RURAL DEVELOPMENT ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 30 minutes.

Mr. ALEXANDER. Mr. Speaker, recently, the USDA published proposed regulations for the Rural Development Act of 1972. For those Members who represent districts containing rural areas, these proposals may be of great importance to the future of their constituents. As chairman of the Subcommittee on Family Farms and Rural Development of the House Committee on Agriculture, I am compelled to comment on these proposals:

I represent 21 counties in the northeast quadrant of Arkansas. My home county is the largest in the First Congressional District. It is situated midway between Little Rock and St. Louis—50 miles north of Memphis on the North-South Expressway.

My district represents the lowest per capita income, the highest rate of unemployment, the least number of doctors per 1,000 population, the most substandard housing of any district in the State, and the lowest educational achievement level.

However, the First Congressional District is first in out-migration of population. During the past quarter century we have lost approximately one-third of our total number of people.

They have moved away with their families to Memphis, St. Louis, Chicago, and Detroit.

We have literally poured out our problems that have filled the urban areas that surround us.

Our poor have moved away to the city:

They swell the welfare rolls in St. Louis.

They raise the crime rate in Memphis.

They crowd the classrooms in Chicago.

They fill the hospitals in Detroit.

And they add to the number of citizens who have lost hope of the American dream.

We lose our tax base, our labor supply, our people from Arkansas. And the complexities of the urban crisis are compounded by the continuance of this fact in our society.

In 1969, when visiting Bedford-Stuyvesant in New York, I took personal note of a little child who played near-naked in the streets where sewers overflowed from the gutters. In becoming acquainted with the child's father, who was drinking beer at 2 o'clock on Friday afternoon, he explained that he was in his mid-fifties, had been unemployed for several years, survived on welfare and veterans benefits and arrived in New York by way of North Carolina.

Having knowledge of this modern American tragedy, in 1970 the Congress established a national policy proclaiming its goal of balancing economic development between rural and urban areas. In 1972, we went a step further, and enacted the Rural Development Act which, at the time, was heralded by all to be a solution to the problem of national development.

It is my understanding that you want me to comment on the steps being taken to implement the Rural Development Act and the role our subcommittee should play in this field.

Since coming to Washington, I have discovered a new planet in the universe. This other world is known as the administration. It lives in one world and Congress lives in another.

In June, when I began reviewing some of the proposed regulations to the Rural Development Act, I was certain of this new discovery.

In the world in which I live, the Congress enacted a law which we entitled "The Rural Development Act of 1972." This act authorized the establishment of Federal programs to be administered in the federal system by Federal agencies for the revitalization of rural America.

Let us review some of the VSDA proposed regulations:

Business grants: Applications shall be processed by FHA only after having been approved by the State Governor or State official designated by him and in accordance with any applicable cooperative arrangements.

Community facility loans: Applications shall be processed only after having been approved by the State Governor.

Real estate loans: The State Governor or his delegate will select the projects to be funded.

After reading these proposals I got the distinct feeling that in the world in which the administration lives that something different was enacted in 1972 entitled "Rural Revenue Sharing as Originally Proposed by President Nixon."

In the world in which I live, article II, section 3 of the Constitution of the United States says that the President "shall take care that the laws be faithfully executed."

In the world in which the administration lives that provision of the Constitution has been changed. It now seems to say that the President "shall take care that the laws be faithfully executed according to his wishes."

The proposed regulations under which the programs were to operate were published in the 10th month after the bill became law. They appeared in the Federal Register at a time when Congress—particularly the House—was laboring under the heaviest legislative schedule of this session.

Why?

First. Is it possible that the administration hoped that the Congress would be so busy with current legislation that it would not notice the provisions in the proposed regulations?

Provisions which would have the effect of delegating to the Governors of the States the administration of this program.

Provisions which tend to manipulate the RDA into rural revenue sharing.

Second. Is it possible that the executive branch hoped that Congress would ignore the USDA proposals so that new and additional credit resources would be subverted into supplemental credit?

Third. Is it possible that the executive branch expected the Congress not to notice that it had arbitrarily excluded from program benefits under the business and industrial development provisions for recreation logical and legitimate activities in such areas as recreation?

There are areas of the Nation's countryside, some of them are in the district which I represent, where the development of recreation projects are the most natural and reasonable avenue of economic development. Areas where recreation developments would mean not only economic revitalization but be a means of protecting and enhancing the natural environment and regional culture while making its enjoyment available to the whole Nation.

Congressional reaction to these proposed regulations has been swift.

The House and Senate have enacted amendments that reassert the congressional intent that the Rural Development Act is a Federal program, not State revenue sharing.

The administration's response to this effort indicates that it will make appropriate changes.

Let us look at the hard facts leading up to publication of the June regulations. The hope of breathing new life into rural America dimmed in January when the President's budget was made public:

Of the 33 provisions for which funding should have been requested only 16 appeared in the budget.

And the levels for which spending authority was requested was dishearteningly low.

Six months had passed.

It was apparent that the administration's verbal commitments to Rural development would not be backed up with a budget commitment.

There are 72 provisions in the bill for which implementing provisions are needed. Now 10 months after this bill has become law, regulations for only 38 provisions have been proposed.

And, the administration has flatly told the Congress that it does not intend to implement a dozen other provisions, and that some of the provisions which are implemented will be absorbed into existing programs rather than become new or expanded programs.

I am pleased that the administration is beginning to move to implementing this act. However, I am greatly disappointed with the direction in which some of its proposals have taken.

It now appears that full implementation, if we get it at all, will likely not come before fiscal 1976.

When the Congress passed the Rural Development Act last year, we fully recognized that it is not the final answer to the problems which face the Nation's countryside. What we were attempting to do was keep our word with the American people when the Congress enacted title IX of the Agricultural Act of 1970 calling for a sound national development balance between rural and urban America.

There are, I believe, three basic elements to any attempt to achieve this goal. The first is knowledge—the research and education necessary to move in an orderly manner toward the objective of revitalization and development of rural areas.

The second is establishment and operation of new credit assistance programs which, through a private and public enterprise partnership, will help finance the establishment of businesses, industries and community facilities and activities essential to improving the quality of rural life. And, finally, the establishment of a coordination system designed to direct into rural development programs the countryside's fair share of existing programs within the Federal system. Programs which, while they were intended to benefit all sections of the Nation, have to often concentrated on the massive problems of our highly urbanized areas and given little or no concern to the needs of our smaller communities.

Through the approval of the Rural Development Act, the Congress incorporated all these elements in its program for the Nation's countryside. This action was a clear rejection of the rural revenue-sharing program proposed by the President.

It was a mandate to the executive branch, and to the President, to get on with the business of keeping the promise Congress made in 1970.

As chairman of the subcommittee dealing with rural development in the House, it is my hope that we can focus on directing our efforts to achieving full implementation of the Rural Development Act and title IX of the Agriculture Act of 1970. This can best be achieved by reviewing all executive branch activities affecting rural areas and developing legislation needed to fill the gaps which exist or may become apparent in current legislation.

The Rural Development Act of 1972 is an opportunity to build on a foundation of experience and an opportunity to avoid the mistakes of the past. We would do well to draw on previous achievements and learn from the errors of such agencies as:

The Economic Development Administration;

The Old Area Development Administration;

The SBA;

The REA; and

The Department of Housing and Urban Development.

In conclusion, I would say to the administration that the Congress is determined to breathe new life into rural America, and that it will find no greater dedication of purpose, nor sincerity of effort than it could discover in the Congress. Let us link our separate worlds together in a spirit of cooperation under the same Constitution and make this program work.

CREDIT AND WOMEN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. ABZUG), is recognized for 5 minutes.

Ms. ABZUG. Mr. Speaker, I would like to take this opportunity to commend my distinguished colleague from Missouri, Representative SULLIVAN, for beginning today oversight hearings on the subject of consumer finance. It is well known that the American economy is a credit economy. The American consumer uses credit to live better—to be better clothed and housed, to enjoy a vacation, to pay for a child's education or their own education. Probably no one in the House knows this better than Mrs. SULLIVAN. In fact, in May 1972, when I testified before the National Commission on Consumer Finance, it was Mrs. SULLIVAN who was chairing the meeting.

The subject of those hearings was the problem of discrimination against women in the extension of credit. Women constitute 51 percent of the population and 40 percent of America's work force. Yet, there has been much empirical evidence and some statistical data to illustrate the problems women—be they married or single, divorced or widowed—have in securing their fair share of this fact of American life. To help secure that end and to remedy the problem of discrimination last May I introduced three bills that would make it illegal to discriminate on the basis of sex or marital status in retail credit, mortgages or personal and commercial loans. This was the first legislation of its kind in either the House or the Senate.

This problem is one that reaches and effects large numbers of American women. When I started talking about this situation in my travels around the country and in my district many women, both young and old, came and told me of their problems in securing credit. Many of the national women's organizations such as National Women's Political Caucus, the National Organization for Women and the Women's Equity Action League, engaged in an extensive lobbying campaign around this issue. I also heard from many individuals who were interested in this problem as well as many national journals and journalists.

At the beginning of the 93d Congress I reintroduced those three bills with 22 cosponsors and again urged that this matter be considered expeditiously. It was also in the beginning of the 93d Congress—and for Mrs. Heckler, the 92d—that other of my colleagues introduced legislation on this subject. During this period I reviewed the legislation and in May redrafted and reintroduced a new bill that combined the elements of the three original bills into one. It would accomplish its purpose by amending the Truth-in-Lending Act. That bill now has 70 cosponsors and broad bipartisan support.

I also note that yesterday three members of the Consumer Affairs Subcommittee. Mrs. Heckler and two other members, introduced the Senate legislation. This renewed action emphasizes the importance of this legislation. These three members of the subcommittee join three other members of the subcommittee, Mr. Mitchell of Maryland, Mr. Gonzalez, and Mr. Moakley, who are cosponsors of my measure.

I hope that with yesterday's Senate approval of this measure, the introduction of new bills and the 70 cosponsors on my legislation that we can expect action soon to remedy this problem.

DEALING WITH TOTALITARIAN SOCIETIES

(Mr. ICHORD asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. ICHORD. Mr. Speaker, in this period of seeming détente with the Communist world and while the United States seeks to negotiate arms limitations and increased trade with both Red China and the Soviet Union, we must not forget that we are dealing with totalitarian societies where the cries of the people for greater freedom are constantly being snuffed out like a flickering candle.

We must raise our voices in protest. Not to do so is to turn our back on our fellow man in vast areas of the world.

I have just recently learned that another gifted Russian writer is facing imprisonment in a mental hospital and expulsion from the Soviet Writers' Union because his works are critical and thus, displeasing, to the Kremlin authorities.

His name is Vladimir E. Maximov, age 41, and is considered by many in Western Europe who have read translations of his novel, "Seven Days of Creation," to be second only in talent to Alexander Solzhenitsyn who has long been recognized as perhaps the greatest Russian writer in the 20th Century.

Maximov's latest book, "Quarantine," is about to be published in West Germany and the Soviet Government has denounced the author as an enemy of the state.

According to information received from some of Maximov's friends in Moscow, he has been summoned to appear for psychiatric reexamination. He was similarly harassed by psychiatrists under orders of the Soviet secret police during 1972 on several occasions.

I am sure we are all familiar with the fact that the U.S.S.R. frequently confines intellectuals in mental institutions on the grounds that anyone who finds any fault with the Soviet Communist system must be insane.

A worldwide appeal is being made on Maximov's behalf to try to prevent his incarceration and further persecution and I have joined in this effort by writing to Soviet Ambassador Dobrynin. I wish to insert a copy of my letter in the Record at this point.

July 19, 1973.

Hon. Anatoliy F. Dobrynin,
Ambassador, Union of Soviet Socialist Republics, Washington, D.C.

Dear Mr. Ambassador: It has been brought to my attention that your Government is considering the incarceration of the Russian writer, Vladimir Maximov, in a mental institution following a State-ordered "psychiatric re-examination." He is also facing expulsion from the Writers' Union.

I have been advised that his book, *Seven Days of Creation*, is about to be published in English, has already been translated into German, French, Italian and Spanish, and ranks, by the standards of many reviewers, in a class with the works of Alexander Solzhenitsyn whose creative genius is now well recognized throughout the world. His newest book, *Quarantine*, is also ready to be published in West Germany.

At a time when detente seems to be the order of the day and men of reason on all sides are endeavoring to put together such a fragile thing as a generation of peace and progress based on greater mutual understanding, it is very difficult to understand the continued persecution of intellectuals in the Soviet Union. It certainly dampens any enthusiasm Americans may have for increased cultural exchanges between our two countries.

You certainly know, from your years of service for your country in Washington, that men like Boris Pasternak and Solzhenitsyn have done much to stimulate an American interest in the peoples of the Soviet Union just as the writings of Dostoevski, Tolstoy and Turgenev helped bridge the gulf which tended to separate our forefathers from the realities of life in Tsarist Russia.

The cultural heritage of a country suffers immeasurably when creative talent is mistreated and suppressed. Such talent belongs to Mankind whether it be Russian, American, Chinese or Nigerian.

The creative spirit must not be allowed to perish in Russia or anywhere else and it is on this basis that I urge you to intervene with your Government on behalf of Vladimir Maximov.

Sincerely yours,
Richard H. Ichord,
Member of Congress.

For those of my colleagues who have not had the benefit of hearing about Maximov before, I would also like to insert excerpts from an interview given by Maximov to his West German publisher:

Excerpts From an Interview Given by Vladimir E. Maksimov to His West German Publisher Herr Schertz

Q. When and where were you born? Who were your parents, your brothers and sisters, and what were your relations with them?

A. I was born 41 years ago in Moscow in the family of a worker of a plant producing salicil, which is located in Sokolniki. My mother, Fedosya Savelyevna Samsonova, was an employee of a communal economic organization. She worked as a secretary, a case worker, and economist. My older sister Nina—now a rather vague, yet a bright spot in my memory of the past—died at the age of 11 from blood poisoning. With my younger sister, Yekaterina, Breitbart in marriage,—who at the present time lives in Israel—I maintain the closest relations, and hope to be able to continue to do so in the future.

Q. What schools, children's homes, camps and colonies have you lived in, and what were the conditions prevailing there?

A. Before leaving home, I succeeded in completing four years of studies at the Moscow general-education school No. 393. My wandering youth was several times interrupted by short-term "stops" in the homes for unheeded children (in Slavyansk, Batumi, Kutaisi, Ashkhabad, Tbilisi, Tashketn) and in the colonies (of Kutaisi, Ashkabad, Tashketn, and Sheksna) from which, as a rule, I managed to escape successfully (with the exception of the one in Sheksna). From bitter experience of my residence in the correctional institutions for children—standardized in accordance with the Makarenko system—I have gained a staunch conviction that any system, even the most attractive one, becomes an instrument of crime in the hands of fanatical apologists. Never, before or after, have I seen anything more loathsome, even though life had hardly ever treated me too charitably since. At the age of 16 I was sentenced to 7 years under a government decree directed against the pillagers of state property, and after a short stay in the Taganka prison, I was sent to the Sheksna labor colony for delinquent children, from which I also tried to escape, but was unfortunately captured. While still unconscious [after the treatment received at the hands of my captors], I was brought to the Vologda district mental hospital for psychiatric examintaion where I was pronounced insane and promptly committed, as they say, "for good."

Q. Tell us about your further education, the places of your residence, and your travels?

A. Leaving aside the brief haphazard periods of study during my stays in various correctional institutions, I received my education mostly from books. It is on the basis of what I've gleaned from books that I have formulated for myself a code of ethics, enriched later on by my voluminous experience in life. Along with my release papers, I was issued my first passport, though with a clause restricting my right to reside in certain cities. Having celebrated my 18th birthday, I, there and then, decided to volunteer for employment in the Arctic. I worked there with the research expedition which was commissioned to plot the notorious "Dead Railroad", as a laborer in the Taymyr area, and later as supervisor of the river-transport workers club in Igarka. Still later, having gained some experience in construction, I worked as a mason and plasterer in Tuna, Krasnoyarsk, and Kemerovo. In 1952 I moved to the Kuban area where I was employed as a handyman at a brickyard, as a trailer maintenance man in a collective farm, as a cultural worker and newspaperman. In the latter capacity I have crisscrossed practically the entire country.

Q. What was the life and the fate of your father?

A. My father was a peasant from the village of Sychevka in the Tula district. In 1920 he was drafted from there into the Red Army, where he had joined the party. Upon demobilization—instead of going home—he moved with his young bride to Moscow, where he became active in political work, having sided with the workers' opposition movement. After the expulsion of Trotsky from the USSR, he was arrested several times, but was finally sentenced to imprisonment only in 1933. In 1939 he found himself among the "fortunate few", who were released as a result of the fall of [NKVD boss] Yezhov. Up to the very beginning of World War II he worked as a mucker in a mine in the vicinity of his native village. On June 22 [1941] he enlisted as a volunteer and was sent to the front where he was killed in action. The utmost poverty of our family, and the consequent everlasting struggle for existence, was not conducive to mutual trust and attachment among its members, and this is probably the reason why no close spiritual ties had ever developed between my mother and me. Partially this was also due to our intrinsic stubbornness, hers and mine. The greatest influence on my development was exerted by my maternal grandfather, a hereditary railroad worker, Saveliy Anufriyevich Mikheyev, with whom I have spent the major part of my early childhood.

Q. When did you become interested in literature? Who, or which authors served to you as examples? Who was your literary mentor?

A. I wrote my first poem when I was eight years old, since then I continuously engaged in writing. Of whatever I happened to lay my hands on, the most fascinating to me were the works of Gorkiy and Leonov. Along with spiritual maturity there developed in me a passion and deep admiration for Dostoyevsky which overfilled my entire being. I entirely share Dostoyevsky's ineradicable "kindness for the fallen", the consistency of his moral principles, his refusal to accept any division of society into the righteous and the guilty ones. The wealth of issues he had unearthed could serve as an inexhaustible fountain of ideas for any contemporary writer. In the literary milieu of my generation I—from the very beginning—became an outcast, a pariah. Little, indeed, was I concerned with the problems which then occupied my colleagues among the writers: cases of mismanagement in agriculture, the drama of the domestic breed of beatniks, the cult of personality. Hence, their manifest and complete inability to understand me, and frequent out-spoken derision, particularly of my religious searchings. I strove to get directly "to the very essence of things", to probe the sources of the process which was tearing the society apart, to expose for myself its historic perspective. Let the reader be the judge of whether I have succeeded or failed in this endeavor. The version about the patronage allegedly extended to me by Konstantin Paustovsky—a writer whom I profoundly revere—is somewhat exaggerated. His role in my literary career was limited by his invitation for me to contribute some of my works to the collection of essays *Tarusskiye Stranitsy*, of which he was the editor. Since then I have never had a chance to see him. Grouped around him were mainly the former participants of the seminar he was conducting at the Literary Institute: Boris Balter, Lev Krivenko, Benedikt Sarnov, and others.

Q. How long did it take you to write the *Seven Days of Creation*, and under what conditions was the book written?

A. With the exception of the chapter, entitled "A Household Amidst the Skies", which was written somewhat earlier, the book was completed, so to say, in one breath, in a single continuous effort which lasted throughout 1969 and the very beginning of 1970. I wrote the book almost suffocating from my impatient desire to express all that was overfilling my soul. The nature of this angry impatience did, in fact, predetermine all the book's merits and all its shortcomings.

Q. What is your attitude to certain colleagues of yours—Tvardovsky, Solzhenitsyn, Yevtushenko, and the others?

A. First of all I consider it totally improper to associate a mediocre versifier, a resourceful literary wheeler-dealer, with the names of Tvardovsky and Solzhenitsyn, so highly respected in our literature. The amoral tribe of all sorts of yevtushenkos—these abhorrent products of our troubled epoch, who strive to offset a total absence of conscience and lack of any measure of genuine talent by demagogic opportunism and impudence—roam through the world as self-styled representatives of the "progressive elite" of Soviet intelligentsia. One can't help but wonder at the amount of truly naive credulity with which these well-paid literary salesmen are accepted in the West as "fighters" and even "martyrs". But the best strains in our literature are gaining an upward momentum. I could mention here a series of worthy names, such, for instance, as Vladimir Voynovich and Andrey Vitov, Vassiliy Aksyonov and Vassiliy Belov, Yuriy Kazakov and Boris Mozhayev, Mikhail Roshchin and Yuriy Trifonov, to say nothing of such a magnificent prose-writer of the older generation as Yuriy Dombrovsky.

Q. Your only trip outside the USSR was to Czechoslovakia. What were your impressions? What has motivated you to make this trip? Whom have you met there, and what subjects did you discuss?

A. Czechoslovakia was the first country where all my published works were translated, and where the first literary analyses of them appeared in print. It is only natural, therefore, that I, as the author, was eager to visit the country where I was understood and recognized. But the trip exceeded all my expectations. Fate has granted me a number of encounters which I shall remember as long as I live. I regret very much that I cannot mention here the names of the persons I met, and the top'cs we discussed, for the fear of causing them harm. The only feeling which imbues me whenever Czechoslovakia is mentioned could be expressed in one single word—gratitude.

Fully aware of what is happing to him, Maximov has recently written a letter to the Soviet Writers Union—a letter widely distributed underground throughout the Soviet Union and smuggled to the West. The measure of the man is incorporated powerfully in this letter and I insert it at this point in the Record:

To the Secretariat of the Moscow Organization of the U.S.S.R. Writers' Union,
From V. E. Maksimov

It has come to my knowledge that the Secretariat of the Moscow Chapter of the RSFSR Writers' Union, in cooperation with its Prose Section Bureau, is scheduling a discussion of my novel *Seven Days of Creation* with all the administrative consequences ensuing therefrom. I am, therefore, writing this letter in anticipation of the proposed discussion, since I know in advance the character of your accusations and the quality of your arguments. There is no need for me to apologize to you for anything, nor do I have anything to regret. As a son and grandson of hereditary proletarians—a product of the working-class myself—I have written a book about the final development phase of a cause for which my father, my grandfather, and most of the members of the two families from which I stem, have sacrificed their lives. For me this book is a result of many years of thoughtful consideration of the oppressive, and now irreversible, phenomena of our times, and of my personal agonizing experiences. If—while remaining alone with your conscience—courageously and without prejudice you will look into the eyes of reality, there will—I am sure—arise in your minds many of the very same "whys" which have relentlessly haunted me as I was working on my novel.

Why is it that in the country of victorious Socialism, drunkenness has developed into a national tragedy? Why is it that our nation—having entered into the second half-century of its existence—is being torn apart by a kind of pathological nationalism? Why is it that indifference, corruption and larceny threaten to become a normal occurrence of our day-to-day life? Where should the source of all this be sought, what is the primary reason of such a state of affairs? Such basically were the questions which I was asking myself as I began to work on my book. I do not know, whether I have succeeded in providing a sufficiently convincing answer even to one of these questions, but you have no reason to doubt the sincerety of my intentions. All my senior predecessors from Dudinsev to Solzhenytsin—each according to his abilities and talent—were guided by the same desire to help their country and their people to understand the negative phenomena of our times, so that—freeing itself from the errors of the past—the nation could fearlessly move forward.

Unfortunately, those who had the power to turn these books into effective instruments of progress, have not only remained deaf to the voices that clamored for the truth, but have instead launched a violent attack against the authors. It is hard for me to judge who was interested—and why—in driving the disease even deeper into the system, but I have no doubt about the lamentable outcome of that kind of treatment: the consequences cannot be evaluated, the calamities are incalculable. If our society fails to recognize this fact today, tomorrow it may already be too late.

I am not in a position at the present time to indulge in defiant bravado. It was with a feeling of bitterness and loss that I shall quit the organization where I remained as a member for almost a decade. The men from whom I've learned how to live and work belonged to this organization, and some of them still do. The Writers' Union, and particularly its Moscow Chapter, is gradually being turned into the undivided property of the petty political marauders and travelling literary salesmen: all those mednikovs, pilyars, and yevtushenkos—the sundry demons of spiritual parasitism that they are.

I realize very well what awaits me after my expulsion from the Union. But at the end of my road I am heartened by the conviction that in the vast expanses of my native land, sitting under the electric chandeliers of the latest type, perched by kerosene lamps or sooty lanterns are boys who follow in our footsteps. They sit there, and write, wrinkling their Socratic foreheads. They write! Perhaps, it won't be their lot to change the sorrowful face of reality (this, incidentally, had never been the goal of literature) but there is one thing I do not doubt in the least—they will not permit their country to be buried secretly, no matter what the spiritual under-takers of all colors and shades try to do to achieve this end.

Assuming full responsibility, I am
V. MAKSIMOV.

May 15, 1973.

I hope every Member of this House will take time to read the material regarding Maximov and join with me in asking Ambassador Dobrynin to urge his government to let Maximov go free. Thank you.

THE LATE HONORABLE ROBERT L. HOGG, DISTINGUISHED WEST VIRGINIAN

(Mr. HECHLER of West Virginia asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HECHLER of West Virginia. Mr. Speaker, it is with a great deal of regret and sadness that I inform the House of the untimely passing last Saturday, July 21, of one of West Virginia's most distinguished citizens, the Honorable Robert L. Hogg, of Point Pleasant, who represented my State's Fourth Congressional District between 1930 and 1933. As the Representative of West Virginia's Fourth Congressional District, I rise to pay tribute to our former colleague.

Mr. Hogg, 79, had an outstanding and brilliant career in the fields of law and insurance as well as in public service.

He was educated in public schools in Mason County and after receiving his law degree from West Virginia University started practicing law in 1916 in Point Pleasant. He was the son of the late Susan K. and Charles E. Hogg, who at one time was dean of the West Virginia University Law School.

Mr. Hogg served with the American Expeditionary Forces in France during World War I, then came back to his beloved Point Pleasant where he was elected prosecuting attorney of Mason County, serving from 1920 to 1924. He then was elected to a 4-year term in the West Virginia State senate, and in 1930, was elected to the House of Representatives to fill the unexpired term of Representative James Hughes of my hometown of Huntington in Cabell County, who had died in office. Mr. Hogg was elected to a 2-year term in the Congress for the 1931–1933 term.

From 1935 to 1944, Mr. Hogg served as counsel to the Association of Life Insurance Presidents. In 1944, he became executive head of the American Life Convention, a position he held for 10 years in Chicago and Washington.

In 1954, he joined the Equitable Life Assurance Society in New York as vice president and advisory counsel, moving up to become vice chairman of the board before retiring in 1959 and returning to his native Point Pleasant.

Mr. Hogg was the author of numerous articles and coauthored "Hogg's Pleasings and Forms," a law textbook. He was also an expert on income taxes.

After his retirement from the Life Assurance Society, Mr. Hogg was counsel for the Charleston law firm of Jackson, Kelley, Holt and O'Farrell, 1960–1970.

Mr. Hogg had lived in Lewisburg, W. Va., for the last 10 years and was a member of the Old Stone Presbyterian Church there.

He is survived by his wife, Louise of Lewisburg; a daughter, Mrs. John "Mary Lynn" Shackelford of Rutland, Vt.; son, Dr. Charles E. Hogg of San Pedro, Calif., and five grandchildren; sister, Mrs. Nancy Coe of Columbus, Ohio, and a brother, William Hogg of Columbus.

Services were held Monday in the Old Stone Presbyterian Church and a graveside service was held this morning at Lone Oak Cemetery, Point Pleasant.

LEAVE OF ABSENCE

(By unanimous consent, leave of absence was granted to:)

Mr. McSPADDEN (at the request of Mr. O'NEILL), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MITCHELL of New York) to revise and extend their remarks and include extraneous material:)

Mr. McDADE, for 10 minutes, July 24.
Mr. HOGAN, for 5 minutes, today.
Mr. ROBISON of New York, for 15 minutes, today.
Mr. WYMAN, for 5 minutes, today.

(The following Members (at the request of Mr. THORNTON) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 5 minutes, today.
Mr. BINGHAM, for 10 minutes, today.
Mr. ADDABBO, for 10 minutes, today.
Mr. GIBBONS, for 5 minutes, today.
Mr. PODELL, for 30 minutes, today.
Mr. ALEXANDER, for 30 minutes, today.
Ms. ABZUG, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. ZABLOCKI to extend his remarks.
Mr. MADDEN and to include an article.

(The following Members (at the request of Mr. MITCHELL of New York) and to include extraneous matter:)

Mr. STEIGER of Arizona.
Mr. MITCHELL of New York.
Mr. BURGENER.
Mr. HILLIS.
Mr. ZWACH.
Mr. STEELE in two instances.
Mr. BOB WILSON in two instances.
Mr. McKINNEY.
Mr. CONTE.
Mr. CARTER in two instances.
Mr. DERWINSKI.
Mr. LENT in five instances.
Mr. KEMP.
Mr. GUDE in five instances.

(The following Members (at the request of Mr. THORNTON) and to include extraneous material:)

Mrs. GRIFFITHS.
Mr. SISK.
Mr. GONZALEZ in three instances.
Mr. RARICK in three instances.
Mr. BRADEMAS in six instances.
Mr. TEAGUE of Texas in six instances.
Mr. HARRINGTON in four instances.
Mr. BINGHAM in three instances.
Mr. RANGEL in 10 instances.
Mr. OBEY in three instances.
Mr. PATTEN.
Mr. BADILLO.
Mr. O'NEILL.
Mr. SARBANES in five instances.
Mr. TIERNAN in two instances.
Mr. ULLMAN in five instances.
Mr. MOSS.
Mr. JONES of Tennessee.
Ms. ABZUG in 10 instances.
Mr. FUQUA.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2101. An act to amend the Truth in Lending Act to protect consumers against inaccurate and unfair billing practices, and for other purposes; to the Committee on Banking and Currency.

BILL PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, a bill of the House of the following title:

H.R. 9172. An act to provide for emergency allotment lease and transfer of tobacco allotments or quotas for 1973 in certain disaster areas in Georgia and South Carolina.

ADJOURNMENT

Mr. THORNTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 58 minutes p.m.), the House adjourned until tomorrow, Wednesday, July 25, 1973, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1167. A letter from the Assistant Secretary of Defense (Comptroller), transmitting a report of various transfers of funds under the Department of Defense Appropriation Act, 1973, pursuant to section 735 of the act (Public Law 92–570); to the Committee on Appropriations.

1168. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a list of excess defense articles to be furnished foreign countries on a grant basis, pursuant to section 8(d) of the Foreign Military Sales Act Amendments of 1971, as amended; to the Committee on Foreign Affairs.

1169. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of various international agreements, other than treaties, entered into by the United States, pursuant to Public Law 92–403; to the Committee on Foreign Affairs.

1170. A letter from the Secretary of the Interior, transmitting the Fifth Annual Report of the Alaska Power Administration, covering fiscal year 1972; to the Committee on Interior and Insular Affairs.

1171. A letter from the Secretary of Transportation, transmitting the second annual report on the financial condition of the Central Railroad Co. of New Jersey, pursuant to section 10 of Public Law 91–663 (45 U.S.C. 669); to the Committee on Interstate and Foreign Commerce.

1172. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting a report on the facts in each application for conditional entry of aliens into the United States under section 203(a)(7) of the Immigration and Nationality Act for the 6-month period ending June 30, 1973, pursuant to section 203(f) of the act [8 U.S.C. 1153(f)]; to the Committee on the Judiciary.

1173. A letter from the Cochairman, President's Economic Adjustment Committee, transmitting a report on economic conversion for communties affected by the defense facility and activity realinements announced on April 17, 1973, pursuant to section 7 of Public Law 93–46; to the Committee on Public Works.

Received From the Comptroller General

1174. A letter from the Comptroller General of the United States, transmitting a report on a review of Federal library operations in metropolitan Washington; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PATMAN: Committee on Banking and Currency. H.R. 8789. A bill to provide a new coinage design and date emblematic of the Bicentennial of the American Revolution for dollars, half-dollars, and quarters, and for other purposes (Rept. No. 93–391). Referred to the Committee of the Whole House on the State of the Union.

Mr. DULSKI: Committee on Post Office and Civil Service. S. 1989. An act to amend section 225 of the Federal Salary Act of 1967 with respect to certain executive, legislative, and judicial salaries (Rept. No. 93–392). Referred to the Committee of the Whole House on the State of the Union.

Mr. Pepper: Committee on Rules. House Resolution 503. Resolution providing for the consideration of H.R. 7482. A bill to amend the Federal Cigarette Labeling and Advertising Act of 1965 as amended by the Public Health Cigarette Smoking Act of 1969 to define the term "little cigar", and for other purposes. (Rept. No. 93–393). Referred to the House Calendar.

Mr. LONG of Louisiana: Committee on Rules. House Resolution 504. Resolution providing for the consideration of H.R. 8920. A bill to amend the Lead Based Paint Poisoning Prevention Act, and for other purposes. (Rept. No. 93–394). Referred to the House Calendar.

Mr. YOUNG of Texas: Committee on Rules. House Resolution 505. Resolution providing for the consideration of H.R. 9286. A bill to authorize appropriations during the fiscal year 1974 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation, for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces, and the military training student loads, and for other purposes. (Rept. No. 93–395). Referred to the House Calendar.

Mr. MATSUNAGA: Committee on Rules. House Resolution 506 to provide for the consideration of H.R. 9360. A bill to amend the Foreign Assistance Act of 1961, and for other purposes. (Rept. No. 93–396). Referred to the House Calendar.

Mr. MILLS of Arkansas: Committee on Ways and Means. H.R. 8214. A bill to amend sections 112, 692, 6013, and 7508 of the Internal Revenue Code of 1954 for the relief of certain members of the Armed Forces of the United States returning from the Vietnam conflict combat zone, and for other purposes; with amendment (Rept. No. 93–397). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

Mr. FREY (for himself, Mr. Bafalis, and Mr. Rogers):

H.R. 9508. A bill to amend the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, so as to authorize certain grapefruit marketing orders which provide for an assessment against handlers for the purpose of financing a marketing promotion program to also provide for a credit against such assessment in the case of handlers who expend directly for marketing promotion; to the Committee on Agriculture.

By Mr. FREY (for himself, Mr. Brasco, Mr. Coughlin, Mr. Davis of Georgia, Mr. Flowers, Mr. Gude, Mr. Gunter, Mr. Kyros, Mr. Lehman, Mr. Mollohan, Mr. Roe, Mr. Sarasin, and Mr. Won Pat):

H.R. 9509. A bill to provide for a uniform application of safety standards for mobile homes and recreational vehicles in interstate commerce, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. GUDE (for himself, Mr. Fraser, Mr. Rangel, Mr. Dellums, Mr. Fauntroy, Mr. Stark, and Mr. McKinney):

H.R. 9510. A bill to amend the act of March 16, 1926 (relating to the Board of Public Welfare in the District of Columbia), to provide for an improved system of adoption of children in the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. HARRINGTON (for himself and Mr. Matsunaga):

H.R. 9511. A bill to amend section 102 of the National Security Act of 1947 to prohibit certain activities by the Central Intelligence Agency and to limit certain other activities by such Agency; to the Committee on Armed Services.

By Mr. HAYS:

H.R. 9512. A bill to amend title III of the act of March 3, 1933, commonly referred to as the "Buy American Act", with respect to determining when the cost of certain articles, materials, or supplies is unreasonable; to define when articles, materials, and supplies have been mined, produced or manufactured in the United States; to make clear the right of any State to give preference to domestically produced goods in purchasing for public use, and for other purposes; to the Committee on Public Works.

By Mr. LEGGETT:

H.R. 9513. A bill to amend title 38 of the United States Code to prohibit the Administrator of Veterans' Affairs from seeking deficiency judgments with respect to certain loan obligations held by him; to the Committee on Veterans' Affairs.

By Mr. LEHMAN (by request):

H.R. 9514. A bill to amend section 142 of title 13, United States Code, to change the date of the taking of the census of agriculture, and the census of irrigation and drainage; to the Committee on Post Office and Civil Service.

By Mr. MADDEN (for himself and Mr. Roush):

H.R. 9515. A bill to strengthen and improve the protections and interests of participants and beneficiaries of employee pension and welfare benefit plans; to the Committee on Education and Labor.

By Mr. MAYNE:

H.R. 9516. A bill to amend title 38 of the United States Code to increase the monthly rates of disability and death pensions, and dependency and indemnity compensation, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. MOAKLEY:

H.R. 9517. A bill to amend title 5, United States Code, to provide for equality of treatment with respect to married women Federal employees in connection with compensation for work injuries, and for other purposes; to the Committee on Education and Labor.

By Mr. PATTEN:

H.R. 9518. A bill to amend section 552 of title 5, United States Code, known as the Freedom of Information Act; to the Committee on Government Operations.

By Mr. PERKINS:

H.R. 9519. A bill to provide for the establishment of an American Folklife Center in the Library of Congress, and for other purposes; to the Committee on House Administration.

By Mr. PODELL:

H.R. 9520. A bill to amend the Immigration and Nationality Act of 1952, as amended; to the Committee on the Judiciary.

By Mr. ROBINSON of Virginia:

H.R. 9521. A bill to authorize the donation of Federal surplus property to local governments; to the Committee on Government Operations.

By Mr. TALCOTT:

H.R. 9522. A bill to abolish the Commission on Executive, Legislative, and Judicial Salaries established by section 225 of the Federal Salary Act of 1967, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. TEAGUE of California:

H.R. 9523. A bill to authorize equalization of the retired or retainer pay of certain members and former members of the uniformed services; to the Committee on Armed Services.

By Mr. WIDNALL:

H.R. 9524. A bill to provide for the appointment of alternates for the Governors of the International Monetary Fund and of the International Bank for Reconstruction and Development; to the Committee on Banking and Currency.

By Mr. YATRON:

H.R. 9525. A bill to provide benefits comparable to black lung benefits to all widows of miners who die from employment in coal mines; to the Committee on Education and Labor.

H.R. 9526. A bill to amend the black lung benefits provision of the Federal Coal Mine Health and Safety Act of 1969 to provide benefits for widows and dependents of miners who die after having served more than 25 years in coal mines; to the Committee on Education and Labor.

By Mr. BIAGGI (for himself, Mr. Addabbo, Mr. Brown of California, Mr. Burton, Mr. Carey of New York, Mrs. Chisholm, Mr. Cohen, Mr. Conyers, Mr. Hawkins, Mrs. Heckler of Massachusetts, Mr. Nedzi, Mr. O'Hara, Mr. Peyser, Mr. Pickle, Mr. Rangel, Mr. Roncallo of New York, Mr. Roybal, Mr. Ryan, Mr. Stark, Mr. Talcott, Mr. Van Deerlin, and Mr. Veysey):

H.R. 9527. A bill to amend the Maritime Academy Act of 1958 in order to authorize the Secretary of the Navy to appoint students at State maritime academies and colleges as Reserve midshipment in the U.S. Navy, and for other purposes; to the Committee on Armed Services.

By Mr. BIAGGI (for himself, Mr. Bob Wilson, Mr. Charles Wilson of Texas, Mr. Charles H. Wilson of California, and Mr. Wright):

H.R. 9528. A bill to amend the Maritime Academy Act of 1958 in order to authorize the Secretary of the Navy to appoint students at State maritime academies and colleges as Reserve midshipmen in the U.S. Navy, and for other purposes; to the Committee on Armed Services.

By Mr. BIAGGI (for himself, Ms. Abzug, Mr. Addabbo, Mr. Bingham, Mr. Boland, Mr. Brasco, Mr. Brooks, Mr. Brown of California, Mr. Burton, Mr. Carey of New York, Mrs. Chisholm, Mr. Conyers, Mr. Dulski, Mr. Hawkins, Mrs. Heckler of Massachusetts, Mr. Helstoski, Mr. Moakley, Mr. Nedzi, Mr. Nix, Mr. O'Hara, Mr. Peyser, Mr. Pickle, Mr. Pike, Mr. Rangel, and Mr. Roncallo of New York):

H.R. 9529. A bill to increase the subsistence payments to students at the State marine schools; to the Committee on Merchant Marine and Fisheries.

By Mr. BIAGGI (for himself, Mr. Roybal, Mr. Ryan, Mr. Stark, Mr. Studds, Mr. Talcott, Mr Thompson of New Jersey. Mr. Van Deerlin, Mr. Veysey, Mr. Charles H. Wilson of California, Mr. Wolff, and Mr. Wright):

H.R. 9530. A bill to increase the subsistence payments to students at State marine schools; to the Committee on Merchant Marine and Fisheries.

By Mr. ASPIN (for himself, Mr. Ashley, Mrs. Burke of California, Mrs. Chisholm, Mr. Edwards of California, Mr. Fulton, Mr. Giaimo, Mrs. Hansen of Washington, Mr. Howard, Mr. Koch, Mr. Murphy of New York, Mr. Murphy of Illinois, Mr. Nix, Mr. Obey, Mr. Pepper, Mr. Rees, Mr. Rose, Mr. Sarbanes, Mr. Shuster, and Mr. Towell of Nevada):

H.R. 9531. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize safety design standards for schoolbuses, to require certain safety standards be established for schoolbuses, to require the investigation of certain schoolbus accidents, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HARRINGTON:

H.R. 9532. A bill to amend title 28 of the United States Code to provide for the dissemination and use of criminal arrest records in a manner that insures their security and privacy; to the Committee on the Judiciary.

By Mr. KOCH (for himself, Mr. Conyers, Mr. Gibbons, Mr. McCormack, Mr. Waldie and Mr. Charles H. Wilson of California:

H.R. 9533. A bill to regulate expenditures of appropriated funds with respect to private property used as residences by individuals whom the Secret Service is authorized to protect; to the Committee on Public Works.

By Mr. METCALFE (for himself, Mr. Badillo, Mr. Won Pat, Mr. Podell, Mr. Clay, Mr. Mitchell of Maryland, Mr. Fauntroy, Ms. Abzug, Mr. Edwards of California, Mr. Burton, Mr. Rooney of Pennsylvania, Mr. Hawkins, Mr. Murphy of New York, Mrs. Burke of California, Mrs. Chisholm, Mr. Carney of Ohio, Mr. Gilman, and Mr. Conyers):

H.R. 9534. A bill to amend title 18 of the United States Code to establish an Office of the U.S. Correctional Ombudsman; to the Committee on the Judiciary.

By Mr. RUPPE:

H.R. 9535. A bill to establish a national program for research, development and demonstration in energy technologies and energy conservation and for the coordination and financial supplementation of Federal energy research and development; to conduct a thorough review and assessment of the current status of research and development in energy technologies and energy conservation in both the public and the private sector; to increase efficiencies of energy production and utilization, reduce environmental impacts, develop new sources of clean energy, demonstrate specific technologies and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. STAGGERS:

H.R. 9536. A bill to amend section 307 of the Communications Act of 1934 to prohibit blackouts of professional sports events which are sold out; to the Committee on Interstate and Foreign Commerce.

By Mr. VEYSEY (for himself, Mr. Zwach, Mr. Riegle, Mr. Dulski, Mr. Abdnor, Mr. Roncallo of New York, and Mr. Smith of New York):

H.R. 9537. A bill to provide reduced retirement benefits for Members of Congress who remain in office after attaining 70 years of age; to the Committee on Post Office and Civil Service.

By Mr. WYMAN:

H.R. 9538. A bill to amend the Truth in Lending Act to protect consumers against inaccurate and unfair billing practices, and for other purposes; to the Committee on Banking and Currency.

By Mr. RIEGLE:

H.R. 9539. A bill to prohibit certain acts with respect to petroleum, petroleum products, and natural gas; to the Committee on Interstate and Foreign Commerce.

By Mr. DULSKI:

H.J. Res. 681. Joint resolution proposing an amendment to the Constitution to permit tax credits for the support of religious educational institutions; to the Committee on the Judiciary.

By Mr. MOAKLEY:

H.J. Res. 682. Joint resolution to designate the 9th day of October of each year as "National Firefighters' Day"; to the Committee on the Judiciary.

By Mr. HAMILTON:

H. Con. Res. 275. Concurrent resolution providing for the printing of 1,000 additional copies of the hearings before the Subcommittee on the Near East of the Committee on Foreign Affairs entitled "U.S. Interests in and Policy Toward the Persian Gulf"; to the Committee on House Administration.

By Mr. LOTT (for himself, Mr. Bafalis, Mr. Broyhill of Virginia, Mr. Dennis, Mr. Dickinson, Mr. Duncan, Mr. Fish, Mr. Goldwater, Mr. Hinshaw, Mr. Hudnut, Mr. Hunt, Mr. Hutchinson, Mr. Landgrebe, Mr. Moorhead of California, Mr. Price of Texas, Mr. Scherle, Mr. Smith of New York, Mr. Snyder, Mr. Spence, Mr. Steiger of Arizona, Mr. Treen, Mr. Veysey, and Mr. Whitehurst):

H. Con. Res. 276. Concurrent resolution providing for continued close relations with the Republic of China; to the Committee on Foreign Affairs.

By Mr. BIESTER (for himself and Mr. Maraziti):

H. Res. 507. A resolution for the creation of congressional senior citizen internships; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

285. By the SPEAKER. A memorial of the Legislature of the State of New York, relative to mass transit services; to the Committee on Interstate and Foreign Commerce.

286. Also, memorial of the Senate of the State of West Virginia, relative to the benefits for disabled veterans; to the Committee on Veterans' Affairs.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

254. By the SPEAKER: Petition of Frank M. Meyer, Blandford, Mass., relative to a commission in the armed services; to the Committee on Armed Services.

255. Also, petition of the Board of Commissioners, Allegan County, Mich., relative to general revenue sharing; to the Committee on Ways and Means.

SENATE—*Tuesday, July 24, 1973*

The Senate met at 11 a.m. and was called to order by Hon. Sam Nunn, a Senator from the State of Georgia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

God of our fathers and our God, who in times past has watched over this Nation, grant to our leaders, in the crisis of our times, submission to Thy commandments and amenability to Thy will. Imprint upon our hearts the authority of the divine law, and such grateful remembrance of Thy goodness as may make us both ashamed and afraid to offend Thee. As a "nation under God" make us mindful that we live not only under Thy providence but also under Thy constant judgment—that our thoughts, words, and deeds are under divine scrutiny.

O Lord, grant to the whole Nation the spirit of forgiveness, magnanimity, and reconciliation. Bring that cleansing which releases that moral power without which a people cannot be good or great or strong. Shed Thy light upon our labors in this Chamber and imbue Thy servants with the wisdom and the will to live to Thy glory.

We pray in His name who came as Servant of all. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Eastland).

The second assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., July 24, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. Sam Nunn, a Senator from the State of Georgia, to perform the duties of the Chair during my absence.

James O. Eastland,
President pro tempore.

Mr. NUNN thereupon took the chair as Acting President pro tempore.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had disagreed to the amendments of the Senate to the joint resolution (H.J. Res. 512) to extend the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages, to extend authorizations under laws relating to housing and urban development, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. Patman, Mr. Barrett, Mrs. Sullivan, Mr. Ashley, Mr. Moorhead of Pennsylvania, Mr. Stephens, Mr. St Germain, Mr. Gonzalez, Mr. Reuss, Mr. Widnall, Mr. Brown of Michigan, Mr. J. William Stanton, Mr. Blackburn, Mrs. Heckler of Massachusetts, and Mr. Rousselot were appointed managers on the part of of the House at the conference.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, July 23, 1973, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar, under New Reports.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar, under New Reports, will be stated.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

The second assistant legislative clerk read the nomination of Stanley B. Thomas, of New York, to be an Assistant Secretary of Health, Education, and Welfare.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF THE TREASURY

The second assistant legislative clerk read the nomination of William L. Gifford, of New York, to be a Deputy Under Secretary of the Treasury.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

WAIVER OF CERTAIN CLAIMS OF UNITED STATES FOR OVERPAYMENT OF PAY AND ALLOWANCES

Mr. MANSFIELD. I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 322, S. 1803.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered, and the bill will be stated by title.

The legislative clerk read as follows:

S. 1803, to authorize the waiver of claims of the United States arising out of erroneous payments of pay and allowances to employees of the Government Printing Office.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Rules and Administration with an amendment to strike out all after the enacting clause and insert:

That section 5584 of title 5, United States Code, is amended as follows:

(1) Strike out "executive" wherever it appears in such section.

(2) In subsection (b)(2)—

(A) immediately after "(2)" insert the following: "except in the case of employees of the Government Printing Office, the Library of Congress, the Office of the Architect of the Capitol, or the Botanic Garden"; and

(B) strike out "or" at the end thereof.

(3) In subsection (b)(3)—

(A) immediately after "(3)" insert the following: "except in the case of employees of the Government Printing Office, the Library of Congress, the Office of the Architect of the Capitol, or the Botanic Garden,"; and

(B) strike out the period at the end thereof and insert in lieu thereof a semicolon and the word "or".

(4) At the end of subsection (b), add the following new clause:

"(4) in the case of employees of the Government Printing Office, the Library of Congress, the Office of the Architect of the Capitol, or the Botanic Garden, if application for waiver is received in his office after the expiration of 3 years immediately following the date on which the erroneous payment of pay or allowances was discovered or 3 years following the date on which this clause (4) is enacted into law, whichever is later."

(5) At the end of the section, add the following new subsection:

"(g) For the purpose of this section, 'agency' means—

"(1) an Executive agency;

"(2) the Government Printing Office;

"(3) the Library of Congress;

"(4) the Office of the Architect of the Capitol; and

"(5) the Botanic Garden.".

Sec. 2. (a) A claim of the United States against a person arising out of an erroneous payment of any pay or allowances, other than travel and transportation expenses and allowances, on or after the date of enactment of this Act, to the Vice President, a Senator, or an officer or employee whose pay is disbursed by the Secretary of the Senate, the collection of which would be against equity and good conscience and not in the best interests of the United States, may be waived in whole or in part by the Secretary of the Senate, if the claim is not the subject of an exception made by the Comptroller General in the account of any accountable officer or official. Claims for waiver shall be investigated by the Financial Clerk of the Senate who shall submit a written report of his investigation to the Secretary of the Senate. Claims for waiver of amounts in excess of $500 shall also be investigated by the Comptroller General of the United States who shall submit a written report of his investigation to the Secretary of the Senate.

(b) The Secretary of the Senate may not exercise his authority under this section to waive any claim—

(1) if, in his opinion, there exists, in connection with the claim, an indication of fraud, misrepresentation, fault, or lack of good faith on the part of the Vice President, the Senator, or such officer or employee or any other person having an interest in obtaining a waiver of the claim; or

(2) if the application for waiver is received in his office after the expiration of 3 years immediately following the date on which the erroneous payment of pay was discovered.

(c) In the audit and settlement of accounts of any accountable officer or official, full credit shall be given for any amounts with respect to which collection by the United States is waived under this section.

(d) An erroneous payment, the collection of which is waived under this section, is considered a valid payment for all purposes.

(e) This section does not affect any authority under any other law to litigate, settle, compromise, or waive any claim of the United States.

(f) The Secretary of the Senate shall promulgate rules and regulations to carry out the provisions of this section.

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended, so as to read: "A bill to authorize the waiver of claims of the United States arising out of erroneous payments of pay and allowances to certain officers and employees of the legislative branch."

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The distinguished minority leader is recognized at this time.

Mr. SCOTT of Pennsylvania. Mr. President, I yield back my time.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 3 minutes each.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time that has elapsed for the quorum call be charged to the time for morning business. I was under a misapprehension and thought that the Senate was in the period for the transaction of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMERICAN JOURNALIST BANISHED FROM SOUTH VIETNAM

Mr. TUNNEY. Mr. President, truth, all too often, has been trampled in the mud of Vietnam, and again it is a casualty. An outstanding young American journalist, Jacques Leslie of the Los Angeles Times, has been banished from South Vietnam.

The Saigon government does not challenge his accuracy, merely resents it. It lifted his visa and ordered him from the country, and thereby diminished by one talented reporter the ability of Americans to get the full truth on events in Southeast Asia.

The United States has sacrificed too many lives and too much treasure now to sacrifice the ability to get the truth from that troubled and bloody sector of the world.

More than 50,000 Americans died in Vietnam. Billions of American dollars were spent, and the point of all this sacrifice should be clear to Saigon: It cannot now start kicking the United States around.

South Vietnam's action against Mr. Leslie is a slap in the face of every American.

Clearly, it is an affront to our Government. Clearly it is an affront to the people's right to know.

When first informed that Mr. Leslie might be banished, I contacted Deputy Secretary of State Kenneth Rush, and the State Department went to work. It reached high into the Saigon government, but Saigon relentlessly pursued its vendetta against Mr. Leslie.

It specified no charge against him. It did not refute one of his stories.

It merely acted as dictatorial regimes invariably have acted against a free press. It tried to silence it.

The United States has many other fine reporters in Vietnam, but Mr. Leslie's ejection reminds each of them that his days may be numbered.

Mr. Leslie is a resourceful reporter and an excellent writer. He spent years studying in the Far East. He speaks Chinese fluently, and he worked for newspapers in Washington, D.C., New York, and Los Angeles before his current assignment for the Los Angeles Times.

He once did a profile on me, and I know the sting of his pen, but I also know his commitment to the truth. His expulsion from Vietnam is an outrage.

This is but the latest incident in a policy of contempt toward the United States, a policy that raises a number of serious questions:

Were our sacrifices in South Vietnam worth it?

Did we squander men and money simply to support a squalid dictatorship?

And, more immediately, should we continue to pour more billions to prop-up such a regime?

Frankly, I have serious doubts about the value of continued American support for a regime that has no regard whatever for untrammeled reporting.

Certainly, my misgivings, and those of other Senators, will be compounded if Saigon persists in a policy of harassment and intimidation against the American press.

A government that stifles a free press is asking the American people, in effect, to support aid based on a distorted and government-controlled picture of the real facts.

The United States made freedom of the press the first article of her Bill of Rights, and she is not about to let some far-away regime use her dollars to repeal it.

QUORUM CALL

The ACTING PRESIDENT pro tempore. Is there further morning business?

Mr. TUNNEY. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

ALASKA PIPELINE

Mr. STEVENS. Mr. President, when the Senate adopted the Alaska pipeline amendment the major considerations, in my opinion, were:

First. The issue of timing; that is, how much longer would it take to build an oil and gas pipeline to transport Alaska's North Slope oil and gas to the South 48 if the pipelines are both constructed through Canada as compared to how long it would take to build the trans-Alaska pipeline through Alaska and the gas pipeline through Canada.

Second. The second major issue was the effect of any delay on the delivery of Alaskan oil on our balance-of-payments problems.

Third. And, whether the issue of the necessity to use supermarkets in connection with the Alaska pipeline was an insoluble problem so far as the Senate was concerned.

All three of these issues were resolved in favor of the Alaska pipeline.

Mr. President, I note that our Canadian counterparts from the House of Commons have requested a meeting of the Canadian-American Interparliamentary Conference on the subject of the Alaska pipeline. News reports indicate that they feel the question of the extent of Canadian ownership of a pipeline through Canada was a significant consideration here in the Senate. While I welcome our Canadian neighbors and look forward to the meeting with them, it is my opinion that this issue was not a matter of concern here in the Senate.

Mr. President, I have prepared a short statement on the three issues I mentioned above for the benefit of the Senate. First, let me discuss the issue of timing.

America needs Alaskan oil now. This need makes the issue of timing one of the most important considerations in determining how Alaska's North Slope oil and gas should be transported to the lower 48 States.

The construction of the trans-Alaska pipeline will take approximately 3 years. Approval and construction of the trans-Canadian pipeline would take 9 to 10 years. The additional 6 to 7 years would be broken down as follows: probably 2 to 3 years for approval, legislation and litigation, plus 3 to 5 years for additional construction and engineering.

The delay would be the inevitable result of the need to prepare a detailed design and route analysis, longer construction time, and a desire on the part of the Canadian and Provincial Government to review proposals, to consider alternatives, and to determine stipulations for construction and operation. All these are the same kinds of reviews and analyses that have already been completed for the trans-Alaska route.

To cite only one roadblock to the early construction of a trans-Canadian pipeline, let me discuss very briefly the issue of the Canadian Native land claims. It is apparent that Canada's northern Natives have launched an all out drive to establish their right to land. A key element in this drive is Native opposition to government approval of construction of a MacKenzie Valley pipeline. With the cry of "no settlement, no pipeline" Canada's Natives have pursued this issue. We can expect considerable delay in resolving this matter; for instance, it took our national Congress 5 years to settle Alaska's Native claims.

What are the consequences of delaying construction of a pipeline to deliver North Slope oil and gas. Let me summarize them:

First. A continuing dependence on unreliable sources of imported oil, especially from the Middle East.

Second. The delay of North Slope gas deliveries to the Middle Western and Eastern parts of the United States.

Third. A continuing dollar drain to foreign countries for oil purchases.

Fourth. A continuation and magnification of Alaska's financial problems.

Fifth. A delay in reduction of the Alaska Native claims settlement.

Sixth. Continued delay of domestic oil and gas exploration, particularly in Alaska.

Seventh. A loss of jobs in Alaska for the construction and maintenance of the pipeline coupled with a loss of jobs in the shipbuilding industry.

We cannot afford to wait for the construction of a trans-Canadian pipeline.

Balance of Payments. As America's dependence on Middle Eastern oil has increased and the willingness of the Arab oil producing states to increase their exports of oil to the United States has declined, America had no substantive alternative but to accelerate construction of the trans-Alaska pipeline.

Time is of the essence to America—not only in insuring the speedy delivery of oil to meet our growing needs, but also in insuring a stronger dollar abroad and a healthier economy at home.

It is important to realize that the United States is not facing simply an "energy crisis" but conversely the energy crisis has also created a balance of payments and economic crisis in the United States.

Last year the U.S. balance-of-payments deficit—our first deficit in nearly 100 years was about $6.2 billion. Of this tremendous deficit, the surging outflow of U.S. dollars into the pockets of the Middle Eastern states accounted for a significant share of this deleterious imbalance.

If the United States did not act forthrightly and promptly our already unfavorable balance-of-payments position was sure to grow worse with the outlook for the value of the dollar on foreign exchange markets becoming increasingly vulnerable to manipulation and atrophy.

Indeed, if the United States did not act promptly—as it had to—estimates by the U.S. Government and the banking community project a U.S. balance-of-payments deficit of $25 billion to $30 billion by 1985.

This would have been unacceptable for the United States. It would spell economic disaster.

Obviously, it would be silly for the United States to sit back idly watching our balance-of-payments position and the value of the dollar deteriorate when we could correct the situation.

The U.S. Senate, after contemplating what inaction would mean to the U.S. economy, our balance-of-payments position as well as other factors, concluded that America could not vacillate any longer—it was time for action.

Because of the delicate and fickle atmosphere that surrounds the international petroleum industry it is only proper and prudent for the United States to attempt to stabilize our position if possible. We had this opportunity and we made the effort to reduce our sailing time on rougher seas for more tranquil waters.

The Senate's decision to go forward with the trans-Alaska pipeline was simultaneously a decision to move toward a more favorable balance of-payments position, insure a stronger economy and alleviate our dependence on Middle Eastern oil producing states who have told us they may not be willing to increase exports to meet our needs.

I believe the decision taken in the Senate was a positive one. A decision that substituted action for immobility and one that will at least put us on the path toward stability instead of allowing America to flounder aimlessly in instability.

Supertankers. On July 9, the Senate adopted amendment 298 to the trans-Alaska pipeline bill. This amendment will move up the effective date of Coast Guard regulations 1½ years from January 1, 1976 to June 30, 1974, for the construction of ships in the coastwise trade. In passing the Ports and Waterways Safety Act of 1972, Congress recognized the need for additional safety features in American vessels. Because we also believe American North Slope oil can and must be carried in vessels constructed as safely as possible, Senator MAGNUSON and I proposed amendment 298.

This will insure that the supertankers will be built with double bottoms and will also be compartmentalized. It will also insure a significant reduction in the number of tankers coming into west coast ports. Because the risk of oil spillage decreases as the number of tankers decrease—even though the size of each tanker may increase—the risk is significantly lessened by the use of supertankers. By requiring double bottoms and compartmentalization, the risk is still further minimized. The trans-Alaska pipeline will thus actually reduce the present risk of oil spills.

DEEPWATER PORTS

Mr. STEVENS. Mr. President, yesterday, before the ad hoc joint subcommittee on the superport problem, the Honorable Russell E. Train, Chairman of the Council on Environmental Quality, presented a statement on S. 1751, the Deepwater Port Facilities Act of 1973. This statement is extremely comprehensive. It sets forth the tanker oil spill probabilities and the effects of the studies that have been made on the problems concerning the tanker traffic that must come to this country if we are to increase our imports of crude oil.

I should like to share with Members of the Senate and those who read the RECORD the detailed statement that was presented by Mr. Train, and I commend him for the depth of his statement. I ask unanimous consent to have the statement printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF THE HONORABLE RUSSELL E. TRAIN

Mr. Chairman and members of the Subcommittee:

I appreciate the opportunity to appear before you on behalf of the Council on Environmental Quality to discuss S. 1751, "The Deepwater Port Facilities Act of 1973."

Mr. Chairman, the Administration supports the need for new legislation providing for the establishment and regulation of deepwater ports and other offshore facilities. Furthermore, we recognize that these facilities must be located, constructed, and operated in a manner which would minimize or avoid adverse environmental impacts.

NEED FOR LEGISLATION

The need for such legislation is the result of the recent confluence of two major trends. First, of course, is the trend toward greater oil imports. A second major trend is the shift in oil transport to very large vessels called supertankers.

The draft of these supertankers can range, for example, from 67 feet for a 250 thousand dead weight ton tanker to 94 feet for a 540 thousand dead weight ton version. Yet the deepest channel to a conventional port on the East and Gulf Coast presently is only 45 feet. Deep inshore locations which could handle the deepest draft supertankers, exist naturally at several places in Maine. Elsewhere on the East and Gulf Coasts, inshore deepwater port facilities would have to be created by dredging existing harbors and channels. One West Coast port, Seattle, can accommodate very deep drafts but Los Angeles/Long Beach, is only deep enough to handle tankers in the 100–150,000 DWT range and San Fracisco is even less deep. Thus, at the present time almost no U.S. harbor has the capacity to receive and unload the larger supertankers. The attention of industry, government, and citizen environmentalists has turned, therefore, to the question of how to create facilities to bring the needed oil into the U.S. while, at the same time, protecting against the hazard of oil spills and controlling other environmental impacts of port development.

DEEPWATER PORT FACILITIES ACT OF 1973

The Administration's Deepwater Port Facilities Act of 1973, proposed in the President's Energy Message of April 18 addresses this question. It recognizes that today there exists no comprehensive institutional or legal framework for dealing with the many issues and problems involved in deepwater port development. The Administration's proposal would provide such a comprehensive system.

The Administration bill would authorize the Secretary of the Interior to license and regulate the construction and operation of deepwater port facilities beyond the three mile territorial sea. The bill prohibits the construction and operation of such a facility without such a license. Applicants for a deepwater port license must demonstrate that the port will not interfere with international navigation or other reasonable uses of the high seas. The Secretary cannot issue such a license until he determines that the siting and building of the port, and its subsequent operation, will minimize or prevent significant adverse environmental effects. S. 1751 recognizes the impact that port location would have on shoreside development and requires the Secretary to consult with Governors of potentially affected states to insure that port induced activities are consistent with state land use programs.

S. 1751 would establish a uniform, coordinated procedure for licensing and regulating deepwater ports. The Secretary of the Interior will have prime responsibility and applicants will have only one place in the Federal Government to go for a decision. As you know, authority for such a decision is currently fragmented among several Federal agencies. In his coordinating role, the Secretary will consult with every interested agency on specific applicants, as well as on the development of regulations for the licensing program.

S. 1751 would require the Secretary to prescribe conditions for operating under the license—including conditions to prevent or minimize pollution of the surrounding waters—and establishes stiff civil and criminal penalties for violation of the conditions of the license. The Administration bill also provides for revocation or suspension of a deepwater port facility license, including suspension forthwith in the case of a serious threat to the environment.

In determining that the proposed deepwater port facility will be located, constructed, or operated so as to prevent significant adverse environmental effects, the Secretary is also required by S. 1751 to consider the effects of the pipelines that would bring oil ashore.

I want to emphasize that the Administration bill does not modify or reverse existing law covering the safety of navigation or the protection of the marine environment. On the contrary the bill specifically extends important existing U.S. laws, such as the Federal Water Pollution Control Act, as amended in 1972, and the Ports and Waterways Safety Act of 1972, to the deepwater port facility just as if that facility were located in U.S. navigable waters. A NEPA statement would precede any decision on a license application.

ENVIRONMENTAL IMPACTS

Mr. Chairman, as you may know the Council has been conducting a major interagency study of these environmental impacts of deepwater ports. Parts of this study are complete and available to the public.[1] The remainder of our study should be available by summer's end.

The environmental effects of deepwater port development can be divided into two broad categories: the primary effects of the construction of the port and of oil spills once the port becomes operational, and the secondary effects of industrialization and development on the shore which would be induced by the location of a deepwater port.

PRIMARY EFFECTS

One of the major environmental risks associated with marine oil transportation is the potential for oil spills resulting from tanker accidents and operations. Other risks stem from the effects of port construction and maintenance, particularly if significant dredging is necessary.

Potential environmental impacts from these activities are a function of several factors: the probability of damage occurring in the first place (for example, the need to dredge or the likelihood of an oil spill); the effectiveness of measures to prevent or control the damage; and the vulnerability of any specific port location to whatever damage may occur. The overall risk of environmental damage will in large measure be related to the type of deepwater port facility and its location with respect to critical coastal environmental features.

EFFECTS FROM CONSTRUCTION

The impacts of port construction on the environment are closely related to the amount of dredging or other disturbance of the sea bottom that takes place. For example, creation of a deepwater port in the Raritan Bay of northern New Jersey, would require dredging eight miles of channel, 90 feet deep and 1,000 feet wide, and another two square miles of berthing and maneuvering area. Dredge spoil would total 321 million cubic yards. The environmental effects of such dredging could include destruction of sea bottom habitat, damage to estuarine marine life caused by increases in turbidity and salinity and intrusion of sea-water into fresh water aquifers. Disposal of dredge spoil would present another environmental problem, particularly if the spoils are polluted. Further, once dredged, deep channels must be periodically cleared of silt and sand by re-dredging, a process which is likely to repeat many of the environmental damages just described.

The construction of large artificial islands or breakwaters would also require some dredging. By interfering with normal wave and current patterns, these structures could cause shore erosion under certain conditions, particularly in estuarine or other near shore locations. Miles out at sea, however, the force such facilities might impose on ocean movements should not influence shoreline processes significantly, if at all.

The construction effects of far offshore type facilities—such as single point moorings or single anchor leg moorings—are likely to be negligible. Pipelines from such facilities—particularly if buried to protect against breaks—will require some dredging that would disturb the sea bottom and coastal areas where the pipelines come ashore. The amount of this dredging would be insignificant compared with dredging deep channels to existing ports.

OIL SPILL EFFECTS

Oil spills can be caused by casualties such as collisions, groundings, and rammings, by operational mishaps (often due to human failure) during the transfer of oil from tankers to port facilities, and by pipeline breaks or leaks.

Regardless of the source and size of an oil spill, several biological effects can occur: organisms can be killed outright by toxic components of the oil; they can die or be harmed by direct coating with oil; oil concentrations in the water can inhibit normal feeding or reproductive behavior; certain oil components, especially those suspected of causing cancer, can be incorporated into the food chain; and the covering of rocks, marshes, and similar areas with oil can destroy habitats.

The actual effect of any particular spill will depend upon a series of other factors, including the chemical composition and amount of oil, winds and currents in the region of the spill, the type of marine life in the region of the spill; the season of the year; and previous exposure to oil.

Furthermore time is an overriding factor in predicting and assessing biological impacts. Over time, as a result of wind and current movement, spilled oil "weathers"—that is, the toxic fractions will dissipate. A dynamic interaction of the wind, currents, and tides, in conjunction with biological and chemical degradation, determines where the oil will go and what effects it will have enroute and when it arrives.

Estuaries and nearshore coastal wetlands are the most biologically productive areas of the marine ecosystem and also the most sensitive to damage from either construction or oil spill effects. At shallow nearshore sites, such damage would be unavoidable. At far offshore locations, however, the probability that spilled oil will enter sensitive estuarine areas is much reduced. In addition, should a spill occur far offshore, and should wind and current move it toward coastal areas "weathering" of the oil enroute will tend to remove its most immediately toxic and lethal fractions. Not only will it take the oil longer to reach sensitive wetland and estuarine areas and recreational beaches, but, under certain wind and current conditions, the oil could move out to sea and never reach the shore as a slick.

PREVENTIVE MEASURES

There are a number of ways to prevent oil spills or to minimize their damage. I have already mentioned the different characteristics of different types of port facilities.

Ports that must be carved out of shallow estuaries or nearshore areas which require tankers to thread their way through narrow channels—often in waters congested with other ships—present risks of collision or grounding. Mandatory radar-guided vessel traffic controls could reduce those risks. Single point moorings permit the construction of ports far offshore in very deep water without expensive dredging or breakwaters. Such facilities can be located away from congested ports, harbor entranceways, and coastal shipping lanes, thus significantly limiting the probability that collisions will occur. In naturally deep water the probability of groundings is also reduced. If supertankers are constructed with double-bottoms (thus providing a void between the outside hull and cargo tanks) the amount of oil spilled should a grounding occur is significantly reduced. Finally, the use of pipelines—as opposed to barges or smaller tankers—to transship oil to shore, cuts the number of handling operations and the potential for accidents.

The major environmental disadvantage of single point mooring type facilities as opposed to fixed berth facilities is that, with present technology, little can be done to contain spills during unloading operations. In a fixed berth a floating apron can be installed around the stationary tanger to contain any oil that might be spilled.

Since tankers are constantly in motion around single point moorings, aprons are not feasible. Further development and experience with single point mooring technologies will be necessary to alleviate this problem before these facilities come into general use in the U.S.

SECONDARY EFFECTS

In the U.S., the location of a superport will tend to induce new industries, particularly refineries and petrochemical complexes in the immediate area serving the port and in the surrounding region.

The creation of new petroleum-related industries would induce associated commercial and economic activities. An overall increase in economic development will cause population concentration and needs for new housing and added public services such as sewage treatment, transportation, schools, electric power, and recreational facilities. Each of the activities in turn will result in a range of environmental impacts beyond what would normally be expected without a deepwater port. The impacts include demands for land and water supply; increased air and water pollution; and a burden on public services. Depending upon the nature of a given area, induced effects could cause it to change from undeveloped to industrialized or from developed to highly industrialized.

A framework of existing Federal legislation can help in planning and controlling superport-related development. Under the Federal air and water pollution laws, new industrial development generated by increases in petroleum refining and processing will be subject to stringent standards, reflecting the best available pollution control technology, covering the emission and discharge of pollutants to the air and water. In addition, these laws require that new facilities be compatible with ambient air and water quality standards. These ambient standards may, in some cases, require more stringent emission and effluent controls than the basic "best available technology" requirements. This framework of controls should assure that deepwater port related industrial development will occur within the limits of environmental acceptability.

The recently enacted Coastal Zone Management Act and the pending National Land Use Policy Act also provide a framework within which states can control the effects of industrial development upon land use. Two basic objectives of the President's National Land Use Policy Act are to encourage state control of large scale development of "more than local significance," and to protect areas of "critical environmental concern," such as coastal wetlands. The Coastal Zone Management Act, which encourages states to plan and control land use in the coastal zone, is especially applicable because secondary development associated with superports will affect coastal areas in every case.

CONCLUSION

Given the favorable economics of deepwater ports, continuing to receive oil direct from overseas sources in smaller tankers is economically unrealistic. For example, it costs approximately $9 per ton to bring crude oil direct to the U.S. East Coast in a 50-70 thousand dead weight ton tanker. That same ton would cost only $6.55 if carried direct in a 250 thousand dead weight ton supertanker.

Therefore, the United States is faced with two basic alternatives. Either it can develop its own deepwater ports or it can transship oil from non-U.S. Western Hemisphere deepwater ports in the Caribbean or in the Canadian Maritime Provinces. From an economic point of view, the choice lies between the cost of $6.55 per ton, for example, if the oil is delivered to the U.S. by supertankers directly, and from $7.05 to $7.25 per ton if the supertanker delivers its cargo to neighboring foreign points for transshipment to the U.S. in smaller tankers.

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[1] See order list, Attachment C.

In making this choice, the environmental implications are as important as the economic ones. Based on studies conducted for the Council by the U.S. Coast Guard, it appears that creating superports in the U.S. carries a lesser risk of oil spill damage than does transshipping oil from foreign ports.

For example, over a twenty year period, at an import level of 2 million barrels per day we can statistically project approximately 37 vessel casualties resulting in spillage of over 29 thousand tons of oil, assuming small tankers averaging 50,000 DWT transshipped oil from Canadian or Caribbean terminals to conventional U.S. ports. On the other hand, if the same oil were transported direct to U.S. offshore terminals in supertankers averaging 250,000 DWT, we can project about four casualties totalling only 25 *hundred* tons of oil spilled.[2] The supertanker example assumes that transshipment to shore would be via pipelines. Transshipment via small tankers or barges would, of course, increase the casualty potential and tend to negate the advantage of the superport over conventional systems.

In sum, then, the U.S. is going to need increasing amounts of imported oil. This oil will be imported in small ships—at greater risk of oil spills—if deepwater ports are not available to serve supertankers. The environmental impacts associated with port construction and oil spills can be significantly reduced by the development of far offshore deepwater ports which will be served by supertankers at locations distant from congested harbors and coastal areas. The environmental impacts associated with the development of petroleum refining and processing industries would occur to some extent if the same amounts of oil were imported in conventional tankers. To the extent that these impacts might be focused on areas served by deepwater ports, state and local governments can plan for and control them using their traditional powers within a framework of current and pending Federal pollution abatement and land use management laws.

S. 1751 would provide a comprehensive and effective legislative mechanism to assure that both primary and secondary environmental effects are fully considered in the Federal decisionmaking process.

Thank you, Mr. Chairman, I will be happy to answer your questions.

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[2] See attachment A for a more detailed presentation; Attachment B describes the general spill probability methodology.

[Attachment A]

COMPARATIVE TANKERS CASUALTIES OVER 20 YEARS[1]

ASSUMPTIONS

Throughput of 2 million barrels per day in both cases.

Case 1—Oil transported to conventional ports in tankers averaging 50,000 dead weight tons (DWT).

Case 2—Oil transported to offshore terminals in supertankers averaging 250,000 DWT; transshipment to shore via pipelines.

Range of spills (in long tons)	Number of incidents		Number of tons of oil spilled	
	Case 1	Case 2	Case 1	Case 2
1 to 150	24.0	3.0	1,680.0	186.0
151 to 500	8.5	.65	3,306.5	250.3
501 to 3,000	3.8	.44	4,674.0	514.8
3,001 to 14,000	1.4	.21	11,144.0	1,577.1
14,000 plus	.17		8,364.0	
Total	37.87	4.3	29,168.5	2,528.2

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[1] Derived from Table 3 and Figures 1 and 6 of Attachment B, "Tanker Oil Spill Probabilities."

[Attachment B]

TANKER OIL SPILL PROBABILITIES

INTRODUCTION

This paper presents a detailed methodology by which to project the frequency and magnitude of oil spills from tanker casualties. It was prepared for the Council on Environmental Quality by the U.S. Coast Guard.

TANKER CASUALTY SPILLS

Before a tanker casualty was considered in this analysis, the following criteria had to be met:

The oil spill had to be a direct result of a rupture in a tank, and

It had to be known positively that oil escaped into the water.

A list was compiled from various sources that gave details of tanker casualties worldwide during 1969 and 1970.[1] In those instances where the spilled oil could not be quantified, a magnitude equal to the average magnitude for similar spills of less than 500 tons was assigned; i.e., no catastrophic casualties were assumed to have taken place in these cases. Instances where the casualty occurred at sea more than 50 miles from shore were excluded from the list as not being applicable in a study of supertanker facilities, which will be located less than 50 miles from shore.

Spill data for a supertanker facility alternative at a given port location are presented in terms of frequency and magnitude. The magnitudes are not given as discrete values but rather in five ranges; specifically:

To 150 long tons;
151 to 500 long tons;
501 to 3000 long tons;
3001 to 14,000 long tons; and
Greater than 14,000 long tons.

The ranges were selected by plotting the number of incidents within a selected range versus the midpoint outflow magnitude of the range. The ranges were adjusted until their plot yielded a straight line on a log-log graph. (The straight line or hyperbolic function would indicate a fair distribution of the data and a statistically valid selection of ranges). For presentation purposes the ranges were rounded off to the nearest 50 long tons. The data are presented in Table 1.

TABLE 1

Range (tons)	Incidents			Percent of total oil outflow
	Number	Percent	Oil outflow	
To 150	139	63.47	9,695	5.75
151 to 500	49	22.37	19,050	11.29
501 to 3,000	22	10.05	27,120	16.07
3,001 to 14,000	8	3.65	63,690	37.74
Greater than 14,000	1	.46	49,200	29.15
Total	219	100	168,755	100

The data illustrate that the majority of the incidents (188 or 85.84%) are less than 500 long tons and contribute only 17.04% of the total pollution; whereas in a higher range (3001–14000 tons) the 8 incidents constitute 3.65% of the total incidents but 37.74% of the total pollution.

The frequency of occurrence for a spill within one of the ranges is a direct function of the number of such incidents which occurred during the 1969–1970 sampling period. The detailed two-year spill data base was further compared to data compiled by the International Chamber of Shipping (ICS) and the Secretariat General a la Marine Marchande of the Ministere des Transports, France, for the period 1960–1970. While these data were not detailed enough to incorporate in the data base, they clearly reaffirmed the 1969–1970 data; and it therefore can be said that the two-year period is representative of a ten-year period. By extrapolating these figures by statistical inference to a 20-year period, all data are presented as spills of a given range occurring within a number of ship years.

The midpoint of the 1969–1970 sampling period represented 12,206 ship years of tanker traffic.[2] Thus, the expected time for an incident within a given magnitude range to occur can be computed directly from the data.

Ship years can be converted to calendar years for any given entry location by knowing: (1) the number of tankers transiting its coastal, entranceway, and harbor (CEH) zones and (2) the average number of days that tankers require to make any CEH zone transit. This also requires the knowledge of the average number of days per year that all tankers spend in CEH zone transits. This number is relatively simple to compute once one knows:

The average number of round trips that tankers make each year; and

The average number of days that a tanker spends in transit upon arrival or exit from a port

In the 1969–1970 period there were 6,103 tankers, according to Lloyd's Register of Shipping, with 497 of these tankers greater than 80,000 deadweight tons. Assuming that each vessel on the average spends 2 days on each end of a round trip in CEH zone transit, one can equate the following:

A tanker is in the CEH transit mode 39 days per year; or,

39 days per year equals one ship year of tanker transits.

The projected spill estimations in terms of magnitude and frequency are plotted for each port facility alternative on a log-log scale as the number of incidents within one of the given outflow ranges versus ship years of operations.

An analysis was conducted comparing polluting incident frequency and attendant oil outflow magnitudes. In conducting this analysis tankers were broken into two general deadweight categories, namely:

Those less than 80,000 deadweight tons; and

Those 80,000 deadweight tons and greater.

The intent here was to show whether a relationship does in fact exist between tanker polluting incidents and tanker size. Table 2 depicts the results of this analysis.

These data say that in consideration of the frequency of all types of casualties, as a function of number of tankers, the larger vessels, as presently operating, have a higher probability of being involved. They also say that oil outflow magnitudes are independent of tanker size. One must point out that the data does not contain a single catastrophic accident with a loaded tanker greater than 80,000 deadweight tons. One such incident would seriously alter that result.

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[1] "An Analysis of Oil Outflows Due to Tanker Accidents—A Note by the U.S.A. to the Intergovernmental Maritime Consultative Organization," November 1972, U.S. Coast Guard; and, "Tankers and the Ecology," Porricelli, et al, *Transactions*, Vol. 79 1971, The Society of Naval Architects and Marine Engineers.

[2] Source: Lloyd's Register of Shipping, Statistical Tables, 1969 and 1970.

TABLE 2

TANKERS 80,000 DWT AND GREATER [1]

	Percent of total incidents (A)	Percent of world tank fleet (B)	Percent of world tanker tonnage (C)	Percent of total outflow (D)
All polluting incidents	7.89	6.04	30.3	6.38
All polluting iincidents less explosions	6.37	6.04	30.3	2.94
	A/B	A/C	D/B	D/C
With explosions	1.30	.26	1.06	.21
Without explosions	1.06	.21	.49	.097

TANKERS LESS THAN 80,000 DWT [1]

	Percent of total incidents (A)	Percent of world tank fleet (B)	Percent of world tanker tonnage (C)	Percent of total outflow (D)
All polluting incidents	92.11	93.96	69.7	93.62
All polluting incidents less explosions	93.63	93.96	69.7	97.06
	A/B	A/C	D/B	D/C
With explosions	.98	1.32	.99	1.32
Without explosions	.99	1.32	1.03	1.39

[1] Tankers 80,000 dwt and greater had 21 polluting incidents, including 5 explosions, during the 1969–70 reporting period with an associated oil outflow of 27,465 long tons. Tankers less than 80,000 dwt had 245 polluting incidents, including 10 explosions, during the same reporting period with an associated oil outflow of 403,254 long tons.

It should also be noted that the case with tanker explosions discounted significantly changes the results. Here, frequency probabilities are also independent of tanker size; i.e., the incident rate is the same for both large and small tankers. It is interesting to note the marked drop in oil outflow magnitudes with an increase in size. Again, however, the cautionary remark concerning the effect of one large laden tanker's involvement in a catastrophic incident will apply.

The reason the data have been presented with explosions segregated is to show their effect on the supertanker frequency and magnitude oil spill spectrum and how the case may be made either way for or against supertankers as has been done in the past. It is also noteworthy that primary explosions occur in two modes of tanker operation:

While the tanker is in ballast and probably tank cleaning at sea; and

While transferring cargo and more often during the unloading phase.

Another approach compared incident frequency and outflow to the total amount of deadweight tons in the two categories above and below 80,000 tons deadweight. Due to the greater proportion of deadweight (30.7%) in the supertanker category as opposed to the actual number of vessels (6.04%) the results are significantly altered; i.e., the supertanker shows smaller oil outflows in proportion to its representative deadweight.

The baseline port facility alternatives can then be modified for:

Improved tanker construction technology, i.e. double bottoms;

Implementation of traffic control; and

The use of an offshore terminal.

Data showing the effectiveness of any of these three modifications are either sparse or non-existent. However, reasonable estimates can be made for them; the effectiveness of double bottoms in terms of grounding protection was estimated to be 75 percent; the effectiveness of a traffic control system was estimated to reduce all grounding and collision polluting incidents which could occur in harbors and harbor entranceways by 50%; the effectiveness of an offshore terminal has been qualitatively taken to reduce in two cases, 40 and 90 percent of all casualties which would occur within the harbors and entranceways—40 percent for a deep water terminal but not necessarily far offshore or out of the heavy traffic density, 90 percent for a true deep water offshore terminal without the traffic density and proximity of the shoreline.

Double-bottom construction is just what it sounds like. It uses an outer wall for the hull structure of a vessel and an inner wall for the structure of the oil storage tanks. The resulting space between the two provides additional insurance against oil spillage because it permits damage to the outer hull without necessarily affecting the oil storage systems. In this analysis, we assume a double bottom height on the order of 0.08 percent of the tanker's molded beam and a segregated ballast capacity sufficient to attain 45 percent of the tanker's full load displacement.

Various sources have placed the effectiveness of double bottoms in terms of grounding protection between 61 and 92 percent. A grounding study conducted by the International Maritime Consultative Organization (IMCO) Maritime Safety Committee on Ship Design and Equipment stated that effectiveness is on the order of 73 percent.[3] In this study, an effectiveness of 75 percent is used.

Traffic controls in this analysis are defined as mandatory, radar-guided, computer assisted systems for positive control and coordination of shipping movements at superport facility locations. The effectiveness of such a traffic control system is estimated to reduce by 50 percent all groundings and collisions which cause oil spills and which could occur in harbors and harbor entranceways. This figure is considered more qualitative than quantitative because no real data exists on a maritime traffic control system. Some data do exist regarding traffic separation routes, which are strictly advisory and not fully comparable to positive traffic control systems. For example, the average accident rate in the Straits of Dover for the 3 years after traffic routing was established improved by 21 percent over the 4 years prior to routing, despite an increase in traffic and despite the fact that only 75 percent of the vessels transiting the Straits of Dover comply with the routes.[4] Harbor advisory systems such as the one in Teesport,[5] have also shown considerably lower accident rates. In the port of Rotterdam, where more ship tonnage is handled than in any other port in the world, there has not been a single major accident since a harbor control system was instituted several years ago. Thus, the 50 percent effectiveness value used here for traffic control systems, though unquantified, is considered minimal.

The location of a superport can greatly affect the probability of casualties and consequently the magnitude of oil spills. One of the key variables is distance from shore. As distance increases, traffic congestion and therefore casualties from collision are reduced. Far offshore facilities are also in deeper water—reducing the probabilities of groundings. The effectiveness in terms of reduced vessel casualties is not readily quantifiable. However, a detailed casualty analysis by the Coast Guard indicated that approximately 40% of the polluting incidents occur within harbors and entranceways. Of the incidents occurring within harbors and entranceways, approximately 80% are due to collisions and groundings. Two values of effectiveness are used. For offshore locations between 5 and 15 miles from shore, but still exposed to shallow water and to coastal traffic, a 40% reduction of collisions and groundings is assumed. If the site is far offshore, beyond 15 miles, a 90% reduction is estimated.

It is important to realize the limitations of the results; especially when one considers the absence of quantitative data regarding the effectiveness of double bottom, traffic control systems, etc., and perhaps more important the sensitivity of the results to the values of effectiveness. A sensitivity analysis was conducted by varying the value of the effectiveness of the three parameters by 10 percent. The effect of varying this value by 10 percent can change the quantity of oil outflow from 0.1 to a maximum of 10 percent. This same 10 percent variation will alter the frequency of occurrence from 1 to a maximum of 10 percent. These results say that the oil outflow magnitude-frequency spectrum will vary in direct proportion with the effectiveness of the super-imposed parameters.

TABLE 3.—CONVERSION OF SHIP YEARS TO CALENDAR YEARS FOR FIGURES 1–6 [1]

A	B	C
Percent of throughput transshipped	Incoming tanker 250,000 DWT ship yr/(U.S. superport) 20 calendar years	Incoming tankers 50,000 DWT ship yr/ (no U.S. superport) 20 calendar years
0	208	1,043
5	273	
10	339	
15	404	
20	469	
25	534	
30	600	
35	665	
40	730	
45	795	
50	860	
55	926	
60	991	
65	1,056	
70	1,121	
75	1,187	
80	1,252	
85	1,317	
90	1,382	
95	1,447	
100	1,513	

[1] For throughputs other than 1,000,000 barrels per day, multiply the value in either columns B or C by the ratio of actual throughput to 1,000,000.

Any value in column B is the number of ship years accumulated in twenty calendar years as a function of 250,000 DWT incoming supertankers, the amount of the incoming throughout which is then transshipped in 40,000 DWT tankers (shown as a percent of the total throughput), and a 1,000,000 barrels per day throughput.

Column C is the number of ship years accumulated in 20 calendar years as a function of 50,000 DWT incoming regular tankers, assuming a 1,000,000 BPD throughput and no further transshipment.

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[3] D. M. Bovet, "Groundings: A Brief Analysis," U.S. Coast Guard, Office of Research and Development, December 1970.

[4] J. M. Beattie, "Safer, Saner Seaways," U.S. Naval Institution proceedings, December 1970.

[5] "Improving Safety of Navigation in the Oil Ports," Europe and Oil, Ferranti Ltd., May 1970.

EXAMPLES FOR USING TABLE 3 AND FIGURES 1 THROUGH 6

1. Case with transshipment

a. Given:

throughput equals 1,900,000 BBl/day.

incoming tanker equals 250,000 DWT.

65 percent transshipped in 40,000 DWT tankers

double bottom and traffic control.

b. From Column B, Table 3—1056 ship years/20 calendar years.

Multiply by 1.9 to adjust for throughput equals 2006.4 ship yr/20 cal yr.

c. From Figure 4 find 2006.4 yr. along horizontal axis and read from various outflow ranges as follows: 0.6 incidents at 3001 to 14,000 tons; 1.7 incidents at 501 to 3000 tons; 2.2 incidents at 151 to 500 tons; 15 incidents at less than 150 tons.

d. Compute total outflow by multiplying number of incidents times average spill figures in box:

0.6 × 8,260 = 4,956
1.7 × 1,240 = 2,108
2.2 × 374 = 823
15 × 69 = 1,035

8,922 tons/20 cal yrs.
= 66,915 Bbls/cal yrs.
(7.5 Bbls/ton)
= 3,345 Bbls/cal yr.

2. Same case with no transshipment

a. From column B, Table 3 — 208 ship yr/20 cal yr.; 208 times 1.9 equals 395 ship yr/20 cal yr.

b. Incidents at various outflow ranges from Figure 4: 0.12 incidents at 3001 to 14,000 tons; 0.34 incidents at 501 to 3000 tons; 0.41 incidents at 151 to 500 tons; 3.0 icidents at less than 150 tons.

c. Compute total outflow:

0.12 × 8,260 = 991
0.34 × 1,240 = 422
0.41 × 374 = 153
3 × 69 = 207
1,773 tons/20 cal yrs.

= 13,297 Bbls/20 cal yrs.
= 665 Bbls/cal yr.

(Figures 1 through 6 mentioned by Train were omitted because they could not readily be reproduced.)

QUORUM CALL

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that during the consideration of the Endangered Species Act of 1973, my legislative assistant, Max Gruenberg, have the privilege of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the role.

Mr. TUNNEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ENROLLED BILL SIGNED

The PRESIDENT pro tempore on today, July 24, 1973, signed the enrolled bill (H.R. 9172) to provide for emergency allotment lease and transfer of tobacco allotments or quotas for 1973 in certain disaster areas in Georgia and South Carolina, which had previously been signed by the Speaker of the House of Representatives.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on July 23, 1973, he presented to the President of the United States the enrolled bill (S. 59) to amend title 38 of the U.S. Code to provide improved and expanded medical and nursing home care to veterans; to provide hospital and medical care to certain dependents and survivors of veterans; to provide for improved structural safety of Veterans' Administration facilities; to improve recruitment and retention of career personnel in the Department of Medicine and Surgery; and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PASTORE, from the Joint Committee on Atomic Energy, without amendment:

S. 1993. A bill to amend the EURATOM Cooperation Act of 1958, as amended (Rept. No. 93–341).

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, without amendment:

S. 2075. A bill to authorize the Secretary of the Interior to undertake a feasibility investigation of McGee Creek Reservoir, Okla. (Rept. No. 93–342).

By Mr. CHURCH, from the Committee on Foreign Relations:

S. 2239. An original bill relating to intervening in and influencing the political affairs of foreign countries or political subdivisions thereof (Rept. No. 93–343). Placed on the calendar.

By Mr. HARTKE, from the Committee on Commerce, with amendments:

S. 2060. A bill to authorize the Secretary of Transportation to act to assure the continuance of rail services in the northeastern United States, and for other purposes (Rept. No. 93–344).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. WILLIAMS, from the Committee on Labor and Public Welfare:

John R. Ottina, of California, to be Commissioner of Education; and

Julius Shiskin, of Maryland, to be Commissioner of Labor Statistics, U.S. Department of Labor.

The above nominations were reported with the recommendation that the nominations be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

ORDER FOR STAR PRINT OF S. 1964

Mr. TUNNEY. Mr. President, I ask unanimous consent to correct an omission in my bill, S. 1964, to establish the Tijuana National Wildlife Refuge.

On page 3, line 3, after the phrase "with the operation of the" insert "U.S. Naval Air Station, Imperial Beach, California. In addition the", and continue with "Secretary may utilize".

I request that a star printing be authorized to enable this correction to be printed in the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR STAR PRINT OF SENATE JOINT RESOLUTION 135

Mr. MOSS. Mr. President, on July 19, 1973, Senate Joint Resolution 135, regarding the termination of hostilities in Indochina, was introduced and a technical error was made in the printing. I ask unanimous consent that a star print be made of the joint resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced or reported, read the first time and, by unanimous consent, the second time, and referred or placed on the calendar, as indicated:

By Mr. DOMINICK:

S. 2236. A bill to amend the Clean Air Act in order to provide for revised standards pursuant to such Act for motor vehicles and engines to be sold or used in high elevation areas, and for other purposes. Referred to the Committee on Public Works.

By Mr. THURMOND:

S. 2237. A bill to remove statutory limitations upon the application of the Sherman Act to labor organizations and their activities, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. MONDALE (for himself and Mr. SCHWEIKER):

S. 2238. A bill to amend the Internal Revenue Code of 1954 to increase the maximum credit and deduction allowable with respect to contributions to candidates for public office, to make certain changes in subtitle H of such code with respect to the financing of presidential election campaigns, and for other purposes. Referred to the Committee on Finance.

By Mr. CHURCH, from the Committee on Foreign Relations:

S. 2239. An original bill relating to intervening in and influencing the political affairs of foreign countries or political subdivisions thereof. Placed on the calendar.

By Mr. CURTIS:

S. 2240. A bill to amend title II of the Social Security Act and appropriate provisions of the Internal Revenue Code of 1954 so as to make clear that income received by a farm owner for the use of land by a farm management concern will not be treated as earnings from self-employment. Referred to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMINICK:

S. 2236. A bill to amend the Clean Air Act in order to provide for revised standards pursuant to such act for motor vehicles and engines to be sold or used in high elevation areas, and for other purposes. Referred to the Committee on Public Works.

Mr. DOMINICK. Mr. President, under section 206 of the Clean Air Act, the Administrator of the Environmental Protection Agency is required to test new automobiles and to certify them if they pass these tests. EPA has promulgated extensive and detailed guidelines pursuant to the Clean Air Act of 1970 for the purpose of testing the emissions of new automobiles. This entire testing and certification process, as it now exists, is conducted at elevations below 1,000 feet, in and around Detroit at the surrounding automobile manufacturing plants. It has now been shown, however, that these motor vehicles which are certified emit significantly greater amounts of pollutants at higher elevations than they do at the level where the tests are conducted. The reason for this is quite simple, since, as everyone knows, carburetors are designed to mix gasoline with air depending on the volumes of the gasoline and the air. So, when the air is thinner, as in higher altitudes, the amount or mass of oxygen in the air is lower even though the volume the carburetor takes in remains the same. This out-of-proportion mixture results in less efficient and higher polluting engines in the high elevations.

The purpose of the Clean Air Act is stated to be the protection and enhancement of the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population. Yet, both an unwillingness on the part of EPA to acknowledge and fulfill the need for stronger standards in high elevations and certain defects in the act itself have meant that the mandated purpose of improving the Nation's air quality will continue to remain unrealized in those urban areas which are located at higher elevations. Further, these areas are nevertheless required to meet the same primary ambient air quality standards under the same time schedule as are urban areas at low elevations.

Mr. President, the legislation which I introduce today is prompted by results of a number of studies and surveys which have been conducted over the last few years. For example, the Air Pollution Control Commission in Colorado and EPA monitored exhaust emissions from thousands of motor vehicles at elevations ranging from 3,400 to 10,500 feet. Results show that motor vehicles emit 150 to 210 percent the amount of hydrocarbons and carbon monoxides at these elevations than they do at the elevations in Detroit where they are tested and certified under the Clean Air Act regulations. Mobile air pollutant sources in the Denver metropolitan areas account for roughly 90 percent of the carbon monoxide emissions and 60 percent of both hydrocarbons and photochemical oxidants formed by atmospheric reactions of hydrocarbons and nitrogen oxides.

The technological feasibility of various carburetors and auto emission control devices is a subject on which there remains much disagreement. This was seen in the recent negotiations between the Environmental Protection Agency and the major automobile manufacturers which resulted in the granting of an extension for meeting the hydrocarbon and carbon monoxide standards. There is no disagreement, however, that the Clean Air Act precludes interim tampering of motor vehicle engines. Sections 203 and 205 state that a $10,000 civil penalty will result and that the act prohibits the following:

> For any person to remove or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this part prior to its sale and delivery to the ultimate purchaser, or for any manufacturer or dealer knowingly to remove or render inoperative any such device or element of design after such sale and delivery to the ultimate purchaser.

The obvious intent of these sections was to prevent any tampering that would reduce the effectiveness of the pollution control devices in the new automobiles. Yet, the prohibition as written applies to all tampering whether it reduces or increases effectiveness. In response to the many complaints relating to this problem, EPA issued an "Interim Tampering Enforcement Policy" on June 8, 1972. It has, however, proven ineffective since in the absence of an amendment, the Clean Air Act appears to prohibit any tampering whatsoever.

Mr. President, thus the problems which threaten the success of the Clean Air Act are now well defined and an amendment to the act is necessary to insure that:

First, motor vehicles intended for sale or substantial use in higher elevations meet the same standards as those required at sea level; and

Second, modifications are allowed which will increase the effectiveness of pollution control devices on new and used cars in higher elevations and which are otherwise in accordance with the policy of the act.

Mr. President, we are introducing this bill to accomplish exactly these goals. The bill embodies an extremely simple approach to this problem and involves no great bureaucratic framework. It is merely designed to alleviate an apparent oversight either in the act or the Environmental Protection Agency's regulations, namely, that a distinction must be made between operating a motor vehicle at sea level and operating one in or near any of the Nation's mountainous areas.

Accordingly, Mr. President, I urge the appropriate committee to take up this matter immediately. If the Congress were to pass this measure in the near future, the proper adjustments in procedure could be made by the Environmental Protection Agency, the States and the automobile manufacturers so as to coincide with the time frame of the Clean Air Act as it now exists.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD at this point in my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2236

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 104 of the Clean Air Act is amended by inserting at the end thereof the following:

"(d) The Administrator shall carry out a research program pursuant to this section to determine special requirements for motor vehicle emission control devices and systems in high elevation States and the maintenance thereof and direct manufacturers of motor vehicles and engines to meet standards established pursuant to this Act in high elevation as well as other States."

SEC. 2. Section 202(b) (3) of the Clean Air Act is amended by inserting at the end thereof the following:

"(C) The term 'high elevation State' means a State with a Standard Metropolitan Statistical Area which has an average elevation of at least three thousand feet above sea level.

"(D) The term 'high elevation motor vehicle or engine' means any motor vehicle or engine which is intended for sale in a high elevation State."

SEC. 3. (a) Section 206(b) (1) of the Clean Air Act is amended by inserting the following after the "(1)" and preceding "In": "(A)".

(b) Section 206(b) (1) of the Clean Air Act is further amended by inserting at the end thereof the following:

"(B) The Administrator shall, not later than 120 days after the date of enactment of this subsection, prescribe such amendments to tests and standards pursuant to this section with respect to high elevation motor vehicles and engines such that the standards established pursuant to section 202 are complied with when such motor vehicle or engine is operated in a high elevation State.

"(C) Regulations and amendments to existing regulations prescribed pursuant to subsection (b) (1) (B) shall be applicable to high elevation motor vehicles and engines manufactured during and after model year 1976."

SEC. 4. (a) Section 209 of the Clean Air Act is amended by inserting at the end thereof the following:

"(d) Nothing in this Act shall preclude or deny to any State or political subdivision thereof the right to require that motor vehicles and engines which are licensed for use in that high elevation State be in conformity with standards prescribed pursuant to section 202."

(b) Section 203(a) (3) of the Clean Air Act is amended by inserting the following after "(3)":

"except as provided in section 209(d)."

By Mr. THURMOND:

S. 2237. A bill to remove statutory limitations upon the application of the Sherman Act to labor organizations and their activities, and for other purposes. Referred to the Committee on the Judiciary.

Mr. THURMOND. Mr. President, many years ago Congress concluded that in order to protect the public interest, antitrust legislation should be enacted to prevent large business enterprises from engaging in monopolistic practices that would eliminate competition and restrain trade and commerce.

Through court interpretation and subsequent action by Congress, labor unions were made exempt from the application of the antitrust laws. The rationale for this was that unions were weak and struggling organizations, and that only by being given special privileges and protections not accorded other economic interests could they successfully stand up to the business giants of that day.

Today labor unions have gained such tremendous power that the question must be raised as to whether the exemption of labor unions from the antitrust laws was a serious mistake at the time when the exemption was granted. The evidence is overwhelming that this special protection given to unions so that they could advance their own self-interest certainly is not justified today.

The labor-management area has been viewed in the past as a power struggle between worker welfare and business gains. But now the struggle is not so much between unions and big business as it is between big unions and the public.

While there has been a great deal of concern shown about the relative power of labor unions and employers, there has been far too little concern shown over the effects of labor union power on the public interest. Union monopoly power aids and abets the development of the monopoly power of business enterprises which the antitrust laws were enacted to prevent. It has produced wage rates and fringe benefits in excess of those justified by increased productivity or competitive levels, work rules that require payments for unneeded work, and boycotts which penalize third parties not involved in labor disputes. It has resulted in wastage of labor resources, distortions in the allocation of productive resources, inflation, balance-of-payments deficits and the associated deterioration of the U.S. position in world markets. The American public is the real victim in all instances.

Labor union monopoly power is not compatible with a free market economy. There are really only two choices facing us. Either the power of unions must be reduced to an extent sufficient that market forces will once again be broadly effective or unions will have to be totally regulated like public utilities, the government controlling wages and work standards and allocating labor. The latter would deal a near fatal blow to our private enterprise economy.

There are some who see as an alternative the acceptance of "social responsibility" by unions and the sacrificing of some of their self-interest. That is unrealistic. In the absence of legal restraints on union power, unions can logically be expected to continually strive to increase that power. Competition from the nonunion sector of the labor force does not deter this drive for more power rather the effort to unionize the nonunion sector is used by the unions as a reason why they need more power. Furthermore, employer resistance cannot be relied upon to restrain the unions, for with the tremendous power already existing on the union side, employers are increasingly willing to give in to the unions in exchange for labor peace and uninterrupted operation. Wages go up, prices go up and the consumer has to absorb the higher costs that are the inevitable product of union monopoly power. Nor has competition from foreign industry restrained the growth of union power and union demands. In this competition, what has given way has not been foreign competitors or U.S. unions but our balance of payments and our gold reserves.

It is necessary, therefore, that the Congress take action now to amend the antitrust laws so that labor unions will have to abide by the same regulations as employers of labor. They must be prohibited from taking actions which will unreasonably restrain trade and commerce or eliminate competition in product markets.

Making unions subject to the antitrust laws will not destroy them. Nor will properly drawn legislation interfere with their function as collective bargaining representatives of employees so long as their actions are not in restraint of trade and they do not conspire to restrain trade.

This would be exactly the same as it now is with business organizations. They violate the antitrust laws only when they are large enough to monopolize or when they collude with others to restrain trade.

Speaking before the Joint Economic Committee back in January, Chairman Arthur F. Burns of the Federal Reserve Board of Governors said:

> Not a few of our corporations and trade unions now have the power to exact rewards that exceed what could be achieved under conditions of active competition." Chairman Burns declared that genuine progress toward solving the problem of inflation would require that we "undertake to curb abuses of economic power by both business firms and trade unions, besides reappraising a host of laws and governmental regulations that interfere with the competitive process.

He said both structural reforms of the antitrust laws and stricter enforcement are needed.

Since 1932 public policy toward unions has disregarded both the economic laws governing the operations of a free market and the interests of consumers. The Norris-La Guardia Act of 1932 denied relief in the courts for business firms injured by unions. It freed labor unions to increase their monopoly powers and restrain commerce without regard to the damage inflicted on the public. Then in 1935 the Wagner Act conferred more rights and privileges on unions without corresponding obligations. In 1947 the Taft-Hartley Act preserved the unions' privileges and immunities but attempted to prevent certain "bad" labor practices. It did not, however, place any effective restraints on the further extension of union power. In 1959 the Landrum-Griffin Act added more forbidden "bad" practices with the avowed intent of protecting union members from harmful action by union leadership. It also left intact the structure of union monopoly power. Neither Taft-Hartley or Landrum-Griffin, therefore, have effectively dealt with the problems created by labor unions nor achieved real labor "reform." Rather they have added to the confusing tangle of rules and regulations which leave the power of unions to inflict damage untouched but have fostered increasing government interference in market processes.

Moreover, the body of "administrative law" which has developed around our labor statutes is subject to the shifting interpretations of the National Labor Relations Board, whose members are governed more by their ideological proclivities than by the canons of the judicial process. Thus, while Taft-Hartley outlays the closed shop, interpretations of the NLRB have weakened the effectiveness of this prohibition. Taft-Hartley also prohibits some types of featherbedding and secondary boycotts, but these limited restraints have been largely circumvented by rulings of the NLRB. Congress' lack of success in formulating effective remedies for labor evils is due to its concentration on legislative attempts to stop the bad practices while neglecting the source from which these practices have emerged—excessive union power.

The severest damage inflicted by unions on the public and the most serious threat they pose to survival of the market economy results from their performance of functions which labor laws authorize them to perform in pursuit of their own self-interest rather than the commission of illegal acts. The problem, then, is the reduction of the legally held powers of unions when such powers unreasonably restrain commerce and eliminate competition. The solution is to bring unions under the antitrust laws.

Removing the exemption for unions from the antitrust laws would not be a punitive measure. It would not subject unions to any new and unusual penalties but merely restore the equity in treatment of business enterprise and unions that has been lost because of the free hand given to unions to monopolize and restrain trade. Bringing unions under the scope of the laws that were designed to insure the survival of a competitive economy would no more destroy unions than it has destroyed business enterprises.

It has been argued that bringing unions under the antitrust laws is too difficult and too complicated, and that it would place the antitrust laws and the national labor laws into conflict. These arguments are easily answered.

It was not so difficult to bring business enterprises under the antitrust laws that Congress was unable to achieve it. Bringing unions under antitrust restraints is no more difficult, in fact, it is less so because of the years of experience gained in applying the laws to business firms.

Complexities arise only if an effort is made to spell out in the law the various actions of unions which shall be considered in restraint of trade. This was not done in the Sherman Act with regards to business enterprises, but rather the act simply states that:

> Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several states, or with foreign nations, is hereby declared to be illegal.

It leaves to the courts the determination of the meaning and specific application of the words of the statute. The Clayton Act likewise uses broad and nonspecific terms, delegating interpretation to the courts.

This same principle should be followed in the case of labor unions. The courts will decide what actions monopolize and restrain trade and are, therefore, illegal under the antitrust laws.

National labor law and the antitrust laws, when made applicable to labor unions, will complement rather than conflict with each other. National labor law deals with problems and practices in the relationships between unions and employers, without attempting to determine the limits to which union power can accumulate and be exercised without substantially injuring the public interest and endangering the survival of the market economy. Enforcement of the antitrust laws as applied to unions will be concerned solely with the latter and not with the former. Thus a union can violate the National Labor Relations Act without running afoul of the antitrust laws, or it can violate the antitrust laws with an action that is not prohibited by the NLRA. In other words, it will be subject to two different types of regulatory action and in this respect it will be no different from business enterprises, which are subject to a variety of restraints.

Bringing unions under the antitrust laws requires a few very simple amendments to the Sherman and Clayton Acts and an equally simple modification of the application of the Norris-La Guardia Act. These changes are long overdue and Congress should take action to put them into effect without further delay.

Mr. President, I send to the desk a bill to effectuate the changes outlined above and ask unanimous consent that the bill be printed in the RECORD following these remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2237

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Antitrust Law Labor Amendments of 1973".

CLAYTON ACT AMENDMENTS

SEC. 2. (a) The second sentence of section 6 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (38 Stat. 730; 15 U.S.C. 17), is amended by striking out "the antitrust laws" and inserting the following: "any provision of the antitrust laws except as provided by the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890 (26 Stat. 209, as amended; 15 U.S.C. 1 et seq.)".

(b) Section 20 of such Act (29 U.S.C. 52) is amended by—

(1) striking out the word "That" in the first paragraph thereof, and inserting in lieu thereof the words "Except for the purpose of preventing any violation of the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890 (26 Stat. 209, as amended; 15 U.S.C. 1 et seq.),"; and

(2) striking out the word "And" where it first appears in the second paragraph thereof, and inserting in lieu thereof the words "Except for the purpose of preventing any violation of such Act,"; and

(3) striking out the words "any law of the United States" in the second paragraph thereof, and inserting in lieu thereof the words "any other provision of law of the United States".

NORRIS-LA GUARDIA ACT AMENDMENT

SEC. 3. The Act entitled "An Act to amend the judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes", approved March 23, 1932 (47 Stat. 70; 29 U.S.C. 101 et seq.) is amended by inserting at the end thereof the following new section:

"SEC. 16. Nothing contained in this Act shall deprive any court of the United States of jurisdiction to issue any order or injunction to restrain any violation or threatened violation of the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890 (26 Stat. 209, as amended; 15 U.S.C. 1 et seq.)."

SHERMAN ACT AMENDMENTS

SEC. 4. (a) Section 1 of the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (26 Stat. 209, as amended; 15 U.S.C. 1), is amended by—

(1) inserting, immediately after the section designation "Sec. 1.", the subsection designation "(a)"; and

(2) adding at the end thereof the following new subsection:

"(b) Every contract or agreement between any labor organization and any employer whereby such employer undertakes to cease or to refrain from using, selling, handling, transporting, or otherwise dealing in any of the products of any producer, processor, or manufacturer which are distributed in trade or commerce among the several States, or with foreign nations, is hereby declared to be illegal. Every person who enters into, attempts to enter into, or combines or conspires with any other person to enter into, any such contract or agreement shall be punished by a fine not exceeding fifty thousand dollars, or by imprisonment not exceeding one year, or both."

(b) Section 3 of such Act (15 U.S.C. 3) is amended by—

(1) inserting, immediately after the section designation

"SEC. 3.", the subsection designation "(a)"; and

(2) adding at the end thereof the following new subsection:

"(b) Every contract or agreement between any labor organization and any employer whereby such employer undertakes to cease or to refrain from using, selling, handling, transporting, or otherwise dealing in or with any of the products of any producer, processor, or manufacturer which are distributed in trade or commerce in any Territory of the United States or the District of Columbia, or between any such Territory and another, or between any such Territory or Territories and the District of Columbia or any State or foreign nation, or between the District of Columbia and any State or foreign nation, shall be unlawful. Every person who enters into, attempts to enter into, or combines or conspires with any other person to enter into, any such contract or agreement shall be punished by a fine not exceeding fifty thousand dollars, or by imprisonment not exceeding one year, or both."

(c) Section 8 of such Act (15 U.S.C. 7) is amended to read as follows:

"SEC. 8. As used in this Act—

"(a) the term 'person' or 'persons' includes corporations and associations existing under or authorized by the laws of the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country; and

"(b) the term 'labor organization' means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work."

EFFECTIVE DATE

SEC. 5. The amendments made by this Act shall take effect on the first day of the fourth month beginning after the date of enactment of this Act.

By Mr. MONDALE (for himself and Mr. SCHWEIKER):

S. 2238. A bill to amend the Internal Revenue Code of 1954 to increase the maximum credit and deduction allowable with respect to contributions to candidates for public office, to make certain changes in subtitle H of such code with respect to the financing of Presidential election campaigns, and for other purposes. Referred to the Committee on Finance.

PRESIDENTIAL CAMPAIGN FINANCING ACT

Mr. MONDALE. Mr. President, I am introducing today, together with the Senator from Pennsylvania (Mr. SCHWEIKER), the Presidential Campaign Financing Act of 1973.

This legislation, which provides for substantial public financing of Presidential primary and general elections while severely limiting the size of private contributions, is designed to free those elections from the corrosive and corrupting influence of big money and return them to the American people.

In my judgment, the enactment of our bill—or of one like it—is the single most important election reform that can emerge from Watergate. It is absolutely essential if we are ever to get money off the backs of American politicians and restore integrity and confidence in our political system.

One of the great ironies of Watergate is that some of those who have been among the staunchest opponents of public financing have, through their blatantly illegal activities, made the strongest possible case for its adoption.

The acceptance of corporate contributions, the widespread use of secret funds, the "laundering" of contributions in foreign countries, the solicitation of funds from businesses with important cases pending before Government agencies, the insistence on dealing in cash, the ambassadorships for sale—these are symptoms of a system that is fundamentally flawed.

Perhaps no incident dramatizes the extent of the flaw as strikingly as that involving American Airlines.

Herbert Kalmbach, one of President Nixon's principal fundraisers approached American board chairman, George Spater, at a time when American had pending before the Civil Aeronautics Board a plan for merger with Western Airlines and indicated that a contribution of $100,000 was "expected."

> I knew Mr. Kalmbach to be both the President's personal counsel and counsel for our major competitor (United Airlines).

Mr. Spater said later:

> I concluded that a substantial response was called for.

That "substantial response" amounted to a total American Airlines contribution to the Nixon campaign of $75,000, of which $55,000 was in clearly illegal corporate funds.

In short, American Airlines was so determined to advance and protect its corporate interests that it consciously decided to violate the law in order to submit to Mr. Kalmbach's intimidation.

Here's how Mr. Spater himself put it:

> Under existing laws, a large part of the money raised from the business community for political purposes is given in fear of what could happen if it were not given.

I cannot imagine a more severe indictment of our political fund-raising process, unless it is the now familiar Vesco affair. That incident dramatized how an individual in apparent trouble with the SEC was solicited for a huge contribution, and how he gained access to one of the highest officials in the Government to discuss his difficulties only 2 hours after delivering the contribution—all in $100 bills.

And there is the ITT incident in which a huge contribution to help underwrite the GOP National Convention mysteriously coincided with an antitrust settlement between ITT and the Justice Department—a settlement highly beneficial to ITT.

Then there is the Ashland Oil contribution and who knows how many more sordid episodes. When they are all revealed, they will portray a story of government virtually up for sale. They will make a mockery of our principles of free and open representative government. They will make us truly ashamed of what we have allowed to happen to our political process, the most precious of all of our national possessions.

As a Democrat, I can take no comfort in these disclosures. My own party's record of political fund-raising—while never in the same league as the Nixon campaign of 1972—has not always been as open and as forthright as I would like it to have been.

The chief fault lies in the system itself—a system which forces candidates to rely on excessively large contributions if they hope to compete effectively in a modern Presidential campaign.

This system, I am convinced, has a great deal to do with declining public confidence in government. People were asked in 1966 by the Harris Poll, "How often can you trust the government?" Two-thirds answered, "most of the time." Recently the question was asked again and less than half—only 45 percent—said they could trust their government most of the time.

The same poll indicated that only 27 percent of the people had "a great deal of confidence" in the executive branch of the Government—a drop from 41 percent in 1966.

If we are to eliminate the corrosive influence of money on the political process and restore public trust in our Government, we must fundamentally change the system by which we finance our campaigns—especially our Presidential campaigns. The only way to do this effectively, in my judgment, is by severely limiting the amount any individual may contribute to a candidate while at the same time providing substantial public funds to help finance the campaigns. Neither of these steps by itself will be sufficient; any effective reform must embody them both.

The costs of running campaigns in this country are rising so rapidly that this question cannot be put off any longer. It is estimated that last year candidates for all offices spent an estimated total of $400,000,000—an increase of one-third over 4 years before. In short, the cost of campaigning is rapidly outstripping the ability of most candidates to raise the necessary funds responsibly.

The United States is one of the few western democracies which provide absolutely no public assistance to candidates in its national elections. As Watergate so vividly illustrates, we cannot afford to postpone further this essential measure.

And if this kind of legislation is not enacted in the wake of Watergate, it may never be enacted. That is why Senator SCHWEIKER and I—together with a bipartisan coalition of Senators—intend to push this matter vigorously in the next few months.

John Gardner has called the way in which our campaigns are financed a "national disgrace," and I agree with him. In our common effort to remove that disgrace, I am grateful to Mr. Gardner and Common Cause for their considerable help in preparing the legislation which we are introducing today.

It is not a perfect bill, and we are not irrevocably wedded to every detail in its present form. After circulating it widely, we will make whatever revisions are necessary to make it the most effective possible bill.

We are committed, however, to the principles contained in this measure. And we believe its basic concepts are sound.

These, Mr. President, are the principal features of our bill:

No individual is allowed to contribute more than $3,000 to any one candidate during an entire Presidential campaign;

Groups which aggregate or "pool" funds are limited to collecting individual contributions of $25 or less and may in turn contribute to any one candidate no more than $25,000;

Cash contributions or transactions in excess of $100 are barred;

The existing tax credit is doubled to make it one-half of any contribution up to $50 for an individual return and up to $100 for a joint return; The present tax deduction for contributions is also doubled;

During the prenomination period, each individual contribution up to $100 will be matched by an equal amount from the Federal Treasury; A candidate must raise $100,000 in matchable contributions in order to qualify for Federal matching funds; The matching funds will be available beginning 14 months before the date of the general election; There is an overall spending limit of $15 million during the prenomination period; Matching funds must be spent during the prenomination period and cannot be carried over to the general election period;

The existing $1 check-off system is retained and strengthened for the general election; Each dollar checked off is matched by another dollar from the Federal Treasury, and the check-off fund is made self-appropriating; For the general election period there is a spending limit of $30 million, roughly two-thirds of which will come from the check-off fund and the balance from private contributions under $3,000; Unlike the present check-off law, there is no incentive not to take advantage of the public funds;

Stiff criminal penalties are provided for misuse of the public funds and other violations of the act.

I ask unanimous consent that an explanation giving more details, together with the text of the bill, be printed at the conclusion of my remarks.

If public financing legislation is to accomplish its intended purpose, it is essential that it apply to the Presidential primary period as well as the general election. If individuals and interests are permitted to contribute huge amounts early in the campaign, it makes no difference that they are prohibited from doing so later; the obligation will have been incurred and the entire purpose of the reform will have been effectively undermined.

And yet, the primary period is the most difficult part of the presidential election process for which to provide public financing. We have concluded that the only way to treat all candidates fairly is by placing a premium on their ability to raise small contributions. The combination of the $3,000 limitation on individual contributions and the availability of matching funds for contributions of $100 and under forces candidates, in effect, to seek as wide a base as possible in financing their campaigns. That, we believe, is what candidates should have to do in seeking nomination to the highest office in the land. Whatever ability they demonstrate in raising small funds from as many individuals as possible is rewarded in direct proportion to their success.

Candidates, in short, will be going to the people instead of to the interests for their financial support. The impact this change will have not only on our political process but also on the executive branch of government will be enormous.

For the general election period, we have retained and tried to strengthen the $1 check-off system, which we believe is a sound and effective system which has not yet been given a fair chance to prove itself. Every dollar which is designated by an individual for the presidential campaign fund is matched by another dollar from the Treasury, creating in effect a $2 check-off which will insure sufficient funds for the general election. These funds would provide approximately two-thirds of what a candidate would be permitted to spend, the balance to be raised in individual contributions of $3,000 and under.

Public financing of campaigns, I am convinced, is an idea whose time has finally arrived. But it is by no means a new idea. In a message to Congress in 1907—nearly 70 years ago—President Theodore Roosevelt proposed this reform, saying:

> The need for collecting large campaign funds would vanish if Congress provided an appropriation for the proper and legitimate expenses of each of the great national parties, an appropriation ample enough to meet the necessity for thorough organization and machinery, which requires a large expenditure of money. Then the stipulation should be made that no party receiving campaign funds from the Treasury should accept more than a fixed amount from any individual subscriber or donor; and the necessary publicity for receipts and expenditures could without difficulty be provided.

Public financing of campaigns is the most fundamental and important reform we can adopt in this decade. At stake is nothing less than the integrity of our political system and the kind and quality of government we are going to have in this country.

This is not a very complex issue. It can be reduced to one basic question: To whom do we want the President of the United States indebted after his election—powerful economic interests capable of buying influence with huge contributions, or the American people?

Nor is it a partisan or ideological issue. It is designed to benefit neither Republicans nor Democrats—neither liberals nor conservatives. Rather, it is designed to benefit our system of government and, through it, the American people, by insuring that the President of the United States is responsible to them—and to them only.

There being no objection, the bill and explanation were ordered to be printed in the Record, as follows:

S. 2238

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Presidential Campaign Financing Act of 1973."

INCREASE IN POLITICAL CONTRIBUTIONS CREDIT AND DEDUCTION

Sec. 2. (a) Section 41(b)(1) of the Internal Revenue Code of 1954 (relating to maximum credit for contributions to candidates for public office) is amended to read as follows:

"(1) Maximum credit.—The credit allowed by subsection (a) for a taxable year shall not exceed $25.00 ($50.00 in the case of a joint return under section 6013)."

(b) Section 218(b)(1) of the Internal Revenue Code of 1954 (relating to amount of deduction for contributions to candidates for public office) is amended to read as follows:

"(1) Amount.—The deduction under subsection (a) shall not exceed $100 ($200 in the case of a joint return under section 6013)."

(c) The amendments made by subsections (a) and (b) shall apply with respect to any political contribution the payment of which is made after December 31, 1973.

PRESIDENTIAL ELECTION CAMPAIGN FUND

Sec. 3. Section 9006(a) of the Internal Revenue Code of 1954 (relating to establishment of campaign fund) is amended to read as follows:

"(a) Establishment of Campaign Fund—There is established on the books of the Treasury of the United States a special fund to be known as the 'Presidential Election Campaign Fund There is appropriated to the fund for each fiscal year, out of amounts in the general fund of the Treasury not otherwise appropriated, an amount equal to two times the amount designated during the preceding fiscal year (and subsequent to the previous Presidential election) by individuals for payment into the fund under section 6096. Moneys in the fund shall remain available without fiscal year limitation."

EXPLANATORY STATEMENT ON TAX AND PUBLICITY

Sec. 4. (a) Section 6096 of the Internal Revenue Code of 1954 (relating to designation by individuals of income tax payments to Presidential Election Campaign Fund) is amended by adding at the end thereof the following new subsections:

"(d) Explanatory Statement.—The page containing the designation provided for in subsection (c) shall contain the following statement in bold type: 'Designating that $1 (or $2 for a husband and wife filing jointly) shall be paid over to the Presidential Election Campaign Fund will not increase your tax liability, and each $1 you designate will be matched by another $1 from the Treasury.'

"(e) Publicity.—The Secretary of the Treasury or his delegate shall give extensive publicity to the Presidential Election Campaign Fund, including prominent notice in explanatory material sent to individuals, posters, and the use of radio, television, newspapers and other media. This publicity shall emphasize that the designation provided for in subsection (a) does not increase an individual's tax liability, and that each $1 designated will be matched by another $1 from the Treasury."

LIMITATIONS ON GENERAL ELECTION CAMPAIGN PAYMENTS, EXPENSES, AND CONTRIBUTIONS

Sec. 5. (a) Subsection (b) of section 9004 of the Internal Revenue Code of 1954 (relating to entitlement of eligible candidates to payments) is repealed and subsection (c) is redesignated as subsection (b).

(b) Paragraphs (2) and (3) of subsection (b) of section 9007 of the Internal Revenue Code of 1954 (relating to repayments of excess campaign expenses and contributions) are repealed and paragraphs (4) and (5) are redesignated as paragraphs (2) and (3).

ELIGIBILITY FOR CAMPAIGN PAYMENTS

Sec. 6. Section 9003 of the Internal Revenue Code of 1954 (relating to condition for eligibility for payments) is amended by striking out subsections (b) and (c) and inserting in lieu thereof the following:

"(b) Candidates for Election to the Office of President.—In order to be eligible to receive any payment under section 9006, the candidates of a major, minor, or new party in a presidential election shall certify to the Comptroller General, under penalty of perjury, that they and their authorized committees will not incur qualified campaign expenses in excess of the $30,000,000 limit in section 9012(a).

CRIMINAL PENALTIES

Sec. 7. Section 9012 (a) and (b) of the Internal Revenue Code of 1954 (relating to criminal penalties for excess campaign expenses and contributions) is amended to read as follows:

"(a) Excess Campaign Expenses—

"(1) It shall be unlawful for any candidate of a political party for President and Vice President in a presidential election or any of his authorized committees knowingly and willfully to incur qualified campaign expenses in excess of $30,000,000 with respect to such election.

"(2) Any person who violates paragraph (1) shall be fined not more than $25,000, or imprisoned not more than five years, or both. In the case of a violation by an authorized committee, any officer or member of such committee who knowingly and willfully consents to such violation shall be fined not more than $25,000, or imprisoned not more than five years, or both.

"(3) At the beginning of each calendar year (commencing in 1974), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Comptroller General and publish in the Federal Register the per centum difference between the price index for the twelve months preceding the beginning of such calendar year and the price index for the base period. The limit on campaign expenses in paragraph (1) and in section 9003(b) shall be increased by such per centum difference. The limit so increased shall be the amount in effect for such calendar year.

"(A) The term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.

"(B) The term 'base period' means the calendar year 1972.

"(b) Contributions—

"(1) It shall be unlawful for any candidate of a major, minor, or new party in a presidential election or any of his authorized committees knowingly and willfully to accept and expend or retain contributions to defray qualified campaign expenses in an amount greater than that necessary to make up the difference between the payments received from the Fund under Section 9006 and the limit on qualified campaign expenses established by subsection (a).

"(2) Any person who violates paragraph (1) shall be fined not more than $25,000, or imprisoned not more than five years, or both.

PRESIDENTIAL PRIMARY MATCHING PAYMENT FUND

Sec. 8. The Internal Revenue Code of 1954 is amended by adding at the end thereof the following new Chapter:

"CHAPTER 97—PRESIDENTIAL PRIMARY MATCHING PAYMENT FUND

"Sec. 9031. Short titles.
"Sec. 9032. Definitions.
"Sec. 9033. Creation of funds.
"Sec. 9034. Entitlements.
"Sec. 9035. Limitations.
"Sec. 9036. Examinations and audits; repayments.
"Sec. 9037. Criminal penalties.

"Sec. 9031. Short title.

"This chapter may be cited as the 'Presidential Primary Matching Payment Fund Act'.

"Sec. 9032. Definitions.

"For purposes of this chapter—

'(1) The term 'qualified campaign expense' means an expense—

"(A) incurred by a candidate for nomination for election to the office of President to further his nomination for such office, or by an authorized committee of such candidate to further his nomination to such office.

"(B) incurred within the matching payment period (as defined in paragraph (2)), or incurred before the beginning of such period to the extent such expense is for property, services, or facilities used during such period, and

"(C) neither the incurring nor payment of which constitutes violation of any law of the United States or the State in which such expense is incurred or paid. An expense shall be considered as incurred by a candidate or an authorized committee if it is incurred by a person authorized by such candidate or such committee, as the case may be, to incur such expense on behalf of such candidate or such committee.

"(2) The term 'matching payment period' means the period beginning 14 months prior to the date of the general election for President and ending on the date on which the national convention of the party for whose nomination the candidate is campaigning nominates its candidate for President.

"(3) The term 'authorized committee' means, with respect to a candidate for nomination for election to the office of President, any political committee which is authorized in writing by such candidate to incur expenses to further the election of such candidate. Such authorization shall be addressed to the chairman of such political committee, and a copy of such authorization shall be filed by such candidate with the Comptroller General. Any withdrawal of any authorization shall also be in writing and shall be addressed and filed in the same manner as the authorization.

"Sec. 9033. Creation of fund.

"(a) Establishment of campaign fund.—There is hereby established on the books of the Treasury of the United States a special fund to be known as the "Presidential Primary Matching Payment Fund" (hereinafter referred to in this chapter as the 'fund'). The fund shall remain available for expenditure without fiscal year limitation and shall consist of such amounts as are appropriated into it as provided in subsection (c).

"(b) Report to Congress.—The Secretary of the Treasury shall be the trustee of the fund and shall report to the Congress not later than March 1 of each year on the operation and status of the fund during the preceding year.

"(c) APPROPRIATION OF FUNDS.—There are hereby appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this Act.

"Sec. 9034. Entitlements.

"(a) MATCHING PAYMENT FOR CONTRIBUTIONS OF $100 OR LESS.—Any candidate for nomination for President, or his authorized committee is entitled, upon certification by the Comptroller General, to payments from the fund for qualified campaign expenses beginning 14 months prior to the date of the general election for President in an amount equal to the amount of each contribution received by such candidate or committee (disregarding any amount of contributions from any person to the extent that such amount exceeds $100).

"(b) VOUCHER.—To be eligible for the entitlement established by subsection (a), such candidate shall submit to the Comptroller General, at such times and in such form and manner as the Comptroller General may require, a matching payment entitlement voucher. Such voucher shall include the full name of any person making a contribution together with the date, the exact amount of the contribution, the complete address of the contributor and the occupation and principal place of business, if any, for contributors of more than $100.

"(c) DETERMINATION AND CERTIFICATION BY COMPTROLLER GENERAL.—Comptroller General shall—

"(1) make a determination, according to such procedures as he may establish, as to whether each contribution enumerated on such voucher is consistent with the provisions of sections 9034(a) and 9035 of this chapter; and

"(2) certify for payment by the Secretary to such candidate an amount equal to the sum of the contributions enumerated on such voucher which meet the requirements of subsection (c)(1).

"(d) PAYMENT BY SECRETARY.—Promptly upon certification, the Secretary shall make a payment from the fund to such candidate in the amount certified by the Comptroller General.

"(e) AUTHORIZED COMMITTEE.—For the purposes of this section, the authorized committee of any candidate for nomination for President may submit an entitlement voucher pursuant to subsection (b) in behalf of such candidate, listing contributions received by such committee eligible for payment under this chapter.

"Sec. 9035. Limitations.

"(a) CERTIFICATION BY THE COMPTROLLER GENERAL.—The Comptroller General shall not certify pursuant to section 9034(c)(2) any portion of any contribution made by any person to a candidate or committee entitled to payments under this chapter—

"(1) which, when added to other contributions made by such person to such candidate or committee in connection with the nomination of such candidate for President, exceeds $100; or

"(2) if payment from the fund of an amount equal to the amount of such contribution, or portion thereof, when added to any other payment from the fund to such candidate or committee during the matching payment period, is in excess of 5 cents multiplied by the voting age population of the United States (as certified to the Comptroller General by the Secretary of Commerce pursuant to section 104(a)(5) of the Federal Election Campaign Act of 1971).

"(b) PAYMENT BY THE SECRETARY.—The Secretary shall make no payment to a candidate or committee entitled to payments from the fund—

"(1) until the Comptroller General has certified contributions submitted by such candidate or committee, pursuant to section 9034(b), in an aggregate amount of $100,000; and

"(2) earlier than 14 months prior to the date of the general election for President.

"(c) QUALIFIED CAMPAIGN EXPENSES.—A candidate shall be eligible for payments from the fund only—

"(1) to defray qualified campaign expenses incurred by such candidate or his authorized committee, or

"(2) to repay loans the proceeds of which were used to defray such qualified campaign expenses, or otherwise to restore funds (other than contributions to defray qualified campaign expenses received and expended by such candidate or committee) used to defray such qualified campaign expenses.

"(d) RETURN OF UNUSED FUNDS.—Amounts received by a candidate from the fund may be retained for the liquidation of all obligations to pay qualified campaign expenses incurred during the matching payment period for a period not exceeding six months after the end of the matching payment period; and all obligations having been liquidated, that portion of any unexpended balance remaining in the candidate's accounts which bears the same ratio to the total unexpended balance as the total amount received from the Fund bears to the total of all deposits made into the candidate's accounts shall be promptly repaid to the fund.

"(e) RULES AND PROCEDURES.—The Comptroller General shall make such rules and establish such procedures as may be necessary to carry out the purposes of this chapter. All such rules and procedures shall be published in the Federal Register not less than thirty days prior to their effective date, and shall be available to the general public. The Comptroller General shall publish and make available forms for the making of such reports and statements as may be required, and a manual setting forth uniform methods of bookkeeping and reporting for use by persons required to make reports and statements under this chapter.

"Sec. 9036. Examinations and audits; repayments.

"(a) EXAMINATIONS AND AUDITS.—After each matching payment period, the Comptroller General shall conduct a thorough examination and audit of the qualified campaign expenses of the candidates receiving payments from the fund.

"(b) REPAYMENTS.—

"(1) If the Comptroller General determines that any portion of the payments made to a candidate from the fund was in excess of the aggregate payments to which such candidate was entitled under sections 9034 and 9035, he shall so notify such candidate, and such candidate shall pay to the Secretary an amount equal to such portion.

"(2) If the Comptroller General determines that any amount of any payment made to a candidate from the fund was used for any purpose other than—

"(A) to defray the qualified campaign expenses with respect to which such payment was made, or

"(B) to repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions to defray qualified campaign expenses which were received and expended) which were used, to defray such qualified campaign expenses,

he shall notify such candidate of the amount so used, and such candidate shall pay to the Secretary an amount equal to such amount.

"(c) NOTIFICATION.—No notification shall be made by the Comptroller General under subsection (b) with respect to a matching payment period more than three years after the end of such period.

"(d) DEPOSIT OF REPAYMENTS.—All payments received by the Secretary under subsection (b) shall be deposited by him in the general fund of the Treasury.

"Sec. 9037. Criminal penalties.

"(a) EXCESS CAMPAIGN EXPENSES.—

"(1) It shall be unlawful for any candidate for nomination for election to the office of President or any of his authorized committees knowingly and willfully to incur any expenses in connection with such nomination in excess of $15,000,000.

"(2) Any person who violates paragraph (1) shall be fined not more than $25,000, or imprisoned not more than five years, or both. In the case of a violation by an authorized committee, any officer or member of such committee who knowingly and willfully consents to such violation shall be fined not more than $25,000, or imprisoned not more than five years, or both.

"(3) At the beginning of each calendar year (commencing in 1974), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Comptroller General and publish in the Federal Register the per centum difference between the price index for the twelve months preceding the beginning of such calendar year and the price index for the base period. The limit on campaign expenses in paragraph (1) shall be increased by such per centum difference. The limit so increased shall be the amount in effect for such calendar year.

"(A) The term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.

"(B) The term 'base period' means the calendar year 1972.

"(b) UNLAWFUL USE OF PAYMENTS.—

"(1) It shall be unlawful for any person who receives any payment from the Fund, or to whom any portion of any payment received from the Fund is transferred, knowingly and willfully to use, or authorize the use of, such payment or such portion for any purposes other than—

"(A) to defray the qualified campaign expenses with respect to which such payment was made, or

"(B) to repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions to defray qualified campaign expenses which were received and expended) which were used, to defray such qualified campaign expenses.

"(2) Any person who violates paragraph (1) shall be fined not more than $10,000, or imprisoned not more than five years, or both.

"(c) FALSE STATEMENTS, ETC.—

"(1) It shall be unlawful for any person knowingly and willfully—

"(A) to furnish any false, fictitious, or fraudulent evidence, books, or information to the Comptroller General under this subtitle, or to include in any evidence, books, or information so furnished any misrepresentation of a material fact, or to falsify or conceal any evidence, books, or information relevant to a certification by the Comptroller General or an examination and audit by the Comptroller General under this chapter; or

"(B) to fail to furnish to the Comptroller General any records, books, or information requested by him for purposes of this chapter.

"(2) Any person who violates paragraph (1) shall be fined not more than $10,000, or imprisoned not more than five years, or both.

"(d) KICKBACKS AND ILLEGAL PAYMENTS.—

"(1) It shall be unlawful for any person knowingly and willfully to give or accept any kickback or any illegal payment in connection with any qualified campaign expense of a candidate receiving payment from the fund or his authorized committees.

"(2) Any person who violates paragraph (1) shall be fined not more than $10,000, or imprisoned not more than five years, or both.

"(3) In addition to the penalty provided

by paragraph (2), any person who accepts any kickback or illegal payment in connection with any qualified campaign expense of a candidate or his authorized committees shall pay to the Secretary, for deposit in the general fund of the Treasury, an amount equal to 125 percent of the kickback or payment received.

"(e) The table of chapters for subtitle H is amended by adding at the end thereof the following new item:

"Chapter 97. Presidential Primary Matching Payment Fund."

CENTRAL CAMPAIGN COMMITTEES, CAMPAIGN DEPOSITORIES, AND LIMITATIONS ON CASH TRANSACTIONS

SEC. 9. Title III of the Federal Election Campaign Act of 1971 is amended by redesignating sections 308 through 311 as sections 311 through 314, and by inserting after section 307 the following new sections:

"CENTRAL CAMPAIGN COMMITTEES

"SEC. 308. (a) Each candidate shall designate one political committee as his central campaign committee. A candidate for nomination for election, or for election, to the office of President, may also designate one political committee in each State in which he is a candidate as his State campaign committee for that State. The designation shall be made in writing, and a copy of the designation, together with such information as the Commission may require, shall be furnished to the Commission upon the designation of any such committee.

"(b) No political committee may be designated as the central campaign committee of more than one candidate. The central campaign committee, and each State campaign committee, designated by a candidate nominated by a political party for election to the office of President shall be the central campaign committee and the State campaign committees of the candidate nominated by that party for election to the office of Vice President.

"(c) (1) Any political committee authorized by a candidate to accept contributions or make expenditures in connection with his campaign for nomination or for election, which is not a central campaign committee or a State campaign committee, shall furnish each report required of it under section 304 (other than reports required by the last clause of section 304(a)) to that candidate's central campaign committee soon enough in advance of the filing dates in section 304(a) to enable the central campaign committee to file its reports on those dates.

"(2) The supervisory officer may, by regulation, require any political committee receiving contributions or making expeditures in a State on behalf of a candidate who, under subsection (a), has designated a State central campaign committee for that State to furnish its statements and reports to that State central campaign committee.

"(3) The supervisory officer may require any political committee to furnish any statement or report directly to him.

"(d) Each political committee which is a central campaign committee shall receive all reports and statements filed with or furnished to it by other political committees, and consolidate and furnish the reports and statements to the supervisory officer, together with its own reports and statements, in accordance with the provisions of this title and regulation's prescribed by him.

"CAMPAIGN DEPOSITORIES

"SEC. 309. (a) (1) Each candidate shall designate one National or State bank as his campaign depository. The central campaign committee of that candidate, and any other political committee authorized by him to receive contributions or to make expenditures on his behalf, shall maintain a checking account at the depository so designated by the candidate and shall deposit any contributions received by that committee into that account. No expenditure may be made by any such committee on behalf of a candidate or to influence his election except by check drawn on that account, other than petty cash expenditures as provided in subsection (b).

"(2) The treasurer of each political committee (other than a political committee authorized by a candidate to receive contributions or to make expenditures on his behalf shall designate one National or State bank as the campaign depository of that committee, and shall maintain a checking account for the committee at such depository. All contributions received by that committee shall be deposited in such account. No expenditure may be made by that committee except by check drawn on that account, other than petty cash expenditures as provided in subsection (b).

"(b) A political committee may maintain a petty cash fund out of which it may make expenditures not in excess of $100 to any person in connection with a single purchase or transaction. A record of petty cash disbursements shall be kept in accordance with requirements established by the supervisory officer, and such statements and reports thereof shall be furnished to the supervisory officer as he may require.

"(c) A candidate for nomination for election, or for election, to the office of President may establish one such depository in each State, which shall be considered by his State campaign committee for that State and any other political committee authorized by him to receive contributions or to make expenditures on his behalf in that State, under regulations prescribed by the supervisory officer as his single campaign depository. The campaign depository of the candidate of a political party for election to the office of Vice President shall be the campaign depository designated by the candidate of that party for election to the office of President.".

"LIMITATIONS ON CASH TRANSACTIONS

"SEC. 310. No political committee shall receive a contribution, or contributions in the aggregate, from any person of $100 or more other than in the form of a check drawn on the account of the person making the contribution. No political committee shall make any expenditure of $100 or more other than by check drawn on the account of that committee and signed by the treasurer of the committee or his delegate."

INCREASED PENALTY FOR VIOLATIONS

SEC. 10. Section 314 (as redesignated by this Act) of the Federal Election Campaign Act of 1971 (relating to penalty for violations) is amended to read as follows:

"PENALTY FOR VIOLATIONS

"SEC. 315. (a) Violation of the provisions of this title is a misdemeanor punishable by a fine of not more than $10,000, imprisonment for not more than one year, or both.

"(b) Violation of the provisions of this title with knowledge or reason to know that the action committed or omitted is a violation of this Act is punishable by a fine of not more than $100,000, imprisonment for not more than five years, or both."

REPEAL OF EQUAL TIME PROVISIONS FOR PRESIDENTIAL AND VICE-PRESIDENTIAL CANDIDATES

SEC. 11. Section 315(a) of the Communications Act of 1934 (47 U.S.C. 315(a)) is amended by inserting after "public office" in the first sentence thereof the following: ", other than the office of President or Vice President,".

LIMITATIONS ON CONTRIBUTIONS AND EXPENDITURES AND PENALTY FOR EMBEZZLEMENT

SEC. 12. (a) Chapter 29 of title 18, United States Code, is amended by adding at the end thereof the following new sections:

"Sec. 614. Limitations on Presidential campaign contributions and expenditures by persons not candidates.

"(a) (1) No person may make any contribution during any calendar year to or for the benefit of any candidate for nomination for election, or for election, to the office of President in excess, in the aggregate, of—

"(A) $3,000 to such candidate; and

"(B) $1,000 to a fund maintained by a political party solely to finance the general election campaign of its candidate for President; or

"(C) $25,000 in the case of a political committee registered under section 303 of the Federal Election Campaign Act of 1971 which collects funds from individuals in amounts which do not exceed $25 from any individual in any calendar year.

"(2) For purposes of this section—

"(A) a contribution to a candidate nominated by a political party for election to the office of Vice President shall be considered to be a contribution to the candidate nominated by that party for election to the office of President;

"(B) a contribution made to a political committee or fund authorized by a candidate to receive contributions for that candidate shall be considered to be a contribution to that candidate;

"(C) any contribution made in connection with a campaign in a year other than the calendar year in which the election to which that campaign relates is held shall be taken into consideration and counted toward the limitations imposed by this section for the calendar year in which that election is held; and

"(D) 'political party' means a political party which, in the next preceding Presidential election, nominated candidates for election to the offices of President and Vice President, and the electors of which party received in such election, in any or all of the States, an aggregate number of votes equal in number to at least 10 per centum of the total number of votes cast throughout the United States for all electors for candidates for President and Vice President in such election.

"(3) The limitations imposed by paragraph (1) shall not apply to contributions from a political party fund maintained in accordance with subparagraph (B) of that paragraph, or to contributions to a candidate from one of his authorized political committees.

"(b) No person who is not authorized in writing by a candidate to make expenditures on his behalf in connection with his campaign for nomination for election, or for election, to the office of President shall make any expenditure on behalf of that candidate (except by contribution made to that candidate or one of his authorized political committees) during any calendar year in excess, in the aggregate, of $1,000.

"(c) As used in this section, the words "contribution" and "expenditure" shall not be construed to include—

"(1) personal services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee,

"(2) communications by any organization, excluding a political party, solely to its members and their families on any subject,

"(3) communications (including advertisements) to any person on any subject by any organization which is organized solely as an issue-oriented organization, which communications neither endorse nor oppose any candidate for Federal office,

"(4) normal billing credit for a period not exceeding 30 days,

"(5) expenditures by a broadcaster regulated by the Federal Communications Commission, or by a periodical publication, in reporting the news or in taking editorial positions, or

"(6) expenditures by any organization described in section 501(c) of the Internal Revenue Code of 1954 which is exempt from tax under section 501(a) of such Code in communicating to its members the views of that organization.

"(d) Violation of the provisions of this section is punishable by a fine not to exceed $25,000, imprisonment for not to exceed five years, or both.

"Section 615. Embezzlement or conversion of political contributions.

"Whoever, being a candidate, or an officer, employee, or agent of a political committee, or a person acting on behalf of any candidate or political committee, embezzles, knowingly converts to his own use, or to any other noncampaign use, or deposits in any place or in any manner except as authorized by law, any contributions or campaign funds entrusted to him or under his possession, custody or control; or

"Whoever receives, conceals, or retains the same with intent to convert it to his use or gain, knowing it to have been embezzled or converted—

"Shall be fined not more than $50,000 or imprisoned not more than five years, or both; but if the value of such property does not exceed the sum of $100, he shall be fined not more than $1000 or imprisoned not more than one year, or both.

(b) Section 591 of title 18, United States Code, is amended by striking out "and 611" and inserting in lieu thereof "611, 514, and 615".

(c) The table of sections for chapter 29 of title 18, United States Code, is amended by adding at the end thereof the following new items:

"614. Limitations on Presidential campaign contributions and expenditures by persons not candidates.

"615. Embezzlement or conversion of political contributions."

DETAILED EXPLANATION: MONDALE-SCHWEIKER, PRESIDENTIAL CAMPAIGN FINANCING ACT OF 1973

I. PRIMARY ELECTIONS

A. Each candidate in the Presidential primaries is entitled to matching payments from the Treasury for the first $100 or less received from each individual contributor.

1. Payments begin 14 months prior to the date of the general election for President.

2. Any contribution made "in connection with" the candidate's campaign for nomination, in whatever year it occurs, is eligible for matching. However, all such contributions are aggregated, and no more than $100 from any contributor may be matched.

B. Candidates must accumulate $100,000 in matchable contributions before the first Treasury matching payments are made. Thus a candidate would have to accumulate 1000 contributions of $100 each, 2000 contributions of $50 each, etc. Only the first $100 of each contribution counts toward meeting the $100,000 requirement.

C. No candidate may receive total matching payments in excess of 5¢ for each person over 18 in the United States (roughly $7 million).

D. No candidate may spend more than $15 million in his campaign for the Presidential nomination.

E. Matching payments may be used only for legitimate campaign expenses during the pre-nomination period, and unspent payments must be returned to the Treasury.

F. The Comptroller General certifies eligibility for payments, and is responsible for conducting a detailed post-convention audit and obtaining repayments when necessary.

G. There are severe criminal penalties for exceeding the overall primary spending limits, and for unlawful use of payments, false statements to the Comptroller General, and kickbacks and illegal payments.

II. GENERAL ELECTION

A. The existing Presidential Election Campaign Fund Act (the $1 check-off) is retained, with the following amendments:

1. Removes the requirement for a separate appropriation before money from the $1 check-off Fund becomes available.

2. Doubles the amount going into the Fund by providing for a Treasury matching payment of $1 for each $1 designated by a taxpayer.

3. Requires the Internal Revenue Service to give "extensive publicity" to the $1 check-off, emphasizing that using the check-off does not increase a taxpayer's tax liability and that each $1 checked off will be matched by another $1 from the Treasury. Also requires that a bold print one-sentence explanation of the check-off be placed on the return next to the check-off designation.

4. Permits candidates to receive and spend private contributions of $3000 or less (see III, below) to supplement the funds they receive from the $1 check-off, up to a maximum overall spending limit in the general election of $30 million.

a. Under the existing $1 check-off law, major party candidates may not use private contributions at all if they receive their full entitlement from the check-off (15¢ per eligible voter, or roughly $20–22 million), and minor and new Party candidates may use private contributions only to make up the difference between the smaller amount they receive from the check-off and the amount major party candidates are entitled to. (If the funds in the check-off are not sufficient to provide major party candidates with the full amount they are entitled to, they also may raise private money to make up the difference.) All candidates using the check-off money are thus limited to spending no more than $20–22 million in the general election. Those who accept no check-off money, however, may spend an unlimited amount in the general.

b. The $30 million limit on total spending in the general election imposed by this bill applies to all candidates (including those who decline their entitlement from the check-off), and therefore leaves no incentive for a candidate not to use the check-off. The $30 million limit would increase with cost of living increases.

c. The $30 million limit would permit major party candidates to supplement the $20–22 million they receive from the check-off with $8–10 million from private contributions of $3000 or less. This ⅔ public, ⅓ private, ratio would continue as cost-of-living increases raised the $30 million spending limit, and as population increases raise the amount major party candidates may receive from the check-off (15¢ times the voting age population).

d. Minor and new party candidates could receive a larger proportion of their funds from private sources to make up for their smaller entitlement under the $1 check-off, but in no case could their total spending exceed $30 million in the general election.

B. Payments to candidates are distributed in accordance with the existing law, i.e.:

1. Major party candidates (those whose party received 25 percent or more of the vote in the previous election)—15¢ times the 18-and-over population of the U.S.

2. Minor party candidates (those whose candidates received between 5 and 25 percent of the vote in the previous election)—a percentage of the major party candidate entitlement equal to the percentage of the average major party vote their candidate received in the preceding or current election (whichever is larger).

3. New party candidates—if the candidates receives more than 5 percent of the vote in the current election, he is repaid after the election according to the percentage of the average major party vote received.

C. The Comptroller General certifies eligibility for payments and is responsible for conducting a detailed post-convention audit and obtaining repayments when necessary.

D. There are severe criminal penalties for exceeding the overall general election spending limit, and for unlawful use of payments, false statements to the Comptroller General, and kickbacks and illegal payments.

III. CONTRIBUTION LIMITS FOR PRESIDENTIAL CAMPAIGNS

A. No individual, organization, or group may contribute more than a total of $3000 to any Presidential candidate in connection with his campaign, and another $1000 to a fund maintained by a political party solely to finance the general election campaign of its candidate for President.

1. Contributions given in any year "in connection with" the campaign count toward the limits.

B. However, if a political committee registered under the Federal Election Campaign Act of 1971 aggregates or "pools" individual contributions of no more than $25, it may give up to $25,000 to a Presidential candidate.

C. Individuals or groups acting independently (i.e., without written authorization from the candidate) may spend no more than $1000 on behalf of a candidate.

D. A political party may spend an unlimited amount on behalf of its candidate for President from its special Presidential campaign fund (subject to the overall $30 million spending limit), but the party must receive written authorization from the candidate to spend more than $1000 on his behalf.

IV. MISCELLANEOUS

A. The equal time provisions are removed for Presidential candidates.

B. Each candidate is required to set up a single central campaign committee to handle reporting of receipts and expenditures, and a single campaign depository through which all receipts and expenditures must be channeled.

C. All cash transactions (contributions or expenditures) of $100 or over are prohibited.

D. The existing tax credit is doubled to make it one-half of any contribution up to $50 ($100 for joint returns), and the existing deduction is doubled to $100 ($200 for joint returns).

E. The penalty for misdemeanor violations of the Federal Election Campaign Act of 1971 (now $1,000 and/or one year imprisonment) is increased to $10,000 and/or one year in prison, and knowing violations are made a felony punishable by a fine of up to $100,000 and/or imprisonment for up to five years.

F. Embezzlement or conversion to noncampaign use of political contributions is made a felony punishable by a fine of up to $50,000 and/or imprisonment of up to five years.

Mr. SCHWEIKER. Mr. President, I am pleased to join the Senator from Minnesota, Senator MONDALE, in introducing a comprehensive new plan to use public financing for Presidential primary and general elections.

Congress and the courts have taken many steps during the past decade to insure that political representation of all people reflects principles of one-man, one vote. Now is the time to extend one-man-one-vote principles to the election process itself.

Campaign costs have skyrocketed in recent years, creating a climate where officeseekers too often become dependent on large contributions to wage their campaigns. The shocking revelations of Watergate clearly indicate we must take dramatic steps to eliminate the corrosive effect of large contributions from our election process.

Our public financing bill is designed to strengthen our Presidential political election system through the following principles:

First. It provides a substantial campaign financial base for a candidate from public funds;

Second. It encourages small contributions of $100 or less from individual contributors, and imposes contribution limits;

Third. It sets up reasonable campaign spending ceilings.

For Presidential general elections, there would be a $30 million spending limit, two thirds of which would be financed from the existing income checkoff plan. For primary elections, there would be a $15 million spending limit, one-half of which would be financed from a new special treasury fund to provide matching payments for individual contributions of $100 or less to each candidate. Increases would be allowed in the amount of tax credits and tax deductions for contributions of $100 or less to help encourage small contributions by more individuals. This would enable a candidate to easily raise the difference between the spending limitations and the treasury funds. The important fact of this system is that a candidate could conduct a significant campaign without having to become dependent on large contributors, and without becoming indebted to large contributors who might seek special influence.

Public financing is not a new idea. Presidential and congressional review of public campaign financing proposals has gone on throughout this century. But today's high-cost campaign climate makes action today to enact a public financing system an urgent necessity.

Our bill deals only with the Presidential race, but would include major financing of both primary and general elections. This has the advantage of building on an existing public financial mechanism, already approved by the Congress, the $1 tax checkoff option for Presidential races. In addition, it immediately reduces the need for large contributions in the most expensive election.

Some of the spending and contribution ceilings, and other provisions of our bill will be covered in debate on S. 372, the pending campaign reform legislation. Additional details may be added or modified at a later date. However the important principle of beginning to reassess our system of campaign financing must be addressed immediately, and I urge the Congress to quickly turn to hearings and consideration of public financing of elections.

ADDITIONAL COSPONSORS OF BILLS

S. 177

At the request of Mr. THURMOND, the junior Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 177, to amend section 4 of the Internal Security Act of 1950.

S. 796

At the request of Mr. PELL, the Senator from Minnesota (Mr. MONDALE), the Senator from Utah (Mr. MOSS), and the Senator from Connecticut (Mr. RIBICOFF) were added as cosponsors of S. 796, to improve museum services.

S. 871

At the request of Mr. STAFFORD (for Mr. COTTON), the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 871, to correct certain inequities in the crediting of National Guard technician service in connection with civil service retirement.

S. 1142

At the request of Mr. MUSKIE, the Senator from New Mexico (Mr. MONTOYA) was added as a cosponsor of S. 1142, to amend the Freedom of Information Act of 1967.

ADDITIONAL COSPONSORS OF A RESOLUTION

SENATE RESOLUTION 144

At the request of Mr. HANSEN, the Senator from Wisconsin (Mr. NELSON) and the Senator from New Mexico (Mr. DOMENICI), were added as cosponsors of Senate Resolution 144, expressing the Senate's opposition to an increase in salary during fiscal year 1974 for Members of Congress, the judiciary, and top-level employees of the executive branch.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1973—AMENDMENTS

AMENDMENT NO. 409

(Ordered to be printed, and to lie on the table.)

Mr. WEICKER. Mr. President, I am submitting today an amendment to S. 372, the Federal Election Campaign Act Amendments of 1973, which would make available to the voters, 2 weeks before an election for Federal office, a complete report of each candidate's campaign finances. This report would account for all sources of money raised and all expenditures made or obligated before the election. The theory is that new regulations proposed in this amendment would bring the complete facts as to the role money played in each campaign to the voters' attention, 2 weeks before the election—in plenty of time for the voters to make their judgment about each candidate's use of money. This public disclosure would afford greater insurance against the abuse of our system of elections, greater by far than new election laws, commissions, or provisions for stricter penalties.

In simplest terms, this amendment provides that as of a date 2 weeks before the election, no more contributions may be accepted, no more expenditures may be contracted for or budgeted for, and a complete financial report must be filed immediately.

To accomplish this result, three separate amendments to the pending legislation (S. 372) would be required.

First, the reporting section would be amended to require each condidate to file a cumulative financial report of all contributions received and all disbursements made as of the date 2 weeks before the election. This report shall also include an accounting of future expenditures, those contracted for or budgeted for, in connection with the candidate's campaign.

Second, the section on expenditures is amended to provide that no expenditures may be made in behalf of the political candidate after 2 weeks before the election for anything not reported as contracted for or budgeted for in the report of that date.

Third, the "limitations on contributions" section is amended to prohibit any contributions to or for the benefit of a candidate after 2 weeks before the election.

Far from hinder campaign operations, this amendment should be a blessing in disguise. Money could be spent in the last 2 weeks of the campaign, but only for items duly reported as contracted for or budgeted for in that period. This means that each candidate is responsible for keeping current all financial records, especially as the final preelection reporting date approaches.

Clearly, any deficit would become public knowledge before the election—and such a deficit would under the provisions of this bill become the personal liability of the candidate. This is by no means a waiver of the maximum limit established by the pending bill on contributions from the candidate's personal funds or those of the candidate's family. Therefore, this amendment forces the self-policing of campaign financing by each candidate. In the future, then, the impracticality of deficit spending will compel candidates to utilize improved accounting procedures, and will cause campaign creditors to reassess their practice of extending unlimited credit to favored candidates. Furthermore, this restriction is aimed at the postelection donation which has long been a significant factor in campaigns, and it is "bad money" that rides on the winner's new office.

The power of the purse has become the most undisciplined, uncontrolled and irresponsible force in politics. Our method of financing campaigns has done more to demean the practitioners of politics and to discredit the political system in the eyes of the public than anything else. Therefore, the burden of responsibility for a clean and open campaign must fall on the candidates themselves. Thus, under the amendment I have proposed, each candidate would be required to manage his campaign with utmost care and candor. The candidate must ignore influence seekers and clandestine charades in favor of winning the confidence and contributions of individual voters on the basis of personal qualification and a capacity to represent and govern.

With the full financial story of a campaign told before the election, the candidate is fully accountable for the propriety and handling of his campaign finances. Perhaps the light of public scrutiny will diminish the role of money as a corrupting force in political campaigns. Truly the inherent strength in our democratic process lies in the free exercises of the informed judgment of the American electorate.

AMENDMENT NO. 410

(Ordered to be printed and to lie on the table.)

Mr. ALLEN. Mr. President, I submit, on behalf of myself, Mr. HANSEN, Mr. NUNN, Mr. DOLE, Mr. GOLDWATER, Mr. TALMADGE, Mr. FANNIN, Mr. DOMINICK, Mr. Brock, Mr. Cranston, Mr. Gurney, Mr. Proxmire, Mr. Bartlett, Mr. Domenici, Mr. McClellan, Mr. Sparkman, Mr. Ervin, Mr. Hruska, Mr. McClure, Mr. McGovern, Mr. Curtis, Mr. Tower, Mr. Thurmond, Mr. Harry F. Byrd, Jr., Mr. Helms, Mr. Eastland, Mr. Aiken, Mr. Moss, Mr. Roth, Mr. Bible, Mr. Fulbright, Mr. Taft, Mr. Magnuson, Mr. Burdick, Mr. Church, and Mr. Nelson an amendment to S. 372.

The amendment would have the effect of freezing at their July 1, 1969, level the salaries of Members of the House of Representatives and the Senate, members of the President's Cabinet, and members of the Federal judiciary.

It is my intention to call up the amendment tomorrow, when S. 372 is the pending business, immediately after the adoption of the committee amendment. I ask that the amendment lie on the table and be printed.

The PRESIDING OFFICER. The amendment will be received and printed and will lie on the table.

Mr. MANSFIELD. Mr. President, will the Senator from Alabama include me as a cosponsor?

Mr. ALLEN. Yes. Mr. President, I should like to add the distinguished majority leader, the Senator from Montana (Mr. Mansfield), as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I ask unanimous consent that the amendment be printed in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

AMENDMENT NO. 410

At the end of the bill add, and give proper numerical designation to, the following new section:

"Notwithstanding any other provision of law, until such time as the amounts of their salaries are changed by Act of Congress, the salaries of members of the Congress, members of the President's Cabinet, and members of the Federal judiciary shall continue at the salaries in effect for their respective positions on July 1, 1969."

AMENDMENTS NOS. 412 AND 413

(Ordered to be printed, and to lie on the table.)

CAMPAIGN SPENDING AMENDMENTS

Mr. PERCY. Mr. President, on June 4, 1973, I introduced S. 1936 to amend the Federal Election Campaign Act of 1971. It has seven major provisions, of which five have been adopted in large measure by the Senate Rules Committee and made part of the bill, S. 372.

I believe that the remaining two provisions should be included in this bill.

S. 372 requires that a contributor be identified only by name and address. I do not feel that is sufficient. Therefore, Mr. President, I submit an amendment to require that an individual be identified by name, address, occupation, principal place of business, and social security number. In the case of persons other than individuals, it would require them to be identified by their businesses, as well as by their names and addresses. I feel that this further identification will thoroughly identify the contributor and make all sources of political contributions clear beyond any doubt.

The second amendment I submit would raise the allowable tax credit for individual political contributions from $12.50 to $25, and from $25 to $50 in the case of a couple, or alternatively, the tax deduction to $100 for an individual and $200 for a couple from the present limits of $50 and $100.

I approve of the major thrust of S. 372, which is to limit large individual contributions to candidates, but I believe we should go one step further and actively encourage the small contribution from a wider spread of individuals, thus involving more people in the political process.

Mr. President, I ask unanimous consent that both amendments be printed in the Record at this point.

There being no objection, the amendments were ordered to be printed in the Record, as follows:

Amendment No. 412

On page 15, line 14, strike "name" and insert in lieu thereof "name, social security number, occupation, principal place of business (if any),".

On page 15, strike line 18, and insert in lieu thereof the following: "name and the business of that person and the full address of that person at his principal place of business;".

On page 16, between lines 18 and 19, insert the following:

"(c) The Social Security Administration is authorized to furnish to any supervisory officer, upon request made therefor, the identification of any individual to whom a social security number is assigned."

Amendment No. 413

On page 60, before the matter relating to the amendment of the title of the bill insert the following:

"Sec. 19. (a)(1) Section 41(b)(1) of the Internal Revenue Code of 1954 (relating to maximum credit for contributions to candidates for public office) is amended by striking out "$12.50 ($25" and inserting in lieu thereof "$25 (50".

"(2) Section 218(b)(1) of such Code (relating to limitations on amount of deduction for contributions to candidates for public office) is amended by striking out "$50 ($100" and inserting in lieu thereof "$100 ($200".

"(b) The amendments made by this section shall apply with respect to any polictical contribution the payment of which is made after December 31, 1973."

AMENDMENT OF TITLE 38, UNITED STATES CODE—AMENDMENTS

AMENDMENT NO. 411

(Ordered to be printed, and referred to the Committee on Veterans' Affairs.)

Mr. INOUYE submitted amendments, intended to be proposed by him, to the bill (S. 147) to amend chapter 34 of title 38, United States Code, to extend the time period within which veterans may be entitled to educational assistance under such chapter after their discharge or release from active duty.

EXTENSION OF EMERGENCY EMPLOYMENT ACT OF 1971—AMENDMENTS

AMENDMENTS NOS. 414 AND 415

(Ordered to be printed, and to lie on the table.)

Mr. HATHAWAY submitted two amendments, intended to be proposed by him, to the bill (S. 1560) to extend the Emergency Employment Act of 1971, to provide public service employment for disadvantaged and long-term unemployed persons, and for other purposes.

NOTICE OF HEARING ON NOMINATION OF MR. WILLIAM A. ANDERS TO BE A MEMBER OF THE ATOMIC ENERGY COMMISSION

Mr. PASTORE. Mr. President, the Senate section of the Joint Committee on Atomic Energy will hold a public hearing at 2 p.m. on Wednesday, August 1, 1973, in room S–407 of the U.S. Capitol, on the nomination of William A. Anders, of Virginia, to be a member of the Atomic Energy Commission for a term of 5 years expiring June 30, 1978. Mr. Anders will fill the term previously held by James T. Ramey.

I ask unanimous consent to have printed in the Record the biography of Mr. Anders which was provided to the joint committee with his nomination to the Atomic Energy Commission.

There being no objection, the biography was ordered to be printed in the Record, as follows:

William Alison Anders

A. PROFESSIONAL EXPERIENCE

July 1973—Technical Consultant to the government since the abolishment of the National Aeronautics and Space Council under Executive Reorganization Plan #1 of 1973.

1969—July 1973—Executive Secretary, National Aeronautics and Space Council. Appointed by the President with Senate confirmation as director of an independent agency within the Executive Office of the President. Responsible to the President, the Vice President, and Cabinet-level members of the Council for the development of Administration policy options concerning research, development, operations, and planning of aeronautical and space systems. Provided for interagency coordination on national and international space and aeronautics matters among Council member agencies (Departments of State, Defense, and Transportation, NASA, and AEC). Participated as a senior member of U.S. negotiating teams developing programs with the USSR, Japan, and Europe. Maintained close working relationships with government and industry contractor teams and with the CAB and air transport industry. Provided technical and policy support on major issues to National Security Council, Domestic Council, Council on International Economic Policy, and Office of Management and Budget. Acted as a spokesman to Congress and industry on many R&D policy areas. Directed extensive policy studies in such fields as applications satellites, the aerospace and air transport industries, foreign military sales, international cooperation in space, and launcher licensing. Exercised Executive responsibility for the clearance of all nuclear materials launched into space. Security clearance: TS and others.

1964–1969—NASA:

Engineering duties—Technical and management responsibilities during the Gemini and Apollo programs for: environmental control systems design, test, and procedures; research and development on spacecraft radiation shielding and detection systems; and safety procedures and operational requirements for space nuclear power generators and other radiation sources. Participated in the overall management of these large system acquisitions. Maintained a close working relationship with industry research, development, management, and production teams.

Aircraft Operations duties—Jet instructor pilot. Simulated spaceflight maneuvers.

Space Operations duties—Back-up crew for Gemini II.

Lunar Module Pilot for Apollo 8 (1st lunar flight)—spacecraft systems, space radiation, and experiments specialist.

Back-up Command Module Pilot for Apollo 11 (1st lunar landing).

Misc.—USAF Officer—Numerous public appearances.

1962–1964—Nuclear Engineer—USAF.

Primary duty—Engineering design and test support for space nuclear power reactors and isotopic power sources while at the Air Force Weapons Laboratory. Technical contract monitor for the Nuclear Aerospace Research Facility (NARF) with responsibilities for the management of the technical program and performance of approximately 140 contract engineers and scientists using three research reactors and over $12M of related laboratory equipment on a broad program of basic science, radiation effects research, and nuclear power development.

Secondary duty—Instrument instructor and check pilot.

1960–1962—Postgraduate Study—Nuclear Engineering.

1956–1960—USAF Officer.

Primary duty—All weather interceptor pilot in the U.S. and overseas—Nuclear Weapons responsibilities.

Secondary duties—Maintenance Officer responsible for all base jet engine overhaul and test facilities and the performance of over 40 technicians. Safety Officer and accident investigator.

1955–1956—Commissioned in the USAF and completed jet pilot training.

B. EDUCATION

Undergraduate Study: 1951–1955—U.S. Naval Academy, Annapolis, Maryland, B.S.—Engineering.

Graduate Study:

1960–1962—Air Force Institute of Technology, Dayton, Ohio.

M.S. Nuclear Engineering—with Honors.

M.S. degree research area: Solid State Physics (Edge Emission of Cadmium Sulfide)—Aeronautical Research Laboartory.

1961–1962—Additional graduate study from Ohio State University (extension)—Aeronautical Engineering, Stability and Control.

C. AERONAUTICAL RATINGS AND EXPERIENCE

Military—USAF Ready Reserve, Bolling AFB—Command Pilot-Astronaut.

4,000+ flying hours in jet fighter and transport aircraft, helicopters, and rocket vehicles (currently qualified and active in T-38 jet trainer and OH58 helicopters);

Civil-Commercial Pilot (Certificate #1407861). Ratings: Single engine land and sea. Multi engine land, and helicopters. Instrument qualified. Considerable flight time in many types of aircraft.

D. MEMBERSHIP

Professional:

American Nuclear Society.

American Institute of Aeronautics and Astronautics.

American Astronautical Society (Fellow).

Society of Experimental Test Pilots.

NASA Space Vehicle Systems Advisory Panel.

Academic/Scientific:

Tau Beta Pi National Engineering Honor Society.

Explorers Club (Board of Directors).

National Space Club (Board of Governors).

Naval Academy Alumni Association (Trustee).

Service:

Yosemite Institute-Environmental Education and Conservation of National Parks (Board of Directors).

National Exploring Committee, Boy Scouts of America.

E. HONORS

Co-holder of several world speed and altitude records.

National Geographic Society Hubbard Medal for Exploration

Collier, Harmon, General Thomas D. White, and Robert H. Goddard Trophies.

AAS Flight Achievement Award.

NASA and USAF Distinguished Service Awards—Spaceflight.

USAF Commendation Medal (1963)—Research and Engineering.

Several Honorary Doctoral Degrees.

F. PUBLICATIONS

"Temperature Dependence on Edge Emission in Single-Crystal Cadmium Sulfide"—Kulp, Detweiler, and Anders. *Physical Review*, 1 September 1963 (Primarily based upon research work done in masters thesis).

Articles for the popular press.

Various Governmental Reports.

G. MISCELLANEOUS

Testimony before House and Senate Committees on Space and Aeronautics and Appropriations.

Numerous Speeches and Public Appearances.

Civic Activity—Road Commissioner (unpaid) of the City of El Lago, Texas—1965-1969; School Lectures.

H. PERSONAL DATA

Born—October 17, 1933, Hong Kong, China (BCC), U.S. Citizen.

Formative Years—La Mesa, California and La Grange, Texas.

Spouse—Valerie Elizabeth (Hoard) Anders—Born—San Diego, California.

Children—Alan, Glen, Gayle, Gregory, Eric, Diana.

NOTICE OF HEARINGS

Mr. RIBICOFF. Mr. President, the Subcommittee on Reorganization, Research, and International Organizations will hold hearings on S. 2135, a bill to establish a Department of Energy and Natural Resources, on July 31 and August 1, 1973, at 10 a.m., in room 3302, Dirksen Office Building.

NOTICE OF HEARINGS ON MUTUAL FORCE REDUCTIONS IN EUROPE

Mr. MUSKIE. Mr. President, on Wednesday, July 25, and Friday, July 27, the Subcommittee on Arms Control, International Law and Organization of the Foreign Relations Committee will hold hearings on "Mutual Force Reductions in Europe."

The hearings will be held in room 4221 of the Dirksen Office Building and will begin at 10 a.m.

Witnesses Wednesday will be Senator Mike Mansfield, the distinguished majority leader and a long-standing advocate within the Senate of reducing the American military presence in Europe, and the Deputy Secretary of State Kenneth Rush. Witnesses Friday will be Secretary of Defense James Schlesinger, former Deputy Assistant Secretary of Defense for NATO Affairs Frederick Wyle, and Harvard professor, Stanley Hoffmann.

In the post-Vietnam era, a key element in our foreign affairs will be our relations—political, economic, and military—with our European allies. At present, we have more than 300,000 troops deployed in Europe and our total NATO commitment costs this country more than $17 billion a year. In light of the current detente with the Soviet Union, Europe's increasing strength and prosperity, and our own economic difficulties, Congress has a responsibility to examine the question of what constitutes an appropriate level of U.S. forces in Europe at this time. It is my hope that these hearings will enable the American people to understand better some of the considerations associated with the troops question as well as the nature of the upcoming NATO-Warsaw Pact negotiations on mutual reductions of forces in Europe.

ADDITIONAL STATEMENTS

AID CONFERENCE ON ORPHANS IN VIETNAM

Mr. KENNEDY. Mr. President, after many weeks of delay, and even longer years of neglect, it appears today that our Government is at last on the verge of establishing an active policy of concern and help for the hundreds of thousands of children and orphans in need throughout Indochina. In South Vietnam alone, a decade of war has left—by official count—over 880,000 orphans or half-orphans, including some 25,000 children fathered by Americans, about 1,000 of whom have now been abandoned to orphanages.

This crisis of children in Vietnam will be the focus tomorrow and Thursday of a special conference with American voluntary agencies convened by the Agency for International Development. This meeting follows the recommendations of a study mission recently dispatched to Indochina by the Judiciary Subcommittee on Refugees, which I serve as chairman. Together with a member of that study mission, Dr. James R. Dumpson, dean of the school of social services at Fordham University, and voluntary Agency representatives and U.S. AID officials, the conference will seek ways to immediately address the needs of these children, especially those for whom adoption is now clearly the best solution.

I commend AID for convening this conference, and I hope the recommendations for action which flow from this meeting will receive the attention and priority of the highest levels of our Government.

Mr. President, the serious plight of the children of Vietnam was described in detail in the study mission's report in hearings before the Refugee Subcommittee in May, and a number of specific recommendations were made to help meet short term and longer term war-related child welfare and adoption needs. In letters to the President and Secretary of State William P. Rogers, I urged immediate consideration of these recommendations. As I wrote in my letter to the President, there are no easy solutions to the many people problems which now beset South Vietnam and all of Indochina. But few of these problems evoke more public compassion and concern, and have greater significance for the future, than the special problems and needs of children, who represent at least 50 percent of South Vietnam's population.

I also expressed my strong conviction, which I know I share with many Members of Congress, that our country clearly must do a great deal more to help these, the youngest victims of the war. But unless some greater measure of priority is attached to this task by our Government, unless our Ambassador in Saigon and other officials in the field raise the issue at the highest levels of the South Vietnamese Government, and unless some impediments in our bureaucracy are removed, the crisis of children in South Vietnam and other war-affected areas of Indochina, will continue to grow each day.

Regrettably, the response to date has been slow and disappointing. As in the past, official concern has been more in response to small criticism than out of a deep or larger concern for the welfare and needs of children and other war victims in Vietnam. Funds set aside for children are still characterized by a spirit of tokenism, rather than the vigor with which our Government can provide, on 24-hour's notice, millions in military hardware for Cambodia.

In fact, the answers I recently received from the Department of State and the Agency for International Development in response to my letters 2 months ago tend, even now, to downplay the seriousness of the problem of child welfare needs, even as they verbally recognized their importance. No response has yet been received from the White House. And, as a witness said before the subcommittee in May—

> . . . the one thing at this point that is needed, the most essential thing, is a concerted effort with high priority at all levels of the U.S. Government. It would be a simple matter, Mr. Chairman, a very simple matter, if one person—the President—were just to scribble on a little piece of paper: "Mr. Secretary of State, please expedite the programs for the children of Vietnam," and pass that down the line.

Mr. President, that piece of paper has yet to be written. Instead, we hear from our AID officials far more concern about "economic stability" in South Vietnam—about the "postwar development" of bridges, or public administration or, worse, public safety. But, as the witness before the subcommittee pleaded:

> What about social stability? What is stability for close to a million orphans?

To the hundreds of children languishing in overcrowded and understaffed orphanages in Vietnam—for whom adoption is now the best solution to their needs—every day of talk is one more day that their lives will be disadvantaged and their growth stunted. As the study mission concluded in its testimony:

> Each day that these children remain in orphanages, under the conditions which we have seen, is one more day of destruction for these children, and one more day of lost opportunity for their moving into an environment conducive to healthy growth and development and, ultimately, as contributing citizens of their country. And it makes it more difficult, each day that we wait, to take the child out of this cultural setting, and adopt him in his country or any other country.

Hopefully, tomorrow's conference at AID will launch a new effort to help meet this crisis of children in Vietnam and all of Indochina. Hopefully, too, the voluntary agencies can help bring to our Government that greater measure of priority and sense of concern for children and orphans so long absent in our past assistance efforts in Indochina. So that the day will come when our Ambassador meets with the highest officials of the Government of South Vietnam, that he will first talk of the needs of the children and homeless and other war victims, and then, only, second of "commodity imports," "economic stabilization" and all those other programs devoid of the humanitarian concern which should now be our sole objective in Indochina.

Mr. President, I again urge the administration to respond to the widespread public and congressional concern that our Government should and must do more to help the nearly 1 million war orphans in Vietnam.

I hope that the Department of State and AID will see to it that the conclusions and recommendations of tomorrow's special conference on orphans will be communicated to our Ambassador in Saigon, and that he will be instructed to give them the highest priority for action and implementation. Anything less will betray America's sense of deep concern over this problem, and perpetuate our Government's record of neglect and tokenism.

Mr. President, I ask unanimous consent that the text of my letter to the President and to Secretary of State Rogers, and the letters I have received in reply, be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

U.S. Senate,
May 22, 1973.

The President,
The White House,
Washington, D.C.

Dear Mr. President: In March, a group of medical and welfare experts, representing the Senate Judiciary Subcommittee on Refugees, traveled in all areas of Indochina to study humanitarian needs and the kinds of additional efforts our country could make towards healing the wounds of war. In South Vietnam, especially, members of the Study Mission focused considerable attention on the plight of children, who represent at least fifty percent of South Vietnam's population.

Since the earliest stages of the war in Vietnam the special problems and needs of children have received scant attention among officials in our Government, despite the very active concern of other Americans in the private voluntary agencies and elsewhere. And even today, with the new opportunities for peaceful development, these special problems and needs of children are still not being given the priority they so rightly deserve.

There are no easy solutions to the many people problems that beset South Vietnam, and all of Indochina. But few of these problems evoke more public compassion and concern, and have greater significance for the future, than the special problems and needs of children.

I share the view of many Americans that our country could do a great deal more to encourage and support the efforts of the South Vietnamese Government in restoring the lives and spirit of the youngest war victims, particularly those who were maimed or orphaned or abandoned or fathered by Americans. But unless some greater measure of priority is attached to this task by officials in our government, and unless some impediments in our bureaucracy are removed, the crisis of children in South Vietnam and other war-affected areas of Indochina will continue.

Knowing of your personal humanitarian concerns in past emergencies, and sharing your present concern over the future of South Vietnam and the people throughout the area who have suffered so much for so long, I just wanted to appeal for your personal interest in the children of South Vietnam, and express the hope that our country will do whatever it can to help the youngest war victims of Indochina renew their lives.

I appreciate your consideration, Mr. President, and look forward to working with you and members of your Administration in helping to heal the wounds of war within our own society and among the people of Indochina.

Sincerely,
Edward M. Kennedy,
Chairman, Subcommittee on Refugees.

U.S. Senate,
Washington, D.C., May 22, 1973.

Hon. William P. Rogers,
Secretary of State,
Department of State,
Washington, D.C.

Dear Mr. Secretary: As you may know, following the return of its Study Mission to Indochina, in mid-April the Judiciary Subcommittee on Refugees began a series of public hearings on humanitarian needs resulting from the war and the kinds of additional effort our country could make in helping to meet these needs. In light of the very high percentage of children in the population of the war-affected areas, and the special problems the conflict has brought to young people, on May 11 the Subcommittee held a hearing on the children of Indochina, especially those in South Vietnam. Witnesses before the Subcommittee included Mr. Robert Nooter, Assistant Administrator for Supporting Assistance in the Agency for International Development (AID), and two members of the Study Mission—Dr. James Dumpson, Dean, School of Social Service, Fordham University, and Mr. Wells Klein, Executive Director, American Council for Nationalities Service.

With regard to the situation in South Vietnam, the hearing record and Study Mission findings clearly establish that, until recent months, the special problems of children, including those fathered by Americans, received scant attention in official quarters; and, because of this, both our own government and the Government of South Vietnam have a backlog of responsibility in meeting child welfare needs. The hearing record and Study Mission findings also suggest that one of the continuing impediments to more meaningful progress in this area—especially as it concerns long-term rehabilitation goals—relates to conflicting assessments within the U.S. Mission in Saigon, over such matters as the urgency and scope of child welfare needs, the degree of priority our government should attach to these needs, and the kind of commitment our government should make to encourage and support the long-term efforts of the South Vietnamese Ministry of Social Welfare, the voluntary agencies and others, in restoring the lives and spirit of the youngest war victims.

Study Mission findings, supported by internal memoranda of the U.S. Mission and conversations in the field, strongly suggest that legitimate efforts by some American officials to upgrade our country's long-term policy and program priorities, have been repeatedly undermined by higher officials in the U.S. Mission, especially those representing the Department of State. Such conditions are distressing to me, as I know they are to others in the Congress and to many Americans.

As I recently wrote to the President, there are no easy solutions to the many people problems that beset South Vietnam, and all of Indochina. But few of these problems evoke more public compassion and concern, and have greater significance for the future, than the special problems and needs of children, who represent at least fifty percent of South Vietnam's population. I share the view of many Americans that our country should do a great deal more to help these young war victims. But unless some greater measure of priority is attached to this task by our Ambassador in Saigon and other officials within our government, and unless some impediments in our bureaucracy are removed, the crisis of children in South Vietnam and other war-affected areas of Indochina will continue.

In the hearing on May 11, Dean Dumpson and Mr. Klein submitted a number of recommendations to energize American policy towards the special problems and needs of children in South Vietnam. Enclosed are excerpts from their testimony, which, in consultation with members of the Study Mission and representatives of interested voluntary agencies, is currently under review by officials in AID.

Hopefully, our Government will take immediate steps along the lines recommended by the Study Mission, and I look forward to getting your comments on American policy toward helping the youngest war victims in South Vietnam and the other countries in the area.

Many thanks for your consideration and best wishes.

Sincerely,

Edward M. Kennedy,
Chairman, Subcommittee on Refugees.

Department of State,
Washington, D.C., July 2, 1973.

Hon. Edward M. Kennedy,
Chairman, Subcommittee on Refugees, Committee on the Judiciary, Washington, D.C.

Dear Mr. Chairman: The Secretary has asked me to reply to your letter of May 22, 1973, concerning the recommendations of the Judiciary Subcommittee on Refugees Study Mission to Indochina and requesting our comments on American policy towards assistance to the children who have become victims of the Viet-Nam conflict. AID is writing to you directly concerning most of the Study Mission recommendations. I write at this time to comment on those recommendations. applicable to the Department of State.

We share your deep concern for the welfare of Vietnamese children, especially those orphans who were fathered by Americans. We believe, however, that the most effective way to express this concern is through a policy of supporting the integration of the children into Vietnamese society, together with provisions for the rapid entry into the United States for Vietnamese orphans for whom suitable adoptions have been arranged here.

The Study Mission report suggests that the inter-country adoption process could be expedited by assigning one additional officer to the Immigration and Naturalization Service Regional Office in Hong Kong in order to eliminate a "bottleneck" in the process. While this Department is not in a position to comment on the staffing needs of another agency, I do wish to point out that in our experience the INS office in Hong Kong has not been responsible for any delay in the processing of orphan cases. According to our Embassy in Saigon, the bulk of Vietnamese adoption cases are handled by the various Immigration and Naturalization Service offices in the United States where the adopting parents file their petitions. Requests for investigations in Viet-Nam in orphan cases are handled by the consular section of our Embassy in Saigon. Thus, an addition to the Hong Kong office would not appear to serve a useful purpose in processing adoption caess.

The Study Mission also sugegsts that the Subcommittee on Refugees should review the various pieces of legislation addressed to the needs of the children of Viet-Nam which have been introduced over the past two years. During this period of time, both Houses of Congress have requested this Department's opinion on a number of bills designed to provide special immigration status for Viet-Nam orphans.

We believe that the opinions we have offered on these bills are still valid. The bills are designed to provide special status under the law to Viet-Nam orphans who have one alien parent and one U.S. citizen parent. These provisions would apply whether or not arrangements have been made for a satisfactory adoption of the child in the United States. We do not believe that large-scale immigration of Vietnamese-American orphans to orphan homes in the United States is in the best interest of these children, nor would it have the support of the Vietnamese Government. The details of our position can be found in our report on S. 2071, 92nd Congress, transmitted to the Senate Committee on the Judiciary on May 23, 1972.

In its eighth point, the Study Mission suggests consideration of a change in the Immigration and Nationality Act in order to enable American fathered children to obtain American citizenship, if they so wish, upon reaching their majority. A law of this nature would be virtually impossible to administer. There are now in Viet-Nam children of mixed blood who have been fathered by citizens of many nations. There would be no means accurately to establish the paternity of such a child when he presents himself 21 years subsequently for citizenship determination.

Furthermore, the granting of citizenship under these circumstances would be contrary to all precedent, as established through the years in all laws applicable to United States citizenship of illegitimate children. All such laws, except the Nationality Act of 1940, provided citizenship to such children only through legitimation. The Act of 1940 permitted citizenship to pass to illegitimate children provided that paternity was established during minority, either by legitimation or by adjudication by a competent court. The Immigration and Nationality Act of 1952 eliminated the alternative of establishing paternity by court adjudication. We would oppose the Study Mission's suggestion since it would provide for citizenship without the requirement of a legal determination of paternity.

The Department appreciated the opportunity to comment on these provisions. If you should require additional information, please do not hesitate to call on me.

Sincerely,

Marshall Wright,
Assistant Secretary for Congressional Relations.

Department of State, Agency for International Development,
Washington, D.C., June 28, 1973.

Hon. Edward M. Kennedy,
Chairman, Subcommittee on Refugees, Committee on the Judiciary, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: This is in further response to your May 22 letter to Secretary of State Rogers concerning child welfare in Vietnam.

First of all, I was pleased to note the Study Mission's recognition of substantial progress made over the past two years in child welfare. The Government of Vietnam's Ministry of Social Welfare, with the full support and encouragement of the Agency for International Development, has made a good start toward establishing minimum child welfare standards and a network of child welfare services for all disadvantaged children, including those in process of adoption to the United States.

As I indicated in my letter, we inquired and now have received information from the field on the facts and the situation regarding the reported differences on child welfare between the Embassy and the USAID in Saigon. It appears that at the time of the visit by the Subcommittee's Study Mission the Embassy was particularly emphasizing the processing of orphans for intercountry adoptions. This emphasis, in part, coincides with needs expressed by the Study Mission representatives in testimony before the Subcommittee as they expressed deep concern for some 500 children in orphanages who should be processed rapidly and placed in suitable American homes. However, there was a feeling on the part of those who were attempting to strengthen the Ministry of Social Welfare's capacity to conduct broad-gauged programs for child welfare that the Embassy's actions were in some cases undercutting the Ministry's authority. Thus the differences of views to which you referred were between the Embassy's emphasis on adoptions as compared to the longer range child welfare needs rather than any fundamental difference as to the need to assist Vietnamese children per se.

The Study Mission also emphasized, as have we, that intercountry adoption should be within the framework of the provision of improved care to all disadvantaged children which requires active Mission support and continued financial assistance to the Ministry of Social Welfare. The Embassy has recently stated that it supports increased assistance to the orphanages and children in Vietnam and the role of the Ministry of Social Welfare and its involvement with the problems of orphans and the registration of international adoption agencies. Representatives of the Embassy are working closely with USAID and voluntary agency officials on the problems of child care, including legislation, programs for increased assistance and expanded child welfare services. I believe, therefore, that any temporary differences of tactics as to how to address these problems are now being worked out satisfactorily.

I have reviewed the Study Mission's recommendations and our comments on them. It appears we are working towards the objectives of the Subcommittee and its Study Mission for improved care of the Vietnamese children. I understand that Assistant Administrator Nooter and his staff have been consulting closely with the Study Mission representatives to determine the best means for the placement of orphans in American homes when intercountry adoption is determined to be of most benefit to the orphans. Consultations have recently been held with the Vice Minister of the Ministry of Social Welfare and are currently being conducted with voluntary agency officials on ways to improve child welfare services in Vietnam.

My last visit to Vietnam coincided with that of the Subcommittee's Mission. We saw many of the same problems and talked with numerous officials and voluntary agency representatives about new or expanded assistance efforts. I want to assure you that our support for increased humanitarian assistance in Indochina, as outlined by our FY 1974 Congressional Presentation, has been fully endorsed by our colleagues in the Department of State. We welcome your continued interest in the problems of the victims of the war and seek your counsel and support in the appropriation requested for our assistance.

Sincerely yours,

John A. Hannah.

HOME HEATING OIL

Mr. BROOKE. Mr. President, much has been said about the gasoline shortages plaguing our country. Yet—all of a sudden—it seems that such shortages are over. I noted in last Thursday's Washington Post that Exxon has ceased its allocation program. Certainly this is welcomed news to the beleaguered American consumer.

While there is cause for joy over this welcomed news, we must not be lulled into thinking that "all is well." A far more serious threat lurks around the corner. I speak of the imminent crisis in supply of No. 2 home heating oil. I am quite fearful that in our concern over the gasoline shortages we neglected an even more critical area of supply.

Responding to the concerns of the Committee on Banking, Housing and Urban Affairs, William Simon, Deputy Secretary of the Treasury and chairman of the Oil Policy Committee, offered reassurance:

> In January, we removed all restrictions on the importation of No. 2 fuel oil. Partly for this reason, stocks of distillate fuel oil are now higher than at this time last year. Imports of fuel oil continue at high levels. We are now importing over 200-thousand barrels per day. This, combined with domestic production, gives us a total projected supply that is adequate to meet our needs this summer and, barring extremely cold weather, to make it through next winter.

Unfortunately, I do not share his optimism.

During those same hearings the committee also heard testimony from the Independent Fuel Terminal Operators Association, whose members own and operate 25 percent of the No. 2 fuel oil distribution facilities along the east coast and 40 percent of the facilities in New England. The association and the New England Fuel Institute, an outstanding group of dealer distributors who market most of the home heating oil in our area warned more than a year ago that a home heating oil supply crisis would occur during early 1973. Their projections were accurate. Unfortunately the Oil Policy Committee refused to heed the warnings.

In essence the independent deepwater terminal operators feel that:

> Demand will be higher, domestic supplies will be tighter and the chances of physical shortages greater than last year. The prospects are grim, indeed; and the gravity of the situation must be faced now and actions taken within the next several months.

My own analysis and that of the committee supports this assessment. The crisis can be attributed to several factors:

First, gasoline demand is at record high levels.

Second, only small volumes of gasoline are available for importation from foreign sources.

Third, U.S. refineries are producing record quantities of gasoline by maximizing the output of this product at the expense of middle distillate oils, namely No. 2 fuel oil.

Fourth. No. 2 fuel oil demand is rising sharply and may, in the coming year, reach a level 8 percent above the 1972–73 period.

Fifth, domestic stocks of No. 2 fuel oil are not building at a rate sufficient to meet demand.

Sixth, No. 2 fuel oil is available for importation from foreign sources but the quantities are insufficient to meet the growing U.S. supply gap. In addition the price of this imported oil is well above the domestic price.

Seventh, the most rapid increase in No. 2 fuel oil usage is by utilities for burning and by other consumers as a blend to reduce the sulfur content of fuels.

Mr. President, these factors have combined to create the serious shortage that now confronts us. Unless prompt action is taken I quite honestly see no way to avoid a crisis throughout much of the Nation by early 1974. Such action might possibly include the following four steps:

First, we must make the voluntary allocation program mandatory. The need for such action is clear. Over a month ago the Senate overwhelmingly passed a measure to establish a mandatory petroleum allocation program. The administration unfortunately continues to delay. However, the time is rapidly drawing near when it will be too late. The stocks of heating oil are at an alarmingly low level. One association which commands nearly 40 percent of the consumer market in New England told Governor Love, the new Director of the Energy Policy Office, that their existing stocks must be built up by more than 11 million barrels over today's levels. And this by October 1. After this date, it will be impossible to make up a shortfall of this magnitude. With cold weather upon us, the demand will simply be too great.

Second, the Oil Policy Committee and other agencies of the Federal Government, in close coordination with State and local governments, must develop an effective plan to prevent diversion of supplies of No. 2 fuel oil from the home heating market. Before the onset of cold weather, a plan must be in effect to assure that massive use of No. 2 fuel oil for nonheating purposes does not force any homeowner to go without heat. For example, careful monitoring and control of use and importation of No. 2 oil by utilities is likely to be required if we are to avoid the tragedy of lack of heat for families throughout the East and Midwest.

Third, the level of No. 2 oil imports into district I on a fee-free basis must be increased to 150,000 barrels per day. Under the new oil import program, which went into effect on May 1, east coast independent deepwater terminal operators will receive only 50,000 barrels per day of regular allocations. Documented analysis submitted by these independents demonstrates that a substantially higher level is needed to meet the gap between assured domestic supplies, which are being cut back, and domestic demand, which is growing.

Fourth, the Oil Import Appeals Board must act promptly on all petitions for importation of home heating oil which meet the Board's newly established criteria. Qualified petitioners must be able to plan their importation schedules. Speedy decisions by the Board can facilitate their efforts in obtaining desperately needed supplies from abroad.

Mr. President, the outlook is grim. Failure to act now will leave us at the mercy of winter weather. And those of us in New England know only too well that the weather is a fickle friend. I am sure my colleagues from the Midwest would heartily concur. Last year we were lucky. Unseasonal weather saved us from what could well have been a very serious crisis. We cannot gamble on such weather in 1974. Rather we must take the necessary steps to assure the adequate supply of home heating oil to all consumers throughout the Nation. And we must do that now.

Mr. President, I ask unanimous consent that the statement of the Independent Fuel Terminal Operators Association before the Committee on Banking, Housing and Urban Affairs be inserted in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF HERBERT A. SOSTEK

Mr. Chairman: Thank you very much for the privilege of appearing before you today. My name is Herbert A. Sostek; I am Executive Vice President of the Gibbs Oil Co. of Revere, Massachusetts, an independent deepwater terminal serving the New England area. I am also a member of the Independent Fuel Terminal Operators Association. With me is Mr. Nicholas Cirillo, Vice President of Cirillo Bros. Terminal Corp., and independent deepwater terminal serving the New York and Long Island areas.

Before beginning my formal statement, Mr. Chairman, I should like to commend you, the members of this Committee, and the Senators, Congressmen and Governors from New England and the Northeast for your persistent fight on behalf of independent marketers and consumers of No. 2 fuel oil and gasoline. It continues to be a difficult, hard effort, but we have made some progress. Substantial changes in oil import policies have been made in recent years and recognition is being given to the competitive and supply problems of independent marketers and deepwater terminal operators along the East Coast. We are deeply grateful for your leadership, for the series of fact-finding hearings and inquiries into the problems conducted by this Committee, and for the continuing support of the public officials of the Northeastern States.

I am appearing today on behalf of the Independent Fuel Terminal Operators Association, whose 15 members operate oil terminals along the East Coast from Maine to Florida. A list of members is included with my statement (Attachment A). Our members own or control terminals capable of receiving ocean-going tankers; none is affiliated with a major oil company. All are qualified to participate in the No. 2 fuel oil program established under Section 2(a)(1) of Presidential Proclamation 3279, as amended, and Section 30 of the Oil Import Regulation, under which 50,000 b/d of home heating oil is presently being imported into District I (the East Coast). The members of our association are independent marketers of No. 2 fuel oil, No. 6 fuel oil, gasoline and other petroleum products.

Our testimony before you in 1971 contained a detailed analysis of deepwater terminal operations and the history of our part of the oil business, and the record compiled by this Committee at that time, "Cost and Adequacy of Fuel Oil," is a most complete and persuasive document.

We should like, therefore, to limit our testimony this morning to three specific topics:

(1) The gasoline supply situation and its impact on independent marketers.

(2) The No. 2 fuel oil (home heating oil) supply situation and its impact on independent marketers.

(3) The new Oil Import Program.

1. GASOLINE

The urgency and impact of the gasoline shortage have been well known to those of us in the independent gasoline business for a number of months. We are, therefore, pleased that these hearings are being held, for they can play an important role in bringing all the facts to the attention of the public and the Executive Branch of the Federal Government.

Mr. Chairman, you and other members of Congress, have been warning for nearly six months about the threat of a gasoline shortage. Unfortunately once again these warnings have not been heeded; once again the Federal Government has chosen to listen to the assurances of others that the supply problems would be localized and temporary.

We can state our position briefly: I am sure it will be supported by other witnesses. The gasoline shortage will be worse than anticipated; it will be widespread and long-lasting; and unless prompt action is taken by the Congress and the Executive Branch, a major result of that shortage will be the destruction of a large portion of the independent gasoline business.

As independents, our chief fear is that, unless Federal policies are changed, thousands of independent gasoline stations will be permanently closed, tens of thousands of persons will lose their jobs and hundred of millions of dollars of investments will be wiped out. The short term impact on us will be disastrous and the long term impact on our country will be equally serious, for it will mean greater concentration of economic power in the hands of fewer and fewer companies and potential destruction of the competitive operators who have brought good service and lower prices to consumers.

We are not sure why the gasoline crisis has hit so suddenly, nor who is responsible, but there are certain contributing factors which can be readily identified:

Refiners and the Federal Government have been slow to acknowledge the crisis.

Gasoline demand is increasing sharply; in New England it is 8.8% above last year; in 1971 and 1972 the growth rate was an average of 4.5% per year.

Domestic refining capacity has not been expanding; U.S. refineries have not been operating at full capacity.

Accelerated distillate production over the past winter delayed the build-up of gasoline stocks to adequate levels.

Federal price controls have discouraged production of some petroleum products.

Federal and state anti-pollution controls have accelerated the consumption of petroleum products such as No. 2 fuel and gasoline. Coal has been phased out of many regions as an industrial and utility fuel because it cannot meet air quality emission levels, leaving low sulphur No. 6 fuel and No. 2 fuel as the only alternative fuels. Moreover exhaust control systems have led to more gasoline consumption per miles driven in newer model cars.

The shortage of natural gas—and the interruption of its supply to industrial and utility customers—has further exacerbated the No. 2 and No. 6 fuel supply situation because these two fuels are the only alternative fuels available.

Finally, both environmental and economic restraints have led to a far slower growth in nuclear electric generating capacity than expected. This has forced oil—specifically No. 2 and No. 6 fuel—to carry a larger share of energy requirements than expected.

In short, oil has become the "swing" fuel and now is carrying by far the highest share of total energy growth each year nationwide. Failure to recognize these trends earlier has put an enormous strain on the oil industry's ability to meet its new role.

There seems to be general agreement on these points; but, until recently, little awareness of the grave impact of all these factors on independent marketers of gasoline. These marketers are being cut-off by refiners—on a massive, and I repeat, massive scale. In nearly every region of the country stations are closed, customers being rationed and successful and astute small businessmen facing ruin. The refiners are not only cutting back on direct sales to independents, but are depriving independents of alternative sources of supply by buying up most available domestic and foreign gasoline output and taking over the output of U.S. independent refineries through formal and informal crude oil processing arrangements. This latter development—processing arrangements—is well known to the Chairman of the Committee, who has been pressing the Department of Justice for an investigation and action.

The foreign market offers little hope. Some gasoline is available, but not nearly enough to meet the supply gaps facing independents; and what is available is very expensive, due to the high demand from many American buyers, including, as I have indicated, the major oil companies.

The following chart will illustrate the impact of the foreign gasoline price structure on an East Coast independent marketer:

GASOLINE—94 OCTANE REGULAR

[In cents per gallon]

	Domestic	Foreign
Landed price, Boston	16.0	23.5
Massachusetts and Federal taxes	11.5	11.5
Terminal charges	.25	.25
Average transportation to station	.75	.75
Delivered cost to independent station	28.5	36.0
Average independent posted price	34.9	34.9
Margin	[1] 6.4	−1.1

[1] This provides only a marginally acceptable return on investment.

Supplies are tight everywhere, and unless something is done quickly—in a matter of a few months—the structure of the U.S. gasoline market could well be altered—permanently and radically. Some say that nothing can be done and the "free market forces" should be allowed to operate. But the market is not free. And current Federal Government policies including the new Oil Import Program tend to favor the larger companies.

Thus, what is most needed is prompt intervention by the Government to prevent elimination of the independents; in addition there must be some change in oil import policies.

The Government intervention should have a simple, basic goal: to assure that the shortage is shared equitably. Action by Congress should, we believe, be taken on two fronts:

First, a strong allocation and rationing statute should be enacted which would require—and I emphasize require—the Federal Government, in times of short supply of any product, to allocate deliveries and sales. Such allocations should be designed to equalize the impact of supply gaps and shortages throughout the U.S. gasoline distribution system. No one segment, level or group of companies should be allowed to profit at the expense of others.

Second, a forum should be created and standards established by statute so that individual companies could bring formal complaints and secure remedial action against all refiner-suppliers for unfair trade and marketing practices. We support proposals to provide remedies and a forum before the Federal Trade Commission and to establish standards based on historical supply and price relationships.

We realize that it will be difficult for the Federal Government to establish and administer an allocation system, but it certainly would be less complicated than the Phase I or Phase II wage-price control mechanism. The crisis of survival for the independents is no less severe than the crisis of inflation for the consumer. In short, an allocation system to deal with the petroleum-supply crisis can work if the Federal Government really wants it to work.

What we are seeking is similar to what was done in the case of price controls—the establishment of a base period and restoration of supply and price relationships for gasoline, heating oil, and other products until the crisis is passed. There are those who feel the Government should not intervene; our response is that Government policies—in particular the Oil Import Program proclaimed in 1959—have so distorted the petroleum market that the independent is at a severe disadvantage. Because Federal policies have contributed to the crisis, the Government bears a heavy responsibility to help. The basic truth, as I have indicated above, is that we are not operating in a free market system when it comes to oil. There is no such thing as a free market, and the Federal Government should recognize this.

We should like to make a further comment with reference to oil import policies on gasoline. The new, more flexible, authority given to the Oil Import Appeals Board can help. The import licenses for gasoline will have some value to independents who receive them. But the process is subject to abuse and must be carefully administered and regulated. We fear that the major oil companies and others who are not qualified may subvert the system by going to recipient of allocations and offering to buy, rather than exchange, OIAB licenses; they would buy them, for perhaps 25 cents—half their value, accumulate a large volume of tickets from a large number of independents and use those tickets to import gasoline into their own supply system.

In brief, the OIAB can be a useful instrument if it is effectively and efficiently run, and there is continual checking on the end use of allocations granted.

We should like to offer further comments on the new Oil Import Program later in our statement.

Mr. Chairman, our specific recommendations are naturally designed to help our segment of the industry. But I think this Committee should recognize we are fighting for survival and that our survival is of great importance to the public. For if we fail, if the independent is squeezed out of the market, it is the consumer who will be hurt. The consumer—your constituents—have a direct stake in this fight.

We are in business to make a profit. But we have done that by offering the consumer a lower cost alternative product of equal quality. That's why we have grown in market share. Private brand retailers now account for over 22% of total retail gasoline sales. When you realize that our average sales price has been some 3¢ per gallon under the major brand station, that adds up to some $700 million annually in consumer savings. In short, we have had a competitive impact far greater than our size and financial strength might indicate.

2. NO. 2 FUEL OIL

Under the leadership of the Chairman, this Committee has over the past few years made a complete, thorough record on the subject of No. 2 fuel oil supply and the impact of shortages on independent marketers and consumers. Your interest and your hearings first began in 1968. Since that date you have warned of fuel oil shortages and asked for changes in oil import policies. Unfortunately these warnings have not been heeded until it was too late.

Because of your deep knowledge and extensive consideration of the home heating oil problem, we will not comment on it at great length today. However, we would like to provide our assessment of current supply problems, projections about next winter, and some recommendations for action.

Our projections about next winter can be simply stated: Demand will be higher, domestic supplies will be tighter and the chances of physical shortages greater than last year. The prospects are grim, indeed; and the gravity of the situation must be faced now and actions taken within the next several months.

As you will recall, Mr. Chairman, you and others began warning about the danger of a No. 2 fuel oil crisis more than a year ago. The Administration refused to act, accepting the assurances of the major oil companies; unfortunately, those assurances were wrong. Despite the emergency decontrol program ordered in January, it was the unseasonably warm weather—not decontrol—that saved millions of homeowners from going cold.

We cannot count on similar luck next year. Even more important decisions must not, as was done last year, be delayed. We view July 1 as the final date on which efficient planning can take place.

In considering the actions which must be taken, the Committee must be aware that independent marketers of No. 2 fuel oil are in the same situation as independent marketers of gasoline. The supply crisis for fuel oil marketers is, of course, not so apparent to the public as in the case of gasoline, but it is perhaps more severe. For example, East Coast independent deepwater terminal operators are currently facing a massive supply gap. We are simply unable to buy any significant supplies of No. 2 fuel oil from domestic sources; we are being cut back or cut out by almost every one of our domestic refiner-suppliers. Our total demand for the coming year will be nearly 280,000 b/d. Of this amount, only 85,000 bbls has been provided under firm commitments from domestic refiners. In other words, we are now facing a supply gap of more than 190,000 b/d. An analysis of this gap, prepared last month at the request of the Office of Oil and Gas, is included as Attachment B of this statement.

When you consider that our independent deepwater terminals provide 25% of the delivery capacity and distribution system along the East Coast, you can realize the impact that this shortage will have on the homeowner.

Domestic supplies are already very tight. The API statistic shows that distillate stocks are higher than a year ago, but we do not believe that stocks can be built up to safe levels this summer because of the extraordinary demands for production of gasoline. The summer of 1973 will be a repeat of the summer of 1972—gasoline will be produced at the expense of heating oil. In brief, we face a repeat of the dreary cycle of shortage.

Some supplies of No. 2 fuel are available from foreign sources, and some additional access to those supplies has been provided under the new Oil Import Program. But foreign distillate is already selling at prices that are well above domestic and continuing to escalate, as more and more American buyers enter the foreign market. Included among these buyers are most of the major oil companies and the large utilities. The majors and the utilities obviously view the new import license fee of 15 cents per barrel as no barrier, for they are scouring the market for all the heating oil they can find.

For example, the largest utility in Florida told a House committee two weeks ago that it was sending representatives to the Arab countries to buy fuel oil directly; they are seeking 33 million bbls per year. It should be noted that this purchase, by one utility alone, is equivalent to ⅓ of New England's total annual consumption of No. 2 fuel oil.

In brief, unless the Government and the Congress act and act soon, what lies ahead for the Northeastern states is a shortfall in domestic No. 2 fuel oil supplies, increasing reliance on high priced foreign oil, physical shortages in many areas, and as in the case of gasoline, the eventual destruction of the independent fuel oil marketer. One of the members of our own Association has already been removed from the ranks of the independents. Less than a week after the announcement of the new Oil Import Program, the Union Oil Company of Boston was bought out by a refiner, the Coastal States Gas Producing Company of Corpus Christi, Texas.

As this Committee is well aware, heating oil is a vital fuel. If there is a physical shortage of gasoline it will mean some inconvenience to some drivers; a physical shortage of heating oil poses a direct threat to the health and safety of millions of families, particularly in the Northeastern states and New England, where dependence on heating oil is the highest.

Given this background of potential shortage and destruction of the independents, we should like to offer six recommendations for action:

First, the Federal Government must, unlike last year, recognize the danger and act before mid-year, that is by July 1.

Second, the Oil Policy Committee should act to increase, on July 1, the No. 2 fuel oil import allocations for independent deepwater terminal operators from the current level of 50,000 b/d to a minimum of 150,000 b/d. As this Committee knows, we were deeply disappointed by the last minute rejection of recommendations to increase the level to at least 100,000 b/d. This was a severe blow, particularly in view of the strong evidence of shortage we presented to the Oil Policy Committee.

Third, the Oil Import Appeals Board must act quickly on pending applications for No. 2 fuel oil imports which meet the criteria established by the Board. However, we should add that, while we welcome the opportunity to seek relief from the Board, we do not believe it offers an effective, long-range way of doing business; it is very difficult to run a business on expectation of a year-by-year allocation.

Fourth, the Oil Policy Committee should take immediate steps to discourage the use and importation of No. 2 fuel oil from abroad by utilities. Massive purchases of No. 2 fuel oil in the world market by these companies is a sure prescription for high prices and shortage in the home heating sector of the market.

Not only that, the use of No. 2 fuel by utilities is extremely wasteful. A home heated electrically (when the electric power is generated by burning No. 2 fuel in gas turbine generators) consumes 2½ times as much No. 2 fuel as a home directly heated with an oil burner. This nation can no longer afford the luxury of that kind of waste of a critically short resource. Given these facts and the current energy crisis, we simply cannot understand why continued promotion of electric heating is permitted.

Fifth, the Federal Government should continue its efforts to encourage the states to relax sulfur content standards so that increasing amounts of No. 6 fuel oil can be burned in place of No. 2 fuel oil and so there can be a substantial reduction in the use of No. 2 fuel oil as a blend.

Sixth, as indicated in above, we recommend enactment by the Congress of allocation or rationing legislation and enactment of legislation to provide relief before the Federal Trade Commission. In brief, it is essential that supply and price relationships which existed during prior years be maintained until the current supply crisis for No. 2 fuel oil has passed.

3. THE OIL IMPORT PROGRAM

Before concluding, Mr. Chairman, we should like to offer our comments and reactions to the new Oil Import Program which was announced by the President on April 18. As you know, the new Program is embodied in extensive amendments to Presidential Proclamation 3279 and Oil Import Regulation I.

We support the basic objectives of the Program. We have long urged that domestic refining and storage capacity be increased and have supported efforts to reduce long-term reliance on foreign sources of crude oil and petroleum products.

But we are concerned that the economic theories on which the new program is based simply do not apply to the petroleum market. We fear that, as in the case of the original Oil Import Program promulgated in 1959, the objectives will not be achieved and, in fact, the actual results will be the opposite of what was intended.

We should remember that those who have criticied the Oil Import Program for so long, including the Chairman of this Committee and many of his colleagues, did so because it was not doing what it was intended to do. After 14 years of a program designed to encourage domestic production and exportation and reduce reliance on foreign imports, we find domestic production declining, domestic reserves at an all-time low, and reliance on foreign sources increasing with every year.

Our chief problem with the new Program is that is appears to be based on the classic laws of supply and demand, and attempts to use a fee or tariff-type mechanism to translate the forces of supply and demand into certain results. Unfortunately, as we have pointed out, the reality is that the forces of supply and demand simply do not apply to an integrated international oil company which operates production, refining, and marketing facilities on both sides of the tariff or fee barrier. These integrated companies make business decisions on a much different basis from others in the petroleum business; their costs are different and their internal price structures are different. Therefore, the impact of fees on integrated oil companies and their corporate decisions is much different than the impact on all other oil companies. We can attest to this fact on the basis of many years of experience as petroleum marketers both here and abroad.

It is essential to understand the difference in the economics of the independent and the international major in the world market. Quite simply our cost is determined by what we pay for product and freight to land a cargo of oil at our terminal. The international major has a far different set of costs.

To begin with, the international majors own or control most of the world's crude oil production outside of the Soviet Union. They also own or control a substantial share of refining capacity around the globe. When their U.S. affiliate buys gasoline or No. 2 fuel from a foreign affiliate, its cost is more often than not simply an interaffiliate transfer price that need bear no real relationship to the arms-length market price we must pay. The major is interested in optimizing its profit from an integrated world-wide operation. I don't blame them. I just want this Committee to understand the disproportionate power and leverage the multi-national integrated major has vis-a-vis the independent U.S. marketer.

Even in dealing with a foreign private independent refiner the international major has a great advantage. The major can tie crude supply to product off-take. If an independent refiner has a surplus of any product, the major can take it and dispose of it in a third market through its own affiliates in order to secure a product in tight supply. This explains why, when we and a major are competing for a limited volume of product produced by an independent foreign refiner, it is the major who invariably gets the product.

Thus, we fear that the new Oil Import Program may never achieve the excellent objectives set forth in the President's Energy Message and the Statements of the Chairman of the Oil Policy Committee in support of that Message. Even worse, from our point of view, the short-term implementation procedures—the phasing up of fees and phasing down of fee-free imports—will result in the destruction of the the independent segment of the market, more concentration of power in the integrated companies and great harm to the American consumer.

To be more specific, we should like to present a list of problem areas which we hope this Committee and the Oil Policy Committee can review and act upon.

We should like to state first that the new oil policy procedure and administrative structure appears to be a more efficient and more responsive one, and we are most encouraged. Deputy Secretary Simon's decision to appoint regional committees of independent marketers was a constructive one, and the improved communication and exchange of ideas that will result from his action can be helpful. The attitudes and accessibility of Mr. Simon; his deputy Mr. William Johnson; Assistant Secretary of the Interior Stephen Wakefield; the Director of the Office of Oil and Gas, Mr. Duke Ligon; and the President's Consultant on Energy, Mr. Charles DiBona have been equally encouraging. We sense a real change in approach and a commitment to make the new program work. Our suggestions are, therefore, offered in a spirit of cooperation and the hope that we can continue to work with the Oil Policy Committee, the Department of Interior and the White House Special Committee on Energy in seeking effective solutions.

We do not believe that massive changes in the new Program are needed nor desirable; we agree that stability is required. A business that is as closely regulated as oil must be able to plan and act with some assurance that Government regulations and policies will remain reasonably stable. But, as we have indicated, when a crisis occurs—and the threat to independent marketers is a crisis—certain changes must be made, to prevent serious consequences.

Our five problem areas are as follows:

1. THE IMPACT OF THE FEES

We are particularly concerned about what happens if, by the time the fees have escalated to their high point in 1975, enough additional domestic refining capacity has not been built. What then? Should the escalation be delayed? Perhaps those who have the greatest difficulty in finding product from domestic sources, such as independents, should receive additional allocations on a lower fee or fee-free basis.

Another concern is whether the fees are any deterrent at all to the importation by the major oil companies and utilities of finished products. Frankly, we do not think so. The majors' costs are much different; they can import vast volumes of gasoline, heating oil and residual oil, pass the cost of their fee through their systems and suffer no adverse effects. In the case of utilities, they can simply pass the cost of fees on to the consumers under their rate escalation clauses.

2. IMPORTS OF FINISHED PRODUCTS BY MAJORS

Our discussion in the preceding paragraph leads to what we believe the most grievous flaw in the new system, particularly from the point of view of independent petroleum marketers: the fact that major oil companies and utilities are permitted to import finished products. We have stated to the Oil Policy Committee on numerous occasions and are stating here today that, given current limited availability of foreign supply, to allow the majors and utilities to import at all, even on a fee paid basis, throws them in direct competition with the smaller independent; it is clear, based on our own experience, who will win this competition.

We urge that this aspect of the program be reviewed and reversed. An absolute prohibition on importation by majors and utilities will not prevent a high level of imports of products. In fact all that is available can be imported by independents. But such a prohibition will prevent the continued export of refining capacity (which results when those with domestic refining capacity that can be expanded decide to import products); such a prohibtion will allow the independents to survive and grow as a competitive force in the marketplace.

3. STORAGE CAPACITY

We agree with the Oil Policy Committee that the license fee program can provide incentives for construction of additional domestic storage capacity. We hope that an effective incentive system can be developed and will be pleased to work with the Oil Policy Committee in an way possible.

4. THE OIL IMPORT APPEALS BOARD

As indicated above, we feel that the Oil Import Appeals Board can help, but should not be viewed as the complete answer for independents. In fact, if the majors and utilities are able to corner the foreign market in gasoline and heating oil, the Oil Import Appeals Board licenses will be of little use. Even if some foreign supplies are available, the heavy demand may continue to drive foreign prices beyond the reach of American independents.

Further, we are concerned that the procedures of the Board will be subverted by the major oil companies, particularly in the case of gasoline. As we have pointed out, there is a great incentive for the majors to buy gasoline tickets or work out phantom exchanges to secure such tickets. This must not be allowed to happen. Procedures must be established to assure that independents who receive allocations actually import the oil for use in their own distribution systems or exchange such tickets on a barrel-for-barrel basis to receive product for use in their own systems. We see this as a problem principally of enforcement and supervision, and we will be glad to cooperate with the Office of Oil and Gas and the Board in developing effective surveillance procedures.

5. SECTION 30

We are pleased that the Western Hemisphere purchase limitation has been suspended by the Chairman of the Oil Policy Committee. This action will help immeasurably in assuring the most effective use of the import allocations received under this Section.

Unfortunately, as we have indicated, the allocation level of 500,000 b/d is woefully inadequate. Our supply gap—the gap between our demand and domestic supplies—is very severe. We will need to import substantial additional amounts of No. 2 fuel oil over the coming year. Some allocations may be available from the Oil Import Appeals Board, but what is really needed and what will be most effective is a decision to increase the regular program to a level of at least 150,000 b/d.

In addition, consideration will have to be given, within the next year, to the question of whether, given the shortage of domestic product, the No. 2 Fuel Oil Program should be reduced in accordance with the schedule established by Section 11 of Proclamation 3279, as amended.

In conclusion, Mr. Chairman, I should like to thank you and the members of the Committee for your continuing efforts on behalf of the marketers and consumers of heating oil and gasoline. We are grateful for the opportunity of appearing before you today and will be pleased to respond to any questions that you may have.

Thank you.

ATTACHMENT A—INDEPENDENT FUEL TERMINAL OPERATORS ASSOCIATION

Belcher Oil Company, Miami, Florida.

Burns Brothers Preferred, Inc., Brooklyn, New York.

Cirillo Brothers Terminal, Inc., Bronx, New York.

Colonial Oil Industries, Inc., Savannah, Georgia.

Deepwater Oil Terminal, Quincy, Massachusetts.

Gibbs Oil Company, Revere, Massachusetts.

Meenan Oil Company, New York, New York.

Northeast Petroleum Corp., Chelsea, Massachusetts.

Northville Industries, Corp., Melville, New York.

Patchogue Oil Terminal Corp., Brooklyn, New York.

Ross Terminal Corp., Bayonne, New Jersey.

Seaboard Enterprises, Inc., Boston, Massachusetts.

C. H. Sprague & Son Company, Boston, Massachusetts.

Webber Tanks, Inc., Bucksport, Maine.

Wyatt, Inc., New Haven, Connecticut.

ATTACHMENT B—NO. 2 FUEL OIL, DEMAND-SUPPLY PROJECTIONS,[1] 1973–74

Total demand, independent deepwater terminal operators, District I,[2] May 1, 1972[2]—April 30, 1973, 260,000 b/d.

Total demand, independent deepwater terminal operators, District I, May 1, 1973–April 30, 1974 (Assuming a 7% increase in demand and that independents maintain—but do not increase—their share of the East Coast market, 278,000 b/d.

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[1] See also projections on p. 16 of Petition of Independent Fuel Terminal Operators Association to Oil Policy Committee, June 5, 1972; and projections supplied by Association to Committee, November 30, 1973, and March 15, 1973.

[2] Includes all independents who qualify under Section 30 of Oil Import Regulation.

Supplies available from domestic refineries (Based on current information from suppliers; however, *this projection may prove optimistic*), 85,000 b/d.

Supply gap, District I, 1973–74, 193,000 b/d.

CAPTAIN EDDIE RICKENBACKER DREAMED DREAMS AND LIFTED HIS SIGHTS HIGH INTO THE SKIES

Mr. RANDOLPH. Mr. President, a page in the dynamic and dauntless history of our country came to a close in a hospital in Zurich, Switzerland on Monday when Edward Vernon Rickenbacker—Captain Eddie—died at the age of 82. Our Nation lost one of its truly great heroes, and I lost a close friend.

I recall so vividly Captain Eddie's sweeping vision for the future of our country as we chatted together on June 16, 1971 while participating in the 30th anniversary celebration of Washington National Airport.

There was hardly an airport in the United States and, indeed, hardly an airport anywhere in the world that this premier airman did not know. Throughout the decades, he fought tirelessly and spiritedly for support of commercial and military aviation. I accompanied him, in an earlier period, to West Virginia airports when he spoke on aviation. I recall especially our visit to my hometown of Elkins where a very large audience heard his challenging speech.

While so many persons in the first two decades of the 1900's were still trying to get into the 20th century, Capt. Eddie Rickenbacker already had his sights on the 21st century. He was a man of great vision who was not afraid to think big when it came to the strength and welfare of his country.

It would have been enough for Captain Rickenbacker to have rested on his brilliant achievements in combat, but he was not that kind of man. He sought challenge after challenge, asking no quarter and proclaiming repeatedly that the greatest privilege this country had to offer was the "freedom to go broke." He believed fiercely in free and private enterprise, and he backed these beliefs with deeds.

Certainly, those of us who knew and loved Captain Eddie did not agree with everything he did and everything he said. It would be false to his memory to suggest that was the case. He thrived on the conflict of ideas.

Over the years, it was my privilege to stand solidly at his side as he helped lead the fighting to overcome the narrow, gauged vision of so many Americans who failed to understand the impact of aviation on our society.

Captain Eddie—actually he was a colonel in the Reserves—understood the need for America to move forward. He understood that progress was not achieved on some sort of a free ride. He knew and was willing to pay the price of assuring a role of world leadership for the United States.

Much will be said and written about this gallant American. But when all is said and done, the life of Capt. Eddie Rickenbacker is the story of a dedicated American who was not afraid to meet new challenges, who was not afraid to dream of dreams, and who was not afraid to lift his sights high into the skies.

Alfred Lord Tennyson wrote in 1842, and Rickenbacker reemphasized by his life, the following lines:

> For I dipt into the future,
>   far as human eye could see,
> Saw the vision of the world,
>   and all the wonder that would be;
>
> Saw the heavens fill with commerce,
>   argosies of magic sails,
> Pilots of the purple twilight,
>   dropping down with costly bales

Mr. President, I ask unanimous consent that the article on his death and his career, by Jean Halley, in today's Washington Post, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CAPT. EDDIE RICKENBACKER

(By Jean R. Hailey)

Edward Vernon Rickenbacker, the indestructible American Ace of Aces, a legendary hero who cheated death a dozen times on the ground and in the air, died yesterday in Neumuenster Hospital in Zurich, Switzerland.

Captain Eddie, the daredevil auto racer and World War I pilot, who survived plane-to-plane combat, a shattering plane crash in Georgia and later 23 days adrift on a raft in the Pacific in World War II, succumbed to a heart attack at the age of 82.

He had been in ill health since last October when he suffered a stroke in Miami, Fla. He and his wife, Adelaide, had maintained homes in Key Biscayne and New York for many years.

Although the aviation pioneer, who had headed Eastern Airlines for years, was hospitalized for a long period after suffering the stroke, he was considered well enough to make the trip to Switzerland at the start of this month.

He was hospitalized early this month after he and his wife arrived in Zurich. She was at his bedside when he died.

Capt. Rickenbacker, whose name was known to millions of people throughout the world, made it to the top the hard way.

A fervent patriot, he based his success on faith, courage and always a will to work hard. His life was the classic American story of a poor little boy who went on to win this nation's highest honors.

He fought not only for maximum use of the airplane in both world wars, but also for the development of the airplane as an instrument of peace. He was one of the outstanding leaders in commercial aviation.

Capt. Rickenbacker's origins were humble. He was born in Columbus, Ohio, to parents who had migrated to this country. They were poor, but they taught him to revere the basic principles of Americanism and an abiding faith in God.

Although he was never committed to a specific form of religion, he often said in later years that prayer brought him through his many narrow escapes from death.

His father died when he was only 12 years old and Eddie left school seeking work to help support his mother, whom he workshipped, and the other four Rickenbacker children.

One of his first jobs was that of carving tombstones. He carved the marker for his father's grave.

But odd jobs were not enough to satisfy him, and he soon found himself drawn to the then primitive automobile.

He had an innate love of machinery and an uncanny knowledge of mechanics, which he added to through correspondence school courses in mechanical engineering and drafting.

Then he saw his first automobile race and by the time he was 21, he had become one of the great racing drivers in this country. He won seven national championships at Sioux City, Omaha, Providence, Tacoma and Sheepshead Bay. One of his greatest feats was a victory over Barney Oldfield, then considered the king of the game, at Indianapolis.

In later years, Eddie Rickenbacker was president and chief owner of the Indianapolis track, where the annual Memorial Day race still attracts hundreds of thousands of spectators. In 1954, he was elected to auto racing's Hall of Fame at Greenfield Village, Mich.

But in those days, Eddie Rickenbacker, by now a swashbuckling figure, of tall stature and jutting jaw, had still to make his world fame.

It came in World War I. He enlisted in the Army and was sent to France, where because of his knowledge of mechanics, he was assigned as a chauffuer to Gen. John J. Pershing, commander-in-chief of the American Expeditionary Forces.

As a chauffeur, his racing techniques were a little rough on his passenger and Gen. Pershing finally acceded to Eddie Rickenbacker's ceaseless requests to transfer to the Air Corps and became a pilot.

"If you're as dangerous to the Germans as you are to me, you'll be an ace in a week," Gen. Pershing reportedly said when he approved the transfer.

The General was not far from wrong. Eddie Rickenbacker learned to fly in 17 days and within a few months joined the famous "Hat-in-the-Ring" (64th Pursuit) squadron, whose prime target was Germany's "flying circus" led by Baron von Richthofen, better known as the Red Baron.

In those days, there were no parachutes, radios, easily maneuverable guns, plane stabilizers or adequate brakes but Eddie Rickenbacker, who then was called Rick, plunged right into the dogfights.

He fought a hundred air battles over France, sometimes behind enemy lines. Once the struts were shot out of his battle plane and another time he whipped his ship around in the sky with the fabric flapping from the wings.

He always denied that he was reckless, that his survival was due to his own caution and awareness of the risks he took. Yet he did such things as drop to within a hundred feet of a filled enemy balloon on a truck in a narrow village street and destroy it before it could reach the front lines. And he once stayed in a fierce air fight to add the force of his presence although both his machine guns had jammed.

He became the most decorated American pilot in the war. He was credited with bringing down 26 German planes and at least four enemy balloons.

For his daring exploits, he received the Croix de Guerre with four Palms, the Legion of Honor, the Distinguished Service Cross with nine Oak Leaf Clusters, the Medal of Merit and America's highest award, the Medal of Honor.

The citation that accompanied the latter read:

"While on a voluntary patrol over the land, Lieut. Rickenbacker attacked seven enemy planes (five type Fokker protecting two type Halberstadt). Disregarding the odds against him, he dived on them and shot down one of the Fokkers out of control. He then attacked one of the Halberstadts and sent it down also."

That was the way Eddie Rickenbacker fought, often downing not one but two enemy planes in a single battle.

Although he returned from the war as an aviation hero, Capt. Rickenbacker, whose visions of aeronautical progress let him later to become a leader in commercial aviation, seemed to lose interest in flying and he turned back instead to automobiles.

A company was formed to manufacture a new car, named the Rickenbacker, and he served as its vice president. But, claiming that the car was years ahead of its time, he left the firm in 1926, a year before it went broke.

He then started work as an assistant sales manager for the Cadillac Co. and then became vice president of Fokker Aircraft.

In 1932 he joined Aviation Corporation, parent comany of American Air Lines. He left it to join General Motors and in 1934 was made general manager of Eastern Airlines, a subsidiary of General Motors.

It was in that same year, as commander of a giant Douglas airliner, that he set a new coast-to-coast record for passenger planes. The flight from Los Angeles to Newark was made in 12 hours, three minutes and 50 seconds. He was again in the headlines.

There were other record flights, all made to prove that flight service, even on long trips, was practical as an everyday business proposition.

In 1938, the government forced General Motors to cut itself off from the airlines field and Eastern Airlines was put up for sale. Capt. Rickenbacker raised $3.5 million on Wall Street for its purchase and from then on it was his baby. He built it into a big moneymaker, by traveling thousands and thousands of miles over his air system each month, lecturing on the safety and convenience of air travel.

He became an astute businessman. But he rarely piloted, content to make the trips as a passenger.

He also cared little about driving an automobile. He once boasted that he had never held a license for either driving or flying.

Capt. Rickenbacker served as president and general manager of Eastern from 1938 until 1953 when he became chairman of the board.

It was during this period that he twice flirted with death. In 1941, he was a passenger on an Eastern plane when it crashed near Jonesboro, Ga., not far from Atlanta.

Eight persons were killed and eight others including Capt. Rickenbacker, were severely injured. He told later of how he had seen that something was wrong and tried to get to the pilot, but the crash happened before he could get into the pilot's compartment.

He was pinned beneath the plane's wreckage, his legs and ribs crushed. He recalled from his hospital bed, where he lay near death for days, how he saw the ship's fuel tanks dripping.

"Don't strike a match—don't strike a match—there's gasoline all around here," he remembered shouting.

Capt. Rickenbacker sprang back from that disaster and a year later was called upon by his country to help lay the foundation for the Military Air Transport Service of World War II.

In this capacity, Secretary of War Henry L. Stimson sent him on special missions around the globe to help build the morale of American fighting men.

On one of these missions in October, 1942, a heavy military plane in which he was flying with a full military crew went down in the Pacific. It was flying from Hawaii to another Pacific island.

The eight men were lost at sea for three weeks, adrift in three rafts. One of the men, who had swallowed much sea water when his raft overturned, died and was buried at sea.

The rafts were separated, but all of the seven survivors were eventually rescued. Capt. Rickenbacker and two of the others were found in a raft about 600 miles north of Samoa.

He told of their ordeal later. When they had to leave their sinking plane, they took only four "scrawny" oranges with them. They made these last for eight days.

"A boy in my boat had an issue Bible in the pocket of his jumper and the second day out we organized prayer meetings. We had one every morning and one every night," he said. "At these meetings we prayed frankly and humbly for our deliverance."

Then, Capt. Rickenbacker, related something happened which he "wouldn't tell if I had not had seven witnesses. Within an hour after prayer meeting, a sea gull landed on my hat."

"I can't describe my nervousness while we all sat spellbound and I slowly reached up so I wouldn't scare him off. I caught him," he added with a smile.

They ate the bird and used the entrails as bait for fish. But he confessed later that he didn't eat much of either the raw bird or the fish because he couldn't stand the taste of either.

When he and his two companions were finally picked up by a Navy scout observation plane, only one of them could be squeezed aboard. Capt. Rickenbacker and the others were lashed to the wings and the airplane taxied 40 miles before it finally got to land.

That he had stamina was obvious. After two weeks of hospitalization he was ready to complete his mission.

Capt. Rickenbacker always disclaimed any credit for being more daring and fearless beyond the limits of ordinary man.

"I've always been lucky," he said. "I always trust to luck—it has never failed me."

Over the many years, he had always spoken out for the need of war planes. As early as 1922, he had supported his friend, Gen. Billy Mitchell, in urging a separate department for aeronautics. In World War II, he plugged, too, for the greater use of air fighting forces.

When he retired in 1963, as chairman of the board of Eastern Airlines, Capt. Rickenbacker declared that he had no plans to be idle.

Politically a conservative and an outspoken anti-Communist, he said then: "I am going to expand my crusade to save the American way of life for future generations, as I want our children, our grandchildren and those who follow them to enjoy the opportunities which have been mine for 73 years."

In 1965, when he was named to the Aviation Hall of Fame in Dayton, Ohio, he suggested that air power should be used for "what it is meant" and added that planes in Vietnam should destroy the powerhouses, dams, bridges and ports in Vietnam, without too great loss of life, but to get at the problem of the war at its source.

Capt. Rickenbacker paid a nostalgic visit to Washington in June, 1971, when he attended the celebration of the 30th anniversary of National Airport's opening.

He recalled the old Washington-Hoover Airport, a field on the present site of the Pentagon that preceded National Airport. It was bisected by a roadway and a crossing guard halted motor traffic when a plane was landing or taking off.

Capt. Rickenbacker said he was at the controls of a plane taking off there one time and was heading down the runway at full steam when he saw a truck the guard apparently had failed to stop.

"I pulled back on the stick, the plane raised enough so the wheels scraped the top of the truck, bounced onto the runway and then climbed into the sky," he said.

Asked about the passengers, he replied: "They didn't know what the hell happened and I'm not sure I knew then either."

He agreed it sounded like an adventure of Capt. Ricketyback, chief pilot of Trans Dogpatch Airlines in Al Capp's comic strip, Li'l Abner. Capt. Rickenbecker agrees some sequences in the comic strip were overdrawn but he didn't mind Capp's characterization.

Capt. Rickenbacker, who never attended college but held 15 honorary degrees, was the author of three books: "Fighting the Flying Circus" about his World War I experiences, "Seven Came Through," an account of his ordeal in the Pacific, and "Rickenbacker—An Autobiography."

Once, in an interview, Capt. Rickenbacker talked about the times he had narrowly escaped death.

"The sensation of dying is sweet, sensuous, placid. It is the easiest thing in the world to die. The hardest is to live," he said.

"I have probably cheated the Grim Reaper more than any other man. I came very close several times. Twice I was actually dying and knew it. But each time, as I moved closer, I began to fight harder. I had faith in the Power above and I had the will to live."

He showed the same will in his last confrontation with death.

Dr. Walter Steffen, who treated Capt. Rickenbacker at the Zurich hospital, said he was placed on the critical list immediately after he was hospitalized but recovered slightly before a relapse.

"Mr. Rickenbacker impressed me very much as a strong character. He never lost his optimism in spite of his serious condition. All the doctors and nurses said he was a model patient," Dr. Steffen said.

In Washington, President Nixon said Mr. Rickenbacker "was an American original—a celebrated racing car driver in the early years of the 20th century, the leading American fighter pilot in World War I, a pioneer of commercial aviation, and a generous patriotic citizen in both war and peace.

"Mrs. Nixon and I offer our condolences to Mrs. Rickenbacker on the passing of this great American, and our assurance that the life he lived and the example he set will long be cherished by his fellow citizens," Mr. Nixon said.

The Rickenbackers' son, David, E., of Upper Montclair, N.J., arrived in Zurich last Saturday. Capt. Rickenbacker also is survived by another son, William F., of Briarcliff Manor, N.Y., two brothers, Louis, of Los Angeles, and Albert W., of Beverly Hills, Calif., and five grandchildren.

NEW FDA COMMISSIONER: DR. ALEXANDER SCHMIDT

Mr. PERCY. Mr. President, I commend President Nixon on the appointment of Dr. Alexander M. Schmidt to be Commissioner of the Food and Drug Administration.

Dr. Schmidt, informally known as "Mac" Schmidt, has the medical background and administrative skills to be a truly outstanding Commissioner. He is an M.D. who has consistently demonstrated his ability to manage.

When the Abraham Lincoln School of Medicine of the University of Illinois was formed in 1970, he became its first dean. He was instrumental in reorganizing the medical college and developing a new curricula. Under Dr. Schmidt's direction, the school produced an increasing number of M.D's of the highest quality.

Before that, his administrative skills were demonstrated at the National Institute of Health in Maryland. Dr. Schmidt served in the capacity of deputy associate director of program development and research.

Equally impressive is Dr. Schmidt's educational background. He earned his bachelor's degree from Northwestern University, and thereafter continued his education at the University of Utah where he attained his M.D. His internship and residency were also served at the University of Utah. Later, he became a faculty member of that institution.

Of major interest to the drug field is Dr. Schmidt's clinical experience in the treatment of patients. This was demonstrated at Utah before he moved into administrative medicine.

I have met with Dr. Schmidt since his nomination by the President and have discussed various aspects of the regulations involving the Food and Drug Administration. I am thoroughly impressed by his demonstrated administrative abilities, and by the grasp he already has of the highly complicated and delicate issues now before the FDA.

Undoubtedly, the University of Illinois will suffer a great loss, but his potential contributions as FDA Commissioner can be expected to be of substantial benefit not only to the citizens of Illinois, but also to the entire country.

The magnitude of Dr. Schmidt's responsibilities will include the direction of an FDA budget in excess of $165 million a year. Moreover, the regulation of industries whose total worth is estimated at between $250 and $300 billion will be his primary concern.

Recently, I have commended the President on his nomination of Dr. Charles C. Edwards, who has served with distinction as Commissioner of Food and Drugs, to the crucially important position of Assistant Secretary for Health of the Department of Health, Education, and Welfare. Under Dr. Edwards, Sherwin Gardner, Acting Commissioner during the interim period, and Peter Barton Hutt, General Counsel, the FDA has become a more progressive organization in meeting the need for greater consumer protection. They generated an organizational momentum toward this goal.

It is my firm conviction that Dr. Schmidt has the ability and commitment to further advance this effort.

DEATH OF WILLIAM RALPH MASON, OF CALIFORNIA—EDUCATOR, YOUTH LEADER, HUMANITARIAN

Mr. CRANSTON. Mr. President, I would like to take a moment to remember the life of a man I admired and whose friendship I valued, a man of innumerable civic interests and achievements, a man whose untimely death on July 14, grieved and shocked me. His name was William Ralph Mason—president of California's The Irvine Co., educator, youth leader, humanitarian.

Bill Mason was nationally famous for his creation and implementation of the Irvine Co. general plan, a highly innovative program of land development covering some 80,000 acres in Orange County, Calif. The plan included the construction of a beautiful University of California campus, a seaside shopping and financial center, 200 acres of wildlife preserve, and 3 miles of ocean marine preserve, a landscaped industrial park of more than 400 nonpolluting firms, a prospering farming and cattle-grazing operation, a dozen greenbelted communities in three cities, and the building of an entirely new city, the city of Irvine.

Bill Mason was no stereotype corporation executive. He was a builder of imagination and deep humanity who used his technical skills as an engineer to seek practical solutions to the peoples' needs. He once told a reporter:

> That's . . . the most important aspect of it all—the people.

Many of his community activities earned him no headlines—he did them, because he loved doing them. He participated actively in the Boy Scouts of America, serving as Western Region president until the time of his death. Selected as City of Hope's Man of the Year, he was also chairman of the Orange County Red Cross fund drive and a strong organizer in the YMCA and United Fund campaigns.

Starting his career as an assistant professor of civil engineering at the University of Washington, Bill never lost his dedication to the cause of education. He was an active member of the Chapman College President's Council, the Claremont College Board of Fellows, and of other college and university boards and committees.

In an interview for New Worlds of Irvine, Bill Mason concluded:

> In any case, and in the end, the best in man will triumph. I'm convinced of that.

The lives of men like William Ralph Mason help prove that statement.

PIONEER DAY

Mr. BENNETT. Mr. President, today is an important day for those citizens of the United States who are of the Mormon faith. Being a Mormon myself, I would like to stand up and share with you the meaning which this day holds for us.

On July 24, 1847, a group of pioneers entered what is now known as the Salt Lake Valley. They were only the first of many members of the Church of Jesus Christ of Latter Day Saints, or Mormons, who were to follow. They were led by Brigham Young, who has been called a "Modern Moses," for his role in leading these people across the plains.

Their journey was not an easy one, even for those days of covered wagons and horseback travel. Their route was long and filled with hardships as they traveled from the Midwest to the Rocky Mountains. Those who could not afford the cost of covered wagons, put their belongings in a handcart and pushed them by hand across the plains. Their determination led them through times of disease, famine, and the fury of winter. There were many who never arrived at their destination in the West. Truly, their journey is one of the greatest religious exoduses of all time.

When the first group of pioneers came over the mountains that surround the Salt Lake Valley, Brigham Young saw the valley for the first time, and said, "This is the place." At that time, the valley was a desolate wasteland. Yet the same courage and determination which had led these sturdy pioneers across the plains, helped them to tame the desert and truly make it "blossom as a rose."

This example of courage and faith is one that lives in the heart of all of us who share in this heritage. I hope and pray that we can continue to have these qualities as we face the problems of today.

SECRECY AND THE PRESIDENT

Mr. MOSS. Mr. President, some may object to the notion that history can provide an answer to the question over what is or should be the extent of executive privilege as it relates to congressional inquiry. They may assert that the complexity of the 20th century prevents the use of precedent from the early years of our Republic, or before, as guidelines to current problems. But such objections do not appear to be entirely valid. History has been an aid in formulating answers to perplexing problems. It is a base on which we can build. As one writer points out, "the language of the Constitution cannot be interpreted safely" without such reference.

For almost two centuries precedents have been established that give Congress broad investigatory powers. It has only been in the last two decades that the executive department has attempted to curtail this "preeminent" power of the Congress. The power that has been used by the Executive in his claim of executive privilege is a very dangerous maneuver. We must be aware that "arbitrary power and the rule of the Constitution cannot both exist. They are antagonistic and incompatible forces; and one or the other must of necessity perish whenever they are brought in conflict."

Woodrow Wilson made a cogent statement on the danger of too much power in the hands of a few individuals. He said:

> Concentration of power is what always precedes the destruction of human initiative and therefore, of human energy.

Mr. President, a dangerous concentration of power is now held by the executive department. It is hoped that the Congress will use those prerogatives that are available in order that the possible destruction mentioned by Wilson can be averted. Perhaps the most important prerogative is that of gathering information from every possible source. Without such a right, and this involves broad investigative powers, a possible destructive concentration of power can result in the executive department. This is especially evident due to the recent isolation of the President that has occurred. It is absolutely necessary that the branch of Government that is closest to the people, the Congress, must protect the interests of the people. And nothing can be more destructive of those interests than secrecy in high places.

Mr. President, in the Washington Post on July 24, 1973, a very thought-provoking article appeared by Prof. Raoul Berger, Harvard Law historian and an acknowledged authority on executive privilege and the right of Congress to receive information. The article is entitled "Secrecy and the Presidency." Because of the appropriate nature of this article to the present dilemma which we find in the United States regarding the relationship of the Executive and the Congress, I ask for unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Secrecy and the Presidency

(By Raul Berger)

In the midst of the Senate investigation of participation by the White House staff in alleged criminal activities—branded by former Attorney General John Mitchell as "White House honors"—President Nixon has barred access to "Presidential papers prepared or received by former members of my staff." This roster includes John D. Ehrlichman, H. R. Haldeman, John W. Dean III, Gordon C. Strachan and others who have been implicated by testimony in possible crimes. The Nixon order would bar the possible confirmation of such testimony by documentary evidence available in White House files. The order, Mr. Nixon advised the Senate, is not based "upon any desire to withhold information relevant to your inquiry." But that is precisely its effect.

The issue rises above a jurisdictional quarrel between Congress and the President—important though such differences can be—and it presents an issue in which every American has an immediate stake. Mr. Nixon would shroud White House activities behind the very curtain of secrecy which bred the "horrors" that have brought shame upon the President and the nation. It was the Johnson administration's addiction to secrecy that made possible the stealthy and calamitous escalation in Vietnam. Executive secrecy is at war with Madison's admonition that "the right of freely examining public characters and measures, and of free communication thereon, is the only effective guardian of every right." Suppression of information is a prelude to tyranny, a first step toward enslavement of the people.

The historical records fully confirm Henry Steele Commager's statement that:

> "The generation that made the nation thought secrecy in government one of the instruments of old world tyranny and committed itself to the principle that a democracy cannot function unless the people are permitted to know what their government is up to."

Concealment thus bears a heavy burden. To defend his concealment, President Nixon relies first on the "separation of powers." He himself recognizes that it was designed to defend each branch "against encroachments by other branches," thus assuming that the President was given a constitutional power to withhold information from Congress, upon which Congress may not "encroach." But the "separation of powers" does not confer power; it only protects a power otherwise conferred. The existence of withholding power must therefore be proven, not assumed.

No such power is to be found in the Constitution. To this, presidential advocates retort that the congressional power of inquiry likewise is not mentioned in the constitutional text. There is, however, a profound difference: congressional inquiry rests on a judicially recognized historical base. Looking to English practice at the adoption of the Constitution, the Supreme Court found that Parliament had long exercised a power of inquiry; that it was "an essential auxiliary . . . of the legislative function," an "inherent . . . attribute" of the "legislative power," which the framers intended to include in the "legislative power" committed "to the two houses." Like the Court, therefore, we may look to the parliamentary practice to ascertain the *scope* of that "attribute."

In an extensive sampling of parliamentary records stretching from 1621 to 1742, I found first that the inquiry power ran across the board, into every conceivable aspect of executive conduct. Secondly, I found not one instance of an objection by any minister to the right of Parliament to inquire or to the scope of the inquiry. The great English historian Henry Hallam confirms that no "courtier," that is, minister, "ventured to deny this general right of inquiry." It is safe to conclude that no minister claimed or enjoyed any right to withhold information from Parliament.

A number of historical facts indicate that the founders adopted this practice. Before the convention, James Wilson, one of the leading architects of the Constitution regarded it as one of the glories of the House of Commons that the proudest ministers had appeared before it to account for their conduct. On four or five occasions the founders referred to the House as the "Grand Inquest of the Nation"—so the inquisitorial power was known—without the slightest intimation that they intended to curtail the power in any respect. From this and yet other historical data we may deduce that the "attribute" with which Congress was endowed by the framers was the untrammeled parliamentary power of inquiry. Let the executive branch come forward with contradictory evidence. Until then, we should be guided by the homely maxim: you can't beat somethin' with nutin'.

No presidential advocate has ever brought forward any pre-Constitution precedent for a claim or right to withhold information from the legislature. Nor can the President lay claim to the immunity of the king, for as James Iredell proudly boasted, the framers made the President "triable" and repudiated the principle that the king was immune. Such royal immunity was again rejected by Chief Justice Marshall on the trial on Aaron Burr, wherein he declared that President Jefferson could be required to furnish a letter written to him by General Wilkinson.

Presidential claims are rested on a number of post-1787 refusals by some Presidents of relatively innocuous information. A bare assertion of a right to withhold can no more create constitutional power than a President can lift himself by his bootstraps. Presidents cannot change the Constitution by repeated self-serving assertions. The "precedent" adduced by Mr. Nixon, for example, was a refusal by ex-President Truman in 1953 to testify before a congressional committee, a very recently brewed "precedent." In sum, the Senate request for White House files does not "encroach" on presidential prerogative because no such right to withhold was conferred by the Constitution on the President.

There is powerful confirmatory evidence that the "separation of powers" was not thought to limit congressional inquiry, to mention only the Act of 1789, which made it the duty of the Secretary of the Treasury to furnish to Congress all information appertaining to his office. Drafted by Alexander Hamilton, enacted by the First Congress, in which sat a goodly number of framers and ratifiers of the Constitution, and signed by President Washington, the presiding officer of the convention, the Act demonstrates that the "separation of powers" was considered no bar to the congressional requirement of information.

Second, Mr. Nixon relies on "the indispensable principle of confidentiality of presidential papers": "no President could function . . . (unless) his personal staff be able to communicate among themselves in complete candor." Not a trace of such a "principle" is to be found in our history until 1954, when President Eisenhower first announced it more broadly in belated recoil to the excesses of Sen. Joseph McCarthy. Before long, the "principle" spread to every level of government, and lesser functionaries were denying information to Congress lest it inhibit "candid interchange" among subordinates. In April, 1973, Attorney General Richard Kleindienst make the unprecedented claim that no one of the 2.5 million federal employees can talk to Congress without the President's permission. The "principle" has become the most frequently invoked ground of refusal of information by every branch of the government; it cuts far deeper than "confidentiality of presidential papers." Before we swallow such a crippling "principle" and permit the President to redesign the Constitution by pronunciamento, we should at least be sure that it is indeed "indispensable" to good government.

That government can flourish and prosper in the absence of such a principle is demonstrated by the fact that our federal government successfully functioned from 1789 until 1954 without the benefit of the "principle." When the "principle" was invoked by a ministry against a private litigant before the House of Lords in 1967, it was all but laughed out of court. A "principle" thus dismissed by a great court can not be assumed to be self-evident. Against the assumption that "confidentiality" is "indispensable" to the operation of the entire government must be weighed the undeniable need of Congress for information, the cost of concealing confirmatory evidence of a conspiracy to corrupt the political process, and the loss of confidence in the President which has shaken the nation. Concealment in these circumstances is too high a price to pay for the preservation of "confidentiality" in the White House.

Let President Nixon ponder the acknowledgment of the stiff-necked Andrew Jackson that:

> "Cases may occur in the course of [Congress] proceedings in which it may be indispensable to the proper exercise of its power that it should inquire or decide upon the conduct of the President or other public officers, and in every case its constitutional right to do so is cheerfully conceded."

The nation can no more tolerate presidential withholding of documents when the executive branch is under congressional investigation than it can afford to let a bank president dictate to a bank examiner what books he may see. Unhappy are a people whose suspected officials can lay down the terms of investigation, for then the investigation becomes a dead letter.

THE FUTURE FUNDING OF LIBRARIES IN THIS COUNTRY

Mr. DOMENICI. Mr. President, I would like to have printed in the RECORD my testimony which I presented today before the Senate Subcommittee on Health, Education, and Welfare appropriations with regard to the future funding of libraries in this country.

I am concerned that the present proposal for libraries to be funded through local revenue-sharing programs will simply not be adequate when considering the vital function the libraries have in our society. It was for this reason that I requested the subcommittee to allow for the continued funding of libraries at at least last year's level until such time that it is clear that revenue-sharing programs are working and that the Nation's libraries will not suffer.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR DOMENICI

Mr. Chairman and Members of the Subcommittee: I wish to express my appreciation for this opportunity to comment on the proposed appropriations for the Departments of Labor and Health, Education and Welfare for fiscal year 1974. As you know, the Administration has requested no funding for the major library programs this fiscal year, basing this decision primarily on the belief that general revenue sharing and special education revenue sharing would provide sufficient funds to the States for use in many social programs.

Testimony during hearings on the appropriations for both fiscal years 1973 and 1974 for Office of Education programs have indicated that a significant need currently exists in the library and information science area. Public libraries, although serving a great proportion of the public, still have not been able to reach approximately 12%, or 20 million Americans. Many people living in rural areas, people with physical handicaps, economically disadvantaged, institutionalized, and the elderly are just beginning to receive some of the benefits of the Federally-sponsored Library Services program enacted in 1956.

In my own State of New Mexico, for example, the Library Services and Construction Act has been responsible for bookmobile service for 370,000 rural citizens. There are 752,000 books circulating at 250 monthly community stops. This is the only service for 19 Indian groups in the State and hundreds of rural low-income areas.

In addition, a free hotline service, handling 12,600 inquires annually, connects public, special, and academic libraries throughout the State with funds from the Library Services and Construction Act. Further services facing curtailment or elimination formerly supported by this Act are talking books and tapes for the blind and physically handicapped citizens, workshops for librarians, the Nemisys magazine information service, and matching funds to build public library buildings throughout the State.

Reports on the success of the Library Services and Construction Act have been overwhelmingly favorable—States have matched the Federal dollar at a ratio of 3 to 1, and small libraries have been able to set up programs to reach people who have not usually had access to a public library before.

It is true that public libraries would be eligible for assistance under the general revenue sharing program, however, State librarians, public library administrators, and other professionals in the field have stated that it is doubtful that they will be able to compete successfully for funds with such other needed social services as police and firemen. Mr. Stevens of the National Commission on Libraries and Information Science has stated that public libraries have applied for about $8 million in revenue-sharing funds and a little more than $4 million has been granted. It is possible that given more time and additional funds, public libraries might thrive under revenue sharing. However, as the current fiscal year is already underway, the termination of these programs at this time is going to seriously affect the quality and the distribution of their services.

I have been contacted by many librarians in the State of New Mexico. They have voiced their concern over the future of the library service system in our State. For example, Mr. Paul A. Agriesti, City Librarian of Farmington, New Mexico said in a letter dated earlier this spring, "to my knowledge, there has been no indication that the State of New Mexico will use any of the State revenue sharing funds to pick up library programs now supported by the Library Services and Construction Act . . ." Furthermore, Mr. Agriesti states that some of the city's borrowers come as far as 100 miles away through the bookmobile service. In addition, Farmington is one of the chief users of the State Library's Santa Fe based interlibrary loan operation. The library staff has been able to participate in the workshops and institutions sponsored by the State Library. These programs will probably be curtailed without further Federal assistance.

Mrs. Elizabeth C. Cooper, Library Director of the Mesa Public Library in Los Alamos, New Mexico stated that, "I do hope you'll keep in mind that revenue sharing funds can be of great help to cities, especially the large municipalities—but will be of small benefit, if any, to rural areas and small communities."

Mrs. Betty G. Lloyd, Librarian with the Arthur Johnson Memorial Library in Raton, New Mexico, points out that their free watts line service will be curtailed should funds be cut. Talking machine and book services for the blind are other services offered by this rural library, but the equipment is borrowed from the State Library and are threatened by Federal budget cuts.

School and college libraries are also scheduled for termination in the Administration's fiscal 1974 budget request. Many schools, according to surveys conducted by the American Library Association, have substandard libraries, or no libraries at all for the use of students and teachers. Twenty-two percent of the elementary schools in the State of New Mexico are completely without school libraries. In Alaska, 60% are without school libraries; in Montana, 75%, and in Ohio 80%. Certainly the need for additional assistance to these schools, and to secondary schools as well, is evident.

Colleges have found the money they receive under Title II of the Higher Education Act to be very valuable—funds have supported the acquisition of library materials, training of students in librarianship, and research and demonstration projects in library and information science. With many institutions of higher education facing severe financial difficulties, it is doubtful that they can continue to support adequate library systems and carry on the necessary training programs without additional Federal aid. Indeed, Mr. Fred H. Wilding-White, Librarian with the New Mexico State University at Grants, New Mexico wrote me indicating that the University library will need continued Federal assistance to buy and maintain audio-visual equipment.

In recent years library expenses have risen sharply for several reasons. Expanding populations mean more library users and thus greater demands for books and services and room in which to use them. Keeping up-to-date means new kinds of services—films, videotapes, microfilm and copying machines, special programs for the poor, the elderly and the blind. Because of inflation, costs for these materials and books and staff salaries have mushroomed (for example, books have gone up about 32% and magazines 48% since 1966).

In view of the above facts, the House Committee on Appropriations has recommended continued funding of library resources programs at least at the 1972 appropriation level. A total of $176,209,000 is suggested for funding library programs in fiscal 1974, an increase of $38,479,000 over the current operating level. These funds would be needed just to keep pace with rising inflation rates and are not intended to enable public and school libraries to develop new and innovative programs, expand services into new areas to reach the unserved population, or to enable colleges and universities to increase their collections or train more library personnel. But even the subsistence functions which can be carried on with the amount recommended by the House Committee and passed by the House require our support and encouragement. Without some form of Federal encouragement, it is possible that the public libraries, which have done so remarkably well in attracting State matching funds would no longer receive such assistance, and college and school libraries would be folded into other educational expenditures, perhaps to be passed over in efforts to solve the other demanding problems facing schools and students today. The librarians in the State of New Mexico are concerned. I am concerned.

There are still human needs that public libraries are not meeting; there are still not enough books, not enough audio-visual materials, not enough dedicated librarians, not enough skill or money to have achieved the goals we hoped to reach. For one thing, the goals themselves persist in moving ahead of us even as we begin to catch up. There are more people to serve, more kinds of services demanded, and as I have stated before, more inflation to reduce our funds.

People tend to take librarians for granted, but the current trend could have serious effects on the education of children and adults alike in our country. A library is a keystone in every community. They are the fulfillment of Abe Lincoln's passion for books and learning which led him to walk miles to borrow them and study long hours before the dim fire.

Libraries reflect freedom of opportunity to learn, to engage the best thinkers of the past. They are quiet places in a neighborhood where we can seek out higher ideas than the tawdry or mundane.

Libraries are an important—even vital—aspect of our education, informational society and we *must* perserve them in all communities.

Mr. DOMENICI. At this time I would also like to have enclosed in the RECORD the total contents of a letter written my office by Mr. Alan B. Clark, director of the Albuquerque Public Library. Mr. Clark brings up many valid points I would like to bring to the attention of my colleagues.

There being no objection, the letter was ordered to be printed in the Record, as follows:

June 14, 1973.

Senator Pete Domenici,
U.S. Senate,
New Senate Office Building,
Washington, D.C.

Dear Senator Domenici: I wish to express my appreciation for your efforts on behalf of continued federal funding for libraries. The situation in New Mexico and in Albuquerque in regard to cuts in Federal aid to libraries is very serious.

The problems are several fold. In rural areas and small towns in New Mexico a zero federal budget for library aid will mean almost total elimination of library services to most residents.

The New Mexico State Library is the only link to library service for over 300,000 New Mexicans who live in communities too small to support organized libraries.

The State Library operates bookmobiles over large thinly populated regions of the state. The total elimination of federal aid will cut more than sixty per cent of the current funding for this operation. The remaining state and county contributions will not be enough to put bookmobiles on the road.

For the rural residents of this state, these cuts will mean an abrupt and in many cases total cessation of access to library services.

The larger population centers in New Mexico will not be as dramatically hit by a federal budget cut, but the effects will be wide ranging and serious.

For nearly twenty years public librarians in New Mexico have been struggling to organize an effective state-wide library system. A coordinated library services system would open up the resources of all the libraries in the state to all New Mexicans. In a state that is hungry for books and information a cooperative library system is vital.

In the last decade solid achievements have been made in this direction. A small amount of federal funding has made it possible to establish a workable inter-library loan system. This loan arrangement makes the transfer of books from community to community feasible and economical.

Federal aid has sponsored cooperative training programs to upgrade skills of local library staff. With federal grants special innovative projects to extend the services of libraries to the economically and culturally disadvantaged have been developed. These activities are sponsored by, coordinated by and modestly funded by the New Mexico State Library. A total cutoff of federal funds to the State Library will make these and other projects close to impossible. More than ten years of patient, careful work toward an efficient state-wide library cooperative system will be irreparably damaged.

For residents of Albuquerque a cut in federal aid will mean:

A serious reduction in the availability of books and journals now borrowed from other libraries, and the elimination of special training projects for the staff.

Sixty staff members of Albuquerque Library have been involved over the last two years in continuing education programs sponsored by the State Library. There are no local funds to support these programs and no library training programs available in Universities in New Mexico.

The reduction of our effort to provide outreach services to the economically disadvantaged. The State library has used special grants (in very modest amounts) to stimulate special projects. In one area of metropolitan Albuquerque (West Mesa, South Valley) our surveys indicated that over seventy per cent of early grade school children read below grade level. A child who reads significantly below grade level is almost doomed to educational underachievement. Drop-out rates in Junior High can be directly linked to early grades reading difficulties.

The public library in cooperation with local schools and the State Board of Education has operated for two years a preschool awareness program. Over 500 four and five year olds have gone through the program with substantial success. This project began with a $1,700 grant based on federal funds from the New Mexico State Library. Without this kind of modest help most innovative projects in New Mexico libraries can not begin.

Local libraries count heavily on the New Mexico State Library for counselling and assistance and technical expertise in operating with library boards and local government. With more than half its staff laid off the State library will not be able to consult and coordinate local library efforts.

As New Mexico's representative to the American Library Association National Council, I have met with librarians from all over the United States. In our formal and informal discussions the dimension of the problem that will arise through cuts in federal aid to libraries has become clear. The impact on the nation's rural populations will be close to total. In the South, the West, and the Southwest where libraries have been badly underfinanced for decades, millions of Americans will find that the little library service that was available to them is gone. In the nation's cities, in ghettos and barrios, outreach programs that have just begun to touch the disadvantaged will be abruptly cut off.

Cooperative library ventures that magnify the possibilities of sharing resources will be damaged nation-wide.

I do not personally believe that large scale federal aid to libraries is permanently needed or desirable. I would prefer to see local and state funding used for most library programs. I have been a member of the City of Albuquerque's Revenue Sharing Task Force for the last year. This group of city department heads reported to the City Commission on a plan for the spending of revenue sharing. With the best will in the world no funds for expanded library operation could be found in the thirty million dollar plan for the use of revenue sharing. As one of the six department heads who spent months analyzing budget and income I would not recommend additional library expenditure when faced with massive problems and difficulties in public safety, health and transportation. This experience is mirrored in libraries nationwide. Revenue sharing money will not be available to libraries in any significant amount.

Underfinanced nationally, without real hope of meaningful revenue sharing funds and abandoned by federal aid, public, school and university libraries in the United States face a bleak prospect.

I urge continued federal aid to libraries. I will work to enhance efforts to establish a firm local revenue base for libraries in New Mexico. It is my hope that local contributions and well developed economies can point us toward independence of long range federal funding. It will realistically take years to establish a sound financial backing for libraries in New Mexico. In that interim federal aid is vital.

Once again my sincere appreciation for your concern and efforts on behalf of library services. I am ready to provide any information or assistance I can at any time.

Sincerely,

Alan B. Clark,
Director.

PROPOSED ADJUSTMENT OF COMPENSATION OF FEDERAL JUDGES, OFFICIALS OF THE EXECUTIVE BRANCH, AND MEMBERS OF CONGRESS

Mr. McGEE. Mr. President, the distinguished Member from Alabama, Senator Allen, has served notice on the Senate that he proposes to introduce an amendment to the campaign spending bill to require an act of Congress to adjust the compensation of Federal judges, officials of the executive branch, and Members of Congress. This amendment, if enacted, would effectively torpedo the existing procedure by which these salaries are set. It would have the effect of nullifying a central portion of S. 1989, a bill to improve certain aspects of the existing procedure requiring joint Presidential-congressional action—a bill the Senate passed by voice vote July 9.

Senator Allen's amendment deserves vigorous opposition when he introduces it later this week. I shall have more to say at that time. Meanwhile, I believe it would be helpful to Members who may be considering this question to review here today the nonpartisan machinery which has been carefully established to implement these salary considerations and to detail how S. 1989, which Senator Allen's amendment would circumvent, improves that machinery.

Under current law, the salaries of the Federal judiciary, certain officials of the executive branch and Members of Congress are based upon recommendations made to the President by a Commission on Executive. Legislative, and Judicial Salaries. The Commission serves for one fiscal year and reports its pay recommendations to the President prior to January 1. The President considers the recommendation of the Commission, adopts it or modifies it if he sees fit and includes in his next budget message his recommendations on the rates of which he believes equitable and advisable for the officials concerned.

The salary commission's recommendations were sent to the President on June 30 of this year. Under current law, he would transmit his recommendations to Congress with his January 1974 budget and the pay adjustments would become effective shortly thereafter. On the other hand, S. 1989, which the Senate approved less than 3 weeks ago, provides that the President would send his recommendations to the Congress by August 31. After 30 days of continuous session, if the Congress did not reject his proposal, it would become effective in October or November, depending upon the pay periods of the officials involved. The October effective date of the pay adjustments involved conforms reasonably closely to the October 1 effective date set by law for General Schedule pay adjustments based upon Bureau of Labor Statistics comparability figures. The procedure under S. 1989 means that the salary adjustment mechanism would take place in odd numbered, nonelection years.

Mr. President, I think it will be helpful to take a look at the salaries of the three groups of officials with whom existing pay procedures are concerned. They are the executive branch, the Federal judiciary and Members of Congress.

First, let us consider the executive branch officials. They, along with all the others involved, received their last pay adjustment in March of 1969. The pay of a level V official of the Executive Schedule was established that year at an annual rate of $36,000. At that time, a grade GS-18 employee, the immediate subordinate of a Presidentially appointed level V official, was paid $30,239 a year, a reasonable 20 percent lower salary than that of his boss. Pay adjustments for a GS-18 employee are made annually in accordance with the comparability principle established as public policy in 1962.

These pay adjustments provided that Federal statutory pay raises shall be comparable with those of private enterprise for the same levels of work. If the comparability principle were followed and the GS-18 employee had received since 1969 the four statutory pay increases provided by law, he would today be making $41,734 a year—some $6,000 a year more than the pay of his level V boss, which is keyed to the recommendations of the quadrennial commission. No GS-18 has been paid that amount. The pay raises for GS-18, GS-17 and four steps of GS-16 have been limited by law to $36,000, a ceiling imposed so that their pay scales would not obtrude into those of the Executive Schedule.

Mr. Arch Patton, the Chairman of the Commission on Executive, Legislative, and Judicial Salaries before the Commission was dissolved on June 30, testified before the Post Office and Civil Service Committee that the ceiling imposed by the quadrennial commission procedure placed all GS-18's, 17's and more than one-half of the GS-16's in a "very difficult demotivational position." "We have been told," he said, "that many a subordinate is receiving the same income as not only his boss but also his boss' boss." He said he knows of four levels of executives reporting one to another who are all receiving the same income. This is the compression which pay adjustments would eliminate. If a GS-18 employee, in accordance with comparability, is now worth $41,734 a year, then the Salary Commission will, it seems reasonable, find that the officials in the Executive Schedule should be commensurately compensated, and the sooner the better.

The committee carefully considered the cycle in which these salaries should be reviewed by the President and the Congress. A review every 4 years is obviously too infrequent. There have been four statutory pay increases since 1969 amounting to a 24.6 percent total increase. Increases of this order for the executive, legislative and judicial branch officials, when they are recommended every 4 years, invoke criticism on the part of those who do not realize that these pay adjustments are considered quadrennially. Mr. Patton, who is also a director of McKinsey & Co. Inc., testified that a 2-year cycle would ease the compression problem substantially. He said that in most American businesses, senior management does not receive annual pay increases, that their increases are more likely to come every 18 months or 2 years. With the statutory pay adjustment on an annual basis, I feel that consideration every other year for the officials involved here is equitable. Such pay adjustments will not be in any sense automatic, but will be subject to rejection by the Congress at its own judgment.

Mr. Patton testified with regard to "demotivational" aspects of the compression at the top of the General Schedule. The committee has been advised by the Civil Service Commission that the static pay condition at the top of the General Schedule tends to make the Government noncompetitive in its recruitment efforts. In these days of inflation, executives are interested not only in what their salaries will be when they enter on duty but what the future holds for them in the way of compensation. When a candidate for a position at the top of the General Schedule is advised that he must wait 4 years before an increase in pay for him can be considered, he tends to seek employment elsewhere.

Similarly, top managers are retiring from the Federal Government at the earliest possible time. With their salaries frozen for 4 years, they see how difficult it is to increase the high 3-year annual salary upon which the retirement annuity is based. If a GS-18 employee knows that his high 3 is unlikely to increase during the next 4 years and that, therefore, he cannot increase his retirement annuity by continuing to work, he is likely to retire as soon as he is eligible and seek a position in private enterprise which can utilize his readily marketable skills.

In 1969 the salaries of Members of Congress were established by law at $42,500 a year, having been increased from $30,000. Establishment of the $42,500 salary marked the sixth increase which Members of Congress have received since 1874. When you consider that statutory employees of the Federal Government have received four increases in the past 4 years, the pay increases for Members of Congress over the last century do not appear to have been too frequent. Some Members of Congress regularly oppose congressional pay adjustments. I do not share this position. It is my belief that the Salary Commission has probably recommended an increase for Members of Congress based upon the inescapable fact that the cost of living has gone up at least 5 percent a year since 1969 when our salaries were last adjusted. I think Members of Congress deserve an increase comparable to those other Federal officials have been receiving.

The comparability principle is not applied by law to the compensation of Members and it should not be, for there is no position in the private sector comparable to that of a Member. Nevertheless, since other Federal employees, to whose compensation the comparability principle does apply, have received a 24.6 percent increase during the last 4 years, then I think it is the better part of equity to provide by law that the pay of Members of Congress be considered at least every other year rather than quadrennially. It totally defeats the purpose of current provisions of law to require an affirmative act of Congress to make any increase effective.

Mr. Rowland Kirks, Director of the Administrative Office of the U.S. Courts, speaking in behalf of the Judicial Conference of the United States, the policy-making body of the Federal judicial system, stated that the compression problem exists in the Federal judiciary no less than it does in the executive branch. He said that the top classified employees in the judicial system are frozen in their present salaries, which are fixed as a percent of the salary of a district judge. For example, he said, referees in bankruptcy, U.S. magistrates, clerks of court, and probation officers who have received the top of their grades can no longer receive increases in salary as long as the district judge's salary remains static. He stated that new law school graduates this year are being employed at a starting salary of $20,000 a year by law firms, and he added—

> Now, when you talk about paying someone who steps out of law school into the legal profession one-half of what a Federal judge makes, you can see the tremendous compression that is taking place within the judicial system as a result of the static situation that prevails at the top.

Mr. President, the committee, in considering these problems was fully cognizant of the criticism that any bill dealing with congressional pay increases may engender in these days of inflation. I personally do not believe that the pay increases involved here are inflationary. There have been six congressional salary increases in the last 100 years. During that period, the United States has gone through eras of inflation and deflation, increased economic productivity and decreased productivity. There is no sign that congressional compensation has had any effect whatever upon the fluctuating economic fortunes of this country. Current law provides that the President may postpone to a date selected by him any pay adjustments he may recommend. The committee members meeting in executive session agreed that any pay adjustments recommended by the President should be subject to any freeze or other applicable economic restraint which the President may see fit to impose on the Nation's economy in his efforts to control inflation.

Mr. President, I hope the Senate will allow present, carefully conceived procedures for arriving at judicial, executive, and legislative compensation to function as planned and that Senators will reject Senator ALLEN's amendment when it is considered.

SENATOR MONTOYA'S STATEMENT TO THE OKE OWEENGE CRAFTS COOPERATIVE

Mr. JACKSON. Mr. President, on Saturday, July 21, 1973, the Oke Oweenge Crafts Cooperative celebrated the opening of its new building at San Juan Pueblo in New Mexico.

The building was built with an Economic Development Administration grant to the Tribal Council of the Pueblo of San Juan. The council will lease the center to the Oke Oweenge Crafts Cooperative, a nonprofit organization. It includes training facilities and display area for crafts and work of the cooperative. The center will create 15 new jobs and provide an outlet for the work of an additional 50 persons. Senator MONTOYA dedicated the building in 1970 when construction began, and had hoped to be present for the opening celebration on Saturday. Unfortunately his duties here kept him in Washington. State Senator Alex Martinez of New Mexico, who is deeply concerned also with the future of the Indian peoples, read Senator MONTOYA's statement for him at the ceremony.

Because this statement discusses the new self-image which is creating important changes for Indians in all parts of the country, I ask that Senator MONTOYA's message to the San Juan Pueblo be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

A STATEMENT BY SENATOR JOSEPH M. MONTOYA TO THE OKE OWEENGE CRAFTS COOPERATIVE, JULY 21, 1973

I am sorry to be unable to be with you myself today as you celebrate this festival and the completion of the Oke Oweenge Crafts Building. I know that you will understand that only the pressure of my duties in Washington keeps me away.

I wanted to talk to you today about the ending of some old ideas and the beginnings of some new ones, and about the necessity for keeping the old as a part of the new.

First, however, let me take a moment to mention the tragic fire which destroyed the ancient Mercantile Center in San Juan Pueblo two weeks ago. Nothing I can do or the government can do, of course, will replace the treasure of history and art which were lost in that blaze.

There is an ancient story which came to my mind when I thought of your new building, opened so soon after the destruction of that old building here in San Juan. I was reminded of the Phoenix, a beautiful and sacred bird of Egypt. The Egyptians believed that every five hundred years the Phoenix, a great bird dedicated to the Sun God, flew into a fire and was burned. Then, from the ashes, a new Phoenix was born—a new life from dust.

This story of renewal of hope and beauty after destruction by fire has been an inspiration to men and women for thousands of years. I think for the people of San Juan Pueblo this building opening today can be a symbol of that same kind of inspiration.

It will not replace the old, but it is a symbol of the birth of something exciting and full of new life. It is a symbol to the people of San Juan, and to Indian peoples everywhere, of achievement. It is typical of a new concept which is growing everywhere in the United States of Indian self-development and Indian participation in planning and direction of their own lives. It is one small demonstration of the new idea that American society is at last ready to understand and appreciate the richness of a many-cultured nation in which we can all share.

Here in this new building Indian craftsmen and craftswomen will learn to make the ancient artifacts of your people and to work with modern tools. Here the old and the new will join to create a growing spirit of Indian strength and Indian culture. Here you will control your own economic future and you will do it in your own way, combining your ancient culture with the world of 1973.

Your Corporation is part of what is happening everywhere in Indian communities. Nearly four hundred years after the Spaniards first came here to find your ancestors waiting—a Tewa people so courteous that the visitors called this place "San Juan de los Caballeros"—a new birth of Indian pride is taking place. At last we are going to begin to unto the centuries of injustice and frustration and despair which have kept the Indian peoples in poverty and without hope.

Like you here in San Juan Pueblo, Indians everywhere are renewing their sense of history and creativity. They are now demanding a future which will be determined by Indian acts and Indian decisions.

Certainly it is time that should happen.

Three years ago when I dedicated this building, I spoke to you about some of the serious problems which faced the Indian people: unemployment, poverty, a false image in the nation, educational deprivation, and the disgrace of American Indian soldiers who served their nation in war only to return to a country which refused them equality of opportunity in peace.

Those statistics have not changed in these three years—at least not for the better. Unemployment rates are still as high as sixty or seventy percent in some Pueblos and reservations. Many Indians who work are in jobs which do not pay enough and do not use their talent and skills fully.

Health statistics for Indian citizens are still the worst in the nation: an infant death rate of thirty per thousand while for other Americans it is only twenty-two. Indians still receive the worst health care, have the fewest doctors, the least out-patient clinics, the most tragic disease statistics, the lowest life-expectancy. These are figures which mean unmet needs and injustice in the distribution of tax money.

All of this nation needs better health care, and a better distribution of health care, but surely the greatest need can be demonstrated for the Indian peoples. To be poor and to be sick is always wrong. To be poor and to be sick in the wealthiest country in the world is an indictment of the system which allows it to happen.

Education is another area of great need. There are more than twenty thousand Indian students in New Mexico schools, but only a little more than one hundred teachers who are Indian. We have not yet begun to properly fund the bilingual and bicultural classes which are needed to prevent the cultural assault which causes dropout rates to rise and frustration to be the normal end of school for so many minority children.

Nationwide almost all Indian children below the age of thirteen are in school—but the median number of school years for Indian children on reservations is only six, and only seventeen percent graduate from high school. That is the result of schools which have not properly met the needs of these children.

The economic statistics are only one more place to find shocking indications of neglect and injustice which have been part of the old system. More than forty percent of Indian families still live below the national poverty level—compared with only thirteen percent of the rest of the nation.

Recently a regional Director of the Civil Rights Commission—Joe Muskrat, an Indian—said that the majority population has always said "Assimilate or starve!" to the Indian people. That has been true for five hundred years on this continent. What it has resulted in is tragedy and inequality—a shame which we cannot hide from the world.

But today everywhere Indians are speaking out and demanding another concept. They are asking for the right to keep their own culture and their own heritage at the same time that they participate fully in the life of the whole country. They know that the image of America will be enhanced by the excitement and stimulation of many cultures complementing one another in respect and appreciation.

That is the new Phoenix rising out of the old ashes. That new independence and pride will create the answers to problems which have never been solved by the majority demanding complete assimilation. But as you move forward in the process of owning your own businesses, running your own schools, developing your own history and art, governing your own villages and towns, and participating in the state and federal government process, you will be a part of that great and growing new development in this nation.

In 1970 President Nixon promised many things in his message to the Indian people. He talked about this new kind of full participation in the decision making. He promised federal help for schools, health, loans, long term leasing, and an Indian Trust Council authority.

However, like many other plans of this Administration, all those ideas soon became "inoperative" and something happened between the saying and the doing. None of the Administration proposed programs ever came to pass. Instead Mr. Nixon vetoed health and education bills and sent budgets to Congress which asked for cuts in funding for most of the programs which helped Indians and other Americans in need.

However, Congress and the Courts have managed to keep most of these programs alive, and in some places we have achieved new legislation to increase the help the federal government can offer.

The new Economic Development Act which I submitted to Congress as Chairman of the Economic Development Subcommittee on Public Works—and which recently passed the Senate—contains provisions for up to one hundred percent financing for Indian projects, and extends current EDA programs which support projects like your Craft Building.

There are other pieces of new legislation which will provide the help you need and about which you should know. I have recently submitted a Highway Safety Act which includes $75 million for access roads and bridges on Indian reservation to improve transportation to and from Indian communities.

Senator Jackson's Indian Education Act of 1973 is another important piece of legislation. It will provide drastic changes in control and in a move toward complete autonomy for Indians in their own schools and educational development programs.

All of these new ideas will require your help and your support. They are aimed at maximum participation by you in the decision making and in the creation of new programs. Tribal members must continue to take over the rules of manager and decision-maker. They must be able to assess their own resources, get the technical training they need, develop industrial and educational programs in the way they want them to operate, and demand a fair return for their labor and their land holdings.

Government help should not be minimized, but the key factor in this new legislation is the imagination and effort by the Indian peoples themselves. Creating new sources of employment while preserving valued tribal traditions, taking the initiative to plan, as you planned here, will do now what has never been done before.

That is what I meant when I said that your beautiful new building was a symbol of something much bigger and more important and something new. Because you did all of these things. You waited ten years.

It is hard to realize that this building grew out of a beginning step taken in a small classroom in the Day School here in San Juan.

That beginning step—into the school room to learn and relearn the crafts of your people and the new techniques of craft work today—that first step was the important step.

The second step was the organization of

the Oke Oweenge Crafts Cooperative itself, and the realization that working together would make it possible for your talent to grow and prosper, bringing both education and employment to your Pueblo.

Then the long and difficult years of working with government so that you could take the third step: building this place, a home for your work and a hope for the future. You continued to work in cramped space and with little hope while you waited. There must have been many days when you shook your heads in despair. A less highly motivated people would surely have faltered and given up.

But you never gave up and you never stopped taking those forward steps.

Today the waiting is over. I share your joy in this building and in your great achievement. You have done what many thought was an impossible thing. You have found a way to share your heritage and your culture with the rest of the world and to do it profitably.

You, here in San Juan Pueblo, are an inspiring example of the rebirth of Tewa art and crafts. You have provided new hope for your children and the future of your people.

I can only offer you my deepest congratulations.

WAR POWERS BILL—MEMORANDUM OF 25 QUESTIONS AND THE AUTHOR'S ANSWERS

Mr. GOLDWATER. Mr. President, on last Wednesday, July 18, during opening debate on S. 440, the war powers bill, I inserted a 19-page memorandum of law and facts raising previously unanswered questions about the bill. At that time, I also extended an invitation to the authors of S. 440 to reply to these points.

Mr. President, I am happy that the Senator from New York (Mr. Javits), the principal author of S. 440, did take the time to prepare a response to each of these 25 questions, which he offered for the Record on Friday, July 20. I thank the Senator for his courtesy and, more importantly, for the opportunity to directly engage the competing viewpoints on this legislation.

Mr. President, in view of the major importance of the comments by the primary author of S. 440 relative to these many aspects of his bill, I believe it would be helpful for anyone studying not only this particular legislation but the legal and constitutional issues involved to read the questions and my supporting reasoning side-by-side with the rebuttals which the authors would make. Who might have made the better of arguments in this debate is something I will leave for others to determine from these and other materials which my friend from New York and I have offered throughout the proceedings, both last year and this year on war powers legislation. The interpretation and description of the bill by its primary author is always of great significance to the eventual interpretation of the measure should it subsequently become law and because of the vast importance of this subject, and even though I doubt very much that this bill will become law, I ask unanimous consent that a verbatim composite of my memorandum and the replies by the Senator from New York be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Memorandum of 25 Questions on the War Powers Bill (S. 440) and the Author's Answers

1. "Shows of force" and other mere deployments of troops or arms are prohibited.

A. Goldwater Memorandum: No matter how much the sponsors of the bill now deny it, the specific text of S. 440 would bar a show of force in crisis areas. The sending of reinforcements to Berlin, for example, such as occurred in 1961, would be barred because it involves a definite risk of involvement in hostilities.

The sweeping prohibition of section 3 restricts the introduction of troops into situations whenever imminent involvement in hostilities is clearly indicated unless the nation or our armed forces are already under attack or the "direct and imminent threat" of attack. In addition, it is the express purpose and policy of the bill, as stated in section 2, to keep United States forces away from hot spots where a hostility might ensue unless Congress has given its approval to the introduction of American forces.

This logically would prohibit both "shows of force" and reinforcements. If American forces are not under threat in their present position so long as they keep away from a trouble spot, the bill prohibits them from being moved into the crisis area because of the danger of it leading to hostilities. This provision would prevent the U.S. Sixth Fleet from being redeployed in the Mediterranean during moments of crisis, such as in the six-day Middle East War of 1967 when President Johnson moved the Sixth Fleet into the danger area in order to forestall Russian pressure against Israel. At that time, the United States itself was not directly threatened with attack by any of the adversaries, nor was there any imminent threat to American forces. There was, however, an open threat made by Russia against Israel, if it did not cease its fighting immediately. President Johnson's prompt response would be illegal under S. 440 because no threat had been made against our own forces or country.

The primary author of the bill, Senator Javits, agreed that it is a purpose of the bill to apply to deployments during a colloquy with Arthur Goldberg at the October 6, 1971 hearing on war powers legislation. The exchange reads:

"Mr. Goldberg. Widespread deployments of troops without explicit Congressional authority raises to me Constitutional questions because of the danger of it leading to war, and that is covered by the resolution Senator Javits has been working out with Senator Eagleton.

"Senator Javits. Right.

"Mr. Goldberg. Deployment is a great problem and I believe Congress is the body to authorize substantial deployment of troops. I don't believe that that power is vested in the President by his role as Commander in Chief."

Senator Spong, an original coauthor of legislation identical to S. 440, also argued that this legislative effort to provide Congress with a stronger role in foreign policy "would require that Congress have a voice in the deployment of troops." Senator Spong explained, "The probability of war is closely related to the deployment of troops. The deployment of troops often increases the chances for conventional war and conventional war increases the prospect for nuclear reliance."

The sponsors of the bill cannot have it all ways. They must either retract these earlier statements and alter the stated purpose of the bill, with conforming changes to the text of the legislation, or admit that the bill does indeed cover mere "shows of force" and other types of deployments of the armed forces.

B. Senator Javits' comment: It was made absolutely clear during the debate last year and again is made clear in the committee report this year that show-of-force deployments—for example, the movement of the 6th Fleet into the eastern Mediterranean during the 1970 Jordanian crisis—are not restricted by the bill unless and until they involve the Armed Forces in hostilities or in situations where imminent involvement in hostilities is clearly indicated by the circumstances. Should these latter conditions pertain, then, of course, "show of force" would be covered by the bill as that is the entire intention of the bill, which relates to involvement in hostilities.

2. U.S. forces cannot be used in defense against any threat which poses a future, rather than immediate, danger to the Nation.

A. Goldwater memorandum: Section 3 of S. 440 requires that before the President takes any defensive action there must be an actual armed attack on the United States or our armed forces or "the direct and imminent threat" of such an attack. Professor Alexander Bickel, who is credited by the Foreign Relations Committee in its report as offering the definitive testimony relating to the construction of the "direct and imminent threat" clause, defined the provision as applying only to situations where an attack on the United States might occur immediately, that is, today or tomorrow.

Professor Bickel said, by way of explanation, "So somebody drops an atomic bomb on Paris or somebody marches into Paris, it is, I think, Constitutionally open to the President, and I take it Senator Javits agrees it is open under his bill, for him to say, 'I know what that means; that means that tomorrow morning they are coming at us. I am going to react to that threat,' the way after all President Kennedy reacted to what was only a threat implicit in the Cuban situation."

Senator Spong, the Floor manager of the War Powers Bill in 1971, also indicated how restrictive the "direct and imminent threat" clause is to be read. In an exchange with Mr. William D. Rogers at the July 27, 1971 hearings, Senator Spong drew a definite distinction between the terms "imminent" and "future."

After Mr. Rogers recommended that the bill allow the President to forestall an imminent attack, as well as an actual attack, Senator Spong asked, "But you are distinguishing imminent attack from future attack?" Mr. Rogers replied, "Yes." Senator Spong added, "Now, you know the word 'future' is used in the Stennis and Bentsen legislation." Mr. Rogers interjected, "Future nuclear, I think." Senator Spong responded, "Future attack. He can act to repel what he believes to be future. I think there is a distinction here. Imminent, I look at as something much more likely to occur."

Thus, an original coauthor and the Floor Manager of the War Powers Bill explained that his interpretation of "imminent" attack excluded the idea of a "future" attack. Again, the present sponsors of S. 440 have not retracted these earlier descriptions; nor has any qualifying definition of "direct and imminent threat" been added to the bill.

The significance of the limitation is that under section 3 the United States could not respond to an attack against a foreign nation, such as Turkey or Israel, where the attack is not accompanied by an immediate attack on our nation or troops, even though the attack would set in motion a chain of events certain to endanger the United States in the future.

B. Senator Javits' comment:

2. "U.S. Forces cannot be used in defense against any threat which poses a future, rather than immediate, danger to the United States, even if the ultimate safety of the Nation is clearly at stake."

Comment: In fact, under section 3(4) of the bill, the President has ample opportunity to obtain from the Congress specific statutory authority to deal with any legitimate future threat to the security of the United States. However, in the absence of any emergency, which is the situation hypothesized by Senator GOLDWATER, the bill rightly does, of course, require prior congressional authorization pursuant to the Constitution of the United States. In this context, the admonition articulated in 1848 by Abraham Lincoln is, most pertinent and articulate:

"Allow the President to invade a neighboring nation, whenever he shall deem it necessary to repel an invasion, and you will allow him to do so, whenever he may choose to say he deems it necessary for such purpose—and you allow him to make war at pleasure. Study to see if you can fix any limit to his power in this respect . . . If, today, he should choose to say he thinks it necessary to invade Canada, to prevent the British from invading us, how could you stop him? You may say to him, I see no probability of the British invading us but he will say to you be silent; I see it, if you don't."

C. Additional Note: The perspective of time and the Office brought about a change in Lincoln's conception of the Presidency. In a later statement, the then President Abraham Lincoln asserted:

"I felt that measures otherwise unconstitutional might become lawful by becoming indispensable to the preservation of the Constitution through the preservation of the Nation."

3. The bill endangers the entire structure of American Mutual Security Agreements.

A. Goldwater memorandum: Section 3(4) of the bill expressly mandates that statutory authorization for military initiatives by the President shall not be inferred from any existing treaty, nor from any treaty hereafter ratified unles such treaty is implemented by legislation specifically permitting the introduction of military forces in hostilities. Thereby, the bill places all of our treaty obligations in a state of permanent doubt. No ally can know if the United States has the will to stand by it in time of mutual danger or not.

Professor Richard B. Morris, who testified in support of war powers legislation at the hearing of March 9, 1971, nevertheless wrote in an afterthought to Senator Eagleton of his fears that NATO would be damaged by the bill. In his letter, sent after his original testimony, Professor Morris warned, "I might add that the effect could conceivably be mischievous were Congress at this time to decide, for example, that NATO was not self-executing. Such a resolution might encourage the aggressive forces in Europe who would no longer see in NATO an effective deterrent to their expansionist aims."

B. Senator Javits, comment: This generalization in unsupported by fact or compelling argument. The important point is that all of our mutual security treaties contain the provision that its articles are to be carried out "in accordance with Constitutional provisions." In the United States, the "constitutional provisions" with respect to going to war require the approval of both Houses of Congress.

4. Outstanding area resolutions, such as the Middle East Resolution, are repealed.

A. Goldwater memorandum: Section 3(4) provides that no provision of law in force now shall be construed as authority for use of the armed forces unless it "specifically authorizes" the introduction of troops in crisis situations.

The sponsors of S. 440 argue that any language in law which provides for an American response to be "in accordance with Constitutional processes," as is generally used in our mutual defense treaties, means that *no* specific authority is granted under this language. Applying their own interpretation to the parallel language contained in the Middle East Resolution, which declares that the use of armed forces shall be consonant "with the Constitution of the United States," this means the Middle East Resolution does not specifically authorize the commitment of American forces in hostile situations. If the authors of S. 440 wish to construe the Middle East Resolution as being self-executing, then they must also admit that the NATO and other treaties which include the words "in accordance with Constitutional processes" are also self-executing.

Furthermore, the Middle East Resolution merely declares "the United States is prepared to use armed forces." The Cuban Resolution uses somewhat similar language which states only that "the United States is determined" to take certain steps. Neither of these resolutions specifically provide that "the President of the United States is authorized to employ the armed forces" or any other language so unequivocal. Unless amended, section 3(4) would repeal both the Cuban and Middle East Resolutions as authorities for emergency use of American forces.

B. Senator Javits' comment: The contrary is clearly stated on pages 23–24 of the committee report, which reads as follows:

There is a clear precedent for the action anticipated in subsection (4)—the "area resolution." Over the past two decades, the Congress and the President have had considerable experience with area resolutions—some of it good and some quite unsatisfactory. In its mark-up of the war powers bill, the Foreign Relations Committee considered this experience carefully in approving the language of subsection (4). The wording of the final clause of subsection (4) holds the validity of three area resolutions currently on the statute books. These are: the "Formosa Resolution" (H.J. Res. 159 of January 29, 1944); the "Middle East Resolution" (H.J. Res. 117 of March 9, 1957, as amended); and the "Cuban Resolution" (S.J. Res. 230 of October 3, 1962).

5. United States humanitarian relief missions, such as the 1964 U.S.-Belgian rescue operation in the Congo, are prohibited.

A. Goldwater memorandum: Section 3(3) provides authority for the rescue only of American citizens and nationals. No specific authority is granted for joint international rescue missions such as the 1964 Congo rescue effort which saved 2,000 persons, including about 60 Americans, who were being held hostage by rebels. Insofar as the military operation affected 97% of the persons evacuated, it would not have been legal under S. 440 because these individuals were not United States citizens. This interpretation of the provision seems compelled because otherwise the provision might authorize the President to employ troops anywhere in the world under the excuse of protecting our citizens, though the main purpose or result reaches far beyond that end, in light of the fact that United States citizens can be found today in every other nation of the world, including Communist China. Assuming it is not the intent of the authors to so enlarge the President's authority, the only reading of the provision one is left with is that it must prohibit United States participation in international humanitarian missions except for the exclusve purpose of saving American lives.

B. Senator Javits' comment: It is not at all clear what Senator GOLDWATER means by "humanitarian relief mission." If such missions involve the Armed Forces of the United States in hostilities or in situations where their imminent involvement is clearly indicated by the circumstances, the war powers bill does indeed and quite properly apply. However, there is, of course, no restriction on humanitarian relief operations per se in this bill, nor, of course, is there any intention of restricting such relief operations which may be appropriate, providing they do not involve the Armed Forces in a war without the approval of Congress.

6. Any military action designed to defend the economic position of the United States abroad is prohibited.

A. Goldwater Memorandum: Section 3 specifically restricts defensive action to situations where there is an actual armed attack upon the physical United States, or upon our armed forces. If an enemy should occupy and seal off from the free world the Suez Canal, or the Strait of Malacca, for example, the United States could not respond because the hostile action is not an attack upon any actual territory of the United States, or our forces not in that area at the particular moment, although the attack represents an extremely grave threat ultimately to the economic position and the fundamental welfare of the United States. By the time Congress might act to grant authority for a United States reaction, we would be faced with an accomplished fact and a situation in which it would be far more difficult and dangerous to alter the situation.

B. Senator Javits' comment: Under section 3(4) the bill provides a procedure for obtaining congressional authorization for any justified military action in defense of U.S. economic interests, as, if and when concurred in by the Congress. The bill does, of course, prohibit unilateral "gun boat" diplomacy by the President on behalf of U.S. property or interests abroad, as was so often the lamentable practice during the heyday of 19th century imperialism in Europe—and even emulated by American Presidents in the latter part of that century.

7. U.S. personnel in the NATO integrated commands are prohibited from exercising any functions during a crisis.

A. Goldwater memorandum: Section 3(4) flatly states that specific statutory authorization is required for the assignment of members of the armed forces of the United States to "command" or "coordinate" in the movement of the military forces of any foreign country or government at any time when there exists an imminent threat that our forces will become engaged in hostilities. Thus, at the very moment when our participation in the NATO Unified Command would be most needed, the bill squarely prohibits U.S. personnel from exercising any functions at all.

B. Senator Javits' comment: Section 9 of the bill (page 9, lines 7–15) clearly provides to the contrary. This is additionally made unmistakably clear on page 31 of the committee report.

8. The bill may trigger world war III causing foreign adversaries to believe the United States will not respond to threats against world peace.

A. Goldwater Memorandum: At the War Powers hearings, Professor James MacGregor Burns, a Pulitzer Prize historian, testified that any legislation which would encumber the President's ability to respond and adjust to changing world situations will remove the one essential ingredient preventing World War III—flexibility. Doctor Burns warned that imposing artificial restrictions on Executive discretion "may not lead to peace but to war, as foreign adversaries estimate that the United States will not respond to a threat to world peace because of legislative restrictions on the Executive."

Former Under Secretary of State George W. Ball also testified that war powers legislation could inhibit the President in doing what is necessary to avert some future catastrophe similar to the way the Neutrality Acts adopted in the aftermath of World War I "very probably" impeded the United States from taking the steps which would have averted World War II.

B. Senator Javits' comment: The credibility of U.S. actions in the world require a united home front which can only be achieved when the Congress is joined with the President in decisionmaking and in support of basic U.S. international security policy.

9. By compelling a vote of Congress during the peak of each crisis, the bill might precipitate a congressional reaction far more dangerous than the response the President has chosen.

A. Goldwater Memorandum: Professor Arthur Schlesinger testified in March of this year that the 30-day requirement of section 5, under which Congress must vote on the use of the armed forces in hostilities not later than 30 days after the outbreak of a crisis, is "filled with booby-traps." As Doctor Schlesinger indicated, one need go back no further than the Cuban Missile Crisis to recall that Congressional leaders, when informed by President Kennedy of the naval quarantine, felt that he should take more forceful action, including a military attack or invasion.

It must be recognized that the key legal principle on which the bill is based is that the President must carry out the policy directives of Congress in the initiation and prosecution of military hostilities and that the President has no power to contravene such directives. This is the plain legal position taken by Senator Javits, the prime author of S. 440, in a legal brief which he offered in support of the bill at the Senate hearing of March 24, 1971. According to this principle, the President would be required to engage the country into broader hostilities than he wishes in any event when Congress passes legislation (directing that he take stronger action than he had planned. A bill constructed on the supposition that Congress is more peace-minded than the Executive may, as Doctor Schlesinger testified, "have unexpected consequence when, as has been so often the case in our history, it is the Congress which is seeking war and the President restraint."

B. Senator Javits' comment: I reject the fundamental premise of this charge—that is, that the Congress is less responsible than the President. I believe that the last 10 years at least has been to the contrary. Moreover, there is nothing in the bill which compels Congress to vote at the peak of a crisis. In emergency situations, the President has 30 days to act without specific statutory authorization. The choice of this long a period is designed precisely to allow Congress to consider each situation thoroughly and dispassionately—in contract to the experience of Congress with respect to the Tonkin Gulf Resolution. Moreover, the provisions of S. 440 are flexible enough to enable the Congress to decide by majority vote just how it wishes to dispose of each issue—allowing full flexibility to restrain from untimely votes, such as hypothesized by Senator GOLDWATER.

10. S. 440 uses three totally different and unexplained terms to describe the threat which must exist before the President can respond to foreign dangers.

A. Goldwater memorandum: Section 2 of S. 440 refers to the power of the President to respond to "the imminent threat of attacks" upon the United States or its armed forces, but sections 3(1),(2) and (3) refer to authority for the President fo forestall only "the direct and imminent threat" of such attacks. To confound matters worse, the introductory language of section 3 prohibits the introduction of United States troops into situations where "imminent involvement in hostilities is clearly indicated."

The bill does not define when an attack is "imminent" but not both "direct and imminent". Nor does the bill define when our involvement in hostilities is "clearly indicated" but the threat of attack against American forces is not yet "direct and imminent."

Even though the terms of the bill apply to situations in which the life or death of the nation and its citizens may be at stake, the sponsors of S. 440 have made no effort to clarify their use of three different methods of describing "imminent" hostilities. The authors of S. 440 have never explained why they use three different terms and what meaning these differences are to have in situations where the nation appears threatened by foreign danger.

B. Senator Javits' comment: Section 2 of the bill is a negative statement of "purpose and policy." It is not the operative section of the bill. Therefore, the terminology is not statutory controlling. For statutory purposes the terminology of section 3 is controlling over the slightly varient terminology of section 2, the "purpose and policy" statement. So far as the slightly divergent terminology of the initial paragraph of section 3, as compared with the language of sections 1 and 2 is concerned, there is no difference in meaning or intent. The charge is thus a distinction without a difference.

11. The 30-day limit of the bill, after which troops cannot be used, is unrealistic and dangerous.

A. Goldwater memorandum: Section 5 of S. 440 provides that the use of American forces in hostilities, even in emergency circumstances, shall not be sustained beyond 30 days without specific legislation thereafter enacted for that purpose by Congress. Henry Brandon, dean of the international journalists corps in Washington, writes in his latest book, "*The Retreat of American Power,*" "In the case of the War Powers Act, the 30-day authorization period, after which the President could not continue a military involvement, does not sound practical in our time. It would mean arguing the case for some 20 days in Congress, and the consequences of such a discussion on the credibility of international American commitments is easily visualized."

Mr. William D. Rogers, a specialist in international law, who supports legislative limits on war powers, nevertheless attacks the 30-day provision of the bill. He testified in 1970 at a House hearing on war powers legislation, "I think the Javits proposal requiring the President in effect to get out if Congress does not act within 30 days is dangerous."

In essence, the 30-day limit provision would give Congress something the Founding Fathers never intended it to have, a veto over the President's judgment that continued defensive measures are required after 30 days. Congress is thereby establishing itself as 535 Commanders in Chief, which is not where the Constitution vests that function.

B. Senator Javits' comment: The characterization of section 5 as "unrealistic and dangerous" is purely a subjective judgment. It is not a conclusion that was reached by the overwhelming majority of the Senate. which approved the War Powers Act by a vote of 68 to 16 on April 13, 1972. In point of fact, the sponsors of the legislation believe that it is more unrealistic and more dangerous to allow the President unilaterally to make war without restraints without obtaining the concurrence of the Congress and thus the acquiescence of the American people. The tragedy of our Nation in the undeclared, Presidential war in Indochina which has lasted already for a full decade demonstrates the greater dangers to our Nation and its security of unrestrained Presidential warmaking.

12. The President could not protect United States fishing vessels against attack in territorial waters claimed by another nation.

A. Goldwater memorandum: Sec. 3 (3) of S. 440 allows the President only to protect while evacuating citizens from "any situation on the High Seas" or "any country in which such citizens and nationals are present."

But it is well-settled under international law that the term "High Seas" does not include the waters known as "territorial waters." Indeed, the two terms are given mutually exclusive definitions by the two 1958 Geneva Conventions on the High Seas and the Territorial Seas. Accordingly, the bill leaves unexplained how the President could protect U.S. citizens or fishing vessels attacked within the Territorial Seas of foreign coastal nations which often extend up to two hundred miles from the coast.

Since these waters are neither within the "High Seas" nor the country proper, the bill must be amended to clearly allow protection of Americans in these circumstances or else no protection can be given.

B. Senator Javits' comment: Any decision to provide armed naval escort to U.S. fishing vessels certainly ought to require the prior statutory approval of the Congress. Disputed fishing beds are well-known and there would be ample opportunity to obtain a joint Presidential-congressional decision to intervene militarily in a fishing dispute. Certainly the very gradual buildup over a period of years of the British-Icelandic dispute indicates that these are matters which can be considered judiciously in advance rather than on an emergency basis.

13. S. 440 provides no authority for rescue operations designed to protect U.S. citizens hijacked on aircraft flying through international air space.

A. Goldwater memorandum: Under Section 3 (3) of the bill, U.S. citizens can be protected only while being evacuated from any situation "on the High Seas" or in another country. Obviously the "High Seas" do not include the "blue skies" and the term "country" does not include international air space. Therefore, the bill provides absolutely no means for immediate action leading toward the rescue of hijacked citizens on an aircraft while it is still in flight until such aircraft has landed in some country, by which time the chance for important steps which might have averted disaster would have been lost forever.

B. Senator Javits' Comment: It is difficult to envisage a rescue being attempted in midair. Hijacked aircraft must land, at which point rescue efforts could be undertaken under the provisions of section 3(3). Nonetheless, midair rescues could, of course, be made without restraint by S. 404.

C. Additional Note: The point is whether or not any steps, of whatever nature, can be initiated while the aircraft is airborne. These steps conceivably could include deployments of troops to likely landing spots or, in the case of an aircraft being forced out of its regular flight pattern by other hostile aircraft, the sending of defensive escorts.

14. No authority exists for protecting United States citizens on vessels within international straits.

A. Goldwater memorandum: Again, Section 3(3) permits protective reactions only as to citizens on the High Seas or within another country. However, under international law, the term "High Seas" is given an entirely different and exclusive meaning from the term "International Straits."

B. Senator Javits' comment: It is amply clear from the legislative history of the bill that any good faith reading of the term "high seas" would be within the ambit of S. 440. As used in S. 440, the words "high seas" are used to distinguish international waters from territorial waters as recognized by the United States in accordance with pertinent international agreements. If upon enactment of this legislation a serious ambiguity persists in the judgment of the executive branch, necessary authorization can be requested and obtained under section 3(4) of the bill.

15. The thirty day time limit might pressure a President to resort to total war within the brief time military action is authorized.

A. Goldwater memorandum: During the Senate hearings of April 23, 1971, Senator Javits, the prime author of S. 440, gave an indication the bill might lead to total war when he admitted there is nothing in his bill to stop it. Senator Javits stated, "Couldn't you wage a pretty good war if it were nuclear, and the President's immediate response were nuclear? *There is nothing in my bill that stops him from doing that.*"

B. Senator Javits' comment: This charge presumes bad judgment and irresponsibility on the part of the President. The bill assumes good faith and a sense of high responsibility on the part of the President, as well as upon the part of the Congress in guarding the security interests of our Nation. In the opinion of the authors of the bill, it is not feasible or possible to legislate on the basis of presumed bad faith, or irresponsibility on the part of the President.

16. It is impossible to prophesy, as S. 440 attempts, all the unexpected and unlimited variations of events when defensive action may be necessary without advance congressional approval.

A. Goldwater memorandum: Former Under Secretary of State George Ball testified at Senate hearings on July 27, 1971, that "The lesson one learns from the active practice of foreign policy is how often and at what critical times the totally unexpected event occurs to dominate and transform the scene." For this reason, Mr. Ball testified that the War Powers Act is "an attempt to do what the Founding Fathers felt they were not wise enough to do . . . anticipate at any given moment the unlimited variations which the future is capable of presenting."

Similarly, Professor Abram Chayes, who supports the policy of war powers controls, nevertheless vigorously opposed in testimony at 1970 House hearings on war powers legislation all "bills that seek to lay out a detailed blueprint in advance to govern the relations between the President and the Congress in the exercise of the national war powers in all possible contingencies."

B. Senator Javits' comment: The implication of this charge is that total and unfettered advance authority must be given to the President to wage war at his sole and total discretion. The Constitution of the United States clearly rejects any such working premise, as does S. 440. One cannot legislate on the basis of hypothetical unknowns. Rather, one must legislate on the basis of known factors and situation and hard experiences. S. 440 is based upon actual historical experience in contrast to future, unknown, unidentified hypotheses. The authors of the bill believe that this is the correct legislative approach and entails far fewer dangers to our national security.

17. The "declaration of war" clause is an outmoded and invalid basis for restricting presidential defensive reactions against foreign dangers to the nation.

A. Goldwater memorandum: Judge Philip C. Jessup of the Council on Foreign Relations, who was cited by Senator Javits as being in support of the War Powers Bill, nevertheless wrote in a letter inserted in the Senate hearings of March 24, 1971, that "the concept of 'declaration of war' . . . is now an outmoded concept." He added, "Because of my belief about the lack of real legal relevance of the declaration in these times, I would hesitate to tie new legislation so tightly to the 'declaration of war' clause of the Constitution."

The idea that the only way the United States can enter into war is through a declaration by Congress is a myth. The vast majority of wars both in American and Western European history have been begun without any declaration. This fact was well known to the Founding Fathers.

In the eighty-seven years preceding the Constitutional Convention, thirty-eight wars were held in the Western World and thirty-seven of them were without any declaration of war. Alexander Hamilton's statement in the Federalist No. 25 that declarations of war were in disuse in the 18th Century, proves that the Founders themselves knew of this condition. Thus, when the Constitutional Convention narrowed the authority of Congress by substituting "declare" for "make war" the framers understood that many wars had occurred and could continue to exist without a declaration. If the Founders intended for the declaration clause to be the sole way in which the United States could engage in war, why did the framers use a method which was already then in disuse?

B. Senator Javits' comment: S. 440 specifically and explicitly deals with situations arising "in the advance of a declaration of war by Congress." Moreover, the constitutional underpinnings of S. 440 go beyond the exclusive constitutional authority of Congres to declare war. Article I, section 8 enumerates other plenipotentiary war powers to the Congress, including the "necessary and proper" clause, the authority "to make rules for the Government and regulation of the land and naval forces" and to "provide for the common defense."

Senator GOLDWATER's view of the intention of the drafters of the Constitution, as shown by his statement: "The Founding Fathers very wisely gave the power to go to war to the President and the power to declare war—which means not much—to the Congress," is just not mine nor do I believe it is that of the sponsors or a great majority of the Senate.

18. S. 440 erroneously assumes the power "to declare war" means the same thing as the sole power "to make war."

A. Goldwater memorandum: Samuel Johnson's Dictionary of the English Language, which was the standard dictionary used by learned Americans during the period of the Constitutional Convention, defines "declare" as simply meaning "to make known" or "to proclaim." On the other hand, "to make" was defined as meaning "to create" or "to bring into any state or condition. Thus, when the Constitutional Convention struck out "to make" from the Constitutional draft and substituted in its place "declare" it removed from Congress the power to bring the country into the state of war and left with it only the power to proclaim its purpose of bringing the total resources of the nation in support of an existing war. The declaration might also have been conceived at that time as being a method by which the United States could enter into "offensive war" such as might have existed if the United States had acted under the French treaty in 1793 to join France in war with Great Britain instead of taking a position of neutrality. If President Washington had put Naval forces in the French islands of the Caribbean and repelled British attacks on those islands, for example, we would have been acting offensively in support of the territorial integrity of an ally in circumstances when there was no actual attack or threat of attack against the United States itself or our own citizens. In these circumstances, as distinguished from situations where the President may determine to use force to repel or head off dangers against the United States, the framers may well have intended for the declaration of war clause to apply. The authors of S. 440 have confused "offensive war" from the defensive measures which the President may bring to bear under his independent authority whenever he perceives a foreign threat to the security of the United States or its citizens.

B. Senator Javits' comment: S. 440 does not assume that the power to declare war is the same thing as the power to make war. As is well known, the initial draft of the Constitution gave the exclusive power "to make war"—this phrase being retained unchanged as it appears in the Articles of Confederation—to the Congress. On August 17, 1787, during the final revision of the text of the Constitution, James Madison and Eldredge Gary "moved to insert 'declare,' strike out 'make' war; leaving to the Executive the power to repel sudden attacks." This quotation is from Madison's notes on the Constitutional Convention. S. 440 follows very strictly the letter and spirit of the Constitution with respect to the relationship of declaring war and to making war, as intended, proposed and explained by James Madison, the author of this drafting change.

It is significant to note further that S. 440 deals with situations wherein there is no congressional declaration of war, thus clearly contemplating situations in which there is war in the absence of a congressional declaration of war. The purpose of S. 440 is to restore the intended authority of Congress to "decide on war" in view of the modern practice of Presidents who do not request declarations of war from the Congress.

19. The "necessary and proper clause" does not give Congress the power to define and restrict the separate constitutional functions of the President.

A. Goldwater Memorandum: The United States Supreme Court held in the case of *Myers* v. *The United States*, 272 U.S. 52, 127 (1926) that Congress cannot vary the exercise of the President's separate powers under the Necessary and Proper Clause or any other power. Chief Justice Taft wrote that this "would be a delegation by the [Constitutional] Convention to Congress of the function of defining the primary boundaries of another of the three great divisions of government."

The Supreme Court also took a restrictive view of the Necessary and Proper Clause in *Kinsella* v. *Singleton*, 361 U.S. 234, 247 (1960). The Court held this Clause "is not a grant of power," but merely means that Congress may implement the powers it is *otherwise* vested with under the Constitution. The notion that Congress can restrain Presidential military measures under the Necessary and Proper Clause was repudiated over 100 years ago when William Whiting counselled President Lincoln that Congress is "bound to pass such laws as will *aid* him" in carrying into execution his military defensive powers. In line with this interpretation, the Library of Congress compiled a report for me in 1972 which concluded that Congress may act to aid the President in the exercise of his functions, but not restrict him, under the Necessary and Proper Clause.

B. Senator Javits' comment: The authors of the bill believe that the "necessary and proper" clause of the Constitution gives Congress exactly the power which is defined in that clause:

"To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof."

S. 440 is a wholly constitutional and proper exercise of the "necessary and proper" clause. In testimony before the Senate Foreign Relations Committee leading constitutional authorities of our Nation have affirmed the constitutionality of S. 440, including specifically the appropriations and constitutionality of its use of the "necessary and proper" clause.

20. There is not a single statutory precedent for war powers controls covering unnamed geographic areas and unforeseen situations.

A. Goldwater memorandum: S. 440 is not an exercise in legislating under the appropriation power of the purse. The bill lays down broad and general rules which apply for all time and to all settings and is not tied in any way to Congressional oversight with respect to funds which may be needed to finance military operations now or in the future. A close and extensive study of authorities has not turned up a single precedent for this kind of legislation in the entire history of the United States under the Constitution. Nor have the sponsors of S. 440 cited any prior statute as a precedent. The truth is S. 440 is an enterly unprecedented effort at usurping Presidential powers over national defense.

B. Senator Javits' comment: It is not at all unusual for Congress to initiate legislation which has no specific statutory precedent, as the need for such legislation arises in our Nation's history. Therefore, the absence of a specific statutory precedent would not be any more significant with respect to S. 440 than was the case respecting legislation establishing the Department of Atomic Energy, for instance. In point of fact, however, very interesting statutory precedents dating back to the earliest days of our Republic do exist; for example, statute 1 of May 2, 1792, and statute 2 of February 28, 1795, both of which contain provisions and concepts remarkably parallel to S. 440.

C. Additional Note: The two statutes claimed to be interesting "precedents" with provisions and concepts "remarkably similar to S. 440" are no more than exercises by Congress of its distinct and specific power over the militia of the several States, not an exercise of claimed authority pursuant to the Declaration of War or Necessary and Proper Clauses. Article I, section 8, clause 15, grants to Congress the power "To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions."

Both the Acts of May 2, 1792 and of February 28, 1795 squarely were based on this power of Congress concerning the militia of the States and had nothing at all to do, as does S. 440, with the authority of the President to use the armed forces of the United States against foreign adversaries. To equate statutes concerning only the use of the militia of the States and which in fact delegate to the President a vast scope of independent discretion, with the sweeping prohibitions of S. 440 which restrict the use of the troops of the United States abroad graphically illustrates the gulf in interpretation of basic materials existing between the proponents and opponents of the War Powers Bill throughout this entire subject.

21. Historical usage conclusively establishes the constitutional authority of presidential defensive reactions against foreign dangers.

A. Goldwater memorandum: There have been at least 204 foreign military hostilities in the history of the United States and only five of them were declared. A complete list identifying each of these incidents is included as an exhibit with my testimony at the Senate hearings on War Powers Legislation of April 1973.

These historical precedents establish a consistent practice by which almost all American presidents have responded to foreign dangers with whatever force they perceived to be necessary and technologically available at the particular moment in time. The incidents were not limited to the Western Hemisphere or to small-scale skirmishes. At least 103 of them took place outside the Western Hemisphere and one, the Filipine Insurrection, involved the employment of over 126,000 United States troops in a war begun and ended without any declaration.

This usage is conclusive of Constitutional interpretation. The United States Supreme Court applied the principal usage as a determining factor in Constitutional interpretation in at least two cases involving the power of the President in relation to Congress, *The United States* v. *Midwest Oil Company*, 236 U.S. 459 (1915) and *Myers* v. *United States*, 272 U.S. 52 (1926).

In *Myers*, the Court held that Congress could not shift gears after seventy-three years of a particular practice and begin setting conditions on a Presidential practice which it had never before overridden by statute, even though the practice had often been the subject of bitter controversy, even as the question of war powers has often been debated, but never legislated against, in the Halls of Congress.

The Supreme Court held:

"Nor can we concur . . . that when Congress after full consideration and with the acquiescence and long-practice of all the branches of the government, has established the construction of the Constitution, it may by its mere subsequent legislation reverse such construction. It is not given power by itself thus to amend the Constitution." 272 U.S. 175.

In agreeing with me that the President possesses independent powers of reacting against foreign dangers, Professors Myers S. McDougal, perhaps the prominent authority on foreign relations law under the Constitution, wrote to me in January of this year "that a people's genuine 'Constitution' is in how they live and cooperate under a basic charter and that the most important authority in a democratic community is in the expectations that people create in each other by such living and cooperation.

B. Senator Javits' comment: Section 3 of S. 440 specifically deals with emergency defensive actions by the President in the absence of prior congressional authorization.

22. It is an historical mistake of monumental proportions to assume the war powers bill will stop future Vietnams.

A. Goldwater Memorandum: There are at least twenty-four statutes in which Congress participated jointly with the President in approving United States activities in Indo-China, the SEATO Treaty and the Tonkin Gulf Resolution being only two among numerous other such examples of Congressional collaboration in the Indo-China war. These statutes, all of which specifically identified the war in Vietnam or Southeast Asia, would have constituted the specific statutory authority called for by S. 440.

Even if not, Arthur Schlesinger is undoubtedly correct in his observation, made while testifying on S. 440, that President Johnson could have gotten all the Congressional blessing he wanted at any point up to 1968 and if S. 440 had been on the books, "It would not have arrested American participation in the war; it would only have locked Congress deeper into the escalation policy."

B. Senator Javits' comment: This is an expression of opinion which the sponsors of S. 440 do not share. In view of the Senate vote of 1972 on the War Powers Act, it is an opinion that is not widely shared by the Senate as a whole.

23. S. 440 creates dangerous uncertainty in time of crisis by denying to the President any "Judgment and Discretion" to determine if an emergency exists which authorizes use of military force.

A. Goldwater memorandum: Nowhere in S. 440 is there any language providing that the President may make an independent judgment of any kind under the bill. To the contrary, a legal brief introduced in the Senate hearings by Senator Javits, the primary author of S. 440, argues that the bill rests upon the proposition that the President is the mere "executive arm of Congress" who must follow the 'policy directives" of the Legislative Branch. This strict proposition allows of no discretion or judgment for the President, but rather contemplates that the President is tightly bound to refrain from any action unless it is clearly consistent with the directives of Congress. Under this position, the President must return to Congress on each occasion when there is any doubt over the Congressional purpose of language used in S. 440. If the bill intends to grant the President flexibility of interpretation, it should specifically say so.

B. Senator Javits' comment: Section 3(4) as explained in some length in the committee report provides a means through which the President and the Congress can fashion any degree of flexibility, discretion and judgment which they jointly think necessary and proper in defense of our Nation's security.

24. S. 440 may incite one of the gravest constitutional crises in American history.

A. Goldwater memorandum: Congress should not create a crisis by placing the Supreme Court in a position where it must take sides with one of the two political branches. The Supreme Court has never directly considered the question of the legality of Presidential use of troops during any ongoing hostility. The Court has historically determined that it is not the function of the Judiciary to entertain litigation which challenges the legality, the wisdom, or the propriety of the Commander in Chief in sending our armed forces abroad or to any particular region. These matters have invariably been held to be plainly within the exclusive province of the political power and not subject to judicial decision. *State of Mississippi* v. *Johnson*, 71 U.S. 475 (1866); *Oetjen* v. *Central Leather Company*, 246 U.S. 297, 302 (1918); *Johnson* v. *Eisentrager*, 339 U.S. 763, 789 (1950); *Mora* v. *McNamara* 389 U.S. 934 (1967) and 373 F. 2nd 664–666 (1967).

An almost unchallengeable line of cases can be mustered which proves that the Supreme Court will not consider any statute governing the President's deployment of troops. It goes without saying that our country would be placed in a bad constitutional state of confusion in the event Congress and the President would be so left without any arbiter to resolve the legality of S. 440.

At the Senate hearings of April 23, 1971, Senator Javits admitted in a colloquy with me that the Supreme Court would not consider his legislation. He said, "I agree that no Supreme Court is going to deal with this legislation. . . ."

B. Senator Javits' comment: Our Nation already is in the midst of a grave constitutional crisis with respect to the exercise of our Nation's war powers. S. 440 in fact provides a wholly responsible way out of the constitutional crisis which already exists.

25. S. 440 ignores the true purpose of the Founding Fathers to prevent a recurrence of the interference with military operations which Washington experienced with the Continental Congress.

A. Goldwater memorandum: General Washington's troubles with the Continental Congress must be remembered in any effort to get at the purpose of the Founding Fathers in vesting the President with the exclusive power of Commander in Chief of all the American armed forces. It is universally recognized that from the beginning of his commission as General of the Continental Army to the end, it was a constant struggle for George Washington to overcome the obstacles put in his way by Congress. Required by his commission "punctually to observe any such orders and directions" as he should receive from Congress, then clothed with the powers of an executive, Washington was harassed, second-guessed, and over-ruled with respect to his military plans and strategy throughout the War of Independence.

A prominent military historian has written, "The amount of harm, caused by the unwise military control usurped by Congress, can only be measured in terms of the appalling sufferings of the American soldiers at Valley Forge, which Washington was powerless to prevent." T. Frothingham, *Washington Commander in Chief* 234 (1930).

The sponsors of S. 440 would have us revert to this discredited system. But, the Founding Fathers realized that Congressional control of military functions had very nearly led to disaster during the Revolutionary War. For this reason, the use of the armed forces in the defense of American rights and freedoms was left with the President as Commander in Chief.

The framers had witnessed at first hand

the terrible inefficiency of the Legislature interfering with military operations. They unquestionably made up their minds that the new government which they formed would have a Commander in Chief who possessed real power to act with promptness, directness, and unity of action.

As Alexander Hamilton wrote in the Federalist No. 73, "Of all the cares or concerns of government, the direction of war most peculiarly demands those qualities which distinguish the exercise of power by a single hand. The direction of war implies the direction of the common strength; and the power of directing and employing the common strength forms a usual and essential part in the definition of executive authority."

It must also be recalled that in centralizing the national defense powers in the President, the framers were influenced by the writings of Locke, Montesquieu, and Blackstone, all of whom saw the making of defensive war and of foreign policy decisions as being properly the function of the Executive and with whose writings the members of the Constitutional Convention are known to have been closely familiar.

Thus, S. 440, which is an effort to seize the function of military command powers into the Legislative Branch, runs directly counter to the purpose of the Founding Fathers to place the direction of war into a single hand, the President as Commander in Chief.

B. Senator Javits' comment: As almost all constitutional historians have pointed out the principal purpose of the Founding Fathers in drafting the war powers provisions of the Constitution was to prevent a concentration of "monorchial powers over war in the hands of the Executive. Many quotations in this regard have been cited during the Senate debate, and are contained in the hearings and referred to in the committee report.

EXCUSES USED TO KEEP LIMOUSINES

Mr. **PROXMIRE**. Mr. President, the excuses, fantasies, and sophistries used by the heads of Government agencies to justify keeping their chauffeur-driven limousines and the right to be driven to and from home are beyond belief. The lobbying and arguments by the administrators and directors to keep their limousines are more intense than the arguments they put forward on behalf of the substance of their agency's programs.

As chairman of the Senate Appropriations' subcommittee with jurisdiction over nine agencies including HUD, NASA, the National Science Foundation, the Veterans' Administration, and others I have held extensive hearings on this subject. The Senate, at the subcommittee's recommendation, voted to deny more than 16 chauffeur-driven vehicles to the heads and assistant heads of these agencies for their personal use when we passed the HUD, space, science, veterans' appropriations bill.

The issue will be joined in the conference between House and Senate perhaps in a few days. The arguments induced on behalf of keeping the limousines and associated perquisites are beyond belief.

SECRETARY OF HUD'S TESTIMONY—NO OUTSIDE INCOME

The Secretary of HUD argued that his limousine was justified on grounds that he has "no opportunity to supplement his Government income. I have to live on what I am paid," Secretary Lynn testified, and should not, therefore, be asked to provide his own transportation to and from work. Lynn's salary is $60,000 a year. Under the bill Lynn keeps his limousine, but cannot use it to drive to and from home. His is the only limousine provided to anyone in the bill.

The Chairman of the FCC argued that he had to have his limousine "in case of an—national—emergency," and the Administrator of the Veteran's Administration justified keeping his limousine and the $16,687 a year paid to his chauffeur on grounds that he had to be "available in case of an earthquake."

AGAINST THE LAW NOW

Even though the law clearly states that Government cars must be used "exclusively for official purposes" and that official purposes "shall not include the transportation of officers and employees between their domiciles and places of employment," an amazing array of excuses is being used to justify the practice of being driven to and from home.

The Director of the Selective Service justified it on ground that "all the previous Directors have done it" and that he "must be available for the exercise of his responsibilities on a continuing basis."

The Administrator of NASA justified the use of his limousine and the $13,500 annual salary of its chauffeur to drive him to and from home on grounds that he was "following the procedures of my predecessors" and that he was engaged in "field work." An exception to the rule is granted for field work to those Government employees working in the boondocks 1- or 2-day drive from their office. But the Administrator of NASA claimed he was on field work, and hence should keep his limousine and chauffeur, to drive him to and from home in suburban Washington, D.C.

CURIOUS SET OF PRIORITIES

It is amazing that men who make from $40,000 to $60,000 a year will fight tooth and toenail to keep their chauffeur-driven limousines to drive them to and from home at the same time that the administration they represent has cut out all new funds for public housing, has dismantled the poverty program, and has cut back drastically on education, health, rural electric, and farm disaster programs.

It is a curious set of priorities which justifies paying chauffeurs $14,000 to $17,000 a year to drive big shots around Washington while all new funds for low-income housing are denied.

This next week may tell whether commonsense or these phoney justifications will win the day in the conference committee struggle to cut out the limousines and trips to and from home as enacted in the Senate bill.

FARM FUEL ALLOCATION PLAN CALLED FOR

Mr. **HUMPHREY**. Mr. President, despite the fact that we are currently in a relatively low fuel consumption phase of the agricultural production cycle, significant shortages are already showing up for some crops in some places.

In my home State, the Nation's No. 1 turkey producer, shortages of LP-butane and propane gas threaten to seriously reduce turkey production. A reduction of only 2 or 3 percent in our turkey output would bring major price increases to consumers all over the country.

In Michigan, it is the sugar industry that is now having the most serious problem with its fuel supply. A number of Michigan's major sugar crop drying operations are experiencing great difficulty in getting the natural gas that they need.

Reports from all of our agricultural States indicate that for specific crops in certain areas serious problems in getting fuel already exist.

Mr. President, if we are having trouble supplying our farmers and agribusinesses with needed fuel today, what can we expect when the harvest comes? Unless weather conditions are nearly perfect, serious fuel shortages are likely to occur at harvest time. I do not believe that I have to tell any of you what the food price and supply implications of such a shortage would be. We simply cannot afford to let this happen.

I believe that the Department of Agriculture must do more than a survey of fuel needs. Given the potential for a serious fuel shortage in our farm belt at harvest time, a detailed emergency fuel allocation plan for these areas must be prepared immediately.

Mr. President, I ask unanimous consent to have printed in the RECORD an article by Bob Monroe, published in today's Washington Post.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FUEL SHORTAGE THREATENS HARVEST

(By Bob Monroe)

Associated Press

Gas shortages may carve a slice out of turkey production and some Georgia and North Carolina tobacco growers lack fuel to cure their crop, but farmers generally are scraping by in this summer of tight fuel supplies.

Concern continues, however, in many parts of the country over whether there will be adequate fuel for harvesting, drying and transporting crops this fall. A serious fuel shortage would cause higher food prices.

Much depends on the weather.

"Chances are the amount of fuel we have will suffice until harvesting," said Iowa Secretary of Agriculture Robert Lounsberry.

"But the outlook is bleak if we have a wet fall as we did last year, where we used three times as much fuel as we do normally."

Edward H. Hansen, who helps coordinate the U.S. Agriculture Department fuel program, put it this way: "If we have a normal harvesting season and don't get pushed into the winter as we did last year, fuel needs may not be as great."

Hansen said a primary effort in the department now is to compile a list of fuel needs by state and area for this fall and to plan ahead for next spring.

Beyond supplies, there is the question of price. Like motorists on the highway, many farmers have not only found they can buy less, but they have to pay more.

"The cost of fuel to produce food has drastically increased and the gas shortage has slowed down agricultural production temporarily," said Oren Lee Staley, president of the National Farmers Organization. "But so far, distribution of fuel has been fairly satisfactory."

Some local exceptions did turn up in an Associated Press survey.

In Georgia, a shortage by one major supplier brought a stream of complaints from tobacco farmers in 10 southern counties. They needed more diesel fuel for drying and curing their crop.

American Petrofina, which took over as supplier on July 1, cut its distributors back to 70 per cent of last year's supply because it said the former supplier's inventories were "nil" when it acquired them.

"That really means about a 50 per cent cut when you consider the increase in customers over last year and the fact the farmers have had to do four times as much work on their crops because of the weather," noted one distributor.

North Carolina Agriculture Commissioner Jim Graham said no tobacco farmer was "out of fuel at this moment, but it is critical for those using LP gas. We've got a tight two to three weeks ahead of us . . . I feel like we're going to trickle through."

In Minnesota, the No. 1 state in turkey production, state and farm officials warned that if dealers cannot guarantee LP-butane or propane-gas supplies for heating turkey brooders, growers would have to hold back production.

"It's not enough for a supplier to hope he'll have it," said Minnesota Agriculture Commissioner Jon Wefald. "These growers have millions invested in the turkey industry . . . If heat were cut off during the critical weeks the young turkeys would all be dead within less than two days."

If state production were cut back 20 to 30 per cent, it would have a visible effect on the supply nationwide, said Cy Carpenter, president of the Minnesota Farmers Union. "Even a 2 to 3 per cent reduction would result in substantial price hikes to the consumer."

Natural gas supplies to dry or process foods are the primary problem in Michigan, said Edwin Renkie of the state department of agriculture.

"We have seven crop drying operations which are having difficulty receiving natural gas," he said. "The Michigan sugar industry is hanging in the balance in this thing."

A North Dakota state official told a fuel conference that 3,000 of the state's 42,000 farms were in a questionable category for gasoline supplies later this summer. An early harvest could trigger widespread shortages, he said.

A spokesman for an Illinois fuel hotline service for farmers said "planting was definitely hurt by the shortage but we have no way of estimating the extent it was hurt."

The hotline was set up to try and arrange fuel supplies for farmers caught short. If it failed, the spokesman said, farmers took "15 or 20" five-gallon cans to a town service station and filled up at the pump, paying about a dime a gallon over their usual bulk rate.

At the Oklahoma State Agriculture Department, a spokesman said fuel available to farmers and ranchers willing to pay the price, diesel fuel is up to 23 cents a gallon from 17 or 18 cents earlier this year, he said.

Texas Agriculture Commissioner John White spoke of a "day to day brushfire operation in obtaining fuel for a number of farmers. I foresee a longrange continuing problem unless the federal Office of Oil and Gas can get workable solutions in effect."

In California, an official said the outlook for harvest was "adequate" fuel but noted that stocks were being maintained at only 2 to 3 days' supply instead of the normal 2 to 3 weeks.

"We haven't heard any complaints other than a few farmers who have run out of gasoline and have had to buy it retail," said Paul Engler, Los Angeles county Chief deputy agricultural commissioner. "But as far as we know, they've always managed to get by."

TOM RAILSBACK: CONTINUING FIGHT FOR CRIMINAL JUSTICE REFORM

Mr. PERCY. Mr. President, I have long benefited from the wise counsel and advice of my valued and able colleague, Congressman Tom Railsback, of Illinois, who has long been a leader in the area of corrections and juvenile justice. He strongly believes that juvenile justice reform is vitally needed to prevent thousands of young lives from being wasted and to enable young people to become contributing members of society, rather than a drain on society. He further believes that criminal justice and corrections reform is vitally needed to speed up the administration of justice and also to break the cycle of criminal offenders being returned again and again to prison. He believes that if offenders can be rehabilitated, not only the offender will gain, but also society, due to lowered crime rates and a reduction in the costs necessary to maintain criminal offenders in prison.

Congressman Railsback's latest effort in this field was to add $2.8 million to the appropriations bill providing funds for the judiciary to provide 340 new probation officers requested by the Federal judiciary rather than the 170 positions provided for the Appropriations Committee. He felt that providing more manpower for the probation system could help cut the 72 percent recidivism—return to prison—rate for first-time offenders.

The House saw the wisdom of Congressman Railsback's amendment and it passed by a margin of 56 votes.

Mr. President, I commend Congressman Railsback's continued interest in this vitally important field and encourage him to maintain his leadership in providing criminal justice and juvenile justice reform.

Mr. President, the July 22 issue of the Washington Post had a most interesting article by David Broder on Congressman Railsback's efforts on the floor of the House in increasing the number of probation officers. I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, July 22, 1973]

Two Tales of "Healthy" Politics

(By David S. Broder)

As a relief from the tales of payoffs, coverups and buggings, we turn today from the wretched Watergate business to a pair of incidents, not terribly important in themselves, which indicate something much healthier about our country and the men we chose to govern us than the sickening spectacle of the televised Senate hearings.

The heroes of these tales, if you consider them such, are men with unfamiliar names, who labor in the obscurity reserved for all but a handful of members of the House of Representatives. They said and did what they did, not in hopes of praise, but because their consciences prompted them to do—and their political judgment told them their constituents would support them, should they learn of it.

One of them is Rep. Tom Railsback, an Illinois Republican. One day last month, he stood up on the floor of the House and moved to amend the judiciary appropriation bill to add $2.8 million.

Challenging the appropriations committee on the floor is one of the riskiest things a House member can do. That committee is big, strong and proud—and every member needs help from it. Normally, a House member will take on the appropriations committee only when he feels an absolute political imperative to fight for some project for his district.

Railsback was seeking no local benefit. He wanted the House to override its appropriations committee in order to provide all of the 340 new probation officers requested by the federal judiciary, instead of the 170 additional positions approved by the committee.

Railsback happens to be a member of the House Judiciary subcommittee that has been studying America's penal system. In his low-keyed respectful speech, he simply noted that an effective probation system would cut the 72 per cent recidivism rate on first-time youthful offenders.

The manager of the bill, Rep. John M. Slack of West Virginia, roared back in expected fashion, defending the superior wisdom of the appropriations committee and adding, gratuitously, that "If the judges would put some of the criminals in jail instead of on probation, the country would be a lot better off."

But the huffing-and-puffing did not work. Railsback's logic prevailed and the House agreed, by a 56-vote margin, to add the money.

The second case, involving the authorization for the National Foundation on the Arts and Humanities, was an even more striking victory over the know-nothingism many people suppose still dominates the House.

The six-year-old program, the cultural showpiece of the Great Society, has somehow escaped President Nixon's scorn. In fact, he has been superb on the issue, making first-class appointments and strongly backing increased funds for the program.

The proposal before the House to increase funds, from the current $80 million to $145 million next year, was a bipartisan bill with White House backing. Nonetheless, it was a fat target for the know-nothings, and they had their predictable fun, with one congressman ridiculing a grant to "microfilm the principal archives of the island of Malta" and another inquiring, in mocking humor, if there was "any allowance for Buck Owens, Merle Haggard or Grand Ole Opry."

But then something remarkable happened. The know-nothings found they had almost no support among their colleagues. The most derisive speech against the expanded culture program was answered, not by a spokesman for America's aesthetics or academics, but by Rep. Thaddeus J. Dulski of Buffalo, N. Y., who recited what the grants had meant in his city.

There were similar testimonials from other unexpected sources: from Mario Biaggi, the tough ex-cop from the Bronx; from Lloyd Meeds of Washington, telling how half the population of the San Juan islands turned out for a subsidized concert of the Seattle Symphony; from Orval Hansen of Idaho, praising the Oinkara Basque dance tours; from Bill Cohen of Maine, talking of the Skowegan school of painting and sculpture; from Barry Goldwater, Jr., grateful for the aid in preserving classic films; and from Wiley Mayne of Iowa, thankful that professional artist Ray Frederick had been allowed to spend a year in residence at the Fort Dodge High School.

Minority Leader Gerald Ford confessed

that he had opposed the program at its birth six years ago and had been skeptical when it contributed funds for the purchase of an Alexander Calder sculpture for the downtown renewal area of his home town of Grand Rapids, Mich.

"At the time," he said, "I did not know what a Calder was . . . but I can assure the members that Calder in the center of the city . . . has really helped to regenerate the city."

The House beat back a move to cut the authorization by over 100 votes and then passed the expanded programs by a 5-to-1 margin.

Before the vote Rep. Al Quie, the ex-farmer from Dennison, Minn, who has become one of the most respected Republicans in Congress, was moved to quote from Alexander Solzhenitsyn's Nobel lecture the observation that "Literature, together with language, protects the soul of the nation."

"With Solzhenitsyn" said the towering midwestern congressman, "I too believe that our creative artists have a vital role to play in helping to show mankind the way to oneness, brotherhood and peace . . ."

The sight of a Minnesota farmer quoting a Russian novelist to the House of Representatives does not prove the millenium has arrived. But it helps wash out the memory why he concealed a criminal conspiracy from the President of the United States. And for that, one can be grateful.

GRADUATE ENROLLMENT CHANGES, 1971 TO 1972, BY TYPE OF INSTITUTION

Mr. PELL. Mr. President, one of the principal problems the Subcommittee on Education has experienced in decision-making on Government policy for support of higher education is the absence of good data. For example, until recently, no one knew how many students there were in graduate school until many years after the fact. This situation is improving with the prompt collection of information by the Council of Graduate Schools. I have just come across a most pertinent analysis of this information by Robert Snyder, a graduate student who is a summer intern with the Association of American Universities. This is the kind of data that Congress needs not only relating to postsecondary education, but to elementary and secondary education as well. In summary, Mr. Snyder's figures show that:

First, large increases in graduate enrollment have stopped, and annual increases in the early 1970's are much more modest, apparently setting a trend for the decade ahead.

Second, the recent increases have been concentrated primarily in public universities and in the newer so-called nonelite institutions. While total enrollment for all universities increased 1.9 percent from the fall of 1971 to the fall of 1972, it increased by only 0.3 percent in all private universities compared to 2.3 percent in all public institutions. A similar distinction existed between the top 60-rated institutions and the other 215 universities in the survey. The nonelite public universities accounted for 87.8 percent of the increase in total enrollment for this period.

Third, contrary to widespread assertions, more of the Nation's top universities—public and private—increased first-time graduate enrollment between 1971 and 1972 than decreased enrollment.

Fourth, doctorates awarded for 1971-72 rose at higher rate—5.9 percent—than enrollment, indicating the larger enrollments of 5 to 7 years ago when the new doctorates were first entering graduate school. Once again, the vast majority of new doctorates came from the nonelite public universities—80.5 percent—demonstrating that the shift in growth to these institutions has been going on for some time now.

I commend Mr. Snyder for this study and ask that the full text be printed in the RECORD.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

GRADUATE ENROLLMENT CHANGES, 1971 TO 1972, BY TYPE OF INSTITUTE

(By Robert G. Snyder)

When previously published data on changes in graduate enrollment between the fall of 1971 and the fall of 1972[1] are analyzed in terms of the top 30 public, the top 30 private and all other universities some interesting trends appear. While they are clear from inspection of Tables 1, 2 and 3, it may be helpful to point out some of the highlights.

A. *Changes in First-Time Graduate Enrollment*

1. Total first-time graduate enrollment increased by 3.5% (Table 1). There was virtually no difference between the percentage increase in the top 30 public universities (2.6%) and the top 30 private universities (2.7%). The largest increase was in all other public universities (4.5%).

These organizations kindly made the original questionnaire forms available so that the data could be analyzed in greater detail. A later analysis will review changes by field and by type of institution. For the purpose of this note, the top 30 public and top 30 private universities were selected by giving numerical values to departmental ratings in Roose and Andersen, *A Rating of Graduate Programs* (AEC, 1970), and summing the ratings by institution. This is a rough but usable way of identifying the "top" universities. The public universities are: Arizona, State University of New York (Buffalo), California (Berkeley), California (Davis), California (Los Angeles), California (San Diego), Colorado, Florida, Florida State, Illinois, Indiana, Iowa, Iowa State, Kansas, Maryland, Massachusetts, Michigan, Michigan State, Minnesota, North Carolina (Chapel Hill), Ohio State, Oregon, Pennsylvania State, Pittsburgh, Purdue, Rutgers, Texas, Washington (Seattle), Virginia, and Wisconsin; the private universities are: Brandeis, Brown, Bryn Mawr, California Institute of Technology, Carnegie Mellon, Case Western Reserve, Chicago, Claremont, Columbia, Cornell, Duke, Emory, Harvard, Johns Hopkins, Massachusetts Institute of Technology, Northwestern, Notre Dame, New York University, Pennsylvania, Princeton, Rice, Rochester, Rockefeller, Southern California, Stanford, Syracuse, Tulane, Vanderbilt, Washington (St. Louis), and Yale.

These facts are contrary to fairly widespread assertions that the top universities, particularly the private ones, have as a group cut back first-time graduate enrollment.

2. When the percentage increase in first-time enrollment for the top 30 public (2.6%) and the top 30 private universities (2.7%) are examined university by university, it is evident that these averages are the result of increases and decreases in first-time enrollment in both groups (Table 3). For example, in 11 public universities in the top 30 (out of 25 reporting), first-time enrollment *decreased;* in 16 private universities among the top 30 (out of 26 reporting), first-time enrollment *increased*.

3. Among the 51 of the 60 top universities which provided data there were 18 which reported increases or decreases in first-time graduate enrollment of more than 10%. Apparently each institution has arrived at its own mode of adjustment, and there is no clear pattern differentiating the public and private universities in this group. Nor are there clear trends by size of institution (Table 4). The combined economic, political and academic factors resulting in enrollment increases or decreases are apparently not common to types of universities but unique to each university.

4. The overall first-time enrollment figures conceal differences by field. For example, already published aggregated data for all universities show a drop of 8.6% in the physical sciences, but this reflects a decline of 11.1% in the pubic universities and only 1% in private universities. (First-time enrollment in all other fields increased.) A later analysis will examine changes in first-time enrollment by field among types of institutions.

5. When attention is centered on the distribution of the approximately 5,000 increase in first-time graduate enrollment in all institutions, one sees that 83.2% of the increase is concentrated in public institutions, and 62.9% of the increase is concentrated in all other public institutions (Table 2). The top 60 institutions (public and private) account for only 28.6% of the increase (20.3 percent in the public and 8.3 percent in the private universities).

It is worth noting that although the top public universities accounted for 20.3 percent of the increase in first-time enrollment they account for only 4.2 percent of the increase in total enrollment.

It should also be pointed out that while universities not in the top 60 accounted for 71.4% of the increase in first-time enrollment, there are 218 institutions in this category.

B. CHANGES IN TOTAL GRADUATE ENROLLMENT

1. Total graduate school enrollment increased by 1.9% from 1971 to 1972 (Table 1), a percentage increase almost half that of the percentage in first-time enrollment. (The absolute increases were 11,986 and 4,773 respectively.) The non-top 60 universities increased by 2.7% (in absolute terms, 10,513 in 218 institutions), while the top 60 universities, of which 56 reported data, total graduate enrollment in 46 changed by less than 5% up or down (Table 3).

2. Perhaps the most striking figures on changes in total enrollment are that the "all other" public institutions increased 3.4% (10,529 in absolute terms) compared to an increase of only .3% (506 in absolute terms) in the top 60 universities; there was no increase among "all other" privates, while the top 30 private universities increased by 1.5% (967 in absolute terms). It is also worthy of note that the actual increase in first-time enrollment in the top 30 public universities (970) was almost twice their increase in total enrollment (506). The reverse was true in the "all other" public institutions, where total enrollment increased by 10,529 whereas first-time enroll-

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[1] This note is based on data collected for the fall of 1971 and the fall of 1972 by the Council of Graduate Schools and the Graduate Record Examination Board. The data include total graduate enrollment, first-time graduate enrollment, and doctoral degrees granted. (Results of the Council of Graduate Schools—Graduate Record Examinations Board 1972–73 Survey of Graduate Enrollment. Part 1, November 22, 1972; Part II, April 12, 1973.)

ment increased by only 3,002. The significance of these interesting figures cannot be assessed because such things as the number of students who drop out, or drop back in, have not been counted.

3. Because 64% of total graduate enrollment is in those public universities not in the top 60 and because of the higher percentage increase in this group, 87.8% of the increase in total graduate enrollment is attributed to those public universities not in the top 60 institutions (Table 2). On the other hand, only 12.3% of the overall increase is accounted for by the top 30 public and top 30 private universities combined.

4. The decline in Federal support for graduate students has not been followed by a decline in either total or first-time graduate enrollment. On the other hand, the large successive annual increases in graduate enrollment characteristic of the 60's has ceased.

C. DOCTORATE DEGREES AWARDED [2]

1. The 5.9% increase in the number of doctorate degrees awarded is substantially greater than the percentage increase in total and first-time enrollment. This reflects enrollments of 5 to 7 years ago. Public universities registered considerably greater increases in doctoral awards than privates—7.1% to 3.1% (Table 1). The most remarkable contrast, however, is the comparison between the top 60 universities with the "all other" group. The top 60 which awarded 18,385 doctorates in 1971, increased by an average of only .7%. The net increase of 123 doctorates resulted from widely divergent increases and decreases in both the public and private universities (Table 3). The non-top 60 group went up 15.2% (1,572 in absolute terms), with a 17.8% rise in the public category (1,364 in absolute terms).

2. The non-top 60 institutions accounted for 92.7% of the increase in doctorates awarded (Table 2)—1,572 out of the total increase of 1695. This figure is even more impressive because the top 60 schools produce over 60% of the doctorates.

D. CHANGES BY SIZE OF GRADUATE ENROLLMENT

An examination of percent changes in total and first-time graduate enrollment and doctorate degrees awarded by institution size (based on 1972 total graduate enrollment) for the top 60 universities showed no pattern for either public or private institutions (Table 4). (The −9.1% for first-time enrollment in the top 30 public universities in the 4,000 to 6,000 size range was strongly influenced by one institution in the group with a disproportionately large decline which weighed down the average decline. Without this university, the change would have been −3.0%.)

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[2] Data on masters' degrees, not tabulated revealed these key facts:

(a) The top 60 universities grant 35% of the masters' degrees (26% in public and 9% in private universities); all other public universities grant 50% of all masters' degrees.

(b) The number of masters' degrees granted rose by 8.4%; 4% in the top 60 and 10% in all other universities.

(c) Of the increased number of masters' degrees, 65% were granted by all other public universities; 20% were granted by the top 60 universities (16% by the public and 3% by the private universities).

TABLE I.—PERCENT CHANGES IN TOTAL AND 1ST-TIME GRADUATE ENROLLMENT AND DOCTORATE DEGREES AWARDED, TOP 60 PUBLIC AND PRIVATE UNIVERSITIES, AND OTHERS, 1971-72

	Total graduate school enrollment			1st-time enrollment			Doctorate degrees awarded		
	1971	1972	Percent change	1971	1972	Percent change	1971	1972	Percent change
All universities	624, 779	636, 765	+1.9	138, 083	142, 856	+3.5	28, 699	30, 394	+5.9
Public	473, 192	484, 227	+2.3	104, 641	108, 013	+3.8	19, 945	21, 366	+7.1
Private	151, 587	152, 538	+.6	34, 042	34, 843	+2.4	8, 754	9, 023	+3.1
Top 60 universities	229, 772	231, 245	+.6	52, 498	53, 862	+2.6	18, 385	18, 508	+.7
Top 30 public	164, 769	165, 275	+.3	37, 954	38, 924	+2.6	12, 268	12, 325	+.5
Top 30 private	65, 003	65, 970	+1.5	14, 544	14, 938	+2.7	6, 117	6, 183	+1.1
All other	395, 007	405, 520	+2.7	85, 585	88, 994	+4.0	10, 314	11, 886	+15.2
Public	308, 243	318, 952	+3.4	66, 087	69, 089	+4.5	7, 677	9, 041	+17.8
Private	86, 584	86, 568	0	19, 498	19, 905	+2.1	2, 637	2, 845	+7.9

TABLE 2.—DISTRIBUTION OF INCREASES IN TOTAL AND 1ST-TIME GRADUATE ENROLLMENT AND DOCTORATE DEGREES AWARDED, TOP 60 PUBLIC AND PRIVATE UNIVERSITIES, AND OTHERS, 1971-72

	Total enrollment		First-time enrollment		Doctorate degrees awarded	
	Number	Percent	Number	Percent	Number	Percent
All universities	11, 986	100. 0	4, 773	100. 0	1, 695	100. 0
Public	11, 035	92. 0	3, 972	83. 2	1, 421	83. 8
Private	951	8. 0	801	16. 8	274	16. 2
All universities	11, 986	100. 0	4, 773	100. 0	1, 695	100. 0
Top 60	1, 473	12. 3	1, 364	28. 6	123	7. 3
30 public	506	4. 2	970	20. 3	57	3. 4
30 private	967	8. 1	394	8. 3	66	3. 9
All other	10, 513	87. 7	3, 409	71. 4	1, 572	92. 7
Public	10, 529	87. 8	3, 002	62. 9	1, 364	80. 5
Private	(−16)	[1] (−. 1)	407	8. 5	208	[2] 12. 3

[1] (−) means decrease.

[2] Discrepancy due to rounding.

TABLE 3.—DISTRIBUTION OF PERCENT CHANGES IN TOTAL AND 1ST-TIME GRADUATE ENROLLMENT AND DOCTORAL DEGREES AWARDED, TOP 60 PUBLIC AND PRIVATE UNIVERSITIES, 1971-72

Percent change gradations	Total enrollment		1st-time enrollment		Doctorates awarded	
	Public	Private	Public	Private	Public	Private
Total	28	28	25	26	28	27
Over +10.0	1		5	7	8	4
+5.1 to +10.0	3	4	3	6	3	4
+0.1 to +5.0	12	14	4	3	2	6
0 [1]			2		1	
−0.1 to −5.0	10	9	6	3	5	2
−5.1 to −10.0	2	1	4	2	2	4
Below −10.0			1	5	7	7

[1] Less than 0.1 percent.

TABLE 4.—PERCENT CHANGES IN TOTAL AND 1ST-TIME GRADUATE ENROLLMENT AND DOCTORATE DEGREES AWARDED, BY INSTITUTION SIZE, IN TOP 60 PUBLIC AND PRIVATE UNIVERSITIES, 1971–72

	Total graduate school enrollment		1st-time enrollment		Doctorate degrees awarded	
	Number	Percent	Number	Percent	Number	Percent
All universities	275	+1.9	232	+3.5	210	+5.9
Top 60 universities	56	+.6	51	+2.6	56	+.7
TOP 30 PUBLIC						
Total	28	+.3	25	+2.6	28	+.5
0 to 2,000	0		0		0	
2,000 to 4,000	7	+.7	6	+8.6	7	+4.0
4,000 to 6,000	7	+2.3	6	−9.1	7	+.3
6,000 to 8,000	9	−.6	8	+4.0	9	+1.2
8,000 plus	5	0	5	+7.1	5	−2.1
TOP 30 PRIVATE						
Total	28	+1.5	26	+2.7	28	+1.1
0 to 2,000	16	+1.5	16	+2.8	16	−6.2
2,000 to 4,000	8	+.6	8	+3.5	8	+6.6
4,000 to 6,000	3	+2.1	2	+.6	3	+2.5
6,000 to 8,000	0		0		0	
8,000 plus	1	+.5	0		1	+4.2

RESEARCH OF FLIGHTS OF AIRCRAFT IN THE ATMOSPHERE

Mr. GOLDWATER. Mr. President, when this body turned down the construction of the SST the action was based largely on false claims plus a total misunderstanding of what takes place in the atmosphere during supersonic flight. Frankly, there was not a lot known about this, but some meteorologists in this country became overnight experts and ascribed all kinds of damage to the earth if supersonic flights were allowed. The Congress wisely this year allowed funds to remain in the NASA authorization which will guarantee continued research in the atmosphere, not directed at supersonic transport flight, but at flights of any aircraft in that environment.

Some knowledge is beginning to come forward. One is a brief description of the experience the Concorde has run into which appeared in a recent issue of "Aerospace and Technology." The other, which is pretty much a follow-up on the Concorde experience is entitled "Stratospheric Effects of Supersonic Transport Aircraft" and appears in the recent publication, "Weather and Climate Modifications," published by the National Academy of Sciences. I ask unanimous consent that both of these papers be made a part of the RECORD at this point in my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONCORDE TESTS BLUNT ATMOSPHERIC IMPACT FEARS

WASHINGTON.—Data gathered by instruments flown on board the Anglo-French Concorde 001 prototype in connection with the U.S. Climatic Impact Assessment Program (CIAP) have provided preliminary evidence that no problems exist with the effect of propulsion efflux in the upper atmosphere.

During tests flown June 13, 14 and 16, a Jet Propulsion Laboratory infrared spectrometer installed on the aircraft indicated that nitric oxide levels in the upper atmosphere did not exceed 1 part per billion and that nitrogen dioxide levels were not over 4 parts per billion. Total flight time during the three exercises was 7 hr. 17 min., with 4 hr. 22 min. at supersonic speeds.

In the case of both chemicals, the levels were significantly below those computed by theoreticians as being a result of natural phenomena, CIAP officials said. They said that, if the data prove correct, there is no foundation for fears expressed by some scientists that increased nitric oxide concentrations brought on by high-flying aircraft would reduce ozone concentrations, increasing solar radiation hazards to earth life.

A CIAP program official said the findings indicate "that there is a large [nitric oxide] sink in the lower stratosphere," in which nitric oxides disappear. He said it is not known whether the disappearance is the result of chemical action or simply "transport" where the nitric oxides would be dissipated by winds.

According to Transportation Dept. officials, the CIAP/Concorde tests support data gained by French-sponsored tests flown earlier on board Concorde 001. The French Onera scientific organization conducted experiments on flights June 6 and July 9 and 10, with 5 hr. 44 min. of flight time, 3 hr. 7 min. of it at supersonic speeds.

Bulk of the cost for the CIAP/Concorde flights has been absorbed by Aerospatiale (AW&ST Feb. 19, p. 15), with only basic equipment costs being paid by the U.S. government.

The CIAP test flights were flown at about 55,000 ft. on a route north from Toulouse up the French coast. The IR spectrometer was positioned to peer out the side of the aircraft's fuselage with a field of view from the horizon up to about 100,000 ft. CIAP flights also carried an ultraviolet flux instrument designed by Centre National d'Etudes Spatiales, a French laboratory for atmospheric and physical research, according to CIAP officials.

In a related activity, CIAP personnel briefed two members of the Soviet hydrometeorological office on CIAP efforts during a July 2 meeting sponsored by the U.S. Council on Environmental Quality. CIAP personnel who presented the briefing said the Soviets were especially interested in the scope of CIAP activities, which encompasses numerous airborne and ground experiments (AW&ST Nov. 27, 1972, p. 50).

CIAP personnel said they would be interested in any data exchanges the Soviets would care to participate in concerning the effects of widespread high-altitude flight.

The Soviets are not believed to be actively exploring upper atmosphere studies in connection with the development and production of the Tupolev Tu–144 supersonic transport.

The July 2 meeting involved only a short preliminary presentation to the Soviets on the CIAP concept, but a longer CIAP/Soviet session is planned for the last week in August, again sponsored by the Council on Environmental Quality.

A CIAP report on projected high-altitude environmental effects through 1990 is due in 1974.

STRATOSPHERIC EFFECTS OF SUPERSONIC TRANSPORT AIRCRAFT

With the advent of aerospace technologies permitting transport aircraft flights at supersonic speeds in the stratosphere, potential problems of atmospheric environmental effects have been brought into public focus. The question of possible consequences of additional water vapor injected by such aircraft into the atmosphere at cruise altitudes was examined briefly in NAS 1350 in terms of possible absorption of long-wave radiation in the stratosphere. Two effects earlier identified as possibly important are the formation of persistent contrails and an increase of relative humidity in the stratosphere. Concern has been expressed that either or both of these changes might alter the radiation balance to the extent of influencing the global atmospheric circulation.

The present generation of jet transports such as the 707, DC–8 and 747 cruise at altitudes around 30,000–40,000 ft., which means that they are usually operating within the troposphere. In the troposphere, the effective turnover times for major pollutants from all industrial and technological sources averages only about one week. Precipitation processes rapidly scavenge particulates and gaseous pollutants from the troposphere. On the other hand, the stratosphere does not have such relatively efficient renewing processes. There are essentially no cloud or rain washout mechanisms operative in the stratosphere.

In the lower stratosphere at the levels of operation flight for the proposed SST, the average turnover time is now believed to be about two years. Therefore, steady-state accumulation for any given pollution rate will be about 100 times greater in the stratosphere than in the troposphere.

It should also be noted that the mass of stratospheric air available to dilute pollutants is about five times smaller than occurs in the tropopause.

The stratosphere is also a region of high chemical activity, unlike the troposhere. This is due to the presence of ozone, small but significant concentrations of hydroxyl and peroxyl radicals, oxides of nitrogen, and the flux of solar ultraviolet radiation that is of sufficient energy to initiate many reactions that cannot occur in the troposphere chiefly because of filtration of the energetic quanta by the ozone layer itself.

In NAS 1350, the conclusion was reached, based on an assumed traffic volume of four flights per day for 400 SST's that no climatic effects could be expected, since neither an increase of contrails nor of water vapor would be of such a magnitude as to disturb the characteristics of the stratosphere because of the absorption of long-wave radiation. The present review, even with a larger number of aircraft in use (estimated at 800 SST's, with a utilization factor at cruise altitudes of about 0.25), has provided no reason to modify these earlier conclusions.

An important consideration now, however, is the nature of effects that even small incremental amounts of nitric oxide and water vapor due to SST's may have through secondary chemical and photochemical reactions with natural constituents in the lower stratosphere. Thus, while the earlier conclusions of the potential effects of SST's are still sound, a new dimension of possible complications has become apparent.

One area of particular concern is the possible reduction of the naturally occurring ozone in the lower stratosphere as a result of injection of water and nitric oxide. In the case of water, excited oxygen atoms that are produced from photodissociation of O_3 molecules interact with water molecules to form hydroxyl radicals (OH). The hydroxyl radicals further react with O_3 to form molecular oxygen and peroxyl radicals (HO_2). The peroxyl radicals then react with atomic oxygen to form molecular oxygen and another hydroxyl radical. The net result is the conversion O_3 and O to O_2, while the original OH radical is regenerated to start the same cycle again. In the case of nitric oxide, the same cycle can occur, with NO substituted for OH and NO_2 substituted for HO_2.

On the basis of estimated reaction rates and concentrations of OH and NO, it is likely that the chain involving NO is more efficient than the one involving OH. In fact, it has been vigorously argued by Johnston (1971) that the injection of NO by SST's might cause a very large reduction of ozone. Such reduction would be biologically dangerous, because ozone prevents ultraviolet radiation from reaching the earth's surface. Any reduction in ozone and resulting increase in ultraviolet radiaiton reaching the earth's surface could possibly, on the one hand, result in an increase in skin cancer and, on the other, bring about certain beneficial aspects.

The question of whether there is a real danger is a very controversial one. The naturally occurring amounts of NO and OH are not known, and the relative importance of chemistry and atmospheric transport at the SST levels is uncertain (although the latter is certainly very important). The degree of uncertainty about these important questions adds to the urgency for dealing with the complexities involved and warrants considerably more attention and effort (Department of Commerce, 1972; Barrington, 1972). Also, the role of sulfur and nitrogen oxides in the formation of stratospheric aerosols is an area of considerable uncertainty, yet of importance in the flux and absorption of radiant energy. Although industrial effluents are considerably greater in total mass than those involved in SST considerations, the greater residence time factor for the stratosphere over the troposphere indicates that optical scattering effects of particulates injected at cruise altitudes might be as important as are industrial smokes within the troposphere.

OUR PRESENT FOOD DILEMMA—WHAT KIND OF FARM POLICY?

Mr. HUMPHREY. Mr. President, never before in our history have Americans been so keenly aware of the importance of the farmer. Consumers all over the country, justifiably alarmed over higher prices and the beginnings of some food shortages, are attempting to understand the strange mechanics by which our commodities are grown and produced.

Mr. George Hulstrand of KWLM has written an editorial which very astutely describes our present farm and food dilemma. In it he explores the type of farm policy we should have to deal with these problems. In light of the recent House passage of the Agriculture and Consumer Protection Act of 1973 and the upcoming House and Senate conference on this bill, I ask unanimous consent to have Mr. Hulstrand's editorial printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

A Farm Program for All of Us

(By George E. Hulstrand)

Of late we have heard new voices, and new sounds, about rural America and about our farmers. All of a sudden, urban housewives were found down in the stockyards, and out in the dairy barn, finding out something of the strange mechanics by which corn and oats and grass are converted into the "meat that America likes best—good, lean beef." They have also learned something of the long hard struggle by which grain and grass become meat and milk, and how really little there is in the food dollar for one who gets it all going—the American farmer.

Now the rising prices of meat on the counter, and the spectre of floods in parts of the country and drought in others, all suggest a problem we have not considered for a long time—that we are getting close to the point where food is in short supply and that there may be just not enough to go around.

It is therefore appropriate that on a rural radio station and in a community that owes its prosperity to the farmers in our midst, we editorialize tonight on the question: What kind of farm policy ought we to institute?

Note carefully that the issue is not whether we ought to have a national farm policy. It is axiomatic that we have one. The issue is not whether or not we ought to have government regulation of agriculture. It is imperative that government be in the picture and that it be in it big.

Before we can go on now to build a farm program that will be good not only for rural America but for all of America, it is time we take note of some salient facts.

First of all, we have never had, and do not now have, a real surplus of American food and fiber. The so-called surplus of American farm production is a myth, driven into the American conscience by those who in the interest of their own aggrandizement have fought meaningful farm programs since they were first conceived in the 1930's. A better term was the one early coined to describe what the government's purpose ought to be, to maintain "an ever-normal granary." Too much harm has been done by those who term what has been a reasonable reserve as a monstrous surplus, for us to be charitably inclined toward them.

Secondly, the farmer, except for a short period immediately after World War II, has been subsidizing the American housewife. Parity of agriculture with the rest of the economy has rarely been achieved, and the farmer has been shortchanged even by the stated goal—a *per cent* of parity, something *less* than equality. The result is that the American housewife gets the best food buy, even now, in the world. The American farmer has put her in a position where she considers beef as a necessity, whereas in most of the world it is a luxury, if it is available at all. In no other country of the world is so little of the consumer's dollar spent on food as it is here.

Thirdly, the need for the products of our farms will increase, and not decrease. Were nature to frown in our face, and the drought of the 1930's recur, we would be faced with a national catastrophe worse than the Great Depression.

In the face of these facts, we need to emphasize certain policies that are going to be necessary for us to adopt and pursue in order for us to survive the crises that will be upon us if we do not plan now for the future place of American agriculture in our economy.

Let us put them in the form of certain principles:

1. The Government belongs in Agriculture. Even annual shortages will not forestall the recurring temporary fall harvest surplus, when many farmers must sell, and the fluctuations of the market, which farmers cannot control. It is imperative that we have a farm program that will insure to the farmer-producer a fair price at a time he needs to sell.

The Government belongs in agriculture also in the stimulation of the productivity of the farm and in the discernment of new methodology and in the providing of a decent system of distribution.

2. There must be planning in agriculture. There has arisen a strange, unsupported, and illogical myth in our society that it is evil for the government to plan. Planning, considered essential in all other activity, and the sine que non for business, is strangely frowned upon with respect to government, and this shibboleth must be set to rest forever.

The harnessing of the ideas and abilities of the producer-farmer, the expert in agriculture, agronomy, soils, and the other ramifications of the farm enterprise, the community leader such as the banker, and the representatives of government are essential in order that we can bring order out of chaos and present a workable program for agriculture and for our people.

3. An effective distribution system must be devised.

We have no transportation *system* in this country, and the profligate waste we permit in the name of transporting people and goods is scandalous. Shortages of box cars to haul grain, threatened shortages of fuel at harvest time because transportation is not there to deliver it, and the mind-less call-in by the administration of grain when there was no transportation for it are but a few examples of the mess we have in this country when it comes to moving men and women and the materials they use to make things and the manufactured goods when they are made. It is far beyond the time when government should step in with a firm hand to harness the tools of transportation and make a system of what is now a joke, and worse, a national tragedy.

4. Our national policy must be to make agriculture and rural living a way of life. It is time to declare that the American farm is off limits to the corporate business, to the tax-shelter, and to the absentee landlord. It is time to rid ourselves of the myth that big agriculture is the most efficient agriculture. It is time to set down as a national policy that in the interest of the development of a dynamic rural America, government is going to assist the family farm, run by family farmers, and existing in a community where the owners and the operators of the farming enterprise are one with the community.

It is time that we sat down and set a few things straight in our thinking about our resources. No one has a vested right to buy a farm to use as a tax dodge to escape paying his fair share of taxes on his business in the city. No one has a vested right to add a farm to a conglomerate. No one has a vested right to buy a farm and take it out of production to receive government payments. These are not constitutionally protected rights, but privileges derived from the way we write our laws.

We as the government can write laws where the benefit payments to the producers, where the right to government payments is conditioned on the use of the property in line with a program of developing a vibrant rural America. We can write a law that will make the owner of a farm eligible for participation in government programs only if he participates in the program for the development of the community in which he lives.

We can do these things, and in that way take our great farming enterprise out of the realm of price speculation, out of the hands of the too tax conscious investor, and out of the grasp of the corporate enterprise which seeks to pyramid its holdings without regard to the community.

We can do all these things. Let us then be up and away. We do not have too much time.

THE GASOLINE SHORTAGE

Mr. HASKELL. Mr. President, many of my colleagues have heard that my home State, Colorado, has been hit worse than any other State by current gasoline shortages. Many will also recall the stories of last January's closing of public schools in Denver due to a lack of fuel oil to heat the schools.

The Petroleum Retailers Association of Colorado, Inc., is a group composed basically of the so-called little guys in the petroleum marketing business—the independent dealers. These dealers have been hit the hardest by the recent shortages.

I recently received a letter from the association which outlined some of their thoughts on the current shortages and their efforts to combat the situation. These small businessmen have been hit—and hit hard—by the lack of gasoline. The letter describes their efforts to tackle the hardships which have resulted from the shortages.

I applaud the association for their efforts and ask unanimous consent that their letter to me be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JULY 2, 1973.

Senator FLOYD K. HASKELL,
Russell Senate Building,
Washington, D.C.

DEAR SENATOR HASKELL: We appreciate your consideration and efforts toward the study and eventual fair solution of the so called "energy crisis" in our State of Colorado. We are particularly concerned about the major oil companies control of the fuel market from the well head to the gas tank of the consumer.

For your immediate attention are three resolutions approved by our Board of Directors on June 21, 1973:

1. Full disclosure of allocation and delivery procedures to the dealers used by each individual oil company; monitored by an arbitrator not affiliated with the oil companies to check the allocations and deliveries of fuel supplies.
2. A fuel supply pool to be established by the oil companies to be used to supply any outlet, such as retailers, farmers, municipalities, cities, counties and school districts which have to close because of no supply.
3. We endorse the investigation of the energy crisis as proposed by Senator Jackson.

Furthermore, we and our legal counsel are actively supporting several dealers who have had station contracts canceled; not renewed; harassment; failure to purchase TBA items from company directed sources; short term or no term leases directly related to the so-called energy crisis.

These are small businessmen who have invested their time and money—many hours and financial hardships—to build loyal customer support and now because of a tenuous lease franchise agreement and an arbitrary, capricious, sometimes grossly unfair, and changeable system of allocations of product supply by the oil company, these people are in trouble. These citizens, small businessmen and customers alike, are the people who need your support toward solving the problem.

We have had many personal conferences on the problem—calls from farmers, jobbers, officials of cities, counties, and school districts. We have referred these citizens to Senator Dominick's and your staff here in Colorado. They have been most helpful and effective in working toward solutions to these supply problems.

It appears our State is a target area for the emphasis of the energy crisis—Witness:

1. High tourist travel.
2. Extensive agriculture.
3. This year's past history of closing schools.
4. Lack of supplies for municipalities.

It is our opinion that our State and our Dealers have been selected as an example to demonstrate to the nation that in fact there is this so called "energy crisis". Our dealers report that tourist customers from all over the nation generally do not encounter rationing or limiting the amount of gasoline purchases until they reach Colorado.

We do not agree that in fact there is an energy crisis in the State of Colorado if the oil companies will distribute the fuel available and be honest about the distribution of their product to the dealers in our State, and as a matter of fact, in the region.

Oil companies have always been able to market their product through an antiquated marketing system as they saw fit. Today, they are being faced with a problem—that problem is being fair to their branded dealers and they are having extreme difficulty in meeting that responsibility.

Our regular dealers now are sacrificing their present volume of business and even jeopardizing the future growth of their business because of the arbitrary allocation system now in force. These allocations are set by the oil companies themselves without supervision, examination, or explanation by anyone except the oil company. Dealers have told us that company stations in the same general area, 1 to 2 miles away, are open from 12 to 24 hours per day with an unlimited supply of gasoline.

The oil companies have a built-in market. They are, as a result of this situation, going to have and will have higher profits than ever before in the history of the industry. If for no other reason, than that they now sell to the unbranded dealers at the same price as to their controlled branded dealers. This amounts to as much as 6c to 8c per gallon increase of that which was paid by these unbranded dealers in 1972.

The only people who will suffer are those at the bottom of the pipeline. These are the dealers—independents, unbranded, branded—who are on the firing line every day; who meet the public.

The irony is—the oil company does not meet the public—it is the small independent businessman who must close his doors. It is the small independent businessman who must confront the customer and say—I have no gasoline because my oil company will not supply me, however; there is a company operated station up the street who can provide you with all the gasoline you want and you may use your credit card; and if you don't know where it is, check the station's big sign.

Company operated and managed station allocations run wild—while the regular dealer receives no additional deliveries even if he is forced to cut back on his number of employees, reduce his business hours and close up when he is out of fuel.

Sincerely,

THOMAS A. MOEN,
President, Petroleum Retailers Association.
AL HEIN,
Executive Vice President.

ATCHISON, KANS., SALUTES AMELIA EARHART

Mr. DOLE. Mr. President, I wish to take this opportunity to call the Senate's attention to the first American Revolution Bicentennial event for the State of Kansas taking place in Atchison today. Appropriately, this event honors a woman and a pioneer. She was not a pioneer who led the settlement of the prairie sod, rather she was a pioneer who led the way in the conquest of the air. Her name was Amelia Earhart.

Ten years ago, on the 65th anniversary of her birth, the Amelia Earhart commemorative stamp was issued in her hometown, Atchison, Kans. A major event in the ceremonies associated with the issuance of this stamp was the participation of the Ninety-Nines, a group of distinguished women pilots which Amelia Earhart served as first president. They joined in paying tribute to their first leader by having a flyaway which took the first day cover of the Amelia Earhart stamp to every State capital and foreign countries around the globe.

Today, 10 years after the issuance of the Amelia Earhart stamp and the 75th birthday anniversary of her birth, the Ninety-Nines will again return at Atchison for another flyaway. This time they will be carrying miniature bicentennial flags and seedling trees from the International Forest of Friendship which is being planted at Warnock Lake in Atchison. These seedlings and flags will be taken to every State capital and also carried to more than 30 foreign countries where they will symbolize an invitation to visit the United States during our bicentennial year, 1976.

Mr. President, Amelia Earhart ranks as one of Kansas' outstanding citizens from any era. And in this age when air transportation plays such an important role in bringing the people of the world together, I feel that it is particularly appropriate and fitting that her name be linked with the first bicentennial event in Kansas. I would like to take this opportunity to commend the Ninety-Nines for their participation in this event. And I would give special recognition to the citizens of Atchison for their outstanding tributes to one of the great women of Kansas and of America. I am sure this week's events will be a great success, and I am pleased that the American Revolution Bicentennial celebration in Kansas is being inaugurated in such an outstanding way.

THE NEED FOR GOVERNMENT ACTION TO HALT THE ABANDONMENT OF RAIL SERVICE TO RURAL COMMUNITIES

Mr. MONDALE. Mr. President, an editorial recently appeared in the Mankato Free Press regarding the need for Government action to halt the abandonment of rail service to rural communities.

As the Senate moves toward action on the Northeast rail crisis, I believe we should also take steps to avert a less publicized, but equally serious, rail crisis affecting agricultural communities in many other parts of the Nation.

The Nation's agricultural transportation network is vital for the shipment of fertilizer, feed for poultry and livestock, and grain for milling and marketing. This year transportation will be required to move an estimated 13 percent increase in wheat, 6 percent in corn, and 24 percent increase in soybean production. Nevertheless, requests for the abandonment of rail lines serving farm communities flood the Interstate Commerce Commission, and in most cases such requests are approved. Often farm communities do not have roads with the carrying capacity required to handle their shipments, and unless rail service is continued, they would be left to wither and die.

In the future, and especially with an additional 19 million acres in farmland scheduled to be brought back into production next year, the availability of rural rail transportation will be essential to rural America and to urban communities that need food at reasonable prices.

I believe that the Senate should approve legislation providing for a moratorium on rail abandonments to insure that the transportation needs of rural America will be fully met while steps are also taken to provide better rural roads and to deal with the financial difficulties plaguing our rail transportation system.

As evidence of the need for such action, I commend to my colleagues in the Senate the editorial from the Mankato Free Press, entitled "Saving Branch Lines."

Mr. President, I ask unanimous consent that the full text of the following editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

CAVALRY IS COMING: SAVING BRANCH LINES

> Congressional bids for a five-year moratorium on railroad trackage abandonments would have fallen on deaf ears if this were, say, June 1963—a time when the world was still the highway vehicle's and the airplane's oyster.
>
> But conditions have since changed, dramatically and across many fronts, so that the urgings of Sens. Walter Mondale and Hubert Humphrey in behalf of the 41-mile St. Clair-Freeborn rail route have particular significance and influence.
>
> It was only a few months ago that a public rallying behind legislative leaders blunted an attempt to eliminate railroad cargo trackage in the Wanda area. The persuasive argument was identical to the one being heard now: Rural Minnesota has already lost too much trackage, a healthy rural economy is essential to the prosperity of the nation, and farm production will continue to swell and make demands on rail transportation—something which would have been considered a pipedream only 10 years ago.
>
> It could be that the railroads someday will be grateful that a moratorium was ordered. Nobody should want to give up an arm when an impending medical breakthrough might restore it to full function.
>
> Rail heads have been getting farther and farther away from the major agricultural production regions over the last quarter-century. The Wanda and St. Clair hearings have underlined the fact that branch line producers and other railroad customers are no longer content to stand by idly as the rug of transportation is pulled from under them.
>
> America's growing energy crisis therefore has become a helpmate to the smaller towns trying to cling to their remaining rail service. what the realization that there perhaps will not always be a handy fleet of trucks to do what the railroads have been, or should have been, doing. Additionally, southern Minnesota still doesn't have the highways to fill the trackage vacuum.
>
> Thanks to a combination of forces and events, the Interstate Commerce Commission will be taking a more studious, considered and sympathetic look at proposed abandonments which in the past have favored corporations more than people. The ICC's arbitrary decision that rail service can be halted without a public hearing if the line generates fewer than 34 cars of freight a mile each year has the No. 1 priority for revocation.

UNITED STATES AND EUROPEAN SECURITY

Mr. TOWER. Mr. President, United States and European security are intricately interwoven and, therefore, we must pay increasing attention to attempts to extend détente to security matters in Europe. Despite the state of euphoria in our relations with the Soviet Union, and the celebrated end to the cold war, President Nixon warned us in his State of the Nation address that—

> The postwar rivalry with the Soviet Union was not a result simply of misunderstanding, or personal animosities or a failure to create a good atmosphere of negotiations. The conflict was rooted in deeper differences: irreconcilable ideologies the inevitable geopolitical competition of great powers conducting global policies and, to a certain degree, bureaucratic momentum and the disillusionment created by decades of frustration between hopes and tensions.

One of the most important current détente negotiations concerns mutual balanced force reductions in Europe, the preliminary phase of which was recently concluded in Vienna with the main conference set for October 30.

We must pay close attention that these talks really result in balanced reductions by both alliances with "undiminished security for each of the participants" as the Vienna communique puts it.

The U.S.S.R. is stubbornly maneuvering for unilateral advantages on two points. One is the question of geographic limitations of any future agreement. From February until May, they refused to hold even a formal meeting until the NATO members temporarily compromised on the status of Hungary. To the Russians, the exclusion of the territory of Hungary and the Soviet army and tactical air force units stationed therein from the area of projected troop reductions was an important consideration, outweighing their former agreement to extend MBFR to all of Central Europe. Even in the event of an MBFR agreement, they want to gain an uncontrolled and unconstrained beachhead in Central Europe where troops could be deployed at will and a future crisis in Yugoslavia, upon the death of President Tito, exploited by the use or the threat of the use of force.

Our negotiators have reserved the right to raise the issue of the status of Hungary—which predetermines the inclusion or exclusion of Soviet forces in Hungary in an MBFR agreement—and I urge them not to abandon this position, but to make such that Hungary and her territory will be included in any phase I MBFR agreement on the reduction of stationed forces. This would give hope to the gallant people of Hungary with whom the American people share the hope for a retrieval of self-determination and free political development.

FISCAL YEAR 1975 HEALTH PROGRAM MEMORANDUM OF HEW

Mr. KENNEDY. Mr. President, the fiscal year 1975 health program memorandum of HEW has recently come to my attention. It provides another glimpse of the thinking of HEW regarding an attempt to formulate a coherent health strategy for the Nation. I want to take this opportunity to summarize for my colleagues what I consider to be the salient figures of the document.

First of all, Mr. President, it is refreshing to know that the Department begins by taking cognizance of the fact that its previous planning assumptions are no longer realistic. For example, the memorandum indicates that no legislation has been submitted for increased cost sharing under medicare. It also recognizes that the Department's request to the Congress to phase out the mental health center program is unlikely to be acted upon. And it further indicates that a number of additional health programs which the Department had intended to phase out at the end of fiscal year 1973, will be at least partially funded in fiscal year 1974.

The memorandum indicates that HEW should disengage itself from the role of health care provider of the first resort and emphasize rather the use of national health insurance. Yet on page 4, the memorandum includes the following remarkable sentence:

> The long-term departmental initiative in financing access to medical care is national health insurance, which is being handled *apart* from the current budgetary and legislative process. (Emphasis added).

With specific regard to medicare and medicaid the memorandum contains the following projections: expenditures for medicare are projected to rise from approximately $12 billion in 1974 to $24 billion in 1979 and expenditures for medicaid are projected to rise from almost $6 billion in 1974 to more than $9 billion in 1979. That makes for a total of almost $34 billion for these two programs. These projections become even more astounding when placed in proper context. For example, the memorandum points out that in 1972 medicare accounted for only 42 percent of health care costs for persons over 65. The aged spent as much for health out of their own pockets in 1972 as they did before medicare was enacted.

With regard to medicaid the memorandum indicates that because HEW has not yet issued all of the regulations and guidelines under the amendments to that law, which the Congress passed last year, estimated cost savings to the government at about $700 million in fiscal year 1974 have largely been lost and that medicaid expenditures are now expected to exceed the budget by $395 million.

Mr. President, the document goes on to describe the Department's latest thinking with regard to special revenue sharing for health, health manpower, student assistance, primary care, health planning, research, and protection. I do not plan to go into each of these areas in detail now. But I do commend the entire document to my colleagues. Mr. President, I ask unanimous consent that the health program memorandum be printed in the RECORD in its entirety at the conclusion of my remarks.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

HEALTH PROGRAM MEMORANDUM—FISCAL YEAR 1975 BUDGET

I. INTRODUCTION

The annual Health Program Memorandum is a planning document designed to suggest some of the basic issues which must be addressed by the Department in its attempts to implement an appropriate Federal role in the health arena. This document attempts to focus attention on a small number of important *programmatic concerns*. While limited in number, they are sufficiently reflective of broader policy issues that their resolution will, by inference, provided guidance on a wider array of programming/budgeting decisions.

The health programs were instructed to and, in fact, prepared their forward plans on the basis of the President's FY 1974 Budget. That budget, in turn, made certain assumptions about the scope of DHEW's FY 1975 health budget. Anticipated savings in FY 1975 were more than $1.8 billion, including $1.3 billion from proposed cost-sharing measures in Medicare and $.5 billion from programs scheduled for termination (e.g., Public and Allied Health, Regional Medical Programs, etc.)

There is increasing evidence that the planning assumptions provided are no longer realistics, for example:

No legislation has been submitted for increased cost-sharing under Medicare, and even if submitted is unlikely to be passed.

A request to Congress for multi-year budget authority in FY 1974 and zero budget authority in FY 1975 and beyond for Community Mental Health Centers is also unlikely to be acted upon.

A number of programs scheduled for phase out by the close of last fiscal year will apparently be at least partially funded in FY 1974.

All of the above has created a degree of uncertainty about the planning environment to the extent that a program memorandum whose primary focus were budget numbers would prove largely meaningless.

The alternative chosen was one which concentrated on broader issues, which, in turn, flowed from basic principles regarding the Department's role in health—principles in large part already accepted as a result of last year's planning exercise and to some degree reflected in the President's Budget. The resolution of these issues, coupled with FY 1974 budget decisions due within a matter of weeks, should be translatable into budget guidance for FY 1975.

A. Provision and payment for services

Ultimately, DHEW should disengage itself from the role of health care "provider of first resort" and emphasize, rather, the use of national health insurance and special health revenue sharing as the major means of providing for the delivery of health care services. Some of the issues flowing from this principle are:

Prior to the enactment of NHI, how should the Department meet the pressures for cost control and increased program coverage facing existing financing programs?

What should be the scope of a special health revenue sharing initiative?

What further progress can be made in moving service programs toward increasing reliance on third-party reimbursements?

B. Capacity development

Given the eventual adequacy of financial access to necessary health care services, there will remain an important Federal role in assuring that the resources required to deliver those services are adequate both in terms of quantity as well as distribution. That role, however, should be one which would essentially build upon, rather than supplant, normal market mechanisms. Given that principle:

What should be the Federal role in financing the training of health professionals and in stimulating an appropriate geographic and specialty mix?

What additional leverage should be exerted to change a health care delivery system which has traditionally emphasized acute and inpatient care rather than preventive and ambulatory services?

What structural improvements might enhance the ability of local planning bodies to impact on capacity development?

C. Intelligence/protection/monitoring

A more streamlined Federal role in services delivery and capacity development notwithstanding, there remain functions which, due to their basic nature, must remain a predominantly Federal responsibility. These include, for example, biomedical research, health protection, and surveillance. There are, however, issues attendant to this continued Federal role:

How well are biomedical research budgets allocated in terms of the greatest potential impact on the social cost of disease?

What options are available for augmenting what are generally thought to be inadequate resources in the protection area, e.g., with respect to FDA activities?

II. OVERVIEW

This section of the program memorandum provides an overview of the Department's health programs—both new developments that warrant attention as well as issues that are important in understanding the structure and effectiveness of the ongoing HEW health effort.

1. Medicare and medicaid

The long-term Departmental initiative in financing access to medical care is national health insurance, which is being handled apart from the current budgetary and legislative process. Deliberations on NHI include consideration of whether to restructure or terminate the two existing insurance programs, Medicare and Medicaid. While reforms of Medicare and Medicaid need to be coordinated with NHI, short-term measures should be considered and are discussed below.

Expenditures for Medicare and Medicaid continue to grow rapidly. Anticipated Federal budget levels (in millions) for the two programs through 1979, given existing legislation, are shown below:

	1973	1974	1975	1977	1979
Title XVIII	9, 803	12, 368	14, 999	19, 384	24, 478
Title XIX	4, 727	5, 750	6, 564	7, 802	9, 278
Total	14, 530	18, 118	21, 563	27, 186	33, 756

The Medicare program was designed to finance medical care for the elderly. Yet, in 1972 Medicare accounted for only 42 percent of personal health care expenditures for the over-65 population. Other public programs, primarily Medicaid, accounted for an additional 23 percent. The aged spent as much out-of-pocket for personal health services in 1972 as they did before Medicare was enacted.

The major challenge to the Medicare program during 1975–79, therefore, will be to control costs while maintaining acceptable levels of coverage. Currently, the principal mechanisms to control the costs of both Medicare and Medicaid are: (1) more effective utilization review, (2) more efficient settings for providing health services (such as HMO's and alternatives to institutional care), and (3) more effective procedures for reimbursing health providers.

It is too early to evaluate the effectiveness of newly implemented utilization review mechanisms. In addition, some utilization review initiatives, such as pre-admission review, have not yet been implemented because there is still no Federal plan to serve as a guide. Estimates of cost savings from UR are quite tentative and should be regarded as an indication of *potential* rather than real savings.

The SSA plan suggests no major new initiatives in regard to Medicare but does emphasize the implementation of measures contained in P.L. 92–603. This memo, however, suggests: (1) the need to reassess the legislation proposed in the President's FY 1974 Budget for the purpose of reducing program costs and to propose more effective cost-sharing provisions in the context of modified benefit provisions, and (2) a proposal to improve consumer awareness in the selection of providers and services.

The Medicaid program is the principal means of financing health services for the low-income population of the United States. Yet, it is widely viewed as a welfare program which only incidentally provides health care. It remains a target of criticism because of the following deficiencies:

The exclusion of low-income persons who are not categorically related to one of the public assistance programs;

The seemingly uncontrollable annual increase in program expenditures. Medicaid expenditures have risen 77 percent since 1970. The greatest portion of this increase has been in the number of persons served rather than in expenditures per recipient. In fact, average expenditures per recipient in constant dollars have declined from $335 in 1969 to $238 in 1974. This decrease results from tighter program controls by the States to prevent unnecessary utilization; some reduction in the amount, duration, and scope of services; and some reduction by States in fees paid to providers;

Wide variations in income eligibility levels and the generosity of each State's Medicaid program. In Alabama a family with an income of over $2,856 is not eligible for Medicaid, but a family in Massachusetts with an income of $7,300 may be. The estimated actuarial value of the program to an AFDC family ranges from $180 in Mississippi to $1,180 in New York. The California and New York Medicaid programs accounted for 41 percent of all Medicaid expenditures in FY 1972, yet only 15 percent of census "low-income" persons lived in those States.

The major FY 1974 Medicaid activity will be the issuance of the remaining regulations and guidelines for P.L. 92–603. State estimates generally do not reflect the impact of H.R. 1 and will not do so until all regulations are issued. As a result, some of the cost savings from H.R. 1, estimated at about $700 million in FY 1974, have largely failed to materialize and Medicaid expenditures are expected to exceed the budget figure by $395 million.

2. Health programs

The Assistant Secretary for Health has submitted a comprehensive forward plan for the Department's five health agencies, totalling approximately $4.3 billion in budget authority for FY 1975.

Those sums are distributed among H's constituent agencies (in millions of dollars) as follows: *

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*The "H" column contains agency direction costs for HRA, HSA, and CDC, as well as some program phase out costs. It should also be noted that some trust fund monies are included in the totals, which funds are SSA budget items.

	H	NIH	FDA	HRA	HSA	CDC	Total
1974	78.0	2,897.9	166.1	544.0	1,135.7	125.0	4,946.7
1975	76.0	2,057.7	197.5	546.6	1,271.6	124.3	4,274.1

A major change apparent in the above figures is the net reduction of $840.2 million in the budget authority of the NIH. This stems primarily from the decision in the President's budget to seek multi-year budget authority for Community Mental Health Centers in FY 1974 with a subsequent reduction to zero budget authority in FY 1975 and beyond. The FY 1975 H budget *does* include a net increase of $104 million for biomedical research, arrived at as follows: NHLI, an increase of $50 million; NCI, an increase of $25 million; others (including NIMH), an increase of $74 million; and research training, a decrease of $45 million. H's Forward Plan also raises a major issue regarding "program balance," i.e., are certain of the NIH's research programs (cancer, heart) growing at a rate detrimental to the total biomedical research mission? That issue is dealt with in some detail below.

A major increase of 19 percent is proposed for the FDA in an attempt to more adequately carry out the Department's undisputed mandate in the area of health protection. Top priority in FY 1975 has been assigned to the medical device program and to the Center for Toxicological Research. Increases are also provided for the development of radiological standards and for increased surveillance/compliance activities in human drugs. The H plan does *not* assume user charges, either as an offset or an increment to budget authority. User charges have been proposed by OMB as one possible means of augmenting the FDA budget, and the issue is discussed in Section III, below.

The new Health Resources Administration (HRA) includes the Department's Health Statistics and Health Services R&D functions, as well as its manpower, planning and facilities development programs. Decreased funding in HRA for health manpower activities (which results from a decrease of $200 in capitation payments for students in schools of medicine, osteopathy and dentistry) is offset by an additional $20 million for the comprehensive health planning function and an increase of 26 percent ($7.2 million) in the budget authority of the National Center for Health Statistics, primarily for expansion of the Federal/State/Local Cooperative Reporting System.

In the area of resources development, H sees the need for a capital development strategy. While the H Forward Plan proposes no immediate solutions, it does point to a real problem, namely, the necessity of coordinating Federal activities which stimulate demand (Medicare, Medicaid, NHI) with activities designed to insure the adequacy and appropriateness of supply. Historically, the health industry has not functioned very effectively in this arena. As a result, some geographic areas have a shortage of capital while others have too much. The capital adequacy is related to total revenues and the non-profit nature of the revenues of the industry. Where financing programs have greatly expanded the revenues of non-profit institutions, larger capital increases have followed. Where demand for services has risen without necessary revenues, capital shortages persist.

H has suggested that Federal sources of funds for investment in system capacity might derive from: (1) general revenues; (2) the equivalent of a sales tax on NHI premiums; or (3) an earmarked percentage of the budget of health care financing programs.

While P would suggest that the real issue may not be the total amount of capital investment in the industry, but rather its distribution, it does concur in H's recommendation that the issue be further explored and that specific recommendations be made.

The Health Services Administration (HSA) includes, in addition to the traditional services programs (HMO's, National Health Service Corps, Indian Health, etc.), major DHEW quality assurance activities. In HSA, the concept of special health revenue sharing is reflected in the proposed increase of $60 million in the budget authority of Section 314(d) of the Public Health Service Act (formula grant to States). $45 million of that increase is accounted for by folding in existing formula grants for alcoholism and drug abuse, leaving a net gain of $15 million. $25 million is being earmarked for a "primary care initiative"—a focal point in H's Forward Plan—and is discussed below.

The Center for Disease Control (CDC) now includes programs formerly administered by the Bureau of Community Environmental Management and the National Institute of Occupational Health. The H Forward Plan proposes the elimination of CDC's lead-based paint poisoning and rodent control programs. These reductions ($19 million) are partially offset by expansion of the venereal disease program and the intensified development of criteria standards in occupational health.

Assuming a high contingency plan of ten percent over the planning target for FY 1975 ($120 million), a major emphasis in the H plan is afforded activities geared toward migrant and Indian health ($115 million). Of particular concern with respect to Indians is progress towards a goal whereby they might eventually be in a position to take over their own health care services. $250 of the $420 million, or 60 percent of the funds available in the high contingency plan, would be added to the budget authority of the NIH in the following areas: NHLI, $50 million; NCI, $50 million; all other, $150 million.

III. PROGRAMMATIC ISSUES

A. Health care financing

1. Cost Control/Program Expansion

The FY 1974 budget incorporated three legislative proposals to change the cost-sharing structure of Medicare, including the introduction of 10 percent coinsurance on all hospital charges above the deductible, a dynamic deductible for the Supplementary Medical Insurance Program, and increased coinsurance under SMI of 25 percent. These proposals were estimated to result in a savings of $1.3 billion in FY 1975, their first full effective year. Congress has widely criticized the Administration for seeking to reduce program benefits, and actual legislation has not been introduced. Standing alone, the proposals have little, if any, chance of passage. On the other hand, the budgetary pressures of the current Medicare program are enormous. Given existing legislation, including the addition in 1973 of coverage of the disabled population and renal disease patients, Title XVIII expenditures are expected to increase from $9.8 billion in FY 1973 to $24.5 billion in FY 1979. At the same time, there are pressures for significant program expansion including coverage of outpatient drugs, the inclusion of persons with specific costly illnesses similar to the kidney disease provision, and a reduction in the 24-month waiting period before a disabled social security cash beneficiary can become eligible for Medicare.

We believe the rationale for last year's proposed cost-sharing provisions to be substantively sound. However, options for increasing cost-sharing should also be examined in the context of parallel proposals for broadening benefits, e.g., outpatient drug coverage, better catastrophic coverage under Medicare, and maximum liability for cost-sharing. This set of proposals could be designed to achieve better program balance within the existing budget framework, or to achieve a net budgetary savings.

Recommendation

That SSA and P jointly develop alternative proposals which would combine revised cost-sharing with selective liberalizations. Agree ---- Disagree -----.

2. Consumer awareness

Many aged are not fully aware of the out-of-pocket payments that they face under Medicare and do not consider fee differentials in choosing physicians. Under Part B, these out-of-pocket payments arise from two sources. First, patients face the standard deductible and coinsurance. Second, Medicare reimbursement is based on "reasonable and customary" fees. Where the physician's charge exceeds the reasonable and customary fee recognized by Medicare, the patient must pay the difference in addition to the usual cost-sharing. We believe that improved consumer information about cost-sharing and the extent to which the charges of specific physicians would be fully covered could result in improved consumer choice, less resentment and confusion about large unexpected bills, and lower costs to both beneficiaries and the Federal government. Possible measures include SSA providing beneficiaries better information on cost-sharing and on the basic concept behind the fee screens and requiring that the physician provide information regarding the relation between his fee and what Medicare will cover.

A second step would be to limit the charges of participating physicians to the customary fee recognized by Medicare. Until now, Federal policy has been to allow physicians to charge Medicare beneficiaries whatever they like and still receive reimbursement for 80 percent of the customary fee. As Medicare has become more restrictive in determining the customary fee, a greater proportion of physician fees charged to Medicare recipients has been higher than the customary level, thus effectively increasing the cost-sharing paid by Medicare beneficiaries. This policy would have the effect of reducing out-of-pocket expenditures for Medicare recipients, although it may induce some providers not to serve Medicare patients.

Available options, then, are to:

a. Retain current policy.

b. Request P, H and SSA jointly to develop a proposal to increase consumer awareness of physician fees and cost-sharing.

c. In addition to Option 2, require that physicians who participate in the Medicare program charge patients no more than the fee recognized by Medicare as customary.

Option b. Agree ---- Disagree -----.

B. Health special revenue sharing

The H Forward Plan recommends increasing the 314(d) formula grant (general purpose health formula grants to States) from $90 million to $150 million in FY 1975 while folding in current formula grants for alcoholism and narcotics addiction. This would amount to an increase in 314(d) funding of $15 million, since alcoholism and narcotics addiction grants already total $45 million. H is now preparing a paper on health special revenue sharing which will be submitted separately.

The H Forward Plan did not discuss the reasons for the proposed $15 million increase in 314(d), nor did it discuss the role of the States in relation to the Federal and private roles in terms of health special revenue sharing. Assuming that some form of national health insurance will eventually become the prinicpal Federal mechanism for financing health services, the issue addressed here is which activities funded through current Federal services programs should continue to receive Federal support through a "special revenue sharing" mechanism, which should be cashed-out through health insurance, and which should be continued as project grants.

Federal grant programs pay for two types of activities:

Protection, prevention, and disease control, and

Provision of medical services.

1. Protection, prevention, control

Formula and project grants and direct Federal operations in this category support for the most part public health activities such as programs for rodent control, lead-based paint poisoning, communicable diseases, alcoholism, and drug abuse. These activities are funded and administered through State and local health departments that usually provide the services *directly* rather than contracting with private agencies. Federal funding support for these activities is shown as $370 million in the President's FY 1974 Budget.

Some of these public health activities, such as communicable disease control, are a legitimate Federal responsibility because of spillover effects that cross State lines; however, most of the other activities in this category provide benefits that are strictly local in nature. Most States spend far more in support of these activities than the amount they receive from the Federal government. Additional Federal support is provided, presumably because of past precedent or because States do not support the activities to the extent deemed desirable by the Federal government.

The Administration's FY 1974 Budget proposed continuing the formula grants and the project grants for VD, communicable diseases, lead-poisoning, and rodent control, and phasing-out project grants for alcoholism and drug abuse.

There are two basic options for dealing with the programs in this category:

a. Retain at the Federal level a broad grant authority for supporting certain Federal "crisis" efforts, such as communicable disease and VD control, while *terminating* categorical support for all other public health activities.

General revenue sharing legislation authorizes the use of funds for health activities if State and local governments desire. This option recognizes (1) the local nature of these public health activities and (2) the need to reduce categorical (health) support when general support is available.

(b) Phase out project grant support for alcoholism and drug abuse, as proposed in the FY 1974 Budget, and fold support for all other public health activities into health special revenue sharing.

Recommendation

That you choose option *a*. We recognize that this option is inconsistent with previous Administration statements on health special revenue sharing; however, we feel that Federal categorical (health) support for health activities which are local in nature and for which other, more general support is available should be reduced, especially in view of increasing Federal budget constraints. But there is also a need to retain at the Federal level a broad grant authority for supporting certain crisis efforts in a limited way and for a limited period of time. We recommend that current Federal support for public health activities be phased out over the two-year period FY 1975–1976. Agree

2. Payment for basic medical services

Formula and project grants within this category support services for particular target groups, such as mothers and children, migrants, and the poor residing in certain "underserved" areas. Included are family planning programs, neighborhood health centers, and CMHC staffing grants. Their total budget level in FY 1974 is approximately $735 million. The purposes of these grants are both to develop and to pay for services. Third-party financing was anticipated for some of the services offered but has not fully materialized. As a result, funds have not become available for new starts, and present funds are used primarily for the continued financing of existing service programs.

The basic issue is how best to coordinate the termination of Federal payment for services through grants with the assumption of Federal payments for services through health insurance. Three options are available:

a. All grants which pay for services could be folded into health special revenue sharing.

The major advantage of this option is to simplify Federal administration by turning all programs over to the States. There are, however, several potential disadvantages. First, as national health insurance is enacted and assumes payment for services covered, freed-up funds would go to States for use in other ways, rather than revert to other Departmental priorities.

Second, some grants pay for services in private health centers, whereas others are used to provide services directly in public health clinics. Since the services are similar in the two kinds of clinics, some States may decide to stop funding private projects and use the funds to expand public health services. Do we want health revenue sharing to support possible State and local biases in favor of the direct provision of services, or should Federal funds be used to subsidize the payment for services delivered by the private sector? The concern is not with who *controls* these programs, but who *provides* services?

b. Include in health revenue sharing only those grants which are presently funded and administered through State and local health departments, while retaining at the Federal level those grants which pay for services in private centers.

As national health insurance assumes payment for services, Federally-retained grants would be terminated. This option has the advantage of eliminating State and local discretion in shifting funds to public clinics at the expense of private clinics. However, the budget question presented in Option *a* above remains.

c. Retain at the Federal level all grants which pay for services, terminating these grants as national health insurance assumes payment for the services.

This option eliminates the disadvantages in the options given above, but would result in a smaller health revenue sharing package.

Recommendation

Option *c*. It would be very difficult to reduce the funding level of health special revenue sharing grants to States as national health insurance assumes payment for services. Freed-up funds would thus be available for other State and local health activities for which other Federal funding sources are available. In effect, a form of "double payment" would exist. Funds freed-up by the national health insurance should be retained at the Federal level to be used for other Departmental priorities. Agree ---- Disagree -----.

C. Services reimbursement

If Option *c* of the previous section is chosen and project grant programs are retained at the Federal level after June 30, 1974, there will be a continued effort to increase reimbursement income for the projects. The Forward Plan submitted by H would reduce 314(e) project grant funds for neighborhood health centers by $20 million (or ten percent) in FY 75. This reduction would be offset "in part" by funds from third-party payers and other sources. Funds for family planning and maternal and child health grants would remain at FY 74 levels.* The National Health Service Corps, discussed in the plan as "the major strategy for dealing with health problems in rural scarcity areas," would receive a $4.7 million increase (or 42 percent over FY 1974).

H's Forward Plan is a departure from last year's in several important respects. Both plans emphasize increased third-party reimbursements for services projects. Last year, however, the plan stated that "funds 'freed-up' as a result of the increased third-party payments to the centers would be used to develop additional Family Health Centers in rural and urban areas." In this year's plan, money freed-up by increased third-party payments will go to reorient hospital outpatient departments under a new primary care initiative which will be discussed below.

Recommendations

a. Reducing 314(e) funds by 10 percent is within reasonable estimates of "long-term" reimbursement potential. However, the statement that the 10 percent reduction will be offset only "in part" indicates that budget reductions are in excess of estimates of potential reimbursements for FY 75. It is P's position that reductions should approximate increased reimbursements. P therefore recommends that yearly budget reductions approximate yearly estimates of increased reimbursements. Agree ---- Disagree -----

b. Further, it is P's position that *if* reductions in excess of reimbursements are mandated as a matter of policy, program management should be required to develop criteria for reductions for individual centers based on evaluation of performance. The rationale behind this policy is that the Department should support projects which are taking steps to maximize reimbursements. Projects which are poor performers should suffer reductions first, rather than a straight percentage cut affecting all projects equally. Agree ---- Disagree -----.

D. Manpower

Because all the legislative authorities dealing with health manpower expire at the end of this fiscal year, H and P have been conducting a comprehensive analysis on the major issues. This section briefly describes where the analyses have led us to date in terms of changing the Federal role in the financing of health education. Since a separate document on this issue will be presented to you in September, you may prefer simply to comment on the general thrust of the policy directions recommended, rather than indicating specific decisions.

1. Adequacy of total supply

In the first years of the health manpower legislative authority (early 1960's), Federal expenditures were used to assure that existing health education capacity (student places) would be maintained. In the later 1960's, the Federal government, responding to an alleged "50,000 doctor shortage," became more concerned with increasing enrollment capacity, conditioning capitation of health professions and nursing schools on expansions of enrollment. Major enrollment expansion has occurred: for example, between 1950 and 1965 first year medical places rose by only 1,000—from 7,000 to 8,000. Since 1965, first year enrollment has risen by over 50 percent to some 13,000 in 1972.

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* Amendments to Title V of the Social Security Act (passed on June 30, 1973) do, however, show increases in the maternal and child health *formula* grant. Project grant authority was extended for one year. Thereafter, project money will be folded into the formula program.

Maintenance of this growth together with continued net inflow of foreign-trained providers (physicians and nurses) and increasing employment of paramedical and dental assistants is expected to result in an adequate aggregate supply of health providers by the next decade. This projected balance results from large projected increases in the number of health professionals relative to less rapid population increases:

	Total active		Per 100,000 population	
	1970	1980	1970	1980
Physicians	323,000	440,000	158	196
Dentists	102,000	125,200	50	56
Registered nurses	723,000	1,050,000	353	468

The only potential source for greatly upsetting the projected balance is major demand stimulation due to an unlimited national health insurance plan.

The large-scale entry by community and junior colleges into allied health training in the absence of major Federal stimulation suggests that we should limit our support in this area to capacity building and quality improvement research and development.

Physician extenders (PE's) appear to offer significant potential for rationalization of task distribution among health care team members, thus increasing practice output through the use of lower cost personnel. In addition, there is evidence to suggest that PE's could make a major contribution to alleviating geographic maldistribution. For example, the University of Washington MEDEX program (which provides post-military medical training for Corpsmen) places all of its graduates with overworked, rural physicians. However, the concept is so new and evidence sufficiently fragmentary that we conclude that the educational system is not yet prepared to undertake a broad training initiative alone, and that the Federal government should continue its support.

Recommendations

a. That the Department alter its initiatives from expansion of health professions production to the maintenance of current educational capacity. Agree---- Disagree-----.

b. That Federal support of allied health education be confined to quality improvement through research and development. Agree---- Disagree-----.

c. That Federal support of PE's receive modest expansion, that Medicare statutes be expanded to permit reimbursement of PE services, and that impact evaluation of mid-level medical workers be continued. Agree---- Disagree-----.

2. Financing health education

In 1966, the Health Professions Act was amended to provide institutional support in the form of Special Project Grants. From 1966 to 1971, financial distress absorbed an increasing share of special project funds: of the $76.8 million awarded in 1971, two-thirds went for financial distress. In 1971, the Comprehensive Health Manpower and Nursing Training Acts divided institutional support into capitation, financial distress, construction, and special projects. Capitation support sought to do two things: substitute for financial distress grants (to be phased out) as a mechanism for placing schools on sound financial footing, and second, to encourage schools to expand their enrollments. Total institutional support for the health professions increased from $150 million in FY 1971 to $320 million in FY 1972.

Students have not been called upon to pick up a larger share of their educational costs. Rather, their tuitions were maintained on a par with those of other university programs despite the much higher cost of such programs and the very high post-graduation income potential. The classical justification for the unnecessarily low tuitions has been that to raise tuitions would discourage applications from the economically disadvantaged unless massive scholarships were available.

The large Federal investment has resulted in the desired enrollment increases. However, the schools have not gained a sufficiently sound financial footing to permit unrelated withdrawal of both capitation and financial distress grants.

In view of high physician and dentist earnings (1970 median net income for both was approximately $40,000), it appears that it would be feasible to shift a greater portion of the cost-sharing to the student. This would permit reduction on a dollar-for-dollar basis of Federal capitation.

Total elimination of Federal capitation support seems undesirable at this time for several reasons:

State schools' tuitions are set by State legislation, and abrupt increases of a magnitude sufficient to completely replace capitation is not likely to be quickly or easily approved.

The political confrontation with the medical establishment claiming a moral Federal commitment would cast the Administration in an anti-health role. (Students admitted under the current program in FY 1975 will not graduate until FY 1979.)

Capitation ensures some Federal leverage through which health professions schools can be stimulated to respond to societal objectives. Disaggregated student influence can exert little such direction.

Similarly, elimination of the financial distress category would remove our flexibility for providing support to schools which: (1) are in transition to, but have not yet arrived at financial stability, or (2) have special problems such as the abrupt loss of research training dollars or heavy remedial education responsibilities because of large minority enrollment.

Recommendations

a. That capitation be retained for medical, dental and osteopathic schools with the level falling from the present $2,000 per student to $1,200 per student in and after 1977. Agree ---- Disagree -----.

b. That eligibility for capitation support be conditioned upon agreement to:

Maintain FY 1974 enrollment levels unless directed otherwise;

Provide interdisciplinary team training—particularly utilizing physician extenders;

Expand primary care training programs emphasizing outpatient clinical services; and

Reserve 10 percent of student places (or those places increased pursuant to 1971 capitation requirements) for students who morally commit themselves to practice medicine for underserved populations. Agree ---- Disagree -----.

c. That eligibility for financial distress support be conditioned upon a reasonable level of tuition. Agree ---- Disagree -----.

3. The student's financial role

If we decide to shift a significant portion of educational support from the Federal government to the student, we can expect the following:

Total applications may fall slightly, but are likely to continue to exceed educational places given the continued attraction of high post-graduation earnings. Currently, there are about three qualified applicants for each first-year place in medicine, dentistry and veterinary schools and two qualified applicants for each place in schools of podiatry and optometry.

The need for loans and the average level of the loan needed (the present limit is $2,500) will rise sharply.

The economically disadvantaged student (including minorities) could be further inhibited from applying because such large borrowing is foreign to his "economic nature."

If graduates continue to earn at least $40,000–$50,000, there seems little justification for donating to them free educational money in the form of scholarships or interest subsidies. They will be able to afford to pay it back, and should be expected to do so. Baccalaureate degree health graduates cannot expect these high earnings, and some scholarship funds should be available through the Office of Education for disadvantaged students at that level. For health professions graduate students, however, a total shift to loans is a viable option. These loans could be funded through the private market with Federal participation limited to guaranteeing the loan.

If we go to loans, however, raised tuitions will necessitate raised loan ceilings. Such ceilings should be high enough to cover not only educational costs but living expenses. This will permit the student from an economically disadvantaged background to participate without requiring parttime employment, and place him more on a par with middle- and upper-income students. A reasonable level would be $7,000 to $8,000 per year. Resulting aggregate loans of $20,000 to $30,000 (versus the present $7,000) would have the additional benefit of providing strong stimulus for participation in the loan forgiveness program for service in underserved areas.

Two additional provisions would make this level of borrowing more acceptable to students from economically disadvantaged backgrounds:

Middle- and upper-income students can borrow money from their families at or only slightly above the rate of interest such money would receive in savings institutions—around 6 percent. A Federal subsidy of the interest difference (between savings account interest and straight loan interest rates) of perhaps 3 percent for economically disadvantaged students would encourage a more equal participation.

Loan repayment could be conditioned on income. The fear of flunking out, becoming disabled, or failing to earn the typically high income might lead low-income background students to reject the loan strategy. A loan policy that would gear the rate and amount of repayment to post-graduate income should help remove this inhibition.

Recommendations

a. That the medical education student support program be transferred to the Office of Education. Agree ---- Disagree -----.

b. That scholarships be confined to pre-baccalaureate education for those from economically disadvantaged backgrounds. Agree ---- Disagree -----.

c. That maximum loan ceilings for graduate health professions education be raised to $8,000 per year and the total loan ceiling to $25,000–$30,000. Agree ---- Disagree -----.

d. That the Department strengthen its effort to locate loans for economically disadvantaged students. Agree---- Disagree-----.

e. That the Federal government subsidize the loan interest rate for students from economically disadvantaged backgrounds and guarantee all loans. Agree ---- Disagree -----.

f. That the Department agree to condition loan repayment on level of future earnings. Agree ---- Disagree -----.

4. Accessibility to health providers

With increased aggregate health manpower supply on the horizon, should the Federal government make a concerted effort to alter the distribution (geographic and specialty) of health providers? There are wide variations in the health provider to population ratios between rural/ghetto areas and suburban/preferred urban areas. The physician/population ratio between States in 1970 varied from 233 per 100,000 population in New York to 90 per 100,000 in South Dakota. For dentists the spread is even worse: in 1970 New York had 81 dentists per 100,000 population while it was 27 per 100,000 in Mississippi.

The Federal actions of the last five years to increase the overall supply of health professionals should have a trickling down effect on underserved areas. As it gets harder to find suitable employment in more desirable areas, physicians and dentists will probably begin to move more towards underserved areas. However, it is very questionable whether distributional problems can be completely solved by normal market forces.

Federal efforts to alter the geographic choice of providers have been limited to loan forgiveness. However, economic incentives applied to licensed health providers have not been very effective. Although it is still too early to count the loan program as a total failure, one must wonder when only 60 of the 142,000 loan recipients have used the forgiveness arrangement. In fact, States with a physician loan program without forgiveness have been more successful than those *with* one in getting physicians to practice in underserved areas.

The appropriate place for increased concern seems to be during the graduate training process. Graduate training determines the specialty of a physician and for many it is the most important event in determining area of practice. Since there are twice as many first-year residencies as U.S. graduates, medical school graduates have great flexibility in determining specialty and location. The movement of physicians away from primary care has been directly related to the growth in specialty residencies and geographic imbalance has grown with medical school affiliation and the average size of the residency program. The distributional problems are interrelated—residencies are developed by hospital teaching staffs in larger hospitals to provide training in inpatient care fields. Even if hospitals and teaching staffs wished to alter their residency plans, reimbursement from third-party insurance plans often do not cover the training cost of outpatient-based residency programs.

To the extent that residency programs become more outpatient oriented, we can expect a more even distribution of physicians to emerge. One study comparing location choices of GP's and fulltime specialists found over 70 percent of GP's settling in towns under 25,000, while this was true for only one-quarter of the fulltime specialists. More even distribution will not, of course, mean that every community can support or should have their own doctor. Of the 120 counties without a physician in 1970, 40 percent had populations of less than 2,000, which is a minimum for supporting a physician. Many areas could be adequately served with paramedical personnel tied into a more complete medical system.

Recommendations

a. Direct H to initiate a major study as to how these distributional issues can be most efficiently dealt with over the long run. Agree ---- Disagree ----.

b. Increase efforts in the upcoming manpower legislation to shape geographic and specialty distribution more in line with community needs. Agree ---- Disagree ----.

If you agree with this recommendation, any of the following steps might be appropriate:

(1) With respect to student incentives:

Make scholarship support for undergraduate education conditional upon a service commitment to an underserved area;

Permit loan cancellations of interest and principal (up to 25 percent) for those taking residency in areas with a low resident/population ratio;

Permit interest forgiveness and delay in loan repayment for those going into primary care residencies.

(2) In the area of undergraduate training:

Tie institutional support of medical, dental and osteopathic institutions to their setting aside 10 percent of their classes for students willing to serve in underserved areas;

Tie institutional support to the setting up of primary care clinical training centers as a part of undergraduate training;

Tie institutional support to the specialty composition of graduated students; and

Increase special project money to medical and dental schools that take students from States with none or an inadequate number of such educational places.

(3) With respect to hospital training programs:

Make a more extensive use of seed money for training programs in out-patient-based primary care residencies in large teaching institutions;

Urge that community hospitals in areas with a deficiency of approved places be brought together with nursing and medical schools to start "outreach"-oriented residency programs, particularly in primary care fields. Direct funds should be provided, preferably through AHEC's for faculty, overhead and residency stipends.

(4) In terms of residency planning:

Require all residency programs to obtain local planning approval for new residency programs in order to receive Federal third-party reimbursements. This would work towards linkage of community needs and physician output.

(5) Other mechanisms to equalize access to care:

Increase the Federal role in the matching of providers with communities, going beyond the current programs of the National Health Service Corps. This could be done by having a Federally/State-established or funded data profile instituted describing areas desiring more physicians, dentists and other health professionals.

Inform underserved areas not capable of supporting a viable number of physicians/dentists of alternative manpower types capable of providing such care;

Require all physician extender programs to set up a clinical and placement linkage with underserved areas. In areas found capable of supporting just one overworked physician, provide stipend support of a physician extender for up to two years.

c. Assuming your support of recommendation b, H and P should prepare detailed recommendations and legislative proposals for the steps outlined which would appear most appropriate. Agree ---- Disagree ----.

E. Primary care

H has proposed a $25 million "primary care initiative" in FY 75 to improve the availability and efficiency of primary care resources in underserved areas. Suggested by H as one possible approach to this end is the use of grants to help hospital outpatient departments (OPD's) in underserved areas convert from crisis-oriented care to a health maintenance approach for their communities, and to established linkages between hospital OPD's and other community services resources. Consistent with a "seed money" approach to the use of project grants, funds would not be used to pay for services under the primary care initiative, nor would they be used to pay for construction or renovation. These would be encouraged under HUD mortgage insurance programs. Funds *would* support staff to plan and manage the necessary restructuring and reorganization of the OPD's, maintain linkages with other community providers, and expand training opportunities in the area of primary care. Funds for this activity would come from 314(e) and manpower project grants.

P strongly supports an initiative in the area of primary care. However, we would suggest that in its further analytic development of the initiative, H include alternatives to hospital outpatient departments as the locus for the provision of basic primary care.

Hospital emergency rooms and outpatient departments have by default become the prevailing source of primary care for many urban dwellers. Yet, primary care is not a hospital's principal function and the prevailing organization of many OPD's tends to reflect inpatient needs. The hospital has thus tended to be a high cost setting for the delivery of primary care. Some have suggested that hospitals should be encouraged to provide a prepaid (HMO) type of care. This could create problems, however, as the HMO management attempts to cut costs through decreased inpatient utilization while the rest of the hospital's management attempts to fully utilize existing bed capacity. These considerations and the heavy emphasis that the Hill-Burton program already places on outpatient facilities lead us to question whether *non*-hospital-based outpatient centers might be considered a possible alternative for funding under a primary care initative.

Free-standing centers could increase access by providing a neighborhood-based locus of care. They are traditionally organized to facilitate a health maintenance team care approach and will not face conflicting motives regarding use of inpatient capacity. They provide an alternative to hospital-based care for communities which cannot draw private practitioners. They also have had a better record of community involvement. They have traditionally had greater problems getting third-party reimbursement, but assurance of such reimbursement would be a prerequisite for funding new projects. The Department is already taking measures to help centers obtain reimbursement from Medicare and Medicaid, including a legislative amendment to mandate Medicaid reimbursement for clinical services in the 15 States which do not cover them. This will place free-standing centers in all States on a par with hospitals in terms of primary care services for which reimbursement can be obtained. If reimbursements do not match costs, free-standing centers will be less able than hospitals to absorb the burden and seed money may have to be provided initially for this purpose.

Recommendations

The above considerations lead us to believe that free-standing centers offer an additional approach to that of improving hospital outpatient departments which should be considered more fully before decisions are made regarding the primary care initiative. The two approaches may not be mutually exclusive, although limited resources may force a choice between them. Continued analysis by H should deal with both alternatives. Agree ---- Disagree ----.

F. Health planning

H recommends $58.3 million for support of comprehensive health planning agencies in FY 1975. However, they do not discuss any changes in the CHP program or the likely possibility that Congress will propose combining CHP with other Federally-supported planning agencies such as Hill-Burton, RMP and EHSDS into some form of regional health authorities.

At the present time, the Federal government provides support for five different approaches to local health planning—Comprehensive Health Planning (CHP), Hill-Burton, Regional Medical Programs (RMP), Area Health Education Activities (AHEA, funded through RMP), and Experimental Health Services Delivery Systems (EHSDS). These health planning approaches were developed at different times, and their activities have been focused on various individual components of the health care system rather than the whole system.

Currently, there are about 250 State and local CHP agencies in the nation—50 Hill-Burton State agencies, 56 RMP's (mostly Statewide), 57 areawide AHEA's, and 19 EHSDS. Staff and administrative costs, including costs of special studies and other staff activities, currently approximate $35 million for CHP, $21 million for RMP, $5 million for Hill-Burton, $7 million for AHEA, and $4 million for EHSDS. Total current Federal support for all five activities thus approximates $72 million, $14 million more than H recomends for CHP for FY 1975.

Legislative authority for each of the five planning groups expires June 30, 1974. In the FY 1974 Budget, the Administration proposed termination of Hill-Burton, RMP (and thus RMP-funded Area Health Education Activities) as well as EHSDS. The Department proposed a simple, three-year extension of CHP. On the other hand, the Congress appears to be considering the concept of a regional health authority which would replace all five and have greater powers than any of them currently possess.

Within the context of expiring legislation, this appears to be an appropriate time to improve upon present health planning arrangements. No planning model has yet included all five components of the health care market: consumers (both institutional and individual), providers (both institutional and individual), third-party payers, health educational institutions, and government. As a result, each has failed to address problems of the total health care system, e.g., facilities, manpower and services. Instead, each of the present groups conducts activities in only parts of the system. It is generally agreed that planning is best done by considering the total health care system rather than only parts of it.

Recommendations

We recommend that a plan be drawn up to consolidate the five current programs—CHP, Hill-Burton, RMP, AHEC, and EHSDS—into a single health planning consortium, with due regard for interrelationships to overall human resource planning initiatives. Agree ---- Disagree ----.

G. Research

1. Program balance

Perhaps the outstanding issue involving biomedical research has been referred to as the "problem of program balance." As stated in H's Forward Plan, the issue is essentially as follows: Should cancer and heart programs continue to receive an increasing share of NIH biomedical research funds? Relying on "reason and good judgment" H indicates that the answer is "No." However, reasonable men differ as to what constitutes good judgment. For example, some might suggest that "good judgment" would call for the application of demonstrable indicators of "social cost" as the primary factor in allocating resources to biomedical research. As an illustration, one might compare the number of deaths, hospital days, days of disability, or any combination of these effects of diseases directly related to the mission of the National Heart and Lung Institute, to the total of such effects caused by the most widespread and serious disease categories. If funds were allocated strictly on the basis of such ratios (and keeping the total budget for biomedical research the same), the NHLI FY 1975 budget would, in fact, be *higher* than that proposed by H—from $128 to $926 million higher, depending on the mix of indicators used.

Such an approach is clearly simplistic and unacceptable, but it does reveal the dangers inherent in suggesting "program imbalance" in the absence of clearly articulated criteria. Several important questions must be answered before there can be a final determination as to whether NIH programs are in balance. One is how even to *define* a "biomedical research program." Another relates to *disease importance* and *scientific readiness,* which must also be considered as a part of the resource allocation process. Of the various possible ways of dealing with the issue of "program balance," the following are three principal options:

a. To acquiesce in the present method of resource allocation (which has been variously described as "political" and "unsystematic"). In this case the Department would be forced to rely on its collective intuition to detect program imbalances. This option would include supporting the budget recommendations advanced in H's Forward Plan.

b. To use available statistics on the incidence and severity of disease as the principal guide for allocating resources to competing biomedical research programs.

c. To adopt as a Secretarial initiative the establishment of a biomedical research priority-setting process which formally and explicitly incorporates consideration of the following kinds of factors: (1) the readiness of research areas (i.e., how likely is it that some directly or indirectly useful product will result from spending research funds on specific health program areas?); (2) the societal significance of health problem areas (i.e., how widespread are the various diseases and how severe are the problems they cause?); (3) the possible indirect benefits to other areas that research on a fundamental life process might be expected to have; and (4) the likely social costs of using the knowledge acquired through research in a particular area.

However, the capability does not now exist to establish a process like this on a routine, recurring basis throughout NIH. Therefore, *it would be necessary under this option to assign to H the task of planning for the development and implementation of the process.* It ought to be possible to begin implementation of such a process within twelve to eighteen months after a decision to proceed is made.

Recommendation

Option *c* is recommended as the most appropriate Departmental approach. This option is preferable: first, because of the major conceptual difficulties inherent in any attempt to deal with the issue of program balance; and second, because further progress needs to be made in several preliminary activities now underway, activities which include development of the National Cancer Operational Plan. Agree ---- Disagree ----

H. Protection

The Food and Drug Administration has been consistently underfunded in terms of its legislated responsibilities and expanding scope of work. Food processing plants, for example, are still being inspected only once every seven years. Even given the possibility that existing resources might be allocated more efficiently, a major increase in funds is clearly needed and is recommended.

H's Forward Plan does, in fact, recommend an additional $31.4 million in FY 1975, but even that increase will provide only a fraction of the funds which could profitably be used.

Another option for consideration is the establishment of user charges to pay some of the costs of FDA regulatory activities (e.g., the filing of new drug applications by the drug industry, or inspection of food plants), and those of the CDC (e.g., licensing of interstate laboratories). In a letter of January 25, 1973, to HEW, OMB requested that:

> A legislative proposal . . . be prepared by the Department under which the costs of FDA regulatory activities that benefit industries will be paid for by those same industries. It is anticipated that, in the future, funds made available to the Food and Drug Administration for its regulatory functions would vary with the size of the industries regulated and user charges collected.

In general, OMB's intention seems to be that this would be a means of substantially contributing to the agency budget.

The chief argument *for* this proposal is that the functions pertaining to regulation are a necessary part of conducting the affected businesses, and should, therefore, be a component of the costs of those industries. H, although opposed to the imposition of user charges, has done much of the preliminary analysis for such an allocation. Its analysis, however, has been focused on the imposition of such charges on an industrywide basis, which tends to magnify the difficulties and minimize the advantages of user charges. This approach focuses charges on sales rather than on the basis of the work generated for the agency by each firm.

Arguments against the imposition of user charges center chiefly around the role of FDA and CDC as being that of consumer protection rather than industry benefit. Regulation is a well-established government function from which the general public benefits; the public should, therefore, bear the costs from tax revenues. It can be expected that the affected industries, which do not take too kindly to regulation, would oppose legislation requiring them to pay directly for such regulation.

Recommendation

That H continue its staffing of the user charge issue with a final package prepared for Secretarial decision by September 30, 1973. That activity should include an economic analysis assuming an imposition of user charges at the level of the individual firm, varying with the intensity and scope of surveillance. Agree ---- Disagree ----.

ARKANSAS GOV. DALE BUMPERS SPEAKS AT ENERGY SEMINAR

Mr. HUMPHREY. Mr. President, on June 5, the Senate by a wide margin passed the Emergency Petroleum Allocation Act of 1973. Included in that legislation was my amendment calling on the 50 State Governors to establish offices of fuels and energy conservation in their States. Subsequently, I corresponded with them to notify each State of the intent of this legislation, and I have been heartened to receive over 25 replies reporting on the Governors' efforts to confront our energy crisis.

One of the letters that was especially informative came from Gov. Dale Bumpers of Arkansas. Governor Bumpers included in his correspondence a speech he presented to the Seminar on Power and Energy Needs in Little Rock on June 22. I urge my colleagues to read this speech, for it contains a thorough analysis of the problem currently being discussed all over the country. Not only does he pose the crucial questions which require comprehensive answers in dealing with the energy crisis, but he posits some steps that can be taken at both the State and the national levels in response to the various shortages.

I ask unanimous consent that Governor Bumpers' letter and speech be printed in the RECORD.

There being no objection, the letter and speech were ordered to be printed in the RECORD, as follows:

Office of the Governor,
Little Rock, Ark., July 11, 1973.
Hon. Hubert H. Humphrey,
U.S. Senator,
Washington, D.C.

Dear Senator Humphrey: Thank you for your recent letter on gasoline conservation. We in Arkansas share your concern and are beginning a number of steps aimed at both long and short-term fuel conservation.

I have doubts about the effectiveness of voluntary guidelines. I also feel fuel conservation is an area in which the states could operate effectively and constructively. I would have no reluctance in insisting upon numerous fuel conservation measures within my State if we knew the fuel saved by belt tightening in one sector would be available for priority needs (such as farming) in other sectors. I do not think it is feasible nor workable to call upon the citizens of Arkansas to voluntarily conserve fuel if the savings accrue to a different state or a different region of the country.

I am taking the liberty of enclosing a speech I made at an Energy Seminar here in Little Rock, sponsored by the Southern Governor's Conference. I am also enclosing a summary of our Energy Studies for the near term (3 to 8 years). I hope you find these of some interest.

Kindest regards.

Sincerely,

Dale Bumpers.

Address by Gov. Dale Bumpers

The fuels which presently supply our economy and which can be expected to supply us over the next 3 to 8 years are, as you know, nuclear and hydroelectric power, coal, natural gas, and petroleum. We began a study in our Department of Commerce well over a year ago to determine how dependable these resources would be in the near future. The answer to this question was first sought on a statewide basis, but it was quickly realized that the distribution of energy resources is a problem of national scope. So the study was expanded to a national scale. The results are based on studies by the federal government and on interviews with governmental officials and persons representing a number of industrial organizations. The information used has been checked and cross-checked. The study, "Energy in the Near Term," is enclosed. Here, I will briefly summarize the results and conclusions and offer at least one possible response for appropriate state action if the conclusions are correct.

For convenience the expression, "near term," is used here and indicates the next three to eight years. As a practical matter, the exact length of this period seems to be determined by the period of time required for substantial new refinery construction and for the supplying of those new refineries with crude oil.

The results of the Arkansas study are as follows:

1. The contributions of hydroelectric and nuclear power in the near term are well known because of the length of time required to build generating facilities.
2. Natural gas is production-limited and not expected to grow at a rate greater than 1% per year.
3. Coal use is limited by mine shortages, shortages of railroad cars, and facilities to burn the coal. In the near term, coal use will decrease, perhaps as much as 6% per year.
4. Crude oil must be refined to be used, and the refining facilities in the United States will process an almost constant 12.2 million barrels per day of crude oil in the near term.

The conclusions which must be drawn from correlating these results are that the net production of energy in the United States in the near term will be almost level and may even decrease slightly and that energy growth in the United States now depends solely on imported refinery products.

Let me reemphasize this point! The Arkansas study indicates that the energy growth of the United States over the next three or four years, and possibly longer, depends almost completely on products refined in foreign countries from crude oil produced in foreign countries.

Here are the very disturbing factors associated with our energy picture. Americans now use more energy every year than they did the year before. For the past several years, the United States has had to import energy to supply this increasing demand. In April, we imported about 2.8 million barrels per day of crude oil to bring our domestic refinery production to near capacity—or capacity, whoever you believe. We imported about 3 million barrels per day of the output of foreign refineries. Since increased imports of crude oil serve only to make up the difference between domestic crude production and domestic refinery capacity, the energy growth of the country is now wholly dependent on annual increases in imported refinery products.

To sustain our present rate of energy growth, our study indicates that the annual increase of imported refinery products will have to average about 1.6 million barrels per day. In 1972 we imported an average of 2.5 million barrels of refinery products per day. This year, 1973, in order to meet demand, we would have to average 4.3 million barrels per day, next year 5.9 million, and the following year 7.5 million. However, even an optimistic estimate indicates that only slightly more than 3 million barrels a day of products will be available to the United States from exporting refineries in other countries in any of those years. That amount gives us a higher fraction of the world's exportable capacity than we enjoyed in 1972. The total world's exportable capacity, which is primarily in Italy, the Near East, and the greater Caribbean area, is only expected to reach 7.5 million barrels per day by 1975, compared to the present 6.5 million barrels per day. Bidding for that capacity are Europe and Japan, both with import product growth rates greater than the United States. If the dollar loses strength, we may not be able to purchase even the optimistic 3 million barrels per day.

Since the amount of foreign refinery products available to us in near term is limited, the energy growth of the United States must halt in the near term.

The Arkansas Study indicates that actual product imports have fallen below product needs since March of this year. It was in late March that gasoline stations first started closing. It may well be that supply will not equal need for growth until massive steps are made to increase energy supplies. I believe the President was unduly optimistic in his speech of June 13, when he said the energy shortages should disappear after a "little belt tightening." All the belt tightening measures "proposed to date" (July 2) by the President will only cut down on average energy use, they do not deal with reducing energy growth. Thus the gap between requirements for growth and supply will inexorably widen. The President's suggestions to date amount to little more than treating only the symptoms of a progressive disease.

The results and conclusions of the Arkansas Study may be wrong. But if they are wrong, how on earth do we account for the fact that when refinery capacity throughout the world is generally running above its rated output, the United States is out of oils to provide electricity and gasoline for transportation? For example, U.S. refineries are running at an average of 92–93% of capacity this year which is above design specifications. This high performance level is occurring even when some refineries are having difficulty obtaining crude oil.

If the study has errors within it, it is at least sufficiently comprehensive and tightly structured that those errors can be sound. I am aware of no similar Federal study of the near term although the federal government seems to have more than adequate facilities to provide such a study.

But if the analysis is right, how did the United States, the most prodigious consumer of energy in the world, the country which taught the world to use energy, get itself into such a predicament?

I hear all sorts of theories of conspiracy: conspiracies between various levels of the petroleum producers, refiners, distributors, manufacturers, environmentalists, and consumers.

I can't believe the discussion of conspiracy theories is very productive. The time spent leveling blame could better be spent in addressing ourselves to a description of the energy problem upon which we can all agree and to the offering of possible solutions to the problem.

If any aspect of the problems we face is clear enough that we can all agree upon it, I believe it is that the federal government has been woefully inadequate in developing a comprehensive definition of our difficulties and in dealing with those facets of the difficulties we already know about such as severe shortages in agriculture, transportation, and public utilities.

If the gasoline and fuel oil shortages we now are experiencing mark the end of energy growth in this country for three to four years, then the time to admit the problem and deal with it is now.

I am sure that most of you are plagued constantly with the question that I hear many times a day, "What can a state do?" That question arises with respect to every aspect of energy problems and the problems seem to be coming from all quarters: from how to save independent gasoline jobbers and dealers to—how to assure fuel supplies for our public utilities to—how to assure gasoline and diesel for planting and harvesting.

Apart from saving energy in government buildings and vehicles it is very difficult to know what to do. Most states have no real power aside from persuasive power to redistribute energy to critical sectors of the economy such as agriculture. If by some means we manage to institute programs for savings of energy by the community, we not only can't redistribute that energy within the state, but the state can confidently expect to lose that energy. The recently announced voluntary allocation program has no incentives for the conservation of energy and no way to assure compliance. President Nixon recently announced the possibility of a Federal energy "Czar." Such a person would have power entrusted to him far beyond that which the Founding Fathers envisioned for a non-elected official. Can you imagine the drafters of the Constitution agreeing to a provision that allowed the appointment of a man who would prescribe when, where, and for how long a man could ride his horse?

I'm fearful that any Federal system can be expected to enforce general guidelines in the same slow, inefficient, and inadequate manner we have all experienced in other programs. We can expect the same guidelines to be applied to all states whether or not they are suitable to the problems of that state.

In the event matters are as serious as they appear, I suggest an alternative possibility. I suggest a state allocation plan wherein an allocation of energy to the states would be made on the basis of energy-use patterns of 1972 or 1973. Appropriate adjustment would be made where excessive hardship was demonstrated. Each state could then devise its own conservation and distribution programs to support its critical industries. Certain guidelines could be devised which would assure the continuance of interstate activities. Arrangements could be made for redistribution of surpluses which could result from conservation practices in some states. This is one matter I have asked the reporters of this seminar to explore.

With the Federal voluntary allocation program, no state can plan for its future because no state has any idea of the amount of energy it will receive in the future. No such problem exists with the state allocation plan. The state allocation plan also has the merit of incentive. A state conserving energy could transfer its conserved energy to critical needs. The plan allows a wide variety of experimentation which could not be present in a monolithic Federal program. It assures local control and local response to local problems since priorities would be set by each state. There is no dangerous national concentration of power, particularly in the hands of non-elected officials. There is a reduced possibility of dangerous national excursions in fuel patterns of the type which led to our present dependence on petroleum.

It is relatively simple to think of measures which states could take that would reduce energy use within the states. We are still using the rate structures which were developed during the years of surplus energy, and which encourage increased consumption by what amounts to volume discounts. Thus a household that is an "energy waster" pays less per unit consumed than does the modest user. Reversing this rate structure to penalize the user when he commences to consume inordinate and unnecessary amounts could save upwards of a million barrels of oil a year according to estimates by the Office of Emergency Preparedness. Extremely large users, such as the industries that provide essential services and jobs, could remain on rates keyed to the cost of providing the energy.

Carrot and stick methods could also be devised to force larger users to switch to fuels which are not in short supply. Revenues raised from taxes on energy and derived from excessive usage could be used to support free public transportation systems so that persons on lower income would have alternatives to the increasingly more expensive and scarce gasoline for transportation. Rates could support free public satellite parking lots in the suburbs from which free bus service would travel the freeways into the cities. This would serve the additional purpose of reducing traffic congestion and improving air quality in the cities. Meanwhile, tax incentives could be used to encourage train transportation between cities. For every 10 percent reduction in automobile use, we save between ½ million and one million barrels of oil per day. It is difficult to see how the federal government can expect to bring about such savings in energy without incentive programs. The alternative Federal approach for gasoline savings, aside from the suggestion that the states reduce maximum speed limits, which might save from 10,000 to 100,000 barrels of gasoline per day, is gasoline rationing. Those of us who remember rationing in World War II know that it didn't work too well. And in a time when Americans are used to plenty, and particularly plenty of automobile travel, the policing of such a system to prevent abuse by the influential would probably be impossible.

I note that such obvious savings as the reconversion of present oil burners which used to burn coal—back to coal—have not been advanced in any of the President's messages. About ½ million barrels of oil per day would be saved through reconversion of these burners to coal. And a great many of the oil burners are in the northeastern corridor which is over 80% dependent on imported refinery products.

But whatever means the nation employs to save energy, whether it be through a state allocation plan, a Federal voluntary allocation plan, or a Federal compulsory allocation plan or rationing plan, if the energy growth of this country truly now depends on imported foreign oil, we will be buying time with our energy savings which must be immediately and creatively used by the federal government to (1) immediately begin research seeking methods to recover over 50% of the oil we leave in the ground; (2) bring in oil and gas from Alaska with the least environmental impact; (3) tap the oil and gas reserves off the Atlantic Coast; (4) provide refineries to process that reserve in an environmentally acceptable manner, more realistic attitudes must be taken over what is and what is not environmentally acceptable; (5) find more creative ways to mine, transport, and use our coal reserves. The commitment to non-nuclear energy research on short-range palliatives to our energy problems is simply going to have to be increased over the paltry $135 million which the federal government has assigned for 1974.

And while short-range solutions are sought, a NASA-sized commitment is going to have to be made toward developing long-ranged solutions which will utilize solar energy, geothermal energy, fusion energy, and breeders.

If a man can walk on the moon in this decade, surely he can find an acceptable substitute for fire in the next.

EDDIE RICKENBACKER, WORLD WAR I ACE DIES AT 82

Mr. GOLDWATER. Mr. President, yesterday one of the great men of this century passed away in Switzerland. He was Capt. Eddie Rickenbacker, our leading World War I ace and the wearer of the Congressional Medal of Honor. I do not ask that this account of his life be made a matter of the record because of a mutual interest in aviation, but because of the many years I knew this man, I learned the facets of his life that made him great; made him great without the luster of war or success in business. He was a kind, decent, thoughtful man whose total dedication was to his country. He is going to be missed by all of us who called him friend and it will be many a year before another Captain Eddie ever crops up in our midst again.

I ask unanimous consent to have the article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star-News, July 23, 1973]

EDDIE RICKENBACKER, WWI ACE, DIES AT 82

(By Richard Slusser)

Edward Vernon Rickenbacker, 82, America's fabled World War I combat airman who was called the ace of aces, died today in a Zurich, Switzerland, hospital after a heart attack.

Capt. Rickenbacker, usually called "Captain Eddie," retired in 1963 as chairman of the board and general manager of Eastern Airlines, the company he salvaged from oblivion in the late 1930s.

His life was as filled with success as it was with adventure and danger. Ten years ago he said he believed "no man living today . . . has been face to face with death as often as I have in the last 35 years.

"But when I have crashed in a plane, turned end-over-end in a racing car, or was adrift in the South Pacific, felt hunger and thirst tearing and burning at my vitals, a boyhood thought never deserted me: I was part of progress and life. Some power was taking care of me."

All the accidents and perilous adventures, he said, "added to my sense of security."

He was born in Columbus, Ohio, his last name spelled Reichenbacher, which he changed to Rickenbacker during World War I. He also added the middle name.

Capt. Rickenbacker was described as a young hellion, a boy who smoked cigarettes when he was in the first grade and a leader of a gang of hoodlums.

His father died when he was 12 and Capt. Rickenbacker quit school to work in a glass factory for $3.50 a week. He even walked the four miles to work to save car fare and gave all his salary to his mother.

Later he worked in a foundry, a tombstone factory, a brewery and for a railroad before beginning a career that would take him into the world of transportation and speed.

INTEREST IN MECHANICS

Always interested in motors and mechanics, Capt. Rickenbacker went to work for the Frayer-Miller Cooled Car Co. in Columbus.

"As early as 1906," he said, "while serving as a riding mechanic with Lee Frayer (a builder of the air-cooled auto) I had my first accident."

A front tire blew on a turn during the Vanderbilt Cup races on Long Island, N.Y. Capt. Rickenbacker received a dislocated shoulder.

"I turned over in racing cars many times after that," he said. "But I always had the sneaking suspicion that perhaps it was my fault, that I was not in control of the machine or myself, that my faith was not great enough."

In the 1915 100-mile auto race at Indianapolis, two tires of Capt. Rickenbacker's car blew and he "finally stopped, after spreading rubber and wheels all over the track."

CLAIMED MIND CONTROL

He claimed he then realized he "could control that machine with my mind, that I could hold it together with my mind, and that if it finally collapsed, I could run it with my mind. It was a feeling of mastery, of supreme confidence."

Between 1910 and 1917 he was associated with Firestone Duesenberg, Mercer Co., Maxwell Motor Car Co. and Peugeot Motor Co. In 1917 he contracted to prepare a racing team for Sunbeam Motor Co. of England, and was in England when the United States entered World War I. That also ended his negotiations with Sunbeam.

Capt. Rickenbacker then was one of the world's leading figures in auto speed—set a world record of 134 mph in a Blitzen-Benz at Daytona Beach, Fla.—with an estimated income of $40,000.

Less than two months after the U.S. entered World War I, he enlisted as an Army sergeant. He had hoped to organize racing drivers into a squadron of fighter pilots, but the plan received no official backing and Capt. Rickenbacker was sent to France as a staff driver for Gen. John J. Pershing.

FLIGHT TRAINING

He was then 27, two years over the age limit for airmen, but he said he was 25 and was accepted for flight training and transferred to the Air Corps in August.

He received preliminary training in Tours, France, and then was transferred to the Issoudoun Aviation School as a lieutenant and chief engineering officer. He wanted to get into action at the front, but was told he was needed elsewhere.

Showing more of his resourcefulness, Capt. Rickenbacker feigned sickness and, demonstrating his presence was not required, was assigned in early 1918 to the 94th Aero Pursuit Squadron, the first U.S. air unit active on the Western Front. Six months later, he was a captain and commander of the 94th.

Capt. Rickenbacker shot down his first plane a month after joining the 94th and his fifth (making him an ace) within two more months. The morning after he was promoted to captain he scored his first of six double-kills.

By the end of the war he had downed 21 German planes and five observation balloons. The 94th Squadron served at the front longer than any other unit. It ranked first in the number of planes downed and in the number of aces.

Capt. Rickenbacker described his wartime experiences in "Fighting the Flying Circus," the German air unit led by the celebrated Baron Manfred von Richthofen, who was credited with downing 80 Allied planes.

"I scarcely needed their color to tell me who they were," he said of his first meeting with the Flying Circus, "for the skill with which they all came about so suddenly convinced me that this was no place for me. I had blundered singlehanded into the Richthofen crowd." He eventually outran them "with motor full open and nose straight down."

Capt. Rickenbacker received so many medals, people said he was awarded most of the decorations attainable. These included the Croix de Guerre with four palms, the Legion of Honor, the Distinguished Service Cross with nine oak leaf clusters and the Congressional Medal of Honor.

After a hero's return, Capt. Rickenbacker said: "You're a hero today and a bum tomorrow—a hero to zero. Never count on the crowd to take care of you."

Capt. Rickenbacker took care of himself, turning down many business offers, including $100,000 to appear in a film. He and several Detroit backers started the Rickenbacker Motor Co. in 1921 to manufacture the Rickenbacker automobile. The company failed after about five years, and Capt. Rickenbacker said the car was too good and cost too much to build. (Even its advanced four-wheel brakes were criticized as dangerous and called visionary.)

SPEEDWAY INTEREST

In 1927 Capt. Rickenbacker obtained controlling interest in the Indianapolis Motor Speedway and was its president until selling it in 1945.

Capt. Rickenbacker joined Cadillac Motor Car Co. as assistant sales manager in charge of the La Salle division in 1928, but was transferred the next year by General Motors to its General Aviation Manufacturing Corp. as vice president and director of sales.

In 1932 he joined Aviation Corp. as vice president of American Airways, and a year later became vice president of North American Aviation, Inc. Two years later he was general manager of North American's Eastern Airlines.

When Eastern became a separate entity in 1938, Capt. Rickenbacker was named president and general manager. He became chairman of the board in 1953.

He became Eastern's president soon after raising the $3.5 million needed to buy the company he had joined when it was considered the ugly duckling of the aircraft industry—a General Motors subsidiary that no one wanted to buy at the then-asking price of $1 million.

EASTERN MARKS GROWTH

Under Capt. Rickenbacker's leadership, Eastern grew to become one of the nation's largest air carriers. (Once Capt. Rickenbacker had the luggage of a group of Eastern managers flying to a meeting removed from a plane and locked up. He explained that this was to show the managers how passengers felt when their luggage was missing.)

In 1941 he was seriously injured in the crash of an Eastern plane near Atlanta in which eight persons were killed.

Capt. Rickenbacker was hospitalized for four months, about half the time doctors had predicted. While doctors were discussing his case, Rickenbacker surprised them with "Oh, hell, get me a good osteopath and I'll be out of here in three days."

The morning after the crash he drank three bottles of beer and ate two ham and egg sandwiches.

"I suspected I was unkillable," he said.

MAROONED IN PACIFIC

The next year he was a passenger aboard an Army plane on a mission over the Pacific to inspect air stations. The message he radioed—that the B–17 was lost and had one hour's fuel supply—was thought by many to be his last.

It was his last message for 24 days. He and six other men were rescued a day after they were spotted by planes. They had survived in three rubber rafts with little food and water. An eighth member of the group died of exposure and starvation.

After two weeks of rest, Capt. Rickenbacker boarded another plane to continue his mission. He later made more flights for the military.

Always outspoken on a variety of subjects, Rickenbacker criticized the United States' aviation policy after World War I and in the 1920s. He was a stout defender of air warfare advocate Brig. Gen. Billy Mitchell who was convicted of insubordination by a court-martial. That Capt. Rickenbacker said, was "a crime against posterity."

OFFERS WAR STRATEGY

During World War II, he condemned strikes and absenteeism in war industries and once said that returning troops to factories and putting war workers in their place at the fronts would guarantee that production would be increased and even doubled within 30 days.

In recent years Capt. Rickenbacker spoke frequently to business groups, veterans organizations and boys clubs throughout the country in support of the conservative view.

His frequent speech topic was "Conservatism Must Face Up to Liberalism."

He was an ardent backer of Sen. Barry Goldwater, R-Ariz., for the presidency in 1964.

Upon retiring from Eastern, Capt. Rickenbacker said he did not plan to be idle—"Not in the face of the current challenges to civilization. I am going to expand my crusade to save the American way of life for future generations."

Three years ago he remarked that in his adventurous career, "I've cheated the old Grim Reaper seven times I know of."

An Eastern spokesman said funeral services will be later this week in Columbus.

NEED FOR EMERGENCY TELEPHONE NUMBER, 911

Mr. HUMPHREY. Mr. President, on March 28 I introduced legislation to provide for a single, nationwide emergency telephone number, 911. My bill would assist States and local governments in financing the costs incidental to establishing this emergency service.

This legislation is now pending before the Commerce Subcommittee on Communications. I hope this committee will act soon on this simple, practical proposal. A nationwide three digit telephone number is an idea that could be implemented almost immediately. It is in effect in some areas. It could save vital seconds that are so crucial during an emergency, whether it be crime or illness.

Recently, I received a letter strongly supporting this legislation from the Director of the Hennepin County Criminal Justice Council in Minneapolis, Minn. This council is a LEAA city-county planning unit for all criminal justice system agencies in Hennepin County. The council is currently engaged in a major effort to establish modern communications systems for public safety agencies and related emergency services within the city of Minneapolis and throughout the rest of Hennepin County.

The council feels that a 911 emergency telephone number is "a must" if Hennepin County is to really have an effective public safety program. As the letter indicates—

> Within Hennepin County and the city of Minneapolis alone, there are in excess of 170 emergency telephone numbers listed on the front page of the current telephone book.

Mr. President, this confusing situation is duplicated in many other cities and counties across the Nation. For example, the St. Louis directory lists 161 emergency numbers on one page alone.

Our Capitol area, the District of Columbia, has at least 45 emergency numbers. Los Angeles County has 50 numbers just for police. It is impossible for most Americans to memorize the many emergency numbers in their area. Even if they could, the 25 million Americans who move every year would have to go through the process all over again.

Dialing "O" for operator may be the most simple way to get assistance, but it is not fast enough, nor reliable enough. Emergency calls constitute only about 1 percent of the operator's daily work. Consequently, operators cannot be expected to respond as quickly nor as intelligently as someone trained especially for emergencies.

In 1970, the National Science Foundation and the Franklin Institute Research Laboratories made an in-depth study in the need for a single nationwide emergency telephone number. The conclusion: Such a number is needed, feasible, and should be implemented.

Three years after this study was made we still have no action on this simple, but very important, proposal. I urge the Commerce Committee to report my legislation. It would be an important tool in protecting people.

I ask unanimous consent that the letter from the Hennepin County Criminal Justice Council be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

HENNEPIN COUNTY CRIMINAL
JUSTICE COUNCIL,
Minneapolis, Minn., July 5, 1973.

Hon. HUBERT H. HUMPHREY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HUMPHREY: Recently my attention was directed to the March 28, 1973, issue of the Congressional Record. Contained therein was a record of your statement introducing S. 1403, a bill to amend the Communications Act of 1934 by providing grants to States and units of local government for the establishment, equipping and operation of emergency communications centers to make the national emergency telephone number 911 available throughout the United States.

I would like to take this opportunity to advise you that S. 1403 is of particular interest to me and the members of the Hennepin County Criminal Justice Coordinating Council. The Hennepin County Criminal Justice Council is a Law Enforcement Assistance Administration city-county planning unit for all criminal justice system agencies in Hennepin County. The 19 members of the HCCJC are representatives of the criminal justice system in the county and I serve as the executive staff director.

The Council is currently engaged in a major programming effort relative to the provision of new public safety communications systems for all public safety agencies and related emergency services within the city of Minneapolis and Hennepin County. A key element in this new system will be the utilization of the national emergency telephone number 911. As you well know, a 911 emergency telephone number is a must in terms of being able to provide a higher level of integrated public safety emergency services in more urban areas. For example, within Hennepin County and the city of Minneapolis alone there are in excess of 170 listed emergency telephone numbers on the front page of the current telephone book. This confusing situation must and can be corrected through the provision of a national emergency telephone numbering system.

For these reasons, I would like to take this opportunity to congratulate you on submitting S. 1403 and to further offer the support of the Hennepin County Criminal Justice Coordinating Council in endorsing this particular piece of legislation. Additionally, I would appreciate any information your office may have relative to the progress of S. 1403 subsequent to the initial introduction of the bill.

Cordially,

John O'Sullivan,
Director.

EMERGENCY POWERS STATUTES

Mr. CHURCH. Mr. President, the Special Senate Committee on the Termination of the National Emergency held hearings this morning investigating further the issue of Presidential proclamations that place the United States in states of national emergency, and the enormous body of emergency statutes now in force. Witnesses were former Attorneys General Justice Tom Clark, Mr. Nicholas deB. Katzenbach, and Mr. Ramsey Clark. Unfortunately, two other former Attorneys General who were invited, Mr. Herbert Brownell and Mr. Richard Kleindienst, were unable to attend but will testify before the special committee in the Fall.

The following joint statement was read by the cochairmen of the Special Committee on the Termination of the National Emergency, Senator Charles McC. Mathias and myself. I ask unanimous consent that the statement be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement

"The testimony which we will hear shortly marks the beginning of the second series of hearings conducted by the Special Committee on the Termination of the National Emergency. Pursuant to Senate Resolution 9, the Senate directed the Special Committee to investigate both the Presidential proclamations placing the United States in states of emergency and the enormous body of emergency statutes now in force.

"In response to severe economic depression, President Roosevelt in March 1933 proclaimed a national emergency. From that time on, the United States government has been operating in an unrelieved state of emergency.

"Last April, the Special Committee held hearings which examined Constitutional questions raised by emergency powers delegated to the Executive branch, as well as the historical background of emergency powers legislation. Testimony was heard from distinguished political scientists and legal scholars, one of whom was a participant in the preparation of President Truman's December 1950 national emergency proclamation issued at the height of the Korean conflict.

"Recently, the Special Committee has been engaged in compiling and analyzing the hundreds of significant emergency statutes now in force. The compilation will, we hope, provide law-makers and the public with a comprehensive catalogue of governmental emergency powers; this will be ready for distribution when Congress resumes its work after Labor Day.

"The Special Committee on the Termination of the National Emergency is honored this morning to have as witnesses three former Attorneys General of the United States, Justice Tom Clark, Mr. Nicholas deB. Katzenbach and Mr. Ramsey Clark. Unfortunately, two other former Attorneys General who were invited to be here today, Mr. Herbert Brownell and Mr. Richard Kleindienst, were unable to attend but will testify before the Special Committee in the Fall.

"All three witnesses before the Committee today are eminent public servants; all three have held public office during times of great crisis. Justice Tom Clark was involved in implementing emergency powers in 1942, both as the Coordinator of Alien Property Control of the Western Defense Command and as Chief of the Civilian Staff for Japanese War Relocation. He was Attorney General from 1945 to 1949, a period when various emergency powers exercised by the Executive during World War II were repealed. In these years, President Truman established emergency boards to settle airline and railroad strikes and ordered government seizure of private industries. Appointed Associate Justice of the Supreme Court in 1949, Justice Clark wrote a concurring opinion in the historic Youngstown v. Sawyer decision which prohibited the government seizure of the nation's steel industries.

"Mr. [Nicholas deB.] Katzenbach was first Assistant and later Deputy Attorney General from 1961 through 1964, and subsequently Attorney General. There were few major crises in the 1960's in which Mr. Katzenbach did not participate. He was a key legal and political strategist during the civil rights struggles, and personally led U.S. Marshals in opening the University of Mississippi and the University of Alabama in 1963. In the area of foreign affairs, Mr. Katzenbach is well known for his contributions as a constitutional theorist and for his efforts to achieve sound foreign policy. He wrote the legal brief defending the U.S. blockade of Cuba in 1961, and acted as a principal advisor to the negotiators who secured the release from Cuba of those who survived the Bay of Pigs invasion. As Under Secretary of State from 1966 to 1969, he served his country with distinction at a most difficult time.

"During Ramsey Clark's term as Attorney General, he dealt with two very different areas of emergency powers. First, he was one of President Johnson's closest advisors during the very difficult decisions over whether or not to use federal troops to restore order during the urban riots of 1967 and 1968. Secondly, to meet the international monetary crisis of those same years, the emergency powers of the Trading with the Enemy Act were used and Mr. Clark wrote the official justification of their use. In addition, Mr. Clark has been one of the foremost defenders of civil liberties against the arbitrary exercise of government authority—an area of critical concern to this Special Committee.

"Current revelations of power abused by certain executive branch officials give rise to new concerns about the potential exercise, unchecked by Congress or the American people, of enormous executive powers. Like a loaded gun lying around the house, the plethora of delegated authority to deal with almost every kind of conceivable crisis could readily be used for purposes other than originally intended.

"Since the failure of the Roman Republic, historians and philosophers have analyzed the problem posed to a democracy by extraordinary executive powers. Their writings teach us that liberty is fragile, and vulnerable to those who exercise power purely for its own sake. Machiavelli, in his *Discourses on Livy*, acknowledged that great power may have to be given to the executive if the state is to survive, but warned of the grave dangers in doing so. He cautioned:

'Nor is it sufficient if this power be conferred upon good men; for men are frail, and easily corrupted, and then in a short time he that is absolute may easily corrupt the people.'

"Rousseau also discussed the question of delegated emergency powers in his *Social Contract*. He wrote:

'However this important trust be conferred, it is important that its duration should be fixed at a very brief period, incapable of being ever prolonged. In the crises which led to its adoption, the State is either soon lost, or soon saved; and the present need passed, the dictatorship becomes either tyrannical or idle.'

"Despite this ancient advice, frail men continue to succumb to the temptations of great power. These are times when we can ill afford to let that power go unchecked."

PUBLIC FINANCING OF ELECTION CAMPAIGNS

Mr. CRANSTON. Mr. President, tomorrow or the day after tomorrow, after the Federal Election Campaign Reform Act Amendments of 1973—S. 372—is laid down, a group of Senators will discuss the need to move beyond these reforms to a system of public financing of election campaigns.

A substantial amount of leadership in the drive for public financing is being exerted by the Center for Public Financing of Elections, which was established in June 1973, to advocate public support for public finance of election campaigns. The Center has prepared a summary of questions and answers about public financing which I believe serves as an excellent agenda for our consideration of proposed changes in how we pay for election campaigns.

I commend it to my colleagues' attention and ask unanimous consent that the summary be printed in the Record.

There being no objection, the summary was ordered to be printed in the Record, as follows:

Public Financing of Election Campaigns

What is meant by Public Financing of Elections?

Some form of direct Federal assistance—in money or services—to candidates for Federal office (the House, Senate and the Presidency) to help them meet the legitimate expenses of political campaigning. Public financing could either replace or supplement existing forms of Federal aid (such as the recently implemented tax incentives for small political donations and the "checkoff" system, under which taxpayers can divert $1 of their Federal taxes to help finance the 1976 Presidential campaign).

What are the objectives of Public Financing of Elections?

Honest elections
Competitive politics
Public participation
Responsive government

Democratic politics cost money (an estimated $500 million in 1972)—increasing amounts of it as the population expands and the means of reaching the voters becomes more expensive.

The central problem, however, arises not from the amounts of money spent, but where the money comes from. The bulk of it comes from wealthy and powerful contributors, most of whom stand to reap enormous benefits from the decisions government makes and the laws that are passed. Those donors gain special influence with their huge gifts—an influence that the average voter who gives little or nothing to politics cannot have.

In addition, campaign money tends to be concentrated—in the campaigns of incumbents or powerful, sure winners, and in a very few close, highly visible races. Thus, while some candidates have too much money, many do not have enough to run a credible campaign.

In short, the way we now finance campaigns makes a mockery out of one person/one vote democracy and makes money, rather than merit, the key to election.

At issue is the integrity of our political process and public confidence in that process.

Only by assuring candidates for Federal office (the Presidency, U.S. Senate and House of Representatives) adequate resources to conduct effective campaigns, can we—

Liberate candidates from their present inevitable dependence on "interested" political contributors—that is, contributors who have a stake in governmental decisions and who gain special access to policy makers and special influence over those policy decisions in relation to the size of their campaign contributions.

Elevate the influence of the average voter on the political process to that of the large contributor, making the concept of one person/one vote a democratic reality.

Encourage candidates of quality and independence to run for office, and give the people a choice, by eliminating the barrier of big money—money raised from large vested interest givers, with its potential, if subtle strings attached; money borrowed, with the prospects of huge personal debts for the future; or money drawn from the rich candidate's own personal or family fortune.

HOW ARE CAMPAIGNS FINANCED NOW?

75 percent of campaign money comes in the form of large contributions and the funds rich candidates are able to put into their own campaigns.

25 percent comes from small contributors.

In 1970, *Time* magazine reported that 90 percent of all money raised for politics comes from (the richest) one percent of the people. Most of the large contributors to Federal campaigns have a special economic interest which they try to protect with their contributions. The great bulk of this money helps incumbents, who generally far outspend their challengers. Incumbent Senators in 1972, for example, outspent their challengers by an average of two to one. Additionally, incumbents have the perquisites of office to help them win re-election, including virtually unlimited free non-political mailings to their constituents, government-paid staff and office facilities and easy access to the news media.

In 1971, Congress enacted new tax incentives to encourage larger numbers of people to give small contributions. But even with these incentives, only about 25 percent of the money raised in 1972 came from small givers. The prospects for increasing the proportion of small givers are not encouraging because this is an expensive and difficult way to raise money. For example, administrative costs of raising small contributions by mail are as high as 40 percent of what is raised.

What's wrong with this current system?

Just about everything. It discourages competition. It gives contributors more political influence than voters. It encourages chicanery and secrecy. It throws a cover of cynicism and suspicion over all political institutions.

It is also undemocratic. According to *Time* magazine, 90 percent of all political contributions come from one percent of the population. Large donations to candidates give that small, rich element of the population a big say in who can be a candidate and, subsequently, easy access to and undue influence on officeholders. The result is a devaluation of the voice and vote of the average citizen, which helps explain why it's so hard to pass pro-consumer legislation and a special-interest amendment slips through with ease.

Senator Long summed it up in 1966 when he said, ". . . I sometimes gain the impression that when you are talking in terms of large campaign contributions—I do not mean the $100 type. I mean the big ones, $5,000 and above—the distinction between a campaign contribution and a bribe is almost a hair's line difference. You can hardly tell one from the other."

The current system of political financing discourages competition since incumbents, special interests, and rich candidates hold a virtual monopoly on money available for politics. Since many candidates are unable to raise enough money to run a respectable campaign, many elections are over before they begin. Debate on important issues is silenced and some individuals of quality and independence are either automatically defeated or discouraged from even trying.

People with easy access to office holders are usually those who make it possible for them to run and win—their financial backers. The average voters—who are not able to give very much to politics—look on and know that they do not have the same amount of influence.

The current system of public financing, the ways in which money is collected, laundered and moved to candidates, breeds cynicism and contempt for politics among the givers and the general public.

Who are the victims of the current system of financing campaigns?

The average citizen is.

He is paying—usually in hidden, indirect ways—the costs of the present system.

The average citizen is paying higher milk prices, for example, because the milk producers, dissatisfied with the price the government originally set for milk, funneled huge contributions to the party in power—and the government price of milk was increased.

The average citizen is paying higher prices for oil because President Nixon rejected a recommendation of his own Cabinet to abolish oil import quotas—which his Cabinet told him would save oil consumers *five billion dollars a year in lower oil prices*. The President sided against tens of millions of consumers in favor of an industry that had contributed hundreds of thousands of dollars to his 1968 election campaign, to Democrats before that, and to Congressional candidates of both parties.

The average taxpayer is paying higher taxes because of multi-billion dollar tax loopholes that favor only a relative handful of very rich people and huge corporations—even though ordinary citizens who don't benefit from these special loopholes outnumber those rich people at the polls many thousand to one.

Isn't public disclosure and reporting enough to cure the abuses and evils of the present system?

While disclosure requirements have some purifying effects on political fund-raising practices, they do not eliminate or even reduce the cardinal evil of the present system: the need for candidates to raise huge amounts of money from private givers. Experience has shown that they can do so only by relying to a large extent on special-interest donors who gain special influence on government decision and law-making as a result of their large contributions. Public disclosure does not correct the imbalance of fundraising which exists in the present system and heavily favors incumbents by two-to-one, and under which many would-be candidates of quality are barred from effective challenges because of lack of funds. Only some form of public financing of campaigns can restore real competition to American politics and substantially reduce the special influence enjoyed by a few large contributors that is inherent in the present system.

Won't remedies less drastic than public financing cure the present evil?

No, because other solutions (e.g., disclosure, spending limits, tax incentives for political gifts or the "checkoff" system alone) do not address the central problem: how to liberate candidates from their existing dependence on large special-interest givers. Essential to achieving this is the assurance, *in advance*, that candidates be able to organize a respectable campaign without going "hat in hand" to anyone.

Experience to date with lesser solutions (the checkoff—which only 3 percent of taxpayers have used—or tax incentives) indicates that they are unlikely to produce the amount of funds required to finance what most candidates believe is necessary to adequately communicate with the voters. (Even with tax incentives, only 25 percent of campaign funds in 1972 came from gifts of $25 or less.) As long as that's true, candidates will be tempted—or forced—to accept special-interest contributions, and the present problems will persist.

Does the public favor public financing of elections?

The Gallup Poll reported on June 23, 1973, that: "A clear majority of the American people favor the use of federal funds to pay election campaign costs of candidates for the presidency and for Congress. At the same time the public favors prohibiting contributions from private sources."

Actually, respondents to the Gallup Poll favored public financing by a two-to-one margin: 57 percent favored the idea compared with 29 percent who thought it was a poor idea. (13 percent had no opinion.)

In addition, viewers of an *Advocates* television program on public financing voted *three to one* in favor of total public financing of campaigns (76 percent in favor, 21 percent opposed).

Has public financing been supported by leading public officials?

Yes. It has been endorsed repeatedly—and by leaders of both political parties—through the years.

President Theodore Roosevelt first proposed public financing of elections in his State of the Union Message in 1907.

A special Senate Committee investigating campaign spending in the 1936 elections recommended total public funding of campaigns and a ban on all private contributions.

Two forms of public financing have actually been enacted into law by the Congress in recent years (one in 1966, which was suspended in 1967; and a "tax checkoff," enacted in 1971 and put into effect for the first time in 1973).

Vice President Agnew has said he favors some form of subsidy for candidates for Federal office (Newsweek, June 1973).

In June 1973, the Democratic members of the United States Senate unanimously passed a resolution calling for public financing of elections.

More than 100 members of Congress have introduced or sponsored legislation to effect public financing of elections.

Have any countries tried public financing?

Yes. Germany, Sweden, Norway, Finland, and the Commonwealth of Puerto Rico all provide public financing for their political campaigns. The systems differ in detail, but generally they assure all legitimate parties and candidates the resources they need to run campaigns.

When they adopted public financing, none of these countries banned private contributions. However, the role of private contributions has declined sharply in all of them. In fact, with the availability of public funds, some parties have refused to take special interest contributions. The Liberal Party in Sweden, for example, has announced that it will no longer accept contributions from corporations even though that is still legal. Before public financing was available, corporations were a principal source for money for the Liberal Party in Sweden.

In all these countries, the exact level of public support available to a particular party or candidate is dependent upon that party's popular support. In some, the party's performance in the last election is used to set its level of entitlement. In others, part of the subsidy is paid after the election and the amount is adjusted to correspond with the actual performance of the candidates at the polls.

Will public finance help incumbents?

No. The current system so heavily favors incumbents that more than 90 percent of them win re-election every time they run.

For one thing, incumbents are far more successful at raising private contributions than are challengers: a survey of Senate races in 1972 showed that incumbents outfinanced challengers by a margin of two-to one. That is why public financing is absolutely essential to restore true competition in American politics.

Incumbents enjoy other inherent advantages: they are better known than the challengers; they have virtually unlimited free postage to communicate with their constituents; and they have full-time staff to help them plan their campaigns.

Public financing would protect incumbents—and the public—in one way: incumbents as well as challengers would be relieved of the tedious and often demaining task of raising funds every two, four or six years. Moreover, since public financing would relieve the pressures for breaking the law (particularly regarding spending ceilings), incumbents would enjoy greater protection against the danger of an opponent whose only asset was access to enormous private funding.

How much would a public financing system cost?

That will depend largely on the form of the system adopted, the amounts of Federal assistance Congress writes into the public financing law and on the conditions of eligibility that such a law provides.

However, a 1971 proposal* that would have provided generous amounts of Federal assistance in both general elections *and* primaries called for an expenditure amounting to just $93 million per year—*or 69 cents for every adult American of voting age.*

Will primaries (or other forms of candidate selection) be included in public financing?

In the long run, primaries should be included. Not only is the candidate selection process a crucial and integral part of the election process, but (a) in many areas, the primary is tantamount to election; (b) if primaries were not included, much or all of the special-interest money now going into general-election contests would simply be diverted to the primaries, heightening the problem and special-interest gifts in candidate selection; and (c) assistance to primary candidates is essential to open up true competition in politics.

Will the candidates of all political parties receive the same amount of Federal assistance? Or will established parties receive more assistance than new or merging parties?

Most public financing proposals call for varying amounts of Federal assistance for the candidates of "minor" as distinct from "major" political parties, the amount of the assistance depending on the degree of popular support a party has exhibited (either via past election performance or the submission of petitions, in the case of new parties).

Some, however, argue that differential treatment as between the candidates of various parties is unfair—that Congress should determine the minimum amount of money required to organize an effective campaign and give that amount to the candidates of all parties. To do otherwise is either (a) to short-change the minor parties or (b) to give needless amounts of the taxpayers' money to the major parties.

Will public finance go to the candidates or to the political parties?

The Presidential Campaign Fund Act of 1966 (suspended in 1967) provided for funds to the parties. The Presidential Campaign Fund established by the 1971 Tax Act directs the money to the candidate. It is obviously possible to do it either way.

Those who support giving public finance to parties want to prevent their further deterioration. They believe that if the parties had the money they will play an important role in building strong coalitions of voters and in keeping candidates responsible to the voters. If candidates are totally free from any party restraints, they argue, there may be temptation to use any tactics to win. They also believe parties have crucial non-electoral functions which may deteriorate if all the support goes to individual candidates.

The supporters of grants directly to candidates argue this procedure would be closest to the pattern that exists today because most candidates raise their money independently of parties. They fear that putting the money in the hands of parties will return the United States to unfettered party boss rule.

There is a middle position reflected in several of the proposed programs. It would give public support for campaigns directly to candidates but would make parties eligible for some form of aid as well. This position recognizes the important functions of parties but keeps campaigning more closely associated with the candidates themselves. Public support for parties might well be based on either the parties' own small fundraising programs on a matching basis or reflect the number of actual members of the parties.

Will the Federal assistance be in the form of cash or services or both?

Congress would have a number of options: it could provide assistance in the form of money, services or both.

The most flexible system would be to provide money assistance (perhaps in the form of a "drawing account," either in the Federal Treasury or in a local bank). That would allow candidates to use the funds in whatever way he determined most suitable to his own constituency.

The Federal assistance could also be effected by giving all candidates some of the basic services they need. For example, recent studies by the Twentieth Century Fund have recommended that all candidates for Federal office be provided with free television and radio time and free use of the mails. Other services like printing, telephones, and office space and equipment could be added to this list. Buying these things now consumes the bulk of the money spent in campaigns. If candidates were assured of these communication facilities, they might be able to rely on small individual contributions to raise the rest of the money they need.

It would also be possible to provide a mix of services and money-assistance to candidates.

Will private contributions be permitted under a system of public finance?

Probably. Most of the proposals for public financing now under discussion would permit (and, in many cases, encourage) small contributions, while prohibiting large contributions.

Many people believe that if public financing were enacted, and an alternative to accepting large contributions were available to candidates, limits on the size of individual contributions would become enforceable for the first time.

Why shouldn't people be allowed to give whatever they want to candidates?

It's not fair. The current system of campaign financing virtually restores the property tax as a qualification to voting. The people with lots of money who make contributions to campaigns have more votes—and influence—than the average person who just has one vote on election day.

Congress clearly has the power to protect the integrity of the election process. The current system in which big contributions by some increases their influence and decreases the influence of the average voter clearly threatens the whole process. Further, the right of the public to full and unfettered political debate is threatened by a campaign financing system that prevents many people from running effective campaigns.

Why is it right or fair, through public financing, to compel a citizen to help the campaign of a candidate to whom he is opposed?

Citizens are already compelled to do just that—in that their tax money pays for all the machinery of elections (voting machines, ballots, registrars, poll watchers, etc.)—half of which may be said to help elect "the opposition candidate." In fact, some argue, political campaigns are the only example of governmental or public business *not* paid for with taxpayers' dollars. So public financing of election campaigns establishes no new principles, breaks no new ground. It simply recognizes that campaigning is just as integral a part of the election process as are ballots and voting machines.

In fact, there is a parallel: just as voting machines and poll watchers are financed out of tax money to ensure honest elections free of improper influence, the same objective is fulfilled by public financing of campaigns: freeing elections (and candidates) from undue influence that now is inevitably involved in large campaign contributions from wealthy donors who have an axe to grind.

Will public financing change our two party system?

No. The two party system in America has shown remarkable durability. There are many reasons for its continuity and they would not be affected much by the availability of funds to pay for the legitimate expenses of campaigns.

Significant third party movements have periodically arisen because the major parties failed to respond to strong political demands. Third party movements enlisted manpower, money, and other resources because they offered popular answers and had effective leadership. They faded when the major parties responded to their issues. This cycle would continue.

Will third parties be prevented from emerging?

No. Most proposals now under Congressional scrutiny grant public support to new parties as they show some minimal public support. The intensity of issues, leadership,

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See footnote on page 25646.

and public dissatisfaction will continue to allow new parties to raise funds in its initial stages of development. The basic dynamics in the political system which cause new parties to come and go will not be affected by public financing for campaigns.

Don't we already spend too much for politics in America?

No; several other Western democracies (Sweden, Israel and Germany, for example) * spend many times more, per capita, on politics than we do.

While the cost of political campaigns has been rising rapidly in America, and every effort should be made to stop the explosion in campaign costs, the central problem is not the *amount* that's spent, but where it comes from. The bulk of it comes from contributors who have an axe to grind and who gain special influence with their contributions. If most or all of the money came from people who had no special axe to grind, as would be the case if public finance were enacted, then the evils of large spending would be substantially reduced.

Wouldn't Public Financing of Campaigns merely escalate the cost of campaigns—by piling public money on top of the existing private giving?

No, not if a public assistance law included (a) *enforceable ceilings* on total spending and (b) a *stringent limit* on the amount a private individual could give a candidate for Federal office.

Various suggestions have been made that would make overall ceilings truly enforceable for the first time. These include requiring all campaign receipts and expenditures to be routed through a single bank account; prohibiting anyone from furnishing goods or services to a political campaign if he were paid in cash or in any manner other than through the approved single-bank-account (or, alternatively, requiring the purveyor to report promptly and publicly any payments made other than through the single-bank-account).

Such safeguards would be an effective bar to the violation of legal ceilings, campaign spending by illicit gifts and expenditures, including cash. And the availability of Federal assistance would reduce the pressures on candidates (and donors) to circumvent the law.

Won't the prospect of a Federal "subsidy" encourage a rash of frivolous candidates who enter just to get the subsidy?

Any sensible public financing plan should certainly include safeguards against non-serious or "frivolous" candidates, and a number of such safeguards have been suggested. These include:

Limiting the Federal assistance to candidates able to present petitions signed by a large enough percentage of the electorate to show the candidate's seriousness and a significant degree of popular support.

Making the Federal assistance conditional on a candidate's ability to raise a certain percentage of the Federal assistance in small private contributions—again indicating both his seriousness and a significant degree of public support.

Requiring candidates receiving Federal assistance to post a bond that would be forfeited if they failed to gain a certain percentage of the vote.

What's more, faith in the democratic process and the good sense of the voters suggests an additional safeguard: any Federal assistance that might go to a purely non-serious candidate would be used to expose his or her presumably frivolous views to the voting public and would thus contribute to his or her rejection at the polls.

Will Public Financing give the party in power a strong weapon for discriminating against its opponents and for staying in power?

No. All public financing proposals suggested in Congress thus far provide that the Federal assistance be granted in accordance with automatic formulas (such as cents-per-eligible-voter or matching grants) that call for treating all candidates on a uniform basis. Under such automatic formulas, the party in power could only reduce or cut off funds for the opposition at the expense of damaging its own candidates. Moreover, all public financing bills thus far proposed call for an independent Commission to administer and enforce the program, and provide for the adjudication of complaints of abuse of the system by the courts.

Under a Public Financing System, could the taxpayers' money be used for the personal enrichment of the candidate?

No. Any reasonable public assistance law would of course prohibit the use of the Federal assistance for the personal enrichment of the candidate, and several means have been suggested for making the enforcement of such a prohibition feasible and effective.

For example, it has been suggested that the Federal assistance be made available in the form of a "drawing account," either in the Federal Treasury or in a local bank, with payments made only to the purveyors of goods and services (on the basis of invoices approved by the candidate) *so that none of the Federal funds would go directly to the candidate himself*. That is, the payments would go directly from the Treasury (or bank) to the radio or TV station or newspaper or printer or billboard company, rather than to the candidate.

Most public assistance bills provide that all campaign receipts and expenditures—public as well as private—be routed through a single bank account, another means of assuring full public accountability and of preventing the abuse of campaign funds.

Whichever system is adopted, the Government Accounting Office will have full power to audit the uses of public funds and investigate abuses.

A TRIBUTE TO THE MORMON PIONEERS

Mr. CHURCH. Mr. President, today marks the 126th anniversary of the arrival in the valley of the Great Salt Lake of the Mormon pioneers.

It was on this day—July 24—in 1847 that Brigham Young looked out from his sick bed in one of the lead wagons and announced to his band of followers an end to their long search for sanctuary:

> It is enough. This is the place.

These brave men and women, followers of the prophet Joseph Smith and members of the Church of Jesus Christ of Latter-day Saints, had left their comfortable homes for the rigors of the Rocky Mountains and an uncertain future to escape the religious persecution which had marked their early years together. In the first 20 years of the church's history, the faithful were forced to move more than six times. From New York to Ohio, Missouri, Illinois, and finally to Utah.

Their arrival in Utah, however, did not end the persecution, for the Saints were the object of punitive legislation and discrimination on many occasions in the 19th century.

But today, the LDS occupy a prestigious position in American life. They have served in all walks of life, and have occupied prominent roles in both the legislative and executive branches of government.

This prestige now enjoyed by the Latter-day Saints was not achieved by accident. It was achieved by hard work and good habits.

Upon arriving in the Great Salt Lake Valley, the Mormon pioneers set out with characteristic determination to establish a distinctive community based upon the Bible and the teachings of the prophet, Joseph Smith. These dauntless men and women pitted themselves against a hostile environment, and in the struggle to exist, they prospered and grew in numbers.

The LDS were the first to irrigate their land, thus making maximum utilization of their precious water. As they grew in numbers, they turned their attention to building new settlements to accommodate those who joined them from the ends of the earth. The pioneers seeded the mountain west with towns and cities—indeed, the Mormons were the first to settle in Idaho, where they founded Fort Lemhi in 1855. Five years later, they established the first permanent community in Idaho—and the first school at Franklin, named for a noted Mormon pioneer, Franklin D. Richards.

Today, the spiritual descendants of the pioneers continue the tradition. The faith has spread throughout the United States and abroad, where Mormon missionaries have proved outstanding citizen-ambassadors of good will for America as well as for their church.

And like their forebearers, today's LDS continue the tradition of close-knit families. They are quick to help those suffering from illness or want, and the excellence of their programs for young people is especially well known.

One of the most remarkable characteristics of the LDS is their commitment to education. The most Mormon State in the Union—Utah—is also the most extensively educated. The keystone of the church's education programs is Brigham Young University, known for its excellence. In Idaho, the church operates Ricks College, a fine school on a beautiful and growing campus at Rexburg. Throughout the world, the church operates numerous other institutions of learning in an educational system that is ever expanding.

On this anniversary day, it is therefore fitting that we pay tribute to the Mormon pioneers—and to their descendants. Theirs is an example of Christian living and community service which deserves only the highest praise. I am very proud to join with the people of Idaho and with those of our sister State of Utah in paying tribute on this day to a unique and remarkable people.

Mr. President, I ask unanimous consent that a story on the pioneers, which appeared July 23 in the Salt Lake City Deseret News, be printed in the Record.

There being no objection, the story was ordered to be printed in the Record, as follows:

THIS IS THE PLACE

(By Harry Jones)

They were covered wagon people.

They had followed narrow Indian trails westward, and then broke new trails. Sometimes they plodded on by compass only, or following the sun, hacking their way through brush and uncharted land.

Yet, the roster of this band struggling

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* These figures do not include the free TV time given to candidates in those countries.

across prairie and mountain, through heat and howling blizzard, showed them to be strange-looking pioneers.

It was faith that urged them on from Nauvoo across the Mississippi and the Missouri. Faith led them along the placid Platte and then down the Weber where it flows like an unbraided rope.

It was faith that carried them across the mountains. Time and history scribble with a careless hand, but not the entry into the valley of the Mormon pioneers. It is faithfully recorded.

Orson Pratt and John Brown had left camp on Monday, July 19, to explore a route into the valley.

"We found a wagon trail, left the year before by the Donner party on their way to California.

"We passed over a mountain and down into another narrow valley, and thus avoided the canyon on the left," said Pratt.

Today, the mountain is known as "Little Mountain" and the narrow valley, "Emigration Canyon."

In the heat of summer, Pratt headed to the cooling of City Creek where it flowed across the valley floor where the City and County Building now stands.

As the sun was slowly sinking, he wrote in his journal that "I gazed on the surrounding scenery with peculiar feelings in my heart. I felt as though it was the place for which we had so long sought."

A later journal reports that President Young said, "It is enough. This is the right place, drive on!"

Now thousands of sunsets later, 126 years to be exact, one can stand at the "This Is the Place" Monument at sunset, and believe.

This is the place!

TRIBUTE TO JOHN KAMPS

Mr. **METCALF**. Mr. President, when I first went to Helena, Mont., as a legislator and later as an assistant attorney general and associate justice of the Montana Supreme Court, the newsman who covered the activities of those bodies was John Kamps. A native of Froid, Mont., John had wide experience in political reporting before he came to Washington.

One of the first persons to greet me when I came to the House of Representatives 20 years ago was my friend John Kamps. He has faithfully and accurately covered congressional activity relating to the West. His knowledge of the problems of the West, his understanding of the special needs of Western States, water, minerals, forests, national parks, Indians, public lands, and the like has resulted in superb reporting of congressional activity in these areas. As of June 30 John has retired.

John has told me that he is going to Florida. However, he will always be welcome in Montana and any summer he wishes to wet a line in a trout stream there are still some of his familiar creeks and rivers still unpolluted awaiting him.

On behalf of my entire staff and myself, I wish John many happy years of retirement and the well-earned leisure he so richly deserves.

OEO LEGAL SERVICES

Mr. **MONDALE**. Mr. President, 8 years ago, the Federal Government embarked on an experiment to insure equal justice to low-income Americans. That program—the OEO Legal Services program—in those 8 years has proven its effectiveness beyond all doubt.

The Legal Services program has served more than 1 million clients annually, and has performed an outstanding job for those clients. Recent figures show that 83 percent of the matters handled by Legal Services attorneys have been disposed of without litigation and 85 percent of those matters in which litigation resulted have been won for their clients by Legal Services attorneys.

In addition, a GAO survey of Legal Services earlier this year clearly indicated that the vast bulk of Legal Services attorneys' time is spent on handling the day-to-day problems of poor clients. For example, 42 percent of matters dealt with domestic relations, 18 percent with consumer and job-related problems, and 20 percent with housing and welfare problems. And that small proportion of time which has been spent by Legal Services attorneys in attempting to win collective rights for the poor has resulted in hundreds of millions of dollars, as well as expanded human rights—to which the poor were legally entitled—from Federal, State, and local governments which had been violating the law.

I believe this program has demonstrated a greater cost-effectiveness than virtually any other program in Government today. It has prevented unlawful reductions in welfare payments, helped extend the Federal school lunch program, and participated in many other important efforts to enhance the rights of the Nation's poor. It has attracted dedicated, motivated, able lawyers to its programs in a manner which has strengthened our ability to achieve peaceful change within the American system.

Using any standard, this unique program has been an outstanding success. And perhaps the most significant proof of that success has been the fact that the organized bar throughout the country has led the fight to preserve an independent and effective Legal Services program.

Without this leadership by the bar and by the leaders of the organized bar, this program would have been dead long ago.

Yet the sad truth is that despite the success of the Legal Services program it has been subjected from its inception to attacks from those who believe that lawyers should not be too aggressive—or too effective—in defending the rights of their clients.

No one who has had contact with the Legal Services program would deny that there have been some abuses in that program over the past 8 years. No one who has maintained any association with any Federal program operating over that period of time could deny that such a program would have some abuses of its own.

Yet the overwhelming record of achievement which the Legal Services program has realized in a short period of time is in danger today. The abuses of a few are being used as an excuse to weaken a program whose only real "problem" is its record of enhancing justice for millions of Americans.

The House-passed Legal Services Corporation bill, is in my view, a hollow shell of what a truly independent and vibrant Legal Services program must be.

The President has recognized the vital role that Legal Services must play. In August of 1969, he stated that—

> It [the Legal Services Program] will take on central responsibility for programs which help provide advocates for the poor in their dealings with social institutions. The sluggishness of many institutions—at all levels of society—in responding to the needs of individual citizens, is one of the central problems of our time. Disadvantaged persons in particular must be assisted so that they fully understand the lawful means of making their needs known and having their needs met.

The House-passed bill makes such assistance virtually impossible. And, this bill substantially changes the debate over legislation to create a Legal Services Corporation.

Twice the Congress has passed Legal Services legislation; neither time has it become law. Yet in those instances there were fundamental differences of policy regarding institutional structuring of the Corporation, differences which prevented the enactment of an independent Corporation bill, but which were nevertheless within the boundaries of genuine political debate.

The recent action on the House floor fails to meet this test, however. For the crippling amendments adopted on the House floor were not the product of those administration officials who maintain an open mind on the most desirable form for the Legal Services program. Indeed, the nominee for the Director of the Office of Economic Opportunity, Alvin Arnett has told me that he supports the bill which emerged from the House Education and Labor Committee, and which was subsequently gutted on the House floor.

Rather the House floor amendments were the product of days of back-stage whispering by those who have consistently tried to destroy the effectiveness of the Legal Services program. Their chief spokesman was Howard Phillips, former Acting Director of OEO, who at the very time the House bill passed was in his way to being removed from office by a U.S. district court judge.

Those of us who have been through the battle to create an independent and responsible Legal Services program cannot allow that program to be eroded by such tactics. We must repair the damage inflicted by one man who held office illegally and whose view of the world of the poor was as misanthropic as his perceptions of the Legal Services program were inaccurate. We must not let that distorted view of reality undo nearly a decade of responsible activity by Legal Services attorneys on behalf of America's poor.

We cannot allow a program in which backup centers have provided the type of research assistance overworked attorneys in local offices could never hope to provide, to be stripped of its research arm. Yet the House-passed bill would do just this.

We cannot allow a program which has successfully challenged the illegal and arbitrary actions of Federal, State, and local governments to be emasculated by allowing these governmental units to maintain political control over or operate Legal Services programs. Legal Services attorneys must be free to adequately represent their clients, and political domination over the program by Government will undoubtedly interfere with this objective. Yet the House-passed bill would do just that.

We cannot allow a program which needs involved and motivated attorneys—to be hampered, because of unreasonable restrictions on the private and personal lives of those attorneys. Yet the House-passed bill would do just that.

Finally, we cannot allow Legal Services attorneys to be restricted in representing the interests of their clients before legislative and administrative bodies. Yet the House-passed bill would do just that.

The bill passed by the House would result in second-class law for the poor, which few corporations or governments would stand for.

A number of crucial issues stand out as deserving the attention of the Senate. These issues must be the cornerstone of our attempt to shape Legal Services Corporation legislation which will meet the goals which the President has set for the program. These issues must take priority if we are to meet this Nation's commitment to equal justice under the law.

These are the goals toward which we must work. Together, we must insure a viable and truly independent Legal Services program.

First, we must eliminate the possibility of State and local governments becoming recipients of legal services funding. Political control at any level of Government is highly dangerous for the Legal Services program, since funds may be controlled by potential defendents in actions initiated by Legal Services attorneys. We need an independent program able to challenge Government illegality wherever it exists.

This, of course, is not to deny elected officials their proper role in consultation on matters in which they are intensely interested. However, to allow Governmental units to operate, or be a funding conduit for, Legal Services programs is to run a grave risk that no effective means of legal redress within our system will be preserved.

For as the President himself noted in 1971:

> "Much of the litigation initiated by legal services has placed it in direct conflict with local and State governments . . . . However, if we are to preserve the strength of the program we must make it immune to political pressures and make it a permanent part of our system of justice.

No clearer evidence could be offered on the need to insure that recipients are truly independent of State and local political and governmental ties, and able to act freely without fear of political reprisal.

Second, we must insure continued operation of backup centers, which were eliminated by the House bill. As Robert Meserve, president of the American Bar Association, stated in March of this year:

> I don't see how with any efficiency the individual lawyers in the field can do all the types of research which these back-up centers can do in specific and particular areas.

These 16 centers provide invaluable assistance to lawyers whom the General Accounting Office earlier this year characterized as overworked with heavy workloads of individual cases. Provision for these centers must be maintained as a part of any independent Legal Services Corporation bill, and Mr. Arnett has indicated his support for this position.

Third, representation by Legal Services attorneys before legislative and administrative forums should not be restricted so as to deny the poor the types of legal assistance which any citizen should be able to obtain. In years past, we have accepted certain compromises on the scope of these vital activities, without which no lawyer can fully serve his clients. But there must be a limit. We must preserve the essential ability of the poor to obtain the same type of legal representation which others in our society can afford.

Testifying in 1971, Edward L. Wright, former president of the American Bar Association, stated that the program must enable a Legal Services lawyer to "serve his clients to the extent of his professional responsibility and the ethical mandates of the profession." In short, we must avoid setting up restrictions on Legal Services attorneys which no large American corporation—whose legal fees are subsidized by the Federal Government through tax deductions—would tolerate for its attorneys, and Mr. Arnett apparently agrees with his position.

Legislative and administrative representation limited to responses to formal request from members of a legislative body is virtually no representation at all. Like any attorney, Legal Services attorneys must be able to carry out legitimate representational activity on behalf of any eligible client before Federal, State or local bodies.

Fourth, we must insure that there are no broad categorical restrictions on the types of cases in which Legal Services attorneys can participate. Such restrictions violate the ethics of the legal profession and place attorneys for the poor in an untenable position.

President Nixon stated in 1971 that—

> The legal problems of the poor are of sufficient scope that we should not restrict the rights of their attorneys to bring any type of civil suit. Only in this manner can we maintain the integrity of the adversary process and fully protect the attorney-client relationship so central to our judicial process.

In short, we should no more attempt to limit the types of cases which a Legal Services attorney can bring than we should attempt to restrict the scope of practice of any attorney admitted to the bar.

Fifth, we must attempt to preserve the constitutional rights of Legal Services attorneys by not placing undue restrictions on their personal lives and off-time activities.

Sixth, we must resist attempts to bankrupt the program by requiring the Legal Services Corporation to pay legal fees and court costs for those cases lost by attorneys employed by the Corporation or a grantee. If these provisions become law, they could well require the Corporation as a matter of financial survival to direct recipients not to engage in any but the safest types of litigation. This would prevent precisely the types of litigation and other representational activity through which Legal Services attorneys have won many new substantive rights for clients over the years.

Clearly, this provision is an attempt to bankrupt the Legal Services Corporation and is a departure from the principles on which our legal system rests.

Finally, we should maintain in the law the presence of a National Advisory Council, to act as the chief contact point between the program, the organized bar and those affected by the program's activities. The National Advisory Council has played an important part in winning and maintaining acceptance for the Legal Services program on the part of the local bar. The abandonment and dismantling of the Advisory Council by OEO earlier this year should not be allowed to be perpetuated in our legislation for a Legal Services Corporation.

These are only some of the issues which require the careful attention of the Senate. Together, the many restrictions embodied in the House bill hopelessly impair or prevent much of the most valuable legal services representation. And, if the value of that representation is depreciated, the program can no longer be truly effective in providing the type of service to millions of poor Americans which enables them to find equal justice under our Constitution.

In the coming weeks, the Senate will consider legal services legislation. We must attempt to preserve fully the independence and integrity of legal services lawyers' relationship with their clients, consistent with the requirements of the Canons of Ethics and the Code of Professional Responsibility of the American Bar Association.

In our search to find common principles, we must not be unreasonable, but we must maintain the essential integrity of the program and the integrity of the legal-judicial process.

I hope all those who believe in equal justice under the law, and all those who believe that the poor are entitled to the same standard of justice as all others in our society will join in this search for shared principles.

And I hope and trust that in this search we can breathe new life and a new sense of independence and security into a program desperately in need of our continued support.

COMMITMENT TO PRINCIPLE IS THE GUIDEPOST OF LEGAL SERVICES CORPORATION LEGISLATION

Mr. CRANSTON. Mr. President, the Senator from Minnesota (Mr. MONDALE) has, as usual, made a fine statement. I fully associate myself with all of his remarks, which I have had the opportunity to study prior to their delivery today.

There is little I need to add. He has laid it out very clearly. I will continue to stand at his side along with Senator KENNEDY and others, as I have since we first introduced National Legal Services

Corporation legislation more than 2 years ago.

I associate myself completely with all the principles about which he has spoken so eloquently and with his plea for a reasoned approach to this legislation. I plan to continue to collaborate with him in developing amendments and provisions to carry out our shared goals, principles, and values.

Mr. President, I would like to add one bit of additional support for the very forceful comments which the Senator from Minnesota has made about the vital importance of retaining active and effective legal services backup centers, which the House-passed bill would eliminate. It seems clear that the administration itself recognizes the importance of these centers to the provision of effective legal services since its own proposed legislation would impose no restrictions on the continued funding of such legal research and technical assistance programs.

In addition, Mr. President, I have copies of three letters from high officials of the Department of Housing and Urban Development, as well as an excerpt from the March 1972 HUD publication Challenge, entitled "Special Counsel for the Poor," which are unanimous in their praise for the effective and responsible activities of the national housing and economic law project in Berkeley, Calif., with respect to a variety of subjects, including litigation. I ask unanimous consent, Mr. President, that the text of these three letters and that article and the text of a July 5, 1973, letter to the House and Senate chairmen of the appropriate congressional committees and subcommittees from Dean Edward C. Halback, Jr., of the School of Law of the University of California at Berkeley, be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CRANSTON. Mr. President, in closing, I call upon the President to let us know where he stands on this legislation and to identify a responsible administration spokesman to deal with the Congress on his behalf in support of the administration bill, the provisions of which are embodied in S. 1815 amendment No. 132 submitted for the administration by the Senator from New York (Mr. Javits) and others.

Mr. President, at his confirmation hearing before the Senate Labor and Public Welfare Committee last Friday, July 20, Mr. Alvin Arnett, Director-designate of OEO, answered questions regarding legal services from Senator Mondale, myself, Senator Kennedy, Senator Taft, Senator Schweiker, Chairman Williams, and others. The concerns of the committee were, I think, very clearly manifested to him. And he generally responded in a forthcoming manner on this issue, by twice pledging his support, if confirmed as OEO Director, for the bill reported to the House floor from the Education and Labor Committee. If he is confirmed, we expect him to stand by that pledge in the difficult days ahead.

Certainly, his defrocked predecessor was anything but a supporter of the principles and legislation to which Mr. Arnett pledged himself last Friday.

The President should put an end to the schizophrenic behavior which characterized administration activities on the House side—which can best be described as the Phillips Wrecking Co. and Bomb Squad making surreptitious sorties with devasting effect closely followed by the Laird/Garment/Richardson Fire Co. and Rescue Squad with scant water pressure, obsolete equipment, and an unclear mission.

This Keystone Cops routine must not be replayed in the Senate.

It has none of the humorous qualities of the original and has produced disastrous results for America's poor.

EXHIBIT 1

DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT,
Washington, D.C., January 3, 1972.

Mr. Alvin Hirshen,
Housing Law Project, University of California, Berkeley, Calif.

Dear Mr. Hirshen: As you know, I am leaving the Department on January 20, 1973, and wanted to personally thank you for the efforts in assisting the Department over the past four years. More particularly, the advice and counsel given HUD during the negotiations between HUD, NAHRO and NTO on developing the lease and grievance procedure which resulted in the Department issuing a policy agreeable to two very volatile national organizations.

Our General Counsel's office informed me that your representation during subsequent litigation was outstanding and instrumental in getting a favorable ruling for the Department. I hope that in the future, your organization will continue to exhibit the highly professional and responsible service to HUD as well as its consumers.

The association has been rewarding and I wish you all the best for the future.

Sincerely,

Norman V. Watson,
Assistant Secretary.

THE GENERAL COUNSEL OF HOUSING AND URBAN DEVELOPMENT,
Washington, D.C., January 10, 1973.

Mr. Al Hirshen,
Director, Housing Law Section, National Housing and Economic Development Law Project, Berkeley, Calif.

Dear Mr. Hirshen: This letter is to express the appreciation of the Department of Housing and Urban Development both to you personally and to the Project for your assistance in the case of The Housing Authority of the City of Omaha, Nebraska, et al. v. The United States Housing Authority, et al. Your participation in this litigation, especially your involvement in the negotiations with the plaintiffs, as well as your excellent briefs and oral presentations, materially contributed to the successful outcome before the Court of Appeals for the Eighth Circuit.

As you know, this litigation posed a direct challenge to the Secretary's authority to issue regulations and more specifically the validity of the HUD model lease and grievance procedure circulars for low-rent public housing which we felt were essential to the stability and orderly management of the whole public housing program. We feel that the decision in the Eighth Circuit as well as similar decisions in the Seventh and Fifth Circuits have vindicated our position, and that your assistance has been of great benefit in this effort.

Sincerely,

David O. Maxwell.

THE GENERAL COUNSEL OF HOUSING AND URBAN DEVELOPMENT,
Washington, D.C., October 16, 1972.

Alvin Hirshen, Esq.,
Director, National Housing and Economic Development Law Project, Berkeley, Calif.

Deard Al: We are deeply grateful for your taking time from your busy schedule to make such a fine contribution to our meeting of HUD Lawyers last Friday. The panel made a tremendous impression on everyone, and I believe that your candid and comprehensive approach was a particularly valuable experience for our lawyers in the field.

Many thanks again.

Sincerely,

David O. Maxwell.

THE UNIVERSITY OF CHICAGO,
Chicago, Ill., March 2, 1973.

Mr. Alvin Hirshen,
National Housing and Development Law Project, Earl Warren Legal Institute, University of California, Berkeley, Calif.

Dear Mr. Hirshen: We are arranging to obtain copies of the comments of the American Bar Association Subcommittee on the Model Uniform Residential Landlord and Tenant Act. I expect to be able to send the material to you early next week. I think about the same time, or shortly thereafter, printed copies of the Uniform Act together with comments will be available. This process is, of course, a continuing one and I am sure that the Subcommittee of the National Conference (which under the rules of the Conference continues even though the Uniform Act has been adopted) will be interested in your reaction and will ultimately wish to meet with you and your associates.

I assume that at this time I can appropriately express my deep appreciation, and I am certain that of the Commissioners concerned, for the great and continuing assistance which you and your associates have provided. Few fields of law instruct our general population as thoroughly as that of landlord and tenant. It is in the forcible entry and detainer court and in the building and housing court that the average citizen is truly instructed as to whether our society is one of law rather than men and whether law is, in fact, responsive to the needs of the society which it is to serve. The tenant, for example, who is told that he must continue to pay rent even though all essential services have been deliberately lapsed must find it hard to believe that the law is other than "an ass." Although these hardships fall most heavily on the poor, the middle and upper class tenants are equally injured. The fact of the matter is, as you and I know, that only in recent years, largely through the influence of persons like you and your associates, have the courts of review for the first time begun to examine some of these issues.

The position of the Commissioners in this regard was difficult. It was essential that we hear from all sides and, moreover, that we hear not from abstract surrogates but from counsel who, like yourself, came from the battle of the courtroom.

Your contributions were indeed great. We all hope they will continue.

Sincerely yours,

Julian H. Levi.

SPECIAL COUNSEL FOR THE POOR

THE NATIONAL HOUSING AND ECONOMIC DEVELOPMENT LAW PROJECT

That the law "intended residents of blighted areas to be the beneficiaries, not victims of urban renewal" was the observation of a Federal court in *TOOR v. HUD* last year as it entered an order enjoining a major San Francisco urban renewal project from demolishing the homes of more than 3,000 disadvantaged persons for whom relocation housing had not been planned.

In a wide range of cases such as this one, lawyers representing low-income people and their community groups, particularly OEO-funded Legal Services attorneys, are pressing the courts for enforcement of the legal rights of displacees under relocation statutes; of community organizations looking for citizen participation under HUD's Workable Program guidelines; and of tenants in public housing, HUD–FHA subsidized housing, and private housing. For the last group, new landlord-tenant laws better suited to the realities of a modern urban society, are an urgent necessity. One group spearheading this movement is a small organization of lawyers established three years ago at the Earl Warren Legal Institute at the University of California, in Berkeley, known as the National Housing and Economic Development Law Project.

The Project's staff consists of 12 lawyers, one planner, and one political scientist. It is supported by graduate students in Berkeley's Schools of Law and City Planning. The staff maintains close working relationships with a network of Legal Services attorneys in other cities, many of whom are also specializing in the area of housing law or economic development.

SERVICES PROVIDED

The Berkeley project, a grantee of the Legal Services Division of the Office of Economic Opportunity, was created to provide Legal Services lawyers with specialized legal advice and strategy-oriented guidance in the two-pronged areas of housing law and community based economic development. It developed and published *The Handbook on Housing Law*, which contains comprehensive practice materials for lawyers and planners representing low-income clients and their community organization.

Volume One, *Guide to Federal Housing, Planning, and Redevelopment Programs*, explains in detail the various HUD programs which affect the interest of low-income people and their organizations and recommends approaches and strategies for their use. Volume Two. *Landlord-Tenant Materials*, includes a detailed guide for lawyers representing tenant unions, as well as chapters on rent withholding, retaliatory evictions, actions for housing code violations, and lead poisoning of slum children.

The Project works closely with such organizations as the National Tenant's Organization (NTO), a coalition of low-income tenant unions in public housing and private housing; the National Association of Non-Profit Housing Organizations (NANHO); and the National Congress for Community Economic Development. Along with NTO it played an active role in deliberations leading to the issuance of HUD's new regulations governing public housing leases and grievance procedures. The regulations oblige all housing authorities to conform their leases to model documents which provide various tenant protections and insure impartial hearings on tenant grievances.

In its three years of operation, the Project's attorneys have achieved significant results in several important areas, one of which is relocation housing for all persons displaced by such Federal programs as urban renewal and highway construction. The Project, as co-counsel to Legal Services lawyers in several lawsuits instituted to compel compliance with statutory and regulatory requirements, has been effective in insuring realistic planning for displacees and the production of replacement housing. As in other areas of its operation, the Project supplies model complaints and briefs to attorneys challenging relocation plans.

The Project's relocation work illustrates its method of approach and operation: a combination of legal research, litigation, counseling, negotiation at the Federal, State, and local levels, and legislative effort. It has applied a similar variegated approach in its work in the area of public housing management. Here it has supported efforts of Legal Services units around the country, based upon the tenant participation requirements of the HUD modernization program, to encourage tenant participation in management decisions and to build tenant unions or councils.

The Project also played a major role in the development of the Brooke Amendments to the 1969 and 1970 Housing Acts. The amendments limit the rent payable by a public housing tenant to a percentage of income, provide subsidies to cover maintenance costs, and require significant tenant participation in management decisions.

FUNCTION OF POVERTY

The Project sees the housing problem as a function of poverty, not as a shortage of housing. As its Director, Kenneth Phillips, put it: "A slum is where poor people live, and if you tear that slum down and move them someplace else and they are still poor people, you are going to have another slum. You have to think about the total problem of low-income families, who may have no male adult; who, if they have jobs, are probably underemployed in the sense that they are unable to earn enough to support themselves and their families."

Phillips sees a system of housing allowances, to fill the gap between what the poor can afford to pay for housing and the costs of operating and maintaining housing, plus finance costs and property taxes, as the only promising approach. He recognizes that this would require increased Federal funding for housing, although he believes that over a period of time housing allowance programs would prove much less expensive than present approaches.

As to the functions lawyers can perform he says, "First of all we must be alert to every opportunity to document and dramatize the reality of the poverty situation. This can be done through litigation and administrative strategies. The country must not be allowed to forget the dimensions and realities of the poverty problem if we are ever to hope for realistically funded programs. Second, we must emphasize strategies that have the potential for the development and encouragement of local organization and leadership, such as community development corporations and tenant councils. Third, it means specific gains, wherever possible, whether that is more units of housing or the recognition of tenant councils in public housing, or whatever."

WORKABLE PROGRAM TASK FORCES

Possibly the most ambitious and comprehensive strategy the Project has developed to date has been based on the statutory requirement that every city have a Workable Program certified by HUD as a condition of eligibility for urban renewal and certain other HUD funds.

In some 20 cities across the country, citizen task forces, supported by Legal Services lawyers with Project assistance, have been organized for that purpose. These task forces include low-income community organizations from all parts of these cities, as well as local Urban Leagues, the local NAACP and the chapter of the League of Women Voters. The activities of the task forces and the administrative complaints filed in several cities have resulted in a variety of specific agreements including undertakings to build more low-income housing, to halt displacement pending the availability of relocation resources, and to rezone land for HUD-FHA subsidized housing.

Finally, the Project is assisting the growing tenant union movement through research and publication, litigation assistance, and the development of a detailed manual for tenant union organization and operation. Most of this work involves new law in the area of housing code violations, including the emerging legal doctrines of retaliatory eviction and implied warranty of habitability. The Project's latest effort in this area has been the development of a comprehensive Eviction Defense Manual for California attorneys, which covers the procedures and substance of eviction defense, from the receipt of first notice through appeal. The manual is in turn intended to serve as a prototype for other States.

ECONOMIC DEVELOPMENT

The Project's economic development section provides specialized legal assistance to approximately 30 Community Development Corporations (CDC's) and serves as legal adviser to their association, the National Congress for Community Economic Development. The Project sees the movement for community-based economic development as offering, more than any other antipoverty strategy, a potential for the mobilization of resources and the development of local leadership, and for building long term institutions that will be really responsive to community needs.

The legal assistance and related business assistance provided is often complex and sophisticated. It must take into account the many uncoordinated sources of governmental and private funding and technical assistance. Difficult problems of finance, tax, corporate, securities, and anti-trust law are commonly involved. Relationships of trust and confidence must be carefully developed with local community organizations and their members.

The Project's work with the East Central Committee for Opportunity, Inc. (ECCO)—a rural, primarily black organization which, with government and foundation support, is establishing a commercial catfish operation and other auxiliary enterprises—typifies its approach in this area. As special counsel to ECCO, a Project attorney recently negotiated a substantial loan from a private foundation, drew up articles of incorporation and by-laws for the several corporations, arranged for day-to-day legal services from a VISTA lawyer in Atlanta, and formed a minority enterprise small business investment company to permit ECCO to take advantage of maximum support available through the Small Business Administration programs. ECCO's catfish business is now underway. It involves some 250 low-income farmers as cooperative members and employs 32 people in its operations.

Related to its special counsel assistance to specific community development corporations and their counsels are two other important Project functions. Through its research, the Project is presently preparing a comprehensive, practical lawyer's manual on all aspects of community-based economic development. Second, working with OEO, the Project is meeting with representatives of various Federal agencies and bureaus in an effort to create a more favorable climate of response for CDC's.

A long term solution to the problem of deteriorated housing—interrelated as that problem is to the myriad and complex social and economic issues of poverty, welfare, employment, health, and education—will require a *multi-faceted approach*. It will have to insure, through some system of subsidy, the continuing availability of sufficient funds to cover operating and maintenance costs and to reduce the heavy burden of high rents in relation to income under which the poor now suffer. The Project is doing its part to support such a multi-faceted approach by aiding those pledged to solving the housing and community economic development problems of our time.

University of California,
Berkeley, Calif., July 5, 1973.
Hon. Harrison Williams,
Chairman, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.
Hon. Gaylord Nelson,
Chairman, Subcommittee on Employment, Manpower and Poverty, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.
Hon. Carl D. Perkins,
Chairman, Committee on Education and Labor, U.S. House of Representatives, Washington, D.C.
Hon. Augustus Hawkins,
Chairman, Subcommittee on Equal Opportunity, Committee on Education and Labor, U.S. House of Representatives, Washington, D.C.

Dear Senator Williams, Senator Nelson, Congressman Perkins and Congressman Hawkins: I am writing to you out of a sense of deep concern regarding the serious danger to the continuation of a meaningful Legal Services program posed by the recent action of the House in voting to prohibit continued funding of the "back-up centers" by the proposed Legal Services Corporation. As one of these centers, the National Housing and Economic Development Law Project of the Earl Warren Legal Institute, is closely affiliated with this law school, my concern derives from an experience of more than five years of close observation of the activities and effects of a Legal Services back-up unit.

I believe that enactment of this prohibition would constitute a major setback in our national efforts toward the goal of equal justice under law. A fundamental assumption of our legal system is that the courts and other institutions of government shall be open to rich and poor alike. Yet, as every lawyer knows, effective legal representation is essential to make this goal a reality. The plaintiff or defendant who cannot put on his case or prevent his defense will not prevail, however valid his position may be.

If our nation is serious in its purpose of offering meaningful access to the institutions of government to those who cannot afford to retain legal counsel, we must be realistic in assessing the means necessary to that end. Specialization and expertise are as critical in meeting the needs of the poor as in meeting those of the well to do.

Given the rapid turnover of lawyers in the Legal Services program, and the fact that many of them have had little or no prior practice experience, they are particularly dependent upon the technical assistance, training and support that the back-up centers provide. Thus, for example, in 1972 the housing law component of the Berkeley back-up center responded in writing to some 1400 specific Legal Services requests for advice and assistance and to perhaps twice that number of telephone requests. The Legal Services lawyer faced with complex problems of FHA eligibility, urban renewal relocation rights, warranty of habitability, public housing admission and eviction regulations, and many similar specialized subjects not only in housing law but in all the many poverty law areas in which he practices, would be at a loss to provide quality legal services to the great numbers of clients served without assistance of this kind. With such support, legal services can be provided relatively economically and on a large scale and equally important, Legal Services lawyers can and do assist in ensuring that special protections for the poor, carefully prescribed by legislative bodies at the federal, state and local levels, are heeded and given effect in the administration of government programs. Through the back-up center mechanism, the expertise gap for the poor client has been bridged in such chronic problem poverty law areas as consumer, welfare, employment, housing, economic development, education and health law.

The House prohibition admittedly would permit the proposed Legal Services Corporation to provide supportive services on an "in house" basis, disallowing contracts with law schools and other institutions for that purpose. It would be years, however, before the Legal Services Corporation could build a specialized competence comparable to that which the House bill would dismantle. Thus, three years of concentrated experience with community development corporations underlay the preparation of the *Lawyer's Manual on Community-Based Economic Development,* shortly to be published by the Center here and it is clear to us that this Manual could not have been undertaken without such extensive prior experience. The dissipation of capability painstakingly developed over years of effort at each of the back-up centers would be a serious setback for the Legal Services program. Moreover, it is important to recognize that the proposed Legal Services Corporation is to function in the role presently served by the O.E.O., that of a grantor of funds to Legal Services programs. As such, I seriously doubt that field lawyers could ever come to accept the Corporation or its lawyers, in the co-counsel capacity in which they now see back-up center attorneys, an acceptance which is absolutely essential to the lawyer-to-lawyer relationship that has permitted the effective function of the present system.

Finally, and perhaps more parochially, I would comment from my personal perspective as a law school dean, on the mutual benefits to Legal Services programs and to legal education that derive from the placement of back-up centers at qualified law schools. As to the first, through the participation of faculty members expert in such areas as constitutional law, property law, antitrust law, tax law and many other legal subjects, as well as nonlegal faculty from such departments as business, city planning and economics, the back-up centers regularly offer Legal Services lawyers a quality of competence they could not find in a government agency or elsewhere. This has been notably true in the work of our Economic Development Project which draws upon competences in all of the foregoing areas. Moreover, it is very much a two-way street. We have been greatly assisted by the Center here, and without cost to the government, in expanding our curriculum in respect of the legal problems of the poor. The Center's work, in addition, has formed the basis for the development of excellent teaching materials which are in use here and at several other law schools. The participation by our students in the Center's work provides it with high quality but inexpensive research capability while, at the same time, filling the increasing demand for socially related clinical education under the supervision of qualified attorneys.

I am enclosing, for your further information, several short pieces which expand upon the foregoing points. To many of us working in the field of legal scholarship and education, the developments of the last few years, in which a strong beginning has been made toward the goal of equal justice under law for minorities and the poor, has been encouraging. To dismantle the research and support centers at this time would not only jeopardize the gains that have been achieved, but, in my opinion, would permanently impair the ongoing capacity of the profession to serve indigent persons and to ensure due and fair consideration of their rights and grievances by our legal institutions.

Respectfully submitted,
Edward C. Halbach, Jr.,
Dean.

SECRECY AND THE PRESIDENCY

Mr. MUSKIE. Mr. President, Raoul Berger, a leading constitutional scholar and expert on the issue of executive privilege, has written an article in this morning's Washington Post which should be of interest to all Members of Congress. Mr. Berger rehearses the precedents for claims of secrecy and their dubious validity and boils the dispute down to one simple statement:

> The Nation can no more tolerate Presidential withholding of documents when the executive branch is under congressional investigation than it can afford to let a bank president dictate to a bank examiner what books he may see.

Mr. Berger gave very helpful testimony on the question of executive privilege to our joint Senate hearings in April. I ask unanimous consent that his essay in the Post today be printed in the Record as a further contribution by Mr. Berger to our consideration of this subject.

There being no objection, the essay was ordered to be printed in the Record, as follows:

SECRECY AND THE PRESIDENCY

(By Raoul Berger)

In the midst of the Senate investigation of participation by the White House staff in alleged criminal activities—branded by former Attorney General John Mitchell as "White House horrors"—President Nixon has barred access to "Presidential papers prepared or received by former members of my staff." This roster includes John D. Ehlrichman, H. R. Haldeman, John W. Dean III, Gordon C. Strachan and others, who have been implicated by testimony in possible crimes. The Nixon order would bar the possible confirmation of such testimony by documentary evidence available in White House files. The order, Mr. Nixon advised the Senate, is not based "upon any desire to withhold information relevant to your inquiry." But that is precisely its effect.

The issue rises above a jurisdictional quarrel between Congress and the President—important though such differences can be—and it presents as an issue in which every American has an immediate stake. Mr. Nixon would shroud White House activities behind the very curtain of secrecy which bred the "horrors" that have brought shame upon the President and the nation. It was the Johnson administration's addiction to secrecy that made possible the stealthy and calamitous escalation in Vietnam. Executive secrecy is at war with Madison's admonition that "the right of freely examining public characters and measures, and of free communication thereon, is the only effective guardian of every right." Suppression of information is a prelude to tyranny, a first step toward enslavement of the people.

The historical records fully confirm Henry Steele Commager's statement that:

> *The generation that made the nation thought secrecy in government one of the instruments of old world tyranny and committed itself to the principle that a democracy cannot function unless the people are permitted to know what their government is up to.*

Concealment thus bears a heavy burden. To defend this concealment, President Nixon relies first on the "separation of powers." He himself recognizes that it was designed to defend each branch "against *encroachments* by other branches," thus assuming that the President was given a constitutional power to withhold information from Congress, upon which Congress may not "encroach." *But the "separation of powers" does not confer power; it only protects a power otherwise conferred.* The existence of withholding power must therefore be proven not assumed.

No such power is to be found in the Constitution. To this, presidential advocates retort that the congressional power of inquiry likewise is not mentioned in the constitutional text. There is, however, a profound difference: congressional inquiry rests on a judicially recognized historical base. Looking to English practice at the adoption of the Constitution, the Supreme Court found that Parliament had long exercised a power of inquiry; that it was "an essential auxiliary . . . of the legislative function," an "inherent . . . attribute" of the "legislative power," which the framers intended to include in the "legislative power" committed "to the two houses." Like the Court, therefore, we may look to the parliamentary practice to ascertain the *scope* of that "attribute."

In an extensive sampling of parliamentary records stretching from 1621 to 1742, I found first that the inquiry power ran across the board, into every conceivable aspect of executive conduct. Secondly, I found not one instance of an objection by any minister to the right of Parliament to inquire or to the scope of the inquiry. The great English historian Henry Hallam confirms that no "courtier," that is, minister, "ventured to deny this general right of inquiry." It is safe to conclude that no minister claimed or enjoyed any right to withhold information from Parliament.

A number of historical facts indicate that the founders adopted this practice. Before the convention, James Wilson, one of the leading architects of the Constitution regarded it as one of the glories of the House of Commons that the proudest ministers had appeared before it to account for their conduct. On four or five occasions the founders referred to the House as the "Grand Inquest of the Nation"—so the inquisitorial power was known—without the slightest intimation that they intended to curtail the power in any respect. From this and yet other historical data we may deduce that the "attribute" with which Congress was endowed by the framers was the untrammeled parliamentary power of inquiry. Let the executive branch come forward with contradictory evidence. Until then, we should be guided by the homely maxim: you can't beat somethin' with nutin'.

No presidential advocate has ever brought forward any pre-Constitution precedent for a claim or right to withhold information from the legislature. Nor can the President lay claim to the immunity of the king, for as James Iredell proudly boasted, the framers made the President "triable" and repudiated the principle that the king was immune. Such royal immunity was again rejected by Chief Justice Marshall on the trial of Aaron Burr, wherein he declared that President Jefferson could be required to furnish a letter written to him by General Wilkinson.

Presidential claims are rested on a number of post-1787 refusals by some Presidents of relatively innocuous information. A bare assertion of a right to withhold can no more create constitutional power than a President can lift himself by his bootstraps. Presidents cannot change the Constitution by repeated self-serving assertions. The "precedent" adduced by Mr. Nixon, for example, was a refusal by ex-President Truman in 1953 to testify before a congressional committee, a very recently brewed "precedent." In sum the Senate request for White House files does not "encroach" on presidential prerogative because no such right to withhold was conferred by the Constitution on the President.

There is powerful confirmatory evidence that the "separation of powers" was not thought to limit congressional inquiry, to mention only the Act of 1789, which made it the duty of the Secretary of the Treasury to furnish to Congress all information appertaining to his office. Drafted by Alexander Hamilton, enacted by the First Congress, in which sat a goodly number of framers and ratifiers of the Constitution, and signed by President Washington, the presiding officer of the convention, the Act demonstrates that the "separation of powers" was considered no bar to the congressional requirement of information.

Second, Mr. Nixon relies on "the indispensable principle of confidentiality of presidential papers": "no President could function . . . (unless) his personal staff be able to communicate among themselves in complete candor." Not a trace of such a "principle" is to be found in our history until 1954, when President Eisenhower first announced it more broadly in belated recoil to the excesses of Sen. Joseph McCarthy. Before long, the "principle" spread to every level of government, and lesser functionaries were denying information to Congress lest it inhibit "candid interchange" among subordinates. In April, 1973, Attorney General Richard Kleindienst made the unprecedented claim that no one of the 2.5 million federal employees can talk to Congress without the President's permission. The "principle" has become the most frequently invoked ground of refusal of information by every branch of the government; it cuts far deeper than "confidentiality of presidential papers." Before we swallow such a crippling "principle" and permit the President to redesign the Constitution by pronunciamento, we should at least be sure that it is indeed "indispensable" to good government.

That government can flourish and prosper in the absence of such a principle is demonstrated by the fact that our federal government successfully functioned from 1789 until 1954 without the benefit of the "principle." When the "principle" was invoked by a ministry against a private litigant before the House of Lords in 1967, it was all but laughed out of court. A "principle" thus dismissed by a great court can not be assumed to be self-evident. Against the assumption that "confidentiality" is "indispensable" to the operation of the entire government must be weighed the undeniable need of Congress for information, the cost of concealing confirmatory evidence of a conspiracy to corrupt the political process, and the loss of confidence in the President which has shaken the nation. Concealment in these circumstances is too high a price to pay for the preservation of "confidentiality" in the White House.

Let President Nixon ponder the acknowledgment of the stiff-necked Andrew Jackson that: "*cases may occur in the course of [Congress'] proceedings in which it may be indispensable to the proper exercise of its power that it should inquire or decide upon the conduct of the President or other public officers, and in every case its constitutional right to do so is cheerfully conceded.*"

The nation can no more tolerate presidential withholding of documents when the executive branch is under congressional investigation than it can afford to let a bank president dictate to a bank examiner what books he may see. Unhappy are a people whose suspected officials can lay down the terms of investigation, for then the investigation becomes a dead letter.

THE FEDERAL PAPERWORK BURDEN

Mr. CLARK. Mr. President, yesterday, July 23 and earlier, on July 12, the Subcommittee on Government Regulation of the Senate Select Committee on Small Business held hearings on the Federal paperwork burden that weighs heavily on the Nation's 4,000 small, independent brokerage firms. The purpose of the hearings was to determine the extent of this hardship and to find ways for the Select Committee and the Senate to help alleviate it.

In Iowa, the small broker-dealers are a vitally important part of our business structure. They primarily serve the small investors, many of whom are self-employed farmers investing their small profits into future retirement programs. Nationally the small broker-dealer plays a unique and essential role in our economy. Historically, they have engaged in the marketing of securities to individual small investors. They provide local and regional securities facilities in many areas of the country not served by the large New York City firms. They raise capital for small businessmen who, because of their size, are often ignored by the Wall Street giants.

William McChesney Martin, president of the New York Stock Exchange, told his board of governors:

> The role of the small brokerage firm should not be overlooked. It has contributed to the health of the economy, by raising capital to finance new ventures, and by serving the needs of small investors scattered across the nation. In short, by broadening economic opportunity. In the course of the many changes which will inevitably take place in the securities industry, care should be taken not to cause the elimination of small, efficient firms.

At yesterday's hearing, the subcommittee heard a most enlightening statement from Prof. James S. Mofsky, of the school of law at the University of Miami, who succinctly states the extent and nature of the paperwork problem imposed on the small, independent broker-dealers. For the benefit of all the Members of the Senate, I ask unanimous consent that Professor Mofsky's remarks be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement of James S. Mofsky

Mr. Chairman and members of the Subcommittee, I am James S. Mofsky, Professor of Law, University of Miami, Coral Gables, Florida. For the past five years, I have been teaching and writing in the areas of corporation law and securities regulation. My main area of research has been to analyze and isolate some of the adverse economic consequences of federal and state securities regulation. In that connection, I would like to offer, as a part of my statement, a copy of my article, "SEC Financial Requirements For Broker-Dealers: Economic Implications of Proposed Revisions," that was published in Volume 47 of the *Indiana Law Journal* at page 232 (1972).

I am certain many persons have testified before you with respect to the tremendous growth of the securities industry during the 1960's. During that period the volume of securities transactions swelled far more than had been predicted, and the number of shares outstanding, number of shareholders and amount of brokerage profits increased dramatically. In retrospect, it does not seem surprising that the expansion of the securities industry during that period would generate its own set of special problems. Yet those industry-wide problems either were not timely recognized or, if recognized, were not dealt with effectively as they occurred. It was not until the market decline of 1969–1970, when a large number of securities firms were liquidated, merged or ceased doing business, that those problems came into clearer focus for most non-industry observers.

Those persons engaged in the securities industry either failed to take immediate action to solve their problems or where actions were taken, they were inadequate under the circumstance; and as the rash of brokerage failures, forced liquidations and mergers proliferated, the political pressures for regulatory solutions imposed by government increased. Congress responded by enacting the Securities Investor Protection Act of 1970 and embarking on subcommittee investigations and studies. The Securities and Exchange Commission also responded with broad and far-reaching changes in several of its rules relating to broker-dealer financial responsibility, reporting requirements and recordkeeping procedures. Additionally, regulation by the National Association of Securities Dealers and stock exchanges increased. Thus in response to severe industry problems, new layers of regulation were added on top of the existing regulatory process that was already significant in terms of cost of compliance. Yet although the Securities Investor Protection Act has provided some insurance protection that did not exist before, the new legislation and increased administrative regulations have clearly not solved the brokerage industry's plight. Indeed, we are now witnessing, just a few short years later, another crisis in the industry.

The principal reason offered for the brokerage problems that began occurring in the late 1960's is the overburdening of then existing systems. As the volume of securities transactions increased, existing systems were overburdened. That, in turn, resulted in a breakdown of accounting control, and ultimately, failure of some firms. But when systems were expanded through computer technology to cope with increased business, volume declined and members of the industry were left with higher fixed costs but less revenues to support the increased overhead. Thus the problems proliferated.

While the foregoing explanation of the industry's crisis is undoubtedly accurate as far as it goes, it is, in my opinion, only partly true, because it fails to take into account the costs of compliance by brokers with the myriad of regulations to which they were and are subject. The administrative response to brokerage problems was increased regulation. Accordingly, the self-regulatory organizations, the Securities and Exchange Commission and more recently the Securities Investor Protection Corporation imposed additional and costly reporting requirements and record-keeping procedures as well as increased minimum capital and tightened net capital requirements. As regulation was piled on regulation, little attention was given to the economic consequences of the increased burdens and the overlapping reporting and recordkeeping procedures of the self-regulatory organizations and the Securities and Exchange Commission.

It is true that Congress has charged the Commission with the duty of providing investor protection in the securities markets. But one cannot view the benefits of regulation in a vacuum. They become significant only in a relative sense when weighed against the costs created by them, provided of course that the benefits sought are in fact achieved. When the costs become greater than the benefits, regulation may become socially undesirable, and at that point, it may be time to cut back on the amount of regulation. Applied to the securities industry, I believe we have reached a point of "overkill" with resulting consequences, albiet unintended, that are far more damaging than ever anticipated. In fact, the long range interests of investor protection, in whose name increased regulation is usually adopted, may very well be in less regulation rather than more. This conclusion is more readily apparent if we trace some of the adverse consequences of increased regulation of broker-dealers.

It is obvious that every new piece of regulation increases a broker's cost of operation and that there is always some person at the margin unable or unwilling to pay the extra cost. Thus increased costs of regulation necessarily adversely affect the number of participants in the brokerage industry. A securities dealer is like any other business man when he can earn more on his invested capital in a business other than operating a securities firm, he will leave the securities industry and maximize his profits elsewhere. There are of course many factors that affect a securities dealer's profitability, and profitability in the securities industry has declined in recent years for several reasons. But one reason that has not, in my opinion, received sufficient analysis and consideration is the increased costs of compliance with ever proliferating regulation. In this connection, I am referring to costs of regulation in their broadest sense, that is, all the economic costs including time spent in compliance that may not show up in financial statements.

If a person can employ his human capital—his time and labor—more efficiently in one business than another, he will opt for the more profitable. To put it another way, if a person can earn more spending his time selling real estate or insurance than assembling the complex information and completing the many reporting forms for the various regulatory bodies in the securities business, his choice becomes obvious. The thrust of my point is that time costs in complying with the regulatory process are very significant, and although difficult to measure, a major factor that should, I respectfully submit, be carefully considered by the subcommittee, especially in the context of these hearings. In that connection, I would like to emphasize the very high time costs spent by a small broker-dealer in educating himself with the vast expansion of regulation and new and far-reaching interpretations of existing rules. In this regard, economies of scale place small securities dealers at a serious competitive disadvantage with the large firms.

The most obvious implications of increased costs due to regulation are the anti-competitive ones. As costs increase without an accompanying increment in revenues, more securities firms are driven out of business. The Thirty-Eighth Annual Report of the Securities and Exchange Commission reported that at June 30, 1972, 4,734 broker-dealers were registered, compared with 4,940 a year earlier, a reduction of 206. At June 30, 1972, the net decline since fiscal 1970 was 490, and I would submit that the decline since the SEC's last annual report has increased even more dramatically. The decline has been disproportionately great among small broker-dealers. I would attribute this, in some cases, to an inverse relationship between the size of the brokerage firm on the one hand and the costs of operation on the other. That is, the costs of operation are a greater percentage of a small firm's revenues than of a large firm's. This is due to certain fixed costs of operation that remain relatively constant. One of those fixed costs is undoubtedly the cost of compliance with regulation. For example, with some exceptions, small securities firms must file as many forms and reports with the SEC and NASD as the large firms. The complexity of some of these forms and bookkeeping procedures lends itself to computerization, the costs of which are beyond the financial abilities of many small securities firms.

If the current process continues, we can look forward to relatively fewer securities firms, the remaining ones being of larger size. The anti-competitive effects of increased concentration in the securities industry are not difficult to predict. A diminution of competition will surely breed such harmful side effects as higher brokerage commissions, lower broker-dealer operating efficiency, decreased availability of securities firms to effect small transactions, a decline in quality and quantity of customer service and a reduction in desirable innovations in the broker-dealer industry. Witness, for example, the current state of affairs. First of all, we presently observe the New York Stock Exchange requesting substantial increases in the commission rate structure and return to fixed commissions on all transactions. Second, although there probably are New York Stock Exchange member firms that will fill small purchase orders, it is common knowledge that many of those firms try to discourage and avoid such transactions. To illustrate, Merrill Lynch, Pierce, Fenner & Smith. Inc., a firm that built its reputation and size on the philosophy of serving the small investor, will generally not accept orders to sell securities (not purchased at Merrill Lynch) when those securities are priced under three dollars a share. It is not very difficult today to find many stocks selling under three dollars per share.

As institutional domination of the market increases, there is reason to believe that small orders will probably be discouraged by large brokerage firms even more. Therefore, if small securities firms are forced out of business, who will be left to handle those transactions? But let us assume for the moment that not all but only some small securities firms will be forced out of business. Even those that remain may well be forced to change the nature of their operations, transferring their attention from small investors to large ones.

Another, perhaps less important point might be made in this connection. As the number of small firms willing to execute such transactions diminishes, it will be more difficult and costly for the small investor to locate firms with whom they can do business. The economic effect is to raise the transactions costs for small investors. That kind of discrimination against the small investor was never intended when Congress enacted the securities laws. Indeed, the more desirable objective—and the one announced by participants in and commentators on the securities industry—is to bring the small investor back to the market. There is no question that a rekindling of "investor confidence" is an important factor in doing so, but all the "investor confidence" in the world will be useless if there is no one to sell and service such investors or if the costs of finding a small broker are more than such investors are willing to bear.

There are related ramifications that could prove even more costly to the public. For example, how will a decline in the number of small securities firms affect the ability of relatively small manufacturing or service businesses to raise capital through the public markets? The small business attempting to raise public capital necessarily relies on the investment banking services of small securities firms, since large New York Stock Exchange members do not generally underwrite securities offerings by speculative companies or firms lacking a strong earnings history. Similarly, small manufacturing or service businesses sometimes raise capital privately with the help of securities dealers. Such private placements would be clearly unrealistic in connection with large brokerage firms. In the long run, the most significant loss to society occasioned by a reduction in the number of small securities firms may not be the loss of the small securities firms themselves. Indeed, the more significant losses may well be all the small businesses that could be capitalized only with funds raised through the effort of the small securities firms and the inability of the small investor to participate once more in this vital aspect of our country's economy.

There are other undesirable effects that can be traced, at least theoretically, to a reduction in the number of securities dealers. It is not my intention to offer a definitive list. In fact, it is impossible to predict all such consequences. It is enough to say that there are sufficient such effects to make us acutely aware of the problem and any steps that may be taken to lessen the demise of small securities dealers.

There is another point that may be profitably made in connection with those just mentioned, and it is that if we are going to regulate in the interests of investor protection, the regulation should have some reasonable correlation to the objective sought. It is my firm belief that all the reporting requirements and recordkeeping procedures should be studied carefully with a view to elimination of those that are duplicative, excessively complex for smaller firms, and those that cannot be reasonably expected to accomplish an objective worthy of their cost. Otherwise, not only are we creating the undesirable anti-competitive effects previously mentioned, but we are also misleading the public and using their taxed dollars to create an illusion of protection that may not exist.

It is currently common for everybody to talk about lack of participation by the small investor in the securities markets as one of the crucial issues facing the industry. Obviously, no single panacea is available to immediately cure this problem. Clearly, a solution requires a combination of favorable economic conditions to warrant placing dollars in securities rather than alternative investments, a spirit of investor confidence in the securities markets, and a sufficient quantity of small securities dealers with adequate sales forces to promote small investor participation. The problems created by general economic conditions may be beyond the scope of this Subcommittee's business. However, these hearings relate directly to the federal paperwork burden that, in my opinion, adversely affects small securities dealers, and consequently as developed above, the entire securities industry. The issue is, in essence, whether many regional and local securities dealers are worth saving. I have argued that their loss to society would be a high cost to pay. Unfortunately, lacking substantial financial resources and a central organization, it is difficult for such firms to lobby effectively for relief from the high costs of regulation imposed on them. Certainly, the large New York Stock Exchange firms are not motivated by concern for the small securities firms, and accordingly, have not exerted influence in their behalf. If some relief is to be obtained, it will have to come from Congress' recognition of the full costs to society resulting from the demise of small securities dealers.

RECENT EVENTS IN BURUNDI

Mr. PROXMIRE. Mr. President, the events of the past year in Burundi represent a brutal testimony to the presence of genocide in today's world. An estimated quarter of a million people have been murdered in this small central African country as part of a campaign of terror conducted by the minority ruling tribe, the Tutsis.

Last summer this campaign was reportedly limited to the educated, leadership elements of the majority Hutu tribe in reprisal for an attempted coup d'etat. Apparently, the killings are no longer selective. Although reporters have been barred from Burundi, some news has been received from refugees who are now streaming into the neighboring African countries of Tanzania, Rwanda, and Zaire. These reports indicate that the ruling Micombero Government has resumed its slaughter of innocent Hutus and is now systematically killing Hutus of every age, sex, or educational level.

One frightening report in Newsweek of July 2, 1973, suggests that the Tutsis have plans for the extermination of approximately 3 million Hutus in order to achieve numerical parity. Thus, the savagery which has already shocked the sensitivities of the world now threatens to become a humanitarian disaster of truly incredible dimensions.

THE EFFECT OF RATIFICATION

On June 15, 1973, I stated on this floor my firm belief that passage of the Genocide Convention would have had a significant impact on the effectiveness of our Government's efforts to bring a halt to the slaughter in Burundi. I felt then and I do now that the failure of the U.S. Senate to pass this important treaty for 24 years has stamped all of our actions in the human rights area with the mark of hypocrisy. Although the United States has often opposed acts of genocide, the Senate has put off ratification of the Genocide Convention. As a consequence, our efforts in behalf of oppressed people throughout the world have been seriously hampered.

Mr. President, I especially believe that ratification of the genocide treaty by the Senate would have increased the chances for success of our actions with respect to Burundi. Last year the U.S. Government felt that the wisest and most promising approach to the killings was to enlist the aid of Burundi's neighbors, who it was believed would have more influence on the Micombero Government due to the inherent suspicion of non-African interference. Unfortunately for the suffering Hutus, these initiatives were largely unsuccessful in stimulating Burundi's neighbors toward forceful, effective action.

THE DEPARTMENT OF STATE RESPONDS

On June 29, 1973, I wrote to Mr. Marshall Wright, Assistant Secretary for Congressional Relations at the Department of State and thanked him for some remarks which he had previously made to me concerning my June 15 statement on the Genocide Convention and Burundi. I also posed the following question to him:

> Last year the State Department was struggling with ways to meet its humanitarian obligations without antagonizing the Micombero Government or other African nations that considered the events in Burundi purely as an internal affair. In retrospect, do you think that passage of the Genocide Convention would have strengthened our hand in dealing with this sensitive situation?

Mr. President, I have just received an affirmative reply to this question from Mr. Wright which confirms the support of the Nixon administration for ratification of the Genocide Treaty. Although Mr. Wright notes that the State Department does not feel today that passage of the Genocide Treaty would have caused the U.S. Government to take different actions last summer, he does agree that ratification would have added needed strength to our policy of quietly urging neighboring African states to exert pressure upon the Micombero Government. Mr. Wright says:

> The role of the United States last year and again this year was one of moral leadership in opposition to the killings in Burundi. The fact the United States was not a party to the Convention on Genocide weakened our position.

Mr. Wright also suggests that passage of the Convention by the United States might induce other nations to ratify the Genocide Treaty and demonstrate their contempt for acts of genocide. He said:

> The Governments of Rwanda, Tanzania, Kenya and Uganda, who expressed concern over the events in Burundi, are also not parties to the Convention and this may well have been a factor in their reluctance to act. Hopefully ratification by the United States Government and our encouragement of others to do the same would strengthen the opposition to such crimes as took place in Burundi and would serve as a warning against such activities in the future.

MANKIND CANNOT AFFORD DELAY

I have long felt that Senate ratification of the Genocide Treaty would serve as a catalyst to action among those nations that are not yet signatories to this important document. I have also stated my belief on many occasions that ratification would induce stronger opposition on the part of all nations toward genocidal acts. Passage would also enable the United States to again assume the leadership role which it once maintained in the area of human rights and which has been hindered too long by the inaction of the U.S. Senate.

This leadership, together with the international support which would be generated, would present a powerful front to potential perpetrators of genocide in the world today and tomorrow. As a result tragedies such as those which are occurring daily in Burundi might be averted. Mankind cannot afford to pay the price of additional delay.

Mr. President, I ask unanimous consent that the informative reply which I have received from Mr. Wright be printed in full in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Department of State,
July 16, 1973.

Hon. William Proxmire,
U.S. Senate,
Washington, D.C.

Dear Senator Proxmire: The Secretary has asked me to reply to your letter of June 29, 1973, concerning Burundi and the Genocide Convention. As you know, the Department of State vigorously supports ratification of the Genocide Convention. We are pleased that President Nixon's initiative of resubmitting the Convention in 1970 is on the verge of resulting in consideration of this important treaty by the full Senate. The Convention defines the crime and declares it to be a crime under international law. The Administration could not support ratification more strongly.

With regard to the events in Burundi last year, it is doubtful that the United States having been a party to the Convention would have made any significant difference in our actions. We thought then (and still do) that the answer lay with the African leadership in persuading the Government of Burundi to cease the killings. Quite frankly, there was very little the USG could do to stop the killings while they were taking place. The sole opportunity for immediate action lay with the African neighbors of Burundi. For this reason, the focus of our efforts was the African leadership individually and at the OAU. Unfortunately, they failed to deal with the problem.

The role of the United States last year and again this year was one of moral leadership in opposition to the killings in Burundi. The fact the United States was not a party to the Convention on Genocide weakened our position. The Governments of Rwanda, Tanzania, Kenya and Uganda, who expressed concern over the events in Burundi, are also *not* parties to the Convention and this may well have been a factor in their reluctance to act. Hopefully ratification by the United States Government and our encouragement of others to do the same would strengthen the opposition to such crimes as took place in Burundi and would serve as a warning against such activities in the future.

I hope that this information has been responsive to your inquiry. However, if you have any further questions please let us know.

Sincerely yours,
MARSHALL WRIGHT,
Assistant Secretary for Congressional Relations.

ALL-STAR BASEBALL IN KANSAS CITY

Mr. DOLE. Mr. President, tonight, the mid-season highlight of baseball, our great American pastime, comes to Kansas City.

This evening, in Royals Stadium, the best players of the American and National Leagues will meet in the 44th All-Star game.

Any All-Star Game is an exciting event, but this one holds special significance for baseball fans in the several States which share the Royals as their "hometown" team.

While this is the second All-Star Game to be played in Kansas City, it is the first ever played in the modern new stadium which is the pride of the Royals team and of their fans.

The Kansas City Royals have brought new excitement and enthusiasm for the sport of baseball to Kansas City. For the first time, major league baseball is a locally owned, community spirited operation. And the fans have responded with a degree of loyalty and dedication which is entirely without precedent.

Much of the credit for this situation must go to Ewing Kauffman, the Royals owner and his wife, Muriel, for they have reached out to the community and the fans in an effort to make the Royals a team for everyone to share and enjoy.

Not only are Mr. and Mrs. Kauffman outstanding Kansas Citians but they are also great baseball enthusiasts who have set their determination and energies toward making the Royals a championship team. Many skeptics viewed Mr. Kauffman's plans as just a little bit oversize when he announced them at the team's formation. A new team, starting from the ground up, was not supposed to have such big ambitions. But total dedication to finding and developing new athletic talent through a unique farm system and the "full speed ahead" attitude of the entire Royals operation have paid big returns.

Today, there is no question that Kansas City is big league all the way. The All-Star Game brings the best and biggest stars to the most attractive and best-designed stadium in either league. The Royals are solidly in command of second place in their division, and they make no secret of intending to be in first when the last half of the season is over. Millions of baseball fans, young and old, throughout the area are seeing what fun a genuine hometown team can be.

So I wish to take this opportunity to congratulate the Royals team, its management, and the fans for making tonight's All-Star Game an event which signifies the continuing strength and vitality of the great game of baseball in America.

SOUTH VIETNAM EXPELS JACQUES LESLIE

Mr. JACKSON. Mr. President, I deplore the action of the Government of South Vietnam this week in expelling correspondent Jacques Leslie of the Los Angeles Times from that country.

The Vietnamese Government has arrived at a most unique excuse in refusing to authorize the continued stay of Mr. Leslie. Their spokesman told him:

> We are not talking about accuracy or things like that. We consider that your stay in Vietnam is not necessary. We have decided that you have to leave Vietnam.

Mr. Leslie's visa was lifted on the basis that he had written articles that the South Vietnamese Government had determined to be "harmful to its image." He was given 3 days in which to leave the country.

Technically, his expulsion was ordered by the South Vietnamese Immigration Department, through the refusal of an extension of his visa. In practice, the Immigration Department was acting on orders from the Information Department authorities.

This final action was made despite representations on his behalf by the U.S. Embassy in Saigon. Our embassy people were told by the Foreign Ministry of South Vietnam that the decision had been reached at a higher level.

The Los Angeles Times declares that it is understood that the decision was personally approved by Hoang Duc Nha, the private secretary to President Thieu—a person who also holds the title of Commissioner General for Information.

Leslie, who was wounded by rocket fragments last year while reporting on the fighting northwest of Saigon, has covered Vietnam for 19 months.

He has been criticized by the Vietnamese Government for articles he has written on the treatment of prisoners, corruption, cease-fire violations by South Vietnamese Government forces, conditions among Montagnard tribesmen during the cease-fire period and other stories. The government also had earlier objected to a journalistic visit Leslie had made to a Vietcong-controlled area of the Mekong Delta. He was the first reporter to make such a visit.

Leslie is the fourth correspondent ordered out of South Vietnam this year. The others represented United Press International, National Broadcasting Co., and the Asahi Shimbun, Tokyo's largest newspaper.

I have made strong representations to the White House, urging that this government go to bat in the most determined way to permit Mr. Leslie to continue to work and write from Vietnam. It is in the interest of the foreign policy of this Nation that this be done. It is not in the interest of American policy that South Vietnam—our ally—be permitted capriciously to turn away from its country a recognized, fully accredited reporter for writing articles not to the liking of their government.

Mr. President, our press has had this kind of arbitrary treatment over the years from Communist bloc nations. We have protested and used our diplomatic weight. In the case of Jacques Leslie, I think the White House needs to step in hard and fast.

As a country, America has had an investment of years of spent lives and treasure in South Vietnam. The government there would have long since been overrun by the forces of the north without us. The American people are entitled to accurate and full coverage of the affairs of that area, and we should not be spoon fed reports that only meet the strict criteria of the South Vietnamese Government. Americans have a talent for determining the truth—without censorship by the South Vietnamese Government.

The United States and the Government of South Vietnam have again and again stated their mutual friendship.

Saigon continues to rely on our military aid. But as our troops have been pulled out of South Vietnam, there is a corresponding stricter regulation of the ability of western press to obtain information in that country.

We are well aware of the strong Government stamp to news stories and pictures emanating from North Vietnam. This has been glaringly revealed in the stories told by American prisoners of war on their release from captivity.

I don't believe that the American Government has fully exerted its influence in the case of Jacques Leslie. Our leaders have had ample warning of the Saigon plans to evict Leslie and our Government has not acted in a strong and timely enough manner.

Mr. President, for the benefit of my colleagues I ask unanimous consent for publication in the RECORD an article from the Los Angeles Times of July 23 on the expulsion of Mr. Leslie. I am also providing for publication some of the recent articles that have been objected to by the South Vietnamese Government.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, July 24, 1973]

SAIGON WON'T RESCIND ORDER OUSTING LESLIE—TIMES REPORTER LEAVES SOUTH VIETNAM, DENIES CHARGES LEVELED BY GOVERNMENT

(By George McArthur)

SAIGON.—The South Vietnamese government Monday refused to rescind an expulsion order against Los Angeles Times correspondent Jacques Leslie and accused him of being "an enemy within."

Under government order Leslie flew from Saigon to Hong Kong Monday afternoon. He had been given a three-day expulsion notice Friday. Authorities Monday denied a request for an extension.

Leslie, 26, has been in South Vietnam for The Times for 19 months.

He has flatly denied the charges which have been leveled at him over the past several days by government spokesman Bui Bao Truc at the daily government press briefing.

"I stand fully behind the articles which I have written," Leslie said Monday. "I believe them to be entirely accurate and I believe that I have performed my work honestly. If doing such work means that one becomes an enemy of the South Vietnamese government, then perhaps all journalists who are interested in writing the truth are the enemies of this government."

In earlier private meetings with Leslie, Truc has said that the accuracy of Leslie's stories was not the question. Truc accused Leslie of writing copy that was damaging to the image of South Vietnam.

Monday Truc cited several stories by Leslie to which the government objected.

The first was a story which Leslie wrote after visiting a Viet Cong area in the Mekong Delta. The government at that time had told correspondents they were free to visit anywhere they liked in South Vietnam. That policy has since been rescinded and, in effect, correspondents working from Saigon find it impossible to obtain permission to visit Communist-held areas.

Leslie was the first Western correspondent to make such a visit to the Viet Cong, and when he emerged he wrote a straightforward account of what he had seen and heard.

Truc said that when he returned, Leslie wrote articles "vilifying and degrading the South Vietnamese army."

Leslie had also recently interviewed a dozen former prisoners released from the penal island of Con Son. They all demonstrated limbs which they said had been paralyzed by mistreatment during their captivity.

Truc accused Leslie of "concocting a groundless article on the ill treatment of political prisoners by the South Vietnamese government."

Truc also objected to a story Leslie did on a scrap-brass scandal in Vietnam which amounts to many millions of dollars, Truc said:

"Leslie recently wrote an article concerning brass and gave no evidence to support his story. He said the prime minister's office was involved and many generals were also involved. He has made the image of the generals look bad. The office of the prime minister was slandered."

Truc admitted, however, that the government has ordered an investigation of the brass situation and that the investigation is still under way.

[From the Los Angeles Times, June 20, 1973]

Vietnam Generals Suspected in Brass Smuggling Scandal

(By Jacques Leslie)

SAIGON.—South Vietnamese officials are sitting on top of a potentially explosive multimillion dollar scandal involving the smuggling of scrap brass by a syndicate believed to include many ranking generals.

U.S. officials are concerned that the affair will affect U.S. aid to South Vietnam and the future of the country's economy.

An important Japanese businessman, two Americans and a Vietnamese have already been arrested and imprisoned. Two other Japanese were imprisoned and later released. Two people holding French passports have disappeared.

South Vietnamese generals are said to have illegally stored millions of used brass shell casings in military compounds around the country while waiting for opportunities to export them. An attempt to smuggle out $17.3 million worth of scrap brass was recently uncovered; many officials believed that represents only a fraction of the brass to which the organization has access. Some contend that the value of the brass is in the hundreds of millions of dollars.

PRIME MINISTER'S OFFICE

A Vietnamese judicial official said that the syndicate extends to the office of Prime Minister Tran Thien Khiem, and that Nguyen Tan Doi, a wealthy Saigon banker who was mysteriously arrested and imprisoned April 26, also was involved.

There appears to be conflict at the highest level of the South Vietnamese government. President Nguyen Van Thieu, who is not linked to the syndicate, is believed to have angrily cracked down on Doi after hearing of the smuggling attempts—at the same time he was trying to prevent the affair from becoming public knowledge.

The implications of the organization's existence and its control over scrap brass are vast.

Last December, without fanfare, the United States, which was the legal owner of all military scrap metals, agreed to turn over title to the scrap to the South Vietnamese government as supplemental military assistance. This deal, which has been previously unreported, at the very least will provide a modest boost to the declining South Vietnamese economy in the form of $10 million worth of scrap iron and steel already accessible to authorities.

But authorities have been able to collect practically none of the far more valuable brass, which would provide a great lift to the economy. By holding on to the brass, the generals seem to be trying to assure their own private fortunes while jeoparizing the future of their government.

JAPANESE MANAGER

Among the men arrested in the case are Tokuji Ishimura, manager of the Saigon branch of the giant Japanese trading company, Mitsubishi; Atsushi Sekizawas, another employe in Mitsubishi's Saigon branch; and Sigesato Hosoki, Japanese officer of the Saigon branch of the Chase Manhattan Bank. Before his arrest Ishimura also was chairman of the Assn. of Japanese Residents in Vietnam.

Ishimura has been in Chi Hoa Prison in Saigon since his arrest April 2. Sekizawas and Hosoki were imprisoned for a month and released on condition that they would not leave South Vietnam.

All three Japanese became involved in the case unwittingly and innocently, informed sources said. They apparently were arrested in an attempt to find out who was involved in the smuggling operation. Now Vietnamese officials may fear that if they release Ishimura, one of the Japanese will disclose details of the case damaging to the government.

REFUSAL TO COMMENT

The Japanese Embassy has refused comment on the case and has even tried to discourage interest in the story among journalists. A Japanese Embassy spokesman said he could not comment because Ishimura's "personal security" was involved.

A spokesman for the South Vietnamese newspapers covered Ishimura's arrest but did not follow it up, and few Vietnamese are aware of the case or its implications.

Closer to the center of the affair are two Americans, Russell M. Smith, 51, who has been in prison since March 9, and Thomas Dunmore, 30, who was imprisoned with Smith, released and imprisoned again May 2.

Smith is thought to be the instrument used by the syndicate to obtain necessary shipping documents in return for a cash payment. Dunmore's role is less clear, but he apparently was involved in smuggling items such as generators, tractors and other heavy equipment.

Dunmore also is accused of having illegally held three checks worth $34,000. These were believed possibly to have been payoffs for forgeries, and were signed by a Frenchman who has since disappeared.

Brass has been collecting in Vietnam since the beginning of the war. Until about four years ago, it was the main alloy in artillery casings. Since then, U.S. munitions manufacturers have used iron for heavy artillery shells, but small arms ammunition and light artillery shells are still made with brass. Scrap brass is now thought to be stored in warehouses in Vietnamese military compounds and even buried.

GETTING IT OUT

Scrap brass is in demand throughout the world. It now sells on the international market for $1,080 a ton, compared to $50 to $60 a ton for scrap steel and iron.

"If scrap brass gets out of Vietnam, it's going to be sold," said one scrap expert. "I don't think anyone would ask any questions. It's like gold."

The problem of those who had access to the scrap brass was how to get it out of the country and resold. The only legal possessor of brass until December 1972, was the U.S. government; then, in accordance with the agreement, title was transferred to the South Vietnamese government. Since issuance of a South Vietnamese government decree on December 12, 1970, it has been illegal for individuals in Vietnam to possess or transport scrap brass.

Syndicate operators apparently recently developed at least two methods to smuggle out the scrap brass, both centering on the U.S. Army Property Disposal Agency (PDA), which was the only authorized body handling scrap metal.

Since the cease-fire, the agency became known as the property disposal branch of the U.S. Embassy defense attache's office. Since title to scrap metal had been transferred to the South Vietnamese government, the agency's mission has been to locate and designate scrap to be turned over. At the end of this month the property disposal branch will stop handling scrap metal.

TRANSPORT DOCUMENT

To authorize domestic transport and export of scrap metal, the PDA customarily issued something called a Transportation Control Movement Document (TCMD). TCMD enabled an exporter to ship military scrap metal out of the country without paying an export tax. This made sense, since the metal had always belonged to the United States, and therefore technically had not been imported to South Vietnam.

As a PDA employe since February, 1972, Smith was one of about 10 men authorized to sign TCMDs. He is now charged by South Vietnamese authorities with illegally signing TCMDs that authorized exportation of scrap brass. It is believed that Smith was contacted by someone connected with the syndicate, but Smith has so far remained silent in prison.

Some of the TCMDs Smith is said to have illegally signed were dated before his job at the property disposal branch was terminated last February; he filled out others even after he was dismissed. Smith lost his job in the routine reduction of the property disposal branch's staff.

Sources said the false TCMDs were discovered when a Singapore businessman appeared in Saigon with one; he had come to ask authorities if it was genuine. At that point Smith came under suspicion. His house was searched March 9, and more false documents were found. Smith and Dunmore, who lived in the same house, were arrested.

Four of the TCMDs which Smith had signed authorized exportation of 16,000 tons of scrap brass, worth $17,280,000 on the international market, sources said. A man identified as Mr. Phuong, a Chinese with Vietnamese citizenship who was listed on one TCMD as the agent of the buyer, is believed to be the link to the syndicate.

Phuong was arrested in mid-March, and also has remained silent in prison The fact that police have not physically forced him to talk is taken as an indication that he is protected by highly placed officials.

According to informed sources, Ishimura was contacted about a brass deal in Hong Kong in March. and was shown a copy of one of the other TCMDs. Ishimura was interested in buying brass but wanted to make sure the deal was legal. He returned to Saigon, and through his intermediaries, Hosoki and Sekizawa, asked authorities if the TCMD was bona fide.

Vietnamese officials reacted by imprisoning the three Japanese. Police may be holding Ishimura until the man who gave him the TCMD in Hong Kong is found. But it is unlikely that the man will be located, since he is believed to be a Vietnamese with a French passport now outside Vietnam

When the TCMD was blocked, syndicate operators apparently devised another plan to smuggle out the brass.

Early this month they applied to the South Vietnamese director of foreign trade for a regular exportation license. Included was a letter supposedly from Emil D. Sasse, head of the property disposal branch, approving the license. The forgery was discovered.

COPPER WIRE

The application requested a license to export 4,550 tons of copper wire. It is possible to transform scrap brass into wire, and it is theorized that syndicate operators did this to obscure the metal's origin.

It is reported that Nguyen Tan Doi, who was the owner of South Vietnam's largest bank and was one of the wealthiest men in the country, had a factory where such wire could be made from scrap brass. Doi is suspected also of having been a banker for the syndicate; records seized by police when Doi was arrested and his bank closed down April 26 included many anonymous accounts that may have been for generals.

Doi was known to be a friend of many generals as well as Prime Minister Khiem. It is speculated that the office of the prime minister, Doi and the generals involved were operating without the knowledge of President Thieu and Thieu's economic advisers. The position of prime minister entails the actual carrying out of many of the day-to-day activities of the South Vietnamese government. Some of these could have been concealed from Thieu.

THIEU INFORMED

It is possible that Thieu was informed of the presence of so much brass in Vietnam and the significance of the agreement on military scrap during his trip to the United States in early April. Then, according to the theory, when he returned to Vietnam, he discovered what was happening to the brass.

Twelve days later, he angrily cracked down on Doi and ordered Doi's bank closed, despite the inconveniences to the bank's 200,000 depositors. He also seems to have tried to keep the scrap affair hidden. Officials announced that Doi's arrest was for banking malpractices. The prime minister's office and the generals may have escaped punishment because they held too much power.

Officials think a huge amount of brass already has been smuggled out of Vietnam, and that even now smuggling continues. One ship was said to have steamed into Hong Kong last week with 360 tons of scrap brass from Da Nang. False customs declarations in Da Nang allegedly said scrap lead and aluminum were being exported.

Ships laden with scrap brass have been discovered before. In 1970, for example, a ship called the Dong Nai was found in the port of Saigon about to sail for Singapore with brass buried in its cargo. Several government officials were fired, but trials are still pending, and the affair is all but forgotten. Syndicate members may be hoping that the new case also will fade away. Despite all the recent arrests, no trial dates have been set.

One reason why generals are suspected of involvement in the syndicate is that they control military compounds, which are the logical and safest places to hide scrap brass. The syndicate may be loosely organized, with generals cooperating with each other.

Security against smuggling is relatively tight around Saigon. It is therefore surmised that most of the brass is smuggled from coastal ports such as Phan Rang, Nha Trang, Qui Nhon and Da Nang, where security is much looser. One technique the syndicate uses is to transport and load scrap each night after the curfew begins.

The agreement between the United States and the South Vietnamese government on the transfer of military scrap was effected in an exchange of notes between U.S. Ambassador Ellsworth Bunker and Minister of Foreign Affairs Tran Van Lam on Dec. 14, 1972. The agreement is said to have taken about a year to negotiate.

The transfer of scrap was seen as a partial substitute for U.S. economic aid. It was undoubtedly negotiated with awareness that South Vietnam's economy was sagging because of U.S. military withdrawals, and that South Vietnam faced an uphill fight in getting sufficient economic aid from the U.S. Congress. It is not known whether American negotiators included scrap brass in their estimate of the value of the agreement to the South Vietnamese government. They might have written off the brass as unrecoverable.

If, however, the South Vietnamese government could recover the brass and export it legally as the transfer agreement authorizes it to do, it would mean a substantial windfall, definitely worth millions of dollars and perhaps hundreds of millions. "It would be fantastic for the government," said a member of the U.S. banking community here. "It would boost the government's foreign exchange tremendously."

Meanwhile, Ishimura, Smith, Dunmore and Phuong wait in Chi Hoa Prison for the case to unravel.

"Life in prison is not so bad," said a Mitsubishi employe who frequently visits Ishimura. "He has money, so the food is comparatively good, there are no telephone calls and no business matters."

[From the Los Angeles Times, Mar. 4, 1973]

SAIGON'S POLITICAL PRISONERS TELL OF TORTURE

(By Jacques Leslie)

SAIGON.—Displaying their paralyzed and atrophied legs, political detainees from South Vietnam's Con Son Island prison said in interviews Friday and Saturday they were tortured, chained and deprived of food during captivity.

Thirteen prisoners from a contingent of 124, conditionally released by South Vietnamese government authorities more than two weeks ago, agreed to be interviewed despite being warned by police not to talk to foreign journalists.

The 13 prisoners all said they had lived in Con Son Island's "tiger cages" and told of being beaten with clubs, sprayed with lime, and having to drink their own urine because of thirst. "We were determined to live so that we could struggle for peace," one prisoner said.

The 13 prisoners said they ranged in age from 24 to 53 and has spent a minimum of five and maximum of 10 years in prison.

Asked why they had been arrested, a leader of the group said most "had demanded the right to live and the right to peace." This seemed an implicit acknowledgement that many prisoners supported the National Liberation Front (Viet Cong) At another point in the interview the leader referred to "our struggle to liberate Vietnam and bring about freedom and independence."

Although it is possible that the prisoners exaggerated the severity of their experiences in confinement their physical condition alone seemed to verify much of what they said.

The prisoners were examined by an American doctor, John Champlin, who was formerly associated in Saigon with Children's Medical Relief International, a charity organization which operates a plastic-surgery unit here.

"The prisoners are not only paralyzed below the waist." Champlain said, "but they are also insensate below mid-thigh level. I think their leg problems are due to disease, atrophy and malnutrition. A number of them have deep scars around their ankles which they said came from leg irons."

Champlin said some prisoners thought they had tuberculosis or intestinal diseases, but he could not verify this because he lacked proper instruments during the examinations.

With proper food, exercise, and physical therapy, Champlin said, "the younger prisoners have a better chance of fully recovering the use of their legs than the older ones."

Champlin said he had listened to them discuss their imprisonment and "nothing they said flatly contradicted the results of my examination."

The prisoners said 124 of them were flown to Bien Hoa, 15 miles northeast of Saigon, on Feb. 16.

Five days later they were taken to a Buddhist pagoda in Bien Hoa. They were then warned against going to Saigon and talking to foreign journalists but were permitted to visit families not living in the Saigon area.

They were released on condition that they return to Bien Hoa police headquarters 10 days later with two relatives who would then be responsible for their whereabouts.

The reason for their conditional release is unclear. The leader speculated that the South Vietnamese government was preparing for an inspection of Con Son in accordance with the cease-fire agreement and was therefore evacuating the most seriously ill prisoners.

"We were released so that the public would not be aware of the horrible conditions at Con Son," the leader charged.

In a separate interview last week, a political prisoner at the prison ward of Quang Ngai province hospital said he had heard that about 20 or 25 Con Son prisoners were transfered to the Quang Ngai prison in mid-February. He said he was told that many of these prisoners also were paralyzed below the waist.

Located about 150 miles south of Saigon, the Con Son Island prison is considered the least pleasant of South Vietnam's major prisons. It is a collection center for political detainees most firmly opposed to the government.

During the interviews, one man, apparently the group's leader, did much of the talking. His statements showed much political sophistication as well as a deep commitment to the NLF.

For example, at the end of the interview, reflecting the NLF's political line on the cease-fire, he said, "Although we were tortured and mistreated to a point near death, because of the peace agreement and the spirit of national reconciliation it calls for, we are willing to forgive and forget what has happened to us."

Through the interviews the prisoners were calm and matter-of-fact. They appeared anxious to tell their story, and asked visitors to feel their emaciated legs. They also showed scars on their hips and buttocks which they said were caused by beatings. The prisoners moved about by sliding along the floor on their hands, either dragging their legs behind them or holding them in front.

One prisoner pointed to a visitor, and smiling, said, "my leg is smaller than your arm."

The group seemed well-organized, for as the leader spoke, two other prisoners supplied dates and details for him when necessary.

The following account is based on descriptions by the leader and other prisoners of their experience in confinement:

Some prisoners said that immediately after arrest they were tortured with electric shock or beatings. Prisoners were forced to drink water, then were struck on their bloated stomachs. Most were held at other prisons before being transferred to Con Son.

At Con Son they were sometimes beaten for not saluting the government flag. One prisoner said his hands were tied behind him and he was then suspended from the ceiling by his hands and beaten continuously for two hours.

He said he was then taken to a stone cell of about 17 square yards and was tied to a pole with 25 other prisoners. He was then beaten again, along with the others.

BEATEN BY TRUSTEES

The leader of the 13 prisoners said prison officials often let common criminals, whom he called "trustees," perform the beatings. He said there were about 10,000 political prisoners at Con Son, and that all received beatings.

During this period political prisoners were given two meals a day each consisting of a small portion of rice and fish paste which was rotten and generally covered with flies. "We forced ourselves to eat what they gave us because we were determined to live," the leader said.

Prisoners said they felt "a strong sense of solidarity" and tried to help each other survive. They said they massaged each other's sore muscles and even gave artificial respiration when necessary.

BECAME ENRAGED

"The trustees saw our solidarity," a prisoner said. "That enraged them. It moved them to do even more harm to us."

When on Feb. 22, 1967, prisoners refused to salute the government flag, they were moved to Con Son's "tiger cages"—cells of about 3 yards by 2 yards whose ceilings consisted of bars.

At first, they said, there were four prisoners per cell, but each week four more prisoners were added, until by the third week there were 12 prisoners per cell.

"This was the toughest period," the leader said. When prisoners wanted to lie down, they had to do so on top of each other. "When the people on the bottom couldn't stand it any further, we switched," one prisoner said. As he explained, other prisoners gave a physical demonstration.

The prisoners said at this time the supply of food and water was so small that they occasionally drank their own urine. Rice was given to them not in bowls but literally in handfuls, and they had to eat quickly or be beaten, they said.

Prisoners said that when they were taken out of their cells for beatings, they purposely fell down so they could quickly eat grass as they lay on the ground. Authorities then grabbed them by the neck and tried to take the grass out of their mouths.

The leader said that in February, 1972, the prisoners demanded medicine and better food and authorities reacted by pouring lime on them. As a result, "people started to vomit and sneeze blood. After a time there was (about half an inch) of lime in the bottom of the cage."

SEVERAL DIED

Prisoners said by this time they had seen several prisoners die as a result of beatings.

They said that after a visit by two U.S. congressmen to the tiger cages in June, 1970, they were moved to cells which had formerly been cattle stalls. These were made of cement and still contained animal troughs, the prisoners said. There were 10 inmates to each cell.

In October, 1970, the prisoners said, a group of American military doctors visited them and assured them that from that point on they would receive better treatment. Instead, the leader said, the next month the prisoners got one of their worst beatings: One lost an eye, another broke his arm, and many had head injuries.

Eighty prisoners were moved from Con Son to Chi Hoa, a prison in Saigon, in December, 1970—probably as a result of protest about conditions following the visit by the American congressmen, the prisoners believe.

At Chi Hoa prisoners said they were examined by an American doctor but were not given treatment or medicine.

In June, 1971, the prisoners requested permission to let their families visit them and to get medication. Instead, they said, police fired tear gas into their cells to force them out, then loaded them onto trucks and then boats and returned them to Con Son.

After demanding medical treatment and better food at Con Son in October, 1971, the prisoners were moved to "new tiger cages"—isolation cells which had recently been constructed inside the prison. The prisoners said the new cells were more comfortable than the old ones and food also improved. Beatings, sometimes causing death, continued, they said.

They said they did not know if the old tiger cages were still occupied. According to their reports, they are now being used as storage areas.

Prisoners said that on Feb. 15, 1973, prison authorities announced the signing of the cease-fire accord, and the next day 124 inmates were taken to Bien Hoa.

At the end of the prisoners long narrative, the group's leader made his statement about "forgiving and forgetting," and added: "We also want to thank the American labor and student movements for contributing their own blood and bones to our struggle to liberate Vietnam and bring about freedom and independence."

During almost their entire internment at Con Son, prisoners wore shackles, they said. They lost the use of their legs after five months to three years.

The prisoners said they were aware of one man still at Con Son who is now over 70 years old and has been imprisoned for 18 years without ever having a trial.

Although many observers in South Vietnam generally undergo a process of politization while incarcerated, the interviewed prisoners either said they did not have much chance to talk about politics or refused to discuss this subject.

The group leader said they could be beaten for talking too much among themselves, and while in the tiger cages they thus spent most of their time staring at drops of water on the walls.

[From the Los Angeles Times, Feb. 1, 1977]

"WE ARE FRIENDS," VIETCONG TELL U.S. NEWSMAN

(By Jacques Leslie)

NATIONAL LIBERATION FRONT-CONTROLLED TERRITORY, SOUTH VIETNAM.—Our official greeting came from Le Hoang Oanh, a Communist village representative in Cai Lai district 60 miles southeast of Saigon.

"We are happy to welcome the foreign correspondents to visit our liberation areas," he said Tuesday afternoon. "This is the first time the foreign press has come here."

Thus began our 18-hour stay with the National Liberation Front (Viet Cong), South Vietnam's "other side." During those 18 hours we watched an NLF "ceremony of peace" attended by several thousand Vietnamese, walked for more than two hours at night on trails used by NLF troops in mud sometimes up to our thighs, and talked at length with NLF political and military officials.

Once during our march South Vietnamese artillery shells exploded thunderously a few hundred yards away from us. "Now have you seen an example of a cease-fire violation?" an NLF soldier smilingly asked us immediately afterward.

Hoping to get inside an NLF-controlled village, Veronique Decoudu of Agence France-Press, our interpreter and I had walked in the direction of an NLF flag we had seen waving from a treetop several hundred yards from Highway 4, the main route from Saigon to the Mekong Delta.

We first passed a house with a government flag, then several with no flags, then many with NLF flags. Soon we attracted a group of about 25 people, some of whose startled glances showed that foreigners were not a common sight here. Still, most people were remarkably friendly.

We asked to see village leaders, were loaded into a sampan and taken down a stream. When word spread that we were journalists, people waved NLF flags as we glided by.

Suddenly we saw a few young barefoot soldiers in blue or black pajamas. The rifles they carried included American-made M–16s, carbines, and most notably, Chinese-made AK–47s. We knew that we had arrived.

Soldiers waved and called us ashore. We then marched along a path as the number of people trailing us constantly grew. They seemed pleased by the surprising catch they had made in the midst of their village. We were led to Oanh, the village representative, who asked for our name cards. After we turned them over, he gave his welcoming statement, which was greeted by cheers. We were stunned by our ease in moving to the other side. A woman handed each of us iced tea.

Everywhere we looked there were NLF flags. We were told we were in Binh Phu village, 100% NLF-controlled community of more than seven square miles and a population of 6,800.

Oanh quickly outlined an afternoon tour for us, then took us to see examples of destruction caused by American and South Vietnamese government bombing and artillery. We were escorted by an NLF soldier and a few children carrying flags on long bamboo poles as the tour's trail constantly grew longer.

Oanh showed us houses burned to their foundations, shattered rooftops and bomb craters. Though he said much of the damage had been done since the cease-fire began, this did not seem creditable. One bomb crater filled with brackish water obviously had not been made in the last three days, despite our host's claims to the contrary.

A few people spoke heatedly to us as we passed. We learned later that they had mistaken us for members of the International Commission of Control and Supervision set up in the Paris cease-fire agreements, and were demanding payment for war damage done to their houses. The ICCS has not yet begun working outside Saigon.

Most villagers were jovial and relaxed. They displayed no fear of being discovered or attacked even though we could see battle smoke twisting up a few miles away. They seemed proud when we took pictures of them with NLF flags.

Oanh asked us to sit down inside a pagoda partly destroyed by bombing or shelling. At least 50 to 60 people gathered around. Oanh then made what seemed to be a formal statement: "The people are happy to receive all journalists, including those who work for the rebel government of Saigon, but on the sole condition that they do their job fairly."

CAN TAKE NOTES

A man whispered in Oanh's ear, and he announced that we could now take notes. Then he said he was willing to answer questions.

We asked what his job as village representative entailed.

"My function is to command politically and militarily with the goal of conquering the American aggressors," he said.

Then we asked how many people were members of the NLF in the village. "Because this is a question of defense," Oanh said. "I can't say how many people there are. But I can say the front represents the whole population of the village, all religions, and also men who work with the Saigon government."

In the midst of our questioning someone handed Oanh a slip of pink paper. It had obviously come by messenger from higher-ranked cadres, who were informed of our presence. Oanh read it, then said, "The members of this village are very happy to invite you two journalists to spend the night here to celebrate together a ceremony of peace."

QUICKLY ACCEPT

Somewhat overwhelmed, we quickly accepted, and the people followed Oanh's lead in applauding. After another formal statement, in which we were told to write "what our conscience dictates," we left the pagoda and were hailed by another group of villagers. "Welcome the correspondents!" they chanted. "Welcome peace! We support peace! Welcome!"

The remarkably tight organization of the village was now becoming apparent. Wherever we walked for the next hour, people hailed us on a cue from a cadre with "Welcome!" Word of our presence had been passed throughout the village. Youths suddenly appeared to carry our packs and help us across gangplank-like bamboo crossings that stretched between mud walls retaining rice paddies.

Although it was obvious that the treatment we received was not spontaneous, it also seemed that no villager carried out his assigned duty with a sense of being put upon. People seemed cheerful and respectful to one another. They exhibited grace and confidence in their actions.

CHILDREN ENJOY IT

The children who it was now clear had been assigned to carry NLF flags at the front of our parade seemed genuinely to enjoy it.

As we walked to a villager's house where we would have dinner, Oanh explained a bit of his background to our interpreter.

Oanh, 43, had been a member of the NLF for many years. He said he had been arrested by government troops in 1969, and paid a 50,000 piaster ($125) bribe which resulted in his release from prison three months later. Villagers donated the money, he said.

Oanh carried a flashlight, radio and lighter, all of which he said he had taken off bodies of soldiers of the American 9th Division in 1969. Oanh lost his right thumb when it was struck by shrapnel in combat against that unit the same year.

Whenever the interpreter referred to the "VC" or "North Vietnam," Oanh corrected him, saying that the proper terms were the National Liberation Front and the Democratic Republic of North Vietnam.

With at least 20 villagers huddled inside the tiny earth-floored house, we and Oanh had a chat. Oanh stated what became a continual theme of our visit to the other side—would we write the truth?

"You came here unexpectedly," he said. "We have nothing to hide. We hope that what you see is the truth." He then asked us if we had believed what we had seen so far. We said we had been impressed.

He asked Veronique what the French Communist Party flag looked like, then asked both of us what parties we belonged to. I answered that as a journalist I did not belong to any party.

During our dinner I asked Oanh how he felt about eating with an American after having fought against the United States for so many years. "We consider that there are two kinds of Americans," he said. "One we call imperialists, who come with bombs and weapons to kill our people and destroy our land. They are our enemies."

NOT ENEMIES NOW

"However, the cease-fire is an agreement of reconciliation and we don't see anyone as our enemy anymore.

"The second kind of American we call peaceful and progressive. They do not come here to destroy or kill—they are people like Martin Luther King and the movie actress, Jane Fonda. We do not see them as our enemies, but as helping us. We really appreciate Americans such as those in the women's movement who prevent their sons from fighting in South Vietnam.

"You can recognize friendship easily. If we were not friends we would not sit down and eat at the same table. If we were not friends, we would not talk about the things we are talking about now," Oanh said.

We are outside on a tiny table, lit by a kerosene lamp. The food was substantial and tasty—chicken, beef, soup and rice. This, we were assured, was a "special" meal.

Already tired by our trudge through rice paddies early in the afternoon, we were deflated when told the "peace ceremony" was another two miles away. The two miles turned out to be four.

SLIPS INTO PADDIES

By the time we began our after-dinner walk, there was no more sun—only a moonless night. Our guides carried flashlights and the kerosene lamp, but they were not enough to prevent us from slipping off the mud walls into the paddies. To our companions, who seemed extraordinarily surefooted, our falls were amusing. They walked behind us ready to grab us if we slipped.

We started off with a group of 10 or 15, but after an hour at least 100 people were marching behind us single file. Oanh said the meeting was called only three hours earlier in honor of our appearance, but the news had obviously spread. People waited on the trail until we passed by, then joined the end of the column. No one seemed surprised to see two Westerners.

PIECE OF COPTER

Liaison cadres also waited at specific points on the route to direct us for a portion of the journey. We occasionally passed booby traps set for government soldiers just off the trail. The traps were marked by dead vines draped in front of the danger area.

There also were frequent breaks in the path, with only boards or poles to walk on for one or two yards. One gap was filled by a piece from a crashed American Cobra helicopter.

Commenting on the use of these difficult paths by NLF troops, one cadre said, "We have no airplanes. We have no tanks. All we have are men with legs of brass and shoulders of steel. Those are our tanks."

At one point on our trek South Vietnamese artillery shells exploded a few hundred yards from us. Everyone immediately hit the ground—I dove head first toward a ditch. "My God, what will we do now," a woman yelled. "Where will we run? Please help me."

Our guides led us to a nearby house where we rested. No one considered the shelling close enough to take refuge in bunkers.

Since the cease-fire began, "we never return fire unless they attack us," a cadre said. "But this is an outrage. I think they intend to provoke us."

The old man who lived in the house where we rested said it had been struck by shelling five times since 1965. Three times resulting in fires.

SINKS IN MUD

A few minutes later we resumed our trek. Gaps in the trail became too large to be bridged by bamboo poles. We had no choice but to wade through muddy water, sometimes we sunk in the mud to our knees and had to be pulled out.

We reached the Ba Rai River, which three years ago was the scene of a bloody battle between NLF troops and the American 9th Infantry Division. Our guides said the NLF had sunk more than 20 American boats in that battle. We quietly paddled across in a sampan.

We soon heard voices on loudspeakers and knew we were close to the site of the ceremony. Just before we arrived a speaker announced that two foreign journalists were coming. As we walked into the clearing, applause greeted us and photographers flashed our pictures.

Our guides said 6,000 people were there representing four villages and Cai Lay district town. It was impossible to tell whether that figure was accurate. The number was certainly in the thousands. People sat in trees as well as on the ground.

SITE CONTAINS STAGE

A month before, the ceremony site had been a rice field. Now it contained a makeshift stage with two sets of curtains. When we arrived, the curtains were open. An NLF flag—a yellow star against a Red and Blue field, provided the backdrop.

Our entrance marked the end of the meeting's political session and the beginning of entertainment. This consisted of songs and skits. Songs included "Liberation Troops Going to War," "Enjoying Peace," "In Memory of President Ho," and "Salute to My Liberated Country."

Music accompaniment usually consisted of a generator-powered electric guitar and mandolin. Both male and female performers wore lipstick and heavy rouge.

The performances seemed somewhat derivative of China's model revolutionary operas, but they still had their own unique flavor. In one skit a young girl who supports the NLF chases a "Saigon government" village chief around the room after he tries to force her to pay him for painting a government flag on her wall.

Making fun of the governments efforts to put flags in as many places as possible, the girl asks, "What kind of flag is this that must be put everywhere—in the front of the house, in the back of the house, in the bathroom, and even on the floor of the boat, so that when you sit down you get paint on your pants?"

Once sentries alerted the audience that a plane was approaching and NLF officials covered all lights so they could not be seen from the air. A few minutes later about 15 distant artillery explosions could be heard. In neither instance did anyone at the performance show apprehension. Asked if he feared the artillery, an NLF cadre said only, "If it comes, it comes."

The entertainment continued after midnight and showed no signs of stopping. Our guides suggested we leave so that we would have a chance to talk to some high-ranking cadres. We had already concluded that NLF supporters never sleep.

We went on another walk, this one only 15 minutes, to the cadre's house. When we arrived, two men, one dressed in white and the other in black, were sitting at a long table waiting for us. Though they identified themselves only as village level cadres, their demeanor and the deferential attitude of others toward them indicated they were high-ranking province officials.

ASK US QUESTIONS

Both rather stern and reserved, the men submitted to an interview only after asking several questions of us.

"The Saigon government claims that it controls 90% of the territory and 95% of the population," one said.

"When you write a story, do you report this statistic as fact?"

We answered that we gave sources for such statistics and tried to determine if they were true.

No matter how specific our questions were, the officials' responses invariably tended toward the rhetorical. For example, when we asked them to explain the elements of organization, one merely mentioned his own position, then said, "In this capacity, we would like to tell you that the fighting continues tonight when it was supposed to stop two days ago. We would like to tell you to make the people of the world understand the situation of our people."

A vague sort of diplomatic sparring went on for almost two hours. At that point the discussion broke off and we were served yet another meal.

After eating, we were taken on another journey, this one mostly by motorized sampan on the Ba Rai River. As we puttered through the water, our NLF guide sang to himself and checked his position by shining a flashlight on the shore. In plain view of anyone who happened to be on either side of the river, we apparently were not in jeopardy.

The boat stopped at a house where we were to sleep for an hour before covertly being escorted back to the government side. Before crawling onto wooden sleeping platforms, the NLF soldiers gave us large glasses of hot sweetened canned milk.

Our plan for returning to the government side was to get up at 5 a.m., then take a sampan up the Ba Rai River almost to the district town. We would then disembark and walk along the river bank to the town. We wanted to reach it half an hour before the 6 a.m. lifting of the curfew, and before the sun came up.

NLF soldiers had told us that our car, which we had left on the highway, had been towed away. It therefore was probable that someone was aware of what we had tried to do and might be looking for us.

CURFEW TIME PASSES

Unfortunately, we overslept half an hour. By the time we and our escorts got into the sampan it was well past the lifting of curfew. Frightened, we knew we had no choice but to take the risk of being caught.

With sunrise rapidly approaching, the sampan's motor would not start for 15 anxious minutes. It finally came to life. But after a few minutes on the river the propeller became fouled by floating plants and the motor stalled. We tried to pull the plants away and paddle with our hands.

Finally the motor was restarted, then stalled again. Other sampan operators came to help us, and were surprised to find two Westerners in the boat. Fortunately, they said nothing.

We started the motor a third time, and made it to shore just as the sun was rising. Then on foot we walked by the last government checkpoint outside the government-held district town without being challenged.

From Cai Lay we took a bus to Saigon.

NATURAL GAS

Mr. FANNIN. Mr. President, it has become evident that the complex environmental protection apparatus established by Congress is in need of modifications if we are to solve our energy, economic, and environmental problems.

The absurdity of our situation was demonstrated last Wednesday when the Department of the Interior announced that it has drawn up a draft environmental impact statement regarding proposed legislation for the deregulation of natural gas prices.

This statement was sent to the Council on Environmental Quality and will be reviewed by 14 other Federal agencies.

Mr. President, we are in the midst of an energy crisis and this situation is aggravating our considerable trouble with inflation.

Each day that we delay in taking action to solve the energy crisis, we slip deeper into trouble. Each day we import millions of barrels of oil to make up for the shortage of domestic fuel supplies.

On April 18 President Nixon called for the deregulation of natural gas prices as a needed step to encourage the development of natural gas supplies and reserves in the United States.

Exactly 3 months later the Interior Department announced it was circulating to CEQ and 14 other Federal agencies an environmental impact statement which was to assess how such legislation would affect the environment.

This is a ludicrous situation. It demonstrates the need for us to evaluate the complex of environmental laws that we have thrown together in the Congress in the past several years. It is obvious that we have erected needless barriers which delay or prevent rational action to solve the energy crisis.

Natural gas is the cleanest of all fossil fuels, and there is no way that deregulation of wellhead price could have an adverse effect on the environment. An environmental impact statement is an exercise in bureaucratic nonsense.

Mr. President, we must have action to increase our natural gas supplies, and this must be accomplished quickly for the sake of Americans who depend on this fuel for heating, for cooking, and for jobs.

Between April 1971 and March 1972 interstate natural gas pipeline companies reported deficiencies of 453 billion cubic feet of gas. During the April 1972 to March 1973 period the pipeline companies reported deficiencies of 1 trillion cubic feet of gas. Schools were closed. Factories were shut down. Thousands of employees were out of work. Farmers could not dry their crops. All for want of natural gas. Arizona citizens were affected by the shortages, and we have been warned that there very likely will be more shortages this winter.

Between 1946 and 1970 proved reserves of natural gas increased by 63 percent while the amount of gas tapped from proved reserves increased by 344 percent.

In each of the past 5 years, five times as much gas has been taken from reserves as has been added to reserves.

These figures dramatize how desperately short of natural gas we are. One of President Nixon's key energy policy initiatives is the proposal for deregulation of gas in order to stimulate exploration and development for additional natural gas.

It is incredible that with the obvious need for this action we should be stymied while 14 Government agencies shuffle through unneeded environmental impact reports.

The bureaucracy fiddles while fuel supplies dwindle and the dollar fades in value.

This, of course, is not the fault of the bureaucracy, but of the Congress which established this bureaucracy and the labyrinth of procedures which hinders our efforts to solve the energy and economic problems.

Mr. President, I ask unanimous consent that the news release issued by the Department of the Interior for release on July 18, 1973, be printed in the RECORD.

There being no objection, the news release was ordered to be printed in the RECORD, as follows:

DRAFT ENVIRONMENTAL IMPACT STATEMENT ON PROPOSED DEREGULATION OF NATURAL GAS PRICES SUBMITTED TO CEQ

The Department of the Interior yesterday sent to the Council on Environmental Quality a draft environmental impact statement developed in connection with an Administration bill submitted April 18 to Congress calling for deregulation of natural gas prices.

The proposed legislation would amend the Natural Gas Act of 1938 as interpreted by the Supreme Court in the 1954 Phillips decision.

In brief, it would remove the pricing of "new" natural gas in interstate commerce from regulation by the Federal Power Commission—and would give the Secretary of the Interior authority to impose ceiling prices of gas from new wells for 3 years after enactment as a means of mitigating the economic impact of deregulation on the consumer. Import of natural gas would also be removed from FPC regulation under the proposed legislation. The bill brings under FPC regulation direct industrial natural gas sales.

The impact statement, required under the National Environmental Policy Act of 1969, examines the potential results of the proposed legislation from the perspective of the future energy situation and the future gas situation under continued regulation and the various possible alternatives. It also analyses adverse environmetal impacts that cannot be avoided should the proposal be implemented, the irreversible and irretrievable commitments of resources that would be involved, the relationship between local short-term uses of the environment and enhancement of long-term productivity, and alternatives to the proposed action.

The statement, prepared within the Department of the Interior, will be reviewed by 14 other Federal agencies: the Corps of Engineers; Atomic Energy Commission; Department of Commerce; Department of Defense; Environmental Protection Agency; Federal Power Commission; Department of Health, Education and Welfare; Department of Housing and Urban Development; Tennessee Valley Authority; Department of Transportation; Department of the Treasury; Department of State; Department of Justice, and the Federal Trade Commission.

Mr. FANNIN. Mr. President, on several occasions recently I also have commented on the unrealistic and unreasonable regulations being proposed by the Environmental Protection Agency to restrict automobile travel in Arizona. An article in yesterday's Phoenix Gazette gives us some insight as to the feeling of our elected officials concerning the proposed regulations. I ask unanimous consent that this article be printed in the RECORD:

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Phoenix Gazette, July 23, 1973]

EPA IS TOLD WHAT CONSTRUCTIVE COMMENT IS—LOCAL OFFICIALS NOT ABOUT TO BOW TO FEDERAL DEMANDS THIS TIME

(By John Kolbe)

It was a poignant moment in last Friday's fiery confrontation between state officials and federal environmental authorities.

State folk had been ripping the controversial air quality regulations up one side and down the other and making it clear (even to a hard-headed bureaucrat) that they had no intention of enforcing the explosive restrictions. A frustrated EPA man leaned forward with a puzzled look and asked plaintively:

"Is anybody here prepared to say anything constructive about these rules and what we can do about the problem?"

To which House Majority Leader Burton Barr replied:

"If you've got bad rules, it's constructive to say so."

That, in a nutshell, is the position of state officials who developed a fairly comprehensive state plan for pollution control—only to be told by the feds last May that it wasn't enough.

If there's any validity left in the federal system of sovereign states, the EPA Polutocrats ought to head back to their drawing boards post haste.

That they plan to do no such thing makes almost certain the most explosive head-to-head clash between state and federal levels of government in a long time. It quite possibly could result in some landmark constitutional decisions.

The fact is that the EPA's rules for limiting automobile travel imposed on Arizona and other states represent a virtually unprecedented attack on the federal concept of co-equal partners in the American system.

There's nothing new about the federal government telling local officials what to do. Over the years, a plethera of laws has developed requiring all kinds of state or municipal action on housing codes, highway design, welfare procedures, park development and the like.

In each case, it was a matter of carrot and stick. "Pass a building code we like, and we'll give you some housing money." "Take down your billboards, and we'll build you some roads"—and so on.

But always—and this is the crucial point—there was an alternative open to local officials: they could do nothing, and get nothing.

The EPA regulations, on the other hand, change the ground rules. There is only a stick. They threw away the carrot.

Listen to this ominous language: "Failure to comply with any provisions of this section shall render the person or governmental entity so failing to comply in violation . . . and subject to enforcement under . . . the Clean Air Act." Look up the relevant section, and you find something about $25,000 a day fines and the like.

Compliance, among other things, will require legislative action on a broad scale. Legislation appropriating the millions of dollars it will require to establish separate bus and car pool lanes; legislation outlining limits on motorcycle registrations; legislation allowing state officials to clamp the lid on gasoline sales and demand reports from distributors.

Yet, leaders in both the House and Senate have told the EPA experts—which is why Friday's meeting was so tense—that they have no intention of sacrificing their political lives by voting for such draconian measures.

Frankly, the chances for passage of such bills are roughly equal to my prospects for being the subject of next month's Playboy centerfold.

And the prospect of elected state legislators being fined for not doing the bidding of some appointed clean air experts is one which offends the constitutional sensibilities of a lot of folk around the capitol these days.

Of course, blustery rhetoric from local officials vowing not to knuckle under to the federal behemoth is nothing new, and neither is their surrender when push comes to shove.

But I have a feeling things are different this time. State and local officials believe, quite properly that their political lives are at stake, and that the time has come to draw the constitutional line.

MONROE TOWN COUNCIL RESOLUTION

Mr. RIBICOFF. Mr. President, the food price crisis is affecting all of us. Phase IV, rather than alleviating the food price crisis, is only aggravating the present situation.

Recently the Monroe, Conn., Town Council sent me a copy of its town council resolution urging a rollback in prices.

I share their view and I have supported such legislation with my vote on the floor of the Senate. On numerous occasions I have introduced amendments to place controls on raw agricultural products—the source of most food price inflation. It is time for the President and Congress to face up to the politically unpopular fact that inflation can only be controlled when controls are placed at the source of the problem—the farm.

I ask unanimous consent that the Monroe Town Council resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

The Monroe Town Council at a recent meeting voted to support the following Resolution of the City of New Britain:

Whereas, with the expiration of Phase 2 of President Nixon's Economic Program and the price of food soared to astronomical heights, and

Whereas, the action of the President to freeze some food prices at their current level, affords little or no relief to the people who have to put food on their tables, and

Whereas, the least that could be expected in the way of relief from soaring food prices would be a rollback of prices to the expiration date of Phase 2, but more equitable would be a rollback to food prices of January, 1972, now, therefore, be it

Resolved, by the Common Council of the City of New Britain that the Senate of the United States and the House of Representatives of the United States in Congress assembled, be and they are hereby requested to enact the necessary legislation to roll back food prices to January 1, 1972, and be it further

Resolved, that the President of the United States be and is hereby requested to lend the influence of his office in support of such legislation, and to approve the same when enacted, and be it further

Resolved, that the City Clerk transmit a copy of this resolution to the necessary parties.

PRIVATE PENSION REFORM

Mr. ROTH. Mr. President, I want to bring to the attention of the citizens of Delaware, and throughout this Nation, the private pension reform bill which was ordered reported today by the Finance Committee.

Early this year, an ad hoc Subcommittee on Private Pensions was appointed to review an enormous amount of material relevant to the need for legislative reform. As a member of that panel, I was most interested in hearing suggestions which recognized the tremendous importance of pension income to individuals. Simple statistics on pension failures should be no consolation to us when we realize they are of no help to the families whose livelihoods are jeopardized by the sudden termination of their plan.

As a cosponsor and strong supporter of this legislation, I am delighted that our committee has taken this landmark step toward providing meaningful and long overdue safeguards for the Nation's 30 million workers now covered by pension plans.

After nearly 3 solid weeks of markups, our committee has written legislation which would stipulate that companies which have plans must conform to minimum standards for guaranteeing pension rights to their employees. All too often we hear of loyal workers who are summarily dismissed just before they are due to become eligible. And, the committee has also stipulated that companies must make adequate contributions to their plans in order to insure that there will be enough money to pay the guaranteed rights of retiring employees.

After all, the Federal Government long ago took steps to make sure that applicants for jobs not suffer discrimination in hiring, and that once on the job, reasonable health and safety standards would protect them from many occupational hazards. I feel it is high time we did something to protect the hard earned pensions which employees have come to depend on more as the high cost of living makes personal saving progressively difficult.

When I served on the Senate Banking Committee, we spent many hours reviewing the insurance funds which now protect the savings deposits and securities investments of the American public. Banks and brokerage houses contribute to Government supervised insurance pools, protect depositors and customers from the disaster of a bank or brokerage house failure.

I do not see how we can continue to neglect pension plans any longer. While we now protect the more than $300 billion in savings institutions, we provide no safeguard at all for the more than $200 billion in pension assets that now exist. In a highly mobile economy, as companies merge or liquidate, plan terminations can cause economic panic in the lives of those who worked under the honest assumption they would have a "nest egg" with which to retire; 12,000 employees last year forfeited pension benefits because the plans in which they were enrolled ceased to function.

I heartily support the call to strengthen the rules under which the administrators who control pension investments must operate. We must be able to believe in their integrity, but additional rules are necessary in order to safeguard people's savings from unscrupulous manipulation or imprudent risk.

I am happy that these constructive measures will not become a burden to the private economy. In recognizing only half of the American working population is covered under pension plans, we must make sure that the enormous growth of these retirement benefits is not stifled by unduly harsh regulations. I feel that we must do something to induce more people to rely on private savings and a foundation for retirement. Social security benefits can only hope to supplement income received from pension or annuity savings built up over a person's working life.

To this end, I have supported two liberalized provisions which would increase the amount self-employed persons could contribute, tax free, to a retirement fund. We have included further language which would permit workers not covered by pension to set aside $1,000 per year, tax free, from their earnings. This contribution to their retirement would share the same preferential treatment that company contributions now enjoy.

American labor has provided the backbone of American prosperity. Our collective and individual rewards stem from a feeling that hard work provides not only short-term satisfaction, but also long-term security. We must recognize that future economic growth can only be as strong as the foundations we build today. I hope that Senate floor action will produce speedy passage of this most important bill.

THE ENERGY CRISIS

Mr. FANNIN. Mr. President, my good friend, the junior Senator from Wyoming (Mr. Hansen) has been speaking out for several years about the mounting energy problems confronting the United States.

This morning he addressed a meeting of the National Petroleum Council here in Washington. What he told this group of petroleum industry and government officials concerned with our energy dilemma is, I believe, worthy of the attention of all of us and I ask unanimous consent that his remarks be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Remarks of Senator Clifford P. Hansen

With the ever increasing proposals being offered by self-styled experts to end the energy crisis—or punish those responsible for it—, it is a pleasure and distinct honor to be here this morning with a distinguished group, the "Real McCoys" as far as the energy crisis is concerned.

And I am encouraged by the appointment of John A. Love. An outstanding chief executive, this three term governor brings in-depth knowledge of the energy business to the Office of Energy Policy in the White House.

When he talks, I hope the right people will be listening.

You are the realists.

You and your associates have discovered the oil. You know about the multitude of activities and investigations that take place prior to drilling. You know about borrowing money, the difficulty in persuading others not regularly in the oil business to invest their dollars in your ventures. You understand the motivation behind the doers in our economic life; the role the profit motive plays in choosing investments—and where to make them—North Dakota, North Africa, the North Slope or the North Sea. You've also learned that the Arctic deep freeze may extend thru several summers. Likewise the realities of life help determine for most Americans as to whether to be an oil man, a manufacturer, a farmer, or if your frustration with government is exceedingly high, a politician. Recent developments, I am told, would indicate that the last mentioned profession is losing some of its glamor. Don't assume I'm dismayed as a practicing politician. I've always felt there was too much competition anyway.

The other group of energy experts, albeit self-styled—have a head start on you.

They are not inhibited or restrained by the facts.

They have the support of environmentalists:

Those who believe we're using too much energy—and insofar as waste goes, I admit we are.

Those who believe our total energy sources are finite and may last, at best, not more than from one to a few hundred years.

Those who believe that we can and should change our ways and our life styles so as to use practically no energy.

Those who believe that despite all other considerations, the immediate improvement of the environment warrants and justifies the immediate implementation of all proposed environmental constraints and prohibitions, and others we may not yet have thought of. This group is not concerned about:

National security;

Industrial capability and output;

Economic stability and balance of payments;

Our standard of living;

Jobs for Americans;

America's role in world affairs—which includes foreign policy.

The self-styled energy experts have another distinct head start on you—while there are exceptions, generally they have the media with them.

Read any paper, watch and listen to any TV commentator, recall what you heard on your car radio:

The energy crisis is contrived.

Oil men have had years of unfair tax advantages.

All oil men are millionaires.

Oil men dictate federal government policy.

Oil men are polluters.

Oil men are responsible for the energy crisis because they knew it was coming and didn't do anything about it.

One more observation must be made about our friends, the self-styled energy experts.

Many of them are politicians.

Sometimes, it is more important to fix blame on someone else than it is to work for real solutions.

Other times the seeming advantage of proposing immediate action is compelling.

Examples.

Crash programs of research and development directed by newly created federal agencies and financed with billions of federal dollars.

Divestiture of operations if they include more than one of the following operations: production, transportation, refining, and marketing.

Public utility regulation of the industry.

Nationalization of the industry.

Politicians have one other advantage on you. In case of trouble, they'll fix responsibility.

Some pretty important members of the President's cabinet not too many years ago were saying close down all of the stripper wells, buy most of our petroleum abroad, save the American consumer at least five billion dollars annually. That was before they learned that others besides our Israeli friends in the Middle East could read English. And that, like the law of gravity, the law of supply and demand works in North Africa, too.

These are just some of the forces and background manipulating the curtains, lighting and props as the energy crisis moves on stage.

Political expediency is always important.

Phase IV which will soon become effective needs your close attention.

Should we hold prices down, thus demonstrating our earnestness in fighting inflation or, agreeing with Secretary Butz that "you don't get more by paying less" let petroleum, whether it be crude or refined product, rise in price.

Should we deregulate natural gas?

Should we weigh the wisdom of bonus bidding on O.C.S. leases in the context of the industry's need for capital?

This administration faces decisions that may outlive Watergate.

The wrong energy move now could make present day shortages pale in comparison to those ahead of us.

Phase IV as proposed with respect to oil and gas goes 180 degrees in the wrong direction.

As you comment, keep in mind: politicians are going to demagogue this issue for all it's worth. Only when most Americans understand the facts, will things be changed.

And you will certainly have the opportunity during the next few months of countering the charges that have been and will be made. When Senator Moss withdrew his divestiture amendment to the Alaska pipeline bill, Senator Jackson said there would be hearings, probably joint hearings by the Interior, Commerce and Antitrust and Monopoly Subcommittee of the Judiciary Committee. And Senator Jackson has already announced his investigation by the Government Operations Subcommittee.

So there will undoubtedly be a bloodbath in the coming hearings and you can be sure that these hearings will have preference over any administration proposals including decontrol of FPC regulation of natural gas production.

At least the industry has been forewarned and can be lining up its best troops in counterattack. Some of the treatment top-level industry witnesses have had in hearings this year should be a warning of what to expect and I would hope such witnesses would speak up loud and clearly.

The industry has been a convenient whipping boy for the candidate making his appeal to the Nader crowd and the environmental extremists. And you can be sure when the TV cameras are on, the candidates will be doing their thing. It will be no time or place for a timid witness or those of faint heart. And there is no occasion for intimidation. You have a plausible story to tell and certainly nothing to hide.

The late Dr. William Pecora, Undersecretary of the Interior and internationally honored earth scientist said just over a year ago that steps must be taken to assure the consumer that adequate domestic oil and gas reserves will be available. He also said that the potential oil and gas resources remaining to be found in and offshore the United States would meet our 1971 needs for those two fuels almost 100 times over.

The American Association of Petroleum Geologists in testimony before the Senate Interior Committee just a year ago generally agreed with Dr. Pecora's estimates.

The real crunch will be in the next 10 years, while we're developing coal gasification shale oil, and the breeder reactor. We can and should import some petroleum.

We shouldn't become so dependent upon any foreign source that we jeopardize our national security.

The National Petroleum Council was established to advise the Secretary of Interior.

I hope you have his ear.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the time for the transaction of routine morning business has expired.

ENDANGERED SPECIES ACT OF 1973

The ACTING PRESIDENT pro tempore (Mr. Nunn). Under the previous order the Senate will proceed to the consideration of S. 1983, which will be stated by title.

The bill was stated by title as follows:

A bill (S. 1983) to provide for the conservation, protection, and propagation of species or subspecies of fish and wildlife that are threatened with extinction or likely within the foreseeable future to become threatened with extinction, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Commerce with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Endangered Species Act of 1973".

DECLARATION OF POLICY

SEC. 2. (a) FINDINGS.—The Congress finds and declares that—

(1) various species of fish, wildlife, and plants in the United States have been rendered extinct as a consequence of economic growth and development untempered by adequate concern and conservation;

(2) other species of fish, wildlife and plants have been so depleted in numbers that they are in danger of or threatened with extinction;

(3) these species of fish, wildlife and plants are of educational, historical, recreational, and scientific value to the Nation and its people;

(4) the United States has pledged itself as a sovereign state in the international community to conserve and protect to the extent practicable the various species of fish or wildlife and plants facing extinction, pursuant to—

(A) migratory bird treaties with Canada and Mexico;

(B) the Migratory and Endangered Bird Treaty with Japan;

(C) the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere;

(D) the International Convention for the Northwest Atlantic Fisheries;

(E) the International Convention for the High Seas Fisheries of the North Pacific Ocean;

(F) the Convention on International Trade in Endangered Species of Wild Fauna and Flora; and

(G) other international agreements.

(5) encouraging the States, through Federal financial assistance and a system of incentives, to develop and maintain conservation, protection, restoration, and propagation programs which meet national and international standards is a key to meeting the Nation's international commitments and to better safeguarding, for the benefit of all citizens, the Nation's heritage in fish and wildlife.

(b) PURPOSES.—The Congress hereby declares that the purposes and policy of this Act are to—

(1) provide an effective means to conserve, protect, and restore the ecosystems upon which endangered and threatened species of fish or wildlife depend;

(2) provide a viable program for the conservation, protection, restoration, and propagation of endangered and threatened species;

(3) take all appropriate steps to implement the Nation's international commitments with respect to endangered and threatened fish or wildlife; and

(4) insure that all departments, agencies, and instrumentalities of the United States seek, within the scope of their authority and administrative jurisdiction, to protect endangered and threatened species.

DEFINITIONS

SEC. 3. As used in this Act—

(1) "Convention" means the Convention on International Trade in Endangered Species of Wild Fauna and Flora, signed on March 3, 1973, and the appendices thereto.

(2) "Endangered species" means any species of fish or wildlife which is in danger of extinction throughout all or a significant portion of its range.

(3) "Fish or wildlife" means any living member of the animal kingdom and the remains of any dead member of the animal kingdom, including, but not limited to, any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate or any part, egg, or offspring of any such member, or any product produced from any part or parts of the remains of any such member.

(4) "Foreign commerce" includes any transaction—

(A) between persons within one foreign country;

(B) between persons in two or more foreign countries;

(C) between a person within the United States and a person in a foreign country; or

(D) between persons within the United States, where the fish or wildlife involved are moving in any country or countries outside the United States.

(5) "Import" means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

(6) "Person" means an individual, corporation, partnership, trust, association, or any other private entity, or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State or political subdivision thereof, or of any foreign government.

(7) "Plant" means any member of the plant kingdom, including seeds, roots, or other parts of any such member.

(8) "Secretary" means, except as otherwise provided, the Secretary of the Interior or the Secretary of Commerce in the same manner in which program responsibilities are vested under Reorganization Plan Numbered 4 of 1970. With respect to enforcement of the provisions of this Act and of the Convention, which pertain to the importation of terrestrial plants, the term means the Secretary of Agriculture.

(9) "Species" includes any subspecies or other group of fish or wildlife of the same species or lesser taxa in common spatial arrangement that interbreed when mature.

(10) "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands.

(11) "State agency" means the State agency, department, board, commission, or other governmental entity which is responsible for the management and conservation of fish and wildlife resources within a State.

(12) "Take" means to harass, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.

(13) "Threatened species" means any species of fish or wildlife which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

(14) "United States", when used in a geographical sense, includes all States.

DETERMINATION OF ENDANGERED OR THREATENED SPECIES

SEC. 4. (a) GENERAL.—The Secretary shall by regulation determine whether any fish or wildlife is an endangered or threatened species as a result of any of the following factors:

(1) the present or threatened destruction, modification, or curtailment of its habitat or range;

(2) overutilization for commercial, sporting, scientific, or educational purposes;

(3) disease or predation;

(4) the inadequacy of existing regulatory mechanisms; or

(5) other natural or manmade factors affecting its continued existence.

(b) BASIS FOR DETERMINATIONS.—(1) The determinations required by this section shall be made on the basis of the best scientific and commercial data available to the Secretary, including any recommendations that have been made by the Advisory Committee established under subsection (d) of this section and after consultation, as appropriate, with all interested persons and organizations, including affected or knowledgeable Federal, State, and foreign government agencies. In any case in which such determinations involve an indigenous species, the Secretary shall consult with and consider the recommendations of each State involved. In any case in which determinations involve a species which is normally found on the high seas, in lakes, or other waters off the coast of a State of which are customarily harvested by citizens of such a State, the Secretary shall consult with and consider the recommendations of each State involved. In any case in which such determinations involve a species which is normally found in a foreign country or countries or which is harvested from the ocean by citizens of such country or countries, the Secretary shall (where practicable) with the assistance of the Secretary of State, consult with and consider the recommendations of such country or countries.

(2) In determining whether or not any fish or wildlife is an endangered or a threatened species, the Secretary shall take into consideration those efforts, if any, being made by any nation or any political subdivision of any nation to protect within any area under its jurisdiction such fish or wildlife, whether by predator control, protection of habitat and food supply, or other conservation or management practices.

(3) Fish or wildlife which have been designated as requiring protection from unrestricted commerce by any foreign country, or pursuant to any international agreement, shall receive special and full consideration by the Secretary to determine whether each is an endangered or a threatened species.

(c) LISTS.—(1) The Secretary shall publish in the Federal Register a list of all fish or wildlife determined by him by regulation to be endangered species and a list of all fish or wildlife determined by him by regulation to be threatened species. Such lists may be amended, modified, or revised periodically by regulation. Each list shall refer to each species of fish or wildlife named therein by scientific name and common name or names and shall specify the portion of its range over which it is endangered or threatened.

(2) The Secretary shall, upon the petition of an interested person under subsection 553 (e) of title 5, United States Code, conduct a review of any listed or unlisted species of fish or wildlife proposed to be removed from or added to either of the lists published pursuant to paragraph (1) of this subsection, but only if he makes and publishes a finding that such person has presented substantial evidence which in his judgment warrants such a review.

(3) Any list of species of fish or wildlife determined to be threatened with extinction, by the Secretary of the Interior pursuant to the Endangered Species Conservation Act of 1969, which is in effect the day before the date of enactment of this Act shall be republished to conform to the appropriate classifications under this Act. Pending reclassification as endangered species or threatened species and republication, any species listed pursuant to the Act of 1969 shall be deemed an endangered species within the meaning of this Act. Such reclassification and republication shall not require a public hearing or comment under section 553 of title 5, United States Code.

(d) ADVISORY COMMITTEE.—(1) The Secretary shall establish an Advisory Committee on Endangered and Threatened Species to consult with, advise, and make recommendations to him and to the States. The Advisory Committee shall consist of not more than eleven members including a Chairman who shall be appointed by the Secretary from lists of qualified individuals submitted by State fish and wildlife agency administrators, universities, nongovernmental organizations concerned with conservation, and scientific societies. Five of the members shall be regularly employed by State governments or political subdivisions thereof. The terms of office shall be so arranged by the Secretary that each year at least three new members shall be appointed to fill vacancies caused by the expiration of terms of office.

(2) The Advisory Committee shall periodically, but not less than once each year, make recommendations to the Secretary with respect to removal from, addition to, or reclassification within the lists maintained pursuant to subsection (a) of this section, and may, with the approval of the Secretary, perform other functions in furtherance of the purposes of this Act. A member of the Advisory Committee who is not otherwise a Government employee may, in the discretion of the Secretary, receive not more than $150 per diem when engaged in the actual performance of his duties. Each member may receive reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of his duties.

(e) Protective Regulations.—Whenever the Secretary lists a species of fish or wildlife as a threatened species, pursuant to subsection (a) of this section, he shall issue such regulations as he deems necessary and advisable to provide for the conservation, protection, restoration, or propagation of such species. With respect to any endangered or threatened species, the Secretary may by regulation prohibit any act prohibited with respect to an endangered species under section 10(a) of this Act.

LAND ACQUISITION

Sec. 5. The Secretary shall establish and implement a program to conserve, protect, restore, and progagate fish or wildlife which are listed as endangered or threatened species pursuant to section 4 of this Act. To carry out such programs, the Secretary—

(a) shall utilize as approrpiate the land acquisition and other authorities conferred upon him under the Migratory Bird Conservation Act, the Fish and Wildlife Act of 1956, and the Fish and Wildlife Coordination Act;

(b) may acquire by purchase, donation, or otherwise any lands, waters, or interests therein necessary for the purpose of conserving, protecting, restoring, or propagating any endangered or threatened species. Such authority shall be in addition to any other land acquisition authority vested in him; and

(c) may use funds made available under the Land and Water Conservation Fund Act of 1965 or under this Act to acquire such lands, waters, or interests therein.

COOPERATION WITH THE STATES

Sec. 6. (a) General.—In carrying out the program authorized by this Act, the Secretary shall cooperate to the maximum extent practicable with the States. In addition to all other obligations, the Secretary shall consult with the affected State before the acquisition of any lands, waters, or interests therein for the purpose of conserving, protecting, restoring, or propagating any endangered or threatened species.

(b) Management Agreements.—The Secretary may enter into an agreement or agreements with any State for the administration and management of any area established for the conservation, protection, restoration, or propagation of an endangered or a threatened species. Any revenues derived from the administration of such areas under such agreements shall be subject to section 401 of the Act of June 15, 1935 (16 U.S.C. 715s).

(c) Financial Assistance.—The Secretary is authorized to enter into a cooperative agreement in accordance with this subsection to provide financial assistance to any State which establishes and maintains an adequate and active program for the management, conservation, protection, and restoration of endangered and threatened species. Before the Secretary may enter into or renew such a cooperative agreement to provide financial assistance to a State, he shall make, justify, and publish in the Federal Register a finding that such agreement would further the policy of this Act and that such State has a program under which—

(1) the State agency has authority and administrative jurisdiction to manage and protect any species of fish or wildlife which is determined by such agency or the Secretary to be endangered or threatened;

(2) the State has established a State plan, including a management program under the State agency, for all species of resident fish or wildlife which are deemed by the Secretary to be endangered or threatened, and has furnished a copy of such plan and program together with all pertinent details, information, and data requested to the Secretary;

(3) the State agency during the first year of the existence of such agreement—

(A) will issue protective regulations;

(B) will employ sufficient trained and qualified personnel; and

(C) will maintain investigation, enforcement, and public education programs,

which are adequate, in the Secretary's judgment, for the conservation, protection, restoration, and propagation of species of fish or wildlife facing extinction;

(4) the State agency is authorized and plans to conduct studies to determine the status and requirements for survival of species of resident fish or wildlife and agrees to transmit a copy of the findings of such studies to the Secretary;

(5) the State agency is authorized and plans to establish programs, including the acquisition of lands, waters, or interests therein, for the conservation, protection, restoration, and propagation of endangered and threatened species; and

(6) provision is made for public participation in designating species of resident fish or wildlife as endangered or threatened.

(d) Allocation of Funds.—(1) Funds appropriated for financial assistance pursuant to subsection (c) of this section shall be available to the Secretary for allocation to the States under cooperative agreements. The purposes for which such funds may be used include, but are not limited to, research, censusing, law enforcement, and habitat acquisition or improvement. The Secretary shall allocate appropriated funds to such States upon the basis of—

(A) the international commitments of the United States to protect endangered or threatened species;

(B) the national significance of a species found to be endangered or threatened within a State; and

(C) the potential for preventing extinction of a species or for restoring a species to nonendangered or nonthreatened status.

Funds allocated to a State but unexpended or unobligated at the close of the fiscal year remain available for expenditure by such State until the close of the succeeding fiscal year.

(2) Each cooperative agreement between a State and the Secretary shall provide for—

(A) the actions to be taken by the Secretary and the State;

(B) the benefits that are expected to be derived in connection with preservation and restoration of endangered or threatened species;

(C) the estimated cost of these actions; and

(D) the share of such costs to be borne by the Federal Government and by the States, except that—

(i) the Federal share of such program costs shall not exceed 50 per centum of the estimated program costs stated in the agreement; and

(ii) the Federal share may be increased to 66⅔ per centum whenever two or more States, having a common interest in a program that the Secretary deems to meet the criteria of paragraph (1) of this subsection, enter jointly into an agreement with the Secretary.

The Secretary may, in his discretion, and under such rules and regulations as he may prescribe, advance funds to the State for financing the United States pro rata share agreed upon in the cooperative agreement.

(3) The Secretary is authorized to issue such regulations as may be appropriate to carry out the provisions of this section with respect to financial assistance to States.

(4) For the purposes of this section, there is authorized to be appropriated not to exceed $10,000,000.

(e) Periodic Review.—The finding made under subsection (c) of this section and any action taken by the Secretary under this section shall be subject to his periodic review, including the consideration of comment from interested persons, at no greater than annual intervals. Upon ninety days' notice in writing to the affected State, the Secretary may terminate in his discretion any cooperative agreement entered into under this section.

(f) State Action Permitted.—Nothing in this Act shall be construed as superseding or limiting the power of any State or political subdivision thereof to enact legislation or regulations more restrictive than or consistent with the provisions of this Act with respect to an endangered or a threatened species: *Provided,* That any State law or regulation of the import or export of or the interstate or foreign commerce in an endangered species listed pursuant to section 4 of this Act is void to the extent that it may effectively permit what is prohibited by this Act or its implementing regulations, or prohibit what is authorized pursuant to an exemption or permit provided for in this Act or its implementing regulations. This Act shall not otherwise be construed to void any State law or regulation which is intended to conserve and manage migratory, resident, or introduced fish or wildlife, or to permit or prohibit sale of such fish or wildlife.

INTERAGENCY COOPERATION

Sec. 7. The Secretary shall review all programs administered by him and utilize such programs in furtherance of the policy of this Act. All other departments, agencies, and instrumentalities of the Federal Government shall, in consultation with and with the assistance of the Secretary—

(a) carry out such programs as are practicable for the protection of species listed, pursuant to section 4 of this Act, as endangered or threatened;

(b) take such action as is necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of any endangered or threatened species, or result in the destruction or modification of any habitat of such species which is determined by the Secretary, after consultation to the extent appropriate and necessary with affected States, to be a critical habitat of such species.

INTERNATIONAL COOPERATION

Sec. 8. (a) Financial Assistance.—As a demonstration of the commitment of the United States to the worldwide protection of endangered and threatened species, the President may, subject to the provisions of section 1415 of the Supplemental Appropriation Act, 1953 (31 U.S.C. 724), use foreign currencies accruing to the United States Government under the Agricultural Trade Development and Assistance Act of 1954 or any other law to provide to any foreign country (with its consent) assistance in the development and management of programs in that country which the Secretary determines to be necessary or useful for the conservation, protection, restoration, or propagation of any endangered or threatened species listed by the Secretary pursuant to section 4 of this Act: *Provided,* That no funds other than foreign currencies available for expenditure only within such foreign country shall be used pursuant to this section. The President shall provide assistance (which includes, but is not limited to, the acquisition, by lease or otherwise, of lands, waters, or interests therein) to foreign countries under this section upon such terms and conditions as he deems appropriate.

(b) Encouragement.—In order to carry out further the provisions of this Act, the Secretary, with the assistance of the Secretary of State, shall encourage—

(1) foreign countries to provide for the protection, conservation, restoration, or propagation of fish or wildlife, including endangered and threatened species listed pursuant to section 4 of this Act;

(2) the entering into of bilateral or multilateral agreements for foreign countries to provide for such protection, conservation, restoration, propagation; and

(3) foreign persons, who directly or indirectly take fish or wildlife in foreign countries or on the high sea for importation into the United States for commercial or other purposes, to develop and carry out, with such assistance as he may provide, conservation practices designed to enhance such fish, wildlife and plants and their habitat.

(c) Personnel.—After consultation with the Secretary of State, the Secretary may—

(1) assign or otherwise make available any officer or employee of his department for the purpose of cooperating with foreign countries and international organizations in developing personnel resources and programs which promote the protection, conservation, restoration, or propagation of fish or wildlife; and

(2) conduct or provide financial assistance for the educational training of foreign personnel, in this country or abroad, in fish, wildlife or plant management, research, and law enforcement, and to render professional assistance abroad in such matters.

(d) Investigations.—After consultation with the Secretary of State and the Secretary of the Treasury, as appropriate, the Secretary may conduct or cause to be conducted such law enforcement investigations and research abroad as he deems necessary to carry out the purposes of his Act.

(e) Convention Implementation.—The President is authorized and directed to designate appropriate agencies to act as the Management Authority or Authorities and the Scientific Authority or Authorities pursuant to the Convention. The agencies so designated shall thereafter be authorized to do all things assigned to them under the Convention, including the issuance of permits and certificates. The agency designated by the President to communicate with other parties to the Convention and with the Secretariat shall also be empowered, in consultation with the State Department, to act on behalf of and represent the United States in all regards as required by the Convention.

REGULATIONS, PROCEDURE, AND JUDICIAL REVIEW

Sec. 9. (a) Regulations.—The Secretary shall publish any regulations proposed under this Act in the Federal Register at least sixty days prior to the time when such regulations shall become final, except that in case of an emergency the Secretary may publish such regulations not less than thirty days prior to the time when such regulations shall become final if at the same time he publishes in the Federal Register detailed reasons why emergency action is necessary. The Secretary shall also publish in the Federal Register a notice of all petitions received pursuant to this Act and, if such petition is denied, his reasons therefor. Such notice shall identify the purpose of the petition and include a statement of the availability of any data submitted in support of such petition. If any person adversely affected by a proposed regulation files objections and requests a public hearing within forty-five days of the date of publication of the proposed regulation, the Secretary shall grant such request. If such public hearing is held, final regulations shall not be promulgated by the Secretary until after the conclusion of such hearing. All public hearings authorized by this subsection shall consist of the oral and written presentation of data or arguments in accordance with such conditions or limitations as the Secretary may make applicable thereto. Proposed and final regulations issued under this Act shall set forth findings of fact on which the regulations are based and shall state the relationship of such findings to the regulations issued.

(b) Procedure.—Except as expressly modified by this section, the provisions of the Administrative Procedure Act (5 U.S.C. 551 et seq.) shall apply to proceedings conducted by the Secretary under this Act: *Provided*, That the provisions of this section shall not apply to the extent necessary to permit emergency action by the Secretary. Notice of and reasons for such action shall be published prior to such action in the Federal Register.

(c) Judicial Review.—(1) Any judicial review of final regulations promulgated under this Act and final actions under section 5(c) of this Act shall be in accordance with sections 701–706 of title 5, United States Code, except that—

(A) with respect to regulations promulgated under section 4 or 6 of this Act, the findings of the Secretary as to the facts shall be sustained if based upon substantial evidence on the record considered as a whole; and

(B) with respect to relief pending review, no stay of an action may be granted unless the reviewing court determines that the party seeking such stay—

(i) is likely to prevail on the merits in the review proceeding, and

(ii) will suffer irreparable harm pending such proceeding.

(2) If the party seeking judicial review applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court either that—

(A) the information is material and was not available at the time of the proceeding before the Secretary; or

(B) failure to include such evidence in the proceeding was an arbitrary or capricious act of the Secretary, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Secretary, and to be adduced upon the hearing, in such manner and upon such terms and conditions as the court may deem proper. The Secretary may notify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file with the court such modified or new findings and his recommendation, if any, for the modification or setting aside of his original order.

(d) Audit.—(1) Each recipient of Federal assistance under this Act, pursuant to grants, subgrants, contracts, subcontracts, loans, or other arrangements, entered into other than by formal advertising, and which are otherwise authorized by this Act, shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of three years after completion of the project or undertaking referred to in subsection (a) of this section, have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients which in the opinion of the Secretary or the Comptroller General may be related or pertinent to the grants, subgrants, contracts, subcontracts, loans or other arrangements referred to in subsection (a).

UNLAWFUL CONDUCT

Sec. 10. (a) Prohibited Acts.—Except as provided in section 11 of this Act, it is unlawful for any person subject to the jurisdiction of the United States to—

(1) import into, or export from the United States any endangered species which has been listed pursuant to section 4 of this Act;

(2) take any such species within the United States or in the territorial sea of the United States or upon the high seas;

(3) possess, sell, deliver, carry, transport, ship, or receive, by any means whatever, any such species which are taken in violation of paragraph (2) of this subsection;

(4) deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and for commercial purposes, any such species;

(5) sell, distribute, or offer for sale in foreign commerce, interstate commerce, or activity affecting interstate commerce specimens or products processed or manufactured in whole or in part from specimens of any such species;

(6) attempt to commit, solicit another to commit, or cause to be committed, any act prohibited by paragraphs (1) through (5) of this subsection;

(7) engage in any trade in any specimens of fish, wildlife, or plants, contrary to the provisions of the Convention, or possess any specimens traded contrary to the provisions of the Convention, including the definitions in article I therein;

(8) violate any regulation which is promulgated by the Secretary pursuant to section 4(e) of this Act; or

(9) import into or export from the United States except at a port or ports designated by the Secretary, any fish, or wildlife, except nonendangered and nonthreatened shellfish and fishery products which are imported or exported for human or animal consumption or taken for recreational purposes in waters under United States jurisdiction or on the high seas. To facilitate enforcement of this paragraph and to reduce the costs of enforcement, the Secretary, with the approval of the Secretary of the Treasury and after notice and opportunity for public hearing, may, by regulations, designate ports and change such designations. Upon such terms and conditions as he may prescribe, the Secretary may permit such importation at nondesignated ports in the interest of the health or safety of the fish or wildlife or for any other reasons he deems appropriate. Any port designated by the Secretary of the Interior under the authority of section 4(d) of the Act of December 5, 1969 (16 U.S.C. 666cc–4(d)), shall, if such designation is in effect on the day before the date of the enactment of this Act, be deemed to be a port designated by the Secretary under this paragraph until such time as the Secretary otherwise provides.

(b) Similarity of Appearance Cases.—The Secretary may, by regulation, and to the extent he deems advisable, treat any species of fish or wildlife as an endangered or threatened species even though it is not listed pursuant to section 4 of this Act if he finds that—

(A) such species so closely resembles in appearance, at the point in question, a species which has been listed pursuant to such section that enforcement personnel would have substantial difficulty in attempting to differentiate between the listed and unlisted species;

(B) the effect of this substantial difficulty is an additional threat to an endangered or threatened species; and

(C) such treatment of an unlisted species will substantially facilitate the enforcement and further the policy of this Act.

EXCEPTIONS

SEC. 11. (a) GENERAL.—Upon a finding that the excepted conduct will not adversely affect the regenerative capacity of the involved species in a significant portion of its range or habitat or otherwise affect the survival of the wild population of such species, and upon such terms and conditions as he may prescribe, the Secretary may issue permits authorizing the importation, exportation, taking, or transportation, by persons found to be qualified, of any fish or wildlife which is listed as an endangered or threatened species pursuant to section 4 of this Act for—

(1) scientific purposes in furtherance of the purposes of this Act; or

(2) the propagation of such species in captivity or in a controlled habitat.

(b) HARDSHIP.—The Secretary may except from the application of section 10(a) of this Act any person who enters into a contract with respect to a species of fish or wildlife before the date of publication in the Federal Register of notice of a proposed listing of that species as an endangered or threatened species if the failure to grant such exception will cause undue economic hardship to such person under the contract. The extent and duration of such exception shall be such as the Secretary deems appropriate. No such exception shall be granted unless such person applies to the Secretary in writing and furnishes with such application such information as the Secretary may require to prove such hardship. No such exception shall be for a duration of more than one year from the date of publication in the Federal Register of notice of a proposed listing of the involved species, nor shall such exception apply to a quantity of fish or wildlife in excess of that specified by the Secretary. The one-year period for those species of fish or wildlife which were listed by the Secretary as endangered prior to the effective date of this Act shall expire in accordance with the terms of section 3 of the Act of December 5, 1969 (83 Stat. 275). No such exemption may be granted for the importation or exportation of a specimen listed in appendix I of the Convention which is to be used for primarily commercial purposes.

(c) PROCEDURE.—(1) The Secretary shall publish a notice in the Federal Register of each application for an exception. Each notice shall invite the submission from interested parties, within thirty days after the date of the notice, of written data, views, or arguments with respect to the application. Information received by the Secretary as a part of any application shall be available to the public as a matter of public record at every stage of the proceeding.

(2) The Secretary may grant exceptions under subsections (a) and (b) of this section only if he finds, and publishes such finding in the Federal Register, that such exceptions were applied for in good faith and if granted and exercised will not operate to the disadvantage of such endangered or threatened species and will be consistent with the policy of this Act.

(d) ALASKA NATIVES.—(1) The provisions of this Act shall not apply with respect to the taking of any endangered or threatened species by any Indian, Aleut, or Eskimo who is an Alaskan native who resides in Alaska if such taking is for the purpose of consumption or use in a native community or for the purpose of selling or creating for sale in interstate commerce authentic native articles of handicrafts and clothing: *Provided*, That in each case such taking is not accomplished in a wasteful manner. As used in this paragraph—

(A) "consumption or use in a native community" includes selling any edible portion of fish or wildlife in native villages and towns in Alaska for native consumption; and

(B) "authentic native articles of handicrafts and clothing" means items composed wholly or in some significant respect of natural materials, and which are produced, decorated, or fashioned in the exercise of traditional native handicrafts without the use of pantographs, multiple carvers, or other mass copying devices. Traditional native handicrafts include, but are not limited to, weaving, carving, stitching, sewing, lacing, beading, drawing, and painting.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, whenever the Secretary determines that any species of fish or wildlife which is subject to taking by Indians, Aleuts, or Eskimos is an endangered or threatened species, and that such taking materially and negatively affects the threatened and endangered species, he may prescribe regulations upon the taking of such species by any such Indian, Aleut, or Eskimo. Such regulations may be established with reference to species, geographical description of the area included, the season for taking, or any other factors related to the reason for establishing such regulations and consistent with the policy of this Act. Such regulations shall be prescribed after a notice and hearings in the affected judicial districts of Alaska and as otherwise required by section 103 of the Marine Mammal Protection Act of 1972, and shall be removed as soon as the Secretary determines that the need for their imposition has disappeared: *Provided*, That no such regulation shall be established which is in contravention of any provision of the Marine Mammal Protection Act of 1972.

PENALTIES AND ENFORCEMENT

SEC. 12. (a) CIVIL PENALTY.—(1) Any person who—

(A) knowingly violates any provision of this Act or any regulation or permit issued under this Act, which prohibits the taking, importing, exporting, shipping, receiving, or otherwise moving in interstate or foreign commerce of any endangered or threatened species of fish or wildlife, or commits any act made unlawful under section 10(a) of this Act, may be assessed a civil penalty by the Secretary of not more than $10,000 for each violation;

(B) commits any act made unlawful under section 10(a) of this Act, or violates any other provision of this Act, or any regulation or permit issued under this Act, may be assessed a civil penalty by the Secretary of not more than $1,000 for each such violation.

No penalty shall be assessed unless such person is given notice and opportunity for a hearing with respect to such violation. Each prohibited act is a separate violation. Any such civil penalty may be compromised by the Secretary. Upon any failure to pay a penalty assessed under this subsection, the Secretary may by his own attorneys institute a civil action in a district court of the United States for any district in which such person is found, resides, or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action. The court shall hear such action solely on the record made before the Secretary and shall sustain his action if it is supported by substantial evidence on the record considered as a whole.

(2) Hearings held during proceedings for the assessment of civil penalties authorized by paragraph (1) of this subsection shall be conducted in accordance with section 554 of title 5, United States Code. The Secretary may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) CRIMINAL VIOLATIONS.—(1) Any person who knowingly and willfully violates any provision of this Act, or of any regulation or permit issued thereunder, shall, upon conviction, be fined not more than $20,000 or imprisoned for not more than one year, or both.

(2) The head of any Federal agency which has issued a lease, license, permit, or other agreement authorizing the use of Federal lands, including grazing of domestic livestock, to any person who is convicted under paragraph (1) of this subsection may immediately modify, suspend, or revoke such lease, license, permit, or other agreement. The Secretary may suspend, cancel, or refuse to issue for a period of up to one year Federal hunting or fishing permits or stamps with respect to any person who is convicted under paragraph (1) of this subsection. The United States shall not be liable to pay any compensation, reimbursement, or damages in connection with any such modification, suspension, or revocation of any lease, license, permit, stamp, or other agreement.

(c) REWARDS.—Upon the recommendation of the Secretary, the Secretary of the Treasury is authorized to pay an amount equal to one-half of the civil penalty or fine paid, but not to exceed $2,500, to any person who furnishes information which leads to a finding of civil violation or a conviction of a criminal violation of any provision of this Act or any regulation or permit issued thereunder. Any officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall not be eligible for payment under this section.

(d) ENFORCEMENT.—(1) The provisions of this Act and any regulations or permits issued under this Act shall be enforced by the Secretary, the Secretary of the Treasury, or the Secretary of the Department in which the Coast Guard is operating, or all Secretaries. Each such Secretary may utilize, by agreement, with or without reimbursement, the personnel, services, and facilities of any other Federal agency or any State agency for purposes of enforcing this Act.

(2) The judges of the district courts of the United States and the United States magistrates may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this Act and any regulation issued thereunder.

(3) Any person authorized by the Secretary, the Secretary of the Treasury, or the Secretary of the Department in which the Coast Guard is operating, in furtherance of the enforcement of this Act may execute and serve any arrest warrant, search warrant, or other warrant of civil or criminal process issued by any officer or court of competent jurisdiction. A person so authorized may search and seize, with or without a warrant, to the extent authorized by law. Any fish, wildlife, property, or item so seized shall be held by any person authorized by the Secretary, the Secretary of the Treasury, or the Secretary of the Department in which the Coast Guard is operating pending disposition of civil or criminal proceedings, or the institution of an action in rem for forfeiture of such fish, wildlife, property, or item pursuant to paragraph (4) of this subsection, except that the Secretary may, in lieu of holding such fish, wildlife, property, or item, permit the owner or consignee to post a bond or other surety satisfactory to the Secretary.

(4) All fish or wildlife, or plants taken, possessed, sold, purchased, offered for sale or purchase, transported, delivered, received, carried, shipped, exported or imported contrary to the provisions of this Act, any regulation issued under this Act, or any permit issued thereunder, and all guns, traps, nets, and other equipment, vessels, vehicles,

aircraft, and other means of transportation used to aid the taking, possessing, selling, purchasing, offering for sale or purchase, transporting, delivering, receiving, carrying, shipping, exporting or importing of any fish or wildlife, or plants in violation of this Act, any regulation made pursuant thereto, or any permit issued thereunder shall be subject to forfeiture to the United States.

(5) All provisions of law relating to the seizure, forfeiture, and condemnation of a vessel for violation of the customs laws, the disposition of such vessel or the proceeds from the sale thereof, and the remission or mitigation of such forfeiture, shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this Act, insofar as such provisions of law are applicable and not inconsistent with the provisions of this Act. The powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Treasury Department shall, for purposes of this Act, be exercised or performed by the Secretary or by such persons as he may designate.

(e) REGISTRATION. — (1) Any person who engages to any extent in business as an importer of fish or wildlife must register with the Secretary of the Treasury his name and the address of each place of business at which, and all trade names under which, he conducts such business.

(2) Any person required to register with the Secretary of the Treasury under paragraph (1) of this subsection shall—

(A) keep such records as will fully and correctly disclose each importation or exportation of fish or wildlife except nonendangered and nonthreatened shell fish or fishery products which are imported or exported for human or animal consumption or recreational purposes, made by him and the subsequent disposition made by him with respect to such fish or wildlife and

(B) at all reasonable times upon notice by a duly authorized representative of the Secretary, afford such representative access to his places of business, an opportunity to examine his inventory of imported fish or wildlife and the records required to be kept under subparagraph (A) of this paragraph and to copy such records.

(3) The Secretary of the Treasury, after consultation with the Secretary, shall prescribe such regulations as are necessary and appropriate to carry out the purposes of this subsection.

(f) ENFORCEMENT REGULATIONS.—(1) The Secretary, the Secretary of the Treasury, and the Secretary of the Department in which the Coast Guard is operating, are authorized to promulgate such regulations as may be appropriate to enforce this Act, and to charge reasonable fees for expenses to the Government connected with permits authorized by this Act, including processing applications and reasonable inspections, and the transfer, board, handling, or storage of fish, wildlife, or plants and evidentiary items seized and forfeited under this Act. All fees collected pursuant to this subsection shall be deposited in the Treasury to the credit of the appropriation which is current and chargeable for the cost of furnishing the services. Appropriated funds may be expended pending reimbursement from parties in interest.

(g) CITIZEN SUITS.—(1) Except as provided in paragraph (2) of this subsection, any person may commence a civil suit on his own behalf to enjoin any person, including the United States and any other governmental instrumentality or agency (to the extent permitted by the eleventh amendment to the Constitution), who is alleged to be in violation of any provision of this Act or regulation issued under the authority thereof. The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce any such provision or regulation, as the case may be.

(2) No action may be commenced—

(A) prior to sixty days after written notice of the violation has been given to the Secretary, and to any alleged violator of any such provision or regulation;

(B) if the Secretary has commenced action to impose a penalty pursuant to subsection (a) of this section; or

(C) if the United States has commenced and is diligently prosecuting a criminal action in the court of the United States or a State to redress a violation of any such provision or regulation.

(3) (A) Any suit under this subsection may be brought in the judicial district in which the violation occurs.

(B) In any such suit under this subsection in which the United States is not a party, the Attorney General, at the request of the Secretary, may intervene on behalf of the United States as a matter of right.

(4) The court, in issuing any final order in any suit brought pursuant to paragraph (1) of this subsection may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

(5) The injunctive relief provided by this subsection shall not restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or limitation or to seek any other relief (including relief against the Secretary or a State agency).

(h) COORDINATION.—The Secretary of Agriculture and the Secretary shall provide for appropriate coordination of the administration of this Act with the administration of the animal quarantine laws (21 U.S.C. 101–105, 111–135b, and 612–614) and section 306 of the Tariff Act of 1930 (19 U.S.C. 1306). Nothing in this Act or any amendment made by this Act, shall be construed as superseding or limiting in any manner the functions of the Secretary of Agriculture under any other law relating to prohibited or restricted importations or possession of animals and other articles. No proceeding or determination under this Act shall preclude any proceeding or be considered determinative of any issue of fact or law in any proceeding under any Act administered by the Secretary of Agriculture. Nothing in this Act shall be construed as superseding or limiting in any manner the functions and responsibilities of the Secretary of the Treasury under the Tariff Act of 1930, including, but not limited to, section 527 of such Act (19 U.S.C. 1527), relating to the importation of wildlife taken, killed, possessed, or exported to the United States in violation of the laws or regulations of a foreign country.

ENDANGERED PLANTS

SEC. 13. The Secretary of the Smithsonian Institution, in conjunction with other affected agencies, is authorized and directed to review species of plants which are endangered or threatened, and methods of providing adequate protection including legislation for such species. He shall report the results of such review to Congress, not later than one year after the date of enactment of this Act. For purposes of this section, there is authorized to be appropriated not to exceed $250,000.

CONFORMING AMENDMENTS

SEC. 14. (a) Section 4(c) of the Act of October 15, 1966 (80 Stat. 928, 16 U.S.C. 668dd(c)), is further amended by revising the second sentence thereof to read as follows: "With the exception of endangered and threatened species listed by the Secretary pursuant to section 4 of the Endangered Species Act of 1973 in States wherein a cooperative agreement does not exist pursuant to section 6(c) of such Act nothing in this Act shall be construed to authorize the Secretary to control or regulate hunting or fishing of resident fish and wildlife on lands not within the System."

(b) Section 10(a) of the Migratory Bird Conservation Act (45 Stat. 1224, 16 U.S.C. 715l(a)) and section 401(a) of the Act of June 15, 1935 (49 Stat. 383, 16 U.S.C. 715s (a)) are each amended by striking out "threatened with extinction," and inserting in lieu thereof the following: "listed pursuant to section 4 of the Endangered Species Act of 1973 as endangered or threatened species,".

(c) Section 6(a)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–9(a)(1)) is amended by striking out:

"THREATENED SPECIES.—For any national area which may be authorized for the preservation of species of fish or wildlife that are threatened with extinction." and inserting in lieu thereof the following:

"ENDANGERED AND THREATENED SPECIES.—For lands, waters, or interests therein, the acquisition of which is authorized under section 5 of the Endangered Species Act of 1973, needed for the purpose of conserving, protecting, restoring, or propagating endangered or threatened species of fish, wildlife, or plants."

(d) The first sentence of section 2 of the Act of September 28, 1962 (76 Stat. 653; 16 U.S.C. 460k–1), is amended to read as follows:

"SEC. 2. The Secretary is authorized to acquire areas of land, or interests therein, which are suitable for—

"(1) incidental fish- and wildlife-oriented recreational development,

"(2) the protection of natural resources,

"(3) the protection of endangered or threatened species listed by the Secretary pursuant to section 4 of the Endangered Species Act of 1973, or

"(4) carrying out two or more of the purposes set forth in paragraphs (1) through (3) of this section,

and are adjacent to, or within, the said conservation areas, except that as acquisition of any land or interest therein pursuant to this section shall be accomplished only with such funds as may be appropriated therefor by the Congress or donated for such purposes, but such property shall not be acquired with funds obtained from the sale of Federal migratory bird hunting stamps."

(e) The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) is amended—

(1) by striking out "Endangered Species Conservation Act of 1969" in section (1)(B) thereof and inserting in lieu thereof the following: "Endangered Species Act of 1973";

(2) by striking out "pursuant to the Endangered Species Conservation Act of 1969" in section 101(a) (3)(B) thereof and inserting in lieu thereof the following: "or threatened species pursuant to the Endangered Species Act of 1973";

(3) by striking out "endangered under the Endangered Species Conservation Act of 1969" in section 102(b)(3) thereof and inserting in lieu thereof the following: "an endangered or a threatened species pursuant to the Endangered Species Act of 1973"; and

(4) by striking out "Endangered Species List, authorized by the Endangered Species Conservation Act of 1969," in section 202(a) (6) thereof and inserting in lieu thereof the following: "endangered species list and threatened species list published pursuant to section 4(c)(1) of the Endangered Species Act of 1973".

REPEALER

SEC. 15. The Endangered Species Conservation Act of 1969 (sections 1 through 3 of the Act of October 15, 1966, and sections 1 through 6 of the Act of December 5, 1969; 16 U.S.C. 668aa—668cc–6) is repealed.

APPLICABILITY WITHIN STATES

SEC. 16. (a) STATE PLAN.—By the end of the first year after the date of enactment of this Act, a State may establish a plan for endangered and threatened pecies in accordance with this Act. A plan is in accordance with this Act if it meets or exceeds the requirements set forth in section 6(c) of this Act and represents an effective response to the Nation's need to conserve, protect, restore, and propagate endangered and threatened species of fish or wildlife. Upon the establishment of such a plan, the Governor or the head of the State agency shall promptly transmit a certified copy to the Secretary.

(b) Determination by Secretary.—Within ninety days after the Secretary receives a certified copy of a State plan established under subsection (a) or subsection (d) of this section, the Secretary shall make a determination whether such State has established a plan for endangered and threatened species in accordance with this Act. Unless the Secretary determines, pursuant to this section, that a State plan is not in accordance with this Act, the plan shall go into effect in such State on the date designated in the plan. In no event shall such State plan go into effect less than three months or more than nine months after the date of its establishment.

(c) Periodic Review.—The Secretary shall periodically, but not less than once every three years, review each State plan for endangered and threatened species which has been approved under subsection (b) of this section and for which there is experience, to determine whether such plan is still in accordance with this Act and to evaluate the success of such plan in terms of the policy of this Act. To facilitate such review, the Governor or the head of the State agency in each such State shall submit to the Secretary periodically all information relevant and requested by the Secretary. The Secretary shall report to the President and Congress simultaneously each year on the results of such reviews, including any recommendations for legislation.

(d) No State Plan.—Except as to species listed in Appendix I of the Convention, the provisions of this Act regarding the management and taking of any State's resident species shall become applicable in their entirety within a State fifteen months after the date of enactment of this Act unless, prior to such date, the Secretary has made a determination under subsection (b) of this section that such State has established a plan for endangered and threatened species in accordance with this Act: *Provided*, That the provisions of subsection (a) of section 10 of this Act shall be effective upon the date of enactment of this Act within any State which does not prevent the taking of any species listed by the Secretary as an endangered species. If, at any time thereafter, the Secretary upon petition makes a determination, pursuant to subsection (b) of this section, that a State has established a plan for endangered and threatened species in accordance with this Act, such plan shall go into effect and the provisions of this Act regarding the management and taking of any species shall cease to be applicable or in effect within such State on a date to be designated by the Secretary. If, after a State plan in accordance with this Act is in effect within a State, the Secretary makes a determination, pursuant to subsection (c) of this section, that such plan is no longer in accordance with this Act, the provisions of this Act regarding the management and taking of any species shall go into effect within such State and such plan shall cease to be in effect on a date to be designated by the Secretary.

(e) Procedure.—(1) Before making any determination under this section, the Secretary shall publish a notice in the Federal Register and afford the State and all interested parties a reasonable opportunity to present their views by oral and written submission.

(2) The Secretary shall notify in writing the Governor of the affected State of any determinations made under this section and shall publish these determinations with reasons therefor in the Federal Register.

(3) Any determinations made by the Secretary under this section shall be subject to judicial review in accordance with chapter V of title 5, United States Code, in the United States court of appeals for the circuit in which is located the State whose plan is the subject of such determination or in the United States Court of Appeals for the District of Columbia Circuit. Any such review shall be instituted within sixty days from the date on which the determination made by the Secretary is published in the Federal Register.

(f) Effective Date.—Except as otherwise provided in this section, the provisions of this Act shall become effective in their entirety upon the date of enactment of this Act.

MARINE MAMMALS ACT

Sec. 17. Conflicts.—Except as otherwise provided in this Act, no provision of this Act shall take precedence over any more restrictive conflicting provision of the Marine Mammal Protection Act of 1972.

AUTHORIZATION FOR APPROPRIATIONS

Sec. 18. For purposes of this Act, other than section 6 and section 13 of this Act, there are authorized to be appropriated such sums as are necessary, not to exceed $3,930,000 for the fiscal year ending June 30, 1974; not to exceed $6,660,000 for the fiscal year ending June 30, 1975; and not to exceed $8,870,000 for the fiscal year ending June 30, 1976.

The ACTING PRESIDENT pro tempore. The time for debate on this bill will be limited to 1 hour, to be equally divided and controlled by the majority leader and the minority leader or their designees, with 30 minutes on any amendment, debatable motion, or appeal.

The Senator from California is recognized.

Mr. TUNNEY. Mr. President, I yield to the Senator from Alaska.

Mr. STEVENS. I only wanted to have stated the time situation. I shall handle the bill for the minority.

The ACTING PRESIDENT pro tempore. The Senators from California and Alaska, according to the understanding of the Chair, are the designees of the majority leader and the minority leader.

Who yields time?

Mr. TUNNEY. Mr. President, the Endangered Species Act of 1973 is a vital piece of legislation which is absolutely necessary to provide protection to our Nation's species of wildlife that are threatened with extinction.

The goal of the Endangered Species Act is to conserve, protect, restore, and propagate species of fish and wildlife, that are in imminent danger of extinction or are likely to become endangered within the foreseeable future. This bill employs several mechanisms to insure the accomplishment of this goal. They include provision of greater authority to the Secretaries of Interior and Commerce to list endangered or threatened animals, encouragement of further international cooperation for the protection of these animals, provision for the acquisition of habitat useful for the purposes of this act, and incentives for the establishment of effective endangered species programs by the several States.

There is an urgent need for this type of protective legislation. In our country alone, there are 109 species listed as endangered by the Secretary of the Interior. On his foreign list, there are over 300 species. Furthermore, the situation continues to worsen. The rate of extinction has increased to a point where, on the average, one species disappears every year.

This is an extremely disturbing trend. To allow the extinction of animal species is ecologically, economically, and ethically unsound. Each species provides a service to its environment; each species is a part of an immensely complicated ecological organization, the stability of which rests on the health of its components. At present, we are unsure of the total contribution of each species of fish and wildlife to the health of our ecology. To permit the extinction of any species which contributes to the support of this structure without knowledge of the cost or benefits of such extinction is to carelessly tamper with the health of the structure itself.

The existence of each species is also important to the growth of our scientific knowledge of man and his environment. Diversity of genetic types is necessary for thorough scientific knowledge. There is a yet unknown potential for investigation into these species' genetic structure which must remain unhindered if we wish to probe for further knowledge and the transfer of that knowledge into beneficial uses for man.

Finally, many of these animals simply give us esthetic pleasure. We like to view them in zoos and in their natural habitats. We, and our children, learn from these species about the diversity of our universe and the many forms of life which are necessary to support our bountiful and wonderful environment.

For these reasons, it is important that we adopt this act to protect our wildlife. In prior legislation we have taken several steps toward solution of the problem. In 1966 and in 1969, we provided the Secretary with the power to list species or subspecies of fish and wildlife that were threatened with extinction. Importation of these species from foreign countries was prohibited. Federal endangered wildlife reserves were encouraged by authorization of grants for land acquisition. However these provisions only gave limited protection to domestic endangered species; and the Federal grant program terminated last year. There is still no Federal prohibition against the taking of endangered species, still no widespread action to conserve and restore these animals, and the problem of the continuing extinction of species still exists.

The challenge before us now is to protect these species and their vital habitat and to restore their numbers to optimum levels. S. 1983 would accomplish this goal in several ways. First, it provides protection to a broader range of species by affording the Secretary the power to list animals which he determines are likely in the foreseeable future to become extinct, as well as those animals which are presently threatened with extinction. This gives the Secretary and the States which adopt endangered species management plans, the ability not only to protect the last remaining members of the species but to take steps to insure that species which are likely to be threatened with extinction never reach the state of being presently endangered.

The bill would thus, hopefully, prevent a crisis situation from occurring for a number of species which would otherwise come close to extinction in future years.

The two levels of classification facilitate regulations that are tailored to the needs of the animal while minimizing the use of the most stringent prohibitions. Since most of our resources for restoring and propagating species lie with the States, they are encouraged to use their discretion to promote the recovery of threatened species and Federal prohibitions against taking must be absolutely enforced only for those species on the brink of extinction.

To aid in the delicate and highly specialized task of listing these animals, the Secretary is required to appoint an advisory committee to assist him in the designation of endangered and threatened species. To insure that the States that may be affected by the Secretary's designation are fully active through the listing process, the Secretary must consult with the States affected prior to listing any species. Furthermore, half the members of the advisory committee must be employed by State governments.

Many species have been inadvertently exterminated by a negligent destruction of their habitat. Their habitats have been cut in size, polluted, or otherwise altered so that they are unsuitable environments for natural populations of fish and wildlife. Under this bill, we can take steps to make amends for our negligent encroachment. The Secretary would be empowered to use the land acquisition authority granted to him in certain existing legislation to acquire land for the use of the endangered species programs. The bill also eliminates the restrictive ceiling which was placed on funds available to the Land and Water Conservation Fund Act by the Act of 1969. Through these land acquisition provisions, we will be able to conserve habitats necessary to protect fish and wildlife from further destruction.

Although most endangered species are threatened primarily by the destruction of their natural habitats, a significant portion of these animals are subject to predation by man for commercial, sport, consumption, or other purposes. The provisions in S. 1983 would prohibit the commerce in or the importation, exportation, or taking of endangered species except where permitted by the Secretary for scientific purposes in furtherance of the purpose of this act, or for the propagation of such species in captivity in a controlled habitat. Amendments which will be offered today, and which would greatly add to the purposes of this act would permit otherwise prohibited acts when they are undertaken to enhance the propagation or survival of the affected species or to prevent serious and otherwise unavoidable threats to human health or the environment.

In order to minimize economic hardship on persons who entered into contracts prior to the passage of the act, such persons are permitted for a limited period of time to engage in activities which would otherwise be in violation of the act.

Alaska Natives are allowed, under regulations to be adopted by the Secretary, to take animals for consumption or use in a native community or for the production of authentic native articles of handicraft or clothing.

Under the bill, the taking of an endangered species for their sale or movement in interstate or foreign commerce is forbidden. Violators of any prohibition under this bill will be liable for a civil penalty of up to $10,000. Knowing violators of the law will be liable for a criminal penalty of up to $20,000 and/or imprisonment for up to 1 year. The most important protective provisions of this bill are those which will improve the condition of existing species. These will be actions taken by the Secretary, the States, and individual citizens. However, we must extend some protection to animals subject to unrestrained predation.

Among the greatest contributions that have been made to the conservation, restoration, protection, and propagation of endangered and threatened species are the contributions made by private citizens. Exceptions to the prohibitions could be made by the Secretary wherever possible to encourage individual actions which will further the purposes of this act. Recent activities by the Secretary to prosecute individuals involved in harmless violations of prior acts which were part of programs designed to restore endangered species appear to have been taken counter to the purposes of our earlier legislation. Penalty provisions of this act are intended to be used to prevent activity which may be actually harmful to a species or its individual members and not merely to employ the law enforcement divisions of the departments.

I would like to discuss what is perhaps the most important section of this bill. Important because I believe it provides the most effective means to achieve the purposes of this bill. Undoubtedly, the threatened extinction of our wildlife is a national problem, necessitating involvement of the Federal Government. Endangered animals are not limited to any one area or State of the Nation so it is impossible for the individual States to limit their movement in interstate or foreign commerce. Furthermore, no one State should be responsible for balancing its interests, with those of other States, for the entire Nation. Central authority is necessary to oversee endangered species protection programs and to insure that local political pressures do not lead to the destruction of a vital national asset.

On the other hand, it was well established in the hearings record that most of the States possess much greater wildlife management resources than does the Federal Government. Clearly, any effort on the part of the Federal Government to encourage restoration of threatened or endangered species would fail without the assistance of the State agencies. This bill is designed to permit and encourage State endangered species programs that act in concert with the purposes of this act.

Subject to the provisions of this act which provide maximum protection for species on the brink of extinction, States with active endangered species programs are given full discretion to manage threatened species which reside within their boundaries. Under the bill, the States are given 1 year to submit plans to the Secretary for the establishment of agencies for the promulgation, conservation, restoration, and protection of resident endangered species. Provisions of this act governing the taking and management of endangered species go into effect 15 months after the passage of this act governing the taking and the submitted plans have not been approved by the Secretary.

Further, States, whose plans have been approved by the Secretary, are eligible for a portion of the $10 million provided under this act for financial assistance to defer the cost of implementation. In the case where a State plan is not initially approved by the Secretary, and the Secretary must intervene to insure furtherance of the purposes of this act, a State may reapply at any time for approval of its plan. A State's power to manage endangered species is preempted only to the extent that such State does not prevent taking of endangered species—that is, species which are in imminent danger of extinction. Even in these cases, States whose plans have not been disapproved by the Secretary would have management powers not inconsistent with the prohibitions against taking.

The plan for Federal-State cooperation provides for much more extensive discretionary action on the part of the Secretary and the State agencies. Under existing laws, a species must be declared "endangered" even if in a certain portion of its range, the species has experienced a population boom, or is otherwise threatening to destroy the life support capacity of its habitat. Such a broad listing prevents local authorities from taking steps to insure healthy population levels.

Under S. 1983, however, the Secretary may list an animal as "endangered" through all or a portion of its range. An animal might be "endangered" in most States but overpopulated in some. In a State in which a species is overpopulated, the Secretary would have the discretion to list that animal as merely threatened or to remove it from the endangered species listing entirely while still providing protection in areas where it was threatened with extinction. In that portion of its range where it was not threatened with extinction, the States would have full authority to use their management skills to insure the proper conservation of the species. Also, upon passage of S. 1983, Federal prohibitions against taking would apply only in those States which did not prevent the taking of endangered species. Fifteen months after the passage of the act, the act's provisions would apply only in those States which had not adopted a management plan approved by the Secretary.

A well-known example may serve to illustrate how S. 1983 provides for maximum management and conservation discretion, while insuring absolute protection for species imminently in danger of extinction. The American alligator, which has been plagued by habitat destruction and commercial exploitation, is currently listed as an endangered species. However, due to increased population resulting in habitat destruction, the Louisiana Wildlife and Fisheries Commission ended total protection last year and conducted a closely regulated harvest in one parish of the State. According to the Department of the Interior, it is likely that in certain portions of Louisiana, the American alligator may be relisted under this bill as a threatened species. S. 1983 would permit continued State action to enhance the existence of this species. In other areas the alligator would remain listed as an endangered species and would be entitled to absolute Federal or State protection until a State plan was approved by the Secretary under the provisions of this act.

Should a State decide not to adopt an endangered species protection program, under this bill, as I propose it be amended, that State could always secure a permit from the Secretary to exempt animals from the prohibitions of this act in order to permit management of a species, then listed as endangered, to enhance the propagation or survival of the affected species. However, I hope that, as soon as possible after the passage of this act, all of the States will formulate plans for the management of resident endangered species and that these plans can be approved by the Secretary so that enlightened management programs can continue under the control of the States.

I feel that this bill provides the necessary national protection to severely endangered species while encouraging the States to utilize all of their resources toward the furtherance of the purposes of this act. State participation is necessary for the protection of endangered and threatened species. This bill provides them the authority and additional funds with which to provide that protection. Only those States who are unwilling to adopt endangered species protection programs to provide protection for species threatened with extinction need fear Federal preemption.

Finally, while we are concerned with our endangered domestic species, we must not forget the many animals that are in need of worldwide attention. S. 1983 includes the mechanisms of international cooperation that fulfill our commitments under international conventions for the protection of endangered species. This Nation has dedicated itself to international cooperation through several international treaties. S. 1983 extends this cooperation by permitting the President to use certain blocked Federal funds to provide assistance for the development of management programs in foreign countries, and to offer educational training for foreign personnel in wildlife management. The bill also permits loans for the development of protection agencies in foreign countries. And, the bill provides mechanisms for implementation of the Convention on International Trade and Endangered Species of Wild Flora and Fauna which was signed by representatives from the United States last March and is now pending ratification by the Senate.

As we consider this bill, we must remember the magnitude of the problem and the importance of our concern. We are dealing with the future of many species of fish and wildlife—species which in many cases we have placed near extinction from carelessness and a lack of understanding of their importance. These animals are part of our natural resources, part of our history, and part of our evolutionary heritage. We have a duty to restore what we have endangered—for ourselves and for posterity.

This bill is a step toward that necessary restoration. I urge Senators' favorable consideration.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. STEVENS. Mr. President, I am pleased to support the Endangered Species Act of 1973.

While the bill is not perfect, I believe it takes a major step in the protection of American endangered and threatened species. It will provide for the conservation of endangered fish and wildlife by prohibiting the taking of these species and also by encouraging the establishment of State programs. It retains the present bifurcation of responsibility between the Departments of Interior and Commerce over different species. It extends protection to species which are either endangered or likely to become endangered within the foreseeable future. It expands the protection of the Endangered Species Conservation Act of 1969 (85 Stat. 275). That act mainly prohibited the importation of foreign species. This legislation extends protection to domestic species. That act also implemented State statutes. This act will permit national listings of species as either endangered or threatened and also impose Federal prohibitions on their taking.

This legislation was the subject of extensive hearings last Congress in the Senate Environment Subcommittee. The former Senator from Virginia (Mr. SPONG) and I heard a number of knowledgeable witnesses from governmental agencies and also from various private groups. They were, almost uniformly, of the opinion that such legislation was necessary for the protection of endangered species.

As former Senator Spong said:

> Extinction is quite literally a fate worse than death.

I agree.

This bill is designed to provide the Secretary of the Interior and the Secretary of Commerce with the authority to list a species as either endangered or threatened if its habitat or range is threatened with destruction, it is overutilized and taken in great numbers, it is the victim of disease or predation, it is out of balance with its environment, or natural or manmade factors adversely affect its continued existence.

The Secretaries must use the best scientific data to make this determination. They are to consult with all necessary persons and are to publish such a list in the Federal Register. They may periodically review this list upon the petition of any interested party.

For this purpose they are to establish an advisory committee on endangered and threatened species. This advisory committee was recommended by the State departments of fish and game to give them additional input. It will insure that the Secretaries have the very best possible advice before they list any species or delist it.

Section 5 is particularly important. Under it they are to establish particular programs to protect and conserve fish and wildlife listed as endangered and threatened. They are to acquire land for this purpose and may also utilize other Federal lands for this purpose.

Section 6 and 16 provide for cooperation with the States. They provide the major backbone of the act. Presently the States have an extensive network of endangered species legislation. Unfortunately, not all States have as yet implemented such programs. This bill will assist those States not yet involved to implement such programs and will, if the States do not, provide for Federal preemption.

Typical are the laws of Alaska, Illinois, and Texas. Alaska, for example, requires the State government to preserve the natural habitat of species or subspecies of fish and wildlife that are recognized as threatened with extinction. The language is very similar to S. 1983. The Alaska State commissioner of fish and game is required to seek the advice and recommendations of biological experts. Before anyone may take an endangered animal, he must obtain a special permit from the commissioner of fish and game which may only be given "for scientific or educational purposes, or for propagation in captivity for the purpose of preservation." The State statute also provides criminal penalties for anyone violating it.

I ask unanimous consent to have printed in the RECORD at this point the text of the Alaska State endangered species law.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

ARTICLE 4. ENDANGERED SPECIES

Section
180. Declaration of purpose
185. Protection of habitat
190. Determining endangered species
195. Permit for taking endangered species
200. Penalty
210. Definitions

Sec. 16.20.180. Declaration of purpose. The legislature recognizes that, due to growth and development, certain species or subspecies of fish and wildlife are now and may in the future be threatened with extinction. The purpose of §§ 180–210 of this chapter is to establish a program for their continued conservation, protection, restoration and propagation. (§ 1 ch 115 SLA 1971)

Sec. 16.20.185. Protection of habitat. On land under their respective jurisdictions, the commissioner of fish and game and the commissioner of natural resources shall take measures to preserve the natural habitat of species or subspecies of fish and wildlife that are recognized as threatened with extinction. (§ 1 ch 115 SLA 1971)

Sec. 16.20.190. Determining endangered species. (a) A species or subspecies of fish or wildlife is considered endangered when the commissioner of fish and game determines that its numbers have decreased to such an extent as to indicate that its continued existence is threatened. In making this determination the commissioner of fish and game shall consider

(1) the destruction, drastic modification, or severe curtailment of its habitat;

(2) its overutilization for commercial or sporting purposes;

(3) the effect on it of disease or predation;

(4) other natural or man-made factors affecting its continued existence.

(b) After making a determination under

(a) of this section, the commissioner of fish and game shall, in accordance with the Administrative Procedure Act (AS 44.62), publish a list of the species or subspecies of fish and wildlife that are endangered. The commissioner shall, at least once every two years thereafter, conduct a thorough review of the list to determine what changes have occurred concerning the species or subspecies listed. Consideration of existing species or subspecies of fish and wildlife for listing under this section shall be made on a continuing basis. The review of listed species or subspecies conducted under this section shall be submitted in writing to the governor and the legislature and shall be made available to the public.

(c) In making his determination and review under (a) and (b) of this section, the commissioner of fish and game shall seek the advice and recommendation of interested persons and organizations, including but not limited to ornithologists, ichthyologists, ecologists and zoologists. (§ 1 ch 115 SLA 1971)

Sec. 16.20.195. Permit for taking endangered species. No species or subspecies of fish or wildlife listed as endangered under § 190 (b) of this chapter may be harvested, captured or propagated except under the terms of a special permit issued by the commissioner of fish and game for scientific or educational purposes, or for propagation in captivity for the purpose of preservation. (§ 1 ch 115 SLA 1971)

Sec. 16.20.200. Penalty. A person who, without a permit issued under § 195 of this chapter, harvests, injures, imports, exports, or captures a species or subspecies of fish or wildlife listed under § 190 of this chapter, is guilty of a misdemeanor. (§ 1 ch 115 SLA 1971)

Sec. 16.20.210. Definitions. In §§ 180–210 of this chapter "fish or wildlife" includes birds. (§ 1 ch 115 SLA 1971)

Mr. STEVENS. The Illinois State statute lists a number of domestic and foreign species and makes it unlawful to "possess, sell, order for sale, give or dispose of any animal or the wild animal product of any animal which is an endangered species under this act" without obtaining a permit. Such permits may be given only for "zoological, educational or scientific purposes." It provides for fines and imprisonment for persons violating this act.

Mr. President, I ask unanimous consent that the text of the Illinois Endangered Species Act be printed in the Record at this point.

There being no objection, the text was ordered to be printed in the Record, as follows:

Illinois Endangered Species Act

An Act to prohibit the transfer, sale and possession of products or skins of animals in danger of extinction, to create a Board to determine which species are endangered and to provide penalties for the violation thereof, and to make an appropriation therefor.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 1. This Act shall be known and may be cited as the "Illinois Endangered Species Protection Act."

Section 2. As used in this Act the following words have the following meanings:

"Board" means the Endangered Species Protection Board created by this Act.

"Department" means the Department of Conservation and "Director" means the director of that Department.

"Endangered Species" means the species of animals listed in this Section plus such other species as the Board deems to be in danger of extinction. This includes but is not limited to the following species: leopard, Panthera pardus; snow leopard, Panthera unica; clouded leopard, Neofelis nebulosa; tiger, Panthera tigris, cheetah, Acinonyx jubatus; alligators, caiman, crocodiles and all other members of the order crocodylia; vicuna, Vicugna vicugna; red wolf, Canis niger; gray wolf, Canis lupus; polar bear, Thalarcotos martimus; mountain lion, sometimes called cougar, Felis wiedii; desert kit fox, Vulpes macrotis; kit or swift fox, Vulpes velox; Pacific Ridley turtle or warana, Lepidochelys olivacea; or green turtle, Chelonia mydas.

"Wild animal product" means the fur, hide, skin, teeth, feathers, tusks, claws or the body or any portion thereof whether in a green or raw state or as a product manufactured or refined from an animal protected under this Act or under regulations issued pursuant to this Act.

Section 3. After January 1, 1973, it is unlawful to possess, sell, order for sale, give or dispose of any animal or the wild animal product of any animal which is an endangered species under this Act, without a permit therefor issued by the Department.

Section 4. Upon proper application, the Department shall issue to any person, firm, association or corporation a permit which allows the possession, purchase and disposal of live animals or wild animal products of an endangered species for zoological, educational or scientific purposes only. Such permit shall be issued without fee. The holder of such permit and all applicants therefor shall submit a list of all animals and wild animal products of endangered species owned or in their possession when ordered by the Director, but no more often than annually. The Director may, upon notice and hearing, revoke the permit of any holder thereof upon his failure to file the reports required by this Section or the filing of a knowingly false report or the use of any wild animal product or animal of an endangered species for any purpose other than an educational, zoological or scientific purpose.

Section 5. Upon proper application, the Department shall issue a limited permit to any person, firm, association or corporation which had in its possession prior to the effective date of this Act, wild animal product of an endangered species. Such permit shall specifically name and describe each wild animal product possessed by the permit holder and shall be valid only for possession of the products so named. The Department may require proof that acquisition of such wild animal product was made before the effective date of this Act. Such permit shall be valid as long as the product is in existence. The limited permit may be revoked by the Director for any violation of this Act.

Section 8. Any officer or agent authorized by the Department of Conservation, or any police officer of any municipality within the State of Illinois, may execute any warrant to search for and seize any goods, merchandise or wildlife sold or offered for sale in violation of this Section, or any property or item used in connection with a violation of this Section. Such goods, merchandise, wildlife or property shall be held pending proceedings in any court of proper jurisdiction. Upon conviction, such seized goods, merchandise or wildlife shall be forfeited and, upon forfeiture, either offered to a recognized institution for scientific or educational purposes, or destroyed.

Section 9. Any person who violates any provision of this Act shall be fined not less than $100 nor more than $1,000 or imprisoned for not more than one year in a penal institution other than the penitentiary, or both.

Section 10. All fines collected under this Act shall be paid to the State Treasurer and deposited in the Game and Fish Fund.

Mr. STEVENS. A third example is the Texas Endangered Species Act. This was signed into law this May. It implements the present Federal statutes and also closely follows the wording of S. 1983. It requires permits before any species may be taken for zoological or scientific purposes if that species has been classified as endangered. It also provides criminal penalties.

Mr. President, I ask unanimous consent that the text of the Texas Endangered Species Act be printed in the Record at this point.

There being no objection, the text was ordered to be printed in the Record, as follows:

Texas Endangered Species Bill

An act relating to the conservation, management, protection, propagation, sale, and use of nongame fish and wildlife species; relating to the classification of certain fish and and wildlife as endangered species, and the protection, propagation, sale, and use of endangered species and products of endangered species; providing penalties for violations; and declaring an emergency

Be it enacted by the Legislature of the State of Texas:

Section 1. Definitions.—As used in this Act:

(1) "Director" means the executive director of the parks and wildlife department.

(2) "Department" means the parks and wildlife department.

(3) "Fish or wildlife" means any wild mammal, fish, wild bird, amphibian, reptile, mollusk, or crustacean, or any part, product, egg, offspring, dead or alive, of a wild mammal, fish, wild bird, amphibian, reptile, mollusk, or crustacean.

(4) "Person" means any individual, firm, corporation, association, or partnership.

(5) "Management" means the collection and application of biological information for the purposes of increasing the number of individuals within species and populations of wildlife up to the optimum carrying capacity of their habitat and the maintaining of such levels. The term "management" likewise includes the entire range of activities constituting a full scientific resource program including, but not limited to, research, census, law enforcement, habitat acquisition and improvement, and education. Also included within the term, when and where appropriate, is the periodic or total protection of species or populations as well as regulated taking.

Sec. 2. Nongame species. (a) The department shall conduct investigations on nongame fish and wildlife in order to develop information relating to population, distribution, habitat needs, limiting factors, and other biological and ecological data to determine management measures necessary for their continued ability to sustain themselves successfully. On the basis of such determination, the department shall issue proposed regulations not later than one year from the effective date of this Act and develop management programs designed to insure the continued ability of nongame fish and wildlife to perpetuate themselves successfully. The proposed regulations shall set forth species or subspecies of nongame wildlife which the department deems in need of management pursuant to this section, giving their common and scientific names by species and subspecies. The department shall conduct ongoing investigations of nongame fish and wildlife and may from time to time amend such regulations by adding or deleting therefrom species or subspecies of nongame wildlife.

(b) The department shall by regulations establish proposed limitations relating to taking, possession, transportation, exportation, processing, sale or offer for sale, or shipment as may be deemed necessary to manage nongame fish and wildlife. The regulations shall become effective 60 days after being proposed and during that period public comment shall be solicited. The department shall hold a public hearing, notice of which shall be published in at least three major newspapers of general circulation in this state at least one week prior to the hearing date. On the basis of public comments received or the testimony at a hearing the department may make such changes in the proposed regulations as are consistent with effective management of nongame fish and wildlife.

Sec. 3. Endangered species. Fish or wildlife are classified as endangered species if they appear on:

(1) the present United States List of Endangered Foreign Fish and Wildlife (50 C.F.R. Part 17, Appendix A);

(2) the present United States List of Endangered Native Fish and Wildlife (50 C.F.R. Part 17, Appendix D); or

(3) the list filed by the director under this Act of fish or wildlife threatened with statewide extinction.

Sec. 4. Statewide extinction. Fish or wildlife may be classified by the director as threatened with statewide extinction if the department finds that the continued existence of the fish or wildlife is endangered in this state due to any of the following factors:

(1) the destruction, drastic modification, or severe curtailment of its habitat;

(2) the over-utilization of it for commercial or sporting purposes;

(3) the effect on it of disease or predation; or

(4) other natural or man-made factors affecting its continued existence.

Sec. 5. Initial classification by director. Within 45 days after the effective date of this Act, the department shall file with the secretary of state a proposed list of fish or wildlife threatened with statewide extinction. This list shall become effective on the 45th day after the date it is filed. Before the effective date of the proposed list, the department shall hold a public hearing on the proposed list. Notice of the hearing shall be published in at least three major newspapers of general circulation in this state at least one week prior to the hearing date. The proposed list may be amended prior to its effective date.

Sec. 6. Classification amendment by director. (a) If the federal lists set out in Section 3 of this Act are subsequently altered, the director shall file an order with the secretary of state accepting the alteration. The order is effective immediately.

(b) The department may amend the list filed under Section 5 of this Act by filing an order with the secretary of state. Notice of the intent to file the order and the contents of the proposed order must be given 60 days prior to the date of filing. If petition procedures set out in Section 7 of this Act are initiated relating to the contents of the proposed order during the 60-day notice period, the order may not be filed until the conclusion of the proceedings. The order is effective on the date of filing.

Sec. 7. Petition for reclassification. (a) On the petition of three interested persons presenting substantial scientific evidence for the addition or deletion of fish or wildlife classified as threatened with statewide extinction, the department may conduct a review of the classification and file an order with the secretary of state adding or deleting fish or wildlife from the list of fish or wildlife threatened with statewide extinction.

(b) If the department refuses to conduct a review of the classification of fish or wildlife threatened with statewide extinction under Subsection (a) of this section, a petition of 50 interested persons presenting scientific evidence for the addition or deletion of fish or wildlife classified as threatened with statewide extinction may be presented to the department. On receipt of this petition, the department must hold a public hearing to review the classification. Notice of the hearing shall be published in at least three major newspapers of general circulation in this state at least one week prior to the hearing date. Based on findings from the public hearing, the department may file an order with the secretary of state adding or deleting fish or wildlife from the list of fish or wildlife threatened with statewide extinction.

(c) Orders filed under this section are effective immediately.

Sec. 8. Use of name for sale. No person may advertise, offer for sale, or sell any other species of fish or wildlife under the name of any fish or wildlife classified as an endangered species.

Sec. 9. Permit to take certain fish or wildlife. (a) No person may take, possess, or transport fish or wildlife classified as endangered species for zoological gardens or scientific purposes or take or transport fish or wildlife classified as endangered species from the wild or from their natural habitat for propagation for commercial purposes, unless he has obtained a permit under Article 913, Penal Code of Texas, 1925, as amended, or under a federal permit.

(b) A permit may not be granted under Article 913, Penal Code of Texas, 1925, as amended, if the taking, possessing, or transporting of the fish or animal classified as an endangered species is specifically prohibited by federal law.

(c) The department may refuse to grant a permit to take or transport fish or wildlife classified as an endangered species from the wild or from their natural habitat for propagation for commercial purposes if the fish or wildlife may be legally obtained from a source in this state other than the wild or its natural habitat.

(d) Fish or wildlife classified as an endangered species shall be considered and included within the meaning of "protected fish or wildlife" as that term is used in Article 913, Penal Code of Texas, 1925, as amended.

(e) Failure to comply with this section is a violation of this Act. Failure to comply with the terms of a permit issued under Article 913, Penal Code of Texas, 1925, as amended, is a violation of that article.

(f) The provisions of this Act do not apply to the possession of mounted or preserved endangered species by public or private nonprofit educational, zoological, or research institutions held prior to the effective date of this Act. The department may require such institutions to furnish a list of mounted or preserved endangered species which they hold, together with adequate proof of the time of acquisition.

Sec. 10. Propagation. No person may possess fish or wildlife classified as endangered species for the purpose of propagating them for sale unless he has obtained a commercial propagation permit issued under this Act.

Sec. 11. Original commercial propagation permit. (a) An applicant for an original commercial propagation permit must submit to the department the permit fee of $300 and an application containing information or statements required by the department.

(b) The department shall issue an original commercial propagation permit to an applicant on compliance with Subsection (a) of this section if the department is satisfied that the fish or wildlife to be used for initial breeding stock was acquired by the applicant for commercial propagation purposes under Section 9 of this Act, federal rules, regulations, or permits, or from a person or source authorized to possess, sell, or dispose of the fish or wildlife under the laws of this state, another state, or federal law.

(c) Each original commercial propagation permit which is issued shall contain a description of the fish or wildlife classified as an endangered species which may be possessed by the permit holder.

(d) An original commercial propagation permit expires one year from the date of issuance.

Sec. 12. Renewal commercial propagation permit. (a) The department shall renew a commercial propagation permit on receipt of an application and the $550 renewal fee prior to or within 10 days of the expiration date of the permit.

(b) A renewal commercial propagation permit expires three years from the date of issuance and may be renewed under the same conditions as renewal of the original permit.

(c) The department may refuse to renew any permit when it is deemed to be in the best interest of the species.

Sec. 13. Duty of permittee. A person holding a commercial propagation permit must submit annually to the department:

(1) a written report by a veterinarian licensed to practice in this state containing an evaluation of the physical conditions of the propagation facilities and the condition of the fish or wildlife held by the permit holder; and

(2) a written report by the permit holder on forms prepared by the department relating to the general propagation activity during the previous year.

Sec. 14. Refusal of cancellation of permit. (a) If, on the basis of the reports required by Section 13 of this Act or from an investigation or inspection of an authorized employee of the department, the department finds that a permit holder is improperly caring for or handling the fish or wildlife held under the permit, the department shall give written notice of the objectionable actions or conditions to the permit holder.

(b) If the department finds that the improper caring for or handling of the fish or wildlife is detrimental to the fish or wildlife and the fish or wildlife need immediate protection, the department may seize the fish or wildlife and authorize proper care pending the correction of the improper conditions or actions.

Sec. 15. Appeal. (a) A person whose application for a commercial propagation permit or for renewal of a commercial propagation permit has been refused by the department or whose permit has been cancelled may take an appeal within 20 days from the date of refusal to any district court of Travis County or to any district court of the county of his residence.

(b) A case reviewed under the provisions of this section proceeds in the district court by trial de novo as that term is used and understood in appeals from justice of the peace courts to the county courts of this state. Appeal from the judgment of the district court lies as in other civil cases.

Sec. 16. Disposition of fish or wildlife. A person who holds a commercial propagation permit and fails to renew the permit or his renewal application is denied, or whose permit is cancelled under Section 14 of this Act, must dispose of the fish or wildlife held under Section 14 of this Act, must dispose of the fish or wildlife held under the permit and any increase in the fish or wildlife in the manner specified by the department.

Sec. 17. Rules and regulations. The department shall make rules and regulations to administer the provisions of this Act including:

(1) permit application forms, fees, and procedures;

(2) hearing procedures;

(3) procedures for identifying fish or wildlife classified as endangered species which may be possessed, propagated, or sold under the provisions of this Act;

(4) publication and distribution of lists of the species or subspecies of fish or wildlife or products of fish or wildlife classified as endangered species; and

(5) other rules and regulations necessary to attain the objectives of this Act.

Sec. 18. Disposition of Funds. Money received from the issuance of permits under this Act or from violations of this Act shall be deposited by the department in the state treasury to the credit of the general revenue fund.

Sec. 19. Sale of fish or wildlife classified as endangered species. (a) No person may sell, process, offer for sale, advertise for sale, or distribute fish or wildlife classified as endangered species unless the fish or wildlife have been lawfully born and raised in captivity for commercial purposes under the provisions of this Act or federal law.

(b) No person may sell, process, offer for sale, advertise for sale, or distribute goods made from fish or wildlife classified as endangered species unless the goods were made from fish or wildlife which were lawfully born and raised in captivity for commercial purposes under the provisions of this Act or federal law.

(c) Fish or wildlife classified as endangered species or goods made from fish or wildlife classified as endangered species sold under this section must be tagged or labeled in a manner to indicate compliance with this section.

Sec. 20. Exemptions. The provisions of this Act do not apply to coyotes (prairie wolves), cougars, bobcats, prairie dogs or red foxes.

No provision of this Act shall apply to any animals, fish or fowl which are privately owned animals, fish or fowl by the private owners of such animals, fish or fowl.

Sec. 21. Enforcement. (a) The provisions of this Act shall be enforced by the department.

(b) Any commissioned peace officer in this state, including game management officers commissioned as peace officers in this state may execute a warrant to search for and seize fish or wildlife or goods made from fish or wildlife taken, sold, or possessed in violation of this Act or the rules and regulations issued under this Act.

(c) An officer who has made an arrest of a person for a violation of this Act or the rules and regulations issued under this Act may search the person at the time of arrest and seize fish or wildlife, or goods made from fish or wildlife, taken, possessed, or made in connection with a violation of this Act or the rules and regulations issued under this Act.

(d) Fish or wildlife, or goods seized under this section shall be delivered to the department and held by the department pending disposition of court proceedings. Subsequent to the disposition of court proceedings, the department shall dispose of fish or wildlife, and goods in accordance with rules and regulations established by the department. Any costs of maintenance for fish or wildlife seized under this section incurred by the department during the pendency of court proceedings may be assessed to the defendant.

Sec. 22. Penalty. A person who violates a provision of this Act or a rule or regulation issued under this Act is guilty of a misdemeanor and on first conviction is punishable by a fine of not less than $100 nor more than $200. A person who is convicted for a second violation of a provision of this Act or a rule or regulation issued under this Act is punishable by a fine of not less than $200 nor more than $500, or confinement in the county jail for not less than 30 days nor more than 90 days, or both. A person who is convicted for a third or subsequent violation of a provision of this Act or a rule or regulation issued under this Act is punishable by a fine of not less than $500 nor more than $2,000, and confinement in the county jail for not less than six months nor more than one year.

Sec. 23. Conflict of laws. Any species or subspecies of fish or wildlife classified as an endangered species shall be governed exclusively by the provisions of this Act and no other regulatory or licensing laws of this state shall be applicable. This Act does not repeal Article 913, Penal Code of Texas, 1925, as amended.

Sec. 24. Funding. Funds for the administration of this Act may be appropriated from the general revenue fund by legislative appropriation.

Sec. 25. Issuance of permits on effective date. Any person who is engaged in the business of commercial propagation of a species of fish or wildlife classified as an endangered species on the effective date of this Act, may obtain a permit under Section 11 of this Act regardless of the method in which the fish or wildlife were initially obtained. Application for a permit under this section must be submitted within 120 days from the effective date of this Act.

Sec. 26. Effective date. Subsection (b) of Section 19 of this Act shall become effective September 1, 1974.

Sec. 27. Emergency. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act shall take effect and be in force according to its provisions, and it is so enacted.

Mr. STEVENS. These then are but three examples of the many State laws on the subject.

As Dr. Ralph MacMullan, president of the International Association of Game, Fish, and Conservation Commissioners, stated last year in hearings before our subcommittee, State wildlife agencies employ presently over 5,800 enforcement officers across the Nation. Formal endangered species programs are being implemented in over 30 States. The three I have just had printed in the Record are but examples.

The International Association of Game, Fish, and Conservation Commissioners have promulgated a model State bill relating to funding and authorization for improved nongame and endangered species programs. This is set forth on pages 164–168 of the hearing record, S. 92–81 of the Senate Commerce Committee. I will not ask that that be reprinted, but merely incorporated by reference.

But even Dr. MacMullen believed that the Federal Government has a definite role in this area to insure that minimum standards are set and to assist the States in their responsibility for managing resident species.

Dr. MacMullen indicated that there are only two Federal enforcement people in Michigan and there are 200 full-time conservation officers and another 200 part-time employees in the same State in 83 counties. In other words, in Michigan there are an average of over two full-time conservation officers plus a number of other peace officers in each county to enforce State laws. These State and local law enforcement officials enforce Federal as well as State laws. He said "we perform the legwork." This is true nationwide. He also indicated that if the Federal Government were to take away the right of the States to manage these species and to preempt the States, State legislatures would not be willing to appropriate the necessary funds to protect endangered species.

This is, as a practical matter, what has happened in the ocean mammal bill. The Federal Government has preempted the States and has not provided enough money to manage the program. Thus there is no enforcement agency to protect ocean mammals. This is the reason that the Endangered Species Act of 1973 provides for a larger role for States and why there has been less opposition to it. I strongly support this trend.

Sections 6 and 16 of this legislation require the Secretaries to consult with the States before the acquisition of any lands, waters or interests therein for the protection of an endangered species. Cooperative agreements may be entered into. Financial assistance may be given to the States for this purpose. Specific requirements for the States are listed. Periodic review is required also. Section 16 specifically provides that by the end of the first year after the date of enactment each State may establish a plan in accordance with this act to protect endangered and threatened species. The Secretary must make a determination as to whether the plan meets the requirements of the act. Periodic review is also required. States are given 15 months to conform their statutes to the provisions of this act. If not, they are subject to Federal preemption. I shall offer an amendment shortly to improve this section.

Financial assistance and encouragement of international efforts in the conservation of endangered species are also encouraged. This is particularly important for many of the migratory species involved.

Stringent prohibitions against unlawful taking or importation are also included.

There is set forth a specific exception for undue economic hardship. Because of certain technical problems with this section, I shall speak on it at some length when I offer an amendment on this later this morning.

There is also a specific exception for Alaska Natives. This was written utilizing the Marine Mammal Protection Act of 1972 (86 Stat. 1027) as a guide and was reviewed in detail with my staff and is entirely agreeable to me. I believe it provides the protection necessary for Alaskan Natives. Many of the technical changes were made as a result of certain problems we have found in the implementation of the marine mammal bill and certain questions that have subsequently been raised by those agencies in enforcing that act. Hopefully this will eliminate many of these ambiguities and will also, I intend, clarify our original interpretation of the Marine Mammal Protection Act.

It was my specific intent in this subsection to obviate the problems I mentioned in my several letters to the Departments of the Interior and Commerce on the Marine Mammal Protection Act. By passing this section, the Senate will be again indicating our congressional intent on each of these points.

Section 17 discusses the relationship of this act with the Marine Mammal Protection Act. A similar provision is found in section 11(d). It is important to note that certain of the provisions in that subsection will affect marine mammals and that, as specified in that subsection, they will take precedence over the Marine Mammal Protection Act of 1972.

One final point, last year at my request this legislation was not taken up on the Senate floor after being reported out of the Senate Commerce Committee.

That report, S. 92–1136, set forth my supplemental views also. I did not oppose this legislation at that time and I do not now. As I stated then:

> I agree with the majority of the committee that legislation embodying the concepts in this bill is necessary.

I went on to state that time remaining in that congressional session was too short to permit the care and deliberation essential to the drafting and passage of legislation of this magnitude. The necessary time and care has since been spent. I believe we have a good bill in S. 1983 and am very pleased to have been designated the Republican floor manager for it.

Mr. President, in the United States there are 109 species and subspecies of wildlife—14 mammals, 58 birds, 7 reptiles, and 30 fish species—now threatened with extinction. These include such animals as the black-footed ferret, the whooping crane, the eastern timber wolf, the masked bobwhite, the ivory-billed woodpecker, and peregrine falcons. These are only domestic endangered species and do not include foreign endangered species.

Of this number, eight species, including the eastern cougar and the Mississippi sandhill crane, were listed on June 1 of this year.

I ask unanimous consent to have printed in the Record at this point, a list of the endangered species so specified by the Secretary of the Interior prior to June 1 and a second list of the additional species listed on June 1 of this year.

There being no objection, the lists were ordered to be printed in the Record, as follows:

Endangered Species

MAMMALS

Hawaiian hoary bat, *Lasiurus cinereus semotus.*

Indiana bat, *Myotis sodalis.*

Delmarva Peninsula fox squirrel. *Sciurus niger cinereus.*

Morro Bay kangaroo rat, *Dipolomys heermanni morroensis.*

Salt marsh harvest mouse, *Reithrodontomys raviventris.*

Eastern timber wolf, *Canis lupus lycaon.*

Red wolf, *Canis rufus.*

San Joaquin kit fox, *Vulpes macrotis mutica.*

Black-footed ferret, *Mustela nigripes.*

Florida panther, *Felis concolor coryi.*

Florida manatee (sea cow), *Trichechus manatus latirostris.*

Key deer, *Odocoileus virginianus clavium.*

Columbian white-tailed deer, *Odocoileus virginianus leucurus.*

Sonoran pronghorn, *Antilocapra americana sonoriensis.*

BIRDS

Hawaiian dark-rumped petrel, *Pterodroma phaeopygia sandwichensis.*

California least tern, *Sterna albifrons browni.*

Hawaiian goose (nene), *Branta sandvicensis.*

Aleutian Canada goose, *Branta canadensis leucopareia.*

Laysan duck, *Anas laysanensis.*

Hawaiian duck (koloa), *Anas wyvilliana.*

Mexican duck, *Anas diazi.*

Brown pelican, *Pelecanus occidentalis.*

California condor, *Gymnogyps californianus.*

Florida everglade kite (snail kite), *Rostrhamus sociabilis plumbeus.*

Hawaiian hawk (io), *Buteo solitarius.*

Southern bald eagle, *Haliaeetus leucocephalus leucocephalus.*

American peregrine falcon, *Falco peregrinus anatum.*

Arctic peregrine falcon, *Falso peregrinus tundrius.*

Attwater's greater prairie chicken, *Tympanuchus cupido attwateri.*

Masked bobwhite, *Colinus virginianus ridgwayi.*

Whooping crane, *Grus americana.*

Yuma clapper rail, *Rallus longirostris yumanensis.*

California clapper rail, *Rallus longirostris obsoletus.*

Light-footed clapper rail, *Rallus longirostris levipes.*

Hawaiian gallinule, *Gallinula chloropus sandvicensis.*

Hawaiian coot, *Fulica americana alai.*

Eskimow curlew, *Numenius borealis.*

Hawaiian stilt, *Himantopus himantopus knudseni.*

Puerto Rican plain pigeon, *Columbia inornata wetmorei.*

Puerto Rican parrot, *Amazona vittata.*

Ivory-billed woodpecker, *Campephilus principalis.*

Red-cockaded woodpecker, *Dendrocopus borealis.*

Hawaiian crow (alala), *Corvus tropicus.*

Small Kauai thrush (puaiohi), *Phaeornis palmeri.*

Large Kauai thrush, *Phaeornis obscurus myadestina.*

Molokai thrush (Olomau), *Phaeornis obscurus rutha.*

Nilhoa millerbird, *Acrocephalus kingi.*

Kauai oo (oo-aa), *Moho braccatus.*

Crested honeycreeper (akohekohe), *Palmeria dolei.*

Hawaii akepa (akepa), *Loxops coccinea coccinea.*

Maui akepa (akepuie), *Loxops coccinea ochraceu.*

Oahu creeper (alauwahio), *Loxops maculata maculata.*

Molokai creeper (kakawahie), *Loxops maculata flammea.*

Akiapolaau *Hemignathus wilsoni.*

Kauai akialoa, *Hemignathus procerus.*

Kauai and Maui nukupuus, *Hemignathus lucidus.*

Laysan and Nihoa finiches, *Psittirostra cantans.*

Ou, *Psittirostra psittacea.*

Palila, *Psittirostra bailleui.*

Maui parrotbill, *Pseudonestor xanthorphrys*

Bachman's warbler, *Vermivora bachmanii.*

Kirtland's warbler, *Dendroica kirtlandii.*

Dusky seaside sparrow, *Ammospiza nigrescens.*

Cape Sable sparrow, *Ammospiza mirabilis.*

REPTILES AND AMPHIBIANS

American alligator, *Alligator mississippiensis.*

Blunt-nosed leopard lizard, *Crotaphytus silus.*

San Francisco garter snake, *Thamnophis sirtalis tetrataenia.*

Puerto Rican boa, *Epicrates inornatus.*

Santa Cruz long-toed salamander, *Ambystoma macrodactylum croceum.*

Texas blind salamander, *Typhlomolge rathbuni.*

Houston toad, *Bufo houstonensis.*

FISHES

Shortnose sturgeon, *Acipenser brevirostrum.*

Longjaw cisco, *Coregonus alpenae.*

Lahontan cutthroat trout, *Salmo clarki henshawi.*

Piute cutthroat trout, *Salmo clarki seleniris.*

Greenback cutthroat trout, *Salmo clarki stomias.*

Gila trout, *Salmo gilae.*

Arizona (Apache) trout, *Salmo sp.*

Humpback chub, *Gila cypha.*

Mohave chub, *Siphatles mohavensis.*

Pahranagat bonytail, *Gila robusta jordani.*

Moapa dace, *Moapa coriacea.*

Woundfin, *Plagopherus argentissimus.*

Colorado River squawfish, *Ptychocheilus lucius.*

Kendall Warm Springs, dace, *Rhinichthys osculus thermalis.*

Cui-ui, *Chasmistes cujus.*

Devil's Hole pupfish, *Cyprinodon diabolis.*

Comanche Springs pupfish, *Cyrinodon elegans.*

Tecopa pupfish, *Cyprinodon nevadensis calidae.*

Warm Springs pupfish, *Cyprinodon nevadensis pectoralis.*

Owens River pupfish, *Cyprinodon radiosus.*

Pahrump killifish, *Empetrichythys latos.*

Big Bend gambusia, *Gambusia gaigei.*

Clear Creek gambusia, *Gambusia heterochir.*

Pecos gambusia, *Gambusia nobolis.*

Unarmored threespine stickleback, *Gasterosterus aculeatus williamsoni.*

Gila topminnow, *Poeciliopsis occidentalis.*

Fountain darter, *Etheostoma fonticola.*

Watercress darter, *Etheostoma nuchale.*

Maryland darter, *Etheostoma sellare.*

Blue pike, *Stizostedion vitreum glaucum.*

Created in 1849, the Department of the Interior is concerned with the management, conservation, and development of the Nation's water, fish, wildlife, mineral, forest, and park and recreational resources. It also has major responsibiltities for Indian and Territorial affairs.

As the Nation's principal conservation agency, the Department works to assure that nonrenewable resources are developed and used wisely, that park recreational resources are conserved for the future, and that renewable resources make their full contribution to the progress, prosperity, and security of the United States—now and in the future.

ADDITIONAL SPACE LISTED JUNE 1, 1973

1. Utah prairie dog.
2. Northern Rocky Mountain wolf.
3. Eastern cougar.
4. Mississippi sandhill crane.
5. Puerto Rican whip-poor-will.
6. Santa Barbara song sparrow.
7. Desert slender salamander.
8. Okaloosa darter—a tiny miunow found only in Okaloosa County, Florida.

Mr. STEVENS. Some question has arisen with respect to the status of dall sheep and brown bear, two species found in Alaska. Neither of these species is on the Department of the Interior's list of endangered native fish and wildlife. Nor are there plans to add them at this time. I ask unanimous consent to have printed in the Record a letter from the Associate Director of the Bureau of Sport Fisheries and Wildlife to this effect.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Department of the Interior,
Fish and Wildlife Service,
Washington, D.C., June 7, 1973.

Hon. Ted Stevens,
U.S. Senate,
Washington, D.C.

Dear Senator Stevens: This responds to your letter on behalf of Mr. John W. Hendrickson, Esq., regarding dall sheep and brown bear.

Please assure Mr. Hendrickson that neither of these animals are on this Department's

List of Endangered Native Fish and Wildlife and there are no plans to add them to this time.

We hope this information will clarify the matter. If we can assist you further, please call on us.

Sincerely yours,

——— ———,
Associate Director.

Mr. STEVENS. Mr. President, I would like to inquire of the Senator from California if he is prepared at this time to take up an amendment I have concerning undue economic hardship.

Mr. TUNNEY. Mr. President, the Senator from New Jersey has a few comments that he wants to make in debate, if that is agreeable with the Senator from Alaska.

Mr. STEVENS. Mr. President, that is perfectly agreeable with me.

Mr. WILLIAMS. Mr. President, first I want to extend my sincere thanks and appreciation to the Senator from Washington (Mr. MAGNUSON) and to other members of the Senate Commerce Committee for their hard and alert work on this bill and for their dedication to the protection of endangered wildlife.

Mr. President, this is important legislation. It is remarkable when one considers the time in which the committee has been able to deal with this bill after its introduction on the floor, the hearings, and then bringing it to the Senate for consideration by the full Senate.

It was only June 12 of this year that I introduced this bill. It followed the introduction of another bill by the Senator from Washington (Mr. MAGNUSON) in April. The bill that I had introduced had a broader sweep of protection than the Magnuson bill. In my judgment, the best of both bills has been combined in S. 1983, the bill before us today, and I am more than grateful to the committee for their expeditious consideration of this measure.

Mr. President, one of our most precious natural resources is our wildlife. It is difficult to imagine a world without the many and varied creatures which inhabit our forests, rivers, and oceans.

And yet, if our wildlife continues to decline at the alarming rate we have witnessed during the past 100 years or so, it is indeed possible that the time will come when it will be necessary to visit a zoo or wildlife preserve in order to observe what was once an integral part of our everyday environment.

Many species of fish, birds and mammals have disappeared through the evolution process. Many of them were never abundant to begin with and were therefore particularly vulnerable to the encroachment of civilization. However, many species would still be abundant today were it not for overexploitation by man.

It was once necessary for man to hunt wild animals in order to obtain food and clothing. However, in today's industrial society, where there is a synthetic substitute for almost anything nature can provide, we are no longer dependent upon animals, as we once were.

Most animals are worth very little in terms of dollars and cents. However, their esthetic value is great indeed. The pleasure of simply observing them, as demonstrated by the hundreds of thousands of people who visit zoos and wildlife preserves each year, is unmeasurable. Furthermore, the integral part they play in preserving the delicate balance of nature cannot be ignored.

In the United States alone, over the past 100 years, 47 species of native fish and wildlife have become extinct. We have hunted them and destroyed their habitat. We have been indifferent to their fate and ignored the fact that once an animal has vanished from the Earth, it can never be replaced. Today, we can only hope to prevent more wildlife from becoming extinct.

For quite some time, it has been evident that present laws are inadequate for protecting endangered wildlife.

Neither the Endangered Species Protection Act of 1966, nor the Endangered Species Conservation Act of 1969, prohibits the taking or possession of native, endangered fish and wildlife.

Migratory birds are protected under the Migratory Bird Treaty Act; eagles are protected under the Bald Eagle Act; and marine mammals under the Marine Mammal Protection Act. The Lacey Act provides for Federal involvement if an animal is taken contrary to State law and transported across State lines. And the importation of foreign endangered wildlife is prohibited under the Endangered Species Conservation Act of 1969.

The present endangered species law requires the Secretary of the Interior to maintain two lists of endangered wildlife. One list is composed of the names of native—or domestic—endangered wildlife and the other list is made up of the names of foreign endangered wildlife. This law further requires that a species of wildlife be threatened with extinction before it may be placed on the endangered list. An animal's continued existence must actually be in peril before it may be considered endangered.

It is absolutely essential that a species of wildlife be afforded protection before it reaches the endangered list and thereby the brink of extinction. In addition, a Federal prohibition against the taking, import, export and interstate transportation of any species listed as endangered is mandatory if endangered wildlife is to be saved.

The continued survival of many species now listed as endangered is questionable. Various factors, including small population levels, restricted breeding areas, continued destruction of habitat and inadequate prohibitions against taking are responsible for their precarious existence.

The bill before us today, S. 1983, which I introduced, is designed to provide the protection needed to save species of wildlife threatened with extinction, as well as those species which are likely to become threatened with extinction if protective measures are not taken.

I would like to take a few moments to briefly review the provisions of this legislation.

S. 1983 requires that the Secretary maintain two lists. One list shall contain the names of "endangered" native and foreign wildlife and the other shall contain the names of "threatened" native and foreign wildlife. The endangered list will be composed of those species which are in danger of extinction. The threatened list will be composed of those species which are not presently in danger of extinction, but which are likely to become endangered if protective measures are not taken. The bill sets up requirements for determining and listing species of fish and wildlife which are endangered or threatened. Further, whenever the Secretary lists a species as threatened, he is required to issue regulations to protect such species.

S. 1983 would prohibit the taking, import, export, and interstate transportation, of any species of wildlife or part thereof which is listed as endangered or threatened. In addition, the Secretray is authorized to extend the protection of the act to any species which so closely resembles in appearance one which has been listed as endangered or threatened that enforcement personnel have difficulty in distinguishing between the listed and nonlisted species.

Jurisdiction over endangered and threatened species of wildlife is divided between the Secretaries of the Department of the Interior and the Department of Commerce.

Most States are intimately involved with endangered wildlife because of the habitat they control, the legal responsibilities they have for resident wildlife, and the skilled professional personnel which they employ. Many States are already conducting programs to identify and collect information about threatened resident wildlife and to design programs for their protection.

In recognition of the fact that the protection and conservation of endangered wildlife requires close cooperation between the Federal and State Governments, S. 1983 establishes mechanisms through which they can work together to protect endangered and threatened wildlife.

S. 1983 directs the Secretary to cooperate to the maximum extent practicable with the States. Financial aid grants to the States are authorized for the purpose of carrying out programs for the protection and management of endangered and threatened species. In order to qualify for this financial assistance, a State program must meet the strict criteria which is set forth in the bill. The Federal share of such a program may not exceed 50 percent of the total estimated costs for a single State.

The act in no way limits the power of any State to enact legislation or regulations more restrictive than the provisions of the act.

Under the provisions of S. 1983, the Secretary may delegate to a State the authority to manage resident endangered and threatened wildlife, if such State submits an acceptable plan for this purpose. Such plan must be submitted to the Secretary within 1 year from the date of enactment and must meet or exceed the requirements set forth in the act for obtaining financial assistance. If the plan is not disapproved by the Secretary, it shall go into effect within the State.

The prohibitions against the taking of endangered and threatened wildlife contained in S. 1983 will not apply within the 15-month period following the date of enactment, except in those States which have not established an acceptable plan and those which do not prohibit the taking of endangered and threatened wildlife.

Resident endangered and threatened wildlife will be subject to the provisions of S. 1983 in their entirety upon the date of enactment in any State which has not established an acceptable plan.

One of the major causes of the decline in wildlife populations is the destruction of their habitat. The future of many species, including some already listed as endangered, is in jeopardy because of continued threats to their environment.

It is therefore essential that the habitat of endangered or threatened wildlife be protected from further encroachment. S. 1983 gives the Secretary authority to acquire any real property which he determines to be necessary in order to protect and restore an endangered or threatened species. He is authorized to use the land acquisition authorities of the Migratory Bird Conservation Act, the Fish and Wildlife Act of 1956 and the Fish and Wildlife Coordination Act. He is further authorized to use funds authorized and appropriated under the Land and Water Conservation Fund Act, in addition to direct appropriations under S. 1983, for the purpose of acquiring such lands.

In order to facilitate international cooperation in the protection of endangered and threatened wildlife, foreign currencies accruing to the United States in other nations under the Agricultural Trade Development and Assistance Act or any other law, may be used to provide assistance to any foreign country in the development and management of programs which are necessary or useful in the conservation and protection of endangered or threatened wildlife. Further, the Secretary, in cooperation with the Secretary of State, is authorized to encourage foreign countries to establish protective programs and to enter into bilateral or multilateral agreements for the protection of endangered or threatened species, and to encourage citizens of such countries to practice conservation in taking fish or wildlife for importation into the United States.

In February of this year, the United States convened a plenipotentiary conference to bring international protection to wild fauna and flora in danger of extinction due to commerce. Representatives from 80 countries attended this conference. The result was the Convention on International Trade in Endangered Species of Wild Flora and Fauna, which provides for a system of regulation for the purpose of preventing the commercial overexploitation of any species of flora or fauna judged to be endangered or threatened by trade. S. 1983 provides the means with which to carry out the provisions of the convention.

Permits may be issued for the taking of a threatened or endangered species for scientific purposes or the propagation of such species in captivity or in a controlled habitat. But only if such taking will not adversely affect the survival of the wild population.

The provisions of the act do not apply to Alaska natives, who take endangered or threatened species for the purposes of consumption or use in a native community or for the purpose of creating authentic native articles of handicrafts and clothing, provided the taking is not done in a wasteful manner.

In addition, a limited hardship exemption is authorized for persons who have entered into contracts prior to the date a species is listed or proposed to be listed as an endangered or threatened species.

A civil penalty of up to $10,000 and a criminal penalty of up to $20,000 and up to 1 year in prison, is provided for under the act.

The act also authorizes the Secretary to pay a reward of up to $2,500 to persons who furnish information leading to a civil penalty or criminal conviction.

Importers of fish and wildlife will be required to register with the Secretary of the Treasury, to keep records and to provide the Secretary or his representative with access to these records and to their place of business.

Citizen suits are also permitted, subject to certain conditions.

Furthermore, the Secretary of the Smithsonian Institution is directed to review species of plants which are endangered or threatened and methods of providing adequate protection, including legislation. He is directed to report his findings to Congress within 1 year from the date of enactment.

Mr. President, I believe that in S. 1983, we have before us the necessary tools with which to restore our endangered and threatened wildlife. I sincerely hope that my colleagues in the Senate share this view, and that S. 1983 will be approved without delay.

I appreciate the full and comprehensive explanation and review of the provisions of this bill that has been made earlier by the knowledgeable Senator from California (Mr. TUNNEY) and the comanager of the bill, the Senator from Alaska (Mr. STEVENS).

Mr. President, I yield the floor.

Mr. TUNNEY. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered. The amendment will be printed in the RECORD.

Mr. STEVENS' amendment is as follows:

On page 53, line 13, through page 54, line 11, strike sub-section 11(b) and insert:

"(b)(1) HARDSHIP—The Secretary may except from the application of section 10(a) of this Act any person if the failure to grant such exception will cause undue economic hardship: *Provided*, That such exception shall be granted any non-Native resident of an Alaska Native village unless such resident is found by the Secretary not to be primarily dependent upon the taking of fish and wildlife for consumption or use in a Native community or for creating and selling authentic Native articles of handicrafts. The extent and duration of such exception shall be such as the Secretary deems appropriate: *Provided*, No such exception shall be for a duration of more than one year from the date of publication in the Federal Register of notice of proposed listing of the involved species. No exception shall apply to a quantity of fish or wildlife in excess of that specified by the Secretary. No such exception shall be granted unless such person, except non-Native residents of Alaska Native villages who are primarily dependent upon the taking of fish and wildlife for subsistence purposes, applies to the Secretary in writing and furnishes with such application such information as the Secretary may require to prove hardship. The one year period for those species of fish or wildlife which were listed by the Secretary as endangered prior to the effective date of this Act shall expire in accordance with the terms of Section 3 of the Act of December 5, 1969 (83 Stat. 275). No such exemption may be granted for the importation or exportation of a specimen listed in Appendix I of the Convention which is to be used for primarily commercial purposes.

"(2) As used in this subsection, the term 'undue economic hardship' shall include, but not be limited to:

(A) Substantial economic loss resulting from inability caused by this Act to perform contracts with respect to species of fish and wildlife entered into prior to the date of publication in the Federal Register of a notice of a proposed listing of such species as an endangered or threatened species.

(B) Substantial economic loss to persons who, for the year prior to the listing of a species under this Act derived a substantial portion of their income from the lawful taking of any listed species which taking would be made unlawful under this Act; or

(C) Curtailment of subsistence taking made unlawful under this Act by persons (i) not reasonably able to secure other sources of subsistence; and (ii) dependent to a substantial extent upon hunting and fishing for subsistence; and (iii) who must engage in such curtailed taking for subsistence purposes.

"(3) The Secretary may make further requirements for a showing of undue economic hardship as he deems fit. Exceptions granted under this section may be limited by the Secretary in his discretion as to time, area, or other factor of applicability.

Mr. STEVENS. Mr. President, this is really a noncontroversial amendment, and I am pleased to note that I understand the distinguished Senator from California, the manager of the bill (Mr. TUNNEY) has indicated that he would accept the amendment.

It makes certain changes in the section granting exceptions for undue economic hardship. Because it makes a series of changes throughout that section, I have set forth the entire section as amended in my proposed amendment.

My amendment would require that an exception for undue economic hardship must be granted to all non-Native residents of Alaskan Native villages unless such residents are found by the Secretary not to be primarily dependent upon the taking of fish and wildlife for consumption or use in a Native community or for creating and selling authentic Native articles of handicrafts. In other words, the presumption is that such persons are to be entitled to such an exception. This exception will apply probably to no more than a dozen Alaskans. These are persons who are not one quarter or more Native by blood but are integral members of the Native communities that take endangered species. Presently the only such species of which I am aware is the bowhead whale. This is taken in approximately seven villages along the northwest coast of Alaska. Thus, very few people will be covered. However, to be fair, I believe that all such persons, because they really are part of the Native communities, must be excepted to the same extent as Alaskan Natives in the same communities. Such non-Natives who depend primarily upon the taking of fish and wildlife for subsistence need not apply in writing for the exception. Others must.

This amendment defines the term "undue economic hardship" to also include three groups of persons.

The first group is those persons who incur substantial economic loss resulting from the inability caused by this act to perform contracts with respect to species of fish and wildlife entered into prior to the date of publication in the Federal Register of a proposed listing of a species.

The second is those who, for the year prior to the listing of a species, have derived a substantial portion of their income from the lawful taking of any listed species and will incur substantial economic loss as the result of such listing.

The third is those who must take endangered species for subsistence and who first, are not reasonably able to secure other sources of subsistence, and second, depend to a substantial extent upon hunting and fishing for subsistence, and third, must engage in such curtailed taking for subsistence purposes.

The Secretary is also, under my amendment, given additional discretion to grant exceptions under such limits as he may determine necessary, if he does not believe blanket exceptions are warranted. Such limits may be as to time, area, or any other factor of applicability.

I ask unanimous consent to have printed in the RECORD a telegram I received from the Alaska Legal Services Attorney for Nome.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

NOME, ALASKA, *July 19, 1973.*

Senator TED STEVENS,
Washington, D.C.

This is to convey my strong support for your amendments to the endangered species legislation currently before the commerce committee. As an Alaska legal services attorney assigned to the Nome office I travel quite extensively through the villages in northwest Alaska. The impact on the residents of these villages of prohibiting the taking of animals supplying traditional foods would be disastrous. As for nonnatives, I would estimate there are not more than 10 persons who rely on the taking of animals used in traditional Eskimo food for subsistence. They are hardly a danger to any species.

ROBERT BUNDY,
Attorney at Law.

Mr. STEVENS. Mr. President, this amendment and the other amendments dealing with Alaska Natives were worked out by my staff and the staff of the Senate Commerce Committee's Environment Subcommittee in coordination with Alaska Legal Services.

I am most pleased to express my appreciation to the staff of the Commerce Committee's Environmental Subcommittee and to the Alaska legal services in regard to this amendment. I believe that it does protect fully the rights of those residents of Alaska Native villages. That is the intent of the amendment, to clarify the congressional intent with regard to that protection.

I am hopeful that the Senator from California may be able to accept the amendment.

Mr. TUNNEY. Mr. President, I understand that this amendment is not intended to create a loophole for those who would exploit their Native village resident status in order to increase their taking of the endangered species or to increase commerce in such endangered species but only in order to meet the bona fide community needs; is that not correct?

Mr. STEVENS. The Senator from California is absolutely correct. They are bona fide residents of Native villages who may not be considered to be Natives, who may be married, for instance, to Native people and who are part of the subsistence economy. This amendment is not intended to give anyone the opportunity to start taking endangered species or any other kind of species by virtue of merely establishing residence in a Native village.

Mr. TUNNEY. We have seen examples of thoughtless commercial taking of endangered species, which only helps to drive endangered species nearer and nearer to extinction. I would expect that no permit would be granted under the provisions of this amendment to further that kind of process. I am sure that the Senator from Alaska would agree that no area of the drafting of this amendment would be utilized in order to permit unwarranted exploitation of endangered species.

Mr. STEVENS. I absolutely concur. The Endangered Species Act of the State of Alaska is specific in that regard already. I am trying to make certain that the Federal law is as specific. We are not trying to open the door to commercial exploitation. We are trying, however, to protect those people who live in a subsistence economy and depend on the animals for food and for their livelihood. It is not intended in any way to encourage or to authorize commercial exploitation by those not so dependent.

Mr. TUNNEY. The Senator from California is aware that certain non-Native Alaska village residents are dependent upon the taking of endangered species. Some of these people have entered into contracts which may have to be broken due to this act. They would suffer unwarranted economic hardship. As I understand the amendment, its purpose is to provide individuals, particularly those who depend on such taking for subsistence purposes, and may be unaware of the application requirements of the act, with a 1-year period to find other means of support. Is that correct?

Mr. STEVENS. That is correct.

Mr. TUNNEY. With that understanding, I think that the Senator from Alaska has offered an amendment which will strengthen the legislation and will protect certain constituents of the Senator in Alaska, and the committee will accept the amendment.

The PRESIDING OFFICER (Mr. CHILES). Is all time yielded back on the amendment?

Mr. STEVENS. I yield back the remainder of my time.

Mr. TUNNEY. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Alaska (Mr. STEVENS).

The amendment was agreed to.

Mr. STEVENS. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

Mr. TUNNEY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TUNNEY. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. STEVENS. I call up another amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The second assistant legislative clerk read as follows:

On page 71, lines 20 through 24, strike the proviso and substitute:

"*Provided,* That if, within fifteen months of the date of enactment of this Act, the Secretary finds that a state which does not prevent the taking of a species listed by him as endangered does not provide adequate protection for that species, he may by regulation implement the provisions of subsection 10(a) of this Act with respect to that species in that State."

Mr. STEVENS. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on the pending amendment occur today at the hour of 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EASTLAND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Senator would have to ask unanimous consent for that because there is an amendment already pending.

Mr. EASTLAND. Mr. President, I ask unanimous consent that I may send an amendment to the desk for immediate consideration. The manager of the bill has agreed to accept it.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will state the amendment.

The second assistant legislative clerk read as follows:

> On page 29, line 15, before the period, insert a comma and the following: "other than a species of the order insectica determined by the Secretary to constitute a pest whose protection under the provisions of this Act would present an overwhelming and overriding risk to man."

The PRESIDING OFFICER. Who yields time?

Mr. EASTLAND. Mr. President, I yield myself such time as I may desire.

Mr. President, this amendment would except insect pests which the Secretary found presented an overwhelming risk to man from the protection provided by the bill. The Senate recently passed S. 1888 to provide for a program to eradicate the boll weevil and other insect pests of cotton. Millions of dollars are spent every year in trying to protect man from such pests. If these eradication programs should approach success, the bill as reported would require their cessation until the insect had been given an opportunity to regenerate.

Another example is the gypsy moth, which was brought into this country by an individual for scientific purposes and has multiplied and spread across the Northeast and is expanding its range State by State defoliating our forests. I do not believe that it makes any sense to attempt to eradicate and preserve these pests at the same time; and I hope that the committee will see fit to agree to this amendment as a technical correction to the bill.

Mr. TUNNEY. Mr. President, I accept the amendment offered by the Senator from Mississippi, which would permit the Secretary to not list species of the order of insectica determined by the Secretary to constitute a pest whose protection under provisions of this act would present an overwhelming and overriding risk to man.

It is my understanding that this amendment would permit the Secretary to not list an insect upon a finding that the insect presented such an overwhelming risk to man that there was no possible justification for providing protection, but that it would not be used to promote the elimination of species which in only a few numbers might be of value to society. The term "overriding" threat implies an extreme danger which only total destruction would prevent.

Even if the risk is overwhelming that, in and of itself, would not keep the species off the list. The Secretary must also find that the avoidance of that overwhelming risk overrides the need to protect the species. In other words, he has discretion as to whether he chooses to protect the species or humans in the case of an overwhelming risk to man. Without the Eastland amendment, he would not have that discretion and would have to protect the species whenever it became endangered regardless of the very worst consequences for man's health or well-being.

I think that the Senator from Mississippi has a similar understanding of the amendment?

Mr. EASTLAND. That is correct.

Mr. TUNNEY. I am prepared to accept the amendment and yield back the remainder of my time.

Mr. EASTLAND. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Mississippi (Mr. EASTLAND).

The amendment was agreed to.

Mr. STEVENS. Mr. President, the pending amendment is my amendment. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Mr. President, it is my understanding that the Senator from Utah has an amendment and if it is one that is to be accepted by the manager of the bill, I would have no objection to taking it up at this time.

I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged against my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, the amendment I have at the desk is to section 16(d). The present proviso states that the prohibitions against taking under S. 1983 automatically apply in any State which does not prevent the taking of any species listed by the Secretary as an endangered species. These prohibitions against taking apply to all species which have been listed by the Secretaries. The present proviso gives the Secretaries no discretion in the matter. The prohibitions automatically apply.

This amendment, as submitted by me and by the Senators from Montana (Mr. MANSFIELD and Mr. METCALF) and the Senator from Georgia (Mr. TALMADGE) would give the Secretary the discretion he needs to act in this area. This amendment also preserves traditional areas of State sovereignty over resident species.

The amendment provides that if the Secretary with authority over the particular species finds that a particular State does not prevent the taking of a species listed by him as endangered and also does not provide adequate protection for that species, he may in his discretion by regulation implement the provisions of subsection 10(a), the prohibitions against taking.

Certain species, like the American alligator, are listed as endangered presently by the Federal Government. However, they are not endangered in certain States like Louisiana. As a matter of fact, there are enough American alligators in Louisiana to permit the export of a number of animals to other States, for zoos and other purposes.

Certain States do not "prevent the taking" of particular species, but have enacted other measures to protect them. These include habitat acquisition to protect the areas in which these animals live and forge. Such programs are not taken into account under the present language of this section. Land acquisition and other similar conservation measures actually will do more to protect many species of endangered animals than preventing their taking.

Third, certain States, like Illinois, list the species protected under their State statutes. The Secretary may, by regulation, list or delist additional species and it will take some time to amend the State law to take care of those circumstances.

If each State law which so lists the species covered does not exactly conform to the Secretary's lists, present prohibitions of the bill, under section 10(a), will automatically become effective.

Unfortunately, in none of these cases is the Secretary given any discretion. He must prohibit the taking of all species covered under the act merely because some of the species are not protected by State statute, although there is every reason to believe that the State would act to protect those species that are found to be endangered. They have in the past, and I feel certain they will in the future.

This amendment will give the Secretary the discretion he needs to act in such situations.

I want to emphasize the necessity of keeping the States interested in endangered species. They have almost 6,000 officers who are capable of protecting these species. The Federal Government has only some 200 in the whole United States, and to shift this burden from the States to the Federal Government without giving the Secretary discretion to recognize those States which are in fact taking action to protect endangered species would be unfortunate.

I am pleased that Senators MANSFIELD, METCALF, and TALMADGE have seen fit to join as cosponsors of the amendment.

I hope Senators will read the letter we have placed on their desks before voting on this amendment, because the amendment, I think, is very important to preserve the role of the State fish and game departments who have done an admirable job so far in trying to protect endangered species.

Mr. President, I reserve the remainder of my time.

Mr. TUNNEY. Mr. President, as floor manager for the Endangered Species Protection Act, I am not able to accept the amendment offered by the Senator from Alaska. I recognize full well that the purposes of the Senator are well intended. However, I feel it goes too far.

The Committee on Commerce, which has carefully studied Federal-State relationships in the endangered species protection area, has designed in S. 1983, a legislative scheme which is sufficiently sophisticated, first, to permit the continued management of endangered species by those States with well-developed programs; second, to provide Federal protection to States which do not yet offer such protection; and third, to encourage the development of programs in those States which do not now actively protect endangered species in a manner that will eventualy permit a much reduced Federal commitment to endangered species conservation and management.

If the bill is reported, Federal prohibitions against the taking of endangered species apply upon the date of enactment of this act only in those States which have not adopted similar protective measures. During the 15 months subsequent to the passage of the act any State would otherwise be able to exercise its full powers to manage, protect, conserve, restore, or propagate endangered and threatened species. These powers would include the power to permit the taking of threatened species. Furthermore, during this 15-month period any State might apply to the Secretary for approval of its States endangered species management plan. Any State whose plan was not disapproved by the Secretary within 3 months of submission to the Secretary would have full power to regulate both endangered and threatened species, including the power to regulate the taking of endangered species otherwise regulated under this act. At the end of the 15 months following passage of the act, all of the provisions of this act regarding the management and taking of endangered and threatened species would go into effect in any State which had not applied to the Secretary or whose plan had been disapproved by the Secretary.

Thus, the bill as reported takes care of all the options: first, it provides immediate protection against the taking of endangered species in any State which has not provided for such protection at this time. Second, it allows any State to secure full management powers over endangered species by submitting an adequate management plan to the Secretary for approval. Third, 15 months after the passage of the act, Federal law would go into effect to carry out the purposes of this act in any State that should not have an approved management program.

Not only does the bill, as reported, permit any State which adequately protects endangered species to continue such a protection program; it provides funds to assist the State in its management and conservation activities. Ten millon dollars is provided to fund this effort for the first 2 years the act is in effect.

The Senator from Alaska argues that the issue is whether or not we are going to preempt the State judicial power to manage present fish and wildlife. This, however, is not the issue. The issue is whether we are going to provide full protection to those species of fish and wildlife which are imminently in danger of extinction in those States which have not yet deemed fit, in the 200 years of our Nation's existence, to provide full protection to these species.

Presently, 35 States provide protection for endangered species. In most of these States, their laws are as strong as or stronger than the provisions of this bill. In the others there are strong management programs. Only 15 States do not now provide some protection for endangered species.

Under this bill there would be absolutely no Federal intervention in those States which provided full protection for presently endangered species. Those States which do not provide absolute prohibitions against taking endangered species but do provide strong programs approved by the Secretary would be totally free to manage a residential species within ? months of this act. The rationale behind the proposed amendment is that in an emergency the Secretary can rush in and take care of any endangered species. This bill as reported is predicated on the evidence provided in hearings before the Committee on Commerce in the last 2 years that an emergency already exists. This bill only prevents the capacity of those who would exploit endangered species in those States which have not yet had the time to prepare adequate endangered species programs.

This is a bill to protect endangered species, to provide for their conservation, restoration, and propagation. Some argue that the States should have their chance. I argue that the States have had their chance. Nothing in this bill prevents them from continuing to do the excellent work that most of the States have done in the past.

Some States, such as Alaska, have done an excellent job. I think California has done a good job. But there are States which have not done a good job, and it seems to me we ought to have the ability, immediately upon passage of this bill, to protect endangered species inasmuch as those States themselves have not seen fit to do as good a job as the authors of the bill envision as being necessary to protect endangered species.

Mr. STEVENS. Mr. President, I think the Senator from California states his case very well, but, unfortunately, the bill is drawn on the basis of making the Federal law preemptive. In the event there is a species that is not totally protected, then the Federal law applies to all species.

The effect of the amendment I have offered is that if the Secretary finds within this 15-month period that a State does not prevent the taking of a species listed by him as endangered, does not provide adequate protection for that species, he may by regulation implement subsection 10(a) with respect to the taking of that species. In other words, my amendment is directed to a particular situation.

The present language of section 16(d) makes the provisions of the bill effective on the date of enactment of the bill. It does not prevent the taking of any species listed by the Secretary as an endangered species. I think it is most important to keep in mind again what we are doing. We are saying, in effect, that if Louisiana has a management program which has in fact produced a situation in which alligators can be harvested for cultural, scientific, or other purposes without harming the species in that area, even though the alligator may be listed as an endangered species by the Secretary of the Interior, since they do not prevent the taking of alligators, and in fact are taking them under a very scientific and wise management program, that all of the Louisiana laws would be suspended with regard to any species listed among the 109 in the Federal endangered species list. That to me is foolhardy, to suspend the activities of a very viable and good management program, and one that is farsighted.

All that my amendment would do would be to give the Secretary discretion over that on the basis of the individual species, and not make the law effective on the date of the act as to all species if there is any species that is not protected and on the list of the Secretaries on the date of enactment of the bill.

I think that it would be important to list some of the types of species we are talking about. There has been prepared a list of some 14 particular species.

I ask unanimous consent to have this material printed in the RECORD at this point if the Senator from California does not object.

Mr. TUNNEY. Mr. President, I do not object.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

1. Longjaw cisco—distribution of this species is throughout Lakes Michigan and Huron, and a very small population in the small deep hole in Lake Erie that was present as late as 1948. The decline of this species is attributed to sea lamprey predation and intensive commercial fisheries for large ciscos and increased competition from the small bloater and alewife in Lakes Michigan and Huron. The low number in Lake Erie is due to a very limited favorable environment which has become increasingly unfavorable in recent years.

2. Lahontan cutthroat trout—This species is found primarily in California, but there are a few in Nevada. California provides complete protection but Nevada does not. The decline of the species is attributed to damage to spawning beds resulting from forest removal, fires, and over grazing. Also, dams which block spawning runs, pollution, diversion of water for irrigation, hybridization, and competition with rainbow trout and other cutthroats are considered to be other reasons for their demise. This species is found primarily on public lands and has been placed in a special protected category by the Bureau of Land Management. The Bureau of Sport Fisheries and Wildlife is constructing a fish hatchery primarily for rearing this subspecies.

3. Greenback cutthroat trout—this species is found only in Boulder and Larimer Counties, Colorado. The decline of this species was caused by deterioration of habitat due to man's activities, competition from stocked trout, and hybridization. Although my information does not show that this species is fully protected by the State of Colorado, the wildlife agency is cooperating in reclamation and restocking of certain waters in the Rocky Mountain National Park and stocking is proposed in other limited reclaimed suitable waters. Barrier dams to isolate populations and angling restrictions are also proposed for certain streams.

4. Arizona trout—the Arizona Game and Fish Department has stocked several streams in Arizona with this species. They have closed Ford Creek and the Upper East Fork of the White River to fishing. Barrier dams to protect the species were constructed on both streams in cooperation with the department, and, the White Mountain Apache tribe constructed two lakes for this trout. Plans are underway to increase hatchery production of this species and restock suitable reclaimed waters. The Arizona Game and Fish Department has several thousand of these fish producing at one of its state hatcheries.

5. Pahranagat bonytail—this species is

found only at the outflow of two springs in Lincoln County, Nevada. Its decline is attributed to irrigation development and establishment of competitive and predatory exotic species in its range. Measures have been proposed to transplant the species into other suitable habitat, if it can be found.

6. Woundfin—this species is found essentially in the Virgin River below Hurricane, Utah. Its decline is attributed to modification of its habitat by man. The species is adapted to life in sandy, swift, turbid rivers. A dam is proposed above St. George, Utah, which purportedly would render this species extinct. Research has been proposed to determine its habitat requirement so as to establish a population elsewhere.

7. Colorado squawfish—this species occurs only in the middle and lower Green River, the main Colorado River above Lake Powell, and the Salt River. The reason for its decline is attributed to the modification of its habitat by man through construction of large reservoirs. The species will not reproduce in cold tailwaters below high dams nor in reservoirs behind these dams.

8. Warm spring pupfish—this species is found in School Spring and Scruggs Springs in the northern part of Ash Meadows, Nye, Nevada. Although not fully protected by state law, School Springs, which is administrated by the Bureau of Land Management, was improved and fenced in 1969. In 1970 a well was drilled to serve as an additional water supply during periods of low spring waterflow to protect the species. This pupfish, of course, is found primarily on public land.

9. American alligator—The American alligator is completely protected in all states. However, due to increased populations and impending habitat destruction, the Louisiana Wildlife and Fisheries Commission lifted the total protection last year and conducted a closely regulated harvest in one parish of the state. This species, with its tremendous reproductive potential, and with strict law enforcement given by southern state wildlife agencies, has rebounded tremendously in recent years. It is very doubtful if it will remain on the endangered species list very long.

10. Puerto Rican boa—this species, found only in Puerto Rico, is in trouble mainly from mongoose predation, according to authorities. This theory has been disputed, however, by some observers. People usually kill every one they see and automobiles kill a few every year.

11. Aleutian Canada Goose—this species does not receive total state or federal protection. It is managed by the federal government, not the state, under the Migratory Bird Treaty Act. Hunting is still permitted by the Bureau of Sport Fisheries and Wildlife.

12. Mexican duck—likewise, this species comes under the purview of the federal government. It is not totally protected, hunting is still allowed by the Bureau of Sport Fisheries and Wildlife.

13. Eastern timber wolf—this species is totally protected in every state except Minnesota. The State of Minnesota came up with a state plan to protect and manage this species last year but violent objection from the Bureau of Sport Fisheries and Wildlife resulted in the state legislature rejecting the proposal. Hopefully this program will be accepted by the next state legislature. At present nearly 2 million acres of the Superior National Forest provides complete protection for the species.

14. Red wolf—the red wolf is found in Texas and Louisiana. Texas recently passed an endangered species law which affords complete protection to the red wolf in that state. In Louisiana the red wolf is given complete protection except in cases of livestock predation which is controlled by federal agents. The livestock-killing animals are removed alive and transferred to the Wild Animal Propagation Trust of the American Association of Zoological Parks and Aquariums.

Those animals listed above are the only ones on the U.S. native endangered species list not receiving complete protection by state law, to the best of my knowledge. As you can see two of the species are under federal control, not state. Also, many of the species do receive protection in some form or another either from the state or some federal agency when they are found on public lands. Therefore, I cannot foresee where any animal on the endangered species list would suffer as a result of an interim period provided in the new endangered species act to give state agencies an opportunity to beef-up their programs in compliance with that act.

Mr. STEVENS. I am not trying to undermine the bill. My State supports the bill, and I think that we have been the leaders in this endeavor. My Governor has indicated that he thinks it is a good idea. However, we want to maintain our ability to act with regard to all species, even though it might be that one species is listed.

I hope that the Senator from California will see my point, that if one species or more is listed and is endangered in Pennsylvania, but is not endangered in Alaska, having it on that list, as the bill stands now, would not only lift it with regard to one State, but would lift it entirely.

Mr. TUNNEY. Mr. President, all that the State of Alaska would have to do would be to apply to the Secretary for approval of this plan.

Mr. STEVENS. But what that would require would be calling a special session of the State legislature. We protect them by State statute. And we must be given the time to call the legislature into session to pass a law on the subject. That is the reason for the 15 months delay.

My friend, the Senator from California, will recall that we put in the 15 months as a sort of breathing period to permit the States which do not protect the taking of any species to have time to act.

We can turn that around and say that the burden is on the Secretary, and if he finds that they are not protected, he may suspend the State law as to that species.

I thing that is fair. I think the burden is where it should be. After all, we are dealing with 109 species on the list now. And a lot of people are thinking that we want to take a species that is in danger. They do not understand the fact that Louisiana can have alligators literally, as the old saying goes, coming out of the swamps, whereas they are endangered in some other States.

Mr. TUNNEY. The State of Louisiana could apply for approval of the plan. And if they had an excess number of alligators and they felt that a reasonable harvest of alligators made sense in the State of Louisiana, the Secretary of the Interior might agree.

Mr. STEVENS. In the meantime, all of the plans would be suspended. The State law would become inoperative. They are listed and, therefore, no management could be undertaken as far as the harvesting of any species during that period of time. And the State has to wait and ask the Secretary of the Interior for approval of a plan which is already effective.

Mr. TUNNEY. In the case of Louisiana, it is the understanding of the Senator from California that if the State of Louisiana made application, they would have immediate approval of the plan as it relates particularly to alligators. They would then be under State management, and there would be no problem.

What specific species in Alaska is the Senator from Alaska talking about in terms of their being affected?

Mr. STEVENS. I would inform the Senator from California that to my knowledge there is no species in Alaska that are endangered that are not already protected by the State plan.

I am not talking about Alaska. I am talking about the general proposition of protecting them where they are endangered. Again, in the Lake Superior wilderness area, we have an area which protects wolves, even though they may not be fully protected by the State law. They are provided a habitat, which is absolute protection. It would be immaterial as to whether the State law protected them, because the only place in which they are found is in a sanctuary.

Any Secretary of the Interior under my amendment, if he lists wolves, would look to that area and say that those wolves do not have to be listed under State endangered species law, because the State already has, as a practical matter, imposed absolute protection for that species. Under present language of the bill, because they are in fact listed on the Federal endangered species list for the whole Nation, they would be taken out of State jurisdiction in this regard.

Mr. TUNNEY. Unless the State came in and asked for approval of that management plan. In the case of Alaska, the management plan would be approved immediately. It is an excellent plan. We are not talking about States such as Alaska which have excellent management plans. However, we are talking about States which do not have plans or which have inadequate management plans. We did not want to wait 15 months to have the kind of controls that were deemed necessary.

It was the view of the committee that if there is a clear and present danger to the endangered or threatened species, then we wanted to have action to protect those species as of the date of the enactment of the law.

I think it is very important that we take such action immediately. It does not make sense, at least to me, to say that we are going to wait for another period of time when we already recognize that the danger is present and with us and that some species are threatened with extinction.

Mr. STEVENS. Mr. President, I think the Senator from California states his position well. I have no great disagreement with him the way it is stated.

The only problem is that the burden is placed on the wrong foot. The burden is placed on those people who have a good program—a program that is effective—to come forward and ask the Secretary to approve their program. However, my amendment puts the burden on the Secretary to go to those who do not have an effective program and suspend their authority as to particular species.

As the Senator points out, some 30 States do already have programs.

A relatively small number of States do not have the program. However, it would be very simple for the Secretary to go to these States and say, "You are not protecting the species that are listed." They would then be suspended and they would have the burden of coming back and asking for approval.

However, under the Senator's amendment, the 30 States that do have programs are all suspended if any of them contain any species listed on the Federal endangered species list on the date of the enactment of this act.

In the outline which I had printed in the RECORD, one of the species, as I recall, is a small fish that is found only in Hot Springs. If that fish is not listed on the endangered species program in that State, the entire management program is suspended until the State comes in and asks for restoration.

That is wrong. If the State does not list that species, and the Secretary wants to have it listed, he can do so immediately under my amendment. There is no time frame involved. He can issue the regulations to protect them immediately.

I am sure that if my amendment is in the bill at the time the bill goes to the House and the bill is signed by the President, the Secretary will have the regulations ready to protect those species that are not protected now.

But I believe we have an honest difference of opinion. I want to be subjective, to put the burden on the Secretary to look after those States which do not have effective regulation. I believe the Senator from California is defending the commitee's bill, which puts the burden on those States which do have effective regulation to come in and prove it. That to me is the wrong way to approach the bill, and I disagree very honestly and openly with the Senator from California, as I have throughout the consideration of this measure.

Therefore, I would like to change that proviso.

Mr. TUNNEY. Mr. President, I would just like to say there is no Senator who has made a greater contribution to the development of this legislation than the Senator from Alaska.

The PRESIDING OFFICER. All time of the Senator from California has expired. The Senator from Alaska has 8 minutes remaining.

Mr. STEVENS. I yield such time as the Senator from California may desire.

Mr. TUNNEY. I thank the Senator. As I say, there is no Senator who has made a greater contribution to the development of this legislation than the Senator from Alaska. So I certainly do not want my remarks to be in any way construed that I think the Senator from Alaska is trying to open up an evasive loophole in this legislation, because I do not think that is the case. His persistent interest in seeing this legislation passed shows that he is devoted to the concept of protecting endangered species. I know this full well, and I would say that he has made a tremendous contribution, not only in the committee but on the floor, in explaining what the purposes of this act are.

I must say that I do disagree on this particular point. I think that we do have a clear and present danger to endangered species now, and I think that the Federal Government ought to, at the time that this bill passes, provide protection to endangered species, and the States ought to come in and have their plans approved if they are not now providing adequate protection. In the case of Alaska, it would be approved forthwith, and with many other States the case would be the same. As things now stand, many States already provide the protection required under the act.

The Senator mentioned the State of Louisiana and the alligators, and the fact that at one point alligators were threatened in Louisiana, but through a good management program the State of Louisiana has been able to see propagation of alligators to the point that a reasonable harvest is deemed desirable.

There is nothing in the legislation as presently drafted and as reported by the committee to prevent the Secretary from granting a permit to take a reasonable number of alligators, even if the State plan for the management of endangered species in Louisiana was disapproved by the Secretary. I do not know whether the State plan would be disapproved or approved, but even if it were disapproved, and that meant that the Federal regulations would be operative, it would not prevent the Secretary from granting a specific permit to the State to allow a reasonable number of alligators to be taken.

So I recognize that there is a disagreement. I recognize that there is a difference of philosophy. I just happen to think that we have such a need for the management at the Federal level of endangered species that we ought to have the act become operative across the board at the time of passage, and if States are now handling the problem better than the Federal Government, the Federal Government would not be involved in their affairs.

Mr. STEVENS. Mr. President, I thank the Senator from California for his kind remarks. I believe we have, as I stated, an honest difference of opinion on the approach to be taken with regard to alligators. They are listed among the 109 that are already endangered species, notwithstanding the fact that, as I say, in Louisiana they have a good management program and they are not endangered there. The effect of the committee bill would be to suspend the Louisiana program until the State of Louisiana came forward and demonstrated that it was in fact a good program. The fact that there is a surplus of alligators there demonstrates that they have a good program, in my opinion.

I would say to the Senator from California that when I conducted the hearings on this matter, I asked the representatives of the National Association of State Game & Fish Commissioners, the Wilderness Society, the Friends of Earth, and the others with regard to this preemption, did they not feel that the States should have a time period to act before the Federal Government should move. My understanding of their response was that they all believed that the State should be given a reasonable time. That is the reason for the 15-month time period that is in the bill, which is reasonable as far as the committee is concerned. The Secretary should act on an emergency basis to protect individual species that are in need of protection during that period.

That is my understanding of the general tenor of the witnesses' comments, and I believe this amendment would carry out that objective, which I outlined to the witnesses as they appeared before the committee.

Mr. President, I assume that the time is expired.

The PRESIDING OFFICER (Mr. CHILES). All time on the amendment has expired. Time can be yielded on the bill itself.

Mr. TUNNEY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TUNNEY. Is there anything in the rules to prevent another amendment from being offered between now and 2 o'clock, the time that was designated for the yea-and-nay vote on the Stevens amendment?

The PRESIDING OFFICER. The time on the Stevens amendment having expired, another amendment is in order.

Mr. MOSS. Mr. President, I send to the desk a series of amendments, which I call up, and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

The amendments will be stated.

The legislative clerk proceeded to read the amendments.

Mr. MOSS. Mr. President, since they are rather lengthy and complicated, I ask unanimous consent that further reading of the amendments be dispensed with, and I shall try to explain what the purpose of the amendments is. I have discussed them fully with the manager of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. Moss' amendments, en bloc, are as follows:

Page 29, line 9, insert "(1) 'Conservation' and 'management' mean the collection and application of biological information for the purposes of increasing and maintaining the number of animals within species and populations of endangered and threatened species at the optimum carrying capacity of their habitat. Such terms include the entire scope of activities that constitute a modern scientific resources program, including, but not limited to, research census, law enforcement, and habitat acquisition and improvement. Also included within these terms, when and where appropriate, is the protection, propagation, conservation and restoration of such species, including regulation and taking necessary to these ends.

Page 30, line 16, insert "(7) 'Optimum carrying capacity' means the ability of a given habitat to support the optimum sustainable population of an endangered or threatened species in a healthy state without diminishing the ability of the habitat to continue that function."

Page 30, line 16, and immediately following (7) above, insert "(8) 'Optimum sustainable population' means, with respect to any population segment to endangered or threatened species, the number of such species which will result in the maximum productivity of the species, keeping in mind the optimum carrying capacity of the habitat and the health of the ecosystem of which they form a constituent part."

Pages 29, 30, 31 and 32, renumber the present paragraphs (1), (2), (3), (4) and (5) as (2), (3), (4), (5) and (6) and renumber the present paragraphs (6), (7), (8), (9), (10), (11), (12), (13) and (14) as (9), (10), (11), (12), (13), (14), (15), (16) and (17).

Page 36, lines 14 and 15, strike the words "protection, restoration or propagation" and insert the words "and management."

Page 38, lines 2 and 3, strike the words "protection, restoration, or propagation" and insert the words "and management."

Page 38, lines 11 and 12, strike the words "management, conservation, protection, and restoration" and insert the words "conservation and management."

Page 39, lines 12 and 13, strike the words "conservation, protection restoration, and propagation" and insert the words "conservation and management."

Page 39, lines 21 and 22, strike the words "conservation, protection, restoration and propagation" and insert the words "conservation and management."

Page 40, lines 7, 8 and 9, strike the words "research, censusing, law enforcement, propagation and habitat acquisition or improvement." and insert the words "conservation and management."

Page 72, line 4, strike the words "management and taking" and insert the words "conservation and management."

Mr. MOSS. Mr. President, these amendments that I have proposed are simply to establish in this bill a definition or definitions that are consistent generally with the language that was worked out in the sea mammal bill that the Senator from South Carolina (Mr. HOLLINGS) worked on so vigorously, and that also came out of our Commerce Committee.

What we are trying to do here, and what this amendment will accomplish, is to define conservation and management in a way that is agreeable to and supported by the wildlife community. It reinforces Congress' determination, as expressed in the Marine Mammal Protection Act, that our invaluable and irreplaceable wildlife resources be handled on a professional and not simply an emotional basis.

The amendments would, first of all, insert a new paragraph 1 at page 29, line 9, to provide that conservation and management mean the collection and application of biological information for the purposes of increasing and maintaining the number of animals within species and populations in endangered and threatened species at the optimum carrying capacity of their habitat.

Such terms include the entire scope of activities that constitute a modern scientific resources program, including but not limited to research, census, law enforcement, and habitat acquisition and improvement. Also included within these terms, when and where appropriate, is the protection, propagation, conservation, and restoration of such species, including regulation and taking necessary to these ends.

The thrust of these amendments is that the States, in managing resident wildlife, are authorized to maximize the population. It is not simply to keep endangered species at a good level, but really to improve and expand the species, and that whatever scientific methods are needed in order to bring the population up to the maximum carrying capacity of the habitat shall be done, and this includes all of the specific functions. Also, in the amendments, we define "optimum carrying capacity" and "optimum sustainable population" and what those terms mean. Then, with those definitions engrafted in there, there is a renumbering of the paragraphs in order to make them fit in their regular order in there. That is what constitutes the second page of the amendment.

We consistently use the words "conservation and management" rather than repeating all the other terms, because they all refer back to the first paragraph on conservation and management.

In our consideration of the bill, we thought it would be entirely proper to write this language in a concise and logical manner, and to emphasize the fact that the purpose of this is not simply to protect the resident species which are threatened or endangered, but simply to provide that there be a maximum effort made to restore the numbers of those species to the point that they would not any longer be considered threatened or in any way endangered.

We believe that this language will accomplish that.

I have discussed this, as I say, at some length with the manager of the bill. I compliment him very highly for his dedication to the work he has done on this matter and for his great concern for the problems we face.

As our country has become more populated and metropolitan in nature, of course, we put pressure on the various species of wildlife. The time is here when we must make a determined effort to see that we do not drive to extinction any of the wildlife that can be preserved.

I think that is the objective of all of us who have been concerned with this bill.

I especially compliment the Senator from California for the valuable work he has done on this matter.

Mr. TUNNEY. Mr. President, I want to thank the distinguished Senator from Utah for his very kind remarks. It is clear that the language which is suggested by the Senator from Utah would strengthen the purposes of this act, which is, namely, to protect, conserve, propagate and restore endangered species. I have had the opportunity to consult with the Senator from Utah, as he has indicated, regarding the language, and I think that my understanding of it is similar to his; that is, that the amendment is designed in a more careful fashion to articulate the type of protections the committee intended when it reported the bill from the committee to the floor of the Senate.

Mr. MOSS. I thank the Senator from California for his remarks. I believe that we see eye to eye on the matter. It will strengthen the bill considerably as these definition amendments are adopted.

Mr. TUNNEY. One further point. It is the understanding of the Senator from Utah, is it not, that in no way by this amendment are we going to be moving in the direction of treating endangered species as game animals?

Mr. MOSS. No. It does not affect that at all. It does not change the characterization of any animal into a game or a nongame kind of animal. But many of those on the endangered or the threatened species list do fall into the game classification.

Mr. TUNNEY. If they do fall into the game classification the protection afforded them under this bill, will in no way be diminished by the language which is the clarifying language suggested by the Senator from Utah?

Mr. MOSS. Yes, That is true. It applies to all animals of resident species. In fact, beyond even the animal class.

Mr. TUNNEY. It would not change the protection given to endangered species.

Mr. MOSS. No, it would not change that.

I want to compliment the Senator from Utah for the great interest he has shown in the bill. As a member of the committee, he has taken a very deep interest in the matter and has helped to fashion the bill which has come to the floor of the Senate today.

With the understandings that I now have, and as expressed by the Senator from Utah, I am prepared to accept the amendment and yield back the remainder of my time.

Mr. MOSS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. HASKELL). All time on the amendment has now expired.

The question is on agreeing to the amendment of the Senator from Utah (Mr. MOSS).

The amendment was agreed to.

Mr. MOSS. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

Mr. TUNNEY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TUNNEY. Mr. President, I send to the desk a series of technical and clarifying amendments to S. 1973 and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. The amendments will be stated.

The legislative clerk proceeded to read the amendments.

Mr. TUNNEY. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered, and the amendments will be printed in the RECORD.

The text of the amendments is as follows:

On page 27, line 12, before the word "educational," insert the words "aesthetic, ecological,".

On page 28, line 8, after the word "States" insert the words "and other interested parties,".

On page 31, line 6, delete the word "terrestrial".

On page 31, line 20, after the word "harass," and before the word "pursue", insert the word "harm,".

On page 33, delete lines 17–23.

On page 33, line 34, delete the number "3" and insert the number "2".

On page 35, line 9, delete the word "Secretary" and insert the word "Secretaries".

On page 36, lines 15–16, strike the words "endangered or".

On page 38, line 12, before the word "and" insert the word "propagation".

On page 38, line 18, after the word "has", insert the words "statutory and regulatory".

On page 39, line 13, strike the words "facing extinction" and, before the word "fish" strike the words "endangered and threatened".

On page 40, strike lines 13–17 and insert, in lieu thereof, the following:

"(B) the readiness of a State to proceed with a conservation and management program consistent with the objectives and purposes of this Act;

"(C) the number of endangered and threatened species within a State;

"(D) the potential for restoring endangered and threatened species within a State; and

"(E) the relative urgency to initiate a program to restore and protect an endangered or threatened species in terms of the survival of the species."

On page 40, line 19, after the word "year" insert the word "shall".

On page 40, line 20, after the period insert the words "Any funds remaining unobligated or unexpended at the close of the second fiscal year shall remain available to the Secretary for the purpose of this section."

On page 41, line 18, after the period, insert the words "For the purposes of this section, the non-federal share may, in the discretion of the Secretary, be in the form of real or personal property, the value of which will be determined by the Secretary, as well as money."

On page 41, line 23, after the word "appropriated" insert the words "through the fiscal year ending June 30, 1977."

On page 42, line 12, strike the word "of" and insert in lieu thereof the word "regarding".

On page 49, lines 19 and 20, delete the words "subsection (a)" and insert the words "paragraph (1) of this subsection".

On page 50, lines 20–22, strike the words "specimens or products processed or manufactured in whole or in part from specimens of any such species" and insert, in lieu thereof the words "any endangered species of fish or wildlife".

On page 51, lines 12–14, after the word "consumption" strike the words, "or taken for recreational purpose in waters under United States jurisdiction or on the high seas," and insert in lieu thereof the words ", or fish or wildlife taken for recreational purposes pursuant to applicable Federal or State laws and regulations in waters under United States jurisdiction or on the high seas".

On page 55, line 16, after the word "consumption" insert the words "within native villages or towns".

On page 59, line 14, after the word "revocation," insert the words "made pursuant to this section".

On page 68, line 11, strike the word "protection", and insert in lieu thereof the word "conservation".

On page 69, line 20, add a new subsection as follows:

"(f) Section 2(1) of the Federal Environmental Pesticide Control Act of 1972 (P. L. 92–516) is amended by striking out the words 'by the Secretary of the Interior under Public Law 91–135' and inserting in lieu thereof the words 'or threatened by the Secretary pursuant to the Endangered Species Act of 1973' ".

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

Mr. TUNNEY. Mr. President, I have submitted these technical and clarifying amendments to the Senator from Alaska (Mr. STEVENS) and he has indicated that he will support them. The amendments will help to achieve the purposes of the bill and will clarify some confusion caused by language remaining in the bill from earlier drafts or omitted from earlier drafts which went unnoticed during the final committee markup.

They are, as I indicate, technical in nature. They are important, however.

If there is a member of the minority on the floor now, I should like to move their adoption.

Mr. President, I ask unanimous consent that I may suggest the absence of a quorum, with the time to be charged against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NELSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I ask unanimous consent that William Spring and Richard Johnson, staff members of the Subcommittee on Manpower and Poverty, be permitted access to the floor during the course of the consideration of the manpower bill this afternoon, beginning at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. TUNNEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NELSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I ask unanimous consent that Mr. John Scales minority counsel of the Manpower and Poverty Subcommittee, be permitted the privilege of the floor during the debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TUNNEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, as I understand it, the parliamentary situation is that I have an amendment pending. I have not yet yielded back the remainder of my time.

The PRESIDING OFFICER. The Senator is correct.

Mr. TUNNEY. I am prepared to yield back the remainder of my time. Is the designee of the minority leader prepared to yield back the remainder of his time?

Mr. COOK. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. TUNNEY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. COOK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TUNNEY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. TUNNEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 53, line 8, strike the word "for.".

On page 53, line 8, before the word "scientific" insert the word "for".

On page 53, at line 11–12, strike the words "the propagation of such species in captivity or in a controlled habitat", and insert the following "(2) to enhance the propagation or survival of the affected species including the propagation of such species in captivity or in a controlled habitat."

Mr. TUNNEY. Mr. President, the purpose of the amendment I am offering is to allow the Secretary to permit the taking of an endangered species for the enhancement of the species. This is a needed management tool recommended by all wildlife biologists. It is needed, for example, where a species is destroying its habitat or where the species is diseased.

This amendment has been discussed with the Senator from Alaska, who has indicated that he approves of it.

I am prepared to yield back the remainder of my time, if the distinguished Senator from Kentucky, the designee of the minority leader, is prepared to yield back the remainder of his time.

Mr. COOK. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. TUNNEY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. COOK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. TUNNEY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. TUNNEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment is as follows:

On page 52, between lines 22 and 23, insert a new subsection as follows:

"(c) Species Held in Captivity or Controlled Environment.—The provisions or this section shall not apply to any species held in captivity or in a controlled environment on the effective date of this Act if the purposes of such holding are not contrary to the purposes of this Act.".

Mr. TUNNEY. Mr. President, I submit an amendment to S. 1983 to exempt from the prohibitions of this bill present owners of certain endangered species.

This amendment would exempt from Government interference endangered species now lawfully held in captivity or in a controlled environment which might come under provisions of this bill. These animals include pets, species held for obligation purposes for which permits might otherwise have to be secured under this bill, and species held in similar circumstances. The Government has made several attempts in the recent past to prosecute certain individuals attempting to enhance the condition of endangered species for seemingly technical violations of the law.

Without further judging this particular case, I wish to submit for the Record a newspaper article from the Denver Post illustrating the type of individual effort which can be made to help restore endangered species and the possible governmental interference which might be exacerbated if we did not provide the grandfather clause which is contained in my proposed amendment. I ask unanimous consent that this article be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Denver Post, Apr. 22, 1973]

How Redtape is Strangling an Endangered Species

(By Zeke Scher)

Colorado's Division of Wildlife has authorized 126 men and women to keep those majestic falcons and hawks generally called raptors. They spend many hours in training and hunting with the raptors, the world's fastest birds.

But not all licensed falconers have birds and some who do choose not to fly them and risk losing them, for raptor populations have plummeted and most of these birds of prey are on the endangered list.

The law limits a falconer to two birds. This possession limitation doesn't apply to "approved" scientific or education institutions (the Air Force Academy has nine), or to those engaged in an "approved" raptor breeding program. Seventy-six of the 189 birds in captivity in the state are held for breeding by 10 parties.

Lt. Col. Richard Allen Graham, 39, is one of them. He is in charge of the T-33 jet training program at Peterson Field in Colorado Springs. In August 1969, he returned to the United States after 250 fighter missions in Vietnam. He lives on the eastern edge of Colorado Springs in a modest ranch-style house with a spacious backyard, where he keeps the birds, and an unobstructed view of Pikes Peak.

Graham has worked with birds since he was 7 years old in his native Brownsville, Tex. In 1965 when the Air Force Academy wanted a rare white Arctic gyrfalcon, Graham took leave from his base in Germany and trapped one in Canada's Northwest Territories. The bird, named Baffin, became the Academy's official mascot.

When the Danish government last year approved a survey of Greenland's falcon population, Graham was named co-leader of the expedition. He is also director of the budding United Peregrine Society Inc., which seeks to save the endangered falcons by breeding them in captivity.

Graham has 17 falcons in the mews (the raptor pens) in his back yard. Fourteen are peregrine falcons, among the rarest of all raptors. There are only 50 in Colorado. Graham may hold more peregrines than anyone in the nation.

But:

The Colorado Wildlife Division won't renew his license as a falconer and won't "approve" his breeding program.

The U.S. Bureau of Sport Fisheries and Wildlife (BSF&W) is prosecuting him on three charges and is attempting to confiscate 10 of his birds.

The U.S. Customs Service has levied a $7,500 assessment on him for the same 10 birds the other government agency is trying to seize.

And a federal lawyer has threatened him with criminal prosecution if he crosses a state line with one of his falcons.

That's the "bad" news.

Now the "good" news:

Even those who are trying to block his breeding program concede that Graham is an experienced falconer totally dedicated to saving the birds.

He has served 21 years in the Air Force with distinction, winning the Distinguished Flying Cross and 13 Air Medals.

Educators, congressmen, lawyers and many falconers and friends are supporting his fight to continue his program of captive breeding.

What's the fuss all about?

Gross harassment, according to Graham, instigated by bureaucrats more concerned with prosecuting him than with saving an endangered species.

But government agencies say the issue is violation of regulations.

Their confrontation surfaced in four quick-breaking developments in February, and a climax is approaching. But let's start back at the beginning.

As a child in southern Texas Graham required no special lessons on law and order. His father was district attorney, his uncle was county judge and lots of other relatives were lawyers. A brother who is an attorney helped incorporate the United Peregrine Society.

Graham probably would have become a lawyer, too, but for his enlistment at 18 as an airman in August 1952 at Corpus Christi, Tex. The toughest thing about his first two years in the Air Force training was he had to do without his pet birds. When other kids were shooting hawks, Graham had been patching them up. He was seldom without a raptor.

You can take Lorinda Graham's word for that. A native of Sheridan, Wyo., she met Richard—and his redtail hawk—at McChord Air Force Base near Tacoma, Wash., in 1956.

They were married two years later. Luggage in the travels of the service family always included a hawk or falcon—to Alaska, Maine, Texas, Arizona, Germany and finally Colorado.

In the mid-'60s, Graham underwent a change in raptor philosophy. The sport of falconry—using raptors to hunt game—seemed an indulgence at a time when the world's falcons faced extinction.

Agricultural pesticides had gone up the food chain—insects to small birds to raptors—to the point where falcons were dangerously threatened. They couldn't utilize the calcium needed to form egg shells strong enough to withstand incubation.

Graham's love for the birds dictated he do something to save the species. He felt that in the not-too-distant future the problem of agricultural poisons would be whipped. But in the critical period of perhaps 10 to 20 years, the raptors might not survive in the wild. His solution: Breeding North American peregrine falcons in captivity for eventual reintroduction into the wild.

This plan would entail capture of comparatively few birds and a large-scale research program to maintain the genetic continuity of the species, which would be fed poison-free food.

The food, large housing facilities and the unusual amount of time required in handling falcons—to keep them tame and healthy—meant considerable expense. Graham helped create the United Peregrine Society as the non-profit vehicle to support the plan.

A week after his arrival in Colorado Springs in late summer of 1969, Graham informed state officials in Denver that he had more than the two birds allowed—three Spanish peregrines and a gyrfalcon—and that he expected to obtain more for his breeding program.

Colorado Game Director Harry Woodward suggested Graham apply for a scientific collectors permit and mailed him forms. Graham filled them out and returned them. Nothing happened for the rest of 1969.

In early 1970 Graham received a letter from Jack E. Hogue, Woodward's chief conservation officer. It was a notice to reduce his stock to two falcons within 30 days.

Graham telephoned Woodward who said he didn't know about the Hogue notice. He suggested a conference in his Denver office. It took place July 24, 1970. Laurence Riordan, assistant director of field operations, summarized the meeting in his minutes:

"Graham explained his interest and concern that something be done to try to prevent the complete extinction of the peregrine falcon, particularly the birds that traditionally or historically occupied the mid-latitude ranges throughout the northern hemisphere . . . According to several experts he quoted, the next 8 to 10 years could be crucial . . .

"His proposed solution to the problem is to collect and hold in captivity representative specimens of the several races of birds until such time as they can be reintroduced to their native ranges. . . ."

Riordan suggested that the Colorado Game Department had "both the legal and moral responsibility to prevent the extinction of any native wildlife species" and it should "seriously consider entering into some type of cooperative working relationship with Graham to overcome the legal aspects of his having more than the two birds permitted by law."

Woodward now pointed out that a scientific collecting permit was not issued to individuals unless they are vouched for by a recognized scientific or educational institution. He suggested that Graham get some affiliation and promised to take "no precipitous action" while a solution was being worked out.

Meanwhile, Graham was granted a regular raptor license for 1970 and it was renewed in 1971. He built mews in his backyard, obtained a source of untainted food (small chickens) and continued his breeding plans, all out of his own pocket. At the same time he submitted detailed proposals for support to the National Audubon Society, Cornell University, Colorado State University and the Interior Department's Patuxent Wildlife Research Center at Laurel, Md.

All were laudatory of Graham's goals. But all turned him down, pleading shortage of funds.

But Graham was cheered when interest was shown by the Zoological Society of San Diego, Calif. This reached the stage of preparing a contract for a $615,000 10-year captive breeding program. At the last moment Graham was pushed aside by another project.

Woodward then suggested that Graham seek an amendment to the raptor laws which would permit an individual to keep more than two birds for breeding. Graham conferred with State Sen. George Jackson of Colorado Springs who agreed to sponsor such a bill in the 1971 Legislature. A proposed draft was endorsed by the local game officer, Jack Walch.

But somewhere along the line there was a signal change. Senator Jackson was informed that the state game department opposed his bill for an individual's breeding permit—the bill that Woodward had urged Graham to get.

At a Senate subcommittee hearing in February 1971 on the bill, Hogue testified there was no need for an individual breeding program because the state was supporting two organized breeding projects at CSU and Colorado College.

Graham countered with a charge that Hogue was misinforming the legislators. There were *no* breeding programs at CSU and CC for the state to support, he said. Graham had chaired a falcon-breeding seminar at CSU and was working closely with a CC falconer, and consequently "knew what I was talking about."

The colonel won a partial victory. The raptor law was amended to allow individuals to exceed the two-bird limitation if they are engaged in raptor breeding efforts "approved by the Division of Wildlife."

It was a hollow victory. Another amendment put clamps directly on Graham. Prior to 1971 the law defining raptors included the words, "all birds found in the wild on the North American continent that are members of the order of falconiformers, strigiformes, etc."

The legislators—on recommendation of the game department—removed from that definition these five words: "On the North American continent." This changed the Colorado law to bring under game department control any raptor a resident might have, no matter where it came from. Graham held three peregrine falcons from Spain. Up to this point, the possession limitation of two birds hadn't applied to the Spanish species.

Nonetheless, Graham submitted his application for an "approved" individual breeding program.

Meanwhile, a chance of a lifetime came up. An old friend in Spain, the Marques de Torrehermosa, Mauricio Lopez Roberts, offered Graham several pairs of the abundant Spanish peregrine falcons for the breeding project.

Says Graham: "They would be ideal for our research since they come from an identical latitude as our endangered peregrines and you can hardly tell them apart.

"I phoned Hogue in Denver and asked if the new state law (removing the 'North American continent' phrase) had been signed by the governor and was effective. If it had been, I would have needed permission from Hogue to import the birds.

"He said the new law hadn't been signed, but I should write him my plans, which I did. Col. Jim McIntyre who is in charge of the Air Force Academy falcon program agreed to sponsor my transportation on military aircraft to get the falcons from Spain."

Graham next contacted the Interior Department in Washington, D.C. He was told wildlife must be brought into one of several designated ports of entry, otherwise a waiver must be granted by the government.

"I didn't know how many birds I would get or when or where my military plane would land," Graham says. "But wherever it was, it would be a place with U.S. Customs and I assured them I would fill out the applications and wildlife declarations."

What was said in these conversations with Washington is disputed now. In a letter dated May 16, 1971, just before the hurried trip to Madrid, Graham stated his travel plans to pick up about eight birds. Marshall L. Stinnett, the Bureau of Sports Fisheries and Wildlife enforcement branch chief with whom Graham spoke, says he never got the letter. (He also denies getting a second letter Graham sent a week later—after the trip.)

Nearly a year later—April 14, 1972—Stinnett wrote Graham saying he should have filed applications before leaving for Spain. He denied authorizing any exception to normal procedures.

What happened was this:

Graham flew from McGuire Air Force Base, N.J., to Spain in May 17, 1971, where he met his friend the Marques. The acquaintanceship began in the mid-'60s when Graham, stationed in Germany, was detached to help the Torrejon Air Base near Madrid solve a bird-hazard problem.

The solution: Fly a few falcons and they would quickly chase off the birds fouling up the airways. Presto: No more hazard.

The Marques surprised Graham by offering him 10 peregrine falcons. Graham fixed cages for the birds and within two days was winging back to the United States with them. Before leaving, he checked the military base administration section and was told Spanish regulations had been studied the previous summer when an Air Force Academy cadet took a peregrine. Only a health certificate was necessary and Graham obtained that for all the birds.

The plane Graham was on was to land at Dover Air Force Base, Del., about 8 p.m., May 21, 1971. The pilot, while over the Atlantic, asked Dover to notify U.S. Customs about the incoming falcons (Dover is a "nondesignated" port of entry). Stinnett's name and phone number in Washington were provided in case of any questioning.

On arrival at Dover, Graham found the Customs agents knew nothing about the incoming falcons. So Graham declared them—gifts for breeding purposes, no commercial value—and Customs passed him through. Stinnett had told Graham he should file a Form 3-177 Declaration for the Importation of Fish or Wildlife, but Dover didn't have the form.

Graham went on to McGuire Air Force Base in New Jersey where he again checked with Customs. They didn't have a Form 3-177 either. "No problem," he was told. That was an error.

A friend drove Graham and the birds to Philadelphia where he took a commercial flight back to Colorado, the birds riding in the baggage compartment. In Colorado Springs Graham sent the second letter to Stinnett—which Stinnett says he didn't get—in which Graham mentioned the unavailability of the Form 3-177.

There was no reply and Graham says: "I assumed that since I'd cleared Customs, and since Interior didn't seem interested after my letter to them, it was no big thing."

Next Graham sent Chief Hogue a letter informing him of the big addition to his mews.

(Hogan got the letter but didn't respond.)

Five months later Graham had an unnerving visit. Two federal agents—from Customs and Interior—came by his house and asked what "duties" he had paid on the imported birds.

"They mentioned the confiscation powers of Customs, the possibility of criminal charges and the veiled threat of how an investigation would look on my military record," Graham recalls. "They talked about nondesignated ports of entry and the Lacey Act. I asked if they were advising me of my rights or seeking information to use against me.

"No, I was told, it was just that if any duties were owed, they wanted to be sure they were collected. I told them of the approval I got from Stinnett in Washington and they left."

In December 1971 Graham learned he was in fact being investigated by the Air Force's Office of Special Investigation (OSI).

"I met with OSI Agent Howard Rossiter to try and clear up the whole thing," Graham says. "Stinnett had written the Air Force saying that Interior had 'confidential' information that I may have stolen some falcons in Spain with an unnamed German national."

A month later the mail brought him Customs Form 5955-A, dated Jan. 10, 1972. It stated: "Demand is hereby made for payment of $7,500 representing penalties assessed against you for violation of law or regulation as set forth below—

"From Nov. 5, 1969, to May 21, 1971, you imported 13 raptors (falcons), declaring them at 'no commercial value' or 'free entry' as personal baggage of a returning Vietnam serviceman."

Graham immediately wrote the Bureau of Customs demanding to see any possible documents on which they based their claims. Customs acknowledged his response and—in two letters—said there would be a delay because they were seeking more documentation themselves.

On March 14, 1972, came an amended "notice of penalty" dropping the Vietnam reference (Graham says he had no birds in Vietnam to bring back) but maintaining the $7,500 assessment based on "the domestic value" of 13 falcons imported between 1969 and 1971 as "baggage of a returning serviceman and as property of the United States Air Force Academy."

Since there is no marketplace for falcons—Colorado law prohibits their purchase or sale—Graham asked how the government set a commercial value on them.

The Customs acting district director, J. G. Brenner, replied on March 31, 1972:

"The foreign values are determined in the market of the country of exportation where such or similar merchandise is freely sold or offered for sale. Domestic values represent value at the time and place of a seizure in the condition and quantities seized. Sincerely yours, J. G. Bremer."

On April 22 Graham sent a four-page, single-spaced typewritten letter detailing to Customs the source of his birds and the plans for them. He mentioned the common incorrect assumption that any Air Force officer with a falcon going to Colorado Springs must be with the Academy.

"There has been near-hysterical reaction toward one man attempting to make a contribution to wildlife," Graham wrote. "Many vested interests in the Fish and Game Departments as well as others feel that only a university or a governmental agency should make an attempt.

"It is ironic that as an individual with 30 years practical experience, and actually breeding the falcons in captivity at this time, I find myself under pressure which would prevent my contribution. Certainly no state or federal agency has a wide-ranging plan as that of the United Peregrine Society. Somehow this is neither correct nor just."

He attached copies of eight letters—from doctors, professors and zoologists—commending his preservation program and dedication.

Graham was deeply discouraged by what he considered unreasonable harassment, but he stuck doggedly by his guns. While he awaited an answer, he found another opportunity to increase breeding stock in the United States.

The Mexican government consented to the export of five pairs of endangered peregrines—on condition the United States approved. Graham asked for that permission on March 17, 1972, in a letter to Director Earl Baysinger of the U.S. Wildlife Bureau.

Graham explained that the birds would be cared for at Brigham Young University, Provo, Utah, by Dr. Clayton White, and at Centerville, S.D., by Don Hunter, past president of the North American Falconers Association. Both men are trustees of the United Peregrine Society. When the society establishes permanent breeding facilities, the birds would be placed there.

When he got no response, Graham went to Washington and obtained an appointment with Baysinger, who asked his enforcement chief, Stinnett, to sit in.

For an hour Graham enthusiastically described his hopes and beliefs on what could be done for the raptors, and Baysinger seemed to be impressed.

Stinnett then mentioned that there was "some question" with Customs over Graham's importing 10 Spanish birds. Stinnett felt that the Interior Department shouldn't authorize the Mexican import while that issue was pending, and that's the way Baysinger ruled.

The "question" with Customs remains unanswered and no hearing was ever set. It continued to be a factor, however, in later, more perilous developments.

Last spring Denmark authorized a population survey of the peregrine falcons of Greenland, where little information was available on these birds. Heading the expedition were Dr. William G. Mattox of Dartmouth College—and Graham. The Air Force granted Graham temporary duty—at no expense to the government—to perform the 90-day survey. Last June 20 the expedition left for Greenland from McGuire Air Force Base, N.J.

On that same day in Denver's U.S. District Court, another adventure began involving Graham. A small group of state and federal agents, armed with a very unusual search warrant, prepared to swoop down on Colorado Springs and raid Graham's falcons.

[From the Denver Post, Apr. 29, 1973]

The Raid on 5111 Rocking R Drive

(By Zeke Scher)

The day last summer that Lt. Col. Richard Graham left the United States for Greenland to survey the endangered peregrine falcon, a small group of officials met in Denver's U.S. District Court to plan a raid on Graham's Colorado Springs home.

The Americans in the expedition left from McGuire Air Force Base, N.J., on Tuesday, June 20. In Denver, Asst. U.S. Attorney Charles Johnson accompanied by David Kirkland, a game management agent for the U.S. Bureau of Sport Fisheries & Wildlife (BSF&W), approached Magistrate Royce D. Sickler. Johnson docketed a case entitled *United States of America vs. 5111 Rocking R Drive, Colorado Springs, Colo. 80915*, and requested a search warrant.

The address is the home on the eastern edge of Colorado Springs for Graham, his wife Lorinda, their three children and 17 falcons, the world's most beautiful birds of prey.

Graham was assigned to Peterson Field in August 1969 after completing 250 fighter missions in Vietnam. His life-long love for birds and his expanding avocation of trying to save the endangered birds by a captive breeding program were detailed in the first installment of this story last week.

Graham came to Colorado with a gorgeous white Arctic gyrfalcon he'd trapped in Canada, and three Spanish peregrine falcons. Later he was given two prairie falcons, trapped two tundra peregrines in South Carolina and then received 10 Spanish peregrines (one of which escaped) from a friend in Madrid.

But Colorado law restricts a falconer to no more than two birds unless he has a breeding program approved by the State Wildlife Division. Graham's request for approval went unanswered.

As detailed in the first part of this series, eight months after Graham's return from Spain with the 10 donated birds, the U.S. Customs Bureau imposed a $7,500 penalty on him, charging him with importing them illegally.

The fact that Graham was "under investigation" by federal agents was the reason Colorado officials ignored Graham's requests for permits and licenses.

Jack E. Hogue, chief conservation officer for the Colorado Wildlife Division, told *Empire:* "We wouldn't issue Graham any permits so long as he was being investigated. In fact, they (federal wildlife bureau) asked us not to issue him any."

Then, last June 20 in the Denver court, Johnson, the government lawyer, handed Magistrate Sickler the sworn statement by Game Agent Kirkland:

"On or about May 21, 1971, Graham . . . did import into the United States at Dover Air Force Base, Del., 10 Spanish peregrine falcons. At said time, Graham had not obtained a permit from the U.S. Department of Interior to bring wildlife through a non-designated port of entry. Graham did not file a Form 3-177, Declaration for Importation of Fish and Wildlife, Graham had not received authority from a foreign country, to wit, Spain, to export the 10 Spanish peregrine falcons as required by Title 18, U.S. Code. . . .

"On June 19, 1972, U.S. Game Management Agent Charles Hayes, Denver, Colo., informed me that Graham still had some of the illegally imported Spanish peregrine falcons in his possession and that there was a good possibility he would be leaving the state in the near future."

The magistrate signed the search warrant. It directed "any U.S. game management agent" to search 5111 Rocking R Drive and seize "10, more or less, Spanish peregrine falcons."

Under the court order, Hayes became director of the raiding party. He told *Empire:* "I decided we would make the seizure on Saturday morning because I was told that was the best time to catch Graham at home. The night before I got a phone call telling me Graham wasn't there. I didn't like that, but I decided to go ahead anyway because of all the preparations."

The preparations had begun long before the court issued the warrant. A pen for the to-be-seized birds was set up at the Denver Federal Center in a building formerly used for duck breeding research.

Hayes also built perches to handle a dozen birds in the back of an air conditioned station wagon. He, asked Colorado Game Department to assign its young raptor biologist, Gerald R. Craig, to help with the actual confiscation of the birds.

Craig is a 26-year-old Colorado State University graduate and the first raptor specialist hired by any state game department. He'd visited Graham's mews and could identify the Spanish birds better than any of the federal agents.

He emphasizes that he didn't volunteer for the task. "I was asked," he says. Craig was concerned about possible injury to the birds when they were approached by strangers, especially ones who don't know how to handle falcons.

Craig spent three evenings before the raid making soft leather hoods to put over the falcons' heads. The hood blinds the birds and generally keeps them quiet.

At 7 a.m. Saturday, June 24, Hayes picked up Kirkland and Craig and the three drove in the station wagon to Colorado Springs. There they stopped at the game department office where they were joined for the raid by Agent Howard Rossiter of the Air Force's Office of Special Investigations (OSI).

While these four proceeded to 5111 Rocking R Drive, another federal game agent, Jack Randall, drove to Canon City to seize two peregrines known to be held for Graham at the home of Bill Burnham, who also was away on the Greenland survey. (Since the search warrant didn't cover Burnham's home, Randall's authority was at best questionable.)

At 5111 Rocking R Drive, Lorinda Graham was on a second cup of coffee when the doorbell rang. She found four men at the front door. Kirkland identified himself and explained the search warrant. "I heard the words but I really didn't understand that they intended to take the birds away," she recalls. "I told them Richard wasn't home."

"Yes, we know," Kirkland replied. "We just found out last night."

Mrs. Graham led the men to the back yard "to look at" the falcons. She unlocked one of the three mews.

Craig alone went inside. A few minutes later he walked out with a hooded bird—a majestic 5-year-old female Spanish peregrine that Graham owned before he came to Colorado. Mrs. Graham was shocked. She suddenly realized the men were really going to take her husband's beloved falcons.

She slammed the lock back on the door and ran into the house to call a lawyer. Kirkland stood at the door demanding she re-open the mews or they'd break the door down. She couldn't reach the lawyer. She called another Colorado Springs falconer, Rodger (Buddy) Graver, and he sped over to help the distressed woman.

Graver pleaded with the officers not to endanger the birds' lives by taking them when Graham was away. Meanwhile, Mrs. Graham reached the legal officer at Peterson Field where her husband is stationed and explained the situation. He said she had no recourse if there was a legal search warrant.

One by one, Craig carefully hooded the falcons—10 of them—and removed them to the station wagon. Agents Hayes and Kirkland assured Mrs. Graham the birds would be properly cared for but they refused to reveal where they would be held. The officers drove away and the woman collapsed. A physician was called and Mrs. Graham was taken to the Peterson Field medical facility.

She was given an electrocardiogram because of heart attack symptoms. This proved negative but she was given medication (which she continues to require). The Air Force was asked to notify her husband.

Graham on that day was on a backpack trip into the wilderness some 30 miles from Sondrestrom Air Force Base in Greenland. He wouldn't return until Monday.

Hayes, Kirkland and Craig drove with the birds from Colorado Springs to Canon City where they met Randall. He was awaiting their arrival before approaching Burnham's wife, Pat, for the two peregrines at her home. The woman turned them over.

This gave them all of Graham's Spanish peregrines—three he'd owned (without dispute) since 1969, and nine of those he brought in from Spain. The officers arrived at the Denver Federal Center shortly after 6 p.m. They'd had no trouble with the birds.

Mrs. Graham finally got word to her attorney, J. Gregory Walta, and he immediately began action to get the birds released.

On Monday afternoon, June 26, two days after the raid, an unusual stipulation was submitted to Judge Alfred A. Arraj in Denver's U.S. District Court. Government Attorney Johnson agreed to the return of all birds if the Grahams posted $1,000 bond and agreed not to take the falcons out of Colorado.

The stipulation informed the court: "There is danger that such falcons may expire unless they are returned to Mr. and Mrs. Graham."

Judge Arraj approved the action. (There still was no suit—civil or criminal—filed against Graham. There never was.)

When Colonel Graham finally received word of the seizure he left the expedition and hurried home. By Wednesday noon he was back in Colorado Springs. The previous afternoon Mrs. Graham and two falconer friends, Buddy Graver and Roger Smith, armed with the court order, went to the Federal Center and asked Kirkland for the birds.

Kirkland demanded that she sign a release stating the birds were in the same condition as when they were taken. She refused until she could examine the falcons. They were returned to 5111 Rocking R Drive, apparently none the worse for the roundtrip to Denver.

Attorney Walta sought some legal answers. In what type of litigation was the search warrant obtained? Why was it necessary to seize and imperil the rare birds? (U.S. Attorney Johnson tells *Empire* the warrant was obtained "in anticipation" of filing a federal court action.) Walta and Graham could learn only that a complete report on the case had been forwarded to the attorney general in Washington, D.C.

Eight months passed. Then Walta learned the attorney general's office had vetoed any prosecution of Graham and had returned the case to the federal wildlife agency (BSF&W).

The U.S. attorney in Denver, however, refused to drop the $1,000 bond and the restraining order despite the lack of a case. So Walta forced the issue by going to Judge Arraj.

Last Feb. 21, Graham, in uniform with a chestful of decorations, sat beside Walta in Judge Arraj's Denver courtroom. Agent Kirkland sat with Johnson at the opposite table. Walta opened the proceeding by calling Graham to the witness stand. Graham began an outline of his 32 years' experience with hawks and falcons. But Johnson interrupted to object.

"I'll concede that Colonel Graham is a falconer but I object to trying this case on the merits," he said.

Walta said the purpose of the testimony was to show why Graham is keeping the birds.

Judge Arraj asked a question that seemed to startle Johnson: "Why not try the case on the merits?"

Johnson replied that "other" proceedings were pending and that "Graham could leave the country."

"If he crosses the state lines with a falcon, he will violate the Lacey Act," Johnson said. "The government is trying to protect him."

"Protect him?" asked Walta.

"We're trying to help Colonel Graham not take the law in his own hands," explained Johnson. "I'll concede there is no necessity for the bond."

Walta asked the judge how the government could keep Graham under bond for eight months without filing a charge. Johnson offered an apology, adding that the preparation of charges "takes time."

"I'm granting the motion to dispose of the bond," said Arraj. The hearing was adjourned.

A heated exchange between Walta, Graham and Johnson continued to the hallway. "It takes the government seven months to find out what the law is?" asked Walta. "How is the individual supposed to know?"

"Our position is that when the birds came in there was a question whether they were legally imported birds," said Johnson. "And after this hearing today, I'm going to do everything I can to stick you. I shouldn't get emotionally involved but I am."

The dismissal of the bond was another hollow victory for Graham.

His letters to the Colorado Wildlife Division's Director Harry Woodward, biologist Craig and enforcement chief Hogue, asking approval for his breeding program, remained unanswered.

Reports that he was "under investigation" continued to circulate. U.S. Customs did not drop its $7,500 penalty assessment on Graham for the Spanish peregrines—but failed to set a hearing to dispose of the matter. His service-connected flights in and out of the country resulted in closer scrutiny of his luggage.

The only conclusion Graham could reach was that others were more concerned with harassing him than with saving the endangered species. So he decided to bring the situation into the open.

First he got permission to address the monthly meeting of the Colorado Wildlife Commission's Game Committee. And then he asked the Colorado Department of Natural Resources director, Tom Ten Eyck, who supervises the Wildlife Division, to hold a meeting with all concerned to clear the air.

On Feb. 8, Graham appeared before the wildlife game committee.

"I want to report what I consider gross harassment by the Game Department," Graham began, then reciting in chronological order his licensing and permit problems since returning from Vietnam in 1969.

On his clash with Hogue in the Legislature on a raptor law amendment, Graham said: "I feel Mr. Hogue told me to play frog and I didn't jump."

On the Wildlife Division ignoring him: "I have a year's correspondence here with no response."

On official indifference: "Cornell University had a female prairie falcon ready to breed and requested I ship my home-raised male prairie falcon. I asked Colorado permission to send it. I got no answer."

On his preservation program: "I'm an individual trying to do something. As long as they ignore me, they're effectively using their investigative powers for punitive action."

The chairman, Dr. Wilton Cogswell, Jr., assured Graham: "It's not the intention of the Wildlife Division to harass you. We'll order a report to the commission and to you. I thank you for bringing it to our attention."

The next day, over Woodward's signature, Graham got a reply:

"The Division's position has been that information on the legality of birds in possession . . . should be verified . . . Investigations into the legality of holding some raptors by Colonel Graham were initiated prior to July 1970 by the Bureau of Sport Fisheries & Wildlife, assisted by other agencies. These have continued until the present time and are still pending. U.S. Customs violations on the importation of some of the raptors now in his possession are a matter of record * * *

"Lastly, our correspondence and record files will show that lack of answers to Colonel Graham's inquiries do not exist and that harassment, from the Division's standpoint, has not occurred."

(Editor's note: Graham has not been found guilty of any customs violations.)

Woodward added that if bird legality is proved, the Division would still scrutinize cautiously Graham's research objectives.

The reply was another frustration for Graham. He'd already submitted all the information he had on his Spanish peregrines including the health certificate obtained in Spain and a letter from the donor. He had no other "documentation."

On the following Wednesday, Feb. 14, Graham, Walta, Woodward and Craig met with Resources Director Ten Eyck.

The meeting started on a sour note. There was no federal representative as promised, and as a result nothing would be learned about the federal position.

In the three-hour discussion that followed, Ten Eyck acted as interrogator and moderator, seeking immediate responses to Graham's charges of improprieties.

"We got letters saying Graham was going too fast for the good of the birds," said Craig. "The letters are in the file."

"That's the first time I've heard of that," said Graham.

"I've got a stack of letters here about Mr. Woodward," said Ten Eyck. "Does that convict him of anything? If you have complaints against Graham, you should give him a chance to hear them and answer. I believe that involves fundamental due process of law."

"If anyone is really interested in these birds, some communication should have been had," said Walta. "It seems to me that all efforts at communication came from this side."

Ten Eyck said: "I have the impression that Colonel Graham is a dedicated researcher in the falcon field."

"I don't dispute that," replied Craig.

"Does he have any improper motive?" asked Ten Eyck.

"I can't say that," replied Craig. "Legality of the birds is the issue."

"Then Graham is guilty until proven innocent?" asked Ten Eyck.

Woodward said the Division just wants documentation.

"He got silence from you," Ten Eyck said. "How does he interpret that? We've got to do better. In what way is his documentation inadequate? I get the impression he's tried like hell to do the right thing."

Walta asked: "Is the whole concept of breeding for future release a good idea? If so, let's cooperate with those truly interested scientists."

"We are for captive breeding," said Craig, "but I can't put much faith in individual projects. Graham has the drive and as much dedication as anyone but he may have overstepped the bounds by not going through channels."

Woodward said all the Division wanted was legal documentation or "a legal explanation" on the Graham birds.

"A legal explanation?" replied Ten Eyck. "Now that's different from legal documentation. I haven't heard you say that before, Harry. I worked in Spain for two years and for $10 you could get any official document you wanted. I don't think you want just a phony document."

When Graham again told about his letters to Craig and Hogue which went unanswered, Ten Eyck interrupted him: "I think you've rubbed their nose in it pretty good. You've made your case. Harry, I can't assess it any other way."

"I assess it that way too," Woodward admitted.

"I hate to see bureaucracy lose sight of our real goal—preservation of the species rather than Form X," said Ten Eyck.

What Ten Eyck didn't know, but what Woodward, Craig and Hogue did know at that time, was that the federal BSF&W was filing "administrative" charges against Graham concerning the importation of the 10 Spanish birds.

Denver wildlife agent Hayes was informed Feb. 6 from Washington that a three-count "notice of violation" was being sent by certified mail. He informed the state agents but "law enforcement ethics" forbade their disclosure until Graham was served.

The charges, dated Feb. 7, were not received by Graham until he picked up the certified letter at a Colorado Springs branch post office on Feb. 20, long after both the meetings with the commissioners and with Ten Eyck.

The four-page "notice of violation" accused Graham of illegally bringing in the falcons at Dover, Del., "not a designated port of entry for importation of fish and wildlife." A civil penalty of $2,000 was "assessed" for that offense.

A second count accused Graham of violating the laws of Spain. "You have not been issued any permit or authorization from the Spanish Ministry of Agriculture or his delegate showing that you had permission to leave the country with these birds," it was charged. A $1,000 penalty was imposed for that.

The third count made Graham liable for a $1,000 penalty and forfeiture of the peregrines for failure to file Form 3-177 with the Customs Bureau.

Graham was given 20 days to notify the Secretary of the Interior if he would pay penalties or contest the charges. He didn't need 20 seconds to decide.

A "notice of contest and request for hearing" was sent to Washington, D.C. The reply was prepared by Walta and a new face on the Colorado Springs scene, Shephard Kole, a New York attorney who successfully championed the cause of the Amish in an early '60s battle with the government over Social Security taxes.

Kole, 55, moved to Colorado in January, just four blocks from Graham. When he heard about his neighbor's plight, he volunteered his services.

Among the points raised by Walta and Kole:

The Lacey Act (which would convict Graham of a Spanish law violation) is unconstitutional because it delegates legislative powers to every foreign country on Earth.

Spanish hunting laws didn't apply because the donated birds were domestically owned by a Spanish citizen with a valid permit. No violations were charged by Spanish authorities.

Graham informed authorities at each step of the importation, was granted Customs clearance and no objection was made, reaffirming a government waiver of procedural formalities nearly two years ago.

If the lack of a Form 3-177 is a continuing problem for the government, the attorneys continued, "Graham stands willing and able to complete Form 3-177."

Late last month another surprise was injected into the debate. Dr. Emilio Gomez-Manzanares, agricultural attache for Spain in Washington, D.C., sent a letter to the director of the federal wildlife bureau.

". . . I feel required to bring to your attention that the charges of violation . . . of the Spanish Hunting Regulations are based on a mistranslation," the Spanish official stated. "The Spanish term 'piezas de caza' which appears in the original text of the Spanish law has been translated as 'hunting animals' in your notice, when it really means 'game.' Therefore, it does not apply to falcons, hawks and other birds of prey.

"Consequently, I consider that there are no grounds for the charges made against Colonel Graham based on the referenced Spanish Hunting Law."

The proposed contest will be before a hearing officer to be named, probably in Denver. At this writing no date has been set.

When the lawyers finally get around to debating the issues, I wonder if anyone will offer a word for the birds in Colonel Graham's back yard. If the litigation goes on long enough, the subject matter could well vanish.

Mr. TUNNEY. Mr. President, this amendment has been discussed with the Senator from Alaska, and he has indicated that he approves of this amendment.

I am prepared to yield back the remainder of my time, if the Senator from Kentucky is prepared to do the same.

Mr. COOK. Mr. President, we have no objection to this amendment and I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. TUNNEY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. COOK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TUNNEY. Mr. President, it is my understanding that the Senator from Kentucky has an amendment.

Mr. COOK. Mr. President, I am in the process of having that amendment prepared, and I have one other amendment I am trying to check now with the Senator from Alaska.

Mr. TUNNEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. TUNNEY. To be equally divided.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House has passed the bill (S. 426) to regulate interstate commerce by requiring premarket testing of new chemical substances and to provide for screening of the results of such testing prior to commercial production, to require testing of certain existing chemical substances, to authorize the regulation of the use and distribution of chemical substances, and for other purposes, with amendments, in which it requested the concurrence of the Senate.

TIME LIMITATION AGREEMENT ON S. 1559

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on S. 1559 there be a time limitation of 1 hour, the time to be equally divided between the Senator from Wisconsin (Mr. NELSON) and the Senator from New York (Mr. JAVITS); that the time on any amendment, debatable motion, or repeal be limited to 30 minutes; and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I understand this request has been cleared on both sides.

Mr. STAFFORD. That is true, Mr. President.

ORDER FOR RECOGNITION OF SENATOR WEICKER TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, the distinguished Senator from Connecticut (Mr. WEICKER) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, under the same arrangements as heretofore agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COOK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 8947) making appropriations for public works for water and power development, including the Corps of Engineers—Civil, the Bureau of Reclamation, the Bonneville Power Administration and other power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Atomic Energy Commission, and related independent agencies and commissions for the fiscal year ending June 30, 1974, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. EVINS of Tennessee, Mr. BOLAND, Mr. WHITTEN, Mr. SLACK, Mr. PASSMAN, Mr. MAHON, Mr. RHODES, Mr. DAVIS of Wisconsin, Mr. ROBISON of New York, and Mr. CEDERBERG were appointed managers on the part of the House at the conference.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States, submitting nominations, were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. HASKELL) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations received today, see the end of Senate proceedings.)

VISIT TO THE SENATE BY MEMBERS OF THE CANADIAN PARLIAMENT

Mr. McGEE. Mr. President, we are delightfully graced today by our colleagues from the Parliament of Canada. All of these gentlemen are old friends of many Members of this body.

We have a great tradition of meeting every year in order to exchange views, to share problems, and to try to find mutual solutions to these very difficult questions. I know of no finer way to address ourselves to good relations than in this fashion.

Some few of us have just returned from China, where we had conversations with their deputies, and there was a great contrast. They could not even understand the kind of problems we have in parliamentary systems at all. There was no vernacular for mutual dialog. That simply underscores the importance that where we do have similar systems we understand the use of the common denominators present in our systems to bring us closer together rather than to move us farther apart. That is precisely why we are here today.

In the Senate and House of Representatives, we have been so carried away with our good relations with our colleagues from Canada that we were reluctant to wait until next April, when we were scheduled to meet again, so we had to figure out how best to get them down here. We found that oil was the quickest and easiest way to float them into the U.S.A. That is what brings us together. We have mutual efforts. None of us looks upon this as a simple thing; it is complex.

So I take this opportunity to present the distinguished Governors and Members of Parliament from the Government of Canada:

CANADIAN DELEGATION TO THE SPECIAL MEETING OF THE CANADA-UNITED STATES INTERPARLIAMENTARY GROUP

Senate:

Hon. Alan Macnaughton, P.C.—Lib.-Quebec—cochairman.

Hon. Allister Grosart—P.C.—Ontario.

Hon. Daniel A. Long—Lib.-Ontario.

Hon. M. Grattan O'Leary—P.C.-Ontario.

Hon. George van Roggen—Lib.-British Columbia.

House of Commons:

Mr. Robert McCleave, Deputy Speaker—P.C., Nova Scotia—cochairman.

Mr. J.-J. Blais—Lib.-Ontario.

Mr. Jack Cullen—Lib.-Ontario.

Mr. Len Marchand—Lib.-British Columbia.

Mr. Paul E. McRae—Lib.-Ontario.

Mr. T. C. Douglas—N.D.P., British Columbia.

Mr. Randolph Harding—N.D.P., British Columbia.

Mr. Eudore Allard—S.C.-Quebec.

Mr. Peter C. Bawden—P.C.-Alberta.

Mr. Walter Baker—P.C.-Alberta.

Mr. John A. Fraser—P.C.-British Columbia.

Mr. Donald W. Munro—P.C., British Columbia.

Staff: Mr. Peter Dobell, Ms. Jean Macpherson.

Political Parties: Lib., Liberal; N.D.P., New Democratic Party; S.C., Social Credit; and P.C., Progressive Conservative.

[Applause, Senators rising.]

Mr. COOK. Mr. President, I move that the Senate be in recess for 5 minutes so that we may greet our colleagues from the Canadian Parliament.

The motion was agreed to; and at 1:35 p.m. the Senate took a recess until 1:40 p.m. whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. HASKELL).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COOK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT ON S. 1559

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after the pending business is finally disposed of, the Senate proceed to the consideration of Calendar No. 286, a bill (S. 1559) to provide financial assistance to enable State and local governments to assume responsibilities for job training in community services, and for other purposes, so that it may become the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. I ask unanimous consent that, after the disposal of S. 1559, the Senate go into executive session to consider the nomination of Mr. Vincent R. Barabba, of California, to be Director of the Census.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENDANGERED SPECIES ACT OF 1973

The Senate continued with the consideration of the bill (S. 1983) to provide for the conservation, protection, and propagation of species or subspecies of fish and wildlife that are threatened with extinction or likely within the foreseeable future to become threatened with extinction, and for other purposes.

Mr. COOK. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

> On page 43, line 11, insert the following: strike the word "such," and insert the word "any."

Mr. COOK. Mr. President, an earlier version of this bill provided that the appropriate Secretary review other programs administered by him and utilize such programs in furtherance of the purpose of the act. The bill provided further that all other Federal departments and agencies, shall, in consultation with and with the assistance of the Secretary, utilize their authority in furtherance of the purpose of the act by carrying out programs for the protection of endangered species or subspecies of fish and wildlife by taking such action necessary to insure that actions authorized, funded or carried out by them do not jeopardize the continued existence of endangered species.

I am in complete agreement with this provision as stated, but it did not go far enough as it did not protect the habitat of the endangered species. I therefore recommended to the committee, and I am pleased that the bill we are now considering includes a provision which would prohibit the destruction or modification of the critical habitat of such species.

Mr. President, the only purpose of my amendment to change the word "such" to "any" is to make the provision all inclusive. I think we should be concerned with the habitat of all wildlife instead of considering that of endangered species.

We have a situation in my State that falls in this category.

Mr. TUNNEY. Mr. President, I ask the Senator whether the effect of his amendment would be, first, if the Bureau of Public Roads wanted to build a highway through an area of the country, as it deemed necessary for the citizens of the Nation, if it would be prevented from doing so by changing the word "such" to "any."

Mr. COOK. Mr. President, I would be less than fair with the Senator if I would say otherwise to him. It is conceivable that this could happen. It is conceivable also that never would happen.

The only point I am making is that they would have to have consultation with the respective agency. The point I have in mind is that we have the Pioneer Weapons Hunting Area in the State of Kentucky. It is the only one of its kind in the United States. There is no other. It is a tremendous nesting area for wild turkeys.

I might suggest that the Corps of Engineers decided that it would build a road right through the middle of this area. We have tried our best to have them change the route of the road. They had alternate routes, but they decided, despite their alternative routes, that this is where they would build the road.

This language means that they have to consult with the respective agencies under this bill, and they have to consult with the respective State agencies in order to work out this problem. That is exactly what it means. And I would be less than candid if I did not explain that to the Senator.

Mr. TUNNEY. Mr. President, as I understand it, after the consultation process took place, the Bureau of Public Roads, or the Corps of Engineers, would not be prohibited from building such a road if they deemed it necessary to do so.

Mr. COOK. The point is that they would then be doing it after consultation with the respective agencies, rather than making that decision on their own.

Mr. TUNNEY. But they would have the final decision after consultation.

Mr. COOK. The Senator has put me in a rather bad light. Under the terms of this, it would have to be under an agreement worked out with the respective agencies.

Mr. TUNNEY. Mr. President, as I understand the legislation, just reading the language:

> All other departments, agencies, and instrumentalities of the Federal Government shall, in consultation and with the assistance of the Secretary—
>
> (b) take such action as is necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the

continued existence of any endangered or threatened species, or result in the destruction or modification of any habitat of such species which is determined by the Secretary, after consultation to the extent appropriate and necessary with affected States, to be a critical habitat of such species.

So, as I read the language, there has to be consultation. However, the Bureau of Public Roads or any other agency would have the final decision as to whether such a road should be built. That is my interpretation of the legislation at any rate.

Mr. COOK. Mr. President, we find ourselves in a position where we are debating or really talking about endangered or threatened species, and that is where the consequence of this amendment lies.

I might suggest to the Senator from California that if the Senator feels this might be the burden of this language, I do have another amendment which would designate this area.

Mr. TUNNEY. Mr. President, I would prefer it if the Senator would withdraw his pending amendment. I know what the Senator's next amendment is. And I support that amendment. I recognize that the Senator has to secure unanimous consent to make the amendment germane to the bill. However, I am prepared to accept the amendment. I have looked it over.

I do not think there is any desire on the part of any Senator on the floor to object to a unanimous-consent request that the amendment be considered.

Mr. President, I am hesitant, as the floor manager of the bill, to accept the amendment. This does broaden considerably the impact of the language which requires consultations with the respective agencies and the Department and the Secretary of Interior. It moves it from endangered species to any species of animal. And with that extension of the language on the floor and without any hearings, I believe it is something that I would not be able to accept.

Mr. COOK. Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. COOK. Mr. President, I send to the desk an amendment which is the same as S. 1532 which I introduced earlier this year and ask that it be immediately considered.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to state the amendment.

Mr. COOK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

At the end of the bill, add the following:

That, in accordance with section 3(b) of the Wilderness Act (78 Stat. 892; 16 U.S.C. 1132(b)), those lands in the Daniel Boone National Forest, Kentucky, comprising the Pioneer Weapons Hunting Area and consisting of approximately seven thousand three hundred acres, are hereby designated as wilderness.

Sec. 2. As soon as practicable after this Act takes effect, a map of the wilderness area and a description of its boundaries shall be filed with the Interior and Insular Affairs Committee of the United States Senate and House of Representatives and such map and description shall have the same force and effect as if included in this Act: *Provided, however*, That correction of clerical and typographical errors in such legal description and map may be made. A copy of such map and description shall be on file and available for public inspection in the offices of the Chief, Forest Service, United States Department of Agriculture.

Sec. 3. The wilderness area designated by this Act shall be known as the Cave Run Wilderness and shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

Sec. 4. Nothing in this Act or the Wilderness Act shall be construed as precluding the construction of a Zilpo recreation site access road generally on a route extending northward from Forest Development Road Numbered 129 generally skirting the eastern boundary of the Pioneer Weapons Hunting Area, or as affecting or modifying in any manner the 1962 Cooperative Management Plan between the Department of Fish and Wildlife Resources of the State of Kentucky and the Department of Agriculture involving the designation of the Pioneer Weapons Hunting Area within the Daniel Boone National Forest.

Mr. COOK. Mr. President, I ask unanimous consent that as to this amendment the rule of germaneness be waived.

Mr. ROBERT C. BYRD. Mr. President, the Senator does not have to ask unanimous consent as long as no Senator makes a point of order.

The PRESIDING OFFICER. The Senator from West Virginia is correct.

Mr. COOK. Mr. President, I thank the Senator from West Virginia.

Mr. President, I thank the Senator from California, because this now gives me an opportunity to clarify the situation.

Mr. President, I believe that S. 1983 as written will contribute to the guarantee we all want that succeeding generations will enjoy some measure of nature and wildlife as we have known it. However, I would like further assurance for the people of Kentucky.

Mr. President, in my State of Kentucky, we have located at Cave Run, in Daniel Boone National Forest, a Pioneer Weapons Hunting Area. Within this area are various species of wild turkeys, white-tailed deer, red and grey foxes, ruffed grouse, dove, and quail. During the past year there have been attempts made to bisect this Pioneer Weapons Hunting Area by construction of a road through the normal nesting and grazing area of these species. To do so would most assuredly destroy or severely endanger the species. The tragedy is in the fact that a feasible alternate route is available that would generally skirt the Pioneer Weapons Hunting Area. We cannot permit such inconsiderate and ill-conceived projects to continue.

The amendment would now add a new section to the bill which would designate under section 3(b) of the Wilderness Act of the United States Code, that this area be designated as a wilderness area. Therefore, having such a designation, it is in the unique position of not being subject to this kind of tampering.

If we can get this accomplished, we will solve a problem and this has been going on for more than 2 years on my part.

We no longer have to fear that an agency can decide to arbitrarily build a major highway which bisects this area. I assure my colleagues that this would be of significance to the Pioneer Weapons Hunting Area located in the Daniel Boone National Forest in Kentucky.

Mr. TUNNEY. Mr. President, I have had an opportunity to consult with the Senator from Kentucky on his amendment. It is a good amendment. It is specific. It clearly focuses on the problem. I am prepared to accept the amendment.

I yield back the remainder of my time.

Mr. COOK. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. HASKELL). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Kentucky.

The amendment was agreed to.

Mr. COOK. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. TUNNEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TUNNEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Under the precedents of the Senate, the Senator does not have enough time remaining on the bill to suggest the absence of a quorum.

Mr. TUNNEY. I ask unanimous consent that I may suggest the absence of a quorum without the time being charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The hour of 2 p.m. having arrived, the Senate will now proceed to vote on the amendment of the Senator from Alaska (Mr. STEVENS) to S. 1983.

On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), is necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) is absent to attend the funeral of a friend.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness.

The Senator from Maryland (Mr. BEALL) and the Senator from Arizona

(Mr. GOLDWATER) are detained on official business.

The result was announced—yeas 60, nays 33, as follows:

[No. 321 Leg.]

YEAS—60

Aiken
Allen
Baker
Bartlett
Bennett
Bible
Biden
Brock
Burdick
Byrd,
 Harry F., Jr.
Chiles
Church
Clark
Cook
Curtis
Dole
Domenici
Dominick
Eagleton
Eastland
Fannin
Fulbright
Gravel
Gurney
Hansen
Helms
Hollings
Hruska
Huddleston
Inouye
Jackson
Johnston
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Montoya
Moss
Nunn
Pearson
Percy
Randolph
Saxbe
Scott, Pa.
Scott, Va.
Sparkman
Stafford
Stevens
Symington
Talmadge
Thurmond
Tower
Weicker
Young

NAYS—33

Bayh
Bentsen
Brooke
Buckley
Byrd, Robert C.
Case
Cranston
Ervin
Fong
Griffin
Hart
Hartke
Haskell
Hatfield
Hathaway
Hughes
Humphrey
Javits
Kennedy
Mondale
Muskie
Nelson
Packwood
Pastore
Pell
Proxmire
Ribicoff
Roth
Schweiker
Stevenson
Taft
Tunney
Williams

NOT VOTING—7

Abourezk
Beall
Bellmon
Cannon
Cotton
Goldwater
Stennis

So Mr. STEVENS' amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. FULBRIGHT. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 66, line 12, strike "the Secretary of the Smithsonian Institution" and insert in lieu thereof "The Secretary of Agriculture."

Mr. FULBRIGHT. Mr. President, this provision, authorizing the money to the Smithsonian Institution, was not in the original bill. It was inserted in the House, in the Subcommittee on Commerce, by Representative DINGELL.

I have consulted the Smithsonian, and Mr. Michael Huxley, the Assistant Secretary, has informed me that they do not wish to pursue this; and they have suggested the substitution of the Secretary of Agriculture for the Smithsonian Institution.

The Smithsonian is interested in this subject, but they do not feel that they are in a position today to carry out the program which is here authorized, and they have suggested that the Department of Agriculture be substituted. It is my understanding that this amendment is acceptable to the chairman of the committee.

Of course, if the Department of Agriculture wishes the cooperation of the Smithsonian, I am quite sure they can obtain it, insofar as the Smithsonian's facilities will permit them to do so.

Mr. TUNNEY. Mr. President, it is my understanding that the amendment would enable the Department of Agriculture to contract with the Smithsonian Institution to conduct a part of the study if the Department of Agriculture felt that it was necessary—or, for that matter, to contract with any other Federal agency, State agency, or private individual for the purpose of conducting that study.

Mr. FULBRIGHT. I see nothing to prevent that, either.

I must say that I had no notice of this matter until a couple of hours ago, and on inquiry from the Smithsonian, this is the best information I have.

Mr. TUNNEY. I certainly have no objection to the amendment; but I want to make clear that it is the manager's understanding that it would not prevent the Secretary of Agriculture from contracting with the Smithsonian Institution or any other group or agency for the purpose of conducting the study.

Mr. FULBRIGHT. So far as I can see, there is nothing to prevent that. It is up to the Department of Agriculture.

Mr. TUNNEY. I accept the amendment, and I yield back the remainder of my time.

Mr. FULBRIGHT. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. NELSON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. NELSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 32 insert the following new subsection after Section 3(14);

"(15) 'chemical toxicant' means any chemical substance designed, intended, or employed to control or eradicate insects, rodents, predators and any other wildlife, or plants, by causing significant bodily malfunction, injury, illnes, or death immediately or in the future."

On page 39, line 23, immediately before the semicolon, insert a comma and the following: "and plans to issue regulations prohibiting the use of chemical toxicants within the areas comprising such lands, waters, and interests so acquired, in a manner comparable to that provided under section 10(a) (10)."

On page 52, insert the following new subsection after section 10(a) (9):

"(10) uses any chemical toxicants within any area, comprising lands and waters, including interests therein, of the United States, which were acquired and are being utilized for the purpose of conserving, protecting, restoring, or propagating any endangered or threatened species, except that the Secretary may authorize the use of a chemical toxicant, but only if he makes a written finding which he shall publish in the Federal Register, that:

"(A) an emergency exists to the endangered or threatened species that cannot be dealt with by means which do not involve the use of chemical toxicants, and that such use is necessary for the survival of the endangered or threatened species; or

"(B) a particular method of applying a chemical toxicant will not impair the survival of an endangered or threatened species."

Mr. NELSON. Mr. President, this act is designed to stave off the extinction of our wildlife by protecting the endangered species from men who might knowingly or inadvertently harm them. Because of this act, an animal or fish species will not be overtly "taken."

Yet, it is common knowledge that there is another danger to our wildlife, a threat which is unavoidable: the expansion of our cities and industries. But we should also watch that we not destroy the animal world, made helpless by human technology. This act acknowledges that habitat modification is liable to be increasingly prevalent as the cause of future wildlife losses. The Secretaries of Interior and Commerce are authorized to acquire the lands upon which the endangered and threatened species reside and funds are provided for this purpose. Habitat acquisition will provide a framework, a base for the construction of true sanctuaries, preserves free from harmful human instrusions. This amendment would aid in safeguarding the sanctuaries of the endangered species.

Around 10 years ago we first learned the insidiousness of chemical poisons: how the residues of herbicides, insecticides, of pesticides in general, remain and find their way into the tissue of the low members of the food chain which are consumed by the next higher and so on, until the birds and mammals of prey, representing the top of the food chain, accumulate massive concentrations of chemical poisons.

They become the victims of chemical toxicant poisoning in the form of reproductive failures, incapacitation, or death.

There are presently eight species upon the Department of the Interior's red book list of rare and endangered species, including the southern bald eagle and the California condor which have been decimated by the use of chemical toxicants. Other species like the prairie falcon will have to be added to the future endangered and threatened species lists because of our widespread use of pesticides. This amendment does not cover much area, only those small preserves which are wholly dedicated to endangered species protection.

Poisons are so lethal and the existence of endangered species so precarious that we must be overly cautious to avoid chemical disasters. This amendment applies to those lands "acquired and being utilized for the purpose of conserving, protecting, restoring, or propagating any endangered or threatened species." However, the Secretary is authorized to allow the use of chemical toxicants if he finds that that use is needed to insure the survival or that such use will not at all affect the survival of an endangered or threatened species.

The amendment prohibits the use of chemical poisons upon the lands that the Federal Government and the States has and will acquire as selected habitat for the endangered or threatened species. The lands this amendment refers to are primarily those in the National Wildlife Refuge System and those lands which State Fish and Game Departments will oversee. The ratio will be even more lopsided for the lands the States will acquire under the provisions of this act. For example the California Department of Fish and Game has indentified seven of its indigenous rare and endangered species of wildlife as being presently threatened by county rodent control programs and is negotiating a joint policy agreement with the California Department of Food and Agriculture so that the two Departments will cooperate more closely. In other words, the Fish and Game Department is very concerned, and with good reason, that control people in the field will not realize until it is too late that they are using chemical toxicants within the areas upon which the endangered and rare species are making their last stand.

Mr. President, this is a very simple amendment which provides that chemical toxicants, poisons, may not be used on those lands which are—

> Acquired by and are being used for the purpose of conserving, protecting, restoring, or propagating any endangered or threatened species, except that the Secretary may authorize the use of a chemical toxicant, but only if he makes a written finding which he shall publish in the Federal Register.

That the use of chemical toxicants is necessary for the purpose of protecting endangered species.

I think there is no controversy about the amendment. I ask the Senator if he is willing to accept it.

Mr. TUNNEY. Mr. President, I want to make sure I understand the amendment. Does the amendment provide that the Secretary of Interior must make a positive finding that before chemical toxicants can be used such a toxicant will protect the species or not hurt the species?

Mr. NELSON. He must file a statement saying that the use of the chemical toxicant is necessary for the purpose of protecting the endangered species. Otherwise it may not be used on sanctuary lands.

Mr. TUNNEY. Let me make sure that I understand the lands this applies to. The Senator said sanctuary lands.

Mr. NELSON. Yes. In the amendment it is described as—

> Lands acquired and being utilized for the purpose of conserving, protecting, restoring, or propagating any endangered or threatened species.

The Government is going to be acquiring lands under this provision and there are sanctuary lands already set aside; the amendment applies to these lands unless the Secretary says that the use of toxicants is necessary for the protection of endangered species.

Mr. TUNNEY. Are toxicants presently allowed to be used on sanctuary lands?

Mr. NELSON. For example, I think there is a case in the Senator's State where there are two different agencies. One agency used chemical poisons to kill rodents and one of the endangered birds was being poisoned by the poisons being used to kill rodents. Those two departments of the state government which were operating with conflicting purposes have now reached an agreement. But this is the kind of case that could occur. Poison could be used on some lands where you are trying to protect a species, and at the same time they are threatening the survival of the endangered species.

This provides that poison cannot be used on those lands unless the Secretary certifies that it is necessary to protect the species for which the sanctuary is in existence.

Mr. TUNNEY. What if it is a State sanctuary as contrasted with the Federal sanctuary? If it were a State sanctuary would they have to get authorization from the Secretary of the Interior?

Mr. NELSON. That is the way I interpret it.

Mr. HANSEN. Mr. President, will the Senator yield?

Mr. NELSON. I yield.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

The Senate will be in order. The Senator may proceed.

Mr. HANSEN. I am wondering about this situation. In times past, in western Wyoming, the State game and fish commission has found it advisable to employ the use of so-called coyote getters in and around elk winter feeding areas. I am not certain that has been used in national elk sanctuaries.

My question is, If in the judgment of the Fish and Wildlife Service, or the Bureau of Sports, Fisheries, and Wildlife, as it is now called, it became necessary to try to bring some effective control upon the coyote—we have trumpeter swan and waterfowl and other birds in addition to elk, which is the major big game animal in the area, although there are moose, deer, and mountain sheep—would this amendment prohibit any control of the coyote within the national elk refuge, if it is permitted, assuming it may be, if in the judgment of the Bureau of Sports, Fisheries, and Wildlife it became necessary or desirable to effect control of the coyote? Would this preclude that action unless the Secretary certified that the use of the coyote getter was to protect the endangered species?

Mr. TUNNEY. I do not know the classification of the Elk Refuge Commission. It is clear that if it involved any lands that were being acquired under this legislation——

Mr. HANSEN. These lands have been acquired first, partly by gift. The Izaak Walton League many years ago made a grant and, from 1914 forward, the Federal Government through different measures has added to the refuge, and by purchase.

Does that answer the Senator's question?

Mr. NELSON. I am not sure it does. If the sanctuary has been created or the lands acquired for the purpose of creating a sanctuary or a wildlife habitat for an endangered species, very clearly you could not use chemical poisons on that land except upon authorization of the Secretary who would make the finding in the amendment.

I assume it would apply to the elk land referred to, but I do not know what classification they are under.

Mr. HANSEN. My purpose in asking the question is to try to have a better understanding of the amendment. I have posed a hypothetical question. I do not think for a moment this might happen, but sometimes in our enthusiasm it is easy to attain a certain objective that might tie our hands. The trumpeter swan found in that refuge were an endangered species. As far as I know, they are the only endangered species in the elk refuge. I do not think the elk refuge was established because the elk was endangered, but was an important wildlife species which deserved better year-around care than they were getting.

Mr. TUNNEY. Mr. President, I believe the Senator's amendment is designed to achieve a very desirable purpose but during the course of the hearings we never did have an opportunity to get testimony from any party with respect to chemical toxicants and the use of chemical toxicants on sanctuaries. Inasmuch as the Senator's amendment relates also to State sanctuaries and we would be imposing the will of the Secretary of the Interior on State officials as it relates to State sanctuaries. I think the matter should be subject to hearings.

Therefore, for the committee, I cannot accept the amendment.

Mr. NELSON. I would like to ask a question. Is there a similar bill under consideration in the other body?

Mr. TUNNEY. Yes. The House will be considering legislation.

Mr. NELSON. On this bill, or do they have a bill of their own?

Mr. TUNNEY. They have one of their own.

Mr. NELSON. Have they finished the hearings on that?

Mr. TUNNEY. Yes.

Mr. NELSON. In view of the Senator's objection, Mr. President, I will withdraw the amendment and if they have not acted on the House side, I will have further comment.

Mr. TUNNEY. I sympathize with the purpose of the Senator's amendment, but I do not see how we can include it without hearings.

Mr. NELSON. Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The bill is open to further amendment.

If there be no further amendment to be proposed, the question is on agreeing to the committee amendment, as amended, in the nature of a substitute.

The committee amendment, as amended, in the nature of a substitute was agreed to.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. ROTH. Mr. President, I am proud to lend my support to the Endangered Species Act of 1973, a long overdue piece of legislation. The time has come for us to recognize that more than one hundred species and subspecies of wildlife—fish, animals, and birds—as well as forms of plantlife, are being seriously threatened through hunting and trapping, and by man's encroachment on their natural habitats. I encourage support of S. 1983 because it refines previous legislation that this body developed and passed in 1966 and expanded upon in 1969.

The President stated in his environmental message of February 8, 1972, that the existing law "simply does not provide the kind of management tools needed to act early enough to save a vanishing species." In effect, the present law prevents the Government from taking action until a species is virtually extinct. Often, by the time something is done, it is too late to reverse the trend. I support the provisions of this bill and urge your careful consideration. Especially notable in this legislation are its provisions to create a more flexible classification and declassification system, strict civil and criminal penalties, and its acknowledgement of migratory patterns and the need for international cooperation.

The people of Delaware who admire the graceful and inspiring flight of the few American bald eagles remaining in the State, who view with awe the migratory flight of geese, ducks, and swans, hope that the Senate will look favorably upon this measure.

Mr. DOMENICI. Mr. President, today we will vote on S. 1983—the Endangered Species Act of 1973—a bill which provides for the conservation, protection and propagation of now endangered species of fish and wildlife. If implemented, this legislation will save from extinction one of our more valuable natural resources.

In recent years, many citizens of the United States have come to view the various species of wildlife as environmental indicators for their State, and, in a larger context, for the world. These citizens consider wildlife a precious natural resource which, if husbanded and protected, will be one of the factors in our natural surroundings which will endure for generations to follow. These individuals—whether they live in New York City or Chama, N. Mex.—want to be assured that there exists abundance of wildlife "somewhere" in our Nation, as well as to be assured of its continued existence.

The beautiful State of New Mexico has fought hard, although in some cases not hard enough, to protect its environment and its endangered species. The people of my State share a feeling of pride in the fact that they continually strive to preserve the natural—they strive to prevent technology from overriding the natural resources of our State.

In terms of wildlife, there has always been an endangered spicies for both natural and manmade reasons. Natural population fluctuations of some species have diminished their number to such a low point that they were unable to generate a continued existence. Other species have become so highly specialized that any slight alteration of the habitat spelled doom for their continued existence—experts point out that this natural phenomenon continues today. However, in the "modern age" of man, many experts claim that the possible extinction of numerous species of wildlife has increased by a tremendous factor. In many cases, "progress" for man means threatening disaster or devastating decline for a major portion of our wildlife. I feel the main thrust of our discussion on this legislation should be man's obvious detrimental effect on wildlife to the point of practically guaranteeing its extinction.

We are not here today to discuss individual blame but to plan as immediate solution to insure the life of our endangered species. The advance of man's civilization has proved to be costly to the natural environment. It is a fact that man has been the culprit in bringing certain species to the point of extinction; it would be a double indictment against humanity to ignore the present situation and allow the destruction of our resource of wildlife to continue.

How has man effected wildlife adversely? Some reasons are quite obvious and others more subtle. Many of our land-use practices have destroyed the delicate habitat necessary to maintain a healthy wildlife. Certain intensive agricultural practices, unconcerned with their harmful influence on wildlife, have brought various species to the brink of extinction. All of us in these Chambers have heard of the now infamous golden eagle killings in Colorado and Wyoming. While the golden eagle has been saved from extinction, it was through indiscriminate shooting and treatment that this species was almost lost. In New Mexico, the prairie dog towns have been so decimated that the rare and endangered black-footed ferret is nowhere to be seen. While most naturally harmful organochlorine pesticides have been banned, their effects have been detrimental to various wildlife species. Again, in New Mexico, the peregrine falcon is still trying to recover from DDT poisoning.

Also, man through commercial exploitation of a particular wildlife species has placed some animals in the endangered category. Most of you here today are aware of the disputes within the whaling industry which exist among other nations. While the legislation under consideration takes care of such problems within the United States territorial boundaries, we must additionally have a procedure to intervene in such international disputes where the existence of endangered species is at stake.

Under the provisions of this act, there exists various means of recovery that can be instituted on behalf of rare and endangered species. We must demand the continued protection of prime habitat and, where feasible, renew and refurbish deteriorated species. Through the Office of Endangered Species and other Federal agencies, and with the aid and coordination of the various States' fish and game agencies, innovative and intensive programs should be initiated for all endangered species; such management will result in beneficial effects for our wildlife. Finally, various programs of captive propagation would be beneficial for rare and endangered species in order that progeny raised in captivity could be used to replenish the wildlife population.

At the same time, our governmental agencies, in cooperation with biologists and interested citizens, should continue research on the rare and endangered wildlife of our Nation. Continued investigations should be made to determine the population fluctuations of the various species. On the basis of a complete census, efforts should be made to determine which are the limiting factors at the present time and which factors in the future will affect the well-being of our wildlife resource.

Senate bill 1983 addresses itself to rare and endangered wildlife. This legislation is drafted to protect these species, and it suggests a number of ways by which this can be accomplished. Under the authority of the Secretaries of Interior and Commerce, any species which is considered rare or endangered shall be free from molestation by the threat of civil penalty. It also gives authority to the Secretaries to permit continued scientific research into the problems of endangered wildlife. With a broadening of our knowledge concerning the problems of endangered species, maybe we can turn the tide on the uncertain existence of many of these animals. I urge my colleagues in the Senate to support this legislation which will benefit the generations which follow us and our Nation as well.

Mr. PERCY. Mr. President, it is certainly encouraging to me that the Senate is about to move promptly and hopefully unanimously upon S. 1983, the Endangered Species Act of 1973. For too long there has been insufficient means to protect and preserve all the valuable species of wildife that contribute so much to the quality of life as we know it. S. 1983 will provide the tools we need both to protect animals that are presently endangered and to take the necessary precautions so that additional species are not reduced to the endangered level.

Action in this field reflects both an increased awareness of man's place in the ecosystem and the healthy respect that that awareness must engender. I am pleased that the Senate will take positive action with the adoption of S. 1983 and I am confident that this legislation will go a long way toward preserving our valuable and unfortunately perishable wildlife.

It is my pleasure to report that the State of Illinois has taken a lead in the area of endangered species with the passage of vigorous legislation earlier this year and will have no trouble in complying with the new Federal regulations.

The PRESIDING OFFICER. The bill has been read the third time. The question now is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON) is necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from South Dakota (Mr. ABOUREZK) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) is absent to attend the funeral of a friend.

The Senator from Utah (Mr. BENNETT) is necessarily absent.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness.

The Senator from Maryland (Mr. BEALL) and the Senator from Arizona (Mr. GOLDWATER) are detained on official business.

The result was announced—yeas 92, nays 0, as follows:

[No. 322 Leg.]

YEAS—92

Aiken
Allen
Baker
Bartlett
Bayh
Bentsen
Bible
Biden
Brock
Brooke
Buckley
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Church
Clark
Cook
Cranston
Curtis
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin
Fannin
Fong
Fulbright

Gravel
Griffin
Gurney
Hansen
Hart
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale

Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott, Pa.
Scott, Va.
Sparkman
Stafford
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—0

NOT VOTING—8

Abourezk
Beall
Bellmon

Bennett
Cannon
Cotton

Goldwater
Stennis

So the bill (S. 1983) was passed, as follows:

S. 1983

An act to provide for the conservation, protection, restoration, and propagation of threatened and endangered species of fish, wildlife, and plants, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Endangered Species Act of 1973".

DECLARATION OF POLICY

SEC. 2. (a) FINDINGS.—The Congress finds and declares that—

(1) various species of fish, wildlife, and plants in the United States have been rendered extinct as a consequence of economic growth and development untempered by adequate concern and conservation;

(2) other species of fish, wildlife and plants have been so depleted in numbers that they are in danger of or threatened with extinction;

(3) these species of fish, wildlife and plants are of aesthetic, ecological, educational, historical, recreational, and scientific value to the Nation and its people;

(4) the United States has pledged itself as a sovereign state in the international community to conserve and protect to the extent practicable the various species of fish or wildlife and plants facing extinction, pursuant to—

(A) migratory bird treaties with Canada and Mexico;

(B) the Migratory and Endangered Bird Treaty with Japan;

(C) the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere;

(D) the International Convention for the Northwest Atlantic Fisheries;

(E) the International Convention for the High Seas Fisheries of the North Pacific Ocean;

(F) the Convention on International Trade in Endangered Species of Wild Fauna and Flora; and

(G) other international agreements.

(5) encouraging the States and other interested parties, through Federal financial assistance and a system of incentives, to develop and maintain conservation, protection, restoration, and propagation programs which meet national and international standards is a key to meeting the Nation's international commitments and to better safeguarding, for the benefit of all citizens, the Nation's heritage in fish and wildlife.

(b) PURPOSES.—The Congress hereby declares that the purposes and policy of this Act are to—

(1) provide an effective means to conserve, protect, and restore the ecosystems upon which endangered and threatened species of fish or wildlife depend;

(2) provide a viable program for the conservation, protection, restoration, and propagation of endangered and threatened species;

(3) take all appropriate steps to implement the Nation's international commitments with respect to endangered and threatened fish or wildlife; and

(4) insure that all departments, agencies, and instrumentalities of the United States seek, within the scope of their authority and administrative jurisdiction, to protect endangered and threatened species.

DEFINITIONS

SEC. 3. As used in this Act—

(1) "Conservation" and "management" mean the collection and application of biological information for the purposes of increasing and maintaining the number of animals within species and populations of endangered and threatened species at the optimum carrying capacity of their habitat. Such terms include the entire scope of activities that constitute a modern scientific resources program, including, but not limited to, research, census, law enforcement, and habitat acquisition and improvement. Also included within these terms, when and where appropriate, is the protection, propagation, conservation and restoration of such species, including regulation and taking necessary to these ends.

(2) "Convention" means the Convention on International Trade in Endangered Species of Wild Fauna and Flora, signed on March 3, 1973, and the appendices thereto.

(3) "Endangered species" means any species of fish or wildlife which is in danger of extinction throughout all or a significant portion of its range, other than a species of the order insecta determined by the Secretary to constitute a pest whose protection under the provisions of this Act would present an overwhelming and overriding risk to man.

(4) "Fish or wildlife" means any living member of the animal kingdom and the remains of any dead member of the animal kingdom, including, but not limited to, any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, or any part, egg, or offspring of any such member, or any product produced from any part or parts of the remains of any such member.

(5) "Foreign commerce" includes any transaction—

(A) between persons within one foreign country;

(B) between persons in two or more foreign countries;

(C) between a person within the United States and a person in a foreign country; or

(D) between persons within the United States, where the fish or wildlife involved are moving in any country or countries outside the United States.

(6) "Import" means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

(7) "Optimum carrying capacity" means the ability of a given habitat to support the optimum sustainable population of an endangered or threatened species in a healthy state without diminishing the ability of the habitat to continue that function.

(8) "Optimum sustainable population" means, with respect to any of endangered or threatened species, the number of such species which will result in the maximum productivity of the species, keeping in mind the optimum carrying capacity of the habitat and the health of the ecosystem of which they form a constituent part.

(9) "Person" means an individual, corporation, partnership, trust, association, or any other private entity, or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State or political subdivision thereof, or of any foreign government.

(10) "Plant" means any member of the plant kingdom, including seeds, roots, or other parts of any such member.

(11) "Secretary" means, except as otherwise provided, the Secretary of the Interior or the Secretary of Commerce in the same manner in which program responsibilities are vested under Reorganization Plan Numbered 4 of 1970. With respect to enforcement of the provisions of this Act and of the Convention, which pertain to the importation of plants, the term means the Secretary of Agriculture.

(12) "Species" includes any subspecies or other group of fish or wildlife of the same species or lesser taxa in common spatial arrangement that interbreed when mature.

(13) "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands.

(14) "State agency" means the State agency, department, board, commission, or other governmental entity which is responsible for the management and conservation of fish and wildlife resources within a State.

(15) "Take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.

(16) "Threatened species" means any species of fish or wildlife which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

(17) "United States", when used in a geographical sense, includes all States.

DETERMINATION OF ENDANGERED OR THREATENED SPECIES

SEC. 4. (a) GENERAL.—The Secretary shall by regulation determine whether any fish or wildlife is an endangered or threatened species as a result of any of the following factors:

(1) the present or threatened destruction, modification, or curtailment of its habitat or range;

(2) overutilization for commercial, sporting, scientific, or educational purposes;

(3) disease or predation;

(4) the inadequacy of existing regulatory mechanisms; or

(5) other natural or manmade factors affecting its continued existence.

(b) BASIS FOR DETERMINATIONS.—(1) The determinations required by this section shall be made on the basis of the best scientific and commercial data available to the Secretary, including any recommendations that have been made by the Advisory Committee established under subsection (d) of this section and after consultation, as appropriate, with all interested persons and organizations, including affected or knowledgeable Federal, State, and foreign government agencies. In any case in which such determinations involve an indigenous species, the Secretary shall consult with and consider the recommendations of each State involved. In any case in which determinations involve a species which is normally found on the high seas, in lakes, or other waters off the coast of a State of which are customarily harvested by citizens of such a State, the Secretary shall consult with and consider the recommendations of each State involved. In any case in which such determinations involve a species which is normally found in a foreign country or countries or which is harvested from the ocean by citizens of such country or countries, the Secretary shall (where practicable) with the assistance of the Secretary of State, consult with and consider the recommendations of such country or countries.

(2) Fish or wildlife which have been designated as requiring protection from unrestricted commerce by any foreign country, or pursuant to any international agreement, shall receive special and full consideration by the Secretary to determine whether each is an endangered or a threatened species.

(c) LISTS.—(1) The Secretary shall publish in the Federal Register a list of all fish or wildlife determined by him by regulation to be endangered species and a list of all fish or wildlife determined by him by regulation to be threatened species. Such lists may be amended, modified, or revised periodically by regulation. Each list shall refer to each species of fish or wildlife named therein by scientific name and common name or names and shall specify the portion of its range over which it is endanagered or threatened.

(2) The Secretary shall, upon the petition of an interested person under subsection 553(e) of title 5, United States Code, conduct a review of any listed or unlisted species of fish or wildlife proposed to be removed from or added to either of the lists published pursuant to paragraph (1) of this subsection, but only if he makes and publishes a finding that such person has presented substantial evidence which in his judgment warrants such a review.

(3) Any list of species of fish or wildlife determined to be threatened with extinction, by the Secretary of the Interior pursuant to the Endangered Species Conservation Act of 1969, which is in effect the day before the date of enactment of this Act shall be republished to conform to the appropriate classifications under this Act. Pending reclassification as endangered species or threatened species and republication, any species listed pursuant to the Act of 1969 shall be deemed an endangered species within the meaning of this Act. Such reclassification and republication shall not require a public hearing or comment under section 553 of title 5, United States Code.

(d) ADVISORY COMMITTEE.—(1) The Secretaries shall establish an Advisory Committee on Endangered and Threatened Species to consult with, advise, and make recommendations to him and to the States. The Advisory Committee shall consist of not more than eleven members including a Chairman who shall be appointed by the Secretary from lists of qualified individuals submitted by State fish and wildlife agency administrators, universities, nongovernmental organizations concerned with conservation, and scientific societies. Five of the members shall be regularly employed by State governments or political subdivisions thereof. The terms of office shall be so arranged by the Secretary that each year at least three new members shall be appointed to fill vacancies caused by the expiration of terms of office.

(2) The Advisory Committee shall periodically, but not less than once each year, make recommendations to the Secretary with respect to removal from, addition to, or reclassification within the lists maintained pursuant to subsection (a) of this section, and may, with the approval of the Secretary, perform other functions in furtherance of the purposes of this Act. A member of the Advisory Committee who is not otherwise a Government employee may, in the discretion of the Secretary, receive not more than $150 per diem when engaged in the actual performance of his duties. Each member may receive reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of his duties.

(e) PROTECTIVE REGULATIONS.—Whenever the Secretary lists a species of fish or wildlife as a threatened species, pursuant to subsection (a) of this section, he shall issue such regulations as he deems necessary and advisable to provide for the conservation and management of such species. With respect to any threatened species, the Secretary may by regulation prohibit any act prohibited with respect to an endangered species under section 10(a) of this Act.

LAND ACQUISITION

SEC. 5. The Secretary shall establish and implement a program to conserve, protect, restore, and propagate fish or wildlife which are listed as endangered or threatened species pursuant to section 4 of this Act. To carry out such programs, the Secretary—

(a) shall utilize as appropriate the land acquisition and other authorities conferred upon him under the Migratory Bird Conservation Act, the Fish and Wildlife Act of 1956, and the Fish and Wildlife Coordination Act;

(b) may acquire by purchase, donation, or otherwise any lands, waters, or interests therein necessary for the purpose of conserving, protecting, restoring, or propagating any endangered or threatened species. Such authority shall be in addition to any other land acquisition authority vested in him;

(c) may use funds made available under the Land and Water Conservation Fund Act of 1965 or under this Act to acquire such lands, waters, or interests therein.

COOPERATION WITH THE STATES

SEC. 6. (a) GENERAL.—In carrying out the program authorized by this Act, the Secretary shall cooperate to the maximum extent practicable with the States. In addition to all other obligations, the Secretary shall consult with the affected State before the acquisition of any lands, waters, or interests therein for the purpose of conserving, protecting, restoring, or propagating any endangered or threatened species.

(b) MANAGEMENT AGREEMENTS.—The Secretary may enter into an agreement or agreements with any State for the administration and management of any area established for the conservation and management of an endangered or a threatened species. Any revenues derived from the administration of such areas under such agreements shall be subject to section 401 of the Act of June 15, 1935 (16 U.S.C. 715s).

(c) FINANCIAL ASSISTANCE.—The Secretary is authorized to enter into a cooperative agreement in accordance with this subsection to provide financial assistance to any State which establishes and maintains an adequate and active program for the conservation and management of endangered and threatened species. Before the Secretary may enter into or renew such a cooperative agreement to provide financial assistance to a State, he shall make, justify, and publish in the Federal Register a finding that such agreement would further the policy of this Act and that such State has a program under which—

(1) the State agency has statutory and regulatory authority and administrative jurisdiction to manage and protect any species of fish or wildlife which is determined by such agency or the Secretary to be endangered or threatened;

(2) the State has established a State plan, including a management program under the State agency, for all species of resident fish or wildlife which are deemed by the Secretary to be endangered or threatened, and has furnished a copy of such plan and program together with all pertinent details, information, and data requested to the Secretary;

(3) the State agency during the first year of the existence of such agreement—

(A) will issue protective regulations;

(B) will employ sufficient trained and qualified personnel; and

(C) will maintain investigation, enforcement, and public education programs,

which are adequate, in the Secretary's judgment, for the conservation and management of species of endangered and threatened fish or wildlife;

(4) the State agency is authorized and plans to conduct studies to determine the status and requirements for survival of species of resident fish or wildlife and agrees to transmit a copy of the findings of such studies to the Secretary;

(5) the State agency is authorized and plans to establish programs, including the acquisition of lands, waters, or interests therein, for the conservation and management of endangered and threatened species; and

(6) provision is made for public participation in designating species of resident fish or wildlife as endangered or threatened.

(d) ALLOCATION OF FUNDS.—(1) Funds appropriated for financial assistance pursuant to subsection (c) of this section shall be available to the Secretary for allocation to the States under cooperative agreements. The purposes for which such funds may be used include, but are not limited to, conservation and management. The Secretary shall allocate appropriated funds to such States upon the basis of—

(A) the international commitments of the United States to protect endangered or threatened species;

(B) the readiness of a State to proceed with a conservation and management program consistent with the objectives and purposes of this Act;

(C) the number of endangered and threatened species within a State;

(D) the potential for restoring endangered and threatened species within a State; and

(E) the relative urgency to initiate a program to restore and protect an endangered or threatened species in terms of the survival of the species.

Funds allocated to a State but unexpended or unobligated at the close of the fiscal year shall remain available for expenditure by such State until the close of the succeeding fiscal year. Any funds remaining unobligated or unexpended at the close of the second fiscal year shall remain available to the Secretary for the purpose of this section.

(2) Each cooperative agreement between a State and the Secretary shall provide for—

(A) the actions to be taken by the Secretary and the State;

(B) the benefits that are expected to be derived in connection with preservation and restoration of endangered or threatened species;

(C) the estimated cost of these actions; and

(D) the share of such costs to be borne by the Federal Government and by the States, except that—

(i) the Federal share of such program costs shall not exceed 50 per centum of the estimated program costs stated in the agreement; and

(ii) the Federal share may be increased to 66⅔ per centum whenever two or more States, having a common interest in a program that the Secretary deems to meet the criteria of paragraph (1) of this subsection, enter jointly into an agreement with the Secretary.

The Secretary may, in his discretion, and under such rules and regulations as he may prescribe, advance funds to the State for financing the United States pro rata share agreed upon in the cooperative agreement. For the purposes of this section, the non-Federal share may, in the discretion of the Secretary, be in the form of real or personal property, the value of which will be determined by the Secretary, as well as money.

(3) The Secretary is authorized to issue such regulations as may be appropriate to carry out the provisions of this section with respect to financial assistance to States.

(4) For the purposes of this section, there is authorized to be appropriated through the fiscal year ending June 30, 1977, not to exceed $10,000,000.

(e) Periodic Review.—The finding made under subsection (c) of this section and any action taken by the Secretary under this section shall be subject to his periodic review, including the consideration of comment from interested persons, at no greater than annual intervals. Upon ninety days' notice in writing to the affected State, the Secretary may terminate in his discretion any cooperative agreement entered into under this section.

(f) State Action Permitted.—Nothing in this Act shall be construed as superseding or limiting the power of any State or political subdivision thereof to enact legislation or regulations more restrictive than or consistent with the provisions of this Act with respect to an endangered or a threatened species: *Provided*, That any State law or regulation regarding the import or export of or the interstate or foreign commerce in an endangered species listed pursuant to section 4 of this Act is void to the extent that it may effectively permit what is prohibited by this Act or its implementing regulations, or prohbit what is authorized pursuant to an exemption or permit provided for in this Act or its implementing regulations. This Act shall not otherwise be construed to void any State law or regulation which is intended to conserve and manage migratory, resident, or introduced fish or wildlife, or to permit or prohibit sale of such fish or wildlife.

INTERAGENCY COOPERATION

Sec. 7. The Secretary shall review all programs administered by him and utilize such programs in furtherance of the policy of this Act. All other departments, agencies, and instrumentalities of the Federal Government shall, in consultation with and with the assistance of the Secretary—

(a) carry out such programs as are practicable for the protection of species listed, pursuant to section 4 of this Act, as endangered or threatened;

(b) take such action as is necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of any endangered or threatened species, or result in the destruction or modification of any habitat of such species which is determined by the Secretary, after consultation to the extent appropriate and necessary with affected States, to be a critical habitat of such species.

INTERNATIONAL COOPERATION

Sec. 8. (a) Financial Assistance.—As a demonstration of the commitment of the United States to the worldwide protection of endangered and threatened species, the President may, subject to the provisions of section 1415 of the Supplemental Appropriation Act, 1953 (31 U.S.C. 724), use foreign currencies accruing to the United States Government under the Agricultural Trade Development and Assistance Act of 1954 or any other law to provide to any foreign country (with its consent) assistance in the development and management of programs in that country which the Secretary determines to be necessary or useful for the conservation, protection, restoration, or propagation of any endangered or threatened species listed by the Secretary pursuant to section 4 of this Act: *Provided*, That no funds other than foreign currencies available for expenditure only within such foreign country shall be used pursuant to this section. The President shall provide assistance (which includes, but is not limited to, the acquisition, by lease or otherwise, of lands, waters, or interests therein) to foreign countries under this section upon such terms and conditions as he deems appropriate.

(b) Encouragement.—In order to carry out further the provisions of this Act, the Secretary, with the assistance of the Secretary of State, shall encourage—

(1) foreign countries to provide for the protection, conservation, restoration, or propagation of fish or wildlife, including endangered and threatened species listed pursuant to section 4 of this Act;

(2) the entering into of bilateral or multilateral agreements for foreign countries to provide for such protection, conservation, restoration, or propagation; and

(3) foreign persons, who directly or indirectly take fish or wildlife in foreign countries or on the high sea for importation into the United States for commercial or other purposes, to develop and carry out, with such assistance as he may provide, conservation practices designed to enhance such fish, wildlife and plants and their habitat.

(c) Personnel.—After consultation with the Secretary of State, the Secretary may—

(1) assign or otherwise make available any officer or employee of his department for the purpose of cooperating with foreign countries and international organizations in developing personnel resources and programs which promote the protection, conservation, restoration, or propagation of fish or wildlife; and

(2) conduct or provide financial assistance for the educational training of foreign personnel, in this country or abroad, in fish, wildlife or plant management, research, and law enforcement, and to render professional assistance abroad in such matters.

(d) Investigations.—After consultation with the Secretary of State and the Secretary of the Treasury, as appropriate, the Secretary may conduct or cause to be conducted such law enforcement investigations and research abroad as he deems necessary to carry out the purposes of this Act.

(e) Convention Implementation.—The President is authorized and directed to designate appropriate agencies to act as the Management Authority or Authorities and the Scientific Authority or Authorities pursuant to the Convention. The agencies so designated shall thereafter be authorized to do all things assigned to them under the Convention, including the issuance of permits and certificates. The agency designated by the President to communicate with other parties to the Convention and with the Secretariat shall also be empowered, in consultation with the State Department, to act on behalf of and represent the United States in all regards as required by the Convention.

REGULATIONS, PROCEDURE, AND JUDICIAL REVIEW

Sec. 9. (a) Regulations.—The Secretary shall publish any regulations proposed under this Act in the Federal Register at least sixty days prior to the time when such regulations shall become final, except that in case of an emergency the Secretary may publish such regulations not less than thirty days prior to the time when such regulations shall become final if at the same time he publishes in the Federal Register detailed reasons why emergency action is necessary. The Secretary shall also publish in the Federal Register a notice of all petitions received pursuant to this Act and, if such petition is denied, his reasons therefor. Such notice shall identify the purpose of the petition and include a statement of the availability of any data submitted in support of such petition. If any person adversely affected by a proposed regulation files objections and requests a public hearing within forty-five days of the date of publication of the proposed regulation, the Secretary shall grant such request. If such public hearing is held, final regulations shall not be promulgated by the Secretary until after the conclusion of such hearing. All public hearings authorized by this subsection shall consist of the oral and written presentation of data or arguments in accordance with such conditions or limitations as the Secretary may make applicable thereto. Proposed and final regulations issued under this Act shall set forth findings of fact on which the regulations are based and shall state the relationship of such findings to the regulations issued.

(b) Procedure.—Except as expressly modified by this section, the provisions of the Administrative Procedure Act (5 U.S.C. 551 et seq.) shall apply to proceedings conducted by the Secretary under this Act: Provided, That the provisions of this section shall not apply to the extent necessary to permit emergency action by the Secretary. Notice of and reasons for such action shall be published prior to such action in the Federal Register.

(c) Judicial Review.—(1) Any judicial review of final regulations promulgated under this Act and final actions under section 5(c) of this Act shall be in accordance with sections 701–706 of title 5, United States Code, except that—

(A) with respect to regulations promulgated under section 4 or 6 of this Act, the findings of the Secretary as to the facts shall be sustained if based upon substantial evidence on the record considered as a whole; and

(B) with respect to relief pending review, no stay of an action may be granted unless the reviewing court determines that the party seeking such stay—

(i) is likely to prevail on the merits in the review proceeding, and

(ii) will suffer irreparable harm pending such proceeding.

(2) If the party seeking judicial review applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court either that—

(A) the information is material and was not available at the time of the proceeding before the Secretary; or

(B) failure to include such evidence in the proceeding was an arbitrary or capricious act of the Secretary, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Secretary, and to be adduced upon the hearing, in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file with the court such modified or new findings and his recommendation, if any, for the modification or setting aside of his original order.

(d) Audit.—(1) Each recipient of Federal assistance under this Act, pursuant to grants, subgrants, contracts, subcontracts, loans, or other arrangements, entered into other than by formal advertising, and which are otherwise authorized by this Act, shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of three years after completion of the project or undertaking referred to in paragraph (1) of this subsection of this section, have access for the purpose of audit and examination to any books, documents, papers, and records of such receipts which in the opinion of the Secretary or the Comptroller General may be related or pertinent to the grants, subgrants, contracts, subcontracts, loans or other arrangements referred to in subsection (a).

UNLAWFUL CONDUCT

Sec. 10. (a) Prohibited Acts.—Except as provided in section 11 of this Act, it is unlawful for any person subject to the jurisdiction of the United States to—

(1) import into, or export from, the United States any endangered species which has been listed pursuant to section 4 of this Act;

(2) take any such species within the United States or in the territorial sea of the United States or upon the high seas;

(3) possess, sell, deliver, carry, transport, ship, or receive, by any means whatever, any such species which are taken in violation of paragraph (2) of this subsection;

(4) deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and for commercial purposes, any such species;

(5) sell, distribute, or offer for sale in foreign commerce, interstate commerce, or activity affecting interstate commerce any endangered species of fish or wildlife;

(6) attempt to commit, solicit another to commit, or cause to be commited, any act prohibited by paragraphs (1) through (5) of this subsection;

(7) engage in any trade in any specimens of fish, wildlife, or plants, contrary to the provisions of the Convention, or possess any specimens traded contrary to the provisions of the Convention, including the definitions in article I therein;

(8) violate any regulation which is promulgated by the Secretary pursuant to section 4(e) of this Act; or

(9) import into or export from the United States except at a port or ports designated by the Secretary, any fish or wildlife, except nonendangered and nonthreatened shellfish and fishery products which are imported or exported for human or animal consumption, or fish or wildlife taken for recreational purposes pursuant to applicable Federal or State laws and regulations in waters under United States jurisdiction or on the high seas.

To facilitate enforcement of this paragraph and to reduce the costs of enforcement, the Secretary, with the approval of the Secretary of the Treasury and after notice and opportunity for public hearing, may, by regulation, designate ports and change such designations. Upon such terms and conditions as he may prescribe, the Secretary may permit such importation at nondesignated ports in the interest of the health or safety of the fish or wildlife or for any other reasons he deems appropriate. Any port designated by the Secretary of the Interior under the authority of section 4(d) of the Act of December 5, 1969 (16 U.S.C. 666cc-4(d)), shall, if such designation is in effect on the day before the date of the enactment of this Act, be deemed to be a port designated by the Secretary under this paragraph until such time as the Secretary otherwise provides.

(b) Similarity of Appearance Cases.—The Secretary may, by regulation, and to the extent he deems advisable, treat any species of fish or wildlife as an endangered or threatened species even though it is not listed pursuant to section 4 of this act if he finds that—

(A) such species so closely resembles in appearance, at the point in question, a species which has been listed pursuant to such section that enforcement personnel would have substantial difficulty in attempting to differentiate between the listed and unlisted species;

(B) the effect of this substantial difficulty is an additional threat to an endangered or threatened species; and

(C) such treatment of an unlisted species will substantially facilitate the enforcement and further the policy of this Act.

(c) Species Held in Captivity or Controlled Environment.—The provisions of this section shall not apply to any species held in captivity or in a controlled environment on the effective date of this Act if the purposes of such holding are not contrary to the purposes of this act.

EXCEPTIONS

Sec. 11. (a) General.—Upon a finding that the excepted conduct will not adversely affect the regenerative capacity of the involved species in a significant portion of its range or habitat or otherwise affect the survival of the wild population of such species, and upon such terms and conditions as he may prescribe, the Secretary may issue permits authorizing the importation, exportation, taking, or transportation, by persons found to be qualified, of any fish or wildlife which is listed as an endangered or threatened species pursuant to section 4 of this act for—

(1) for scientific purposes in furtherance of the purposes of this act; or

(2) to enhance the propagation or survival of the affected species including the propagation of such species in captivity or in a controlled habitat.

(b)(1) Hardship.—The Secretary may except from the application of section 10(a) of this Act any person if the failure to grant such exception will cause undue economic hardship: *Provided*, That such exception shall be granted any non-Native resident of an Alaska Native village unless such resident is found by the Secretary not to be primarily dependent upon the taking of fish and wildlife for consumption or use in a Native community or for creating and selling authentic Native articles of handicrafts. The extent and duration of such exception shall be such as the Secretary deems appropriate: *Provided*, No such exception shall be for a duration of more than one year from the date of publication in the Federal Register of notice of proposed listing of the involved species. No exception shall apply to a quantity of fish or wildlife in excess of that specified by the Secretary. No such exception shall be granted unless such person, except non-Native residents of Alaska Native villages who are primarily dependent upon the taking of fish and wildlife for subsistence purposes, applies to the Secretary in writing and furnishes with such application such information as the Secretary may require to prove hardship. The one year period for those species of fish and wildlife which were listed by the Secretary as endangered prior to the effective date of this Act shall expire in accordance with the terms of section 3 of the Act of December 5, 1969 (83 Stat. 275). No such exemption may be granted for the importation or exportation of a specimen listed in apendix I of the Convention which is to be used for primarily commercial purposes.

"(2) As used in this subsection, the term "undue economic hardship" shall include, but not be limited to:

(A) Substantial economic loss resulting from inability caused by this Act to perform contracts with respect to species of fish and wildlife entered into prior to the date of publication in the Federal Register of a notice of a proposed listing of such species as an endangered or threatened species.

(B) Substantial economic loss to persons who, for the year prior to the listing of a species under this Act derived a substantial portion of their income from the lawful taking of any listed species which taking would be made unlawful under this Act; or

(C) Curtailment of subsistence taking made unlawful under this Act by persons (i) not reasonably able to secure other sources of subsistence; and (ii) dependent to a substantial extent upon hunting and fishing for subsistence; and (iii) who must engage in such curtailed taking for subsistence purposes.

(3) The Secretary may make further requirements for a showing of undue economic hardship as he deems fit. Exceptions granted under this section may be limited by the Secretary in his discretion as to time, area, or other factor of applicability.

(c) Procedure.—(1) The Secretary shall publish a notice in the Federal Register of each application for an exception. Each notice shall invite the submission from interested parties, within thirty days after the date of the notice, of written data, views, or arguments with respect to the application. Information received by the Secretary as a part of any application shall be available to the public as a matter of public record at every stage of the proceeding.

(2) The Secretary may grant exceptions under subsections (a) and (b) of this section only if he finds, and publishes such finding in the Federal Register, that such exceptions were applied for in good faith and if granted and exercised will not operate to the disadvantage of such endangered or threatened species and will be consistent with the policy of this Act.

(d) Alaska Natives.—(1) The provisions of this Act shall not apply with respect to the taking of any endangered or threatened species by any Indian, Aleut, or Eskimo who is an Alaskan native who resides in Alaska if such taking is for the purpose of consumption or use in a native community or for the purpose of selling or creating for sale in interstate commerce authentic native articles of handicrafts and clothing: *Provided*, That in each case such taking is not accomplished in a wasteful manner. As used in this paragraph—

(A) "consumption or use in a native community" includes selling any edible portion of fish or wildlife in native villages and towns in Alaska for native consumption within native villages or towns; and

(B) "authentic native articles of handicrafts and clothing" means items composed wholly or in some significant respect of natural materials, and which are produced, decorated, or fashioned in the exercise of traditional native handicrafts without the use of pantographs, multiple carvers, or other mass copying devices. Traditional native handicrafts include, but are not limited to, weaving, carving, stitching, sewing, lacing, beading, drawing, and painting.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, whenever the Secretary determines that any species of fish or wildlife which is subject to taking by Indians, Aleuts, or Eskimos is an endangered or threatened species, and that such taking materially and negatively affects the threatened and endangered species, he may prescribe regulations upon the taking of such species by any such Indian, Aleut, or Eskimo. Such regulations may be established with reference to species, geographical description of the area included, the season for taking, or any other factors related to the reason for establishing such regulations and consistent with the policy of this Act. Such

regulations shall be prescribed after a notice and hearings in the affected judicial districts of Alaska and as otherwise required by section 103 of the Marine Mammal Protection Act of 1972, and shall be removed as soon as the Secretary determines that the need for their imposition has disappeared: *Provided*, That no such regulation shall be established which is in contravention of any provision of the Marine Mammal Protection Act of 1972.

PENALTIES AND ENFORCEMENT

Sec. 12. (a) Civil Penalty.—(1) Any person who—

(A) knowingly violates any provision of this Act or any regulation or permit issued under this Act, which prohibits the taking, importing, exporting, shipping, receiving, or otherwise moving in interstate or foreign commerce of any endangered or threatened species of fish or wildlife, or commits any act made unlawful under section 10(a) of this Act, may be assessed a civil penalty by the Secretay of not more than $10,000 for each violation;

(B) commits any act made unlawful under section 10(a) of this Act, or violates any other provision of this Act, or any regulation or permit issued under this Act, may be assessed a civil penalty by the Secretary of not more than $1,000 for each such violation.

No penalty shall be assessed unless such person is given notice and opportunity for a hearing with respect to such violation. Each prohibited act is a separate violation. Any such civil penalty may be compromised by the Secretary. Upon any failure to pay a penalty assessed under this subsection, the Secretary may by his own attorneys institute a civil action in a district court of the United States for any district in which such person is found, resides, or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action. The court shall hear such action solely on the record made before the Secretary and shall sustain his action if it is supported by substantial evidence on the record considered as a whole.

(2) Hearings held during proceedings for the assessment of civil penalties authorized by paragraph (1) of this subsection shall be conducted in accordance with section 554 of title 5, United States Code. The Secretary may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) Criminal Violation.—(1) Any person who knowingly and willfully violates any provision of this Act, or of any regulation or permit issued thereunder, shall, upon conviction, be fined not more than $20,000 or imprisoned for not more than one year, or both.

(2) The head of any Federal agency which has issued a lease, license, permit, or other agreement authorizing the use of Federal lands, including grazing of domestic livestock, to any person who is convicted under paragraph (1) of this subsection may immediately modify, suspend, or revoke such lease, license, permit, or other agreement. The Secretary may suspend, cancel, or refuse to issue for a period of up to one year Federal hunting or fishing permits or stamps with respect to any person who is convicted under paragraph (1) of this subsection. The United States shall not be liable to pay any compensation, reimbursement, or damages in connection with any such modification, suspension, or revocation made pursuant to this section of any lease, license, permit, stamp, or other agreement.

(c) Rewards.—Upon the recommendation of the Secretary, the Secretary of the Treasury is authorized to pay an amount equal to one-half of the civil penalty or fine paid, but not to exceed $2,500, to any person who furnishes information which leads to a finding of civil violation or a conviction of a criminal violation of any provision of this Act or any regulation or permit issued thereunder. Any officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall not be eligible for payment under this section.

(d) Enforcement.—(1) The provisions of this Act and any regulations or permits issued under this Act shall be enforced by the Secretary, the Secretary of the Treasury, or the Secretary of the Department in which the Coast Guard is operating, or all Secretaries. Each such Secretary may utilize, by agreement, with or without reimbursement, the personnel, services, and facilities of any other Federal agency or any State agency for purposes of enforcing this Act.

(2) The judges of the district courts of the United States and the United States magistrates may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this Act and any regulation issued thereunder.

(3) Any person authorized by the Secretary, the Secretary of the Treasury, or the Secretary of the Department in which the Coast Guard is operating, in furtherance of the enforcement of this Act may execute and serve any arrest warrant, search warrant, or other warrant of civil or criminal process issued by any officer or court of competent jurisdiction. A person so authorized may search and seize, with or without a warrant, to the extent authorized by law. Any fish, wildlife, property, or item so seized shall be held by any person authorized by the Secretary, the Secretary of the Treasury, or the Secretary of the Department in which the Coast Guard is operating pending disposition of civil or criminal proceedings, or the institution of an action in rem for forfeiture of such fish, wildlife, property, or item pursuant to paragraph (4) of this subsection, except that the Secretary may, in lieu of holding such fish, wildlife, property, or item, permit the owner or consignee to post a bond or other surety satisfactory to the Secretary.

(4) All fish or wildlife, or plants taken, possessed, sold, purchased, offered for sale or purchase, transported, delivered, received, carried, shipped, exported or imported contrary to the provisions of this Act, any regulation issued under this Act, or any permit issued thereunder, and all guns, traps, nets, and other equipment, vessels, vehicles, aircraft, and other means of transportation used to aid the taking, possessing, selling, purchasing, offering for sale or purchase, transporting, delivering, receiving, carrying, shipping, exporting or importing of any fish or wildlife, or plants in violation of this Act, any regulation made pursuant thereto, or any permit issued thereunder shall be subject to forfeiture to the United States.

(5) All provisions of law relating to the seizure, forfeiture, and condemnation of a vessel for violation of the customs laws, the disposition of such vessel or the proceeds from the sale thereof, and the remission or mitigation of such forfeiture, shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this Act, insofar as such provisions of law are applicable and not inconsistent with the provisions of this Act. The powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Treasury Department shall, for purposes of this Act, be exercised or performed by the Secretary or by such persons as he may designate.

(e) Registration.—(1) Any person who engages to any extent in business as an importer of fish or wildlife must register with the Secretary of the Treasury his name and the address of each place of business at which, and all trade names under which, he conducts such business.

(2) Any person required to register with the Secretary of the Treasury under paragraph (1) of this subsection shall—

(A) keep such records as will fully and correctly disclose each importation or exportation of fish or wildlife except nonendangered and nonthreatened shell fish or fishery products which are imported or exported for human or animal consumption or recreational purposes, made by him and the subsequent disposition made by him with respect to such fish or wildlife; and

(B) at all reasonable times upon notice by a duly authorized representative of the Secretary, afford such representative access to his places of business, an opportunity to examine his inventory of imported fish or wildlife and the records required to be kept under subparagraph (A) of this paragraph and to copy such records.

(3) The Secretary of the Treasury, after consultation with the Secretary, shall prescribe such regulations as are necessary and appropriate to carry out the purposes of this subsection.

(f) Enforcement Regulations.—(1) The Secretary, the Secretary of the Treasury, and the Secretary of the Department in which the Coast Guard is operating, are authorized to promulgate such regulations as may be appropriate to enforce this Act, and to charge reasonable fees for expenses to the Government connected with permits authorized by this Act, including processing applications and reasonable inspections, and the transfer, board, handling, or storage of fish, wildlife, or plants and evidentiary items seized and forfeited under this Act. All fees collected pursuant to this subsection shall be deposited in the Treasury to the credit of the appropriation which is current and chargeable for the cost of furnishing the services. Appropriated funds may be expended pending reimbursement from parties in interest.

(g) Citizen Suits.—(1) Except as provided in paragraph (2) of this subsection, any person may commence a civil suit on his own behalf to enjoin any person, including the United States and any other governmental instrumentality or agency (to the extent permitted by the eleventh amendment to the Constitution), who is alleged to be in violation of any provision of this Act or regulation issued under the authority thereof. The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce any such provision or regulation, as the case may be.

(2) No action may be commenced—

(A) prior to sixty days after written notice of the violation has been given to the Secretary, and to any alleged violator of any such provision or regulation;

(B) if the Secretary has commenced action to impose a penalty pursuant to subsection (a) of this section; or

(C) if the United States has commenced and is diligently prosecuting a criminal action in a court of the United States or a State to redress a violation of any such provision or regulation.

(3) (A) Any suit under this subsection may be brought in the judicial district in which the violation occurs.

(B) In any such suit under this subsection in which the United States is not a party, the Attorney General, at the request of the Secretary, may intervene on behalf of the United States as a matter of right.

(4) The court, in issuing any final order in any suit brought pursuant to paragraph (1) of this subsection may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

(5) The injunctive relief provided by this subsection shall not restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or limitation or to seek any other relief (including relief against the Secretary or a State agency).

(h) Coordination.—The Secretary of Agriculture and the Secretary shall provide for appropriate coordination of the administration of this Act with the administration of the animal quarantine laws (21 U.S.C. 101–105, 111–135b, and 612–614) and section 306 of the Tariff Act of 1930 (19 U.S.C. 1306). Nothing in this Act or any amendment made by this Act, shall be construed as superseding or limiting in any manner the functions of the Secretary of Agriculture under any other law relating to prohibited or restricted importations or possession of animals and other articles. No proceeding or determination under this Act shall preclude any proceeding or be considered determinative of any issue of fact or law in any proceeding under any Act administered by the Secretary of Agriculture. Nothing in this Act shall be construed as superseding or limiting in any manner the functions and responsibilities of the Secretary of the Treasury under the Tariff Act of 1930, including, but not limited to, section 527 of such Act (19 U.S.C. 1527), relating to the importation of wildlife taken, killed, possessed, or exported to the United States in violation of the laws or regulations of a foreign country.

ENDANGERED PLANTS

Sec. 13. The Secretary of Agriculture, in conjunction with other affected agencies, is authorized and directed to review species of plants which are endangered or threatened, and methods of providing adequate protection including legislation for such species. He shall report the results of such review to Congress, not later than one year after the date of enactment of this Act. For purposes of this section, there is authorized to be appropriated not to exceed $250,000.

CONFORMING AMENDMENTS

Sec. 14. (a) Section 4(c) of the Act of October 15, 1966 (80 Stat. 928, 16 U.S.C. 668dd(c)), is further amended by revising the second sentence thereof to read as follows: "With the exception of endangered and threatened species listed by the Secretary pursuant to section 4 of the Endangered Species Act of 1973 in States wherein a cooperative agreement does not exist pursuant to section 6(c) of such Act nothing in this Act shall be construed to authorize the Secretary to control or regulate hunting or fishing of resident fish and wildlife on lands not within the System."

(b) Section 10(a) of the Migratory Bird Conservation Act (45 Stat. 1224, 16 U.S.C. 715i(a)) and section 401(a) of the Act of June 15, 1935 (49 Stat. 383, 16 U.S.C. 715s(a)) are each amended by striking out "threatened with extinction," and inserting in lieu thereof the following: "listed pursuant to section 4 of the Endangered Species Act of 1973 as endangered or threatened species,".

(c) Section 6(a) (1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9(a) (1)) is amended by striking out:

"Threatened Species. — For any national area which may be authorized for the preservation of species of fish or wildlife that are threatened with extinction." and inserting in lieu thereof the following:

"Endangered and Threatened Species.—For lands, waters, or interests therein, the acquisition of which is authorized under section 5 of the Endangered Species Act of 1973, needed for the purpose of conserving, protecting, restoring, or propagating endangered or threatened species of fish, wildlife, or plants."

(d) The first sentence of section 2 of the Act of September 28, 1962 (76 Stat. 653; 16 U.S.C. 406k–1), is amended to read as follows:

"Sec. 2. The Secretary is authorized to acquire areas of land, or interests therein, which are suitable for—

"(1) incidental fish- and wildlife-oriented recreational development,

"(2) the protection of natural resources,

"(3) the conservation of endangered or threatened species listed by the Secretary pursuant to section 4 of the Endangered Species Act of 1973, or

"(4) carrying out two or more of the purposes set forth in paragraphs (1) through (3) of this section, and are adjacent to, or within, the said conservation areas, except that the acquisition of any land or interest therein pursuant to this section shall be accomplished only with such funds as may be appropriated therefor by the Congress or donated for such purposes, but such property shall not be acquired with funds obtained from the sale of Federal migratory bird hunting stamps."

(e) The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) is amended—

(1) by striking out "Endangered Species Conservation Act of 1969" in section (1) (B) thereof and inserting in lieu thereof the following: "Endangered Species Act of 1973";

(2) by striking out "pursuant to the Endangered Species Conservation Act of 1969" in section 101(a) (3) (B) thereof and inserting in lieu thereof the following: "or threatened species pursuant to the Endangered Species Act of 1973";

(3) by striking out "endangered under the Endangered Species Conservation Act of 1969" in section 102(b) (3) thereof and inserting in lieu thereof the following: "an endangered or a threatened species pursuant to the Endangered Species Act of 1973"; and

(4) by striking out "Endangered Species List, authorized by the Endangered Species Conservation Act of 1969," in section 202(a) (6) thereof and inserting in lieu thereof the following: "endangered species list and threatened species list published pursuant to section 4(c) (1) of the Endangered Species Act of 1973".

(f) Section 2(l) of the Federal Environmental Pesticide Control Act of 1972 (Public Law 92–516) is amended by striking out the words "by the Secretary of the Interior under Public Law 91–135" and inserting in lieu thereof the words "or threatened by the Secretary pursuant to the Endangered Species Act of 1973".

REPEALER

Sec. 15. The Endangered Species Conservation Act of 1969 (sections 1 through 3 of the Act of October 15, 1966, and sections 1 through 6 of the Act of December 5, 1969; 16 U.S.C. 668aa—668cc–6) is repealed.

APPLICABILITY WITHIN STATES

Sec. 16. (a) State Plan.—By the end of the first year after the date of enactment of this Act, a State may establish a plan for endangered and threatened species in accordance with this Act. A plan is in accordance with this Act if it meets or exceeds the requirements set forth in section 6(c) of this Act and represents an effective response to the Nation's need to conserve, protect, restore, and propagate endangered and threatened species of fish or wildlife. Upon the establishment of such a plan, the Governor or the head of the State agency shall promptly transmit a certified copy to the Secretary.

(b) Determination by Secretary.—Within ninety days after the Secretary receives a certified copy of a State plan established under subsection (a) or subsection (d) of this section, the Secretary shall make a determination whether such State has established a plan for endangered and threatened species in accordance with this Act. Unless the Secretary determines, pursuant to this section, that a State plan is not in accordance with this Act, the plan shall go into effect in such State on the date designated in the plan. In no event shall such State plan go into effect less than three months or more than nine months after the date of its establishment.

(c) Periodic Review.—The Secretary shall periodically, but not less than once every three years, review each State plan for endangered and threatened species which has been approved under subsection (b) of this section and for which there is experience, to determine whether such plan is still in accordance with this Act and to evaluate the success of such plan in terms of the policy of this Act. To facilitate such review, the Governor or the head of the State agency in each such State shall submit to the Secretary periodically all information relevant and requested by the Secretary. The Secretary shall report to the President and Congress simultaneously each year on the results of such reviews, including any recommendations for legislation.

(d) No State Plan.—Except as to species listed in Appendix I of the Convention, the provisions of this Act regarding the management and taking of any State's resident species shall become applicable in their entirety within a State fifteen months after the date of enactment of this Act unless, prior to such date, the Secretary has made a determination under subsection (b) of this section that such State has established a plan for endangered and threatened species in accordance with this Act: *Provided,* That if, within fifteen months of the date of enactment of this Act, the Secretary finds that a State which does not prevent the taking of a species listed by him as endangered does not provide adequate protection for that species, he may by regulation implement the provisions of subsection 10(a) of this Act with respect to that species in that State. If, at any time thereafter, the Secretary upon petition makes a determination, pursuant to subsection (b) of this section, that a State has established a plan for endangered and threatened species in accordance with this Act, such plan shall go into effect and the provisions of this Act regarding the conservation and management of any species shall cease to be applicable or in effect within such State on a date to be designated by the Secretary. If, after a State plan in accordance with this Act is in effect within a State, the Secretary makes a determination, pursuant to subsection (c) of this section, that such plan is no longer in accordance with this Act, the provisions of this Act regarding the management and taking of any species shall go into effect within such State and such plan shall cease to be in effect on a date to be designated by the Secretary.

(e) PROCEDURE.—(1) Before making any determination under this section, the Secretary shall publish a notice in the Federal Register and afford the State and all interested parties a reasonable opportunity to present their views by oral and written submission.

(2) The Secretary shall notify in writing the Governor of the affected State of any determinations made under this section and shall publish these determinations with reasons therefor in the Federal Register.

(3) Any determinations made by the Secretary under this section shall be subject to judicial review in accordance with chapter V of title 5, United States Code, in the United States court of appeals for the circuit in which is located the State whose plan is the subject of such determination or in the United States Court of Appeals for the District of Columbia Circuit. Any such review shall be instituted within sixty days from the date on which the determination made by the Secretary is published in the Federal Register.

(f) EFFECTIVE DATE.—Except as otherwise provided in this section, the provisions of this Act shall become effective in their entirety upon the date of enactment of this Act.

MARINE MAMMALS ACT

SEC. 17. CONFLICTS.—Except as otherwise provided in this Act, no provision of this Act shall take precedence over any more restrictive conflicting provision of the Marine Mammal Protection Act of 1972.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 18. For purposes of this Act, other than section 6 and section 13 of this Act, there are authorized to be appropriated such sums as are necessary, not to exceed $3,960,000 for the fiscal year ending June 30, 1974; not to exceed $6,660,000 for the fiscal year ending June 30, 1975; and not to exceed $8,870,000 for the fiscal year ending June 30, 1976.

SEC. 19. (a) That, in accordance with section 3(b) of the Wilderness Act (78 Stat. 892; 16 U.S.C. 1132(b)), those lands in the Daniel Boone National Forest, Kentucky, comprising the Pioneer Weapons Hunting Area and consisting of approximately seven thousand three hundred acres, are hereby designated as wilderness.

(b) As soon as practicable after this Act takes effect, a map of the wilderness area and a description of its boundaries shall be filed with the Interior and Insular Affairs Committee of the United States Senate and House of Representatives and such map and description shall have the same force and effect as if included in this Act: *Provided, however*, That correction of clerical and typographical errors in such legal description and map may be made. A copy of such map and description shall be on file and available for public inspection in the offices of the Chief, Forest Service, United States Department of Agriculture.

(c) The wilderness area designated by this Act shall be known as the Cave Run Wilderness and shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

(d) Nothing in this Act or the Wilderness Act shall be construed as precluding the construction of a Zilpo recreation site access road generally on a route extending northward from Forest Development Road Numbered 129 generally skirting the eastern boundary of the Pioneer Weapons Hunting Area, or as affecting or modifying in any manner the 1962 Cooperative Management Plan between the Department of Fish and Wildlife Resources of the State of Kentucky and the Department of Agriculture involving the designation of the Pioneer Weapons Hunting Area within the Daniel Boone National Forest.

The title was amended, so as to read: "A bill to provide for the conservation, protection, restoration, and propagation of threatened and endangered species of fish, wildlife, and plants, and for other purposes."

Mr. TUNNEY. Mr. President, I move that the Senate reconsider the vote by which the bill was passed.

Mr. PASTORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TUNNEY. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the bill, S. 1983, which was just passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT OF COMMUNICATIONS ACT OF 1934

Mr. PASTORE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1090.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 1090) to amend the Communications Act of 1934, to extend certain authorizations for the Corporation for Public Broadcasting and for certain construction grants for noncommercial educational television and radio broadcasting facilities, and for other purposes which was to strike out all after the enacting clause, and insert:

That (a) section 396(k)(1) of the Communications Act of 1934 is amended to read as follows:

"(k)(1) There is authorized to be appropriated for expenses of the Corporation $50,000,000 for the fiscal year ending June 30, 1974, and $60,000,000 for the fiscal year ending June 30, 1975."

(b) Section 396(k)(2) of such Act is amended by striking out "1973" and inserting in lieu thereof "1975".

(c) Section 391 of such Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 391. There are authorized to be appropriated for the fiscal year ending June 30, 1974, and for the succeeding fiscal year such sums not to exceed $25,000,000 for the fiscal year ending June 30, 1974, and $30,000,000 for the succeeding fiscal year, as may be necessary to carry out the purposes of section 390. Sums appropriated under this section for any fiscal year shall remain available for payment of grants for projects for which applications approved under section 392, have been submitted under such section prior to the end of the succeeding fiscal year."

SEC. 2. (a) Section 399 of the Communications Act of 1934 is amended by inserting "(a)" after "SEC. 399." and by inserting at the end thereof the following new subsection:

"(b)(1) Except as provided in paragraph (2), each licensee which receives assistance under this part after the date of the enactment of this subsection shall retain an audio recording of each of its broadcasts of any program in which any issue of public importance is discussed. Each such recording shall be retained for the sixty-day period beginning on the date on which the licensee broadcasts such program.

"(2) The requirements of paragraph (1) shall not apply with respect to a licensee's broadcast of a program if an entity designated by the licensee retains an audio recording of each of the licensee's broadcasts of such a program for the period prescribed by paragraph (1).

"(3) Each licensee and entity designated by a licensee under paragraph (2) which retains a recording under paragraph (1) or (2) shall, in the period during which such recording is required under such paragraph to be retained, make a copy of such recording available—

"(A) to the Commission upon its request, and

"(B) to any other person upon payment to the licensee or designated entity (as the case may be) of its reasonable cost of making such copy.

"(4) The Commission shall by rule prescribe—

"(A) the manner in which recordings required by this subsection shall be kept, and

"(B) the conditions under which they shall be available to persons other than the Commission,

giving due regard to the goals of eliminating unnecessary expense and effort and minimizing administrative burdens."

(b) The section heading for such section 399 is amended by inserting at the end "; RECORDINGS OF CERTAIN PROGRAMS".

Mr. PASTORE. Mr. President, S. 1090 would require all noncommercial radio and television stations receiving Federal assistance to keep audio recordings of each broadcast of a program in which issues of public importance are discussed.

Mr. President, this legislation passed the Senate on May 7, 1973, and subsequently passed the House on Friday, July 20.

As passed by the House, it differs little from the bill passed by the Senate.

Specifically, it authorizes appropriations of $5 million less for the Corporation for each of the fiscal years 1974 and 1975.

It also shortens the authorization period for appropriations for the public broadcasting facilities construction program from 4 years to 2 years, that is, fiscal years 1974 and 1975 instead of fiscal years 1974, 1975, 1976, and 1977. In the process, however, it increases the authorization for fiscal year 1975 from $25 million to $30 million.

In my judgment, under the circumstances, the differences between the House and Senate versions of S. 1090 are not substantial enough to warrant a conference.

The House bill is fully in accord with the intent of the bill as the Senate passed it. It will enable the Corporation and the facilities program to continue and modestly grow.

I cannot let this opportunity pass, however, without once again emphasizing the need for a permanent financing plan for the Corporation. I hope that the administration will soon submit such a program.

I move that the Senate concur in the amendment of the House.

The motion was agreed to.

Mr. PASTORE. Mr. President, this action has been cleared with the other side. I have talked with the minority leader and also with the Senator from Tennessee (Mr. BAKER), who is the minority member of our subcommittee. What I am doing is satisfactory to them. They have no objection.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House insisted upon its amendment to the bill (S. 1888) to extend and amend the Agricultural Act of 1970 for the purpose of assuring consumers of plentiful supplies of food and fiber at reasonable prices, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. POAGE, Mr. FOLEY, Mr. SISK, Mr. RARICK, Mr. JONES of Tennessee, Mr. TEAGUE of California, Mr. WAMPLER, Mr. GOODLING, and Mr. MAYNE were appointed managers on the part of the House at the conference.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 8070) to authorize grants for vocational rehabilitation services, and for other purposes; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. PERKINS, Mr. BRADEMAS, Mrs. MINK, Mr. QUIE, and Mr. ESHLEMAN were appointed managers on the part of the House at the conference.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 8825) making appropriations for the Department of Housing and Urban Development; for space, science, veterans, and certain other independent executive agencies, boards, commissions, and corporations for the fiscal year ending June 30, 1974, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. BOLAND, Mr. EVINS of Tennessee, Mr. SHIPLEY, Mr. ROUSH, Mr. TIERNAN, Mr. CHAPPELL, Mr. GIAIMO, Mr. MAHON, Mr. TALCOTT, Mr. McDADE, Mr. SCHERLE, Mr. RUTH, and Mr. CEDERBERG were appointed managers on the part of the House at the conference.

JOB TRAINING AND COMMUNITY SERVICES ACT OF 1973

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of S. 1559, which will be stated.

The assistant legislative clerk read as follows:

> A bill (S. 1559) to provide financial assistance to enable State and local governments to assume responsibilities for job training and community services, and for other purposes, which had been reported from the Committe on Labor and Public Welfare with an amendment in the nature of a substitute.

The PRESIDING OFFICER. Debate on S. 1559 is limited to 1 hour, to be equally divided and controlled by the Senator from Wisconsin (Mr. NELSON) and the Senator from New York (Mr. JAVITS), with 30 minutes on any amendment, debatable motion, or appeal.

Who yields time?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time for the quorum call not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. NELSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, the legislation before the Senate today represents the culmination of 4 years of effort to decentralize responsibility for manpower programs in order to enable States and localities to assume primary responsibility for carrying out training and employment programs in accordance with locally determined needs.

In the Job Training and Community Services Act of 1973 the Labor and Public Welfare Committee has reported a bill which provides the legislative basis for special revenue sharing for manpower programs.

At the outset, let me point out that the funding recommended by the committee for this legislation—despite increases in the cost of programs—is exactly the same as Congress appropriated for the same programs in 1973—$1.88 billion. Therefore, no part of the President's overall budget increase of $19 billion between 1973 and 1974 can be attributed to this legislation. If all legislation held the line on spending at last year's level—as the committee recommends for this bill—then the budget would in fact be balanced.

In his budget message in January of this year, the President proposed a program of manpower revenue sharing. The President said:

> The 1974 program is based upon a reevaluation of the Federal government's role in these areas. The primary responsibility for most of these activities, other than those for veterans, rests with State and local governments. The proper Federal role is primarily that of helping State and local governments finance their own activities while conducting directly those few programs that can be done efficiently and effectively only by the Federal government.

I have long held the view that Federal programs can best be administered at the State and local level. The pending bill embodies the manpower revenue sharing approach endorsed by the President. The bill, in all significant respects, is consistent with the administration's plans.

The administration's budget in January proposed to undertake administrative changes designed to move in the direction of manpower revenue sharing during fiscal year 1974—the current year.

We are hopeful that this bipartisan legislation we have worked out can be enacted into law promptly in order that the Labor Department can begin to implement the manpower revenue sharing program and have the new system fully in place by July 1, 1974.

The bill we are presenting to the Senate would replace the Manpower Development and Training Act of 1962 and title I of the Economic Opportunity Act of 1964 as the basic legislative authorities for Federal manpower programs.

This year the Subcommittee on Employment, Poverty, and Migratory Labor held 20 days of hearings on manpower legislation and related issues, beginning in February and ending in May. The subcommittee held 15 hearings around the Nation—in Wisconsin, Ohio, Iowa, New York, and California. Five days of hearings were held in Washington, specifically on manpower legislation.

On April 12, Senator JAVITS and I introduced S. 1559, the Job Training and Community Services Act of 1973. The bill was marked up in subcommittee on May 15 and by the full Labor and Public Welfare Committee on June 14.

The bill reported by the Labor and Public Welfare Committee provides for turning over to State and local elected officials the major responsibility for job training programs as well as local initiative community action activities.

In order to carry out the legislation, the bill authorizes the appropriation of such sums as may be necessary. The Manpower Development and Training Act, which the pending legislation replaces, currently authorizes such sums as may be necessary and the administration has requested an extension of that authorization. The committee report sets forth the estimate of costs based on a continuation of the fiscal year 1973 levels (S. Rept. 93-304, page 23).

Last year, the total authorization for manpower training was $1.55 billion and funds for community action were $329 million—for a total of $1.88 billion. The committee believes that Governors, mayors, and county officials can adequately carry out their new responsibilities for manpower programs and community services under this legislation if we provide an amount equal to funds appropriated for the same activities during fiscal year 1973, a total of $1.88 billion.

If the sum of $1.88 billion were appropriated, under the bill's provisions $1.55 billion would be used for job training and $329 million for local community services activities.

Eligible prime sponsors for carrying out job training and community services programs would be States, cities of 100,000 population, and counties of 150,000 population. In special cicumstances, the Secretary of Labor could recognize a qualified city or county below those population limits. City and county prime sponsors would plan and administer programs within their areas and the State would be the prime sponsor responsible for the balance of State areas outside local prime sponsorship areas.

Of the funds available under the bill for job training, 75 percent would be allocated to State and local governments designated as prime sponsors under the legislation. The remaining 25 percent would be available to the Secretary to carry out special responsibilities, including the Job Corps, programs for Indians and migrants, technical assistance, and research and development activities.

The chief elected officials—Governors, mayors, and county officials—would have the final authority with respect to the programs for which they are responsible as prime sponsors. They would be assisted in planning and evaluation by broadly based employment and training councils would consist of community action agencies, other community-based organizations, vocational education and employment service agencies, other organizations with expertise in the field of training, and business and labor. One-third of the council's membership must be representative of population groups in the community to be served.

In order to receive funds, each prime sponsor would prepare its own program statement specifying programs and projects for which it intends to use the funds and establishing goals for those programs. The employment and training council would make recommendations to the prime sponsor concerning the program statement. If the program statement meets the provisions of the law, the Secretary must provide the financial assistance to which the prime sponsor is entitled. Under this legislation, Federal officials will no longer approve or disapprove individual projects. The purpose of the legislation is to assure that prime sponsors will be entitled to use their allocations for meeting locally determined manpower needs in their own discretion. The bill provides that the program statement must be made public and the opportunity for comment must be afforded to the Governor, area planning council, appropriate State and local agencies and officials, and community action agencies, and other community-based organizations.

State and local prime sponsors are not required to maintain any particular categorical programs. Eligible activities describing recognized programs are simply listed as examples of activities prime sponsors may fund, but other job training activities are eligible as well.

Eligible activities under the legislation include the full array of manpower training programs now being carried out. However, local and State prime sponsors would not be limited to these activities. They would be free to meet the needs of their particular localities in whatever way appears wisest to local authorities. Eligible activities are detailed in section 201(b) (1) through (15) on pages 50 to 56 of the bill.

The eligible activities in the bill include:

Mainstream programs, to provide work on conservation, recreation, beautification, and other projects for older workers and others with little chance of finding regular employment.

New careers programs, to provide training and jobs with upward mobility for the poor and unemployed in such areas as health, education and child care.

Neighborhood Youth Corps programs, to provide part-time employment to youngsters to help them stay in school, jobs, and training for those over 16 who have left school, and summer employment for poor young people.

Opportunities industrialization centers—OIC—and jobs for progress—Operation SER—programs, both of which provide comprehensive services to prepare and place people in jobs through community-based training programs.

Job opportunities in the business sector—JOBS—programs to provide financial incentives to businesses to train and employ the disadvantaged.

Skill centers, programs now run under the MDTA—to provide institutional training programs for the poor.

Job development programs, including employment centers and mobile units accessible to urban and rural poverty areas.

Special programs for offenders, to help them with training and securing employment.

Programs to meet the needs of Indians.

Programs for migrant and seasonal farmworkers.

Special programs for persons with limited English-speaking ability.

Programs for middle-aged and older workers.

Programs for unemployed and underemployed engineers, scientists, and technicians.

Public service employment programs, providing transitional jobs for the unemployed, including related training.

In order to encourage areawide planning the bill contains authority for the Governor of each State to provide for multicounty planning areas. Each area would have a planning council made up of representatives of local communities. Outside of areas served by city or county prime sponsors, the Governor would have final authority to approve programs. However, the area planning councils would prepare program statements and have the right to comment upon any changes the Governor made. City and county prime sponsors, while independent, would be included in planning areas and area planning councils would review their program statements and be able to give advice.

Within the State prime sponsorship area, cities and counties with at least 75,000 population would be program agents. They would have specific dollar allocations and could operate the manpower programs. However, planning for their programs would be carried out by the multicounty area planning councils and be included in the State plan submitted by the Governor.

The apportionment of funds among State and local prime sponsors and program agents is based upon two factors—unemployment and the adult population below the lower living standard budget of the Bureau of Labor Statistics. However, during fiscal years 1974 through 1976, each State and local area would be held harmless at the same proportionate share of manpower funding received during fiscal year 1972. In fiscal year 1977, the hold harmless provision would no longer apply and the formula specified in the bill would be applicable.

NEED FOR MANPOWER REFORM

This year, as in the past, witness after witness testified at great length on the difficulties of attempting to plan sensible programs and operate them in an orderly manner when the difficulties of dealing through the Federal bureaucracies are so overwhelming.

Manpower programs are now administered directly from Washington through the 10 regional offices of the Department of Labor.

The legislation proposes to reduce the number of contractors to a total of 378 prime sponsors—State, city, and county—in contrast to the 10,000 or more separate entities that now contract directly with Washington to run the programs.

The current pattern of administration includes three Federal agencies—the Department of Labor, the Department of Health, Education, and Welfare, and the Office of Economic Opportunity—although OEO no longer administers any manpower programs directly. OEO programs delegated to the Labor Department, however, often operate through local community action agencies.

At the State and local level there exists a tangle. Some programs are funded from HEW through State vocational agencies—others from the Labor Department through the employment service. Some programs draw funds through the Department's regional offices. Still others are funded directly from Washington.

Private groups like the JOBS program, opportunities industrialization centers, Operation SER, and the Urban League have been funded as national contracts by the Department.

It is not unusual to find one community operating a mainstream program, a Neighborhood Youth Corps program, a new careers program, and a concentrated employment program. Each has a different, complex set of guidelines for application procedures and of reporting requirements.

Often when an application is sent to a regional office it is returned for revisions and additional information not once or twice but time and time again. Sometimes applications approved at the regional level are rejected at the national level.

And often it is very difficult to determine whether an application is being frustrated because it does not meet the letter of the guidelines, or because there isn't enough money in the till and it is easier to find difficulties in the application than to give a program an honest no.

The provisions of the Manpower Development and Training Act and of title I of the Economic Opportunity Act are written in quite general terms leaving broad discretion to the Secretary of Labor. This is especially true concerning the distribution of money. The Secretary has not hesitated to use this discretion to make changes in the way things are operated, changes that are often made in the midst of the fiscal year.

These repeated changes in administrative requirements and reallocations of funds often appear capricious when viewed from the local level and have contributed a great deal to the pressure for decentralization of control of manpower programs.

One result in massive confusion and frustration and a conviction among manpower experts that a much better delivery system for the Nation's major manpower training effort must be developed.

However, unless manpower decentralization is carried out through legislation those operating the program in the field cannot be assured of its legality and cannot have assurance of its stability.

Moreover, the decisions about the size and the powers of prime sponsorships, the relative strengths of State and local governments, the structure of the allocation formula are all extremely difficult questions about which thoughtful men can and do disagree strongly. They are precisely the kinds of questions that ought to be joined and resolved in the legislative process, where all can be heard and disagreements compromised, not imposed by Federal bureaucrats.

The concept of reform of manpower programs through legislation is strongly supported by Governors, mayors, and county executives.

Speaking for the National Governor's Conference, Gov. Patrick J. Lucey of Wisconsin said:

> . . . we must reorganize and reform manpower programs as they are currently structured, eliminate needless fragmentation and competition, and take advantage of the manpower planning revolution which has occurred at the State level in the past 2 years.
>
> We want comprehensive manpower reform—or "manpower revenue sharing"—through the enactment of legislation by Congress, and not through unilateral action, however well-intentioned, by the Department of Labor. Major policy decisions ought to be made by elected representatives, and not by administrators acting without the benefit of legislative guidance.

Mayor Stanley A. Cmich, Canton, Ohio, testified:

> The policy of the National League of Cities and the U.S. Conference of Mayors in the area of manpower is longstanding and clear. This policy has been articulated before a variety of congressional committees in the past, including your own, Mr. Chairman. We are here today again to urge Congress to enact legislation which embodies this policy.
>
> The basic principles of this policy are as follows:
>
> Enactment of manpower reform legislation which embodies the basic principles of program decategorization, program decentralization, and program consolidation.
>
> Enactment of manpower reform legislation which provides cities with the opportunity to become prime sponsors of manpower programs.

The counties' position as put in the record by John Klein, county executive, Suffolk County, N.Y., stated:

> The National Association of Counties advocates manpower reform legislation during this current session of Congress. This law shall create greater job opportunities for the unemployed and underemployed.
>
> We appreciate the current administrative efforts to decentralize and decategorize manpower programs. However, specific legislation is the only acceptable means for defining the complex roles and clarifying the broad issues found in manpower today.

The bill we are offering today, then, represents the committee's best efforts, after nearly 4 years of consideration, to present legislation carrying out the principles of decentralization and special revenue sharing upon which the administration, the Congress, and the State and local governments concerned with manpower programs are in fundamental agreement.

A number of specific issues merit discussion in greater detail.

THE ISSUE OF PRIME SPONSORSHIP

From the beginning there has been agreement that in larger cities and counties local citizens and officials are in a better position to plan and administer manpower programs than the people in the State capitals. Efficiency at the local level would not be improved simply by substituting a distant bureaucrat in the State capital for a distant bureaucrat in the regional office or in Washington. Moreover, many have recognized that there is often tension between large cities and State governments.

However, there has been strong disagreement on the proper size for city and county prime sponsors. The National League of Cities would prefer that cities of 50,000 be prime sponsors. Under the Emergency Employment Act the administration chose cities and counties of 75,000 population to serve as program agents administering the public service employment program.

The committee recommends prime sponsorship for cities of 100,000 and counties of 150,000. Each of these which desires to be a prime sponsor would have to establish an employment and training council and procedures for planning, operating and evaluating a comprehensive manpower program.

However, in recognition of the concerns of smaller cities and counties which have been administering the Emergency Employment Act efficiently, the bill provides that units of 75,000 can be "programed agents" operating their own programs, although the planning and evaluation responsibility would rest with the governor and with planning councils covering a broader area.

The legislation also gives the Secretary the authority to recognize prime sponsors smaller than the population limits of 100,000 for cities and 150,000 for counties when he determines that there is a special need and that a smaller community is as capable as the State would be to organize and conduct comprehensive training programs.

THE ROLE OF EMPLOYMENT AND TRAINING COUNCILS

Drawing the larger community into the process of planning and operating programs for local employment and training needs was a fundamental purpose of the committee in drafting the bill. For too long we have considered the problems of full employment largely from the point of view of the national economy. For too long we have considered the problems of manpower training largely from the point of view of professional program operators.

Employment and training problems must be considered together. And they must be the urgent concern of the entire community, not just the program professionals.

The committee believes that making Governors and mayors and county officials responsible for manpower programs is a help. This step recognizes that economic growth and training for jobs are crucial activities for state and communities and that they deserve the attention of the highest elected officials. The committee also believes that it is necessary to go beyond elected officials and to engage the active participation of those people from the business and labor communities that know most about these employment problems. It is crucial, in the judgment of the committee, that those individuals and community groups that receive services under manpower programs play a major role in the design of programs. The legislation requires that one-third of the members of the council be representative of the people served.

The committee bill also provides that community action agencies be represented on the council. Community action agencies have played a crucial role in bringing manpower programs to bear effectively on the problems of the poor, have provided professional opportunities for able people from minority backgrounds, have provided a link to the concerns of poverty communities not found elsewhere within city and State bureaucracies, and are storehouses of knowledge about the conduct of manpower programs. The legislation also provides that other community-based groups, such as opportunities industrialization centers and Operation SER, should be represented on the council in those communities where they are established.

The council must, of course, include representatives of those agencies—such as the Employment Service, Vocational Education, and Vocational Rehabilitation—who are responsible for carrying out manpower training programs or providing public service employment jobs.

It is the committee's hope that effective cooperation between the councils and mayors, county officials, and Governors can lead to a greater understanding across the Nation of the tie between jobs and poverty and can lead to creative solutions to the problems of unemployment, underemployment, and manpower training.

Examples exist in many communities of what can be done through cooperation. In Milwaukee, for instance, as part of the LEAP program, the Construction and Building Trades Council, the Urban League, the OIC, the Employment Service, and some 12 industries are cooperating in a program under which minority youngsters have secured apprenticeships in industrial trades. The cooperation of industries has made it possible to guarantee employment at decent wages and with future advancement to those recruits who completed the training phase of the program. Too often, at present, these programs are small scale. An effective employment and training council ought to make it possible to operate a citywide program on the same basis of cooperation and farsighted planning.

PUBLIC SERVICE EMPLOYMENT

The Emergency Employment Act expires this year. In separate legislation, the committee is recommending that it be extended, and focused more sharply on the needs of veterans, the poor, and the long-term unemployed. These proposals are included in S. 1560, the Emergency Employment Act Amendments of 1973.

However, we also recognize that public service employment programs should be eligible as an integral part of local manpower programs. So the public service employment program is included among the eligible activities under the bill.

NATIONAL PROGRAMS

A number of effective programs have been funded by the Secretary with his share of manpower funds—currently about 30 percent of the total appropriations under the MDTA and title I of the EOA. The Secretary's share would be set at 25 percent of the funds authorized by our legislation.

Among those programs are efforts on behalf of Indians and migrants, groups for which we have long recognized a special Federal responsibility.

Other programs which can best be carried out as special Federal programs include the Job Corps and the job opportunities in the business sector program carried out in conjunction with the National Alliance of Businessmen—called the NABS–JOBS program—and the computerized job bank.

The legislation would, therefore, continue Secretarial responsibility for Indians, migrants, the Job Corps, the computerized job bank, and JOBS.

It would also make it a responsibility of the Secretary to see to it that OIC and SER are given every opportunity to make the transition from Federal support to integration with State and local programs in an effective manner, with no sharp cutoff of support. To be specific, the legislation would require the Secretary to continue funding the OIC and SER programs with national funds through fiscal year 1974 while local programs are being organized. Thereafter, local prime sponsors would be expected to give due consideration to continued support at the local level, where representatives of these organizations should be given representation on State and local councils in the capacity as community-based organizations.

COMMUNITY ACTION AGENCIES

Title III of the legislation provides a meaning of continuing Federal support for activities carried on by community action agencies at the local level, agencies now threatened with loss of support because of the failure of the administration to request local initiative funds in the budget for fiscal year 1974.

Local community action agencies are at the heart of the effort—now nearly 9 years old—to help local communities organize their resources to provide better services for the poor and thus to relieve the distress of poverty and help individuals and families to escape.

The programs carried on vary widely with local community needs.

They include:

Operating Headstart programs and centers.

Running community health and dental programs.

Providing overhead for national emphasis manpower programs such as Neighborhood Youth Corps and Mainstream and the concentrated employment programs.

Running their own manpower programs, including running outreach centers and providing adult basic education and job development.

Economic development efforts, including establishing cooperatives, both for consumers and for production.

Consumer action and consumer counseling and assistance programs.

Housing services for the poor and housing development corporations.

Day care programs.

Running neighborhood service centers.

Under title III of the pending bill, funds would be made available for community service activities.

There would be no requirement that community action agencies be funded. That would be entirely a local decision. But funds would be set aside for the kinds of activities now carried on by community action agencies. And we require that community action agencies be given due consideration and expect that effective programs will be refunded.

Back in 1971 the administration favored basically this approach. Frank Carlucci, then OEO Director, praised community action agencies for the maturity they had achieved and promised that local communities would have sufficient funds under administration revenue-sharing plans to continue them.

In the 1974 budget the administration asks no funds for community action agencies, but states—p. 106, appendix to the budget for fiscal year 1974:

> If the constituencies of individual communities desire to continue providing financial support to local community action agencies, general and special revenue sharing funds could be used.

Title III, then, will simply provide the funding needed by States and local communities so that continuing community action agencies is a genuine option. Without Federal funds it is unrealistic to expect hard-pressed local jurisdictions to make major outlays for institutions that are devoted to the interests of a relatively small fraction of the community.

The committee believes we have a responsibility to States and communities, and to the poor, to see to it that funds are not stopped for these vital activities. Such funding is relevant to manpower legislation since community action agencies provide a substantial amount of the overhead costs for running present concentrated employment, Neighborhood Youth Corps, and Operation Mainstream programs in cities and rural areas all across the Nation.

BACKGROUND OF MANPOWER PROGRAMS

In order to understand our present legislative situation, it is helpful to review briefly the history of manpower programs.

By the time President Kennedy took office in 1961, the promise of full employment set forth in the Employment Act of 1946 seemed more and more a piece of wishful thinking. Unemployment averaged 6.8 percent in 1958 and was at 6.7 percent in 1961.

Legislation had been proposed to deal with two separate aspects of the problem. Senator HUMPHREY had attempted in a series of bills beginning in 1957 to revive the Civilian Conservation Corps programs to help unemployed young persons. And Senator Paul Douglas had pushed through Congress the Area Redevelopment Act to try to create jobs and retrain workers in areas where technological change—such as in mining and meatpacking—had cost well-paid workers their livelihood. The ARA was vetoed twice by President Eisenhower.

Kennedy endorsed both the Douglas and the Humphrey approaches. The ARA became law in 1961—including a small manpower training program—and hearings were held on a Youth Employment Act. In 1962 the concept of Federal support for training including stipends for the technologically unemployed was greatly expanded with the passage of the Manpower Development and Training Act.

The program was designed to be operated through State vocational education agencies and the Federal-State employment service with a substantial portion of the funds reserved to the Secretary of Labor to carry on experimental and demonstration programs.

In 1964—after the rediscovery of poverty in America—the Humphrey programs for unemployed young people were incorporated into title I of the Economic Opportunity Act. The programs included the Job Corps, both rural conservation camps and larger urban Job Corps centers, and the Neighborhood Youth Corps.

The OEO programs were operated through community action agencies or private nonprofit agencies and business firms on a contractual basis.

In later years additional programs were added to the Economic Opportunity Act, including job programs for older people in rural areas—Operation Mainstream—and programs to provide training and jobs with advancement possibilities—the new careers program. Other "categorical" programs such as job opportunities in the business sector—JOBS—were created by the Department of Labor.

The manpower effort under the MDTA and EOA grew from some $56 million in 1963 to slightly over $1 billion in fiscal year 1969, when the Nixon administration took office. For fiscal year 1973 the Congress appropriated $1.550 billion.

At the heart of the concept of manpower training is the assumption that after a person has completed the program there will be a job.

Programs that carry out this purpose work magnificently well.

In Wisconsin, for instance, over the past winter nearly 200 formerly unemployed, or severely underemployed men have been trained in the shipbuilding trades at the North East Wisconsin Technical Institute at Sturgeon Bay in Doar County. They have all been hired at jobs paying $3.05 an hour in the expanding bay shipbuilding yards right in Sturgeon Bay.

Federal outlays for training make sense when they lead to jobs at decent pay. The welfare savings and tax returns will more than repay the investment. The added productivity over a worker's lifetime makes job training—where there is a job at the end of the training—a worthwhile investment.

But in many parts of the Nation—especially poorer rural areas where farming provides fewer and fewer jobs as well as in congested inner city poverty areas—the heart of the problem is the lack of jobs at decent pay.

Training alone cannot close the job gap. We must have the jobs.

Recognition of the need for jobs was the main thrust behind the ARA legislation. Unfortunately neither the ARA nor its successor agency the Economic Development Administration—EDA—have ever had anything like adequate funding. Aside from a roadbuilding program in Appalachia the EDA had less than $300 million in 1973 for the entire Nation.

Recognition of the need for jobs was behind my efforts in 1964 to persuade the Congress to adopt a major conservation jobs program—to be financed through an increase in the tax on cigarettes. In hearings on that legislation we gathered testimony from State park commissioners around the Nation and established that there was ample work to do if the dollars to pay for it were available. That effort finally led to the Operation Mainstream program by amendment of the Economic Opportunity Act in 1965.

Recognition that jobs are at the heart of the poverty problem led the President's National Advisory Commission on Civil Disorders—the Kerner commission—to recommend a program of 1 million public service jobs, and other commissions to repeat the recommendation.

However, the administration saw organizational problems as crucial for manpower programs.

In August 1969, President Nixon called for the decentralization of manpower programs to:

> . . . make it possible for State and local governments to respond to the needs of the individual trainee.

The administration proposed the Manpower Training Act to carry out its intent.

On Labor Day in September of 1969—just after the President called for a decentralization of the existing manpower program—we announced that we would explore the possibilities of developing a major public service employment program to close the job gap.

The Subcommittee on Employment, Manpower, and Poverty held some 22 days of hearings between November of 1969 and May of 1970 gathering information on the functioning of manpower programs in cities from coast to coast including Los Angeles, Corpus Christi, Milwaukee, Cleveland, and New York.

In the spring and summer of 1970 we prepared legislation that would accomplish both ends—decentralization of manpower programs and a beginning of a public service employment program.

When we brought the Employment and Training Opportunities Act of 1970 to the Senate floor containing both manpower reform and public service employment, it passed by a substantial margin of 68 to 6 in September of 1970. Amendments seeking to weaken the public service employment part of the bill were handily defeated.

The committee heard repeated testimony that organizational reform was needed, but that the fundamental difficulty lay in the lack of jobs, especially jobs at decent pay.

Unfortunately, when the bill reached the President's desk in mid-December the decision was made to veto. It was a most unfortunate decision in my judgment and based on a misreading of the bill. The veto message said that the public service employment title of the bill would lead to dead end jobs and would be make work. But, in fact, the bill's public service employment title contained strong provisions to assure training, upgrading and that persons would be helped to find unsubsidized jobs.

In January of 1971, I introduced a bill based on the language in the President's veto message in which he recognized that a "temporary program of transitional public service jobs might be a useful element" in a manpower program. On the first of April the Senate overwhelmingly passed the Emergency Employment Act.

The President signed the bill on July 12 and at the President's request Congress voted appropriations immediately.

I am pleased to report that the Emergency Employment Act has been a great success. It is not nearly large enough, but it has laid to rest fears that a public jobs program would be a "make work" program.

The Emergency Employment Act has been evaluated by the General Accounting Office, the National Manpower Policy Task Force, the Urban Coalition, and the administration. All reports agree that the jobs have been meaningful and met real needs.

The subcommittee was occupied during 1972 with efforts to extend the Economic Opportunity Act. That legislation extended the Job Corps, Neighborhood Youth Corps, mainstream, and concentrated employment program.

During the time between the veto of the comprehensive manpower bill in December of 1970 and the beginning of 1973 a consensus developed among those active in the field about the principal features of a decentralization of the manpower programs.

By 1973 the counties and the Governors had joined the mayors in supporting legislative action to achieve manpower revenue sharing. Despite disagreements about details—especially as to the number and size of prime sponsorship areas—the States, cities, and counties are in remarkable agreement on the basic outline of a balanced system of decentralized manpower planning and administration.

They are united, specially, on their insistence that manpower reform be carried out through the legislative process.

CONCLUSION

In conclusion, let me say that the legislation now before the Senate represents a milestone in the development of manpower policy in this Nation.

For more than 10 years now—since the passage of the Manpower Development and Training Act in 1962—we have been attempting to grapple with the very difficult problem of providing training and jobs for the unemployed and the disadvantaged. We have learned much, gained much experience. We have now learned enough so that it is time to move away from a program run directly from Washington and more fully to engage the creative ability of American States and communities in the effort.

The greater involvement of State and local officials and citizens in this effort will be the result of the passage of this landmark legislation. I hope that it receives the support of the Senate.

Mr. President, I ask unanimous consent that the section-by-section analysis of the bill be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

Section 1. Short title.

This section provides that the Act may be cited as the "Job Training and Community Services Act of 1973".

TITLE I—STATE AND LOCAL SPONSORSHIP OF PROGRAMS

Section 101. Statement of purpose.

This section states that it is the purpose of the Act to establish a flexible and decentralized system of State and local programs for job training and community services for economically disadvantaged, unemployed, or underemployed persons, to meet locally determined needs, and to assure that such training and services lead to employment and enhanced self-sufficiency.

Section 102. Authorization.

This section authorizes the appropriation of such sums as may be necessary for each of fiscal years 1974 through 1977. The section also authorizes advanced funding of an appropriation during the preceding fiscal year.

Section 103. Transitional provisions.

Subsection (a) of this section provides that, during fiscal year 1974, the Secretary is authorized to continue to provide financial assistance in accord with the Manpower Development and Training Act, title I of the Economic Opportunity Act, and the Emergency Equipment Act.

Subsection (b) provides that such transitional authority shall not be construed to postpone the designation of prime sponsors and implementation of other provisions of the Act. The Secretary shall continue to contract or otherwise provide financial assistance for carrying out national programs of demonstrated effectiveness through fiscal year 1974.

Section 104. Prime sponsors.

Subsection (a) of this section provides that eligible prime sponsors of programs under the Act shall be the following: States; cities of at least 100,000 population; counties of at least 150,000 population; consortiums of adjoining local governments serving a labor market area or substantial portion thereof if a city of 100,000 or a county of 150,000 population is included; and local governments or consortiums thereof without regard to population which the Secretary determines to serve a substantial portion of a labor market area or to be a rural area having high unemployment, and to have demonstrated the capability for adequately carrying out programs, a special need for services, and that it will carry out such programs and services in the area as effectively as the State.

Subsection (b) authorizes the Secretary to designate a county as prime sponsor covering areas both outside and within the boundaries of eligible cities within its jurisdiction if it demonstrates the capability for more effectively carrying out the purposes of the Act than the particular cities covered. Before such a designation, the Secretary shall, where appropriate, encourage consortium arrangements involving the affected counties and cities.

Subsection (c) provides that the Secretary shall approve the designation of any eligible prime sponsor which submits a satisfactory prime sponsorship plan meeting the requirements of the legislation.

Subsection (d) provides for an opportunity for hearing and appeal to the Secretary prior to disapproval or withdrawal of approval of a prime sponsor.

TITLE II—JOB TRAINING PROGRAMS

Section 201. Programs authorized.

Subsection (a) of this section provides that programs receiving financial assistance under this title shall include training and related services to economically disadvantaged, unemployed, or underemployed individuals, and others in need of training or retraining, to secure and retain employment consistent with their full potential.

Subsection (b) provides that programs assisted under this title may include but are not limited to the following: mainstream programs, new careers, neighborhood youth corps, opportunities industrialization centers, jobs for progress, job opportunities in the business sector, skill centers and institutional training, special job development programs with public or private employers, special programs for offenders, programs for Indians, programs for person of limited English-speaking ability, programs for middle-aged and older persons, programs to assist unemployed and underemployed engineers, scientists and technicians, and public service employment programs for unemployed and underemployed persons.

Subsection (c) provides that sums made available for public service employment programs from appropriations to carry out this Act shall be used in accordance with the requirements of the Emergency Employment Act of 1971 to the extent consistent with the requirements of this Act.

Section 202. Allocation of funds.

Subsection (a) of this section provides that, of the amounts available for carrying out this title, 75 per centum shall be apportioned among the States and the remainder shall be available to the Secretary for carrying out his responsibilities under this title and title I. Apportionments among the States are to be based on the proportionate numbers of unemployed persons and of adults who or whose families have a total annual income below the lower living standard budget in each State, with no less than $1,500,000 to be apportioned to any State and $150,000 to be apportioned among the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

Subsection (b) provides that funds apportioned to each State shall then be apportioned geographically within the State to prime sponsorship and program agent areas on the basis of unemployment and families below the lower living standard budget. In the balance of State areas not served by local prime sponsors and program agents, the State is to make apportionments on an equitable basis taking into account unemployment and families below the lower living standard budget.

Subsection (c) provides that during fiscal years 1974 through 1976 all States and local areas shall be held harmless at the same share of manpower funding received during fiscal year 1972.

Subsection (d) provides that 15 percent of all apportionments within a State shall be available to the State to provide services to individuals of the area from which each such apportionment is reserved.

Subsection (e) provides for making apportionments on the basis of the latest satisfactory data.

Subsection (f) provides authority for the Secretary to reallocate unused apportionments, after notice and consideration of comments from Governors and affected prime sponsors.

Section 203. Employment and training councils.

This section provides that each prime sponsor shall establish and maintain an employment and training council to recommend program statements, goals, policies, and procedures. Members of the council are to be appointed by the chief executive of the unit of government. The membership shall include representatives of agencies and organizations in the field of job training and community services; and not less than one-third of the council's members shall be representative of significant segments of the client community.

Section 204. Program statements.

This section sets forth the provisions to be included in the program statement to be submitted by each prime sponsor in order to receive financial assistance each year. The Secretary shall provide financial assistance to each prime sponsor to carry out the program statement upon determining that the program statement is consistent with the provisions of this title and was made public prior to submission, and that an opportunity to make comments was afforded to the area planning council, the Governor, appropriate State and local agencies, community action agencies, and other community based organizations in the area.

Section 205. Special responsibilities of the Secretary.

This section sets forth responsibilities to be carried out by the Secretary, utilizing funds available to him under section 202(a)(2) (up to 25 percent of the funds for this title).

Subsection (a) of this section provides that, out of funds available to the Secretary, he shall set aside amounts for employment and training programs meeting the special needs of Indians and migrants. Funds shall be reserved in the proportions which the numbers of Indians and of persons in migrant families, respectively, bear to the Nation's low-income population.

Subsection (b) authorizes the Secretary to provide special assistance to continue on-going programs of demonstrated effectiveness and to carry out research, technical assistance, evaluation, labor market information, and job matching responsibilities. The Secretary's funds are available for the Job Corps and special programs, including services for middle-aged and older persons.

Subsection (c) provides for the Secretary to supplement efforts of local prime sponsors in meeting the special needs of population groups such as middle-aged and older persons and bilingual programs, and to assure the continuation of a system of efforts by the National Alliance of Businessmen and the private sector, and of opportunities industrialization centers, jobs for progress, and similar programs. In addition, the Secretary is to give special consideration to manpower training for offenders and to job training programs for those unemployed as a result of the closing of Federal facilities which has resulted in substantially increasing the unemployment rate in a labor market area.

Section 206. Comprehensive State planning role.

Subsection (a) provides that funds set aside for the State (15 percent of each State's apportionment) shall be used for services by State agencies responsible for employment and training, to provide additional financial assistance as incentives for consortium arrangements for joint prime sponsorship and for special programs in rural areas, to develop and publish economic and labor market information, to provide technical assistance, and to carry out model manpower training programs for offenders.

Subsection (b) provides that each State shall provide for multicounty planning areas throughout the State, for establishing and maintaining area planning councils consisting of representatives from local governments in each such planning area and additional members appointed by such representatives, for area planning councils to prepare those portions of the State's program statement affecting the balance of each planning area outside local prime sponsorship areas and to review and comment upon local prime sponsor's program statements, for delegating administrative responsibilities as program agents to units of general local government serving at least 75,000 persons, and for coordinating planning area arrangements with other planning agencies in the States, and for making arrangements for listing all suitable employment openings of Federal contractors and subcontractors with local offices of the State employment service.

Section 207. Coordination.

Subsection (a) of this section provides that the Secretary of Labor shall obtain the concurrence of the Secretary of Health, Education, and Welfare before issuing rules, regulations, standards of performance, or guidelines with respect to health, education, or welfare services under this title.

Subsection (b) provides that, with respect to manpower training programs for offenders, the Secretary of Labor shall enter into appropriate agreements for coordinating such programs with programs under the Justice Department and the ACTION agency.

Section 208. Special conditions.

This section sets forth certain conditions which must be met in order to receive financial assistance under this title, including standards and protections with regard to work and training conditions.

Section 209. Allowances and compensation.

This section provides for payment of allowances and compensation benefits tȯ persons receiving training under this title.

TITLE III—COMMUNITY SERVICES FOR THE ECONOMICALLY DISADVANTAGED

Section 301. Funds available.

This section provides that 17.5 percent of the sums appropriated to carry out this Act shall be made available by the Secretary to prime sponsors for community services for the economically disadvantaged under this title.

Section 302. Eligible activities.

This section provides that each prime sponsor shall use funds under this title for community services programs for economically disadvantaged persons carried out by public or private nonprofit agencies or organizations, with due consideration for community action agencies. Local initiative eligible activities are spelled out in the section.

Section 303. Allocation of funds.

This section provides for allocation of funds among the States on the basis of the number of welfare recipients, unemployed persons, and poor persons; but the Secretary shall provide for all areas to be held harmless with no lower share of funds than such area received for community action programs for fiscal year 1972.

TITLE IV—GENERAL PROVISIONS

Section 401. Failure to administer activities and programs in accordance with national purposes.

This section provides for the Secretary to revoke a prime sponsorship designation when he determines that a prime sponsor is maintaining a pattern or practice of discrimination in violation of section 403(d) of the Act or otherwise failing to serve equitably the significant segments of economically disadvantaged, unemployed, or underemployed persons, or is incurring unreasonable administrative costs, or is failing to give due consideration to continued funding of manpower programs of demonstrated effectiveness or failing to give special consideration to the programs referred to in section 205(c) or is failing to assure that training and other services have a reasonable prospect for leading to appropriate employment opportunities or enhancing self-sufficiency, or is otherwise materially failing to carry out the purposes and provisions of the Act. The Secretary is directed to continue programs in the area by directly funding public or private nonprofit agencies.

Section 402. Definitions.

This section defines terms for the purposes of the Act.

Section 403. Special limitations and conditions.

This section lists various administrative requirements, reporting requirements, prohibitions, and procedures which the Secretary is responsible for enforcing.

Section 404. National Employment Opportunities Council.

This section provides for the President to appoint a National Employment Opportunities Council to advise the Federal Government in respect to policies in administering the Act.

Section 405. Reports.

This section provides for the Secretary of Labor to make reports, including an annual report, with respect to manpower programs and policies.

Section 406. Administrative provisions.

This section authorizes the Secretary to make necessary grants, contracts, and agreements, and to acquire necessary property for the purposes of carrying out the Act.

Section 407. Cooperation among agencies.

This section directs each Federal department to cooperate with the Secretary of Labor and directs the Secretary to utilize all available private resources in carrying out his responsibilities.

Section 408. Interstate agreements.

This section gives the consent of Congress to interstate compacts and agreements to facilitate compliance with the provisions of this Act.

Section 409. Labor market information.

This section provides for the Secretary to gather by survey and to publish regularly data on unemployment, underemployment, and job vacancies by States, labor market areas, rural areas, cities, and poverty neighborhoods.

Mr. NELSON. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum with the time to be charged against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, may I know the parliamentary situation and what time remains?

The PRESIDING OFFICER. The pending legislation is S. 1559. The Senator from Wisconsin has 17 minutes remaining. The Senator from New York has 28 minutes.

Mr. JAVITS. I yield myself 5 minutes.

Mr. President, I wish to announce that I will yield, out of my time, such time as the Senator from Ohio (Mr. TAFT), a member of the committee, and the Senator from Colorado (Mr. DOMINICK) may desire in respect of this measure; so I will confine myself to a brief statement.

I have joined the Senator from Wisconsin (Mr. NELSON) in bringing this bill to the Senate because I believe it represents the only orderly way in which, in this period—when we are between an act that has expired in terms of its individual application by law and possibly new administrative proposals which the administration may make.

It represents an effort on the part of its sponsors, Senator GAYLORD NELSON, chairman of the Subcommittee on Employment, Poverty and Migratory Labor, and myself, to effect manpower training reform legislatively along the principles of the administration's proposals for so-called manpower special revenue sharing.

MANPOWER REFORM THROUGH LEGISLATION

Reform of our manpower training programs has eluded us for almost 4 years; first proposed by the administration in its Manpower Act of 1969, which I introduced in the Senate, it suffered a serious setback when the Congress responded with its own proposal, the Employment and Manpower Act of 1970, vetoed by the President in December 1970.

This year, the administration indicated in its fiscal 1974 budget proposal that it would not submit comprehensive legislation, as it had before, but would accomplish "manpower revenue sharing" under an extension of existing authority; to that end it submitted a simple extension of the Manpower Development and Training Act which expired this June 30; regulations are soon to be published although that extension has not been approved by the Congress.

Mr. President, manpower reform can elude us again unless the Congress and the Executive join together in writing it into law and that is the gist of this proposal—an invitation to the administration to abandon its present plans to accomplish reform administratively through unilateral regulations under an extension of existing authority.

Mr. President, President Nixon said, on March 4, 1971, in submitting his legislative proposal for manpower revenue sharing:

> The active Federal commitment to manpower training and development was a good idea in 1962 . . . and it is an even better idea today.

We agree—manpower training is an even better idea today—with the crushing needs of the disadvantaged and the welfare recipients, the future needs for paraprofessionals in a society subject to swift technological change, and the legitimate desires of all citizens for continuing education and training.

Manpower training is not a "flop" to be rejected—but a worthwhile and necessary effort to be expanded and reformed.

President Nixon emphasized in that same message:

> But one of the great lessons of the dramatic Federal Government growth in the 1960's is that even a good idea like this can fall short of its promise if the way by which it is carried out, runs against the grain of the Federal system. By converting the Nation's manpower programs from categorical grants to Special Revenue Sharing, we can play to the strengths of the Federal partnership, teaming Federal dollars with State and local decision-making.

We agree with that as well.

But we do not agree that the executive should proceed on its own to accomplish decentralization and decategorization.

This is a matter of the greatest national importance and it requires a new national commitment—joined in by the executive and the legislative branches together so that it has the best possible direction for the future and so that the change to the new system is accomplished in an orderly matter on a timetable under law, not inflicted arbitrarily or in a "strong-armed" way by the executive branch.

It is a matter of great complexity requiring the involvement of all interested parties; we are dealing here with the relationship between State and local governments, as we are with the role of the Federal Government per se, and those governments should have their "day in court" in the legislative sense.

Therefore, I would consider it most unfortunate if the administration, by the promulgation of guidelines or rules, should endeavor to install a program of its own under the guise of special revenue sharing which would substitute the administration's judgment for the congressional and executive judgment together.

So, Mr. President, the issue here is to do something which will codify the congressional will, coupled with the Executive's will, because the President will have to sign any bill, without leaving a vacuum either between programs or because we have not acted and the administration has acted alone through the Secretary of Labor. That is the long and short of it.

We believe that this particular program could properly be described as the first special revenue-sharing program, so much weight do we give the States and the localities, both in terms of sponsorship and in terms of decategorization of heretofore categorized programs. We believe further that the administration, even if it took this very bill, could properly claim that we have passed the first special revenue-sharing bill.

I do not expect that they will take this very bill; but the other body may make it possible, by simply passing a straight extension or other legislation, to work out these problems, which we believe would represent a reconciliation of our views and those of the administration in a House-Senate conference.

We intend—both Senator Nelson and I—so seriously to endeavor to arrive at an agreed upon bill, not only with our brethren in the other body, but also with the administration, that we have a right to say to the Senate that this will be our course of action.

So, Mr. President, on that ground, and because the differences in respect to recommended authorization as opposed to the administration's proposal are, relatively speaking, de minimis. We hope eventually for agreement.

For all those grounds, Mr. President, I hope very much that we will be the least encumbered in endeavoring to arrive at this agreed upon position and that the bill may be voted out by the Senate as is, because I think that will put us in the best position to pursue the most constructive line, which I have outlined.

May I say, too, before I close, that it is much easier for me to do this than for Senator Nelson. He is of a party which has a majority of the Senate and the House, and he is very skilled in the manpower field. He has devoted a great deal of his life in the Senate to it, and he would have every right to take a dug-in, doctrinaire position. He has chosen not to do so; and because his devotion to an ultimate result is greater than any doctrinaire position, he knows best what he ought to do so far as manpower training is concerned. I would be less than honest if I did not make that clear to the Senate. I think we owe him a great debt for his willingness to proceed along the general lines which this bill represents.

(At this point, Mr. Kennedy assumed the chair.)

Mr. NELSON. I say to the Senator from New York that it was not a very difficult decision on my part. I happen to agree with the Senator from New York and with the administration on the concept of manpower revenue sharing.

As the Senator knows, we both have advocated turning the major responsibility for manpower programs over to State and local governments for a long time. In a discussion some 2 years ago with Secretary Hodgson, we agreed upon the general outline of a proposal to turn these functions over to State and local governments. I believe very strongly that this is an important concept and that the management will be more efficient and more effective at that level. I emphasize that this bill embodies the same concept that the administration has been advocating for some 3 or 4 years on manpower revenue sharing.

I wish to say for the record, so that it is clear, that this bill came out of the Committee on Labor and Public Welfare by a unanimous bipartisan vote. That was a remarkable achievement, considering the reluctance—at least, in the past—of many members to take control of these programs away at the Federal level and place them at the State and local level. A good deal of the success of working this out has been due to the cooperation of the Senator from New York.

Mr. JAVITS. I am grateful to my colleague, now, with the general background, I comment now on the manner in which this bill would accomplish the key elements of the administration's objectives—decentralization and decategorization.

MAJOR ELEMENTS OF THE BILL

Title I would establish a system of prime sponsors. As a general matter, States, cities of 100,000 and counties of 150,000 would have the right to be prime sponsors planning and administering their own programs and dealing directly with the Department of Labor; cities and counties having 75,000 population but not large enough to be prime sponsors would be guaranteed specific allocations of funds and could develop and fund programs within their area, but planning would be carried out by area planning councils. Under this formulation, the Secretary would deal directly with approximately 378 sponsors, compared with as many as 10,000 grantees at the present time.

Under title II, prime sponsors would be able to conduct a broad list of "eligible activities" including training and supportive services, counseling and related activities; the bill make clear that previous "categorical" programs—that is programs previously authorized under existing law—are among the "eligible activities." These include Mainstream, New Careers, Neighborhood Youth Corps, Opportunities Industrialization Centers, Jobs for Progress, Jobs in the business sector, and similar efforts.

Transitional public service employment is included as an eligible activity provided that it meets generally the requirements set forth in provisions of the Emergency Employment Act of 1971 except that "new hires" must be from among unemployed or underemployed persons who are from economically disadvantaged backgrounds or are long-term unemployed.

I am pleased that the committee adopted these provisions—which I proposed—to insure that the transitional nature of the EEA program is replicated and that, to the extent manpower funds are rechanneled to public service employment they will principally benefit those most in need, thus observing the original purposes of the acts which this bill would replace; in this way transitional public service employment can be used as a complement for training.

It should be noted, however, that the principal source for public service employment, the Emergency Employment Act, would be extended under S. 1560, the "Emergency Employment Amendments of 1973," sponsored by Senator Nelson and me— reported by the committee at the same time as this bill but to be considered later on in the session.

Mr. President, under title II, prime sponsors would have to go through very little "red tape." To receive assistance a prime sponsor must submit to the Secretary a "program statement" which in very broad terms shall describe how the prime sponsor plans to proceed. The Secretary determines only that these provisions are consistent with the purposes of the title and its provisions and that certain procedures have been followed with respect to comment on the program statement by other units of Government, and agencies and organizations having a particular interest.

Mr. President, special note should be taken of the comprehensive planning role given to the States under this bill; in addition to serving as prime sponsor, a State will receive 15 percent of the State's allocation for use by the State at its discretion for the provision of services throughout the State, providing additional financial assistance as incentives for the designation of consortium arrangements, developing and publishing information regarding labor market conditions, providing technical assistance and carrying out special model manpower training programs and related services for offenders; as I shall explain the latter is of particular interest to me.

Mr. President, title III, "Community Services for the Economically Disadvantaged" would permit these same prime sponsors to carry out a wide range of antipoverty efforts.

This title—for which there is a reservation of 17.5 percent of funds under the act—was originally included by Senator NELSON and myself in the bill as a "fall-back" in case the current community action "local initiative" activities do not receive funding for this fiscal year, as the administration proposed, and in any event, as a possible means of dealing with the continuation of community action agencies in the "special revenue sharing" format over the longer term.

It now appears that such an authority may not be necessary—at least as to fiscal 1974 since the House of Representatives has already appropriated a sufficient amount as a part of the HEW-Labor appropriations bill—for continuation of the existing program through this fiscal year, and similar Senate action is expected. However, in light of some uncertainty, it is advisable to keep this aspect and by the time manpower legislation is considered in conference with the House, the appropriations situation should be completely clarified.

Mr. President, while this bill basically adopts the "revenue sharing" approach—with all the elements of flexibility and decategorization I have outlined—there are two very important differences.

First, the Federal Government—while it will keep a "hands-off" policy with respect to day-to-day decisionmaking, must retain the right and duty to step back in if funds are diverted from their benefits.

To that end, section 401, which I included and which applies to titles II and III, requires the Secretary to revoke prime sponsorship and install himself in the position of a prime sponsor upon a determination that any such sponsor is discriminating against minorities, incurring unreasonable administrative costs, failing to give due consideration to insure that training and other services have a reasonable prospect of leading to employment, or otherwise materially failing to carry out the purposes of the act.

The Federal Government must clearly do more—if the integrity of Federal funds is to be maintained—than act merely as a payroll clerk or "putting the money out there" and running from it. We in the Congress have a continued duty to assure that mechanisms are established to insure accountability in terms of established national purposes.

Second, some—but very few—"categories" are contained in this bill.

These provisions are set forth principally in section 205 of the bill and they include the Job Corps, the JOBS program and Opportunities Industrialization Centers, and programs for offenders.

The committee felt very strongly that these efforts are now of essentially a "national" nature and should be maintained from the Secretary's funds—25 percent of those appropriated—as such so long as they are not woven into the local fabric.

It is important to note that with respect to the first two programs, the Job Corps and the JOBS program, the administration itself has indicated on occasions its fidelity to the maintenance of these efforts as such: The so-called "Esch substitute" proposed on the House floor on behalf of the administration over a year ago excepted the Job Corps from decategorization and in the case of the JOBS program, it is my understanding that President Nixon has already written the National Alliance of Businessmen pledging continuation of their efforts.

Mr. President, I am particularly pleased with the adoption by the committee of a number of provisions offered by Senator SCHWEIKER and myself for the continuation of the Opportunity Industrialization Centers effort—begun by Rev. Leon Sullivan in Philadelphia—and now spread to 110 communities including a number of very worthwhile efforts in my own State of New York; these provisions are identified beginning on page 14 of the report.

I am most gratified with the acceptance by the committee of provisions which I offered for special manpower efforts for offenders and persons charged with crimes.

This has been a matter of great priority to me, expressed in S. 2962, the "Comprehensive Correctional Training and Emoplyment Act" which I introduced last year as a separate matter, and one whose importance has been imprinted on my mind through my trips to correctional institutions in my own State with no training facilities and those, such as the one at Rikers Island, N.Y., which has the benefit of manpower training.

We held a hearing there last year and heard from the participants in the manpower program themselves—and without exception they testified as to the value of the program in economic and psychological terms.

The very sad fact is that 85 percent of offenders lack any marketable skills upon release and that ex-offenders have unemployment rates three times the norm, contributing to the problem of recidivism which hits two-thirds of those who leave prison.

Mr. President, this area is clearly one deserving of separate attention in a separate bill, but rather than take that course I have, as other Members of the Congress, woven the basic authority into the fabric of this comprehensive bill.

As noted on page 16 of the committee report:

> The bill authorizes special manpower training programs and related educational and other services and assistance for offenders, including pre-trial or other intervention programs, programs for offenders under sentence, pre-release job furloughs, bonding assistance, job development programs with public or private employers (including incentive payments, programs in residential and non-residential centers and half-way houses, programs to train professional and paraprofessional personnel to serve the training and employments needs of offenders and other activities to meet such needs).

Mr. President, for all of these efforts the bill authorizes "such sums" for fiscal year 1974 and for each of the succeeding fiscal years. In this case, the committee departed from its normal practice of including ceilings, so as to avoid a confrontation with the administration on the amount.

However, the committee did express its feeling on the matter of appropriations in a statement on page 4 of the Committee report (93–304) as follows:

> The Committee believes that governors, mayors, and county officials can adequately carry out their new responsibilities for manpower programs and community services authorized in this legislation only if they are provided an amount equal to funds appropriated for the same activities during fiscal year 1973, a total of $1.88 billion.

The administration has requested for these same activities a total of $1.3 billion.

We believe that the States and cities should have no less to do the job than the Federal Government has had in the past. The administration's position may be described as "decentralization at a discount." But I believe that the "flow of responsibility" must be accompanied by more than a "trickle" of funds; otherwise, at the outset, we will only undermine the credibility and capability of State and local government which revenue sharing is designed to improve.

Mr. President, before concluding, I wish to note another important aspect of the bill.

No criticism of our present manpower training efforts has been more prevalent—and justifiably so in many cases—than that training does not lead to a job.

To remedy this, I added in committee in section 203(4) a requirement that the Manpower Council be required to establish procedures for the certification—by either panels of representatives of labor and management established for that purpose or by the Council, as required by the Secretary—that training and other services have a reasonable prospect of leading to appropriate employment opportunities. Both labor and management officials and experts in the manpower field with whom we have consulted consider this to be a very desirable provision over the long term and I hope that as this bill becomes law—as I hope it will—that the Secretary will implement this section in the strongest of ways so that the shortcomings of the last decade under Federal direction will not be repeated under essentially State and local control.

For all of these reasons I urge passage of the committee bill.

Mr. DOMENICI. Mr. President, will the Senator from New York yield?

Mr. JAVITS. May I say, too, before I yield—and I shall yield in an instant—that I wish to acknowledge, also, the great contribution which was made by Senator TAFT, the ranking member of the subcommittee, which is embodied in this bill. The Senator, of course, will speak on his own time.

I yield to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, may I ask for the time status? I do not want to take Senator TAFT's time.

The PRESIDING OFFICER. The Senator from New York has 22 minutes.

Mr. JAVITS. I yield 2 minutes.

Mr. DOMENICI. I should like to share a few thoughts with the Senator from New York on this bill.

As the Senator knows, prior to coming here, I was the mayor of a city of some 250,000. As I left office some 3½ years ago, one of the recommendations I made to the citizens, was that in spite of the Federal Government running job training programs, a city, even as small as ours, needed what I called a job training czar; because I found, in my small city, that there were some 12 independent training programs, from SET to the Job Corps, all being run sort of by themselves. I left with the hope that the city could run all the Federal money through one funnel and sort of take care of local needs. I should like to share what happened as a result.

Without legislation, that city and county of some 300,000 has precisely in operation what the Senator is doing by legislation. However, they have done it by administration. The regional office in Dallas has crossed categorical grant lines, pooled the job training money, taken an enormous chance, I assume, but said to that city and county, "Set up this council, head it with a labor czar, and we will fund it with all the job training money that you would have otherwise got through the categorical grant system."

So in a very real way they are the forerunners of this bill, as far as how it will work at the local level by election of local officials to set into operation a council with a labor czar, and with all the funds for job training going to one person. We know now after six months' operation that it is working admirably well. Duplicity is gone and, indeed, they are focusing on the job training needs of that area rather than merely putting in the money because they have a grant. They have taken the vocational institutes and put them into one part. That will be an excellent jurisdiction for us to look at. I am sure that some of the staff already have done that. I compliment the Senator for putting it into this legislation. I think it will work.

Mr. JAVITS. I thank the Senator for his comments.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. JAVITS. I yield 10 minutes to the Senator from Ohio.

The PRESIDING OFFICER (Mr. KENNEDY). The Senator from Ohio is recognized.

Mr. TAFT. I thank the Senator.

At the outset I would like to commend the chairman of the subcommittee (Mr. NELSON) and the Senator from New York (Mr. JAVITS) for their very effective work for S. 1559. This legislation can be a great improvement in our manpower training system in this country.

Mr. President, providing training programs for individuals so they can help themselves, is one of the most important ways by which a government can help its citizens.

Manpower training is an example of a government program with this potential. Such programs provide training and assistance to unemployed and underemployed. These programs, coordinated with local public school systems and industry, are not only vocationally directed, but also oriented toward stressing motivation, self-reliance, and the importance of securing and maintaining a job.

On April 19 and 30 respectively, I brought the Senate Manpower Subcommittee to Dayton and Akron to hold hearings on the current status of Federal manpower training programs.

One of the things I found was that these two cities, Dayton and Akron, which are about the same size, have completely different experiences with regard to success of different types of manpower training programs. In one area an institutional training center filled the principal objective and in another area OIC and institutional training seemed to do the job. In both communities however it was quite apparent there was great duplication in many manpower training programs. For example, in Dayton testimony was presented stating that there were approximately 28 or more programs in which the Federal Government had a role in manpower training.

As ranking minority member of the subcommittee, I had an opportunity to hear first-hand the views of the city officials, program administrators, business community leaders, labor organization officials, and program participants. I was quite impressed with the interest and response I received with regard to manpower training.

There are many areas, however, in which constructive improvements can be made regarding Federal involvement in manpower training. Specifically as I previously mentioned, there has been an overproliferation of manpower training programs at the local level and a lack of regional and comprehensive planning. S. 1559, helpfully will correct many of these problems and I endorse the basic principles contained in the bill. I believe the bill reflects a responsible approach with regard to Federal support for manpower training and community action programs.

I am especially pleased to see that S. 1559 adopts a revenue sharing approach for both of these programs, as local communities will thus be able to implement and fund programs that are responsive to their needs.

I am concerned, however, with provisions of S. 1559 that permit use of manpower funds for public service employment programs. Prime sponsors may be tempted to put too much emphasis on these programs at the expense of other constructive manpower training programs. For example, a city that is a prime sponsor may be faced with personnel budgetary problems and feel that it is advantageous, if not necessary, to channel manpower moneys to meet this problem through public service employment programs.

While such employment positions are to be oriented toward training and are to be transitional in nature, pressures still will exist to channel manpower funds to public service employment. I recognize the need for some type of selective public service employment program other than through general or special revenue sharing funding, although I do not agree with the committee's approach to extend the Emergency Employment Act. I believe manpower training programs should be separate from public service employment programs, and that the latter should be structured to meet the needs of areas that have extremely high unemployment along the lines I suggest in my additional views with S. 1560.

I also wish to call to the attention of the Senate certain of the testimony on this point. In the hearings we had before us, Kenneth Young, department of legislation, AFL–CIO, I asked the following question, and he gave the following answer:

> Senator TAFT. I take it you really think there is a serious danger that, if you just open up public employment as an eligible activity, it will have the effect of squeezing out other manpower training.
>
> Mr. YOUNG. I think it could well be, Senator.
>
> I think it presents a very serious problem for a local sponsor.
>
> If you have the total funds less the present funding levels, when you tie everything together, then in fact what you are saying, it seems to us, you are telling a prime sponsor, "Yes, you have some flexibility, but your real flexibility is what you are going to cut back on," and I think, in terms of local officials, he is going to be extremely reluctant to lay people off the local payroll for one thing.
>
> Second, I am not sure that he may not be correct, because this is providing a job, and he has got to balance that versus somebody that may be in a training program.
>
> I know that members of this committee have gone and discussed at great length this whole problem of substitution of EEA funds for NYC funds, but it is in this sort of area that I see a very serious problem.
>
> We would like to see it spelled out. If public services employment will be in a comprehensive bill, keep it as a separate title with separate authorization for that reason.

I also believe certain adjustments are necessary with regard to the population levels established in section 104 of the bill for prime sponsors. Specfically, I believe the population level for cities which is currently 100,000 in the S. 1559 should be at a level of 75,000. Further, I believe an adjustment is necessary in the population level established for prime sponsorship by counties. Currently, the bill requires a county or comparable unit of general local government have a population of 150,000 or more persons other than the number of persons that would be included within the population of any city designated as a prime sponsor under section 104. This level, I believe, is somewhat too high and perhaps would be more responsive to the needs of the country at a level of 100,000. With regard to this point I ask unanimous consent that a letter from the Cuyahoga County, Ohio, commissioners be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COUNTY OF CUYAHOGA,
Cleveland, Ohio, July 10, 1973.

HON. ROBERT TAFT, Jr.,
Senate Office Building,
Washington, D.C.

DEAR SENATOR: The Manpower Reform Bill S. 1559, "Job Training and Community Services Act of 1973" contains certain provisions which negate the role of County

Government in manpower programs. Counties have clearly demonstrated their capabilities in administering manpower programs through their excellent work with PEP. Their performance has been equal to, if not better than, any other prime sponsor. Counties are regional in nature and therefore are the logical choice for manpower planning and program implementation.

The maximum decategorization of programs and decentralization of authority essential in providing the necessary flexibility to prime sponsors make the following provisions of S. 1559 unacceptable as presently written.

First, the population criteria for prime sponsorship eligibility on the part of the counties remains at 150,000, exclusive of any city over 100,000 population within the county. Although this does not affect Cuyahoga County, it does make the following seven counties in the State of Ohio ineligible as prime sponsors.

Allen	111, 144
Greene	125, 057
Lucas	100, 552
Richland	129, 997
Columbiana	108, 310
Licking	107, 799
Portage	125, 868

(Population figures per 1970 Census—less Cities over 100,000 within County.)

Cuyahoga County advocates the adoption of 100,000 or more population as the criteria for prime sponsorship.

Second, the present two part allocation formula is based upon unemployment and the Bureau of Labor Statistics lower living Standard. Cuyahoga County advocates the addition of the "Numbers in the labor force" in an equally weighted allocation formula.

Third, based upon the 1970 census data on unemployment, poverty and workforce, two-thirds of those who need manpower services reside in suburban and rural areas. The present 100% Hold Harmless Clause completely ignores that fact. No logical explanation is plausible for ensuring the major portion of available funds be allocated to the prime sponsors representing one-third of the population requiring assistance. Cuyahoga County does not support an absolute Hold Harmless Clause in manpower reform legislation.

Fourth, the role of the State in providing manpower services is admittedly important. The provision setting 15% of each State's allocation for the use of the Governor does not, however, take into account that portion of services provided by other prime sponsors. Cuyahoga County advocates the adoption of a minimum of 5% and a maximum of 10% for the use of the Governor based upon the percentage of balance of State services not provided by other prime sponsors.

Sincerely,

BOARD OF COUNTY COMMISSIONERS,
FRANK R. POKORNY, *President.*

Mr. TAFT. Mr. President in supporting the bill I would ask the Senator from Wisconsin (Mr. NELSON) if I could have his assurance that these matters will be fully considered in conference and that every reasonable effort be made to see that an adequate solution is arrived at with the House on these matters.

Mr. NELSON. I wish to say to the Senator, concerning the size of the population of eligible prime sponsors being based at 100,000, that I personally think that probably is about the best population level. I realize that the Senator from Ohio believes it would be better if it were set at 75,000. Members of the other body have views that it should even be half as much as 100,000. Of course, that issue will be in conference because I know how some of the Members of the other body feel. I am confident that we will be able to reach a reasonable agreement on what that prime sponsorship population level should be.

One of my reasons for favoring the 100,000 level is to reduce as far as possible the number of entities the Department of Labor must work with.

The Secretary of Labor has pointed out that manpower programs have been carried out through contracts with 10,000 contractees around the country. This legislation would cut that number down to 378 prime sponsors. I agree with the Senator from Ohio, who will be one of the Members of the conference, that the prime sponsorship population level will be discussed in conference and an accommodation reached.

As to the matter of public service employment, I share the concern of the distinguished Senator from Ohio that the fact that public service employment is an authorized activity might lead some prime sponsors to believe that they are encouraged to utilize all or half or a major portion of the manpower funds simply to provide public service employment because that is the easiest thing to do and benefits the prime sponsors. By authorizing public service employment, it is not the intention of our committee to encourage prime sponsors not to have a balanced manpower training program. We were reluctant not to authorize public service employment because it might be a very valuable aspect of the total manpower training program and they might want to spend part of their money on some jobs they thought were best.

The PRESIDING OFFICER. The time of the Senator from Ohio has expired.

Mr. NELSON. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. NELSON. I therefore assure the Senator that it is not our intent that public service employment be funded to the exclusion of training programs. I think we ought to discuss this issue in conference. I think that when we bring back the conference report, the statement of the managers should emphasize that it is not our intent that a disproportionate share of manpower funds be used for public service employment under this bill. If some prime sponsor is inclined to do that, I think it must be called to the attention of the Secretary of Labor who has authority to approve whether or not they are complying with the law. It would be my interpretation that if they did not proceed to develop a broad and balanced manpower program, they are not complying with the law.

Mr. TAFT. Mr. President, will the Senator yield me 2 additional minutes?

Mr. JAVITS. Of course.

Mr. TAFT. Mr. President, I appreciate very much the remarks of the chairman of the subcommittee on the action expected in the conference. With diligent efforts and reasonable compromise in these areas in conference, I believe the Congress will be able to send an excellent bill to the President.

Mr. President, I also would like to bring to the attention of the Senate the very fine work that the opportunities industrialization centers of America have conducted in the manpower training field. This organization's work throughout the country under the leadership of Rev. Leon H. Sullivan, has truly been a significant factor in providing job training opportunities for many disadvantaged citizens. Earlier this year I joined with Senator SCHWEIKER in cosponsoring S. 136, the Opportunities Industrialization Assistance Act of 1973. While it was not possible to incorporate every part of this bill in S. 1559, it was possible to include many important provisions with regard to OIC. I am hopeful that these provisions will be responsive to the needs of OIC centers throughout the country including the outstanding centers in my State.

I ask unanimous consent that a letter from Reverend Sullivan regarding S. 1559, and the importance of enacting manpower legislation into law, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JULY 16, 1973.

Senator ROBERT TAFT, Jr.,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR TAFT: Thank you for giving OIC your support as a cosponsor of S. 136, the Opportunities Industrialization Assistance Act of 1973.

Your endorsement helped make possible the inclusion of OIC in the Nelson-Javits comprehensive Manpower Bill which was reported out on Monday, July 9, to the Senate. In that Bill, the Schweiker Amendments guarantee the continuation and expansion of OIC work as an integral part of the nation's manpower delivery system.

Our 110 community-based Boards of Directors and the tens of thousands of citizens of all races and creeds whom they serve, deeply appreciate your efforts on their behalf.

As the legislative process is carried out in the House of Representatives, and eventually a Bill is agreed upon in conference, it is my hope and prayer that we will have a Bill that the President can sign and make it possible for us to look forward to the expansion of OIC work in the State of Ohio.

With warm personal regards, I am,

Sincerely,

LEON H. SULLIVAN,
Chairman of the Board, OIC's of America.

Mr. TAFT. Mr. President, I yield back the reminder of my time.

Mr. JAVITS. Mr. President, I yield myself 2 minutes.

I wish to associate myself with the views expressed by the Senator from Wisconsin (Mr. NELSON) respecting public service employment. These views key directly into the bill.

It will be noted on page 56 of the bill, paragraph (15) of section 201(b) refers to transitional employment for unemployed and underemployed persons as an eligible activity and that under subsection (c) funds made available for public service employment from appropriations are to be used only for programs consistent with the requirements of the Emergency Employment Act "to the extent that such requirements are consistent with the provisions of this act."

In order to tie that into the text, it is necessary to look at page 93 of the bill, item (h), which, in the case of "new hires" expressly limits the utilization of manpower training funds, "unemployed and underemployed persons who are from economically disadvantaged backgrounds or have been unemployed for not less than 15 weeks immediately prior to employment under such program."

This means that if public service employment programs are established under this bill they must benefit principally those most in need—the focus of the authorities which this act would replace.

But beyond this, our intent that manpower training funds not be squeezed out by public service employment, is established further in section 401(a)(3) which I included on page 87, lines 1 to 7, inclusive, where the Secretary can turn a program off, because it fails to give "due consideration to continued funding of programs of demonstrated effectiveness" for manpower training under the Manpower Development and Training Act or the Economic Opportunity Act.

In short, our purpose is to make public service employment eligible as a complement to training, but by no means to allow it to intrude upon, distort, or take unto itself an appreciable aspect of what we contemplate by manpower training and the manpower training provisions.

I wish to point out that we will be debating another law with respect to public service employment—possibly next week. That is on the bill S. 1560. There we go to great pains to make it clear that we expect the basic and appreciable public service employment to stand on its own two feet rather than utilize the cover of this bill to bring it in through the back door.

Mr. President, I yield myself 1 more minute.

That is our intention, and I join the Senator from Wisconsin (Mr. NELSON) in affirming that we will do our utmost to see that this intention is reflected also in whatever report comes on the manpower training bill.

Further, I wish to point out that the title of this bill is "Job Training and Community Services Act of 1973." That also is clearly the fundamental thrust of the bill.

Mr. President, the Senator from Colorado (Mr. DOMINICK) wishes to be recognized in connection with the bill. He is momentarily not available. For that reason I would suggest that perhaps the Senator from Wisconsin can yield some time. If not, I will ask for a quorum call.

Mr. NELSON. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 12 minutes remaining.

Mr. JAVITS. Mr. President, I ask unanimous consent that I may ask for a quorum call, without the time being charged to either side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DOMENICI). Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I yield myself 1 minute.

Mr. President, I call attention to the fact that the Senator from Colorado (Mr. DOMINICK), because of duties in another committee, may find it impossible to come to the floor.

The Senator from Colorado has written individual views on the pending bill. Those views are found at page 32 of the committee report.

Mr. President, I would like to read those into the RECORD, as the Senator from Colorado may desire to have them in the RECORD since he may be a member of the conference. However, he may desire to expand upon those views a little later.

The individual views of Mr. DOMINICK read as follows:

> While I generally support the action of the Committee in reporting the manpower bill, I do not agree with the striking of the authorization figure of $1.8 billion to be replaced by the authorization of "such sums as may be necessary." I have long felt that it was the duty of committees to set prices on bills rather than leaving them open ended. To use open ended funding is to invite fiscal irresponsibility without limitation. One of the functions of Congress is to set the limits on spending, and at the present time when we are in the midst of spiraling inflation, this Committee should have assumed that responsibility.

Mr. President, I am sure—and I hope that the Senator from Wisconsin (Mr. NELSON) will agree with me—in view of the legislative situation we face in respect to this manpower training bill, that when we come back with a definitive conference report that we expect the Congress to act on, we will have met the views of the Senator from Colorado with respect to "such sums as may be necessary."

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. Mr. President, I yield myself 1 additional minute.

Mr. President, I also commend the Senator from Colorado for the outstanding role he has taken in support of the "Operations SER provisions" of the manpower training bill which deals with Spanish-speaking persons and the availability to them of this kind of training. It has been a very gifted initiative.

Mr. President, I am prepared to yield back the remainder of my time. I gather that the Senator from Colorado (Mr. DOMINICK) may wish to expand on his views later. However, he is not here to do so at the present time.

Mr. NELSON. Mr. President, I yield myself 1 minute. Every Senator who has served on the Committee on Labor and Public Welfare with the Senator from Colorado is aware that he has consistently over the years objected at any time to any bill that carried a provision authorizing "such sums as may be necessary." I think that fundamentally his position is correct and that it is much better and wiser in almost every instance for the authorizing committee to spell out what the maximum authorization for a particular program is.

Mr. President, in this particular case it was the wish of the administration to authorize "such sums as may be necessary." In requesting an extension of the Manpower Training and Development Act, the administration itself requested the "such sums as may be necessary" authorization. That is the reason we included it in the bill.

Although it is possible for an appropriation to exceed what the authorizing committee may have desired, in this case I do not think there is any such problem. We have carefully spelled out our recommendation in the committee report itself, in which we are recommending appropriations at exactly the amount that was appropriated for the past year—a total of $1.88 billion.

Mr. President, I am prepared to yield back the remainder of my time.

Mr. JAVITS. Mr. President, I am prepared to yield back the remainder of my time.

Mr. NELSON. Mr. President, we would like to have the yeas and nays on final passage.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, I yield back the remainder of my time.

Mr. NELSON. I yield back the remainder of my time.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. DOMINICK. Mr. President, during the hearings on S. 1559, one of the groups appearing before our committee was Jobs for Progress, Inc., generally known as SER—the Spanish word for "to be." I would like to take this opportunity to share some of the history of this organization with my colleagues and bring to their attention the fine record of this organization.

SER is a job training program designed in part to work for and assist Spanish-speaking Americans. It was formed in 1965 and has grown in size such that it now has operations in 14 States as well as the District of Columbia. During fiscal year 1972, SER trained 5,305 people of whom 3,748 were placed directly on a full-time basis and 2,380 received supportive services. Placement rates of 79 percent have been attained and the Labor Committee in its report on S. 1559 specifically recognized the proven effectiveness of Operation SER. For every $1 spent on an enrollee in 1972, the return to the community in the form of increased earnings is $1.24. The programs of SER, however, are not limited to education and placement. SER also has programs designed to meet specific community interests dealing, among other things, with manpower shortages in the professions, rehabilitation of first offenders in the criminal justice system and the promotion of community resources.

SER is presently funded through a national contract with the Department of Labor, and it was concern over the discontinuance of funding for SER that earlier this year led to a letter signed by 17 Senators directed to the President on behalf of SER. I ask that a copy of that letter be printed at the end of my remarks. As I understand it, the Department of Labor presently still has the SER grant proposal under consideration and I would again take this opportunity to urge favorable consideration of the application. One of the major problems in breaking down barriers to opportunities for employment for the disadvantaged has been the inability of a significant number of poor people to fully participate in manpower training, because of limited English-speaking abilities. The 1970 census reports indicate that in this country there are over 10 million Americans for whom Spanish is the primary language. It has been further estimated that 70 percent of all male Spanish-surnamed Americans work in the lowest occupational categories—as operatives, laborers, or service workers. I believe that it should be of primary concern to all of us that a successful bilingual training program be continued. Previously this year I joined in introducing legislation now pending before the Labor Committee to provide increased opportunities for people with limited English-speaking abilities.

S. 1559 contains strong language endorsing concepts of bilingual emphasis in manpower training and I would commend other members of this committee for their recognition of and interest in this problem. I believe that Operation SER has demonstrated itself to be a successful bilingual program and has proven its worth as a manpower organization.

There being no objection, the letter was ordered to be printed in the Record, as follows:

April 24, 1973.

Hon. Richard M. Nixon,
The White House,
Washington, D.C.

Dear Mr. President: We are very much concerned about the future of Jobs for Progress, SER, a manpower development training program funded through the Department of Labor. The primary objective of SER is to decrease unemployment and underemployment among Spanish-speaking Americans, and your Administration has been supportive of SER for the last four years—most recently in the March, 1973, "Manpower Report of the President."

Since its inception, SER has demonstrated that it is one of the most effective investments the Federal government has made in manpower training. The effectiveness of this program is demonstrated by the success of its graduates in securing employment and the support of the business community which has successfully utilized the program by employing its graduates.

It is significant to point out that during the 1971–72 operating year SER was successful in providing training and jobs for 5,345 Spanish-speaking citizens—44 percent of whom were placed in breakthrough jobs, positions where no Spanish surnamed person had ever before been employed. For the first six months of the 1972–73 operating year, SER has reduced the per trainee cost of job training and placement by 52 percent, and has placed 71 percent of its trainees in breakthrough positions.

These statistics illustrate that SER has achieved its objectives and the objectives envisioned by the Federal government in its overall manpower policy. It has provided real employment opportunities for disadvantaged citizens to become self-sufficient and productive members of our society and contributors to the economy.

We certainly agree with the general objectives of eliminating waste in government, and the need for reform of the Federal government's role in manpower training. Nevertheless, we are of the unanimous belief that SER's national funding process should be continued under the current arrangement, and we further believe that such a position is consistent with the goals just mentioned. Our concern is not that local funding agencies would not recognize the need to assist Spanish-speaking persons; rather our concern is that the type of coordination necessary to effectuate a successful bilingual manpower program is sufficiently developed at the local level. We request, therefore, that you give serious consideration to continuing SER's national funding at present levels through fiscal year 1974 so that it can establish effective liaison with local funding agencies.

Sincerely yours,

John Tower, Alan Cranston, Charles H. Percy, Birch Bayh, Dick Clark, Paul J. Fannin, Edward M. Kennedy, George McGovern, John V. Tunney, Peter Dominick, Joseph M. Montoya, Warren G. Magnuson, Howard W. Cannon, Pete V. Domenici, Philip A. Hart, Gale W. McGee, and Adlai E. Stevenson, III.

Mr. PELL. Mr. President, the legislation before the Senate, the Job Training and Community Service Act of 1973, is an essential step toward fulfilling the manpower requirements of our country. The legislation authorizes programs that are necessary to permit individuals to gain the job skills required to participate fully and productively in the economy.

This legislation has a particular and timely importance to my own State of Rhode Island. As a direct result of actions taken by the Department of Defense, we in Rhode Island are faced with an unemployment problem approaching economic disaster. Earlier this year the Defense Department announced the virtual closing of naval bases at Newport and Quonset Point in my State. These base closings will mean the direct loss within the State of Rhode Island of approximately 22,000 military and civilian jobs. According to the best estimates available, the base closings will result in an increase in the unemployment rate from the current level of less than 6 percent, to an unemployment rate of from 11 to 15 percent unemployment.

From the time that the base closings were first rumored, I have tried in every way I could to persuade the Defense Department that the decision was unwise, and contrary to our national interests on both economic and national defense grounds. Yesterday, with my senior colleague, Senator Pastore, and other New England Members of Congress, I met with President Nixon on these base closings. At that meeting, it became apparent that there will be no change in the administration's decision to close these naval facilities.

I continue to believe that the Defense Department and the administration decisions are outrageously wrong. But I am also convinced that we must now turn our attention and our energy and our full efforts to the difficult problems of conversion and adjustment.

Because the economic crisis confronting Rhode Island is caused directly by an action of the Federal Government, I believe the Government has a particular responsibility to assist in the economic adjustment.

For that reason, I presented to the Labor and Public Welfare Committee, on behalf of myself and Senators Kennedy and Cranston, an amendment to this bill requiring the Secretary of Labor to give special consideration, in allocating discretionary manpower funds, to areas or States which face unusual unemployment problems because of cutbacks at Government facilities.

I believe very strongly that Rhode Island and other areas that suffer a Government-made economic disaster deserve special consideration from the Government in adjustment assistance. Accordingly I am pleased that the Committee on Labor and Public Welfare agreed to include my amendment in the bill.

The amendment will help provide vital job training to the thousands of Rhode Island citizens who, after years of faithful service as Government workers, face the loss of their jobs, because of the unreasonable and, I believe, unjustified decision by the administration.

The Job Training and Community Services Act of 1973 is important to the economic well-being of our country; it is a vital and urgent necessity to my own State of Rhode Island, and I urge approval of the bill.

Mr. SCHWEIKER. Mr. President, as we look back over the entire record of antipovery and manpower training programs, public and private, I think that there is almost unanimous agreement that few programs have been as successful as the OIC program, the Opportunities Industrialization Centers. This program started by Rev. Leon Sullivan, in Philadelphia, obtained its first prime contract with the Government in fiscal year 1972. Today, there are 101 OIC's in operation and over 38,000 persons have been enrolled in these programs to date. Over 21,000 have been trained and almost 10,000 have been directly placed in paying jobs. The cost per enrollee is only

$562, and the cost per placement is $1,677.

Solely as a matter of cost effectiveness, I am certain that very few programs, public or private, could claim such a record. We have heard a great deal about the poor pulling themselves up by their bootstraps, Mr. President, and yet in many cases, I think that the Federal Government has taken away the boots at the same time that the poor have been trying to pull themselves up by the straps. For that reason, I introduced in subcommittee an amendment to S. 1559, in order to protect OIC during the transition from categorical grant support to manpower revenue sharing.

The result of my amendment, as accepted, will be to protect OIC's eligibility for a national contract with the Department of Labor for another year, instead of cutting off OIC funds this fall. In addition, language has been added to the bill and report to insure that OIC representatives will serve on the employment and training councils to be set up in the cities and States which will be "prime sponsors" of the manpower revenue-sharing programs, and that the OIC representatives will be involved in the development of these plans at the State and local level. In addition, OIC will have the right to comment to the Secretary of Labor and to State and local officials concerning the use of manpower revenue-sharing funds at the State and local level. In any case where State or local "prime sponsors" have not given fair consideration to OIC, OIC will be able to take its case directly to the Secretary of Labor.

I am quite sensitive, Mr. President, to the efforts of the floor manager of this legislation to pass a "clean" manpower revenue-sharing bill, without piling on a number of exceptions which will extend the categorical grant programs. I share this concern, and I am in favor of an orderly transition into manpower revenue sharing. But at the same time, I think that having set the goals of full employment and improved manpower training at the Federal level, we must stand behind our commitment, and we must insure that the transition from categorical support to manpower revenue sharing does not shortchange those who have believed in and participated in this Federal commitment.

No one has worked harder, and no one has had more success than Rev. Leon Sullivan and those involved in the OIC program, and I commend them for their outstanding success. In the final analysis, the cure for poverty is earning money, and the accepted way to make money in the American society has always been gainful employment. The OIC's will permit those Americans at the low income and poverty levels to obtain gainful employment and so we could not mount a more successful battle in the war on poverty than by encouraging and sustaining the OIC program.

Thank you very much, Mr. President.

Mr. TOWER. Mr. President, I support S. 1559, the Job Training and Community Services Act of 1973 and urge the Senate to approve it.

The bill replaces title I of the Economic Opportunity Act and the Manpower Development and Training Act with a comprehensive program that recognizes the positive aspects of manpower revenue sharing and the need to bring policymaking closer to the people affected by the programs. I commend the Senate Labor and Public Welfare Committee for their constructive work on this bill and their recognition of the need for basic reform of Federal manpower training programs.

Instead of narrowly drawn categorical programs administered by the Department of Labor, the Job Training and Community Services Act of 1973 would establish cities with a population of at least 100,000 people and counties with a population of at least 150,000 people as prime sponsors for the operation of manpower programs in their areas. The bill also includes authority to designate governmental units that do not fall within the above population criteria when it is obvious that special manpower problems exist requiring a different administrative setup.

Mr. President, I am also very much in support of the specific attention which S. 1559 gives to bilingual job training. I submitted testimony to the Subcommittee on Employment, Poverty and Migratory Labor in support of S. 414, the Bilingual Job Training Act introduced by Senator DOMINICK and myself and cosponsored by 17 other Senators. While S. 1559 does not contain all of the specific provisions within the Bilingual Job Training Act, I am satisfied that my bill had a sufficient impact upon the committee's final deliberations on the pending measure.

For instance, section 201(b)(5) specifies Operation SER, Jobs for Progress, the most successful Spanish-speaking manpower training program and other similar programs designed to assist bilinguals as entities that are eligible for funding by State and local governments. Section 401(a)(3) gives the Secretary of Labor authority to revoke prime sponsorships of those program agents who fail to recognize the unique employment problems of Americans with limited English-speaking ability.

Additionally, the legislation includes provisions that will make it possible for such community based manpower organizations as Operation SER, Jobs for Progress, and the Opportunities Industrialization Centers—OIC—to actively participate with State and local manpower planning and sponsoring agencies in the setting of priorities on the State and local level.

Section 103(b) of the bill would require the Secretary of Labor to continue the national contracts of Operation SER and the Opportunities Industrialization Centers through fiscal year 1974. I have contacted the administration on behalf of both of these organizations urging the continuation of the national contracts through fiscal year 1974. I am very confident that these organizations will be able to compete effectively for manpower revenue-sharing funds. However, I do think that national funding should continue through fiscal year 1974 so that both of these organizations can have some time in establishing effective liaison with State and local governments that will have primary administrative authority over Federal manpower funds.

Mr. President, I support this legislation, because it achieves two basic interrelated policy goals that I believe are essential for reform of existing manpower programs. The legislation decentralizes the entire Federal manpower training effort and specifically promotes bilingual job training at the State and local level.

Federal administration and control of manpower training programs has resulted in a less than totally successful effort in this area. Narrowly drawn categorical programs have resulted in confusion, a lack of flexibility in planning and experimentation and a general sense of frustration among those participating at the State and local level. President Nixon's strong argument in support of decentralizing these programs has forced everyone to recognize that basic reform was essential. I am confident that through the cooperation of States, local governments, and community-based organizations such as Operation SER we can achieve much more successful results in providing employment opportunities for those Americans that lack only the technical skills to become more productive members of our economy.

Mr. HUMPHREY. Mr. President, the important legislation the Senate is acting upon today, S. 1559, Job Training and Community Services Act of 1973, calls for significant revisions in the operation of programs under the Manpower Development and Training Act, for which a 4-year extension is authorized. It rejects administration plans to discontinue funding for antipoverty Community Action Agencies in fiscal 1974—rather, 17.5 percent of the funds authorized to be appropriated under this legislation are to be used for carrying out effective programs by these agencies.

The Governor of Minnesota, the Honorable Wendell R. Anderson, wrote to me in May, 1973, to explain his serious concern that four basic principles be implemented to strengthen manpower programs:

First, manpower reform must be accomplished through legislation—not through administrative action, as intended by the White House, which could only result in a high degree of uncertainty regarding future program operations.

Second, any proposed decentralization of the planning and administration of manpower programs must go hand-in-hand with the maintenance of adequate funding for these programs—otherwise, a cruel deception would be worked upon State and local governmental units.

Third, programs should be decategorized to provide State and local governments the flexibility required to allocate available funds to meet their own particular manpower needs.

Fourth, to integrate manpower programs with related human resource programs, and to provide for comprehensive manpower planning, a strong role for States in the manpower planning process must be maintained.

I believe these four basic requirements

are fulfilled in the Job Training and Community Services Act of 1973. The philosophy of this bill is that manpower programs can best be planned and administered at the State and local level, but with the financial support, technical assistance, and oversight of the Federal Government to insure that programs are carried out in accordance with legislatively established national objectives. States and localities would now be enabled to address effectively their particular and varying job training requirements, and categorical programs are redesignated as eligible activities for selection by State and local prime sponsors in response to actual manpower needs.

It is expected that Federal assistance for manpower programs will be no less than $1.88 billion annually, the amount appropriated for fiscal 1973. Of sums available for job training programs, 75 percent would be apportioned among the States on the basis of unemployment and population living below the Bureau of Labor Statistics lower level budget—or $7,000 for a family of four at the time of the 1970 census. However, during fiscal years 1974 through 1976, each State and local area would be held harmless at the same share of manpower funding received during fiscal 1972.

Prime sponsors, operating their own programs and dealing directly with the Department of Labor, could be States, cities of 100,000, and counties of 150,000. Cities and counties with more than 75,000 people could develop area programs on the basis of guaranteed specific allocations of funds, subject to the decisions of area planning councils serving multi-county areas within the State.

I particularly commend the provision for assuring participation by those who would be directly affected by these manpower programs, in their planning and evaluation, through the requirement that prime sponsors be willing to set up broadly based employment and training councils. These councils can also help assure that actual jobs are available at the end of the job training tunnel, a requirement that must be given the highest importance in the future funding of manpower programs.

I am also gratified that certain programs will remain the direct responsibility of the Secretary of Labor—including the Job Corps and programs for Indians and migrants. An Indian on a reservation confronts pervasive unemployment frequently in excess of 50 percent, while the Indian relocated to the city under a seriously misconceived priority of Indian manpower programs experiences not only frequent joblessness but also profound cultural shock and extensive discrimination. Migrant and seasonal farmworkers, already at the bottom of the economic ladder, are severely restricted in participation in manpower development and training programs and in obtaining job opportunity information. It is essential that Federal assistance funds be earmarked to assure an equitable allocation of manpower program services to these important sectors of our population.

Senators will also recall my continuing direct interest in maintaining the Job Corps, most recently in support of continuing the level of funding for fiscal 1974 at $183.4 million, in connection with final congressional action on the latest continuing appropriations legislation. I have been deeply concerned over cutbacks in this vital program by the administration, and I strongly believe that the Job Corps should be maintained at a full operating level. It is an excellent program that has achieved good results in serving low-income young men and women, aged 14 to 21, who need further training, education, or counseling to secure meaningful employment and to pursue their education. Critically high rates of unemployment among youth in areas of poverty make it essential that this program be continued.

I applaud amendments added to this bill in committee, to help meet the serious employment needs of two important groups of American citizens, our veterans, and engineers, scientists, and technicians adversely affected by the Nation's economic shift away from defense-related production. It is essential that everything possible be done to provide job training and employment opportunities for Vietnam-era veterans and veterans with service-connected disabilities, confronting unemployment far in excess of the national average. Moreover, I have publicly urged for many months that effective national programs of assistance be developed on behalf of professional and technical persons, who have experienced sudden job displacement as a result of defense contract terminations, and I am an original sponsor of important legislation to establish comprehensive programs to utilize their skills in launching new initiatives in community development and in meeting our serious domestic social welfare needs.

Finally, Mr. President, I wish to express my particular gratification at changes made in the original legislation by the committee to maintain the vital role of Opportunities Industrialization Centers—OIC's—and jobs for progress—SER—in job training programs. SER has achieved a highly commendable record as a manpower program addressed to the vital employment needs of Spanish-speaking citizens. Operating in some 14 States, the program has provided comprehensive services and established an excellent record in the efficiency of its operations.

I have been privileged to know the Reverend Leon H. Sullivan, chairman of the board of OIC's of America, for a number of years as a personal friend. It has been with respect and admiration that I have witnessed his unremitting efforts over the past 9 years to develop this nonprofit self-help organization for job training of minorities. Today, there are centers in 110 communities, and by the end of 1972, OIC had provided free skills training and placement to 116,000 persons, of whom 71 percent are still employed on those jobs. OIC represents self-help, self-determination, and self-reliance, and its decisive beneficial impact in communities across the Nation clearly requires the continuation and expansion of OIC works as an integral part of the Nation's manpower delivery system.

Mr. President, I urge favorable Senate action on the Job Training and Community Services Act of 1973.

Mr. President, I wish to commend the Senator from Wisconsin (Mr. NELSON) for his untiring efforts in developing and sustaining these manpower training programs. Also we owe a special note of thanks to the Senator from New York (Mr. JAVITS).

JOBS AND JOB TRAINING PROGRAMS: S. 1559 AND S. 1560

Mr. MOSS. Mr. President, manpower programs have provided one of the many arenas for the contest of the budget between the President and Congress. By announcing in his fiscal year 1974 budget his intent to, first, withhold funds for the emergency employment act programs, second, reduce many other manpower programs, and third, implement revenue sharing in this area without specific legislative approval, the President has substantially challenged much of the progress that has been made in these areas.

Manpower programs definitely have needed reform and improvement. Instead, the President has cut funds and directed these lesser moneys through new channels, but he has not applied any imagination to program innovation or improvement.

I support the legislation that has been reported from the Senate Labor and Public Welfare Committee as a responsible way of accomplishing the decentralization of manpower programs and the continuation of public employment programs. While this legislation is before the Congress, I believe it would be helpful to have wide circulation of the thinking of two people who are recognized experts in manpower programs, Dr. Sar A. Levitan and Dr. Garth L. Mangum. They have written a very useful review of present administration proposals, framed by a series of probing questions about the overall nature of manpower programs since their inception. I ask that this article be included in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

U.S. MANPOWER PROGRAMS: RETREAT OF REFORM?

(By Sar A. Levitan, Garth L. Mangum)

Pre- and postbudget pronouncements by the Administration are signaling major shifts in policy directions and substantial cuts in the budgets for several programs. The budget not only suggests a reversal of expenditure trends which have prevailed over the past 10 years but it also promises reallocation among programs and geographical areas as well as major shifts in administrative responsibilities. Here, the authors examine the impact of the proposed budget cuts and reallocations, to attempt to forecast the implications of budgetary and policy changes, and to compare the winners and losers among programs with their strengths and weaknesses as demonstrated over a decade of experience.

After 12 years of sustained expansions, manpower efforts will be retrenched beginning in fiscal 1974 if the Nixon Administration's budget proposals are accepted. However, the overall reduction in manpower expenditures is not large. The recommended 1974 manpower appropriation of $4.8 billion represents a cutback of $489 million from estimated current year outlays, but is still substantially above the expenditures for fiscal 1972. More significant are the gains and losses among particular programs.

Comparison of the proposed 1974 budget with present outlays is difficult not only because current figures are, at best, estimates but also because the President vetoed the fiscal 1973 HEW-Labor appropriation. Although manpower appropriations were not in dispute at the time, the Administration currently is proposing that Congress rescind some $375 million from the combined Department of Labor and Office of Economic Opportunity outlays.

Not all programs would be equally affected. Proposed outlays for veterans, vocational rehabilitation and public assistance recipients would be boosted, while other training and work support programs administered by the Labor Department would be curtailed and the funding of public employment under the Emergency Employment Act of 1971 would be terminated. The dismantling of OEO is to be accompanied by a shift of most of its specific manpower programs to the Department of Labor, but a substantial amount of manpower activities undertaken by Community Action Agencies will disappear.

Instead of the present categorical Labor Department programs costing $1,638 million in fiscal 1972 and an estimated $1,382 million in fiscal 1973, the Administration's budget would provide $1,164 million—a 29% reduction in two years—to be allocated to a single revenue sharing program composed of MDTA and EOA funds which would provide block grants to cover the same efforts. Considering the estimated rise in prices over the two-year period of about 8%, the actual decrease in effective resources available for programs that will be absorbed in fiscal 1974 under revenue sharing would be in excess of 37% below fiscal 1972 levels.

The impact of a more austere budget for MDTA and EOA programs is compounded by the planned termination of the Public Employment Program. During the fiscal year outlays for the institutional, on-the-job training and other work support programs, which are to be combined under the revenue sharing plan, plus Emergency Employment Act funding will amount to an estimated $2,470 million compared with $1,734 million in fiscal 1974. This constitutes an overall cut of 30%, excluding the declining value of the dollar because of inflation.

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If manpower revenue sharing becomes a reality, the responsible officials in the state houses, country court houses, and city halls would have to determine how to distribute the limited funds. It would be a violation of the spirit of revenue sharing to dictate what should be continued and what should be eliminated. Therefore, attempts to second-guess the allocation of manpower revenue sharing funds by the broad categories indicated in the Special Analysis of Federal Manpower Programs by the Office of Management and Budget is only an indication of what would happen if the current distribution of funds among programs was applied to the smaller pie that presumably would be available in 1974.

Uncertainty is added by suggestions that unobligated Emergency Employment Act funds might be utilized for a variety of other manpower programs. Unless the successful transition rate under the Public Employment Program can be dramatically increased, the cutback in EEA funds would require the layoff of many of the 150,000 workers hired by state and local governments under the program, or else the allocation of regular state and local funds to maintain EEA workers on the payrolls.

Almost all the anticipated EEA funds remaining would be needed to employ the disadvantaged persons hired under the program. Even if the Administration hopes materialize and aggregate employment is reduced by mid-1974 to 4.5%, many communities may still suffer considerable job deficits. For them, the withdrawal of funds from public employment to bolster other manpower efforts would be a case of robbing Peter to pay Paul. The abolition of community action agencies and the retrenchment of other special programs that concentrate on the needs of central cities will further increase pressures upon state and local authorities to absorb community service workers displaced from these programs and thus accentuate the pressures on reallocating the reduced manpower funds. One possibility is that mayors will use manpower revenue sharing funds for direct employment both to offset the loss of these programs and because of the political popularity of job creation. Longer range efforts such as manpower training are therefore likely to absorb the major cuts.

WINNERS AND LOSERS

The Work Incentive Program (WIN) is potentially the chief beneficiary among manpower programs in the 1974 budget. The 1971 Talmadge Amendments to the Social Security Act requires that all employable welfare recipients register for assistance under WIN. Training is to be provided for those who are not ready for work, and the others would be placed in jobs and provided needed supportive services, including child care. Although the Administration proposes that the WIN budget, excluding supportive services, would be more than tripled from final 1973 levels, and child care services for welfare recipients would be expanded even more.

The Administration is also proposing additional funds for the training and rehabilitation of veterans, with nearly one-third of a billion dollars proposed for fiscal 1974. With the end of hostilities in Vietnam, few new casualties are expected, but the outlays for vocational rehabilitation will be expanded to serve previously disabled veterans. Outlays in veterans training programs are the result of boosts in stipends and not increased enrollments.

While funds for WIN and veterans will be expanded in accordance with congressional mandate, youth programs are likely to be the major victims of the budget cuts. No funds are allocated for 1973 summer NYC. Communities are being advised to use any uncommitted Emergency Employment Act funds for this purpose. But this would, of course, place youth in competition with adults already working or potentially employable in EEA-supported jobs.

Job Corps activities also are to be sharply curtailed. Financing from the revenue sharing funds retained at the Federal level would amount to $111 million in fiscal 1974, compared to $188 million in 1972, a cut of 41%. Nonetheless, the budget anticipates that man-years of training in Job Corps centers would be reduced by only 26% to a total 17,000. The apparent discrepancy is based on the expectation that some facilities would be picked up locally.

The major "savings" in manpower outlays for 1974 is the proposed termination of the Emergency Employment Act. The *Budget for Fiscal Year 1974* anticipates that by the end of 1974 unemployment will drop to 4.5%, diminishing the need for publicly supported jobs, and that the prospective clients would be "more effectively served by regular manpower training programs" (p. 131). The language might have implied a boost in resources for the regular manpower training programs in order to carry out the expanded mission. As we have seen, however, the revenue-shared funds are also going to be cut with the likelihood that the "chief elected political executives" will likely choose to allocate much of the remaining revenue sharing funds to replace the popular creation programs.

In addition to cuts in total expenditures, the revenue sharing route proposed by President Nixon also involved shifts among programs. Those programs, which have as their primary targets the disadvantaged, minorities, central cities and depressed areas, will feel the brunt of the cuts. The public service employment concept, accepted by the Administration after veto because of the persistence of unemployment, has apparently not increased in popularity within the Administration. Manpower programs appealing to "middle America" are to be maintained or modestly expanded. Only the continued commitment to turn "welfare into workfare" is to be rewarded with substantially expanded funds. As the overall Federal budget increases by nearly $19 billion between fiscal 1973 and 1974, manpower efforts, particularly for the disadvantaged, have a clearly lowered priority.

REVENUE SHARING

President Nixon's Administration early declared decentralization and decategorization to be the keystone of its manpower policy. Congress endorsed decentralization and included it in the 1970 comprehensive manpower legislation which the President vetoed because it was insufficiently decategorized and because it included an unwanted public employment program. Despite a seeming consensus for some form of decentralization and decategorization, legislation has become bogged down over three issues:

1. President Nixon's request for manpower revenue sharing did not involve the level of Federal supervision required by Congress.
2. Advocates of particular programs have argued for each as exceptions to the general principle of decategorization, while several of the categories, programs such as public employment and community action, are not acceptable to the Administration.
3. Governors and mayors have never been able to agree on their relative roles in decentralization.

No official pronouncement on the mechanics of revenue sharing accompanied the budget. However, subsequent administrative pronouncements from the Labor Department have begun to clarify policy intentions. After a decade in which urban areas were favored targets for manpower funding, the trend is apparently to be sharply reversed. A new allocation formula giving equal weight to labor force size, unemployment and family income shifts the balance sharply in favor of the suburbs.

Boston may serve as one example of the redirection of funding and policy. Initial Federal instructions to the city's manpower planners were to assume a $14 million fiscal 1973 allocation (including EEA) for planning purposes. The new formula will reduce Boston to $5.2 million for fiscal 1975. Meantime Cambridge, across the Charles River, will experience a five-fold expansion in its previously modest allocation, and smaller and more affluent suburbs may find themselves in the manpower business for the first time. Boston's experience is duplicated across the nation.

WHY CUT MANPOWER BUDGETS?

There are three possible explanations for the decision to cut back on manpower budgets after 10 years of persistent increases:

1. The problems addressed by the programs may have been reduced in seriousness to lower priority than other issues or may have been discovered to be misconstrued.

2. Despite the seriousness of the problem, the programs may have proved ineffective and, consequently, should be abandoned.

3. Social priorities may have changed, either because solution to their problems has become less important to society or because the costs of solution have proved higher than expected.

Each possibility is worth exploring.

HAVE THE PROBLEMS GONE AWAY?

With a booming economy in 1972 and 1973, employment conditions have improved over recessionary levels, but there has been no abrupt change which would suggest that employment problems have been or are on their way to being solved. The number of people looking for but unable to find work averaged 4.8 million in 1972. This is less than in 1971, but it is more than in any previous year in the last three decades. The unemployment rate of 5.6% was exceeded in only five of the postwar years. Conditions have improved in 1973, but not very rapidly. The unemployment rate remains at 5.0%, and is not likely to average much less than this for the whole year.

Unemployment is only part of the problem. In April 1971 it is estimated that there were 5.8 million full-time, nonfarm jobs paying less than $2.00, and 1.3 million less than $1.60. There were an additional 5.3 million part-time jobs under $2.00, and probably a majority of the 3.5 million farm jobs paid no more than this. While many of the people in these jobs are secondary family earners, there were over a million family heads and nearly 300,000 unrelated individuals who worked full-year, full-time in 1971 and remained in poverty. A total of 2.8 million family heads and .8 million unrelated individuals worked at some time yet could not rise out of poverty. The proportion and number of poor family heads who work has declined over the last decade, but this measures only the ability of workers to provide for the most spartan existence. It does not mean that the relative status of those at the end of the labor queue has improved.

Employment problems are unequally distributed geographically and among population groups, and these inequalities persist. In the ghetto area of 60 large cities in 1970, where 70% of the labor force was made up of blacks or Spanish-Americans, the unemployment rate was 9.6%, or almost twice the national average. Over a fifth of the families whose head worked sometime during the year lived in poverty, compared with only 7% of working heads nationally. In rural areas the problems are even worse. In 1971, 6% of all families whose head worked year-round, full-time in nonmetropolitan areas lived in poverty, compared with only 2% in metropolitan areas.

Age, sex and race differentials are significant. In 1972 the unemployment rate for females was a third higher than for males, and the nonwhite rate was twice that for whites. The teenage rate was roughly three times the national average. Since 1960 the first two differentials have increased while the latter has declined very slightly.

In recent years a number of technical points have been raised which suggest that conditions are not as bad as they seem. For instance, it is argued that the growth in unemployment compensation, veterans benefits and welfare have helped to cushion the income losses resulting from unemployment. Benefits have risen and eligibility criteria have liberalized, but the impact on the unemployed is not massive. For instance, in 1963 an average of 1.8 million received unemployment compensation out of the 4.0 million unemployed. In 1972, when unemployment was 5.6% (compared with 5.7% in 1963) and 4.8 milion were unemployed, the average number of recipients was only 1.85 million, or, in other words, a smaller proportion. Welfare is also limited in helping the unemployed. Most of the recipients did not work in the last year and cannot work currently. Able-bodied unemployed males can receive benefits in only 24 states, and there are usually some restrictions. This is not to deny that the programs to help those in distress have fulfilled their mission to some degree; rather, it suggests that many of those who are unemployed are not assisted.

A second argument is that the composition of the labor force and of the unemployed has changed so that the same rate as in the past does not indicate problems of the same severity. In 1960 women represented 33% of the labor force; by 1972 the proportion had risen to 38%. Over the same period the proportion of teenagers rose from 7 to 9%. In 1962, 12% of workers were voluntarily in part-time jobs, compared with 14% in 1972. Teenagers and women are more likely to enter and leave the labor force, and this raises the rate of unemployment. It is often argued part-time job seekers should be of the same concern as full-time workers, since they are only looking for "half" a job.

However, these phenomena must be viewed from the demand as well as the supply side. Jobs traditionally held by women are increasing proportionately and, with changes in technology, education and attitudes, women are qualifying for a broader range of occupations. Opportunities for part-time employment are multiplying. Therefore, women and teenagers are an answer to changing labor market needs, though they also account for a disproportionate share of unemployment.

While unemployment may not mean exactly the same as it did a decade ago, it cannot be dismissed as an employment problem indicator. Teenagers are three times more likely to be unemployed than other workers. As their representation in the workforce rose 2 percentage points between 1960 and 1972, the total unemployment potential increased by .3 percentage points. The increase of women's participation would add roughly another .1 percentage point. But more and more women are family heads, and more of those who are not are working to support themselves or their family's standard of living, and the earnings loss due to unemployment may be just as serious as it is for the family head. Female unemployment on the average may still not produce as much economic deprivation as male unemployment, but the differential must be much less than in the past. Difficulties experienced by youth at the beginning of their labor market commitment may affect their work careers over their lifetimes.

Balanced against the arguments that the unemployment rate overstates the seriousness of employment problems are other equally cogent assertions that it understates them. It has, for instance, been shown that definition changes in 1967 probably reduced the reported rate of unemployment .7% between 1963 and 1969. Other analysts have developed sub-employment indices for central city areas which combine employment and income measures, demonstrating that a much larger proportion of central city populations has employment problems that is indicated by the unemployment rate. Evaluations of rural employment problems indicate an even larger understatement of needs.

The usefulness of the unemployment rate and other labor market measures is thus being questioned from a variety of viewpoints. Whether the real problems are worse or better, and whether the trend is favorable or unfavorable, the fact remains that there are millions of people working at low wages or simply unable to find work. It is also a fact that unemployment, underemployment and poverty in a work-oriented and relatively affluent society imposes a number of additional psychological and social costs having searing effects on the individual and upon the society. There is no evidence of any significant improvement in the last year, or of any conceptual oversight by analysts, which would justify a conclusion that less help is needed for those with employment problems.

WERE THE PROGRAMS INEFFECTIVE?

It is still uncertain after 10 years of effort and experimentation how much of unemployment and low incomes is attributable to the shortcomings of the individuals themselves and how much can be more fairly blamed upon an institutional structure denies them opportunity. Policy emphasis has fluctuated from seeking to improve the skills and employability of people, to outlawing and removing institutional biases which block access to employment opportunities.

The Manpower Development and Training Act and the Job Corps clearly assumed individual skill and education deficiencies which could be removed through training programs. Later, the New Careers Program the National Alliance of Businessmen's Job Opportunities in the Business Sector Program (NABS-JOBS), and the efforts through civil rights legislation and executive orders to eliminate race and sex discrimination in employment all sought institutional change. Experiments with moving jobs to people and people to jobs were also more institutional in their approach.

Programs like the Neighborhood Youth Corps and Operation Mainstream addressed neither problem directly. They were largely palliatives, important in meeting immediate needs for income and employment, but seeking no long-term solutions other than those time itself could buy through the aging process for youth and older workers and the expansion of demand for all. An added development was the punitive drive of the past five years to use manpower programs to get people off welfare by training them if necessary, but before or after that, making them work.

The Public Employment Program (PEP) fits none of this framework. Long advocated as an institutional change mechanism to expand employment opportunities for the disadvantaged, it became a reality as a countercyclical measure to combat persistently high unemployment and as a form of Federal revenue sharing. While PEP gave lip-service to changing public sector employment practices and providing the training needed for upgrading, its primary mission was to hire and put to work members of targeted groups and expand the total supply of employment opportunity. Other manpower efforts, at best, only improve the ability of some to compete for existing opportunities. Whether it filled its promises or not, PEP was directed to the promise of the Employment Act of 1946—i.e., to insure an adequate supply of employment opportunities for all those wanting to work, while the other manpower programs of the 1960s were more concerned with the distribution of existing opportunities.

What did the programs accomplish and why did they not accomplish more? The question is best answered for groups of programs categorized by their objectives. The evidence, strong for MDTA but weak for Job Corps, is that the two programs which attempted to change the employability attributes of their enrollees were moderately successful in doing so. Their success in preparing people to work could be tested only if there were jobs to be had within the limits of their training resources. Both suffered because the incentives were to train for entry-level, high-turnover jobs in order to keep per capita costs low; and because jobs were limited, the program could only provide a "reasonable expectation," of placement. Job

Corps residential costs were high and so was the dropout rate. Still, those who stayed in long enough for employment training were shown to gain substantially from it, though no recent follow-up has been undertaken since the dropout rate has been reduced. MDTA has been shown by numerous evaluation studies to result in improvements in employment stability and earnings, outstripping the program's costs.

The upgrading employment programs, such as New Careers and the Job Opportunities in the Business Sector Program under the auspices of the National Alliance of Businessmen (NAB–JOBS), have had some undeniable impact, but their effectiveness has been questioned. New Careers was able to "cream-off" some of the better educated (mostly females) from among the disadvantaged and elevate them to the entry-level, white-collar jobs. NAB–JOBS probably changed the distribution of jobs somewhat in favor of the disadvantaged, but there are no data to prove it. There is clear evidence that a substantial number of employers did change their recruiting and selection practices to the benefit of the disadvantaged. For none of these programs is there analysis to prove whether the benefits exceeded the costs.

The last-resort public employment programs, Operation Mainstream and NYC, have been popular at the local level, and though there is no proof of any significant and lasting impact on participants, there are some positive contributions outside of the jobs and earnings provided. Operation Mainstream has provided a number of needed public services in rural areas, in addition to providing opportunity for primarily older adult workers. Recent evidence concerning the in-school and summer NYC programs, while showing no positive effect on the likelihood of school completion, suggest that participants do better subsequently in the labor market than similar nonparticipants. In benefit-cost terms, the employment gains outweigh the costs.

The Public Employment Program was an unquestioned success as a job-creating measure, hiring the unemployed quickly to perform needed and worthwhile tasks. Because of the emphasis on speedy implementation and then because of the uncertainty over future funding, progress in enriching the program, in changing institutions and in providing transitional opportunities for the disadvantaged was limited. A more carefully designed and implemented program might build on this positive experience.

Interestingly, given its proposed expansion, the Work Incentive (WIN) program has experienced only limited success in getting welfare recipients off welfare rolls and onto payrolls. Dramatic changes have been made in the last year to emphasize direct placement and to deemphasize training and upgrading. If good jobs could not be found for welfare recipients who had received lengthy preparation, it is doubtful that WIN can now help any but the most employable or that it can escape placing recipients in deadend jobs.

As additional employment factor which ought not to be overlooked is the impact of the staff jobs created in manning manpower programs. Estimated at some 50,000 for manpower programs, plus the numbers in related antipoverty efforts, more than simply employment has been involved. In what has been called the Tammany Hall of the 1960s, many persons from poverty and minority backgrounds have used these staff positions as ladders into a job world formerly closed to them.

In summary, those programs which could be expected to change employability did so and the average enrollee experienced a substantial improvement in earnings as a result. Those designed to provide employment, no matter how temporary, did so and got some useful work done as well, though the extent of institutional change was disappointing.

The only clear failure among manpower programs was the one trying to use labor market weapons to attack what were frequently nonlabor market problems, and this failure was rewarded by an increased budget. Why, then, the frequent reports in the public press from Administration officials, news commentators and even some of the original clients of the Great Society efforts that the programs have proven inefficient?

One reason is the disappointment of inflated expectations. There has been excessive rhetoric in the launching and defending of manpower efforts, and misunderstanding of their role. Proposing programs to aid the unemployed, overzealous advocates promised the reduction of general levels of unemployment. Declaring war on poverty implied, and sometimes promised, its abolition. Neither was possible with the programs at hand, and given the limited resources available under the programs, it is apparent that the real intent fell far short of the rhetoric.

Programs designed to prepare individuals to compete more successfully for jobs could not be expected to create jobs. Unless unfilled demand for labor existed, preparing one to obtain a job implied displacing another who would have otherwise filled it. And even in periods of low unemployment, given the duration and types of training provided, there was no evidence that appreciable numbers of jobs within the reach of manpower program participants were unfilled for want of qualified workers. It is unrealistic to impose the entire responsibility for expanding job opportunities on even those manpower programs designed for job creation. As only one small part of larger national economic policy, they are meant to contribute to the economic well-being of designated groups in the population and to benefit from other policies. Expanding employment opportunities are better effected by other Federal economic levers.

WHAT IS THE GOAL, THEN?

If they do not reduce aggregate unemployment significantly, what good are manpower programs? Their realistic goal is to tilt employment opportunities to achieve greater equality in competition stability, earnings, works satisfactions and career progress, accepting the fact that unless added job opportunities are provided, others may face increased competition as a result. But how can the expenditure of public funds be justified which aids one at the expense of another? The answer is that what is being pursued is the basic objective of American society: to continuously expand personal freedom in its only meaningful and measurable terms, that is the range of choice available to the individual.

Public policy recognizes that poverty, ill health, ignorance, and environmental pollution are no lesser constraints upon actionable freedom of choice as the exercise of arbitrary political powers. Every extension of the franchise diluted the power of each individual vote for those already having voting power. Free public education reduced the competitive advantage of those who could and would purchase their own. Promotion of business enterprise created competition for existing business. Yet all have been justified because they spread opportunity to those who did not have it.

Manpower programs might then be subdivided into three categories: (1) training programs which seek to improve an individual's employability, allowing more successful job market competition; (2) antidiscrimination efforts which seek to remove institutional barriers to equal employment opportunity; and (3) public service employment which creates public jobs for particular individuals or groups. Only the last category can, in most situations, offer employment to some without displacing others and thus reduce general levels of unemployment.

The major goal of all three categories is the most equitable distribution of the employment which is determined by general levels of economic activity—not how many but who is employed. The best measure of success in equalizing employment opportunity is added employment stability and higher earnings for those identified as appropriate target groups for manpower services. Since that in general has been the experience, most of the program, despite their weaknesses in concept and practices, must be counted reasonably successful.

SHOULD PRIORITIES BE CHANGED

Since manpower problems still exist and since the programs have made at least modest contributions to achieving their reasonable objectives, their reasonable objectives, the explanation for retrenchment must lie in changing priorities. The primary goal of the Great Society social programs generally and manpower programs specifically was to improve the condition of the socio-economic lower one-fifth. Whether for crass reasons of political voting power, pragmatic ones of costlines of potential solutions, or simply boredom with the tasks and its rhetoric, the interest of the body politic and its political leadership have shifted to those with more income and less severe problems.

Those programs which have been at the heart of manpower efforts on behalf of the disadvantaged have suffered all of the proposed cuts. Three facts stand out from the 10-year manpower program experience:

The average enrollee in those programs had severe handicaps, but was able to gain in employment and earnings as a result of participation.

Every program had its weaknesses, some of conception, some of design and some of administration, but their effectiveness was also limited by the severity and complexity of the problems which they addressed.

The number of eligibles for every program exceeded by a substantial multiple the resource capacity of the program.

There is no doubt that some manpower expenditures and programs are wasteful. Budget reductions which eliminate fat without cutting any muscle are not unwarranted in a period of budget stringency, though the scale of employment problems and the success of manpower programs to date would seem to argue for improvements without retrenchment. The intent appears to be a lower priority for helping the poor and the disadvantaged who might benefit from sustained support of manpower efforts.

MANPOWER REFORM

Whatever changes in priorities are deemed desirable, clearly public programs should be operated as effectively and efficiently as possible. There is a need, therefore, to periodically reexamine the trends in manpower policy, which becomes more compelling in the light of current proposals to shift the focus of decision-making away from the central bureaucracy.

The case for reforming manpower policy by decentralizing decision-making is persuasive. However, it will be wasteful and harmful to potential participants to proceed without several safeguards. First, to assume responsibility for functions previously performed by Federal representatives, state and local manpower administrators will need to learn how to set objectives, implement plans, monitor performance, and evaluate results. One of the most important elements in this training process will be to arm the state and local agents with the data necessary to assess their population's needs and labor market conditions.

Other safeguards are a clear definition of an accountability mechanism and accompanying performance criteria. It has not been fully clear to what extent the Federal government intends to remain the overseer of manpower programs. Federal manpower administrators have left themselves the unenviable task of developing guidelines that are not so restrictive as to discourage meaningful local decisionmaking. Federal bureaucrats are inviting the manpower revenue sharing agents to do meaningful planning. In this planning process the incentives to make professional decisions must be greater than the political ones. The overriding goal is to improve on the present Federally dominated manpower system to more effectively and efficiently meet state and local needs.

Several factors may work against success for state and local decision-makers. Most significant, perhaps, is the shrunken manpower budget. Successfully planning the use of limited funds and at the same time absorbing the impact of far-reaching administrative changes is a herculean feat. Another problem is associated with the need to create planning areas that coincide as nearly as possible with labor markets. It is axiomatic that political and labor market boundaries do not coincide. Even a Federal incentive of increased allocations may not be enough to overcome the traditional barriers of intergovernmental relations.

While administrative reforms would not radically improve the effectiveness of manpower programs, they would help. Among the longer term needs are:

A longer range approach to the problem of both individuals and labor markets. The goal should be optimum prospects for career success over the remaining work life—not immediate placement of the unemployed, but a long-run viable workforce and favorable economic development.

Recognition that employment should provide more than income. Manpower planners should also be concerned with job content and that work opportunities are available across the entire labor market spectrum.

The 1946 Employment Act promised an adequate supply of employment opportunities. The promise never has been fulfilled, but we have come closer to that ideal since the goal has been established. The equalization of employment opportunities was promised by the manpower efforts of the 1960s, and significant progress was made. Persistence and pride in the progress of the past decade are still appropriate. Some waste there has been, and unfilled promises—but they are the price of progress toward elusive social goals attempting to overcome age-old obstacles.

Mr. MUSKIE. Mr. President, I am pleased to support the Job Training and Community Services Act of 1973.

The bill would provide $1.88 billion during fiscal year 1974 to State and local governments to meet one of our most basic public needs—job training and employment services for the unemployed and underemployed. It strikes a happy balance between local control and federal oversight by establishing the basis of an effective partnership between State, local, and Federal Governments in the field of manpower training.

The bill recognizes the importance of placing in the hands of State or local officials the authority for matching local training needs with employment needs, and it requires that local resources be used in the training programs.

Greater local control can also mean less duplication. Since the passage more than 10 years ago of the Manpower Development and Training Act, a broad range of special programs has been established to meet the needs of specific groups, such as veterans, older workers, the disadvantaged, the young, and others.

This legislation recognizes the special Federal responsibility to assure continuation of many of these programs, but at the same time it encourages local officials to find and eliminate the inevitable duplication and lack of coordination resulting from this proliferation of specific programs.

State and local officials are most familiar with both the needs of local employers and the needs of the jobless. They will have the power under this bill to match the two needs as much as possible and local officials are best able to enlist local help in preparing the jobless for the work available. My home state of Maine recognized the value of such local initiative in 1967, when Governor Curtis established a system of State and local manpower planning committees to assess local needs and to recommend the most appropriate "mix" of training funds to meet those needs.

The passage of S. 1559 would assign funding authority, in addition to planning authority, to local and regional manpower councils. These councils, representing town and county government, industry, labor, and those who would be served by the job programs, would be equipped to make the best possible use of Federal job training funds.

The allocation formula contained in S. 1559, based on unemployment and family income, will also benefit States like Maine, which have suffered chronic high unemployment and which have income levels below national norms. For example, Maine's unemployment in June was 6.1 percent of the work force, still well above the national average, while more than 60 percent of households had incomes under $8,000 in 1969. States like Maine need the type of automatic "trigger" contained in the bill to release needed employment and training funds.

There are other aspects of the act which are noteworthy:

A new recognition of the importance of language is included in the bilingual manpower programs provision.

The bill recognizes the tragic effects of unemployment on middle aged and older persons, an important provision for Maine, which has a higher percentage of elderly than the national average.

Finally, I note with pleasure that the committee has adopted language which clearly states that Indian tribes under State jurisdiction, as well as those recognized by the Federal Bureau of Indian Affairs, are eligible to receive Federal benefits under the act. This is an important provision for Maine's Indians and Indians in several other States, who have often been denied Federal services in the past as a result of this distinction.

Again, Mr. President, I wish to commend the committee's efforts and hope that this legislation will serve as proof that increased local control does not necessarily mean a complete abandonment of Federal oversight.

Mr. CRANSTON. Mr. President, as a member of the Senate Labor and Public Welfare Committee's Subcommittee on Employment, Poverty, and Migratory Labor for the past 4½ years, I want to express my great admiration for the enormous amount of time and energy and the very effective leadership which Senator NELSON, the chairman of the subcommittee, has contributed to the development of the legislation before us today.

S. 1559 is the result of some 4 years of dedicated work on Senator NELSON's part.

The hearings on comprehensive manpower reform encompass six volumes—reflecting something like 5,000 pages of testimony regarding jobs and job training. The subcommittee has literally criss-crossed the Nation in over 40 days of hearings—including some 22 days of hearing on S. 3867, the Employment and Training Opportunities Act of 1970, the legislation which preceded the bill we are considering today.

Unfortunately, President Nixon vetoed S. 3867 after more than a year of thorough consideration by the subcommittee and the full committee with a view to assuring the most considered and effective legislation possible. In the last year, the subcommittee has worked tenaciously to bring S. 1559, the Job Training and Community Services Act, to the Senate floor today, and I urge the Senate to give its strong support to the reported bill.

Mr. President, I want to thank the distinguished floor manager for his many courtesies to me and for his most sympathetic consideration of the amendments which I offered, which I shall describe in detail later in my statement.

THE IMPERATIVE NEED FOR ENACTMENT OF S. 1559

BLEAK JOB SITUATION

Mr. President, this legislation reaches the Senate at a particularly appropriate time, as our economy is struggling with the effects of the gradually diminishing involvement in Indochina—and attempting to convert war industries to peaceful and constructive pursuits.

At a time when the working people of this country suffer the ever increasing ill-effects of this administration's newest game—economic policy roulette—a game that may soon be the "only game in the country in which everyone is compelled to play—and no one gets to win.

At a time when, although the crushing 1970 unemployment figures of over 6 percent have declined, nearly 5 million Americans are still out of work—and the growing ranks of the poor are more than ever the last to get decent jobs and the first to lose them.

Mr. President, our cities have been crushed by the burdens of meeting the everyday needs of their children—unfortunately, the President's announcement last year that we had "turned the corner" in the battle for cities exists only in the minds of White House speech writers.

The fact is, Mr. President that the cost of living in this country has risen 8 percent in the first 6 months of 1973.

Blacks, browns, Indians, Orientals, women, teenagers and other groups traditionally told to stand at the end of the line continue to search for results after the promising beginnings of the sixties. Yet a recently released U.S. Bureau of the Census survey shows that the gap between black and white income remains as great as it was in 1967. The median income of black families is 59 percent of that for white families—veritably the same disparity that existed in 1967. This same survey reflects, that though some real progress was made in reducing the number of black Americans with incomes below the poverty line before 1969—dropping from 39 percent in 1967 to 32 percent in 1969—the 32 percent level has remained constant since 1969.

The black jobless rate is 10 percent—compared with 5 percent for the rest of the labor force.

The chicano jobless rate is 8.2 percent.

The jobless rate is near 5.9 percent for women.

The ghettoes, barrios, and Indian reservations of America continue to reflect unemployment rates of way over 20 percent.

THE ADMINISTRATION STRATEGY

In response to these disgraceful statistics—statistics that represent real people—Mr. President, the administration proposes to increase military spending by $5 billion, to spend $30 billion to maintain foreign military bases, and to increase the Federal budget as a whole by some $18.9 billion.

In the process, manpower programs are to be cut back by 30 percent—from a level of $1.6 billion a year to $1.1 billion.

If the administration had not been halted in the unlawful dismantling of OEO, the modestly funded war-on-poverty programs—apparently the one war this administration has not the stomach for—representing less than one-tenth of 1 percent of the Federal budget would now be all but ended.

Programs to aid the inner cities were also to be halted—though yesterday's U.S. District Court decision ordering the release of impounded Federal housing subsidy funds may slow that administration plan.

Mr. President, there is no quarrel between the Congress and the administration about holding down Federal spending. We are all in agreement on the need for an over-all budget ceiling. The dispute is about priorities within the budget and about who will set them, Congress or the President.

The administration policy of reorganizing programs so that responsibility for planning and program administration rests basically with local leaders is a concept embodied in the Job Training and Community Services Act. But swinging the axe against those few existing programs which hold out some hope for America's poor, while pumping additional tens of billions into wasteful Pentagon and foreign military assistance programs is poor economy, and poorer policy, indeed.

SERIOUS JOB DEVELOPMENT TRAINING COMMITMENT NEEDED

If we are truly committed to the work ethic, then we must be truly serious in providing meaningful job opportunities to all our citizens. If work at decent pay is the key to ending poverty in this Nation, it makes no sense to cutback manpower training and employment programs while millions of men and women and hundreds of thousands of Vietnam era veterans remain unemployed.

President, it is really quite a dev- t to realize that—without counting alienated workers, underemployed men and women, or those who have dropped out of the labor market because they have dispaired of finding decent employment—nearly 5 million Americans are looking for work. In California alone there were 421,000 men and women looking for jobs in May of this year.

In 1970 AFL–CIO President George Meany called President Nixon's veto of the Employment and Training Opportunities Act of 1970:

> A devastating attack on the unemployed, the unskilled, and the poor.

Mr. Meany said it clearly when he said the President's veto was:

> A setback for the unemployed but it is only a temporary setback. We intend to do everything in our power to help establish a badly needed national manpower policy and program, including job-creation for the long-term jobless. And we intend to win.

Mr. President, I believe that we will win; we must win. I believe that the hope of our committee in reporting S. 1559—the hope that S. 1559 will provide a beginning which will help us find our way out of the maze of governmental manpower programs, achieve a fair and equitable transition to a peacetime economy, and provide meaningful, decent, job opportunities linked to real jobs—will be realized.

MANPOWER REFORM: DECENTRALIZATION

Mr. President, the experience of the last decade has surely taught us at least one major lesson: Significant reform of the present manpower system—in which far too many decisions affecting specific local needs are now made in Washington—must be accomplished. There is near unanimous agreement on this issue.

Throughout the subcommittee's hearings, witnesses were equally strong in urging that local communities be free to design and operate their own manpower programs within a decentralized manpower system. There are now over 10,000 separate contracts which are administered by the Department of Labor under the Economic Opportunity Act of 1964 and the Manpower Development and Training Act of 1962. Local officials were adamant that this new legislation not make them subordinate to a system operated, basically, by the 50 Governors.

The compromise reflected in S. 1559—which creates a decentralized system of prime sponsors of States as well as cities of 100,000 or more and counties of 150,000 or more—not counting the populations of cities of 100,000 or more which might be within that county—is substantially similar to the 1970 legislation.

Additionally, S. 1559 provides that those cities and counties having populations of 75,000 but not large enough to be prime sponsors would be guaranteed specific allocations of funds and could develop and fund programs within their area as program agents.

This scheme will result, if enacted, in 378 eligible prime sponsors, with possibly an additional 60 communities eligible as program agents. However, as Senator Nelson stated when he and Senator Javits introduced S. 1559:

> We cannot reform the structure while destroying the substance of our decade-old effort to help the disadvantaged find sustaining employment. The Administration has proposed carrying out decentralization of manpower programs without legislative authority while cutting back funding nearly 30-percent below the 1972 level . . .

Mr. President, in my judgment, there are two overriding issues in the decentralization of manpower training programs. First, the administration, to my mind, proposes to throw out the baby with the bathwater in advocating the elimination of the Federal role in all manpower programs. I am convinced that this sort of overall judgment is not in the best interest of those who are seeking job training. The Economic Opportunity Act of 1964 and the Manpower Development and Training Act of 1962 were initiated, because the job was not getting done at the local level.

Because on local governments have come to understand the benefit of these programs, and in many cases developed the capability to administer them effectively, does not mean that all manpower needs are likely to be dealt with equally by local administrators.

The committee bill, I believe, recognizes the significant difference between decentralization and abrogation of responsibility, and provides, through the Special Responsibilities of the Secretary, section 205 of the bill, for the continuation of the Federal role and Federal oversight of programs where the Federal presence needs to be retained. I have offered several amendments to the bill in this regard, which I will explain later in my remarks.

MANPOWER REVENUE SHARING

Second, perhaps the most important issue is the responsibility of the Congress to take the legislative action necessary to implement a decentralized approach to job training programs. Such broad changes in present law cannot be imposed by Executive fiat—as the administration is now attempting to do.

The administration concept of change is to erase all categorical programs, cutback on funding, and literally to dump emasculated programs into the laps of local governments.

The concept of change is totally tied to the success of the administration's cure—all for all social ills—revenue sharing, and its more precise little brother, "special revenue sharing".

The States, cities, and counties are not buying the administration's carrot stick. The much touted windfalls to flow from general revenue sharing—which was followed by cutbacks or proposed cutbacks in nearly every Federal social program—has created great skepticism.

The U.S. League of Cities National Conference of Mayors, the National Association of Counties, and succeeding Governors testified to the need for legislative action—not administration promises. The Governor of Wisconsin, the Honorable Patrick J. Lucey, told the subcommittee:

> Here is the way I view the fundamental issues in manpower reform, and incidentally I believe that virtually all Governors agree on these points:

First, we want comprehensive manpower reform (or manpower revenue sharing, if that term is preferable) *through the enactment of legislation by the Congress*. We appreciate the efforts of the Labor Department to move in this direction without waiting for legislation, but we see real danger in attempting to carry out a historic shift in national manpower policy without any legislative guidance. If Congress fails to act, then presumably the Administration will have to go ahead without legislative guidance, but such failure would be tragic, I assure you.

During Assistant Secretary of Labor Kolberg's March 29, 1973, confirmation hearing before the Senate Labor and Public Welfare Committee, I raised the very important issue of the legal and statutory basis for the administration's attempt to implement manpower revenue sharing—MRS as it is called in Manpower Administration jargon—and requested the new Assistant Secretary to submit the Department of Labor Solicitor's opinion in this regard.

Mr. President, I ask unanimous consent that the Manpower Administration's almost pitiful response to be printed at this point in the Record.

There being no objection, the item was ordered to be printed in the Record, as follows:

Authority Under MDTA To Implement Revenue Sharing

U.S. Department of Labor,
Washington, D.C., May 3, 1973.

Memorandum for William H. Kolberg:

This is in response to your request for an opinion on legal authority under the Manpower Development and Training Act to implement the Administration's revenue sharing goals. As you know, this matter has been under consideration for some time previous to my assuming the position of Solicitor.

At the heart of the revehue sharing philosophy are the concepts of decategorization of manpower programs and the decentralization of planning and administration to State and local governments. The Administration submitted a revenue sharing proposal to the last Congress which would have afforded wide lattitude in achieving these objectives. Existing law does impose some limits upon our authority to achieve revenue sharing through administrative action which were not present in the earlier proposal. Nevertheless, the MDTA does contain considerable flexibility which will allow us to go far in implementing revenue sharing on an administrative basis. This memorandum deals with some of the major legal issues inherent in an administrative approach to revenue sharing under MDTA. It does not deal with the Economic Opportunity Act. Broader authority exists under that law to implement revenue sharing.

AUTHORITY TO DEAL WITH LOCAL GOVERNMENTS

Title II of the MDTA refers to agreements between the Secretary of Labor and State governments. This title does not include specific reference to agreements between the Secretary and local governments. It should be noted however, that section 306(a) of the Act provides broad authority for the Secretary to enter into such contracts or agreements as he deems necessary to carry out the provisions of the Act. Moreover, a substantial legal argument exists for the proposition that the term "State" can be read to include agreements with political subdivisions of the state.

It should be noted that any agreement with a State government might provide for a pass-through of funds to local governments and for local administration of the programs. Thus, while specific legislative authority would leave no doubt as to our authority to deal directly with local governments, a strong legal argument can be made that this can be reached through adminstrative action.

A related issue concerns the authority of the Department of Health, Education, and Welfare to deal directly with local governments. Presently, Part B of Title II provides with some exceptions that the Secretary of HEW is responsible for providing institutional training through arrangements with State education agencies. These provisions of the law, of course, would not be changed under an administrative approach to revenue sharing.

It is clear that successful efforts to decentralize our manpower effort and make it more flexible and responsive will require the closest possible cooperation between the Departments of Labor and HEW.

FLEXIBILITY OF FUNDING

Present legislative authority does contain significant categorization of funds. These legal requirements will, of course, have to be observed. At the same time both the Economic Opportunity Act and the Manpower Development and Training Act are broadly phrased statutes, which provide considerable flexibility. Projects may be and indeed have been jointly funded under various sources of statutory authority. These moneys must be separately accounted for and must be utilized in accordance with the specific statutory provisions from which they are derived. Although these requirements will impose significant administrative burdens, the obstacles to a very substantial degree of joint funding are not insuperable.

CONCLUSION

The present law provides considerable authority to shift the focus of planning and implementation of manpower programs to State and local governments. While the present law contains some impediments, much can be done through administrative action.

William J. Kilberg,
Solicitor.

Mr. CRANSTON. Mr. President, as I am sure my colleagues will note, this is hardly an inspiring analysis or firm legal ground upon which to base a policy decision of this magnitude. Consequently, on June 6, 1973, I wrote to the Assistant Secretary seeking a full legal opinion on the authority under which the administration proposed to implement this plan. I ask unanimous consent that that letter appear in the Record at this point as well.

There being no objection, the letter was ordered to be printed in the Record, as follows:

June 6, 1973.

Hon. William D. Kolberg,
Assistant Secretary of Labor for Manpower, Department of Labor, Washington, D.C.

Dear Mr. Secretary: I am writing to express my concern about the Department of Labor's response to my request during your March 29, confirmation hearing before the Labor and Public Welfare Committee for the Solicitor's opinion regarding the authority under which the Administration proposes to implement Manpower Review Sharing (MRS). You will recall that at that time I requested a full analysis, with citations and an analysis of the existing law.

The May 3, 1973, memorandum from Solicitor Kilberg, which you subsequently submitted to the Committee, does not, to say the least, provide a strong legal basis for administrative implementation of Manpower Revenue Sharing. Rather, it seems a rather casual conclusory paper to provide some legal justification for a course already administratively decided.

I, therefore, request that the Solicitor's office prepare a full legal opinion on the legal authority under the M.D.T.A. and the Economic Opportunity Act of 1964, for the Department of Labor Manpower Administration's actions to implement MRS—preparation for which I understand has already reached final stages. I ask that this opinion be specific in terms of all provisions of law relied upon and any possible limitation, and include a thorough and specific discussion of all aspects of this matter, especially relevant legislative history.

In sum, I do not find the "conclusion" of Solicitor Kilberg's memorandum to be at all conclusive and am rather shocked that you should embark upon such a major administrative policy with such apparently slender underpinnings. I hope that you will respond to my request for full discussion and explication of the Department's legal authority as soon as possible.

Thank you in advance for your continuing cooperation.

Sincerely,

Alan Cranston.

Mr. CRANSTON. Mr. President, to date, I have not receive an answer.

Mr. President, I should like at this point in my remarks to call to the Senate's attention portions of the House report and opposition to minority views on the Manpower Development and Training Act Extension, H.R. 7950—House Report No. 93-288—which states:

Excerpt From House Committee Report

MANPOWER REVENUE SHARING PROHIBITION

In addition to extending the MDTA for an additional year, the Committee included a provision barring the implementation of Manpower Revenue Sharing by administrative guideline and regulation. The President's budget for fiscal 1974 revealed the Administration's plan to implement Manpower Revenue Sharing by executive fiat, notwithstanding the fact that both the House and the other body had rejected the concept in the preceding Congress.

The Department claims, in an opinion from its Solicitor, to have sufficient authority under MDTA to go forward with this plan. In addition, high-ranking officials of the Labor Department have indicated to the Committee that, as far as they are concerned, they have their orders, and congressional action or inaction is immaterial to them. These statements seemed to confirm the publicly reported statements of Mr. Kenneth Cole, Executive Director of the White House Domestic Council who announced several months ago that irrespective of what Congress did, the Administration was going ahead with Manpower Revenue Sharing.

This Committee intends to grapple once again with the complicated issues involved in comprehensive manpower reform. But we will not be bullied or blackmailed into hasty action through the device of a blatantly illegal arrogation of authority on the part of the Labor Department.

The language in section 1(c) of the bill would effectively prevent the Labor Department from carrying out its announced intentions by maintaining in force and effect the system under which manpower programs were being operated as of June 1, 1973.

* * * * *

OPPOSITION TO THE MINORITY

The minority members, while endorsing an extension of MDTA, took vigorous exception to the language barring the Labor Department from implementing Manpower Revenue Sharing. There follows a listing of the major arguments advanced by the minority in committee and elsewhere, together with the committee's answers to those arguments.

1. *Argument.*—There is substantial agreement on what needs to be done in the way of manpower reform; indeed, most of the Administration proposals reflect the Employment and Manpower Act of 1970 which was

passed by both the House and the other body. Why stop the Labor Department from going forward?

Answer. There are major areas of disagreement yet unresolved. The enactment referred to was vetoed by the President on the grounds that it contained a program of public service employment. We still feel such a program is essential, the President still disagrees, and the proposed regulations and plans of the Labor Department do not provide adequately for public service employment.

There are other important differences between the proposed regulations and the vetoed bill which need not be detailed here. Suffice it to say that the vetoed bill was a hard-fought compromise in which each side gave up some things in order to gain others. The proposed regulations carefully include the items which the Labor Department sought and exclude the important items we had bargained for in the vetoed bill.

In addition, most of the parties concerned with manpower reform—governors, mayors, county officials, and vocational educators—object strongly to the implementation of Manpower Revenue Sharing through guideline and regulation. The National Governors Conference, which met recently, adopted a policy statement to that effect. These groups want the issues in manpower reform debated and settled by Congress, not bureaucrats.

2. *Argument.*—Because Congress has failed to act on comprehensive manpower reform, it has forfeited its right to object to these proposed regulations.

Answer. This is an astonishing proposition whose proponents argue that since the Administration has made a "reasonable" proposal and since efforts to enact comprehensive manpower reform into law have failed over the last 4 years, the Administration now has the right to go forward and implement its proposals without the authority to do so from Congress. First, the committee would remind members that the reason we do not have comprehensive manpower reform on the books is that the President vetoed the Employment and Manpower Act of 1970. Beyond that, however, the Committee feels that the Department of Labor does not have the Constitutional or other legal authority to make fundamental changes in the manpower services system created in two Acts of Congress unless and until the Congress shall act to authorize such changes.

Executive agencies and departments cannot be permitted to arrogate to themselves the right to fundamentally alter programs created by laws without seriously weakening the principles which underpin, a Constitutional government of laws.

This department, in particular, has had a history of indifference to the intent of Congress, and, in some instances, has altogether ignored provisions in the statutes. The time is long overdue for the Congress to "send them a message."

3. *Argument.*—If we adopt this bill with the language preventing the Labor Department from implementing Manpower Revenue Sharing we will kill the chances for comprehensive manpower reform, which is badly needed.

Answer. This is a ridiculous assertion. Both the MDTA, if extended as provided in this bill, and title I of the Economic Opportunity Act will expire on June 30, 1974. Clearly the Congress will have to address itself to the issue of comprehensive manpower reform before that deadline.

Second, if the Labor Department is permitted to implement Manpower Revenue Sharing by regulation and guideline, there will no longer be any need for comprehensive manpower legislation from the Administration's point of view. Indeed, based on their opinion that they have sufficient authority to go forward under MDTA and EOA, the Department has not even submitted a comprehensive manpower proposal for congressional consideration this year. All they have requested is a simple extension of MDTA. The Committee finds it difficult to believe that the Department will bargain in good faith on comprehensive manpower legislation if they no longer need it to achieve their objectives.

4. *Argument.*—If we enact this limitation, the President will just veto the bill.

Answer. There is no conceivable reason for him to do so except to protect the Labor Department in carrying out an arrogant, illegal, action. A veto would, needless to say, create a severe hardship for the many persons enrolled in MDTA programs and for vocational educators and other providers of manpower services.

The House must decide the issue on the merits, and we must hope that Congressional rejection of the plan to institute Manpower Revenue Sharing by administrative fiat will persuade the President that it would be unwise to insist on proceeding with this plan.

Mr. President, under this legislative authority cloud and the rather clear expression of congressional interpretation by members of both the House and the Senate authorizing committees, the Manpower Administration still plans to implement M.R.S.—in fact, has already begun to do so in several areas—without issuing any guidelines in either draft form or in the Federal Register.

I think that perhaps this issue, as much as any other, demands the most expeditious consideration of S. 1559 by the Congress.

AMENDMENTS ADOPTED IN COMMITTEE

Mr. President, as I indicated at the outset of my remarks, I offered quite a number of amendments to S. 1559 when it was considered in subcommittee and full committee and was fortunate to secure acceptance of these amendments in the bill now before the Senate. I would like, now, to make clear for the record my purposes in offering each of these amendments, and what I hope to achieve by them.

AUTHORIZED PROGRAMS

Mr. President, section 201 of title I of S. 1559, as reported, lists as eligible activities many of the programs which had previously been so-called categorical programs—though they are not mandated for continued funding in the bill. This section reflects the committee's concern that, while wishing to be responsive to the President's 1970 veto message, it must be clear that S. 1559 in no way intends or suggests an end of successful manpower programs presently being conducted. In fact, the bill as reported specifically authorizes the continuation of effective programs, at local discretion.

Amendments I offered in subcommittee to include programs and projects to meet the special job training needs of Indians, migrant and seasonal farmworkers, and individuals of limited English-speaking ability—now clauses (10), (11), and (12) in section 201(a) of the reported bill were adopted in subcommittee so that these programs were specifically authorized job-training programs.

I firmly believe that we must exercise the greatest scrutiny of existing and future manpower programs, in order to insure that the hard-won visability of these groups—sweated out over the last 10 years—is not lost in the maze of the competing demands which will inevitably be made upon the local governments once S. 1559 is enacted and implemented.

BILINGUAL JOB TRAINING

Toward this same end, I offered an amendment—in which I was to be joined by Senator KENNEDY and Senator JAVITS—in full committee which is contained in the bill before us today. This is section 403(j) under Special Limitations and Conditions, which directs the Secretary, prior to approving financial assistance under the act for bilingual manpower programs, insure that they contain specified components designed to effectively meet the special job training needs of limited English-speaking people.

In February of this year, Senator PELL, the chairman of the Education Subcommittee, and I, as chairman of the Special Subcommittee on Human Resources, cochaired field hearings in Los Angeles on bilingual education and bilingual manpower programs.

The February field hearings made clear, once again, that the challenge of employment is no "challenge" at all for citizens of limited English-speaking ability. Rather it is condemnation to the lowest paying jobs, the least security, the most minimal opportunities for advancement, and the grossest indignity in finding that a rich cultural heritage has no value in the American marketplace.

One of the biggest difficulties in effective job training for limited English-speaking men and women is the lack of programs in which their primary language is spoken. Moreover, information about job training availability, employment opportunities, materials for training programs, and personnel who are bilingual, are often negligible.

Mr. President, there is clearly a need for job training programs designed to meet the needs of these Americans. It is a tragic waste of valuable manpower to relegate this segment of our population to the most limited employment opportunities.

My amendment provides for the development of training courses and materials in the trainee's primary language, the availability of special training programs to increase the opportunities for employment and advancement; and the teaching of skills that do not require a high proficiency in English and of a specialized English vocabulary that is necessary for the performance of specific occupations.

The amendment further provides for programs which encourage individuals to develop and capitalize on their bilingual ability, and for programs which will be conducted at times—such as on evenings or weekends—so that presently employed individuals can improve their job opportunities by attending training programs without jeopardizing their present jobs.

Other provisions of the amendment include special training for instructors and others, who will participate in bilingual manpower training and placement programs, and the development of specialized supportive services to encourage employees to hire persons trained under this program and to provide followup after they are employed.

Mr. President, I ask that the description of this section from the committee report (No. 93–304) be printed at this point in the Record.

There being no objection, the report was ordered to be printed in the Record, as follows:

BILINGUAL MANPOWER PROGRAMS

The Committee accepted an amendment proposed by Senator Cranston of California, Senator Kennedy of Massachusetts, and Senator Javits of New York to provide for the establishment of procedures to stress the need for and to ensure that bilingual manpower programs carried out under the provisions of the Act adequately reflect the special job training and employment needs of limited English-speaking men and women.

Several measures designed to improve manpower training programs and job opportunities were referred to the Committee for consideration during deliberations on S. 1559. Both this year and during previous hearings, the Committee received considerable testimony attesting to the compelling need for special procedures to ensure programs meet the job training and employment needs of persons with limited English-speaking ability.

For example, 1970 census figures indicate that there are over 10 million Americans for whom Spanish is the primary language. Over 1 million are in Los Angeles, over 2.5 million in California. They make up 10 percent of the population of New York City, and 40 percent of the population of New Mexico. According to a study done by Thompson Lewin Associates, Inc., for the Manpower Administration in 1971, nearly one in every four Spanish-speaking adults is illiterate in English.

Equal Employment Opportunity Commission figures for 1970 show that 70 percent of all male Spanish-surnamed Americans work in the lowest occupational categories—as operatives, laborers or service workers. In March 1972, the unemployment for workers of Spanish origin was about a third higher than that *for* the total labor force—with about 250,000 jobless persons in the Spanish-speaking workforce, or an unemployment rate of 8.2 percent of the total Spanish-speaking labor force.

Across the Nation these high rates of unemployment and continued concentration in low-paying jobs have reduced family income among Spanish-speaking Americans to far below that for Anglo families. The median income for all Spanish-surnamed families was $7,500 in 1971—over $3,000 less than that of Anglo families—whose median income in 1971 was $10,700. Moreover, more than half of the Mexican-American families have incomes of less than $3,000 a year.

In San Francisco the Chinese-speaking population increased from 37,900 to 62,000 between 1961 and 1968, primarily due to eased immigration quotas. During field hearings in San Francisco in 1970, L. Ling-Dhi Wang, then Vice President of the Chinese-American Democratic Club, San Francisco, told the Committee:

> The language barrier and discrimination have deprived many of our people of the right to basic education, limited our employability outside Chinatown and caused high rates of unemployment and underemployment in what has become the most popular ghetto in the world and mecca of tourism—Chinatown.

San Francisco is not alone in being specially impacted by the settlement pattern of immigrants. Data developed in one 1968 study indicated that four out of seven immigrants in 1968 indicated an intent to settle in cities over 100,000. Review of the 1972 annual report of the Immigration and Naturalization Service reveals that this pattern has not perceptibly changed since 1968. The fourteen cities most frequently mentioned in the 1972 annual report were:

New York	75,977
Los Angeles	18,403
Chicago	18,051
Miami	10,247
San Francisco	8,464
Honolulu	4,383
Houston	3,924
Philadelphia	3,424
Newark	3,361
Washington	3,240
Detroit	3,190
El Paso (2,700 from Mexico)	2,986
San Antonio (1,796 from Mexico)	2,349
Boston	2,109

For those born in China or Taiwan, the largest number intended to settle as follows:

New York	4,190
San Francisco	1,434
Los Angeles	903
Chicago	661
Honolulu	334
Oakland	262
Seattle	199
Washington, D.C	197

Those born in Mexico stated an intent to settle most frequently in the following places:

Los Angeles	7,076
Chicago	3,539
San Francisco	2,846
El Paso	2,700
Houston	2,476
San Antonio	1,796
San Diego	1,190
Dallas	795
Santa Ana	764
San Jose	509

For Cubans, the intended pattern of settlement emphasized the following:

Miami	6,654
New York	2,844
Los Angeles	967
Chicago	728
Elizabeth	525
Newark	417

Published data are not available for intended city of settlement for other Latin American countries. However, among the aliens from those countrise who registered in January 1968, as permanent residents of the United States, six out of ten from Central America were residing in New York and California and seven out of ten from South America were living in those two States. The Committee is advised that these patterns have not substantially altered since the 1968 data was compiled. It believes the data should be updated.

The challenge of assimilating immigrants into the employment market is concentrated in relatively few urban centers. Since national policy brings this about, Federal funds should be available to assist these localities.

The amendment accepted by the Committee would direct the Secretary to ensure that bilingual manpower programs conducted under the Act contain components—specified in the legislation—tailored especially to meeting effectively the national responsibility to provide job training opportunities to those men and women handicapped by a language barrier in their search for satisfactory employment.

MIDDLE-AGED AND OLDER PERSONS

Persons who are age 45 or older account for 17 percent of total unemployment, 26 percent of long-term (15 weeks or longer) unemployment, and 34 percent of very long-term (27 weeks) unemployment. Yet middle-aged and older persons constituted only 4.9 percent of all new enrollees in manpower and training programs in FY 1972. Even in the Mainstream program, individuals 45 years of age or older constituted less than a majority of all participants.

Middle-aged and older persons are subject to the most catastrophic effects of unemployment—probably to a greater extent than any other age category. These are the years of major family responsibility—growing children, college tuition, mortgage payments, a higher incidence of serious illness. There can be no doubt that this age group is in great need of the programs contemplated in this Act. Many believe that the need for such programs by middle-aged and older persons exceeds that of any other group.

AEROSPACE AND DEFENSE WORKERS

Mr. CRANSTON. Mr. President. Under section 201(b) of the reported bill—I was pleased to join with the chairman of the Labor and Public Welfare Committee (Senator Williams) in cosponsoring an amendment to deal with the very real—though somewhat regional—problems of unemployed engineers, scientists, and technicians, clause (15) of section 201(b) is designed to encourage State or local prime sponsors to develop programs for this group of professionals and paraprofessional—for whom, as stated in the committee report:

> The trauma of unemployment has been particularly severe. . . . For many in this group, the current period of unemployment has been their first nonworking experience since becoming members of the labor force.

In California, estimates are that nearly 180,000 jobs have been lost in the last 18 months as a result of Federal defense and aerospace funding cuts.

BASE CLOSINGS

With the proposed—and I think ill-conceived—domestic base closings planned by the administration, it is expected that this group of workers will be even harder hit. To help deal with this, Senators Pell, Kennedy, and I offered an amendment under the special-responsibilities-of-the-Secretary section—205 (c)(6)—to provide that, in the provision of financial assistance under section 204 of bill, the Secretary shall give special consideration to job training programs serving individuals who are unemployed because of the closing of such government facilities.

In California alone, it is estimated that, should the administration base closing plans be implemented, over 5,000 workers would become unemployed at the Hunters Point Naval Shipyard. The Hunters Point area of San Francisco already has an unemployment rate average of 17 to 18 percent.

While we had originally sought in our amendment to earmark specific funding in the bill to guarantee some equitable treatment of these individuals, we felt that the compromise developed in committee was more appropriate in view of the attempt in the rest of the reported bill to preclude the specific earmarking of funds.

PUBLIC SERVICE EMPLOYMENT

Mr. President, section 201(c) was offered by Senator Javits and I in an effort to ensure that the highly successful structure, requirements, standards and job programs created under the Emergency Employment Act of 1971, would continue to be utilized in public service employment programs funded and conducted under the provisions of section 201(b) of the reported bill.

EMPLOYMENT AND TRAINING COUNCILS

The subcommittee also accepted suggestions to add "other community-based organizations," such as Jobs for Progress—Operation SER—or the Urban League, and representatives of significant segments of the poverty population, and veterans organizations among the groups which are to be included as members of the Councils under section 203(2) of S. 1559. A similar amendment was also accepted in section 203(7) of the bill.

I have long felt that one of the most glaring deficiencies in job training programs is the inadequacy of specific information about individual programs—particularly with regard to evaluations of program effectiveness. I offered two amendments which I feel are aimed at salvaging some of these deficiencies.

First, under section 203(8) the local training and employment council must submit to the Secretary plans for the council to provide for objective evaluations of program effectiveness under the act. These evaluations should be carried out by persons, groups, organizations or firms not themselves directly involved in federally supported programs providing manpower training, employment, or supportive services.

Second, the Secretary is given the responsibility in section 205(b)(3) not only to provide technical assistance but also to provide for an ongoing program of monitoring and evaluating the effectiveness of programs and projects in carrying out the purposes and provisions of that title. The committee feels it is essential, in view of the broad discretion being given in title I to local and State officials to determine and carry out manpower training priorities, that the Secretary conduct a significant monitoring and evaluation program with respect to program performance on a nationwide basis. The committee also notes the effective evaluations carried out by the General Accounting Office of the Emergency Employment Act and other manpower programs. It expects that the GAO will continue to carry out such evaluations.

TRAINING FOR JOBS—NOT TRAINING FOR TRAINING'S SAKE

Mr. President, the biggest failing of existing adult manpower training programs of the past has been the failure—with the exception of the Emergency Employment Act programs—to provide strong linkages to real jobs. As I stated earlier in my remarks, I firmly believe that this is an absolutely indispensable aspect of any meaningful manpower reform bill. Because of my strong feelings in this regard, I offered several amendments, designed to tie the training authorized under S. 1559 to real jobs.

During field hearings I chaired on the 1970 Employment Opportunities and Training Act, Mr. President, I was particularly struck by the testimony of one witness in Los Angeles who appeared before the subcommittee. His name is Sedgie Collins, and he comes from Watts. He said:

> I have been in just about every program that has been there in the community from Neighborhood Youth Corps to the Concentrated Employment Program to just about all the programs. This is not really helping me because I am 21 years old and I was 18 when I started (and) it hasn't helped me get a job in all this time.
>
> Sedgie Collins, the young black man who has yet to find a decent job despite three or four different federally funded training programs is typical of dozens of trainees.

Mr. President, the committee adopted two amendments which I offered intended to provide the greatest stress on the funding of manpower training programs with jobs at decent pay available for those who successfully complete training.

Section 204(a)(7) of the reported bill requires that each prime sponsor's annual program statement shall include provisions to assure that priority in funding training projects will be given to those employment preparation programs which have obtained commitments from public and private employers to employ trainees who successfully have completed training in meaningful jobs—at the minimum or prevailing wage, whichever is higher—for which the trainees will be trained. This provision does not mean that any less priority should be given to programs such as Neighborhood Youth Corps and Mainstream which provide work-experience directly, but does provide for priority, in choosing among training programs which do not provide work as such, to those programs where there is a job commitment at the conclusion of training.

Section 204(b)(3) of the reported bill follows up on these commitments by conditioning future funding of a prime sponsor on the ability of the sponsor to demonstrate that it has done everything possible to (first) implement the priority set forth in the program statement, described above, (second) insure that employment commitments made pursuant to the funding of such projects were fulfilled by prospective employers who made such commitments, and (third) where such commitments have not been fulfilled, place the successful trainee in comparable employment or employ the trainee itself.

VETERANS EMPLOYMENT PROVISIONS

Mr. President, as chairman of the Health and Hospitals Subcommittee of the Veterans' Affairs Committee, and the past chairman of the Subcommittee on Veterans' Affairs of the Labor and Public Welfare Committee prior to the Legislative Reorganization Act of 1970, I have known not only some of my most satisfying experiences as a Senator, but also some of my most frustrating. Congress struggle to give higher priority to veterans programs has been a constant battle throughout the Nixon administration. The administration has been particularly short-sighted, and, I think, negligent in fulfilling the responsibilities of the Government in the area of veterans' employment. The administration makes great fanfare out of programs such as "Hire the Vet," yet in May, the unemployment rate for 20- to 24-year-old veterans was at 8.7 percent—far above the then national average of 5 percent. The administration has been guilty of every kind of foot-dragging, statistical mumbo-jumbo, and outright refusal to implement the law, with respect to veterans employment.

I am particularly pleased, therefore, that the committee incorporated several provisions into the bill, which I authored, to stress the importance of manpower training programs meeting the employment needs of returning veterans of the Vietnam era and of veterans with serious service-connected disabilities. I believe that the committee report states clearly the intent of these provisions, and I intend to closely scrutinize the administration's implementation of these most important aspects of the law. The committee report, in part, reads:

> The Committee is committed to the proposition that the Federal Government has a cardinal responsibility to do all possible to provide necessary education, training, and meaningful jobs—utilizing, where possible, their special military experience and training—for returning veterans and those with serious service-connected disabilities. Very strong amendments were also adopted in S. 1560, the Emergency Employment Act Amendments of 1973 also being reported today, to provide for a high proportion of public service jobs for these veterans under the Emergency Employment Act.

Mr. President, the amendments added to the reported bill responded to questions I raised in committee hearings regarding the Secretary of Labor's carrying out the new responsibilities placed upon him in chapter 41 of title 38, United States Code, as added by Public Law 92-540, title V, which I authored, known as the Veterans Employment and Readjustment Act of 1972. These questions focused on the failure to assign one assistant veterans employment representative—AVER—for each 250,000 veterans residing in each State and to implement the direction to require every Federal contractor and subcontractor to give "special emphasis" to the employment of Vietnam era and service-connected disabled veterans—a responsibility in addition to the mandatory job listing requirement set forth in that title.

Under my amendments in the reported bill—

First. The Secretary—in section 205(b)(5)—has a special Federal responsibility to utilize in the nationwide computerized job-bank and matching program the listing of all suitable employment openings in local employment service offices and the requirement that special emphasis in employing certain veterans be provided by all Federal contractors and subcontractors—as required by section 2012(a) of title 38;

Second. The Secretary—in section 205(c)(5)—is directed to utilize that amount of the funds available to carry out his responsibilities under section 205 of the reported bill as is needed for him to carry out fully and effectively his responsibilities for assigning the AVER's, for providing the special emphasis in addition to job listing, and for his other duties under chapter 41 of title 38; and

Third. Each State is required—in section 206(b)(8)—to set forth in its prime sponsorship plan submitted to the Secretary arrangements for assisting the

Secretary in enforcing these Federal contractor and subcontractor listing and special emphasis requirements under section 2012(a) of title 38.

In addition, Mr. President, amendments were made in the provisions with respect to local—employment and training councils under section 203(2)—regional—area planning councils under section 206(b)(3)—and national—National Employment Opportunities Council under section 404(a)—manpower planning councils to require that veterans organizations be represented on these councils.

Mr. President, the men who fought this last war have returned home to no jobs, inequitable GI bill benefits, underfunded and understaffed VA hospitals, runaway prices, and generally limited and begrudging assistance from the Veterans' Administration.

What is the Administration's justification for the cutbacks, the impoundments, the opposition to every significant legislative proposal which could aid returning veterans? Inflation.

But it is an inflation caused, in large part, by the war that the veteran has just returned from fighting—only to find that the inflated economy has not led to full employment and that fewer jobs are available than when he left. And the few dollars he has do not stretch nearly so far as when he left for Indochina.

Mr. President, of all the Nixon administration double-speak, this skimping on veterans' programs is perhaps the most disgraceful of all.

TITLE III—COMMUNITY ACTION AGENCIES

Mr. President, I was pleased to join with Senator HATHAWAY in offering an amendment under title III of the bill—community services for the economically disadvantaged—the title in the bill which attempts to insure that programs of the 900 existing community action agencies scheduled to be phased out by the administration will be provided a continuing authorization and funding source. The funds for community action are still more dollars which the administration advises should come out of the seemingly bottomless revenue sharing "horn of plenty."

Unfortunately, as so many communities have learned, there is a lot more noise coming from the horn than there is plenty.

In an effort to insure that communities would be provided with continued funding for Neighborhood Youth Corps, Operation Mainstream, and concentrated employment programs previously funded under the Economic Opportunity Act, title III of S. 1559 provides for up to 17.5 percent of the funds appropriated under the act to be used for those activities now carried out by Community Action Agencies.

Senator HATHAWAY and I joined in offering an amendment, which was accepted in subcommittee, to provide that local prime sponsors would be required to give due consideration to existing Community Action Agencies, who had been carrying on the programs previously. The committee report language in this regard is most important: It states:

> In order to provide local communities with continued funding for these activities, the Committee bill provides that 17.5 percent of the funds appropriated under this act shall be used for those activities now carried on by community action agenices. Local prime sponsors would have the option of continuing to fund existing community action agencies to carry out these activities, but they would not be required to do so. The legislation does require that they give due consideration to existing community action agencies, *and the Committee would expect that where community action agencies are found to be doing an effective job they would be continued*. [Emphasis added.]

I am somewhat encouraged, Mr. President, by the new responsiveness at the Office of Economic Opportunity—particularly with regard to the recently uncovered law-and-order policies. I am hopeful that the fiscal year 1974 Labor-HEW appropriations bill will contain, at the least, the OEO levels reflected in the House bill now under consideration by the Senate Appropriations Committee—and I plan to submit testimony to the Senate Appropriations Committee to urge that course later this week.

This added alternative in S. 1559 is, however, a necessary last resort.

LABOR MARKET INFORMATION

I am pleased to note the inclusion in S. 1559 of section 409—labor market information. The language in this provision was originally introduced in legislation I introduced in S. 3311 in the 92d Congress, which I have reintroduced this year as S. 793, the Public Service Employment Act of 1973. In order to assure the implementation of this most important provision, I offered an amendment in subcommittee to S. 1559 to require the Secretary to set aside an appropriate amount of funds to begin the difficult and detailed task outlined in section 409 of the reported bill and expanded upon in excellent fashion in the committee report.

Mr. President, I ask unanimous consent that the appropriate excerpts be set forth in the RECORD at this point.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

SECTION 409—LABOR MARKET INFORMATION

* * * * *

The section requires that information be gathered by survey on unemployment, underemployment and job vacancies, by states, labor market areas, rural areas, cities and poverty neighborhoods.

At the present time, unemployment data is gathered by survey for the nation as a whole (a 50,000 household monthly sample) and published once a month. Unemployment data for states and labor market areas are estimated by a complex formula based on the number of insured unemployed recorded at Employment Services offices. Many cities and rural areas have reported that in determining their eligibility for Emergency Employment Act funds (especially funds under Section 6 of the EEA for areas with over 6 percent unemployment) the Employment Service "building block" method is not sufficiently accurate.

The Committee recognizes that attempting to blanket the nation with survey data that would be statistically reliable for every neighborhood would be prohibitively expensive. However, it does believe that a middle ground between ideal data and the present situation can be found.

Section 409(b) defines "underemployment". The concept is based on the efforts of Secretary of Labor W. Willard Wirtz in the late 1960's to establish an Index of Subemployment. His work led to a preliminary publication of such an index by the Department of Labor in 1967 and to a special Census Employment Survey conducted as part of the 1970 Decennial Census. The results of that survey were analyzed by the Committee staff along the lines proposed by Wirtz for the poverty areas of some 51 cities (see table on "Subemployment Index").

The concept of "subemployment" recognizes that traditional unemployment figures are inadequate to fully explain and measure the failure of job markets. They leave out not only those "discouraged" workers who want jobs but have ceased to look for work and are therefore not considered part of the labor force, but also those who want full time employment but are only working part-time, and, most importantly, those who are holding jobs that pay too little for a decent standard of living.

The Committee believes that more accurate measurement and a wider understanding of the extent of underemployment and the degree to which it is concentrated in specific areas and neighborhoods is essential if we are to solve our continuing employment and manpower problems.

The lack of adequate vacancy data is the missing half in our labor market statistics. We know how many are seeking jobs. We do not know—with the exception of national figures for a few industries—how many jobs are vacant and how they match the qualifications and location of the unemployed. If we are to train individuals in our manpower programs for available jobs more reliable means of determinating job availability must be developed. And the lack of solid information has led some to look at the want ad sections of metropolitan newspapers, observe that there are many jobs listed, and conclude that the problem is exaggerated by official unemployment statistics.

The Committee is aware that detailed area unemployment statistics, underemployment measures and adequate job vacancy data cannot be developed overnight for the nation, and states, cities and poverty areas.

The Committee also recognizes that the integrity of official government data is a priceless national asset. To develop new kinds of reliable data that command the necessary respect to professional statistics will take time. However, in the judgment of the Committee, a substantial beginning needs to be made now.

Thus the Committee accepted an amendment by Senator Cranston to require the Secretary to set aside an appropriate amount of funds to make such a beginning and to inform the Committee of the amount and the basis for his determination of its appropriateness. At that time the Committee expects that the Secretary will lay out a reasonable timetable for fulfilling the objectives of this section.

SUBEMPLOYMENT INDEX

The figures below are derived from the Census Employment Survey (CES) conducted as part of the 1970 Census of Population and Housing. Detailed survey information was taken in 60 poverty areas of 51 cities. The results of the surveys have been published by the Census Bureau in the Series PHC (3), Vols. 1–68.

The CES follows directly on the work of Labor Secretary Willard Wirtz. In seeking adequate understanding and funding for manpower programs, Wirtz needed an easily understood scale to express the relationship between the job market and poverty in the ghettos. The conventional unemployment rate was inadequate. It ignored discouraged workers entirely and lumped all jobs—including those paying below poverty wages—together. Beginning with a survey of ten slum areas in eight cities in November of 1966, Wirtz developed a "sub-employment" index that showed subemployment varying from 24.2 percent in Boston to 47.4 percent in San Antonio poverty areas. For the ten areas it averaged 33.9 percent. In 1967 the Bureau of Labor Statistics set up an Urban Employment Survey task force that carried on more detailed studies in six cities. Before he left office Wirtz managed to program the Urban Employment Survey questionnaire into the 1970 census. In June 1970 the Urban Employment Survey task force was broken up. And when the CES data became available it was decided to publish the volumes, but not to publish any analysis.

The following indices are based on the Wirtz criteria, but are more conservative in several respects. No estimate is made of "missing males" and people are counted as "discouraged workers" only if they have "looked but could not find" jobs.

Further, it should be noted that the areas included in the CES are much larger than the usual poverty areas—in some cases including more than half the population of the central city.

The subemployment indices include persons who are:

Unemployed;

Working part time, but seeking full-time work;

Discouraged workers (who have dropped out because they looked but could not find work);

Full-time workers paid less than $80 a week (enough, if work is available full-time, year around, to earn $4,000 a year, the official poverty level for a family of four) and those paid less than $3.50 an hour (enough, again assuming steady work, to earn $7,000 a year, the B.L.S. lower family budget).

In the spring of 1970, the Bureau of Labor Statistics reported that it costs $6960 to maintain a family of four at a lower level budget in an urban area.

Vol. No.	City	Percent of city in CES survey area	Survey area unemployment (percent)	Labor market (SMSA) rate for 1970	Subemployment index ($80 per week) (percent)	Subemployment index (percent) ($3.50 per hour)	BLS lower family budget, spring 1970
1	Nation as a whole			4.9	16.9	35.1	
	All cities surveyed	33.5	9.6	[1] 5.0	30.5	61.2	
	New York, N.Y.:						
2	All survey areas	31.2	8.1	4.4	22.1	59.4	7,183
4	Manhattan Borough		8.4		23.3	56.3	
5	Area I		8.1		24.5	63.5	
6	Area II		8.6		22.7	39.9	
7	Brooklyn Borough		7.6		19.3	59.5	
11	Bronx Borough		8.5		25.9	66.0	
12	Queens Borough		9.6		20.0	53.2	
13	Los Angeles, Calif.	26.3	12.5	7.2	33.1	61.6	7,507
14	Area I		10.9		29.4	58.6	
15	Area II		13.1		34.6	62.9	
16	Chicago, Ill.	27.2	10.6	3.6	27.7	62.4	7,273
17	Area I		11.0		28.2	67.0	
18	Area II				27.0	56.5	
19	Philadelphia, Pa.	40.4	8.7	4.3	27.0	55.2	6,958
20	Area I		8.2		25.5	52.5	
21	Area II		9.2		28.5	58.2	
22	Detroit, Mich.	35.3	14.0	7.0	34.7	57.5	6,931
23	San Francisco, Calif.	35.4	12.5	6.7	27.0	54.8	7,686
24	Washington, D.C.	51.9	4.8	3.2	21.6	59.8	7,242
25	Boston, Mass.	56.7	8.5	3.9	22.0	52.2	7,351
26	Pittsburgh, Pa.	41.6	9.8	5.2	29.4	59.6	6,701
27	St. Louis, Mo.	50.2	10.5	4.6	34.2	62.0	6,987
28	Baltimore, Md.	58.7	8.5	4.0	30.9	62.0	7,018
29	Cleveland, Ohio	43.0	8.9	4.7	28.8	58.8	7,080
30	Houston, Tex.	39.8	5.9	4.0	31.8	61.7	6,481
31	Newark, N.J.	58.6	10.7	4.3	30.0	63.5	
32	Dallas, Tex.	25.7	9.0	3.8	37.3	69.3	6,683
33	Minneapolis, Minn.	36.4	7.1	5.2	25.6	56.9	7,140
34	St. Paul, Minn.	36.8	8.1	5.2	22.4	49.5	7,140
35	Milwaukee, Wis.	25.6	11.8	4.6	22.5	57.7	7,079
36	Atlanta, Ga.	40.5	8.2	3.7	38.2	68.6	6,424
37	Cincinnati, Ohio	36.0	8.4	4.3	32.2	61.6	6,611
38	Buffalo, N.Y.	29.0	9.7	8.8	30.0	56.7	7,022
39	San Diego, Calif.	9.0	15.9	6.4	39.9	65.0	7,166
40	Miami, Fla.	57.2	10.3	5.1	38.2	68.1	
41	Kansas City, Mo.	27.0	10.0	5.7	35.2	66.1	6,981
42	Denver, Colo.	25.5	8.5	3.5	32.5	64.0	6,697
43	Indianapolis, Ind.	22.5	9.0	4.8	32.3	64.8	7,101
44	New Orleans, La.	59.4	12.5	6.2	41.1	65.2	
45	Oakland, Calif.	37.8	17.6	5.4	35.0	59.0	7,686
46	Tampa, Fla.	39.6	7.7	3.2	40.6	69.4	
47	Portland, Oreg.	18.1	11.9	5.8	32.8	59.8	
48	Phoenix, Ariz.	24.7	9.6	4.7	33.1	61.8	
49	Columbus, Ohio	18.7	8.3	3.3	28.5	63.9	
50	San Antonio, Tex.	43.7	9.6	5.4	45.9	72.6	
51	Dayton, Ohio	25.1	12.9	4.6	36.0	59.6	6,712
52	Rochester, N.Y.	26.2	11.3	5.3	30.3	62.5	
53	Louisville, Ky.	37.3	11.6	4.3	39.2	66.0	
54	Memphis, Tenn.	38.3	11.3	3.9	44.1	70.9	
55	Fort Worth, Tex.	27.3	10.6	4.5	39.0	67.2	
56	Birmingham, Ala.	51.2	10.1	4.8	41.0	65.9	
57	Toledo, Ohio	22.9	9.2	5.4	30.0	57.7	
58	Akron, Ohio	33.7	10.0	4.4	29.4	55.5	
59	Norfolk, Va.	27.2	8.7	3.9	42.7	67.0	
60	Oklahoma City, Okla.	16.2	8.1	3.8	34.8	61.2	
61	Jersey City, N.J.	46.6	7.2	6.2	22.6	61.5	
62	Providence, R.I.	53.4	7.0	6.0	21.9	57.7	
63	Omaha, Nebr.	20.5	7.9	3.6	29.9	58.8	
64	Youngstown, Ohio	30.7	11.7	6.5	34.6	57.1	
65	Tulsa, Okla.	15.1	10.0	4.9	37.5	64.2	
66	Charlotte, N.C.	30.4	8.3	3.2	39.2	70.5	
67	Wichita, Kans.	21.5	13.9	10.1	37.0	65.0	6,722
68	Bridgeport, Conn.	39.3	13.7	8.2	29.9	66.7	

[1] Average.

WORK SHEET FOR CALCULATING SUBEMPLOYMENT INDEX FROM CENSUS EMPLOYMENT SURVEY (CES) VOLUMES

	Number		Percent
City U.S. summary, urban:		Unemployment rate	9.6
Vol. No. PHC (3)	1	Subemployment rate	[1]30.5
From page X: Population of area	13,247,000	Subemployment rate	[2]61.2
	Percent		
Black	49.5	Percent of city population in sample	33.5
White	47.9		
Spanish	11.8		
Other	2.6		

	Number		Percent
From table 1, page 13:			
Labor force	4,975	Unemployment rate	9.6
Unemployed	478		
From table 3, page 19:			
Part time employed			
For economic reasons	197		
From table 15, page 64: Discouraged workers (because of inability to find work):			
Main reason	32		
Secondary reason	158		
Total	190		
From table E, page 4:			
Earnings to $79 weekly	711	To $3.49 hr., 2,296	

From page X introduction: 13,247,000=33.5 percent population of sample area × 100=percent of city population in sample. 39,460,115, population of city.

Calculations:

(1) Labor force, 4,975; discouraged, 190; total labor force, 5,165.
(2) Unemployed, 473; part time, 197; discouraged, 190; earn to $79, 711; total (2) 1,576.
(3) Unemployed, 478; part time, 197; discouraged, 190; to $3.49, 2,296; total (3) 3,161.

TOT 2: TLF=subemployment rate, at $2.00 hr., 1,576: 5,165=30.51 percent.
TOT 3: TLF=subemployment rate, at $3.50 hr., 3,161: 5,165=61.2 percent.

[1] Under $80 per week, $4,000 per year.

[2] Under $3.50 per hour, $7,000 per year.

AMENDMENTS TO THE 1970 VETOED LEGISLATION RETAINED IN S. 1559

Mr. CRANSTON. Mr. President, several amendments which I had offered during the 91st Congress to S. 3867 were included in S. 1559 as introduced. Among these were provisions mandating a continued national emphasis program for Jobs for Progress—Operation SER; provisions relating to the designation of prime sponsors when there are two competing and eligible applicants, the prohibition against funding programs that have failed to complete appropriate reporting requirements with regard to enrollees in job training programs, and fair hearing requirements when eligible applicants' applications were rejected.

CONCLUSION

Mr. President, I have been deeply involved in the development of this legislation since the beginning of my service in the Senate. I believe that S. 1559, as reported, represents a concrete, constructive, and well-conceived piece of legislation. I urge my colleagues to join with me in voting for this landmark manpower reform legislation.

Mr. President, in closing I would like to express my appreciation for the excellent staff work performed by Dick Johnson and Bill Spring, the counsel and research director on the Employment, Poverty, and Migratory Labor Subcommittee; to Jon Steinberg and Pam Duffy of the Special Subcommittee on Human Resources; and to John Scales, the minority counsel to the Poverty Subcommittee. I would also like to extend my special thanks to Pam Duffy and Bill Spring for their assistance at the recent field hearings which I was privileged to chair during joint hearings of the Employment, Poverty, and Migratory Labor Subcommittee, and the Special Subcommittee on Human Resources, in San Francisco on June 15, and in Los Angeles on June 16.

Mr. NELSON. Mr. President, I want to express my appreciation to the staff of the committee, each of whom worked hard and long on the Job Training and Committtee Services Act of 1973. Special thanks are due to the staff members of the Subcommittee on Employment, Poverty, and Migratory Labor: Richard E. Johnson, majority counsel; William J. Spring, professional staff member; John Scales, minority counsel. as well as Roger King who has been Senator TAFT's assistant on this legislation.

The PRESIDING OFFICER (Mr. DOMENICI). The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON) is necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) is absent to attend the funeral of a friend.

The Senator from Utah (Mr. BENNETT) is necessarily absent.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER) is detained on official business.

The result was announced—yeas 88, nays 5, not voting 7, as follows:

[No. 323 Leg.]

YEAS—88

Aiken
Baker
Bartlett
Bayh
Beall
Bentsen
Bible
Biden
Brock
Brooke
Burdick
Byrd, Robert C.
Case
Chiles
Church
Clark
Cook
Cranston
Curtis
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin
Fannin
Fong
Fulbright
Gravel
Griffin
Gurney
Hansen
Hart
Hartke
Haskell
Hatfield
Hathaway
Hollings
Hruska
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott, Pa.
Sparkman
Stafford
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—5

Allen
Buckley
Byrd, Harry F., Jr.
Helms
Scott, Va.

NOT VOTING—7

Abourezk
Bellmon
Bennett
Cannon
Cotton
Goldwater
Stennis

So the bill (S. 1559) was passed, as follows:

That this Act may be cited as the "Job Training and Community Services Act of 1973".

TITLE I—STATE AND LOCAL SPONSORSHIP OF PROGRAMS

STATEMENT OF PURPOSE

SEC. 101. It is the purpose of this Act to establish a flexible and decentralized system of State and local programs providing job training opportunities and community services for economically disadvantaged, unemployed, and underemployed persons, to make funds available to States and communities to meet locally determined needs consistent with the purposes of this Act, and to assure that training and other services lead to employment and enhanced self-sufficiency.

AUTHORIZATION

SEC. 102. (a) For the purpose of carrying out this Act, there are authorized to be appropriated such sums as may be necessary for the fiscal year ending June 30, 1974, and for each of the three succeeding fiscal years.

(b) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act are authorized to be included in an appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

(c) In order to effect a transition to the advance funding method of timing appropriation action, the provisions of subsection (a) shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

TRANSITIONAL PROVISIONS

SEC. 103. (a) To the extent necessary to provide for the orderly transition of supporting job training programs, and to provide continued financial assistance for such programs, prior to July 1, 1974, the Secretary is authorized to provide financial assistance in the same manner and on the same conditions as provided in the Manpower Development and Training Act of 1962, as in effect prior to June 30, 1973, title I of the Economic Opportunity Act of 1964, and the Emergency Employment Act of 1971, as in effect prior to June 30, 1973, from funds appropriated pursuant to this Act.

(b) The authority contained in this section shall not be construed to postpone or impede the prompt designation of prime sponsors and the implementation of other provisions of this Act, but the Secretary shall continue to provide financial assistance, by contract or otherwise, for carrying out national programs of demonstrated effectiveness through the fiscal year ending June 30, 1974.

PRIME SPONSORS

SEC. 104. (a) For the purpose of this Act—

(1) any State;

(2) any unit of general local government—

(A) which is a city having a population of one hundred thousand or more persons; or

(B) which is a county or comparable unit of general local government having a population of one hundred and fifty thousand or more persons (other than the number of persons therein included within the population of any city designated as a prime sponsor under clause (A) of this subparagraph);

(3) any consortium of adjoining units of general local government serving a labor market area or substantial portion thereof, including at least one unit of general local government described in clause (A) or (B) of subparagraph (2); or

(4) any unit of general local government or any consortium of such units, without regard to population, which is determined by the Secretary of Labor—

(A) (i) to serve a substantial portion of a functioning labor market area, or (ii) to be a rural area having a high level of unemployment; and

(B) to have demonstrated (i) that it has the capability for adequately carrying out programs under this Act, and (ii) that there is a special need for services within the area to be served, and (iii) that it will carry out such programs and services in such area as effectively as the State;

shall be eligible to be a prime sponsor of programs under this Act in accordance with the provisions of this section.

(b) (1) Where the area under the jurisdiction of a unit of general local government described in clause (B) of subparagraph (2) of subsection (a) includes any common geographical area with that covered by a unit of general local government described in clause (A) of subparagraph (2) of subsection (a), the Secretary shall designate to serve such common area the unit of general local government which demonstrates the capability for more effectively carrying out the purposes of this Act with respect to such area.

(2) Before designating a unit of general local government under paragraph (1) of this subsection, the Secretary shall—

(A) request the comments of the Governor of the State concerning the manner in which the proposed prime sponsorship arrangements for the area involved will relate to statewide planning arrangements;

(B) undertake reasonable steps, where appropriate and practicable in order to carry out more effectively the purposes of this Act, to seek an agreement among the units of general local government involved to enter into consortium arrangements as described in subparagraph (3) of subsection (a) of this section; and

(C) afford an opportunity to the units of general local government involved to submit comments with respect to proposed prime sponsorship arrangements to the Secretary.

(c) Any State or unit or consortium of units of general local government which is eligible to be a prime sponsor under subsection (a) shall be so designated by the Secretary if he determines that a satisfactory prime sponsorship plan has been submitted and that—

(1) the plan describes the prime sponsorship area to be served and evidences the capability for effectively carrying out programs under this Act throughout such area;

(2) the plan provides that the prime sponsor shall be responsible for submitting program statements and for the planning and development of programs in the prime sponsorship area;

(3) the plan was submitted to the Secretary by such date as the Secretary shall prescribe by regulation, in order to provide a reasonable period of time for review in accordance with the provisions of this section;

(4) a copy of such plan has been submitted for comment thereon to the Governor of the State and the Governor has been provided a reasonable period of time to review and submit comments on such plan;

(5) in the case of a plan submitted by a State, satisfactory arrangements are set forth for serving all geographical areas under its jurisdiction except for areas for which a local prime sponsor is designated under subparagraph (2), (3), or (4) of subsection (a) of this section; and

(6) the plan was made public prior to submission to the Secretary.

(d) A plan submitted in accordance with this section may be disapproved or a prior designation of a prime sponsor may be withdrawn only if the Secretary, in accordance with regulations which he shall prescribe, has provided—

(1) written notice of intention to disapprove such plan, including a statement of reasons therefor;

(2) a reasonable period of time to submit corrective amendments to such plan; and

(3) an opportunity for a public hearing upon which basis an appeal to the Secretary may be taken as of right.

TITLE II—JOB TRAINING PROGRAMS

PROGRAMS AUTHORIZED

SEC. 201. (a) Programs receiving financial assistance under this title shall include provision of training opportunities and related services needed to enable economically disadvantaged, unemployed, and underemployed individuals, and others in need of training or retraining, to secure and retain employment consistent with their full potential, including—

(1) programs to acquaint men and women with the availability of training and related services and to encourage the full utilization of such services;

(2) assessment of the individual's needs, potential, and interests, with referral to appropriate training and related services;

(3) counseling, education, orientation, and institutional and on-the-job training to prepare the individual for work or to qualify for more productive job opportunities;

(4) allowances for training, and for transportation, subsistence, or other expenses incurred while participating in job training programs;

(5) supportive services to enable individuals to take advantage of employment and training opportunities, including basic education, necessary health care services, child care, residential support assistance in securing bonds, or any other necessary assistance incident to employment, and any other service needed to participate in employment and training programs;

(6) development of information concerning the labor market and activities, such as job restructuring, to make such activities more responsive to objectives of employment and training programs; and

(7) such other activities as are consistent with the provisions and purposes of this title.

(b) Programs assisted under this title may include, but are not limited to—

(1) Mainstream programs providing financial assistance for the support of projects which involve work activities directed to the needs of those chronically unemployed and economically disadvantaged persons who have particularly poor employment prospects and are unable (because of age, physical condition, obsolete or inadequate skills, declining economic conditions, or otherwise) to secure appropriate employment or training and related services under other programs. Such projects, in addition to other services provided, shall enable such persons to participate in projects for the betterment or beautification of the community or area served by the program, including but not limited to activities which will contribute to the management, conservation, or development of natural resources, recreational areas, Federal, State, and local government parks, highways, and other lands; the rehabilitation of housing; the improvement of public facilities; and the improvement and expansion of health care, education, child care, antipoverty, and recreation services.

(2) New careers programs providing economically disadvantaged or unemployed persons with jobs leading to career opportunities, including new types of careers, in programs designed to improve the physical, social, economic, or cultural condition of the community or areas served in fields of public service, including but not limited to health care, education, welfare, recreation, child care, antipoverty, neighborhood redevelopment, and law enforcement, which provide maximum prospects for on-the-job training, promotion, and advancement and continued employment without Federal assistance.

(3) Neighborhood youth corps programs to provide (A) part-time employment, on-the-job training, and useful work experience for economically disadvantaged students who are in the ninth through twelfth grades of school (or of an age equivalent to that of students in such grades) and who are in need of earnings to permit them to resume or maintain attendance in school; (B) useful work and training (including sufficient basic education and institutional or on-the-job training) for unemployed, underemployed, or economically disadvantaged persons (aged sixteen and over) who are not in school designed to assist those persons to develop their maximum occupational potential and to obtain regular employment; and (C) job and related recreation opportunities for economically disadvantaged persons during the summer months.

(4) Opportunities industrialization centers designed to provide comprehensive employment services and job opportunities for low-income persons who are unemployed or underemployed. Such services shall include recruitment, counseling, remedial education, vocational training, job development, job placement, health care, child care, and other appropriate services and adequate provisions to assure that residents of the area to be served by such program are involved in the planning and operation of such center, and that business and labor in the area to be served by such programs are consulted in the development and operation thereof. Priority shall be given to programs serving residents of inner-city areas with substantial unemployment or underemployment.

(5) Jobs for progress and other programs designed to provide comprehensive employment opportunities and training and related services for economically disadvantaged persons who are unemployed or underemployed, including persons of limited English-speaking ability, migrants, and others through the establishments of skill centers. Such services shall include recruitment, counseling, remedial education, vocational training, job development, job placement, health care, child care, and other appropriate services and adequate provisions to assure that the residents of the area to be served by such programs are involved in the planning and operation of such centers and that business and labor in the area to be served by such programs are consulted in the development and operation thereof.

(6) Job opportunities in the business sector and other programs to encourage and to provide incentives to private employers, nonprofit organizations, and public employers to train or employ economically disadvantaged, unemployed, or underemployed persons, including arrangements by direct contract reimbursing employers for the costs of recruiting and training such employees to the extent that such costs exceed those customarily incurred by such employer in recruiting and training new hires, payment for on-the-job counseling and other supportive services, transportation, and payments for

other extra costs including supervisory training required by the program.

(7) Skill centers and other programs for the development of job opportunities through institutional training programs for economically disadvantaged, unemployed, or underemployed persons, providing recruitment, counseling, remediation, vocational training, job development, job placement, and other appropriate services.

(8) Special job development programs with public or private employers, including employment centers and mobile employment service units to provide recruitment, counseling, and placement services, conveniently located in urban and rural areas and particularly accessible to economically disadvantaged persons.

(9) Special manpower training programs and related educational and other services for offenders, including pretrial or other intervention programs, programs for offenders under sentence, prerelease job furloughs, bonding assistance, job development programs with public or private employers (including incentive payments), programs in residential and nonresidential centers and halfway houses, and programs to train professional and paraprofessional personnel to serve the training and employment needs of offenders and other activities to meet such needs.

(10) Programs and projects designed to meet the special needs of Indians for employment and training and related services.

(11) Programs and projects designed to meet the special needs of persons in migrant and seasonal farmworker families for employment and training and related services.

(12) Programs and projects designed to meet the special needs of persons of limited English-speaking ability for employment and training and related services.

(13) Employment and training programs, counseling and related supportive services for middle-aged and older workers, including on-the-job, institutional, residential, and other training designed to improve the skills and capabilities of such workers, particularly in areas of high or chronic unemployment among middle-aged and older persons.

(14) Programs and projects designed to offer job counseling, training, placement, and other vocational assistance to unemployed and underemployed engineers, scientists, and technicians.

(15) Public service employment programs providing transitional employment for unemployed and underemployed persons in jobs providing needed public services, with training and related supportive services designed to lead to public or private employment not supported under this Act.

(c) Sums made available for public service employment programs from appropriations to carry out this Act shall be used only for public service employment programs meeting the requirements set forth in the provisions of the Emergency Employment Act of 1971 to the extent that such requirements are consistent with the provisions of this Act.

ALLOCATION OF FUNDS

SEC. 202. (a) The amounts available for any fiscal year for carrying out this title shall be allocated in such a manner that of such amounts—

(1) not less than 75 per centum shall be apportioned among the States, distributed equally according to the proportions which the total numbers of unemployed persons and of adults who or whose families have a total annual income below the lower living standard budget in each such State bears to such total numbers, respectively, in all the States, but not less than $1,500,000 shall be apportioned to any State, except that not less than $150,000 each shall be apportioned to the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands; and

(2) the remainder shall be available to enable the Secretary to carry out his responsibilities under this title and title I.

(b)(1) The amount apportioned for use within each State under clause (1) of subsection (a) shall be apportioned geographically among areas served by prime sponsors and by program agents within each such State distributed equally according to the proportions which the total numbers of unemployed persons and of adults who or whose families have a total annual income below the lower living standard budget in each such area bears to such total numbers, respectively, in the State.

(2) In apportioning the remaining funds within the State's prime sponsorship area, the State shall make apportionments among the remainder of local planning areas on an equitable basis, taking into account the total numbers of unemployed persons and of adults who or whose families have a total annual income below the lower living standard budget in each such area.

(c) In the event that appropriations for the fiscal year ending June 30, 1974, and each of the two succeeding fiscal years are not sufficient to provide to each State, and to each local area within each such State, an amount of funds for each such fiscal year at least equal to that which was made available for use within such area for the fiscal year ending June 30, 1972, in carrying out programs under the Manpower Development and Training Act of 1962 and parts B and E of title I of the Economic Opportunity Act of 1964, then the Secretary shall make necessary adjustments, in making apportionments among States under subsection (a)(1) and among areas served or to be served by prime sponsors and by program agents under subsection (b)(1), to ensure that no State and no local area, during the fiscal year ending June 30, 1974, and each of two succeeding fiscal years, receives any smaller proportion of the sums appropriated than such State and area received for such programs during such fiscal year 1972.

(d) Of the amounts geographically apportioned to each area within a State pursuant to subsection (b)(1) and (c), an amount equal to 15 per centum of each such apportionment shall be available to the State to provide services and activities to individuals of the area to which such funds are apportioned.

(e) As soon as practicable after funds are appropriated to carry out this Act for any fiscal year, the Secretary shall publish in the Federal Register the apportionments made pursuant to subsections (a)(1), (b)(1), and (c) of this section. Apportionments under this section shall be based on the latest satisfactory data and estimates available. In determining the number of adults who or whose families have annual incomes below the lower living standard budget, the Secretary shall determine the number of families receiving annual incomes below the nearest income level for which satisfactory census data is available not less than the average lower living standard budget for a family of four in the United States for the year during which such census data was developed; and in making such determination for any State with respect to which the nearest such income level not less than the average lower living standard budget applicable to that State is a different level, the Secretary shall determine the number of families below the latter level in such State.

(f) The Secretary is authorized to make such reallocations under this title as he deems appropriate of the unobligated amount of any apportionment pursuant to subsections (a)(1), (b)(1), and (c) to the extent that the Secretary determines that it will not be required for the period for which such apportionment is available. Apportioned amounts may not be reallocated for any reason before the expiration of the ninth month of the fiscal year for which such funds were apportioned and thereafter may be reallocated only if the Secretary has provided thirty days' advance notice to the prime sponsor for such area and to the Governor of the State of the proposed reallocation, during which period of time the prime sponsor and the Governor may submit comments to the Secretary. After considering any comments submitted during such period of time, the Secretary shall notify the Governor and affected prime sponsors of any decision to reallocate funds and shall publish any such decision in the Federal Register. Priority shall be given in reallocating such funds to other areas within the same State.

EMPLOYMENT AND TRAINING COUNCILS

SEC. 203. In order to be designated as a prime sponsor of programs under this title, each eligible prime sponsor under section 104 of this Act shall include in its prime sponsorship plan adequate provisions for establishing and maintaining an employment and training council which shall—

(1) provide that the chief executive officer or officers of the unit or units of government establishing such council shall appoint the members of the council, with equitable representation on such council to be afforded to each unit of government entering into a consortium under subparagraph (3) or (4) of section 104(a) or, where (pursuant to section 104(b)(1)) the Secretary designates a unit of government described in clause (B) of section 104(a)(2), to the unit not so designated;

(2) provide that the council shall include members who are representative of community action agencies; other community-based organizations; the public employment service; education and training agencies and institutions, including vocational educational agencies and community postsecondary educational and training institutions; social service programs, including child care, environmental quality, health care, recreation, vocational rehabilitation, and welfare agencies; correctional training programs; industrial development organizations; apprenticeship programs; veterans organizations; business; and labor; and not less than one-third of the membership of such council shall be representative of the significant segments of the population to be served;

(3) provide that one member of the council shall be designated as chairman who shall, with the approval of the council, appoint a staff director who shall supervise professional, technical, and clerical staff serving the council;

(4) provide that the council will be entitled to recommend program statements, basic goals, policies, and procedures, and will be responsible for annual and ongoing evaluation of employment and training programs conducted in the prime sponsorship area, and for establishing procedures for the certification (by either panels of representatives of labor and management established for that purpose or by the council, as required by the Secretary), that training and other services to be provided in such area under this title have a reasonable prospect of leading to appropriate employment opportunities;

(5) provide assurances that staff and other administrative expenses for the council will not exceed a reasonable per centum of the total cost of programs administered by each prime sponsor, as established by regulations which the Secretary shall prescribe;

(6) set forth the council's responsibility for conducting on a continuing basis surveys and analyses of needs for employment, training, and related services in the area served by the prime sponsor to be used in the development of plans under this title;

(7) set forth appropriate arrangements for involving community action agencies, other community-based organizations, educational agencies and institutions (including voca-

tional education and community colleges), and vocational rehabilitation agencies, in the development of program statements and in the implementation of programs assisted under this title; and

(8) set forth plans for the council to provide for objective evaluations of the effectiveness of programs for which financial assistance is provided under this title.

PROGRAM STATEMENTS

Sec. 204. (a) In order to receive financial assistance under this title for any fiscal year, a prime sponsor shall submit to the Secretary a program statement, which shall include—

(1) a statement of employment and training needs and priorities in the area, descriptions of the services for which financial assistance received under this title will be used, and performance goals;

(2) the identification of any agencies or organizations designated to carry out such services under the supervision of the prime sponsor;

(3) any arrangements made for services to be performed, on a reimbursable basis or otherwise, by the public employment service or any other public or private agency, institution, or organization;

(4) a description of the areas to be assisted by such programs, including data regarding potential eligible participants;

(5) provisions designed to assure that funds under this title will be made available so as to serve on an equitable basis the significant segments of the population to be served in the prime sponsorship area, including—

(A) provisions to assure that adequate bilingual and other programs and activities are included as part of job training, employment, and related services designed to meet the special needs of persons of limited English-speaking ability;

(B) provisions to assure that adequate programs and activities are provided to meet the special needs of middle-aged and older men and women;

(6) provisions to assure the utilization, to the extent feasible, of those services and facilities which are available, with or with out reimbursement of the reasonable cost, from Federal, State, and local agencies, including but not limited to the State employment service, State vocational education, and vocational rehabilitation agencies, area skills centers, local educational agencies, postsecondary training and education institutions, and community action agencies, but nothing contained herein shall be construed to limit the utilization of services and facilities of private agencies, institutions, and organizations (such as private businesses, labor organizations, private employment agencies, and private educational and vocational institutions) which can, at comparable cost, provide substantially equivalent training or services or otherwise aid in reducing more quickly unemployment or current and prospective manpower shortages;

(7) provisions to assure that priority will be given to employment preparation programs which provide, in connection with job training opportunities supported with funds under this title, for the making of commitments by prospective public and private employers to employ persons who satisfactorily complete their prescribed periods of training in jobs for which such persons received such training;

(8) assurances that training and related services for which funds are provided under this Act are designed to the maximum extent practicable, consistent with each individual's fullest capability, to lead to employment opportunities, to the extent available in the area to be served, for which wages will be paid at a rate not less than the higher of (A) the minimum wage would be applicable under the Fair Labor Standards Act of 1938 if section 6(a)(1) of such Act applied to such person and if he were not exempt under section 13 thereof, or (B) the State or local minimum wage for the most nearly comparable covered employment;

(9) such other information, assurances, statements, and arrangements consistent with the provisions of this Act as the Secretary shall prescribe by regulation, including provisions designed to assist the Secretary in carrying out his special responsibilities under section 205.

(b) The Secretary shall provide financial assistance to each prime sponsor under this title to carry out the program statement submitted by each such prime sponsor upon determining that—

(1) the program statement is consistent with the provisions of this title;

(2) the program statement was made public prior to submission to the Secretary;

(3) the prime sponsor has demonstrated maximum efforts (A) to implement the provisions in the prior year's program statement described in clause (7) of subsection (a) of this section, (B) to ensure that employment commitments made pursuant thereto were fulfilled by prospective employers making such commitments, and (C) in the case of the failure of such fulfillment, to place the persons receiving such training in comparable employment or to employ such person;

(4) an opportunity was provided for each appropriate area planning council established in accordance with section 206(b)(3) of this Act to review and submit comments to the prime sponsor with respect to its proposed program statement prior to submission to the Secretary;

(5) an opportunity was provided to the Governor of the State to submit comments with respect to the program statement to the prime sponsor and to the Secretary;

(6) an opportunity was provided to officials of the appropriate units of general local government in the area to be served to submit comments with respect to the program statement to the prime sponsor and to the Secretary;

(7) an opportunity was provided to the appropriate State or local agency or agencies having responsibility for vocational education, vocational rehabilitation, and the public employment service, and to community action agencies and other community-based organizations in the area to be served, to submit comments with respect to the program statement to the prime sponsor and to the Secretary.

SPECIAL RESPONSIBILITIES OF THE SECRETARY

Sec. 205. (a) Out of the funds made available to the Secretary pursuant to section 202 (a)(2) for carrying out his responsibilities under this title, the Secretary shall establish procedures to assure that—

(1) not less than that portion of the funds appropriated for carrying out this title as is equivalent to that proportion which the total number of Indians bears to the total number of low-income persons in the Nation shall be made available to Indian tribes on Federal and State reservations, and to organizations (as determined by the Secretary) serving non-reservation Indians, for programs and projects under this title designed to meet the needs of Indians for employment and training and related services;

(2) not less than that portion of funds appropriated for this title as is equivalent to that proportion which the total number of persons in migrant and seasonal farmworker families bears to the total number of low-income persons in the Nation shall be available for programs and projects under this title designed to meet the special needs of persons in migrant and seasonal farmworker families for employment and training and related services.

(b) Out of the remaining funds available to the Secretary pursuant to section 202(a)(2) for carrying out his responsibilities under this title, the Secretary is, without limitation, authorized to—

(1) provide additional financial assistance to prime sponsors and public or private nonprofit agencies in order to continue ongoing programs and activities of demonstrated effectiveness;

(2) carry out, through contract or otherwise, a comprehensive program of research and experimental, model, demonstration, and pilot programs to conduct innovative efforts and otherwise improve understanding and methods of meeting employment and training needs;

(3) provide for an ongoing program of technical assistance and of monitoring and evaluating the effectiveness of programs and projects assisted under this title in carrying out the purposes and provisions of this title;

(4) develop a comprehensive system of labor market information on a National, State, local, or other appropriate basis, which shall be made publicly available in a timely fashion;

(5) establish and carry out a nationwide computerized job bank and matching program (utilizing the listing of all suitable employment openings with local offices of the State employment service by Federal contractors and subcontractors and providing for the special emphasis as required by section 2012(a) of title 38, United States Code) on a regional, State, and local basis, using electronic data processing and telecommunications systems to the maximum extent possible for the purpose of identifying sources of available persons and job vacancies, providing an expeditious means of matching the qualifications of unemployed, underemployed, and economically disadvantaged persons with employer requirements and job opportunities, and referring and placing such persons in jobs;

(6) carry out a Job Corps program in accordance with the requirements set forth in the provisions of part A of title I of the Economic Opportunity Act of 1964, as amended, to assist economically disadvantaged persons under twenty-two years of age who need and can benefit from an intensive program of training and related services, operated in a group setting, to become more responsible, employable, and productive citizens, through the establishment of residential and nonresidential centers in which enrollees participate in intensive programs of education, vocational training, work experience, counseling, and other activities;

(7) provide special services for middle-aged and older men and women including recruitment, placement, and counseling for such persons who are unemployed as a result of the closing of a plant or factory or a permanent large-scale reduction in the work force of a locality, and provide grants to or contracts with nonprofit volunteer agencies to assist such agencies in securing part-time or temporary employment for middle-aged and older persons;

(8) provide a system of support for special programs for offenders conducted under section 201(b)(9) and provide supplementary assistance to encourage the establishment of special model programs under section 206 (a)(5); and

(9) carry out a special program to demonstrate the efficacy of providing certificates or vouchers to economically disadvantaged, unemployed, and underemployed persons entitling private employers who provide employment, training, and services to each person volunteering to participate in such program to payment in amounts equal to the face value of the certificate for specified periods of time during which each such person may not be fully productive.

(c) In addition to financial assistance

made available by prime sponsors to carry out programs pursuant to program statements submitted under section 204, the Secretary in carrying out his special responsibilities under subsections (a) and (b) of this section shall—

(1) give due consideration to job training programs serving individuals from population groups having special needs for such programs, including programs for middle-aged and older persons and bilingual programs for persons of limited English-speaking ability, and special services for low-income individuals who do not reside in low-income areas;

(2) assure the continuation of a system of efforts by the National Alliance of Businessmen and the private sector generally in the provision of job opportunities for economically disadvantaged, unemployed, and underemployed persons, with particular emphasis on development of jobs and training for economically disadvantaged persons and veterans, as well as in the provision of summer and year-round jobs for economically disadvantaged youth, employment for ex-offenders, and employment of public assistance recipients, while encouraging the use of resources available to the private sector for the training of such persons;

(3) assure the continuation of a system of opportunities industrialization centers, jobs for progress, and other programs designed to provide comprehensive employment services and job opportunities for low-income persons who are unemployed or underemployed, including those with limited English-speaking ability, assuring that the residents of the areas served are involved in the planning and operation of such centers and that business and labor are consulted in their development and operation;

(4) provide support, in conjunction with the Secretary of Health, Education, and Welfare, and the Attorney General, for programs providing manpower training and related services for offenders, including research programs, the dissemination of information, bonding assistance, the conduct of model, demonstration, and pilot programs and where necessary the provision of supplementary financial assistance as authorized under paragraph (1) of subsection (b) of this section;

(5) utilize resources available under this section to carry out fully and effectively his responsibilities for the assignment of assistant veterans employment representatives under section 2003 of title 38, United States Code, and his other responsibilities under chapter 41 of such title and for the listing of all suitable employment openings with local offices of the State employment service by Federal contractors and subcontractors and providing for the special emphasis as required by section 2012(a) of such title; and

(6) give special consideration to job training programs serving individuals who are unemployed as a result of a closing of a facility or the substantial reduction of activities at a facility of the United States Government located in a labor market area in which the rate of unemployment for that labor market area has increased substantially due to the unemployment of such individuals.

COMPREHENSIVE STATE PLANNING ROLE

SEC. 206. (a) Funds available to each State under 202(d)(1) shall be used for—

(1) the provision of services throughout the State by State agencies responsible for employment and training and related services;

(2) providing additional financial assistance as incentives (A) for the designation of prime sponsors involving consortium arrangements among units of general local government, especially where areawide arrangements are made to serve a labor market area or substantial portion thereof, and (B) for special programs and services designed to meet the needs of rural areas outside major labor market areas;

(3) developing and publishing information regarding economic, industrial, and labor market conditions, including but not limited to job opportunities and skill requirements, labor supply in various skills, occupational outlook and employment trends in various occupations, and economic and business development and location trends;

(4) providing, without reimbursement and upon request, to any prime sponsor serving an area without the State, such information and technical assistance as may be appropriate to assist any such prime sponsor in developing and implementing its programs under this title; and

(5) carrying out special model manpower training programs and related services for offenders and providing assistance to special programs for offenders conducted under section 201(b)(9) of this Act.

(b) Each State submitting a plan for designation as a prime sponsor of programs under this Act shall—

(1) provide for planning areas which together shall cover all of the State;

(2) provide that each planning area shall serve a geographical area covered by counties serving a total population of not more than five hundred thousand persons (other than the number of persons in such area included within the population served by any local prime sponsor designated under subparagraph (2), (3), or (4) of section 104(a) of this Act);

(3) provide, with respect to each planning area, for establishing and maintaining an area plannng council consisting of members appointed or reappointed annually composed of (A)(i) one representative appointed by the governing body of each county in the area, and one representative appointed by the chief executive of each city which has a population of seventy-five thousand or more persons, and (ii) additional representatives appointed by each city or county having a population of seventy-five thousand or more persons (which is not served by a local prime sponsor designated under subparagraph (2), (3), or (4) of section 104(a) of this Act) so that each such city or county shall have a total number of such additional representatives proportionate to the relative numbers obtained when the number of persons in the population of each such city or county is divided by seventy-five thousand (excluding from the population of any such county, for purposes of this subclause (ii), the number of persons within the population of any county included within any city having a population of seventy-five thousand or more persons), and (B) such additional persons as the members appointed pursuant to clause (A) of this subparagraph shall elect in order to assure that the membership of the council shall include persons representing the general public, including community action agencies, and other groups representing the economically disadvantaged and other significant segments of the population to be served, educational and training agencies and institutions, the public employment service, social service agencies, veterans organizations, business, and labor;

(4) assure that each area planning council shall prepare and submit to the State those portions of the program statement which affect those parts of the planning area which are not served by local prime sponsors designated under subparagraph (2), (3), or (4) of section 104(a) of this Act, and shall have an opportunity to comment upon any revisions made in such portions of the program statement before the program statement is submitted by the State to the Secretary;

(5) provide for the area planning council to review and submit comments to local prime sponsors within the area with respect to their proposed program statements;

(6) set forth arrangements for delegating to any unit of general local government having a population of seventy-five thousand or more persons (excluding, in the case of counties, the number of persons within the jurisdiction of any such unit of general local government which is a city having a population of seventy-five thousand or more persons) the functions of program agent with administrative responsibilities for developing, funding, overseeing, and monitoring programs operated within the area of such jurisdiction, consistent with the program statement, but the provisions of this subparagraph shall not apply with respect to any such unit which does not desire or does not have the capability (as determined in accordance with regulations which the Secretary shall prescribe) for exercising such responsibilities;

(7) provide assurances that the establishment of planning areas and the operation of planning area councils will be coordinated, where appropriate, with other planning agencies in the State, including comprehensive health planning councils and economic development districts; and

(8) set forth arrangements for assisting the Secretary in enforcing the requirement for Federal contractors and subcontractors to list all suitable employment openings with local offices of the State employment service and provide special emphasis, as required in section 2012 (a) of title 38, United States Code.

COORDINATION

SEC. 207. (a) The Secretary of Labor shall not issue rules, regulations, standards of, performance, or guidelines with respect to assistance for services of a health, education, or welfare character under this title unless he shall have first obtained the concurrence of the Secretary of Health, Education, and Welfare. Such services include but are not limited to basic or general education; educational programs conducted in correctional institutions or for ex-offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions.

(b) With respect to programs for offenders, the Secretary shall enter into appropriate agreements with—

(1) the Attorney General to assure the combining of resources and maximum coordination and joint planning between such programs and programs assisted pursuant to parts C and E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, the Juvenile Delinquency Prevention and Control Act of 1968, as amended, and other related provisions of Federal law; and

(2) the Director of the ACTION agency under which volunteers otherwise authorized to be recruited by the Director are made available as otherwise authorized to serve in such programs.

SPECIAL CONDITIONS

SEC. 208. The Secretary shall not provide financial assistance for any program under this title unless he determines, in accordance with such regulations as he shall prescribe, that—

(1) conditions of employment or training will be appropriate and reasonable in the light of such factors as the type of work, geographical region, and proficiency of the participant;

(2) appropriate standards for the health, safety, and other conditions applicable to the performance of work and training on any project are established and will be maintained;

(3) appropriate workmen's compensation protection will be provided to all participants;

(4) the program will not result in the displacement of employed workers or impair existing contracts for services or results in the substitution of Federal for other funds in connection with work that would otherwise be performed;

(5) persons shall not be referred for training in an occupation which requires less than two weeks of preemployment training unless there are immediate employment opportunities available in that occupation;

(6) funds will be used to supplement, to the extent practicable, the level of funds that would otherwise be made available from non-Federal sources for the purpose of planning and administration of programs within the scope of this title and not to supplant such other funds; and

(7) prime sponsors, program agents, and other recipients of financial assistance under this title will make such reports, in such form and containing such information as the Secretary may from time to time require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure that funds are being expended in accordance with the provisions of this title.

ALLOWANCES AND COMPENSATION

SEC. 209. (a) The Secretary shall, where appropriate, provide for the payment of weekly allowances to individuals receiving services under this title. Such allowances shall be at a rate prescribed by the Secretary which, when adjusted to take into account amounts received by the trainee in the form of public assistance or unemployment compensation payments, shall not be less than the minimum wage for a workweek of forty hours under section 6(a)(1) of the Fair Labor Standards Act of 1938 or, if higher, under the applicable State minimum wage law, or, where the trainee is being trained for particular employment, at a rate equal to 80 per centum of the weekly wage for such employment, whichever is greater. In prescribing allowances, the Secretary may allow additional sums for special circumstances, such as exceptional expenses incurred by trainees, including but not periods during which they are failing to participate in such allowances by an amount reflecting the fair value of meals, lodging, or other necessities furnished to the trainee. The Secretary shall take such action as may be necessary to insure that such persons receive no allowances with respect to periods during which they are failing to participate in such programs, training, or instruction as prescribed herein without good cause. The Secretary may, in accordance with such regulations as he shall prescribe, make appropriate adjustments in allowances which would otherwise be payable under this Act, including but not limited to adjustments which take into account the amount of time per week spent by the individual participating in such programs and upward adjustments to reflect the special economic circumstances which exist in the area in which the program is to be carried on. Allowances shall not be paid for any course of training having a duration in excess of one hundred and four weeks.

(b) For purposes of subchapter I of chapter 81 of title 5, United States Code, any person receiving services under this title shall, under such circumstances and subject to such conditions and limitations as the Secretary shall by regulation prescribe, be considered an employee of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code, and the provisions of that subchapter shall apply, except that in computing compensation benefits for disability or death, the monthly pay of such a person shall be deemed to be his allowance for a month, if he is receiving one. Regulations prescribed by the Secretary under this subsection may include but are not limited to adjustments in the amount of compensation payable under this subsection to take into account entitlements to workmen's compensation under other applicable laws or arrangements.

TITLE III—COMMUNITY SERVICES FOR THE ECONOMICALLY DISADVANTAGED

FUNDS AVAILABLE

SEC. 301. Of the sums appropriated to carry out this Act for each fiscal year, an amount equal to 17.5 per centum thereof shall be made available by the Secretary to prime sponsors designated under section 104 of this Act for programs providing financial assistance in accordance with this title.

ELIGIBLE ACTIVITIES

SEC. 302. Each prime sponsor shall use funds made available to it under this title for the planning, conduct, administration, and evaluation of community services programs designed to assist economically disadvantaged persons to achieve self-sufficiency by providing financial assistance for programs and activities carried out by public or private nonprofit agencies or organizations, with due consideration for community action agencies. Such programs and activities may involve, without limitation, activities and services and supporting facilities designed to assist participants including the elderly poor—

(1) to secure and retain meaningful employment;

(2) to attain an adequate education;

(3) to make better use of available income;

(4) to provide and maintain adequate housing and a suitable living environment;

(5) to undertake voluntary family planning, consistent with personal and family goals, religious, and moral convictions;

(6) to obtain services for the prevention of narcotics addiction, alcoholism, and the rehabilitation of narcotic addicts and alcoholics;

(7) to obtain emergency assistance, through loans or grants, to meet immediate and urgent individual and family needs, including the need for health care services, nutritious food, housing, and employment-related assistance;

(8) to remove obstacles and solve personal and family problems which block the achievement of self-sufficiency;

(9) to achieve greater participation in the affairs of the community; and

(10) to make more frequent and effective use of other programs related to the purposes of this title.

ALLOCATION OF FUNDS

SEC. 303. (a) Of the sums available for purposes of this title, the Secretary shall allot not more than 2 per centum among Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands, according to their respective needs. The remaining sums available for this title shall be allotted among the States, in accordance with the latest available data, so that equal proportions are distributed on the basis of (1) the relative number of public assistance recipients in each State as compared to all the States, (2) the relative number of unemployed persons in each State as compared to all the States, and (3) the relative number of persons who or whose families have a total annual income below the poverty line in each State as compared to all the States. The sum available to each State shall be allocated among areas within each such State on an equitable basis, based upon the factors set forth in the preceding sentence. The Secretary shall make necessary adjustments in allocations determined in accordance with this subsection in order to assure that no area served by a community action agency during the fiscal year ending June 30, 1972, shall receive any lesser amount of funds for use within that area in any fiscal year than an amount equivalent to the proportion of the sums available for this title that such area received during such fiscal year 1972.

(b) Any portion of an allotment under subsection (a) which the Secretary determines will not be needed for any fiscal year shall be reallotted by the Secretary to other areas which the Secretary determines can effectively use such funds. Such funds may be reallotted only if the Secretary has provided thirty days advance notice to the prime sponsor for such area of the proposed reallocation, during which period of time the prime sponsor may submit comments to the Secretary. After considering any comments submitted during such period of time, the Secretary shall notify the State and affected prime sponsors of any decision to reallocate funds and shall publish any such decision in the Federal Register. Priority shall be given in reallocating such funds to other areas within the same State.

TITLE IV—GENERAL PROVISIONS

FAILURE TO ADMINISTER ACTIVITIES AND PROGRAMS IN ACCORDANCE WITH NATIONAL PURPOSES

SEC. 401. (a) Whenever the Secretary determines, after notice and opportunity for a public hearing, that any prime sponsor designated so serve under this Act is—

(1) maintaining a pattern or practice of discrimination in violation of section 403(d) of this Act or otherwise failing to serve equitably the significant segments of economically disadvantaged, unemployed, or underemployed persons in the area it serves;

(2) incurring unreasonable administrative costs in the conduct of activities and programs, as determined pursuant to regulation;

(3) failing to give due consideration to continued funding of programs of demonstrated effectiveness, including those previously conducted under the Economic Opportunity Act of 1964 or the Manpower Development and Training Act of 1962, or failing to give special consideration to the programs referred to in section 205(c);

(4) failing to assure that training and other services have a reasonable prospect for leading to appropriate employment opportunities or enhancing self-sufficiency; or

(5) otherwise materially failing to carry out the purposes and provisions of this Act; the Secretary shall revoke the prime sponsor's designation for the area, in whole or in part, and to the extent necessary and appropriate shall not make any further payments to such prime sponsor under this Act, and he shall notify such sponsor to return to him all or part of the unexpended sums paid under this Act during that fiscal year. The Secretary is authorized and directed to provide for continuing programs by making payments directly to public and private nonprofit agencies and organizations conducting activities which he determines are not in violation of the requirements of this section. To the extent necessary to assure the delivery of services in the area served by any prime sponsor subject to the provisions of this section, the Secretary is authorized (if no other eligible prime sponsor is designated under section 104 of this Act to serve such area) to make grants to and enter into contracts with public and private nonprofit agencies and organizations in the same manner and to the same extent as if the Secretary were the prime sponsor for that area.

(b) The Secretary shall, prior to making any payments under this Act for any fiscal year, enter into an agreement with any prime sponsor receiving payments under this Act which contains provisions adequate to assure that the provisions of this section are carried out effectively.

DEFINITIONS

SEC. 402. As used in this Act, the term—

(1) "Secretary" means the Secretary of Labor;

(2) "State" includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands;

(3) "city" means an incorporated municipality having general governmental powers;

(4) "county" means a political subdivision of a State having general governmental powers;

(5) "Indian" includes any individual who (A) is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (B) is an Eskimo or Aleut or other Alaska Native;

(6) "lower living standard budget" means that income level (adjusted for regional and metropolitan, urban and rural differences and family size) determined annually by the Bureau of Labor Statistics of the Department of Labor and referred to by such Department as the "lower living standard budget".

(7) "health care" includes, but is not limited to, preventive and clinical medical treatment, voluntary family planning services, nutrition services and psychiatric, psychological, and prosthetic services;

(8) "veteran" means a person defined as a "disabled veteran" or "veteran of the Vietnam era" in section 2011 (1) and (2) of title 38, United States Code;

(9) "offender' means any individual who is charged with or has been convicted of any criminal offense, including youthful offenders and juvenile delinquents;

(10) "youthful offender" means any person who has not attained eighteen years of age and who has violated a law of a State or an ordinance of a locality not punishable by death or life imprisonment and any person who has not attained twenty-five years of age and has not been previously convicted of a felony and who has violated a law of a State or an ordinance of a locality not punishable by death or life imprisonment.

SPECIAL LIMITATIONS AND CONDITIONS

SEC. 403. (a) The Secretary may prescribe such rules, regulations, guidelines, and other published interpretations or orders consistent with the provisions of this Act as he deems necessary. Rules, regulations, guidelines, and other published interpretations or orders issued by the Department of Labor, or any official thereof, for the purpose of carrying out this Act shall contain, with respect to each material provision of such rules, regulations, guidelines, interpretations, or orders, citations to the particular section or sections of statutory law or other legal authority upon which such provision is based. All such rules, regulations, guidelines, and other interpretations and orders under this Act shall be published in the Federal Register at least thirty days prior to their effective date and copies thereof shall be transmitted to the appropriate committees of the Congress at such time.

(b) No authority conferred by this Act shall be used to enter into arrangements for, or otherwise establish, any training programs in the lower wage industries in jobs where prior skill or training is typically not a prerequisite to hiring and where labor turnover is high, or to assist in relocating establishments from one area to another Such limitation on relocation shall not prohibit assistance to a business entity in the establishment of a new branch, affiliate, or subsidiary of such entity if the Secretary of Labor finds that assistance will not result in an increase in unemployment in the area of original location or in any other area where such entity conducts business operations, unless he has reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

(c) The Secretary shall not provide financial assistance for any program under this Act unless he determines, in accordance with regulations which he shall prescribe, that periodic reports will be submitted to him containing data designed to enable the Secretary and the Congress to measure the relative and, where programs can be compared appropriately, comparative effectiveness of the programs authorized under this Act. Such data shall include information on—

(1) enrollee characteristic, including age, sex, race, health, education level, and previous wage and employment experience;

(2) duration in training and employment situations, including information on the duration of employment of program participants for at least a year following the termination of participation in federally assisted programs and comparable information on other employees or trainees of participating employers; and

(3) total dollar cost per trainee, including breakdown between salary or stipend, training and supportive services, and administrative costs.

The Secretary shall compile such information on a State, regional, and national basis.

(d) The Secretary shall not provide financial assistance for any program under this Act unless the grant, contract, or agreement with respect thereto specifically provides that no person with responsibilities in the operation of such program will discriminate with respect to any program participant or any applicant for participation in such program because of race, creed, color, national origin, sex, political affiliation, or beliefs.

(e) The Secretary shall not provide financial assistance for any program under this Act which involves political activities; and neither the program, the funds provided therefor, nor personnel employed in the administration thereof, shall be, in any way or to any extent, engaged in the conduct of political activities in contravention of chapter 15 of title 5, United States Code.

(f) The Secretary shall not provide financial assistance for any program under this Act unless he determines that participants in the program will not be employed on the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship.

(g) All laborers and mechanics employed by contractors or subcontractors in any construction, alteration, or repair, including painting and decorating of projects, buildings, and works which are federally assisted under this Act, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a-5). The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 1, 1934, as amended (48 Stat. 948, as amended; 40 U.S.C. 276(c)).

(h) With respect to public service employment programs assisted under section 201 (b)(15) of this Act, the Secretary shall establish appropriate procedures to ensure that all persons newly employed under any such program from funds made available from funds appropriated for fiscal years beginning after June 30, 1973, other than necessary technical, supervisory, and administrative personnel, will be selected from among unemployed and underemployed persons who are from economically disadvantaged backgrounds or have been unemployed for not less than fifteen weeks immediately prior to employment under such program.

(i) With respect to programs for offenders under this Act, the Secretary shall establish appropriate procedures to ensure that the following basic criteria are met—

(1) participants are provided with such manpower training and related assistance, and where appropriate supportive services (including basic education, drug addiction or dependency rehabilitation, health care and other services) and certification of completion of such training sufficient to enable them to secure and retain meaningful employment;

(2) programs, whenever feasible, provide for—

(A) participation of representatives of industry, and labor, employment personnel from the private sector of the economy, educational and vocational educational personnel, and qualified correctional personnel, in the development and conduct of programs to be assisted;

(B) maximum utilization of work experience, work-release, and cooperative training and the use of training equipment comparable to that currently used in the job for which training is furnished;

(C) assurances that prior arrangements have been made with appropriate parole, probationary, or judicial authority for release of participating offenders upon satisfactory completion of training;

(D) assurances that arrangements have been made or will be made with public or private employers for subsequent employment opportunities for the major portion of offenders participating in such program, upon satisfactory completion of training;

(E) assurances that, where appropriate, the agency of or organization conducting the program will provide (itself or by contract or other arrangement) for additional manpower training and supportive services for participants for a period of no less than twelve months following release from charges or a correctional institution but in no case shall such additional training exceed twenty-four months following such release.

(j) With respect to programs for persons of limited English-speaking ability under this Act, the Secretary shall establish appropriate procedures to ensure that—

(1) participants are provided with such manpower training and related assistance and supportive services which will increase the employment and training opportunities for unemployed and underemployed persons of limited English-speaking ability.

(2) programs and activities shall include, but shall not be limited to—

(A) planning for and developing training courses to teach skills and occupations that do not require a high proficiency in English, particularly courses which would use materials in languages other than English;

(B) developing and implementing programs designed to increase the technical English vocabulary necessary for the performance of specific occupations likely to provide employment opportunities for persons of limited English-speaking ability;

(C) developing programs designed to increase the number and improve the quality of bilingual training instructors and bilingual placement personnel;

(D) establishing, maintaining, and operating programs (including the acquisition of necessary teaching materials and equipment) designed to increase employment opportunities and advancement opportunities for persons of limited English-speaking ability, including programs which, whenever feasible, provide for—

(i) teaching occupational skills in the primary language of any such persons for occupations that do not require a high proficiency in English;

(ii) teaching specific technical English vocabulary necessary in the performance of certain skills in occupations which are in demand and which such persons can be reasonably expected to perform;

(iii) developing programs, in cooperation with both existing and potential employers, designed to increase the English-speaking ability of such persons in order to enhance their opportunities for promotion;

(iv) assisting any such person to further develop and to capitalize on the bilingual ability of such person for jobs that require such skills;

(v) encouraging persons with limited English-speaking ability to seek employment, and encouraging employers to hire such persons;

(vi) disseminating to persons with limited English-speaking ability information in their primary language regarding the availability of jobs, regarding the availability of job training in their primary language, and regarding the availability of placement assistance by persons capable of conversing in the primary language of such persons; and

(vii) alternative scheduling of program or project activities designed to meet the needs of those individuals who might be unable to attend such training activities either during normal working hours or on a full-time basis.

NATIONAL EMPLOYMENT OPPORTUNITIES COUNCIL

Sec. 404. (a) The President shall appoint a National Employment Opportunities Council which shall consist of at least thirteen but not more than seventeen members and shall be composed of persons representative of labor, management, agriculture, public and private education, vocational education, vocational rehabilitation, employment and training programs, veterans organizations, women's organizations, and economic opportunity programs. From the members appointed to such Council, the President shall designate a chairman. Members shall be appointed for terms of three years except that (1) in the case of initial members, one-third of the members shall be appointed for terms of one year each and one-third of the members shall be appointed for terms of two years each, and (2) appointments to fill the unexpired portion of any term shall be for such portion only. Such Council shall meet in open session and shall hold not less than two meetings during each calendar year.

(b) The National Employment Opportunities Council shall—

(1) identify the employment goals and needs of the Nation and assess the extent to which vocational education, institutional training, vocational rehabilitation, employment and training, economic opportunity, and other programs under this and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs and achieving such goals;

(2) review the administration and operation of the programs referred to in clause (1) and advise the Secretary of Labor and the Secretary of Health, Education, and Welfare and other appropriate officials as to the carrying out of their duties under this Act and related Acts;

(3) conduct independent evaluations of programs carried out under this and related Acts and publish and distribute the results thereof; and

(4) make recommendations (including recommendations for changes in legislation) for the improvement of the administration and operation of such programs including the programs authorized under this and related Acts.

(c) The National Employment Opportunities Council shall make an annual report, and such other reports as it deems appropriate on its findings, recommendations, and activities to the Congress and to the President. The President is requested to transmit to the Congress as a part of his report under section 405 of this Act such comments and recommendations as he may have with respect to such reports and activities of the National Employment Opportunities Council.

(d) The National Employment Opportunities Council may accept and employ or dispose of gifts or bequests, either for carrying out specific programs or for its general activities or for such responsibilities as it may be assigned in furtherance of subsection (b) of this section.

(e) Appointed members of the National Employment Opportunities Council shall be paid compensation at a rate of up to the per diem equivalent of the rate for GS–18 when engaged in the work of the National Employment Opportunities Council, including traveltime, and shall be allowed travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently and receiving compensation on a per diem, when actually employed, basis.

(f) The National Employment Opportunities Council is authorized, without regard to the civil service laws, to engage such technical assistance as may be required to carry out its functions; to obtain the services of such full-time professional, technical, and clerical personnel as may be required in the performance of its duties, and to contract for such assistance as may be necessary.

REPORTS

Sec. 405. (a) The Secretary of Labor shall make such reports and recommendations to the President as he deems appropriate pertaining to employment and occupational requirements, resources, use, and training, and his recommendations for the succeeding fiscal year, and the President shall transmit to the Congress within sixty days after the beginning of each regular session a report pertaining to manpower requirements, resources, utilization, and training.

(b) The Secretary of Labor and the Secretary of Health, Education, and Welfare shall report to the Congress on the extent to which community colleges, area vocational and technical schools and other vocational educational agencies and institutions, and vocational rehabilitation agencies are being utilized to carry out training programs supported in whole or in part from provisions of this and related Acts, the extent to which administrative steps have been taken and are being taken to encourage the use of such facilities and institutions and agencies in the carrying out of the provisions of this Act and any further legislation that may be required to assure effective coordination and utilization of such facilities and agencies to the end that all federally supported employment and training, vocational education, and vocational rehabilitation programs can more effectively accomplish their objectives of providing employment and training opportunities to all persons needing occupational training.

(c) The Secretary shall transmit to the Congress at the earliest appropriate date, but not later than March 1, of each calendar year a report setting forth a description of summer work experience programs to begin in June of such year, including the number of opportunities in public and private agencies or organizations that will be provided to disadvantaged students in ninth through twelfth grades (and to youth of equivalent ages), in each of the several States and local areas within States, and a statement as to the total number of such persons who would be eligible for such programs, together with his recommendations, if any, for supplemental appropriations for such programs.

(d) The Secretary, through the Bureau of Labor Statistics, shall annually compile and maintain information on the incidence of unemployment among offenders and shall publish the results of the information obtained pursuant to this subsection in the report required under subsection (a) of this section.

(e) The Chairman of the United States Civil Service Commission, in consultation with the Secretary, shall report to the President and to the Congress no later than six months after the effective date of this Act on the extent to which and manner in which employment opportunities for offenders may be increased in the Federal service, with special reference to the criteria used in determining the suitability of offenders for Federal employment, including such recommendations for additional legislation as they deem advisable.

ADMINISTRATIVE PROVISIONS

Sec. 406. (a) The Secretary may make such grants, contracts, or agreements, establish such procedures (subject to such policies, rules, and regulations as he may prescribe in accordance with section 403 of this Act), and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend funds made available under this Act, as he may deem necessary to carry out the provisions of this Act, including (without regard to the provisions of section 4774(d) of title 10, United States Code) expenditures for construction, repairs and capital improvements, and including necessary adjustments in payments on account of overpayments or underpayments. The Secretary may also withhold funds otherwise payable under this Act in order to recover any amounts expended in the current or immediately prior fiscal year in violation of any provision of this Act or any term or condition of assistance under this Act.

(b) The Secretary is authorized to exercise all powers necessary for the implementation of this Act, including the power (1) to rent or renovate real property without regard to any other law or regulation governing rental or renovation of such property, provided he first advises the Administrator of General Services Administration of his intent to do so and the reasons therefor, (2) to purchase real property for training centers, (3) to accept and use gifts and voluntary services for the benefit of the program, (4) to enter into contracts or agreements, (5) to make such payments in advance or by way of reimbursement as he may deem to be necessary or appropriate to carry out the provisions of the Act, and (6) to expend, without regard to the provisions of any other law or regulation, funds made available for purposes of this Act for printing and binding.

COOPERATION AMONG AGENCIES

Sec. 407. (a) Each department, agency, or establishment of the United States is authorized and directed to cooperate with the Secretary and, to the extent permitted by law, to provide such services and facilities as he may request for his assistance in the performance of his functions under this Act.

(b) The Secretary shall carry out his responsibilities under this Act through the utilization, to the extent appropriate, of all available resources for skill development available in industry, labor, public and private educational and training institutions, vocational rehabilitation agencies, and other State, Federal, and local agencies, and other appropriate public and private organizations and facilities, with their consent.

INTERSTATE AGREEMENTS

Sec. 408. In the event that compliance with provisions of this Act would be enhanced by cooperative agreements between States, the consent of Congress is hereby given to such States to enter into such compacts and agreements to facilitate such compliance, subject to the approval of the Secretary.

LABOR MARKET INFORMATION

SEC. 409. (a) In addition to the monthly national unemployment statistics, the Secretary shall gather by survey and publish on a regular basis data on unemployment, underemployment, and job vacancies by States, labor market areas, rural areas, cities, and poverty neighborhoods.

(b) For purposes of this section, underemployment shall include persons who have part-time but desire full-time work, discouraged workers not in the labor force, and persons earning less than the Federal minimum wage. Separate data shall be collected and compiled showing the total number of persons earning wages at levels lower than that sufficient to provide an annual income at the level of the lower living standard budget, as determined annually by the Bureau of Labor Statistics of the Department of Labor.

(c) Vacancy data shall include information on (1) how many unfilled jobs are available in the economy, by industry and occupation, (2) what are the capability requirements of such jobs, (3) salaries, wages, and other benefits of such jobs, (4) where jobs are located, and (5) how many and what kind of jobs remain unfilled for sixty days and for ninety days.

(d) The Secretary shall set aside, out of sums available under section 202(a)(2) of this Act, an amount which he determines is necessary and appropriate to enable him to carry out the provisions of this section, and shall no later than thirty days after such sums are made available notify the appropriate committees of the Congress of the amount so set aside and the basis for his determination of need and appropriateness.

Mr. JAVITS. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. NELSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION—NOMINATION OF VINCENT R. BARABBA, OF CALIFORNIA, TO BE DIRECTOR OF THE CENSUS

The PRESIDING OFFICER (Mr. HELMS). Under the previous order, the Senate will now proceed to go into executive session to consider the nomination of Mr. Vincent R. Barabba, of California, to be Director of the Census.

On this matter there is a time limitation of one hour, to be equally divided between the Senator from Wisconsin (Mr. PROXMIRE) and the Senator from Wyoming (Mr. MCGEE), with time on any debatable motion or appeal to be limited to 10 minutes, divided between the majority and minority leaders or their designees.

The clerk will report the nomination.

BUREAU OF THE CENSUS

The assistant legislative clerk read the nomination of Vincent R. Barabba, of California, to be Director of the Census.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McGEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGEE. Mr. President, may I ask, what is the pending business?

The PRESIDING OFFICER. The pending business is on the nomination of Mr. Vincent R. Barabba, of California, to be Director of the Census.

Mr. McGEE. Mr. President, while we have enough Senators in the Chamber, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. McGEE. Mr. President, I shall not take very many minutes in the presentation of the committee's action on the President's nominee to be Director of the Bureau of the Census. Mr. Barabba was interrogated by the committee in a session on the 20th of June and we found him to be acceptable as a nominee for the post.

In view of the fact that there were some dissenting views, the distinguished Senator from Wisconsin (Mr. PROXMIRE) who will be heard later on the question, testified fully before the committee on it, and a member of the committee, the distinguished junior Senator from Utah (Mr. MOSS), likewise has been heard on the question.

So let me come to the point of the nomination and the issue. It is this: That there is nothing in Mr. Barabba's character, integrity, or record that would cast a shadow over his nomination.

The protest, as I understand it, from the hearings, derived from the fact that he is not a member of the professional American Statistical Association.

Now that can be a meritorious recommendation, but I think we have to be careful that we do not let the American Statistical Association decide that its members become the Director of the Bureau of the Census any more than we should let the lawyers decide the members of the Supreme Court. This is a prerogative of the Senate of the United States.

I respect professional societies and all their integrity and expertise; but may I say, as a member of several professional societies—the American Association of University Professors, to start with, and the American Historical Association—that that does not equip any of them to be an administrator in the academic world. Some of my colleagues in academe are brilliant administrators; some of them are the world's worst and ought never to be permitted outside the stacks in the library.

All we do is consider the recommendations of the professional societies and try to assess the caliber of the man. Nobody testified—not even the statisticians themselves—that this man was derelict or that he was in other ways incapable of filling the office. They simply thought he lacked the professional status.

I think we ought to go about this matter in perspective. Since 1941—mark that date—there have been six Directors of the Bureau of the Census. Under F. D. R., Harry Truman, Dwight Eisenhower, Jack Kennedy, L. B. J., and now Richard Nixon, two of the six had professional credentials; the others did not.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. McGEE. I will yield on the Senator's time.

Mr. PROXMIRE. I will cover it later.

Mr. McGEE. The reason I say that is that others have asked for time to speak in favor of the nominee, and I have to protect them.

But to continue my point. The committee received no testimony to suggest any dereliction, any incapability, as an administrator over a very important office.

If we want to change the laws, if we want to change the requirements, we ought to spell them out by statute and not pass judgment ex post facto on a man who has been nominated for this kind of office. If we want to do that, let us get with it; and I suggest to those who object on those grounds that we get with it and change the requirements and the stipulations for that particular responsibility.

So I say that the committee's judgment—the majority of the committee—was that the nomination of Mr. Barabba to be Director of the Bureau of the Census should be approved.

Mr. Barabba, 38, was nominated by President Nixon to be Director of the Census on April 13, 1973. On May 1, he was appointed Special Assistant to the Assistant Secretary of Commerce for Economic Affairs and designated to serve as Acting Director of the Bureau of the Census pending confirmation.

Hearings were held on Mr. Barabba's nomination June 20 and the committee subsequently reported favorably on the nominee.

Mr. Barabba's business has been market research. He was chairman of the board of Decision Making Information, Inc., and before that president of Datamatics, Inc. He has done political polling, primarily for members of the Republican Party, but there has been no testimony presented to the committee which would implicate Mr. Barabba in any political activities of onerous character. Indeed, his confirmation has been supported by the chairman of the Democratic Party of southern California, Mr. Barabba's home area.

The majority of the committee, in reporting favorably on Mr. Barabba's nomination, has acted in the belief that a man should not be penalized for being involved in political activity and that professional standing in one specific discipline is not an overpowering consideration in the selection of an administrator to run a bureau employing a broad spectrum of specialists. In fact, of the last six Directors of the Census—since 1941—only two had professional statistics backgrounds.

The committee and certainly its chairman have given great consideration to the concern which emanates largely from the statistical profession, and from university campuses in particular, that the integrity of Federal statistics be safeguarded. But no testimony was offered the committee to impugn the integrity or character of the nominee. Nor did the majority of the members of the committee feel that a new man, entering upon these responsibilities for the first time, could be held accountable for whatever deeds or policies were undertaken by his predecessors or his predecessors' superiors.

The position of Director of the Bureau of the Census is an important post in our Federal structure, since the Bureau develops data on which countless decisions, both in the public and the private sectors, are based. The importance of the post is indeed pointed up by the fact that the Senate is today devoting its attention to the nomination of a Director to head this Bureau. It is anomalous perhaps that his "boss" in the Department of Commerce is not subject to the same searching inquiry. The Committee on Post Office and Civil Service has looked into this nomination. Mr. Barabba perhaps is not the man that would have been chosen had other Senators held the power of nomination. But he cannot be held accountable for a strange table of organization. Whatever our feelings are concerning the administrator of SESA or the organization of the Commerce Department's statistical machinery, Barabba is not responsible for them. Changes in those realms are up to us and our colleagues in the House of Representatives.

Even the American Statistical Association, whose president has been most vocal in protesting the nominee's lack of professional qualifications, did not object to the confirmation of Vincent Barabba, personally, nor did anyone else.

If truth be told, the committee, being aware of the controversy surrounding this nominee, virtually solicited testimony from a number of organizations and individuals associated with the issue. But only Dr. Clifford Hildreth appeared, and he spoke as an individual and not as president of the American Statistical Association, which he is. The ASA in itself has not taken a position on Barabba's nomination.

The feeling of some obviously is that the heads of statistical agencies should be of high professional status and be in the career service. Those are the words taken directly from the report of the Joint Committee on Integrity of Federal Statistics formed by the American Statistics Association and the Federal Statistics Conference. But the law does not read thus.

The committee has examined the financial aspects of Mr. Barabba's nomination, and is satisfied that he has disassociated himself from any possible conflicts of interests. The majority has satisfied itself that there is nothing in his record to indicate that Mr. Barabba will be incapable of carrying out the duties of this office with integrity and efficiency. I am, therefore, unhesitant in recommending this nomination to my colleagues in the Senate.

The PRESIDING OFFICER. Who yields time?

Mr. McGEE. I yield to the ranking minority member of the committee, the Senator from Hawaii (Mr. Fong).

Mr. FONG. Mr. President, I rise to strongly support confirmation of Mr. Vincent P. Barabba to be Director of the Bureau of the Census.

Mr. Barabba was nominated to be Director of the Bureau of the Census on April 13, 1973. His nomination has been pending for over 3 months while the Senate Committee on Post Office and Civil Service investigated his qualifications.

A hearing on the nomination was held before the committee on June 20 at which time those in support of and those opposing the nomination were heard. It was the consensus of the majority of the committee members—six for and one against—that Mr. Barabba was qualified to be Director of the Census, and the nomination was favorably reported to the Senate by the committee on June 29.

During the hearing, I listened very closely to Mr. Barabba's testimony and to the others who testified on his nomination. I was impressed with the enthusiasm, knowledge, and plans for the future of the Bureau of the Census as expressed by Mr. Barabba.

So far as his personal honesty and professional integrity were concerned, no witness who appeared or who submitted a statement in opposition to Mr. Barabba questioned those characteristics of the nominee. To the contrary, they attested to his outstanding character. I was likewise impressed with his professional experience and perserverance for professional excellence.

He worked his way through college, obtaining a bachelor's degree, and then a masters in business administration, with a major in marketing at the University of California, Los Angeles. He obtained his master's degree by working as a teaching assistant and then as a research assistant and finally as an instructor in marketing.

His expertise in the field of marketing was recognized professionally by his peers to the extent that he was invited to present reports on marketing and research at the John Fitzgerald Kennedy School of Government, University of Kansas; the National Association of Manufacturers; the Harvard Business School; the Walter Perry Johnson Institute of Law and Politics, University of California; the U.S. Chamber of Commerce; and the California State Chamber.

He began his professional career as president of Datamatics, Inc., which was later merged with Wirthlin Research to form Decision Making Information, Inc., a California marketing and research firm. Prior to Mr. Barabba's nomination as Census Bureau Director, he was chairman of the Board of Decision Making, Inc.

As a member of the American Marketing Association. he served as adviser to that association's census advisory committee. He served as consultant to the Census Bureau's Private Industry Task Force of the Southern California Regional Information Study. He has also served as consultant to the American Medical Association's committee on electronic data processing in medicine, and advised to the Southern California Center for Education in Public Affairs, Inc.

He has had a distinguished professional career in the field of marketing, marketing research, and data collection. He has had vast experience in the field of computers, computer systems programing, demography, statistical methodology, and analysis. In his professional career, he has worked virtually daily with Census Bureau data and is thoroughly familiar with Census Bureau data and the many possibilities of using such information. He has directly highly sophisticated computer operations and techniques, including pioneering efforts in software planning and programing, utilizing both in 1960 and 1970 census data.

The firms with which he has been associated have done more than 500 different surveys and similar work in 35 States. In the last 7 years, he has traveled more than a million miles, doing statistical work of one kind or another, and has worked with professional statisticians in all parts of the country.

In forming Decision Making Information, Inc., in February 1969, the intent and purpose of the company was to perform the most professional demographic analysis and survey research possible. The success of the company is evident from the fact that it went from annual revenues of about $200,000 in 1969—when it was first formed—to some $2 million in 1972. It also grew from a firm of 10 employees to 122 employees in 1972.

One of the great strengths Mr. Barabba will bring to the Bureau of the Census is his knowledge of user needs. His professional work has always been to provide essential statistical data to his clients. This parallels the purpose of the Census Bureau very closely, which is to provide our society with reliable census information on which all of us can make more reasonable and knowledgeable decisions.

I am convinced he would be a great asset to our Federal Government's statistical gathering services. The Census Bureau is undergoing the strains of a period of great transformation. It must gear up for unprecedented demands to furnish our people with more and more statistical assistance and information. I believe Mr. Barabba can fill this great need of the Census Bureau.

The opponents of his nomination base their objections on the fact that he is not a professional statistician. The committee gave great consideration to this point and concluded that it was not critical to Mr. Barabba's nomination.

In considering this point, the committee went into the qualifications of past Bureau Directors, particularly those who enjoyed reputations of being outstanding Directors.

Of the past six Directors of the Census, only two were professional statisticians. In fact, Mr. Richard M. Scammon, who served as Director, Bureau of the Census, from 1961 to 1965, and who enjoys the reputation of being one of the most effective Directors in the history of the Census Bureau, had no previous Census Bureau or professional statistical experience. He was appointed to be Census Bureau Director in 1961.

I ask unanimous consent to have printed in the Record at this point a biographical sketch of Mr. Scammon as furnished to the Committee on Post Office and Civil Service by the American Statistical Association.

There being no objection, the biographical sketch was ordered to be printed in the RECORD, as follows:

Former Directors of Bureau of the Census—Richard M. Scammon (1961–65)

BIOGRAPHICAL SKETCH

Education

University of Minnesota, A.B.—1935.

University of Michigan, M.A.—1938.

London School of Economics.

Experience

1961–65—Bureau of the Census, Director.

1955–61—Director of the Elections Research Center, Washington.

1948–55—Chief, Division Research for Western Europe, Department of State.

1946–48—Chief, Political Activities Branch, Civil Administration Division, Office of Military Government for Germany (United States).

1945–46—Political Officer, Land Wuerttemberg-Baden.

1941–46—Army service in the United States and Western Europe.

1939–41—Research Secretary, NBC Round Table radio broadcasts, University of Chicago.

Honors and professional affiliations

Chairman of United States delegation to observe elections in USSR, 1958.

American Immigration and Citizenship Conference, Vice President.

American Arbitration Association, Board of Directors.

Lecturer at: Howard University, Johns Hopkins University, George Washington University, York University.

Publications

Editor, *America at the Polls*, 1965.

Co-author, *This U.S.A.*, 1965.

Editor, *America Votes*, Volumes 1–9, 1956–1972.

Source

Furnished by Mr. Scammon; *Who's Who.*

Mr. FONG. Also, I ask unanimous consent that similar biographical sketches of the other Census Bureau Directors be printed in the RECORD.

There being no objection, the biographical sketches were ordered to be printed in the RECORD, as follows:

Former Directors of Bureau of the Census

BIOGRAPHICAL SKETCH, ROBERT W. BURGESS (1953–61)

Education

Brown University, A.B.—1908.

Cornell University, Ph. D.—1914.

Experience

1953–61—Bureau of the Census, Director.

1924–52—Western Electric Company: Senior Statistician, Chief Statistician, Chief Economist.

1918–19—United States Army (includes a period on the statistics branch of the General Staff).

1916–17 and 1920–25—Brown University, Teacher of Mathematics.

1912–16—Cornell University, Teacher of Mathematics.

1911–12—Purdue University, Teacher of Mathematics.

Honors and professional affiliations

Rhodes Scholar, 1908–1911.

BLS Business Research Advisory Council founding member, Chairman, 1952.

Conference of Business Economists.

Economic Research Round Table, Chairman.

American Statistical Association, Fellow.

Publications

Introduction to the Mathematics of Statistics, 1927.

Many articles in professional journals.

Source

The American Statistician, October, 1969.

Former Directors of Bureau of the Census—A. Ross Ecker (1965–69)

BIOGRAPHICAL SKETCH

Education

Hamilton College, A.B.—1922.

Harvard University, A.M.—1928.

Harvard University, Ph. D.—1934.

Experience

1965–69—Bureau of the Census, Director.

1949–65—Bureau of the Census, Deputy Director.

1939–49—Bureau of the Census.

1935–39—Work Projects Administration, Washington, D.C., Assistant Director of Research.

1931–35—Harvard Business School, Assistant Librarian and Instructor in Public Utility Economics.

1924–31—Harvard Economic Society, Statistician and Director of Statistical Laboratory.

Honors and professional affiliations

Department of Commerce Exceptional Service (Gold Medal) Award, 1961.

National Civil Service League Award, 1962.

Honorary Fellow Royal Statistical Society.

International Statistical Institute, Member.

Inter-American Statistical Institute, Member.

National Economists Club, Member.

National Bureau of Economic Research, Conference on Research in Income and Wealth, Member.

Other Scientific Organizations, Member.

United States Delegate or Representative at Conferences of International Organizations: International Statistical Institute; International Labor Office; Conference on Improvement of National Statistics.

Publications

"The Continuous Population and Labour Force Survey in the United States." *Family Living Studies*, XIII, a symposium published by the International Labour Office, Geneva, 1961

"Extent and Character of Errors in the 1950 Censuses of Population and Housing." *American Statistician*, Vol. 7, No. 5, December 1953.

"Measuring the Accuracy of Enumerative Surveys." *International Statistical Institute Bulletin*, Vol. XXXIII, Pt. IV, page 7, (jointly with Leon Pritzker) December 1951.

"Response Variance and Biases in Censuses and Surveys." *International Statistical Institute Bulletin*, Vol. XXXVI, Pt. 2, (jointly with William N. Hurwitz).

"The Revised Census Series of Current Employment Estimates." *Journal of the American Statistical Association*, June 1945, Vol. 40, pages 187–196.

Source

American Statistical Association files.

Former Directors of Bureau of the Census—George Hay Brown (1969–72)

BIOGRAPHICAL SKETCH

Education

Oberlin College, A.B.—1929.

Harvard University, M.B.A.—1931.

University of Chicago, Ph. D. (Economics)—1945.

Experience

1969–72—Bureau of the Census, Director.

1954–69—Ford Motor Company, Dearborn, Michigan, Manager/Director, Marketing Research Office.

1937–54—University of Chicago, Instructor/Professor (since 1947) of Marketing.

1950–54—Director of Business Problems Bureau.

1948–50—Director of Development for the Biological, Physical and Social Science Divisions of the School of Social Service and the School of Business.

Marketing Consultant to: Armour and Company; The Chicago Tribune; General Mills, Inc.; Toni Division, Gillette, Inc.; Motorola; and others.

1931–36—Mallinckrodt Chemical Works, Saint Louis, Missouri, Divisional Sales Manager.

Honors and professional affiliations

American Statistical Association.

American Marketing Association, Past President.

American Psychological Association, Affiliate by Invitation, Consumer Division.

Beta Gamma Sigma.

Cosmos Club, Member.

National Press Club, Member.

National Marketing Advisory Committee, Executive Committee, United States Department of Commere.

Marketing Science Institute, Trustee.

Advertising Research Foundation, Executive Committee.

Foundation for Research on Human Behavior, Trustee.

Better Business Bureau Research and Education Foundation, Research Committee.

Publications

"The International Economic Position of New Zealand." *Journal of Business*, 1946.

Readings in Marketing and Price Policy (with Jenck and Peterson). Editor: Marketing Series, Henry Holt and Company, 1951.

Contributions to various economic journals 1950–55.

Source

Commerce Department official Biography and *Who's Who.*

Mr. FONG. Mr. President, judging by the qualifications of past Census Bureau Directors, I believe Mr. Barabba is as well qualified to be appointed Director as any of the previous Directors and may be better qualified than most.

His success in running a company involved in gathering and interpreting statistics speaks very highly of his administrative abilities.

His expertise in the field of computers and the use of computers in statistical gathering and interpretation likewise is recognized by his professional peers.

His character and honesty has never been questioned by the opponents of his nomination and has been attested to by his supporters.

His enthusiasm and dedication to his work is unbounded.

He has received support from Republicans and Democrats alike including Mr. Charles Mannatt, past chairman of the Democratic Party of California and presently chairman of the Democratic Party of Southern California.

I believe Mr. Barabba has the personal characteristics, the professionalism, the knowledge, and the ability to become a great Census Bureau Director and I urge the Senate to confirm his nomination.

Mr. PROXMIRE. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator may proceed.

Mr. PROXMIRE. Mr. President, I oppose the nomination of Mr. Vincent R. Barabba to be Director of the Census. I do that for a number of reasons. There have been few nominations in my 16 years in the Senate that I have opposed with greater conviction than I presently oppose this nomination.

CRISIS OF CREDIBILITY

We have a crisis of credibility in the Federal statistics programs. In these circumstances those who are appointed to head major statistical agencies should have outstanding professional qualifications if they are to be confirmed by the Senate.

Mr. Barabba does not qualify as a professional and he does not meet the standards established by the American Statistical Association and the Federal Statistical Users Conference for appointment to head major statistical agencies including the Bureau of the Census.

Because of their overriding concern with what was happening to the Federal statistical programs, those two groups issued an "Integrity Report" early this year, before the nomination of Mr. Barabba, establishing the minimum qualifications to head Federal statistical agencies.

RECOMMENDATIONS OF AMERICAN STATISTICAL ASSOCIATION AND FEDERAL STATISTICAL USERS CONFERENCE ON QUALIFICATIONS OF CANDIDATES

Here are the recommendations:

The leadership of the Government's statistical programs should be of demonstrated professional competence and free of political influence.

The committee recommends that specific qualities be identified for screening potential appointees to head Federal statistical agencies. Our specific suggestions are that as a minimum the candidates should meet most of the following characteristics and be selected without regard for political affiliation:

First. Membership in a professional statistical association such as—American Statistical Association, Biometric Society, Institute of Mathematical Statistics, and the Econometric Society—and membership in one other professional society—American Economic Association, Population Association of America, National Association of Business Economists, American Sociological Association, Industrial Relations Association, and so forth—for at least 5 recent years.

Second. Ability to make new contributions to knowledge in the field of statistics, or subject matter areas of the agency involved, as evidenced by publication of articles in professional journals, or awards by Federal statistical agencies.

Third. National recognition in the field of statistics as evidence by honors, such as a fellow of ASA, member of ISI, high office in professional society or major publication.

Fourth. Demonstrated professional achievement such as evidenced by successful operation of major statistical projects, by promotions to successively higher position in the Federal statistical organization or working in a responsible statistical position in private industry, education, nonprofit, or labor.

CANDIDATE FAILS TO MEET ASA-FSUC STANDARDS

Compare, Mr. Barabba's record with those standards. Mr. Barabba does not meet the first standard that the candidate should have been a member in a professional statistical association for at least 5 years.

He has made no new contributions to knowledge in the fields of statistics or at the Census Bureau as demonstrated, for example, by writing in a professional publication. Certainly the so-called presentations mentioned in the résumé he presented to the Committee would not qualify as new contributions to knowledge.

The statistical organizations have not given him national recognition in the professional field. In fact, they are raising the gravest doubts about his appointment.

Whether he meets the recommended requirement that he show demonstrated professional achievement by successful operation of major statistical projects, by promotions to successively higher positions in the Federal statistical organization, or working in a responsible statistical position in private industry, education, nonprofit organization or labor, is very doubtful.

Mr. Barabba may well be qualified to be appointed to any number of posts in the Federal Government. But he does not have the quaifications to head the Census Bureau and, especially, he does not possess the qualifications needed now.

EXECUTIVE COMMITTEE OF THE AMERICAN ECONOMIC ASSOCIATION OPPOSES THE BARABBA NOMINATION

Not only does Mr. Barabba not meet the standards proposed by the ASA and the FSUC but, in an unusual action, the executive committee of the American Economic Association has issued a statement opposing Mr. Barabba's appointment.

In it they state that Mr. Barabba does not appear "to have the high professional qualifications required for the demanding tasks of overseeing the gathering and reporting of the Federal statistics on which analysis and forecasting for the U.S. economy are necessarily based."

It also urges the Senate Post Office and Civil Service Committee "to submit his qualifications to the most searching scrutiny and to reject his nomination unless evidence of relevant professional qualifications not apparent to us is found in that process."

The statement was unanimous. It was signed by 15 of the top economists in the United States; namely, Irma Adelman, Kenneth J. Arrow, George H. Borts, James S. Duesenberry, Robert Eisner, Rendigs Fels, John Kenneth Galbraith, Robert Heilbroner, Walter W. Heller, Lawrence R. Klein, John R. Meyer, Guy Henderson Orcutt, Joseph A. Pechman, Mark Perlman, and James Tobin.

This statement by the AEA along with those of the ASA and FSUC are among the most severe indictments of the qualifications of a candidate that I can remember in my 16 years in the Senate. I ask unanimous consent that the statement of the AEA's executive committee and the covering letter to me be printed at this point in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AMERICAN ECONOMIC ASSOCIATION,
Nashville, Tenn., July 6, 1973.

Sen. WILLIAM PROXMIRE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PROXMIRE: At the request of Walter Heller, President-elect of the American Economic Association, I am enclosing herewith a copy of a statement on the federal statistical services and the nomination of Vincent Barabba as Director of the Census. The statement has been approved by a mail vote of the Executive Committee of the Association.

Approved: Irma Adelman, Kenneth J. Arrow,* George H. Borts, James S. Duesenberry, Robert Eisner, Rendigs Fels, John Kenneth Galbraith,** Robert Hielbroner, Walter W. Heller, Lawrence R. Klein, John R. Meyer, Guy Henderson Orcutt, Joseph A. Pechman, Mark Perlman, James Tobin.*

Disapproved: None.

*Suggested minor changes in statement.

**Approved in principle orally before statement was written.

Sincerely yours,

RENDIGS FELS,
Secretary-Treasurer.

STATEMENT OF THE EXECUTIVE COMMITTEE OF THE AMERICAN ECONOMIC ASSOCIATION ON INTEGRITY IN THE FEDERAL STATISTICAL SERVICES

We are deeply concerned over the issue of intrusion of political influence into the process of reporting and collecting Federal statistics. Symptoms of such intrusion are the increasing use of political rather than professional staff to release and interpret Federal economic statistics, the forced resignations of highly qualified statistician-economists like Dr. Geoffrey Moore as Commissioner of Labor Statistics and Dr. George Hay Brown as Director of the Bureau of the Census, and the appointments of Mr. Vincent Barabba as Acting Director of Census and Mr. Edward D. Failor as Administrator of the Social and Economic Statistics Administration.

Our immediate concern is that neither Mr. Barabba nor Mr. Failor appears to have the high professional qualifications required for the demanding tasks of overseeing the gathering and reporting of the Federal statistics on which analysis and forecasting for the U.S. economy are necessarily based. Their service to Mr. Nixon in the 1972 political campaign may well qualify them for some appropriate recognition, but we question the wisdom of political appointments to such exacting professional positions. Such appointments will reinforce doubts about the integrity of Federal statistics and threaten the quality of Federal data hitherto viewed as among the best, perhaps the best, in the world.

Since Mr. Barabba's appointment is subject to Senate confirmation, we urge the Senate Post Office and Civil Service Committee to submit his qualifications to the most searching scrutiny and to reject his nomination unless evidence of relevant professional qualifications not apparent to us is found in that process.

Our broader and longer-range concern is over the quality and integrity of the Federal statistical services as a whole. In this connection, we fully endorse the four recommendations of the select committee of the American Statistical Association and the Federal Statistics Users' Conference, as follows:

1. Heads of statistical agencies should be nonpolitical professionals of high stature and reputations and be in the career service.

2. These heads of agencies should have direct control of their own activities partic-

> ularly with respect to hiring and firing, budget and planning, and publication.
>
> 3. Data should be released on a fixed, free stated time schedule by the agency which produced the data.
>
> 4. Advisory committees to statistical agencies should be selected without regard for political affiliation with a number of specific appointments from professional statistical organizations.

Mr. PROXMIRE. Mr. President, I prepared a speech against the confirmation of the nomination of Mr. Barabba, but it was not until 2:30 p.m. today that I was presented by the chairman of the committee with this rough draft material from the hearings. I have glanced through the material, and I must say that my case is infinitely stronger because of the material that I did not see until this afternoon.

Here is a man who is opposed by other associations. I learned earlier that the American Economic Association unanimously opposes this nomination.

NONCONTROVERSIAL—EVERYONE AGAINST

As I said, 2:30 p.m. today the chairman gave me this information for the first time. In the few minutes I have had to look at it, I was astonished at the unanimity and universality of the opposition to this nominee. I can say this without fear of contradiction. This is not a controversial appointment. There is no controversy here. The agencies unanimously overwhelmingly oppose it. None of the professionals favor it.

As I said, when I appeared against the Barabba appointment I said I was sure he was a man of integrity and decency. I was astonished that with the exception of Senator HANSEN and some of the members of the Post Office and Civil Service Committee, there seemed to be no support for Mr. Barabba.

Imagine if you will, Mr. President, that not one single organization using the statistics for which Mr. Barabba would be responsible as Census Director, has expressed support for the Barabba nomination.

A large number of the most prominent organizations using Federal statistics and relying critically on the quality and reliability of the statistics which the Census Bureau under Mr. Barabba's direction will produce, oppose his nomination.

At the time I appeared against the Barabba nomination, I was unable to cite any specific opposition to Mr. Barabba as head of the Census Bureau.

On the basis of material that has just been provided to me, I now find the case against Mr. Barabba is overwhelming.

AMERICAN STATISTICAL ASSOCIATION OPPOSED

Take the American Statistical Association. This is the organization consisting of professional statisticians, in American business, in the professions, the great universities and in government who rely on the Census Bureau for the raw material with which they must work.

In extensive correspondence between Clifford Hildreth, president of the American Statistical Association and Chairman MCGEE and between Mr. Hildreth and Secretary of Commerce Dent the opposition of this critical organization and to Mr. Barabba is made emphatic and clear. Mr. Hildreth makes such comments as these:

> With the exception of Mr. Barabba's brief service on a Census Advisory Committee, I find no evidence that (he) has had statistical training, experience or contact with the statistical profession. Such appointments are in direct conflict with the judgments of responsible statisticians including a large number who have rendered outstanding service to the Bureau and other government agencies.

Mr. Hildreth also wrote about the Barabba appointment as follows:

> The central idea in the recent ASA-FSUC report on integrity was that at the very least political appointments to statistical agencies raised reasonable public doubts about the integrity of the statistical gathering and dissemination process. This alone greatly reduces the value of Federal statistics. Events of the past several years and the expressions of concern that have come from many sources amply confirm this contention. If political appointments are allowed to continue actual political manipulation of data is a possibility. Manipulation of time and manner of releasing data gathered are already widely believed to have been politically motivated.

He is saying that unemployment data, the data on the cost of living, the data on the gross national product and the income of this country may be distorted, may be doctored. There is that kind of fear in this country. We have to realize when we are discussing this in the atmosphere of Watergate that it is real.

Then, he says:

> I cannot see how appointees who have not had training and experience in statistics or social sciences can administer statistical programs in these areas better than capable administrators who have had relevant training and experience. A head who can understand the technical problems faced by his staff and who can directly share in the evaluation of proposed improvements would appear to be in a much better position to strengthen the statistical analytical functions of the Social and Economic Statistics Administration.

EXECUTIVE COMMITTEE OF AMERICAN ECONOMIC ASSOCIATION OPPOSED

Since I appeared before the committee, the executive committee of the American Economic Association has issued a statement unanimously opposing the appointment of Mr. Barabba.

AMERICAN ASSOCIATION OF PUBLIC OPINION RESERCH RAISES DOUBTS

A few minutes ago, I discovered for the first time in going through the material from the hearing that the American Association of Public Opinion Research meeting in Ashville, N.C., on May 20 of this year adopted the folowinlg resolution unanimously:

> The integrity and accuracy of Census data are vital to our political and economic systems and to the practice of public opinion research. It is essential that the Bureau of the Census remain free of political influence and that it continue to attract professional personnel of the highest caliber. It's director must be an individual who can command the respect and confidence of its staff and of users of the Census data.
>
> We strongly urge the Senate to keep these criteria in mind and to consider with exceptional care the credentials of any nominee for this office.

Now, Mr. President any fair-minded, objective, reasonable person would recognize that the Association of Public Opinion Research is telling us in the clearest, most emphatic way that a man of Barabba's background is simply not qualified.

AMERICAN SOCIOLOGICAL ASSOCIATION OPPOSED

Mr. President, I have also just discovered that on June 3, 1973, the Council of the American Sociological Association representing more than 14,000 members was informed of the challenge to the nomination of Vincent Barabba, as Director of the Bureau of the Census. By unanimous resolution the association was instructed to convey to Dr. Clifford Hildreth, president of the American Statistical Association their: "total support in Hildreth's efforts to convince the administration and the Senate of the United States that this type of appointment to this key post constitutes a grave threat to the integrity of day-to-day collection and dissemination by the Bureau of the Census."

Mr. President, this is a sociological organization that needs this data, that relies on it, has to have it, and they go to the extraordinary length of passing a resolution, and doing it unanimously, opposing this particular nomination. It has 14,000 members.

BIOMETRIC SOCIETY SPEAKS OUT

Mr. President on June 4 Dr. Hildreth was informed that the regional advisory board of the Biometric Society had discussed at some length this Census Bureau appointment and voted unanimously to go on record as being against such appointment and affirmed their support to the resolution passed by the American Statistical Association.

AMERICAN PSYCHOLOGICAL ASSOCIATION OPPOSITION

On June 15 the executive officer of the American Psychological Association wrote to Dr. Hildreth expressing its concern that political consideration might influence the appointment of individuals to head the Census Bureau and joining the American Statistical Association in its hope that appointments to head the agency would be of individuals of demonstrated statistical competence and administrative skill and not on the basis of political consideration.

INSTITUTE OF MATHEMATICAL STATISTICS DISTRESSED

Mr. President I have also just learned that on June 15 the Council of the Institute of Mathematical Statistics expressed the society's distress concerning the grave implication of the appointment of Vincent Barabba to head the Bureau of the Census.

NO PROFESSIONAL GROUP SUPPORTS HIM

So there you have it, Mr. President. Here is a nominee opposed by every association that would use the output of the Census Bureau, that has gone on record at all on this nomination. Whatever group has expressed an opinion has given an emphatic "no."

And who is for this nominee, is there a single group that uses Federal statistics—an organization that uses the output of the Census Bureau in any way that favors Vincent Barabba for this appointment? Is there just one? Just one?

Mr. President there is not only not a single solitary group that says this is a good appointment. The supporters of this nominee could not even find one single economist or statistician or mathematician or other professional who would support him for this nomination. Not one.

The verdict is unanimous. Barabba may be a nice fellow like millions of other Americans, but he clearly does not have the professional qualifications to do this job.

Where are the supporters of Vincent Barabba? Well, we have the chairman of the Democratic Party in California. We have a Senator from his State, which, obviously, is a courtesy. We have other politicians in the Senate and out, in the administration and elsewhere. But the people who use these data, who rely on them, whose life and whose work depend on the data, unanimously oppose the nomination.

It is a funny thing, we would be outraged—I am sure I would be as a Redskin football fan—if Charlie Ferris were named as coach of the Washington Redskins. He is a nice fellow, but we would be outraged if he were named to coach the Washington Redskins, or if HUBERT HUMPHREY were named as coach of the Washington Redskins.

Mr. HUMPHREY. Oh, that is going too far.

Mr. PROXMIRE. These are men of intelligence and ability, who I am sure would do well in many endeavors, and we all love them, but they could not coach a professional football team. Coaching a professional football team takes complex training. It takes ability to understand football. It takes great experience. Yet we put in as head of the Census Bureau, this complicated organization, with many statisticians, a man who is a nice guy, who does not have an enemy in the world, we are told. There are millions of people like that. We could walk out on the street and tap on the shoulder many people like that. Yet they go ahead and make him head of the Census Bureau. They make a person with no qualifications in this field the head of a very important Government agency.

SENATE SHOULD EXERCISE THE POWER OF ADVISE AND CONSENT

The fact is Mr. President that the Senate Post Office and Civil Service Committee did not uncover any relevant professional qualifications which would qualify Mr. Barabba to hold this job, as the AEA Committee asked them to do. This nomination comes before us with the support of the committee in spite of the fact that the man is not qualified for the job.

Senators often say that the President should have the right to appoint the individuals he wants to run his administration and that in general we should approve them. I agree with that except for two circumstances.

First, the President must appoint "qualified" men and women.

Second, the person must not have some conflict of interest or absence of integrity or moral lapse which clearly disqualified him.

Now Mr. Barabba to my knowledge is an honest and moral man who has no conflicts of interest or disqualifications of that kind, of which I am aware.

But, he is simply not qualified for this job. And for the Senate to approve him in these circumstances is a failure of the Senate to exercise its right and power to advise and consent.

What good is that power if we fail to exercise it when unqualified men are sent to us for highly skilled jobs?

Many people believe that the Congress of the United States in the past few years has given up far too much of its power to the executive branch. Certainly with respect to warmaking power and the power of the purse strings, many of the criticisms are justified.

In the case of the power to advise and consent, unless we perform our job and actually test candidates by reasonable standards, that power will atrophy. And that, indeed is what has happened in too many cases where we approve men for high office who are unqualified.

Mr. President, I do want to touch on one other matter before I am through, because, as I have said, we are in an entirely different situation today than we were a couple of years ago.

ISSUE OF STATISTICAL CREDIBILITY

Let me briefly address the issue of the statistical credibility gap in the Government and state why the reliability and credibility of the Government statistics are under question. This is important because it is the framework in which Mr. Barabba's nomination comes before us.

A series of recent events has threatened the public confidence in the government's figures. About 2 years ago, on orders of the White House, the Bureau of Labor Statistics stopped holding their monthly press conferences by their professional staff. This occurred when the professional staff expert characterized a small decline in the unemployment figures as "marginally significant" while the Secretary of Labor referred to it as "highly significant."

PRESS CONFERENCES ENDED

The monthly professional press conferences were then abruptly halted. Key BLS professionals, including the man who referred to the figures honestly as "marginally significant," were reorganized out of their jobs. In effect, they were fired. Then overly optimistic interpretations of the monthly figures by political figures from the White House itself were substituted for the public analysis by the professionals. One month, in fact, when the unemployed figures went up, the political spokesman claimed they had improved. He did this on grounds that unemployment had gone up less than had been expected. Thus an increase in unemployment became good news and the equivalent of a significant decline.

I am going to emphasize this, because Senators can understand why the professionals are so concerned about this. Usually no nomination before the Senate gets this unusual response. We do not get people writing in vigorously supporting or opposing, one way or the other. In this instance, we get a uniform response from the professionals who would use these data.

UNPRECEDENTED ACTION—BLS COMMISSIONER FIRED

Ultimately Dr. Geoffrey Moore, the head of the BLS and both a loyal administration supporter and an honest professional, was fired from his job. This was the first time in the nearly 90 year history of the Bureau of Labor Statistics that a Commissioner had been removed before the completion of his term of office. Mr. Ewan Clague, for example, served five Presidents of both parties and until the Nixon administration the Commissioner has always been considered a nonpolitical official.

Meanwhile some statistical series which were unpalatable to the administration were interrupted and their names changed. The "poverty" figures, for example, were suspended and the name changed to "low income."

CONSTERNATION OVER BARABBA APPOINTMENT

I can tell you that in the context of the events of the past 2 years these two appointments have caused great consternation and have created a credibility gap among those who depend on Federal statistics and their interpretation.

No one claims that the statistics themselves have been corrupted. But the interpretation of the statistics, the punishment meted out to the professionals, the firing of Geoffrey Moore, and the Barabba appointment have raised the most serious questions as to whether the figures, yet alone their interpretation, will remain objective, unbiased, and honest.

PREVIOUS HEADS MET ASA STANDARDS

Let me answer one of the charges made by the Senator from Wyoming (Mr. MCGEE). He said that the last six heads of this agency were men who did not have the kind of qualifications, with the exception of two, which are being demanded now by the American Statistical Association. The fact is that that point was met head-on by Mr. Hildreth. Mr. Hildreth went through each of the previous heads, and he pointed out that each was better qualified than Mr. Barabba. He admitted that only two were members of the American Statistical Association, but he pointed out that the others were men who met the other three criteria and met them in some cases with great distinction. So it is not a fact that we are asking for an extraordinary standard in the case of Mr. Barabba. We are asking for the same kind of standards which were met since 1942, but we have a different ball game now. We have a far more complex statistical situation, because the development of statistics has progressed apace, and we have more concern in the integrity, honesty, and reliability of the statistics we use.

DANGERS OF FABRICATED FIGURES

If we allow nonprofessional and unqualified men to head two or more key statistical agencies, we are opening the door to potentially great abuse. Consider this scenario.

Without resort to burglary, bugging, breaking and entering, or other criminal acts, the statistics on unemployment, prices, and other matters vitally affecting the economy and political and public opinion, could be "cooked" or "doctored" on the eve of a close election.

Incredible? Fantastic? Equity Funding fabricated hundreds of millions of dollars of phoney insurance policies through computer manipulation. Men at the highest levels of Government are now deeply involved in criminal acts committed for the purpose of winning an election.

But jiggering the basic Federal statistics could be done without resorting to crime. While it is a crime for citizens to give false information to the Government, it does not yet appear to be a crime for the Government to give false information to its citizens. An election could be influenced or rigged without resorting to criminal acts merely by manipulating the crucial figures. The temptations are even greater than resorting to crimes. That is why on July 11 I introduced S. 2139 to make it a crime to issue false statistical reports.

These statistics could be doctored without breaking the law or going to jail. All we have to have is a person who is politically motivated and does not have the kind of professional standards that would make him more concerned with his obligation to the profession and to the integrity of his statistics, and we have a situation in which the course of the election could be changed.

PROFESSIONALS WILL RESIST COOKING THE FIGURES

Men of high professional qualifications are far more likely to resist "cooking" the key figures than those with no professional background. The former have their professional pride and the esteem of their peers to offset the pressures from political superiors.

But what happens if the political figures are put in the professional jobs? What if their basic experience is that of regional director of a Presidential campaign, as an official of CREEP—Committee to Reelect the President—writing partisan speeches, or as a political lobbyist for narrow economic interest, as in the case with Edward D. Failor? Or what if it includes experience only marginally involved in professional statistical activities, political polling, and membership in professional organizations only on the eve of appointments to statistical advisory committees, as is the case with Mr. Barabba?

NEED MEN OF FORTITUDE BASED ON PROFESSIONAL KNOWLEDGE

Will men of this kind have the fortitude to stand up to the preelection pressures to politicize the figures when their careers have been built by trying to win elections? Will they hold fast or will they go along with the pressures as "team players"?

We need someone who has devoted his life to the honest and revealing reporting of statistical information, who takes deep and incorruptible pride in this, and who would place his loyalty to truth and to the reporting of the truth before he would place his loyalty to the President of the United States if asked to act improperly.

It would be bad enough to have a professional at SESA and a nonprofessional at the Census Bureau, or to have a nonprofessional at SESA and a professional at the Census Bureau. But to have nonprofessionals at both in the present atmosphere is merely to invite a loss of public confidence and a widening of the credibility gap which already exists.

CENSUS BUREAU FIGURES QUESTIONED

There is one further point which should be made. During the taking of the 1970 census there was an admitted undercount of about 5 million Americans, some 3.5 million whites and 1.8 million blacks.

The undercount and the places where the undercounting took place can have a profound effect on both our economic and our political democracy.

Congressional districts are based on the census figures. According to Dr. Robert Hill of the National Urban League, the undercount of black's could account for as many as five congressional seats. That is the political aspect of the census undercount. This appeared in the New York Times just this morning.

Revenue sharing is also involved because it is based in large part on population. And it appears that the major part of the black undercount was in the central cities, or so it is claimed by the spokesmen for the Urban League. This means that tens and even hundreds of millions of dollars in revenue sharing funds will not go to the central cities but which will be distributed elsewhere unless provisions are made for the undercount.

Now that will be the job of the Director of the Bureau of the Census. It is a job calling for the highest sense of right and wrong, the highest professional qualifications, and the complete absence of political bias.

Yet, in these circumstances, the President has proposed a man for this job whose only major qualification is that he was a political pollster for the President.

I ask unanimous consent that an article from today's New York Times entitled "Census Bureau Criticized for 1970 Count On Black's," be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CENSUS BUREAU CRITICIZED FOR 1970 COUNT ON BLACKS

(By C. Gerald Fraser)

WASHINGTON, July 23.—Statistics took center stage at the National Urban League convention today and all were a matter of dispute.

Dr. Robert B. Hill, the league's director of research, said that most of the almost 2 million black persons missed by 1970 census takers were in New York City. He said that the undercounting meant in terms of political representation that the 2 million blacks lost the equivalent of five Congressmen.

James T. Lynn, Secretary of Housing and Urban Development, said that if Congress passed the Better Communities Act, the Administration would distribute $2.3-billion into local communities, exceeding the appropriations for the Federal programs they would replace.

Eddie N. Williams, president of the Joint Center for Political Studies, a black think tank, argued that with revenue sharing, "you see a hurt put on the cities, where we [black people] are, and a bonanza for the suburbs, where we ain't."

Mr. Wiliams contended that Seattle, Pittsburgh, Baltimore and St. Louis all under revenue sharing, would lose Federal funds in the next five years, while their surrounding counties would gain.

The league's annual conference moved into its first full day at the Washington Hilton Hotel. The group's senior vice president, Wendell G. Freeland, said that 2,724 persons had registered. At that rate this would be the largest meeting in the group's 63-year history, he said.

In presenting his report, Dr. Hill said he was offering for the first time details of the 1970 census undercount for black and white Americans in 50 states and 36 selected cities.

The league undertook its research, he said, after "the Census Bureau maintained that it was unable to pinpoint, city by city and state by state, the actual extent" of the 8 per cent undercount of the black population. The undercount involved 1.8-million blacks and 3.5-million whites.

Because the census figures are used as a basis for determining Congressional representation and allocation of billions of dollars of Federal funds, the league sees them as crucial, he said.

Dr. Hill said his principal findings were that the states with the largest number of persons missed were California (525,068), New York (493,774), and Illinois (303,137).

States with the largest blacks missed were New York (186,352), California (171,515) and Illinois (114,575).

Cities with the largest number of all persons missed were New York (260,931), Chicago (131,337) and Los Angeles (94,514), he continued.

Cities with the largest number of blacks unaccounted for were New York (143,048) Chicago (87,935) and he said, about 50,000 each in Detroit, Los Angeles and Philadelphia.

Dr. Hill estimated that the bureau's "deficient procedures" cost New York State about $15.1-million in revenue-sharing funds, California $14.9-million and Illinois $7.5-million.

SENATE MUST INSIST ON HIGHLY QUALIFIED NOMINEES

Mr. PROXMIRE. The time has come to insist upon highly qualified and highly trained men for these posts. Political appointees with marginal backgrounds are not enough.

The head of the Bureau of the Census should not be a political appointee and the Senate should not advise and consent to his nomination.

The Senate should reject the nominee as unqualified for the position. I think it is imperative that the Senate reject the nomination of Mr. Barabba. While he is a decent and very fine man who, I am sure, would grace many jobs, he does not have the professional qualifications to fill this position.

I ask unanimous consent that the correspondence between Mr. Hildreth and the chairman of the committee and between Mr. Hildreth and Secretary of Commerce Dent, as well as the statement of a number of organizations concerning Mr. Barabba's nomination be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN STATISTICAL ASSOCIATION,
Washington, D.C., June 25, 1973.

Hon. GALE W. MCGEE,
The U.S. Senate,
Washington, D.C.

MY DEAR SENATOR MCGEE: I shall reply as well as I can to your questions that were handed me at the end of last Wednesday's hearing on the nomination of Vincent P. Barabba as Director of the Census.

"It is my understanding that of the past six Directors of the Bureau, only two have been professional statisticians. Is that correct to the best of your knowledge?"

This question would be more pertinent if we asked how many of the past six Directors had substantial training and/or experience in statistics and social science. I am not aware that anyone contends that the Director should necessarily be a professional statistician. The qualifications formulated by the ASA–FSUC Committee are intended to insure substantial statistics-social science background in a form that can be assessed by profesional people and, to some extent, by the general public.

My reply to your question as it was given to me is yes, only Mr. Burgess and Mr. Eckler were professional statisticians in the sense that statistics was their chief field. If you let me broaden the criteria to include social scientists with substantial backgrounds in statistics as intended by ASA–FSUC, then I would say that three of the past six (Burgess, Eckler, Brown) satisfied our criteria extremely well at the time of their appointments; two others (Scammon, Capt) satisfied the criteria pretty well; and one was questionable. Capt (1941–1950) seems an interesting case. Friends of mine who knew him indicate that he was a very effective Director though he had not much formal training. He did, however, rise through successively higher government posts in the seven years prior to becoming Director in 1941 and demonstrated competence for the position in this way. He served two years as Assistant to the Director and, in this capacity, had the main responsibility for organizing the 1940 enumerators.

For whatever interest it may be, I have enclosed biographical sketches of the past four Directors whose terms cover the past twenty years. The sketches include the positions and other professional experiences of each man up to the time he was named Director; honors and publications appearing after assuming the Directorship are excluded. Thus, except for the line showing the period as Director, each sketch shows what would have appeared at the time of appointment.

"Is it more important for the administrator at the top of an agency to have these professional qualifications, would you say, or for the operating levels—the various divisions—to be headed by professionals in the field?"

In an agency as thoroughly concerned with statistics as the Bureau of the Census, I believe it is vital that the administrator and the operating chiefs have appropriate professional qualifications. With specific reference to Census, I believe the Director should have substantial backgrounds in statistics and social science regardless of his primary specialty. Professional requirements for Division Chiefs vary, of course, with the task of the division, but most should have substantial statistics training and/or experience.

One reason for this view is the belief that the technically trained personnel are entitled to have at least one of their number with direct access to an Assistant Secretary and, if necessary, the Secretary. Under the present organization of the Department of Commerce, this requires that both the Director of the Census and the Administrator of the Social and Economic Statistics Administration be professionally qualified individuals. Additional reasons for believing that top administrators should have statistical and social science qualifications are given on pages two and three of my prepared testimony.

Let me emphasize that, beyond minimal initial training, the necessary subject-matter qualifications need not be acquired in an academic setting. Our best estimate regarding distribution of (nonstudent) ASA membership is that 37 percent are in academic pursuits, 35 percent are government employees, and 28 percent are working in business and industry. All of these areas include many who are working in positions that enable them to grow and to demonstrate the qualities that are needed in top administrative posts of Federal statistics agencies.

"What is your understanding about the operating division heads today—do they meet what the American Statistical Association considers to be appropriate professional qualifications?"

Of the eight or nine Division Chiefs or Associate Directors who were well known and very highly respected in the statistics profession, four have announced resignations or early retirements in the past year * * *

Former Directors of Bureau of the Census
Robert W. Burgess (1953–1961)

BIOGRAPHICAL SKETCH

Education

Brown University, A.B.—1908

Cornell University, Ph. D.—1914

Experience

1953–1961—Bureau of the Census, Director

1924–1952—Western Electric Company: Senior Statistician, Chief Statistician, Chief Economist.

1918–1919—United States Army (including a period on the statistics branch of the General Staff)

1916–1917 and 1920–1925—Brown University, Teacher of Mathematics

1912–1916—Cornell University, Teacher of Mathematics

1911–1912—Purdue University, Teacher of Mathematics

Honors and Professional Affiliations

Rhodes Scholar, 1908–1911

BLS Business Research Advisory Council founding member, Chairman 1952

Conference of Business Economists, Economic Research Round Table, Chairman

American Statistical Association, Fellow

Publications

Introduction to the Mathematics of Statistics, 1927

Many articles in professional journals

Source

The American Statistician, October, 1969

Former Directors of Bureau of the Census—Richard M. Scammon (1961–1965)

BIOGRAPHICAL SKETCH

Education

University of Minnesota, A.B.—1935.

University of Michigan, M.A.—1938.

London School of Economics.

Experience

1961–1965—Bureau of the Census, Director.

1955–1961—Director of the Elections Research Center, Washington.

1948–1955—Chief, Division Research for Western Europe, Department of State.

1946–1948—Chief, Political Activities Branch, Civil Administration Division, Office of Military Government for Germany (United States).

1945–1946—Political Officer, Land Wuerttemberg-Baden.

1941–1946—Army service in the United States and in Western Europe.

1939–1941—Research Secretary, NBC Round Table radio broadcasts, University of Chicago.

Honors and Professional Affiliations

Chairman of United States delegation to observe elections in USSR, 1958.

American Immigration and Citizenship Conference, Vice President American Arbitration Association, Board of Directors.

Lecturer at: Howard University; Johns Hopkins University; George Washington University; and, York University.

Publications

Editor, *America at the Polls,* 1965.

Co-author, *This U. S. A.*, 1965.

Editor, *America Votes,* Volume 1–9, 1956–1972.

Source

Furnished by Mr. Scammon; *Who's Who.*

Former Directors of Bureau of the Census—A. Ross Eckler (1965–1969)

Biographical Sketch

Education

Hamilton College, A.B.—1922.

Harvard University, A.M.—1928.

Harvard University, Ph.D.—1934.

Experience

1965–1969—Bureau of the Census, Director.

1949–1965—Bureau of the Census, Deputy Director.

1939–1949—Bureau of the Census.

1935–1939—Work Projects Administration, Washington, D.C., Assistant Director of Research.

1931–1935—Harvard Business School, Assistant Librarian and Instructor, in Public Utility Economics.

1924–1931—Harvard Economic Society, Statistician and Director of Statistical Laboratory.

Honors and Professional Affiliations

Department of Commerce Exceptional Service (Gold Medal) Award, 1961.

National Civil Service League Award, 1962.

Honorary Fellow Royal Statistical Society.

International Statistical Institute, Member.

Inter-American Statistical Institute, Member.

National Economists Club, Member.

National Bureau of Economic Research, Conference on Research in Income and Wealth, Member.

Other Scientific Organizations, Member.

United States Delegate or Representative at Conferences of International Organizations: International Statistical Institute; International Labor Office; Conference on Improvement of National Statistics.

Publications

"The Continuous Population and Labor Force Survey in the United States." *Family Living Studies,* XIII, a symposium published by the International Labour Office, Geneva, 1961.

"Extent and Character of Errors in the 1950 Censuses of Population and Housing." *American Statistician,* Vol. 7, No. 5, December 1953.

"Measuring the Accuracy of Enumerative Surveys." *International Statistical Institute Bulletin, Vol.* XXXIII, Pt. IV, page 7, (jointly with Leon Pritzker) December 1951.

"Response Variance and Biases in Censuses and Surveys." *International Statistical Institute Bulletin,* Vol. XXXVI, Pt. [illegible], (jointly with William N. Hurwitz).

"The Revised Census Series of Current Employment Estimates." *Journal of the American Statistical Association,* June 1945, Vol. 40, pages 197–196.

Source

American Statistical Association files.

Former Directors of Bureau of the Census—George Hay Brown (1969–72)

BIOGRAPHICAL SKETCH

Education:

Oberlin College, A.B.—1929; Harvard University, M.B.A.—1931; University of Chicago, Ph. D. (Economics)—1945.

Experience:

1969–1972—Bureau of the Census, Director.

1954–1969—Ford Motor Company, Dearborn, Michigan; Manager/Director, Marketing Research Office.

1937–1954—University of Chicago, Instructor/Professor (since 1947) of Marketing.

1950–1954—Director of Business Problems Bureau.

1948–1950—Director of Development for the Biological, Physical and Social Science Divisions of the School of Social Service and the School of Business.

Marketing Consultant to:
Armour and Company,
The Chicago Tribune,
General Mills, Inc.,
Toni Division, Gillette, Inc.,
Motorola, and others.

1931–1936—Mallinckrodt Chemical Works, Saint Louis, Missouri, Divisional Sales Manager.

Honors and Professional Affiliations:

American Statistical Association.

American Marketing Association, Past President.

American Psychological Association, Affiliate by Invitation, Consumer Division.

Beta Gamma Sigma.

Cosmos Club, Member.

National Press Club, Member.

National Marketing Advisory Committee, Executive Committee, United States Department of Commerce.

Marketing Science Institute, Trustee.

Advertising Research Foundation, Executive Committee.

Foundation for Research on Human Behavior, Trustee.

Better Business Bureau Research and Education Foundation, Research Committee.

Publications

"The International Economic Position of New Zealand." *Journal of Business*, 1946.

Readings in Marketing and Price Policy (with Jenck and Peterson). Editor: Marketing Series, Henry Holt and Company, 1951.

Contributions to various economic journals, 1950–1955.

Source

Commerce Department official Biography and *Who's Who*.

THE SECRETARY OF COMMERCE,
Washington, D.C., March 15, 1973.
Mr. CLIFFORD HILDRETH,
President, American Statistical Association, Washington, D.C.

DEAR MR. HILDRETH: This will acknowledge with thanks the special report on The Integrity of Federal Statistics prepared by the Federal Statistics Users' Conference and the American Statistical Association.

You have my assurance that the report will receive full consideration by this office and by other personnel associated with the Commerce Department's statistical programs.

The continuing and valued interest of the FSUC and the ASA in these matters is appreciated.

Sincerely,

FREDERICK B. DENT,
Secretary of Commerce.

AMERICAN STATISTICAL ASSOCIATION,
Washington, D.C., April 30, 1973.
Hon. FREDERICK B. DENT,
Secretary of Commerce,
Washington, D.C.

MY DEAR MR. SECRETARY: During the two and one-half weeks that have elapsed since the announcement of Mr. Failor's appointment as Administrator of the Social and Economic Statistics Administration and Mr. Barabba's nomination as Director of the Census, I have made numerous inquiries of my associates in the statistics profession to try to learn something of the statistics backgrounds of the men selected. With the exception of Mr. Barabba's brief service on a Census Advisory Committee. I find no evidence that either the appointee or the nominee has had statistical training, experience, or contact with the statistical profession.

Such appointments are in direct conflict with the judgments of responsible statisticians including a large number who have rendered outstanding services to the Bureau of the Census and/or other government agencies. These judgments were restated in a recent report of a joint committee of the American Statistical Association and the Federal Statistics Users Conference about which I wrote you in February. Your kind asknowledgment in March contained your assurance "that the report will receive full consideration by this office and by other personnel associated with the Commerce Department's statistical programs". I am unable to reconcile this assurance with the recent announcement.

The designations of Mr. Failor and Mr. Barabba for these vital posts underscore our Committee's recommendation (page three) that heads of statistical agencies should be in the career services. Census, SESA, and BLS were particularly cited.

I deeply hope the criteria stated by our Committee will be recognized in filling current and future vacancies. ASA will continue to cooperate in any way possible to maintain and improve all Federal statistical programs. However, it is our firm conviction that our efforts and those of statisticians in government cannot be highly effective unless the programs are headed by good administrators of demonstrated statistical competence.

Sincerely yours,

CLIFFORD HILDRETH,
President.

THE SECRETARY OF COMMERCE,
Washington, D.C., May 11, 1973.
Dr. CLIFFORD HILDRETH,
President, American Statistical Association,
Washington, D.C.

DEAR DR. HILDRETH: Thank you for your letter of April 30 expressing your concern about the filling of executive positions in the Department of Commerce.

Mr. Edward D. Failor is the Administrator of the Social and Economic Statistics Administration and Mr. Vincent P. Barabba has been nominated as Director of the Bureau of the Census. It is my expectation that both of these gentlemen will sustain and strengthen the present high quality and integrity of the statistical and analytical functions of the Social and Economic Statistics Administration.

Every key professional and managerial position in this agency up through the Director of the Bureau of Economic Analysis, the Deputy Director of the Bureau of the Census, and the Assistant Administrator of SESA is filled by a long-term career employee with acknowledged technical qualifications, credentials, and expertise. It is my judgment that the abilities of Messrs. Failor and Barabba will complement these recognized technical resources with administrative and managerial skills enabling the constituent Bureaus of SESA to improve and enlarge their roles in their respective fields.

As you know, the Bureau of the Census and the Bureau of Economic Analysis have undergone considerable growth during the past few years. At this time, they have reached levels of activities and staffing which require more intensive administrative management than heretofore required. Messrs. Failor and Barabba were selected to fill that management role.

I appreciate your continuing interest in our activities and shall be happy to receive your views concerning them in the future.

Sincerely,

FREDERICK B. DENT,
Secretary of Commerce.

AMERICAN STATISTICAL ASSOCIATION,
Washingtoin, D.C., May 25, 1973.
Hon. FREDERICK B. DENT,
The Secretary of Commerce,
Washington, D.C.

MY DEAR MR. SECRETARY: Your letter of May 11 is appreciated, but I must disagree sharply with its implications. The central idea in the recent ASA-FSUC report in integrity was that, at the very least, political appointments to statistical agencies raise reasonable public doubts about the integrity of the statistics gathering and dissemination process. This alone greatly reduces the value of Federal statistics. Events of the past several years and the expressions of concern that have come from many sources amply confirm this contention.

If political appointments are allowed to continue, actual political manipulation of data is a possibility. Manipulations of time and manner of releasing data, and kinds of data gathered, are already widely believed to have been politically motivated. Satisfactory alternative explanations have not been offered.

Even if, which I gravely doubt, the question of integrity could somehow be resolved, the question of effectiveness of Federal statistical programs would remain a crucial matter. I agree that good administration is vital in SESA and Census, but I cannot see how appointees who have not had training or experience in statistics or social sciences can administer statistical programs in these areas better than capable administrators who have had relevant training and experience. A head who can understand the technical problems faced by his staff and who can directly share in the evaluation of proposed improvements would appear to be in a much better position to "strengthen . . . the statistical and analytical functions of the Social and Economic Statistics Administration".

Sincerely yours,

CLIFFORD HILDRETH,
President.

THE SECRETARY OF COMMERCE,
Washington, D.C., June 16, 1973.
Dr. CLIFFORD HILDRETH,
President,
American Statistical Association,
Washington, D.C.

DEAR DR. HILDRETH: Thank you for your letter of May 25 conveying your views on the recent appointment of Mr. Edward D. Failor as Administrator of the Social and Economic Statistics Administration and the nomination of Mr. Vincent P. Barabba as Director of the Bureau of the Census.

I understand and respect the concern which you express, and I appreciate your continued vigilance in this area. Messrs. Failor and Barabba were selected within the framework of an historical political process which vests in the President both the power and the authority to appoint individuals of his own choosing, in some cases with the consent of the Senate, to various positions in Government. That process has been operating under every President from Washington to Nixon.

One might engage in endless debate on the qualifications of various individuals to hold and execute public office. It is fair to say that very few individuals would enjoy universal endorsement from all segments of the population and all special-interest groups. While the political process may have placed these men in a position to be recognized by the President, once they assume office, each takes an oath to uphold the Constitution and to carry out the duties of his respective office. Mr. Failor has already taken such an oath, and Mr. Barabba, with the consent of the Senate, will take a similar oath. On assuming office, they are charged with a public trust to administer their respective organizations in an effective and efficient manner, observing professional and technical honor, integrity, and competence. During the administration of their duties, they will be subject to the scrutiny of the Executive and Legislative Branches, of the press, of special-interest groups, such as the one you represent, and of the public in general. They are at all times responsible to answer for their actions both to the Executive and Legislative Branches.

I know both men to be of high personal character, and I firmly believe that they will execute the public trust vested in them in exemplary fashion. While I respect your right, as a member of a special-interest group, to freely voice your opinion at any time during the appointive process, I believe that it is unfair to prejudge these men before they have had an opportunity to carry out the functions of their respective offices and establish records which may be held up to public scrutiny.

As to other points raised in your letter, you infer that somehow the outputs of the Bureau of Economic Analysis and the Bureau of the Census have been subject to political manipulation. The lack of support for this charge is demonstrated not only by your own ASA–FSUC study but also by a recent exhaustive investigation by the House Committee on Post Office and Civil Service. The ASA–FSUC report clearly indicates that part of your primary finding is that ". . . there is no evidence that statistical results have been altered to support a particular point of view. . . ." The House Committee on Post Office and Civil Service reported that after interviewing 65 individuals interested in Federal statistics: "The 65 persons interviewed were practically unanimous in the opinion that the gathering, assembling, and reporting of the statistical data was free of politics. This was based on the high regard for the ability, integrity, and professionalism of the technicians concerned. No criticism was expressed concerning the reliability and validity of the statistical data." The Committee concluded: "The Subcommittee's staff found no supportive evidence of conspiratory politicization of Federal statistics."

Your second inference appears to link the appointments of Messers. Failor and Barabba with a hazard to the integrity of the statistical and analytical programs which are or will be under their jurisdictions. I find this implication especially disturbing, because I am not aware of a shred of evidence to support any question about the honesty and integrity of these two gentlemen.

To allay your misgivings, I invite you to come to Washington, at your convenience, for on-site discussions with Messrs. Failor and Barabba as well as with your choice of career staff members of SESA.

I am confident that as the future reveals itself, the Bureau of the Census and the Bureau of Economic Analysis will enhance their excellent reputation to the gratification of the ASA and kindred professional groups.

Sincerely,

FREDERICK B. DENT,
Secretary of Commerce.

AMERICAN STATISTICAL ASSOCIATION,
Washington, D.C., June 19, 1973.

Hon. FREDERICK B. DENT,
Secretary of Commerce,
Washington, D.C.

MY DEAR MR. SECRETARY: In response to your letter of June 16, I have to say that the only objections I have expressed regarding Messrs. Failor and Barabba are that they seem to lack the qualifications that leading statisticians, social scientists, and other users of Federal statistics believe are needed in these key positions.

In rereading my letter of May 25, I do not find any claims that outputs of BEA or Census have been subject to political manipulation. I did say that time and manner of releasing data and kinds of data gathered are widely believed to have been politically motivated. This is intended to refer not specifically to Census but to such events as cancellation of BLS press conferences, references to economic indicators in policy speeches before release by the statistical agency, and discontinuance of the Urban Employment Survey.

I appreciate your invitation to visit SESA and will seek an early opportunity.

Sincerely yours,

CLIFFORD HILDRETH,
President.

MAINTAINING THE PROFESSIONAL INTEGRITY OF FEDERAL STATISTICS

A REPORT OF THE AMERICAN STATISTICAL ASSOCIATION—FEDERAL STATISTICS USERS' CONFERENCE COMMITTEE ON THE INTEGRITY OF FEDERAL STATISTICS

Introduction and Summary

Origin of Committee

In late 1971, the Federal Statistics Users' Conference Board of Trustees appointed a Subcommittee to obtain further details and information concerning the personnel reassignments and reorganization of Federal statistical agencies. In early 1972, the President of the American Statistical Association was authorized by the ASA Board of Directors to appoint representatives of that Association to a joint ASA–FSUC Committee on the Integrity of Federal Statistics to draw up a statement reaffirming the need for a Federal statistical system of unquestioned integrity and to develop recommendations concerning procedures designed to protect the integrity of the Federal statistical system.

Growing Concern

During the past two years the integrity of the Federal statistical system has come into question. There is growing concern that the Federal statistical system may become politicized to the extent that political expediency may override the canons of professionalism and objectivity which have long characterized major statistical agencies of the U.S. Government.

Accurate and reliable Federal Statistics are absolutely essential if the ongoing policy and planning needs of private and governmental users alike are to be satisfied.[1] The critical role of the Federal statistical system—including all major statistical organizations which are involved in the collection, compilation, analysis, and distribution of a wide range of indicators of the health and well-being of the U.S. socioeconomic system—has been underscored during the current struggle to reduce the rate of inflation and to reduce the level of unemployment in the American economy. The Federal statistical system generates a large number of annual, quarterly, monthly, and even weekly statistical indices which relate to these problem areas which have center stage among current domestic issues.

Wide public concern about the extension of political control over professional statistical agencies was highlighted at the time of the Bureau of Labor Statistics' cancellation of press conferences concerning unemployment and employment data (March 19, 1971). These concerns were heightened as a result of several major developments concerning the Federal statistical agencies. These other developments included:

(1) Reassignment of personnel and reorganization of the Bureau of Labor Statistics,[2] especially those persons previously associated with the press conferences which had been discontinued.

(2) A number of specific personnel shifts and several premature retirements of top level statistical personnel in important statistical agencies, including the U.S. Bureau of the Census.

(3) A reorganization of statistical agencies within the Commerce Department which resulted in a merger of analytical and policy agencies, reducing significantly the authority and power of the major operating statistical agency.

(4) Temporary discontinuance by the Bureau of Labor Statistics of the Urban Employment Survey which, since 1969, had been providing labor force and other information about residents in poverty areas in major metropolitan centers.[3]

These specific events were inevitably accompanied by charges and countercharges concerning the intent and desirability of the actions. For example, two congressional committees investigated these developments.[4] Hearings were published by the Joint Economic Committee. The Subcommittee on Census and Statistics of the House Committee on Post Office and Civil Service issued a report on October 5, 1972, entitled "Investigation of Possible Politicization of the Federal Statistical Programs".

Other professional associations have also expressed concern about this matter. For example, the Industrial Relations Research Association (IRRA) which has a particular interest in labor force statistics formed a committee chaired by Professor Killingsworth, Michigan State University, to explore the specific charges which related to the Bureau of Labor Statistics. Concerns have also been expressed formally and informally by the members of the American Sociological Association, the Population Association of America, American Economic Association, The Econometric Society, and the National Bureau of Economic Research's Conference on Research in Income and Wealth.

Approach Taken

In view of the wide-ranging interest in problems relating to the integrity of the Federal statistical system, the ASA–FSUC Committee elected to review the record generated by the Congressional hearings and investigations, the official statements of responsible appointed officials, and to discuss informally with selected government and nongovernment officials the appropriate policy and administrative actions to be taken at this time to assure that public confidence in Federal statistics will not be undermined.

In view of the importance of this issue, the Committee chose to conduct its deliberations in a quiet, nonpolitical context with the hope of providing general guidelines concerning effective policy in this area, purposely scheduling its report for release following the National election. This report summarizes the activities and conclusions reached by this Committee.

The Committee decided not to focus on specific charges or allegations since other reports have covered this ground and, importantly, since it is clearly difficult to prove misuse of political power in such specific instances. Rather, the Committee notes that, because of the number of actions which have given rise to public concern, it is essential, at this time, to focus on both the importance of Federal statistics for policy analysis and on identifying and recommending policy for maintaining the integrity of the Federal statistical system in the future. While most developments in and of themselves appear to have had a seemingly plausible and acceptable rationale, their frequency of occurrence and conjuncture in a realtively short time period (with all the disturbing implications falling on the same side) have naturally raised suspicion and concern among a broad and diversified body of users and professional statisticians. These events continued to occur during the period of the Committee's deliberations.

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[1] Appendix A includes a discussion of the needs for reliable statistics which are evident in government, labor, industry, and universities.

[2] A statement by the Secretary of Labor concerning the role of the Bureau of Labor Statistics and emphasizing that "the Bureau maintain, in the highest degree, scientific independence and integrity" appears in *The Statistical Reporter*, Dec. 1972, pp. 91–92.

[3] According to the Statistical Policy Division of OMB, during the period when the Current Population Survey was being revised on the basis of the 1970 Population Census, the Urban Employment Survey was discontinued because the cost of continuing the Survey seemed excessive relative to the value of the Survey. This discontinuance was recommended by a technical committee composed of representatives from the various statistical agencies.

[4] The public concern regarding these developments is further evidenced in a series of news commentaries, letters to the editors, and editorials. A selected list of such articles is available from the Committee Chairman.

Working Premise

Beginning with the basic judgement that the essential function of the Federal statistical system is to provide the best possible measures of social, biological, physical, and economic factors which are essential as the foundation for analysis, policy formulation, and for the effective administration and evaluation of public and private programs, the Committee believes that the system must include several basic ingredients:

(1) The statistics themselves must be accurate, consistent, and timely.

(2) The public must have confidence in the statistics which are generated and in the professional ability of the people who produce them.

(3) Statistical programs must be continually revised and improved to reflect new characteristics of the subjects being measured and embrace new subjects as national priorities change. These revisions must be undertaken on the basis of sound statistical principles to assure that the refinements continually result in more reliable and more sensitive statistical indicators.

(4) Technical measures of reliability and sensitivity should be available to define the uncertainties and limitations associated with specific series. This requires equal attention to be given to the gathering of basic stratistical data and to the compilation, adjustment, and presentation of the resulting analytical measures and statistical reports.

These characteristics are discussed in the body of this report.

Considerable attention has been given by the statistical profession to procedures for improving the quality and character of specific statistical series. Recently, a broad review of the production and use of statistics in the Federal Government was completed by the President's Commission on Federal Statistics.[5] The Commission emphasized the need for developing a broad view in government of the scope of statistical activities including specific attention to coordinating statistical activities, eliminating obsolete programs, building public confidence in data gathering, and improving the comparability of statistical series.

In contrast, little attention has been given to steps that have been taken, or additional steps that need to be taken, to develop public confidence in the Federal statistical system, or to identify policy measures which will ensure wide professional respect for a diverse, multifaceted statistical system. Nevertheless, this Committee believes that there are certain principles which should be emphasized at this time to provide an opportunity for maintaining and building public confidence in the integrity of the Federal statistical system. These recommendations have been developed to parallel the four conditions which are outlined in the body of this report as the basis for building a credible statistical system.

Recommendations of the Committee

Based upon the findings which are stated at the end of this report, the ASA-FSUC Committee on the Integrity of Federal Statistics believes that there is sufficient concern so that specific steps should be taken to allay fears concerning the politicization of the Federal statistical system and to assure the maintenance of high-level, professional statistical work. In light of the importance of such concerns, the Committee urges immediate and careful consideration of the following recommendations. The recommendations are grouped in relation to the conditions outlined above; the order of listing does not imply any priority.

Accurate, Consistent, and Timely Statistics. In order to assure that the Federal statistical system is capable of providing the best measures of social and economic factors which are essential as the foundation for analysis, policy formulation, and for the administration and evaluation of public and private programs, it is essential that the statistics themselves, as collected and developed, be accurate, consistent, and timely. As a policy recommendation for achieving this objective the Committee recommends:

(1) The Statistical Policy Division of the Office of Management and Budget should be encouraged in their efforts to broaden their directive (Circular No. A–91, "Prompt Compilation and Release of Statistical Information"[6]) to apply to all possible statistical series as a means of better assuring the timely flow of statistics.

(2) The Statistical Policy Division should continue to be led by recognized professional statisticans who have experience in both the Federal statistical system and have established recognition as professional statisticians in their own right. The Division should report to the top level of the Office of Management and Budget.

(3) The Office of Management and Budget should encourage establishment through a recognized professional agency—such as the National Academy of Sciences, the American Statistical Association, etc.—of an ombudsman position whose role is focused on receiving professional and lay criticisms of the Federal statistical system.

The ombudsman role can be particularly significant in evaluating the conceptual base of specific statistical programs. The conceptual base used for defining a statistical series can be influential in relation to political interpretation of the resulting data. Consequently, a high-level professional with resources to call upon specialists, operating as an ombudsman for the professional community could be an important contributor to assuring an independent point of view with regard to critical statistical series.

Public Confidence in the Federal Statistical System. A key factor in assuring public confidence in the Federal statistical system is the professional statistician's evaluation of the quality of the effort by such agencies. Hence, the Committee makes the following recommendations concerning the organization and professionalization of Federal statistical work.

(1) Heads of statistical agencies should be in the career service, a practice which has been and is now observed in all areas except for the Director of the Bureau of the Census, Administration of the Social and Economic Statistics Administration (SESA), and the Commissioner of Labor Statistics.

The leadership of the government's statistical programs should be of demonstrated professional competence and free of political influence.

The Committee recommends that specific qualities be identified for screening potential appointees to head Federal statistical agencies. Our specific suggestions are that as a minimum the candidates should meet most of the following characteristics and be selected without regard for political affiliation:

(a) Membership in a professional statistical association such as American Statistical Association, Biometric Society, Institute of Mathematical Statistics, and the Econometric Society—and membership in one other professional society (American Economic Association, Population Association of America, National Association of Business Economists, American Sociological Association, Industrial Relations Association, etc.) for at least five recent years.

(b) Ability to make new contributions to knowledge in the field of statistics, or subject matter areas of the agency involved, as evidenced by publication of articles in professional journals, or awards by Federal statistical agencies.

(c) National recognition in the field of statistics as evidenced by honors, such as a Fellow of ASA, member of ISI, high office in professional society or major publication.

(d) Demonstrated professional achievement such as evidenced by successful operation of major statistical projects, by promotions to successively higher position in a Federal statistical organization or working in a responsible statistical position in private industry, education, nonprofit, or labor.

(2) The heads of major statistical agencies should have direct control of such functions as appointments of personnel, budget priority setting, program planning, and publications.

A removal of these functions from the statistical bureau creates an unfortunate reduction in the effectiveness of the professional statisticians, weakening the Federal statistical system.

(3) In the release of the data, care should be taken to stress the professional statistical production agency—not the department with overall policy responsibility. Initial release should be made by the production agency, except in cases where one agency performs contract services for another. This is particularly true where two individual agencies are created for separate production and analysis.

Specifically, the production agency should be responsible for technical adjustments to the data such as seasonal adjustments and determination of comparability with previous time series. This may mean a major upgrading of the dedication and competence of the statistics-producing sections of agencies which are basically regulatory or administrative.

(4) Because of the importance of technical advisory committees, guidelines should be established to guarantee the selection and rotation of memberships on such committees without regard for political affiliation and with a number of specific appointments from appropriate professional organizations.

In particular, the Federal Advisory Committee Act (92d Congress, HR4383) should be followed. Consistent with the intent of this Act, the present Committee recommends that the membership of advisory committees to statistical agencies include a number of appointments to be made by[7] recognized professional organizations such as the American Statistical Association, Industrial Relations Research Association, Federal Statistics Users' Conference, American Economic Association, the National Association of Business Economists, the American Sociological Association, etc. (This is consistent with the requirement that the membership of advisory committees be fairly balanced in terms of the points of view represented with specific attention to the professional point of view.) Further, it is recommended by this Committee that the meeting dates for key statistical agency advisory committees be published through professional society publications in addition to announcement in the Federal Register. This will create the opportunity for widespread professional input and recognition.

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[5] *The President's Commission on Federal Statistics*. Volumes I and II, 1971.

[6] Revision of A–91, dated Apr. 26, 1972.

[7] An alternative would be sumbit a slate of nominees when the agency requires final authority.

Statistical Programs Must be Revised and improved. A sound Federal statistical system requires adequate budget support and development. The Committee applauds the record of the past four years during which the statistical budget has increased from $195 million to $313 million. Professional control of the nature and priorities of improvements is especially important. Given the need to improve the quality and character of specific statistical series, the Committee urges continued consideration of the potential benefits in reliability and effectiveness which can be achieved by appropriate increases in existing levels of support for Federal statistical production and analysis.

Current economic policy is emphasizing the growing pressures on the Federal budget and the consequent requirements for reductions in expenditures. This committee feels strongly that the benefit of a strong statistical system clearly outweighs the costs which are currently associated with the Federal statistical system.

Technical Measures of Reliability and Sensitivity. Adequate measures of reliability and sensitivity should be developed for all principal statistical series where feasible. Since the interpretation of statistics is primarily undertaken by non-statisticians, it is essential that there be adequate access to technical advice concerning the nature and limitation of individual statistical series. To facilitate this development, the Committee makes the following recommendations.

(1) The policy of including the name of a senior professional statistician who is responsible for and familiar with the data described in the news release should be extended to all major statistical releases so that the designated professional statistician can be contacted to explain the limitation of the data presented.

Media representatives and others should be encouraged to call this individual for access to professional information concerning the nature and limitations of these series under discussion. Press conferences may be warranted if the demands for explanation become burdensome.

(2) More provision should be made for professional, periodic evaluation of important statistical series, such as that provided in the earlier President's Committee to Appraise Employment and Unemployment Statistics, to provide for regular evaluation of important statistical series.

A good example of such initiative is the recent progress by the Statistical Policy Division of the Office of Management and Budget to create an advisory committee on the national accounts and the establishment of at least two other similar committees which are being planned for Fiscal 1974. Such study commissions, if adequately funded, can provide a wide range of professional judgment and will assure deeper understanding by the professional community with respect to limitations and alternatives to existing statistical programs.

Background and Review

The Need for Public Confidence in Federal Statistics

The public and private decisions which must be made daily in the conduct of the nation's business, commerce, and social welfare programs require increasingly sophisticated analysis. This is possible only if the data base is available and reliable. The formulation of economic, political, and other types of policy will be haphazard and subject to more than the normal margin of error if the statistics which support policy decisions are not sufficiently accurate. While it is true that timely and accurate statistics will not ensure wise solutions to our problems, they are definitely essential to the process of identifying the appropriate direction.

Reliable statistics increase many times our chances for success, especially as they provide the basis for development of better theory and explanation of the workings of socio-economic processes. This is especially important, at present, now that policymakers are relying so heavily on the use of this data system in their effort to solve pressing social and economic problems. It is not an exaggeration to say that the future direction of national policy could be at stake.

Nothing could undermine the politician and implementation of his policy recommendations as much as an accumulated and intense public distrust in the statistical basis for the decisions which the policymaker must inevitably make, or in the figures by which the results of these decisions are measured. Unless definite action is taken to maintain public confidence in Federal statistics and in the system responsible for their production, there will be growing tendencies to distrust leadership.

The statistical community, both generators and users, has long been concerned with the integrity of the U.S. statistical system. For example, the President's Committee to Appraise Employment and Unemployment Statistics commented more than 10 years ago:

"The need to publish the information in a nonpolitical context cannot be overemphasized. By and large this has been the case—the collection and reporting of the basic data have always been in the hands of technical experts. Nevertheless, a sharper line should be drawn between the release of the statistics and their accompanying explanation and analysis, on the one hand, and the more general type of policy-oriented comment which is a function of the official responsible for policy making, on the other."[8]

As noted later in this report, recent directives regarding the regular scheduling of releases regarding important economic indicators and the delay of at least an hour for the issuance of policy interpretations have been in line with the 1962 statement. It remains true that, as that report indicated more than a decade ago, the importance of a credible statistical system *cannot be overemphasized.*

Federal statistics play a vital role in effective decision making by government, business, labor, and universities, as outlined in Appendix A.

The President's Commission to Appraise Employment and Unemployment is only one example in the long history of commissions which have focused on Federal statistical activities. A chronological review of 12 major commissions on statistics, beginning with a House select committee in 1844, is contained in the report by Paul Feldman[9] which was prepared for the President's Commission on Federal Statistics and reported in 1971.

The Importance of High Technical Standards in the Federal Statistical System. Since both public and private decision-makers rely heavily upon the products of the Federal statistical system, it is essential that continuing efforts be undertaken to maintain high technical standards in relation to specific statistical programs. A lack of confidence in Federal statistics can result if unduly large errors are evident in published data.

This Committee has not attempted to identify specific weaknesses in present statistical programs, although it is evident that selected programs have been the subject of controversy and technical concern. For example, when the Census Bureau publishes data for extremely small areas, it makes data available for intensive scrutiny by local experts who are able to identify errors that would have been otherwise undetected. Some errors of this sort were found after both the 1960 and 1970 Census. It is regrettable that resources are not available for making corrections in the reported small area data which are increasingly being used as the basis for public and private policy planning. Or, to cite another example, the recent revision of the Survey of Consumer Expenditures (and the transfer of field responsibility from the Bureau of Labor Statistics to the Census Bureau) has generated considerable discussion concerning the amount of testing given to the new approach, the relative costs involved, and the expected reliability and usefulness of the final results.

Both of these examples illustrate the importance of using highly professional procedures in the development of statistical systems and in the revision of collection or analytical techniques. Problems in the implementation of new approaches are inevitable. However, a high level of professionalism is critical to assure a minimum of such difficulties and to generate confidence that the difficulties will be handled in a sound and professional manner. In short, statistics have long been taken for granted like the air we breathe. Recently, environmentalists have focused attention on the need to protect the quality of the air we breathe. Likewise, administrators are beginning to recognize the necessity for maintaining the quality of statistics as the basis for sound governmental decision-making.

Requisities of an Adequate Statistical System

The preceding sections have outlined the importance of a sound statistical system which enjoys widespread public confidence. In this section we will turn to the requirements for developing and maintaining a credible and adequate statistical system. As indicated earlier, there are four essential ingredients to achieving this objective. These are briefly discussed below.

Accurate, Consistent, and Timely Statistics. In order for the public to have confidence in the statistical system, it is essential that every effort be made to produce statistics which are accurate, consistent, and timely. It is difficult to meet all three of these criteria with equal emphasis. For example, in an effort to be timely it is often necessary to develop preliminary statistical indicators which are then subject to significant revision when more information becomes available. Likewise, significant problems occur when attempting to develop consistency in statistics produced by agencies with differing purposes, diverse administrative responsibilities, and uneven statistical capabilities.

Nevertheless, while these difficulties must be recognized, it is essential that every effort be made to assure that all governmental statistical agencies strive to meet the highest standards of (1) conceptual development, (2) statistical sampling, (3) internal consistency, and (4) historical continuity.

Public Confidence in Federal Statistics. It is relatively easy to convene professional statisticians to evaluate sample design, historical records of reliability or consistency, or to estimate significance in ranges of errors as tests of the criteria identified in the previous section. In contrast, it is somewhat more difficult to determine specifically those ingredients which will assure public confidence in the statistical system. However, assuming that the basic statistics are accurate, it is essential that the public understand and appreciate this accuracy or the value and usefulness of accurate statistics will be seriously undermined.

The first step in developing public confidence is undoubtedly the development of peer group confidence in the statistics. In other words, if the professional statisticians, biologists, physical and social scientists, etc., who utilize the data have confidence in the statistical system and in the accuracy of the data, it is more likely that the general public will accept this professional judgment as the basis for placing their confidence in the resulting statistics.

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[8] *Measuring Employment and Unemployment*, President's Committee to Appraise Employment and Unemployment Statistics, September, 1962, p. 20.

[9] Feldman, Paul, *The President's Commission on Federal Statistics*, 1971, Volume II, Chapter 10, pp. 477–495.

Peer group confidence begins with the appointment and advancement of highly professional persons to key policy and program roles in Federal statistical agencies. The professional ability of all agency staff members involved in the collection, compilation, and analysis of Federal statistics is crucial to the development and maintenance of strong peer group confidence in the Federal statistical system.

In a second area, it should be noted that public confidence in the Federal statistical system is strongly influenced by the actions of the press. Most members of the working press cannot be expected to make professional interpretations of the variety of statistical series which are produced by the Federal statistical system. Therefore, it is essential that the press have available to it clear reports concerning important characteristics of specific statistical series and access to expert counsel in the interpretation of those reports.

The third factor related to the public confidence in the Federal statistical system is associated with political use and interpretation of the data. As noted at the outset, a major concern of this Committee has been the exploration of approaches to reducing political influence on the statistical system. Public confidence is influenced both by overt political pressure and by the appearance of political pressures. It is the Committee's position that every effort must be made to reduce both political pressure and the appearance of political pressure if peer group confidence is to be enhanced and if the general public's confidence in the Federal statistical system is to be maintained.

To illustrate the dangers of political pressure on statistical decisions, consider the technical problem associated with assigning the cost of air pollution and emission control equipment on automobiles as a component of the Consumer Price Index. There was considerable debate whether to classify this equipment as a quality improvement—consequently, not influencing the Consumer Price Index—or as a cost increase which would be reflected in the Consumer Price Index.

A statistical decision on cost versus quality in automobile pricing has to be made annually and in 1972 it had to be made during an election campaign. If political considerations were to enter this statistical issue, it would be beneficial to labor to include the emission control equipment as a cost increase, thereby adding a "cost-of-living" increase to the wages of millions of workers and, perhaps, politically reflecting adversely on the success of controls in holding down inflation.

Alternatively, political advocates who are concerned with demonstrating the success of anti-inflationary policies would urge classification of this equipment as a quality improvement, as would those interested in demonstrating the increased productivity of labor and the greater output of the economy.

A technical committee of professional statisticians was convened to resolve this statistical issue, and there is no evidence that political pressure was exercised. However, the nature of this type of decision illustrates the importance of producing technical statistical decisions which are above suspicion and maintaining them in an arena which is independent from political pressure. The cumulative effect of a series of political decisions concerning such technical details would be to destroy the effectiveness of the statistical measures as well as to undermine public confidence in the data themselves. This illustration reinforces the importance of professional judgment and decision-making as essential elements in a quality statistical system.

In summary, while it is difficult to identify specifically actions that will assure public confidence in the Federal statistical system, it is important to focus on (1) building peer group confidence in the statistical community by emphasizing professionalism in statistical agencies, (2) improving the understanding of the working press by providing easy access to expert counsel, and (3) minimizing even the appearance of political pressure or influence on the statistical system by eliminating situations and events which arouse these concerns.

Revision and Improvement of Statistical Programs. It is not sufficient to maintain the status quo even if the available statistics are accurate, timely, and consistent. The characteristics of the subjects being measured are subject to continual change. Further, as national priorities change, new subjects must be considered as the focus for Federal statistics.

It is essential that the statistical system include provision for developing revisions and improvements which will encompass sound statistical principles. As indicated earlier in the brief example concerning the Consumer Expenditure Survey, revisions and refinements will inevitably create certain difficulties. It is essential that the decisions to institute such refinements and revisions be based on a firm expectation that more reliable and more sensitive statistical indicators will result, and that revision or discontinuance of a series should not be initiated simply because the available results had proved embarrassing or unresponsive to specific administrative policies.

Each year a number of improvements in the Federal statistical system are recommended and, frequently, adopted. This continual upgrading of the system must be encouraged and, where possible, accelerated. In relation to many other Federal activities, the cost of the Federal statistical system is small. However, with the current demands for budget stringencies, all areas are subject to pressure for future reduction. In view of the importance of statistical programs as the basis for overall policy formulation, caution should be exercised when pruning existing budgets or rejecting new programs which may be essential in the development of public policy.

A professional statistical system requires both well-qualified leadership and adequate budget support. It is recognized that there is a need for central planning to insure proper balance among all areas of demand for improved Federal statistical series. The Statistical Policy Division in the Office of Management and Budget should be encouraged to continue development of statistical policy which emphasizes these points. An outstanding beginning has been made as evidenced by the growth in support of statistical programs from $194.6 million in Fiscal 1970 to $312.6 million which has been requested for Fiscal 1974, an increase of 61 percent. During this period, programs for economic statistics increased from $126.3 million to $174.8 million, an increase of 38 percent, and programs for social and demographic statistics increased from $68.3 million to $137.8 million, a growth of 102 percent.

Adequate Technical Measures of Reliability and Sensitivity. The actual utilization of statistics in decision-making can be significantly influenced by the method of presentation and documentation as reflected in statistical reports. In order to minimize the problems of misuse of statistical series, it is essential that the available reports provide specific technical measures of the reliability and sensitivity of the data at hand. While many users of statistical series do not require full technical documentation of statistical procedures used in compilation, adjustment, and analysis of the data, it is essential for those who have a need or concern about these subjects that the basic reports include either indications of these technical factors or provide reference to source documents where these procedures are defined in detail.

The availability of this information is particularly important in distinguishing between preliminary, revised, and final estimates for key statistical components. If the available report does not clearly call attention to the character of the data being reported, there is a danger that broad media dissemination of the statistical measures will fail to reflect the limitations of the data themselves. Over time, the failure to distinguish between preliminary and final estimates tends to reduce public confidence in the statistical system by generating the appearance that frequent revisions were unanticipated when, in fact, they may be part of the basic procedures used.

The four characteristics of an adequate statistical system which have been discussed above serve as the framework for the following specific findings of the Committee and the recommendations which were presented earlier.

Findings of the Committee

The causes for concern which led to the formation of this Committee have been intensified during the past year. The primary finding of this Committee on the Integrity of Federal Statistics is that while there is no evidence that statistical results have been altered to support a particular point of view, there are tendencies—through reduced span of authority of professional leadership, appointment of noncareer personnel, and current and proposed reorganizations—to reduce or inhibit the independence of Federal statistical personnel. Therefore, it is particularly unfortunate that a continuing sequence of events has created broad concern regarding the professional integrity of the overall system, especially as a consequence of premature retirements of key professional staff members who, in other respects, would be expected to offer more years of exceptional service.

While the Committee has not elected to pursue specific allegations, it is clear that the organizational structure—especially through current and pending reorganizations—provides increasing opportunities to exert political influence on the development and interpretation of statistical programs. Specifically:

(1) Agency appointments of noncareer personnel, especially those with strong political affiliations rather than statistical credentials, can have an inhibiting influence on the quality, independence, and objectivity of statistical work. A further implication of such developments, in the longer term, will be a reduction in morale and a reduced incentive of both young and mature professionals to associate themselves with agencies which have overt political overtones. This will result in a deterioration of the professional role of Federal statistical agencies.

(2) The reorganization of statistical agencies undertaken in 1971 as the result of a directive from the Office of Management and Budget was intended to reduce the number of separate statistical agencies, to centralize production functions, and to separate the production of statistics from their use in the formulation of policy. These goals would have widespread professional support. However, the application of the directive in the Commerce Department led to the creation of a complicated overlay for the Census Bureau and the former Office of Business Economics, considerably downgrading the role and independence of the operating agencies. In the new organization, the opportunities for influence by noncareer officials for the selection of new programs, for the reduction of old programs, and for other program changes have been substantially increased.

(3) Since, for about two years, target dates for the release of principal economic indicators have now been published in advance, the discretionary authority over the timing of these releases has been eliminated. The OMB directive (Circular No. A–91, "Prompt Compilation and Release of Statistical Information"), designed to assure that deadlines are established for the preparation and release of statistical series, has not yet been implemented on an across-the-board basis. Until the efforts now being made to this end in the Statistical Policy Division are put into effect, it is still possible to withhold some reports from preparation or to delay others for political purposes.

The Committee believes that specific steps should be taken to allay the growing fears concerning politicization of the Federal statistical system and to ensure and maintain a high level of credible, professional, statistical work. In the light of the importance of such concerns, the Committee urges that the recommendations listed earlier be promptly implemented and that such actions be properly publicized.

ASA–FSUC COMMITTEE ON THE INTEGRITY OF FEDERAL STATISTICS

Joseph W. Duncan, Chairman Battelle Memorial Institute.

Daniel H. Brill (ASA), Commercial Credit Company.

Bernard Clyman (FSCU), The Equitable Life Assurance Society of the United States; Queens College, City University of New York.

A. Ross Eckler (ASA), Retired (Formerly, Director, U.S. Bureau of the Census).

Thomas A. Hannigan, Jr. (FSUC), International Brotherhood of Electrical Workers.

Robert E. Lewis (FSUC), First National City Bank, New York.

Robert S. Schultz, III (ASA), New York State Council of Economic Advisers.

DeVer Sholes (ASA), Chicago Association of Commerce & Industry.

APPENDIX A

ILLUSTRATIVE USES OF STATISTICS IN GOVERNMENT, BUSINESS, LABOR, AND UNIVERSITIES

These brief highlights concerning the role of statistics in governmental, industrial, labor, and universities' decision-making show the importance of selected key statistical series. It should be noted, of course, that there are many specialized statistical series which are not mentioned below which have particularly significant roles in areas where they are applied. There is no intent in this report to evaluate the importance of any specific series.

The Role of Statistics in Government. The importance of the Federal statistical system for policy-making and administration at the Federal, state, and local governmental levels is well-known. Almost every statistical program has its origin with legislative action which in turn requires data collection in support of program planning, administration, or evaluation. For example, the Decennial Census is mandated by a Constitutional requirement to establish the number of representatives from geographical areas throughout the nation.

The importance of maintaining public confidence in the output of our statistical system can be illustrated by selecting a few examples of the multitude of applications of statistical data in the legislative and executive branches of government. In many cases, the very organization of government itself is dependent upon statistical information. In addition to the apportionment requirement noted earlier, the size of staffs of elected representatives depend directly upon information regarding the number of people in a state or in a Congressional district. At the state and local levels, there are hundreds of provisions in various states where the population level established by the latest Decennial Census is used as a basis for allocating funds, creating boards, granting licenses, establishing jurisdiction of local officials, and setting salary levels.

Official statistical measurements are central to the development of legislative programs by the Congress. The record of legislative hearings is typically filled with statistical exhibits and there are literally innumerable references to specific items of data. Whether legislative policy is being determined, a new program is being established, or the results of existing programs are being reviewed, the legislative uses of governmental statistics are both numerous and extensive.

The range of data involved is impressive. For example, the development of social programs such as those relating to Social Security, welfare, and aid to specific classes of the population depends administratively on data concerning employment, income, hours of work, dependency, and many related subjects. As another example, policy-makers concerned with the problems of our environment and the use of natural resources require data on existing resource availability and utilization as the basis for defining available alternatives and appropriate policies. In this area the available data base must be used to provide estimates of the growth in future uses of these resources, to prepare estimates of time required for resource depletion and to provide a basis for deciding upon quotas and the allocation of supplies among competitive claimants.

In the regulatory area, the role of data as the basis for policy determination is especially evident. Regulation in the fields of transportation, power, and communications—to cite three board areas—are based to a great extent upon statistical information concerning the number and size of businesses involved, their capacity, capital investment, and degree of penetration in the total market. If the public were to lose confidence in the basic data which are used by regulatory agencies, the very nature of regulation itself would be subject to distrust and controversy.

To many observers of Federal policy-making, the continuing intervention of the administrative agencies of the Federal government in the national economy is perhaps the most evident policy interaction. The national income and wealth accounts play a major role in establishing legislation and policy concerning prices, wages, monetary trends, economic stabilization, and related topics. These data are typically the basis for research and policy planning in the executive branch of government and are continually used to evaluate results achieved by administrative programs. Data concerning cost of living, unemployment levels, and capacity utilization, provide the underpinning for national economic policy including such vital areas as budget formulation and fiscal administration, as well as the administration of specific programs.

The allocation of Federal and state funds depends directly upon a number of statistical measures—including the size of the population as a whole or selected classes of the population such as public assistance recipients. Data concerning income levels, miles of highway, numbers of pupils, and other measures are provided for in a network of legislation enacted by the Congress and by state legislators. Decisions at a variety of governmental levels relating to urban renewal, public housing, recreational facilities, drainage and water supply, and health and educational facilities of all kinds must be made in the light of full information regarding the population and its characteristics.

These examples indicate that it would indeed be difficult to overestimate the value of sound statistical information in the governmental structure of the United States a structure which has long been accustomed to making decisions on the basis of facts. The ultimate test of programs depends upon objective evaluation of the results achieved. For this purpose, reliable and continuing social and economic statistics of unquestioned validity are essential. In addition, there should be provided a body of administrative statistics for each major program, properly planned and clearly presented so that agency officials, the Congress, and the general public can judge the results that have been obtained and can call for improvements when necessary.

The Role of Statistics in Business. In addition to the internally generated statistics unique to individual businesses, most corporations rely upon Federal data for many of their critical decisions in areas such as business planning, market research, financial administration, purchasing, and personnel administration.

Corporation long-range planning frequently begins with analysis of national income accounts and related data such as industry production levels as the basis for establishing the broad market context for individual corporate operations. In fact, many large corporations employ full-time economists whose primary function is analyzing national economic developments and determining their impact upon the individual corporation.

Businessmen look to statistics to tell them how the economy in general is faring as a guide in making long-range investment decisions or setting sales quotas for the year ahead. They want to get advance warning on cyclical turning points and the amplitude and duration of expansions and contractions. But frequently their needs are more precise. They want to know how each of their product lines is faring relative to industry as a whole. They want to gauge the growth of individual markets as a guide to inventory policy, plant and equipment expenditures, and new product development. They want to assess Federal budget deficits, monetary policy and interest rate trends as they may affect the financing of their firms' growth and investment. They rely on figures on prices, labor markets, wages, and supplies of materials as guides to their current operations.

Market research departments in industry extensively utilize Federal data concerning population characteristics and industry characteristics to determine basic market trends and opportunities.

Financial departments in major corporations carefully evaluate basic monetary trends as measured by the Federal Reserve System to determine current and future financial developments which will influence the cost and availability of capital to the corporation.

Purchasing officers rely upon Federally produced statistics, such as commodity price data of the Departments of Agriculture and Labor and figures on shipments and inventories from the Department of Commerce to determine availability and cost of basic materials for manufacturing the firm's products.

Personnel departments rely upon local and national wage and income surveys to determine appropriate salary and fringe benefit schedules.

Hence, it is evident that in nearly all facets of business and industry, basic decisions which are essential to effective operation of the corporation are made on the basis of Federal data.

Additionally, the Federal statistical system is vital to the concerns of business in many respects beyond their internal use of data for operations and planning. The quality of the statistical base used in establishing regulatory policy, administrative programs such as the New Economic Policy—Phases II and III, and the formulation of legislative guidelines (in vital areas such as pollution standards, product quality, and import-export regulations) is crucial to business leaders and decision-makers.

The Role of Statistics in Labor Negotiations. Federal statistics directly affect the entire scope of industrial relations, including collective bargaining and contract administration. Collective bargaining is a key element in the American free enterprise system, and it could not be successfully carried on without reliable Federal statistics acceptable to all interested parties—labor, management, and the general public alike. Both parties at the bargaining table need objective insight and understanding into each other's positions. Also, they direct much of their efforts toward convincing the general public of the equity of their own positions as reflected in objective official statistics. In this often supercharged atmosphere, negotiations would quickly deteriorate into chaos if no reliable and acceptable statistics were available as the focus of discussions. The same would be true of the day-to-day operations of contract administration.

Statistics of key importance for collective bargaining and contract administration include wages by industry, region and state, and trends and industry data relating to fringe benefits such as paid holidays, vacations, health insurance, and pension benefits. Cost-of-living provisions based on the Consumer Price Index affect the income of four million workers and pensions of two million retirees. Business and labor groups use the Consumer Price Index to develop retirement and health insurance programs, the government, to formulate social and economic policies, and individuals, to check on their real earnings. The Pay Board adopted consumer price indexes along with productivity indexes as the two major criteria governing acceptable noninflationary wage increases.

Labor market conditions and the amount of unemployment are matters of primary interest to union and management negotiators as indicators of the economic situation in given areas or localities. Statistics measuring the frequency and severity of work injuries by industry are of great importance to labor and management since they serve as the basis for specific insurance provisions and new laws designed to protect workers from death and disabling injury. Any lack of confidence in their accuracy or reliability by either of the parties concerned would jeopardize this accepted approach to the settlement of conflicting positions.

The interest of labor in good statistics is not limited to their usefulness in labor negotiations, however. Statistical information is vital in the formulation of much legislation which either expands or restricts the basic rights of labor and management. Many far-reaching economic decisions made by government leaders such as establishing the Construction Industry Stabilizing Council plus the imposition of wage and price controls are based upon Federal statistics.

The Role of Statistics in Universities. Universities continually conduct research designed to assist business, labor organizations, and government agencies in making sound decisions of the kind illustrated above. In addition, universities use Federal statistics to test basic theories on which such decisions are based and to search for more useful theories in a diverse range of topics including all areas of social, biological, physical and economic systems. Much of the basic research is cooperative among government, business, and universities. Clearly, we cannot develop true understanding of basic social and economic processes unless our historical records are comprehensive and accurate.

Of equal importance, the entire education process depends upon the evaluation and interpretation of basic data. If the student and/or teacher lacks confidence in the information base, it is difficult for the educational endeavors to proceed.

Other Roles. There are many important uses for statistics which have not been mentioned in the above sections.* The intent here is simply to illustrate the importance of statistics in a wide range of sectors. For example, the discussion of statistics in labor negotiations is only one example of the use of statistical series by the labor movement. Many uses by other sectors could be emphasized including use of crop reports and other agricultural statistics by individual farmers and consumers, statistical analyses by state and local governments in establishing governmental policy, and use of statistics by news media as an underpinning for planning future program emphasis, reporting on current problems, etc.

As noted in the introduction to this report, the discussion of the importance of reliable statistics which are evident in government, labor, industry, and universities are highlighted above to demonstrate that accurate and credible Federal statistics are: "... absolutely essential if the ongoing policy and planning needs of private and governmental users alike are to be satisfied."

APPENDIX B

NOVEMBER 10, 1972.

STATEMENT OF POLICY BY THE SECRETARY OF LABOR CONCERNING THE ROLE OF THE BUREAU OF LABOR STATISTICS

In Order No. 4969, dated November 25, 1969, the Secretary delegated authority for labor statistics programs to the Commissioner of Labor Statistics. Traditionally, the Bureau of Labor Statistics, which the Commissioner heads, has had a dual responsibility. One is to serve as the statistical and research arm of the Department of Labor, supplying the Department and its program offices with data important to their functioning. The other is to provide information to the public on subjects concerning labor in the most general and comprehensive sense. Both responsibilities require that the Bureau maintain, in the highest degree, scientific independence and integrity. The second function, particularly, requires that the public be confident that the Bureau does, in fact, possess these qualities and that they will be preserved.

The purpose of this statement is to reaffirm the importance of the Bureau's scientific integrity, and to set forth certain guidelines that will help to preserve it.

The decision-making process in producing statistics involves:

The allocation of BLS resources.

The appointment of personnel and selection of advisory committees.

The determination of appropriate statistical methods and operating procedures.

The preservation of confidential records supplied by respondents to surveys.

The preparation of technical analysis and interpretation of the data.

The release of information to the public.

The Commissioner's decisions with regard to these matters must, of course, follow the policy, budget and program objectives established by the Department of Labor. They must also conform to the statistical standards and policies established by the Office of Management and Budget under the Federal Reports Act. However, there shall be no decisions which are not in concert with the professional and technical expertise of the Bureau. Under these conditions scientific independence will continue to be the hallmark of the Bureau of Labor Statistics.

A number of specific safeguards help to preserve this scientific independence. Among them are the following:

1. Two active advisory councils are informed about and advise upon BLS programs and decisions. They are the Business Research Advisory Council, with representatives drawn from the business community, and the Labor Research Advisory Council, with representatives from labor unions. The two councils operate independently of one another, and both have numerous committees concerned with every subject-matter area covered by the BLS.

2. A new Academic Advisory Council will be organized later this year, with members from several professional organizations. This new group, consisting of economists and statisticians in universities and research institutions, also will advise the BLS on its program and procedures.

3. In the release of principal economic indicators BLS follows guidelines established by the Office of Management and Budget that help to assure the objectivity of Federal statistics:

a. Data are released by the principal statistical officer in charge of the agency. This means that the Commissioner determines the date and hour of release and approves the text of the release, and that the BLS is clearly identified as the source agency in the release.

b. Data are released as promptly as possible, and always within two working days after they have been compiled and checked.

c. The schedule of release dates is published in advance.

d. In order to clearly separate the release of data from policy-oriented commentary, no comments by a policy-making official are made until at least one hour after the release of the data by the BLS.

4. The Secretary has delegated to the Commissioner full authority to set up appropriate procedures and regulations to safeguard the confidentiality of the reports made to BLS by respondents to its surveys. These regulations apply throughout the Department as well as to other agencies or individuals within or outside the government, and prevent the use of BLS data for other than statistical purposes.

JAMES D. HODGSON,
Secretary of Labor.

Source: *Statistical Reporter,* December 1972, pages 91–92.

APPENDIX C

LISTING OF SELECTED MEDIA ARTICLES CONCERNING INTEGRITY OF THE FEDERAL STATISTICAL SYSTEM*

September 29, 1971—*The Washington Post,* "Nixon Ousting Labor Analysis" by Frank C. Porter.

November 17, 1971—*The New York Times,* "Lawmaker Sees Census Politics" by Jack Rosenthal.

February 25, 1972—*Journal of Commerce,* "A Staff Report—Does the Administration Cloud Statistics on Business Activity?"

August 1972—Annual Meeting of the American Statistical Association *Statistics and Politics* by Philip M. Hauser.

September 6, 1972—*The Washington Post,* article by Nick Katz, "Farm Income Knowingly Overstated by $1 billion".

October 22, 1972—*The New York Times,* Washington Report Article by Eileen Shanahan on intepretation of economic statistics.

November 5, 1972—*The New York Times,* Letter to the Editor from Harold C. Passer discussing above article by Eileen Shanahan on his interpretation and pronouncements during the recession in 1970.

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*The official report of *The President's Commission on Federal Statistics* includes a lengthy discussion of various groups which are users of statistics—Volume I, pp. 77, 102.

*Editorial comments have also included political cartoons such as that in *The New Yorker*'s issue of October 14, 1972, depicting the "Bureau of Rosy Statistics."

November 6, 1972—*The Wall Street Journal*, Review and Outlook—"The BLS Fuss."

November 27, 1972—*The Wall Street Journal*, Letter to the Editor by Senator Proxmire pointing out that the Joint Economic Committee had been holding monthly employment data hearings since they were discontinued by BLS.

December 20, 1972—*American Banker*, Business Outlook by J. A. Livingston, reports the surprise and astonishment of economists and statisticians at the accepted resignation of Geoffrey H. Moore as Commissioner of Labor Statistics.

January 29, 1973—*The Wall Street Journal*, front page news item noting resolution by the Industrial Relations Research Association.

APPENDIX D

RESOLUTION BY THE INDUSTRIAL RELATIONS RESEARCH ASSOCIATION EXECUTIVE BOARD

December 29, 1972.

The Executive Board of the Industrial Relations Research Association, having received and considered a report from its committee appointed to investigate recent events concerning the U.S. Bureau of Labor Statistics, resolves as follows:

1. that public confidence in the professional integrity and credibility of the Bureau of Labor Statistics is essential, because the Bureau publishes data and materials which are used regularly in the labor-management relations, business contracts and economic forecasts;

2. that the credibility of the Bureau of Labor Statistics has been impaired by events of the last two years, including the termination of press conferences by Bureau of Labor Statistics personnel and the subsequent reassignment of key personnel in the Bureau;

3. that the Board views with particular concern the acceptance of the requested resignation of the Commissioner of Labor Statistics three months prior to the expiration of his statutory term of office, because this termination under these circumstances represents a sharp break with the long-established tradition that this position has not been regarded as a political appointment;

4. that it is most important if further impairment of the credibility of the Bureau of Labor Statistics is to be avoided, that the new Commissioner be a person with the highest professional qualifications and objectivity;

5. that it is desirable that the decision to discontinue press briefings by the Bureau of Labor Statistics technical personnel should be carefully reconsidered;

6. that nothing in this resolution should be construed to indicate that this Association questions the integrity of the preparation of BLS figures.

To be signed by: Ben Aaron, President 1972, Douglas Soutar, President, 1973, David Johnson, Secretary-Treasurer.

Source: *Congressional Record*, January 11, 1973, page 788.

APPENDIX E

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET, WASHINGTON, D.C. 20503

APRIL 26, 1972.

To the Heads of Executive Departments and Establishments.

Subject: Prompt compilation and release of statistical information.

1. *Purpose*. The purpose of this Circular is to insure that the principal statistical series which are issued by agencies to the public annually or more frequently are released without unnecessary delay and that the publication dates for the principal weekly, monthly and quarterly indicators are made publicly available in advance. The prompt release of official statistics on a regular schedule is of vital importance to the proper management of both private and public affairs.

2. *Rescission*. This Circular supersedes and rescinds Circular No. A-91, dated February 12, 1969. It covers annual and semiannual series as well as those issued more frequently. Also it reduces from quarterly to annually the reports required by the Office of Management and Budget on the release of certain statistical series having more limited use than the principal indicators identified each month in the OMB publication, *Statistical Reporter*.

3. *Authority*. This Circular is issued under the authority of Section 103 of the Budget and Accounting Procedures Act of September 12, 1950 (31 U.S.C. 18b), Executive Order 10253 of June 11, 1951, and Executive Order 11541 of July 1, 1970.

4. *Coverage*. The Circular applies to all statistical series issued by agencies to the public annually or more frequently, unless otherwise exempted by the OMB.

5. *Objectives*. It is the aim of this Circular to accomplish the following objectives:

a. The shortest practicable interval should exist between the date or period to which the data refer and the date when compilation is completed. Prompt public release of the figures should be made after compilation. In the case of principal indicators, the goal is to accomplish compilation and release to the public within 20 working days. Within this period no more than two working days should be allowed for the public release of data, unless other arrangements are approved by the OMB.

b. In the case of other series, more time can be allowed, but every effort should be made to keep it to a minimum. Series requiring an inordinately long time to compile should be reviewed to see what purpose they serve and whether they should be discontinued or reduced in frequency (e.g., monthly series made quarterly or annual).

c. Release dates for principal economic indicators will appear each month in the OMB publication, *Statistical Reporter*. Care should be taken in scheduling these release dates so that they can be met. Unless directed otherwise by OMB, figures which become available early should be released early.

d. Initial release of statistical series should be made by the statistical agency in a written report. A press release should be issued if it would significantly speed up the release of the data to the public. There should be a one-hour separation between the issuance of the release by the statistical agency and released commentary.

6. *Responsibilities*. Each agency is directed to review continually its practices in releasing statistical series to the public and to take such action as may be necessary to carry out the objectives of this Circular.

7. *Reports and records*. Each agency that publishes statistics subject to the provisions of this Circular will submit reports to the OMB and maintain records in accordance with instructions in the Attachment and in the formats of the Exhibit.*

8. *Inquiries*. For any information concerning this Circular, please call the Office of Management and Budget, Statistical Policy Division, telephone: code 103-4911 or 395-4911.

GEORGE P. SHULTZ,
Director.

AMERICAN ASSOCIATION FOR PUBLIC OPINION RESEARCH,

New York, N.Y.

At the 28th Annual Conference of the American Association for Public Opinion Research in Asheville, North Carolina, the Executive Council of AAPOR adopted the following resolution unanimously, on May 20, 1973.

The integrity and accuracy of census data are vital to our political and economic systems, and to the practice of public opinion research. It is essential that the Bureau of the Census remain free of political influence and that it continue to attract professional personnel of the highest caliber. Its director must be an individual who can command the respect and confidence of its staff and of users of the census data.

We strongly urge the Senate, keeping these criteria in mind, to consider with exceptional care the credentials of any nominee to this office.

HAROLD MENDELSOHN,
President.

STATEMENT OF THE EXECUTIVE COMMITTEE OF THE AMERICAN ECONOMIC ASSOCIATION ON INTEGRITY IN THE FEDERAL STATISTICS SERVICES

We are deeply concerned over the issue of intrusion of political influence into the process of reporting and collecting Federal statistics. Symptoms of such intrusion are the increasing use of political rather than professional staff to release and interpret Federal economic statistics, the forced resignations of highly qualified statistician-economists like Dr. Geoffrey Moore as Commissioner of Labor Statistics and Dr. George Hay Brown as Director of the Bureau of the Census, and the appointments of Mr. Vincent Barabba as Acting Director of Census and Mr. Edward D. Failor as Administrator of the Social and Economic Statistics Administration.

Our immediate concern is that neither Mr. Barabba nor Mr. Failor appears to have the high professional qualifications required for the demanding tasks of overseeing the gathering and reporting of the Federal statistics on which analysis and forecasting for the U.S. economy are necessarily based. Their service to Mr. Nixon in the 1972 political campaign may well qualify them for some appropriate recognition, but we question the wisdom of political appointments to such exacting professional positions. Such appointments will reinforce doubts about the integrity of Federal statistics and threaten the quality of Federal data hitherto viewed as among the best, perhaps the best, in the world.

Since Mr. Barabba's appointment is subject to Senate confirmation, we urge the Senate Post Office and Civil Service Committee to submit his qualifications to the most searching scrutiny and to reject his nomination unless evidence of relevant professional qualifications not apparent to us is found in that process.

Our broader and longer-range concern is over the quality and integrity of the Federal statistical service as a whole. In this connection, we fully endorse the four recommendations of the select committee of the American Statistical Association and the Federal Statistics Users' Conference, as follows:

1. Heads of statistical agencies should be nonpolitical professionals of high stature and reputations and be in the career service.

2. These heads of agencies should have direct control of their own activities particularly with respect to hiring and firing, budget and planning, and publication.

3. Data should be released on a fixed, free stated time schedule by the agency which produced the data.

4. Advisory committees to statistical agencies should be selected without regard for political affiliation with a number of specific appointments from professional statistical organizations.

Signed: —— ——.

Phone message from Rendigs Fels, Secretary-Treasurer, 6/18/73.

"The Executive Committee has approved the statement by mail ballot. There was no dissent among those responding. Two members who are out of the country did not respond."

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* Attachments available from the Office of Management and Budget upon request.

THE AMERICAN SOCIOLOGICAL ASSOCIATION,
June 19, 1973.

DR. CLIFFORD HILDRETH,
President, American Statistical Association, Washington, D.C.

DEAR DR. HILDRETH: In its meeting on June 3, 1973, the Council of the American Sociological Association, representing more than 14,000 members, was informed of your vital leadership in challenging the nomination of Mr. Vincent P. Barabba as Director of the Bureau of the Census. Upon reading your exchange of correspondence with The Honorable Frederick B. Dent, Secretary of Commerce, Council, by unanimous resolution, instructed me to convey to you our total support in your efforts to convince the Administration and the Senate of the United States that this type of appointment to this key post constitutes a grave threat to the integrity of basic data collection and dissemination by the Bureau of the Census.

As you know, the Bureau of the Census is a prime source of information for the wide-ranging scientific and applied work of sociologists. Many of our efforts, including those to analyze social problems, chart social change, study social institutions, and inform public policy, rely in a fundamental way on the validity and reliability of data developed by the Bureau of the Census. Accordingly, it is essential that our colleagues, both in this discipline and in the other social sciences, have full confidence in the Director of the Bureau. Our appraisal of the qualifications of the current nominee, Mr. Barabba, does not convey that confidence.

Therefore, the American Sociological Association applauds your efforts to sensitize our political leadership to the necessity for appointing a Director with training and experience equal to the administrative and technical challenge of the position. To do less is to undermine an organization that must command respect if it is to attract competent researchers and continue to produce information essential to the understanding of American society.

Sincerely yours,
OTTO N. LARSEN,
Executive OFFICER.

THE BIOMETRIC SOCIETY,
Chapel Hill, N.C., June 4, 1973.

DR. CLIFFORD HILDRETH,
Department of Economics, University of Minnesota, Minneapolis, Minn.

DEAR CLIFFORD: The Regional Advisory Board of the Biometric Society (ENAR) discussed at some length the appointment of persons to head the Commerce Department's Social and Economic Statistics Administration and to head the Census Bureau who have no statistical qualification.

The Advisory Board voted unanimously to go on record as being against such appointments and affirmed their support of the resolution passed by the ASA Committee. The Advisory Board requested that I bring these appointments to the attention of those attending the Joint Spring Meeting. Xerox copies of the New York Times story were distributed at the Presidential Invited Address and I spoke to those attending this session about the urgency of writing their Senators about the appointment of unqualified persons to such important posts.

Sincerely yours,
JAMES E. GRIZZLE,
Professor.

June 17, 1973.

PROF. CLIFFORD HILDRETH,
Minneapolis, Minn.

DEAR PROFESSOR HILDRETH: On June 11 the executive committee of the Biometric Society, WNAR, discussed the question of qualifications for persons appointed to administrative positions within government agencies responsible for gathering, analyzing, and reporting statistical information. This was prompted by the general interest within the statistical community concerning the two recent nominees to head the Census Bureau and the Commerce Department's Social and Economic Statistics Administration. Our committee strongly supported the concept that recognized professional competence in statistics be a major consideration in these appointments and recommended that such a viewpoint, as expressed in the report of the joint committee of the American Statistical Association and Federal Statistics Users Conference, be proposed to our membership for discussion and possible action. This was done on the same day at the annual business meeting of the society. As President I was instructed to convey to you and the other American statistical societies, our support for the committee report from A.S.A. and F.S.U.C. and to pursue any further positive action by the societies directed toward maintaining and improving the professional competence of those responsible for governmental activities in statistics.

Yours truly,
JAMES S. WILLIAMS,
President, Biometric Society, WNAR.

CONFERENCE ON RESEARCH IN INCOME AND WEALTH,
New York, N.Y., June 15, 1973.

HON. FREDERICK B. DENT,
Secretary of Commerce,
Washington, D.C.

DEAR MR. SECRETARY: We the members of the Conference on Research in Income and Wealth have voted to communicate our views about the qualifications for the positions of Director of the Bureau of the Census and Administrator of the Social and Economic Statistics Administration. We are a private organization of about 150 statisticians and economists in government, universities and private research organizations.

As intensive users of government statistics, we feel that the heads of these agencies and other statistical agencies of the government should demonstrate concern for accuracy and high technical standards in statistics as well as independence from strong partisan political involvement.

We urge you to make sure that whoever occupies these positions meets these qualifications without question.

Very truly yours,
FRANK DE LEEUW,
Chairman of the Executive Committee (for the membership of the Conference).

AMERICAN PSYCHOLOGICAL ASSOCIATION,
Washington, D.C., June 15, 1973.

DR. CLIFFORD HILDRETH,
President, American Statistical Association, Washington, D.C.

DEAR DR. HILDRETH: Enclosed is a copy of a letter sent by the President, Division of Consumer Psychology of the American Psychological Association to the Senate Committee on Post Office and Civil Service. It expresses the concern of the Division that political considerations might influence the appointments of individuals to head the Census Bureau and the Social and Economic Statistics Administration.

The American Psychological Association shares the concern of its Division of Consumer Psychology. It joins the American Statistical Association in its hope that appointments to head these programs will be of individuals of demonstrated statistical competence and administrative skill and not on the basis of political considerations.

Sincerely yours,
KENNETH B. LITTLE,
Executive Officer.

DIVISION OF CONSUMER PSYCHOLOGY,
June 8, 1973.

At the June 1 meeting of the Executive Committee of Division 23, the Consumer Psychology Division of the American Psychological Association, members expressed the following concerns related to the appointment of the heads of the Census Bureau and the Social and Economic Statistics Administration:

"As professional psychologists engaged in the practice of consumer research, we are keenly concerned with maintaining the ethical principles that govern the interpretation of research findings and the relations of the researcher to the people who are the sources of his evidence.

"It is unthinkable to us that any political controversy could surround those responsible for the integrity of government data of the highest social, political and economic importance. The quality of these data is dependent upon the competence and morale of our colleagues, social scientists in career government service.

"With these considerations in mind, we ask the Senate to look carefully into the qualifications of the recent nominees to head the Census Bureau and the Social and Economic Statistics Administration."

As this year's President of the Division, I was asked to forward this expression of our feelings to you.

Respectfully,
THEODORE F. DUNN, PH. D.,
President,
Consumer Psychology Division, APA.

RESOLUTION, JUNE 15, 1973

The Council of the Institute of Mathematical Statistics, having taken cognizance of the appointment of Mr. Edward D. Failor as Head of the Social and Economic Statistics Administration and of the proposed appointment of Mr. Vincent P. Barabba as Head of the Bureau of the Census, wishes to express the Society's distress concerning the grave implications of these appointments.

The two agencies involved are at the heart of U.S. federal statistics, and need at their direction persons with substantial statistical training. They must also remain above any suspicion of political manipulation.

The proposed appointments are not calculated to satisfy these conditions. On the public record, as we appraise it, the evidence does not establish the qualifications of the candidates to satisfy these essential requirements.

THE UNIVERSITY OF WISCONSIN,
Madison, Wis., May 1, 1973.

MR. FRED C. LEONE,
Executive Director,
American Statistical Association,
Washington, D.C.
MR. JOHN H. AIKEN,
Executive Director,
Federal Statistics Users' Conference,
Washington, D.C.

GENTLEMEN: We, the undersigned members of the Department of Statistics, University of Wisconsin-Madison, support the recommendations made by the American Statistical Association—Federal Statistics Users' Conference Committee on Maintaining the Professional Integrity of Federal Statistics as they were published in the April 1973 issue of The *American Statistician*. We hope these recommendations will be promptly implemented.

We commend the Committee on its work and note with concern the Committee's primary finding "that while there is no evidence that statistical results have been altered to support a particular point of view, there are tendencies—through reduced span of authority of professional leadership, appointment of noncareer personnel, and current and proposed reorganizations—to reduce or inhibit the independence of Federal statistical personnel."

Sincerely yours,

John Gurland, Gus Walker, Richard Johnson, John Van Rygin, N. R. Hope, G. C. Teter, H. J. Arnold.

William G. Hunter, Robert B. Miller, James C. Helsman, Sam T. Rose, G. R. Dettechapp, Jerome H. Klotz, Bill Hass, Jerome H. Senturn.

TESTIMONY OF MR. TONY GALLEGOS SUBMITTED TO THE SENATE POST OFFICE AND CIVIL SERVICE COMMITTEE ON THE NOMINATION OF VINCENTE R. BARABBA

In view of the fact that we were unable to present our remarks in person, the following comments are submitted for the record:

As National Chairman of the American GI Forum—we should like to point out that the GI Forum is the largest Spanish-speaking Veteran's organization and has been in existence since World War II.

We in the Forum, share with other Spanish-speaking organizations the same negative feeling about the role that the Census Bureau has played in the gathering of population statistics. It appears that the practices which created an undercount for the Spanish-speaking are still in effect. With the appointment of Vincent R. Barabba we ask that an end be made to these practices and that a more equitable use of population statistics as they pertain to Spanish-speaking, Spanish-surnamed citizens of this nation be made.

Mr. PROXMIRE. I yield 5 minutes to the Senator from Minnesota and 3 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 5 minutes.

Mr. HUMPHREY. Mr. President, I join with the distinguished Senator from Wisconsin in his opposition to the confirmation of the nomination of Mr. Vincent Barabba to be Director of the Bureau of the Census.

I also note that my distinguished senior colleague, Senator MONDALE, is also opposed to the nomination.

Mr. President, I am opposed to the confirmation of Mr. Vincent Barabba for the position of Director of the Census. I oppose this nomination not from doubts of the nominee's personal qualities, but from the conviction that in this time of increasing suspicion and decreasing credibility of governmental agencies, the Census Bureau leadership cannot be allowed to have the appearance of political compromise or any tinge of political partisanship.

Mr. Barabba has fine personal qualities, a fine character, and is a good man, a good guy, as we say. I am sure that he has many fine attributes.

Mr. President, both the Senator from Wisconsin and I are privileged to serve on the Joint Economic Committee. The Senator from Wisconsin has been chairman of that committee. I am sure that we could list for our colleagues many occasions in the last few years when we have had difficulties with some of the statistical evidence that has come before our committee. What I think the Senator from Wisconsin is stating here is that in this particular position we need a man trained in statistical data, in statistics and statistical information, a person of professional ability and training. And it seems to me that on that basis Mr. Barabba fails the test.

Mr. Barabba's experience is in owning and running a marketing research organization that did political polling for the reelection of President Richard Nixon. Mr. Barabba has also conducted political polling for a number of other Republican candidates.

I might add that most of them have been members of the Republican Party. I might say that a distinguished gentleman from California, Mr. Mannit, a Democrat, wrote me and expressed his personal approval of Mr. Barabba and spoke of him with the highest of praise.

Mr. President, the president of the American Statistical Association, Prof. Clifford Hildreth—who I am proud to say is a faculty member of the University of Minnesota—wrote to me opposing the confirmation of Mr. Barabba. Dr. Hildreth writes:

> The problem of maintaining a federal statistical system of high usefulness and unquestioned integrity has been an increasing concern of professional statisticians for several years . . . I hope you and Senator Mondale will seriously consider the desirability of refusing confirmation to Mr. Barabba . . .

Mr. President, Dr. Hildreth has also written the Secretary of the Commerce Department, Frederick Dent, opposing the nominations. To Mr. Dent, Mr. Hildreth wrote:

> I find no evidence that either the appointee or the nominee has had statistical training, experience or contact with the statistical profession. Such appointments are in direct conflict with the judgments of responsible statisticians including a large number who have rendered outstanding service to the Bureau of Census and/or other governmental agencies.

Mr. President, the position of Census Director demands the highest standards of experience and professional excellence available in our country. Businessmen, labor leaders, labor-management negotiators, academics, the U.S. Congress, the Council of Economic Advisers, and just about any other agency utilizes the statistics gathered and published by the Census Bureau. There must be and, indeed, there cannot be any politicizing of those statistics.

These statistics must have automatic and unimpeachable credibility. And the Director of the Census must represent that credibility in his professionalism.

For these reasons, I shall vote against the confirmation of Mr. Barabba for the position of Census Director, but, again, with no criticism of him personally.

Mr. President, I ask unanimous consent that my letter to Chairman MCGEE and Professor Hildreth's letter to me and my response to him be printed, plus Professor Hildreth's letters of April 30 and May 25 to Secretary of Commerce Dent and Prof. Walter Heller's letter to Senator MCGEE be placed in the RECORD at this point. I also ask that an editorial from the Washington Post entitled "Integrity in Numbers" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNIVERSITY OF MINNESOTA,
Minneapolis, Minn., May 10, 1973.
Hon. HUBERT H. HUMPHREY,
U.S. Senate,
Washington, D.C.

MY DEAR SENATOR HUMPHREY: The problem of maintaining a Federal statistical system of high usefulness and unquestioned integrity has been an increasing concern of professional statisticians for several years. The enclosed report of a joint committee of the American Statistical Association and the Federal Statistics Users' Conference expresses this concern and makes several constructive recommendations. The report has been approved by the Board of Directors of ASA and the Board of Trustees of FSUC.

As indicated in my letter of April 30 to Secretary Dent (copy enclosed), the judgments underlying the report were clearly violated by the recent selection of Mr. Failor and Mr. Barabba for key statistical posts in the Department of Commerce. As a concerned Minnesota citizen I hope you and Senator Mondale will seriously consider the desirability of refusing confirmation to Mr. Barabba and exerting whatever pressures may be available to get the appointment of Mr. Failor withdrawn.

I sincerely hope the nominee for Commissioner of Labor Statistics (see enclosed letter to Secretary Brennan) will be one that professional statisticians can support.

Sincerely yours,

CLIFFORD HILDRETH,
Professor of Economics.

U.S. SENATE,
Washington, D.C., May 16, 1973.
Mr. CLIFFORD HILDRETH,
Professor of Economics, Center for Economic Research, Science Classroom Building, Minneapolis, Minn.

DEAR PROFESSOR HILDRETH: Thank you for your recent letter concerning the nomination of Mr. Vincent Barabba to be Director of the Census and the appointment of Mr. Edward Failor as head of the Social and Economic Statistics Administration.

I certainly agree with you that the heads of the federal statistical bureaus must be of unquestioned integrity and professional background. For that reason, I am enclosing a letter I have written to Senator Gale McGee asking for indepth hearings on the nomination of Mr. Barabba. I am also enclosing a statement I made to the Washington Post on this subject.

I appreciate your bringing this problem to my attention.

Sincerely,

HUBERT H. HUMPHREY.

U.S. SENATE,
Washington, D.C., May 16, 1973.
Hon. GALE W. MCGEE,
Chairman, Post Office and Civil Service Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am enclosing a letter written by Dr. Clifford Hildreth of the University of Minnesota. Dr. Hildreth is the President of the American Statistical Association, and in his letter to me he expressed his concern over the nomination of Mr. Vincent Barabba as Director of the Census, and the appointment of Mr. Edward D. Failor as head of the Commerce Department's Social and Economic Statistics Administration.

I would hope that in the case of Mr. Barabba your Committee would examine the background and qualifications of the nominee in great detail. A position of this nature demands the highest standards of experience and professional excellence available in our country. The value of federal statistics can not be placed in doubt or compromised. There can be no political influence in the collection, production or dissemination of data which is crucial to policy and program judgments made by government and private sector. I would also hope that Dr. Hildreth and others would have an opportunity to testify on this nomination.

As for Mr. Failor's appointment, although this position is not subject to Senate confirmation, I would hope that the Secretary of Commerce would re-examine this appointment in view of Mr. Failor's obvious lack of qualifications for this statistical post.

Sincerely,

HUBERT H. HUMPHREY.

MAY 25, 1973.

Hon. FREDERICK B. DENT,
Secretary of Commerce,
Washington, D.C.

MY DEAR MR. SECRETARY: Your letter of May 11 is appreciated, but I must disagree sharply with its implications. The central idea in the recent ASA-FSUC report on integrity was that, at the very least, political appointments to statistical agencies raise reasonable public doubts about the integrity of the statistics gathering and dissemination process. This alone greatly reduces the value of Federal statistics. Events of the past several years and the expressions of concern that have come from many sources amply confirm this contention.

If political appointments are allowed to continue, actual political manipulation of data is a possibility. Manipulations of time and manner of releasing data, and kinds of data gathered, are already widely believed to have been politically motivated. Satisfactory alternative explanations have not been offered.

Even if, which I gravely doubt, the question of integrity could somehow be resolved, the question of effectiveness of Federal statistical programs would remain a crucial matter. I agree that good administration is vital in SESA and Census, but I cannot see how appointees who have not had training or experience in statistics or social sciences can administer statistical programs in these areas better than capable administrators who have had relevant training and experience. A head who can understand the technical problems faced by his staff and who can directly share in the evaluation of proposed improvements would appear to be in a much better position to "strengthen . . . the statistical and analytical functions of the Social and Economic Statistics Administration".

Sincerely yours,

CLIFFORD HILDRETH,
President.

UNIVERSITY OF MINNESOTA,
Minneapolis, Minn., May 25, 1973.
Senator GALE W. MCGEE,
Chairman, Post Office and Civil Service Committee, U.S. Senate, Washington, D.C.

DEAR SENATOR MCGEE: The Post Office and Civil Service Committee has before it the nomination of Vincent P. Barabba as Director of the Census.

A review of Mr. Barabba's qualifications strongly suggests that he lacks the professional qualifications and stature that are needed to direct the work of this vital statistical agency. Indeed, his appointment would be prejudicial to the quality of the Federal statistical services and injurious to the morale of professionally qualified staff in the Bureau.

On the basis of many years of cooperation with officials of the Census Bureau, and having chaired one of its advisory committees, I know what a vital role the Director plays in maintaining the morale and quality of the staff of the Census Bureau and the integrity and respect for its work. The economics profession, like our colleagues in statistics, have had reason to be proud of the work of the Census Bureau and the reputation and competence of previous Directors.

Presidents have respected the professional role of the Bureau and the principle of its professional independence—in short they have recognized that some Presidential appointments must be free of partisan politics and that this position is unquestionably one of them. The nomination of Mr. Barabba makes clear that the Nixon Administration thinks otherwise.

Since Mr. Barabba's professional qualifications for this position are minimal—matching those, perhaps, of some of the junior professional people he would supervise—one can only conclude that political considerations dominate this nomination. Surely, if the morale of the Census Bureau staff and the quality of its work were uppermost—or even high—in Mr. Nixon's priorities, Mr. Barabba would not have been nominated for this post at a time when the quality and integrity of the Federal statistical services are being called into question. It is particularly important to appoint a person of high professional qualifications and unquestioned objectivity to head the Census Bureau. Whatever his qualifications may be for other posts, Mr. Barabba does not meet these tests.

To provide chapter and verse on the nature of my concern about the integrity of our statistical system and the inadequacy of Mr. Barabba's qualifications for this vital post, I enclose copies of articles from the *Minneapolis Star* and *New York Times*, as well as the authoritative articles on the subject in the April, 1973 issue of the *American Statistician*. My Minnesota colleague, Clifford Hildreth, current President of the American Statistical Association, assures me that these articles accurately reflect the judgments of the statistics profession. Economists and other social scientists with whom I have discussed this matter are equally distressed.

If I can be of any further assistance to your committee in the consideration of Mr. Barabba's nomination, please let me know.

Respectfully yours,

WALTER W. HELLER,
Regents' Professor of Economics and President-elect American Economic Association.

AMERICAN STATISTICAL ASSOCIATION,
Washington, D.C., April 30, 1973.
Hon. FREDERICK B. DENT,
Secretary of Commerce,
Washington, D.C.

MY DEAR MR. SECRETARY: During the two and one-half weeks that have elapsed since the announcement of Mr. Failor's appointment as Administrator of the Social and Economic Statistics Administration and Mr. Barabba's nomination as Director of the Census, I have made numerous inquiries of my associates in the statistics profession to try to learn something of the statistics backgrounds of the men selected. With the exception of Mr. Barabba's brief service on a Census Advisory Committee, I find no evidence that either the appointee or the nominee has had statistical training, experience, or contact with the statistical profession.

Such appointments are in direct conflict with the judgments of responsible statisticians including a large number who have rendered outstanding service to the Bureau of the Census and/or other government agencies. These judgments were restated in a recent report of a joint committee of the American Statistical Association and the Federal Statistics Users Conference about which I wrote you in February. Your kind acknowledgement in March contained your assurance "that the report will receive full consideration by this office and by other personnel associated with the Commerce Department's statistical programs". I am unable to reconcile this assurance with the recent announcement.

The designations of Mr. Failor and Mr. Barabba for these vital posts underscore our Committee's recommendation (page three) that heads of statistical agencies should be in the career services: Census, SESA and BLS were particularly cited.

I deeply hope the criteria stated by our Committee will be recognized in filling current and future vacancies. ASA will continue to cooperate in any way possible to maintain and improve all Federal statistical programs. However, it is our firm conviction that our efforts and those of statisticians in government cannot be highly effective unless the programs are headed by good administrators of demonstrated statistical competence.

Sincerely yours,

CLIFFORD HILDRETH,
President.

AMERICAN STATISTICAL ASSOCIATION,
Washington, D.C., April 30, 1973.
Hon. PETER J. BRENNAN,
Secretary of Labor,
U.S. Department of Labor,
Washington, D.C.

MY DEAR MR. SECRETARY: I greatly appreciate your letter of March 21 regarding the recent report of the Joint Committee of the American Statistical Association and the Federal Statistics Users Conference. Your determination to maintain the highest standards in all the Department's statistical activities is most heartening.

I believe our Committee's recommendations are particularly relevant to the selection of a Commissioner of Labor Statistics. The Commissioner must be a man who has demonstrated high administrative ability, complete integrity and the highest statistical competence. I am moved to emphasize these considerations now because the neglect of statistical competence in recent appointments to key statistical posts in some Federal agencies is a cause of deep concern and disappointment in the statistics profession.

The American Statistical Association is anxious to help in any way possible and I am sure this is true of other statistical organizations and of leading statisticians acting individually. Please call on me if there is any constructive help that ASA or I might offer.

Sincerely yours,

CLIFFORD HILDRETH,
President.

SUMMARY

The enclosed report is a response by a select committee of the American Statistical Association and the Federal Statistics Users' Conference to concerns that the Federal Statistical system has been subjected to political pressures to the extent that the honesty and the value of Federal statistics could come seriously into doubt. Because "it is clearly difficult to prove misuse of political power" and because several groups, including the Subcommittee on Census and Statistics of the House Committee on Post Office and Civil Service had already reported on these charges, the present Committee chose to concentrate on a set of recommendations which, if followed, would tend to minimize any possible political influence or suspicion of influence in the collecting and reporting of Federal statistics.

These recommendations are:

1. Heads of statistical agencies should be nonpolitical professionals of high stature and reputations and be in the career service.
2. These heads of agencies should have direct control of their own activities particularly with respect to hiring and firing, budget and planning, and publication.
3. Data should be released on a fixed, free stated time schedule by the agency which produced the data.
4. Advisory committees to statistical agencies should be selected without regard for political affiliation with a number of specific appointments from professional statistical organizations.

The Report lays out general areas where statistical programs should be revised and improved under strict professional guidance. It recommends the development of adequate measures of reliability and sensitivity for all principal statistical series and urges that a senior professional statistician be identified with each series. He will be responsible for and familiar with the data and its limitations. The Report encourages media contact with this statistician and press conferences where needed.

The Committee cites the many areas of life in which Federal statistics play an extremely important role—government policy making, business dealings, labor relations, the provision of social services such as health care, the distribution of revenues, university programs, scientific research, and others. The Committee observes that the data reported must be accurate, consistent, timely and beyond even the appearance of suspicion if Federal statistics are to continue to be useful in so many segments of American life.

The Committee's recommendations do not preclude political use of data but rather attempt to preclude political influence in their collection, production and initial publication.

MAINTAINING THE PROFESSIONAL INTEGRITY OF FEDERAL STATISTICS: A REPORT OF THE AMERICAN STATISTICAL ASSOCIATION—FEDERAL STATISTICS USERS' CONFERENCE, COMMITTEE ON THE INTEGRITY OF FEDERAL STATISTICS

INTRODUCTION AND SUMMARY

Origin of committee

In late 1971, the Federal Statistics Users' Conference Board of Trustees appointed a Subcommittee to obtain further details and information concerning the personnel reassignments and reorganization of Federal statistical agencies. In early 1972, the President of the American Statistical Association was authorized by the ASA Board of Directors to appoint representatives of that Association to a joint ASA-FSUC Committee on the Integrity of Federal Statistics to draw up a statement reaffirming the need for a Federal statistical system of unquestioned integrity and to develop recommendations concerning procedures designed to protect the integrity of the Federal statistical system.

Growing concern

During the past two years the integrity of the Federal statistical system has come into question. There is growing concern that the Federal statistical system may become politicized to the extent that political expediency may override the canons of professionalism and objectivity which have long characterized major statistical agencies of the U.S. Government.

Accurate and reliable Federal Statistics are absolutely essential if the ongoing policy and planning needs of private and governmental users alike are to be satisfied.[1] The critical role of the Federal statistical system—including all major statistical organizations which are involved in the collection, compilation, analysis, and distribution of a wide range of indicators of the health and well-being of the U.S. socioeconomic system—has been underscored during the current struggle to reduce the rate of inflation and to reduce the level of unemployment in the American economy. The Federal statistical system generates a large number of annual, quarterly, monthly, and even weekly statistical indices which relate to these problem areas which have center stage among current domestic issues.

Wide public concern about the extension of political control over professional statistical agencies was highlighted at the time of the Bureau of Labor Statistics' cancellation of press conferences concerning unemployment and employment data (March 19, 1971). These concerns were heightened as a result of several major developments concerning the Federal statistical agencies. These other developments included:

(1) Reassignment of personnel and reorganization of the Bureau of Labor Statistics[2], especially those persons previously associated with the press conferences which had been discontinued.

(2) A number of specific personnel shifts and several premature retirements of top level statistical personnel in important statistical agencies, including the U.S. Bureau of the Census.

(3) A reorganization of statistical agencies within the Commerce Department which resulted in a merger of analytical and policy agencies, reducing significantly the authority and power of the major operating statistical agency.

(4) Temporary discontinuance by the Bureau of Labor Statistics of the Urban Emloyment Survey which, since 1969, had been providing labor force and other information about residents in poverty areas in major metropolitan centers.[3]

These specific events were inevitably accompanied by charges and countercharges concerning the intent and desirability of the actions. For example, two congressional committees investigated these developments.[4] Hearings were published by the Joint Economic Committee. The Subcommittee on Census and Statistics of the House Committee on Post Office and Civil Service issued a report on October 5, 1972, entitled "Investigation of Possible Politicization of the Federal Statistical Programs".

Other professional associations have also expressed concern about this matter. For example, the Industrial Relations Research Association (IRRA) which has a particular interest in labor force statistics formed a committee chaired by Professor Killingsworth, Michigan State University, to explore the specific charges which related to the Bureau of Labor Statistics. Concerns have also been expressed formally and informally by the members of the American Sociological Association, the Population Association of America, American Economic Association, The Econometric Society, and the National Bureau of Economic Research's Conference on Research in Income and Wealth.

Approach taken

In view of the wide-ranging interest in problems relating to the integrity of the Federal statistical system, the ASA-FSUC Committee elected to review the record generated by the Congressional hearings and investigations, the official statements of responsible appointed officials, and to discuss informally with selected government and nongovernment officials the appropriate policy and administrative actions to be taken at this time to assure that public confidence in Federal statistics will not be undermined.

In view of the importance of this issue, the Committee chose to conduct its deliberations in a quiet, nonpolitical context with the hope of providing general guidelines concerning effective policy in this area, purposely scheduling its report for release following the National election. This report summarizes the activities and conclusions reached by this Committee.

The Committee decided not to focus on specific charges or allegations since other reports have covered this ground and, importantly, since it is clearly difficult to prove misuse of political power in such specific instances. Rather, the Committee notes that, because of the number of actions which have given rise to public concern, it is essential, at this time, to focus on both the importance of Federal statistics for policy analysis and on identifying and recommending policy for maintaining the integrity of the Federal statistical system in the future. While most developments in and of themselves appear to have had a seemingly plausible and acceptable rationale, their frequency of occurrence and conjuncture in a relatively short time period (with all the disturbing implications falling on the same side) have naturally raised suspicion and concern among a broad and diversified body of users and professional statisticians. These events continued to occur during the period of the Committee's deliberations.

Working premise

Beginning with the basic judgment that the essential function of the Federal statistical system is to provide the best possible measures of social, biological, physical, and economic factors which are essential as the foundation for analysis, policy formulation, and for the effective administration and evaluation of public and private programs, the Committee believes that the system must include several basic ingredients:

(1) The statistics themselves must be accurate, consistent, and timely.

(2) The public must have confidence in the statistics which are generated and in the professional ability of the people who produce them.

(3) Statistical programs must be continually revised and improved to reflect new characteristics of the subjects being measured and embrace new subjects as national priorities change. These revisions must be undertaken on the basis of sound statistical principles to assure that the refinements continually result in more reliable and more sensitive statistical indicators.

(4) Technical measures of reliability and sensitivity should be available to define the uncertainties and limitations associated with specific series. This requires equal attention to be given to the gathering of basic statistical data and to the compilation, adjustment, and presentation of the resulting analytical measures and statistical reports.

These characteristics are discussed in the body of this report.

Considerable attention has been given by the statistical *profession to* procedures for improving the quality and character of specific statistical series. Recently, a broad review of the production and use of statistics in the Federal Government was completed by the President's Commission on Federal Statistics.[5] The Commission emphasized the need for developing a broad view in government of the scope of statistical activities including specific attention to coordinating statistical activities, eliminating obsolete programs, building public confidence in data gathering, and improving the comparability of statistical series.

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[1] Appendix A includes a discussion of the needs for reliable statistics which are evident in government, labor, industry, and universities.

[2] A. statement by the Secretary of Labor concerning the role of the Bureau of Labor Statistics and emphasizing that "the Bureau maintain, in the highest degree, scientific independence and integrity" appears in *The Statistical Reporter*, Dec. 1972, pp. 91–92.

[3] According to the Statistical Policy Division of OMB, during the period when the Current Population Survey was being revised on the basis of the 1970 Population Census, the Urban Employment Survey was discontinued because the cost of continuing the Survey seemed excessive relative to the value of the Survey. This discontinuance was recommended by a technical committee composed of representatives from the various statistical agencies.

[4] The public concern regarding these developments is further evidenced in a series of news commentaries, letters to the editors, and editorials. A selected list of such articles is available from the Committee Chairman.

[5] *The President's Commission on Federal Statistics*, Volumes I and II, 1971.

In contrast, little attention has been given to steps that have been taken, or additional steps that need to be taken, to develop public confidence in the Federal statistical system, or to identify policy measures which will ensure wide professional respect for a diverse, multifaceted statistical system. Nevertheless, this Committee believes that there are certain principles which should be emphasized at this time to provide an opportunity for maintaining and building public confidence in the integrity of the Federal statistical system. These recommendations have been developed to parallel the four conditions which are outlined in the body of this report as the basis for building a credible statistical system.

Recommendations of the committee

Based upon the findings which are stated at the end of this report, the ASA–FSUC Committee on the Integrity of Federal Statistics believes that there is sufficient concern so that specific steps should be taken to allay fears concerning the politicization of the Federal statistical system and to assure the maintenance of high-level, professional statistical work. In light of the importance of such concerns, the Committee urges immediate and careful consideration of the following recommendations. The recommendations are grouped in relation to the conditions outlined above; the order of listing does not imply any priority.

Accurate, Consistent, and Timely Statistics. In order to assure that the Federal statistical system is capable of providing the best measures of social and economic factors which are essential as the foundation for analysis, policy formulation, and for the administration and evaluation of public and private programs, it is essential that the statistics themselves, as collected and developed, be accurate, consistent, and timely. As a policy recommendation for achieving this objective the Committee recommends:

(1) The Statistical Policy Division of the Office of Management and Budget should be encouraged in their efforts to broaden their directive (Circular No. A–91, "Prompt Compilation and Release of Statistical Information")[6] to apply to all possible statistical series as a means of better assuring the timely flow of statistics.

(2) The Statistical Policy Division should continue to be led by recognized professional statisticians who have experience in both the Federal statistical system and have established recognition as professional statisticians in their own right. The Division should report to the top level of the Office of Management and Budget.

(3) The Office of Management and Budget should encourage establishment through a recognized professional agency—such as the National Academy of Sciences, the American Statistical Association, etc.—of an ombudsman position whose role is focused on receiving professional and lay criticisms of the Federal statistical system.

The ombudsman role can be particularly significant in evaluating the conceptual base of specific statistical programs. The conceptual base used for defining a statistical series can be influential in relation to political interpretation of the resulting data. Consequently, a high-level professional with resources to call upon specialists, operating as an ombudsman for the professional community could be an important contributor to assuring an independent point of view with regard to critical statistical series.

Public Confidence in the Federal Statistical System. A key factor in assuring public confidence in the Federal statistical system is the professional statistician's evaluation of the quality of the effort by such agencies. Hence, the Committee makes the following recommendations concerning the organization and professionalization of Federal statistical work:

(1) Heads of statistical agencies should be in the career service, a practice which has been and is now observed in all areas except for the Director of the Bureau of the Census, Administrator of the Social and Economic Statistics Administration (SESA), and the Commissioner of Labor Statistics.

The leadership of the government's statistical programs should be of demonstrated professional competence and free of political influence.

The Committee recommends that specific qualities be identified for screening potential appointees to head Federal statistical agencies. Our specific suggestions are that as a minimum the candidates should meet most of the following characteristics and be selected without regard for political affiliation:

(a) Membership in a professional statistical association such as—American Statistical Association, Biometric Society, Institute of Mathematical Statistics, and the Econometric Society—and membership in one other professional society (American Economic Association, Population Association of America, National Association of Business Economists, American Sociological Association, Industrial Relations Association, etc.) for at least five recent years.

(b) Ability to make new contributions to knowledge in the field of statistics, or subject matter areas of the agency involved, as evidenced by publication of articles in professional journals, or awards by Federal statistical agencies.

(c) National recognition in the field of statistics as evidenced by honors, such as a Fellow of ASA, member of ISI, high office in professional society or major publication.

(d) Demonstrated professional achievement such as evidenced by successful operation of major statistical projects, by promotions to successively higher position in a Federal statistical organization or working in a responsible statistical position in private industry, education, nonprofit, or labor.

(2) The heads of major statistical agencies should have direct control of such functions as appointments of personnel, budget priority setting, program planning, and publications.

A removal of these functions from the statistical bureau creates an unfortunate reduction in the effectiveness of the professional statisticians, weakening the Federal statistical system.

(3) In the release of the data, care should be taken to stress the professional statistical production agency—not the department with overall policy responsibility. Initial release should be made by the production agency, except in cases where one agency performs contract services for another. This is particularly true where two individual agencies are created for separate production and analysis.

Specifically, the production agency should be responsible for technical adjustments to the data such as seasonal adjustments and determination of comparability with previous time series. This may mean a major upgrading of the dedication and competence of the statistics-producing sections of agencies which are basically regulatory or administrative.

(4) Because of the importance of technical advisory committees, guidelines should be established to guarantee the selection and rotation of memberships on such committees without regard for political affiliation and with a number of specific appointments from appropriate professional organizations.

In particular, the Federal Advisory Committee Act (92nd Congress, HR4383) should be followed. Consistent with the intent of this Act, the present Committee recommends that the membership of advisory committees to statistical agencies include a number of appointments to be made by[7] recognized professional organizations such as the American Statistical Association, Industrial Relations Research Association, Federal Statistics Users' Conference, American Economic Association, the National Association of Business Economists, the American Sociological Association, etc. (This is consistent with the requirement that the membership of advisory committees be fairly balanced in terms of the points of view represented with specific attention to the professional point of view.) Further, it is recommended by this Committee that the meeting dates for key statistical agency advisory committees be published through professional society publications in addition to announcement in the Federal Register. This will create the opportunity for widespread professional input and recognition.

Statistical Programs Must be Revised and Improved. A sound Federal statistical system requires adequate budget support and development. The Committee applauds the record of the past four years during which the statistical budget has increased from $195 million to $313 million. Professional control of the nature and priorities of improvements is especially important. Given the need to improve the quality and character of specific statistical series, the Committee urges continued consideration of the potential benefits in reliability and effectiveness which can be achieved by appropriate increases in existing levels of support for Federal statistical production and analysis.

Current economic policy is emphasizing the growing pressures on the Federal budget and the consequent requirements for reductions in expenditures. This Committee feels strongly that the benefit of a strong statistical system clearly outweighs the costs which are currently associated with the Federal statistical system.

Technical Measures of Reliability and Sensitivity. Adequate measures of reliability and sensitivity should be developed for all principal statistical series where feasible. Since the interpretation of statistics is primarily undertaken by nonstatisticians, it is essential that there be adequate access to technical advice concerning the nature and limitations of individual statistical series. To facilitate this development, the Committee makes the following recommendations:

(1) The policy of including the name of a senior professional statistician who is responsible for and familiar with the data described in the news release should be extended to all major statistical releases so that the designated professional statistician can be contacted to explain the limitations of the data presented.

Media representatives and others should be encouraged to call this individual for access to professional information concerning the nature and limitations of these series under discussion. Press conferences may be warranted if the demands for explanation become burdensome.

(2) More provision should be made for professional, periodic evaluation of important statistical series, such as that provided in the earlier President's Committee to Appraise Employment and Unemployment Statistics, to provide for regular evaluation of important statistical series.

A good example of such initiative is the recent progress by the Statistical Policy Division of the Office of Management and Budget to create an advisory committee on the national accounts and the establishment of at least two other similar committees which are being planned for Fiscal 1974. Such study commissions, if adequately funded, can provide a wide range of professional judgment and will assure deeper understanding by the professional community with respect to limitations and alternatives to existing statistical programs.

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[6] Revision of A–91, dated April 26, 1972.

[7] An alternative would be to submit a slate of nominees when the agency requires final authority.

BACKGROUND AND REVIEW

The need for public confidence in Federal statistics

The public and private decisions which must be made daily in the conduct of the nation's business, commerce, and social welfare programs require increasingly sophisticated analysis. This is possible only if the data base is available and reliable. The formulation of economic, political, and other types of policy will be haphazard and subject to more than the normal margin of error if the statistics which support policy decisions are not sufficiently accurate. While it is true that timely and accurate statistics will not ensure wise solutions to our problems, they are definitely essential to the process of identifying the appropriate direction.

Reliable statistics increase many times our chances for success, especially as they provide the basis for development of better theory and explanation of the workings of socioeconomic processes. This is especially important, at present, now that policymakers are relying so heavily on the use of this data system in their effort to solve pressing social and economic problems. It is not an exaggeration to say that the future direction of national policy could be at stake.

Nothing could undermine the politician and implementation of his policy recommendations as much as an accumulated and intense public distrust in the statistical basis for the decisions which the policy-maker must inevitably make, or in the figures by which the results of these decisions are measured. Unless definite action is taken to maintain public confidence in Federal statistics and in the system responsible for their production, there will be growing tendencies to distrust leadership.

The statistical community, both generators and users, has long been concerned with the integrity of the U.S. statistical system. For example, the President's Committee to Appraise Employment and Unemployment Statistics commented more than 10 years ago:

"The need to publish the information in a nonpolitical context cannot be overemphasized. By and large this has been the case—the collection and reporting of the basic data have always been in the hands of technical experts. Nevertheless, a sharper line should be drawn between the release of the statistics and their accompanying explanation and analysis, on the one hand, and the more general type of policy-oriented comment which is a function of the official responsible for policy making, on the other." [8]

As noted later in this report, recent directives regarding the regular scheduling of releases regarding important economic indicators and the delay of at least an hour for the issuance of policy interpretations have been in line with the 1962 statement. It remains true that, as that report indicated more than a decade ago, the importance of a credible statistical system *cannot be overemphasized*. Federal statistics play a vital role in effective decision-making by government, business, labor, and universities, as outlined in Appendix A.

The President's Commission to Appraise Employment and Unemployment is only one example in the long history of commissions which have focused on Federal statistical activities. A chronological review of 12 major commissions on statistics, beginning with a House select committee in 1844, is contained in the report by Paul Feldman [9] which was prepared for the President's Commission on Federal Statistics and reported in 1971.

The Importance of High Technical Standards in the Federal Statistical System. Since both public and private decision-makers rely heavily upon the products of the Federal statistical system, it is essential that continuing efforts be undertaken to maintain high technical standards in relation to specific statistical programs. A lack of confidence in Federal statistics can result if unduly large errors are evident in published data.

This Committee has not attempted to identify specific weaknesses in present statistical programs, although it is evident that selected programs have been the subject of controversy and technical concern. For example, when the Census Bureau publishes data for extremely small areas, it makes data available for intensive scrutiny by local experts who are able to identify errors that would have been otherwise undetected. Some errors of this sort were found after both the 1960 and 1970 Census. It is regrettable that resources are not available for making corrections in the reported small area data which are increasingly being used as the basis for public and private policy planning. Or, to cite another example, the recent revision of the Survey of Consumer Expenditures (and the transfer of field responsibility from the Bureau of Labor Statistics to the Census Bureau) has generated considerable discussion concerning the amount of testing given to the new approach, the relative costs involved, and the expected reliability and usefulness of the final results.

Both of these examples illustrate the importance of using highly professional procedures in the development of statistical systems and in the revision of collection or analytical techniques. Problems in the implementation of new approaches are inevitable. However, a high level of professionalism is critical to assure a minimum of such difficulties and to generate confidence that the difficulties will be handled in a sound and professional manner. In short, statistics have long been taken for granted—like the air we breathe. Recently, environmentalists have focused attention on the need to protect the quality of the air we breathe. Likewise, administrators are beginning to recognize the necessity for maintaining the quality of statistics as the basis for sound governmental decision-making.

Requisites of an adequate statistical system

The preceding sections have outlined the importance of a sound statistical system which enjoys widespread public confidence. In this section we will turn to the requirements for developing and maintaining a credible and adequate statistical system. As indicated earlier, there are four essential ingredients to achieving this objective. These are briefly discussed below.

Accurate, Consistent, and Timely Statistics. In order for the public to have confidence in the statistical system, it is essential that every effort be made to produce statistics which are accurate, consistent, and timely. It is difficult to meet all three of these criteria with equal emphasis. For example, in an effort to be timely it is often necessary to develop preliminary statistical indicators which are then subject to significant revision when more information becomes available. Likewise, significant problems occur when attempting to develop consistency in statistics produced by agencies with differing purposes, diverse administrative responsibilities, and uneven statistical capabilities.

Nevertheless, while these difficulties must be recognized, it is essential that every effort be made to assure that all governmental statistical agencies strive to meet the highest standards of (1) conceptual development, (2) statistical sampling, (3) internal consistency, and (4) historical continuity.

Public Confidence in Federal Statistics. It is relatively easy to convene professional statisticians to evaluate sample design, historical records of reliability or consistency, or to estimate significance in ranges of errors as tests of the criteria identified in the previous section. In contrast, it is somewhat more difficult to determine specifically those ingredients which will assure public confidence in the statistical system. However, assuming that the basic statistics are accurate, it is essential that the public understand and appreciate this accuracy or the value and usefulness of accurate statistics will be seriously undermined.

The first step in developing public confidence is undoubtedly the development of peer group confidence in the statistics. In other words, if the professional statisticians, biologists, physical and social scientists, etc., who utilize the data have confidence in the statistical system and in the accuracy of the data, it is more likely that the general public will accept this professional judgment as the basis for placing their confidence in the resulting statistics.

Peer group confidence begins with the appointment and advancement of highly professional persons to keep policy and program roles in Federal statistical agencies. The professional ability of all agency staff members involved in the collection, compilation, and analysis of Federal statistics is crucial to the development and maintenance of strong peer group confidence in the Federal statistical system.

In a second area, it should be noted that public confidence in the Federal statistical system is strongly influenced by the actions of the press. Most members of the working press cannot be expected to make professional interpretations of the variety of statistical series which are produced by the Federal statistical system. Therefore, it is essential that the press have available to it clear reports concerning important characteristics of specific statistical series and access to expert counsel in the interpretation of those reports.

The third factor related to the public confidence in the Federal statistical system is associated with political use and interpretation of the data. As noted at the outset, a major concern of this Committee has been the exploration of approaches to reducing political influence on the statistical system. Public confidence is influenced both by overt political pressure and by the appearance of political pressures. It is the Committee's position that every effort must be made to reduce both political pressure and the appearance of political pressure if peer group confidence is to be enhanced and if the general public's confidence in the Federal statistical system is to be maintained.

To illustrate the dangers of political pressure on statistical decisions, consider the technical problem associated with assigning the cost of air pollution and emission control equipment on automobiles as a component of the Consumer Price Index. There was considerable debate whether to classify this equipment as a quality improvement—consequently, not influencing the Consumer Price Index—or as a cost increase which would be reflected in the Consumer Price Index.

A statistical decision on cost versus quality in automobile pricing has to be made annually and in 1972 it had to be made during an election campaign. If political considerations were to enter this statistical issue, it would be beneficial to labor to include the emission control equipment as a cost increase, thereby adding a "cost-of-living" increase to the wages of millions of workers and, perhaps, politically reflecting adversely on the success of controls in holding down inflation.

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[8] *Measuring Employment and Unemployment,* President's Committee to Appraise Employment and Unemployment Statistics, September, 1962, p. 20.

[9] Feldman, Paul, *The President's Commission on Federal Statistics,* 1971, Volume II, Chapter 10, pp. 477–495.

Alternatively, political advocates who are concerned with demonstrating the success of anti-inflationary policies would urge classification of this equipment as a quality improvement, as would those interested in demonstrating the increased productivity of labor and the greater output of the economy.

A technical committee of professional statisticians was convened to resolve this statistical issue, and there is no evidence that political pressure was exercised. However, the nature of this type of decision illustrates the importance of producing technical statistical decisions which are above suspicion and *maintaining* them in an arena which is independent from political pressure. The cumulative effect of a series of political decisions concerning such technical details would be to destroy the effectiveness of the statistical measures as well as to undermine public confidence in the data themselves. This illustration reinforces the importance of professional judgment and decision-making as essential elements in a quality statistical system.

In summary, while it is difficult to identify specifically actions that will assure public confidence in the Federal statistical system, it is important to focus on (1) building peer group confidence in the statistical community by emphasizing professionalism in statistical agencies, (2) improving the understanding of the working press by providing easy access to expert counsel, and (3) minimizing even the appearance of political pressure or influence on the statistical system by eliminating situations and events which arouse these concerns.

Revision and Improvement of Statistical Programs. It is not sufficient to maintain the status quo even if the available statistics are accurate, timely, and consistent. The characteristics of the subjects being measured are subject to continual change. Further, as national priorities change, new subjects must be considered as the focus for Federal statistics.

It is essential that the statistical system include provision for developing revisions and improvements which will encompass sound statistical principles. As indicated earlier in the brief example concerning the Consumer Expenditure Survey, revisions and refinements will inevitably create certain difficulties. It is essential that the decisions to institute such refinements and revisions be based on a firm expectation that more reliable and more sensitive statistical indicators will result, and that revision or discontinuance of a series should not be initiated simply because the available results had proved embarrassing or unresponsive to specific administrative policies.

Each year a number of improvements in the Federal statistical system are recommended and, frequently, adopted. This continual upgrading of the system must be encouraged and, where possible, accelerated. In relation to many other Federal activities, the cost of the Federal statistical system is small. However, with the current demands for budget stringencies, all areas are subject to pressure for future reduction. In view of the importance of statistical programs as the basis for overall policy formulation, caution should be exercised when pruning existing budget or rejecting new programs which may be essential in the development of public policy.

A professional statistical system requires both well-qualified leadership and adequate budget support. It is recognized that there is a need for central planning to insure proper balance among all areas of demand for improved Federal statistical series. The Statistical Policy Division in the Office of Management and Budget should be encouraged to continue development of statistical policy which emphasizes these points. An outstanding beginning has been made as evidenced by the growth in support of statistical programs from $194.6 million in Fiscal 1970 to $312.6 million which has been requested for Fiscal 1974, an increase of 61 percent. During this period, programs for economic statistics increased from $126.3 million to $174.8 million, an increase of 38 percent, and programs for social and demographic statistics increased from $68.3 million to $137.8 million, a growth of 102 percent.

Adequate Technical Measures of Reliability and Sensitivity. The actual utilization of statistics in decision-making can be significantly influenced by the method of presentation and documentation as reflected in statistical reports. In order to minimize the problems of misuse of statistical series, it is essential that the available reports provide specific technical measures of the reliability and sensitivity of the data at hand. While many users of statistical series do not require full technical documentation of statistical procedures used in compilation, adjustment, and analysis of the data, it is essential for those who have a need or concern about these subjects that the basic reports include either indications of these technical factors or provide reference to source documents where these procedures are defined in detail.

The availability of this information is particularly important in distinguishing between preliminary, revised, and final estimates for key statistical components. If the available report does not clearly call attention to the character of the data being reported, there is a danger that broad media dissemination of the statistical measures will fail to reflect the limitations of the data themselves. Over time, the failure to distinguish between preliminary and final estimates tends to reduce public confidence in the statistical system by generating the appearance that frequent revisions were unanticipated when, in fact, they may be part of the basic procedures used.

The four characterisics of an adequate statistical system which have been discussed above serve as the framework for the following specific findings of the Committee and the recommendations which were presented earlier.

Findings of the committee

The causes for concern which led to the formation of this Committee have been intensified during the past year. The primary finding of this Committee on the Integrity of Federal Statistics is that while there is no evidence that statistical results have been altered to support a particular point of view, there are tendencies—through reduced span of authority of professional leadership, appointment of noncareer personnel, and current and proposed reorganizations—to reduce or inhibit the independence of Federal statistical personnel. Therefore, it is particularly unfortunate that a continuing sequence of events has created broad concern regarding the professional integrity of the overall system, especially as a consequence of premature retirements of key professional staff members who, in other respects, would be expected to offer more years of exceptional service.

While the Committee has not elected to pursue specific allegations, it is clear that the organizational structure—especially through current and pending reorganizations—provides increasing opportunities to exert political influence on the development and interpretation of statistical programs. Specifically:

(1) Agency appointments of noncareer personnel, especially those with strong political affiliations rather than statistical credentials, can have an inhibiting influence on the quality, independence, and objectivity of statistical work. A further implication of such developments, in the longer term, will be a reduction in morale and a reduced incentive of both young and mature professionals to associate themselves with agencies which have overt political overtones. This will result in a deterioration of the professional role of Federal statistical agencies.

(2) The reorganization of statistical agencies undertaken in 1971 as the result of a directive from the Office of Management and Budget was intended to reduce the number of separate statistical agencies, to centralize production functions, and to separate the production of statistics from their use in the formulation of policy. These goals would have widespread professional support. However, the application of the directive in the Commerce Department led to the creation of a complicated overlay for the Census Bureau and the former Office of Business Economics, considerably downgrading the role and independence of the operating agencies. In the new organization, the opportunities for influence by noncareer officials for the selection of new programs, for the reduction of old programs, and for other program changes have been substantially increased.

(3) Since, for about two years, target dates for the release of *principal* economic indicators have now been published in advance, the discretionary authority over the timing of these releases has been eliminated. The OMB directive (Circular No. A–91, "Prompt Compilation and Release of Statistical Information"), designed to assure that deadlines are established for the preparation and release of statistical series, has not yet been implemented on an across-the-board basis. Until the efforts now being made to this end in the Statistical Policy Division are put into effect, it is still possible to withhold some reports from preparation or to delay others for political purposes.

The Committee believes that specific steps should be taken to allay the growing fears concerning politicization of the Federal statistical system and to ensure and maintain a high level of credible, professional, statistical work. In the light of the importance of such concerns, the Committee urges that the recommendations listed earlier be promptly implemented and that such actions be properly publicized.

ASA-FSCU COMMITTEE ON THE INTEGRITY OF FEDERAL STATISTICS

Joseph W. Duncan, Chairman: Battelle Memorial Institute.

Daniel H. Brill (ASA): Commercial Credit Company.

Bernard Clyman (FSUC): The Equitable Life Assurance Society of the United States; Queens College, City University of New York.

A. Ross Eckler (ASA), Retired: (Formerly, Director, U.S. Bureau of the Census).

Thomas A. Hannigan, Jr. (FSUC): International Brotherhood of Electrical Workers.

Robert E. Lewis (FSUC): First National City Bank, New York.

Robert S. Schultz, III (ASA): New York State Council of Economic Advisers.

DeVer Sholes (ASA): Chicago Association of Commerce & Industry.

APPENDIX A: ILLUSTRATIVE USES OF STATISTICS IN GOVERNMENT, BUSINESS, LABOR, AND UNIVERSITIES

These brief highlights concerning the role of statistics in governmental, industrial, labor, and universities' decision-making show the importance of selected key statistical series. It should be noted, of course, that there are many specialized statistical series which are mentioned below which have particularly significant roles in areas where they are applied. There is no intent in this report to evaluate the importance of any specific series.

The Role of Statistics in Government. The importance of the Federal statistical system for policy-making and administration at the Federal, state, and local governmental levels is well-known. Almost every statistical program has its origin with legislative action which in turn requires data collection in support of program planning, administration, or evaluation. For example, the Decennial Census is mandated by a Constitutional requirement to establish the number of representatives from geographical areas throughout the nation.

The importance of maintaining public confidence in the output of our statistical system can be illustrated by selecting a few examples of the multitude of applications of statistical data in the legislative and executive branches of government. In many cases, the very organization of government itself is dependent upon statistical information. In addition to the apportionment requirement noted earlier, the size of staffs of elected representatives depend directly upon information regarding the number of people in a state or in a Congressional district. At the state and local levels, there are hundreds of provisions in various states where the population level established by the latest Decennial Census is used as a basis for allocating funds, creating boards, granting licenses, establishing jurisdictions of local officials, and setting salary levels.

Official statistical measurements are central to the development of legislative programs by the Congress. The record of legislative hearings is typically filled with statistical exhibits and there are literally innumerable references to specific items of data. Whether legislative policy is being determined, a new program is being established, or the results of existing programs are being reviewed, the legislative uses of governmental statistics are both numerous and extensive.

The range of data involved is impressive. For example, the development of social programs such as those relating to Social Security, welfare, and aid to specific classes of the population depends administratively on data concerning employment, income, hours of work, dependency, and many related subjects. As another example, policy-makers concerned with the problems of our environment and the use of natural resources require data on existing resource availability and utilization as the basis for defining available alternatives and appropriate policies. In this area the available data base must be used to provide estimates of the growth in future uses of these resources, to prepare estimates of time required for resource depletion and to provide a basis for deciding upon quotas and the allocation of supplies among competitive claimants.

In the regulatory area, the role of data as the basis for policy determination is especially evident. Regulation in the fields of transportation, power, and communications—to cite three broad areas—are based to a great extent upon statistical information concerning the number and size of businesses involved, their capacity, capital investment, and degree of penetration in the total market. If the public were to lose confidence in the basic data which are used by regulatory agencies, the very nature of regulation itself would be subject to distrust and controversy.

To many observers of Federal policy-making, the continuing intervention of the administrative agencies of the Federal government in the national economy is perhaps the most evident policy interaction. The national income and wealth accounts play a major role in establishing legislation and policy concerning prices, wages, monetary trends, economic stabilization, and related topics. These data are typically the basis for research and policy planning in the executive branch of government and are continually used to evaluate results achieved by administrative programs. Data concerning cost of living, unemployment levels, and capacity utilization, provide the underpinning for national economic policy including such vital areas as budget formulation and fiscal administration, as well as the administration of specific programs.

The allocation of Federal and state funds depends directly upon a number of statistical measures—including the size of the population as a whole or selected classes of the population such as public assistance recipients. Data concerning income levels, miles of highway, numbers of pupils, and other measures are provided for in a network of legislation enacted by the Congress and by state legislators. Decisions at a variety of governmental levels relating to urban renewal, public housing, recreational facilities, drainage and water supply, and health and educational facilities of all kinds must be made in the light of full information regarding the population and its characteristics.

These examples indicate that it would indeed be difficult to overestimate the value of sound statistical information in the governmental structure of the United States—a structure which has long been accustomed to making decisions on the basis of facts. The ultimate test of programs depends upon objective evaluation of the results achieved. For this purpose, reliable and continuing social and economic statistics of unquestioned validity are essential. In addition, there should be provided a body of administrative statistics for each major program, properly planned and clearly presented so that agency officials, the Congress, and the general public can judge the results that have been obtained and can call for improvements when necessary.

The Role of Statistics in Business. In addition to the internally generated statistics unique to individual businesses, most corporations rely upon Federal data for many of their critical decisions in areas such as business planning, market research, financial administration, purchasing, and personnel administration.

Corporate long-range planning frequently begins with analysis of national income accounts and related data such as industry production levels as the basis for establishing the broad market context for individual corporate operations. In fact, many large corporations employ full-time economists whose primary function is analyzing national economic developments and determining their impact upon the individual corporation.

Businessmen look to statistics to tell them how the economy in general is faring as a guide in making long-range investment decisions or setting sales quotas for the year ahead. They want to get advance warning on cyclical turning points and the amplitude and duration of expansions and contractions. But frequently their needs are more precise. They want to know how each of their product lines is faring relative to industry as a whole. They want to gauge the growth of individual markets as a guide to inventory policy, plant and equipment expenditures, and new product development. They want to assess Federal budget deficits, monetary policy and interest rate trends as they may affect the financing of their firms' growth and investment. They rely on figures on prices, labor markets, wages, and supplies of materials as guides to their current operations.

Market research departments in industry extensively utilize Federal data concerning population characteristics and industry characteristics to determine basic market trends and opportunities.

Financial departments in major corporations carefully evaluate basic monetary trends as measured by the Federal Reserve System to determine current and future financial developments which will influence the cost and availability of capital to the corporation.

Purchasing officers rely upon Federally produced statistics, such as commodity price data of the Departments of Agriculture and Labor and figures on shipments and inventories from the Department of Commerce to determine availability and cost of basic materials for manufacturing the firm's products.

Personnel departments rely upon local and national wage and income surveys to determine appropriate salary and fringe benefits schedules.

Hence, it is evident that in nearly all facets of business and industry, basic decisions which are essential to effective operation of the corporation are made on the basis of Federal data.

Additionally, the Federal statistical system is vital to the concerns of business in many respects beyond their internal use of data for operations and planning. The quality of the statistical base used in establishing regulatory policy, administrative programs such as the New Economic Policy—Phases II and III, and the formulation of legislative guidelines (in vital areas such as pollution standards, product quality, and import-export regulations) is crucial to business leaders and decision-makers.

The Role of Statistics in Labor Negotiations. Federal statistics directly affect the entire scope of industrial relations, including collective bargaining and contract administration. Collective bargaining is a key element in the American free enterprise system, and it could not be successfully carried on without reliable Federal statistics acceptable to all interested parties—labor, management, and the general public alike. Both parties at the bargaining table need objective insight and understanding into each other's position. Also, they direct much of their efforts toward convincing the general public of the equity of their own positions as reflected in objective official statistics. In this often supercharged atmosphere, negotiations would quickly deteriorate into chaos if no reliable and acceptable statistics were available as the focus of discussion. The same would be true of the day-to-day operations of contract administration.

Statistics of key importance for collective bargaining and contract administration include wages by industry, region and state, and trends and industry data relating to fringe benefits such as paid holidays, vacations, health insurance, and pension benefits. Cost-of-living provisions based on the Consumer Price Index affect the income of four million workers and pensions of two million retirees. Business and labor groups use the Consumer Price Index to develop retirement and health insurance programs, the government, to formulate social and economic policies, and individuals, to check on their real earnings. The Pay Board adopted consumer price indexes along with productivity indexes as the two major criteria governing acceptable noninflationary wage increases.

Labor market conditions and the amount of unemployment are matters of primary interest to union and management negotiators as indicators of the economic situation in given areas or localities. Statistics measuring the frequency and severity of work injuries by industry are of great importance to labor and management since they serve as the basis for specific insurance provisions and new laws designed to protect workers from death and disabling injury. Any lack of confidence in their accuracy or reliability by either of the parties concerned would jeopardize this accepted approach to the settlement of conflicting positions.

The interest of labor in good statistics is not limited to their usefulness in labor negotiations, however. Statistical information is vital in the formulation of much legislation which either expands or restricts the basic rights of labor and management. Many far-reaching economic decisions made by government leaders, such as establishing the Construction Industry Stabilization Council, plus the imposition of wage and price controls, are based upon Federal statistics.

The Role of Statistics in Universities. Universities continually conduct research designed to assist businesses, labor organizations, and government agencies in making sound decisions of the kind illustrated above. In addition, universities use Federal statistics to test basic theories on which such decisions are based and to search for more useful theories in a diverse range of topics including all areas of social, biological, physical, and economic systems. Much of this basic research is cooperative among government, business, and universities. Clearly, we cannot develop true understanding of basic social and economic processes unless our historical records are comprehensive and accurate.

Of equal importance, the entire education process depends upon the evaluation and interpretation of basic data. If the student and/or teacher lacks confidence in the information base, it is difficult for the educational endeavors to proceed.

Other Roles. There are many important uses for statistics which have not been mentioned in the above sections.[10] The intent here is simply to illustrate the importance of statistics in a wide range of sectors. For example, the discussion of statistics in labor negotiations is only one example of the use of statistical series by the labor movement. Many uses by other sectors could be emphasized including use of crop reports and other agricultural statistics by individual farmers and consumers, statistical analyses by state and local governments in establishing governmental policy, and use of statistics by news media as an underpinning for planning future program emphasis, reporting on current problems, etc.

As noted in the introduction to this report, the discussion of the importance of reliable statistics which are evident in government, labor, industry, and universities are highlighted above to demonstrate that accurate and credible Federal statistics are: ". . . absolutely essential if the ongoing policy and planning needs of private and governmental users alike are to be satisfied."

APPENDIX B: NOVEMBER 10, 1972—STATEMENT OF POLICY BY THE SECRETARY OF LABOR CONCERNING THE ROLE OF THE BUREAU OF LABOR STATISTICS

In Order No. 49-69, dated November 25, 1969, the Secretary delegated authority for labor statistics programs to the Commissioner of Labor Statistics. Traditionally, the Bureau of Labor Statistics, which the Commissioner heads, has had a dual responsibility. One is to serve as the statistical and research arm of the Department of Labor, supplying the Department and its program offices with data important to their functioning. The other is to provide information to the public on subjects concerning labor in the most general and comprehensive sense. Both responsibilities require that the Bureau maintain, in the highest degree, scientific independence and integrity. The second function, particularly, requires that the public be confident that the Bureau does, in fact, possess these qualities and that they will be preserved.

The purpose of this statement is to reaffirm the importance of the Bureau's scientific integrity, and to set forth certain guidelines that will help to preserve it.

The decision-making process in producing statistics involves:

The allocation of BLS resources.

The appointment of personnel and selection of advisory committees.

The determination of appropriate statistical methods and operating procedures.

The preservation of confidential records supplied by respondents to surveys.

The preparation of technical analysis and interpretation of the data.

The release of information to the public.

The Commissioner's decisions with regard to these matters must, of course, follow the policy, budget and program objectives established by the Department of Labor. They must also conform to the statistical standards and policies established by the Office of Management and Budget under the Federal Reports Act. However, there shall be no decisions which are not in concert with the professional and technical expertise of the Bureau. Under these conditions scientific independence will continue to be the hallmark of the Bureau of Labor Statistics.

A number of specific safeguards help to preserve this scientific independence. Among them are the following:

1. Two active advisory councils are informed about and advise upon BLS programs and decisions. They are the Business Research Advisory Council, with representatives drawn from the business community, and the Labor Research Advisory Council, with representatives from labor unions. The two councils operate independently of one another, and both have numerous committees concerned with every subject-matter area covered by the BLS.

2. A new Academic Advisory Council will be organized later this year, with members from several professional organizations. This new group, consisting of economists and statisticians in universities and research institutions, also will advise the BLS on its program and procedures.

3. In the release of principal economic indicators BLS follows guidelines established by the Office of Management and Budget that help to assure the objectivity of Federal statistics:

a. Data are released by the principal statistical officer in charge of the agency. This means that the Commissioner determines the date and hour of release and approves the text of the release, and that the BLS is clearly identified as the source agency in the release.

b. Data are released as promptly as possible, and always within two working days after they have been compiled and checked.

c. The schedule of release dates is published in advance.

d. In order to clearly separate the release of data from policy-oriented commentary, no comments by a policy-making official are made until at least one hour after the release of the data by the BLS.

4. The Secretary has delegated to the Commissioner full authority to set up appropriate procedures and regulations to safeguard the confidentiality of the reports made to BLS by respondents to its surveys. These regulations apply throughout the Department as well as to other agencies or individuals within or outside the government, and prevent the use of BLS data for other than statistical purposes.

JAMES D. HODGSON,
Secretary of Labor.

Source: *Statistical Reporter,* December 1972, pages 91–92.

APPENDIX C: LISTING OF SELECTED MEDIA ARTICLES CONCERNING INTEGRITY OF THE FEDERAL STATISTICAL SYSTEM [11]

September 29, 1971—*The Washington Post,* "Nixon Ousting Labor Analysts" by Frank C. Porter.

November 17, 1971—*The New York Times,* "Lawmaker Sees Census Politics" by Jack Rosenthal.

February 25, 1972—*Journal of Commerce,* "A Staff Report—Does the Administration Cloud Statistics on Business Activity?"

August, 1972—Annual Meeting of the American Statistical Association *Statistics and Politics* by Philip M. Hauser.

September 6, 1972—*The Washington Post,* article by Nick Katz, "Farm Income Knowingly Overstated by $1 billion".

October 22, 1972—*The New York Times,* Washington Report Article by Eileen Shanahan on interpretation of economic statistics.

November 5, 1972—*The New York Times,* Letter to the Editor from Harold C. Passer discussing above article by Eileen Shanahan on his interpretation and pronouncements during the recession in 1970.

November 6, 1972—*The Wall Street Journal,* Review and Outlook—"The BLS Fuss."

November 27, 1972—*The Wall Street Journal,* Letter to the Editor by Senator Proxmire pointing out that the Joint Economic Committee had been holding monthly employment data hearings since they were discontinued by BLS.

December 20, 1972—*American Banker,* Business Outlook by J. A. Livingston, reports the surprise and astonishment of economists and statisticians at the accepted resignation of Geoffrey H. Moore as Commissioner of Labor Statistics.

January 29, 1973—*The Wall Street Journal,* front page news item noting resolution by the Industrial Relations Research Association.

APPENDIX D: RESOLUTION BY THE INDUSTRIAL RELATIONS RESEARCH ASSOCIATION EXECUTIVE BOARD, DECEMBER 29, 1972

The Executive Board of the Industrial Relations Research Association, having received and considered a report from its committee appointed to investigate recent events concerning the U.S. Bureau of Labor Statistics, resolves as follows:

1. that public confidence in the professional integrity and credibility of the Bureau of Labor Statistics is essential, because the Bureau publishes data and materials which are used regularly in the labor-management relations, business contracts and economic forecasts;

2. that the credibility of the Bureau of Labor Statistics has been impaired by events of the last two years, including the termination of press conferences by Bureau of Labor Statistics personnel and the subsequent reassignment of key personnel in the Bureau;

3. that the Board views with particular concern the acceptance of the requested resignation of the Commissioner of Labor Statistics three months prior to the expiration of his statutory term of office, because this termination under these circumstances represents a sharp break with the long-established tradition that this position has not been regarded as a political appointment;

4. that it is most important, if further impairment of the credibility of the Bureau of Labor Statistics is to be avoided, that the new Commissioner be a person with the highest professional qualifications and objectivity;

5. that it is desirable that the decision to discontinue press briefings by the Bureau of Labor Statistics technical personnel should be carefully reconsidered;

6. that nothing in this resolution should be construed to indicate that this Association questions the integrity of the preparation of BLS figures.

To be signed by: Ben Aaron, President 1972, Douglas Soutar, President, 1973, David Johnson, Secretary-Treasurer.

Source: *Congressional Record,* January 11, 1973, page 788.

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[10] The official report of *The President's Commission on Federal Statistics* includes a lengthy discussion of various groups which are users of statistics—Volume I, pp. 77–102.

[11] Editorial comments have also included political cartoons such as that in *The New Yorker's* issue of October 14, 1972, depicting the "Bureau of Rosy Statistics".

APPENDIX E: EXECUTIVE OFFICE OF THE PRESIDENT—OFFICE OF MANAGEMENT AND BUDGET, WASHINGTON, D.C. 20503

April 26, 1972, Circular No. A–91, Revised.

To: The Heads of executive departments and establishments.

Subject: Prompt compilation and release of statistical information.

1. *Purpose*. The purpose of this Circular is to insure that the principal statistical series which are issued by agencies to the public annually or more frequently are released without unnecessary delay and that the publication dates for the principal weekly, monthly and quarterly indicators are made publicly available in advance. The prompt release of official statistics on a regular schedule is of vital importance to the proper management of both private and public affairs.

2. *Rescission*. This Circular supersedes and rescinds Circular No. A–91, dated February 12, 1969. It covers annual and semi-annual series as well as those issued more frequently. Also it reduces from quarterly to annually the reports required by the Office of Management and Budget on the release of certain statistical series having more limited use than the principal indicators identified each month in the OMB publication, *Statistical Reporter*.

3. *Authority*. This Circular is issued under the authority of Section 103 of the Budget and Accounting Procedures Act of September 12, 1950 (31 U.S.C. 18b), Executive Order 10253 of June 11, 1951, and Executive Order 11541 of July 1, 1970.

4. *Coverage*. The Circular applies to all statistical series issued by agencies to the public annually or more frequently, unless otherwise exempted by the OMB.

5. *Objectives*. It is the aim of this Circular to accomplish the following objectives:

a. The shortest practicable interval should exist between the date or period to which the data refer and the date when compilation is completed. Prompt public release of the figures should be made after compilation. In the case of principal indicators, the goal is to accomplish compilation and release to the public within 20 working days. Within this period no more than two working days should be allowed for the public release of data, unless other arrangements are approved by the OMB.

b. In the case of other series, more time can be allowed, but every effort should be made to keep it to a minimum. Series requiring an inordinately long time to compile should be reviewed to see what purpose they serve and whether they should be discontinued or reduced in frequency (e.g., monthly series made quarterly or annual).

c. Release dates for principal economic indicators will appear each month in the OMB publication, *Statistical Reporter*. Care should be taken in scheduling these release dates so that they can be met. Unless directed otherwise by OMB, figures which become available early should be released early.

d. Initial release of statistical series should be made by the statistical agency in a written report. A press release should be issued if it would significantly speed up the release of the data to the public. There should be a one-hour separation between the issuance of the release by the statistical agency and related commentary.

6. *Responsibilities*. Each agency is directed to review continually its practices in releasing statistical series to the public and to take such action as may be necessary to carry out the objectives of this Circular.

7. *Reports and records*. Each agency that publishes statistics subject to the provisions of this Circular will submit reports to the OMB and maintain records in accordance with instructions in the Attachment and in the formats of the Exhibit.[12]

8. *Inquiries*. For any information concerning this Circular, please call the Office of Management and Budget, Statistical Policy Division, telephone: code 103–4911 or 395–4911.

GEORGE P. SHULTZ,
Director.

INTEGRITY IN NUMBERS

Federal statistics are the guide by which the government steers the massive economic and social policies that touch the lives of us all. These statistics are very sensitive. The monthly reports on inflation, for example, are calculated in tenths of a percentage point. A few tenths of a point, up or down, are a disaster or a triumph for the administration. A few more tenths of a point can turn an election.

Professional scholars and analysts have been expressing rising concern over political pressures on the agencies that gather and compute these crucial figures. Their concern rose sharply this spring when the administration picked men from President Nixon's re-election campaign operations to head two of the most prestigious statistical agencies. Last Tuesday, we denounced these appointments, and this morning we publish a letter in reply from Paul R. Squires, the associate director of one of those agencies, the Census Bureau. Mr. Squires correctly points out a factual error in our editorial Tuesday. The Bureau of Labor Statistics is, of course, in the Department of Labor and not, as we erroneously said, in the Department of Commerce. Otherwise, unfortunately, our comments on Tuesday were accurate. If anything, we have come to this issue a bit late.

Last December, the Industrial Relations Research Association published a resolution declaring that "the credibility of the Bureau of Labor Statistics has been impaired by events of the last two years." Those events had just culminated in the White House's decision to fire the highly qualified head of the Bureau, Dr. Geoffrey Moore. Five months later, the job still has not been filled.

The American Statistical Association and the Federal Statistics Users' Conference set up a point Committee on the Integrity of Federal Statistics that, after a year's study, brought out its report in February. "The causes for concern which led to the formation of this committee have been intensified during the past year," it declared. It spoke of "premature retirements of key professional personnel," and a reorganization pattern that "provides increasing opportunities to exert political influence on the development and interpretation of statistical programs."

What could political pressure accomplish? Certainly nothing so obvious as falsified figures. But this committee report offers an illustration of the danger. Suppose that an automobile manufacturer adds pollution control equipment to its cars and raises the price. Does the price increase represent an improvement in the quality of the car? All of the price increase? Part of it? If it is counted as a quality improvement, then it shows up in the statistics as growth in real economic production, wealth, and manpower productivity. If it is counted as a cost increase, it shows up as more inflation. In that case, it could trigger cost-of-living raises for millions of workers, and strengthen the political criticism of the administration's economic strategy.

In mid-April, the administration chose Vincent P. Barabba to head the Census Bureau, and Edward D. Failor to run the Social and Economic Statistics Administration, a division of the Commerce Department that includes the Census Bureau. The president of the American Statistical Association, Professor Clifford Hildreth of the University of Minnesota, promptly protested both choices on grounds that neither "has had statistical training, experience, or contact with the statistical profession."

Mr. Barabbas's experience lies in running a market research organization that did polling for Mr. Nixon during the campaign. The issue is whether a person associated with campaign polling ought now be placed in charge of the Census. Mr. Failor is an Iowa lawyer who, earlier in the Nixon administration, was at the Bureau of Mines. His record there is the subject of some controversy. He defends it, but the General Accounting Office has sharply criticized it. Subsequently Mr. Failor was employed by the Committee for the Re-Election of the President.

Sen. William Proxmire (D-Wisc.) has been following these appointments, as chairman of the Joint Economic Committee's subcommittee on statistics. He has called on President Nixon to withdraw both names, and he is right. "The question is," the Senator observes, "will the American people believe inflation statistics when Campaign '74 rolls around next year? These appointments put that public faith in jeopardy."

Mr. MOSS. Mr. President, I rise to state that I shall vote against the nomination of Mr. Vincent Barabba to be Director of the Bureau of the Census. I cast a negative vote in the Post Office and Civil Service Committee based on my understanding that Mr. Barabba does not meet certain professional requirements.

I, of course, recognize that there are many jobs that can be filled by a person of general competence. Good administrative ability and commonsense is often to be preferred to technical training when a person is dealing with a broad field of human relations or is concerned with wide policy considerations. But a job that is as technical and as demanding as this one of Census Director requires more than general administrative ability. Moreover, we make certain that the post remains completely free of political overtones. I think it requires that we have a person of demonstrated professional competence.

As the chairman of the Committee on Post Office and Civil Service said, there is no requirement, no legal requirement, that a person nominated for the Director of the Bureau of the Census have this professional background. By the same token there is no requirement that the Chief Justice of the United States or a member of the Supreme Court be a lawyer or a member of the bar. However, I think none of us would feel that a man appointed by the President, who did not have training in the law or some experience in the law, would be an adequate nominee to be a member of the Supreme Court.

And certainly a man nominated for Surgeon General or for any other position requiring training should be a professional man.

It is the lack of this type of professional training that makes Mr. Barabba unsuited for the job of Census Director.

Besides requiring leaders with professional expertise, Federal statistical agencies must also have firm credibility. Many critical decisions in our society—including basic decisions of Government policy—rely in whole or part upon statistics. Also, figures on employment, inflation, and many other key indicators of Government performance are derived from statistics. Our statisticians must be professionals of the highest order, and they must be above partisanship.

Unfortunately, Mr. President, a number of serious questions have been raised about the professional qualifications of Mr. Barabba. Moreover, his background of political activity makes it inconceivable to me that Census Bureau statistics during his term as director could escape the suspicion of political influence. Particularly at a time when public confidence in Government decisions is at an alltime low, we should not further jeopardize that confidence by confirming a Census Director whose qualifications are political more than professional.

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[12] Attachments available from the Office of Management and Budget upon request.

I do not criticize the character or the integrity of Mr. Barabba. Undoubtedly he is an able man, and as a young man he has made a good record in the field of marketing. He is a man interested in government, who has participated in polling work for his party.

All of these things are commendable, and I do not fault him on this account. But I do say that he is lacking, and woefully lacking, in the expertise we should look for in the man who is to head the Bureau of the Census.

This is not a policymaking department in the Government. It involves the exact science of taking statistics, compiling them, and presenting them in an accurate and professional way so that there is no questions about their accuracy. Our Federal statistics are useful to us only if they are collected and presented in a thoroughly professional manner.

That is what we require in the Director of the Census Bureau. For that reason, I cannot vote for Mr. Barabba. He simply does not possess the necessary professional qualifications.

The PRESIDING OFFICER. All time of the Senator from Utah has expired.

The Senator from Wyoming has 18 minutes remaining.

Mr. McGEE. Mr. President, I yield 3 minutes to the Senator from Texas.

Mr. TOWER. I thank my friend from Wyoming.

Mr. President, to insist that an appointee for a position be approved by or a member of a particular trade or professional association, I think, must be rejected on the face of it. My distinguished friend from Wyoming has mentioned the professional association to which I belong, the American Political Science Association, suggesting that that membership does not qualify me to be a college administrator; and indeed it does not.

That rationale, if we followed it, I think, would require us to insist that the Secretary of Labor be a trade unionist and that the Secretary of Defense be a professional military man.

Of course, I think it would be nice if members of the Federal Power Commission were experienced in the oil business, but we do not necessarily do things that way around here. We put people in charge of specific jobs because of their peculiar abilities as people, and in many instances not because of any particular experience.

In the case of Mr. Barabba, I think that his experience well commends him for this job, regardless of what the Statistical Association may say. Because Mr. Barabba has proved himself to be very accomplished at gathering masses of data and reducing those data to manageable proportions, and of applying proper analysis to those data and making them useful. I think that is pretty good experience.

He is obviously a man who has achieved great success in this field. I do not think that we should worry that he has had some political background. We appoint people with political backgrounds to positions in government every day.

It is done in both Republican and Democratic administrations.

It is in the nature of things.

Past heads of the Bureau of the Census have had less experience in the data-gathering business, and have themselves been political appointees. So I think that argument is specious at best. I know Mr. Barabba to be a man of the highest professional character. I have known him for some time and I know he is extremely professional and extremely effective at whatever he does. I know he is a man who, having gathered data and analyzed it, tells it to you, the way it is, and not the way he thinks you would like to hear it.

So I have no question in my mind about his objectivity in this admittedly sensitive and important job. I hope the Senate will reject the arguments that have been raised against him, and will confirm him for the post of Director of the Census.

Mr. McGEE. Mr. President, I yield myself such time as I may require. It will not be long, but I want to address myself to the remarks of the Senator from Wisconsin, because he has made some very interesting points. But I would point out that he has also introduced a bill S. 2020, that is before our committee, the day before this hearing on Mr. Barabba. S. 2020 would add some new credentials in some of the other statistical areas it would require congressional approval, particularly in regard to the administrator of Social and Economic Statistics Administration; and I think this is a very commendable thing. We are going to hold hearings on it and make a recommendation to this body legislatively about how to upgrade SESA. But that has little relevance to the nominee for this particular office.

The relevance of the opinion of the American Statistical Association to the nomination has been raised again and again, that the statisticians oppose Mr. Barabba. But I think it is a mixed bag, if I may suggest so, Mr. President. There are those statisticians who likewise have doubts that a statistician could effectively administer another group of statisticians, holding that the real point is to select an administrator.

There is no requirement that directors of statistical organizations must be professional statisticians, in fact, a review of Dr. Jean Gibbons article "A Question of Ethics" in the April 1973 edition of the American Statistician illustrates quite clearly the difficulty a "professional statistician" would encounter in "directing" the Bureau of the Census. Dr. Gibbons identifies the manner in which a statistician should inform his employers of his neutral position on all strictly nonstatistical aspects of a study:

> The statistician is an independent professional expert who does not make judgments or decisions outside of the area of his expertise, which is specifically and solely statistical theory and techniques. In any study relating to debatable issues, the statistician does not take sides in the design of the experiment, on the analysis of data, or on the presentation or interpretation of the results. Further, he will not be a party to manipulations and analyses which are, in his honest opinion, not statistically proper.

I am simply suggesting that while professional statisticians have an important role in the Bureau of the Census, the man we are interested in is appointed as an administrator. But now he also ought to meet other requirements, apparently, and have other credentials, for we are told by our distinguished colleague from Wisconsin that not only does the Statistical Association oppose him, but so does the American Economic Association; so he has got to be an economist. Likewise, so does the American Psychological Association oppose him, so we have to make him a psychologist. And the American Sociological Association opposes him.

All of them oppose him this afternoon. Where were they when we held the hearings? Mr. President, we had to go out and scratch for someone to come in and testify their "druthers" in this case. We tried to examine everyone, and now they are writing letters to the Senator from Wisconsin.

So they oppose it. Are we going to make a sociologist out of the Director of the Census? What about a mathematician? Maybe he ought to be a mathematics major as well. I might add that I have not had time to check with the Wyoming Wool Growers, but maybe they have some views. Maybe he ought to be a wool-gatherer as well.

What about the VFW, the Parent-Teachers Association, or the DAR? We can carry this to the ridiculous.

We are not picking a statistician. We are not picking a psychologist. We are not picking any of the other professional groups that have been dragged in here by the heels to suggest that somehow there is an avalanche of opposition. The executive directors and the members of the boards of those associations sat around talking to each other, and now they come in here trying to make a protest at the 11th hour.

Mr. President, your committee heard this case, and we heard most of all, in the most intelligent way, from our colleague from Wisconsin, who had his complete say. We have pending before the Senate right now legislation introduced by the Senator from Illinois (Mr. STEVENSON), his bill S. 2142 seeks to establish a U.S. Statistical Commission, transferring a number of agencies into this organization and establishing a 1-year blue ribbon commission to study further reorganization.

So, along with Senator STEVENSON and the Senator from Wisconsin, we have proposals for upgrading the requirements for several of the offices. That is great. But we cannot make them retroactive. It is not fair to the nominee. If he is honest, and they have all agreed that he is a man of integrity, then I say it is too late at this hour to try to invent sudden, new requirements for a responsible position. Let us make them at some future time and go through the legislative procedure and get the job done.

But this committee has considered Mr. Barabba well and fully and with criticism within the committee. We wanted to know all the facts.

Mr. President, we are ready to stand on the recommendation that Mr. Barabba be appointed as the new Director of the Bureau of the Census.

I would only add, in all fairness to Charlie Ferris, that we have not received his nomination as a coach of the Redskins but I would hasten to point out there that we are not even interested in George Allen. But we only are interested in the fact that Edward Bennett Williams administers the Redskins. He picked George Allen. I doubt that Mr. Williams would make a very fast split end in today's pro football. But he does know how to administer. That is the whole point at stake here.

I would hope that we might proceed to vote.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. CLARK). Seven minutes remain.

Mr. McGEE. I yield 3 minutes to the Senator from Hawaii (Mr. FONG) and then I want to yield the remainder of that time, if it is still enough, to the Senator from Wisconsin so that we might accommodate him on the time.

Mr. FONG. Mr. President, I am quite amused at the argument made by the Senator from Wisconsin that he is afraid, if Mr. Barabba were appointed Census Director, he would doctor the figures, that he would try to give out erroneous figures rather than the figures that his bureau collected. The Senator from Wisconsin, the Senator from Utah, and Senator from Minnesota do not question the integrity nor the honesty of Mr. Barabba, yet they are afraid, if he were appointed Director of the Census, that he would, somehow, doctor the figures.

The fact that a man is a professional does not give him integrity, nor does it give him honesty. The fact that a man is not a professional does not make him a dishonest man or say that he has no integrity.

We have shown that Mr. Barabba is a very decent and outstanding individual. In fact, the distinguished Senator from Wisconsin (Mr. PROXMIRE) says that Mr. Barabba is a decent and fine man and that he does not question his honesty or integrity.

The only objection they have against Mr. Barabba is that he is not a professional.

Let us examine the biographies of the six men who held the post over the past 30 years.

From the biographies, we find that four of the six Census Directors have not been professional statisticians. Since no one has claimed that these people have not done a good job, we assume that they have done a good job.

Let us consider five of Mr. Barabba's six immediate predecessors over the past 30 years.

First, the Director, from 1941 to 1949, Mr. J. C. Capt, had not finished college and was neither a researcher nor a statistician but, rather, was a small businessman. Yet he was a good Census Director.

The second Director, from 1950 to 1953, Dr. Roy Peel, had previously been a political science professor and a political writer. He was not a statistician; yet there was no complaint against him.

The third Director, from 1953 to 1960, Mr. Robert W. Burgess, was a professional statistician and an economist.

The fourth Director, from 1961 to 1965, Mr. Richard Scammon, a friend and college associate of the distinguished Senator from Minnesota, had been a political scientist and an electoral researcher. He was never a statistician, and there was no complaint during his tenure as Census Director.

The fifth Director, from 1955 to 1969, Dr. Ross Eckler, was a professional statistician.

The sixth Director, from 1969 to 1973, Dr. George H. Brown, had earned a Ph. D. in economics, but was a market researcher and not a professional statistician.

So you see, Mr. Presdent, for the past 30 years we have had six Census Directors, only two of whom were professional statisticians.

In the face of that history, Mr. President, I find it impossible to accept the argument that the position of Census Bureau Director requires a professional statistician.

Mr. HANSEN. Mr. President, it is my very real pleasure to add a word about Mr. Vincent R. Barabba who has been nominated to be Director of the Census.

It has been my honor to know Mr. Barabba for a number of years and to have seen his administrative abilities and fine business sense close up. He will bring vigor, desire, and a highly positive attitude to the position as Director and I am pleased to have this means to endorse the President's choice.

Mr. Barabba will bring not only the required technical expertise to the job but an intimate knowledge of good business practices, having been involved in important computer-based services activities for a number of years, while based in California.

Mr. President, I have known Vincent Barabba for almost 12 years now and have always found him to be straightforward and vigorous in the execution of any assignment. I am sure he will do the same excellent job as Director of the Census.

Vincent Barabba will bring both business acumen and integrity to his position with the Federal Government. It is a big job, but I know he will discharge his responsibilities as he always has, with vigor and vision.

Mr. CRANSTON. Mr. President, we have before us today the nomination of Mr. Vincent Barabba, of Los Angeles, Calif., to be Director of the Bureau of the Census.

The Census Bureau is of vital importance to the functioning of our Government. The information gathered by that agency forms a basis for Government planning of programs and for the allocation of funds that affect the lives of all Americans.

The person who heads the Bureau must have a solid background in statistics and a firm commitment to gathering accurate and complete data about the numbers, characteristics, and distribution of our population. I am convinced that Mr. Vincent Barabba is such a person.

The Director of the Bureau of the Census does not need to be a professional statistician. He can employ statisticians. He must be an administrator with an understanding of the uses of statistics. I believe, Mr. Barabba meets those qualifications.

Mr. Barabba was educated at Woodbury Business College, California State University at Northridge, and has a master's degree in business administration from the University of California at Los Angeles. Upon the completion of his education he was president of Datamatics, Inc. He later became chairman of the board of Decision Making Information, Inc., a California marketing and research firm, and was a director of the Central Bank of Glendale, Calif. He has been deeply involved in the advanced technical application of computers to analyze population data in marketing and other types of surveys.

After his nomination, I met with Vincent Barabba in my office. I was impressed with his intelligence and with his desire to fulfill the difficult job for which we are considering him. Mutual acquaintances in California have indicated to me their deep respect for Mr. Barabba's ability and integrity.

For these reasons, I support Mr. Barabba's nomination and hope that you will see fit to confirm it.

Mr. McINTYRE. Mr. President, I would like to make a few observations with respect to the nomination of Mr. Vincent P. Barabba to be Director of the Bureau of the Census.

For the past several years the Subcommittee on Government Regulation of the Senate Select Committee on Small Business, of which I have the honor to be chairman, has been concerned with the Federal paperwork burden. The Census Bureau is certainly a contributor to this problem although to a lesser degree than many other Federal agencies.

On July 11, I had scheduled a hearing by my subcommittee to hear testimony from the Census Bureau as to their assessment of the Federal paperwork burden and their overall philosophy in collecting, analyzing, and disseminating Census data for the benefit of all sectors of the business community. Unfortunately, I had to cancel the July 11 hearings because the Department of Commerce was unable, or unwilling, to provide a witness who could address these vital questions relating to the Bureau of the Census which were under consideration by the subcommittee.

I wish to state now for Mr. Barabba, and for the record, that I intend to reschedule these hearings as early as possible when Congress returns from its recess in August. I am hopeful that Mr. Barabba will, during that period of time, have ample opportunity to begin an examination of past practices of the Census Bureau and will be able to offer the subcommittee new plans, concepts, and programs which he will implement during his stewardship of this most important statistical agency of the Federal Government.

There have been some questions raised by various persons as to Mr. Barabba's fitness for this post. I will give the President the benefit of the doubt in this appointment. But, Congress must make sure that he does the task in a way to meet the people's and the Government's needs.

Mr. McGEE. Mr. President, I yield the remainder of my time to the distinguished Senator from Wisconsin (Mr. Proxmire).

PROFESSIONAL STATISTICIAN NOT REQUIRED

Mr. PROXMIRE. Mr. President, this body might be called a tunnel of wind because no one is paying any attention to what we are saying here, because if they did, they would know that I did not say at any time that we needed a professional statistician as the head of the Census Bureau. I did not say that. I did say that he would have to be professionally qualified, in order to carry on the many disciplines, as Mr. Hildreth pointed out, that would be required for him to serve in that job competently.

Mr. Scammon was a good Census Bureau Director although he had been a political scientist and an electoral researcher. He was a researcher for Western Europe in the Department of State for 7 years and he had good qualifications, as Mr. Hildreth pointed out. Mr. Barabba does not have those professional qualifications.

PROFESSIONAL ASSOCIATIONS OPPOSE HIM

The point is that no professional association that uses the Census Bureau will support this nomination. He does not have to be a psychologist to meet the approval of the psychologists' association, he does not have to be a sociologist to meet with the approval of the sociologists' association, and he does not have to be an economist to seek the approval of the economic association. They do not say he has to be like them. They say he has to have professional qualifications which will provide him with the capability of understanding what the Census Bureau is doing. It is a very, very complex agency, an agency which, as the Senator from Utah (Mr. Moss) pointed out, does not have any political power but is a factfinding agency that should have a competent professional in charge.

DIRECTOR'S BOSS ALSO POLITICAL APPOINTEE

One final point, and that is that it would be one thing if we were only concerned about Mr. Barabba. We are also concerned about Mr. Edward Failor, Mr. Barabba's boss. He does not require Senate confirmation, unfortunately, but he will be the head of the Social and Economic Statistics Administration—SESA—at the Department.

Mr. Failor is totally unqualified to head the Social and Economic Statistics Administration. He comes to the job directly from CREEP, the Committee to Re-Elect the President, where he wrote canned partisan speeches for congressional candidates.

Prior to that, he was Chief of the Office of Assessments and Compliance of the Bureau of Mines where his stewardship received a stinging rebuke in a General Accounting Office report. His other qualifications include a position as a legislative lobbyist for the Association of Coin Operated Laundries in Iowa.

Mr. President, these are the two men who would be principally responsible for our statistics. That is the reason why I think the Senate should provide a resounding no to the nomination of Mr. Barabba.

The PRESIDING OFFICER (Mr. Clark). All time on this nomination has now expired.

The question is, Shall the Senate advise and consent to the nomination of Vincent R. Barabba, of California, to be Director of the Census?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. Cannon), the Senator from Minnesota (Mr. Mondale) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. Abourezk) is absent on official business.

I also announce that the Senator from Mississippi (Mr. Stennis) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Mondale) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. Bellmon) is absent to attend the funeral of a friend.

The Senator from Utah (Mr. Bennett) is necessarily absent.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness.

The result was announced—yeas 73, nays 20, as follows:

[No. 324 Exec.]

YEAS—73

Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bible
Brock
Brooke
Buckley
Burdick
Byrd,
 Harry F., Jr.
Byrd, Robert C.
Case
Cook
Cranston
Curtis
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin
Fannin
Fong
Fulbright
Goldwater
Gravel
Griffin
Gurney
Hansen
Hartke
Hatfield
Helms
Hollings
Hruska
Inouye
Jackson
Javits
Johnston
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McIntyre
Montoya
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Randolph
Roth
Saxbe
Schweiker
Scott, Pa.
Scott, Va.
Sparkman
Stafford
Stevens
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—20

Bentsen
Biden
Chiles
Church
Clark
Hart
Haskell
Hathaway
Huddleston
Hughes
Humphrey
Kennedy
McGovern
Metcalf
Moss
Muskie
Nelson
Proxmire
Ribicoff
Stevenson

NOT VOTING—7

Abourezk
Bellmon
Bennett
Cannon
Cotton
Mondale
Stennis

So the nomination was confirmed.

Mr. McGEE. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. MOSS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION—TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business and that there now be a period for the transaction of routine morning business for not to exceed 10 minutes, with statements limited therein to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT ON S. 1828 AND S. 1560

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—and this matter has been cleared with the other side—that, at such time as S. 1828 is called up and made the pending question before the Senate, there be a time limitation thereon of 10 minutes, to be equally divided between the junior Senator from West Virginia (Mr. Robert C. Byrd) and the minority leader or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that on tomorrow, at the hour of 10:30 a.m., the Senate proceed to the consideration of S. 1560, a bill to extend the Emergency Employment Act of 1971, and for other purposes; that that bill remain the business before the Senate until disposed of or until the hour of 2 p.m., whichever is the earlier; and that upon the disposition of that bill, or no later than the hour of 2 p.m. tomorrow, the Senate proceed to the consideration of S. 1828; that upon the disposition of that bill, the Senate proceed to the consideration of S. 372, the so-called Campaign Spending Act; and that that bill remain the unfinished business of the Senate until disposed of.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

The text of the unanimous-consent agreement is as follows:

UNANIMOUS-CONSENT AGREEMENT

Ordered, That, on July 25, 1973, upon disposition of S. 1560 or at the hour of 2:00 p.m., whichever is earlier, the Senate proceed to the consideration of S. 1828, a bill to require the President to appoint, with the advice and consent of the Senate, the head of the Mining Enforcement and Safety Administration, Department of the Interior, and that time thereon be limited to 10 minutes, to be equally divided and controlled by the Senator from West Virginia (Mr. Robert C. Byrd) and the Minority Leader or his designee.

TOXIC SUBSTANCES CONTROL ACT OF 1973

Mr. TUNNEY. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 426.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 426) to regulate interstate commerce by requiring premarket testing of new chemical substances and to provide for screening of the results of such testing prior to commercial production, to require testing of certain existing chemical substances, to authorize the regulation of the use and distribution of chemical substances, and for other purposes, which were to strike out all after the enacting clause, and insert:

SHORT TITLE; CONTENTS

SECTION 1. This Act may be cited as the "Toxic Substances Control Act of 1973".

TABLE OF CONTENTS

Sec. 1. Short title; contents.
Sec. 2. Declaration of policy.
Sec. 3. Definitions.
Sec. 4. Test protocols.
Sec. 5. Limited premarket screening of substantially dangerous chemical substances.
Sec. 6. Regulations applicable to a hazardous chemical substance.
Sec. 7. Imminent hazards.
Sec. 8. Reports.
Sec. 9. Exemptions and relationships to other laws.
Sec. 10. Chemical Substances Board.
Sec. 11. Research.
Sec. 12. Administrative inspections and warrants.
Sec. 13. Exports.
Sec. 14. Imports.
Sec. 15. Confidentiality.
Sec. 16. Prohibited acts.
Sec. 17. Penalties.
Sec. 18. Injunctive enforcement and seizure.
Sec. 19. Environmental prediction and assessment.
Sec. 20. Cooperation of Federal agencies.
Sec. 21. Study of chemical substances classification system.
Sec. 22. State regulations.
Sec. 23. Judicial review.
Sec. 24. National security waiver.
Sec. 25. Authorization for appropriations.

DECLARATION OF POLICY

SEC. 2. (a) The Congress finds that—

(1) man and the environment are being exposed to a large number of chemical substances each year;

(2) among the many chemical substances constantly being developed and produced are some whose manufacture, distribution, use, or disposal may pose an unreasonable risk to health or the environment; and

(3) the effective regulation of interstate commerce in such chemical substances necessitates the regulation of such chemical substances in intrastate commerce as well.

(b) It is the policy of the United States that—

(1) hazardous and potentially hazardous chemical substances should be adequately tested with respect to their effect on health and the environment and that such testing should be the responsibility of those who manufacture, import, or process such chemicals;

(2) adequate authority should exist to regulate the distribution and use of chemical substances found to pose an unreasonable risk to health or the environment, and to take action with respect to chemical substances which are imminent hazards; and

(3) authority over chemical substances should be exercised in such a manner as not to unduly impede technological innovation while fulfilling the primary purpose of this Act to assure that such innovation and commerce in such chemical substances do not pose an unreasonable risk to health or the environment.

(c) It is the intent of Congress that the Administrator shall carry out this Act in a reasonable and prudent manner, and that he shall consider the economic and social impact of any action he proposes to take under this Act.

DEFINITIONS

SEC. 3. (a) As used in this Act:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "chemical substance" means (A) any organic or inorganic substance of a particular molecular identity: (B) any uncombined radical or element; or (C) any mixture.

(3) The term "mixture" means any mixture which (A) occurs naturally, or (B) is produced by an industrial chemical process and which is marketed or used without separation into its constituents.

(4) The term "environment" includes water, air, land, all living things therein, and interrelationships which exist among these.

(5) The term "importer" means any person who (A) imports a chemical substance for distribution in commerce for commercial purpose, or (B) reimports a chemical substance, which was manufactured or processed in whole or in part in the United States for distribution in commerce for commercial purpose.

(6) The term "manufacturer" means any person who manufactures a chemical substance.

(7) The term "manufacture" means to produce or manufacture.

(8) The term "processor" means any person engaged in the preparation of a chemical substance for distribution or use either in the form in which it is received or as part of another product.

(9) The term "test protocol" means—

(A) a test designed to determine the effect of a chemical substance or the use of a chemical substance on health or the environment, including a test designed to determine the effect of the manufacture, processing, distribution, use, or disposal of such substance on health or the environment,

(B) the procedures or standards to be used in making such test, and

(C) the results to be achieved from such test which the Administrator determines are necessary to evaluate whether such chemical substance poses or is likely to pose an unreasonable risk to health or the environment.

(10) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, American Samoa, or the Trust Territories of the Pacific Islands.

(11) The term "to distribute in commerce" and "distribution in commerce" means to sell in commerce, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce.

(12) The term "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation between a place in a State and any place outside thereof.

(13) The term "United States", when used in the geographic sense, means all of the States (as defined in paragraph (10)).

(b) Any action which may be taken by the Administrator under any provision of this Act with respect to a chemical substance may be taken by the Administrator in accordance with that provision with respect to a class of chemical substances. Whenever the Administrator takes action uner a provision of this Act with respect to a class of chemical substances, any reference in this Act to a chemical substance (insofar as the reference relates to such action) shall be deemed to be a reference to each chemical substance in such class.

TEST PROTOCOLS

SEC. 4. (a) If the Administrator finds that testing of a chemical substance or of the use of a chemical substance in accordance with a test protocol for such substance is necessary to protect against unreasonable risk to health or the environment, he may, by rule, (1) prescribe a test protocol for such substance, and (2) require, in accordance with subsection (d), that one or more persons perform the test called for in such protocol.

(b) In making the finding required under subsection (a), the Administrator shall consider all relevant factors, including—

(1) the effects of the chemical substance on health and the magnitude of human exposure;

(2) the effects of the chemical substance on the environment and the magnitude of environmental exposure;

(3) the extent to which the test protocol is reasonably predictive of the potential adverse effects of the chemical substances on health or the environment;

(4) any data concerning the safety of the chemical substance which may affect the requirements of the test protocol; and

(5) the extent to which a risk to health or the environment can be reasonably or more efficiently evaluated by testing the component chemical substances which comprise a mixture or series of mixtures in lieu of testing any or all mixtures of the same chemical substance components in different component ratios.

(c) A test protocol under this section may include tests for carcinogenesis, teratogenesis, mutagenesis, persistence, the cumulative and synergistic properties of the substance and epidemiological studies of the effect of such substance.

(d) A rule under subsection (a) may require each person who is a manufacturer, processor, or importer of the chemical substance to which a test protocol applies to perform the test called for in the last protocol. In the case of a test protocol for a chemical substance for which there is more than one manufacturer, processor, or importer, the Administrator may, in appropriate cases, permit the manufacturers, importers, or processors who are required to perform the tests called for in a test protocol to designate one or more of their number, or, to designate a qualified independent third party, to perform the required tests and permit the sharing of costs of such tests. If manufacturers, importers, or processors required to perform the tests are not able to agree upon a designee within a reasonable time, or if the agreed-upon designee is not acceptable to the Administrator, (1) the Administrator may order one or more of such manufacturers, processors or importers, or designate a qualified independent third party, to perform the required test, and (2) he may order those manufacturers, processors or importers who do not conduct the tests to provide fair and equitable contribution for the costs of such tests in an amount determined under rules of the Administrator.

(e) After allowing a reasonable time for completion of the required tests, the Administrator may order any manufacturer, processor, or importer who is required to perform the tests called for in a test protocol under this section to transmit to the Administrator the test data developed pursuant to such test protocol.

(f) Subject to section 15 (relating to the confidentiality of certain information), upon receipt of test data under subsection (e) the Administrator shall promptly publish in the Federal Register a notice which identifies the chemical substance for which test data have been received, lists the uses or intended uses of such substance, and describes the nature of the tests performed and the data which were developed; such data shall be made available, consistent with the terms of section 15, for examination by interested persons. Notice under this subsection shall identify the chemical substance by generic class unless the Administrator determines that more specific identification is required in the public interest.

(g) Any rule under this section and any amendment or revocation of such a rule shall be promulgated pursuant to section 553 of title 5, United States Code, except that the Administrator shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation.

LIMITED PREMARKET SCREENING OF SUBSTANTIALLY DANGEROUS CHEMICAL SUBSTANCES

SEC. 5. (a) Within eighteen months after the date of enactment of this Act, and from time to time thereafter, the Administrator shall, by rule, identify and publish in the Federal Register a list of chemical substances (or chemical substances with respect to a particular use or uses) which the Administrator finds are likely to pose substantial danger to health or environment. For the purposes of this section, "substantial danger to health or environment" means an unreasonable risk of death, of widespread or severe personal injury or illness, or of widespread or severe harm to the environment.

(b)(1) In making the finding required under subsection (a), the Administrator shall consider all relevant factors including—

(A) the effects of the substance on health and the magnitude of human exposure;

(B) the effects of the substance on the environment and the magnitude of environmental exposure; and

(C) any benefit of the chemical substance and the availability of less hazardous substances for any use of such substance.

(2) In determining whether (A) one or more mixtures, or (B) chemical substances which are components of such mixtures, should be listed under subsection (a), the Administrator shall consider whether the risk to health or the environment is associated with such mixtures or components or both and whether such risk can be more reasonably evaluated by testing the mixtures or by testing one or more components of such mixtures.

(c) A chemical substance listed under subsection (a) which was manufactured and distributed in commerce for commercial purpose prior to its listing may not be manufactured or distributed in commerce for a new use unless at least ninety days prior to such manufacture or distribution, the person intending to manufacture or distribute the chemical substance for such new use submits to the Administrator test data developed in accordance with a test protocol promulgated under section 4 which is applicable to such intended use, or (in the absence of such a test protocol) test data which such person believes shows that the intended new use of the chemical substance would not pose an unreasonable risk to health or the environment.

(d) A chemical substance listed under subsection (a) which was not manufactured or distributed in commerce for commercial purpose prior to its listing may not be manufactured or distributed in commerce unless at least ninety days prior to such manufacture or distribution, the person intending to manufacture or distribute such substance submits to the Administrator test data developed in accordance with a test protocol promulgated under section 4 which is applicable to the manufacture, distribution, use or disposal of such substance, and (to the extent that such a test protocol does not apply to the manufacture, distribution, use, or disposal of such substance) test data which such person believes shows that the manufacture, distribution, use, and disposal of the chemical substance would not pose an unreasonable risk to health or the environment.

(e) A person intending to manufacture or distribute in commerce a chemical substance for which no applicable test protocol has been prescribed under section 4 may petition the Administrator to develop and issue a test protocol for such substance or for the intended use of such substance. The Administrator shall either grant or deny any such petition within sixty days of its receipt. If the petition is granted, the Administrator shall diligently proceed to develop a test protocol for such substance. If the petition is denied, the Administrator shall publish in the Federal Register the reasons for such denial.

(f)(1) The Administrator may exempt any person from the obligation to submit data under subsections (c) and (d) of this section if he determines that the submission of test data by such person would be duplicative of data previously submitted in accordance with those subsections, but no such exemption may take effect before the date of termination of the premarket screening for which the data on which the exemption is based were submitted.

(2) If the Administrator, under paragraph (1), exempts any person from submitting data under this section because of the existence of previously submitted data and if such exemption takes effect during the reimbursement period for such data (as defined in paragraph (3)), then (unless the parties can agree on the amount and method of reimbursement) the Administrator shall order the person granted the exemption to provide fair and equitable reimbursement (in an amount determined under rules of the Administrator)—

(A) to the person who previously submitted data on which the exemption was based, for a portion of the costs incurred by him in complying with the requirement under this section to submit such data, and

(B) to any other person who has been required under this paragraph to contribute with respect to such data.

An order under this paragraph shall be considered final agency action, for purposes of judicial review.

(3) For purposes of this subsection:

(A) The reimbursement period for any previously submitted data is a period—

(i) beginning on the date of termination of the premarket screening for which the data were submitted, and

(ii) ending five years after such date of termination (or, if later, at the expiration of a period after such date equal in length to the period which the Administrator determines was necessary to develop the previously submitted data).

(B) The termination of the premarket screening for which data were submitted is the earliest date (after submission of such data) on which the person who submitted such data is no longer prohibited (by this section or by reason of a proposed rule made immediately effective under subsection (i) or section 6(d)) from proceeding with the manufacture and distribution with respect to which the data were submitted.

(g) The Administrator may for good cause shown extend the ninety-day period under subsection (c) or (d) of this section for an additional period not to exceed ninety days. Subject to section 15 of this Act, notice of such extension and the reasons therefor shall be published in the Federal Register and shall constitute a final agency action subject to judicial review.

(h) Subject to section 15 (relating to the confidentiality of certain information), upon rceipt of test data under subsection (c) or (d) the Administrator shall promptly publish in the Federal Register notice which identifies the chemical substance for which test data have been received; lists the uses or intended uses of such substance; and, describes the nature of the tests performed and the data which were developed. Such data shall be made available, consistent with the terms of section 15, for examination by interested persons. Notice under this subsection shall identify the chemical substance by generic class unless the Administrator determines that more specific identification is required in the public interest.

(i) If on the basis of available data or the absence of acceptable data under subsections (c) and (d), the Administrator proposes a rule to regulate such chemical substance under section 6 of this Act within the ninety-day period specified in subsections (c) and (d) or within the period as extended in accordance with subsection (g), such proposed rule may take effect immediately, pending completion of the administrative proceeding required under section 6 of this Act. After such rule is proposed and takes effect, the Administrator may refer the rule to a committee formed under section 10(c) of this Act. The Administrator shall refer such rule to such committee if requested by any interested person.

(j) Rules under this section which identify chemical substances as likely to pose substantial danger to health or the environment or any amendment or revocation of such rules shall be promulgated pursuant to section 553 of title 5, United States Code, except that the Administrator shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation.

(k) The Administrator may, upon application, exempt any person from the foregoing requirements of this section, for the purpose of permitting such person to manufacture and distribute in commerce a listed chemical substance for test marketing purposes or specially limited purposes (1) upon a showing by such person that the manufacture and distribution of such substance for those purposes would not pose an unreasonable risk to health or the environment, and (2) under such restrictions as the Administrator considers appropriate.

REGULATIONS APPLICABLE TO A HAZARDOUS CHEMICAL SUBSTANCE

SEC. 6. (a) If the Administrator finds that a rule under this section respecting a chemical substance is necessary to protect against unreasonable risk to health or the environment, he may prescribe a rule consisting of one or more of any of the following types of requirements:

(1) Requirements prohibiting the manufacture or distribution in commerce of such chemical substance or limiting the amount of such chemical substance which may be manufactured or distributed in commerce.

(2) Requirement prohibiting the manufacture or distribution in commerce of such chemical substance for a particular use or uses or limiting the amount of such chemical substance which may be manufactured or distributed in commerce for such use or uses.

(3) Requirements that such chemical substance or article containing such substance be marked with or accompanied by clear and adequate warnings and instructions with respect to its use or disposal, in such form and bearing such content as the Administrator determines to be appropriate.

(b)(1)(A) Rules under this section may

be limited in application to specified geographic areas.

(B) The authority of the Administrator to prescribe a rule under subsection (a)(2) prohibiting the manufacture and distribution in commerce of a chemical substance for a particular use shall include authority to prescribe a rule prohibiting the distribution in commerce of a chemical substance for a particular use in a concentration in excess of a level specified in such rule.

(2)(A) No rule may be prescribed under subsection (a)(1) of this section which limits the amount of a chemical substance which may be manufactured, imported, or distributed in commerce unless the Administrator finds that the risk to health or environment associated with such chemical substance cannot be prevented or reduced to a sufficient extent by means of a rule prescribed under subsection (a)(2) prohibiting the manufacture or distribution in commerce of such substance for particular use or uses or by means of a rule prescribed under subsectioin (a)(3).

(B) No rule may be prescribed under subsection (a)(2) which limits the quantity of a chemical substance which may be manufactured, imported, or distributed for a particular use or uses unless the Administrator finds that the risk to health or environment associated with such substance cannot be prevented or reduced to a sufficient exetnt by means of a rule prescribed under subsection (a)(3), or by means of a rule under subsection (a)(2) prohibiting the distribution in commerce of a chemical substance for a particular use in a concentration in excess of a level specified in such rule.

(3)(A) Rules described in subsection (a)(1) of this section which limit the amount of a chemical substance which may be manufactured, imported, or distributed in commerce, and rules described in subsection (a)(2) which limit the quantity which may be manufactured, imported, or distributed for a particular use or uses, shall include provision for assigning production, importation, or distribution quotas to persons who wish to manufacture, import, or distribute the chemical substance. The permissible quota for each such person shall be determined in accordance with criteria prescribed under subparagraph (B).

(B) The Administrator shall by rule prescribe criteria which shall take into account all relevant factors, including—

(i) effects on competition,

(ii) the market shares, productive capacity, and product and raw material inventories of persons applying for quotas.

(iii) emergency conditions, such as fires or strikes, and

(iv) effects on technological innovation.

The last sentence of section 23(c) shall not apply to rules under this subparagraph (B).

(c) In issuing such rules under subsection (a) the Administrator shall consider all relevant factors including—

(1) the effects of the substance on health and the magnitude of human exposure;

(2) the effects of the substance on the environment and the magnitude of environmental exposure; and

(3) the benefits of the substance for various uses and the availability of less hazardous substances.

(d) The Administrator shall specify in any rule under subsection (a) the date on which it shall take effect, which shall be as soon as feasible. Where the Administrator determines that the manufacture, processing, distribution, use, or disposal of a chemical substance is likely to result in harm to health or the environment prior to the completion of a rulemaking proceeding under subsection (a) respecting such substance and where the Administrator determines that such action is necessary in the public interest, he may declare a proposed rule under subsection (a) immediately effective pending completion of the rulemaking proceeding.

(e) If the Administrator has good cause to believe that a particular manufacturer or processor is manufacturing or processing a chemical substance in a manner which permits or causes the adulteration of a chemical substance and if the Administrator determines that, as a result of such adulteration, the chemical substance poses an unreasonable threat to health or the environment—

(1) the Administrator may require such manufacturer or processor to submit a description of the relevant quality control procedures followed in the manufacturing or processing of such chemical substance; and

(2) if he thereafter determines that such quality control procedures are inadequate to prevent the adulteration of the chemical substance, the Administrator may, after notice and opportunity for hearing pursuant to section 554 of title 5, United States Code, order the manufacturer to revise such quality control procedures to the extent necessary to remedy such inadequacy.

For the purposes of this subsection, a chemical substance shall be deemed to be adulterated if it bears or contains any added substance or contaminant which itself, or in combination with the chemical substance, presents an unreasonable risk to health or the environment.

(f)(1) Rules under subsection (a) shall be promulgated pursuant to section 553 of title 5 of the United States Code; except that in promulgating any such rule, (A) the Administrator shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions; (B) a transcript shall be kept of any oral presentation; and (C) during any such oral presentation the Administrator shall include an opportunity for cross-examination as provided in paragraph (2).

(2)(A) Except as provided in paragraph (B), during any such oral presentation, the Administrator shall include an opportunity for cross-examination to such extent and in such manner as the Administrator considers necessary and appropriate in view of the nature of the issue or issues involved and the number of the participants and the nature of their interests.

(B) If only a single interested person seeks to avail himself of an opportunity for cross examination in a proceeding to promulgate a rule under subsection (a), or if the Administrator determines that all persons who seek to avail themselves of such an opportunity are members of a single class sharing an identity of interest, the Administrator shall afford such single interested person or representative of such class (as designated by the participants of such class) an opportunity to conduct cross-examination to the same extent that cross-examination is permitted under section 556 of title 5, United States Code.

(g) The Administrator, at the time he promulgates any final rule under this section, shall include a detailed statement on the economic impact of such action, including, but not limited to, consideration of the effects on business enterprises and labor forces and the effect on the national economy.

IMMINENT HAZARDS

SEC. 7. (a) The Administrator may file an action in United States district court—

(1) against an imminently hazardous chemical substance and any article containing such substance for seizure of such substance or article under subsection (b)(2) of this section, or

(2) against any person who is a manufacturer, processor, distributor, or retailer of such chemical substance or article.

Such an action may be filed notwithstanding the existence of a rule under sections 4, 5, or 6 of this Act, and notwithstanding the pendency of any administrative or judicial proceeding under any provision of this Act. As used in this section, the term "imminently hazardous chemical substance" means a chemical substance which presents imminent and unreasonable risk to health or the environment. The risk to health or the environment shall be considered imminent if it is shown that the manufacture, processing, distribution, use, or disposal of a chemical substance is likely to result in harm to health or the environment prior to the completion of an administrative proceeding under this Act.

(b)(1) The district court in which such action is filed shall have jurisdiction to grant such temporary or permanent relief as may be necessary to protect health or the environment from the unreasonable risk associated with the chemical substance or article containing such substance. Such relief may include (in the case of an action under subsection (a)(2)) a mandatory order requiring (A) notification of such risk to those purchasers of such chemical substance or an article containing such chemical substance which are known to the defendant; (B) public notice; (C) recall; and (D) the replacement or repurchase of such chemical substance or article containing such substance.

(2) In the case of an action under subsection (a)(1), the chemical substance or article containing such substance may be proceeded against by process of libel for the seizure and condemnation of such substance or such article in any United States district court within the jurisdiction of which such substance or article is found. Proceedings in cases instituted against a chemical substance or article containing such substance under the authority of this section shall conform as nearly as possible to proceedings in rem in admiralty.

(c) Where appropriate, concurrently with the filing of an action under this section or as soon thereafter as may be practicable, the Administrator shall initiate a rulemaking proceeding under section 6 of this Act.

(d)(1) An action under subsection (a)(2) of this section may be brought in the United States district court for the District of Columbia or in any judicial district in which any of the defendants is found, is an inhabitant, or transacts business; and process in such an action may be served on a defendant in any other district in which such defendant resides or may be found. Subpenas requiring attendance of witnesses in such an action may run into any other district. In determining the judicial district in which an action may be brought under this section in instances in which such action may be brought in more than one judicial district, the Administrator shall take into account the convenience of the parties.

(2) Whenever proceedings under this section involving identical chemical substances or articles containing such substances are pending in courts in two or more judicial districts, they shall be consolidated for trial by order of any such court upon application reasonably made by any party in interest, upon notice to all parties in interest.

(e) Notwithstanding any other provision of law, in any action under this section, the Administrator may direct attorneys employed by him to appear and represent him.

REPORTS

SEC. 8. (a)(1) Except as provided in subsections (b) and (c), the Administrator may, by rule, require any manufacturer, importer, or processor of any chemical substance to submit reports to him annually, and at such more frequent time as he may reasonably require, containing any or all of the following:

(A) The names of any or all chemical substances manufactured, imported, or processed by the manufacturer, importer, or processor thereof.

(B) The chemical identity and molecular structure of such substances insofar as is known to such manufacturer, importer, or processor, or insofar as such are reasonably ascertainable.

(C) The categories of use of each such substance, insofar as they are known to such manufacturer, importer, or processor, or insofar as such are reasonably ascertainable.

(D) Reasonable estimates of the amounts of each substance manufactured, imported, or processed for each such category of use.

(E) A description of the byproducts, if any, resulting from the manufacture, processing, or disposal of each such substance, insofar as they are known to such manufacturer, importer, or processor, or insofar as such are reasonably ascertainable.

(2) For purposes of this subsection, the term "byproduct" means a chemical substance produced as a result of the manufacture, processing, use, or disposal of some other chemical substance.

(3) The Administrator may, by rule, exempt manufacturers, importers, or processors from all or part of the requirements of this section if he finds that such reports are not necessary to carry out the purposes of this Act, or if he finds that such reports would provide information which duplicates information otherwise available to him.

(b)(1) Subject to paragraph (2) of this subsection, the Administrator shall have no authority under subsection (a) of this section to require any manufacturer, processor or importer of any chemical substance to submit reports to him in the manner therein provided except with respect to a chemical substance or an article containing such substance—

(A) for which a test protocol has been prescribed under section 4(a) of this Act;

(B) which is contained in the list of chemical substances which the Administrator has by rule identified and published in the Federal Register under section 5(a) of this Act; or

(C) which are covered by a rule under section 6(a) of this Act.

(2)(A) The limitations on reporting contained in paragraph (1) of this subsection shall apply only to a manufacturer, processor, or importer which is a small business concern; except that if the Administrator determines that such a concern is substantially engaged in the development of one or more new chemical substances, he may order such concern to make reports with respect to any new chemical substance developed by it.

(B) For purposes of this subsection, the term "small business concern" means a manufacturer, processor, or importer which is (i) a small business concern within the meaning of the section 121.3–11(a) of title 13 of the Code of Federal Regulations (as in effect on the date of enactment of this Act) or (ii) any other concern which is independently owned and operated and not dominant in its field of operations, and which the Administrator of the Small Business Administration by rule defines as a small business concern for purposes of this subsection, taking into account relevant factors such as concentration of output in the industry of which it is a part, total number of concerns in such industry, and the size of such concern relative to the size of industry leaders.

(c) The Administrator may not require any manufacturer, importer, or processor to submit reports under this section with respect to any chemical substance which he manufactures, imports, or prepares for distribution for use as a standard or reagent and for research or laboratory purposes.

(d) Whenever the Administrator determines that such action would be necessary to allow him to carry out his responsibilities and authorities under this Act, he may by publishing a notice in the Federal Register invite and afford all interested persons an opportunity to provide in writing information respecting the health or environmental effects of a chemical substance.

EXEMPTIONS AND RELATIONSHIPS TO OTHER LAWS

SEC. 9. (a) This Act shall not apply to—

(1) tobacco and tobacco products;

(2) any pesticide (as defined in the Federal Insecticide, Fungicide, and Rodenticide Act) when manufactured or distributed in commerce for use as a pesticide; or

(3) drugs, devices, or cosmetics (as such terms are defined in sections 201 (g), (h), and (i) of the Federal Food, Drug, and Cosmetic Act) and food. The term "food" as used in this paragraph means all food, as defined in section 201(f) of the Federal Food, Drug, and Cosmetic Act, including poultry and poultry products (as defined in section 4(e) and (f) of the Poultry Products Inspection Act), meat and meat food products (as defined in section 1(j) of the Federal Meat Inspection Act), and eggs and egg products (as defined in section 4 of the Egg Products Inspection Act).

(b) The Administrator shall have no authority under sections 5, 6, and 7 of this Act to take action to prevent or reduce an unreasonable risk to health or the environment associated with a particular chemical substance or article containing such substance if such risk to health or the environment could be prevented or reduced to a sufficient extent by actions taken under any other Federal law; including the Atomic Energy Act of 1954, the Clean Air Act, the Federal Water Pollution Control Act, the Federal Hazardous Substances Act, the Occupational Safety and Health Act of 1970, the Consumer Product Safety Act, subpart 3 of part F of title III of the Public Health Service Act (relating to electronic product radiation), and the Acts administered by the Secretary of Transportation relating to the transportation of hazardous substances.

(c) If it appears to the Administrator that any chemical substance may pose an unreasonable risk to health or the environment which could be prevented or reduced to a sufficient extent by actions taken under other Federal laws, he shall transmit any data received from manufacturers, importers, or processors, or data otherwise in his possession which is relevant to such risk to the Federal executive department or agency, independent regulatory agency or other authority of the Federal Government with authority to take legal action.

(d) In administering the provisions of this Act, the Administrator shall consult and coordinate with the Secretary of Health, Education, and Welfare and the heads of any other appropriate Federal executive department or agency, independent regulatory agency or other authority of the Federal Government. The Administrator shall report annually to the Congress on actions taken to coordinate with such other Federal agencies and actions taken to coordinate the authority under this Act with the authority granted under other Acts referred to in subsection (b) of this section.

CHEMICAL SUBSTANCES BOARD

SEC. 10. (a) There shall be established in the Environmental Protection Agency a Chemical Substances Board (hereinafter referred to in this section as the "Board") consisting of twelve scientifically qualified members. The Administrator shall appoint eleven members of the Board from a list of at least twenty-two individuals recommended to him by the National Academy of Sciences, and the Secretary of Health, Education, and Welfare shall appoint one member of the Board from whatever source he desires. Not more than one-third of the members of such Board shall be in the employ of or have any significant economic interest in any manufacturer, importer, or processor of chemical substances. Members of the Board shall serve one term of four years, except that one-half of the members initially appointed shall serve one term of two years. Members of the Board shall not be reappointed for consecutive terms. One of the members shall be designated by the Administrator to serve as Chairman of the Board.

(b) The National Academy of Sciences, in consultation with the Board, shall maintain a directory of qualified scientists, to assist in carrying out the provisions of this section. Such scientists may also be utilized as consultants to the Chemical Substances Board.

(c) Except when acting under section 5(i) or the last sentence of 6(d) of this Act, before proposing any rules under section 4, 5, or 6 of this Act, the Administrator shall refer his proposed action and the available evidence to a committee selected by the Administrator from members of the Board and the directory of consultants to the Board maintained under subsection (b), except that the Secretary of Health, Education, and Welfare may appoint one member of such committee from whatever source he desires. Concurrently with such referral, the Administrator shall publish in the Federal Register a notice of the referral identifying the proposed action. Such committee shall include scientifically qualified persons not more than one-third of which are in the employ of or have a significant economic interest in any manufacturer, importer, or processor of, or any person who distributes in commerce, any chemical substance which may, directly or indirectly, be affected by the proposed action. The committee shall conduct an independent scientific review of the proposed action and shall report its views and reasons therefor in writing to the Administrator, within a reasonable time, not to exceed forty-five days, as specified by the Administrator. Such time may be extended an additional forty-five days if the Administrator determines the extension necessary and such committee has made a good faith effort to report its views and reasons therefor within the initial forty-five day period. All such views shall be given due consideration by the Administrator. If the committee fails to report within the specified time, the Administrator may proceed to take action under this Act. Subject to section 15 of this Act, all proceedings and deliberations of such committees and their reports and reasons therefor shall be available for public examination. The report of the committee and any dissenting views shall be considered as part of the record in any proceeding taken with respect to the Administrator's action.

(d) The Administrator may also request the Board to convene a committee to consider other actions proposed to be taken under this Act. In such case all provisions of this section shall apply.

(e) The Administrator is authorized to reimburse the National Academy of Sciences for expenses incurred in carrying out this section.

(f) Members of the Board or committees who are not regular full-time employees of the United States shall, while serving on business of the Board or committee, be entitled to compensation at rates fixed by the Administrator, but not exceeding the daily rate applicable at the time of such service to grade GS–18 of the classified civil service, including traveltime; and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(g) Section 14(a) of the Federal Advisory Committee Act (relating to termination) shall not apply to the Board.

RESEARCH

SEC. 11. The Administrator is authorized to conduct such research and monitoring as is necessary to carry out his functions under this Act. To the extent practicable, such research and monitoring shall not duplicate the efforts of other Federal agencies. In order to carry out the provisions of this section, the Administrator is authorized to make contracts and grants for such research and monitoring.

ADMINISTRATIVE INSPECTIONS AND WARRANTS

SEC. 12. (a) (1) For the purpose of inspecting, copying, and verifying the correctness of records, reports, or other documents required to be kept or made under this Act or for the purpose of otherwise facilitating the carrying out of his functions under this Act, the Administrator is authorized, in accordance with this section, to enter any factory, warehouse, or other premises in which chemical substances are manufactured, processed, stored, held, or maintained, including retail establishments, and to conduct administrative inspections thereof.

(2) Such entries and inspections shall be carried out through officers or employees (hereafter in this section referred to as "inspectors") designated by the Administrator. Any such inspector, upon stating his purpose and presenting to the owner, operator, or agent in charge of such premises (A) appropriate credentials and (B) his administrative inspection warrant or a written notice of his other inspection authority, shall have the right to enter such premises and conduct such inspection at reasonable times.

(3) Except when the owner, operator, or agent in charge of such premises so consents in writing, no inspection authorized by this section shall extend to—

(A) financial data;

(B) sales data other than shipments data;

(C) pricing data;

(D) personnel data;

(E) research data (other than data required by this Act); or

(F) process technology other than that related to chemical composition or the industrial use of a chemical substance.

(b) A warrant under this section shall not be required for entries and administrative inspections (including seizures of chemical substances or products containing chemical substances manufactured in violation of rules issued under this Act)—

(1) conducted with the consent of the owner, operator, or agent in charge of such premises; or

(2) in any situation where a warrant is not constitutionally required.

(c) Issuance and execution of administrative inspection warrants shall be as follows:

(1) Any judge of the United States or of a State court of record, or any United States magistrate, may, within his territorial jurisdiction, and upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by this title, and seizures of property appropriate to such inspections. For the purposes of this subsection the term "probable cause" means a valid public interest in the effective enforcement of this Act or rules thereunder sufficient to justify administrative inspections of the area, premises, building, or contents thereof, in the circumstances specified in the application for the warrant.

(2) A warrant shall issue only upon an affidavit of an officer or employee having knowledge of the facts alleged, sworn to before the judge or magistrate, and establishing the grounds for issuing the warrant. If the judge or magistrate is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, or building to be inspected, the purpose of such inspection, and, where appropriate, the type of property to be inspected, if any. The warrant shall identify the items or types of property to be seized, if any. The warrant shall be directed to a person authorized under subsection (a) (2) of this section to execute it. The warrant shall state the grounds for its issuance and the name of the person or persons whose affidavit has been taken in support thereof. It shall command the person to whom it is directed to inspect the area, premises, or building, identified for the purpose specified, and, where appropriate, shall direct the seizure of the property specified. The warrant shall direct that it be served during normal business hours. It shall designate the judge or magistrate to whom it shall be returned.

(3) A warrant issued pursuant to this section must be executed and returned within ten days of its date, unless, upon a showing by the United States of a need therefor, the judge or magistrate allows additional time in the warrant. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person making such inventory, and shall be verified by the person executing the warrant. The judge or magistrate, upon request, shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

(4) The judge or magistrate who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall file them with the clerk of the district court of the United States for the judicial district in which the inspection was made.

EXPORTS

SEC. 13. (a) This Act shall not apply to any chemical substance or article containing such substance if (1) it can be shown that such substance or article is manufactured, processed, sold, or held for sale for export from the United States (or that such chemical substance was imported for export), unless such chemical substance or article is, in fact, manufactured, processed, or distributed in commerce for use in the United States, and (2) such chemical substance or article containing such substance when distributed in commerce, or any container in which it is enclosed when so distributed, bears a stamp or label stating that such chemical substance or article is intended for export; except that (A) any manufacturer, processor, or exporter of such chemical substance shall be subject to the reporting requirements of section 8 of this Act; and (B) this subsection shall not apply to any chemical substance or article containing such substance if the Administrator finds that the chemical substance or article will, directly or indirectly, pose an unreasonable risk to health within the United States or to the environment of the United States.

(b) If submittal of test data is required for a chemical substance under section 4 or 5 of this Act, or rules applicable to such substance or article containing such substance have been prescribed or proposed under section 5 or 6 of this Act, the Administrator, subject to section 15 of this Act, may furnish to the governments of the foreign nations to which such chemical substance is exported, or is intended to be exported, notice of the availability of the data submitted to the Administrator under section 4 or 5 concerning such chemical substance, and notice of any rule applicable to such substance or article containing such substance which has been prescribed or proposed by the Administrator under section 5 or 6 of this Act.

IMPORTS

SEC. 14. (a) The Secretary of the Treasury shall refuse entry into the customs territory of the United States (as defined in general headnote 2 to the Tariff Schedules of the United States) of any chemical substance or article containing such substance offered for entry if it fails to conform with rules promulgated under this Act, or if it is otherwise prohibited under this Act from being distributed in commerce. If a chemical substance or article is refused entry, the Secretary of the Treasury shall refuse delivery to the consignee and shall cause the disposal or storage of any substance or article refused delivery which has not been exported by the consignee within three months from the date of receipt of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe, except that the Secretary of the Treasury may deliver to the consignee such substance or article pending examination and decision in the matter on execution of bond for the amount of the full invoice value of such substance or article, together with the duty thereon, and on refusal to return such substance or article for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding them from the country, or for any other purpose, such consignee shall forfeit the full amount of such bond. All charges for storage, cartage, and labor on substances or articles which are refused admission or delivery under this section shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.

(b) The Secretary of the Treasury, in consultation with the Administrator, shall issue regulations for the enforcement of subsection (a) of this section.

CONFIDENTIALITY

SEC. 15. All information reported to or otherwise obtained by the Administrator or his representative under this Act, which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, shall be considered confidential and shall not be disclosed, except that such information may be disclosed to other officers or employees concerned with carrying out this Act (including the Chemical Substances Board and committees formed under section 10), or when relevant in any proceeding under this Act, except that disclosure in such a proceeding shall preserve the confidentiality to the extent possible without impairing the proceeding. All information reported to or otherwise obtained by the Administrator or his representative including information which contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, shall be made available upon request of the duly authorized committees of the Congress.

PROHIBITED ACTS

SEC. 16. It shall be unlawful for any person to—

(1) fail or refuse to comply with section 4, 5, or 6 of this Act or any rule or order prescribed under those sections, or with any restriction under section 5(k) of this Act;

(2) fail or refuse to comply with section 8 or any rule or order thereunder;

(3) fail or refuse to permit access to or

copying of records, or fail or refuse to permit entry or inspection or take any other action as required under section 12 of this Act; or

(4) fail or refuse to comply with instructions with respect to the use or disposal of a chemical substance where such instructions are required by rule prescribed under section 6(a)(3) of this Act and where such failure or refusal to comply results in or is likely to result in death, severe personal injury or illness, or severe harm to the environment.

PENALTIES

SEC. 17. (a) Any person who knowingly violates section 16 of this Act shall be subject to a civil penalty not to exceed $25,000 for each day of violation.

(b) Any person who willfully violates any provision of section 16 (other than section 16(2)) of this Act, after having received notice of noncompliance from the Administrator, shall, in addition to or in lieu of a civil penalty imposed under subsection (a), on conviction, be fined not more than $25,000 for each day of violation or imprisoned for not more than one year, or both.

INJUNCTIVE ENFORCEMENT AND SEIZURE

SEC. 18. (a) Upon application by the Attorney General, the district courts of the United States shall have jurisdiction to restrain any violation of section 16 or to compel the taking of any action required by this Act or rule issued thereunder. Such actions may be brought by the Attorney General, on the request of the Administrator, in any United States district court of proper venue. In any action under this section, process may be served on a defendant in any other district in which the defendant resides or may be found, and subpenas for witnesses may run into any other district.

(b) Any chemical substance or article containing such substance which was manufactured or distributed in commerce in violation of an applicable rule prescribed under section 6, or in violation of section 5 of this Act, shall be liable to be proceeded against, by process of libel for the seizure and condemnation of such substance or such article in any United States district court within the jurisdiction of which such substance or article is found. Proceedings in cases instituted against a chemical substance or article containing such substance under the authority of this section shall conform as nearly as possible to proceedings in rem in admiralty. Actions under this subsection may be brought by the Attorney General on the request of the Administrator.

ENVIRONMENTAL PREDICTION AND ASSESSMENT

SEC. 19. The Administrator shall, in cooperation with the Council on Environmental Quality and other Federal agencies, develop the necessary personnel and information resources to assess the environmental consequences of the introduction of new chemical substances into the environment.

COOPERATION OF FEDERAL AGENCIES

SEC. 20. Upon request by the Administrator, each Federal agency is authorized—

(1) to make its services, personnel, and facilities available (with or without reimbursement) to the Administrator to assist him in the performance of his function; and

(2) to furnish to the Administrator such information, data, estimates, and statistics, and to allow the Administrator access to all information in its possession as the Administrator may reasonably determine to be necessary for the performance of his functions as provided by this Act.

STUDY OF CHEMICAL SUBSTANCES CLASSIFICATION SYSTEM

SEC. 21. The Council on Environmental Quality, in consultation with the Administrator, the Secretary of Health, Education, and Welfare, the Secretary of Commerce, and the heads of other appropriate Federal, State, and local departments or agencies, the scientific community, and the chemical industry, shall coordinate a study of the feasibility of establishing (1) a standard classification system for chemical compounds and related substances, and (2) a standard means for storing and for obtaining rapid access to information respecting such materials.

STATE REGULATIONS

SEC. 22. (a) Nothing in this Act shall affect the authority of any State or local government to regulate any chemical substance, or to establish and enforce standards for test protocols for chemical substances to protect health or the environment, except that—

(1) if the Administrator prescribes a rule under section 6 of this Act applicable to a chemical substance, a State or local government may not, after the effective date of such rule, establish or continue to enforce any restriction of its own applicable to such substance for purposes similiar to such rule, other than a total ban on use or distribution; and

(2) if the Administrator prescribes a rule under section 4 of this Act applicable to a chemical substance, a State or local government may not after the effective date of such rule establish or continue to enforce any standards for test protocols applicable to such substance or class for purposes similar to those of a rule under section 4.

(b) The Administrator may by rule, upon the petition of any State or local government or at his own initiative, exempt State and local governments from the prohibitions of subsection (a) of this section with respect to a chemical substance if such exemption will not, through difficulties in marketing, distribution, or other factors, result in placing an unreasonable burden upon commerce.

JUDICIAL REVIEW

SEC. 23. (a) Not later than sixty days following promulgation of a rule under sections 4, 5, and 6 of this Act, any person adversely affected by such rule, or any interested person, may file a petition with the United States Court of Appeals for the District of Columbia or for the circuit in which such person resides or has his principal place of business for judicial review of such rule. Copies of the petition shall be forthwith transmitted by the clerk of the court to the Administrator or other officer designated by him for that purpose and to the Attorney General. The Administrator shall transmit to the Attorney General, who shall file in the court, the record of the proceedings on which the Administrator based his rule as provided in section 2112 of title 28, United States Code, and shall include the transcript of any oral presentation of data, views, or arguments required under sections 4, 5, and 6.

(b) If the petitioner applies to the court for leave to adduce additional data, views, or arguments and shows to the satisfaction of the court that such additional data, views, or arguments are material and that there are reasonable grounds for the petitioner's failure to adduce such data, views, or arguments in the proceeding before the Administrator, the court may order the Administrator to provide additional opportunity for oral presentation of data, views, or arguments and for written submissions. The Administrator may modify its findings, or make new findings by reason of the additional data, views, or arguments so taken and shall file such modified or new findings, and its recommendation, if any, for the modification or setting aside of its original rule, with the return of such additional data, views, or arguments.

(c) Upon the filing of the petition under subsection (a) of this section, the court shall have jurisdiction to review the rule to which the petition relates in accordance with chapter 7 of title 5 of the United States Code and to grant appropriate relief, including interim relief, as provided in such chapter. Rules promulgated by the Administrator under section 4, 5, or 6 of this Act and reviewed under this section shall not be affirmed unless the findings required to be made under those sections are supported by substantial evidence on the record taken as a whole.

(d) The judgment of the court affirming or setting aside, in whole or in part, any rule promulgated by the Administrator which is reviewed in accordance with the terms of this section shall be final, subject to review by the Supreme Court of the United States upon certiorari or certified, as provided in section 1254 of title 28 of the United States Code.

(e) The remedies provided in this section shall be in addition to and not in lieu of any other remedies provided by law.

CITIZEN CIVIL ACTION

SEC. 24. (a) Except as provided in subsection (b) of this section, any interested person may commence a civil action for injunctive relief on his own behalf—

(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any rule, order, or restriction prescribed under section 4, 5, or 6 of this Act, or

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary. Any action under paragraph (a)(1) of this subsection shall be brought in the district court for the district in which the alleged violation occurred. Any action brought under paragraph (a)(2) of this subsection shall be brought in the district court of the District of Columbia, or in the district court for the district in which the plaintiff is domiciled.

The district courts shall have jurisdiction over suits brought under this section, without regard to the amount in controversy or the citizenship of the parties.

(b) No civil action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to sixty days after the plaintiff has given notice of the violation (i) to the Administrator, and (ii) to any alleged violator of the rule, or

(B) if the Administrator (or Attorney General on his behalf) has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with the rule, but if such action is commenced after the giving of notice any such person giving such notice may intervene as a matter of right in such action; or

(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice of such action to the Administrator, except that such action may be brought ten days after such notification in the case of an action under this section for the failure of the Administrator to act under section 6.

Notice under this subsection shall be given in such manner as the Administrator shall prescribe by rule.

(c) In any action under this section, the Administrator, if not a party, may intervene as a matter of right.

(d) The Court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award reasonable fees for attorneys and expert witnesses to the prevailing party, whenever the court determines such an award is appropriate.

(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any rule or order or to seek any other relief.

(f) For purposes of this section, the term "person" means an individual, corporation, partnership, or association, and (subject to subsection (a)(1)(B)) any State, municipality, or political subdivision of a State.

(g) When any actions brought under subsection (a)(1) of this section involving the same defendant and the same issues of violations are pending in two or more jurisdictions, such pending proceedings, upon application of the defendant reasonably made to the court of one such jurisdiction, may, if the court in its discretion so decides, be consolidated for trial by order of such court, and tried in (1) any district selected by the defendant where one of such proceedings is pending; or (2) a district agreed upon by stipulation between the parties. If no order for consolidation is so made within a reasonable time, the defendant may apply to the court of one such jurisdiction, and such court (after giving all parties reasonable notice and opportunity to be heard) may by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the applicant's principal place of business, in which all such pending proceedings shall be consolidated for trial and tried. Such order of consolidation shall not apply so as to require the removal of any case the date for trial of which has been fixed. The court granting such order shall give prompt notification thereof to the other courts having jurisdiction of the cases covered thereby.

(h) This section shall apply only with respect to civil actions filed more than two years after the date of enactment of this Act.

NATIONAL SECURITY WAIVER

Sec. 25. The Administrator shall waive compliance with any provision of this Act upon request of the Secretary of Defense and upon a determination by the President that the requested waiver is necessary in the interest of national security. The Administrator shall maintain a written record of the basis upon which such waiver was granted and make such record available for in camera examination when relevant in a judicial proceeding under this Act. Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for national security purposes, unless, upon the request of the Secretary of Defense, the Administrator determines to omit such publication because the publication itself would be contrary to the interests of national security, in which event the Administrator shall submit notice to the House Armed Services Committee and the Senate Armed Services Committee.

AUTHORIZATION FOR APPROPRIATIONS

"Sec. 26. (a) There is hereby authorized to be appropriated not to exceed $9,240,000, $11,100,000, and $10,100,000 for the fiscal years ending on June 30, 1974, June 30, 1975, and June 30, 1976, respectively, for the purposes and administration of this Act. No part of the funds so authorized to be appropriated shall be used to construct any research laboratories.

(b) To help defray the expenses of implementing the provisions of this Act, the Administrator may, by rule, require the payment of a reasonable fee from any person required to submit test data under sections 4 and 5 of this Act. Such rules shall not provide for any fee in excess of $2,500. In setting the amount of such a fee, the Administrator shall take into account the ability to pay of the person required to submit the data and the cost to the Administrator of reviewing such data. Such rules may provide for the sharing of the expense of such a fee in any case in which the expenses of testing are shared under section 4(d).

And amend the title so as to read: "An Act to regulate interstate commerce to protect health and the environment from hazardous chemical substances."

Mr. TUNNEY. Mr. President, I move that the Senate disagree to the amendment of the House on S. 426 and ask for a conference with the House on the disagreeing votes of the two Houses thereon, and that the conferees on the part of the Senate be appointed by the Chair.

The motion was agreed to; and the Presiding Officer appointed Mr. Magnuson, Mr. Hart, Mr. Tunney, Mr. Griffin, and Mr. Cook conferees on the part of the Senate.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT. C. BYRD. Mr. President, I ask unanimous consent that, following the remarks of Mr. Weicker on tomorrow under the order previously entered, there be a period for the transaction of routine morning business, not to extend beyond the hour of 10:30 a.m., with statements therein limited to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 10 o'clock a.m. After the two leaders or their designees have been recognized under the standing order, Senator Weicker will speak for not to exceed 15 minutes, after which there will be routine morning business, with a 3-minute limitation on statements, the period for morning business not to extend beyond 10:30 a.m.

At 10:30 a.m., the Senate will take up S. 1560, the public service employment for unemployed persons bill. It is possible that yea-and-nay votes could occur on amendments thereto.

At no later than 2 o'clock p.m., the Senate will take up S. 1828, a bill to require Senatorial confirmation of the head of the Mining Enforcement and Safety Administration. There is a time limitation on that bill of 10 minutes. There will be a yea-and-nay vote on passage of the bill.

Upon disposition of S. 1828 the Senate will move to the second track and will take up the campaign reform bill, S. 372. Yea-and-nay votes are expected to occur on amendments thereto. There is a time agreement on the bill and on amendments thereto.

To repeat, there will be yea-and-nay votes tomorrow.

ADJOURNMENT TO 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 10 o'clock tomorrow morning.

The motion was agreed to; and at 5:40 p.m. the Senate adjourned until tomorrow, Wednesday, July 25, 1973, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate July 24, 1973:

U.S. Arms Control and Disarmament Agency

Thomas D. Davies, of Ohio, to be an Assistant Director of the U.S. Arms Control and Disarmament Agency, vice Robert H. B. Wade, resigned.

Department of the Treasury

Meade Whitaker, of Alabama, to be an Assistant General Counsel in the Department of the Treasury (Chief Counsel for the Internal Revenue Service), vice Lee H. Henkel, Jr., resigned.

Department of Justice

Anthony J. P. Farris, of Texas, to be U.S. attorney for the southern district of Texas for the term of 4 years. (Reappointment.)

Harold M. Fong, of Hawaii, to be U.S. attorney for the district of Hawaii for the term of 4 years, vice Robert K. Fukuda, resigned.

Department of State

The following-named persons for reappointment in the Foreign Service as Foreign Service officers of class 3, Consular officers, and secretaries in the Diplomatic Service of the United States of America:

Gori P. Bruno, of Texas.
Barbara Fagan Thomson, of California.
Aloysius John Warnecki, of Pennsylvania.

For appointment as Foreign Service officers of class 3, Consular officers, and secretaries in the Diplomatic Service of the United States of America:

Kenneth Lee Cooper, of Maryland.
John T. Doherty, of Maryland.
James Francis Rafferty, of New York.
Arthur Jensen Smith, of Ohio.

For appointment as Foreign Service information officers of class 3, Consular officers, and secretaries in the Diplomatic Service of the United States of America:

Francis P. Coward, of New York.
Daniel S. Endsley, of California.
Harry Leonard Heintzen, of Louisiana.
Michael A. Kristula, of Virginia.
Robert W. Macdonald, of New York.
Robert D. Murphy, of Maryland.
Philip A. Wolcott, Jr., of California.

For reappointment in the Foreign Service as a Foreign Service officer of class 4, a Consular officer, and a secretary in the Diplomatic Service of the United States of America:

Josiah H. Brownell, of Illinois.

For appointment as Foreign Service officers of class 4, Consular officers, and secretaries in the Diplomatic Service of the United States of America:

Lemuel David Coles, of Massachusetts.
Eddie Edwards, of Michigan.
Sherman Jay Fine, of Connecticut.
Samuel Eldred Lupo, of California.
William Henry Tienken, of the District of Columbia.

For appointment as Foreign Service information officers of class 4, Consular officers, and secretaries in the Diplomatic Service of the United States of America:

Frank L. Albert, of Oregon.
Thomas Proctor Crawford, of California.
Gary M. Edwards, of New York.
Guy W. Farmer, of Nevada.

James M. FitzGerald, of Virginia.
Ramon Garces, of Texas.
John Henry Hicks, of Missouri.
Wallace E. Keiderling, of Virginia.
Bernard C. King, of Michigan.
Frederick Griswold Mason, Jr., of Florida.
V. Miro Morville, of the District of Columbia.
Sally C. Opstein, of California.
William Pfender, of Michigan.
John Pouris, of New Jersey.
Robert A. Powers, of Virginia.
Clathan McClain Ross, of North Carolina.
Louis M. Steed, of Virginia.

For promotion from a Foreign Service officer of class 6 to class 5:

Daniel Linus Dolan, of Pennsylvania.

For reappointment in the Foreign Service as Foreign Service officers of class 5, Consular officers, and secretaries in the Diplomatic Service of the United States of America:

Elinor G. Constable, of New York.
Ruth S. Matthews, of Florida.
Dorothy M. Sampas, of Maryland.

For appointment as Foreign Service officers of class 5, Consular officers, and secretaries in the Diplomatic Service of the United States of America:

Irene Mary Bauer, of Kansas.
Leroy Ethridge Beal, of Missouri.
Antonio N. Del Grosso, of Massachusetts.
Irwin Ebenau, of California.
Jon G. Edensword, of Washington.
Marino S. Endrizzi, of Wisconsin.
Bernard J. Fennell, of Florida.
David C. Fields, of California.
Willie J. Green, of Alabama.
Ralph B. Hartwell, of New Hampshire.
Gerald Eugene Manderscheid, of California.
Sandra Louise Vogelgesang, of Ohio.
Doris E. Wood, of New Mexico.

For appointment as Foreign Service information officers of class 5, Consular officers, and secretaries in the Diplomatic Service of the United States of America:

James Davis Burns, Jr., of Mississippi.
Martin Allan Charwat, of the District of Columbia.
Robert R. Gibbons, of Arizona.
William H. Lindsey, Jr., of Louisiana.
Michael Mennard, of California.
Wayne Stanford Peterson, of the District of Columbia.
Pierre Charles Pingitore, of New Hampshire.
Lester Rene Velez, of Puerto Rico.

For promotion from Foreign Service officers of class 7 to class 6:

Christopher T. Seaver, of California.
Theodore Eugene Strickler, of Pennsylvania.

For reappointment in the Foreign Service as Foreign Service officers of class 6, Consular officers, and secretaries in the Diplomatic Service of the United States of America:

Gwendolyn Coronway, of Pennsylvania.
Joseph O. Streicher, of Illinois.

For appointment as Foreign Service officers of class 6, Consular officers, and secretaries in the Diplomatic Service of the United States of America:

James Taylor Blanton, of Texas.
Julia Maria Cardozo, of the District of Columbia.
Patricia R. Clark, of California.
Jerry C. Hunsaker, of Washintgon.
William Albert Hyde, of Maryland.
Pierre H. Jabbour, of South Dakota.
Guy C. Johnson, of California.
B. Jerry Lujan, of New Mexico.
Peter D. Orr, of Washington.
M. Jane Parker, of California.
Jerrilynn Pudschun, of California.
Fred L. Robinson, of Utah.
Paul Solomon, of California.
Thomas John Tepper, of Illinois.
Bobby L. Watson, of California.
Katherine M. White, of Arizona.

For reappointment in the Foreign Service as a Foreign Service officer of class 7, a Consular officer, and a secretary in the Diplomatic Service of the United States of America:

J. Diane Ballard McClellan, of California.

For appointment as Foreign Service officers of class 7, Consular officers, and secretaries in the Diplomatic Service of the United States of America:

Robert A. Bradtke, of Pennsylvania.
James W. Chamberlain, of Alabama.
Steven P. Coffman, of Texas.
Thomas P. Crowley, of Virginia.
Edwin P. Cubbison, of Florida.
Francis Xavier Cunningham, of Delaware.
Karl Imants Danga, of New York.
George Timothy Dempsey, of California.
Daria dePierre, of California.
Gray D. DeVight, of Hawaii.
H. Roy Eidem, of Virginia.
Theodore Minton Ford, of Massachusetts.
Susan Carey Fouts, of Texas.
Michael F. Gallagher, of Pennsylvania.
Stephen Michael Geis III, of Missouri.
Robert S. Hagen, of Illinois.
James Henry Hall, of Virginia.
Eileen M. Heaphy, of the District of Columbia.
Rodney L. Huff, of Maryland.
Daniel A. Johnson, of Florida.
Douglas Hugh Jones, of California.
Judith R. Kaufmann, of New Mexico.
Ronald K. Kirkpatrick, of Wisconsin.
Stephen H. Klemp, of Kansas.
Gary Larsen, of California.
Leonard Bruce Levine, of Maryland.
Peter J. Lynn, of Maryland.
John D. Maiers, of Iowa.
Judyt Landstein Mandel, of New York.
Robert E. McCarthy, of the District of Columbia.
Douglas L. McElhaney, of Michigan.
Kenneth R. McKune, of North Carolina.
Douglas B. McNeal, of Hawaii.
Kenneth Leroy Norton, of California.
John S. Patterson, of Virginia.
David Pfotenhauer, of Iowa.
Thomas L. Randall, Jr., of California.
Nicholas H. Riegg, of California.
William R. Rosner, of Ohio.
Stephen R. Snow, of Tennessee.
Karl H. Sprick, of California.
Kent R. Steinkamp, of Illinois.
Bruce D. Strathearn, of California.
Eric D. Tunis, of California.
Robert Michael Walter, of Indiana.
Gerald J. Whitman, of California.
Gerard P. Wilson, of New York.

For appointment as a Foreign Service information officer of class 7, a Consular officer, and a secretary in the Diplomatic Service of the United States of America:

John T. Ohta, of Hawaii.

For appointment as Foreign Service officers of class 8, Consular officers, and secretaries in the Diplomatic Service of the United States of America:

Marsha E. Barnes, of Kentucky.
Mary Ann Casey, of Colorado.
Laura A. Clerici, of South Carolina.
Robyn M. Facinelli, of Illinois.
John R. Kunkel, of Missouri.
Christopher J. LaFleur, of New York.
Simeon L. Moats, of Pennsylvania.
Nancy E. Morgan, of New Jersey.
Robert Allen Mosher, of Missouri.
Jon Lane Noyes, of Wyoming.
H. Richard Sindelar III, of Texas.
Robin Lane White, of Virginia.
Thomas Kenneth Wukitsch, of Illinois.

Foreign Service reserve officers to be Consular officers of the United States of America:

Allan W. Brown, of Virginia.
Donald H. Winters, of Virginia.

Foreign Service reserve officers to be Consular officers and secretaries in the Diplomatic Service of the United States of America:

S. Phillips L. Amerman, of Pennsylvania.
Themistocles G. Aposporos, of Maryland.
James W. Bourne, of Virginia.
Barry M. Broman, of Washington.
Whitley Bruner, of Virginia.
Barbara L. Carr, of Virginia.
James E. Cokes, of New Jersey.
Nancy Jane Cope, of California.
Cleto Di Giovanni, Jr., of Virginia.
Peter B. Edmonds, of the District of Columbia.
Serge N. Evanow, of Virginia.
Annie Sue Ford, of Florida.
Jon M. French, of Louisiana.
Richard Lee Gentry, of Kentucky.
James W. Goodsell, of Washington.
Patrick L. Gorman, of Virginia.
John S. Habib, of California.
Gardner R. Hathaway, of Virginia.
Thomas D. Hawbaker, of Iowa.
Peter A. Hayes, of Indiana.
Jack V. High II, of the District of Columbia.
Harry A. Hinderer, of Florida.
Porter L. Holbert, of Virginia.
Winfield Scott Hose, Jr., of Michigan.
Sharon E. Hunt, of Illinois.
David Barry Kelly, of Virginia.
Robert P. Lessard, of Rhode Island.
Walter M. Lomac, of Maryland.
William B. Lonam, of Maryland.
Alaster MacDonald, of Maryland.
Kevin Maloy, of Virginia.
James C. Marshall, of California.
Reginald James McHugh, of Wyoming.
Joseph F. McManus, of New Jersey.
Alan J. McTeague, of Virginia.
Andrew W. Moore, of Maryland.
Nancy Leslie Pelletreau, of New York.
Peter V. Raudenbush, of Virginia.
Drake S. Reid, of Maryland.
Stephen W. Richter, of Virginia.
Karl V. Rohrer, of Maryland.
Vincent M. Shields, of Virginia.
Robert E. Simpson, of New Jersey.
Richard F. Stolz, Jr., of Maryland.
Vernon G. Smith, of Maryland.
Larry M. Stumpp, of Virginia.
Jack L. Tech, of Maryland.
Lavondus R. Thomas, of Virginia.
Colin R. Thompson, of New York.
Joel D. Ticknor, of Virginia.
John E. Tomas, of Minnesota.
Daniel J. Wofford, of Oklahoma.
Felton M. Wyatt, of California.

Foreign Service reserve officers to be secretaries in the Diplomatic Service of the United States of America:

Hanson R. Malpass, of New Jersey.
Joseph A. Malpeli, of Pennsylvania.
Kathleen J. Mullen, of Pennsylvania.
Evelyn A. Wythe, of California.

Foreign Service staff officers to be Consular officers of the United States of America:

William R. Baque, of Florida.
John L. Brady, of the District of Columbia.
David L. Crandall, of Virginia.
Marjorie M. DeSombre, of Illinois.
David P. Hunt, of the District of Columbia.
Frank T. Kunsman, of Washington.
Lawrence J. Moran, of Massachusetts.
Lawrence A. Penn, of New York.
Diane C. Salisbury, of New York.
David E. Thurman, of Virginia.

IN THE AIR FORCE

The following-named officers for promotion as a Reserve of the Air Force, under the appropriate provisions of chapter 837, title 10, United States Code, as amended, and Public Law 92–129:

LINE OF THE AIR FORCE

Lieutenant colonel to colonel

Bothe, Robert Z., [redacted].
Bruce, Benjamin H., [redacted].

Cheshire, Joseph M., [redacted].
Dabney, Roger B., [redacted].
Doyle, Lawrence A., [redacted].
Flaten, Eric A., [redacted].
Frymire, Richard I., Jr., [redacted].
Glenn, Elmer, Jr., [redacted].
Grabovsky, Bruno J., [redacted].
Hamby, Eugene A., [redacted].
Hemstreet, Stanley W., [redacted].
Hill, Edward Y., [redacted].
Krausse, Joel B., [redacted].
Lane, Junior L., [redacted].
Marsella, Gaetano F., [redacted].
Martin, Robert E., [redacted].
O'Bryan, William H., Jr., [redacted].
Patterson, Ben L., Jr., [redacted].
Rosenbaum, Fred M., [redacted].
Serra, Harry A., [redacted].
Solomon, Kenneth S., [redacted].
Walker, Joe G., [redacted].
Wiles, Richard L., [redacted].
Yokoyama, Irvine K., [redacted].

MEDICAL CORPS

Flaherty, Timothy T., [redacted].
Harris, Hugh S., Jr., [redacted].
Paret, Robert W., [redacted].
Peterson, Evan A., Jr., [redacted].
Sheusi, Carl J., [redacted].

The following officers for promotion in the Air Force Reserve, under the provisions of section 8376, title 10, United States Code and Public Law 92-129.

NURSE CORPS

Lieutenant colonel to colonel

McKenna, Madeline, [redacted].

LINE OF THE AIR FORCE

Major to lieutenant colonel

Baird, Keith, M., [redacted].
Bauer, Fred L., [redacted].
Bilich, Melvin W., [redacted].
Brannan, Stephen E., [redacted].
Perry, William J., [redacted].

CHAPLAIN CORPS

Camp, Arthur J., [redacted].

DENTAL CORPS

Brown, Leo M., [redacted].

MEDICAL CORPS

Bickle, Rudolf G., [redacted].
Taylor, William M., [redacted].

NURSE CORPS

Biangardi, George A., [redacted].
Smith, Mary L., [redacted].
Wickizer, Russell R., [redacted].

The following persons for appointment as Reserve of the Air Force (Medical Corps), in the grade of lieutenant colonel, under the provisions of section 593, title 10, United States Code, and Public Law 92-129, with a view to designation as medical officers under the provisions of section 8067, title 10, United States Code:

MEDICAL CORPS

To be lieutenant colonel

Bergstrom, Terry J., [redacted].
Fox, Raymond M., Jr., [redacted].
Morris, John R., [redacted].

The following person for appointment as a Reserve of the Air Force, in the grade of lieutenant colonel (line of the Air Force), under the provisions of section 593, title 10, United States Code, and Public Law 92-129:

LINE OF THE AIR FORCE

To be lieutenant colonel

Law, Richard O., [redacted].

The following persons for appointment as a Reserve of the Air Force in the grade of lieutenant colonel (line of the Air Force), under the provisions of section 593, title 10, United States Code, and Public Law 92-129:

LINE OF THE AIR FORCE

To be lieutenant colonel

Barnes, Daniel J., [redacted].
Schneider, John E., [redacted].

The following person for appointment as a Reserve of the Air Force (Medical Service Corps), in the grade of lieutenant colonel, under the provisions of sections 593, and 1211, title 10, United States Code, and Public Law 92-129, with a view to designation as a Medical Service Corps officer under the provisions of section 8067, title 10, United States Code:

MEDICAL SERVICE CORPS

To be lieutenant colonel

Vanscoy, Howard W., Jr., [redacted].

IN THE NAVY

Comdr. Grace Murray Hopper, U.S. Naval Reserve (retired), for permanent promotion to the grade of captain on the retired list of the U.S. Naval Reserve, in accordance with article II, section 2, clause 2, of the Constitution.

Vice Adm. C. Edwin Bell, U.S. Navy, for appointment to the grade of vice admiral, when retired, pursuant to the provisions of title 10, United States Code, section 5233.

IN THE MARINE CORPS

The following-named officers of the Marine Corps for temporary appointment to the grade of lieutenant colonel:

Harold J. Alwan
Thomas P. Angus
Roy F. Arnold
Vladimir H. Bacik
Ernest F. Baulch
Ronald L. Beckwith
Cornelius F. Behan
Robert M. Black
Robert C. J. Blackington
Robert B. Booher
James A. Bracken, Jr.
James W. Bridges
Donald E. Bullard
Harlan P. Chapman
Robert C. Cockell
Charles K. Conley
Gene A. Deegan
Robert R. Doran
John M. Dye
Henry D. Fagerskog
James F. Farber
Mervin A. Fiel
Charles G. Gerard
Umberto Giannelli
Robert K. Goforth
Winston O. Goller
Robert L. Gray, Jr.
James T. Hagan III
George L. Hammond
Jack F. Hansston
Gerald E. Harbison
Hans S. Haupt
Thomas W. Haven
Richard W. Hawthorne
David Y. Healy
Edward J. Heise
Karl R. Heiser
John W. Hemingway
Charles E. Hester
Robert A. Hickethier
William H. Horner, Jr.
Anthony C. Huebner
Emmett S. Huff, Jr.
Laurice M. Hughes
Richard V. Hunt
William A. Johnson
Richard R. Johnson
Gerald G. Kemp
Lee T. Lasseter
Timothy B. Lecky
John B. Legge
Paul F. Lessard
Luther A. Lono
Elliot F. Mann
Charles L. Manwarring
Joseph P. Marada
Robert J. Martin
Jerry W. Marvel
Ronald B. McCrindle
James M. McGarvey
James A. McGinn
David S. McIntyre
Richard O. Merritt
Kenneth P. Millice Jr.
Robert F. Milligan
William F. Mullen
Robert G. Neal Jr.
Harold M. Nelson
Daniel F. M. Nielsen
John W. O'Donnell
Billy J. Palmer
Clarence R. Perry
Raymond F. Perry
Robert A. Phillips Jr.
Ferrell F. Powell Jr.
George C. Psaros
Earl S. Piper Jr.
Albert Pitt
Charles A. Reynolds
Paul E. Ridge
Geoffrey H. Root
Paul E. Roush
William J. Scheuren
John M. Solan
Patrick R. Stingley
James S. Tardy
Milton S. Thompson
John S. Vogt
Hobart M. Wallace Jr.
Mark H. Waterbury III
Eugene L. Wheeler
Lawrence A. Whipple
George P. Wuerch

IN THE ARMY

The following-named person for reappointment to the active list of the Regular Army and Army of the United States with grades as indicated, from the temporary disability retired list, for a period of 1 day, under the provisions of title 10, United States Code, sections 1211 and 3447:

To be major general, Regular Army, and lieutenant general, Army of the United States

Lawrence J. Lincoln, [redacted].

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Lawrence J. Lincoln, [redacted], Army of the United States (major general, U.S. Army).

DEPARTMENT OF TRANSPORTATION

Robert Henri Binder, of the District of Columbia, to be an Assistant Secretary of Transportation, vice John L. Hazard, resigned.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 24, 1973:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Stanley B. Thomas, of New York, to be an Assistant Secretary of Health, Education, and Welfare.

DEPARTMENT OF THE TREASURY

William L. Gifford, of New York, to be a Deputy Under Secretary of the Treasury.

BUREAU OF THE CENSUS

Vincent R. Barabba, of California, to be Director of the Census.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

EXTENSIONS OF REMARKS

HUNTINGTON (W. VA.) ADVERTISER EDITORIAL STRESSES NEED FOR MORE RESEARCH TO REMOVE POLLUTANTS FROM COAL

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, July 24, 1973

Mr. RANDOLPH. Mr. President, the American people this summer are acutely aware of how they are personally affected by our country's energy shortage. The lack of adequate supplies of gasoline has brought home to the citizens of the United States the fact that the energy crisis is real.

This crisis affects more than just supplies of gasoline. It is, likewise, a complex situation with many interrelated factors. As we work to find realistic solutions to our energy requirements, environmental protection must remain prominent in our thinking. Effective and efficient means of removing pollutants are urgently needed. This is particularly true with respect to coal, which is America's most abundant energy source.

The Federal Government is involved in research to make coal a cleaner fuel. These activities, however, should be expanded. The Huntington, (W. Va.) Advertiser recently published an editorial discussing this situation and the need for expanded research to remove sulphur oxides from coal. This perceptive editorial clearly defined the problem and steps that should be taken to overcome it. In a letter to David A. Peyton, editor of the editorial page of the Huntington Advertiser, I further discussed the problem of assuring that coal is a non-polluting energy source.

Mr. President, I ask unanimous consent that the editorial and my letter be printed in the Extensions of Remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESEARCH INTO COAL USE CAN CLEAN AIR BY 1975

West Virginia will have cleaner air by 1975 or energy production will be drastically cut as the result of a decision last week by the West Virginia Air Pollution Control Commission which holds the state to the 1975 deadline for implementation of the federal Clean Air Act.

Gov. Arch A. Moore Jr. had asked that the implementation of the new standards be extended to 1977, but the federal Environmental Protection Agency turned down his request by its silence.

West Virginia, as a major producer of electricity through coal combustion, stands to lose from the action unless something is done and done in the next two years. But moreover, the whole nation stands to lose, for the energy produced through the burning of West Virginia coal is responsible, in part, for keeping the entire East Coast from being plunged into darkness.

The mandate is clear. We must clean up the process of coal combustion by 1975. And if there are any who still doubt the emissions from coal combustion can be harmful to life, they need only look at what happened recently at the Clements State Tree nursery near Lakin in Mason County where it is believed emissions from the Kyger Creek Power Plant, four miles away, damaged thousands of seedlings.

The answer lies in coal research—a way to eliminate the sulfur emissions and other dangerous gases which pollute the atmosphere as the result of making electricity.

The state now has a wedge it can use to push for increased research into ways of making the burning of high-sulfur coal cleaner and safer. This nation has enough coal—enough potential energy—to last 2,500 years, if the methods can be found to take it from the earth and burn it without destroying the environment.

Such research is being carried out at this time. The U.S. Department of the Interior has announced it will build an experimental pollution-free power boiler fired by high-sulfur coal at its coal research facility at Riversville, W. Va.

The boiler will use a bed of lime that will trap sulfur from the coal and filter the burned gas.

This is the type of research that will save us from a major energy crisis and unbridled pollution.

But more research is needed. The federal government needs to expend more money on finding ways of using coal, our only sure source of energy beyond the immediate future.

For the sake of our health, we must have cleaner air by 1975, or sooner. And for the sake of our country, we must produce more energy. Research and experimentation into coal is the key that will unlock the doors to both these goals.

U.S. SENATE,
COMMITTEE ON PUBLIC WORKS,
Washington, D.C., July 20, 1973.

MR. DAVID A. PEYTON,
Editor, Huntington Advertiser,
Huntington, W. Va.

DEAR MR. PEYTON: The rapidly growing demands for energy, the need to protect the environment, and our diminishing domestic supplies of natural gas and petroleum all mandate a search for newer and cleaner fuel sources. The great potential of West Virginia coal for alleviating the fuel shortage was effectively emphasized in your editorial of July 9.

Coal is our country's most abundant fuel and West Virginia can and must perform a major role in meeting future energy requirements. The success of our involvement depends, as you observed, to a large degree on the development of technology to remove dangerous sulfur emissions from burning coal.

I recently urged the Senate Appropriations Committee to add $20 million to the Environmental Protection Agency budget for research on sulfur oxide removal. This additional money was approved and will greatly accelerate the Federal effort in this vital area.

Another important factor is the perfection of methods to convert coal to synthetic, nonpolluting fuels and Federal programs in this field are advancing.

Along with stepped-up research on emission controls, the Federal government must expand its support for research into conversion processes. This type of research investment can have immediate and beneficial results. Technology permitting the greater use of West Virginia coal would also soften the increasing reliance on foreign fuel sources.

The Senate study of fuels and energy, which is being carried out under legislation I authorized, and in which I am an active participant, is providing our first comprehensive look at America's long-range energy requirements and the ways in which they will be met.

If we are successful in conquering the pollution problems associated with burning coal and in converting coal to clean fuels it is obvious there will be a tremendous demand for this fuel. The government, therefore, should not ignore additional research into mining technology. New environmentally sound methods of producing coal must be devised to supply future demands.

Coal has many attractive features for becoming America's primary energy source in the future. This promise cannot be fulfilled, however, without continued research to adapt this traditional fuel to modern usage. The *Advertiser* has perceived this need, and I am grateful for your support in this important effort.

Truly,
JENNINGS RANDOLPH, *Chairman.*

TRIBUTE TO WILLIAM RALPH MASON, CALIFORNIA LAND DEVELOPER

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. BURGENER. Mr. Speaker, I rise to bring to the attention of this body the passing of a man whose loss we in southern California and, indeed, the entire State of California will feel greatly.

On Saturday, the 14th day of July, 1973, William Ralph Mason, president of the Irvine Co., located in Irvine, Calif., died at his residence in Newport Beach, Calif., of a heart attack. Mr. Mason was born on September 9, 1918, in Seattle, Wash. He received his bachelor of science degree in engineering from the University of Washington and then went on to receive his master of science degree from the Massachusetts Institute of Technology.

Mr. Mason joined the Irvine Co. as an administrative engineer in 1959. He was elevated to the presidency of the southern California land development and agricultural firm in 1966. Mr. Mason was nationally prominent for his leadership in the development and implementation of the Irvine Co. general plan—encompassing 80,000 acres of land in Orange County, Calif.

Although obviously busy with his corporate interests, Mr. Mason found time to serve as western region president of the Boy Scouts of America. He has been honored by his community over the years with such awards as the "City of Hope Man of the Year," election to the American Academy of Achievement, and recipient of an honorary doctor of science degree from Chapman College. From 1966 until his untimely death on the 14th, Mr. Mason has contributed that which he has learned over the years in the civil engineering field to those men who today are attempting to succeed in the field.

From his early days as an assistant professor of civil engineering at Washington University, up to and including the completion and opening of the modern 1,000-acre site of the University of California at Irvine, Bill Mason has continually dedicated himself to the cause of education. He served as a member of the board of fellows of Claremont College, and as a member of the president's council of Chapman College.

Bill is survived by his lovely wife, Elizabeth, and his three children, Mark, Wendy, and Miriam.

It is with a heartfelt feeling of loss for both the family and the community that I bring this to the attention of the Members of the House of Representatives.

WEST GERMAN CHANCELLOR BRANDT EXPECTS A LOT FROM AMERICANS

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. RARICK. Mr. Speaker, the anti-American pronouncement of West German Chancellor Willy Brandt comes at a most delicate time. The President and the State Department may have assured the Brandt forces that the U.S. would retain 210,000 American troops in Germany but Congress has not rubberstamped the deal as yet.

Chancellor Brandt demagogging for his people by attacking U.S. dollars is reported to have said, "Europe cannot save the Americans the effort they have to make for themselves." His retort is reminiscent of the recent attack by another NATO leader, Monsieur Pompideau of France.

Still criticizing the American dollar crisis, Brandt is quoted as saying, "The Americans are expecting a lot from their friends and allies." Many young military men serving in Germany could reverse this remarks by saying that Herr Brandt is expecting a lot in the way of financing, aid, and men from his American friends and allies.

Other Americans can also reflect that one of the easiest solutions to our dollar crisis and Chancellor Brandt's dissatisfaction would be to immediately withdraw all U.S. troops from West Germany and cut off the flow of U.S. dollars to that country.

Some of our leaders in Washington thought they were doing Herr Brandt a favor rather than vice versa.

A related newsclipping follows:

BRANDT SAYS UNITED STATES MUST MOVE TO DEFEND DOLLAR

BONN, July 22.—West German Chancellor Willy Brandt tonight took the United States to task for its attitude on the international monetary crisis and European-American trade.

In an interview given at his Norwegian holiday retreat and broadcast by West German television, Brandt told the Americans they could not expect Western Europe to solve the dollar crisis for them.

"Europe cannot save the Americans the effort they have to make for themselves," the chancellor said.

The chancellor's statement was by far the strongest official indication of West German displeasure with Washington's attitude on the dollar crisis since the dollar began to fall again early this month.

Washington's apparent inactivity has prompted angry German editorials. In an apparent reference to such criticism, Brandt said: "The Americans are expecting quite a lot from their friends and allies."

Brandt made his discontent even more obvious by his reference to export restrictions the Nixon administration recently imposed on soybeans.

AN UNWISE WAGE HIKE

HON. JESSE A. HELMS

OF NORTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Tuesday, July 24, 1973

Mr. HELMS. Mr. President, I commend to my colleagues a sensible editorial that appeared July 23 in the Greensboro, N.C., Daily News.

The author of this editorial, unlike many others who have written and spoken to the contrary on the issue of the minimum wage increase, obviously understands the name of the game concerning inflation and its root causes.

Mr. President, I ask unanimous consent that the Greensboro Daily News editorial, headed "An Unwise Wage Hike," be printed in the Extensions of Remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

AN UNWISE WAGE HIKE

Raising the minimum wage is politically popular, and at least in theory it is sound policy as well, but the bill that is about to come out of Congress is likely to create more problems than benefits. Given the state of the economy and the tight employment situation, a higher minimum wage is one of the last things we need right now.

Similar legislation passed by both houses and now in conference would raise the minimum wage from $1.60 an hour to $2.20 and extend it to seven million workers not now covered, among them teenagers, persons over 65 and domestic workers. No one questions the essential point that these people deserve a living wage, and we doubt that few would argue that $2.20 an hour is more reasonable, in this economy than $1.60. Still, there are serious complications.

The first and most obvious is that there is absolutely no need for anything that will contribute to further inflation, and it goes without saying that a 37 per cent increase in the minimum wage would do precisely that. A great many workers are at the minimum-wage level and the increase would mean that inflationary purchasing power would greatly expand.

The second, and in certain respects more serious, is that minimum-wage increases historically have had a paradoxical effect: they often work to the disadvantage of exactly the people they are intended to help. Big labor, which lobbies ardently for them, doesn't gain much beyond political accomplishment: virtually all union labor is paid well above the minimum wage. But minimum-wage workers in marginal jobs often find that a hike simply eliminates their jobs—and thus reduces their income from marginal to nothing.

Domestic work, for example, is paid for not out of the coffers of huge corporations but from the budgets of ordinary (and some, financially, not so ordinary) citizens. If a housekeeper is now paid $12.80 for an eight-hour day, and the law suddenly requires a jump to $17.60, the employer may decide that he or she simply cannot manage it. The housekeeper may be dismissed, or her hours may be reduced to avoid an increase; either way, there is no benefit.

The same is true for teen-agers seeking part-time work and for older people trying to supplement Social Security and pension income: their employment opportunities decrease as employers find their financial resources strained.

In the best of all possible worlds, a high and universal minimum wage would be marvelous. But this is not the best of all possible worlds, and a higher minimum wage would be a mistake. President Nixon will be well-advised to veto the bill when it reaches him.

THE RIGHT TO LIFE

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. KEMP. Mr. Speaker, changing social mores have taken their toll on our basic respect for human life as witnessed by the recent Supreme Court ruling on abortion. The abortion issue is extremely complex and requires a thoughtful balance of moral, social and personal values. However, when the so-called right of privacy supersedes the right to life itself, and convenience impinges on human dignity, I think we are sadly out of balance.

Albert Schweitzer once wrote:

> If a man loses reverence for any part of life, he will lose his reverence for all life.

With the legalized sacrifice of the unborn, we have taken one giant step toward loss of reverence for all human life.

Dr. Thomas L. Johnson, professor of chordate embryology at the University of Virginia, has presented a most thoughtful and intelligent analysis of the abortion issue which I would like to bring to the attention of my colleagues. Dr. Johnson takes a metaphysical approach to the abortion issue—examining the pertinent biological data within the context of proper ethical standards in an attempt to determine the correct behavior of man toward the unborn. I am in complete accord with Dr. Johnson's view that—

> Once the absolute value of each individual to his own life vanishes, existence no longer remains as a right, but becomes a privilege to be granted or denied by those in authoritative positions.

Dr. Johnson presents a compelling case for the view that there can be no conflict of rights between the expectant mother and the unborn child. Both have the right to life which must be possessed by all humans at all stages of their development.

[From the Freeman, August, 1972]

ABORTION: A METAPHYSICAL APPROACH

(By Thomas L. Johnson)

The issue of abortion has occupied the minds of humans for as long as civilized society has existed. There have been times when abortion was legally condoned and socially accepted, and other periods of mankind's history when this practice was outlawed and considered to be a criminal act. Today, at a point in time when the rights of individuals are being attacked, ignored or destroyed, we are again witnessing a resurgence of the debate on abortion, and within the past few years, the passage of laws which remove most or all restrictions which have, in the previous history of this nation, protected the individual rights of the most vulnerable, defenseless and innocent of human beings: the unborn child.

The abortion controversy is not just another dispute causing people to occupy opposing intellectual and legal camps. It is not a subject that can be equated in importance with other national concerns. Abortion is an issue which must be recognized as one of the most, if not *the* most important argument of our times, for it deals with an attack on the fundamental right of all humans: the right to life. When this right, upon which all other rights depend, can be set aside; when, at the whim of an adult, a new human life can be destroyed simply because another human does not wish to allow this life to continue; when it is decided that one stage of human life is of no real value—that its existence is an inconvenience to others and can thus be terminated—mankind loses its most precious value. Once the absolute value of each individual to his own life vanishes, existence no longer remains as a right, but becomes a privilege to be granted or denied by those in authoritative positions, by majority vote, or by the caprice of an unreasoning mother.

THE NATURE OF EXISTENCE

There is but one approach that can be taken in dealing with the subject of abortion—the metaphysical approach. Metaphysics is a branch of philosophy which involves the attempt to understand the nature of existence, to explain and scientifically analyze natural phenomenon realms. Since abortion is dealing with the destruction of the human embryo or fetus, it is necessary to examine the biological nature of these entities and apply this information to another division of philosophy—Ethics—in the attempt to determine the correct behavior of men toward these intrauterine stages.

Among those who advocate abortion, who state that a woman should be able to terminate a pregnancy simply because she desires to do so, there are two significant groups. One group states that the entity within the uterine cavity is not a living human being, that the embryo or fetus is simply a cluster of multiplying cells that could be considered as a part of the mother's body. The other group considers the embryo or fetus to be human, but argues that there is conflict between the rights of the mother and those of the unborn child. That the mother must have full control over her body, and that if she is denied this right she will fall victim to the rights of the unborn.

THE ESSENTIAL OF REPRODUCTION AMONG VERTEBRATES

What is the actual nature of the intrauterine stages and does a real conflict exist between the mother and the unborn? In order to answer these questions it will be necessary to briefly analyze the known essentials of reproduction, particularly those factors which apply to vertebrates, of which the human is the most advanced form, and correlate this knowledge with the issue of the rights of the embryo or fetus, and the mother.

Sexual reproduction—reproduction of sperms and eggs, and their subsequent fusion—is characteristic of most forms of life, and is the only method of reproduction possessed by numerous animal groups (for example, all vertebrates). Once a mature animal produces the sex cells, they are released from the organs in which they formed (the testis or ovary, and usually pass into ducts leading to the outside of the organism. Either the sperms and eggs are released into water, at which time fertilization occurs immediately, or sperm cells are introduced into the female tract and fertilization will eventually take place within the body of the female. The essential point is, that at the time of fusion of sex cells, a new generation of a species is produced.

Within each cell of an animal there are two sets of chromosomes (filaments containing genes). When the sex cells are formed, each sperm or egg contains only one set of chromosomes but when a sperm fuses with an egg the full complement of chromosomal pairs is re-established. It is at this point, at the time of the formation of the zygote (the cell formed by the fusion of the sperm and egg) that a new organism comes into existence.

In human reproduction, the sperm fertilizes the egg in the upper portion of the oviduct. A new human life thus begins its existence in the cavity of the oviduct, and since it takes several days for the new organism to reach the uterus, it is already an embryo by the time it enters that organ.

THE POINT OF SEPARATION

One frequently hears the argument that the zygote, embryo or fetus is a part of the mother's body over which she must have control. Without question, this is *not* the case. Once sperms and eggs are discharged from the sex organs, they are no longer a part of the organism which produced them. These highly specialized cells, which have been produced by a special form of cell division (meiosis—other body cells are formed by the process of mitosis), are of no value to the organism which formed them (as regards the maintenance of its own life)—thus they either degenerate or they are released from the sex organs and pass into a tube on their way out of the body. Ultimately a small fraction of these *discarded* sex cells will fuse. Under no circumstances could one consider mature released sex cells, or any subsequent organism resulting from the fusion of these cells, as a part of the individual which generated them.

(Although the human embryo attaches itself to the wall of the uterus in order to gain needed substances from the mother for its gorwth and development, it does not fuse with this organ but remains as a distinct new life existing within the cavity of the mother's reproductive tract.)

Human life therefore has its beginning (*is viable*) at a point in time when the necessary genetic information, half coming from the father and the other half from the mother, is brought together by the fusion of the released sperm and egg to form the single-celled zygote. This individual organism cannot be a part of the mother (it has an entirely different set of chromosomes), but is a separate and unique human life.

ALL VERTEBRATE LIFE BEGINS IN AN AQUATIC ENVIRONMENT

There is another important, but generally overlooked, aspect of the development of vertebrates which is germane to the discussion of abortion and which would shed light on the nature of the intra-uterine embryo or fetus. It is a well known biological fact that all vertebrate life must begin in an aquatic environment. Fishes and amphibians generally release the sex cells into a body of water and the zygotes and embryos develop there. In the land vertebrates, which do not deposit their eggs into water, a sac forms around the embryo which fills with fluid. Consequently, each vertebrate, including the human, must spend the first developmental phase of its life in a water medium, and it is only after the new organism has achieved the necessary physical development (not accomplished by fishes and some amphibians), that it is able to continue its life in a gaseous environment.

(Even if humans should achieve the technological ability to raise what science fiction writers have called "bottle babies," these "bottles" would be filled with fluid. It is only because the human organism begins its life, not in a glass container in which one could observe the rapidly changing new life, but in a dark cavity out of sight, that older humans find it possible to pretend that these younger humans are not living or are not human. If the growth of the unborn child were to be observed by the mother, the issue of abortion would most likely never have become a matter of world-wide concern, for what psychologically healthy mother, seeing the unborn child within herself, would choose to destroy it.

Metaphysically, by its nature, every new human life *must* spend the first months of its existence in an aquatic environment, within the amniotic sac, if it is ever to experience a later stage of human existence. No human life has ever bypassed this requirement, or ever will—at least not for many millions of years, if then, considering the present rate of evolution. Every new human life must also have first been a zygote, then an embryo and finally a fetus before it is prepared to live outside the fluid medium. To contend that human life is only human at the time of birth, that the intrauterine entity is not an actual but only a potential human being, is untenable.

IF NOT A HUMAN BEING, THEN WHAT IS IT?

For those who insist that human life begins only at birth, the question that must be asked is: What is this entity developing within the uterus if not an actual human being? Is it possible that by some magic, at the time of birth, that this alleged potential being is somehow, within a matter of minutes, transformed into an actual human being? To rational individuals, in possession of scientific facts, the answer is incontrovertible. Both the unborn child and the newborn child is an actual human being, and at the time of birth, the child is merely moving from one required environment (aquatic) to a new required environment (gaseous) so that it can continue to develop into the succeeding stages of its life until it eventually ends its existence at the time of death.

The biological facts relating to the reproductive process and the first stages of human life have been established. It is now necessary to relate this knowledge to the issue of rights.

Those that contend that the intrauterine being is not human have no problem in their attempt to settle a controversy over rights, for if this living "thing" is not human, it can possess no rights. Since it is a well substantiated fact that the zygote, embryo or fetus is a human being, their argument becomes meaningless and requires no further discussion.

Those who contend that a human life is existing within the mother during the period of pregnancy do ascribe rights to this new human life, but it is argued that the rights of the mother take precedence over those of the unborn child and thus she has, or should have, the legal and moral right to terminate the life of this new individual at any, or certain limited, stages of its existence. This latter position requires a succinct examination.

A woman must have full control over her *own* body at all times. She must be free to take any action which is deemed necessary to sustain *her* life. For instance, if it can be medically determined that carrying her unborn child to term would probably result in her death, she cannot be expected or required to sacrifice her adult independent life for the life of an immature, dependent offspring. (Actually, in many such cases, both the mother and the fetus could die, resulting in the loss of two lives, instead of just one.) Since medical science has advanced to a point at which such life and death situations rarely occur, the argument in favor of abortion in order to preserve the life of the mother has only limited application. Although this is the case, the legal code should specifically grant abortion if the mother's life is seriously jeopardized, which it has done throughout the history of this nation.

MITIGATING CIRCUMSTANCES

Are there other circumstances that might arise which would, or could, legally and morally permit an expectant mother to undergo an abortion? The answer is yes—in cases of legally proven (which is sometimes difficult), unwillfully engaged in acts of rape or incest. *When an individual does not commit an act of his own free will, he* (*or she*) *cannot be held responsible for the consequences of this act.* Although this is true, it does not alter the fact that a new life is existing and that it will be destroyed if aborted. The most humane response to such a circumstance would be to encourage the expectant mother to carry the child to term, but no one could require this of the victim.

There are some who insist that abortion should be allowed for other medical reasons—in the case of diseased or malformed fetuses. But what individual physician, or board of physicians, or legislative body has the ability to determine what diseased condition or what deformity could warrant killing the unborn (or the born)? No such judgment is possible, either for the intrauterine or extrauterine human.

"HANDBOOK ON ABORTION"

Dr. and Mrs. J. C. Willke, in their recently released book, *Handbook On Abortion*, emphasize this point when they write: "This price tag of comfort or utilitarian usefulness, called euthanasia when applied to incurably ill post-born humans, applies equally well to the pre-born human who is also judged to be so deformed or mentally deficient that he too should not be permitted to live. This criterion and value judgment which permits humans to continue to live only because they are useful and independent is an utterly barbaric concept. Once life has a price tag on it and is no longer an absolute right, then all life is endangered, all life is only worth the current price tag placed upon it by society, the state, the master race, or those in positions of power."

Having full control over her *own* body (having *self*-determination) is an absolute right of each woman, but having full control over another's body, over the body of a new life developing within her reproductive system is not, and never could be her prerogative. A woman must have the right to *prevent* conception—to determine herself if she wishes to have, or not have, a child—to obtain contraceptive information and materials—but she must also bear the responsibility for sustaining the life of a newly formed human if she willfully engages in intercourse which results in pregnancy.

(It should be noted that certain contraceptives do not prevent conception, but preclude the implantation of the embryo in the wall of the uterus. The use of such contraceptives should be condemned, for they bring about the destruction of very young lives rather than prevent their coming into existence.)

A COLLECTIVIST VIEW: THE INDIVIDUAL IS EXPENDABLE

Consider the political philosophy, and the attitude toward individual rights, of those groups which are the most outspoken supporters of abortion—those concerned with environmental pollution, the population explosion and the "liberation" of women. Each of these groups espouses a collectivist view of life and considers the individual human to be expendable or enslavable as the means of achieving their ends. They are outspoken lobbyists backing legislation granting the agency of force, the government, the authority to establish a myriad of programs which they consider necessary to achieve their aims, and they completely ignore the fact that it is other human lives that will be sacrificed in this attempt to carry out their master plan for society. The sacrifice of the unborn is just one other aspect of their social engineering which is completely compatible with their view of man—the view that the individual is nothing; the collective is all.

There is no conflict of rights between the expectant mother and the unborn child. Both she and the new life within her have the right to life, a right which must be possessed by *all* humans at *all* stages of their life. And since it is the function of government to protect the rights of all humans, from the beginning of life to its end, it is right for the government to proscribe the killing of the unborn by means of abortion—except to save the life of the mother or in instances where a woman's self-determination was obliterated, as in the case of forced rape or incest.

In her brilliant essay, "Man's Rights," Ayn Rand states: "There are no 'rights' of special groups, there are no 'rights of farmers, of workers, of businessmen, of employees, of employers, of the old, of the young, of the unborn.' There are only *the Rights of Man*—rights possessed by every individual man and by all men as individuals." The unborn child is a new individual having the same rights as all other individuals, and, as with all humans, regardless of their age or station in life, possesses the most basic of all rights, the right without which all other rights would cease to exist, the right to life.

POISON GAS TEST ON DOGS

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. ASPIN. Mr. Speaker, ever since early in July, when my office revealed that the Air Force was seeking to buy 200 debarked beagle puppies to test poisonous gases at its Aerospace Research Laboratory in Ohio, we have been inundated with letters from all corners of the world. Without exception, the letters have expressed outrage at experiments which, it develops, are part of a $3.6 million program with the University of California.

As I said when we revealed this information, I realize that this may not be one of the most pressing issues of national defense, but there are literally thousands of dog lovers like myself who won't stand by quietly while it happens. The results, simply in terms of mail received, justify my faith.

We discovered the plans for the experiments in an Air Force contract notice that calls for 200 beagles, "debarked, purebred, 6 to 9 months of age," for laboratory use. A quick check determined that the dogs would be used for experiments with toxic gases.

I have sent a letter to the Secretary of the Air Force demanding more information about this particular program and about other Air Force programs involving animals. To date, I have not received an answer. However, since that time, there have been a number of newspaper articles on the subject, and for the information of all those who would like to know more about Air Force experiments with animals, I would like to submit one of those articles for the record. The article follows:

[From the Christian Science Monitor, July 18, 1973]

POISON GAS TESTS ON DOGS: "TIP OF THE ICEBERG?"

(By Dana Adams Schmidt)

WASHINGTON.—A U.S. Air Force plan to expose 200 beagle puppies to poisonous fumes to gauge the effects on humans is roundly condemned by humane society officials.

The officials call the experiments—to be conducted late this year or early next year at Wright-Patterson Air Force Base in Ohio under a $1.2 million research contract—as "the tip of the iceberg" of experiments on animals in the United States.

The Air Force, which has the research contract with the University of California, says the animals will not be used to test poison gases or any chemical or biological warfare agents.

They will, however, test "effects of fluorocarbons to determine toxicity levels from fumes from fire extinguishers; effects of fumes given off by freezone; effects of methylhydrazene fumes from propellants; effects of carbon monoxide and hydrogen cyanide fumes given off by burning plastics in aircraft fires."

Says the Air Force: "Testing is low-level in nature and long-term in duration. In this type of testing most of the test animals will not die."

But some will not survive, because the Air Force also says that "animals whose health is affected or whose lifespan is altered will be humanely destroyed."

However, "animals not so affected will be made available for other test programs."

A spokesman for the Washington, D.C. branch of the Society for the Prevention of Cruelty to Animals (SPCA) said that its offices have been inundated with letters protesting the Air Force's experiments.

"While we are not antivivisectionists in principle, we do find these particular experiments a little obscene," he said.

"Most people who know beagles as pets will suffer a real identity crisis when they hear the details."

SPCA officials quote statistics from Rutgers University's College of Agricultural and Environmental Sciences, which stated that in 1971 about 500,000 dogs of all kinds were used for laboratory research in the U.S.

In addition, the figures show, laboratories used 45 million rodents, 700,000 rabbits, 200,000 cats, 85,283 primates, 46,624 swine, 22,961 sheep, 1,724,279 birds, 15 to 20 million frogs, 190,415 turtles, 61,176 snakes, and 51,005 lizards in the same year.

The Air Force contract was let by the Aeronautical Systems Division of the Air Force Systems Command for work by the University of California at the aerospace medical research laboratory at Wright-Patterson.

The contract for the supply of dogs has not yet been let, although a notice of intent has been published.

The Air Force explains that its procedures are humane.

It says that the dogs are "debarked" before the experiments through "a simple operation in which a small piece of cartilage is removed from their vocal cords. This is standard procedure used only when large numbers of animals are to take part in experiments indoors. It is a painless operation."

It was not clear, however, whether eliminating the dogs' ability to bark was for the sake of the dogs or for the sake of the laboratory technician who had to work with them.

According to the Air Force, "all federal, state, and local laws as well as principles of laboratory animal care as outlined by the National Academy of Sciences and HEW (Department of Health, Education, and Welfare) are strictly followed."

The Air Force also said that the Society for Prevention of Cruelty to Animals concurs in these principles.

This was denied by the Washington D.C., SPCA which pointed out that it works entirely through local branches and has no national organization that could lay down a national policy of the kind mentioned by the Air Force.

Why beagles? The answer given by the Air Force is that they are an "inexpensive, purebred animal," that they are frequently used for research because they tend to be uniform in size and characteristics.

The specifications provide that they should be purebred and six to nine months in age, half male and half female.

OUTER SPACE PROFITS

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. FUQUA. Mr. Speaker, our space program has already provided us with a large return on our investment. The Honorable OLIN E. TEAGUE of Texas, distinguished chairman of the Committee on Science and Astronautics, has been in the forefront of those espousing the importance of the national space program to our Nation. A recent editorial cites Mr. TEAGUE for his including in the RECORD an article of significance on our national space effort. I am including in the RECORD the editorial of the News of Frederick, Md., for Monday, July 16, 1973.

The editorial follows:

OUTER SPACE PROFITS

At an investment of only two cents on the tax dollar, considering all the pluses that derive from America's space program, certain criticism of space explorations have generally left the greater segment of the populace wondering what all the yelling was about.

These carping critics were probably the same ones who made the most noise when those Russian Sputniks beat us in the space race, and who would have been screaming even louder if the United States had been beaten to the moon.

In Congress on July 10, Rep. Olin E. Teague of Texas included in the Congressional Record an article from the Today newspaper which he said, "goes far to describe the outstanding performance of Skylab and numerous benefits of our national space program."

The article by Today's Paul Harvey follows:

We really didn't need all that trouble with Skylab.

With Yankee dollars shaky worldwide and shrinking stateside; with the confidence in Americanism shaken by public debt and public scandal; we really did not need any "bugs" in our prestigious $294 million Skylab project.

Queen Isabella did not hock her jewels to finance Columbus just to prove the world was round; she wanted to claim for Spain the rumored riches of the Indies.

The primary motivation for most exploration has been monetary and it still is.

Budget-pinched Americans have sometimes construed our space budget as an "expense" rather than an "investment."

Even members of Congress whose districts lack jobs dependent on space exploration are inclined to ignore the long-term fringe benefits.

The myriad products and processes which have already resulted from our investment in space exploration have profited us economically many times over.

For example, new electrical wiring which can be stuck on a wall and painted over, batteries which can be charged 100 times faster, more accurate digital clocks, the sight-switch with which a paralyzed person can steer a wheelchair.

Each of these is a spinoff from our successes and our failures in space.

Safer automobile tires, antifogging compound for your windshield and your eyeglasses, improved lubricants and heat-tolerant ceramics for kitchenware—all have been harvested from "empty space" technology.

Space exploration has resulted in 1,892 patents for practical, usable, beneficial, productive "things" which never were before and might never have been.

And yet we invest only two cents of each federal budget dollar in this highly profitable research while 45 cents of every dollar goes to one or another form of welfare.

Last year our government spent a total of $3 billion on space; California alone spent that much on welfare programs!

Forgetting the material blessings just the medical fallout from 11 years of spaceflight may add that many years to the life of each of us.

Illnesses are now being diagnosed and treated by remote control. Bloodless surgery is being performed now with tools developed by space medics.

Our space-bought knowledge of our own planet—its seas, its resources, its climate—is of infinitely greater ecological significance than the combined efforts of the short-sighted ecologists who would divert space money.

America has not bought so much for so little since the Louisiana Purchase.

The "bread" we spread in space comes back a hundred-fold!

WILLIAM RALPH MASON

HON. B. F. SISK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. SISK. Mr. Speaker, William Ralph Mason, president of the Irvine Co., passed away on July 14 at his Newport Beach home. Family spokesmen attributed his death to a heart attack. He was 54. He is survived by his wife, Elizabeth Shannon, and three children, Mark Gregory, Mrs. Wendy Crawford, and Miriam Denise. Last rites were held at Pacific View Memorial Park, Corona del Mar.

Mr. Mason succumbed in the family home at 1907 Galatea Terrace, Corona del Mar, at approximately 3 p.m. He had been in good health and was working at the company offices Saturday morning.

Mr. Mason, a native of Seattle, Wash., was nationally prominent for his leadership in the development and implementation of the Irvine Co. general plan, encompassing 80,000 acres of land in Orange County, Calif.

He joined the Irvine Co. as administrative engineer in 1959. He was elevated to the presidency of the southern California land development and agricultural firm in 1966.

His many civic interests included active participation in the Boy Scouts of America, for which he currently served as western region president.

Among Mr. Mason's honors in recent years were his selection as "City of Hope Man of the Year," election to the American Academy of Achievement, selection by the Orange County Press Club as headliner of the year 1972, and recipient of an honorary doctor of science degree from Chapman College.

Mr. Mason began his career as assistant professor of civil engineering at the University of Washington. He never separated himself spiritually from the cause of education, serving as a member of the board of fellows of Claremont College, as a member of the president's council of Chapman College and as a prime mover in the planning, establishment and development of a University of California campus on a 1,000-acre site in the city of Irvine.

Bill Mason died at the peak of a distinguished career. He combined the technical skills of the engineer with the arts of the dedicated builder seeking with imagination and deep understanding practical solutions to human needs. His achievements are inerasable.

THE CRITICAL HOUSING PROBLEM

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. PATTEN. Mr. Speaker, one of the most critical domestic problems facing the American people is the field of housing.

Every day I receive letters, telegrams and telephone calls from constituents, deploring the housing shortage and high interest rates. These conditions are more than just unfortunate—they are outrageous and are preventing the realization of the American dream: To buy and own your own home.

I am especially disturbed over the plight of the veteran, who now faces the dark prospect of paying interest rates as high as 8 percent because of recent legislation passed by Congress. I closed many mortgages for veterans at 4 percent and to me, it is a virtual crime to have veterans pay 8 percent when their loans are guaranteed by the Government. Our citizens—especially our veterans—should be helped, not hurt, by the Government.

The Home News, of New Brunswick, N.J., published two excellent articles on the critical housing problem—one by Sunday editor Robert J. Bailyn, and the other, an editorial.

These articles follow:

WHEN THERE'S ONLY LUXURY HOUSING—BRITAIN'S SQUATTERS MOVE RIGHT IN

(By Robert J. Bailyn)

LONDON.—Is housing a public utility? Does anyone have the right to leave a house vacant? Should persons be allowed to have little used vacation homes?

These are questions heard more and more frequently in the housing short United Kingdom. Their echoes can be faintly heard on American shores, too, where rising prices are beginning to rival the crunch conditions here.

The squatters movement is an active force on the British housing scene. It has it roots in the deprivations that followed World War II when thousands of Britions illegally occupied vacated army camps in a desperate effort to find any kind of shelter.

Today, with 30 percent of the people living in subsidized public housing, the desperation underscored by Nazi V-bombs is gone. But costs are forcing people to accept a grade of housing that goes against the grain of modern expectations.

The situation is not unlike that in the States for the young marrieds, the elderly and others of modest means. Rent of near $200 a month for a one-bedroom private apartment in London isn't easy to manage on a young schoolteacher's typical $6,000 a year salary, even when supplemented by a secretary's typical $3,800.

But then how many young American marrieds can afford the $200 plus rents on new apartments in Central Jersey or the $31,000 that new homes cost on the average in the United States in March?

The Army Corps of Engineers is being harassed by squatters in vacated homes in the long-delayed Tocks Island reservoir project along the upper Delaware River. These squatters are depicted as hippie types.

But the British squatters, while some might be classified as hippies, are mostly made up of families on welfare dissatisfied with public housing conditions, poor working families that can't afford high rents and students with limited means.

The housing that is being squat in consists largely of homes that have been vacated for delayed urban renewal projects, luxury apartments empty because of high rents, office buildings left vacant as tax write-offs, houses awaiting transfer of ownership and vacation homes.

The squatters movement has achieved a degree of respectability here. One of the movement's leaders, Ron Bailey, has just had a book, "The Squatters," published as a Penguin Special.

In it Bailey describes the contemporary effort that began in the Redbridge section of London in 1968 and which today has formal organization in the Family Squatters Advisory Service. The service aids at least 16 family squatting associations in London boroughs.

As Bailey describes the thrust:

"Squatting should be the movement of ordinary people to challenge the authorities on the whole issue (of housing). It must become the living demonstration that ordinary people will no longer accept the intolerable housing shortage. It must become the threat that will compel government, national and local, to change its priorities."

What Bailey has in mind are these:

"Luxury flats lying empty for years while people rot in slums is an apt symbol of the false priorities of our 'affluent' society."

"The sign outside proclaiming 'offices to let' symbolized all the priorities that we rejected.

"The system typified by large empty office blocks is a good target for squatters."

Bailey's view of the system is this:

"While land values increase because of property speculation, councils are hamstrung in any attempt to acquire land for housing, and while interest rates continue to rise, councils continue to have to pay out enormous sums to borrow money to finance house building.

"Even the most willing council in the world is therefore at the mercy of this system of private speculation, private money lending and property developing."

He concludes: "The badly housed and the homeless will be the basis for a new radical housing movement."

Interestingly, the Ministry of Housing, the Greater London Council and other governmental groups here have vigorous housing programs that dwarf anything in the United States. One sees very little rundown housing like that in Trenton, Newark or other older U.S. cities.

Yet some people in Britain have already taken matters into their own hands.

Is a large-scale squatters movement possible in the United States? Perhaps so, if costs and shortages go unabated to the point that enough persons become desperate.

In New Jersey today, for example, about the only housing being built are luxury apartments, luxury private homes and posh retirement communities. These are where the maximum profits are in today's private marketplace.

Public programs are few, and the federal ones are being dismantled by the Nixon Administration.

Someday American students, young marrieds, workers of modest means, welfare recipients and others may have little choice but to follow the lead of the British squatters.

Dream Cottages Harder To Finance

A mortgage on that dream cottage by the Raritan now costs more. Last week the permissible rate in New Jersey was raised from 7.5 to 8 per cent. That's only a half per cent, but on today's typical new 25-year mortgage of $20,000 or more, the added cost to the home buyer is $2,000 to $3,000.

Even so, the home buyer is likely to find mortgages hard to get, and banking institutions finicky. The fact is that 8 per cent in today's tight money market isn't a good return for lending money.

The prime rate, the interest that a bank can charge the likes of American Telephone or General Motors for a loan, has gone to 8.5 per cent. And Treasury bills, which have the full faith and credit of the U.S. government behind them, are paying 8 per cent. So why should a bank lend money to Joe Middlesex at 8 per cent?

Actually, there are auto, personal and commercial loans, corporate bonds, foreign bank accounts and other places to put money to work that can return up to double what can be gotten on a mortgage and often with as much safety.

Banking institutions have more reason than ever to seek maximum returns because the federal regulatory agencies also last week gave them permission to pay higher returns on savings accounts. Hereabouts some are now offering over 7 per cent on certain term deposits, and one New Orleans savings and loan association has gone to an 8.5 per cent top.

So, what's the incentive for banks to even bother with mortgages? The whimpering of people who can't sell their houses or can't buy a place to live has little effect in matters of cold cash.

Who cares if a young couple can't buy a house of its own and must move in with relatives? Who cares if a chap can't take a new job because he can't sell his home?

Certainly not the state nor federal governments. In fact, the Nixon administration has been dismantling its housing programs during this second term.

In the short run, very little can be done about interest rates. If they are artifically held down in the U.S., as by a freeze, money will flee abroad where rates are higher. And if that is forbidden, international trade would be crippled with all kinds of unpleasant consequences that would be felt at the meat counters and gas pumps.

But if farm crops, oil exploration, trains and other things can be subsidized, so can mortgages. Some mortgages are, mostly for construction of low income apartment houses.

It is a matter of priorities, which is also spelled political pressure.

If enough people are made miserable, if public clamor gets loud enough, if voting levers are pulled for candidates who favor programs that will enable people to purchase houses at rates they can afford, then dream cottages will again become realities.

For now, it's an 8 per cent mortage if you can find a banking institution willing to give you one.

WHAT HAPPENS AFTER WATERGATE?

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Ms. ABZUG. Mr. Speaker, for many months I have been striving to prevent a domination of the United States by the executive branch of Government. The Congress must maintain its strength as designated in the Constitution.

Following is an address on this subject by Mr. Ivan Shapiro, president of the New York Society for Ethical Culture, which was broadcast by WQXR on July 3 of this year. I hope my colleagues will find this piece as interesting as I have.

The address follows:

What Happens After Watergate?

We will be in the midst of Watergate for a long time yet, but one thing is apparent. The immediate threat to liberty is over, at least for the next few years. The Soviet-style activities and the mentality of the Administration, have been brought into the open, and the wrongdoers are on display before an angry public. Our rescue came just in time. We have learned that attempts were made to corrupt or pervert the functions of at least five non-political government agencies. In addition, the criminal acts which have already been confessed by members of the President's entourage include illegal wire tapping, bribery, attempts to tamper with judges, perjury, obstruction of justice and burglary. The range of crimes, the variety of agencies affected, and the number of participants doubtless will grow as the investigations continue. But no matter what is revealed, this is past history and poses no immediate threat.

But if our rescue is to endure beyond the life of this Administration, you and I must make our voices heard, demanding that our elected representatives do their jobs. This means, first, that they may have to confront squarely and wisely the matter of impeaching the President of the United States and removing him from office. The White House's illegal activities came dangerously close to being a coup d'etat—a clandestine effort to supersede the existing structure of our government. If the President was a consenting party, he is of course a malefactor. If he had no knowledge of what his personally chosen cabinet members and closest assistants were doing, under the cloak of his authority, then he abdicated his powers and responsibilities and left this country without an elected leader.

The Nixon Administration did not create the circumstances in which a Watergate could occur. The President's remoteness from the Congress, from his critics and from reality itself was the legacy left by President Johnson and perhaps by Presidents Kennedy and Eisenhower as well. George Reedy, the press secretary for President Johnson wrote a book in 1970 in which he described the isolation-chamber atmosphere of the White House, the atmosphere of a king surrounded only by his fawning courtiers.

Watergate is the result of both the growth of presidential power—the President's practice of ruling by memo and by executive order—and also of the inability of Congress to maintain and to exercise the powers granted to it by the Constitution. Therefore, the larger job which faces our representatives is to revamp the machinery of Congress, to enable it to fulfill the role required of it. For instance, Congress must have its own staff of civil servants equipped, and of adequate strength to furnish Congress with the facts needed for a real policy making role, without being dependent upon the executive branch. In addition, the Office of Management and Budget must be brought wholly within the control of the Congress. We've always known that whoever exercises the power of the purse and the power to make war is the ruler. It took the English two revolutions to get this power out of the hands of the monarch and into those of Parliament, and the farmers of our Constitution themselves fought one bloody revolution on this very issue. They were terrified of the possibility of presidential tyranny and they foresaw just the kind of activities that fill this morning's newspapers.

Watergate is a warning to us that if we treat the presidency with reverence rather than with respect, if we view the President as being our monarch instead of being our most important servant, if we permit his power to go unexamined and unchecked, radio talks such as this will not be heard for long. America is not the place for treating the President's critics as the nation's enemies, or for spying on such opponents and destroying them. The wrongdoers have been caught and doubtless many will be punished. But if it again becomes possible for a president to rule as a tyrant, it will be because you and I have not assured ourselves of having representatives in Congress who are capable and desirous of discharging their Constitutional responsibiilties to us.

THE APOLLO 11 ANNIVERSARY OF ACHIEVEMENT

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. TEAGUE of Texas. Mr. Speaker, 4 years ago this week, Neil Armstrong, a great American, a fine engineer, and now brilliant educator, became the first astronaut to set foot on the Moon. Neil Armstrong opened a new era in the history of mankind. Man, for the first time, was freed from traveling only on the planet Earth. Man gained a new perspective of the world he lives in recognizing its enormity yet its smallness in cosmic dimensions.

It is a day that Americans and all the people of the world can remember with pride, not only as a great feat but also as a contributor to the benefit of the people of this country and of the world. People from all walks of life, from all parts of our country and from all over the world participated in the achievement of the first lunar landing which was then following by a solid set of continuous achievements in the scientific investigation of the Moon.

Apollo paved the way for the practical application of space to the benefit of man. We would do well on this day to remember that our Nation's health depends on our ability to develop and utilize technology that improves our quality of life and strengthens our economic well-being. The Apollo program and the programs which follow, today, contribute to that essential goal.

BUREAUCRACY MOVES SLOWLY BUT FREEPORT BENEFITS

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. LENT. Mr. Speaker, we are all aware of the instances in which the Federal bureaucarcy seems to impede, rather than promote progress. I recently became involved in a problem that the residents of Freeport were experiencing in trying to get an expansion of their sewage treatment plant, and soon found out firsthand how frustrating it can be to try and get the system to accomplish even the most desirable ends. I am pleased to say that it now appears that the matter is well on the way to favorable resolution, which proves that cooperation between all levels of government, inspired by citizen input, can result in benefits to the community. I include in the Record at this point an article by Emilie Trautmann from the July 22, 1973, issue of Newsday which discusses the Freeport sewer problem and its resolution:

Troubled Waters for Sewage Plan

(By Emilie Trautmann)

(Sometime within the next month or two, Nassau County Executive Caso and Freeport Village Mayor William White will sign an agreement to pipe Freeport's sewage to the county's new Wantagh sewage treatment plant. The signing will take but a few seconds; there will be no ceremony, and only a dozen pieces of paper will be involved. But those pieces of paper are just one peak in mountains of red tape that extend six years into the past and at least two years more into the future. This story details the Byzantine bureaucracy involved in just one sewer treatment project.)

NO. 1. FREEPORT: THE PROBLEM

Freeport has 42,000 residents; they each produce from 100 to 125 gallons of sewage a day—about 13 gallons per shower and seven gallons per toilet flush. Some people produce more sewage than others (those who use dishwashers, for instance), but altogether the residents produce about 3,800,000 gallons in any given day. That is enough to keep the Freeport sewage treatment plant busy. Very busy. And in 1967 that was the problem.

The Freeport sewage treatment plant is not supposed to handle more than 4,000,000 gallons of sewage a day, but it can treat an extra 2,000,000 gallons if necessary, say during a heavy rainstorm. After the flow reaches 6,000,000 gallons per day, the more sewage the plant has to treat, the less treatment the sewage gets. So engineers of Baldwin and Cornelius, a Freeport consulting firm hired by the village, recommended that something be done: Expand the plant, they said.

NO. 2. FIRST FAILURE

The engineers hired by Freeport drew up a document of about 100 pages outlining plans to expand the sewage treatment plant, and that plan was sent to the Nassau Health Department which worked with the Nassau Public Works Department, which sent the plan to the New York State Department of Environmental Conservation, which added it to a water quality plan for a section of Middle Bay in which the treated sewage was to be dumped. And that combined plan of about 150 pages was sent to the New York City office of the U.S. Environmental Protection Agency, which sent it to the Washington office of the Environmental Protection Agency, which rejected the plan. It was too expensive, they said. That was in March, 1970.

NO. 3. THE GREAT TERTIARY PLANT EXPERIMENT

Under the impression that the federal government had recommended it, Freeport decided to try a one-year experiment. It would give an added, tertiary, stage of treatment to 30,000 gallons of its 3,800,000 gallons of daily sewage. That meant that in addition to everything else it was doing to treat those 30,000 gallons, it would take out nitrates, which encourage the growth of algae which use up oxygen in the water and cause fish to suffocate. The tertiary plant would remove enough waste so the 30,000 gallons of sewage eventually could be returned to Freeport's underground water supply, rather than be dumped in the bay.

If the experiment worked (which it did), Freeport figured it could get federal money to convert its sewage treatment plant into a tertiary plant large enough to handle much more than 4,000,000 gallons a day. And at the same time it could replenish the village's underground water supply.

So Freeport spent $270,000 on the experiment and one year passed. But when the experiment was completed in May, 1972, there was no federal money in the offing. The federal government said it never recommended anything like a tertiary plant to Freeport. It was interested in the project, yes, but willing to pay for it, no. And so Freeport tried something else.

NO. 4. SOMETHING ELSE: TRY I

The engineers drew up a plan to hook Freeport's sewage treatment plant into Nassau County's new treatment plant in Wantagh. It sent the plan to the Nassau Health Department and the Nassau Public Works Department, which sent it to the state Department of Environmental Conservation, which sent it to the New York City office of the federal Environmental Protection Agency, which sent it to the Washington office of the Environmental Protection Agency, which rejected it. That was October, 1972.

NO. 5, TRY II: POLITICS

So the mayor of Freeport, Robert Sweeney, went to the representative from his district Norman Lent (R–East Rockaway), who bypassed everybody and went to the attorneys for the Washington office of the Environmental Protection Ageny, who accepted a Freeport-Wantagh hook up. That was done in March, 1973.

What happened was that there had been a cutoff of the 1972 federal Clean Water Act because of Nixon administration spending cutbacks. No additions to any agreed-to projects involving federal money were allowed, and the Nassau County sewage treatment plant had been agree-to by the federal government. Therefore, Freeport could not be added. But Lent was persuasive. Bids for the Nassau project were lower than expected, he argued, and even with the Freeport addition, it wouldn't cost as much as originally expected. The Environmental Protection Agency agreed. Work began on the Wantagh project and a formal agreement had to be worked out between Nassau County and Freeport to hook Freeport into the plant in Wantagh.

NO. 6. NOW AND NEXT

So an agreement was drafted between Nassau County and the Village of Freeport early this month and approved by the Freeport Village Board two weeks ago. But the village engineers had a "few minor questions," a village spokesman said. After the village and county engineers get those questions straightened out, village and county lawyers will take a look at the agreement. If they see no problems, Freeport Mayor William White will sign it and send it to County Public Works Commissioner John Peters, who will send it to County Executive Caso, who will approve it for Peters' signature. Then Caso must get the agreement again and approve it for the county board of supervisors' calendar. After the agreement is scheduled for discussion, it will be discussed, and there will be a public hearing supervised by the Nassau Environmental Management Council. If it is approved by the board of supervisors after the hearing, Caso can sign it.

Then the project still must be approved by the state Department of Environmental Conservation. And if that agency approves it, then the New York City office of the federal Environmental Protection Agency must approve it, and after that, the Washington office of the Environmental Protection Agency must approve it. And then it is approved.

Then Nassau County can take bids for the construction job, bids that have to be approved by the state Department of Environmental Conservation. When bids are awarded, the construction company can start building. And if there are no strikes or shortages, or bad weather, the project will be completed in 1975. Maybe.

NO. 7. BUREAUCRACY: PROS AND CONS

From start to finish it will have taken at least eight years for Freeport to solve the problem of its aging sewage treatment plant. There are some environmentalists who believe that eight years is an optimistic estimate. It will be well after 1975 before the project is finished, they say, because things just don't move that fast.

Some of the questions raised by all this are: Why is there this "ball of wax," as one Nassau County official put it? Why do things take so long? Is it necessarily bad that things do take that long?

One Freeport official called the whole thing "ridiculous" and then he compared it to a better known form of bureaucracy. "Ever been to the Motor Vehicle Bureau?" he asked.

But other officials involved in the process defended it. They say it is necessary. Coordination is important to prevent miscalculations and oversights, they argue. "It's necessary. There's a lot of money involved," said one. Another refused to use the words "red tape." "When you say that you are introducing biases. It's 'processes of approval,' not red tape."

THE SEARCH FOR ENERGY

HON. STANFORD E. PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. PARRIS. Mr. Speaker, the Northern Virginia Sun, an independent daily newspaper which serves my congressional district and the district of my colleague, the Honorable Joel Broyhill, recently published an editorial commenting on the search for a solution to the growing energy shortage in this Nation and specifically on a report by the Stanford Research Institute on the energy situation in California.

At this time, under my leave to revise and extend my remarks, I would like to include that editorial in the Record:

Worth Thinking About

A major study of the state of California's energy requirements to the end of the century has been made by the Stanford Research Institute, one of the nation's leading organizations of its kind. Findings of the Institute deal with California, but they apply in principle to the entire country.

A report on the study emphasizes the strong correlation between energy consumption and economic activity. It says, "Taking into account the resource energy base in the United States and abroad, California should have adequate energy supplies for hundreds of years. . . . Despite this impressive resource base, both the nation and the state face the prospect of energy shortages."

The report declares, "If California is to avoid having such shortages extend into the long term, the state must encourage rapid development of energy sources rather than impose arbitrary limits of growth on the use of energy. . . . Steps such as banning the use of electricity and the imposition of heavy taxes on energy use could lead to massive economic disruption and total government control of the economy. . ."

The Institute's findings refute charges the California power companies are threatening the coastline with a "picket fence" of nuclear power plants. It observes that nuclear power is of great economic significance to California.

If its expansion is not permitted, consumers will spend $30 billion more between 1985 and 2000 for electricity from other sources. The Institute states further that, ". . . sitting and safety criteria for nuclear plants are technical problems that can and should be resolved. The Institute added that potential savings to California energy users are of sufficient magnitude to justify concerted and accelerated action by state and federal regulatory authorities and the electric utilities in resolving these problems."

We can't help but feel that the energy crisis is one of the foremost problems facing the people and politicians of this nation; whether they be from California or Virginia. And right now virtually any recommendation is worth thinking about.

UNITED NATIONS EXPANDS TO SWITZERLAND

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. RARICK. Mr. Speaker, as the U.S. taxpayers' dollars continue to flow, the U.N. bureaucracy continues to grow.

The U.N. bureaucracy has gotten so large in New York that it is now working on its second one-world headquarters in Geneva.

At least the Swiss are more perceptive than we Americans in some respects. The Swiss are not members of the U.N. and do not pay to support the monstrosity growing in their midst.

I ask that a related newsclipping follow.

[From the Washington Post, July 22, 1973]

U.N. BUREAUCRACY IN GENEVA RIVALS NEW YORK'S

(By William Tuohy)

GENEVA.—The United Nations is proliferating in a quiet yet startling fashion here, now rivaling the New York headquarters in size and complexity, and soon to become even bigger.

What some here call the "Unocracy" has just added a new wing with 700 office units.

UNICEF, the United Nations Children's Fund, has recently moved from Paris to Geneva, joining a half dozen other specialized and semi-independent U.N. agencies here.

In its appointed task of feeding in policy recommendations and carrying out the decisions of the General Assembly in New York, the Geneva complex held 475 full-scale meetings and conferences here last year, with some 4,900 sessions.

The Geneva personnel roster has soared to some 2,500 employees, and the budget is approaching $250 million annually, having million annually, having doubled in six years, and now even surpasses that of the New York headquarters.

Most U.N. activity here is concentrated in the huge Palais des Nations, but the specialized agencies like the ILO (International Labor Organization), WHO (World Health Organization), WMO (World Meteorological Organization), and the ITU (International Telecommunications Union) also have their own headquarters buildings here.

Also based here are an alphabet soup of commissions and conferences such as GATT, the General Agreement on Tariffs and Trade. UNCTAD, the U.N. Conference on Trade and Development, UNV, the U.N. Volunteers, and UNHCR, U.N. High Commission for Refugees.

Under secretaries general, directors general, and division chiefs are as plentiful in Geneva as generals in the Pentagion.

As the U.N. office mushrooms, filling new office space as soon as it is created, one senior official growls: "We could get along better with 30 per cent less personnel."

But he adds, "We will undoubtedly keep growing, because there is still more room in Geneva than New York."

Geneva was first selected as the U.N. European headquarters because it is central and because it was the site of the League of Nations.

In time, it became the center for conferences, agencies and commissions relating to the social and economic fields of the United Nations, with the political specialists remaining in New York.

To staff these conferences here, the United Nations provides the translators and press attaches who grind out 250 million pages of reports each year.

Some of these go to the 200 accredited news correspondents based here, but much of it is for inter-office use.

"There are new reports about the old reports," remarks one rather cynical veteran.

And while some of the agencies here like WHO, UNICEF, and GATT have provided indispensable services, the activities of other agencies like UNCTAD—whose conferences are few and far between—are questionable.

The specialized agencies here have their own budgets which are approved directly by the General Assembly, and they also have the authority to raise their own funds.

Thus, some of the agencies here go their own freewheeling way, feeling little responsibility to the mother U.N. office with which they are sometimes in competition for assignments in fields like environment and pollution.

There is also a confusing criss-crossing of authority and responsibility: In the field of drugs, for instance, there is the Commission on Narcotic Drugs, the International Narcotics Control Board and the Fund for Drug Abuse Control.

Perhaps more debilitating to the Unocracy, according to senior officials, is the level of mediocrity that currently prevails.

"Just at the time when our senior people who have been with the United Nations from the beginning are retiring," says a long-time and respected official, "we are saddled with a lot of second-rate personnel.

"I lay the blame to the geographical quota system of hiring professional staff."

This system provides in practice that every member country of the United Nations—there are now 132—should, if it desires, have some kind of representation on the personnel rosters.

"The original charter indicated that what counted was experience and competence, with geography a consideration," says a critic of the current system. "But now geography seems to be the only consideration.

He pointed out that many countries send inferior people to the United Nations because the top administrators are needed at home.

"Some of these countries send people to United Nations posts only for the training, and then go back home," says one official here.

"And a lot of these countries insist that we open up senior posts for their ex-ambassadors and ex-ministers—posts that they are not at all equipped to fill.

"Because of these political appointments, the senior staff of the United Nations is suffering, and we have to pay millions of dollars yearly to hire outside consultants to do the job."

Because of the political and geographical nature of appointments, critics say, it is almost impossible to fire anyone, thus incompetents are shifted from division to division but remain within the system.

The Third World countries are demanding that U.N. agencies be located in their areas, hence the new Environmental Agency is scheduled to be transferred from Europe to Nairobi.

The "Third World problem," as it is sometimes called here, manifests itself in strange ways.

Last summer, one bright information officer suggested that delegates to the Stockholm environment conference move about the city by bicycle as a way of calling attention to the automobile pollution problem.

This idea was rejected by Third World delegates who thought that it would be beneath their dignity to ride bicycles, and they drove around Stockholm in limousines instead.

In addition to the U.N. agencies, Geneva has become a magnet for dozens of other private international organizations ranging from the World Council of Churches to the International Red Cross.

Fully 90 countries, therefore, maintain diplomatic missions in Geneva, most of them headed by an ambassador, and because of the existence of these senior missions, international meetings, unrelated to the United Nations—like the Strategic Arms Limitation Talks—are often held in Geneva.

Thus the proliferation of well-heeled international agencies has provided a bonanza to Geneva's economy rivaling watchmaking and banking.

Staffers and delegates spend millions of dollars annually in Geneva and some townspeople call the International agencies "the golden egg."

So profitable is the business of serving the United Nations that the nearby city of Lausanne has offered to provide a home for any overflow agencies desiring one.

"Geneva is cheaper to live in than New York or Paris," says one U.N. officer. But the prices are rising particularly since the dollar devaluation. Our service personnel are paid in Swiss francs, but the professional people get their salaries in dollars."

OLD BATTLE

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. ZWACH. Mr. Speaker, the 4 year producers and consumers bill finally passed the House late last Thursday after a great amount of give and take.

It is now, in my opinion, the best farm bill ever enacted.

Following the opening of world markets for our good, it gives the great Midwest the best opportunity ever for an era of economic growth and increased income.

Before this bill was passed, O. B. Augustson, editor of the West Central Minnesota Daily Tribune, wrote the following editorial on this legislation, which, I would like to insert into the CONGRESSIONAL RECORD:

OLD BATTLE

Down at Washington where they call the capitol "The Hill" there is the same old battle going on as to a new farm measure. They can pass bills for war and subsidies for other enterprises but when it comes to the matter of giving or seeing to it that agriculture gets a fair deal economically—then one would think they were deciding on the very fate of the nation. Or if there is some proposal to bail out the big cities—there is far quicker action because as is well known—there is where the bulk of the votes are coming from at the next election.

And then one must add this other sidelight—besides the greater urban population in the nation—in those areas are also the greater batch of consumers as well. So to get the urban center vote the boys down there also like to please them with the lowest possible food prices. That is—with the assumption that consumers have the cockeyed idea that it is the farmers better price that is the one and only cause for higher food prices. Which is no true. Never was.

Why—even a slight and needed increase in the farmer prices which might make the difference of the farmer being able to stay on the farm or have to get off—that small increase would hardly be noticed—if that is the only increase. But we know it is not—it is all the other parties who handle the farmers products after they leave his hands that make up the difference.

And it can also be pointed out that Americans generally perhaps cannot complain that the cost of food is not as major as it could be and such lower costs have really subsidized the high standard of living in this nation. More of the total family income to buy cars and all the luxuries that make up our high standard of living. The American farmers get hardly one third of the consumer dollar while in Sweden said farmers get twice as much of that self same dollar. But they ride more bikes over there and what cars they have are not the luxurious big ones we pilot down the highways.

We hope the Congress will pass a decent farm bill. It will not only serve as justice to agriculture but would be a shot in the arm of our entire national economy.

ROME—CITY OF AMERICAN HISTORY

HON. DONALD J. MITCHELL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. MITCHELL of New York. Mr. Speaker, there is a revolution of sorts taking place amidst the splendor and serenity of the historic Mohawk Valley in New York. This modern revolution, like the one that occurred on the same soil nearly 200 years ago, is attracting attention from far and near. An article in the July 22 Washington Post tells all about the current revolution. Not only do I wish to share the fine article by Elizabeth C. Mooney with my colleagues, I would also like to extend an open and standing invitation for one and all to visit Rome, N.Y., city of American history:

ALL ROADS IN ROME LEAD TO HISTORICAL RECONSTRUCTION

(By Elizabeth C. Mooney)

Git up there mules, here comes a lock,
We'll make Rome 'bout 6 o'clock.

—*Old Canaller Song.*

It was an inauspicious day for the launching. A fine misting rain was falling and the banks of the old Erie Canal were muddy and rutted. Nevertheless, 300 citizens of Rome, N.Y., plus assorted dogs and children, huddled under umbrellas and watched as a lightweight tractor, with the help of several sweating and straining men, shoved the 25-ton canal packet boat Independence down the runway for her maiden trip 40 yards across the canal.

She hit the muddy water stern first and had to be nudged off the launching planks. The newly restored Erie rose in a welcoming splash and a dampish cheer from the crowd saluted her. Her creator, Bill Ott, breathed easier as he watched her settling easily in the water and slapped his son, Gary, exuberantly on the back.

That was the scene last month as the lusty old Erie Canal went back in business, even if only in fun.

When the nation celebrates its 200th birthday in 1976, the citizens of Rome, mean to be a part of the festivities. Revolutionary history is fashionable these days and Rome is long on history. After years of enduring japes about all roads leading to Rome, they mean now to make it come true. The Independence, which this summer will make trips up the Erie a mile-and-a-half to Ft. Bull, a French and Indian fort is only the opening gun. The Romans are constructing a combination of attractions which add up to a sort of historic Disneyland.

Rome, eight miles from New York State Thruway exits 32 or 33, is a small industrial city in the Mohawk Valley. Lately, the government of the United States sent a task force from the Interior Department to reconstruct Ft. Stanwix, a key fort in the French and Indian War, first built in 1758. Nineteen years later, it survived a siege by Col. St. Leger on his way through the Mohawk Valley to join in an attack on Albany that was to divide the colonies by cutting New York in half.

General Herkimer, bringing a relief force to help the fort, was ambushed at Oriskany, five miles down the road from Ft. Stanwix, and the resulting battle is considered the bloodiest of the Revolution. The fort survived when Gen. Benedict Arnold arrived to relieve it and the British retreated, leaving large quantities of supplies. Two months later Burgoyne surrendered and the tide of battle turned. It is said that the American flag was first flown in battle at Ft. Stanwix.

The original outlines of the fort are now visible in the archeological digs, and on exhibit in the headquarters across the way are various relics which have lately been unearthed. You can see cannon and musket balls, old uniform buttons, a rare tomahawk pipe and some of the eight-inch wrought iron nails from the wooden gate of the fort. Partially reconstructed Oriental and English pottery are also on display and the bones of a good many passenger pigeons which the besieged patriots ate during the attack.

The National Park Service Ranger will take you on a free tour and show you the charred rear walls of the fort. This summer, students dressed in the 18th-century costumes are working on the digs, and they'll be glad to point out the moat and the officer's barracks buildings.

The people of Rome, who don't consider you a native unless your grandfather was born there, think their long-range history may just put their city on the map. Mayor William Valentine and his Historic Rome Development Authority have renamed Rome the "City of American History," and the mayor is getting ready for what he thinks will be a large tourist business.

"We expect eventually a minimum 600,000 visitors a year," says Mayor Valentine. "The Economic Research Company of California, the same company who did the research for Disneyland, said to prepare for that many. We're making plans and we think we can handle them."

The Independence and Ft. Stanwix are a reality, but Mayor Valentine and the Romans have further ideas. They have discovered an old narrow-gauge steam locomotive and are planning to install a track for it along the banks of their reconstructed mile and a half of the Erie. Visitors can go by the Independence to Ft. Bull and return on the train. If enough funds are found before the Bicentennial, they will also be able to wander about in a canal village, vintage 1840, of the type that the canallers knew when they made the nine-day trip from Albany to Buffalo by the horse drawn packets.

Central New York State has plenty of 1840 houses of the right type and plans are to move them intact to the canal.

Rome is the right place for this reconstruction, as a peek into the Rome Historical Society on Spring Street will make clear. The first shovelful of dirt for the canal was dug by Governor DeWitt Clinton at Rome on the Fourth of July, 1817, when it was considered the engineering marvel of the day. It was a cheap, fast route through the Appalachians and it opened up the West. The barges were pulled by mules and the packets, like Rome's Independence, by horses plodding along the canal's dirt path.

Bill Ott, who together with his son built the Independence, says it wasn't easy. He is a carpenter and canal boats are a little out of his line; especially since he never saw one. But a team of engineers provided him with the plans and he started out from scratch felling enoromous oaks with wood so hard that he had to soak planks in boiling water to bend them for the prow. The tiller is hand-hewn and the nails are the type usually used for light metalwork. It took Ott all winter, and central New York winters have to be seen to be believed. The snows come in October and are still around in late March. Ott worked under a plastic tent.

Rome expects to absorb the tourist influx well and has made special plans for the traffic it will bring. The little city has, as you might expect, some good Italian restaurants, but its real forte is the beautiful surrounding countryside in the valley of the Mohawk.

A summer picnic at the Oriskany battleground might combine history and a treat for the eye. Take a look at the state of New York's dioramas of the ambush and then find a spot on the hillside overlooking the point where Gen. Herkimer's horse was shot from under him. It's known as the Bloody Ravine, but you wouldn't know it now. Amtrak winds through the valley like a toy train and you'll take heart when you see that all the beautiful countryside isn't ruined yet.

MAN-TO-MAN

HON. AL ULLMAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. ULLMAN. Mr. Speaker, I would like to take a few minutes, if possible, to tell you and my colleagues about an innovative but simple program to help ex-convicts find their way back into the routine of life and the mainstream of our society. Begun in Oregon's capital city, Salem, by the State Street Jaycees, the program is now being adopted by Jaycees organizations statewide in Oregon. It is also being considered for nationwide promotion by the U.S. Jaycees.

As much as the responsibility for thoroughgoing penal reform lies with the Congress and the States, it is still up to individual citizens, in the end, to carry the responsibility for helping reintegrate ex-convicts back into a productive, useful life. I want to commend the State Street Jaycees for their imagination in undertaking this type of program, and for their dedication in staying with it until they achieved some tangible success. I also want to insert in the RECORD at this point an explanation of the program prepared by the State Street Jaycees. Finally, if any of you, or organizations in your districts, are interested in seeking more information about this program, I would like to suggest that you write to Mr. C. W. Chappelle, staff adviser, State Street Jaycees, 2605 State Street, Salem, Oreg. 97310.

The material I mentioned above follows herewith:

A MESSAGE FROM CHIEF JUSTICE WARREN E. BURGER

"When a sheriff or marshal takes a man from a courthouse in a prison van and transports him to confinement for two or three or ten years, this is our act. We have 'tolled the bell' for him. And whether we like it or not, we have made him our collective responsibility. We are free to do something about him; he is not."

MAN-TO-MAN

An individual who is confined can appreciate the astuteness of the preceding message by Chief Justice Warren E. Burger, much more readily than a free man. For the man in prison, after being incarcerated two, three, or ten years, comes to realize to the fullest extent what an "outcast" is.

Even after serving his sentence and supposedly having atoned for his past mistakes, he is met with rejection upon leaving prison.

Upon learning he is an ex-offender, society immediately starts to reject him and hinder him. Gainful employment, the one thing the ex-offender desperately needs in order to assume a meaningful role in life, is difficult to obtain because of his record.

The average person discharging from the penitentiary, does so with $100.00 and the clothing upon his back. The $100.00 must supply the individual with a place of residence, additional clothing and transportation. And even under the most stringent conditions, it is easy to see that $100.00 is not going to last very long. Especially when the ex-offender attempting to re-enter society is met with negative attitudes at his every approach.

Penal reform is an old and tired subject. Public awareness of the difficulty an ex-offender has is desperately needed in order to extend help to him and could very well be a step in the right direction.

We, of the State Street Jaycees, are attempting to increase Public Awareness, and to solicit help for the ex-offender through our "Man-to-Man" project.

The "Man-to-Man" project is essentially a program in which the State Street Jaycees find the needed help for a man going out on parole. We do this by working in conjunction with outside Oregon Jaycee Chapters and employers. We have been met with moderate success in this area to date, and other chapters have adopted "Man-to-Man". It is our hope that this program will catch on Nationwide.

State Street Jaycees are in need of sponsors for this project. There are men inside the institution right now with parole papers in their pocket. Yet, they cannot leave because they lack a job position and a place to stay.

By "Sponsors," in no way is it meant for responsibility to be assumed for these men. To sponsor a man in this sense is to give him aid and assistance in finding employment, and a suitable place to live that is within his income bracket.

Also to introduce him to people in the community, so that he would not feel rejected.

It is also important to talk to him and show that you understand and care. "Talking" with a person may not seem too important to those who are in the "Free World"; but to a man who has spent years of his life inside a steel and concrete world, a friendly conversation in a time of frustration or despair, could be the very factor responsible for whether or not the man is successful in his re-adjustment to Society.

No man upon leaving the Institution does so with the intention of ever returning. The men leave seeking an opportunity to establish themselves and live out a meaningful existence. They are not looking for a "handout" or "charity" . . . only the chance to become self-sufficient.

The State Street Jaycees extend all available help to those men; however, as can be imagined, our services are somewhat limited. We do need additional support from the outside Jaycee Chapters.

Every man selected to go out under the "Man-to-Man" project is first oriented and screened by the State Street Jaycees. Members of outside Chapters who wish to sponsor a man being released on Parole to participate in the "Man-to-Man" project is invited to the Penitentiary to personally interview the man selected who wished to locate in their area, without any obligation on behalf of that Chapter.

We of the State Street Jaycees believe the "Man-to-Man" project to be our most important project, especially in as much as this project adheres to the Jaycee Creed "Service to humanity is the best work of Life."

Co-operation between the State Street Jaycees and other Oregon Jaycee Chapters will provide a structure for voluntary action whereby Jaycees will endeavor to bring together Public and Private resources to meet the needs of the ex-offender. As he enters the community, the services he needs for a smooth adjustment will be undertaken by a local volunteer Jaycee Chapter. Such needs can be handled by resources within the community which the Jaycees can recruit as needed. The following services are the most important:

Housing—Locate housing as necessary and provide realty and legal counsel as regards lease signing and tenant/landlord relationships.

Health Services—Use Jaycees who can volunteer services, their own or others for Medical, Dental, or Psychological work or find suitable clinics who can assist.

Fiscal Planning—Provide counsel on budgeting, Credit, Banking and fund allocation for emergencies.

Job Counseling—If the ex-offender is not placed in a job, refer to Oregon State Employment Services Office, seek opening in local retail and industrial centers, enlist Jaycees to hire ex-offenders, check out on-the-job training programs throughout the community.

Personal Counsel—Provide advice and help for personal adjustment of the ex-offender including family aid and planning, encouragement to join Civic and Social groups in the area and such other personal counseling as requested.

Recreational—Provide information on programs, classes, clubs, and groups which can accommodate recreational interests.

Transportation—Assist in making arrangement for transfer to and from jobs and job interviews if necessary.

These preceding services are definitely not required by a Sponsoring Chapter, however they do give some guideline as to how a Chapter MAY help to re-socialize an individual.

THE "LET THEM EAT CAKE" MENTALITY

HON. JOHN E. MOSS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. MOSS. Mr. Speaker, the administration's Cost of Living Council's food expert publicly acknowledged what many Americans have been convinced of for some time; that existing and projected economic policies would raise food prices.

Confirmation has been forthcoming from no less an authority than the President himself, who admitted last Wednesday there is no way to avoid a "substantial" rise in food prices. When phase IV bows on August 12, open season will again be declared on already strained paychecks.

Even a cursory survey of the economy leaves the observer reeling in dismay. The prime interest rate stands at an all-time high of 8½ percent and is headed even higher. Banks reap record profits while an average family cannot even hope to obtain a mortgage on a decent dwelling. Yet interest rates and rents are to be exempted from phase IV.

All along the food raising and marketing chain prices will rise. A few will profit handsomely. Yet the average consumer will pay more for less. Utility bills are assuming unheard-of proportions of family budgets yet these, too, will be exempted from phase IV.

The lumber industry, for some strange reason, is also to be exempt from phase 4. Under this administration, big lumber has been free to clear-cut in our national forests and market much of the yield abroad for record profits. Here at home one reason for a shortage of housing has been lack of lumber. Yet lumber prices will not be controlled under phase IV.

A consistent pattern emerges under this administration regarding prices and policies on raw materials. Today we pay higher prices for bread and grain-related products traceable to the increasingly odiferous Russian grain deal whereby a benevolent administration allowed a handful of large grain trading companies to rake in hundreds of millions of dollars in questionable profits.

Prices for clothing have risen while large quantities of domestic wool have been shipped abroad—again, for rich profits at domestic consumer expense.

Was it just coincidence that the administration backed big oil's desire to construct its North Slope pipeline through Alaska instead of through Canada as environmental groups advocated? Oil coming to California by tanker would glut an already well-supplied market creating a perfect pretext for big oil to sell much Alaskan oil in Asia at significantly higher profits. Then, it is alleged, foreign oil could be imported to our Middle West and sold for still higher profits.

Now, still another anticonsumer policy seems to be emerging in respect to curbs on soybean exports. This humble commodity has much to do with what we all shall have to pay for many basic foodstuffs, especially meat, for soybean is a protein-rich animal feed. To prevent meat prices from soaring to impossible heights, an ample supply of domestic soybeans must be made available to our livestock industry.

Yet the chief agriculture minister of the European Economic Community makes public an administration promise to the effect that U.S. soybean exports to Europe will resume as usual in September. This policy is to be pursued, even, as Mr. Lardinois stated, "if this has an effect on the cost of living in the United States." The Japanese have received similar assurances plus promises of extra shipments. Inevitably, this will have a negative effect on prices here. The pattern remains the same.

The President remains isolated from the people and their situation. His attitude is that of a monarch rather than of the chief public servant of a democracy.

When listening to or reading the pronouncements of his Secretary of Agriculture, Earl Butz, one is reminded of Marie Antoinette who, when informed that her subjects lacked bread, responded with this memorable phrase: "Then let them eat cake."

This President needs to be reminded that the American people are not subjects. Finally, let it be noted that there are voices in the Congress which have been raised consistently against such anticonsumer policies and sterile economic tinkerings at consumer expense. A clear majority of the Congress has shown opposition to administration policies penalizing wage earners so a few major economic interests might profit.

The President has been able to continue these negative experiments for two reasons: First, by an unconstitutionally broad and sweeping interpretation of executive privilege and, second, because it takes a two-thirds vote of the Congress to override his vetoes. One third of the Congress has seen fit time and again to go along with such misguided, destructive economic policies. Nixonites in Congress and an isolated President abusing his powers have clamped an economic burden on the American wage earner that grows heavier and more intolerable with each passing day.

Mr. Speaker, let us never forget that the major force or cause for the economic disaster now a reality was a President who backed away from ending a futile war in Southeast Asia.

The President misled the People and the Congress in order to broaden the war and continue its disastrous drain upon our resources—human, financial and material.

The ill-advised extended cutoff date of August 15 should not extend another minute. Our cry should be not another day—not another life—not another dollar for the Southeast Asian misadventure.

STERILIZATION: A METHOD OF POPULATION IMPROVEMENT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. RANGEL. Mr. Speaker, sterilization is an issue of grave importance. It is especially important as it relates to the forced sterilization of minors and welfare recipients as was the case with the Relf's in Alabama and as is the case increasingly across the country. If something is not done to eliminate the threat of sterilization to welfare mothers and other recipients, we may see a reoccurrence in this country of Nazi Germany's attempt to create a pure race. In this respect, I hereby introduced an article by George Will of the Washington Post, on the subject of sterilization:

STERILIZATION AND "POPULATION IMPROVEMENT"

(By George Will)

It is not clear which of the many governments that superintend our lives are knowingly supporting programs of involuntary sterilization of particular kinds of citizens.

But it will not be surprising if, soon, the federal government becomes more systematic and forthright about supporting programs that tamper with the most elemental facets of the lives of the most vulnerable citizens. After all, we learned about its support of the involuntary sterilization of bewildered black girls in Alabama just a few months after the Supreme Court ruled that the law only protects human life which has the capacity for "meaningful" life outside the mother's womb.

Having mastered the mundane art of delivering the mail, the government has undertaken to distinguish between "meaningful" and "meaningless" human life.

In addition, it is funding sterilization programs for a purpose that it has not yet clearly explained.

Since the government is now in the business of sorting "meaningful" lives from meaningless lives, it is plausible to assume that its sterilization programs are designed to weed the population. The government does not inflict sterilization randomly. Having improved itself so much since the days of the Founding Fathers, the government now is going to improve the population.

It is not surprising that most of the dismay about the Alabama sterilization centers on the fact that the bureaucrats did not observe proper "criteria" in inflicting the sterilizations. The climate of opinion is now receptive to coerced sterilization and a lot of other programs for "population improvement."

What? "Population improvement"? Who said anything about *that?* Certainly not the bureaucrats involved. But that does not mean that population improvement is not the root motive for coerced sterilization. Other professed motives are implausible.

A commentator recently listed three "agonizing questions" about such sterilization.

(1) Should the government be able to sterilize mentally retarded girls, in spite of parents' objections, because such girls are allegedly "particularly vulnerable to impregnation"?

(2) Should sterilization be inflicted if the parents want it but the girl does not?

(3) Should the government sterilize the girl if both parents and the girl are mentally incompetent to decide the issue?

I do not see what there is to agonize about. The answer to all three questions is, "no."

Begin here: The government should not do things to people, and especially should not do things involving very sensitive matters, such as coerced and irreparable physical change, unless there is a clear and compelling need to do them.

Now. What is the clear and compelling need for the government to inflict involuntary sterilization?

Are mentally retarded girls "particularly vulnerable to impregnation"? Compared with whom? Compared with mentally competent but socially incompetent college undergraduates? Ghetto teen-agers? Las Vegas showgirls? No one seriously believes sterilization is needed because of such vulnerability of mentally retarded girls. No one seriously believes such sterilization is the only or least coercive way to reduce what vulnerability or special problems such girls have.

The only special vulnerability of retarded people that is relevant to the dispute about government-inflicted sterilization is that they are not capable of defending themselves against rape by the government. Similarly, because of government negligence, retarded children exist in a legal and moral netherland that does not afford them adequate protection from neglect or other abuse from their parents—including unwanted and unnecessary mutilation authorized by their parents. And if the parents and the child are all mentally incompetent, all three should be protected—by the state when possible, from the state when necessary.

It has not been demonstrated why the putative problem of protecting those who really are mentally incompetent (and "incompetent" and "retarded" are *not* synonyms) from impregnation is so serious that we must give the government, with all its demonstrated capacities for folly and wickedness, the power to inflict involuntary sterilization.

In fact, it is abundantly clear that many of those who favor such sterilization are conspicuously uninterested in hard statistical evidence about who is "especially vulnerable to impregnation." And they are curiously reluctant to spell out just why they think a special vulnerability, if real, justifies coerced sterilization.

This reluctance and lack of interest in evidence is itself evidence that those who favor coerced sterilization are being disingenuous when they say (as many do say) that they are concerned about the economic costs to the government of children born to mentally incompetent parents.

I will bet that all the annual costs for the care of all children born to those who are genuinely mentally incompetent are not equal to the cost of paying ten minutes' interest on the national debt. No, frugality is not the motive of those who want the government to sterilize little girls. The people who want this are not misers; they are idealists. They want to sterilize inferior people; they want to improve the population. Only such a great project demands such a grave government power.

All the great crimes of the century have been idealistic crimes, including and especially the holocaust. Bergen-Belsen was a nonprofit institution built by a man interested in population improvement, not profit.

Hitler only achieved two of his aims: he destroyed Eastern European Jewry and he caused the production of an economical "people's car." But now his third victory is aborning. His favorite idea—that "population improvement" is the state's business—has received the ultimate stamp of U.S. legitimation—a subsidy.

Perhaps because the government that subsidizes them is democratic, our population improvers can improve upon Hitler's performance. When the time comes to decide whose tubes get tied, or whose life is "meaningful" enough to continue, we can, in our democratic way, put the question to a vote. And when mongoloid children or senile old people come up losers in the plebiscite, they can be assured that the Supreme Court will review the criteria of "meaningfulness" then in vogue.

ENEMY LIST NOT THAT IMPORTANT

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. MICHEL. Mr. Speaker, an editorial appearing in the July 12, 1973, edition of the Peoria Journal Star refers to the so-called "enemy list" which came up recently in the Senate Watergate hearings and the editorial puts the whole incident into a little better perspective than has been the reaction in some other quarters. I include the editorial in the RECORD at this point:

ENEMY LIST NOT THAT IMPORTANT

Four of our columnists, appearing regularly in the Journal Star, were on the famous "enemies list" that surfaced in the current hearings, and each in his own way (or hers as with Mary McGrory) has "used" the fact to their own advantage.

Two expressed their "pride" at being on it, flat out.

It's nice for the newspaper. We even have Joseph Kraft, whose phone was admittedly tapped for "national security" reasons—a special mark of favor which makes Mr. Kraft the envy of the profession.

And I suppose it really proves that news people are as susceptible to name-dropping and the self-buildup as anyone.

Jim Bishop even set the whole thing up with a reminiscence of personal contact with Richard Nixon—and then kicked it by saying he was surprised to be on the list . . . as if it was a list by Mr. Nixon of Mr. Nixon's personal "enemies".

But once in a while, even in a wide open ball game like this affair, it is a newsman's job to also point out simple little matters of fact that have become "poeticized."

It was not "Nixon's list."

He certainly didn't make it out. He didn't even ask for it. And he didn't know it was around, apparently, either.

It was Mr. John Dean's list. It was his bright idea, and he who gave it description in a memo, and he who solicited suggestions from other folks around the place, and he to whom all such proposed names were submitted—including that of Joe Namath, and a few other entries that suggest somebody's response was as frivolous as such a memo deserved.

Not everybody took it seriously—and Mr. Dean's bright idea just went into the file two years ago and was never put to use . . . until he thought it was a good idea to take it out, dust it off, and display it on national TV!

At which time it quickly became "Mr. Nixon's enemies list."

There is a lot of status to be had if you are important enough to be on "President Nixon's" (or even "The White House") list of "enemies".

It isn't such a flaming big deal when it is just a list dreamed up by John Dean with the aid of some of the other folks around the office.

Name dropping and status-boosting are old established American customs . . . and so are political fun and games.

But there is also the difference between truth and fact and the "dolled up" version gives a completely false impression.

In this instance, a good many columnists and TV "personalities" are soberly acting as if they are engaged in a personal confrontation with the President—when all that has happened is that this strange character named John Dean had another of his "bright ideas" ending up with a great grab bag of "names."

So, we're glad that four of our columnists are "included" because of what it suggests about the variety of points of view we have been offering—but we can't really claim they all have had the President's personal attention—as has been implied, so eagerly.

There's a little "show biz" in all of us, it seems. The chance to make Dean's list into 'Nixon's list" brings it out. Few could resist.—C. L. DANCEY.

LAW

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. TEAGUE of Texas. Mr. Speaker, recently a returned POW from Hanoi from Dallas, Tex., sent me a copy of a poem which was written by a friend of his while they were imprisoned in Hanoi. The poem was written at the time they had heard about the riots in this country. The author of the poem is a Capt. James H. Warner, USMC, whose present whereabouts are unknown, but whose home was Ypsilanti, Mich. At the time of his capture, he was a lieutenant and was flying as a radar intercept operator in the back seat of a Marine Corps Phanton jet, F-4, over Vietnam.

The poem follows:

Some traveler of future time may pass
Through some deserted meadow where perhaps
He may find a pile of broken stones
And stop to ponder o'er these ruins alone.

And of these columns strewn in disarray
The traveler may decide from his survey
A mighty temple once stood on these grounds
Which some forgotten tremor has brought down.

Would that the marble scattered here could tell
Of that forgotten shock by which they fell,
That ancient race which dwelt among these stones
Here practiced rights which are no longer known.

Nearby, perhaps, the traveler may see
Half hidden by the grass a piece of frieze
Upon whose face by long dead mason's hand
Inscribed a word he cannot understand.

The name of him they worshipped here, he'll say,
And stand up from these ruins and walk away.
What rights were practiced in that ruined hall?
The word inscribed upon the stone was "LAW".

THE REAL ISSUE IN THE CAMBODIA BOMBING

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. BADILLO. Mr. Speaker, the recent disclosure that the United States between March 1969 and May 1970 conducted 3,630 unreported bombing raids over Cambodia has dealt yet another serious blow to public confidence in our Government. Coming on top of the wave of disclosures of official deception stemming from the Watergate affair, the Cambodia reports might well have destroyed what small shreds of credibility the Nixon administration had retained.

Unfortunately, there seems to be a preoccupation with the consistent pattern of official deception which kept the reports of the Cambodia bombing raids from Congress and the public. To be sure, the coverup represents a cynical and inexcusable arrogance of power more in the traditions of the Third Reich than in the traditions of American democracy. To hear Gen. George S. Brown, the newly confirmed Air Force Chief of Staff, attempt to justify the falsification of reports with the assertion that "For falsification to constitute an offense, there must be proof of 'intent to deceive,' " is to wonder just how deeply a mass paranoia has infected this administration.

But the truly heinous crime in the Cambodia scandal is not the coverup, but the fact that for 14 months we bombed a neutral country, insisting all the while that we continued to respect that neutrality. In other words, we fought yet another undeclared, unconstitutional war in Indochina.

To date, the military establishment has not decided who must be the scapegoat. Three of the administration's top officials were involved in the decision to undertake the secret bombing in 1969—former Defense Secretary Laird, General Wheeler, then chairman of the Joint Chiefs of Staff, and the President's adviser on national security, Dr. Kissinger—all have deplored the falsification of the bombing reports and disavowed any role in it.

Whether or not the Pentagon decides to throw someone to the wolves the fact remains that from every indication, the President himself had major reponsibility both for the illegal bombing and for the decision to keep the fact of the bombing from Congress and the American people. On April 30, 1970 the President appeared on national television to insist that since 1954 American policy had been to "respect scrupulously the neutrality of the Cambodian people." Although the bombing raids had been going on for nearly 14 months, the President had the temerity to declare that "neither the United States nor South Vietnam has moved against" North Vietnamese sanctuaries in Cambodia.

Thus, an administration that took office with an oath to uphold the Constitution and the laws of the United States, and which went before the

American people with a pledge to restore respect for the law, committed the most flagrant violations of our law, international law and moral law. Its contempt for Congress and the American people was and is so profound that even today, the official posture of the Pentagon is that the secret bombing was completely legal and justified and the only unfortunate aspect of the whole affair is that they were caught lying.

What of the implications, the critical questions posed by this latest administration scandal? In my view, they were aptly put in a news analysis by Seymour Hersh which appeared in today's New York Times:

> What constitutional basis did the President have for bombing a neutral country and not telling the Senate?
>
> Did President Nixon perpetrate a lie, in effect, in his statement and in the Administration's posture of neutrality during those secret strikes?
>
> Is there any secret military campaign that justifies the use of falsified reports to the military's own reporting system?
>
> Is there any difference between the attitude of top-level officers who insist that anything, if authorized properly from higher authority, is justified, and the attitude of those Republican campaign officials and White House aides who have admitted participating in the Watergate cover-up?

It is interesting to note that Senator William Saxbe, a Republican member of the Senate Armed Services Committee, reportedly has said that he thinks there are more grounds for impeachment of President Nixon because of the secret air war than because of Watergate. His comment might well prove prophetic.

END CAMPAIGN ABUSES

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. BINGHAM. Mr. Speaker, the daily revelations of political corruption which the Watergate investigations bring to light underscores the pervasive undermining influences which campaign contributions and campaign spending can have upon our democratic processes. Elections to public office are increasingly being turned into financial contests, with the winners of the battle of the bulging bankbook being propelled into our society's leadership positions. The result is widespread influence peddling, perversion of national ideals, and exclusion of many potentially fine candidates from effective political participation. Both Federal and State legislation is required to correct this appalling situation.

The Erie County Democratic executive committee, under the distinguished leadership of Joseph F. Crangle, the New York State Democratic chairman, has taken the lead in drafting legislation aimed at limiting campaign expenditures in county elections. I feel that this meritorious proposal deserves national attention.

Accordingly, I am enclosing the bill for reprinting in the Congressional Record, along with a press release on the subject issued by Mr. Crangle and an explanation of the bill:

A Local Law To Provide A Code for the Regulation of Campaign Expenditures for County Elective Office

Be it enacted by the Erie County Legislature as follows:

1. An election campaign expenditures act is hereby adopted to read as follows:

ARTICLE I—SHORT TITLE, ET CETERA

1. *Short Title.* This act shall be known as "The Erie County Campaign Expenditures Act" and is referred to herein as the "Act".

2. *Purposes.* The purpose of this Act is to implement Section 455 of the Election Law of the State of New York (referred to in this Act as the "Election Law") imposing a limitation of amounts to be expended by or for candidates and committees for candidates. The Erie County Legislature believes that control of expenditures in election campaigns will insure fairer elections and more democratic participation in the electoral process. The Legislature also believes that freedom of political expression may be overwhelmed by excessive expenditures by a candidate with unlimited finances opposing less affluent candidates. A reasonable limitation on expenditures by all candidates and committees for candidates will insure a vigorous airing of issues by all candidates, but without unfair advantage to the wealthiest. It will promote better access to the electorate by the less affluent candidate.

3. *Effective Date; Savings Clause.* This Act shall be effective for expenditures made after the date of enactment.

If any provision of this Act is declared invalid for any reason, in whole or as applied to any person or circumstance, the validity of the remaining provisions of the Act, or the application of such provision in the case of other persons or circumstances where it may be applied validly, shall not be affected, it being the intent of the Legislature that any such provision or application declared invalid shall be severable from the remaining provisions or applicability of this Act.

ARTICLE II—EXPENDITURE LIMITATIONS

11. *Spending Limitations.* With respect to any election for county elective office, including any primary election for nomination for a county elective office,

(a) expenditures shall be classified as candidate expenditures, single candidate support expenditures and multi-candidate support expenditures, and

(1) all expenditures made or contracted for by an individual candidate solely in support of his candidacy for county elective office shall be classified as candidate expenditures;

(2) all expenditures made or contracted for solely in support of the candidacy for county elective office of a single individual candidate by all committees taking part in his election and by all persons other than such candidate shall be classified as single candidate support expenditures;

(3) all expenditures made or contracted for in support of the candidacy for county elective office of an individual candidate but also in support of the candidacy of one or more other individuals who are candidates for public office voted for at the same election, whether for county elective office or other public office, including such expenditures made by candidates, committees and all other persons, shall be classified as multi-candidate support expenditures except that with the consent of a candidate filed with the Commission, any multi-candidate support expenditure attributable to his candidacy may be classified as a candidate expenditure or a single candidate support expenditure.

(4) the value of contributions in kind or purchased property or services in support of a candidacy (other than the voluntary furnishing of his own services by an individual) shall be treated as expenditures by the contributor in support of such candidacy, but editorial comment or expression of opinion in connection with the normal publication of a newspaper or magazine or normal programming of broadcasting stations shall not be treated as an expenditure by such newspaper, magazine or broadcasting station;

(5) amounts spent on behalf of a candidate shall include not only amounts spent for advocating such candidate's election but also amounts spent for urging the defeat of his opponent or derogating his opponent's stand on campaign issues, except as provided in Section 16. Amounts shall be deemed to have been spent in behalf of any candidate for county elective office if the use advocates his candidacy or involves such candidate's participation by voice or image so as directly or impliedly to advocate his candidacy;

(6) the amount of each multi-candidate support expenditure shall be treated as an expenditure on behalf of the candidacy of each candidate supported by such expenditure unless the candidates involved agree in advance of the contracting of such expenditure as to the amount attributable to the expenditure limitation of Section 14 with respect to each candidate and such agreement is based upon reasonable standards and is filed in advance of contracting for such expenditure with the Commission. Each candidate or committee participating in such agreement shall retain for the period specified in Section 327, subdivision 2 of the Election Law all documents supporting the allocation under such agreement;

(b) no candidate shall make or contract for any candidate expenditure which is in excess of the maximum spending limit prescribed by Section 455, subdivision 1 of the Election Law or Section 14 of this Act;

(c) no person or committee shall knowingly make or contract for any single candidate support expenditure which is in excess of the maximum spending limit prescribed by Section 455, subdivision 2 of the Election Law or Section 14 of this Act;

(d) no person or committee shall knowingly make or contract for any single candidate support expenditure which is with respect to any candidate in excess of the maximum spending limit prescribed by the Election Law, if any, or if the Election Law prescribes no such limit, that prescribed by Section 14 of this Act.

12. *County Elective Office.* County elective office means any office, executive, legislative or judicial, in the government of Erie County or which is elected by a constituency comprising solely all registered voters in Erie County.

13. *Candidates.* An individual shall be considered a candidate for county elective office in a general or special election upon his nomination for such office as provided in the Election Law. An Individual shall be considered a candidate for nomination in a primary election at such time as designating petitions on his behalf are filed pursuant to Section 144 of the Election Law, or at such earlier date as he announces his candidacy.

14. *Special Spending Limits.* The maximum spending limit for multi-candidate support expenditures chargeable to any candidate for any county elective office in any primary or general or special election shall be for the office of County Executive, three times, and for any other county elective office, an amount equal to the amount authorized as a candidate expenditure by such candidate for such election. Any unused amounts spent on behalf of a candidate in a primary election shall not increase the maximum spending limit for such candidate in a general or special election.

No more than 60% of the maximum spending limit for any classification of expenditures described in Section 11(a) may be expended for use of communications media as defined in Section 15.

15. *Communications Media*. The following definitions shall apply for purposes of this Act:

(a) "Communications media" means broadcasting stations, newspapers and magazines and outdoor advertising facilities, and telephones; but, with respect to telephones, spending or an expenditure shall be deemed to be spending or an expenditure for the use of communications media only if such spending or expenditure is for the costs of telephones, paid telephonists, and automatic telephone equipment used by a candidate for county elective office to communicate with potential voters (excluding any costs of telephones incurred by a volunteer for use of telephones by him).

(b) "Broadcasting station" means a radio or television station providing a broadcasting service intended for direct reception by the general public, and under section 315(f) of the Communications Act of 1934, a community antenna television system.

(c) "Outdoor advertising facilities" means billboards and any display space in any public place of a type customarily leased to commercial advertisers.

(d) "Newspaper" means a publication, having a known address of publication and an established frequency of distribution, ordinarily not less frequently than once a week, which contains news, articles of opinion, features, advertising, or other matter regarded as of interest or currency. The term includes shopping newspapers that primarily contain advertising and local newspapers that contain legal notices or other matters pertaining to court proceedings. Any such publication is included whether it is designed primarily for paid circulation or is designed primarily for free circulation. The term does not include handbills, circulars, flyers, or the like, unless printed and distributed as a part of a publication which constitutes a newspaper within the meaning of this section.

(e) "Magazine" means a publication in bound pamphlet form or otherwise:

(i) Intended for circulation to either the reading public in general or a segment thereof identified on the basis of a common specialized interest or interests;

(ii) Published and distributed regularly and periodically, ordinarily not more frequently than weekly, nor less frequently than semiannually; and

(iii) Containing, in written, pictorial, or graphic form, news, information, articles of opinion, poems, features, advertising or other matters regarded as of interest or currency. Any such publication is included whether it is designed primarily for paid circulation or is designed primarily for free circulation.

16. *Unauthorized Expenditures Urging Candidate's Defeat*—

(a) An expenditure for the purpose of approving or urging the defeat of a candidate for county elective office, or derogating his stand on campaign issues, shall not be deemed to be an expenditure on behalf of any other candidate for county elective office and shall not be charged against any applicable expenditure limitation under Section 11 (b), (c) or (d) with respect to any other candidate for county elective office, unless such candidate for county elective office has directly or indirectly authorized such use or unless the circumstances of such use taken as a whole are such that consent may reasonably be imputed to such other candidate.

(b) In the case of any expenditure for use of communications media under paragraph (a) of this section, the person selling the space or time for the use of the particular communications medium shall determine the identity and organizational affiliation, if any, of the person making the expenditure and shall require such person to state in writing whether or not he is authorized by any candidate for county elective office to make such expenditure, or whether any candidate for county elective office has given his consent to it.

(c) If the person making the expenditure states in writing that any such candidate has authorized or consented to the expenditure then no person may make any charge for such use, unless the candidate (or his specially authorized agent) certifies in writing, in accordance with 32, that payment of such charge will not violate his applicable expenditure limitation.

(d) If the person making the expenditure states in writing that no candidate for county elective office has authorized or consented to the expenditure, then a charge may be made for such use, provided that the person selling the space or time has taken reasonable precautions under the particular circumstances to verify the identity and affiliation of such person and the accuracy of the written statement. Any reasonable doubt as to whether authorization or consent to the expenditure may be imputed to a candidate for county elective office should be resolved by the person selling the space or time in favor of requiring a certification from a candidate for county elective office or his authorized agent, as required under 32, before making the charge.

(e) Any advertisement or use under paragraph (d) of this section shall contain, conspicuously displayed, the name and address of the person making the expenditure, and, in the case of an organization, the name of the individual authorizing the expenditure. Such advertisement or use shall also contain, conspicuously displayed, a statement that the use is not authorized, directly or indirectly, by any candidate for county elective office and that no such candidate is responsible for any activities of the person making the expenditure.

17. *Requirement of Authorization*. No person shall make or incur any single candidate support expenditure or multi-candidate support expenditure on behalf of any candidate for county elective office in any primary, general or special election unless he applies in writing to the candidate's campaign treasurer at least five days prior thereto for permission to have such expenditures treated as an expenditure on behalf of such candidate. The necessity of such application, however, may be waived in writing by any candidate, either as to specific expenditures or generally until revoked. Such waiver shall not be effective until a copy is filed with the Commission. Such writing shall state in detail the amount and nature of each proposed expenditure. If the campaign treasurer disapproves such proposed expenditure by notice in writing to the applicant within three days after receipt of such writing applying for permission to have the expenditure treated as an expenditure on behalf of the candidate, such expenditure shall be an unauthorized expenditure. No person shall make any expenditure which includes support for any candidate for county elective office in any primary, general or special election if such expenditure has been disapproved by the campaign treasurer of such candidate.

18. *Excluded Expenditures*. Nothing herein shall be construed to limit expenditures by the county committee of any party which represent the general, ordinary and necessary expenses of operating a permanent party headquarters and organization or of conducting general drives to register voters. The general, ordinary and necessary expenses of operating a permanent party headquarters and organization are not considered campaign expenditures on behalf of any candidate or candidates. Thus, the salaries of permanent party personnel, the rental of permanent party headquarters, the preparation and keeping or records and research to secure registration of voters for a particular party or to provide data and voter analysis for use of the party in getting out voters are regarded as ongoing expenditures of a permanent party organization and not expenditures in support of particular candidates.

19. *Exemption for Small Committees*. This act shall not apply to expenditures by permanantly constituted party committees whose annual expenditures do not in total exceed $5,000. A permanently constituted party committee for the purpose of this section means a club or a subdivision of the county committee of a party limited to party members in a particular geographic subdivision of Erie County, such as a town committee or ward committee or a district club, and which is organized to support such party on a regular basis year in and year out, as opposed to being constituted to support a particular candidate or candidates or for a particular election.

ARTICLE III—ERIE COUNTY CAMPAIGN EXPENDITURES COMMISSION

21. *Creation*. There is hereby created to enforce the provisions of this Act the Erie County Campaign Expenditures Commission, referred to in this Act as the "Commission." The Commission shall consist of five members. The chairman of the county committees of each of the two parties receiving highest and next highest number of votes in the most recent election for Erie County Executive shall appoint, by filing with the County Legislature in December of each year one member of the Commission to serve for a two year term beginning with the January 1 following such appointment, except that upon enactment of this local law each such county committee chairman shall appoint one member to serve until the second December 31 following enactment. The four members of the Commission first appointed following enactment shall elect a fifth member of the Commission, who shall be its chairman, for a term expiring on December 31, 1974. Thereafter the four members of the Commission then serving (beginning with January, 1975) shall elect a fifth member of the Commsision, who shall be its chairman, to serve until the second December 31, following his election. In the event of a vacancy on the Commission for any reason, the county committee chairman which appointed the vacated membership, shall appoint an individual for the remainder of the term of the vacated membership. Any enrolled voter in Erie County shall be eligible to be a member of the Commission and the appointee of the chairman of each county committee shall be enrolled in the party, of such county committee.

22. *Compensation*. Members of the Commission shall receive such compensation as may be provided from time to time by the County Legislature. The Commission may appoint such deputies, clerks and other employees to carry out its functions hereunder upon such terms and compensation as may be authorized from time to time by local law or ordinance, including hearing officers to hold hearings, take testimony and make findings of fact with respect to questions arising under this Act, and attorneys to enforce the provisions of this Act.

23. *Powers*. The Commission may prescribe regulations and rules of procedure to carry out the provisions of this Act and shall have in addition to the powers prescribed elsewhere in this Act such powers as may be reasonably necessary to enforce the provisions of this Act, including, without limitation, the power to require any person to attend before the Commission or its delegate at its office or a branch office and be examined by the Commission or its delegate as to any matter in relation to which the Commission is charged with a duty under this Act or con-

cerning violations of this Act any may issue a subpoena therefor. When an oath is required or permitted under this Act or any regulations prescribed hereunder, any member of the Commission or delegate of the Commission may administer such oath.

24. *Certification of Maximum Spending Limits.* The Commission shall certify the maximum spending limit for each county elective office with respect to each election as far in advance of each election as is reasonably possible and in any event in the case of a primary or general election, at least fourteen weeks before such election.

25. *Reporting to Commission.* The campaign treasurer of each candidate for county elective office shall report to the Commission on such forms prescribed by it all expenditures made or contracted to be made by such candidate. Such reports shall delineate in such detail as may reasonably be prescribed by the Commission the amount and nature of each such expenditure made or contracted and in the case of an expenditure made or contracted for the use of a communications medium, the amount and nature of each such use and the communications medium recipient of such expenditures. Such reports shall also specify all applications for authorization of expenditures on behalf of any candidate which were disapproved during each week. Such reports shall be filed weekly by each candidate no later than five days after the Saturday ending the week during which expenditures are made.

26. *Records of Reports.* The Commission shall make a public record of all reports filed pursuant to Section 25 and shall make public immediately the cumulative total of all expenditures made by, on behalf of, or chargeable to, any candidate with respect to each primary, general or special election for county elective office based .upon all reports received by it.

27. *Enforcement of Similar Laws.* The Commission shall enforce the provisions of any ordinance, local law or similar legislation adopted by any municipality within Erie County which applies substantially the same terms as contained in this local law to expenditures on behalf of candidates for elective offices of such municipality and which confers enforcement authority upon the Commission.

ARTICLE IV—EXPENDITURE PROCEDURES

31. *Campaign Treasurer.* Each candidate for county elective office in any primary, general or special election shall upon his qualifying as such a candidate appoint a campaign treasurer to file the reports prescribed in Section 25 and to perform such other duties as prescribed in this Act. The treasurer shall serve at the pleasure of the candidate.

32. *Requirement of Authorization.* No person shall make or incur any single candidate support expenditure or multi-candidate support expenditure on behalf of any candidate for county elective office in any primary, general or special election unless he applies in writing to the candidate's campaign treasurer at least five days prior thereto for permission to have such expenditure treated as an expenditure on behalf of such candidate. The necessity of such application, however, may be waived in writing by any candidate, either as to specific expenditures or generally until revoked. Such waiver shall not be effective until a copy is filed with the Commission. Such writing shall state in detail the amount and nature of each proposed expenditure. If the campaign treasurer disapproves such proposed expenditure by notice in writing to the applicant within three days after receipt of such writing applying for permission to have the expenditure treated as an expenditure on behalf of the candidate, such expenditure shall be an unauthorized expenditure. No person shall make any expenditure which includes support for any candidate for county elective office in any primary, general or special election if such expenditure has been disapproved by the campaign treasurer of such candidate.

ARTICLE V—MEDIA REPORTING

41. *Registration of Media Vendors.* Any person who makes or contracts to make a sale of the use of communications media on behalf of any candidate for county elective office with respect to any primary, general or special election shall register with the Commission upon first making or contracting to make any such sale.

42. *Reports by Media Vendors.* Each registrant under Section 41 shall report to the Commission on such forms prescribed by it all sales made or contracted for on behalf of any candidate for county elective office. Such reports shall include such information as the Commission shall require to enable it to determine the purchaser of use of each communications medium, the candidate on whose behalf it is purchased and the amount paid or to be paid for such use. Such reports shall be filed weekly by each registrant no later than five days after the Saturday ending the week during which expenditures are made.

43. *Reports to Media Vendors.* The Commission shall notify each registrant under Section 41 of the cumulative total spent for use of communications media by, on behalf of or chargeable to, each candidate for county elective office with respect to each primary, general or special election and of the remaining amount available to each such candidate or committee within his or its maximum spending limit for use of communications media. Such notification by the Commission to each registrant shall be made weekly with respect to all reports filed with Commission through the close of each week and shall be made within three days following the last day on which reports with respect to such week are due to be filed with the Commission.

44. *Prohibition on Sales or Contracts to Sell in Violation of Maximum Spending Limits.* No person shall make any sale or use of communications media on behalf of any candidate for county elective office with respect to any primary, general or special election if the amount to be received with respect to such sale or contract to sell would cause a violation of the maximum spending limit of such candidate on the basis of the cumulative total reported by the Commission as spent and contracted to be spent by or on behalf of a candidate for county elective office, nor shall any such person make any charge for the use of communications media on behalf of any candidate for county elective office unless the candidate or his campaign treasurer certifies in writing that the payment of such charge, including any agent's commission, allowed the agent by the medium, will not violate any expenditure limitation applicable under this Act.

ARTICLE VI—PENALTIES

51. *Civil Penalty.* Any person who violates any provision of this Act shall be subject to a civil penalty equal to three times the amount, if any, involved in such violation, or $500, whichever is greater. The amount of civil penalty shall be deposited in the general funds of the county.

52. *Complaints.* Any person who believes a violation of this Act has occurred may file a complaint with the Commission. If the Commission determines there is substantial reason to believe such a violation has occurred, it shall expeditiously make an investigation, which shall also include an investigation of reports and statements filed by the complainant, if he is a candidate, or the matter complained of. Whenever in the judgement of the Commission after affording notice and an opportunity for a hearing, any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of this Act, the Commission by its attorney or the County Attorney if directed by the Commission, shall institute a civil action for relief. In any such action by the complainant, the court may award costs, including reasonable attorney fees, disbursements and expenses of investigation.

PRESS RELEASE

"A strict and absolute limit on campaign spending is the only way to restore shattered public confidence in the election process," Joseph F. Crangle, State and Erie County Democratic Chairman declared today at a meeting of the Erie County Democratic Executive Committee. The County Democratic leadership went on record favoring adoption of a strict campaign spending law for all levels of local government; and also called for immediate statewide reformation.

The draft legislation calls for the creation of an "Erie County Campaign Expenditures Commission," a five-member group which would oversee implementation of and compliance with the law.

Today's campaign financing impeaches the validity of the democratic process. Politics is a very competitive business. Each candidate trys to outspend his opponent. New York State law actually makes the sky as the limit. Elections are all to often won by the highest bidder.

Disclosure alone, without limits, can never guarantee that money won't buy our elections.

We have witnessed recently a $40 million presidential campaign, a $20 million gubernatorial campaign and a $1 million county executive campaign.

In 1972, candidates for all political offices in the United States spent over $400 million, a 33% increase over 1968 when $300 million was spent and a 200% increase over 1952 estimates of $140 million.

Dollars have induced so vulgar a warp into campaigns that the whole process is fast becoming anti-democratic process.

Daily the peril grows that moneyed special interest groups will seize control of the entire election process.

We here in New York can have no pride in this regard. Today we have more loopholes than law. Brink trucks drive through the present law.

We can ill afford the luxury of waiting for state reform. While we in Erie County can't correct all the evils, we do, however, have the capacity especially to limit financing on a local level. We must assume the burden of leadership and enact needed election reform.

In December 1971, the former Republican County Chairman, Alfonso Bellanca, publicly joined with me and expressed enthusiastically his strong support for a local law limiting campaign spending.

I call upon the Republican county leadership not to foot drag campaign finance reform as President Nixon did, nor to remain silent as Gov. Rockefeller is doing.

I am certain that with this type of bipartisan support, the people of Erie County will have the first local law in the United States to limit campaign funding and to guarantee fair local elections.

There is still an urgent need at the federal level for further legislation. The nationwide investigations of campaign funding have proven to us in the business of politics that we can no longer afford to ignore the dictum of Justice Oliver Wendell Holmes that: "We must above all set sail and not lie at anchor or adrift."

The Democratic Congress, over the objections of President Nixon, got the nation off to a good start by passing the Campaign Practices Act requiring disclosure of contributions and disbursements.

Over the last year, we have become painfully aware of the Act's inadequacies. We have learned that no law or bad law breeds abuse.

There is now a nationally recognized need to plug the loopholes in the present law, to put ceilings on now limitless individual contributions and to explore the important questions of free television time for candidates and government financing of campaigns in order to completely remove the influence of private wealth and special interests from the political arena.

EXPLANATION OF DRAFT OF CAMPAIGN EXPENDITURE LEGISLATION

GENERAL SCHEME OF LIMITATION

The proposed legislation would build upon existing Section 455 of the Election Law. That section imposes a limitation on amounts expended by a candidate in any election to 10¢ per voter (based upon votes for governor in the last gubernatorial election for affiliated voters of the candidate's party for a primary), with a minimum of $2,500 for a primary and $5,000 for a general or special election, plus a limitation on amounts expended in the election of an individual candidate by all committees taking part solely in his election of an additional 19¢ per voter (with the same minimums as for candidates). The proposed legislation adopts those standards but adds a limitation additionally of amounts which may be spent by committees taking part in the election of more than one candidate of an additional 30¢ per voter for County Executive and 10¢ per voter for other county offices (with the same minimums as for candidates). The major defect in the New York state legislation is the absence of any limitation on amounts spent by committees taking part in the election of more than one individual candidate. This apparently allows complete circumvention of the limits set forth in Section 455. The legislation goes further than Section 455, however, by limiting expenditures for use of communications media to 60% of the maximum spending limit available *in toto*. The 60% limit on expenditures for communications media is that adopted in the recently enacted Federal Election Campaign Act of 1971 (P.L. 92-225).

TECHNICAL EXPLANATION

Following is a technical explanation of the draft.

Article I—Short title

The draft states that the purpose of the Act is to implement Section 455 of the Election Law. Hopefully, this declaration of purpose will sustain the proposed legislation against an argument that its enactment is beyond the authority of the County Legislature, either because it is alleged to be inconsistent with state law or in a field preempted by the state legislation. Section 10 of the Municipal Home Rule Law grants local governments power to adopt local laws not inconsistent with any general law relating to its affairs of government. Section 11 of that Law by implication permits affecting sections of the Election Law other than Section 191.

The declaration of legislative purposes also sets forth some of the reasons for enactment of expenditure limitations with a view to indicating that the purpose of the legislation is to permit freedom of political expression without imposing any unconstitutional restraint upon exercise of the right of free speech.

Section 3 makes the Act effective for expenditures after enactment. It also contains a savings clause preserving the balance of the Act, even if a particular provision is declared unconstitutional.

Article II—Expenditure limitations

Section 11 classifies expenditures into three categories. The first category is a candidate expenditure which corresponds to Section 455, Subdivision 1 of the Election Law. The second category is a single candidate support expenditure which corresponds to Section 455, Subdivision 2 of the Election Law, referring to all committees taking part solely in the election of an individual candidate. The third category is a multi-candidates support expenditure which is defined as an expenditure in support of more than one individual candidate including a candidate for county elective office and an office which is not a county elective office. Multi-candidate support expenditures may be treated with a candidate's consent as candidate or single candidate support expenditures, but not vice versa.

The reason for the three categories is, as stated above, to keep within the framework of Section 455 of the Election Law and to cover as a separate category expenditures not specifically enumerated in Section 455.

Section 11(b) incorporates the state limit for candidate expenditures but makes it subject to the 60% limit on expenditures for use of communications media contained in Section 14.

Section 11(c) does the same thing with respect to single candidate support expenditures.

Section 11(d) applies the state law, if any, to multi-candidate support expenditures, thus indicating no intention to preempt state law, when and if the state limits such expenditures, but provides a separate limitation under Section 14 if there is no state law. As indicated above, the amount of such limit in the draft is for county executive, three times, and for other officers equal to, the amount authorized as a candidate expenditure.

Section 11(a)(4) treats contributions in kind as expenditures in support of a candidate but does not count as an expenditure on behalf of a candidate the voluntary furnishing of service. Also normal editorial comment or programs of radio and television stations are not treated as campaign expenditures.

Section 11(a)(5) picks up the rule of the federal statute that amounts spent on behalf of a candidate include amounts spent for urging the defeat of his opponent, except where an expenditure urging defeat of a particular candidate cannot reasonably be imputed as done with the consent of his opponent. The rules to prevent unauthorized expenditures urging a candidate's defeat from being charged against his opponent are set forth in Section 16 and are based upon the regulations under the new federal statute. The general rule is set forth in Section 17 that no one may incur an expenditure on behalf of a candidate without the approval of the candidate through his campaign treasurer. The only exception to this rule is Section 16 as stated above, which is limited to unauthorized expenditures urging the defeat of a particular candidate. Although questions have been raised as to whether this is an improper restriction upon freedom of speech, this is the approach which has been used in the federal statute requiring certification by a representative of a candidate before a charge may be made for the use of communications media (Sec. 104(b), P.L. 92-225) and Section 455, Subdivision 2 of the Election Law which limits expenditures by all persons on behalf of a single candidate.

Section 11(a)(6) deals with the problem of allocation of multi-candidate support expenditures. If the several candidates involved agree in advance based upon reasonable standards as to the amount attributable to each, such agreement will be respected in determining the allocation of portions of the expenditures to each candidate. The procedure for an agreement follows the federal regulations. If there is no agreement, the entire amount of each expenditure is charged against each of the candidates.

Section 12 defines county elective office to include all executive, legislative or judicial offices in the Erie County government or any office which is elected on a countywide basis.

Section 13 sets forth rules as to when a persons' candidacy begins.

Section 15 sets forth definitions with respect to communications media for purpose of the 60% of a particular category which may be spent for that purpose. These definitions are identical to those contained in the regulations under the federal statute.

Section 18 excludes ongoing expenditures of a county committee which represent the general ordinary and necessary expenses of operating a permanent party headquarters and organization are not considered campaign expenditures on behalf of any candidate or candidates. Thus, the salaries of permanent party personnel, the rental of permanent party headquarters, the preparation and keeping of records, and research to secure registration of voters for a particular party or to provide data and voter analysis for use of the party in getting out voters are regarded as ongoing expenditures of a permanent party organization and not expenditures in support of particular candidacies.

Section 19 exempts from reporting expenditures by permanently constituted party clubs or committees whose annual expenditures are under $5,000. This would apply to a town committee or district club not organized for a particular election.

REGULATIONS AND REPORTS

The proposed draft creates an Erie County Campaign Expenditures Commission with power to prescribe regulations and forms for filing as a matter of public record. The special commission was created in lieu of the use of the Board of Elections because the county cannot impose duties upon the Board of Elections, a creature of state law. The use of a new agency with defined powers of enforcement would make the administration of the Act more effective. The draft sets up an administrative hearing procedure before the new commission which presumably would lead to a more expeditious resolution of controversies.

The use of a new commission would also permit the assignment of the duty to keep a cumulative total of expenditures during the course of a campaign and to report such total to the public and communications media.

MEDIA REPORTING

The draft requires registration and reporting by media vendors. Media reports are required weekly.

PENALTIES

The draft provides for a civil penalty equal to three times the amount involved in any violation, or $500, whichever is greater. Enforcement may be by the commission or the county attorney.

MASSACHUSETTS TAKES FIRM STAND ON CITIZEN PROTECTION—IT'S CONGRESS TURN NOW

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. HARRINGTON. Mr. Speaker, no government on earth collects, records, and disseminates as much individualized criminal information as the United States. This collection and dissemination by Federal, State, and local government, if allowed to go unchecked, creates two fundamental problems. First, information out of a personal data file may be disclosed to an unauthorized person. Second, such information may be false, incomplete, or disclosed in a misleading way, so that its recipient receives a mistaken impression of the individual in question.

An individual's ability to obtain employment can be severely affected by the mishandling of arrest records. In New York City alone, 75 percent of the employment agencies will not recommend an individual for employment who has been arrested regardless of whether that arrest was followed by a conviction. This disadvantage is compounded by the fact that a large number of people are arrested, found not guilty, and then released without charges being filed. The record states, however, that an arrest was made, but includes no followup information. This often leads to seriously mistaken assumptions about the nature of the arrest and works a particular hardship on minority groups. As Mr. Arthur P. Miller points out:

> It has been estimated that an extremely high percentage of black males in an urban ghetto have an arrest record by the time they are 18 or 21. In many cases, the records result from dragnet arrests, street cleaning operations or a large marijuana or gambling raid in which a large number of innocent people are taken into custody. If their record simply shows arrests, we are, in effect, putting a cross on their backs in terms of getting them into the job and education market.

Problems can arise even if the record is complete. Let us take the example of the man whose record states he was arrested, tried, and convicted under a law which has subsequently been struck down by the Supreme Court. He still has a conviction record.

The laws of privacy which have been developed deal mainly with misinformation which is revealed in the mass media. But if an individual's arrest record contains false information unknown to him, certainly we must provide that individual with forms of recourse.

The problem was not as acute years ago because information collected was not as extensive or as accessible to various institutions. Technology has brought us to a point where the information goes from one agency to a university, to a corporation, to the States and cities without giving the individual the right of access to that file or the right to challenge its accuracy. In fact, he will seldom know it exists, and if he does, he will not know about its distribution to various public and private agencies and institutions. These problems grow more serious as the Federal data bank ties in with more and more State data banks.

These issues are exemplified by the relationship which has developed between Massachusetts and the Federal Government. In 1972, Massachusetts enacted the Criminal History Systems Act which created a statewide data bank and established strict regulations for the handling of that information. The system has been designed to tie into the FBI's national crime information computerized system, but, as I have pointed out, the Federal regulations do not provide adequate internal and external safeguards against potential abuse. While the National Crime Information Center (NCIC) policy paper claims that "each record, for all practical purposes, remains the possession of the entering agency," the claim is patently false. Once a State enters its records to the NCIC file, it loses all control over the uses to which those records will be put by persons outside its jurisdiction. Once the information reaches the Federal level Massachusetts would have no assurance that this information would not be given to groups prohibited from receiving this information under Massachusetts law. Governor Sargent has refused to allow Massachusetts to tie into the Federal bank until he receives assurances that the information will be handled in compliance with Massachusetts regulations. In a letter to Attorney General Richardson, dated June 13, 1973, Sargent stated that—

> There are serious doubts that internal controls and self-policing by line operating agencies or administrators can guarantee the integrity of something as sensitive and potentially abusive as an interfacing national/State criminal information computer system.

Massachusetts is to be commended for adopting landmark legislation in this area and I wholly support Governor Sargent's position in this matter. Failure of the FBI to adopt uniform minimum standards which are not so minimal as to permit the abuse of constitutional rights, or to enact adequate sanctions for improper use of the system cannot be justified. The NCIC is a voluntary system; no State is compelled to join. Assurances by Attorney General Richardson that adequate safeguards will be taken are not enough. Legislation must be enacted to insure that personal rights are protected.

In 1970, Congress expressed its concern by adding an amendment to the Safe Streets Act requiring LEAA to submit legislation by May 1, 1971, to insure:

> The integrity and accuracy of criminal justice data collection, processing and dissemination system funded in whole or in part by the Federal government, and protecting the Constitutional rights of all persons covered or affected by such systems.—P.L. 91–644 § 519(b).

Yet, 3 years later we still have no regulations. The bill which LEAA submitted in 1971 failed to provide adequate protection against misuse of data or invasion of privacy and was therefore not acted upon by the 92d Congress. The LEAA has prepared another bill which is presently at OMB, but it appears to be the same as the one they submitted before.

Fault also lies with the Justice Department itself. Its duty is to insure that individuals' constitutional rights are protected and to adopt standards which achieve this end. At present the policies and standards for the operation of the national data bank are developed by an Advisory Policy Board to the NCIC that is comprised almost entirely of representatives of police agencies. The Justice Department, under the direction of Attorneys General Mitchell, Kleindienst, and Richardson, has refused to issue binding standards through the former process of Federal Register publication. The Attorney General should take the initiative to insure that adequate regulations are promulgated since the Advisory Board has proven its inability to develop adequate regulations.

At present the States receive important services from the FBI, services that are funded through Justice Department appropriations. The regulations which are included in my bill could easily be incorporated as a condition to the receipt of FBI services and related Federal resources. But first, the Justice Department, under the directorship of the Attorney General, must take steps to formulate adequate regulations. The Attorney General has an affirmative duty to adopt rules to insure the protection of basic constitutional rights in the operation of programs within his responsibility. The duty has not been discharged, nor has the authority been exercised. In the absence of such affirmative action Congress must act to insure that personal rights are protected.

It would be difficult to enact legislation to cover every possible injustice which could arise without putting serious constraints on the criminal justice system, but we have an obligation to deal with inequities which now exist. The legislative branch must establish rules governing the kind of information that can be gathered and stored, proceedings for insuring the accuracy and relevance of file materials, proceedings for insuring individuals the right to review and correct this file, to whom it can be distributed and for what purposes.

I am today introducing a bill which is identical to the one which was introduced by Congressman EDWARDS. Its provisions will alleviate some of the problems which I have cited above and is restricted to criminal arrest record data. First, it limits the dissemination of criminal arrest records to and among law enforcement agencies. Second, there is a provision which allows the individual to inspect his record and to take issue with any information he feels may be incorrect. The bill also contains a provision which states that records which do not contain a conviction may not be disseminated after 2 years. This clause is not applicable to a criminal arrest record concerning a person convicted of at least one felony under Federal or State law. There is much debate as to whether 2 years is a suitable amount of time and I hope the committee hearings on the bill will provide more information on this and other parts of the bill.

Thursday, July 26, the bill is scheduled for hearings before the Judiciary Subcommittee on Bankruptcy and Reorganization, of which Congressman EDWARDS is chairman. I urge the committee to take affirmative action on the bill as soon as possible.

RESULTS OF HILLIS QUESTIONNAIRE

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. HILLIS. Mr. Speaker, about 2 months ago my annual questionnaire was distributed to approximately 170,000 households in the Fifth Congressional District of Indiana. We have, to date, received a sizable response and have now tabulated the replies. I have found this poll to be a most effective means of communicating with my constituency and learning their opinions on important issues. At this point I would like to share its results with my colleagues:

RESULTS OF HILLIS QUESTIONNAIRE

Congressman Elwood H. "Bud" Hillis (R-Kokomo) has announced the results of his annual questionnaire which was sent to all households in the Fifth Congressional District. Approximately 15,000 replies were received.

"The results," Hillis stated, "have now been tabulated and they indicate that Fifth District residents are eager to participate in the democratic process."

The Congressman further commented that the results have been reported to the President and to the Congress as well as the news media.

There was overwhelming opposition towards providing economic assistance for the rebuilding of North Vietnam.

Domestically, the survey showed some 73 percent favored President's federal spending ceiling in order to prevent higher taxes and inflation.

A strong response was received favoring the passage of legislation to reform the welfare system and provide incentive encouraging those who can work to do so.

Complete results are as follows:

[In percent]

1. Do you favor a Constitutional Amendment to permit passage of State laws reinstating capital punishment?

Man:	
Yes	77
No	23
Woman:	
Yes	74
No	26
Young adult:	
Yes	50
No	50
Average:	
Yes	67
No	33

2. Should the United States provide economic assistance for the rebuilding of North Vietnam?

Man:	
Yes	17
No	83
Woman:	
Yes	22
No	78
Young adult:	
Yes	18
No	82
Average:	
Yes	19
No	81

3. Do you favor granting amnesty to those who avoided the draft and/or deserted the military?

Man:	
Yes	23
No	77
Woman:	
Yes	25
No	75
Young adult:	
Yes	38
No	62
Average:	
Yes	29
No	71

4. Do you agree with the President's federal spending ceiling in order to prevent higher taxes and inflation?

Man:	
Yes	75
No	25
Woman:	
Yes	71
No	29
Young adult:	
Yes	74
No	26
Average:	
Yes	73
No	27

5. Are you satisfied with the progress that is being made to clean up the environment?

Man:	
Yes	72
No	28
Woman:	
Yes	69
No	31
Young adult:	
Yes	26
No	74
Average:	
Yes	56
No	44

6. Do you favor passage of legislation to reform the welfare system and provide incentives encouraging those who can work to do so?

Man:	
Yes	74
No	26
Woman:	
Yes	70
No	30
Young adult:	
Yes	90
No	10
Average:	
Yes	78
No	22

7. Do you think that the United States should trim back its military and economic commitments throughout the world?

Man:	
Yes	75
No	25
Woman:	
Yes	65
No	35
Young adult:	
Yes	72
No	28
Average:	
Yes	71
No	29

8. Do you think that the "energy crisis" is serious enough that the federal government should help in finding new energy sources?

Man:	
Yes	53
No	47
Woman:	
Yes	63
No	37
Young adult:	
Yes	64
No	36
Average:	
Yes	60
No	40

9. There has been much discussion and controversy over the Alaska Pipeline. Do you believe that we should proceed with the construction of this project?

Man:	
Yes	69
No	31
Woman:	
Yes	67
No	33
Young adult:	
Yes	61
No	39
Average:	
Yes	66
No	34

10. Is it your opinion that under all circumstances newsmen should be permitted to keep their sources of information confidential?

Man:	
Yes	79
No	21
Woman:	
Yes	64
No	36
Young adult:	
Yes	60
No	40
Average:	
Yes	68
No	32

11. Would you favor the states and cities spending some of the monies earmarked for highway construction in the Highway Trust Fund (gasoline taxes) on urban mass transit (bus, train, subway)?

Man:	
Yes	51
No	49
Woman:	
Yes	67
No	33
Young adult:	
Yes	62
No	38
Average:	
Yes	60
No	40

12. Do you believe this questionnaire is a legitimate and effective means of communicating your views to your elected representative?

Man:	
Yes	79
No	21
Woman:	
Yes	68
No	32
Young adult:	
Yes	72
No	28
Average:	
Yes	73
No	27

NEED FOR STRONG CONGRESSIONAL CONTROL OVER U.S. ASSISTANCE PROGRAMS FOR SOUTHEAST ASIA

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, during the past 20 years, U.S. assistance in excess of $10 billion has been provided to the countries of Southeast Asia for economic development. Additionally, many billions of U.S. tax dollars have been provided for military purposes. Hundreds of millions of dollars have been spent to construct schools, roads, airports, and ocean ports, just to mention a few of the physical improvements. Substantial amounts were also spent for military projects which may now be converted to civilian uses—for example, military ocean ports, airfields, and medical facilities. Conversely, hostilities in Cambodia, Laos, and Vietnam have resulted in partial or total destruction of a portion of the capital improvements financed by U.S. assistance.

Directly charged with responsibility for investigating the economy and efficiency of this vast expenditure of U.S. tax moneys is the Foreign Operations and Government Information Subcommittee of the House Committee on Government Operations, which I chair. Meaningful investigations have been performed and substantive reports have been presented by the full House Government Operations Committee to the Congress.

Due to the inadequate resources of the subcommittee, however, the investigations performed to date have covered only a very few of the more sensitive programs in Southeast Asia. Congressional investigation into the economy and efficiency of the vast majority of U.S. financed projects in Southeast Asia—as in the rest of the world—has been substantially less than desirable. As a direct result, Congress—and more especially the foreign assistance authorizing and appropriating committees—has been without the benefit of sufficient congressional investigative evaluations in authorizing and appropriating billions of dollars for developmental assistance programs. Congress in performing its legislative functions has thus been placed in the untenable position of relying almost totally on the operating segments of the executive branch for a complete and unbiased presentation of all facts concerning U.S. foreign assistance for Southeast Asia, hardly the type of presentation which could be expected of any operating entity. In fact, both Congress and the General Accounting Office are more and more faced with difficulties in getting the whole truth on our overseas programs because of the increasing denial of full access to records under the so-called doctrine of "executive privilege."

In preparation for the time when hostilities would cease and the job of total economic development of Southeast Asia could proceed in earnest, studies have been made which have likewise cost the U.S. taxpayer millions of dollars. Plans for the development of the Mekong River basin, based on surveys and studies performed over a 15-year period—at a cost in excess of $60 million—were finalized a year ago. These plans call for an expenditure of some $12 billion on water resources and directly related projects in Cambodia, Laos, Thailand, and Vietnam. Much of the study work was done by the Bureau of Reclamation of the U.S. Department of the Interior; yet, no GAO audits or congressional reviews of this activity have been made to date.

A study concerning Southeast Asian regional transportation requirements, begun in May, 1969, by Arthur D. Little, was completed in March, 1972, at a cost of $3 million. The United States Government contributed $1.8 million directly and indirectly toward the study but has no audit rights to assure itself of the reasonableness of the amount charged for making the study. The survey proposes some 140 transportation projects at a cost in excess of $3.2 billion. Other areas in which studies for overall regional development have been made concern education, health, public utilities, and industrial development, to name but a few. Billions upon billions of dollars will be needed if total economic development of Southeast Asia is to take place. Undoubtedly, the people of Southeast Asia and the rest of the world will look to the United States to provide the major portion of these funds.

Already the administration has made known its plans for major reconstruction of all Indochina. Funds requested for fiscal year 1974—to get the reconstruction program started—total $632 million. Rest assured that this request is only the beginning—billions of U.S. tax dollars will be involved as the years pass.

In this regard, I especially call to the attention of my colleagues my comments in the CONGRESSIONAL RECORD—pages 46605 of December 13, 1971; 8694 of March 16, 1972; 12254 of April 11, 1972; 21211 of June 15, 1972; 21549 of June 20, 1972; 23758 of June 30, 1972; 29267 of August 18, 1972; and 3111 of February 1, 1973—Past investigations of U.S. financed programs in Southeast Asia have indicated substantial waste of the U.S. taxpayers' dollars. Conversely, hostilities in Cambodia, Laos, and Vietnam have provided a real economic boom for the entire region. Large segments of the labor force have been directly engaged in war. Other segments have been fully engaged in servicing the fighting forces. Selected individuals have become wealthy beyond belief—directly as a result of the war.

With the termination of hostilities and withdrawal of American troops, unemployment and serious economic repercussions could become a major problem in all of Southeast Asia. It must be remembered that an entire generation of the population is totally unfamiliar with anything but a war-time economy.

Whether future U.S. economic assistance for Southeast Asia is programed on a multilateral or bilateral basis will provide no assurance of its success. In considering forthcoming foreign assistance legislation, therefore, Congress should face up to the difficult task of legislating a program in which direct congressional control is of the utmost importance. We can no longer delude ourselves into believing that a program of this magnitude can be federally funded on an illustrative basis. When the U.S. Government finances the domestic construction of major airports and ocean port facilities, highways, dams, and powerplants, medical facilities, and the many other domestic federally financed projects, Congress authorizes and appropriates funds on a specific line-item basis. Further, clear provisions are made for Federal construction inspections, audits of expenditures by agency auditors and the General Accounting Office, and congressional oversight. Clearly, U.S. foreign assistance should be subjected to at least the same degree of U.S. control as federally funded domestic programs.

IF YOU WANT TO PRESERVE SMALL AMERICAN BUSINESS AND HAVE A GOOD TASTING BEER, TRY POINT SPECIAL

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. OBEY. Mr. Speaker, as many of us know, it is becoming more and more difficult for small breweries to stay in business. They do not have the advertising budgets to compete with well-known brand names.

I am inserting an article which appeared in the Stevens Point Daily Journal recently which indicates that ability to advertise is no measure of the quality of a product.

The article appears below:

PROSIT! FOR POINT SPECIAL

When Mike Royko, Chicago Daily News columnist, conducted a taste test among 22 American and foreign beers, first place went to Wurzburger, brewed in Germany.

And guess who tied for second?

None other than Point Special, brewed at 2627 Water St., Stevens Point.

Point finished in a dead heat with Bass Ale, brewed in England, and ahead of 19 Dutch, Polish, German, Japanese, Norwegian, Czechoslovakian, Mexican and American brews.

It all started when Royko wrote a column criticizing mass-marketed American beer, suggesting that it tastes "like it is brewed by running it through a horse."

The column brought stormy criticism from some readers and the brewing industry.

"On the other hand," said Royko, "many discriminating beer drinkers agreed with me. Some wrote to tell me of wonderful locally produced beers they have had in small towns and in other countries.

"These are people whose taste buds are not blinded by chauvinism. Nor are their taste buds bought off by their employers. They have rational, independent taste buds. And they agreed that the stuff pushed in those million-dollar TV commercials is a national disgrace."

In order to settle the dispute, Royko organized an 11-member testing panel.

"The panel consisted of men and women who didn't know what beers they were tasting," Royko said. "Some of them usually drink only American popular brands. Others drink foreign and domestic. A few seldom drink beer at all and a few others drink it regularly.

"They included young people and middle aged people. Their ethnicity ranged from German to Polish to Bohemian to Irish to Norwegian to WASP . . . To show how legit the testimony was, I didn't take part. My job was to wash glasses and break up fights."

The panel members gave each beer from one to five points, with five "the ultimate beer."

Out of a possible 55 points, Wurzburger was first with 46.5. Just a hair's breadth behind at 45 were Point Special and Bass Ale.

Nobody else was even close. Heinneken's, a premium Holland brew, was next with 36.5.

Two other small-town Wisconsin beers, Old-Timer's (brewed by Walter's of Eau Claire) and Huber Premium (Monroe) finished in the top 10, and Barrel of Beer (Monroe) was 11th.

"As the tasters wrote down the points for each beer," said Royko, "they also jotted some observations.

"Assuming the comments about Wurzburger, the top scorer, were: 'Full rich flavor and no aftertaste,' 'solid taste,' 'very good,' 'I could drink lots more.'

"About Point Special, which is brewed about 220 miles north of Chicago, they said: 'Great flavor and great beer smell,' 'light and lovely and I could drink it all night,' 'smooth,' 'could drink a lot of it.' "

The testers also had some comments about the mass-marketed American beers.

About one of them they said, "This beer is tired," "weak," "nasty" and "ugh."

About the largest selling American beer (which finished 22nd out of 22 in the test), the comments were:

"A picnic beer smell," "lousy," "Alka-Seltzer," "sweet and weak," 'yeccch."

It got 13 points.

THE GREAT VALUE OF WILBUR MILLS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. DERWINSKI. Mr. Speaker, at a time when the Watergate issue is being used by some commentators to be critical of the entire governmental structure, I was pleased to see the article by John Chamberlain. It, in a very proper sense, commends our highly respected colleague, WILBUR MILLS.

This column was carried in the Perspective section of the July 21 issue of the Chicago Tribune. I commend it to the Members in order that they not only recognize the great respect for Mr. MILLS but also to take the ocassion to emphasize my support of the business concept he maintains toward tax legislation. The article follows:

THE GREAT VALUE OF WILBUR MILLS

(By John Chamberlain)

Watching Rep. Wilbur Mills (D., Ark.), chairman of the House Ways and Means Committee, over the last few years, two out of three observers would tell you that he generally behaves with his Presidential availability in mind. Now comes the ominous suggestion, prompted by trouble with a degenerated disc in his spine, that he might even be thinking of quitting politics.

If this should happen, it would be one more indication that the stars in their courses no longer favor the U.S. Last May, Mills made the greatest congressional speech of his life. Referring to Watergate, which he characterized as a "reprehensible business," he denied that it would lead to a paralysis of the American system of government.

The executive branch, he said, "is not—and was never intended to be—the sum of the government of the U.S." The courts were still functioning, he said, the conscience of the people was alive, Congress was carrying on, and our economy, despite the inflation, had, within the year, created 2.7 million new jobs and added $61 billion in real output to bring disposable personal income to an average of $2,882 per individual.

The best thing about the speech is that it seemed to backtrack a bit from earlier Mills statements that tax reform must be concerned with closing loopholes. Not that Mills has ever been a fanatic about killing the economic easements that loopholes represent. But this time he chose to blame our economic malfunctioning on the "money expansion [that has] resulted from deliberately running up government spending ahead of the increase in revenues." The $18 billion government deficit in 1972 constituted a "fiscal-monetary binge" that wasted "the respite which wage-and-price controls could have given us."

Mills went on to say that he would never consent to use tax reform as a "coverup for penalizing saving by individuals or businesses."

To the Populists in his own Democratic Party he said, "We are not going to treat the legitimate returns on saving as second-class income by taxing it more heavily than we now do."

To encourage capital savings, Mills added that he could have "talked myself into the position where I could let everybody else in the U.S. accumulate $50,000 in a nest egg, from investments, from interest, from capital gains, and other ways, before I would put any tax on them, and then I would put a tax on what they make after that."

This sort of voice was lost out of the White House when Roger Freeman, now a senior fellow at the Hoover Institution, quit as a Nixon aide because his independence was incompatible with the Haldeman-Ehrlichman Prussianization of the place.

Freeman has published an excellent booklet called "Tax Loopholes: The Legend and the Reality." He does not regard capital gains, mineral depletion, home owners' interest, and other allowances as sacrosanct, but he makes the very good point that they have been in the public interest. It has been the loopholes that keep the system going, providing new fuel for our cars, ores for industry, capital for building programs, and roofs over our heads.

If Mills is no longer there to hold the congressional pass as head of the influential Ways and Means Committee, someone will have to step into the breach. The newly formed American Council on Capital Gains and Estate Taxation, whose credo is that "liberalization of the tax law on capital gains is desirable if this country is even to begin to meet the enormous investment requirements to maintain economic growth," will have its work cut out for it in finding someone with the understanding of a Wilbur Mills to present its position.

The council correctly points out that our big competitors, Japan and West Germany, have no capital gains tax at all. Only Britain has a higher capital gains tax rate than the U.S., and just look at the sluggishness of the British economy. It couldn't be worse.

PROFILE OF GEN. RAY DAVIS, EXECUTIVE VICE PRESIDENT OF THE GEORGIA CHAMBER OF COMMERCE

HON. HERMAN E. TALMADGE

OF GEORGIA

IN THE SENATE OF THE UNITED STATES

Tuesday, July 24, 1973

Mr. TALMADGE. Mr. President, there appeared in the July issue of "Georgia" Magazine a very fine profile of Gen. Ray Davis, executive vice president of the Georgia Chamber of Commerce since his retirement from the U.S. Marine Corps.

At the time of his retirement in late December 1971, General Davis was Assistant Commandant of the Marine Corps. He attained the rank of four-star general after a distinguished career of 33 years in the Marine Corps. In 1950, he was awarded the Nation's highest commendation, the Congressional Medal of Honor, for conspicuous gallantry in Korea.

General Davis is a native of Fitzgerald, Ga., and we are proud to have him back in our State, and I join his many friends and associates in saluting him on his outstanding work with the Georgia Chamber of Commerce.

I bring this article to the attention of the Senate, and ask unanimous consent that it be printed in the Extensions of Remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Georgia magazine, July, 1973]

THE GENERAL AND THE CHAMBER

(By John Crown)

He's brought a new drive and a new spirit to the chamber. We've got the feeling that we're really going somewhere.

The speaker was a staff member of the Georgia Chamber of Commerce. The "he" referred to was Raymond G. Davis, native Georgian, who has headed the chamber's operations as executive vice president for just over a year.

That staffer's view is no reflection on the memory of Walter T. "Pappy" Cates who was executive vice president for some 20 years until his death in December 1971. Cates was in ill health during his final two years there and that, naturally, tended to slow the momentum.

As H. G. "Pat" Pattillo, former president of the chamber, has pointed out, the current chamber staff is the one that Cates put together.

"Ray has been able to work from a solid base by keeping Walter's staff intact," Pattillo said. "He has a known base and a known quality and the results are blossoming from it. Walter's staff worked closely with him. It was almost a family relationship. The fact that the staff can work well with Ray and Ray with the staff is a tribute to everyone. The staff looks to Ray for initiative and encouragement."

With Cates' death in December 1971, Pattillo, then the chamber president, was looking for a new executive vice president who could do an effective job for the statewide membership.

It happened that in December 1971, Davis was looking for a new and meaningful career. In some 33 years in the U.S. Marine Corps he had achieved the pinnacle. As Assistant Commandant of the Marine Corps he held the highest rank any man can hold in our armed forces, that of four-star general. And earlier in his career, as a battalion commander in Korea, he had won the highest decoration this nation can bestow, the Medal of Honor.

So it was time to look around for a second career. He had two vital requirements. One was a desire to return to his native Georgia. The other was that whatever he did must carry with it purpose, responsibility and challenge.

Happily for Georgia, the paths of Pattillo and Davis crossed in January 1972 and the following April he became executive vice president of the Georgia chamber.

But this makes it seem deceptively easy. Actually it wasn't. Initially Pattillo was cold to the idea of hiring a retired general officer for the job.

"I was very much opposed to it and at first refused suggestions that I see him," Pattillo recalled. "But one afternoon he telephoned me and asked if he could come over for a talk. After two hours of conversation it was obvious to me that this man was quality."

Raymond G. Davis was born in Fitzgerald, Ga. in January 1915. His father operated a grocery store there. But he remembers that they did a great deal of moving in those early years, eventually arriving in Atlanta.

"In 1922 or 1923 we lived in the Grant Park area and there was a real flu epidemic going around," he reminisced. "All of us came down with it."

He looks back on life in Atlanta as catfish seining in the Chattahoochee, swimming in Oglethorpe's Silver Lake, refreshing drinks from Cascade Spring which he passed daily to and from school, and playing sandlot ball.

In Atlanta young Ray attended Cascade Springs and Inman elementary schools and Bass Junior High School. In 1933 he graduated from old Tech High School, where he won a letter in wrestling. From there it was Georgia Tech. But in those depression years finances were a serious problem and his education was interrupted from time to time while he went to work to make the money needed to get through Tech.

"I worked nights at the Lee Baking Company making rolls," he recalled. "To get back and forth between Tech and the company I bought a Whippet roadster for $25 from another bakery employee. The bill of sale was written on the back of a graham cracker box."

Davis graduated with honors from Georgia Tech in 1938 with a BS degree in chemical engineering. Despite his financial difficulties he had found time for a full campus life. He made the honor roll each year he was there; won the President's Gold Key; worked on the student newspaper, Technique; was a member of Phi Kappa Phi, Tau Beta Pi, Phi Eta Sigma, Alpha Chi Sigma and Scabbard and Blade Society.

Scabbard and Blade refers to what was probably his most important membership—that in the Army Reserve Officer Training Corps. This enabled him to accept an appointment as a second lieutenant in the U.S. Marine Corps in 1938.

He participated in Pacific operations with the Marines and when World War II ended he was a lieutenant colonel and had won the Navy Cross, the second highest combat decoration in the naval service, during the bloody Peleliu operation.

It was in the subzero weather that characterized December 1950 in Korea that Davis won his Medal of Honor. It was awarded him "For conspicuous gallantry and intrepidity at the risk of his life above and beyond the call of duty as commanding officer of the 1st Battalion, 7th Marines, 1st Marine Division (Reinforced) in action against enemy aggressor forces in Korea from 1 through 4 December 1950 . . ."

A revealing excerpt from the citation, signed by President Harry S. Truman, follows:

"Although knocked to the ground when a shell fragment struck his helmet and two bullets pierced his clothing, he arose and fought his way forward at the head of his men until he reached the isolated Marines. On the following morning he bravely led his battalion in securing the vital mountain pass from a strongly entrenched and numerically superior hostile force, carrying all his wounded with him, including 22 litter cases and numerous ambulatory patients. . . . By his superb leadership, outstanding courage and brilliant tactical ability, Lieutenant Colonel Davis was directly instrumental in saving the beleaguered rifle company from complete annihilation and enabled two Marine regiments to escape possible destruction. His valiant devotion to duty and unyielding fighting spirit in the face of almost unsurmountable odds enhance and sustain the highest traditions of the United States Naval Service."

He has the distinction of being one of eight Georgians to win the Medal of Honor and stands out as the only Georgia Tech alumnus known to have done so.

His subsequent Marine Corps assignments included command and staff billets typical of the man and the Marine Corps, including that of Commanding General of the Third Marine Division in Vietnam, 1968–9. And in March 1971, he became Assistant Commandant of the Marine Corps.

This, then, was the man the Georgia chamber hired as executive vice president early in 1972.

His first concern was to get to know the length and breadth of Georgia and, equally important, to let the chamber membership get to know him.

"I told my secretary to accept for me every speaking invitation that arrived in the office," Davis said. "And I've made a lot of speeches all over the state in the past year."

He was aware that the staff he inherited was a professionally competent one and he has used it accordingly. Moreover, he has continued to expand its operations.

"If we can't be of service to the membership throughout the state, then there isn't any reason for us to exist," Davis points out. "We want to be instrumental in providing the membership and the state with an enhanced quality of life."

One Davis innovation is the creation of Employer-Employee Relations Task Forces. The task forces provide the means of facing problems with the combined talent of the membership rather than depending exclusively upon the chamber staff.

For example, task forces have been established to deal with the right-to-work law, equal employment opportunities, public employees legislation, workmen's and unemployment compensation, and occupational safety and health.

Each task force, drawn from the chamber membership, addresses itself to the problems relating to its area of concern. If, for example, exhaustive study indicates that the problems can be resolved through corrective legislation, a steering committee takes over and charts the strategy and the timing to be followed. Corrective legislation is not, of course, always the answer. And when other solutions are deemed best, they are followed through just as thoroughly.

There is nothing static about the Davis inspired task force. Each is tailored to confront a given problem. As the problems are resolved for the benefit of the membership, the task forces are dissolved. And new ones are created with the recognition of new problems.

The most recent move has been the establishment of an international department within the chamber. While the Atlanta Chamber of Commerce has embarked upon the project of making Atlanta an international city, the Georgia Chamber of Commerce is moving in the same direction insofar as the state is concerned. Native son Dean Rusk, with eight years as U.S. Secretary of State behind him, has been enlisted in this endeavor—largely through the personal persuasion of Ray Davis.

The international spotlight has a broader focus than that restricted to Atlanta. This has been emphasized with Gov. Jimmy Carter's vigorous efforts to interest foreign firms in the state. Thus the stage is being set for an expanded and more variegated commercial-industrial picture for Georgia.

Throughout his Marine career there has been more than just a family tie between Ray Davis and Georgia. True, his parents, Mr. and Mrs. Raymond R. Davis, live in Milner. So does his brother, John Tribby Davis, a dairyman who is married to Ellen Rusk, a cousin of Dean Rusk.

But in addition to the family ties, Davis had looked forward to returning to a 240-acre farm he bought when still a Marine lieutenant. It lies between Milner and Goggins in Lamar County.

"I was a lieutenant in a tent camp at Quantico, Va.," he said, looking back for a moment. "My father telephoned to tell me a mortgage firm in Richmond, Va. was foreclosing a farm in Lamar County and I might be able to work out something.

"I got in touch with the mortgage firm and it wanted $100 down from me right away. In 1939 a lieutenant just didn't have ready access to an extra $100 but I managed to raise it and assumed the payments."

To see Ray Davis on his farm is to see a man who is happy with life, but who is far from ready to just sit down and watch life pass by.

In getting to the farm, however, the first stop is at the beautiful white columned brick home that has been virtually completed in McDonough. Here is where he lives with his wife, the former Willa Knox Heafner, of Lincolnton, N.C. Their three children have lives of their own. Ray Jr. is the director of the Conyers, Ga., chamber of commerce. Gordon, a Vietnam veteran and a captain in the Marine Corps Reserve, is attending law school at the University of Florida. Willa Kay is a student at Georgia Tech.

The home in McDonough reflects the achievements of a prolonged and successful military career. There is a large den filled with mementos. And since Davis still makes speeches of a military nature, as well as for the Georgia Chamber of Commerce, hanging in the coat closet in the entry-way is a Marine uniform jacket with four stars glistening on a shoulder strap.

Some thirty miles to the southwest is the farm itself. It is fenced in ("I hired some Georgia Tech students to do the fencing.") and there are cattle ranging about.

"We'll probably get more cattle as we move along," Davis said, pointing to a bush hog. "We're using that to cut down the undergrowth so we can increase the pasturage. Then, too, Ray Jr. over in Conyers has begun buying cattle. He's got a convenient place to keep them right now, but sometime in the future he might want to bring them here. At least this offers him a backup place."

Davis has put a three-bedroom Georgia house on the farm, although he doesn't rule out some day "in the future" building a larger home there on the crest of a hill.

"Knox and I selected that point a long time ago for the house we wanted to build," he commented, pointing toward a tree-covered hill that overlooks the area.

The structure he now uses is a Butler Home, built in Butler, Ga.

"I visited their plant in connection with chamber business and was so impressed with what I saw that I decided this is what I wanted for the farm. They told me to bring my wife down to pick out a design. I told them that was unnecessary, that I already knew what Knox wanted."

The residence was erected on a concrete block foundation in a matter of hours.

A picturesque narrow winding road leads from the gate to the house, through heavily forested areas and places that have been lumbered and are showing new growth.

"When the snow storm hit middle Georgia last February, we didn't get any snow in McDonough, so Knox suggested we come down here. We got in the truck and drove down through the backroads. Coming down this road from the gate to the house, it was absolutely beautiful with so much snow already on the ground and more falling all about us."

The house overlooks a 12-acre lake which Davis and his family created. It was bulldozed where springs feed a healthy stream, the bulldozer using the earth from the lake area to erect a huge earthen dam at the far end of the lake. There is a dock and a canoe. The lake is fine for swimming and fishing. And it is easy to tell that this farm is where Ray Davis' heart is.

It would be misleading to say that Davis takes his ease here. There isn't much time for ease, as such. There are always a plethora of chores or improvements or new projects to undertake. But it is here that his family like to gather—he and his wife, his children and their families, his parents, his brother's family. Here is where there is a real family life together, as he must have imagined it would be during his Marine Corps career. Here is where he can, in effect, recharge his batteries to continue the challenging job of handling the Georgia Chamber of Commerce in dynamic times.

Inasmuch as "Pat" Pattillo headed the chamber at the time Davis was hired, what does he think of him now after watching him in action for a little more than one year?

"Quiet competence," is Pattillo's assessment. "He is personable and perceptive. He has depth and experience. He has an unusual way of understanding people, working with people and talking to people. He has established a working relationship between the small towns and the metropolitan areas. It's amazing to see how quickly he relates to the small businessman and yet how he can come round to understand corporate problems.

"The only criticism I've heard of Ray is that he's not a hail-fellow-well-met. At a gathering you don't find him slapping backs. Instead, he's usually over in a corner listening to someone with a problem and trying to unknot the problem for the fellow. He might leave a gathering earlier than some because he's heard a number of problems and he wants to get back to his room to try and come up with solutions. I certainly can't fault him on that.

'Humility is an old fashioned word. But to me, Ray is humble."

It is an assessment shared by Jasper Dorsey, current president of the Georgia Chamber of Commerce.

"Ray is one of the chief assets the Georgia chamber has," Dorsey said. "The state is fortunate to have a native son come back here and dedicate his life to making Georgia a better place. That is Ray's motivation.

"We have some rather ambitious plans for the state chamber and Ray is eminently qualified to carry them out."

That is a telling assessment by a person who is qualified to make it. It is an excellent description of Raymond G. Davis, executive vice president of the Georgia Chamber of Commerce, a man who is in the right place at the right time as Georgia faces an increasingly exciting challenge.

COVERING UP ON PEKING'S DRUG TRADE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. CRANE. Mr. Speaker, for some time the U.S. Government has been vigorously denying that Communist China is playing any role at all in the production and distribution of narcotics and dangerous drugs.

Despite official denials, there is mounting evidence of Communist Chinese involvement in the narcotics traffic. A study made by Ch'in Yung-fa, a specialist in Chinese Communist military affairs, for publication in Taiwan declares that—

> The Chinese Communists process about 10,000 tons of narcotics a year.

Ch'in reports that drug exports from Communist China make a net annual profit of 800 million U.S. dollars. The material contained in Ch'in's study is backed up by Dutch, Soviet Russian, Japanese, and other sources.

Columnist John Chamberlain noted that—

> The official U.S. denial is of a piece with the World War II coverup of the Katyn massacre of the Poles. And, like Elmer Davis' refusal to let the Katyn story be told when it was first known, it will avail us nothing. If the Red Chinese need our help now that they are menaced along their 4,000 mile land border with the Soviets, it won't make the least bit of difference what we say about their drug trade. . . . It is the Katyn suppression story all over again, a replay of a stupidity on our part that didn't buy us a nickel's worth of advantage anywhere, either in World War II or in the Cold War that came thereafter.

As recently as 3 years ago the Bureau of Narcotics and Dangerous Drugs published a fact sheet which stated that—

> In the Far East, opium is cultivated in vast quantities in the Yunnan Province of China. . . . Although much is consumed by opium smokers in the region, considerable amounts of the drug find their way into the U.S.

Since the policy of "detente" with Communist China, only denials have been issued by Government sources.

In 1972, former Marine Gen. Lewis Walt conducted an inquiry into the global drug trade for the Senate Internal Security Subcommittee. He noted that Communist operatives in various parts of the world were deeply involved in narcotics. He stated that—

> I find it impossible to understand how our media can ignore the clear evidence of Communist involvement while exaggerating out of all proportion the charge that corruption among our Southeast Asian allies is the primary cause . . .

In an article highlighting the manner in which Communist China's involvement in the narcotics traffic has been covered up, Indianapolis News editor M. Stanton Evans notes that—

> The State Department keeps denying it, but evidence of Communist China's involvement in the heroin trade gets more substantial all the time. For the past two years the Nixon Administration has made considerable noise about cracking down on the drug traffic, focusing attention on such reported malefactors as Turkey and Thailand. Yet while all this has been occurring, not a single word has been uttered about the fact that Communist China, by reliable account, is a principal supplier of the hard addictive drugs which are the alleged object of the Nixon crusade.

I wish to share with my colleagues the article by M. Stanton Evans, "Covering Up On Peking's Drug Traffic," which appears in the July 14, 1973, issue of Human Events, and insert it into the RECORD at this time:

STATE DEPARTMENT SHOULD LEVEL WITH U.S. PUBIC: COVERING UP ON PEKING'S DRUG TRADE

(By M. Stanton Evans)

The State Department keeps denying it, but evidence of Communist China's involvement in the heroin trade gets more substantial all the time.

For the past two years the Nixon Administration has made considerable noise about cracking down on the drug traffic, focusing attention on such reported malefactors as Turkey and Thailand. Yet while all this has been occurring, not a single word has been uttered about the fact that Communist China, by reliable account, is a principal supplier of the hard addictive drugs which are the alleged object of the Nixon crusade.

Officials of the Nixon government have instead been knocking themselves out to assure the world of Peking's innocence.

SO-CALLED PROPAGANDA

A fairly typical statement of the official view is a letter from State Department functionary Marshall Wright which scouts the notion of Red Chinese involvement and puts such charges down to political motivation. Wright says that "since the early 1950s there has been a persistent propaganda campaign designed to convince the American public that the People's Republic of China is producing thousands of tons of opium annually and is actively engaged in the illicit export of opium and its derivatives to the United States and other free world countries."

Wright adds that the propaganda campaign is "being promoted in this country by a number of groups who have consistently opposed normalization of relations between the U.S. and the PRC." And he concludes that such charges "have never been verified by a careful monitoring of the illicit drug traffic throughout the world by our intelligence agencies." Similar denials have been offered by other Nixon officials—most notably Nelson Gross when he was with the division of international narcotics matters, supposedly in charge of the State Department's "worldwide drive against drug smugglers."

Wright's assertion that there has been a "propaganda campaign" against the blameless Red Chinese dating from the early 1950s is especially interesting, since the major source of this so-caled propaganda has been the United States government.

Thus according to former U.S. Commissioner of Narcotics Harry J. Anslinger, Peking has actively engaged in the "cultivation, manufacture, export, distribution, and sale of opium, morphine, and heroin" as a means of raising money and snaring recruits for revolutionary purposes. Over the years Anslinger filed numerous reports to the United Nations concerning this Chinese dope traffic.

JAPAN'S HEROIN SOURCE

One such report stated: "Of a seizure totaling 3,413 grams of heroin in Japan, all information obtained from extensive investigations shows the heroin in Japan originated from Communist China. Some amounts arrive from Horai, China, between Tsingtao and Tientsin. The Communists use crews of merchant ships, crews and passengers of aircraft, as carriers, as well as their own Communist couriers and agents to smuggle narcotics. . . ."

"SYNDICATE CROWD"

The report also said "large quantities of heroin have reached the United States from Communist China. Emissaries have been sent to the United States to arrange for the details of the smuggling transactions. One of the principals in the case in which 300 ounces of heroin were smuggled in from Communist China is now serving a 10-year imprisonment."

Anslinger added that Hong Kong was a primary outlet for Red Chinese dope, which was then smuggled to Malaya, Macao, the Philippines, Hawaii and the U.S. mainland. "A prime target area in the United States," he noted, "was California. The Los Angeles area alone probably received 40 per cent of the smuggled contraband from China's heroin and morphine plants. The syndicate crowd does not object to dealing with the Reds, as long as the profits are big in terms of dollars." The observations were published a decade ago in Anslinger's book, *The Murderers*. Is the State Department now telling us that Anslinger, who held his high official post for 30 years, was falsifying the record for purposes of "propaganda"? Did the U.S.

government simply make up the reports it filed with the United Nations?

A mounting body of evidence suggests the propaganda shoe is rather snugly on the other foot. As recently as three years ago—before *détente* with Peking became a prime objective of Nixon's foreign policy—the Bureau of Narcotics and Dangerous Drugs published a fact sheet which stated that "in the Far East, opium is cultivated in vast quantities in the Yunnan Province of China. . . . Although much is consumed by opium smokers in the region, considerable amounts of the drug find their way into the U.S."

That same year Philadelphia Assistant District Attorney Jon Steinberg traveled to Vietnam and discovered "a newly packaged, widely distributed, deadly, potent form of heroin was practically being given away to our troops." The price was so low, Steinberg said, that the motivation of the suppliers was quite obviously political rather than economic. He concluded the drugs were coming from Red China. That analysis conforms to the 1965 statement of Chou En-lai to Egypt's President Nasser that "we are planting the best kind of opium especially for the American soldiers in Vietnam." The conversation is reported by Nasser's confidant, Egyptian publisher Mohammed Heikal.

In 1972 these data were reinforced by the testimony of former Marine Gen. Lewis Walt, who conducted an inquiry into the global drug trade for the Senate Internal Security subcommittee. Walt noted that Communist operatives in various parts of the world were involved in narcotics—including East Germany, Salvador Allende's Chile, and areas of Southeast Asia. "I find it impossible to understand," he said, "how our media can ignore the clear evidence of Communist involvement while exaggerating out of all proportion the charge that corruption among our Southeast Asian allies is the primary cause. . . ."

WHY NO SEARCHES?

Walt cited the reports filed with the United Nations by the U.S. and British governments concerning Peking's drug traffic—including the evidence that China's Yunnan Province was a principal source of opium flowing into Burma, Thailand and Laos. In keeping with that history, he said, Communist-run areas in all three countries were currently engaged in the opium traffic—and in each case the opium-trading insurgents were armed and controlled by Peking.

("In view of the fact that Peking mothered the White Flag Communist movement and that it still controls them, it cannot escape moral responsibility for their role as prime producers in the Burma opium traffic.")

All authorities are agreed that Hong Kong is the major staging point for the Asian heroin trade, and British officials there make every effort to search ships and cargoes with exceptional thoroughness. But Walt observed that, for political reasons, the British do *not* search ships and cargoes belonging to Peking—giving rise to the spectacle of self-fulfilling *détente*. In order to have good relations with the Communists, the West refrains from searching for evidence of heroin traffic; and because we have no evidence, we can continue having good relations.

Unfortunately for this brilliant stratagem, the evidence keeps trickling out by other channels. As Gen. Walt noted, Chineses seamen operating through Hong Kong are heavily involved in smuggling heroin into the United States. In April of last year, for example, seven seamen were arrested in New York with a load of heroin in their possession. Nearly all of these smugglers turn out to be members of the Hong Kong Seaman's Union which, Walt observed, "is completely controlled by the Peking Communists."

In recent weeks this aspect of the problem has been developed more fully by the New York *Daily News*. Reporters Frank Faso and Paul Meskil reveal that narcotics and other law enforcement agents in New York have cracked into an extensive ring of heroin smugglers operating through the Hong Kong Seaman's Union. They disclose that in the past two years there has been a vast increase in the quantity of Asian heroin seized in New York, that police have arrested Chinese operatives carrying up to $4 million worth of this lethal drug, and that in almost every case the culprits are members of the Peking-dominated union.

Most startling evidence of all has been presented by Brooklyn District Attorney Eugene Gold, who displayed to reporters a plastic bag he said had been seized containing heroin from Red China. The bag had the "People's Republic of China" printed on it in English and Chinese. The *News* adds that "the boss of the smuggling ring . . . is an important Chinese national who makes frequent trips between the U.S., Canada and Peking, where he confers with top government officials. He has not been arrested."

These reports are confirmed by columnist Jack Anderson, who writes that the Bureau of Narcotics and Dangerous Drugs has data showing illegal Chinese immigrants are jumping ship into the United States and bringing heroin with them. Anderson says "a favorite Chinese smuggling route is through Vancouver, British Columbia, which has one of the world's largest Chinese communities outside Asia." According to the *News*, investigators have tailed various of these ship-jumpers to secret meetings with members of Red China's United Nations mission. Part of the proceeds from the heroin sales, the paper says, are used to finance Maoist groups in the United States.

The choice before us, then, is rather clear: If we are to believe the statements of Messrs. Wright and Gross, we must also believe the U.S. government over the span of a decade submitted hoked-up evidence to the United Nations and that such diverse people as Gen. Walt, D. A. Gold, and columnist Anderson are now involved in a monstrous alliance to manufacture charges against our noble brothers in Peking. Alternatively, we can put down the denials of the Nixon State Department to the exigencies of cover-up at a time when we are trying to get cozy with Peking, and therefore shoving such distasteful matters as the heroin trade under the diplomatic rug.

On the total record, the second formula is the more persuasive. The State Department should stop looking the other way where Peking's heroin traffic is concerned and start leveling with the American people.

TIME TO PUT DOWN CRYING TOWEL

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. BOB WILSON. Mr. Speaker, I would like to share with my House colleagues the following call-to-action editorial which appeared in the July 15 San Diego Union. We do not have time to wallow in our troubles and must get on with the overriding task of tackling our problems and finding workable solutions. I commend this editorial to my colleagues' attention:

TIME TO PUT DOWN CRYING TOWEL

One of the news magazines recently quoted a presidential aide as saying that, "Everything we touch turns to mud," or words to that effect. Whether or not such a remark was made, it would seem to express our mood as a nation these days. There is a national keening in the air, a lament for the days when everything we touched turned to gold.

We seem to have made a litany of our troubles, a monotonous chant permeates our society: inflation, taxation, pollution, corruption, devaluation, investigation, assassination, allegation; delinquents, dropouts, drugs, rip-offs, rapes, muggings; strikes, floods, earthquakes, welfare abuse, consumer fraud, fuel crisis, shoddy goods; Cambodia, MIAs, ABMs, CIA, FBI, conspiracies, bugs; traffic jams, dirty movies, jerry-built homes, overcrowded schools, recalled cars, and Watergate. Always Watergate. Like Rodney Dangerfield, we get no respect. Lord, how we pity us!

This self-staged wake is disturbing because it is so untypical of Americans. We have been in worse trouble before, but never before have we taken it so hard. We are not a stoic people, but neither are we cry-babies. Not until now, that is.

The truth of the matter is we really don't have that much to cry about. Our country has never been and never will be perfect. We had a violent birth and have lived from crisis to crisis ever since. In the process of growing up, we invented a way of life that is the envy of the rest of the world.

We cannot move to a better place because there is no better place. We certainly have no monopoly on national tribulations, nor do we have even one problem that is uniquely ours. As for common problems, they are more severe elsewhere. Taxes are higher in England and inflation is worse. The smog in Peking is deadlier than it is in Los Angeles. Corruption in Italy is a way of life. Bugging is commonplace in Paris. In the Soviet Union, all consumer goods are in short supply. Violence in Ireland makes our frontier days look tame. Israel is surrounded by armed enemies and her citizens are threatened abroad. Millions of children in dozens of countries are always hungry. Millions never go to school at all.

This is all another way of saying that we should put down the crying towel, stop scourging ourselves, and look around. The rest of the world would settle for our problems in a flash. We may not be at the peak of our form but we are not falling apart, either. We have much to do and no time for brooding.

THE ATHLETIC PACIORKEK BROTHERS

HON. LUCIEN N. NEDZI

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. NEDZI. Mr. Speaker, the playing fields of Hamtramck, Mich., have produced a rich lode of athletic talent for several decades. I can think of Julius Franks and Roger Zatkoff in football, Rudy Tomjonavich and John Brisker in basketball, Steve Gromek and Ted Kazanski in baseball, Peaches Bartkowicz in tennis, and so many others. The array of talent has really been quite extraordinary.

Never before, however, has one family produced such outstanding athletes for Hamtramck's schools and local teams as the Paciorek family. John, Tom, Bob, Mike, and Jim are particularly outstanding baseball players.

A recent Don Horkey article in the July 14 Polish Daily News sets forth not only the athletic accomplishments of the

Paciorek family, but provides some insights into the close family life and discipline exercised by the parents, Mr. and Mrs. John Paciorek.

Under leave to extend my remarks in the RECORD, the article follows:

THE ATHLETIC PACIOREK BROTHERS

(By Don Horkey)

Just about a month or so ago, 18-year-old Mike Paciorek signed a contract to play baseball with the Los Angeles Dodgers Baseball Company. He had received his high school diploma just two weeks earlier. He had been picked by the Dodgers in the major league draft and was waiting to hear from them.

All spring long, Mike was being dissected, analyzed, evaluated by scouts for the Dodgers and six or seven other teams. They did this despite Mike not having a particularly good year. He played what someone described as a "nervous shortstop" and hit only .350, not very good at all for someone of his calibre in Detroit's Catholic League Second Division.

However, the Dodgers made their pitch and offered Mike $40,000 in bonus money and $500 a month regular contract in return for his services on behalf of the Class A Ogden (Utah) Dodgers in Los Angeles' minor league farm system.

And that's where Mike is right now. He's sitting on the bench as the result of a broken thumb suffered last weekend when he was hit on the hand by a pitched ball. Before the accident, he played starting left field and had raised his average to over .300.

If by now, you're mumbling, "So what?" then you've missed the point. You see, Mike has a magical name. Paciorek. Around Detroit which has produced a lot of outstanding athletes, the Paciorek Brothers are remarkable because all five of them are more than above-average athletes, all hailing from the same household.

And now we've gotten to the point of this week's essay: Why and how come is the Paciorek name "magic" in athletics? Why and how come are John, Tom, Bob, Mike, and Jim all good, outstanding athletes?

We went to the source. We talked to John and Frances Paciorek, husband and wife for 31 years this past May, father and mother to eight offspring. In their rather plain home in Transfiguration Parish on Detroit's near East Side, they have had to be—and still are—manager, coach, trainer, dietician, cheerleader, transporter, advisor, and whatever else it took to do the job they have done.

Let me digress for a moment to review the Paciorek starting lineup:

Johnny Paciorek, now 28, all-everything at Hamtramck St. Ladislaus; signed $80,000 bonus contract out of high school with Houston Astros; had a promising career snuffed by a back injury which required corrective surgery and which was never the same after; hit 3-for-3 in his only major league game against the New York Mets and rightfully claims a perfect 1,000 major league career batting mark; today is assistant athletic director of Jewish Community Center in Houston; married, father of two children.

Tom Paciorek, 26, also all-everything at Hamtramck St. Ladislaus; acclaimed greatest athlete ever in Hamtramck's history; turned down $50,000 St. Louis Cardinal bonus after high school to go to University of Houston where he was two-time baseball college All-American; signed with Dodgers after college for what his father called "peanuts"; played three years in the minors, capped off by last year's honor as "Minor League Player of the Year"; currently with the Los Angeles Dodgers as part-timer, a role he doesn't like; he's asked to be traded so he can play more often, married, father of two children.

Bob Paciorek, 22, outstanding athlete for Hamtramck St. Ladislaus; has a year to go at the University of Houston where he played football for a year until a broken nose put a permanent end to that career; up to a week ago pitched batting practice and warmed up pitchers for the Los Angeles Dodgers; single; his athletic career appears over in favor of one in business someday.

Mike Paciorek, whom you've already met; broke the mold of his brothers by attending Orchard Lake St. Mary where he was All-State in football, basketball and baseball; natural athlete who loves baseball most of all.

Jim Paciorek, just an eighth grader who his father says will be just as good as his brothers because he "has a head and lots of desire"; this summer having a dreamy vacation traveling with brother Tom and the Dodgers, sitting in the dugouts for games and practicing with the team.

So what's the secret of their success? That's the question I put directly to John and Frances Paciorek.

"The answer I'm going to give you," said Mr. Paciorek, "will probably even surprise my wife because I've never told her this. If it weren't for sports, I'd probably be in jail."

He quickly added: "Let me explain. I don't mean that the way it sounds."

And he explained: "When I was 12, my mother was killed in a car accident. My father died when I was 16. The seven of us (brothers and sisters) had to shift for ourselves. I always liked sports and I was good. My father would beat me because I played so much but yet he secretly watched me and was proud of me."

John Paciorek hailed from Resurrection Parish on the East Side. "I played baseball with 20 and 30-year-old men as a 14-year-old. I batted cleanup for them. I loved football and coaches were always after me, even after I dropped out of high school (Northeastern) because I had to get a job."

Mrs. Paciorek concurred: "John was good. If he could have played through high school, many thought he would have signed for the majors."

Mr. Paciorek continued: "In the Army, once I hit a ball so hard and so far off a Chicago Cubs pitcher that it was lost in a Filipino bamboo tree house and the game was called."

"I pushed all of my sons into sports," Mrs. Paciorek admitted. "But in such a way that they didn't know they were being pushed. What do boys do if they are not involved in sports?"

The word "push" brought a little fire to John Paciorek's eyes. "Today parents and teachers tell you to let the kids express themselves. Nuts! Give them homework, make them study and work. Push them! That's the trouble with our Catholic schools today. They might as well close them up."

To this formula of her husband's intense love for athletics and his "push," Mrs. Paciorek added almost what seemed as a footnote: "Discipline. There must be discipline."

Both Mr. and Mrs. Paciorek recounted story after story of their sons' exploits on the gridiron, court and diamond. There were the visits by the scouts, beginning with Johnny and continuing right on through today. There are trophies by the dozens, in the dining room, the bedroom, and packed away in the attic.

There have been tons of laundry to do, Mrs. Paciorek shrugged. Uniforms of all kinds for all kinds of sports, from Little League on up.

What's the house like after a bitter defeat? Mrs. Paciorek replied, "Not as bad as you might think. The boys didn't take the losses too badly. Tommy was the one to take these things the hardest."

We've left someone out. The Paciorek Sisters, of course. I suspect they're more sportswomen than female libbers. The line up consists of Marilyn, married and a registered nurse; Sister Joanne, of the Holy Family of Nazareth order; and Carol, an eleventh grader at St. Ladislaus.

Marilyn and Carol frequently can be seen bicycling and playing tennis. "And I suppose Sister Joanne is praying a lot," I quipped.

For a moment Mrs. Paciorek thought.

"You know, that's probably the secret to our success."

You could almost hear the crowd cheer. Mrs. Paciorek hit a home run.

WINNING AGAINST CANCER

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. CONTE. Mr. Speaker, a year and a half ago, with the passage of the National Cancer Act of 1971, the Congress committed itself to a greater national effort to conquer the disease that will strike over half a million more Americans this year and, despite all our efforts, may kill as many as 350,000.

We are seeing progress. One of the most promising areas is in the use of drugs for cancer treatment—cancer chemotherapy. This is only one of the many areas in cancer research and treatment in which we must continue to push forward as rapidly as possible.

Mr. Speaker, I include in the RECORD a most interesting article on some of the important work going on in cancer chemotherapy. This article, by Lawrence Galton, appeared in the June 1973, issue of the Reader's Digest:

CANCER CHEMOTHERAPHY COMES OF AGE

(By Lawrence Galton)

Recent breakthroughs show why Dr. Arthur D. Holleb of the American Cancer Society says, "Most cancers are curable when caught early—cancer is an essentially curable disease."

Until recently, cancer chemotherapy—the treatment of malignancy by drugs—was only palliative, a means of adding a few extra weeks or months of life. But now, in at least ten types of cancer, drugs alone or in combination with other types of therapy are producing normal life expectancies for some patients, long, disease-free remissions for others.

Few people—even relatively few physicians—as yet appreciate the degree of success and promise. Consider:

Once, without treatment, 90 percent of pregnant women who developed choriocarcinoma, a cancer arising in the placenta, died within a year. Now 90 percent can be freed of malignancy by chemotherapy when treated soon enough.

Today 80 percent of patients with advanced Hodgkin's disease, which starts in the lymph nodes and then spreads, can achieve complete remission. Seventy percent of these can expect to be alive and most of them will be free of disease five years after treatment.

The same prediction holds for 50 percent of children with acute lymphocytic leukemia. And 80 percent of children with the once-deadly kidney cancer called Wilm's tumor.

While the record keeps improving year by year, inroads are also beginning to be made against some adult leukemias, malignant lymphomas other than Hodgkin's disease, skin cancers, and with promising early results in cancers of the lung and breast.

The first faint hope that drugs might have use against cancer came in World War II. Dr. Charles B. Huggins of the University of

Chicago, using the female sex hormone estrogen, slowed the growth of prostatic cancer in men, for which he won a Nobel Prize.

Late in the 1940s, Dr. Sidney Farber of Children's Cancer Research Foundation in Boston obtained temporary remissions in leukemia. He used aminopterin and methotrexate—drugs that act against folic acid, a B-complex vitamin needed by fast-growing malignant cells. Later, he found that actinomycin D, an antibiotic, when used with surgery and radiation, could cure most children with Wilm's tumor of the kidney.

Encouraged by these findings, researchers began to synthesize other agents. One was put together after it was discovered that some animal cancers needed a chemical, uracil, to grow. A substance called 5-FU was designed to resemble uracil and to fool cancer cells into taking it up instead. And when taken up, it proved poisonous to malignant cells. At Roswell Park Memorial Institute in Buffalo, Dr. Edmund Klein applied 5-FU to patients with extensive skin cancers. In 95 percent of them, it produced permanent remission and left no visible scars.*

Investigators also began to wonder about the use of more than just one drug for a particular cancer. Might they not, used sequentially or simultaneously, be even more toxic to cancer cells, and effective against cancers that developed resistance to a single drug? It turned out the answer was yes. For example used alone in women with cancer of the placenta that had spread beyond the uterus, the drug methotrexate was saving 50 percent. But when it was used sequentially with actinomycin D, the cure rate for all women with similarly advanced cancer went to 70 perecnt or better. At Roswell Park, Dr. James F. Holland, with an international study group trying various drugs at the same time, reports a 27-percent five-year survival rate in children with acute lymphocytic leukemia who started treatment in 1966; and, with a new combination of drugs started in 1971, the estimated two-year survival rate is better than 80 percent.

Researchers also have learned how they can give far more powerful doses of drugs. One way:

Some anti-cancer drugs affect the bone marrow and interfere with its production of certain blood components, white cells and platelets, that destroy infection and maintain clotting. But perhaps those components could be supplied? Today, with highly developed techniques, white cells and platelets can be separated from donor blood. One hundred billion white cells can be obtained from a single donor—enough to support three patients until their own bone-marrow production picks up again after chemotherapy.

A second "supportive therapy" technique permits giving massive doses of drugs even to victims of lung cancer. First, a "pulse" of methotrexate, an extremely large dose, is given to the patient: the idea is to get a huge concentration to the cancer that has not responded to smaller conventional doses. Quickly thereafter, a "rescue" agent called citrovorum factor is administered before the methotrexate can have overwhelmingly poisonous effects on normal cells. The citrovorum factor not only acts as an antidote; it may provide more protection for normal cells than for cancer cells against methotrexate's toxicity. The treatment is repeated at intervals of about three weeks. When necessary, white-cell and platelet transfusions are given for support. Dr. Isaac Djerassi of Mercy Catholic Medical Center in Darby, Pa., has reported that, treated this way for as long as ten months, patients with advanced lung cancers so far continue to show regression of their cancers without evidence of any new spread.

Aggressive use of drugs to hit any cancer cells remaining after radiation or surgery is also promising. Dr. Richard G. Cooper of the State University of New York at Buffalo has used a five-drug combination for six to nine months, in women where breast-cancer surgery revealed four or more positive nodes. And over a five-year period, the recurrence rate has been only one fourth the usual 85 percent expected. The same drug combination, administered for 2½ years in 150 women with disseminated breast cancer, has increased disease-free survival time in 80 percent of the case.

Many of chemotherapy's most impressive achievements have been against the leukemias and other childhood cancers. Why? These are rapid-growing, with a large proportion of their cells reproducing, dividing, at any one time—and it is at this point that most anti-cancer drugs have their greatest effect. But many adult cancers (of lung, breast and colon, for example) also have an early, fast-growing stage. So, earlier detection, and early, aggressive use of chemotherapy, may bring dramatic results, authorities believe.

Currently, 42 drugs are in use to curb or cure various cancers. Drug hunting on a scientific basis has been going on at the National Cancer Institute only since 1965. Last year, the institute spent $100 million on developing and testing such drugs, and additional work is going on in other institutes, and in universities and industry. Some 15,000 to 30,000 new chemical and natural products are being screened yearly. The best of these are then studied clinically by a national network of 500 physicians working in groups. The effort is international; recently, for instance, the United States and the Soviet Union joined forces in the chemotherapeutic attack on cancer.

A most urgent need right now is for a change of attitudes about cancer. It is curable now in many cases, and patients and doctors—particularly doctors—should stop thinking it is hopeless.

Dr. A. Hamblin Letton, past president of the American Cancer Society, says: "It used to be estimated that, under ideal conditions—with early detection and the best treatment—about half of all those who get cancer could be cured. But that figure is outdated. Today the potential cure rate might well be better than two thirds."

TEAMSTERS PENSION FUND AND ORGANIZED CRIME

HON. SAM STEIGER

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. STEIGER of Arizona. Mr. Speaker, I include in the CONGRESSIONAL RECORD another of a series of articles written by Mr. Jim Drinkhall. The article is entitled "The Corruption in the Central States Pension Fund" and appeared in the October 1972 issue of the magazine Overdrive.

The article follows:

A STUDY OF THE CONTINUING ALLIANCE OF ORGANIZED CRIME, BUSINESS AND POLITICS

(By Jim Drinkhall)

In 1968, the Justice Department's Organized Crime Strike Force set up an office in Los Angeles. The Strike Force, a specialized unit composed of experts from other federal agencies has as its sole purpose the investigation and prosecution of organized crime figures.

The first man they arrested was Andrew Lococo, who they believed was the top gambling layoff man on the west coast, and an important figure in the structure of organized crime. Local law enforcement agencies had received similiar information, but lacked the necessary resources or jurisdiction to take action against him.

Today, four years later, with countless hours expended and hundreds of thosuands of dollars spent by the Strike Force, Andrew Lococo has spent two months in jail, while the organized crime structure he has been associated with has been barely disrupted. The reasons for this will become evident as the story unfolds. And it is typical of what is happening all over the country. In this specific instance, the Central States Pension Fund has been responsible for part of it.

Fifty-four-year-old Andrew Lococo was arrested several times while a teenager in Milwaukee, not a particularly damning indictment of one's character when one considers what the '30's were like. A number of Lococo's pals at the time were to later become top figures in Milwaukee's Mafia—pals he would be in touch with later.

As an adult, Lococo didn't miss a beat. By the time he was 22, he had been convicted of burglary, violation of probation, two counts of larceny, and ended up spending six months in jail.

Youthful indiscretion or wildness, some might say. But Lococo's later career didn't reflect it.

Shortly after being released from jail in Milwaukee, Lococo came to California in 1943.

Almost immediately, he was licensed to manage the Casa Blanca bar in Oceanside, California, and a liquor store called The Jug. Despite Lococo's felony convictions, he was quickly licensed by William Bonelli, head of the State Board of Equalization. Bonelli later fled to Mexico when the extent of his corrupt activities became known.

Lococo's partner in The Jug at the time was Leo Vitello, identified by the Justice Department as an associate of Mafia figures. Other information was received that a well-known San Diego racketeer, Tony Mirabile, had a concealed interest in The Jug. In 1958, Mirabile was murdered, and Nick Licata took over his interests, later becoming head of the Mafia in Southern California until his recent retirement. Very recently, though, Lococo has been seen in the company of Licata, who lives in Torrance, the city next to Hawthorne.

Until 1948, the record of Lococo's activities are obscure. But in that year he purchased an interest in the Cockatoo Cafe, a dingy place owned by three men, including a retired Los Angeles Police detective. The reputation the restaurant had at the time was that it was a bookie joint. Within a short time, Lococo became the sole owner of the Cockatoo.

Whether gambling continued at the Cockatoo after Lococo took it over can't be said for certain. What can be said, though, is that in September, 1949, the Los Angeles Sheriff's office swept down on the Cockatoo as part of a coordinated countrywide gambling raid. Lococo was arrested on a gambling charge, but it was later dropped.

Perhaps Mr. Lococo foresaw what the future might bring if the Los Angeles County Sheriff's office continued as the law enforcement agency in whose jurisdiction the Cockatoo lay. At any rate, it was a short time after this that the city of Hawthorne annexed the property where the Cockatoo stood. Now the Hawthorne Police Department was responsible for any criminal activities which might occur.

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* To emphasize the successes in this whole area, the Albert Lasker Medical Research Awards—one of medicine's highest honors, ordinarily given to one basic and one clinical scientist—last year went to 16 different doctors and scientists who have made significant achievements in clinical cancer chemotherapy.

And being within the confines of Hawthorne in those days no doubt had certain benefits: the then-chief of police in Hawthorne was Jack Baumgardner, who at the same time also owned a lucrative slice of a gambling casino in nearby Gardena. When Baumgardner's gambling interests became too widely known in 1950, he was fired. According to his critics at the time, Baumgardner also had a habit of issuing gun permits to individuals all over the state. Another of his qualities was the friends he kept. One was a Municipal Court Judge who was presented evidence for a warrant against Nick Lococo (Andy's brother) on a bookmaking charge. The judge refused to issue the warrant, claiming there was insufficient evidence. The Sheriff's officer went to another judge, obtained the warrant and arrested Nick. The result was that Nick pleaded guilty and received a suspended jail sentence and 3 years probation.

This type of activity in southern California was more the rule than the exception. Gambling especially was so widespread, and law enforcement either so corrupted or ill-equipped to handle it, that it was almost a wide-open operation. And during all this the Cockatoo prospered. It did suffer a fire at one time, but this merely allowed Mr. Lococo to rebuild it more lavishly and to increase its size.

Throughout the '50's, the Cockatoo grew, as did Lococo's fortune. But not everyone would attribute all his income to the restaurant business. Persistent rumors abounded concerning Lococo's financial involvement with various Hawthorne city officials. Twenty years later, these officeholders were known to be frequent patrons of the Cockatoo, and city business was actually conducted there by them. One recent Hawthorne mayor, Greg Page, admits that city business was often conducted at the Cockatoo. Although Lococo's friendship with city officials was well-known, and some felt that this association was not quite proper, the full extent of Lococo's activities did not begin to surface until 1958.

In January, 1958, the Cockatoo was completely destroyed by another fire. Later, the District Attorney of Los Angeles County was to charge that arson investigators at the time discovered a secret room on the premises which was furnished with gambling tables. In addition, he said, wires led from that room through the sprinkling system to various booths in the dining area. Political figures often dined at the Cockatoo, the District Attorney said, and "information from private conversations of politicians can easily be used in corrupting them."

To rebuild the Cockatoo Inn, plus add a hotel complex Lococo borrowed over $200,000 from Hawthorne Savings & Loan. One of the directors happened to be Glenn Anderson, an ex-Lt. Governor of California, and currently a U.S. Congressman. With regard to Anderson, the story has been repeated many times that Lococo once bragged: "When I tell Glenn to jump, he better jump. I put him where he is."

Lococo was subpoenaed to appear before the Rackets Committee of the California State Assembly in November, 1958. A few months later, he appeared before a federal grand jury investigating organized crime.

It was following these incidents that Lococo came under intensive investigation and surveillance by local, state and federal law enforcement agencies. Frequent allegations were made concerning gambling and prostitution at the Cockatoo, but no arrests were ever made there. No arrests have been made, said one federal investigator, because the police agency which would do so is the Hawthorne Police Department, and they have learned that Lococo and the Cockatoo are off limits. Law enforcement agencies have maintained that Lococo is a major gambling figure in organized crime in the Los Angeles area, and they have always attempted to monitor his activities. Lococo is organized crime's major link, they said, between gambling in Los Angeles and Milwaukee. Strong evidence confirming these allegations has recently been uncovered by Overdrive while investigating Lococo's loan from the Central States Pension Fund.

Anytime mention has been made about Lococo's Pension Fund loan, it has been that the amount involved was between $500,000 and $1,000,000, and was used for the expansion of the Cockatoo Hotel. The results of Overdrive's investigation indicate that this is not quite the case. What has been discovered is that Lococo has borrowed $2,500,000 from the Fund, and that all or part of it may have gone to build a tuna fishing boat. And not just any tuna fishing boat; but rather the world's largest tuna fishing boat.

As far as can be determined, Andrew Lococo has only been known to have extensive experience with restaurant operations and gambling. It is not known when he took an interest in tuna fishing, but 1968 might be a close starting point. Records obtained recently show that calls were made to Rados Western Corporation and the National Marine Fisheries Services, a branch of the Department of Interior during that year (it would be learned later that Rados was the designer of Lococo's tuna boat).

An official of the Marine Fisheries Services admitted that Lococo had applied for a government-guaranteed loan to build the boat. When Lococo first came in to present his idea, he was brought in and introduced by O. Robert Fordiani, the field representative of U.S. Congressman Charles H. Wilson. The official recalls that Fordiani said Congressman Wilson was interested in Mr. Lococo and his project.

Lococo's application for the guaranteed loan apparently was proceeding as such items should until about the middle of 1969. At that time, the Interior Department declined to authorize it because, some say, the Department of Justice advised them of the background and activities of Lococo.

But by the end of 1969, Lococo had received a loan of $2,250,000 from the Central States Pension Fund, and within a year would receive an additional $250,000, according to records of the Fund itself. Exactly how Lococo obtained that money from the Fund isn't known, but another incident involving the Fund at almost the same time gives a good indication.

One of the Trustees of the Fund was Milwaukee Teamsters official Frank H. Ranney. A close associate of Ranney is Frank Balistrieri, identified as the head of the Mafia in Milwaukee, and who recently served a prison term for income tax evasion.

In September, 1968, Joseph Balistrieri (Frank's son) attempted to borrow $125,000 from a Milwaukee bank, but the loan was turned down. Frank Ranney then told the bank that if they made the loan to Frank, through Joseph, "a large deposit" of Pension Fund money would be available to the bank.

On September 10, 1968, a deposit of $500,000 cash from the Central States Pension Fund was made in the bank. On the same day, the bank made a loan of $125,000 to Joseph Balistrieri. Two weeks later, the bank approved an additional loan of $63,000 to Joseph.

If in fact the $2,500,000 which Lococo borrowed from the Fund went to the tuna boat, it would be interesting to know where the balance of the money came from. The total cost of the boat—named the Margaret L—was $3,800,000, OVERDRIVE has learned. Its cost is reflected in some of its specifications: 262 feet long, a crew of 18, cargo capacity of 2,000 tons, and a range which can take it anywhere in the world. Actual construction began in September, 1971, at Peterson Builders, Sturgeon Bay, Wisconsin, and it is due to begin operation on the high seas this November. Its home port will be Puerto Rico.

Earlier this year, a check for $375,000, payable to Marge L, Inc., was drawn on the account of Van Camp Sea Foods, a division of Ralston Purina (it has been learned that Lococo's boat will fish exclusively for Van Camp). This check has been endorsed by Andrew Lococo, but the final resting place of the money has not been established conclusively. The existence of a company called "Marge L, Inc." has not yet been determined either, although the records of several states have been scrutinized. Another source states that Joseph Balistrieri has a financial stake in the Margaret L, but this allegation is still being checked out. Officials at Van Camp refuse to even discuss the existence of the $375,000 check, or why it was issued.

If Lococo thought he was having difficulties in obtaining money for his tuna boat venture in 1968, it was next to nothing compared to what started that same year. A grand jury investigating the fixing of horse races called Lococo to testify. Later, on the basis of his testimony, he was indicted by a federal grand jury on four counts of perjury.

The charges were based upon Lococo's denial under oath that he had various contacts with two Milwaukee men who have been identified as members of the Mafia. Three of the counts said that Lococo met with Ray Mirr, loaned him money and phoned him. Ray Mirr is a convicted Milwaukee bookmaker. The fourth charge was based upon Lococo's denial that he had ever called Frank L. Sansone more than 3 times in a year. Sansone has been convicted on charges involving prostitution and gambling.

When the trial before Federal Judge A. Andrew Hauk in Los Angeles was concluded, Lococo stood convicted on one charge: that he hadn't called Ray Mirr within the one year period in question. Evidence produced by the Justice Department showed, in fact, that Mirr had been called from Lococo's phones at least 92 times. Judge Hauk acquitted Lococo on the other charges, including the one in which it was claimed Lococo called Sansone more than 3 times. The government had shown that 117 calls to Sansone were made from the office phone of the Cockatoo and Lococo home. Hauk, nevertheless, acquitted Lococo.

Although it was claimed by Lococo and other witnesses that these calls were actually concerned with "football talk" or "small talk," the government's contention, supported by arrests and information over the years, was that the purpose of the calls was the exchange of "point spreads" so that the gamblers at either end would be able to make profitable book. Added to this is the fact that other calls from Lococo's home and the Cockatoo were to known Milwaukee bookmakers Tom and Tony Machi (who are currently under federal indictment), and Steve De Salvo, who has been seen at the Cockatoo. A convicted bookmaker in the Los Angeles area who was called a number of times was Dominick De Falco, whose most recent activity was that he was forced to appear before a grand jury in Milwaukee which was investigating bookmaking. De Falco has appeared before five other grand juries in different parts of the country during the last several years.

Another person subpoenaed to appear before this same Milwaukee grand jury this past May was Andrew Lococo himself. At first, Lococo refused to testify, but then was granted immunity. This meant that he could testify without fear of indictment, but if he still refused to answer the questions, he could be sent to jail. The questions and Lococo's answers—all related to Milwaukee gambling and its ties to organized crime—have not yet been made public.

Lococo's sentence on his perjury conviction could have been five years, the maximum under the law. Some individuals close to the trial commented that it would be a fair sentence, based upon his previous record. But Judge Hauk, commenting that Lococo was "such a respected businessman," sentenced him to six months, with the suggestion that he be allowed to serve his time on weekends. Almost immediately, Lococo's attorney filed an appeal.

Just prior to Lococo's appeal to the United States Supreme Court being denied, Judge Hauk suddenly reduced the sentence from six months to three months. On June 14 of this year, Lococo began serving his time at the minimum-security federal prison at Terminal Island, just outside of Los Angeles.

On July 31, Lococo and his lawyer appeared again before Judge Hauk, urging that the sentence be reduced further. The judge was presented with two arguments in this regard. The first was that there was a problem with the size of the propeller on the tuna boat, and Lococo should be set free to settle the matter. Secondly, Lococo had arranged for "high-class" entertainment for the prisoners at Terminal Island (and authorities refuse to identify the performers). Judge Hauk apparently agreed with this reasoning because he reduced Lococo's sentence to two months. The only additional stipulation he made was that Lococo assist prison authorities should they want high-class entertainment in the future. But prison authorities state they will never make such a request. Andrew Lococo left Terminal Island on August 11, eight days in advance of the launching of the Margaret L.

It would not be unreasonable to suggest that the course of justice in this case was at least "different" from what one might expect. The arguments advanced for the reduction of Lococo's sentence do not appear particularly weighty. The length of the sentence is also interesting in light of others handed down in the same court. In every perjury conviction in the two years previous to Lococo's, the average sentence was two and a half years. One could speculate on why Judge Hauk gave such a light sentence originally, and then why it was reduced to practically no sentence at all. The best source for the answers to these questions, of course, is Judge Hauk. But Judge Hauk refuses to discuss the case.

In October, 1970, six months after Lococo was convicted of the perjury charge, he was again arrested by federal authorities. This time it was on four counts involving Lococo, now a felon, having firearms. Seized at the time were these guns belonging to him: 3 rifles, 3 revolvers and 2 shotguns. In January, 1971, he was convicted on two counts, but because of a technicality an agreement was made between the government and his lawyer to dismiss all charges, but to refile two of them.

The two charges were refiled, but in July of this year, the government dismissed them. Their announced reasoning was that another technicality would prevent them from obtaining a sentence (assuming they convicted him) of more than two months. The time, money and effort, they said, would not justify it.

Even since Lococo's perjury conviction, nothing seems to have changed in Hawthorne. In 1971, a small local newspaper, the *South Bay Daily Breeze,* uncovered evidence that Milwaukee police officers were coming to Los Angeles to pick up prisoners for return to Milwaukee. Although the District Attorney in Milwaukee said that such trips should not take more than a couple of days, the officers were taking five or six. And most interesting of all, they stayed at the Cockatoo. One story detailed how a prisoner was picked up from Los Angeles County Jail in the Cockatoo station wagon, taken back to the Cockatoo, and given a meal and a couple of beers before being taken to the Hawthorne jail. One prisoner stated that the Milwaukee officer said this wasn't his first trip to the Cockatoo, and while there, he was treated to a few days at nearby Hollywood Race Track, as well as a party.

Milwaukee police officers regularly stayed at the Cockatoo, even though the Justice Department has said that the Cockatoo has "frequently been a rendezvous for many known bookmakers and racketeers, both from the Los Angeles area and throughout the nation."

Even though Lococo's criminal background and close association with organized crime for 30 years has been known, his alliance with influential politicians has not been weakened. His relationship with U.S. Congressman Charles H. Wilson is typical.

Congressman Wilson admits to a 15-year personal friendship with Lococo, but states that "I've never interceded on Lococo's behalf on anything." That statement misses the truth by some margin when it is recalled that Wilson intervened with the court on Lococo's behalf prior to his sentencing. And it also ignores the fact that Wilson and one of his staff members assisted Lococo in his attempt to obtain a federal loan guarantee for his tuna boat venture. It is also known that Lococo has picked up the check for a number of Wilson's dinners at the Cockatoo. Even now, Wilson's field representative, O. Robert Fordiani, spends a considerable amount of time at the Cockatoo, mostly at night.

Wilson insists that he knows nothing detrimental about Lococo's character, and with reference to whether he is connected with the Mafia, states: "I don't know to what extent the Mafia exists." Lococo's arrests, he says, are harassment. OVERDRIVE recently learned that Congressman Wilson received a $5,000 loan on May 30 "for campaign funds." Wilson, though, refused to disclose who made the loan. Because of his close association with Lococo, one is tempted to suggest that he is the source. But as of now, no proof is available to confirm that.

While Lococo has gone through these recent legal difficulties, including a felony conviction, his influence, activities and position have not diminished. According to the rules of the State's Alcoholic Beverage Control Board, for example, the liquor license of the Cockatoo could be pulled. This hasn't happened, and the ABC will only say that an investigation is pending.

It would seem that so long as there exists a mutually-beneficial relationship between Lococo and those in positions of political influence, business will be conducted as usual. And organized crime will continue to flourish and grow.

ECONOMIC PROBLEMS OF WOMEN

HON. MARTHA W. GRIFFITHS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mrs. GRIFFITHS. Mr. Speaker, the Joint Economic Committee is continuing this week hearings on economic problems of women. Women, who are often called secondary workers, have secondary rights. We expect to gather during these hearings factual evidence and expert opinions necessary to formulation of a comprehensive economic policy that includes women as first-class citizens. The committee has previously examined the discrimination women face in employment, credit and insurance. It is a little recognized fact that most women work because of economic need and not to satisfy their own whims. Two-thirds of all women in the labor force are either single, divorced, widowed, separated or have husbands who earn less than $7,000 a year. These women by necessity have a strong attachment to the labor force. Yet how are these facts treated by the business and political worlds. Women are forced to accept low-paying, low-status jobs. Women are considered poor risks by lending institutions and credit companies even though there is no statistical evidence that they are less creditworthy than men. Women are often unable to obtain the same types of insurance as men, and must pay higher rates for may kinds of insurance.

Mr. Speaker. I would like to briefly summarize for my colleagues the testimony which the committee received on July 10, 11, 12. We have resumed the hearings again this week, with a discussion of social security, Federal tax programs, and Federal transfer programs and how these affect women.

ECONOMICS OF SEX DISCRIMINATION IN EMPLOYMENT

Two noted economists emphasized in their testimony the unequal pay received by women, their occupational segregation, and the loss to our entire economy of sex discrimination in employment. Dr. Barbara Bergmann stressed that—

> The relative economic position of working women has been worsening and is going to worsen further, unless a program which gets to the heart of their problems is created and vigorously enforced . . . the major reality behind the inferior and worsening relative position of women in the labor market is the persistence of employers' notions about which kinds of jobs are "women's work" and which kinds of jobs are "men's work" . . . Overcrowding in the few "women's" occupations translates into lower wages and higher unemployment rates for women.

Dr. Bergmann suggested that the staff resources of agencies charged with enforcing antidiscrimination laws be greatly expanded, so that women will have equal access to all occupations.

Dr. Paul Samuelson argued that—

> By reason of custom, law, discrimination, and motivations, women who are capable of holding jobs across the full spectrum of American economic life are in fact confined to a limited group of industries and occupations within those industries. And the ghettos into which women tend to be restricted are not the executive suites at the top of corporate enterprise, the prestigious professions, and the highest paid jobs generally. The typical woman is lucky if she earns 60 percent of the typical man worker—even though tests show that her I.Q., diligence, and dexterity cannot account for the difference in pay and status.

Furthermore, Dr. Samuelson suggested that—

> If because of the dead hand of custom and discrimination, half of our population have a quarter of their productive potential unrealized, then a gain of between 10 and 15 percent of living standards is obtainable by ending these limitations and discriminations.

Both Dr. Samuelson and Dr. Bergmann argued that women's groups must continue to put pressure on employers and on the Federal Government to grant all women equal pay and equal jobs.

PUBLIC POLICY TO END SEX DISCRIMINATION IN EMPLOYMENT

The committee ascertained, through testimony of Government witnesses, that enforcement of antidiscrimination laws has lagged miserably. The Equal Employment Opportunity Commission has filed only 122 suits since it received the power to do so more than a year ago. EEOC presently has a backlog of 65,000 cases and expects the backlog to rise to 90,000 by next year. The Labor Department has found over $68 million due in back wages to women employees under the Equal Pay Act, yet it has only recovered 48 percent of these wages. The Office of Federal Contract Compliance, also within the Labor Department, is charged with enforcing the Executive Order 11246 which prohibits sex discrimination by Federal contractors. The OFCC has a potentially powerful tool at its disposal—it can terminate or delay Federal contracts if contractors discriminate on the basis of sex. Yet it has not once terminated a Federal contract.

Aileen Hernandez, former EEOC Commissioner, recommended that the EEOC's powers be strengthened by permitting the Commission to initiate pattern and practice suits in the courts against discriminating employers or unions and by permitting full public access to affirmative action plans. She also suggested an increase in EEOC's and the Labor Department's resources to fight employment discrimination; increased funds for job training programs; legislation creating high quality child development centers; and a new definition of national priorities which directs resources to a full employment peacetime economy.

Elizabeth Koontz, former Director of the Women's Bureau, suggested that while many problems experienced by women could be corrected by changes in attitude, that statutory requirements could effect changes more quickly. She made the following recommendations to the committee:

> Require that Federal agencies in collecting economic data about persons, collect, tabulate, and publish results by sex and race, and by marital status where relevant; provide adequate appropriations for those agencies enforcing nondiscrimination requirements and for those promoting equal opportunity; require the military services to accept women under the same age and educational requirements as men and to expand their training facilities so that women could be enlisted immediately; and prohibit discrimination because of sex in all manpower training programs administered or funded by the Federal Government.

The Federal Government's failure to adequately enforce Executive Order 11246 was emphasized by Bernice Sandler, director of the project on the status and education of women, at the Association of American Colleges. Mrs. Sandler documented the mediocre performance of HEW in enforcing the Executive order against universities.

She said that—

> HEW has been criticized both by educational institutions and by women's groups for its lack of attention to the problem, its inefficiency and inconsistency. For example, although the sex discrimination provisions of the Executive Order went into effect in October 1968, HEW did not officially notify educational institutions of their responsibility until October 1972, a lapse of 4 years.

According to Mrs. Sandler, over 500 educational institutions have been charged with a pattern and practice of sex discrimination, yet not one of these class complaints has been resolved. She suggested in conclusion that—

> If women and minorities, including minority women are ever to achieve equity in employment, a strong Federal civil rights enforcement effort is essential. It is clear that there currently is a gap between Federal policy and Federal practice.

DISCRIMINATION IN THE CREDIT INDUSTRY AND INSURANCE

Based on their sex alone, women have found that they must pay higher insurance premiums for limited coverage and benefits. Pennsylvania's Insurance Commissioner, Herbert S. Denenberg, testified that:

> Denial of equal access to insurance, at fair rates, affects the economic status of all women. It touches employment discrimination, opportunities to hold a job, ability to maintain a family in the face of personal castastrophe, and economic security. Other economic disadvantages of women can be magnified by discriminatory, inadequate, or prohibitively costly insurance. Alternatively, insurance protection that serves women's needs can alleviate many economic burdens.

For example, with disability insurance, women often find inadequate coverage for pregnancies; divorced women applying for automobile insurance are automatically assigned to the "higher risk" categories. Denenberg suggested that State insurance regulators revise the underwriting manual and training guides of insurance companies for their sexist content; those companies which have different benefits or underwriting rules for men and women should not have their policies approved.

Employment patterns within the industry must be changed to include women not only in the sales departments but also in top management positions.

Commissioner Denenberg proposed a "Women's Insurance Bill of Rights" which outlines minimum rights female policyholders must be granted.

Barbara Shack, assistant director of the New York Civil Liberties Union testified that—

> State insurance departments have been negligently lax in insuring fair treatment for women and are usually handicapped by the lack of legislative authority.
>
> Federal legislation could readily succeed where private practice and state regulations have failed to guarantee women equal protection from insurance.
>
> This legislation should prohibit the sale of any insurance policy, or the establishment of any insurance plan that excludes sex-related disabilities and medical care, or offers unequal terms and conditions of coverage based on sex.
>
> Further, this legislation should prohibit sex based risk classifications for establishing insurance premium rates.

Women suffer no less with regard to credit practices. Jane R. Chapman, and Margaret Gates, codirectors of the Center for Women Policy Studies, observed that creditors require women, but not men, to reapply for credit upon marriage yet they will not extend credit to married women in their own names.

Ms. Gates and Ms. Chapman conclude that—

> More women must be convinced of the importance of establishing a credit record and maintaining it throughout life as a necessary step toward becoming an independent economic entity. When they realize this necessity, they should be urged to bring pressure upon lenders and businesses at the local level. Written complaints to the offending businesses are important because they let the creditor know the specific practices which are offensive and why.

Stephen Rhode, a staff member for the Center of National Policy Review, spoke of credit discrimination in the mortgage finance industry:

> Women face obstacles in obtaining mortgage credit whether they apply individually for a loan or jointly with their husbands. Neither type of discrimination can be justified on economic grounds.

Oftentimes a wife's salary is not counted in full when the mortgage request is considered; investigating the birth control practices of the wife is not at all unusual.

Mr. Rhode advocated stronger action on the part of Federal agencies:

> By promulgating strong regulations and guidelines against discriminatory treatment of women, by requiring the keeping of appropriate records, by sending in teams of examiners to check on compliance, and by demonstrating a willingness to impose sanctions such as cease and desist orders, the financial regulatory agencies could take decisive action to root out sex discrimination in the banking and savings and loan industries. So far such action has not been forthcoming.

FOOD STAMP PROGRAM

HON. ROBERT O. TIERNAN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. TIERNAN. Mr. Speaker, the Agriculture and Consumer Protection Act has a terrible shortcoming in one important aspect, it will deny food stamps to anyone who is eligible for supplemental security income under title XVI of the Social Security Act.

Mr. CONABLE's amendment to the amendment offered by Mr. FOLEY will deny many aged, blind and disabled a chance to fulfill their special nutritional needs. This bill assures millions of dollars in subsidies to the agricultural sector of our economy, it is terrible that the same bill will not put food on the table of those who need it most.

With food prices soaring, the impact of inflation is felt most by the segment of our population that must live on a fixed income. Denying food stamps to the aged, blind and disabled because they are receiving fixed SSI payments will have a detrimental effect on their nutritional habits.

The food stamp program has been successful in supplying nourishment to the needy, not extending this program to those who are so desperately in need of it is irresponsible legislation.

I urge the conferees to expand the food stamp program to include the aged, blind and disabled that are presently receiving supplemental security income.

THE HEROISM OF FATHER KOLBE

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. ROSTENKOWSKI. Mr. Speaker, in this month's edition of Reader's Digest, there appeared an article which is a fitting tribute to a courageous Catholic priest. Father Kolbe, a heroic figure of World War II, led a most admirable life, however, few of our citizens are aware of the brave deeds and the sacrifices he made on behalf of his fellow man. The story of Father Kolbe has always been an inspiration to me, and for this reason I submit it for the Record today:

The Heroism of Father Kolbe—In Choosing Death, He Ennobled Life

(By Lawrence Elliott)

Toward the end of a stifling hot day in July 1941, a prisoner slipped away from a labor detail at Auschwitz, the Nazi concentration camp in southern Poland, and disappeared. When his absence was discovered at evening roll call, search parties set out after him. If the fugitive was not found in 24 hours, the camp commander announced, ten of the 600 men of his cellblock, selected at random, would be put to death in reprisal.

Death was no stranger at Auschwitz. But for the desolate men crammed together in the fetid, filthy rooms of Block 14, anticipation of the gruesome lottery was a particular torture. As the long night wore on, none could be blamed for secretly hoping that the fugitive would be caught.

But he was *not* caught. He was never heard from again, and passes into history—having set the stage for what, 30 years later, Pope Paul VI described as "probably the brightest and most glittering figure" to emerge from "the inhuman degradation and unthinkable cruelty of the Nazi epoch."

No one slept in Block 14 that night. Each man faced his own agony of soul. Dignity, home, freedom, family—all had been lost; now life, too, was in the balance. As one prisoner, former Polish soldier Francis Gajowniczek, recalls, "At least if you were alive you could hope." For Gajowniczek, hope was especially real. He believed that his wife and two sons were alive. If only he could survive this purgatory, he would find them, and together they would rebuild their shattered lives.

On a nearby bunk lay a commercial artist, Mieczyslaw Koscielniak, who had lost hope altogether. "The lucky ones were already dead," he remembers thinking. "And the Nazis had reduced the rest of us to animals who would steal for a mere crust of bread. Except for the priest."

Even then, Koscielniak knew that the priest was different. Often sick, feebler than many of the others, still the priest seemed always to have a morsel of food to share. If he could stand, he would work; if another faltered, he would share his load. He heard confessions in secret, and even during that endless night Koscielniak remembers seeing the priest kneeling by the bed of a sobbing youth, telling him that "death is nothing to be afraid of."

By the time the prisoners lined up for morning roll call, the sun was burning down relentlessly. The other cellblocks were soon marched off to work assignments, but the men of Block 14 remained standing in the quadrangle. They stood all that day, ten ranks of living skeletons. Some who fainted were kicked and beaten until they stumbled to their feet; those who could not rise were simply piled in a heap.

At 6 p.m., the camp commander, Colonel Fritsch, announced that the fugitive had not been found. He would now choose the ten who must die; they would be taken to the death bunker in Block 13 and left to starve.

The selection took only a few minutes, but for the waiting men it was an eternity. Boots grinding on the baked ground, Fritsch moved up one rank and down the next. Ten times he stopped, pointed and spoke a single word into the harrowing silence: "You!" Each time, guards shoved the condemned man up front. Some of the ten wept. One, the soldier Gajowniczek, cried out, "My wife, my children!"

As the guards prepared to march the doomed men off, there was a sudden stir in the formation. An eleventh man was coming forward—the priest. "What does that Polish pig think he's doing?" Fritsch shouted. But the priest kept coming, unsteady, face white as death, ignoring the raised weapons of the guards. Finally, he spoke: "May it please the *Lagerfuhrer*, I want to take the place of one of these prisoners." He pointed to Gajowniczek "That one."

Fritsch glared at the emaciated apparition before him. "Are you crazy?" the German snapped.

"No," the priest replied. "But I am alone in the world. That man has a family to live for. Please?"

"What are you? What's your job?"

"I am a Catholic priest."

The watching men stirred nervously. Koscielniak recalls thinking: "Fritsch will take both him *and* Gajowniczek." And what did Fritsch think, staring at the serene eyes in that wasted face? Did he realize in that transcendent moment that he was in the presence of a force stronger than his own? Those who remember say that his gaze faltered. "Accepted," he muttered, and turned away.

The men of Block 14 were stunned. "We couldn't understand it," says Koscielniak today. "Why would a man do such a thing? Who was he anyway, that priest?"

He was Maximillian Maria Kolbe, a Franciscan friar, and in time Koscielniak—and the others who survived—would understand that they had witnessed the making of a saint.

Raymond Kolbe—he took the name Maximilian when he entered the Franciscan order—was born in a poor Polish village in 1894, and by age 13 had already decided to be a priest. At ten, he had told his mother of a mystical experience in which the Virgin Mary had offered him a choice of two crowns—the white signifying purity; the red, martyrdom. "I choose both," the boy had said.

He contracted tuberculosis as a youth, and was never thereafter wholly free of illness. But "he was a most gifted youth," said one of his professors at the Gregorian University in Rome. At 21 he had a doctorate in philosophy. A year after his ordination, he earned another, in theology. He might have made a brilliant career in the church hierarchy.

But his calling lay elsewhere. In 1917, he had organized in Rome the Militia of Mary Immaculate, a crusade to win back a world profaned by war and self-indulgence. Returning to Poland, and working alone in the face of his superiors' surprise and perplexity, he began publishing a monthly magazine, *Knight of the Immaculate*, to spread the gospel of God's love. When circulation hit 60,000, Father Kolbe was forced to look for quarters to accommodate the growing magazine and the Franciscan brothers who kept arriving to help him.

In 1927, he emplaced a statue of the Virgin Mary in a field about 25 miles from Warsaw—the start of what was to become the world's largest monastery, Niepokalanów, built by Kolbe and his friers and flourishing to this day. By 1939, there were more than 750 friars at Niepokalanów, and they were turning out up to a million copies of the *Knight* each month. But 1939 was also the year that Hitler began World War II with a devastating attack on Poland.

Strongly opposed to the Nazis, Father Kolbe was arrested even before Warsaw fell. And though he was released soon after, he knew the reprieve would be brief. He rushed back to a bombed and plundered Niepokalanów to establish a haven for refugees, and eventually 2000 found shelter there. He even published one last issue of his beloved magazine. "No one in the world can alter truth," he wrote then. "All we can do is seek it and live it."

On February 17, 1941, the Nazis came for him again. This time, suspected of being an enemy of the Third Reich, Father Kolbe was sent first to a Warsaw jail and then to Auschwitz. He arrived in a cattle car packed with 320 others, to be greeted by backbreaking labor, meager rations of bread and cabbage soup, and daily dehumanization. One day, struggling under a heavy load of wood, Father Kolbe stumbled and fell, and was beaten nearly to death by a guard. He was brought back to precarious life in the camp hospital by a Polish doctor named Rudolf Diem. As he was unable to work, he got only half a ration of food, but still often gave part of that to other patients. "You are young," he would say. "You must survive."

Sick as he was, weighing less than 100 pounds, Father Kolbe could have slept on a real bed in the hospital. "But he insisted on a wooden bunk with a straw mattress," recalls Dr. Diem. "He wanted to leave the bed to someone whose lot was worse than his." Toward the end of July, feeling better, the priest was assigned to Block 14. It was only a few days later that the prisoner escaped and Father Kolbe reached out for the red crown of martyrdom.

The ten who had been chosen to die, by starvation, now lay naked on the cement floor of a dank underground cell in Block 13. Sometimes they moaned or cried out in delirium. But as long as they were conscious they responded to Father Kolbe's assurances that God had not forsaken them. While they had strength, they prayed and sang. After a few days, the guards, who had seen hundreds die but none who had faced the end with such tranquillity, refused to go near the death cell, and sent a Polish orderly to remove the bodies of those who had died.

In Block 14, the soldier Gajowniczek was at first bewildered by Father Kolbe's sacrifice. He wept and refused to eat. Then Koscielniak brought him to his senses: "Take hold of yourself! Is the priest to die for nothing?" In that moment, Gajowniczek made up his mind that he must live. He would not waste Father Kolbe's gift. For Koscielniak, too, the priest's sacrifice marked the end of despair. "One such man was reason enough to go on."

At the end of two weeks, only four men were still alive in the bunker of Block 13, and of these Father Kolbe was the last to die. It was as if he had to help each comrade through the final trial before he himself could be free. At that, the Nazis had to finish him off. They came with an injection of carbolic acid on the 15th day of his agony, August 14, the eve of the Assumption. Smiling, whispering, "Ave Maria," the priest held out his arm for the needle.

Four long years later, the horror over, Francis Gajowniczek made his way back to what had been his home in Warsaw and found it bombed to dust. Both his sons had been killed, but he found his wife safe. The two moved to a small village, and patiently began to build a new life.

Then Gajowniczek heard stunning news: word of Father Kolbe's martyrdom had reached the Vatican, and it had been proposed that he be beatified, a preliminary step to canonization as a Catholic saint. Gajowniczek was called upon by the Church to testify, as were others who had been witness to Maximilian Kolbe's selfless life and heroic death. Finally, after 24 years of painstaking investigation, the justice of the cause was affirmed.

So it was that on October 17, 1971, there gathered before the high altar of St. Peter's Basilica in Rome 8000 men and women who had journeyed from Poland for the solemn ceremony of beatification. Among them were Francis Gajowniczek and his wife, now pensioned and white-haired, as well as Koscielniak. A portrait of the Blessed Father Kolbe was unveiled, and for the first time in memory the Pope himself presided over the holy rite.

"Millions of beings were sacrificed to the pride of force and the madness of racialism," said His Holiness. "But in that darkness there glows the figure of Maximilian Kolbe. Over that immense antechamber of death there hovers his divine and imperishable word of life: redeeming love."

So Father Kolbe lives on, a symbol of the world's unknown sacrifices and unrecognized heroism. He gave the gift of life to one man, and to countless others the heart to outlast the tyranny that beset them. And to all men, of all faiths, he leaves the legacy of his unconquerable spirit.

THE GROWTH OF EXECUTIVE POWER

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. OBEY. Mr. Speaker, the Washingtin Post last Saturday contained part of a recent interview with Dr. Daniel J. Boorstin, one of the most noted American historians.

In that intervew, which centered on the growth of executive power, Dr. Boorstin indicated that Watergate resulted, at least in part, from a profligate Executive Office and from the constitutional provision limiting Presidents to two terms in office.

According to Dr. Boorstin—

> . . . the notion that it is desirable to have a president who can give his full attention to the "presidency" and not worry about re-election is quite a mistake. What we want is a president who will be thinking about the prospects of re-election and will wonder what reaction the public will have to what he's doing as president. That's what we mean by representative government.

I agree with Dr. Boorstin, and reiterate what I said on the floor a month ago: God save the country, and the Congress, from self-styled political "statesmen" who no longer feel the need to respond to the public's emotions, pressures, and concerns with which mere mortal politicians must grapple. Politicians who no longer are forced to deal with the pressures that make up public opinion will sooner or later lose their understanding of those pressures—and Presidents are no exception.

Mr. Speaker, the article mentioned above appears below:

THE GROWTH OF EXECUTIVE POWER

(By Daniel J. Boorstin)

Q. Many Americans seem to feel that Watergate is just politics as usual. Others see the series of scandals as unprecedented in American political history, profoundly different and more serious than previous misconduct. What do you think?

A. Well, if we consider the problem of democracy to be essentially that of people in power refusing to use the power in ways that are not authorized and not decent and not constitutional, I would say that what makes this different from earlier problems in our society is that today the opportunities for the misuse of power are greater. Just stop to think for a moment about some of the central implements in the Watergate scandal. The most conspicuous was the Executive Office of the President. Why there are hundreds of people who write on White House stationery. This is a new phenomenon. In fact, it's a phenomenon which has astonished, and properly astonished, some senators who asked the counsellor of the President if he ever saw the President and he said he didn't. And I think there are something like 40 persons who bear some title such as counsellor to the President or assistant to the President or something of that sort. Now this is a relatively new phenomenon: the opportunity for the President to get out of touch with the people who speak in his name . . .

Q. One of the obvious effects of Watergate has been to undermine the effectiveness of the President very early in his second term. Are there any historical precedents for this and, if so, what are the implications for the balance of power between the Congress and the President?

A. One of the things that we've witnessed which has not been sufficiently pointed out is the great advantage that the nation has at the moment in having a fixed-term election. If this had been a parliamentary system the government would have fallen, there would have been, perhaps, another party put in power and then there would have been criminal prosecutions. The problem would not have been dramatized as a political problem. The members of Congress or Parliament as it might have been, who were in the party of the President, would have been interested to minimize the episode so that it wouldn't affect their re-election. They would have to go to the people to be re-elected. It would be in their interest to minimize.

Now, in the present situation, where we see such an even-handed concern among Republicans and Democrats over this problem, this is to no small extent due to the fact that they're in there and that they are re-elected for a fixed term, especially the senators—for a senatorial term—and that when they expose the misdeeds of the leader of their party in the White House, they are not thereby requiring themselves to go to the people and stand for election. So that there's a kind of antisepsis.

The separation of powers is proving itself in some interesting ways, and I would say that one of the consequences of this, in public opinion, has been that whatever effect this may have had on the prestige of the presidency, the respect of the American people for the Congress has been increased. They can see the Congress as a vigilant Congress. The virtue of vigilance is certainly dramatized so that in a new way we have seen the wisdom—in almost an unsuspected way—the wisdom of the writers of the Constitution in separating the powers this way. . . . .

Q. Watergate, then, to you, doesn't reveal any fundamental weaknesses in the present system that require change by Constitution or by law?

A. I think the passage of the 22nd Amendment in the Constitution (limiting presidents to two terms) was a mistake. I think that the proposal for a six-year term for the president is also misguided. I think one of the points in having a representative government is to have the elected person in power always subject to the possibility of being re-elected or not being re-elected. It's just conceivable that the President might have been more vigilant if he had known that he was going to be a candidate in another election or at least might be a candidate in another election.

That was a very shortsighted and, I think, malicious constitutional amendment. It doesn't belong in the Constitution. And I think that the notion that it is desirable to have a president who can give his full attention to the "presidency" and not worry about re-election is quite a mistake. What we want is a president who will be thinking about the prospects of re-election and will wonder what reaction the public will have to what he's doing as president. That's what we mean by representative government.

Q. What do you see as the ultimate result of Watergate? Will it change our political institutions in any profound manner? Where is this episode going to lead us as a nation or as a people?

A. As a historian I am inclined to be impressed by the continuity of our institutions, and I am extremely skeptical when I read the obituaries for our nation. There has probably never been a scandal in American history which was not decried as the end of American civilization and the destruction of all public and private morality. I think this episode has probably had the effect abroad of dramatizing our concern with certain standards of public morality. And in that sense it's probably been a good thing. And it has dramatized the power of Congress. It has dramatized the integrity of our courts and it will probably have the effect of making anybody who sits in the presidential chair be more scrupulous of his use of the government—of the powers of the presidency.

In a practical way, one of the questions which should arise immediately is the question of the nature of the Executive Office of the President. I think that should be subject to investigation and scrutiny. Perhaps there should be some committee investigating that. The Executive Office of the President has expanded beyond all bounds and has tended to supersede the executive branch of the government. Some drastic reconsideration of that is in order. American citizens in general do not realize the extent of the Executive Office.

The dangers of that growth have been dramatized in Watergate, and in several ways. First, by making it possible for people to use or seem to use the authority of the President without his knowledge. And, then, by making it possible for a President to say (with some credibility) that he didn't know what was going on. That is an equally disastrous fact and one which should give us pause. The Executive Office of the President ought to be scrutinized. I cannot believe that the responsibility of the office is served by its proliferation. How many of these people and how many of these White House "positions" were simply superfluous? As I watched some of the Watergate hearings I kept asking myself what all these people—Dean and others—were doing there in the first place. Was there really an honest job there that needed doing?

MEMBERS OF THE PETERSON AND PERKINS COMMITTEES REASSEMBLED ENDORSE FOREIGN AFFAIRS COMMITTEE REFORMS FOR FOREIGN ASSISTANCE

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. ZABLOCKI. Mr. Speaker, a report has been issued today by bipartisan members of two Presidential advisory groups on foreign assistance which endorses the reforms contained in the Mutual Development and Cooperation Act, to be considered in the House.

The group was composed of members of President Johnson's General Advisory Committee on Foreign Assistance Programs which was headed by James A. Perkins, then president of Cornell University and now chairman of the International Council for Educational Development, and President Nixon's Task Force on International Development chaired by Rudolph Peterson. Mr. Peterson was then president of the Bank of America and is now director of the United Nations development program.

Members of the two groups met in Washington late in June 1973, and drafted the report issued today. It contains a unanimous endorsement of the "innovative bilateral development assistance program" which is encompassed by H.R. 9360, the Mutual Development and Cooperation Act of 1973.

Among those who participated in the meeting are the following outstanding Americans:

Bell, David E., vice president, Ford Foundation.

Black, Eugene R., American Express Co.

Case, Josephine Young.

Cooke, Terrence Cardinal.

Curtis, Thomas B., vice president and general counsel, Encyclopedia Brittanica.

Foster, Luther H., president, Tuskegee Institute.

Gookin, R. Burt, president, H. J. Heinz Co.

Gruenther, Alfred M., general, U.S. Army, retired.

Haas, Walter A., chairman and chief executive officer, Levi Strauss.

Harrar, J. George, Rockefeller Foundation.

Hesburgh, Theodore, president, University of Notre Dame.

Hewitt, William A., chairman, Deere & Co.

Hewlett, William R., president, Hewlett-Packard Co.

Linowitz, Sol. Coudert Bros.

Mason, Edward A., professor emeritus, Harvard University.

Murphy, Franklin D., Times Mirror.

Perkins, James A., chief executive officer and chairman of the board, International Council for Educational Development.

Peterson, Rudolph A., administrator, U.N. development program.

Rockefeller, David, chairman of the board, Chase Manhattan Bank.

Wood, Robert J., general, U.S. Army, retired.

Because of the pertinence of this report to the forthcoming debate on the foreign assistance legislation, I am inserting it in the Record at this time:

U.S. Cooperation With the Developing Countries in the Mid-1970's

(Recommendations of Members of the Peterson and Perkins Committees Reassembled)

Sensing that development cooperation is in jeopardy today, we members of the two most recent Presidential advisory committees on foreign assistance (the Peterson and Perkins Committees) convened an informal meeting in Washington on June 25 and 26 to review the situation and explore how we might be of assistance to the President, the Congress, and the public generally. The group is composed of members of President Johnson's General Advisory Committee on Foreign Assistance Programs, which was headed by James A. Perkins, then President of Cornell University and now Chairman of the International Council for Educational Development, and President Nixon's Task Force on International Development, chaired by Rudolph Peterson, then President of the Bank of America and presently Director of the United Nations Development Program.

At the conclusion of our meeting on June 26, we indicated through a press release our approval of the innovative bilateral development assistance program recently proposed in both Houses of Congress and endorsed by the Administration. Our general consensus on the broader sweep of issues with respect to the developing countries is set forth in the attached report. We came to two principal conclusions. First, that at a time when America's need for the cooperation and resources of the developing countries is growing, the United States by its recent actions has indicated less interest in them and their needs, a situation which they sense increasingly. Second, a coincidence of circumstances offers the United States a unique opportunity to adopt in the coming year a combination of policies with respect to trade, monetary matters, investment, and development assistance which could go far toward restoring the United States to proper partnership of responsible leadership with others in the development effort from which it has gradually, but clearly, withdrawn over the past decade. The additional direct budgetary costs above that now contemplated by the Administration would be modest.

Bell, David E., Case, Josephine Young, Cooke, Terrence Cardinal (Represented by James Norris), Curtis, Thomas B., Foster, Luther H., Haas, Walter A., Hesburgh, Theodore, Linowitz, Sol, Mason, Edward S., Perkins, James A., Peterson, Rudolph A., and Wood, Robert J.

The following members of the Perkins and Peterson Committees were not able to be present at the meeting in Washington but wish to associate themselves with the general thrust of the recommendations:

Black, Eugene R., Gookin, R. Burt, Gruenther, Alfred M., Harrar, J. George, Hewitt, William A., Hewlett, William R., Murphy, Franklin D., and Rockefeller, David.

DEVELOPMENT COOPERATION IN THE MID-1970'S

The new era

While the United States has dramatically improved its relations with China and the U.S.S.R. since the report to President Nixon of his Task Force on International Development in 1970, no such progress has marked its relationships with Asia, Africa and Latin America. Yet many of this country's most pressing national problems can be solved only through cooperation with other countries—rich and poor. Secretary Brezhnev's visit may serve to remind us that a nation able to achieve imaginative breakthroughs in dealing with the Soviet Union and China should be able to achieve similar advances in relationships with the poor countries of the world containing a majority of the earth's people.

The welcome winding down of the cold war has removed a major argument accepted by many for development cooperation. New arguments for cooperation relevant to the changed circumstances of the 1970s have not yet been widely accepted. In large part as a consequence, the United States bilateral assistance effort has declined significantly. The United States alone among the major industrial nations resists a major expansion of multilateral aid and now imposes substantially more barriers to the manufactured products of the poor countries than to those of the more advanced. Once a world leader in helping the poor countries it now ranks twelfth in the share of national wealth devoted to this purpose.

During this same period of preoccupation with Vietnam and with successfully building bridges to China and the Soviet Union, the position of the United States in the world has changed. New problems and opportunities are beginning to emerge: the improvement in our environment, a successful attack on inflation, the conservation of resources, the expansion of trade, the resolution of the energy shortage—all require cooperative solutions in both rich and poor countries. In certain areas the resources and cooperation of low income countries may be decisive. The United States is neither so rich nor so powerful that it can put aside the friendship of any country. And friendships are made *before* they are needed. We may well find that collaboration in economic and social matters may provide the sense of international community that could increase the prospects for a peaceful world.

Next steps in development cooperation

Since 1970 it has become clear that the unprecedented economic growth achieved by the developing countries over the past decade is not sufficient to meet the minimum needs of their population as a whole. At the same time it is becoming apparent that jobs, health services and education need to be broadly available to lower income groups. These services could also contribute to the growth of motivation for maintaining smaller families and this, in association with stepped-up family planning programs, could lead to population stabilization.

Despite growing awareness of interdependence with the developing world, the United States finds itself today in a posture of increasing aloofness vis-a-vis the development problems of the poor countries. This trend can be reversed, and possibly dramatically so. A turnaround would not require massive budgetary expenditures above those now contemplated by the Administration, but would require a conscious and comprehensive effort by the United States to take the needs of the low-income countries into account in its national decision making. In a number of areas in which decisions are imminent, the United States is already on record in favor of proposals that offer some measure of support for development, although in several areas the U.S. position clearly falls short of being responsive to the level of cooperation required. Building on what it is already doing or on proposals for which it has already voiced some support, the United States can take a number of modest additional steps which would collectively make a significant contribution to ensuring constructive development within these countries as well as in our relations with them.

1. U.S. Bilateral Development Assistance:

We unanimously support the Administration-endorsed Congressional initiative of the past month to restructure and expand bilateral mechanisms for working with the poor countries. It provides a welcome and unique opportunity to achieve objectives set forth in our advisory reports to Presidents Johnson and Nixon and, most recently, in President Nixon's State of the World Message on May 3.

The proposed legislation would redirect U.S. bilateral aid so that it is focused on the problems of the poor majority in the developing countries and on enabling thme to participate more effectively in the development process. It would authorize funding aimed primarily at rural development and food production, population and health, and education and human resource development. It reduces the priority under bilateral development aid for large-scale capital transfers for infrastructure and large industrial plants, and supports and gives legislative form to the problem-solving approach that the United States has pioneered in areas such as disease control, food grain production, and population planning. In these respects, it is a legislative embodiment of a profound shift which has recently taken place in the methods considered most likely to produce the greatest development benefits in the poor countries.

It should be clearly understood that a shift in emphasis toward social and economic problems brings development assistance in direct touch with sensitive internal affairs that require sensitive handling and long-run attention. We firmly support the government's new priorities which will require patience and understanding by all parties concerned. It should also be clearly understood that new emphasis on technical assistance for high-priority problems does not invalidate the importance of the development of infrastructure that is always a necessary part of any internal development. It is our view that U.S. bilateral assistance, should give higher priority to technical assistance, leaving the international and regional agencies and banks to give the highest priority to capital transfers for internal development. We are aware of, but we did not examine, the need for a hard look at the administrative arrangements and structures, national, regional and international that are necessary to carry out this new posture and policies.

The second main feature of the new legislation, the proposed United States Export Development Credit Fund, is designed to increase the flow of American goods and services of a developmental character by close to $1 billion annually, and on concessional terms which the poorest countries can afford. It would impose relatively little additional burden on the United States' budget, being funded primarily through public borrowings, with reflows from prior aid loans which are now earmarked primarily for reloaning to developing countries being used to cover the interest subsidy. This proposal for linking American productive capacity with the more than one billion people in the poorest countries could benefit both the United States and the purchasing countries through concessional sales of industrial goods in much the same way that the Food for Peace Program (P.L. 480) has done and continues to do for agricultural commodities, and the Export-Import Bank does for American industrial exports to the more advanced developing countries.

2. Multilateral Development Assistance:

The United States should resume its traditional role of supporting the expansion of international institutions in the development field as rapidly as it can. Given the willingness of other countries to do their fair share, this could be achieved at a modest additional cost.

For the past four years, the U.S. contribution to the United Nations Development Program has stabilized at about $86 million a year. In the meantime during these four years the contributions of our European and Canadian friends have gone up 52 percent. A U.S. contribution in the order of, say, $110 million next year would be acclaimed as a sign of renewed U.S. confidence in the work of the UNDP.

Most industrial countries are supporting an expansion of the IDA to about $1.6 billion a year. The United States has been supporting a much lower figure, closer to $1.2 billion, as well as a reduction of the U.S. share from 40% to one-third. It is important that the United States support the same $1.6 billion figure that has been agreed to by the other developed countries. The current insistence of the United States on reducing its share to one-third would generally be regarded by most developing countries as a matter between the United States and the other industrial countries.

A special effort should be made to secure Congressional appropriation of the initial U.S. contribution of $100 million for the soft loan window of the Asian Development Bank—a contribution to be made over three years which the Congress has already authorized. This failure to honor an United States undertaking in the development field is not only impairing the U.S. image generally but is seriously weakening the capacity of the Asian Development Bank to play its proper leadership role in Southeast Asia in the post-Vietnam war era.

Finally, the United States should make at least a modest contribution, say $30 million over a three-year period, to the comparable fund of the African Development Bank. The amount is not large, but would be evidence of our willingness to join in cooperative efforts in which African nations have taken the lead.

3. Trade:

The Congress should enact the preferences provisions for manufactured goods from developing countries, perhaps in strengthened form, which President Nixon has requested from the Congress under the Trade Reform Act of 1973. It should also enact a greatly strengthened program for assisting those workers and firms adversely affected by increased trade between the developing countries and the United States. Preferences have taken on a symbolic value for the developing countries far beyond their impact on trade, and adjustment assistance is indispensable if the preferences and the trade system generally are to meet the needs of poorer countries to earn their own way.

The greatest need of the low-income countries is for rapidly expanding trade with the industrial nations, and U.S. trade, aid, investment, and monetary policies should reflect this priority. Excluding major exporters, developing countries have increased their exports from approximately $23 billion in 1960 to $47 billion in 1970, but need to increase exports at a more rapid rate in the 1970s—especially manufactures, which need to increase from some $7 billion in 1970 to an estimated $30 billion in 1980, with United States importing 40 per cent or more. If the Congress enacts the legislation as suggested above, the United States will be able to refer not only to its expanded trade with developing countries, but also to the fact that it currently imports nearly half of developing country manufactures, compared with roughly half that amount taken by the Europeans (even though their GNP is more than two-thirds that of the United States).

4. Monetary:

In the international monetary field the major need facing the United States—and all countries—has been to secure with other countries international arrangements that will make continued expansion of trade possible. It is highly desirable, however, to solve this problem in a way that will meet the urgent needs of others and those of the United States simultaneously. It should be possible to meet U.S. needs and at the same time distribute Special Drawing Rights (SDRs) of the International Monetary Fund in a way that will benefit developing countries more. The poor countries have assigned an importance to the redistribution of SDRs that is now second only to their insistence on trade preferences. The cost would be modest, and the United States would gain both from increased exports to the poor countries and from a better working of the world monetary system. SDR reallocation, like trade preferences, offers the United States, as well as other developed countries, a way of responding to strongly felt needs of the LDCs without assuming a significant burden on its own economy.

5. Indochina Reconstruction:

While we recognize the existing uncertainties, economic assistance for all Indochina countries is clearly indispensable if there is to be a successful implementation of the Indochina settlement. Over the next several years sizable reconstruction assistance will be required for South Vietnam, Cambodia, Laos and, most probably, North Vietnam. In addition significant amounts of interim aid will be required for South Vietnam, Laos, and Cambodia while the prospects for a settlement are clarified and the details negotiated.

Furthermore, a unique aspect of Indochina today is that all major powers—United States, the Soviet Union, China, Japan, and the European Community—have a common interest in removing the threat of prolonged turmoil in Indochina, which would interfere with their more important interests elsewhere. Were all the major powers to undertake, by 1975, a major cooperative effort over many years to rehabilitate Indochina, this could mark not only a closing phase of the cold war, but a starting point for a new pattern of cooperation.

In providing assistance, the United States should seek to do so in ways that would provide aid to all countries in the region and that would involve, to the maximum degree possible, the participation of other countries and of regional and international financial institutions. This course would not only reduce the financial burden of the United States and increase the aid available to the Indochina countries, but also serve to reassure those Americans who fear that large-scale Indochina reconstruction aid could reinvolve the United States militarily in Indochina.

The greatest possible use should be made of international organizations in providing relief and humanitarian assistance in the near future, and of multilateral consortiums involving the active participation of the Asian Development Bank and the World Bank. The United States also should actively support and encourage regional institutions, ranging from the Mekong Committee to the Asian Development Bank, to reduce the prospects of further Balkan-type conflicts between the countries in the region. Finally, a special effort should be made to set up the machinery by which China, the Soviet Union, the United States, Japan, and possibly Europe, can be at least loosely associated in Indochina reconstruction, even though their assistance priorities will undoubtedly differ.

No significant budgetary competition with domestic priorities

The increased direct budgetary cost in FY 1975 of such a comprehensive package of initiatives would be less than $160 million above the total already contemplated by the Administration. As noted earlier, the Congressional initiative in restructuring bilateral development aid and adding the Export Development Credit Fund is within the Administration's present budgetary allocation. The additional budgetary cost would consist essentially of some funds for the UNDP, a modest amount for participation in the African Development Fund and, assuming a reduction of the U.S. share to one-third, approximately $125 million for an expanded IDA replenishment at the level being urged by the other industrialized nations. The competition with domestic budgetary needs is not only very nominal but the additional outlays should be recouped through the improved cooperation this comprehensive approach should generate on many pressing national problems which require international solutions.

Conclusion

The United States has a special opportunity now to inspire a new dimension of international cooperation on the problems of developing countries. At a time when the cooperation of the low-income countries is increasingly required to help solve problems of vital concern to the well-being of the United States and of the world generally, a U.S. initiative to help the poor countries with their problems would be a highly appropriate follow-up to the recent progress in ending the cold war era and current initiatives with regard to Europe and Japan.

We should emphasize that for this initiative to have the desired impact, the elements described above should be seen as comprising a whole that is greater than the sum of the parts. The success of the Congressional proposals for restructuring bilateral development aid and establishing an Export Development Credit Fund would mean not only a far more effective program overseas at virtually no additional direct budgetary cost, but should also provide a new base of Congressional and public support for cooperative programs. Expanded soft loan financing for IDA and the Asian Development Bank by the United States would enable them to mobilize far more resources from others and would increase their capacity to make the effective financial and leadership contribution to the international reconstruction effort needed for Indochina peace. Because of the symbolic importance attached by the developing countries to preferences and to a revised formula for allocating SDRs, some responsiveness on these fronts will be required for an effective package but would also allow the United States to demonstrate its concern for the strongly felt needs of low-income countries. To omit any one of these elements would significantly reduce the effect of the whole, both in terms of impact on the developing countries and on the ability to achieve adequate supporting consensus in the United States.

BISHOP ANDREW GRUTKA, SLOVAK WORLD CONGRESS

HON. RAY J. MADDEN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. MADDEN. Mr. Speaker, as a fellow Hoosier, I was proud to attend the annual meeting of the Slovak World Congress and witness honors bestowed upon Indiana's great religious leader, Bishop Andrew Grutka.

His Eminence has received many honors and recognition over the years.

Bishop Grutka on this recent gathering was honored with the "Hlinka Award."

The presentation was made by Prof. J. M. Kirschbaum, vice president of the Slovak World Congress, on behalf of former officers of the Slovak Federation of Catholic University Students. During the past several years, a number of American Slovaks received the award. The last one who received it in the United States was the late John A. Sabol, secretary general of the First Catholic Slovak Union. Before him, the Hlinka Pokal was awarded to the Rt. Rev. Abbot Theodor Kojis, O.S.B., Msgr. M. Mlynarovic, Dr. Peter Hletko, and Msgr. Francis Dubosh.

The history of the Hlinka Award was explained by Dr. Kirschbaum in his address to the banquet, as follows:

HLINKA AWARD

Over 50 years ago when the prominent Slovak national leader, Msgr. Andrew Hlinka, celebrated his 50th birthday, Slovak university students organized in the Federation of Slovak Catholic Students, presented Msgr. Hlinka with a silver cup which later became known as Hlinka's Pokal. Msgr. Hlinka decided that the award should be given every year to the most deserving Slovak who excelled in any field of human endeavor and contributed to the prestige and advancement of national aspirations of the Slovak people. In the following years, a number of outstanding personalities—scholars, dignitaries and political leaders—were honored with the Hlinka Pokal.

When the Russian armies approached Slovakia in the Fall of 1944, the Hlinka Pokal was entrusted to me in Switzerland with the instructions to present it, after consultation with the former officers and members of the Slovak Catholic Students Federation abroad, to the most prominent personalities among Slovaks in the free world.

Thus the tradition of the "Hlinka Pokal" Award was revived in the 1950's in the United States where the idea of Slovak freedom and independence was re-born and great sacrifices were made by Americans of Slovak origin for their native country and for preserving their cultural heritage. The long list of personalities who, after Msgr. Hlinka, received the Award for their distinguished activities for the Slovak cause was enlarged by several American Slovaks. In 1971 the President of the Slovak Congress, Mr. S. B. Roman, LL.D., K.C.G.S., was honored with the Hlinka Pokal as the first Canadian.

In Bratislava, the capital city of our native country, the presentation of the Hlinka Pokal was the event of the year. We are carrying on the tradition in the free world to award those who, far away from the Tatra Mountains and the River Danube, remained faithful to the heritage of their forefathers and stand for freedom, democracy and justice for Slovakia.

Tonight, I have the honor to present the Hlinka Pokal to His Excellency the Most Reverend Bishop Andrew Grutka of Gary, Indiana.

Your Excellency, there are many reasons why the former officers of the Slovak Catholic Students Federation of whom several are present (Dr. Pauco, Dr. Mikus, Dr. Kruzliak, Rev. M. Sprinc, Dr. Joseph Mikula, etc.) decided that this historical Award should be presented to you this year. The citation would be too long for this evening. In many respects it would also be unnecessary because your dedication to the Slovak cause, your love of the country of your ancestors of Slovak culture and religious traditions, and your great desire to help the people of Slovakia to regain their religious freedom and their rightful place among the free nations of Europe, did not go unnoticed by friends and foes of the Slovak nation. In your case, the old Latin dictum applies: "Opus laudat artificem." Although born in the United States and entrusted with a diocese which does not have many Slovaks, in your heart and soul you remained the son of the Slovak soil; the Slovak cause has been as close to your heart as it was to Msgr. Hlinka, to the Bishop-Martyr Jan Vojtassak, Archbishop Kmetko, or Msgr. Dr. J. Tiso, all of whom were among the recipients of this Award. In the gallery of prominent Slovaks you followed those who were guided in their activities by Hlinka's well-known guideline "For God and Nation," and, therefore, it was the feeling of all of us who made the decision that Your Excellency is the most deserving Slovak for this Award in 1973.

TO THE GRADUATES OF 1973

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. O'NEILL. Mr. Speaker, graduation is a time for great rejoicing, nostalgic remembrances, and deserving recognition for educational achievement. It is a day in which accolades of praise are paid to teachers for their patience, and dedication of purpose, words of hearty congratulations are given to the members of the graduating class for their scholastic accomplishments, and special references are made to parents for their sacrifices and noble aspirations.

And I think there is nothing finer than a graduation speech that can bring together the momentoes, the exaltation, and the comradeship of that splendid occasion.

At this point in the RECORD, I would like to call to the attention of my colleagues a truly memorable graduation speech delivered by my good friend and chairman of the Watertown School Committee, John Carver, at the Watertown High School graduation exercises of 1973:

TO THE GRADUATES OF 1973

Dr. Kelley, Reverend Clergy, Graduates of the Class of 1973, Ladies and Gentlemen: Graduation is a time for great rejoicing. Everyone—teachers, parents, friends and relatives congratulate young men and women who have reached another plateau in their educational development. Aside from celebrating this educational achievement, graduation brings classmates closer together in a common bond. You have shared confidences, exulted in victories and accepted setbacks together. Now you celebrate a glorious occasion, one that will be forever a burning memory, a sacred recollection.

While you students are to be congratulated for your scholastic achievements, gathered here today are others who have made your success possible. I refer to your parents who have made enormous sacrifices in time, money and effort to provide you with an education superior to their own. They have tried to give you more advantages than they themselves ever received. Now they see in each of you an image of themselves that they wish to perfect. May God bless each and everyone of them for the aspirations they have for you.

Your teachers, likewise, deserve commendation for their patience, perseverance and sincerity of purpose on your behalf. Some of you will study in schools and colleges of higher learning. Others will work with giants of industry. But I say to you now that these teachers will be the ones you'll always remember, the ones you'll turn to for advice and guidance.

Newsweek Magazine once published an article hoping to alert Americans to their basic responsibilities. It was captioned quote "No Man" quote and it ran like this.

"You say let us—the No Man says let's not. You say here's an idea, the No Man says it won't work. You say yes, he says no. You find this type of person in families, armies, business, clubs and even sometimes high in the affairs of our country. Doesn't he know or can't he learn that No-Man's Land is a waste-land where nothing—yes nothing can grow."

While the article ended thusly, its philosophy can readily be expanded and can serve as an object lesson for you as you move ahead on life's highway.

We have examples of this "No Man" in every community. He is the man who wants to retain the status quo. He wants no expansion of industry, no cultural and economic promotion—nothing which might disturb existing tranquility—or as you young people would say, "Don't make any waves."

He is the man who would stunt the growth of our cities and towns, who would discourage the spenking new buildings to replace a cooroding and obsolete structure of the past. He is the man who can never recognize the difference between an historic landmark which should be preserved and time's natural decay which should be destroyed. He is the man who believes that what was good for yesterday is adequate for today. He is the man who stands still while progress moves his companions ahead.

He is one who views with alarm what others view with courage. He is one who puts his back against the wall instead of his shoulder to the wheel; the one who resents everything and advocates nothing. He is a man of little faith and no tolerance who obstructs instead of improvising; who takes exception to every idea not consistent with his narrow concept of life. Ah, yes—this "No Man" is a tower of consistency and he regards it as a noble virtue. But consistent men can be dull and unimaginative men who consistently believe they are right in all things; that war is the only way to settle disputes or conversely, that peace can be maintained at any price; that America can stand alone, isolated from the rest of the world and yet survive; that one race of men is ethnically superior to another. Such consistency is ignorant, short sighted and so typical of the "No Man."

America cannot afford him any more than it can afford the "Yes Man." The only type of man for today's world is the "Go Man", who moves toward the future with confidence, courage and faith—and the determination to build a better world. The "Go Man" learns when to reject; when to lead and when to follow. He is the man of the past who built the present; he is the man of the present to whom nothing is impossible. He belongs to the construction gang, not the wrecking crew.

I'll close now on a personal note. Down through the years your teachers have ranked classes. Some are good, some better than others and some adjudged outstanding. This 1973 class ranks high by every standard of measurement, in scholarship, arts, science, athletics and in your contributions to the community. You leave this school with a sterling reputation and you take with you the best wishes of proud parents, the admiration of your teachers and the confidence in your ability to make this a better world, and as for me, I congratulate you on bringing great credit on yourselves, your parents, teachers and on this Town.

THE ENERGY CRISIS IS REAL

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. TEAGUE of Texas. Mr. Speaker, Mr. L. Frank Pitts, president of the Computer Systems, Dallas, Tex., gave an address to the Rotary Club of Dallas, Tex. the other day concerning the energy crisis. If there is anyone who doubts that we have a problem, I commend Mr. Pitts' remarks to them:

ENERGY SPEECH BY L. FRANK PITTS, ROTARY CLUB, DALLAS, TEXAS

The energy crisis is no illusion, it's real—it's going to be with us for quite a while—to live with it, and eventually overcome it, will require total dedication of our people—and a substantial investment—in patience as well as money.

Only three short years ago if I had stood here and prophesized that our Capital City—Austin—and the third largest Metropolitan area in our wonderful State, San Antonio, would be suffering because they did not have enough natural gas to operate their electric power plants—

Who would have believed it!! Yet—today—the officials there are asking people to up the temperature of their homes and offices from 72° to 82° and to minimize the use of lighting and power usage—thereby utilizing every device and opportunity possible to reduce the demand for natural gas.

Why has this come about? Why?—particularly in this State that has been so lavish in shipping tremendous volumes of this wonderful energy to aid and comfort millions of citizens in other States—hundreds, yes, even thousands of miles distant—

Today, energy is used for so many things, and so universally, that an *adequate quantity* is *necessary* and *essential* for our daily well being.

During the past several months we have seen some dramatic changes in attitudes by the citizen-consumer concerning his energy supplies.

In the past, our Nation has known nothing but fuel abundance. We now are suffering, to a limited extent thus far, the penalty for delay in exploration and drilling for oil and gas resulting in electric power brown-outs—empty fuel tanks, closed schools, stranded trucks and tractors, and factories with locked doors.

WHY IS THE UNITED STATES SHORT OF ALMOST EVERY TYPE OF FUEL?

The basic fact is that our Nation's appetite for fuel is enormous. America, with only 6% of the world's population, consumes 33% of the world's energy and the demand continues to grow.

LET'S FACE THE FACTS ABOUT OUR ENERGY OUTLOOK

The Nation's requirements for energy will about double between now and 1985. In this period, we shall have to rely upon gas, oil, coal, and nuclear power for at least 95% of our needs. The fact is that energy is the livelihood of industrial nations, the one resource without which all others are useless.

NATURAL GAS IS SCARCE

Presently, our supply of natural gas is enough to last 12 years. Ten years ago, we had 20 years' supply. There has been a decline of 38% in a decade.

CRUDE OIL IMPORTS WILL HAVE TO QUADRUPLE

In 1971, we had only 8 years' supply of oil compared with 10 years' supply in 1961. We are currently importing near 30% of our oil—most of it from the tinder box area of the Middle East—and it is estimated that by 1985, we will be importing between 50% and 60%.

NUCLEAR POWER—WHERE IS IT?

Today, we have the equivalent of only ten plants of 1,000 megawatts each, in operation, and about 45 planned or under construction. On line schedules are being retarded by technical difficulties and environmental restraints.

COAL—WE PRODUCE LITTLE MORE NOW THAN WE DID 50 YEARS AGO

Production of coal will probably double during the next 15 years. We have adequate reserves. Limiting factors are the availability of manpower, environmental considerations, mine health and safety regulations, and a proven process to commercially produce liquids and pipeline gas.

RESEARCH

We are now spending at the rate of 30 to 40 million dollars annually—this must be doubled or tripled—maybe not to the degree of that spent on space, but a major increase.

Investment? Enormous capital inputs will be necessary to provide for our energy requirements. A plant producing 250 million cubic feet of gas daily may cost 250 to 300 million dollars—to meet our energy needs, the required capital outlay will probably reach a level of several hundreds of billions of dollars.

NEAR-TERM SHORTAGES—WE CANNOT ESCAPE THEM

We may be able to relieve our near-term energy problems through appropriate government and industry action, but there is no realistic probability of a complete escape from them. This is true because of the long lead times—often five to eight years—required for the development of major new energy supplies. The critical "balance wheel" will be the volume of foreign oil imports; this will be the element which will adjust for our failures or successes in other energy areas.

SURPLUS PRODUCTION CAPACITY

Up until recently, we have heard about the great quantity of oil and gas that Texas and Louisiana could produce. Today, these two states are producing all of the oil and gas they can efficiently produce. Nothing is being held back from the consumer. The comforting surplus once maintained by our market demand proration systems has been consumed.

BALANCE OF PAYMENT PROBLEMS

Increased oil and gas imports will provoke a large, deficit in the U.S. balance of trade. By the early 1980's, this could be in the $20 to $30 billion dollar range, compared to less than $3 billion dollars.

"When topmost leaders speak of 'impacting' our whole way of life, they are talking not only of the national security implications but of the terrible consequences of an American industrial "dimout".

Furthermore, these men are acutely aware of the damage to our international position from the outflow of dollars caused by the purchase of foreign oil.

The Middle East has 85% of oil reserves of Western world outside U.S.A. and Canada; therefore, they can control the world energy market any way they wish—including shutting off the supply, if they so desire, or raising the price to whatever level suits their own self-interests. Today we are in stiff competition with Europe and Japan for Middle East's oil; it is definitely a seller's market.

The day may not be far off when our great country will be blackmailed because of policies which have failed to protect our own energy needs.

ENERGY COSTS ARE BOUND TO RISE

We have seen the lowest price for energy that we will ever see in our lifetime. There is only one way for prices to go, and that is up.

POLITICAL FAULT FINDING

The bureaucrats and politicians want a "whipping boy" for higher fuel prices and shortages and apparently their target is the oil companies. All the criticism the last few weeks and months hasn't found or produced one barrel of oil or one thousand cubic feet of gas. If they'd turn the spotlight on themselves instead of pointing an accusing finger at someone else maybe conditions would change for the better.

WHAT CAUSED THE ENERGY CRISIS?

To explain what caused the energy crisis, its ramifications and offer my views on what can be done to improve the present situation on both a short and long term basis is too complex to encompass in the time allowed for a rotary club speech. Here are some observations which may be helpful.

GASOLINE

Because gasoline supply probably affects more people, I will discuss it first.

Is there really a gasoline shortage? Yes, but not critical. We are not out of gasoline. There is enough for basic purposes. Refineries are producing more gasoline, but consumption has increased faster and has outstripped supply.

In the five-year period from 1962 to 1967, gasoline demand increased at a growth rate of 18 percent. In the next five years, demand spurted at a rate of 57 percent over the previous five year rate. And thus far, this year, another 25 percent increase.

This is dramatic growth. Why? There are several reasons.

1. New car sales are at record highs.
2. People drive their cars more.
3. New cars, with pollution controls and safety devices mandated by government, consume more gasoline.

The demand for home heating oils and diesel fuels during last winter's heating season contributed to this shortage today because domestic refiners concentrated their efforts on these products, with full knowledge of governmental authorities. This maximation of these products, necessarily reduced our ability to build up gasoline inventories for the summer peak motoring season.

The reverse may be the case next winter.

NATURAL GAS

About 1954 the Federal Power Commission placed artificial prices on natural gas which have proven to be low, forcing natural gas into a non-competitive situation with other fuels.

Maintenance of this policy probably more than anything else, helped accelerate the drain on our energy reserves because:

First, the low price of natural gas caused people to use more.

Second, gas economics were insufficient to interest investors to search for new oil and gas sources.

THE ENVIRONMENTALISTS HAVE CONTRIBUTED TO THE ENERGY CRISIS

Congress has passed needed legislation to protect our environment. But today, many people are justifiably concerned that this issue is being escalated beyond reason.

Ramifications of environmental protection on the oil industry are a lot like ripples in a stream. Without delving too deeply into these issues—or trying to debate the pros and cons of each—I would like to list for you some of the developments related to the environment which, taken in composite, helped bring about the energy shortage:

First, the largest reserves of oil and gas discovered in our country in recent years are offshore and in Alaska.

Restrictions on offshort petroleum development have hindered production of California, in the Gulf of Mexico and offshore east coast.

The largest energy market in the world is along our east coast from Washington to Boston. The people in this area refuse to allow drilling offshore where there are two huge basins that have great potential. So far, no well has been drilled.

They think it's alright for us to drill offshore Texas and Louisiana and ship our oil and gas at low prices to them for their economic gain and social enjoyment.

Second, opposition to the construction of the trans-Alaskan pipeline has seriously delayed the ultimate delivery of north slope oil to markets in the lower 48 states.

Third, restriction by major cities against sulphur emissions into the air have sharply curtailed the role of coal—the fuel in greatest supply in the U.S.—while further straining our oil and gas reesrves. These restrictions also limit the kinds of crude oil that can be delivered and where they can be used.

(EXAMPLE—ATLANTIC CITY, N.J.—AD-LIB)

Fourth, environmental considerations have made it increasingly difficult for oil companies to construct new refineries and terminals, and without increased refining capacity, no amount of available domestic or imported crude oil can alleviate our present energy problem.

Fifth, federal automobile emission standards have increased gasoline consumption in new cars and required substantialy more crude oil to produce the same amount of unleaded gasoline. Studies have shown that emission control devices on 1973 cars have reduced gasoline mileage by approximately 15 percent and this percentage will increase markedly—possibly as much as 25 percent by 1976—as these standards get tougher.

Although there are other factors that helped the energy shortage along, I believe these five led the way.

COAL

America is blessed with broadly scattered coal reserves and estimated to be sufficient to furnish our total basic energy needs.

With annual consumption of 600 million tons, we have proven reserves for some 200 years. In addition, all western states hold vast quantities of oil-shale from which relatively high grade oil can be extracted at cost, competitive with the probable price of imported oil.

Research and development has been in progress for more than 25 years.

From coal and shale, hydrocarbons can be derived and commercial processes are available today.

Large sums are being expended to this end by both industry and government—but much more needs to be done to achieve our goals.

Within the next ten years, we can protect our requirements for gas, oil and electric power using coal and shale as the basic source.

While large investments will be required for research and construction of facilities, the use of our own natural resources will react to our economic advantages rather than being burdened with billions of dollars resulting from the payment of unfavorable trade balances.

WHAT CAN BE DONE ABOUT THE ENERGY SHORTAGE

One step that has been taken is to increase our imports of crude oil and refined products. For the next decade at least, we will continue to rely on foreign oil to supply a considerable portion of our needs.

More domestic refining capacity clearly holds the key to clearing the bottleneck in the petroleum flow. However, it would take a lead time of two or three years before a new refinery is in production, even if started today.

To minimize the impact of the energy of living. This doesn't mean that we'll have to go back to burning candles, or the horse and buggy. It does mean that we will need to use energy more wisely in our daily lives. Higher prices will be one of the things that will make us more energy conscious.

As the cost of operating big cars continues to increase, we may switch to small, more economical cars or perhaps drive less mileage.

More mass transit in the larger cities will help relieve the commuter crunch on our overcrowded highways and, at the same time, reduce gasoline consumption measurably.

Improved insulation of homes and buildings will reduce heating and air conditioning costs . . . and energy consumption.

Cutting off unnecessary lights and appliances at home and the office will further conserve energy.

WHAT CAN GOVERNMENT DO?

First, we strike a better balance between environmental goals and energy requirements. The present strict air quality standards should be relaxed so that coal and heavy fuel oil can be substituted for heating oil and natural gas.

With coal reserves sufficient to last for hundreds of years, using this abundant resource in some of its traditional markets for electric power generation will help ease the drain on our oil and gas supplies. It will also free up natural gas or heating oil for home use. Although this isn't an ideal solution, it seems quite practical if we are to utilize all of our domestic energy supplies in the most efficient manner.

Hold automobile emission standards roughly at their present levels.

Second, energy prices should be allowed to find their own competitive level in the marketplace. This would provide the necessary economic incentive to bring forth more exploration activities, more productive capacity and more refineries in this country, and incidentally, it may also serve to dampen demand.

Third, institute a coordinated national energy policy that spells out clearly our commitment to the development of new energy supplies. This policy must be coordinated at the Federal level so that we can avoid the duplication, delays and sometimes contradictory judgments affecting our business that presently result from having 64 agencies in Washington with some say in energy matters. The appointment of Colorado Governor John Love to head the new White House energy office is an encouraging step in the direction of better coordination.

CLOSING—ECOLOGISTS

We in America are facing the question whether simon pure air and water are more beneficial to our health and welfare than is electric power and other products from hydrocarbon sources.

We are now faced with the fact that *both* our energy sources, other than coal, and our minerals are running out.

Without immediate implementation of our technological processes through basic research and development to replace both energy and mineral sources, America is faced with a *complete* change in its way of life and a lowering of its standard of living.

However, I firmly believe we can find the answer to the energy shortage when we put our minds, talents, and our expertise in technology to this problem just as we were successful in putting men on the moon in a relatively short space of time. And I don't think it will cost nearly as much.

GOT A BORING JOB?—READ THIS

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. HARRINGTON. Mr. Speaker, last week I took the opportunity to insert in the RECORD an analysis of the Department of Health, Education, and Welfare's special task force report, "Work in America," in an attempt to bring the issue of work quality to the attention of my colleagues.

A recent book, "Job Power," by David Jenkins, has provided a much needed supplement to the report. In detailing the results of experiments with "industrial democracy" experienced in various industries in many different countries, Jenkins' book furthers the dialog on the issue of industrial democracy that was begun in this country by "Work in America."

In particular, "Job Power" points out the rather substantial benefits of permitting workers a voice in structuring the conditions of their immediate environment. It seems that forms of industrial democracy hold tremendous promise for the revitalization of the U.S. economy and American society in that both increases in productivity and decreases in worker alienation have invariably been the results of such experiments. These positive implications of industrial democracy merit greater public attention than the subject has been given to date.

For the information of my colleagues, Robert Sherrill's perceptive critique of

Mr. Jenkins' book, which appeared in the "New York Times Book Review" of July 8, 1973, follows:

BOOK REVIEW

("Job Power," Blue and White Collar Democracy. By David Jenkins. 375 pp. New York: Doubleday & Co. $8.95.)

("Work in America," report of a Special Task Force to the Secretary of Health, Education, and Welfare. Foreword by Elliot L. Richardson. 262 pp. Cambridge, Mass.: The MIT Press, Paper, $2.95.)

(By Robert Sherrill)[*]

When Peter J. (Pistol) Brennan was up for confirmation before the Senate Labor Committee, Senator Edward Kennedy asked him what proposals he had for overcoming worker alienation and low job morale. Brennan's suggested remedy was to bring in "some go-go girls" to entertain male workers. "If it is women, we bring in men to dance."

Whether or not that accurately measures the intellectual horsepower of our new Labor Secretary, it is fairly representative of the kind of dippy response you can expect from most bureaucrats and most labor leaders when they are asked to develop a rescue program for employes who are bored stiff by their assignments, who feel exploited and helpless, and whose work shows it.

Far from being singular to our era, this problem is actually old and chronic. The auto worker who bitches because day in and day out he does nothing but tighten the same six bolts is the inheritor of a long, rich tradition of boredom stretching back at least to that 18th-century pin factory immortalized by Adam Smith. ("One man draws out the wire, another straights it, a third cuts it, a fourth points it, a fifth grinds it at the top for receiving the head.")

The latest wave of interest is artificially different only in that it is identifiable as post-Lordstown. Ever since workers on the General Motors assembly line at Lordstown, Ohio, walked off their jobs last year to protest what they considered an inhuman work pace (101 cars an hour) and deadening regimentation, a few of the corporate bosses of America have been fidgeting like Virginia planters in the wake of Nat Turner. Something would have to be done to get the menials singing again as they picked cotton and assembled autos, for happy workers are productive workers and productive workers equate with higher profits.

But fidgeting is a long way from making reforms. Just as most people were reluctant to accept the world as round, it will take a long while to convince most employers that a typical worker's head is not concave and that a firm's personnel problems may be traced to the fact that, as British industrial relations expert Leonard Neal expressed it, "The growth of affluence, the growth of education, has led to a shortage of morons." Many employers would probably agree with Henry Ford II: "The average worker . . . wants a job in which he does not have to think." Not too strangely, Ford's attitude is shared by many union officials. In 1970, the same year Ford made his appraisal, a United Auto Workers staff member told David Jenkins: "This concept of deadly monotony on the job is an intellectual middle-class concept—we wouldn't stand it—but for the worker it is acceptable because he doesn't have to think about what he's doing."

But those things were said before Lordstown. They were also said before an auto worker was freed by a jury of his peers for killing two foremen and another worker on the grounds that the assembly line had driven him crazy. Are the lessons seeping upward? It's been known for a long time that many assembly line workers feel they must booze pretty heavily at noon to make it through the rest of the day, but now investigators are finding a shockingly large number who seek escape via heroin, too (15 per cent at one plant). Has word of this begun to penetrate the paneled walls of the boardrooms? And if so, what do our corporate deities intend to do about it besides sending down stone tablets commanding the rabble to cease and desist?

The few industrialists daring to show flexibility have often had impressive success. On a hot-plate assembly line where the routine was switched from having each girl do a tiny part of the job to letting each assemble the entire hot plate, absenteeism dropped from 8 per cent to 1 per cent in six months and rejects dropped from 23 percent to 1 per cent as productivity shot up to 47 per cent. At an Eaton's plant and at Texas Instruments, too, janitors who were allowed to oversee their own supply inventories and work out the plans for keeping the buildings clean actually began to keep them clean. Think of the potential if this kind of freedom spread. Airline stewardesses may not have the imagination of janitors; but if they were allowed to select the food for their passengers, there just might be less flying garbage.

Don't spend all your sympathies on the assembly line, however. Those unfortunates, after all, make up less than two per cent of the workers in this country, and in the scale of proper priorities, perhaps they are not the most in need of help. White-collar workers are just about as unhappy and probably have a great deal more to do with the quality of life in America. One poll shows that only 43 per cent of white collars would pick the same job if they had it to do over again, which is only two percentage points above the disenchantment of auto workers and steel workers. One college graduate for some reason complained being bored by her job with a company that had sent her to a Xerox school for three hours and, on graduating from it, gave her a goldplated plaque to show that she knew how to punch the button.

Well, naturally our Federal leaders are going to step right in and solve the problem, right? Just as they have solved our other problems. The President's National Commission on Productivity recently changed its name to National Commission on Productivity and Work Quality—a nice little gesture to let the workers know that their bureaucrats really care.

As for our vigilant Congress, last year Senators Edward Kennedy, Jacob Javits, Gaylord Nelson and Adlai Stevenson III introduced a typical New Frontier-Great Society trial balloon bill that they wanted to inflate with $20-million to achieve something that sounds like it's right off the label of W. C. Fields' tonic cure-all—"solutions to the problem of alienation, absenteeism, high turnover, poor quality work and lessened productivity, poor mental health, poor motivation, alcoholism, drug abuse, and social dissatisfaction among workers."

These are penurious days for social programs, so the bill went nowhere in 1972, but it's back again this year. What are its chances? I called Kennedy's office and Javits' office to find out but was told in both places that the only men who knew anything about the subject were "away from their desks" and not likely to be back the rest of the day—a typical response from the highly-paid staffs of Capitol Hill, which I intepret to mean they have already solved the work problem in their own way.

And then there is "Work In America: Report of a Special Task Force to the Secretary of Health, Education, and Welfare," written by 10 persons with impressive credentials and a humane bias. They have put together one of those useful assemblages of data, anecdotes and recommendations that will—like other task force studies on marijuana, pornography, campus unrest, civil disorders, and crime—doubtless be met with either indifference or hostility at the White House and Cabinet levels. At least the report has been out for several months now, and there is no sign that it has energized anyone at those levels.

Still, the report is good to have around, and so is David Jenkins' "Job Power: Blue and White Collar Democracy," a solid piece of leg-work that took him across two continents. Although the conclusions in these two books are not exactly new—for my money, they aren't saying much that John Ruskin wasn't saying on the same problem 120 years ago—it's just as well that they are making their points because to get anybody but theoreticians to pay attention you've got to make the same points repeatedly for at least a century or so.

If industrial democracy is the answer, Jenkins shows how far away this goal remains, and not only in America. If I read him correctly, the only impressive example is among Israel's kibbutzim. There's so little similarity between a kibbutz industry and, say, Inland Steel that attempting to find our guidance in the Israel experience might seem to be silly. Apparently their workers are motivated by an idealism that most Americans would look upon as naive.

But a different kind of idealism, a practical idealism, might work for us. Never mind the fuzzy stuff about working "for America" or "for the future" but just simply working for quality and honesty. Neither of these books gives enough weight to the possibility that regimentation and repetition may not have nearly so much to do with worker alienation as does the fact that much work just isn't worth doing at all or is basically corrupt. Even the dumbest worker hired to manufacture spray deodorant containers, or plastic plates, or pressed-sawdust furniture, or ersatz packaged food must realize that it wouldn't really matter if his factory closed down forever. So why should he care about his work?

A modified form of worthlessness was touched on recently by Sheldon Samuels, an A.F.L–C.I.O. official, who pointed out to this reviewer that at the Ford agency where he gets his Pinto repaired, the three top mechanics drive Volkswagen. "One reason auto workers are unhappy," says he, "is that they are turning out lousy products and they know their companies don't want them to produce quality products. The consumer movement is going to do more for workers' morale than anything else could do."

And isn't it possible that an occasional beam of idealism, if encouraged, could even penetrate the stygian darkness of the bureaucracy, which now imprisons 15 per cent of our workers? What revolutionary improvements in morale might occur if, say, the employes in the Interior Department were allowed to administer Federal lands and natural resources for their children and their neighbors everywhere rather than primarily for oil and lumber and cattle corporations.

Until we get rid of products and services that aren't worth killing ourselves over, there's something to be said for the milder forms of sabotage, such as that of the steelworker who confessed that "when I make something, I put a little dent in it. I like to do something to make it really unique." The Gothic nature, thank goodness, does survive and may be the workers' salvation after all.

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[*] Robert Sherrill's "The Saturday Night Special," on the politics of guns, will be published in September.

THE POSTWAR FOLLIES

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. BOB WILSON. Mr. Speaker, the dictum that the man who does not know history is destined to repeat it is not just timeworn trivia. When we are talking in terms of naval preparedness, this dictum is doubly applicable. With the long-awaited end to the Vietnam conflict, our Nation again faces the specter of overreaction in terms of reducing our defense. I commend to the attention of my House colleagues the following article by Rear Adm. Ernest McNeill Eller, USN (retired), entitled "The Postwar Follies," published in the May issue of Sea Power.

THE POSTWAR FOLLIES

(By Ernest M. Eller)

(NOTE.—Rear Admiral Ernest McNeill Eller, former Director of the Naval History Division, retired from the Navy in 1970, ending a distinguished 48-year career. Currently, he is serving his second year as National Historian of the Navy League. Author of the book "The Soviet Sea Challenge," Admiral Eller has been an anxious observer of the momentous changes of the past decade which have eroded U.S. oceanic strength and tipped the precarious balance of sea power in favor of the Soviet Union. These are his views.)

After all major conflicts in which the United States has been involved there has been, and rightly so, a cutback of U.S. military forces.

Sometimes—more often than not, unfortunately—such cuts have gone beyond the point of reason and safety as the nation's craving for peace and weariness with war, particularly with expenditures for war, have caused the pendulum to swing too far—regardless of post war world conditions, U.S. international treaty responsibilities, and domestic economic needs.

The country again faces such a situation today as, in the wake of the longest war—and one of the most divisive—in U.S. history, she begins a substantial dismantling of the country's defense establishment and turns to consideration of what many stridently proclaim as "higher priority" domestic matters.

But it is no exaggeration to say that, if America follows too closely the postwar excesses of the past, if she once again permits the pendulum to swing too far, she will be inviting calamity.

This is particularly true as regards the situation at sea, where the United States is losing the fight to a relentless opponent—and, in fact, in the opinion of many naval leaders, has probably already lost it.

It is also no exaggeration to state, alarmist though it may sound, that never before in history has the United States been in as great peril as she is today.

This is so because, for the first time in history, the nation is faced with a ruthless antagonist which, always strong on land, is now, and has been for several years, furiously building a strength at sea which is today second to none.

THE BRITISH SHIELD

In the past, particularly throughout the last century, the benevolent shield of British sea power protected the United States and many other nations from would-be predators. When in this century aggressor nations, ambitious for world conquest, became more so because of the naval and military weakness of the democracies and finally did challenge the Royal Navy, as well as the ascendant, newly powerful U.S. Navy, at sea, there followed the catastrophe of two world wars.

Those who lived through the darkest days of World War II, particularly, know how perilously thin was the margin of naval/military strength by which the Allies finally won out, and should remember that Great Britain nearly succumbed to a submarine force insignificant to that which the Kremlin now directs. Those in the U.S. Navy who survived will never forget the dark and desperate year after Pearl Harbor when the Japanese had a stronger Navy in the Pacific, nor the immense efforts required of the combined navies of the United States, Great Britain, and other Allied countries to check the smaller German and Japanese navies.

With such examples from the recent past, with a strong friendly sea power no longer standing between America and potential adversaries, with an avowed enemy already armed to the teeth daily growing ever stronger—particularly on, under, and now over the seas—and with the acknowledged responsibilities thrust upon and accepted by her as the most powerful of the world's democracies, it seems incredible that America has allowed herself to become abysmally inferior in most of the essentials of sea power.

But this is exactly what has happened. It is hard to understand why this is so. Perhaps today's willingness, not to say eagerness, to demolish the tools of war simply reflects historical American tendencies to let hope ride over common sense. The country has always suffered heavily in times of war for its lack of foresight during the preceding periods of peace.

If history repeats itself once again, if the past is lantern for the future, which it is, Americans can expect cruel days ahead—*but this need not be so if, in fact, U.S. leaders in Congress and in the Executive Branch can read history, and can learn from it.*

EARLY ECONOMY ERRORS

Examining the past may help to put the present situation in better perspective. After the American Revolution Yankee maritime enterprise ranged far and wide. Merchant ships multiplied, and commerce prospered. However, bankrupted by the long war, and struggling to unite on national purpose, the nation's forefathers disbanded the small U.S. Navy of the day and depended upon the good will of others for protection.

They soon learned—the hard way, unfortunately—that freedom cannot survive without the courage and sacrifice and strength that won it in the first place. In a world where power must back the best intentions, one cannot fight sturdily for the right and then on victory day abandon his arms and leave the future as unprotected as the past. Strength in peace is almost more important than in war, *for it can prevent war*. Weakness, on the other hand, invites war.

In 1785, as the United States auctioned off her last warship, Barbary corsairs captured American merchantmen and enslaved the crews. Neglected by their government, many luckless sailors, the "POWs" of their day, died in captivity, and a decade would pass before the last survivors were freed—any similarity with Korean War and Vietnam War POW experiences is more than coincidental.

Worse followed. The French Revolution that began in 1789 soon ignited the fifth World War of that century. In efforts to cut each other's lifelines, both England and France (America's ally, under another government, during the Revolutionary War) preyed on the American merchant marine. The U.S. government protested—but it was too weak to do more.

Then, in 1792, Algerian corsairs captured several ships and enslaved over 100 more American mariners. Congress finally authorized the building of six frigates—but soon cut that number to three when U.S. diplomats negotiated a humiliating peace at a tribute cost of one-sixth of the national revenue (then $6 million).

At that time the nation's income came almost exclusively from taxes on foreign trade. During the 1795–97 period, income averaged under $6.5 million annually, of which the Navy was allocated 5.5 per cent. Congress obviously wasn't rushing to rebuild a fleet, even though world war still raged.

As hostilities mounted, outrages against American commerce increased. French corsairs even captured ships in U.S. territorial waters. Congress consequently sped up commissioning a small fleet, and the country entered upon the naval quasi-war with France.

In 1801, following successful conclusion of that war, the U.S. government commenced operations against the Barbary pirates—but, as usual, tried to conduct them on a shoestring: naval appropriations dropped from $2.111 million in 1801 to $916,000 in 1802. The war thus dragged on for years until finally settled when the government agreed to pay ransom for the U.S POWs.

Thereafter, as war continued and American commerce suffered heavily, naval budgets grew. From 1806 to 1811 they averaged around $1.9 million annually, or 20 per cent of the national budget. Such wiser allocation of resources to provide protection at sea in perilous times, however, was hamstrung by what can only be called the "gunboat aberration." (Not only do Americans usually deceive themselves that the end of war means peace forever, but they ever follow the other chimera that security can be bought on the cheap. This time the bargain basement offered Mr. Jefferson's gunboats. Most of the Navy's increased funds went into this folly; hence real preparedness afloat benefited little.)

FOLLY AND FORESIGHT

When the War of 1812 came the United States had, therefore, only a few high-seas warships. The little Navy could not stop the ravages—including the burning of Washington—of the British fleet, but it won notable single-ship duels and lake victories of lasting importance to the American future. When the war ended in 1815, the government consequently continued to strengthen the Navy by commissioning ships of the line, backbone of sea power. During the period 1817–21, appropriations for the Navy averaged $3.56 million, or 18 per cent of total government spending. Three sea wars in less than two decades, and pirate depredations in the West Indies, had apparently driven the lesson home.

It is not necessary to detail the wisdom or folly in naval appropriations for the ensuing century to World War I, except to note two significant examples:

(1) Power afloat played a giant role on the ocean, bays, and rivers during the Civil War. Yet when peace came naval funds plummeted and stayed in the deep six. For 25 years they averaged under 7 per cent of the overall budget, and did not rise to above 10 per cent until the late 1890s. The nation survived such a perilously low level of security only because of Britain's benign rule of the seas—a safeguard no longer present.

(2) One of the few instances of wise and strong U.S. maritime policy over an extended peacetime period followed the short Spanish-American War. During that war, naval ex-

penditures rose only moderately over the years immediately preceding, holding at about 10–11 per cent of total national spending (then $605 million). But in 1900 a new trend began.

It was a time of cataclysmic changes. Giant forces were sweeping the world. The rising tide of the Industrial Revolution and accelerating technology had completely changed navies. A modern ship of the line, the "battleship," had evolved. Submarines were bringing their deadly stealth to boost the offensive strength of navies and increase defensive problems. Aircraft would soon follow.

These revolutionary developments at sea converged with the rise of ambitious rivals east and west yearning to wrest the sea from Britain. At the same time, although not understanding it, the United States was rising to world primacy. Without conscious prepration the nation was becoming world leader.

TR'S PRESCIENCE

A number of Americans, with Teddy Roosevelt—a leader who demonstrates the overriding importance of a single great man in shaping history—in the van, did understand the changes taking place, however, and saw clearly that the key to the defense of freedom lay at sea. With Teddy Roosevelt on the bridge, funding for the Navy rose steadily to about 18 per cent of the rising national budget. Had the U.S. government held to the preceding low 6–10 per cent ratio, in the opinion of many military historians, World War I might well have gone the other way.

Roosevelt's foresight did, of course, provide the naval muscle needed by the Allies to win World War I, and should have been an example to future generations of the necessity for strength at sea. Yet, since the World War I armistice of November 11, 1918, the record of U.S. national peacetime leadership in providing a navy adequate to the nation's needs and to cope with changing and increasingly hostile world conditions has been as bleak as the worst of the past, with only a few bright spots.

Each generation seems to find its own false standard to displace strength, which history has repeatedly demonstrated is the one sure hope for peace in a world where aggression never sleeps. The post-World War I generation found solace in the term "disarmament." Full of good will, the United States scrapped real ships, afloat and building; other nations scrapped mostly blueprints and obsolete hulls.

The Depression and vocal anti-arms advocates led U.S. leaders to cut back even more. Hence, the Navy was not permitted to build up even to treaty levels. By 1930 funds allotted to the Navy had shrunk to under 11 percent of the national budget, and matters soon grew worse. From 1932 to 1939 Navy funding averaged well under half a billion dollars annually—about 7 percent of the national budget, approximating the doldrum ratio of the 1870s and 1880s. The Army received little more.

This head-in-the-sand folly, it should be noted, took place in an environment radically different from the post-Civil War era, when the British Navy kept world peace. During the 1930s explosive dangers raged on three continents as the world was rocked by the conquests of the Nazis in Germany and the Fascists in Italy at the same time Japanese imperialists were threatening Asia and the Communists were completing their brutal consolidation of the USSR.

WHAT PRICE WEAKNESS?

The inevitable followed. Determined aggressors, encouraged by weakness, unloosed the horror of another world war. If Britain and America had been prepared, this and future generations may well ask, would Hitler have risked the gamble into Poland? If the United States had doubled appropriations for sea power in the 1950s, would Japanese militarists have dared the Pearl Harbor Day of Infamy?

America's scrimping—Navy funding, for example, fell from $2 billion in 1919 to a $484 million average during the years 1931–38—during the fateful decade of the 1930s turned against her with a vengeance. Expenditures on the Army (and Army Air) exceeded $50 billion in the single year of 1945, and on the Navy (and Marines and Navy Air), $30 billion. During the long and bloody battles of World War II the small dollar savings achieved by crippling U.S. military strength in the 1930s were turned—at a cost of hundreds of billions of dollars—into an awesome and awful loss of life, untold human misery, and a world torn asunder and open, moreover, to yet another ruthless type of aggression: communism, with its evil philosophy that the end justifies the means.

Yet did America heed? No, she seemed bent on suicide, as in wild abandon, after VJ Day, she dissipated her expensive and hard-won military strength. Theorists hoisted a new signal of cheap security—the atomic bomb, which would now keep peace without the expense of conventional arms. Sea power, which had just made possible victory in the most gigantic struggle in the history of mankind, was obsolete, and this was where the biggest savings could be achieved.

Communist intrigue and aggression soon caused new crises: in Poland, Czechoslovakia, Berlin, Greece, Iran, and China. But the United States continued to cut its military strength, nevertheless. The party line now ran that if the nation spent more on defense it would go bankrupt. By 1950 the Navy's share of the now much-reduced defense budget had dwindled to 30 percent from nearly 50 prcent through most of the 1930s—although dollar expenditures of course much exceeded those of the 1930s, as inflation and sophisticated weapons skyrocketed costs.

Looked at through another prism, the Navy's share of the overall national budget had shrunk to 10 per cent, a hazardous level at any time, but downright foolhardy in 1950, when the mantle of leadership of the Free World had fallen on the United States.

Thus, even with the tragic lesson of the 1930s made abundantly clear by hindsight, only a decade later U.S. leaders were making the same disastrous mistakes. Actually, such repetition of previous mistakes was far worse than the originals, since there was full evidence of the Kremlin's intent to dominate the world stage.

THE LONELY GUARDIAN

The folly of the late 1940s surpassed preceding ones in yet another way. During the 1930s the Navy shared U.S. defense funds close to 50–50 with the Army, averaging over 45 per cent of the small pittance that Congress was allocating for security. But at that time Great Britain still had a powerful fleet, comparable in size to the U.S. fleet. By 1950, however, the U.S. Navy stood almost alone as guardian of the seas, but the share of the new tri-service defense budget earmarked for sea power had dwindled to 30 per cent.

Just as Pearl Harbor followed America's lack of foresight in the 1930s, so in 1950 came the onslaught of the communist juggernaut that rolled down Korea, sweeping to the last corner of land on that embattled peninsula before finally being checked by the Inchon landing and subsequent U.S./U.N. counterattacks. The shadow of the mighty World War II Navy and Marine forces that had swept across the Pacific sufficed once again, though barely, and only because the sea was uncontested.

Had the U.S. Navy been stronger and had U.S. forces ashore been larger, however, there might have been no Korean War and no need for an Inchon landing. The dollars saved by cutting the defense budgets from 1947 to 1950 went up like smoke. The loss of lives and the world disruption that followed those budget cuts—inevitably, it would seem—could be directly charged, once again, to abandonment of the wise maritime strategy that had just led to victory in World War II.

THE SOVIETS MOVE AHEAD

Today, for the third time in one wracked generation, the United States is repeating the same mistakes of the recent past. With the Soviet Union driving to dominate the sea, the nation is spending less than 10 per cent of the national budget for security afloat—this was the level of disaster in the past, and was at that low a level only because no navy in any way comparable to the USSR's present-day fleet existed to challenge the Free World. Today, because of the USSR's furious naval/maritime build-up, coupled with America's own neglect—not to say deliberate cutback—of its Navy, the Soviet Union has shot ahead in nearly every aspect of sea power. In the Navy the Soviets lag only in carriers, amphibious ships, and at-sea replenishment ships. But the Russian fleet now far exceeds the U.S. Navy in submarines, guided-missile surface ships, minecraft, and—most important of all for the future—in new construction. One early consequence of U.S. lethargy occurred when the United States—*which only five years earlier had been far ahead*—accepted, in the 1972 SALT Agreement, a 3:2 Soviet superiority in sea-based ballistic missiles.

In shipyards, oceanography, R&D, merchant marine shipping, fishing fleets, and training of seamen, the Soviets also have drawn far ahead. The significance of the purposeful Soviet drive to win the world at sea, and of the incredible inaction of this country, becomes even more apparent when it is remembered that only 25 years ago the United States led overwhelmingly in all aspects of sea power, and the USSR, far behind, wasn't even in the running.

It is now evident, and becoming more so each day, that the United States will in the future have to import more and more raw materials for the U.S. economy—and, therefore, the American way of life itself—to survive. This being the case, intelligent men may ask, why have those who control this nation's destiny not seemed to learn, as apparently Kremlin leaders *have* learned, that the nation that controls the seas controls the course of civilization?

There are those who say that the present drive to cut expenditures for national security is a natural revulsion on the part of democratic peoples to spending heavily for armaments immediately after a war. There may be some truth in this theory, but it is evident from a study of history that the nation acted more wisely after the War of 1812, the Spanish-American War, and the Korean War. At least part of the difference, it would seem, was the foresight of the nation's leaders of those times, as well as their willingness to go to the people and explain to them the need for a continuing strong national defense.

The seas, and free access to them, have ever wielded a mighty influence on the American destiny, and will prove even more vital to the American future. Those who love and understand the sea, and who also know and love this country, may well pray today—having seen the Free World and the U.S. role in it twice barely escape annihilation—that in this third and last chance of this century U.S. leadership, in Congress as well as in the Executive Branch, will rise to the need and not throw away, once again, the strength that has always been a mandatory prerequisite to freedom.

AMENDMENTS TO H.R. 9360

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. BINGHAM. Mr. Speaker, in accord with paragraph 6 of rule XXIII of the Rules of the House of Representatives, I wish to notify the House that I intend to offer the following amendments at the appropriate time during consideration of H.R. 9360, the Mutual Development and Cooperation Act of 1973, as reported by the House Foreign Affairs Committee:

Amendment to H.R. 9360, As Reported. Offered by Mr. Bingham.

Page 39, beginning in line 20, strike out "$632,000,000" and insert in lieu thereof "$441,000,000".

Amendment to H.R. 9360, As Reported. Offered by Mr. Bingham.

Page 51, strike out line 14 and all that follows down through line 17, and insert in lieu thereof the following:

(j) In section 36 of chapter 3, relating to reports on commercial and governmental military exports, amend subsection (a) to read as follows:

"(a) (1) Prior to making any sale, credit sale, or guaranty to any country under this Act exceeding $25,000,000, and prior to making any sale, credit sale, or guaranty to any country under this Act in any fiscal year, the amount of which, when added to all other such sales, credit sales, and guaranties made during such year to that country will exceed estimates of the aggregate of such sales provided pursuant to subsection (b) for that fiscal year, the President shall transmit at the earliest possible time a written report to the Senate and the House of Representatives on the same day giving a complete explanation with respect to such proposed sale, credit sale, or guaranty. Any such report shall not include an explanation relating to more than one proposed sale, credit sale, or guaranty.

"(2) (A) The President may make such sale, credit sale, or guaranty thirty days after the report has been so transmitted unless, before the end of the first period of thirty calendar days of continuous session of Congress after the date on which the report is transmitted, either House adopts a resolution disapproving the sale, credit sale, or guaranty with respect to which the report is made.

"(B) For purposes of subparagraph (A) of this paragraph—

"(i) the continuity of a session is broken only by an adjournment of the Congress sine die; and

"(ii) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the thirty-day period.

"(3) Paragraphs (4) through (11) of this subsection are enacted by Congress—

"(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by this section; and they supersede other rules only to the extent that they are inconsistent therewith; and

"(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"(4) For purposes of paragraphs (2) through (11) of this subsection, 'resolution' means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: 'That the ———— does not approve the (sale, credit sale, guaranty) for ———— and explained in the report transmitted to Congress by the President on ————, 19——.', the appropriate phrase within the parentheses being selected, the first blank space therein being filled with the name of the resolving House, the second blank space therein being filled with the name of the foreign country on whose behalf the sale, credit sale, or guaranty is made, and the other blank spaces therein being appropriately filled with the date of the transmittal of the report; but does not include a resolution specifying more than one sale, credit sale, or guaranty.

"(5) If the committee, to which has been referred a resolution disapproving a sale, credit sale, or guaranty, has not reported the resolution at the end of ten calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the same sale, credit sale, or guaranty which has been referred to the committee.

"(6) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same sale, credit sale, or guaranty), and debate thereon is limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not inorder to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(7) If the motion to discharge is agreed to, or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same sale, credit sale, or guaranty.

"(8) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to a sale, credit sale, or guaranty, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(9) Debate on the resolution is limited to not more than two hours, to be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

"(10) Motions to postpone, made with respect to the discharge from committee, or the consideration of, a resolution with respect to a sale, credit sale, or guaranty, and motions to proceed to the consideration of other business, are decided without debate.

"(11) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a sale, credit sale, or guaranty are decided without debate."

MURDER BY HANDGUN: A CASE FOR GUN CONTROL—NO. 7

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. HARRINGTON. Mr. Speaker, today's account of a gun murder, published in the Chicago Tribune, demonstrates how vulnerable we all are to the violence which can strike at any minute, as long as handguns are so easily available.

Timothy Tharbs, age 21, was shot and killed by an unidentified man as Tharbs walked toward his porch. Tharbs was a narcotics dealer, according to witnesses, so he may have known that the lifestyle which he had chosen had many elements of violence attached to it. His fate, unfortunate as it was, may not have come as a complete surprise.

But eight people who lived in the building were sitting on the porch as Tharbs ran up the stairs, pursued by gunfire. Two of those people, Grover Travis, 44, and Emma Carter, 46, were shot, wounded in the back. They were innocent victims, caught in the middle of a violent situation not of their own making.

We are all potential victims. We may consider ourselves decent citizens, concerned only with our jobs and our families. We may think that no one would want to shoot us. Yet that stray bullet—that bullet meant for someone else, that bullet fired out of malice, that bullet fired for no apparent reason—could strike any one of us.

Handguns are the earliest weapons in the country. They are easily concealed, they are easily obtained, and they kill very effectively. We can decrease our own sense of vulnerability only if we decrease the number of handguns in circulation. Strong gun control legislation would be a step in the right direction.

The article from the July 20 Chicago Tribune follows:

21-YEAR-OLD MAN IS SHOT TO DEATH

A 21-year-old man was shot and killed Wednesday night and two other persons wounded on the front porch of a three-flat building at 1618 S. Christiana Av.

Sgt. Frank Hughes of the Marquette Police District said an unidentified man walking south on Christiana began firing a gun at Timothy Tharbs, 7956 S. Aberdeen St., as Tharbs walked toward the porch. Tharbs ran up the stairs and the gunman kept shooting, striking a man and woman who were among eight persons on the porch, Sgt. Hughes said.

Tharbs was pronounced dead in Mount Sinai Hospital with a bullet wound in the chest. According to Sgt. Hughes, witnesses said that Tharbs was a narcotics dealer. Grover Travis, 44, and Emma Carter, 46, who lived in the building were both wounded in the back. They were in guarded condition in Mount Sinai, but not immediately admitted.

GIBSON COUNTY, TENN., SESQUICENTENNIAL

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. JONES of Tennessee. Mr. Speaker, as the first Congressman from Gibson County, Tenn., since Davy Crockett, it is my pleasure to announce the sesquicentennial celebration of Gibson County, Tenn. The purpose of the celebration is to commemorate Gibson County's 150 years of continued progress. In the following brief history of Gibson County, one can easily understand the appropriateness of the theme of the sesquicentennial celebration:

An Honorable Past with a Pathway to a Great Future.

Named in the honor and memory of Col. John H. Gibson, Gibson County was organized October 21, 1823. Eaton, the oldest settlement in Gibson County was the port of river commerce for the county. However, with the introduction of the railroad, more settlements sprang up and the development of the county was underway. The oldest town in Gibson County, Trenton, now has the honor of being the county seat. The first term of county court was held in the home of Luke Biggs on January 5, 1824. After completion of the county's first courthouse, the county court was moved and held its first session there in April 1825.

The first bank in the county, currently celebrating 100 years of service, was known as the Banking House of E. A. Collins, and it is now known as the Milan Banking Co. Currently, Gibson County has more banks than any other county in the State and is the only county in the State to have a bankers association. Another historical distinction that Gibson County enjoys stems from the Gibson County Fair, the oldest county fair in the South, which was first held in October 1856.

With the continuing progress that Gibson County has enjoyed in its history came the formation of the Gibson County Electric Membership Cooperative. The purpose of the Co-op was to extend the conveniences of electricity to rural areas. Also, as a result of the concern that Gibson Countians had and still have for one another came the establishment of the Gibson County Health Department, the first such department in west Tennessee and the third in the entire State.

Gibson County takes pride in the progress of its citizens. Col. Davy Crockett represented Gibson County in the Tennessee State Legislature in 1821 and later represented the west Tennessee area as a Member of Congress in 1826. In addition, three members of the Gibson County Bar Association have served with distinction on the Tennessee Supreme Court.

Today, Gibson County is still a prosperous and progressive section of Tennessee. Although the county is primarily agriculturally oriented, there are large numbers and a variety of industries who call Gibson County their home. Citizens of Gibson County take pride in the number and quality of churches, modern hospitals, and libraries which have been established.

Being the 12th largest county in the State of Tennessee populationwise, Gibson County has 26 towns and communities which the citizens of the county call home. Unincorporated towns and communities include Brazil, Cades, Eaton, Edison, Fairview, Frog Jump, Fruitland, Gann, Gibson Wells, Goat City, Goosefoot, Graball, Holly Leaf, Idlewild, Lynn Point, Neboville, Sitka, Skullbone, and Whiteway. The incorporated towns are Bradford, Dyer, Gibson, Humboldt, Kenton, Medina, Milan, Rutherford, Trenton, and my own hometown Yorkville.

Citizens of Gibson County take great pride in their communities and they certainly have reason to. Bradford is the noodle soup capital of the world. Gibson is a shipping point for truck crops. Humboldt is the home of the West Tennessee Strawberry Festival. Kenton is the home of the rare and beautiful white squirrels. Dyer was an important rail shipping point for adjoining Dyer County. Medina this year celebrates its centennial. Milan is the home of Dr. Andrew Holt, president emeritus of the University of Tennessee at Knoxville. Rutherford is the home of Davy Crockett. Trenton boasts the world's largest and finest collection of Porcelain Veilleuse Theseres. Skullbone is the home of former world's champions "fist and skullbone fighters."

I am proud to say I am a Gibson Countian. As a resident of Yorkville, I realize and share the proud tradition that is part of Gibson County. Davy Crockett introduced the bill to create Gibson County in the Tennessee Legislature. And now, 150 years later, it is my pleasure to announce the Gibson County sesquicentennial celebration which will be held October 15 through 21, 1973. Don Farmer, president of the Sesquicentennial Association, and his associates have devoted much time and effort into making the celebration as successful as the history of Gibson County.

As a resident of Gibson County, I take this opportunity to invite everyone to come and participate in the sesquicentennial celebration, and to see for yourself why Gibson County is a county "with an honorable past with a pathway to a great future."

THE RIGHT TO LIFE

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1973

Mr. ZABLOCKI. Mr. Speaker, the attitude that there is such a thing as a "life not worth living or not worth letting live" which is reflected in certain popular movements today, cannot be countenanced or accepted by a nation whose way of life comprises an obvious and certain recognition of the law of God. On January 22, the Supreme Court handed down its tragic decision which turned "thumbs down" on the lives of millions of unborn children. The new legal arrangement on abortion makes a mockery of the God-given and most important human right—the right to life. As the dangers of public acceptance of this improvident decision become more evident, we must strengthen our efforts to reverse the Court holding and restore respect for the life of the unborn in our society.

Mr. Speaker, among the hundreds of letters which I have recently received expressing opposition to the Court ruling, one was sent by Mary Higgins, a young lady studying nursing at the University of Wisconsin. Enclosed in Miss Higgins' letter was a study which she had recently completed on abortion. The insight, and the sense of firmness and hope are reflected in Miss Higgins' own statement that each person has a job to do in life that no one else could ever duplicate. She writes:

> We all touch one another's life in ways that are irreplacable. Man's gross judgment can in no way imitate the natural order of things. There isn't a judgment capable of perfect selectivity—which abortion implies. No matter how gifted a visionary is, he cannot possible foresee the potential of goodness or justice that may come out of life, if that life is given a chance.

Mr. Speaker, at this time I would like to commend Miss Higgins' study to the attention of our colleagues:

THE RIGHT TO LIVE

In this age of social consciousness and outrage over injustice to the helpless, it is ironic that abortion should slide so easily into vogue. This is definitely a turning point in the course of human affairs for the American people. The calmness with which the people are accepting the Supreme Court decision of January 22 signals the shadowing of a dangerous idea over the face of our peoples. This new passiveness will seep through the cracks under the doors of our houses and nudge each of us.

Some say that the fetal life is not a human being. Who is to define a human being? Does thought or independent sustenance or age determine whether growing matter is a life? When a baby is born prematurely and survives, is that being more human than one which was forcibly aborted at the same age?

There are a number of social consequences that abortion has which act as negative forces in society. Someone once said: Centuries from now historians will look back on this era and say that was a time when men killed their young." Those historians will write about the ills our society suffered because of the snowball effect that abortion had on "liberal" views of control of human life. "It is easier for a man to kill if those around him are killing, and it is easier for a man to kill if he has killed before. All fanatical tyrants have known this from ancient oriental chieftains to Torquemada to Hitler to Mao. The moral instincts of humans are generally fragile, and if they are not constantly renewed by vigorous use, they wear away until they crumble completely."[1] This view sounds a little bit extreme in relation to abortion until you take a look back at a tragic case. The beginnings in Germany were merely a shift in emphasis of the basic attitudes of physicians. It started with the ac-

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Footnotes at end of article.

ceptance of the attitude, basic in the euthanasia movement, that there is such a thing as a life not worth living or nor worth letting live.[2]

Possibly one of the most convincing factors for abortion is the tremendous number that have already been performed. It is overwhelming and nauseating at the same time to believe that those unborn persons were wrongly murdered. It is much more easing to the conscience to drift with the tide and say that the nation's physicians performing abortions can't *all* be wrong. People want to believe that events surrounding them are normal and sane. The burden or bother of questioning a law is too much with such an important affair.

I see no way of stopping the widespread acceptance of legal abortion—which is inevitable if the next generation grows up with it—from blossoming into a general acceptance of euthanasia and eventually selectivity in breeding. Even though there may be ideals and great plans of Utopia behind it, the manipulation of human birth and existence by scientists is a jinxed expedition. Man will end up exterminating other men. "If we find the taking of human life acceptable for purposes of social convenience under some circumstances, are we not going to pave the ground for the taking of human life under other circumstances in order to meet other objectives of social convenience?"—Sen. James Buckley.

With the dawning of women's rights, the issues are getting badly confused. There is no reason for women to believe that life is a bed of roses. It isn't that way for anyone. No woman should be led to believe that she can prevent a pregnancy 100% with anything but abstinence from sex or sterilization. That's a risk that must be taken into consideration. Instead of looking to abortion as a relief from their "burden", woman should pursue other relatively acceptable alternatives: to put the baby up for adoption after her 9 months or to pursue her interests in court with a paternity suit.

The United States Supreme Court legalized abortion saying that the termination of an unwanted pregnancy is up to a woman and her doctor. The court ruled that the criminal abortion laws of almost every state violated a constitutional "right of privacy" and must therefore be struck down. The "right to privacy" argument used by many pro-abortionists is fine for the adult woman as a single individual, but how about the unborn woman or man? If you stand outside of a door and listen to a mother battering her child, even to the point of killing it, what would you do? Would you respect the privacy of her home? You probably would not. Hopefully you would break down the door and rescue the child. By virtue of her abuse of another human person, she surrendered her constitutional right to privacy in this case. The same analogy applies to abortion.[3] Rights of personhood and life must be judged superior to the rights of privacy or sexual identity.

Daniel Callahan writes that "the essence of the moral problem in abortion is the proper way in which to balance the rights of the unborn (who very early have heads, fingers, toes, receptivity to stimuli, recordable EEG's, . . . no less than you and me) against the right of a woman not to have a child she does not want . . . Values are reconstructed by making the value of a potential human being dependent upon being wanted by it's mother."[4]

It is not true that a child born today could be unwanted. The adoption agencies across the nation have waiting lists of prospective parents eager for a baby to love. There *are* homes for the babies whose mothers will not or cannot take up the mother role. "With the availability of abortion in New York and other states there has been a precipitous decline in babies available for adoptions. Many adoption agencies have stopped accepting applications from childless couples . . .

Throughout the U.S. and Canada babies for adoption have become almost unavailable. There are and will be far more good homes than babies available."[5]

It is my thesis that the undefinable fetal life (it is definitely growing and living) must be treated as sacred human material—analogous to any other unconscious, dependent form of human life. We are all dependent on people or forces outside of ourselves to varied degrees; so that the criterion of dependence doesn't make something inhuman. The human vegetables or people who will never come out of a coma are still human beings. They have the more noticable manifestations of our characteristics of dependence and unconsciousness. The fetal life is just as human as these, just more easily swept under the rug. Society still has some conscience in caring for and preserving the dependents in adult life; why do they abandon the prenatal life? The fetal life has the qualities present in our own lives in different extremes and proportions.

Something that many people forget when discussing the fetus is that there were more than two forces (the parents) involved in the formation of a new life. Procreation is a power given by God. The growth of a unique new group of cells is a miracle. Scientists should be proud of their test tube DNA, artificial insemination, sperm freezing and absentee mothers—but this still isn't life produced independently of God. Decisions controlling this new life are not ours to make.

There is another important property of the fetal life which should demand our respect. It is at least a potential (if not already true) person. This means that the world's most valuable resource is being threatened—life by life. The race is not necessarily in danger, but the irreplaceable elements are. We all have a great interest—almost as an investment—in each potential life. "Each human being is unique and irreplaceable. In the realm of being, no one can take the place of another. Theodosius Dobzhansky, the Nobel Laureate in genetics says that the possible variations of human genotypes constitute so vast a number as to be equal to the number of atoms in the universe. Uniqueness does not wait upon one's being born and becoming a conscious person; rather, each combination of ovum and spermatozoon initiates unique life. The definition and identity of human life must be given in terms of personhood, and not alone in terms of living tissue."[6] Countless significant and essential persons—which everyone is—will never be allowed to leave a scratch on the surface of the earth, as they were meant to do. It is my personal belief that each person has a job in life that no one else could ever do like him. We all touch another's life in ways that are irreplaceable. Man's gross judgments can in no way imitate the natural order of things. There isn't a human judgement capable of perfect selectivity—which abortion implies. No matter how gifted a visonary is, he cannot possibly forsee the potential of goodness or justice that may come out of a life, if that life is given a chance.

Our government, however, has haphazardly entrusted every mother and her doctor with this role of selector. The Supreme Court says that abortion is o.k., but that is an empty approval. It is not their place to condone this slaughter. They have surrendered to the mob, they have washed their hands of their role as protector of the unborn.

The court seems to be running away from any responsibility or sense as a guiding body of supposedly wise leaders. The court dramatizes what has been clear under other signs for some time: we stand in danger of becoming an abortion culture. It is a comfortable way of life that settles for the least inconvenient solution to moral dilemmas.

What was said in Sweden 20 years ago now seems to apply in the United States: If a majority of the people hold an act to be moral, it is moral.[7] However the "majority" is barely representative of the public's opinion. A Gallup poll released one week after the decision disclosed that 46% of the public favors the right of a woman on advice of her physician to have an abortion during the first trimester; 45% opposed and 9% no opinion.[8] It appears that the Supreme Court has listened only to the high pressure element that favors abortion.

In the 7–2 majority opinion, Justice Blackmun, while taking note of the prominence of this question, wrote: "We need not resolve the difficult question of when life begins. When those trained in the respective disciplines of medicine, philosophy and theology are unable to arrive at any consenses, the judiciary, at this point in the development of man's knowledge, is not in a position to speculate as to the answer."[9] This is saying: we don't understand something, so we will leave the decision up to the multitude. We will hurry up and say yes and later maybe we'll understand what it is we are doing.

Scholastic speculations about the time of "ensoulment" of the fetal life are inappropriate and misleading. It is impossible for theologians and physicians to determine the exact point in the continuum of tissue life when it can be said that personhood has been attained. "When is day truly day and night truly night, rather than dusk or dawn which distinguished them. The belief in personhood is basic, but the definition remains in dispute."[10]

In the interest of life and justice I oppose the murder of our young. What a society values, it protects with laws.

"If a man loses reverence for any part of life,
He will lose his reverence for all life"

—ALBERT SCHWEITZER.

FOOTNOTES

[1] Edwin A. Roberts, National Observer, Jan. 18, 1971, in *Handbook on Abortion* (Cincinnati, Ohio, 1972), p. 128.

[2] Leo Alexander, Medical Science Under Dictatorship, New England J. of Med., July 1949 in *Handbook on Abortion,* p. 89.

[3] J. C. Evans, "The Abortion Decision: A Balancing of Rights" *Christian Century,* February 14, 1973, p. 197.

[4] "Callahan on Abortion", *Commonweal,* February 9, 1973, p. 410.

[5] Dr. & Mrs. J. C. Willke, *Handbook on Abortion,* (Cincinnati, Ohio 1972), p. 142.

[6] J. R. Nelson, "What Does Theology Say About Abortion?" *Christian Century,* January 31, 1973, p. 124–8.

[7] Ibid.

[8] Dr. & Mrs. J. C. Willke, *Handbook on Abortion,* p. 51.

[9] J. C. Evans, "The Abortion Decision: A Balancing of Rights" *Christian Century,* Feb. 14, 1973, p. 196.

[10] J. R. Nelson, "What Does Theology Say About Abortion?" *Christian Century,* Jan. 31, 1973, p. 124–8.

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HOUSE OF REPRESENTATIVES—*Wednesday, July 25, 1973*

The House met at 12 o'clock noon.

Rev. George Aberle, Westminster Presbyterian Church, Medford, Oreg., offered the following prayer:

Almighty God, at this crucial moment in the history of our Nation we pray for the House of Representatives in all its responsibilities, deliberations, and decisions. Give to each of its Members insight into the true nature of the issues before them, the wisdom to know what is right, and the courage to do it. As those elected to national office must frequently, enable them to be the most sensitive to the needs of all of our citizens.

Guide these men and women, our God, not only in their deliberations but also in the spirit of their interaction, that they may be a mighty force to bring liberty and justice to the people of this Nation and the world. Amen.

THE JOURNAL

The **SPEAKER**. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 1090. An act to amend the Communications Act of 1934, to extend certain authorizations for the Corporation for Public Broadcasting and for certain construction grants for noncommercial educational television and radio broadcasting facilities, and for other purposes.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 426) entitled "An act to regulate interstate commerce by requiring premarket testing of new chemical substances and to provide for screening of the results of such testing prior to commercial production, to require testing of certain existing chemical substances, to authorize the regulation of the use and distribution of chemical substances, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MAGNUSON, Mr. HART, Mr. TUNNEY, Mr. GRIFFIN, and Mr. COOK to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1149. An act to promote commerce and to meet the need of consumers of goods and products by increasing availability of railroad rolling stock and equipment through improved utilization techniques and financial guarantees for new acquisitions, and for other purposes; and

S. 1803. An act to authorize the waiver of claims of the United States arising out of erroneous payments of pay and allowances to certain officers and employees of the legislative branch.

THE REVEREND GEORGE ABERLE

(Mr. DELLENBACK asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DELLENBACK. Mr. Speaker, it is a very real pleasure for me today to have the minister of my home church give the opening invocation to begin this day's session of the House of Representatives.

As a relative newcomer to our not overly large city of Medford, Oreg., Reverend Aberle brought with him at least three tremendously fine assets.

One, he brought with him a deep Christian commitment which is apparent in his daily life in our community.

Second, he brought with him an extraordinarily fine family. I might add that they are with Reverend Aberle in his visit to Washington and are present in the Members visitors' gallery at this moment—his wife, Marilyn, his daughter, Kathy, and his son, Rick.

Third, he brought with him a sense of humor and a personality which fit admirably into a community that we think is a delightful place to live. We feel that Medford is a warmer and richer place to live by virtue of the Aberles being part of our church family and our community.

So again I say that it is a real pleasure for me to have my friend George with us today. I appreciate the Chaplain of the House, Dr. Latch, making this possible, and I am sure that my colleagues join with me in expressing our appreciation to Reverend Aberle and his family for sharing with us these moments of communion with God.

SINGLE EMERGENCY NUMBER, 911

(Mr. ROUSH asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ROUSH. Mr. Speaker, I would like today to add a number of names to the list of those cosponsoring legislation which I have introduced to assist States and local communities which endeavor to adopt "911" as the single emergency number.

I do so because additional Members of Congress have expressed an interest in cosponsoring this legislation. And I do so for an additional reason.

Just last week the Congress completed action on the emergency medical services legislation, legislation encouraging and assisting communities to provide for themselves integrated emergency medical services. One of the most important components of such a system involves communications and the emergency medical services legislation that now awaits the President's signature called for the adoption of the "911" emergency number in all such systems established under this bill as soon as possible.

For those of us vitally interested in emergency communications, passage of this legislation was an important achievement. However, medical emergencies do not exhaust the list of emergencies; fires and crimes are equally important. And it is most desirable that communities which adopt "911" as a part of their medical emergency communications system, extend this number to police and fire emergencies so that they will then have a single, easily remembered, quickly dialed phone number for securing aid in time of crisis.

I am also reintroducing this bill today in order to encourage communities along these lines. Through the Federal Communications Commission, my proposal provides funds to assist in making "911" available to cities for all emergencies. I am happy to add the names of my colleagues.

SALARY INCREASE FOR CONGRESS UNTHINKABLE

(Mr. QUILLEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. QUILLEN. Mr. Speaker, today when we are engaged in such a difficult fight against inflation, it is unthinkable that Congress should approve legislation which would provide a salary increase for Members of Congress. Such an irresponsible action would be outrageous.

How can this measure be justified to the people who are now fighting a seemingly never-ending battle against inflation?

How can we expect our constituents to tighten their belts and to restrain wage demand for the good of the country when we, their elected officials, set such an example?

Economy begins at home, and if inflation is to be stopped or even slowed down, it must begin with the Federal Government. Most of us have campaigned on platforms of fiscal responsibility. We now have the opportunity to fulfill these commitments by defeating this legislation, and I urge each Member to do so.

PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO FILE A REPORT ON H.R. 9130, UNTIL MIDNIGHT SATURDAY, JULY 28, 1973

Mr. MELCHER. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs may have until midnight Saturday, July 28, 1973, to file its report on H.R. 9130.

The SPEAKER. Is there objection to the request of the gentleman from Montana?

There was no objection.

POTATOES $3.15 A PECK

(Mr. BURKE of Massachusetts asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and to include extraneous matter.)

Mr. BURKE of Massachusetts. Mr. Speaker, this morning at breakfast I was talking to Mrs. Burke and she was telling me what happened yesterday when she bought 5 pounds of potatoes in the grocery store. The cost of those 5 pounds of potatoes was $1.05, which means that a peck of potatoes today is being retailed at the exorbitant price of $3.15 a peck.

This is an outrageous condition to exist in this country. Lettuce is selling for 89 cents a head. Onions are selling for 69 cents a pound. The prices are going through the ceiling, and the poor people of this country have no way to cope with it.

Last week I tried to have an amendment adopted to have the Department of Agriculture provide seeds for home gardeners throughout America so people living in the urban areas would be able to grow vegetables at least to try to compete with these rising costs in prices.

Three dollars and 15 cents for a peck of potatoes. This is a staple food item. It is something that the poor family depends upon, and it is up to this Congress to do something about it.

MISS HOLTZMAN AND THREE AIR FORCE OFFICERS SEEK INJUNCTION AGAINST CAMBODIA BOMBING

(Miss HOLTZMAN asked and was given permission to address the House for 1 minute, to revise and extend her remarks, and to include extraneous matter.)

Miss **HOLTZMAN**. Mr. Speaker, I should just like to bring to the attention of my colleagues a very momentous decision that occurred earlier this morning. I have been a longtime opponent of our military activities in Southeast Asia, and as one who has given a great deal of study to the Constitution, have been deeply troubled about the constitutionality of the President's warmaking powers in Cambodia.

In April of this year I initiated an action in the Federal district court in Brooklyn. I was joined by three Air Force officers to seek an injunction against the bombing in Cambodia.

I would just like to advise the Members that this morning a Federal district judge of the eastern district of New York issued an injunction against the bombing in Cambodia. I think it is a crucial decision. It is the first time in this country that a court has declared a war unconstitutional, and I think it goes a long way to assert that the Congress alone has the fundamental right over the decision as to whether or not this country is to go to war.

CONFERENCE REPORT ON S. 1423, LEGAL SERVICES TRUST FUNDS

Mr. THOMPSON of New Jersey. Mr. Speaker, I call up the conference report on the bill (S. 1423) to amend the Labor Management Relations Act, 1947, to permit employer contributions to jointly administered trust funds established by labor organizations to defray costs of legal services, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the statement.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent, the report having been printed for several days, that the statement be considered as read.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

(For conference report and statement, see proceedings of the House of July 17, 1973.)

Mr. THOMPSON of New Jersey. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker and Members of the House, I urge your support for the conference report on the bill to permit the establishment of jointly administered trust funds to defray the costs of legal services. As my colleagues know, the bill passed the House by a vote of 257 to 149. Prior to its passage, the bill was amended in an attempt to permit only "open panel" legal services plans for clients.

The Senate bill, which had previously passed by a vote of 79 to 15, did not contain such a provision. The House conferees insisted upon the House amendment, and after lengthy conference debate, the Senate receded from its position, with an amendment, and a compromise was agreed to.

I can advise my colleagues that, with the addition of two words, the spirit of freedom expressed by the House amendment has been broadened. Under the compromise language, the participants would have the freedom to choose legal services plans of their choice. They would not be limited to only one type of plan. The participants, through their elected representatives in negotiations with their employers, will be able to adopt and utilize the type of legal services program that best suits their needs. They will not be restricted to any one type of legal services plan, be it open, closed, or some shade in between. They will have the same free range of plan options available to them in negotiating for legal services that they currently enjoy with respect to medical and to health plans.

They may opt for a plan that permits them to use participating attorneys in the community such as Blue Cross-Blue Shield health services plans, or they may choose to deal with a smaller group of lawyers analogous to Group Health Association services plans.

Whatever course is decided upon in this free negotiation, it will be the result of free bargaining in a free marketplace.

There will be freedom for the employer and employee to reach a meeting of the minds as to the most effective way to provide legal services.

The legitimate cost concerns of the employer will be considered.

The availability of competent counsel will be considered.

The needs of the employees will be considered.

I congratulate the House for recognizing the legitimate need for legal services on the part of middle-income Americans—and for passing legislation to deal with that need.

The compromise reached by the conferees strengthens that bill.

As thus amended, the bill, while preserving the concept of "freedom of choice" expressed in the House bill, would also:

First, eliminate any constitutional objections to the present language of the House bill;

Second, promote the development of choice of lawyer plans by bar associations, insurance companies, and other groups;

Third, insulate the Congress from regulating the practice of law, under this legislation;

Fourth, permit experimentation designed to hold down the cost of such programs; and

Fifth, eliminate any discrimination against jointly trusteed plans, thereby permitting the parties in this early stage to experiment with different approaches in the consumer marketplace.

While the permits of unrestricted and limited use plans have been debated endlessly in legal forums, the conferees believed that the inclusion of freedom of choice of attorneys would add a significant value that would not be available in limited plans. We believe, therefore, that the parties should be encouraged to give full consideration to "free choice" features as well as to other factors. But the choice, under our system should be reposed in the parties and not imposed upon them by governmental fiat.

The SPEAKER. The gentleman has consumed 5 minutes.

Mr. THOMPSON of New Jersey. Mr. Speaker, I yield myself 3 additional minutes.

Because prepaid legal services will for the first time be made available under the terms of collective bargaining agreements through the adoption of this conference report, it is important that every consideration be given to the establishment of programs that are effective and truly responsive to the needs of the members of the labor organizations involved. Wasteful use of funds must be avoided and every effort must be made to assure the best results for the money expended. This can best be accomplished by seeking the advice and assistance of bar associations, employer groups, unions, the National Consumer Center Legal Services, and other knowledgeable sources which could give guidance in establishment and administration of local or regional plans.

The conference report has the broadest base of support: The American Bar Association—and I quote from a letter of July 17, 1973, from the ABA president:

> I would like to inform you of the unqualified support of the American Bar Association for S. 1423 as reported by the Joint Conference Committee.

That letter was sent to all Members of the House.

The conference report has the support of the entire labor movement, the National Consumer Center for Legal Services, the Trial Lawyers of America, the Consumer Federation of America, the National Education Association, the U.S. Catholic Conference, the National Farmers Union, the National Council of Senior Citizens and the Insurance Company of North America—among many, many others—give their unqualified endorsement to the conference report.

The Senate accepted the conference report last week by a voice vote.

In 1935, again in 1947 and in 1959, the Congress established a national policy giving the Nation's workers the right to bargain collectively subject to the restraints as expressed in the legislation of those years. The system has worked remarkably well. It has always been the national policy subject only to specific restrictions to give the employers and employees the greatest possible freedom in the bargaining process.

I am particularly pleased that the Senate conferees who were at the beginning adamant in their insistence on their language finally relented and left the very essence of the Latta amendment in the conference report.

I would like to take this opportunity to commend the gentleman from Ohio (Mr. LATTA) for his contribution which I believe to be a valuable addition to the original language of the bill. No violence has been done to the gentleman's language, rather, his original intention to give the employers and employees maximum freedom of choice still exists and has been strengthened.

In closing, I might say that legal services will be infinitely less expensive to the employer and employee, because of their freedom to negotiate for such plan as best suits their local situation.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON of New Jersey. I yield to the majority leader.

Mr. O'NEILL. Mr. Speaker, I thank the gentleman for yielding.

The gentleman made the comment that the bill that passed the House by over a hundred votes, and I note by the RECORD of July 17 that this conference report passed the Senate on a voice vote. As I recall the discussion that took place, the main contention that arose in the negotiations on collective bargaining was whether there would be an open panel, or whether the worker would be able to choose his own lawyer.

That matter, as I understand it, has been solved by the committee.

Mr. THOMPSON of New Jersey. Mr. Speaker, at the bargaining table, not only the employee but the employer can agree on that.

If I might offer a hypothetical situation, assuming that there are 500 employees in industry in the gentleman's district, they sit and bargain with their employer. Under the conference report they can use any alternative that they want.

The SPEAKER. The time of the gentleman from New Jersey (Mr. THOMPSON) has expired.

Mr. THOMPSON of New Jersey. Mr. Speaker, I yield myself 1 additional minute.

Mr. Speaker, in further explanation to the gentleman's question, the employer can choose 10 lawyers and the employees can choose 10 lawyers, or they can say that they will make the panel completely open and use the bar association of the county or of the State. They really do have freedom of choice, and this is the contribution which the gentleman from Ohio (Mr. LATTA) intended to make. We simply gave the alternative to them of bargaining collectively in the manner which best suits their needs.

Mr. O'NEILL. Mr. Speaker, I wish to thank the gentleman for his explanation of the matter. I want the gentleman to know that I support the legislation, and I hope the conference report is adopted.

Mr. THOMPSON of New Jersey. Mr. Speaker, I thank the distinguished majority leader, the gentleman from Massachusetts (Mr. O'NEILL).

Mr. ASHBROOK. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. ESCH).

Mr. ESCH. Mr. Speaker and Members of the House, I rise today in order to indicate my position on the conference report H.R. 77. H.R. 77, as reported back to the House, is substantially different from that which left the House of Representatives and does not allow complete freedom of choice on the part of the individual worker in determining his or her legal representation. For that reason, I did not sign the conference report that is before us today. However, I do intend to vote affirmatively in support of the legislation and I would like to explain my position to the House.

This House has gone on record as in support of the concept of providing that unions and management may bargain collectively for the joint administration of legal services funds, so first let us recognize that issue is not before us today. The real issue at hand is to what degree the individual worker will have a determination in selecting his legal representation. The House bill has a complete freedom of choice plan with so-called open panels allowing for selection by the individual client of his legal counsel. Whereas, the conference language provides for a so-called closed panel, that is, a panel in which selection is made from a predetermined group. And thus the inherent question is whether or not a predetermined group is selected by his labor representation. Thus, the real issue at hand is whether or not the bargaining unit; that is, the union, represents the individual employee. Those who believe that the individual employee is represented by his employee bargaining unit will vote for the conference report, whereas those who still maintain that the bargaining unit does not adequately represent the individual employee, will vote against the conference report. As to the merits of the issue itself, it is well to recognize that it should not be Congress prerogative to predetermine the inherent nature of the specific plans under consideration by both management and labor in any predetermined way and that indeed, if our goal is to secure adequate legal representation for all individuals at a minimal possible cost, the House would be well advised to accept the conference report.

Mr. THOMPSON of New Jersey. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Missouri (Mr. CLAY).

Mr. CLAY. Mr. Speaker, I rise to urge my colleagues to vote for adoption of the conference report on S. 1423. This report authorizes the establishment of trust funds to provide legal services for employees, their families, and dependents, and to be financed through the collective bargaining process.

I have seen few bills which have enjoyed such a wide spectrum of support as this one. The only difference between the House and Senate bills was the House amendment on which I believe, the conferees on the part of the House have worked out an eminently reasonable compromise. The conferees have made it clear that employers and employees, who wish to participate in the benefits authorized by this bill, shall have complete freedom of choice in determining which kind of legal services plan they wish to participate. I believe this compromise language strengthens the bill and broadens the spirit of freedom contained in the House amendment. It makes it clear that the people who are going to be paying for these plans and who are going to be receiving benefits under them, should be free to pick the plan best suited to their own needs.

I think the range of support for this bill is truly impressive. It includes the American Bar Association, all of organized labor, the National Consumer Center for Legal Services, the Cooperative League of the U.S.A., the National Council of Senior Citizens, the National Farmers Union, the U.S. Catholic Conference, and many other groups.

I commend the work of the conferees, and urge my colleagues to vote for adoption of the conference report.

Mr. ASHBROOK. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER of Wisconsin. Mr. Speaker, I rise in opposition to the conference report on this bill. I do so for two reasons.

One is because I share with others of the House a concern over the effects of the conferees' decision on the Latta amendment. I think they have artfully and I must say effectively made it more difficult to go in the direction that the Latta amendment proposed, which was in fact a free choice on the part of an individual.

But I must say, also, I have reservations with regard to the bill in its present form, for which the conferees are not responsible but for which both the House and Senate are responsible, by virtue of the fact that this issue becomes one of mandatory rather than permissive collective bargaining. Having lost on the amendment that I offered in the House, I recognize that the conferees could not deal with this issue, but I must say, in all honesty, I think the conference report as it comes back, both because of its imperfection on the Latta language and because of the longrun implications for collective bargaining, means that this is a step which we ought not to take.

This is why I oppose the conference report, and urge that my colleagues join me in voting against the conference report.

Mr. THOMPSON of New Jersey. Mr. Speaker, I yield 1 minute to the distinguished majority whip, the gentleman from California (Mr. McFALL).

Mr. McFALL. Mr. Speaker, I hope the House today will adopt the conference report on S. 1423, jointly administered trust funds for legal services.

S. 1423 is the first step in making needed legal services available to millions of American workers and their families through individually tailored programs worked out and financed through the collective bargaining process.

I wish to commend the conferees on the part of the House for working out an equitable agreement with the Senate on the only point on which the House and Senate bills differed. The compromise language adopted by the conferees enjoys widespread support, ranging from the American Bar Association, to organized labor, to major consumer groups.

I understand that this legislation is acceptable to the administration, and so far as I know there is no objection from the representatives of management.

I believe this bill enjoys broad support here in the House, and I hope that the conference report is promptly approved.

Mr. ASHBROOK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I take this time to ask the chairman of the subcommittee, the gentleman from New Jersey (Mr. THOMPSON) to state for the record so it will be very clear, as a matter of legislative history, what the term "for counsel or plan of their choice" means?

As the gentleman from Ohio knows, within the conference itself there was some question as to what this sentence meant. There was no lack of understanding among the conferees, it was clear to this Member, although I did not support the amendment, it was very clear to me that the meaning of the Senate and House conferees was that the word "their" referred not to the individual employees, but to the negotiating parties.

Mr. THOMPSON of New Jersey. Mr. Speaker, if the gentleman will yield, the gentleman from Ohio is exactly correct.

Mr. ASHBROOK. For purposes of legislative history, it is clear, then, as far as the conferees are concerned, we were referring to the negotiating parties, and not to the individual union member. There has been some question on this side, and I wanted to make that particularly clear for legislative history. Although I did not happen to vote for it.

Mr. THOMPSON of New Jersey. If the gentleman from Ohio will yield still further, it is clear not only as a result of this beneficial colloquy but it is set forth in the report that the word "their" applies to both parties.

Mr. ASHBROOK. I thank the gentleman from New Jersey.

Mr. COLLIER. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Illinois.

Mr. COLLIER. Mr. Speaker, do I understand then that the individual member of a union, or a worker, does not have an individual choice of his counsel?

Mr. THOMPSON of New Jersey. Mr. Speaker, if the gentleman will yield still further, no, the gentleman does not so understand. It is a matter ultimately of the negotiations of the union management, between the union members chosen as their negotiating representatives and the employer. The ultimate plan, under the conference report, can be completely open, it can be a panel or it can be a mixture, and it is one, under the traditional collective bargaining process, that will be brought back by the employee representatives for ratification by the membership, and by the employer representative to those to whom he is responsible, perhaps the Board of Directors.

Mr. COLLIER. If the gentleman will yield further, so the answer is that the individual does not have a choice?

Mr. THOMPSON of New Jersey. The individual initially, I will say to my friend, starts out with nothing. His negotiator arrives at a conclusion and then brings it back to the membership for ratification, and in virtually every instance I can conceive of, the individual will have his choice.

Mr. COLLIER. At the discretion of the employer?

Mr. THOMPSON of New Jersey. After ratification by the employer group—employee group of whatever is done at the bargaining table.

Mr. ASHBROOK. Will the gentleman not say, in summing up the situation as it now stands, the Latta amendment in effect gave the individual union member virtually unlimited choice of counsel under a legal service program—that is what the gentleman from New Jersey is saying—as amended in the conference report? The individual union member will still have choice, but that choice to some degree may be limited by the scope of plans agreed upon by the negotiating parties, but he still has the basic choice?

Mr. THOMPSON of New Jersey. That is possible, yes.

Mr. ASHBROOK. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Speaker, let me say to my good friend, the gentleman from New Jersey (Mr. THOMPSON) that I was quite taken back by his initial statement that my amendment had improved the bill. I was about ready to thank him for his comments but then in answer to a question in a colloquy with the gentleman from Ohio (Mr. ASHBROOK) I must reconsider. Certainly it is my belief, the same as he has stated in answer to the question of the gentleman from Ohio, that the conference committee has emasculated the Latta amendment, which guaranteed freedom of choice in selecting legal counsel to the union member, his family, and dependents. The union and the employer are now going to do the selecting for him. They are going to be at the negotiating table when this comes up and not the union member with his particular legal problems. Under such an arrangement, how can the employee have any voice in selecting his own attorney. I plan to oppose this conference report, and I will move for a recorded vote so that the membership can be recorded on this issue. They were recorded initially on this amendment by a vote of 270 to 126 in favor of permitting the union member to make this choice on matters pertaining to his private affairs.

I might say there is no doubt the conferees have substantially modified the position of the House. The four conferees on our side were unanimously opposed to the change. They did not sign the report for the very reason that the gentleman from New Jersey has indicated. They would not have a voice in this selection after the matter has been settled at the negotiation table. They will lose that choice at the bargaining table. I do not think this is what the American workman wants.

I might say that we have had an attempt at some very artful deception in draftsmanship. I do not think we ought to sit back and let this happen, because we were very specific in our position in the House about the workman's desire to have his own choice of counsel when dealing with his own personal and private affairs. We must remember that union affairs are not involved here. They will be dealing with the workingman's private affairs, his contract, his accident cases, his divorce cases, his tort actions, and all of his other legal matters.

Are we about to say to the American workman that we are going to accept this conference report and take your right from you to determine who is going to represent you in your private legal affairs? I think not. I think not. I have more faith and confidence in this House of Representatives than that.

How will the Members go back home and answer to the people who are to be affected by such legislation? How can the Members go back and say they voted for a conference report that gave some labor negotiator in Detroit, Mich., for example, the right to determine who counsel for union members shall be in settling his private affairs? I do not think the members will want to face the union membership if they so vote.

I want to say that I do not believe we have heard from the American Bar Association on this matter since its initial contact. Personally, I do not think the American Bar Association represents the thinking of many attorneys in this country on this legislation. I do not know of a single attorney who has ever been solicited by the association for his opinion on this legislation.

The SPEAKER. The time of the gentleman from Ohio has expired.

Mr. ASHBROOK. Mr. Speaker, I yield 2 additional minutes to the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Speaker, while this bill was before the Rules Committee, it was indicated by the gentleman from New York (Mr. Delaney) that he never heard of support for the legislation. He took a couple of weeks to check and then reported that he did not find one lawyer for it.

Has there been one contact made with the person to be affected by this legislation—the workingman? I haven't heard any mention of such a contact. Nothing has been said in debate setting forth his position.

Yet, here we are today, legislating changes in the Taft-Hartley Act, if you please, to establish the right to bargain for legal services for him for the first time in history.

During the past few weeks we have heard from individuals who should know better, about a couple of decisions rendered by the U.S. Supreme Court which are miles from being close to being in point on the issue at hand.

Yet, they have attempted to influence your vote by citing them. May I read briefly from them in order to show how ridiculous their citations happen to be.

They cited the case of the *United Transportation Union* v. *the State Bar of Michigan*, 401 U.S. 576 (1971), a U.S. Supreme Court case. Does it have any relevance to what we are attempting to do in this legislation? Here is what it says:

> The Michigan State Bar brought this action in January 1959 to enjoin the members of the Brotherhood of Railroad Trainmen from engaging in activities undertaken for the stated purpose of assisting their fellow workers, their widows and families, to protect themselves from excessive fees at the hands of incompetent attorneys in suits for damages under the Federal Employers' Liability Act.

I have read verbatim from the decision. Does it have anything to do with the right of the Congress of the United States to create rights which have been previously denied under the law and to say in creating this new right that the union worker shall have a free choice in selecting counsel to represent him in his private affairs?

They cite another case which certainly is not in point. They cite a case of the *Mine Workers* v. *the Illinois Bar Association*, 389 U.S. 217 (1967).

The SPEAKER. The time of the gentleman from Ohio has again expired.

Mr. ASHBROOK. Mr. Speaker, I yield 1 additional minute to the gentleman from Ohio (Mr. Latta).

Mr. LATTA. Mr. Speaker, in this case the Illinois Bar Association and others brought this action to enjoin the petitioner union from the unauthorized practice of law. The union employed a licensed lawyer, solely compensated by an annual salary, to represent members and their dependents in connection with their claims under the Illinois Workmen's Compensation Act. The court held this was proper and legal and I agree.

But it is certainly not in point with what we are discussing today, but lo and behold, it was included in a letter dated July 16 from the United Automobile Workers, and went on to say that attempts to except closed panels from this legislation would be held unconstitutional, and so forth and so on.

Mr. Speaker, I used to teach law after I graduated from law school and had I been cited such irrelevant cases in support of a position by a first year law student, he would have been in danger of failing. Yet, we have had them cited to us as Members of the U.S. House of Representatives. How naive do they think we are? I know you have been contacted by the union leaders to support this conference report but I hope you will stick by your convictions previously indicated and vote down this conference report. Give the union worker the right of choice we gave him when this bill left the House in June.

Mr. BAKER. Mr. Speaker, I should like to associate myself with the remarks of the gentleman from Ohio (Mr. Latta).

Mr. Speaker, I am deeply concerned about the rights of the individual. Certainly no individual relationship is more important to a person than that of the client-lawyer relationship. I just cannot see how any plan can be workable unless the individual has the right to make the choice of counsel, rather than be thrown into the pit by taking what might amount to a court-appointed lawyer. I feel that this conference report has destroyed any usefulness which the legislation might serve. Therefore, I will be forced to vote against the conference report.

Mr. THOMPSON of New Jersey. Mr. Speaker, I yield 4 minutes to the gentleman from Michigan (Mr. William D. Ford).

CALL OF THE HOUSE

Mr. MINSHALL of Ohio. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. McFALL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 379]

Badillo
Blackburn
Camp
Clark
Collins, Ill.
Conyers
Derwinski
Dickinson
Diggs
Dingell
Drinan
Fisher
Gray
Gubser
Gunter
Hanna
Hébert
Holtzman
Landgrebe
Long, Md.
Mayne
Mezvinsky
Milford
Roe
Ruppe
Seiberling
Spence
Stanton, James V.
Teague, Tex.
Ullman
Winn
Wyman

The SPEAKER. On this rollcall 401 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON S. 1423, LEGAL SERVICES TRUST FUNDS

The SPEAKER. When the point of order that a quorum was not present was made, the gentleman from New Jersey (Mr. Thompson) had yielded 4 minutes to the gentleman from Michigan (Mr. William D. Ford).

The gentleman from Michigan (Mr. William D. Ford) is recognized.

Mr. WILLIAM D. FORD. Mr. Speaker, I want to thank the gentleman from Ohio for making the point of order to invite everyone over here for this important discussion. Unfortunately, some of the Members now present did not hear the cavalier way in which the other gentleman from Ohio dismissed the two Supreme Court decisions that were a center of a great deal of debate in the other body, and a great deal of consideration by the conferees.

The one case which arises out of the suit between the Michigan United Transportation Union versus the Michigan State Bar, has been through the U.S. Supreme Court. The gentleman says that it really is not a very important case, but I think the Members ought to know that if in fact the gentleman's amendment was intended to do what the gentleman says it is intended to do, this Supreme Court decision is supportive of it.

The Supreme Court held that the freedom of groups to set up plans of their own choice was protected by both the first and 14th amendments to the U.S. Constitution and that no body or group could amend or abridge their right to make such arrangements with such attorneys whom they felt would best meet the legal needs of their group.

As a result, the American Bar Association amended its canons in 1969 to permit group arrangements and, thereafter, all State bar associations followed suit so that today the various types of group arrangements are permissible—providing that they conform with applicable bar standards such as preserving the attorney-client privileges, no advertising, and do not prohibit a member of the group from using the services of other attorneys.

We believe that the action taken by the conferees, which some may refer to as a compromise, is consistent with the restrictions placed upon unions and employers by these decisions of the U.S. Supreme Court.

I might say that it is suggested that violence was done to the so-called Latta amendment on freedom of choice. Surely the gentleman does not suggest that if an employee in Montana is involved in a domestic relations case that he can put his fellow employees and union members, and the management or his employer to the cost of having him go to Philadelphia or New York to hire a lawyer because he wants the choice of the most popular name that he has recently read about in a magazine.

Obviously when one is talking about freedom of choice in these programs they are not talking about carte blanche to go wherever they want and spend whatever they want. Obviously there must not be limitations on freedom of choice. Can we expect that the other employees are going to be paying the fees for someone accused of murder? There will obviously be all kinds of modifications on the kinds of legal services that will be provided.

In addition to that, it must be clear that in exercising freedom of choice the employees would be expected to use reason. No employer is going to enter into an agreement that says to an employee, regardless of the importance of the case, or the forum, or court in which the case is going to be decided, that the employer is going to pay for the employee to run all over the United States to hire his lawyers.

That is clearly not what is meant. If that is not what is meant, then there is not by the language that is in the conference report any derogation of this freedom of choice. If anything, it is broader than the language that left the House, because it requires freedom of choice at two levels. The Latta amendment removed the option of a closed panel of lawyers from the choices available to the parties to an agreement.

I urge a yes vote on the conference report with the change made in the effect of the Latta amendment.

The SPEAKER. The time of the gentleman has expired.

Mr. ECKHARDT. Mr. Speaker, I urge my colleagues to vote for adoption of the conference report, and congratulate the conferees on the part of the House for working out a compromise agreement with the Senate which makes the House bill even more attractive for the average working man and woman.

The original version passed by the House contained an amendment which limited the choice of employers and employees under this bill to programs of legal services which operated with "open panels" of lawyers.

I have nothing against these open panel plans. I understand that the plan operated by the laborers union in Shreveport, La., utilizes such an open panel and the labor movement and the legal profession have been studying the progress of that plan with great interest.

I also understand that there are several thousand "closed panel" legal services plans operating around the country. Some of these are operated by labor unions, others are operated by coopertives, credit unions, and other consumer groups. These plans appear to be very popular and I understand that a tremendous amount of experimentation is going on with respect to how they are operated, how the attorneys are compensated, and what the benefits are to those who participate in these plans.

Some of the plans, such as the one operated by the Berkeley Co-op in Berkeley, Calif., retain one or two salaried attorneys for relatively routine legal work, and then refer out more complicated legal matters to panels of private lawyers who have agreed to participate in the plan.

Other closed panel plans, such as one administered by a laborers local union in Columbus, Ohio, operate with salaried attorneys who work exclusively for the plan. This method was apparently modeled after the neighborhood legal services offices founded by OEO.

Other closed-panel plans have been established by law firms or nonprofit corporations, and offer their services to either organized groups or members of the general public. The national legal care program in Norwalk, Calif., is a good example of this type of plan.

So a great deal of research and experimentation is going on to answer the question of how to give the public legal services at the lowest cost, consistent with the ethical and professional standards of the legal profession. What the House conferees have done in reaching their agreement with the Senate conferees is to make it absolutely clear that the Congress wants to give the potential consumers of legal services every opportunity to shop around to get the best legal services buy.

It may be that a local bar association, an insurance company, or some other organization is going to offer the best package of services at the best price. It may be that open panel plans will turn out to be a far better buy than closed panel plans. In any event, it would make no sense for the House to restrict legal services plans to one type over another.

The conferees have acted in the interests of the consuming public by making it clear here that the freedom of choice of plan is an important principle which should be jealously safeguarded. I urge my colleagues to adopt the conference report by an overwhelming margin.

Mr. ASHBROOK. Mr. Speaker, I yield to the gentleman from Louisiana (Mr. WAGGONNER) such time as he may require.

Mr. WAGGONNER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I take this time to ask my friend, the gentleman from New Jersey (Mr. THOMPSON) the manager of this conference report, a question or two about the conference report.

It has been said that the conference report expands the freedom of choice favorable to the individual. Does the individual union member have any say-so over a negotiated contract negotiated between labor and management which provides for prepaid legal services?

Mr. THOMPSON of New Jersey. The answer to my friend, the gentleman from Louisiana, is yes, and it occurs in two stages. First, in the selection of his negotiator and, secondly, upon ratification, the ratification opportunity which happens invariably when the negotiator on behalf of the employee comes back for ratification of the negotiations which he has completed and recommends.

Mr. WAGGONNER. All right. With regard to ratification, will there be or is there a provision which will allow the union member a separate vote on the issue of prepaid legal services to the extent that in the ratification of a negotiated contract he can act and speak to that specific question rather than be forced, as we so often are here in the House forced to act on a conference report which contains say 150 items, and there is a lot of good and a lot of bad mixed in—is this union member going to be faced with a similar situation wherein he can only accept or reject the overall contract?

Mr. THOMPSON of New Jersey. The answer in excess of 90 percent of the cases is that he will have an opportunity, a separate opportunity, unlike the situation which the gentleman describes with reference to conference reports; and, second, in other sections of the law he has the complete freedom to decide whether or not he wants to participate in any plan that is devised.

Mr. WAGGONNER. The gentleman is saying that he has the freedom of making a decision about whether or not he participates.

Mr. THOMPSON of New Jersey. If the gentleman will yield further, first he has the opportunity separately to argue the point, for or against.

Mr. WAGGONNER. All right. But it appears to me that this situation has developed, that once a contract between negotiators and management has been agreed to by the negotiators and management prior to ratification by the union, that the union man is going to be in the same shape with respect to those negotiated contracts that we in the House are here today with regard to the conference agreement which has been negotiated. We cannot speak separately in this body today to this prepaid legal question. We can only speak to the question if we reject the entire conference report. I do not want this issue obscured along with many other facets of some future contract agreement and place union members in a position they feel that because the wage increases for example which were negotiated, that such things override certain other bad things. For example, the postal employees were the most adamant people seeking postal reform. Why? Because it provided for collective bargaining and a pay increase. Now that they have got collective bargaining and the pay increase, they do not like the other facets of what they got in the postal reform, and I am fearful we are going to wind up with the same thing here.

Mr. THOMPSON of New Jersey. Although it is not totally relevant to this discussion, this offers me an opportunity to say that I think I made a mistake when I voted for that postal reform, but to get back to the gentleman's point, the individual union member has one more opportunity than does the gentleman from Louisiana in the current circumstance, in that he can speak out separately to his negotiators and debate this point. And then he has the same opportunity as enjoyed by the Members of the House in that he can send his negotiators back to the conference table.

Mr. WAGGONNER. But to send them back, must they reject the entire negotiated agreement?

Mr. THOMPSON of New Jersey. No, sir. No, sir. They can send back on an item. If I may be specific, last year in the west coast dock strike there were four or five items in disagreement between the longshoremen and the Pacific Maritime Association. The unions met; the members voted to reduce the differences to two and send their negotiators back specifically to negotiate.

Mr. WAGGONNER. But as the gentleman has spoken, I am getting more confused on the question of disagreement. I am talking about wherein there is agreement between management and union negotiators; what the situation might be.

Mr. THOMPSON of New Jersey. The situation, in a sense, is dual. The management people obviously, when they negotiate, have the responsibility to their board of directors or stockholders or both, and have to account to them and get an agreement from them. The union negotiators have a specific responsibility to their individual and total membership.

Mr. WAGGONNER. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. ASHBROOK. Mr. Speaker, I yield myself the last 2 minutes of our time.

Mr. Speaker, I would like, to briefly address myself to two points which seem to be very relevant in this discussion. I feel that I believe I have been objective in studying the merits of H.R. 77. I have no vested interests. I did not write it, and do not have pride of authorship. I attended all the hearings on the bill and was one of the conferees.

I think the majority took a position in conference which I do not believe to be correct, that the Latta amendment was capricious and would be impossible to implement. I recognize the difficulties in implementing the Latta amendment. I would say to some of my conservative friends something that has not been discussed here. It is quite often that theory and phenomenon are something different.

The theory of having absolute freedom of choice sounds admirable, but what most have not recognized is that every statistic indicates that freedom of choice prepaid legal service plans could cost anywhere from 5 to 20 times the cost of a package plan which might be negotiated by the parties to a contract. I favor freedom of choice and feel we should mandate it wherever possible. In this case, I am not sure that total freedom of choice is desirable. The parties will undoubtedly negotiate legal service plans which give a range of choices and this is proper in our collective bargaining framework.

This has not been considered. In a way, the Latta amendment makes it impossible for the parties negotiating to take into consideration matters of cost. I feel that panels will be more open than closed, but the parties should not have their hands tied in negotiations.

If this were basic, something as basic as the fourth or the fifth amendment, I would say, "I do not care what the cost is; mandate freedom of choice." I do not believe it is that basic in this particular case.

I did not sign the conference report because I felt we had completely moved away from the House position. Yet I would be candid to say I believe what we ended up with is not only a workable but also a reasonable means of implementing prepaid legal services.

Many people are against prepaid legal services of any type. I again say to my conservative friends that, I believe they are wrong. We should take every opportunity possible to encourage the parties in the free enterprise system to provide for themselves, because if we do not allow them to do this they in turn will turn to Washington for legal services provided by the Government.

I personally will vote for the conference report and I urge my colleagues to do likewise.

Mr. THOMPSON of New Jersey. Mr. Speaker, I have no further requests for time.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. LATTA. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 256, nays 155, not voting 22, as follows:

[Roll No. 380]

YEAS—256

Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Annunzio
Ashbrook
Ashley
Aspin
Badillo
Barrett
Bell
Bergland
Biaggi
Biester
Bingham
Blatnik
Boggs
Boland
Bolling
Brademas
Brasco
Bray
Breaux
Breckinridge
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton
Carey, N.Y.
Carney, Ohio
Carter
Chisholm
Clark
Clay
Cleveland
Cohen
Collier
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
Cronin
Culver
Daniels, Dominick V.
Danielson
Davis, S.C.
de la Garza
Delaney
Dellenback
Dellums
Dent
Diggs
Dingell
Donohue
Drinan
Dulski
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Flowers
Foley
Ford, Gerald R.
Ford, William D.
Forsythe
Fraser
Frelinghuysen
Frenzel
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Grasso
Green, Pa.
Griffiths
Grover
Gude
Haley
Hamilton
Hanley
Hansen, Idaho
Hansen, Wash.
Harrington
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks
Hillis
Holifield
Holtzman
Horton
Howard
Ichord
Johnson, Calif.
Jones, Ala.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Kluczynski
Koch
Kyros
Leggett
Lehman
Litton
Long, La.
McCloskey
McCollister
McDade
McFall
McKinney
McSpadden
Macdonald
Madden
Madigan
Mailliard
Mallary
Mann
Maraziti
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Minish
Mink
Mitchell, Md.
Moakley
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nix
Obey
O'Brien
O'Hara
O'Neill
Owens
Patman
Patten
Pepper
Perkins
Peyser
Pickle
Pike
Podell
Preyer
Price, Ill.
Pritchard
Quie
Railsback
Randall
Rangel
Rees
Regula
Reid
Reuss
Riegle
Rinaldo
Rodino
Roncalio, Wyo.
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Runnels
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Schroeder
Seiberling
Shipley
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Staggers
Stanton, James V.
Stark
Steed
Steele
Steelman
Stephens
Stokes
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Symington
Thompson, N.J.
Tiernan
Udall
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waldie
Walsh
Whalen
Widnall
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Ga.
Young, Ill.
Zablocki
Zwach

NAYS—155

Abdnor
Andrews, N.C.
Andrews, N. Dak.
Archer
Arends
Armstrong
Bafalis
Baker
Beard
Bennett
Bevill
Blackburn
Bowen
Brinkley
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clawson, Del
Cochran
Collins, Tex.
Conable
Conlan
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Ga.
Davis, Wis.
Denholm
Dennis
Devine
Dickinson
Dorn
Downing
Duncan
Edwards, Ala.
Flynt
Fountain
Frey
Giaimo
Goodling
Green, Oreg.
Gross
Guyer
Hammerschmidt
Hanrahan
Harsha
Harvey
Hastings
Hinshaw
Hogan
Holt
Hosmer
Huber
Hudnut
Hungate
Hunt
Hutchinson
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Keating
Ketchum
King
Kuykendall
Landrum
Latta
Lent
Lott
Lujan
McClory
McEwen
McKay
Mahon
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Miller
Mills, Ark.
Minshall, Ohio
Mitchell, N.Y.
Mizell
Montgomery
Moorhead, Calif.
Nelsen
Nichols
Parris
Passman
Pettis
Poage
Powell, Ohio
Price, Tex.
Quillen
Rarick
Rhodes
Roberts
Robinson, Va.
Robison, N.Y.
Rogers
Roncallo, N.Y.
Rose
Rousselot
Ruppe
Ruth
Satterfield
Saylor
Scherle
Schneebeli
Sebelius
Shoup
Shuster
Snyder
Spence
Stanton, J. William
Steiger, Ariz.
Steiger, Wis.
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Thomson, Wis.
Thone
Thornton
Towell, Nev.
Treen
Veysey
Waggonner
Wampler
Ware
White
Whitehurst
Whitten
Williams
Wilson, Bob
Young, Alaska
Young, Fla.
Young, S.C.
Young, Tex.
Zion

NOT VOTING—22

Camp
Clausen, Don H.
Derwinski
Fisher
Gray
Gubser
Gunter
Hanna
Hébert
Henderson
Landgrebe
Long, Md.
McCormack
Mayne
Michel
Milford
Roe
Teague, Tex.
Ullman
Wiggins
Winn
Wyman

So the conference report was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Gray for, with Mr. Teague of Texas against.

Mr. Long of Maryland for, with Mr. Fisher against.

Mr. Gunter for, with Mr. Henderson against.

Mr. Wyman for, with Mr. Camp against.

Mr. McCormack for, with Mr. Michel against.

Mr. Hanna for, with Mr. Landgrebe against.

Mr. Ullman for, with Mr. Winn against.

Mr. Roe for, with Mr. Derwinski against.

Until further notice:

Mr. Hébert with Mr. Gubser.

Mr. Milford with Mr. Don H. Clausen.

Mr. Mayne with Mr. Wiggins.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER

The **SPEAKER**. The Chair wishes to announce that the Chair will take unanimous-consent requests from Members, but not for speeches.

GENERAL LEAVE

Mr. **THOMPSON** of New Jersey. Mr. Speaker, I ask unanimous consent that all Members who spoke during the debate on the conference report just agreed to may be permitted to revise and extend their remarks, and that all Members may be permitted to have 5 legislative days within which to revise and extend their remarks on the conference report just agreed to.

The **SPEAKER**. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

IMPOUNDMENT CONTROL AND 1974 EXPENDITURE CEILING

Mr. **BOLLING**. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 8480) to require the President to notify the Congress whenever he impounds funds, to provide a procedure under which the House of Representatives or the Senate may disapprove the President's action and require him to cease such impounding, and to establish for the fiscal year 1974 a ceiling on total Federal expenditures.

The **SPEAKER**. The question is on the motion offered by the gentleman from Missouri.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 8480, with Mr. FASCELL in the chair.

The Clerk read the title of the bill.

The **CHAIRMAN**. When the Committee rose on yesterday, it had been agreed that section 102, beginning on page 4, line 19 and ending on page 5, line 2, would be considered as read and open to amendment at any point.

Are there further amendments to be proposed to that section of the bill?

AMENDMENT OFFERED BY MR. PICKLE

Mr. **PICKLE**. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PICKLE: Page 4, strike out "shall" in line 20 and all that follows down through the period in line 25, and insert in lieu thereof the following: "shall cease within sixty calendar days of continuous session after the date on which the message is received by the Congress unless the specific impoundment shall have been ratified by the Congress by passage of a concurrent resolution approving such impoundment in accordance with the procedure set out in section 104: *Provided*, That the Congress may by concurrent resolution disapprove any impoundment at any time prior to the expiration of the sixty-day period."

Page 5, line 1, after "disapproval" insert ", whether by concurrent resolution passed prior to the expiration of the sixty-day period or by failure to approve by concurrent resolution within the sixty-day period,".

Mr. **PICKLE**. Mr. Chairman, the amendment that I have offered would require that an impoundment cease after 60 days unless ratified by both Houses of Congress. This particular amendment, which was the essence of a bill introduced at the beginning of this session, as proposed jointly by the gentleman from Maryland (Mr. SARBANES), the gentleman from Michigan (Mr. WILLIAM D. FORD), and myself, would change section 102 of the bill, on page 4 of the committee bill, line 20. Our amendment would take out the word "shall" and then follow with language which the Members have just heard that says that both Houses must give affirmative action before an impoundment can take place. This language, I repeat, is on the affirmative basis. It says that an impoundment is not good unless ratified by both Houses of Congress.

We would want to remind the Members that this affirmative action requirement was part of the original impoundment bill introduced in both Houses of Congress, and this particular part of the measure was a provision in the bill that I and the gentleman from Maryland (Mr. SARBANES) and the gentleman from Michigan (Mr. WILLIAM D. FORD) and the gentleman from Massachusetts (Mr. HARRINGTON) had introduced at the beginning of this session and over 100 of our colleagues had cosponsored. This provision also is in effect the same as that in the Ervin bill which has passed the Senate and which requires that both Houses shall give affirmative action before impoundment can take place.

I do not think there is the necessity of repeating myself on arguments that were made here all day yesterday. I do think, though, that this particular affirmative approach represents the better balance between the executive and the legislative branches.

The amendment also does have one other proviso. That proviso states that the Congress can disapprove an impoundment by concurrent resolution, but the reason for this is that it would prevent the executive branch from impounding money within 30 days of the end of the fiscal year and then claiming that the appropriations expired before the Congress 60 days period of time to act. In other words, Congress may not want to wait 60 days to act on an impoundment, and the proviso states this as a fact of law.

I want to point out that that is related, though, to the 60 days and the affirmative action.

Mr. Chairman, if this particular amendment passes—and I think it should—it would mean that the Executive could not impound money unless both Houses of the Congress gave him that affirmative right.

There has been a lot of argument to question whether this is the better approach, or is the committee bill the better approach? I contend to the Members first that the President does not have the power to impound. I do not think he has the right under the deficiency Act except as specifically spelled out under the provisions of that limited measure.

If we go on the basis that the President does not have this right, then the only way he can be given the right to impound is for us to affirmatively give him that permission. Otherwise, we get ourselves involved in all kinds of constitutional questions. If we say he cannot do it unless we give permission, then we avoid all the constitutional pitfalls which many of us were discussing here yesterday. I think this is a clear-cut, simple, direct way to go about this particular matter.

To approach it otherwise, I think, gets us involved in the joint or concurrent resolutions, simple resolutions, and all the pitfalls. This also provides that this measure assumes that the GAO would make recommendations and that those which would be frivolous and of a minor nature could be handled in that manner. It would not impose a multiplicity of suits and could be handled simply in those cases by a voice vote.

I cannot imagine that the President would veto a measure that is put on this kind of basis; that is, if we gave him the right to impound. This affirmative approach would make it difficult to impound for the simple reason that when the Congress passes a law and it is sent to the White House and the President signs it, then it becomes a law.

The **CHAIRMAN**. The time of the gentleman from Florida has expired.

(At the request of Mr. DRINAN and by unanimous consent, Mr. PICKLE was allowed to proceed for an additional 2 minutes.)

Mr. **DRINAN**. Mr. Chairman, will the gentleman yield?

Mr. **PICKLE**. I yield to the gentleman from Massachusetts (Mr. DRINAN).

Mr. **DRINAN**. Mr. Chairman, I want to commend the gentleman from Texas for his original initiative in filing the Pickle bill, of which I was a cosponsor.

I think the Pickle amendment makes more sense than anything else. It says, in effect, that the President does not have any power to impound, and if he is going to impound, then he can continue to do so only if and when, by a concurrent resolution, the Congress agrees to this particular impoundment.

Mr. Chairman, I want to associate myself with the remarks of the gentleman from Texas, and hope that the Pickle amendment is enacted by this House.

Mr. **PICKLE**. Mr. Chairman, I thank the gentleman. He has taken a great leadership in this very subject and has talked to me many times about it. Although he calls it the Pickle bill, it is the Pickle-Sarbanes-Ford bill, a bill which we introduced originally.

Mr. **HECHLER** of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. **PICKLE**. Mr. Chairman, I yield to the gentleman from West Virginia (Mr. HECHLER).

Mr. **HECHLER** of West Virginia. Mr. Chairman, I strongly support the amendment offered by the gentleman from Texas. It is stated in some quarters that this may make this resolution too strong and we may not be able to get the necessary two-thirds vote to override a possible Presidential veto.

Does the gentleman from Texas care to comment on that?

Mr. PICKLE. Of course, there is a possibility that this would make a strong approach, but I do not think we ought to think in terms of overriding a veto.

The question is, Does the President have the power to impound? I would say he could impound if we give him that right to do it. I think arguments about the veto would be minor ones.

The gentleman from California makes the point that, supposing we did pass this measure requiring that we give affirmative action. Can the Members imagine the President would ever veto a measure of this kind? There would not be any veto of it. The gentleman from California (Mr. DANIELSON) points out to me this morning that the President might want to impound. If we gave him the right to impound, he is not about to veto the very thing he has recommended.

Mr. HECHLER of West Virginia. Mr. Chairman, I think the gentleman from Texas has answered the argument on the point of Presidential impoundment extremely well. I strongly support his position.

But there are still those who are fearful that if this bill is made too strong, perhaps the President might veto the bill itself. I do not believe the Congress should water down, temporize, or trim on matters of such fundamental significance as the legislative power of the Congress of the United States. On the question of the power of the purse, the Congress of the United States under the Constitution has the power which its Executive has repeatedly attempted to usurp through unconstitutional use of what is termed "impoundment."

Therefore, I do not believe that the Congress should be intimidated by threats of a veto. Let us face up to this impoundment issue squarely, by passing the Pickle amendment, which clearly and forcefully reasserts the power conferred on the Congress by the Constitution of the United States.

Mr. SARBANES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, by way of preface, I want to say that I am pleased with the sense I got yesterday on both sides of the aisle from a number of those who spoke on this measure that it was not a partisan issue and that we were in fact dealing with some very important institutional questions concerning the relationship of power between the Congress and the executive. I know that not everyone takes that position, but I was encouraged that there were a number of Members on both sides who did.

I rise in support of the approach contained in the amendment offered by my distinguished colleague from Texas (Mr. PICKLE). In doing so, I want to go back for just a moment to consider how an impoundment arises.

I believe it is terribly important that we recognize an impoundment will take place only after one of two things has happened. The first is that the Congress has passed and the President has signed into law a bill, so that it has become law by our action and his action. The second is the Congress has passed and the President has vetoed and the Congress has subsequently passed over his veto into law a piece of legislation.

In both instances the law reflects a decisionmaking process by the Congress, and the subsequent action by the President of impounding is not to carry out a law which has been placed on the statute books according to the processes which govern how we proceed to legislate in the Congress.

It seems to me that the approach of the gentleman from Texas (Mr. PICKLE) is a better balance between the executive and the legislature in respect to this very important matter.

I ought to point out here that what is involved when we discuss the issue of impoundment is not only the question of power between the Congress and the Executive but also the question as to how our federal system is to operate. One of the most harmful of the effects of impoundment has been the impact upon State and local governments and upon programs and planning at the State and local government level.

Let me speak specifically to the amendment. The amendment says that if at the end of 60 days the Congress has not passed by concurrent resolution, in other words in both Houses, an approval of the impoundment, then the impoundment must cease. It takes the position that the Congress has already acted on the issue prior to the impoundment question arising, and that unless the Congress approves the President's impoundment within the period of 60 days then the impoundment ought to stop.

The question was asked as to the veto of the concurrent resolution. I would assume, without getting into the question which was discussed yesterday as to whether or not a concurrent resolution is subject to veto, whether or not it is an onion or a rose, as I recall that exchange, that if the President had asked for an impoundment and if the President in fact had impounded and if a concurrent resolution were passed approving the impoundment then the President of course would be in favor of that resolution taking effect. Therefore, in that instance there would not be a question of a veto.

But if the Congress failed to act, the impoundment would have to stop.

The final point I want to make is that unless we check impoundments there is really no way for the Congress to establish a different set of spending priorities from those of the Executive. It was for this reason that I stated at the outset that I thought the question we are dealing with here is so important in an institutional sense. What really is involved, I submit, is not the question as to what the total spending is to be and whether the total spending figure is at a level deemed to be appropriate. What is involved is the more fundamental question as to what shall make up the parts of that spending figure. Unless we find some way to check impoundments it is clear that the Congress will not be able to set different priorities with respect to which of our national problems we should emphasize in contrast to those which the Chief Executive has emphasized.

If that is the case, then it seems to me the Congress has indeed lost its budget-making ability and its decisionmaking capacity.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. SARBANES. I am happy to yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding.

What is the mechanism for getting a vote on the concurrent resolution?

Mr. SARBANES. There is a procedure in the bill to refer it to the committee. The amendment does not knock out that committee process. It still permits the committee process. Of course, the bill also contains procedures for discharging the committee.

The CHAIRMAN. The time of the gentleman from Maryland has expired.

(On request of Mr. GROSS, and by unanimous consent, Mr. SARBANES was allowed to proceed for 1 additional minute.)

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. SARBANES. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Chairman, it could then be buried in committee; it could be filibustered in the other body, could it not?

Mr. SARBANES. That is conceivable. But the premise for this amendment is that the impoundment which has taken place is contrary to a decision which has been made by the Congress and the President or made by the Congress over the President's veto, and in both instances we have a matter which is law, and if the President seeks not to carry out that law, he should seek the affirmative approval of the Congress in order to do that.

Mr. GROSS. Then why not just offer legislation to prohibit impoundment of funds rather than go through the charade of perhaps never having the opportunity to vote?

Mr. SARBANES. No; this amendment stops short of that approach. It still attempts to make some accommodation with the arguments that have been raised on behalf of the Executive by those who claim there ought to be instances in which the Executive can exercise a certain amount of impoundment power.

Mr. MARTIN of Nebraska. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, let me put this in proper perspective in consideration of the bill and the proposed amendment, as to how the entire paragraph will read:

> Any impoundment of funds set forth in a special message transmitted pursuant to section 101 shall cease within sixty calendar days of continuous session after the date on which the message is received by the Congress unless the specific impoundment shall have been ratified by the Congress by passage of a concurrent resolution—

And so forth.

In other words, what this amendment does is this: It says that impoundment will cease within 60 days unless the Congress takes action by concurrent resolution.

It has been pointed out, Mr. Chairman, in this debate that under the definition of "impoundment," as in this bill in section 103, we will have literally thousands of messages from the President to the Committees on Appropriations of both bodies in regard to funds that under these definitions would be classified and defined as "impoundment."

Under the terms of the amendment offered by the gentleman from Texas (Mr. PICKLE) these impoundments would cease after 60 days unless the Congress took action by concurrent resolution. It would be literally impossible for the Congress to consider within 60 days the thousands of impoundments that would be required of the President to send up to the Congress. If we are going to have impoundments, Mr. Chairman, the Congress should take such action affirmatively and not just simply do it by lying down and playing dead. This is the wrong approach.

It is unworkable, it is impractical, it is not the right approach, and I oppose this amendment.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. MARTIN of Nebraska. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Chairman, I appreciate the gentleman's comment on this.

Does the gentleman really think that the executive would be sending up a large number of impoundment bills? Did the gentleman say, "Hundreds" of impoundment bills?

That is an improbability; it is very, very unlikely, unless we want to assume that we have got a frivolous or mischievous President who wants to send up impoundment bills which have no real substance to them.

Mr. Chairman, if that were the case, it could be handled in a proper manner. That could be handled administratively. I believe the Congress could act on that with a voice vote. The GAO would advise how this would be handled. The appropriation committees would make recommendations.

I think the gentleman is trying to assume or to impute the very impractical side of something that will not happen.

Mr. MARTIN of Nebraska. Mr. Chairman, let me just read part of the definition of "impoundment" as included in section 103.

It says: Impoundment is "withholding or delaying the expenditure or obligation of funds—whether by establishing reserves or otherwise—appropriated for projects or activities," and it goes on.

There are many reserves, I will say to the gentleman from Texas (Mr. PICKLE) that are by the direct order of the Congress.

This says "reserves." Let us say we appropriate $100 million for research and development or for construction projects, or a plane or a battleship, whatever it may be. You do not spend those funds the first day you get them, but you have to draw plans and specifications, advertise for bids, receive the bids and then a contract is awarded to the successful bidder. So you do not pay out all of the funds on the contract as soon as you award the contract in the first 30 days but, rather, pay it out on the basis of 90 percent of the work done each month.

Yet, by this definition, this is impoundment and you will require the President to report on these things. That is why I say there will be thousands of reports that will be made by the President under the terms of the definition of impoundment before us. The gentleman will not dispute that fact.

Mr. PICKLE. If the GAO were advised that this could be handled without the normal impoundment process, this House by voice vote would take action on it.

Mr. DANIELSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am in support of the amendment offered by the gentleman from Texas (Mr. PICKLE).

First of all, I would like to point out and associate myself with the prior comment that this is not a partisan measure. I understand that other Presidents from other parties at other times have impounded. That does not legitimate the procedure.

I would like to remind my friends on my left that it is entirely possible that at a future time there will be another President from another political party, and the question of impoundment may again arise. This question must be approached from the purely philosophical basis of what the Constitution intends. How should we meet our responsibility to support and defend the Constitution, and presume the separation of powers?

First of all, I would like to point out that the basic philosophy of our American system and our Constitution is that all legislation should originate in the Congress and be either approved by the President, or disapproved and passed over the President's veto, before it becomes the law of the land. But the important element is that legislation should commence in the Congress.

Now, with regard to impoundment, we are speaking of laws of the land which already exist and which the President, for whatever reason, has chosen not to execute fully, simply by impounding.

Under the committee bill, the provision that the President can change these laws by impoundment, subject only to a veto by the Congress, delegates to the President the power to change the laws. That is a gross error, for the power to change our laws must and should remain within the Congress.

Under Mr. PICKLE's amendment we preserve that constitutional difference by allowing the President, when the situation is appropriate, to recommend an impoundment and to change our expenditures and then leave it up to the Congres to decide whether or not to go along. That is a proper allocation of our governmental responsibility.

I may add I am not nearly so interested in the new federalism as I am in the old federalism. I think the quicker we get to it the better off we are going to be.

The second point that I wish to make is that we were worried yesterday about the President possibly vetoing a resolution. There can be no danger of a veto if we follow the affirmative approach advocated by the gentleman from Texas (Mr. PICKLE).

Can you imagine the President of the United States impounding funds and requesting the Congress to approve that impoundment and then vetoing a resolution which carries out his own wish? It would be incredible. Any time the President wishes to impound and the Congress approves the impoundment, there is no danger, I submit, of a Presidential veto.

The last point I wish to make is simply this: We must always be cautious in this Congress to cease delegating our powers to the Executive, be he Republican or Democrat. His party makes no difference. We must rid ourselves of this tendency to delegate.

Witness what can happen. In this instance, by a simple majority vote, 50 percent plus 1, we could delegate to the President the power to impound subject only to a congressional veto.

Suppose we want to get this power back in the future? A President, Republican or Democrat, might enjoy having this power of impoundment. So if we try to take back this power, what do we have to do? We have to pass another law repealing this law, and the President can very well veto it, whether he be Republican or Democrat.

That simply means that with a bare majority we can delegate away this power, but it will take a two-thirds vote of both of the Houses of the Congress to get that power back. So let us not fall into that trap.

The arguments raised by the gentleman from Nebraska (Mr. MARTIN), I submit, the gentleman's arguments relative to the pending amendment were addressed to the whole bill more than they were to the Pickle amendment, which simply calls for an affirmative rather than a negative action by the Congress.

Mr. MARTIN of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I do yield to the gentleman from Nebraska. I mentioned the name of the gentleman from Nebraska (Mr. MARTIN) and I am glad to yield to the gentleman.

Mr. MARTIN of Nebraska. Mr. Chairman, I thank the gentleman for yielding.

The main point I was making is that this would create chaos in the Congress in regard to impoundment.

I have here the hearings from the other body, and I would like to read from them. This is from the statement of the Deputy Attorney General from the Department of Justice, Joseph T. Schmidt, and he says this——

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. MARTIN of Nebraska, and by unanimous consent, Mr. DANIELSON was allowed to proceed for 1 additional minute.)

Mr. MARTIN of Nebraska. If the gentleman will yield further, I will quote the material I mentioned:

> Under the bill's broad definition of impounding, thousands of individual impounding actions will occur each year. Given the pressures of more important matters, it would be realistically impossible for the Congress to give any worthwhile consideration to thousands of impounding actions, each year. In short, the bill seeks to prohibit impounding by the President altogether.

Mr. DANIELSON. That is correct. I do not dispute that, I simply state that the objections of the gentleman from Nebraska go to the whole bill more apply than they go to the amendment offered by the gentleman from Texas (Mr. PICKLE).

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, the gentleman stated that there is nothing political about this bill. I find that a little hard to believe.

Would the gentleman from California state that it is his opinion that if the President at the present time was a Democrat, that we would really be considering this legislation here in the Congress?

Mr. DANIELSON. We certainly would, if the President were impounding as the present President is impounding.

Mr. WYDLER. I thought the gentleman from California stated all Presidents had impounded.

Mr. DANIELSON. No.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. PICKLE, and by unanimous consent, Mr. DANIELSON was allowed to proceed for 2 additional minutes.)

Mr. WYDLER. Mr. Chairman, if the gentleman would yield further, is it not correct that the gentleman from California opened his statement with the remark that all Presidents have impounded?

Mr. DANIELSON. That is not correct, I said that other Presidents of other parties at other times have impounded, not all Presidents.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Chairman, I concede that if the White House was occupied by a Democrat that there would probably be an effort under this very difficult matter of impoundment, but that this would probably be initiated by the Republicans, rather than someone on this side of the aisle. But I do not believe we ought to be allowed to be blinded by that fact.

I recognize, and I have said publicly in this debate, that depending on what position you are in, my friends, that determines whether you are for it, and determines how you may feel about it.

When the late beloved President Johnson was a Senator in the U.S. Senate, he made an impassioned speech on the floor of the Senate in which he stated that he thought once these bills were passed that they should be appropriated for the purpose for which they had been passed, and not be sacked up and assigned to some storeroom down in the basement somewhere. I asked him about that later, and he said, "Well, I was a Senator then, not the President." So it depends on the position one occupies at the time. I concede that.

But these things ought not to be involved in partisan politics. And it can be very likely that in 1976 that the representative of the Members on that side of the aisle may not and probably won't be occupying the address at 1600 Pennsylvania Avenue, so I believe that that ought to have a bearing on you folks on this matter at the present time.

Mr. WYDLER. Mr. Chairman, if the gentleman will yield further, I would like to ask the gentleman—because the gentleman said that at some time there will be another President, and that at such a time we might have a different point of view. Does the gentleman not realize that the bill before us is only going to be in effect for 1 year? Is the gentleman aware of that fact?

Mr. DANIELSON. I am, but I am also thinking about tradition and about precedent. You know, precedents become deeply rooted as time goes by.

I urge that this amendment should be supported.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, I would just like to say to my friend, the gentleman from California, that if this is going to be disposed of on a nonpartisan basis, which I should certainly prefer, then we had a real opportunity to do it here.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. DENNIS, and by unanimous consent, Mr. DANIELSON was allowed to proceed for 2 additional minutes.)

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Indiana.

Mr. DENNIS. My friend, the gentleman from Illinois (Mr. ANDERSON) wanted to introduce an amendment which in his words would "make the effective date of the impoundment control provisions contingent upon the effective date of legislation, which comprehensively reforms the congressional budget practice."

I should like to have voted for a truly nonpartisan bill with that amendment in it. What I should like to know is, if the gentlemen of the majority are sincere, why did they not bring the bill in here with that amendment made in order so that we could have a vote on it? Why did they not have real reform, and provide that congressional balance and restraint should accompany executive restraint?

I just circulated a questionnaire to the people in my district, the majority of whom said, "Do not stop the President from impounding at all." They would rather have us let him impound, because we will not show the restraint that this Anderson amendment would require and that we could have been allowed to vote on here. In that case we would have had a decent bill that I would have been happy to support.

Mr. DANIELSON. First, I want to thank the gentleman for so eloquently making his point. I am also delighted that he recognizes the distinction between a nonpolitical approach and a nonpartisan approach, which Mr. PICKLE mentioned. Of course, everything that happens on this floor is political, as it should be. However, to respond directly to the gentleman from Indiana, I should like to state that if that proposed law would be good next year, after we have better budgetary control, it is equally good this year. Let us not postpone this meritorious proposal. Let us move with it now. Let us adopt this useful amendment.

Mr. Chairman, I withdraw my motion to strike.

Mr. SEIBERLING. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this amendment poses a very simple, basic question for the Congress of the United States. Is the Congress going to make the laws of the country, or are we, to some extent going to allow the Executive to second guess us and have the final say? I think if we are going to continue to let the President have the final say, then let us all at least understand what we are doing. The Pickle amendment gives us a very clear-cut choice as to whether the Congress is going to have the final voice in deciding what the laws of this country are to be.

There are some who will say, as my friend, the gentleman from Indiana, says, that if we do not give the President the final say, we will act irresponsibly and without restraint.

I suggest that one of the reasons why the Congress has at times acted irresponsibly and without restraint in spending matters—and there is no question that it has—is because they have thought, "Oh, well, it does not matter because the President can always stop this if this is an unnecessary and wasteful appropriation."

I think that if we pass a measure like the one the gentleman from Texas has offered, then we will be compelled to exercise more responsibility and restraint. So it seems to me that the question is whether the Congress of the United States is going to measure up to its constitutional responsibilities, accept them, and say that when we have passed laws, they shall be faithfully executed by the President until such time as the Congress, through its normal processes, changes those laws.

I wonder if the gentleman from Texas would tell me, is not that the basic thrust of his amendment?

Mr. PICKLE. That is exactly the thrust of it. I contend that the Congress has the right to appropriate money to provide for the general welfare. Once an act becomes a law, then only the Congress should have a right to change that law, but actually take affirmative action. If we do not take that approach, we will get into a multitude of pitfalls on a constitutional question. Our amendment avoids all of that.

Mr. SEIBERLING. I thank the gentleman.

I should also like to point out that with the principle of his amendment adopted, it would also have a restraining effect on the Executive, because instead of impounding right and left as he sees fit, or some fellow under him sees fit, he will become selective, because there will not be any point in flooding us with a whole series of impoundments.

I had a discussion some months ago with one of the outstanding Republican

Members of the other body, and he was complaining bitterly to me about the then White House staff, many of whom fortunately are no longer there, when he introduced a moderate bill giving a little flexibility to the President in making changes in funding. After he had introduced the bill he got calls from a whole range of people in the White House who said, "We do not want any restraints on our right to transfer funds from one program to another." In other words, he said they wanted in substance a blanket authorization and appropriation of $268 billion, to spend as they saw fit.

That is the kind of attitude which has led us to the terrible situation being unfolded day after day on the other side of the Capitol in the hearings of the Ervin committee. It just seems to me the Pickle amendment is going to send a message loud and clear to the whole country that the Congress is going to take back the authority which it has had taken away from it.

Mr. PICKLE. Mr. Chairman, I agree with the gentleman. It would cause the President to be selective and more careful.

Mr. SEIBERLING. Does the gentleman agree that it would also make the Congress exercise more responsibility?

Mr. PICKLE. Indeed I do.

Mr. SEIBERLING. Mr. Chairman, I thank the gentleman.

Mr. MATSUNAGA. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have great respect for the gentleman from Texas, as the gentleman knows. I joined with him in the introduction of the so-called Pickle bill, but then by his amendment he raises the same question which was raised yesterday by the amendment offered by Mr. ANDERSON of Illinois—the question of constitutionality.

I can readily agree that where the Congress by action of both Houses by concurrent resolution approves of the impoundment, there is no question of a veto because no doubt the President would sign such a concurrent resolution. However, in the event of a disapproval on the part of the Congress by a concurrent resolution, the question of whether or not a concurrent resolution needs to be signed by the President in order to become effective arises.

Interpretations by constitutional scholars indicate that a concurrent resolution is not to be treated differently from a joint resolution. As I pointed out yesterday in quoting Senator Ervin, you cannot turn an onion into a flower by calling it a flower; just as you cannot turn a joint resolution into a concurrent resolution by calling it a concurrent resolution.

It appears from all indications, as was so ably pointed out by the gentleman from Texas (Mr. ECKHARDT) in his speech on the floor yesterday, that a concurrent resolution must be signed by the President. If the President chooses to veto it, then we would need a two-thirds majority to pass that concurrent resolution to disapprove of an action taken by the President under a previous law, which we passed and which the President himself signed.

I am certainly in agreement with the thought behind the Pickle amendment, but it unfortunately raises the constitutional question which would give the President added reason for vetoing the bill if the amendment were adopted. I urged the defeat of the amendment.

Mr. SARBANES. Mr. Chairman, will the gentleman yield?

Mr. MATSUNAGA. I am happy to yield to the gentleman from Maryland.

Mr. SARBANES. I should like to respond to the legal point which the gentleman made, because I believe it does raise a valid question which needs to be answered.

As the gentleman recognizes, there is a dispute over whether a concurrent resolution has to go to the President for signature. Other legislation has passed the House resting on a different premise from this legislation. But if a concurrent resolution does not have to go to the President then there is in fact no problem, if it does not.

Mr. MATSUNAGA. That is correct.

Mr. SARBANES. If it does have to go to the President then the only period which is at issue is the 60-day period, because under this amendment at the end of 60 days if the Congress had not affirmatively approved the President's impoundment then the impoundment must stop. In that instance, if we have affirmatively approved an impoundment which the President has made, it is safe to assume, if in fact a concurrent resolution must be signed, that it will be signed. So the only period that is at issue is the 60-day period, where we may wish to act prior to the expiration of that period of time.

In any event, at the end of the 60-day period, unless we approve an impoundment, the President would have to stop at that point. That, it seems to me, is the way the relationship between the Congress and the Executive ought to function.

Mr. MATSUNAGA. I appreciate the point which the gentleman from Maryland has made. But then, in the event the Congress decides that it dares not take the risk of having the funds impounded for 60 days, because a 60-day impoundment may kill the program, in order to act under this amendment both Houses must act by concurrent resolution, which could be vetoed by the President. Needless to say, the difficulty of mustering a two-thirds majority would then face the Congress.

The CHAIRMAN. The time of the gentleman from Hawaii has expired.

(On request of Mr. DANIELSON, and by unanimous consent, Mr. MATSUNAGA was allowed to proceed for 1 additional minute.)

Mr. DANIELSON. Mr. Chairman, will the gentleman yield?

Mr. MATSUNAGA. I am happy to yield to the gentleman from California.

Mr. DANIELSON. I wish to read the last paragraph of section 7, article I of the Constitution:

> Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

Mr. MATSUNAGA. Exactly. That is the point I was trying to make here.

Mr. DANIELSON. My point is that where the President requests an impoundment and by resolution the Congress approves that request for an impoundment, is it reasonable to believe the President would thereafter veto it?

Mr. MATSUNAGA. No. As I said earlier, when the President is in agreement with the Congress there is no real issue involved.

Mr. DANIELSON. I urge the gentleman to support the amendment.

Mr. BOLLING. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I do not really know how to go about opposing this amendment. I know it is well-intended.

No. 1. It imputes to the bill before us the ratifying of the President's power to impound. It does no such thing.

The bill before us, H.R. 8480, is completely neutral. It deals with a fact, not a theory.

There are impoundments. There are not hundreds of impoundments but there are thousands of impoundments. Some are the kinds of impoundments apparently some of my friends feel are the only impoundments; but there are a great many impoundments.

The Ervin bill, from the other body, which has the principle of this amendment within it provides for a very elaborate procedure in which the Congress delegates a great deal of responsibility to the General Accounting Office so all these thousands of impoundments, or conceivably even tens of thousands of impoundments, can be dealt with.

Mr. Chairman, the amendment is, in my judgment, wholly impractical and does not really go to the point that its supporters say it goes to, because H.R. 8480 says nothing about the constitutional powers. And if it did, it would not make any difference because we cannot in legislation change the Constitution; we have to pass a constitutional amendment.

What H.R. 8480 seeks to do is to provide for a regular procedure for dealing with the exceptional case when the Congress decides that a President has changed the policy—by impoundment unilaterally—that the Congress has already made, and the Congress does not approve the change.

It is a very limited, very self-disciplined, very carefully contrived process.

The committee very carefully considered the alternatives, because, after all, the other body had passed the other version a number of times, and we heard from the Senator from North Carolina; he was a witness before the committee. This was a matter which was very carefully considered.

Mr. Chairman, I urge that the amendment offered by the gentleman from Texas (Mr. PICKLE) be voted down, and I ask for a vote.

Mr. HECHLER of West Virginia. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 381]

Archer
Blatnik
Camp
Chisholm
Clark
Clausen, Don H.
de la Garza
Derwinski
Diggs
Dingell
Fisher
Fraser
Gunter
Hanna
Hébert
Holifield
Holtzman
Horton
Jarman
Landgrebe
Leggett
Long, Md.
Mayne
Melcher
Milford
Minshall, Ohio
Patman
Pike
Rees
Roe
Rosenthal
Sisk
Stokes
Teague, Tex.
Ullman
Winn
Wyman

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Fascell, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 8480, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 396 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. Pickle).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. PICKLE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 96, noes 318, not voting 19, as follows:

[Roll No. 382]

AYES—96

Abzug
Adams
Addabbo
Anderson, Calif.
Aspin
Badillo
Bennett
Bingham
Boggs
Brooks
Burke, Calif.
Burke, Mass.
Chisholm
Clay
Cohen
Collier
Conte
Conyers
Corman
Culver
Daniels, Dominick V.
Danielson
Dellums
Denholm
Dent
Dingell
Dorn
Drinan
Edwards, Calif.
Eilberg
Evins, Tenn.
Fascell
Ford, William D.
Fraser
Gonzalez
Grasso
Green, Pa.
Griffiths
Harrington
Hawkins
Hechler, W. Va.
Heckler, Mass.
Helstoski
Hicks
Holtzman
Howard
Hungate
Karth
Kastenmeier
Kazen
Koch
Lehman
Macdonald
Meeds
Mezvinsky
Minish
Mink
Mitchell, Md.
Moakley
Moorhead, Pa.
Moss
Nedzi
Nix
O'Hara
Owens
Patten
Pickle
Pike
Poage
Podell
Randall
Rangel
Reid
Riegle
Rodino
Rooney, Pa.
Rosenthal
Roybal
Ryan
Sarbanes
Schroeder
Seiberling
Smith, Iowa
Stark
Steelman
Studds
Teague, Tex.
Thompson, N.J.
Van Deerlin
Vanik
Waldie
White
Wilson, Charles, Tex.
Yates
Young, Ga.
Young, Tex.

NOES—318

Abdnor
Alexander
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Ashbrook
Ashley
Bafalis
Baker
Barrett
Beard
Bell
Bergland
Bevill
Biaggi
Biester
Blackburn
Blatnik
Boland
Bolling
Bowen
Brademas
Brasco
Bray
Breckinridge
Brinkley
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Burton
Butler
Byron
Carey, N.Y.
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clark
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Collins, Ill.
Collins, Tex.
Conable
Conlan
Cotter
Coughlin
Crane
Cronin
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dennis
Devine
Dickinson
Diggs
Donohue
Downing
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Erlenborn
Esch
Eshleman
Evans, Colo.
Findley
Fish
Flood
Flowers
Flynt
Foley
Ford, Gerald R.
Forsythe
Fountain
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Goodling
Gray
Green, Oreg.
Gross
Grover
Gubser
Gude
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harsha
Harvey
Hastings
Hays
Heinz
Henderson
Hillis
Hinshaw
Hogan
Holifield
Holt
Horton
Hosmer
Huber
Hudnut
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Keating
Kemp
Ketchum
King
Kluczynski
Kuykendall
Kyros
Landrum
Latta
Leggett
Lent
Litton
Long, La.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McKay
McKinney
McSpadden
Madden
Madigan
Mahon
Mailliard
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mazzoli
Melcher
Metcalfe
Michel
Miller
Mitchell, N.Y.
Mizell
Mollohan
Montgomery
Moorhead, Calif.
Morgan
Mosher
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nelsen
Nichols
Obey
O'Brien
O'Neill
Parris
Passman
Patman
Pepper
Perkins
Pettis
Peyser
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Rarick
Rees
Regula
Reuss
Rhodes
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rogers
Roncallo, N.Y.
Rooney, N.Y.
Rose
Rostenkowski
Roush
Rousselot
Roy
Runnels
Ruppe
Ruth
St Germain
Sandman
Sarasin
Satterfield
Saylor
Scherle
Schneebeli
Sebelius
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, N.Y.
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steele
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stratton
Stubblefield
Stuckey
Sullivan
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Treen
Udall
Vander Jagt
Veysey
Vigorito
Waggonner
Walsh
Wampler
Ware
Whalen
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wolff
Wright
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Zablocki
Zion
Zwach

NOT VOTING—19

Breaux
Camp
Derwinski
Fisher
Gunter
Hanna
Hébert
Landgrebe
Long, Md.
Mayne
Milford
Mills, Ark.
Minshall, Ohio
Roe
Roncalio, Wyo.
Symington
Ullman
Winn
Wyman

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. BOLLING. Mr. Chairman, I ask unanimous consent that the remainder of title 1 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The portion of the bill referred to is as follows:

Sec. 103. For purposes of this title, the impounding of funds includes—

(1) withholding or delaying the expenditure or obligation of funds (whether by establishing reserves or otherwise) appropriated for projects or activities, and the termination of authorized projects or activities for which appropriations have been made, and

(2) any other type of executive action or inaction which effectively precludes the obligation or expenditure of available funds or the creation of obligations by contract in advance of appropriations as specifically authorized by law.

Sec. 104. (a) The following subsections of this section are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to 'be followed in that House in the case of resolutions described by this section; and they shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(b)(1) For purposes of this section and section 102 the term "resolution" means only a resolution of the House of Representatives or the Senate which expresses its disapproval of an impoundment of funds set forth in a special message transmitted by the President under section 101, and which is introduced and acted upon by the House of Representatives or the Senate (as the case may be) before the end of the first period of sixty calendar days of continuous session of the Congress after the date on which the President's message is received by the Congress.

(2) For purposes of this section and section 102, the continuity of a session shall be considered as broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of the sixty-day period referred to in paragraph (1) of this subsection (and in section 102) and the thirty-day period referred to in subsection (d)(1). If a special message is transmitted under section 101 during any Congress and the last session of such Congress adjourns sine die before the expiration of sixty calendar days of continuous session (or a special message is so transmitted after the last session of the Congress adjourns sine die), the message shall be deemed to have been retransmitted on the first day of the succeeding Congress and the sixty-day period referred to in paragraph (1) of this subsection and in section 102 (with

respect to such message) shall commence on such first day.

(c) Any resolution introduced with respect to a special message shall be referred to the Committee on Appropriations of the House of Representatives or the Senate, as the case may be.

(d)(1) If the committee to which a resolution with respect to a special message has been referred has not reported it at the end of thirty calendar days of continuous session after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the same message which has been referred to the committee.

(2) A motion to discharge may be made only by an individual favoring the resolution, may be made only if supported by one-fifth of the Members of the House involved (a quorum being present), and is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same special message); and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(3) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same special message.

(e)(1) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to a special message, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate on the resolution shall be limited to not more than two hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. No amendment to, or motion to recommit, the resolution shall be in order, and it shall not be in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(f) Motions to postpone, made with respect to the consideration of a resolution with respect to a special message, and motions to proceed to the consideration of other business, shall be decided without debate.

(g) All appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to any resolution referred to in this section shall be decided without debate.

SEC. 105. If the President, the Director of the Office of Management and Budget, the head of any department or agency of the United States, or any other officer or employee of the United States impounds any funds authorized or made available for a specific purpose or project or orders, permits, or approves the impounding of any such funds by any other officer or employee of the United States, and the President fails to transmit a special message with respect to such impoundment as required by this title, the Comptroller General shall report such impoundment and any available information concerning it to both Houses of Congress; and the provisions of this title shall apply with respect to such impoundment in the same manner and with the same effect as if such report of the Comptroller General were a special message submitted by the President under section 101, with the sixty-day period provided in section 102 being deemed to have commenced at the time at which the Comptroller General makes the report. As used in section 104, the term "special message" includes a report made by the Comptroller General under this section.

SEC. 106. The Comptroller General is hereby expressly empowered as the representative of the Congress through attorneys of his own selection to sue any department, agency, officer, or employee of the United States in a civil action in the United States District Court for the District of Columbia to enforce the provisions of this title, and such court is hereby expressly empowered to enter in such civil action any decree, judgment, or order which may be necessary or appropriate to secure compliance with the provisions of this title by such department, agency, officer, or employee. Within the purview of this section, the Office of Management and Budget shall be construed to be an agency of the United States, and the officers and employees of the Office of Management and Budget shall be construed to be officers or employees of the United States.

SEC. 107. Section 203 of the Budget and Accounting Procedures Act of 1950 is repealed.

SEC. 108. Nothing contained in this title shall be construed as—

(1) asserting or conceding the constitutional powers or limitations of either the Congress or the President;

(2) ratifying any impoundment heretofore or hereafter executed or approved by the President or any other Federal officer or employee, except insofar as pursuant to statutory authorization then in effect; or

(3) affecting in any way the claims or defenses of any party to litigation concerning any impoundment ordered or executed before the date of the enactment of this Act.

The CHAIRMAN. The Clerk will report the committee amendment to section 104.

The Clerk read as follows:

Committee amendment:

Page 6, after the period in line 22, add the following new sentence:

If a special message is transmitted under section 101 during any Congress and the last session of such Congress adjourns sine die before the expiration of sixty calendar days of continuous session (or a special message is so transmitted after the last session of the Congress adjourns sine die), the message shall be deemed to have been retransmitted on the first day of the succeeding Congress and the sixty-day period referred to in paragraph (1) of this subsection and in section 102 (with respect to such message) shall commence on such first day.

The committee amendment was agreed to.

Mr. COHEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this session of Congress has been highlighted by a historic debate with the executive branch over the question of budget procedures and the impoundment of funds that have been appropriated by Congress.

First, let me say that I believe this debate does not have to be viewed as a confrontation between these two branches of Government. It is not a struggle simply for power or control of Federal finances. Rather, I believe that we have embarked on a long overdue examination of the way in which the Federal Government decides how to spend the people's money; a careful consideration of the best way in which we can at once move forward in solving the problems of the Nation, yet act in a way that is fiscally responsible.

Mr. Chairman, I have disagreed with the impoundment policies adopted by this administration. I believe that it is one thing to withhold funds to meet a national emergency, but it is quite another to impound funds so that moneys appropriated by Congress are canceled or cut back because the President considers the purpose unwise or wasteful.

That is why I have joined my distinguished colleague from Massachusetts, Representative CONTE, in cosponsoring the Congressional Spending Power Act of 1973 in order to rectify this situation. The bill provides that before any moneys can be impounded, the President must send a special mesage to Congress specifying the amount to be impounded and the projects and functions affected. Then, Congress must specifically approve the proposed impoundment within 60 days, or otherwise, the impoundment does not go into effect.

I believe that the bill offered by my colleague from Massachusetts (Mr. CONTE) is preferable to H.R. 8486 in that Congress must specifically approve a proposed impoundment rather than disapprove an already implemented impoundment or, in the case of S. 373, approve a proposed impoundment, rather than approve an implemented impoundment. Nevertheless, I believe that there is enough similarities among all of these bills so that a strong compromise can be agreed upon.

Those plans, Mr. Chairman, provide a reasonable and workable solution to the impoundment question. The "control of the purse" would be placed back in Congress, where it belongs, and the executive branch would be provided with a simple, prompt procedure to have its views on the spending of Federal money considered.

Yet, at the same time, I believe we must recognize that there is a great deal of validity to the President's view that Congress, in the past, has not acted in a fiscally responsible manner. In fact, if Congress had been more diligent and responsible, the President would not have been forced to impound funds in the first place. While this rationale is, I think, legitimate, it does not mean that we can allow the impoundment powers to continue unchecked. It does mean, however, that we must move forward to reform our budgetary procedures.

Because of this tremendous need for reform, I have been actively supporting the concept that Congress should put an end once and for all to our current system for considering spending issues in a hodgepodge manner without any regard to priorities or the total budget picture. Mr. Chairman, I firmly believe that we must move toward establishing new procedures whereby Congress meets at the beginning of each session to determine an overall budget ceiling. If spending goes above that ceiling, we would be required to meet again to: First, raise taxes to pay for the overspending, second, formally accept deficit spending or third, reduce appropriations we had earlier adopted. Certainly, such a procedure would be a far more responsible one than the inadequate structure we now have in effect.

Moreover, Mr. Chairman, I view the debate today as one of the more important moments in this legislative session. Since almost all of our actions are ultimately involved with the appropriation of the people's taxes, we have an obligation to set a sound and rational policy on these important questions.

AMENDMENT OFFERED BY MR. HEINZ

Mr. HEINZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Heinz: Page 10, line 23, strike out "is repealed" and insert in lieu thereof "shall not be applicable with respect to funds impounded on or after the date of the enactment of this Act and before July 1, 1974".

Mr. HEINZ. Mr. Chairman, I will not take the 5 minutes on this.

This is an amendment to section 107 of the bill and is a conforming amendment to the amendment to section 101 which I offered yesterday and which was adopted by a rather persuasive voice vote in this body. It completes the intent of making this a 1-year bill. That is simply the purpose of it, and I hope the committee will be consistent and adopt this conforming amendment.

Mr. MARTIN of Nebraska. Will the gentleman yield?

Mr. HEINZ. I am glad to yield to the gentleman.

Mr. MARTIN of Nebraska. We accept the amendment on this side.

Mr. BOLLING. Will the gentleman yield?

Mr. HEINZ. I yield to the gentleman.

Mr. BOLLING. We accept the amendment. It is a conforming one to the one previously adopted, and I urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. Heinz).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ANDERSON OF ILLINOIS

Mr. ANDERSON of Illinois. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Anderson of Illinois: On page 11, after line 10, add the following new section:

"Sec. 109. The foregoing provisions of this title shall take effect on January 1, 1974."

POINT OF ORDER

Mr. BOLLING. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. BOLLING. The point of order is that the amendment is not germane.

Mr. ANDERSON of Illinois. Mr. Chairman, if I may be heard on the point of order, I think perhaps the distinguished gentleman from Missouri and my colleague on the Committee on Rules has not correctly understood the amendment, because it is not the amendment that says that the foregoing provisions of this title; namely, title I, shall take effect on the effective date of this legislation which improves congressional control over budgetary outlay and the receipt totals in a comprehensive manner but merely fixes a date and says that the provisions of title I shall not become effective until January 1, 1974.

Mr. BOLLING. Mr. Chairman, then this amendment should have been offered at a different place as an amendment to the Heinz amendment, or else it is in effect a redundancy.

Mr. ANDERSON of Illinois. Mr. Chairman, if I may be heard further on the point of order, as I understand the Heinz amendment it has the effect of making it merely a 1-year bill. In other words, the antiimpoundment provisions would expire at the end of the current fiscal year. My amendment says that title I, the anti-impoundment provision, does not commence, does not become effective as a matter of law until January 1, 1974.

The CHAIRMAN (Mr. Fascell). The Chair is prepared to rule.

The amendment offered by the gentleman from Illinois (Mr. Anderson) provides that title I shall take effect on January 1, 1974. The amendment is objected to because of inconsistency and also because it is not germane. The Chair cannot rule on the consistency of the amendment offered by the gentleman from Illinois (Mr. Anderson) but the amendment certainly fixes a date certain which is not an unrelated contingency. The amendment is germane and therefore the Chair overrules the point of order.

Mr. ANDERSON of Illinois. Mr. Chairman, both on yesterday and today we have heard over and over again, particularly from the Members who are seated on my right, on the Democrat side of the aisle, that this is a nonpartisan bill; that they are not interested for a single moment in directing this legislation at the present incumbent in the White House, but that they are sincerely interested in getting a handle on the problem.

I think that this particular amendment, by merely delaying the effective date of the implementation provisions of title I of this act, gives them every opportunity to redeem the sincerity of that promise, and of that assertion. Because I think the problems of impoundment, as we have heard often enough already in this debate, are largely the result of our own inability in this House—yes, and in the other body as well—our inability to approach our spending decisions in a rational and restrained manner. Therefore, if we really want to deal effectively with the root cause of impoundments, then we ought to give first priority to our congressional budgetary process.

I am well aware that during the debate which took place under the rule we heard some very ardent assurances from the gentleman from Missouri (Mr. Bolling) and from others on that gentleman's side of the aisle, that indeed we are going to get this kind of a bill, that hearings finally have begun, and that hopefully in October or November, or before the expiration of this first session of the 93d Congress, that will become law. And I hope that is indeed the case.

All I am suggesting is that by adopting this amendment we would merely demonstrate to the country that we do realize the responsibility that we have to reform our own house, to cast out the mote and the beam within our own eye before we look to the other end of Pennsylvania Avenue and charge the President and the White House with all of the responsibility for the fiscal situation that confronts the country today.

I am well aware that title II of this bill—and we will shortly consider the provisions of that title—grants the President the authority to make so-called pro rata impoundments in the current fiscal year if we exceed the $267.1 billion ceiling provided for in section (a) of title II. But I submit that that ploy is at best cosmetic, it is deceptive, it is a complete evasion of what ought to be congressional primacy over the purse strings of this country.

So if we want to assure the people of the country that we are really sincere about the need for budgetary reforms we would be well-advised to adopt the effective date for this legislation that I have suggested. Because all too often, I think, once a crisis is past, and there may be those in this House who would erroneously think that the impoundment crisis had passed because we had passed this legislation, but I think that nothing, nothing could be further from the truth than that; the impoundment crisis will only be solved when the date comes that we have adopted comprehensive budgetary reform legislation.

Because of my inability under the rules to submit the amendment tying the passage of this legislation clearly and cleanly to the enactment of such legislation, I have seized upon this means for the embodiment of a date. I think it is a reasonable date. We are not seeking to postpone the effective date ad infinitum, or to some indefinite date in the future; we are saying January 1, 1974. That ought to give the Congress time to act on this very vital and important subject of budgetary reform.

So I think that in the vote on this amendment we have an opportunity to go on record for budget reform. That is what we are voting for when we vote for this amendment. In my remarks I would hope that I have made it quite clear that that is the purpose of my offer in good faith of this amendment to title I of the bill.

Mr. BOLLING. Mr. Chairman, I rise in opposition to the amendment.

Having been accused of being deceptive by the gentleman from Illinois, I decided I did not really want to ask him to yield to me, but I will admit that, while I do not think he is deceptive, I think that he is very confusing to me.

On yesterday I accepted an amendment offered by the gentleman from Pennsylvania (Mr. Heinz) that would relate this impoundment bill to the same period of time as the temporary expedient spending limit that is involved in this bill in order to demonstrate conclusively our good faith in relation to a budget process. I do not propose to review again the commitment that I made and have to the Committee on Rules for reporting an adequate process whereby the Congress will have an overall budget, which I think is needed for very many years. I do not have any idea why the gentleman from Illinois offered this amendment. What it does is say in effect at this point that Mr. Heinz' amendment, which relates it directly to the period of spending limit, 1 year and 1 year—that only half of it will be operative for the impoundment amendment. There may be a logic to that, and there may be a reason for it.

I listened with some care to the gentleman's statement, but I do not see the reason, nor do I see the logic, and, therefore, I am confused and do not understand precisely what the gentleman from Illinois has in mind. He has already said that the provision that the gentleman now speaking supports is deceptive. If he is saying that the whole thing is a deception, I suppose that is his business, but I admit that what he offers is confusing, and I urge that it be voted down in the interest of consistency, in the interest of having a spending limit which is a temporary expedient for the fiscal year 1974, and an impoundment provision which is a temporary impoundment provision running for the same 1 year.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman from Missouri yield?

Mr. BOLLING. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. I am sure that once again the gentleman from Missouri, my friend and colleague on the committee, has misapprehended my position. I would never accuse him of being deceptive. I hope he realizes that I do feel that there are certain provisions in the bill I have referred to as being deceptive.

Mr. BOLLING. I listened to Senator Ervin, a Member of the other body, this morning, and I, too, understand the language because it is my mother tongue, and "deceptive" is "deceptive."

Mr. ANDERSON of Illinois. If the gentleman will yield further, I refer, of course, not to the gentleman personally, but to the provisions in title II of the bill that I think are deceptive insofar as they represent or purport to be an attempt, and an unsuccessful attempt, on the part of the Congress to really regain control of the power of the purse. I will have more to say when we come to that section of the bill that deals with the pro rata impoundment feature, but I think it is highly inconsistent with the purpose that the gentleman I am sure in good faith is putting forth in espousing this bill.

But I would repeat, my comments relate to the operative provisions of the bill, specifically, title II, and not to the gentleman whose word, of course, I honor and respect.

Mr. BOLLING. Mr. Chairman, I urge the amendment be voted down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. Anderson).

The amendment was rejected.

The CHAIRMAN. Are there further amendments to be proposed to title I?

If not, the Clerk will read.

The Clerk read as follows:

TITLE II—CEILING ON FISCAL YEAR 1974 EXPENDITURES

Sec. 201. (a) Except as provided in subsection (b), expenditures and net lending during the fiscal year ending June 30, 1974, under the budget of the United States Government shall not exceed $267,100,000,000.

(b) If the estimates of revenues which will be received in the Treasury during the fiscal year ending June 30, 1974, as made from time to time, are increased as a result of legislation enacted after the date of the enactment of this Act reforming the Federal tax laws, the limitation specified in subsection (a) shall be reviewed by Congress for the purpose of determining whether the additional revenues made available should be applied to essential public services for which adequate funding would not otherwise be provided.

AMENDMENT OFFERED BY MR. REUSS

Mr. REUSS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Reuss: Strike out title II (beginning on line 11, page 11, and ending on line 10, page 14).

Page 1, strike out lines 3 and 4.

POINT OF ORDER

Mr. BOLLING. Mr. Chairman, I make a point of order against the amendment in that the amendment is offered to strike the title. The title has not been read, and therefore the amendment is not in order.

The CHAIRMAN. Does the gentleman from Wisconsin desire to be heard?

Mr. REUSS. I do, Mr. Chairman. I would like to be heard briefly in response to the point of order.

The point in the reading at which the motion to strike occurs has been reached. I would think that the amendment is, therefore, in order.

The CHAIRMAN (Mr. Fascell). A point of order has been raised that the amendment offered by the gentleman from Wisconsin (Mr. Reuss) seeks to strike matter beyond the portion of the bill which the Clerk has read, and there would be no way of striking anything except what the Clerk has read.

The Chair is constrained to sustain the point of order.

PARLIAMENTARY INQUIRY

Mr. REUSS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. REUSS. Mr. Chairman, at what point will my amendment to strike title II become in order?

The CHAIRMAN. The Chair advises the gentleman from Wisconsin that the Chair cannot answer that question, because the Chair does not know whether the gentleman will offer the amendment.

Obviously, the only amendment to strike which would be in order at this point would be to strike out the pending section.

AMENDMENTS OFFERED BY MR. SIKES

Mr. SIKES. Mr. Chairman, I offer two amendments and I ask unanimous consent that they may be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. Sikes: Page 11, lines 13 and 14, strike out "(a) Except as provided in subsection (b), expenditures" and insert in lieu thereof "Expenditures".

Page 11, strike out lines 17 through 25.

Mr. SIKES. Mr. Chairman, I strongly support the concept of impoundment control. There must be a solution to the continuing fiscal conflict between the administrative and legislative branches of Government. Congress has, over the years, given up much of the authority entrusted to it by the Constitution.

One Chief Executive after another has sought additional powers at the expense of Congress. The fact that this Congress proposes to reestablish a proper line of demarcation in powers between the Chief Executive and the Congress is certainly to be commended. It is something that I am confident the Nation will welcome.

It is significant that steps now are being taken toward budget control and the related fields of impoundment control and expenditure ceiling limitation. It is essential that we proceed carefully. We are not obstructionists. We are not merely seeking power. We are seeking a realistic method for retaining a proper voice in the expenditures of Government. To do this, we must regain some of the ground previously lost.

In the field of impoundments, this Chief Executive has gone further than any previous President. This has effectively blunted the efforts of Congress in many important fields.

I applaud the effort which produced the bill now before us, but I believe it can be improved. My amendment will improve the bill. It is directed at section 201. This paragraph requires the Congress to reconsider the $267.1 billion expenditure ceiling if certain conditions change in the future. The language is not needed. It can be harmful.

The amendment strikes the requirement for Congress to review the expenditure ceiling for possible upward adustment if tax reform results in higher estimated revenues. I do not think we want to write in blanket authority to spend money over and above anticipated revenues. There are many who feel if there is a surplus, it should be applied against the deficit.

The committee print completely overlooks the primary role of a tax increase would be to lower the deficit and to combat inflation. In no way does the bill encourage reduced expenditures. Instead, it tends to confirm administration characterization of Congress as a "big spender." The bill does not require a review for downward adjustment of the ceiling should tax reform result in lower estimates of revenues. Historically, the track record of Congress on tax reform is not impressive. The last tax reform bill in 1969, resulted in a revenue loss of $6 billion in the last fiscal year 1973.

If there is a surplus over anticipated revenues, the regular appropriations procedures should apply.

Congress can, of course, choose at any time to review the ceiling. There simply is no requirement for the language of the bill.

Thus, unless my amendment prevails, we may be voting a commitment to sop up whatever additional revenues might become available. It encourages fiscal irresponsibility. Certainly this is not the intent of the sponsors of the bill. I should think they will welcome my amendment.

We live in a day and age when the Federal budget is sued not only to fund programs but is a vital tool to influence the economy. The language of the bill asks us to ignore this fact completely.

My amendment merely emphasizes the

need to get on with establishing a comprehensive budget control system.

Mr. BOLLING. Mr. Chairman, will the gentleman yield?

Mr. SIKES. I yield to the gentleman from Missouri.

Mr. BOLLING. I believe the point the gentleman makes is well taken. It is obvious the Congress could review the figure, given changed circumstances. The point the gentleman makes is well taken. I, for one, am happy to accept the amendments.

Mr. SIKES. I appreciate the position taken by the distinguished gentleman from Missouri. I hope the amendments will be approved.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Florida (Mr. Sikes).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. REUSS

Mr. REUSS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Reuss: Strike out section 201(a) beginning on page 11, lines 13 through 16.

Mr. REUSS. Mr. Chairman, this fiscal responsibility amendment would in effect strike title II, although it applies at this time only to section 201(a). If it prevails, an effort will be made along the line to eviscerate the remainder of title II.

The purpose of the amendment is simple. The bill sets up a $267.1 billion spending ceiling. Yet there is not one word as to what the Joint Economic Committee thinks about the full-employment-without-inflation aspects of the provision; what the Committee on Appropriations thinks of the expenditure aspects of the provision; what the Committee on Ways and Means thinks of the revenue-raising aspects of the provision.

Instead, so far as my archeologists were able to determine, what was done was this. The President put in a budget request in January of $268.7 billion. The Senate, after inveighing against this for many months as a starvation budget, then reduced it by $700 million, to $268 billion, and now, unsatisfied with what the Senate did to it, we are asked to install a ceiling $900 million below that, of $267.1 billion.

My difficulty with it is that, under any sensible view, it is grotesquely below existing expenditures.

We have already, by back-door spending, put another billion in over the President's $268.7 billion. Already inflation has added another $6 billion of expenditures. And already court anti-impoundment decisions, not including yesterday's decision on housing, have added another $6 billion. So we are $13 billion in the hole without even getting to the $1.7 billion that has been lopped off the President's starvation budget request.

Furthermore, we delegate, it seems to me, exorbitantly to the President here. We allow him to hack and to cut, up to 13 percent, in "each functional category," with him to define it. He can very well look at the "functional category" of commerce and transportation, for example, and cut pensions for the mail carriers to the bone; cut the appropriations for mass transit, but leave untouched the shipbuilding subsidies which at that particular time may be excessive.

Finally, I believe the proposition is unworkable. There is only about $76 billion out of the $268 billion expenditure budget which is truly controllable. So all the onus would fall upon that one area, and we simply cannot squeeze that kind of expenditure cuts out of that amount.

So, Mr. Chairman, the whole exercise is one of frustration. I know that we all want the Goddess of Fiscal Responsibility to smile upon us for our votes. But I suggest that she will smile most benignly upon us if we will simply and quietly vote to cut out the spending ceiling, and speedily report out and vote upon the far-seeing Whitten-Ullman bill, the Budget Control bill, which will enable us to go about the task of budget-setting in an intelligent and responsible way.

Mr. LONG of Louisiana. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, there is no question about the fact that the state of fiscal affairs in the country today is such that we need to set for ourselves a goal, and that goal ought to be an attainable goal with respect to fiscal responsibility.

My feeling is that this is an attainable goal.

Second, there is, as was evident from the conversation between the gentleman from Florida and the gentleman from Missouri, the prospect that should the economic circumstances change during the course of the year, there would be no reason why the Congress could not look again at the situation.

Mr. Chairman, I believe both of those reasons, and those reasons alone—although there are other reasons—those reasons alone are sufficient in themselves to oppose this amendment.

Mr. Chairman, I urge that the amendment be voted down.

Mr. MARTIN of Nebraska. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the amendment cuts out the one almost redeeming feature in this entire bill, and I urge that the Members oppose the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. Reuss).

The question was taken; and on a division (demanded by Mr. Reuss) there were—ayes 8, noes 47.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. SYMMS

Mr. SYMMS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Symms: On page 11, line 16, after the word "exceed" strike out the figure $267,100,000,000 and insert the figure $263,300,000,000.

Mr. SYMMS. Mr. Chairman, it is easy to see that my point of view is somewhat different than that of my colleague, the gentleman from Wisconsin (Mr. Reuss) who offered the previous amendment, which would have put no spending limit on this bill at all.

The process by which I arrived at the figure in my amendment is very simple. I took President Nixon's budget of $268.7 billion and reduced it by 2 percent. That gives us a figure of $263,300,000,000.

Now, Mr. Chairman, that is still a lot of money, and it is still a big budget. It is a very reasonable cut of 2 percent, one that could be implemented evenhandedly across the board. It would make this bill much more responsible than just to try to curtail the President's power of impoundment in his efforts to stop needless spending of taxpayers' money. We live in this age of inflation and printing-press currency which is all Government caused. I believe that my amendment would in fact exert more congressional authority if it were to be accepted.

Then the Congress could stand up and say that they are making a real effort for real fiscal responsibility particularly at a time when the American people are being asked to hold down their personal expenditures, to pay higher interest rates, and to undergo freezes on the prices of the products they produce, limit wage increases to meet approval of the Government guidelines.

It seems to me as though a 2-percent cut in the proposed budget on the part of the Federal Government is in fact very reasonable. I would say to my colleagues on the Republican side of the aisle that this amendment will give you an opportunity to vote for a lower figure than is in the proposed legislation. It will give all of my colleagues on the Democratic side of the aisle an opportunity to vote for a figure that is even lower than the $267.7 billion in the bill.

I think that covers the purpose of the amendment. There is no need to belabor the point further.

Mr. GERALD R. FORD. Will the gentleman yield?

Mr. SYMMS. I will be happy to yield to the gentleman from Michigan.

Mr. GERALD R. FORD. Mr. Chairman, I rise to endorse the gentleman's amendment. Even though it is a 2-percent cut in the proposed budget for fiscal year 1974. I hasten to add that the figure is about $13 billion over the budget for fiscal year 1973. So again it is not any budget that we cannot live with. This is a figure which is completely acceptable, in my judgment, to the American people and something that ought to be supported on the floor of the House if we believe in a spending ceiling.

Mr. SYMMS. I thank the gentleman from Michigan.

I would say further that this still would not put this budget in balance. We are still talking about printing-press currency to pay the Federal Government's bills.

Mr. MARTIN of Nebraska. Will the gentleman yield?

Mr. SYMMS. I will be happy to yield to the distinguished gentleman from Nebraska.

Mr. MARTIN of Nebraska. Mr. Chairman, on our side of the aisle and on behalf of the members of the Committee on Rules on our side, I accept the gentleman's amendment.

Mr. SYMMS. I thank the gentleman.

I now yield to the distinguished gentleman from New Jersey.

Mr. HUNT. Mr. Chairman, I want to associate myself with the amendment offered by the gentleman from Idaho and congratulate the gentleman. We finally have someone in the House deciding to do something to cut down on the expenditure of money that we do not have.

Everybody talks about reducing the fiscal budget and talks about deficit spending. This is the opportunity either for them to cut bait or fish or else go home. This is the opportunity to do the something that Members have been talking about.

I congratulate the gentleman and support his amendment.

Mr. BENNETT. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman.

Mr. BENNETT. Mr. Chairman, I would like to congratulate the gentleman on his amendment.

Mr. Chairman, I rise in support of the amendment by the gentleman from Idaho (Mr. SYMMS). I hope it will be accepted.

Mr. Chairman, an able lawyer, applying for admission to the New York bar in December 1963, wrote:

> The principles underlying the government of the United States are decentralization of power, separation of power and maintaining a balance between freedom and order.
>
> Above all else, the framers of the Constitution were fearful of the concentration of power in either individuals or government. The genius of their solution in this respect is that they were able to maintain a very definite but delicate balance between the federal government and state government, on the one hand, and between the executive, legislative and judicial branches of the federal government, on the other hand.

This same able lawyer, who, incidentally, was admitted to the bar of the State of New York and was later elected President of the United States in the 1968 elections and reelected in 1972, recently completely abrogated his thesis in the 1963 paper with an edict not unlike a Catherine de' Medici decision of the 16th century. Or, at least, people did so in his name. No signature by him doing this has ever come to light. But a press release indicates he did it.

This act by the White House destroyed the delicate balance between the Federal Government and the State government by cavalierly breaking a contract between the U.S. Government and the State of Florida; and dictatorially repealed an authorized law of Congress by permanently halting the Cross-Florida Barge Canal. The White House did not even give notice to the public or to Congress that this was going to be done or allow any objective presentation of views on the subject at all.

The 18th century French writer Montesquieu wrote in The Spirit of the Laws on the Constitution of England:

> When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty; because apprehensions may arise, lest the same monarch or senate should enact tyrannical laws, to execute them in a tyrannical manner.

Later, Justice Brandeis said:

> The doctrine of separation of powers was adopted by the Convention of 1787, not to promote efficiency but to preclude the exercise of arbitrary power.

In the recent case of the Cross-Florida Barge Canal, the President both promoted inefficiency in Government by stopping a vital and worthwhile national project, one-third complete, and creating great uncertainty and loss of taxpayers' funds and predictable damage to the environment, but he also acted in an unconstitutional and arbitrary manner.

My statement today deals with the President's edict to terminate the Cross-Florida Barge Canal and shows that he was misled on the law backing his decision, just as he was misled by his environmental advisors, to the detriment of the 7 million citizens of Florida and the 23 million annual visitors to our State and the economy and national security of America.

The canal case is a current classic in the "impoundment of funds" field and perhaps the worst example of Presidential disregard of the U.S. Constitution in history.

The responsibility of the President of the United States is as stated in section 3 of article 2 of the Constitution to "take care that the laws be faithfully executed." He has the power of veto in the process of enactment or repeal of a law—section 7 of article 1—but after a bill is signed into law and appropriations are made he cannot repeal the law himself without congressional repealing; and the President must execute or carry out the duly enacted law. He can, of course, recommend that the law be repealed. No principle of American constitutional government is more fundamental than this to our heritage or more clearly stated in our Constitution.

The keystone of our Government is its division into the three separate branches: legislative, executive, and judicial. One of our Founding Fathers, President James Madison, expressed it well in the Federalist Papers, No. 47, when he wrote:

> The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny.

So in defining the powers of the new President our forefathers wrote into our Constitution:

> He shall take care that the laws be faithfully executed.

The Cross-Florida Barge Canal was specifically authorized in 1942 by Public Law 77–675. Although its value to the defense needs of our country were recognized in its authorization, the shortage of manpower for its construction during World War II postponed the appropriations needed for its commencement. But the appropriations have been made continuously ever since 1964 and now total $60 million; and the project is now more than a third complete.

In 1970 in the House report on the appropriations bill the following statement was made:

> The committee has included in the bill the $6,000,000 including carryover funds, proposed in the budget to continue construction of the project . . . the committee does not feel that it would be warranted, in the light of the current facts available, in delaying construction of the project which was started in 1964 and is now about 30 percent complete . . . Considering, therefore, the status of the construction and the need for the project, the committee recommends that the construction work continue and that every effort continue to be made to minimize any adverse effects on the environment, ecology, and fish and wildlife in the area.

It is not proposed to discuss here the merits of the canal; but only the legality of a Presidential edict to terminate the project. The merits which amply justify the project, have been reportedly testified to in congressional hearings. However, the facts are briefly that about $50 million have been spent on this canal: First, which the Joint Chiefs of Staff supported to provide an additional and shorter line of communication between the gulf coast and the east coast that would reduce exposure of shipping to submarine attack, and second, which several independent studies found to be justified for economic and job producing reasons, and third, which many geologists, and all congressional public hearings, open to all points of view, gave a clean bill of health to on ecological grounds. No ecological study by any agency of the U.S. Government has ever concluded that the canal should not be built.

On January 19, 1971, the President issued a press release in which he said, "I am today ordering a halt to further construction of the Cross-Florida Barge Canal," which has been construed to be a termination by employees of the Civil Service Commission.

After repeated requests to the White House, on February 25, 1971, the White House staff furnished the following statement on the legal authority of the President to terminate the Cross-Florida Barge Canal without congressional approval, reciting that this was the opinion of the Department of Justice.

> An appropriation of funds for a particular project or activity is ordinarily regarded as permissive in nature and not as equivalent to a direction that such projects or activity be undertaken or that such funds be spent. See 42 Ops. A. G. No. 32, p. 4 (1967); McKay v. Central Electric Power Cooperative, 223 F. 2d 623, 625 (C.A.D.C. 1955).

The only court decision cited to uphold the quoted conclusion was McKay against Central Electric Power Cooperative—an REA cooperative. This case does not in any way support the President's action on the canal; because, unlike the canal which was specifically authorized and specifically appropriated for, the REA contracts in the McKay case depended—solely for any specific performance on such contracts—upon the language of a general appropriations law for electrical transmission facilities, while the law made no reference whatsoever to particular projects or particular contracts. In fact, the legislative history of the law in the electrical case indicated an intent to exclude the contracts sought to be performed; but this was not relied upon in the appellate decision, but only the fact that the legislation was silent on the specific project and the specific contracts involved. The court observed that the claimants might, despite the court's ruling on specific performance of the contracts, sue the Government for breach of contract in another suit.

Clearly, the above cited case is not only no authority for the President's action on the canal matter; but it is in fact authority against the President having authority when the project involved, such as the canal, is both authorized and appropriated for by specific provision of law. This would be true whether a suit is for specific performance or for breach of contract.

The only other authority relied upon by the administration for its position was the 1967 opinion of Attorney General Ramsey Clark upholding the power of the President to impound Federal-aid highway funds before they had been obligated by approval of a specific qualifying project. This impoundment was not to end any project but only to temporarily reduce the level of spending to curb inflation. No contractual obligations of the United States were involved in any way. Clearly that decision is not analogous in any way to the President's order to terminate completely a project duly and specifically authorized and funded by legally enacted law. The Attorney General said:

> It is my conclusion that the Secretary has the power to defer the availability to the States of those funds authorized and apportioned for highway construction which have not, by the approval of a project, become the subject of a contractual obligation on the part of the Federal Government in favor of a State.
>
> Moreover, since the purposes of action here is not to reduce the total amount of the funds to be devoted to the Federal-Aid Highway Program but merely to slow the program for a limited period, hopefully it will have no adverse effect on the completion of the program "as nearly as practicable" by the end of the period envisaged in 23 U.S.C. 101(b).

The Attorney General in the above opinion stated:

> The Courts have recognized that appropriation acts are of a fiscal and permissive nature and do not in themselves impose the executive branch an affirmative duty to expend the funds. Hukill v. United States, 16 C. Cl. 562, 565 (1880); Campagna v. United States, 26 C. Cl. 316, 317 (1891); Lovett v. United States, 104 C. Cl. 557, 583 (1945), affirmed on other grounds, 328 U.S. 303 (1946); McKay v. Central Electric Power Cooperative, 223 F.2d 623, 625 (C.A.D.C. 1955).

The Library of Congress Reference Service paper "Impoundment by the Executive of Funds Which Congress Has Authorized It To Spend or Obligate" at page 15 observes of the above Attorney General's opinion that the cited cases do not "sustain the broad proposition for which they were cited."

In the Hukill case, above cited, the United States had enacted an appropriations law which would pay postal employees for services rendered in the South during the Civil War, under certain circumstances; and then provided that any unexpended balance would be turned over to the Treasury in 2 years. After the 2 years expired, Hukill attempted to enforce the payment terms of the appropriations law. Although holding against Hukill because he had not shown that he had not therefore been paid for the same services by the Confederacy, the Court also held that if he had not been so previously paid he could have recovered under the above statute. In deciding this, the Supreme Court said:

> An appropriation by Congress of a given sum of money, for a named purpose, is not a designation of any particular pile of coin or roll of notes to be set aside and held for that purpose, and to be used for no other; but simply a legal authority to apply so much of any money in the Treasury to the indicated object.
>
> Every appropriation for the payment of a particular demand, or a class of demands, necessarily involves and includes the recognition by Congress of the legality and justice of each demand, and is equivalent to an express mandate to the Treasury officers to pay it. This recognition is not affected by any previous adverse action of Congress; for the last expression by that body supersedes all such previous action.

The Hukill case is clearly not a case that supports as legal the action of the President in the canal matter. To the extent that it is in point, it would support the continuation of the canal under the duly enacted appropriations laws even if there were no prior authorization law. However, the canal has no deficiency in authorization and does not need to rely on the Hukill case.

The Campagna case, above cited, is a case in which a Marine Band musician sued for a salary of $23 per month as distinguished from a rate of $17 since the appropriations statute involved provided for "30 musicians at $40, 8 at $26, and 15 at $23 per month each, $9,000." After observing that Congress was confronted with paying musicians whose pay varied because of longevity, and so forth, the Court held as follows:

> An appropriation is per se nothing more than the legislative authorization prescribed by the Constitution that money may be paid out at the Treasury. Frequently there is coupled with an appropriation a legislative indication that the designated amount shall be paid to a person or class of persons, and from such an appropriation a statutory right arises upon which an action may be maintained. Occasionally an appropriation act goes still further, and expressly or by necessary implication changes preexisting law so as permanently to increase or diminish the compensation of an officer, agent, or employee of the Government. (Faris Case, 23 Stat. L., 374).

The above case is no authority whatsoever for the termination of any project. Insofar as there was a project in the Campagna case—the hiring of musicians—there was no interruption of it. Only the amount of wages was ruled adverse to the claimant and even this was upon an interpretation of a particular statute, as affected by legislative intent.

In the Lovett case, the only case cited above that has not already been discussed, the plaintiffs sued for their wages as employees of the U.S. Government for a period of time after November 15, 1943, Congress having enacted in July of 1943 a law which provided that no Federal funds should be expended to pay them for any services rendered after November 15, 1943, unless prior to such date the President should have appointed them "with the advice and consent of the Senate." They were never so appointed, but they served beyond the November 15 date under less formal appointments. The Court ruled that the statute did not destroy the obligation of the Government to pay for services rendered and therefore did not prevent a judgment in favor of the plaintiffs for the wages involved even for services after the November 15 date. In the opinion of Justice Madden in this case, the following statement was made:

> It may well be that under our Constitution, and under any constitution which might be devised for a free people, one branch of the Government could, temporarily at least, subvert the Government. The Judges might refuse to enforce legal rights or convict criminals. The President might order the Army and Navy to surrender to the enemy. Congress might refuse or appropriate money to pay the President or the Justice of the Supreme Court and the other courts. But any of these imagined actions would not be taken pursuant to the Constitution, but would be acts of subversion and revolution, the exercise of mere physical power, not lawful authority. And conduct by any branch of the Government less ruinously subversive, but, so far as it goes, equally unconstitutional, is likewise an exercise of physical power rather than lawful authority.

It is clear that the authorities relied upon by the Justice Department in advising the White House, do not give any support at all to the action taken. In no such case was there specific authorization and specific appropriation for a project that was terminated; and the cases clearly deny, rather than support, the administration's position. In fact, the decisions could not hold otherwise in view of the specific constitutional mandate that the President "shall take care that the laws be faithfully executed." The same memorandum which revealed the Department of Justice recitation of cases above referred to also observed:

> The Department of Justice advises us that since the funds presently available for construction of the canal have been appropriated without fiscal year limitation, no further legislative action would be necessary to make such funds available for a resumption of construction. Whether a reauthorization would be necessary as a basis for future appropriations is a matter for Congress to decide.

Of course, Congress had already decided. The authorizations and appropriations were made by law and the President has tried by himself to repeal that law, an unconstitutional effort.

In making the above statement, the Justice Department has in fact conceded that the President cannot repeal a law; and since the laws that authorized and appropriated for the canal still exist they must admit that the Constitution requires these laws to be carried out by the President until they are legally repealed.

In view of the constitutional provision which binds the President to execute and carry out the law, and in view of the fact that the Department of Justice has produced no authorities to support the President's power to terminate the canal—which it obviously could not do in the face of the Constitution—only a few leading cases will now be discussed which the Justice Department failed to mention but which clearly show that the President has no power to terminate the canal unless and until the laws providing for the project are duly repealed. The President does, of course, have the right to veto a bill; but once it is passed with Presidential consent or by another vote overriding the veto he must carry out the laws of the land. Otherwise, as

Justice Madden said, above, the deed would be one of physical power rather than of lawful authority.

> Under our system of government it is the legislative branch which is to make and decide policy. The executive branch is supposed to carry out the policies declared by Congress. (31 Cong. Dig., No. 1, p. 1, at 2 (1952).) (See MacLean, President and Congress: The Conflict of Powers, 61 (1955).)

The following comments rely heavily on the excellent article by Gerald W. Davis in the October 1964, edition of Fordham Law Review.

Whether the Constitution in directing the President to "take care that the laws be faithfully executed" vests in him discretion as to the execution of laws was argued in *Kendall* v. *United States ex. rel. Stokes.* (37 U.S. (12 Pet.) 524 (1838).) Postmaster Kendall had disallowed claims of Stokes for carrying the mail. Congress passed an act directing Kendall to credit Stokes with the amount due. Kendall again refused to pay the claim, contending that only the President, under the power to see that the laws are executed, could require that he pay the claims. The Supreme Court upheld a mandamus ordering the payment, holding that the President was not empowered to dispense with the operation of law upon a subordinate executive officer:

> When Congress imposes upon any executive officer any duty they may think proper which is not repugnant to any rights secured and protected by the Constitution . . . in such cases, the duty and responsibility grow out of and are subject to the control of the law, and not to the direction of the President . . .
>
> To contend that the obligation imposed on the President to see the laws faithfully executed, implies a power to forbid their execution, is a novel construction of the Constitution, and entirely inadmissible.

This is a decision of the U.S. Supreme Court.

To avert a nationwide strike of steelworkers in April 1952, which he believed would jeopardize national defense, President Truman issued an Executive order directing the Secretary of Commerce to seize and operate most of the steel mills. According to the Government's argument in *Youngstown Sheet & Tube Co.* v. *Sawyer* (343 U.S. 579 (1952)), the directive was not founded on any specific statutory authority, but upon "the aggregate of the President's constitutional powers as the Nation's Chief Executive and the Commander in Chief of the Armed Forces." The Secretary of Commerce issued an order seizing the steel mills and the President promptly reported these events to Congress, but Congress took no action.

It had provided other methods of dealing with such situations and had refused to authorize governmental seizures of property to settle labor disputes. The steel companies sued the Secretary and the Supreme Court rejected the broad claim of power asserted by the Chief Executive, holding that:

> The order could not properly be sustained as an exercise of the President's military power as Commander in Chief . . . nor . . . because of the several constitutional provisions that grant executive power to the President.

Mr. Justice Black, who delivered the opinion of the Court, noted:

> In the framework of our Constitution, the President's power to see that the laws are faithfully executed refutes the idea that he is to be a lawmaker. The Constitution limits his functions in the lawmaking process to the recommending of laws he thinks wise and the vetoing of laws he thinks bad. And the Constitution is neither silent or equivocal about who shall make laws which the President is to execute. The first section of the first article says that "All legislative Powers herein granted shall be vested in a Congress of the United States . . ." After granting many powers to the Congress, Article I goes on to provide that Congress may "make all laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof."
>
> The President's order does not direct that a congressional policy be executed in a manner prescribed by Congress—it directs that a presidential policy be executed in a manner prescribed by the President . . . The power of Congress to adopt such public policies as those proclaimed by the order is beyond question . . . The Constitution does not subject this lawmaking power of Congress to presidential or military supervision or control.
>
> It is said that other Presidents without congressional authority have taken possession of private business enterprises in order to settle labor disputes. But even if this be true, Congress has not thereby lost its exclusive constitutional authority to make laws necessary and proper to carry out the powers vested by the Constitution "in the Government of the United States, or any Department or Officer thereof."

Mr. Justice Douglas, in a concurring opinion, noted:

> The power to recommend legislation, granted to the President, serves only to emphasize that it is his function to recommend that it is the function of the Congress to legislate. Article II, Section 3, also provides that the President "shall take care that the laws be faithfully executed." But . . . the power to execute the laws starts and ends with the laws Congress has enacted.

The three dissenting Justices did not assert that the President could act contrary to a statute enacted by Congress. They argued that there was no statute which prohibited the seizure and that there was "no evidence whatever of any Presidential purpose to defy Congress or act in any way inconsistent with the legislative will."

Mr. Justice Jackson, concurring with the majority opinion, remarked on the "poverty of really useful and unambiguous authority applicable to concrete problems of Executive power as they actually present themselves." He suggested that "Presidential powers are not fixed but fluctuate, depending upon their disjunction or conjunction with those of Congress." Justice Jackson then listed the situations in which a President may doubt, or others may challenge, his powers and indicated the legal consequences of the factor of relativity to the powers of Congress:

> 1. When the President acts pursuant to an express or implied authorization of Congress, his authority is at its maximum, for it includes all that he possesses in his own right plus all that Congress can delegate . . . If his act is held unconstitutional under these circumstances, it usually means that the Federal Government as an undivided whole lacks power . . .
>
> 2. When the President acts in absence of either a congressional grant or denial of authority, he can only rely upon his own independent powers, but there is a zone of twilight in which he and Congress may have concurrent authority, or in which its distribution is uncertain. Therefore, congressional inertia, indifference or quiescence may sometimes, at least as a practical matter, enable, if not invite, measures on independent presidential responsibility. In this area, any actual test of power is likely to depend on the imperatives of events and contemporary imponderables rather than on abstract theories of law.
>
> 3. When the President takes measures incompatible with the expressed or implied will of Congress, his power is at its lowest ebb, for then he can rely only upon his own constitutional powers minus any constitutional powers of Congress over the matter. Courts can sustain exclusive presidential control in such a case only by disabling the Congress from acting upon the subject. Presidential claim to a power at once so conclusive and preclusive must be scrutinized with caution, for what is at stake is the equilibrium established by our constitutional system.

In the canal matter, the President has taken a step such as Justice Jackson describes in the third situation above, that is one incompatible with the intention of Congress in duly enacted laws. Therefore, "he can only rely upon his own constitutional powers, minus any constitutional powers of Congress."

The weight of authority is against the existence of an inherent Presidential power to impound appropriated funds—Goostree: The Power of the President To Impound Appropriated Funds: With Special Reference to Grants-In-Aid to Segregated Activities, 11 Am. U.L. Rev. 32, 42 (1962).

The general theory underlying the Constitution is that Congress shall be responsible for the determination and approval of the fiscal policies of the Nation and that the executive shall be responsible for their faithful execution—Report of the President's Committee on Administrative Management, at 15 (1937).

This division of authority was stated by President Wilson in a message to Congress on May 13, 1920:

> The Congress and the Executive should function within their respective spheres. . . . The Congress has the power and the right to grant or deny any appropriation, or to enact or refuse to enact a law; but once an appropriation is made or a law passed, the appropriation should be administered or the law executed by the executive branch of the Government. (Report of President's Committee on Administrative Management at 15.)

Congress has the final responsibility, subject to constitutional limitations and the President's veto power, for deciding which activities are to be undertaken by the Government and the amount of money to be spent on each. The President's role is to recommend to Congress a unified and comprehensive budget and to administer the budget as finally enacted—Committee on Organization of the Executive Branch of the Government Report on Budget and Accounting in the U.S. Government, at 12–13 (1955).

Although an authorization may be considered as only constituting permission to expend funds for a particular purpose, an appropriation of funds implies a directive that such funds be expended to effect the purpose indicated.

> Congress in making appropriations has the power and authority not only to designate the purpose of the appropriation, but also the terms and conditions under which the executive department of the government may expend such appropriations. . . .
>
> The purpose of the appropriations, the terms and conditions, under which said appropriations were made, is a matter solely in the hands of Congress and it is the plain and explicit duty of the executive branch of the government to comply with the same. Any attempt by the judicial branch of our government to interfere with the exclusive powers of Congress would be a plain invasion of the powers of said body conferred upon it by the Constitution of the United States. (Spaulding v. Douglas Aircraft Co., 60 F. Supp. 985, 988 (S.D. Cal. 1945), aff'd, 154 F. 2d 419 (9th Cir. 1946).)

The Supreme Court has also held that when Congress makes an appropriation in terms which constitute a direction to pay a sum of money to a particular person, the officers of the Treasury cannot refuse to make the payment—see, for example, *United States* v. *Louisville* (169 U.S. 249 (1898); *United States* v. *Price*, 116 U.S. 43 (1885); compare 22 Ops. Att'y Gen. 295 (1902).)

The cases cited clearly demonstrate that the President cannot lawfully disregard a duly enacted law. It could be argued that Congress by statute has authorized the President to exercise discretion as to whether funds appropriated for a particular public works project should be expended or impounded. An examination of the statutory authority for the impounding of appropriated funds, except for purposes of economy and efficiency in executing the purposes for which the appropriation is made.

The President cannot dispense with the execution of the laws, under the duty to see that they are executed. To hold otherwise would be to confer upon him a veto power over laws duly passed and enrolled. To accord discretion to a President as to what laws should be enforced and how much, would enable him to interpose a veto retroactively.

Some may say, what can one do to see that the President carries out the Constitution? In the matter of the Cross-Florida Barge Canal not only has the State of Florida entered into expensive contractual arrangements with the Federal Government on this matter, but many local real estate owners have been taxed through the years to contribute the local funds that have been expended in Florida for this canal. The Canal Authority of the State of Florida, the official body for this project in the State, has filed suit in the Federal court in Jacksonville asking that the President's order be declared to be of no effect, illegal and constitutionally void. Other official government bodies involved have also entered this suit, including the Jacksonville Port Authority.

I believe the courts will uphold the Constitution and prohibit the President from unilaterally attempting to repeal the law. But if the courts do not or there is unreasonable delay, Congress should attempt to find a way to prevent such abuse of power by the Executive.

It is sincerely to be hoped that the President will reconsider this matter and at least let the proponents of the canal be heard on the issues, which has not yet been allowed. Particularly, since the evidence is strong that the reasoning of the President's action overlooked the fact that the Oklawha River can be inexpensively bypassed and that no wildlife preservation is in fact achievable by terminating the canal. These matters were mistakenly relied upon in the President's press release.

The most recent action in regard to the canal relates to the $150,000 the Congress appropriated in the current fiscal year for an environmental impact study of the canal. This money, too, has been impounded by the President which I feel violated the law in two areas: first in impoundment and secondly by not providing an environmental impact statement on the canal as required by law. The environmental laws we have passed outline a procedure of first having an environmental impact study, which was not done in the case of the canal; and then the laws say the Executive is to make a recommendation to Congress on such a study for appropriate congressional action. No such recommendation has yet been made in the case of the canal, only unilateral action by the President based on no ecological study or impact statement at all.

AMENDMENT OFFERED BY MR. CRANE TO THE AMENDMENT OFFERED BY MR. SYMMS

Mr. CRANE. Mr. Chairman, I offer an amendment to the amendment offered by the gentleman from Idaho.

The Clerk read as follows:

Amendment offered by Mr. Crane to the amendment offered by Mr. Symms: On page 11, line 16, after the word "exceed" strike out the figure $263,300,000,000 and insert the figure $260,000,000,000.

Mr. CRANE. Mr. Chairman, I will not take a great deal of the time of this body in discussing the amendment to the amendment offered by the gentleman from Idaho, which I think certainly deserves the support of this body. But, on the other hand, as he pointed out in his remarks, it is still a deficit budget.

If this House is going effectively to restrain the President from impounding moneys as a means of attempting to produce balanced books in the interest of all the taxpaying citizens and putting a curb on inflation, it seems to me that the responsible position of this body should be to guarantee a balanced budget.

As I understand it, $260 billion would represent a balanced budget based on anticipated income. I do not see how the Congress of the United States can seriously talk in terms of handcuffing the President in this vital area if it is not going to exercise the degree of restraint that warrants taking that power away from the President.

And that clearly, in my judgment, is to guarantee that we will balance the books. The $260 billion figure does that.

I would urge all Members to look favorably upon this most desirable amendment.

Mr. BOLLING. Mr. Chairman, I rise in opposition to the amendments.

Mr. Chairman, despite the gentleman from Iowa and the gentleman from Illinois and the gentleman from Wisconsin, the figure of $267.1 billion was not just pulled out of a hat. It was an attempt to deal realistically with the kind of proposition that the President suggested, $268.9 billion, and actually go below it because of the disastrous things that were occurring around the world and in the country with regard to the economy.

That is the serious part of what I would like to say. The less serious part is that I clearly have been outdone. I do not feel that I have been undone, but I am rather disturbed to realize that what I have been reading in the papers about a revolt within the Republican Party against the President apparently is so. I think that the President would have a dreadful time if we ended up with either one of these figures, $263.3 billion or $260 billion.

I do not believe that the modest and reasonable and sensible reduction proposed in the committee bill would in any way be embarrassing.

Now, I have not had the opportunity to consult with the President, but I am quite sure that the more drastic cuts would be very difficult for the President. I hope that the Members of this House will take seriously the figure that was proposed initially by the committee as a good-faith effort. And I recognize the good faith and the sincerity of the gentleman from Illinois. Frankly, the only thing that surprises me about the latter's amendment is that it is so high.

But I urge the defeat of both amendments.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. BOLLING. With pleasure.

Mr. GROSS. The gentleman is not from Iowa. He is from Idaho.

Mr. BOLLING. I apologize. I apologize to both the State and to the gentleman.

Mr. GROSS. I will be glad to claim the amendment, however.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. Crane) to the amendment offered by the gentleman from Idaho (Mr. Symms).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CRANE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 156, noes 252, not voting 25, as follows:

[Roll No. 383]

AYES—156

Andrews, N.C.
Archer
Arends
Armstrong
Ashbrook
Bafalis
Baker
Beard
Bennett
Biaggi
Blackburn
Bray
Brinkley
Broomfield
Brown, Mich.
Broyhill, Va.
Burgener
Burke, Fla.
Butler
Burleson, Tex.
Byron
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cochran
Cohen
Collier
Collins, Tex.
Conlan
Conyers
Crane
Cronin
Daniel, Dan
Daniel, Robert W., Jr.
Denholm
Dennis
Dent
Devine
Dickinson
Duncan
du Pont
Edwards, Ala.
Eshleman
Flowers
Flynt
Fountain
Frey
Froehlich
Gaydos
Gilman
Ginn
Goldwater
Goodling
Gross
Grover
Gubser
Guyer

Haley
Hanrahan
Harsha
Harvey
Hastings
Hechler, W. Va.
Heckler, Mass.
Heinz
Henderson
Hinshaw
Hogan
Holt
Hosmer
Huber
Hudnut
Hunt
Hutchinson
Ichord
Johnson, Colo.
Johnson, Pa.
Jones, Okla.
Jones, Tenn.
Kemp
Ketchum
Kuykendall
Landrum
Latta
Litton
Lott
Lujan
McCloskey
McKinney
McSpadden

Mann
Maraziti
Martin, N.C.
Mathis, Ga.
Michel
Miller
Mitchell, N.Y.
Mizell
Montgomery
Moorhead, Calif.
Myers
Nichols
O'Brien
Parris
Passman
Poage
Powell, Ohio
Price, Tex.
Randall
Rarick
Rinaldo
Robinson, Va.
Rogers
Roncallo, N.Y.
Rose
Rousselot
Roy
Runnels
Ruth
Ryan
Satterfield
Saylor

Scherle
Schneebeli
Sebelius
Shipley
Shoup
Shuster
Skubitz
Snyder
Spence
Steelman
Steiger, Ariz.
Symms
Taylor, Mo.
Taylor, N.C.
Thomson, Wis.
Thone
Towell, Nev.
Treen
Vander Jagt
Veysey
Wampler
Ware
Whitehurst
Williams
Wilson, Bob
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, S.C.
Zion
Zwach

NOES—252

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
Badillo
Barrett
Bell
Bergland
Bevill
Biester
Bingham
Boggs
Boland
Bolling
Bowen
Brademas
Brasco
Breaux
Breckinridge
Brooks
Brotzman
Brown, Calif.
Brown, Ohio
Broyhill, N.C.
Buchanan
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton
Carey, N.Y.
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chisholm
Clark
Clay
Cleveland
Collins, Ill.
Conable
Conte
Corman
Cotter
Coughlin
Culver
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Diggs
Dingell
Donohue
Dorn
Downing
Drinan
Dulski

Eckhardt
Edwards, Calif.
Eilberg
Erlenborn
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Foley
Ford, Gerald R.
Ford, William D.
Forsythe
Fraser
Frelinghuysen
Frenzel
Fulton
Fuqua
Giaimo
Gibbons
Gonzalez
Grasso
Green, Oreg.
Green, Pa.
Griffiths
Gude
Hamilton
Hammerschmidt
Hanley
Hansen, Idaho
Hansen, Wash.
Harrington
Hawkins
Hays
Helstoski
Hicks
Hillis
Holtzman
Horton
Howard
Hungate
Jarman
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jordan
Karth
Kastenmeier
Kazen
Keating
Kluczynski
Koch
Kyros
Leggett
Lehman
Lent
Long, La.
McClory
McCollister
McCormack
McDade
McEwen
McFall
McKay
Madden
Madigan
Mahon
Mailliard

Mallary
Martin, Nebr.
Mathias, Calif.
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Minish
Mink
Mitchell, Md.
Moakley
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nelsen
Nix
Obey
O'Hara
O'Neill
Owens
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Podell
Preyer
Price, Ill.
Pritchard
Quie
Quillen
Railsback
Rangel
Rees
Regula
Reid
Reuss
Rhodes
Riegle
Roberts
Robison, N.Y.
Rodino
Roncalio, Wyo.
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Roybal
Ruppe
St Germain
Sarasin
Sarbanes
Schroeder
Seiberling
Shriver
Sikes
Sisk
Slack
Smith, Iowa
Smith, N.Y.
Staggers

Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steiger, Wis.
Stephens
Stokes
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Symington

Talcott
Teague, Calif.
Teague, Tex.
Thornton
Tiernan
Udall
Ullman
Van Deerlin
Vanik
Vigorito
Waggonner
Waldie
Walsh
Whalen
White
Whitten

Widnall
Wiggins
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wright
Wyman
Yates
Young, Ga.
Young, Ill.
Young, Tex.
Zablocki

NOT VOTING—25

Blatnik
Camp
Derwinski
Fisher
Gettys
Gray
Gunter
Hanna
Hébert

Holifield
King
Landgrebe
Long, Md.
Macdonald
Mayne
Milford
Mills, Ark.
Minshall, Ohio

Patman
Roe
Sandman
Thompson, N.J.
Winn
Wolff
Wyatt

So the amendment to the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Idaho (Mr. SYMMS).

RECORDED VOTE

Mr. GERALD R. FORD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 205, noes 206, not voting 23, as follows:

[Roll No. 384]

AYES—205

Abdnor
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Arends
Armstrong
Ashbrook
Bafalis
Baker
Beard
Bell
Bennett
Bevill
Biaggi
Blackburn
Bray
Brinkley
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Carter
Chamberlain
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collier
Collins, Tex.
Conable
Conlan
Coughlin
Crane
Cronin
Daniel, Dan
Daniel, Robert W., Jr.
Davis, S.C.
Delaney
Dennis
Derwinski
Devine
Dickinson

Dorn
Downing
Duncan
du Pont
Edwards, Ala.
Erlenborn
Esch
Eshleman
Findley
Fish
Flowers
Flynt
Ford, Gerald R.
Fountain
Frenzel
Frey
Froehlich
Gaydos
Gilman
Ginn
Goldwater
Goodling
Grasso
Gross
Grover
Gubser
Guyer
Haley
Hammerschmidt
Hanrahan
Hansen, Idaho
Harsha
Harvey
Hastings
Hechler, W. Va.
Heckler, Mass.
Henderson
Hillis
Hogan
Holt
Hosmer
Huber
Hudnut
Hunt
Hutchinson
Ichord
Johnson, Colo.
Johnson, Pa.
Keating
Kemp
Ketchum
Kuykendall
Landrum
Latta
Lent
Litton

Lott
Lujan
McClory
McCloskey
McCollister
McKinney
Mailliard
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Mazzoli
Miller
Minish
Mitchell, N.Y.
Mizell
Montgomery
Moorhead, Calif.
Myers
Nelsen
Nichols
Parris
Passman
Pettis
Peyser
Powell, Ohio
Price, Tex.
Pritchard
Quillen
Railsback
Randall
Rarick
Regula
Rinaldo
Roberts
Robinson, Va.
Rogers
Roncallo, N.Y.
Rose
Rousselot
Runnels
Ruth
Sandman
Sarasin
Satterfield
Saylor
Scherle
Schneebeli
Sebelius
Shipley
Shoup
Shriver
Shuster
Smith, N.Y.
Snyder

Spence
Stanton, J. William
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Thomson, Wis.
Thone

Towell, Nev.
Treen
Vander Jagt
Veysey
Vigorito
Waggonner
Walsh
Wampler
Ware
Whitehurst
Widnall
Wiggins
Williams
Wilson, Bob

Wolff
Wyatt
Wydler
Wylie
Wyman
Yatron
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Zion
Zwach

NOES—206

Abzug
Adams
Addabbo
Albert
Alexander
Anderson, Calif.
Annunzio
Ashley
Aspin
Badillo
Barrett
Bergland
Biester
Bingham
Blatnik
Boggs
Boland
Bolling
Bowen
Brademas
Brasco
Breaux
Breckinridge
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton
Carey, N.Y.
Carney, Ohio
Casey, Tex.
Cederberg
Chisholm
Clark
Clay
Collins, Ill.
Conte
Conyers
Corman
Cotter
Culver
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, Wis.
de la Garza
Dellenback
Dellums
Denholm
Dent
Diggs
Dingell
Donohue
Drinan
Dulski
Eckhardt
Edwards, Calif.
Eilberg
Evans, Colo.
Evins, Tenn.
Fascell
Flood
Foley
Forsythe
Fraser
Frelinghuysen
Fulton
Fuqua
Giaimo

Gibbons
Gonzalez
Green, Oreg.
Green, Pa.
Griffiths
Gude
Hamilton
Hanley
Hansen, Wash.
Harrington
Hawkins
Hays
Heinz
Helstoski
Hicks
Holifield
Holtzman
Horton
Howard
Hungate
Jarman
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kluczynski
Koch
Kyros
Leggett
Lehman
Long, La.
McCormack
McDade
McEwen
McFall
McKay
McSpadden
Macdonald
Madden
Madigan
Mahon
Mallary
Mann
Matsunaga
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Mink
Mitchell, Md.
Moakley
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nix
Obey
O'Hara
O'Neill
Owens

Patten
Pepper
Perkins
Pickle
Pike
Poage
Podell
Preyer
Price, Ill.
Quie
Rangel
Rees
Reid
Reuss
Rhodes
Riegle
Robison, N.Y.
Rodino
Roncalio, Wyo.
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ruppe
St Germain
Sarbanes
Schroeder
Seiberling
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Staggers
Stanton, James V.
Stark
Steed
Stephens
Stokes
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Symington
Teague, Tex.
Thornton
Tiernan
Udall
Ullman
Van Deerlin
Vanik
Waldie
Whalen
White
Whitten
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wright
Yates
Young, Ga.
Young, Tex.
Zablocki

NOT VOTING—23

Brooks
Camp
Fisher
Ford, William D.
Gettys
Gray
Gunter

Hanna
Hébert
Hinshaw
King
Landgrebe
Long, Md.
Mayne
Milford

Mills, Ark.
Minshall, Ohio
O'Brien
Patman
Roe
Ryan
Thompson, N.J.
Winn

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 202. (a) Notwithstanding the provisions of any other law, the President shall, in accordance with this section, reserve from expenditures and net lending, from appropriations or other obligational authority otherwise made available, such amounts as may be necessary to keep expenditures and net lending during the fiscal year ending June 30, 1974, within the limitation specified in section 201.

(b) In carrying out the provisions of subsection (a) the President shall reserve amounts proportionately from appropriations and other obligational authority available for each functional category, and to the extent practicable, subfunctional category (as set out in the United States Budget in Brief), except that—

(1) no reservations shall be made from amounts available for interest, veterans' benefits and services, payments from social insurance trust funds, public assistance maintenance grants under title IV of the Social Security Act, food stamps, military retirement pay, medicaid, and judicial salaries; and

(2) no reservations from authority available for any functional category or subfunctional category shall have the effect of reducing the total amount available for any specific program or activity (as set out in the budget accounts listing in the Budget of the United States Government for Fiscal Year 1974, pages 167–312) within that particular category by a percentage which is more than 10 percentage points higher than the net percentage of the overall reduction in expenditures and net lending resulting from all reservations made as required by subsection (a).

(c)(1) Reservations made to carry out the provisions of subsection (a) shall be subject to the provisions of title I of this Act unless made in accordance with the proportional reservation and percentage requirements of subsection (b).

(2) In order to assist the Congress in the exercise of its functions under this title and title I with respect to reservations made to carry out the provisions of subsection (a), the Comptroller General shall review each such reservation and inform the House of Representatives and the Senate as promptly as possible whether or not, in his judgment, such reservation was made in accordance with the requirements of subsection (b).

(d) In no event shall the authority conferred by this section be used to impound funds, appropriated or otherwise made available by Congress, for the purpose of eliminating a program the creation or combination of which has been authorized by Congress.

Sec. 203. In the administration of any program as to which—

(1) the amount of expenditures is limited pursuant to this title, and

(2) the allocation, grant, apportionment, or other distribution of funds among recipients is required to be determined by application of a formula involving the amount appropriated or otherwise made available for distribution, the amount available for expenditure (after the application of this title) shall be substituted for the amount appropriated or otherwise made available in the application of the formula.

Mr. BOLLING (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

AMENDMENT OFFERED BY MR. ANDERSON OF ILLINOIS

Mr. ANDERSON of Illinois. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Anderson of Illinois: On page 12, strike line 1 through line 10 on page 14, and insert in lieu thereof the following:

"Sec. 202. (a) It shall be the responsibility of the Congress to take such action as may be necessary to keep expenditures and net lending during the fiscal year ending June 30, 1974, within the limitation specified in section 201.

"(b) Before the close of the first session of the Ninety-third Congress, the Congress shall complete action on a concurrent resolution which reaffirms or revises the limitation specified in section 201.

"(c) For the purposes of this section, if such concurrent resolution or any amendment thereto provides for an increase in the limitation specified in section 201, such resolution or amendment shall also provide for a corresponding increase in the overall level of revenue or in the public debt limit, or a combination thereof.

"(d) For the purposes of this section, if estimated expenditures and net lending will exceed the limitation specified in section 201, a concurrent resolution reaffirming such limitation and any amendment thereto, shall provide for appropriate reductions in existing budget authority consistent with such limitation."

Mr. BOLLING. Mr. Chairman, I reserve a point of order.

Mr. ANDERSON of Illinois. Mr. Chairman, I think it was Gertrude Stein in "Sacred Emily" who said: "Rose is a rose is a rose is a rose."

I had believed that an impoundment is an impoundment, and I had also thought that the thrust of the debate over the past 2 days was to the effect that Presidential impoundments were a terrible thing indeed, that they were literally shredding the constitutional fabric of our Republic. Imagine, therefore, my shock and surprise to turn to page 9 of the committee report and find these words, and I quote:

> Since the bill authorizes impoundments of the type described in title II, the President is not required to report impoundments made in accordance with . . .

In other words, Mr. Chairman, it is quite clear from the language contained in section 202(a) of title II that while we are allegedly striking down and striking at the Presidential power of impoundment in title I of this bill, we turn right around in title II and say, well, just in case we cannot live up to our promises, just in case we cannot keep a $267.1 billion spending ceiling, then we are going to tell you, Mr. President, to go ahead and on a pro rata basis impound funds.

Mr. Chairman, the amendment which I have just offered is one which substantially alters the spending control provisions of the Madden bill. Whereas H.R. 8480 directs the President to hold spending under the $267.1 billion expenditure ceiling established by this title for fiscal 1974, my amendment would strike this sweeping new impoundment authority granted to the President, and in its place substitute congressional responsibility for observing that expenditure limitation.

I think it is not only ironic but ridiculous not deceptive that we should be parading this bill today as some kind of limitation on the President's impoundment authority when title II turns right around and grants the President sweeping new authority to make what are called pro rata or across-the-board impoundments. This provision really points out the political gimmickry and hypocrisy of the spending ceiling which is touted as being $1.7 billion below the President's budget request.

Oh, we can talk about how we voted for a spending ceiling nearly $2 billion less than the President's proposed ceiling, but are we willing to take the tough decisions to hold spending under that ceiling? The answer is obviously no, for instead of accepting responsibility for adhering to that limitation, we simply say, "Let the President do it by impounding funds across the board." In the meantime, there is nothing in this bill to restrain us from substantially exceeding that limitation; we can spend, spend, spend, and when things get way out of hand we can simply pass the buck to the President and say:

"It is now up to you to cut, cut, cut; but we certainly do not want to accept the responsibility and blame for any reductions which may be necessary."

This provision is analogous to the husband and wife who agree to spend $100 on Christmas presents for the children; but the wife goes out and runs up a bill of $200; and then, when the bill comes in after Christmas and the husband complains to the wife that they just don't have that extra $100, the wife instructs him to take $20 worth of gifts away from each of their five children. When the husband does so, the wife turns to the children and says, "look at what a mean cruel man your daddy is; he does not want you to have all those nice presents."

Mr. Chairman, when, oh when, are we going to face up to the responsibility in this Congress to live within our means and to demonstrate to the American people that we are indeed capable of setting spending priorities within a fixed limit?

While this bill is boasting a spending ceiling of $1.7 billion less than the President's request, our own Joint Committee on Reduction of Federal Expenditures is informing us in its Budget Scorekeeping Report No. 4, issued June 30 of this year, that as a result of actions already taken by this Congress, our estimated fiscal 1974 outlays are already at least $1 billion over the President's budget request of $268.7 billion. For some reason or another, that just does not square with the ceiling being trumped in this bill.

Last Wednesday, June 18, in his phase IV message, the President gave special emphasis to the importance of a restrained fiscal policy in the anti-inflation effort. In his words, and I quote:

> The key to success of our anti-inflation effort is the budget. If Federal spending soars and the deficit mounts, the control system will not be able to resist the pressure of demand. The most common cause of the breakdown of control systems has been failure to keep fiscal and monetary policy under restraints. We must not let that happen to us.

The President went on to propose a balanced budget for fiscal 1974 to combat inflationary pressures. In his words:

> It is clear that several billion dollars will have to be cut from the expenditures that are already probable if we are to balance the budget. That will be hard, because my orig-

> inal budget was tight. However, I regard it as essential and pledge myself to work for it.

The President then made the following plea; in his words:

> I urge the Congress to assist in this effort. Without its cooperation achievement of the goal cannot be realistically expected.

Mr. Chairman, I think it is important to point out that the prestigious Brookings Institution, hardly an administration front group, in its book, "Setting National Priorities: The 1974 Budget," concedes that given the economic and revenue situation, the President had no alternative to the tight budget he has proposed for fiscal 1974. According to the Brookings study:

> Had the President proposed full employment budget deficits of from $15 to $20 billion in fiscal 1974 and 1975 the economy would surge ahead at an even faster rate—at least for a while. And there is also fairly general agreement that this would be risky. In the short run, faster economic growth would intensify inflationary pressure and in the longer run too sharp a pace of advance would carry the serious danger of an unsustainable boom in business investment in plant, equipment and inventories, with the possibility that a subsequent collapse would bring on a new recession.

The study goes on, and again I quote:

> In an economy with a GNP of $1.2 billion no one can say with confidence that a precisely balanced budget for fiscal 1974 is absolutely necessary, or that a federal deficit of a few billion dollars would bring on the consequences described above. But deficits of $15 billion to $20 billion are another matter. Incurring deficits of this size was not, in fact, a sensible option for the President.

Mr. Chairman, I make these points by way of emphasizing the need for the amendment which is before us—an amendment which would place the responsibility squarely on the shoulders of the Congress for observing the fiscal 1974 spending ceiling. I think we do have a responsibility in these inflationary times to exercise fiscal prudence and restraint and we cannot, as the Madden bill would have us do, simply pile all the responsibility onto the shoulders of the President.

My amendment adopts the recommendations of the Joint Study Committee on Budget Control that before we adjourn this first session, we act on a concurrent resolution which either reaffirms or revises the expenditure limitation contained in this bill. If we reaffirm it, then we are saying that we are holding spending within that limit; if we should revise it upward, then we are bound by my amendment to provide in that concurrent resolution an offsetting increase in revenues, either through tax reform or an income tax increase, or an increase in the public debt limit, or both. My amendment also provides that if we wish to hold to that expenditure limit even though estimated expenditures will exceed the limit, then we must provide for a reduction in existing budget authority in that resolution—in other words, we must make the decision where to reduce spending.

Mr. Chairman, as I have said before, the pro rata impoundment authority of the Madden bill constitutes a congressional evasion of primacy over the purse strings because it passes the buck to the President at a time when we are supposedly clamoring for control of the buck; my amendment would put the spending control ball back in the congressional court where it rightfully belongs. I therefore urge its adoption.

Mr. Chairman, I hope that Members on both sides of the aisle will support the amendment.

Mr. BOLLING. Mr. Chairman, I do not propose to press the point of order.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I did not press the point of order, although one may lie, because I think it is very important to understand what this amendment does. I think it would be a great mistake for those who favor, as I do, a successful, useful budget process, to vote for it, because it might be called a mini-joint study committee, much modified, short form bill.

What it does is say that, after the Rules Committee has had a day of hearings in which the two co-chairmen of the joint study committee who recommended the Whitten-Ullman bill indicated that they were very flexible, and even thought that there should be a number of changes in their proposal. We should act today on some kind of makeshift plan.

Much of the debate on this bill has been on whether we in the Rules Committee are going to report out something to deal with this terribly complex and difficult problem.

What the gentleman from Illinois seeks to do in a few lines is to put in a budget process that has not been thought out, has not been considered, and it seems to me clearly misses the point. The reason for a spending ceiling is to solve for the short term a problem we clearly cannot solve for the long term except by a judiciously constructed bill, which I believe 90 percent of us want, but do not have yet because we have not had time to work out the bill. We have had a lot more time to work on impoundment than we have on the recommendations of the Joint Study Committee.

This is a mini-version of a budget process for the Congress.

The people who know the history of the failure of the 1946 reorganization to provide a method whereby the Congress could be responsible in dealing with the budget know that one disastrous failure completely killed the proposed reform. To put this in the bill is to assure that we do not have effective control of the budget process by the Congress.

It is very difficult to say how it would work, whether it would work, or what it would do. Any Member who is serious about wanting the Congress to report a well-thought-out, carefully considered, workable process for the Congress taking control of the budget will want to vote this down and keep on insisting that we in the Rules Committee consider expeditiously and report reasonably promptly something that will work.

There is hardly any point in dealing with these things unless we get something that will work.

I urge the Members to vote down the amendment.

Mr. CAREY of New York. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I shall place in the RECORD a series of arguments addressed to this amendment and why it does not belong in this bill. A brief part of the argument goes to the debt ceiling as a device for containing budget deficits. That involves a liberty bond amendment. It does not adress itself to the temporary debt ceiling or the permanent debt ceiling, and is therefore far afield from the matter in this bill. I believe the amendment should be defeated.

Mr. Chairman, I support H.R. 8480, the impoundment control and expenditure ceiling bill now before the House. I think it is a beginning in reestablishing the powers of the purse in Congress. I certainly agree there must be increased control by the Congress over not only actual authorizations and appropriations, but over the preparation and selection of budget inputs—thus permitting the Congress to make well-informed and judicious choices of national spending priorities.

However, in considering the wisdom of this type of impoundment and expenditure control legislation, I believe the Congress should look not only at the specifics of this bill but at the entire economic context within which we plan to legislate. We are proceeding in the House in no informational vacuum. We are all well aware of the prodigious feat of economic mismanagement with which this administration has burdened the American people, the Congress, the American dollar and the world community of free economies.

Therefore, I think it incumbent on the Congress, in light of this disastrous misuse of discretionary economic powers given to the President, to provide some statutory language which puts on the administration's shoulders the responsibility of presenting a strictly balanced budget, or presenting a budget message which includes fiscal recommendations to equalize proposed Federal expenditures with projected Federal revenues. Perhaps, as a refresher on economic mismanagement—101—it might be helpful to run through the economic necrology brought about by Nixonomics over the last 4 years and the economic albatross this continued ineptitude has placed around all our necks.

Mr. Chairman, the avowed goal of the various game plans and phases to which we have been subjected has been the control of inflation and the establishment of "full employment." Well, neither of these goals has been achieved—inflation is worse than ever and the unemployment figure continues to hover around 5 percent—an unacceptable figure; though far less disastrous than the horrors of a 6-percent-and-above rate that saw well over 5 million Americans out of work and millions more underemployed, or working only part time.

Wholesale prices have risen at an astounding annual rate of 22 percent. The annual rate for agricultural prices is an unbelievable 47 percent and industrial prices, as a whole, have risen at a 12-percent rate. The 8-percent rate in consumer prices through May is double the rate for 1972.

But what has caused this inflation coupled with chronic high unemployment? Mr. Chairman, the answer to that question is bewildering in both its complexity and in what it reveals about the economic catastrophe designed and brought to us by the same people who have brought us to the integrity and probity gap—which itself has added to our economic difficulties here and abroad.

First of all, I think we must blame a great deal of our economic mess on the uncertainty and lack of confidence managers of economic forces have had in the ability of this administration to restore stability to the economy.

This on-again, off-again, up-and-down economic combination yo-yo and roller coaster has destroyed confidence. It has caused price increase balloons during periods of freeze, severe economic dislocations, cancellation of investment plans, and the loss of jobs entailed, price rushes to beat the next economic dipsy-doodle thrown at consumer and producer alike. What this economy needs right now is less politically inspired economic knee-jerks and more of a period of stable and balanced aggregate demand growth.

Matching abandonment of phase II in ineptitude, and almost surpassing it as a politically inspired causative factor of inflation, have been our domestic and trade agricultural policies. Food prices have led the inflation parade, but the reasons for this are not just the desire of farmers to make up for lost time and income. We have the shortsighted sale of wheat and feed grains to the Soviet Union and other international short-term buyers who have taken our bargain-basement grain and run; with no guarantee of any type of long-term agriculture market entry as a minimal quid pro quo for the United States. We were euchred again, economically, and the American consumer, you and I, have paid the price for this ephemeral prelude to détente with the Soviets.

Now we not only have no guaranteed access to Soviet and other agriculture markets, but we have shortchanged and politically embarrassed our long-term, good international customers elsewhere.

The focus of this discussion of inflation and the contributions made to it by price control failures, lack of economic confidence and stability, and agricultural policy debacles both at home and abroad, is the resulting whopping Federal deficits resulting. Lack of full employment, inflation, and economic stagnation during the years of 1969 through 1972, have resulted in deficits of $78 billion since this administration first took office. More than one-fourth of the total debt of the United States has been piled up since 1969.

Mr. Chairman, I understand and agree with the arguments justifying the use of Federal deficit spending as any anti-cyclical mechanism. I do believe that Federal spending can prime the economic pump and does have a positive impact on both unemployment rates and general economic growth. However, it is also my belief that full employment deficits cannot be expected to carry the full burden of righting an economy as sick as ours has been over the past 4 years.

Mr. Chairman, I think that the most pressing economic need right now is to restore some degree of stability to the economy and thus restore the lost confidence of American business, the consumer, and our trading and investing partners around the world. A good first step in that direction would be to require the administration to present the Congress with either a completely balanced budget or present, in the budget, revenue-raising recommendations to pay for any items that exceed the total of projected Federal revenues for the fiscal year in question.

I think that a further refinement of this approach is also possible by requiring the President to include in the budget message detailed listings and explanations of various programs and funding increased considered, but rejected for inclusion in the budget itself. Explanations of these budget alternatives should be accompanied by costs and means of raising revenues to pay for them.

The programs listed in this alternative spending addendum to the budget should be those in which the Congress, some governmental agency, or representative national organizations, express a serious and continuing interest.

This approach provides the Congress with some significant flexibility not only to consider alternative programs and the revenue measures that would make their inclusion in a balanced budget possible, but would also provide the Congress with substitutions for programs the President may prefer, but that the Congress finds of a lower priority than some of those included in the alternatives addendum.

Basically, what I am proposing is a method of preventing the type of massive deficit spending the President has used over the past 4 years—deficits derived from unemployment, economic stagnation, and inflation—inflation caused by and feeding on these same deficits.

Passage of the legislation I propose would thus provide flexibility to the Congress in setting both national spending and fiscal priorities. It would also permit the Congress to consider program alternatives and yet legislate within fiscally acceptable parameters.

Mr. Chairman, I realize this pending bill is not the most appropriate vehicle to which I might attach my proposal. I also realize that an escape mechanism must be supplied by which the President can apply to the Congress for permission to spend beyond Federal revenues in order to stimulate the economy somewhat. It is for these reasons that I shall wait until legislation dealing directly with the budget process comes before the House.

Today, it is my purpose to alert the leadership and the membership to my intentions in this regard. I believe that in the interests of economic stability, congressional reform, and fiscal sanity, the Congress must move in the direction contained in the legislation I propose to offer. Any Members interested in joining me in this effort are urged to advise me of their intentions.

Mr. MARTIN of Nebraska. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I rise to reluctantly oppose the amendment of my colleague on the Committee on Rules.

I should like to point out that subparagraph (c) of his amendment states as follows:

> For the purposes of this section, if such concurrent resolution or any amendment thereto provides for an increase in the limitation specified in section 201—

That is the $267.1 billion limitation—

> Such resolution or amendment shall also provide for a corresponding increase in the overall level of revenue or in the public debt limit, or a combination thereof.

This would propose to increase the debt limit by a concurrent resolution, or would propose to provide for increases in revenue by a concurrent resolution.

Mr. Chairman, I just do not believe this is the way to go about this. As a consequence, I must oppose the gentleman's amendment.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. MARTIN of Nebraska. I am happy to yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. I appreciate my friend yielding.

I merely wanted to point out that the intent of the language I put in subparagraph (c) of the proposed amendment to section 202(a) is not such that this would actually be the organic act that would increase the debt limit. I would quite agree with the gentleman that that would have to be in the form of a bill, as we normally enact increases of that kind.

This would be an instruction or a mandate for the committee to take that action.

Mr. MARTIN of Nebraska. Mr. Chairman, I point out to the gentleman that the wording in his amendment does not specifically state that.

Mr. SISK. Mr. Chairman, will the gentleman yield?

Mr. MARTIN of Nebraska. I yield to the gentleman from California.

Mr. SISK. Mr. Chairman, I appreciate the gentleman's yielding to me.

I simply rise, of course, in opposition to this amendment.

I join with some of my other colleagues here in very strong opposition to the amendment, because, with all due respect to my good friend, the gentleman from Illinois (Mr. ANDERSON), I believe we are muddying up the waters.

Yesterday, for example, in the colloquy in which the gentleman from Missouri (Mr. BOLLING) was involved with the minority leader, the gentleman assured the House that we are going to proceed expeditiously, whether it be tomorrow or sometime in the future, to really move this budget program to the floor and give the Members an opportunity to act in a logical, sensible way to meet this problem. I would hope that we do not muddy up the waters at this particular time with half measures.

Mr. Chairman, this is the only point I wish to make. I have great respect for my good friend, the gentleman from Illinois (Mr. ANDERSON) but I hope that the House will see fit to vote down this amendment.

Mr. Chairman, I thank the gentleman for yielding.

Mr. KEMP. Mr. Chairman, I rise in support of the amendment and wish to associate myself with the remarks of my colleague from Illinois (Mr. ANDERSON).

At this time, when we are engaged in much deliberation and debate in the whole area of budget control, and when we are seeking to reassert our authority over the Federal budget, it seems an appropriate time and place to make our views on this issue more clear. The magnitude of the issue, I sometimes think, is not really understood. We have got to begin to live up to our responsibilities.

Recent history simply does not reflect well on the Congress in this regard. Last year, during consideration of the Labor-HEW appropriation bill, the other body saw fit to add an additional billion dollars to the appropriation which was already a billion-plus dollars over the President's budget. In my opinion, at that time, the other body did a most remarkable thing. They gave the President authority to cut any one area of the bill by up to 10 percent. The effect of that provision, in terms of congressional responsibility, was to say that Congress simply did not want to make the difficult priority decisions; that Congress did not want to cope with the inevitable charges which would arise when those priority cuts were ultimately made; and that Congress did not have the essential courage or conviction to cut Federal programs when fiscal reality was staring it in the face. Rather, they left it up to the President; they shirked their responsibility; and dictated that the President was to be responsible for exerting fiscal discretion. That was to be the way the Nation might live within its means. Apparently, by putting the onus of responsibility for cuts on the executive branch, the other body circumvented the kind of criticism which will inevitably arise when programs which have their individual constituencies are threatened by economic realities. Interestingly enough, such discretionary authority which the Congress gave the President apparently does not constitute prima facie evidence for impoundment authority.

Mr. Chairman, it seems to me that the passage of this amendment would put the Congress on record and would help us to face up to our responsibilities in making the difficult decisions that must be made if we in this Congress are to rediscover what fiscal responsibility and sound fiscal policy really are. I strongly urge the adoption of the amendment before us.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ANDERSON).

The amendment was rejected.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. FRENZEL: Strike out all after the enacting clause and insert in lieu thereof the following:

TITLE I—IMPOUNDMENT CONTROL PROCEDURES

SEC. 101. (a) Whenever the President, the Director of the Office of Management and Budget, the head of any department or agency of the United States, or any officer or employee of the United States impounds any funds authorized or made available for a specific purpose or project, or orders, permits, or approves the impounding of any such funds by any other officer or employee of the United States, the President shall, within ten days thereafter, transmit to the House of Representatives and the Senate a special message specifying—

(1) the amount of the funds impounded;

(2) the date on which the funds were ordered to be impounded;

(3) the date the funds were impounded;

(4) any account, department, or establishment of the Government to which such impounded funds would have been available for obligation except for such impoundment, and the specific projects or governmental functions involved;

(5) the period of time during which the funds are to be impounded;

(6) the reasons for the impoundment, including any legal authority invoked by him to justify the impoundment; and

(7) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the impoundment.

(b) Each special message submitted pursuant to subsection (a) shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the Committee on Appropriations of the House of Representatives and to the Committee on Appropriations of the Senate; and each such message shall be printed as a document for each House.

(c) A copy of each special message submitted pursuant to subsection (a) shall be transmitted to the Comptroller General of the United States on the same day it is transmitted to the House of Representatives and the Senate. In order to assist the Congress in the exercise of its functions under section 102, the Comptroller General shall review each such message and inform the House of Representatives and the Senate as promptly as possible with respect to (1) the facts surrounding the impoundment set forth in such message (including the probable effects thereof) and (2) whether or not (or to what extent), in his judgment, such impoundment was in accordance with existing statutory authority.

(d) If any information contained in a special message submitted pursuant to subsection (a) is subsequently revised, the President shall within ten days transmit to the Congress and the Comptroller General a supplementary message stating and explaining such revision. Any such supplementary message shall be delivered, referred, and printed as provided in subsection (b); and the Comptroller General shall promptly notify the House of Representatives and the Senate of any changes in the information submitted by him under subsection (c) which may be necessitated by such revision.

(e) Any special or supplementary message transmitted pursuant to this section shall be printed in the first issue of the Federal Register published after such transmittal.

(f) The President shall publish in the Federal Register each month a list of any funds impounded as of the first calendar day of that month. Each such list shall be published no later than the tenth calendar day of the month and shall contain the information required to be submitted by special message pursuant to subsection (a).

SEC. 102. Any impoundment of funds set forth in a special message transmitted pursuant to section 101 shall cease if within sixty calendar days of continuous session after the date on which the message is received by the Congress the specific impoundment shall have been disapproved by the House of Representatives and the Senate by passage of a concurrent resolution expressing the disapproval of the Congress of such impoundment.

SEC. 103. For purposes of this title, the impounding of funds includes—

(1) withholding or delaying the expenditure or obligation of funds (whether by establishing reserves or otherwise) appropriated for projects or activities, and the termination of authorized projects or activities for which appropriations have been made, and

(2) any other type of executive action or inaction which effectively precludes the obligation or expenditure of available funds or the creation of obligations by contract in advance of appropriations as specifically authorized by law.

SEC. 104. If the President, the Director of the Office of Management and Budget, the head of any department or agency of the United States, or any other officer or employee of the United States impounds any funds authorized or made available for a specific purpose or project or orders, permits, or approves the impounding of any such funds by any other officer or employee of the United States, and the President fails to transmit a special message with respect to such impoundment as required by this title, the Comptroller General shall report such impoundment and any available information concerning it to both Houses of Congress; and the provisions of this title shall apply with respect to such impoundment in the same manner and with the same effect as if such report of the Comptroller General were a special message submitted by the President under section 101, with the sixty-day period provided in section 102 being deemed to have commenced at the time at which the Comptroller General makes the report.

SEC. 105. Section 203 of the Budget and Accounting Procedures Act of 1950 is repealed.

SEC. 106. Nothing contained in this title shall be construed as—

(1) asserting or conceding the constitutional powers or limitations of either the Congress or the President;

(2) ratifying any impoundment heretofore or hereafter executed or approved by the President or any other Federal officer or employee, except insofar as pursuant to statutory authorization then in effect; or

(3) affecting in any way the claims or defenses of any party to litigation concerning any impoundment ordered or executed before the date of the enactment of this Act.

SEC. 107. Notwithstanding any other provision of this Act or any other law, no impoundment of funds which (as specified by the President or by the Federal officer making the impoundment) is intended to curtail or eliminate a congressionally authorized program, and not merely to postpone obligations or expenditures thereunder, shall have the effect of reducing the total amount available for any specific program or activity (as set out in the budget accounts listing in the Budget of the United States Government for the fiscal year involved, or, if larger, as authorized and appropriated or otherwise made available by the Congress) by more than 20 per centum; and the total of all such impoundments of funds in any fiscal year shall not have the effect of reducing aggregate expenditures and net lending during such fiscal year under the Budget of the United States Government by more than 5 per centum.

TITLE II—CEILING ON FISCAL YEAR 1974 EXPENDITURES

SEC. 201. (a) Except as provided in subsection (b), expenditures and net lending during the fiscal year ending June 30, 1974, under the budget of the United States Government shall not exceed $267,100,000,000.

(b) If the estimates of revenues which will be received in the Treasury during the fiscal year ending June 30, 1974, as made from time to time, are increased as a result of legislation enacted after the date of the enactment of this Act reforming the Federal tax laws, the limitation specified in subsection (a) shall be reviewed by Congress for the purpose of determining whether the additional revenues made available should be applied to essential public services for which adequate funding would not otherwise be provided.

SEC. 202. (a) Notwithstanding the provisions of any other law, the President shall, in accordance with this section, reserve from expenditures and net lending, from appropriations or other obligational authority otherwise made available, such amounts as may be necessary to keep expenditures and net lending during the fiscal year ending June 30, 1974, within the limitation specified in section 201.

(b) In carrying out the provisions of subsection (a) the President shall reserve amounts proportionately from appropriations and other obligational authority available for each functional category, and to the extent practicable, subfunctional category (as set out in the United States Budget in Brief), except that—

(1) no reservations shall be made from amounts available for interest, veterans' benefits and services, payments from social insurance trust funds, public assistance maintenance grants under title IV of the Social Security Act, food stamps, military retirement pay, medicaid, and judicial salaries; and

(2) no reservations from authority available for any functional category or subfunctional category shall have the effect of reducing the total amount available for any specific program or activity (as set out in the budget accounts listing in the Budget of the United States Government for Fiscal Year 1974, pages 167–312) within that particular category by a percentage which is more than 10 percentage points higher than the net percentage of the overall reduction in expenditures and net lending resulting from all reservations made as required by subsection (a).

(c) (1) Reservations made to carry out the provisions of subsection (a) shall be subject to the provisions of title I of this Act unless made in accordance with the proportional reservation and percentage requirements of subsection (b).

(2) In order to assist the Congress in the exercise of its functions under this title and title I with respect to reservations made to carry out the provisions of subsection (a), the Comptroller General shall review each such reservation and inform the House of Representatives and the Senate as promptly as possible whether or not, in his judgment, such reservation was made in accordance with the requirements of subsection (b).

(d) In no event shall the authority conferred by this section be used to impound funds, appropriated or otherwise made available by Congress, for the purpose of eliminating a program the creation or combination of which has been authorized by Congress.

SEC. 203. In the administration of any program as to which—

(1) the amount of expenditures is limited pursuant to this title, and

(2) the allocation, grant, apportionment, or other distribution of funds among recipients is required to be determined by application of a formula involving the amount appropriated or otherwise made available for distribution,

the amount available for expenditure (after the application of this title) shall be substituted for the amount appropriated or otherwise made available in the application of the formula.

Mr. FRENZEL. Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. FRENZEL. Mr. Chairman, my amendment in the nature of a substitute makes four pretty simple changes in the bill that is before us.

The first one is that in section 102 the disapproval by either House of Congress is changed to require disapproval of Congress by concurrent resolution.

Second, section 104, which establishes the rule for handling disapproval by resolution is no longer needed and is deleted in my substitute.

Third, section 106, the general authority for the Comptroller General to sue the Executive, is deleted in my substitute.

The final change, and the most significant, is the addition of a section 107, which provides that there shall be no impoundment of funds which have the effect of reducing the total spending available for a specific program or activity by more than 20 percent, and further provides that total impoundment shall not exceed 5 percent of the total budget in a given year.

The 20 percent reduction is based on the budget accounts listed in the budget of the U.S. Government for the fiscal year involved or, if larger, as authorized or appropriated or otherwise made available by the Congress.

Mr. Chairman, I believe my proposal is superior to that pending before the House because it would cause fewer confrontations between the legislative and executive branches of the Government, and because of the stipulated allowance for impoundment. Congress, on the one hand, would have a guarantee that no program would be either eliminated or gutted. On the other hand, congressional disapproval of impoundments would be less likely to be sustained, because Congress would have to go through the obviously more difficult procedure of passing a concurrent resolution.

This proposal is based on my belief that impoundments are often necessary, particularly in our large, changing, and highly complex economy. I feel it is a vital power of the executive branch, especially in the last several decades of our country's history, in which Congress too often has succumbed to the irresistible urge to tax the people beyond their willingness to pay. But I believe Presidential impoundment powers should be defined by law and should be limited by law.

I consider the version pending before this House to be superior to the Ervin version, but I do not think either one recognizes the need for the Executive to exercise control over spending in a swiftly changing economic environment.

My bill proposes a simple trade-off. It says that we will have to go through a little more difficult version of actually vetoing an impoundment. But in return, we will have the assurance that the Executive cannot terminate any program by impoundment and, in fact, he cannot cut any program by more than 20 percent, and we have the further assurance that the Executive cannot cut the total budget by more than 5 percent. My substitute seeks to balance the role of the legislative and executive branches, and assumes that impoundment is a useful and necessary Executive tool.

It allows us to use the traditional processes. It is a far more sensible approach than either the bill pending in this House or the one which passed the other house. Both of those bills make congressional overrides of impoundment far too easy. Especially is this true with respect to the other body which is wont to accept the persuasions of any of its Members on any fiscal question in the name of senatorial courtesy.

There are dangers in my amendment, also. It does not deal with the problem of filibusters. I was reluctant to rewrite the Senate rules for them, but I do not object to amendments in this regard.

A more serious risk is that there is not enough incentive for us to accept our own responsibility. Under my bill, Congress could simply appropriate 5 percent more than is necessary. Even under my impoundment resolution the Executive would be in a weakened position. However, the normal process of vetoing tends to balance this particular difficulty.

Mr. Chairman, I think I am offering a rational and sensible substitute, and I would appreciate a vote in its favor.

Mr. BOLLING. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have great respect for the gentleman from Minnesota, and thus I regret having to be pretty blunt about this substitute. I do not know whether by inadvertence or otherwise, but the running gears of this particular one got knocked out.

The way in which Congress would function to follow the procedure that the gentleman suggests have been deleted by the deletion of a great deal of language starting with line 15 at page 5.

As I see the bill, the substitute would be totally inoperative. Although I know the gentleman's intentions are good, I simply do not believe this version has had adequate consideration and urge it be voted down.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Minnesota (Mr. FRENZEL).

The amendment in the nature of a substitute was rejected.

Mr. REID. Mr. Chairman, I wish to state my support for H.R. 8480, and I will of course vote for it. But I do so with mixed feelings.

This bill contains much that is positive and encouraging. It stakes out for the Congress a clear position in response to President Nixon's unwarranted and in many cases unconstitutional impoundment of funds appropriated by the legislative branch. By enacting this bill, we will be taking a significant step toward restoring the prerogatives and responsibility of Congress in overseeing how the people's money is spent.

During fiscal year 1973, President Nixon impounded some $18 billion— approximately 7 percent of the total Federal budget. Most of the funds impounded had been voted by Congress to implement major environmental and social programs.

The President's intent in impounding these moneys was not merely to achieve accounting efficiency, as he is authorized to do in appropriate cases under the Antideficiency Act of 1905. Instead, Mr. Nixon has utilized impoundment as a means of thwarting the clear will of Congress with respect to certain important Federal programs. He has in effect "vetoed" these programs without vetoing them in the prescribed constitutional manner, thus avoiding the possibility that his veto could be overridden.

In one major case, the President has impounded some $6 billion of sewage plant construction funds which the law not only expressly directs him to allocate among the States but which were authorized by the Congress over the President's veto.

There is no legal authority for the President to use impoundment as a weapon of policy, as President Nixon has so flagrantly done. Moreover, as court after court has ruled in recent months, there is no legal basis for the President to impound funds which have expressly been ordered allocated or expended by Congress.

It is most assuredly the time for Congress to stand up and put an end to executive branch abuse of impoundments. Ultimate control over the spending of the taxpayers' money must lie with Congress, which is both more frequently and more directly accountable to the people than is the President. The question is really whether we, the Congress, are going to continue to permit this President or any other to disregard with impunity the legislative mandates which we enact on behalf of the people.

H.R. 8480 is a welcome and necessary step in the right direction. By creating a mechanism whereby Congress may control Presidential impoundments by either permitting or disapproving them on a case-by-case basis, we will be well on our way toward correcting the imbalance of power between the two branches in this vital area. In this regard, I believe the Senate bill is preferable to the present House bill, in that it requires affirmative action by Congress to approve an impoundment.

While it is a welcome step, we must recognize that this bill is only a modest effort. Much more will need to be done before Congress fully reclaims the constitutional prerogatives vested in it.

Specifically, in my judgment Congress must reconstitute its own watchdog agency, the General Accounting Office, with new powers to exercise oversight under the direction of Congress over administration of the Federal budget by the executive branch. This agency must be equipped to evaluate and report to Congress with respect to the consistency with congressional intent of each proposed budgetary action by the executive.

No impoundment of funds should be allowed under law unless it has first received the specific approval of both Houses of Congress or, in appropriate cases, the Comptroller General acting as a delegate of Congress.

Conversely, and of extreme importance in light of recent revelations about massive secret military operations in Cambodia in 1970, the Comptroller General should be empowered to effect a cutoff of funds being spent by the executive unlawfully or clearly contrary to the legislative intent of Congress.

These strong measures are offered in H.R. 2403, which I introduced earlier this year with 47 colleagues.

I hope that the bill before us today will launch a renewed sense of responsibility and resolve on the part of Congress.

The real question of restoring coequal powers to Congress is not the constitutional question, but more fundamentally, a question of will. If Congress has the will and the independence it can restore checks and balances to our Government.

Further, a thoughtful and powerful Congress would be in a position to encourage, indeed to insist on, cooperation by the executive branch. What is needed in our system of government is a capacity of both the executive branch and Congress to work together in the national interest, with a clear understanding by both of their accountability to the American people.

Failure by the Congress to act in this area can lead only to a one-sided confrontation which the Congress would lose—an outcome whch would be inimical to the best interest of the American people.

Mr. DONOHUE. Mr. Chairman, I most earnestly urge and hope that the House will resoundingly approve this bill, H.R. 8480, the Impoundment Control and 1974 Expenditure Ceiling Act.

The principle purpose of this measure is to reaffirm and reestablish the power and authority of the legislative branch of the National Government to separately determine priority programs and the funding of them, in the general public interest.

Although most authorities acknowledge the separate power of the Congress to declare and determine such priorities and program funding, our recent political history shows only too clearly that the White House has repeatedly acted to infringe upon and interfere with such legislative determination, both directly and indirectly, even after congressional override of a Presidential veto.

The devious instrument of impoundment has unfortunately been used to substantially reduce and even eliminate housing, medical care and research, educational, highway, transportation, social services and a host of other human need programs approved by the Congress and supported by the majority of the American people.

Because of these facts and circumstances it appears that the Congress has no alternative but to develop and adopt specific measures especially designed to restrain and nullify certain Presidential procedures and stratagems that result in thwarting the will of the people, as expressed by the Congress, through imperial exercise of impoundment by Executive administrative action.

It is simply because of these multiplying executive projections that so many concerned constitutional experts and respected journalists have been impelled to remind us all that our unique system of representative government was wisely and judiciously and purposely established by the Founding Fathers to circumvent and reject any attempted dictatorships of all and every kind. The adoption of this measure will serve to reemphasize and reestablish that original objective. The President can rightfully and dutifully recommend to the Congress but he cannot and ought not to attempt to rescind and negate the intent and provisions of laws, as approved by the majority of the Congress, in response to public need and request. This prerogative traditionally belongs, through the election process, to the people of the country and no one should try to usurp it from them.

Mr. Chairman this pending bill should also be accepted because it establishes a spending ceiling, which both the Congress and the administration endorsed in principle last year, of no more than $267.1 billion this fiscal year, which is $1.6 billion less than the President recommended in his budget message last January. This provision rightfully indicates the intent of the Congress, along with its determination of priority expenditures, to accept responsibility, for appropriate revenue raising action or expenditure reductions, if appropriations actually exceed the established ceiling.

It would be obviously inconsistent for the Congress to reclaim its authority over impoundments on the one hand and reverse itself, on the other, by almost entirely returning such control and authority to the Chief Executive. In all our appropriation actions we must therefore and constantly remind and emphasize, to ourselves, the imperative necessity of continuing to make responsible and concerted efforts to reduce and eliminate all waste, extravagance, duplication, and nonessential expenditures in every Federal agency.

In fact, and in spite of any adoption of this proposal before us, there remains, in order to accelerate our national economic recovery and stabilization, a vital necessity for achieving new congressional means and mechanisms for reviewing and developing the national budget in a realistic, coordinated manner which will insure that income is equal to expenditure, which will equip Members of Congress with expanded basic information and reliable estimation independent of the executive department and which will bring authorization and appropriation into balance with each other.

We cannot and should not delay or abandon our persevering efforts for true reform of budget procedures until the required changes have become factual. Mr. Chairman, while we pledge ourselves to this essential objective let us now adopt this impoundment and spending ceiling measure before us in the national interest.

Mr. ASHBROOK. Mr. Chairman, for years I have expressed deep concern over the gradual erosion of legislative authority and the growth of a vast pyramid of centralized power in the executive branch of government. In both foreign and domestic affairs, the House and Senate have watched silently as the executive branch bypassed the legislative process and at times expressly contravened the clear intent of Congress.

At last, however, Congress seems ready to reassert its constitutional prerogatives. One week ago this body voted to reestablish its authority in the area of war powers. Today the House has a bill before it which will reestablish its control over the budget and its right to set spending priorities.

In some respects, Mr. Chairman, the battle over the budget and the issue of impoundment puts me in a paradoxical position. As my colleagues are well aware, I have consistently fought for reduced governmental spending and voted to sustain the President's veto of extravagant money bills. I do not believe, however, that impoundment by the executive branch offers a viable solution for this country's fiscal and economic problems. Congress cannot stand by idly and allow itself to be stripped of its constitutional prerogatives. I therefore join with those of my colleagues who would reassert congressional authority in the area of spending.

Over the years, we have heard liberals contend that the end justifies the means. As a strong conservative, I believe that constitutional principles never should be violated in order to secure short term benefits.

Mr. LEGGETT. Mr. Chairman, Over the last few months both the House and Senate have done extensive work on anti-impoundment legislation. The Senate has already passed one anti-impoundment bill. Senator ERVIN'S S. 373, and the House Rules Committee is expected to bring their proposal to the floor in the very near future. I commend both bodies for acting quickly in this decisive area, but I think that we had better act cautiously on both of these measures lest we create more problems in the impoundment area than we solve.

This is not to say that we should abandon anti-impoundment legislation. If the Congress neglects to attack the President's unconstitutional and illegal impoundment actions, we will in a real sense neglect our primary constitutional obligation.

The Nixon administration, continues to argue that the withholding of funds by the executive branch is an old device used by Presidents dating back to Jefferson which places Federal money in reserves for routine financial reasons. It is clear, however, that the Nixon impoundments amount to a serious departure from the practice of previous administrations. The Nixon impoundments are not routine. They differ in size, scope, and intent from impoundments of previous Executives.

Office of Management and Budget Director, Roy Ash, has testified that $8.7 billion is currently being withheld by the White House. As I indicated in the RECORD on March 15, however, a Library of Congress study found that the items excluded from the OMB report bring the numbers to more than double the official amount. These exclusions include:

Six billion dollars of EPA contract authority for water and sewage treatment facilities.

Three hundred and eighty million dollars in proposed rescissions of 1973 appropriations.

One point nine billion dollars in HEW-DOL money appropriated via continuing resolutions and,

One billion dollars plus held by the various administration actions.

The Library of Congress report indicates that when these figures are added to the $8.7 billion reported by the administration, the level of impoundment reaches $18 billion, far above the amounts withheld by any previous President.

More importantly, the Nixon impoundments have been undertaken for entirely different reasons than in past administrations. In the past, impoundments have been defended on the grounds that they are necessary to regulate the flow of funds to agencies, particularly in the cases of long-lead time projects for which funds were appropriated on a no-year basis. As the Library of Congress has indicated, however, when agency plans firmed, the funds were released by OMB.

The same cannot be said for the Nixon administration. The 1974 budget and the President's impoundment report indicates that $6 billion of the reported $8.7 bill will never be spent as it was intended by the Congress. The President argues that these impoundments are needed in order to hold down spending and to maintain economic stability, but it is my contention that this is merely a shallow rationalization of a clear attempt by the President to circumvent Congressional authority and cut Federal spending without congressional approval.

The President should be concerned about the state of our economy, but as the chief official in the Government he should also be concerned about the Constitution of the United States. And the Constitution clearly extends the power of the purse to the Congress. In fact, courts in eight of the last nine impoundment cases have agreed with this contention, and have ruled that the Nixon administration impoundments are unconstitutional.

I commend Chairman MADDEN and the Rules Committee for addressing this important issue so aggressively. I believe that H.R. 8480 is a very good bill, and deserves the support of the entire House. It is important to point out that the Rules Committee has made some very important revisions in the form of this bill. Specifically, the bill very wisely provides that the House or Senate can disapprove of a Presidential impoundment through a simple, rather than a concurernt resolution that would require the action of both Houses. Thus, the procedure in H.R. 8480 parallels those established in the Legislative Reorganization Act.

The President, then, has the ability to go ahead and impound funds, but the Congress, who has ultimate power over the purse, can disapprove of the President's action through a simple resolution. This is a very workable approach.

I do, however, have some objections to H.R. 8480. In an effort to close all possible loopholes, the Madden bill defines impoundment broadly and loosely. As a consequence, the impoundment review process in Congress established by these bills would cover both the large number of routine actions for which congressional oversight may be unproductive as well as the smaller number of questionable actions which exceed the purposes of the Antideficiency Act.

By covering "all withholding or delaying the expenditure or obligations of funds" both Representative MADDEN and Senator ERVIN extend an elaborate notification and review procedure to actions that have little if anything in common with impoundments. The language probably includes the holding back of payments in contract disputes or in case of fraud, delays in the completion of work, the processing of grant applications, and the like. While the Madden bill is well meaning, it has attempted to hit a bee with a sledge hammer. The result may be less congressional control over impoundment actions instead of more, since a literal reading of these bills could lead to an inundation of Congress by thousands of trivial items.

Senator ERVIN recognized this drawback, and attempted to solve the problem by authorizing the General Accounting Office to distinguish between routine budgetary reserves and actual impoundments. Unfortunately, this escape hatch just isn't going to work. Under either S. 373 or H.R. 8480 the Comptroller General will be flooded with minor budgetary reserve notifications, and may be unable to distinguish between these common, legitimate reserves and the unconstitutional impoundments that have been the target of all impoundment legislation.

Moreover, by extending this vast authority to the Comptroller General S. 373 and H.R. 8480 may end up giving away more congressional power than they take back. Although the General Accounting Office is the investigative arm of Congress, it must be remembered that the Comptroller General is appointed by the President. As the FBI's experience in the Watergate affair has taught us, a neutral institution is not ipso facto free from partisan pressures as long as the director can be appointed by a political official.

While H.R. 8480 attempts to limit the President's ability to impound, both measures extend to the President de facto authority to impound for at least 60 days. The Madden bill allows the President to impound pending congressional disapproval, while the Ervin bill would have impoundments lapse after 60 days if not approved by Congress. A dangerous precedent is set in both instances.

The President does not have any legal authority to impound congressionally approved funds. He does have the authority, under the Antideficiency Act, to reserve funds for routine budgetary reasons, but a vast majority of this administration's impoundment actions cannot be rationalized by this act.

The Congress, and the Congress alone, has the constitutional authority to spend or not to spend money. Whatever good intentions the President might have to impound congressionally approved funds, he is clearly prevented in doing so by the *Constitution* of the United States.

Mr. O'NEILL. Mr. Chairman, the House of Representatives is considering today perhaps the most significant piece of legislation this session, H.R. 8480, the anti-impoundment bill.

And there is only one real issue of confrontation between the legislative and executive branches of Government over impoundments—and that is, to maintain the proper constitutional balance of fiscal power between the Congress and the President.

President Nixon has distorted the issue to one of spending. His grossly unfair and derogatory remarks about a spendthrift Congress are designed to conceal his real motive in impounding funds: to seize full and complete control of the policymaking authority of the Government.

The truth of the matter is, he wants to formulate all the policy while the Constitution says the priority is ours. The President has the right to sign legislation; the President has the right to veto legislation. But when we authorize and appropriate and after he has signed the bill, then the Constitution says he must spend the money.

However, if Congress has initiated a program that he personally disfavors, he vetoes it; and if we override his veto, he impounds the funds.

The Nixon impoundments go far beyond those of any previous President. In fact, he has moved close to one-man rule with his grasping at the national purse-strings. For while the Anti-Deficiency Act gives the President some discretion to withhold funds if their expenditure is clearly wasteful, it does not permit him to kill outright all the programs he opposes.

The Constitution provides only one method for the President to nullify an act of Congress—veto an entire bill. But when he arbitrarily and indiscriminately, through the use of impoundments, kills programs already authorized by Congress, he is committing an unconstitutional item veto.

I would like to call to the attention of my colleagues, the excellent editorial in the New York Times, July 24, 1973, which graphically and precisely explains how the President in effect has tried to transform an executive managerial discretion into an absolute and capricious item veto to kill entire programs and to frustrate the will of Congress.

I insert the following editorial in the RECORD at this point:

> NO ITEM VETO
>
> When Congress passed the Anti-Deficiency Act in 1905, it specifically recognized the right of the President to withhold appropriated funds in order to "effect savings whenever savings are made possible by or through changes in requirements, greater efficiency of operations, or other developments." Every Chief Executive has impounded greater or lesser sums of money because Government agencies had achieved operating economies or thought it more efficient to defer spending temporarily on particular projects.
>
> President Nixon has abused this necessary executive power to kill entire programs and to frustrate the will of Congress on the size of programs which it has approved but which he is determined to scale down. He has, in effect, tried to transform a President's managerial discretion into an absolute item veto. If successful, he would tilt the balance of fiscal power between Congress and President heavily in the President's favor.
>
> Congress and various citizens groups have challenged Mr. Nixon's assertion of power in the courts. The Administration has been losing every court test although the Supreme Court has not yet rendered a definitive decision. The stakes of battle are not small. In the fiscal year just ended, President Nixon impounded $18 billion, or roughly 7 per cent of the total budget, most of it in the environmental and social welfare programs.
>
> The Congressional leadership meanwhile has been trying to work out legislation that would meet this problem in a constructive fashion, neither hobbling the President's right to manage the budget nor yielding too much of Congress' ultimate power over spending public money. In April, the Senate approved by a vote of 70 to 24 a bill by Senator Ervin of North Carolina to establish procedures which Congress can follow when money is impounded. The House leadership has scheduled action today on a revised version of the Ervin bill.
>
> The House bill provides that if the President impounds funds, he should notify Congress within ten days. If there were no serious objections to the impoundment, and this might be true in many instances where the sums were small or were genuine savings due to improved efficiency, Congress would take no action and the President's decision would stand.
>
> If there were strong Congressional resistance, however, the Appropriations committees would consider the matter and make recommendations to the House and Senate. If either chamber disapproved the President's action, the impounded funds would have to be released. The Ervin bill is even stiffer in this regard because under its terms, any impoundment would automatically end unless both houses voted to uphold the President within sixty days.
>
> Such procedures provide a reasonable basis for compromise if Mr. Nixon wants an accommodation on this fundamental issue.

Mr. BUCHANAN. Mr. Chairman, I rise in support of this legislation with a great deal of reluctance.

While the measure in its present form has some merit, I would have much preferred the legislation as amended by the proposal of the gentlemen from Illinois (Mr. ANDERSON) which narrowly failed. It would also be far better if the Congress voted more consistently for economy and efficiency in government and restraint in spending, thus greatly reducing the possibility of impoundments.

I am well aware that Mr. Nixon is not the first to impound funds and has not even done so to the extent that at least one of his predecessors has done in the past, but in voting for this legislation, I am looking to the future.

We cannot afford, in my judgment, to permit some future President to determine, for example, the defense posture of this Nation by impounding half the funds the Congress had appropriated for this purpose.

Mr. Chairman, I would be perfectly delighted if I could vote maybe on H.R. 8480. It does not go far enough in requiring Congress to act with fiscal responsibility as it appropriates funds for the operation of the Government and Congress certainly must bear much of the burden for the fiscal problems which confront this Nation today.

One of the greatest needs in our time for reform in government is for definite funding sufficiently in advance of the fiscal year for departments and agencies to make rational decisions concerning the programs they administer.

The present system is one of absolute fiscal chaos.

Congress often does not appropriate or even authorize funds other than by continuing resolution until well into the fiscal year. This leaves the administering departments and agencies no basis for firm, advance planning. We are already nearly a month into the new fiscal year, yet action has yet to be completed on even one major appropriations bill.

Presidential impoundment compounds this felony to the point that it is a minor miracle if anything rational ever happens in the Government of the United States.

Both the Congress and the President are parties to the crime, but, Mr. Chairman, it most assuredly is a crime against good government and the people themselves.

For these reasons, I must reluctantly support this bad legislation lest the consequences of no congressional action should prove even worse for the country.

Mr. RANDALL. Mr. Chairman, I rise in enthusiastic support of the impoundment control and expenditure ceiling bill, H.R. 8480.

Since the beginning of the year we have seen Presidential impoundments on a massive scale never before witnessed in the history of this country. Of course, over the long pull, there have been, in former years, such devices and mechanisms known as "budgetary reserves." There have been instances, particularly in the areas of budget works where the capability of the Corps of Engineers was simply not equal to the appropriation which had been provided. In these kind of instances there was nothing wrong with the executive branch holding up some portion of authorized and appropriated funds to be used when the capability of the corps became apparent to handle the funding or to use the appropriated funds in efficient and effective manner.

But, Mr. Chairman, such minor and acceptable "budgetary reserves" of former years are a far cry from the billions and billions of dollars that have been impounded since the beginning of this calendar year. This kind of impoundment that has appeared in the past 6 months is a kind of a thing that thwarts the intention of the Congress and subverts the democratic process. If by such description we mean the will of the Congress as provided in the Constitution to be vested with the power of the purse and thereby control the appropriation process.

I am not sure of the exact amount of impoundments, but to my understanding there has been between $18 and $20 billion of impoundments in such departments as the Environmental Protection Agency, manpower training funds, Labor and HEW funds, housing, including Farmers' Home Administration emergency loans.

Mr. Chairman, I was a cosponsor of H.R. 1844 which would require the President to notify the Congress whenever he impounds funds and if Congress does not approve the impoundment within 60 days after the message is received, the impoundment is to cease.

It is my judgment that each Member should take a stand on the impoundment issue. In the last analysis he is either willing to forgive and condone impoundment or he should be willing to take a stand, even an adamant stand, against it. The issue of impoundment is not one to be willing to approve with a lukewarm attitude. That is why it seems to me that all the different solutions to impoundment such as one House approving impoundment or one body disapproving impoundment or both bodies having to approve or disapprove impoundment over varying periods from 30 to 60 to 90 to 120 days reduces our discussion to the level of a kind of debating society for me. But I have to go on record to state that I favored the urban approach which it seemed to me had every sound argument in its behalf. Once the appropriation process and veto cycle had been completed the President must act to inform Congress if he decides to impound funds. If Congress does not approve impoundment within 60 days then the President must reinstate the funds. That was why I joined in H.R. 1844 on January 11, 1973, in a bill in which the principal sponsor was a gentleman from Texas (Mr. PICKLE). I supported the Pickle amendment when it came up for consideration during the debate on H.R. 8480.

Mr. Chairman, after all the enactment of legislation is a result of compromise, we all have our rathers. H.R. 8480 will permit either House to disapprove impoundment within 60 days. In the absence of such disapproval then impoundment would stand. As I have indicated both expressly and by implication I would have preferred the so-called urban approach or the so-called Pickle approach, both of which provided that unless a specific impoundment had been ratified by the Congress the impoundment would cease. H.R. 8480, however, is a compromise and while it does not automatically terminate the impoundment it does call for a procedure in which either body of Congress can disapprove and impoundment is disrupted.

Well, certainly, the House takes a significant step in the passage of H.R. 8480 to resolve the impoundment issue.

Mr. DOMINICK V. DANIELS. Mr. Chairman, the issue that is joined today in our consideration of H.R. 8480, providing for control of the President to impound funds lawfully authorized and appropriated by the Congress, is one of great importance to all Americans. Inherent in this controversy is the issue of not merely who shall determine the priorities of the Nation, but how those priorities shall be determined.

It has always appeared to me that the Constitution of the United States clearly settles the controversy by vesting in the Congress "all legislative power." The Constitution also commands that the President "take care that the laws be faithfully executed." Moreover, the Constitution specifically dictates that the President "shall from time to time give to the Congress information of the State of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient."

Clearly, the framers of our Constitution, which sets the rights, obligations, limits and responsibilities of our people and their government, meant in no uncertain terms that the Congress was to make the laws and the President, in whom is vested the executive power, was to carry them out. Of course, if the President determines strong disapproval of a bill, he may veto it. But that is his only recourse under the Constitution. But even in that event, two-thirds of those present in each House of the Congress may override his determination. Thus the Constitution provides that a bill may in the superior judgement of two-thirds of each House of Congress, become law notwithstanding the President's disapproval and he is nevertheless charged to enforce and execute its provisions.

The Congress recognized in 1905 and again in 1950 in the Anti-Deficiency Act that there are some circumstances where in the Congress has authorized and appropriated funds which, because of new events, need not or ought not be spent. The Congress therefore empowered the President to withhold the spending of those funds. But that power was limited by Congress in the act "to provide for contingencies, or to effect savings whenever savings are made possible by or through changes in requirements, greater efficiency of operations, or other developments." Thus the Congress has consistently held to the constitutional position that it alone has the power to determine spending and priorities and specifically limited the action the President, in his obligation to execute the laws, might take. The Congress, recognizing the limits inherent in the legislative process provided only a fine-tuning mechanism to be used in special and limited circumstances to save money, prevent waste, and to provide for changed circumstances.

President Nixon, however, has used this authority, which other Presidents have hitherto used with the reason and restraint necessary in democratic government, to take upon himself power and authority not granted to him by the Constitution or law. He has refused to carry out programs lawfully authorized by the Congress and for which the Congress appropriated necessary funds. He has refused to carry out programs in spite of the fact that the Congress provided for a balanced budget. All of the impoundments were for domestic needs; for example: $1.9 billion for labor, health, library and education programs including funds to increase employment; $6 billion for water sewage treatment facilities needed by communities to meet not only long term but immediate needs; $283 million in manpower training funds; and $1 billion for housing, FHA emergency loans, and cutbacks in social services.

These are programs that Congress, after much consideration found necessary for the general welfare of the country. Each program was considered in each House of the Congress, first by one or more subcommittees which heard public witnesses including the President's spokesmen; then by a full committee which also may have heard testimony and then the program was considered by the full House of Representatives and the Senate. Thereafter, if the bills passed by the Senate and the House were different, the bills were again considered by a conference committee made up of Members of each House. Finally the Conference Committee bill was again considered by the House and Senate and only then sent to the President for his approval. After a program has been thus authorized, the same process is repeated when in order that the necessary funds are appropriated. All of the programs which President Nixon refused to carry out had been thus approved twice by the Congress and the President.

These programs were considered by the Congress under the full scrutiny of public attention by men and women elected by the people and subject to their desires, needs, and approval. Contrarily, the money was impounded by bureaucratic appointees in the Office of Management and Budget responsible to no one but the President and subject only to his desires, needs, and approval. They met in secret, closeted away from public scrutiny. Their decisions were not reviewed by representatives of the people but by men carrying out the orders only of one man, the President. The impoundment decisions resemble no democratic process. Rather they resemble the decisionmaking process behind the walls of the Kremlin; walls behind which the people have no means of expression, no way of influencing decisions which affect their lives, their safety, and their welfare.

Mr. Chairman, my constituents in Hudson County, N.J., have been the victims of these impoundments. The funds for manpower training and public employment are crucial for workers as well as the merchants from whom they buy. Likewise, the funds for sewer and water treatment facilities, libraries, education are critical to their general health, safety and welfare.

These programs are neither gifts from the Congress nor largesse from the President. They are a return of the tax money collected by the Federal Government from our constituents and returned to them in the form of necessary and needed services. The people have a right and are able to make their views known to their elected representatives who have an obligation to carry out their demands and provide for their welfare. If we, the elected representatives fail to carry out the desire of our constituents or fail to provide for their welfare, they have recourse to the ballot box. There is no such similar recourse by the people to the men who meet in secret in the Office of Management and Budget.

Mr. Chairman, H.R. 8480 is a reasonable means of enforcing the constitutional authority of the Congress and the responsibilities and limits of the Presidency. I would have preferred that H.R. 8480 had included the provision of Senator SAM ERVIN in the Senate bill. That bill provides that an impoundment by the President terminates after 60 days unless specifically considered by the Congress. The language in H.R. 8480 provides that the Congress must consider an impoundment within 60 days and if it does not, such an impoundment shall stand.

This may seem to be a distinction without a difference to some. But it seems to me that where the Congress has already determined to authorize and appropriate funds for a program, that decision should only be overturned by an initiative brought by those who believe it should be tempered by an impoundment.

Under H.R. 8480, Congress must overturn a Presidential decision made subsequent to enactment. I do not believe this is necessarily consistent with the intent framed in the Constitution. Nevertheless, it is a provision we can live with. It is a difference which is overshadowed by the grave importance of the bill as a whole and I rise in support of H.R. 8480 notwithstanding that provision.

Mr. BOLLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there has been a good deal of conversation during the debate, although not in the debate, about the effect of court decisions on impoundments.

I ask unanimous consent to include a statement immediately following my present remarks.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. BOLLING. In recent months the right of the Executive to impound funds has been challenged with increasing frequency, and with almost invariable success, in Federal courts throughout the country. The fact that these courts have consistently denied the right of the Executive to impound has been cited by some persons as a reason for opposing the pending bill, basing their position on the argument that since the judiciary is adequately handling the problem there is no need for the establishment of a new procedure to deal with it.

A careful reading of the impoundment cases, however, tells a different story; despite the fact that the result in any given case is likely to be the same as under the procedure embodied in the bill, the cases themselves demonstrate the need for the new procedure and in fact provide what may be one of the strongest arguments in favor of the bill.

The key point is that the decision in every one of these cases was based explicitly upon the intent of the Congress, as ascertained by the court from the language of the statute involved and occasionally from its legislative history. Other factors—including constitutional considerations—were either treated as immaterial or cited, more or less in passing, as secondary or supporting reasons for the court's decision.

A brief reference to the holdings in a few of the most recent impoundment cases will make this point clear and illustrate the approach taken by the courts. In the highway funds case—*Missouri* v. *Volpe,* U.S. Court of Appeals, 8th Circuit, April 2, 1973—the court stated that the case involved only the simple question of whether or not the Secretary of Transportation has been delegated discretion to impose contract controls, expressly denying the existence of any constitutional question and holding that the Secretary—while he might have the right to impound funds for reasons based on the statute and consistent with its objectives—could not impound funds for reasons "collateral or unrelated" to the statute's intended purposes. In the mental health centers case —*National Council of Community Mental Health Centers* v. *Weinberger,* U.S. District Court for the District of Columbia, June 28, 1973—the court expressly held that the President has no statutory or constitutional authority to withhold the obligation of funds when the Congress by express statutory language has made it mandatory. In the neighborhood youth corps case—*Community Action Programs Executive Directors Association of New Jersey* v. *Roy Ash,* U.S. District Court for the District of New Jersey, June 29, 1973—the court stated that:

> The failure of the defendant to release, obligate, and expend the funds involved was "illegal in violation of the Economic Opportunity Act . . ., the Supplemental Appropriations Act . . ., and Article II, section 3 of the United States Constitution" because "the unequivocal intent of Congress in enacting [the laws involved] was to make mandatory and not discretionary the obligation, release, and expenditure of the funds appropriated.

The two recent cases involving the impoundment of water pollution control funds are particularly instructive. In the first of these—*City of New York* v. *Ruckelshaus,* U.S. District Court for the District of Columbia, May 8, 1973—the court looked carefully at the legislative history of the statute and concluded that Congress had made mandatory the allotment of the funds involved although it had probably given the executive discretion to limit the rate of the obligation and expenditure of such funds after their allotment; it therefore struck down the impoundment of funds by withholding allotments but did not rule on the question of impoundment by limiting obligations or expenditures.

In the other—*Campaign Clean Water, Inc.* v. *Richardson,* U.S. District Court for the Eastern District of Virginia, June 5, 1973—the court again examined the legislative history and this time concluded that Congress had given the executive discretion to impound by withholding allotments as well as by limiting obligations and expenditures, but it nevertheless ruled that the actual impoundments involved—of both types—were so excessive as to constitute "a violation of the spirit, intent, and letter of the act and a flagrant abuse of executive discretion" and were therefore null and void.

Even in the 1972 housing funds case in California—the only recent Federal case to uphold a challenged executive impoundment—the court's decision turned on the intended meaning of specific statutory language.

In view of the number and variety of the impoundment cases and the uniformity of the judicial approach embodied in them, it is clear that in the future, as in the past, the question of the executive power to impound will be decided—and should under the Constitution be decided—on the basis of what Congress intended, regardless of the forum or procedure selected for making the decision. In addition to the obvious fact that piecemeal judicial determinations on the question usually involve excessive expenditures of time and money, with resulting unnecessary risk that intended Federal benefits will be lost or unevenly distributed in many cases, there is a more fundamental reason why the procedure for dealing with the question of impoundment which is embodied in the bill should be preferred.

The procedure embodied in the bill would vest in the Congress the final determination of its own intentions and its own priorities in cases where actions taken by the executive place them in doubt; and it should be clear that neither a Federal court nor any other body is as well qualified to determine the intentions and priorities of the Congress as the Congress itself. This would be true even if there were a single Federal court to hear all impoundment cases, since legislative intent is not always expressed in plain language and its determination by an outside entity too often involves inference and deduction, but the multiplicity of Federal courts further compounds the problem; each court must draw its own inferences on the basis of whatever information is presented or made available to it, and it is hardly surprising that two courts conscientiously applying exactly the same criteria may arrive at different conclusions—as in the water pollution control cases referred to above. In the recent impoundment cases certain words and phrases commonly found in Federal statutes were interpreted by some courts as a mandate and by others as a grant of discretion; and—on the basis of statements made in the decisions of the courts—at least one of the cases would almost certainly have been decided differently had it been brought before any one of several other courts.

The impoundment cases themselves, uniformly holding as they do that the intent of the Congress should be conclusive in determining whether an impoundment of funds is permitted under the law, thus may be viewed as providing a powerful argument in favor of adopting the kind of orderly and consistent procedure which is embodied in the bill.

Mr. WRIGHT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the vote which soon will occur on final passage of this bill could be the most historically significant vote to confront this Chamber this year. The question cannot be longer postponed, and we face the moment of truth.

It seems to me that, if we should fail to enact this bill restoring to the Congress its historic right to determine spending priorities, we would deserve the contempt of the public and the condemnation of history for having weakly or willfully assented to the most massive executive invasion in American history upon the most fundamental and most indispensible legislative power, the power of the purse.

It has been pointed out that while other Presidents at other times have indeed impounded funds, they have done so for the most part in limited amounts, over limited periods of time, and to serve limited purposes.

Never before have we been confronted with a situation in which the Chief Executive of the Nation has deliberately undertaken to utilize the impoundment technique as a unilateral tool to redirect the entire course of domestic public policy in the United States.

Never before has it been so broadly employed to arrogate to the President what amounts in effect to an item veto, never sanctioned by the Constitution, and in effect a second veto employed in one case after the Congress had overridden the veto on the water pollution bill, not by the required two-thirds, but by almost a 10-to-1 vote. Despite this overwhelming expression of clear congressional intent, the President blithely ignored the will of Congress, substituted his own personal judgment, and cut the program in half.

Were we supinely to acquiesce in so bold a usurpation of our rights and responsibilities, we would deserve to be held in scorn by the very public who elected us to carry out those responsibilities.

Title II of the bill places this issue in its clear perspective. It is not a question of Democrats versus Republicans. It is not a question of big spenders versus little spenders. It is not a question of how much money in all shall be spent. Title II of this bill establishes by congressional enactment an expenditure ceiling well below the total amount requested for spending by the President of the United States. If total appropriations should exceed that aggregate figure, the President would be directed—not permitted, but directed—to trim all programs by the same pro rata percentage necessary to hold total spending within the established ceiling. Certainly this achieves effective budgetary control. It mandates it.

Once we act favorably upon this bill, it cannot be said that the Congress, the legislative branch, is indulging in irresponsible spending. The issue will not be how much; the issue will be, as it historically should be, who within that agreed expenditure ceiling has the right to determine where the money shall be spent.

I think every serious historian and every constitutional authority would agree that the power of the purse, the right to determine spending priorities, is absolutely the most fundamental of the legislative powers, all of which are clearly granted in article I, section 1 of the Constitution to the Congress of the United States.

And so I do not see, now that we have worked out the details of implementation, how anybody in this Chamber who believes in reinstating and reinforcing the legislative prerogatives, and who wants to stop this tidal erosion, can do other than support this bill.

I earnestly plead with my colleagues on the left and on the right to act not as Republicans, not as Democrats, but as legislators, as the friends of Congress, and as people whose overriding prejudice is simply a pronounced bias in favor of the separation of powers by which the Constitution has permitted this Nation to endure longer than any other republic on earth.

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. I think we need to have an anti-impoundment bill. I have some concern that Congress in trying to restore power to the Congress is giving away the power of the House. I say this for two reasons: one, the Senate has different procedures, different rules and regulations; they can, if they wish, act much faster and if they vote to disapprove the impoundment—the House has abdicated its responsibility to act. It has lost its opportunity to act. I voted for the Anderson amendment yesterday so that both bodies must act. Let me state a hypothetical case if I may. And this is my second reason for believing we are giving away the power of the House on appropriations. Yesterday, I went over all of the appropriation bills of 1972.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mrs. GREEN of Oregon, and by unanimous consent, Mr. WRIGHT was allowed to proceed for 3 additional minutes.)

Mr. WRIGHT. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. I went over all of the appropriation bills in the last session of Congress; with the exception of military construction, defense, foreign assistance, and the District of Columbia, the Senate increased the appropriations by a very large, a very substantial amount—to the tune of several billion dollars.

Mr. WRIGHT. If the gentlewoman will yield, I think that may be why the Senate is sometimes referred to as the "upper body." It is almost always upping our appropriation bills.

Mrs. GREEN of Oregon. The only sensible explanation I have heard, if I may say so. Let me state my question, if I may. Let us take a hypothetical case where the President impounds funds in a particular appropriation bill; the House has a resolution to stop the impoundment—to disapprove. However, the Members of the House decide that they are in agreement with the President on the impoundment, so they reverse the decision and by a very sizable majority agree on the impoundment in this particular case. Then the Senate takes action, and they say they disapprove of the impoundment by the President. So we have the House which says they agree with the impoundment and we have the other body taking action to disapprove the impoundment. Normally we would work it out in conference; we would reach some kind of agreement; but under this bill, as I understand it, the House action would go for naught because the bill before us today is so worded that if one body disapproves of the President's impoundment then that is it. Is that correct?

Mr. WRIGHT. The gentlewoman is basically correct, but that issue is no longer before us. That was settled in the Committee of the Whole earlier in the debate.

I think it appropriate that at this point we recognize the issue that does confront us, and that is whether or not the Congress will enact an anti-impoundment bill tied to an expenditure ceiling. I think the two titles of the bill present a proper balance. They put the whole issue in its proper context. Once the Congress has acted on an appropriation, it must be assumed that this is the will of the Congress of the United States. Therefore, the more difficult burden ought not to be upon the Congress to reassert its will. I believe it is proper that either House should have the opportunity to disallow the impoundment of a total category of funds, when that impoundment would emasculate or even terminate an entire program duly authorized and duly funded by the Congress.

I ask all Members on both sides to support this bill, not in the sense of partisanship, but in a united expression of our will to defend and preserve against encroachment the constitutionally delegated rights and responsibilities of the Congress of the United States.

Mr. ANDERSON of Illinois. Mr. Chairman, I move to strike the last word.

Mr. Chairman, normally I would have taken time later in these proceedings to explain the motion to recommit which I plan to offer, but I think in view of the very sincere and eloquent statement of the gentleman from Texas (Mr. WRIGHT) and more particularly in view of the colloquy which we have just listened to between the gentleman from Texas and the gentlewoman from Oregon (Mrs. GREEN) that this would be the appropriate point in these proceedings to explain that motion.

That motion simply will be to try to put back into this bill the amendment that lost by a single vote yesterday of 206 to 205, an amendment that would provide that a concurrent resolution of disapproval would be necessary to block an impoundment action. Unfortunately—and I have great respect and great affection for the very able gentleman from Texas—this bill in its present form does not restore to this Chamber, to this House of Representatives, the right to determine the spending priorities in this Nation. Of course, that will only really come when we have the budget reform legislation that I am now convinced, because of the promises and the assurances that we have had, will be reported in legislation later this year.

However, as presently written, this bill would allow one body, the upper House, as he so aptly called it because they so often increase the appropriations prudently voted by this body—it would allow one House of this Congress, the Senate of the United States, to disapprove a presidential impoundment action which a majority in this body felt was prudent.

The distinguished chairman of the Committee on Appropriations originally in his bill offered the proposition that we, too, should have a coequal right, that we, too, should be permitted to act on a resolution of disapproval. Therefore, very wisely in his bill, and he spoke to this point yesterday in support of my amendment, he very wisely included a provision that both Houses should concur in a resolution of disapproval.

Therefore, I am as anxious as anyone, after serving in this House for 12 years with the great gentleman from Texas, watching with growing concern as we see the powers of this body ebb away and flow away from us. I want them restored, but I want them restored by legislation that will do it in a just and equitable manner.

I am not willing, by voting for this bill in its present imperfect fashion, to agree that the other body alone can disapprove an impoundment which we believe in our wisdom and in our judgment should be sustained.

Therefore, I beg the Members, no matter how they feel about the subject of impoundment, and there are obviously diverse opinions on the subject, to at least support the motion to recommit and put back into this bill the right of this House along with the other body to act on impoundments, and then we can proceed to a vote on final passage.

Mr. PICKLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I know the Members would share my own disappointment that the amendment I had offered earlier, along with Mr. Sarbanes, had not passed. It would have specifically required that the President cannot impound unless both Houses of Congress give him the affirmative permission. Had we passed that amendment, I think we would have avoided the question the gentlewoman from Oregon (Mrs. Green) raised, because we would have had to give permission first.

It would have avoided all these constitutional questions. The amendment also had in it a provision allowing for, under concurrent resolution, that we could have vetoed, or disapproved, in effect, a measure within the 60-day time. The gentleman from Illinois (Mr. Anderson) had a chance to vote on our amendment—which also would have allowed for a disapproval—but he did not choose to support that amendment.

I recognize that under the committee bill there may be some slight advantage to the Senate, or one might think there would be, and it would be a concern of ours, but I really think that what we ought to think in terms of now is, how do we advance a bill that would hopefully give us some kind of solution to this impoundment problem.

We ought to look at it then as a congressional matter and not as a House versus Senate matter, or vice versa. For that reason, I think it is more important to advance the bill.

This bill does allow for impoundment, but it can be disapproved by one House. It does set a spending ceiling, and on balance it is a lot better than the original bills which were introduced. I think we ought now to join in passage of this measure, move it to conference and come up with a bill that would give us a proper solution to this impoundment question.

Mr. COLLIER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I believe my colleague from Illinois (Mr. Anderson) certainly directed his remarks to what I think is the key issue here in terms of regaining by this body control of the budget.

Mr. Chairman, while I can understand the concern of many with impoundment practices. I hasten to point out that impoundment is nothing new. The practice has existed since time immemorial.

Let me quote briefly from the remarks of the last four Chief Executives, three of whom, like President Richard M. Nixon, served in the Congress. Presidents John F. Kennedy and Lyndon B. Johnson share with the present occupant of the White House the distinction of having served in both the House of Representatives and the Senate.

In 1949 President Harry S. Truman who had served in the Senate for 10 years, said:

> I am—directing the Secretary of Defense to place in reserve the amounts provided by the Congress—for increasing the structure of the Air Force.

In 1960 President Dwight D. Eisenhower said:

> It is the consensus of my technical and military advisers that the [Nike-Zeus] system should be carefully tested before production is begun and facilities are constructed for its deployment. Accordingly, I am recammending sufficient funds in this budget to provide for the essential phases of such testing. Pending the results of such testing, the $137,000,000 appropriated last year by the Congress for initial production steps—will not be used.

In 1961 Robert S. McNamara, who was Secretary of Defense during the Kennedy administration, said:

> The progress of the administration's accelerated defense buildup makes unnecessary the use of additional defense funds appropriated by the Congress above the amount requested by the Administration.
>
> The extra money which Congress urged upon the administration was composed of $514,500,000 for additional B-52 bombers; $180,000,000 to press development of the B-70 long-range supersonic bomber; and $85,800,000 for the Dynasoar rocket-aircraft research vehicle project.
>
> . . . The Clear conclusion of [our] latest analysis was that the program progress of the administration's accelerated defense buildup makes unnecessary the use of additional funds appropriated.

In 1966 President Johnson said:

> The total of appropriations effectively provided in the [Agriculture and Related Agencies Appropriation Act of 1967]—is $312,500,000 above my budget request. . . .
>
> Rather than veto this bill—I intend to exercise my authority to control expenditures. I will reduce expenditures for the programs covered by this bill in an attempt to avert expending more in the coming year than provided in the Budget.

Also in 1966, in his message to Congress on fiscal policy and stable economic growth, Mr. Johnson said:

> I am prepared to defer and reduce Federal expenditures—by withholding appropriations provided above my budget recommendations whenever possible.

For most of my 16 years in this body I have been a member of the Committee on Ways and Means, where all tax legislation originates. My colleagues and I have the responsibility of raising sufficient revenue to operate the huge Federal establishment. If sufficient revenue is not raised through taxes, we must borrow the money. We have had to borrow so many billions that it has become necessary to raise the debt limit many times. Incidentally, it is all but mandatory for the President to impound substantial sums if he is to obey the law by keeping expenditures within the debt ceiling.

Beginning with the present Congress I have assumed several new responsibilities—membership on the Joint Committee on Internal Revenue Taxation, the Joint Committee on Reduction of Federal Expenditures, and the Joint Study Committee on Budget Control. While these assignments have presented tremendous new challenges, I have welcomed them because of the opportunity they have given me to get a panoramic view of the budget from both sides of the ledger. In other words, my right hand will know what my left hand is doing and vice versa.

All of my colleagues are familiar with the Joint Committees on Internal Revenue Taxation and Reduction of Federal Expenditures, which have functioned for many years. The Committee on Ways and Means goes back to the very beginning of our present constitutional system of government. On the other hand, the Joint Study Committee on Budget Control was established late last year.

The law establishing the Joint Study Committee provides that it shall make a full study and review of:

> The procedures which should be adopted by the Congress for the purpose of improving congressional control of budgetary outlay and receipt totals, including procedures for establishing and maintaining an overall review of each year's budgetary outlays which is fully coordinated with an overall view of the anticipated revenues for that year.

The Joint Committee is not to recommend procedures to reduce or increase spending or to reduce or increase taxes. It is supposed to propose procedures for improving congressional control of the budget rather than attempt to deal specifically with the current budgetary problems with respect to fiscal 1974.

If Congress is to effectively maintain and carry out its constitutional power over the purse, it must establish an effective permanent mechanism for budget control which will assure a more comprehensive and coordinated review of budget totals and determination of spending priorities and spending goals, together with a determination of the appropriate associated revenue and debt levels. This would obviate the reason for much, if not most, of the impoundment that has been put into effect by President Nixon.

On April 18 the entire membership of the Joint Study Committee on Budget Control sponsored H.R. 7130, the Budget Control Act, which would amend the Rules of the House of Representatives and the Senate to improve congressional control over budgetary outlay and receipt totals, to provide for a legislative budget director and staff, and for other purposes.

Mr. BOLLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not take 5 minutes. We have before us now a very practical matter. The Senate has twice passed a bill which requires two Houses to approve an impoundment in order for the impoundment to go into effect.

I presume I will be on the conference, and I would like very much to take to the conference to deal with the Senate on this rather difficult conflict between the two Houses, a bill that was as far away from their position as possible.

The bill that would be as far away as possible from that particular position would be the bill in its present form, which provides what I believe to be the better version from a constitutional point of view, and at this moment much the better version from a practical point of view.

I hope that when the motion to recommit is offered it will be resoundingly voted down so that we who will deal with the problem of reconciling the views will have a better opportunity to reach a conclusion which might be satisfactory to both bodies and might really restore to the Congress a portion of that power which it has allowed to slip away.

Mr. BROYHILL of Virginia. Mr. Chairman, I rise in opposition to H.R. 8480, which would require the President to notify Congress within 10 days after funds are appropriated that he is withholding full disbursement, stating the specific projects from which funds are withheld, the amount of funds being withheld, the fiscal, economic and budgetary impact of the action, and the reason for withholding or delaying of obligations by contract, and providing further that either House of Congress may by simple resolution adopted within 60 days of such notification, force release and full disbursement of such funds by the President.

As the minority members of the Committee on Rules have pointed out, the charge that Congress is frustrated by Presidential impoundments is invalid. Impoundment is only a symptom of the budget crisis.

The debt limit we passed last fall permitted only enough additional Federal borrowing to finance expenditures of about $250 billion this fiscal year. As part of the debt limit legislation, both House and Senate adopted a ceiling of $250 billion on expenditures. But the ceiling was voided in conference, because the House and the Senate could not agree whether, much less how, to make the individual program reductions needed to reach the agreed-upon total. So, in effect we expressed agreement with the President that he should not exceed $250 billion, but at the same time acknowledged that we in Congress were unable to make the hard choices between programs.

It was my privilege and honor a few short months ago to be appointed to the Joint Study Committee on Budget Control, and to participate in drafting H.R. 7130, which was introduced on April 18, 1973. Creation of this Joint Study Committee had seemed to me to be a ray of hope that the Congress for the first time in my 20 years here was about to reverse its long strides toward ever more fiscally irresponsible actions. We worked hard in the joint committee and H.R. 7130 which we recommended to the Congress, was a first step long overdue in the direction of overhauling our budgetary machinery so that we might not need to depend on whoever the man was occupying the White House at any given period of time to save us from our reckless drive toward bankrupting the Government of the United States.

Unfortunately, our colleagues on the Committee on Rules, responding more, I believe, to the loud cries of beneficiaries of some of our more popular programs than to the less loud, but more desperate cries from taxpayers caught in the tightening vise of inflation, decided to impose upon the President a whole new set of complicated procedures for saving us from our recklessness, rather than considering the joint committee's recommendations which would relieve him of the responsibility and the blame for attempting to control runaway Federal spending.

Title II of the bill sets a $267.1 billion spending ceiling, an objective with which we can all agree. But the conditions it imposes for achieving the goal are across-the-board cuts on all but a few selected Federal programs without regard to the merits of the programs or the special circumstances surrounding their funding. The long term effect would be to require the President to spend money now impounded, then stay within the prescribed spending limit, 70 percent of which he cannot control, by making large proportionate cuts into every Federal program except those it specially exempts; that is, public assistance maintenance grants and food stamps.

Mr. Chairman, the time has come for Congress to restore its power over the Federal purse, but attempting to tell the President he cannot delay nonessential spending is not the way. The way, we all know and all must eventually follow, is the way already recommended by the Joint Study Committee on Budget Control, to set up our own machinery for determining how much the American taxpayers can afford to pay, and for forcing ourselves to exercise restraint and fiscal responsibility, often in the face of loud cries of dismay, to provide adequate, but not excessive funding for those programs which will best serve the needs of those who sent us here to represent them in the Congress of the United States.

Mr. ROBINSON of Virginia. Mr. Chairman, I am strongly in favor of responsible congressional action to fix, and to observe, an annual ceiling on Federal spending, and I have joined in sponsorship of several legislative approaches to this objective.

If the Congress adopted such a ceiling, as applied to its own appropriation process, there would be little need for Presidential impoundments.

It is not responsible legislating, in my view, however, for the Congress to restrict Presidential impoundments on the one hand and require the President to meet a spending ceiling on the other, when, at the same time, appropriation bills are moving toward the President with totals substantially exceeding the budget recommendations.

A particular defect of the measure before us is the provision permitting specific Presidential impoundments to be overridden by an expression of just one of the two Houses of the Congress.

Leaving aside a substantial constitutional question which intrudes on our consideration of the mechanics of this bill (H.R. 8480), I have to conclude that it would be unwise and deceptive for us to approve this measure. It would limit the only effective means of curbing active spending in situations in which the Congress, despite its pride in the power of the purse, has appropriated with profligate disregard for fiscal realities.

In undertaking to place the President under a spending ceiling, it would circumscribe his discretion in achieving compliance. It would not circumscribe the Congress as to pending or future appropriations.

Rather than this makeshift, we should bring to the floor and pass effective budgetary control legislation embracing a firm congressional ceiling on appropriations. Having done this, we would be more firmly based in our protestations against impoundments by the Executive.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. FASCELL, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 8480) to require the President to notify the Congress whenever he impounds funds, to provide a procedure under which the House of Representatives or the Senate may disapprove the President's action and require him to cease such impounding, and to establish for the fiscal year 1974 a ceiling on total Federal expenditures, pursuant to House Resolution 477, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ANDERSON OF ILLINOIS

Mr. ANDERSON of Illinois. Mr. Speaker, I offer a motion to recommit with instructions.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. ANDERSON of Illinois. In its present form I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. ANDERSON of Illinois, moves to recommit the bill, H.R. 8480 to the Committee on Rules with instructions to report back the same to the House forthwith with the following amendments: On page 4, strike line 24 through line 2 on page 5, and insert in lieu thereof the following: "by the Congress by passage of a concurrent resolution in accordance with the procedure set out in section 104 of this Act."
>
> On page 6, strike lines 5 through 14 and insert in lieu thereof the following: "(b)(1) For the purposes of this section and section 102 the term 'resolution' means only a concurrent resolution which expresses the disapproval of the Congress of an impoundment of funds set forth in a special message transmitted by the President under the first section of this Act, and which is introduced and acted upon by both the House of Representatives and the Senate before the end of the first period of sixty calendar days of continuous session of the Congress after the date on which the President's message is received by the Congress."

The SPEAKER. Does the gentleman from Illinois desire to be heard on the motion to recommit?

Mr. ANDERSON of Illinois. Briefly, Mr. Speaker.

The SPEAKER. The gentleman is recognized for 5 minutes.

Mr. ANDERSON of Illinois. Mr. Speaker, I shall not take 5 minutes, because, as I said earlier, I feel it was appropriate to discuss the nature of the contents of the motion to recommit following the address to the committee by the gentleman from Texas (Mr. WRIGHT).

I merely want to suggest that in addition to the amendment which was defeated yesterday by a single vote the language in the motion to recommit which refers to striking lines 5 through 14 on page 6 and inserting certain language in lieu thereof is merely intended for the purpose of conforming that section of the bill with the requirement for a concurrent resolution in lieu of a resolution by either House.

Mr. BOLLING. Mr. Speaker, I move the previous question on the motion to recommit.

The previous question was ordered.

The SPEAKER. The question is on the motion to recommit offered by the gentleman from Illinois (Mr. ANDERSON).

The question was taken; and the Speaker announced that the noes appeared to have it.

RECORDED VOTE

Mr. ANDERSON of Illinois. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 208, noes 212, not voting 14, as follows:

[Roll No. 385]

AYES—208

Abdnor
Anderson, Ill.
Andrews, N. Dak.
Archer
Arends
Armstrong
Ashbrook
Bafalis
Baker
Beard
Bell
Biester
Blackburn
Bray
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Carter
Casey, Tex.
Cederberg
Chamberlain
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collier
Collins, Tex.
Conable
Conlan
Conte
Coughlin
Crane
Cronin
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Wis.
Dellenback
Dennis
Derwinski
Devine
Dickinson
Dorn
Downing
Duncan
du Pont
Edwards, Ala.
Erlenborn
Eshleman
Findley
Fish
Flowers
Flynt
Ford, Gerald R.
Forsythe
Fountain
Frelinghuysen
Frenzel
Frey
Froehlich
Fuqua
Gilman
Ginn
Goldwater
Goodling
Green, Oreg.
Gross
Grover
Gude
Guyer
Hammerschmidt
Hanrahan
Hansen, Idaho
Harsha
Harvey
Hastings
Hébert
Heinz
Henderson
Hillis
Hinshaw
Hogan
Holt
Horton
Hosmer
Huber
Hudnut
Hunt
Hutchinson
Jarman
Johnson, Colo.
Johnson, Pa.
Keating
Kemp
Ketchum
Landrum
Latta
Lent
Lott
Lujan
McClory
McCloskey
McCollister
McDade
McEwen
McKinney
Madigan
Mailliard
Mallary
Mann
Maraziti
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Michel
Miller
Minshall, Ohio
Mitchell, N.Y.
Mizell
Montgomery
Moorhead, Calif.
Myers
Nelsen
Nichols
O'Brien
Parris
Passman
Pettis
Peyser
Powell, Ohio
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Rarick
Regula
Rhodes
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Roncallo, N.Y.
Rousselot
Ruppe
Ruth
Sandman
Sarasin
Satterfield
Saylor
Scherle
Schneebeli
Sebelius
Shoup
Shriver
Shuster
Sikes
Skubitz
Smith, N.Y.
Snyder
Spence
Stanton, J. William
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stratton
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Thomson, Wis.
Thone
Towell, Nev.
Treen
Ullman
Vander Jagt
Veysey
Waggonner
Walsh
Wampler
Ware
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wyatt
Wydler
Wylie
Wyman
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Zion
Zwach

NOES—212

Abzug
Adams
Addabbo
Albert
Alexander
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
Badillo
Barrett
Bennett
Bergland
Bevill
Biaggi
Bingham
Blatnik
Boggs
Boland
Bolling
Bowen
Brademas
Brasco
Breaux
Breckinridge
Brinkley
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton
Byron
Carey, N.Y.
Carney, Ohio
Chappell
Chisholm
Clark
Clay
Collins, Ill.
Conyers
Corman
Cotter
Culver
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
de la Garza
Delaney
Dellums
Denholm
Dent
Diggs
Dingell
Donohue
Drinan
Dulski
Eckhardt
Edwards, Calif.
Eilberg
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Flood
Foley
Ford, William D.
Fraser
Fulton
Gaydos
Giaimo
Gibbons
Gonzalez
Grasso
Gray
Green, Pa.
Griffiths
Gubser
Haley
Hamilton
Hanley
Hansen, Wash.
Harrington
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Helstoski
Hicks
Holifield
Holtzman
Howard
Hungate
Ichord
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kluczynski
Koch
Kyros
Leggett
Lehman
Litton
Long, La.
McCormack
McFall
McKay
McSpadden
Macdonald
Madden
Martin, Nebr.
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Mills, Ark.
Minish
Mink
Mitchell, Md.
Moakley
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nix
Obey
O'Hara
O'Neill
Owens
Patman
Patten
Pepper
Perkins
Pickle
Pike
Poage
Podell
Preyer
Price, Ill.
Randall
Rangel
Rees
Reid
Reuss
Riegle
Rodino
Rogers
Roncalio, Wyo.
Rooney, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Runnels
Ryan
St Germain
Sarbanes
Schroeder
Seiberling
Shipley
Sisk
Slack
Smith, Iowa
Staggers
Stanton, James V.
Stark
Steed
Stephens
Stokes
Stubblefield
Stuckey
Studds
Sullivan
Symington
Teague, Tex.
Thompson, N.J.
Thornton
Tiernan
Udall
Van Deerlin
Vanik
Vigorito
Waldie
Whalen
White
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Wright
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki

NOT VOTING—14

Camp
Fisher
Gettys
Gunter
Hanna
King
Kuykendall
Landgrebe
Long, Md.
Mahon
Mayne
Milford
Roe
Winn

So the motion to recommit was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Camp for, with Mr. Gunter against.

Mr. Kuykendall for, with Mr. Hanna against.

Mr. Landgrebe for, with Mr. Long of Maryland against.

Mr. Mayne for, with Mr. Roe against.

Until further notice:

Mr. Fisher with Mr. King.

Mr. Gettys with Mr. Winn.

Mr. Milford with Mr. Mahon.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

Mr. GERALD R. FORD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 254, nays 164, not voting 15, as follows:

[Roll No. 386]

YEAS—254

Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Ashbrook
Ashley
Aspin
Badillo
Barrett
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blatnik
Boggs
Boland
Bolling
Bowen
Brademas
Brasco
Breaux
Breckinridge
Brinkley
Brooks
Brown, Calif.
Brown, Mich.
Buchanan
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton
Byron
Carey, N.Y.
Carney, Ohio
Casey, Tex.
Chappell
Chisholm
Clark
Clay
Cleveland
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cotter
Cronin
Culver
Daniel, Dan
Daniels, Dominick V.
Davis, Ga.
Davis, S.C.
de la Garza
Delaney
Dellums
Dent
Diggs
Dingell
Donohue
Dorn
Downing
Dulski
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Flood
Flowers
Flynt
Foley
Ford, William D.
Fountain
Fraser
Froehlich
Fulton
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Gude
Haley
Hamilton
Hanley
Hansen, Wash.
Harrington
Harsha
Hawkins
Hays
Hébert
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hillis
Holifield
Holtzman
Howard
Hungate
Ichord
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kluczynski
Koch
Kyros
Landrum
Leggett
Lehman
Litton
Long, La.
McCloskey
McCormack
McFall
McKay
McKinney
McSpadden
Macdonald
Madden
Mahon
Mailliard
Mallary
Mann
Mathis, Ga.
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Miller
Minish
Mink
Mitchell, Md.
Moakley
Mollohan
Montgomery
Moorhead, Pa.
Morgan
Mosher
Murphy, Ill.
Murphy, N.Y.
Natcher
Nichols
Nix
Obey
O'Hara
O'Neill
Owens
Parris
Patman
Patten
Pepper
Perkins
Peyser
Pickle
Pike
Poage
Podell
Preyer
Price, Ill.
Pritchard
Railsback
Randall
Rarick
Rees
Reid
Reuss
Riegle
Rinaldo
Roberts
Rodino
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Ryan
St Germain
Sarasin
Sarbanes
Satterfield
Schroeder
Seiberling

Shipley
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Staggers
Stanton, James V.
Stark
Steed
Steele
Stephens
Stokes
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Symington
Taylor, N.C.
Teague, Tex.
Thompson, N.J.
Thornton
Tiernan
Udall
Ullman
Vanik
Vigorito
Waggonner
Waldie
Whalen
White
Whitten
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Wright
Yatron
Young, Ga.
Young, Tex.
Zablocki
Zwach

NAYS—164

Abdnor
Anderson, Ill.
Archer
Arends
Armstrong
Bafalis
Baker
Beard
Blackburn
Bray
Broomfield
Brotzman
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Carter
Cederberg
Chamberlain
Clancy
Clausen, Don H.
Clawson, Del
Cochran
Collier
Collins, Tex.
Conable
Conlan
Coughlin
Crane
Daniel, Robert W., Jr.
Danielson
Davis, Wis.
Dellenback
Denholm
Dennis
Derwinski
Devine
Dickinson
Drinan
Duncan
Edwards, Ala.
Erlenborn
Eshleman
Fish
Ford, Gerald R.
Forsythe
Frelinghuysen
Frenzel
Frey
Goldwater
Goodling
Gross
Grover
Gubser
Guyer
Hammerschmidt
Hanrahan
Hansen, Idaho
Harvey
Hastings
Hechler, W. Va.
Hinshaw
Hogan
Holt
Horton
Hosmer
Huber
Hudnut
Hunt
Hutchinson
Jarman
Johnson, Colo.
Johnson, Pa.
Keating
Kemp
Ketchum
Kuykendall
Latta
Lent
Lott
Lujan
McClory
McCollister
McDade
McEwen
Madigan
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Michel
Mills, Ark.
Minshall, Ohio
Mitchell, N.Y.
Mizell
Moorhead, Calif.
Moss
Myers
Nedzi
Nelsen
O'Brien
Passman
Pettis
Powell, Ohio
Price, Tex.
Quie
Quillen
Regula
Rhodes
Robinson, Va.
Robison, N.Y.
Roncallo, N.Y.
Rousselot
Roybal
Runnels
Ruppe
Ruth
Sandman
Saylor
Scherle
Schneebeli
Sebelius
Shoup
Shriver
Shuster
Smith, N.Y.
Snyder
Spence
Stanton, J. William
Steelman
Steiger, Ariz.
Steiger, Wis.
Symms
Talcott
Taylor, Mo.
Teague, Calif.
Thomson, Wis.
Thone
Towell, Nev.
Treen
Van Deerlin
Vander Jagt
Veysey
Walsh
Wampler
Ware
Whitehurst
Widnall
Wiggins
Williams
Wilson, Bob
Wyatt
Wydler
Wylie
Wyman
Yates
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Zion

NOT VOTING—15

Andrews, N.C.
Camp
Fisher
Gettys
Gunter
Hanna
King
Landgrebe
Long, Md.
Mayne
Milford
Rangel
Roe
Rooney, N.Y.
Winn

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Andrews of North Carolina for, with Mr. King against.

Mr. Mayne for, with Mr. Camp against.

Mr. Rooney of New York for, with Mr. Landgrebe against.

Until further notice:

Mr. Long of Maryland with Mr. Fisher.
Mr. Gunter with Mr. Milford.
Mr. Roe with Mr. Hanna.
Mr. Gettys with Mr. Rangel.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to require the President to notify the Congress whenever he impounds funds during the fiscal year 1974, to provide a procedure under which the House of Representatives or the Senate may disapprove the President's action and require him to cease such impounding, and to establish for the fiscal year 1974 a ceiling on total Federal expenditures."

A motion to reconsider was laid on the table.

Mr. BOLLING. Mr. Speaker, I ask unanimous consent that the Committee on Rules be discharged from the further consideration of a similar Senate bill (S. 373) and I ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The Clerk read the Senate bill as follows:

S. 373

An act to insure the separation of Federal powers and to protect the legislative function by requiring the President to notify the Congress whenever he, the Director of the Office of Management and Budget, the head of any department or agency of the United States, or any officer or employee of the United States, impounds, orders the impounding, or permits the impounding of budget authority, and to provide a procedure under which the Senate and the House of Representatives may approve the impounding action, in whole or in part, or require the President, the Director of the Office of Management and Budget, the department or agency of the United States, or the officer or employee of the United States, to cease such action, in whole or in part, as directed by Congress, and to establish a ceiling on fiscal 1974 expenditures

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—IMPOUNDMENT CONTROL PROCEDURES

SECTION 1. The Congress finds that—

(1) the Congress has the sole authority to enact legislation and appropriate moneys on behalf of the United States;

(2) the Congress has the authority to make all laws necessary and proper for carrying into execution its own powers;

(3) the Executive shall take care that the laws enacted by Congress shall be faithfully executed;

(4) under the Constitution of the United States, the Congress has the authority to require that funds appropriated and obligated by law shall be spent in accordance with such law;

(5) there is no authority expressed or implied under the Constitution of the United States for the Executive to impound budget authority and the only authority for such impoundments by the executive branch is that which Congress has expressly delegated by statute;

(6) by the Antideficiency Act (Rev. Stat. sec. 3679), the Congress delegated to the President authority, in a narrowly defined area, to establish reserves for contingencies or to effect savings through changes in requirements, greater efficiency of operations, or other developments subsequent to the date on which appropriations are made available;

(7) in spite of the lack of constitutional authority for impoundment of budget authority by the executive branch and the narrow area in which reserves by the executive branch have been expressly authorized in the Antideficiency Act, the executive branch has impounded many billions of dollars of budget authority in a manner contrary to and not authorized by the Antideficiency Act or any other Act of Congress;

(8) impoundments by the executive branch have often been made without a legal basis;

(9) such impoundments have totally nullified the effect of appropriations and obligational authority enacted by the Congress and prevented the Congress from exercising its constitutional authority;

(10) the executive branch, through its presentation to the Congress of a proposed budget, the due respect of the Congress for the views of the executive branch, and the power of the veto, has ample authority to effect the appropriation and obligation process without the unilateral authority to impound budget authority; and

(11) enactment of this legislation is necessary to clarify the limits of the existing legal authority of the executive branch to impound budget authority, to reestablish a proper allocation of authority between the Congress and the executive branch, to confirm the constitutional proscription against the unilateral nullification by the executive branch of duly enacted authorization and appropriation Acts, and to establish efficient and orderly procedures for the reordering of budget authority through joint action by the Executive and the Congress, which shall apply to all impoundments of budget authority, regardless of the legal authority asserted for making such impoundments.

SEC. 2. (a) Whenever the President, the Director of the Office of Management and Budget, the head of any department or agency of the United States, or any officer or employee of the United States, impounds any budget authority made available, or orders, permits, or approves the impounding of any such budget authority by any other officer or employee of the United States, the President shall, within ten days thereafter, transmit to the Senate and the House of Representatives a special message specifying—

(1) the amount of the budget authority impounded;

(2) the date on which the budget authority was ordered to be impounded;

(3) the date the budget authority was impounded;

(4) any account, department, or establishment of the Government to which such impounded budget authority would have been available for obligation except for such impoundment;

(5) the period of time during which the budget authority is to be impounded, to include not only the legal lapsing of budget authority but also administrative decisions to discontinue or curtail a program;

(6) the reasons for the impoundment, including any legal authority invoked by him to justify the impoundment and, when the justification invoked is a requirement to avoid violating any public law which establishes a debt ceiling or a spending ceiling, the amount by which the ceiling would be exceeded and the reasons for such anticipated excess; and

(7) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the impoundment.

(b) Each special message submitted pursuant to subsection (a) shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each such message may be printed by either House as a document for both Houses as the President of the Senate, and Speaker of the House may determine.

(c) A copy of each special message submitted pursuant to subsection (a) shall be transmitted to the Comptroller General of the United States on the same day as it is transmitted to the Senate and the House of Representatives. The Comptroller General shall review each such message and determine whether, in his judgment, the impoundment was in accordance with existing statutory authority, following which he shall notify both Houses of Congress within fifteen days after the receipt of the message as to his determination thereon. If the Comptroller General determines that the impoundment was in accordance with section 3679 of the Revised Statutes (31 U.S.C. 665), commonly referred to as the "Antideficiency Act", the provisions of section 3 and section 5 shall not apply. In all other cases, the Comptroller General shall advise the Congress whether the impoundment was in accordance with other existing statutory authority and sections 3 and 5 of this Act shall apply.

(d) If any information contained in a special message submitted pursuant to subsection (a) is subsequently revised, the President shall transmit within ten days to the Congress and the Comptroller General a supplementary message stating and explaining each such revision.

(e) Any special or supplementary message transmitted pursuant to this section shall be printed in the first issue of the Federal Register published after that special or supplemental message is so transmitted and may be printed by either House as a document for both Houses, as the President of the Senate and Speaker of the House may determine.

(f) The President shall publish in the Federal Register each month a list of any budget authority impounded as of the first calendar day of that month. Each list shall be published no later than the tenth calendar day of the month and shall contain the information required to be submitted by a special message pursuant to subsection (a).

Sec. 3. The President, the Director of the Office of Management and Budget, the head of any department or agency of the United States, or any officer or employee of the United States shall cease the impounding of any budget authority set forth in each special message within sixty calendar days of continuous session after the message is received by the Congress unless the specific impoundment shall have been ratified by the Congress by passage of a concurrent resolution in accordance with the procedure set out in section 5 of this Act; *Provided, however,* That Congress may by concurrent resolution disapprove any impoundment in whole or in part, at any time prior to the expiration of the sixty-day period, and in the event of such disapproval, the impoundment shall cease immediately to the extent disapproved. The effect of such disapproval, whether by concurrent resolution passed prior to the expiration of the sixty-day period or by the failure to approve by concurrent resolution within the sixty-day period, shall be to make the obligation of the budget authority mandatory, and shall preclude the President or any other Federal officer or employee from reimpounding the specific budget authority set forth in the special message which the Congress by its action or failure to act has thereby rejected.

Sec. 4. For purposes of this Act, the impounding of budget authority includes—

(1) withholding, delaying, deferring, freezing, or otherwise refusing to expend any part of budget authority made available (whether by establishing reserves or otherwise) and the termination or cancellation of authorized projects or activities to the extent that budget authority has been made available,

(2) withholding, relaying, deferring, freezing, or otherwise refusing to make any allocation of any part of budget authority (where such allocation is required in order to permit the budget authority to be expended or obligated),

(3) withholding, delaying, deferring, freezing, or otherwise refusing to permit a grantee to obligate any part of budget authority (whether by establishing contract controls, reserves, or otherwise), and

(4) any type of Executive action or inaction which effectively precludes or delays the obligation or expenditure of any part of authorized budget authority.

Sec. 5. The following subsections of this section are enacted by the Congress:

(a)(1) As an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by this section; and they shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) With full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(b)(1) For purposes of this section, the term "resolution" means only a concurrent resolution of the Senate or House of Representatives, as the case may be, which is introduced and acted upon by both Houses at any time before the end of the first period of sixty calendar days of continuous session of the Congress after the date on which the special message of the President is transmitted to the two Houses.

(2) The matter after the resolving clause of a resolution approving the impounding of budget authority shall be substantially as follows (the blank spaces being appropriately filled): "That the Congress approves the impounding of budget authority as set forth in the special message of the President, dated ———, Senate (House) Document No. ——."

(3) The matter after the resolving clause of a resolution disapproving, in whole or in part, the impounding of budget authority shall be substantially as follows (the blank spaces being appropriately filled): "That the Congress disapproves the impounding of budget authority as set forth in the special message of the President dated ——————, Senate (House) Document No. —— (in the amount of $———)."

(4) For purposes of this subsection, the continuity of a session is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of the sixty-day period.

(c)(1) A resolution introduced, or received from the other House, with respect to a special message shall not be referred to a committee and shall be privileged business for immediate consideration, following the receipt of the report of the Comptroller General referred to in section 2(c). It shall at any time be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. Such motion shall be highly privileged and not debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) If the motion to proceed to the consideration of a resolution is agreed to, debate on the resolution shall be limited to ten hours, which shall be divided equally between those favoring and those opposing the resolution. Debate on any amendment to the resolution (including an amendment substituting approval for disapproval in whole or in part or substituting disapproval in whole or in part for approval) shall be limited to two hours, which shall be divided equally between those favoring and those opposing the amendment.

(3) Motions to postpone, made with respect to the consideration of a resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(d) If, prior to the passage by one House of a resolution of that House with respect to a special message, such House receives from the other House a resolution with respect to the same message, then—

(1) If no resolution of the first House with respect to such message has been introduced, no motion to proceed to the consideration of any other resolution with respect to the same message may be made (despite the provisions of subsection (c)(1) of this section).

(2) If a resolution of the first House with respect to such message has been introduced—

(A) the procedure with respect to that or other resolutions of such House with respect to such message shall be the same as if no resolution from the other House with respect to such message had been received; but

(B) on any vote on final passage of a resolution of the first House with respect to such message the resolution from the other House with respect to such message shall be automatically substituted for the resolution of the first House.

(e) If a committee of conference is appointed on the disagreeing votes of the two Houses with respect to a resolution, the conference report submitted in each House shall be considered under the rules set forth in subsection (c) of this section for the consideration of a resolution, except that no amendment shall be in order.

(f) Notwithstanding any other provision of this section, it shall not be in order in either House to consider a resolution with respect to a special message after the two Houses have agreed to another resolution with respect to the same message.

(g) As used in this section, the term "special message" means a report of impounding action made by the President pursuant to section 2 of this Act or by the Comptroller General pursuant to section 6 of this Act.

Sec. 6. If the President, the Director of the Office of Management and Budget, the head of any department or agency of the United States, or any officer or employee of the United States takes or approves any impounding action within the purview of this Act, and the President fails to report such impounding action to the Congress as required by this Act, the Comptroller General shall report such impounding action with any available information concerning it to both Houses of Congress, and the provisions of this Act shall apply to such impounding action in like manner and with the same effect as if the report of the Comptroller General had been made by the President: *Provided, however,* That the sixty-day period provided in section 3 of this Act shall be deemed to have commenced at the time at which, in the determination of the Comptroller General, the impoundment action was taken.

Sec. 7. Nothing contained in this Act shall be interpreted by any person or court as constituting a ratification or approval of any impounding of budget authority by the President or any other Federal employee, in the past or in the future, unless done pursuant to statutory authority in effect at the time of such impoundment.

Sec. 8. The Comptroller General is hereby expressly empowered as the representative of the Congress through attorneys of his own selection to sue any department, agency, officer, or employee of the United States in a civil action in the United States District Court for the District of Columbia to enforce the provisions of this Act, and such court is hereby expressly empowered to enter in such civil action any decree, judgment, or order which may be necessary or appropriate to secure compliance with the provisions of this Act by such department, agency, officer, or employee. Within the purview of this section, the Office of Management and Budget shall be construed to be an agency of the United States, and the officers and employees of the Office of Management and Budget shall be construed to be officers or employees of the United States.

SEC. 9. (a) Notwithstanding any other provision of law, all funds appropriated by law shall be made available and obligated by the appropriate agencies, departments, and other units of the Government except as may be provide otherwise under this Act.

(b) Should the President desire to impound any appropriation made by the Congress not authorized by this Act or by the Antideficiency Act, he shall seek legislation utilizing the supplemental appropriations process to obtain selective recission of such appropriation by the Congress.

SEC. 10. If any provision of this Act, or the application thereof to any person, impoundment, or circumstance, is held invalid, the validity of the remainder of the Act and the application of such provision to other persons, impoundments, or circumstances, shall not be affected thereby.

SEC. 11. The provisions of this Act shall take effect from and after the date of enactment.

TITLE II—CEILING ON FISCAL YEAR 1974 EXPENDITURES

SEC. 201. (a) Except as provided in subsection (b) of this section, expenditures and net lending during the fiscal year ending June 30, 1974, under the budget of the United States Government, shall not exceed $268,000,000,000.

(b) If the estimates of revenues which will be received in the Treasury during the fiscal year ending June 30, 1974, as made from time to time, are increased as a result of legislation enacted after the date of the enactment of this Act reforming the Federal tax laws, the limitation specified in subsection (a) of this section shall be reviewed by Congress for the purpose of determining whether the additional revenues made available should be applied to essential public services for which adequate funding would not otherwise be provided.

SEC. 202. (a) Notwithstanding the provisions of any other law, the President shall, in accordance with this section, reserve from expenditure and net lending, from appropriations, or other obligational authority otherwise made available, such amounts as may be necessary to keep expenditures and net lending during the fiscal year ending June 30, 1974, within the limitation specified in section 201.

(b) In carrying out the provisions of subsection (a) of this section, the President shall reserve amounts proportionately from new obligational authority and other obligational authority available for each functional category, and to the extent practicable, subfunctional category (as set out in table 3 of the United States Budget in **Brief for fiscal** year 1974), except that no reservations shall be made from amounts available for interest, veterans' benefits and services, payments from social insurance trust funds, public assistance maintenance grants under title IV of the Social Security Act, food stamps, military retirement pay, medicaid, and judicial salaries.

(c) Reservations made to carry out the provisions of subsection (a) of this section shall be subject to the provisions of title I of this Act, except that—

(1) if the Comptroller General determines under section 2(c) of title I, with respect to any such reservation, that the requirements of proportionate reservations of subsection (b) of this section have been complied with, then sections 3 and 5 of title I shall not apply to such reservation.

(d) The provisions of section 3 of title I of this Act shall not apply to any impoundments or reservations made under title II insofar as they prohibit reimpounding or reservation.

(e) In no event shall the authority conferred by this section be used to impound funds, appropriated or otherwise made available by Congress, for the purpose of eliminating a program the creation or continuation of which has been authorized by Congress.

SEC. 203. In the administration of any program as to which—

(1) the amount of expenditures is limited pursuant to this title, and

(2) the allocation, grant, apportionment, or other distribution of funds among recipients is required to be determined by application of a formula involving the amount appropriated or otherwise made available for distribution, the amount available for expenditure (after the application of this title) shall be substituted for the amount appropriated or otherwise made available in the application of the formula.

MOTION OFFERED BY MR. BOLLING

Mr. BOLLING. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BOLLING moves to strike out all after the enacting clause of S. 373 and to insert in lieu thereof the provisions of H.R. 8480, as passed, as follows:

TITLE I—IMPOUNDMENT CONTROL PROCEDURES

SEC. 101. (a) Whenever the President, the Director of the Office of Management and Budget, the head of any department or agency of the United States, or any officer or employee of the United States, at any time on or after the date of the enactment of this Act and before July 1, 1974, impounds any funds authorized or made available for a specific purpose or project, or orders, permits, or approves the impounding of any such funds by any other officer or employee of the United States, the President shall, within ten days thereafter, transmit to the House of Representatives and the Senate a special message specifying—

(1) the amount of the funds impounded;

(2) the date on which the funds were ordered to be impounded;

(3) the date the funds were impounded;

(4) any account, department, or establishment of the Government to which such impounded funds would have been available for obligation except for such impoundment, and the specific projects or governmental functions involved;

(5) the period of time during which the funds are to be impounded;

(6) the reasons for the impoundment, including any legal authority invoked by him to justify the impoundment; and

(7) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the impoundment.

(b) Each special message submitted pursuant to subsection (a) shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the Committee on Appropriations of the House of Representatives and to the Committee on Appropriations of the Senate; and each such message shall be printed as a document for each House.

(c) A copy of each special message submitted pursuant to subsection (a) shall be transmitted to the Comptroller General of the United States on the same day it is transmitted to the House of Representatives and the Senate. In order to assist the Congress in the exercise of its functions under sections 102 and 104, the Comptroller General shall review each such message and inform the House of Representatives and the Senate as promptly as possible with respect to (1) the facts surrounding the impoundment set forth in such message (including the probable effects thereof) and (2) whether or not (or to what extent), in his judgment, such impoundment was in accordance with existing statutory authority.

(d) If any information contained in a special message submitted pursuant to subsection (a) is subsequently revised, the President shall within ten days transmit to the Congress and the Comptroller General a supplementary message stating and explaining such revision. Any such supplementary message shall be delivered, referred, and printed as provided in subsection (b); and the Comptroller General shall promptly notify the House of Representatives and the Senate of any changes in the information submitted by him under subsection (c) which may be necessitated by such revision.

(e) Any special or supplementary message transmitted pursuant to this section shall be printed in the first issue of the Federal Register published after such transmittal.

(f) The President shall publish in the Federal Register, in each month which begins on or after the date of the enactment of this Act and before July 1, 1974, a list of any funds impounded as of the first calendar day of that month. Each such list shall be published no later than the tenth calendar day of the month and shall contain the information required to be submitted by special message pursuant to subsection (a).

SEC. 102. Any impoundment of funds set forth in a special message transmitted pursuant to section 101 shall cease if within sixty calendar days of continuous session after the date on which the message is received by the Congress the specific impoundment shall have been disapproved by either House of Congress by passage of a resolution in accordance with the procedure set out in section 104. The effect of such disapproval shall be to require an immediate end to the impoundment.

SEC. 103. For purposes of this title, the impounding of funds includes—

(1) withholding or delaying the expenditure or obligation of funds (whether by establishing reserves or otherwise) appropriated for projects or activities, and the termination of authorized projects or activities for which appropriations have been made, and

(2) any other type of executive action or inaction which effectively precludes the obligation or expenditure of available funds or the creation of obligations by contract in advance of appropriations as specifically authorized by law.

SEC. 104. (a) The following subsections of this section are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by this section; and they shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(b)(1) For purposes of this section and section 102 the term "resolution" means only a resolution of the House of Representatives or the Senate which expresses its disapproval of an impoundment of funds set forth in a special message transmitted by the President under section 101, and which is introduced and acted upon by the House of Representatives or the Senate (as the case may be) before the end of the first period of sixty calendar days of continuous session of the Congress after the date on which the President's message is received by the Congress.

(2) For purposes of this section and section 102, the continuity of a session shall be considered as broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of the sixty-day period referred to in paragraph (1) of this subsection (and in section 102) and the thirty-day period referred to in subsection (d)(1). If a special message is transmitted under section 101 during any Congress and the last session of such Congress adjourns sine die before the expiration of sixty calendar days of continuous session (or a special message is so transmitted after the last session of the Congress adjourns sine die), the message shall be deemed to have been retransmitted on the first day of the succeeding Congress and the sixty-day period referred to in paragraph (1) of this subsection and in section 102 (with respect to such message) shall commence on such first day.

(c) Any resolution introduced with respect to a special message shall be referred to the Committee on Appropriations of the House of Representatives or the Senate, as the case may be.

(d) (1) If the committee to which a resolution with respect to a special message has been referred has not reported it at the end of thirty calendar days of continuous session after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the same message which has been referred to the committee.

(2) A motion to discharge may be made only by an individual favoring the resolution, may be made only if supported by one-fifth of the Members of the House involved (a quorum being present), and is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same special message); and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(3) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same special message.

(e) (1) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to a special message, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate on the resolution shall be limited to not more than two hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. No amendment to, or motion to recommit, the resolution shall be in order, and it shall not be in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(f) Motions to postpone, made with respect to the consideration of a resolution with respect to a special message, and motions to proceed to the consideration of other business, shall be decided without debate.

(g) All appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to any resolution referred to in this section shall be decided without debate.

Sec. 105. If the President, the Director of the Office of Management and Budget, the head of any department or agency of the United States, or any other officer or employee of the United States impounds any funds authorized or made available for a specific purpose or project or orders, permits, or approves the impounding of any such funds by any other officer or emloyee of the United States, and the President fails to transmit a special message with respect to such impoundment as required by this title, the Comptroller General shall report such impoundment and any available information concerning it to both Houses of Congress; and the provisions of this title shall apply with respect to such impoundment in the same manner and with the same effect as if such report of the Comptroller General were a special message submitted by the President under section 101, with the sixty-day period provided in section 102 being deemed to have commenced at the time at which the Comptroller General makes the report. As used in section 104, the term "special message" includes a report made by the Comptroller General under this section.

Sec. 106. The Comptroller General is hereby expressly empowered as the representative of the Congress through attorneys of his own selection to sue any department, agency, officer, or employee of the United States in a civil action in the United States District Court for the District of Columbia to enforce the provisions of this title, and such court is hereby expressly empowered to enter in such civil action any decree, judgment, or order which may be necessary or appropriate to secure compliance with the provisions of this title by such department, agency, officer, or employee. Within the purview of this section, the Office of Management and Budget shall be construed to be an agency of the United States, and the officers and employees of the Office of Management and Budget shall be construed to be officers or employees of the United States.

Sec. 107. Section 203 of the Budget and Accounting Procedures Act of 1950 shall not be applicable with respect to funds impounded on or after the date of the enactment of this Act and before July 1, 1974.

Sec. 108. Nothing contained in this title shall be construed as—

(1) asserting or conceding the constitutional powers or limitations of either the Congress or the President;

(2) ratifying any impoundment heretofore or hereafter executed or approved by the President or any other Federal officer or employee, except insofar as pursuant to statutory authorization then in effect; or

(3) affecting in any way the claims or defenses of any party to litigation concerning any impoundment ordered or executed before the date of the enactment of this Act.

TITLE II—CEILING ON FISCAL YEAR 1974 EXPENDITURES

Sec. 201. Expenditures and net lending during the fiscal year ending June 30, 1974, under the budget of the United States Government shall not exceed $267,100,000,000.

Sec. 202. (a) Notwithstanding the provisions of any other law, the President shall, in accordance with this section, reserve from expenditures and net lending, from appropriations or other obligational authority otherwise made available, such amounts as may be necessary to keep expenditures and net lending during the fiscal year ending June 30, 1974, within the limitation specified in section 201.

(b) In carrying out the provisions of subsection (a) the President shall reserve amounts proportionately from appropriations and other obligational authority available for each functional category, and to the extent practicable, subfunctional category (as set out in the United States Budget in Brief), except that—

(1) no reservations shall be made from amounts available for interest, veterans' benefits and services, payments from social insurance trust funds, public assistance maintenance grants under title IV of the Social Security Act, food stamps, military retirement pay, medicaid, and judicial salaries; and

(2) no reservations from authority available for any functional category or subfunctional category shall have the effect of reducing the total amount available for any specific program or activity (as set out in the budget accounts listing in the Budget of the United States Government for Fiscal Year 1974, pages 167–312) within that particular category by a percentage which is more than 10 percentage points higher than the net percentage of the overall reduction in expenditures and net lending resulting from all reservations made as required by subsection (a).

(c) (1) Reservations made to carry out the provisions of subsection (a) shall be subject to the provisions of title I of this Act unless made in accordance with the proportional reservation and percentage requirements of subsection (b).

(2) In order to assist the Congress in the exercise of its functions under this title and title I with respect to reservations made to carry out the provisions of subsection (a), the Comptroller General shall review each such reservation and inform the House of Representatives and the Senate as promptly as possible whether or not, in his judgment, such reservation was made in accordance with the requirements of subsection (b).

(d) In no event shall the authority conferred by this section be used to impound funds, appropriated or otherwise made available by Congress, for the purpose of eliminating a program the creation or combination of which has been authorized by Congress.

Sec. 203. In the administration of any program as to which—

(1) the amount of expenditures is limited pursuant to this title, and

(2) the allocation, grant, apportionment, or other distribution of funds among recipients is required to be determined by application of a formula involving the amount appropriated or otherwise made available for distribution,

the amount available for expenditure (after the application of this title) shall be substituted for the amount appropriated or otherwise made available in the application of the formula.

Amend the title so as to read: "An Act to require the President to notify the Congress whenever he impounds funds during the fiscal year 1974, to provide a procedure under which the House of Representatives or the Senate may disapprove the President's action and require him to cease such impounding, and to establish for the fiscal year 1974 a ceiling on total Federal expenditures."

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to require the President to notify the Congress whenever he impounds funds during the fiscal year 1974, to provide a procedure under which the House of Representatives or the Senate may disapprove the President's action and require him to cease such impounding, and to establish for the fiscal year 1974 a ceiling on total Federal expenditures."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 8480) was laid on the table.

GENERAL LEAVE

Mr. BOLLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON TREASURY-POSTAL SERVICE APPROPRIATIONS, 1974

Mr. STEED. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on the bill making appropriations for the Department of Treasury, the United States Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending June 30, 1974, and for other purposes.

Mr. EDWARDS of Alabama reserved all points of order on the bill.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO FILE REPORT

Mr. STARK. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture have until midnight tonight to file a report on the bill, S. 1697.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 9360, MUTUAL DEVELOPMENT AND COOPERATION ACT OF 1973

Mr. MATSUNAGA. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 506 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 506

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9360) to amend the Foreign Assistance Act of 1961, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amndments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of H.R. 9360, the Committee on Foreign Affairs shall be discharged from the further consideration of the bill S. 1443, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 9360 as passed by the House.

Mr. MATSUNAGA. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee (Mr. QUILLEN) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 506 provides for consideration of H.R. 9360, which, as reported by our Committee on Foreign Affairs, would give new direction, both in substance and form, to our foreign assistance programs. The resolution provides an open rule with 2 hours of general debate, the time being equally divided and controlled by the chairman and the ranking minority member of the committee.

The proposed rule provides that after general debate, the bill shall be read for amendment under the 5-minute rule, at the conclusion of which the rule further provides that the committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall then be considered as ordered on the bill and amendments thereto to final passage, without intervening motion except one motion to recommit.

After the passage of H.R. 9360, the rule also provides that the Committee on Foreign Affairs shall be discharged from the further consideration of the bill S. 1443, and it shall then be in order in the House to move to strike out all after the enacting clause of the Senate bill and insert in lieu thereof the provisions contained in H.R. 9360 as passed by the House.

Mr. Speaker, the U.S. foreign aid program as it was conceived and administered in the past, has in recent times been the subject of considerable criticism both in and out of Congress. H.R. 9360 incorporated the changes which the Committee on Foreign Affairs, after lengthy study and deliberation, has decided are needed to reform and reinvigorate U.S. economic assistance to developing countries.

Within the poor countries which will receive U.S. bilateral development assistance, the new legislation would directly benefit the poorest majority of the people and enable them to participate more effectively in the development process. General purpose capital transfers are to be minimized. Instead, allocation of funds will be made principally to help resolve common and pervasive development problems in these poor countries, such as food and nutrition, rural development, population growth and health, and education and human resources.

In addition, H.R. 9360 would establish a new Export Development Credit Fund to expand U.S. exports to the poorest countries without increasing our budgetary outlays. The proposed Fund would make credit available for exports of development related goods and services to the lowest income countries.

In keeping with this new approach to foreign assistance, the proposed legislation provides for a change of the title of the Foreign Assistance Act to the "Mutual Development and Cooperation Act," and the name of the Agency for International Development to the "Mutual Development and Cooperation Agency."

The new names reflect the emerging view that this Nation has a direct self-interest in the development of the countries which are extended assistance, and that their development affects the functioning of the world's cooperative systems in such fields as trade, monetary affairs, and investment.

Mr. Speaker, H.R. 9360 authorizes the appropriations of $1.046 billion for economic aid and $1.155 billion for military aid for foreign assistance programs in fiscal year 1974. In fiscal year 1975, $886 million is authorized for economic aid programs. There are no provisions in the bill for military aid in fiscal year 1975.

Mr. Speaker, I urge the adoption of House Resolution 506 in order that H.R. 9360 may be considered.

Mr. McFALL. Mr. Speaker, will the gentleman yield?

Mr. MATSUNAGA. I yield to the gentleman from California.

HOUR OF MEETING TOMORROW

Mr. McFALL. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10 a.m. tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. MATSUNAGA. I am happy to yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, the House has just completed action on the so-called impoundment bill. During the course of that bill, and toward the conclusion of the consideration, emotional speeches were made about the erosion of the powers of Congress.

I presume the gentleman from Hawaii has read the latest version of the foreign giveaway to the extent that some $3 billion of additional money will be expended on programs incident to the foreign giveaway?

Mr. MATSUNAGA. The presumption of the gentleman from Iowa is correct.

Mr. GROSS. The House will have an excellent opportunity tomorrow, some 24 hours or less after having approved the impoundment bill, to do something about the order of priority in spending. But, equally as important, it will have the opportunity tomorrow to demonstrate whether it says what it means and does what it says on the issue of delegated power to the President.

Running through this bill are all kinds of delegated power to the President.

Since it is my understanding that we will adopt the rule tonight and adjourn, it will be my business on tomorrow to give the House an opportunity to vote as to whether it wants to further embellish such powers in the matter of spending this $3 billion.

I thank the gentleman for yielding.

Mr. MATSUNAGA. For the information of the Members, we will just adopt the rule tonight and not go into debate, as the gentleman from Iowa has just suggested. I will be looking forward to hearing the gentleman from Iowa tomorrow. I will say this to the gentleman, that what the gentleman and I say here will not be long remembered, but if the gentleman does decide to vote for this bill, the world will never forget what he did here.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. MATSUNAGA. I yield to the gentleman from Iowa.

Mr. GROSS. If I do, as far as I am concerned, the world will come to an end there and then.

Mr. MATSUNAGA. Mr. Speaker, I yield to the gentleman from Tennessee.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 506 provides for the consideration of H.R. 9360, the Mutual Development and Cooperation Act of 1973. This bill will be considered under an open rule with 2 hours of general debate. The rule also makes it in order to insert the House-passed language in the Senate bill, S. 1443.

The primary purpose of H.R. 9360 is to authorize funds for foreign assistance programs.

The bill authorizes $2,833,868,000 for fiscal year 1974. This figure includes both economic and military assistance. The bill also authorizes $889,068,000 for fiscal 1975, which amount covers economic aid only.

Of the $2,833,868,000 authorized for fiscal year 1974, $1,046,868,000 is for economic assistance, $632,000,000 is for postwar reconstruction in Vietnam, Cambodia, and Laos, and $1,155,000,000 is for military assistance.

By way of comparison, the total amount authorized for foreign assistance programs for fiscal year 1937 was $2,629,821,000.

In addition to authorizing funds, H.R. 9360 makes a number of other changes in present law. This bill changes the title of the Foreign Assistance Act to the "Mutual Development and Cooperation Act" and the name of the Agency for International Development to the "Mutual Development and Cooperation Agency."

The committee report also indicates that this bill represents a new approach to foreign aid. The idea is to focus bilateral development assistance on acute problem areas and encourage developing countries to allow the poorest people to participate more effectively in the development process.

The bill proposes the establishment of a new Export Development Credit Fund which would make credit available for exports of development related goods and services to the lowest income countries on terms that would, first, enable U.S. exporters to compete, and, second, be easier for these countries.

H.R. 9360 requires all military assistance to Laos and South Vietnam to be authorized under the Mutual Development and Cooperation Act of 1973 rather than the Department of Defense budget after June 30, 1974.

Another section in this bill repeals section 620(e) of the act regarding foreign expropriation of American property known as the "Hickenlooper amendment."

Mr. Speaker, the able gentleman from Iowa has explained the bill, setting forth the funds involved in the foreign aid bill, as I call it, although renamed the Mutual Development and Cooperation Act of 1973.

My position on foreign aid, Mr. Speaker is well known in the House. I am opposed to the bill, but I shall reserve my time.

I have no requests for time.

Mr. MATSUNAGA. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

WATERGATE STAFF SPY?

(Mr. DEVINE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. DEVINE. Mr. Speaker, the fairness of the media and balanced reporting has again been spotlighted as a result of the press conference yesterday of our former colleague, George Bush, Republican national chairman.

The subject matter had to do with the Chief Investigator of the Watergate Committee, Carmine Bellino, and sworn affidavits of three individuals that surveillance and electronic spying were instituted and supervised by Mr. Bellino during the 1960 Presidential campaign. Mr. Bellino, a confidant and idolizer of the late Senator Kennedy, apparently sought an advantage for the "Great Debates" as is set forth in the affidavits.

Mr. Speaker, with their usual "fairness" the Washington Post buried this on page 26, and the New York Times ignored it.

The material referred to follows:

AFFIDAVIT

John W. Leon, 525 Dupont Circle Building, Washington, D.C. being duly sworn, voluntarily deposes and says:

1. I am a licensed investigator doing business in the District of Columbia and Maryland under the agency name Allied Investigating Services with offices in the Dupont Circle Building, Washington, D.C. This has been my profession for more than fifteen years.

2. I have known Carmine S. Bellino, Chief Investigator, Senate-select Watergate Committee for more than twenty years.

3. During the 1960 Presidential Campaign, John F. Kennedy versus Richard M. Nixon, I was retained by Carmine Bellino to infiltrate the operations of Mr. Albert B. "Ab" Hermann, then and now an official of the Republican National Committee. Following an unsuccessful attempt to penetrate the office operations of the Republican National Committee, I was instructed by Carmine Bellino, to place "Ab" Hermann under physical surveillance, and to observe the activities of and visitors to Mr. Hermann's office, utilizing field glasses from my office, a nearby vantage point. Additionally I attempted to pick up conversation in Mr. Hermann's office, utilizing an electronic device known as "the big ear", aimed at Mr. Hermann's window from a nearby vantage point. This activity took place for five or six days in September or October, 1960. The results of my efforts were reported to Mr. Carmine Bellino who was assisting Robert F. Kennedy during the Presidential Campaign.

4. During the 1960 Presidential Campaign Carmine Bellino also directed Washington, D.C. investigators John Joseph Frank, Oliver W. Angelone, and Ed Jones in efforts to develop information concerning the Nixon activities and strategy. Messrs. Frank and Jones assisted me in surveillances of Ab Hermann on two or three nights each.

5. The services of Ed Jones during surveillances of Ab Hermann were made available to me by Carmine Bellino, who instructed Ed Jones to meet me in the vicinity of Mr. Hermann's Republican National Committee office. During hours of conversation with me Mr. Jones described himself as "the world's greatest wiretapper" and told me that he had successfully tapped the telephones of James Hoffa, former Teamsters' Union President, acting under the direction of Carmine Bellino for Robert F. Kennedy. According to Ed Jones, Mr. Hoffa's telephones had been tapped in Tampa, Florida.

6. During long conversations with me Ed Jones stated that he had tapped the telephones of three ministers in the Mayflower Hotel in the fall of 1960. According to Jones, Carmine Bellino suspected that these ministers were responsible for some of the anti-Catholic, anti-Kennedy literature that was distributed during the 1960 campaign. Ed Jones told me he could not spend much time with me on surveillance because he had several good wiretaps going for Bellino.

7. On the morning following the Kennedy-Nixon television debate (a crucial factor in the election) John Frank, Oliver W. Angelone, and a third investigator whose name I cannot recall were discussing the debate in the office adjacent to mine in the Dupont Circle building. There was agreement that Mr. Kennedy was extremely well prepared for points raised by Mr. Nixon—that he "had the debate all wrapped up". Oliver Angelone remarked "Jonesy really did his job well this time." Although I did not participate in installation of eavesdropping devices and did not tap telephone lines for Carmine Bellino during the 1960 campaign, I am confident that Ed Jones and Oliver Angelone successfully bugged the Nixon space or tapped his phones prior to the television debate.

8. Carmine Bellino has served on the staff of several U.S. Senate Committees and has been closely identified with Senators Robert F. and Edward Kennedy. Prior to the Watergate inquiry, Mr. Bellino served as Chief Investigator, U.S. Subcommittee on Administrative Practice and Procedures, chaired by Senator Edward Kennedy.

9. During the late 1950s and early 1960s Oliver W. Angelone was a successful private investigator in the Washington, D.C. area. He had many contracts, had several good-paying clients, possessed sophisticated bugging and wire-tapping equipment, and had the nerve needed to tackle eavesdropping activity. He also had master keys to hotels in Washington, D.C. including the Carlton and Mayflower. Mr. Angelone is currently employed as an investigator, General Services Administration in New York City.

10. Ed Jones served on the Senate Labor-

Racketeering Committee staff headed by Chief Counsel Robert F. Kennedy.

11. John Joseph Frank, Oliver W. Angelone, and I were indicted in the Washington, D.C. eavesdropping matter at the Mayflower Hotel in 1962 involving El Paso Gas Co. and Tennessee Gas Co. This case received wide publicity in the news media during the period 1962–1964.

Dated at Washington, D.C. this 8th day of June, 1973.

JOHN W. LEON.

AFFIDAVIT

Joseph Shimon, being duly sworn deposes and voluntarily states:

I have been a private investigator in the Washington, D.C. area for more than ten years. Prior to 1962 I served on the Metropolitan Police Force and in 1960 was an Inspector in that Department.

In late summer or early fall, 1960, I was approached by Oliver W. "Bill" Angelone, a private investigator, with offices on Jefferson Place, Washington, D.C. We had lunch at Billy Martin's Restaurant and after lunch conferred in Mr. Angelone's office.

Mr. Angelone explained to me that he was doing some work for Carmine S. Bellino, who was supervising investigative activity for the John F. Kennedy Presidential Campaign Committee. Mr. Angelone said that Republicans campaigning for Richard M. Nixon planned to occupy the top two floors of the Wardman Park Hotel and that he (Angelone) planned to install eavesdropping devices in that space.

Since Angelone was aware that I had several contacts with the security personnel at the Wardman Park Hotel he solicited my assistance to gain access to the top two floors at the hotel. He suggested that keys to the space be obtained and the security force be "taken care of". Additionally Mr. Angelone requested that I participate as a member of the "bugging" team to accomplish the installation of electronic eavesdropping devices.

After considerable discussion of the proposed bugging activity I declined Mr. Angelone's offer because I did not desire to jeopardize my status in the Metropolitan Police Department.

During the 1960 Presidential Campaign I was aware that Bill Angelone, John Joseph Frank, John Leon, and Ed Jones were engaged in investigative work for Carmine S. Bellino and the Kennedy Campaign Committee, but I did not participate in their activities.

JOSEPH SHIMON.

AFFIDAVIT

Edward Murray Jones, being duly sworn deposes and voluntarily states:

I am 67 years of age and reside in the Philippine Islands.

Prior to 1965 I was employed in investigative work for more than 15 years.

During the 1960 Presidential Campaign I was employed by the John F. Kennedy Campaign Committee for three or four months. During this period I was generally supervised by Mr. Carmine Bellino. My assignments were in the area of background checks, political research, and checking security of space and communications of Democrat facilities.

At no time during the 1960 Campaign did I participate in or have knowledge of telephone tapping activity or utilization of any electronic eavesdropping devices against Republican Party officials.

It is my recollection that I did participate in two surveillance efforts prior to the 1960 Presidential election. Although I could not identify the subjects of these surveillances, I assume there were Republican officials or supporters. Two or three teams and cars were used in the surveillance and other members of the team had the responsibility of identification of the subject. I recall that Carmine Bellino was present on one or both surveillances.

One of the surveillances was at National Airport, Washington, D.C., where we attempted to pick up an individual coming to Washington. The other surveillance effort involved an individual with offices in the vicinity of 19th and M Streets, N.W., Washington, D.C.

EDWARD MURRAY JONES.

BENIGN NEGLECT AND BROKEN PROMISES CONTAINED IN HANDLING ENERGY CRISIS BY THE ADMINISTRATION

(Mr. MACDONALD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MACDONALD. Mr. Speaker, in the course of the first session of this Congress, a great many Members have addressed the House on the subject of the energy crisis. Indeed, I know of no other subject which has attracted as much attention and debate, nor one which has produced as much confusion and misinformation.

As the ranking majority member of your Committee on Interstate and Foreign Commerce and chairman of the subcommittee assigned responsibility for energy matters. I have endeavored to measure the dimensions of the crisis and to chart an appropriate legislative course to deal with it. While that effort continues, I must report to you that—with each passing day—I grow more convinced that crisis conditions do not exist in fact but only in the advertising copy of the major oil and gas companies. Increasingly, economists and engineers have come forward to testify to the adequacy of domestic and world reserves to meet our short- and long-term demand for fossil fuels. To this the companies now respond that the problem is not that there are shortages in the basic fuels but that we have failed to provide sufficient economic incentives for corporate America to go get them. For those of my colleagues who have heard this argument let me only point out that the largest of the major oil companies reported an increase in earnings of 54 percent in the second quarter of this year—and that this was accomplished in spite of price controls. How will we be able to create economic incentives sufficiently high to encourage increased production when oil companies are permitted to profit so handsomely from the shortage?

I remain skeptical. There is, however, one aspect of the so-called energy crisis which is very real and that is the shortage of refined petroleum products. Over 2,000 independent marketers of gasoline who have been driven out of business in the last few months can attest to this shortage as can the thousands of motorists in Denver who have been forced to wait in long lines for limited supplies of gasoline. In my own section of the country, New England, the shortage has been especially acute and its effect on the independent jobber and retailer especially devastating.

Several Members have suggested on this floor that the gasoline shortage has been contrived or orchestrated by the major oil companies to purge from the business their only significant competitors, the independent nonbranded dealers. I do not know the truth of that allegation but—whether intended or not—this clearly has been the result.

In April Congress included authority in the Economic Stabilization Act Amendments of 1973 to permit the President to order mandatory allocations of gasoline and other petroleum products to prevent the major oil companies from taking unfair competitive advantage during the period of shortage. The President decided, instead, to rely on a "voluntary" program which encouraged the major companies to share their supplies with their competitors. As we are all aware, the voluntary program has failed miserably. Convinced that it would, I introduced legislation in May to set up a mandatory allocation program to preserve the independent marketing segment of this industry. Because nearly one-third of the Northeast market is serviced by independents, virtually the entire New England delegation joined me in this effort as well as 74 other cosponsors. Similar legislation was introduced by my colleagues from other sections of the country. Nevertheless, I believe most of us who urged mandatory controls were hopeful that the administration would see the light and act to make legislation unnecessary. This hope was soon shown to have been misplaced.

After the situation worsened in June, the full Commerce Committee was convened for the priority consideration of my proposal to legislatively mandate controls. Our initial witness, Deputy Secretary of the Treasury William Simon, appearing on behalf of the administration, urged the committee not to take action. We were told a decision on whether to go to mandatory controls would be made within the week by the administration. Knowing that the Congress would not be able to act within a week's time to bring legislative relief for the independent marketer, I was willing to wait an additional 7 days to see if the administration would finally do the right thing.

Seven days stretched to 8, then 9, then 10. I was disposed to be patient. The President was in the hospital; his energy adviser, Gov. John Love of Colorado, was new to the job. Yet with each additional day's delay, the competitive situation grew worse. I began to probe the bureaucratic reaches of the administration to find out when a decision would be made and announced. With each inquiry I received new promises that a decision was forthcoming. It is now 15 days since the committee was told a decision would be made "within the week."

When I asked Governor Love to come before the committee to report on what is delaying the decision, I was told that the earliest he could do so would be the end of next week. I recognize, of course, that he has an extremely difficult task before him and there are great demands placed on his time, but to refuse to appear until the day before the Congress proposes to adjourn evidences on behalf of the administration indifference to the problem facing the independent marketer and to the concern which has been expressed by the Congress.

Mr. Speaker, I do not report these events with a sense of anger—although I think there is some basis for that. Rather I feel a sense of regret and disappointment because I can only conclude that the failure of the administration to act results either from a paralysis of the decisionmaking process or a lack of resolve to take steps which are opposed by the major oil companies. Whatever the cause, small business and the American people will pay the price for the indecision of these last weeks. If, as a result, independent distributors and dealers of gasoline are forced out of the market, the price could well be measured in the millions of dollars.

A WARM WELCOME TO THE SHAH OF IRAN

(Mr. SIKES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SIKES. Mr. Speaker, America should show particular appreciation for the presence in our country of the Shah of Iran. His country's friendship for the United States has been well and effectively demonstrated time and again through the years. This is all the more significant because in the Mediterranean and Persian Gulf we have in recent years lost, not gained, friends. The problems we have in achieving understanding in that area are growing, and so is the importance of the area to us and the free world. The Shah's influence and that of his government is very important indeed in the search for peace and understanding throughout the area.

Our distinguished guest should be doubly welcome in this country because his is a sound and enlightened administration. Under his guidance, the concern which has been shown for the average citizen has been surpassed in few, if any, nations of the area. Certainly the progress which has been made in improving the lot of the people of Iran is an outstanding demonstration of wise leadership.

The Government and the people of the United States should overlook no opportunity to show our friendship for the Shah and his government. Good friends, strong friends are rare indeed. Those whose goals are so commendable are truly an asset to world accord, and, world progress.

MAJORITY LEADER THOMAS P. O'NEILL, JR., SAYS THE HEALTH CUTS RANG FALSE FROM THE START

(Mr. O'NEILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'NEILL. Mr. Speaker, I am glad to see that the master planners at HEW have decided that their so-called economies in health programs are unacceptable to the American people and to the Congress.

A departmental planning memo reveals that HEW is going to give up on its attempts to save some $1.8 billion by taking it out of the hides of the elderly, the poor, and the average citizen.

The administration's proposals to cut medicare benefits and to eliminate health programs have rung false from the beginning. By including such cuts in his budget, President Nixon was able to present Congress with a deceptively low budget total last January.

However, the administration must have known from the start that Congress was not about to accept cuts in medicare or the elimination of mental health centers and other vital health programs.

That is not economy; that is callousness toward those who most need health care and who can least afford it.

DISCRIMINATORY FREIGHT RATES

(Mr. DE LA GARZA asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. DE LA GARZA. Mr. Speaker, the south Texas district which I represent is unfairly penalized by discrimination in interstate freight rates of manufactured products, agricultural commodities, and raw materials.

I refer specifically to such rates maintained by common carrier by rail between points in my area and the Midwest and between points in Florida and the Midwest. On certain products the rate is weighted as much as one-third against south Texas.

As a result, our people are missing out on opportunities for the location in our area of processing plants which would give jobs that are badly needed and which would provide additional markets for our agriculture.

The importance of this situation extends far beyond my own district. We hear daily about the dollar crisis and the energy crisis, but unless steps are taken to improve the outlook for the American farmer we are shortly going to face a food crisis of serious magnitude.

The number of American farms is dwindling. Each year more than a million acres of land go out of production. Current unrest over rising food prices must not be allowed to obscure the fact that the farmer's prices are set by the inexorable law of supply and demand. In other businesses, you figure costs and add a profit. Farmers cannot do that; their products must be offered in the marketplace when they are ready for consumption. The prices the farmer receives tend to fluctuate up and down. And when they are down, his increased costs have to be absorbed; they cannot be passed on.

When discriminatory freight rates are added to this picture, the farmer's economic situation becomes untenable. That is what is happening today in my south Texas district.

I have therefore introduced a bill to require the Interstate Commerce Commission to investigate certain interstate freight rates for the purpose of determining whether such rates are unjust or unreasonable. If that is found to be the case, my bill provides that the Commission shall take such remedial action as may be appropriate.

Mr. Speaker, this is a matter of great and immediate concern to the people I represent. I ask the support of my colleagues for my bill.

CUTBACK OF 50 PERCENT IN EPA'S SOLID WASTE MANAGEMENT STAFF

(Mr. STAGGERS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. STAGGERS. Mr. Speaker, earlier this year the Congress passed the Solid Waste Disposal Act extension. The purpose of that act was to allow the EPA solid waste management program to continue operating during fiscal year 1974 at current levels, while the Congress held hearings and decided how to amend that act in the best interest of the Nation.

Later this year or early in the second session, the Subcommittee on Public Health and Environment will be holding hearings to review the Solid Waste Act. I am concerned to learn, however, that over 50 percent of EPA's Solid Waste Management staff has been cut back in the last 6 months and that further manpower reductions are likely to occur.

Therefore, I have today sent a letter to Mr. Roy Ash, Director of the Office of Management and Budget, urging that all further personnel reductions be halted until Congress can hold hearings and review the solid waste law.

Mr. Speaker, I include for the RECORD at this point a copy of my letter to Mr. Ash:

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 24, 1973.

HON. ROY ASH,
Director, Office of Management and Budget, Washington, D.C.

DEAR MR. ASH: Earlier this session Congress passed the Solid Waste Disposal Act Extension. That legislation extended the expiring authorizations under the Solid Waste Disposal and Resource Recover Acts for a single year. Not one penny more was authorized for fiscal year 1974 than for the previous year.

The purpose of this legislation was to afford the Congress a full opportunity to review and evaluate the existing programs under these Acts and to determine which were working, which weren't, and which could better be handled by State or local government. In the meantime, it was felt that the existing program should continue at current levels.

Present plans call for the Subcommittee on Public Health and Environment to begin holding hearings on these Acts late this session or early in the second session.

It has come to my attention, however, that since February of 1973, the number of personnel in the Environmental Protection Agency's Office of Solid Waste Management (and related research and regional personnel) has been reduced from 310 to under 165. I have also learned that further cuts scheduled for August would reduce personnel levels to 120.

I am concerned that such cutbacks before the Congress has had a full opportunity to review the Act are not in the best interest of the Nation or consistent with the intent of the Extension Act passed early this year.

I, therefore, respectfully urge you to withhold any further personnel reductions in the Solid Waste program until Congress can act.

In light of the impending terminations, I would request your prompt and personal attention to this matter.

Sincerely yours,
HARLEY O. STAGGERS,
Member of Congress,
Chairman.

SHADES OF SHIRLEY TEMPLE

(Mr. KOCH asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. KOCH. Mr. Speaker, I have a Shirley Temple story that I would like to tell to the Congress which I think my colleagues will find interesting. The Members will recall that when the Martin Dies investigation was going on, Shirley Temple was investigated because Chairman Dies thought that she was a Communist.

Today's story involves Lori Paton, a 15-year-old high school student from New Jersey. Miss Paton was given a class project, in which she was assigned to explore the political ideologies from left to right, and to write a report. By mistake she addressed one of her inquiries to the Young Socialist Alliance, a Communist group, and they sent her their newspaper and other material.

Believe it or not, the FBI ran a cover on her letter, and an agent subsequently came to her school, interviewed her principal, and asked about the girl's character and her interests. One of the most alarming aspects of the story is that the FBI is scanning our mail. But Miss Paton should not feel alone in her surveillance by the FBI, Mr. Speaker, since as we know, the FBI also maintain dossiers on Members of Congress. These are outrages.

Like Shirley Temple, this young lady may have a future in the movies, Mr. Speaker.

For the benefit of my colleagues, I have appended today's New York Times story which describes this incident. The article follows:

JERSEY GIRL SUES THE FBI OVER AN INTERCEPTED LETTER

(By Joseph F. Sullivan)

NEWARK, July 24.—A damage suit has been filed in Federal District Court here charging the Federal Bureau of Investigation with intercepting a letter written by a 15-year-old high school girl as part of a school project and with subsequently investigating her character and activities.

In addition to seeking $65,000 in damages, the suit, which was filed by the Rutgers Constitutional Litigation Clinic and the American Civil Liberties Union of New Jersey, requests a court order forbidding the F.B.I. from intercepting or interfering with mail sent by citizens to lawful political organizations.

The plaintiffs in the suit are Lori Paton of Chester, a pupil at West Morris-Mendham High School; her father, Arthur Paton, and William Gabrielson, chairman of the school's social studies department.

FROM LEFT TO RIGHT

According to Frank Askin, a cooperating attorney of the A.C.L.U., the girl wrote a letter in February requesting information about the Socialist Labor party as part of a social studies project entitled "From left to right," which sought to explore various political ideologies.

"By mistake, she addressed the letter to the Young Socialist Alliance on Charles Street in New York," he said, "and the organization sent her its newspaper and other material." The Young Socialist Alliance is affiliated with the Socialist Workers party.

On March 28, according to the complaint, an F.B.I. agent visited Richard Matthews, principal of her school, and began inquiring about the girl's character interests. Mr. Matthews, who is on vacation and unavailable for comment, reportedly became concerned that a harmless school exercise could inspire an F.B.I. investigation, and he informed the American Civil Liberties Union of the visit.

Lori Paton, who was at home today with her mother, Nancy Paton, said that Mr. Matthews had immediately summoned her and the social studies teacher in the hope that they would arrive before the agent left the school.

"The agent apparently thought I had graduated," she said. "When he heard I was still a student and the letter was part of a class exercise, he quickly dropped his questioning and left."

Lori said her initial reaction to the investigation was one of disbelief. "I couldn't fully understand what was happening," she said. "When I became aware of it, the thing that disturbed me most was that they were doing it behind my back."

"Although we want to be assured my name isn't on any lists, the main reason for the suit is the principle involved and the fact that this type of thing could really interfere with the educational process."

News of the visit caused a flurry of activity at the school. "The thing became blown up and was discussed at length in our history class and in the school newspaper," Lori said.

The girl said her decision to follow through with the litigation had been greeted by a mixed reaction on the part of her friends and classmates.

"DOING THE RIGHT THING"

"Most of my friends said I was doing the right thing, and those who thought it should be dropped said they could understand my reasoning," she said. "The trouble is, I can't understand theirs."

Mrs. Paton said she was "a little shocked and angry" when she learned that her daughter was the target of an investigation, and said she supported Lori's decision to press the suit.

CONGRESSIONAL FELLOWSHIP PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona. (Mr. UDALL) is recognized for 60 minutes.

Mr. UDALL. Mr. Speaker, 20 years ago a unique experiment, now known as the congressional fellowship program, was started by the American Political Science Association. Six young men and women were selected and served as the first congressional fellows in 1953. Incidentally, Congressman KEN HECHLER, then working for APSA, was instrumental in starting the program and served as its first director.

Since that time the program has grown substantially. Its contributions to the Congress have multiplied, and over the years many Members of Congress have participated. Upon this occasion, the 20th anniversary of the program, we want to tell our colleagues about the program, its operation, the fellows and their work.

The uniqueness of this program deserves further explanation. The fellows are selected through a highly competitive and rigorous screening process. Successful applicants have excelled in academic accomplishments and in their fields of work. They possess a high level of professional competence and are able to handle assignments of high responsibility with very little instruction and supervision. As a result, Members request many more congressional fellows than the program is able to provide.

I have always felt that any fellow who has survived the screening process would be a welcome and exceptionally helpful addition to my staff. I know that many of my colleagues share my views.

The primary purpose of the program is to provide congressional fellows with a comprehensive view of the Congress. An intensive, month-long orientation exposes them to all facets of the congressional environment. Then fellows learn by working about 4 months in either the House or the Senate. A switch to the other body for another 4 months of work completes the scene. The 20th group of fellows, now concluding their tenure on the Hill, have had this unusual chance to study the Congress from the inside and from different perspectives. I can think of no better way for anyone to learn the ins and outs of the Congress in a short period of time.

I could say much more about the program, but the story has recently been summarized by the American Political Science Association. I ask unanimous consent that this summary statement be reprinted at the conclusion of my remarks.

I have been associated with the program since my arrival in the Congress, and more than a dozen fellows have worked in my office. I have served too on the program's advisory board. From this involvement I can personally attest to the excellence of the congressional fellowship program. It has great significance to the Congress and to the Nation. Those who support the program and its fellows deserve the gratitude of all Members of the Congress.

Mr. STEIGER of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER of Wisconsin. Mr. Speaker, I would like to join with the gentleman from Arizona in this tribute on the congressional fellows program.

The most beautiful thing about the program is that it provides mature, trained assistance to the individual Member or committee at no cost other than space and some office supplies. While the focus of the program is to provide a learning experience for the fellow and a better understanding of the legislative process, all of the fellows in my office have undertaken substantive assignments on legislative and constituent matters.

The variety of assignments undertaken by fellows is staggering. They research legislation for Members, help develop legislation, write reports, brief Members on committee and floor activities, respond to constituent mail, arrange hearings, meet with lobbyists, serve as aides in trips to the district or in international conferences and represent the Member at meetings and conferences. As one example, the fellow in my office currently has independently responded to the many concerns, questions and problems arising from the oil and gasoline shortage and the implementation of the voluntary allocation program.

In the 20 years since the program began, 571 fellows have served in the Congress. In the House 164 Members have participated in the program. In addition, Fellows have been assigned to 21 committees and subcommittees. In the first year of the program, there were six fellows.

This year, the 20th, there are 44 fellows serving in both the House and Senate. About half of them are Federal civil servants, while the remainder are from the fields of political science, journalism, and law.

The American Political Science Association furnishes a full-time Director, Mr. Thomas Mann, and support services from the national office. Members who wish to participate in the program should contact Mr. Mann.

The value of the program is beyond question. Members, fellows and outside observers all attest the value of the experience for not only Members and fellows, but for the Congress as a whole and for the agencies and groups with whom the fellows have contact after the program.

The alumni of this program represent a broad spectrum of people involved in the public's business. They are university officials and professors, Federal executives—many at the supergrade levels—White House aides, congressional committee and office staff and foundation and business executives.

On this occasion, I am proud to recognize the accomplishments of the congressional fellows program and to commend the American Political Science Association and the Civil Service Commission as well as my fellow Members for their continued interest and support.

Mr. UDALL. Mr. Speaker, I thank my colleague for completing this picture of the congressional fellowship program. Other Members who have participated have eagerly responded to our invitation to join in this colloquy.

I include the following:

Congressional Fellowship Program

Sponsored by the American Political Science Association since 1953, the Congressional Fellowship Program is designed to equip outstanding young political scientists, journalists and federal agency executives with a better understanding of the national legislative process. The program has provided over 500 Fellows a first-hand view of Congress through an intensive orientation program and an internship assignment in Congress.

The Congressional Fellowship Program is distinctive in several important respects. First of all, participants are very well-qualified, having obtained advanced academic degrees and/or substantial work experience. Second, Congressional offices are receptive to having Fellows and the demand for Fellows greatly exceeds the supply. Third, the work performed by Fellows is of a high calibre, typically involving duties comparable to those of ltgislative assistant and press secretary. Finally, the program has an excellent reputation among participants in the Congressional process, including Congressmen, executive agency officials, lobbyists and the press.

PARTICIPANTS

Each year the program includes approximately 40–50 Fellows. The political scientists and journalists (numbering around 15) are supported by the Association with funds received from foundation grants. The remaining Fellows participate in the program through affiliate arrangements. Some are career civil servants (Grades 13–16) who are supported by agency training funds and sponsored by the Civil Service Commission; other affiliate Congressional Fellows have been supported by the Asia Foundation, the Commonwealth Fund, the American Friends of the Middle East, the Bush Foundation, and the Joseph E. Davies Foundation. In addition, the program will soon include young medical doctors in a special health policy section funded by the Robert Wood Johnson Foundation.

The political science and journalist Fellows are selected in a nationwide competition. Around 150 applications are received for the fifteen places available. Special efforts have been made to have participants from disadvantaged groups—Women, Blacks, American Indians, Chicanos—represented among the award winners. While several stages are involved in the selection process, including personal interviews, the final responsibility for selection rests with the Advisory Committee, which is composed of political scientists, journalists, and bipartisan representation from the legislative and executive branches of government. This committee is also responsible for assisting the Association in determining policy for the program.

PROGRAM SCHEDULE

The program commences in early November with an orientation period that includes seminars with numerous legislators, administrators, lobbyists, and others covering a wide range of topics relating to Congress and public policy-making. During this time Fellows also begin exploring individual office assignments. Negotiations are conducted by the individual participants with Congressional offices of their choice. Fellows begin work in their House or Senate offices in December. They serve in each house of Congress for approximately four and a half months. A continuing series of seminars are scheduled during the entire year to supplement the intern experience. Fellows also travel with their Representative and Senator to the Congressional district or state during the course of a year.

OFFICE ASSIGNMENTS

The Congressional Fellows have participated in a wide variety of educational activities with over 300 Members of Congress and committees for whom they have worked. Some have been given major responsibility for drafting legislation, arranging Congressional hearings, coordinating lobbying activities, and briefing Members for committee deliberations and floor debate. Others have concentrated on campaign problems, assuming responsibility for strategy and speech writing, and making an occasional trip to the home state or Congressional district. Some Congressional Fellows have participated in international conferences abroad, serving as a staff aide to their Congressman or Senator. Whatever the specific mix of responsibilities, the work of the Congressional Fellows is typically professional and highly valued by the Member for whom he or she serves.

PROGRAM ADMINISTRATION

The program is administered by a Director, with the full support of the Association's national office staff. The Director is responsible for structuring the orientation period and subsequent seminars, advising Fellows in the office selection process, maintaining liaison with Members of Congress and other interested publics, and coordinating the selection of new Fellows.

EVALUATION

The success of the program in its first two decades of operation can be assessed from a variety of perspectives. Formal independent evaluations in 1964 by Everett Cataldo of Florida Atlantic University and in 1971 by Ronald Hedlund of the University of Wisconsin-Milwaukee contain evidence that virtually all past congressional Fellows view their experience in the program as highly positive and instrumental in their upward career mobility. Members of Congress have gone on record numerous times expressing their satisfaction with and support of the Congressional Fellowship Program. Most recently, the Speaker of the House, the Minority Leader, and 58 Congressmen made the following statement in support of the program.

It is our judgment that this program has been one of the most productive and useful educational programs in the Congress. In addition to the mutual benefits accruing to Congressional offices and the participating Fellows, we feel that the better understanding of Congressional operations by future leaders in the Executive Branch, the academic community, and journalism, contributes in a most positive way to public information and discussion of the important issues facing Congress as well.

Comparable individual assessments have been made by many more Representatives and Senators.

Finally, there appears to be a general consensus among political scientists, especially Congressional scholars, journalists and many governmental officials that the Congressional Fellowship Program has made in the past and continues to make an impressive contribution in understanding public policies and in upgrading teaching and research, political reporting, congressional staffing and executive administration.

FUNDING

Funded initially by the Edgar Stern Family Fund of New Orleans and subsequently in large part by the Ford Foundation, the Program has received additional contributions from a substantial number of foundations and corporations, including the Courier-Journal and Louisville Times Foundation, the New York Times Foundation, the Shinner Foundation, the Poynter Fund, the Revlon Foundation, and the Helen Dwight Reid Foundation.

Mr. RIEGLE. Mr. Speaker, I am pleased today to have this opportunity to voice my admiration and support for the congressional fellowship program. In its 20 years of existence, this excellent program has allowed more than 500 young Federal agency executives, journalists, and political scientists each to spend nearly a year working in congressional offices.

It is essential that these emerging national leaders have opportunities of this type to gain a firsthand understanding of the legislative process. Many of the issues that divide our Nation today are worsened by a lack of adequate understanding between the respective branches of Government. The executive branch and the legislative branch must be able to work together effectively—if we do not, we cannot expect to lead our people. It is also vital that the press and the academic community better understand the processes and pressures of the Government from the inside, and the congressional fellowship program has certainly made a major contribution in this area.

The congressional fellows, however, are not the only beneficiaries of this program. Those of us who have been fortunate enough to have fellows work in our offices can testify to the fact that they offer top quality professional expertise, discipline, and a willingness to dig in and work on problems. In my 6½ years in the House, I have had the pleasure of working with four fellows—Mr. John Iglehart, Mr. Edward Stock, Mr. Harry Freeman, and Mrs. Patricia Taylor. They have undertaken a variety of tasks including conducting public opinion surveys, coordinating a parliamentary exchange program, doing research for congressional hearings, preparing testimony, and participating in all aspects of the day-to-day business of my office. They have also traveled with me to my district, Flint, Mich., to become directly acquainted with the people and problems there.

Mr. Speaker, in summary I would like to express my personal appreciation for the congressional fellowship program and indicate my strong support for its continuance. It is an important effort to improve the effectiveness and quality of government and deserves the support of all of us in the Congress.

Mr. CORMAN. Mr. Speaker, I think it is most appropriate that we recognize the 20th anniversary of the congressional fellowship program, and I appreciate this opportunity to join my colleagues in praising this worthwhile program.

Over the past years, I have had several congressional fellows in my office. Because of the information, experience and skills they have brought with them, each one has made an important contribution to my office and helped me and my staff better perform my legislative responsibilities. Each fellow has also indicated his appreciation for the opportunity provided by the program and the understanding and insight derived from this unique experience.

Both parties benefit a great deal from this program. I have certainly appreciated the assistance of the fellows that have worked for me. And I am sure it would take many volumes to include all of the scholarly research, newspaper articles and classroom lectures that reflect information and understanding derived from participating in this program.

It is important, especially at a time when there is so much talk of the isolation of public officials and the erosion of public confidence in political leaders and institutions, that the Members of Congress support programs like the congressional fellowship which encourage the movement of individuals between political and nonpolitical positions; and which allow some of those who teach, research, and write about politics to experience first hand the complexities of contemporary issues and the operations of political institutions.

Mr. DELLUMS. Mr. Speaker, today marks the 20th anniversary of the congressional fellowship program. I have had the opportunity to have a fellow serve in my office and to have worked with fellows on the staffs of several other Members. Without exception, I found the fellows to be outstanding.

The diversity and professionalism of the fellows has brought new viewpoints and considerable expertise to the Hill. I believe that the exposure to the legislative process of the participants from the press, academia, civil service and from abroad has facilitated the understanding and working of the entire governmental process.

The increasing inclusion of greater numbers of women and minorities in the program is a significant contribution to the rise of these young women and minorities in their fields of endeavor.

The congressional fellowship is the only fellowship program associated with the Congress. Its contributions are also unique. Much of the political research on the national legislative process has been done by former fellows. The role of former fellows reads as a who's who of executive bureaus, college faculties, congressional staffs and the press.

I salute the American Political Science Association for its administration of the program.

Mr. PEYSER. Mr. Speaker, I want to use the opportunity of the 20th anniversary of the congressional fellowship program sponsored by the American Political Science Association to add my voice to the many who have spoken out in praise of this outstanding program.

During my service in Congress in the last two terms, I have had the pleasure of having two congressional fellows serve in my office. These young men, Mr. Robert Kane who came from the General Services Administration, and Mr. Sam Bowlin, who came from the General Accounting Office, are indeed a credit to this fine program, and to their own respective organizations. They were a great help to me in working on research projects, in my committee work and in helping me be of service to my constituents. I believe the congressional fellowship program provides the Congress with a tremendous opportunity to bring outstanding young professionals in to congressional offices and to permit them to work side by side with Members, to learn more about the legislative process.

I hope this program will continue for many years in the future and we should all be grateful to the American Political Science Association for its sponsorship.

Mr. DRINAN. Mr. Speaker, I wish to join my colleagues today in praising the congressional fellowship program. This program gives a wide variety of individuals the unique opportunity to participate in the important legislative process.

As many of my colleagues already know, the congressional fellowship program selects 15 people from more than 150 applicants; and gives them an intensive 9½-month education in the workings of Congress. These fellows attend seminars with prominent legislators, administrators, lobbyists, and others covering a wide range of topics relating to Congress and the entire legislative process.

In the recent past, I was privileged to have a woman from the Social Security Administration work in my office as part of this program. I found her invaluable in assisting me in the many varied duties of my legislative work. In particular, she aided me greatly in adding to my knowledge of the problems relating to social security.

This program is particularly important to our society in today's untrusting political climate. These fellows are tomorrow's leaders. By enabling them to do in depth work in various congressional offices, the various foundations which have supported this program insure that these future leaders of America will have the knowledge and experience which constitute a solid foundation for their careers in government.

It is my sincere hope that this program will be able to continue through the continued generosity of various funds and institutions. I urge every Member of Congress to join with us today in support of this program.

Mr. TOWELL of Nevada. Mr. Speaker, it is a distinct pleasure to congratulate the American Political Science Association on the 20th anniversary of the congressional fellowship program. I have been fortunate to have Mr. Paul W. Newton from the Department of the Navy, Office of Civilian Manpower Management, as a congressional fellow on my staff since April. Mr. Newton sold me on the program first through his initial conversations with me about the background and purpose of the program, and then through his contribution as a member of my staff these past 3 months. The benefits of the program to the fellows can only be exceeded by the valuable contribution they make to the Members and committees for whom they work.

As a freshman Member of this Congress, I am constantly encouraged by the high caliber of staff resources available to enable me to do my job better. The APSA congressional fellowship program is certainly no exception. With my first exposure to the program, I had no idea of the pervasiveness and acceptance of the participants in the Congress, the executive branch, the academic community and the media. I have since come to highly respect the purposes of the program and the participants. I am very happy today to join with my colleagues in the House in commending the APSA on its fine program.

Mr. LONG of Louisiana. Mr. Speaker, I would like to join my voice to those of my colleagues in congratulating the congressional fellowship program on its 20th anniversary.

For the last 5 months I have enjoyed the services of one of these congressional fellows, an outstanding young political scientist from the University of California, Dr. Stephen H. Balch. Dr. Balch has proved himself an invaluable asset during his all too short stay in my office. He has ably performed a wide range of functions for me, particularly in the areas of legislative research, and in the preparation of speech materials. His presence has done much to stimulate the efforts of my fine, but unavoidably overworked regular staff. Like most congressional fellows, who come to the program with considerable experience in administration, academics or journalism, Dr. Balch's background has allowed him to play an innovative role as a source of fresh and imaginative ideas. With this year's congressional fellowship program coming to a close, Dr. Balch will soon be leaving my staff to assume a responsible administrative post in the City University of New York. His departure will leave a gap in my office that will not be easily filled.

Dr. Balch is not atypical of the level of talent that this program has supplied to Congress over the last two decades, and this wealth of ability has become all the more important now that the legislative branch must struggle to hold its own in the constitutional system.

Of course, the benefits of the program flow in two directions. Not only does the Congress benefit through tapping a reservoir of skills that would not otherwise be available to it, but the fellows themselves enrich their experience and deepen their understanding of how our political process works. Moving out into key positions in our society former fellows can effectively communicate to others the insights that they gathered during their year in the program.

It is my hope that 10 years hence we will all gather again to celebrate the 30th anniversary of this program, not only because of our own personal stake in its continuation, which is substantial, but because of the significant contribution it makes to the strengthening of our representative institutions.

Mr. HARRINGTON. Mr. Speaker, this year marks the 20th anniversary of the congressional fellows program, one of the most useful and productive educational programs in the Congress. I would like to commend the fellowship program for its valuable contributions in the past, and to wish it continuing success in the future.

Since the program began in 1953, sponsored by the American Political Science Association, it has given more than 500 journalists, political scientists, and Federal agency executives the opportunity to work as staff members in House and Senate offices. The fellows work on a short-term basis and are paid by funds from private sources.

The 300 offices on the Hill which have had fellows have benefited in a great many ways. The offices receive, free of charge, professional, highly qualified assistance from fellows who have expertise in a variety of areas, and who are capable of taking major responsibility for drafting legislation, briefing Members of Congress, arranging hearings, writing speeches and doing other congressional work. The offices benefit in another way, too. A fellow who is not paid by the office and who is not part of the permanent staff can often observe the workings of the office in a detached, disinterested way, and offer constructive criticism.

My office has had six fellows over the past 4 years—four journalists, one law professor, and an executive in a Federal agency. Their contribution to my office has been extremely valuable, and they have worked in a whole range of issues from impoundment to gun control.

The fellows themselves say they have benefited immeasurably from their experiences in the program. They have left, for a year, jobs in which they might have grown stale, or hit a plateau, and have had the opportunity to test themselves in a new environment, and to grow personally and professionally. They have had the chance to participate from the inside in the complex processes of government. The fellows, when they return to universities, to newspapers, or to the Federal Government, bring back new insights and new understanding which they can share with others.

The fellowship program has made in the past and continues to make a real contribution to understanding public policies, to upgrading teaching and research, political reporting, congressional staffing and executive administration.

The program, with its private, independent base of support, also represents a positive way for the private sector to contribute to the improvement of the operations of our Government.

I have enjoyed my experiences with congressional fellows in the past, have appreciated their contributions to my office, and look forward to having another fellow when the program resumes in the fall.

Mr. VANDER JAGT. Mr. Speaker, it is a great pleasure for me to join in recognizing the 20th anniversary of the congressional fellowship program. For these two decades this unique program, sponsored by the American Political Science Association, has brought political scientists, journalists, law professors, civil servants and scholars from other countries to Capitol Hill. Hundreds of Members of the House and Senate have had congressional fellows on their staffs.

The congressional fellowship program is founded upon the premise that practical experience at the staff level constitutes an extremely effective means of learning the national legislative process. Most academics selected for this program have returned to teaching, carrying into college classrooms the rich personal insights which can only be obtained through participation in the life of the Congress. Federal administrators have become more valuable to their agencies as a result of their exposure to the policymaking process. Journalists have returned to their newspaper staffs with a greater capacity to report congressional activities.

As rich as this professional program has been for the more than 500 men and women who have received this award, I believe that an equal value has accrued to Congress through its involvement in the program. The backgrounds of congressional fellows enable them to assume positions of significant responsibility in Members' offices and on committee staffs, and in these roles the fellows make an important contribution to our national legislative institution.

Mr. Speaker, I commend the American Political Science Association for its excellent administration and sponsorship of this program, which exemplifies the finest of relationships between an academic discipline and the governmental process.

Mr. O'HARA. Mr. Speaker, I want to thank the distinguished gentlemen from Arizona (Mr. UDALL) and Wisconsin (Mr. STEIGER) for arranging for this special order so that the House can pay a deserved tribute to the congressional fellowship program of the American Political Science Association—to the officers and members of that association for managing the program, to the Stern Family Fund, and the Ford Foundation for their continuing generosity in shouldering the major financial burden of the program, to the other foundations who have made significant contributions, and to the agencies of the United States who have allowed some of their best career people to take a "year off"—to misstate the case rather seriously—in order to participate. But most of all this gives us an opportunity to thank the congressional fellows themselves who have made a rich, diverse and invaluable contribution to the staffing of the Congress—its Members and its committees.

As most of the Members of this House know, Mr. Speaker, the contribution the congressional fellowship program has made to the legislative process has been many-sided. Many of us have benefited directly from having congressional fellows on our staff during their fellowship period. And I will talk about that later. A great many of the congressional fellows have remained on the Hill or have gone to work for organizations ancillary to the legislative process.

Other congressional fellows have returned to the executive branch and have in many cases, deepened the sensitivity of those agencies to the needs of the Congress and the nature of the policymaking process.

And many others have returned to the campuses or to the city rooms of their newspapers and have contributed in their teaching or reporting to a deepened public understanding of the processes by which our laws are made.

The congressional fellowship program of the American Political Science Association, Mr. Speaker, has been a 20-year contribution to the Congress and to the public interest which is beyond price. I hope that the current plans to write "finis" to this experiment are not realized.

Let me close on a personal note, Mr. Speaker, I am not talking from a wholly disinterested point of view. My office, my subcommittees, and the Democratic Study Group during my chairmanship all benefited from the congressional fellowship program.

I have enjoyed the services of 10 congressional fellows in my own office staff during my 15 years in the House. These include Jim Klonoski, now chairman of the political science department at the University of Oregon; Richard Warden of the United Auto Workers Legislative Staff, and my own Administrative Assistant subsequent to his fellowship, Nelson Guild, now president of Frostburg State College, Henry Feuerzeig, Assistant Attorney General of the Virgin Islands, Armin Rosencranz, now an urban planning consultant in California, Harry Lenhart of the staff of National Journal, Wayne Shannon, now with the University of Connecticut, Jim Horner, an NLRB field attorney in Cincinnati, Tom Mann, now director of the congressional fellowship program itself, and Al Franklin, who after his fellowship joined the staff of my own Subcommittee on the Education and Labor Committee, on which staff he today serves as Counsel.

These names are not the end of the list. In addition to Dick Warden and Al Franklin, I have also employed three other ex-fellows. These include Bill Shands, once my Administrative Assistant, now with the Central Atlantic Environment Service, Dick Conlon, whom I hired as staff director for the Democratic Study Group—a function he is still performing in a very admirable manner, and Jim Harrison, who has worked with the Education and Labor Committee since 1965, and has been staff director of the two subcommittees I have chaired—the Subcommittee on Agricultural Labor and presently the Special Subcommittee on Education.

There have been 571 congressional fellows in these 20 years, Mr. Speaker. All of them have served all of us well.

Mr. CONTE. Mr. Speaker, I want to commend my colleagues, Mr. STEIGER of Wisconsin and Mr. UDALL, for taking this time today to commemorate the 20th anniversary of the congressional fellowship program.

As one who has benefited from this program in the past and, in fact, is benefiting right now, I join my colleagues here in praise of a most worthy and mutually rewarding undertaking.

I am hopeful that the congressional fellows I have had in my office have secured a valuable insight into the role of a Congressman and into the political, legislative and organizational realities within which that role is carried out.

When top caliber people such as these fellows are exposed to this congressional climate in an intimate, day-to-day manner, the result is a greater understanding of our legislative system and, therefore, our entire governmental system. Hopefully, that greater understanding is accompanied by a greater appreciation of our system.

But if the program is beneficial to the highly qualified personnel who are chosen to participate, it is every bit as beneficial to the Members fortunate enough to be the recipients of their services. For the fellows bring with them a quality and an expertise that serves our offices, and therefore, our constituencies, in a very high manner.

Mr. Speaker, there could be no better example of this than the present congressional fellow serving in my office. Mrs. Lorraine Torres holds a permanent position at the National Institutes of Mental Health. Selected as a congressional fellow, she has served in my office for the past 4 months and her firm grasp of all matters relating to the health field has been of incalculable assistance to me and to my efforts in this area.

I was firmly committed to this program long ago. However, if I had not been, I would be now because of the excellent contribution this woman has made to my office.

While the congressional fellowship program is 20 years old today, it is ever-young and vital, reflecting the enthusiasm and professionalism of its participants. I would like, at this time, to congratulate all of those connected with the administration of this fine program, past participants, and of course those men and women who are serving the Congress so well in this 20th anniversary year.

Mr. ESCH. Mr. Speaker, it gives me a great deal of pleasure to join with the gentlemen from Wisconsin and Arizona (WILLIAM STEIGER and MORRIS UDALL) in paying tribute to a program which typifies a spirit of cooperation between the Congress and the various branches of Government, the congressional fellowship program. This program enables bright, young professionals from diversified backgrounds to spend a year participating in the workings of Congress involving duties comparable to those of legislative assistant and press secretary. Their contact has established an invaluable resource of mutual understanding between the executives in the agencies of the Government and the Members of Congress with whom they deal. At the same time, they have given those of us here on the Hill a tremendous opportunity to develop long-lasting relationships with the various Government departments and to understand better their attitudes and circumstances under which they work.

I have had an opportunity to have a number of congressional fellows on my staff over the past 6 years and they have been uniformly helpful. They have brought their expertise from the agencies to bear on legislation with which my office was concerned and have been of assistance in avoiding administrative problems in the writing of new legislation. As they have returned to the agencies, their knowledge of the way in which the Congress works has been valuable to my office in assisting us to solve many constituent problems.

I am delighted to pay tribute to the congressional fellowship program to the hundreds of fellows who have taken part in it over the past 20 years. It is one of those tremendous ideas which really works and which has made a great contribution to the smoother working of American Government.

Mr. PICKLE. Mr. Speaker, I would like to join Mr. UDALL and Mr. STEIGER in commending the congressional fellowship program of the American Political Science Association on the occasion of the program's 20th anniversary.

The establishment of a program for the study of Congress as an institution has been a noteworthy and useful undertaking. It is significant to note that having fellows and interns assist officials elected to law making bodies is now being practiced in Canada, Great Britain, and several other countries. For those nations with a viable, participatory democracy, it would seem important to have a group of noninvolved individuals understudy the law making and representative processes of government.

As many of you know, the American Political Science Association sponsors between 40 and 50 participants each year drawn from political scientists at universities, journalists of the printed and broadcast media, career civil servants of the executive agencies, law school professors, a correspondent from Great Britain, and participants sponsored by the Asia Foundation. Beginning later this year, the program will also include young physicians funded by the Robert Wood Johnson Foundation.

Since March I have had a congressional fellow in my office. I cannot begin to say how helpful his service has been.

The young man is Don Cook, who came into the program from the Environmental Protection Agency.

He has handled the great bulk of my legislative briefings. He has helped gather information for committee work.

He has done a little of everything and done it well. He has literally been an administrative assistant in the first sense.

His service has been good, and it will be hard to replace him when he goes back to the EPA. I consider him an able executive.

Mr. Don Cook has taught me how valuable this program is.

I have also spoken to a group of fellows informally in a general give-and-take session about the Congress. This meeting was one of the most enjoyable afternoons that I have had this session.

To Don Cook I say thank you; and I say thank you to those whose foresight have impetus to the congressional fellowship program.

So, Mr. Speaker, when I speak of the congressional fellowship program I speak with firsthand knowledge.

I would urge that other Members take advantage of this program in the future. I would do it again in a second and figure our office was blessed.

Mr. Speaker, the congressional fellowship program is good for the Congress.

Mr. OBEY. Mr. Speaker, it is a pleasure to join in this tribute to the congressional fellowship program of the American Political Science Association on the occasion of its 20th anniversary.

I have been fortunate to have a congressional fellow on my staff in each of the last 3 years. I have been able to assign them to legislative and district projects that needed to be done but just could not have been done without them.

While the congressional fellowship program is the best source of outside assistance I have encountered since coming to Congress, it is by no means a one-sided arrangement. The program is mutually instructive and beneficial. The fellows gain a valuable legislative perspective—especially from a House office—that they could not get any other way.

I only hope that the first 20 years of the program do not turn out to be the last. The American Political Science Association is seeking further financial support for the program, and I hope it succeeds. The program richly deserves future support.

Mr. BINGHAM. Mr. Speaker, in recent years so-called intern programs, under which outsiders have an opportunity to serve as congressional staff for a time, have proliferated on Capitol Hill. The congressional fellowship program stands in a class by itself among such programs Indeed, congressional fellows are more than interns. They are highly trained professionals on loan to Congress under the auspices of the American Political Science Association, sponsors of the congressional fellowship program.

This year, the congressional fellowship program is celebrating its 20th anniversary, and I am pleased at the opportunity to join with my colleagues in paying tribute to it and in congratulating the administrators of the program and everyone who has been associated with it since 1953.

I have had many congressional fellows serve in my office since I came to Congress in 1965. They have been of uniformly excellent character and capability, and have contributed substantially to my work and to the work of the Congress. Over 300 other Members of Congress and congressional committees have benefited from the presence of congressional fellows. In addition to the program's obvious value for the fellows, it serves continuously to breathe new life and energy and ideas into the legislative process. I sincerely hope that the generous financial support the program has had will continue and that the program will go forward for another 20 years and more. So long as it does, the fellows and their program will always be welcome in my office and, I'm sure, in every office in the Congress.

Mr. MEEDS. Mr. Speaker, I appreciate this opportunity to express my appreciation of the valuable contribution the congressional fellowship program has made to understanding of the legislative process among journalists, academics, and other participants.

In the 20 years of the program, the cumulative impact has been increasing public awareness through the campus and the news media of how Congress functions and what representative democracy really means. I have now had three fellows from the program in my office and found the experience mutually beneficial. That is, I hope they learned as much from me as I learned from them.

The American Political Science Association is to be commended for its leadership in the coordination and conduct of the congressional fellowship program. Also to be commended is the Civil Service Commission, in working under the program to do some consciousness raising in the bureaucracy about the role of Congress.

The congressional fellowship was the original and still is the most comprehensive attempt to bring opinion leaders inside the halls and offices on Capitol Hill fellowship program on the occasion of public policy.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I welcome this opportunity to join with my colleagues in extending congratulations to the congressional fellowship program on the occasion of its 20th anniversary.

I have had congressional fellows work in my office for five of the past 10 years and can personally testify to the worth of the program both for the fellows and for the Members of this body.

The American Political Science Association, which sponsors the congressional fellowship program, is to be commended for offering these young political scientists, journalists and civil servants the outstanding educational experience of working in congressional offices.

We Members of Congress find that the program is one of mutual benefit—and in the real world a program based on mutual benefits is one which has a good chance to work successfully. For while the fellows benefit by learning first hand about the workings of Congress, the Congressman benefits from the able staff work these young professionals can provide.

On this, its 20th anniversary, I wish the congressional fellowship program long life and continued success.

Ms. ABZUG. Mr. Speaker, today marks the 20th anniversary of the congressional fellowship program. In its 20 years this program has succeeded in bringing over 500 highly qualified and highly skilled young professionals to work on the Hill. One of the outstanding features of this program is its conscious effort to attract minority groups: women, blacks, American Indians, and Chicanos. In this way, the program not only extends its benefits to all segments of our society, but it also gains the variety of perspectives which these different representatives bring to the program. The contributions of all these congressional fellows has been considerable.

A few years ago, I had the privilege of having Ms. Joanne Omang with me as part of the congressional fellowship program. Ms. Omang took on the frenetic job of my press secretary. She handled press releases and requests and made speech arrangements. She helped write statements on a wide variety of subjects and worked on a number of bills, following them from their conception to the floor of the House. She was extremely capable and hard working and a real asset to the office.

Ms. Omang is now a reporter for the Washington Post and has told me how valuable she has found her experience as a congressional fellow. She gained first-hand experience in all ends of the legislative process. She enjoyed learning about the Government procedures and discovering the varieties of pressure and excitement involved in the workings of the Congress. She found that her experience as a congressional fellow helped her to resolve many of her conflicting and mistaken impressions of people and life in politics, and helped her to make plans for her career in journalism.

But this is just one example. The congressional fellowship program has provided the same invaluable educational experience for 570 other young people with backgrounds in journalism, political science, civil service, and law. For these fellows, the first-hand view of congressional business may prove one of the most helpful learning periods for the shaping of their futures. While they may not all go into politics, the understanding they have gained of the process of Government operations will greatly affect their contributions to society in whatever field they choose to adopt.

The congressional fellowship program has been instrumental in creating a greater comprehension of the workings of the Government of this Nation. This understanding has been valuable not only to the lawmakers of this country, who have gained from the ideas and skills brought by the fellows, but by ordinary citizens who may gain a clearer conception of our Government through contact with these fellows.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

STATEMENT ON RECORDED VOTES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. YOUNG) is recognized for 5 minutes.

Mr. YOUNG of Florida. Mr. Speaker, the recorded teller vote was enacted as part of the Legislative Reorganization Act of 1970, whereby the practice of Members voting on amendments without having their names recorded was ended. This, I believe, was an important milestone in the history of the Congress.

Until the advent of this reform which took effect during the first session of the 91st Congress, a Member could vote without the homefolks knowing how he stood on a given issue, unless it was a recorded vote on final passage of a measure. The reform came along and spoiled things for Members who would rather sidestep an issue under the obscurity of a nameless vote.

Now, Mr. Speaker, it seems that a move is on to make it once again easier for members to sidestep an issue under a cloak of anonymity by reducing the frequency of the recorded teller votes by more than doubling the number of Members needed to demand such a vote. Such action, Mr. Speaker, would abrogate the people's right to know, a right that I feel is as important as the right of free speech. How else can the people decide upon the merits of their elected representatives unless they know where those elected representatives stand on all the issues. Why should any Member be unwilling to let the public know how he votes? The Congress fondly talks of how the executive branch of Government should operate with more candor. Can individual Members of Congress be any less candid?

It was my privilege to serve as a member of the senate of the State of Florida for 10 years. During that period, I cosponsored one of the most far-reaching pieces of "people" legislation that was ever enacted in Florida, the "Government-in-the-Sunshine Law." This law opened up to the people of Florida the entire spectrum of government and as a consequence, has made it easier for the voters of Florida to judiciously choose their elected representatives, from city hall to the highest State office.

The right of the people to know cannot be taken too lightly by anyone in government and I say it is incumbent upon the Congress to operate in the "sunshine" as much as is humanly possible.

I concur fully with my colleague, Mr. CLAWSON, that the problem with the recorded teller system is not that the system has not worked but that in reality, it has worked too well because it has forced Members to take a public stand and that can only bode good for the Congress and the Nation.

THE MERIT BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. SHRIVER) is recognized for 5 minutes.

Mr. SHRIVER. Mr. Speaker, I am today joining my colleague from Illinois (Mr. ERLENBORN) and others in the introduction of retirement pension protection legislation. The Multiprotection of Employee Retirement Income and Trust Act, or MERIT, attempts to assure that people get the pensions they have worked for.

The purpose of this act is two-fold. We want to encourage more employers to provide pension plans for their employees, and we want to make certain the employees' pension rights are fully protected.

MERIT would regulate more private and public pension plans and would require greater disclosure to participants. Regular and adequate funding of pension plans by employers would be required to insure that the plans are actuarially sound. Three options of early vesting standards are provided to meet the needs of different pension plans. MERIT would be administered and enforced by the Secretary of Labor.

This bill would require that workers be told of their pension and welfare rights and benefits and of the condition of their plans in plain, understandable terms. Later, when the employees apply for social security benefits, they would also get notice of the pension benefits acquired from various employers.

A summary of the bill follows:

SUMMARY OF THE MULTIPROTECTION OF EMPLOYEE RETIREMENT INCOME AND TRUST ACT (MERIT)

COVERAGE

As with most pension proposals, coverage differs from title to title; but the MERIT bill would regulate most private and public pension and welfare plans. The exceptions are Federal plans, plans required under workmen's compensation, unemployment compensation, and disability insurance laws; and plans with fewer than 26 participants. For the most part, those areas not covered by the bill would remain subject to State laws.

ADMINISTRATION

All of the provisions of the MERIT bill would be administered and enforced by the Secretary of Labor. Pension and profit-sharing plans, however, would still have to comply with Internal Revenue Service regulations to qualify for tax deductions. Cooperation among Federal agencies would be encouraged to avoid duplication and undue expense.

DISCLOSURE

The MERIT bill would require that workers be told of their pension and welfare rights and benefits, and of the condition of their plan in understandable terms. It also would require that the Labor Secretary be informed annually of these matters.

Reports to the Secretary would include schedules of party-in-interest transactions and loans and leases in default; but pains have been taken to assure that reporting and disclosure would be meaningful. Reporting to the Secretary by plans with fewer than 100 participants would not be required.

Every pension and profit-sharing plan would have to file an application with the Secretary for qualification and registration. A certificate would be issued and continued in force so long as the eligibility, vesting and funding requirements are met.

REGULATION OF FIDUCIARIES

Elementary honesty would be required of all fiduciaries. The bill would exclude profit-sharing plans from the diversification requirement.

VESTING

As a worker's seniority on the job goes up, he may gain progressively greater pension rights, called vested rights because they may not be taken from him. Each of the other major pension bills proposes one of three ways of vesting. The MERIT bill embraces all three.

Our studies have graphically illustrated that the effect of a particular vesting standard on individuals varies from plan to plan, depending upon a myriad of factors. So does the cost of vesting. Rather than insist that all plans conform to one standard, the MERIT bill would allow each plan to choose a graded 15-year vesting, a 10-year vesting, or the Rule of 50, whichever best suits the needs of the pension beneficiaries.

The graded 15-year rule assures a worker of 30 per cent of his pension rights after eight years' service, rising by 10 per cent per year until 100 per cent is achieved after 15 years on the job.

The 10-year rule would require that a worker get a fully vested interest after 10 years on the job.

Under the Rule of 50, pension rights would be 50 per cent vested when the worker's age plus his years of service equals 50. Then his vested interest would increase by 10 per cent for each additional year on the job until 100 per cent has been reached.

Vesting would become effective two years after enactment, and would be retroactive to the extent of a covered worker's past service at that date.

FUNDING

As an employee works toward retirement, his pension is funded if a proportionate part of his pension is paid regularly into the reserve. Thus, when he becomes ready to retire, his pension would be ready for him. There would be no need to pay his pension out of current income (or, in the case of a public employee, out of current taxes).

We know that there are single-employer plans, multi-employer plans, private plans and public plans. The MERIT bill intends that they all be funded, but would not force all of these plans—with their many differences—into the same mold.

The minimum funding standard proposed in the MERIT bill is much like that required by the accounting profession for financial statements. In a defined-benefit plan (in which a worker is promised a certain amount per month upon retirement), this translates into annual minimum contributions by the employer equal to present cost plus forty-year amortization of the unfunded accrued liabilities of all benefits provided by the plan.

At the same time, our bill recognizes that vested benefits should be funded. The funding standard contains a simplified calculation which would automatically spread over a period of time the remaining unfunded vested liabilities, including both actuarial gains and losses.

Actuarial predictions are not perfect. The MERIT bill takes cognizance of this by requiring that actuarial gains and losses be spread over the entire future working life of employees in the plan.

The bill would permit flexibilities which appear to be absent from other proposals. For example, contributions by the employer in excess of the minimum required could be used to offset future minimum contributions.

Additionally, present law limits tax deductions on employer contributions for past service. If the annual minimum contribution required under the bill would exceed that for which a tax deduction could be taken, the excess could be carried over. In this way, the minimum contribution would always be tax deductible.

The MERIT bill would not disrupt present accounting and actuarial practices.

PORTABILITY

The MERIT bill does not include a portability provision. This is so for several reasons.

Most multi-employer pension programs handle portability as a matter of course; but single-employer plans are so diverse that they could comply with a portability law only with extreme difficulty.

Good vesting makes a portability law unnecessary, but workers should have a means to facilitate the record keeping of their vested benefits. The MERIT bill would require a pension plan administrator to give each terminating worker a statement of the employee's benefits, and the procedure for collecting them. This information also would be reported to the government. When the employee applies for Social Security benefits, he would also get notice of the pension benefits he has acquired from various employers during his working life.

TERMINATION INSURANCE

A specific provision for termination insurance is not provided in the MERIT bill. If a pension fund is adequately funded, there is no need for this government interference.

Under the MERIT bill, assets would be distributed when the plan terminates so as to be fair to all beneficiaries. There would be an equitable distribution of assets. Contributions by employees would be returned first. Then, priority for the remaining assets would be given to retirees and those eligible to retire as to those benefits they could most reasonably expect.

A worker's equity could not be lessened solely because of a merger; and a pension plan's assets could not be raided by workers who quit their jobs because the MERIT bill would permit payment of those claims only to the extent the worker's benefits are funded.

TRADE ACT OF 1973

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. BLACKBURN) is recognized for 5 minutes.

Mr. BLACKBURN. Mr. Speaker, I have testified before the House Ways and Means Committee on June 14, 1973, regarding the new Trade Act of 1973, also known as H.R. 6767. My statement, covering the main issue raised in my testimony, is part of the CONGRESSIONAL RECORD of June 15, 1973. On July 10 my honorable colleague, Mr. ICHORD, took a Special Order to discuss the New

American-Soviet Trade Policies. I have made a contribution to the discussion with a detailed statement dealing with intricacies and implications of the present political and commercial trade policies of the Soviet Union and its consequences for American economy, American consumer and taxpayer, and security of our country.

One of the subjects upon which I have elaborated was the credit worthiness of the Soviet Government. In order to shed more light on this particular issue I would like to call my colleagues attention to a recent letter from George D. Woods, the president of the Foreign Bondholders Protective Council, and former president of the World Bank. The letter has appeared in the New York Times on July 6, 1973, and represents a statement of great significance in regard to the Soviet refusal to live up to its international financial obligations as a successor government.

I would like also to stress that my staff's inquiries have clearly revealed that the Soviet Government has not complied with the existing standards of the international law. It has repudiated on several occasions the international debts incurred by the predecessor government. I consider this to be very characteristic for the behavior of the Soviet Government, and especially in view of the fact that the other Communist governments, including the government of mainland China, have settled or have agreed to settle the financial obligations they have inherited as successor governments.

Related newsclipping from the New York Times follows:

RUSSIA'S 1916 DEBTS: THE CREDITORS ARE STILL WAITING

To the Editor:

I agree wholly and unreservedly with the statement, "It is gratifying that the leader of the Soviet Union understands the advantages of international trade and finance," in the June 25 editorial "Ruble Diplomacy."

The editorial concludes, "The creditor must first have trust in the would-be debtor," with which I also agree. In this regard, matters pertaining to government-to-government indebtedness between debtor U.S.S.R. and creditor U.S.A. are apparently being appropriately treated by the responsible officials on both sides.

However, the matter of privately held Russian debt is still unresolved. In 1916, U.S. private investors purchased $75 million of Imperial Russian Government notes, which have been in default as to both principal and interest since 1919. In addition, there are claims of U.S. citizens against the U.S.S.R. amounting to about $120 million, which were certified by the foreign Claims Settlement Commission some years ago.

All the governments in Eastern Europe with centrally planned (socialist) economies have acknowledged their prewar debts, excepting U.S.S.R. and East Germany. In addition, Poland has announced a temporary debt settlement and intends to negotiate a final settlement by mid-1975. Hungary and Rumania are engaged in conversations looking toward settlement.

In the recent Nixon-Brezhnev communique, there is a statement of agreement "that mutually advantageous cooperation and peaceful relations would be strengthened by the creation of a permanent foundation of economic relationships." This appears in the communique under "Commercial and Economic Relations." I submit that an important building block, in such a permanent foundation would be acknowledgment of debts to private U.S. creditors, accompanied by an expression of intention by debtor U.S.S.R. to negotiate a settlement of them.

GEORGE D. WOODS,
New York, June 26, 1973.

NOTE.—The writer is president, Foreign Bondholders Protective Council, and former president of the World Bank.

A TRIBUTE TO "MAC" GODLEY AND OUR DEDICATED FOREIGN SERVICE OFFICERS IN SOUTHEAST ASIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

Mr. KEMP. Mr. Speaker, having just returned from my third trip to Southeast Asia in 5 years, and despite the problems still existing in that beleaguered part of the world, I have personally witnessed great progress over the last few years. It was therefore especially disturbing to read of the Foreign Relations Committee's unprecedented rejection of the very able and dedicated career diplomat, G. McMurtrie Godley, to the post of Assistant Secretary of State for East Asian Affairs.

I agree wholeheartedly with the recent Wall Street Journal editorial which I ask to be included at the end of my remarks. The editorial very aptly labels the rejection as a "petty act of retribution."

I was very impressed with the exceptionally high level of dedication and competence of our Foreign Service officers in Southeast Asia whose efforts to implement American foreign policy have been called into question by this shortsighted action. The Foreign Relations Committee has dealt a severe blow to all of our Foreign Service officers by saying, in effect, that they risk being punished for carrying out American foreign policy with too much enthusiasm.

Mr. Speaker, I am proud of our achievements in Southeast Asia under the skillful direction of President Nixon and Dr. Kissinger. While our endeavors have not met with complete success, nonetheless, our allies are still independent, non-Communist, and hard at work at the job of nation building with our help.

It was obvious to me on this trip to Cambodia, as well as on my visit to Laos and South Vietnam 2 years ago, that if it were not for American military and economic assistance, there would be millions of people in Southeast Asia whose hopes for a free future would have been extinguished long ago. I salute our Foreign Service officers—Ambassador Godley, as well as Ambassadors Emory Swank to Cambodia, Leonard Ungar to Thailand, Walter McConaughy to Republic of China, Philip Habib to Korea, Ellsworth Bunker, former Ambassador to Vietnam, and Deputy Chief of Mission to Laos, John G. Dean. I would be remiss if I did not include former Deputy Assistant Secretary of State for East Asia and Pacific Affairs, William H. Sullivan, our new Ambassador to the Philippines, and Ambassador Martin to South Vietnam from this list of distinguished career diplomats and Foreign Service officers whose contributions to America's foreign policy deserve recognition and commendation, particularly in light of the petulant and vindictive behavior of the Foreign Relations Committee. I include the editorial at this point in the RECORD:

PETTY ACT OF RETRIBUTION

The Senate Foreign Relations Committee's rejection of G. McMurtrie Godley as Assistant Secretary of State for Far East Asian Affairs was more than an extreme act of petulance directed at the White House, It amounted to giving in to impulses that in another age were labelled "McCarthyism."

The reason the Committee rejected Mr. Godley, Committee Chairman J. W. Fulbright admitted, was that the career Foreign Service officer showed too much enthusiasm for U.S. military involvement in Southeast Asia when he served as ambassador to Laos. But since enthusiasm can hardly be quantified, what Senator Fulbright and the committee majority were really objecting to was that Mr. Godley faithfully carried out U.S. policy in Laos.

Senator McCarthy made similar arguments while browbeating career Foreign Service officers. According to him, Mainland China fell to the Communists because of treasonous U.S. foreign policy, therefore officials who faithfully carried out that policy were giving aid and comfort to treason.

The Foreign Relations Committee majority did not charge treason, but the vote implies that Ambassador Godley should have substituted his judgment for official U.S. policy in Laos, or at least made public any misgivings he may have had about carrying out orders.

To say the least, that is a curious definition of the ambassadorial function—one the committee majority would hardly attempt to defend were it not really availing itself of the opportunity to repudiate administration Southeast Asian policy by taking it out on Mr. Godley. Such retribution is uncomfortably reminiscent of attempts by Senator McCarthy and his loyalists to repudiate U.S. policy toward Russia by opposing the nomination of career diplomat Charles Bohlen as ambassador to Russia because he had been an interpreter at Yalta and therefore was part of the "Truman-Acheson policy of appeasement."

Mr. Bohlen was confirmed overwhelmingly, and McCarthyism eventually faded because it was finally perceived as deplorable. Even Americans who found much to criticize in postwar U.S. policy toward Russia and China realized that no foreign service could function effectively under the concept of loyalty proposed by Senator McCarthy.

Now, almost 20 years later, the question arises whether the Foreign Service can function effectively under the concept of loyalty implied by the Foreign Relations Committee's vote against Mr. Godley.

NATIVE CLAIM NO IMPEDIMENT TO TCP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANDERSON) is recognized for 30 minutes.

Mr. ANDERSON of Illinois. Mr. Speaker, the settlement of Canadian native claims has been frequently portrayed as an insurmountable obstacle to the construction of a Mackenzie Valley crude oil pipeline. Because of the complexity of the issue and our experiences in settling the native claims in Alaska, many have come to believe that this one factor could delay a Canadian pipeline many years. Unfortunately very little investigation into this area has been done; the result has been ill-informed debate by both sides of the issue. At my request, the Environmental Defense Fund—EDF—conducted a thorough analysis of this problem and assessed its impact on a trans-Canadian pipeline.

Their study makes three conclusions:

First, the Canadians are committed to the settling of the native claims and have indicated that pipeline construction can begin prior to final settlement;

Second, native claims would have to be solved for construction of the gas pipeline; and

Third, the Alaskan pipeline was set to be built prior to the settlement of Alaskan native claims.

Furthermore, the EDF analysis affirms the Canadian Government attitude that native claims will not delay the building of a Canadian pipeline.

I include the following:

Memorandum Regarding Resolution of Canadian Native Claims

Proponents of the trans-Alaska pipeline have argued that resolution of native claims in Canada would delay implementation of an alternative trans-Canada pipeline. They point out that native claims in Alaska have been resolved but that a settlement in Canada has not been reached.

There is no dispute that various issues concerning native claims must be resolved. This does not mean, however, that a Canadian native claims settlement will delay progress of trans-Canada pipelines. Three central points in support of the argument that a settlement will not cause delay should be stressed before discussing native claims in detail.

First, the Canadian government is committed to negotiating a settlement of native claims. It has also indicated, however, that pipeline construction can, if necessary, begin in advance of a final settlement.

Second, even assuming settlement of Canadian native claims must precede approval of a pipeline, those claims would have to be resolved in advance of approval of a trans-Canada gas pipeline. Permit applications for the gas pipeline are expected to be filed by the end of this year, prior to the time permit applications for an oil pipeline could be filed. If native claims had to be resolved prior to approval of applications for a pipeline, therefore, they would presumably have been resolved in connection with the gas pipeline before the approval stage for the oil pipeline was reached.

Finally, the settlement of Alaska native claims did not delay the trans-Alaska plan for one day. Other factors, principally the litigation under the National Environmental Policy Act of 1969 and the Mineral Leasing Act of 1920, prevented implementation of TAPS. Settlement of Alaska native claims proceeded simultaneously with that effort.

There is no reason to believe that Canadian native claims would not similarly be settled while other preparations such as the processing of applications for a trans-Canada pipeline took place. Moreover, there is sound reason to believe that native claims would be resolved promptly if the lack of a settlement were the only factor delaying a pipeline. Like the natives in Alaska, the natives in Canada generally support pipeline development; they simply want a share in the benefits. The fact that native claims alone were delaying development would strengthen the bargaining position of the natives and probably result in a more attractive settlement for them. But it would still be advantageous for all parties to reach a prompt settlement so that construction could commence.

A fully informed judgment on the potential delay, if any, arising from settlement of native claims could be reached after discussions with the Canadian government and an objective analysis of the problems by an independent federal body under a Congressional mandate. There have been no discussions between the United States and Canada and no objective evaluation of native claims issues has been made. An examination of the public statements of the Canadian government and the current legal situation with respect to Canadian native claims, however, strongly suggests that appropriate discussions with Canada and thorough analysis would support the contention of this memorandum that settlement of native claims would not impede progress of trans-Canada oil or gas pipelines.

THE CONTEXT OF CANADIAN NATIVE CLAIMS

Canadian natives presently are engaged in litigation or negotiation concerning claims to ownership of land in the Yukon and the Northwest Territories, the areas which will be principally affected by development of a Mackenzie Valley transportation corridor for oil and gas pipelines, a highway and other facilities. Efforts to resolve native claims also are occurring in other areas, such as northern Quebec where a massive hydroelectric project at James Bay is planned.

Indians, including Inuit (Eskimos), have inhabited these areas from time immemorial. They thus claim aboriginal right to the land. Indians generally contend that their rights have been recognized by the British government and its successor, the federal government of Canada, by various acts. See, generally, Cumming & Mickenberg (eds.), "Native Rights in Canada" (2d ed., 1972).

A central basis of support for native claims is the the Royal Proclamation of 1973. The Proclamation recognized "that the several Nations or Tribes of Indians with whom We are connected, and who live under our protection, should not be molested or disturbed in the Possession of such Parts of Our Dominions and Territories as, not having been ceded to or purchased by Us, are reserved to them or any of them, as their Hunting Grounds." It thus proclaimed:

"And We do further declare it to be Our Royal Will and Pleasure, for the present as aforesaid, to reserve under our Sovereignty, Protection, and Dominion, for the use of the said Indians, all the Lands and Territories not included within the Limits of Our Said Three New Governments, or within the Limits of the Territory granted to the Hudson's Bay Company, as also all the Lands and Territories lying to the Westward of the Sources of the Rivers which fall into the Sea from the West and North West as aforesaid; "Native Rights in Canada," pp. 221–92.

It has also been established, in the Royal Proclamation of 1763 and elsewhere, that the native claims to land may be extinguished by treaty or other sovereign act, although the natives are entitled to compensation for their loss. *E.g.*, "Native Rights in Canada," p. 3. The practice of the Brtiish government and subsequently the federal government of Canada, in dealing with native claims to land in the past, has been the signing of treaties granting certain lands, rights, and goods to the natives in exchange for the cession of whatever rights the natives had in the land.

A number of treaties, covering different geographic areas in Canada, have been negotiated and signed. Two of them, Treaties 8 and 11, involve areas affected by the proposed Mackenzie Valley corridor. However, the treaties do not cover all Indians in these areas. The context of native claims, accordingly, differs depending upon whether a treaty between the federal government and the Indian tribes previously has been signed.

Treaty Number 8 was signed with bands of the Cree, Beaver, Chipewyan and Slave Indians on June 21, 1899; other bands adhered to this Treaty at later dates. The Treaty covers parts of northern Alberta, Northeastern British Columbia and the southern Northwest Territories, including the southern part of the proposed pipeline route. Treaty Number 11 was signed June 27, 1921, between the federal government and bands of Slave, Dogrib, Hare, Loucheux and other Indians. It applies to much of the rest of the Northwest Territories, including the northern Mackenzie Valley and the Hay River Area.

The treaties have not been implemented; land to be reserved for natives has not been selected. Indians in the Northwest Territories, contending that the treaties are void for non-performance, have filed suit in the Northwest Territories Supreme Court. The Canadian government has indicated that it will honor its original treaty obligations and even offer compensation for wrongdoing in treaty administration. But it has maintained that it will not renegotiate the treaties.

The Indian tribes in the Yukon and the Inuit never signed treaties. The government has recognized that they have legal rights to lands under the Royal Proclamation of 1763. Preparation for or actual negotiations to resolve the claims of these non-treaty Indians currently are in progress.

THE POSITION OF THE CANADIAN GOVERNMENT

The Canadian government indicated its position regarding settlement of native claims in response to a recent State Department inquiry:

"Question. What is the status of consideration of native claims? What is the expectation as to time required for their settlement?

"Answer. The Indians of the Mackenzie Valley are signatories to Treaties 8 and 11. The government's obligation under these treaties has as yet not been fully met; the government has affirmed that it will meet these olbigations and toward this end has offered to set aside the necessary lands. However, recent indications are that the N.W.T. Indian Brotherhood is preparing to advance claims over and above that specified by treaty. In this respect, the brotherhood has attempted to file a caveat to protect lands they deem to be covered under the treaties. The matter is now before the Territorial Courts. The government has accordingly presented its case, alleging that the caveat by its nature is not registerable. It is expected that the resolution of this specific issue will take a number of months. Although the caveat, if registered, would not apply to mining and oil rights, it could affect the granting of a pipeline right-of-way. At the moment it is not clear how and within what time frame this matter could be resolved, should the problem arise.

"In the Yukon Territory no treaties are in effect. The government is, however, in the process of negotiating native claims (Indian and Metis) and indications are that a settlement could possibly be reached there within the next two years.

"Depending on the route chosen, the pipeline could pass through areas of the Mackenzie Delta where the Inuit (Eskimos) may have certain land claims. These have not as yet been fully defined and the government has made available funds to the Inuit Tapirisat for further research.

"In summary, indications are that settlement in the Yukon could be achieved within approximately two years, during which time the application could be heard and construction commenced. The situation regarding the Native Brotherhood in the N.W.T. is not yet sufficiently clear to allow a precise statement; and considerable research must still be carried out before Inuit claims become fully defined and therefore negotiable. It is the government's intention to proceed with northern development in the best interests of Canada, as a whole, but at the same time the government is determined to ensure the just settlement of native claims."

The United States embassy in Ottawa, after discussion with unspecified Canadian officials, gave its views on the native claims issue in a telegram, only disclosed to Congress this week, responding to a State Department request. The embassy stated:

"3. Native Claims. GOC officials are confident native claims constitute no barrier to construction of pipeline. *Negotiations with non-Treaty Indians in Yukon, now getting underway, expected to take about two years, are limited to compensation and constitute no impediment to granting pipeline right-of-way.* Indians along Mackenzie Valley, with rights under Treaties 8 and 11, are entitled to land settlement but have yet to select land. Even if Indians should select land along right-of-way, *Treaties permit GOC to take land for projects in public interest upon provision of substitute acreage and compensation for any improvements, we understand Indians seeking challenge Treaties but legal precedents indicate Treaties will be upheld.* Political question nevertheless remains since elements of Canadian public sympathetic to Indians favor pipeline moratorium until claims settled." (Emphasis supplied.)

The Canadian Government's official statement and the U.S. embassy's advice on the issue reflect the position which the Canadian Government has consistently maintained. The Government intends to honor its present treaty obligations and negotiate a just settlement of outstanding claims. It has, in fact, supplied funding to Indians to permit them to research their claims and prepare for negotiations.

Progress with respect to negotiations has taken place. On April 11, 1973, Indian Affairs and Northern Development Minister Jean Chretien told the House of Commons that, "In the Yukon I am very hopeful we can come up with a solution which will be a pattern for the rest of Canada, that is, for the Indians who have not signed treaties." (*Hansard*, p. 3217). The next day, Chretien appeared before the House of Commons Standing Committee on Indian Affairs and Northern Development. He noted that non-Treaty Indians "[i]n the Yukon . . . have asked for negotiation." (p. 27). By May 7, Chretien was able to state, in an address to the Churchill Arctic Corridor Conference that, "For the Yukon in particular, a negotiator has been appointed and discussions with native people will begin shortly." (pp. 10–11).

The Canadian Government, as Minister Chretien explained to the Standing Committee on Indian Affairs and Northern Development on April 12, 1973, is even willing to "offer compensation for wrongdoing in the administration of the treaty" (p. 28). He stated that "[i]f the treaties fail to meet adequate standards of fairness, this failure must be acknowledged and a fair and adequate arrangement made to the satisfaction of the Indian people involved" (p. 27).

At the same time, the Canadian Government will not permit questions of the amount of money or land involved in the settlement to impede northern development which is, in fact, supported by Indians and is, as the Canadian Government indicated to the State Department, "in the best interests of Canada, as a whole." As Minister Chretien pointed out to the Standing Committee (p. 23):

"Then there is the situation where, if there is no alternative, we could use expropriation, just as expropriation applies to any other Canadian. What I want to be sure of is that where there is expropriation for the benefit of the province or of the federal government, they [the Indians] receive adequate compensation or an alternate piece of land."

The Canadian Government, of course, has expressed confidence that a fair settlement can be reached without delaying approval of a pipeline application. And, proponents of TAPS have offered no more than speculation in support of their argument that in Canada, unlike Alaska, settlement of native claims will delay pipeline development.

LEGAL PROCEEDINGS AND POTENTIAL DELAY

Litigation is presently pending in the Supreme Court of the Northwest Territories on questions of native rights to land. Natives there seek a freeze on land transactions pending settlement of their claims. The decision may ultimately be appealed to the Supreme Court of Canada.*

Litigation, such as that pending in the Northwest Territories, obviously creates a certain degree of uncertainty regarding the timing of native claims settlement. It is apparent, however, that the uncertainty can and will be resolved without delay in northern development. The U.S. embassy's advice to the State Department, quoted earlier, in fact, is that "negotiations with non-Treaty Indians in Yukon, now getting underway, expected to take about two years, are limited to compensation and constitute no impediment to granting pipeline right-of-way. . . . [T]reaties permit [Government of Canada] to take land for projects in public interest upon provision of substitute acreage and compensation for any improvements. We understand Indians seeking challenge Treaties but legal precedents indicate Treaties will be upheld."

For their part, the majority of Indians favors development. Minister Chretien, reporting to the House Standing Committee regarding government plans to commence immediate construction of the Mackenzie Valley highway, was examined on the attitude of natives (pp. 18–19):

"Mr. Cote. . . . Mr. Minister, concerning the construction of the Mackenzie Highway, you are communicating with the native groups in these areas; do you contact the bands that live along the highways you are building, or do you contact organizations that represent the natives, like the Yukon Indian Brotherhood or like the various brotherhoods that have appeared before this Committee? Do you meet with the chiefs, or with the inhabitants of the villages that you go through? How do you proceed?

"Mr. Chretien. We communicated with all the Indian villages along the Mackenzie River. I said at the outset both in my remarks and in my answers to Mr. Fraser that, in 1968, during a trip along the Mackenzie I stopped in all the villages along the Mackenzie River, and I had discussions with the local authorities and in each . . .

"Mr. Fraser. What year?

"Mr. Chretien. In 1968. At that time the Indians asked me: "When are you going to build the highway to link us up with Fort Simpson and Yellowknife?" They wanted a highway to put an end to their isolation at that time. I was obliged to tell them that the construction on the Mackenzie Highway was not a priority because of its excessive costs, and because of the small economic benefits that it would bring about. There were other more urgent problems to be settled.

"With the accelerated development of the Mackenzie Delta, oil and gas discoveries, drilling operations and other activities which led to the discovery of fishing products, if I might use this expression, the economic profitmaking capacity of the Mackenzie construction greatly improved. This is why we decided to proceed immediately.

"Mr. Cote. Of all the people that you met, how many are in favour of the construction of the highway? Is it 80, 90 or even 95 per cent of the population? Are there perhaps some people who are not in agreement with the terms and conditions?

"However, can we generally say that when this highway is built 95 per cent of the population will be satisfied and that only 5 per cent will criticize it? Or will 95 per cent of the population disagree?

"Mr. Chretien. There will always be a certain number of people who will not be in agreement; however, I believe that the great majority of the inhabitants in the Mackenzie Region are in favour of the construction of this highway. Take, for example, the members elected to the Territorial Council: Mr. Butters in Inuvik, Mr. Trimble in Aklavik, and the representative for Fort Simpson, what is his name?

"An hon. Member: Nick Sibbeston.

"Mr. Chretien. Nick Sibbeston. They all voted in favour of a resolution asking us to speed up the construction. We are facing up to the protests of some Indians who want to settle the treaties question beforehand. The government's position is very clear; we have told them during the past few years that we signed treaties numbers 8 and 11, under the terms of which they are entitled to a number of acres of land per family, and that they can choose them now. Obviously, as a technical measure, the Indians would prefer to know where the pipeline will be laid before choosing; however, this does not imply that we are not ready to fulfil our part of the contract. We invited them to choose their lands more than a year ago, and they are not ready to do so. Those who deal with the rights of Indians within the Northwest Territories Indian Association do not want us to proceed before this question is definitively settled. Therefore, it is up to them to choose their land if they wish, notwithstanding construction of the highway.

"Mr. Cote. You are quite confident that the majority of Indians do agree to the development. Moreover, you are aware of the economic benefits for Canada and those for the natives. Consequently, members of this Committee will find it hard to criticize you.

"Mr. Chretien. There will always definitely be room for criticisms. I myself asked the representatives of the Northwest Territories to express their opinions, and they passed a motion, unanimously adopted, which was tabled before the Committee some minutes ago."

The Canadian Government, as indicated above, intends to negotiate a just solution. The negotiations, moreover, will not impede development, as the Canadians have explained and the U.S. Embassy has confirmed.

* * *

In summary, the Canadian government and the Canadian native share the basic objective of reaching a settlement of native claims without impeding northern development. The Indians seek to improve their negotiating position by pressing their claims before Parliament and the courts. The government, seeking a proper solution, has encouraged the natives by providing funding and expressing its desire to negotiate. Progress in negotiations is taking place and the government has estimated that native claims can be resolved without delaying pipeline progress. The government has the authority, by expropriation if necessary, to insure that settlement of native claims in Canada does not delay pipeline development. In view of the basic agreement between the government and native claimants regarding the desirability of development, however, it appears that a settlement will be reached in Canada, just as it was reached in Alaska, without

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*Questions regarding Canadian native claims were before the Supreme Court of Canada in the past year in *Calder* v. *Attorney General for British Columbia*. The case was dismissed for procedural reasons. The members of the Court divided on the particular questions regarding Indian title in the context of that decision, although they agreed unanimously that title could be extinguished by proper action of the sovereign.

causing delay in development of a proposed pipeline.

JOHN F. DIENELT,
Washington Counsel.

July 18, 1973.

NATIONAL CATASTROPHIC DISASTER INSURANCE

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 30 minutes.

Mr. FLOOD. Mr. Speaker, it was my distinct privilege to be a guest and principal speaker at a recent conference sponsored by B'nai B'rith, B'nai B'rith Women, and B'nai B'rith International to discuss the subject of national catastrophic disaster insurance.

The conference was held on Tuesday, July 24, 1973, and was well attended by various union, religious, social service, and veteran groups.

The subject of my talk at that time was a bill which is scheduled for hearings in the House Banking and Currency Committee beginning August 1—H.R. 4772, the National Catastrophic Disaster Insurance Act of 1973.

The response to the conference has been most encouraging and I would like to insert in the RECORD a copy of my speech, "Dealing With Disasters—A National Insurance Program."

DEALING WITH DISASTERS—A NATIONAL INSURANCE PROGRAM

I came here this morning from the Halls of Congress, and I know that you came here today from your homes, because all of us share an interest and concern for our country and all of us want to do the best thing for it. I know that all of you have a goodly number of other problems and responsibilities, as do I; and in that vein, I want to express to you my appreciation for your coming here today.

I am reminded of the story which Jack Kennedy told me once concerning Harry Truman's 1948 campaign. It seems that President Truman was a little low on campaign funds and on three separate occasions his campaign train ran out of money. While the train waited on some siding, Truman's campaign aides would scour the town or city for funds "just to keep us going another twenty-four hours". Well, with regard to this legislation which we have met to discuss today, I think I am in shape for twenty-four hours at least, but I am going to need your help after that!

I am going to need your assistance. The kind of assistance that will carry the message throughout the United States that a terrible problem exists with regard to the increasing natural disasters which have ravaged this country. And will further permit us to carry the message with regard to the proposed solution to that problem.

All of us can agree that the film we have just witnessed is both tragic and touching. That was the story of Agnes. But, in a manner of speaking, seeing that film is like viewing a terrible accident on the highway. We shudder in horror momentarily—think for a second about how unfortunate the driver and his passengers were—and then continue on our way down the road. Let me caution you, when you are dealing with disasters—be it a flood, a hurricane, an earthquake, or whatever—you cannot just turn your head and continue driving down the road.

Sinclair Lewis, one of the most celebrated of American novelists once wrote a book entitled "It Can't Happen Here". Lewis' moral was that it can happen here. In the matter of natural disasters, the moral is that it has happened—it will continue to happen—and it can very possibly happen tomorrow. There are presently two nasty looking tropical storms being tracked by the United States weather service in the Caribbean at this very moment. Three days from now they could be, God forbid, ravaging the coast of Texas, or Florida, or will it be Mississippi—it could be virtually any of the Eastern States. This is no cry of wolf in the dark. Currently, natural disasters are causing damage in the United States to the tune of over one billion dollars per year on the average—one billion dollars! And this does not include the Agnes year—1972—when damage in excess of four billion dollars occurred.

But this is only the physical damage to homes and businesses. What other costs are involved? The costs to the States and Federal Government are enormous. The costs to industry from destroyed factories and lost man hours on the job are beyond calculation. The economy of a region stricken by disaster stagnates for years. The mental costs of shattered dreams and drowned homes and possessions is well documented by the sharp leap in severe mental illness, even suicide, which follows the wake of a natural disaster. I can speak for the Agnes victims. We have had nothing but misery—misery—misery—misery—and we don't want it to happen again.

Clearly, what is needed is nothing less than a program of all risk insurance. Such comprehensive national disaster insurance would cover all perils such as flood, earthquakes, mudslides, windstorms of all types, and manmade disasters such as atomic accidents. This is the answer. This is the solution. This is the path we must take.

And I firmly believe I have that program in the National Catastrophic Disaster Insurance Act of 1973. That bill, introduced by me on February 27, 1973, has attracted the support and sponsorship of over sixty of my colleagues in the House of Representatives. These men are from the North, South, East, and West—Democrats and Republicans—liberals and conservatives. And they are all joined by the conviction that the time for Federal disaster insurance has come.

The program, which I will now outline for you, has five major points which you may wish to note:

1. It is *all-risk.*
2. It establishes a *national disaster insurance fund.*
3. It is *automatic.*
4. It has *land use controls.*
5. It is *retroactive* to June 1, 1972.

Firstly, it is all-risk It is comprehensive in that all types of disasters would be covered. It would cover the homeowner and businessman against losses which are essentially uninsurable at this time.

Secondly, it is automatic. When a man purchases regular homeowners or business insurance coverage, he would be surcharged on his policy an amount never to exceed five percent. Never to exceed five percent—it can be one-half of one percent at times. The amount of surcharge would reflect the actuarial risk of a disaster occurring in the purchaser's geographical region. That is, the chances that a disaster will strike him. Of course, the surcharge would be higher in high earthquake risk Los Angeles as opposed to low risk regions such as Burlington, Vermont. Immediately, upon enactment of this legislation, each and every property insurance policy would get an extra bit of coverage. That extension of coverage would protect the property owner against losses as the result of a disaster.

The surcharge payments, along with a one percent levy upon all payback amounts of Small Business Administration and Farmers Home Administration disaster loans, along with an initial appropriation by the Congress, would go into a large nationwide national disaster insurance fund. This fund would be administered by an office of disaster insurance in the office of the insurance administrator in the Department of Housing and Urban Development.

Strict land use controls are embodied in the bill. The States and municipalities are required to aid in the identification of special catastrophic disaster risk areas, and in these areas reasonable efforts would be required so as to minimize excessive losses at the time of a catastrophe. Indeed, no catastrophic disaster insurance will be made available for any property which failed to meet land use and other local ordinances aimed at restricting land development or occupancy in disaster-prone areas.

One last, and most vital, point. The bill contains a clause making payments retroactive to June 1, 1972. As I have stated on the floor of the House of Representatives many times, and as I repeat before you today, under no circumstances is this a giveaway. A millenium from today, when the dust of centuries has settled over our towns and cities, archaeologists of that far off day will ask not what victories we won in battle or political life, but rather what contribution we made to the human spirit. To turn our backs on the victims of the greatest natural disaster in our history is to ignore the humanitarian principles upon which this Republic was founded. To ignore their real suffering in human and economic terms is to ignore our cherished legacy of government for the people. When the National Disaster Insurance Act comes before the Congress, I will insist that the victims of Hurricane Agnes not be forgotten. This may seem to some to be impossible; however, I refuse, at this early date, to turn my back on those who have suffered so much.

You must remember, a disaster does not discriminate. It strikes rich and poor alike—the young and the elderly—the sick and the healthy—the leaders of the community as well as the very dregs of the society, and it strikes them all with equal viciousness and equal destruction.

A man once said with regard to a problem which seemed unsolvable, "We of the Republic sensed the truth that democratic government has innate capacity to protect its people against disasters once considered inevitable, to solve problems once considered unsolvable. We would not admit that we could ing, we had found a way to master epidemics just as, after centuries of fatalistic suffering, we had found away to master epidemics of disease" that man was Franklin Delano Roosevelt. He was speaking of the depression—a seemingly unsolvable problem. With the toll which natural disasters have taken upon this nation in recent years we too seem to be facing an unsolvable problem. Yet, with the introduction of a system of protection for our citizens based upon disaster insurance, we too may find the seemingly impossible solution.

And like FDR, when he came before the Nation seeking sustenance and help, I seek your help and your sustenance in the task ahead. Thank you.

PROTECTIVE LEGISLATION FOR POLICE, SHERIFFS, AND PROSECUTORS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, today I am introducing legislation that would require filing of surety bonds by plaintiffs in civil actions against law enforcement officers to defray reasonable costs of successful defense in such actions.

A short time ago a lawsuit was brought against one of my constituents who is a police officer which launched him and his family into poverty, even though he was proven innocent of the charges brought against him for actions taken during his line of duty. The family was forced into serious debt due to the legal fees incurred and they lost their home after having to mortgage it during those trying times. We can only imagine the tremendous amount of pressures and sufferings the officer and his family had to endure. This is an incredible situation and a very sad one.

Mr. ICHORD, in the last session of Congress, brought to the attention of this House facts which indicate that the case I posed is not an isolated one by any means. He documented the increase in the number of "frivolous" suits being brought against law enforcement officers, prosecutors, and others in the field of law. The excuses for bringing these suits are endless. It may be that it is a ploy to delay prosecution, to create publicity, to gain sympathy, or even to "get back" at those who were only performing a duty on behalf of the citizenry at large.

Since these suits must be defended with the lawman's own resources, it can but have ill effects on their performance for fear that they will be brought to trial themselves.

It is for this reason that I am introducing this bill aimed at helping lawmen sued for damages in Federal courts. Essentially, this measure would require plaintiffs to file a bond with the court conditioned upon the payment of reasonable investigation and legal costs if the defendant wins the suit. This would insure reimbursement, and would, hopefully, fend off those who do not really have a sound case.

This proposal is the only equitable alternative to the present situation, and it is essential that we undertake to help protect the law enforcement officers found innocent of charges.

It is my hope that this measure be seriously considered. Let us protect our "protectors" from ill-founded and catastrophic law suits.

RESULTS OF CONGRESSMAN JOHN BRADEMAS' DISTRICT POLL ON ISSUES AND SPENDING PRIORITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

Mr. BRADEMAS. Mr. Speaker, like many Members of the House of Representatives, I have made it a practice to send periodic questionnaires to all the approximately 145,000 households in the Third Congressional District of Indiana on important issues facing us in Congress.

I take this time to announce the results from the tabulations of my most recent such poll, which invited responses on both national issues and Federal spending priorities from the people of Elkhart, LaPorte and St. Joseph Counties, Indiana.

Mr. Speaker, Third District citizens strongly favor mandatory controls on both wages and prices, 60 percent; closing tax loopholes that favor big business and the wealthy, 69 percent; and cuts in U.S. troops in Europe, 57 percent.

A substantial majority, 56 percent of persons polled, also called for insuring private pension plans against loss and permitting employees to transfer their pension rights from one job to another.

The poll showed overwhelming opposition, 74 percent to President Nixon's proposal for U.S. aid to North Vietnam.

Mr. Speaker, as I have indicated, the poll also asked citizens to indicate priorities for Federal spending.

Top areas for increased spending were: crime prevention and control, 70 percent; aid to the elderly, 65 percent; aid to the handicapped, 59 percent; health, 54 percent; education, 46 percent; and transportation, 41 percent. In the latter two categories—education and transportation—only 10 percent—education—and 15 percent—transportation—of the respondents felt that spending should be cut.

In other areas, the respondents felt that Federal spending should be decreased or held at present levels.

Persons responding to the poll clearly want cuts in Federal spending on space programs, 52 percent; and the military, 49 percent. Only 7 percent of the respondents felt that defense spending should be increased. Fifty-four percent favor holding spending to present levels on veterans and 41 percent want to continue the present levels for housing.

Clearly, Mr. Speaker, pocketbook issues—controlling inflation and plugging tax loopholes—are of great concern to the people of the third district.

When asked specifically how much Federal aid to education should increase, 31 percent said spending should be hiked to 15 percent of the total cost and 16 percent called for a 30 percent contribution. Thirty-five percent said Federal help should stay at the present level of less than 8 percent of the total cost.

Other results from the poll touched on minimum wage increases, with 39 percent of the respondents favoring a jump from the present $1.60 an hour to $2.25 an hour, while 35 percent supported a boost to $2.

Forty-seven percent of the respondents said that since the U.S. Postal Service became a private corporation 2 years ago, postal service had become worse, while only 8 percent said it had improved, and 41 percent said it had remained the same.

On agriculture, 47 percent of the answers indicated the Nation's farmers could best be helped by strengthening land conservation programs while 13 percent called for more programs to extend utilities to rural areas, and 12 percent for continuing farm subsidies for certain crops.

Mr. Speaker, I might here note that responses to the questionnaire were received from over 8,000 households. The answers to the questions were, somewhat surprisingly, almost uniform among the three counties of the district.

Mr. Speaker, at this point in the RECORD, I insert the tabulation of the results of the questionnaire:

RESULTS OF CONGRESSMAN JOHN BRADEMAS' POLL TAKEN IN MAY OF OPINION IN THIRD DISTRICT ON NATIONAL ISSUES AND FEDERAL SPENDING PRIORITIES

THE MAJOR ISSUES

1. Economy. In order to curb inflation, the Federal government should:

a. Continue the present voluntary wage-price control program, 16 percent.

b. Impose mandatory controls on wages only, 1 percent.

c. Impose mandatory controls on prices only, 13 percent.

d. Impose mandatory controls on wages and prices, 60 percent.

e. No Response, 9 percent.

2. Tax reform. The most important action Congress could take to reform taxes would be to:

a. Increase the individual income tax exemption, 8 percent.

b. Close loopholes in present tax laws favoring big business and the wealthy, 69 percent.

c. Allow property taxes to be deducted from Federal income tax, 14 percent.

3. Health insurance. The Federal government should:

a. Establish a program of health insurance to cover all Americans, 44 percent.

b. Establish a health insurance program to cover only the poor, 10 percent.

c. Continue to rely on private companies to provide health insurance, 39 percent.

d. No Response, 7 percent.

4. School aid. The Federal government now pays less than 8 percent of the cost of public elementary and secondary education. Federal aid for schools should:

a. Remain at the present level, 35 percent.

b. Be increased to 15 percent of the total cost, 31 percent.

c. Be increased to 30 percent of the total cost, 16 percent.

d. Be reduced, 11 percent.

e. No response, 7 percent.

5. Pension reform. Many employees have become increasingly concerned about protecting their private pensions. The Federal government should:

a. Require pension funds to be insured against losses, 22 percent.

b. Permit employees to transfer their pension rights from one job to another, 7 percent.

c. Require both (a) and (b), 56 percent.

d. Take no action with respect to private pensions, 8 percent.

e. No response, 8 percent.

6. Aid to North Vietnam. The President has declared he will ask Congress to approve aid for North Vietnam. Such aid should:

a. Be taken from the military budget, 19 percent.

b. Be taken from the budgets of domestic programs, 2 percent.

c. Not be provided, 74 percent.

d. No response, 5 percent.

7. U.S. Troops in Europe. Some observers have proposed that the United States reduce its troop strength in Western Europe. The Federal government should:

a. Maintain U.S. troops in Europe at the present level, 36 percent.

b. Increase U.S. troops in Europe, 2 percent.

c. Decrease U.S. troops in Europe, 57 percent.

d. No response, 5 percent.

8. Minimum wage. The Federal minimum wage is currently $1.60 per hour. At this rate an individual working a 40-hour week would earn $3,328 per year. The minimum wage should:

a. Be increased to $2.25 per hour ($4,680 per year), 39 percent.

b. Be increased to $2.00 per hour ($4,160 per year), 35 percent.

c. Remain the same, 21 percent.

d. No response, 4 percent.

9. Postal service. Since the U.S. Postal Service became a private corporation two years ago, postal service has:

a. Improved, 8 percent.

b. Become Worse, 47 percent.

c. Remained the same, 41 percent.

d. No Response, 4 percent.

10. Agriculture. The nation's farmers could best be helped by:

a. Additional programs to extend utilities to rural areas, 13 percent.

b. Continued farm subsidies for certain crops, 12 percent.

c. Strengthened programs to conserve the land, 47 percent.

d. No Response, 26 percent.

NATIONAL SPENDING PRIORITIES

Most observers agree that Federal spending must be held down to fight inflation. What must be decided is where government should cut spending and where spending should be increased, in short, where our national priorities lie.

Below is a list of areas in which the Federal government is to some extent involved. Please indicate, by marking an X in the appropriate box, whether you believe spending for each area listed should be increased, decreased or held at the present level.

[In percent]

	Increased	Decreased	Held at present level	No response
1. Health	54	5	34	7
2. Veterans	31	7	54	7
3. Education	46	10	37	7
4. Housing	21	29	41	9
5. Space programs	9	52	32	7
6. Farm programs	21	30	39	10
7. Military	7	49	36	8
8. Crime prevention and control	70	3	20	6
9. Child day care	22	33	36	9
10. Transportation	41	15	35	10
11. Aid to the handicapped	59	2	33	6
12. Aid to the elderly	65	2	27	5
13. Foreign aid	2	80	12	6

RINGLE LAYS IT ON THE LINE: NIXON'S THE ONE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BROWN) is recognized for 10 minutes.

Mr. BROWN of California. Mr. Speaker, many of our colleagues on the other side of the aisle have been going to great pains lately in their public statements to explain how the Watergate affair occurred without the President's knowledge or consent. They have explained how Mr. Nixon was misled by deceptive, evil members of his staff both before and after the fact of the Watergate break-in, and was taken entirely by surprise when he found out recently that something funny was going on.

William Ringle, a reporter with Gannett Newspapers, recently pointed out the absurdity of such claims in a commentary which was printed in a paper in my district, the San Bernardino Sun, on July 14. The article gives a concise and clear answer to the White House line being repeated by Nixon loyalists, and I offer it here for the enlightenment of our colleagues on both sides of the aisle, along with the suggestion that perhaps the time has come when Republicans must decide whether their primary loyalty must go to the man, Richard Nixon, or to our Nation, and the laws and Constitution which have enabled it to survive nearly 200 years. The article follows:

CLAIMS OF NIXON "NOT KNOWING" WON'T WASH

(By William Ringle)

WASHINGTON.—"I have racked my brain, I have searched my mind. Were there any clues I should have seen that should have tipped me off?"

That, according to Richard A. Moore, President Nixon's special counsel and his longtime associate, was what the President wondered "with great conviction" May 8. Should he have suspected earlier than March 21 that White House aides were involved in the attempt to cover up the Watergate burglary?

Were there any clues?

The simple answer is that the clues had been on perhaps 40,000 doorsteps in the Washington, D.C., area almost every morning. They were in the Washington Post.

To a lesser extent, they were also published in the New York Times and the evening Washington Star News.

In Washington, of all cities in the United States, the idea that anyone would need any "clues" to wonder about whether the White House was involved with Watergate is an absurdity.

Through the summer, fall, winter and spring, the Post kept up a drumfire linking presidential associates to the "infamies that now go under the generic term Watergate" (to borrow a phrase from Sen. Robert C. Byrd, D-W. Va.).

Just for starters, it was on Oct. 1 that the Post said that the Watergate burglary was part of a massive campaign of political spying and sabotage "directed by officials of the White House and the Committee for the Re-Election of the President." It said a secret kitty of between $350,000 and $700,000 had been used to finance these efforts.

Five days later the Post tied in the President's appointment secretary, Dwight L. Chapin, as the contact man.

The following day, Oct. 16, the Post identified Herbert W. Kalmbach, the President's personal attorney, as the one of five persons authorized to make payments from the fund.

Nine days later H. R. (Bob) Haldeman, considered the President's closest personal aide, was identified by the newspaper as another of the five authorized to approve the payments.

But it was not just the enterprise of the Post, the Times, Time or Newsweek alone. On Feb. 2 Chief Judge John J. Sirica of U.S. District Court said that he "wasn't satisfied" that the truth had been developed out of the trial of the seven Watergate defendants.

On March 23, L. Patrick Gray, President Nixon's nominee for head of the FBI, told the Senate that the President's legal counsel, John W. Dean, "probably lied" to FBI agents investigating the Watergate bugging last summer.

Still earlier, FBI files made public indicated that Kalmbach had been the payoff man for Donald H. Segretti, indicted in Florida for political "dirty tricks." And that is but a small part of the revelations.

In his testimony to the Senate Watergate Investigating Committee yesterday, Moore testified that he received two Washington Posts and a New York Times every day. And the President, contrary to rumor, reads the newspapers himself, Moore said.

Sen. Sam Ervin, D-N.C., the committee chairman, was clearly incredulous that Moore, a media expert, lawyer and newspaper reader, was not aware of what "the news media, day after day, week after week" told the people of the Washington area. He asked if "everybody in Washington, D.C., had an opportunity to learn about this besides the President?"

Ervin read Moore headline after headline from the Washington Post implicating top Nixon campaign and White House aides. He asked Moore if he had read each of these.

One he read was from the Jan. 15, 1973, Post reporting that five of the Watergate burglars were still being paid by the presidential campaign committee. As Ervin read on, it turned out that the Post was quoting a New York Times story.

"Sir, that's what's known as a double whammy," Moore retorted.

But Moore continued to insist that the President had not suspected his key White House aides until March 21, when he said Dean confessed a wholesale coverup operation. But it was not until April 30 that the President fired Dean and accepted the resignations of Haldeman and John Ehrlichman, his chief domestic counselor.

A week later, on May 8, when he wondered whether he should have spotted some clues, the President said (according to Moore):

"Maybe there were (clues) . . . I know how it is when you have a lot on your mind, and I did, but . . . I still wonder What do you think?"

Moore said he replied: "Mr. President, I did not have that much on my mind, and I did not see any clues."

ANNOUNCEMENT OF HEARINGS ON VICTIMS OF CRIME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. EILBERG), is recognized for 5 minutes.

Mr. EILBERG. Mr. Speaker, I wish to announce that the Subcommittee on Immigration, Citizenship, and International Law of the Committee on the Judiciary will hold 1 day of public hearings on Wednesday, August 1, to consider H.R. 8777 and a companion bill, S. 300, which passed the Senate on March 29, 1973.

These bills would provide for the compensation of persons injured by certain criminal acts and would make grants to States for the payment of such compensation.

The hearing will be held in room 2237, Rayburn House Office Building and will commence at 10 a.m.

Testimony on these proposals will be received from: Members of Congress who wish to appear, representatives of the Department of Justice and various administrators of State compensation programs which provide benefits to the victims of crime.

SIX GREAT AMERICANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. O'NEILL) is recognized for 10 minutes.

Mr. O'NEILL. Mr. Speaker, one of America's great ladies, Mrs. Eugene Wyman of California, recently paid tribute to *six of our* great leaders who were lost to us during the past year.

Her words were so eloquent, her thoughts so universally endorsed, that I believe it is in order to share them with all who did not hear her. She spoke at the Democratic National Congressional Committee dinner, where she was chairman of the event.

Here are her remarks:

SIX GREAT AMERICANS

On the facade of the National Archives Building, inscribed in granite, is the legend, "What is past is prologue!"

That being so, what a glorious future we have in store for our Party and our Nation.

During the past twelve months the Democratic Party and the Nation have lost six great and dedicated Americans, men whose names will go down in history with honor and with great affection.

President Harry S. Truman, President Lyndon B. Johnson, Congressman Hale Boggs, George Collins and Nick Begich, and a private citizen, Eugene Wyman. In this one brief year past, we Democrats have recorded enough prologue for a century of greatness.

These six Americans had many things in common. Each loved his country. Each worked tirelessly for his party. Throughout their lifetimes they shared a special golden thread that bound them forever to American history and to us.

Harry Truman, about whom volumes are yet to be written, left us such a heritage. In one of his now famous observations, he pinpointed the deep sense of responsibility he felt for his position as President of the United States.

"The buck stops here!"

That one simple statement spelled out for all who followed in that exhaulted office, the guideline for instilling confidence in that office and for the leadership required of the man holding that office. It was a statement made by a statesman.

Harry Truman always did exactly what he had to do. He had courage and the courage to free the truth two very strong strands in that golden thread that binds all great Democrats together.

"Come, let us reason together," perhaps best summarizes Lyndon B. Johnson's greatest quality. His ability to lead stemmed from his willingness to reason and to make us reason.

We needn't remind most of you ladies and gentlemen in this hall tonight of his enormous capacity as a Congressman, as a United States Senator, as a Vice President and ultimately as President of the United States. Many of us worked with him. His great successes in the fields of civil rights, social reform, labor and the economic gains under his leadership, are the monument to his proud record and to his long and extremely productive stay in this city.

Harry Truman and Lyndon Johnson were truly great chiefs of our time. But what braves they had!

If any President had to be limited to but one ally, one friend, one worker, one confidant, Hale Boggs would have been enough. Hale Boggs, a tower of talent with an enormous sense of devotion and support for his constituents, which often included the entire population of the United States.

Were we to list all of Hale Bogg's accomplishments, the words could easily stretch far beyond the reaches of this great hall. His tensile strength lay in his devotion to his family, to his many friends, to his state and to his country.

George Collins, veteran, lawyer, public servant, husband and father. Congressman Collins, in his too short tenure, truly earned the title that went with his office. He was truly Honorable. His mere having been here has enriched us all.

Nick Begich, young, enthusiastic, talented. Representative from the newest State, who brought with him, the vigor and enthusiasm of a new and exciting frontier. His potential was oh, so great. Even in his short span, he was able to attract the attention of such diversified groups as Veterans of Foreign Wars, the NAACP, and the National Parent-Teachers Association. Who knows where this career may have led him . . . or even more significantly, where his career might have led us.

And what does one say about a man like Eugene Wyman? Presidents take their place as public figures in history. Elected officers recieve public attention. Their deeds are there for everyone to see. They are never anonymous. So it must be that men like Eugene Wyman must have a special dedication, for little of the public glory or recognition falls on their shoulders. Yet without men like Gene Wyman, under our present system, without their untiring efforts, our country may never have had the benefits of the talents and genius of the Trumans, the Johnsons, the Boggs, the Collins, or the Begichs. It is of a man like Gene Wyman that they say, "Without whom none of this would be possible." Eugene Wyman added unmeasurably to the unbreakable Golden Thread of the Democratic Party and its ideals.

In another hour of national sadness, a very eloquent American, Carl Sandberg wrote these words:

A bell rings in the heart telling it
And the bell rings again and again
Remembering what the first bell told
The going away, the great heart still—
And they will go on remembering
And they is you and you and me and me.

Can a bell ring proud in the heart
Over a voice yet lingering,
Over a face past any forgetting,
Over a shadow alive and speaking,
Over echoes and lights come keener, come
deeper?

Can a bell ring in the heart
In time with the tall headlines,
The high fidelity transmitters,
The somber consoles rolling sorrow,
The choirs in ancient laments—chanting:

"Dreamer, sleep deep,
Toiler, sleep long,
Fighter, be restored now,
Sweet good night."

I ask you to join me in a silent prayer to the memory of Harry S. Truman, Lyndon B. Johnson, Hale Boggs, George Collins, Nick Begich and Eugene Wyman.

PRIVATE PENSION PROTECTION—NOW IS THE TIME TO ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, in March of this year I had the privilege of testifying before the General Subcommittee on Labor as part of its very important field hearings on the problems of the private pension system. It is personally gratifying to see this subcommittee responding to the need for private pension protection. It is also very gratifying to see the General Labor Subcommittee going out and reaching the workers—to hear their side of the story directly. I think the field hearings held in Chicago, for instance, were most valuable in underscoring the seriousness of the pension problem and in providing us with important data that is necessary to pave the way for remedial action. I must commend Mr. DENT and the members of his subcommittee for their energies.

Mr. Speaker, all of us in this body are very much interested in the well-being of our workingmen and women. You may know that my interest goes back a number of years. I am very much aware of the needs of our working people, having served as the legislative and educational director for the United Steel Workers of America. I know firsthand what the pension problems are.

Mr. Speaker, for years we have all been receiving letters, reading stories, and finding out firsthand in our own districts that this Nation's private pension system has been failing too many of its workers. The record is full of hardship stories of thousands of workers who—after dedicating substantial parts of their working lives to one employer—do not receive the pension they had been promised. How full does the record book have to get before we do something?

We have all heard of too many companies going out of business and closing their doors. In doing so, not only do the individuals who work for these companies lose their jobs, but they often lose their pensions as well. Companies these days are being bought and sold like used cars. Often the acquiring company disbands the pension of the company it acquires. Yet there is no recourse available to the workers. They must bear the brunt.

In addition, companies which face financial difficulties prior to the actual closing down of their operations, are always faced with ways of reducing costs. Usually, the first place they look to is the payments they are making into their pension plan. Mr. Speaker, we also hear of workers being discharged shortly before their pensions are vested, or having to work until they reach retirement age before their pension credits vest. These are just some of the problems we have to deal with. It is for this reason that earlier this session I cosponsored H.R. 2858, which dealt with vesting, funding, fiduciary standards, and improved disclosure of plan operations; and H.R. 2973, which would have estabilshed a portability program for vested pensions and a private pension plan termination insurance program.

Mr. Speaker, after having the benefit of additional time to study the hearings record and committee reports relative to the merits of the pending bills, I have reshaped my thinking somewhat on what I believe constitutes the best possible piece of legislation.

I believe that the proposed Retirement Income Security for Employees Act, RISE—better known as the Williams-Javits bill (S. 4)—is that piece of legislation. This bill was unanimously reported out of the Senate Labor and Public Welfare Committee on April 18, 1973—Report No. 93-127. I wish to introduce the bill, as reported, here today.

RISE covers the same important "big five" provisions which I consider essential to pension reform and which were contained in the previous two bills I cosponsored. However, RISE puts these measures in one rather than two bills. Although the measures are fundamentally the same, there are several differences worth noting and which prompted me to introduce the bill in the House. Foremost among these are the topics of vesting and portability.

A major concern to all of us is the

long periods of time that workers have to stay with a company before they obtain a vested right to their pension credits. If they leave or lose their job, they forfeit their pension credits—almost like a lottery.

Some workers are discharged without cause shortly before they are to obtain their vested rights. They are left out on the street with nothing. Many of these workers are close to retirement age. They cannot go out and get a job to start crediting time toward a pension with some other company. They have a hard time just finding a job.

Mr. Speaker, it is for this reason that I am hoping the House will pass this important piece of legislation. The Senate bill already has 53 cosponsors.

RISE imposes minimum vesting requirements in pension plans, whereby employees—after 8 years of participation—would be entitled to a vested nonforfeitable right to 30 percent of their accrued pension benefits. Thereafter, each year they would acquire an additional 10 percent to such right until, at the end of 15 years of service, they would be entitled to 100 percent vested benefits. I might point out that where plans are determined by the Secretary of Labor to contain vesting formulas which provide a degree of vesting protection as equitable as the vesting schedule in the bill, compliance with the statutory vesting schedule may be waived by the Secretary.

Such a phased-in or graded vesting standard minimizes costs to employers while at the same time offering employees vested benefits after as few as 8 years of participation. It is not an "all-or-nothing" approach. Under other proposals, vesting would occur at one point in time—usually after 10 years.

The worker who leaves after 8 or 9 years would not be assured of anything; whereas under RISE he would be entitled to at least a 30 or 40 percent of his earned pension credits.

In this Congress, the administration has again sponsored legislation embodied in H.R. 7157 which would tie age in with years or participation in the pension plan in determining when the employees pension credits must vest. It does this under the so-called rule of 50. I find this objectionable. I strongly believe that vesting requirements should not be tied in with age. RISE purposely avoids that. Such a requirement could only exacerbate age discrimination.

Mr. Speaker, I believe pension reform should be in the way of a comprehensive bill. It should not be done in bits and pieces. This is another reason I am introducing RISE. RISE contains an insurance program to guarantee that vested pension credits of employees will be paid upon termination of a pension plan when there are not sufficient assets to pay the worker's vested benefits. It insures—as it rightfully should—benefits already earned and vested under the terms of the pension plan, prior to the date of enactment. After all, what good would it do our older workers if we do not provide them with a program which would insure the credits they have already earned after long service?

I would like to turn now to the subject of pension plan funding. Coupled with any insurance program is the need for plans to systematically fund liabilities. I would like to point out that the funding schedule mandated in RISE will contribute significantly to the financial integrity of private pension plans. Employers would have to meet two basic requirements. First, they would have to fund all normal service costs annually, and second, vested liabilities would have to be funded within 30 years. I do not think that is asking too much. In fact, many plans already operate on this basis. Mr. Speaker, I do not think companies should make pension promises unless they are prepared to back them up.

The proposed Retirement Income Security for Employees Act recognizes the difference between single employer and multiemployer plans. Separate funding regulations would therefore be established for multiemployer plans in recognition of the differences. Not only do multiemployer plans provide workers with greater mobility within the industry, but they also minimize the risk of plan terminations since more than one company is making contributions into the fund.

Mr. Speaker, the other difference of note between the legislation I previously sponsored and RISE concern portability of pension credits. RISE would establish a voluntary program for portability of pension credits through a central fund, whereby employees of participating employers may transfer vested credits from one employer to another upon change of employment. I stress the word voluntary because under H.R. 462 introduced by Mr. DENT as well as in the measure I cosponsored, participation in a portability program would be mandatory for all plans. After studying this matter carefully I concluded that this would be an unnecessary and complicated undertaking. The main thing is that a worker have a vested right to a pension. After all, without vesting, portability is meaningless.

I believe that by making the program voluntary it would best serve the interests of both employers and employees alike.

Mr. Speaker, many of our colleagues were reluctant to support pension protection legislation in the past because of the scare tactics hurled at them by those opposed to pension protection. But I think as more and more evidence accumulated showing that pension protection is necessary, and as more and more technical data becomes available, the critics will cease altogether in trying to destroy our efforts.

In prior years data was scarce as to how many plans actually terminated, how many workers lost their pensions, how plans were inadequately funded, and perhaps most important, how much would mandatory vesting cost companies? We have obtained answers to these questions, answers which show that pension protection is not only vital to the continuation of the private pension system, but which also shows that such protection is both practicable and feasible. No longer can opposing forces scream that mandatory vesting would cost so much that it would force some plans to terminate or to substantially reduce pension benefits. No longer can they claim that mandatory vesting would put an end to the growth and vitality experienced by the private pension system, because, Mr. Speaker, it would not. For instance, the vesting cost study commissioned by the General Subcommittee on Labor showed that increased costs for mandatory vesting would be nominal. This was substantiated by a similar study conducted for the Senate Labor Subcommittee.

I think we must also keep these things in mind. First, any bill that is not going to cost anything is not going to do anything. Second, many plans are not going to experience any increase in cost as a result of mandatory vesting because they already provide vesting provisions more liberal than those called for in these bills. Third, those plans which might experience high increased costs are probably the plans which border on indentured servitude. These are the plans which make you spend your entire life with the company before you acquire a vested right to a pension benefit. Mr. Speaker, the plans that scream the loudest are those most in need of change. These are the plans that are the chagrin of the private pension system. Let us not let the plans which caused the need for this legislation in the first place be the ones which stall its passage.

Lastly, Mr. Speaker, the ultimate pension protection which will be afforded our working men and women is a program of insurance to protect pension benefits in cases of plan terminations. Without such a program, the pension promise will only be a bigger illusion. It will be a bigger illusion because we will be telling workers that the pension must vest earlier. Although the funding called for will tend to minimize the risk of financial inadequacy, funding will probably never catch up completely with liabilities. This is because plan benefits are quite often liberalized causing increases in the amount of the unfunded liability of the plan. If we truly want to offer our workers "peace of mind" we must establish an insurance program.

I am aware of an interim study which was released recently by the Departments of Treasury and Labor. A complete report is expected later this year. Although the study did not reflect a widescale loss of benefits from plan terminations in comparison to the benefits paid out, it reflected only the first 7 months of 1972. Notwithstanding, it showed that 8,400 workers in 293 plans lost benefits valued at $20 million. Keep in mind that this study was not for a complete year and more significant, the chance of risk of termination is still there year after year. I want to emphasize that you cannot look at the problem for just 1 year alone.

The study projected that possible benefit losses over a 30-year period might equal 3 percent. Following the same mathematical logic, this would amount to 4 percent over a 40-year period—which I believe more closely approximates a person's working career. Therefore, the risk of losing pension benefits over your working career would be about 1 in 25. That is a pretty substantial risk in my book—given the high stakes involved. Also, echoing the President's own words when he directed that the study be undertaken in December of 1971:

> Even one worker whose retirement security is destroyed by the termination of a plan is one too many.

I would like to make one more point in closing. We are all concerned about the deficiencies that exist in the private pension system. We are also all concerned that about half of the Nation's work force does not enjoy coverage under a private pension plan. But let us not let our justified concern for the noncovered workforce divert us from the task immediately before us. The task is to shore up the deficiencies that currently exist in regard to the covered workforce.

I have heard recent suggestions that in view of the fact that half the workforce is not covered under the private system, the Government should require all employers to provide a minimum pension. The catch as I see it is that anything over the minimum would be left to the whims of the employers with hands off to the Federal Government. What you would in fact be doing is nothing for pension reform; I am sure that most plans would already be providing whatever minimal Federal benefit would be mandated. Therefore, these plans would not be affected at all. Such a scheme is only a diversionary tactic.

Mr. Speaker, the most immediate problem that we should deal with is that many workers have not been receiving the benefits they have earned. This problem arises from inadequate or nonexistent vesting, improper funding practices, and no plan termination protection. This, coupled with the need for better plan reporting and communication, is where we should be focusing our attention. Before we even contemplate a mandated extension of the private pension system, the system's glaring and recurring defects must be corrected. RISE would do this.

GRAND JURY REFORM WOULD END "DETENTION WITHOUT ACCUSATION," WOLFF SAYS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WOLFF) is recognized for 5 minutes.

Mr. WOLFF. Mr. Speaker, I plan to cosponsor legislation to be introduced by Congressman RANGEL and Congressman ECKHARDT to reform the grand jury system in this country. This bill is designed to restore to the grand jury its original purpose of protecting individuals from harrassment and unwarranted prosecution.

In Fort Worth, Tex., five New Yorkers, Irish Americans, are being held without bail, accused of no crime, at the direction of a grand jury. Grand juries were originally created under English common law to protect citizens from the arbitrary accusatory powers which were then within the purview of the local sheriff. Unfortunately, over the years, the use of the grand jury in the United States has degenerated to a point where it has become a tool of our modern-day sheriff—the prosecutor's office.

The most blatant example of this abuse of authority is currently underway in Texas. Those five men are being held without bail for invoking the fifth amendment—their constitutional right—and refusing to testify before a grand jury. The guilt or innocence of these men is not at issue here. The important point is that under our Constitution, every accused individual is presumed innocent until proven guilty, and until convicted, that individual should not be denied his rights as an American citizen.

It has become clear in the case of the Fort Worth Five that continued incarceration is being used as a punishment and freedom as an inducement to persuade these men to testify. Held thousands of miles from their homes, families, and jobs, these men stand accused of no crime. If this bill were to become law, no one would ever again be faced with the threat of detention without accusation.

The bill provides a right to quash a grand jury subpena or vacate a contempt order if a primary purpose in incarceration is to punish a witness for his refusal to testify. It also provides a right to quash a grand jury subpena or vacate a contempt order if the court finds that the choice of venue of the grand jury would impose a substantial and unnecessary hardship on the witness or his family. It also limits contempt imprisonment to no more than 6 months.

I believe it essential that this legislation be considered and enacted at the earliest possible opportunity. It is clear that the original intent of the grand jury system is compromised in Fort Worth and perhaps in other cities as well. The preservation of our most basic rights under the Constitution are vital to the continuation of this Nation as the world's greatest democracy.

At this time, I would like to include the text of a letter I have received from Assistant Attorney General Henry Petersen about the Fort Worth Five. This letter clearly supports my contention that these five New Yorkers are being subjected to a twisted application of grand jury authority. The spurious reasoning employed by the Justice Department—as is evidenced seeking out individuals with Irish accents, and sympathizers of the Irish Republican Army—in holding these men underlines the necessity for this legislation.

I include the letter at this time:

JULY 9, 1973.

Hon. LESTER L. WOLFF,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN: This is in further response to your letter regarding the five individuals who have become known as the "Fort Worth Five" and have been incarcerated in the Northern District of Texas for contempt of court.

During the latter part of 1971, the Federal Government received information from several different sources indicating that individuals with Irish accents were attempting to purchase large quantities of firearms. Coincidentallly, about the same time Customs officials in Ireland uncovered a large shipment of firearms and grenades aboard the Queen Elizabeth II which had sailed from New York. These firearms and grenades were traced to sources within the United States. In the same time frame, late 1971, the Government received information from one source in Texas that sympathizers of the Irish Republican Army were attempting to make a large purchase of weapons and grenades from Mexican sources through a Texas contact. Investigation by Bureau of Alcohol, Tobacco and Firearms of the Treasury Department developed leads on several individuals, some of whom were known only by their aliases, who had attempted to arrange a large procurement of weapons for a very considerable amount of money. The size of the proposed buy indicated that these individuals were central figures in a gun running ring.

A grand jury was convened in Texas to seek indictments against the Texas contact in this investigation, the unidentified persons who were seeking to arrange the gun purchase, and to develop information regarding what appeared to be a nation-wide conspiracy to violate federal firearms laws by IRA sympathizers. In this regard individuals from New York were summoned to testify, because information had been developed as to their association with various groups and individuals attempting to purchase weapons illegally. Texas was chosen as the venue in the expectation of prosecuting Texas defendants and other figures, at that time, had appeared in Texas in connection with their illegal activities.

Five of the witnesses from New York, now commonly referred to as the "Fort Worth Five," and other New York witnesses were subpoenaed before the grand jury because the investigation at that point indicated that they may have had information about this transaction and related ones. The Government was seeking from them whatever information they had relevant to the investigation. They were protected from prosecution relating to these events by a grant of immunity.

The investigation by the grand jury in Texas was not a fishing expedition, merely probing into possible violations in other districts. Rather, it was an investigation of the first large-scale illegal purchase of weapons as to which the Government had received advance information. In the latter part of 1972 two licensed firearms dealers were prosecuted federally and convicted for selling firearms and failing to keep records. Another individual, James O'Gara, was also indicted federally for the purchase of weapons by means of false statement and false identification. The indictment against O'Gara alleges that he used the identification of several of the Fort Worth Five and others to purchase weapons illegally. O'Gara is also charged with illegally shipping weapons to Ireland.

These five men are incarcerated because they refused to testify under a grant of immunity and were therefore held in contempt of court. This civil sanction is imposed by the courts for refusal to testify pursuant to a lawful order to do so. The defendants can purge themselves of contempt by testifying before the grand jury. If the witnesses do not testify they will be released at the expiration of the grand jury under the provisions of Title 28, U.S.C., Section 1826.

We regret the hardship that this matter may have caused personally to these individuals. It was hoped that they would come forth with the information they had and testify before the grand jury.

We would also like to note for your information, grand juries in Philadelphia and San Francisco have also conducted probes into the overall conspiracy and firearms violations involved in gun running between the United

States and Northern Ireland. Several individuals have pleaded guilty to indictments which have been returned. Most of these firearms and explosives are procured and exported in violation of our laws. The Bureau of Alcohol, Tobacco and Firearms has a continuing active investigation underway into the overall conspiracy. The Department of Justice also has a duty to continue its efforts to identify and prosecute the perpetrators of these criminal acts.

Sincerely,

HENRY E. PETERSEN,
Assistant Attorney General.

RADIOACTIVE WASTE MANAGEMENT AT HANFORD AND OTHER ATOMIC ENERGY COMMISSION INSTALLATIONS

(Mr. HOSMER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HOSMER. Mr. Speaker, as a direct consequence of the Nation's nuclear weapons program high-level radioactive wastes have been generating for many years. The lay public has been alarmed by recent news dispatches alleging that mishandling of large amounts of radioactive liquids stored by AEC installations imperils our very existence. The alarm arises partly because the dispatches fail to make clear that over a quarter of a century of waste storage history is being reported and that the incidents discussed occurred during that rather extensive time frame, not during just a brief and recent period.

Actually, no claim has ever been made that AEC carries out its waste management program absolutely perfectly. It does conduct the program with considerable candor, however, and has consistently and honestly advised the public whenever leaks have occurred.

At the Hanford, Wash., facility there are 151 underground tanks having a total capacity of 65 million gallons. About 423,500 gallons of waste have escaped since 1958 from 16 leaks. At the Savannah River, S.C., facility, AEC, about 700 gallons leaked in an incident which occurred in 1959. At the National Reactor Testing Station facility in Idaho, some wastes from routine disposals have reached a purely local water table, but have posed no threat due to their low amount of radioactivity.

The fact that no damage to persons or property has occurred from these incidents is no accident. Rather it is a tribute to Atomic Energy Commission's foresight and diligence. Things were planned in that way in the interest of public safety. Since some amount of leakage could not possibly be avoided, leaks were anticipated and, therefore, storage sites were located at out-of-the-way places with low-population densities. Consideration was given to the geological formations which underlie the tanks and overlie the water tables beneath. As a consequence none of the leaked material at Hanford has reached the water table. Indications are that none ever will, but even if it should, the radioisotopes of concern are likely to be absorbed in the soil along the way during their extremely slow underground movement.

It should be understood that the AEC waste storage program is a temporary one. It awaits the day coming soon when selection will be made of a technique for permanent disposal. Meanwhile, the program has been conducted wisely and in a far more responsible manner than some would have us believe.

The Commission has carried out its responsibiilties with a proper regard for the potential risk which these stored materials may pose.

Water and soil samples are taken regularly by the AEC in the vicinity of all of its waste storage sites. Deep wells are sampled in order to discover any radioactivity in ground waters in excess of that always present in nature. These tests confirm that radioactivity from leaks has not reached the underlying water table. The intervening soil has acted like a blotter to trap radioactive material in the near surface areas. Likewise, other stored materials, liquid and solid, have been confined to the storage sites and appear to be stabilized there.

RADIOACTIVE WASTE MANAGEMENT

In an industrial society, it is relatively simple to assure that not a single chemical or radioactive molecule could ever escape from its intended place of storage. For example, one might build a steel lined concrete tank within a steel lined concrete tank within a steel lined concrete tank ad gertrude steinium, as well as leak detection and monitoring systems, to achieve as many levels of protection as one wishes. But at some point the cost of this redundancy rises astronomically and becomes absurd in relation to risk. A balance must be reached between what is sought and its price. In short, a cost/benefit judgment has to be made to assure that public funds alloted to an installation such as Hanford are wisely expended.

AEC'S LONG-TERM PROGRAM; SOLIDIFICATION

The AEC's long-term waste storage program calls for solidification of waste materials awaiting final disposal to render them relatively immobile. New waste storage construction adopts the double shell concept of building steel lined concrete tanks within concrete vaults. A sophisticated leak monitoring system is incorporated in the construction. If there is leakage, it will be discovered and the material pumped to a new tank before it penetrates the outer shell. This represents a substantial technical improvement over installations built years ago. As time and a prudent rate of expenditure allows, the liquid material is dehydrated, solidified, and immobilized either in place or in doubly contained storage vaults designed to provide safe interim storage pending development of assured long-term storage techniques.

THE THREE STORAGE SITES

There follows further specific details regarding the three storage sites:

1. HANFORD

Hanford is located in a relatively arid region where rainfall, when it occurs, does not permeate to the underground water table, it is absorbed in the surface soil. In the same fashion the surface soil acts almost as an ion-exchange column; thus radioactive liquids do not penetrate to the deep soil levels. The water table in the Hanford tank farm area is 150 to 200 feet below the surface.

Hanford liquid wastes are evaporated to salt cake to immobilize them during interim storage. Unlike Savannah River and the National Reactor Testing Station, the Hanford high-heat waste tanks are not equipped with cooling coils. Heat produced by radioactive decay is dissipated by evaporative cooling and conduction. As soon as the decay-heat generation is acceptably low, the wastes are reduced to salt cake. Prior removal of long-lived fission products, such as strontium-90 and cesium-137, from high-heat liquid waste compresses the necessary storage period before reduction to salt cake from as long as 100 years to only about 5 years.

Specifically, the current waste-management cycle at Hanford involves:

First, separation, solidification, and encapsulation of the strontium-90—as strontium fluoride—and cesium-137 (as cesium chloride) from the liquid wastes generated from past operation of the Redox and Purex separations processes and from current operation of the Purex process, and storage of these encapsulated materials in cooling basins in a retrievable form.

Second, in-tank solidification, by evaporation, of the low-heat-generating wastes produced in the past by the bismuth phosphate process and the Redox and Purex wastes after aging for 3 to 5 years and the removal of strontium-90 and cesium-137.

The current schedule calls for in-tank solidification to be on a current basis in fiscal year 1976. By that time, about 90 percent of the volume of the wastes intank storage at Hanford will have a sufficiently low-heat generation rate to have been reduced to sludges and salts. By 1977, it is planned to have the encapsulation and storage in water-cooled basins of the strontium-90 and cesium-137 on a current basis.

2. SAVANNAH RIVER

Liquid wastes are being concentrated by evaporation in order to utilize existing tank space more efficiently and to convert the wastes to a less mobile solid form. Two evaporators are used, one has been in service since 1960, the other since 1963. For several years the volume of reduction by evaporation at Savannah River has exceeded the volume of high-level wastes generated by processing operations.

Low-heat liquid wastes are stored in single-shell steel-lined concrete tanks and evaporated almost entirely to salt crystals. High-heat liquid wastes are stored in double-shell freestanding steel tanks enclosed in concrete vaults either partially or completely lined with steel, and equipped with cooling coils. They are evaporated to the extent allowed by the structural and heat-dissipation capabilities of the tanks. Some salt crystals and sludges form in the cooled wastes. By 1976, more than 60 percent of high-level wastes at Savannah River are expected to be immobile sludges and salts.

3. NATIONAL REACTION TESTING STATION (NRTS)

Since 1963, a fluid-bed calcining process has been employed routinely to convert high-level liquid wastes generated by the Idaho Chemical Processing Plan—

ICPP—to a granular solid. The solidified wastes are stored near the surface in stainless steel bins inside concrete vaults and can be retrieved pneumatically. By fical year 1972, over 50 percent of the approximately 4,000,000 gallons of high-level liquid wastes generated at the site had been converted to calcine. It is planned to calcine all the ICPP high-level wastes. The capacity of the waste-calcination facility is such that the present backlog of liquid wastes could be converted to calcine in about 5 years.

FUNDING DATA

The following information is pertinent to AEC's waste management program:

The estimated cumulative costs at AEC sites through fiscal year 1974 are: Hanford, $281.2 million; Savannah River, $97.5 million; National Reactor Testing Station, $45 million; other $8.6 million, for a total through June 30, 1974, of $432.3 million.

The estimated operating costs budgeted for current fiscal year 1974 waste management operations at these three installations are: Hanford, $28.7 million; Savannah River, $7.4 million; National Reactor Testing Station, $5 million; other, $5 million, for a total of $46.1 million.

RADIOACTIVE WASTES PRODUCED BY CIVILIAN NUCLEAR POWER PROGRAM

The foregoing discussion is confined to wastes which have or will be produced by AEC operations. In addition to these AEC wastes, there are those which are consequent to our civilian nuclear power programs. Relative to these, an informative article appeared in the September 1, 1972, issue of Science magazine. Its authors are the respected Drs. Chauncey Starr and Phillip Hammond of the Electric Power Research Institute and Oak Ridge National Laboratory. In the words of Drs. Starr and Hammond:

> In public discussion of nuclear power and public safety, much concern is expressed about the need for storing the radioactive waste for centuries. While such long-term storage is an essential part of nuclear power development, the projected public safety issue involved is minimal, compared with other environmental problems. The fact is that a completely adequate waste storage system is trivial in scope and cost, although not in importance. As with the oil filter in an automobile engine, we depend upon its being there and functioning properly, and would suffer hazard and expense if it were not; but it is not a significant item in cost or difficulty.

The article also calculates the amount of high level waste in solid form resulting from nuclear generation of the electrical needs of one person for 1 year. It turns out to be a volume of material about the size of an aspirin tablet. In total, all of the solid waste expected from civilian nuclear power programs through the year 2000 will occupy a volume of about 500,000 cubic feet, enough to cover one football field to a depth of 12 feet. The development of a demonstrably safe and long-term storage technique for this modest amount of radioactive waste material is well within the capabilities of our scientists and engineers.

REFORM TAXES THIS SESSION—GIVE THE WAGE EARNER A BREAK

(Mr. PODELL asked and was given permission to extend his remarks at this point in the Record).

Mr. PODELL. Mr. Speaker, In 1969, more than 3,000 Americans with incomes in excess of $200,000 paid no income tax; 56 of these were millionaires. In 1970, more than 100 Americans with incomes of $200,000 paid no income tax. Yet in 1971, an average worker earning $8,000 a year with a wife and two children paid $672 or 8.45 percent of his income, in Federal income tax, and another $464 or 5.8 percent for social security.

Tax reform is one of the most crucial matters facing the 93d Congress. While our Nation theoretically works under the guide of a progressive tax system in which an individual contributes according to his ability to pay, in practice this is not so. Tax loopholes are available to the privileged, while the hard-working wage earner and the small businessman continue to suffer.

Let us quickly examine just a few of the important tax inequities which we continue to permit:

If a man buys stock today for $100,000 and sells it 6 months and a day later for $150,000, only half of his profit is counted as taxable income. Moreover, the first $50,000 of a taxpayer's capital gain in any 1 year cannot be taxed at more than a 25 percent rate. A man earning that same $50,000 as a salary would have to pay at a 40-percent rate.

The working man who cannot invest any substantial amount of savings gets no benefits from the special treatment we give to capital gains. The wealthy feast from this provision.

The obligation of financing the social security system falls heavily upon the lower and middle income people of the working force. A wage earner with a $12,000 income will see his social security tax increase from $631.80 in 1973 to $702 in 1974 or 5.8 percent of his income. A wage earner with a $30,000 income will pay the same $631.80 this year, only 2 percent of his income.

While the amount of social security taxes increases, it is important to note that the proportion of goods and services that social security income purchases diminishes. When the average couple started to collect social security benefits at the end of 1950, they received about 50 percent of what the Department of Labor considered necessary for reasonable comfort and safety. Today the average elderly couple's social security benefit is equivalent to only about 40 percent of the Department of Labor's figures necessary for reasonable comfort and safety. An average couple receives $271 per month in social security benefits.

When compared to the White House Conference on Aging's determination of $412 per month for reasonable comfort and safety, the plight of our senior citizens becomes clear.

The injustices inherent in our taxing system are appalling. Income tax is the primary source of revenue for the Federal Government, but every year the U.S. Treasury is deprived of billions of dollars because of these loopholes in the income tax system.

Our rising revenue needs and the frustration of our Nation's taxpayers demand essential reform of this system. We must abolish the existing special exemptions which are ruthlessly taken advantage of by wealthy individuals and big business. We must insure greater purchasing power for the lower and middle class, as well as our esteemed senior citizens. We must strengthen our Federal Treasury by providing sufficient revenue for public requirements, but not out of the pockets of those who cannot afford it.

It is high time the burden of our Nation's tax program was spread more evenly throughout the population and our incomes more equitably distributed.

One of America's greatest boasts is that of equal opportunity for all citizens. As long as the rich have their wealth guaranteed by the Federal tax structure, this will be an idle boast.

SAFEGUARDING OUR PRIVACY

(Mr. PODELL asked and was given permission to extend his remarks at this point in the Record).

Mr. PODELL. Mr. Speaker, in the past, the individual's right to privacy has been considered among the most basic of our constitutional liberties. Justice Brandeis, in Olmstead against United States, characterized the right to be let alone as "the most comprehensive of rights and the right most valued by civilized men."

Today however, in this era of Watergate, it would appear that the right to privacy has become obsolete. Each day of the Senate Watergate hearings unveils another incident in which the Nixon administration has run roughshod over personal liberties. The bugging of telephone conversations, the burglarizing of personal files, and the compilation of enemies lists, are all indicative of the total disregard which this administration had for the privacy of the individual.

My personal experience has confirmed this view. For 3 years now, I have been subjected by this administration to acts of political harassment involving gross violations of my rights to privacy. Files containing important papers have been taken from my Washington office. In addition, both my law office in New York and my apartment in Washington have been burglarized.

But these incidents should not lead one to believe that only Government figures can have their privacy violated. Indeed, with our modern technology, the average citizen, just as much as the high official, is potentially subject to governmental invasion upon his privacy.

Recent reports of illegal drug raids against innocent people clearly illustrate this point. Law enforcement agents operating without warrants have smashed into the wrong homes in the middle of the night seeking drugs which were never there. In the process, ordinary citizens have been terrorized by those agents in their most private quarters. Some have been killed.

Probably the most dangerous threat to the individual's privacy is the Government computer. The growth in bureaucracy has increased to a point where no government collects more information about its private citizens than does the United States. Of course, various Government agencies need certain information about the individual in order to be of service to him. But too often, there are insufficient restraints upon the type of information obtained and how it is used.

Information regarding the individual's most personal activities are often computerized and exchanged between agencies without the citizen's knowledge. Several agencies, among them the Customs Bureau, Department of State, and FBI, have collected information on individuals who are considered "malcontents" or "subversives." This is a practice reminiscent of the McCarthy era. And since the citizen never sees his file, mistaken or irrelevant information which appears therein can and has been used to damage his career.

The greatest evil in these invasions of privacy is that once an individual becomes aware that he is being monitored, he is reluctant to engage in those activities which the Constitution protects and encourages. Freedom of speech, freedom of association, the right to assemble, all become a sham if their exercise is ruled out by fear and ostracism.

The threat which Government poses to the right of privacy calls for vigilant action. Along with my colleagues, Congressman Koch, I have introduced H.R. 2998, a bill which would prescribe specific procedures for the collection and dissemination of information by Government agencies. Among other things, it requires the agency to notify the individual that a file on him exists, and to allow him to see the file, make necessary corrections, and limit the extent to which information in his file is disclosed.

Mr. Speaker, the need for legislation protecting our privacy is now greater than ever before. For too long we have been willing to accept the marvels of the computer and of instant communications without realizing that such technology has the potential to destroy our most sacred freedoms. We should welcome technological advances. But we must guard that progress does not compromise out constitutional liberties.

We must cling with religious zeal to the ideals set forth in the Constitution. Those ideals are the standards for personal freedom and human dignity against which the acts of Government and the acts of man are measured. Without them we are as hopelessly adrift as the sailor without a compass.

TO IMPROVE THE NATURALIZATION PROCEDURE

(Mr. PODELL asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PODELL. Mr. Speaker, as American citizens, we value certain rights and traditions which we feel are the keystones of our democratic society. Among these are our right to privacy and our privilege against self-incrimination. The Bill of Rights of our Constitution safeguards these rights for every American citizen.

But when a man or woman wants to become an American citizen through the naturalization procedure, these rights are apparently unheard of. Indeed, in order to become an American citizen, you are called upon to incriminate yourself and make public the full details of your private life.

Form N-400: Application To File Petition for Naturalization, summarizes the naturalization procedures sanctioned by law. This form is a 4-page questionnaire which is used in open court for all to hear and question. Purportedly, its purpose is to screen applicants for citizenship, to make sure that we do not grant these rights and privileges to people who may be dangerous to our society.

On its surface, this is a laudable intention. But form N-400 goes far beyond the immediate purpose of screening out criminals and subversives. The form asks, among other questions, whether you have ever been a drunkard, whether you have ever made a bet, whether you have ever even advocated the possibility of polygamy, whether you have ever committed any infraction of the law of any country you have lived in, including traffic violations or any violation of the repressive laws of a Communist country. It is not even necessary that you were arrested for this violation; merely that you committed it. You are compelled to show that you are like Caesar's wife—above suspicion. You must demonstrate that you have never acted in any way that could be questioned by almost anyone else's moral standards. You can be denied citizenship if you answer "yes" to any of these questions or if you answer "no," and are even slightly incorrect.

Mr. Speaker, the American people are not immoral, but we are human. How many of the more than 200 million men, women, and children living in this country would be citizens if they had to apply under such a questionnaire?

This insulting and, perhaps, unconstitutional procedure for naturalization is the reason why nearly 4 million registered aliens live in the United States on a permanent basis, but do not apply for citizenship. They would like to become citizens—they are already paying taxes, contributing their labor and energy, and coping with the same problems that Amercian citizens do—but they will not submit to the indignities of form N-400.

Form N-400, which is based on section 101(f) of the Immigration and Nationality Act of 1952, is a throwback to an earlier self-righteous and discriminatory era. It implies that those who wish to become citizens of this Nation must meet a higher moral and ethical standard than anyone else, including those who are already American citizens. It must be changed.

Today I am introducing legislation to amend section 101(f). The new section 101(f) will provide just three grounds for questioning the moral character of an applicant for naturalization: A conviction of murder, trafficking in dangerous narcotics, and willful, knowing violation of the immigration laws. I have no doubt that this new section would provide ample protection for our Nation against those who would do her harm from within, while at the same time protecting the basic human dignity of those who wish to become American citizens.

Being an American citizen is a pleasure and a privilege. We enjoy more freedom in this country than anywhere else in the world. We are more fully respectful of the rights of the individual than in any other society in history. Is it not fair and proper then, that we extend the same courtesies and respect to those who wish to become citizens as we do to those who by accident or birth are already citizens?

The naturalization process is a memorable, emotion-filled occasion. Citizenship hearings should be an event to look forward to, and to remember with pleasure and pride, not something reminiscent of the Inquisition. I hope that my colleagues will join me in ending a useless, and embarrassing practice.

RETURN TRAVEL EQUITY FOR HAWAII EMPLOYEES

(Mrs. MINK asked and was given permission to extend her remarks at this point in the Record.)

Mrs. MINK. Mr. Speaker, I have introduced legislation to provide equity for Federal employees from Hawaii who are separated from government service in the continental United States, by authorizing their reimbursement for transportation and travel expenses back to Hawaii.

Under current law, an employee transferred to a tour of duty outside the continental United States may be returned upon completion of his tour to the place of residence indicated in the travel agreement at the time of assignment. This means that persons who are from mainland United States areas and sent on assignments to Hawaii, may be returned to the mainland United States on completion of their tours. There is not statutory authority, however, to return employees to Hawaii upon completion of their assignments in the continental United States.

My legislation is designed to correct this inequity by authorizing the payment of travel and transportation expenses on the return of an employee who was a past resident in Hawaii, to Hawaii on completion of an assignment in the continental United States. Similar authority would be provided for employees whose actual place of residence prior to such assignment was Alaska, the U.S. territories and possessions, Puerto Rico, or the Canal Zone.

It seems to me that if these benefits are paid to employees from some States, they should be paid to employees from all States. Otherwise employees from Hawaii will continue to suffer discrimination.

In one instance, a Hawaii man was denied travel and transportation reimbursement after his separation and had to pay the expenses of sending his family of five from North Carolina to Hawaii. Instead of shipping his household goods he was forced to sell them at a loss of more than $2,000. Had he been from a mainland State and separated in Hawaii, he would have received reimbursement for these costs.

I believe our Government should do all it can to promote equity in employment practices so that persons from particular States are not denied benefits given to those from other States. Therefore, I hope this legislation will be adopted.

PROPOSED AMENDMENT TO FOREIGN AID BILL

(Mr. DINGELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DINGELL. Mr. Speaker, pursuant to permission granted, I take this opportunity to advise the House I intend to offer the following amendment to the foreign aid bill:

AMENDMENT TO H.R. 9360, AS REPORTED
OFFERED BY MR. DINGELL

Page 52, strike out lines 1, 2, and 3.

Renumber the succeeding section accordingly.

The amendment is explained in the following letter sent by me and a group of my colleagues:

MEMBER'S ATTENTION PLEASE: AMENDMENT TO BE OFFERED ON BEHALF OF THE UNDERSIGNED TO THE MUTUAL DEVELOPMENT AND COOPERATION ACT OF 1973 TO PROTECT AMERICAN FISHERMEN, JULY 25, 1973

DEAR COLLEAGUE: The Mutual Development and Cooperation Act of 1973, H.R. 9360, is planned for consideration on the Floor of the House for Wednesday, July 25 or Thursday, July 26, under a 2-hour open rule.

We are particularly concerned over section 28 of the bill, which repeals section 5 of the Fishermen's Protective Act, and at the proper time we plan to offer an amendment to strike section 28 of the bill.

During the past 20 years, the countries of Peru and Ecuador (which claim a 200-mile exclusive fisheries zone) have illegally seized more than 100 United States tuna vessels. The United States recognizes only a 12-mile fisheries zone off the shores of any country. These seizures have resulted in the payment of fines and fees by United States fishermen in the amount of nearly $4 million.

The Fishermen's Protective Act authorizes the Secretary of the Treasury to reimburse such vessel owners for fines and fees illegally assessed. Also, the Act provides for the owners of such vessels to be reimbursed for other losses incurred during the period of illegal detention.

Section 5 of the Act requires the Secretary of State to immediately notify the offending country of any reimbursement made to the vessel owner and to try to collect the claim from such country. If the offending country fails to pay the claim within 120 days after notified, the Secretary of State is required to transfer an amount equal to such unpaid claim from any funds programmed to that country for assistance under the Foreign Assistance Act to a revolving fund created by the Fishermen's Protective Act. A transfer in no way satisfies the claim and the Secretary of State is required to continue his efforts to collect such claim. The President could prevent such transfer from taking place if he certifies to the Congress it is in the national interest not to do so.

Since late last year and early this year, the countries of Ecuador and Peru have illegally seized 44 American tuna vessels. Total payments made by vessel owners to obtain release of their vessels and crews amounted to $2,305,416. Upon reimbursement of these amounts to the vessel owners—which is about to take place at anytime now—we will experience the first test case of the requirements of section 5 of the Act since it came into effect on October 26, 1972. To repeal this section of the Act at this time, will prevent an opportunity to see its effectiveness in stopping illegal seizures of American fishing vessels.

Your support of our amendment would be greatly appreciated.

Sincerely,

LEONOR K. SULLIVAN,
GLENN M. ANDERSON,
WENDELL WYATT,
LIONEL VAN DEERLIN,
JOHN D. DINGELL,
BOB WILSON,
JOEL PRITCHARD,
ROBERT L. LEGGETT,
Members of Congress.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MITCHELL of New York), to revise and extend their remarks, and to include extraneous matter:)

Mr. CONTE, today, for 1 hour.

Mr. YOUNG of Florida, today, for 5 minutes.

Mr. BLACKBURN, today, for 5 minutes.

Mr. SHRIVER, today, for 5 minutes.

Mr. KEMP, today, for 10 minutes.

Mr. ANDERSON of Illinois, today, for 30 minutes.

(The following Members (at the request of Mr. BRECKINRIDGE), to revise and extend their remarks, and to include extraneous matter:)

Mr. FLOOD, today, for 30 minutes.

Mr. GONZALEZ, today, for 5 minutes.

Mr. BRADEMAS, today, for 5 minutes.

Mr. BROWN of California, today, for 10 minutes.

Mr. EILBERG, today, for 5 minutes.

Mr. O'NEILL, today, for 10 minutes.

Mr. ANNUNZIO, today, for 5 minutes.

Ms. ABZUG, today, for 10 minutes.

Mr. WOLFF, today, for 5 minutes.

Miss HOLTZMAN, today, for 5 minutes.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BRADEMAS, and to include extraneous material, notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $552.50.

Mr. ROUSH in two instances.

Mr. MCCORMACK, to follow Mr. HOSMER today.

Mr. CEDERBERG, and to include extraneous material, notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $470.25.

Mr. ECKHARDT, immediately following the remarks of Mr. WILLIAM D. FORD on the conference report on S. 1423 today.

(The following Members (at the request of Mr. MITCHELL of New York), and to include extraneous matter:)

Mr. HOSMER in two instances.

Mr. CARTER in two instances.

Mr. ARENDS in two instances.

Mr. LENT.

Mr. FRENZEL in six instances.

Mr. WIDNALL in two instances.

Mr. WHITEHURST.

Mr. STEIGER of Arizona in two instances.

Mr. BOB WILSON in two instances.

Mr. PARRIS in five instances.

Mr. DU PONT.

Mr. FORSYTHE.

Mr. PRICE of Texas.

Mr. WYMAN in two instances.

Mr. KEMP in two instances.

Mr. MCKINNEY.

Mr. BRAY in two instances.

Mr. KETCHUM.

Mr. HOGAN.

(The following Members (at the request of Mr. BRECKINRIDGE) and to include extraneous material:)

Mr. BRINKLEY.

Mr. HARRINGTON in four instances.

Mr. GONZALEZ in three instances.

Mr. RARICK in three instances.

Mr. KYROS.

Mr. CLARK.

Mr. SYMINGTON.

Mr. MCSPADDEN.

Mrs. CHISHOLM.

Mr. MOLLOHAN.

Mr. ROONEY of Pennsylvania in two instances.

Mr. MACDONALD in two instances.

Mr. KASTENMEIER.

Mr. DORN in three instances.

Mr. VANIK in two instances.

Mr. ROONEY of New York in two instances.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1149. An act to promote commerce and to meet the need of consumers of goods and products by increasing availability of railroad rolling stock and equipment through improved utilization techniques and financial guarantees for new acquisitions, and for other purposes; to the Committee on Interstate on Foreign Commerce.

S. 1803. An act to authorize the waiver of claims of the United States arising out of erroneous payments of pay and allowances to certain officers and employees of the legislative branch; to the Committee on Post Office and Civil Service.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1090. An Act to amend the Communications Act of 1934, to extend certain authorizations for the Corporation for Public Broadcasting and for certain construction grants for noncommercial educational television and radio broadcasting facilities, and for other purposes.

ADJOURNMENT

Mr. BRECKINRIDGE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 43 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, July 26, 1973, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1175. A letter from the Assistant Secretary of Defense (Installations and Logistics), transmitting a report on Department of Defense procurement from small and other business firms for the period July 1972, through April 1973, pursuant to section 10(d) of the Small Business Act, as amended; to the Committee on Banking and Currency.

1176. A letter from the Acting Secretary of Health, Education, and Welfare transmitting a plan for a national heart, blood vessel, lung and blood disease program prepared by the Director of the National Heart and Lung Institute, pursuant to Public Law 92–423; to the Committee on Interstate and Foreign Commerce.

1177. A letter from the Vice President for Public and Government Affairs, National Railroad Passenger Corporation, transmitting the financial report of the Corporation for January 1973, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DORN: Committee on Veterans' Affairs. H.R. 9474. A bill to amend title 38 of the United States Code to increase the monthly rates of disability and death pension, and dependency and indemnity compensation, and for other purposes; with amendment (Rept. No. 93–398). Referred to the Committee of the Whole House on the State of the Union.

Mr. STEED: Committee on Appropriations. H.R. 9590. A bill making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending June 30, 1974, and for other purposes. (Rept. No. 93–399). Referred to the Committee of the Whole House on the State of the Union.

Mr. POAGE: Committee on Agriculture. S. 1697. An act to require the President to furnish predisaster assistance in order to avert or lessen the effects of a major disaster in the counties of Alameda and Contra Costa in California; with amendment (Rept. No. 93–400). Referred to the Commitee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ABDNOR:

H.R. 9540. A bill to provide for the establishment of a national cemetery near the Fort Randall Dam, S. Dak.; to the Committee on Veterans' Affairs.

By Mr. ANNUNZIO:

H.R. 9541. A bill to strengthen and improve the protections and interests of participants and beneficiaries of employee pension and welfare benefit plans; to the Committee on Education and Labor.

By Mr. BIAGGI (for himself, Mr. Talcott, Mr. Murphy of New York, Mr. Conyers, and Mr. Quillen):

H.R. 9542. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide a system for the redress of law enforcement officers' grievances and to establish a law enforcement officers' bill of rights in each of the several States, and for other purposes; to the Committee on the Judiciary.

By Mr. de la GARZA:

H.R. 9543. A bill to require the Interstate Commerce Commission to investigate certain interstate freight rates, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ERLENBORN (for himself, Mr. Blackburn, Mr. Eshleman, Mr. Frenzel, Mr. Frey, Mr. Gilman, Mr. Hinshaw, Mr. Hosmer, Mr. Keating, Mr. McClory, Mr. Michel, Mr. Roncallo of New York, Mr. Shriver, Mr. Thone, Mr. Veysey, Mr. Williams, and Mr. Won Pat):

H.R. 9544. A bill to revise the Welfare and Pension Plans Disclosure Act, and to strengthen and improve the private retirement system by establishing minimum standards for participation in and for vesting of benefits under pension and profit-sharing retirement plans, and for other purposes; to the Committee on Education and Labor.

By Mr. FRASER:

H.R. 9545. A bill to amend title 38 of the United States Code to increase the monthly rates of disability and death pensions, and dependency and indemnity compensation, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. FRENZEL:

H.R. 9546. A bill to require the President to notify the Congress whenever he impounds funds, to provide that the House of Representatives and the Senate may disapprove the President's action and require him to cease such impounding and to place an overall limit on policy impoundments; to the Committee on Rules.

By Mr. GONZALEZ:

H.R. 9547. A bill to amend title 28, United States Code, to require filing of surety bonds by plaintiffs in civil actions against law enforcement officers to defray reasonable costs of successful defense in such actions; to the Committee on the Judiciary.

By Mr. HANLEY:

H.R. 9548. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize safety design standards for schoolbuses, to require certain safety standards be established for schoolbuses, to require the investigation of certain schoolbus accidents, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HARSHA:

H.R. 9549. A bill to amend title 38 of the United States Code to increase the monthly rates of disability and death pensions, and dependency and indemnity compensation, and for other purposes; to the Committee on Veterans' Affairs.

By Miss JORDAN:

H.R. 9550. A bill to amend the Federal Aviation Act of 1958 to authorize reduced rate transportation for certain additional persons on a space-available basis; to the Committee on Interstate and Foreign Commerce.

H.R. 9551. A bill to establish an arbitration board to settle disputes between supervisory organizations and the U.S. Postal Service; to the Committee on Post Office and Civil Service.

By Mr. LENT:

H.R. 9552. A bill to allow a credit against Federal income taxes or a payment from the U.S. Treasury for State and local real property taxes or an equivalent portion of rent paid on their residences by individuals who have attained age 65; to the Committee on Ways and Means.

By Mr. MACDONALD:

H.R. 9553. A bill to amend the Communication Act of 1934 for 1 year with regard to the broadcasting of certain professional home games; to the Committee on Interstate and Foreign Commerce.

By Mr. MELCHER (for himself, Mr. Bergland, Mr. Denholm, Mr. Johnson of Colorado, Mr. Mayne, Mr. Nelsen, Mr. Nichols, Mr. Price of Texas, Mr. Rarick, Mr. Sisk, Mr. Smith of Iowa, Mr. Scherle, and Mr. Symms):

H.R. 9554. A bill to authorize the Secretary of Agriculture to encourage and assist the several States in carrying out a program of animal health research; to the Committee on Agriculture.

By Mrs. MINK:

H.R. 9555. A bill to amend title 5 of the United States Code to provide that whoever contributes more than $5,000 to the political campaign of a Presidential candidate shall be ineligible to serve as an ambassador, minister, head of an executive department, or a member of an independent regulatory body while such candidate is President; to the Committee on Post Office and Civil Service.

By Mr. NICHOLS (by request):

H.R. 9556. A bill to authorize the disposal of copper from the national stockpile and the supplemental stockpile; to the Committee on Armed Services.

By Mr. RHODES (for himself, Mr. Goodling, Mr. Burgener, Mr. Andrews of North Dakota, Mr. Hudnut, Mr. Lent, Mr. Zion, Mr. Dickinson, Mr. Teague of California, Mr. Schneebeli, Mr. Forsythe, Mr. Fish, Mr. Shuster, Mr. Wylie, Mr. Cohen, Mr. Keating, Mr. Veysey, Mr. Hastings, Mr. J. William Stanton, Mr. Lott, Mr. Steelman, Mr. Young of South Carolina, Mr. Symms, Mr. Mallary, and Mr. Nelsen):

H.R. 9557. A bill to amend the Federal Salary Act of 1967, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. RHODES (for himself, Mr. Young of Illinois, Mr. Madigan, Mr. Towell of Nevada, Mr. Treen, Mr. Dellenback, Mr. Smith of New York, Mr. Bray, Mr. Cochran, and Mr. Coughlin):

H.R. 9558. A bill to amend the Federal Salary Act of 1967, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. RIEGLE:

H.R. 9559. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business; to the Committee on Ways and Means.

By Mr. ROUSH (for himself, Mr. Coughlin, Mr. Giaimo, Mr. Gilman, Mr. Green of Pennsylvania, Mr. Hechler of West Virginia, Mr. Hosmer, Mr. Howard, Mr. Lent, Mr. Matsunaga, Mr. Mazzoli, Mr. McClory, Mr. Moorhead of Pennsylvania, Mr. Pepper, Mr. Rhodes, Mr. Riegle, Mr. Rosenthal, Mr. Sarbanes, Mr. Sikes, Mrs. Sullivan, Mr. Thone, Mr. Ware, and Mr. Won Pat):

H.R. 9560. A bill to amend the Communications Act of 1934 to provide grants to States and units of local government for the establishment, equipping, and operation of emergency communications facilities to make the national emergency telephone number 911 available throughout the United States; to the Committee on Interstate and Foreign Commerce.

By Mr. ROYBAL:

H.R. 9561. A bill to strengthen and improve the protections and interests of participants and beneficiaries of employee pension and welfare benefit plans; to the Committee on Education and Labor.

By Mr. SAYLOR (by request):

H.R. 9562. A bill to authorize the establishment of the Big Thicket National Biological Reserve in the State of Texas, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. STARK (for himself, Mr. Rarick, Mr. Rees, Mr. Mitchell of Maryland, Mr. Young of Georgia, Mr. Goldwater, Mr. Gonzalez, Mr. O'Hara, Mr. Obey, Mr. Brown of California, Mr. Anderson of Illinois, Mr. Lehman, Ms. Holtzman, Mr. Edwards of California, Mr. Waldie, Mrs. Burke of California, Mr. Riegle, Mr. Fraser, Mr. Moakley, Mr. Cotter, Mr. Gettys, Mr. Annunzio, Mr. Moss, Mr. Derwinski, and Mrs. Schroeder):

H.R. 9563. A bill to govern the disclosure of certain financial information by financial institutions to governmental agencies, to protect the constitutional rights of citizens of the United States and to prevent unwarranted invasions of privacy by prescribing procedures and standards governing disclosure of such information, and for other purposes; to the Committee on Banking and Currency.

By Mr. STEELE (for himself, Mr. Frenzel, Mr. McEwen, Mr. Pritchard, Mr. Robinson of Virginia, and Mr. Vander Jagt):

H.R. 9564. A bill to amend the Flammable Fabrics Act to extend the provisions of that act to construction materials used in the interiors of homes, offices, and other places of assembly or accommodation, and to authorize the establishment of toxicity standards; to the Committee on Interstate and Foreign Commerce.

H.R. 9565. A bill to amend the Hazardous Materials Transportation Control Act of 1970 to require the Secretary of Transportation to issue regulations providing for the placarding of certain vehicles transporting hazardous materials in interstate and foreign commerce, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 9566. A bill to provide for the creation of the National Fire Academy, and for other purposes; to the Committee on Science and Astronautics.

H.R. 9567. A bill to provide the Secretary of Commerce with the authority to make grants to States, counties, and local communities to pay for up to one-half of the costs of training programs for firemen; to the Committee on Science and Astronautics.

H.R. 9568. A bill to establish a National Fire Data and Information Clearinghouse, and for other purposes; to the Committee on Science and Astronautics.

H.R. 9569. A bill to provide the Secretary of Commerce with the authority to make grants to accredited institutions of higher education to pay for up to one-half of the costs of fire science programs; to the Committee on Science and Astronautics.

By Mr. STEELE (for himself, Mr. McEwen, Mr. Pritchard, Mr. Robinson of Virginia, and Mr. Vander Jagt):

H.R. 9570. A bill to provide financial aid to local fire departments in the purchase of advanced firefighting equipment; to the Committee on Science and Astronautics.

H.R. 9571. A bill to provide financial aid for local fire departments in the purchase of firefighting suits and self-contained breathing apparatus; to the Committee on Science and Astronautics.

H.R. 9572. A bill to extend for 3 years the authority of the Secretary of Commerce to carry out fire research and safety programs; to the Committee on Science and Astronautics.

By Mr. STEIGER of Arizona:

H.R. 9573. A bill to amend title 10, United States Code, to restore the system of recomputation of retired pay for certain members and former members of the armed forces; to the Committee on Armed Services.

By Mr. STUDDS (for himself and Mr. Clark):

H.R. 9574. A bill to increase the subsistence payments to students at State maritime academies; to the Committee on Merchant Marine and Fisheries.

By Mrs. SULLIVAN (for herself, Mr. Murphy of New York, Mr. Grover, Mr. Clark, Mr. Snyder, Mr. Biaggi, Mr. Lott, Mr. Bowen, Mr. Mosher, Mr. Ashley, Mr. Leggett, Mr. Metcalfe, and Mr. Anderson of California):

H.R. 9575. A bill to povide for the enlistment and commissioning of women in the Coast Guard Reserve, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. WYATT (for himself, Mr. Lujan, Mr. Railsback, Mr. Burgener, Mr. Bafalis, Mr. Hogan, Mr. Gude, Mr. McDade, Mr. Smith of New York, and Mr. Andrews of North Dakota):

H.R. 9576. A bill to require that a percentage of U.S. oil imports be carried on U.S.-flag vessels; to the Committee on Merchant Marine and Fisheries.

By Mr. BROYHILL of Virginia:

H.R. 9577. A bill to permit the Capital Yacht Club of the District of Columbia to borrow money without regard to the usury laws of the District of Columbia, to amend title 28 of the District of Columbia Code relating to usury in the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. CARNEY of Ohio (for himself, Mr. Dorn, Mr. Teague of Texas, Mr. Haley, Mr. Dulski, Mr. Roberts, Mr. Satterfield, Mr. Helstoski, Mr. Edwards of California, Mr. Montgomery, Mrs. Grasso, Mr. Wolff, Mr. Brinkley, Mr. Charles Wilson of Texas, Mr. Teague of California, Mr. Zwach, Mr. Maraziti, Mr. Huber, Mr. Walsh, and Mr. Saylor):

H.R. 9578. A bill to amend chapter 37 of title 38, United States Code, to improve the basic provisions of the veterans home loan programs and to eliminate those provisions pertaining to the dormant farm and business loans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. HARVEY (for himself, Mr. Ashley, Mr. Baker, Mrs. Boggs, Mr. Burton, Mr. Cleveland, Mr. Collins of Illinois, Mr. Conyers, Mr. Dominick V. Daniels, Mr. Davis of Georgia, Mr. Dulski, Mr. Edwards of California, Mr. Esch, Mr. William D. Ford, Mr. Hawkins, Mr. Jones of Tennessee, Mr. McSpadden, Mr. Mazzoli, Mr. Quillen, Mr. Railsback, Mr. Sarbanes, Mrs. Schroeder, Mr. Winn, Mr. Yatron, and Mr. Young of Alaska):

H.R. 9579. A bill to provide for the establishment of an American Folklife Center in the Library of Congress, and for other purposes; to the Committee on House Administration.

By Mr. KASTENMEIER (for himself and Mr. Harrington):

H.R. 9580. A bill to amend the Voting Rights Act of 1970 to prohibit the States from denying the right to vote in Federal elections to former criminal offenders who have not been convicted of any offense related to voting or elections and who are not confined in a correctional institution; to the Committee on the Judiciary.

By Mr. MARAZITI:

H.R. 9581. A bill to amend title 18 of the United States Code to provide penalties for the murder, manslaughter, or attempted murder or manslaughter, of Federal law enforcement officers, members of federally assisted law enforcement agencies, Federal employees, and persons engaged in interstate and foreign commerce; to the Committee on the Judiciary.

By Mr. MATHIAS of California:

H.R. 9582. A bill to amend the Labor Management Relations Act, 1947 to extend injunctive relief specifically to prevent destruction of perishable food crops due to threatened or actual strike or lockups; to the Committee on Education and Labor.

By Mr. PATMAN (for himself, Ms. Abzug, Mr. Addabbo, Mr. Barrett, Mr. Bergland, Mr. Clay, Mr. Dellums, Mr. Dulski, Mr. Green of Pennsylvania, Mr. Hammerschmidt, Mr. Hechler of West Virginia, Mr. Helstoski, Mr. Karth, Mr. Murphy of New York, Mr. Podell, Mr. Roe, Mr. Studds, Mr. Charles Wilson of Texas, and Mr. Young of Alaska):

H.R. 9583. A bill to establish a U.S. Fire Administration and a National Fire Academy in the Department of Housing and Urban Development, to assist State and local governments in reducing the incidence of death, personal injury, and property damage from fire, to increase the effectiveness and coordination of fire prevention and control agencies at all levels of government, and for other purposes; to the Committee on Science and Astronautics.

By Mr. REES:

H.R. 9584. A bill to amend title 39, United States Code, to provide for the furnishing of certain information with charitable solicitations sent through the mail, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. ROGERS (for himself, Mr. Kyros, Mr. Preyer, Mr. Symington, Mr. Roy, Mr. Carter, Mr. Hastings, and Mr. Hudnut):

H.R. 9585. A bill to provide financial assistance for research activities for the study of sudden infant death syndrome, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ST GERMAIN:

H.R. 9586. A bill to amend the Communications Act of 1934 for 1 year with respect to certain agreements relating to the broadcasting of home games of certain professional athletic teams; to the Committee on Interstate and Foreign Commerce.

By Mr. THOMPSON of New Jersey:

H.R. 9587. A bill to amend the Communications Act of 1934 for 1 year with respect to certain agreements relating to the broadcasting of home games of certain professional athletic teams; to the Committee on Interstate and Foreign Commerce.

By Mr. YOUNG of Texas:

H.R. 9588. A bill for the relief of the city of Aransas Pass, Tex., and the Urban Renewal Agency of the city of Aransas Pass, Tex.; to the Committee on the Judiciary.

By Mr. DIGGS (for himself, Mr. Addabbo, Mr. Buchanan, Mrs. Collins of Illinois, Mr. Corman, Mr. Culver, Mr. Daniels of New Jersey, Mr. Dulski, Mr. Fascell, Mr. Gude, Mr. Hungate, Mr. Kastenmeier, Mr. Leggett, Mrs. Mink, Mr. Reid, Mr. Reuss, Mr. Stark, Mr. Van Deerlin, and Mr. Whalen):

H.J. Res. 683. Joint resolution to protect U.S. domestic and foreign policy interests by making fair employment practices in the South African enterprises of U.S. firms a criteria for eligibility for Government contracts; to the Committee on the Judiciary.

By Mr. FREY:

H.J. Res. 684. Joint resolution to express the sense of Congress that a White House Conference on the Handicapped be called by the President of the United States; to the Committee on Education and Labor.

By Mr. McFALL:

H.J. Res. 685. Joint resolution to designate the third week of October of each year as "National Patients' Week"; to the Committee on the Judiciary.

By Mr. RHODES:

H.J. Res. 686. Joint resolution providing for the designation of September 30, 1973, as "National Grandparents Day"; to the Committee on the Judiciary.

By Mr. HARRINGTON:

H. Res. 508. Resolution; an inquiry into the extent of the bombing of Cambodia and Loas, January 20, 1969, through April 30, 1970; to the Committee on Armed Services.

By Mr. McKINNEY:

H. Res. 509. Resolutiodn expressing the sense of the House of Representatives that any individual who serves as the Director of the Energy Policy Office should be appointed by the President of the United States with the advice and consent of the Senate; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. GONZALEZ introduced a bill (H.R. 9589) for the relief of Capt. George Moore, Jr., of the U.S. Air Force, which was referred to the Committee on the Judiciary.

SENATE—*Wednesday, July 25, 1973*

The Senate met at 10 a.m. and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, Father of all, who has taught us that we are members one of another, help us to realize that we are one people under Thy rulership. Direct us that we may correct what is wrong, uphold what is right, and work together in harmony for the good of our land and the glory of Thy name. In this Chamber grant us grace to be faithful stewards of the high trust reposed in us by the will of the people.

Through Him who is Lord of life. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, D.C., July 25, 1973.*
>
> *To the Senate:*
>
> Being temporarily absent from the Senate on official duties, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.
>
> JAMES O. EASTLAND,
> *President pro tempore.*

Mr. ALLEN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, July 24, 1973, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination under the Department of Labor.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nomination on the Executive Calendar, under the Department of Labor, will be stated.

DEPARTMENT OF LABOR

The second assistant legislative clerk read the nomination of Julius Shiskin, of Maryland, to be Commissioner of Labor Statistics, U.S. Department of Labor, for a term of 4 years.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the Chair recognizes the distinguished Senator from Connecticut (Mr. WEICKER) for not to exceed 15 minutes.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1973—AMENDMENT NO. 409

Mr. WEICKER. Mr. President, I have submitted an amendment to S. 372, the Federal Election Campaign Act Amendments of 1973, which, if adopted would make available to the voters, 2 weeks before election to Federal office, a complete report of each candidate's finances. This report would account for all sources of money raised and all expenditures made or obligated, before the election.

The theory is that new regulations proposed in the amendment would bring the complete facts as to the role that money played in each campaign to the voters' attention 2 weeks before election, in plenty of time for the voters to make their own judgments about the role which money played in the campaign.

Now, Mr. President, my amendment is not based on any academic theory. It is not based on some desire to achieve the idealistically impossible. Rather, the amendment I am suggesting is based on my own personal experience. Candidly, so far as I am concerned, far too much time was spent thinking about and raising money during my campaign. It was a situation which I confront, and most politicians confront, whereby at the end of a campaign we run into deficits. We are not so lucky as our good friend from Vermont (Mr. AIKEN) who ran his campaign on $14. However, most of us end up with large deficits.

Also, I had the experience, and most politicians do, whereby a good portion of the funds we receive come to us not before the election but after we have won. Therefore, the tribute is not so much for what we stand for but rather the power of our office.

So in effect the amendment which I propose hits head-on these deficiencies which are as harmful to the candidate as they are to the public.

This public disclosure would afford greater insurance against the abuse of our system of elections, greater by far than new election laws, commissions, or provisions for stricter penalties.

Public opinion is, by far, the highest enforcer of high standards in this country. In its simplest terms, the amendment provides that as of a date 2 weeks before an election, no more contributions may be accepted, no more expenditures may be contracted for or budgeted for, and a complete financial report must be filed immediately. To accomplish this result, three separate amendments to the pending legislation would be required.

First, the reporting section would be amended so as to require each candidate to file a cumulative financial report of all contributions received and all disbursements made as of the date 2 weeks before the election.

At any time past that point nothing may be spent except that which is clearly set forth in the report and made a matter of public knowledge.

Second, the section on expenditures provides that no expenditures may be made in behalf of the political candidate after 2 weeks before the election for anything not reported as contracted for or budgeted for in the report of that date.

Far from hindering campaign operations, this amendment should be a blessing in disguise. Money could be spent in the last 2 weeks of the campaign, but only for items duly reported as contracted for or budgeted for in that period. This means that each candidate is responsible for keeping current all financial records, especially as the final pre-election reporting date approaches.

Many persons might ask, Would not this be an impossible task to accomplish in the period before election? Yes, it would, if, in fact, the candidate did not commence to keep accounts from the time his first dollar was received and spent. This amendment would require him to keep up-to-date records and to keep his records in order as the campaign goes along.

Clearly, any deficit or any huge surplus would become public knowledge before the election, and such a deficit would, under the provisions of the bill, become a personal liability of the candidate. This is by no means a waiver of the maximum limit established by the pending bill on contributions from the candidate's personal funds or those of the candidate's family.

In effect, the amendment will force a candidate to make sure that he will not end up with a deficit. Again, I think this is of help to the political system. It forces the self-policing of campaign financing by each candidate.

In the future, then, the impracticality of deficit spending will compel candidates to utilize improved accounting procedures, and will cause campaign creditors to reassess their practice of extending unlimited credit to favored candidates. Furthermore, this restriction is aimed at the postelection donation which has long been a significant factor in campaigns, and it is bad money that rides on a winner's new office.

I would say that in my campaign for the U.S. Senate, about one-fifth of the funds were received after I won the election of the proposed amendment, this LOWELL WEICKER or what he stands for. I think it is merely recognition of the power of the office of the U.S. Senate. I do not think it is right and with the adoption of the proposed amendment, this type of donation would be cut off.

The power of the purse has become the most undisciplined, uncontrolled, and irresponsible force in politics. Our method of financing campaigns has done more to demean the practitioners of politics and to discredit the political system in the eyes of the public than anything else. Therefore, the burden of responsibility for a clean and open campaign must fall on the candidates themselves. Thus, under the amendment I have proposed, each candidate would be required to manage his campaign with utmost care and candor.

I do not think this is too much for the public to expect of a man who is going to go into office and manage many thousands of times the dollars that are involved in his own campaign, except that this time he is dealing with public money. If he cannot manage the money of his own campaign, he should not be managing the funds of the United States.

The candidate must ignore influence seekers and clandestine charades in favor of winning the confidence and contributions of individual voters on the basis of personal qualification and a capacity to represent and govern.

With the full financial story of a campaign told before the election, the candidate is fully accountable for the propriety and handling of his campaign finances. Perhaps the light of public scrutiny will diminish the role of money as a corrupting force in political campaigns.

Finally, Mr. President, truly the inherent strength in our democratic process lies in logic and high moral standards prevailing, rather than a strength based on money and dirty tricks.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, there will be a period for the transaction of routine morning business, not to extend beyond 10:30 a.m., with statements therein limited to 3 minutes.

Is there morning business?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMERICAN CIVILIAN PERSONNEL IN CAMBODIA

Mr. EAGLETON. Mr. President, last week I introduced an amendment to the War Powers Act to extend the coverage of that legislation to include civilian combatants involved in paramilitary operations. I was moved to offer the amendment by the ever-increasing number of disclosures concerning our covert operations in Laos. In the flood of recently exposed information, it is becoming obvious that we were led into the Indochina quagmire by an elaborate program of covert military operations and by a sinister effort to conceal the details of that program from the American people.

Now, as we approach the August 15 deadline for military operations over Cambodia, it appears that we are falling into the same pattern that marked our earlier experience in Laos. According to recent news reports, the United States has begun a program, staffed by American civilian personnel stationed in the Cambodian countryside, to continue combat activities in that country with paramilitary forces. These reports are particularly disturbing because they reflect an attempt to bypass the clear intent of Congress to terminate all combat activities in Indochina on August 15.

In addition to our recent action with respect to Indochina, the original Cooper-Church amendment to the Special Foreign Assistance Act of 1971, prohibits the use of appropriated funds "to provide U.S. advisers to or for Cambodian military forces in Cambodia." This provision was made even more explicit by a Case amendment to the regular Foreign Assistance Act of 1971. That provision of law now reads as follows:

> In line with the expressed intention of the President of the United States, none of the funds authorized or appropriated pursuant to this or any other Act may be used to finance the introduction of United States ground combat troops into Cambodia, *or to provide United States advisers to or for military, paramilitary, police, or other security or intelligence forces in Cambodia.*

There can be no doubt that, if the reports of civilian paramilitary advisers are correct, the administration is violating the law.

It is ironic that we should hear reports of secret activity in Cambodia at the same time the Armed Services Committee is reporting the disclosure of secret air strikes over Cambodia prior to 1970, and the falsification of reports to conceal them.

On April 30, 1970, President Nixon announced that American troops had invaded Cambodia. He also said that—

> American policy . . . has been to scrupulously respect the neutrality of the Cambodian people.

But we now know that the President's statement concealed a bombing operation that had been going on for a full year prior to our invasion of Cambodia in April 1970.

Our free press has again reported discrepancies in what this administration says it is doing in Indochina and what it is actually doing. If these reports are true, they not only expose a discrepancy between word and deed, but a discrepancy between deed and law as well. It is just this dichotomy that is contributing on a variety of fronts to the destruction of the vital fabric of our democratic system—a delicately woven fabric comprised of laws and the good faith execution of those laws.

Mr. President, Americans are tolerant people. We want to believe that our Government speaks the truth. But our tolerance and our faith in Government have been sorely tested by false claims that national security as defined by a small group of men is more important than truth.

The crisis of confidence, which confronts us is most eloquently described in the following quote by the President of the United States on March 8, 1972:

> . . . when information which properly belongs to the public is systematically withheld by those in power, the people soon become ignorant of their own affairs, distrustful of those who manage them, and—eventually—incapable of determining their own destinies.

We have not yet arrived at the eventuality posed by Mr. Nixon—Americans are still capable of determining that a secret war in Cambodia should not be a party of our destiny. But if the administration withholds information "which properly belongs to the public" about our covert involvement in Cambodia, we may well find that our destiny has been determined without our consent.

If the President has decided to continue U.S. military involvement in Cambodia by using civilian combatants and advisers, he should subject that policy to public scrutiny by seeking to change the law that currently prohibits it.

Mr. President, I have today sent a letter to the Secretary of State asking for information about the news reports that our Government is employing civilian personnel for the purpose of undertaking paramilitary operations in Cambodia. I ask unanimous consent that this letter dated July 25, 1973, and two articles which appeared in the July 24 edition of the Washington Star-News, one entitled "United States Puts 'Advisers' in Cambodia" by Tammy Arbuckle and another by Tom Wicker entitled "The

Proper Word Is Lying," be printed in the RECORD.

There being no objection, the letter and articles were ordered to be printed in the RECORD, as follows:

JULY 25, 1973.

Hon. WILLIAM P. ROGERS,
Secretary of State,
Department of State,
Washington, D.C.

DEAR MR. SECRETARY: I am writing to inquire about recent news reports which indicate that the United States has begun a paramilitary operation in Cambodia similar to the one that has existed in Laos. These reports are extremely disturbing in light of current provisions of law which specifically prohibit this activity.

According to reports, 10 American government employees have been stationed semipermanently in provincial capitals of Cambodia, the first group of Americans arriving in April. Our Embassy in Phnom Penh has indicated that these Americans are State Department employees. Please provide me with the names of these employees and with a biographic sketch of their experience with the U.S. Government at your earliest convenience. In addition, please inform me as to the mission of all Americans stationed outside the city of Phnom Penh.

Thank you very much for your assistance in this matter.

Sincerely,

THOMAS F. EAGLETON,
U.S. Senator.

[From the Washington Star-News, July 24, 1973]

UNITED STATES PUTS "ADVISERS" IN CAMBODIA

(By Tammy Arbuckle)

SVAY RIENG, CAMBODIA.—The United States has launched a program, staffed by American personnel in the Cambodian countryside, with para-military overtones and the potential for a U.S.-run private army on the Laos model.

The program has 10 Americans in it, stationed semi-permanently in province capitals such as Svay Rieng, Battambang, Kompong Cham, Kampot and others. The operation was launched two months ago, although the first group of five Americans arrived in Phnom Penh in April.

They moved into the countryside in early May and the second group of five followed a few weeks later. The ceiling of 200 American Embassy and related personnel was not exceeded as cuts were made in personnel in other departments to make room for the new program.

At least two of the Americans were engaged previously in the Laos paramilitary program.

The present program is supported by China Airlines, of which Air America, the private company used in the Laos operation, is a subsidiary. The pilots are in many cases the same men who flew in Laos, providing support for American-run teams in enemy-held areas. These Americans expect the same situation to evolve here in Cambodia.

China Airlines is opening a new office in downtown Phnom Penh. Americans in the field are supplied with radio equipment giving direct contact with U.S. Embassy in Phnom Penh and capable of contacting air support and local guerrilla teams. Cambodian military sources here say a U.S. officials in Svay Rieng help with 14 three-man teams of "Black Commandos."

A U.S. official here receives and collates radioed information from the teams, and suggests' places where the teams might operate. Each team leader has a Cambodian cover name, similar to the Laos operating system.

The teams, besides gathering information, engage in reportedly successful raids—usually rocket attacks on trucks passing down Viet Cong supply routes 10 miles west and seven miles east of this three-street town, the only Cambodian government holdout in Cambodias' Parrots Beak area close South Vietnam's border. The teams also call in air and artillery fire on the Viet Cong supply routes.

The "Black Commandos" are mostly Cambodia border smugglers who know the area well. The teams were recruited by Cambodian Col. Mok Cheay and the United States only stepped in to develop them—a move reminiscent of the U.S. development of Laos village defense groups in 1965 which later became private army regiments with U.S. commanders.

The Americans use call signs such as "Kipper," "Anthill" and "Easter Bunny," and airstrips have site numbers because Air America pilots can't handle Cambodian names, a system that was used in Laos too.

There are Cambodian nationals in U.S. employ who handle communications and reporting in more dangerous areas under fire and coordinate local air strikes. These Cambodians correspond to Laos operational assistants. The Air America helicopters with U.S. officials do appear at hotspots and have come under fire, according U.S. and Cambodian sources who give specific dates, times and places.

Although the program is badly needed by the tactically impoverished Cambodians, the U.S. Embassy appears to be trying to keep it secret.

A U.S. official here denied running teams or being involved in military matters. He said his mission was military, political and economic reporting to the embassy in Phnom Penh. A top U.S. Embassy official said the same, asserting that Americans in the field were reporting to the political-military section of the Phnom Penh embassy. The official claimed Americans in the field are "an expansion of an existing program" to keep the embassy informed of Cambodian countryside developments, but further inquiry reveals it's been a new operation.

The official admitted previous field reporting was confined to an occasional flight by members of the embassy's military-political section about once a month and sometimes as seldom as once in three months.

The embassy does not say where the money for the program, including some of the new China Airlines contracts is coming from. It claims Americans in the countryside are members of the State Department. The embassy, at least until questioned by this correspondent, has never made a public announcement of the program. Congressional investigators have been here making specific inquiries about such activities, but U.S. officials concede they were not informed of plans for the program. The first five Americans in the program arrived 10 days after the investigator's departure.

Meanwhile, a U.S. official in Svay Rieng conceded the enemy undoubtedly knew of the American presence in countryside and there was a possibility of grenade attack. They expressed surprise there had been no embassy statement of this U.S. presence.

"It can't be hidden. We stick out like a sore thumb," he said, noting he was the only American in this tiny Communist-surrounded town. U.S. officials admit local air support has been expanded following new China Airlines contracts.

[From the Washington Star-News, July 24, 1973]

THE PROPER WORD IS LYING

(By Tom Wicker)

The proper word for the Cambodian bombing story is not dissembling or deceiving or protective reaction or cover story. The proper word is lying. And this long chronicle of lies, perhaps more graphically than the Pentagon Papers, shows the extent to which lying is a respected "option" at the top levels of the so-called "national security establishment," including the White House.

For fourteen months, the Pentagon, the State Department and the White House repeatedly insisted that Cambodian neutrality was being respected, while all conspired to keep secret the fact that in 3,630 raids American B52s had dropped more than 100,000 tons of bombs on Cambodia.

During that period, the left hand of the Pentagon lied repeatedly to the right hand, as documents were falsified to show the 3,630 raids as having been launced not on Cambodia but on South Vietnam. Only a few high officials with a "need to know" were told the truth.

(This raises the question how anyone knows what the real truth is, even today. If one set of documents was fixed, why not another? Maybe there were 5,000 raids; who knows? Were they lying to Dr. Kissinger, too? To President Nixon?)

Even after secret war became open war in Cambodia, the lies continued. Last March and last June, the Pentagon sent deliberately lying reports, concealing the Cambodian bombings, to the Senate Armed Services Committee. The Pentagon spokesman, Jerry Friedheim, knowingly distributed the same lies to the press.

"I knew at the time it was wrong and I'm sorry, Friedheim said, when caught. He ought to be fired out of hand, but he won't be. It even appears that he may have opposed within Pentagon circles the decision to lies to the Senate committee, which was deliberately taken at the highest level. If so, he ought to have quit out of hand, but he went along.

Of this compounded lie, Friedheim's summary judgment was eloquent. "We weren't smart enough to foresee," he said, the testimony of former Maj. Hal M. Knight, who disclosed the secret bombing and falsified documentation. They weren't smart enough not to get caught in the lie, that is; if they had been, they'd have told a different and less detectable lie.

If all of this lying was originally to fend off increased domestic opposition to the Southeast Asian war, then to cover up the original lies, it was indefensible. If Prince Sihanouk had agreed to the bombing, and the lies were to protect him from the wrath of his own people, it was indefensible. If the lying was for both reasons, it was twice as indefensible; since either way it was intended primarily to permit the President and his war machine to pursue their war without let or hindrance from anyone, least of all the American people.

Dr. Kissinger deplores the falsification of records. What did he expect, when he and Nixon deliberately ordered the falsification of the facts of the Cambodian bombing? Why should majors and colonels have higher standards than the White House?

Gen. Earle G. Wheeler, the former chairman of the Joint Chiefs of Staff, expressed horror at the falsification of the records, but said that if the President had ordered him to falsify them, "I would have done it." Why should he be astonished that when some general ordered some major to do it, the major did?

Worst of all, Nixon himself appeared on national television and told the American people on April 30, 1970, that since 1954 American policy had been to "respect scrupulously the neutrality of the Cambodian people." And for five years, he said, "neither the United States nor South Vietanam has moved against" North Vietnamese sanctuaries in Cambodia. This was after 14 months of B–52 raids on Cambodia, including the sanctuaries.

This was a deliberate and knowing lie, broadcast in person to the American people by their President. Neither the claim that it was not really a lie but a "special security arrangement," nor the contention that other presidents have done it, is a justification, both are indictments of the "security" mania that distorts national life. And this episode clearly calls into question the credibility of Nixon's television address of April 30, 1973, when he claimed innocence of wrongdoing in the Watergate matter.

But whatever history may say, Yeats had lines for all these spokesmen and generals and diplomats and presidents:

> *. . . weigh this song with the great and their pride;*
> *I made it out a mouthful of air,*
> *Their children's children shall say they have lied.*

QUORUM CALL

The ACTING PRESIDENT pro tempore. Is there further morning business?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR ON S. 1560

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the consideration of S. 1560, Richard E. Johnson, John Scales, and William J. Spring of the Committee on Labor and Public Welfare be authorized to have the privilege of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. ROBERT. C. BYRD. I yield.

Mr. TAFT. I would like to add Mr. Robert King of the minority staff.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR ON S. 372

Mr. TAFT. Mr. President, on behalf of the minority leader, I ask unanimous consent that Ken Davis be granted the privilege of the floor during the debate and vote on S. 372, the Federal Campaign Act Amendments of 1973.

The PRESIDING OFFICER. Without objection, is is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. ALLEN) laid before the Senate the following letters, which were referred as indicated:

REPORT ON TRANSFER OF CERTAIN FUNDS APPROPRIATED TO THE DEPARTMENT OF DEFENSE

A letter from the Assistant Secretary of Defense, reporting, pursuant to law, on the transfer of certain funds appropriated to the Department of Defense. Referred to the Committee on Appropriations.

REPORT RELATING TO DINING ROOMS WHERE ATTENDANCE IS LIMITED

A letter from the Associate Deputy Administrator, Veterans Administration, reporting, in the negative, on dining rooms where attendance is limited on the basis of grade or rank. Referred to the Committee on Appropriations.

PROPOSED DONATION OF CERTAIN SURPLUS PROPERTY BY DEPARTMENT OF THE NAVY

A letter from the Chief of Legislative Affairs, Department of the Navy, reporting, pursuant to law, on the proposed donation of certain surplus property to the UN Korean War Allies Association, Inc., of Seoul, Korea. Referred to the Committee on Armed Services.

REPORT ON CENTRAL RAILROAD CO. OF NEW JERSEY

A letter from the Secretary of Transportation, transmitting, pursuant to law, a report on the Central Railroad Company of New Jersey (with an accompanying report). Referred to the Committee on Commerce.

REPORT ON INTERNATIONAL AGREEMENTS ENTERED INTO BY THE UNITED STATES

A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on International Agreements entered into by the United States (with accompanying papers). Referred to the Committee on Foreign Relations.

REPORTS OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Review of Federal Library Operations in Metropolitan Washington," dated July 24, 1973 (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Legislation Needed to Simplify the Federal Funding of State Employment Security Agencies' Administrative Expenses," Department of Labor, dated July 23, 1973 (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Social Development Activities in Latin America Promoted by the Inter-American Foundation, Fiscal Year 1972", dated July 23, 1973 (with an accompanying report). Referred to the Committee on Government Operations.

REPORTS ON CONDITIONAL ENTRY OF CERTAIN ALIENS

A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, reporting, pursuant to law, on conditional entry of certain aliens (with accompanying papers). Referred to the Committee on the Judiciary.

REPORT OF NATIONAL HEART, BLOOD VESSEL, LUNG AND BLOOD PROGRAM

A letter from the Acting Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on National Heart, Blood Vessel, Lung and Blood Program, dated May 1, 1973 (with an accompanying report). Referred to the Committee on Labor and Public Welfare.

REPORT OF PRESIDENT'S ECONOMIC ADJUSTMENT COMMITTEE ON COMMUNITIES AFFECTED BY THE DEFENSE FACILITY AND ACTIVITY REALINEMENTS

A letter from the Co-Chairman, President's Economic Adjustment Committee, transmitting, pursuant to law, a report of that Committee on activities affected by the defense facility and activity realinements announced on April 17, 1973 (with an accompanying report). Referred to the Committee on Public Works.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. ALLEN):

A joint resolution of the Legislature of the State of California. Referred to the Committee on Labor and Public Welfare:

"ASSEMBLY JOINT RESOLUTION No. 57—RELATIVE TO THE EXTENSION OF THE FEDERAL EMERGENCY EMPLOYMENT ACT OF 1971 AND VARIOUS SUMMER YOUTH OPPORTUNITIES PROGRAMS

"LEGISLATIVE COUNSEL'S DIGEST

"AJR 57, Moretti. Employment.

"Memorializes the President of the United States to reconsider his budget proposals and extend the Emergency Employment Act and various summer youth opportunity programs through June 30, 1975.

"Whereas, The Emergency Employment Act (EEA) of 1971 was enacted by the Congress of the United States to reduce unemployment by providing state and local governments with the necessary wherewithal to recruit, train and employ the unemployed in public service jobs; and

"Whereas, The EEA program has employed 26,635 persons in California state, city and county government agencies, thereby enabling the implementation of either new or expanded essential public services in such fields as police and fire protection, environmental protection, education and other social services; and

"Whereas, The EEA program has been especially beneficial because it has reached those usually hardest hit by slow economy, namely, the minorities, the young, the old, Vietnam vets, welfare recipients, and those otherwise disadvantaged; and

"Whereas, Local governments in California have, with federal assistance, provided summer employment, expanded recreation, and other support programs for youth; and

"Whereas, These valuable programs have provided over 45,000 employment opportunities a year, thereby enabling young people to continue their education; and

"Whereas, These programs provide youthful participants with meaningful job experience and training; and

"Whereas, The EEA program and various federal summer youth opportunities programs are threatened with termination if the 1973–74 Federal Budget is adopted as proposed; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California memorializes the President of the United States to reconsider his budget proposals and join with the Congress of the United States to assure the people of California that the Emergency Employment Act Program and various summer youth opportunities programs will be extended through June 30, 1975; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A resolution of the Senate of the State of West Virginia. Referred to the Committee on Veterans' Affairs:

"SENATE RESOLUTION No. 12

"(By Mr. McGraw and Mr. Jones)

"Urging the President and Congress of the United States to increase benefits for disabled veterans.

"Whereas, Since the Revolutionary War, the American people, acting through their government, have provided certain benefits for disabled war veterans; and

"Whereas, Disabled veterans have sacrificed their ability to lead a normal life by their service; and

"Whereas, They are being denied the fruits of American prosperity that they helped to secure, because of antiquated systems of assistance; and

"Whereas, The rising cost of living, changing job qualification requirements and devaluation of the dollar have reduced the value of the benefits now provided to disabled American veterans; therefore, be it.

"Resolved by the Senate of West Virginia:
"That the President and Congress of the United States are hereby urged and requested to increase the benefits given to disabled veterans; and, be it

"*Resolved further,* That copies of this resolution be forwarded to the President of the United States, the Speaker of the House of Representatives and the President of the Senate of the United States."

A resolution adopted by the Cherokee Nation of Oklahoma, praying for the confirmation of the Acting Commissioner of Indian Affairs as Commissioner of Indian Affairs. Referred to the Committee on Interior and Insular Affairs.

A resolution adopted by the Jackson Chamber of Commerce, Jackson, Miss., praying for the completion of remaining sections of the Natchez Trace Parkway. Referred to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MAGNUSON, from the Committee on Commerce, without amendment:

S. 1880. A bill to protect hobbyists against the reproduction or manufacture of certain imitation hobby items and to provide additional protections for American hobbyists (Rept. No. 93-345).

REFERRAL OF S. 2028 TO COMMITTEES ON BANKING, HOUSING AND URBAN AFFAIRS, AND COMMERCE

Mr. SPARKMAN. Mr. President, the Senator from Michigan (Mr. Hart) recently introduced S. 2028, which was referred to the Committee on Banking, Housing and Urban Affairs. I ask unanimous consent that there be a dual reference to that committee and to the Commerce Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HUMPHREY (for himself, Mr. McGee, Mr. Pearson, Mr. Kennedy, and Mr. Javits):

S. 2241. A bill to provide famine and disaster relief to the countries of the African Sahel. Referred to the Committee on Foreign Relations.

By Mr. BROCK:

S. 2242. A bill to amend title 10, United States Code, to provide for the establishment in each military department of an engineering and technology academy to train persons in certain highly technical skills needed by the armed forces of the United States, and for other purposes. Referred to the Committee on Armed Services.

S. 2243. A bill to amend the Department of Transportation Act in order to provide for an Assistant Secretary for Coast Guard Affairs. Referred to the Committee on Commerce.

By Mr. HARTKE:

S. 2244. A bill to prohibit the importation of property expropriated from citizens of the United States by foreign governments without payment of adequate compensation. Referred to the Committee on Finance.

By Mr. ERVIN:

S. 2245. A bill to abolish the existing procedure for increasing the salaries of certain legislative, executive, and judicial salaries. Referred to the Committee on Post Office and Civil Service.

By Mr. METCALF (for himself and Mr. Bellmon):

S. 2246. A bill authorizing the Secretary of the Interior to issue certain obligations and to utilize the revenues therefrom to acquire additional wetlands. Referred to the Committee on Finance.

By Mr. MAGNUSON (for himself and Mr. Jackson):

S. 2247. A bill for the relief of the city of Asotin, Wash. Referred to the Committee on the Judiciary.

By Mr. WILLIAMS (for himself, Mr. Eastland, Mr. Mondale, Mr. Bentsen, Mr. Burdick, Mr. Cannon, Mr. Eagleton, Mr. Jackson, Mr. Magnuson, Mr. Moss, Mr. Sparkman, Mr. Talmadge, and Mr. Randolph):

S. 2248. A bill to amend title VI of the Public Health Service Act to provide for adequate outpatient care in medically underserved areas. Referred to the Committee on Labor and Public Welfare.

By Mr. MAGNUSON (for himself and Mr. Cotton (by request):

S. 2249. A bill to amend the Interstate Commerce Act by adding thereto provisions authorizing the Interstate Commerce Commission, in its discretion and under such rules and regulations as it shall from time to time prescribe, to establish minimum requirements with respect to security for the protection of the public for loss of or damage to property transported by carriers subject to parts I and III of this act; and

S. 2250. A bill to amend the Interstate Commerce Act and the Harter Act in order to provide a more effective remedy for owners, shippers, and receivers of property transported in interstate or foreign commerce to recover from suface tansportation companies subject to the former act, damages sustained as the result of loss, damage, injury, or delay in transit to such property. Referred to the Committee on Commerce.

By Mr. MAGNUSON (for himself and Mr. Cotton) (by request):

S. 2251. A bill to amend section 22 of the Interstate Commerce Act so as to eliminate free or reduced rates for Government traffic, except in certain circumstances, and for other purposes. Referred to the Committee on Commerce.

By Mr. MAGNUSON (for himself and Mr. Cotton) (by request):

S. 2252. A bill to transfer to the Secretary of Commerce certain functions of the Secretary of the Interior relating to encouraging, promoting, and developing travel within the United States, and for other purposes. Referred to the Committee on Commerce.

By Mr. DOMENICI:

S. 2253. A bill relating to lands in the Middle Rio Grande Conservancy District, New Mexico. Referred to the Committee on Interior and Insular Affairs.

By Mr. HARTKE:

S.J. Res. 139. Joint resolution to proclaim September 23 through 29, 1973, as "National Dog Week." Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HUMPHREY (for himself, Mr. McGee, Mr. Pearson, Mr. Kennedy, and Mr. Javits):

S. 2241. A bill to provide famine and disaster relief to the countries of the African Sahel. Referred to the Committee on Foreign Relations.

AUTHORIZATION FOR RELIEF AND REHABILITATION OF DROUGHT-STRICKEN AFRICAN STATES

Mr. HUMPHREY. Mr. President, I am introducing, on behalf of myself and my fellow members of the African Affairs Subcommittee, Senator Pearson and Senator McGee, as well as Senator Kennedy, a bill to amend the Foreign Assistance Act of 1961, which will authorize the spending of $30 million in the relief and rehabilitation of the six West African countries that have been stricken by a catastrophic drought.

The crisis in this area has been steadily intensifying. We receive daily reports of the human suffering, the threat of famine and the economic devastation caused by 4 years of drought. It has become obvious to all who are concerned about the drought—to the AID and U.N. officials working with on a daily basis, to the reporters who have spent weeks in the area, to Members of Congress, to thousands of Americans who have contributed to private relief efforts, to the African Governments and to the President—that a major, special commitment of financial technical assistance will be necessary to avoid mass starvation and enable these people to once again feed themselves.

The bill I am introducing, first proposed by Congressman Charles Diggs, has been unanimously accepted by the House Foreign Affairs Committee. It has the full support of the Agency for International Development. It provides for the implementation of the administration's policy as expressed by President Nixon and the Assistant Secretary of State for African Affairs, David Newsom.

Assistant Secretary Newsom stated in hearings I held on June 15 in the Africa Subcommittee:

> I would like to stress that the drought crisis and our response is not just an effort to help friends who have turned to us in their misfortunes but it is also a demonstration that we, the richest peoples of the earth, can extend a helping hand to the poorest.

President Nixon stated in a letter to the Secretary General of the United Nations, Dr. Kurt Waldheim:

> We share your concern that the problems of dealing with the immediate emergency will become even more difficult as the rains begin and road transport problems increase. We therefore stand ready to provide further support for internal transport, as specified needs are identified.
>
> As you have recognized, this region is faced not only with the immediate needs of feeding the hungry but also of rehabilitating water and forage resources, livestock herds and grain producing facilities to permit a long range recovery from the devastating effects of the drought. This effort will require close collaboration among African leaders and the donor community. As specific rehabilitation needs are more clearly identified, and as it becomes clearer what others are ready to do, the United States will be prepared to provide additional assistance for the Sahel to help overcome the profound effects of this tragedy.

Mr. President, I ask unanimous consent that the bill I am proposing and AID's statement of support be printed in the Record at this point.

There being no objection, the items were ordered to be printed in the Record, as follows:

S. 2241

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Chapter 3 of part III of the Foreign Assistance Act of 1961, relating to miscellaneous provisions, is amended by inserting immediately after section 658 the following new sections:

"SEC. 659. Famine and Disaster Relief to the African Sahel—(a) The Congress affirms the response of the United States Government in providing famine and disaster relief and related assistance in connection with the drought in the Sahelian nations of Africa.

"(b) Notwithstanding any prohibitions or restrictions contained in this or any other Act, there is authorized to be appropriated to the President, in addition to funds otherwise available for such purposes, $30,000,000 to remain available until expended, for use by the President, under such terms and conditions as he may determine, for emergency and recovery needs, including drought, famine, and disaster relief, and rehabilitation and related assistance, for the drought-stricken Sahelian nations of Africa.

"SEC. 660. African Sahel Development Program.—The Congress supports the initiative of the United States Government in undertaking consultations and planning with the countries concerned, with other nations providing assistance, with the United Nations, and with other concerned international and regional organizations, towards the development and support of a comprehensive, long-term African Sahel Development Program.".

AID COMMENTS—AMENDMENT TO H.R. 7484, AFRICAN SAHEL ASSISTANCE (P. 20, LINE 9)

This amendment would add a new section 659 and section 660 to the Foreign Assistance Act. Section 659 would authorize the appropriation of at least $30 million for famine and disaster relief and rehabilitation assistance for the drought stricken Sahel nations in Africa. Section 660 is a Congressional endorsement of planning for long-term needs of the area in connection with the UN and other organizations.

A.I.D. Position: A.I.D. has no obection to this amendment.

Discussion: During the past five years a drought has become increasingly severe in the Sahel region. The U.S. and other international donors have focused on immediate short-term assistance to the affected region over the past year. At this time, it is appropriate that the U.S. and other donors join with the affected countries to begin to plan for the medium and long-term relief, reconstruction and development of the affected areas.

The $30 million which would be authorized by this amendment is the initial estimate of the needs for relief, rehabilitation and related assistance. The Executive Branch would seek additional appropriations as needed for these purposes over the open-ended authorization for disaster relief provided by section 451(a). The use of funds hereunder would be consistent with the President's budget proposals for FY 1974.

A.I.D. concurs with Congressional endorsement of cooperative long-term planning for the preservation and development of the Sahel region.

THE EXTENT OF THE DISASTER

Mr. HUMPHREY. The poverty of these six countries, even in the best of times, is difficult to imagine. Four of them—Mali, Chad, Niger and Upper Volta—are among the 25 least developed countries of the world, with per capita GNP's of $100 or less and literacy rates of under 10 percent. Mali normally has a per capita GNP of $60. Their GNP's have been cut in half by the drought.

One relief worker has said:

> This disaster is not a sudden thing. It just keeps creeping up—creeping up.

Donald S. Brown, Deputy Assistant Administrator, Bureau for Africa, AID, stated at our June 15 hearings that it has now reached the point where "the lives and livelihood of the entire region are deeply threatened."

For these semidesert economies, where 90 percent of the people depend on livestock and farming for their livelihood, rain is crucial. For 4 years, rainfall has averaged half its normal level. This drought is the worst in 60 years. The water tables have fallen, and many of the wells are dry. The major rivers—the Niger, the Senegal, the Badama and the Volta—are at their lowest point since 1914. At many places, they have become muddy streams people wade across, no longer navigable and no longer flooding to provide water for crops. Lakes have dried up. Lake Chad, once the world's best fishing lake, has been reduced to four muddy swamps, one-third its normal size.

No one can accurately estimate the economic effects of this disaster. Estimates of shortfalls in grain production are being constantly revised upward, and now range from 500,000 to over a million metric tons. These countries have lost from 33 to 80 percent of the grain crops—millet and sorghum—needed to feed their people and the same percentages of the major exports they rely on to import additional food. Farmers have planted six and seven times, only to watch their seed bake in the ground. For many, there is no seed left for the next planting. Much of it has been eaten to avoid starvation.

The major source of income for many of the people in this area—and the major export for some of the countries—is livestock: cattle, sheep, camels, and goats. Between 30 and 90 percent of the national herds are now dead—and the rest are threatened by starvation, lack of water, and disease. The nomadic herdsmen have had to take their cattle farther south than normal in search of water and grazing land. In the south, the cattle are exposed to diseases to which they have no immunity and cluster around wells where there is no longer any grass on which to feed. The best cattle, the natural breeding stock for future herds, are being sold for slaughter, often at prices of no more than $3 to $4, so that their owners can buy grain.

The human suffering caused by this economic disaster is even harder to quantify than the losses of crops and livestock. The FAO and relief workers have said that 6 to 10 million people will face starvation if relief efforts are not stepped up. Others say that, while enough food is now being provided to prevent this mass starvation, there have already been many deaths as a result of the drought and there will be many more. Old people and children have died, both from malnutrition and from diseases they were too weak to resist.

For those who live, as Dr. Sam Adams, head of AID for Africa, has pointed out, "the margins are very thin, indeed." The food being provided is barely enough to keep them alive. Malnutrition is widespread. Added to this tragedy of physical suffering is the tragedy of a lost way of life. Most of the nomadic herdsmen have lost all their cattle. Some have committed suicide, a phenomenon previously unknown in this area. Others have gone to camp around the cities, trying to find menial jobs, food, and water. Most of the major cities in the area have at least doubled in population in the last few months.

Nouakchott, the capital of Mauritania, has grown from a population of 40,000 to one of 120,000. The nomads want to rebuild their herds and return to the way of life on which their unique culture is built. But they know that it will take years to do this, and that many will not be able to return at all. The steadily encroaching desert simply cannot support the number of people who once lived there.

In light of these tragedies—death, disease, malnutrition, and the loss of a way of life for a proud people—the argument over how many thousands have starved to death and how many millions may starve is irrelevant. As both Assistant Secretary David Newsom and Dr. Samuel Adams have pointed out, relief efforts might well have been sufficient to keep millions alive, but they have not been sufficient to provide hope.

People must be adequately fed, not barely subsisting, to rebuild their farms and their herds or to begin a new way of life. The commitment of these men to not only prevent starvation but also to guarantee a fresh start to the people of the Sahel is to be commended.

RELIEF EFFORTS TO DATE

These six nations, proud of their recently won independence and determined to solve their own problems if possible, were reluctant to call upon the international community for assistance. It was not until March 1973, when their own reserves were totally depleted, that they declared their countries disaster areas and made an appeal for relief.

Even now, with their GNP cut in half, their tax base eroded, their revenues diminished to the point where they cannot sustain normal government services, and their foreign exchange reserves reduced by the loss of export crops—these countries maintain a remarkable spirit of self-help.

As one Nigerienne official put it—

> No one wants always to have to hold his hand out for help from other people. You want to do something for yourself, even if it is very, very small—you want to do something for yourself.

President Diori of Niger has given up 20 percent of his salary and has required others in the government to give 2 to 10 percent of theirs for emergency relief. Private citizens have responded to the call to contribute. In Senegal, each worker is required to contribute 1 day's pay to the effort.

Those who have been in the area state that the governments' relief efforts are extremely well-organized and corruption-free.

There has been extensive cooperation among the governments. Shipments of grain to the landlocked countries have been given first priority in west African ports. Agreements have been reached among the countries to assure the most efficient use of their railroads in shipping grain. Migrants in search of food have been fed by the host countries, regardless of nationality.

More than 22 nations, the European development fund of the EEC, the United

Nations, and several private agencies have responded to the call for assistance. Initial contributions have been estimated at 470,000 metric tons of grain and $30 million in nonfood assistance. The international nature of this effort is demonstrated by the fact that Soviet planes have been airlifting American grain into the region.

For the United States, as for the other donors, awareness of the extent of this disaster has grown as we have become increasingly involved in the relief effort. We have learned that much more food than the 156,000 tons we originally committed will be needed to avoid starvation in the coming months. For this reason, an additional 100,000 tons of sorghum have been recently released for immediate delivery to the area.

Internal transport needs have become evident. This is an international area with few good roads and railroads. An international airlift effort, including three American C-130's, was launched soon after the relief program began. The airlift will probably have to be expanded if seasonal rains isolate a number of villages or if trucks and railroads cannot carry grain inland fast enough. This amendment would provide the funds necessary to subsidize additional ground transport and to expand the airlift when people become cut off from grain supplies.

Other nonfood needs must be met if the people of the Sahel are to survive this drought and rebuild their economies. The European Economic Community has been the leader in nonfood assistance, providing $22 million thus far. The United States has provided $3 million. This aid has gone for medicine, livestock feed and inoculations, wells, storage facilities, agricultural tools, seed, and supplementing government budgets and foreign exchange reserves.

The United States and other donors have become increasingly aware of the need to coordinate their relief activities—both to assure the most effective possible response to the immediate emergency and to guarantee that this response is consistent with long-range development goals.

We have learned the hard way that past development problems have aggravated the problems of this area. Cattle inoculation programs, unaccompanied by better livestock marketing facilities or extension services to the herders, have resulted in herds too large for the area's grazing lands to handle. Well-digging problems have not been effectively planned, so that wells are inappropriately spaced. The development of export crops has been encouraged at the expense of crops needed for food and of crop diversification. We want to make sure that the short-term assistance we are now providing does not result in this kind of long-term problems.

Because of this need for effective planning and coordination, President Nixon has appointed a special coordinator, Maurice J. Williams, to make certain U.S. contributions to the relief effort are consistent with what others are doing and with long-range development goals. The needs for effective coordination, and for a larger coordinating staff, will grow in fiscal year 1974.

Every indication is that more relief will be needed in this region next year than was this year. At the same time, the international donor community, as well as the countries themselves, will be turning their attention to recovery needs and a long-term development program. Mr. Williams, who is now charged with overseeing U.S. relief in Bangladesh and Southeast Asia as well as the Sahel, will need a team of relief and development experts if the United States is to contribute effectively to the coordination of assistance to the Sahel in the coming year.

Finally, it is important to note a growing desire among private citizens and agencies in the United States to contribute to this relief effort. The Catholic Relief Services, the Church World Service, the American Friends Service Committee, the Mennonites, and Africare have already made significant contributions. Congressman FAUNTROY has launched an effort to involve American religious groups, especially black churches, in relief assistance. In many cases, private relief agencies have dealt more effectively with such emergencies than have governments. It is my hope that their contribution to this relief effort will grow.

RELIEF AND RECOVERY NEEDS

Reports we have received so far on the drought have carried predictions of catastrophe if the rains do not come to the Sahel again this year:

> If the rains do not come the result, in many cases, will be death for almost all livestock and, perhaps, widespread death by famine in the region before Thanksgiving, 1973. (AID report.)
>
> There are no deaths yet, but if we don't get the rain I'm sure there will be starvation. (Mali relief officer.)
>
> No rain this year? I just don't want to think about the consequences. (WFP advisor who has lived in the area six years, Reginald Polaris.)

An article in Sunday's Washington Post reported that "the rains have cheated West Africa yet again." They should be in their second month; but so far there have been only two false rains of 3 or 4 days. If this continues, if there is yet another season of no rain, the crop shortages will be even greater than last year. The remaining livestock will probably die. And massive relief efforts will be required to avoid famine.

Even if the rain does come and is properly spaced to produce crops, there is every indication that shortfalls in production will be greater this year than last and that the food requirements of the area will be approximately double what they were for fiscal year 1973. Farmers will have to rebuild their seed and food stocks, so there will be less grain available for the nonfarm population.

Food consumption per person will have to be higher than the present bare minimum levels to enable the weakened population to resist disease. Plantings this crop year will not be as high as last because many farmers who have had to go to distribution centers for food will not be able to return home in time to plant. Seed brought into the area to replace that which has been lost and consumed is not expected to produce as high yields as the indigenous seed. And, finally, additional food will be required for the nomads who have lost their herds.

The airlift of food will probably have to be expanded in the coming months. While there are conflicting reports about grain piling up at ports and not reaching people who need it, all agree that rains will make the few good roads in this region impassable. If the rains come, at least a temporary airlift into isolated areas will be necessary. If reports of the inadequacy of ground transport are true, a much larger airlift will be required to prevent widespread starvation.

Needs for medical assistance will also increase in the coming year. Already epidemics of diseases such as measles have killed thousands weakened by hunger. Vaccines against measles and other diseases must be provided. Requests have been made for portable disaster relief hospitals to bring medical care to victims of the drought. Because government revenues have fallen so sharply, even the normal health programs of these governments will have to be subsidized by outside donors.

Food and medical relief are not enough if these countries are to rebuild their economies to the predrought level. The recovery effort will require outside financial and technical assistance. Research must be done on the kinds of seed that can best replace those lost in the drought; and seed will have to be purchased and distributed to farmers. A core breeding stock of cattle will have to be maintained—fed, provided with water, and vaccinated against the diseases to which they have been exposed in the south.

Dry wells will have to be drilled deeper to reach the lower water tables, and new ones will have to be drilled, in order to reclaim the farmlands. Resettlement schemes will have to be started for those whose lands have been permanently taken over by the desert.

These countries, among the poorest in the world, have little to invest in their own recovery. They will have to rely on outside support. Many donors, including the United States, have already begun assisting in the recovery effort. In early May the FAO established a Sahelian Zone Trust Fund for this purpose. As emergency relief needs are met, the task of rebuilding economies will become the focus of assistance efforts.

LONG-TERM DEVELOPMENT ASSISTANCE

The drought is not the only reason farmlands and pasturelands have become dry and barren in the Sahel. The people of this region face a more fundamental economic threat than the drought—the steady encroachment of the Sahara Desert. In the last 50 years an estimated 250,000 square miles of arable land in the Sahel have been forfeited to the desert. In some areas, this "desertification" has reached a rate of 30 miles a year.

Many past development programs have helped accelerate this process. The drilling of wells and the vaccination and worming of cattle have resulted in overgrazing. During the recent drought, the encroachment of the desert was further accelerated as herdsmen killed trees by breaking off the branches to feed their starving cattle.

Development programs must now be developed to retard and turn back the advance of the desert.

There will have to be a concentration on smaller, higher quality herds. This will require better marketing facilities for beef and an agricultural extension service that reaches the nomads, who traditionally view numbers of cattle as a symbol of wealth.

Wells will have to be better spaced to insure that herds do not overgraze around any single well.

The water resources of the region will have to be developed. It has been suggested that the Earth resources technology satellite be used to locate water resources as well as survey cropping patterns. Plans to develop the Senegal and Niger Rivers, as yet unrealized due to lack of funds, should be put into operation. Both these rivers irrigate little land now; and the use of their water could help reclaim land taken over by the desert.

Finally, the productivity of arable lands could be greatly increased. Few modern agricultural techniques are used in this area. Farmers have not earned enough to invest in tools, fertilizers, or improved seeds. These inputs, as well as extension services, must be provided. Some have suggested that an alternation of crops between grain and fodder and the use of animal traction would improve output.

An alternation between millet and export crops has also been proposed. The export crops would earn the money needed for fertilizer to increase millet production.

The United States and other donors have been working on a grain stabilization system for the area. This would guarantee stable grain prices to the farmer and enable the governments to store grain for years when there was a shortage.

Millet, one of the basic food crops of this area, is one of the least researched grains on Earth. Many believe that the technology that has already been used to develop the high-yielding varieties of wheat and rice could be easily transferred to millet.

All these are merely preliminary suggestions for what could be done to not only restore but also increase production in this area. Careful, detailed plans will have to be formulated and evaluated in light of the delicate ecological balance of a semidesert region before the long-term development effort can begin. It is hoped that some of the funds provided in this authorization will be used to provide scientific and technical assistance in the working out of a long-term development strategy.

In conclusion, Mr. President, I am deeply concerned about the growing cynicism over foreign aid. I hope it has not become so great that we will no longer try to feed those who are starving or contribute our agricultural technology and research skills to the enrichment of the world's poorest countries. To turn our backs on such suffering would reflect a poverty in spirit far greater than the material poverty of these six West African states.

Mr. KENNEDY. Mr. President, I am pleased to join the distinguished chairman of the African Affairs Subcommittee of the Committee on Foreign Relations, Senator HUMPHREY, and his subcommittee colleagues, in introducing today a bill to amend the Foreign Assistance Act in order to provide $30 million in relief and rehabilitation of the six West African nations ravaged by drought and famine.

There can be no question today that this emergency relief fund is needed. We know of the extent of the catastrophe that has overcome these West African nations from the information developed last month in the hearing before Senator HUMPHREY's African Affairs Subcommittee, and from testimony given just this morning before the Judiciary Subcommittee on Refugees, which I serve as chairman.

Mr. President, we learned this morning that hundreds of thousands of people have fled their villages and the countryside of West Africa in a desperate search for food and water. Livestock herds have been decimated. Crops are destroyed. The palm trees are blighted. New threats of epidemic and disease are casting their shadows over urban areas already choking under a wave of refugees seeking assistance. Millions face hunger, starvation, and threat of mass famine. Fiercely proud and recently independent people, who have struggled so hard to create a viable society within the reaches of the desert, can no longer turn to their land for survival. And as the magnitude of the disaster becomes more fully known we can only learn of even greater tragedy and human suffering.

The food crisis went unnoticed far too long. And the belated efforts to alleviate the anguish have already proven too late for uncounted thousands.

With food and water and medicine in short supply, nearly 8 million people now await international assistance. Where starvation is not inflicting a heavy toll, malnutrition is, as once healthy people, weakened from hunger, fall victim to the ravages of sickness and disease.

Despite a continuing flow of relief supplies to port areas, transportation problems, and the confusion created by uncoordinated relief efforts, pose a danger to these people, who measure their needs in hours and days—not weeks and months.

We have too long neglected our friends in Africa. And so today, we must do what we can to compensate for this indifference.

Mr. President, this bill will help us better meet our humanitarian responsibilities in west Africa, and to respond to the international appeals for assistance.

Food is the most fundamental commodity needed to sustain human life. And so the threat of shortages is menacing. Even in our own country, with a history of surplus, families are acutely aware of a growing world food crisis. Many items are missing from our grocery shelves today—and prices have skyrocketed for those that remain.

But as we take steps to remedy the problems here at home, we cannot neglect hungry people overseas. We no longer have unlimited surpluses to meet all their needs, but we must do what we can with what we have.

Drought and hunger are a tragic companion to millions of people around the world. And the human suffering it brings is, in many ways, more devastating than the toll of human conflict—for drought and hunger not only leaves proud people weak—but fertile land barren, and disease and death in its path.

Nowhere is this more evident today than in west Africa. And nowhere is there greater need for the funds provided in this bill. I hope it will receive favorable consideration by the Senate, and I commend Senator HUMPHREY and the African Affairs Subcommittee for introducing it today.

By Mr. BROCK:

S. 2242. A bill to amend title 10, United States Code, to provide for the establishment in each military department of an engineering and technology academy to train persons in certain highly technical skills needed by the Armed Forces of the United States, and for other purposes. Referred to the Committee on Armed Services.

S. 2243. A bill to amend the Department of Transportation Act in order to provide for an Assistant Secretary for Coast Guard Affairs. Referred to the Committee on Commerce.

Mr. BROCK. Mr. President, I am today introducing two bills on military matters which I have discussed today in testimony before the Senate Appropriations Committee.

The first bill provides for the establishment in each military department of an engineering and technology academy to train persons in certain highly technical skills needed by the Armed Forces.

The second bill amends the Department of Transportation Act to provide for an Assistant Secretary for Coast Guard Affairs.

Mr. President, the need for this legislation, and the context in which I am proposing it, is fully explained in the testimony which I have presented to the Appropriations Committee this morning. I would, therefore, ask unanimous consent that those remarks be printed in the RECORD, to be followed by the text of the two bills.

There being no objection, the testimony and bills were ordered to be printed in the RECORD, as follows:

TESTIMONY BY SENATOR BILL BROCK, JULY 24, 1973

Mr. Chairman, my remarks today are based upon the premise that it is time now for stock-taking, time for a sober and unemotional reappraisal and re-evaluation of our defense policies, in the broadest possible context.

It may be argued that stock-taking is always in order, and of course that is quite true. Nonetheless, there are certain moments in our national history when such a response is particularly needed, and I strongly believe that we are at such a moment today.

We have just completed the de jure phase, and are about to complete the de facto phase of a war whose military, political, and social and economic ramifications will condition our future policy for a long time to come.

Yet I do not see out in the country the serious debate and the serious thought about the future of the American military which followed, say, the two World Wars of this century.

After World War I, internationalist and isolationist leaders made that discussion the principal focus of American politics, until the unfortunate resolution of the issue in favor of the isolationists.

A generation later, post-World War II America again engaged in soul-searching debate over its role in the world, this time with the internationalist view gaining the upper hand, with the result that American military force grew to become the greatest in the history of the world.

It is important to note, too, that in both instances, resolution of the debate was followed by statesmanlike bipartisanship with regard to the foreign and military policy spheres.

We are now at another crossroads in history, but as I look about, I do not see the serious debate. Indeed, the dominant issue of our military posture threatens to become the matter of how high ranking a military officer must be in order to deserve a chauffeur.

At a time when we hold not only the peace of the world, but the very survival of the world in our hands, the situation is impossible.

I intend no criticism whatsoever of the Appropriations, Armed Services and Foreign Relations Committees, whose members and staff deal daily with questions of vast importance. Nor is my criticism directed at the President, whose efforts in the international field must be greatly respected. But beyond the circle of experts, there is no genuine debate, and no genuine understanding.

I have today written to the Chairman of the Committee on Government Operations, of which I am a member, asking for the creation of an Ad Hoc Subcommittee to investigate the problem of national interest coordination to look into the various areas, from energy to economics to the environment, which constitutes the national interest in our complex world. I would like to encourage other committees to consider the national security aspects of their duties in a more systematic manner. Commerce, Treasury, Agriculture, Joint Economic and other committees cannot possibly hope to do their job adequately without such consideration.

Such activity in the Congress can additionally focus the attention of the public on the question of the future of our national security, thereby further contributing to the much needed stock-taking.

It may be inferred from my call for a new national discussion of foreign and military policy matters that I do not believe we already have the answers to the important questions. Such inference is entirely correct.

I am not even sure we adequately comprehend the nature of the threat to our national interests. Is it Russia or China? Is it something less tangible than a nation, is it inflation, a weakening dollar . . . or someone deliberately weakening the dollar? We desperately need a better identification of American interests, and the threats to those interests.

We also need a better organizational mechanism, in both the Congress and the Executive Branch, but particularly in the Congress, to look at the total of global, and now even extra-terrestrial policy.

Only if we can determine where the pressure points are can we ever hope to devise a new strategy for the last quarter of the century—a strategy adequate to counter the threat.

Consider for a moment the old strategies. In the 1950's, we called our policy "massive retaliation." Perhaps the word "massive" was ill-chosen and overemphasized, but we should also remember that the real key to the policy was the other word, "retaliation," and that John Foster Dulles called for the exercise of the policy at "times and places of our choosing." That concept was wise, and appropriate to the situation.

The strategy of the '60's was called "flexible response," and in choosing the word "flexible" policymakers added a dimension to Dulles' concept. We should act not only where and when we chose, but also how we chose.

This concept was well-suited for an era in which the Soviet Union had obtained nuclear capability, but sadly, we misjudged the appropriate "response" in Southeast Asia, with results with which we are all too familiar.

If in the decade ahead we can determine the nature of our national interests, and of the threats to those interests, and if we can then devise a strategy for dealing with those threats, we can then engage far more sensibly with the third level, the procurement of the resources to implement that strategy.

The members of this Committee, and the Congress as a whole, of course, are going to have to proceed now, even in the absence of a better definition of the problem, and that is the object of these hearings. Until such time as new determinations can be made then, I would like to offer some suggestions to you, but I would like to do so in a manner which addresses some conceptual ways of looking at the military budget, and relates specific programs to that concept, rather than dealing singly with specific programs as other critics have done.

There are four principal thrusts to my approach:

First, we should develop a staggered phase-in of new programs, and phase-out of old ones.

Second, we should develop a hi-low system where the highest quality, and most expensive items would be supplemented by a parallel program for less costly but adequate-quality items.

Third, we should develop a capacity for capability without production in some areas, proceeding with research and development, but stopping short of costly production until strategic necessity impels further action.

Fourth, we should develop better role definitions for the various tasks of our armed forces.

PHASE-IN

The central idea behind the staggered phase-in approach is that expensive new programs should not be begun at the same time as other expensive new programs. There are two reasons supporting staggering. First, our economic resources may be unnecessarily strained by concurrent development, and more efficiently husbanded by staggered development.

Secondly, new systems phased-in at the same time, are likely to become obsolete at the same time, thereby necessitating a second round of budget-busting concurrent development, or worse, a need for combat use at a time when two important systems may be out of date.

Consider the Triad strategic concept, consisting of a manned bomber program, land based missiles and sea launched missiles. Some questions whether we need it at all, but I am not one of these. I think we do need the flexibility Triad affords us, but I think we need to devise a plan for proceeding one leg at a time.

In proposing a staggered Triad modernization, I recognize that I am saying that it may be necessary for our defense to be inferior to those of another country in one of three areas at any given time. But I believe we can reasonably set up a schedule whereby in the worst circumstance we will have superiority in one phase, parity in the second, and a possible slight inferiority in the third. I view this as an acceptable strategic posture.

Unfortunately, we are presently in the process of modernizing all three legs of Triad at the same time. Minuteman II is being replaced by Minuteman III. Polaris is being converted into Poseidon, and B–52's are being refitted and ultimately replaced by the B–1.

Accepting the idea of staggered phase-in, we must set priorities. My choice would be to proceed with one, say the B–52, while cutting back on Minuteman III, and Polaris conversion. This would mean cutting $394 million for the final buy of 136 Minutemen, which money I believe could be better used in research and development in the missile area. It would also mean cutting the last $237 million for Polaris conversion, which represents the last 5 of the 31 Polaris submarines scheduled for conversion. This money or a portion of it, might better be spent on escort vessels or research and development into anti-submarine warfare.

The B–52's are old and need improvement. Moreover, the missiles being developed for the modernization of the aircraft, SCRAM and SCAD, will be used in the next step of the manned bomber program, the B–1.

The B–1 program, and the Trident submarine program represent the next phase of development in the Triad concept. We do not currently have a comparable program in the third area, land-based missiles, which is one of the reasons I suggest utilizing Minuteman III money for missile R and D. With regard to the B–1 and the Trident, however, I am concerned that we are headed for another concurrent development-concurrent obsolescence cycle. Again, we must do the tough job of establishing a priority, one or the other.

If we apply the staggered phase-in concept to the field of fighter planes, we must make our choice between the Air Force F–15 and the Navy F–14. Both are good, although perhaps somewhat overpriced, aircraft. But we cannot afford to acquire them both at the same time. Similarly, we cannot afford to have them become obsolete at the same time.

In this particular situation, however, I believe we have passed the point of no return, the point at which it becomes illogical to stop a program. Both planes are well along in development, and so I would reluctantly support continuation of both, while at the same time calling for better phasing in future major programs.

A final area in which we may derive benefits from a staggered phase-in program is in close-support aircraft. Both the Air Force and the Army are advocating new craft in this category, with the Air Force seeking the winged A–10 plane, and the Army wanting a new Advanced Attack Helicopter.

Both may ultimately be needed for flexibility, but both should not be undertaken at the same time. Why not proceed with the A–10, and delay the Army's helicopter until the A–10 has become fully operational? I would note that the Army does have the still-effective Cobras, while the Air Force does not have a good support aircraft.

HI-LO

Everybody wants to have the best of everything, but I believe that our military procurement policy should develop a hi-lo procedure, whereby we would be assured of having some items of the very highest quality, while at the same time filling the gaps with less costly items of adequate quality. I am compelled to this viewpoint not only on economic grounds, which are probably sufficient in themselves, but also because of my overriding concern for flexible capability in our retaliation resources. And, I believe, there are a number of areas where the hi-lo approach will increase that flexibility.

Consider, for example, the question of tanks. The Army is requesting funds for a new main battle tank, the XM–1, which according to some reports will cost a million dollars per unit. While the XM–1 will not be brought on in a one-for-one trade for the present M–60 series, the Army plans to build over 3,000 of the new weapons. Why not consider a parallel program of lighter (and cheaper) tanks? The Soviets, who know a good deal about tanks, are building medium and light tanks, and I believe that future military tactical situations may well show that there are many situations in which a lighter tank or even a very mobile anti-tank weapon may prove more valuable.

As you will note, I am not suggesting abandonment of the XM-1 program. I am instead suggesting a hi-lo program of limited production of the big tanks and parallel production of a lighter item. Both economy and flexibility are served by this approach, while, at the same time, we would have heavy tanks available for use if a tactical situation, such as the one the Israelis used to such fine advantage, should develop.

A second area where a hi-lo approach is called for is ships. At a time when the Soviet Navy is expending, at a time when the merchant fleet is expanding, at a time when our dependence on overseas energy is becoming acute, our Navy is shrinking and one reason is simply the cost of ultra-sophisticated ships.

In 1972, the Navy had 279 escort ships, by 1974, they will have only 191 escort ships barely enough to protect the fleet, much less the sea lanes and merchant fleet.

I am pleased to see the Navy planning to purchase 50 patrol frigates, PF's, but I wonder if this will be the smaller, cheaper, ship we need. Cost estimates are up to approximately $50 million which makes them as expensive as the larger DD963 class destroyers.

We need a "lo-" to fit with the DD-963 "hi". And, perhaps private industry might be producing the answer. Avondale is building a "Frigate Internationale" that is scheduled to cost under $40 million.

One of the reasons for the lower cost is that they are being built on an existing hull, the Hamilton Class of the Coast Guard. Would this be a good ship for escort duty? Coast Guard Admiral James W. Moreau writes after exercise with the Navy: "The performance of *Mellon* while serving with the Navy as a destroyer type unit during ASWEX RIMPAC 72 was outstanding. I observed with pride her enthusiastic and professional performance in the fast-pace multithreat and multinational environment. The *Mellon's* tenacity, aggressiveness, and resourcefulness in heavy ASW combat situations throughout the exercise was an important contribution".

If the "internationale frigate" is produced by Avondale, why not take a long, hard look at this ship and perhaps authorize the Navy to purchase one for a "try before buy" runoff with the fleet?

The hi-lo concept may also be applicable to our fighter plane requirements. With the increased costs of the F-14 and F-15 fighters, I do not believe we can afford the quantity needed. We could fill in the gaps with a less-expensive, lightweight fighter.

The Air Force has contracted for research on two such planes, but they have announced no plans for procurement. I think the research underway should be closely studied by the Air Force, and by the Congress.

CAPABILITY WITHOUT PRODUCTION

Closely allied to the hi-lo approach is the concept of capability without production. Our superiority at the highest level of technology is one of the most reassuring aspects of our defense posture vis a vis the rest of the world. We must never allow that valuable asset to be diminished, for as we look to the future, it is advancing technology that holds the key to military superiority.

Therefore, I strongly support research and development programs in wide areas of activity. I do not believe, however that it follows that every good idea which is developed ought automatically to be turned into hardware.

There are many items whose existence in the development stage may be sufficient without our committing additional billions of dollars to production unless the situation should require it.

In this regard, I have mentioned several areas previously, in particular my proposal to turn Minuteman III production money into R and D money for future land-based missile technology. I further believe that we should engage in research into the possibility of an eventual need for extra-terrestrial defense capability. Here, international treaties expressly prohibit procurement, but that does not mean that we should not be prepared for the violation of those treaties by others.

DEFINITION OF ROLES

In several areas, I fear that the roles of the various services, and of other operational aspects within the services, have become unclear. We need to sort these things out, and establish some clear guidelines.

For example, we need a better definition of roles in our air missions. A glaring example of this is the fact that the Marine Corps is contemplating purchasing some ultra-sophisticated F-14's. It would appear that the Marine Corps needs these now to "fight their way into the beach", but when the Marine Corps has to start worrying about that, they have no business conducting an amphibious landing. Fighting to the beach is a Navy function. What the Marine Corps needs is a good close support aircraft, perhaps the A-10 type.

With the all-volunteer armed forces and changing social and world conditions, we might find that the Coast Guard will have to take on some new roles. With the decline of the Navy's vessels, the Coast Guard might be the force that has to guard our coast, the increase in merchant fleets will require the Coast Guard to reassess their role.

And, most important, after the extremely important Law of the Sea Conference that will be held next Spring in Chile, there will probably be new definitions on sea boundaries, pollution, fishing rights, etc., that will give the Coast Guard new responsibilities.

For this reason, I am introducing a new bill authorizing a new Assistant Secretary for DOT for Coast Guard Affairs in order that the Coast Guard will have a greater input.

We need new thinking too about the role of manpower in the modern military situation. Our current forces are top-heavy with senior officers. The Navy has approximately one Admiral and 10 Captains for every ship, which is patently absurd. Similarly, staffs have grown out of proportion to real needs. Clearly, with the tremendous advance of communications, the need for large staffs has diminished.

One need that has measurably advanced is the need for more highly educated technicians. For that reason, I would suggest the establishment of a set of Military Technical Academies, similar to junior colleges, which would turn out highly trained noncoms who could make a real contribution to our defense needs.

Similarly, changing technology calls for changing concepts with regard to the leadership roles for senior petty officers.

Finally, in the area of procurement policy, we need a new hard-headed look at our methods. I have introduced legislation to create a new Office of Procurement Policy within the Executive Office of the President in an effort to increase efficiency, clear away red tape and save money.

CONCLUSION

I have today suggested a number of areas for cuts, and a number of procedures which I feel would save money. It would be a mistake however, to take the view that I am necessarily in favor of wholesale slashings of the defense budget.

If the kind of reevaluation and stock-taking I have suggested were to take place, the result might well be a need for even higher budgets. For example, if we were, through SALT and European MFBR, to pull back our operations, it might follow that we would have a need for increasing our amphibious and rapid transportation capability.

So while I do believe that economies can and must be made, I shall not be party to doing so indiscriminately, nor to demagoguery on the subject.

Congressman George Mahon has asked, "Why does peace cost more than war?" It is a good question, but I for one am prepared to pay more for peace than war, for I regard it as infinitely preferable. My goal, and I believe the goal of all of us, is to see to it that the price we pay for peace pays off.

Thank you.

S. 2242

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part III of subtitle A of title 10, United States Code, is amended by adding at the end thereof a new chapter as follows:

"Chapter 106.—Armed Forces Engineering and Technology Academies

"Sec.
"2150. Establishment of engineering and technology academies.
"2151. Command and supervision.
"2152. Students: appointment.
"2153. Students: requirement for admission.
"2154. Students: agreement to serve for four years.
"2155. Students: organization; service; instruction.
"2156. Students: clothing and equipment.
"2157. Students: deficiencies in conduct of studies; effect of failure on successor.
"2158. Pay.
"2159. Enlisted grade upon graduation.

"§ 2150. Establishment of engineering and technology academies

"(a) The Secretary of each military department shall establish, at such location as the Secretary concerned deems appropriate, an engineering and technology academy at which persons shall receive highly skilled training in the technical fields necessary to the military department concerned, including, but not limited to, the fields of electronics, aviation mechanics, nuclear energy, space sciencies, and marine engineering. The organization of each academy shall be prescribed by the Secretary of the military department concerned.

"(b) Persons appointed to such academies shall be graduated at the end of two years and shall be awarded an appropriate degree which shall be the equivalent of a junior college degree.

"(c) There shall be a Superintendent and a Commandant of Students at each academy detailed to those positions by the President.

"(d) The permanent professors of each academy shall be appointed by the President by and with the advice and consent of the Senate.

"(e) The Secretary concerned may prescribe the title of the departments of instruction and the professors of the engineering and technology academy under his jurisdiction. However, the change of the title of a department or officer does not affect the status, rank, or eligibility for promotion or retirement of, or otherwise prejudice, a professor of such academy.

"§ 2151. Command and supervision

"The immediate government of an engineering and technology academy is under the Superintendent, who is also the commanding officer of such academy and of the military post on which such academy is situated.

"§ 2152. Students: appointment

"(a) There shall be enrolled each year such number of students in each academy established under this chapter as may be prescribed by the Secretary of Defense, subject to such limitations as may be hereafter prescribed by the Congress.

"(b) Nominations and appointments to each academy shall be made as nearly as possible in the same manner as appointments are made to the military academies under chapters 403, 603, and 903, respectively. The Secretary of Defense shall prescribe the manner in which nominations and appointments shall be made.

"§ 2153. Students: requirement for admission

"(a) To be eligible for admission to an engineering and technology academy a person must be at least 17 years of age and must not have passed his twenty-fifth birthday on July 1 of the year in which he enters an academy.

"(b) A person must meet such physical and mental requirements as the Secretary concerned may require.

"§ 2154. Students: agreement to serve for four years

"(a) Each person who is a citizen or national of the United States shall sign an agreement that, unless sooner separated, he will—

"(1) complete the course of training at the academy to which he is appointed; and

"(2) enlist in the Army, Navy, or Air Force, as appropriate, for at least four years immediately after graduation.

If the student is a minor and has parents or a guardian, he may sign the agreement only with the consent of the parents or guardian.

"(b) A student who does not fulfill his agreement under subsection (a) may be transferred by the Secretary concerned to the Reserve of the military department concerned in an appropriate enlisted grade and, notwithstanding section 651 of this title, may be ordered to active duty to serve in that grade for such period of time as the Secretary prescribes but not for more than four years.

"§ 2355. Students: organization; service; instruction

"(a) A student shall perform duties at such places and of such type as the President may direct.

"(b) The course of instruction at any engineering and technology academy is two years.

"(c) The Secretary concerned shall so arrange the course of studies at an engineering and technology academy that students are not required to pursue their studies on Sunday.

"(d) Students shall be trained in the duties of members of the branch of the armed forces of which the academy they attend is a part.

"§ 2356. Students: clothing and equipment

"(a) The Secretary concerned may prescribe the amount to be credited to a student, upon original admission to an academy, for the cost of his initial issue of clothing and equipment. That amount shall be deducted from his pay. If a student is discharged before graduation while owing the United States for pay advanced for the purchase of required clothing and equipment, he shall turn in so much of his clothing and equipment of a distinctive military nature as is necessary to repay the amount advanced. If the value of the clothing and equipment turned in does not cover the amount owed, the indebtedness shall be canceled.

"(b) Under such regulations as the Secretary concerned may prescribe, uniforms and equipment shall be furnished to a student at an academy upon his request.

"§ 2357. Students: deficiencies in conduct or studies; effect of failure on successor

"(a) A student who is reported as deficient in conduct or studies and recommended to be discharged from an academy may not, unless recommended by the Secretary concerned, be returned or reappointed to such academy.

"(b) Any student who fails to pass a required examination because he is deficient in any one subject of instruction is entitled to a reexamination of equal scope and difficulty in that subject, if he applies in writing to the Superintendent within 10 days after he is officially notified of his failure. The reexamination shall be held within 60 days after the date of his application. If the student passes the reexamination and is otherwise qualified, he shall be readmitted to the academy. If he fails, he may not have another examination.

"(c) The failure of a member of a graduating class to complete the course with his class does not delay the admission of his successor.

§ 2358. Pay.

"(a) During the first three months of his training, a student is entitled to pay in an amount equal to one-half the amount that a member of the armed forces in the grade of E–1 (less than two years' service) is entitled.

"(b) From the fourth to the twelfth month, a student is entitled to pay in an amount equal to one half the amount that a member of the armed forces in the grade of E–2 (less than two years' service) is entitled.

"(c) During the second year of his training, a student is entitled to pay in an amount equal to one-half the amount that a member of the armed forces in the grade of E–3 (less than 2 years' service) is entitled.

"§ 2359. Enlisted grade upon graduation

"After graduation from an engineering or technology academy and enlisting in the armed forces a person shall be entitled to the grade of E–4."

(b) The table of chapters at the beginning of subtitle A and at the beginning of part III of title 10, United States Code, is amended by adding after

"105. Armed Forces Health Professions Scholarship Program.......... 2121."

the following:

"106. Armed Forces Engineering and Technology Academies........ 2150."

SEC. 2. Section 802 (article 2) of title 10, United States Code, is amended by adding at the end thereof a new paragraph as follows:

"(13) Students of an engineering and technology academy established under chapter 106 of this title."

SEC. 3. Section 101(21)(D) of title 38, United States Code, is amended by striking out the semicolon before "and" and inserting in lieu thereof a comma and the following: "or as a student at an engineering and technology academy established under chapter 106 of title 10;".

SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

S. 2243

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Department of Transportation Act (49 U.S.C. 1652) is amended by inserting at the end thereof a new subsection as follows:

"(g)(1) In addition to the Assistant Secretaries provided for in subsection (c) there shall be in the Department an Assistant Secretary for Coast Guard Affairs who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary shall carry out all of his functions, powers, and duties relating to the Coast Guard through the Assistant Secretary for Coast Guard Affairs.

"(2) During any period in which the Coast Guard operates as a part of the Navy pursuant to section 6 (b) (2) the Assistant Secretary for Coast Guard Affairs shall be in the Department of the Navy where the Secretary of Navy shall carry out all of his functions, powers, and duties relating to the Coast Guard through such Assistant Secretary."

By Mr. HARTKE:

S. 2244. A bill to prohibit the importation of property expropriated from citizens of the United States by foreign governments without payment of adequate compensation. Referred to the Committee on Finance.

Mr. HARTKE. Mr. President, I am today introducing, for appropriate reference, a bill to prohibit the importation of property which has been expropriated, nationalized, or otherwise seized by foreign governments from U.S. citizens without fair compensation or settlement.

The purpose of this bill is simple: It would prevent companies from offering for sale and profit in this country property which has been unlawfully seized abroad from U.S. citizens. This is a form of international economic terrorism and blackmail which we can no longer tolerate.

As everyone is aware, recent years have seen a growing tendency among some countries to nationalize the property of U.S. citizens within their borders without paying fair compensation or negotiating a settlement with the owners. What is less commonly known, however, is that in many cases—especially in the extractive industries—property seized from one company is quickly purchased and offered for sale in this country by another. The American marketplace is very often a primary market for the property expropriated. If we do not take a stand on this issue we are inviting the takeover of U.S. citizens' property by foreign countries, and by purchasing stolen goods we are, in effect, violating the spirit, if not the letter, of well-accepted principles of international law.

The bill I am introducing today would help put an end to this form of corporate cannibalism by denying the American market to the holders of expropriated property. It does not purport to answer the larger political and economic questions raised by the operations of U.S. companies abroad. It would, however, reinforce the principle of law that the sovereign act of expropriation requires the payment of fair compensation to the owner.

By Mr. ERVIN:

S. 2245. A bill to abolish the existing procedure for increasing the salaries of certain legislative, executive, and judicial salaries. Referred to the Committee on Post Office and Civil Service.

SENATOR ERVIN OPPOSES CONGRESSIONAL SALARY INCREASE

Mr. ERVIN. Mr. President, I wish to announce my cosponsorship of and strong support for Senate Resolution 144, introduced by Senator HANSEN, which recommends against salary increases for Members of Congress, the judiciary, and top-level employees of the executive branch in fiscal year 1974. Specifically, the resolution urges the President to recommend against salary increases for these officials pursuant to section 225 of the Federal Salary Act of 1967.

In view of the Nation's critical economic and financial situation, I believe it would be a terrible example for public officials to accept salary increases at this time. Only 5 years ago Members of Congress received salary increases of over 40 percent—from $30,000 to $42,500. I do not believe that any further increase can be justified at the present time.

The Federal Salary Act of 1967 established a nine-member Commission to review the salaries of judges, Members of Congress and top-level Executive branch employees every 4 years and to recommend whatever changes it felt desirable. This Commission presents its recommendations to the President who can follow, modify, or reject the Commission's recommendations. The President's recommendation is then submitted to Congress and takes effect within 30 days unless Congress disapproves all or part of them or enacts a separate pay bill. Legislation which would authorize the Commission to make its review and recommendation on a biennial rather than quadrennial basis, S. 1989, has been passed by the Senate and is now pending in the House of Representatives. If S. 1989 is enacted, it will be especially important for the Congress to make clear its views with respect to any salary increases.

I hope that the Senate will adopt Senate Resolution 144 and, thereby, provide leadership in holding the lid on price and wage increases to combat inflation.

In addition, Mr. President, I am today introducing a bill to repeal section 225 of the Federal Salary Act of 1967. Repeal of this law will return to Congress the authority to make Federal salary adjustments where it properly belongs.

I ask unanimous consent that a copy of my bill be printed at this point in the body of the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2245

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 225 of the Federal Salary Act of 1967 is repealed.

By Mr. WILLIAMS (for himself, Mr. Eastland, Mr. Mondale, Mr. Bentsen, Mr. Burdick, Mr. Cannon, Mr. Eagleton, Mr. Jackson, Mr. Magnuson, Mr. Moss, Mr. Sparkman, Mr. Talmadge, and Mr. Randolph):

S. 2248. A bill to amend title VI of the Public Health Service Act to provide for adequate outpatient care in medically underserved areas. Referred to the Committee on Labor and Public Welfare.

MOBILE HEALTH UNIT ACT OF 1973

Mr. WILLIAMS. Mr. President, there can be no question that the health care delivery system in the United States has for too long been plagued with serious problems of maldistribution of personnel and facilities. Over the last several years the Congress has attempted to deal with this serious problem in a variety of ways. We have enacted legislation to send health manpower into shortage areas designated by the Secretary of Health, Education, and Welfare, and we have enacted legislation to encourage medical and other health professions students to practice their profession in areas which are deprived of adequate medical services.

Just a little over a year ago, Dr. H. MacDonald Rimple, the Director of the National Health Services Corps, stated that there were approximately 5,000 American communities which had no health care services. In addition, the Department of Health, Education, and Welfare has compiled a list of medically underserved areas which makes clear that this is a problem of national scope. Some of the communities listed by the Department are large cities such as Chicago, Ill.; Washington, D.C.; Kansas City, Mo.; Philadelphia, Pa.; and Louisville, Ky. And, of course, many small towns appear on this list as well, such as, Tuskegee, Ala.; Menominee Falls, Wis.; Glenville, W. Va.; Gallup, N. Mex.; Snowshoe, Pa.; and Jackson, Maine.

Mr. President, serious health care shortages are, most typically, found in our rural and inner city areas of the Nation. For a variety of reasons, these areas simply do not attract health care personnel and thus, the people who live there continue to go underserved. The dramatic need for more health care facilities and staff is clear. And I will not repeat the litany of statistics which we have all heard so many times before and which reinforce the view that more must be done. Of course, statistics are really not the most important matter for us to consider. Instead, we must remember that there are hundreds and thousands of Americans located in medically underserved areas who must travel long distances and expend large sums of money in order to find medical assistance. Too often the result of these circumstances is that many citizens are forced to live without even the slightest hope of decent treatment. There is no excuse for any individual in the United States to suffer the tragic consequences of such a situation.

Mr. President, I believe that we in the Congress have the responsibility to do everything that we can to encourage new approaches to meet this critical need. As I have indicated earlier in my statement the Emergency Health Personnel Act and the Health Professions Education Assistance Amendments of 1971 are two promising approaches, and there are other proposals which are now being considered by the Senate Labor and Public Welfare Committee to further strengthen these initiatives.

Yet, until today no legislation has ever been proposed to lend Federal support to the relatively new concept of mobile health care delivery systems which can bring vitally necessary primary medical services into the community which has suffered without these services. It is for this reason that today, together with Senators James O. Eastland, Walter F. Mondale, Lloyd Bentsen, Quentin N. Burdick, Howard W. Cannon, Thomas F. Eagleton, Henry M. Jackson, Warren G. Magnuson, Frank E. Moss, and John Sparkman, I am introducing the Mobile Health Unit Act of 1973. This bill, which has been drafted as an amendment to the Hill-Burton Act, is designed to assist in the delivery of adequate health care through special project grants for the purchase of mobile health units to provide needed health services to individuals residing in medically underserved areas.

Mr. President, the use of mobile health units which can bring medical care virtually to the doorstep of any individual patient, is a relatively new idea.

Only a few isolated communities in the United States have begun to use mobile health units for primary medical treatment. Such primary care programs are designed to dispense health care for the amelioration of recognized sickness and where mobile health units have been used they have met with great success.

One of the important primary treatment projects is a mobile dental service designed to serve Indians in remote areas of the country. The mobile dental units, operated by the Indian Health Service of the Health Services and Mental Health Administration, have proven to be extremely valuable in meeting the dental needs of an estimated 25,000–30,000 American Indians, the majority of which are children. The health units are usually set up near a school to provide treatment. Mobile units have been shown to be less expensive to operate than fixed based clinics when only periodic health delivery is necessary and the communities are sufficiently small to be served satisfactorily by periodic visits.

The regional medical program also has experimented with mobile health units to supply such diverse services as coronary care, renal disease training, cancer detection, and professional training courses.

Independently and without Government assistance, various communities in the United States have responded to meeting their health needs by financing and operating mobile health units. Their functions range from providing primary minor illness care to "street kids" in Boston to supplying a mobile emergency room for the community of Rancho Santa Fe, Calif.—a community which has no hospital.

In my own State of New Jersey, a Jersey City cardiologist has begun using a 4-ton van, outfitted with portable ECG, blood analyzer, medical records, and supplies to treat his patients who could not visit his office. And this has proven such an effective project that the city of Jersey City is very interested in expanding the "traveling treatment" concept to beef up all health services provided there.

Mr. President, the Mobile Health Unit Act of 1973 will help public and private nonprofit agencies and institutions purchase and equip mobile health delivery systems. These units will be instrumental in serving medically underserved areas such as those I have already mentioned.

Under the bill, the Secretary of HEW is authorized to make grants for the purpose of purchasing and equipping mobile health units. The bill defines a mobile health unit as a van, tractor, truck, bus, or similar vehicle which is equipped to provide health services. Before the Secretary can appropriate money for a grant, he must be assured of several things: First the mobile health unit must serve a medically deprived area with needed health services; second, that 25 percent of the costs of such units are met by the institution applying for such grant; third, that the unit must be properly staffed by a professional health personnel; and fourth, that there be a detailed description of the services to be provided together with the manner in which they are to be provided.

Mr. President, I feel a deep responsibility to the millions of Americans who have no access to health services. And those most affected by lack of adequate health resources—the aged, the poor, minorities, and young mothers and their children—are those who are most in need of the innovations which this bill would encourage. In my view mobile health units will be part of the answer to this perplexing problem and I am hopeful that the Senate Labor and Public Welfare Committee will give early attention to the Mobile Health Unit Act of 1973 as it continues to work on new ways to improve America's health care delivery system.

By Mr. MAGNUSON (for himself and Mr. Cotton) (by request):

S. 2249. A bill to amend the Interstate Commerce Act by adding thereto provisions authorizing the Interstate Commerce Commission, in its discretion and under such rules and regulations as it shall from time to time prescribe, to establish minimum requirements with respect to security for the protection of the public for loss of or damage to property transported by carriers subject to parts I and III of this act; and

S. 2250. A bill to amend the Interstate Commerce Act and the Harter Act in order to provide a more effective remedy for owners, shippers, and receivers of property transported in interstate or foreign commerce to recover from surface transportation companies subject to the former act, damages sustained as the result of loss, damage, injury, or delay in transit to such property. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, today at the request of the Interstate Commerce Commission, I am introducing, for myself and Senator Cotton, two bills designed to deal with the problems involved in the settlement of loss and damage claims. One bill would authorize the Commission to adjudicate in the first instance all unresolved loss and damage claims, and the other bill would authorize the Commission to prescribe insurance requirements for the protection of the public for loss and damage to property transported by carriers subject to part I and III of the Interstate Commerce Act.

Both of these proposals are outgrowths of investigations that have been undertaken by the Commission regarding the many problems faced today by shippers, carriers, and the general public in attempting to get fair, inexpensive and speedy resolution of the many claims for loss and damage which arise in the transportation of goods.

In introducing these proposals, I would like to point out that this represents one facet of a problem which extends far beyond the transportation area. Not only are freight loss and damage claims resolved slowly, expensively and inefficiently, but so are the claims of consumers throughout our economy. It is true that some gains have been made on behalf of the average consumer in recent years, but there is one critical area which has not received sufficient attention. For instance, the Congress has given attention to many of the problems surrounding the manufacturing and marketing of unsafe and dangerous products, but we have not yet effectively dealt with the difficult area of consumer redress. Today when the average consumer has a dispute with a manufacturer, retailer, landlord, or another consumer, there is little that can realistically be done to resolve it. The right to pursue one's remedies in court is largely an academic one; the costs of resolving disputes in this manner frequenly far exceed the amount that is in controversy. What is needed is a fair, efficient, readily available method for resolving these many disputes that does not cost the contestants an excessive amount to utilize. Recently both the National Institute for Consumer Justice and the Small Claims Study Group completed extensive research into the area of dispute resolution, and the staff of the Commerce Committee has also been researching this area. These investigations have made clear that currently available dispute resolution mechanisms are, for the most part, either unavailable, unused, or misused.

One piece of legislation that I have sponsored—S. 356, the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act—attempts to deal with this problem in the area of warranties by providing several alternative ways in which warranty disputes can be resolved. But just as with freight damage and loss, this treats only a limited area; what we need is general reform in the way disputes are resolved. The Senate Commerce Committee will be seeking legislative solutions to these problems, and I hope to have legislative proposals ready for introduction within the next few months.

In the meantime, the introduction of these two Commission bills will help to focus attention on the critical problems surrounding cargo loss and damage. The inefficiencies in processing cargo loss and damage claims have resulted in economic losses to shippers, carriers and the general public and have adversely affected the viability of our transportation systems. Legislation is needed to remedy these problems, and these proposals can help act as a catalyst to help formulate that needed legislation.

Mr. President, I ask unanimous consent that these two bills printed in the Record along with the letter of transmittal from the Commission.

There being no objection, the bills and letter were ordered to be printed in the Record, as follows:

S. 2249

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Regulated Carriers Minimum Insurance Requirements Act of 1973".

(2) That section 20 of the Interstate Commerce Act (49 U.S.C. 20) is amended by adding at the end thereof a new paragraph as follows:

"(14) The Commission shall have authority to prescribe reasonable rules and regulations governing the filing of surety bonds, policies of insurance, qualifications as a self-insurer, or other securities or agreements, in such reasonable amount as the Commission may require, to be conditioned to pay, within the amount of such surety bonds, policies of insurance, qualifications as a self-insurer, or other securities or agreements, for loss of or damage to property with respect to which a transportation service subject to this part is performed."; and

(3) That section 304 of the Interstate Commerce Act (49 U.S.C. 904) is amended by adding at the end thereof a new paragraph as follows:

"(f) The Commission shall have the authority to prescribe reasonable rules and regulations governing the filing of surety bonds, policies of insurance, qualifications as a self-insurer, or other securities or agreements, in such reasonable amount as the Commission may require, to be conditioned to pay, within the amount of such surety bonds, policies of insurance, qualifications as a self-insurer, or other securities or agreements, for loss of or damage to property with respect to which a transportation service subject to this part is performed".

(4) The provisions of this Act shall take effect upon enactment.

S. 2250

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Claims Adjudication Act of 1973".

(2) That section 20 of the Interstate Commerce Act (49 U.S.C. 20) is amended by adding a new paragraph at the end thereof as follows:

"(13) Notwithstanding any other provisions of the Interstate Commerce Act, all actions brought under and by virtue of paragraph 20(11) of that Act against a carrier (except those that may also include claims for the recovery of attorneys' fees) shall be brought in the first instance only before the Interstate Commerce Commission by filing of a complaint in writing setting forth therein the nature of the action and the amount of money claimed therefor, and the order of the Interstate Commerce Commission thereon shall be binding upon all parties to such disputes unless otherwise revised on judicial review: *Provided,* That issues arising in the determination of such actions shall be determined in the most expeditious manner and, so far as practicable and legally permissible, without formal hearings or other proceedings: *And provided further,* That in all actions filed with the Interstate Commerce Commission in accordance with this paragraph, appellate review of the orders of the Commission issued to dispose of such matters shall only be by a district court of the United States in a district through or into which the defendant carrier operates, and any aggrieved party shall, upon request timely made to the court, receive an opportunity for a trial before a jury as to disputed issues of fact."

(3) That section 219 of the Interstate Commerce Act (49 U.S.C. 319) is amended by

deleting therefrom the words "and (12)." adding a comma after the words "section 20(11)." and inserting after the comma the words "(12), and (13)."

(4) That section 413 of the Interstate Commerce Act (49 U.S.C. 1013) is amended by deleting therefrom in the two places in which they appear in the first sentence of that paragraph the words "and (12)," adding a comma after the words "section 20(11)" and inserting after that comma the words "(12). and (13)."

(5) That the Harter Act (46 U.S.C. 190–196) is amended by adding a new section at the end thereof, as follows:

"Sec. 197. All actions brought to recover the value of property lost, damaged, injured, delayed while being transported by a carrier subject to part III of the Interstate Commerce Act (except those that may also include claims for the recovery of attorneys' fees) shall be brought in the first instance only before the Interstate Commerce Commission by the filing of a complaint in writing setting forth therein the nature of the action and the amount of money claimed therefor. The order of the Interstate Commerce Commission thereon shall be binding upon all parties to such disputes unless otherwise revised on judicial review: *Provided*, That in all actions filed with the Interstate Commerce Commission in accordance with this paragraph, appellate review of the orders of the Commission issued to dispose of such matters shall only be by a district court of the United States in a district through or into which the defendant carrier operates, and any aggrieved party shall, upon request timely made to the court, receive an opportunity for a trial before a jury as to disputed issues of fact."

(6) There are authorized to be appropriated for the purposes of this Act, such sums, not to exceed $3,000,000 for each fiscal year.

(7) The provisions of this Act shall take effect six months after the date of its amendment.

Interstate Commerce Commission,
Washington, D.C., July 10, 1973.
Hon. Warren G. Magnuson,
Chairman, Committee on Commerce, U.S. Senate, Washington, D.C.
Hon. Harley O. Staggers,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

Gentlemen: Submitted for your consideration are two draft bills which, if enacted, would better enable the Commission to handle the problems involved in the settlement of cargo loss and damage claims.

The first proposal would amend the Interstate Commerce Act and the Harter Act to authorize the Commission to adjudicate in the first instance all unresolved loss and damage claims. It is identical to S. 3718 in the 92d Congress.

The second proposal would amend the Interstate Commerce Act to authorize the Commission to prescribe standards with respect to security for the protection of the public for loss or damage to property transported by carriers subject to part I and III of the Act. This bill is identical to S. 3717 in the 92d Congress.

Both of these proposals were recommended by the Commission as an outgrowth of the extensive investigation it conducted in Ex Parte No. 263, *Rules, Regulations and Practices of Regulated Carriers with Respect to the Processing of Loss and Damage Claims* (344 I.C.C. 515 (1972)).

The commission is extremely concerned about the problems involved in the settling of cargo loss and damage claims. The inefficiencies in the processing of such claims have resulted in economic losses to shippers, carriers and the general public and have adversely affected the viability of our transportation system.

Although we have, to the full extent of our authority, taken action to alleviate this national cargo claims crisis, the problem is far from solved. In Ex Parte No. 263 we promulgated a series of rules with respect to the processing of loss and damage claims. These regulations are designed to insure that all shipper claims receive immediate attention and uniform handling. They have been successful in improving the situation, but they do not deal with the issues which are at the core of the cargo claims problem. The Commission is unable to address these issues because we presently do not have the authority to decide loss and damage claims on the merits.

The injustice inherent in the inability of shippers and receivers of freight to obtain prompt and efficient redress for disputed claims is perhaps the one factor which causes the greatest number of problems in the settling of loss and damage claims. If a shipper fails to reach a settlement with a carrier, his only recourse is to the judicial system and to legal remedies which, unfortunately, are inadequate. The reasons why the presently avilable judicial avenue is unsatisfactory for this include: (1) the overall cost of litigating a claim often exceeds the amount recovered; (2) the frequent necessity to engage an attorney whose fee alone may well exceed the amount in controversy; (3) attorneys' fees are presently not recoverable in most claims litigation; (4) the average amount in dispute is usually less than $100, therefore, there is an open invitation to the unscrupulous to arbitrarily decline responsibility for damage on the theory that the claimant cannot afford to litigate the matter; (5) personnel in key positions can seldom be spared to testify in court trials; (6) the time required to conclude litigated claims occasioned by heavily congested court dockets; (7) courts with their jurisdictional boundaries are unable to direct a meaningful nationwide effort to improve the cargo claims situation; and (8) strict accountability for cargo claims is most difficult, if not impossible, to achieve.

The first draft bill would overcome these problems by providing shippers with an adequate alternative method for the resolution of such disputes by giving us authority to adjudicate in the first instance all unresolved loss and damage claims filed against carriers subject to the Interstate Commerce Act.

In addition to providing an effective legal remedy to claimants where none now exists, the bill has a number of other advantages. First, the mere existence of such a remedy would be an incentive to carriers to settle such disputes voluntarily and in an equitable manner. Moreover, the Commission's adjudication of loss and damage claims would lead to a predictability and consistency of results throughout the nation without regard to the venue of the dispute. In the exercise of this authority, the Commission would obtain information which could be used to seek solutions to problems on a broad-scale basis. Enactment would also contribute to the efficiency of our already over-burdened judicial system by reducing the number of these cases on the court's dockets. Since the vast majority of such disputes can be resolved on the basis of the documentary evidence alone, they would lend themselves particularly well to Commission adjudication.

The Commission's expertise in claim matters, its nation-wide facilities and its organizational structure uniquely qualify it to resolve these types of disputes. Charged with insuring an adequate and reliable transportation system, we clearly should have authority to resolve the problems stemming from the existing framework for handling loss and damage claims. Conferrence of this additional authority upon us will require increases in our manpower and budget because lack of either would prohibit the formulation and implementation of worthwhile and lasting improvements.

The second draft bill would, if enacted, afford the shipper a greater measure of protection. Specifically, it would amend the Interstate Commerce Act to allow the Commission to adopt regulations requiring rail, express, and water carriers subject to the Act to maintain adequate insurance for protection of the shipping public for loss and damage claims. Such authority now exists with respect to motor carriers and freight forwarders subject to our jurisdiction, consequently, enactment of this legislation will result in uniform regulatory treatment for all carriers subject to our jurisdiction.

The bankruptcy or financial instability of any major transportation line evokes immense concern within this Commission and, understandably, generates considerable apprehension among all of the creditors of the carriers involved, including those who have pending loss and damage claims. The protection afforded such creditors of motor carriers by our current regulations in 49 C.F.R. 1042, *Surety Bonds and Policies of Insurance*, represents a stabilizing factor to many of these creditors.

This type of protection is unavailable to shippers using the services of rail, express, or water carriers. Thus, the prospects for a full recovery by claimant-creditors of, for example, the Penn Central Railroad, are not clearly as certain as those presented by motor carriers which are experiencing financial difficulties. The exercise of our existing regulatory authority in this area has been most helpful to many claimants and similar authority over carriers operating under parts I and III of the Act would be demonstrably far-reaching. To achieve that end, we need authority to promulgate reasonable rules and regulations governing the filing of surety bonds, policies of insurance, qualifications as a self-insurer, or other securities or agreements for carriers subject to parts I and III of the Act.

Enactment of these draft bills is necessary if Congress wants the Commission to take action for providing broad-scale solutions to the critical problems caused by the current inefficiencies in the settlement of loss and damage claims. We hope that they will receive immediate and positive Congressional action.

Sincerely yours,
George M. Stafford, *Chairman*.

By Mr. MAGNUSON (for himself and Mr. Cotton) (by request):

S. 2251. A bill to amend section 22 of the Interstate Commerce Act so as to eliminate free or reduced rates for Government traffic, except in certain circumstances, and for other purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to amend section 22 of the Interstate Commerce Act so as to eliminate free or reduced rates for Government traffic, except in certain circumstances, and for other purposes, and ask unanimous consent that the letter of transmittal be printed in the Record with the text of the bill.

There being no objection, the bill and letter were ordered to be printed in the Record, as follows:

S. 2251

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first clause of the first sentence of section 22(1) of the Interstate Commerce Act (49 U.S.C. 22(1)) is amended to read as follows:

"(1) That nothing in this part shall prevent the carriage, storage, or handling of property at free or at reduced rates for the United States, State, or municipal governments to the extent that such services are performed in time of war or other national emergency, or involve the transportation of commodities which is exempt from economic regulation under the provisions of part II or III, or for charitable purposes, or to or from fairs and expositions for exhibition thereat, or the free carriage of destitute and homeless persons transported by charitable societies, and the necessary agents employed in such transportation, or the transportation of persons for the United States Government free or at reduced rates, or the issuance of mileage, excursion, or commutation passenger tickets;".

Interstate Commerce Commission,
Washington, D.C., July 10, 1973.
Hon. Warren G. Magnuson,
Chairman, Committee on Commerce, U.S. Senate, Washington, D.C.
Hon. Harley O. Staggers,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

Gentlemen: Submitted for your consideration is a draft bill which, if enacted, would amend section 22 of the Interstate Commerce Act so as to eliminate free or reduced rates for Government traffic, except in time of war or other national emergency and except as to the transportation of commodities which are exempt from economic regulations under parts II or III of the Act. The draft bill is identical to S. 2627 and H.R. 11028 which were introduced in the first session of the 92d Congress.

Except for the enactment in 1957 of subsection 2, which requires carriers to file certain rates with this Commission, the provisions of section 22 relating to Government traffic have remained essentially the same since 1887 when the Government was a comparatively small shipper. However, today the Government is the largest single purchaser of transportation services in the nation.

The preferential treatment now accorded Government traffic has a strong tendency to artificially increase the cost of regulated transportation services to commercial users. The present policy is, therefore, detrimental to both the maintenance of a fiscally sound national transportation system and the efficient allocation of transportation resources.

The current exemption from economic regulation with respect to the transportation of certain commodities under parts II or III of the Act should be maintained in order not to aggravate existing competitive inequities between carriers of different modes. For example, a motor carrier moving agricultural commodities exempt under section 203(b) (6) of the Act is not subject to rate regulation, but must comply with section 22 and file contracts entered into pursuant to that section. Rail carriers in the same instance are subject to rate regulations, but can negotiate lower rates for Government traffic pursuant to section 22. Consequently, if the section 22 provision is eliminated for these commodities, rail carriers would be required to move them in accordance with their published rates. Motor carriers, not subject to that requirement, could possibly move them at a lower unregulated rate and thereby divert some of the traffic from the railroads. Therefore, in this particular aspect, we think the better course is to maintain the *status quo*.

We urge that the enclosed draft bill be favorably considered.

Sincerely yours,
George M. Stafford,
Chairman.

By Mr. MAGNUSON (for himself and Mr. Cotton) (by request):

S. 2252. A bill to transfer to the Secretary of Commerce certain functions of the Secretary of the Interior relating to encouraging, promoting, and developing travel within the United States, and for other purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce, by request, for appropriate reference, a bill to transfer to the Secretary of Commerce certain functions of the Secretary of the Interior relating to encouraging, promoting, and developing travel within the United States, and for other purposes, and ask unanimous consent that the letter of transmittal and statement of purpose and need be printed in the Record with the text of the bill.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 2252

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That there are hereby transferred to and vested in the Secretary of Commerce all functions, powers, and duties of the Secretary of the Interior and other offices and officers of the Department of the Interior under the Act of July 19, 1940, as amended (54 Stat. 773; 16 U.S.C. 18–18d).

Sec. 2. The assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, rising from, available or to be made available in connection with the functions, powers, and duties transferred by the first section of this Act are hereby transferred to the Secretary of Commerce.

Statement of Purpose and Need

The purpose of the legislation is to transfer to the Secretary of Commerce the tourism functions vested in the Secretary of the Interior by P.L. 76–755 of July 19, 1940. The functions, which are to encourage, promote, and develop travel within the United States, its territories and possessions, currently are assigned by the Secretary of the Interior to the National Park Service.

Coordination and orderly development of tourism policy and programs at the federal level is made difficult by the extreme fragmentation of responsibility. At present, there are 126 federal programs affecting travel or tourism divided among 46 executive departments and independent agencies. The Secretary of the Interior and the Secretary of Commerce have agreed that the transfer would be a significant step toward greater federal effectiveness in tourism. The proposed transfer also has the support of Chairman Charles S. Thomas of the National Tourism Resources Review Commission.

The International Travel Act of 1961 vests the United States Travel Service with the responsibility of promoting international understanding and appreciation of the United States by encouraging foreign citizens to visit for the purposes of study, culture, recreation, business, and other activities. The Travel Service possesses the expertise, experience, and world marketing apparatus to coordinate and consolidate the efforts of the federal government in promoting domestic travel by both our citizens and those of foreign countries.

The United States Travel Service has the primary responsibility of correcting the steadily-worsening deficit suffered by this country in its tourism balance of payments. This deficit, which last year rose to a record $3.1 billion, results from United States citizens spending more in foreign countries than foreign visitors spend here. In closing this "travel gap," the United States Travel Service—unlike other national government tourism offices—has been handicapped by lack of authority to influence our citizens to explore the attractions of their own country before going abroad.

Thus, the proposed consolidation will not only eliminate overlap in federal tourism activity and enhance the effectiveness of the federal program, but it can also be expected to benefit the tourism balance of payments position of the United States.

The Secretary of Commerce,
Washington, D.C., July 10, 1973.
Hon. Spiro T. Agnew,
President of the Senate,
U.S. Senate,
Washington, D.C.

Dear Mr. President: Enclosed are four copies of a draft bill:

"To transfer to the Secretary of Commerce certain functions of the Secretary of the Interior relating to encouraging, promoting, and developing travel within the United States, and for other purposes,"

together with a statement of purpose and need in support thereof.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our draft bill to the Congress from the standpoint of the Administration's objectives.

Sincerely,
Frederick B. Dent,
Secretary of Commerce.

By Mr. DOMENICI:

S. 2253. A bill relating to lands in the Middle Rio Grande Conservancy District, New Mexico. Referred to the Committee on Interior and Insular Affairs.

Mr. DOMENICI. Mr. President, I rise today to introduce legislation of a technical nature in order to resolve a land ownership matter along the Rio Grande in central New Mexico which has long been misunderstood.

Since the formation of the Middle Rio Grande Conservancy District, a political subdivision of the State of New Mexico, in 1927, it was believed by all parties that the small scattered tracts within the district were part of larger, privately owned tracts. Consequently, the landowners paid property taxes to the State of New Mexico, and fees based on the acreage to the conservancy district. In some cases, the State of New Mexico received tax deeds to certain tracts based on nonpayment of State taxes. These isolated tracts were regarded as private acreage and not as public lands held by the Bureau of Land Management. However, a detailed survey was conducted and it was discovered that small portions of the valley land were held by the Bureau.

There are no large tracts involved in this matter. In most cases, they are tiny fraction-of-an-acre tracts and in only a few instances are plots of more than 2 or 3 acres.

Under the provisions of this legislation, the Bureau of Land Management would be paid $5,626.45, an arbitrary figure arrived at by the principals involved, and the farmer, in turn, would pay the nominal sum of up to $5 per acre to the conservancy district for clear title to the land.

It should be pointed out the Bureau of Land Management does not wish to retain these tracts and favors this method of disposal.

The important factor is that the landowners have, for years, believed this to be privately owned land. They have paid taxes and conservancy district assessments on it. They have irrigated productive tracts. I believe that this legislation offers a suitable solution which has the approval of all parties involved.

By Mr. HARTKE:

Senate Joint Resolution 139. Joint resolution to proclaim September 23 through 29, 1973, as "National Dog Week." Referred to the Committee on the Judiciary.

Mr. HARTKE. Mr. President, tributes to man's best friend, the dog, range from the bitter observation of LaMartine that "the more I see of people, the better I like my dogs" to Lord Byron's lyric description of his dog as "one who possessed beauty without vanity, strength without insolence, courage without ferocity, and all the virtues of man without his vices."

Undeniably, dogs provide a special kind of companionship for people of all ages, but especially for children they provide an enriching experience.

National Dog Week, celebrating this year its 46th annual observance, is a tribute worthy of attention. Its purpose is not only to honor the pets in 24 million American households, but also to educate all dog owners in their responsibilities to their pets and in their responsibilities to their communities as dog owners. Dog club members and animal welfare workers will be joining in this effort to help every dog owner "Deserve to be his dog's best friend."

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 1625

At the request of Mr. TAFT, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 1625, a bill to extend until November 1, 1978, the existing exemption of the steamboat *Delta Queen* from certain vessel laws.

S. 1753

At the request of Mr. HARTKE, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 1753, the Interstate Land Sales Act Amendments.

S. 1828

At the request of Mr. ROBERT C. BYRD, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1828, to require the President to appoint, with the advice and consent of the Senate, the head of the Mining Enforcement and Safety Administration, Department of the Interior.

S. 1858

At the request of Mr. HARTKE, the Senator from Rhode Island (Mr. PASTORE) was added as a cosponsor of S. 1858, the Federal Pension Plans Protection Act.

S. 1871

At the request of Mr. JACKSON, the Senator from Alaska (Mr. GRAVEL) and the Senator from Michigan (Mr. HART) were added as cosponsors of S. 1871, to amend the Youth Conservation Corps Act of 1972.

S. 1914

At the request of Mr. PERCY, the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 1914, a bill to provide for the establishment of the Board for International Broadcasting and to authorize the continuation of assistance to Radio Free Europe and Radio Liberty.

S. 1998

At the request of Mr. SCHWEIKER, the Senator from Michigan (Mr. HART), the Senator from New York (Mr. JAVITS), the Senator from Tennessee (Mr. BROCK), and the Senator from New Mexico (Mr. MONTOYA) were added as cosponsors of S. 1998, the Community Mental Health Centers Act of 1973.

S. 2135

At the request of Mr. PERCY, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 2135, a bill to reorganize certain agencies and departments of the Government in order to create a new Department of Energy and Natural Resources, and a new Energy Research and Development Administration.

S. 2155

At the request of Mr. WEICKER, the Senator from Connecticut (Mr. RIBICOFF) was added as a cosponsor of S. 2155, a bill relating to the collective bargaining representation of postal employees.

S.J. RES. 138

At the request of Mr. DOLE, for Mr. Curtis, his name was added as a cosponsor of Senate Joint Resolution 138, to amend the Economic Stabilization Act. Also, at the request of Mr. DOLE, for Mr. CURTIS, the Senator from Nebraska (Mr. HRUSKA), and the Senator from Texas (Mr. TOWER) were added as cosponsors of the joint resolution.

ADDITIONAL COSPONSOR OF A RESOLUTION

S. RES. 136

At the request of Mr. ROBERT C. BYRD, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of Senate Resolution 136, to authorize the Committee on Rules and Administration to conduct an investigation with respect to the broadcasting and telecasting of Senate proceedings.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1973

AMENDMENT NO. 409

Mr. WEICKER. Mr. President, on Tuesday, July 24, I submitted amendment No. 409 to S. 372, the "Federal Election Campaign Act Amendments of 1973," an introductory statement on which was printed in the RECORD on page 25604. Inadvertently, however, the amendment itself was not printed at the conclusion of my remarks. Therefore, for the information of my colleagues, I ask unanimous consent that the text of the amendment No. 409 be printed at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

On page 19, line 17, strike "tenth" and insert "fourteenth".

On page 19, line 20, beginning with "Any" strike out through the period on line 24.

On page 20, line 5, strike "paragraph" and insert "paragraphs".

On page 20, line 22, strike out the closing quotation marks and the final period.

On page 20, between lines 22 and 23, insert the following:

"(3) In addition to any other information required to be included in the report filed on the fourteenth day next preceding the date on which an election is held, that report shall contain a budget of expenditures to be made, or obligations to be incurred, prior to the day after the date of such election in connection with a candidate's campaign by the person filing the report. The budget so contained shall be set forth in such form and detail as the Commission may prescribe.".

On page 50, line 24, strike out "(d) (2)" and insert "(e) (2)".

On page 51, line 5, strike "(e)" and insert "(f)".

On page 51, line 16, strike "(d)(2)" and insert "(e)(2)".

On page 51, line 22, strike "(e)" and insert "(f)".

On page 53, between lines 10 and 11, insert the following:

"(c) No expenditures may be made, or obligations incurred, by or on behalf of a candidate in connection with his campaign during the 14-day period ending on the date of any election in which he is a candidate unless such expenditure or obligation was reported, in the report filed under section 304(a)(3) of the Federal Election Campaign Act of 1971, as being budgeted for that period."

On page 53, line 11, strike out "(c) (1)" and insert "(d) (1)".

On page 54, line 3, strike "(d)(1)" and insert "(e)(1)".

On page 54, line 22, strike "(e)" and insert "(f)".

On page 55, line 3, strike "(f)" and insert "(g)".

On page 55, line 12, strike "(g)" and insert "(h)".

On page 55, line 19, strike "(h)" and insert "(i)".

On page 55, beginning with line 20, strike out "(c), (d), and (e)," and insert "(d), (e), and (f),".

On page 55, line 25, strike "(c)(3)" and insert "(d)(3)".

On page 57, beginning with line 8, strike out through line 3 on page 58, and insert in lieu thereof the following:

"(b) No contribution made to or for the benefit of a candidate after the fourteenth day next preceding the date on which an election is held in which he is a candidate may be accepted by that candidate or by any other person on his behalf.".

On page 58, in lines 4 and 5, strike out "and by subsection (b)".

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1973—AMENDMENT

AMENDMENT 416

(Ordered to be printed.)

Mr. ALLEN (for himself, Mr. Hansen, Mr. Nunn, Mr. Dole, Mr. Goldwater, Mr. Talmadge, Mr. Fannin, Mr. Dominick, Mr. Brock, Mr. Cranston, Mr. Gurney, Mr. Proxmire, Mr. Bartlett, Mr. Domenici, Mr. McClellan, Mr. Sparkman, Mr. Ervin, Mr. Hruska, Mr. McClure, Mr. McGovern, Mr. Curtis, Mr. Tower, Mr. Thurmond, Mr. Harry F. Byrd, Jr., Mr. Helms, Mr. Eastland, Mr. Aiken, Mr. Moss, Mr. Roth, Mr. Bible, Mr. Fulbright, Mr. Taft, Mr. Church, Mr. Magnuson, Mr. Mansfield, Mr. Nelson, Mr. Symington, and Mr. Chiles) proposed an amendment to the bill (S. 372) to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of section 315 with respect to Presidential and Vice Presidential candidates and to amend the Campaign Communications Reform Act to provide a further limitation on expenditures in election campaigns for Federal elective office, which was ordered to be printed.

AMENDMENT NO. 417

(Ordered to be printed, and to lie on the table.)

Mr. CHILES. Mr. President, I do not think anyone can provide a simple answer to the question, "Does money win elections?" It is undeniable that money does play a major role in winning. It does not guarantee victory, but the amount of money collected and spent can in some cases be decisive. Money cannot totally obliterate the influence of issues and candidates' party orientation on voting decisions, but it can and often does make a difference.

I believe that one of the crucial factors determining whether or not we consider a government democratic is not how much power the public officials have, but rather how public officials secure and retain their offices. Events surrounding the last general election have been and will, no doubt, continue to be, examined and investigated in an effort to determine the source of enormous amounts of campaign moneys. Coupled with the investigation will be repeated cries for reform, for changes in the law concerning campaigning financing. And surely some changes are in order.

Recently I introduced a bill, S. 2086, aimed at making campaign contributions traceable. Today I am submitting that same measure as an amendment to S. 372. It would require that any contribution of $50 or more be made by check, drawn on the account of the individual making the contribution, or accompanied by the name, address, social security number, and occupation of the contributor. The language of this proposal in no way places a new limitation on the aggregate amount of money allowed as a contribution, but simply would make the money traceable.

Some Americans view public policymaking as a sordid process where the wealthy control elected officials. And while there is some corruption, I believe its reputation for moving the wheels of government is far greater than its performance. But money can—twist policy in subtle ways—and any effort we can make to erect a barrier between the direct translation of money into policy decisions must be made. The bill I am introducing today is such an effort.

In a government whose level of citizen trust is at an all-time low, there is an obvious need to reestablish governmental accountability to the people. A recent Harris poll disclosed that 81 percent of the public is convinced that corruption in Washington is "serious" and the number with high respect for the Federal Government comes to no more than 27 percent. People are more suspicious than ever before of their Government. Their cynicism is only nurtured by the lack of accurate and dependable information concerning campaign contributions.

There has been much comment about the dramatic rise in the high cost of politics in recent years. It has been estimated that $400 million was spent in 1972 for all elective and party politics in this country at all political levels, in campaigns for nominations and for election. My amendment, making contributions directly traceable if they are in amounts over $50 recognizes the high cost of campaigns, but recognizes also the need for knowing who the big contributors are and how much they gave—and to whom.

I ask unanimous consent that the amendment be printed in the Record at this point in my remarks.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

Amendment No. 417

On page 59, strike out lines 13 through 21 and insert in lieu thereof the following:

"§ 616. Form of contributions

"(a) No person shall make any contribution of money to or for the benefit of any candidate or political committee in excess of $50, in the aggregate during any calendar year, unless—

"(1) such contribution is made by means of a check from a National or State bank, drawn on the account of the person making the contribution and identifying that person by name and bank account number; or

"(2) the person making the contribution furnishes in writing to the recipient thereof his full name and address, and, in the case of an individual, his social security number.

"(b) (1) Violation of the provisions of this section is punishable by a fine of not to exceed $1,000, imprisonment for not to exceed one year, or both.

"(2) Willful and knowing violation of the provisions of this section is punishable by a fine of not to exceed $3,000, imprisonment for not to exceed five (5) years, or both."

AMENDMENT NO. 419

(Ordered to be printed, and to lie on the table.)

Mr. HART. Mr. President, the Senate is taking up a measure whose importance has been underlined vividly by the events of the past few months, the Campaign Reform Act, S. 372.

This bill was first reported by the Commerce Committee and then expanded and strengthened by the Rules Committee under the leadership of the Senator from Nevada (Mr. Cannon) and the Senator from Rhode Island (Mr. Pell). S. 372 contains a strong independent commission to enforce campaign laws. It also imposes limits on overall expenditures by a candidate and limits on campaign contributions.

Although the bill improves many aspects of campaign supervision, there are still some questions left open and several provisions which can be strengthened further in the days ahead. A variety of amendments have been discussed. I have drafted an amendment to revise the provisions of S. 372 which limit campaign contributions and ask that it be printed.

The amendment has been endorsed by a broad coalition of groups interested in campaign reform—Common Cause—the AFL–CIO—the UAW—Ralph Nader's Congress Watch—the National Committee for an Effective Congress—and the Center for Public Financing of Elections. Each of them backs this amendment. I ask that the letter from John W. Gardner, chairman of Common Cause be printed at the conclusion of my remarks.

Under the committee bill, section 615 of title 18 of the United States Code would restrict the amounts which individuals and interest group political committees could contribute to a particular candidate. It would also restrict the total amount of contributions which an individual family could give to all candidates for any election year. Political party committees would be exempted from the limitation.

This is a step in the right direction, but the bill does not go far enough. For a single family to be able to give a candidate $20,000, as they can under the committee bill, is not the kind of restraint upon excessive influence—or the appearance of such influence—which the times demand.

Under the amendment, no individual may give more than $1,000 to any candidate, including both primary and general election campaigns. Similarly, a $100,000 limit does not adequately restrict the aggregate impact which a relatively few wealthy families can have on the political process.

Under the amendment, no family could give more than an aggregate of $15,000 to all candidates and committees for a given election year.

The amendment also prohibits a political committee from giving more than $3,000 to any candidate, including both primary and general election campaigns. As in the committee bill, political party committees, such as the national and State central committees of a party and the congressional campaign committees, would be exempt from this limit.

Fourth, it should be crystal clear that the limit on direct contributions to a candidate may not be evaded by earmarked contributions through a conduit. The committee bill is not clear on this point.

Under the amendment, such earmarked contributions are counted under—and may not exceed—the limits placed on direct contributions to a particular candidate.

Finally, if the limits on direct contributions by individuals and political committees are to be meaningful, they must be supplemented by a limitation on the expenditures a person can make independently on behalf of a candidate. Otherwise, someone supporting my candidacy, for example, would be free to spend hundreds of thousands of dollars on TV, newspaper or billboard advertising on my behalf, so long as he did not do so at the request of myself and my campaign organization. The committee bill places no limits whatsoever on such independent expenditures on behalf of a candidate.

Under the amendment, no person could make totally independent expenditures relating to any candidate in excess of $1,000.

I have examined the first amendment considerations pertinent to such a restriction. I am satisfied that this limit is constitutionally permissible as a necessary element of any scheme to protect the integrity of the election process and to prevent the monopolization of the presentation of political advocacy by a wealthy few.

Mr. President, I do not pretend that this revised section 615 covers every conceivable abuse of campaign financing. But I think it makes significant improvements over the committee bill in several respects.

It should be clear that even a strengthened bill to regulate expenditures and contributions cannot be the end of the road for the reform of campaign financing. One ultimate goal of that effort must remain public financing of campaigns.

There will be substantial discussion of the need for public financing when the bill is brought up, and I will have more to say about this goal at that time. But in the meanwhile, Congress will first be acting on S. 372 with regard to expenditure limits, contribution limits, and enforcement mechanisms for both under the present system of private campaign financing. Our first task, therefore, is to try to pass as strong a bill as we can. I ask unanimous consent that the amendment and a comparison of it and the committee bill be printed in the RECORD at this point.

There being no objection, the amendment and material were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 419

On page 56–60, strike section 615, and insert in lieu thereof a new section 615, as follows:

"Sec. 615. Limitations on Contributions by Individuals and on Expenditures by Certain Other Persons

(a) No individual shall make, and no candidate or political committee acting on behalf of a candidate shall accept, any contribution during any calendar year to or for the benefit of any candidate which is in excess of the amount which, when added to the total amount of all other contributions made by that individual during that calendar year to or for the benefit of a particular candidate, would equal $1,000.

(b) No individual shall make, and no candidate or political committee shall accept, any contribution during any calendar year to or for the benefit of any candidate or any political committee, including political committees specified in subsection (c) (3), which is in excess of the lesser of—

(1) the amount which, when added to the total amount of all contributions made by that individual to or for the benefit of all candidates and all political committees during the calendar year, would equal $15,000; or

(2) the amount which, when added to the total amount of contributions made by that individual and the members of his family to or for the benefit of all candidates and all political committees during that calendar year, would equal $30,000.

(c) (1) No person (other than an individual), but including any group of individuals formally or informally acting in combination or concert, shall make, and no candidate or political committee acting on behalf of a candidate shall accept, any expenditure during any calendar year for or on behalf of a particular candidate which is in excess of the amount which, when added to the total amount of all other expenditures made by that person for or on behalf of that candidate during that calendar year, would equal $3,000.

(2) No person shall make any independent expenditure on behalf of a candidate which, when added to the total amount of other independent expenditures made by that person on behalf of that candidate during that calendar year, would exceed $1,000. For purposes of this section, an expenditure shall not be deemed to be independent if it constitutes an expenditure on behalf of a candidate within the meaning of section 614 (c) (3) of Title 18 U.S.C.

(3) This subsection shall not apply to the central campaign committee or the State campaign committee of a candidate; to the national committee of a political party, or any political committee which is controlled by that national committee; the State committee of a political party, or any political committee which is controlled by that State committee; or to the Democratic or Republican Campaign Committees of the Senate or House of Representatives.

(d) For purposes of the limitations contained in this section, all contributions made by any person directly or indirectly on behalf of a particular candidate, including contributions which are in any way earmarked, encumbered or otherwise directed through an intermediary or conduit to that candidate, shall be treated as contributions from that person to that candidate.

(e) For purposes of the limitations contained in this section, as well as for purposes of all other sections of this Act, the terms contribution and expenditure shall not be construed to include communications by any organization to its members and their families on any subject; nor shall it include the costs of the establishment, administration or solicitation of contributions to a separate segregated fund to be utilized for political purposes, if the establishment and administration of, and solicitation to such funds do not constitute a violation of 18 USC 610 or 18 USC 611, and communications (including advertisements) to any person on any subject by any organization which is organized solely as an issue-oriented organization which communications neither endorse nor oppose any candidate for federal office.

(f) The limitations imposed by subsection (a) and by subsection (b) shall apply on an overall basis to all elections in a calendar year in which a given candidate participates, including all primary, primary run-off and general elections. Such limitations shall apply separately, on an overall basis, to any special election in the same calendar year, including all primary and primary run-off elections therefor.

(g) (1) Any contribution made in connection with a campaign in a year other than the calendar year in which the election to which that campaign relates is held, shall, for the purposes of this section, be taken into consideration and counted toward the limitations imposed by this section for the calendar year in which that election is held.

(2) Contributions made to or for the benefit of a candidate nominated by a political party for election to the Office of Vice President shall be held and considered for purposes of this section, to have been made to or for the benefit of the candidate nominated by that party for election to the Office of President.

(h) For purposes of this section, the term—

"(1) 'family' means an individual and his spouse and any of his children who have not attained the age of eighteen years; and

"(2) 'political party' means a political party which in the next preceding presidential election, nominated candidates for election to the offices of President and Vice President, and the electors of which party received in such election, in any or all of the States, an aggregate number of votes equal in number to at least 10 per centum of the total number of votes cast throughout the United States for all electors for candidates for President and Vice President in such election.

(i) Violation of the provisions of this section is punishable by a fine of not to exceed $25,000, imprisonment for not to exceed five years, or both.

COMPARISON OF S. 372, AS REPORTED, AND HART AMENDMENT

Issue	Committee bill	Amendment
Individual contributions per candidate.	$10,000 for Congress (5 in general plus 5 in primary), $30,000 for President (15 in primary plus 15 in general).	$1,000 for Congress, $1,000 for President.
Aggregate family contributions to all candidates.	$100,000	$15,000.
Interest group contributions.	Same as individual contributions.	$3,000.
Contributions by political party committees.	No limit	No limit.
Independent activity on behalf of a candidate.	Unlimited	$1,000.
Limit on earmarking	Not specifically covered.	Limited to amount of direct contribution permitted per candidate AND counts against that limit.

COMMON CAUSE,
Washington, D.C., July 25, 1973.

DEAR SENATOR: The consideration this week of S. 372 provides the Senate with its first legislative opportunity to respond to the critical campaign finance issues raised by Watergate and related events.

Although S. 372 presently does not deal with public financing, which is the single most important step needed for eliminating the corrupting role of money in politics, it does raise a number of important campaign finance issues.

One of the most vital issues contained in S. 372 deals with the size of the limits to be imposed on private campaign contributions.

The contribution limits presently in the bill are so high as to be virtually meaningless in curbing past political giving practices.

Common Cause strongly supports the Hart amendment which would substantially reduce the permissible amounts as set forth in S. 372. The Hart amendment is supported by a broad coalition of groups including Common Cause, Ralph Nader's Congress Watch, the National Committee for an Effective Congress, the AFL–CIO, the UAW, and the Center for Public Financing of Elections.

Under the Hart proposal, individuals could give no more than $1,000 and political committees no more than $3,000 on behalf of any single candidate's election. In addition, there would be an overall aggregate limit of $15,000 on the amount that an individual and the members of that individual's family, including spouse and minor children, could give to all candidates and all political committees in an election year.

The most far reaching improvement presently contained in S. 372 is the creation of an independent elections commission. Common Cause believes this Commission is of critical importance to the future enforcement of campaign finance laws. We strongly urge opposition to any amendments designed to weaken the Commission and the broad criminal and civil enforcement powers provided for it.

Common Cause also urges support for the following important amendments to be offered:

(1) The Proxmire-Stafford amendment to stop the repeal, in effect, of Section 611 which presently bars government contractors from channeling campaign contributions to candidates through controlled political action funds. Common Cause sent a separate letter on this amendment on July 19, 1973.

(2) The Mondale, Mathias, and Stevenson amendments to retain the key disclosure provision contained in the 1971 law that the occupation and principal place of business be listed for each contributor over $100, while eliminating the need for this information with regard to contributions of $100 or less.

(3) The Bentsen amendment to make the Comptroller General, as the head of GAO, a statutory member of the Federal Elections Commission and thereby provide a nonpartisan seventh member of the Commission along with no more than three from each party. This would also assure that the Commission has available the experience and expertise of the GAO in this area.

(4) The Byrd (W. Va.) amendment which would make it a crime to embezzle or otherwise convert for personal or private use funds which have been raised for political campaign purposes.

(5) The Cranston amendment to provide that the limits set forth in the 1971 law on the amount that a candidate can give to his own campaign apply over the full course of an election and not separately for a primary and general election.

(6) The Tunney amendment to provide candidates with a right of adoption for damages for violations of the campaign finance laws by their opponents which materially affected the election.

(7) The Stevenson-Mathias package of amendments to strengthen and improve various provisions of the Federal Election Campaign Act of 1971.

Common Cause believes that the adoption of the amendments we have set forth would substantially improve S. 372 and represent an important step forward in reforming our campaign finance laws.

Sincerely,

JOHN W. GARDNER.

AMENDMENT NO. 420

(Ordered to be printed, and to lie on the table.)

Mr. JACKSON submitted an amendment, intended to be proposed by him, to Senate bill 372, supra.

AMENDMENTS NOS. 421 AND 422

(Ordered to be printed, and to lie on the table.)

Mr. MATHIAS submitted two amendments, intended to be proposed by him, to Senate bill 372, supra.

AMENDMENT OF EXPORT ADMINISTRATION ACT OF 1969—AMENDMENT

AMENDMENT NO. 418

(Ordered to be printed, and referred to the Committee on Banking, Housing and Urban Affairs.)

Mr. BENTSEN. Mr. President, I am submitting an amendment to S. 2053, a bill designed to amend the Export Administration Act of 1969. This amendment provides that exporters of feed grains and the major oilseed commodities are required to report to the U.S. Department of Agriculture any and all firm export contracts. The exporters will be required to report by commodity, class of that commodity, quantity, market year in which the export is to occur, and destination of that export.

The report shall be filed with the Secretary by noon of the 2d business day of each week. In turn, the Secretary of Agriculture shall compile the individual reports and make the compilation available to the general public during that same week. No individual report shall be made public in order to protect the individual exporter in his efforts to open new foreign markets. In addition, the Department is not required to make public the destinations of any export sales. This is an important provision, Mr. President, because there are those importing countries who prefer to keep their purchases secret, and I in no way intend this provision to cause our country to lose any foreign markets.

Mr. President, I urge my colleagues support of this measure because if this country is serious about moving its agricultural sector to export reliance, then this country must have a firm ability to always assess our available supplies. In past years we have been exporting carelessly from a surplus position, but the recent Russian grain sale rudely forced this country to realize that we are not fully informed on many of the important facts which should be second nature if we are to be skillful and wise traders.

During the recent sale, the Russians treated our traders the way the fairway barkers handled the city slicker at the county fair. And when questioned as to why this was possible, the USDA has responded that it was because they simply did not have adequate information of the sale. This amendment seeks to solve that problem—we cannot afford the foolishness of another blind sale.

This amendment, Mr. President, is important to our farmers. American farmers have been asked, and encouraged, to expand production this year in response to the growth in demand both at home and abroad.

Farmers have responded by increasing plantings by some 25 million acres—despite a great deal of bad weather at planting time. Most of this expansion is in major export commodities that depend on foreign sales. As a result, farmers are relying more on foreign sales this year, and they must have, and deserve to have, the best possible knowledge of all export sales. Farmers must not be bilked this year the way our early harvest wheat farmers were bilked by the Russian sale. The great majority of our Texas and Oklahoma wheat farmers sold their wheat for around $1.30 a bushel when the Russian sale was unfolding. Within a very short period of time, the market, forced upward by the Russian purchases, soared to over $2.

Were our farmers foolhardy in selling early? No, they were advised to sell early by the USDA. When asked, why this short-sighted advice was given, the USDA responded that it was because of lack of the proper machinery to fully assess the Russian sale. This amendment seeks to correct this inadequacy in the USDA information collection system.

Mr. President, this amendment is important to consumers. The American consumer must be guaranteed a plentiful supply of feed grains and oilseed products. This plentiful supply is mandatory if we are to have the economical supplies of cereal and meat we have grown accustomed to. Because we no longer trade from large surplus stocks, and because worldwide demand is up dramatically, over-exportation is easily possible unless we arm ourselves with the proper informational tools. This amendment will provide us with just such a tool.

Mr. President, this amendment is important to the efficiency of our Government. The recent GAO study of the Russian grain sale estimates that lack of information cost the Government $300 million in excess export subsidies.

This Government cannot afford to repeat this type of mistake. This amendment seeks to provide the Government with the ability to avoid such mistakes in the future.

I am aware that presently this administration is operating a mandatory reporting requirement for exporters of feed grains and oilseeds. However, the administration has repeatedly indicated to me that they intend this requirement to be temporary. This is unacceptable. We must have statutory language to guarantee a continuous reporting service. On again, off again reporting requirements create a hysteria in our commodity markets which is unacceptable. A temporary reporting requirement indicates that export controls are being contemplated. This indication forces the commodity market into unstable conditions which serve to severly frustrate the orderly marketing of our agriculture commodities. These unstable conditions force the small farmer and small investor away from the markets, and this is unhealthy for any market, whether it be commodity or financial.

Let me conclude, Mr. President, by stating again that I introduce this amendment not to encourage export controls. Exactly the opposite. I want to enable our Government to participate in the world markets with the necessary marketing tools to always fully assess our trading position. This is necessary if we are to protect our own consumers, provide our agricultural producers with adequate marketing knowledge, and more fully understand our export capacities.

ADDITIONAL COSPONSOR OF AN AMENDMENT

AMENDMENT NO. 342 TO S. 372

At the request of Mr. PROXMIRE, the Senator from New York (Mr. BUCKLEY) was added as a cosponsor of amendment No. 342 to Senate bill 372.

NOTICE OF HEARINGS ON NATIONAL FUELS AND ENERGY POLICY STUDY

Mr. JACKSON. Mr. President, for the benefit of interested Members, I wish to announce that the Interior Committee will hold two hearings next week as part of its national fuels and energy policy study.

On Wednesday, August 1, the committee will hear testimony from administration witnesses on S. 2176, the proposed National Fuels and Energy Conservation Act. This will provide the committee with its first opportunity to review the administration's program in the field of energy conservation.

On Thursday, August 2, the committee will hear testimony from administration and private witnesses on the subject of oil refinery capacity, with particular emphasis on the effect of Government policies on the construction of new refineries.

Both hearings will begin at 10 a.m. in room 3110 Dirksen Senate Office Building. Interested parties are invited to submit statements for the record of one or both of these hearings by August 17, 1973.

ADDITIONAL STATEMENTS

THE FARM BILL

Mr. SAXBE. Mr. President, as Senators know, on June 8, I voted against the farm bill, S. 1888, which is now in a Senate-House conference under threat of a Presidential veto. The lead editorial in today's Wall Street Journal gives a cogent argument against this legislation. It explains how large outlays to farmers are inconsistent with rising world demand and rising consumer prices.

We need improved production and efficiency with greater decisionmaking freedom for the farmer. As you know, I have supported the Russian grain deal and increased grain commitments for Bangladesh. I believe that we have the greatest food productive resources in the world and we can help meet the growing demand if we dispense with our outmoded farm programs.

I commend this editorial to my colleagues and ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, July 25, 1973]

THE FARM BILL FIGHT

The federal farm program long has been a prime example of government by subsidy, and this year seemed an opportune time to begin dismantling the costly and outmoded farm doles.

Economic conditions and public sentiment favored such a course. But the farm lobbies have managed to push four-year farm bills through both houses of Congress that not only preserve subsidies but actually increase the potential exposure of the federal Treasury to large outlays to farmers. Since it is unlikely that a Senate-House conference committee will reduce that exposure, the only hope of avoiding it would appear to be a presidential veto. We hope that the President's threat of doing exactly that is not an idle one.

The bills provide for direct subsidies to growers of wheat, feed grains and cotton when prices fall below specified target levels. The administration has particularly objected to an escalator clause which raises these targets as farm costs rise. In the administration view, the new subsidies could cost some $12 billion over the four-year period. But despite this objection it was only late in the bill's passage through the House, under the shepherding of Agriculture Committee Chairman Poage (D., Texas) that it began to encounter serious resistance.

Up until then, it was almost as if Congress was oblivious to the country's rebellious mood about farm subsidies. A Senate bill with even higher "target" levels than the House version had passed with surprising ease. Moreover, the Senate had refused to plug up a loophole that has thwarted attempts to impose an effective ceiling on how much subsidy money can be handed out to big farmers on any one crop.

But subsidy foes gradually chipped away at the House bill. Congressman Paul Finley (R., Ill.) and Silvio Conte (R., Mass.) pushed through an amendment cutting the maximum subsidy payment to any farmer for any crop to $20,000 from $55,000. More importantly, they closed the loophole that allowed farmers to evade the ceilings by splitting up their acreage among members of their families or by leasing land. This was a particular blow to large cotton farmers, who were reluctant to see the bill pass in that form. Then, another blow was delivered to the cotton growers by an amendment to cut off a $10 million federal subsidy to Cotton Inc., which is supposed to promote cotton sales and technology but seems to spend a lot of its money on fancy office quarters and high-salaried executives.

Further erosion of the subsidy lobby's position came when Rep. Robert H. Michel (R., Ill.) got surprising support for an unsuccessful amendment that would have given the administration much of what it wanted, namely a three-year phase-out of direct income subsidies altogether.

The bill finally passed the House, but only by a 226 to 182 vote, which suggests that a presidential veto could be sustained. In that case, assuming no compromise by the President, the farm act of 1949, as amended in 1958, would come back into play when the present farm act expires at the end of this year. That wouldn't end subsidies in principle but administration experts feel the Treasury would be considerably less exposed to subsidy drains.

The administration has been emboldened to tackle the support lobby this year because of a combination of factors. Rising world demand has boosted farm prices and income and reduced farmer interest in federal support. Consumers are increasingly resentful of the combination of high food prices and continued farm subsidies. There is greater understanding in Congress of the inflationary effect of budget deficits. The $4 billion to $5 billion that goes to farmers offers a place to cut.

The complaints from consumers about food prices have overridden everything else, but also led to an attempt to control food costs, which has been highly damaging to farm productivity. The freeze, now lifted on all products except beef, ran counter to the administration's basic agricultural policy, which is aimed at improving production and efficiency. That basic policy would remove subsidies that tend to limit farmers' incentives to seek the most profitable ways of putting their land to work. The 1970 farm bill moved in that direction by permitting greater decision-making freedom. Some Southern farmers, for example, have switched from supported crops to soybeans, which are in heavy world demand. This sort of thing should be further encouraged.

It is indeed possible that continued heavy world demand will keep farm prices above the proposed target levels that would trigger direct subsidies. But that is by no means a certainty and the prospect of a $12 billion Treasury drain, even spread over four years, is not encouraging at a time when it is imperative for the administration to bring the federal budget back into balance to curb inflation. For that reason we hope the administration remains firm in its resolve when the farm bill finally lands on its doorstep.

PIONEER DAY IN UTAH

Mr. MOSS. Mr. President, yesterday my State of Utah was filled with parades and pageants, with ceremonies and celebrations. It marked the 125th anniversary of the arrival of the Mormon pioneers into the Salt Lake Valley in 1847.

Pioneer day was celebrated not only in Utah but in towns and cities throughout the Rocky Mountains, because the settlement of the Mormon pioneers in the Salt Lake Valley began the colonization of the entire Western United States between the Missouri River and the Pacific coast.

Pioneers first entering the valley of the Great Salt Lake found it nearly void of vegetation and with but one solitary cedar tree in the area which is now Salt Lake City, which seemed to accentuate the inherent desolation of the area. Now, one looks across a verdant valley with beautiful homes, churches, schools, and industry, with beautiful trees and flowers. These are a tribute to the diligence of these early settlers.

The settling of the valley by courageous pioneers is a result of their desire to worship God according to their belief. Their faith stemmed from the teachings of Joseph Smith, the founder of the Church of Jesus Christ of Latter-day Saints. After a humble beginning in New England, the church moved to Ohio, to the city of Kirtland. But within a short time, the persecution they had experienced in New York was manifest in Ohio.

A new beginning was sought in Missouri, where the Saints settled in the western part. Once again, discord developed between the Mormons and their neighbors which made it apparent that a further rooting up of homes and families had become necessary.

This time, the members of the church moved to Illinois to be free from the threats that had plagued them in Missouri. Here they established the city of Nauvoo on the Mississippi River. This city witnessed the death, in nearby Carthage, of the Mormon prophet, Joseph Smith. It was from Nauvoo, that the church initiated its historic westward trek to the "land of the everlasting hills."

The story of that movement of the church to the Rocky Mountains is a worldwide legend which is familiar to us all. It deeply etched in the annals of our national history, a saga of heroism and sacrifice.

The month of July 1973, also marks the end of the first year of the presidency of Harold B. Lee, who was named 11th president of the Church of Jesus Christ of Latter-day Saints on July 7, 1972. President Lee succeeded President Joseph Fielding Smith as head of the 3 million member church. At the age of 74, he is the youngest head of the church in 40 years.

Harold B. Lee is a man of spiritual eminence and a leader in the business and civic world as well. He was appointed to the Council of the Twelve, the church's ruling body, in 1941 after serving 4 years as managing director of the church's then newly created welfare program. He was named a first counselor to President Smith in 1970.

Born in Clifton, Idaho, March 22, 1899, one of six children of Samuel M. and Louise Bingham Lee, Harold B. Lee grew up on a family farm in Cache County, Utah, and received a teacher's certificate from the Albion State Normal School at the age of 17.

He took his first teaching job in a one-room school near Weston, Idaho. He was scarcely older than some of his pupils. He taught in other small schools in southern Idaho and at the age of 18, became principal of the Oxford, Idaho, district.

After a 2-year church mission, Mr. Lee moved to Salt Lake City where he attended the University of Utah and became principal of the Whittier, and later the Wilson elementary schools.

He has been a Salt Lake City Commissioner, as well as an educator, businessman, and civic leader, and became the youngest stake president—similar in size to a diocese—in the church when called to head the Pioneer Stake in 1930.

This was the beginning of the depression and members of the Pioneer Stake were hard pressed to find steady employment. Some 4,800 of 7,500 members were out of work. President Lee started a stake welfare program to take care of the needy and unemployed, launched building and work projects, established and stocked a warehouse for storing and distributing food and other commodities, and sponsored a variety of rehabilitation efforts.

Because of the success of his work, he was selected in 1935 to work with the church's newly inaugurated welfare plan and in 1937 became its managing director. At this point President Lee resigned his post as Salt Lake City Commissioner. He later became chairman of the general church welfare committee, after his appointment to the Council of Twelve in 1941.

President Lee has been a key figure in planning and implementing the administrative and program changes that have made such a profound impact on the church during the past decade. In 1960 he became general chairman of the church correlation committee which developed the widely known "home teaching" and "family home evening" programs.

He serves on the board of directors of many business firms and has been awarded honorary degrees from Utah State University and Brigham Young University.

The Latter-day Saints Church is most fortunate to have at its head a man of so many accomplishments and talents. Above all is his great spiritual leadership. I take this occasion to pay tribute to him here today, as well as to the Mormon pioneers who arrived in Utah 126 years ago.

THE EPA PROPOSES TO "ROOK" THE PEOPLE OF NORTH CAROLINA

Mr. HELMS. Mr. President, I have a friend, a very dear friend, down in North Carolina, who often quotes Will Rogers' famous statement to the effect that "All I know is what I read in the newspapers."

My friend's name is H. F. Seawell, Jr., and he is affectionately known as "Cousin Chub" by thousands of North Carolinians. Mr. Seawell is a successful attorney, a dedicated born-again Christian, and a highly respected citizen of my State.

Mr. Seawell came to mind this morning, Mr. President, as I read an editorial in the Raleigh News and Observers' edition of July 23. That newspaper and I often—in fact, generally—differ in our respective economic philosophies. I have frequently sustained editorially inflicted contusions and mild abrasions at the hands of that newspaper, and I shall not contend that all of them have been undeserved.

Be that as it may, when I find myself in nearly complete agreement with an editorial position of the News and Observer, I think it is a signal event that should be made a matter of record—in the RECORD.

Seriously, Mr. President, the News and Observer's comments concerning the position of the Environmental Protection Agency ought to be of considerable concern to the EPA. Here is a decidedly liberal editor who has a built-in dislike for investor-owned electric power companies, saying flatly that EPA has overstepped the bounds of logic and fairness.

If the EPA persists in this unfortunate position, then the News and Observer will be correct. The people of my State, served by Carolina Power & Light Co., will be rooked in more ways than one by an arbitrary and unjustified exercise of Federal authority on the part of the EPA.

Mr. President, I return to my friend, Chub Seawell. When he sees somebody, or a group of somebodies, doing something ridiculous—something that will diminish the stature and acceptance of that person or that group, Mr. Seawell says:

> They're just committing ambush on themselves.

And that, Mr. President, is what the EPA is doing in this instance. The EPA cannot afford many errors of judgment resulting in criticism from its best friends. And the people of my State cannot afford to be rooked by an abuse of Federal authority. I sincerely hope EPA will see the light, and remedy the damage it has already done.

I ask unanimous consent that the News and Observer's editorial in this connection be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

CP&L, RATE PAYERS BOTH ROOKED

If there were some practical and legal way for Carolina Power & Light Co. to escape what federal and state regulators imposed on it and its rate payers Thursday, the utility would appear justified in doing so.

The regulators have thrown a monkey wrench in CP&L plans to create an economical cooling system in connection with its proposed $1.1 billion nuclear electric plant southwest of Raleigh. The result will be additional delay of the project and added costs of perhaps $50 million or more for an alternative cooling method.

This has nothing to do with whether the proposed plant will be a safe facility, or whether nuclear energy is an appropriate fuel for power generation, or whether the electricity to be produced is needed in the public interest.

Such questions will be vigorously and properly pursued at an August 6 hearing here under auspicies of the Atomic Energy Commission. The Conservation Council of North Carolina has intervened in that case, taking exception to alleged weaknesses in the plant design.

The hearing will amount to a trial, after which the hearing board will make a decision that, presumably, will allow CP&L to build a safe, necessary facility or none at all.

The Thursday action, taken by the State Board of Water and Air Resources (but actually prompted by the Atlanta regional administrator of the Environmental Protection Agency) related solely to plans to provide cooling water for the plant.

CP&L wanted to do it with a 10,000 acre man-made lake, circulating water through the generating plant's steam condensers, back around the lake to cool, and back through the condensers.

Based on technical data submitted months ago, the state board was all set to give the needed approval. Various aspects of the plan were judged tentatively to be either environmentally acceptable or advantageous. A board order finding these facts and approving the project had been drawn by the board's staff prior to Thursday's meeting.

Before the meeting, however, a letter to the board from federal EPA regional administrator Jack Ravan objected to the size of the lake and its mixed recreational values. Ravan advised the state to insist on expensive cooling tower structures and a smaller lake of no recreational values, saying these would better meet the concept of what EPA will be approving in the future.

The cooling towers will cost CP&L's rate payers perhaps $50 million more, will require more water from the river to make up for evaporation, will prevent even marginal recreation benefits in a smaller lake and will not cool the nuclear plant's steam condensers even one degree more efficiently. The towers and smaller lake will consume less land, apparently the EPA's chief concern.

EPA is embracing a power plant cooling concept that undoubtedly is sound for many nuclear plant sites in the nation. State agencies must fall in line. But imposition of the concept in this instance appears both arbitrary and wasteful.

CP&L sometimes has seemed insensitive to the broad public interest. In its drive to produce the cheapest possible electricity and to sell as much of it as possible, its plants have polluted the air and dumped heated water into public streams, almost as much and as long as the law allowed.

It is unjust, however, to impose a needless and costly change on the cooling lake planned for the company's proposed Wake County plant. The controversy and defensive maneuvering encouraged are inappropriate and harmful. And they may overshadow and confuse more legitimate disagreements that still must be resolved at the August 6 hearing about the design of the plant itself.

SENATE PASSES HUMPHREY RESOLUTION REQUIRING 1974 AGRICULTURE CENSUS

Mr. HUMPHREY. Mr. President, I want to express my appreciation to the members of the Senate Post Office and Civil Service Committee and other Senators for their quick approval of Senate Journal Resolution 95, on June 22, 1973, which requires the Secretary of Commerce to proceed with conducting the 1974 Census of Agriculture in accord with existing law.

This resolution was passed by the Senate while I was in London as an official representative of the Senate at the Dichley Conference of British and American parliamentarians. It requires the Secretary of Commerce to submit within 30 days of its enactment an estimate of funds needed for a 1974 Agricultural Census and requires that appropriated funds for planning the census be utilized for that purpose.

Present law stipulates that a census of agriculture be conducted every 5 years. The last agricultural census was taken in 1969.

The administration, despite these requirements of law, impounded funds appropriated by Congress for the current fiscal year to proceed with the planning necessary to conduct this vitally important census next year. The administration also, in its budget request for fiscal year 1974, asked for no funds whatsoever to conduct next year's census of agriculture. These moves were taken unilaterally by the Bureau of Census and the President's Office of Management and Budget without consultation with either the Congress or outside interested parties. Even the Bureau's own Agricultural Advisory Committee was not consulted on these moves.

Strong opposition to the administration's proposal to conduct no census of agriculture during 1974 was voiced by a number of individuals and groups at hearings held by the Senate Post Office and Civil Service Committee on my resolution. I know that these individuals and groups join me in expressing appreciation to that committee and the Senate for the passage of Senate Joint Resolution 95.

I have written to Congressman THADDEUS DULSKI, chairman of the House Post Office and Civil Service Committee, and Congressman RICHARD WHITE, chairman of the House Subcommittee on Census and Statistics, expressing my hope that prompt action will be taken on House Resolution 518, which is identical legislation to Senate Joint Resolution 95. Quick action by Congress is essential if the planning necessary to conduct this vitally important census next year is to be accomplished.

Every day that passes between now and the time this resolution is enacted into law will make it increasingly difficult to proceed with the necessary planning to conduct next year's census. Therefore, I hope that prompt action can be taken by the House of Representatives to secure passage of this important piece of legislation.

Mr. President, I also appeal to the President to review his decision on the 1974 agricultural census, taking into consideration the food and fuel crisis and the strong recommendation for a census that he has received from the U.S. Senate, and to restore immediately the impounded planning funds.

Mr. President, I ask unanimous consent that an editorial entitled "Need Farm Census in 1974," which appeared in the July 21 issue of the Farmer, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

NEED FARM CENSUS IN 1974

They're tinkering with agriculture again. This time with its benchmark of progress, the ag census.

Officials in the Bureau of the Census want the 1974 Census of Agriculture postponed until 1977, when it can be combined with manufacturing, trade and business. Census officials would redefine farms to include only those with higher incomes, lop off smaller farms, put emphasis on production data and pretty much ignore the people in farming.

Rationale is that the ag census should be concurrent with the economic census. That would permit more integrated coverage of services to farmers, enhance economic relationships between agriculture and other businesses, and provide common years for measuring all economic sectors.

Behind the Bureau proposal is the President's budget, which allowed no funds for a 1974 ag census, although federal law requires one be taken every fifth year, covering years ending in 4 and 9. His rationale was that agriculture is getting to be a factory-type operation, with production increasingly industrial in nature and the need for integration of census gathering more compelling.

That may make some sense, to a point. But it leaves out an awful lot that can hurt agriculture.

For one thing, it leaves out people. If Census officials were to redefine farms to cover only operations grossing $5,000 or more—double the 1969 census base of $2,500, but the lowest increase proposed—farm numbers would shrink to 1.3 million. Fifty-six percent of today's farmers wouldn't be counted. They'd become something else, maybe non-farmers. Yet many of them are farmers in every true sense except income.

Chopping a million farmers off the bottom would give a distorted picture of agriculture. Average farm income would more than double, on paper. Farmers would appear more in the main stream of the economy, with less need for attention. They'd look well off, when in fact, many are not.

USDA would have less information on which to base direct payments and price supports. There would be no accurate county-by-county tally on which to allocate funds for programs like rural development. Nor for revenue sharing or ag research and extension programs, which are based in part on rural and farm populations. Farm organizations, machinery manufacturers, fertilizer suppliers and other private users wouldn't have the specific county and community population and economic profiles on which they base production projections. Indeed, how could an accurate estimate of current farm fuel needs be made, were it not for 1969 census figures—which are already outdated but just now becoming fully available?

What's really needed is more farm census data, not less. Farming is changing faster than ever before. It's more diverse and the job of collecting data more complex. Agriculture has changed more the past five years than in any previous five-year period, as North Dakota Congressman Mark Andrews pointed out to Census Bureau officials during recent hearings.

We need more accurate farm data. We need it made available in less time. You can help get it by supporting a resolution by Minnesota's Senator Humphrey that the 1974 ag census be conducted, as mandated. Then let's go after additional funds to improve the data-gathering and processing techniques for the one to follow in '79.

MUTUAL AND BALANCED FORCE REDUCTIONS IN EUROPE

Mr. BROCK. Mr. President, recently the preliminary talks on mutual and balanced forced reductions were concluded in Vienna between seven members of the NATO alliance and four members of the Warsaw Pact. It was decided to hold a main conference beginning on October 30, preferably in Geneva.

The results of the preliminary conference were meager: conferees failed even to agree on the agenda for the main conference. However, there was at least one temporary compromise which has aroused concern both in the United States and Western Europe and which I urge the administration to remedy at the start of the October conference.

I refer to the compromise on the status of Hungary which, according to NATO proposals, was to be included among the full participants of the conference. Hungarian participation would assure that the 40,000 Soviet troops on her territory, assigned to the central front, could be included into any coming MBFR agreement. The compromise reached between our negotiator, Jonathan Dean, and his Russian counterpart in April, later accepted by our NATO allies, called for the exclusion of the Hungarian question from the preliminary conference and for the reduction of Hungary to an observer status.

Actually, the term "compromise" is a euphemism since we are again confronted with a one-sided concession on the part of the United States without a contributing action on the part of the Soviet Union. As everybody knows, postwar history is replete with similar "compromises."

Fortunately, the NATO powers retained the right to raise the problem of the status of Hungary at the main conference.

In view of the strategic and tactical disadvantages a Hungarian "sanctuary" for the Soviet Union would mean for the NATO forces in Europe after any MBFR agreement, and the opportunities such a sanctuary would extend to the Soviet Union for direct intervention in case of a post-Tito crisis in Yugoslavia, I urge the administration to avail itself of its diplomatic instrumentalities in order to insure the inclusion of the Soviet forces in Hungary on the agenda of the conference and the readmission of Hungary as full participant at the October conference.

The Soviet attitude on this matter is truly remarkable, and gives an important clue to the depth of sincerity of their deténte-era statements. Imagine, Russia objecting to the participation in a conference of one of their puppet governments.

Their position is an ominous harbinger for the conference, and it is now up to our Government to insist that no mutual force reduction can possibly be regarded as equitable so long as Hungary remains occupied at the current level.

We must make it plain to the Soviets that their good faith cannot be presumed so long as they insist on the exclusion of the Hungarian question from the agenda for European demilitarization.

ADMINISTRATION REAFFIRMS SUPPORT FOR GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, I have recently received a letter from Mr. Marshall Wright, Assistant Secretary for Congressional Relations at the Department of State, in which Mr. Wright reaffirms the support of the Nixon administration for the Genocide Treaty.

President Nixon urged the Senate on February 19, 1970, "to consider anew this important convention and to grant its advice and consent to ratification." The President said,

> This action would demonstrate unequivocally our country's desire to participate in the building of international order based on law and justice.

The administration, I am pleased to report, has not diminished its unqualified support of the Genocide Convention. Mr. Wright, in his recent letter, says:

> As you know, the Department of State vigorously supports ratification of the Genocide Convention. We are pleased that President Nixon's initiative of resubmitting the Convention in 1970 is on the verge of resulting in consideration of this important treaty by the full Senate. The Convention defines the crime and declares it to be a crime under international law. The Administration could not support ratification more strongly.

Mr. President, I sincerely welcome this renewed expression of support from the State Department. Mr. Wright's letter, which was printed in its entirety in yesterday's RECORD, arrives at a critical moment for those who are concerned with contemporary genocide and the stature and effectiveness of the United States in the world today. It is our hope that the Senate will consider this important document when it returns from its summer recess and redress the years of neglect during which the Genocide Convention has awaited ratification. The Senate's record of delay has made hypocrites of all Americans who oppose specific genocide crimes yet whose legislature refuses to endorse a treaty which gives meaning to this opposition.

As Mr. Wright recognizes, passage of the convention would go a long way toward bolstering the position of the United States as it attempts to deal with acts of genocide occurring in foreign nations. The events which occurred last year and which appear to be resuming on a much larger scale in Burundi should reinforce our resolve to act favorable on this vital matter. Ratification would have clearly strengthened our hand last year as we sought to stop the slaughter of innocents in Burundi. More generally, Mr. Wright notes that ratification would serve to mobilize the opposition of other nations who are also concerned for the lives and well-being of every world citizen. The time has come for us to recognize our responsibilities and join with the 76 nations of the world that have already done so.

S. 1875—THE REHABILITATION ACT OF 1973

Mr. STAFFORD. Mr. President, I am in receipt of a letter from HEW's Acting Secretary, Frank Carlucci, concerning S. 1875, the Rehabilitation Act of 1973, which passed the Senate on the 18th of this month.

In our floor debate on the amendment and the committee report, I and a number of my colleagues interpreted certain legislative language in the bill's authorization sections as floors which we felt were the minimum amounts necessary to run the programs.

As you are aware, Mr. President, the administration supports this bill in principle on most every aspect. However, the administration's interpretation of this particular wording in the authorization section is different than ours. Since reports on this bill were not available until just prior to passage, the administration did not have an opportunity to have its interpretations placed in the RECORD at the time of the debate.

I, therefore, ask unanimous consent on behalf of myself and Senator CRANSTON, the floor manager of the Rehabilitation Act of 1973, with whom I have discussed this matter, that a copy of the letter I received from Mr. Carlucci concerning the administration's feelings on the authorization language be printed in the RECORD.

Thank you, Mr. President.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., July 23, 1973.

Hon. ROBERT T. STAFFORD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STAFFORD: The report of the Committee on Labor and Public Welfare (Report No. 93–318) on the Vocational Rehabilitation Bill, S. 1875, which the Senate passed on July 18, poses a problem for us which I feel I must bring to your attention.

Throughout the bill itself, specific appropriation authorization amounts for the various programs are coupled with authorizations for "such additional sums as Congress may appropriate." Taken on its face, such language amounts in our view to no more than "such sums" language, which as you know the Administration has consistently sought in all authorizing legislation, including this bill. It was for this reason that we agreed to the language in the bill.

However, the Committee report, which was not made available to us until about noon on July 18, on page 6 characterizes the specific authorizations as "floor" amounts. This characterization of the specific authorizations was clearly not part of the compromise agreement worked out on the bill between the Administration and you and your colleagues, and we were not aware, until we saw the report, that the Committee was interpreting authorization provisions in this way. Had we been informed of this characterization in time to do so, we would have strongly opposed such an interpretation.

In these circumstances, we feel that we must state positively that we do not and cannot acquiesce in an interpretation of the several authorization provisions in S. 1875 which would construe them as a floor for appropriation purposes. We would appreciate your help in clarifying our position on this matter for the Senate and in making our views known to the Conference Committee.

I would like to add that we greatly appreciate the cooperation which you and your staff have shown to HEW during Senate consideration of S. 1875, and we hope that your work can now be followed by conference agreement on a vocational rehabilitation bill which will gain the President's approval.

Sincerely,

FRANK CARLUCCI,
Acting Secretary.

NIXON ECONOMIC PHASES AND FOOD PRICES

Mr. HUMPHREY. Mr. President, when this administration instituted phase I of its economic controls, sirloin steak was about $1.50 a pound.

Now we are in phase IV—and bologna is $1.54 a pound. Sirloin steak, even with a freeze on beef prices, is at $2 a pound.

This administration may wind up having more phases than the Moon—and with the same absence of positive effect on food availability and prices.

All of us hope, of course, that phase IV will be followed—soon—by a return to economic normalcy. But, on the record, there is not an especially strong reason for faith that this administration can grope its way out of the economic wilderness.

Where the administration's attack on food prices is concerned, I am reminded of the Mongol warriors of old. Marco Polo reported at the time that these horsemen would set off on a long journey without food or water, and would satisfy hunger and thirst by occasionally drawing blood from their own steeds. This is a precarious way to travel. It is an extreme measure, and its success depends on the stamina of the horse and the length of the journey.

Today, with phase IV, we are on that kind of a journey. We are living with economic measures that are unsatisfactory and precarious, though they may be necessary under the circumstances.

What troubles me, Mr. President, is that this administration has simply not shown itself capable of managing the food sector of the economy.

There are many reasons, of course, why food prices in the United States have risen. We cannot and do not charge the administration with failure to prevent the bad weather which is part of the reason for higher prices.

But we certainly have a right to expect that the administration, with the enormous administrative and informational resources it commands, should anticipate, and accurately predict and provide for the economic fluctuations which contribute to changes in consumer food prices.

Let us remember that the Secretary of Agriculture has thousands of employees who are presumably giving him, and through him the President, better and more complete data on food production and consumption than is available to any national administration in the world.

Additional relevant information is presumably available to the President's Treasury, Commerce, and State Departments.

To aid the Chief Executive in the interpretation of this data, we have assembled in the Council of Economic Advisers a resource of men whose economic plans and forecasts, unfortunately, have proven barely more effectual than primitive potions and incantations.

The economic ship of state is in stormy seas and, though we have hope, our Captain's past performance gives us little comfort that he knows what he is doing or where he is going.

Just consider a few examples of the ineptitude of the administration where food prices are concerned.

In March, Virginia Knauer, the President's Special Assistant on Consumer Affairs, held a press conference. She said she wanted to give consumers a "battle plan" for dealing with soaring food prices, some suggestions for saving money at the supermarket.

With Mrs. Knauer's "battle plan" of last March and a dollar bill, consumers today can buy a dozen eggs; eggs that were already high at 65 cents a dozen in March. With the "battle plan" and $2.25, a consumer today can buy a 3-pound roasting chicken; chicken that was already high at 57 cents a pound in March. I could go on with examples which add up to the sorry fact that food prices have shot up some 10 percent just since the first of the year.

Mr. President, the struggle for lower market basket costs is being lost. This is a defeat for farmers, processors, and consumers alike, despite the administration's "battle plan," despite three phases and two freezes, despite white papers and rosy forecasts.

The food price "battle plan" of March has become, in short order, July's white flag of surrender. "There is no way with or without controls," the administration now tells us, "to prevent a substantial rise of food prices."

We hear no more administration boasts about a 2.5-percent inflation rate, only the President's chilling consolation that "we should not despair of our plight."

But if food prices continue to race beyond pay increases—then American consumers will have grounds for despair.

On March 20, 1973, a few days after Mrs. Knauer's appearance, the Cost of Living Council Committee on Food, which is chaired by Treasury Secretary Shultz, issued a report on food prices. The report, which was the most current and presumably accurate the administration could then provide, found that:

> Despite the current seriousness of the problems today, we can reasonably expect an improvement in food prices within a few months.

This forecast, given the price bulges promised in phase IV is even more offbase than the administration prediction of last winter that 1973 food prices would rise about 3 percent, a prediction which events have shown to be colossally erroneous. Prices have already skyrocketed higher than they have in 20 years.

Since the March report on food prices was issued, the administration found it necessary to clamp on a phase 3½ freeze on prices, and now "tough" phase IV price controls.

One would be forgiven for thinking, given all this price controlling, that prices were about ready to be held down. Not so, according to Dr. Dunlop, Director of the Cost of Living Council. Dr. Dunlop has told news reporters that under the expected price controls of phase IV, prices could be expected to rise sharply. The President conceded the same thing.

My concern, Mr. President, is whether this administration is capable of providing sound information concerning current expectations on food supplies and prices for the balance of 1973. Dr. Shultz, in a tone uncharacteristic of this administration, underscored the problem when he conceded last week that "our record in forecasting what's going to happen to food prices leaves us a little humble." The difficulty is that it is these men of admittedly humble economic success in whom we must trust our economic future.

The March study concluded that we could expect a "more favorable outlook for food prices in the second half of 1973." We have barely begun the second half of 1973, and already the supporting conclusions and expectations of that March study are open to the most serious question. I think we are entitled to know whether that March "white paper" is or is not "operable."

Specifically, I encourage and ask Secretary Shultz to provide the Congress with the administration's current response to serious questions raised by his March 20 report on food:

First. Does he still expect farm prices to fall below March levels in the second half of 1973 and, by the end of the year, to return to a point no higher than that of the first of the year, as stated at page 7 of that report?

Second. Does he still expect the rate of increase in food prices to be near zero by the end of this year, as noted at page 7 of the report?

Third. What is his current best estimate of the annual farm and retail food price increases by the end of 1973?

Fourth. Does he still expect that in 1973 we will experience greater domestic production of all major groups of food commodities except dairy and poultry products, as estimated at page 9 of the report?

Fifth. What have been the market effects of the administration's steps, mentioned at page 7 of the report, to increase cheese imports?

Sixth. Does he have any reason to alter his forecast, at page 7 of the report, that food supplies will increase "dramatically by the fourth quarter?"

Seventh. Does he still anticipate that beef supplies will, as noted on page 8, continue to rise through 1973 and, if so, to what extent?

Eighth. Are hog supplies likely to rise and prices likely to decline significantly through 1973, as he forecasts at page 8 of the report?

Ninth. Is he still confident of his prediction, at page 8 of the report, of 5 to 10 percent increases in poultry production, favorable feed prices and substantially lower broiler and egg prices?

Tenth. Does he still expect fruit production, as mentioned at page 8 of the report, to be well above that of 1972, and if so, what are prices likely to be relative to 1972 prices by the end of 1973?

Eleventh. What have been the results of the intensive study of remedies for vegetable shortages, mentioned at page 9 of the report?

Twelfth. Are his page 9 production forecasts, that feed grain supplies will rise 5 to 10 percent, that soybeans will rise 15 to 18 percent, and that wheat will rise 12 to 14 percent, still valid?

If, in the view of Dr. Shultz, the

March 20 report is, after barely 4 months, now "inoperable," I believe we are entitled to an explanation. For, if forecasts are to change every 4 months, how can we expect consumers to have faith in phase IV?

I would also appreciate having a copy of the list, mentioned at page 10 of the report, of the 80 different ways which were under study in March to improve food productivity and reduce food costs. I would like to know which have been put into action, and an explanation of why the others have not been put into effect.

Mr. President, it is almost impossible to pick up a newspaper these days without reading that the American economy is in a mess. In the food area, in particular, I can hardly believe it when I hear, these days, of food shortages, of scarcity in American grocery stores; when I hear that our great farm surpluses are gone and that we cannot even export the agricultural commodities we have contracted to sell. We have had economic difficulties in the past and, fortunately, we have surmounted them. But it is a matter of very serious concern when the administration shows itself incapable of analyzing the problem competently. We can never expect to solve our economic problems if administration economic forecasts turn out consistently to be unreliable.

We all of course hope that the phase IV controls will help restore order, confidence, and fairness to the marketplace. But if these controls are based on the kind of faulty analysis we have seen from this administration, then we have nothing but further troubles in store.

Mr. President, I ask unanimous consent that a brief outline of the movement of some major economic indicators during the various Nixon administration economic phases, from the July 21 issue of the Congressional Quarterly, be printed at this point in the Record.

There being no objection, the outline was ordered to be printed in the Record, as follows:

Nixon's Economic Phases

I. Hailed by President Nixon as his New Economic Policy when he announced it Aug. 15, 1971, the program imposed a 90-day freeze on wages and prices. The Consumer Price Index (CPI) stood at 120.8 (1967=100) and the Dow Jones industrial index on the New York Stock Exchange was 856.02. Bacon was advertised in New York City at 66 cents a pound and chicken at 29 cents. In Chicago, wheat was selling for $1.45 a bushel, corn $1.30 and soybeans $3.28. The discount rate set by the Federal Reserve Board was at 5 per cent and the prime (lending) rate charged by major banks was 6 per cent. A German mark cost 29.65 cents in New York. (*1971 Weekly Report p. 1759, 1970 Almanac, p. 58, 691*)

II. Announced in stages from Nov. 8 to 11, 1971, it set guidelines of 5.5 per cent for wage increases and 2.5 per cent for price increases. Raw food products were exempt at their first point of sale. The CPI was 122.6, the Dow Jones 814.91, retail food prices were still frozen, wheat went for $1.60, corn for $1.07 and soy beans $3.05. The discount rate was 5 per cent and the prime rate 5½. A mark cost 29.95 cents (*1971 Weekly Report, p. 2416*)

III. Mandatory controls were ended Jan. 11, 1973, and were to be replaced by a voluntary system. The Dow Jones had just closed at its highest point in history, 1,051.70. The CPI was at 127.3. Bacon and whole chicken were not being advertised in *The New York Times*. Wheat had climbed to $2.69, corn to $1.58 and soybeans at $4.30. The discount rate was down to 4½ per cent and the prime rate was 6 per cent. The cost of a mark, after devaluation of the dollar in December 1971, had risen to 31.17 cents. (*Weekly Report p. 35*)

III–B. Nixon June 13 announced a 60-day price freeze while Phase IV controls were being drawn up. The Dow Jones was 905.40 and the CPI was 131.5. Bacon and chicken were not advertised in the Times that week. Wheat was bringing $2.90, corn $2.47 and soybeans $9. The discount rate was 7 per cent and the prime rate between 8¼ and 8½ per cent. A mark, floating against a further devalued dollar, cost 34.57 cents. (*Weekly Report, p. 1483*)

CONTRIBUTIONS TO AMERICA BY CITIZENS OF FOREIGN BIRTH

Mr. MATHIAS. Mr. President, on July 11, 1973, I was privileged to participate in the Independence Day ceremonies conducted by Argo Lodge No. 413, B'nai B'rith. The event was significant as it related to a vital part of our national heritage. No one who attended could fail to have been deeply moved by the personal accounts of courage and heroism of Americans who had won their citizenship after the most harrowing perils and against the most frightening odds.

The special guests of the evening, who were each presented with the Haym Salomon Freedom Medallion, were born in various parts of the world and many of them had narrowly escaped death at the hands of the Nazis or other oppressive regimes. Each of them, after his arrival in the United States, has made a significant contribution to this country and has been rewarded by being recognized as a leader in the field of endeavor in which he has been engaged. Those honored were:

Paul M. Nussbaum, Esq., counselor to the School Board of Prince Georges County, Md.

Mr. Max Berg, builder and president of Berg Construction Co., Montgomery County, Md.

Dr. Hans G. Hirsch, economist, U.S. Department of Agriculture.

Hon. Charles A. Docter, member, Maryland House of Delegates, Annapolis, Md.

Mr. Eric Rapp, manager, Lansburghs Department Store.

Hon. Harold H. Greene, chief judge, Superior Court of the District of Columbia.

Hon. Eric I. Weile, chairman of the evening, past president, Argo Lodge, past president, District Lodge No. 5.

Each of those who received a Freedom Medallion made a moving response. Judge Greene expressed the spirit of the evening with great eloquence and humility. He concluded that it was not the talents that new citizens brought to America which were important but, rather, the opportunity that America provided for new citizens which should be the focal point of the commemoration of American independence.

While I found Judge Greene's remarks appropriate and moving, my mind went back to the words uttered on the steps of the Capitol on January 20, 1961, when President Kennedy said:

> Ask not what your country can do for you: ask what you can do for your country.

It seems to me that these Americans who were honored by Argo Lodge have accepted President Kennedy's challenge and have contributed enormously to the strength and improvement of the Republic which they have chosen to make their home.

The ceremonies were conducted by Mr. Sol Lynn, president of Argo Lodge, and by Harry S. Wender, Esq., master of ceremonies. Mr. Weile, the chairman of the evening, is a past president of Argo Lodge as well as a former member of the General Assembly of Maryland. Mr. David A. Brody, National Director of the Washington Office of the Anti-Defamation League, contributed to the serious and patriotic theme of the evening with thoughtful remarks of the character for which he is so well known.

INTERSTATE LAND SALES

Mr. HARTKE. Mr. President, nearly 5 years ago, the Congress passed a bill to halt the growing fraud connected with the interstate sale of land. In spite of our noble intention, it has become evident that this law has not lived up to its expectations. People are still being taken for their life's savings by these unethical salesmen. It is for this reason that I introduced S. 1753, the Interstate Land Sales Act amendments. This bill would require the Federal licensing of all dealers of interstate land.

Mr. President, an article by Ralph Nader, which appeared in the Ladies Home Journal, gives an enlightened insight into the continuing fraud occurring in this industry. I ask unanimous consent that this article be printed in the Record so that my colleagues may be aware of this continuing scandal.

There being no objection, the article was ordered to be printed in the Record, as follows:

Ralph Nader Reports

Beware the claims of unscrupulous land companies! Your dream "resort community" lot may prove to be a nightmare on which you fritter away thousands of dollars.

Charnita, Inc., near Gettysburg, Pa., is advertised as a "resort community." Since 1965, its high-powered salesmen have sold some 8,000 half-acre lots. But so far, only 250 homes have been built. Most of the people who planned to vacation or retire there have not been able to use their land at all. Some own lots on the 85 percent of Charnita the Pennsylvania Health Department has declared unsuitable for septic tanks. They are waiting for the central sewage system that has yet to be built. When the sewage system is built, the lot owners themselves will pay for it, and preliminary estimates exceed $7,500,000.

Still other owners haven't built because their lots are nearly inaccessible. Unpaved roads are so steep and narrow that they can't be traveled by large vehicles. In addition, no storm sewer systems have been built in the area, and there are serious erosion problems.

Landowners who aren't bothered by these problems must deal with the fact that Charnita has no water supply system, and according to the Pennsylvania Department of Environmental Resources, "the chances of finding adequate supplies of water in the overall area for individual homes are generally poor. . . ."

Aggrieved landowners, with the help of a citizen group in the county, tried for more than two years to get help from the government and courts. Finally, in April 1972, the U.S. Department of Housing and Urban Development ordered Charnita to halt all sales since it couldn't deliver what it promised: land to build homes on. The corporation's efforts to solve the sewage problem have so far been found unacceptable by HUD officials. In June, the Federal Trade Commission ordered Charnita to offer refunds to people who had bought lots on installment since 1969. The FTC said Charnita had failed to disclose to installment buyers the precise amount of interest they would be charged.

Thousands of Americans are living through similar land sales nightmares, usually without the opportunity to recoup their losses. Most are buying on installment; about half are seeking land for retirement; and a majority are buying land they've never seen—usually in another state. They rely on information given in mail brochures and at high-pressure promotional dinners or home visits by salesmen. Buyers are invariably urged to purchase on the spot. The prospect of paying in small monthly installments makes customers more willing to buy sight unseen. Only later do they find that their new home will be 10 miles from the nearest town, with an impassable swamp between, or that no drinking water is available, or that "readily accessible" means "by footpath," or that the buyer will end up paying heavily for such promised improvements as sewers, electricity and roads.

Since the purchaser is paying on an installment basis, he doesn't get title to the property and has no assurance that the dealer will deliver the title 10 years hence. Before that time, the buyer may be done out of his property and his money because creditors have to repossess the property from the land sales company, or because other unforeseen events occur. The Department of the Interior is considering condemning 537,000 acres in Southern Florida known as Big Cypress Swamp. It is estimated that about 30,000 people are paying monthly installments on the land to seven or eight sales companies. They are paying an average of $8,000 per acre, but the government has valued the land at only $300 per acre. If the government should condemn the land and buy it, the money it pays will go to the land companies that hold the title. There is no assurance that the companies will pass that money on to the installment buyers.

The Federal Interstate Land Sales Act, effective since 1969, requires that buyers be furnished with property reports that could prevent some of these nightmarish occurrences—if the buyers received them. The reports are supposed to include the distances to nearby communities; whether access roads are paved or unpaved; existence of liens on property; availability of sewer and water service and of recreation facilities; present and proposed utility services and charges; number of homes currently occupied; soil and foundation conditions that could cause problems in building or in using septic tanks; the kind of title the buyer will receive. Purchasers of land who have not been supplied with proper information should contact George K. Bernstein, Department of Housing and Urban Development, Office of Interstate Land Sales Registration, Washington, D.C. 20411.

Unfortunately, many buyers don't know their rights and never receive these property reports. (They may cancel the contract and recover any losses if they discover their rights later.) Even if they do get the report, however, there is no guarantee that the information is accurate. And the law does nothing about abuses until *after* people have been defrauded. Companies that habitually engage in such practices are rarely found out unless someone complains. Of the estimated $5.5 billion spent to purchase vacant land in 1971, well over half is believed to represent lost investment because purchasers could not use the land.

The problem of land development desperately requires action by citizens demanding that weak government regulations be reinforced. Citizens' groups can monitor land sales companies in their communities. Begin by checking ads in the local newspaper. What improvements are offered? Who pays for them? Is there a description of the terrain and, if so, does it tally with your own investigation? How is water supplied and what is the consumer charged.

Order a property report from the land company and evaluate it. Try to get a financial statement as well. (In a few states, such as New York, financial statements are required in property reports.) Note the contract cancellations (money forfeited by buyers). Sometimes they range as high as 35 percent of total sales; at the lowest, they're about 10 percent. (For detailed suggestions on how to monitor land development, write Public Citizen, Retired Professional Action Group, 2000 P Street, N.W., Washington, D.C. 20036.)

In addition to protecting land purchasers, we need to protect the land itself. Whether or not we fall victim to a land sales scheme, all of us suffer from what the land hucksters are doing to our environment. The haphazard, often ravaging development of farm, coastal and mountain land promises to escalate now that many corporate giants are entering the profitable land sales business. The developers are setting our nation's priorities for land use while the rest of us watch the erosion of a precious resource. Through local zoning boards and state legislatures, citizens can bring their own views to bear on the problem. Vermont is one of the few states to have established a mechanism—its district environmental commissions—involving citizens in decisions affecting land use. For information on Vermont's Environmental Act No. 250 on regulation of land use, write Vermont Real Estate Commission, 130 State St., Montpelier, Vt. 05602.

U.S. TROOPS IN EUROPE

Mr. MUSKIE. Mr. President, this morning the Subcommittee on Arms Control, International Law and Organization of the Foreign Relations Committee held hearings on "Mutual Force Reductions in Europe." We were particularly fortunate to have with us two witnesses who have had a great deal of experience with and a long-standing interest in the issue of U.S. troops levels in Europe—the distinguished majority leader, MIKE MANSFIELD, and Deputy Secretary of State Kenneth Rush.

Mr. President, for three decades, the United States has been intimately involved with the political integrity and the military security of Western Europe. In the emerging post-Vietnam era, one of the most important elements in our foreign policy will be our political, economic, and military relations with our European allies.

A key issue in those relations is the U.S. military commitment to Europe. At present, we have more than 300,000 troops and 250,000 dependents stationed on the other side of the Atlantic. This represents the largest overseas deployment of American forces today. In all, we have nine active divisions earmarked for duty in the NATO theater as well as 40 Air Force Squadrons and the 6th Fleet—to say nothing of many other elements of our overall strategic nuclear deterrent deployed at home and abroad. The cost of maintaining American forces in Europe, together with those in the United States that have NATO missions, has steadily climbed from $12 billion in fiscal 1971 to an estimated $17.7 billion in fiscal 1973. The balance-of-payments deficit resulting from military accounts in Europe is estimated at more than $1.5 billion for fiscal 1973.

A number of events have recently occurred which have significantly altered the European political and economic landscape—the Moscow and Washington summit meetings and growing East-West deténte; the SALT I Agreement; the Berlin Accords; the preliminary negotiations on European Security and on Mutial and Balanced Force Reductions; the entry of Great Britain, Ireland, and Denmark into the Common Market; and two successive devaluations of the dollar, to name just a few. Despite these changes, the Defense Department has indicated in its military manpower report for fiscal 1974 its interest in maintaining the same military commitment in Europe that we had this past year.

Few doubt the need for a strong, credible NATO. Few doubt that the military strength of the Alliance has played an important role in bringing about the much-improved East-West situation. But in view of our improved relations with the Soviets, in view of our own economic problems, and in view of the failure of the now-prosperous Europeans to assume a significantly larger share of the NATO burden, a number of questions have been raised about our present policies which this subcommittee intends to examine: the rationale for the continued maintenance of our present force levels in Europe; the magnitude of the expenditures—and resulting balance of payments deficit—to maintain these forces; and the prospects for reducing American forces in Europe on a mutual basis at this time.

The administration has taken the position that this country would be unwise to reduce unilaterally our military commitment in Europe, even by a token number. The administration has argued that there is nothing "immutable" about the exact number of men we have stationed in Europe, but that any unilateral reduction of U.S. forces in Europe would start "the process of unraveling the peacetime defense of the West" and "cripple" future efforts to negotiate mutual cutbacks with Warsaw Pact nations.

Nearly 2 years ago, I stated my own view in a Senate speech that "mutual force reductions in Europe represent one of the most critical and important arms control possibilities in the near future." I urged the administration "to move forthrightly" toward this goal. I continue to support efforts on the part of our Government to negotiate a mutual reduction of forces in Europe. And I look forward with great hope to the NATO-Warsaw Pact negotiations on Mutual Force Reductions in Europe which are scheduled to begin in Vienna on October 30 of this year.

On the other hand, we should all remember that the preliminary Mutual and Balanced Force Reductions sessions, begun in January 1973, took 5 months instead of the planned 5 weeks; and that the upcoming so-called Mutual Forces Reduction talks will take 1 to 2 years at a minimum, by the administration's own estimates. In the short-run, we must concern ourselves with very real economic, military and political problems which might not easily be filed away while our diplomats negotiate.

U.S. forces have been stationed in Western Europe in large numbers since Congress acted in 1951 to bolster our ground forces there by four divisions in the belief that hostilities in Korea might lead to a sharply increased Soviet threat to the nations of Western Europe. Since 1951, the number of military personnel stationed in Europe has been determined by the Secretary of Defense, the Joint Chiefs of Staff, and the National Security Council. This is not as it should be. Congress has the constitutional responsibility to review and reshape our force levels and our overseas deployment when necessary. I hope that the hearings which began this morning in my subcommittee will be tn important step in giving Congress the information and understanding necessary to carry out its constitutional duty with respect to our security needs in Europe.

Mr. President, I ask unanimous consent that the testimony given this morning by Senator MANSFIELD and Deputy Secretary Rush be printed in the RECORD at this point.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR MIKE MANSFIELD BEFORE THE SUBCOMMITTEE ON ARMS CONTROL, INTERNATIONAL LAW AND ORGANIZATIONS, JULY 25, 1973

Mr. Chairman, I want to begin by thanking you for the invitation to address this Committee on the question of U.S. forces in Europe—as well as on the broader context in which we must place our consideration, the question of U.S. military forces around the world.

The United States currently has stationed *on* foreign soil over 500,000 military personnel.[1] In addition, over 100,000 military personnel are afloat off foreign shores.[2] Almost 30% of our military forces are stationed beyond our homeland. Not since the days of the British Empire or probably more truly, the Roman Empire, have so many been required to "maintain the peace" away from their shores.[*]

I believe it is important to view the question in the broad context of U.S. forces stationed around the world. It has been painfully evident and generally agreed in the United States Senate for at least the last several years that the United States is badly over-extended abroad.

We must not forget the lesson of the tragic war in Vietnam; for that tragedy will only be compounded if we refuse to learn and guide our actions accordingly.

The National Commitments Resolution passed overwhelmingly by the Senate was significant evidence of the prevailing sentiment in the Senate.[3] The War Powers legislation passed overwhelmingly by both Houses of Congress is another significant step.[4]

But these vital actions reform and refine our institutional mechanisms. They serve notice of the Congressional threshold of tolerance. They demonstrate a Congressional attitude that seeks a greater share of responsibility. But these constructive changes are not enough. We must accept the realization that our commitments and policies are not always made in formal and traditional ways. In fact, some policies seem to "just happen."

The presence of so many U.S. forces on foreign soil is such a policy. Their presence presumes a policy that heavily favors the military option. The War Powers legislation expresses Congressional dissent to that emphasis. But *the fundamental difficulty in discerning semblance to America's policy abroad is that the commitment and level of U.S. forces abroad has determined our policy rather than our policy determining the level of U.S. forces abroad*. The intractability of executive branch attitude on force levels abroad during the past 25 years can only be explained by the incapacity of the policymakers to perceive that the troops on foreign soil was our policy and policy-makers were really articulating after-the-fact rationalizations. Members of the Executive Branch, whether in office for two weeks, two months, two years or two decades, have had the *same theme*, and it is always one that the world will fall if any of our soldiers return home.

But yearning to return home shall become more compelling with each passing month. The impoundment by this Administration of $12 billion for domestic needs; the closing of many U.S. military bases as an economy measure, putting many Americans out of work; the devaluation of the dollar by more than 25% over the past two years; all will join in marshalling attention to what heretofore has been considered an issue that should be left to the "experts." I believe the arguments this year will be heard.

As I stated above, the plain fact is that the United States stations over 600,000 military forces outside the United States and its territories and possessions. We maintain over 2,000 bases and installations on foreign soil.[5] There are over 314,000 dependents stationed overseas accompanying these forces.[6] The Defense Department employs directly or indirectly approximately 173,000 foreign nationals at these bases overseas to support these U.S. forces abroad.[7] These are not reasons for bringing our troops home, but they are facts that should make America listen to the reasons.

The most detailed focus can be obtained on Europe. At least in 1950 the Congress was asked to participate in that decision of sending troops to that Continent. But equally forceful questions can be raised as well to the U.S. troop commitments in Thailand—now about 45,000; or in Okinawa, about 40,000; or Korea, about 42,000; or Taiwan, about 8,000; or the Philippines, about 15,000; or Japan, about 18,000; or even Bermuda where about 1,000 men defend our national interests.[8]

Let us look at Europe where NATO was first structured. Let us look at the realities that faced this Nation at that time which precipitated the commitment of four divisions to Europe. Let us look at the premises upon which the Congress assented to this commitment of these divisions and the representations that were made at that time about the permanence of such a commitment of manpower abroad. Then let us look at Europe and the U.S. today, 28 years after the War, 23 years after the initial stationing of these divisions to NATO.

EUROPE AFTER WORLD WAR II

World War II left Western Europe in ruins. The general view in the West was that the communist monolith under Stalin had the domination of the entire planet as its goal. The United States moved swiftly with the most massive reconstruction effort ever attempted with its Marshall Plan—an effort that has proven successful beyond expectations. The institutions of Europe, political, economic as well as military, were in shambles. With these weakened conditions in Europe combined with the common perception of the threat of the hordes from the East [9] a strong military presence in Western Europe to complement the economic effort was rational. But the North Atlantic Treaty itself did not commit U.S. troops to the European continent for deterrence. In fact, the treaty itself made no commitment of U.S. ground troops to Europe. It was not until 1951 that the decision was made to send four land divisions to Europe and Congressional assent solicited to this significant commitment of troops.

The history of proceedings before the Congress are very revealing.

Secretary Marshall claimed at that time that there was nothing magical about four divisions. The full level was selected based upon a judgment of our resources and their availability. If only the same standard were to be applied today. And why should it not be applied? [10]

But even more revealing is the exchange that Senator Hickenlooper had with Secretary Acheson when it was made clear by Secretary Acheson that the original NATO Treaty envisioned no troops stationed in Europe by the United States and that it was clear that each signatory to the NATO Treaty would *unilaterally* make its own determination of its contribution of military equipment, manpower and facilities.[11] In addition, Secretary Acheson envisioned the return of troops subsequently sent if the situation got better.

But what conditions were envisioned in 1951 that initially warranted the troops to go to Europe and what thorny questions should be resolved for us to expect their return. Senator Smith of New Jersey sought this information from General Bradley in 1951 and General Bradley felt the making of a peace treaty with Germany and the state of preparedness of the other nations of Europe as well as the aggressive intentions of the East were the chief irritants that justified U.S. action.[12]

These were all valid concerns in 1951. In addition, it was a time when the Korean War was underway; China was an active enemy; the Soviets had come of nuclear age; the South East European flank was still threatened; the economies of Western Europe were just back on their feet; political instability was prevalent in most West European countries. Strong men replaced strong institutions and provided the cohesion for Western Europe. But even then the questions were raised: Should the U.S. commit four divisions to Europe as a deterrent to another European war at least until Europe is ready to assume its own defenses.

The Congress assented to that request and the American troops returned to Europe to meet the threat that was perceived at that time. However real the threat then, has it changed since that time?

EUROPE SINCE THE '50'S

When U.S. troops were initially committed to the European continent, total GNP of all European NATO countries was $46.9 billion compared to $831.9 billion for 1972.[13] The era of confrontation was high and the national institutions were weak. Interrelationships were virtually non-existent. Let us look at and contrast the economic exchange:

(In millions)

	1951	*1972*
U.S. imports from U.S.S.R	$27.4	$ 95.5
U.S. exports to U.S.S.R	0.1	546.7
U.S. imports from Eastern Europe	63.8	320.1
U.S. exports to Eastern Europe	2.8	818.2

The total exports from all NATO countries to the U.S.S.R. and Eastern Europe in 1972 amounted to $9.89 *billion*. The imports from the U.S.S.R. and Eastern Europe to NATO countries totaled $8.67 *billion*.[14] In this one area alone of trade between the blocs, the most dramatic change in climate must be recognized.

But even more significant than evaluating not only the strength of Western Europe and appreciating the strong trade flow between East and West is the great number of events since 1963 that manifest as well as significantly contribute to the lessening of tensions between East and West. I have selected eighty-two events I consider significant since 1963.[15] They range from the hot line to the

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Footnotes at end of article.

Nuclear Test Ban to the Consular Convention to the Non-proliferation Treaty to the treaty normalizing relations between Germany and Poland; to the Soviet-West German agreement on consulates; to the German treaties with Soviet Union; to the SALT treaty; to the signing of the treaty on relations between East and West Germany. But to many the threat of an all-out conventional war with the hordes from the East remains the same. Rigidity affects not only the rhetoric but the policy. General Eisenhower testifying in 1951 about Congressional responsibility in the determination and the evolution of the level of U.S. troops in Europe said:

"I do think that Congress ought to see a respectable, reasonable approach, and the second they see anything to be, let's say, cockeyed and crazy, to get into the thing with both feet." [16]

Well, Mr. Chairman, I think the time has come when Congress must recognize that in the words of General Eisenhower, something is cockeyed about U.S. troops stationed abroad. President Eisenhower later recognized that change was justified. He stated in 1963 that one U.S. division would be sufficient to fulfill our commitment to NATO.[17]

It is evident from these indicia of engagement with the Soviet Union and Eastern Europe that the tension that existed in the early '50's has changed significantly. Further movement has been proposed between East and West. As President Nixon stated to a Joint Session of the Congress on June 1, 1972:

"By forming habits of cooperation and strengthening institutional ties in areas of peaceful enterprise, these four agreements (Moscow summit, May 1972) to which I have referred will create on both sides a steadily growing vested interest in the maintenance of good relations between our two countries.

"Expanded United States-Soviet trade will also yield advantages to both of our nations. When the two largest economies in the world start trading with each other on a much larger scale, living standards in both nations will rise and the stake which both have in peace will increase."

It is time that the U.S. recognized the existence of its own policy toward the East. The policy of this government should be consistent, not one of engagement with the Soviet Union in trade and cultural exchange and confrontation in military matters. There should be but one barometer by which this government guides its actions toward the East.

But we have many barometers that provide such different readings for the same phenomenon. This dual standard for rationalizing our policies vis-a-vis the Eastern bloc cannot withstand thoughtful focus. If our policy toward the East is predicated upon a desire to open markets and develop a mutual interdependency of East and West upon each other, that policy will yield benefits beyond the economic sphere as they have with increased cultural and educational exchanges. It is a natural evolution of the events of the past decade. But in the military sphere—in the NATO structure—what remains is a stale rigidity; a resort to old rationalizations from bygone years.

But the double standard is not new, even within our own Alliance. Our European allies have permitted themselves to adapt to the changing mood between East and West. Not only does France withdraw all its forces from NATO—a measure I do not propose for the U.S. to follow—but Canada reduces her military forces substantially. Other NATO nations have in recent years come far shorter of target force levels to NATO than the U.S.; in fact, the U.S. has been the most faithful burden-sharer over the history of the Alliance. Just two weeks ago, Secretary Schlesinger stated that the U.S. is doing more than its fair share in Europe.[18] But still the U.S. cannot take the unilateral action clearly called for in the Treaty—the unilateral action heretofore clearly contemplated by all the Treaty partners. Prior consultation would be ample, but the decision would be unilateral.[19]

The time has come for the United States to realize that tensions have eased between East and West—and that this relaxation is a healthy and desirable change.

The time has come to set aside the rhetoric of the Cold War used to justify a *status quo* of military involvement around the world.

The time has come to recognize action that is long overdue, and to prevent deferral of that action under a cloak of multinational negotiations that could take a decade or longer to recommend less than what is justified today.

It is time now to respond to the spirit of detente, to the success of the Marshall Plan and the current economic vitality of Europe, to respond to the realities of the '70's, to respond more fully to the needs of its own people at home.

FLEXIBLE RESPONSE

So the absurdity of the U.S.-NATO posture for a long war in Europe is indicative of the staleness of thought that has accompanied the American military position in the Atlantic Alliance.

While I have no intention of going into detailed arguments of a military character, there are a few points which I believe are directly relative to our consideration of the appropriate levels of U.S. forces in Europe. The main focus of these arguments is the so-called "flexible response" theory. This policy was advanced early in 1965 by the United States but it was only formally adopted by NATO in 1967. I certainly have no quarrel with any policy which seeks to avoid automatic resort to nuclear war. And flexible response is a policy that should provide an expanded pause period before nuclear weapons are resorted to on either side.

Unfortunately, however, "flexible response" has been interpreted as a reason to prepare for a full-scale conventional war of the World War II variety. But is it again a case of the words replacing a thoughtful policy; of reducing the choices of NATO to either an immediate nuclear war or a prolonged and exclusively conventional war? Both are extremely unlikely.

The "Economist", one of the more conservative journals on European affairs, wrote on September 16, 1972:

"The heart of the matter is that most people believe that the present allied forces in Western Europe, including the present American contingent, would not be able to defend themselves for more than a week without using nuclear weapons and perhaps for no more than two or three days. Removal of half the American contingent would probably reduce that to a maximum of four days and a minimum of one unless the Russians reduce their own army proportionately or the West Europeans are able to make up the difference."

So the doctrine of flexible response is most constructive in extending the pause period before any confrontation in Europe turns into a nuclear holocaust. As the "Economist" noted, a week is the maximum pause period that any European really feels the NATO structure could undertake. This is basic realism. It is public knowledge that over 7,000 tactical nuclear weapons that are in position in Western Europe [20] some of them reported very near the frontier. In view of this wide proliferation of nuclear warheads in Europe and some so near the frontier, it is hard for me to envision any serious conventional war scenario that doesn't go nuclear in less than two days. Our "tactical" nuclear weapons will be either "captured" or "detonated."

The "hot line" was installed in Washington and Moscow to permit wise use of the pause period. If a full-scale conventional war is the NATO strategy—then all the nuclear weapons—whether called tactical or strategic—should be removed far to the rear where there might then remain the option of *not* using these weapons.

It is a total inconsistency to have tactical nuclear weapons—some of them anchored into the ground near the frontier and to be preparing for a sixty-ninety day conventional war of the World War II variety in Europe.

But still it is our premise that the American forces must be structured for a long war in Europe. Supply and logistic levels of American troops in Europe are for sixty-ninety days, putting an added burden on manpower and supplies well beyond the realm of reason.[21]

But even more significant is the European reaction to any removal of U.S. troops from the Continent. It is an accepted axiom that the Europeans would follow suit and reduce their conventional forces as well.[22]

What is the threat, then, that requires so many U.S. forces on the Continent? If there is a truly perceived threat of a conventional war from the East, would not our European allies who are closer to the "threat" then respond by an accelerated commitment of resources? But no, they would relax as well, accept the detente [23] and devote more resources to non-military ventures. Then why should we, 3,000 miles away, assume such arrogance as to perceive a greater threat to Europe than do the Europeans?

I think the question presumes a rational answer but there is none. It does highlight, however, the dominance of the military posture in Europe by the United States. Since the formation of NATO, there has never been a Supreme Allied Commander who was not an American. U.S. perceptions of the threat are tolerated by the Europeans and why not—the U.S. is footing the greatest share of the cost. Since it is really our nuclear response that the Europeans wish committed, their tolerance for our eccentricities—including the World War II conventional war contingency—is very high.

Should the unlikely contingency of a mass movement by Warsaw Pact forces take place, it is inconceivable to me that the President of the United States would not be in immediate contact with his counterpart in the Soviet Union. In any event, to pile inconsistency upon inconsistency, if the NATO military scenario calls for a defense of a massive move from the East, that move must necessarily come across the north German plains, the likely area for a swift move because of the terrain. For this conventional attack the U.S. forces are stationed in the wrong part of Germany. The U.S. forces are positioned in central and southern Germany within an enormous back-up capacity and with a consistently top-heavy command structure which still has one flag officer for roughly every 2,200 men.

It baffles me why a properly structured U.S. military force of one or at the most two lean, mobile divisions, in position to move rapidly along the German frontier, would not be even greater insurance against any form of pressure from the East.

It would be more realistic to the type of improbable attack that might conceivably come from the East. It would permit American forces to be engaged from the beginning, thus allaying any fears on the part of the Europeans that the United States would not be involved in the event of a quick thrust into Western Europe.

THE MBFR*

Again and again over the years we have been told both by our own officials and those in Europe that some decrease in U.S. military presence should take place.[24]

But the time is never right for such action. Two years ago the argument was the policy of detente was underway and that nothing should be done that would disrupt the process, including the U.S.-USSR SALT negotiations and the goals envisioned by Chancellor Brandt's "Ostpolitik."

Footnotes at end of article.

Today we find ourselves in a new situation. Success has been achieved in the first and most important round of SALT talks; the Warsaw and Moscow treaties have been concluded; the status of Berlin has been regularized; through the exchanges of visits between President Nixon and Chairman Brezhnev a new and better climate has been created which allows us to talk about the Cold War in terms of the past.

Despite this movement, we are being told that this is the "worst possible time" in which to take any action on the question of our forces in Europe. The bargaining chip is back. Negotiations on mutual force reductions are to begin on October 30th of this year.[25]

At the outset we were told by all the experts that MBFR negotiations will be even more complicated and lengthy than the first phase of SALT. Most informed and optimistic speculations are that the outcome of such negotiations after perhaps two to three years might be a reduction of no more than 10–15% on the part of those countries involved.[26]

Nothing has happened in the interim since President Nixon's letter of November 22, 1971, which has given us any different picture of this argument. Indeed, since the preliminary talks—i.e., talks as to whether there should be talks—were expected to take roughly five weeks and took about five months, my skepticism has been increased rather than diminished about MBFR. I really doubt that the United States can remain immobilized on the troops question for a minimum of two and possibly even four to five years. So the argument to wait for MBFR really is a postponement of significant action indefinitely.

UNILATERAL ACTION

The questions of MBFR are immensely complicated even if they were undertaken in a bilateral framework. The positioning of forces, the proportionate reduction of one side as opposed to the other because of different logistical requirements will generate solutions equal to the number of participants at the conference. So the complexity of MBFR is magnified 19 times.[27]

The wisdom of the North Atlantic Treaty which left the question of specific troop commitments in the NATO command to be decided unilaterally by each country is abandoned in MBFR. Unilateral action on such a matter is the only practical method. Any nation entering into negotiations whether bilateral or multilateral only agrees in those negotiations to what she determines unilaterally she can do or must do in her own national interest. No negotiation with the Soviet Union would cause the Soviet Union to reduce any of its troops from Eastern Europe if the Soviet Union determines that those troops are needed in the Eastern European countries for other than protection against an external threat. In like manner, if the Soviet Union senses a greater need for its troops on other frontiers, or if she desires to divert a greater proportion of her resources to non-military interests, then the appropriate reductions by the USSR will be made—but only then.

So unilateral action on our part to reduce U.S. troops in Europe, while still maintaining our commitment with a more wisely structured but significantly reduced level of troops could very well stimulate a similar independently arrived at response on the part of the Soviet Union. This is not unprecedented in recent history. Unilateral and independent actions taken by the United States and the Soviet Union for moratoriums on nuclear tests in the atmosphere precipitated similar constructive independent responses on each side which ultimately led to the nuclear test ban treaty. So the arguments that unilateral action cannot lead to constructive responses are unwarranted.[28]

Unilateral action on the part of the United States might produce surprising and constructive results. What people fail to realize is that the Soviet Union, ever since World War II, has not only been acting, but reacting, within its military establishment. Much of the Soviet force was created at a time when the United States had clear nuclear superiority. Most informed observers, here and in Western Europe, agree that the Soviet Union is considerably more conservative and suspicious than the United States because of its historical experiences and the character of its society.[29]

Yet no one seems willing to make allowances for the inertia of this military conservatism in the USSR. We forget that the speeches by our NATO Commanders, as well as our political leaders, regarding need for NATO strength and readiness are read in quite a different light by the Soviet leadership than we intend. It seems a simple proposition, that they trust us no more than we trust them, but we do not seem to be able to absorb this view and act upon it.

THE FINANCIAL BURDEN

Mr. Chairman, I have not dwelled upon the question of budgetary drain and balance-of-payments costs of our troops stationed overseas. I have deliberately left this point to one side in considering these questions because I believe the United States will bear the necessary costs to fulfill its international obligations. Our history will show that! But I believe it is clear that the United States can fulfill its international obligations abroad with a significant reduction of U.S. forces on foreign soil.

I believe a focus on this issue can be gained at last because of the competition for resources at home. But these resources will be saved, not by trimming our sails on our international obligations but by trimming the waste from years of inattention to a rational international policy.

This Committee is well aware that the overall costs of our commitment to NATO amounts to something in the neighborhood of $17 *billion,* including everything except strategic forces; that the direct annual operating costs for the approximately 300,000 U.S. forces actually located in Europe amounts to approximately $4 billion;[30] that the net balance of payments drain because of the U.S. forces in Europe is approximately $1.5 billion annually; and that these figures are growing daily because of the United States' disadvantage because of inflation, successive devaluations of the dollar and other weakenings.

A return to rationality on the part of the United States and its forces abroad would yield a very significant savings in resources to the United States. I have deliberately, Mr. Chairman, not addressed myself to the issue of whether the troops that should be removed from foreign soil should be demobilized. It is my opinion that a very sound international policy for the United States could be implemented with a reduction of 50% of the over 500,000 troops stationed on foreign soil.

The return of over 250,000 military personnel would reflect the judgment that they were not needed to fulfill existing international and domestic obligations and therefore appropriate for demobilization. But I don't think that the question of demobilization has to be directly addressed at this time since I believe the pressures of obtaining a military armed force without the draft will to a great extent resolve the issue of demobilization.

CONCLUSION

Mr. Chairman, I would like to suggest a course of action which I hope you will agree is most reasonable and desirable. I believe it is a course that provides the appropriate civilian guidance to our military leaders and gives them sufficient latitude in adjusting for themselves the specific reduction which would stem from this proposal.

I believe that we should move in the direction of a 50% reduction of our total forces stationed in all overseas territories. I believe this reduction should be accomplished within a three-year period and in a carefully structured way which would not necessarily entail the same percentage reduction in each of the three years or in any one area of the world, but would provide that not less than 25% of the total envisioned cut would take place in each of the three years. I prefer to do this on a worldwide basis because I believe the United States is overextended precisely on that basis.

Secondly, I would suggest confining the cuts to land-based units in order to permit our fleets to operate at appropriate strengths, but at the same time not excluding home ported naval units from the overall computation.

Finally, I am proposing to leave as much discretion to our military commanders as is commensurate with our foreign policy interests.

In sum, Mr. Chairman, the wasteful expression of our external power—expression well beyond any reasonable need—has begun to erode our internal freedom. The disclosures of recent months might very well be interpreted in part as the methodology of the American Empire returning home to undermine the fibre of our republic.[31]

I believe we have talked, debated and quarreled long enough about this whole problem of U.S. foreign policy as it is implemented abroad. The time for action is long overdue and action is what I hope this Committee will recommend.

FOOTNOTES

[1] See Appendix A.

[2] *Ibid.*

* The percentage of U.S. force stationed overseas was even higher during some years since World War II.

[3] *Congressional Record,* Permanent Ed., June 25, 1969, p. 17245, 91st Cong., 1st Sess.

[4] *Congressional Record,* July 18, 1973, p. 24705; July 20, 1973, p. 25119, 93rd Cong., 1st Sess.

[5] Office of Assistant Secretary of Defense, Installations and Logistics, Sept. 16, 1972.

[6] See Appendix B.

[7] See Appendix C.

[8] See Appendix A.

[9] Adam Ulan, *Expansion and Coexistence* (New York, 1968) pp. 414–415.

[10] Senator Gillette. Just one additional question. There is no magic formula in the four plus two divisions, as I understand it?

Secretary Marshall. It is just a combination of considerations that we have had to turn over in our minds.

Senator Gillette. Taking into consideration a number of factors, the immediate availability of troops and the fact that we want to make, in our opinion, a move, take a course that will give some reassurance to our allies that we are taking into consideration our resources and their availability, the formula of four plus two was reached?

Secretary Marshall. Yes, sir.

Senator Gillette. And there is nothing magic about it?

Secretary Marshall. No, certainly not . . . Hearings on "Assignment of Ground Forces of the United States to Duty in European Area," February, 1951, Committee on Foreign Relations and Committee on Armed Services, U.S. Senate, 82nd Congress, 1st Session.

[11] Senator Hickenlooper. . . . I do say to you that without any doubt in my mind, the North Atlantic Pact proposition was sold to a great many Members of the Congress on the idea that prior to aggression we would not be called upon to implement the land armies of Western Europe by large numbers of troops . . .

Now, may I ask you, has the policy changed, or is this a new proposition? Has your position changed? Apparently it has, but I would like to have you comment on it.

Secretary Acheson. I shall be glad to comment on what you have just stated.

The question which you asked me was understood by me as it has just been understood by Senator Smith, and that was whether, under article 3 of the treaty, we were expected, in the sense of were we undertaking a commitment, to send ground troops to Europe. I replied to you that the answer to that is a clear and absolute "no." We were not undertaking a commitment by article 3 of that treaty to do anyting except to work with our allies to establish individual and collective defense.

I think it was clearly understood that way by the committee, which you will remember, and I should like to recall to you that that committee, in its report, said, under this article 3:

"Realistic assessment of the defensive capacity necessary to resist armed attack will be a function of the organization to be established under acticle 9."

And it goes on:

"On the basis of this assessment, each party would determine for itself what it could most effectively contribute in the form of facilities, military equipment, production capacity, manpower, etc. This decision would be taken in the light of the resources and geographical location of the individual state, and with due regard to its economic stability. There is no specific obligation as to the timing, nature, and extent of assistance to be given by any party."

That is exactly in accordance with my understanding then and now, and that was what I thought was being asked, and to that I was responding.

Senator Hickenlooper. I am trying to find out whether this is only the camel getting its head under the tent, and whether the 4 divisions will require 6 more and then the 10 will require 12 more, and where we are going, what we have to look forward to? In view of the fact that we did not contemplate sending any substantial numbers of ground troops to implement the North Atlantic Treaty, and now the scenes have shifted and we are being edged in, not by the back door but by the front door, with divisions of troops which at least I did not contemplate we were going to send or intended to send, I am wondering where the end of this matter is. In the long run will we be put into the inevitable position of assuming the primary responsibility for the land defense of Europe. I am concerned as to whether or not we are gong to get ourselves in that position by this piecemeal attrition method, or whether our commitments on land forces at the moment meet our reasonable obligations under the defense program as it is now contemplated.

Secretary Acheson. Senator, I think you are asking me quite impossible questions. I do not know. In the first place, you say, Are we going to be asked to take over the land defense of Europe? The answer is, of course, we are not going to be asked to take over the defense; the land defense of Europe. If you ask me whether in the future we may be asked to send more than six divisions, how can I possibly answer that? I suppose if there is war you will. Maybe if the situation gets better it will be less. Maybe if it stays the same it will be the same. Maybe if it gets more tense, there may be some additions to it. *Op. cit.*

[12] Senator Smith (N.J.). Now, the immediate question I want to ask you is this: Are we building up this European Army by putting our divisions there at the moment, in order to deter an aggression while they are getting their strength built up. Will the time come when they will be able to defend themselves entirely without our aid so far as Europe is concerned?

In other words, can we look upon this as a gradually reducing contribution to the European Army of our United States forces, as we did on the Marshall plan from an economic standpoint? We started substantially and reduced until we do not have to give any more.

Now, is our support, ground support, of a Western European army on the same principle? Is it on the principle of giving them strength and giving them courage to go ahead and set up their force, but as they get their own strength we will gradually withdraw from there and keep our forces mobile for any part of the world where they may strike?

General Bradley. I think the question of whether a military contribution to Europe would be a decreasing one is almost an impossible one to answer at this time. So much depends upon the making of a peace treaty with Germany and the state of preparedness of the other nations, the continued aggressive moves on the part of other nations that are presently opposed to us, and their ideology, I think, Senator Smith, that is a rather long-range question to which any answer at this time would not be worth much.

Senator Smith (N.J.). The only reason I asked you the question is because I understood in talking with General Eisenhower that he thought we might think in terms of an approach similar to the Marshall plan from an economic standpoint: that what we are trying to do now is trying to put spirit into the European nations that may be fearful that we are not giving them support. They need it now more than they will a little later.

General Bradley. I think that is true. They need it possibly more now. And, if you can look far enough ahead to the time when France has 50 or 60 divisions and those other countries have similar size forces, the time might arrive when we could withdraw our forces altogether, and certainly when you get a peace treaty with Germany you are going to be faced with the question of reduction of forces, because some of these people are on occupation duties now; but that apparently is sometime in the future, and I would prefer not to try to answer your question, which in my opinion is based on conditions which are going to exist a considerable time in the future, and I can perceive of circumstances being possible which would permit us to withdraw entirely, but I say that is certainly going to be sometime off. *Op. cit.*

[13] See Appendix D.

[14] *Ibid.*

[15] Events from 1963 to 1973 which significantly contributed to the lessening of tensions between East and West:

1. Renewal of Franco-Soviet trade agreement. February 1963.
2. U.S.-USSR agreement to establish an emergency communications line (hot line). June 1963.
3. Tripartite treaty banning nuclear weapons tests in the atmosphere, in outer space, and under water. October 1963.
4. Approval by President Kennedy of U.S. wheat sales to the USSR. October 1963.
5. U.S.-USSR agreement of exchanges in the scientific, technical, educational, cultural, and other fields. February 1964.
6. U.S. restores MFN treatment to Yugoslavia and Poland, March 1964.
7. Renewal of U.S.-USSR trade agreement. April 1964.
8. U.S. Romanian trade discussions. May 1964.
9. U.S.-USSR consular agreement. Signed June 1964. Ratified March 1967.
10. French-Soviet trade agreement. September 1964.
11. U.S.-USSR agreement on cooperation in desalination of sea water. November 1964.
12. Warsaw Pact Political Consultative Committee approval of the Rapacki suggestion for a conference on European security, January 1965.
13. Franco-Soviet color television agreement. March 1965.
14. Italo-Soviet agreement on joint cooperation in peaceful uses of atomic energy. October 1965.
15. U.S.-USSR consular convention. December 1965.
16. Italo-Soviet cultural agreement. February 1966.
17. Italo-Soviet economic, scientific, and technical cooperation agreement. April 1966.
18. Yugoslavia becomes full contracting party to GATT. April 1966.
19. De Gaulle's visit to the USSR. June 1966.
20. Franco-Soviet space research agreement. June 1966.
21. Franco-Soviet scientific, technical, and economic agreement. June 1966.
22. Fiat-Soviet agreement for construction of a Fiat factory in Russia. August 1966.
23. Renault and Peugeot agreements with the USSR regarding cooperation with Soviet motor industry. October 1966.
24. Kosygin's visit to France, December 1966.
25. Establishment of joint Franco-Soviet permanent commission. December 1966.
27. Establishment of joint Franco-Soviet chamber of commerce. December 1966.
28. North Atlantic Ministerial Council declaration emphasizing a willingness to explore ways of developing cooperation with the USSR and the states of Eastern Europe. December 1966.
29. Franco-Soviet atomic energy cooperation agreement. January 1967.
30. Franco-Soviet trade agreement. January 1967.
31. Kosygin visit to the United Kingdom. February 1967.
32. Fanfani visit to Moscow. May 1967.
33. Italo-Soviet agreement on cooperation in tourism. May 1967.
34. Italo-Soviet consular convention. May 1967.
35. Poland becomes full contracting member of GATT. June 1967.
36. U.K.-USSR establish London-Moscow teleprinter line. August 1967.
37. Harmel Report of North Atlantic Council proposes discussion of mutual and balanced force reductions in Central Europe. December 1967.
38. Announcement of plans for joint Franco-Soviet space research. January 1968.
39. Prime Minister Wilson's visit to the USSR. January 1968.
40. U.K.-USSR scientific and technological agreement.
41. NATO declaration calling for discussions of mutual and balanced force reductions. June 1968.
42. Signature of the non-proliferation treaty on nuclear weapons. July 1968.
43. Natural gas delivery contract consummated between the State of Bavaria and the USSR. September 1968.
44. U.K.-USSR civil air agreement. December 1969.
45. Franco-Soviet civil air agreement. December 1969.
46. Italo-Soviet long-term agreement on the supply of Soviet natural gas to Italy. December 1969.
47. Soviet-West German agreements on supply of Soviet natural gas to West Germany. February 1970.
48. Opening in Vietnam of U.S.-USSR negotiations on strategic arms limitation (SALT). April 1970.
49. NATO declaration on mutual and balanced force reductions. May 1970.
50. Signing of non-aggression treaty between the Federal Republic of Germany and the Soviet Union. August 1970.
51. President Pompidou's visit to the USSR. October 1970.
52. Signing of Franco-Soviet protocol on Franco-Soviet political cooperation. October 1970.
53. Signing of treaty of normalization of relations between the Federal Republic of Germany and Poland. December 1970.
54. Creation of a new basis for SALT negotiations. May 1971.
55. Ouster of hard-line East German Communist leader, Walter Ulbricht. May 1971.

56. Resumption of SALT negotiations. July 1971.
57. Soviet-West German agreement to open consulates in Hamburg and Leningrad. July 1971.
58. Signature of first part of quadripartite agreement on Berlin. September 1971.
59. Chancellor Brandt's visit to the USSR. September 1971.
60. U.S.-USSR agreement on exchanging information on certain missile testing activities. September 1971.
61. U.S.-USSR agreement on improving the "hot line" between Washington and Moscow. September 1971.
62. Secretary Brezhnev's visit to France. October 1971.
63. Franco-Soviet agreement on economic, technical and industrial cooperation. October 1971.
64. Romania becomes a full contracting party to GATT. November 1971.
65. Soviet-West German civil air agreement. November 1971.
66. Ratification by the West German parliament of the West German treaties with the Soviet Union and Poland. May 1972.
67. President Nixon's visit to Moscow. May 1972.
68. U.S.-USSR agreement on cooperation in the exploration of outer space May 1972.
69. U.S.-USSR agreement on cooperation in solving problems of the environment May 1972.
70. U.S.-USSR agreement on joint efforts in the field of medical science and public health. May 1972.
71. U.S.-USSR agreement on expanded cooperation in science and technology and the establishment of a joint commission for this purpose. May 1972.
72. U.S.-USSR agreement on cooperation between the American and Soviet navies to reduce the chances of dangerous incidents. May 1972.
73. Signing of the SALT Treaty. May 1972.
74. Signing of the final quadripartite agreement on Berlin. June 1972.
75. U.S.-USSR three year agreement on the export of U.S. agricultural commodities (especially wheat and feed grains). July 1972.
76. Settlement of USSR lend-lease obligations. October 1972.
77. U.S.-USSR maritime agreement. October 1972.
78. Signing of U.S.-USSR Commercial treaty. October 1972.
79. Quadripartite declaration supporting East and West German membership in the United Nations. November 1972.
80. Signing of the basic treaty on relations between the Federal Republic of Germany and the German Democratic Republic. December 1972.
81. Opening of preparatory talks in Vienna for negotiations on mutual and balanced force reductions. January 1973.
82. Soviet-West German 10-year agreement on the development of economic, industrial, and technical cooperation, and cultural and educational exchanges. May 1973.

[16] Hearings on "Assignment of Ground Forces of the United States to Duty in the European Areas," February, 1951, Committee on Foreign Relations and Committee on Armed Services, U.S.S., 82nd, 1st Sess.

[17] "Saturday Evening Post," October 26, 1973, page 27.

[18] House Foreign Affairs Hearings, July, 1973, 93rd Cong., 1st Sess.

[19] It was with disbelief that I read the newspaper reports of President Nixon's recent visit with President Pompidou of France in Iceland and the reports that President Pompidou told President Nixon that France would fight the removal of any U.S. troops from Europe, even if done in the context of the so-called "MBFR."

Here is the President of one of the great countries of Western Europe which removed all their troops from the NATO Command in 1967 which has refused to participate in the military aspects of NATO since that time, which responded very early to the changed circumstances of Europe—its political and economic health vis-a-vis the East, telling the President of the United States that France would protest the removal of any American troops from the NATO Command in Europe.

It is statements of this character that makes one wonder about the viability of U.S. European policy on forces in Europe. "Washington Post," June 1, 1973; June 28, 1973. See also Address by Michel Jobert, French Minister of Foreign Affairs, Before the National Assembly, June 19, 1973.

[20] "The Military Balance 1972–1973," International Institute of Strategic Studies, London, England, pg. 90. See also Testimony Joint Committee on Atomic Energy, Subcommittee on Military Applications, April 16, 1973, 93rd Cong., 1st Sess.

[21] "The NATO military objectives are deterrence and defence. Yet NATO, and the United States in particular, maintain all-purpose, *offensive*-oriented, expeditionary-style forces that do not provide the desired deterrence because of their low *initial* combat capability and their destabilizing tactical nuclear posture. A force structure oriented for deterrence and defence can be bought at much less than present cost—as Soviet forces in East Germany prove. *Adjusted* (equal front-line platoon strength, defined as infantry, tank, cavalry, and anti-tank) peacetime division slices (the division itself plus its share of non-divisional support personnel) total *approximately 42,000 for American forces in West Germany; but only 18,500 for Soviet forces.*" "The Wasteful Ways of NATO," Steven L. Canby, *Survival*, Vol. XV, No. 1, Jan.-Feb., 1973, Institute Strategic Studies, London, England.

[22] Testimony of Secretary Rush, House Foreign Affairs, July 10, 1973, 93rd Congress, 1st Sess.

[23] Testimony of Administration witnesses, House Foreign Affairs, July 10, 11, 12, 1973, 93rd Congress, 1st Sess.

[24] Most recent statement of Secretary of Defense Schlesinger that the U.S. is doing more than its fair share in Europe. House Foreign Affairs, July 1973, 93rd Congress, 1st Sess.

*I use the familiar abbreviation, MBFR, throughout, even though the more proper abbreviation since the preliminary talks is MFR. See: Final Communique of Preparatory Consultations.

[25] The communique announcing the intention to meet on October 30th issued by the countries involved managed to lose the word "balance." When the Senate last voted on a proposed amendment to reduce U.S. forces in Europe, the distinguished Chairman of the Armed Services Committee received a letter from President Nixon stating his opposition to the amendment partly on the grounds that "we expect that Mr. Brosio will be received in Moscow next week to begin discussions on basic issues of mutual and balanced force reductions."

I do not myself doubt that this letter from the President naturally had great weight with our colleagues. But Mr. Brosio never got to Moscow and preliminary discussions on MBFR did not begin until this past January, 14 months after that letter.

[26] "Mutual and Balanced Force Reductions," Library of Congress Study, 73-36F, February 2, 1973.

[27] There are 19 countries participating in MBFR. See Appendix E.

[28] I only wish that the classic argument of doing things in unison with the Soviet Union would be applied when it comes to the stationing of U.S. forces on foreign soil. According to figures published by the International Institute of Strategic Studies, the Soviet Union has about 15,000 troops stationed outside of Soviet territory and Eastern Europe, whereas the United States has about 300,000 military forces scattered around the world, outside the U.S. and Europe. A parity with the Soviet Union in this area would be a significant and constructive start towards bringing America home again.

In its Eastern European satellites, USSR has stationed 330,000 USSR troops. See New York Times, July 20, 1973. The total USSR troops outside of Soviet soil is therefore 345,000.

[29] See Louis J. Halle, *The Cold War as History* (New York 1967).

[30] Testimony of William J. Casey, Under House Affairs Committee, July 12, 1973, 93rd Cong., 1st Sess.

[31] *See* David P. Calleo, *The Atlantic Fantasy* (Johns Hopkins Press 1970).

Appendix A

U.S. Military Strength Outside the United States As of March 31, 1973

Total Outside the United States	606, 000
U.S. Territories and Possessions	42, 000
Foreign Countries	564, 000
Selected Areas, Southeast Asia	63, 000
Thailand	45, 000
Afloat	18, 000
Western Pacific	164, 000
Japan	18, 000
Philippines	15, 000
Ryukyus Islands	40, 000
South Korea	42, 000
Taiwan	9, 000
Afloat	40, 000
Other Areas	66, 000
Bermuda	1, 000
Canada	2, 000
Cuba	3, 000
Guam	17, 000
Panama Canal Zone	10, 000
Puerto Rico	7, 000
Afloat	16, 000
Other	10, 000
Western Europe and Related Areas	313, 000
Belgium	2, 000
Germany	228, 000
Iceland	3, 000
Italy	10, 000
Greece	3, 000
Morocco	1, 000
Netherlands	2, 000
Portugal	2, 000
Spain	9, 000
Turkey	7, 000
United Kingdom	21, 000
Afloat	23, 000
Other	2, 000

LESS THAN 250

Antarctica, Bahamas, Bahrain, Leeward Islands, New Zealand, Norway, Saudi Arabia, South Vietnam.

LESS THAN 1,000

Australia, Cyprus, Ethiopia, Greenland, Iran, Johnston Island, Midway Island.

All other countries: Less than 100 U.S. military personnel.

OSAD (Comptroller),
Directorate for Information Operations.

U.S. MILITARY STRENGTH OUTSIDE THE UNITED STATES AS OF DECEMBER 31, 1972

Total Outside the United States	635,000
U.S. Territories and Possessions	42,000
Foreign Countries	593,000
Selected Areas, Southeast Asia	97,000
South Vietnam	24,000
Thailand	43,000
Afloat	30,000
Western Pacific	162,000
Japan	20,000
Philippines	15,000
Ryukyus Islands	42,000
South Korea	38,000
Taiwan	9,000
Afloat	38,000
Other Areas	69,000
Bermuda	1,000
Canada	2,000
Cuba	3,000
Ethiopia	1,000
Guam	17,000
Panama Canal Zone	10,000
Puerto Rico	6,000
Afloat	16,000
Other	13,000
Western Europe and Related Areas	307,000
Belgium	2,000
Germany	221,000
Iceland	3,000
Italy	10,000
Greece	3,000
Morocco	1,000
Netherlands	2,000
Portugal	1,000
Spain	9,000
Turkey	7,000
United Kingdom	21,000
Afloat	24,000
Other	3,000

LESS THAN 250

Bahamas, Bahrain, Johnston Island, Leeward Islands, New Zealand, Norway, Saudi Arabia.

LESS THAN 1,000

Antarctica, Australia, Cyprus, Greenland, Iran, and Midway Island.

All other countries: Less than 100 U.S. military personnel.

OASD (COMPTROLLER),
Directorate for Information Operations.

APPENDIX B

DEPARTMENT OF DEFENSE—MILITARY AND CIVILIAN DEPENDENTS LOCATED IN ALASKA, HAWAII, U.S. TERRITORIES, AND FOREIGN COUNTRIES, AS OF SEPT. 30, 1972

	Total dependents				Dependents of active duty military personnel					Dependents of U.S. citizen civilian employees [1]				
	DOD total	Army	Navy and Marine Corps	Air Force	DOD total	Army	Navy	Marine Corps	Air Force	DOD total	Army	Navy	Air Force	OSD-JCS and other defense activities
Total	465,779	170,683	91,356	202,950	437,198	155,648	69,547	14,395	197,608	28,581	15,035	7,414	5,342	790
Alaska	36,915	14,985	1,430	20,491	34,557	13,905	1,158	64	19,430	2,358	1,080	208	1,601	9
Hawaii	63,451	14,182	31,197	17,964	60,410	13,091	20,327	9,028	17,964	3,041	1,091	1,832		118
U.S. territories	31,342	6,946	11,296	12,906	28,121	6,012	8,848	618	12,643	3,221	934	1,830	263	194
Guam	12,153	12	7,149	4,987	10,645	12	5,473	173	4,987	1,508		1,503		5
Johnston Island	17			17	17				17					
Midway Island	742		733	9	723		714		9	19		19		
Panama Canal Zone	12,299	6,934	755	4,421	10,948	6,000	533	106	4,309	1,351	934	116	112	189
Puerto Rico	6,089		2,618	3,471	5,746		2,114	312	3,320	343		192	151	
Samoa (American)	26		26		26		7	19						
Virgin Islands	14		15		15		7	8						
Wake Island	1			1	1				1					
Foreign countries and areas	334,071	134,570	47,443	151,589	314,110	122,640	39,214	4,685	147,571	19,961	11,930	3,544	4,018	469
Afghanistan	17	17			17	17								
Argentina	46		21	25	46		14	7	25					
Australia	1,241	3	623	613	1,221	5	588	15	613	20		29		
Austria	42	38	1	3	41	37		1	3	1	1			
Bahamas	152		152		152		152							
Bahrain	246		246		246		237	9						
Barbados	85		85		85		85							
Belgium	3,039	1,795	200	1,014	2,792	1,578	186	14	1,014	247	217			30
Bermuda	1,127		1,127		732		680	52		395		395		
Bolivia	118	63	1	45	99	53		1	45	19	10			9
Brazil	170	28	64	46	115	6	54	9	46	55	22	1		32
Burma	12	3	9		12	3	4	5						
Cambodia	6	3	3		6	3	3							
Canada	3,190		674	2,498	3,047		561	50	2,436	143		63	62	18
Canary Islands	3		3		3			3						
Cape Verde Islands	4		4		4			4						
Chile	39		19	12	31		12	7	12	8				8
Colombia	98	50	16	19	72	37	8	8	19	26	13			13
Congo (Brazzaville)	2	2			2	2								
Costa Rica	23	17	3		17	14		3		6	3			3
Cuba	1,215		1,215		1,054		881	173		161		161		
Cyprus	282	5	277		282	5	208	69						
Czechoslovakia	4	1	3		4	1		3						
Denmark	69	19	16	311	66	19	13	3	31	3				3
Dominican Republic	81	26	43	9	75	23	31	12	9	6	3			3
Ecuador	41	18	11		13	2	6	5		28	16			12
El Salvador	28	3	5	16	21			5	16	7	3			4
Ethiopia (including Eritrea)	1,160	591	468	101	1,149	580	461	7	101	11	11			
Finland	39	25	14		39	25	11	3						
France	190	120	56	14	170	101	51	5	13	20	19		1	
Germany (including West Berlin)	151,019	103,180	1,579	46,102	143,580	97,067	1,406	144	44,963	7,439	6,113	29	1,139	158
Ghana	7	7			7	7								
Gibraltar	1,326	16	1,310		1,323	13	1,310			3	3			
Greece (including Crete)	2,237	131	51	2,051	2,048	105		23	1,920	189	26	28	131	4
Guatemala	988	84	886	18	988	84	881	5	18					
Honduras	34	22		7	25	18			7	9	4			5
Hong Kong	64	17	47		64	17	33	14						
Hungary	8	7	1		8	7	1							
Iceland	2,087		1,425	662	1,990		1,295	33	662	97		97		
India	57	23	28	6	57	23	22	6	6					
Indonesia	50	5	45		50	5	31	14						
Iran	770	287	24	454	764	286	24		454	6	1			5
Ireland (Eire)	509	15	476	18	509	15	470	6	18					
Israel (including Jerusalem)	21	11	10		21	11	8	2						
Italy (including Sicily and Sardinia)	14,209	3,101	4,790	6,318	13,324	2,612	4,322	171	6,219	885	489	297	99	
Ivory Coast	7	5	2		7	5		2						
Jamaica	9		9		9		5	4						
Japan	23,976	4,751	8,504	10,701	21,699	3,871	6,209	1,248	10,371	2,277	880	1,047	330	20
Jordan	14	4	1	9	14	4		1	9					
Kenya	3		3		3			3						
Laos	28	18	10		28	18	9	1						
Lebanon	85	54	27	1	79	51	14	13	1	6	3			3
Leeward Islands	115		115		115		115							
Liberia	62	36	26		62	36	20	6						

APPENDIX B—Continued

DEPARTMENT OF DEFENSE—MILITARY AND CIVILIAN DEPENDENTS LOCATED IN ALASKA, HAWAII, U.S. TERRITORIES, AND FOREIGN COUNTRIES, AS OF SEPT. 30, 1972—Continued

	Total dependents				Dependents of active duty military personnel					Dependents of U.S. citizen civilian employees [1]				
	DOD total	Army	Navy and Marine Corps	Air Force	DOD total	Army	Navy	Marine Corps	Air Force	DOD total	Army	Navy	Air Force	OSD-JCS and other defense activities
Foreign countries and areas—Continued														
Luxembourg	41	39	2		7	5		2		34	34			
Malawi	12	11	1		12	11		1						
Malaya, States of	32	24	7		31	24		7		1				1
Malta	10		10		10		10							
Marshall Islands	33	29			2	2				31	27			4
Mexico	87		81		81		48	33		6				6
Morocco	2,073	34	1,982	57	1,980	17	1,806	100	57	93	17	76		
Nepal	5	5			5	5								
Netherlands	2,790	635	34	2,121	2,671	601	26	8	2,036	119	34		85	
Netherland Antilles	3		3		3		3							
New Zealand	316	5	131	180	316	5	123	8	180					
Nicaragua	46	32	2	8	37	27		2	8	9	5			4
Nigeria	29	27	2		29	27		2						
Norway	502	113	49	340	489	100	39	10	340	13	13			
Pakistan	12	5	4	3	12	5	4		3					
Panama, Republic of	2,270	1,594	32	641	2,051	1,410		32	609	219	184		32	3
Paraguay	355	27	293	19	326	14	286	7	19	29	13			16
Peru	34		13	8	21		8	5	8	13				13
Philippines	20,040	154	7,900	11,978	19,095	148	6,905	369	11,673	945	6	626	305	8
Poland	18	11	7		18	11	5	2						
Portugal (including Azores)	2,852	56	404	2,392	2,652	53	351	3	2,255	190	3	50	137	
Rumania	14	7	7		14	7	4	3						
Ryukyu Islands	25,860	9,538	2,063	14,259	22,872	7,075	883	1,151	13,763	2,988	2,463	29	496	
Saudi Arabia	86	60	4	22	50	24	4		22	36	36			
Senegal	12		12		12		9	3						
Singapore	45	6	14	22	31	6	9	1	15	14		4	7	3
Somali Republic	2	2			2	2								
South Africa	22	8	14		22	8	13	1						
South Korea	4,296	2,820	227	1,239	3,720	2,357	73	80	1,210	576	463	74	29	10
South Vietnam	20	1	13	6	20	1	9	4	6					
Spain	13,282	332	4,480	8,102	12,452	72	4,395	182	7,803	830	260	263	299	8
Sri Lanka (Ceylon)	10		10		10		8	2						
Sweden	30	21	9		30	21	7	2						
Switzerland	26	13	13		26	13		13						
Taiwan	5,853	822	983	3,977	5,691	782	882	50	3,977	162	100	51		11
Thailand	4,202	1,816	284	2,084	4,079	1,807	155	68	2,049	123	9	61	35	18
Trinidad and Tobago	18		18		14		11	3		4		4		
Tunisia	36	8	7	21	36	8		7	21					
Turkey	7,216	831	157	6,228	7,013	769	144	13	6,087	203	62		141	
United Arab Republic (Egypt)	36		36		38		28			8		8		
United Kingdom	30,668	713	2,930	27,013	29,446	349	2,491	279	26,327	1,222	364	160	686	12
Uruguay	24		11	13	24		6	5	13					
U.S.S.R. (Soviet Union)	49	21	25		46	21	18	7		3				3
Venezuela	77	13	23	22	58	13	11	12	22	19				19
Yugoslavia	29	20	9		29	20	5	4						
Zaire (Congo)	76	48	1	27	76	48		1	27					
Undistributed	68	6	48	14	64	6	14	34	10	4			4	

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[1] Dependents of employees paid from appropriated funds. Data for Alaska, Hawaii and U.S. territories exclude dependents of U.S. citizen civilian employees who are permanent residents and who are employed in the State or territory of their residence.

APPENDIX C

DEPARTMENT OF DEFENSE

CIVILIAN PERSONNEL BY COUNTRY, AS OF DEC. 31, 1972

	Department of Defense				Army			Navy			Air Force			
	Total civilian personnel	Direct hire		Indirect hire—foreign nationals	Direct hire		Indirect hire—foreign nationals	Direct hire		Indirect hire—foreign nationals	Direct hire		Indirect hire—foreign nationals	OSD-JCS and other defense activities
		U.S. citizens	Foreign nationals		U.S. citizens	Foreign nationals		U.S. citizens	Foreign nationals		U.S. citizens	Foreign nationals		
Worldwide total	1,189,030	1,012,380	69,322	107,328	364,164	34,820	77,709	319,060	20,761	11,178	260,809	13,363	18,392	63,774
United States	977,971	977,971			346,358			310,728			252,925			67,960
Alaska	5,465	5,465			2,602			157			2,684			22
Hawaii	19,888	19,888			5,793			10,722			3,285			88
Other 48 States and District of Columbia	952,618	952,618			337,963			299,849			246,956			67,850
U.S. territories	12,750	9,080	[1] 3,670		1,737	2,372		5,163	560		2,096	706		[1] 116
Guam	4,840	4,576	264					3,759	249		814	15		3
Midway Island	57	57						33			24			
Panama Canal Zone	4,646	1,243	3,403		828	2,372		159	308		182	691		106
Puerto Rico	3,199	3,196	3		909			1,212	3		1,068			7
Wake Island	8	8									8			
Foreign countries and areas	198,309	25,329	[1] 65,652	[2] 107,328	16,069	32,448	7,7709	3,169	20,201	11,178	5,788	12,657	18,392	[1,2] 698
Afghanistan	3		3											3
Argentina	17	5	12		1	7		2						7
Australia	316	27	289					25	288		2			1
Austria	6	2	4											6
Bahamas	3	3						3						
Bahrain	68	43	25		43				25					
Belgium	811	328	10	473	289	6	473							43
Bermuda	458	236	222					236	222					
Bolivia	20	6	14		3	8								9

Footnotes at end of table.

APPENDIX C—Continued

DEPARTMENT OF DEFENSE—Continued

CIVILIAN PERSONNEL BY COUNTRY, AS OF DEC. 31, 1972—Continued

	Department of Defense				Army			Navy			Air Force			OSD-JCS and other defense activities
	Total civilian personnel	Direct hire		Indirect hire—foreign nationals	Direct hire		Indirect hire—foreign nationals	Direct hire		Indirect hire—foreign nationals	Direct hire		Indirect hire—foreign nationals	
		U.S. citizens	Foreign nationals		U.S. citizens	Foreign nationals		U.S. citizens	Foreign nationals		U.S. citizens	Foreign nationals		
Brazil	55	16	39		6	26		1	2					20
Bulgaria	3	1	2											3
Burma	4	1	3											4
Cambodia	7	1	6											7
Canada (including Newfoundland)	951	135	816			4		78	127		48	661		33
Chad	1		1											1
Chile	15	3	12			4								11
Columbia	14	4	10		1	6								7
Costa Rica	3	1	2			1								2
Cuba	1,130	253	877					253	877					
Cyprus	1		1											1
Czechoslovakia	3	2	1											3
Denmark	27	9	18		7	6						7		7
Dominican Republic	7	1	6			3								4
Ecuador	5	3	2											5
El Salvador	5	1	4			3								2
Ethiopia (including Eritrea)	495	34	461		31	394		3	65					2
Finland	6	1	5											6
France	37	21	14	2	13	7	2				2			13
Germany	73,437	11,013	39	62,385	9,734	32	54,449	12		55	1,188		7,871	96
Ghana	1		1											1
Greece (including Crete)	611	132	43	436	61	37	2	24		92	42		342	11
Guatemala	7	1	6			4								3
Haiti	1		1											1
Honduras	6	2	4			3								3
Hong Kong	13		13											13
Hungary	4	1	3											4
Iceland	703	134	569					128	550		6	19		
India	21	1	20					1	7			6		7
Indonesia	31	4	27		3			1	21					6
Iran	202	21	181		16	176					1			9
Ireland	1		1											1
Israel (including Jerusalem)	4	1	3								1			3
Italy (including Sicily and Sardinia)	3,241	811	2,430		565	1,013		179	815		63	596		10
Ivory Coast	2		2											2
Jamaica	1		1											1
Japan	[3] 45,020	5,581	1,424	38,015	2,124	72	18,871	1,063	1,344	10,398	2,381		8,734	33
Jordan	8		8			3						3		2
Laos	3	1	2		1									2
Lebanon	6	1	5									2		4
Leeward Islands	3	3						3						
Liberia	11		11			5						5		1
Luxembourg	14	14			14									1
Malagasy Republic	1		1											1
Malawi	1		1											1
Malaya, States of	2	1	1											2
Malta	1		1											1
Marshall Islands	66	66			66									
Mexico	5	1	4											5
Morocco	694	111	11	572	47	6		64	1	572				4
Nepal	2		2											2
Netherlands	410	136	8	266	107	4	202				27		64	6
New Zealand	1		1											1
Nicaragua	5	1	4			2								3
Nigeria	4		4			1						1		2
Norway	69	31	38		30	5						29		5
Pakistan	21		21						8			7		6
Panama	2	1	1			1								1
Paraguay	9	4	5			3								6
Peru	16	6	10			3								13
Philippines	16,554	1,146	15,408		5	81		392	12,825		745	2,497		9
Poland	8	3	5											8
Portugal (including Azores)	1,136	214	922		3	7		93	32		117	879		5
Rumania	4	1	3											4
Saudi Arabia	32	11	21		1	16					10	4		1
Senegal	1		1											
Seychelles Islands	1	1			1									
Singapore	42	20	22					12	15		8	3		4
South Africa, Republic of	5		5											5
South Korea	16,885	1,130	12,111	3,644	850	10,724	3,644	93	241		180	1,142		11
South Vietnam	18,103	571	17,532		426	16,456		98	352		24	713		34
Spain (including Balearic Islands)	2,609	744	1,865		408	59		146	1,071		183	730		12
Sri Lanka (Ceylon)	1		1											1
Sweden	7	2	5											7
Switzerland	5	3	2											5
Taiwan	1,934	254	1,680		65	205		69	645		115	825		10
Islands:														
Thailand	7,020	266	6,727	27	105	2,444		69	257		83	4,013		49
Trinidad and Tobago	1	1						1						
Tunisia	6	2	4		2	3								1
Turkey	996	379	617		259	115					120	498		4
United Arab Republic (Egypt)	106	4	102					4	102					
United Kingdom	3,553	1,249	796	1,056	713	479	66	113	309	61	412		1,381	19
Uruguay	10	1	9			5								5
USSR (Soviet Union)	16	4	12											16
Venezuela	13	5	8		1	3								9
Yugoslavia	4	1	3											4
Laire (Congo)	9	1	8		1	6								2
Undistributed	117	100	17		67			3			30	17		

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[1] Includes 32 and 346 Direct Hire Foreign Nationals of OSD and Other Defense Activities in territories and foreign countries respectively.

[2] Includes 49 Indirect Hire Foreign Nationals of Other Defense Activities.

[3] Includes civilians located in the Ryukyus.

APPENDIX D

NATO AND SOME NATO SEGMENTS' TRADE WITH EASTERN EUROPE AND THE U.S.S.R.—1951-72

[In millions of dollars]

	1951	1952	1953	1954	1955	1956	1957	1958	1959	1960	161
NATO[1] total exports[2] with Eastern Europe	515.7	522.4	551.1	769.3	887.5	1,159.9	1,303.7	1,368.1	1,497.8	1,925.3	1,896.9
NATO total imports with Eastern Europe	753.8	695.8	681.7	829.5	1,101.6	1,279.4	1,410.2	1,450.2	1,692.2	1,978.0	2,089.7
NATO total exports with U.S.S.R	129.0	184.1	164.6	237.2	243.5	415.3	412.3	444.7	418.0	672.8	761.1
NATO total imports with U.S.S.R	283.2	294.4	240.4	308.5	407.8	452.0	463.9	532.6	672.2	876.4	989.3
U.S. total exports with Eastern Europe	2.8	1.1	1.8	6.1	7.0	11.3	86.2	113.3	89.3	193.4	133.4
U.S. total imports with Eastern Europe	63.8	39.6	36.4	42.4	56.0	65.5	61.3	62.6	80.9	81.0	81.1
U.S. total exports with U.S.S.R	.1	(*)	(*)	.2	.3	3.8	3.6	3.4	7.4	39.3	45.6
U.S. total imports with U.S.S.R	27.4	16.8	10.8	11.9	17.1	24.5	16.5	17.5	28.6	22.6	23.2

	1962	1963	1964	1965	1966	1967	1968	[3] 1969	[3] 1970	[3] 1971	[3, 4] 1972
European NATO total exports with Eastern Europe	512.3	520.7	548.8	757.2	869.8	1,083.6	1,186.2	1,231.6	1,371.1	1,695.1	1,669.8
European NATO total imports with Eastern Europe	683.6	648.8	640.4	783.1	1,040.7	1,203.9	1,338.4	1,377.6	1,598.9	1,883.7	1,992.9
European NATO total exports with U.S.S.R	128.9	184.1	164.6	232.0	240.5	386.5	397.2	421.8	397.3	625.0	691.3
European NATO total imports with U.S.S.R	255.3	279.2	228.7	295.9	390.1	426.5	544.5	513.4	641.2	850.5	968.4

	1962	1963	1964	1965	1966	1967	1968	[3] 1969	[3] 1970	[3] 1971	[3, 4] 1972
NATO total exports with Eastern Europe	2,144.6	2,258.5	2,835.7	2,779.7	3,397.0	3,667.5	3,956.1	4,436.3	5,194.9	5,712.3	7,477.7
NATO total imports with Eastern Europe	2,214.7	2,480.0	2,574.0	3,956.9	3,449.1	3,686.6	3,914.7	4,340.9	4,948.8	5,599.6	6,609.3
NATO total exports with U.S.S.R	758.9	792.5	1,023.7	826.1	925.8	1,049.8	1,294.4	1,415.2	1,689.3	1,738.2	2,413.3
NATO total imports with U.S.S.R	1,043.5	953.8	918.7	1,149.9	1,274.4	1,385.0	1,466.0	1,581.8	1,724.2	1,860.5	2,066.9
U.S. total exports with Eastern Europe	125.1	166.4	339.1	139.4	198.0	195.2	216.8	249.3	353.3	384.0	818.2
U.S. total imports with Eastern Europe	78.9	80.6	98.8	137.4	178.6	177.1	198.3	195.1	225.5	222.7	320.1
U.S. total exports with U.S.S.R	20.1	22.9	146.4	44.4	41.7	60.2	57.5	105.5	118.4	161.8	546.7
U.S. total imports with U.S.S.R	16.2	21.2	20.8	42.6	49.5	41.1	58.1	51.5	72.3	57.6	95.5
European NATO total exports with Eastern Europe	1,974.0	1,912.6	2,054.2	2,357.9	2,833.5	3,304.7	3,612.3	4,162.3	4,688.6	5,161.9	[5] 6,308.4
European NATO total imports with Eastern Europe	2,120.1	2,380.5	2,449.8	2,879.0	3,220.6	3,436.8	3,645.4	4,075.6	4,658.7	5,297.6	6,187.9
European NATO total exports with U.S.S.R	735.7	630.4	584.5	598.8	587.6	870.4	1,154.1	1,399.6	1,473.7	1,451.0	1,801.8
European NATO total imports with U.S.S.R	1,025.6	930.4	895.3	1,098.2	1,214.1	1,322.7	1,387.9	1,518.9	1,648.1	1,790.4	1,956.0

[1] All NATO member countries.
[2] East European Communist countries.
[3] Trade data with Albania excluded.
[4] Preliminary.
[5] Greece and Turkey trade computed at 1971 levels.
*Insignificant amount.

Note: Differences in the valuation of trade appear in various statistical series. Their relative value in relation to the totals shown here, however, is insignificant in the process of abstracting trends from this summary table.

Sources: Department of Commerce trade statistics, OECD trade statistics and assistance from Miss Lucie Kornei, Department of State, REU. Dario Scuka, analyst in international trade and finance, May 24, 1973.

APPENDIX E

RECORD OF PLENARY MEETING OF THE PREPARATORY CONSULTATIONS HELD IN VIENNA ON MONDAY, MAY 14, 1973 AT 10:30 A.M.

Chairman (Mr. J. A. THOMSON). We have gathered to resolve the question of participation and procedures. In this connection we, as I understand, are to hear nine points and four statements.

Mr. O. N. KHLESTOV. 1. Representatives of the following states are the participants in the preparatory consultations related to Central Europe which began in Vienna on January 31, 1973:

The Kingdom of Belgium
The People's Republic of Bulgaria Canada
The Czechoslovak Socialist Republic
The Kingdom of Denmark
The German Democratic Republic
The Federal Republic of Germany
The Kingdom of Greece
The Hungarian People's Republic
The Italian Republic
The Grand Duchy of Luxembourg
The Kingdom of the Netherlands
The Kingdom of Norway
The Polish People's Republic
The Socialist Republic of Romania
The Republic of Turkey
The Union of Soviet Socialist Republics
The United Kingdom of Great Britain and Northern Ireland

2. Representatives of the following states, which are potential participants in possible agreements related to Central Europe, will take the necessary decisions by consensus:

The Kingdom of Belgium
Canada
The Czechoslovak Socialist Republic
The German Democratic Republic
The Federal Republic of Germany
The Grand Duchy of Luxembourg
The Kingdom of the Netherlands
The Polish People's Republic
The Union of Soviet Socialist Republics
The United Kingdom of Great Britain and Northern Ireland
The United States of America

If another state wishes to be included among the states listed in this paragraph and this is agreed by consensus of the representatives of the states listed in this paragraph, it may be so included. Such inclusion in negotiations or decisions related to Central Europe could either be general or, if so agreed, could be for the limited purpose of taking part in a particular decision or decisions relating to this subject. It is understood that such additional participation in decisions, agreements, or measures would be without prejudice to the security of any of the parties.

3. The following states will participate with a special status:

The People's Republic of Bulgaria
The Kingdom of Denmark
The Kingdom of Greece
The Hungarian People's Republic
The Italian Republic
The Kingdom of Norway
The Socialist Republic of Romania
The Republic of Turkey.

4. All participants will be seated as listed in paragraph 3 according to the English version.

5. The chairmanship will rotate from meeting to meeting among the representatives of the states listed in paragraph 2 in the order set forth in the English version. The first chairman will be drawn by lot.

6. All participants will have the right to speak and to circulate papers on the subject matter.

7. The meetings will be open only to the participants.

8. Following the opening statements, proceedings and documents of the meetings will be confidential except for those matters on which it is agreed in advance that another procedure will be followed. There will be no official records of meetings except as otherwise agreed.

9. The official languages will be English, French, German, and Russian.

Mr. B. QUARLES VAN UFFORD. The representatives of Belgium, Canada, the Federal Republic of Germany, Luxembourg, the Netherlands, the United Kingdom, and the United States of America wish to point out that the arrangements for the participation of Hungary in these consultations are without prejudice to the nature of Hungary's participation in future negotiations, decisions, or agreed measures or to the security of any party, and that, in particular, the question of how and to what extent Hungary will be included in future decisions, agreements, or measures must be examined and decided during the pending negotiations.

Mr. E. USTOR. In connection with the unilateral statement of the representatives of Belgium, Canada, the Federal Republic of Germany, Luxembourg, the Netherlands, the United Kingdom, and the United States of America the representative of the Hungarian People's Republic wishes to state the following:

As the representatives of Hungary and of other socialist states have explained during the course of the consultations, Hungary could consider participation in possible decisions, agreements, or measures only if the appropriate conditions are fulfilled.

Mr. B. QUARLES IAN UFFORD. It is understood that the arrangement on participation and procedures being adopted today will also be applied in the forthcoming negotiations.

Mr. O. N. KHLESTOV. It is agreed that the arrangement on participation and procedures being adopted today will also be applied in the forthcoming negotiations. This does not preclude the possibility of raising the question of inviting other European states to participate in these negotiations as observers.

Chairman (Mr. J. A. THOMSON). Are there any objections?

I see none.

It will be so recorded.

TESTIMONY OF DEPUTY SECRETARY RUSH, BEFORE SENATE SUBCOMMITTEE ON ARMS CONTROL, JULY 25, 1973

U.S. TROOP LEVELS IN EUROPE

Mr. Chairman: I welcome this opportunity to discuss with you the level of American forces in Western Europe. Since the United States signed the North Atlantic Treaty in 1949, Congress has supported the continued presence of U.S. forces in Europe. I believe that there are convincing reasons to continue that presence and to avoid unilateral cuts in our European troop strength. I should like to discuss these with you today.

Our forces in Europe serve several objectives of U.S. policy. In my remarks I will address each of these in some detail. But at the start I think it would be useful just to go over them.

First: Our European forces play an important role in deterrence. Relations between East and West in Europe have not been smooth these past 25 years. But they have not come to military conflict. It is our defensive posture and the incalculable consequences of war for an aggressor that have time and again turned us back from war in Europe and toward negotiation.

Second: U.S. forces in Europe make a significant contribution to defense. In the unlikely event of military conflict, they would pose a formidable fighting force. NATO's conventional strength—to which we make an important contribution—must be capable of meeting a Warsaw Pact attack without early use of nuclear weapons. Nuclear strength is not enough.

Third: The presence of U.S. forces plays a vital political role in our relations with Western Europe. It is the visible evidence of our commitment to NATO's security. Our Allies, confident of that commitment, are making significant strides in assuming an increasing share of the common defense burden. But if we pull our troops out prematurely, that process will be jeopardized. And the goal of a strong, united Europe, self-reliant but closely allied to the United States, may never be realized.

Finally: Of special interest to this subcommittee is the role of our forces in East-West negotiations. We have made significant progress in the past several years toward our goal of a stable and secure world at lower levels of cost and risk to the United States. SALT I, the Berlin Agreements, the Vietnam accords, new relations with China—all these are tangible evidence of progress. But much remains to be done. We are engaged in the second phase of SALT, in CSCE, in MBFR. To succeed in these negotiations, we cannot withdraw from the world. We cannot negotiate from a posture of weakness and retreat.

In my opinion, we should not consider unilateral withdrawals of our troops from Europe when we are only 90 days away from negotiations to lower these forces mutually. For the first time since the cold war began the Soviet Union has agreed to negotiate about a reduction of its forces in the heart of Europe. This is a remarkable accomplishment—almost unthinkable just a few years ago.

There are good reasons for believing that the Soviets are entering these talks with serious intent. But it is obvious that they will have no incentive to negotiate with us if we cut our own troop strength unilaterally. The essence of negotiations is that you must have something to give in order to get something you want.

The Strategic Arms Limitations Talks are an example of this rule familiar to all members of this subcommittee. Last year we reached agreement with the Soviet Union to limit offensive and defensive nuclear weapons. In that agreement we halted our ongoing ABM program, and in exchange the Soviets agreed to limit their own ABM deployments and the further deployment of their giant SS–9 missiles.

If we had followed the advice of some to give up the ABM program unilaterally or to reduce our offensive strategic programs unilaterally, I do not believe there would have been a SALT agreement last year, let alone prospects for a follow-on agreement next year.

This same natural logic applies to our forces in Europe. Unless we enter the force reduction negotiations this fall with our troop strength intact, the Soviets will have no incentive to bargain. And the process of normalization and reduced confrontation in which we have invested so heavily over the past 25 years will be placed in jeopardy.

As you well know, arms control discussions can yield not only substantial military results but a continuing political discourse of considerable value. In SALT, our candid discussions with the Soviet Union did much to dispel common misconceptions and to create a new atmosphere of greater confidence and trust. That same possibility lies before us in the mutual force reduction talks. Thus proponents of unilateral American force withdrawals would not only sacrifice the military benefits of negotiating Soviet force reductions but also the significant political benefits of such negotiations.

I have tried to determine in my own mind why there is such a strong urge at this particular time to reduce our forces unilaterally.

Part of the reason is clearly that after our long and frequently frustrating experience in Vietnam there is an understandable desire to bring our forces home. But our problems and policies in Europe are clearly different from those in Southeast Asia. The stability and prosperity made possible by our postwar commitment to Europe have taught us the wisdom of this commitment. Any reduction in our force levels must take account of this approach and not come as reflex action to our policies in some other part of the world.

The Vietnam experience is clearly not the only reason for the current disenchantment with our contribution to NATO. It seems to me that the drive to cut our forces substantially derives in large measure from some basic misconceptions about current international realities.

At the risk of over-simplification, let me briefly list what I believe to be the major misconceptions:

First, that with progress towards detente a strong defense is no longer required.

Second, that our balance of payments problems and pressing domestic needs leave us no choice except to cut our forces substantially and unilaterally.

Third, that our European allies are getting a free ride by not making a significant contribution to the common defense, and

Fourth, that our conventional forces are merely a symbolic "trip wire" and not a serious military machine, and that in any case they are unnecessary as we can rely upon a nuclear deterrent.

Let me deal with each of these in turn:

There are some who argue that in fact no military threat in Europe exists, that progress in moving towards detente removes the need for a strong defense.

The military facts of life provide no justification for this point of view. Over the past decade the Soviet Union increased its total military manpower by 30%, doubled its published military budget and vastly increased its nuclear forces.

While the United States has decreased the number of its forces in Europe over the past decade by over one-third, the Soviet Union has since 1968 increased the number of its division from 26 to 31. In recent years we have observed an increase in the number of Soviet tanks in eastern Europe, the introduction of new air defense missiles for the protection of Soviet ground forces, and an increase in nuclear-capable rocket launchers and cannon artillery. Thus the military forces posing a potential threat to NATO, rather than diminishing, have substantially increased both in quantity and quality.

If the military facts provide no justification for unilateral American withdrawals, do political realities permit such a step? We have made substantial progress in moving from an era of confrontation to an era of negotiations. Tensions in Europe have declined.

But we have made this progress not by wishful thinking about our adversaries nor by abandoning commitments to our allies. On the contrary, we have reduced tensions by demonstrating to our adversaries that our continuing strength and determination left them no alternative but to negotiate.

The progress we have made in recent years is not irreversible. In fact Europe's history gives more grounds for pessimism than optimism about the possibilities for a durable peace. Throughout a large part of modern history, Europe has been either preparing for, actually fighting or recovering from war.

We do not believe that this periodic recurrence of war in Europe has to continue to be the case. But to change Europe's history we must understand the continuing realities of international life. In President Nixon's words "War is caused not by the strength of one nation alone but by the weakness of one nation in relation to another. Strength and resolution are an incentive for negotiation leading to peace. Weakness and naive sentimentality are an open invitation to pressure tactics and aggression leading to war."

Some seem to believe that the western Europeans are strong enough to provide for their own defense without a significant American presence.

History refutes this contention. Twice in this century we have had to intervene militarily in western Europe to protect freedom and our own security.

It was our decision in 1949 to change course and to maintain a tangible and significant defense commitment in western Europe which has made the past quarter of a century one of Europe's most stable and prosperous eras. This stability and prosperity have been of great benefit to us as well as to the Europeans. Why should we abandon such a successful policy?

It is simply fostering a misconception to talk about our forces being in Europe for the defense of Europe alone. Our contribution to NATO must be understood for what it is: a matter of U.S. self-interest. Western Europe is the second greatest economic power in the world, linked to the United States by innumerable strategic, political, cultural and economic ties. It is American security which dictates the necessity to deter not only a full-scale Soviet attack on Western Europe but also the application of Soviet political pressures—for such pressures could give the Soviets veto power over western European cooperation with the United States.

There is another dimension as well. A primary objective of American foreign policy this year is to reinvigorate our relationship with our Allies, and to establish a framework within which we can deal with pressing problems of trade, finance and security.

We and our NATO allies have been able to forge a prosperous and dynamic world economy from the ruin of war because we worked together, not only to rebuild the world economy, but also to provide for our common security. There can be no prosperity without security just as there can be no security without a sound economy.

We cannot abandon cooperation in one sector without gravely damaging the other. It is that knowledge which has always provided the common sense bounds to our differences on any matter.

That is a reality that I hope you will take into account as you consider proposals to act unilaterally to reduce our contribution to the common defense. It would not be prudent to assume that the good will and constructive effort that our Allies have brought to the solution of our common trade and monetary problems could be quite the same if our cooperation in our common defense had been eroded by substantial unilateral troop reductions.

Let me turn now to another source of pressures for unilateral American reductions. We are all agreed that this country has a serious balance of payments problem and pressing domestic needs. But we have been moving vigorously on both these fronts and with considerable success.

The results of our monetary actions are beginning to take effect. We believe the currency realignments provide the basis for elimination of the long-standing U.S. deficit and restoration of international payments equilibrium.

Department of Commerce data show a drop in our balance of payments deficit from $3.8 billion for the first quarter of 1972 to $1.2 billion this year. That is a very impressive improvement.

Plainly the speed our return to equilibrium, and we can do so with economic policies which leave us with a significant military capability overseas.

There is considerable misunderstanding about the impact our troops in Europe have upon both our balance of payments and the federal budget. The result of our having 300,000 men and their dependents in Europe in FY 1972 was a payments deficit of $1.5 billion. That is, after subtracting the value of our military exports and services to western Europe from the value of our military expenditures in western Europe, there was a difference of $1.5 billion. This figure includes West German purchases of U.S. military equipment in fulfillment of the US-FRG offset agreement. But it does not take into account this two billion dollar agreement's assistance to our payments burden in the form of substantial West German purchases of U.S. Government securities and West German rehabilitation of U.S. military facilities.

Equally important, the 1.5 billion dollar figure must be looked at in the context of our overall balance of payments. It is comparable, for example, to the $1.2 billion deficit caused by the larger number of American tourists visiting western Europe than western European tourists visiting the United States. And it was only a sixth of our total basic payments deficit of over $9 billion in 1972.

Moreover, the deficit in the military balance of payments was not a major cause of our deteriorating balance of payments situation. The major problem was the increasingly adverse balance in non-military goods and services.

And while the decline in value of the dollar increases the cost of our troops abroad, it has a more significant and favorable impact upon the competitiveness of our exports. Thus while the local costs of our troop deployments in Europe have increased, this increase is small compared to the favorable impact the new exchanges rates are having on our $80 billion annual exports of goods and services. It is in this non-military area where our increasingly successful efforts to reestablish payments equilibrium must continue to be focussed.

We have also been told that pressing domestic needs force us to cut our forces in Europe unilaterally. But surely this is a false choice. We always have had and always will have both domestic and national security needs. The point is that we must devote adequate resources—in a carefully balanced way—to both.

Let us look at the record. In 1968 almost one-half of the federal budget went for defense, while only a third was devoted to human resources. Today these proportions are reversed with human resources receiving half the federal budget and defense receiving less than a third.

In 1968 the defense budget was nine percent of GNP. It is now just six percent. Surely this is not an unacceptable burden for a country with a GNP of well over one trillion dollars.

Since 1968 we have reduced the size of our armed forces from 3.5 million to 2.3 million. And in Europe over the past decade, we have reduced our armed forces by a third, from 465,000 to 300,000.

I believe that this is a remarkable record of force reduction and cost control. It certainly demonstrates our commitment to spend no more of the nation's limited resources on defense than is absolutely necessary.

Some seem to believe that by bringing our forces home from Europe we would not save money unless the forces that are returned home are demobilized. But our military establishment today is already at its lowest level in two decades and trails well behind those of the Soviet Union and China. If we demobilize large numbers of our standing forces, we cannot maintain our NATO commitments or keep our pledges under the Nixon Doctrine.

The budgetary outlay for keeping our 300,000 men in the European theater, and that includes the Mediterranean Sea, is $4.0 billion for Fiscal Year 1974. That is the cost of pay and maintenance of these men and their dependents in Europe.

However, if we consider the cost of the support facilities in the United States for these forces and the cost of their arms and equipment, the cost rises to $7.7 billion for Fiscal Year 1974. That includes the $4.0 billion figure.

Within these costs there is an incremental cost to the stationing of our forces in Europe additional to the cost of similar forces in the United States. It runs to about $400 million per year and is composed largely of such expenses as transportation.

However, if you bring these men home and maintain our NATO commitment, you will have to keep them in uniform, and provide the added transport and duplicate heavy arms in Europe so that they can be rapidly returned to fight there. In that case, the annual budget cost will actually be more than at present. Thus, those whose aim is reduced budget costs must be speaking not about unilateral reductions from Europe but rather about unilateral demobilization. This Administration rejects such an approach.

You will also have heard the figure of $17 billion. That is the cost of all the U.S. armed forces, wherever located in the world, that are committed to NATO and would be deployed in the event of hostilities. It is not the cost of our troops now in Europe, nor would this amount be saved even if we withdrew all of our forces from Europe.

In sum, I hope you will agree with me that even substantial reductions of our forces in Europe will neither save money nor resolve our balance of payments problems.

Let me turn now to the role of our allies. We are urging our partners in NATO to do more for the common defense, but we by no means carry the entire burden. While the U.S. contribution is highly significant, our allies contribute to NATO nearly 90 percent of its ground forces, 80 percent of its seapower, and 75 percent of its airpower. In central Europe, the allies supply 25 of the 29 combat-ready divisions. They have over three million men in active service today—one third more than the United States has throughout the world.

Perhaps most important our NATO partners have substantially increased their defense effort in recent years. Since 1970 they have raised their defense expenditures by 30 percent to a level of $35 billion in 1973.

Through the European Defense Improvement Program they are fulfilling their commitment to procure major new items of military equipment and to construct installations, in order to achieve a more effective conventional defense.

Our allies are also taking a number of steps to help the United States with both its military balance of payments and budgetary problems.

As I have already noted, the German Government, in addition to substantial arms purchases in the United States, has also purchased $621 million in U.S. Government medium term securities on which it pays the interest and has put $186 million into the rehabilitation of U.S. barracks in Germany, benefiting both our balance of payments and our budget costs. The total value of this offset agreement to the U.S. has been approximately $2 billion over a two-year period.

We are now negotiating another offset agreement with the Federal Republic.

In addition, and important for the long run, NATO's defense ministers last month agreed to examine the problem of finding additional multilateral means to reduce the adverse economic consequences borne by the United States as a result of its stationing forces in Europe. We consider this a major step that can reduce the balance of payments impact and the incremental budgetary burden of stationing forces abroad rather than at home.

Let me turn now to the fourth basic area of misunderstanding. Some argue that American and NATO forces are not a serious fighting force and could not withstand a Soviet assault. This is simply not true. NATO is a formidable defensive force and not just a "Trip wire" as some believe. In central Europe, for example, NATO has available roughly the same number of forces as the Warsaw Pact. And NATO is now engaged in developing a further program of specific force improvements that will ensure an adequate defense for the rest of this decade.

But NATO could be forced into a "trip wire" posture, into having to resort to nuclear weapons in a matter of days or even hours, if the United States were to unilaterally withdraw a substantial number of its forces.

This would be an extremely dangerous situation in today's world. The doctrine of "massive retaliation" became inadequate when the Soviet Union became a real nuclear power able to retaliate in kind. That is why it is surprising to hear proposals to defend western Europe by dependence upon nuclear weapons alone. This backdoor revival of the doctrine of massive retaliation coincides with the emergence of something like parity in strategic weapons systems between the United States and the Soviet Union. But nuclear parity makes massive retaliation less believable as a means of deterring all forms of aggression in Europe. The proposed return to this concept, whether it is called "massive retaliation" or "trip wire", as a substitute for NATO's agreed flexible response capability reflects one of two things: either a misunderstanding of the implications of strategic parity, or a cavalier dismissal of the possibility of less than all-out war in Europe.

Let me conclude. We are not asking the Congress to agree that we should retain the present level of our forces in Europe indefinitely. We are convinced that this is neither wise nor necessary.

But we are equally convinced that the manner in which we reduce these forces is at least as important as the reductions themselves.

We want to bring about these reductions in a way which will neither damage the Atlantic Alliance nor tempt our adversaries to return to a policy of aggressive confrontation.

As I have already noted, we are moving vigorously on three fronts:

First, in NATO we are developing a multilateral mechanism for more equitable burden-sharing and we are revising some basic defense concepts to allow for more efficient use of scarce defense resources.

Second, in this Year of Europe we are seeking to resolve the inter-related issues of trade, finance and security in a cooperative and mutually beneficial manner, and

Third, in slightly more than 90 days we will begin unprecedented negotiations with the Soviet Union and the nations of eastern Europe to mutually reduce the forces still confronting one another in the heart of Europe.

Surely this is a program worth this Congress' most serious consideration. We ask only for the time to carry it out.

TRICENTENNIAL OF MARQUETTE-JOLLIET LANDING IN ARKANSAS

Mr. FULBRIGHT. Mr. President, last week was an eventful one for the people of Helena and West Helena, Ark. Amid the activities of the second annual Serendipity Week in the Twin Cities—a summer festival of pageants, art shows, street carnivals, exhibits, and concerts—seven men and a boy reenacting a historic river voyage paddled their canoes ashore at the banks of the Helena Harbor. Their landing marked the tri-centennial celebration of the landing at Helena of the Marquette-Jolliet expedition in 1673.

The history of Helena and West Helena are very much intertwined with the Mississippi River and the progress of these communities in recent years is due in large measure to the vision and involvement of the citizens there with the river.

The theme of the serendipity summer festival this year, "The Land, the People, and the River," aptly describes this rich heritage and involvement of people which makes these outstanding cities and places to live.

Mr. President, I ask unanimous consent that two articles about Helena and West Helena, and last week's events be printed in the Record. The first appeared in Monday's New York Times and is entitled "A River Town in Arkansas Marks Impact of the Mississippi on Its Past and Future." The second article appeared in the Arkansas Gazette of July 17 and describes the reenactment of the Marquette-Jolliet voyage and landing at Helena.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the New York Times, July 23, 1973]

A River Town in Arkansas Marks Impact of the Mississippi on Its Past and Future

(By Seth S. King)

Helena, Ark., July 19.—It is difficult, especially in the summer, to see the Mississippi River from any part of Helena, even from the top of Crowley's Ridge, the sandy bluff behind the business district.

The levee that rises beyond the railroad tracks blocks out everything in back of it, and the Kudzu vines and massive oaks on the 100-foot-high Crowley's Ridge screen all but a thin slice of the muddy river to the east.

Helena's residents are always aware that the river is there. One hundred and eighty years ago, the river rushed in and destroyed the first settlement on this site, and the people know it is possible, although unlikely, that this could happen again.

JOLLIET-MARQUETTE VOYAGE

They are also more aware each year of the river's growing role in their town's prosperity, which has been bolstered as inland waterway shipping has increased.

Three hundred years ago last Sunday, the Mississippi bore the fragile canoes of a tiny band of voyagers led by Louis Jolliet and Jacques Marquette, who passed Crowley's Ridge and paddled into the mouth of the Arkansas River, 45 miles south of here.

Helena marked this event with a tricentennial celebration. Six young professors and ecological scientists and the young Jesuit priest, who are reenacting the Jolliet-Marquette voyage this summer, paddled their reproduction of the explorer's canoes to the town's landing.

Then they came ashore to entertain the townspeople with songs of the voyagers and narratives of the Jolliet-Marquette journey, which opened to white settlers and traders the vast river system that now links Helena with the St. Lawrence River and the Atlantic Ocean.

The contemporary voyagers arrived amid the festivities for Helena and West Helena's second annual Serendipity Week, whose theme this year is "The Land, the People, the River."

In four days of pageants, art shows, street carnivals and concerts, Helena also took note of the sojourn here of Hernando de Soto, the first white man to see the Mississippi, who crossed it south of here in 1541 and lived for more than a month with the Quapaw Indians near Crowley's Ridge.

Helena (pronounced HEL-n-AH) and West Helena, whose combined populations total 21,422, call themselves "Arkansas' only seaport."

The river's main channel has moved a half mile to the east of Helena itself. But barge traffic moves easily in and out of the city, either through the slack water channel that remains beyond the levee or by touching at the loading jetties beneath the towering bridge on the southern edge of town.

The river once brought huge, flat-bottomed cotton boats to Helena. These steam-driven boats carried thousands of tons of cotton picked from the surrounding plantations from Helena to Memphis, the nearest city, 65 miles to the north, and brought in goods that made Helena the largest riverside shopping mecca between Memphis and Greenville, Miss.

UNION ARMY OUTPOST

The river also brought Union troops to Helena in 1861, and the emplacements for the artillery they used to prevent the Confederate Army from moving downriver to Vicksburg can still be seen on each end of Crowley's Ridge.

When the cotton began moving by rail and then by highway, river traffic to Helena diminished year by year.

"When I came here 10 years ago, there weren't more than 50 barges a year brought into Helena," said Jim Walden, director of the Helena Marine Service. "For that matter, there was comparatively little traffic on the river itself, and you could stand out on that bridge all day and maybe see one tow pass by."

A tow is a group of barges pushed, not towed, up or down the river by sturdy little "tow boats." Today, Mr. Walden said, more than 800 barges are pushed into Helena every year.

Many of them come to pick up oil and natural gas from the pipelines of the Texas Eastern Transmission Corporation.

Many others bring phosphate and sulphur from the Gulf of Mexico to the Arkla Chemical Corporation's plant, whose plumes of smoke now curl over the flat, lush fields of cotton and soybeans on the flood plain at the southern edge of Helena. At least half of the plant's ammonia and nitrogen fertilizers are shipped out by barge.

Other barges stop at Helena to load 90 per cent of the 525,000 tons of soybean meal and soybean oil processed at Riceland Foods sprawling plant, carrying them downriver to Baton Rouge and New Orleans.

And Helena is now the site of the National River Academy, the nation's first river boat school, which the barge lines have established to train young men to become river captains and engineers.

"I've been in the river boat business all my life and I know most everybody that's in it, too," Mr. Walden remarked.

"When I said I was moving to Helena, they thought I was crazy" he continued. "Well, today I've got eight tow boats, controlled by that radio in the next room, and right now they're pushing barges as far north as Minneapolis and clear to Pittsburgh. The rivers are about the only thing left in this country that's free to use, and I'm betting the Mississippi will one day be seeing more barges than you or I could imagine existed."

Mr. Walden said he knew when he came to Helena that the Arkansas River would some day be open to his barges. And last year it was, with the completion of locks and dams that now hold enough water in this previously sandy, shallow stream to carry barges as far as Tulsa, Okla.

At Helena, the only port near the mouth of the Arkansas River, the Mississippi is nearly a mile wide, with a tricky, seven-mile-an-hour current.

RIVER CONSCIOUS

"There's nobody living in Helena that isn't conscious of that river, even if they go days without looking right at it," said Judge George Cracraft of Chancery Court, whose family settled in Helena in 1880.

"The more venturesome of us run our boats on it, and some fish in the backwaters," the judge said. "And, of course, a goodly number of people here make their living because the river was here and those companies moved in to use it."

For years, Judge Cracraft said, everybody had "a phobia" about building anything on the flat fields south of the city.

"But about a decade ago, the Arkansas Power and Light Company decided the advantages from the river were worth it, and the levee would hold," he continued. "The others came right afterward to get the same benefits from the river."

This spring, during one of the greatest floods in the river's history, Helena's levee did hold and the town escaped.

"But anybody with any sense knows the river is dangerous and untrustworthy," the judge said. "We used to have another street in Helena, just the other side of that levee, ironically called Water Street. The river took it clear away one year." He added:

"You see that little hump ahead of us in the street? Years ago, that was the Water Street levee. I shudder to think of people living here with no more protection than that."

The Jolliet-Marquette expedition 300 years ago went no farther than the mouth of the Arkansas after its leaders learned from the Indians that the Mississippi emptied into a great sea to the south, rather than to an ocean that would have led to China, as the French had hoped.

This week the group that is re-enacting that expedition is traveling upstream, planning to paddle—as Joliet and Father Marquette did—back to the Illinois River, up past Chicago and into Lake Michigan.

Passing Helena, they leave behind one of the oldest settlements on the river's west bank, a small city that still lives off the Mississippi River.

[From the Arkansas Gazette, July 17, 1973]

Reenacting River Trip 300 Years Ago, Voyagers Reach Helena an Hour Early

(By John Fleming)

Helena.—The reincarnations of the intrepid Father Jacques Marquette and Louis Jolliet, who visited what is now Helena exactly 300 years ago, arrived here Sunday at 4:11 p.m. to the strains of the Marseillialse and the Star Spangled Banner.

A flotilla of crafts ranging from a yacht to a fishing boat went up river early in the afternoon to watch the two authentic birchbark canoes race through the choppy waters of the mighty Mississippi. A crowd of more than 500 braved intermittent rain to cheer loudly when the canoes touched the bank at Helena harbor.

The seven men and a boy who are re-enacting the famous exploration trip of 1673 were lustily singing an old French voyagers song which ended with the admonition—"the moral of this story is to drink before you die."

There was a brief reception on a rostrum erected at the river's edge. The party was officially greeted by Representative Bill Alexander (Dem., Ark.) of Osceola, Lieutenant Governor Bob Riley and Helena Mayor Thad Kelly. Honored guests were Pierre Coleve, first consul of the French Embassy at Washington, and Jean-Jacques Peyronnet, French counsul at New Orleans.

Lewis Reid, a suburban Chicago French teacher, leader and organizer of the 1973 exploration party, took over as master-of-ceremonies. Rev. Charles McEnery, a Jesuit priest from Chicago, who is taking the role of Father Marquette, was the only member of the group not present, He was preparing to take part in the field mass held from an altar near the seawell at the harbor. Coincidentally, Father McEnery, at 36, is the same age as was Father Marquette when he made the river trip.

VOYAGERS BEGAN IN MICHIGAN

Reid (Jolliet) pointed out that the party had been an hour ahead of schedule since it left St. Ignace, Mich., May 17 to react with all the authenticity possible the voyage that proved the Mississippi River flowed into the Gulf of Mexico and not the Pacific Ocean.

"Since we left St. Ignace on May 17," Reid said, we have always been one hour early. Take any airline in the United States and see if you arrive one hour early. Let us do the paddling."

In a serious vein, Reid pointed out that most Americans are of the opinion that the trend of discovery was from east to west when actually it transpired from north to south as evidenced by the journey of Marquette and Joliet and later by the trip along the same route by La Salle. The Marquette-Jolliet journey, however, only extended as far as the mouth of the Arkansas River while LaSalle went to the Gulf.

The 1973 party will move downriver from Helena to the confluence of the Mississippi and the Arkansas Rivers and then turn around to retrace the path of the original party. The entire trip will be more than 3,000 miles and will end in late September as did the 1673 journey.

When the voyagers reached a point in the main channel opposite Helena Sunday, they were met by a canoe bearing two Helena men dressed in Indian costume symbolizing the friendly reception Marquette and Jolliet got from the Accances (Quapaw) Indians.

COTTONWOOD CROSS, NATIVE WILD FLOWERS

The field mass held in an open space between the river and the seawall was impressive. The cross of cottonwood with the bark intact rose from the center of a fence made of the same material. The area was surrounded with wild flowers painstakingly sought out from the surrounding countryside to give the service a setting similar to the backdrop the explorers found 300 years ago.

Earlier in the afternoon there was a rededication of the statue of Father Marquette, which was placed in a Helena residential area in 1937. G. H. Kenkel of Brinkley, represented the Knights of America, which placed the statue after historical research revealed that Father Marquette held a mass near the site. Mayor Kelly, the French diplomatic representatives and Miss Lily Peter of Marvell, who wrote a book specially for the tricentennial celebration were among the guests.

Msgr. James E. O'Connell of Little Rock, made the rededication address. He said that he recalled the original dedication in 1937.

"When we think as we go back a period of 300 years that the faith that I represent and the Christian faith in general was first brought to these areas by the intrepid explorers Pere Marquette and Jolliet, we are indeed filled with great pride."

Monsignor O'Connell went on to say: "I would hope that all of us who call Arkansas our home either by adoption or by birth would be mindful of our heritage and reflect upon the fact that in those early days when these explorers came down this river they came down primarily for two reasons. One was to extend the kingdom of God on earth and to bring to this area the blessings of the enlightened culture which was found back in the country, where they were born."

RECEPTION HELD AT PHILLIPS COLLEGE

Following the mass at the Harbor there was a reception at the Fine Arts Building at Phillips Community College.

A Navy unit out of New Orleans provided free boat riding for hundreds of persons beginning Thursday and the rides will continue through Tuesday. The free boat rides were interrupted when the press boat broke down and the craft was pressed into service to take the news media representatives up the river to meet the explorers.

The only hitch in a very smoothly operated celebration was the absence of the Cherokee Indians who were supposed to set up a typical Indian village at Phillips College. They arrived late Sunday and will have the village ready today.

FRED ASSELIN

Mr. RIBICOFF. Mr. President, I have been fortunate during my public career to have had many capable aides. I am always pleased when a valued assistant moves on to accept a new and challenging position.

This is especially true of Fred Asselin, my press secretary from May 1967 to May of this year, who has accepted a new assignment with the Senate Permanent Investigations Subcommittee.

Much of any Senator's success depends upon the ability and character of his aides. Fred was loyal, candid, imaginative, hard working, and an excellent writer. Fred had a unique understanding of the vital role the press plays in our political system and a great respect for the individual men and women of the press who cover Connecticut and Washington, D.C.

Born in Nampa, Idaho, in 1939, Fred grew up in California's San Joaquin Valley and graduated from Fresno State College with a degree in social science. The son of a Southern Pacific Railroad brakeman, he worked as a general assignment reporter on the Fresno Bee and joined the staff of the late Senator Clair Engle, Democrat, of California, in February 1962, as press secretary. He took a leave in the fall of 1962 to work as a press assistant in the reelection campaign of California Gov. Edmund G. Brown.

In 1964, he left the Senate and worked briefly for the Democratic National Committee and then was employed for the next 3 years in the Office of Public affairs at the headquarters of the National Aeronautics and Space Administration where he was coordinator of astronaut public appearances, organizing astronaut appearances from college lectures to ticker tape parades around the world.

In May of 1967, Mr. Asselin left NASA to become my press secretary. In 1969, while serving as acting chairman of the Senate Permanent Subcommittee on Investigations, I assigned him to work with investigators in Southeast Asia and elsewhere on the subcommittee's investigation of illegal procedures in U.S. military nonappropriated fund activities such as post exchanges and NCO clubs and the black market in currency in the Republic of Vietnam. It was largely due to Fred's diligence and investigatory skills that the subcommittee was able to unearth the illegal activities then rampant in post exchanges in Southeast Asia. At the conclusion of that inquiry in 1917, he in addition to his regular duties almost single-handedly wrote the subcommittee's 150,000-word final report.

An investigative reporter at heart, Fred's interests were whetted by his experience in uncovering the PX scandal. Now able to devote his full time to the Investigation Subcommittee, I am confident that he will make many important contributions to its future work.

I know all the members of my staff join me in wishing Fred fulfillment in his new job. Fortunately, because I am a member of the Permanent Investigations Subcommittee, I will be able to continue my association with a good friend and dedicated public servant.

INCREASING FARM PRODUCTION AND FOOD SUPPLY

Mr. McGOVERN. Mr. President, one action which President Nixon took this week in announcing the relaxation of economic controls in the food sector was to encourage maximum production by American farmers.

The President announced that there will be no set-aside requirements for the 1974 crops of feed grains, wheat, and cotton. He said:

> The stability of the American economy in the months and years ahead demands maximum output. I call upon the American farmer to produce as much as he can.

I agree with that statement, and I applaud his decision that there is no set-aside program next year. But I also call upon the President not to require American farmers to shoulder the full risk of unlimited production.

We faced a similar situation in the mid-1960's, when stocks of grain were at similarly low levels, and the administration stimulated production so effectively that price-depressing surpluses resulted.

The risks of all-out production should be distributed fairly among all segments of the economy. Sharing that risk, and incentive for increased production, are the twin goals of the new farm bill approved by the Senate on June 8.

That bill recognizes a very fundamental fact. If farmers are going to respond to the needs of this Nation, then incentives to produce must be provided. This was accomplished through the adoption of target prices.

But the President did not recognize this point in his economic statement.

Mr. President, if we are to provide adequate supplies of food for domestic consumption and export, we will have to use every available incentive to encourage increased production of some commodities. We cannot expect the farmers to go all out to increase production if they have no kind of price guarantee. Indeed, many would be unable to obtain the necessary financing to expand production unless there is some assurance that the increased production will not drive prices down to rock bottom levels. Unless we have a strong farm program such as has been passed by the Senate, the American consumer will be faced with short supplies of food and even higher prices in the years to come. I hope that the President will assume the leadership in the passage of such a bill.

PIONEER DAY

Mr. BIBLE. Mr. President, July 24 is an important date each year in the history of the Mormon church for it was on that day, now 126 years ago, that the courageous Mormon pioneers first entered Salt Lake valley.

From their headquarters in Salt Lake, Mormon settlers established communities throughout the West. The first community in my own State of Nevada was the settlement at Mormon Station, the present Genoa. Additionally, our largest city at Las Vegas was originally a Mormon settlement and is still home to thousands of descendants of those original pioneers. Mormon influence in the development of Nevada has been truly significant and positive.

From humble beginnings, the Church has achieved worldwide recognition and influence. Those early pioneers brought with them a boundless energy and enthusiasm which has contributed immeasurably to the progress and development of the West. The Nation is in debt to these hardy people for their contributions not only in material development but for their example of dedication and steadfastness and spiritual strength. These attributes are precisely those which are necessary to see the Nation through its present problems. I know the Latter-day Saints and their friends throughout the world can take justifiable pride in the history they celebrate at this time.

PHASE IV AND FOOD

Mr. McGOVERN. Mr. President, I was pleased to see that the administration has at least temporarily abandoned many of its ill-founded economic policies with respect to food.

The ceiling on red meat imposed last April and the June price freeze have resulted in food shortages for the consumer and severe hardship for the food producer.

So, as the author of the McGovern food shortage amendment, I was pleased to see that the President has taken at least some of the steps we have advocated.

But, the new rules announced by the administration this week contain two serious flaws. First, the continuation of the ceiling on beef until September 12 means less meat for the consumer until September and higher prices next fall. This is because the cattle growers will hold back much of their stock from market until the end of the ceiling.

Second, the President's order permitting a dollar for dollar pass through of increases in the cost of raw agricultural products since June 8 will result in feed shortages. This is because the costs of the ingredients that go into animal feeds rose sharply during the month of May. So those who buy or make feed from ingredients will be subject to the same kind of price squeeze that chicken and egg producers had this summer. And of course if the food producers cannot buy feed, the consumer will not be able to buy food.

So, now more than ever we need the McGovern food shortage amendment the Senate has adopted. I hope the Senate and House conferees meet promptly on the minimum wage bill so that that bill together with my amendment will be sent to the President for his signature.

I ask unanimous consent that the following excerpts from yesterday's Record be printed at this point.

There being no objection, the excerpts were ordered to be printed in the Record, as follows:

Mr. McGovern. Mr. President, this amendment is virtually identical to my amendment which the Senate adopted on June 30 by a vote of 61 to 1 which Senator Long characterized as "the amendment to insure that the price of the chicken exceeds the cost of the feed."

The amendment requires an adjustment in the maximum price which can be charged for agricultural commodities under any price control order when the Secretary of Agriculture certifies that price controls are creating a shortage in a given agricultural commodity and there are no alternative means for increasing the supply of that commodity.

The price freeze has created a very real threat of food shortages in the near future, and that fact is well documented in an article entitled "Chains See Shortage of Food for This Week," written by Major Wells and published in yesterday's Washington Post, which I ask unanimous consent to have printed in the Record, together with my remarks on this subject on June 30, at the conclusion of my remarks.

The Presiding Officer. Without objection, it is so ordered.

(See exhibits 1 and 2.)

Mr. McGovern. The reason for adding this measure to the pending bill is that it is the quickest means for it to become law. The bill we amended, H.R. 2261, was not able to be acted upon by the House in their rush to adjournment on June 30.

The matter is not controversial in the House since it adopted the McGovern amendment as an amendment to the farm bill earlier this week. Unfortunately, however, the farm bill will not be sent to the President for some weeks.

I feel we must insure that this amendment is sent to the President before the August recess. For if we do not do this acute shortages in certain commodities may develop by the time Congress returns in September. The minimum wage bill offers the best vehicle for doing his.

I have spoken to the Senator from New Jersey (Mr. Williams), the floor manager of the pending bill, who has supported the amendment before and supports it now. I am joined in cosponsoring this amendment by the Senator from Kansas (Mr. Dole). The original amendment was cosponsored by Senators Mansfield, Dole, Nelson, Pastore, Cranston, Curtis, Hughes, McGee, Abourezk, Hart, Bentsen, Allen, Fulbright, McClellan, Robert C. Byrd, and Talmadge.

Mr. Humphrey. Mr. President, will the Senator yield?

Mr. McGovern. I yield.

Mr. Humphrey. The Senator left my name off. I want to be sure he includes that.

Mr. McGovern. I thank my colleague for calling my attention to that. The Senator from Minnesota is one of the most important cosponsors of this measure.

Mr. Humphrey. It is a very important piece of legislation, and we are all indebted to the Senator from South Dakota for this measure.

The Presiding Officer. The name of the Senator from Minnesota will be added.

Mr. McGovern. Mr. President, I am sure that the Senator from New Jersey will accept this amendment, and I am hopeful it will be agreed to without dissent at this time.

EXHIBIT 1

[From the Washington Post, July 17, 1973]

CHAINS SEE SHORTAGES OF FOOD FOR THIS WEEK

(By Major Wells)

A shortage of pork, poultry and other food items is likely to occur this week because of poor crop yields, high feed and grain costs and the June freeze on retail prices, spokesmen for Washington's three major supermarket chains predicted yesterday.

"The already limited supplies of pork and poultry will increasingly drop as the week goes by," said Clarence G. Adamy, president of the National Association of Food Chains.

"There is a raffling for products," he said. "There will be more and more shortages as the 60-day freeze continues. There also will be fewer meat advertisements, because no one can afford to promote without a supply."

The 60-day freeze is expected to be lifted by Aug. 15.

Virginia's famous ham-curing town of Smithfield has two casualties among the 17 hog processing plants that have closed nationally in the last three weeks, according to the National Association of Food Chains. Other plants are laying off employees and curtailing production.

Poultrymen in Virginia's Shenandoah Valley have began to sell outright to the Rockingham Poultry Marketing Cooperative, hoping that the cooperative will have more access to feed.

The 60-day freeze locked in the prices they can receive for their product while permitting the cost of feed—a raw agricultural product exempt from price ceilings—to continue to rise.

Although the spokesmen for the three big supermarket chains said they were not experiencing any critical shortages yesterday, two of them said they were operating on a day-to-day basis. The third said he was on an hour-to-hour schedule.

"The only solution is to let the American economy operate freely," said Vincent Maguire, merchandising director for Grand Union.

"As the supply goes down," he said, "the demand goes up. As the demand goes up, the price goes up."

"We're not having any shortages," said Barry Scher, communications manager for Giant Food. "We're not able to buy the quantities we'd like to buy from our suppliers. Relief is needed from the Price Commission."

"Everything is tight from watermelons to tomatoes and potatoes," said John Shepherd, a Safeway spokesman.

According to Harry Deakton, a specialist with the National Council of Equal Business opportunity and interim manager of the Big V chain, meat packers and processors are curtailing their production because prices they are being asked to pay for meat are too high for a profitable operation by them.

"It's not a question of what the wholesale cost is," Deakton said, "but whether you can procure the item and sell it within the cost guidelines and limitations."

He described the present food prices as "out of kilter. Unless the ceiling is taken off," he added, "there will be a marked change in the eating habits of the American public."

In some cases, supermarket owners are expressing concern over the unavailability of supplies of celery, eggs, vegetable oil, vine-ripened tomatoes, potatoes and apples.

The price of soybeans is three to four times as high as a year ago, spokesmen said. So there is also a shortage of vegetable and soybean oil and margarine, because they are dependent on corn, soybeans and other feed grains.

Contributing to the grain shortages are many factors, including bad weather during growing seasons, international trade, inflation and market speculation.

Exhibit 2

Protecting Food Producers and Food Consumers

STATEMENT BY SENATOR GEORGE M'GOVERN

Mr. President, on behalf of myself, the distinguished majority leader, Senator Mansfield, Senator Dole, Senator Nelson, Senator Cranston, Senator McGee, Senator Abourezk, Senator McClellan, Senator Talmadge and Senator Curtis, I send to the desk and call up an amendment. This amendment would require an adjustment in the price for agricultural commodities when the Secretary of Agriculture determines that the current price freeze will produce a short of that commodity and there is no alternative means for increasing the supply.

Mr. President, if things remain as they are, consumers will soon find it as hard to buy certain agricultural products such as eggs, chicken or milk, as it is now to get gas on a Sunday afternoon. This is because the costs of producing these products, particularly feed grains, has gone up even faster than the cost of living. The result of the price freeze is that the farmer cannot get from the middleman or the store a sufficient price to cover his costs.

Consumers understand this problem. Many of them have written to me expressing their concern. I ask unanimous consent that a copy of a typical letter I received be printed at this point in the Record.

And so we see on television 100,000 baby chicks being destroyed. Because they also depend on high intensity feed, the same thing will happen to countless young hogs and lambs. The dairy farmer will sell off his herd if milk production continues to mean losses. And the cattle rancher will not put yearling steers and heifers on the feedlot if he knows his costs will exceed sales price.

And in the end it is the consumer who will pay the most for these shortages unless we act promptly now. The pattern reported in the press for broiler chickens is already being seen in eggs. For example, an egg producer in South Dakota told me this week that his cost of soybean meal has increased from five cents to twenty-five cents per dozen eggs in the past year. He will not continue producing eggs, even for a short time, if he is likely to lose money on every case of eggs he ships. And other products raised on high intensity feeds are not far behind.

So the government must move promptly to insure that the consumer has food products to buy.

The bill we are offering today offers the quickest and in the long run least expensive way to do this. It would require in emergency situations an adjustment in the maximum price for agricultural commodities whose supply is being reduced by the freeze. This would provide the sufficient incentive to keep farmers producing products consumers need.

Of course, there are other methods too.

The Administration announced two days ago that it has prohibited further exports of soybeans and cottonseed and their products, in an effort to stem the export of feed grains. Let us hope that these actions will retard the catastrophic increases in the prices of processed feeds which have occurred in recent weeks; however, it may be some days before we can know its effect.

Another method might be to determine immediately how Phase IV can operate for food, and move rapidly to a special Phase IV for food while working out the details for other sectors of the economy. The Administration is working toward that goal, but it appears some time off.

Yet another method might be to institute an emergency supplemental payment from the Treasury to food producers who are forced to sell at less than cost. Such an approach is not without merit, but it, too, involves complexities and may require some time to implement.

But none of these methods would be able to take hold for some time. By then it would be too late to bring back to life countless young animals needlessly slaughtered. Our amendment would be effective right away.

This amendment, Mr. President, offers a simple and effective method of dealing with a problem of potentially major proportions. It has the support of urban Senators, whose consumer constituents need an adequate food supply; it deserves and has the support of my colleagues from farm states, where adequate income is of paramount concern.

Mr. President, the other members of the Agriculture Committee and I met yesterday with John Dunlop, the Director of the Cost of Living Council. But while he agreed with the action the cosponsors of this amendment and I suggest, he said the administration would not act until the middle of July.

Mr. President, we cannot wait that long for the administration to act. And so, I urge that we pass this amendment today.

The PRESIDING OFFICER (Mr. HUDDLESTON). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from South Dakota (Mr. McGOVERN). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. SPARKMAN), is necessarily absent.

I further announce that the Senator from Washington (Mr. MAGNUSON) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "yea."

Mr. SCOTT of Pennsylvania. I announce that the Senator from Michigan (Mr. GRIFFIN), the Senator from Ohio (Mr. SAXBE), and the Senator from Texas (Mr. TOWER) are detained on official business.

The result was announced—yeas, 90, nays 4, as follows:

[No. 301 Leg.]

YEAS—90

Abourezk, Aiken, Allen, Baker, Bartlett, Bayh, Beall, Bellmon, Bennett, Bentsen, Bible, Biden, Brock, Brooke, Buckley, Burdick, Byrd, Harry F., Byrd, Robert C., Cannon, Chiles, Church, Clark, Cook, Cotton, Cranston, Curtis, Dole, Domenici, Dominick, Eagleton.

Eastland, Ervin, Fannin, Fong, Fulbright, Goldwater, Gravel, Gurney, Hansen, Hart, Hartke, Haskell, Hatfield, Hathaway, Helms, Hollings, Hruska, Huddleston, Hughes, Humphrey, Inouye, Jackson, Johnston, Kennedy, Long, Mansfield, Mathias, McClellan, McClure, McGee, McGovern.

McIntyre, Metcalf, Mondale, Montoya, Moss, Muskie, Nelson, Nunn, Packwood, Pastore, Pearson, Pell, Percy, Proxmire, Randolph, Roth, Schweiker, Scott, Pa., Scott, Va., Stafford, Stevenson, Symington, Taft, Talmadge, Thurmond, Tunney, Weicker, Williams, Young.

NAYS—4

Case, Javits, Ribicoff, Stevens.

NOT VOTING—6

Griffin, Magnuson, Saxbe, Sparkman, Stennis, Tower.

So Mr. McGOVERN's amendment was agreed to.

NUCLEAR ENERGY

Mr. MATHIAS. Mr. President, the June 1973 issue of Government Executive magazine carried an excellent article outlining the conflicting and varied demands which must be met by the Atomic Energy Commission. The article points out the difficult task of the AEC:

> It is hard to think of another Government agency that sits so clearly caught in a crossfire between public worry over economics—in this case, of an energy crisis—on the one hand and public fears over environmental protection on the other.

The article is particularly illuminating about the superb job being done by AEC's Director of Regulation, L. Manning Muntzing, in promulgating and executing effective regulations covering the construction and safe operation of atomic energy powerplants. I commend this report to my colleagues and ask unanimous consent that it be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

AEC Under Pressure

Barely a decade ago, if the Atomic Energy Commission's (AEC) regulatory staff issued one decision on a nuclear power plant construction application per year and had one or two more pending, that was a big activity. Not any more.

Just since 1966, when only some 20 nuclear power plants were licensed to operate and/or be built, AEC's regulatory function has literally exploded in scope and volume. At year-end 1972, for instance, 27 nuclear electric generating units were AEC-licensed to operate at full or partial power; 55 were in various stages of construction or in the review process for operating licenses; and 34 other proposed units were under review for construction permits. Projecting, among other things, the more-than-40 nuclear reactor-generators currently on order by public utilities but not yet under AEC licensing review, the regulatory staff anticipates its "unit workload" to climb from that 116 to 171 or possibly more by the end of Fiscal Year 1974.

Thus, in budget hearings this Spring, AEC Director of Regulation L. Manning Muntzing asked the Joint Committee on Atomic Energy for $54.5 million in FY74, a jump of $15.2 million or 39% over his FY73 budget. His request calls for an increase to 1393 (compared to 879 in FY72) in full-time regulatory staff employees. Though three key functions, *viz.* Development of Regulatory Standards, Inspection and Enforcement, and Management Support, all seek more funding, the fourth, Licensing, will require nearly half ($25.6 million) the funds requested—a jump of 39% over the licensing budget for FY73 and more than twice the licensing expenditures ($12.6 million) for FY72.

But numbers hardly begin to describe the growth in complexity and controversy of AEC's regulatory responsibility for the public and private use of nuclear materials and facilities. It is hard to think of another Government agency that sits so clearly caught in a crossfire between public worry over economics—in this case, of an energy crisis—on the one hand and public fears over environmental protection on the other.

Typically, in one recent exchange, it was hit:

By Ralph Nader and a self-styled Union of Concerned Scientists that it had "vetoed the AEC's own safety experts and sided with the industry by proposing (new) safety standards with glaring inadequacies (but) which will not interfere with reactor licensing." The charge, Muntzing told *Government Executive* succinctly, "is technclogically not supportable."

By industrialists at an association meeting in Washington that, in view of today's "genuine crisis in energy," where the inventory of nuclear power plants today "is where it should have been 10 years ago; and would be were it not for AEC hypersensitivity to uninformed Public criticism." Muntzing has heard that before. Said he in November, 1971, a month after he was appointed to his present post, "The AEC is here to serve the public interest as a whole. Its purpose is to achieve and enforce public goals. To be specific, the AEC's primary role is to regulate light-water nuclear power reactors, not to promote them."

In sum, the Regulatory mission is "to ensure that activities involving nuclear materials and facilities are conducted in a manner which will protect public health and safety, preserve environmental quality, and maintain national security."

EXPERIENCED SOME "BLOWDOWNS"

How well they've done so far is on the record. Not since the first use of a nuclear reactor to generate electrical energy has any public utility employee or member of the Public been injured by the failure of a reactor and the accidental release of radioactivity—an amazing record in an advancing, high-technology industry. Notes Muntzing, "Probably the worst thing we can say we've experienced are some 'blowdowns,'" i.e., the unplanned escape of reactor coolant because the safety valves, after opening as they should, failed to close.

Pointedly, a safety projection by AEC, based on present and predictable future safety requirements, shows that by the year 2000, when some 1,000 nuclear power plants are expected to be in operation, the likelihood of a catastrophic accident occurring are predicted to be one chance in 100 billion per year.

As to the radioactivity permissable in routine reactor discharges, Muntzing says the standard is "as low as practicable" which, he says, means "as low as practically achievable, taking into account the state of the technology and the cost of improvements in relation to their benefits." That translates into saying that, in general, the annual exposure of individuals will be about one percent of the limits set forth in Federal radiation protection guidelines; or, in essence, the equivalent of the natural radioactive exposure a person would receive in a round trip airline flight between Washington, D.C., and San Francisco.

The industry says that is excessively severe; but says Muntzing, "Where the technology to achieve (those standards) is available, (the uncertainties) should be resolved in favor of the public." His objective: "We have a very tough regulatory program. We want to be fair but we will be firm, too."

Specifically, AEC regulations build into nuclear power plant operation three levels of defense:

1-A primary level which, in simplest terms, means seeing that everything in the system, thick walls, redundant controls, etc., is designed and built to—and does—work right;

2-A secondary level of defenses which assumes even if it is built right, the plant will have an "early alarm" system, with back-up systems, to shut down the plant in case something doesn't work right anyway;

3-A third level which postulates that even beyond the first two levels it is hypothetically possible to have a failure of several redundant protective systems simultaneously with the accident they are intended to control. Thus, the third level demands plant features and equipment, such as emergency core cooling systems (ECCS) and containment structures to further protect public health and safety.

Maintaining and improving that "defense-in-depth" is an endless effort involving thousands of man-hours of continual study, research, and data gathering both from plants in operation and from industry and AEC research and development programs—and change in the regulations to adjust to the new knowledge. And even beyond that, says Muntzing, "we'll listen very carefully to anyone who feels there is a problem—just to make sure we haven't overlooked anything."

Best recent example: the regulatory staff received, from what turned out to be a disgruntled industry employee, an anonymous letter complaining that pipes at one nuclear site were in the wrong location. They rechecked every plant and plans for proposed plants in the entire inventory to be sure there was no problem, or to require corrections where problems did exist.

Sums up Muntzing, "We are very sensitive because we are determined to listen to every point of view, though," he adds, "sometimes a point of view has more emotion in it than technical contribution to make."

Nor, as anti-nuclear power critics often suggest, does the regulatory staff work behind closed doors. "We operate in the context of public hearings," says Muntzing. "It is mandatory on a construction permit request and at the public's option on an operating license." Moreover, they will voluntarily release to any "intervenor," as these public inquirers and/or objectors are called, internal AEC memoranda dealing with any problem being raised, as well as make available AEC or AEC laboratory personnel requested for questioning by an "intervenor."

But one thing all that openness does mean is that a contested hearing is the rule rather than the exception—which serves largely just to add to the regulatory staff's legal and technical workload. But there is more. On top of the sheer volume increase in construction and operating license applications, is the requirement that AEC must continue even after that to inspect power plants for regulation compliance throughout their operating life. On top of the public hearings concerning plant safety, the staff must prepare draft and final reports on the environmental impact of both operating and proposed new plants.

This task, under the National Environmental Protection Act, was laid on the AEC regulatory staff by the famed (or infamous, as the viewpoint may be) Calvert Cliffs (named after a plant going in near Baltimore, Md.) decision. Rendered in mid-1971, it caught the staff largely unprepared and they are only now beginning to work themselves out from under the burden of doing some 60 environmental-impact studies right away, let alone getting on schedule with the rising volume of new site applicants.

TRADEOFFS TO BE EVALUATED

Of their track record to date on the environmental side, Muntzing thinks "The public is satisfied generally with the routine operation of the plants. There is virtually no air pollution, and when necessary, alternative means to control thermal pollution have been incorporated." But, he suggests, more work needs to be done to evaluate just how much heat pollution a receiving body of water can afford to accept above its ambient nature temperature.

"There are tradeoffs that have to be evaluated," he said. "Cooling towers control the thermal pollution problem but they evaporate water, a problem if water is scarce." In one plant location a court-imposed restriction resulted in "thousands of acres of land being torn up to recycle water to avoid heating some 50 acres of water in a bay." Muntzing's point: "It is possible to create some problems worse than the one to be solved."

The builders and buyers of nuclear power plants are less patient about such things. Officials among the major nuclear reactor builders (Westinghouse, General Electric, Babcock & Wilcox, Combustion Engineering, Gulf General Atomic) and hosts of public utilities claim all this public outcry not only has ballooned the initial capital cost of nuclear power plants, but is largely uninformed and unwarranted.

Though they are almost all privately angry, one, Westinghouse Electric Corp. Chairman Don Burnham, summed up the complaint in public recently. Said he: "It is inconceivable that the opposition of a relatively few people could be permitted to halt or even slow down progress in nuclear power which represents man's greatest resource for meeting his future energy needs and one of his most effective tools in the fight against air pollution. . . .

"If those misguided opponents of nuclear energy should be successful in blocking its application at this time when our Nation is facing a genuine crisis in energy, the Nation would suffer a setback of major proportions."

Fending off industry's complaints to override these "misguided opponents" and get on with the program is only one of Muntzing's problems with the industry. Another: "We are just beginning to get into anti-trust problems, primarily holding hearings on matters of the relationship with small public utilities which want to buy power at a competitive price." (Though nuclear plants cost more to install, they have a lower operating cost over the life of the plant—that, plus fuel availability, being the major reasons the big public utilities, which can afford the down-payment, buy them.)

Still another industry growl: AEC's announced plan to raise its license fees. Indicative of the range: a construction permit fee would increase from $300,000 to $760,000; an operating license fee from $410,000 to $805,000; the annual fee from $36,000 to $195,000.

The new rates will produce an estimated $32 million in FY 1974. Charged to cover expenses in connection with handling license applications and inspections, the raises are designed to get the system around to being self-sufficient. Says Muntzing. "We believe since the licensee is getting the benefit from the license, he ought to pay at least the cost associated with his plant or activity."

But the one complaint of the industry most prevalent in the past is the one Muntzing feels he has just about brought under control, i.e., the too-long lapse of time between permit application and AEC approval. More pointedly, notes one industrialist, AEC's regulatory function was in a hole and going nowhere. "Now it looks as though it's turned around." Specifically, out of the average 8-10 years from concept to start of operation to put a plant in, as much as 48 months was consumed from the time application was filed until it produced a license.

In the construction permit phase, for instance, as late as 1970, the safety review alone, on the average took 23 months, but has been whittled down to an average 15 months in 1973. Though the report on it, in each applicant case, is often bigger than the 1.5-inch or so detailed report on environmental impact. Muntzing's objective is that "the time taken needs to be compressed. It must be, which results in the need for additional people."

He acknowledges, "There is no doubt, in the short term, plants have endured delays. AEC bears part of the responsibility, but there have been construction delays, too, and component parts not delivered on time." His goal in months: to compress the review time on valid applications to a maximum 12 months. Performance to date: "We're looking at several requests that may miss by two-three months," a far cry from the past, but "we're not willing in the future to accept even that kind of miss."

THE CHARGE IS NOT SUPPORTABLE

One help: a standardization program which includes AEC's announced intention not to accept any application for a plant in excess of a 1300 megawatt electrical power range. (Sixty megawatt plants were initially the usual size proposed for construction; today, most requests are in the 800–1000 megawatt range.)

Another standardization help: development of standard application forms and of standardized Siting Criteria for Nuclear Power Plants. A third help: increased staff—though achieving that buildup is not an easy task. To get 25 professional employees, AEC screens an average 400 applicants for the regulatory staff, interviews from those some 100 candidates.

Finally, just as "We have never approved an application as submitted, but in every case have insisted on changes ranging from improved seismic protection, environmental and safety protection, etc.," so the regulatory staff "does not recall ever having received a single application in the past that was complete, adequate and up-to-date." That charge Muntzing levelled in 1971.

Added he, pointedly, "If it is clear that a real effort has not been made to provide the information that we obviously need, we will not accept the application. Industry starts the ball rolling in this game. We cannot carry the ball and make good headway if applicants fumble it each time they file a licensing application."

Apparently such lectures helped. Muntzing's promise today: "We intend to make a licensing decision at substantially the same time the plant is finished. If the construction capabilities of the utilities can be increased, the regulatory function will keep up."

Keeping up will not mean just running in place. Says Muntzing, himself, "In 1962, it was predicted that by 1980 seven percent of the Nation's electrical energy would be supplied by nuclear power. Today, the Federal Power Commission predicts that electrical energy demand will double by 1980 (to 3,200 million megawatt hours) and double again by 1990.

"Their projections call for nuclear power, which in 1970 supplied 1.4% of the Nation's electrical power generation, to supply 28% in 1980 and 49.3% in 1990."

THE 20TH ANNIVERSARY OF THE AMERICAN POLITICAL SCIENCE ASSOCIATION'S CONGRESSIONAL FELLOWSHIP PROGRAM

Mr. HUMPHREY. Mr. President, this year we observe the 20th anniversary of the highly successful congressional fellowship program. I wish to express thanks and appreciation—in which I know many Senators join—to the 44 congressional fellows who are just now completing their year in the Congress and to the American Political Science Association for sponsoring this outstanding program in education and public service.

I know most Members of this body are thoroughly familiar with the congressional fellowship program. It began in 1953–54 with a grant from the Edgar B. Stern Family Fund of New Orleans. Its purpose was to bring outstanding young political scientists and political journalists to work with us in Congress and thereby develop greater knowledge of the legislative process.

Since that time, the composition of the program has become increasingly diversified. In addition to the political scientists and journalists, it now includes law professors, Federal civil service employees from both domestic and foreign affairs agencies, foreign fellows from Asia and Western Europe, as well as academics from other science disciplines. Moreover, the program will soon include young medical doctors in a special health policy section.

The benefits to these highly talented individuals and to the Congress are substantial. On the basis of their experiences in the program, congressional fellows have contributed in very important ways to the public understanding of Congress. Alumni of the program include university presidents, vice presidents, deans, department chairmen and professors; newspaper and magazine editors, columnists and reporters; federal bureaucrats, a number at supergrade and assistant secretary levels; congressional committee and office staff; and foundation and business executives. Well over 300 books and articles, to say nothing of countless newspaper items, have been produced largely as a result of the fellowship experience.

At the same time, congressional fellows have made substantial contributions as staff members in the various offices and committees in which they have served. During the past two decades, 86 Senators and 43 Senate committees and subcommittees have enjoyed the fresh perspectives and skilled work of congressional fellows. Some, like myself, have had congressional fellows in their offices virtually every year since 1953. Obviously, this is an arrangement in which everyone benefits.

The outstanding success of this program is due in no small part to the independent financial support it has been accorded by private foundations and corporations over the past 20 years. Funded initially by the Edgar Stern Family Fund of New Orleans and subsequently in large part by the Ford Foundation, the program has received additional contributions from the Courier-Journal and Louisville Times Foundation, the New York Times Foundation, the Shinner Foundation, the Poynter Fund, the Revlon Foundation, the Bush Foundation, the Joseph E. Davies Foundation, and the Helen Dwight Reid Foundation.

Mr. President, I think we owe these foundations a sincere expression of thanks for providing the financial resources which makes it possible for us to have the services of the fellows for a session of Congress. I know I speak for this entire body in urging the private sector to continue its support of this truly exemplary program into the next decade.

Dr. Evron Kirkpatrick, the executive director of the American Political Science Association—and, I might add, a fellow Minnesotan, a former professor of mine at the University of Minnesota, and a very dear and close friend; and the entire staff of the APSA are to be congratulated for their fine direction and administration of this program. Over the past 20 years, they have afforded a truly unique opportunity to 571 fellows and over 300 congressional offices. The American Political Science Association has our congratulations and appreciation for a job well done.

Mr. MONDALE. Mr. President, today marks the 20th anniversary of the American Political Science Association's congressional fellowship program. I am pleased to join my colleagues in expressing support for this excellent program, and in wishing it as much success in the future as it has had in the past.

The Congress is presently the center of a crisis in our Government. As it gropes for its proper role, it is vital to the health of the Government that more of our citizens, both in and out of Government, understand how Congress works as an institution. Only with that understanding, can there be a sympathy for and confidence in the operation of our Government.

The congressional fellowship program fills the need for understanding of and knowledge about the institution in two ways: It offers persons employed in executive agencies the opportunity to learn for themselves about the Congress with which many of them work on a daily basis; and it provides the opportunity to persons teaching about government to gain the experience in the ways of the Congress at first hand. In both ways it expands understanding of Congress, through the better functioning of government and through the students of teachers who have been through the program.

There is, of course, another important effect of the program—one which is significant to those of us in the Senate and the House who have worked with the program. It offers an important source of competent staff. Every year, some of those who are in the program stay on in one staff capacity or another, the opportunity for doing so having risen through their participation in the program.

Every year that I have been in the Senate, I have offered the opportunity to a participant in the program to spend their stint on the Senate side in my office. In every year, save one, there has been a congressional fellow in my office. I hope their experiences have been as rewarding for them as their contributions have been to me. Among the projects on which fellows have worked are the following:

Organization of my participation in "Earth Day";

Preparation of the "fair warning" amendment to the automobile safety legislation;

Work on HELP legislation;

Service as press assistant;

Preparation of subcommittee hearings on State taxation of interstate commerce; and

Development of clear lakes legislation.

Naturally, my office is as crowded and busy as other Senate offices. I want to express my appreciation to those fellows who have braved the noise and lack of space to contribute to the work product of my office.

To the rest of the Senate, I recommend the program. It is an important contribution in these days of big government. I will continue to support it as I have in the past, and hope for many more successful years for the program.

Mr. PACKWOOD. Mr. President, it gives me great pleasure today to join with many of my colleagues in saluting the 20th anniversary of the congressional fellowship program. As most of my colleagues know, this program has brought more than 500 young political scientists, journalists, and Federal agency executives into various congressional offices. The program gives these future leaders of our country a firsthand look at the legislative process and an opportunity to study it in depth. I applaud this effort because I believe firmly that greater mutual understanding among Congress, the executive branch, the press, and the academic community can only work to the ultimate benefit of us all.

Of equal importance to the knowledge and experience gained by the fellows in Congress, is the expertise and assistance they bring to us. I have been privileged to have three congressional fellows in my office, and without exception they have been thoroughly professional, unusually able, and a definite asset to me in accomplishing my legislative tasks. All three—Mr. Paul Vander Myde, Mr. Clay Peters, and Mrs. Patricia Taylor—have served with distinction, and I feel sure that their high qualifications are typical of the congressional fellows as a group. Certainly the subsequent success of many of these people in their chosen fields testifies to their abilities.

Again, Mr. President, it gives me great pleasure to be on record with my admiration for the congressional fellowship program. I believe it has more than proved its worth and I strongly support its continuation. There is no better investment that we can make in America's future than to insure that promising young leaders have the best possible understanding of the legislative process—with all of its problems, frustrations, and triumphs.

Mr. STEVENS. Mr. President, I would like to join many of my colleagues in giving recognition to the 20th anniversary of the congressional fellowship program sponsored by the American Political Science Association.

I have participated in the program for several years now, and my office has benefited from the fresh perspectives and skilled work of the congressional fellows who have worked with me. At the same time, I am hopeful that my office has provided the fellows with a good firsthand view of the operation of the Senate and the particular role of Alaska in the Union.

I would like to acknowledge the substantial contributions to important issues made by the fellows who have worked in my office.

Mr. Ed Westen, a political science, APSA congressional fellow, was the first fellow who introduced me to the program. He assisted my office with incisive research into coastal and continental shelf jurisdiction.

Bureau of Indian Affairs APSA fellow Dr. Richard Keating worked on a wide range of social issues and made valuable follow-up studies on the implementation of the Alaska Native Land Claims Settlement Act. He also assisted with the administration and management of my office.

Department of Navy APSA fellow Paul Newton investigated the initiation of trade between Alaska and the people's Republic of China. I am hopeful his work will yet bear fruit as relations between our countries improve due to President Nixon's détente policies.

Mr. Carl Bogar, APSA congressional fellow from the General Accounting Office, is presently working in my office. He has provided much in-depth research on multi-faceted aspects of the energy crisis and the trans-Alaska pipeline project.

I am pleased to make it a matter of record that the APSA fellows with whom I have been associated have added to both the quantity and quality of the work performed in my office. Each of the fellows has brought his own special expertise to bear on the various matters on which he worked to the mutual benefit of the Congress, the sponsors and themselves.

I assume my experience with the APSA congressional fellowship program is indicative of the general reaction of Members of Congress who have participated in the program. Recognition today of APSA's 20th anniversary is a deserving tribute to the fellows who have insured that the welcome mat will be out for fellows who will follow in the program.

Mr. DOMINICK. Mr. President, in 1953, a program was established which was designed to equip outstanding young political scientists, journalists, and Federal agency executives with a better understanding of the national legislative process. This program, known as the congressional fellowship program, has subsequently provided some 571 fellows a firsthand view of the Congress through an intensive orientation combined with internship assignments in the House and Senate.

Today marks the 20th anniversary of the congressional fellowship program, and as a former member of the advisory council for the program, I wanted to take this opportunity to provide some recognition to this program which enjoys such an excellent reputation among Congressmen, executive agency officials, and members of the press. I personally have welcomed a number of fellows onto my staff in my 11 years in the Senate, the most recent of whom completed his internship in my office in May of this year. The mixtures of their responsibilities have varied, but their work has typically been highly professional and valued by myself and my staff.

The success of the program has been attested to many times, the most recent occurrence involving the Speaker of the House, the minority leader, and 58 Congressmen. They stated that the program had been one of the most productive and useful educational programs in the Congress, and had provided mutual benefits to both the Congressmen and the fellows. They stated further that the better understanding of congressional operations by future leaders in the executive branch, the academic community, and journalism had contributed in a most positive way to public information and discussion of the important issues facing Congress.

Mr. President, I believe the first 20 years of the congressional fellowship program has resulted in the upgrading of teaching and research, political reporting, congressional staffing, and executive administration. I hope the directors of the program will continue to provide the Members of the Congress with high-caliber young men and women so as to insure the continued success of this truly beneficial program.

Mr. CHILES. Mr. President, I am delighted to join my colleagues today on the occasion of the 20th anniversary of the congressional fellowship program. The program has had my strongest support since I began my term in the Senate. It has proved to be a valuable program—valuable to the individual young journalists, political scientists, and Federal agency executives who participate in it as well as valuable to the offices of the Senators and Congressmen who offer the internships.

Each of the three fellows who have worked in my office exhibited a sincere willingness to learn as well as contribute. Ours was, I feel, a relationship of mutual learning. Every intern, I believe, attained a clearer understanding of our political system and particularly our legislative process, and I myself, as well as members of my personal staff, have benefited enormously from the fresh perspectives and skilled work of our fellows. I might point out also that each participant is so highly qualified it enabled our office to utilize tremendous expertise without any additional cost to our operating budget—and to a freshman Senator from a populous State like Florida, this is also an important consideration.

I am delighted to take this opportunity to let my Senate colleagues know of my own good experiences with this program. I consider the congressional fellowship program to be a superior one—a truly outstanding mechanism for improving understanding of Congress and for involving a valuable exchange of very talented people. And I look forward to having another intern in my office soon.

Mr. MOSS. Mr. President, in all, six congressional fellows from the American Political Science Association have served on my Senate staff. All have given us excellent assistance—and some of them have been truly superlative in their fields.

The men and women who have served, the years in which they served, and their sponsors are as follows: 1962, John Lim, Korean, from Asian Foundation; 1969, John Hawley, University of Tulsa; 1970, Stephen R. Weidman, Internal Revenue Service; 1970, Carla L. Rethmeyer, CIA; 1971, Michael Alonge, New York Daily News; and 1973, Jim Russell, Environmental Protection Agency. Each of these people made a special contribution based upon his individual talents and expertise. John Lim gave us some valuable thinking on foreign relations, and I believe returned to his native Korea to serve in its diplomatic corps. The last I heard of him he was a popular ambassador from his country to Kenya.

Jon Hawley worked directly and most effectively with my staff on some of my own bills, including measures to establish three national parks in Utah. He also helped develop and worked on a constitutional amendment I introduced to reform the electoral process for choosing the President and Members of Congress.

I understand that Jon is now serving as legislative assistant to Congressman GUY VANDER JAGT, of Michigan, and will soon publish a book entitled "To Be a Congressman—The Promise and the Power."

Steve Weidman did an exhaustive research job on crime and its causes which was the basis of many statements and speeches I made on this subject. He was also an "idea man" for some legislation in the tax field.

Carla Rethmeyer proved to be one of the best research people I have ever had on my staff, as well as a good writer. She became an expert on several bills before the Post Office and Civil Service Committee, including the complex wage board bill, and on a number of other issues.

Michael Alonge came to my office from the New York Daily News, and he was able to help immensely with press work. He also worked on several bills.

Jim Russell left the staff only a short time ago to serve the remainder of his fellowship year with my colleague, Congressman WAYNE OWENS, of Utah. Jim gave us what was probably the most penetrating comments and guidance on environmental issues which we have ever received. His knowledge in this field was invaluable, and we are still missing him.

I join with my colleagues today in praising the work of the American Political Science Association in the congressional fellowship program, and in thanking them for making available to my office the services of the six skilled and talented men and women. They gave to both me and my staff new perspectives on a number of issues. They helped us carry our immense workload with deeper and better research on many problems. I hope this highly successful program will continue, and that my office can be the beneficiary of the services of many American Political Science Association fellows in the future.

Mr. PROXMIRE. Mr. President, 20 years ago the American Political Science Association began a then unique experiment in participatory politics. The Association initiated a congressional fellowship program with an enrollment of six political scientists and journalists. The idea was to give these young people, who would be teaching or writing about politics for most of their adult lives, an opportunity to see firsthand what made the legislative branch tick by serving in congressional offices.

That was only the beginning. Now 44 congressional fellows participate in the program, including career civil servants, and Asian fellows. In early November these highly qualified men and women, selected through a rigorous screening process, assemble in Washington for an orientation period, including many seminars with prominent figures from all three branches of our Government as well as established lobbyists, journalists, lawyers, and so forth. In early January they start the first of two assignments—serving 4½ months in the House and 4½ months in the Senate.

I have been fortunate enough to have a number of congressional fellows on my staff. One ex-fellow returned and now serves as one of my legislative assistants. Another is a constant source of help as one of the Banking Committee's ablest staff men. And my story could be repeated dozens of times by other Members of Congress.

But the primary benefit of this program is not the training of fellows for permanent work on the Hill. The primary benefit is the creation of a large number of professors, newspapermen, civil servants, and foreign leaders who know how the Congress works from the inside. These ex-fellows are in a much better position to understand what the Congress does and explain it to others than they would have been without their Hill experience.

Today I want to salute the American Political Science Association and its congressional fellowship program on the occasion of the program's 20th anniversary. It has set the pattern for many other programs that have sprung up in its wake. But it is an original. It fulfills a real need. It continues to make a vital contribution to the understanding of politics. I wish the program 20 more years of uninterrupted and vigorous success.

Mr. METCALF. Mr. President, it has been my privilege over the years to have in my office various members of the congressional fellowship program of the American Political Science Association.

These experienced and skilled young men have made a tremendous contribution to my office. They have performed services that would challenge my most experienced staff members. Some have become specialists in special legislative programs. Others have assisted in all the myriad ways that come up in every congressional office. In every case their contribution has helped me in carrying out my duties and I hope each of them has departed with a greater knowledge of Congress as it really works. The men who have served part of their internship in my office follows together with their present positions.

They have returned from time to time to advise and consult. They have always been helpful.

The names of the interns are:

L. Boyd Finch, Deputy Director for Southeast Asia Area—National Park Service.

Charles E. Young, Chancellor of UCLA.

Luther J. Carter, Reporter, Science Magazine.

Richard Warden, Assistant Legislative Director, United Auto Workers.

James F. Hoge, Jr., Editor, Chicago Sun Times.

Marvin G. Weinbaum, Professor, University of Illinois.

Robert O. Blanchard, Chairman, Department of Communications, American University.

Donald W. Robinson, Editor, Register Guard, Eugene, Oregon.

Bahukutumbi Raghavan, Deputy Secretary, Ministry of Home Affairs, New Delhi, India.

Mervin K. Strickler, Jr., Chief, Aviation Education Programs, Division of FAA.

David R. Mayhew, Professor at Yale University.

Paul G. Hayes, Reporter, environmental reporter, Milwaukee Journal.

David M. McNeely, Reporter, Dallas Morning News.

John W. Caldwell, U.S. Patent Office.

Gordon W. Dean, Bureau of Mines, Department of Interior as of 1970.

Alfred C. Franklin, Special Subcommittee on Education, U.S. House of Representatives.

Stephen E. Ponder, Staff of Congressman Lloyd Meeds (Wash.).

Leonce A. Cambre, Forest Service.

Jerry German, Staff of Congressman Lloyd Meeds, Under the APSA Fellowship Program.

Richard P. Conlon, Staff Director, Democratic Study Group.

Samuel W. Bowlin, Assistant for Legislative Affairs, International Division, General Accounting Office.

George A. Trail, III, American Consul in Kaduna, Nigeria, Africa.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there further morning business?

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

EMERGENCY EMPLOYMENT AMENDMENTS OF 1973

The ACTING PRESIDENT pro tempore (Mr. ALLEN). At this time, in accordance with the previous order, the Chair lays before the Senate S. 1560, which the clerk will state.

The assistant legislative clerk read as follows:

The bill (S. 1560) to extend the Emergency Employment Act of 1971, to provide public service employment for disadvantaged and long-term unemployed persons, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Public Welfare with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Emergency Employment Amendments of 1973".

AUTHORIZED APPROPRIATIONS

SEC. 2. (a) Section 5(a) of the Emergency Employment Act of 1971 is amended by striking out "and $1,000,000,000" and inserting in lieu thereof $1,000,000,000 each" and by inserting before the period at the end thereof a comma and the following: "and for the fiscal year ending June 30, 1974, and such sums as may be necessary for the fiscal year ending June 30, 1975".

(b) Section 6(a) of such Act is amended in the second sentence thereof by striking out "for the succeeding fiscal year" and inserting in lieu thereof "for the two succeeding fiscal years, and such sums as may be necessary for the fiscal year ending June 30, 1975".

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. NELSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

Mr. **NELSON.** Mr. President, the legislation now before the Senate, S. 1560, the Emergency Employment Amendments of 1973, would extend this successful job creation program for 2 additional years, and focus it more sharply on unemployed Vietnam veterans, the poor, and the long-term unemployed.

While the overall budget—as proposed by the administration—will increase by some $19 billion between 1973 and 1974, this legislation proposes to hold the line on spending: the bill authorizes precisely the same amount for fiscal year 1974 as was appropriated for last year—$1.25 billion.

VETERANS

Everyone agrees that the Nation owes a debt of honor to those who serve in time of war. Especially to those who were drafted and asked to face the possibility of death or dismemberment. Everyone agrees on principle. But we are falling down on the job. The incredibly high unemployment rate—10.5 percent—for young veterans proves this fact.

Veterans coming back from World War II got better treatment. The Nation welcomed them with open arms. Gen. Omar Bradley headed the Veterans' Administration. The GI bill covered full tuition and gave each man $75 a month, equivalent to 35 percent of the average monthly wage. Now the GI bill does not pay tuition at all. It provides more money—$220 a month—but that is only barely enough to cover the average private college tuition of $1,900 a year. And even at State colleges it leaves enough left over to equal only about a sixth of the average wage.

In addition, the unemployment rates in the years immediately after World War II—3.9 percent for 1946 and 1947 and 3.8 percent for 1948—made the job search a lot easier.

In today's job market—with unemployment overall at nearly 5 percent, with the GI bill providing much less substantial help for those seeking training, and with the Nation sick and tired of hearing about the Vietnam war—the veteran is in serious trouble.

The Emergency Employment Act has helped substantially. It pays decent wages—averaging $2.81 an hour. It provides meaningful work. It would be unfair to the Vietnam war veteran to end this program now, as the administration asks. It ought to be expanded, and at the very least we must continue it at its present level.

BACKGROUND

The passage of the Emergency Employment Act in 1971 was an historic occasion. It marked the recognition by the Nation that the Federal Government has a responsibility of providing jobs during times of high unemployment. Such a program has been urged strongly for almost a decade by many commissions and experts convinced that the only solution to the problem of persistent poverty in America is full employment at decent pay, and that a major part of the effort to achieve fuller employment must be through public service employment.

In his veto message concerning the Employment and Manpower Act in December 1970, the President had been critical of what he saw as the "dead-end jobs in the public sector" which he thought that bill would provide.

Actually the provisions of the Employment and Manpower Act would have tied jobs in the public sector very closely to training and upgrading programs.

In any case the veto message went on to say:

> Transitional and short-term public employment can be a useful component of the nation's manpower policies . . .

It was with this language in mind that we drafted the Emergency Employment Act in January of 1971, to provide for transitional jobs during periods of high unemployment.

In signing the Emergency Employment Act on July 12, 1971, the President recognized the value of the legislation. He said:

> America needs more jobs, and it needs them now. This administration is working to meet this need. The Emergency Employment Act of 1971 will mean more than 150,000 additional new jobs for our unemployed and our underemployed. I am especially pleased that our returning veterans will be favored by the act, and that those with little or no job training, such as unskilled youth will also have a chance to get jobs through this measure. The jobs provided by the act will be in the field of public service, in such areas as environment, health, education, public safety, crime prevention, prisons, transportation, park maintenance, recreation, rural development, and sanitation.
>
> A very important feature . . . is that the jobs will be 'transitional' . . . The employment will be real and steadying; it will not be a dead-end entrapment in permanent public subsidy. . . .

The results of fully 2 years of experience are now in. And the results are overwhelmingly positive.

The President's own manpower report has laid to rest the fear that public service jobs would not be "real." In the words of the unfortunate veto message on the 1970 comprehensive manpower bill, the administration feared "dead end jobs—that—are not the answer for the men and women who have them, for Government which is less efficient as a result, or for the taxpayers who must foot the bill."

The 1973 manpower report of the President—released in March—states the facts clearly:

> According to recent surveys, the jobs are perceived as useful, rather than 'make-work' by both the persons holding them and the public whom they serve.

Testimony before the Subcommittee on Employment, Poverty, and Migratory Labor has praised the emergency employment program in the strongest terms.

Mayor Arthur J. Holland, of Trenton, N.J., testified before the committee in these words:

> The EEA of 1971 has been the best program to come out of Washington in the last 4 years of those that were intended to meet the needs of the cities. This particular program is the greatest thing that has happened to our city in the last several years.

Mayor Stanley A. Cminch, of Canton, Ohio, said:

> The public employment program has been a godsend to my own city of Canton. It enabled my city to meet basic needs that were unmet due to lack of dollars. (It) literally meant survival for our transit authority and it pumped new life into our financially burdened library and school system.

Repeated studies have documented that there is an enormous backlog of jobs to be done, jobs in the front lines of bringing needed services to citizens, and jobs that the unemployed can fill and perform well.

Prof. Sar Levitan and Robert Taggart, of the George Wshington University Center for Manpower Policy Studies, report in their "Evaluation of the First 18 Months of the PEP Program," that—

> PEP jobs are similar to those already being carried out at the state and local level . . . i.e., clerks, typists, guards, maintenance men, road crews, repairmen, warehousemen, and a few teachers and administrators . . .
>
> In most cases, the positions were selected from those which had been requested by various departments in the preceding budget, or in a few cases, from among the jobs which had been cut back because of limited funds . . .
>
> In summary, PEP jobs are probably as 'real' as any other state and local employment . . .

The Emergency Employment Act was passed in 1971 to meet the crisis in unemployment. Unemployment stood then at 6 percent of the work force, with over 5 million unemployed.

The bill itself contains a trigger mechanism so that the larger part of the program would come to an end when unemployment fell to 4.5 percent of the work force.

Section 6 of the bill would continue to provide funds to areas with unemployment of over 6 percent.

In June of this year we had not reached that trigger level, although unemployment fell to below 5 percent for the first time in 36 months. And 4.8 million Americans were still unemployed.

Mr. President, in recognition that the employment situation in the Nation as a whole has improved since the passage of the Emergency Employment Act in the summer of 1971, the committee has proposed that the act be more sharply focused on those most in need of jobs, specifically Vietnam veterans, the poor, and the long-term unemployed.

The continued high rates of unemployment for young Vietnam war veterans is a nationl scandal.

The overall rate of unemployment for these veterans—6 percent with some 262,000 looking for work in June—is serious enough.

But for those 20 to 24 years of age the rate of unemployment was even more serious: 10.5 in June—up nearly 2 percent since May—with 163,000 young veterans looking for work.

For younger black veterans, the unemployment rate is over 15 percent.

The Emergency Employment Act—with a potential of about 180,000 jobs a year if it operated at the appropriated $1.25 billion level—could make a serious dent in the unemployment problem of these veterans.

With this in mind, the bill provides for all sponsors of public service employment programs to prepare plans designed to assure that by the end of fiscal year 1974, 50 percent of the jobs under the Emergency Employment Act will be held by veterans. It would, of course, be possible for more of the jobs to go to veterans at the discretion of the local communities.

During its 2 years of operation the EEA has done well by veterans. Fully 27 percent of the jobs have been filled by Vietnam-era veterans. But we can and we must do better.

For the remaining jobs under the program we believe it only fair that they be reserved for the economically disadvantaged, and those who have been seeking work unsuccessfully for 15 weeks or more who are called the long-term unemployed. As of February 1973, some 39 percent of those hired under the act qualified as disadvantaged and 12 percent came to the program from the welfare rolls. As economic conditions in general improve, the committee believes it important that future emphasis be given to providing jobs for those who need them most, and who have the greatest difficulty in finding jobs in the private sector.

A person who has been looking for 15 weeks or more—nearly 4 months—as some 775,000 Americans had been in June of this year—deserves help. So the amendments are written to provide eligibility for the long-term unemployed even if they do not qualify as poor or as veterans.

Despite the improvement in the job picture for the Nation as a whole, some 37 of our 150 major labor markets are still listed as areas of persistent high unemployment. These include:

Jersey City, N.J.	9.1
Lowell, Mass.	9.0
Brockton, Mass.	8.8
Takoma, Wash.	8.4
Muskegon, Mich.	8.8

Our unemployment data, significant as it is for the Nation as a whole, fails to tell the complete story of the extent of unemployment in urban and rural poverty areas—where unemployment has most devastating impact on the lives of individuals and the Nation.

We do have accurate and detailed information for 1970, however, the year of the last census. A detailed survey was made of labor market conditions in some 51 cities by the Census Bureau.

As it happens, the months when the survey was taken were also months, just like the last few, when the national unemployment rate hovered around 5 percent.

Some would have us believe that 5 percent ought to be considered normal. But in 1970 the Census Bureau documented that 5-percent unemployment for the Nation meant 10-percent unemployment in the inner-city labor markets of our metropolitan areas.

Let me give you some examples:

New York	8.1
Chicago	10.6
Philadelphia	8.7
Detroit	14.0
San Francisco	12.5
St. Louis	10.5
Milwaukee	11.8
Atlanta	8.2
Miami	10.3
New Orleans	12.5

As I said before, these statistics are from 1970. The administration has not provided more up to date statistics on unemployment in poverty areas. But I believe the data continues to be relevant.

Let me also note the areas surveyed by the Census Bureau on 1970 were not simply the very poorest parts of town. On the average, one-third of the population in the city was included. So these startlingly high unemployment rates are the labor market conditions faced by the poorest one-third of the Nation's cities.

If you go beyond the standard unemployment rate—as the census survey did—and ask additional questions in an attempt to determine how serious the labor market difficulties are in this poorer third of urban America, you find even more startling facts.

If you measure not only the 10 percent of the labor market in these areas who are unemployed, but also include those who want jobs but have stopped looking out of discouragement, and those working part time while seeking full time work, and those working full time but earning under $2 an hour, you find subemployment averaging over 30 percent for these inner-city areas.

Mr. President, these labor market conditions are extremely serious. The continued existence of mass poverty in the midst of the wealth of America is in large part due to continued extraordinarily high rates of unemployment in rural and inner-city poverty areas.

Manpower training programs, excellent as they are where good jobs are available at the end of the training program, are helpless where decent jobs are not to be found.

A growing understanding of these facts led to passing the public service unemployment program. Recognition of these facts should lead the Senate and the Congress to extend the Emergency Employment Act in 1973.

Of all the testimony the committee received on the Emergency Employment Act, among the most moving was that given by Mayor Richard Hatcher, of Gary, Ind. He spoke directly to the heart of the matter.

Mayor Hatcher pointed out that we have a choice: either we provide jobs or we inevitably create the conditions that lead to crime and welfare.

Mayor Hatcher said:

> If you go to cities with the highest unemployment rate or the highest underemployment, you will not only find there the greatest slum areas but also the highest crime rate. That is the sad reality.
>
> If we leave the unemployed idle—the ultimate costs will be 100 times greater to the government than if we put them under a program of public service employment . . .
>
> We can reduce the ultimate government costs by giving these people jobs where they can render useful services and compete with their coworkers to improve their qualifications for jobs of a higher grade-level, and where they have a steady income to make them self-reliant . . . to sustain themselves at a decent level . . .

Mayor Hatcher states the case for continuing the Emergency Employment Act about as well as it can be put.

If we are serious about the work ethic, then we must be serious about providing work opportunity.

If we are serious about reducing the welfare rolls, then we must be serious about providing adequate earned income.

Communities where 30 percent of the workforce is subemployed are bound to be communities in the most serious trouble, trouble with crime, trouble with welfare, trouble with hopelessness and despair.

The Government—and this world—owes no one a living. But the Nation does owe each of its citizens an opportunity to earn that living for himself.

The Emergency Employment Act extension we are considering today is too small a measure to meet the need. But it does represent a healthy start in the right direction.

The bill represents a compromise between those who would like to see the program substantially expanded, and the harsh reality of the administration's opposition to continuing the program at all.

In the judgment of the committee, the Emergency Employment Act is one of the very best manpower programs we have yet enacted. It is a proven success in the field and it ought to be extended.

Mr. President, I ask unanimous consent that a section-by-section analysis of the Emergency Employment Amendments of 1973 be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

EXHIBIT 1

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section provides that the Act may be cited as the "Emergency Employment Amendments of 1973."

Section 2. Authorized appropriations

This section extends the authorizations of appropriations for the Emergency Employment Act for two additional fiscal years beyond the expiration of the current authorization at the end of fiscal year 1973. Section 5 of the Emergency Employment Act would be amended to continue the fiscal year 1973 authorization of $1,000,000,000 through fiscal year 1974 and to authorize such sums as may be necessary for fiscal year 1975. The authorization contained in section of the Act (for areas of substantial unemployment) would be continued at $250,000,000 through fiscal year 1974, with such sums as may be necessary authorized for fiscal year 1975.

Section 3. Employment of the economically disadvantaged and long-term unemployed

This section amends section 7(c)(17) of the Act to provide that persons newly hired in public service jobs under the Act shall be from economically disadvantaged backgrounds or long-term unemployed persons who have been unemployed for not less than fifteen weeks.

Section 4. Allocation of funds

This section amends section 9 of the Act to provide that, in apportioning funds under section 5 of the Act, funds shall be apportioned only on the basis of the numbers of unemployed persons in each State and area.

Section 5. Priority for veterans

This section amends section 7(c) (4) of the act to provide that sponsors of public service job programs shall make commitments to assure that by the end of fiscal year 1974 not less than 50 percent of all public service jobs supported under the Act will be filled by veterans who are either disabled or veterans of the Vietnam era (in the armed forces after August 5, 1964). Specific steps designed to meet that commitment must be set forth in plans by the sponsor of the programs. In addition, such plans shall describe the types of jobs to be made available to such veterans which utilize their skills to the maximum extent feasible.

Section 6. Clarifying amendment

This section amends subparagraph (3) of section 2 of the Act to make clear that Indian tribal organizations are eligible to carry out public service employment programs. The present law specifies Indian tribes on Federal or State reservations.

Section 7. Comments on applications

This section amends section 8 of the Act to provide that, before an application for a program is approved by the Secretary, an opportunity shall be provided for comments to be made by labor organizations representing employees employed in similar work in the area.

Mr. NELSON. Mr. President, I call attention to the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. NELSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TAFT). Without objection, it is so ordered.

Mr. NELSON. Mr. President, I yield to the distinguished Senator from Maine (Mr. HATHAWAY).

AMENDMENT NO. 415

Mr. HATHAWAY. Mr. President, I call up my amendment No. 415 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 4, between lines 24 and 25, insert the following:

"(b) Section 5 of such Act is amended by adding at the end thereof the following new subsection:

" '(d) Whenever the Secretary makes a determination that the rate of national unemployment (seasonally adjusted) has exceeded 5 per centum for three consecutive months, he shall within ten days of such determination, notify the Congress and shall publish such determination in the Federal Register. At such time the Secretary shall recommend to the Congress any further steps he deems appropriate.'."

On page 4, line 25, strike "(b)" and insert in lieu thereof "(c)".

Mr. HATHAWAY. Mr. President, I ask unanimous consent to modify this amendment slightly, as a result of conversations with the Senator from New York (Mr. JAVITS).

The PRESIDING OFFICER. The Senator from Maine has the right to modify his amendment.

Mr. HATHAWAY. Mr. President, on line 1 of the amendment, it should read:

"On page 4, between lines 20 and 21, insert the following:"

On line 2, it should read:

"(b) Section 5 of such Act is further amended . . ."

Line 10 should read:

"Congress any further steps, including recommendations for legislation, if any, he deems appropriate.'."

On page 2 of my amendment, on line 1, it should read:

"On page 4, line 21, strike . . ."

The PRESIDING OFFICER. The amendment is so modified, but will the Senator please send his modifications to the desk.

The text of amendment No. 415, as modified, is as follows:

On page 4, between lines 20 and 21, insert the following:

"(b) Section 5 of such Act is further amended by adding at the end thereof the following new subsection:

" '(d) Whenever the Secretary makes a determination that the rate of national unemployment (seasonally adjusted) has exceeded 5 per centum for three consecutive months, he shall within ten days of such determination, notify the Congress and shall publish such determination in the Federal Register. At such time the Secretary shall recommend to the Congress any further steps including recommendations for legislation, if any, he deems appropriate.'."

On page 4, line 21, strike "(b)" and insert in lieu thereof "(c)".

Mr. HATHAWAY. Mr. President, this amendment would require that the Secretary of Labor inform Congress any time the unemployment rate reaches 5 percent for 3 consecutive months and submit his recommendations for appropriate action. The intent of the amendment is to bring a significant increase in unemployment to the attention of both policymaking branches of the National Government which will, hopefully, result in steps being taken to alleviate the problem.

I personally feel that funds should automatically be made available under the act if the unemployment rate rises, but I have refrained from pressing this position because of budgetary considerations. As a matter of fact, I have an amendment at the desk, No. 414, which incorporates this idea by triggering additional sums of money every time the unemployment rate rises one-half of 1 percent.

I am mindful of the fact that there are serious budgetary considerations surrounding the bill, and the manager of the bill and many others in the Senate feel that the measure might be vetoed if we go above the authorization now in the bill. So I am going to refrain from pressing that amendment.

I do hope, however, that the manager of the bill will see fit to accept amendment No. 415, as modified, which I think is not anywhere near as strong as the amendment I initially wanted to press, but, at least it would put the administration on notice that it has to report to us when the unemployment rate does reach 5 percent and that it should make some recommendations to us as to what to do in this regard.

Too often, serious consideration of unemployment or inflationary problems are delayed by the press of other business until these problems reach crisis proportions. This amendment would trigger some action, at least, as soon as the unemployment rate began a significant rise.

Mr. NELSON. Mr. President, I would be happy to accept amendment No. 415 as modified by the Senator from Maine (Mr. HATHAWAY). I appreciate the merits of the amendment.

As to the other proposal of the Senator from Maine contained in amendment No. 414 which the Senator states he will not offer on this bill, I wish to say that I agree wholeheartedly with the Senator on the merits of the concept of authorizing additional funds to be triggered as unemployment rises. I believe that such a trigger mechanism should be a part of any long-term public service employment bill. It would be a useful and valuable device. However, I would have to oppose such an amendment on the pending legislation, although reluctantly, because we have taken the position both in connection with the manpower revenue sharing bill passed yesterday and the emergency employment amendments now before the Senate that each of these bills provides exactly the same level of spending as was appropriated for the same programs in the previous fiscal year. It cannot, therefore, be argued that the two measures, the one passed yesterday and the one we are considering today, are part of the budgetary problem. The administration's proposed budget is increasing by an estimated $19 billion between 1973 and 1974. Neither one of these two bills, the manpower bill or the emergency employment amendments contributes to or adds to that deficit. It is because of that position on our part that I oppose accepting as a part of the pending bill a trigger mechanism which would mean a higher overall authorization for this bill.

As I said, I think it is a very good idea and I would like to explore it next year, or whenever we can get to it, as we hold further hearings on the whole concept of public service employment, including the concept of the trigger mechanism.

The public sector is the largest employer in the country. We spend a lot of energy and time telling the people in the private sector that they should give jobs and opportunities to the disadvantaged. I do not think that the public sector, which is the largest employer, does a very good job in that respect itself. Most Government jobs are for middle class people, those who have had a chance for an education, whereas there are a large number of disadvantaged who have all the ability and capability to hold jobs in the public sector, and yet are denied meaningful opportunities because of inadequate training programs and because civil service examinations set up artificial barriers. The disadvantaged are denied sufficient opportunities in the largest employment opportunity field in this country.

I should like to explore the entire matter in much greater depth in hearings next year, at which time, of course, the proposal of the Senator from Maine will be considered. I think it would be considered favorably at that time.

Mr. HATHAWAY. I thank the Senator from Wisconsin for his acceptance of amendment No. 415.

Mr. NELSON. I have no objection to that.

Mr. HATHAWAY. I also thank the Senator for the support of the idea embodied in amendment No. 414, which is not being offered, and for his assurance that he will look into the matter further before the end of the next fiscal year.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HATHAWAY. I yield.

Mr. JAVITS. Mr. President, this amendment was worked out with the minority staff of the committee and is satisfactory to me. I think it does what needs to be done.

I concur with Senator NELSON about the fact that our approach to amendment No. 414, which is of substantive character, is more desirable within the context of next year, especially, as we said yesterday in a related bill, because we are trying to work out a total package with the administration to take us by this particular period, which is a period of budget stringency, considerable difficulty for the dollar, and so forth.

We believe that we have an excellent chance to do that. It would make it more difficult if we took a substantive amendment such as amendment No. 414.

I believe Senator HATHAWAY is being statesmanlike and constructive in refraining from pushing that amendment under these circumstances, of which he—like Senator NELSON, Senator TAFT, and I—is well aware.

Mr. HATHAWAY. I thank the Senator from New York for his very kind and generous remarks and for his support of the principle embodied in amendment 414. I hope that we will be able to incorporate this idea into future legislation.

Mr. President, because of budgetary considerations, I have not pressed for the adoption of my amendment 414, but feel that the principle it contains is important enough to merit a full description of its provisions in the RECORD.

The proposal is designed to increase the funding authorized under this act if, and only if, there is a significant increase in unemployment between enactment and the expiration of the act. As Senator NELSON has so ably demonstrated, the effectiveness of the public employment program as a tool with which to fight unemployment is clear. A problem with the present program is its lack of flexibility in dealing with the fluctuating nature of the unemployment problems.

The funding level in the bill as reported may be adequate to deal with present unemployment levels of 4.5 to 5 percent. But after the current inflationary surge is played out, we may well see a repeat of the high unemployment-recessionary cycle we experienced in 1969–70. If this turns out to be the case and unemployment reaches the 1970 levels of 6 to 8 percent, the level of funding authorized in the bill could well be inadequate to make a significant dent in the problem.

My proposal, which I hope may be included in future legislation on this subject, would attempt to correct this deficiency by keying progressive funding increases in the authorization to significant increases in the national unemployment rate. The increases suggested—100-million additional for every 0.5-percent rise in unemployment—are not by any means extravagent—in fact, these amounts are pretty paltry in the face of the grinding reality of massive unemployment.

One of the major problems with government's attempts to assist in the stabilization of the economy is the delayed application of the economists' "cure" to whatever disease is currently afflicting use. Often, this is caused by the complexity and inherent slowness of our policymaking processes. In most cases, this "inefficiency" is a blessing in disguise; but in economic matters it often results in actions which aggravate a new problem rather than contributing to the solution of the original problem which gave rise to the legislation. An example of this is a tax cut designed to counteract a recession not becoming effective until the recession is ending and inflation is building up. Thus, the tax cut comes too late to help with the recession, but just in time to fuel the inflation.

We are well advised, therefore, to build countercyclical mechanisms into legislation of this type so that the cure can be applied automatically with the dosage adjusting itself relative to the seriousness of the disease. The other alternative is to assume that we will be able to respond with new legislation in time to be of significant help, an assumption I feel is somewhat unwarranted, based on past history.

The public employment program has proven itself to be the fastest and cheapest method by which unemployment can be reduced. Studies done on the experience of the program after its first 18 months of operation indicate that it is an effective countercyclical strategy. My proposal, which is similar to suggestions made by those who have closely examined the program, makes sense both in human and economic terms. It would increase the cost of the program only under circumstances providing a clear justification for such increases. And its adoption would put us in the position of anticipating rather than simply reacting to serious national problems.

As stated previously, however, I am refraining from pressing this proposal at this time in deference to the desires of the sponsors of the bill that its authorization be kept at 1972 levels. The amendment I have called up does not, of course, affect the authorizations in the bill in any way; it should, however, serve as a prod, both to the administration and the Congress, to consider further action, should developing circumstances so dictate.

Mr. JAVITS. Mr. President, I invite attention to S. 1693, also pending before our committee, which is called the Full Employment and Job Development Act of 1974, in which an effort is made to institutionalize the policy of full employment and thus the ability to respond precisely to such information and development as the Secretary would be obligated to inform us of by the amendment.

Again, I hope we will examine not only the highly desirable solutions which Senator HATHAWAY lays before us in respect to the real problem but also the institutionalization, whether through the technique suggested in S. 1693 or otherwise, of the ability to meet this kind of problem.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I had in mind making certain general remarks on this bill, especially as to matters of very great importance to me and to the present occupant of the chair, who has given much talent and ability to this problem.

S. 1560 would extend the Emergency Employment Act of 1971, the public employment program, beyond its expiration this past June 30, for a period of 2 years through fiscal year 1975. For fiscal year 1974, it would authorize $1.25 billion, including $1 billion for the basic program and $250 million for areas of substantial unemployment—in each case the amounts authorized and appropriated for fiscal 1973. "Such sums" are authorized for fiscal year 1975.

Mr. President, in my opinion, two questions are the key to whether or not the act should be extended. First, has the program been a successful undertaking in accordance with its purposes—has it worked? Second, is its extension necessary?

EXPERIENCE UNDER THE EEA TO DATE

Mr. President, members will recall that the Emergency Employment Act of 1971 became law on July 12, 1971 only because it was designed specifically by Senator NELSON and myself to meet the specifications of the administration. Those specifications had been clearly delineated by President Nixon who, in December 1970 in vetoing a large-scale "permanent" public service employment program of "dead-end" jobs, said:

> Transitional and short-term public service employment can be a useful component of the nation's manpower policies—But public employment that is not linked to real jobs, or which does not try to equip the individual for changes in the labor market is not a solution.

It was made "short-term"; that is, for a period of 2 years and triggered at a 4.5-percent national unemployment rate because at that point in time the administration indicated that it hoped to get unemployment below the threshold of 4.5-percent nationally within the 2-year period.

It was made "transitional" as to the individual—as it was also regarded as transitional as a program—to ensure that every effort was made to move participants into "regular" jobs in the public or private sector.

Mr. President, during its tenure the Emergency Employment Act of 1971 has clearly been a program that has met these specifications and, contrary to fears, has not led either to a "make-work" program or "dead end" jobs at all.

Public employment under the act has been transitional—linked to real jobs. According to Department of Labor statistics, of the 150,000 terminees out of 288,000 "cumulative hires" under the act through the end of 1972, an estimated 54 percent subsequently went on to regular employment, including 32 percent in the public sector and 22 percent in the private sector. A substantial number of the balance were subsequently in school, training, or the Armed Forces.

Jobs created under the act have not been "make-work."

According to the latest statistics certified by the Department of Labor, jobs have been created in the following categories: Law enforcement, 10.5 percent; education, 18.9 percent; public works and transportation, 22.8 percent; health and hospitals, 8.7 percent; environmental quality, 3.9 percent; fire protection, 2.4 percent; parks and recreation, 9.0 percent; social services, 6.7 percent; administration and other, 17.4 percent. Thus the fears that it would be a boondoggle or political grab bag have not been realized.

In addition to meeting needs of individuals, the public employment program, working through 670 State, city, and county program agents, helps greatly to meet the fiscal crises of State and local government, and has provided beneficial exercise in the assumption by those governments of the basic responsibility for meeting the need of the unemployed, as an adjunct to the establishment of sound and decentralized manpower policy, a goal shared by the administration and the Congress and expressed in the Senate's adoption yesterday of S. 1559, the Job Training and Community Services Act of 1973.

Mr. President, the National Manpower Policy Task Force, the National Urban Coalition, and other evaluations have regarded the program as a success in these and other respects and have urged its continuation; the GAO also has given it a favorable report.

Moreover, the administration itself requested appropriations of the full authorizations in each of the fiscal years, and assessing the program, the Manpower Report of 1973 prepared by the Department of Labor states:

> The first year of PEP operations saw some notable accomplishments . . . As PEP moved into the second year of its authorized life, it was apparent that the program's primary goals were being met.

NEED FOR EXTENSION

Mr. President, nevertheless, on the question of extension, the President's fiscal 1974 budget proposal concludes—at page 119 of the "Special Analyses":

> Since the program began, the number of private sector jobs has increased substantially, unemployment has declined, and the financial ability of State and local governments to meet the demand for public services has improved.

Accordingly, no new budget request was submitted.

But let us examine these conclusions closely.

It is true that since the program began, the number of jobs has increased. In June 1971, the most current statistics available to the President when he signed the Emergency Employment Act, the total number of employed was 78,653,000. Today the latest statistic for June 1973 shows 84,674,000 people employed; accordingly, there has been an increase of 6,021,000 jobs.

It is true also that the unemployment rate has declined. In June 1971, the national unemployment rate was 5.8 percent; now, for June 1973, it is at 4.8 percent—a drop of a full percentile.

However, in terms of numbers, unemployment has not declined substantially. In June 1971, there were 4,845,000 unemployed persons; today, the figures for June 1973 indicate that there are 4,258,000 unemployed persons—a drop of only 587,000 unemployed persons.

In this same connection, I call to the attention of the Senate an article which appeared in the New York Times for yesterday, July 24, 1973, reporting that Louis L. Levine, the distinguished Industrial Commissioner for New York State, announced that while employment in New York increased by 85,000 in June over May, the total number of unemployed increased by 10,000; similarly, in New York City both employment and unemployment showed slight increases.

It seems to me that since we are dealing with human beings the most relevant statistic is the number of people who are unemployed and on that basis, I do not see such a change in the overall situation as would warrant discontinuation of the program.

Nor is its discontinuation warranted in terms of the rate of unemployment. Unemployment nationally is still at 4.8 percent, thus above the administration's own threshold of 4.5 percent written into the act as the level at which the greater part of the funds under the act—the $1.0 billion in general funds—is triggered.

Furthermore, whatever the general situation, unemployment still ranges at levels of 6 percent or more in certain areas; for example, in my own State of New York, the rate is 6.2 percent in Suffolk County and 6.0 percent in Nassau County. Section 6 of the act, which would be continued under our extension, authorizes $250 million for areas having unemployment of 6.0 percent or more.

And beyond that, unemployment is still in "epidemic" proportions among certain groups—the economically disadvantaged—where it can hit 40 percent in the younger groups—among the long-term unemployed, and of course, among the returning veterans where—to our great concern—a rate of 5.9 percent pertained in May with 256,000 young men looking for work; the rate for young veterans is at 8.7 percent.

Mr. President, the committee bill focuses much more than the current act on groups particularly in need: The extension requires that all "new hires" under the program be in the economically disadvantaged or long-term unemployed categories, with a provision that whenever feasible 50 percent of each program shall be filled by veterans.

Finally, there is very little evidence to date that the financial ability of State and local governments to meet the demand for public services has improved substantially. It is true that since the passage of the Emergency Employment Act, the President has signed into law general revenue sharing, but a great portion of those funds are going into the purchase of equipment rather than services and in neither case does it mean that funds hit their mark in terms of the individuals among the unemployed who need it.

It should be noted as a matter of legislative intent, that S. 1560 is a companion bill to S. 1559, the Job Training and Community Services Act of 1973, which passed the Senate overwhelmingly just last evening. I wish to note again—as I did then—that while public service employment is an "eligible activity" under that bill, S. 1559 contains a number of provisions that make it clear that it is a collateral aspect or possibility under that bill and that the major resources there will go to manpower training.

Mr. President, when the Emergency Employment Act of 1971 was passed there was a debate among concerned persons in the administration, the Congress, and in academic circles as to when unemployment reaches an "unacceptable" or "intolerable" level. Whatever those arguments were, it was generally agreed that it was not "acceptable" as long as it was above 4.5 percent. It is still above 4.5 percent and thus this public employment program is needed; if unemployment is brought below that level—as we hope it will be—the administration's recommendation contained in its own budget of zero funding will become true de facto in large part since the act continued by this extension, provides that $1 billion of the $1.25 billion authorized cannot be obligated below that unemployment rate. In short, by continuing this act we will not necessarily be continuing the entire program.

Mr. President, I do not know how our discussions or negotiations with the other body and with the White House will come out.

But I rather believe it will come out as an effective manpower training program with a public service employment component. Whether that component will be incorporated in this separate bill or whether both can be rolled together into one bill remains to be decided. But the substance of both bills, because of the necessity in our national situation, must be made into legislation.

Mr. President, for all those reasons I consider this bill essential and I hope the Senate will pass it promptly as it is now amended.

Mr. President, I ask unanimous consent that there be printed at this point in the RECORD a copy of the New York Times article of July 24, 1973, to which I referred earlier and an excerpt from a colloquy between Senator **NELSON** and me and Senator **TAFT**, ranking minority member of the Subcommittee on Employment, Poverty, and Migratory Labor,

regarding S. 1559, as well as a Department of Labor document dated, July 20, 1973, regarding the employment situation of Vietnam veteran.

There being no objection, the material was ordered to be printed in the Record, as follows:

NUMBER EMPLOYED IN THE STATE RISES ALONG WITH JOBLESSNESS

ALBANY, July 24.—Louis L. Levine, State Industrial Commissioner, has announced that a total of 7,935 million people, were employed in New York State in June, an increase of 35,000 over the total for May and 15,000 over the total for June, 1972.

Statistics compiled by the State Labor Department show that unemployment in the state increased slightly in June, with 10,000 more people on the unemployment rolls than the previous month. Total unemployment in the state was 425,000 in June, while in May it reached 415,000.

Seasonal influences in nonfarm employment and strikes in the finance, construction and trade industries were said to be the cause of the increase in unemployment in June.

Both employment and unemployment in New York City also showed slight increases. Total employment in the city was 3,848 million, an increase of 9,400 over the May total, but 37,700 fewer than in June, 1972. Unemployment in the city was 191,700 in June, compared with a May total of 184,100.

The state statistics differ from those issued yesterday by the United States Bureau of Labor Statistics. The Federal statistics are limited to wage and salaried employees. The state's cover total employment, including those who are self-employed.

Statewide, the unemployment rate announced by the state for June was 5.1 per cent, one-tenth of a percentage point above the previous month, while in New York City the unemployment rate was 4.7 per cent, compared with 4.6 per cent in May. In 1972 the unemployment rate for the state was 5.9 per cent, while in the city it was 5.5 per cent.

Nassau and Suffolk Counties led the state in unemployment, with a combined unemployment rate of 6.2 per cent, or 61,900 people, a rise of 5 percentage points above the previous month, when the rate was 5.7 per cent, or 56,000 people. However, this was lower than in June, 1972, when 65,000 people were listed as unemployed, for a rate of 6.6 per cent.

Unemployment totals for other parts of the New York metropolitan area were as follows:

Nassau—34,700, or 6.0 per cent, compared with 30,200, or 5.3 per cent, in May, and 35,900, or 6.2 per cent, a year ago.

Suffolk—27,200, or 6.4 per cent, compared with 25,800, or 6.2 per cent in May, and 29,700, or 7.2 per cent a year ago.

Westchester—16,200 or 4.2 per cent, compared with 16,100 or 4.2 per cent, the previous month and 20,200, or 5.2 per cent, last year.

Rockland—4,400, or 5.0 per cent, compared with 4,200, or 4.9 per cent in May, and 4,800, or 4.6 percent, the previous year.

Mr. TAFT. I thank the Senator.

At the outset I would like to commend the chairman of the subcommittee (Mr. NELSON) and the Senator from New York (Mr. JAVITS) for their very effective work for S. 1559. This legislation can be a great improvement in our manpower training system in this country.

Mr. President, providing training programs for individuals so they can help themselves, is one of the most important ways by which a government can help its citizens.

Manpower training is an example of a government program with this potential. Such programs provide training and assistance to unemployed and underemployed. These programs, coordinated with local public school systems and industry, are not only vocationally directed, but also oriented toward stressing motivation, self-reliance, and the importance of securing and maintaining a job.

On April 19 and 30 respectively, I brought the Senate Manpower Subcommittee to Dayton and Akron to hold hearings on the current status of Federal manpower training programs.

One of the things I found was that these two cities, Dayton and Akron, which are about the same size, have completely different experiences with regard to success of different types of manpower training programs. In one area an institutional training center filled the principal objective and in another area OIC and institutional training seemed to do the job. In both communities however it was quite apparent there was great duplication in many manpower training programs. For example, in Dayton testimony was presented stating that there were approximately 28 or more programs in which the Federal Government had a role in manpower training.

As ranking minority member of the subcommittee, I had an opportunity to hear first-hand the views of the city officials, program administrators, business community leaders, labor organization officials, and program participants. I was quite impressed with the interest and response I received with regard to manpower training.

There are many areas, however, in which constructive improvements can be made regarding Federal involvement in manpower training. Specifically as I previously mentioned, there has been an overproliferation of manpower training programs at the local level and a lack of regional and comprehensive planning. S. 1559, helpfully will correct many of these problems and I endorse the basic principles contained in the bill. I believe the bill reflects a responsible approach with regard to Federal support for manpower training and community action programs.

I am especially pleased to see that S. 1559 adopts a revenue sharing approach for both of these programs, as local communities will thus be able to implement and fund programs that are responsive to their needs.

I am concerned, however, with provisions of S. 1559 that permit use of manpower funds for public service employment programs. Prime sponsors may be tempted to put too much emphasis on these programs at the expense of other constructive manpower training programs. For example, a city that is a prime sponsor may be faced with personnel budgetary problems and feel that it is advantageous, if not necessary, to channel manpower moneys to meet this problem through public service employment programs.

While such employment positions are to be oriented toward training and are to be transitional in nature, pressures still will exist to channel manpower funds to public service employment. I recognize the need for some type of selective public service employment program other than through general or special revenue sharing funding, although I do not agree with the committee's approach to extend the Emergency Employment Act. I believe manpower training programs should be separate from public service employment programs, and that the latter should be structured to meet the needs of areas that have extremely high unemployment along the lines I suggest in my additional views with S. 1560.

I also wish to call to the attention of the Senate certain of the testimony on this point. In the hearings we had before us Kenneth Young, department of legislation, AFL–CIO, I asked the following question, and he gave the following answer:

Senator TAFT. I take it you really think there is a serious danger that, if you just open up public employment as an eligible activity, it will have the effect of squeezing out other manpower training.

Mr. YOUNG. I think it could well be, Senator.

I think it presents a very serious problem for a local sponsor.

If you have the total funds less the present funding levels, when you tie everything together, then in fact what you are saying, it seems to us, you are telling a prime sponsor, "Yes, you have some flexibility, but your real flexibility is what you are going to cut back on," and I think, in terms of local officials, he is going to be extremely reluctant to lay people off the local payroll for one thing.

Second, I am not sure that he may not be correct, because this is providing a job, and he has got to balance that versus somebody that may be in a training program.

I know that members of this committee have gone and discussed at great length this whole problem of substitution of EEA funds for NYC funds, but it is in this sort of area that I see a very serious problem.

We would like to see it spelled out. If public services employment will be in a comprehensive bill, keep it as a separate title with separate authorization for that reason.

I also believe certain adjustments are necessary with regard to the population levels established in section 104 of the bill for prime sponsors. Specifically, I believe the population level for cities which is currently 100,000 in the S. 1559 should be at a level of 75,000. Further, I believe an adjustment is necessary in the population level established for prime sponsorship by counties. Currently, the bill requires a county or comparable unit of general local government have a population of 150,000 or more persons other than the number of persons that would be included within the population of any city designated as a prime sponsor under section 104. This level, I believe, is somewhat too high and perhaps would be more responsive to the needs of the country at a level of 100,000. With regard to this point I ask unanimous consent that a letter from the Cuyahoga County, Ohio, commissioners be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

COUNTY OF CUYAHOGA,
Cleveland, Ohio, July 10, 1973.

Hon. ROBERT TAFT, Jr.,
Senate Office Building,
Washington, D.C.

DEAR SENATOR: The Manpower Reform Bill S. 1559, "Job Training and Community Services Act of 1973" contains certain provisions which negate the role of County Government in manpower programs. Counties have clearly demonstrated their capabilities in administering manpower programs through their excellent work with PEP. Their performance has been equal to, if not better than, any other prime sponsor. Counties are regional in nature and therefore are the logical choice for manpower planning and program implementation.

The maximum decategorization of programs and decentralization of authority essential in providing the necessary flexibility to prime sponsors make the following provisions of S. 1559 unacceptable as presently written.

First, the population criteria for prime sponsorship eligibility on the part of the counties remains at 150,000, exclusive of any city óver 100,000 population within the county. Although this does not affect Cuyahoga County, it does make the following seven counties in the State of Ohio ineligible as prime sponsors.

Allen	111, 144
Greene	125, 057
Lucas	100, 552
Richland	129, 997
Columbiana	108, 310
Licking	107, 799
Portage	125, 868

(Population figures per 1970 Census—less Cities over 100,000 within County.)

Cuyahoga County advocates the adoption of 100,000 or more population as the criteria for prime sponsorship.

Second, the present two part allocation formula is based upon unemployment and the Bureau of Labor Statistics lower living Standard. Cuyahoga County advocates the addition of the "Numbers in the labor force" in an equally weighted allocation formula.

Third, based upon the 1970 census data on unemployment, poverty and workforce, two-thirds of those who need manpower services reside in suburban and rural areas. The present 100% Hold Harmless Clause completely ignores that fact. No logical explanation is plausable for ensuring the major portion of available funds be allocated to the prime sponsors representing one-third of the population requiring assistance. Cuyahoga County does not support an absolute Hold Harmless Clause in manpower reform legislation.

Fourth, the role of the State in providing manpower services is admittedly important. The provision setting 15% of each State's allocation for the use of the Governor does not, however, take into account that portion of services provided by other prime sponsors. Cuyahoga County advocates the adoption of a minimum of 5% and a maximum of 10% for the use of the Governor based upon the percentage of balance to State services not provided by other prime sponsors.

Sincerely,
Board of County Commissioners,
Frank R. Pokorny, *President.*

Mr. Taft. Mr. President in supporting the bill I would ask the Senator from Wisconsin (Mr. Nelson) if I could have his assurance that these matters will be fully considered in conference and that every reasonable effort be made to see that an adequate solution is arrived at with the House on these matters.

Mr. Nelson. I wish to say to the Senator, concerning the size of the population of eligible prime sponsors being based at 100,000 that I personally think that probably is about the best population level. I realize that the Senator from Ohio believes it would be better if it were set at 75,000. Members of the other body have views that it should even be half as much as 100,000. Of course, that issue will be in conference because I know how some of the Members of the other body feel. I am confident that we will be able to reach a reasonable agreement on what that prime sponsorship population level should be.

One of my reasons for favoring the 100,000 level is to reduce as far as possible the number of entities the Department of Labor must work with.

The Secretary of Labor has pointed out that manpower programs have been carried out through contracts with 10,000 contractees around the country. This legislation would cut that number down to 378 prime sponsors. I agree with the Senator from Ohio, who will be one of the Members of the conference, that the prime sponsorship population level will be discussed in conference and an accommodation reached.

As to the matter of public service employment, I share the concern of the distinguished Senator from Ohio that the fact that public service employment is an authorized activity might lead some prime sponsors to believe that they are encouraged to utilize all or half or a major portion of the manpower funds simply to provide public service employment because that is the easiest thing to do and benefits the prime sponsors. By authorizing public service employment, it is not the intention of our committee to encourage prime sponsors not to have a balanced manpower training program. We were reluctant not to authorize public service employment because it might be a very valuable aspect of the total manpower training program and they might want to spend part of their money on some jobs they thought were best.

The Presiding Officer. The time of the Senator from Ohio has expired.

Mr. Nelson. Mr. President, I yield myself 2 minutes.

The Presiding Officer. The Senator from Wisconsin.

Mr. Nelson. I therefore assure the Senator that it is not our intent that public service employment be funded to the exclusion of training programs. I think we ought to discuss this issue in conference. I think that when we bring back the conference report, the statement of the managers should emphasize that it is not our intent that a disproportionate share of manpower funds be used for public service employment under this bill. If some prime sponsor is inclined to do that, I think it must be called to the attention of the Secretary of Labor who has authority to approve whether or not they are complying with the law. It would be my interpretation that if they did not proceed to develop a broad and balanced manpower program, they are not complying with the law.

Mr. Taft. Mr. President, will the Senator yield me 2 additional minutes?

Mr. Javits. Of course.

Mr. Taft. Mr. President, I appreciate very much the remarks of the chairman of the subcommittee on the action expected in the conference. With diligent efforts and reasonable compromise in these areas in conference, I believe the Congress will be able to send an excellent bill to the President.

Mr. President, I also would like to bring to the attention of the Senate the very fine work that the opportunities industrialization centers of America have conducted in the manpower training field. This organization's work throughout the country under the leadership of Rev. Leon H. Sullivan, has truly been a significant factor in providing job training opportunities for many disadvantaged citizens. Earlier this year I joined with Senator Schweiker in cosponsoring S. 136 the Opportunities Industrialization Assistance Act of 1973. While it was not possible to incorporate every part of this bill in S. 1559, it was possible to include many important provisions with regard to OIC. I am hopeful that these provisions will be responsive to the needs of OIC centers throughout the country including the outstanding centers in my State.

I ask unanimous consent that a letter from Reverend Sullivan regarding S. 1559, and the importance enacting manpower legislation into law, be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

July 16, 1973.

Senator Robert Taft, Jr.,
Old Senate Office Building,
Washington, D.C.

Dear Senator Taft: Thank you for giving OIC your support as a cosponsor of S. 136, the Opportunities Industrialization Assistance Act of 1973.

Your endorsement helped make possible the inclusion of OIC in the Nelson-Javits comprehensive Manpower Bill which was reported out on Monday, July 9, to the Senate. In that Bill, the Schweiker Amendments guarantee the continuation and expansion of OIC work as an integral part of the nation's manpower delivery system.

Our 110 community-based Board of Directors and the tens of thousands of citizens of all races and creeds whom they serve, deeply appreciate your efforts on their behalf.

As the legislative process is carried out in the House of Representatives, and eventually a Bill is agreed upon in conference, it is my hope and prayer that we will have a Bill that the President can sign and make it possible for us to look forward to the expansion of OIC work in the State of Ohio.

With warm personal regards, I am,
Sincerely,
Leon H. Sullivan,
Chairman of the Board, OIC's of America.

Mr. Taft. Mr. President, I yield back the remainder of my time.

Mr. Javits. Mr. President, I yield myself 2 minutes.

I wish to associate myself with the views expressed by the Senator from Wisconsin (Mr. Nelson) respecting public service employment. These views key directly into the bill.

It will be noted on page 56 of the bill, paragraph (15) of section 201(b) refers to transitional employment for unemployed and underemployed persons as an eligible activity and that under subsection (c) funds made available for public service employment from appropriations are to be used only for programs consistent with the requirements of the Emergency Employment Act "to the extent that such requirements are consistent with the provisions of this act."

In order to tie that into the text, it is necessary to look at page 93 of the bill, item (h), which, in the case of "new hires" expressly limits the utilization of manpower training funds, "unemployed and underemployed persons who are from economically disadvantaged backgrounds or have been unemployed for not less than 15 weeks immediately prior to employment under such program."

This means that if public service employment programs are established under this bill they must benefit principally those most in need—the focus of the authorities which this act would replace.

But beyond this, our intent that manpower training funds not be squeezed out by public service employment, is established further in section 401(a)(3) which I included on page 87, lines 1 to 7, inclusive, where the Secretary can turn a program off, because it fails to give "due consideration to continued funding of programs of demonstrated effectiveness" for manpower training under the Manpower Development and Training Act or the Economic Opportunity Act.

In short, our purpose is to make public service employment eligible as a complement to training, but by no means to allow it to intrude upon, distort, or take unto itsef an appreciable aspect of what we contemplate by manpower training and the manpower training provisions.

I wish to point out that we will be debating another law with respect to public service employment—possibly next week. That is on the bill S. 1560. There we go to great pains to make it clear that we expect the basic and appreciable public service employment to stand on its own two feet rather than utilize the cover of this bill to bring it in through the back door.

Mr. President, I yield myself 1 more minute.

That is our intention, and I join the Senator from Wisconsin (Mr. Nelson) in affirming that we will do our utmost to see that this intention is reflected also in whatever report comes on the manpower training bill.

Further, I wish to point out that the title of this bill is "Job Training and Community Services Act of 1973." That also is clearly the fundamental thrust of the bill.

Mr. President, the Senator from Colorado (Mr. DOMINICK) wishes to be recognized in connection with the bill. He is momentarily not available. For that reason I would suggest that perhaps the Senator from Wisconsin can yield some time. If not, I will ask for a quorum call.

EMPLOYMENT SITUATION OF VIETNAM ERA VETERANS: SECOND QUARTER 1973

U. S. DEPARTMENT OF LABOR,
Washington, D.C., July 20, 1973.

The employment situation for Vietnam Era veterans continued to show little change in the second quarter of 1973, according to the Department of Labor's Bureau of Labor Statistics. At 6.0 percent, the seasonally adjusted unemployment rate for veterans 20–29 years old has not changed materially for three consecutive quarters nor has it been higher than the rate for nonveterans in the same ages. The jobless rate for veterans and nonveterans in ages 30–34 has been much lower—about 2½ percent for both groups in the second quarter. Consequently, attention remains focused on the younger veterans. (See table 1.)

On a seasonally adjusted basis, 4.1 million veterans 20–29 years old were employed and 260,000 were unemployed. Compared with a year earlier, their employment has expanded by 250,000, absorbing all of the increase in the labor force and reducing the number unemployed by 60,000 and their jobless rate by 1.7 percentage points.

The lower unemployment rate and its recent steadiness is attributable not only to the improved job market, but in part also to the changing age composition of the veterans. While the number of young men being discharged from military service has been shrinking, the number of veterans out of the service for several years has been growing. Thus, a smaller proportion of Vietnam Era veterans of all ages now are 20–24 years old where the unemployment rate is considerably higher than for the older veterans. In the second quarter of 1973, the seasonally adjusted rate for these younger veterans was 9.4 percent compared with 4.1 percent for those 25–29 years old.

In contrast with the jobless rate for older veterans which is usually equal to or lower than that for older nonveterans, a considerable difference still remains between the higher rate of the younger veterans compared with nonveterans 20–24 years old. Accounting for some of the difference is the fact that young nonveterans have been in the job market longer than the recently returned veterans and thus are better established in jobs. Also, unemployment insurance payments are available to Vietnam Era veterans, regardless of prior civilian work experience. This helps to soften the impact of joblessness and may influence some veterans to continue searching for work until they find the "right" job. On the other hand, many young nonveterans may not have enough wage credits to qualify for unemployment compensation while they look for work and may feel pressed to take any job available.

The unemployment rate for 20–29 year-old veterans of Negro and other minority races, at 11.0 percent not seasonally adjusted, was not significantly changed from that of the first quarter of 1973 or of a year ago. The jobless rate for Negro veterans was not materially different from that for Negro nonveterans (10.5 percent), but was considerably higher than for white veterans (5.3 percent). It is difficult to estimate precisely the Negro-white differences because the unemployment data for Negroes are based on very small sample numbers and are subject to large sampling errors. Nevertheless, the Negro-white differences for the young group (20–24) have generally been greater than for men 25–29. (See table 2.)

Other highlights for the second quarter of 1973 include the following:

Unemployment rates for both veterans and nonveterans were lowest in the Southern and North Central States, similar to the pattern for all other men in the labor force. (See table 3.)

About one-fourth of the unemployed veterans had been looking for work for 15 weeks or more, an improvement over the proportion a year ago. (See table 4.)

A greater proportion of unemployed veterans than unemployed nonveterans were reentering the labor force. Unemployed veterans and nonveterans were equally likely to be on layoff, but veterans were somewhat less likely to have lost a job for such other reasons as dismissal, plant closing, or expiration of a temporary job. (See table 5.)

For veterans and nonveterans who were not in the labor force, attendance in school was by far the most important reason for neither working nor seeking work. (See table 6.)

TABLES

1. Employment status of male Vietnam Era veterans and nonveterans 20 to 34 years old.

2. Employment status of male Vietnam Era veterans and nonveterans 20 to 29 years old, by race.

3. Employment status of male Vietnam Era veterans and nonveterans 20 to 29 years old, by region, age, and race.

4. Duration of unemployment of male Vietnam Era veterans and nonveterans 20 to 34 years old, by age.

5. Reasons for unemployment of male Vietnam Era veterans and nonveterans 20 to 34 years old, by age.

6. Reasons for nonparticipation in labor force for male Vietnam Era veterans and nonveterans 20 to 34 years old, by age.

7. Employment status of male Vietnam Era veterans and nonveterans 20 to 29 years old, January 1970 to June 1973.

TABLE 1.—EMPLOYMENT STATUS OF MALE VIETNAM ERA VETERANS AND NONVETERANS 20 TO 34 YEARS OLD, QUARTERLY AVERAGES

[Numbers in thousands]

Employment status						Seasonally adjusted				
	2d 1973	1st 1973	4th 1972	3d 1972	2d 1972	2d 1973	1st 1973	4th 1972	3d 1972	2d 1972
VETERANS[1]										
Total, 20 to 29 years:										
Civilian noninstitutional population[2]	4,680	4,663	4,636	4,574	4,515	4,860	4,663	4,636	4,574	4,515
Civilian Labor force	4,365	4,286	4,306	4,285	4,174	4,366	4,330	4,322	4,234	4,176
Employed	4,112	3,984	4,065	4,005	3,862	4,104	4,078	4,055	3,931	3,853
Unemployed	254	302	241	280	312	262	252	267	303	322
Unemployment rate	5.8	7.0	5.6	6.5	7.5	6.0	5.8	6.2	7.2	7.7
20 to 24 years:										
Civilian noninstitutional population[2]	1,712	1,792	1,861	1,913	1,967	1,712	1,792	1,861	1,913	1,967
Civilian labor force	1,567	1,611	1,680	1,752	1,788	1,568	1,628	1,688	1,728	1,789
Employed	1,427	1,429	1,530	1,581	1,606	1,420	1,475	1,527	1,544	1,598
Unemployed	141	182	150	171	182	148	153	161	183	190
Unemployment rate	9.0	11.3	8.9	9.7	10.2	9.4	9.4	9.5	10.6	10.6
25 to 29 years:										
Civilian noninstitutional population[2]	2,968	2,871	2,775	2,661	2,549	2,968	2,871	2,775	2,661	2,549
Civilian labor force	2,798	2,675	2,626	2,533	2,387	2,798	2,702	2,634	2,507	2,387
Employed	2,685	2,555	2,535	2,424	2,256	2,684	2,603	2,528	2,387	2,255
Unemployed	113	120	91	109	130	114	99	106	120	132
Unemployment rate	4.0	4.5	3.5	4.3	5.5	4.1	3.7	4.0	4.8	5.5
Total, 30 to 34 years:										
Civilian noninstitutional population[2]	974	885	801	730	658	974	885	801	730	658
Civilian labor force	942	857	775	709	638	947	861	767	708	642
Employed	920	825	749	691	622	924	834	739	687	625
Unemployed	22	32	26	18	17	23	27	28	20	17
Unemployment rate	2.3	3.7	3.4	2.6	2.6	2.4	3.1	3.6	2.9	2.6
NONVETERANS										
Total, 20 to 29 years:										
Civilian noninstitutional population[2]	10,670	10,470	10,262	10,120	9,930	10,670	10,470	10,262	10,120	9,930
Civilian labor force	9,396	8,993	8,852	9,088	8,604	9,398	9,217	8,793	8,778	8,604
Employed	8,844	8,370	8,334	8,543	8,006	8,832	8,668	8,403	8,218	7,994
Unemployed	551	623	518	545	598	566	549	570	560	609
Unemployment rate	5.9	6.9	5.8	6.0	7.0	6.0	6.0	6.3	6.4	7.1
20 to 24 years:										
Civilian noninstitutional population[2]	6,559	6,392	6,236	6,113	5,980	6,559	6,392	6,236	6,113	5,980
Civilian labor force	5,506	5,139	5,058	5,276	4,860	5,500	5,335	5,190	4,971	4,853
Employed	5,110	4,721	4,675	4,869	4,421	5,098	4,979	4,765	4,560	4,410
Unemployed	396	418	383	407	439	402	376	425	411	443
Unemployment rate	7.2	8.1	7.6	7.7	9.0	7.3	7.0	8.2	8.3	9.1
25 to 29 years:										
Civilian noninstitutional population[2]	4,111	4,078	4,026	4,007	3,950	4,111	4,078	4,026	4,007	3,950
Civilian labor force	3,890	3,854	3,794	3,812	3,744	3,898	3,862	3,783	3,807	3,751
Employed	3,734	3,649	3,659	3,674	3,585	3,734	3,689	3,638	3,658	3,585
Unemployed	155	205	135	138	159	164	173	145	149	166
Unemployment rate	4.0	5.3	3.6	3.6	4.2	4.2	4.5	3.8	3.9	4.4

Footnotes at end of table.

TABLE 1.—EMPLOYMENT STATUS OF MALE VIETNAM ERA VETERANS AND NONVETERANS 20 TO 34 YEARS OLD, QUARTERLY AVERAGES—Continued

[Numbers in thousands]

Employment status	2d 1973	1st 1973	4th 1972	3d 1972	2d 1972	Seasonally adjusted: 2d 1973	1st 1973	4th 1972	3d 1972	2d 1972
NONVETERANS										
Total, 30 to 34 years:										
Civilian noninstitutional population [2]	3,584	3,520	3,462	3,425	3,401	3,584	3,520	3,462	3,425	3,401
Civilian labor force	3,448	3,382	3,329	3,300	3,271	3,457	3,375	3,326	3,305	3,280
Employed	3,365	3,265	3,245	3,209	3,177	3,368	3,274	3,239	3,204	3,180
Unemployed	82	117	84	91	94	89	101	87	101	100
Unemployment rate	2.4	3.5	2.5	2.8	2.9	2.6	3.0	2.6	3.0	3.0

[1] Vietnam Era veterans are those who served after Aug. 4, 1964; they are all classified as war veterans. About 75 percent of the Vietnam Era veterans of all ages were 20 to 29 years old and 16 percent were 30 to 34 years old in the 2d quarter of 1973. Post-Korean-peacetime veterans are not included in this table.

[2] Since seasonal variations are not present in the population figures, identical numbers appear in the unadjusted and seasonally adjusted columns.

Note: Because of rounding, sums of individual items may not equal totals. Rates are based on unrounded numbers. Data are subject to sampling variability which may be relatively large in cases where numbers are small. Therefore, differences between numbers or percents based on them may not be significant. For a detailed explanation of the reliability of estimates, including standard error tables, see the Technical Note in the December 1972 issue of "Employment and Earnings."

TABLE 2.—EMPLOYMENT STATUS OF MALE VIETNAM ERA VETERANS AND NONVETERANS 20 TO 29 YEARS OLD, BY RACE, QUARTERLY AVERAGES

[Numbers in thousands]

Employment status	White: 2d 1973	1st 1973	4th 1972	3d 1972	2d 1972	Negro and other races: 2d 1973	1st 1973	4th 1972	3d 1972	2d 1972
VETERANS [1]										
Total, 20 to 29 years:										
Civilian noninstitutional population	4,199	4,216	4,190	4,135	4,102	481	447	446	439	413
Civilian labor force	3,937	3,901	3,902	3,886	3,799	428	385	404	400	375
Employed	3,731	3,640	3,694	3,663	3,535	381	344	371	342	327
Unemployed	207	262	208	223	264	47	40	33	58	48
Unemployment rate	5.3	6.7	5.3	5.7	7.0	11.0	10.4	8.2	14.5	12.7
20 to 24 years:										
Civilian noninstitutional population	1,478	1,595	1,670	1,706	1,748	234	197	191	207	219
Civilian labor force	1,359	1,437	1,511	1,572	1,595	208	174	169	180	193
Employed	1,353	1,821	1,377	1,434	1,442	174	148	153	147	164
Unemployed	107	156	134	138	153	34	26	16	33	29
Unemployment rate	7.9	10.9	8.9	8.8	9.6	16.3	14.9	9.5	18.5	15.1
25 to 29 years:										
Civilian noninstitutional population	2,721	2,621	2,520	2,429	2,354	247	250	255	232	195
Civilian labor force	2,578	2,464	2,391	2,314	2,205	220	211	235	220	182
Employed	2,478	2,359	2,317	2,229	2,093	207	196	218	195	164
Unemployed	100	106	74	85	112	13	14	17	25	19
Unemployment rate	3.9	4.3	3.1	3.7	5.1	5.9	6.6	7.2	11.2	10.2
NONVETERANS										
Total, 20 to 29 years:										
Civilian noninstitutional population	9,291	9,123	8,960	8,839	8,652	1,379	1,347	1,302	1,281	1,278
Civilian labor force	8,230	7,891	7,756	7,970	7,539	1,166	1,102	1,096	1,118	1,065
Employed	7,799	7,394	7,334	7,548	7,053	1,045	976	1,000	994	953
Unemployed	429	497	422	421	486	122	126	96	124	112
Unemployment rate	5.2	6.3	5.4	5.3	6.4	10.5	11.4	8.8	11.1	10.5
20 to 24 years:										
Civilian noninstitutional population	5,726	5,555	5,417	5,322	5,220	833	837	819	791	761
Civilian labor force	4,837	4,500	4,401	4,607	4,263	669	639	657	669	597
Employed	4,530	4,163	4,089	4,291	3,913	580	558	586	577	508
Unemployed	307	337	312	315	350	89	81	71	92	89
Unemployment rate	6.3	7.5	7.1	6.8	8.2	13.3	12.7	10.8	13.8	14.9
25 to 29 years:										
Civilian noninstitutional population	3,565	3,568	3,543	3,517	3,433	546	510	483	490	517
Civilian labor force	3,393	3,391	3,355	3,363	3,277	497	463	439	449	467
Employed	3,269	3,231	3,245	3,257	3,140	465	418	414	417	444
Unemployed	122	160	110	106	136	33	45	25	32	23
Unemployment rate	3.6	4.7	3.3	3.2	4.2	6.6	9.7	5.7	7.2	4.9

[1] See footnote 1, table 1.

Note: See note, table 1.

TABLE 3.—EMPLOYMENT STATUS OF MALE VIETNAM ERA VETERANS AND NONVETERANS 20 TO 29 YEARS OLD, BY REGION, AGE, AND RACE, SECOND QUARTER AVERAGES, 1973

[Numbers in thousands]

Employment status and race	Veterans [1]: Total	Northeast	North Central	South	West	Nonveterans: Total	Northeast	North Central	South	West
Total, 20 to 29 years:										
Civilian noninstitutional population	4,680	999	1,370	1,404	905	10,670	2,581	2,969	3,265	1,855
Civilian labor force	4,365	933	1,278	1,315	840	9,396	2,180	2,644	2,944	1,628
Employed	4,112	867	1,213	1,269	763	8,844	2,026	2,497	2,824	1,496
Unemployed	254	66	65	46	77	551	154	146	120	132
Unemployment rate	5.8	7.1	5.1	3.5	9.2	5.9	7.1	5.5	4.1	8.1
20 to 24 years:										
Civilian noninstitutional population	1,712	352	520	524	315	6,559	1,586	1,833	2,011	1,129
Civilian labor force	1,567	323	475	486	282	5,506	1,257	1,563	1,738	948
Employed	1,427	287	441	460	238	5,110	1,152	1,453	1,646	859
Unemployed	141	36	34	27	44	396	105	110	92	89
Unemployment rate	9.0	11.1	7.2	5.6	15.6	7.2	8.4	7.0	5.3	9.4
25 to 29 years:										
Civilian noninstitutional population	2,968	647	850	880	590	4,111	995	1,135	1,254	727
Civilian labor force	2,798	610	802	829	557	3,890	923	1,081	1,206	680
Employed	2,685	580	771	809	524	3,734	874	1,045	1,178	637
Unemployed	113	30	31	20	33	155	49	36	28	43
Unemployment rate	4.0	4.9	3.9	2.4	5.9	4.0	5.3	3.3	2.3	6.3
Total, 30 to 34 years:										
Civilian noninstitutional population	974	219	239	312	204	3,584	829	997	1,169	589
Civilian labor force	942	215	232	303	192	3,448	792	965	1,130	560
Employed	920	209	227	296	188	3,365	766	946	1,111	543
Unemployed	22	6	5	7	4	82	26	19	19	18
Unemployment rate	2.3	2.8	2.2	2.3	2.1	2.4	3.3	2.0	1.7	3.2

Employment status and race	Veterans[1] Total	Veterans[1] Northeast	Veterans[1] North Central	Veterans[1] South	Veterans[1] West	Nonveterans Total	Nonveterans Northeast	Nonveterans North Central	Nonveterans South	Nonveterans West
White, 20 to 29 years:										
Civilian noninstitutional population	4,199	920	1,264	1,185	829	9,291	2,343	2,666	2,618	1,663
Civilian labor force	3,937	865	1,187	1,116	770	8,230	1,997	2,390	2,372	1,470
Employed	3,731	809	1,135	1,082	706	7,799	1,864	2,282	2,296	1,357
Unemployed	207	57	52	35	64	429	133	108	75	114
Unemployment rate	5.3	6.6	4.4	3.1	8.3	5.2	6.7	4.5	3.2	7.8
Negro and other races, 20 to 29 years:										
Civilian noninstitutional population	481	79	106	219	77	1,379	238	303	647	192
Civilian labor force	428	68	91	199	70	1,166	183	254	572	157
Employed	381	58	78	187	57	1,045	162	215	528	139
Unemployed	47	9	13	12	12	122	21	39	44	18
Unemployment rate	11.0	(2)	14.3	6.0	(2)	10.5	11.5	15.4	7.7	11.5

[1] See footnote 1, table 1.
[2] Rate not shown where base is less than 75,000.

Note: See note, table 1.

TABLE 4.—DURATION OF UNEMPLOYMENT OF MALE VIETNAM ERA VETERANS AND NONVETERANS 20 TO 34 YEARS OLD, 2D QUARTER AVERAGES, 1972 AND 1973

[Percent distribution]

Duration of unemployment	Total, 20 to 29 years 2d 1973	Total, 20 to 29 years 2d 1972	20 to 24 years 2d 1973	20 to 24 years 2d 1972	25 to 29 years 2d 1973	25 to 29 years 2d 1972	30 to 34 years 2d 1973	30 to 34 years 2d 1972
VETERANS[1]								
Total unemployed:								
Number (in thousands)	254	312	141	182	113	130	22	17
Percent	100.0	100.0	100.0	100.0	100.0	100.0	(2)	(2)
Less than 5 weeks	45.3	40.5	45.4	38.7	45.1	43.1		
5 to 14 weeks	31.9	28.6	31.9	31.5	31.9	24.6		
15 weeks and over	22.8	30.9	22.7	29.8	23.0	32.3		
NONVETERANS								
Total unemployed:								
Number (in thousands)	551	598	396	439	155	159	82	94
Percent	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Less than 5 weeks	49.9	45.9	51.6	50.0	45.5	34.6	39.0	29.8
5 to 14 weeks	26.9	24.8	27.8	24.4	24.4	25.8	30.5	27.7
15 weeks and over	23.2	29.3	20.5	25.6	30.1	39.6	30.5	42.6

[1] See footnote 1, table 1.
[2] Percent not shown where base is less than 75,000.

Note: See note, table 1.

TABLE 5.—REASONS FOR UNEMPLOYMENT OF MALE VIETNAM ERA VETERANS AND NONVETERANS 20 TO 34 YEARS OLD, BY AGE, SECOND QUARTER AVERAGES, 1972 AND 1973

[Percent distribution]

Reason for unemployment	Total, 20 to 29 years 2d 1973	Total, 20 to 29 years 2d 1972	20 to 24 years 2d 1973	20 to 24 years 2d 1972	25 to 29 years 2d 1973	25 to 29 years 2d 1972	30 to 34 years 2d 1973	30 to 34 years 2d 1972
VETERANS[1]								
Total unemployed:								
Number (in thousands)	254	312	141	182	113	130	22	17
Percent	100.0	100.0	100.0	100.0	100.0	100.0	(2)	(2)
Lost last job	42.1	45.2	34.0	38.1	51.8	55.0		
On layoff	10.6	11.5	5.0	6.6	17.5	18.3		
Other job losers	31.5	33.7	29.1	31.5	34.2	36.6		
Left last job	16.9	12.5	15.6	13.8	18.4	10.7		
Entered labor force	40.9	42.3	50.4	48.1	29.8	34.4		
Reentered labor force	34.6	34.6	41.1	38.1	27.2	29.8		
Never worked before	6.3	7.7	9.2	9.9	2.6	4.6		
NONVETERANS								
Total unemployed:								
Number (in thousands)	551	598	396	439	155	159	82	94
Percent	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Lost last job	48.6	50.2	41.2	44.6	67.3	65.4	68.7	76.6
On layoff	12.2	9.4	9.1	7.7	19.9	13.8	25.3	25.3
Other job losers	36.5	40.8	32.1	36.9	47.4	51.6	43.4	51.1
Left last job	18.5	14.2	20.2	14.1	14.7	14.5	15.7	12.8
Entered labor force	32.8	35.6	38.6	41.2	17.9	20.1	15.7	10.6
Reentered labor force	26.7	30.3	30.3	34.2	17.3	18.9	15.7	9.6
Never worked before	6.0	5.5	8.3	7.1	.6	1.3		1.1

[1] See footnote 1, table 1.
[2] Percent not shown where base is less than 75,000.

Note: See note, table 1.

TABLE 6.—REASONS FOR NONPARTICIPATION IN LABOR FORCE FOR MALE VIETNAM ERA VETERANS AND NONVETERANS 20 TO 34 YEARS OLD, BY AGE, SECOND QUARTER AVERAGES, 1972 AND 1973

[Percent distribution]

Reason for nonparticipation	Total, 20 to 29 years		20 to 24 years		25 to 29 years		30 to 34 years	
	2d 1973	2d 1972	2d 1973	2d 1972	2d 1973	2d 1972	2d 1973	2d 1972
VETERANS [1]								
Total not in labor force:								
Number (in thousands)	314	341	144	179	169	162	32	22
Percent	100.0	100.0	100.0	100.0	100.0	100.0	(2)	(2)
In school	64.3	67.3	62.5	61.5	66.1	74.1		
Want job now [3]	13.7	11.7	13.9	12.3	13.1	10.5		
Ill health or disability	9.2	7.0	6.9	6.1	11.3	8.6		
No desire for job now	16.2	17.5	20.1	21.8	12.5	12.3		
Think impossible to find job	2.2	1.8	2.1	2.2	2.4	.6		
All other	8.0	6.4	8.3	8.4	7.7	4.3		
NONVETERANS								
Total not in labor force:								
Number (in thousands)	1,275	1,326	1,053	1,120	222	206	136	129
Percent	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
In school	72.6	72.8	80.1	77.9	36.9	44.9	19.9	20.2
Want job now [3]	14.7	12.1	17.3	13.0	8.6	6.8	5.9	2.3
Ill health or disability	9.4	8.1	5.1	5.2	29.7	23.7	45.6	48.1
No desire for job now	11.4	12.0	9.0	11.2	22.5	16.4	16.2	24.0
Think impossible to find job	2.7	3.0	2.4	2.6	4.5	5.8	5.1	2.3
All other	3.8	4.1	3.4	3.2	6.3	9.2	13.2	5.4

[1] See footnote 1, table 1.
[2] Percent not shown where base is less than 74,000.
[3] Included in "In school."

Note: See note, table 1.

TABLE 7.—EMPLOYMENT STATUS OF MALE VIETNAM-ERA VETERANS AND NONVETERANS 20 TO 29 YEARS OLD, 1970–73

[Numbers in thousands]

Year and month	Civilian noninstitutional population	Civilian labor force					Civilian labor force (seasonally adjusted)			
					Unemployed				Unemployed	
		Number	Percent of population	Employed	Number	Percent of labor force	Number	Employed	Number	Percent of labor force
VETERANS [1]										
Annual average:										
1969	2,705	2,512	92.9	2,399	113	4.5				
1970	3,436	3,187	92.8	2,968	219	6.9				
1971	4,057	3,714	91.6	3,388	326	8.8				
1972	4,538	4,206	92.7	3,898	308	7.3				
1970:										
January	3,113	2,886	92.7	2,710	176	6.1	2,916	2,769	147	5.0
February	3,174	2,926	92.2	2,698	228	7.8	2,961	2,778	183	6.2
March	3,234	2,997	92.7	2,803	194	6.5	3,036	2,870	166	5.5
April	3,302	3,066	92.9	2,868	198	6.5	3,091	2,893	198	6.4
May	3,352	3,111	92.8	2,915	196	6.3	3,127	2,918	209	6.7
June	3,409	3,204	94.0	3,009	195	6.1	3,164	2,956	208	6.6
July	3,458	3,291	95.2	3,055	236	7.2	3,228	2,990	238	7.4
August	3,523	3,295	93.5	3,090	205	6.2	3,253	3,028	225	6.9
September	3,584	3,322	92.7	3,124	198	6.0	3,297	3,074	223	6.8
October	3,633	3,312	91.2	3,104	208	6.3	3,342	3,098	244	7.3
November	3,702	3,401	91.9	3,110	291	8.6	3,420	3,113	307	9.0
December	3,752	3,437	91.6	3,130	307	8.9	3,453	3,115	338	9.8
1971:										
January	3,752	3,416	91.0	3,050	366	10.7	3,424	3,117	307	9.0
February	3,807	3,472	91.2	3,091	381	11.0	3,485	3,180	305	8.8
March	3,867	3,490	90.2	3,120	370	10.6	3,509	3,192	317	9.0
April	3,929	3,563	90.7	3,248	315	8.8	3,591	3,276	315	8.8
May	3,983	3,608	90.6	3,297	311	8.6	3,633	3,302	331	9.1
June	4,032	3,699	91.7	3,399	300	8.1	3,662	3,341	321	8.8
July	4,089	3,815	93.3	3,502	313	8.2	3,747	3,428	319	8.5
August	4,142	3,855	93.1	3,533	322	8.4	3,816	3,464	352	9.2
September	4,206	3,863	91.8	3,541	322	8.3	3,849	3,485	364	9.5
October	4,252	3,876	91.2	3,606	270	7.0	3,913	3,592	321	8.2
November	4,293	3,937	91.7	3,616	321	8.2	3,951	3,616	335	8.5
December	4,334	3,979	91.8	3,656	323	8.1	3,992	3,641	351	8.8
1972:										
January	4,380	3,974	90.7	3,574	400	10.1	3,990	3,652	338	8.5
February	4,436	4,086	92.1	3,690	396	9.7	4,111	3,798	313	7.6
March	4,470	4,112	92.0	3,710	402	9.8	4,142	3,796	346	8.4
April	4,498	4,127	91.8	3,783	344	8.3	4,154	3,813	341	8.2
May	4,519	4,166	92.2	3,854	312	7.5	4,190	3,862	328	7.8
June	4,529	4,230	93.4	3,950	280	6.6	4,183	3,885	298	7.1
July	4,551	4,280	94.0	3,979	301	7.0	4,201	3,895	306	7.3
August	4,574	4,293	93.9	3,993	300	7.0	4,247	3,918	329	7.7
September	4,596	4,283	93.2	4,043	240	5.6	4,255	3,981	274	6.4
October	4,624	4,281	92.6	4,045	236	5.5	4,310	4,026	284	6.6
November	4,636	4,307	92.9	4,050	257	6.0	4,318	4,052	266	6.2
December	4,648	4,330	93.2	4,099	231	5.3	4,338	4,087	251	5.8
1973:										
January	4,666	4,295	92.0	3,993	302	7.0	4,334	4,080	254	5.9
February	4,656	4,274	91.8	3,965	309	7.2	4,322	4,075	247	5.7
March	4,665	4,286	91.9	3,992	294	6.9	4,333	4,079	254	5.9
April	4,675	4,340	92.8	4,069	271	6.2	4,370	4,101	269	6.2
May	4,681	4,325	92.4	4,081	244	5.6	4,349	4,093	256	5.9
June	4,682	4,430	94.6	4,185	245	5.5	4,380	4,118	262	6.0

Year and month	Civilian noninstitutional population	Civilian labor force: Number	Civilian labor force: Percent of population	Civilian labor force: Employed	Civilian labor force: Unemployed: Number	Civilian labor force: Unemployed: Percent of labor force	Civilian labor force (seasonally adjusted): Number	Civilian labor force (seasonally adjusted): Employed	Civilian labor force (seasonally adjusted): Unemployed: Number	Civilian labor force (seasonally adjusted): Unemployed: Percent of labor force
NONVETERANS										
Annual average:										
1969	8,522	7,404	86.9	7,141	264	3.6				
1970	8,885	7,736	87.1	7,269	467	6.0				
1971	9,391	8,143	86.7	7,549	594	7.3				
1972	10,007	8,702	87.0	8,113	589	6.8				
1970:										
January	8,680	7,320	84.3	6,937	383	5.2	7,491	7,165	326	4.4
February	8,722	7,427	85.2	6,976	451	6.1	7,611	7,240	371	4.9
March	8,740	7,445	85.2	7,059	386	5.2	7,608	7,235	373	4.9
April	8,764	7,491	85.5	7,102	389	5.2	7,624	7,213	411	5.4
May	8,818	7,520	85.3	7,146	374	5.0	7,674	7,243	431	5.6
June	8,862	7,998	90.2	7,475	523	6.5	7,693	7,236	457	5.9
July	8,905	8,159	91.6	7,672	487	6.0	7,744	7,277	467	6.0
August	8,933	8,158	91.3	7,667	491	6.0	7,810	7,272	538	6.9
September	8,992	7,885	87.7	7,352	533	6.8	7,876	7,326	550	7.0
October	9,033	7,792	86.3	7,272	520	6.7	7,887	7,313	574	7.3
November	9,066	7,819	86.2	7,318	501	6.4	7,948	7,374	574	7.2
December	9,106	7,818	85.9	7,252	566	7.2	7,935	7,324	611	7.7
1971:										
January	9,179	7,846	85.5	7,160	686	8.7	7,989	7,403	586	7.3
Febuary	9,209	7,821	84.9	7,139	682	8.7	7,978	7,417	561	7.0
March	9,240	7,864	85.1	7,264	600	7.6	8,032	7,452	580	7.2
April	9,280	7,905	85.2	7,383	522	6.6	8,060	7,504	556	6.9
May	9,317	7,944	85.3	7,420	524	6.6	8,133	7,527	606	7.5
June	9,405	8,430	89.6	7,770	660	7.8	8,081	7,512	569	7.0
July	9,428	8,576	91.0	7,962	614	7.2	8,127	7,537	590	7.3
August	9,458	8,569	90.6	7,971	598	7.0	8,203	7,546	657	8.0
September	9,476	8,163	86.1	7,621	542	6.6	8,155	7,594	561	6.9
October	9,515	8,159	85.7	7,621	538	6.6	8,255	7,660	595	7.2
November	9,570	8,170	85.4	7,600	570	7.0	8,306	7,653	653	7.9
December	9,616	8,270	86.0	7,678	592	7.2	8,386	7,756	630	7.5
1972:										
January	9,662	8,248	85.4	7,516	732	8.9	8,410	7,783	627	7.5
February	9,707	8,215	84.6	7,516	713	8.7	8,401	7,811	590	7.0
March	9,779	8,327	85.2	7,679	648	7.8	8,512	7,882	630	7.4
April	9,840	8,361	85.0	7,758	603	7.2	8,534	7,892	642	7.5
May	9,914	8,374	84.5	7,847	527	6.3	8,571	7,963	608	7.1
June	10,036	9,076	90.4	8,412	664	7.3	8,706	8,128	578	6.6
July	10,085	9,236	91.6	8,635	601	6.5	8,737	8,159	578	6.6
August	10,121	9,186	90.8	8,688	498	5.4	8,764	8,217	547	6.2
September	10,155	8,841	87.1	8,305	536	6.1	8,833	8,278	555	6.3
October	10,209	8,862	86.8	8,331	531	6.0	8,962	8,377	585	6.5
November	10,250	8,814	86.0	8,328	486	5.5	8,947	8,393	554	6.2
December	10,327	8,879	86.0	8,343	536	6.0	9,009	8,439	570	6.3
1973:										
January	10,390	8,896	85.6	8,257	639	7.2	9,104	8,558	546	6.0
February	10,464	8,969	85.7	8,339	630	7.0	9,216	8,695	521	5.7
March	10,555	9,116	86.4	8,515	601	6.6	9,329	8,749	580	6.2
April	10,604	9,156	86.3	8,624	532	5.8	9,348	8,781	567	6.1
May	10,662	9,243	86.7	8,718	525	5.7	9,457	8,851	606	6.4
June	10,745	9,788	91.1	9,190	598	6.1	9,390	8,866	524	5.6

[1] See footnote 1, table 1.

Note: See note, table 1.

Mr. JAVITS. Mr. President, I ask unanimous consent that Jon Steinberg, of Senator CRANSTON's office, and Jeff Doranz, of Senator WILLIAMS' office, may have the privilege of the floor during this debate.

The PRESIDING OFFICER (Mr. HATHAWAY). Without objection, it is so ordered.

Mr. JAVITS. Mr. President, that completes my statement, and I yield the floor.

Mr. TAFT. Mr. President, at this point I shall not make protracted remarks on the bill. I have filed additional views, which there is no need to repeat in great detail. I would like to call attention to some errors in the printing of facts in the additional views. There are statements in the third paragraph which refer to the amount of money expended under EEA and PEP and the years that have been involved in these programs, which are inaccurate. The correct figure is $2.25 billion and the public employment program has been a 2-year program rather than a 5-year program.

I do not find myself in any substantial disagreement with the remarks of the Senator from Wisconsin and the Senator from New York who have long been leaders in the field of manpower legislation and who have provided excellent input in this bill.

Mr. President, yesterday the Senate passed S. 1559, a manpower revenue-sharing bill. Senators expressed hope at that time that in conference with the House an agreement could be reached on a number of issues. One of these was public service employment.

S. 1559, as it was passed by the Senate yesterday, did include for local governmental units the option of directing their manpower efforts into the public sector.

It would seem to me, as I commented yesterday, that great care must be exercised in this area. I think certain safeguards must be included in the law, safeguards to prevent undue diversion of funds from manpower training programs.

My view of this bill and the program it proposes, over and above the manpower revenue sharing approach, is that it should be a special impact program directed not so much to the general problem to which the manpower bill is directed, but directed to special areas covered in section 6 of the Emergency Employment Act.

I hope, along with the Senator from New York and the Senator from Wisconsin and others, that we will be able to work out some kind of general agreement that will include a direction for public service employment that is directed toward the areas of need.

I also feel the bill as presently drafted has somewhat of a strait jacket approach toward veterans preference. Great attention should be given to the problem of Vietnam veterans and employment opportunities, but the 50 percent figure seems somewhat restrictive, and as to particular areas and programs, there might not be that many veterans available for employment.

Subject to these comments, it is my hope that we can work out an agreement. If we cannot, it may be desirable at a later time in connection with this bill that the Senate consider a general substitute for the S. 1559. Perhaps that might not be necessary if we can get general agreement on the combining of the proper role and function of the manpower proposals, and public service employment.

Mr. President, I yield the floor.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TAFT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I send to the desk a number of amendments to the pending bill I am offering for Senator CRANSTON, and ask that they be reported.

The PRESIDING OFFICER. The amendments will be stated.

Mr. JAVITS. Mr. President, I withdraw that. These amendments are Senator CRANSTON's and I am delighted to see that he is now here, and he will handle them himself.

Mr. CRANSTON. I thank the senator from New York very much for his cooperation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. MOSS). Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I have six amendments which I will ask unanimous consent to be considered en bloc a little later, at the end of my remarks, and will send them to the desk at that time.

Mr. President, I now send these amendments to the desk and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Is there objection to the request of the Senator from California? The Chair hears none, and the amendments will be considered en bloc.

The amendments will now be stated. The legislative clerk proceeded to read the amendments.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered, and the amendments will be printed in the RECORD.

The texts of the amendments are as follows:

Add at the end of the bill the following new sections:

MAINTENANCE OF EFFORT

SEC. 8. Section 12(a) of the Emergency Employment Act of 1971 is amended by striking out "and" at the end of subparagraph (7), by striking the period at the end of subparagraph (8) and inserting in lieu thereof "; and", and by inserting after subparagraph (8) the following new subparagraph:

"(9) no funds under this Act will be used to hire any person to fill a job opening created by the action of an employer in laying off or terminating the employment (except for cause pursuant to applicable personnel procedures) of any regular employee not supported under this Act."

SPECIAL PROVISIONS

SEC. 9. (a) Section 2 of the Emergency Employment Act of 1971 is amended by—

(1) in clause (1) inserting "both men and women in" after "to";

(2) in clause (2) inserting "the many women who are entering or reentering the labor force" after "including".

(b) Subparagraph (7) of section 7(c) of such Act is amended by adding at the end thereof a comma and "including a description of the special methods to be used to acquaint persons of limited English-speaking ability with the availability of public service jobs funded under this Act".

(c) Subparagraph (15) of section 7(c) of such Act is amended to read as follows:

"(15) assurances that agencies and institutions to whom financial assistance is made available under this Act have undertaken, or will undertake, analyses of job descriptions and reevaluations and, where shown necessary, revisions of qualification requirements at all levels of employment, including civil service requirements and practices relating thereto, in accordance with regulations prescribed by the Secretary, with a view toward removing artificial barriers to public employment of those whom it is the purpose of this Act to assist;".

(d) Section 7(c) of such Act is amended by adding after clause (18) the following new clause and renumbering the succeeding clauses as appropriate:

"(19) assurances that due consideration will be given to employing welfare recipients who want and are available for work and that appropriate linkages will be established and maintained with welfare agencies and with other programs making special efforts to assist welfare recipients to become self-sufficient;

(e) Section 11 of such Act is amended to read as follows:

"(c) The Secretary shall set aside for each fiscal year, out of sums available under section 9(a)(2) of this Act, an amount, not to exceed 1 per centum, which he determines is necessary and appropriate to enable him to provide for technical assistance to eligible applicants seeking to comply with the requirements of this Act (including such assistance as is necessary to assist such applicants to comply with assurances made pursuant to subparagraph (15) of section 7(c) of this Act) and a continuing evaluation of programs assisted under this Act and their impact on related programs; and shall no later than thirty days after such sums are made available notify the appropriate committees of the Congress of the amount so set aside and the basis for his determination of need and appropriateness.

VETERANS OUTREACH

SEC. ——. Section 14(a) of the Emergency Employment Act of 1971 is amended by—

(1) in clause (3) inserting "veterans outreach," after "beautification".

(2) inserting following clause (7) the following new clause:

"(8) 'veterans outreach' means the veterans outreach services program carried out under subchapter IV of chapter 3 of title 38, United States Code, with full utilization of veterans receiving educational assistance or vocational rehabilitation under chapter 31 or 34 of such title 38."

Mr. JAVITS. Mr. President, will the Senator from California yield?

Mr. CRANSTON. I am delighted to yield to the Senator from New York and I thank him for his cooperation and help. I did discuss these amendments previously with the distinguished floor managers of the bill, and, as I have said, I greatly appreciate their help and cooperation.

Mr. President, I want to thank the distinguished floor manager of the bill under consideration this morning (Mr. NELSON) for his helpfulness in working out the six amendments I intend to offer en bloc to S. 1560, the Emergency Employment Amendments of 1973. I also greatly appreciate the spirit of accommodation and compromise on the part of the minority floor manager (Mr. JAVITS).

Five of these amendments reflect provisions contained in legislation which has long been under consideration in the Employment, Poverty and Migratory Labor Subcommittee; namely, S. 793, the "Public Service Employment Act of 1973," which I introduced earlier this year. S. 793 is identical to S. 3311 in the 92d Congress. S. 793—which I hope will be taken up by the subcommittee after this more urgent extension of the Emergency Employment Act is dealt with—would provide for a permanent program of public service employment, built on the successful Emergency Employment Act experience. These provisions from that bill are generally noncontroversial and have been developed in light of the past 2 years of experience with the Emergency Employment Act programs.

I would now like to explain briefly the purpose and expected impact of these amendments to the Emergency Employment Act of 1971 (Public Law 92-54), which I am offering for myself and the distinguished Senator from Massachusetts (Mr. KENNEDY).

MAINTENANCE OF EFFORT

My first amendment adds a new section 8 to the bill in order to add a new subparagraph (9) to section 12(a) of the act, to insure that EEA funds are not used to hire any person to fill a job opening created by the action of an EEA employer in laying off or dismissing any regular employee—except for cause pursuant to applicable personnel policies and collective bargaining agreements not supported with EEA funds.

This amendment is needed to prevent the situation in which an employer lays off a regular local government employee, only to rehire that same person or someone else at a later date under an EEA grant to do the same work he or she was doing. Those who are laid off by a city with financial difficulties are usually those with the least seniority. They are frequently from a disadvantaged background or are recently hired veterans. They are the very people from the very neighborhoods and groups we are targeting this legislation to help.

There are plenty of jobs that need doing in almost every city in the country. Through the EEA we can supply the funding to assist local communities in providing employment to those who need it most.

But the Emergency Employment Act is for new jobs, not to supplant those local government workers who are now rendering needed services to their communities. It is not simply a "musical chairs" game where the city abuses its employees' job security to bargain for some new Federal funds.

EMPLOYMENT PROBLEMS OF WOMEN

Mr. President, the next amendments I have offered as a new section 9 to be added to S. 1560 would amend section 2 of the EEA—the statement of findings and purposes—to give greater visability to the significant employment problems of women.

The first amendment in this set changes the statement of findings and purposes of the act in clause (1) to specify women as a group which has been "associated with substantial unemployment and underemployment."

The second amendment in this set is to clause (2) of EEA section 2 and is similar in purpose to my amendment to clause (1). Clause (2) of section 2 discusses the failure of employment opportunities to keep pace with the many individuals entering and réentering the labor force. Clause (2) at present specifically cites the difficulties in this respect of young persons, individuals recently separated from the military and elderly persons my amendment to clause (2) of the act would specifically list women who are entering or reentering the labor force among these groups listed in clause (2) of section 2.

Mr. President, the Subcommittee on Employment, Poverty and Migratory Labor received extensive testimony during the 1972 hearings on comprehensive manpower reform and public service employment legislation discussing the compelling employment problems of women from Ann Scott, then legislative vice president, of the National Organization of Women (NOW). In addition to difficulty in getting jobs, those women who are employed, as manifested most recently in a study done in conjunction with the President's Council of Economic Advisors, receive significantly less compensation for their work.

Mr. President, the national unemployment rate is at 5 percent. The unemployment rate for women in the labor force is 5.9 percent. That is clearly unacceptable. I believe these amendments to section 2 will help in providing visibility to the serious employment problems with which women in this country are faced.

BILINGUAL INFORMATION REGARDING EEA JOBS

Mr. President, my third amendment is designed to insure that individuals of limited English-speaking ability are provided with access to information by each EEA sponsor—in their primary language—which will inform them of employment opportunities in public service jobs.

The amendment would change section 7 of EEA—which is the provision setting for the required assurances in order to obtain assistance under the act—to include under section 7(c) in subparagraph (7) a requirement that a description of the special methods to be used to acquaint persons of limited English-speaking ability with the availability of public service jobs funded under the Emergency Employment Act be included in any application for assistance under the act.

Among Spanish-surnamed people alone the unemployment rate is 8.2 percent. It would seem a minimal yet highly desirable addition to the EEA to insure that people of limited English-speaking ability are provided in their primary language all necessary information about EEA jobs.

ELIMINATING ARTIFICIAL BARRIERS TO PUBLIC EMPLOYMENT

Mr. President, the Emergency Employment Act has now been in operation since the summer of 1971. In section 7, subparagraph (15) of the act, assurances were required from public agencies and institutions to whom financial assistance was made available under the act that they would begin analyses of job descriptions and reevaluations of job requirements at all levels of employment—including Civil Service requirements, and that these analyses would be provided to the Secretary.

Subparagraph (7) was intended to be implemented in conjunction with the existing requirements of subparagraph (18) of section 7(c) of the act. Subparagraph (18) requires assurances from program agents that public service employment programs conducted under the act will contribute to the elimination of artificial barriers to employment and occupational advancement, including civil service requirements, which restrict employment opportunities for disadvantaged persons.

However, in drafting its regulations to carry out these two subparagraphs the administration sharply limited the amount of funds that could be spent on the administration of the Emergency Employment Act. Partly, as a result of this restriction, and also because of the urgent need to implement the EEA as quickly as possible in the summer and fall of 1971, many jurisdictions failed, or were unable, to comply fully with the legislative requirements with regard to the analysis of job descriptions, evaluations of job requirements, and reviews of Civil Service procedures.

I want to underline how important it is that progress be made in this important area. By this amendment, I hope to provide not only a legislative requirement for progress in this area to carry out the purposes of the 1971 act, but also a direction to the Secretary in my amendment to section 11 of the act to set aside funds to provide technical assistance to program agents in this area.

The National Civil Service League over a period of a year, in its "pacemaker" program demonstrated that, it is indeed possible to make significant progress in improving the administration of civil service laws, and to effectively open up civil service employment and promotional practices and opportunities so that they can operate in a truly equitable manner.

Mr. President, the original draft of my amendment to subparagraph (15) would have required assurances that the information and analyses required under the provision of the 1971 act had been provided by programs agents before any additional assistance was authorized by the Secretary. It was my strong feeling that the 2 years the Emergency Employment Act has been in existence provided sufficient time to fulfill the mandates of the law, and that the foot-dragging which has occurred with regard to section 7(c)(15) and (18) of the act should not be allowed to continue. However, after consultation with the distinguished floor managers of the bill (Senators NELSON and JAVITS), and in light of the rapid implementation of the EEA, I have modified this amendment to require either that such programs be in place or that firm assurances be provided that such actions will be undertaken by the program agents. My strong intention is for the Secretary to require in most every case that the analyses have been made and that positive efforts toward revision of practices, policies, and regulations have been taken before going forward with refunding. Only in cases where ample justification exist should the Secretary accept more empty promises of progress, but should require some tangible evidence of intention and action toward achievement of the needed reforms.

TECHNICAL ASSISTANCE AND EVALUATION SET ASIDE

Mr. President, I would hope that the technical assistance which my section 11 amendment mandates the Secretary to provide would be consistent with the excellent model provided by the "pacemaker" program. That program had very broad support, and revealed, among other things, that reform of existing Civil Service procedures is clearly in the self-interest of local communities. It revealed at the same time that those communities need outside assistance in beginning such reforms.

In providing technical assistance under this provision, it is expected that the Secretary will make available to program agents and sponsors information on the experiences of other communities in this regard, so that they might benefit from the successful experiences of other communities.

Mr. President, this same provision couples with technical assistance as a secretarial responsibility the conduct of program evaluations. This provision is modeled on section 205(b)(3) which I authored in S. 1559, the Job Training and Community Services Act of 1973, adopted 88 to 5 by the Senate yesterday. To date, we do not believe the Labor Department has carried out or stimulated sufficient hard evaluations of EEA effectiveness, especially in terms of the compliance of grantees with program assurances provided in their applications—especially the removal of artificial employment barriers which was the subject of my discussion of the preceding amendment.

In addition, Mr. President, the amendment requires that the Secretary set aside sufficient funds, though not more than 1-percent of the amount appropriated for the act, in order to carry out his duties under this provision. Moreover, the amendment requires the Secretary to notify the Congress as to the amount of the funds which he has earmarked for use in implementing this provision in order that the Congress—which has had a long standing interest in this issue, particularly the members of the Senate Subcommittee on Employment, Poverty, and Migratory Labor—may be informed of the Secretary's plans and progress on this matter.

Mr. President, this procedure is identical to one included in an amendment which I offered in subcommittee to section 409 of S. 1559, and which the Senate passed yesterday by such an overwhelming margin, with regard to labor market information.

WELFARE RECIPIENTS

My next amendment, Mr. President, would insert a new subparagraph (19) in section 7(c) of the act requiring that due consideration be given to the employment of welfare recipients who want and are available to work. The purpose of this amendment is, I think, self-evident. The amendment also adds a new requirement that program agents maintain linkages between welfare agencies and other social services programs designed to help individuals get off welfare and become self-sufficient.

Mr. President, it has always seemed absurd to me to train people for jobs that do not exist. To require welfare recipients to register for and accept work if they are able to work, can be productive. But, when—as all studies of the WIN program show there has never been enough work for all those who signed up for jobs—there is not nearly enough work to be had, it is a counterproductive proposition. That has been the failure inherent in the WIN—work incentive—program. For example, in my home State of California there are some 421,000 men and women looking for jobs. Nearly a half million unemployed. But these are only the official Bureau of Labor Statistics unemployment tabulations. Welfare recipients for the most part are not counted in these figures.

In his recent book, "Do the Poor Want To Work? A Social-Psychological Study of Work Orientations," Leonard Goodwin, a member of the Brookings Institution governmental studies staff, states that the WIN program has failed, because in the final analysis most of the participants end up without jobs. Goodwin points out that a work requirement for welfare mothers could mean pushing more of them through WIN—even though 80 percent of them would not obtain jobs in the open market, or it could mean forcing them to fill the lowest paid jobs in American society. Either course, states Goodwin, would increase their psychological dependence on welfare and discourage further work effort. Public service employment would provide a program to rectify that situation by providing decent and meaningful employment in jobs that are real jobs. Individuals will be paid by the employers and not at the welfare office—the latter lacking both dignity and pride—two essential parts of any wage.

VETERANS OUTREACH PROGRAMS

Mr. President, another amendment I am offering would alter section 14 of the EEA—the definitions section of the act—to include in the definition of "public service" jobs work in veterans outreach programs and a subsequent definition of "veterans outreach." This definition would include the veterans outreach services program carried out under the provisions of subchapter IV of chapter 3 of title 38, United States Code, and provides for the "full utilization" in these VA outreach programs of veterans receiving GI bill assistance or participating in vocational rehabilitation programs under title 38.

Veterans, Mr. President, are the particular emphasis of S. 1560, and in my last amendment I seek to insure that existing veterans assistance programs are fully coordinated with job opportunities made available through the Emergency Employment Act.

Mr. President, as the author of the veterans outreach services program established in the provisions of section 240 and section 241 in subchapter IV of title 38 of the United States Code, I seek through this amendment to enhance the effectiveness and relevance of the outreach services which can be provided through the EEA—especially the "split jobs" concept I will discuss next. Under this title 38 program, outreach services are provided designed to assure that all veterans are aware of, and, hopefully, take adventage of the readjustment and other benefits to which they are entitled.

Section 240 directs the VA actively to seek out eligible veterans and their dependents—and personally contact those veterans who are disadvantaged—to insure that they have this information and to counsel them as to their various eligibilities.

The specified outreach services include a letter to each veteran at the time of his discharge or release from the military informing him of all programs and benefits for which the veteran or his dependents may be eligible; contact in person or by telephone of all veterans who do not have a high school education or equivalent at the time of their discharge; distribution of information on a general basis describing all veterans programs and services; and assistance in preparation and presentation of all claims which might be made pursuant to laws administered by the VA.

Mr. President, the absolutely outrageous unemployment rates for veterans are totally unacceptable. In May of this year the unemployment rate for veterans aged 20 to 24 was at 8.7 percent. We must—indeed it is the moral obligation of the Federal Government to do so—do all we can to see to it that these disgraceful unemployment rates among young veterans are radically reduced. And these rates do not take account of GI bill trainees struggling to make ends meet and frozen out of the part-time job market.

Utilization of the proven split-jobs concept in veterans outreach programs through the Emergency Employment Act is one step we can take to provide a fair chance to these men and women—especially GI bill trainees needing part-time jobs to meet their expenses in our overinflated economy—to become employed in productive public service work and not have to wage the misdirected war on inflation at home after the sacrifices we have already called upon them to make in Indochina.

Under this amendment, Mr. President, we double the help the EEA can provide to returning and recently returned veterans by hiring vets in public service jobs to help other veterans learn about and make use of their GI bill assistance benefits and to help direct them toward productive job opportunities as well.

The 1971 Labor and Public Welfare Committee report on S. 31, the Senate EEA bill (Senate report No. 92-48), includes language I proposed then discussing the concept of "split-jobs" under the Emergency Employment Act for veterans. The report states:

> . . . [T]he Committee believes that there is a great opportunity under this public service employment program to assist educationally and economically disadvantaged veterans enrolled in college under the GI bill and who are struggling to make ends meet. Many more of these men, who often are high school dropouts, could pursue college or junior college training if they had part-time jobs to supplement their GI bill educational assistance allowances.
>
> The Committee is hopeful that the Secretary of Labor would give serious consideration to the great potential of such an allocation of public service jobs. Along the same lines the Committee feels that, to the extent practicable, he should also give special preferences to veterans disabled with service-connected conditions who are nevertheless employable.

The Secretary subsequently did issue regulations providing for and encouraging the use of such "split" Emergency Employment Act jobs, and my amendment is intended, in part, basically to codify those existing Labor Department regulations.

Mr. President, literally thousands of recent veterans have been helped to gain additional education and training while employed through the use of the split jobs concept. Highly successful "split jobs" EEA programs have been directed by Governors in Illinois, South Carolina, Pennsylvania, Arizona, and Washington, as well as by numerous mayors and county administrators—including a highly successful program operated by the city of San Francisco, in conjunction with the San Francisco Community College, which has provided split jobs for over 250 GI bill trainees under the EEA.

Mr. JAVITS. The amendment which relates to the veterans outreach—as we understand that amendment, as explained to the Senator from Wisconsin and myself—would simply qualify another type of public service employment—to wit, the employment of veterans who would be engaged in finding other veterans to whom the program is necessary. What we want to be sure about in that regard is that the work which is authorized for veterans outreach includes not only finding a veteran who will get public service employment but also seeing that veteran is brought the aspects of the bill which we consider important—to wit its transitional nature. So we would expect the veteran authorized to be employed for veterans' outreach will not only get the veteran what is called a Pep job but will also see that veterans out of that job, if that is possible, and into regular employment or manpower training or whatever would be the transition which he should make logically in order to carry out the intent of the bill.

Mr. CRANSTON. That was certainly included in the purpose of this amendment.

I should like to reiterate that in the 1971 Committee on the EEA report is a proposal for providing for "split jobs", for two or more veterans working half time, for example, to fill one EEA job slot.

Mr. JAVITS. The other question relates to the welfare amendment. We asked the Senator to change a word there to make it "due consideration," simply because we wanted to be sure to rebut any idea that we were creating another preferential class. We have a preferential class for veterans. We do not wish to create a preferential class for those on welfare as such, although many may fall into the category of "economically disadvantaged" which is a focus of our bill.

Mr. CRANSTON. We have already made that change in the amendment.

Mr. JAVITS. Am I correct also that amendment which says you should not fire somebody in order to hire somebody else under the PEP program—really has no substantive purpose other than to prevent cheating on that program. This would be improper and immoral. We are just locking it into the act.

Mr. CRANSTON. The Senator, as always, understands the amendment perfectly.

Mr. JAVITS. I thank the Senator.

Mr. President, so far as we are concerned on this side, I see no objection to the amendment.

Mr. CRANSTON. I thank the Senator very much.

I also thank again the distinguished Senator from Wisconsin for all his help and cooperation in the matter.

Mr. NELSON. Mr. President, I have no objection to the amendments. I think they are useful improvements in the language of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments were agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENATE CONFIRMATION OF HEAD OF MINING ENFORCEMENT AND SAFETY ADMINISTRATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the pending bill, S. 1560, now be temporarily laid aside, with the understanding that the leadership during the day will probably ask to restore it to its first track position on tomorrow, and that the Senate now proceed to the consideration of S. 1828, Calendar No. 323.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The bill will be stated by title.

The second assistant legislative clerk read as follows:

A bill (S. 1828) to require the President to appoint, with the advice and consent of the Senate, the head of the Mining Enforcement and Safety Administration, Department of the Interior.

The Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike out all after the enacting clause and insert:

That appointments to the Federal offices listed in this section made after the date of enactment of this Act shall be made by the President by and with the advice and consent of the Senate, any other provision of law to the contrary notwithstanding. Such offices are—

(1) The head of the Mining Enforcement and Safety Administration established pursuant to Order Numbered 2953 of the Secretary of the Interior issued in accordance with the authority provided by section 2 of the Reorganization Plan Numbered 3 of 1950 (64 Stat. 1262);

(2) Director of the Bureau of Land Management;

(3) Chief Forester, United States Forest Service;

(4) Director of the National Park Service;

(5) Director of the Bureau of Outdoor Recreation;

(6) Commissioner of Reclamation;

(7) Governor of American (Eastern) Samoa.

The PRESIDING OFFICER. On this bill there is a limitation of time, to be equally divided between the Senator from Pennsylvania (Mr. Scott), or his designee, and the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I yield myself 1 minute on the bill.

Mr. President, I ask unanimous consent that time on any amendment, debatable motion, or appeal in relation to this bill be limited to 10 minutes, to be equally divided in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment on behalf of the distinguished senior Senator from Georgia (Mr. Talmadge), and I ask it be stated by the clerk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 2, strike line 13 and renumber the remaining sections of the bill to reflect the modification.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, would the clerk restate the amendment, please?

The PRESIDING OFFICER. The clerk will restate the amendment.

The assistant legislative clerk read as follows:

On page 2, strike line 13 and renumber the remaining sections of the bill to reflect the modification.

Mr. ROBERT C. BYRD. Mr. President, as the author of the bill, I have no objection to this amendment. Mr. Talmadge is the distinguished chairman of the Committee on Agriculture and Forestry; and I am sure there is ample justification for the amendment. It has been discussed with the staff of the Committee on Interior and Insular Affairs. I understand that there is no objection on the part of Mr. Jackson to the amendment by the Senator from Georgia (Mr. Talmadge) to strike line 13.

Mr. MANSFIELD. Mr. President, will the Senator yield so that I may suggest the absence of a quorum?

Mr. ROBERT C. BYRD. I yield; without the time being charged.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield such time as he may require to the distinguished majority leader.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. MANSFIELD. Mr. President, in support of and in corroboration of what the distinguished assistant majority leader has just said, I ask unanimous consent to have printed in the Record a letter addressed to the Honorable Henry M. Jackson, chairman, Committee on Interior and Insular Affairs, a copy of which was sent to me and to the President pro tempore of the Senate, the Senator from Mississippi (Mr. Eastland), signed by Herman E. Talmadge, chairman of the Committee on Agriculture and Forestry.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., July 24, 1973.

Hon. Henry M. Jackson,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

Dear Henry: It has come to my attention that on Friday, July 20, the Committee on Interior and Insular Affairs reported favorably S. 1828, requiring the Senate confirmation of certain policy-making offices in the Department of Interior, and the Chief Forester, Department of Agriculture.

Since many of the operations of the U.S. Forest Service come under the jurisdiction of the Committee on Agriculture and Forestry, I respectfully request that S. 1828 be referred to the Committee on Agriculture and Forestry for consideration of those portions of S. 1828 which relate to the U.S. Forest Service, U.S. Department of Agriculture.

With best wishes and warm personal regards, I am

Sincerely,
Herman E. Talmadge,
Chairman.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of the time on the amendment.

The PRESIDING OFFICER. The Senator from West Virginia yields back his time.

Mr. GRIFFIN. I yield back our time on the amendment.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. GRIFFIN. On the time allotted to this side.

The PRESIDING OFFICER. The clerk will call the roll, within the time that remains.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is the time yielded back on both sides?

Mr. GRIFFIN. No. Mr. President, we are considering an amendment on this side.

I suggest the absence of a quorum, with the time not charged to either side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Moss). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, on May 16, 1973, I introduced S. 1828 on behalf of myself, Mr. McGee, Mr. Percy, and Mr. Williams. The bill was referred to the Committee on Interior and Insular Affairs, from which it was reported, with amendments, by the distinguished chairman of that committee (Mr. Jackson).

The bill as introduced would require that the Administrator of the recently constituted Mine Enforcement and Safety Administration of the Department of the Interior be appointed by the President of the United States and that his nomination be confirmed by the Senate.

By way of background, some of the actions which have led up to the introduction of the bill include Order No. 2953 of the Secretary of the Interior, Hon. Rogers C. B. Morton, signed and thus effectuated on May 7, 1973.

This order set up a new agency within the Department of the Interior titled, "The Mining Enforcement and Safety Administration," and assigned to it the responsibility of administering the Federal Coal Mine Health and Safety Act and the Federal Metal and Non-Metallic Mine Safety Act. In addition, this new agency will handle mine health and safety, assessment and compliance, and education and training functions.

I believe this new agency will be handling responsibilities commensurate with the most important agencies within the Department. The Administrator of MESA will be responsible for the health and safety of the thousands of miners in this country who labor daily under the most potentially hazardous conditions of any industry in the entire Nation. A vigorous and fair enforcement of the Coal Mine Health and Safety Act and the Metal and Non-Metallic Mine Act can provide vitally needed protection and safeguards to the mine workers of the United States.

I believe that by requiring the nomination of the Administrator of MESA to be subject to Senate confirmation, we will be taking a forceful step to insure that whichever administration is in office will be required to appoint the most qualified individual available to fill this position. If that course is not followed, then the Senate can always reject the nomination.

Mr. President, thousands of miners in West Virginia and throughout the Nation need to know that they are getting the protection they deserve from this agency. I believe it is imperative that this important position be subject to Senate confirmation. In this way, Congress can insure the selection of the most qualified individual for this post.

Mr. President, I ask unanimous consent that Secretary Morton's Order No. 2953 be printed in the Record.

There being no objection, the order was ordered to be printed in the Record, as follows:

U.S. Department of the Interior,
Washington, D.C.

Order No. 2953
Subject: Reorganization of Bureaus and Offices.

Sec. 1. *Purpose.* This Order outlines the implementation of the reorganization plan described in Secretary's Order 2951 dated February 6, 1973. Provided herein are brief functional descriptions of new organizations created, the transfer of various functions between organizations, and the asisgnment of bureaus and offices to Assistant Secretaries for Secretarial direction and supervision.

Sec. 2. *Responsibilities.* Assistant Secretaries named in Secretary's Order 2951 will be responsible for implementing the provisions of this Order as well as the development of new or revised organization statements for publication in the Departmental Manual. The Assistant Secretary-Management is responsible for the approval of all reorganization actions made pursuant to this Order as provided in 101 DM.

Sec. 3. *Authority.* This Order is issued in accordance with the authority provided by Section 2 of Reorganization Plan No. 3 of 1960 (4 Stat. 1262).

Sec. 4. *Secretarial Officers.* The functions, authorities, and responsibilites of all Secretarial officers, except the Solicitor, have been revised as provided in Secretary's Order 2951. The following Sections and the chart attached to this Order delineate the transfer and alignment of existing and new organizations. A description of each Secretarial officer position and the organizational entities under its jurisdiction are described below.

Sec. 5. *Assistant Secretary—Energy and Minerals.* The Assistant Secretary—Energy and Minerals discharges the duties of the Secretary with the authority and direct responsibility for programs associated with energy conservation; energy and mineral data and analysis; generation, transmission and marketing of electric power except for those functions performed in the Bureau of Reclamation; mine health, safety and training programs; topographic, geologic and mineral resources matters; oil and gas activities, including import allocations; energy, metallurgical and mining research and development; and emergency preparedness and natural disaster energy and minerals functions. The Assistant Secretary—Energy and Minerals exercises Secretarial direction over the described functions of the following organizations.

(a) *Geological Survey.* The Geological Survey retains its present functions and is transferred from the former Assistant Secretary—Mineral Resources.

(b) *Bureau of Mines.* The Bureau of Mines is transferred from the former Assistant Secretary—Mineral Resources and retains its traditional functions of energy. Metallurgical and mining research and development, mine health and safety research, and mineral supply. Other functions related to mine health and safety are transferred to the Mining Enforcement and Safety Administration described in Section 5(c) below.

(c) *Mining Enforcement and Safety Administration.* A new Mining Enforcement and Safety Administration is established and is responsible for administering the Federal Coal Mine Health and Safety and the Federal Metal and Nonmetallic Mine Safety Act. Mine health and safety, assessment and compliance, and education and training functions are transferred to this office from the Bureau of Mines.

(d) *Power Administrations.* The Bonneville, Southwestern, Southeastern and Alaska Power Administrations retain their present functions and are transferred from the former Assistant Secretary—Water and Power Resources.

(e) *Office of Oil and Gas.* The Office of Oil and Gas retains its present functions and is transferred from the former Assistant Secretary—Mineral Resources.

(f) *Office of Coal Research.* The Office of Coal Research retains its present functions and is transferred from the former Assistant Secretary—Mineral Resources.

(g) *Office of Energy Data and Analysis.* A new Office of Energy Data and Analysis is established to serve as the focal point in the Department for coordinating functions related to gathering and analyzing energy data. The Office develops appropriate information systems, analyses, and studies to assist in economic forecasting and policy decisionmaking. The Office also evaluates and reviews energy data-gathering programs and functions performed in the bureaus and offices reporting to the Assistant Secretary—Energy and Minerals.

(h) *Office of Research and Development.* A new Office of Research and Development is established to coordinate energy and minerals research and development activities. The Office sets priorities and formulates research and development budgets, oversees developments of new research and development programs, and evaluates the progress and results of all research and development conducted or sponsored by the Department. The Office administers a Central Energy Fund and directs the underground electric power transmission research program which is transferred to this office from the former Assistant Secretary—Water and Power Resources.

(i) *Office of Energy Conservation.* A new Office of Energy Conservation is established to promote efficiencies in the use and development of energy resources; to coordinate all Federal Energy Conservation programs; to conduct research on methods of improving the efficiency of energy usage; to promote consumer awareness of the need for energy conservation; and to develop contingency plans for nationwide power, fuel and mineral resource emergencies caused by natural disasters, civil defense emergencies or other interruptions of the Nation's energy and mineral supplies. The activities associated with the emergency minerals and emergency solid fuels functions are transferred to this office from the former Assistant Secretary—Mineral Resources. The Defense Electric Power Administration is transferred to this office from the former Assistant Secretary—Water and Power Resources.

Sec. 6. *Assistant Secretary—Land and Water Resources*. The Assistant Secretary—Land and Water Resources discharges the duties of the Secretary with the authority and direct responsibility for programs associated with land use and water planning; public land management; construction and operation of multi-purpose dams and water distribution facilities; marketing of water and specified Bureau of Reclamation hydroelectric power projects; conversion of saline water and water resources research; and emergency preparedness water resources functions. The Assistant Secretary—Land and Water Resources exercises Secretarial direction over the following organizations:

(a) *Bureau of Land Management*. The Bureau of Land Management retains its present functions and is transferred from the former Assistant Secretary—Public Land Management.

(b) *Bureau of Reclamation*. The Bureau of Reclamation retains its present functions and is transferred from the former Assistant Secretary—Water and Power Resources.

(c) *Office of Land Use and Water Planning*. A new Office of Land Use and Water Planning is established to be responsible for policy development and interagency coordination on use of public land and water resources, liaison with the Water Resources Council, coordination of River Basin Commission activitives and interagency coordination with State and other Federal land use and water planning agencies. The Office of Regional Planning, under the former Assistant Secretary—Program Policy, is abolished and its functions are transferred to this office.

(d) *Office of Saline Water*. The Office of Saline Water retains its present functions and is transferred from the former Assistant Secretary—Water and Power Resources.

(e) *Office of Water Resources Research*. The Office of Water Resources Research retains its present functions and is transferred from the former Assistant Secretary—Water and Power Resources.

Sec. 7. *Assistant Secretary—Fish and Wildlife and Parks*. The Assistant Secretary—Fish and Wildlife and Parks discharges the duties of the Secretary with the authority and direct responsibility for programs associated with the development, conservation, and utilization of fish, wildlife, recreation, historical, and national park system resources of the Nation. The Assistant Secretary—Fish and Wildlife and Parks exercises Secretarial direction over the following organizations:

(a) *National Park Service*. The National Park Service retains its present functions.

(b) *Bureau of Sport Fisheries and Wildlife*. The Bureau of Sport Fisheries and Wildlife retains its present functions.

(c) *The Bureau of Outdoor Recreation*. The Bureau of Outdoor Recreation retains its present functions and is transferred from the jurisdiction of the former Assistant Secretary—Program Policy.

Sec. 8. *Assistant Secretary—Congressional and Public Affairs*. The Assistant Secretary—Congressional and Public Affairs discharges the duties of the Secretary with the authority and direct responsibility for programs associated with legislative and Congressional liaison activities; public information and communications matters; and the Department's Johnny Horizon program. The Offices of Congressional Liaison, Communications, and Legislation and the Johnny Horizon Program Office are transferred to the jurisdiction of the Assistant Secretary—Congressional and Public Affairs.

Sec. 9. *Assistant Secretary—Management*. The Assistant Secretary—Management discharges the duties of the Secretary with the authority and direct responsibility for the functions carried out by the former Assistant Secretary—Management and Budget through the offices of Management Consulting, Management Operations, Survey and Review, Organization and Personnel Management, Library Services, Secretarial Operations, Manpower Training and Youth Activities, International Activities, and Accounting Management and Policy. The Office of Budget assigned to the former Assistant Secretary—Management and Budget is transferred to the Assistant Secretary—Program and Budget as described in Section 10.

Sec. 10. *Assistant Secretary—Program Development and Budget*. The Assistant Secretary—Program Development and Budget discharges the duties of the Secretary with the authority and direct responsibility for the functions carried out by the former Assistant Secretary—Program Policy through the Offices of Environmental Project Review, Policy Analysis, Economic Analysis, and Budget. The Office of Budget is transferred from the former Assistant Secretary—Management and Budget.

Sec. 11. *Solicitor*. The authorities, functions and responsibilities of the Solicitor remain unchanged.

Sec. 12. *Commissioner of Indian Affairs*. As provided for in Secretary's Order 2951, the Commissioner of Indian Affairs reports directly to the Secretary and directs the activities of the Bureau of Indian Affairs.

Sec. 13. *Other Secretarial Officers*.

(a) *Office of Hearings and Appeals*. The Office of Hearings and Appeals retains its present functions, responsibilities and organizational placement.

(b) *Office of Territorial Affairs*. As provided for in Secretary's Order 2951, the Director, Office of Territorial Affairs, reports directly to the Secretary.

(c) *Office of Equal Opportunity*. The Office of Equal Opportunity retains its present functions, responsibilities and organizational placement.

(d) *The Office of the Science Adviser*. The Office of the Science Adviser retains its present functions and responsibilities.

Sec. 14. *Secretarial Delegations of Authority*.

(a) Broad delegations of the Secretary's authority have been made to the Assistant Secretaries by 210 DM 1.2, and such delegations are not affected by the provisions of this Order. All other delegations of authority in effect preceding the date of this Order remain in effect to the extent they are compatible with the organizations, functions and responsibilities provided in this Order.

(b) Delegations of authority which have been affected by transfer of program responsibility or abolishment of positions are reassigned to the head of the bureau or office to which the program responsibility is transferred by this Order. Such officials are responsible for immediately initiating action for appropriate amendments to the Secretary's delegations of authority provided in the 200 Series of the Department Manual. The Assistant Secretary—Management, in cooperation with the Solicitor, is responsible for the timely conversion and revision of affected Secretary's delegations of authority.

Sec. 15. *Administrative Provisions*.

(a) The Assistant Secretary—Management and the Assistant Secretary—Program Development and Budget will take appropriate actions to accomplish the transfer of personnel, funds, and property to implement the provisions of this Order.

(b) Detailed organization statements providing for the reassignment of all functions affected by this Order will be prepared and published in the DM within a 90-day transition period beginning with the effective date of this Order.

(c) Employees of bureaus and offices whose functions are reassigned from the bureau or offices in which they are employed are to be detailed to the bureau or office to which the functions are assigned by this Order during the 90-day transition period.

Sec. 16. *Effective Date*. This Order is effective immediately.

ROGERS C. B. MORTON,
Secretary of the Interior.

The PRESIDING OFFICER (Mr. SPARKMAN). Who yields time?

Mr. ROBERT C. BYRD. Mr. President, how much time do I have left?

The PRESIDING OFFICER. Three minutes remain.

Mr. ROBERT C. BYRD. I yield 2 minutes of the 3 to the Senator from Illinois (Mr. PERCY).

Mr. PERCY. Mr. President, I wish to indicate, very briefly, my firm and strong support for the bill presented by the assistant majority. I have introduced several bills requiring confirmation of what I consider to be extremely important jobs, and I did so keeping in mind article II, section 2, of the Constitution, which States, in part, the President—

> Shall have power, by and with the advice and consent of the Senate—

And then I skip, appoint—

> all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone . . .

By no stretch of the imagination could we consider this an inferior office. It is an extremely important office. I believe it should be appointive or nominative with the advice and consent of the Senate so that the men or women occupying this position are responsive to Congress and so we can determine from the policy-making positions they have taken what their attitudes are before they are finally invested and nominated into office.

I commend the acting majority leader for his initiative in this regard, and wholeheartedly support the bill pending before us.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I yield myself 15 seconds and ask unanimous consent that the distinguished senior Senator from Kentucky (Mr. COOK) be listed as a cosponsor of the bill. He asked me to do that some days ago, and I inadvertently forgot to do it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment to the committee amendment will be stated.

The assistant legislative clerk read the amendment to the amendment, as follows:

> On page 2, line 3, after "ate," insert "to serve at the pleasure of the President for a term not to exceed four years subject to reappointment and confirmation."

Mr. GRIFFIN. Mr. President, this

amendment is offered probably out of an abundance of caution. Probably it is not necessary, but there has been some question as to whether or not, as the bill is now worded, it would be necessary to impeach one of these officers to remove him, because it is not clear that he would serve at the pleasure of the President. I think that while we would want to preserve the prerogative of the Senate to confirm these appointments, we should also make it clear that the President could remove them and that they serve at his pleasure. That is the purpose of the amendment.

It has been agreed to by the chairman of the Interior and Insular Affairs Committee (Mr. Jackson) and also the sponsor of the bill, the acting majority leader.

I yield back the remainder of my time on the amendment.

Mr. ROBERT C. BYRD. Mr. President, the distinguished assistant Republican leader has discussed the amendment with me. I am not the chairman of the committee, of course, and would not presume to speak for the distinguished chairman (Mr. Jackson). I am the author of the bill. I have no objection to the amendment. I think there is ample justification for the amendment.

The distinguished Senator from Montana (Mr. Metcalf) is here, and I would like him to speak to the amendment in behalf of the committee, if he will.

Mr. METCALF. Mr. President, it was the intention of the committee that all of these people would be confirmed prospectively; that none of the incumbents in the offices would be affected by this legislation. If there is any language that needs to be changed or if there is a need for the amendment offered by the distinguished Senator from Michigan to insure that no one who is an incumbent in office needs to be confirmed, I certainly would concur, and I think the entire membership of the committee that voted on these various provisions would also confirm the feeling that we want to make it prospective only.

Mr. GRIFFIN. Mr. President, I think it is useful to have that statement in the legislative record. I appreciate the comments of the distinguished Senator from Montana.

I yield back my time.

Mr. ROBERT C. BYRD. Mr. President, I yield back my time on the amendment.

The PRESIDING OFFICER. All time on the amendment having been yielded back, the question is on agreeing to the amendment of the Senator from Michigan to the committee amendment.

The amendment to the amendment was agreed to.

Mr. GRIFFIN. Mr. President, I yield to the distinguished Senator from Kentucky such time as he may require.

Mr. COOK. Mr. President, I only wish to say that the Senator from West Virginia and I discussed this matter the other day when it passed as an amendment to the so-called Alaska pipeline bill. I was a cosponsor of the amendment at the time. I feel that he should be commended for his action in this case. My remarks are already in the Record. I feel there is no point in extended debate on this legislation.

Mr. ROBERT C. BYRD. Mr. President, I thank the able Senator for his comments, and I thank him for his earlier remarks and his support, and I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the bill has been yielded back.

The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The amendment, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. WILLIAMS. Mr. President, as chairman of the Labor and Public Welfare committee, I have been very deeply involved in all aspects of mine health and safety, and I am very pleased to be an original cosponsor of Senator Byrd's bill, S. 1828, requiring confirmation by the Senate of the appointment of the administrator of the newly created mining enforcement and safety administration in the Department of the Interior.

The Labor Subcommittee has made very extensive investigations of mine disasters in the past several years, and particularly, the enforcement of the Metal and Nonmetallic Mine Safety Act of 1966 and the Coal Mine Health and Safety Act of 1969. Oversight hearings have been conducted on the enforcement of the acts by the Bureau of Mines, and we receive many letters from our constituents who are affected by mine safety.

Because of my extensive involvement in mine health and safety, I have particular interest in understanding the administration of the mine safety laws, and I appreciate the importance of the position of administrator of the mining enforcement and safety administration. I therefore very strongly support Senator Byrd's proposed legislation.

On June 29, I introduced S. 2117, the Federal Mine Safety and Health amendments of 1973. This bill provides for a mine health and safety administration headed by an administrator appointed by the President with the advice and consent of the Senate. This administration would be under the Department of Labor rather than under the Department of the Interior. I have proposed this transfer because of the conflict of the energy policies of the Interior Department with the strong enforcement of mine safety laws. This transfer would eliminate that conflict. S. 1828 applies the same consent provision to the existing mining enforcement and safety administration.

As I said in the opening remarks when introducing the Federal Mine Safety and Health amendments of 1973, vigorous administration of the prior mine safety acts was not realized, and the statistics of death and injury attest to this. I believe that such an important post as the administrator of the agency responsible for the lives and health of the Nation's miners needs the careful scrutiny of this body. It is only in this way that we can assure ourselves that the laws we so painfully propose can be carried out by those who bear that responsibility.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. Cranston), the Senator from West Virginia (Mr. Randolph), and the Senator from Mississippi (Mr. Eastland) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. Abourezk) is absent on official business.

I also announce that the Senator from Mississippi (Mr. Stennis) is absent because of illness.

I further announce that, if present and voting, the Senator from Mississippi (Mr. Eastland) and the Senator from West Virginia (Mr. Randolph) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. Cotton) is absent because of illness.

The Senator from Nebraska (Mr. Curtis) is necessarily absent.

If present and voting, the Senator from Nebraska (Mr. Curtis) would vote "yea."

The result was announced—yeas 91, nays 2, as follows:

[No. 325 Leg.]

YEAS—91

Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bennett
Bentsen
Bible
Biden
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Dole
Domenici
Dominick
Eagleton
Ervin
Fong
Fulbright
Goldwater
Gravel
Griffin
Gurney
Hansen
Hart
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Roth
Schweiker
Scott, Pa.
Scott, Va.
Sparkman
Stafford
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—2

Fannin
Saxbe

NOT VOTING—7

Abourezk
Cotton
Cranston
Curtis
Eastland
Randolph
Stennis

So the bill (S. 1828) was passed, as follows:

S. 1828

An act to require that certain Federal offices be filled by appointment by the President by and with the advice and consent of the Senate

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That appointments to the Federal offices listed in this section made after the date of enactment of this Act shall be made by the President by and with the advice and consent of the Senate, to serve at the pleasure of the President for a term not to exceed four years subject to reappointment and confirmation, any other provision of law to the contrary notwithstanding. Such offices are—

(1) The head of the Mining Enforcement and Safety Administration established pursuant to Order Numbered 2953 of the Secretary of the Interior issued in accordance with the authority provided by section 2 of the Reorganization Plan Numbered 3 of 1950 (64 Stat. 1262);

(2) Director of the Bureau of Land Management;

(3) Director of the National Park Service;

(4) Director of the Bureau of Outdoor Recreation;

(5) Commissioner of Reclamation;

(6) Governor of American (Eastern) Samoa.

The title was amended, so as to read: "A bill to require that certain Federal offices be filled by appointment by the President by and with the advice and consent of the Senate."

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HUMPHREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that my name be added as a cosponsor of the bill just passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (S. 1090) to amend the Communications Act of 1934, to extend certain authorizations for the Corporation for Public Broadcasting and for certain construction grants for noncommercial educational television and radio broadcasting facilities, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. ALLEN).

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States, submitting nominations, were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. SPARKMAN) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations received today, see the end of Senate proceedings.)

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1973

The PRESIDING OFFICER (Mr. SPARKMAN). Under the previous order, the Senate will now proceed to the consideration of S. 372, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 372) to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of section 315 with respect to presidential and vice presidential candidates and to amend the Campaign Communications Reform Act to provide further limitation on expenditures in election campaigns for Federal elective office.

The Senate proceeded to consider the bill which had been reported from the Committee on Commerce and the Committee on Rules and Administration with amendments.

The amendments of the Committee on Commerce are as follows:

On page 2, at the beginning of line 1, strike out "Sec. 2." and insert "Sec. 2. (a) after line 6, insert:

(b) Section 315(b) of such Act (47 U.S.C. 315(b)) is amended by striking out "by any person" and inserting "by or on behalf of any person".

On page 4, after line 9, strike out:

"(1) The term 'expenditure' means—

"(A) a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value (except a loan of money by a National or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business, or those who volunteer to work on behalf of a candidate), made for the purpose of influencing the nomination for election, or election, of any person to Federal office, for the purpose of influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President, or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

"(B) a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make any expenditure; and

"(C) a transfer of funds between political committees."

And, in lieu thereof, insert:

"(1) The term 'expenditure'—

"(A) means—

"(1) The term 'expenditure'—

loan, advance, deposit, or gift of money or anything of value made for the purpose of influencing the nomination for election, or election, of any person to Federal office, for the purpose of influencing the result of any election held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the Office of President;

"(ii) a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make any expenditure; and

"(iii) a transfer of funds between political committees; but

"(B) does not include (i) a loan of money by a National or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business; (ii) the services of those who volunteer to work on behalf of a candidate; or (iii) communications by an established membership organization (not organized for purely political purposes) to its members, or by a corporation (not organized for purely political purposes) to its stockholders."

On page 6, after line 14, insert:

(c) Section 102(6) of the Campaign Communications Reform Act is amended to read as follows:

"(6) The term 'State' means each State of the United States, the District of Columbia, the territory of Guam, the Commonwealth of Puerto Rico, and the territory of the Virgin Islands."

(d) Section 102 of the Campaign Communications Reform Act is amended by adding at the end thereof the following new paragraph:

"(7) The term 'person' means an individual, partnership, committee, association, corporation, labor organization or group of persons.

On page 7, after line 7, strike out:

"Sec. 104. (a) No candidate (other than a candidate for Presidential nomination) may make expenditures in connection with his campaign for nomination for election, or election, to a Federal office in excess of 25 cents multiplied by the voting age population (as certified under subsection (c)) of the geographical area in which the election for such office is held. The limitation on expenditures imposed by this subsection shall apply separately to each primary, primary runoff, general, and special election campaign in which a candidate participates."

And, in lieu thereof, insert:

"Sec. 104. (a) (1) No legally qualified candidate other than a candidate for Presidential nomination) may make expenditures in connection with his campaign for nomination for election, or election, to Federal office in excess of the greater of—

"(A) 25 cents multiplied by the voting age population (as certified under subsection (e)) of the geographical area in which the election for such office is held, or

"(B) the maximum amount allowable under paragraph (2).

"(2) For purposes of paragraph (1), the maximum amount allowable under this paragraph is—

"(A) $175,000, if the Federal office sought is that of Senator, Delegate, Resident Commissioner, or Representative from a State which is entitled to only one Representative; and

"(B) $90,000, if the Federal office sought is that of Representative from a State entitled to more than one Representative.

"(3) The limitation on expenditures imposed by this subsection shall apply separately to each primary, primary runoff, general, and special election campaign in which a candidate participates.

On page 9, at the beginning of line 17, strike out "(c)" and insert "(c) (1)"; at the beginning of line 18, strike out "candidate" and insert "legally qualified candidate or candidates for presidential nomination"; at the top of page 10, insert:

"(2) For purposes of paragraph (1) no expenditure in an amount not in excess of $100 made on behalf of a candidate by a person or persons acting independently of the candidate shall be deemed to have been made by such candidate unles the person making the expenditure is the candidate or his agent, or is a political committee or other person required, under section 304 or 305 of the Federal Election Campaign Act of 1971, to report that expenditure to the Federal Election Commission."

In line 20, after the word "the", where it appears the second time, strike out "Attorney General" and insert "Federal Election Commission"; in line 25, after "(a)", insert "of this section"; on page 11, at the beginning of line 5, insert "the Federal Election Campaign Act of 1973"; in line 7, after the word "the", strike out

"Comptroller General" and insert "Federal Election Commission"; in line 13, after the word "any", insert "legally qualified"; in line 21, after the word "The", strike out "Comptroller General" and insert "Federal Election Commission"; on page 26, after line 2, insert a new section, as follows:

SEC. 8. (a) Title III of the Federal Election Campaign Act of 1971 (relating to disclosure of Federal campaign funds) is amended by redesignating sections 308 through 311 as sections 310 through 313, 315, respectively, and by inserting after section 307 the following new sections:

"FEDERAL ELECTION COMMISSION

"SEC. 308. (a) (1) There is hereby established, as an independent establishment of the executive branch of the Government of the United States, a commission to be known as the Federal Election Commission, hereinafter referred to as the 'Commission.'

"(2) The Commission shall be composed of nine members who shall be appointed by the President and with the advice and consent of the Senate.

"(3) Except as provided in this paragraph, members of the Commission shall be appointed for terms of fifteen years each, ending at noon on the 30th day of April in each case. Of the members initially appointed under this section—

"(A) three shall be appointed for terms ending at noon on the thirtieth day of the fifth April beginning after the date of enactment of the Federal Election Campaign Act of 1973,

"(B) three shall be appointed for terms ending at noon on the thirtieth day of the tenth April beginning after the date of enactment of the Federal Election Campaign Act of 1973, and

"(C) three shall be appointed for terms ending at noon on the thirtieth day of the fifteenth April beginning after the date of enactment of the Federal Election Campaign Act of 1973.

"(4) Members shall be chosen on the basis of their maturity, experience, integrity, impartiality, and good judgment. Not more than five members of the Commission shall be affiliated with the same political party.

"(5) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he succeeds.

"(6) The Commission shall elect a Chairman and a Vice Chairman from among its members for such terms as the Commission determines appropriate. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in that office.

"(b) A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission and five members thereof shall constitute a quorum.

"(c) The Commission shall have an official seal which shall be judicially noticed.

"(d) The Commission shall at the close of each fiscal year report to the Congress and to the President concerning the action it has taken; the names, salaries, and duties of all individuals in its employ and the money it has disbursed; and shall make such further reports on the matters within its jurisdiction and such recommendations for further legislation as may appear desirable.

"(e) The principal office of the Commission shall be in or near the District of Columbia, but it may meet or exercise any or all its powers in any State.

"(f) The Commission shall appoint a General Counsel and an Executive Director to serve at the pleasure of the Commission. The General Counsel shall be the chief legal officer of the Commission. The Executive Director shall be responsible for the administrative operations of the Commission and shall perform such other duties as may be delegated or assigned to him from time to time by regulations or orders of the Commission. However, the Commission shall not delegate the making of regulations regarding elections to the Executive Director.

"(g) The Chairman of the Commission shall appoint and fix the compensation of such personnel as may be necessary to fulfill the duties of the Commission in accordance with the provisions of title 5, United States Code.

"(h) The Commission may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

"(i) In carrying out its responsibilities under this title, the Commission shall, to the fullest extent practicable, avail itself of the assistance, including personnel and facilities, of the General Accounting Office and the Department of Justice. The Comptroller General and the Attorney General are authorized to make available to the Commission such personnel, facilities, and other assistance, with or without reimbursement, as the Commission may request.

"POWERS OF COMMISSION

"SEC. 309. (a) The Commission shall have the power—

"(1) to require, by special or general orders, any person to submit in writing such reports and answers to questions as the Commission may prescribe; and such submission shall be made within such reasonable period and under oath or otherwise as the Commission may determine;

"(2) to administer oaths;

"(3) to require by subpena, signed by the Chairman or the Vice Chairman, the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

"(4) in any proceeding or investigation to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths and, in such instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (3) of this subsection;

"(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States;

"(6) to accept gifts and voluntary and uncompensated services, notwithstanding the provisions of section 3679 of the Revised Statutes (31 U.S.C. 665(b));

"(7) to initiate (through civil proceedings for injunctive relief and through presentations to Federal grand juries), prosecute, defend, or appeal any court action in the name of the Commission for the purpose of enforcing the provisions of title I and this title through its General Counsel; and

"(8) to delegate any of its functions or powers, other than the power to issue subpenas under paragraph (3), to any officer or employee of the Commission.

"(b) Any United States district court within the jurisdiction of which any inquiry is carried on, may, upon petition by the Commission, in case of refusal to obey a subpena or order of the Commisison issued under subsection (a) of this section, issue an order requiring compliance therewith; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(c) No person shall be subject to civil liability to any person (other than the Commission (or the United States) for disclosing information at the request of the Commission.

"(d) (1) Whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of that estimate or request to the Congress.

"(2) Whenever the Commission submits any legislative recommendations, or testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have authority to require the Commission to submit its legislative recommendations, or testimony, or comments on legislation, to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress."

(b) (1) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(60) Members, Federal Election Commission (9)."

(2) Section 5315 of such title is amended by adding at the end thereof the following new paragraphs:

"(98) General Counsel, Federal Election Commission.

"(99) Executive Director, Federal Election Commission."

(c) Until the appointment and qualification of all the members of the Federal Election Commission and its General Counsel and until the transfer provided for in this subsection, the Comptroller General, the Secretary of the Senate, and the Clerk of the House of Representatives shall continue to carry out their responsibilities under title I and title II of the Federal Election Campaign Act of 1971 as such titles existed on the day before the date of enactment of this Act. Upon the appointment of all the members of the Commission and its General Counsel, the Comptroller General, the Secretary of the Senate, and the Clerk of the House of Representatives shall meet with the Commission and arrange for the transfer, within thirty days after the date on which all such members and the General Counsel are appointed, of all records, documents, memorandums, and other papers associated with carrying out their responsibilities under title I and title III of the Federal Election Campaign Act of 1971.

(d) Title III of the Federal Election Campaign Act of 1971 is amended by—

(1) amending section 301(g) (relating to definitions) to read as follows:

"(g) 'Commission' means the Federal Election Commission;";

(2) striking out "supervisory officer" in section 302(d) and inserting "Commission";

(3) amending section 302(f) (relating to organization of political committees) by—

(A) striking out "appropriate supervisory officer" in the quoted matter appearing in paragraph 1 and inserting "Federal Election Commission";

(B) striking out "supervisory officer" in subparagraphs (A) and (B) of paragraph (2) and inserting "Commission";

(C) striking out "which has filed a report with him" in paragraph (2) (A) and inserting "which has filed a report with it";

(4) amending section 303 (relating to registration of political committees; statements) by—

(A) striking out "supervisory officer" each time it appears therein and inserting "Commission"; and

(B) striking out "he" in the second sentence of subsection (a) of such section and inserting "it";

(5) amending section 304 (relating to reports by political committees and candidates) by—

(A) striking out "appropriate supervisory officer" and "him" in the first sentence thereof and inserting "Commission" and "it", respectively; and

(B) striking out "supervisory officer" where it appears in the third sentence of subsection (a) and in paragraphs (12) and (13) of subsection (b), and inserting "Commission";

(6) striking out "supervisory officer" each place it appears in section 305 (relating to reports by other than political committees) and section 306 (relating to formal requirements respecting reports and statements) and inserting "Commission";

(7) striking out "Comptroller General of the United States" and "he" in section 307 (relating to reports on convention financing) and inserting "Federal Election Commission" and "it", respectively;

(8) striking out "SUPERVISORY OFFICER" in the caption of section 310 (as redesignated by subsection (a) of this section) (relating to duties of the supervisory officer) and inserting "COMMISSION";

(9) striking out "supervisory officer" in section 310(a) (as redesignated by subsection (a) of this section) the first time it appears and inserting "Commission";

(10) amending section 310(a) (as redesignated by subsection (a) of this section) by—

(A) striking out "him" in paragraph (1) and inserting "it";

(B) striking out "him" in paragraph (4) and inserting "it"; and

(C) striking out "he" each place it appears in paragraphs (7) and (9) and inserting "it".

(11) striking out "supervisory officer" in section 310(b) (as redesignated by subsection (a) of this subsection) and inserting "Commission";

(12) amending subsection (c) of section 310 (as redesignated by subsection (a) of this section) by—

(A) striking out "Comptroller General" each place it appears therein and inserting "Commission"; and striking "his" in the second sentence of such subsection and inserting "its"; and

(B) striking out the last sentence thereof;

(13) amending subsection (d)(1) of section 310 (as redesignated by subsection (a) of this section) by—

(A) striking out "supervisory officer" each place it appears therein and inserting "Commission";

(B) striking out "he" the first place it appears in the second sentence of such section and inserting "it"; and

(C) striking out "the Attorney General on behalf of the United States" and inserting "the Commission"; and

(14) striking out "a supervisory officer" in section 311(a) (as redesignated by subsection (a) of this section) (relating to statements filed with State officers) and inserting "the Commission".

On page 47, after line 2, insert a new section, as follows:

Sec. 9. (a) Title III of the Federal Election Campaign Act of 1971 is amended by adding at the end thereof the following new sections:

"APPROVAL OF PRESIDENTIAL CAMPAIGN EXPENDITURES BY NATIONAL COMMITTEE

"Sec. 314. (a) No expenditure in excess of $100 shall be made by or on behalf of any candidate who has received the nomination of his political party for President or Vice President unless such expenditure has been specifically approved by the chairman or treasurer of that political party's national committee or the designated representative of that national committee in the State where the funds are to be expended.

"(b) Each national committee approving expenditures under subsection (a) shall register under section 303 as a political committee and report each expenditure it approves as if it had made that expenditure, together with the name and address of the person seeking approval and making the expenditure.

"(c) No political party shall have more than one national committee.

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 315. There are authorized to be appropriated to the Commission, for the purpose of carrying out its functions under title I and this title, not to exceed $2,500,000 for the fiscal year ending June 30, 1974, and not to exceed $2,500,000 for each fiscal year thereafter."

(b) Section 301 of the Federal Election Campaign Act of 1971 is amended by—

(1) striking out "and" after the semicolon in subsection (h),

(2) striking the period at the end of subsection (i) and inserting in lieu thereof "; and", and

(3) inserting at the end of such section the following new subsection:

"(j) 'national committee' means the duly constituted organization, which by virtue of the bylaws of a political party is responsible for the day-to-day operation of that political party at the national, level, as determined by the Federal Election Commission."

On page 48, after line 20, insert a new section, as follows:

Sec. 10. Section 403 of the Federal Election Campaign Act of 1971 is amended to read as follows:

"EFFECT ON STATE LAW

"Sec. 403. The provisions of this Act, and of regulations promulgated under this Act, supersede any provision of State law with respect to campaigns for nomination for election, or for election, to Federal office (as such term is defined in section 301(c))."

The amendments of the Committee on Rules and Administration are as follows:

On page 1, line 4, after the word "Act", insert "Amendments"; on page 2, line 4, after the word "than", strike out "the office of President or Vice President,"." and insert "Federal elective office (including the office of Vice President),"."; after line 9, insert:

(c) Section 315(c) of such Act (47 U.S.C. 315(c)) is amended to read as follows:

(c) "No station licensee may make any charge for the use of any such station by or on behalf of any legally qualified candidate for nomination for election, or for election, to Federal elective office unless such candidate (or a person specifically authorized by such candidate in writing to do so) certifies to such licensee in writing that the payment of such charge will not exceed the limit on expenditures applicable to that candidate under section 614 of title 18, United States Code."

(2) Section 315(d) of such Act (47 U.S.C. 315(d)) is amended to read as follows:

"(d) If a State by law imposes a limitation upon the amount which a legally qualified candidate for nomination for election, or for election, to public office (other than Federal elective office) within that State may spend in connection with his campaign for such nomination or his campaign for election, then no station licensee may make any charge for the use of such station by or on behalf of such candidate unless such candidate (or a person specifically authorized in writing by him to do so) certifies to such licensee in writing that the payment of such charge will not violate that limitation."

(d) Section 317 of such Act (47 U.S.C. 317), is amended by—

(1) striking out in paragraph (1) of subsection (a) "person: *Provided*, That" and inserting in lieu thereof the following: "person. If such matter is a political advertisement soliciting funds for a candidate or a political committee, there shall be announced at the time of such broadcast a statement that a copy of reports filed by that person with the Federal Election Commission is available from the Federal Election Commission, Washington, D.C., and the licensee shall not make any charge for any part of the costs of making the announcement. The term"; and

(2) by redesignating subsection (e) as (f), and by inserting after subsection (d) the following new subsection:

"(e) Each station licensee shall maintain a record of any political advertisement broadcast, together with the identification of the person who caused it to be broadcast, for a period of two years. The record shall be available for public inspection at reasonable hours."

On page 4, after line 7, strike out:

Sec. 3. (a) Section 102(1) of the Campaign Communications Reform Act is amended to read as follows:

On page 5, after line 7, strike out:

"(1) The term 'expenditure'—

"(A) means—

"(i) a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value made for the purpose of influencing the nomination for election, or election, of any person to Federal office, for the purpose of influencing the result of any election held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the Office of President;

"(ii) a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make any expenditure; and

"(iii) a transfer of funds between political committees; but

"(B) does not include (i) a loan of money by a National or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business; (ii) the services of those who volunteer to work on behalf of a candidate; or (iii) communications by an established membership organization (not organized for purely political purposes) to its members, or by a corporation (not organized for purely political purposes) to its stockholders."

On page 6, after line 14, strike out:

(c) Section 102(6) of the Campaign Communications Reform Act is amended to read as follows:

"(6) The term 'State' means each State of the United States, the District of Columbia, the territory of Guam, the Commonwealth of Puerto Rico, and the territory of the Virgin Islands."

(d) Section 102 of the Campaign Communications Reform Act is amended by adding at the end thereof the following new paragraph:

"(7) The term 'person' means an individual, partnership, committee, association, corporation, labor organization or group of persons.

On page 7, after line 2, insert a new section, as follows:

Sec. 3. The Campaign Communications Reform Act is repealed.

After line 4, strike out:

Sec. 4. Section 104 of the Campaign Communications Reform Act is amended to read as follows:

"LIMITATION ON EXPENDITURES

After line 17, strike out:

"Sec. 104. (a)(1) No legally qualified candidate (other than a candidate for Presidential nomination) may make expenditures in connection with his campaign for nomination for election, or election, to Federal office in excess of the greater of—

"(A) 25 cents multiplied by the voting age population (as certified under subsection (e)) of the geographical area in which the election for such office is held, or

"(B) the maximum amount allowable under paragraph (2).

"(2) For purposes of paragraph (1), the maximum amount allowable under this paragraph is—

"(A) $175,000, if the Federal office sought is that of Senator, Delegate, Resident Commissioner, or Representative from a State which is entitled to only one Representative; and

"(B) $90,000, if the Federal office sought is that of Representative from a State entitled to more than one Representative.

"(3) The limitation on expenditures imposed by this subsection shall apply separately to each primary, primary runoff, general, and special election campaign in which a candidate participates.

On page 8, after line 17, strike out:

"(b) No candidate for presidential nomination may make expenditures in any State in connection with his campaign for such nomination in excess of the amount which a candidate for nomination for election as United States Senator from that State (or for election as Delegate in the case of the District of Columbia) might expend within the State in connection with his campaign for that nomination. For purposes of this subsection, an individual is a candidate for presidential nomination if he makes (or any other person makes on his behalf) an expenditure on behalf of his candidacy for any political party's nomination for election to the office of President. He shall be considered to be such a candidate during the period—

"(1) beginning on the date on which he (or such other person) first makes an expenditure (or, if later, on January 1 of the year in which the election for the office of President is held), and

"(2) ending on the date on which such political party nominates a candidate for the office of President.

For purposes of this title and of section 315 of the Communications Act of 1934, a candidate for presidential nomination (as determined under the preceding sentence) shall be considered a legally qualified candidate for public office.

"(c) (1) Expenditures made on behalf of any legally qualified candidate or candidate for presidential nomination shall, for the purpose of this section, be deemed to have been expended by such candidate. Expenditures made on behalf of any candidate for the office of Vice President of the United States shall, for the purpose of this section, be deemed to have been made by the candidate for the office of President of the United States with whom he is running.

At the top of page 10, strike out:

"(2) For purposes of paragraph (1) no expenditure in an amount not in excess of $100 made on behalf of a candidate by a person or persons acting independently of the candidate shall be deemed to have been made by such candidate unless the person making the expenditure is the candidate or his agent, or is a political committee or other person required, under section 304 or 305 of the Federal Election Campaign Act of 1971, to report that expenditure to the Federal Election Commission."

After line 9, strike out:

"(d) (1) For purposes of paragraph (2)—

"(A) The term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.

"(B) The term 'base period' means the calendar year 1970.

"(2) At the beginning of each calendar year (commencing in 1974), as there becomes available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the *Federal Election Commission* and publish in the Federal Register the per centum difference between the price index for the twelve months preceding the beginning of such calendar year and the price index for the base period. Each amount determined under subsection (a) *of this section* shall be increased by such per centum difference. Each amount so increased shall be the amount in effect for such calendar year.

"(e) Within sixty days after the date of enactment of *the Federal Election Campaign Act of 1973,* and during the first week of January 1974, and every subsequent year, the Secretary of Commerce shall certify to the *Federal Election Commission* and publish in the Federal Register an estimate of the voting age population of each State and congressional district as of the 1st day of June next preceding the date of certification.

"(f) No person shall make any charge for services or products furnished to, or for the benefit of, any *legally qualified* candidate in connection with his campaign for nomination for election, or election, in an amount in excess of $100 unless the candidate (or a person specifically authorized by the candidate in writing to do so) certifies in writing to the person making the charge that the payment of that charge will not exceed the expenditure limitations set forth in this section.

"(g) The *Federal Election Commission* shall prescribe regulations under which any expenditure by a candidate for presidential nomination for use in two or more States shall be attributed to such candidate's expenditure limitation in each such State, based on the number of persons in such State who can reasonably be expected to be reached by such expenditure."

On page 12, after line 2, strike out:

SEC. 5. Section 105 of the Campaign Communications Reform Act is amended to read as follows:

"REGULATIONS

"SEC. 105 The Comptroller General *Federal Election Commission* shall prescribe such regulations as may be necessary to carry out sections 102, 103(b), and 104 of this Act."

SEC. 6. Section 106 of the Campaign Communications Reform Act is amended to read as follows:

"PENALTIES

"SEC. 106. Whoever willfully and knowingly violates any provision of section 103(b) or 104 or any regulation under section 105 shall be punished by a fine of not more than $5,000 or by imprisonment of not more than five years, or both."

SEC. 7. Subsections (c), (d), (e), and (f) of section 315 of the Communications Act of 1934 are repealed and subsection (g) of such section is redesignated as subsection (c).

After line 21, insert:

SEC. 4. (a) Section 301 of the Federal Election Campaign Act of 1971 (relating to definitions) is amended by—

(1) striking out ", and (5) the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States" in paragraph (a), and by inserting "and" before "(4)" in such paragraph;

(2) striking out paragraph (d) and inserting in lieu thereof the following:

"(d) 'political committee' means—

"(1) any committee, club, association, or other group of persons which receives contributions or makes expenditures during a calendar year in an aggregate amount exceeding $1,000;

"(2) any national committee, association, or organization of a political party, any State affiliate or subsidiary of a national political party, and any State central committee of a political party; and

"(3) any committee, association, or organization engaged in the administration of a separate segregated fund described in section 610 of title 18, United States Code;";

(3) inserting in paragraph (e) (1) after "subscription" the following: "(including any assessment, fee, or membership dues)";

(4) striking out in paragraph (e) (1) "or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States" and inserting in lieu thereof the following: "or for the purpose of financing any operations of a political committee, or for the purpose of paying, at any time, any debt or obligation incurred by a candidate or a political committee in connection with any campaign for nomination for election, or for election, to Federal office";

(5) striking out subparagraphs (2) and (3) of paragraph (e), and redesignating subparagraphs (4) and (5) as (2) and (3), respectively;

(6) striking out paragraph (f) and inserting in lieu thereof the following:

"(f) 'expenditure' means a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made for the purpose of—

"(1) influencing the nomination for election, or the election, of any person to Federal office, or to the office of presidential and vice-presidential elector;

"(2) influencing the result of a primary election held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President;

"(3) financing any operations of a political committee; or

"(4) paying, at any time, any debt or obligation incurred by a candidate or a political committee in connection with any campaign for nomination for election, or for election, to Federal office;";

(7) striking "and" at the end of paragraph (h),

(8) striking the period at the end of paragraph (i) and inserting in lieu thereof a semicolon; and

(9) adding at the end thereof the following new subsections:

"(j) 'identification' means—

"(1) in the case of an individual, his full name and the full address of his principal place of residence; and

"(2) in the case of any other person, the full name and address of that person;

"(k) 'national committee' means the duly constituted organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of that political party at the national level, as determined by the Commission; and

"(l) 'political party' means a political party which, in the next preceding presidential election, nominated candidates for election to the offices of President and Vice President, and the electors of which party received in such election, in any or all of the States, an aggregate number of votes equal in number to at least 10 per centum of the total number of votes cast throughout the United States for all electors for candidates for President and Vice President in such election.".

(b) (1) Section 302(b) of such Act (relating to reports of contributions in excess of $10) is amended by striking ", the name and address (occupation and principal place of business, if any)" and inserting "of the contribution and the identification".

(2) Section 302(c) of such Act (relating to detailed accounts) is amended by striking "full name and mailing address (occupation and the principal place of business, if any)" in paragraphs (2) and (4) and inserting in each such paragraph "identification".

On page 16, after line 18, insert a new section, as follows:

SEC. 5. (a) Section 303 of the Federal Election Campaign Act of 1971 (relating to registration of political committees; statements) is amended by redesignating subsections (a) through (d) as (b) through (e), respectively, and by inserting after "SEC. 303." the following new subsection (a):

"(a) Each candidate shall, within ten days after the date on which he has qualified under State law as a candidate, or on which he, or any person authorized by him to do so, has received a contribution or made an expenditure in connection with his campaign or for the purpose of preparing to undertake his campaign, file with the Commission a registration statement in such form as the Commission may prescribe. The statement shall include—

"(1) the identification of the candidate, and any individual, political committee, or other person he has authorized to receive contributions or make expenditures on his behalf in connection with his campaign;

"(2) the identification of his campaign depositories, together with the title and number of each account at each such depository which is to be used in connection with his campaign, any safety deposit box to be used in connection therewith, and the identification of each individual authorized by him to make any expenditure or withdrawal from such account or box; and

"(3) such additional relevant information as the Commission may require."

(b) The first sentence of subsection (b) of such section (as redesignated by subsection (a) of this section) is amended to read as follows: "The treasurer of each political committee shall file with the Commission a statement of organization within ten days after the date on which the committee is organized.".

(c) The second sentence of such subsection (b) is amended by striking out "this Act" and inserting in lieu thereof the following: "the Federal Election Campaign Act Amendments of 1973".

(d) Subsection (c) of such section (as redesignated by subsection (a) of this section) is amended by—

(1) inserting "be in such form as the Commission shall prescribe, and shall" after "The statement of organization shall";

(2) striking out paragraph (3) and inserting in lieu thereof the following:

"(3) the geographic area or political jurisdiction within which the committee will operate, and a general description of the committee's authority and activities;"; and

(3) striking out paragraph (9) and inserting in lieu thereof the following:

"(9) the name and address of the campaign depositories used by that committee, together with the title and number of each account and safety deposit box used by that committee at each depository, and the identification of each individual authorized to make withdrawals or payments out of such account or box;".

(e) The caption of such section 303 is amended by inserting "CANDIDATES AND" after "REGISTRATION OF".

On page 19, after line 4, insert a new section, as follows:

SEC. 6. (a) Section 304 of the Federal Election Campaign Act of 1971 (relating to reports by political committees and candidates) is amended by—

(1) inserting "(1)" after "(a)" in subsection (a);

(2) striking out "for election" each place it appears in the first sentence of subsection (a) and inserting in lieu thereof in each such place "for nomination for election, or for election,";

(3) striking out "March, June, and September, in each year, and on the fifteenth and fifth days" in the second sentence of subsection (a) and inserting in lieu thereof the following: "April, July, and October, in each year, and on the tenth day";

(4) striking out everything after "filing" in the third sentence of subsection (a) and inserting in lieu thereof a period and the following: "Any contribution of $5,000 or more which is received after the closing date of the last report required to be filed prior to any election shall be reported within twenty-four hours after its receipt. If the person making any anonymous contribution is subsequently identified, the identification of the contributor shall be reported to the Commission within the reporting period within which it is identified."; and

(5) adding at the end of subsection (a) the following new paragraph:

"(2) Upon a request made by a Presidential candidate or a political committee which operates in more than one State, or upon its own motion, the Commission may waive the reporting dates (other than January 31) set forth in the second sentence of paragraph (1), and require instead that such candidates or political committees file reports not less frequently than monthly. The Commission may not require a Presidential candidate or a political committee operating in more than one State to file more than eleven reports (not counting any report to be filed on January 31 and special reports of contributions of $5,000 or more as required in paragraph (1) above) during any calendar year. If the Commission acts on its own motion under this paragraph with respect to a candidate or a political committee, that candidate or committee may obtain judicial review in accordance with the provisions of chapter 7 of title 5, United States Code.".

(b)(1) Section 304(b) of such Act (relating to reports by political committees and candidates) is amended by striking "full name and mailing address (occupation and the principal place of business, if any" in paragraphs (2), (9), and (10) and inserting in lieu thereof in each such paragraph: "identification".

(2) Subsection (b)(5) of such section 304 is amended by striking out "full names and mailing addresses (occupations and principal places of business, if any) of the lender and endorsers" and inserting in lieu thereof "identification of the lender, endorsers, and guarantors".

(c) Subsection (b)(12) of such section is amended by inserting before the semicolon the following: ", together with a statement as to the circumstances and conditions under which any such debt or obligation is extinguished and the consideration therefor".

(d) Subsection (b) of such section is amended by—

(1) striking the "and" at the end of paragraph (12); and

(2) redesignating paragraph (13) as (14), and by inserting after paragraph (12) the following new paragraph:

"(13) such information as the Commission may require for the disclosure of the nature, amount, source, and designated recipient of any earmarked, encumbered, or restricted contribution or other special fund; and".

(e) The first sentence of subsection (c) of such section is amended to read as follows: "The reports required to be filed by subsection (a) shall be cumulative during the calendar year to which they relate, and during such additional periods of time as the Commission may require.".

(f) Such section 304 is amended by adding at the end thereof the following new subsections:

"(d) This section does not require a Member of Congress to report, as contributions received or as expenditures made, the value of photographic, matting, or recording services furnished to him before the first day of January of the year preceding the year in which his term of office expires if those services were furnished to him by the Senate Recording Studio, the House Recording Studio, or by any individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives and who furnishes such services as his primary duty as an employee of the Senate or House of Representatives, or if such services were paid for by the Republican or Democratic Senatorial Campaign Committee, the Democratic National Congressional Committee, or the National Republican Congressional Committee.

"(e) Every person (other than a political committee or candidate) who makes contributions or expenditures, other than by contribution to a political committee or candidate, in an aggregate amount in excess of $100 within a calendar year shall file with the Commission a statement containing the information required by this section. Statements required by this subsection shall be filed on the dates on which reports by political committees are filed, but need not be cumulative.".

(g) The caption of such section 304 is amended to read as follows:

"REPORTS".

On page 23, after line 9, insert a new section, as follows:

SEC. 7. Section 305 of the Federal Election Campaign Act of 1971 (relating to reports by others than political committees) is amended to read as follows:

"REQUIREMENTS RELATING TO CAMPAIGN ADVERTISING

"SEC. 305. (a) No person shall cause any political advertisement to be published unless he furnishes to the publisher of the advertisement his identification in writing, together with the identification of any person authorizing him to cause such publication.

"(b) Any published political advertisement shall contain a statement, in such form as the Commission may prescribe, of the identification of the person authorizing the publication of that advertisement.

"(c) Any publisher who publishes any political advertisement shall maintain such records as the Commission may prescribe for a period of two years after the date of publication setting forth such advertisement and any material relating to identification furnished to him in connection therewith, and shall permit the public to inspect and copy those records at reasonable hours.

"(d) To the extent that any person sells space in any newspaper or magazine to a legally qualified candidate for Federal elective office, or nomination thereto, in connection with such candidate's campaign for nomination for, or election to, such office, the charges made for the use of such space in connection with his campaign shall not exceed the charges made for comparable use of such space for other purposes.

"(e) Any political committee shall include on the face or front page of all literature and advertisements soliciting contributions the following notice:

"'A copy of our report filed with the Federal Election Commission is available for purchase from the Federal Election Commission, Washington, D.C.'

"(f) As used in this section, the term—

"(1) 'political advertisement' means any matter advocating the election or defeat of any candidate or otherwise seeking to influence the outcome of any election, but does not include any bona fide news story (including interviews, commentaries, or other works prepared for and published by any newspaper, magazine, or other periodical publication the publication of which work is not paid for by any candidate, political committee, or agent thereof or by any other person); and

"(2) 'published' means publication in a newspaper, magazine, or other periodical publication, distribution of printed leaflets, pamphlets, or other documents, or display through the use of any outdoor advertising facility, and such other use of printed media as the Commission shall prescribe.".

On page 25, after line 10, insert a new section, as follows:

SEC. 8. Section 306(c) of the Federal Election Campaign Act of 1971 (relating to formal requirements respecting reports and statements) is amended to read as follows:

"(c) The Commission may, by published regulation of general applicability, relieve—

"(1) any category of candidates of the obligation to comply personally with the requirements of section 304, if it determines that such action will not have any adverse effect on the purposes of this title, and

"(2) any category of political committees of the obligation to comply with such section if such committees—

"(A) primarily support persons seeking State or local office, and

"(B) do not operate in more than one State or do not operate on a statewide basis.".

On page 26, at the beginning of line 3, change the section number from "8" to "9"; in line 6, after the word "sections", strike out "310" and insert "312"; in the same line, after the word "through", strike out "313" and insert "315"; in line 13, after the word "Election", strike out "Commission, hereinafter referred to as the 'Commission'." and insert "Commission."; after line 14, strike out:

"(2) The Commission shall be composed of nine members who shall be appointed by the President and with the advice and consent of the Senate.

"(3) Except as provided in this paragraph, members of the Commission shall be appointed for terms of fifteen years each, ending at noon on the 30th day of April in each case. Of the members initially appointed under this section—

"(A) three shall be appointed for terms ending at noon on the thirtieth day of the fifth April beginning after the date of enactment of the Federal Election Campaign Act of 1973,

"(B) three shall be appointed for terms ending at noon on the thirtieth day of the tenth April beginning after the date of enactment of the Federal Election Campaign Act of 1973, and

"(C) three shall be appointed for terms ending at noon on the thirtieth day of the fifteenth April beginning after the date of enactment of the Federal Election Campaign Act of 1973.

On page 27, after line 8, insert:

"(2) The Commission shall be composed of seven members who shall be appointed by the President, by and with the advice and consent of the Senate. Of the seven members of the Commission—

"(A) two shall be chosen from among individuals recommended by the President pro tempore of the Senate, upon the recommendations of the majority leader of the Senate and the minority leader of the Senate; and

"(B) two shall be chosen from among individuals recommended by the Speaker of the House of Representatives, upon the recommendations of the majority leader of the House and the minority leader of the House.

The two members appointed under subparagraph (A) shall not be affiliated with the same political party; nor shall the two members appointed under subparagraph (B). Of the members not appointed under such subparagraphs, not more than two shall be affiliated with the same political party.

"(3) Members of the Commission shall serve for terms of seven years, except that, of the members first appointed—

"(A) one of the members not appointed under subparagraph (A) or (B) of paragraph (2) shall be appointed for a term ending on the April thirtieth first occurring more than six months after the date on which he is appointed;

"(B) one of the members appointed under paragraph (2)(A) shall be appointed for a term ending one year after the April thirtieth on which the term of the member referred to in subparagraph (A) of this paragraph ends;

"(C) one of the members appointed under paragraph (2)(B) shall be appointed for a term ending two years thereafter;

"(D) one of the members not appointed under subparargaph (A) or (B) of paragraph (2) shall be appointed for a term ending three years thereafter;

"(E) one of the members appointed under paragraph (2)(A) shall be appointed for a term ending four years thereafter;

"(F) one of the members appointed under paragraph (2)(B) shall be appointed for a term ending five years thereafter; and

"(G) one of the members not appointed under subparagraph (A) or (B) of paragraph (2) shall be appointed for a term ending six years thereafter.

On page 29, at the beginning of line 9, strike out "Not more than five members of the Commission shall be affiliated with the same political party." and insert "A member may be reappointed to the Commission only once."; in line 15, after the word "succeeds.", insert "Any vacancy occurring in the office of member of the Commission shall be filled in the manner in which that office was originally filled."; in line 19, after the word "for", strike out "such terms as the Commission determines appropriate" and insert "a term of two years. The Chairman and the Vice Chairman shall not be affiliated with the same political party."; on page 30, line 2, after the word "and", strike out "five" and insert "four"; on page 31, after line 15, insert:

"(j) The provisions of section 7324 of title 5, United States Code, shall apply to members of the Commission notwithstanding the provisions of subsection (d)(3) of such section.

"(k)(1) Whenever the Commission submits any budget estimate or requests to the President or the Office of Management and Budget, it shall concurrently transmit a copy of that estimate or request to the Congress.

"(2) Whenever the Commission submits any legislative recommendations, or testimony, or comments on legislation requested by the Congress or by any Member of Congress to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress or to the member requesting the same. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, or testimony, or comments on legislation, to any office or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

On page 32, line 21, after the word "subpena", insert a comma and "signed by the Chairman or the Vice Chairman,"; on page 33, after line 8, strike out:

"(6) to accept gifts and voluntary and uncompensated services, notwithstanding the provisions of section 3679 of the Revised Statutes (31 U.S.C. 665(b));

At the beginning of line 12, strike out "(7)" and insert "(6)"; in line 16, after the word "of", where it appears the second time, strike out "title I and"; at the beginning of line 17, insert "and of sections 602, 608, 610, 611, 612, 613, 614, 615, and 616 of title 18, United States Code,"; at the beginning of line 20, strike out "(8)" and insert "(7)"; on page 34, after line 7, strike out:

"(d)(1) Whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of that estimate or request to the Congress.

After line 11, strike out:

"(2) Whenever the Commission submits any legislative recommendations, or testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have authority to require the Commission to submit its legislative recommendations, or testimony, or comments on legislation, to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress."

After line 21, insert:

"(d) Notwithstanding any other provision of law, the Commission shall be the primary civil and criminal enforcement agency for violations of the provisions of this title, and of sections 602, 608, 610, 611, 612, 613, 614, 615, and 616 of the title 18, United States Code. Any violation of any such provision shall be prosecuted by the Attorney General or Department of Justice personnel only after consultation with, and with the consent of, the Commission.

"(e)(1) Any person who violates any provision of this title may be assessed a civil penalty by the Commission under paragraph (2) of this subsection of not more than $10,000 for each such violation. Each occurrence of a violation of this title and each day of noncompliance with a disclosure requirement of this title or an order of the Commission issued under this section shall constitute a separate offense. In determining the amount of the penalty the Commission shall consider the person's history of previous violations, the appropriateness of such penalty to the financial resources of the person charged, the gravity of the violation, and the demonstrated good faith of the person charged in attempting to achieve rapid compliance after notification of a violation.

"(2) A civil penalty shall be assessed by the Commission by order only after the person charged with a violation has been given an opportunity for a hearing and the Commission has determined, by decision incorporating its findings of fact therein, that a violation did occur, and the amount of the penalty. Any hearing under this section shall be of record and shall be held in accordance with section 554 of title 5, United States Code.

"(3) If the person against whom a civil penalty is assessed fails to pay the penalty, the Commission shall file a petition for enforcement of its order assessing the penalty in any appropriate district court of the United States. The petition shall designate the person against whom the order is sought to be enforced as the respondent. A copy of the petition shall forthwith be sent by registered or certified mail to the respondent and his attorney of record, and thereupon the Commission shall certify and file in such court the record upon which such order sought to be enforced was issued. The court shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or settting aside in whole or in part the order and decision of the Commission or it may remand the proceedings to the Commission for such further action as it may direct. The court may consider and determine de novo all relevant issues of law but the Commission's findings of fact shall become final thirty days after issuance of its decision order incorporating such findings of fact and shall not thereafter be subject to judicial review.

"CENTRAL CAMPAIGN COMMITTEES

"Sec. 310. (a) Each candidate shall designate one political committee as his central campaign committee. A candidate for nomination for election, or for election, to the office of President, may also designate one political committee in each State in which he is a candidate as his State campaign committee for that State. The designation shall be made in writing, and a copy of the designation, together with such information as the Commission may require, shall be furnished to the Commission upon the designation of any such committee.

"(b) No political committee may be designated as the central campaign committee of more than one candidate. The central campaign committee, and each State campaign committee, designated by a candidate nominated by a political party for election to the office of President shall be the central campaign committee and the State campaign committees of the candidate nominated by that party for election to the office of Vice President.

"(c) (1) Any political committee authorized by a candidate to accept contributions or make expenditures in connection with his campaign for nomination or for election, which is not a central campaign committee or a State campaign committee, shall furnish each report required of it under section 304 (other than reports required under the last sentence of section 304(a) and 311(b)) to that candidate's central compaign committee at the time it would, but for this subsection, be required to furnish that report to the Commission. Any report properly furnished to a central campaign committee under this subsection shall be, for purposes of this title, held and considered to have been furnished to the Commission at the time at which it was furnished to such central campaign committee.

"(2) The Commission may, by regulation, require any political committee receiving contributions or making expenditures in a State on behalf of a candidate who, under subsection (a), has designated a State campaign committee for that State to furnish its reports to that State campaign committee instead of furnishing such reports to the central campaign committee of that candidate.

"(3) The Commission may require any political committee to furnish any report directly to the Commission.

"(d) Each political committee which is a central campaign committee or a State campaign committee shall receive all reports filed with or furnished to it by other political committees, and consolidate and furnish the reports to the Commission, together with its own reports and statements, in accordance with the provisions of this title and regulations prescribed by the Commission.

"CAMPAIGN DEPOSITORIES

"Sec. 311. (a) (1) Each candidate shall designate one or more National or State banks as his campaign depositories. The central campaign committee of that candidate, and any other political committee authorized by him to receive contributions or to make expenditures on his behalf, shall maintain a checking account at a depository so designated by the candidate and shall deposit any contributions received by that committee into that account. No expenditure may be made by any such committee on behalf of a candidate or to influence his election except by check drawn on that account, other than petty cash expenditures as provided in subsection (b).

"(2) The treasurer of each political committee (other than a political committee authorized by a candidate to receive contributions or to make expenditures on his behalf) shall designate one or more National or State banks as campaign depositories of that committee, and shall maintain a checking account for the committee at each such depository. All contributions received by that committee shall be deposited in such account. No expenditure may be made by that committee except by check drawn on that account, other than petty cash expenditures as provided in subsection (b).

"(b) A political committee may maintain a petty cash fund out of which it may make expenditures not in excess of $100 to any person in connection with a single purchase or transaction. A record of petty cash disbursements shall be kept in accordance with requirements established by the Commission, and such statements and reports thereof shall be furnished to the Commission as it may require.

"(c) A candidate for nomination for election, or for election, to the office of President may establish one such depository in each State, which shall be considered by his State campaign committee for that State and any other political committee authorized by him to receive contributions or to make expenditures on his behalf in that State, under regulations prescribed by the Commission, as his single campaign depository. The campaign depository of the candidate of a political party for election to the office of Vice President shall be the campaign depository designated by the candidate of that party for election to the office of President.".

On page 40, line 19, strike out "(9)" and insert "(7)"; on page 42, line 3, after "(3)", strike out "amending" and insert "striking out"; in line 4, after the word "committees", strike out "by —" and insert a semicolon; after line 4, strike out:

(A) striking out "appropriate supervisory officer" in the quoted matter appearing in paragraph 1 and inserting "Federal Election Commission";]

(B) striking out "supervisory officer" in subparagraphs (A) and (B) of paragraph (2) and inserting "Commission";

(C) striking out "which has filed a report with him" in paragraph (2) (A) and inserting "which has filed a report with it";

In line 19, after the word "subsection", strike out "(a)" and insert "(b)"; in the same line, after the word "section", insert "(as redesignated by section 5(a) of this Act)"; on page 43, line 3, after the word "and", strike out "(13)" and insert "(14 (as redesignated by section 6(d) (2) of this Act)"; in line 7, after the word "in", strike out "section 305 (relating to reports by other than political committees) and"; in line 16, after the word "section", strike out "310" and insert "312"; in line 23, after the word "section", strike out "310(a)" and insert "312(a)"; on page 44, at the beginning of line 6, strike out "(310 (b)" and insert "312(b)"; in line 8, after the word "section", strike out "310" and insert "312"; in line 16, after the word "section", strike out "310" and insert "312"; on page 45, at the beginning of line 4, strike out "311(a)" and insert "313(a)"; after line 6, insert a new section, as follows:

Sec. 10. Section 312 (a) (6) (as redesignated by this Act) of the Federal Election Campaign Act of 1971 (relating to duties of the supervisory officer) is amended to read as follows:

"(6) to compile and maintain a cumulative index listing all statements and reports filed with the Commission during each calendar year by political committees and candidates, which the Commission shall cause to be published in the Federal Register no less frequently than monthly during even-numbered years and quarterly in odd-numbered years and which shall be in such form and shall include such information as may be prescribed by the Commission to permit easy identification of each statement, report, candidate, and committee listed, at least as to their names, the dates of the statements and reports, and the number of pages in each, and the Commission shall make copies of statements and reports listed in the index available for sale, direct or by mail, at a price determined by the Commission to be reasonable to the purchaser;".

On page 46, after line 2, insert a new section, as follows:

Sec. 11. (a) Section 313(a) (1) (as redesignated by this Act) of the Federal Election Campaign Act of 1971 (relating to statements filed with State officers) is amended by striking out "in which an expenditure is made by him or on his behalf" and inserting in lieu thereof the following: "in which he is a candidate or in which substantial expenditures are made by him or on his behalf".

After line 9, insert a new section, as follows:

Sec. 12. Section 314 (as redesignated by this Act) of the Federal Election Campaign Act of 1971 (relating to prohibition of contributions in name of another) is amended by inserting after "another person", the first time it appears, the following: "or knowingly permit his name to be used to effect such a contribution".

After line 15, insert a new section, as follows:

Sec. 13. Section 315 (as redesignated by this Act) of the Federal Election Campaign Act of 1971 (relating to penalty for violations) is amended to read as follows:

"PENALTY FOR VIOLATIONS

"Sec. 315. (a) Violation of the provisions of this title is a misdemeanor punishable by a fine of not more than $10,000, imprisonment for not more than one year, or both.

"(b) Violation of the provisions of this title with knowledge or reason to know that the action committed or omitted is a violation of this Act is punishable by a fine of not more than $100,000, imprisonment for not more than five years, or both."

On page 47, at the beginning of line 3, change the section number from "9" to "14"; in line 5, after the word "new", strike out "sections" and insert "section"; after line 5, strike out:

"Approval of Presidential Campaign Expenditures by National Committee

"Sec. 314. (a) No expenditure in excess of $100 shall be made by or on behalf of any candidate who has received the nomination of his political party for President or Vice President unless such expenditure has been specifically approved by the chairman or treasurer of that political party's national committee or the designated representative of that national committee in the State where the funds are to be expended.

"(b) Each national committee approving expenditures under subsection (a) shall register section 303 as a political committee and report each expenditure it approves as if it had made that expenditure, together with the name and address of the person seeking approval and making the expenditure.

"(c) No political party shall have more than one national committee.

On page 48, at the beginning of line 2, change the section number from "315" to "316"; in line 4, after the word "under", strike out "title I and"; in the same line, after the word "title", where it appears the second time, insert "and under chapter 29 of title 18, United States Code Code,"; after line 7, strike out:

(b) Section 301 of the Federal Election Campaign Act of 1971 is amended by—

(1) striking out "and" after the semicolon in subsection (h).

(2) striking the period at the end of subsection (i) and inserting in lieu thereof "and," and

(3) inserting at the end of such section the following new subsection:

"(j) 'national committee' means the duly constituted organization, which by virtue of the bylaws of a poltical party is responsible for the day-to-day operation of that political party at the national level, as determined by the Federal Election Commission."

At the beginning of line 21, change the section number from "10" to "15"; on page 49, after line 3, insert a new section, as follows:

SEC. 16. (a) Subsection (a) of section 608 of title 18, United States Code, is amended by adding at the end thereof the following new paragraph:

"(3) The limitation on expenditures imposed by this subsection shall apply separately to each primary, primary runoff, general, and special election campaign in which a candidate participates."

(b) Subsection (c) of such section is amended by striking out "$1,000" and inserting in lieu thereof "$25,000", and by striking out "one year" and inserting in lieu thereof "five years".

(c) (1) The caption of such section 608 is amended by adding at the end thereof the following: "out of candidates' personal and family funds".

(2) The table of sections for chapter 29 of title 18, United States Code, is amended by striking out the item relating to section 608 and inserting in lieu thereof the following:

"608. Limitations on contributions and expenditures out of candidates' personal and family funds.".

(d) Notwithstanding the provisions of section 608 of title 18, United States Code, it shall not be unlawful for any individual who, as of the date of enactment of this Act, has outstanding any debt or obligation incurred on his behalf by any political committee in connection with his campaigns during 1972 for nomination for election, and for election, to Federal office, to satisfy or discharge any such debt or obligation out of his own personal funds or the personal funds of his immediate family (as such term is defined in such section 608).

On page 50, after line 7, insert a new section, as follows:

SEC. 17. Section 611 of title 18, United States Code, is amended by adding at the end thereof the following new paragraph:

"It shall not constitute a violation of the provisions of this section for a corporation or a labor organization to establish, administer, or solicit contributions to a separate segregated fund to be utilized for political purposes by that corporation or labor organization if the establishment and administration of, and solicitation of contributions to, such fund do not constitute a violation of section 610."

After line 18, insert a new section, as follows:

SEC. 18. (a) Chapter 29 of title 18, United States Code, is amended by adding at the end thereof the following new sections:

"§ 614. Limitation on expenditures generally

"(a) (1) Except to the extent that such amounts are increased under subsection (d) (2), no candidate (other than a candidate for nomination for election to the office of President) may make expenditures in connection with his primary or primary runoff campaign for nomination for election to Federal office in excess of the greater of—

"(A) 15 cents multiplied by the voting age population (as certified under subsection (e)) of the geographical area in which the election for such nomination is held, or

"(B) (i) $125,000, if the Federal office sought is that of Senator, Delegate, Resident Commissioner, or Representative from a State which is entitled to only one Representative, or

"(i) $90,000, if the Federal office sought is that of Representative from a State which is entitled to more than one Representative.

"(2) Except to the extent that such amounts are increased under subsection (d) (2), no candidate (other than a candidate for election to the office of President) may make expenditures in connection with his general or special election campaign for election to Federal office in excess of the greater of—

"(A) 20 cents multiplied by the voting age population (as certified under subsection (e)) of the geographical area in which the election is held, or

"(B) (i) $175,000, if the Federal office sought is that of Senator, Delegate, Resident Commissioner, or Representative, from a State which is entitled to only one Representative, or

"(ii) $90,000, if the Federal office sought is that of Representative from a State which is entitled to more than one Representative.

"(b) (1) No candidate for nomination for election to the office of President may make expenditures in any State in connection with his campaign for such nomination in excess of the amount which a candidate for nomination for election to the office of Senator from that State (or for nomination for election to the office of Delegate, in the case of the District of Columbia) might expend within the State in connection with his campaign for that nomination. For purposes of this subsection, an individual is a candidate for nomination for election to the office of President if he makes (or any other person makes on his behalf) an expenditure on behalf of his candidacy for any political party's nomination for election to the office of President. He shall be considered to be such a candidate during the period—

"(A) beginning on the date on which he (or such other person) first makes an expenditure (or, if later, on January 1 of the year in which the election for the office of President is held), and

"(B) ending on the date on which such political party nominates a candidate for office of President.

"(2) No candidate for election to the office of President may make expenditures in any State in connection with his campaign for election to such office in excess of the amount which a candidate for election to the office of Senator (or for election to the office of Delegate, in the case of the District of Columbia) might expend within the State in connection with his campaign for election to the office of Senator (or Delegate).

"(c) (1) Expenditures made on behalf of any candidate shall, for the purpose of this section, be deemed to have been made by such candidate.

"(2) Expenditures made by or on behalf of any candidate for the office of Vice President of the United States shall, for the purpose of this section, be deemed to have been made by the candidate for the office of President of the United States with whom he is running.

"(3) For purposes of this subsection, an expenditure shall be held and considered to have been made on behalf of a candidate if it was made by—

"(A) an agent of the candidate for the purposes of making any campaign expenditure, or

"(B) any person authorized or requested by the candidate to make expenditures on his behalf.

"(d) (1) For purposes of paragraph (2):

"(A) The term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.

"(B) The term 'base period' means the calendar year 1970.

"(2) At the beginning of each calendar year (commencing in 1974), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Federal Election Commission and publish in the Federal Register the per centum difference between the price index for the twelve months preceding the beginning of such calendar year and the price index for the base period. Each amount determined under subsection (a) shall be increased by such per centum difference. Each amount so increased shall be the amount in effect for such calendar year.

"(e) During the first week of January, 1974, and every subsequent year, the Secretary of Commerce shall certify to the Federal Election Commission and publish in the Federal Register an estimate of the voting age population of each State and congressional district as of the first day of July next preceding the date of certification.

"(f) No person shall make any charge for services or products knowingly furnished to, or for the benefit of, any candidate in connection with his campaign for nomination for election, or election, in an amount in excess of $100 unless the candidate (or a person specifically authorized by the candidate in writing to do so) certifies in writing to the person making the charge that the payment of that charge will not exceed the expenditure limitations set forth in this section.

"(g) The Federal Election Commission shall prescribe regulations under which any expenditure by a candidate for Presidential nomination for use in two or more States shall be attributed to such candidate's expenditure limitation in each such State, based on the number of persons in such State who can reasonably be expected to be reached by such expenditure.

"(h) Any person who knowingly or willfully violates the provisions of this section, other than subsections (c), (d), and (e), shall be punishable by a fine of $25,000, imprisonment for a period of not more than five years, or both. If any candidate is convicted of violating the provisions of this section because of any expenditure made on his behalf (as determined under subsection (c) (3)) by a political committee, the treasurer of that committee, or any other person authorizing such expenditure, shall be punishable by a fine of not to exceed $25,000, imprisonment for not to exceed five years, or both, if such person knew, or had reason to know, that such expenditure was in excess of the limitation applicable to such candidate under this section.

"§ 615. Limitations on contributions by individuals and on expenditures by certain other persons

"(a) No individual shall make any contribution during any calendar year to or for the benefit of any candidate which is in excess of the lesser of—

"(1) (A) in the case of contributions to or for the benefit of a candidate other than a candidate for nomination for election, or for election, to the office of President, the amount which, when added to the total amount of all other contributions made by that individual during that calendar year to or for the benefit of a particular candidate, would equal $5,000; or

"(B) in the case of contributions to or for the benefit of a candidate for nomination for election, or for election, to the office of President, the amount which, when added to the total amount of all other contributions made by that individual during that calendar year to or for the benefit of that candidate, would equal $15,000; or

"(2) the amount which, when added to the total amount of all contributions made by that individual and the members of his family to or for the benefit of all candidates and all political committees during that calendar year, would equal $100,000.

"(b)(1) No person (other than an individual) shall make any expenditure during any calendar year for or on behalf of a particular candidate which is in excess of the amount which, when added to the total amount of all other expenditures made by that person for or on behalf of that candidate during that calendar year, would equal—

"(A) $5,000, in the case of a candidate other than a candidate for nomination for election, or for election, to the office of President; or

"(B) $15,000, in the case of a candidate for nomination for election, or for election, to the office of President.

(2) This subsection shall not apply to the central campaign committee or the State campaign committee of a candidate; to the national committee of a political party, or any political committee which is controlled by that national committee; the State committee of a political party, or any political committee which is controlled by that State committee; or to the Democratic or Republican Campaign Committees of the Senate or House of Representatives.

"(c) The limitations imposed by subsection (a)(1) and by subsection (b) shall apply separately to each primary, primary runoff, general, and special election in which a candidate participates.

"(d)(1) Any contribution made in connection with a campaign in a year other than the calendar year in which the election to which that campaign relates is held shall, for purposes of this section, be taken into consideration and counted toward the limitations imposed by this section for the calendar year in which that election is held.

"(2) Contributions made to or for the benefit of a candidate nominated by a political party for election to the office of Vice President shall be held and considered, for purposes of this section, to have been made to or for the benefit of the candidate nominated by that party for election to the office of President.

"(e) For purposes of this section, the term—

"(1) 'family' means an individual and his spouse and any of his children who have not attained the age of eighteen years; and

"(2) 'Political party' means a political party which in the next preceding Presidential election, nominated candidates for election to the offices of President and Vice President, and the electors of which party received in such election, in any or all of the States, an aggregate number of votes equal in number to at least 10 per centum of the total number of votes cast throughout the United States for all electors for candidates for President and Vice President in such election.

"(f) Violation of the provisions of this section is punishable by a fine of not to exceed $25,000, imprisonment for not to exceed five years, or both.

"§ 616. Form of contributions

"It shall be unlawful for any person to make a contribution to or for the benefit of any candidate or political committee in excess, in the aggregate during any calendar year, of $100 unless such contribution is made by a written instrument identifying the person making the contribution. Violation of the provisions of this section is punishable by a fine of not to exceed $1,000, imprisonment for not to exceed one year, or both.".

(b) Section 591 of title 18, United States Code, is amended by striking out "and 611" and inserting in lieu thereof "611, 614, 615, and 616".

(c) The table of sections for chapter 29 of title 18, United States Code, is amended by adding at the end thereof the following new items:

"614. Limitation on expenditures generally.
"615. Limitation on contributions by individuals and on expenditures by certain other persons.
"616. Form of contributions.".

Mr. CANNON. Mr. President, I yield myself 15 minutes on the bill.

This bill, S. 372, is a comprehensive amendment to the existing law regulating the use of the communications media and political contributions and expenditures in Federal election campaigns.

The major provisions of the bill will effect the following results:

First. Exclude all Federal elective offices from the equal time provisions of section 315 of the Communications Act of 1934;

Second. Create a Federal Election Commission with authority over civil and criminal violations of the law;

Third. Limit contributions to candidates by individuals and political committees;

Fourth. Limit expenditures by candidates;

Fifth. Prohibit the use of cash in excess of $100;

Sixth. Require the designation of central campaign committees and campaign depositories.

The bill contains many more amendments than those I have enumerated and they are set forth in greater detail in the committee's report. I am including in my statement today a digest of the bill which will be helpful to the Members of the Senate and others who are interested in this legislation.

There are some provisions of the bill which merit discussion in order to explain the committee's action on them:

First, concerning the lifting of the equal time provisions of section 315 of the Communications Act of 1934, the committee believes that it will be in the public interest to allow the networks to schedule debates, discussions and other forums for candidates to present their programs and views to the electorate.

The committee is of the opinion that the networks and the Federal Communications Commission will adopt reasonable policies and rules and regulations to guarantee fair treatment to all legally qualified candidates for Federal elective office and to prevent abuses of the use of the broadcast media.

I might say, Mr. President, that the distinguished Senator from Rhode Island (Mr. PASTORE) chaired the hearings in the Commerce Committee on this subject, inasmuch as the bill is a joint jurisdiction bill, having come first to the Committee on Commerce, on which I also serve, and on which Senator PASTORE is chairman of the Communications Subcommittee, and then came to the Committee on Rules and Administration, after being acted upon by the Committee on Commerce.

Second, with respect to the identification of contributors, the committee agreed to change the requirements so as to delete items calling for the principal place of business and occupation in favor of the full name and full principal residence address, plus such other information as the Federal Election Commission may require.

Mr. President, on this point, I am sorry there are not more of my colleagues present in the Chamber to hear the explanation, because I have seen some articles in the press recently and heard some of my colleagues quoted to the effect that the committee weakened the campaign bill in some particulars, and that this was one of those particulars. That is just simply not a fact, Mr. President. As I say, I regret that those who believe this is so are not here to listen to the explanation.

It was apparent that thousands of small contributions were mailed or delivered bearing names and addresses of the contributors but lacking the principal place of business and occupation of those donors.

Candidates and committee treasurers were then obligated to trace, if possible, each such donor in order to obtain where possible all of the specific information required. In many cases, it was not possible to obtain complete data. Candidates and treasurers were faced with the question of what to do with the contributions.

Should they be returned if possible? Should they be deposited in an escrow account? Could they be used with the knowledge of the supervisory officers?

These problems created heavy administrative burdens for those involved in the campaigns and the contributors in many instances resented what they considered to be an unnecessary invasion of privacy.

I may say that the bulk of the contributions in this classification are those that ran from $2 up to $20—in that range. So you can see, Mr. President, the difficulty inherent in a solicitation by mail when a candidate solicits contributions and people mail it in and simply put in their name and address and then, if the candidate has to go back on a $2 contribution to ascertain the occupation and principal place of business of the donor, we are creating an administrative nightmare.

The bill, as reported, demands the complete name and complete address. The Commission is empowered to require such additional information as it deems necessary. The committee adopted this change unanimously and does not see in it a resulting loss of public data or public information.

Third, section 610 of title 18 of the United States Code was originally adopted as a bar against campaign contributions and expenditures by national banks, corporations, and labor organizations.

In 1971, the House of Representatives approved an amendment to that section to permit corporations and labor organizations to establish, administer, and solicit contributions to a separate, segregated fund for political purposes. Such contributions would be voluntary donations from employees or members of corporations or labor organizations.

And, such organizations could not use dues, fees, or other moneys required as a condition of membership or employment or use force, reprisals, or job discrimination in order to coerce such contributions.

The Senate accepted the House amendment in conference and the measure became law as part of the Federal Election Campaign Act of 1971.

Thereafter, it became apparent that many of our corporate entities and labor organizations in the United States are Government contractors—either negotiating for, or performing contracts for products or services.

Government contractors are prohibited from making contributions or expenditures for political purposes under section 611 of title 18 of the United States Code.

Therefore, the anomaly developed that some corporations and labor organizations are now permitted to participate in election campaigns while others cannot. When I say participate, I am saying by establishing, administering, and soliciting contributions to a separate, segregated fund for political purposes and based on voluntary donations from employees or members of those corporations or labor unions.

The issue is not so much the distinction between government contractors and nongovernment contractors, but the discrimination between the employees and members of the former category of organizations and those of the latter category.

Employees and members of corporations and labor organizations are citizens of the United States and should be treated equally. It is not fair or just to prohibit those citizens who are employed by government contractors from making voluntary contributions to a separate, segregated fund to be used for political purposes.

The committee's intent in amending the law was to treat all such citizen-employees in the same manner by allowing all corporations and labor organizations the same privilege to establish funds to solicit voluntary contributions.

Corporate or labor money cannot be poured into such committees for political purposes.

Fourth, the Federal Election Campaign Act of 1971 was predicated on the principle that full public disclosure should result in the kind of self-discipline by candidates and committee treasurers that would insure honest and clean elections. The public would be the judge of any excesses or abuses and their decisions would be manifested by their votes at the polls.

However, disclosure was never given a chance. What could legally be done prior to the effective date of the then new Act—April 7, 1972—became a stampede to avoid or ignore the act.

Consequently, millions of dollars—much of it in cash—was never reported to appropriate supervisory officers, simply on the theory that it was collected prior to April 7, 1972.

The committee hearings produced conclusive testimony of the need for a limitation on contributions. The recommendations differed with respect to a specific dollar amount for each contribution, but the previous $5,000 limitation imposed by the repealed Corrupt Practices Act was accepted as reasonable for candidates for nomination or for election to the Congress and $15,000 was adopted as a reasonable ceiling on contributions to candidates for nomination or for election to the office of President.

In order to prevent an imbalance of money flowing from individuals of independent wealth, an overall limit of $100,000 was set upon the total amount individuals may contribute to all candidates and to all political committees during a calendar year. That limit upon an individual applies to the spouse and all the children under 18 years of age.

I may say that this would place a limit on the contributions we have been hearing about in the Watergate case and reading in the press. Clement Stone, and many others, his contributions, I think, according to his statement, exceeded $4 million. So it is quite obvious that the committee felt it necessary to place an overall limit on the total amount that a person could contribute to all candidates in connection with a political election.

The limitations on contributions to candidates and committees applies also to political committees, except first, there is no overall limit on contributions by committees and second, there is no limit on the amount which a party committee—national, congressional, or State—may give to a candidate.

Fifth, the committee has adopted what it deems to be acceptable and practical limits upon amounts which candidates may spend for each election campaign in which they may be involved. It is true that the problems of candidates vary from State to State and district to district, depending upon population, geographic size, urban areas, rural areas, availability of the media, et cetera, but the committee believes that the formulas and minimums recommended for primary, runoff primary, special, and general elections are adequate.

It might be said at this point that some criticism has been directed against the bill on the ground that it favors incumbents. This criticism apparently derives from the setting of limits on contributions and expenditures.

It is difficult to find answers to these complaints. The Federal Election Campaign Act of 1971 had no real limits on expenditures and none at all on contributions. Yet nobody criticized it as a "sky is the limit act" or designed in favor of those who were not incumbents.

Now, when there are reasonable limits, the bill becomes an incumbent's bill. At what point is any bill an outsider's bill as opposed to an insider's bill? The press, the public, the expert witnesses, and others urged the adoption of limits. We have done so, and we think we have done so as fairly as possible.

The PRESIDING OFFICER. The Senator's 15 minutes have expired.

Mr. CANNON. I yield myself an additional 5 minutes.

Sixth, the single most important feature of this bill is the provision creating a Federal Election Commission. This independent agency would not only have the authority to oversee the activities required by the act and other related laws, but also would have the power to assess fines for civil violations and to initiate and prosecute criminal actions.

The three supervisory officers presently authorized by existing law to oversee relevant provisions have performed efficiently and honorably under very difficult circumstances. But they lack subpena power and the power to levy even minor fines against violators.

An independent agency, similar to those already created for other purposes, can move quickly and with authority to compel respect for the law.

The members of the Commission would all be appointed by the President, but the Senate and House would each participate to a degree in the selection of some of the members.

Seventh, candidates and committee treasurers would be required to designate central campaign committees and campaign depositories. The reason for these amendments is to effect a better administrative and accounting system for the handling of campaign money.

Central campaign committees would be responsible for receipts and expenditures given for or made on behalf of the respective candidates, including funds given to or spent by other committees authorized by the candidate to work on his behalf.

Campaign depositories in national or State banks would ensure specific accounts subject to audit by Federal personnel in the interest of carrying out the provisions of this bill.

Eighth, cash contributions or expenditures in excess of $100 are prohibited except by written instrument—that is, check, money order or other similar substitute for cash.

Petty cash accounts could be maintained but records for each and all transactions must be kept for such accounts.

It is obvious to everyone, I think, that the appearance of hundreds of thousands of dollars, perhaps millions of dollars, in $100 bills during the 1972 campaigns, makes necessary a prohibition against the use of cash, particularly unreported cash.

The numbers of separate reports required to be filed by candidates and treasurers of committees will be substantially reduced by this bill. The creation of a Federal Election Commission in lieu of three supervisory officers has the direct result of cutting reports by two-thirds. The reports required to be filed prior to the date of any election would be cut from 2 to 1, and committees supporting candidates in two or more States could ask to be relieved of the burden of filing a great number of reports concerning various candidates and elections and file instead monthly reports not in excess of 11 during a calendar year.

This, in summary, recapitulates the major provisions of the bill. The reports of the Commerce Committee and of the Committee on Rules and Administration describe in more detail the other changes in existing law.

This bill represents the committee's best effort to amend the present law in order to report a new approach to the control and administration of campaign funds. The bill sets limits that are fair and establishes enforcement machinery which is meaningful. The committee invites support toward the passage of a more comprehensive, strong, and purposeful election law which will draw the support and the confidence of the public.

Mr. President, I ask unanimous consent to have printed in the RECORD a chart of the proposed Federal candidate expenditure limitations. The chart shows the amount under different formulas which would be permissible to be spent in each State under the bill.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

PROPOSED FEDERAL CANDIDATE EXPENDITURE LIMITATIONS—U.S. POPULATION FIGURES AS OF JULY 1, 1972, PER CERTIFICATION OF THE U.S. DEPARTMENT OF COMMERCE

Geographical areas	Voting age population (18 years and over)	S. 372 (Commerce Committee) 25¢ per vote per election	S. 372 (Rules Committee) 15¢ for primary elections	S. 372 (Rules Committee) 20¢ for special and general elections	Other proposals, 10¢	Base S. 372 (Rules Committee)	
						Primary	General
United States	139,172,000	$34,793,000	$20,875,800	$27,834,400	$13,917,200		
Alabama	2,294,000	573,500	344,100	458,800	229,000		
Alaska	194,000	48,500	29,100	38,800	19,400	$125,000	$175,000
Arizona	1,262,000	315,500	189,300	252,400	126,200		
Arkansas	1,326,000	331,500	198,900	265,200	132,600		
California	13,910,000	3,477,500	2,086,500	2,782,000	1,391,000		
Colorado	1,560,000	390,000	234,000	312,000	156,000		
Connecticut	2,083,000	520,750	312,450	416,600	208,300		
Delaware	369,000	92,250	55,350	73,800	36,900	125,000	175,000
District of Columbia	527,000	131,750	79,050	105,400	52,700	125,000	175,000
Florida	5,087,000	1,271,750	763,050	1,017,400	508,700		
Georgia	3,067,000	766,750	460,050	613,400	306,700		
Hawaii	526,000	131,500	78,900	105,200	52,600	125,000	175,000
Idaho	487,000	121,750	73,050	97,400	48,700	125,000	175,000
Illinois	7,508,000	1,877,000	1,126,200	1,501,600	750,800		
Indiana	3,477,000	689,250	521,550	695,400	347,700		
Iowa	1,924,000	481,000	288,600	384,680	192,400		
Kansas	1,538,000	384,500	230,700	307,600	153,800		
Kentucky	2,191,000	547,750	328,650	438,200	291,100		
Louisiana	2,348,000	587,000	352,200	469,600	234,800		
Maine	683,000	170,750	102,450	136,600	68,300	125,000	175,000
Maryland	2,679,000	669,750	401,850	535,800	267,900		
Massachusetts	3,937,000	984,250	590,550	787,400	393,700		
Michigan	5,876,000	1,469,000	881,400	1,175,200	587,600		
Minnesota	2,542,000	635,500	381,300	508,400	254,200		
Mississippi	1,426,000	356,500	233,900	285,200	142,600		
Missouri	3,223,000	805,750	483,450	644,600	322,300		
Montana	468,000	117,000	70,200	93,600	46,800	125,000	175,000
Nebraska	1,021,000	255,250	153,150	204,200	102,100		
Nevada	347,000	86,750	52,050	69,400	34,700	125,000	175,000
New Hampshire	513,000	128,250	76,950	102,600	51,300	125,000	175,000
New Jersey	4,986,000	1,246,500	747,900	997,200	498,600		
New Mexico	657,000	164,250	98,550	131,400	65,700	125,000	175,000
New York	12,626,000	3,156,500	1,893,900	2,525,200	2,262,600		
North Carolina	3,468,000	867,000	520,200	693,600	346,800		
North Dakota	411,000	102,750	61,650	82,200	41,100	125,000	175,000
Ohio	7,130,000	1,782,500	1,069,500	1,426,000	713,000		
Oklahoma	1,797,000	449,250	269,550	359,400	179,700		
Oregon	1,487,000	371,750	223,050	297,400	148,700		
Pennsylvania	8,174,000	2,043,500	1,226,100	1,634,800	817,400		
Rhode Island	668,000	167,000	100,200	133,600	66,800	125,000	175,000
South Carolina	1,719,000	429,750	257,850	343,800	171,900		
South Dakota	444,000	111,000	66,600	88,800	44,400	125,000	175,000
Tennessee	2,710,000	677,500	406,500	542,000	271,000		
Texas	7,614,000	1,903,500	1,142,100	1,522,800	761,400		
Utah	690,000	172,500	103,500	138,000	69,000	125,000	175,000
Vermont	304,000	76,000	45,600	60,800	30,400	125,000	175,000
Virginia	3,182,000	795,500	477,300	636,400	318,200		
Washington	2,310,000	577,500	346,500	462,000	231,000		
West Virginia	1,209,000	302,250	181,350	241,800	120,900		
Wisconsin	2,965,000	741,250	444,750	593,000	296,500		
Wyoming	226,000	56,500	33,900	45,200	22,600	125,000	175,000
Outlying areas:							
Guam	45,000	11,250	6,750	9,000	4,500	125,000	175,000
Puerto Rico	1,619,000	404,750	242,850	323,800	161,900		
Virgin Islands	42,000	10,500	6,300	8,400	4,200	125,000	175,000

Mr. CANNON. Mr. President, I ask unanimous consent to have printed in the RECORD a digest of S. 372.

There being no objection, the digest was ordered to be printed in the RECORD, as follows:

DIGEST OF S. 372

Section 315 of the Communications Act is repealed for all Federal elective offices.

Charges, expenditures, etc. against a candidate's limitations may not be made without written certification by candidate or authorized representative that limitations will not be exceeded.

Charges against a candidate's limitations are extended from "by any person" to "by or on behalf of any person."

States may enact laws to apply similar provisions to station licensees and candidates for state elective office.

Political advertisements must announce availability of reports on receipts and expenditures by the advertisers from the Federal Election Commission.

Station licensees must maintain records of political advertisements for two years.

Voting age population is determined by the Bureau of the Census as of June 1st of the year prior to an election.

Redefines "political committee" to cover all committees, clubs, associations, etc. which receive or spend in excess of $1,000 per year for political purposes.

Redefines "expenditures" so as to cover all elections and all activities of committees, candidates and others.

Adds new definitions of "identification" meaning full name and full address, and of "national committee" meaning an official party committee, and of "political party" meaning a party which received an aggregate of 10% of the vote for President and Vice President at the last general election.

"Principal place of business and occupation" are deleted in favor of "identification."

Requires each candidate to register with the Commission and furnish identification of authorized committees, campaign depositories, safety deposit boxes, etc.

Treasurers of committees must file statements of organization within 10 days after organization.

Reporting dates by candidates and political committees are changed from March, June, and September to April, July and October in each year. Also, from the 15th and 5th days prior to each election to the 10th day before each election.

Contributions of $5,000 or more received after the closing date of the last report required before an election must be reported within 24 hours after receipt. Any anonymous contributions shall be reported within the period in which it is identified.

National political committees may request permission to file monthly statements and reports in lieu of those required by the bill.

Any earmarked, encumbered or restricted contribution must be reported.

Members of Congress need not report services rendered by Senate and House recording studios prior to the year in which they are candidates.

Independent expenditures in excess of

$100 per year must be reported by the individual making the expenditure.

Publishers (newspapers, magazines, etc.) must obtain identification "of all political advertisers." Publishers must maintain records of advertisements for 2 years. Political advertising charges shall not exceed charges for comparable space for other purposes.

Literature and advertisements soliciting funds must state that reports will be filed and available from the Commission.

"Political advertisement" does not include bona fide news stories or other works published and not paid for by or on behalf of any candidate.

"Published" means any printed media or outdoor advertising facility.

Candidates and committees may, under certain circumstances, be relieved by the Commission of the obligation to file reports and statements, i.e., no adverse effect upon the purposes of the bill or primarily supporting candidates for state or local office and not operating on state-wide basis and in no more than one state.

Creates a Federal Election Commission. 7 members appointed by the President for 7 years (after initial staggered terms) with one reappointment permitted. Two members recommended by the Senate and two by the House. Membership to be divided between two parties. A Chairman and Vice Chairman, not of the same political party, General Counsel and Executive Director and other necessary personnel.

Commission shall avail itself of services of General Accounting Office and the Department of Justice.

POWERS OF THE COMMISSION

Power to require reports and answers to questions; to administer oaths; to issue subpenas; to order testimony; and to initiate (through civil proceedings for injunctive relief and through presentations to Federal grand juries); prosecute, defend or appeal any court action in the name of the Commission.

U.S. District Court shall, upon petition of the Commission, issue orders requiring compliance with subpenas or orders issued by the Commission.

The Commission shall be the primary civil and criminal enforcement agency for violations of the Act and of other provisions of Title 18 of the United States Code.

The Commission may assess a civil penalty of not more than $10,000 for each violation, after opportunity for a hearing has been afforded to a person charged.

Each candidate for Congress shall designate one Central Campaign Committee. A candidate for President may also designate one political committee in each state as his State Campaign Committee.

Central Campaign Committees cannot represent more than one candidate each.

All political committees authorized by a candidate shall furnish reports to the Central Campaign Committee of that candidate.

Other independent committees shall report to the Commission.

Central Campaign Committees shall receive all reports filed with it or furnished by other committees, consolidate them, and file all such reports and statements with the Commission.

Each candidate shall designate one or more national or state banks as his campaign depositories. Central Campaign Committees and other authorized political committees shall deposit all contributions in a checking account in the campaign depositories designated by the candidate.

Treasurers of political committees (other than those authorized by the candidates) shall also designate one or more national or state banks as campaign depositories for such committees and all contributions shall be deposited in a checking account in such depository.

No expenditures shall be made by any committee except by check drawn on those accounts, other than petty cash expenditures. Petty cash expenditures may not exceed $100 to any person for any single transaction and a record of petty cash disbursements maintained as the Commission requires.

Until the appointment of the members of the Commission and its General Counsel, the supervisors officers, under existing law, shall continue to perform the duties and obligations of the bill.

The Commission shall compile a cumulative index of all statements and reports filed with it by committees and candidates during a calendar year and the index shall be published in the Federal Register not less frequently than monthly in even numbered years and quarterly in odd numbered years.

Copies of statements and reports shall be furnished to Secretaries of State or other appropriate officials in those states in which an individual is a candidate or in which substantial expenditures are made by him or on his behalf.

Contributions may not be made by one person in the name of another nor shall any person knowingly permit his name to be used to effect such a contribution.

Criminal penalties for violation of the title are as follows:

Misdemeanors—not more than $10,000 fine nor more than 1 year or both. With *knowledge* or *reason to know*—not more than $100,000 fine nor more than five years or both.

The provisions of this Act and any regulations promulgated under the Act, shall supercede any provision of state law with respect to campaigns for nomination for election, or election to Federal office.

Expenditures by a candidate for Federal office from personal and family funds shall apply separately to each primary, primary run-off, general and special election in which he participates.

Penalty for violation of this section (608 U.S.C. Title 18) is increased in fine from not more than $1,000 to not more than $25,000 and from not more than 1 year imprisonment to not more than 5 years, or both.

An individual who, at the date of enactment of this Act, who has a debt or obligation incurred on his behalf in connection with his 1972 campaigns for Federal office, may satisfy or discharge such debt or obligation from personal or family funds.

Section 611 of Title 18, U.S.C., as amended by the bill, permits government contractors (corporations and labor organizations) to establish, administer or solicit voluntary contributions to a separate segregated fund for political purposes.

Expenditures by candidates:

Candidates for *nomination* to the Senate, Representative-at-large, Delegate, or Resident Commissioner, may not spend more than the greater of (a) 15 cents times the voting age population of the area in which the election is held, or (b) $125,000.

Candidates for *nomination* to the office of Representative in the states entitled to more than one Representative may not spend more than 15 cents times the voting age population of the Congressional District or $90,000, whichever is larger.

Candidates for *election* to the office of Senator, Representative-at-large, Delegate, or Resident Commissioner, may not spend more than the greater of (a) 20 cents times the voting age population of the geographic area in which the election is held, or (b) $175,000.

Candidates for *election* to the office of Representative in states entitled to more than one representative may not spend more than 20 cents times the voting age population of the Congressional District or $90,000, whichever is greater.

Candidates for nomination for election to the office of President may not spend more in each state for such nomination for election to the Senate (or in the District of Columbia, than the amount that a candidate for nomination as Delegate) may spend in connection with his campaign for nomination.

No candidate for election to the office of President may spend more in any state than a candidate for election to the Senate (or in the District of Columbia, than the candidate for election as Delegate) may spend in connection with his campaign for election.

Expenditures by or on behalf of each candidate shall be treated separately for each primary, primary run-off, or special or general election in which he participates.

Expenditures by or on behalf of a candidate for election to the office of Vice President shall be deemed to have been made by the candidate for President with whom he is running.

An individual who is a candidate for nomination for election, or election, to the office of President shall be considered to be a candidate when expenditures are first made by him or on his behalf or, on January 1st of the Presidential election year and ending on the date when his political party nominates a candidate.

An expenditure is made on behalf of a candidate if made by (a) his agent, or (b) any person authorized to make expenditures on his behalf.

The "price index" changes in per centum differences, between base period 1970 and the 12 months preceding the beginning of a calendar year in which an election is held shall be certified each year and published by the Federal Register by the Secretary of Labor.

During the first week of January in each year, the Secretary of Commerce shall certify an estimate of the voting age population of each state and congressional district as of the first day of July preceding the date of certification.

A candidate or person authorized by him must certify in writing, in advance of the payment of any charge for services or products to or for the benefit of the candidate, that the payment of the charge will not exceed his expenditure limitation.

The Commission shall prescribe regulations for the attribution to each state of expenditures made by a candidate for Presidential nomination based upon the persons in each state who can reasonably be expected to be reached by expenditures by or on behalf of the candidate.

LIMITATIONS ON CONTRIBUTIONS BY INDIVIDUALS

Individuals, including their spouses and under age children, may make contributions to candidates for nomination for election, or election to the Congress up to $5,000 per election in which the candidate participates, and up to $15,000 per election in which a candidate for nomination for election or election to the office of President participates, but in no case to exceed an overall total of $100,000 per calendar year to all candidates and all committees.

Political committees are not bound by the $100,000 calendar year totals on contributions to candidates, but must comply with the specific limitations upon contributions to a candidate and to political committees.

Party committees, i.e., national, state and local committees representing a political party are not bound by the limitations upon specific contributions to candidates or political committees or by the overall calendar year limits on contributions to all candidates and committees.

Contributions made in connection with a campaign shall be counted toward the limitations imposed by this section of the bill, regardless of the year in which the election is held.

Contributions to or for the benefit of a nominee for election to the office of Vice President shall be considered to have been made to or benefit of the nominee of that party for election to the office of President.

Contributions in excess of $100 to or for the benefit of any candidate or political committee are unlawful unless made by a written instrument identifying the person making the contribution.

(Prepared by James H. Duffy, Chief Counsel, Subcommittee on Privileges and Elections July 11, 1973.)

Mr. COOK. Mr. President, as a member of the Commerce and Rules Committees who took an active part in the deliberations on S. 372, it is my unique honor to represent the minority of both Commerce and Rules Committees during this debate. As the record shows, I included an individual view in the Rules Committee report on the bill and have since had printed an amendment to the bill.

As I sort this out in my own mind I must admit that a distinct advantage accrues to the individual who has a cut at the same bill in two different ball games. This has been my experience with S. 372.

The Federal Election Campaign Act of 1971, was the first major attempt at Federal campaign reform in almost 50 years. It was in effect for the 1972 elections and based on available information it appears that no candidate for Federal office exceeded the selective spending limitations of the act. Nevertheless campaign costs continued to rise, abuses occurred, and it became apparent that further legislation was necessary. S. 372 was introduced and the Commerce Committee scheduled hearings in March of this year.

A number of witnesses before the Commerce Committee directed their testimony to the advisability of amending the equal time provision of section 315 of the Communications Act of 1934 and we concluded that salutary results would be derived from excluding Presidential and Vice Presidential candidates from the requirements of this section. The Commerce Committee is of the opinion that the electorate is the ultimate loser in the present situation. The wider exposure of the Presidential candidates which would result from amending section 315 can only lead to a more informed electorate. This was the experience in 1960 when there was a record voter turnout of 64 percent.

The network offers of substantial free time once again will further reduce the cost of campaigning. In Presidential campaigns this is one of the major costs, and we can expect it to be used extensively by Presidential candidates in the future.

As in the past, the networks assured the Commerce Committee that their offers of free time will not be conditioned on a predetermined format. Each candidate would be free to use his time as he sees fit.

The 1976 Presidential election will offer a unique opportunity, because there will be no Presidential incumbent. The candidates will be on an equal footing. Thus the reasons why incumbents have been reluctant to see the stricture of section 315 removed have disappeared.

The Rules Committee concurs in the recommendation of the Commerce Committee regarding the necessity of amending the equal time provisions of section 315, but believes that the exclusion should be extended to include all Federal elective offices. Thus broadcast licensees would have the freedom to schedule appearance of candidates at all levels of the Federal elective structure to debate or discuss public issues. This same provision was included in S. 382 of the 92d Congress, but unfortunately was rejected by the House in conference, and the provision was deleted from the 1971 act. The fears of House Members that they would be left, in some cases, to the possible capricious whim of the broadcaster that dominates his district, does not seem to be a valid objection in view of the aggressive enforcement by the FCC of the fairness doctrine during political campaigns.

I must admit that after considering both recommendations, I prefer the broader approach taken by the Rules Committee.

When Congress considered the campaign Act of 1971, lengthy deliberation was given to the various categories of campaign expenditures which might effectively be placed under the spending limitation.

Radio, television, and CATV were readily included, since as regulated industries, there were existing mechanisms for assuring compliance in these categories.

Newspapers and certain other forms of printed media were also included without much concern for the ability to enforce the limitation. It was, however, recognized that the use of telephones was more difficult to control.

Consideration was also given to extending the limitation to other selected categories of campaign expenditures, but grave doubts about compliance and enforcement were raised and the effort was abandoned.

Having considered these various categories Congress felt that the limitations that were adopted in 1971 covered the items which contributed most signicantly to the high cost of campaigning.

However, it is now recognized that these limitations did not go far enough to accomplish their purpose, and S. 372 provides a total limitation on expenditures as the most feasible and effective alternative. In so doing it was also recognized that it is an almost impossible task to extend the present limitations selectively to other categories of expenditures.

Once an overall limitation is established the Commerce Committee believes that each candidate should be free within the boundaries of the limitation to determine how best to apportion his campaign expenditures.

A legitimate question arises as to just how large or small the limitation should be. Recognizing that populations and geographical areas vary considerably throughout the United States, the Commerce Committee concluded a valid overall limit would be 25 cents per eligible member of the voting population. The Rules Committee is of the opinion that 25 cents is excessive and that 15 cents on the primary and 20 cents on the general election per eligible member of the voting population coupled with a generous floor limitation would be sufficient for all Federal campaigns. Your attention is invited to the table on expenditure limitations based upon various formulas, which has been submitted for the RECORD. As you see, this table indicates limits which far exceed the amounts which some candidates expended in their past campaigns.

The third point addressed by the Commerce Committee was the creation of an independent Federal Election Commission. The committee concluded that the Commission would facilitate administration of the Campaign Reform Act by centralizing the information which is required to be disclosed and would remove any doubts that the act would be enforced fairly, uniformly, and consistently. This proposal is not new to the Senate as it was included in S. 382 of the 92d Congress. This proposal also suffered the same fate as the attempt to repeal the equal time provisions of section 315 and was deleted in conference.

However, because of the changed circumstances and the necessity to administer fairly Federal election laws, it has become increasingly apparent that the system established by the 1971 act has been difficult to administer and a new approach is necessary. Both committees believe that it would facilitate the administration of campaign laws by centralizing that function in an independent body created solely for that purpose. Such action would allay any suspicion that campaign laws are not being uniformly and consistently enforced. While both committees agree that the members of the Commission would all be appointed by the President with Senate and House participation, there is a difference between the recommendations of the two committees concerning the composition of the Commission. The Commerce Committee recommended a nine-man Federal Election Commission, and the Rules Committee opted for a seven-man Commission. The Rules Committee believes that seven men would be sufficient to implement the law and would be the minimum to give adequate bipartisan representation from the legislative and executive branches. There is also a difference of opinion concerning the length of service. The Commerce bill recommends terms of 15 years. The Rules Committee recommends terms of 7 years as it believes that a 15-year term could result in complacency on the part of Commission members who would not feel the need to keep pace and maintain a continuing interest in the thorough administration of the Federal election laws.

The fourth point considered by the Commerce Committee was that expenditures in excess of $100 by or on behalf of a Presidential candidate must be approved by the chairman or treasurer of the candidate's national political committee. It is the opinion of the Commerce

Committee that this consideration would significantly lessen the possibility of abuse of the electoral process. One of the major problems in recent national elections has been the proliferation of committees to raise and expend funds on behalf of the Presidential and Vice Presidential nominees of the respective political parties. The establishment of such an infinite number of campaign committees has made the enforcement of our existing campaign laws virtually impossible. The final responsibility for how committee funds are spent should rest with one national committee rather than with many obscure campaign committees that are now created to receive and expend funds.

Unfortunately, the Rules Committee deleted this amendment from the reported bill. I expressed an individual view on this point which is contained in the report, and I have sent to the desk and had printed an amendment, No. 385, which will reinstate the original provision adopted by the Commerce Committee.

Although taking no action themselves, the Commerce Committee recommended that the Rules Committee consider the following:

First. The desirability and feasibility of a limit on the size of cash contributions or an outright prohibition against cash contributions in Federal election campaigns.

Second. A requirement that before a political committee may raise money or accept contributions, it must have the expressed consent of the candidate.

Third. A limitation on the amount of money an individual may contribute to a candidate for election to Federal office.

The Rules Committee has addressed each provision in the bill reported.

Mr. President, in conclusion, I believe the Rules Committee has done its best to report an effective and meaningful new bill. S. 372 creates an independent agency—Federal Election Committee—with civil and criminal enforcement powers, limits contributions by individuals and committees, limits expenditures by candidates, prohibits the use of cash, and centralizes the flow of money to candidates and committees.

The bill substantially changes existing law in a manner intended to give new force to the controls over and disclosure of political contributions and expenditures.

Mr. ALLEN. I might state that I favor the bill, and I commend the distinguished Senator from Nevada, as Chairman of the Rules Committee, for his dedication to seeking to get a realistic campaign expenditure bill, an improvement over the present bill, and a bill that would cover all expenses of a campaign, not just the media expense. I believe that the bill as reported by the Rules Committee is a great improvement over the existing law.

I should like to inquire, inasmuch as I have an amendment on another subject, whether the distinguished chairman of the Rules Committee, the Senator from Nevada, plans to seek approval of the committee amendments, with the bill as amended to be treated as original text, subject to further amendment. If so, I should like to inquire as to any plans to do that.

Mr. CANNON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CANNON. Would it be in order at this time to move the adoption of the committee amendments en bloc and ask that the bill as thus amended be considered as original text for the purpose of further amendment?

The PRESIDING OFFICER. Since there are two sets of committee amendments, does the Senator move that both the Rules Committee amendments and the Commerce Committee amendments be treated en bloc?

Mr. CANNON. Mr. President, I ask unanimous consent that all the committee amendments reported by the Committee on Commerce and by the Committee on Rules and Administration be agreed to en bloc and that the bill as thus amended be considered as original text for purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. I think that should answer the question of the Senator from Alabama.

Mr. ALLEN. I thank the distinguished Senator from Nevada.

Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

At the end of the bill add, and give proper numerical designation to, the following new section:

"Notwithstanding any other provision of law, until such time as the amounts of their salaries are changed by Act of Congress, the salaries of members of the Congress, members of the President's Cabinet, and members of the Federal judiciary shall continue at the salaries in effect for their respective positions on January 1, 1970."

Mr. ALLEN. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, this amendment is introduced on behalf of myself and 36 other Senators: Mr. Hansen, Mr. Nunn, Mr. Dole, Mr. Goldwater, Mr. Talmadge, Mr. Fannin, Mr. Dominick, Mr. Brock, Mr. Cranston, Mr. Gurney, Mr. Proxmire, Mr. Bartlett, Mr. Domenici, Mr. McClellan, Mr. Sparkman, Mr. Ervin, Mr. Hruska, Mr. McClure, Mr. McGovern, Mr. Curtis, Mr. Tower, Mr. Thurmond, Mr. Harry F. Byrd, Jr., Mr. Helms, Mr. Eastland, Mr. Aiken, Mr. Moss, Mr. Roth, Mr. Bible, Mr. Fulbright, Mr. Taft, Mr. Church, Mr. Magnuson, Mr. Mansfield, Mr. Nelson, and Mr. Symington.

Mr. President, I ask unanimous consent that the name of the Senator from Florida (Mr. Chiles) may be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, the purpose of the amendment is to seek to head off the oncoming raise in salaries of Members of Congress, members of the President's Cabinet, and members of the Federal judiciary.

I came to the Senate in January 1969. Soon thereafter, through the operation of the Federal Salary Commission, a recommendation was made by this Commission to the President for an increase in salaries for Members of Congress, members of the President's Cabinet, and members of the Federal judiciary. The recommendation made by this Commission, appointed by Congress and by the Chief Justice and by the President, was that Members of Congress receive $50,000 per year. That figure was cut by the President, who has the authority to cut the amount, or to raise the amount, I believe, or to accept the recommendation of the Commission, to $42,500 for Members of Congress.

Salaries for members of the Cabinet were set at $60,000, salaries for the Supreme Court, I believe, were set at $60,000 for Associate Justices and $62,500 for the Chief Justice. The salaries for members of the court of appeals, I believe, was set at $42,500, and $40,000 was set for members of the Federal district courts.

Now, under the existing law, I believe, in 1964 or 1966, there is this back door approach to raising the salaries of Members of Congress without the absolute necessity that they vote on those salary increases.

I will say to the credit of the distinguished majority leader (Mr. Mansfield), who is one of the cosponsors of this amendment, that he did, at the request of the distinguished Senator from Delaware, Mr. Williams, see to it that a resolution of disapproval was brought up for consideration by the Senate. Under the provisions of this law, after the recommendation is made by the President, the only way it can be stopped at that time is for one House of Congress to pass a resolution of disapproval within 30 days.

I do not believe the resolution ever came to a vote in the House of Representatives. It did come to vote in the Senate. I voted in favor of disapproval of the raise to $42,500.

We hear suggested that a raise of some $12,500 or more is suggested now for Members of Congress. The purpose of this amendment is to freeze the salaries of Members of Congress, members of the President's Cabinet, and members of the Federal judiciary at the salaries they received on January 1, 1970. This amendment, that has been submitted and has been stated, is slightly different from printed amendment No. 410. Amendment No. 410 states that the salaries are frozen at the salaries in effect on July 1, 1969. It was necessary to put the date at January 1, 1970, because the statutory raise for the President pro tempore, the majority leader, and the minority leader in the Senate, the Speaker, I believe, and the majority leader, and the minority leader in the House, was set by statute after the raise for the rank-and-file Members of Congress. So there was no intention by this amendment to provide for a rollback. That statute did not become effective until September 15, 1969. It was 38 U.S.C. 107 which set that salary.

So, Mr. President, this amendment would allow existing salaries to remain in effect until such time as Congress changes them, and it would not permit the Salary Commission to set these salaries or make recommendations for salaries and for the raises to go into effect without even a vote of either House of Congress, theoretically, unless a vote can be forced in that 30-day period.

The amendment is added to a bill that I believe is going places; I believe it is going to be enacted. I believe there is such a demand for campaign reform that not only will the Senate vote for this bill, but also the House will vote for it. So this amendment is not being placed on a bill that is going to die somewhere along the line. It will be passed, and if it is passed it will freeze salaries on January 1, 1970.

It serves the purpose of permitting Members of the Senate and the House to go on record as to how they feel about the second salary increase for Members of Congress in the last 4½ or 5 years, since January 1969.

There is an amendment to this Salary Commission bill in the form of S. 1989 which passed the Senate on July 9 by voice vote. That bill was introduced on June 13, 1973. It was reported by the committee on June 29, 1973. It passed the Senate on July 9, it was referred to a committee in the House on July 12, and reported by the committee on July 24. That bill amends the Federal Salary Commission Act; provided these recommendations are made to the President every 2 years rather than every 4 years, and it has certain other changes as well, put in under the provisions of this bill.

I find no fault with the fact that that bill passed by a voice vote. We all know all kinds of bills are passed when there are only three or four Senators in the Chamber—some five or six at this time, or perhaps seven or eight—and the bill was passed by a voice vote. Senators did not have an opportunity to express their opinion on the bill by being able to cast a vote for or against the bill.

Mr. President, if this amendment serves no other purpose than allowing Senators to express themselves on this issue it will be well worth the while; but if the Senate adopts the amendment I believe the House will adopt it, it will be approved in conference, and it will nullify the area of activity or operation of the Salary Commission which, as I say, is a backdoor approach to this matter.

If the Senate and the House want to vote themselves additional compensation, that is their privilege, but let them stand up and be counted on that subject, rather than have the Salary Commission make a recommendation and not even be required, of necessity, to vote on the bill.

Mr. President, it seems to the Senator from Alabama that now is not the time to raise salaries of Federal officials. I feel like the Members of Congress ought to set an example to the country of restraint in these inflationary times, and I do not feel that where we hold increases in wages to 5.5 percent we would be justified in raising ours anywhere from 25 to 30 percent, added to the 41 percent which occurred in 1969.

So I feel that the country, to some extent, should look to Congress for leadership in this field. Do not say to the public at large, "You hold your wages in check, you hold your compensation in check, but let us raise ourselves from time to time." I do not believe that is right.

Just recently one of the national polling firms had a poll in which they asked people their opinion with regard to various professions and their confidence in and respect for various professions. It is my understanding that Members of Congress rated about 19th in this poll in the matter of respect and confidence the public had for and in various businesses and professions. I believe, under the poll, we ranked one notch ahead of used car salesmen.

I would feel that here is another instance where the image of Congress certainly needs some brightening up, and I believe here is an opportunity where we can make a stand for principle and provide that salaries paid to the members of the President's Cabinet, who now receive $60,000 a year, limousines, and I know not what other fringe benefits, members of the Supreme Court, who receive $60,000, Federal judges, who receive $42,500, should be frozen in. I believe public servants are well compensated, and I feel that we would do well to freeze those salaries in.

Mr. President, I reserve the remainder of my time, and I yield at this time such time as the distinguished Senator from Kansas (Mr. DOLE) may require.

LIMIT ON AUTOMATIC PAY RAISES FOR CONGRESS

Mr. DOLE. Mr. President, I am pleased to join the distinguished Senator from Alabama as a cosponsor of his amendment.

Mr. President, I doubt that it would be an exaggeration to say that economic matters—the so-called pocketbook issues—are the most important domestic concerns for the American people today. Inflation, the cost of living, food prices, the impact of the dollar crisis on our stock market—all these areas are highly prominent in the minds of the American people.

Every day some major economic event seems to be in the headlines. It may be the announcement of new Government economic indicators, higher interest rates, a fluctuation in the price of gold, or any number of possibilities.

There are, of course, many factors involved in shaping the present economic climate and determining future developments. But one item in particular is recognized by a great number of ordinary people, who are not economists or financial analysts. But they realize that leadership and the example set by those in responsibility in Government are important elements in building the strength of our economy and inspiring confidence in the people.

One of their great concerns is Government spending. When such a sizable share of the average working man or woman's hard-earned pay is taken to support Government, it is no wonder that there is great concern for wasteful spending, unnecessary programs, and duplication of efforts which have too often come to light. In the people's mind the spending policies of Government are probably the most important influences in determining the economic health of the country. While not the only factor at work, many feel that Federal spending practices are the prime forces in deciding whether we will have a stable, growing economy in which the great majority can expect to prosper and find security, or whether we will have a widely fluctuating—boom-and-boost inflation and recession—economy in which no one's income or savings are safe and secure. They look for and expect Uncle Sam to lead the way by setting his own house in order.

DIFFICULT CONDITIONS

At the present time the country is facing difficult economic conditions. Abroad, the dollar's value has dropped, our balance-of-payments account is seriously out of balance, and changing relationships with Europe, Japan, and other trading blocs have written a new set of ground rules for America's role in the world marketplace.

At home inflation continues to be a major force. Phase IV has been announced as the latest step in the effort to overcome inflation and provide the stability required for sound growth.

TIME FOR SACRIFICE

Throughout this effort, major sacrifices have been called for on the part of every sector of the economy. Workers have been told to restrain their bargaining for wage increases. Manufacturers have been required to curtail price increases. Farmers have had ceilings imposed on their prices. These requirements have not been easy or enjoyable for those affected by them. But the American people are a great people who have always been willing to make sacrifices when the need arose to serve the country's basic interests.

Phase IV will apparently be more lenient than phase 3½, but the battle is far from over. No one can consider for a moment that the lid is off, and that we can now go on a rampage of wage and price boosts to make up for lost time. Such an attitude is dangerous and exactly the opposite of the mood which must be maintained if our anti-inflationary policy is to work.

Unfortunately, the Congress appears determined to pursue such a course—but not on an abstract basis concerning some broad policy affecting, say, business, farmers, or labor rather, Congress is preparing to present itself with a system of automatic new pay raises every 2 years on top of the 41-percent boost of only 5 years ago.

PERSPECTIVE ON CONGRESSIONAL SALARIES

Now, as one who has served in the House and Senate for some 13 years, I have developed my own opinions about the salary levels for Members of Congress. And I believe there is a need to provide a high enough pay for congressional service to make it a career which persons of modest or limited means can afford to take up. Independent sources of income should never be set as a requirement for seeking or serving in Federal elective office.

We should also recognize that—fairly or not—congressional salaries act as lid upon the whole Federal pay structure. So, when the pressure builds up for higher salaries for the millions of employees covered by entire civil service structure—especially at the higher levels—Congress gets put in a very tight spot. There is never a "good" time to raise congressional salaries—that is a political fact of life. But there are valid reasons to do so, both in the interest of making service in the House and Senate reasonably rewarding for those who must support themselves and their families, and because the civil service pay structures must be kept in line with the private sector if Government is going to be able to compete for the talent required to conduct the Nation's affairs.

WRONG TIME

But as the saying goes, there is a time and a place for everything, and now—in the middle of the fight against inflation—is no time to boost congressional salaries or to put in motion a mechanism which will do so automatically every 2 years.

In my view, Congress should receive pay increases by appropriate amounts and at appropriate times, but in all fairness I do not feel we should have these increases handed to us on a silver platter, or more accurately, by a silver computer, at a time when millions upon millions of Americans are being told to practice restraint and pitch in to control the economy.

SHOULD GO ON RECORD

If any Member of Congress believes he is entitled to a pay raise and is willing to accept it—at any time—the least that can be expected of him is to stand up on the floor of the House or Senate and be recorded publicly as favoring it.

I do not believe the requirement of an up or down vote on this issue is too much to expect of us.

In fact, I believe the practice would be healthy and beneficial. It would certainly do much more to instill public confidence in our performance in office than any sort of quietly-functioning, automatic, low-profile pay boost every 2 years whether we want, need, or deserve it.

OPENNESS IN GOVERNMENT

I am pleased to join the Senator from Alabama in offering this amendment. It serves the highest ideal of openness in Government. It will give the American people a clear view of their Congressman's and Senator's positions on a very important matter. And, hopefully, it will help place the Congress in a position of leadership in a crucial national effort to maintain the health and strength of the American economy.

Mr. President, I wish to summarize some points the Senator may not have covered. I would only say that we are talking about inflation and that we have just imposed phase 4. We have just gone through phase 3½, which was, in effect, a freeze on prices that concerned farmers, consumers, and almost everyone else. I do not think the battle of inflation is over. We are not certain at this point how long phase 4 may be in existence.

Much depends on what the Congress does insofar as Federal spending is concerned, and, of course, that gets right to the point raised by the distinguished Senator from Alabama. If we are responsible and responsive, should we then not start with reference to our own salaries?

I have been a Member of the House and the Senate for some 13 years and have developed my own opinion about salary levels for Members of Congress. As I said, first of all, that there is a need to provide a high enough salary to make such service a career attractive to persons of limited means. There are a number of Members of this body and, I assume, in the other body who really do not have to consider the salary of a Member of Congress. They are men who are wealthy and who feel privileged to serve in Congress. I do not think there should be any requirement which would change in this practice.

We should also recognize that congressional salaries serve as a lid on hundreds of thousands of other salaries paid to Federal employees. Of course, pressure always builds up on those of us who are elected on a 2-year or a 6-year basis. Every time those in high levels of civil service feel that a raise is needed, there is pressure for that raise, and Congress is put in a very tight spot.

I have not been a Member of Congress as long as many other Members of Congress. I do not believe there is ever a good time to raise our pay when we are subjected to elections every 2 years or every 6 years. Perhaps there are always good reasons for taking action; but I agree with the Senator from Alabama that if we are to take action on pay raises, then we should have specific information as to whether we should do so, without its happening through some back door approach. If there is a question whether we are entitled to a raise, then we should stand up and vote for or against it.

I do not believe I can add anything else to the remarks of the Senator from Alabama. It would be most candid of me to say that for those who are running for election next year, this is a rather ticklish time to consider pay raises. There are some others, called the voters, who may decide that we are not worth a raise, but that someone else may be. That, I think, points up the difficulty of trying to pick the right time, even though a raise may be justified, when that should be done.

I commend the Senator from Alabama, and also the Senator from Wyoming, who has the responsibility to make certain that there is some comparability and that it does apply to those in the higher echelons of Government and those who may be elected officials. But it appears to me that, considering the present condition in America, this may not be the appropriate time.

Mr. McGEE. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from Wyoming does not have control of the time.

Mr. McGEE. The Chair is correct. Will the distinguished Senator from Nevada yield me 10 minutes?

Mr. CANNON. I yield 10 minutes to the distinguished Senator from Wyoming.

Mr. McGEE. Mr. President, I strongly oppose the amendment offered by the distinguished Senator from Alabama, and I urge Senators to reject it. I take this position as chairman of the Post Office and Civil Service Committee, which has recently studied this question carefully in connection with S. 1989 now passed in the Senate and moving ahead in the House. I am joined in my opposition to this amendment by the ranking Republican member of the Post Office and Civil Service Committee, the distinguished Senator from Hawaii (Mr. FONG).

Mr. President, this amendment would very effectively circumvent existing procedures approved by Congress in 1967 for the consideration of legislative, executive, and judicial compensation. I am sure Members are familiar with the steps provided by law for establishing those salaries and with the reasons why those steps were agreed to in the first place. After due debate and full consideration, we established as public policy in 1967 the proposition that Congress ought not to be the sole determiner in the matter of its own pay.

The Federal Salary Act of 1967 provides a means for bringing into the deliberations on this subject other parties, namely the President of the United States and a nine-man bipartisan Salary Commission appointed for the specific purpose of studying the pay levels involved and filing a totally independent report with the President. As you are aware, the President assesses the Commission's report and then makes his own recommendations to the Congress. He may recommend no pay adjustment at all, the pay adjustment suggested to him by the Commission, or any modification of it. He is also authorized to postpone the effective date to any time he deems appropriate if he so desires. The President's recommendations become effective if they are not disapproved by Congress or contravened by a conflicting enactment.

On July 9, the Senate approved S. 1989, a bill reported by the Post Office and Civil Service Committee after public hearings, a bill to improve the procedure I have just described. Very important among the provisions of that bill, which has been reported by the House Post Office and Civil Service Committee, is the requirement that the President's pay recommendations must lie before the Congress for 30 days of continuous session before they become effective. I cite this provision because it is a key factor in any consideration of Senator Allen's amendment. I would point out to him and to any other supporters of his amendment that it is during the specified 30-day period that views for or against legislative, executive, and judicial pay should be expressed in Congress. No pay proposals are before us today. In the interest of orderly government, I want to emphasize that if the President recommends pay adjustments for the officials involved, Senators will have every opportunity during the 30-day period required by S. 1989 to oppose them in any parliamentary way they may choose.

We have no way of knowing what recommendations the President may make. He may recommend no pay adjustment, or a minimal pay adjustment, or an increase to become effective at some later date. The advice given him by the Salary Commission is unknown to us. Salary figures which we hear noised about are pure speculation. I submit that there is no reason whatever to torpedo the existing provisions of law and the pending provisions of a bill which has now passed the Senate by attempting to second-guess what the President may do. In my view that would be the effect of the pending amendment requiring an act of Congress to effectuate the pay adjustments involved. This amendment could turn back the clock, causing us to resume the procedure abandoned in 1967, which obviously was less than effective. Prior to that year, the average length of time between congressional, legislative, and judicial salary increases was 24 years.

Mr. President, S. 1989 which the Senate has approved came into being as a result of a suggestion made to me as chairman of the appropriate committee by the nonpartisan Commission appointed to study these salaries. The Commission suggested to me that a quadrennial review of judicial, legislative, and executive pay was too infrequent; that a Salary Commission ought to be appointed every other year to review the matter; and, accordingly, that the President ought to make his recommendations to the Congress biennially. This suggestion makes sense. With inflation spiraling upward at the rate of 5 to 6 percent a year, with comparable pay in the private sector increasing at approximately the same rate, the percentage increase based on a quadrennial review simply invites criticism when it is announced. Rank-and-file white collar Federal employees regularly receive annual pay adjustments. The compensation of the top officials of the Government clearly should be taken up at least every other year.

Senator Fong and I introduced a bill based on the Commission's advice, and hearings were duly held to which all Members were invited to testify. The Chairman of the Civil Service Commission was strongly in favor, reporting that the measure had been approved by the Office of Management and Budget and by the White House. The Chairman of the Salary Commission offered testimony in support of the bill; and the Director of the Administrative Office of the U.S. Courts, speaking in behalf of the Judicial Conference of the United States, urged affirmative congressional action. I remind Senators again that there is no way the pay adjustments recommended under the provisions of S. 1989 can become effective without Members of Congress having an opportunity to express their support or opposition. The bill provides built-in defenses against the sort of end-run which, in my view, is represented by Senator Allen's amendment.

S. 1989 provides that pay adjustments may be postponed by the President for economic or for any other reasons; and the committee report affirms the committee's strong view that the President ought to impose upon any adjustments he recommends the same kind of restraints which he imposes upon every other income in his efforts to control the economic climate.

Let me turn for just a moment to a pressing problem that our hearings revealed—a very urgent need in the executive branch for a solution to the pay compression which exists between the pay of employees in the upper levels of the general schedule and the pay of the Presidential appointees who control policy matters in the executive branch and whose positions are in the executive salary schedule.

Nobody believes that it would be appropriate for the career officials in grades GS-16, GS-17, and GS-18 to be paid more than their superiors who head the departments and agencies of the Federal Government. There are five levels of these officials, their salaries ranging from $36,000 a year in level V to $60,000 a year in level I. Members of Congress, incidentally, are currently paid at the same rate as a level II executive—deputy secretaries, directors, chairmen of boards. If regular comparability increases had been authorized for employees in grade GS-18, they would now be paid $41,734 per year. Because of the compression, however, the salaries of GS-18's, GS-17's and the incumbents of four steps of GS-16 have been limited to $36,000 a year, the rate of pay for the level V sub-Cabinet official.

What are the effects of this compression? The Civil Service Commission reports difficulty in recruiting for positions in the upper reaches of the general schedule and increasingly large numbers of retirements from the top career jobs. During fiscal year 1972 approximately 7½ percent of the men and women in career supergrade positions retired. In the Federal service as a whole, only about 4½ percent retired. The Commission reports that supergrade losses through retirement will be even higher in fiscal year 1973. The problem is serious, the Commission says. The departments and agencies are losing some of their top executives. The Administrator of the Office of the U.S. Courts testified that the same situation exists in the judicial branch.

S. 1989, which provides that the President may make his recommendations to the Congress by August 31 of this year so that pay adjustments could become effective in October or November, would break this compression. It would allow for an early solution to a very urgent problem.

Mr. President, the general intent of Senator Allen's amendment is crystal clear. The thrust of the proposal is to require by law an act of Congress to increase the pay of certain officials, including Members of Congress. When one looks at the details of the amendment, however, the proposal is not so clear, for it addresses itself only to Members of Congress, members of the President's Cabinet, and members of the Federal judiciary. The law which the amendment is apparently intended to circumvent includes not only members of the President's Cabinet but the sub-Cabinet officials in levels II through V as well; and it includes not only "the Federal judiciary" but other personnel in the judicial branch also. If the exclusion from the amendment of the officials in levels II through V is intentional, I can advise the Senator from Alabama that, should his amendment pass, the officials in levels II through V could receive substantial pay increases, while increases would be denied certain incumbents of level I. This would relieve the compression between the sub-Cabinet salary schedule and that of the career Federal service, but it would create a brand new compression at the top between the pay of a level II and a level I executive because the compensation of members of the Cabinet in level I would be frozen.

Thus it would appear that Senator Allen's amendment would allow the pay of sub-Cabinet officials to be increased, further depressing the pay of Members of Congress in comparison with the pay of the sub-Cabinet officials. Whether or not this is the intent of the amendment, I do not know. But I say to the Senator that his amendment touches the pay of some of the officials involved, but not all. If enacted, it will cause administrative chaos. Its general effect would be to undo an orderly procedure which Congress has worked very hard to bring into being and is now in the process of improving.

I urge Senators to oppose this amendment.

Mr. President, I think it is important that we disabuse ourselves of any misunderstanding on this measure. I think the Senator from Alabama's amendment is out of place. It certainly does not belong on this bill; but that has already been agreed to. No salary proposal has been made or is anticipated. It is not within the prerogatives of this body to do so.

The committee has worked for 12 years to try to arrive at and provide mechanism for equity in pay among the civil servants of the Government. Under the existing legislation, which was passed in 1967, there was a proviso that the President, upon his recommendation, could recommend salary increases for Congress. But under the limbo of the then existing legislation it was possible for pay raises to slip through without Congress having to stand up and be counted. We held long hearings this year to try to correct that situation. We all agree that that should not happen. And we have passed in this body from the committee the updated legislation. It has no recommendations for salary increases. No recommendation has been made by anybody. That is the President's prerogative.

The first thing we have tried to do was to lower the reporting time of the Salary Commission of the President from 4 years to every 2 years. That was at the request of the Commission and the President in the light of their experience with it. The reason is that while all other civil servants were getting 5 and 6 percent cost-of-living adjustments each year, the group affected in the administrative level got nothing. They got nothing since 1969. So, these other groups have now come up to where there are administrators receiving very little difference for their administrative responsibilities and the next civil service class directly beneath them receive almost as much. I do not believe that is good government.

We have legislated on this for 12 years to try to correct those differentials. However, because of the 4 years now required in the existing law for the Commission to report to the President, this gap has inadvertently arisen. In the judgment of the committee we have changed it to every 2 years so that every year there is a cost-of-living adjustment, the Commission takes that fact into account in reporting to the President.

There is no back-door move. If anything, there is a back-door move to try to make a shambles of the legislative efforts of the legislative committee assigned that responsibility in this body. No salary proposal is pending.

We do not know what the President is going to do. However, our new legislation, that we have now passed, guarantees that in the event the President recommends an increase, that increase must occur when the Congress is in session. It cannot occur if we go home for a recess or adjournment, and it cannot be smuggled through. If anyone wants to stand up and be counted, that time is the time in which to do it.

We do not know whether there will be a recommendation for a salary increase. Our legislation also provides that any freeze or adjusted stipulation on salary that places it on a standby basis applies to anything affecting the Congress of the United States and the administrative jobs in this emergency. So we have achieved the thing that the Senator from Alabama is seeking to achieve.

I am only asking that the legislative procedure be allowed to run its course. Let us see what the President proposes. Let us see what his recommendation is. This is not the way to go at this.

I appreciate the Senator's desire that we stand up and be counted if there is to be a proposal for a congressional increase. I hasten to add that a congressional increase is not the issue at this particular moment.

If that time comes, then will be the time for us to have the discussions on the proposal that the President may or may not make. But we are torturing this to death now when we are concerned with the legislative and administrative procedure in this matter.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. McGEE. I yield.

Mr. PASTORE. Does not the Senator feel that one of the basic inequities and inadequacies in the past has been that there have been many increases in pay for those in civil service at times when we have not received any increase? Then, when a fair adjustment does take place, it is in such a large proportion that it shocks the people of the country that we are granting ourselves a 30 percent or 40 percent increase.

If this thing were done more regularly and the Members of Congress would not be allowed any more percentage increase than any other civil service employee receives, but would receive a 2 percent, 4 percent, or 5 percent increase, that would be a better way to handle the whole matter of congressional pay.

Mr. McGEE. That would be the most equitable way to handle it. The consequence is that if we do not do that, we end up with those who are carrying out duties and responsibilities that are not as important as those carried out by other persons actually receiving more than those who have a great responsibility to bear for the whole machinery of Government. That is ridiculous.

Mr. PASTORE. Mr. President, the last time Congress got an increase, we went from $30,000 a year to $42,500. That is a whopping increase to receive at one time. However, so much had taken place and there had been so many small increases given to the regular civil service employees that Congress just caught up. Yet it was a shocking increase. And it is hard to justify Congress giving itself a raise of $12,500 and all at one time.

Mr. McGEE. Mr. President, this is a big gap to justify. I think that the Senator made a point that is very valid. This is the wrong thing, the wrong way, at the wrong place, and at the wrong time.

That is simply trying to make more sophisticated the mechanism for arriving at a level of pay for those in the civil service under our system of government. And it is that process that is at stake. And that is what would be gutted if this amendment were agreed to today.

That is why when the time has expired I will move to table. I do not think the amendment belongs on this bill.

I can guarantee the Senator from Alabama and the Senator from Kansas that if there is ever to be a proposal by the President under the new formula now in the law and on the books, that at that time everyone will have a chance to make a speech and to stand up and be counted. However, let us stand up at the right time and on the right issue, rather than to louse up the serious efforts of the legislative committee that is trying to get a good piece of legislation through on this matter.

Mr. CANNON. Mr. President, will the Senator yield?

Mr. McGEE. I yield.

Mr. CANNON. Mr. President, it would not only be lousing up the legislative work of the committee in that area, but it would also be lousing up the work of the committee having jurisdiction of the bill that is pending before the Senate. I can think of no easier way for those people who do not want a campaign reform bill than to start taking up amendments such as this and other amendments that are nongermane. They have never been considered by the committee and would not come to our committee, because they are nongermane.

We will find out in the course of this debate that those who are against campaign reform will vote for the nongermane amendments, because they will kill the bill if they are adopted.

Mr. McGEE. Mr. President, if there comes from the President a recommendation for any kind of salary adjustment, I will introduce the amendment on the floor and ask for a rollcall vote. I pledge that.

There is no effort here to back-door anything. There is no effort here to try to sneak around anybody's intention or to not have everyone counted so that the folks back home can see what he stands for or opposes.

I make that pledge here in public and on the RECORD.

Mr. President, I have already covered this matter in my prior remarks.

Mr. ALLEN. Mr. President, I yield such time to the Senator from North Carolina as he may desire.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I associate myself on this side of the aisle with the remarks of the distinguished Senator from Alabama. I find myself a bit puzzled at some of the declarations I have just heard in opposition to the amendment under consideration.

As I understand it, there is opposition to having the Senate go on record to block something that the Senator from Wyoming assures is not going to happen. I frankly do not understand, therefore, the concern of the distinguished Senator from Wyoming, who is always so eloquent and pursuasive. If he is correct in his assurance, what harm would result from the Senate's going on record.

Mr. President, I say this much, that the Senate had better go on record on this matter, because the public attitude toward all in Government is sinking rapidly. And this automatic back-door salary increase, regardless of any pledges or anything else that may exist, is very much on the minds of the people of this country.

If by any chance there should be the $12,500 increase in the salaries of Senators and Representatives that has been reported, I rather suspect that there is going to be a taxpayers' revolt such as has never, or seldom at least, been seen in this country. As a matter of fact, Mr. President, I am inclined to think that there may be some logic to a suggestion advanced by a constitutent of mine in a letter I received the other day.

He said that instead of Senators and Representatives thinking about voting or permitting increases in their own salaries, along with the salaries of scores of high-salaried officials in the executive and judicial branches, there maybe ought to be a law reducing, Mr. President, the salary of every Senator and Representative who fails to support a balanced budget concept.

Maybe it would indeed be a good discipline, Mr. President, if our salaries were reduced by the very same per centum that we vote to authorize and appropriate Federal spending in excess of Federal revenue. Because if we had such a discipline in this body, Mr. President, we would quickly separate the sheep from the goats.

I reiterate what I have frequently said on this floor, that this Government is now in debt to the tune of approximately $455 billion, if the figures given to me are accurate; $85 billion of that debt is owed to foreign nations all over this world, and the interest paid to those foreign nations exceeds $5 billion a year. The total interest on the total existing debt of the Federal Government costs the American taxpayer $40,000 a minute, 60 minutes every hour, 24 hours every day. And yet we exercise very little discipline on this Senate floor about Federal spending. We have a lot of rhetoric, but very little discipline.

That is precisely why the taxpayers of this country are watching carefully. They want to hear something from the Members of this body as to how they stand on discipline in the Senate. I thoroughly agree with the distinguished Senator from Alabama, and I am happy to be a cosponsor of his amendment.

The **PRESIDING OFFICER.** Who yields time?

Mr. **CANNON.** Mr. President, I yield such time as he may require to the Senator from Kentucky (Mr. Cook).

Mr. **COOK.** I thank my colleague, the manager of the bill. I also apologize to him for being a little bit late.

Mr. President, this amendment, at least to this Senator, poses several problems, the most realistic problem being that we are going to have some 42 amendments already to this bill, which means, in essence, that the Senate is not going to write a campaign reform act this year at all. If it is to be written, it will be written by the House of Representatives. They will write it, and they will submit it to us, because if a large percentage of these 40-odd amendments go on the bill, we will not even be able to have a conference on it.

Second, it causes me several other problems, because I think everyone in the United States knows—and if they do not know it, let me say it—that the salary of a U.S. Senator is $42,500 a year, and to that extent, unless one comes here with a sizable estate, it is not the easiest thing in the world to do, when one maintains a residence in his home State, he maintains one here, he pays taxes in both places, and he gets quite a shock when he comes here from his own community and has to pay, for a four-bedroom house, $85,000, $90,000, or $100,000.

I think, for those who are not from here, they ought to understand that. A new official in the U.S. Government just moved into my neighborhood and bought a house for $140,000 that he could not sell in my community for $50,000.

It also causes me problems that when we do this, and when we make the political decision that we make that choice here, the ultimate question is really going to be—if that is what the American people want, that is all right, and I have no objection to it—"Is the Congress of the United States going to be composed of nothing but millionaires?"

We have some Senators around here who do not even take their salaries. They draw them, but they use them for the purpose of expanding their own staffs and paying more personnel.

I say that is fine for them, but this Senator has five children, and he has two in college right now. He just got one out, and he has two more to go. If anyone thinks I can take a percentage of my salary and utilize it for the purpose of expanding my office, I have to tell you it cannot be done.

So I would say to the Senate, this is fine. We gave ourselves a salary increase 4½ years ago. If we take that salary from 4½ years ago, and we are now in the 5th year, and say that even under the Cost-of-Living Council, wages have gone up 5.5 percent a year, I would suggest to the Senate and to the American people that if you add it all up over those 5 years, it would not amount to the salary increase that individuals in this body would be getting if we got the same 5.5-percent increase that has been authorized by the Cost-of-Living Council of the United States.

The only problem is that we have all the press that just loves to write stories about how "they are going to get another increase." Well, it is amazing to me when we talk about this, because I had a grade school class up here a few weeks ago from my State, and they wanted to know where my limousine was, and where my chauffeur was.

I could have told them the Sergeant at Arms of the U.S. Senate has a car. I could have told them that the doctor of the U.S. Senate has a car given to him by the Government. I could have told them about a huge number of assistant secretaries downtown, and other personnel, who have cars and drivers. But I just told them that I drive my own automobile to work every morning, which I do, and I pass all those Lincolns and Marquises on the parkway, and try to see who is in the back seat, with that little light on, reading the Washington Star, and for the life of me I have never recognized one of them yet.

But I think the American people ought to know, and we ought to be men enough to stand up here and tell them, what the cold, hard facts are.

I would like to have every Member of the U.S. Senate put in the Record how many organizations in his own State he has to contribute to, and how many organizations feel that he has to contribute to them, because he is a Member of the U.S. Senate. I would like to know, and I would like to have it put into the Record, how many of them, every time there is a fish fry or a chicken dinner, do not get one ticket, but 10 of them, and are expected to send a check back, even though the Senator may have to travel 800 miles to get there and they know he is not coming. But they remind him if he did not buy any tickets to it.

I think these are the things we honestly ought to discuss. We ought to discuss with the American people exactly what we are doing.

I enjoy reading these articles. There was one in the U.S. News & World Report about all the things we receive, all the things the Members of the U.S. Senate get. It is like we get free office space.

Well, they get free office space. As a matter of fact, they even get Government subsidized space, because they are not paying for the space up there. They are not paying for the space behind us.

I wonder what the cost of the electricity will be to the U.S. Government for the Watergate hearings. I am not objecting to them, but all the media are tied into those lines over there, and it comes off the meter of the Federal Government.

They say we get free office space. I would like to know what official in what corporation at any level in the United States pays for his office in his corporation. I wonder if the people of the United States know that when 10 people come from my State, and the only time I can see them is at lunch, and I have to set up a lunch, that there is no expense account for any Member of Congress to write that off. I would like them to know that when we sign those tickets downstairs, we get a bill at the end of the month, and that comes to us and we have to write a check for it. We cannot deduct it, and we do not have an expense account for it. There never has been an expense account for it.

For those people who say that we are given so much money so that we can have a staff, let me say that that staff is not my staff, as such, it is one dedicated to doing the things that the people of my State want done for them. It is a service for them. It functions every day for that purpose. So I would only say that I am not talking about the merits of whether a Member of the Senate should get a raise or should not get one, but I believe that we demean ourselves when we say, "Stand up and be counted," or when we say that we should get a decrease.

I would suggest that during the time the Senate has been in session this year, we have already had over 300 rollcall votes. That is more than 2½ times the number we had the first year I came here. I think that they should understand, when they want services and when they want these things, that much of it comes out of our pockets. We should admit that it does. I should like for Members of the Senate to put in this Record how much it costs them over and above their salary to live in this community. I might suggest that this goes for some of those who are cosponsors of this amendment, that it costs them money to be in the Senate and we should be man enough to admit it.

Mr. **LONG.** Mr. President, will the Senator from Kentucky yield?

Mr. **COOK.** I yield.

Mr. **LONG.** The reason there should be an occasional increase in the salary of Senators and Representatives is not because I need it myself—I have voted for it consistently—but because I feel that the Government's interests require it. The reason I feel that way is, in order to preserve this Nation in times of adversity, particularly if someone decides to wage war upon us, then we are going to have to have people in the Defense Establishment who have a competence equal to that which we would expect from a good corporate executive. If we are not going to pay those people in line with what a good corporate executive gets paid, we are not going to be able to keep competent people in our service. Modern warfare may very well be such that the outcome of victory or defeat in such a war will occur in a hurry, because of the devastating effect of new weapons.

Now Senators and Representatives are very sensitive about voting themselves a salary increase, very naturally, but they also have a certain amount of pride. They do not like the idea of a general officer in the Army or an admiral in the Navy receiving more pay than they do, or why any Under Secretary or Assistant Secretary in the Defense Establishment should receive more pay than they do.

So that to have adequate personnel just for the Defense Establishment of the country, for freedom to survive in America, we really should pay those people who have the essential duties in the Defense Establishment—and I have particularly in mind the very best officers this Nation has produced throughout its history—and have them available at all times, so that we should be willing to pay them the same thing a good corporate executive is paid. Otherwise, they will go into business or commerce or become professional people outside the Defense Establishment.

I think that the human equation is such that we cannot do that unless we also pay Senators and Representatives the same thing, because as a matter of pride they cannot justify in their own consciences seeing other people getting paid more than they are.

If we look at the whole picture, whether we like it or not, Government salaries are geared to what Senators and Representatives are paid. It is true that we can get people to come to the Senate or the House even if the job paid nothing. Even if it was for free, people would still run for the Senate and the House, because they like to serve here. It has publicity value. It has honor and emoluments to be derived. There are people who would like to make that kind of sacrifice, in order to serve here, but the same thing is not true of the day-to-day, hard-working staffs that work in the Government. But failure to have an adequate staff could cost the Government its freedom and the Nation its existence, or it could cost the economy hundreds of millions of dollars, and perhaps cost the taxpayers an equal amount. So that it makes sense that we should set a salary scale for Senators and Representatives in line with what we would expect to pay a successful corporate executive.

Mr. COOK. Mr. President, I thank the Senator from Louisiana for his comments.

Let me make one other point. I would be sympathetic to the Senator's amendment and I would be very much in favor of it, but I am sorry it has not been done before, that if that amendment provided that whatever cost of living or whatever percentage was set by a Cost-of-Living Council, that it applies every year to this membership as it applies to anyone else.

Several times since I came to the Senate—and I have been here 4½ years now—I have picked up the newspaper and the headlines read, "Government Employees Get Automatic 5.6 Percent or 6.1 Percent—whatever it is—Increase." They expect it. They have it as a cost-of-living matter. The Senate should be on the same basis.

We do ourselves great justice if we would propose an amendment that we be considered as anyone else is, but we do ourselves a great injustice when we take it on the basis of, "Here we are. We are all responsible. We say, stand up and be counted."

We tried to get a social security increase for everyone in the United States. We also tried to get increases within the social security framework. The Senator from Louisiana worked on that many times. We have done it for everyone we could. Yet, somehow or other, we put ourselves in a position where we are totally and completely damned, because we are the ones that have to take the occasion to vote for or against an increase in our own salaries.

The other night I was listening to a television program. It had Harry Reasoner and Howard K. Smith on it. They raked the whole Senate over the coals because Senators might be subject to a pay increase.

Gee, I wish the public knew how much money Harry Reasoner and Harry K. Smith make a year. Then I think they would be able to evaluate their comments about a Senator's salary in relation to some of the salaries that other people in the United States make.

Mr. TOWER. Mr. President, will the Senator from Kentucky yield?

Mr. COOK. I yield.

Mr. TOWER. Please do not knock Reasoner and Smith, because they are two of the most objective newsmen on television these days.

Mr. COOK. I agree with the Senator, but that just happened to rankle me a bit.

Mr. TOWER. I agree with what the Senator from Kentucky has just said and what the Senator from Louisiana has just said, that we are underpaid considering the responsibilities we have. No one would be entrusted with this kind of responsibility in a corporate organization at the salary we get today.

However, I am aware of the fact that at a time of escalating wages and prices, at a time when we are trying to restore some fiscal sanity in the Government, at a time when we are struggling with the inflationary spiral, we should set an example to the citizenry of this country, even though it will hurt us. It will hurt me, because I have three teenage daughters, and they do not go to school free, and they do not get their clothes free. It costs me a great deal of money. I am delighted to spend every buck that I can spend on them, including a Neiman-Marcus charge account. It is tough. It is hard. We are underpaid. But I submit, at this time, we Senators have to set an example for the rest of the people of this country and we have to do it by penalizing ourselves.

Mr. COOK. I buy the argument of the Senator from Texas wholeheartedly, when it is put on that basis. I could buy it on that basis, but the basis of the amendment is not on that theory. It is not on that theory at all. If there were an amendment proposed in this Chamber right now that said we would forgo any raises, because of the serious fiscal problems in this country, I would be a cosponsor of it and I would vote to forestall any raises by Congress for its own salaries. I agree with that. But that is not the language of the amendment. The language says that every man should stand up and be counted and say to his constituents, "I did thus and so for myself." I might suggest that this amendment is not going to salvage the conference committee. I do not think that anyone thinks it will salvage it. But we will have a good debate on whether we shall be responsible to ourselves and, therefore, responsible to the American people.

If the same amendment read as the remarks of the Senator from Texas just illustrated, I would be for it 100 percent.

Mr. McGEE. Mr. President, will the Senator from Kentucky yield?

Mr. COOK. I yield.

Mr. McGEE. I want to come back again to where we were a moment ago here and make sure we are not talking about the wrong thing, in the wrong place, at the wrong time, and for the wrong reasons; and that is, that there is a mechanism, under law, that the appropriate committee of this body has worked on for 12 years.

It is the law of the land. We have just passed in this body the change of that law, which provides for a commission to make an assessment and recommend to the President, and the President then says whether he thinks it is in order or not.

At this moment, there is no pay raise recommended by anybody. I do not know where they have gotten that hogwash, except by deliberately planting it and whispering it about by way of rumor. Nobody has proposed a pay raise. No commission has reported to this body, that I know of, and I think we would be the first to hear of it, and let us get that out of this debate.

We are trying to protect the legislative process of a committee that is trying to achieve equity in public service in the United States. That is our job. If some other committee ought to do that, then let us change the rules of this body.

I do not think it is in order or good legislation to try to put 12 years of legislation in a simple amendment to a bill to which it is not even germane, where it does not belong, as the manager of this measure has said.

Nobody has proposed a salary increase for the Members of this body. Under the new bill we have passed, we specify, as a part of the change in existing law, that no proposal from the President can be submitted for action unless this body is in session for a continuous 30-day interval. That means we are here. And I have pledged to the sponsor of this amendment, the Senator from Alabama (Mr. ALLEN), that if a recommendation comes from the President for pay raises for Congress as well as others, I will make the motion that we have a rollcall vote, so that we can let the great orators stand up and be counted with everybody else as to where they stand on how much Congress is to be paid.

There is no proposal. The President may even propose that our salary be cut. The President may propose nothing.

But we have no business preempting this legislative process that has undergone hearings, that has proceeded in an orderly way through the processes of Congress. That is the reason why, as I indicated earlier, I am going to move to table this proposal when the proper time has elapsed.

Those who are making the speeches on what they are going to do about their increase in this body are speaking on the wrong question. It does not belong here, certainly not now. There will be plenty of time for that. I pledge that time, if it ever comes. It may never come; but if it does, it is guaranteed. Everybody can be counted out loud and in rhetoric.

Mr. COOK. Mr. President, I have a notion that regardless of what happens, if Congress should give itself a raise, every candidate who runs against the incumbent will talk about the fact that the incumbent voted himself a raise; but I suggest that he cannot run on the basis that when he gets there, he is going to reduce it.

So I suggest to Senators that we have political fun on these issues—we do quite frequently—but they are a little more serious than that.

Mr. BIDEN. Mr. President, will the Senator yield?

Mr. COOK. I yield.

Mr. BIDEN. Mr. President, I do not want to speak to the merits at this point. I congratulate the Senator from Kentucky.

I have only been in the Senate 6 months, and I hear a great deal of rhetoric on this floor. We phony this issue of congressional salaries. Everybody talks about the fact that we are afraid of the press sitting up there in the gallery above us in their free press seats. There are a bunch of phonies up there, too, editorially speaking, because the fact remains that U.S. Senators are underpaid. I do not know about others, but I am worth a lot more than my salary of $42,500 a year in this body. I will not be a candidate for reelection for a long time, but I would say this even if I were a candidate next year. I also wish the Senator from Kentucky was a Democrat. I think it is time that somebody stood up and called the rest of these guys in line, as Senator Cook has just done.

The demagoguery on our part is to turn to the press and say, "We don't want any additional raises. We're against it," or to stand up and say, "We should even get a reduction." We have a lot of phonies around here. It seems to me that we should flat out tell the American people we are worth our salt. The American people would understand, because they are a lot smarter than we give them credit for.

I do not think many of the visitors sitting up there in the public gallery or outside the Capitol feel that they want people in the U.S. Senate who are not worthy of a high salary. If they are willing to pay their corporate executives a very high salary, I think they are willing to pay adequately for competent men and women to sit here.

If we, in fact, are going to talk about the salary of Senators, why do we not really talk about it—talk about it in terms of cutting out all outside income? I would love that. I have no outside income, except the speaking engagements I am starting to pick up. I have made a dozen or so. I was invited to speak, and I will probably speak more.

Why do we really not want to talk about salaries and say, "Fine, we're going to raise our salaries to a particular amount but then make it a matter of law that we can have no outside income whatsoever"? Then I would like to see those who are millionaires, those who have significant income from other areas, whether it be trust funds or whether it be from speaking engagements or whatever—stand right next to us, who have no money, and say, "You're right. We don't need it. We should cut our salary. We're a bunch of gluttonous people up here. We agree with the press that we have too much to begin with."

I wish the press would really look into this matter. I had better shut up. I am going to lose the next election before I get a chance to run.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. BIDEN. I yield.

Mr. PASTORE. If the Senator from Delaware is pinched, he is so close to home that, as I understand it, he commutes every day.

Mr. BIDEN. That is correct.

Mr. PASTORE. And he has to maintain one home. Just imagine the pinch when one does not live that close and cannot go home every evening and has to maintain a home in Washington, also. By the time you get through paying for the lawn and for taxes and for everything else that goes with it, it is pretty hard to make ends meet.

Mr. BIDEN. I agree. But I probably have it easier than anyone else in that regard.

But I am not talking about the pinch. I do not think we should have to stand in front of the press and the American people and base our salary on whether or not we are pinched. We are better than to worry about being pinched. The American people have a right to elect people to public office whom they think, in fact, are worthy of serving this Nation—and, frankly, the whole world, because that is what we are talking about. What we do in this body affects not only the United States, but the whole world as well. If we are not worthy of the salaries we are now getting, and higher, why are they sending us here in the first place? Why do we have to justify it on the basis of a pinch? I am not pinched. I am doing all right on $42,500.

But when I go to breakfast with the secretary of one of the executive departments, in his office, and I see his office, including the dining room and his conference room and his personal secretary's room adjacent to his office, as big as the entire Senate Chamber, and his salary is more than mine, I begin to wonder. What are we doing? Where are our priorities?

Mr. PASTORE. I came here from the Governorship of the State of Rhode Island in 1950. When I became Governor of the State, my salary was $8,000 a year. I received that salary until the Republicans raised it to $15,000. When I came here in 1950, I received a cut from $15,000 a year to $12,500 a year. That was my salary when I came to the Senate in 1950.

The mistake we make in the Senate—and I said this to the Senator from Wyoming—is that the in-between interval is so long that when we finally get this raise, we have to give ourselves a raise of 15, 20, or 30 percent to catch up; and that is all wrong.

Automatically, civil service employees receive a periodic raise. We do not get any more. We ought not be bound by the guidelines of the President. We ought not give ourselves a 15, 20, or 30 percent increase at various times. We ought to get an automatic increase that is consistent with the rise in the cost of living and commensurate with our responsibilities here.

Turning to the question of the pinch, when you are pinched, you are hurt, and I am talking about being hurt. All I am saying is that there is some demagoguery in these amendments. There is no question today about a pay raise for the Members of Congress. This question is being raised on the floor. No one has recommended a raise for us. There is no pending business that says we shall have a raise. This is all too premature, and why it should be placed on a campaign spending bill is beyond me.

As the Senator already has pointed out, if the Senate wishes to kill the spending bill, begin by putting a lot of these nongermane amendments on the bill and then Members of the House will have an excuse for no bill. I think this is an exercise in futility.

Mr. BIDEN. Mr. President, I appreciate the floor manager of the bill giving me this time.

First, by way of summary, I do not think a raise is appropriate now for us because we are telling the rest of the American people they cannot have a raise. I agree with that 100 percent.

I agree with the Senator from Rhode Island when he said that raises should come in increments as they do for other civil servants.

But I am speaking to a greater principle. I do not know why we must apologize to the American people and to the press and let ourselves be bamboozled, saying, "Gee, I am not worthy of a raise; I am not worthy of more money; the American people know that." That is a bunch of malarkey. Let us be honest about it and talk about it across the board.

We should talk about the money we got when we came here, what we get from sources outside of here, and what we get paid here. Let it all hang out—all. I will support that concept 100 percent. Instead, we apologize. Set the salaries, provide for no outside income and no honorariums, no anything. Let us talk about it in its proper perspective.

I know less about what happens in the Senate than anyone else in the Senate. I admit that. I resent the fact that we talk about ourselves as if we are not worthy of getting paid. I think this is the most prestigious job in the Nation. I am extremely proud to be a Senator. I do not have to apologize to anyone for $42,500. Amen. Thank you.

Mr. COOK. I thank the Senator.

Mr. President, I have two other points I wish to make. When I first came here I had a rather enthusiastic staff. My office would receive a letter asking, "Will you send a congratulatory letter to my mother? She is 95 years old today." Another letter would ask, "Will you send so-and-so a letter because she is retiring today?" There were many requests from constituents, and my office was gung-ho. They were sending out congratulatory letters and they thought they could send them anywhere.

That happened until the end of the second month, because we get a bill every 2 months. I received a bill for $185, saying, "These are not official business. They are congratulatory and must be paid by you." I had to pay that out of my own pocket.

Second, I ran into an experience that was rather amazing to me. When a new school or new building was to be opened I would get a letter asking, "Will you send us a flag flown over the Capitol of the United States?" Well, we were sending those flags out left and right, until I got a bill for every one of them, and I had to pay for them out of my pocket.

Then, when I was asked to send a flag for the opening of a new school I wrote a nice letter and said, "These flags cost so much money." I got a letter that no one would believe. I became the chintziest individual who ever served in the Senate because I would not pay $7.50 or $8, whatever it was, for one of the large flags, so that they could have a flag that had been flown over the Capitol.

I have 120 counties in my State, and probably in each county there may be 7, 8, 10, or 12 schools. I would assume that every one of them, if that practice were started, would think it is entitled to a flag that had been flown over the Capitol. But these flags are not free and we do not have an expense account to pay for them. I am content with that. But I might suggest that we should look at all these things that people say are available to us because we are Members of the Senate.

Sometimes we take constituents down to the dining room because they want to go there and eat bean soup and have something else there. Then, the check comes, and a Senator signs his name and says, "It is all taken care of." It should be known how it is taken care of. It is taken care of by a bill sent to my office every month and it comes out of this Senator's pocket, and he writes his check and he pays for it. That is how it should be.

But these are things that we should let the American people know and understand, and I think we are not letting the American people know and understand them and I think we do ourselves an injustice as a result.

I yield to the Senator from Texas.

Mr. TOWER. I think we have debated this matter enough to act on it. I doubt we are impressing the gentlemen in the press gallery because they get paid less than we do and that is why they are so mean.

Mr. FONG. Mr. President, the amendment of the Senator from Alabama states that salaries of Members of Congress shall continue until an act of Congress changes that. If we agree to this amendment where will we be? We now have on the statute books a law passed in 1967, after much debate. We have on the statute books the law passed in 1967 which states that the Commission on Executive, Legislative, and Judicial Salaries shall make a survey of comparable salaries in the Nation and then report to the President of the United States. The President, after reviewing this report, will recommend to the Congress of the United States what the salaries of the Members of the Congress, the Federal judiciary, and the top positions in the executive branch shall be paid.

If we agree to this amendment, we will still have on the statute books that law. If nothing should transpire on the bill that was passed here just a few days ago, S. 1989, we will be saying to the President of the United States that the recommendations of the Commission, which he now has, "Still send with your budget message to the Congress next year, the pay recommendations for Members of Congress, the judiciary, and the executive branch."

If we say we will hold down only the salaries of the Members of Congress, and with the present law still in effect, when the President sends his recommendations up and says, "I wish to recommend that the salaries of Senators be $5,000 more, that the salaries of the judges be $5,000 more, and that the salaries of GS–16's, GS–17's, and GS–18's shall be similarly increased," in what situation do we find ourselves? We will find ourselves stymied with this amendment, where Members of Congress would be held to $42,500. We would have a situation where those in the other branches of the Government, for instance the judiciary, might be raised to $45,000; because of the comparability statutes, persons who are GS–16's, GS–17's, and GS–18's would be raised to $45,000. We will find a great disparity in the salary schedules. We will throw the whole comparability statute out of kilter so that there will be no comparability or reasonable relationship so far as governmental salaries are concerned.

Presently we are guided by the principle of comparability. In 1962 we adopted the principle of comparability. Government employees stated they had not been paid salaries comparable to salaries prevailing in the private community. Because of that criticism, we, who are members of the Committee on Post Office and Civil Service, the committee which has jurisdiction of this question, looked into the problem. We came up with the principle of comparability; that is, we gave authority to the survey team to look into the salaries paid in the private sector. On that basis we would say what the salaries of people working for the Government should be.

The PRESIDING OFFICER. The time on the amendment has expired.

Mr. COOK. Mr. President, I will take 2 minutes on the bill and then yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. COOK. I yield myself 2 minutes on the bill.

The PRESIDING OFFICER. Is that time available to the Senator from Pennsylvania?

Mr. COOK. I might suggest to the Presiding Officer that I am in control. As far as the Committee on Rules and Administration and the Committee on Commerce are concerned, this Senator has to be here for many, many hours.

Mr. ALLEN. Mr. President, I ask unanimous consent that the Senator from Kentucky may control time in opposition.

The PRESIDING OFFICER. The Chair understands, then, that the Senator from Kentucky is the designee of the minority leader.

The Senator from Kentucky is recognized.

Mr. FONG. Mr. President, will the Senator yield me 30 seconds?

Mr. COOK. I yield.

Mr. FONG. Mr. President, if this amendment is adopted, we will find ourselves in a quandary. We know that if salaries of Members of Congress are kept at $42,500, we will not increase the salaries of the 3,000 employees who are now in grades GS–16, GS–17, and GS–18. The salaries of these people have been compressed for 4 years. They have been compressed because Congress has not seen fit to give its Members an increase in salary. I would say that is not in the spirit of the principle of comparability.

Mr. COOK. Mr. President, in whatever time I have left, I wish to make some concluding remarks. I read the other day with interest an article about one of our Governors. As a matter of fact, it was the Governor of Maryland. His salary was stated as being $30,000. That is $12,500 less than Members of the U.S. Congress make. But I would suggest that if the article were read carefully, one would read that the Governor lives in a rather substantial mansion in Annapolis which is provided him by the taxpayers of Maryland. As a matter of fact, the article said it was a 54-room mansion. I might suggest a careful reading would disclose that he also has 18 servants in that mansion, all paid for him. He also has eight State policemen that are at his disposal. I have no idea how many automobiles he has, but I am sure he has one or two, with a chauffeur. I am sure his wife has one. I might also suggest that there is available to the Governor of Maryland a rather substantial yacht over 100 feet long, and another slightly smaller.

I would suggest that when we evaluate all of those factors, we try to evaluate what a Member of Congress really gets. He gets a real estate man to get him a house, and he purchases it here. He drives his own automobile back and forth to work, as he ought to do. He pays his own expenses, as he ought to do. If he has servants, he pays for them, as he ought to. If anybody looks after his needs, he pays them.

I got a kick out of this the other day, because I happen to enjoy mowing my own lawn on weekends. I hate to be critical. The Senator from Delaware said he wished I were on that side of the aisle. As I said, I enjoy mowing my own lawn on weekends. I doubt if other Senators do, or even if the children of most Senators mow their own grass. I asked somebody what he would charge me to come to my house and mow my grass. I live on a rather small lot, because lots here are small. Do Senators know what he wanted to mow my lawn? He wanted $11 to cut my grass. I decided that, somehow or other, I could cut my own grass.

I want to say, in all fairness, if the Senator from Alabama would amend his preamble and say that it is the opinion of the Senate of the United States that, by reason of the economic situation we find ourselves in the country today, and because we feel that discipline should be afforded to us as well as to the American people in the financial straits we are in right now, I would support the amendment, but I do not believe that was the intent of the amendment as it was introduced.

I yield the floor.

Mr. ALLEN. Mr. President, the amendment of the Senator from Alabama is open to amendment. If the distinguished Senator from Kentucky wants to offer that amendment, I will be glad to have him offer it.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. Mr. President, the first Senator in this Chamber who called attention to the oncoming raise for Members of Congress was the distinguished Senator from Wyoming (Mr. HANSEN), who put in a sense-of-the-Senate resolution—and I was very pleased and honored to be one of the cosponsors of that resolution—stating it was the sense of the Senate that we did not feel that this raise was warranted at this time. The disinguished Senator from Wyoming is one of the cosponsors of the pending amendment. At this time I would like to yield to him such time as he may require.

Mr. HUMPHREY. Mr. President, will the Senator yield to me before he yields to the Senator from Wyoming? I wanted to ask the Senator some questions about the amendment. Would the Senator wish me to withhold those questions until after the Senator from Wyoming has spoken?

Mr. ALLEN. Our time is budgeted. If the Senator would get some time from the time on the bill——

Mr. HUMPHREY. I am not basically in opposition to the amendment. I wanted to ask some questions about it.

Mr. ALLEN. I do not think I have enough time, but I am sure the Senator from Nevada will yield time to the Senator from Minnesota. At this time, if he does not object, I will yield to the distinguished Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. HANSEN. Mr. President, I thank my distinguished colleague from Alabama.

May I say, recalling what the distinguished junior Senator from Delaware had to say about wishing that our very good friend the senior Senator from Kentucky might move on over to that side of the aisle, I would be equally happy to have the distinguished junior Senator from Alabama move on this side. I would like to have them both—retaining the Kentuckian and adding the Alabamian.

First of all, let me say I quite agree with the observations that have been made about my favorite news magazine, U.S. News & World Report. I think it does a tremendous job first of all because it seems to have the old fashioned, crotchety idea that there is still merit in reporting the facts, in not trying to editorialize, as so many magazines and newspapers do these days on the front pages of their publications. For that reason, I salute U.S. News & World Report.

I must say, however, that I was disturbed, as others have been, to see the breakdown of expenditures that are afforded members of the Senate, implying that we are given something special.

You know, Mr. President, when I first came here I thought that it would make good sense not to use all of the money available to me as a Member of the U.S. Senate for clerk hire. It was not too long before I concluded that if I were to try to do the best job I could do as a Member of the U.S. Senate, I needed all of the information, and more, that I would be able to get for myself. As a consequence, no one will find me turning back very much money to the Treasurer of the United States, simply because I think if I am going to be worth half my salary, I have got to know all I can possibly know. As a consequence, I have tried to avail myself of all those mechanisms whereby I could become better informed.

Seriously, though, let us not fool ourselves about what we are talking about. The facts are that it is all right to say this amendment would be all right if it were amended to do certain things, to spell out what might or might not be done, and how it would be rendered acceptable if we were to amend it in a certain way.

I do not know what the average citizen earns, but I know what the median salary in the United States is. It is less than $12,000 a year, and for Members of the Congress of the United States to permit their salaries to be raised at this time does not set very well with Mr. Typical Citizen, because he is fully aware that the inflation we have in this country today, if he has pursued the subject, and most of them have, comes about because the Congress of the United States enjoys talking out of both sides of its mouth at the same time.

The Congress always gives lipservice to a balanced budget. And then the Congress turns right around and says, "But this is an exception."

Two years ago I was on the floor when the Williams-Smathers amendment was agreed to. That amendment held that we could not spend so much money. And what happened? Every appropriations bill that came up after that simply had a little clause in it which said:

> The effect of the law embodied in the Williams-Smathers amendment shall not be applicable to this appropriation.

We have a national debt ceiling of $465 billion. Last year we agreed upon a spending limitation of $250 billion.

The House said: "Let's let the President cut back if we exceed that amount."

On this side of the Capitol it was said: "We will decide where the cuts will be made."

Out of that hiatus came no action at all. The Congress went right ahead and exceeded the budget amounts that each body of the Congress agreed ought to be imposed. If we are really seriously concerned about inflation as far as the average citizen of the United States is concerned, we must realize that he knows that the cost of living has gone up and up and up and that his dollars buy less today than they did yesterday. They want us to do something about it. And it is not going to satisfy them for us to say: "I would have supported this if it could have been amended in a certain way." Rather, I think it makes sense to them for us to say: "Until we come to grips with the basic cause of inflation and until we balance the budget, this will not be done."

The distinguished senior Senator from Virginia has called for this action time after time after time. And here is one Senator who will support the amendment of the Senator from Alabama and any other similar action that may be proposed simply because I think that sort of action spells out loudly and clearly to the average American taxpayers that we believe in putting our dollars where our mouth is.

And because of that, I suggest that it will be well received by the average American taxpayer and the average American wage earner of this country today if he sees Congress taking action which will not bring about an automatic increase in our salaries. I know that it was contended that no such increase has been proposed. However, I think the odds are pretty good that one will be recommended. Until we can get the budget balanced so that we can get a handle on our inflation and so that we can say to the people on pension plans and on social security: "The money you had coming yesterday and that which you are going to receive tomorrow will buy essentially what it will buy today, we should not raise our salaries."

We would be appreciated for having the courage to say: "Until this sort of situation can came about, we are not going to raise our own salaries."

Mr. President, actually what we are talking about and the whole purpose behind the proposal to increase wages comes about because Members of Congress have not been honest with themselves and have not had the courage to follow through and to bring about the balanced budget that would cause those people who have worked long and hard and who have saved their money and are now on pension plans or on social security to know that we are not going to take from them their hard-earned retirement pay to which they are entitled.

I ask unanimous consent to have printed in the RECORD an editorial on this subject, published in the Denver Post of July 18, 1973.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Pay Our Congress More? Not Until It Carries Share of Load

Washington is buzzing with rumors of another big pay raise coming soon for members of Congress, federal judges, cabinet members and other top federal officials.

For members of Congress, the boost being talked about at the White House—which has the major say-so in this matter—is $10,625 a year, a 25 per cent raise from the present congressional pay of $42,500.

Well, perhaps the judges, cabinet members and other federal executives deserve a raise. But as for Congress, our strong suggestion would be to take it easy. Better yet, forget it.

It's not that, on a percentage basis, raises on the order of 25 per cent can't be justified. None of the people who would get these raises have had one since 1969. With the cost of living soaring the way it has in recent years, a sizable raise can be justified—mathematically.

But when we get away from simple mathematics, the case collapses. Would anyone in the audience care to try and make the case that Congress *earned* a 25 per cent raise since 1969? We certainly wouldn't.

Not when the federal budget deficit is running at the rate of $20 billion or so a year. Not when the value of the dollar has been devalued abroad 30 per cent in those years. Not when Congress doesn't even know how much it is spending—and doesn't even care enough to set up a mechanism to keep track.

Not when, for lack of adequate legislative oversight and controls on the economy, inflation is rising and threatening to get out of hand. Not when Congress once again this year, as in every year recently, has been unable to pass even its uncoordinated, uncontrolled appropriations bills before the new fiscal year began July 1.

Not when, in the face of this sorry record of non-performance, Congress is still operating on what amounts to a three-day work week—allowing many of its Eastern and Midwestern members to go home on Fridays and not return to work until Tuesdays.

The Presidency in general, and President Nixon in particular, have been taking a beating in recent years and weeks on charges of arrogance, excessive secrecy and various kinds of malfeasance.

But it is only fair to say, as we have said before, that in a government of checks and balances the presidency would never have gotten out of hand if Congress had been on the ball, keeping an eye on things and carrying its share of the load.

Until it does that, its members had better take it easy when they ask for a raise.

Mr. TALMADGE. Mr. President, I enthusiastically support the amendment offered by my distinguished colleague from Alabama to put a stop to proposed pay increases for members of Congress, Federal judges, and top-level officials of the executive branch.

This is a time when each and every Member of Congress needs to find every possible means to reduce Federal spending rather than seeking a way to raise their own salaries.

I am unalterably opposed to any such such pay raise. It is preposterous that the matter is being given serious consideration at this time. Prices are virtually frozen. Wages are controlled. Already heavily burdened taxpayers are threatened with even more taxation. We have not balanced the Federal budget. We cannot stabilize the economy. To slip through a congressional pay increase in these circumstances would be an affront to the American people and, in my view, would violate the public trust.

To vote on the one hand to give the President authority to freeze wages and salaries of America's working people and taxpayers and, on the other hand, to give the President the authority to raise salaries of Senators and Representatives and high-ranking Federal officeholders would be the height of hypocrisy for Congress.

Because of the deplorable state of our economy, the Government has had to put wage and price restraints on the American people. Congress ought to restrain itself as well. As I have maintained for a long, long time, Congress should not only tighten its own belt and forego such extravagances as a pay raise, it should also make every effort to reduce Federal spending in every possible area and balance the budget.

Surely, Mr. President, no Member of Congress believes that the American people would be fooled by the method being used to bring about such pay raises.

Surely, no Member of Congress feels that he could be exonerated from the justifiable wrath of indignant taxpayers, merely by passing the buck to the President by vesting in him authority to recommend pay increases for the legislative, judicial, and executive branches.

Surely, no Member of Congress really believes that the current maneuver to disguise the congressional pay raise and ram it through before the election next year would deceive the American people. Such a transparent move as this would not go unnoticed, and I for one want no part of any such deception.

In my view, Mr. President, the issue of congressional pay increases is one on which every Member should stand up and be counted. As in the past, I emphatically oppose pay raises for Members of Congress, and I intend to fight with every resource at my command to defeat efforts to slip them through at this time.

Mr. STEVENS. Mr. President, the amendment of the Senator from Alabama (Mr. Allen) strikes at the very heart of the concept of comparable salary of top Government officials with that of private industry. There is little question, I believe, that the Federal Government must be able to attract and keep individuals of high caliber—not only to run for Congress but to fill our high-level appointed positions within the executive branch and in our judicial system.

One extremely important feature in the management of the Nation, is not only the work of the Cabinet-level individual but the work of his assistants and deputies in the supergrade level. In the first 4-year term of the last three Presidents there were 500 Under Secretaries or Assistant Secretaries. Twenty percent of this group had job tenure of less than 12 months; 33 percent had tenure of 12 to 24 months. We know for a fact that it takes time for a man and his subordinates to work closely together. As you know, this teamwork is essential in order to run an organization. But if we work at those same first 4 years of Presidents' Kennedy, Johnson, and Nixon we find that the boss-subordinate relationship existed for less than 1 year, for 39 percent of those 500 Secretaries and Under Secretaries; 38 percent worked together from 1 year to 2 years and only 24 percent worked together in excess of 2 years.

It is difficult for me to see how this situation can be improved unless we can break this cycle whereby high-level Government employees can look forward to salary increases in Government only every 4 years. On the other hand, I can readily see why an individual would leave Government service to work in private industry to do comparable work at a hefty salary increase.

We all are aware of the high cost of inflation. We are also aware that executive salary schedules have not increased since 1969, and, in fact, no increase can be obtained, even under S. 1819, until later this year. On the other hand, a Government employee in the middle step of grade 15 has received four cost-of-living increases aggregating on a compounded cumulative basis of 24.6 percent.

In the private sector a GS-15 equivalent has received a 19.5-percent increase and a union journeyman has received a 42.2-percent increase.

Currently a GS-18 is receiving almost $5,700 less than in private industry. In addition, you have a situation today where a GS-16 step 7 makes $36,000, subordinate to a GS-18 also making $36,000. I can think of nothing more demotivating. We are not just talking of a few individuals but rather approximately 500 individuals in GS-16 step 5 and above in just the large Federal agencies alone, agencies of 2,500 or more employees.

Another extremely important effect on this bill concerns our Federal judiciary. This bill would freeze the salaries of some 650 Federal judges. In addition, close to 500 judicial officers, whose salaries depend on the pay of district judges, will also be frozen. This is approximately 12 percent of all Federal judiciary employees.

I urge that the amendment offered by the Senator from Alabama be defeated and that we allow the House to act on S. 1989.

GOVERNMENT OFFICIALS SHOULD NOT GET A PAY RAISE

Mr. McGOVERN. Mr. President, I have joined with other Senators in sponsoring a resolution to block pay raises for high administration officials, judges and Members of Congress because I believe it is wrong for public servants to increase their salaries at a time when the real income of most Americans is declining.

I also regret that the Senate did not conduct a record vote on S. 1989; had we been given an opportunity to vote on this matter, I certainly would have opposed it. But the question is not just whether the bill should have passed or not—the public interest requires that we vote publically and for the record on matters affecting our salaries.

This is particularly true at a time when Americans are being asked to tighten their belts in order to control inflation. Under phase 4, wage earners are limited to salary increases of 5.5 per cent. What the Senate has done by approving S. 1989, is, in effect, to approve salary increases that are more than three times as high as the average citizen can get.

What we have, therefore, is one standard for working people and another for public officials. The average person cannot even get a raise that equals what inflation has robbed from his paycheck. But "public servants" are to get nearly twice the rate of inflation this year.

I cannot support this injustice. I do not think that highly paid officials should get any wage increase at all. For those who ask the public to make sacrifices in the fight against inflation should themselves set the example. But if the majority wants to vote themselves an increase at least let them limit it to the same standard that applies to the public.

I trust that the Senate will quickly reconsider this unwise decision. And I hope this time that those of us who oppose these salary increases will be given the opportunity to express our disagreement in the RECORD.

Mr. DOMENICI. Mr. President, I am a cosponsor of this amendment to prohibit changes in the salaries of Members of Congress unless the Congress specifically and directly authorizes such changes. Since my decision to cosponsor this amendment, I have received many letters from New Mexico which convince me that my decision was correct.

I am also convinced, Mr. President, that we should not tell our constituents that wages must be held down in order to help fight inflation, and then turn right around and accept the benefits of a pay raise for which we can disclaim responsibility.

We are in a unique position concerning the salaries we receive—we can set our own or we can rely on a mechanism to change our salaries which can be technically disconnected from our public positions on the matter. In either case, Mr. President, the ultimate responsibility rests with us, as well it should, and the people of this Nation know that it rests with us, as well they should.

Therefore, let us require that on the issue of our own pay, we face the issue squarely and not accept what we could not, in good conscience under present circumstances, give ourselves. In other words, we should take a specific stand either for or against higher salaries, and right now I am opposed to them.

Mr. ALLEN. Mr. President, I now yield 5 minutes to the distinguished senior Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I do not intend to suggest what should be appropriate salaries for Members of Congress. That is not my purpose in rising. I feel that Members of Congress should be appropriately paid, but that is not the issue today.

I support the amendment offered by the Senator from Alabama for two reasons. One reason is that this would be an unfortunate and undesirable time for the tax-paid salaries of the leaders of Government to be increased.

The leaders of Government are in a very unusual position in that they themselves dictate the economic policies of our Nation.

If the leaders of Government, the Congress, the President, and the Federal judges, provide themselves with an increase in Government salary, at a time when wages and prices are under control, it seems to me that that is not a desirable situation.

The second reason why I support the amendment offered by the Senator from Alabama is that I have from the beginning, going back to 1967, opposed the creation of a commission to increase the salary of the Members of the Congress. That legislation gives to the President of the United States the power to set the exact rates of pay for Members of the legislative branch. I think it was a great mistake to pass that legislation.

As a matter of fact, the Senate, by a rollcall vote on April 29, 1969 voted to abolish the Salary Commission. Subsequently, this action was reversed.

We have turned over to the President too much authority as the years have gone by; but until 1967 Congress never before had given the President the power to set the rates of pay for members of the legislative branch. As a result of that legislating the Congress received a 42-percent increase in salary without a vote of the Congress.

We have recently heard much about the separation of powers. This is an area where there should be a separation of powers. I do not believe the legislative body—the Members of the Senate and House—should be put in the position where the President will set the exact rates of pay for Congress. The amendment offered by the able Senator from Alabama would leave the congressional salaries the same as they are unless Congress itself changes the salary arrangement. It seems to me that that is the way it should be. We should not leave the setting of salaries to a Presidential commission.

This is not the appropriate time, as I see it, to consider an adjustment in salaries of the leaders of Government, namely, the Congress, the President, and the Federal judges. We should not do that until we first get inflation under control.

Mr. President, I shall support the amendment of the Senator from Alabama.

Mr. ALLEN. Mr. President, I thank the Senator from Virginia.

It has been said on the other side that there is no proposal pending to raise the salaries of Members of Congress. If that be true, what is the objection to the amendment?

If that be true, what is the objection to the amendment?

Mr. CANNON. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. CANNON. I can tell the Senator what the objection to the amendment is. The objection to the amendment is that it will likely kill this campaign reform bill if it is put on there. We are trying to get a campaign reform bill through that does not have anything to do with the salaries of anyone. The committee has no jurisdiction over anyone's salary. If we start bogging the bill down with amendments that are not germane, we are not going to get a campaign reform bill through. So I am delighted to have the opportunity to answer my colleague.

Mr. ALLEN. Mr. President, that is the Senator's opinion, and I respect him for entertaining that opinion.

I would like to take issue with the Senator, to this extent: When he said that those who were offering nongermane amendments would be the Senators who were in opposition to the campaign spending bill, I know that the Senator, upon reflection, will realize that if that remark was intended to apply to the Senator from Alabama it was erroneous, because the Senator from Alabama is a strong believer in campaign spending limitations, and as a matter of fact in the last Congress offered an amendment to provide that all expenditures, not just immediate expenditures, would be governed by a limitation. I note that the Senator's bill as reported from the Committee on Rules and Administration includes that provision at this time.

Nevertheless, the argument has been made by more than one Senator that there is no proposal for a raise. Then, Mr. President, they used all of the time allotted to them on the amendment and then got over into the time on the bill itself to talk about something that is not even pending. What, then, is the reason for the bill (S. 1989) to provide that these recommendations be made every 2 years instead of every 4 years? They know, of course, that a salary increase recommendation is in the offing.

I commend the distinguished Senator from Virginia for putting his finger upon the very most important point involved here, and that is that under the amendment the power to set salaries is put in the Congress of the United States rather than in the hands of the President himself. Some of the very Senators who oppose this amendment have talked a whole lot about the concentration of power in the hands of the President, and here, under the bill of the distinguished Senator from Wyoming, the power would be placed in the President to raise or lower and set as an exact figure the suggested salary for Members of Congress, concentrating still more power in the hands of the President and depriving us of the separation of powers that we hear so much about.

The distinguished Senator from Hawaii asked, "Where will we be if this bill passes?" Well, we will be right where we were before this salary commission was ever set up, with Congress having the power to set its salary by a yea-and-nay vote if requested by Members of either of the two Houses involved.

He says, "There are a whole lot of Government employees below the Congressmen whose salaries are dependent upon the salaries of the Members of the Congress. We ought to raise the salaries of Members of Congress so those employees could get raises."

That is a novel approach, it would seem to me, to place that as the reason for raising the salaries of Members of the Senate and the House of Representatives, so that someone else could get a raise. I must say that is rather altruistic, but I note that at the same time it does provide for our salary increase.

Make no mistake, Mr. President, if this amendment is not passed unquestionably we are going to see, before the end of August, a recommendation by the President for a salary increase.

The PRESIDING OFFICER. The time on the amendment has expired.

Mr. ALLEN. I thank the Chair, and I shall not ask for any additional time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama.

Mr. PERCY. Mr. President, I intend to vote to table the Allen amendment to freeze congressional, judicial, and high executive branch salaries. I realize that this vote can be interpreted as being self-serving, but I feel that I can vote on this amendment impartially.

I say this because since coming to the Senate, I have cumulatively spent more personal funds for Senate staff salaries and other expenses of running my office than I have ever received in salary and speaking and writing fees as a U.S. Senator. I presume this will continue for some time to be the cause and, therefore, I would not personally benefit from a congressional pay increase if one were passed.

I am in the fortunate position of not needing my congressional salary to make ends meet, but what about those of my colleagues whose salary is their sole source of compensation? And what about judges sitting on the Federal bench, or high officials of the executive branch, most of whom have had to take substantial income cuts to join Government service. I think they are all entitled to at least cost-of-living pay increases.

Inflation has increased the cost of living 25 percent since 1969 but there has not been 1 penny of pay increase for the categories under discussion since that time. I think a pay incerase is overdue, particularly for men and women who are Federal judges.

There is another point also. The level of congressional salaries effectively sets maximums for all staff on the Hill, in the House, and in the Senate. It is a fact of life that no staff member can make more than a Congressman or Senator and differentials set unrealistic ceilings on occasion. So, by denying the pay raise for Members of Congress, we effectively deny pay raises in the top levels of Hill employees. There are a number of top professional staff people on the Hill I feel should be entitled to merit pay increases.

Therefore, Mr. President, I intend to oppose this amendment as I think that there are a number of my colleagues, judges, high executive branch officials, and Hill staff people who should have the opportunity to have a pay increase consistent with guidelines established by the Cost of Living Council.

Mr. McGEE. As per the agreement, I move to lay the amendment on the table.

Mr. ALLEN. I call for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Alabama.

Mr. HUMPHREY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HUMPHREY. Is all debate now precluded?

The PRESIDING OFFICER. Will the Senator restate his inquiry?

Mr. HUMPHREY. Does the motion to table now prohibit any further debate?

The PRESIDING OFFICER. The motion to lay on the table is not debatable.

Mr. HUMPHREY. What about the substance of the amendment, without regard to the motion to table?

The PRESIDIING OFFICER. A motion to lay on the table is pending, and it is not debatable. The yeas and nays have been ordered.

Mr. HUMPHREY. I thought it had been understood that before the motion to lay on the table was made, some of us who had some views on this subject might have a few minutes to speak on it.

SEVERAL SENATORS. Regular order, Mr. President.

The PRESIDING OFFICER (Mr. BARTLETT). The question is on agreeing to the motion to lay on the table the amendment of the Senator from Alabama (Mr. ALLEN). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from New Hampshire (Mr. McINTYRE), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON) is absent because of illness.

The Senator from Nebraska (Mr. CURTIS) is necessarily absent.

If present and voting, the Senator from Nebraska (Mr. CURTIS) would vote "nay."

The result was announced—yeas 40, nays 53, as follows:

[No. 326 Leg.]

YEAS—40

Baker
Beall
Bellmon
Bennett
Biden
Brooke
Buckley
Burdick
Cannon
Case
Clark
Cook
Fong
Gravel
Griffin
Hart
Hartke
Hatfield
Hathaway
Huddleston
Hughes
Humphrey
Javits
Kennedy
Long
Mathias
McGee
Mondale
Muskie
Pastore
Pearson
Pell
Percy
Saxbe
Scott, Pa.
Scott, Va.
Stevens
Tunney
Weicker
Williams

NAYS—53

Aiken
Allen
Bartlett
Bayh
Bentsen
Bible
Brock
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Chiles
Church
Cranston
Dole
Domenici
Dominick
Eagleton
Ervin
Fannin
Fulbright
Goldwater
Gurney
Hansen
Haskell
Helms
Hollings
Hruska
Inouye
Jackson
Johnston
Magnuson
Mansfield
McClellan
McClure
McGovern
Metcalf
Montoya
Moss
Nelson
Nunn
Packwood
Proxmire
Ribicoff
Roth
Schweiker
Sparkman
Stafford
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Young

NOT VOTING—7

Abourezk
Cotton
Curtis
Eastland
McIntyre
Randolph
Stennis

So the motion to lay on the table the Allen amendment was rejected.

Mr. ALLEN. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. PASTORE. Mr. President, I send to the desk an amendment to the amendment.

The PRESIDING OFFICER. The amendment to the amendment will be stated.

The legislative clerk read as follows:

At the end of the amendment, after the period, add the following sentence: None of the foregoing officials may accept any fee, beyond that of coverage of actual expenses for travel and lodging, for any speech, statement, panel discussion or other public forum participation.

Mr. PASTORE. I ask for the yeas and nays, Mr. President.

The yeas and nays were ordered.

Mr. PASTORE. Mr. President, this is a very simple amendment. Here we are saying today that, as Senators, we are binding ourselves as an example to the people of this country. All I am adding here is that, if that is the case and that is the sentiment—and I believe it is the sentiment—I think we ought to go the full distance. Everybody ought to stand up and say, "What the Government pays me to be a Senator is enough to live on. Therefore, I cannot use that office to go out and receive honorariums, and all I can receive will be my travel expenses and the cost of lodging, and the rest of it would be for the benefit of the people of the country."

Mr. McGOVERN. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. McGOVERN. If the Senator wants to go the full way, would he accept a modification to his amendment that Senators should not receive any additional income from any source, from law firms, from businesses, from investments, or from anything else?

Mr. PASTORE. That will follow this one.

Mr. McGOVERN. If we are going to live on our Senate income, why do we not live on it?

Mr. PASTORE. If the Senator will make that modification, I will accept it.

Mr. TUNNEY. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. TUNNEY. What the Senator from South Dakota said is my sentiment entirely. I think that ought to be a modification to the amendment of the Senator from Rhode Island, and we ought to have people go on record as to exactly where they stand in that regard.

Mr. PASTORE. May we have order, Mr. President?

The PRESIDING OFFICER. Senators will take their seats. Debate will be suspended until Senators take their seats.

Mr. PASTORE. If the Senator will write that modification, I will be willing to accept it. I want to go the whole way.

Mr. TUNNEY. I am asking for that as a modification, and I will spend some time writing it.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. JACKSON. Mr. President, I suggest, to put it in the proper context, that the amendment simply provide that no Member of the Senate or of the executive branch or of the judicial branch shall receive any earned income other than his salary. I have no problem with this. Ever since I have been in the Senate, I have given away all my honorariums. I did not say anything about it until we were required to make it public.

I believe it ought to apply to all three branches and that it ought to apply to earned income. No one in his right mind, I am sure, is going to say that a man cannot own a Government bond.

Mr. PASTORE. No.

Mr. JACKSON. And draw interest. That is the way one amendment was proposed. Let us not be foolish. Let us be sensible. I think we are talking about earned income.

Mr. PASTORE. In view of that statement, Mr. President, I should like to suggest that we leave my amendment intact. If anybody wants to add to my amendment, let him do it on his own. I stand pat, Mr. President, and I ask for a vote.

Mr. JACKSON. I am talking about perfecting the Senator's amendment.

Mr. PASTORE. I am going to leave the amendment exactly as it is, as to honorariums.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. BAYH. In other words, what the Senator from Rhode Island and the Senator from Washington are saying is that if one came to the U.S. Senate at a time relatively early in life, before he ever had a chance to lay aside investments necessary to earn other kinds of income, he is not permitted to compensate for this by working on weekends or at night, on his own time; but if one comes to the Senate and has enough laid aside, he does not have to worry. So we are setting two standards for some of us who come before we have it made, and it is too bad.

Mr. PASTORE. What the Senator from South Dakota suggested was that this be extended to receiving fees as an attorney while one is a Member of the Senate. That is as far as I thought he was going to go.

Mr. BAYH. That is not what the Senator from South Dakota said.

Mr. McGOVERN. The same should apply to participation in a business enterprise. If the Senator is trying to say that Senators should live on the income we earn as Senators, it seems to me the rankest kind of discrimination to say it is proper for a Senator to be a member of a law firm and to draw legal fees or to own a business which he may supervise in his spare time and derive income from that, and yet it is wrong to go out and make a speech and receive a fee for it. I think the point of the Senator from Indiana is well taken.

I asked the Senator whether he was willing to accept a modification to his amendment as follows:

> Nor shall any Senator receive any additional income from any other source, such as a legal firm or a business firm.

Mr. HUMPHREY. Or investments.

Mr. CANNON. Under the language of that amendment, would that mean that if I have real property that I had before I came to the Senate and I have rental income, I would have to resign from the Senate, because I receive rental income?

Mr. HUMPHREY and Mr. BENTSEN addressed the Chair.

Mr. ALLEN. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. PASTORE. I have the floor, Mr. President.

Mr. BENTSEN. I would like to know if I have to take a pauper's oath.

The PRESIDING OFFICER. The Senate will be in order. Senators cannot be heard.

Mr. PASTORE. May we have order, Mr. President?

Mr. COOK. Mr. President, the Senate is not in order.

Mr. PASTORE. I repeat, Mr. President, I did not expect to open a can of worms, a Pandora's box. I want to leave my amendment at the moment exactly the way it is—that no Senator shall receive for his own use any money that he might receive as an honorarium for making a speech or writing an article, as a Senator, or for participating on a panel.

That is as far as I want to go at the moment. If anyone wants to amend it, he may.

Mr. HUMPHREY. Mr. President, we ought to face up to what we are doing. All our fees are well reported; we have to do that. I have made a great deal of them. I have used a good deal of my earned income for public purposes. As a matter of fact, the first year I returned to the Senate in 1971, I spent almost as much to run my office as my net income from my salary. I came back here, after having run for the Presidency of the United States, with no additional staff, with mail pouring in at the rate of 2,500 letters a day. As the junior Senator from Texas knows from our discussions, the mail allowance, so far as my office is concerned, was through by May 1, and the paper allowance was through, and there were no appropriated funds available for the operation of many functions of my office. This situation prevails in many Senate offices. Yes, many Senators are required to supplement their staff and office operations out of their own income.

I went out and earned that money. I did not put it all into charity, although a good deal went into it. Mrs. Humphrey and I contribute a great deal to charity, and a good deal of it comes out of the fees I earn. We are pleased and happy to be able to do this.

If we are going to use controls on income, I want to make it all inclusive. A number of Senators in this body have investments that make a great deal more per day than any fee for speech or article.

Mr. President, a number of Senators in this body have businesses; a number of Senators have written books—books that bring in royalties. A number of Senators have inherited large sums of money and property. There is not a thing wrong if you come clean with the public that you made a speech, that you have written an article, participated on a panel, and have received a fee if you tell what you have done and report it for income tax purposes. I have done this and I am not ashamed of it.

I have worked hard to support my family, to build a home to maintain two homes, to take care of our needs, to educate our children.

I could not have done it on a Senate salary. I can assure Senators of that. I had to supplement that income. I am glad I earned it; no one gave it to me. I did not inherit it. I worked hard to make it.

Every time we get into this Senate salary business we find ourselves in a political donnybrook. It does little to command the Senate. Frankly, it generally demeans us. I am not for a salary increase. I have said so in writing. I do not want one. I do not think we should have one as long as we are imposing controls on the rest of the country.

I say quite candidly that it is one thing to hold back salary increases while the rest of the country is under controls, but to throw out a whole system would deny the work many Members of Congress have given to design a system that is fair and responsible. I do not believe we are entitled to any better deal than others who are limited by wage and salary controls. I will oppose any increase that goes beyond the wage-cost of living increase guidelines.

Mr. PASTORE. Mr. President, I agree with everything the Senator said. The reason I proposed the amendment, and I am going to withdraw it, was so that every Member of this body will look into his conscience before voting on the amendment of the Senator from Alabama. That is why I proposed my amendment.

As far as I am concerned I live strictly on the salary I earn as a Senator. I have no outside income. I do not practice law and I have not practiced law since I went to the Governor's office. I have not practiced law while I have been in the Senate during the last 23 years, because I thought it was in conflict with my responsibility as an elected public official. I live on my salary.

If the time ever comes that I think that the salary of a Senator is not sufficient for him to live on decently and with dignity, I will rise up and say so. I do not fear the next election; I will stand up the day before election and vote for a raise if I think there is decency and respectability in the proposal.

Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The Senator cannot withdraw his amendment without unanimous consent, because the yeas and nays have been ordered.

Mr. PASTORE. Mr. President, I ask unanimous consent that I may be allowed to withdraw the amendment.

Mr. LONG. I object.

The PRESIDING OFFICER. Objection is heard.

SEVERAL SENATORS. Vote! Vote!

The PRESIDING OFFICER. Who yields time?

Mr. PASTORE. I yield back my time.

Mr. McGOVERN. Mr. President, before the vote, is it in order to propose an amendment to the amendment?

The PRESIDING OFFICER. The amendment is in the second degree. No further amendment may be offered without unanimous consent.

Mr. STEVENS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. Is it in order to submit an amendment in the nature of a substitute for both the Allen amendment and the Pastore amendment?

The PRESIDING OFFICER. No.

Mr. ALLEN. Mr. President, I move to lay on the table the amendment of the Senator from Rhode Island.

Mr. COOK. Mr. President, I ask for the yeas and nays.

Mr. HART. What is the request?

The PRESIDING OFFICER. A motion was made to table. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Hampshire (Mr. McIntyre) and the Senator from West Virginia (Mr. Randolph) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. Abourezk) is absent on official business.

I also announce that the Senator from Mississippi (Mr. Stennis) is absent because of illness.

I further announce that, if present and voting, the Senator from West Virginia (Mr. Randolph) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. Cotton) is absent because of illness.

The Senator from Nebraska (Mr. Curtis) is necessarily absent.

If present and voting, the Senator from Nebraska (Mr. Curtis) would vote "nay."

The result was announced—yeas 40, nays 54, as follows:

[No. 327 Leg.]

YEAS—40

Allen
Bayh
Beall
Bennett
Bentsen
Biden
Brock
Byrd, Harry F., Jr.
Dominick
Ervin
Gravel
Griffin
Gurney
Hansen
Hart
Hartke
Haskell
Hollings
Huddleston
Humphrey
Inouye
Javits
Johnston
Kennedy
Mathias
McClellan
McGovern
Mondale
Muskie
Packwood
Percy
Schweiker
Scott, Pa.
Sparkman
Stafford
Taft
Talmadge
Thurmond
Tower
Tunney

NAYS—54

Aiken
Baker
Bartlett
Bellmon
Bible
Brooke
Buckley
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cranston
Dole
Domenici
Eagleton
Eastland
Fannin
Fong
Fulbright
Goldwater
Hatfield
Hathaway
Helms
Hruska
Hughes
Jackson
Long
Magnuson
Mansfield
McClure
McGee
Metcalf
Montoya
Moss
Nelson
Nunn
Pastore
Pearson
Pell
Proxmire
Ribicoff
Roth
Saxbe
Scott, Va.
Stevens
Stevenson
Symington
Weicker
Williams
Young

NOT VOTING—6

Abourezk
Cotton
Curtis
McIntyre
Randolph
Stennis

So the motion to lay on the table the Pastore amendment to the Allen amendment was rejected.

The PRESIDING OFFICER. The question now is on agreeing to the Pastore amendment. The yeas and nays have been ordered. It is not amendable. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Hampshire (Mr. McIntyre) and the Senator from West Virginia (Mr. Randolph) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. Abourezk) is absent on official business.

I also announce that the Senator from Mississippi (Mr. Stennis) is absent because of illness.

I further announce that, if present and voting, the Senator from West Virginia (Mr. Randolph) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. Cotton) is absent because of illness.

The Senator from Nebraska (Mr. Curtis) is necessarily absent.

If present and voting, the Senator from Nebraska (Mr. Curtis) would vote "yea."

The result was announced—yeas 56, nays 38, as follows:

[No. 328 Leg.]

YEAS—56

Aiken
Baker
Bartlett
Beall
Bellmon
Bentsen
Bible
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cook
Cranston
Domenici
Dominick
Eagleton
Eastland
Ervin
Fannin
Fong
Fulbright
Goldwater
Gravel
Hart
Hatfield
Hathaway
Helms
Hruska
Hughes
Jackson
Kennedy
Long
Magnuson
Mansfield
McGee
McGovern
Montoya
Moss
Nelson
Nunn
Pastore
Pearson
Pell
Proxmire
Ribicoff
Saxbe
Scott, Va.
Stevens
Stevenson
Symington
Weicker
Williams
Young

NAYS—38

Allen
Bayh
Bennett
Biden
Brock
Buckley
Byrd, Harry F., Jr.
Church
Dole
Griffin
Gurney
Hansen
Hartke
Haskell
Hollings
Huddleston
Humphrey
Inouye
Javits
Johnston
Mathias
McClellan
McClure
Metcalf
Mondale
Muskie
Packwood
Percy
Roth
Schweiker
Scott, Pa.
Sparkman
Stafford
Taft
Talmadge
Thurmond
Tower
Tunney

NOT VOTING—6

Abourezk
Cotton
Curtis
McIntyre
Randolph
Stennis

So Mr. Pastore's amendment to Mr. Allen's amendment was agreed to.

Mr. PASTORE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JACKSON. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> Add at the end of the amendment the following language:
>
> "None of the above officials shall accept any earned income other than their specified salaries."

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a limitation on the pending amendment of not to exceed 10 minutes, the time to be equally divided between the manager of the bill and the sponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, my proposed amendment is very simple. A limitation has been placed, by reason of the Pastore amendment, on any earned income as it applies to honorariums for speeches or articles.

Mr. President, this is earned income. If the Senate decides, as it has by the Pastore amendment, to place a limitation on earned income, it ought to apply to all earned income. My amendment would do just that.

Earned income is a term of art in the Internal Revenue Code. It is very simple: It means any money that you have earned by reason of a salary, a fee, or other activity on your part, which involves your own individual work. Unearned income means just what it implies, Mr. President, and my proposed amendment does not include that.

I think it would be absurd to include all income, as has been discussed on this floor today. That would mean a Member of the U.S. Senate could not even buy a Government bond, because he would get interest on the Government bond. He would not be allowed to have a savings account unless he gave away, I suppose, all of his unearned income.

The Senate has indicated by its vote on the Pastore amendment that it would prohibit the receiving, on the part of any official, of earned income in the particular area covered by the Pastore amendment.

If the amendment is to apply to a portion of earned income, it ought to apply to all earned income. My amendment is very simple.

Mr. McCLELLAN. Will the Senator give us an example of earned income?

Mr. JACKSON. Earned income is what one receives as a director of a company; if he draws legal fees, if he practices medicine; if he draws a salary or income of any kind for which he has rendered services. It is very clear. Earned income is a term of art in the Internal Revenue Code, and it is very precise.

Mr. EAGLETON. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. EAGLETON. Would earned income include income earned from a farm?

Mr. JACKSON. Of course not. That is rent, and it would not be considered earned income, unless one were running the farm or operating it. But if he is getting rent, that is not earned income.

Mr. EAGLETON. What if the farm is incorporated?

Mr. JACKSON. If it is incorporated?

Mr. EAGLETON. If a person owns a controlling interest.

Mr. JACKSON. If he performs any service——

Mr. EAGLETON. If he owns a controlling interest in the profits and gives occasional advice.

Mr. JACKSON. If he gets dividends from the corporation, that is unearned income. If he is on the board of directors, those fees are earned.

Mr. EAGLETON. What about a subchapter S corporation?

Mr. JACKSON. What is a subchapter S corporation?

Mr. SCOTT of Pennsylvania. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. SCOTT of Pennsylvania. I receive royalties from a book. I think I received $38 this year. Would I be forbidden to receive the royalties from a book I wrote 5 or 10 years ago?

Mr. JACKSON. That would not be unearned income.

Mr. SCOTT of Pennsylvania. What should I do with the $38? The book is the Golden Age of Chinese Art. There is no use writing a book if I am earning only $38.

Mr. JACKSON. The Senator could give it away.

Mr. SCOTT of Pennsylvania. I suggest that we are giving the country away and giving ourselves away in the eyes of the public when we indulge in this hypocritical process. The monks in China go around holding begging bowls in front of them. I suggest that we ought to have begging bowls.

Mr. JACKSON. I am not being hypocritical. I have given up all my earned income since I came to Congress.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JACKSON. I ask unanimous consent that I may proceed for 1 more minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. I am not being hypocritical. I have never raised this issue before, but it has been raised in this body, and I believe we ought to be consistent. I believe it is hypocritical to adopt an amendment that applies to only one area of earned income, but not to all earned income.

Mr. LONG. Mr. President, will the Senator yield me time?

Mr. CANNON. I yield 2 minutes to the Senator from Louisiana.

Mr. LONG. I think there is a distinction between unearned income that goes to a man because he is the owner of a farm, even though somebody else operates it for him, and an honorarium. A Senator might receive a large honorarium as a U.S. Senator—$2,000 or $3,000. He would not be paid that much money if he were some other guy speaking for a fee. Some Senators do that without asking an honorarium.

I supported the Pastore amendment. If the salary is what a man thinks the job ought to pay, that is fine. He ought to be able to live on a flat salary. He should not expect to receive more for speaking as a U.S. Senator.

It would seem to me that there is a lot of income that is described as earned income which really does not keep a man from devoting his full time to being a U.S. Senator. Frankly, there is a lot of controversy over its being unearned income because sometimes it might get down to being almost a distinction without a difference. We can well argue that any income which takes a man's time away from being a U.S. Senator, such as a full-time law practice, should be subtracted because, to that extent, he is denying the public the full service which the public might expect from him. But there is a lot of earned income that the Senator is suggesting be included here which, from my own point of view, is not any different from unearned income. When we try to draw the line between a man——

Mr. JACKSON. If I may interject there, I am confused. Earned income as the Senator knows, and he is more familiar with it than I am, is a term of art in the Internal Revenue Code; but who can make a distinction between someone practicing law and someone who is practicing medicine and can get fees? What is the logic?

Mr. LONG. Take a simple example of a Senator who owns a farm and someone else is operating it for him. That would be earned income because he is the owner of it.

Mr. JACKSON. Not if he pays the rent.

Mr. LONG. But if he paid someone to run the farm, the income would be earned income. There is a lot of earned income where a person does not do any more work for it than unearned income.

Mr. JACKSON. It is clear that we can draw fees out of a firm and not do anything. That is earned income.

Mr. LONG. I understand that, but it would seem to me that when we simply say that all earned income is going to be subtracted from what a man makes as a U.S. Senator, we will be applying that to a lot of income that does not require he do much of anything.

Mr. JACKSON. How does the Senator reconcile saying that a Senator cannot make speeches and draw fees but that he can practice law?

Mr. LONG. If the Senator wants to limit that to the practice of law, I would vote for his amendment.

Mr. JACKSON. What about directors' fees?

Mr. SCOTT of Pennsylvania. What about alimony?

Mr. JACKSON. You have earned that. [Laughter and applause.] You have got to admit we are covering everything.

Mr. SCOTT of Pennsylvania. Not quite. Not unearned income.

Mr. JACKSON. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SCOTT of Pennsylvania. Mr. President, is there any time left? I yield 1 minute to the Senator from Texas.

Mr. BENTSEN. Mr. President, there has been some awfully good rhetoric here and some politically attractive statements, but when we start to try to draw the line between earned income and unearned income, I really believe that we are getting ourselves into a fuzzy area. This is not the place to make that delineation. I think I would agree with you that you should not draw the line between attorneys' fees or that kind of thing, but on the subchapter which you are talking about back there, the only thing I can think of, if we had the time, we would be able to clear up the delineation between earned and unearned income in the committee. That is what should be given to the committee so that it can give it serious consideration. Let the committee make the delineation. We should reserve it for that.

Mr. JACKSON. Mr. President, I yield back my time.

The PRESIDING OFFICER (Mr. BARTLETT). All time on the amendment is now expired.

SEVERAL SENATORS. Vote! Vote! Vote!

Mr. CANNON. Mr. President, I yield myself 1 minute on the bill to say that I point out to my colleagues, now that we have this fine attendance of Senators in the Chamber, after this foray, earlier I pointed out at the beginning of this debate that this is not germane to the bill under consideration, that if we have a number of nongermane amendments, as I believe we will have, we will lose the likelihood of getting a campaign reform bill this year.

I point that out to all Senators, now that they are stimulated enough to be in the Chamber and participate in the debate on a number of these nongermane amendments.

Mr. CHURCH. I voted against the Pastore amendment, because it makes no sense to ban a fee received for writing a magazine article or delivering a speech, while permitting Senators to continue to earn outside income in legal fees, medical fees, or director's fees.

If restrictions of this kind are to be adopted, they should apply to earned income in every form and from every source. That is why I shall vote for the amendment offered by the distinguished Sentaor from Washington (Mr. JACKSON).

Mr. GRIFFIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Michigan will state it.

Mr. GRIFFIN. Now that an amendment to the Allen amendment has been adopted, would a motion to table the Allen amendment be in order?

Mr. MANSFIELD. Will the Senator withhold that a moment? Mr. President, I ask unanimous consent that as long as these amendments are being voted on so rapidly, from now on, except for the last vote, there be a time limitation of 10 minutes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

Several Senators addressed the Chair.

Mr. GRIFFIN. Mr. President, I move to table the Allen amendment and ask for the yeas and nays.

Mr. MANSFIELD. No, no—wait a while——

Mr. JACKSON. Mr. President, a parliamentary inquiry, what is the pending amendment?

The PRESIDING OFFICER. The Jackson amendment is the pending amendment, but a motion to table the basic amendment as amended would be in order.

Mr. JACKSON. Mr. President, a parliamentary inquiry. Has not a motion to table been made to the Allen amendment, which is not now in order?

The PRESIDING OFFICER. The Allen amendment is pending.

Mr. MANSFIELD. No, no. The Jackson amendment to the Allen amendment is pending.

Mr. JACKSON. My amendment is pending. There was no motion to table my amendment.

Mr. GRIFFIN. Mr. President, if the motion to table carries, then all the amendments fall; is that correct?

Mr. JACKSON. Wait a minute——

Mr. HUMPHREY. Mr. President, the yeas and nays have been ordered on the Jackson amendment.

Mr. President, a parliamentary inquiry. Were not the yeas and nays ordered on the Jackson amendment?

Mr. JACKSON. Yes, they were indeed ordered.

Mr. HUMPHREY. Mr. President, is that not the pending issue at this moment?

The PRESIDING OFFICER. That is the pending issue.

Mr. HUMPHREY. Then is it not the duty of this body to act on the pending issue?

Mr. JACKSON. And before a motion to table the Allen amendment is made.

Mr. HUMPHREY. Mr. President, this is an amendment to the Allen amendment. The yeas and nays have been ordered, so let us vote on it.

The PRESIDING OFFICER. Under rule XXII, a motion to table takes precedence over a motion to amend.

The question is——

Mr. HUMPHREY. Mr. President, a parliamentary inquiry, is not a motion to table the Jackson amendment, that would be in order, but not a motion to table out of order the Allen amendment as amended by the Jackson amendment?

The PRESIDING OFFICER. The Jackson amendment to amend the Allen amendment?

Mr. HUMPHREY. The yeas and nays have been ordered on it.

The PRESIDING OFFICER. A motion to table the Allen amendment as amended takes precedence over the amendment of the Senator from Washington.

The yeas and nays have been ordered on the motion to table, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Hampshire (Mr. MCINTYRE) and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON) is absent because of illness.

The Senator from Nebraska (Mr. CURTIS) is necessarily absent.

If present and voting, the Senator from Nebraska (Mr. CURTIS) would vote "nay."

The result was announced—yeas 40, nays 54, as follows:

[No. 329 Leg.]

YEAS—40

Bayh
Beall
Bellmon
Bennett
Biden
Brock
Brooke
Buckley
Cannon
Case
Clark
Cook
Fong
Gravel
Griffin
Hart
Hartke
Hatfield
Hathaway
Huddleston
Hughes
Humphrey
Inouye
Javits
Kennedy
Long
Mathias
McGee
Metcalf
Mondale
Muskie
Packwood
Pell
Scott, Pa.
Scott, Va.
Stevens
Tower
Tunney
Weicker
Williams

NAYS—54

Aiken
Allen
Baker
Bartlett
Bentsen
Bible
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Chiles
Church
Cranston
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin
Fannin
Fulbright
Goldwater
Gurney
Hansen
Haskell
Helms
Hollings
Hruska
Jackson
Johnston
Magnuson
Mansfield
McClellan
McClure
McGovern
Montoya
Moss
Nelson
Nunn
Pastore
Pearson
Percy
Proxmire
Ribicoff
Roth
Saxbe
Schweiker
Sparkman
Stafford
Stevenson
Symington
Taft
Talmadge
Thurmond
Young

NOT VOTING—6

Abourezk
Cotton
Curtis
McIntyre
Randolph
Stennis

So the motion to lay Mr. ALLEN's amendment, as amended, on the table was rejected.

The PRESIDING OFFICER. The question occurs on the Jackson amendment to the Allen amendment. On this question the yeas and nays have been ordered. All time has expired. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK), is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON) is absent because of illness.

The Senator from Nebraska (Mr. CURTIS) is necessarily absent.

If present and voting, the Senator from Nebraska (Mr. CURTIS) would vote "nay."

The result was announced—yeas 64, nays 30, as follows:

[No. 330 Leg.]

YEAS—64

Aiken
Baker
Bartlett
Bayh
Beall
Bible
Biden
Brock
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cranston
Dole
Domenici
Dominick
Eagleton
Fannin
Goldwater
Gravel
Griffin
Hart
Hartke
Haskell
Hatfield
Hathaway
Helms
Hughes
Humphrey
Jackson
Johnston
Kennedy
Magnuson
Mansfield
McClure
McGee
McGovern
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Proxmire
Ribicoff
Saxbe
Scott, Va.
Stafford
Stevens
Stevenson
Symington
Thurmond
Tunney
Weicker
Williams

NAYS—30

Allen
Bellmon
Bennett
Bentsen
Buckley
Byrd, Harry F., Jr.
Eastland
Ervin
Fong
Fulbright
Gurney
Hansen
Hollings
Hruska
Huddleston
Inouye
Javits
Long
Mathias
McClellan
Metcalf
Percy
Roth
Schweiker
Scott, Pa.
Sparkman
Taft
Talmadge
Tower
Young

NOT VOTING—6

Abourezk
Cotton
Curtis
McIntyre
Randolph
Stennis

So Mr. JACKSON's amendment to Mr. ALLEN's amendment was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. COOK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, on behalf of myself and Senator HUMPHREY, I call up my amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> In lieu of the language proposed to be inserted, insert the following:
>
> "It is is the sense of the Congress that the salaries of Members of Congress, members of the President's cabinet, and members of the Federal judiciary shall not be increased in excess of the annual wage guidelines so long as wage and price controls continue."

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. STEVENS. I am happy to yield to the distinguished majority leader.

Mr. MANSFIELD. Would the Senator be willing to consider the possibility of a 10-minute time limitation?

Mr. STEVENS. I am willing to agree to a time limitation.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a time limitation of 10 minutes on the pending amendment, the time to be equally divided between the Senator from Nevada and the sponsor of the amendment. Mr. President, make the request for 13 minutes, with 3 minutes to the Senator from Alabama and 5 minutes to the Senator from Nevada, and 5 minutes to the Senator from Alaska.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I yield myself 3 minutes on this amendment, to begin with.

Let me point out that the Federal Salary Act of 1967 created a very fine Commission on Executive, Legislative, and Judicial Salaries. The Post Office and Civil Service Committee has worked very hard in trying to make this a workable system, there is now being considered in the House S. 1989, which was passed by the Senate this year, to change this commission's period for recommendations from a 4-year to a 2-year period.

What we are talking about is not just the salaries of Congress, Cabinet officers, and the judiciary; we are talking about every person employed in the Federal Government who is above the fourth step of grade 16. The compression that is in effect today for executive salaries and those who work for the judiciary and those who work for Congress is set by our salary level.

This amendment provides that our salary increases, if there are to be any, shall not exceed the guidelines set so long as there are wage and price controls.

Again, let me point out, as was pointed out in the committee, in the past 4 years, from 1969 through 1972, the average union journeyman and the average 22 construction crafts received a 42.2-percent increase in salary. Those in grade 16 and above have received an increase of 19.5 percent, because of the compression involved by our salary level.

So we are not talking about just how much we make as Members of Congress; we are talking about how much is paid to employees in grades 16, 17, and 18, the five executive levels, and those in Congress, but for the executive and the judiciary, and the executive branches below the Cabinet level.

I feel we should not interfere with the Salary Act of 1967. Unfortunately, the Senator from Alabama's amendment emasculates the 1967 act, because it makes it completely unworkable. It says it takes an act of Congress to put into effect any salary increase recommended by the Commission not only for the Congress, but for the Executive and the judiciary. After setting up a system that works, why should we, in a nongermane amendment, destroy the system established in 1967? So far as I am concerned, as a member of the Committee on Post Office and Civil Service, the system has worked. Why destroy it?

Mr. SCOTT of Virginia. Mr. President, will the Senator yield for a question?

Mr. STEVENS. I yield.

Mr. SCOTT of Virginia. Is it the sense of the Senator's amendment that there would be no increase beyond the rise in the cost of living since the last increase? Is he thinking about no increase since the 1969 increase in excess of the cost of living?

Mr. STEVENS. That is right. I refer to Rowland Kirks, Director of the Administrative Office of the U.S. Courts, and Arch Patton, Chairman of the Commission on Executive, Legislative, and Judicial Salaries, in their statements given to the Post Office and Civil Service Committee on June 26, where they set forth the rationale for this concept that we are creating compression on the whole of Government by virtue of the salary levels we have established. I believe we should not have wage increases above the minimum guidelines established annually for the whole economy.

Mr. SCOTT of Virginia. Then, it is the sense of the amendment of the Senator that he would add the yearly increases in the cost of living together to arrive at the maximum total increase?

Mr. STEVENS. The Commission could not permit a wage increase in excess of the yearly guidelines.

The PRESIDING OFFICER. The 3 minutes of the Senator have expired.

Who yields time?

Mr. BUCKLEY. Mr. President, will the Senator yield me 2 minutes?

The PRESIDING OFFICER. The Senator from New York inquires of the Senator from Alaska if he will yield 2 minutes to the Senator from New York.

Mr. STEVENS. I have only 2 minutes. I yield the Senator 1 minute of those 2 minutes.

Mr. BUCKLEY. I will take 1.

I want to congratulate the Senator from Alaska for introducing a sensible and truly responsible proposal. I think we have to understand we are speaking not only of our own political concerns, but also about the ability of the Federal Government at the executive level to recruit people out of private industry, and if they are worth their salt, they are worth more than the levels now imposed.

I also know, from my own experience, the difficulties of getting a young man to leave a law firm in New York City to become a Federal judge of the kind we want to have in our Federal court system, because of the financial sacrifice he would be asked to undertake at a time when he still has children to educate and send to college.

So I want to associate myself with the proposal of the Senator, and ask him if he intends to ask for the yeas and nays.

Mr. STEVENS. I do.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. ALLEN. Mr. President, I yield myself such time as I have. I believe it is 5 minutes.

Mr. President, the amendment of the distinguished Senator from Alaska would change the entire concept of the original amendment seeking to freeze the salaries of Members of Congress, the Federal Judiciary, and members of the President's Cabinet at their present level. The amendment is an enactment of the Congress, whereas the substitute, which is different from the amendments that we voted on already, which have merely added amendments to the original amendment, would wipe out the Pastore amendment, the Jackson amendment, and the original amendment that was offered. When we got through, we would have absolutely nothing, because it says it is the sense of our Congress that Members of Congress and the judiciary and the President's Cabinet shall be put on the same basis as employees throughout the land.

Mr. President, this would end up with absolutely nothing, because the approaching pay raise would come on just the same. There would be no regard to this amendment of the Senator from Alaska whatever, because it does not purport to limit anybody. It just says it is the sense of Congress to put them under the same wage guidelines applicable to other employees.

It is belittling to the Senate, it is belittling to the House of Representatives, that we be called upon to enact a sense of the Senate or sense of Congress resolution in this fashion. When the smoke had cleared away, we would have a complete nullity that would not be worth anything whatsoever.

So if Senators want to kill the original amendment—I think the amendments that have been tacked on have done serious damage; they have not killed it, because the amendment is still there—this substitute would in effect be a vote against the original amendment and would say to the Salary Commission, "Come on with your pay raises." It would say to the President, "Come on with the setting of the compensation for the Members of Congress," which is granting still more power to the Executive, and we complain about that all the time.

So if Senators want to kill the salary freeze for Members of Congress, vote for the amendment now pending.

I yield to the Senator from Massachusetts (Mr. BROOKE) the remainder of my time.

Mr. BROOKE. Mr. President, I would like to make a motion.

Mr. CANNON. Mr. President, the time has not all expired.

The PRESIDING OFFICER. The Senator from Nevada has time.

Mr. CANNON. I yield myself 1 minute.

I would simply say that I would hope that both this and the Allen amendment would be defeated, as I have said before. I find this amendment more acceptable, so I intend to vote for it in the hopes that it will kill the Allen amendment, as the Senator from Alabama has suggested it would do, because I think if either one or both of these amendments are on the bill it is going to be difficult to go to conference and get a campaign reform bill.

I yield back my time.

Mr. BROOKE. Mr. President, has all time been yielded back?

The PRESIDING OFFICER. All time is yielded back.

Mr. ALLEN. Mr. President, I yielded my remaining time to the Senator from Massachusetts.

Mr. STEVENS. Mr. President, I yielded myself 3 minutes. I do not see how all my time has been used.

Mr. CANNON. Mr. President, I had a request for 1 minute.

Mr. STEVENS. Mr. President, I yield myself the 1 minute I have remaining.

Mr. President, I do not favor the Allen amendment, because I think it would destroy the 1967 Salary Act.

I do not have any criticism of the Senator from Nevada if he wants to support this type of measure in order to defeat the Allen amendment. However, I do think that people who stand here and think only of themselves and think how much a Senator ought to earn should think of how much people make at step 16 and step 17 and step 18 in the Civil Service.

This concept is very serious. It causes a turnover in the Government service and excessive costs in terms of people being lured away from the Government to private industry. We do have the wage guideline that provides for a cost-of-living increase.

My amendment would do no more than to set a minimum as is done by the wage guideline people, and I think that is fair.

Mr. BROOKE. Mr. President, I move to table the Allen amendment as amended by the Pastore amendment as amended by the Jackson amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The question is on agreeing from motion to table the Allen amendment as amended by the Pastore amendment as amended by the Jackson amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BROOKE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. I announce that the Senator from New Hampshire (Mr. MCINTYRE) and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON) is absent because of illness.

The Senator from Nebraska (Mr. CURTIS) is necessarily absent.

If present and voting, the Senator from Nebraska (Mr. CURTIS) would vote "nay."

The result was announced—yeas 39, nays 55, as follows:

[No. 331 Leg.]

YEAS—39

Bayh
Beall
Bellmon
Bennett
Biden
Brooke
Cannon
Case
Clark
Cook
Fong
Gravel
Griffin
Hart
Hartke
Hatfield
Hathaway
Huddleston
Hughes
Humphrey
Inouye
Javits
Kennedy
Mathias
McGee
Metcalf
Mondale
Muskie
Packwood
Pell
Percy
Saxbe
Scott, Pa.
Scott, Va.
Stevens
Tower
Tunney
Weicker
Williams

NAYS—55

Aiken
Allen
Baker
Bartlett
Bentsen
Bible
Brock
Buckley
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Chiles
Church
Cranston
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin
Fannin
Fulbright
Goldwater
Gurney
Hansen
Haskell
Helms
Hollings
Hruska
Jackson
Johnston
Long
Magnuson
Mansfield
McClellan
McClure
McGovern
Montoya
Moss
Nelson
Nunn
Pastore
Pearson
Proxmire
Ribicoff
Roth
Schweiker
Sparkman
Stafford
Stevenson
Symington
Taft
Talmadge
Thurmond
Young

NOT VOTING—6

Abourezk
Cotton
Curtis
McIntyre
Randolph
Stennis

So the motion to table the Allen amendment as amended was rejected.

Mr. CANNON. Mr. President, I ask unanimous consent that the following staff personnel be allowed the privilege of remaining on the Senate floor during debate on S. 372 and its amendments.

Rules Committee: Jim Duffy, Jim Medill, and Joe O'Leary.

Commerce Committee: Nick Zopple, John Hardy, Ward White, Art Panckof, and Ken Davis.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COOK. Mr. President, I ask unanimous consent that during the consideration of S. 372 Barbara Block and John Childers be granted access to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. Is it correct that a vote in favor of my substitute amendment would substitute it for the Allen amendment with the Pastore amendment and the Jackson amendment, and that it would become the complete text of the Allen amendment?

The PRESIDING OFFICER. If agreed to, it would be a substitute for the Allen amendment and all amendments thereto.

The question is on agreeing to the amendment of the Senator from Alaska (Mr. STEVENS).

Mr. ALLEN. Mr. President, I move to lay on the table the substitute amendment, and ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. BARTLETT). The question is on agreeing to the motion to lay on the table the substitute amendment of the Senator from Alaska (Mr. STEVENS). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Hampshire (Mr. MCINTYRE) and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON) is absent because of illness.

The Senator from Nebraska (Mr. CURTIS) is necessarily absent.

If present and voting, the Senator from Nebraska (Mr. CURTIS) would vote "yea."

The result was announced—yeas 34, nays 60, as follows:

[No. 332 Leg.]

YEAS—34

Allen
Baker
Bartlett
Bible
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Chiles
Church
Cranston
Dominick
Eagleton
Ervin
Fannin
Fulbright
Goldwater
Gurney
Hansen
Helms
Hruska
Magnuson
McClellan
McClure
Nunn
Proxmire
Ribicoff
Roth
Schweiker
Sparkman
Symington
Taft
Talmadge
Thurmond
Young

NAYS—60

Aiken
Bayh
Beall
Bellmon
Bennett
Bentsen
Biden
Brock
Brooke
Buckley
Cannon
Case
Clark
Cook
Dole
Domenici
Eastland
Fong
Gravel
Griffin
Hart
Hartke
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Mansfield
Mathias
McGee
McGovern
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Saxbe
Scott, Pa.
Scott, Va.
Stafford
Stevens
Stevenson
Tower
Tunney
Weicker
Williams

NOT VOTING—6

Abourezk
Cotton
Curtis
McIntyre
Randolph
Stennis

So the motion to lay on the table was rejected.

Mr. HUMPHREY. Mr. President, the Federal Salary Act of 1967 established a Commission on Executive, Legislative, and Judicial Salaries to study and review the compensation of the top officials of the executive branch under the executive schedule, Members of Congress, justices, judges, and certain other personnel of the judicial branch. Under the act, the Commission reports its pay recommendations to the President, who then includes in his next budget to the Congress his recommendations on the exact rates of pay which he deems advisable for the offices and positions with which the Salary Commission is concerned.

On July 9, the Senate passed S. 1989, improving the procedures by which recommendations are made and acted upon. The acceptance of this bill by voice vote indicates that there was not significant opposition to this bill to require a roll call vote. Quite frankly, Mr. President, I wish that this had been the case, because that was the appropriate time for debate on questions raised by the amendment of my distinguished colleague from Alabama, not now as we debate urgent campaign financing legislation.

As it is, we are faced, on the one hand, with appearing to our constituents as money grabbers, seeking to fill our own pockets with a raise, while the rest of the economy is frozen; or, on the other, risking the survival of a vitally important piece of campaign financing legislation which can bring some integrity and dignity to the system by which we elect public officials. Passage of this amendment by the Senate clearly jeopardizes final enactment of this legislation.

I want to make clear my firm opposito pay raises for the President, Congress, Federal judges and other high officials that exceed the wage control guidelines while the wages of the Nation's workers are under controls. As long ago as May of 1972, I publicly called upon President Nixon and Congress to oppose increases that exceed wage guidelines as long as such are applied to the wages and salaries of working men and women. They will not sit still while they are forced to carry the burden of controlling inflation, and they should not be asked to.

It must be noted that no raise has yet been recommended by the President. At such time as a raise is recommended, the Congress has available a very simple mechanism whereby it can disapprove, by resolution of disapproval passed by either House, the President's recommendations. In addition, it must be noted—and this is important—that existing law authorizes the President to postpone any pay adjustments if he believes such action to be necessary and wise. S. 1989, as passed by the Senate, does not change this provision. In fact, the committee, in its report on the bill, reiterated the importance of this provision, saying:

> It is the committee's view that pay adjustments recommended by the President should be subject to any salary or other applicable economic restraints which the President may see fit to impose in his efforts to control inflation.

Indeed, this Congress has extended the President's authority through the extension for 1 year, of the Economic Stabilization Act. We must assume that the President will take into account all sectors of the economy in the development and management of phase IV. Indeed, we insist upon it.

Finally, Mr. President, I felt obliged to oppose amendment No. 410 because I believe that it resembles too closely the procedure by which the Nixon administration has chosen to "disenact," through administrative action, many of the programs which were enacted by this Congress. This is a trend that many of us in this body have fought hard to prevent. This is a Nation of laws; our Constitution provides a mechanism by which we pass laws, and we cannot just go around circumventing the laws we enact.

Before we simply pass an amendment which will cripple or completely alter the Federal Salary Act, we must go through the process which we have set up for the purpose of amending or abolishing laws. We cannot afford to pass, in haste, an amendment which skirts the legal procedure for determining salary increases. I would, of course, support a review of these provisions by the appropriate committee, if that is the mind of the Senate.

At this time, however, Mr. President, I feel it is my duty, as a Member of this body, to point out these aspects of the action we take today. I do, however, join with the Senator from Alaska (Mr. STEVENS) in offering an amendment as a substitute for the Allen amendment as amended and I urge its adoption.

The PRESIDING OFFICER (Mr. JOHNSTON). The question recurs on agreeing to the amendment of the Senator from Alaska (Mr. STEVENS).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Massachusetts (Mr. KENNEDY), the Senator from New Hampshire (Mr. McINTYRE), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON) is absent because of illness.

The Senator from Nebraska (Mr. CURTIS) is necessarily absent.

If present and voting, the Senator from Nebraska (Mr. CURTIS) would vote "nay."

The result was announced—yeas 48, nays 44, as follows:

[No. 333 Leg.]

YEAS—48

Bayh
Beall
Bellmon
Bennett
Biden
Brock
Brooke
Buckley
Cannon
Case
Clark
Cook
Eastland
Fong
Gravel
Griffin
Hart
Hartke
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Hughes
Humphrey
Inouye
Javits
Johnston
Long
Mathias
McGee
McGovern
Metcalf
Mondale
Montoya
Muskie
Pastore
Pearson
Pell
Percy
Saxbe
Scott, Pa.
Scott, Va.
Stevens
Tower
Tunney
Weicker
Williams

NAYS—44

Aiken
Allen
Baker
Bartlett
Bentsen
Bible
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Chiles
Church
Cranston
Dole
Domenici
Dominick
Eagleton
Ervin
Fannin
Fulbright
Goldwater
Gurney
Hansen
Helms
Hruska
Jackson
Magnuson
Mansfield
McClellan
McClure
Moss
Nelson
Nunn
Packwood
Proxmire
Ribicoff
Roth
Schweiker
Sparkman
Stafford
Stevenson
Taft
Talmadge
Thurmond
Young

NOT VOTING—8

Abourezk
Cotton
Curtis
Kennedy
McIntyre
Randolph
Stennis
Symington

So Mr. STEVENS' amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the Allen amendment as amended by the substitute. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from New Hampshire (Mr. McINTYRE), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON) is absent because of illness.

The Senator from Nebraska (Mr. CURTIS) is necessarily absent.

If present and voting, the Senator from Nebraska (Mr. CURTIS) would vote "nay."

The result was announced—yeas 49, nays 43, as follows:

[No. 334 Leg.]

YEAS—49

Aiken
Bayh
Beall
Bellmon
Bennett
Biden
Brock
Brooke
Buckley
Byrd, Robert C.
Cannon
Case
Clark
Cook
Eastland
Fong
Griffin
Hartke
Hatfield
Hathaway
Hollings
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Long
Mathias
McClellan
McGee
McGovern
Mondale
Montoya
Muskie
Pastore
Pell
Percy
Saxbe
Scott, Pa.
Scott, Va.
Stafford
Stevens
Stevenson
Tower
Tunney
Weicker
Williams

NAYS—43

Allen
Baker
Bartlett
Bentsen
Bible
Burdick
Byrd, Harry F., Jr.
Chiles
Church
Cranston
Dole
Domenici
Dominick
Eagleton
Ervin
Fannin
Goldwater
Gurney
Hansen
Hart
Haskell
Helms
Hruska

Kennedy
Magnuson
Mansfield
McClure
Metcalf
Moss
Nelson
Nunn
Packwood
Pearson
Proxmire
Ribicoff
Roth
Schweiker
Sparkman
Symington
Taft
Talmadge
Thurmond
Young

NOT VOTING—8

Abourezk
Cotton
Curtis
Fulbright
Gravel
McIntyre
Randolph
Stennis

So Mr. ALLEN's amendment, as amended, was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. COOK and Mr. CANNON moved to lay the motion on the table.

The motion to lay on the table was agreed to.

Mr. ALLEN. Mr. President, I feel there is one way to encourage attendance in the Senate and create interest in an issue, and that is to introduce a measure having to do with the salaries of the Members of the Senate. Just the other day I happened to be presiding over the Senate when the war powers bill was being considered, and, in addition to the Presiding Officer at the time, there were 3 Senators on the floor debating that important issue. I recall on many of the end-the-war amendments an attendance of four or five or six Members of the Senate was a pretty good turnout. We pass multibillion-dollar bills here with some four or five Senators on the floor when the vote starts. But this afternoon we have had a regular attendance here on the floor of about 75 Senators all the time, and I think it is very commendable that Senators have been present for the consideration of this important legislation.

I must say that I regretted the little inconsistency that I was guilty of in voting against the amendment which I and some 37 other Senators introduced, because the entire nature of the amendment had been changed. The original amendment sought by legislation to freeze the salaries of Members of Congress and the Federal judiciary and the President's Cabinet to their present level, whereas the amendment that was finally voted on was the original amendment as substituted by the Stevens amendment, and it provided something entirely different. It was not legislation; it was merely a sense of the Senate resolution, which leaves the salary commission free to recommend any wage or any salary increase that it sees fit.

So, Mr. President, it was for that reason—and I noticed that pretty nearly all or most of the original sponsors of the amendment voted the same way—I was compelled to vote against the amendment as a substitute, because it calls for a salary raise in some amount—I do not suppose anybody knows just how much—whereas the original amendment sought to freeze the amount of compensation at the present level. Therefore it was necessary that I vote against the amendment which was originally introduced by me and some 37 other Senators.

Mr. BIDEN. The Senator mentioned—and I think it is misleading—that the reason for the attendance here was that our pocketbooks are at stake.

Is it not true that when the Senator's announced amendment, which we all had notice of, was being debated there were only 4 or 5, or perhaps 10, Senators on the floor? It was only after there were votes on extraneous matters, which were not considered by anybody prior to being offered, that the attendance maintained itself at a high level.

Does not the Senator think it is true that, had we never argued for a year or two the war powers bill, had we not argued for several years the antiwar amendments, and had the amendments of the war powers bill been taken up on the spur of the moment we would have had nearly all 100 Members of the Senate present?

I suggest it is misleading to the American people and to those in the galleries to suggest that the only reason why we are in attendance is that our pocketbooks are at stake. I think it does a disservice to the Senate and I think it does a diservice to the country. I think if debate on the war powers bill or on end-the-war amendments had been offered just on the spur of the moment, there is hardly a Member of the Senate who would not have been willing to stay here around the clock to decide those issues. I know less than anybody else around here about that, but that is my opinion.

Mr. ALLEN. Mr. President, I thank the Senator for his lengthy comments. The Senator is free to draw whatever conclusions from my remarks that he wants to.

Mr. HELMS. Mr. President, I desire to associate myself with the comments of my friend from Alabama (Mr. ALLEN). I was a cosponsor of his amendment which was emasculated on this floor this afternoon.

As Senator ALLEN has said, the Senate has—unwisely in my judgment—paved the way for a backdoor increase in Senators' salaries.

This is wrong, Mr. President, and I regret that the Allen amendment—which would have prohibited any salary increase—was so badly emasculated and turned around in its intent.

The people of this country are watching this Senate. They are mindful that the Congress of the United States is largely responsible for the inflation that is plaguing our economy.

Some Senators have protested that $42,500 a year is not enough salary for their needs. Well, Mr. President, I cannot help thinking about the millions of American families who are struggling to survive on salaries only a fraction of the amount Senators are paid.

Frankly, Mr. President, unless and until this Congress gets down to business, and begins to work to balance the Federal budget, I think the American people are completely justified in feeling that Senators and Congressmen are receiving adequate compensation, if not too much compensation.

I compliment the distinguished Senator from Alabama (Mr. ALLEN) on his efforts here today. I was proud to stand with him. We lost. But I believe a record has been made here today—a record that the people can use to determine who stands where.

Mr. HASKELL. Mr. President, I would like to comment briefly on the Stevens amendment to S. 372 which was agreed to earlier today.

I voted in favor of the amendment during several key procedural votes. I did this because I was under the impression that the amendment provided for a simple 5.5-percent limit on an increase which would be in accord with Federal guidelines.

I was then informed that the amendment would have allowed an increase of five times 5.5 percent, or 27.5 percent, because it has been 5 years since the last pay raise. I do not support such an increase and voted against final passage of this amendment based on the understanding that it would provide the 27.5-percent increase.

A rereading of the amendment has convinced me that it did not authorize an exorbitant increase and thus my final vote was in error.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1423) to amend the Labor Management Relations Act, 1947, to permit employer contributions to jointly administered trust funds established by labor organizations to defray costs of legal services.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, July 25, 1973, he presented to the President of the United States the enrolled bill (S. 1090) to amend the Communications Act of 1934, to extend certain authorizations for the Corporation for Public Broadcasting and for certain construction grants for noncommercial educational television and radio broadcasting facilities, and for other purposes.

ORDER FOR CONSIDERATION OF PENDING BUSINESS (S. 1560) AND UNFINISHED BUSINESS (S. 372) ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I am authorized by the distinguished majority leader to make the request I am about to make.

I ask unanimous consent that at no later than 10:30 a.m. tomorrow the Senate return to the consideration of today's first-track item (S. 1560), and that that bill remain before the Senate until disposed of or until the hour of 12:30, whichever is earlier, and that the Senate then resume the consideration of the unfinished business (S. 372).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, for the information of the Senate, there will be no more rollcall votes today. The Senate will convene at 10 o'clock tomorrow. At not later than 10:30 a.m. the Senate will take up the public service for unemployed persons bill. Yea-and-nay votes may occur thereon. At no later than 12:30 p.m., and possibly earlier, the Senate will resume consideration of the campaign reform bill, and yea-and-nay votes will occur on amendments thereto.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1973

The Senate continued with the consideration of the bill (S. 372) to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of section 315 with respect to presidential and vice presidential candidates and to amend the Campaign Communications Reform Act to provide further limitation on expenditures in election campaigns for Federal elective office.

Mr. CANNON. Mr. President, I yield myself 1 minute.

Earlier today, in the heat of the debate, I suggested that some people were interested in some nongermane amendments in the hopes of not supporting or defeating the campaign reform bill.

Mr. President, I want to make it clear that I was not referring to the distinguished Senator from Alabama who was a sponsor of the amendment then pending because he has been a consistent supporter in the committee, both on this bill and on the bill in 1971, for a campaign reform bill. I want to make the record clear on that point.

I ask unanimous consent that I may yield 2 hours to the Senator from California (Mr. CRANSTON) so that he may participate in a discussion of the question of public financing on the bill.

Mr. STEVENS. Mr. President, I have great respect for the Senator from Alabama. However, I would like to clarify one matter. My amendment does not require a pay increase. My amendment as a substitute for his amendment sets as a maximum for any increase for the judiciary branch, the executive branch, or the congressional branch of the Government, the amount provided by the annual wage guidelines.

It does not mandate an increase. It does not in any way affect the workings of the Commission that is working on salaries for the three branches of the Government. My amendment sets a maximum of whatever they might recommend.

As such, I think we are treating ourselves in the same way that we are willing to have the executive branch treated, and all segments of our economy. And as I have said before, that is fair.

I would not want the record to indicate that it requires any wage increase.

Mr. GRIFFIN. Mr. President, is it understood that during this 2-hour period, there will be no action taken and no votes?

Mr. CRANSTON. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, it is my understanding that the distinguished Senator from Wisconsin (Mr. PROXMIRE) will shortly offer an amendment so as to make it the pending business and without any time being counted on the amendment tonight.

Mr. COOK. Mr. President, it is also understood that under the unanimous-consent agreement the Senate will proceed to the consideration of the Proxmire amendment at 12:30 tomorrow.

Mr. ROBERT C. BYRD. Mr. President, at no later than 12:30 tomorrow, and possibly earlier.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Nevada? The Chair hears none, and it is so ordered.

Mr. PROXMIRE. Mr. President, I call up my amendment No. 389, not for consideration tonight, but so that it can be made the pending business tomorrow.

I ask unanimous consent that my amendment be made the pending business tomorrow and I ask unanimous consent that no time run against the amendment if it is debated tonight.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The legislative clerk read as follows:

On page 56, line 19, strike "$5,000" and insert "$100".

On page 57, line 2, strike "$15,000" and insert "$100".

On page 57, line 7, strike "$100,000" and insert "$1,000".

Mr. PROXMIRE. Mr. President, this amendment provides a $100 limitation on any contributions by any one person to any one candidate and $1,000 that any one person can make to all candidates.

Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. PROXMIRE. Mr. President, I thank the distinguished Senator from California.

PRIVILEGE OF THE FLOOR

Mr. CRANSTON. Mr. President, I ask unanimous consent that throughout the consideration of the matter we are about to discuss two members of my staff, Jan Mueller and Roy Greenaway may have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, I ask unanimous consent that during the consideration of this matter Burton Wides may have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC FINANCING OF POLITICAL CAMPAIGNS

Mr. CRANSTON. Mr. President, before I begin my remarks, I would like to indicate how delighted I am that the distinguished chairman of the Rules Committee, Mr. CANNON, has expanded the Senate's consideration of S. 372, to include a general discussion of the general concept of public financing of campaigns.

Last week, I and a group of my colleagues went to the chairman, Senator CANNON, and to Senator PELL, chairman of the Elections and Privileges Subcommittee, to ask that time be set aside for such a discussion and that hearings be scheduled on the various public financing proposals. We were pleased that the chairmen agreed to holding hearings by the Senate Rules Committee in September.

In requesting hearings, the group stated that they felt public financing was the logical next step to take in the area of campaign reform, but agreed that consideration of any public financing plan should not come to the floor of the Senate until after hearings had been completed.

I strongly support this position. The place to design a workable public financing plan is not on the floor of the Senate in the middle of debate on campaign reform amendments. Much as I believe in public financing, I do not intend to support any effort to amend S. 372 with a public financing plan. If such an amendment is proposed for S. 372, I will vote against it.

I would not want a public finance proposal to interfere with or jeopardize the finance reforms in the pending bill and any further reforms which might be in the bill at the time we finish acting on it.

A number of Senators have indicated that they wish to participate in the colloquy. A number of Senators are interested in the concept of public financing. Due to the lateness of the hour when we finish, some will be unable to participate. However, some Senators will be here.

A Senator who has been a pioneer in strongly advocating public financing is the distinguished Senator from Michigan (Mr. HART). The Senator from Michigan (Mr. HART) will make the first presentation in this discussion of public financing.

I am delighted to yield such time as he may need to the Senator from Michigan.

Mr. HART. Mr. President, I am grateful to the Senator from California that he would have undertaken to conduct this colloquy, and I am especially grateful to him for persuading the chairman of the committee, the Senator from Nevada (Mr. CANNON), to permit a discussion on the subject of public financing at this time.

Mr. President, today we start a debate on proposals to limit the size of private contributions made to and controls of expenditures made by political campaigns.

As we begin, it would be well, I think, to note that problems associated with our present system of financing election campaigns neither began with Watergate, nor will they end there as long as office-seekers must compete for dollars to run campaigns as well as for votes to win elections.

The reforms Congress is likely to approve this year can be important steps forward, but they will not address the question Congress must eventually face: Whether to restructure rather than to reform, whether to provide a candidate with public funds rather than forcing him to rely on private contributions to finance an election campaign.

Mr. President, as I am sure we will be reminded in the 2 hours set aside for this discussion, this idea and this concept of public funding of political campaigns is not new, nor is it associated with just one of the political parties. It is an idea that was endorsed by former Presidents Theodore Roosevelt and Harry Truman.

Neither is the idea without precedent in this country, for Congress approved the concept when it established the Presidential checkoff system which permits a taxpayer to designate that $1 of his tax return go to funds to be used by candidates in the next Presidential election.

It should be not secret to Members of Congress that public confidence in politicians is diminishing and that a political system which would be open and free cannot long exist in a sea of widespread public distrust.

One source of that distrust which plagues officeseekers even before they are elected is the need to raise money.

Also, it should be no secret to Members of Congress that many persons of conflicting political views often use the same rhetoric to express frustrations with the system and the feeling that no one is listening to their pleas.

One reason for that feeling is that large contributions do indeed buy access, and access is an important ingredient of power.

Time limits the number of problems a Senator can deal with, the number of people he can see. There are few Senators, and I am not among them, who will not find time to see the person who gave $1,000 or more to one of his campaigns.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. HART. Mr. President, I yield to the Senator from Minnesota.

Mr. MONDALE. Mr. President, I have now been in active politics for practically my entire adult life. And I think that is true of every Member of this body.

If there is one thing of which I am certain, it is that we will never have all honest politicians, men and women that the people have a right to respect. We will never be able to have the public have the confidence in government that is the hope of every American until we rid American politics of the corruption and the compromising of our present system of private funding of campaigns. That is the central issue. We can reform the existing system of private funding as much as we like; we can improve the reporting; we can regulate the size of contributions; we can seek to regulate the amount that is spent; we can seek to regulate for what purposes the money can be spent. We have been in the process of trying to make that system work now for a hundred years, and I join in that but even if we reform it in every way we can think of, the system is still corrupt, because it still tells those who run for public office, "You must first make your peace with those who have enough money to permit you to become elected."

It increasingly costs more and more to get elected, which means that more and more we must resort to that demeaning, compromising, and sometimes regrettably corrupting process.

That is a secret that is out. Every politician has known it from the moment he first ran for public office, or helped anyone run for public office. But now, with Watergate, everybody knows the present financing system stinks, and is not reformable. That is why it seems to me that the American public must understand that if, in the process of learning from Watergate, we do not include as our most essential objective a system of public funding of campaigns, so that it is possible for a man or a woman to run for office and, once elected, to be able to serve his or her constituency in conscience, rather than his or her major contributors—unless we do that, we will have failed, and Watergate will be just the beginning of what we will see in the future, except that it will be worse each time that it arises.

For that reason I am pleased to join with the Senator from Michigan, who has been leading this fight for his whole public career, and my friends who are joining in this colloquy this evening.

I ask unanimous consent that a statement which I made a few days ago when the Senator from Pennsylvania (Mr. SCHWEICKER) and I introduced a major campaign financing bill may appear in the RECORD following the remarks of the Senator from Michigan.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MONDALE. I thank the Senator.

Mr. HART. I thank the Senator from Minnesota very much. As always, in very brief scope he has stated effectively, eloquently, and I hope persuasively the basic reason that should persuade us promptly to move away from this private money to public funding.

The presidential public funding proposal that he and Senator SCHWEIKER have introduced is a logical basis on which we should proceed with respect to the Presidential Office, and I share with the Senator from California (Mr. CRANSTON) the belief that while each of us has a deep conviction that public funding of campaigns is the right way, any of us who have spent any time at all attempting to identify the kinks in the problem and to unravel it, will understand that the subject matter should be specifically addressed by the Rules Committee, and there should be thorough hearings, where we can see if we have missed some of the kinks and see if we cannot unravel some of the yet-to-be-unraveled problems. But just as soon as that can be done, I would hope we would move in the direction suggested by the Senator from Minnesota.

Mr. MONDALE. Will the Senator yield further?

Mr. HART. I yield.

Mr. MONDALE. I hope we act, because the public is now seeing, through the Watergate hearings, how awful this can be, while that is fresh on everyone's mind, and I hope that the bill which Senator SCHWEIKER and I introduced, which went to the Finance Committee, will receive prompt hearings.

The Senator from Michigan has led the fight for the dollar checkoff, and has brought us to the point where we have some hope, and I think the chairman of the Finance Committee—I have talked with him about this matter—will find some time this fall to hold hearings, so that we might strengthen what has already been done in this field, in the area of tax incentives.

EXHIBIT 1

PRESIDENTIAL CAMPAIGN FINANCING ACT

(Introductory Statement of Senator WALTER F. MONDALE)

Mr. President, I am introducing today together with the Senator from Pennsylvania (Mr. Schweiker) the Presidential Campaign Financing Act of 1973.

This legislation, which provides for substantial public financing of presidential primary and general elections while severely limiting the size of private contributions, is designed to free those electons from the corrosive and corrupting influence of big money and return them to the American people.

In my judgment, the enactment of our bill—or of one like it—is the single most important election reform that can emerge from Watergate. It is absolutely essential if we are ever to get money off the backs of American politicians and restore integrity and confidence in our political system.

One of the great ironies of Watergate is that some of those who have been among the staunchest opponents of public financing have, through their blatantly illegal activities, made the strongest possible case for its adoption.

The acceptance of corporate contributions, the widespread use of secret funds, the "laundering" of contributions in foreign countries, the solicitation of funds from businesses with important cases pending before government agencies, the insistence on dealing in cash, the ambassadorships for sale—these are symptoms of a system that is fundamentally flawed.

Perhaps no incident dramatizes the extent of the flaw as strikingly as that involving American Airlines.

Herbert Kalmbach, one of President Nixon's principal fund-raisers approached American board chairman George Spater at a time when American had pending before the Civil Aeronautics Board a plan for merger with Western Airlines and indicated that a contribution of $100,000 was "expected".

"I knew Mr. Kalmbach to be both the President's personal counsel and counsel for our major competitor (United Airlines)," Mr. Spater said later. "I concluded that a substantial response was called for."

That "substantial response" amounted to a total American Airlines contribution to the Nixon campaign of $75,000, of which $55,000 was in clearly illegal corporate funds.

In short, American Airlines was so determined to advance and protect its corporate interests that it consciously decided to violate the law in order to submit to Mr. Kalmbach's intimidation.

Here's how Mr. Spater himself put it: "Under existing laws, a large part of the money raised from the business community for political purposes is given in fear of what could happen if it were not given."

I cannot imagine a more severe indictment of our political fundraising process, unless it is the now familiar Vesco affair. That incident dramatized how an individual in apparent trouble with the SEC was solicited for a huge contribution, and how he gained access to one of the highest officials in the government to discuss his difficulties only two hours after delivering the contribution—all in $100 bills.

And there is the ITT incident in which a huge contribution to help underwrite the GOP National Convention mysteriously coincided with an anti-trust settlement between ITT and the Justice Department—a settlement highly beneficial to ITT.

Then there is the Ashland Oil contribution and who knows how many more sordid episodes. When they are all revealed, they will portray a story of government virtually up for sale. They will make a mockery of our principles of free and open representative government. They will make us truly ashamed of what we have allowed to happen to our political process, the most precious of all of our national possessions.

As a Democrat, I can take no comfort in these disclosures. My own party's record of political fund-raising—while never in the same league as the Nixon campaign of 1972—has not always been as open and as forthright as I would like it to have been.

The chief fault lies in the system itself—a system which forces candidates to rely on excessively large contributions if they hope to compete effectively in a modern presidential campaign.

This system, I am convinced, has a great deal to do with declining public confidence in government. People were asked in 1966 by the Harris Poll, "How often can you trust the government?" Two-thirds answered, "most of the time." Recently the question was asked again and less than half—only 45 percent—said they could trust their government most of the time.

The same poll indicated that only 27 percent of the people had "a great deal of confidence" in the executive branch of the government—a drop from 41 percent in 1966.

If we are to eliminate the corrosive influence of money on the political process and restore public trust in our government, we must fundamentally change the system by which we finance our campaigns—especially our presidential campaigns. The only way to do this effectively, in my judgment, is by severely limiting the amount any individual may contribute to a candidate while at the same time providing substantial public funds to help finance the campaigns. Neither of these steps by itself will be sufficient; any effective reform must embody them both.

The costs of running campaigns in this country are rising so rapidly that this question cannot be put off any longer. It is estimated that last year candidates for all offices spent an estimated total of $400,000,000—an increase of one-third over four years before. In short, the cost of campaigning is rapidly outstripping the ability of most candidates to raise the necessary funds responsibly.

The United States is one of the few western democracies which provide absolutely no public assistance to candidates in its national elections. As Watergate so vividly illustrates, we cannot afford to postpone further this essential measure.

And if this kind of legislation is not enacted in the wake of Watergate, it may never be enacted. That is why Senator Schweiker and I—together with a bipartisan coalition of Senators—intend to push this matter vigorously in the next few months.

John Gardner has called the way in which our campaigns are financed a "national disgrace", and I agree with him. In our common effort to remove that disgrace, I am grateful to Mr. Gardner and Common Cause for their considerable help in preparing the legislation which we are introducing today.

It is not a perfect bill, and we are not irrevocably wedded to every detail in its present form. After circulating it widely, we will make whatever revisions are necessary to make it the most effective possible bill.

We are committed, however, to the principles contained in this measure. And we believe its basic concepts are sound.

These, Mr. President, are the principal features of our bill:

No individual is allowed to contribute more than $3,000 to any one candidate during an entire presidential campaign;

Groups which aggregate or "pool" funds are limited to collecting individual contributions of $25 or less and may in turn contribute to any one candidate no more than $25,000;

Cash contributions or transactions in excess of $100 are barred;

The existing tax credit is doubled to make it one-half of any contribution up to $50 for an individual return and up to $100 for a joint return; The present tax deduction for contributions is also doubled;

During the pre-nomination period, each individual contribution up to $100 will be matched by an equal amount from the Federal Treasury; A candidate must raise $100,000 in matchable contributions in order to qualify for Federal matching funds; The matching funds will be available beginning 14 months before the date of the general election; There is an overall spending limit of $15 million during the pre-nomination period; Matching funds must be spent during the pre-nomination period and cannot be carried over to the general election period;

The existing $1 check-off system is retained and strengthened for the general election; Each dollar checked off is matched by another dollar from the Federal Treasury, and the checkoff fund is made self-appropriating; For the general election period there is a spending limit of $30 million, roughly two-thirds of which will come from the check-off fund and the balance from private contributions under $3,000; Unlike the present check-off law, there is no incentive not to take advantage of the public funds;

Stiff criminal penalties are provided for misuse of the public funds and other violations of the act.

I ask unanimous consent that a section-by-section explanation giving more details, together with the text of the bill, be reprinted at the conclusion of my remarks.

If public financing legislation is to accomplish its intended purpose, it is essential that it apply to the presidential primary period as well as the general election. If individuals and interests are permitted to contribute huge amounts early in the campaign, it makes no difference that they are prohibited from doing so later; the obligations will have been incurred and the entire purpose of the reform will have been effectively undermined.

And yet, the primary period is the most difficult part of the presidential election process for which to provide public financing. We have concluded that the only way to treat all candidates fairly is by placing a premium on their ability to raise small contributions. The combination of the $3,000 limitation on individual contributions and the availability of matching funds for contributions of $100 or less and under forces candidates, in effect, to seek as wide a base as possible in financing their campaigns. That, we believe, is what candidates should have to do in seeking nomination to the highest office in the land. Whatever ability they demonstrate in raising small funds from as many individuals as possible is rewarded in direct proportion to their success.

Candidates, in short, will be going to the people instead of to the interests for their financial support. The impact this change will have not only on our political process but also on the executive branch of government will be enormous.

For the general election period, we have retained and tried to strengthen the $1 check-off systems, which we believe is a sound and effective system which has not yet been given a fair chance to prove itself. Every dollar which is designated by an individual for the presidential campaign fund is matched by another dollar from the Treasury, creating in effect a $2 check-off which will ensure sufficient funds for the general election. These funds would provide approximately two-thirds of what a candidate would be permitted to spend, the balance to be raised in individual contributions of $3,000 and under.

Public financing of campaigns, I am convinced, is an idea whose time has finally arrived. But it is by no means a new idea. In a message to Congress in 1907—nearly 70 years ago—President Theodore Roosevelt proposed this reform, saying:

"The need for collecting large campaign funds would vanish if Congress provided an appropriation for the proper and legitimate expenses of each of the great national parties, an appropriation ample enough to meet the necessity for thorough organization and machinery, which requires a large expenditure of money. Then the stipulation should be made that no party receiving campaign funds from the Treasury should accept more than a fixed amount from any individual subscriber or donor; and the necessary publicity for receipts and expenditures could without difficulty be provided."

Public financing of campaigns is the most fundamental and important reform we can adopt in this decade. At stake is nothing less than the integrity of our political system and the kind and quality of government we are going to have in this country.

This is not a very complex issue. It can be reduced to one basic question: To whom do we want the President of the United States indebted after his election—powerful economic interests capable of buying influence with huge contributions, or the American people?

Nor is it a partisan or ideological issue. It is designed to benefit neither Republicans nor Democrats . . . neither liberals nor conservatives. Rather, it is designed to benefit our system of government and, through it, the American people, by ensuring that the President of the United States is responsible to them—and to them only.

Mr. BIDEN. Mr. President, will the Senator from Michigan yield at that point?

Mr. HART. I yield.

Mr. BIDEN. I do not think we can stress too strong the need to act now on this matter, for a very practical reason. I do not know of any Member of this body, even those who oppose public financing right now, who really would not prefer some sort of public financing, but they feel that somehow, as has been confided to me by some Senators and mentioned flat out in the press by others, the public is not ready for this, that the public will think we are somehow raiding the till, that it is a raid on the Treasury, that we are feathering our own nests, or whatever it happens to be.

I think, to put it very candidly, that while the public is very upset about the obvious improprieties that took place in the last election, and while it is fresh in their minds, something drastic has to be done. I think that maybe now is the time, and perhaps the only time in the near future, when we will be able to convince the majority of our colleagues that it is not a political risk to go along with some form of public financing, but just to the contrary that it will inure to their political benefit to support some form of public financing.

Some Senators want to go farther than others in regard to public financing, but I think it is essential that the Senate act this session on that question, because of the public sentiment which has been aroused. I am afraid if we wait, it might be another 10 years or, God forbid, another Watergate would occur, before we could get to the question again.

Mr. HART. I hope we can act this session. I share the concerns of the Senator from Delaware. I think we can convince the public that it is the best growth stock investment it can possibly make in the interests of its own freedom.

But I want to make clear that the product we finally present here should have as few imperfections as a good set of hearings could identify.

Mr. MUSKIE. Mr. President, will the Senator yield for one of those long questions that we have a habit of asking each other on the Senate floor?

Mr. HART. I yield.

Mr. MUSKIE. Mr. President, I am pleased to join my colleagues this afternoon in discussing a question that goes to the heart of the American political process: campaign reform. For months, our newspapers, our television reports, and our daily conversations have been filled with discussions of the possibilities for corruption in the campaign financing process. We have been confronted again with the painful evidence that money is much too important a factor in politics.

And the conclusion I have reached from this evidence, Mr. President, is that the pernicious influence of money in politics can only be removed by adopting public financing of all campaigns.

Before I expand on my own thoughts, I would like to express my appreciation to the Senator from California, the Senator from Michigan, the Senator from Illinois, and others who have taken the initiative to bring this question of public financing to the Senate floor this afternoon. Their commitment to this issue is to be commended.

It is appropriate, Mr. President, that our discussion of public financing today takes place at the beginning of Senate consideration of S. 372, a bill that makes important campaign reforms. By amending the communications laws, this bill will make available to major candidates for Federal offices free television time, thereby providing the American people additional opportunities to decide for whom they will vote. By limiting campaign expenditures, the bill would prohibit exorbitant spending beyond what is necessary to bring the candidate's views to the voters. By limiting the amounts of direct campaign contributions, the bill would hopefully go far toward preventing the worst fundraising abuses. And by establishing the Federal Election Commission, the bill would create a mechanism for more efficiently enforcing Federal election laws, including those requiring disclosure of campaign spending and contributions.

During the next few days, the Senate will have the opportunity to pass judgment on the details of S. 372—and hopefully to improve it.

I have some misgivings about the wisdom of considering this legislation on the Senate floor at this time, for two reasons. First of all, the Ervin committee was charged with the mandate, among others, of recommending measures to reform our campaign practices, including campaign financing. That committee is in the midst of its work. As it proceeds, hopefully the public will focus even more sharply upon the need for thorough campaign reform. But I am not sure that at this point in the Watergate hearings public concern has yet focused on this issue to the point where it has generated maximum support for the best reforms of which this body is capable. So I have some misgivings about the timing.

Second, I am fearful, in the absence of necessary support for public financing at this moment, that we may content ourselves with lesser reforms which, however commendable, may not be sufficient in the long run. In common with the Senator from Minnesota, I believe that private funding of elections is corruptible beyond the possibility of complete reform.

We must also adopt, in some form, a mechanism which S. 372 does not include: public campaign financing. Thus, I am worried that the Senate may pass a campaign reform bill that is less thorough than it should be.

But with this exercise having begun on the Senate floor, I think we should make the most of it. So I am gratified that we should be discussing public financing.

To put this discussion in perspective, I would like to refer to my own experience. I ran for Governor of my State in 1954, at a time when there was no Democratic Party in Maine, at a time when there was almost no possibility of raising money for such a venture. I recall that in that year the Maine Democratic Party supported candidates in five major races—the governorship, the U.S. Senate, and three congressional races. We financed all five campaigns for a total of $18,000. That included television. That included newspaper advertising. That included getting out the vote. That included all the elements of a modern campaign.

We elected the Governor. We ran good races for the other offices. We built the base for later victories by our party in the State. And we did it all for $18,000.

The last time I ran for the Senate, in 1970, for my race alone, we spent almost eight times that amount.

Campaign costs have grown and grown and grown. The days are gone when a candidate can present himself in person to most of the voters who will choose between him and his opponent. The mechanisms which have been developed to bridge this communication gap—to present the candidate to the bulk of the voters who cannot know him personally—all cost money. And money spent for this purpose is not wasted, since it is spent to allow Americans to make a better choice on election day—through leaflets passed out on the streets, through grassroots organization, through the transportation of the candidate to voters in their hometowns, and through the preparation and purchase of advertisements in the media.

The problem, Mr. President, is not just that money is needed. The worst abuses arise in the process of collecting that money.

In my political experience, I cannot recall that I was ever asked to give a quid pro quo for a campaign contribution. I can say that in all honesty. No one ever came to me and said, "Senator, in return for your support on such and such a proposition, we will contribute." And I doubt that contributors approach other public figures asking for a quid pro quo. But the absence of such instances by no means demonstrates that our political financing system is not corrupt.

Big contributions from individuals and political groups to these campaigns lead inevitably to questions of private versus public interest. A surprising number of those contributors are not looking for anything in return for their gifts, but the economic stakes of public policy are high enough to raise clouds of suspicion. We do not have to unearth venal arrangements—the actual quid pro quo—to uncover the real dangers in campaign finance. Those who have stakes in public policy choose to give financial support to candidates whose known philosophies and voting records reflect the contributors views.

This financial support can influence the ability of candidates to mount effective campaigns. When the candidate they support is successful, he represents his contributors' views in public policy decisions—not because he was asked to do so, but because he honestly agrees with their views. Thus, the effect is that those with wealth to contribute may have disproportionate representation in the councils of government.

Or, as the Senator from Michigan has pointed out, contributors buy access to a Senator, a Governor, or a Congressman, taking away his time from consideration of other issues with which he should be concerned.

Money is a factor, too, in the decisions of candidates about how they will spend their campaign time: Fundraising activities distract the candidate from his most important goal of presenting his views to the public.

And regardless of whether a contributor has any influence at all the public is presented with the appearance of corruptibility. Thankfully, we ultimately enacted campaign disclosure laws. One result has been, however, to intensify the perception of the public that people with money are buying us. The disclosure laws have heightened public cynicism.

To remove the influence of money, and the appearance of corruption, it is not enough merely to restrict the amount which individuals or groups can give directly to candidates to $5,000 for each congressional primary and general election or to $15,000 for each Presidential primary and general election, as S. 372 does; or even to some lower figures.

For candidates would still need campaign funds to bring their case before the public. Imposing contribution limits at levels which would permit adequate campaign financing would still preserve the unfair influence of contributing individuals and groups upon public policy. Only public campaign financing can have the result of creating public confidence in the public that our system is responsive to them, that it is honest, and that those elected to public office are men of integrity.

The fact is that the reforms in S. 372 do not have that result, as commendable as that bill or amendments to it may be.

Congress has already made a step toward public financing in creating the dollar checkoff, which gives Presidential candidates, once they have won the nomination of their party, the option of accepting public funds or relying on private contributions. But the dollar checkoff has not yet proved to be a success, and we have only hopes that it will help reform campaign financing in the next Presidential election. More comprehensive—and effective—public financing measures are needed.

Mr. President, I hope that our forthcoming consideration of S. 372 will produce legislation that will contribute to campaign reform. But I also hope that Congress will not put aside the question of campaign reform until it has enacted a workable system of public financing to truly remove the influence of money from politics.

So I commend the Senator from California and the Senator from Michigan for indulging me in this colloquy on public financing. I join them in the expectation that it will lead to serious consideration in committee of public financing proposals—including the thoughtful ones already proposed—from which we can develop sound, thorough, public financing legislation.

Mr. President, in conclusion, let me say to the distinguished Senator from Michigan that he may have lost the thread of my questioning, but perhaps not the development of my argument. I thank the Senator for his patience.

Mr. HART. Mr. President, all of us are grateful for the comments made by the Senator from Maine, who speaks from a very deep experience. I doubt whether anyone in Maine views any vote he casts as a reaction or a response to any contribution he ever received. I doubt that could be said of many of us. I am sure that there are people in Michigan, generally those who think that every one of my votes is dead wrong, who believe that they are in response to the money I have been given. Each of us likes to think that is not true, but if so much as only one person in Michigan believes that of me, the strength of our society is weakened.

As the Senator says, it is the appearance which we must overcome, and public financing will move us in that direction.

Mr. STEVENSON. Mr. President, I want to be associated with words of the Senator from Maine, and I wish also to commend the Senator from California and the Senator from Michigan for taking this initiative. The Senator from Michigan was the first Member of this body to introduce public financing reform legislation in this session. Since then, he has been followed by others, including the Senator from Maryland (Mr. MATHIAS) and myself.

He recognizes, as do we all, that at this late date, money is a curse upon our politics, and money is a curse upon our country. By money, I mean big campaign contributions. It diminishes us all. It diminishes the offices we hold. It diminishes the public's trust.

The subject has been taken up in the Senate majority caucus, and in that caucus we unanimously supported the principle of public financing of campaigns. By so doing, we recognized that money, the big contribution, is the most corrupting influence in our politics, that there is only one way to eliminate that corruption in our politics, and that is by providing for an alternative source of financing of our campaigns, public financing.

Mr. President, some might contend that this colloquy on public financing comes too soon because hearings on public financing have yet to be held in the 93d Congress, and no public financing bill is yet before this body.

But this colloquy comes too late—many payoffs too late, many campaign solicitations too late, many tax evasions too late, many millions of disillusioned Americans too late.

Those who support the principle of public financing—as a majority of the Members of this body do—may differ about one or another detail of the public financing system. But we can all agree that big money is endemic in our politics, that we are all worse off because of it, that it is past time to get the big money out, and that the only way to do so is by adopting a public financing system at the earliest possible date.

I share the sense of urgency expressed by my colleagues here this evening, but realism compels me to state that the floor is not the place to write a public financing bill, at least until the appropriate committees have had a reasonable opportunity to act on the question.

At the moment, the central issue facing the proponents of public financing is a procedural one: How best can we assure that the appropriate committees and the full Senate will have the opportunity to legislate on the public financing question during this session of Congress? I would hope that we could agree on a procedure under which orderly consideration of public financing and all the issues intertwined with public financing—including especially limits on individual contributions and candidate expenditures—could take place this year. In the meantime Congress could act on equal time repeal, the establishment of the Federal Elections Commission, increased penalties for violations of existing law, and perhaps other less controversial, less complex questions.

Mr. President, with less than 8 full working days left before the recess, we are teetering on the brink of a morass. More than 40 complicated amendments to a very complicated bill have already been submitted. More are in preparation. Further expansion of the scope of the debate on S. 372 could push us over the brink. We could find, after days of frenzied activity, that we end up with nothing or something unworkable.

I believe—and I have heard others make similar suggestions this evening—that we ought to try to set a deadline for consideration of comprehensive campaign finance reform, including limits on expenditures, limits on campaign contributions, and public financing by some point early in the fall, some point early enough to give us then a better chance than I suspect we have now to adopt in this session comprehensive reforms of our campaign financing.

Mr. HART. I thank the Senator from Illinois.

I note that in a sense we have had perhaps conflicting expressions of concern: One, that the full effect of Watergate has yet to be had, and that since we commissioned the Ervin committee to make recommendations, we might be well advised to delay until we get those recommendations. Two, we have the concern just voiced by the Senator from Illinois and the Senator from Delaware that we attempt to fix the end of this session of Congress as the time to reach for and write public financing.

I think each concern is properly voiced here. It will alert all of us to attempt to resolve what may or may not be a conflict and, hopefully, to take the more prudent of those two paths.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. HART. I yield.

Mr. JOHNSTON. Mr. President, I am offering this statement on behalf of myself and six of my Democratic freshman colleagues. Each of us has just experienced the manner in which our existing electoral system works. We faced that experience as nonincumbents, and we emerged from that experience with the deep belief that substantial improvements in the present system are needed.

As with any other group of seven Senators from as many different States, we do not share identical views on either the bill before us today or on the matter of more comprehensive reform of our electoral system. We do, however, share one fundamental viewpoint: We believe that the time has come for a consideration of the manner in which we have been financing Presidential and congressional elections in the past and the appropriate role, if any, of public financing in the future of the electoral process.

Mr. President, we recognize that there are serious problems inherent in any system of financing elections. Public financing, suggested by some as a solution for our financing troubles, raises questions as to its effect on parties, on little-known and nonparty candidates, on major interest groups, on the primary process, and on the Federal Treasury.

But, if anything is clear from the recent history of American political life, it is that our present system of financing elections has significant problems of its own. That system has fostered a widespread belief that politicians are for sale to the highest bidder. It has forced many candidates to spend inordinate amounts of time and effort organizing political fundraising campaigns. It has driven scores of good men away from the political system. And it has placed the good men who remain in a position of guaranteed discomfort every time legislation affecting their financial backers comes before Congress.

Mr. President, the point we seek to make is this: The time has arrived for a thorough examination of the financing of Presidential and congressional elections and the alternatives reasonably available to us. While we may differ both on the role and extent of public financing in that electoral process, we feel strongly and unanimously that Congress must consider carefully and soon the possible role of Federal funds as one alternative in the financing of these elections

The very fact that we are here today considering important campaign reform legislation indicates that this body, and the very able members of the Rules and Commerce Committees, fully recognize the urgency of a reexamination of our present methods of financing Federal elections. We are confident that the legislation we debate today will form a basis for further consideration of the crucially important question of how Presidential and congressional elections should be financed.

For the record, Mr. President, I should like to state that Senators ABOUREZK, BIDEN, CLARK, HATHAWAY, HASKELL, and HUDDLESTON join me in offering this statement.

I might add one further point, as a personal feeling, not on behalf of these six Senators.

I submit that any Federal financing plan ought to satisfy at least four basic factors.

First, it should reduce or eliminate, if possible, the influence of money on elected officials.

Second, it should restore the confidence which is so lacking—lacking even before Watergate, but certainly after Watergate.

Third, it should be neutral in its effect toward parties, philosophies, and candidates.

Fourth, it should preserve the ability of the new face, as the Senator from Maine, as the Senator from Louisiana, the unorganized candidate, the independent candidate, to get out, within the system, and put it together and get elected.

I suspect that the third and fourth alternatives I refer to are going to be the most difficult to achieve—to remain neutral on candidates, parties, and philosophies, and still inject Federal funds into the campaign.

I know that in my particular State, where the Republican Party has 2½ percent of the registered voters, it would be very difficult to figure a way to get Federal funds into the candidates' hands in a general election without being nonneutral toward that election. If you said it is based on the number of registered voters, it certainly would not be fair to the Republicans. If you said it is on a 50–50 basis, it would not be fair to the Democrats. If you said it is based on the signatures you get on a petition, it is not fair to the unorganized candidates.

I am afraid particularly that whatever we do is going to be interpreted as favoring the incumbent, and perhaps the best thing that can happen to incumbents is to severely limit political money to shorten political campaigns and to make them as sterile as we can.

We are already in office. We do not have to get out there and do as the Senator from Maine did and what I did, and that is to put it together piece by piece, organization by organization, and person by person. So I hope that as we study this very difficult and most challenging problem for the political process in this Nation that we can satisfy all four of these goals to get money out of politics, but to be neutral.

I thank the Senator from Michigan for yielding to me.

Mr. HART. I am grateful to the Senator from Louisiana and those associated with him who recently have been through intense campaigns in many cases. I am almost unhappy that he concluded with the recital of the basic objectives we have tried to retain in this reform, because they are difficult to achieve; but it is well that he puts us on notice early so we understand the need for committee analysis, and for a prudent and prompt response. It is of overriding importance that we do what we are proposing and that we do it right.

Mr. JOHNSTON. Mr. President, would the Senator yield further?

Mr. HART. I yield.

Mr. JOHNSTON. The thrust of my statement was intended to be the need for reform and not the overriding objectives. I hope the Senator takes it in that light.

Mr. HART. Indeed, yes.

Mr. BIDEN. Mr. President, will the Senator yield for a question?

Mr. HART. I yield.

Mr. BIDEN. I am glad that my freshman colleague, along with myself, raised an issue that I think we do not hear enough in this Chamber, and that is the political situation of incumbents.

Everyone agrees that one of the things we are trying to achieve here is to regain the confidence of the American people. One sure way to lose that confidence of the American people and lend further fuel to the fire that we are only after our own self-interest, is not to make some specific reference to the fact that as incumbents we need less money than challengers.

I am sure the Senator from Maine looks back to 1954 remembering how hard it was to get that money. This time around they say, "Lots of luck. Come back when you are 40. Maybe we can help you out."

I hope that what we do restores the confidence of the American people. No one is implying that our colleagues are bought off. I hope we put into whatever form that we work out a recognition of this fact. I see no way to do it unless we either allow more money for the challenger, which I think would be fair, or some degree thereof, or that we give him or her the privilege of the frank, or television or radio time. If we do not I think we would be hypocritical.

Mr. President, 60 years ago Justice Brandeis wrote:

> Publicity is justly commended as a remedy for social and industrial disease. Sunlight is said to be the best disinfectant and electrical light the most efficient policeman.

If Mr. Justice Brandeis were alive, I am certain he would give his judicial blessing to our move today in the direction of placing the full glare of publicity upon the campaign-financing structure of American politics.

Being a lawyer myself and one not unacquainted with Mr. Justice Brandeis' views, I would be willing to suggest that he would support a concept of public financing of election campaigns for Federal office. Certainly, I do.

I cannot match, of course, my colleagues here in this Senate Chamber in terms of wisdom distilled from years of experience. But I have run more recently than anyone else in the Senate in a local election—that for New Castle County, Del., councilman in 1970. I have most recently been a candidate for the Senate seat.

And I am brought to a conclusion that the existing system of campaign financing contains within itself a time bomb that ticks for all of us, regardless of political affiliation, regardless of whether each of us has served less than 1 year in the Senate—as I have—or 30 years, as some of my colleagues have.

The existing system of campaign financing ensnares Democrats and Republicans, "conservatives" and "liberals," organizational men and reformers, in a tightening web of conflicting interests and claims.

This is my conclusion based on my experience—the only experience I can lay claim to. I am inclining to a view that, in politics, private money is funny money—at least in large amounts. Furthermore, I am inclining to a view that the cases of wrongdoing that come to light from time to time in the aftermath of elections may not be ascribed to the inevitable "bad apple" or two or three. It may be that there are many more bad apples than that—or, perhaps, even the barrel itself is rotting.

Mr. President, I hasten to add that I imply no disrespect to anyone when I say these things.

I want to compliment Senators CANNON and PASTORE, both doughty warriors in this cause of flushing out the existing system. Their handiwork, which is before us today, is particularly commendable if only because it relates to a sector of political life wherein there are enormous pressures to do nothing.

Therefore, I hope I have made it clear that it is with no disrespect that I speak in favor of changing course—a change that may more swiftly lead to the mutually shared goal of all of us—competitive, open elections wherein merit, not wealth, dominates.

In furtherance of this objective, I support the concept of public financing of primary and general election campaigns for Federal office.

Why do I support public financing?

The answer lies not in our stars but in our statistics.

In reviewing the history of Federal election campaigns in modern times, I am impressed by several factors.

First. No candidate has ever been prosecuted for violation of the 1925 Corrupt Practices Act, predecessor of the Federal Campaign Election Act of 1971.

Second. No more than 20 corporations and a couple of trade unions have ever been prosecuted for violating prohibitions contained in this act.

Third. Total costs of all political campaigns in 1972 apparently exceeded $400 million, a 25 percent increase from the 1968 elections.

Fourth. The National Committee for an Effective Congress suggests that more than half of political spending goes unreported and that the expenditure per voter in a Presidential campaign has doubled in 12 years to more than 60 cents.

Fifth. Not unrelated, incumbents since 1954 have won 9 of 10 races in the House and 4 of 5 races in the Senate, according to the Twentieth Century Fund—in 1972, I am pleased to report to myself I was in that fifth race in which a nonincumbent won a Senate seat.

I am pleased I won—so are my campaign contributors, but I do think there is a condition in politics which is best described as a "tyranny of the incumbency." Without disrespect to incumbents, it is difficult for a challenger to get a fair-shake, as the statistics I have just offered suggest.

I am now an incumbent myself. Nevertheless, I do not believe the old ways of campaign financing are sufficient. In fact, they are deficient. The time has come for all good men of both major parties to come to the aid of the system by changing it.

These are sober times. Here in this building—on this very floor—there is unfolding a disastrous chapter in the history of American campaigns. There is reason to think that shoddy men, with access to great gobs of unreported money, have savaged our political system. Watergate, like Pearl Harbor, is a name that will go down in history as an event of infamy.

I share with Americans a rising sense of dismay about the abuses in the electoral process. The unhappy events of the 1972 Presidential campaign reinforces this dismay.

The outrageous cost of getting elected to public office—that is, the influence of money in politics—has been commented on by Republican and Democratic Presidents alike—General Eisenhower, John Kennedy, and Lyndon Johnson, among others.

The 1984 of Presidential elections will come about when there are no candidates available who can each raise the trillion dollars to finance the campaigns.

Even now, the rising cost of running for office is disqualifying many otherwise well-qualified persons, who cannot or are unwilling to rely heavily upon large contributors.

This is an unhealthy condition and, consequently, the American electoral system suffers—the American voters suffer.

Fortunately, the accumulation of campaign financing indiscretions—or worse—have jarred us. American voters now realize the scandalous grip money holds over the outcome of elections. And their distrust is not being directed at Republicans—whose party organization, in fact, is not involved in the Watergate affair—or at Democrats.

The dangerous clue, that I discover in my travels within and without my State of Delaware, is that the Watergate is breeding distrust, even disgust, at both political parties and all politicians.

As a result, we politicians are in deep trouble both in Washington and in the "river cities" of America. The political system is in trouble because, as someone has said for us, democracy is less a form of government than a system that assures we shall be governed no better than we deserve.

The hazard is not necessarily that the voters will rise and vote us all out of office within the next few years. A clear and present danger is that the voters may turn away from the ballot box—after all the 1972 Presidential voter turnout, percentagewise, was the lowest in this century.

The real danger, then, is that the dismayed American voter may act like Mark Twain's cat which sat down on a hot stove lid—the cat never will sit on a hot stove lid again, but also the cat will never sit down again.

The winds of change are already blowing through the Congress. Various steps have been taken within the last couple of years in both the Senate and the House to open the legislative process itself to public scrutiny.

But these improvements in my judgment are largely quarantined by the scandalous grip of money on politics.

The rapid increase in the cost of campaigning is the most important element in degrading both our politics and our politicians.

The high cost of running, places even the most innocent candidate in the position of being in the pocket of such contributors—or assumed to be by the contributor, and more importantly by the public.

Slowly I have become convinced that efforts to place ceilings on overall campaign expenditures, to prohibit certain groups from contributing funds, to restrict the size of campaign contributions—these and other devices, however well-intentioned and well-designed, are not fully effective.

Disclosure and ceilings have merit, but the ingenuity of political operators outranks that of an Einstein in finding ways of funneling private funds of undisclosed, if not dubious origins, into campaign coffers.

Public subsidy would allow candidates — incumbents and challengers alike—to compete more on the basis of merit than on the size of the pocketbook—free from potentially corroding dependence on personal or family fortune or the gifts of special interest backers—be they those of business, organized labor or conservative or liberal interests.

Public subsidy has an honorable ancestry.

Theodore Roosevelt proposed this approach in an effort to insulate politic parties from the influence of wealthy contributors and to permit candidates of modest means to seek elective office and to assure that opposing candidates and their parties will have more respectable resources.

In 1967, the Committee on Finance reported out a subsidy plan as title II of the Honest Elections Act, H.R. 4890, although the bill was never discussed on the floor.

As you know, Mr. President, we now have in law a provision authorizing a taxpayer to assign $1 of his Federal individual income tax obligation to the 1976 Presidential campaign fund.

The point I am making is that the concept of public subsidy is not a startling new one. It has been discussed here in the Senate. The tax checkoff provision is now law. I hope that we can now discuss the possibility of taking larger steps.

Public subsidy is not without problems, of course. Previous provisions, such as that in the Honest Elections Act, did not treat minor parties fairly.

And, if a public subsidy statute is enacted that barred the use of private funds in campaigns, then there should be a provision to accommodate future minor parties that may develop.

But these problems surely could be resolved.

The issue remains that of money in politics, if money by itself does not win elections, absence of money guarantees defeat.

Senator HART's pending bill addresses itself commendably to this problem, although I plan to offer a differently tailored bill before the hearings that Senator CANNON has so graciously consented to have later this year on the concept of public financing.

In my judgment, the ideal public subsidy program would combine public subsidy as the only source of campaign financing—combined with subsidized radio and television time.

The solution may appear stiff, but the penalty, in the form of further erosion of voter confidence in the electoral system, is stiffer.

I suggest an additional benefit may accrue from adoption of public-subsidy campaign financing. I believe it would hasten the day when we in the Congress enact tax reform for the American people. Revision of the Federal Tax Code as to make it fairer is made more difficult, in my opinion, because those wealthy who benefit by existing tax shelters also make large campaign contributions.

I realize there are going to be a number of difficult problems which will have to be resolved if we go the public financing route:

First, how does one qualify as a contender; second, when is one a "serious candidate"; third, what proportion of public funds should go into primaries; and, fourth, a number of other complicated questions which should first be answered.

But I submit that it is a good deal easier to resolve these cumbersome and complicated issues than it is to try to legislate morality into the existing system whereby we, as elected public officials, are required to seek our funds from private sources.

In my opinion, almost implicit in such a system is an element of corruption, and very few of us want to appear in the second editions of "Profiles in Courage." Very few of us, I believe, want to be put in the position where, although we know if we take particular positions during a campaign on a particular issue, it will mean a campaign contribution for us, some of us, at least me, would be tempted to say, "Yes, I'll support SST."

Would I have supported the SST had

I been in Congress last time around, if I knew that that organization, which had asked me the question, is giving $5,000 to those whom they endorse? I am not particularly stupid, and it is fairly easy for us to determine what answers the people asking us the questions want to hear.

I am not suggesting that anyone in the Senate now, or running for the Presidency, is taking any money under the table, or is being told:

> We will give you money if you will change your position, or we will support your campaign if you take such and such a position.

But there is temptation for a candidate who sees he or she is a point behind in the polls of realizing a lifetime ambition of being a U.S. Senator or Congressman, or President—it is difficult to ask of a man or woman in that position to not be at least considering prostituting their intellect, at least.

And I think, as long as we have the major portion—or quite possibly any portion—of our campaign funding for Federal offices coming from the private sector, we are not going to be able to get at that particular problem. And until we get at that particular problem, in my opinion, we are not going to be able to restore the faith and confidence of the American people in their public institutions and in their elected public officials. We are not going to do that until we have men and women in public office who are totally unfettered, or, at least, the American people have an impression of their elected officials being significantly unfettered by particular interest groups.

And I do not mean to imply that anyone here is in that position, necessarily. I am just saying the temptation is very great.

My wife, who was less of a politician than I, used to have an expression she used. She said:

> You should not burden your elected public officials with too much responsibility.

I think she is a true Jeffersonian.

I happen to agree with her. I think that when we ask men and women to go out and raise the hundreds of thousands of dollars that is necessary to run for public office in this Nation, we are putting them in a position of being exposed to great temptation. Not personal financial gain, but great temptation to maybe not say what they think all the time, maybe not take the positions they support all the time, and maybe I feel this way because I am weaker than most of the Senators here, maybe I felt that pressure because I do not have the strength of character that many of the men had who have gone before me.

All I know is that I have felt that pressure, and I am one young fellow at 30 years of age who may not only be the youngest Senator but the youngest 1-term Senator here. But the fact remains I know I have felt it, and I think that it is in the public interest to see to it that we who are running for public office can get about the business of telling the people what we think and not have to worry that if we take a position that is in opposition to any major interest group, whether it be labor or big business, that we are going to have campaign funds cut off that we need to get our case before the public.

I think if there is nothing else that I am able to do in one term—if there is nothing else I do to make some little impact on moving us toward the public financing of elections, I would consider my service in the Senate a success.

My constituents probably would not feel as I do—and maybe my colleagues would not either—but I would feel it is that important. I think it is the single most important issue to come before this body in a long, long time.

In summary, Mr. Chairman, I support public subsidy but I discredit no other method.

I simply assert my judgment as an individual Senator that adoption of public subsidy is the swiftest and surest way to purge our election system of the corruption that, whatever the safeguards, money inevitably brings.

In an essay of Thomas Carlyle is found a statement:

> "Our grand business is not to see what lies dimly in the distance but to do what clearly lies at hand."

It is the grand business of all good men and women, Republicans and Democrats alike, to come to the aid of their party.

Mr. LONG. Mr. President, will the Senator yield?

Mr. HART. I yield.

Mr. LONG. I am glad the Senator has raised this subject and made this colloquy available for the RECORD.

The Senator, of course, is well aware of the fact that the senior Senator from Louisiana took an interest in this matter many years ago. It seems many years now. I know that the Senator from Louisiana is one of those who suffered many wounds during this struggle that went on down through the years.

As I recall, in 1965 or 1966 the Senator from Louisiana introduced an amendment to a revenue measure that would have provided for the checkoff system to furnish campaign financing for the Presidential campaign. We ran into rather severe opposition, as matters went along. The following year, Congress suspended or made inoperative that proposal. We had a long fight and this Senator was unwilling to yield. We had seven votes on the proposal. First one side would win and then the other side would win. We took turns winning, depending on who had the most troops in town. The issue was closely defeated.

Subsequent to that President Johnson took the leadership in trying to bring some of us together, particularly Democrats, and we conducted hearings and worked out a bill which we reported from the Committee on Finance, that did more than just seek to finance the Presidential campaign.

If Senators would like to see how they could finance congressional elections they would see in that bill and committee report what would be made available in each State depending on the number of people in the State and various other factors that could be considered. That measure was not enacted but it did make clear one or two points which I am sure will be before the committee. One point which became clear is that it is that in a general election there is no choice but to make available an equal amount of money to each of the major party candidates. Any procedure other than that cannot be justified. The more one studies it the more one sees how it would work.

The Senator from Delaware suggested providing more money for the challenger than for the incumbent. The fact is that under the existing system the incumbent is usually better financed than the challenger, in any event, so that when an equal amount of funds is provided generally the challenger is given more help than he would ordinarily have available in trying to unseat an incumbent.

However, it does free both candidates from the need of going hat in hand to seek contributions, and in doing that it tends to protect the confidence of the public in the victor, and it tends to reduce the pressure to respond to the entreaties that are made to elected officials by those who contribute to the campaigns.

I am convinced at the moment that the best we can do is to improve on the checkoff system we have enacted. If we try to do that and make it work in the next Presidential election, I am satisfied that the public will approve of it and understand it. In addition, it will serve as a minimum action at best for extending the same principle into the primary that leads up to the general election. If that is accepted, it may very well create a public acceptance of the idea and result in public financing of senatorial and congressional campaigns. I doubt very much the public would understand it at this point.

Mr. HART. Mr. President, I state for the RECORD that it was the senior Senator from Louisiana who years ago gave leadership, perhaps more than any of us is aware, in this matter.

Even though he cannot foresee as prompt a turn to public financing as those of us offering the bill, I think he may be the chairman of one of those committees because of his understanding of the matter.

Mr. LONG. In the last analysis the checkoff proposal is public financing.

Mr. HART. Indeed, yes.

Mr. LONG. And it is in the area where the greatest stake is involved, the Presidency of the United States. So the type things the Senator favors, I believe, will be tried with regard to the Presidency of the United States, in the checkoff measure we have voted into law.

I am extremely pleased that in this Congress we have been able to amend the checkoff proposal to make it do what we intended—at least more nearly what we intended—by a margin of 2 to 1, and we were fortunate enough to have Republican help this time. It was a tremendous headway to obtain an almost unanimous Democratic vote, as well as substantial help from the Republican side of the aisle. So the thought that that is the direction in which we ought to move definitely has picked up a lot of steam and a lot of acceptance.

It is my belief, particularly in the

Presidential race, the public will become convinced that that is the way it ought to be done, and it may very well lead to others.

Mr. SCHWEIKER. Mr. President, will the Senator yield?

Mr. HART. I yield.

Mr. SCHWEIKER. Mr. President, I would like to commend the Senator from Louisiana. I was in the House when his proposal first came up in 1966. We had a whing-ding debate in the House over this concept. I was one of the Republican Members who supported it then. We have come a long way since then. I think the Senator from Louisiana deserves a great deal of credit for his leadership.

I think the significant thing in the bill I have sponsored with the Senator from Minnesota (Mr. MONDALE)—and there are other bills—is that it builds on this base. I do not think we are going to have sentiment for change beyond what we have now if we do not use the concept of the checkoff system and the base that the Senator from Louisiana fathered.

I think the Senator is quite right when he says that his concept would have succeeded this last time if it had been given its rightful place in the income tax return and if it had been made a matter of a simple plus or minus item like every other item in the income tax return, without having to leaf through and fill it out on another paper. So I do not think there was enough good faith in regard to the prospects.

I just want to say that the bill the Senator from Minnesota (Mr. MONDALE) and I are cosponsoring is also supported by common cause. It really builds on the foundation the Senator laid, and extends it to the concept of supplying some of this money for Presidential primaries and really doing the job. We go further in limiting contributions to $3,000 for each person, encouraging $100 deductions and $25 tax credits, and also picking up on the foundation.

I think it is very important to bear in mind that, no matter which bill we adopt—and I might say there are many other good proposals before us—we keep this target in mind—that we run on the course of the foundation the Senator has laid.

I think we should recognize how far we have gone, because I can remember in 1966 when this concept was considered a pretty far-out idea, and the House was rather hostile to the concept at that time. It took a lot of political battling to get it through. It took a long time, but it has finally come of age.

I commend the Senator from California for his interest in getting this discussion going, because I think it shows both sides of the aisle have a strong desire for change. Watergate has brought this about. It has brought about a climate for change and a climate for enlarging the advances we have made.

I think with all of us working together, and also with volunteer groups working together, it will result in taking the initial concept of campaigns so we can get away with special interest financing and special interests inordinately controlling too many of the funds of campaigning.

I would just like to associate myself with the remarks of my colleagues on both sides of the aisle and join in this effort today and say I am delighted to see so much interest on everyone's part in picking up a good idea and carrying it to its ultimate conclusion.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. HART. I yield.

Mr. CLARK. Mr. President, I join in commending the distinguished Senator from Michigan for his years of leadership, and to acknowledge what the last speaker, the distinguished Senator from Pennsylvania (Mr. SCHWEIKER), said about the assistance given by the Senator from Louisiana (Mr. LONG) with regard to leadership in connection with the checkoff system. I certainly wish to thank the Senator from California (Mr. CRANSTON) for his work in providing this discussion.

Mr. President, this is turning out to be quite a week.

As the Senate Select Committee on Presidential Campaign Activities continues its investigation of the most tragic and devastating political scandal in the Nation's history, the Senate itself has taken up new Federal campaign legislation. The opportunity for reform is unprecedented. And so is the need.

In the next few days, we will be talking about S. 372, the Federal Election Campaign Act of 1973. There will be controversy and debate over many of its provisions and amendments. The discussions will be in political terms—campaign spending limits, reporting requirements, individual contribution ceilings.

All of this is very important, but we cannot simply pass this legislation and forget about the political process until the next scandal comes along. The real issue before us today is not spending limits or the equal time provision, the real issue is the quality of government in this country—what it is now, and what it should be. At stake is nothing less than the future of the democratic political process.

Just 2 days ago, an even more telling point was made that offers an even more compelling reason to put some commonsense back into the political process. It came during testimony before the Ervin committee, and although the statement did not get the attention that the President's statement did, we cannot afford to ignore it. Senator JOSEPH MONTOYA was questioning Gordon Strachan, a young man who used to be the assistant to the President's chief of staff. In the wake of that has happened, Senator Montoya wanted to know what advice Strachan might have for other young men, like himself, considering a career in Government. Strachan answered:

> Well it may sound—it may not be the type of advice that you could look back and want to give, but my advice (for other young men) would be to stay away.

I am terribly afraid that unless we move decisively, more and more young people are going to take that advice. And if they do stay away, if they do decide that the political process is simply not worth their effort, what is this country going to be like 50 years from now?

The Constitution lists very few requirements for holding public office in this country. But the unwritten restrictions are staggering. As things stand now, it is virtually impossible to run for public office in this country without being wealthy or seeking the help of people who have wealth to support your campaign. This bill (S. 372), and many of the proposed amendments to it, attempt to limit the abuse in that system by limiting the kinds and the amounts of contributions and expenditures.

I support that kind of reform. There should be limits on individual contributions. There is a desperate need for a truly independent election commission. The campaign reporting requirements should be strengthened, and Congress should remove the "equal time" provision that now prevents televised debate in federal campaigns.

But, Mr. President, however successful we are this week in reforming the campaign laws, we will not have gone far enough. However determined or well-motivated our efforts in drafting sound legislation, there still will be loopholes—and people willing to take advantage of those loopholes. More than any other reason, that is why I support public financing of political campaigns. The present system—if it can be called that—may be beyond reform. The Congress tried to reform it in 1925 with the Corrupt Practices Act. It tried again in 1971 with the Campaign Reform Act. And with each attempt came more abuses. We are trying again this week.

I hope the Senate passes this bill with many of the amendments, but if we do not begin to consider an alternative, all of this "reform" will come to very little. It can never be a substitute for public financing.

This is not a time for half-way measures. Too much is at stake for that. So, I am encouraged by the decision of the distinguished Senator from Rhode Island (Mr. PELL) to hold hearings on public financing in September. The subject of public financing is controversial and complex, but the need for it is overwhelming.

This colloquy and several public financing amendments that have been offered to S. 372 hopefully will focus attention on the concept and lay the groundwork for those hearing. Mr. Gallup already has told us that more than half of the people in this country favor some form of public financing. With all that has happened in the last 12 months, that sentiment is not very surprising.

In the last 15 months, people have seen politics at its worse. It's not a pleasant sight, but that sight alone makes a convincing case for public financing of political campaigns.

Watergate happened in part because a small group of unprincipled men had money to burn—money in safes and suitcases, money that was "laundered" so that no one would know where it came from. Nothing is more corrupting than unlimited money and secrecy, especially in government, and in that regard at least, Watergate was only a symptom of the disease, not the disease itself.

If absolute power corrupts absolutely, uncontrolled money corrupts uncontrollably. The higher the office, the more it costs to win. And the more it costs to win, the more candidates have to rely on big contributors.

In the last election, candidates across the country spent about $400 million altogether. The top 10 contributors to just one campaign, the President's, gave $4 million. There was hardly a single Federal campaign that did not rely to some extent on "big" contributors. Most conformed with the letter of the law. But we are only fooling ourselves if we think that some of those people who wrote out checks for $10,000 and $20,000 dollars at a time and more were doing it solely to improve the quality of government.

Money and politics need not be inseparable. Public financing of political campaigns would go a long way toward ending the dominance of the private dollar in public affairs. The democratic process is too precious to allow it to be influenced by a relatively small number of people with a large number of dollars. The process belongs to all of us, and I think all of us ought to be willing to make a small contribution toward keeping it.

Public financing certainly is not a new or untested concept.

Four Presidents have endorsed the idea. One included the proposal in his state of the Union message—Theodore Roosevelt in 1907. His statement neatly sums up the argument for comprehensive public financing of political campaigns:

> It is well to provide that corporation shall not contribute to Presidential or National campaigns, and furthermore to provide for the publication of both contributions and expenditures. There is, however, always danger in laws of this kind, which from their very nature are difficult of enforcement; the danger being lest they be obeyed only by the honest, and disobeyed by the unscrupulous, so as to act only as a penalty upon honest men. Moreover, no such law would hamper an unscrupulous man of unlimited means from buying his own way into office . . . The need for collecting large campaign funds would vanish if Congress provided an appropriation for the proper and legitimate expenses of each of the great national parties . . . Then the stipulation should be made that no party receiving campaign funds from the treasury should accept more than a fixed amount from any individual subscriber or donor; and the necessary publicity for receipts and expenditures could without difficulty be provided.

More than 50 years later, President Kennedy suggested Federal financing of Presidential campaigns so that candidates no longer would have to go around "with their hats in their hands." Candidates still have to go around with hat in hand, and we have not come very far since 1907.

The concept of public financing is not untried. It has worked and worked well in other countries, and public financing is part of the political process in the Commonwealth of Puerto Rico. In each of these cases, public financing has not been without its problems—and even abuses—but the system has proved far superior to what this country has now. We can learn from the experience of others—and improve upon it.

The public financing proposals that have been offered so far differ in many respects, but they have common goals: to take the special interests out of politics, to open it to everyone regardless of wealth, to restore trust and confidence in the democratic process.

When Senator PELL's Subcommittee on Privileges and Elections takes up the question of public financing, it will have to address itself to a number of complex subjects. They are worth going into briefly today—both to give an idea of what the legislation involves and what it can do.

Which Federal offices should be covered by public financing? Some people feel that it should apply only to the Presidential election, or only to congressional elections. But in this respect, the legislation must be comprehensive. It ought to cover all Federal elected offices. In the past, corruption and scandal have recognized no differences between congressional and Presidential elections—neither should a campaign financing bill designed to correct those abuses.

Which Federal elections and campaigns should be included? Under some proposals, only the general election is included. Others take in both the general and the primary, and that would seem to be the far better course. In many congressional districts, the election is settled in the primary—the general election is only a formality. In Presidential campaigns, where primaries have become indispensable to nomination, the need for regulation and public financing is no less urgent.

Half a reform is no reform at all. It does little good to try to prevent abuse in the general election if it continues unabated in a primary. People will still wonder where the money is coming from.

Should private contributions be permitted? They should be, because of the constitutional problems that would result from an outright prohibition. It is essential that the maximum amount of individual contributions be limited to prevent the contribution from becoming, in effect, little more than a political bribe. Public financing can permit private financial support without permitting that support to alter the entire political process.

Should there be a limit on over-all spending? Some have suggested that the best approach is to have no ceiling, to provide a bloc grant from public funds and let candidates spend as much additional money as they can raise from limited private contributions. A better philosophy might be to set maximum campaign spending limits, high enough not to cripple the chances of challengers, and allow the candidate to use a set combination of public funds and private donations to meet it.

Should a distinction be made between major and minor parties? There does not seem to be much dispute on this question, but there is disagreement on the best way to insure minor parties and candidates access to the political process. They could be given a flat percentage of the amount given to the major parties—with a bonus given for performance in the last election, or retroactively, for performance in the election in question.

Who will pay for public financing of political campaigns? The taxpayer will pay for it, but the cost will be small, and by any standard, the return on the investment will be large. In the last election, candidates for Federal office spent about $200 million altogether. Split that up among the Nation's taxpayers, and it comes to a few dollars apiece. That averages a dollar a citizen. That is a small price for us to pay to recover the political process.

Should there be an independent election commission? Once again, the debate on this question will not be over the commission itself but over the powers it is to have. Anything less than total investigatory authority would cripple the impact of the legislation. However its constituted, the commission must be totally independent of political pressure and poliical motivation to manipulate the law to advantage of one or another party or candidate.

What can be done about "frivolous" candidates who want access to public funds?

Requiring a security deposit is one suggestion. Without this kind of requirement, there no doubt would be "frivolous" candidates bent more on exposure than on election.

Any such deposit would have to be raised by public contributions, again limited in individual amounts, that would demonstrate some public support for the candidate.

In any discussion of public financing of political campaigns, the Senate will have to struggle with these questions and many more. Should straight cash contributions be restricted or should they be prohibited entirely? How will candidates have to account for the use of public funds? Even with public financing, should media expenditures be limited?

It will take time and study to answer these critical questions on the aspects of any public financing proposal. That is why Senator PELL's hearings are so important. But, on one point at least, there should be no dispute: Any public financing plan must be thorough, complete, and comprehensive. We have passed the time for halfway solutions.

Mr. President, I shall take a moment for a personal note. Although this is my first year in the U.S. Senate, I have been actively involved in Government for more than 10 years. I have taken a hand in congressional campaigns and Presidential campaigns—primaries and general elections, as a campaign manager, and as a candidate. This country's democratic process means a great deal to me as it does to all of us. I have seen both its strengths and weaknesses, felt its pressures and demands and, throughout, I have always felt that politics is an honorable profession. Nothing has changed that.

But the people's perception of Government and public officials has changed. Simply put, they do not trust the men and women they elect to office. They do not have confidence that the only interest of public officials is the public interest. Time and time again, I have heard that sentiment expressed by people across Iowa, and I know it is shared by people across the country. Congress has no greater challenge than to find ways to restore that confidence. And public financing of political campaigns holds one of the keys.

Long before today, people in this country recognized the problem of corruption in the political system. Lincoln Steffens, a man who spent years exposing it, talked about the problem in his autobiography. He was at a meeting in Los Angeles and the subject was the influence of business on politics. Steffens recalled one conversation with an Episcopal bishop there. The bishop asked him, "Who founded this system, who started it, not only in San Francisco and Los Angeles, in this or the last generation, but back, way back in the beginning?"

Steffens described his reply to the minister:

> "Oh, I think I see," I said, "You want to fix the fault at the very start of things. Maybe we can, Bishop. Most people, you know, say it was Adam. But Adam, you remember, he said that it was Eve, the woman; she did it. And Eve said no, no, it wasn't she, it was the serpent. And that's where you clergy have stuck ever since. You blame that serpent, Satan. Now I come and I am trying to show you that it was, it is, the apple."

It is not the men and women who run for public office. It is not even the money alone, because money always will be necessary for political campaigns. It is the apple—the process which forces candidates to give away too much of themselves, to get the money, to get elected.

I think we can replace the apple with something a bit more appetizing—public financing. The next Presidential election is in 1976, and if we are truly successful, it just may be the first truly honest election for the Presidency and all of the other Federal offices that this country has had in years.

Mr. President, I ask unanimous consent to print in the RECORD a selection of articles on the public financing of political campaigns.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 20, 1973]

DELAYING CAMPAIGN REFORM

(By Clayton Fritchey)

In the light of Watergate's sordid revelations about the degradation of the electoral process, it might be thought that Congress would have made swift and radical reform of campaign financing its first order of business this year. Unfortunately, that's not the way it is working out.

Here it is, well into July, and nothing of this nature has yet reached the floor of the House or Senate. Moreover, the Senate bill that will finally come to the floor in a week or two is a pale reflection of the kind of legislation that members were talking so bravely about eariler in the year.

Some good men in both parties have tried to arouse their colleagues. Sen. Edward Kennedy (D-Mass.) told the Senate Rules and Administration Committee that "of all the lessons of Watergate perhaps the one that is most obvious today is the lesson that money is a vastly corrosive power in American politics."

The same committee was told by Maryland's respected Republican senator, Charles McC. Mathias, and Sen. Adlai Stevenson III (D-Ill.) that the only sure way of purifying the U.S. electoral system is the public financing of political campaigns. They have since introduced legislation to that end.

Mr. Nixon, however, suggested something that seems more palatable. He urged Congress to create a study commission to review campaign practices and to put off tightening the Federal Election Act of 1971 until the study was completed, presumably next year sometime. Although the Democratic chairman of the Senate Rules Committee hooted at this "delaying action," his committee has so far generated few notable reforms of its own.

The rules committee, in fact, proposes to weaken the 1971 campaign law in at least two respects. On the plus side, its bill limits individual contributions ($100,000 a year), establishes an independent body to prosecute campaign law violations and centralizes financial accountability.

While some of these proposals are better than nothing, they are no substitute for public financing of presidential and congressional campaigns, which would restore political control to the people and take it away from big business and big labor and from the super-rich and countless pressure groups who now exert so much influence over public officials.

"The distinction between a campaign contribution and a bribe is almost a hairline's difference," says Sen. Russell Long (D-La.), chairman of the Senate Finance Committee. Such contributions, he adds, "can be viewed as monetary bread cast upon the waters to be returned a thousand fold."

Sen. Philip Hart (D-Mich.), one of the most respected men in Congress says, "Wouldn't it be great if you didn't have to take a single dime from any human being?" And wouldn't it be even greater if the public could be sure that its representatives owed their first allegiance to their constituents?

The politicians pretend to worry about the expense of public financing, but it is trifling. The annual cost of subsidizing all federal elections, including the run for the presidency, would be about 25 cents per person. Every opinion poll shows that a great majority of Americans would gladly bear this infinitesimal burden.

So why the foot-dragging, the stalling, the passive resistance which has defeated every effort to get public financing? Largely, it can be traced to the incumbents, especially the entrenched senior members of the House and Senate who simply cannot tolerate the idea of the government "encouraging" opposition to them through public campaign support.

It must be remembered that many, if not most, of the powerful committee chairmen who dominate Congress come from one-party states or districts. Once in office, some have had a free ride for the rest of their long lives. Until recently, some have not even had serious opposition in the primaries, let alone the general elections. All this, of course, would change overnight if potential opponents could be assured of adequate public campaign support.

At the presidential level, campaign financing at the taxpayers' expense would seem to be a nonpartisan problem. In practice, however, the Republicans, as 1972 proved, can easily raise many more millions than the Democrats. Thus, even with Watergate, it is not going to be easy to establish public campaign financing unless the people of the United States put the heat on their senators and representatives.

[From the New York Times, June 22, 1973]

MONEY YES, ETHICS NO

(By Tom Wicker)

In this space on June 8, a favorable report appeared on a bill to finance Federal elections partially with Federal funds. A modest note from Senator Charles Mathias, Republican of Maryland, to whom authorship of the bill was attributed, states that Senator Adlai Stevenson, Democrat of Illinois, is in fact primarily responsible for developing the measure, of which Mr. Mathias is a cosponsor.

But who ever wrote the bill, it or something like it is the first and most obvious need arising from the Watergate disclosures. Aside from the deeper causes of the Watergate activities in 1972, and regardless of who was or was not responsible, it seems quite clear that they were possible only because of the huge amounts secretly contributed by businessmen and others apparently fearful that a McGovern victory would have deprived them of needed and none-too-scrupulous friends in the Administration.

In fact, it now begins to appear that there is considerable cause for investigation of Republican fund-raising and spending aside from the bags full of greenbacks that went to Gordon Liddy and the other convicted conspirators. There was, of course, the dirty linen of the so-called "Mexican laundering" operation that Maurice Stans tried so hard to explain to the Ervin committee; and as far back as the year before the campaign, the dairy industry was pouring in hundreds of thousands of dollars while the Nixon Administration was reversing its ground and raising milk support prices.

All the Administration's involvements with I.T.T., including the famous $400,000 of the Dita Beard memo, have yet to be sorted out, much less "laundered." Mr. Stans and former Attorney General Mitchell are under indictment, and a chairman of the Securities and Exchange Commission has resigned, because of the irregularities surrounding $200,000 in cash delivered in a brown suitcase to the Committee for the Re-Election of the President by Robert L. Vesco, the fugitive financier.

The inadequacies of existing laws are well illustrated by the fact that when C.R.E.P. was found guilty on three counts of mishandling this gift—which even C.R.E.P. ultimately found too smelly to keep—the committee could be fined only $1,000 on each count. Forfeiting $3,000 after receiving $200,000 is a pretty good exchange in anybody's league.

Now the Cox inquiry is ordering a special investiation into whether or not methods of extortion were used by Republican fund-raisers in 1972, with corporations having legal problems with the Government as special targets. This investigation also will look into allegations that some big Republican contributors were forced to hand over their gifts in cash, rather than by check—a practice that clearly ought to be illegal, and which ought to have aroused the suspicions of the contributors and of honest members of the campaign committee who might have learned of it.

There seems to be no end to the suggestions of shady practices having to do with 1972 Republican campaign funds. What was John W. Dean 3d doing with $14,000 in cash from these funds last fall, and by what stretch of ethical practice could he or anyone justify his "borrowing" $4,000 to pay for his own honeymoon, whether or not he later repaid it?

How could a certified public accountant like Maurice Stans justify even to himself his having had a $55,000 cash fund in lieu of an official salary from C.R.E.P., or his willingness to turn over more thousands of contributors' cash to Herbert Kalmbach for unstated purposes, and with only Mr. Kalmbach's verbal assurance that the White House had authorized the transaction?

These are not dealings of men much concerned with the kind of niceties for which the law and the Internal Revenue Service hold the rest of us accountable.

Until Mr. Dean's honeymoon financing came to light, it had been generally supposed that whatever else Watergate represented, it was not the ordinary kind of graft scandal so frequent in American politics. But maybe it was after all; it is easy to believe that with so much cash lying around and so little strict accounting in evidence, somebody's pockets besides Gordon Liddy's might have been lined.

The Senate investigators now are turning to the question of the possible misuse of campaign funds in more traditional ways than paying off, and hiring lawyers for, the Watergate burglars; no wonder, when it has come to light also that Fred LaRue, once a special assistant to John Mitchell, rented his apartment to a businessman for whom he interceded with the Department of Agriculture, and that Mr. LaRue and Mr. Mitchell, while the latter was Attorney General, accepted rides on the same businessman's private plane.

All too plainly, and whatever laws may or may not have been broken, the sense of ethics of too many highly placed men in the Nixon Administration was sadly lacking. That fact, combined with too much money too eagerly given by too many complaint people, made Watergate and the coverup possible, and the need for drastic change in election financing evident.

[From the Washington Post, May 5, 1973]

Public Financing of Campaigns: A Deterrent to Corruption

(By Clayton Fritchey)

Now is the time for all good men, Democrats and Republicans alike, to come to the aid of their parties—by enacting a campaign financing bill that will make it impossible for there ever to be another Watergate case.

Now, while the scandal of Mr. Nixon's multimillion dollar slush fund is fresh and vivid in the public eye, it is the right moment for the reformers in Congress to move, Who, at this point, would dare to vote against a true cleanup of campaign financing? Not even Mr. Nixon would dare veto it.

Several seemingly worthwhile steps were taken last year by Congress to establish stronger barriers against the corruption and subversion of the electoral process, but, as it is all too horribly plain to see, the Nixon forces had no difficulty in circumventing and debasing the Federal Election Campaign Act passed with such high hopes in 1971.

The lesson of the great expose now going on is that the new act simply doesn't work in practice, even though a special agency was created to implement it. This agency and the General Accounting Office have performed conscientiously.

They have uncovered numerous serious violations, and referred them to the Justice Department for prosecution. But what good is this if Justice, being Mr. Nixon's creature, refuses, as it has, to prosecute vigorously? All it has done so far is accuse the Nixon finance committee of a few derelections, but no individuals have been charged or prosecuted. The administration has made a travesty of the reform act.

Although the statute was supposed to make everything aboveboard, the Nixon team succeeded in creating a record secret slush fund, exceeding $10 million, the full ramifications of which are still not known.

We do know, however, that all kinds of vested and predatory interests were involved. We know the money was "laundered" by slight-of-hand international transfers, by moving it around in suitcases containing hundreds of thousands of dollars in $100 bills, by illegally failing to report it and by using the hidden cash to finance Watergate and other criminal actions.

As the American people can now see, the end of this path is the utter degradation of their government. There is only one certain way of stopping it, and that is for the taxpayers, through outright congressional appropriations, to take over the privilege (the word is used advisedly) of financing all candidates for President, Senate and House. In the process, private contributions should be outlawed.

The cost to the public would be about 50 cents per person. Surely the country is worth that. Every public opinion poll shows how much Americans are concerned over the present way of financing political campaigns. In the final analysis, what is the distinction between a campaign contribution and a bribe? Even the courts have trouble defining the difference.

Year after year, Congress holds hearings on campaign reforms, but in the end it always shrinks from the ultimate step of putting the responsibility squarely on the taxpayers, where it belongs. Last year, it experimented with what looked like a promising alternative—the $1 checkoff plan—but that, too, like the new anticorruption law, has been a disappointment. There is no more realistic politician on Capitol Hill than Sen. Russell Long (D–La.), chairman of the Senate Finance Committee. Foreseeing the loopholes in the 1971 reform act, he proposed public financing of last year's presidential race by letting Americans check off $1 on their income taxes to be used for campaign expenses.

It was estimated that this would provide $20 million each for the major presidential candidates, and substantial sums for minority ones.

This was not acceptable to Mr. Nixon, who rightly figured he could raise two or three times that amount from his wealthy backers.

The bill was finally passed only by postponing its effective date to 1976. Since then, Mr. Nixon's Internal Revenue Service has sabotaged the plan by excluding the checkoff from the regular income-tax form, and making the separate form hard to get. The upshot is that the checkoff is not working.

So it's time for Congress to go back to the drawing board. Complicated checkoffs and tax credits are not going to do the job. The answer is simple, straightforward appropriation of whatever amount is needed to finance federal campaigns. At the maximum, this would be less than one-tenth of 1 per cent of what Vietnam cost.

Mr. HART. Mr. President, so in a very real sense, from whom a politician raises funds during an election campaign can determine a good part of his agenda during his term.

It should not be surprising then that Congress spends more time dealing with the Penn Central, Lockheed, or Coca-Cola than with trying to feed hungry children. And the public's skepticism about disproportionate access, of course, is not the only evil seen in private financing. We all know that many believe a Senator's votes themselves are determined too often by his need to raise a campaign kitty. We like to think we vote our consciences. But if one person in my State does not believe it for a second and is convinced my vote on a key issue turned on my source of campaign funds, then public faith and confidence in our political process is diminished.

Multiply that man by hundreds of thousands of Americans, and we have a good picture of the task we face to restore public confidence.

If my view is correct, we are left with a choice between trying to sell the public that public financing of election campaigns is a healthy investment in a democracy or trying to convince the hungry they would do better if they did more of their eating at $100-a-plate fundraisers.

The first hurdle, then, to any form of meaningful public financing is to convince the public that this is not merely a new raid on the Treasury by greedy officeholders but is, in fact, about as wise an investment as the electorate in a democracy can make.

Congress annually disposes of a Federal budget in the hundreds of billions of dollars and takes action with tremendous impact on a trillion-dollar economy, not to mention the impact of our actions on the incalculable values of health, safety, and liberty. Surely in that context, public campaign subsidies would be a growth stock investment for everyone.

An equally fundamental question, whether in a democracy the ability to raise money should be a prerequisite for running for public office.

Does the ability to raise money really reflect how well a candidate will perform his public duties?

Should the public's choice of candidates be limited to those who can secure private financial backing?

The answer to both questions must be no.

It is time we recognized that when a politician's success depends on a combination of dollars and votes, the Nation is less democratic than if victory depended on votes alone.

For these reasons then, I introduced in March a bill to provide adequate public financing of Senate and House election campaigns.

Admittedly, it is much easier to embrace this concept with rhetoric than to reduce it to legislative language.

There are many difficult problems to be answered—how to screen out frivolous candidates who seek only free publicity, whether to allow any private giving at all, whether to include primary as well as general elections, and what to do about minor parties.

In drawing up my bill I introduced, S. 1103, several policy choices were made. Whether others would agree with my resolution of these issues they require careful study and deliberation before we can put forth a public finance bill which would best serve the interests of the electorate.

First. First, my bill accepts the premise that unless public financing is available for both primary and general elections, it will not be possible fully to free candidates from the need to raise large sums of money. I would be hard pressed to explain to a constituent why I was voting millions of dollars of public moneys for campaign subsidies—on the ground that this would prevent undue influence on politicians—if the plan only extended to the general elections. For candidates would still be faced with the prospect of significant obligation to big contributors in order to win their party's nomination in the first place.

Second. Once the decision is reached to cover primaries, then one must wrestle with the admittedly complex problem of screening out frivolous candidates without making it unduly difficult for a legitimate candidate to qualify for public funds. Under my proposal candidates must file a security deposit and if they fail to receive a certain percentage of the vote it is forfeited. Others have offered proposals for alternative screening mechanisms. All of these approaches should be carefully weighed.

Third. Candidates may not wish to gamble on receiving the required number of votes. Under my bill they are free to run a campaign financed entirely by private money, subject to whatever restriction on expenditures or contributions are imposed by other Federal laws in force at that time.

Others have suggested that public financing should be mandatory for all candidates. This too is a policy choice which should be evaluated carefully by the Senate.

Fourth. My bill is designed to provide a subsidy adequate to run a campaign without any private financing at all. But in order to permit some play for private participation in the campaign finance process, it would allow subsidized candidates if they choose to raise a supplement amount of funds in carefully controlled amounts.

There are some proponents of public finance who would offer only a floor subsidy, with the intent that it not necessarily be adequate in itself to run an effective campaign.

On the other side, some would prohibit a subsidized major party candidate from raising any private funds—except for a marginal amount to pay for startup costs of qualifying for the subsidy. They would permit minor party candidates to raise private funds in order to offset the large subsidy received by major party candidates. This is another major issue which should be explored thoroughly in hearings.

Fifth. My proposal covers only congressional elections. Others have introduced proposals dealing with the Presidential race, and some have offered comprehensive proposals dealing with both.

In light of the public concern about abuses of private financing in connection with the 1972 Presidential contest, it may well be desirable to report a comprehensive bill, rather than dealing first only with Congress.

Mr. President, since I introduced S. 1103, several groups have begun a wide-ranging effort to make public financing of Federal elections a reality. Common Cause has contributed importantly in many ways—both through public education and through legislative analysis and communication to Members of Congress by their own experts.

I am pleased to report the organization of a new group, the Center for Public Financing of Elections, dedicated specifically to the goal of public financing of campaigns.

I am also pleased to note a number of my colleagues who have joined me as cosponsors of S. 1103 and ask that they be added to the bill at its next printing.

The cosponsors are:

The Senator from South Dakota (Mr. ABOUREZK), the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Iowa (Mr. CLARK), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Montana (Mr. MANSFIELD), the Senator from Maryland (Mr. MATHIAS), the Senator from South Dakota (Mr. McGOVERN), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), and the Senator from California (Mr. TUNNEY).

For a full explanation of the bill, I ask unanimous consent that a summary of the proposal be printed at this point in the RECORD as if read.

I also ask unanimous consent that an excellent analysis of some of the constitutional questions raised by limitations on expenditures and contributions in Federal election campaigns be printed in the RECORD at this point. It was prepared by the campaign reform staff at Common Cause.

In addition, Prof. Albert Rosenthal, of Columbia Law School, one of the country's leading scholars on the constitutional issues of campaign finance reform, has examined and endorsed S. 1103—at least in its basic approach and operation. I ask consent that his letter be printed also.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXHIBIT 2

CONGRESSIONAL ELECTION FINANCE ACT OF 1972—SUMMARY OF THE ACT

I. BASIC APPROACH

The major purpose is to permit "serious" candidates for Senator or Representative to run without reliance on private contributions, if they so desire.

It is also hoped that, over time, the very fact that one candidate runs on public money while his opponents is running on large private contributions will itself become a campaign issue. There should be gradually increasing pressure for candidates to take the public-funding route.

A secondary goal is to show that campaign expenditures have spiraled out of hand; to demonstrate that informative, effective campaigns can be run for less than is often spent today.

Also, while the subsidy is intended to be adequate for a thrifty campaign, some play is given to controlled private financing. For major party candidates this would amount to only one-fifth of their total allowable expenditures. The size of the contributions would be strictly limited. This "hybrid" approach leaves room for the positive political involvement of fund raising. It also eases the problem of giving minor party candidates smaller subsidies. The minor party candidate can be permitted to offset this difference by raising more private funds in such amounts that the total expenditures permitted both minor and major party candidates remains equal. Here, the Act demonstrates a way of eliminating the danger or appearance of undue influence by limiting the amount of individual contributions.

II. OPERATION

The Act would operate as follows:

1. A separate fund is established in the Treasury and a Board is created to administer the Act and to dispense subsidies. It would be a seven-member, bipartisan one, with staggered terms.

2. The Board is given general powers to develop reporting methods and implement the Act with more detailed regulations. *To the greatest extent possible,* the Board is to utilize the reporting, filing and accounting procedures and the information required by the 1971 Campaign Reform Act, in order to eliminate duplication and minimize paper work.

3. The Board has subpoena power, can conduct investigations of possible violations and can seek court injunctive relief. A candidate aggrieved by Board action can seek a prompt hearing and Court review.

4. Candidates "qualify" for subsidies by filing a sworn undertaking to comply with the Act and to pay a penalty if they fail to win 10% of the vote in the election for which the subsidy is received—that is, 10% of all the votes in their party's primary if it is a primary subsidy, and 10% of the vote for all candidates, if they receive a subsidy for the general election. If they fail to win even 5% they are liable to repay the full subsidy. These two provisions would deter frivolous or crank candidates without substantial support.

Second, they file a security deposit which is forfeitable for the payment of this penalty. This security deposit is in the amount of one-fifth of the subsidy they are eligible to receive, with a minimum of $3,000. (See No. 8 for limitations on how this deposit can be raised). However, a successful primary winner can roll over his security and use it for his security in the general election without increasing the amount, even though the general election subsidy is somewhat larger.

Third, they submit proof they have qualified for the ballot under state law.

Fourth, they supply information on contributions and expenditures in connection with their candidacy made prior to that date. Expenditures made in the 18-month period preceding the date of the general election, or before then for goods or services used in that period, and contributions used or still available for such expenditures are covered. This provides a cut-off for determining how far back, before he files, a candidate's private expenditures and contributions will be counted in applying the contribution limits and included in his overall spending limits.[1]

5. The Board notifies eligible candidates. It deposits subsidy installments monthly in a separate account which candidates must set up. The Board may pay the money in uneven amounts upon a reasonable showing by the candidate for such request.

6. The candidate must open a single Campaign Account for the deposit of the subsidy and of all private monies raised. The Board is given periodic reports on all deposits and withdrawals including the source and amount of each contribution. Withdrawals can only be made by the candidate or any of up to three individuals he designates, who also share legal responsibility with him for compliance with all provisions of the Act.

7. For calculating subsidies, the Act recognizes three categories of candidates: "major party," "minor party" and all others.

In Senate races, major party candidates get a subsidy of 10¢ per capita (voting age population) in the primary and 15¢ in the general election. In addition they may raise privately 2¢ per capita for the primary and 3¢ for the general election.

In Michigan, that primary subsidy would amount to $587,500; total primary expenditure would be limited to $705,000. In the general election the subsidy would be $880,000; the total expenditure permitted would be $1,050,250.

For House races, the subsidy would be 14¢ per capita in the primary and 20¢ per capita in the general election. In addition, candidates could raise 3¢ per capita for the primary and 5¢ per capita for the general election.

In a "typical" District (with 300,000 voting age population) this would mean a subsidy of $42,000 in the primary with total expenditure of $51,000. In the general election, the subsidy would be $60,000; and the total expenditure permitted would be $75,00.

N.B. *Any* candidate who qualifies to run in the primary of a major party is entitled to these levels of subsidy in the primary.

Footnotes at end of article.

8. The statute makes explicit that the total expenditures a candidate makes in connection with his campaign may not exceed the sum of (a) the subsidy for which he is eligible, and (b) the amount of private funds he is permitted to raise.

9. The following limitations are placed on the amount of any individual contribution or independent activity undertaken to influence the outcome of an election:

A. A "person" includes any individual, corporation, partnership, or association, etc. Its definition would include unions.

B. "Contribution" is broadly defined *to include* (1) any gift, loan or guarantee of money or anything of value, (2) payment of compensation for personal services which are rendered to the candidate or payment for goods used by the candidate, (3) furnishing goods or services without charge or at less than the usual rate, or (4) expenditures made in any other activity undertaken independently of the candidate's campaign to promote his candidacy or oppose other candidates. The definition of "contribution *does not* include: (1) personal services provided without compensation by individual volunteers, (2) internal communications by an organization solely[2] to its membership and their families, (3) communications to the general public by an organization which is solely an issue-oriented group, where the communication neither endorses nor opposes particular candidates, and (4) normal billing credit not exceeding 30 days.

C. For purposes of the limit imposed on the amount of contribution from any single source, all contributions—and also the candidate's use of his own and his immediate family personal resources—are treated the same. No "person," whether an individual or organization can contribute in any way, and no candidate or his agent can accept amounts which, in the aggregate exceed $250. Contributions made for use in posting the security deposit, for use in the primary or the general election campaign, and "contributions" in the form of expenditures undertaken independently of the candidate's campaign are cumulative. No person can give, in any of these forms combined, more than $250 to a candidate.

D. Similarly, a candidate's own resources and those of his immediate family cannot in the aggregate (that is, combining amounts from the candidate's own funds, from his children or a sibling, etc.) exceed $250 for his primary and general election campaigns combined. However, he is allowed to use an additional $250 for the security deposit.

E. However, for purposes of the limit on the total private funding, a candidate may use, two types of contributions are not counted. First, the amount posted for security—since it cannot be used in the campaign—is not included.

Second, "contributions" in the form of expenditures for independent activity on behalf of a candidate (as opposed to resources in some form or other put at the campaign's disposal) which are not undertaken at the suggestion or request of the candidate are also excluded. (Although as just noted above, they *are* covered by the limit on individual contributions, and for that purpose are cumulative with amounts turned over to the campaign.)

There is an anti-pooling provision, so that an organization which itself is limited to $250 worth of independent activity, could not also arrange for all its members to expend the $300 permitted each of them for independent activity as a fractional payment of say, an expensive broadcast. To permit that would, in effect, permit the organization to swing the same clout as if it had collected voluntary payments and then purchased a $60,000 spot advertisement as its own independent activity.[3]

10. In addition to limitations on private individuals and organizations, there is a special provision for fund-raising by political parties. In their case, the premise is that because they are a part of the essential political process itself, they may serve as a pooling mechanism for private resources without our worrying about their having undue influence on their party's candidate. This provision is limited to campaign assistance in the general election only. National and state party committees must each set up a single bank account for this purpose, which shall be audited by the Board, as are the candidates' campaign accounts. No funds can be transferred to it from general party coffers. The party may only deposit in this account contributions from individuals or other organizations in an amount not exceeding $100 per person or organization. From this account the national or state level party committee may, in their discretion, contribute to their nominees for the House or Senate in varying amounts for each, up to the total of private funds each candidate is permitted to use in that election. Such funds are included in his over-all expenditures.[4]

In other words, in the case of parties, the limit is put on the intake side; no one can contribute more than $250 to these special party Congressional campaign accounts. Hence, they cannot be used as a funnel for a wealthy individual nor can the contributions be earmarked for a particular candidate. On the other end, the party can give the candidate more than the individual contribution limits placed on direct givers. Senator Hart could get the entire $200,000 permitted him in private funds from the Michigan or National Democratic parties. In the case of other organizations, this bill imposes no limit on the amount which members may give to the organization's political fund, but that organization, in turn, may only make the amount of contribution to a candidate permitted any individual contributor.

11. A "major party" candidate is one whose party won 25% of the vote in a "determining" election (the election used by the Act for the party's track record).

12. A minor party is one which won between 10% and 25% of the vote in any "determining" election. A minor party candidate is entitled to a minimum subsidy of one-fifth the subsidy given a major party candidate. He can receive a greater subsidy based on the ratio of the vote his party received in the last general election for that office to the votes received by the major party candidate with the lowest vote in that election.

13. Any candidate not qualifying as either a major or a minor party candidate would receive a minimum subsidy equal to 1/10th of the subsidy given a major party candidate. He too could receive a greater amount based on a ratio of his party's vote in the last general election for that office to the votes obtained by the major party candidate with the lowest vote in that general election.

14. However, the difference in the subsidy given to major party candidates and other candidates is mitigated by three provisions:

First, minor party candidates may raise proportionately more private funds, as indicated above, so that the total resources each may expend remains equal.

Second, if the minor party candidate's showing in the election in question is of major party proportions—25% of the vote—then he is entitled to a post-election supplement increasing his subsidy after-the-fact to the extent he has outstanding campaign debts.

Third, the candidate can invoke any one of several "determining elections" to establish major party status. A House candidate could rely upon whichever was his party's best showing among the last House race in that District, or the statewide vote in the last gubernatorial campaign or the nationwide vote in the last presidential campaign. A Senate candidate could use either of the last two.

14. Participation is all or nothing. If someone receives subsidies in a primary, he must remain under the Act and is limited in the amount of private funds he can use in the general election. Conversely, if he has operated outside of this Act in the primary, he is ineligible for subsidies in the general election.

15. There are various safeguards to promote compliance. Prior to receiving his second and subsequent subsidy installments, the candidate must make available to the Board an account of his contributions and expenditures since the previous report. (But remember the Board shall utilize, to the extent possible, information in the form supplied under the 1971 Act). In addition, the Board requires keeping records available and does a complete audit of each candidate's campaign financing after the election. Punishment for violation in four instances—willful violation of the expenditure or the contribution limits, willful misuse of subsidy funds, or willful falsification of information—can be a fine up to the full amount of the subsidy received and up to five years in jail. Other violations could receive a fine not to exceed $10,000 and a jail sentence of no more than three years.

FOOTNOTES

[1] For a November, 1974 election, the period runs back to May 6, 1973. If a Senate candidate files for subsidies on January, 1974, he lists expenditures made since May 6, 1973, or more before then for goods or services to be used in connection with the campaign after May 6. He also must list contributions made since May 6, 1973, and contributions made before then which were used or are still available for such expenditures.

[2] A broadcast to the general public put on or paid for by a business organization or union would not be exempt.

[3] The bill was prepared with First Amendment consideration in mind. Nonetheless, to prohibit a direct contribution for a $60,000 T.V. spot because of the danger of undue influence, but then to permit the supporter to decide on its own to purchase the time and put no such an ad is to exalt form over substance. Putting limits on the amount of independent activity anyone may undertake, but not including that expenditure in the candidate's limit on private financing in his campaign seems the best compromise to meet competing considerations. It controls the influence of any group or person. It avoids the dilemma of either giving the candidate a veto power over such independent activity (as is the case under the current election law) or putting the candidate at the mercy of whomever carries on such independent activity, even if he would rather use the amount of private financing he is permitted in other ways. Thus, it preserves to everyone some right of political expression which they can undertake independently, regardless of whether the candidate has already used the amount of private funds he is permitted and regardless of whether the expression they wish to make on the candidate's behalf "fits in" with his campaign plans.

[4] All of these provisions apply only to party financing of candidates subsidized under this bill.

EXHIBIT 4

AMOUNTS AVAILABLE TO SENATE CANDIDATES UNDER CEFA[1]

	Primary		General election	
State	Primary subsidy (10 cents)	Total primary expenditures (12 cents)	General election subsidy (15 cents)	Total general election expenditures (18 cents)
Alabama	227,000	273,000	341,000	409,000
Alaska	20,000	24,000	30,000	36,000
Arizona	124,000	149,000	186,000	223,000
Arkansas	131,000	157,000	197,000	236,000
California	1,400,000	1,680,000	2,100,000	2,500,000
Colorado	156,000	187,000	234,000	280,000
Connecticut	211,000	253,000	316,000	379,000
Delaware	37,000	45,009	56,000	67,000
District of Columbia	52,000	62,000	78,000	93,000
Florida	511,000	613,000	756,000	919,000
Georgia	310,000	372,000	466,000	595,000
Hawaii	53,000	64,000	80,000	96,000
Idaho	48,000	57,000	72,000	86,000
Illinois	755,000	906,000	1,132,000	1,350,000
Indiana	360,000	421,000	526,000	632,000
Iowa	190,000	229,000	285,000	342,000
Kansas	154,000	185,000	231,000	277,000
Kentucky	221,000	265,000	331,000	397,000
Louisiana	234,000	281,000	351,000	421,000
Maine	67,000	80,000	99,000	120,000
Maryland	269,000	323,000	403,000	484,000
Massachusetts	396,000	475,000	593,000	712,000
Michigan	588,000	705,000	880,000	1,050,000
Minnesota	256,000	307,000	384,000	461,000
Mississippi	140,000	168,000	210,000	253,000
Missouri	327,000	392,000	490,000	588,000
Montana	46,000	55,000	69,000	83,000
Nebraska	102,000	123,000	153,000	184,000
Nevada	35,000	42,000	52,000	63,000
New Hampshire	52,000	63,000	78,000	94,000
New Jersey	503,000	603,000	754,000	905,000
New Mexico	64,000	76,000	95,000	114,000
New York	1,280,000	1,536,000	1,920,000	2,304,000
North Carolina	346,000	416,000	519,000	623,000
North Dakota	40,000	48,000	60,000	72,000
Ohio	719,000	862,000	1,078,000	1,293,000
Oklahoma	181,000	217,000	272,000	326,000
Oregon	150,000	180,000	225,000	270,000
Pennsylvania	816,000	979,000	1,244,000	1,469,000
Rhode Island	67,000	81,000	101,000	121,000
South Carolina	171,000	205,000	256,000	307,000
South Dakota	43,000	52,000	65,000	78,000
Tennessee	271,000	326,000	407,000	488,000
Texas	786,000	922,000	1,152,000	1,383,000
Utah	69,000	83,000	103,000	124,000
Vermont	31,000	37,000	46,000	56,000
Virginia	320,000	384,000	480,000	575,000
Washington	237,000	285,000	356,000	427,000
West Virginia	118,000	142,000	177,000	213,000
Wisconsin	296,000	355,000	443,000	532,000
Wyoming	23,000	27,000	34,000	41,000

[1] Every candidate would be eligible to receive a minimum of $75,000 in the primary and $150,000 in the general election, as subsidy from the fund. In addition, every candidate would be eligible to raise a minimum of $25,000 in private funds in the primary and $50,000 in the general election. Thus, regardless of the figures on the above chart every candidate would have available at least $100,000 to spend in the primary and $200,000 to spend in the general election, whatever the size of his State.

COMMON CAUSE MEMORANDUM ON THE CONSTITUTIONALITY OF CONTRIBUTION AND EXPENDITURE LIMITATIONS

Until the enactment of the Federal Election Campaign Act of 1971, federal law had contained contribution and expenditure limitations for approximately 60 years, and 29 states now have some form of these ceilings in their corrupt practices acts.[1] These laws had as their primary function the dual goals of (1) reducing the corrupting influence of large campaign contributions and (2) reducing the costs of campaigns thus reducing the pressures to secretly evade the limit on contributions.

Enactment of contribution and expenditure ceilings poses a number of constitutional questions, relating primarily to the possible infringement of the First Amendment's freedom-of-speech and freedom-of-association guarantees.[2] Due to virtual nonenforcement in the past of laws containing contribution and spending ceilings, there is no federal case ruling indirectly on the constitutionality of such limits, and there is only one state case construing the validity of such ceilings, *State v. Kohler*, 200 Wis. 518, 228 N.W. 895 (1930), in which the Wisconsin Supreme Court upheld against constitutional attack a statute limiting the amount which might be spent by candidates and their personal campaign committees.[3] Although these constitutional questions merit serious discussion and careful analysis, we believe that contribution and expenditure limits clearly pass constitutional muster under existing precedents.

In fact, ceilings on contributions and expenditures foster and protect the exercise of First Amendment freedoms in three ways: (1) they protect the rights of the less affluent to express themselves by running for office; (2) they help prevent the drowning out of all other political viewpoints by well financed candidates and interest groups; and (3) they ensure the equality of the voting rights of each citizen by limiting the influence on candidates of the large contributions.

I. Despite Certain Communicative Aspects, Contributions of Money to and Expenditures of Money by, Political Candidates Partake More of Action Than of Speech and May Be Reasonably Regulated Under the Police Power of the Federal Government.

The proposition that only "speech" and not "action" is protected by the First Amendment is now discredited, and it is clear that the Amendment at times covers more than sheer verbal communications. See e.g., *West Virginia Board of Education v. Barnette*, 319 U.S. 624 (1943) (right to refuse to salute flag); *Stromberg v. California*, 283 U.S. 359 (1931) (right to display a red flag); *NAACP v. Button*, 371 U.S. 415 (1963) (right to solicit legal business). It is still true, however, that the permissibility of regulating First Amendment rights varies with their mode of expression, and that usually the nonverbal exercise of such rights, particularly when joined with acts which are not necessarily communicative, is more susceptible to regulation than is pure speech. Giving and spending money does not constitute acts of verbal communication. In the words of Professor Freund. "We are dealing here not so much with the right of personal expression or even association, but with dollars and decibels. And just as the volume of sound may be limited by law, so the volume of dollars may be limited without violating the First Amendment."[4]

For First Amendment purposes, giving and spending money is communicative action with a potential for disrupting normal political processes; in this respect, it is analogous to picketing or demonstrating. In *Cox v. Louisiana*, 379 U.S. 536, 555 (1965), the Supreme Court "emphatically" rejected the notion that the First Amendment afforded the same kind of freedom to those who "communicate ideas by patrolling, marching, and picketing on streets and highways" as it offers those "who communicate ideas by pure speech." The Court upheld the facial constitutionality of a Mississippi statute which banned picketing in such a manner as to obstruct or interfere with free entrance to and exit from public buildings in *Cameron v. Johnson*, 390 U.S. 611 (1968). It declared that such communicative activity was sufficiently "intertwined" with action to be regulatable, and it emphasized that such a statute was "a valid law dealing with conduct subject to regulation so as to vindicate important interests of society[;] . . . the fact that free speech is intermingled with such conduct does not bring it within constitutional protection." 390 U.S. at 617. In a second *Cox v. Louisiana* case, 379 U.S. 559 (1965), the Court upheld against First Amendment attack the convictions of defendants for violating state statutes prohibiting breach of the peace, obstructing public passages, and picketing near a court house: "The conduct which is the subject of this statute—picketing and parading—is subject to regulation even though intertwined with expression and association." 379 U.S. at 563. The Court's explanation of its rationale in this case is applicable to the question of the permissibility of limiting campaign contributions and expenditures: "We are not concerned here with such a pure form of expression as newspaper comment or a telegram by a citizen to a public official. We deal in this case not with free speech alone, but with expression mixed with particular conduct." 379 U.S. at 564. See also *Central Hardware Co. v. National Labor Relations Board*, 407 U.S. 539 (1972); *Lloyd Corp. v. Tanner*, 407 U.S. 551 (1972).

That not all communicative conduct is protected by the First Amendment is clear from the Supreme Court's decision in *United States v. O'Brien*, 391 U.S. 367 (1968), upholding the constitutionality of a provision of the Selective Service Act which made it a crime to knowingly destroy a Selective Service registration certificate. The Court held that draft card burning was not "symbolic speech" protected by the First Amendment: "We cannot accept the view that an apparently limitless variety of conduct can be labeled 'speech' whenever the person engaging in conduct intends thereby to express an idea." 391 U.S. at 376. Campaign contributions and expenditures are communicative only in the sense that burning a draft card is communicative; all such acts are subject to regulation because, in the words of the *O'Brien* Court, " 'speech' and 'nonspeech' elements are combined in the same course of conduct." 391 U.S. at 37. The Court recently held that a state's prohibition of various forms of explicit sexual entertainment by live performers in establishment selling liquor did not violate the First Amendment:

"[A]s the mode of expression moves from the printed page to the commission of public acts which may themselves violate valid penal statutes, the scope of permissible state

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Footnotes at end of article.

regulations significantly increases. States may sometime proscribe expression which is directed to the accomplishment of an end which the State has declared to be illegal when such expression consists, in part, of 'conduct' or 'action'." *California v. LaRue*, 41 U.S.L.W. 4039, 4042 (1972).

Many kinds of "communications," such as deceptive advertising,[5] certain kinds of libels, the false activation of a burglar alarm, the shouting of "fire" in a crowded theatre (*cf. Schenck v. United States*, 249 U.S. 47, 51 (1919) (Holmes J.)) may be criminalized without violating the First Amendment because they cause directly or embody themselves evils which the government is authorized to prevent. That a reasonable limitation on campaign contributions and expenditures is not barred by the First Amendment is indicated by the constitutionality of the federal anti-bribery law, 18 U.S.C. § 201(e). *Cf. United States v. Brewster*, 409 U.S. 501 (1972) (upholding the constitutionality of the indictment of a Senator for soliciting and receiving a bribe). A bribe is certainly a form of direct and unequivocal "communication," but no one has seriously suggested that the First Amendment protects it. Antibribery statutes are constitutional because they are aimed at action which, though communicative, violates notions of public policy. Campaign contributions are all too often a similar form of buying favors: the donation of money communicates to the candidate the information that the donor seeks either a direct *quid pro quo* (such as favorable action by an administrative agency) or, more usually, an indirect form of influence (such as access or consultation when certain decisions are pending).

II. There Is No Constitutional Right To Make Unlimited Contributions to a Political Campaign or for a Candidate to Expend as Much Money as He Chooses in an Effort To Be Elected or Reelected.

In order to foster "[e]ffective advocacy of both public and private points of view, particularly controversial ones," *NAACP* v. *Alabama*, 357 U.S. 449, 460 (1958), the Supreme Court has recognized an independent constitutionality protected right of association, see *e.g., Louisiana ex rel. Gremillion* v. *NAACP*, 366 U.S. 293 (1961). In order to argue that a limitation on campaign contributions/expenditures is unconstitutional because it infringes this right of association or violates the right to freedom of speech an individual is directly guaranteed by the First Amendment, however, it is necessary to demonstrate that an individual possesses an absolute discretion to make as large a political campaign contribution or expenditure as he wishes. A number of Supreme Court holdings establish the power of Congress to limit, in certain circumstances, the associational rights and the ability to participate in the political process of certain individuals and groups.

Where the governmental interest is compelling, the Court has upheld registration statutes which require the disclosure of identity of certain individuals or the disclosure of membership in certain organizations even though such disclosure will limit and impair the ability of such individuals and organizations to exercise their political and civil rights. See *e.g., Communist Party of the United States* v. *Subversive Activities Control Board*, 367 U.S. 1 (1961) (registration of Communist Party officials and members); *Viereck* v. *United States*, 318 U.S. 236 (1943), *Rabinowitz* v. *Kennedy*, 376 U.S. 605 (1964) (registration of foreign agents and of activities engaged in on behalf of a foreign principal); *New York ex rel. Bryant* v. *Zimmerman*, 278 U.S. 63 (1929) (registration of Ku Klux Klan members). Cases striking down state attempts at compelling disclosure of NAACP membership lists (*e.g., NAACP* v. *Alabama*, 357 U.S. 499 (1958); *Louisiana ex rel. Gremillion* v. *NAACP*, 366 U.S. 293 (1961)) may be distinguished on the ground that in such cases, no valid state interest in disclosure was evident: in the context of Southern hostility to civil rights organizations, the true purpose of such laws was the destruction of the NAACP.

The compelling state interest which campaign contribution/expenditure limitations foster was described by the Court in *Burroughs and Cannon* v. *United States*, 290 U.S. 534 (1934), a case which held constitutional the disclosure-of-contributors requirements of the 1925 Corrupt Practices Act: "Congress reached the conclusion that public disclosure of political contributions, together with the names of contributors and other details, would tend to prevent the corrupt use of money to affect elections. The verity of this conclusion reasonably cannot be doubted." 290 U.S. at 548. The Court adverted to this same rationale when it upheld the constitutionality of a statute requiring the registration of lobbyists in *United States* v. *Harriss*, 347 U.S. 612 (1954): "Congress has . . . merely provided for a modicum of information from those who for hire attempt to influence legislation . . . It wants only to know who is being hired, who is putting up the money, and how much.

"It acted in the same spirit and for a similar purpose in passing the Federal Corrupt Practices Act—to maintain the integrity of a basic governmental process." 347 U.S. at 625. Although these two cases deal with disclosure requirements, their rationale is applicable to a law establishing a ceiling on political campaign contributions and expenditures because the government is aiming at the same serious evils (corruption, undue influence of special interest groups) and because the incidental effect of limiting political participation is also the same, although in the former cases it stems simply from the elects of disclosure rather than direct governmental restraint.

Another line of precedent indicates that there is no constitutional right to quantitatively unlimited participation in the financing of federal elections. The Supreme Court has thrice upheld the validity of the 1925 Corrupt Practices Act's flat prohibition of union contributions and expenditures in connection with political campaign, 18 U.S.C. § 610, although it has avoided passing upon the constitutional questions raised by such a prohibition. *United States v. CIO*, 335 U.S. 160 (1948); *United States v. UAW*, 352 U.S. 567 (1967); *Pipefitters' Local 562 v. United States*, 407 U.S. 385 (1972). There have been no Supreme Court cases dealing with § 610's ban on corporate political contributions or expenditures, but a lower court has upheld the predecessor of § 610 against constitutional attack, *United States v. United States Brewers' Assn.*, 239 F. 163 (W.D. Pa. 1916); but *cf., United States v. First National Bank of Cincinnati*, 329 F. Supp. 1251 (S.D. Ohio 1971), and its validity as applied has also been sustained, although the constitutional question was avoided. *United States v. Lewis Food Co.*, 366 F. 2d 710 (CA9 1966). See also *Egan v. United States*, 137 F. 2d 369 (CA8 1943) (upholding constitutionality of Public Utility Holding Company Act's ban on political contributions by registered public utility companies). If an absolute ban on the political activities of groups of individuals organized into unions and corporations is permissible, it would seem *a fortiori* acceptable to set a ceiling on contributions and expenditures by individuals. It may, of course, be argued that the concentration of funds in organizations makes their contributions and expenditures more susceptible to regulation than those of individuals. There are two answers to this argument, however: organizations are themselves entitled to assert First Amendment rights, *Grosjean v. American Press Co.*, 297 U.S. 233 (1936); *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964), and the associational rights protected by the First Amendment have been held to reach contributors to oganizations, *Bates v. City of Little Rock*, 361 U.S. 516 (1961); *United States v. Rumely*, 345 U.S. 41 (1953). The cases which have risen under § 610 do, therefore, support the constitutional validity of the proposed contribution/expenditure limitations because they arise out of a context in which all the First Amendment rights applicable to individuals could be asserted.

III. Ceilings on Political Campaign Contributions and Expenditures Are Constitutional Because They Are a Reasonable Regulation of the Manner in Which First Amendment Rights May Be Exercised.

Campaign finance limitations on contributions and expenditures would not prohibit the making of political contributions and expenditures but would instead simply impose limitations on the overall amounts which could be contributed and spent. This legislation would thus be far less drastic than the flat prohibition against a union or corporation making *any* campaign contributions or expenditures contained in 18 U.S.C. § 610. "[A]lthough the rights of free speech and assembly are fundamental, they are not in their nature absolute," *Whitney v. California*, 274 U.S. 357, 373 (1927) (Brandeis, J. concurring). The Supreme Court has frequently held that First Amendment rights may be reasonably regulated according to the time, place, and manner of their exercise. *Cameron v. Johnson*, 390 U.S. 611, 617 (1968); *Adderley v. Florida*, 385 U.S. 39, 48 (1966); *Cox v. New Hampshire*, 312 U.S. 569, 574–576 (1941); *Cox v. Louisiana*, 379 U.S. 536, 555 (1965). The proposed contribution/expenditure ceilings may be regarded as simply a nondiscriminatory regulation of the manner in which First Amendment rights are exercised.

Such limitations are neutral with respect to the content of political expression. They do not operate censorially to suppress unpopular views, and they do not single out persons who advocate particular political beliefs, or penalize anyone for association with persons or organizations oriented to such advocacy. See *e.g., United States v. Robel*, 389 U.S. 258, 278 (1967); *Keyishian v. Board of Regents*, 385 U.S. 589, 604 (1967). Like the "Fairness" and "Equal Time" doctrines enforced by the Federal Communications Commission, the contribution/expenditure limitations apply in exactly the same way regardless of the viewpoint sought to be advocated or the beliefs of the person making the contribution or expenditure. See *Red Lion Broadcasting Co. v. Federal Communications Commission*, 395 U.S. 367, 392 (1969). Finally, these ceilings do not represent a sweeping prohibition of all political expression through contributions and expenditures, but instead modulate the level of political discourse so that more voices may participate and so that weak voices may not be drowned out. These ceilings are unlike the state corrupt practices legislation which the Supreme Court unanimously held unconstitutional in *Mills v. Alabama*, 384 U.S. 214 (1966). In that case, an Alabama law had made it a crime "to do any electioneering or to solicit any votes . . . in support of or in opposition to any proposition that is being voted on on the day on which the election affecting such candidates or propositions is being held." The statute had been applied to convict a newspaper editor for writing an editorial on election day regarding a question on the ballot. The Court asserted, "no test of reasonableness can save a state law from invalidation as a violation of the First Amendment when that law makes it a crime for a newspaper editor to do no more than urge people to vote one way or another in a publicly held election." 384 U.S. at 219–220.

It is clearly established that differences in the media of communication justify differences in the First Amendment standards applied to them. *Red Lion Broadcasting Co. v.*

Footnotes at end of article.

Federal Communication, supra, at 386; *Joseph Burstyn, Inc. v. Wilson,* 343 U.S. 495, 503 (1952). In campaign finance, the medium of expression is money, and for large contributors, the medium is, indeed, the message. The proposed ceilings on campaign contributions and expenditures resemble the municipal ordinances regulating sound trucks upheld in *Kovacs v. Cooper,* 336 U.S. 77 (1948) (opinion of Reed J.). See also *California v. LaRue,* 41 U.S.L.W. 4039, 4042, n. 4 (1972). Although there was no majority opinion in *Kovacs,* the case was approved and explicated by a Court majority in *Red Lion Broadcasting Co. v. Federal Communications Commission, supra,* at 387 in language which might well apply to limitations on private campaign financing:

"[T]he ability of new technology to produce sounds more raucous than those of the human voice justifies restrictions on the sound level, and on the hours and places of use, of sound trucks so long as the restrictions are reasonable and applied without discrimination. . . . [T]he Government may limit the use of sound-amplifying equipment potentially so noisy that it drowns out civilized private speech. . . . The right of free speech of a broadcaster, the user of a sound truck, or any other individual does not embrace a right to snuff out the free speech of others."

See also *Associated Press v. United States,* 326 U.S. 1, 20 (1945).

IV. Any Restriction Upon the Exercise of First Amendment Rights Imposed by Limitations Upon Campaign Contributions and Expenditures is Justified by the Compelling and Overriding Governmental Interest in Preserving the Integrity of the Electoral Process and in Preventing the Improper Influence of Money on the Decision-Making of Public Officials.

The First Amendment freedoms of speech, association, press, religion, assembly, and petition have traditionally been given special protection because they are the indispensable preconditions for the exercise and protection of all other rights and freedoms. *Curtis Publishing Co. v. Butts,* 388 U.S. 130, 145 (1967). Although the proposition that First Amendment rights occupy a "preferred" position, see *Thomas v. Collins,* 323 U.S. 516, 530 (1945), has been criticized, see *Kovacs v. Cooper,* 336 U.S. 77, 90 (1949) (Frankfurter, J. concurring), a number of constitutional doctrines indicate the elevated and specially protected status of such rights. *Cf., e.g.,* the "clear and present danger" rule, *Brandenburg v. Ohio,* 395 U.S. 444, 447 (1969); *Dennis v. United States,* 341 U.S. 494, 510 (1950); the overbreadth doctrine, *United States v. Robel,* 389 U.S. 258, 265–266 (1967); negative presumptions, *Speiser v. Randall,* 357 U.S. 513, 526 (1958); the alternative means test, *Aptheker v. Secretary of State,* 378 U.S. 500, 512 (1964). First Amendment rights are said to need "breathing space" to survive, *Thomas v. Collins,* 323 U.S. 516, 530 (1945), because they are "delicate and vulnerable," *NAACP v. Button,* 371 U.S. 415, 433 (1963), and because their exercise is easily deterred or "chilled" by governmental action. *Dombrowksi v. Pfister,* 380 U.S. 479, 486–487 (1965).

Therefore the Supreme Court has ruled that the exercise of First Amendment rights may be limited only if the government demonstrates reasons or interests which are "compelling," *NAACP* v. *Button, supra* at 438 (1963), "substantial," *NAACP* v. *Alabama,* 357 U.S. 449, 464 (1958), "subordinating," *Bates* v. *City of Little Rock,* 361 U.S. 516, 524 (1960), "paramount," *Thomas* v. *Collins, supra* at 530 (1945), "cogent," *Bates* v. *City of Little Rock, supra,* at 524, "strong," *Sherbert* v. *Verner,* 374 U.S. 398, 408 (1963), or "overriding and compelling," *Gibson* v. *Florida State Investigating Comm.,* 372 U.S. 539, 546 (1963). The Court also requires that the means chosen to limit the exercise of First Amendment rights be "precise," *Keyishian* v. *Board of Regents,* 385 U.S. 589, 603 (1967), have as narrow an impact as possible, *NAACP* v. *Button, supra,* at 430, and not be vague, overbroad, or indiscriminate in their sweep, *Elfbrandt* v. *Russell,* 384 U.S. 11, 18 (1965); *Aptheker* v. *Secretary of State, supra,* at 512. Finally, it must be established by the government that no "less drastic means" exist which might be alternatively used to implement the state's interest without infringing First Amendment rights. *Shelton* v. *Tucker,* 364 U.S. 479, 488 (1960); *United States* v. *Robel, supra,* at 265.

Whatever the adjectival test chosen to describe the nature of the interest which the government must demonstrate in order to limit the exercise of First Amendment rights, it is clear from the Court's own language in numerous cases that the preservation of the integrity of the electoral process from the corrupting effect of money is a "compelling and overriding" state interest. There have been no Supreme Court holdings dealing directly with the constitutionality of campaign contribution/expenditure limitations, but the Court has often asserted that Congress has broad authority to protect American political institutions against "the corroding effect of money employed in elections by aggregated power": "Speaking broadly, what is involved here is the integrity of our electoral process, and, not less, the responsibility of the individual citizen for the successful functioning of that process. [A case involving 18 U.S.C. § 610, banning union political contributions and expenditures] thus raises issues not less than basic to a democratic society." *United States* v. *UAW,* 332 U.S. 567, 582, 570 (1957). The following quotations indicate the high priority and presumptive constitutionality the Court has accorded to laws aimed at preventing fraud and corruption in the electoral process:

"That a government whose essential character is republican, whose executive head and legislative body are both elective, whose most numerous and powerful branch of the legislature is elected by the people directly, has no power by appropriate laws to secure this election [of the President] from the influence of violence, *of corruption,* and of fraud, is a proposition so startling to arrest attention and demand the gravest consideration.

"If this government is anything more than a mere aggregation of delegated agents of other states and governments, each of which is superior to the general government, it must have the power to protect the elections on which its existence depends from violence *and corruption.*

"If it has not this power it is left helpless before the two great natural and historical enemies of all republics, open violence and *insidious corruption.*"

Ex parte Yarbrough, 110 U.S. 651, 657–658 (1884) (emphasis added).

"The Congressional act under review seeks to preserve the purity of presidential and vice presidential elections.

". . . The President is vested with the executive power of the nation. The importance of his election and the vital character of its relationship to and effect upon the welfare and safety of the whole people cannot be too strongly stated. To say that Congress is without power to pass appropriate legislation *to safeguard such an election from the improper use of money to influence the result* is to deny to the nation in a vital particular the power of self protection. Congress, undoubtedly, possesses that power, as it possesses every other power essential to *preserve the departments and institutions of the general government from impairment or destruction,* whether threatened by force or *by corruption.*"

Burroughs & Cannon v. United States, 290 U.S. 534, 545–548 (1934) (emphasis added)

"It cannot be doubted that these comprehensive words [of Article I of the Constitution which grant Congress power to regulate the "times, Places, and manner" of holding Congressional elections] embrace authority to provide a complete code for congressional elections, not only as to times and places, but in relation to notices, registration, supervision of voting, protection of voters, *prevention of fraud and corrupt practices,* counting of votes, duties of inspectors and canvassers, and making and publication of election returns; in short, to enact the numerous requirements as to procedure and safeguards which experience shows are necessary in order to enforce the fundamental right involved."

Smiley v. Holm, 285 U.S. 355, 366 (1932) (emphasis added). See also *Ex parte Siebold,* 100 U.S. 371, 387 (1880).

It seems clear that ceilings on campaign contributions and expenditures are not vague or imprecise. Nor are such prohibitions overbroad because they indiscriminately suppress activity which can be constitutionally forbidden and that which cannot, *cf. United States v. Robel, supra* at 265, although admittedly the overbreadth analysis necessitates a judgment as to the size of contributions which are likely to have a corrupting effect on the political process. This is an area in which the Court should properly defer to the expertise of Congress, however, as it has done in cases involving other election laws. In *United States v. Classic,* 313 U.S. 299, 320 (1941), the Court declared:

"'Let the end be legitimate; let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with [sic] the letter and spirit of the Constitution, are constitutional.' *McCulloch v. Maryland,* 4 Wheat. 316, 421. That principle has been consistently adhered to and liberally applied, and extends to the congressional power by appropriate legislation to safeguard the right of choice by the people of representatives in Congress."

Finally, there are no alternative means available to accomplish the task of such ceilings, since the very evil which Congress is seeking to extirpate is the corrupting effect of money. Disclosure laws alone are not adequate because even if enforced, they will not prevent large contributors from seeking to influence candidates through their contributions. The judgment of Congress that no alternative means exist to protect the electorial process will be given great deference by the Court, particularly in light of Congress' long experience with ineffective disclosure requirements:

"The power of Congress to protect the election of President and Vice President from corruption being clear, the choice of means to that end presents a question primarily addressed to the judgment of Congress. If it can be seen that the means adopted are really calculated to attain the end, the degree of their necessity, the extent to which they conduce to the end, the closeness of the relationship of the means adopted and the end to be attained, are matters for congressional determination alone."

Burroughs & Cannon v. United States, supra at 547–548.

V. Any Restriction Upon the Exercise of First Amendment Rights Imposed by Limitations Upon Campaign Contributions and Expenditures Is Justified by a Governmental Interest in Effectuating the First Amendment Rights of Less Affluent Citizens (1) by Protecting the Ability of Even Poor Candidates to Run for Office, (2) by Preventing the Drowning out of Other Political Viewpoints by the Best Financed Voices, and (3) by Ensuring the Equality of the Voting Rights of Less Affluent Citizens by Limiting the Influence on Candidates of Affluent Contributors.

In previous sections, the ceilings on campaign contributions and expenditures have been defended negatively, in the sense that the evils at which such legislation is aimed have been demonstrated to justify the incidental infringement of the First Amendment rights of contributors or candidates who wanted to give or spend more than the ceilings allowed. But the campaign finance limitations involved here also have an important positive impact on the exercise of the First Amendment rights of many citizens who are not prevented from effectively participating in the political process. Many lack financial resources and this handicaps both their ability to run for office and their ability to communicate their views to their elected representatives on an equal basis with those providing large contributions. The contribution/expenditure limitations implement true democratic self-government by opening the political process to all citizens, regardless of their personal wealth. As John Stuart Mill wrote:

> "We need not suppose that when power resides in an exclusive class, that class will knowingly and deliberately sacrifice the other classes to themselves; it suffices that, in the absence of its natural defenders, the interest of the excluded is always in danger of being overlooked; and, when looked at is seen with different eyes from those of the person whom it directly concerns."

J. S. Mill, *Consideration on Representative Government,* 67 (1875).

The proposed campaign finance legislation fosters and protects the exercise of First Amendment freedoms in three ways: (1) it protects the rights of the less affluent to express themselves by running for office; (2) it helps prevent the drowning out of all other political viewpoints by well financed candidates and interest groups; and (3) it ensures the equality of the voting rights of each citizen by limiting the influence on candidates of the large contributor.

As the costs of campaigning have skyrocketed, it has become almost an unwritten amendment to the Constitution that only those Americans with money or access to it may participate in governing. The question is not whether wealthy political representatives can provide dedicated and compassionate leadership. The point is rather that each citizen should have an equal opportunity to participate in the electoral process. As the Supreme Court declared in *Kramer v. Union School District,* 395 U.S. 621, 626 (1969), "Any unjustified discrimination in determining who may participate in political affairs . . . undermines the legitimacy of representative government." The government's interest in protecting the openness of the political process against racial discrimination is well established, see *e.g., Terry v. Adams,* 345 U.S. 461 (1953); *Smith v. Allwright,* 321 U.S. 649 (1944), and this rationale extends to the prevention of other invidious and irrational extends to the prevention of other invidious and irrational barriers to participation in democratic self government. As the Court remarked in invalidating the poll tax, "Wealth, like race, creed, or color, is not germane to one's ability to participate intelligently in the electoral process." *Harper v. Virginia Board of Elections,* 383 U.S. 663, 668 (1966).

As the sound truck case, *Kovacs v. Cooper,* 336 U.S. 77 (1948) (opinion of Reed J.) makes clear, the First Amendment does not guarantee the right of the loudest voice to drown out all others. One authority has noted that "the most important effect of money in a political campaign is not that the candidate with the most money will win, but that the candidate with the lesser amount of money will not be able to present his case to undecided voters." Lobel, "Federal Control of Campaign Contributions," 51 *Minn. L. Rev.* 1, 3 (1966). "It is now well established that the First Amendment protects the right to receive information and ideas." *Stanley v. Georgia,* 394 U.S. 557, 564 (1969). Spending ceilings help insure a balanced flow of differing points of view to the public; by keeping any person or group from flooding the media with material advocating a single point of view, the limits prevent a candidate from destroying, by sheer volume instead of reason, the effectiveness of the communications of other candidates. In order to protect the information flow to the public, the Government is authorized to act affirmatively to insure that the First Amendment rights of all citizens to receive a variety of viewpoints are respected. In a medium of technological scarcity, such as radio or television, the government has been allowed to enforce such regulations as the Fairness and Equal Time doctrines on the ground that the public has a right "to receive suitable access to social, political, esthetic, moral and other ideas and experiences." *Red Lion Broadcasting Co. v. FCC,* 395 U.S. 367, 390 (1969). One of the justifications for applying the antitrust laws to newspapers has been to prevent a single source from controlling all the channels of newspaper communication with the public:

> "It would be strange indeed, however, if the grave concern for freedom of the press which prompted adoption of the First Amendment should be read as a command that the government was without power to protect that freedom. The First Amendment, far from providing an argument against application of the Sherman Act, here provides powerful reasons to the contrary. That Amendment rests on the assumption that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public, that a free press is a condition of a free society. Surely a command that the government itself shall not impede the free flow of ideas does not afford nongovernment combinations a refuge if they impose restraints upon the constitutionally guaranteed freedom. Freedom to publish means freedom for all and not for some. Freedom to publish is guaranteed by the Constitution, but freedom to combine to keep others from publishing is not. Freedom of the press from governmental interference under the First Amendment does not sanction repression of that freedom by private interests. The First Amendment affords not the slightest support for the contention that a combination to restrain trade in news and views has any constitutional immunity."

Associated Press v. United States, 326 U.S. 1, 20 (1945). See also *Citizen Publishing Co. v. United States,* 394 U.S. 131, 139 (1969).

Even the associational rights of organizations must give way when necessary to protect the First Amendment rights of free expression of their members. *Railway Employees' Department v. Hanson,* 351 U.S. 225 (1956); *International Association of Machinists v. Street,* 367 U.S. 740 (1961); Lathrop *v. Donohue,* 367 U.S. 820 (1961).

Finally, contribution and expenditure ceilings will ensure the quality of votes cast in primary and general elections, an interest the Supreme Court has recognized not only in the reapportionment cases, see *e.g., Baker v. Carr,* 369 U.S. 186 (1962); *Reynolds v. Sims,* 377 U.S. 533 (1964), but in cases overturning state laws that imposed financial burdens (see *Harper v. Virginia Board of Elections,* 383 U.S. 663 (1966)) and property qualifications (see *City of Phoenix v. Kolodziejski,* 399 U.S. 205 (1970); *Cipriano v. City of Houma,* 395 U.S. 701 (1969)) on the right to vote. The Court has asserted that "The right to vote freely for the candidate of one's choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government," *Reynolds v. Sims, supra,* at 543, and that "No right is more precious in a free country than that of having voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are illusory if the right to vote is undermined." *Wesberry v. Sanders,* 376 U.S. 1, 17 (1964). Limitations on contributions and expenditures help equalize the weight of each ballot cast in much the same way as does redistricting to ensure that legislative districts have equal number of voters. Dollars magnify the voting power of the big contributor. Large donations invariably buy increased influence over and access to candidates, decreasing proportionately the power of smaller contributors to have a candidate meaningfully consider their views. In addition to effectuating the principle of "one man, one vote," the financial realities of campaigning make it necessary also to enforce the principle of "$250, (or $500), one person," in order to assure that some voters are not "more equal" than others in the eyes of candidates or elected officials.

VI. The Proposed Ceilings on Contributions and Expenditures Do Not Unconstitutionally Discriminate Against Non-Incumbents.

Neither the Constitution nor state statute sanctifies the status of incumbency in this country, and incumbents have no inherent legal right to a specially protected position in any system of financing campaigns. In discussing the related question of the status of minor parties the Supreme Court stated: "All political ideas cannot and should not be channeled into the programs of our two major parties. History has amply proved the virtue of political activity by minority, dissident groups, who innumerable times have been in the vanguard of democratic thought and whose programs were ultimately accepted . . . The absence of such voices would be a system of grave illness in our society." Any ceilings on contributions and expenditures must be absolutely neutral vis-a-vis incumbents and nonincumbents. This does not mean, however, that ceilings are absolutely unconstitutional, but it does mean that ceilings must be drafted so as not to contribute to the entrenchment of incumbents or place special obstacles in the path of nonincumbents who seek to displace the incumbents of the moment.

The principles of government neutrality are illustrated by two recent Supreme Court cases, *Williams v. Rhodes,* 393 U.S. 23 (1968), in which state laws regulating political parties were struck down, and *Jenness v. Fortson,* 403 U.S. 431 (1971), in which they were upheld. In *Williams v. Rhodes, supra,* the American Independent Party and the Socialist Labor Party challenged the constitutionality of certain Ohio laws which required a party other than the Democrats or the Republicans to obtain petitions signed by qualified electors totaling 15% of the votes cast in the preceding gubernatorial election in order to win a place on the Presidential ballot. Numerous other burdens were imposed on the establishment of new parties. In order to be recognized on a ballot, a party had to elect a county central committee for each county in Ohio and elect a state central committee consisting of two members from each Congressional district, it had to elect delegates to a national convention, and its candidates for nomination in the primary had to file petitions signed by qualified electors. Technicalities of state law which disqualified persons who had voted in another party's primary in the last four years from serving as convention delegates and from signing primary nominating petitions made the selection of delegates and the collection of petitions made the selection of delegates and the collection of petition signatures extremely difficult. The Democrats and the Republicans faced substantially smaller burdens, since they were allowed to retain their ballot position simply by obtaining 10% of the vote in the last gubernatorial election and did not need to obtain any signature petitions to appear on the Presidential ballot.

The Supreme Court held that these restrictions on minority parties unconstitutionally denied Equal Protection of the laws to persons who wanted to organize themselves into minority parties and to persons who wished to vote for minority party candidates, because the Ohio laws made it "virtually impossible," 393 U.S. at 24, 25, for a new political party, even though it might have hundreds of thousands of members, to get its candidates placed on the Presidential ballot. The Court stated that "the Ohio laws before us give the two old, established parties a decided advantage over any new parties struggling for existence and thus place substantially unequal burdens on both the right to vote and the right to associate." 393 U.S. at 31. The rationale of the Court's decision is contained in the following passage:

"[Ohio] claims that the State may validly promote a two-party system in order to encourage compromise and political stability. The fact is, however, that the Ohio system does not merely favor a 'two-party system'; it favors two particular parties—the Republicans and the Democrats—and in effect tends to give them a complete monopoly. There is, of course, no reason why two parties should retain a permanent monopoly on the right to have people vote for or against them. Competition in ideas and governmental policies is at the core of our electoral process and of the First Amendment freedoms."

393 U.S. at 31–32. A valid state interest in the prevention of "multitudinous fragmentary groups" on the ballot was recognized but the Court stated that this danger was in the instant case no more than "theoretically imaginable." 393 U.S. at 23.

Jenness v. Fortson, supra, concerned a challenge by the Socialist Workers Party to a Georgia law which provided that a candidate for elective public office who did not enter and win a political party's primary (a "political party" was defined as an organization whose candidate received 20% or more of the vote at the most recent gubernatorial or presidential election) could have his name printed on the ballot at the general election only if he has filed a nominating petition signed by at least 5% of the number of registered voters at the last general election for the office in question. The Court unanimously upheld the Georgia statute, distinguishing (with less than total clarity) *Williams v. Rhodes* primarily on the basis that the Ohio qualifications were significantly more restrictive and comprehensive:

"But the *Williams* case, it is clear, presented a statutory scheme vastly different from the one before us here. Unlike Ohio, Georgia freely provides for write-in votes. Unlike Ohio, Georgia does not require every candidate to be the nominee of a political party, but fully recognizes independent candidacies. Unlike Ohio, Georgia does not fix an unreasonably early filing deadline for candidates not endorsed by established parties. Unlike Ohio, Georgia does not impose upon a small party or a new party the Proscrutean requirement of establishing elaborate primary election machinery. Finally, and in sum, Georgia's election laws, unlike Ohio's do not operate to freeze the political status quo." 403 U.S. at 438.

The dispositive factors for the Court were apparently the fact that the impact of the overall Georgia scheme did not weigh as heavily upon the organizational abilities of minor parties or independent candidates as did the Ohio requirements. Also, the Court emphasized that the major party candidates were not especially favored, since a major party candidate would have to win a difficult and perhaps costly primary battle to get his name on the ballot, a barrier which could be roughly approximated to the difficulty of collecting the signatures of 5% of the electorate. The Court closed its opinion with a statement of principle which should be borne in mind in considering the treatment of nonincumbents in a system of financing campaigns which imposes contribution and expenditure ceilings.

"The fact is that there are obvious differences in kind between the needs and potentials of a political party with historically established broad support, on the one hand, and a new or small political organization on the other. Georgia has not been guilty of invidious discrimination in recognizing these differences and providing different routes to the printed ballot. Sometimes the grossest discrimination can lie in treating things that are different as though they were exactly alike.

"There is surely an important state interest in requiring some preliminary showing of a significant modicum of support before printing the name of a political organization's candidate on the ballot—the interest, if no other, in avoiding confusion, deception, and even frustration of the democratic process at the general election." 403 U.S. at 441–442.

Ceilings on contributions and expenditures do not in themselves discriminate invidiously against minority party, independent, or nonincumbent candidates. It is clear that some reasonable balance must be made between imposing ceilings which will reduce the corrupting influence of money and allowing nonincumbents to raise enough money to effectively challenge incumbents. If properly drawn, no special barriers are thrown in the path of nonincumbents and the standard of *Rhodes* and *Jenness* is satisfied.

FOOTNOTES

[1] Fleishman, "Freedom of Speech and Equality of Political Opportunity: The Constitutionality of the Federal Election Campaign Act of 1971," 51 *N.C.L. Rev.* 389, 450 (1974).

[2] For a discussion of the constitutional issues involved in the regulation of election campaign practices, see Lobel, "Federal Control of Campaign Contributions," 51 *Minn. L. Rev.* 1 (1966); Fleishman, "Freedom of Speech and Equality of Political Opportunity: The Constitutionality of the Federal Election Campaign Act of 1971," 51 *N.C.L. Rev.* 389 (1973); *Rosenthal, Federal Regulation of Campaign Finance: Some Constitutional Questions* (1971); Redish, "Campaign Spending Laws and the First Amendment," 46 *N.Y.U.L. Rev.* 900 (1971); Court & Harris, "Free Speech Implications of Campaign Expenditure Ceiling," 7 *Harv. Civ. R.—Civ. Lib. Rev.* 214 (1972). See also Court & Harris, "Campaign Spending Regulation: Failure of the First Step," 8 *Harv. J. Leg.* 640 (1971); Berry & Goldman, "Congress and Public Policy: A Study of the Federal Election Campaign Act of 1971," 10 *Harv. J. Leg.* 331 (1973); Roady, "Ten Years of Florida's 'Who Gave It—Who Got It' Law," 27 *Law & Contemp. Prob.* 434 (1962); Note, "Statutory Regulation of Political Campaign Funds," 66 *Harv. L. Rev.* 1259 (1953).

[3] Wisconsin Supreme Court declared: "It is a matter of common knowledge that men of limited financial resources aspire to public office. It is equally well known that successful candidacy often requires them to put themselves under obligation to those who contribute financial support. If such a candidate is successful, these obligations may be carried over so that they color and sometimes control official action. The evident purpose of the act is to free the candidates from the temptation to accept support on such terms and to place candidates during this period upon a basis of equality so far as their personal ambitions are concerned, permitting them, however, to make an appeal on behalf of the principles for which they stand, so that such support as may voluntarily be tendered to the candidacy of a person will be a support of principle rather than a personal claim upon the candidate's consideration should he be elected. . . . It may be replied that the act seeks to throw democracy back upon itself, and so induce spontaneous political action in place of that which is produced by powerful political and group organizations." State *ex rel. La Follette v. Kohler,* 200 Wis. 518, 228 N.W. 895, 912 (1930).

[4] Commentary of Prof. Paul A. Freund, the Harvard Law School, in Rosenthal, *Federal Regulation of Campaign Finance: Some Constitutional Questions,* 72 (1971).

[5] The Court has held that "purely commercial advertising" is subject to much greater regulation than communication which is not inspired by a profit motive, *Valentine v. Chrestensen,* 316 U.S. 52, 54 (1942); *Breard v. City of Alexandria,* 341 U.S. 622, 642, 643 (1951), although the fact that the dissemination of a communication takes place under commercial auspices does not remove it from all First Amendment protection. *Smith v. California,* 361 U.S. 147, 150 (1959); *New York Times Co. v. Sullivan,* 376 U.S. 254, 265–266 (1964). The power of the FCC to ban cigarette advertising from television has been upheld, *Banzhaf v. FCC,* 405 F. 2d 1082 (CA DC 1968), cert. denied, 396 U.S. 842 (1969). These cases imply that the federal government has power to require that political advertising on television and radio be for certain minimum periods (e.g., 30 seconds), on the theory that very short "spot" ads are (like commercial advertising) intended simply to condition rather than inform and are likely to be somewhat deceptive because they convey a simplistic "image" of a candidate.

COLUMBIA UNIVERSITY,
New York, N.Y., May 3, 1973.
BURTON V. WIDES, *Esq.,*
Staff Counsel to Senator Hart, U.S. Senate,
Washington, D.C.

DEAR MR. WIDES: I have finally had the time to read S. 1103, the Congressional Election Finance Act of 1973, along with the explanatory material accompanying it. It seems to me to be a remarkably successful attempt to eliminate or reduce abuses in the financing of Congressional elections while avoiding or significantly reducing the gravity of the Constitutional difficulties that had plagued previous proposals intended to deal with the problem. The ingenuity employed throughout was most impressive.

Differential funding for minor parties and others has generally been thought to give rise to serious equal protection issues; nevertheless, permitting a candidate to bypass the subsidy procedure, and also according the option to obtain a subsidy but supplement it by private contributions up to prescribed limits, seem in combination so reasonable and fair as to be likely to withstand Constitutional challenges—especially in the light of the very serious evils the legislation is intended to correct.

Similarly, the restrictions on individual contributions appear justified from the standpoint of eliminating the evil, or at least the appearance of evil, inherent in dependence of candidates upon large contributors. Moreover, the limit on contributions also offers a creative solution to the apparent dilemma of having to choose among allowing unrestricted "independent" activity in support of a candidate, charging unwelcome expenditures to a candidate's permitted total, or permitting the candidate to assert a veto on efforts of such supporters to spend money in his behalf.

Finally, the provisions for posting of a security deposit, and forfeiture thereof if a certain vote is not obtained, while serving as a deterrent to unknown candidates, can probably be justified as the only practicable screening device to distinguish, for purposes of subsidy, frivolous from serious

> candidates—particularly at the primary stage.
>
> It seems to me also that section 18(c) of the bill adequately disposes of any self-incrimination problems that might have otherwise arisen out of the conjunction of reporting requirements and a criminal sanction.
>
> The foregoing, of course, are extremely general observations, and there may be some specific matters that will still prove troublesome. In general, however, I believe that Senator Hart and his staff should be congratulated on having produced what appears to me to be far and away the most successful attempt to cleanse the procedures for financing elections while minimizing the likelihood of serious Constitutional difficulties.
>
> As matters proceed, if there should be any further thoughts that you would like to have from me, or questions on which I might be able to be of assistance to you, please do not hesitate to call upon me.
>
> Sincerely yours,
>
> Albert J. Rosenthal,
> *Professor of Law.*

Mr. HART. Mr. President, I am grateful to the Senator from Iowa. He has stated correctly the need of an intelligent response. I hope we shall be able to achieve it. I close as I opened by thanking the Senator from California, not just for organizing the floor discussion which is tedious, but also for the great work which the Senator has done. He has given very careful study to the various proposals. Most of all, I think he is able to describe in language that is free of either traditional expressions of politicians or technical expressions of political science, language understandable to the citizens of this country, the value to them of doing what some may say is permitting us as politicians to put our hands into the treasury and obtain the means to run for office.

The Senator from California was able, I think very effectively, to make clear that until treasury funds are used not every citizen can be conscious that we are his Senator.

Mr. CRANSTON. Mr. President, I thank the Senator from Michigan for his very generous remarks.

I thank the Senator for his pioneer work in this field and for the labor he has performed this afternoon in carrying out much of this discussion. His contributions have been tremendous.

Everyone who knows the Senator from Michigan knows his great integrity. That fact alone will lend great credit to the discussion we have had this afternoon.

Mr. President, I yield now to the Senator from Maryland (Mr. Mathias) who has also done a great deal of work in this field.

PUBLIC FINANCING IS NEEDED NOW

Mr. MATHIAS. Mr. President, I thank the Senator from California.

Mr. President, novelty is usually considered a dangerous quality in political issues, and for some the idea of public financing of elections is a novelty. In fact, it is a well seasoned and carefully considered concept proposed to the Congress 66 years ago in the following statement:

> It is well to provide that corporations shall not contribute to presidential or national campaigns and furthermore to provide for the publication of both contributions and expenditures. There is however, always danger in laws of this kind, which from their very nature are difficult of enforcement: The danger being lest they be obeyed only by the honest, and disobeyed by the unscrupulous, so as to act only as a penalty upon honest men. There is a very radical measure which would, I believe, work a substanital improvement in our system of conducting a campaign.

The proposed "radical meaure" is public financing of the major political parties. The speaker is President Theodore Roosevelt delivering his state of the Union address in 1907.

Like President Roosevelt I have supported the public disclosure of contributions and expenditures in election campaigns. I was a sponsor of the bill which became the Federal Elections Campaign Act of 1971, requiring such disclosure for campaigns for Federal office.

But also like President Roosevelt, I have become convinced that such disclosure has only limited effectiveness, and that the only way to truly reform our system of election campaigns is to provide for public financing of them, coupled with strict limits on the amount of total expenditures for campaigns and on the amount of individual and group contributions.

I believe the public has two interests at stake to which the issue of public financing relates. First, the public has an interest in a clean, honest system of Federal elections. In this regard we would want to remove the corrosive effect of big money from our campaigns, thus making our elected officials less dependent on special interest groups and more able to respond to the needs and desires of all of the people they represent. Further, we would want to control the incredible growth in campaign expenditures, to ensure that elections cannot be purchased by the candidate who amasses the largest war chest.

Second, the public has an interest in promoting vigorous, open electoral contests in which all sides have adequate resources to put their contrasting views and positions before the electorate, in order that the voters may make an informed choice among the alternatives presented.

It might be possible to satisfy one of these two interests by means other than public financing. It is my view, however, that public financing is the only way to accommodate both of these interests concurrently.

We would probably be able to control the influence of big money and the aggregate amounts of campaign expenditures by enacting a system of contribution and expenditure limits. Indeed, such a system is proposed in S. 372, the bill before us now. If, however, the contribution limits are set low enough to be meaningful—and, I believe, they should be lower than proposed in the bill—there is the very real danger that they may turn out to be an "incumbent protection system." We all know what tremendous advantages incumbents have already—widespread name recognition, the frank, substantial staff resources, et cetera. If we place on top of these advantages a set of low contribution limitations, it may be nearly impossible for a challenger to raise enough funds to get an adequate hearing for his views.

The real issue, it seems to me, is the equalization of access to the political arena. This is one of the principles which was of great concern to our Founding Fathers. This ideal was imperfectly met at the birth of our republic and it is imperfectly met today, but we have made great strides toward meeting it during our history. The great extensions of the franchise—to blacks, to women, and most recently to our younger citizens—the abolition of the poll tax, the direct election of Senators—all of these were designed to remove barriers to the participation of our people in the selection of their leaders and to equalize control over political outcomes.

Yet what is the situation with regard to financing of campaigns. Certain individuals and special interest groups are able to contribute enormous sums to candidates for office. Certainly the views of these individuals and groups are more likely to receive a hearing by the government than those of people who can contribute little or nothing. In effect the rich have more votes than the poor, and equality of access to politics and government is restricted.

Furthermore, incumbent officials, by virtue of their wider recognition and their already being in office, have a much easier time raising funds than do challengers. This larger amount of money coupled with the other advantages of incumbency, permit such candidates to put their views before the electorate more often and more effectively than their opponents. Again, equality of access to the political arena is restricted.

Public financing of election campaigns would rectify these imbalances. If candidates received their campaign funds from the public, elected officials could relate to all individuals and groups within their constituency on an approximately equal footing. If all major candidates had approximately the same resources at their disposal, all ideas and views could receive a fair hearing in the marketplace.

I have not spoken of any specific proposals for a system of public financing. I am cosponsor of two bills, one introduced by Senator Hart and the other introduced by Senator Stevenson and myself. Both of these bills, I think, contain features which should be included in a public financing law. The chairman of the Rules Committee, Senator Cannon, has promised to hold hearings on these proposals in September. Such a complex subject needs full hearings and reflective consideration by the appropriate committees of the Congress.

I hope, however, that once hearings are concluded, the committee will promptly report a proposal to the Senate. The polls show that the public favors public financing of elections by a 2-to-1 margin. I hope that the Congress will heed the wishes of the people and enact a system of public financing of all Federal elections before the close of the 93d Congress. This is an idea whose time has come.

Mr. CRANSTON. Mr. President, a recurring problem in our society is the need to scrap and replace historical institutions and practices which have become outmoded. And one of the best examples of an American way whose time has passed is our method of paying for political campaigns.

It may have been all right in the free-swinging, underpopulated, largely agrarian democracy of the 19th century to have our political candidates raise campaign money as they saw fit. At worst, the rich got richer and the poor got poorer and the consequences of corruption did not touch the soul of the American people.

But we are living in a totally different world in this the final third of the 20th century. Social and economic power has mushroomed prodigiously. We have the ability to destroy the world again and again. An incipient American dictator would find in our Government right now the tools for surveillance, for manipulation, for control, and for retribution, which exceed even George Orwell's predictions. We have developed corporate conglomerates whose assets dwarf the wealth of nations. Our very Government has grown into an unwieldy behemoth—a power unto itself with no certainty that anyone is really in charge.

In the struggle to control these vast power resources, our institutions for governing ourselves—our elected officials—become major targets for those who seek to dominate the system. If we are going to be successful in keeping our elected officials responsive to the people, we must begin with the understanding that gaining control of power and not petty thievery is what political corruption means in the 1970's. And if there was any question about this before the ruthless misuse of power which the Watergate witnesses are daily testifying to, there should be none now.

The Watergate affair was a gross perversion of our democracy. But it was not an improbable consequence of the way campaign contributions in the huge sums we have seen in recent campaigns inevitably corrupt the political environment.

When we discuss public financing of campaigns, we must begin with the central and absolute necessity that we end the pervasively insidious influence big money has on the democratic process. That is the problem, and other concerns like convenience, cost, and enforcement of various reform proposals are of secondary importance. If the role of the big contribution continues to escalate in politics, Watergate will be only the first chapter in the deterioration of democratic government in the United States.

So when a California taxpayer writes to me about public financing of campaigns saying, "Senator CRANSTON, is it not enough that my taxes go to pay your salary? Why should I have to pay for your election, too?" I respond by saying, "It is not my election, it is your election. If you want to control it, if you want the man you elect to be responsive to you and your problems, you will not mind paying the couple of dollars a year public financing will cost you.

"But if you do not care, if you want to continue turning our elective process over to the highest bidder, of allowing some fat cat to carve out his piece of your Senator or Congressman, then you have got to suffer the consequences, like higher taxes, because wealthy contributors are getting preferential tax treatment, or like higher prices because corporate manipulation of the economy is administratively overlooked or legislatively exempted from laws which are supposed to protect the consumer—in other words, you.

"Mister taxpayer, you would get that $2 back a hundred times if it was used to limit the amount of influence any one man could acquire with his Senator or Congressman—if it could give the middle-income wage earners and even poor folks an equal footing in politics with the wealthy."

When I say this to my constituents, I fully realize that I am conceding that I feel the pressures of the system just like every other elected official. Some of us yield and succumb to those pressures more, some of us less. We all feel them.

The costs of today's political campaigning forces a candidate to seek hundreds of thousands and sometimes millions of dollars from private interests. They may come to you, the candidate, if you look like a good bet to win. But whether you look like a winner or not, you the candidate and your campaign fund raisers must seek them out.

Running for statewide office in California is an extreme illustration of the magnitude of such a fund-raising effort. A Senator from California serves the largest constituency ever to be represented by a legislator in the history of the world. Its 21 million people constitute a legislative district where political campaigning is big business requiring millions of dollars in a contest between two strong candidates.

As much as I—along with many of my colleagues—would prefer to keep contributions small and broadly based, some reliance on the big giver is made politically inescapable for me because of the huge amount of money needed for a successful campaign in California. So I enter a campaign knowing that I'm going to have to spend a substantial amount of my campaign time seeking out large contributors—time that would be more properly spent studying and speaking out on the issues and seeing and meeting as many constituents as possible regardless of their financial status.

It is a fact of life I and other successful candidates will have to live with until we adopt a rational, healthy system of election financing. Such a system must include support from the public treasury so that private individual contributions can be limited sufficiently to end the advantage a wealthy contributor can presently gain—and still provide enough funding to insure that the voters will be reached.

The bill before us, S. 372, is commendable in its efforts to set limits on private contributions. But a $100,000 annual contribution or $5,000 to one candidate is still big money. The average man with his $12,000 average income can not make a $5,000 contribution. Even with the passage of S. 372, even as it may be amended, the big contributor will surely still have a substantial advantage over the man in the street.

The effect of such contributions on the victorious incumbent is sometimes blatant, but usually subtle.

He knows his victory was won in part by the generosity of those individuals who made large donations. He knows who they are. He remembers their names and the names of their companies.

If he is an honest man, the incumbent will not let big contributors *determine* how he is going to vote—one way or another.

But even the honest man finds that he must give something of himself—his time and attention to the big giver's concerns, his sympathetic ear, his willingness to intervene when he can do so legitimately.

The officeholder recognizes that while some big givers contribute solely for the sake of good government and a belief in the candidate and his principles, they are in the minority. He knows that the majority of the big givers expect their contributions to give them access to an officeholder. At the least, this access is seen as the ability to drop into his office anytime for informal visits, as well as the ability to present their views to the officeholder before he acts on an issue.

A busy office holder can only see a limited, finite number of people in any day. He will always do his very best to fit into his schedule someone who was a major contributor to his campaign. This may squeeze out someone who has a much—perhaps more—to say, but who was not a big contributor. Thus the contributor has a better chance to have access than the non-contributor. I submit that this is inevitable—but utterly unfair.

Thus political big money imperceptibly but inevitably erodes the impartiality of our best men and our best institutions. In a world where we've suddenly achieved such enormous powers to control, to corrupt, and to destroy, we must not allow this erosion to continue.

It seems to me that public financing of campaigns is the only workable alternative which will permit a low-enough limit on private contributions to assure equity for the average American. I will shortly discuss one approach to public financing which I believe can achieve the objectives of campaign finance reform. But before I do, I would like to make a general comment on Congress responsibility in this area.

I believe that as elected Members of Congress, we all have a moral responsibility to tell the American people that the present system of campaign finance impairs the health of our democratic institutions. We are clearly in the best position to know the effects of big money in politics. We should have the courage to tell the American people how big money affects us.

If we agree that public financing is necessary, we have a responsibility to make that argument to the American people. We should explain why public support must include the primary as well as the general election. We should explain that if private contributions are adequately limited, the only alternatives to public finance must inevitably include restrictions on the candidate's freedom to make his case before the voters.

I think the American people are in the mood for honesty. I know they will accept change in our method of financing elections if we, who are the products of elections, talk to them honestly about the problem.

I would now like to turn to the discussion of my proposal for public financing, stressing as I do so that the proposal is not intended to be an amendment to S. 372. My discussion is only to comment on the feasibility of such a financing system.

I propose a public financing program which combines limited private contributions with a system of Federal matching funds. Under this program, an individual's contributions to any one candidate for Federal office would be limited to $250.

In order to participate in the Federal matching program, a candidate would have to be a legally announced candidate. Subsequently, he would have to raise an initial minimum campaign fund through private contributions. For senatorial and congressional candidates, this initial fund would be $10,000 and $2,500 respectively. Presidential candidates would have to raise a substantially larger fund of $100,000.

Having met these requirements, a candidate would be eligible for the Federal matching subsidy where each contribution of $50 or less would be matched by Federal funds.

I propose that all private contributions as well as the Federal funds under this system be deposited in a trust account in a State or National bank. Administration of the account, which would also include issuing checks for all campaign expenditures, would rest with a bank trust officer appointed by some element of the Federal judiciary.

The great problem with any public financing plan is assuring total accountability in the disbursement of Federal funds. One way to do this is by using an impartial trust officer—chosen not by the candidate or by some official in the executive branch which can be so politically motivated as we have seen in Watergate, but chosen by the judicial branch.

The matching program would work as follows:

The trust officer would submit information about each contribution and its contributor to the Federal Elections Commission for certification. The commission would withhold certification of the contribution if the total contribution by the individual in a single year to the candidate exceeds $50. If the contribution is certified, Federal matching funds in the ratio of 2 to 1 for the primary, or 4 to 1 for the general and special elections, would be sent to the candidate's trust account. That is, for each $50 contribution, the Federal government would provide $100 in matching funds for a primary contest, or $200 for a general election.

Each candidate would be limited in the amount of Federal subsidy he could obtain. Presidential and senatorial candidates could expend up to 10 cents per person of voting age per State in a primary and 15 cents per person of voting age in the general election.

Federal matching funds would thus be limited to 6⅔ cents per person of voting age in the primary and 12 cents per person of voting age in the general election.

Congressional candidates' entitlement would be no more than $90,000 for those from States with more than one congressional district or $125,000 for those from States with a single congressional district.

Under the matching program, candidates could accept some private contributions: those in excess of $50 but less than $250 which would not qualify for the matching program. However, such contributions would be severely limited to a total of $5,000 for a congressional candidate, $20,000 for a senatorial candidate, and $200,000 for a Presidential candidate.

With such tight limits on nonmatching private contributions added to the incentives of matching funds, a candidate is encouraged to seek out the small contributor, the average workingman. Political influence no longer will require the kind of contributions made by Ashland Oil or American Airlines, which we have recently been reading about. It no longer will require the $2 million contribution of a Clement Stone. The American working man and woman will be put on a par with the executives of the largest corporations, because their $50 contribution bolstered by the Federal matching funds become just as important as what the executive can give.

Unlike other public financing proposals, my matching program makes no distinction between the subsidies which major and minor party candidates receive.

The artificial limits which are imposed by other proposals severely hamper the ability of minor party candidates. Those proposals fail to recognize that in some States or districts a minor party may be, in fact, the major party, or that some candidates are able to run successfully as independents with widespread support. With artificial limits, these candidates would find it impossible to run a winning campaign.

My proposal places no restrictions on the minor party or independent candidate. He can participate in the matching program as fully as he has a base of support.

Mr. President, we incumbents have a totally understandable desire to protect ourselves. We would be less than human if we did not.

But we also know that equal opportunity is the very essence of democracy—and that the protection of equal opportunity for all Americans supersedes the importance of protecting ourselves as successful incumbents.

I say this to my fellow incumbents: We have overwhelming advantages already, quite apart from the matter of money. Some of these advantages—such as the name recognition that comes from public service—cannot be affected by any form of legislation. But if we insist upon maintaining—or expanding and strengthening—the money-raising advantages we already possess, we will, in the light of the overwhelming and obvious need for reform, betray our trust. And, actually, I am convinced we would only be postponing the inevitable—for reform will come in response to what will become an unyielding demand for it from the people we represent and I predict that more than one of those incumbents who stands in its path will be swept aside—and out.

What have our careers in public life meant if we permit self-interest to dominate our actions on this most crucial of issues?

And make no mistake—ending our electoral system's dependence on large private donations may be the most crucial issue of our time since it will be the determining factor in how we resolve all of the other problems we face as a Nation. The issue goes to the very heart of how our democracy works and to whether our freedoms will survive.

The Constitution is silent on political parties and on how campaigns are conducted—creating what has become an exposed, vital gap in our protections to the functioning of our democratic process. We must fill that gap with safeguards comparable to those we provide for other aspects of the democratic process.

In the early days of the Republic, there were no such vast sums for campaigning.

When Abraham Lincoln ran for Congress in 1846, his supporters raised $200 for his campaign.

He won—and gave back $199.25, saying:

> I did not need the money. I made the canvass on my own horse; my entertainment, being at the houses of friends, cost me nothing; and my only outlay was 75 cents for a barrel of cider, which some farmhands insisted I should treat to.

Lincoln's concern with the barrel of cider is enviable. He did not have to worry about TV spots, computerized mass mailings, whistle stopping by jet, $1,000 a plate dinners, or the other superchrome paraphernalia of today's campaigns. And, as President, Lincoln did not have to be concerned with instant nuclear strike, multinational corporations, sophisticated surveillance devices, a media potential for influencing if not controlling the minds of millions of Americans, nor even the income tax.

Mr. President, public financing of elective campaigns is made necessary by today's circumstances in today's world.

Mr. HASKELL. Mr. President, briefly I wish to associate myself with the remarks on this important matter by my distinguished colleague.

I would make an additional point—in my opinion public financing would help the challenger rather than the incumbent.

I say this from personal experience. It is far more difficult for the challenger to raise money for a campaign and public financing clearly removes this disadvantage, and then makes the election fairer.

Mr. BIDEN. Mr. President, on behalf of the distinguished Senator from South Dakota (Mr. ABOUREZK), who is absent on official business, I ask unanimous consent that a statement by him relating to campaign spending limitations be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Senator Abourezk

I regret very much that I am unable to take part personally in this colloquy on a subject which I feel is as important as any facing this Congress, and I appreciate very much Senator Biden's courtesy in introducing this statement into the Record on my behalf.

Rather than repeating all of the points which I know will be discussed thoroughly by the distinguished participants in this colloquy, I would like to look briefly at the question of overall campaign spending ceilings as they relate to the public financing of Federal elections.

As Senators know S. 372, which is before the Senate today, proposes an overall ceiling on campaign expenditures. This question of supposedly excessive campaign spending, and the limitation of such spending, has become almost the keystone of reform minded consideration of the campaign financing problem.

I feel very strongly that excessive spending is not the heart of the problem. Myopic concern with this one area creates a false illusion of reform. Simple enactment of a ceiling is not an adequate response to the problems we face. It may, in fact, be a step backwards if not coupled with other important reforms.

In order to see why a spending ceiling alone cannot do the job, we need only keep our eye on the real problem with our present system of campaign financing. That problem is that the ability to raise needed campaign money on the one hand, and to give money on the other hand, is possessed by candidates, individuals, and interest groups in no rational relation to their ability, or to their number.

Because incumbents are better able to raise funds than nonincumbents, because wealthy individuals are better able to give money than poor individuals, and because rich or tightly organized groups are better able to raise and direct contributions than are poor or disorganized groups, campaign contributions become a serious distorting factor working against the one man one vote model on which our system rests.

In addition to this distortion of influence, the present system creates the certain appearance, and too frequent reality, that big contributors are buying influence with their contributions.

By clamping a ceiling on campaign spending we may limit somewhat the amounts of money that a candidate must raise. But this limitation will do nothing to change the fact that what money is raised must come from the same private sources that have always contributed. It will do nothing to change the fact that incumbents are far better able to raise money from these sources than are non-incumbents. It will do nothing to change the fact that politicians will still be beholden to the men and groups that give them their money. And it will do nothing to change the fact that scores of capable men and women stay out of elective politics precisely because they cannot, or are not willing to, engage in fund raising under the present system.

Other portions of S. 372, and the amendments that will be offered to S. 372, go a little more directly toward the problem of money in politics. But these provisions, dealing with limits on the size of individual and group contributions, still seem to me to skirt the real problem.

So long as political fundraising remains little more than a system of organized begging, we are going to have problems. Beggars are always beholden to those who support them. They live poorly, on the edge of poverty, and in constant fear that their benefactor may cut them off.

Unlike a simple ceiling, public financing would replace politically charged private contributions with politically neuter public money. It would eliminate the temptation to corruption. It would insure that all serious candidates are able to run at least a decent race. It would save incumbents the demeaning, time consuming, and sometimes compromising task of touching their friends for campaign funds while at the same time permitting challengers a fair opportunity to state their case.

Without public financing a spending ceiling is dangerously open to the charge that it is nothing more than an incumbent's re-election bill. It eliminates the possibility of the occasional heavily financed glamour challenge to an incumbent while preserving the more normal incumbent's advantage in fund raising and also increasing the real value of the incumbent's official privileges.

I am sure I value my office as much as most others. But I also share what I think is a widespread concern in this body for the reputation and effectiveness of the office we hold.

For this Congress to enact an incumbent's re-election bill as its only response to the Watergate would be disastrous. It would reduce the credibility of all politicians from little to absolutely nothing. It would weaken us in every one of our important and legitimate contests with this or any future executive. It would, in short, assure us of winning back the prize of office only at the expense of grossly devaluating the office itself.

On the other hand, a spending ceiling coupled with public financing makes eminent good sense.

The spending ceiling would be an assurance to the public that their tax dollars would not be added to unlimited private contributions and result in nothing more than costlier campaigns. It would also be an assurance to incumbents that a millionaire challenger could not try to buy their office out from under them.

The public financing would be an assurance to the public that their elected officials have not been bought by special interests. It would also assure incumbents and challengers alike that they will have modest, but adequate amounts of money available to state their case to the voters.

For a per person charge of about the cost of a couple of McDonald's hamburgers the voting public can buy back into elective politics. For the psychic cost of perhaps the tiniest increase in the possibility of future defeat each of us can increase immensely the influence and the integrity of his own office. I think it is a good deal. I urge that we back up our support for the ceilings of S. 372 with support for public financing at the very earliest possible date.

Mr. KENNEDY. Mr. President, I am pleased to join in this colloquy on public financing. Senator Hugh Scott and I have offered an amendment to the pending legislation to provide pulbic financing for Senate and House elections, and to prohibit private financing for major party candidiates in all Federal elections, presidential as well as congressional.

Under terms of the amendment, public funds will be available to candidates of major parties in Senate and House elections, based on a formula allocating 20 cents for each voter in the jurisdiction in which the election is to be held, in accord with the spending ceiling provisions of S. 372. Candidates of minor parties will be entitled to public funds under two approaches—either in proportion to the party's showing in the past election, or retroactively, on the basis of its showing in current election.

The provision prohibiting private financing by major party candidates allows minor party candidates to use private funds to reach the level of spending of major party candidates. In addition, the amendment applies only to general and special elections, not to primaries and runoffs, which will continue to be financed by private funds.

Under existing law, future Presidential election campaigns will be financed by public funds through the so-called "dollar checkof," by which taxpayers indicate on their tax forms that $1 of their tax liability, or $2 on a joint return, is to go into a general fund for financing Presidential campaigns. The amendment I have introduced with the distinguished Senator from Pennsylvania does not involve the tax form, but in other respects, our proposal for Senate and House elections closely follows the law already applicable to Presidential elections.

Mr. President, the most obvious lesson of Watergate is the corrosive power of money in politics. At a single stroke, by enacting a program of public financing for Federal elections, we can shut off the underground rivers of private money that pollute politics at every level of the Federal Government. If Watergate has taught us anything, it is that disclosure is not enough, that sunlight is not an adequate disinfectant for the infectious power of money in political campaigns.

As everyone knows, the United States has the best political system that money can buy, and it is a disgrace to the principles on which our Republic stands. Congress has already gone part way. Already, public funds will be available under existing law to finance the Presidential election campaign in 1976. The time has come to take the next great step toward open and honest government.

The time is now ripe—indeed overripe—to eliminate private financing in our national elections and to apply the clear, simple principle of public financing to all Federal elections. Only in that manner can we drive the money changers from the temple of Federal politics.

I am honored and delighted to work with Senator Hugh Scott in a bipartisan effort to reach this goal. The Senator from Pennsylvania has been an outstanding leader of legislation in many areas of election reform. I am pleased to join with him on this new effort, which offers such enormous benefit to Americans concerned about the quality of our Government, and I urge the Senate to accept the amendment we have introduced.

Mr. President, I ask unanimous consent that a detailed summary of our amendment may be printed in the Record.

There being no objection, the summary was ordered to be printed in the Record, as follows:

Public Financing for Federal Elections, Principal Provisions

1. The amendment adds a new title, the "Congressional Election Campaign Fund Act," to the Federal Election Code. The new Act

provides public financing for Senate and House elections, and is modeled closely on Senator Russell Long's Presidential Election Campaign Fund Act, passed by Congress in 1971 and amended in 1973, which provides public financing for Presidential elections under existing law.*

2. It provides public funds for general and special elections for the Senate and House, but not for primaries or run-off elections.

3. It makes public financing mandatory for Senate and House elections. Thus, it bars the option of private financing by major candidates. However, a candidate of a major party may use private funds to make up a deficit in his entitlement of public funds. A candidate of a minor party or a new party may use private funds only to reach the level of entitlement of major party candidates.

4. It also bars the option of private financing for Presidential elections. This is the only change made by the amendment in the operation of the dollar check-off in existing law, which offers public financing as an alternative to private financing for Presidential elections.

5. Constitutional and parliamentary considerations indicate that specific amendments to the Internal Revenue Code may not be in order on Senate-originated bills such as S. 372. Therefore, the amendment simply applies the basic principles of the provisions of the dollar check-off to Senate and House elections. Except as provided in this summary, the provisions of the amendment for Congressional elections are essentially identical to the provisions of the dollar check-off applicable to Presidential elections.

6. The amendment establishes a Congressional Election Campaign Fund on the books of the Treasury, to be funded out of general appropriation acts of Congress, and from which public funds will be made available to eligible candidates.

7. Unlike the dollar check-off, the fund for Congressional elections does not involve the tax form. However, amendments to the check-off on the Debt Ceiling Act of July 1, 1973, have now eliminated the so-called "special" accounts, and have left only a "general" account to be allocated by formula among Presidential candidates. As a result, the Presidential Election Campaign Fund in present law is now closely similar to the Congressional Election Campaign Fund to be established by the amendment.

8. The amendment follows the basic formula in the dollar check-off for allocating public funds among candidates of major and minor parties, but changes the entitlement to 20¢ a voter, in accord with the spending ceilings in S. 372.

9. A candidate of a "major party"—a party that received 25% or more of the total number of popular votes received by all candidates for the office in the preceding election—is entitled to receive public funds in the amount of 20¢ per eligible voter.

10. A candidate of a "minor party"—a party that received more than 5% but less than 25% of the popular vote in the preceding election—is entitled to receive public funds in proportion to his share of the vote in the preceding election. A candidate of a minor party may increase his entitlement on the basis of his performance in the current election.

11. A candidate of a "new party"—a party that is not a major party or a minor party—is entitled to receive public funds in proportion to his share of the popular vote in the current election, if he receives more than 5% of the vote in the election.

12. Public funds will be available for expenditures made by a candidate of a major party during the period beginning with the date on which the party nominates its candidate and ending 30 days after the election. Public funds will be available for candidates of other parties during the shortest period in which they are available to a candidate of a major party.

13. Individuals or committees not authorized by a candidate may not spend more than $1,000 during the campaign on behalf of the candidate of a party eligible for public funds.

14. The program will be administered by the new Federal Election Commission, to be established by S. 372. A Congressional Election Campaign Fund Advisory Board is created to advise the Commission in the performance of its duties.

15. The program will go into effect for the 1976 Congressional elections.

Mr. CRANSTON. Mr. President, I will end our colloquy on this matter at this time. I yield back whatever time I have remaining that was yielded to me for this purpose.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT OF SMALL BUSINESS ACT

Mr. CRANSTON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1672.

The PRESIDING OFFICER (Mr. HUDDLESTON) laid before the Senate the amendment of the House of Representatives to the bill (S. 1672) to amend the Small Business Act which was to strike out all after the enacting clause, and insert:

AUTHORIZATION

SECTION 1. Paragraph (4) of section 4(c) of the Small Business Act is amended—

(1) by striking out "$4,300,000,000" and inserting in lieu thereof "$6,600,000,000";

(2) by striking out "$500,000,000" where it appears in clause (B) and inserting in lieu thereof "$725,000,000";

(3) by striking out "$500,000,000" where it appears in clause (C) and inserting in lieu thereof "$600,000,000"; and

(4) by striking out "$350,000,000" and inserting in lieu thereof "$475,000,000".

LOANS TO MEET REGULATORY STANDARDS

SEC. 2. (a) Section 7(b)(5) of the Small Business Act is amended to read as follows:

"(5) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to assist any small business concern in effecting additions to or alterations in its plant, facilities, or methods of operation to meet requirements imposed on such concern pursuant to any Federal law, any State law enacted in conformity therewith, or any regulation or order of a duly authorized Federal, State, regional, or local agency issued in conformity with such Federal law, if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this paragraph: *Provided*, That the maximum loan made to any small business concern under this paragraph shall not exceed the maximum loan which, under rules or regulations prescribed by the Administration, may be made to any business enterprise under paragraph (1) of this subsection; and".

(b)(1) Section 7(b)(6) of the Small Business Act is repealed.

(2) Paragraph (7) of such section 7(b) is redesignated as paragraph (6).

(c) Section 28(d) of the Occupational Safety and Health Act of 1970 (Public Law 91–596) is amended by striking out "7(b)(6)" and inserting in lieu thereof "7(b)(5)".

(d) In no case shall the interest rate charged for loans to meet regulatory standards be lower than loans made in connection with physical disasters.

CONFORMING TECHNICAL AMENDMENTS

SEC. 3. (a) Subsection (g) of section 7 of the Small Business Act, as added by section 3(b) of the Small Business Investment Act Amendments of 1972, is redesignated as subsection (h).

(b) Subsection (c) of section 4 of the Small Business Act is amended by striking out "7(g)" each place it appears in paragraphs (1)(B), (2), and (4) and inserting in lieu thereof "7(h)".

DISASTER LOANS

SEC. 4. (a) The second paragraph following the numbered paragraphs of section 7(b) of the Small Business Act is amended by striking out "July 1, 1973," the first time it appears therein and inserting in lieu thereof "July 1, 1975,".

(b) Subparagraph (D) of the second paragraph following the numbered paragraphs of section 7(b) of the Small Business Act is amended by striking out clauses (i) and (ii) and inserting in lieu thereof the following: "with respect to a loan made in connection with a disaster occurring on or after April 20, 1973, but prior to July 1, 1975, and notwithstanding section 9 of Public Law 93–24, the Small Business Administration shall, at the option of the borrower, either cancel $2,500 of the loan and make the balance of such loan at an interest rate of 3 per centum per annum, or make the entire loan at an interest rate of 1 per centum per annum. In the event of the refinancing of a home or a business, the monthly payments after the refinancing shall in no case be lower than such payments prior to the disaster.".

LIVESTOCK LOANS

SEC. 5. Section 7(b)(4) of the Small Business Act is amended by inserting before the semicolon at the end thereof the following: ": *Provided*, That loans under this paragraph include loans to persons who are engaged in the business of raising livestock (including but not limited to cattle, hogs, and poultry), and who suffer substantial economic injury as a result of animal disease".

EROSION ASSISTANCE

SEC. 6. Section 7(b)(1) of the Small Business Act is amended by inserting "erosion directly related to a flood, high water or tidal wave," immediately after "floods,".

LOANS FOR ADJUSTMENT ASSISTANCE IN BASE CLOSINGS

SEC. 7. Section 7(b) of the Small Business Act is amended by adding after paragraph (6) the following new paragraph:

"(7) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to assist any small business concern in continuing in business at its existing location, in reestablishing its business, in purchasing a new business, or in establishing a new business if the Administration determines that such concern has suffered or will suffer substantial economic injury as the result of the closing by the Federal Government of a major military installation under the jurisdiction of the Department of Defense, or as a result of a severe reduction in the scope and size of operations at a major military installation."

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*See the "Presidential Election Campaign Fund Act," P.L. 92–178, 85 Stat. 497, 562–575 (December 10, 1971), as amended by the Debt Ceiling Act, P.L. 93–53, 87 Stat. 134, 138–139 (July 1, 1973).

ANNUAL REPORT ON STATE OF SMALL BUSINESS

SEC. 8. The first sentence of subsection (a) of section 10 of the Small Business Act and the first word of the second sentence of such subsection are amended to read as follows: "The Administration shall, as soon as practicable each calendar year make a comprehensive annual report to the President, the President of the Senate, and the Speaker of the House of Representatives. Such report shall include a description of the state of small business in the Nation and the several States, and a description of the operations of the Administration under this chapter, including, but not limited to, the general lending, disaster relief, Government regulation relief, procurement and property disposal, research and development, technical assistance, dissemination of data and information, and other functions under the jurisdiction of the Administration during the previous calendar year. Such report shall contain recommendations for strengthening or improving such programs, or, when necessary or desirable to implement more effectively Congressional policies and proposals, for establishing new or alternative programs. In additions, such".

ANTI-DISCRIMINATION AMENDMENT

SEC. 9. Section 4(b) of the Small Business Act is amended by adding after "The Administrator shall not engage in any other business, vocation, or employment than that of serving as Administrator." the following new sentence: "In carrying out the programs administered by the Small Business Administration, including its lending and guaranteeing functions, the Administrator shall not discriminate against any person or small business concern receiving assistance from the Small Business Administration based on sex, and the Small Business Administration shall give special consideration to veterans of United States military service and the survivors of their immediate families.".

Mr. CRANSTON. Mr. President, I move that the Senate disagree to the amendment of the House on S. 1672 and ask for a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. SPARKMAN, Mr. PROXMIRE, Mr. STEVENSON, Mr. CRANSTON, Mr. TOWER, Mr. TAFT, and Mr. WEICKER conferees on the part of the Senate.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, there be a period for the transaction of routine morning business for not to exceed 30 minutes with statements therein limited to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE SENATE TO PROCEED TO CONSIDERATION OF S. 1560 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the transaction of routine morning business tomorrow, the Senate proceed to the consideration of S. 1560, the Emergency Employment Act of 1971.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at the hour of 10 a.m. There will be a period for the transaction of routine morning business for not to exceed 30 minutes, with the usual limitation of 3 minutes on statements.

At no later than 10:30 a.m., the Senate will take up S. 1560, the public service employment for unemployed persons bill. Yea-and-nay votes may occur thereon.

At no later than 12:30 p.m., and possibly earlier, the Senate will resume the consideration of S. 372, the campaign reform bill. Yea-and-nay votes will occur on amendments thereto.

ADJOURNMENT TO 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the previous order that the Senate stand in adjournment until 10 a.m. tomorrow.

The motion was agreed to; and at 6:49 p.m., the Senate adjourned until tomorrow, Thursday, July 26, 1973, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate July 25, 1973:

DEPARTMENT OF JUSTICE

Melvin A. Hove, of Iowa, to be U.S. marshal for the northern district of Iowa for the term of 4 years. (Reappointment)

Isaac George Hylton, of Virginia, to be U.S. marshal for the eastern district of Virginia for the term of 4 years. (Reappointment)

J. Pat Madrid, of Arizona, to be U.S. marshal for the district of Arizona for the term of 4 years. (Reappointment)

DEPARTMENT OF STATE

Thomas R. Byrne, of Pennsylvania, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Norway.

U.S. POSTAL SERVICE

John Y. Ing, of Hawaii, to be a Governor of the U.S. Postal Service for the term expiring December 8, 1981. (Reappointment)

IN THE AIR FORCE

The following officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be general

Lt. Gen. Samuel C. Phillips, [redacted]FR (major general, Regular Air Force) U.S. Air Force.

Brig. Gen. Harold R. Vague, [redacted]FR, for promotion to the grade of major general and for appointment as the Judge Advocate General, U.S. Air Force, under the provisions of chapter 839 and section 8072, title 10 of the United States Code.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. William Edward Potts, [redacted] U.S. Army.

THE JUDICIARY

Joseph T. Sneed, of California, to be a U.S. Circuit Judge, ninth circuit, vice Frederick G. Hamley, retired.

CONFIRMATION

Executive nomination confirmed by the Senate July 25, 1973:

DEPARTMENT OF LABOR

Julius Shiskin, of Maryland, to be Commissioner of Labor Statistics, U.S. Department of Labor, for a term of 4 years.

(The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

EXTENSIONS OF REMARKS

A CONGRESSMAN'S MAILBAG—A LINK WITH CONSTITUENTS

HON. WILLIAM M. KETCHUM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. KETCHUM. Mr. Speaker, I am pleased to call to the attention of the Congress today a newspaper article which appeared in the Daily-News Post and Monrovia News Post. The subject of the article is our esteemed colleague and my personal friend, Congressman JOHN ROUSSELOT of San Marino, Calif.

Congressman ROUSSELOT is an energetic and dedicated individual who exemplifies the very essence of public service in America today. A man of tireless energy, he serves the people of California's 24th Congressional District in an exemplary manner. I personally respect the advice and counsel of JOHN ROUSSELOT and appreciate his assistance during my first 7 months in Congress. Within the California congressional delegation, JOHN commands the respect and admiration of his colleagues and is considered one of the delegation leaders.

The following article is a compliment to Congressman ROUSSELOT and his performance as a Member of Congress:

THREE HUNDRED LETTERS A WEEK—A CONGRESSMAN'S MAILBAG—A LINK WITH CONSTITUENTS

(By Andrew Knox)

Congressman John Rousselot receives every kind of letter you can image. They are letters concerning people's problems, or thank you letters for things he has accomplished for them.

Some of the letters concern people's problems with federal agencies, with the armed services, the internal revenue services, and the legislature, H. Donald Harper, the congressman's administrative assistant, said.

The letters come in to his offices in Arcadia, Lancaster and Washington, D.C. at the rate of about 300 each week.

"We do not support federal welfare laws, but the congressman helps his constituents who need this type of service," Harper pointed out. "We are concerned with the abuse of food stamps, but Rousselot helps the people get the stamps they need.

"Whether he agrees with a program or not, Rousselot feels it's his duty to help the people," he added.

A few of the letters praised Rousselot's office staff—such as this one.

"We will certainly take every opportunity to convey to everyone, the fact that you and your staff have a sincere interest in helping people," the letter writer said.

"This was most gratifying for we did not expect to find this kind of sympathetic response from an elected officials of office," the writer added.

A person in Pomona said the congressman's staff responds effectively to public need. He said that the staff was dedicated to service, and showed administrative efficiency.

"We are dedicated to service, and I am not just talking," Harper emphasized. "We don't care what a man's party affiliation is, if he is having problems with the federal government."

Rousselot said one of his objectives in congress is to encourage the implementation of more effective management techniques in federal offices.

"It gives me pleasure and satisfaction to inform the voters of a congressman who has a vital concern for the people in his district," a Claremont woman wrote.

Another writer commended Rousselot for working to improve government telephone manners, and seeing to it that rude and inefficient personnel are removed from the job.

A Pomona youth thanked the congressman for rectifying his difficulty with the Selective Service Board.

"Your consideration and rapid action has enabled me to complete my college education, and greatly enhanced my chances for future success in both the service and civilian life," the youth wrote.

Rousselot aided Monrovia in getting its paramedic radio frequency licenses. A city official wrote the congressman after the license application was delayed in Washington, D.C.

"Due to your intervention, the paramedic teams went into action right on schedule," the official stated.

Another constituent said Rousselot helped speed up the process of his wife's visa. He expressed a deep sense of appreciation to the congressman.

An Arcadia man thanked the congressman for helping him become a United States citizen. An Alhambra woman showed appreciation for his helping her parents to arrive in America from Spain.

Among the other thank you letters in Rousselot's office are as follows. He arranged a tour for a man's first visit to the nation's capitol.

He acquired information about a Glendora family's son in Vietnam. The congressman helped a Covina youth get summer employment with the weather service, and he aided an Arcadia man in receiving $1,643 in Social Security compensation that was due him.

Claremont College was seeking federal funding to establish a work-study program for its students. With Rousselot's help they received $15,000.

The congressman gave a speech before the economics and government classes at Glendora High School recently. In the thank you letter, a teacher wrote:

"I tell my students that you are a good example of how good government works," the teacher stated.

He received letters from other elected officials as well.

William Timmons, an assistant to President Nixon, wrote a letter in behalf of the chief executive for Rousselot's remarks when a group of youths attempted to disrupt the operation of the federal government in 1971.

"No disruptive elements will be permitted to impinge upon the rights of law-abiding citizens and government," Timmons stated.

Gov. Ronald Reagan wrote a letter to the congressman, informing him that they shared many of the same concerns.

The El Monte-South El Monte Chamber of Commerce said the development of the West San Gabriel Valley is due mainly to its civic leaders like Rousselot.

A woman who lives in San Dimas, praised the congressman for the objective way he conducted a meeting in Baldwin Park. She called him an able and impartial arbitrator.

"I have been proud to have you as my congressman," one constituent wrote, "but never have I been prouder than when I read about your courageous vote against the SALT agreements."

Rousselot often writes thoughtful letters to his supporters, and they often write thoughtful letters back.

"We received your letter congratulating us on our 50th wedding anniversary," a Big Bear Lake couple wrote the congressman. "We were surprised and greatly pleased that you would take time from your busy schedule to write to us."

Some letters are written in opposition to Rousselot. When such a letter arrives, the congressman meets with the constituent and finds out where the disagreement lies, Harper said.

Office secretaries open all mail, and place it on Rousselot's desk. He answers all mail, but if a matter is going to be taken care of by office staff, then the secretary clips a note to the letter to inform the congressman, Harper added.

"The answers to some letters require research," he pointed out. "If it's a legislative matter, then we have our legislative consultants in Washington research the information.

"If the questions are on immigration, then our immigration team does the research," Harper continued.

During election, the mail is handled by the campaign workers, some who are paid and others are volunteers. The congressman answers all campaign mail, he said.

"When a question is being asked during the election weeks by many constituents, Rousselot will write a position paper on the issue," Harper commented.

"The paper gives his answers to the problem, and its available to all the voters."

A SIMPLE KINDNESS

HON. JESSE A. HELMS

OF NORTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Wednesday, July 25, 1973

Mr. HELMS. Mr. President, on July 22 a fine newspaper in my State, the Asheville Citizen-Times, took note of the constant courtesy and civility of our colleague, the distinguished senior Senator from Pennsylvania (Mr. Scott).

There is a lesson for all of us in this editor's appraisal of Hugh Scott, and I commend this brief editorial to the attention of all Senators. I ask unanimous consent that the editorial be printed in the Extensions of Remarks.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

A Simple Kindness

Senator Hugh Scott, the Senate minority leader, is almost a caricature of most peoples' image of a professional politician.

That and his spirited advocacy of his beloved Republican Party sometimes belies his profoundly civilized mind and courteous demeanor.

It is a custom of long standing with the veteran lawmaker to break bread at breakfast with his opponent the day following an election campaign. The practice remains the same in both defeat and victory.

Scott realizes the truth in George Santayana's line, "There is nothing to which men, while they have food and drink, cannot reconcile themselves."

That simple politeness illustrates not only kindness, but also an intelligence. Any oaf can be rude. It takes a thinker to be considerate.

If more political combatants would follow Scott's custom—and not just after an election—a degree of much needed civility might be restored to the political process.

The voters, too, might look for such refinement in candidates. Good manners may tell more about a person than most people realize.

HISTORIC LOCKS AT DELAWARE CITY

HON. PIERRE S. (PETE) du PONT

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. du PONT. Mr. Speaker, for some time I have been engaged in an effort to upgrade the area around the Historic Locks at Delaware City. As a matter of fact, Mr. Warner Foraker of Delaware City was the first person to contact my office in regard to his interest in seeing this site preserved, a project that I feel would be a most worthwhile undertaking.

This week I received a copy of the Delaware State Senate Joint Resolution No. 27 which further indicates the historic significance of these locks by asking the Delaware congressional delegation to request the U.S. Army Corps of Engineers to examine the possibility and feasibility of restoring the historical locks at Delaware City.

Today I am submitting a copy of this resolution for the Record:

Delaware State Senate Joint Resolution No. 27

Memorializing the Delaware Congressional Delegation to request the U.S. Army Corps of Engineers to examine the possibility and feasibility of restoring the historic locks at Delaware City

Whereas, the old lock canal which was opened in 1829 with its eastern-most lock at Delaware City holds great historical significance for the town of Delaware City; and

Whereas, the canal was first recommended as early as 1661 by Augustine Herman of Bohemia Manor and seriously considered by Benjamin Franklin in 1786; and

Whereas, with the construction of the present Chesapeake and Delaware Canal, the old locks, which are now only a branch channel of the new waterway, have been covered with mud; and

Whereas, the restoration of these locks would provide Delaware City with a historical tourist attraction where the people of Delaware and visitors to the State could discover the special distinction and flavor of the old canal town that sets Delaware City apart from any of the other river and bay side towns in Delaware from New Castle to Lewes.

Now, therefore:

Be it resolved that the members of the 127th General Assembly and the Governor of the State of Delaware request the Delaware Congressional Delegation to contact the U.S. Army Corps of Engineers concerning the possibility and feasibility of restoring the historic locks at Delaware City.

Be it further resolved that the members of the Delaware Congressional Delegation incorporate a copy of this resolution into the Congressional Record or into the record of any committee hearings that may be conducted relative to this subject.

Be it further resolved that a copy of this Memorial be mailed to Senator William V. Roth, Jr. and Joseph R. Biden and to Representative Pierre S. DuPont, IV at their respective Senate and House offices in Washington, D.C.

SHORTER CAMPAIGNS

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. FRENZEL. Mr. Speaker, recently David Broder wrote an article appearing in local newspapers in which he suggests that a shortening of the campaign period between primary and general elections would be a great advantage to the incumbent in an election contest.

In response to that article, the St. Paul Dispatch ran an editorial on Thursday, July 12, stating that in its opinion the shortened campaign period was not an undue disadvantage to the challenger.

I agree strongly with what I think is Mr. Broder's main thesis: that challengers should have a reasonable opportunity to defeat incumbents and that most "reform proposals" are actually incumbents' insurance policies in the guise of reform.

However, in this case I agree with the St. Paul Dispatch editorialists that the shortened campaign period is of no particular advantage to the incumbent. Far worse advantages lie in so-called "reform" proposals for Federal financing, strict limitations of contributions, and strict limitations of expenses.

The St. Paul Dispatch editorial follows:

> SHORTER CAMPAIGNS
>
> David Broder, a Washington columnist whose article on this page today criticizes two election-reform measures now before the Congress, is in our opinion making mountains out of small hills.
>
> One bill, already approved by the Senate, would shorten the campaign—the time between primary and general elections—for any federal office. "There is precious little reason," says Broder, "to think any challenger, limited to an eight-week campaign, would stand a snowball's chance in hell of defeating an incumbent . . . who has had . . . years to gain name recognition and familiarity, to propagandize his constituents at public expense and to organize his re-election campaign."
>
> Broder is right in saying there are advantages for an incumbent—the name familiarity and the rest—but then his logic falters. A challenger is not starting from scratch on the day of the primary. Under the bill, there is nothing to prevent the challenger from doing what has always been done: starting as early or as late before the primary as he or she wishes. As to the advantages built in for the incumbent, these are not diminished by a longer campaign, since they are advantages that begin as soon as he has won his first election. And a short general election campaign is not necessarily a disadvantage to the challenger. Indeed, it may be an advantage to him, to the incumbent and to the public, by forcing both candidates to come earlier and more firmly to grips with issues, instead of wasting time and money, and eroding public interest, in meaningless feinting and jabbing. The latter is all too often the case in campaigns as they are now conducted.
>
> With modern communications, eight weeks are plenty for any general campaign and for any candidate, incumbent or challenger, to get his story across, even if we disregard the fact the challenger has doubtless spent considerable time before the primary in building his case. Short campaigns are the rule in most other democracies, and no one seriously argues that incumbents in these countries are never, or even seldom, defeated. The argument that shorter general election campaigns are a firm guarantee of re-election simply vanishes before the facts.
>
> As to the overall spending limit: here again, Broder's argument is that it places the challenger at an impossible advantage against an incumbent who has been, in effect, spending public funds limitlessly during his tenure. Well, scarcely any amount of spending by the challenger can possibly alter that fact of political life. That is no excuse for not placing a limit on campaign spending. Such spending has become preposterous in the last few years, as emphasis on vastly expensive television advertising has grown. Some rule of reason has to be applied. To argue that the incumbent has an "impossible" advantage is to argue that no limit should be placed on the challenger's spending—and that only means opening the door to the worst kinds of abuses and to limiting candidacies to those of the very rich or the very corrupt.
>
> The foregoing does not mean we thoroughly approve of the Senate bills. Indeed, we agree with Broder that the Senate avoided a more positive alternative to piecemeal reform—that is, government-financed campaigns for incumbent and challenger alike, with the financing equally divided. Oddly enough, however, Broder seems to fail to recognize that even this would not really equalize the advantages, for the incumbent would still be left with all his built-in headstart. But that headstart is an ineradicable factor in politics, one no reasonable challenger is unwilling to accept.

THE LATE JAMES V. "JIM" SMITH

HON. LESLIE C. ARENDS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. ARENDS. Mr. Speaker, the loss of a friend surely is one of the most difficult challenges we face as we proceed along the road of life. The most untimely passing on July 11 of one who many of us proudly claimed as friend and former colleague, James V. "Jim" Smith, can only be described as tragic.

Because of his sterling qualities as a man, Jim came to occupy a special niche among his colleagues in this House. Although his service among us was brief, he quickly demonstrated that he was a man of his word, a man who worked tirelessly for those he represented, a man who clearly perceived the greatness of this Nation and its promise for the future.

President Nixon fully recognized Jim's capabilities by appointing him as Administrator of the Farmers Home Administration. While serving in that capacity, I had numerous occasions to contact Jim regarding FHA matters brought to my attention by my constituents. Always did Jim respond in a forthright manner, and I soon came to depend upon him for advice and counsel on a program which has had a significant impact upon my largely rural district in Illinois.

Mr. Speaker, I rise in tribute to the memory of my late friend, Jim Smith. His life, well spent, will be an inspiration to those who follow.

BLACKOUTS OF HOME GAMES OF PROFESSIONAL SPORTS

HON. TORBERT H. MACDONALD

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. MACDONALD. Mr. Speaker, I am today introducing legislation which will prevent blackouts of home games by professional sports teams when those games are sold out 48 hours or more in advance. This legislation applies only to those professional football, baseball, hockey, and basketball games which are broadcast under the authority of a league television contract.

The main thrust of the bill goes to the regular and postseason games of the National Football League.

As my colleagues are well aware, in 1962 Congress enacted legislation which provided an antitrust exemption to allow professional sports teams to pool their broadcast rights and to enable the various leagues to negotiate network contract on behalf of their member teams.

Since the NFL utilizes the pooled network contract for its regular season and postseason games, it has been the prime beneficiary of this antitrust exemption.

In 1962, the NFL's television revenue was $300,000 per team. Earlier this week, it was reported that the NFL and the major networks had reached agreement on a new 4-year contract which will bring the league $200 million in revenue. This comes out to approximately $1.9 million for each team per year, or an increase of more than 600 percent in 10 years.

Despite this financial windfall, certain NFL spokesmen still adhere to a general "public be damned" attitude, which I, for one, can neither understand nor accept.

If the NFL continues to flaunt the public interest and to ignore the justified concern of the Congress, we will have no other alternative than to enact legislation similar to that which I am introducing today.

Your Subcommittee on Communications, of which I am privileged to be the chairman, will begin hearings next Tuesday—July 31—on my bill and those introduced by other Members on this important subject. These hearings will enable us to determine if legislation is, in fact, the only solution to the problem, and if it is, what form the final bill should take. Once the record is clear, I intend to act with all appropriate haste to see that the sports blackout impasse is broken.

The text of my bill is as follows:

H.R. 9553

A bill to amend the Communications Act of 1934 for one year with regard to the broadcasting of certain professional home games

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That part I of title III of the Communications Act of 1934 is amended by adding at the end thereof the following new section:

"BROADCAST OF SOLD-OUT PROFESSIONAL HOME GAMES

"SEC. 331. (a) If (1) during the one-year period which begins on the date of enactment of this section, any professional football, baseball, basketball, or hockey game is broadcast under the authority of a league television contract, and (2) tickets of admission to such game are no longer available for purchase by the general public 48 hours or more before the scheduled beginning time of such game, then television broadcast rights shall be made available for television broadcasting of such game at the time at which and in the area in which such game is being played.

"(b) For the purposes of this section, the term 'league television contract' means any joint agreement by or among persons engaging in or conducting the organized professional team sports of football, baseball, basketball, or hockey, by which any league of clubs participating in professional football, baseball, basketball, or hockey contest sells or otherwise transfers all or any part of the rights of such league's member clubs in the sponsored telecasting of the games of football, baseball, basketball, or hockey, as the case may be, engaged in or conducted by such clubs."

EFFICIENCY OF ENERGY USE IN THE UNITED STATES

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. BRADEMAS. Mr. Speaker, in view of the increasing discussion of "The Energy Crisis" in the United States, I believe that Members will read with interest an article entitled "Efficiency of Energy Use in the United States," by Eric Hirst and John C. Moyers, published in the March 30, 1973, issue of Science, a publication of the American Association for the Advancement of Science.

The authors are research staff members in the Oak Ridge National Laboratory-National Science Foundation environmental program, Oak Ridge National Laboratory, Oak Ridge, Tenn. Their report was sponsored by the National Science Foundation RANN program under a contract between the Union Carbide Corp., and the Atomic Energy Commission.

The article describes three uses of energy in which greater efficiency is feasible: transportation, space heating, and air conditioning. The authors of the article conclude that—

> It is possible—from an engineering point of view—to effect considerable energy savings in the United States.

The text of the article follows:

EFFICIENCY OF ENERGY USE IN THE UNITED STATES: TRANSPORTATION, SPACE HEATING, AND AIR CONDITIONING PROVIDE OPPORTUNITIES FOR LARGE ENERGY SAVINGS

(By Eric Hirst and John C. Moyers)

Conflicts between the demand for energy and environmental quality goals can be resolved in several ways. The two most important are (i) development and use of pollution control technologies, and of improved energy-conversion technologies and (ii) the improvement in efficiency of energy use. Increased efficiency of energy use would help to slow energy growth rates, thereby relieving pressure on scarce energy resources and reducing environmental problems associated with energy production, conversion, and use.

Between 1950 and 1970, U.S. consumption of energy resources (coal, oil, natural gas, falling water, and uranium) doubled (1), with an average annual growth rate of 3.5 percent—more than twice the population growth rate.

Energy resources are used for many purposes in the United States (2) (Table 1). In 1970, transportation of people and freight consumed 25 percent of total energy, primarily as petroleum. Space heating of homes and commercial establishments was the second largest end-use, consuming an additional 18 percent. Industrial uses of energy [process steam, direct heat, electric drive, fuels used as raw materials (3), and electrolytic processes] accounted for 42 percent. The remaining 15 percent was used by the commercial and residential sectors for water heating, air conditioning, refrigeration, cooking, lighting, operation of small appliances, and other miscellaneous purposes.

During the 1960's, the percentage of energy consumed for electric drive, raw materials, air conditioning, refrigeration, and electrolytic processes increased relative to the total. Air conditioning showed the largest relative growth, increasing its share of total energy use by 81 percent, while the other uses noted increased their shares of the total by less than 10 percent in this period.

The growth in energy consumption by air conditioners, refrigerators, electric drive, and electrolytic processes—coupled with the substitution of electricity for direct fossil fuel combustion for some space and water heating, cooking, and industrial heat—accounts for the rapid growth in electricity consumption. Between 1960 and 1970, while consumption of primary energy (1) grew by 51 percent, the use of electricity (4) grew by 104 percent. The increasing use of electricity relative to the primary fuels is an important factor accounting for energy growth rates because of the inherently low efficiency of electricity generation, transmission, and distribution which averaged 30 percent during this decade (1, 4). In 1970, electrical generation (1) accounted for 24 percent of energy resource consumption as compared to 19 percent in 1960.

Industry, the largest energy user, includes manufacturing; mining; and agriculture, forestry, and fisheries. Six manufacturers—of primary metals; of chemicals; of petroleum and coal; of stone, clay, and glass; of paper; and of food—account for half of industrial energy consumption (5), equivalent to 20 percent of the total energy budget.

Energy consumption is determined by at least three factors: population, affluence, and efficiency of use. In this article we describe three areas in which energy-efficiency improvements (the third factor) might be particularly important: (i) transportation of people and freight, (ii) space heating, and (iii) space cooling (air conditioning).

Energy efficiency varies considerably among the different passenger and freight transport modes. Shifts from energy-intensive modes (airplanes, trucks, automobiles) to energy-efficient modes (boats, pipelines, trains, buses) could significantly reduce energy consumption. Increasing the amount of building insulation could reduce both space-heating and air-conditioning energy consumption in homes and save money for the homeowner. Energy consumption for air conditioning could be greatly reduced through the use of units that are more energy efficient.

TRANSPORTATION

Transportation of people and goods consumed 16,500 trillion British thermal units *(6)* in 1970 (25 percent of total energy consumption) *(1)*. Energy requirements for transportation increased by 89 percent between 1950 and 1970, an average annual growth rate of 3.2 percent.

Increases in transportation energy consumption (7) are due to (i) growth in traffic levels, (ii) shifts toward the use of less energy-efficient transport modes, and (iii) declines in energy efficiency for individual modes. Energy intensiveness, the inverse of energy efficiency, is expressed here as British thermal units per ton-mile for freight and as British thermal units per passenger-mile for passenger traffic.

Table 2 shows approximate values (8) for energy consumption and average revenue in 1970 for intercity freight modes; the large range in energy efficiency among modes is noteworthy. Pipelines and waterways (barges and boats) are very efficient; however, they are limited in the kinds of materials they can transport and in the flexibility of their pickup and delivery points. Railroads are slightly less efficient than pipelines. Trucks, which are faster and more flexible than the preceding three modes, are, with respect to energy, only one-fourth as efficient as railroads. Airplanes, the fastest mode, are only 1/60 as efficient as trains.

The variation in freight prices shown in Table 2 closely parallels the variation in energy intensiveness. The increased prices of the less efficient modes reflect their greater speed, flexibility, and reliability.

Table 3 gives approximate 1970 energy and price data for various passenger modes (8), For intercity passenger traffic, trains and buses are the most efficient modes. Cars are less than one-half as efficient as buses, and airplanes are only one-fifth as efficient as buses.

For urban passenger traffic, mass transit systems (of which about 60 percent are bus systems) are more than twice as energy efficient as automobiles. Walking and bicycling are an order of magnitude more efficient than autos, on the basis of energy consumption to produce food. Urban values of efficiency for cars and buses are much lower than intercity values because of poorer vehicle performance (fewer miles per gallon) and poorer utilization (fewer passenger per vehicle).

Passenger transport prices are also shown in Table 3. The correlation between energy intensiveness and price, while positive, is not as strong as for freight transport. Again, the differences in price reflect the increased values of the more energy-intensive modes.

The transportation scenario for 1970 shown in Table 4 gives energy savings that may be possible through increased use of more efficient modes. The first calculation uses the actual 1970 transportation patterns. The scenario—entirely speculative—indicates the potential energy savings that could have occurred through shifts to more efficient transport modes. In this hypothetical scenario, half the freight traffic carried by truck and by airplane is assumed to have been carried by rail; half the intercity passenger traffic carried by airplane and one-third the traffic carried by car are assumed to have been carried by bus and train; and half the urban automobile traffic is assumed to have been carried by bus. The load factors (percentage of transport capacity utilized) and prices are assumed to be the same for both calculations. The scenario ignores several factors that might inhibit shifts to energy-efficient transport modes, such as existing land-use patterns, capital costs, changes in energy efficiency within a given mode, substitutability among modes, new technologies, transportation ownership patterns, and other institutional arrangements.

The hypothetical scenario requires only 78 percent as much energy to move the same traffic as does the actual calculation. This savings of 2,800 trillion Btu is equal to 4 percent of the total 1970 energy budget. The scenario also results in a total transportation cost that is $19 billion less than the actual 1970 cost (a 12 percent reduction). The dollar savings (which includes the energy saved) must be balanced against any losses in speed, comfort, and flexibility resulting from a shift to energy-efficient modes.

TABLE 1.—END-USES OF ENERGY IN THE UNITED STATES

[In percent]

Item	1960[1]	1970[2]
Transportation	25.2	24.7
Space heating	18.5	17.7
Process steam	17.8	16.4
Direct heat	12.9	11.0
Electric drive	7.4	8.1
Raw materials	5.2	5.6
Water heating	4.0	4.0
Air-conditioning	1.6	2.9
Refrigeration	2.1	2.3
Cooking	1.5	1.2
Electrolytic processes	1.1	1.2
Other[3]	2.7	4.9

[1] Data for 1960 obtained from Stanford Research Institute (SRI) (2).

[2] Estimates for 1970 obtained by extrapolating changes in energy-use patterns from SRI data.

[3] Includes clothes drying, small appliances, lighting, and other miscellaneous energy uses.

TABLE 2.—ENERGY AND PRICE DATA FOR INTERCITY FREIGHT TRANSPORT

Mode	Energy (Btu ton-mile)	Price (cents ton-mile)
Pipeline	450	0.27
Railroad	670	1.4
Waterway	680	0.30
Truck	2,800	7.5
Airplane	42,000	21.9

TABLE 3.—ENERGY AND PRICE DATA FOR PASSENGER TRANSPORT

Mode	Energy (Btu/passenger-mile)	Price (cents/passenger-mile)
Intercity:[1]		
Bus	1,600	3.6
Railroad	2,900	4.0
Automobile	3,400	4.0
Airplane	8,400	6.0
Urban:[2]		
Mass transit	3,800	8.3
Automobile	8,100	9.6

[1] Load factors (percentage of transport capacity utilized) for intercity travel are about: bus, 45 percent; railroad, 35 percent; automobile, 48 percent; and airplane, 50 percent.

[2] Load factors for urban travel are about: mass transit, 20 percent; and automobile, 28 percent.

To some extent, the current mix of transport modes is optimal, chosen in response to a variety of factors. However, noninternalized social costs, such as noise and air pollution and various government activities (regulation, subsidization, research), may tend to distort the mix, and, therefore, present modal patterns may not be socially optimal.

Present trends in modal mix are determined by personal preference, private economics, convenience, speed, reliability, and government policy. Emerging factors such as fuel scarcities, rising energy prices, dependence on petroleum imports, urban land-use problems, and environmental quality considerations may provide incentives to shift transportation patterns toward greater energy efficiency.

SPACE HEATING

The largest single energy-consuming function in the home is space heating. In an average all-electric home in a moderate climate, space heating uses over half the energy delivered to the home; in gas- or oil-heated homes, the fraction is probably larger because the importance of thermal insulation has not been stressed where these fuels are used.

The nearest approach to a national standard for thermal insulation in residential construction is "Minimum Property Standards (MPS) for One and Two Living Units," issued by the Federal Housing Administration (FHA). In June 1971), FHA revised the MPS to require more insulation, with the stated objectives of reducing air pollution and fuel consumption.

A recent study (9) estimated the value of different amounts of thermal insulation in terms both of dollar savings to the homeowner and of reduction in energy consumption. Hypothetical model homes (1800 square feet) were placed in three climatic regions, each representing one-third of the U.S. population. The three regions were represented by Atlanta, New York, and Minneapolis.

As an example of the findings of the study, Table 5 presents the results applicable to a New York residence, including the insulation requirements of the unrevised and the revised MPS, the insulation that yields the maximum economic benefit to the homeowner, and the monetary and energy savings that result in each case. The net monetary savings are given after recovery of the cost of the insulation installation, and would be realized each year of the lifetime of the home. A mortgage interest rate of 7 percent was assumed.

The revised MPS provide appreciable savings in energy consumption and in the cost of heating a residence, although more insulation is needed to minimize the long-term cost to the homeowner. A further increase in insulation requirements would increase both dollar and energy savings.

The total energy consumption of the United States (1) in 1970 was 67,000 trillion Btu, and about 11 percent was devoted to residential space heating and 7 percent to commercail space heating (2). Table 5 shows reductions in energy required for space heating of 49 percent for gas-heated homes and 47 percent for electric-heated homes in the New York area by going from the MPS-required insulation in 1970 to the economically optimum amount of insulation. The nationwide average reductions are 43 percent for gas-heated homes and 41 percent for electric-heated homes. An average savings of 42 percent, applied to the space heating energy requirements for all residential units (single family and apartment, gas and electric), would have amounted to 3100 trillion Btu in 1970 (4.6 percent of total energy consumption). The energy savings are somewhat understated—as insulation is added, the heat from lights, stoves, refrigerators, and other appliances becomes a significant part of the total heat required. The use of additional insulation also reduces the energy consumption for air conditioning as discussed later.

Electrical resistance heating is more wasteful of primary energy than is direct combustion heating. The average efficiency for electric power plants (1) in the United States is about 33 percent, and the efficiency (4) of transmitting and distributing the power to the customer is about 91 percent. The end-use efficiency of electrical resistance heating is 100 percent; so the overall efficiency is approximately 30 percent. Thus, for every unit of heat delivered in the home, 3.3 units of heat must be extracted from the fuel at the power plant. Conversely, the end-use efficiency of gas- or oil-burning home heating systems is about 60 percent (claimed values range from 40 to 80 percent), meaning that 1.7 units of heat must be extracted from the fuel for each unit delivered to the living area of the home. Therefore, the electrically heated home requires about twice as much fuel per unit of heat as the gas- or oil-heated home, assuming equivalent insulation.

The debate about whether gas, oil, or electric-resistance space heating is better from a conservation point of view may soon be moot because of the shortage of natural gas and petroleum. The use of electricity generated by nuclear plants for this purpose can be argued to be a more prudent use of resources than is the combustion of natural gas or oil for its energy content. Heating by coal-generated electricity may also be preferable to heating by gas or oil in that a plentiful resource is used and dwindling resources are conserved.

The use of electrical heat pumps could equalize the positions of electric-, oil-, and gas-heating systems from a fuel conservation standpoint. The heat pump delivers about 2 units of heat energy for each unit of electric energy that it consumes. Therefore, only 1.7 units of fuel energy would be required at the power plant for each unit of delivered heat, essentially the same as that required for fueling a home furnace.

Heat pumps are not initially expensive when installed in conjunction with central air conditioning; the basic equipment and air handling systems are the same for both heating and cooling. A major impediment to their widespread use has been high maintenance cost associated with equipment failure. Several manufacturers of heat pumps have carried out extensive programs to improve component reliability that, if successful, should improve acceptance by homeowners.

TABLE 4.—ACTUAL AND HYPOTHETICAL ENERGY CONSUMPTION PATTERNS FOR TRANSPORTATION IN 1970

	Total traffic	Percentage of total traffic						Total energy (10^{12} Btu)	Total cost (10^9)
		Air	Truck	Rail	Waterway and pipeline	Auto	Bus [1]		
Intercity freight traffic:									
Actual	[2] 2,210	0.2	19	35	46			2,400	$45
Hypothetical	2,210	.1	9	44	46			1,900	33
Intercity passenger traffic:									
Actual	[3] 1,120	10.0		1		87	2	4,300	47
Hypothetical	1,120	5.0		12		58	25	3,500	45
Urban passenger traffic:									
Actual	[3] 710					97	3	5,700	68
Hypothetical	710					49	51	4,200	63
Totals:									
Actual								12,400	160
Hypothetical								9,600	141

[1] Intercity bus or urban mass transit.

[2] Billion ton-miles.

[3] Billion passenger-miles.

TABLE 5.—COMPARISON OF INSULATION REQUIREMENTS AND MONETARY AND ENERGY SAVINGS FOR A NEW YORK RESIDENCE

Insulation specification	Unrevised MPS [1]		Revised MPS [1]		Economic optimum	
	Gas	Electric	Gas	Electric	Gas	Electric
Wall insulation thickness (inches)	0	1⅞	1⅞	1⅞	3½	3½
Ceiling insulation thickness (inches)	1⅞	1⅞	3½	3½	3½	6
Floor insulation	No	No	Yes	Yes	Yes	Yes
Storm windows	No	No	No	No	Yes	Yes
Monetary savings (dollars per year)	0	0	28	75	32	155
Reduction of energy consumption (percent)	0	0	29	19	49	47

[1] Minimum property standards (MPS) for 1 and 2 living units.

SPACE COOLING

In all-electric homes, air conditioning ranks third as a major energy-consuming function, behind space heating and water heating. Air conditioning is particularly important because it contributes to or is the cause of the annual peak load that occurs in the summertime for many utility systems.

In addition to reducing the energy required for space heating, the ample use of thermal insulation reduces the energy required for air conditioning. In the New York case, use of the economically optimum amount of insulation results in a reduction of the electricity consumed for air conditioning of 26 percent for the gas home or 18 percent for the electric home, compared to the 1970 MPS-compliance homes.

The popularity of room air conditioners is evidenced by an exponential sales growth with a doubling time of 5 years over the past decade; almost 6 million were sold in 1970. The strong growth in sales is expected to continue since industry statistics show a market saturation of only about 40 percent.

There are about 1400 models of room air conditioners available on the market today, sold under 52 different brand names (10) A characteristic of the machines that varies widely but is not normally advertised is the efficiency with which energy is converted to cooling. Efficiency ranges from 4.7 to 12.2 Btu per watt-hour. Thus the least efficient machine consumes 2.6 times as much electricity per unit of cooling as the most efficient one. Figure 1 shows the efficiencies of all units having ratings up to 24,000 Btu per hour, as listed in (10).

From an economic point of view, the purchaser should select the particular model of air conditioner that provides the needed cooling capacity and the lowest total cost (capital, maintenance, operation) over the unit's lifetime. Because of the large number of models available and the general ignorance of the fact that such a range of efficiencies exists, the most economical choice is not likely to be made. An industry-sponsored certification program requires that the cooling rating and wattage input be listed on the nameplate of each unit, providing the basic information required for determining efficiency. However, the nameplate is often hard to locate and does not state the efficiency explicitly.

The magnitude of possible savings that would result from buying a more efficient unit is illustrated by the following case. Of the 90 models with a capacity of 10,000 Btu per hour, the lowest efficiency model draws 2100 watts and the highest efficiency model draws 880 watts. In Washington, D.C., the average room air conditioner operates about 800 hours per year. The low-efficiency unit would use 976 kilowatt-hours more electricity each year than the high-efficiency unit. At 1.8 cents per kilowatt-hour, the operating cost would increase by $17.57 per year. The air conditioner could be expected to have a life of 10 years. If the purchaser operates on a credit card economy, with an 18 percent interest rate, he would be economically justified in paying up to $79 more for the high-efficiency unit. If his interest rate were 6 percent, an additional purchase price of $130 would be justified.

In the above example, the two units were assumed to operate the same number of hours per year. However, many of the low-priced, low-efficiency units are not equipped with thermostats. As a result, they may operate almost continuously, with a lower-than-desired room temperature. This compounds the inefficiency and, in addition, shortens the lifetime of the units.

In addition to the probable economic advantage to the consumer, an improvement in the average efficiency of room air conditioners would result in appreciable reductions in the nation's energy consumption and required generating capacity. If the size distribution of all existing room units is that for the 1970 sales, the average efficiency (10) is 6 Btu per watt-hour, and the average annual operating time is 886 hours per year, then the nation's room air conditioners consumed 39.4 billion kilowatt-hours during 1970. On the same basis, the connected load was 44,500 megawatts, and the annual equivalent coal consumption was 18.9 million tons. If the assumed efficiency is changed to 10 Btu per watt-hour, the annual power consumption would have been 23.6 billion kilowatt-hours, a reduction of 15.8 billion kilowatt-hours. The connected load would have decreased to 26,700 megawatts, a reduction of 17,800 megawatts. The annual coal consumption for room air conditioners would have been 11.3 million tons, a reduction of 7.6 million tons, or at a typical strip mine yield of 5000 tons per acre, a reduction in stripped area of 1500 acres in 1970.

OTHER POTENTIAL ENERGY SAVINGS

Energy-efficiency improvements can be effected for other end-uses of energy besides the three considered here. Improved appliance design could increase the energy efficiency of hot-water heaters, stoves, and refrigerators. The use of solar energy for residential space and water heating is technologically feasible and might some day be economically feasible. Alternatively, waste heat from air conditioners could be used for water heating. Improved design or elimination of gas pilot lights and elimination of gas yard lights would also provide energy savings (11). Increased energy efficiency within homes would tend to reduce summer air-conditioning loads.

In the commercial sector, energy savings in space heating and cooling such as those described earlier are possible. In addition, the use of total energy systems (on-site generation of electricity and the use of waste heat for space and water heating and absorption air conditioning) would increase the overall energy efficiency of commercial operations.

Commercial lighting accounts for about 10 percent of total electricity consumption (12). Some architects claim that currently recommended lighting levels can be reduced without danger to eyesight or worker performance (13). Such reduction would save energy directly and by reducing airconditioning loads. Alternatively, waste heat from lighting can be circulated in winter for space heating and shunted outdoors in summer to reduce air-conditioning loads.

Changes in building design practices might effect energy saving (13). Such changes could include use of less glass and of windows that open for circulation of outside air.

Waste heat and low temperature steam from electric power plants may be useful for certain industries and for space heating in urban districts (14). This thermal energy (about 8 percent of energy consumption in 1970) (15) could be used for industrial process steam, space heating, water heating, and air conditioning in a carefully planned urban complex.

The manufacture of a few basic materials accounts for a large fraction of industrial energy consumption. Increased recycle of energy-intensive materials such as aluminum, steel, and paper would save energy. Savings could also come from lower production of certain materials. For example, the production of packaging materials (paper, metal, glass, plastic, wood) requires about 4 percent of the total energy budget. In general, it may be possible to design products and choose materials to decrease the use of packaging and to reduce energy costs per unit of production.

IMPLEMENTATION

Changes in *energy prices*, both levels and rate structures, would influence decisions concerning capital versus life costs, and this would affect the use of energy-conserving technologies. *Public education* to increase awareness of energy problems might heighten consumer sensitivity toward personal energy consumption. Various local, state, and federal *government policies* exist that, directly and indirectly, influence the efficiency of energy use. These three routes are not independent; in particular, government policies could affect prices or public education (or both) on energy use.

One major factor that promotes energy consumption is the low price of energy. A typical family in the United States spends about 5 percent of its annual budget on electricity, gas, and gasoline. The cost of fuels and electricity to manufacturers is about 1.5 percent of the value of their total shipments. Because the price of energy is low relative to other costs, efficient use of energy has not been of great importance in the economy. Not only are fuel prices low, but historically they have declined relative to other prices.

The downward trend in the relative price of energy has begun to reverse because of the growing scarcity of fuels, increasing costs of both money and energy-conversion facilities (power plants, petroleum refineries), and the need to internalize social costs of energy production and use. The impact of rising energy prices on demand is difficult to assess. According to one source (16):

> In the absence of any information, we assume a long-run price elasticity of demand of—0.5 (meaning that in the long-run a doubling of energy prices will reduce demand by a factor of the square root of 2, namely to about 70 percent of what it would have been otherwise).

The factors cited above (fuel scarcity, rising costs, environmental constraints) are likely to influence energy price structures as well as levels. If these factors tend to increase energy prices uniformly (per Btu delivered), then energy price structures will become flatter; that is, the percentage difference in price between the first and last unit purchased by a customer will be less than that under existing rate structures. The impact of such rate structure changes on the demand for energy is unknown, and research is needed.

Increases in the price of energy should decrease the quantity demanded and this is likely to encourage more efficient use of energy. For example, if the price of gasoline rises, there will probably be a shift to the use of smaller cars and perhaps to the use of public transportation systems.

Public education programs may slow energy demand. As Americans understand better the environmental problems associated with energy production and use, they may voluntarily decrease their personal energy-consumption growth rates. Experiences in New York City and in Sweden with energy-conservation advertising programs showed that the public is willing and able to conserve energy, at least during short-term emergencies.

Consumers can be educated about the energy consumption of various appliances. The energy-efficiency data for air conditioners presented here are probably not familiar to most prospective buyers of air conditioners. If consumers understood energy and dollar costs of low-efficiency units, perhaps they would opt for more expensive, high-efficiency units to save money over the lifetime of the unit and also to reduce environmental impacts. Recently, at least two air-conditioner manufacturers began marketing campaigns that stress energy efficiency. Some electric utilities have also begun to urge their customers to use electricity conservatively and efficiently.

Public education can be achieved through government publications or government regulation, for example, by requiring labels on appliances which state the energy efficiency and provide estimates of operating costs. Advertisements for energy-consuming equipment might be required to state the energy efficiency.

Federal policies, reflected in research expenditures, construction of facilities, taxes and subsidies, influence energy consumption. For example, the federal government spends several billion dollars annually on highway, airway, and airport construction, but nothing is spent for railway and railroad construction. Until recently, federal transportation research and development funds were allocated almost exclusively to air and highway travel. Passage of the Urban Mass Transportation Act, establishment of the National Railroad Passenger Corporation (AMTRAK), plus increases in research funds for rail and mass transport may increase the use of these energy-efficient travel modes.

Similarly, through agencies such as the Tennessee Valley Authority, the federal government subsidizes the cost of electricity. The reduced price for public power customers increases electricity consumption over what it would otherwise be.

Governments also influence energy consumption directly and indirectly through allowances for depletion of resources, purchase specifications (to require recycled paper, for example), management of public energy holdings, regulation of gas and electric utility rate levels and structures, restrictions on energy promotion, and establishment of minimum energy performance standards for appliances and housing.

The federal government spends about $0.5 billion a year on research and development for civilian energy, of which the vast majority is devoted to energy supply technologies (16):

> . . . Until recently only severely limited funds were available for developing a detailed understanding of the ways in which the nation uses energy . . . The recently instituted Research Applied to National Needs (RANN) Directorate of the National Science Foundation . . . has been supporting research directed toward developing a detailed understanding of the way in which the country utilizes energy. . . . This program also seeks to examine the options for meeting the needs of society at reduced energy and environmental costs.

Perhaps new research on energy use will reveal additional ways to reduce energy rates.

SUMMARY

We described three uses of energy for which greater efficiency is feasible: transportation, space heating, and air conditioning. Shifts to less energy-intensive transportation modes could substantially reduce energy consumption; the magnitude of such savings would, of course, depend on the extent of such shifts and possible load factor changes. The hypothetical transportation scenario described here results in a 22 percent savings in energy for transportation in 1970, a savings of 2800 trillion Btu.

To the homeowner, increasing the amount of building insulation and, in some cases, adding storm windows would reduce energy consumption and provide monetary savings. If all homes in 1970 had the "economic optimum" amount of insulation, energy consumption for residential heating would have been 42 percent less than if the homes were insulated to meet the pre-1971 FHA standards, a savings of 3100 trillion Btu.

Increased utilization of energy-efficient air conditioners and of building insulation would provide significant energy savings and help to reduce peak power demands during the summer. A 67 percent increase in energy efficiency for room air conditioners would have saved 15.8 billion kilowatt-hours in 1970.

In conclusion, it is possible—from an engineering point of view—to effect considerable energy savings in the United States. Increases in the efficiency of energy use would provide desired end results with smaller energy inputs. Such measures will not reduce the *level* of energy consumption, but they could slow energy growth *rates*.

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A CANADIAN ALTERNATIVE FOR ALASKAN OIL

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. FRASER. Mr. Speaker, Canadian Parliamentarians flew here July 24 for a meeting with Members of Congress on the proposed delivery system for Alaskan oil. They expressed concern that Canada's willingness to receive an application for a pipeline across its territory had been misrepresented by the U.S. Government. Canadian Government responses to specific inquiries from Congress were not relayed by the State Department before the crucial Senate vote July 13 on the Mondale-Bayh amendment. The Canadian Parliamentarians also expressed concern over probable oil spills along their coast if oil were shipped south by tanker from Valdez to Seattle.

Mr. Speaker, the attitude of the Canadian Government is clear. Canada is willing to consider an oil pipeline built across its territory to the United States. The application would have to proceed through normal channels in Canada, and there is a difference of opinion as to whether a formal treaty is necessary. But the Canadian Government has assured us that the approval process could be completed in 12 to 24 months, that native claims present no obstacle, and that Canada does not require 51-percent ownership of the pipeline as the State Department, until July 16, stated it did.

My colleague from Minnesota, Senator MONDALE, at hearings this week before the Senate Foreign Relations Committee, commented that on July 13 it was only reasonable for Senators, having been assured unequivocally by the State Department that there was no Canadian alternative, to vote as they did, 61 to 29, not to consider a nonexistent alternative.

We know now that this alternative does exist. The Canadian Government has made that clear.

Let me review briefly why an all-land route across Canada is preferable to the proposed Alaska-pipeline-tanker system: First of all, weighing west coast needs against those of the Midwest and the East, the needs of the latter two regions clearly prevail. The west coast has its own sources of oil, plus reasonably secure foreign sources. The Midwest and East do not.

Second, according to a 1972 Interior Department estimate, construction of an all-land route across Canada could mean as little as 1 year's delay, possibly 2.

Third, there is little difference in cost between construction of an Alaskan pipeline-tanker system and construction of a single oil-gas pipeline corridor across Canada.

And finally, disruption of the environment would be less from a single corridor. Moreover, the Canadian route would avoid the earthquake-prone southern portion of the trans-Alaska route as well as the danger of oil spills at sea.

We know in the House what the Senate on July 13 did not know—that there is a Canadian alternative. Building an oil pipeline across Canada is a practical possibility. Mr. Speaker, it is not too late, as perhaps some hoped it would be. We can still act to see that the possibility of a Canadian alternative becomes a reality. We can still move to strengthen our historic friendship with our northern neighbor by construction of this mutually beneficial "iron artery."

SAVING HEART VICTIMS

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. GUDE. Mr. Speaker, many Members of this body live in Montgomery County, Md., which I represent, and have been very interested in the lifesaving techniques pioneered by the Montgomery County Heartmobile.

This experimental vehicle very nearly had its own life cut off too soon, having only then been in operation about a year. I was pleased to help obtain Federal funds for an extension which permitted the training of 50 ambulance workers from various parts of the county in the Heartmobile techniques. This nucleus of trained personnel permitted us to think along the lines of a broadened effort.

Now, I am pleased to report, there are firm plans to broaden the program. This report of the plans is from the July 12 edition of the Gaithersburg Gazette:

SAVING HEART VICTIMS

(By Pat Ettl)

An Emergency Medical Service Program, using state-certified paramedics, will be instituted in Montgomery County, making it the first jurisdiction in the Metropolitan area to receive in reality the life-saving techniques, which for many to date has meant little more than the dramatization on a television program.

The announcement of the program, which has had the full participation of the Montgomery County Medical Association and the Fire and Rescue Board in its planning, was made by County Executive James P. Gleason.

Gleason said the past six months have been spent on working out the program which has involved many agencies.

As now planned the program would go into effect in January of 1974.

Instituting the program will require a supplemental appropriation of $218,000 from the County Council. This would be the cost of the program for 1974. Years following a lesser amount would be needed (approximately $125,000) since the first year's expenditures would include the cost of equipment.

The major expenditure would be the lifesaving vehicles and related equipment which Gleason estimated would cost $163,000.

Initially (in 1974) it would be hoped to station one of the vehicles at the Bethesda-Chevy Chase Rescue Department and one at the Wheaton Department. By 1975, a third vehicle would be stationed in the Gaithersburg-Rockville area.

Specially trained paramedics would be assigned to the vehicles and by direct contact with the four county hospitals, under the direction of a doctor, they would be able to use practices and skills to save a person's life. As of now persons on ambulances are restricted to using only basic first-aid techniques on persons.

The equipment would be used in cases of the critically injured for other emergency cases such as heart conditions. For many of these cases time is of essence in saving a life, it was pointed out.

FIFTY ALREADY TRAINED

In anticipation of getting such a program started in the county some 50 members of fire departments and rescue squads have taken the highly intensive training required for a paramedic and have already been certified by the state.

The four county hospitals—Montgomery General, Suburban, Washington Adventist, and Holy Cross, have also been in on the planning stages as well as the Heart Association which has operated a Heartmobile in the county.

Mary Beth Lagoey, who was associated with Heartmobile and also with Holy Cross Hospital, has been named temporary program officer of the Emergency Medical Service Program.

IT IS TIME FOR THE UNITED STATES TO CEASE FINANCING THE TORTURE OF VIETNAMESE POLITICAL PRISONERS

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mrs. CHISHOLM. Mr. Speaker, there is presently a situation in South Vietnam that I feel is deplorable. That is the existence and the treatment of political prisoners, and the fact that financial aid from the United States is instrumental in perpetuating this situation. Therefore, I believe that it is the duty of the Congress to do everything in its power to rectify this problem.

The end result of the Vietnam war was to have been the establishment of a democratic form of government in South Vietnam—one where all people would have an equal voice in the government. What has resulted instead is a regime that suppresses any form of political opposition, and shows a total lack of regard for justice. Thousands of men, women, and children have been thrown into jail as political prisoners. There are 200,000 of these prisoners now being confined in conditions that are often too inhumane to believe.

The biggest atrocity of all is the huge sums of money from the United States that supports this regime. While AID asserts that they have halted aid to South Vietnamese prisons and police, the following disturbing items have been found in the AID fiscal year 1974 budget:

(A) Indochina Postwar Reconstruction Assisting Program.

(1) $869,000 for computer training of 200 National Police Command Personnel.

(2) $1,505,000 for Police Telecommunications System (USAID Project 730–11–995–380) of this, $985,000 will be for 24 U.S. civilian advisors.

(3) $256,000 for training of 64 police commanders (USAID Project 730–11–799–372).

(B) Unliquidated Obligations Account.

(1) $1,285,000 for Public Safety Communications (Project 730–11–710–299).

(2) $2,472,000 for National Police Support (Project 730-11-710-352).

(3) $30,000 for corrections centers (730-11-710-353).

The Vietnam war was the darkest hour in the history of our country. It divided our Nation, and seriously weakened the faith of many American citizens in the ability of the governing body to govern. But we must not cause any further weakening in our governmental structure by idly watching South Vietnam make a mockery out of democratic rule. The rationale given for continuation of the Vietnam war for so many years was that: the people of South Vietnam have a right to determine their own political destiny, and our only purpose in fighting was to make sure that their right was realized. Well, it is high time that we begin to seriously consider whether the actions of Thieu's regime are really representative of the views of the people of South Vietnam.

I, therefore, urge that you support Representative PARREN MITCHELL's amendment to discontinue funds to South Vietname until that government releases all political prisoners.

INTERNATIONAL JUVENILE DELINQUENCY

HON. FRANK J. BRASCO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. BRASCO. Mr. Speaker, some nations are like children. They insist on going ahead with destructive policies in spite of the uselessness of their actions and the threat such activities pose to innocent bystanders. No better recent example of this can be singled out than France's latest series of nuclear bomb tests.

Scheduled for early summer, these tests are slated to be conducted at the South Sea atoll named Muroroa, where France has conducted atmospheric tests since 1966. These tests too will be conducted in the atmosphere, dumping radioactive pollution and fallout in a wide swath across the globe.

French scientific and governmental sources brush off such fears, claiming there will be minimal fallout. Yet everyone remembers the fearful effects of atmospheric testing leading to the partial test ban treaty, which, except for French intransigence, has emerged as a genuine international step ahead.

It should also be added that the impending series of tests will include a massive H-bomb explosion, with all the dangers this poses. France in addition refused to sign the partial test ban treaty.

Nations in the area, especially Australia and New Zealand, feel directly imperiled by these tests, and with excellent reason. Both governments have vigorously protested to the French Government, and have been rebuffed. Both countries have taken their complaint to the World Court at the Hague in Holland.

Two major international groupings of trade unions, non-Communist and Communist, have threatened global strike action and boycotts against French goods, shipping, airlines, and industries. Several nations, among them Australia and Peru, are considering breaking off diplomatic relations with France as a consequence.

In France itself, opponents of the nuclear program have called attention to the massive waste of resources involved in the independent nuclear program carried forward by that country since De Gaulle set it afoot in 1959. That undertaking takes up approximately one-third of the French military budget.

What this amounts to is a gigantic, expensive ego trip at world expense and in defiance of international détente. Recognizing that testing edged the world ever closer to nuclear pollution and devastation, the great powers have painfully and slowly begun to construct curbs on nuclear undertakings.

Renewed nuclear testing can only take the world a step backward, a tragedy of the first order, particularly in light of painstaking efforts around the world to ease pressures and areas of friction.

The United States will also be harmed by massive radioactive fallout, for a considerable part of that fallout will inevitably find its way into our own area of the world. No one, not even France, has been able to control wind currents. We may not receive all the direct fallout. That dubious gift will be showered on nations in the immediate vicinity. But we will, along with everyone else, receive some of it.

France seems to follow the most abrasive policies in its own national interest and to the detriment of virtually every other nation. Heroin comes to the United States courtesy of the French Government's policy of looking the other way.

She is one of the leading purveyors of arms to developing nations of the world. If any country seeks ordnance, French merchants are ready, eager, and willing to peddle them what they wish and can pay for.

Perhaps the classic example of this is the sale of French warplanes of the most modern sort to Quaddafi of Libya. These aircraft, numbering more than 100, were sold to Libya, in spite of the almost certain knowledge that they would immediately be made available to Egypt, thus increasing the possibility of a major flareup in the Middle East.

It is not an exaggeration to note that France is today probably the one nation in the world most opposed to the aims of the United States. As we move closer to detente and easing of tensions with Russia and China, and as our role in the war in Southeast Asia terminates, France emerges as the nation most hostile to the United States.

I defy anyone to pick out any major U.S. policy with which France agrees and in which she has aided us.

Around the world, a major boycott of French products is set to begin, led by trade unions, Australia and New Zealand. In the past, similar efforts have been mounted on a limited scale here, especially against French wines by the Restaurant Association of Long Island.

Whenever anyone suggests such a move, the State Department, ever eager to be "civilized" and "cool-headed" at American expense, calls attention to a favorable balance of trade between France and the United States. Rarely if ever do they admit to the truth of other aspects of French-American relationships, which far outweigh, in a negative sense, any favorable trade balance.

I believe we should seek to express sympathy for endangered nations in the South Pacific. If we join in adding pressure on France, we may be able to curb this upcoming series of tests, which can only be termed international juvenile delinquency.

THEIR CHILDREN'S CHILDREN SHALL SAY THEY HAVE LIED

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. KASTENMEIER. Mr. Speaker, I wish to call to the attention of my colleagues an article written by Tom Wicker which appeared in the July 24, 1973, New York Times.

Although the President has signed legislation to end the bombing of Cambodia on August 15, I wonder, in view of the various efforts put forth by this administration, which Mr. Wicker discusses, to deliberately deceive the American people and the Congress, whether we, indeed, can believe Mr. Nixon will cease the Cambodian bombing on that date.

The article follows:

THE BIG LIE REQUIRES BIG LIARS

(By Tom Wicker)

The proper word for the Cambodian bombing story is not dissembling or deceiving or protective reaction or cover story. The proper word is lying. And this long chronicle of lies, perhaps more graphically than the Pentagon Papers, shows the extent to which lying is a respected "option" at the top levels of the so-called "national security establishment," including the White House.

For fourteen months, the Pentagon, the State Department and the White House repeatedly insisted that Cambodian neutrality was being respected, while all conspired to keep secret the fact that in 3,630 raids American B-52's had dropped more than 100,000 tons of bombs on Cambodia.

During that period, the left hand of the Pentagon lied repeatedly to the right hand, as documents were falsified to show the 3,630 raids as having been launched not on Cambodia but on South Vietnam. Only a few high officials with a "need to know" were told the truth.

(This raises the question how anyone knows what the real truth is, even today. If one set of documents was fixed, why not another? Maybe there were 5,000 raids, who knows? Were they lying to Mr. Kissinger, too? To President Nixon?)

Even after secret war became open war in Cambodia, the lies continued. Last March and last June, the Pentagon sent deliberately lying reports, concerning the Cambodian bombing, to the Senate Armed Services Committee. The Pentagon spokesman, Jerry Friedheim, knowingly distributed the same lies to the press.

"I knew at the time it was wrong and I'm sorry," Mr. Friedheim said, when caught. He ought to be fired out of hand, but he won't be. It even appears that he may have opposed within Pentagon circles the decision to lie to the Senate committee, which was deliberately taken at the highest level. If so, he ought to have quit out of hand, but he went along.

Of this compounded lie, Mr. Friedheim's summary judgment was eloquent. "We weren't smart enough to foresee," he said, the testimony of former Maj. Hal H. Knight, who disclosed the secret bombing and falsified documentation. They weren't smart enough not to get caught in the lie, that is; if they had been, they'd have told a different and less detectable lie.

If all of this lying was originally to fend off increased domestic opposition to the Southeast Asia war, then to cover up the original lies, it was indefensible. If Prince Sihanouk had agreed to the bombing, and the lies were to protect him from the wrath of his own people, it was indefensible. If the lying was for both reasons, it was twice as indefensible; since either way it was intended primarily to permit the President and his war machine to pursue their war without let or hindrance from anyone, least of all the American people.

Mr. Kissinger deplores the falsification of records. What did he expect, when he and Mr. Nixon deliberately ordered falsification of the facts of the Cambodian bombing? Why should majors and colonels have higher standards than the White House?

Gen. Earle G. Wheeler, the former chairman of the Joint Chiefs of Staff, expressed horror at the falsification of the records, but said that if the President had ordered him to falsify them, "I would have done it." Why should he be astonished that when some general ordered some major to do it, the major did?

Worst of all, Mr. Nixon himself appeared on national television and told the American people on April 30, 1970, that since 1954 American policy had been to "respect scrupulously the neutrality of the Cambodian people." And for five years, he said, "neither the United States nor South Vietnam has moved against" North Vietnamese sanctuaries in Cambodia. This was after fourteen months of B–52 raids on Cambodia, including the sanctuaries.

This was a deliberate and knowing lie, broadcast in person to the American people by their President. Neither the claim that it was not really a lie but a "special security arrangement," nor the contention that other Presidents have done it, is a justification; both are indictments of the "security" mania that distorts national life. And this episode clearly calls into question the credibility of Mr. Nixon's television address of April 30, 1973, when he claimed innocence of wrongdoing in the Watergate matter.

But whatever history may say, Yeats had lines for all these spokesmen and generals and diplomats and Presidents:

"Weigh this song with the great and their pride:
I made it out of a mouthful of air,
Their children's children shall say they have lied."

SAFETY FIRST

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. BRINKLEY. Mr. Speaker, yesterday morning's Washington Post carried an especially important article about the Department of Transportation's recommendations for adopting more stringent safety standards for schoolbus construction. Because of its importance, I highly commend the reading of this article to our colleagues:

DOT Urges Strict School Bus Standards

School buses are the safest means of highway transport, but still contribute to 5,000 injuries a year to school children, according to a task force of the Department of Transportation.

In recommending that the federal government adopt more stringent standards for school bus construction, the task force noted that 93 per cent of the injuries to children in bus-related accidents occur inside the bus.

On the other hand, the report said that of the 83 children killed each year in such accidents, most die outside buses when they are hit by their bus or passing cars.

The recommendations parallel a recent statement by the National Transportation Safety Board, which reported that the "lack of structural integrity" and the absence of highback seats contributed to the deaths of five students and injuries to 44 others in a bus-train crash near Congers, N.Y.

Many of the injuries occurred, the NTSB said, when the bus disintegrated, exposing sharp metal edges. It said this was caused by failure of joints assembled with relatively few fasteners.

The task force commented that "school bus manufacturers are not complying with accepted industrial practice in the joining of panels," and recommended the adoption of standards to control the strength of joints.

Higher standards for brakes and seats were also recommended by the panel, which said five out of 17 bus accidents it studied were related to brake failure.

Mr. Speaker, in connection with the points raised by this article I would like to bring to the attention of our colleagues the truly outstanding safety record which has been compiled by the Blue Bird Body Co., with home offices in Fort Valley, Ga., manufacturers of the Blue Bird All American Schoolbus:

> There has never been a student or driver fatality in a Blue Bird All American schoolbus during the 25 years it has been built by the Blue Bird Body Company.

What makes this safety record all the more impressive is the fact that Blue Bird schoolbuses have been sold and operated in all 50 States, in every Canadian province and territory, in the Caribbean, Guam, the Virgin Islands, and in Central and South America.

In my estimation, Mr. Speaker, Blue Bird is "all American" in every respect and certainly lives up to its company motto—

> Your Children's Safety Is Our Business.

RICKENBACKER EULOGY

HON. ROBERT PRICE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. PRICE of Texas. Mr. Speaker, our country has lost a valuable and legendary citizen in the passing of Capt. Eddie A. Rickenbacker. From the days when I was a jet fighter pilot in the Korean war to the present, Captain Rickenbacker has served me as an example of greatness.

The captain exemplified much of what we have come to believe is the epitome of the American man. His courage, tenacity, and faith are known worldwide. Born the son of immigrant parents, he worked his way to the top of one of the world's great industries, serving both his Nation and his God along the way. He will be recorded in history as one of America's foremost pioneers.

Eddie Rickenbacker had the foresight to see the future of the airplane both as a military and a commercial vehicle at a time when only a handful of men believed in its future and he has been one of the great contributors to aeronautical progress. In times of war, he devoted himself fully to the defense of freedom. In times of peace, he devoted himself to the building of a better world, always ready to take the time to extol a political philosophy based upon a faith in our Republic and her great institutions.

The most decorated pilot of World War I, a famed auto racer, world business leader, a man of individual greatness, Eddie Rickenbacker has challenged each of us to expand the horizons of our thinking and to have the courage to live our lives affirmatively. He was a rare man: the possessor of great moral strength and the possessor of the knowledge, courage, and energy to help shape events of this century.

ON AIM

HON. CLEM ROGERS McSPADDEN

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. McSPADDEN. Mr. Speaker, under the leave to extend my remarks in the Record, I include the following press release:

Press Release: Washington, July 25

Rep. Clem McSpadden, Oklahoma's 2nd District Congressman, today scored the release of food to the American Indian Movement's so-called National Spiritual Unity Convention set to begin today at White Oak, Craig County, Oklahoma.

It's a sad state of affairs when the Federal Government has cut veteran's pensions; when the consumer is paying higher and higher prices for everything they purchase and then this same benevolent federal government makes a gift of food that the tax payers of this country paid for with their hard earned tax dollars to a group of people who readily admit they are being subsidized by dollars which come from outside the United States. They apparently can't buy food with this money but can pay $2,000. in prizes for a drum contest, Rep McSpadden said.

He reminded the public this is the same group which has already cost the federal government, in one way or the other, over $8.5 million for the siege at Wounded Knee and the destruction of the Washington offices of the Bureau of Indian Affairs. "I am wholeheartedly against this action by the federal government to continue to subsidize this handful of people who are representative only of themselves," McSpadden concluded.

ONE HUNDRED AND TEN PERCENT

HON. ELFORD A. CEDERBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. CEDERBERG. Mr. Speaker, the July 9 issue of Sports Illustrated magazine contained an article written by George Allen, head coach of our Washington Redskins, in cooperation with Joe Marshall. The article dealt not only with the activities of the Redskins as a football team, but it also related the aims of a dedicated man intent on giving 110 percent in every activity he undertakes.

Mr. Allen is a graduate of Alma College, a fine liberal arts school located in the 10th Congressional District of Michigan. He is another example of the kind of person Alma College prepares for the future.

George Allen has a philosophy of life which he applies to the game of football. He believes that every man and woman should exert total effort in each task that is set before them. His outlook on life is one to be admired, for George advocates dedication, pride, and mental preparedness, those important values so essential in carrying out a meaningful life. Coach Allen is the embodiment of a man intent on giving only his best and nothing less, in everything he does. I feel that such conviction is an example of a man born in the American tradition and spirit and pledged to continue in that same tradition and spirit.

I now submit the article for the collective attention of my colleagues.

The article follows:

George Allen

If I've succeeded it's because I outwork most people. Work is simply a synonym for effort, and as I tell my players, "a hundred percent is not enough." The average American pictures himself as an extremely hard worker. Sociologists and psychologists have shown, however, that most persons are really operating on less than half power. In terms of effort, they may never get over 50% although they think of themselves as 90% producers. Therefore, to get 100% you must aim for 110%. The world belongs to those who aim for 110%.

I never expect anyone to do more than I do. Long ago I learned that regardless of how little or how much a football coach works, most of those with whom he is associated will work a little less. I've always been fortunate to have good assistants. I have known football coaches who have made it a point never to work after dinner. And in each instance their assistants made the same point. When I was an assistant under George Halas I didn't work as hard as the head coach. A man's work habits are set by the boss. I have closely studied every coach I have known, head coach and assistant, and I have found hardly any difference between the best of them and the worst of them. You wonder why does this guy win, why does that guy lose? The guy that loses seems to be a good guy, seems to know his stuff. Yet some are winners and some are losers—both now and probably forevermore. And three things divide them all: total effort versus not quite that much, total preparation versus less than that and an understanding that winning is living.

To me the real test of every man and every woman is how much they give of themselves. What gripes me most is that people think they want something but when it comes to a little work—a job or doing some extra study—they fall by the wayside.

I'd like to hire a young coach with about four years of experience who is single, who would work day and night seven days a week and who wanted to learn. He'd want to work so badly that he'd work for nothing. If I could find that guy, then I'd have a picture of myself 26 years ago. I'd really like to find somebody like that. That guy could go up the ladder in a hurry.

I think that when you like your job so much that you enjoy coming to the office every morning you're fortunate. That's the way I have always been. I'd rather do my job than anything else. I can see no difference between a chair and a man who sits in a chair if he is not accomplishing something. One must accomplish to live. I don't care to take a long lunch hour. I eat right on the job. I think that in two years here I have only had about four lunches somewhere else because I'd rather work out and be with my coaches or the staff discussing something that's going to help us win. We often put in a 40-hour week by Wednesday. When I watch TV, and I don't watch often, I always arrange some pamphlets or a notebook or some quick phone calls for the commercials. I don't want to waste the time while I'm watching. I just dread anything that takes me away from trying to improve our situation. Here's something I strongly believe: every day you waste is one you can never make up. Winners don't waste time and that applies in every walk of life.

The winner is the only individual who is truly alive. I've said this to our ball club: every time you win, you're reborn; when you lose, you die a little. If players are willing to accept a season in which they win half their games, they will win half their games and they will emerge half alive. A lot of players are half dead and don't know it. If they lose all their games and the fact does not kill them, they are already dead. Some players are dead. This is the way I feel.

I was reading about a team that lost 23 straight games, or maybe more than that, and in the report everyone was blaming everyone else. Not one guy said, "Listen, I didn't do my job." The 76ers are a good example of that. They lost more games than any basketball team in history and not one person blamed himself. I think their new coach Gene Shue, will turn them around, though.

The situation was similar with the Los Angeles Rams in 1966. The players blamed the coaches, the coaches blamed the players, the owners blamed each other, the front office blamed the coaches.

I thought the Redskins, with a fine offense and no defense, was a good place for me. I knew that first I had to get another quarterback to back up Sonny Jurgensen, and the only one I had in mind was Billy Kilmer. Kilmer had always done a good job against the Rams and I had promised my players there that if he ever became available I'd get him for us. With our fine offensive personnel I thought the Redskins could win the first year if we could get a strong defense. Early in my coaching career, about 1952, I realized that you weren't going to win a championship unless you had a great defense. I spent most of my time on offense then and we had success, but we didn't have a strong enough defense to stop the opposition when the offense had an off day. The Knicks win on defense, the Canadiens win on defense, even the great Yankee teams were defensively oriented.

So I set about trying to get defensive men. That's when we picked up all those players from the Rams. People have called that a short-term trade, but I don't understand why. Diron Talbert was what—27? He had five more years, and in my opinion he's one of the best defensive linemen in the league. He went for our first draft choice in that trade. Where are you going to get a first draft choice like that, already trained in your system? Heck, here are the men who represent our first three choices since I've been in Washington: Talbert, Verlon Biggs this year and Roy Jefferson next year. We also got Jack Pardee in that Ram trade as well as Myron Pottios. I think John Wilbur was 28 when we got him. He's a starting guard who's been an outstanding performer. Maxie Baughan was also in that trade and he made a contribution even though he didn't play. In addition, we traded Los Angeles' fifth draft choice to Green Bay for Boyd Dowler.

When I came to the Redskins, there was no off-season program. If you don't do things in the off-season, you're not going to win. There's a million and one things to do and people who think there's an off-season in this business, or in any business, are mistaken. If there's an off-season, there's something wrong. The off-season is the time when you improve.

Every day, unless you make some progress you're going to get behind or someone's going to get ahead of you. To me, what you do with your free time determines how successful you'll be and what you're going to contribute in life. We have a big sign in the weight room and it says one thing: WHAT YOU DO IN THE OFF-SEASON DETERMINES WHAT YOU DO DURING THE SEASON. That's part of my philosophy. I have always believed the future is now, in life as in football. Another part of our philosophy here is to take somebody nobody wants, somebody who is supposed to be a problem, because we think we can solve his problems. We have lots of players who were supposed to be troublemakers, and they have played well for us. I have yet to find a player with a reputation as a bad egg who actually is a bad egg. Money isn't always the answer. Money doesn't make one happy, although it helps. Biggs made less with us his first year here than he did with the Jets, but he has played fine football for us. What most people really want is recognition. Mainly it is just a matter of understanding a player and knowing how to handle him.

I think the toughest part of coaching is the individual conferences with players going over their problems. Not football problems. That's the least of it. It's the other worries, the type a man has no control over, but if you don't solve them or help solve them, then that man is not going to produce well. If a player has a problem, I think that's my problem. I want to know every detail about it and see if we can't alleviate it so we can win.

One thing you can't do in this business. You can't let problems lick you, because you're going to have them. Every day I run up to three miles and work out with weights. The reason I do this is just to offset all the gosh darn problems that come up. If you're not in shape, the problems will lick you. Each year you're going to have more problems and different kinds, and if you approach them right you can solve them all. I really don't believe, and I say this in all sincerity, that we were put on the earth just to have a good time, to laugh and joke. I think we were put here to overcome problems.

I don't think there are any I can't solve or that we can't solve together. And I don't fear them.

We've got a linebacker in our camp named Steve Kiner. He was originally a third choice of the Dallas Cowboys but last year he had some bad personal difficulties and was released outright by the New England Patriots and the Miami Dolphins. No one wanted him. So we brought him in and sent him to a psychiatrist. We gave him constant treatment and the players helped him and worked with him. We had him on defense in some practices and one of our halfbacks would be carrying the ball in a regular half-line scrimmage and Kiner would haul off and clobber him. But he was going through stages of improving himself. We've now reached the point with Kiner where we know he may be able to help us. This is important because I think coaching is not just taking a player who's got a lot of talent and using him. Whether he plays football for the Redskins or not, we think we've helped a guy and maybe saved a life. Steve Kiner spent the winter working out at Redskin Park, our practice facility. He's quick—he'll run the 40 in about 4.7 and he's become the second strongest player on the team. When he came in he weighed 198 pounds and he's now up to around 218. The only man stronger is Manny Sistrunk and Manny's got arms like a blacksmith. Even with Dave Robinson, whom we just got from the Packers, Kiner is still very important in our program. He's going to start our first preseason game at left linebacker, Jack Pardee's old spot, and he'll play three quarters.

Part of my personality is that I like my players, regulars or not. I'm happy for their success. When I talk about them with others I actually feel emotional, just like they were members of my family. That's partly my philosophy but it's also my disposition. I try to develop a team of people whom I knew. If we prepare them properly, they'll win. When they make a mistake or do something wrong, I blame myself. When they lose I blame myself. If they lose, I feel that somehow, subconsciously, I let them down.

Whoever said you don't need to motivate a pro didn't know how wrong he was. You've got to motivate everybody, veterans and rookies alike. I feel very fortunate that throughout my life, for one reason or another, I have been a self-starter. Not that I don't have my ups and downs, but it seems that the more problems I have, the more setbacks, the more things stimulate me the other way, whereas some guys get down about the least little thing.

I think that each person is an individual and what works with one will fail for another. I don't try to start motivating a player right away. If I don't know him too well, I just talk to him and get his thinking on different things—on what he hopes to achieve, what he's done in the past, why he didn't succeed, what he was going to do in the off-season and what he was going to do after practice. You can learn a lot just talking to a guy. And then after that I see what he does on the practice field, in meetings, off the field, and I soon find out whether it's just talk or if he's in earnest. Sometimes just the way you talk to people can motivate them. But I don't have much patience with a player who won't study and prepare himself and make a few sacrifices. That player is not going to help us win our championship. You know the type of guy I'd like to hire if I were at the Naval Academy? I'd hope that the man I was interviewing would say, "I'd like to play Army a nine-game schedule. Nobody else but Army." That's the type of guy I want to hire.

I think the mental part of the game is more difficult than the physical part. I don't know how much more difficult it is.

I think mental preparation never ends, whereas I think with physical preparation you can be out on the field for an hour and a half or two hours and it's over. But the mental part continues on and on—when you're eating, when you're sleeping, when you're walking around.

Trading is part of the mental game for me and it is another thing you have to work very hard at. You have to know what you want—that's the most important thing in trading, to know what you want and what you'll give up. I think if you want something badly enough, you'll get it. It's really that simple. If you want it badly enough, no matter what it is, you'll get it if you just stay on it morning, noon and night, if you just drive yourself and drive yourself to get it. You have to know more than just the position, you have to know the type of player that will fit into your team. Experience itself isn't worth a cent unless it's the right type of experience. The right type of experience means being in an organization that knows how to win, knows what to do to win, is completely organized, has a philosophy and a program. This is why I wanted Dave Robinson. I wanted the right type of individual, not just experience. The woods are full of experience.

There's so much misunderstanding about experience that it's even difficult to talk about. Just because a guy is 30 or over doesn't mean he's old. Maybe he's not as fast, but he doesn't have to be because he's smarter and he'll be in the right spot at the right time. I don't think you can always be building toward the future. People are constantly looking for a player who's 22, who has eight or nine more years. In baseball you always hear about the great young pitching staff where the oldest starter is 24. That has nothing to do with it. How much ability do they have? How much do they want it? To me the best years of an athlete's life are after 30, provided he takes care of himself. I think he appreciates more, he has more leadership, he's smarter, he's more dedicated, he makes more of a contribution to the entire team than he did when he was 24. Al Kaline is a notable example in baseball. Henry Aaron, Frank Robinson and Willie Mays are others. In hockey Alex Delvecchio of the Red Wings is one and so is Henri Richard of the Canadiens.

What the heck, where would the Lakers be without Jerry West and Wilt Chamberlain? Or for that matter, where would Miami be without Earl Morrall? He's a 39-year-old quarterback. Look what George Blanda has done. And there are many others. Houston has two fine young quarterbacks and they've got a future. But there has to be somebody guiding the program and getting a balance in there, otherwise you're just showing up for the game, that's all.

Everybody has to have a philosophy. A lot of teams don't have one or, if they do, it changes every year. You've got to believe in certain things, know what you want, and not let the criticism of the public and the media bother you. Men like Walter Alston, Bill Sharman, Johnny Wooden and Emile Francis took charge of their programs this way and succeeded. You don't change your philosophy when you lose if it's a sound philosophy and you understand it. Some teams change their philosophies just because they've lost. I'd never do that. For instance, I think what J. D. Roberts is trying to do in New Orleans is going to take a little time, but I think in the long run it's sound. They're going with youth, and it's taking them a little longer for various reasons I'm not going to get into, but I think they are on the right track. But if they get disgusted after another losing season and suddenly change, then all those years are wiped out.

So winning isn't just getting experienced players or spending money. The Seattle SuperSonics may have spent more money than any team in basketball and they finished next to last. The most important thing you need is organization.

One of the results of good organization is concentration from your players. Concentration is necessary for good practices and they're a large part of winning. I don't want our game plan defeated before we have a chance to execute it. But you can't concentrate with distractions all around. You can't enjoy a lecture or an artist performing if you aren't comfortable. It's like taking a night class and in the room in which the professor lectures the acoustics aren't good and the seats are uncomfortable and as a result you don't get much out of it. If I were teaching the class, I'd want a certain seating arrangement. I'd want the student to be stimulated as he walked in the classroom, before I even started lecturing. That's not pampering, that's part of the lecture.

When I was in L.A., I used to get permission to attend the classes of the professors of the year at the University of Southern California. I'd sit in the last row and just watch how that professor handled a class. I've gotten a catalog for Georgetown University and intend to do the same there soon. That's my way of having a little personal clinic. It shows me the reasons why that professor is so successful—the discipline he had in class and the techniques he used to communicate.

I like signs and other reminders. I just love them. I have a sign on my desk that says THE TEAM IS NEVER UP! I put that there after the Super Bowl. We were flat for the Super Bowl, hard as that is to imagine. Just before the game I was going to talk to the team and rile them up. I thought the dressing room was subdued. But then I thought to myself, "I don't have to do that, this is the Super Bowl. It's the biggest game of their lives." That sign reminds me never to take anything for granted and to always do what you believe. I like to get people to think. That's why I use constant reminders. I think you've got to say things over and over again because you only get through to about 40% the first time. It doesn't bother me that those 40% have to listen to it maybe seven times. That's no problem. That's the way it should be. It's better for them to listen to it seven times and win than not to listen to it and lose.

We'll make changes at our training camp this year. Every season we make some changes but never just for the sake of change. Every thing we do is calculated to help us win. These things may seem minor but the results can be major. Last year we stopped running 40-yard striders at the end of practice and replaced them with "perfect plays." The players have to sprint only 20 yards on a perfect play, but since we run 10 or 15 of them they get as much running done. This gives the physical work a different flavor; they're not just running for the sake of running. For every play they bust they have to do two more even if just one player makes a mistake. This way they are learning plays and at the same time developing better concentration as a team, plus improving their condition.

I had an agronomist in this spring and we went over the procedure of weed killing and sodding and grading and we're improving the drainage system at Redskin Park.

That may not seem like it's part of coaching philosophy but to me it is. When we come back from our training camp in September I want a great practice field to be waiting—green grass and no weeds. I don't want to be killing weeds in September. I want the field to be lined with yard markers and everything to be perfect so that we can start fresh. Some people would say that's the groundkeeper's responsibility. But to me it's my responsibility. Tommy McVean, our equipment manager, is going to replace the padding on the goalposts. I want my players to see that everything is freshly painted, everything is replaced, everything is new that has to be new and that it's the start of a new year.

We're doing so many things. I'm bringing in a man who has a punting machine. For years I've been looking for a punting machine so we wouldn't wear our kickers out, a machine that kicks spirals so we can practice catching punts. And when we are going to face a left-footed punter, the machine will spiral the ball the other way. It makes a difference—the ball fades away.

To me such things are ABCs and always have been. Some people don't consider that coaching. To me creating Redskin Park is a major coaching accomplishment. I wanted Redskin Park because I think it's important to have a place the players can call home, where we have everything under one roof. When a player comes out here, he's getting ready to win. There's nobody around who shouldn't be here. This is our home. When we practiced at Georgetown, we had students and people right off the street milling around. That's not conducive to winning football. Here the players have their own parking lot for 90 cars where they don't have to worry about getting a space or being towed. As a result, whenever they come into this area, they can concentrate on football and winning. It helps morale. The players can walk right out of the dressing room onto the practice field, and that's important. We not only have the grass field, we have an AstroTurf one. When we are scheduled to play on AstroTurf, we should practice on it. It's that simple. Besides that, in Washington weather is a consideration and the synthetic field always gives us a place to practice. All of this comes under one word: organization.

I know that we'll stay ahead in Washington because we will not let anything go without examining it. There is no detail that is too small. For instance I was the first coach to have a special teams assistant coach: now many teams do. Marv Levy did such a fine job that he's now head coach for Montreal. Special teams are important because the kicking game is vital to winning. I emphasize defense, and the next phase of the game that goes with defense is a fine kicking game and then an offense that doesn't give up the football, that controls it and keeps it away from opponents. A special teams coach is something that should have been thought of years before. Eventually all teams will have some form of a Redskin Park, and they all will have a special teams coach. You can look into many different areas of the game, but we will stay ahead because we will always think of something else to improve. What we're doing is so sound and so simple that it will continue to be productive.

I don't want anyone getting his training at my expense. That applies to the front office as well as the players. I have an experienced secretary named Shirley Krystek who came with me from the Rams. She's a tremendous help; she often knows what I'm thinking before I even say it. And we have experienced people throughout our front office. There are so many people I wish I could mention but I don't have the space. I am very fortunate in having a wonderful wife Etty, who understands me and who is patient. Unless a coach or executive in a responsible position has that type of wife I don't think he can succeed completely, because in order to do all the things that I want to do with my work I have to have a wife like mine who will put up with my being away from home so much. However, I try to get together with my family whenever I can. Recently Etty and I were guests of our children George, Greg, Bruce and Jenniffer for a weekend that they planned for us. We drove down to Charlottesville to pick up my oldest son. Then our entire family went to Cape Hatteras for a weekend where we cooked out on the beach and enjoyed each other's company.

I am also thankful for my eight years with George Hallas, who's a great man. I think that sometimes you can be around people who are successful and it doesn't rub off, but I've always been aware of being in the presence of someone like Hallas. I learned from Sid Gillman, too.

And one of the main reasons I'm with the Redskins is because of my great admiration for Jack Kent Cooke, a major owner, who is a guy who came up the hard way selling encyclopedias from door to door. I appreciate people who came up the hard way. And I appreciate working for Ed Williams, the president of the Redskins, who has supported me in everything I've done here.

I think football offers the toughest competition of any sport. The goal of every team and every coach is to win the Super Bowl. Some people say the Redskins can't win big games. Those people don't know what they're talking about. It takes a lot of games to get into the playoffs. And there are a lot of *big* games along the way. Look what we had to do last year to get into the Super Bowl. We had to beat Dallas twice. Dallas was the defending champion. Then we had to beat Green Bay twice. What I'm getting at is that the competition in the National Football League is so tough that you can't let down one quarter or you lose. Our football team is going to have to improve. Why? Because everybody who plays the Redskins says, "We're playing a Super Bowl team; it'd be nice to knock those guys off." So they're going to play a little harder.

No team had more dedication than the 1972 Redskins or better leaders than our captains, Charles Taylor, Len Hauss, Chris Hanburger, Diron Talbert and Speedy Duncan. Last year we had a great season and I'm pleased with the fact that our players put forth the effort to get to the Super Bowl. Mayor Walter Washington has said that the '72 Redskins were the best thing to happen to his city in years. That's quite an accomplishment and one that I'm proud of. We were unifying force for the city; we gave the people something to cheer about. We took a city that was known for last place and united it. Blacks and whites. Marylanders, Virginians and Washingtonians, Democrats and Republicans, they all were pulling together for the same thing. We felt a tremendous obligation to the nation's capital since we were the only professional team here. I know we'll get back to the Super Bowl sometime. It could be this season and it could be next. Nobody can predict that; there are too many intangibles. But I know we'll be back there again. I'm positive we'll be back.

SELFLESS AND HEROIC ACTIONS BY ROY VACCARO

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. LENT. Mr. Speaker, I would like to call the attention of my colleagues to the heroic actions of Roy Vaccaro 2 weeks ago in Baldwin, N.Y. Young Roy saved the life of Erin McGarry after she fainted and fell into a pool at a recent swimming party in Baldwin. Others at the party did not realize that Erin was in trouble, but Roy reacted quickly and dove to the bottom of the pool to retrieve her. Using artificial respiration techniques learned from his father, Roy was able to revive Erin and save her from certain drowning.

The town of Hempstead has seen fit to present this brave young man with a citation for his actions. I am sure my colleagues will join me in congratulating Roy Vaccaro for his alertness and bravery. I take great pride in inserting this citation into the RECORD at this point:

CITATION

Whereas, on Saturday, July 14th at a pool at the home of Mrs. Louis Frommling, 877 Milburn Court, Baldwin, Roy Vaccaro of 963 Alhambra Road, Baldwin, saved the life of ERIN McGARRY after she fainted and fell into the pool and failed to surface, and

Whereas, Roy dove to the bottom of the pool and brought Erin to the surface and then applied artificial respiration, learned from his father's instructions, and

Whereas, if it had not been for Roy's quick reaction Erin would have lost her life as those at the party did not realize that Erin was in trouble.

Now, therefore, I, Francis T. Purcell, Presiding Supervisor of the Town of Hempstead, do on this date, July 22, 1973, present this citation to Roy Vaccaro in recognition for his selfless and heroic actions.

FRANCIS T. PURCELL,
Presiding Supervisor.
ALFONSE M. D'AMATO,
Supervisor.
LEO F. MCGINITY,
Councilman.

GEORGE MEANY ON PROPOSED WELFARE REGULATIONS

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. HARRINGTON. Mr. Speaker, on April 20, the Department of Health, Education, and Welfare published proposed regulations for the administration of the public assistance program. Combined with restrictive social service regulations, the Headstart fee schedule, and the latest set of guidelines concerning the assets test for welfare recipients, these regulations are part of a widespread move by the Nixon administration to weaken the Nation's social welfare programs. A letter from George Meany to Secretary Weinberger concerning the April 20 regulations puts into accurate perspective the administration's deceptive policy in this area.

I would like to insert that letter into the RECORD at this time:

MAY 11, 1973.

Hon. CASPAR WEINBERGER,
Secretary, Department of Health, Education, and Welfare, Washington, D.C.

DEAR MR. SECRETARY: Last year the AFL-CIO joined with many other organizations in working for a genuine welfare reform bill which would have helped to solve the welfare crisis which we are facing in this country. These efforts failed, largely because the Administration refused to support its own reform proposals which President Nixon had initially advocated with so much vigor.

We are distressed to see that the Administration is now attempting to achieve through administrative fiat what it apparently wanted to achieve all along—a repressive welfare system which arbitrarily denies aid to needy individuals and families without even a pretext of procedural fairness and due process.

We are particularly concerned about the proposed regulations published in the Federal Register on April 20, 1973. If implemented in their proposed form, these regulations would deny welfare recipients and applicants for assistance fundamental rights of due process which have always been the hallmark of justice and freedom in America. The victims will be among the most disadvantaged—the old, the disabled, the blind and mothers and children in fatherless families.

The AFL–CIO is vigorously opposed to the proposed regulations which would make it extremely difficult, and in some cases actually impossible, for needy persons to apply for aid and then would allow the states to delay unreasonably the decision as to whether or not they are eligible for assistance. Of course, while applicants were subjected to red tape delays, their basic needs would go unmet.

We have always insisted that public welfare should be reserved for those genuinely in need and that the needy should not be punished for their poverty. Welfare applicants and recipients have the same right as all other Americans to be treated with dignity and to have their constitutional rights respected.

We are especially shocked by the elimination of the current requirement that methods used for determining eligibility "will not result in practices that violate the individual's privacy or personal dignity, or harass him or violate his constitutional rights." This requirement was specifically aimed at protecting the legal rights and dignity of recipients from harassment by overzealous public officials and employees. Further, the proposed regulations sanction for the first time secret investigations by welfare departments, involving neighbors, landlords or employers, without any notice to the applicant.

We also object to the proposed changes in the right of recipients to appeal an adverse local decision to a state fair hearing before aid is terminated or reduced. Experience has shown that a very large percentage of contested local welfare office decisions have been reversed when reviewed at a higher level. Yet, without any justification, the proposed regulations for the first time would permit discontinuing or reducing aid before there is an opportunity for a state hearing. Such deprivation of basic appellate rights is inimical to the American system of justice and has no place in a federally funded welfare system.

In addition, the proposed regulations discourage recipients from exercising their rights to a hearing prior to termination or reduction by allowing the states to recover payments made pending the hearing if the local action is ultimately sustained. This is contrary to the current policy which does not permit such recovery except where actual fraud is found. The potential of recovery is a veiled threat which will have the effect of deterring persons from exercising rights which are basic to the American system of justice. Similarly, the regulations eliminate entirely the right to a prior hearing in a number of situations when it is most necessary to protect the recipient, such as when there has been a charge of fraud or when the welfare department has decided of its own volition to make the payment to a third party instead of the recipient.

We oppose the proposed regulation which will allow the states to recover overpayments made to recipients where the reason for the overpayment is attributable to the welfare department itself. Social Security beneficiaries are not subject to such unfair policies. We do not understand why welfare recipients, who are living on minimal incomes, should be made to pay for mistakes which are not their fault.

The proposed regulations, if they were to be implemented, would bring about a blatant invasion of the privacy and democratic rights of the most defenseless and deprived people in America.

On behalf of the AFL–CIO, I urge that they be withdrawn. No changes should be made in the existing regulations that do not assure protection of the basic rights of the people to whom they apply.

Sincerely yours,

George Meany, *President*.

MONTGOMERY CHAMBER'S AWARDS

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. GUDE. Mr. Speaker, I was pleased to present awards recently to eight citizens of Montgomery County, Md., who were selected by the Montgomery County Chamber of Commerce for their service to the community and the Nation.

These eight citizens, each quite different from the other, have contributed in their own special ways. Their work, which illustrates what individual citizens can do, is described in this material assembled by the chamber of commerce:

Montgomery Chamber's Awards

I. OUTSTANDING YOUTH OF THE YEAR AWARD

1. Andrea Kormann, age 17, Rollingwood Drive, Chevy Chase, Maryland.

Not only has she done an outstanding job academically, but she is involved in her community. She has been a volunteer office worker for the Maryland Association of the Visually Handicapped. She organized a benefit at the Bethesda-Chevy Chase High School for the visually handicapped. She is a youth representative on the Administrative Board and the Worship Board of the Chevy Chase Methodist Church. She is the Editor-in-Chief of the Bethesda-Chevy Chase yearbook, and is the secretary of the Interact Club of Bethesda-Chevy Chase, which is a Rotary sponsored organization.

2. Fritz Douglas Pollard, III, age 18, of 2215 Westview Drive, Silver Spring, Maryland.

Fritz graduated in June of 1972 from Blair as an outstanding student carrying a 3.8 academic average, and was also an outstanding athlete. He was acutely aware of the racial problems at Montgomery Blair in 1972, and through his leadership was a key factor in alleviating serious eruptions. He helped make integration work.

He was voted Montgomery Blair's outstanding athlete, and lettered in football, basketball and track, and was voted the outstanding senior of 1972. He also participated in the dramatics program.

II. DISTINGUISHED SERVICE AWARDS

1. Lt. Col. Charles X. Suraci, Jr., Deputy Wing Commander, National Capital Wing, Civil Air Patrol, Rockville.

Charles Suraci, Jr. has been an inspiration to youth since 1957 when he joined the Civil Air Patrol. Seven months after joining he completed the basic course and was promoted to Warrant Officer. In eight years he was promoted to his present rank of Lt. Colonel. He was a founder of Wheaton-Silver Spring Squadron, and later served as the Squadron Commander. The Squadron was number one in the Wing for six years while under his command. He was responsible for arranging the Wheaton-Silver Spring Cadet Squadron's Staff Meetings in the Pentagon every year. (First in the history of Civil Air Patrol.)

As Deputy Wing Commander he is responsible for making governmental and neighboring official contacts. He set up the Aerospace Workshop in the D. C. School System, and the National Aerospace Education Association.

He has received the CAP Meritorious Service Award and Exceptional Service Award; the Community Leader of America Award for two years; and the YMCA Leader and Service Award from the Silver Spring Branch of the YMCA.

In May 1970 he received a Presidential Commendation from President Nixon in recognition of exceptional service to youth for his work with Civil Air Patrol.

2. Mrs. Beulah Harper, Poolesville. For the past two years she has been President of the Women's Interfaith Service which operates a center in Rockville, Maryland which receives donations of clothing and distributes them to poor families. Last year more than 1,500 families with 4,000 children received a box of clothing per family. Mrs. Harper was the Thursday manager for eight years. In 1965 she was a member of the County anti-poverty agency for the Community Action Committee representing the community of Tobeytown. She served on the Food Stamp Advisory Committee for the Social Services Board.

When there were racial problems in the Poolesville area she helped organize the Community Relations Committee and served as Vice President. She played an active role in reducing the tension.

Mrs. Harper is half of the Poolesville area HELP organization which responds to calls for emergency help such as food, furniture and transportation. Over the past two decades she has worn out dozens of tires and several automobiles taking disadvantaged individuals from Poolesville to clinics in Gaithersburg and to Rockville to buy food stamps and to get welfare grants. She goes to court with individuals when there are problems, and makes short runs to the dentist. She gets surplus bread and baked goods for needy residents.

She has been a foster mother for six children, ranging in age from three days to fifteen years.

She is an active member of the Jerusalem Church, Poolesville, singing in the choir, superintendent of the Sunday School, Church Secretary, Deaconess and for many years president of the Women's Auxiliary.

3. Johnny Holliday, Silver Spring. In November of 1969 Mr. Holliday came to the Washington area from the West Coast and joined WWDC as an "On Air Personality" better known as a disc jockey. In response to calls from area high schools trying to find ways to raise money for band uniforms, Mr. Holliday organized the WWDC Radio "Oneders" Basketball Team. Calling on friends in the sports world, and using some of the radio station personnel, he swung into action in 1970 playing junior and senior high school faculties, and boys clubs in the area. The concept was so successful that from 1971 to 1973 they played sixty schools, raising over $100,000 for area schools.

Mr. Holliday then organized a softball team to help other organizations raise money. Some of the organizations that have benefitted from the softball "Radio Oneders" have been the Walter Reed Annex, D.C. Police Department, churches of all denominations, boys clubs, and Heroes, Inc.

Most recently he was involved as co-chairman (with his good friend Ray Schonkey of the Washington Redskins) of the Retarded Citizens of Montgomery County Bike Marathon.

III. PRESIDENT'S AWARD FOR OUTSTANDING CHAMBER MEMBER

Oland Harvey, Olney, has just finished his sixth year as President of the Olney Chamber of Commerce. Coinciding with that, it is his sixth year on the Board of Directors of the Montgomery County Chamber of Commerce.

Mr. Harvey was Director of Public Works in Montgomery County from 1934 to 1966, a total of 32½ years. Since that time he has been a consultant with various counties on public works.

Mr. Harvey has been a widower for twelve years, and resides in the home that he built 28 years ago at 18201 Hillcrest Avenue in Olney, Maryland.

IV. SPECIAL PRESIDENT'S AWARD FOR MILITARY SERVICE TO THE NATION

Major Arthur Burer, Rockville, spent 83 months in prison camps of North Vietnam as a prisoner of war, and this grateful county would like to say, "Thank you."

Art Burer was born September 3, 1932 in San Antonio, Texas, the second of four sons, of a man who himself dedicated 25 years to the U.S. Air Force. His early life was spent around various military posts. His older brother served for 20 years in the Air Force, and his younger brother was a graduate of the U.S. Military Academy of West Point. Major Burer graduated from Anacostia High School in 1950 and worked for one year as a paying and receiving teller with American Security and Trust Company in Washington, D.C. During the Korean conflict he enlisted in the Air Force and served as an aircraft maintenance technician while assigned to Bolling Air Force Base. In 1957 he won an appointment to the Officer Candidate School which led to a commission and flight training. He served as aircraft maintenance officer at Sheppard Air Force Base, Texas, and then was assigned as an instructor pilot, U.S. Air Force Training Program. He attended George Washington University, Laredo Junior College and graduated from the University of Omaha under the Air Force Bootstrap Program in 1954.

In early 1965 he volunteered for reconnaissance flying in Southeast Asia. On March 21, 1966 his RF 101 Reconnaissance aircraft was struck by hostile fire while on a mission deep in North Vietnam. He holds a good conduct medal, longevity medal, National Defense medal, Vietnam medal, Air Force Commendation medal, air medal with oak leaf cluster, distinguished flying cross and the purple heart.

We wish Art well in making up for those 83 months that he spent out of contact with his lovely family.

V. MONTGOMERY COUNTY'S NATIONAL FIGURE OF THE YEAR AWARD

Fire Chief David B. Gratz, Silver Spring, has dedicated his life to the national fire service.

Specifically, his concept of a Mobile Fire Safety Team has most recently won national recognition and renown for Montgomery County.

Chief Gratz was chief of the Silver Spring Fire Department, and has been made the first Director of the Fire and Rescue Services for Montgomery County, and as such will coordinate the county's independent fire departments, fire prevention activities, fire and rescue training operation and communications.

Dave has been involved in fire service since 1946, and served as the Fire Chief of Silver Spring from 1957 to 1973. He has been nationally recognized for the extensive fire service activities, particularly in the area of organization and management, a consultant to various agencies of the U.S. Government, the International Association of Fire Chiefs, a number of state and local agencies, and a qualified expert witness in the field of fire service operations.

In addition, he is a well-known writer in his field, with numerous articles published in national fire journals. In 1972 his textbook "Fire Department Management: Scope and Method" was published by the Glencoe Press.

In 1955 Dave won a B.S. degree in Political Science from American University and followed it up in 1961 with a Master's degree in Public Administration. He has recently completed the course work on his Ph. D. at the University of Maryland.

Chief David B. Gratz is being recognized for a very specific contribution to our community that has won national recognition—namely the Mobile Fire Safety Team concept. This concept combines three functions into one mobile unit. They are Fire Inspection, the Flying Manpower Squad, the Mobile Command Unit. In addition the Unit carries extensive information on microfilm.

This Unit, on the road 14 to 16 hours a day, automatically responds to all building fires and special emergencies, and carries the shift commander—the ranking officer for the shift. The Unit can receive and transmit on five radio frequencies and monitor an unlimited number of high and low band frequencies. A tape recorder allows the officer to dictate reports, and record special notes.

CAN POSITIVE THINKING MAKE HOUSING PROGRAM GO?

HON. WILLIAM B. WIDNALL

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. WIDNALL. Mr. Speaker, it has been approximately 6 months since James T. Lynn took office as the Secretary of the Department of Housing and Urban Development. In his confirmation hearings earlier this year, he acknowledged that he was not a housing expert, but that he would soon learn.

Indeed, he has had to learn as his first charge as Secretary was to undertake a massive and complete reevaluation of this Nation's housing programs and policies. We all anxiously await the result of this study which is due September 7.

Mr. Speaker, in order to give my colleagues a better insight into the man overseeing this vital reevaluation, I would like to insert, at this point in the RECORD, an article entitled, "HUD's James T. Lynn: Can Positive Thinking Make Housing Programs Go?" which appeared in the July 1973 issue of Government Executive:

HUD's JAMES T. LYNN: CAN POSITIVE THINKING MAKE HOUSING PROGRAM GO?

(By Samuel Stafford)

Housing and Urban Development Secretary James T. Lynn is—to paraphrase more than one secretary in HUB's 10th floor offices—"a charmer."

Whatever an interviewer wants, Lynn stands ready to provide. He is as friendly as an automobile salesman and as willing to please as a hotel doorman.

During his relatively brief tenure as head HUD honcho he has done his homework well. He can answer any question that might possibly be asked about HUD's current massive change of direction without fluffing a line.

Lynn is amicable even at the end of a rat race day. No one in HUD has ever seen him when he was grumpy for more than 45 minutes. He has a ready smile for both the great and the small and he tosses off little personal asides to the foot troops—"I really envy your ability; I could never do that and have it come out right"—like the new businessman on the block who knows he has to try harder than the shops on either side if he is to win consumer acceptance.

Lynn, like his predecessor, George Romney, is a buzzsaw of enthusiasm. Unlike Romney, at least so far, he tends to give subordinates the benefit of the doubt when things go wrong. And he does not seem susceptible to the foot-in-the-mouth disease that has afflicted some Nixon Administration appointees. He is, a former associate said, a very sharp man who guards his flanks well and tries very hard to learn what his political antennae tell him he should know.

HUD, however, with its Democratic origins, hardly makes a dent in Washington's Republican power structure, as Romney quickly learned. As a bastion of Great Society sloppy thinking, so the Nixon team reasoned after taking office, HUD was a prime target for reform along "New Federalism" lines.

During Nixon's first term, HUD lavished considerable time and energy trying to convince all and sundry that HUD really was what Lyndon Johnson had intended it to be—an agency dedicated to the proposition that all Americans, rich or poor, should have decent housing within one or at the most two decades—but that the Democrats were going about the business all wrong.

As time passed, Romney spoke less and less of the prospect of achieving a national goal of "26 million new homes in 10 years." By 1971, HUD was deep into the process of turning itself inside out. The way was being paved for a phaseout of HUD's categorical programs like urban renewal and Model Cities and replacement of such programs with "few-strings-attached" block grants to be used as localities saw fit when Congress gave a go-ahead to the Administration's special revenue sharing program.

Romney, former associates say, left Washington a frustrated man. HUD's much ballyhooed research and development program, *Operation Breakthrough*, if not an outright failure, at least was no roaring success. Congress sat on the Administration's ambitious revenue sharing proposals. And fast buck builders and developers meanwhile took HUD to the cleaners in the subsidized housing grant program, leaving the Federal Government with a scandalous legacy of deteriorating properties in inner cities throughout the Nation. A moratorium still in effect was imposed on the subsidized housing programs and HUD task forces at the moment continue to wrestle with the question of what went wrong and to try to come up with improved ways of managing the subsidy programs.

IMPRESSIVE INITIATIVES

So Lynn by any lights came to HUD at an inauspicious time in the agency's relatively brief but tumultuous history. In his four months on the job, he has diligently plumped for the Administration's Better Communities Act, which would fold a number of Johnson era categorical grant programs into the New Federalism block grant program, and has spoken up for the Administration view of "returning power to the localities" at every opportunity.

Lynn, a former Undersecretary of Commerce, had not been considered a top candidate for the HUD post. His qualifications, however, were impressive. He was young and energetic and a dedicated advocate of the New Federalism cause. He had no discrernible political base and no ties to special interest groups. He would, it was decided in the highest levels of the Administration, be a perfect candidate to preside over the final dismantling of Great Society housing programs.

His subsequent appointment drew hoots from the media, the tenor of the criticism being that the President probably could have found a better HUD Secretary by pegging darts at a dartboard.

Lynn has been a good soldier even though, like Romney before him, he has had his frustrating moments.

Early this year, the White House announced that it was designating three Cabinet members as White House "counselors" and that responsibilities of the counselors would extend beyond their departments to include functionally related programs of other agencies.

Lynn was designated Counselor for Community Development with broad authority over housing, transportation and other areas dealt with by HUD, the Department of Transportation, the Department of Agriculture, the Office of Economic Opportunity and other agencies.

The other two special counselors were Agriculture Secretary Earl Butz and HEW Secretary-designate Caspar Weinberger.

As an interim move to try to pull together some of the Government's functional elements in lieu of the massive reorganization of the Federal bureaucracy which Nixon had been unable to sell to Congress, the idea had much merit.

From a practical standpoint, it was doomed from the start. The press came out with "Super-Secretary" headlines and congressional committees and their constituencies which felt threatened counterattacked. The President later rescinded the counselor plan, while enjoining Cabinet officers to continue meeting informally on common problems.

Lynn also was a victim of bad timing of a news break—a cardinal sin in Washington, D.C., where maximum favorable press coverage of an event is so assiduously courted.

As chance would have it, Lynn held a White House press conference on details of a Better Communities Act the very day that reporters were breathlessly awaiting a hot new break on the Watergate scandal. Few of the newshawks rushed to the telephones with word of the impressive new housing initiatives.

More media wordage, in fact, was expended on criticism of the program—by congressmen and mayors of some larger cities who saw their cities losing money under the proposed Act—than on the original announcement.

Lynn, the unflappable, upbeat advocate of the New Federalism, is philosophical about these minor setbacks.

"I think we are in a period of letting provisions of the Act digest with the governors and mayors and the other people affected.

"The Act does represent a massive change. And it is complicated. I think some of the initial unfavorable reaction probably was based on a misconception of what we are trying to do.

"I've talked to some of the mayors who were most concerned at first and I think we're gaining a lot more support."

Was it not true that many mayors were irked by the sudden drying up of Federal money in their cities following the subsidized housing program suspension?

"Let's put it this way. There was a certain amount of overlap among people who yelled the loudest about the housing suspension and those who initially were critical of the Better Communities Act. How much of this is politics and how much is genuine concern about what we've done or not done on the housing side I leave to you to judge."

At his press conference, Lynn promised that HUD would run data through its computers and come up with more precise projections of just what each city would or would not get over a five-year period.

"We are," Lynn said, "well advanced in developing such data. I think that when some of these uncertainties are eliminated, support for our program will grow.

"Actually, there is no uniformity in treating problems of the various cities. There can't be.

"Federal spending in some cities will go up substantially over a two or three-year period. In fact, if you consider just numbers of cities, you'll find that there are a lot more cities gaining than losing funds.

"Admittedly, some large cities, like San Francisco, are confronted by reductions in inner-city funding. But I think you have to look at what will be going to the entire metropolitan area and the states if you are going to put this into perspective.

"We have attempted to average out what has happened in a city over a period of time. Let's take an example of a city that has had *one* large urban renewal project and that's been their chief project among the seven categorical grant programs that we're replacing and that project would be over this year or the year after that.

"That city would have absolutely no assurance as to its funding level for the future and what we've done is give them the benefit of the doubt in our averaging formula so they really do start out at a high level whereas you could say that in the next year of full funding they wouldn't have received anywhere near that amount.

"You can't just look at the dollar levels.

"And there's another basic question here. Should we at a given funding level freeze in forever the distortions that may exist between cities when viewed from the standpoint of an objective needs formula?

"Our answer is that, while we want to avoid severe adjustments for cities that have been funded at high levels, we also want to move eventually toward distribution of this money on a needs formula basis rather than on one based on grantmanship—the idea that the city with the best grantsman is going to get the most money.

"And why should a community that can not come up with the matching money to participate be penalized? In the past, some cities simply haven't been able to take advantage of these programs because they didn't have matching funds. This doesn't mean that their problems are less severe than those of a city that has matching money. Probably the opposite is true."

Lynn's message, delivered frequently to legislators and civic groups, is that HUD's special revenue sharing proposals carry a $2.3 billion price tag and that this figure is far more than the total appropriations for community development categorical programs that are being phased out.

Despite the Nixon Administration's diligent tub-thumping for its proposals during the past three years, some legislators continue to take a dim view of certain provisions of the bill and no one on Capitol Hill expects the legislation to emerge in any form remotely resembling the original version.

HASHING-OUT DECISIONS

Lynn chooses to be optimistic.

"No doubt Congress will find provisions of the bill it thinks can be improved," he said, "and as we ourselves receive comment around the country we will probably find things to change, too. But we're hoping that the main thrust of the Act will be retained."

He added, "The transition will be painful in some cases and it will take time. But we think we have the right chemistry. What we are trying to do is simply to return the priority-assessing decisionmaking machinery to the governments that are closest to the people."

Lynn conceded that the New Federalism concept may encounter problems of implementation at local levels because HUD has found that the city-county-special district nature of metropolitan governments often prevents chief executives from putting into effect far-reaching community-wide policies.

His view, however, is that passage of the Act cannot help but strengthen the hands of local executives.

He is also philosophical about the on again-off again White House counselor program during which he briefly headed a "community development" committee consisting of the heads of four Cabinet departments and the Office of Emergency Preparedness.

"I think one of our basic problems with the counselor concept was that it was not perceived correctly on the outside from the beginning" he said.

"There was far too much emphasis on the super-Secretary idea. But the true mechanism consisted of Cabinet officers sitting down together to focus on common problems and interests. And these Cabinet officers were always on an equal footing.

"We intend as the President indicated to continue meeting on an informal basis. The idea of having some of these interagency things done in a coordinated way by Cabinet members reinforces the authority and flexibility of Cabinet officers because if we don't hash out these decisions ourselves, they will be made elsewhere—either in the Office of Management and Budget or in the White House."

Lynn said he had not spent enough time in Government to have yet developed a hard-and-fast managerial philosophy.

"I've read that the President has put top managers out in all the agencies and I must admit I'm flattered when I read that," he said.

"That is highly flattering to a fellow who no more than four years ago was working for a law firm and had very little managing to do. Maybe I am a decent manager, but that will be for other people to decide.

"I have only one rule about management and that is to surround yourself with able people and ask that they do the same.

"And by able people, I don't mean just people in a theoretical sense of mental ability. I mean people who care about what they're doing and think it's important.

"Sure, they have the brainpower for the job, but they also have imagination and judgment and they are people persons. They care about the feelings of the people who work for them.

"And if you can get these kinds of assistants to come aboard, you know instinctively that they will turn on the people who work for them and be responsive to you."

He said, "I have been encouraged by my visits to the regional offices. The people out there know the weaknesses of the programs because they have to live with them day after day.

"What I've found is that you are much more likely to come up with a workable idea when you talk to people at the working levels than you are at conferences in Washington.

"Out in the regions they know what works and what doesn't work. And now and then somebody just might tell you, "Now wait a minute. That doesn't make sense and I'll tell you why . . . because under Form 2369 of some other agency, we've got to do this or that and wouldn't it make sense to combine these two functions to do this?"

If being personable, doing your homework and being receptive to new ideas are important ingredients in being HUD secretary, Lynn should succeed in areas his predecessors found all but impossible to manage. A large supply of optimism at the outset is not necessarily a bad thing. HUD remains a cranky agency pulled in a dozen different directions by its conflicting constituencies. As George Romney learned, it is difficult to run the housing agency and still be an optimist.

MRS. MARY FRANCIS MORRISETTE

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. WHITEHURST. Mr. Speaker, an article was recently published in the Christian Science Monitor regarding an outstanding citizen and community leader in my district, Mrs. Mary Frances Morrisette. The article refers to Mrs. Morrisette in her role as the executive director of the Norfolk Society for the Prevention of Cruelty to Animals, a post from which she recently retired. However, I have known her as a friend and as a citizen who has worked tirelessly to instill the concept of humaneness in everyone she met. I am most pleased to say that although she has relinquished her responsibilities as head of the Norfolk SPCA, she remains active in the humane field. Her victories did not all come easy. She fought long and hard for her viewpoints and the reduction of cruelty to animals, and she richly deserves the outstanding reputation that is hers.

I include an article from the July 24 edition of the Christian Science Monitor at this point in the RECORD:

RECENTLY RETIRED SPCA LEADER DEMANDS A STRONG, GENTLE TOUCH IN PROTECTING ANIMALS

(By John D. Moorhead)

BOSTON.—She has been battling for almost four decades to get people to be kind to animals.

Seeing her today you immediately sense the kindness, but see no scars of the battle.

Mrs. Mary Frances Morrisette, recently retired as executive director of the Norfolk, Va., Society for the Prevention of Cruelty to Animals, is a small, very feminine, but impeccably dressed woman. But when she talks about things that hurt animals, there is fire in her eyes.

"We must have respect for life in every creature and teach this to our children," she says.

A NOTE OF CAUTION

And when there is an emergency she moves fast. Recently she rushed to help a grebe entangled in some fishing line. The loon-like bird was about 30 feet offshore in a swamp. Mrs. Morrisette exchanged her dress for coveralls and swam through icy water to free it.

"People should leave wild animals alone unless there is a real need," she says. "It it not true that if human hands have been on baby birds, fawns, and other 'born free' creatures, the mother will desert them. Her mother love for her offspring overcomes her fear or dislike of the smell of humans.

"But these young animals should never be touched unless they are sick or injured," she says.

She recalled one occasion on which she was informed that some children had taken baby mockingbirds from the nest and were carrying them around the neighborhood. She went to the area immediately, corralled the children, and returned the baby mockers to their nest.

"The mockingbird parents immediately began to feed those hungry little mouths," she says.

NO SHELTER, THEN

Her interest in animals goes bock to girlhood, but she has been actively working in their behalf since becoming volunteer secretary of the Norfolk SPCA in 1935.

At that time the SPCA had no shelter of its own, no car, and only one paid employee, the humane officer.

In the late 1930's a shelter was acquired, a dark narrow room in the back of a blacksmith's shop. A much larger shelter was finally built in 1949.

At first, she says, she was "deathly afraid" of speaking before the Humane Society and other groups. "But I lost myself in helping the animals; there was so much cruelty."

In July, 1950, Mrs. Morrisette inaugurated a television show about animals and their care, over which she still presides today. (The program was off the air from 1956 to 1964.) The show gives information on the care and training of animals, and how animals fit into the community or function in the wild.

"A lost and found section has returned many pets to their owners and found good homes for others," she says.

And Mrs. Morrisette makes more than 200 personal appearances yearly in schools, recreation centers, almost anywhere else young people gather. Many thousands of children have seen and petted some usual and unusual animals in her "traveling zoo" in the past 8½ years.

"Some children are distrustful or afraid of animals," she says. "We stress the fact that we only fear what we do not understand. So we proceed to get acquainted."

Acquainted means with a skunk, kittens, a dog named Pixie, a boa constrictor, raccoon, guinea pig, rabbit, woodchuck, or an opossum.

"Most fears are lessened or completely dispelled on the first visit," says Mrs. Morrisette. "The kittens' claws don't seem quite so treacherous, and Slinky, the boa constrictor, is discovered to be a gentle friend."

One of the major skirmishes in her fight to aid animals has been to promote "neutering."

POLICY FINALLY CHANGED

She finally convinced the board of the SPCA "to agree that every female dog and cat and every male cat be altered (when old enough) before they leave this shelter."

This requirement was instituted 12 years ago. Mrs. Morrisette regrets more people cannot be convinced to have their pets altered, because there are so many strays.

Another of Mrs. Morrisette's campaigns involved the use of dieldrin, a long-lived pesticide. When the state of Virginia announced it was going to spray large areas with it to combat reported concentrations of white-fringed beetles, Mrs. Morrisette fought against the move. She appealed to the city council and then the Governor to ban the spraying, which she felt would kill many animals.

The spraying was done and she was right.

EVIDENCE COLLECTED

Afterward she and other members of the Cape Henry Bird Club (now the Cape Henry chapter of the National Audubon Society) collected more than 300 specimens of dead birds, animals, and bees for analysis by a testing laboratory in Patuxent, Md. The tests showed dieldrin had killed them.

Mrs. Morrisette says birds are still being affected by the pesticide more than 10 years after its application. And she maintains the state never proved there really was a white-fringed beetle invasion in the Norfolk area.

Rachel Carson, author of "Silent Spring," called Mrs. Morrisette's drive the "best fight of any" against indiscriminate pesticide use. Now use of substances like dieldrin is tightly controlled.

Although Mrs. Morrisette is stepping down as SPCA executive director, a post she has held since 1964, she continues as director of humane education. And she will still preside over her weekly television program, helping children and adults understand how to care for animals.

SECRETARY OF STATE POLL ON POST CARD REGISTRATION

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. FRENZEL. Mr. Speaker, a poll was taken of the secretaries of state of the 50 States, in an effort to determine the amount of support for a Federal post card registration system. A questionnaire was sent to each of the 50 secretaries of state. Included in the questionnaire was a cover letter explaining the purpose of the poll and an outline of the post card registration bill (S. 352). Each secretary was asked to describe any experience his or her State has had with coupon or mail registration now or in the past, and to choose between the following four alternatives:

First. I feel that a system of Federal post card registration is a better alternative than our current State system.

Second. I prefer our current registration system to the proposed Federal post card system.

Third. I feel that at a given cost other alternatives—such as mobile registraton—may be better than the post card system.

Fourth. Any of the above systems would be acceptable.

A total of 38 secretaries of state responded. This is a response rate of 75 percent, an extremely high percentage for this type of questionnaire. Out of the 38 responses, only three secretaries felt that a system of Federal post card registration is a better alternative than their current State system. Twenty-nine stated that they preferred their current registration system to the proposed Federal post card system and seven felt that at a given cost other alternatives may or will be better than the post card system. Three secretaries thought any of the alternatives were acceptable or were neutral. The total number of responses is 40, which is greater than the number who replied, 36. This is due to the manner in which the questionnaire was constructed; it was possible for a secretary to check both alternatives first and third. Four secretaries of state did just that, which accounts for the discrepancy.

From the data cited above, it is quite clear that a vast majority of the people who will have to help administer the post card registration system do not believe it will work as effectively as the present system. Only two of the secretaries or about 6 percent of those who responded expressed support for the bill. If the officials who will be administering the bill express an almost unanimous lack of confidence in it, it is difficult to see how the plan can be made to work. Judging from the vehemence of their response, Congress should not expect these officials to make a wholehearted effort to implement this program. Certainly, Congress should be reluctant to pass legislation which has such strong opposition among those who will be charged with the responsibility for administering it.

The secretaries of state of the States of California, Pennsylvania, and South Dakota supported the idea of Federal postcard registration. The secretary of state of Pennsylvania stated that—

> I wholeheartedly endorse and support S. 352. Once Congress takes this action most States will follow.

The secretary of state of South Dakota said that—

> Stringent rules and regulations of voter registration have disenfranchised many qualified electors. Because of our mobile population we need uniformity and understanding between states with state control.

The secretaries of state of Alabama, Arizona, Colorado, Delaware, Florida, Hawaii, Idaho, Illinois, Kansas, Louisiana, Maine, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, Vermont, Virginia, Washington, and Wyoming all prefer their current registration system to the proposed Federal post card system. The secretaries of state of Colorado, Connecticut, Delaware, Nevada, Rhode Island, Tennessee, and Washington felt that at a given cost other alternatives—such as mobile registration—may be better than the post card system. The secretaries of state of Georgia, Utah, and Wisconsin expressed no preference or thought that any of the systems would be acceptable.

A major objection to the post card registration system was that it would not increase voter registration and participation. The secretaries of state of Delaware, Idaho, Nebraska, Montana, North Carolina, Oklahoma, and Washington thought that post card registration would do little or nothing to increase voter participation, although the secretary of state of Hawaii thought that S. 352 would "increase voter registration and voter turnout in States that presently have strict registration requirements and make it inconvenient for their residents to register." On the other hand, the secretary of state of Nebraska, in commenting on the prospects for a National Voter Registration Administration stated:

> Looking down the road ten years I do not believe that one hundred thirty five million dollars spent every three years would increase over one or two percent the national percentage of turnout of voters. Even if we got everyone registered in the United States, or nearly everyone, your bill still does not provide any means for "beating the voter over the head and getting him to the polling place." Here in Nebraska I believe we have given a maximum effort for registration and yet only five out of every eight of the registered voters went to the polls.

Other secretaries also thought that their State is presently doing a good job:

> Our state has a high percentage of our estimated voting age population registered and this will become even higher with the cut-off date before elections now extended by ten days. We have provisions for registration by mail, appointment of as many deputy registrars as necessary per county and all notaries public may serve as deputy registrars. Federal post card registration would only serve to increase the problems without significantly affecting the number registered. (Montana)

The secretary of state of Washington felt that federally funded post card registration might dry up State and local funds for registration drives:

> It is unlikely to expect, however, that state legislatures and county officials would be willing to continue programs of their own to encourage and facilitate registration in the face of an overwhelming federal program such as the one proposed in S. 352.

Secretaries of state such as those from Oklahoma and Idaho worried about dual registration systems and their possible effects on voter participation:

> Oklahomans who register to vote under our present system may continue to be registered and eligible to vote simply by casting a vote once during any four-year period. These voters undoubtedly would be confused by receiving a registration application every two years and probably would execute the form, thus resulting in a dual registration. On the other hand, voters not registered in person under Oklahoma law, but registering for federal elections under the provisions of S. 352, would doubtlessly be frustrated to learn that they could vote for President, U.S. Senator and U.S. Representative, but not for Governor, State Representative, State Senator, County Sheriff, Mayor or any other state or local office.

At least one secretary of state thought that post card registration would even be counterproductive:

> Out of a possible 351,003 persons of voting age we had registered 293,078 as of November 1, 1972 or 83.49%. Of these 293,078 we had 241,152 cast their ballots on election day or 82.40%. If S. 352 should become law I feel sure that this percentage would decline. (Delaware)

Most secretaries seemed to think that factors other than registration obstacles were to blame for low voter turnout:

> We urge you to assist us in putting into proper perspective the real cancer in our electoral processes. The true sickness is apathy—the failure of persons who are registered to exercise their right to vote. We submit that simply registering more people by "lottery" tactics does nothing to improve the problem. Only after we have attained a continuing turnout of 80–90% of our registered voters should we attempt to go out and pull people out of the woodwork to simply fill up space on the registration books. In North Carolina our priority project is to increase voter participation first, then design programs to flush out other prospective voters.

Another important objection to post card registration was the difficulty in administering the system. Several secretaries of state felt that post card registration would be administratively unworkable:

> Administratively, the proposed post card registration of voters for federal elections is completely unworkable. States could not properly process these cards in the given time frame prior to the elections and therefore would be unable to produce accurate lists of qualified voters for use at the polls on election day. Duplication would be extremely difficult to properly correct within the state and impossible to ascertain from state to state in such an extremely short time. (Virginia)
>
> I am of the opinion that your bill would be a duplication of effort, would result in dual registration and voting systems, would require additional personnel on the local level, and certainly result in added cost to the taxpayers. (Florida)

At least one secretary of state thought that post card registration would place an excessive burden on his staff and would result in a volume of mail of tidal wave proportions:

> During fiscal 1973 . . . 31.27% of our registered voters' records were changed in some manner. To magnify this many changes by the herculean task of checking post card registration for validity, duplication, legibility etc, and return a notification to that group of people who registered by post card would create chaos and it would be impossible to hire enough temporary employees to accomplish this. (Delaware)

Many of the post cards might be illegible and incomplete:

> My first concern is whether we could get correct information from the applicants and to follow up quickly enough otherwise. Our deputy registrars are instructed to fill in the applications for the applicants. Even with these trained personnel, we still get a tremendous amount of applications for which the applicants have to be tracked down and the information corrected. (Hawaii)
>
> We have consistently observed, when an applicant is asked to respond with certain information on those applications, that between twenty and twenty-five percent of the applications received are incomplete or inaccurately prepared by the applicant. In those instances, an additional contact, either by mail or phone must be made with the service voter to complete the necessary information. (Washington)

Another problem is that of accidental re-registration:

> If registration post cards are distributed to every household, persons already on the registry lists will re-register, thus requiring a crash program of checking thousands of registrations trying to sort out duplications. People don't always follow instructions, sometimes signing their names in full and sometimes using names by which they are usually called or initials. If two identical names turn up from the same address, is it father and son or has the same person registered twice? When county clerks are inundated with thousands of post card registrations 30 days before an election, the problems of preparing valid registry lists are obvious. (Wyoming)

There is also a problem peculiar to rural districts. Leading experts on voter registration have indicated that his problem can occur in many States:

> In research I recently ran, if this system should be adopted the R.D. 2 route of Millsboro, Delaware, would cover parts of 7 election districts, 3 representative districts, 3 senatorial districts and 3 councilmanic districts. This would not enable the people who administer elections to assign this registrant to the proper district where he should cast his ballot. This would create quite a problem and would be terribly expensive to contact each person registered by mail in order to assign him to the proper election district. At the present time our mobile registrars and our in-district registrars have maps available and a registrant points out his place of residence on said map thereby enabling the registrars to assign him to the proper district.

Post card registration would also represent a duplication of effort and might force many States to abandon their present registration systems:

> The various county clerks and election commissioners in Nebraska now have their own filing systems for registration of voters. These filing systems are based on the available space in the office or the physical ar-

> rangements of their folders and file cabinets. The registration forms in Nebraska, while they contain the same information, are printed on various sizes of forms to fit their particular filing system. If the counties were to go to a postcard registration they would all be required to establish new filing systems.

There would also be administrative hassles between the State and local, and Federal Government:

> Under local jurisdiction, local officials would know and could easily investigate and find out who resides at a certain address. The questioning of a voter's residence could be resolved immediately with the local investigation. Under federal jurisdiction, a residential inquiry, paper work etc. could take a month or more thus possibly denying or permitting one to vote whose residence remains in question. (Illinois)

A third major objection was the increased opportunities for fraud under a system of post card registration. The secretaries of state of Delaware, Hawaii, Idaho, North Carolina, Oklahoma, Rhode Island, Tennessee, and Wyoming were especially concerned about this possibility:

> S. 352 purportedly has built-in safeguards to prevent voter fraud. However, I submit that neither fraud prevention safeguards nor the availability of federal tax monies can, by themselves, insure the sanctity of a post card registration system which totally relies on unverified information. (Idaho)
>
> The bill in question did not have any provisions with definite proposals to control and prevent fraudulent registration, and many problems could be created if this program is enacted into law without any controls specifically integrated within. (Hawaii)

There are several ways in which this bill makes fraud in Federal elections much more likely:

> The potential for fraud in voting is abysmal. Voter registration forms would be mailed to every address in Oklahoma prior to elections each biennium. There are no protective devices to prevent fraudulent registrations. The availability of registration forms would make it easy for a single individual to register an innumerable number of times with little chance of detection, simply by making multiple applications to various election boards. Moreover, Section 405 (c) effectively makes a person eligible to vote whether or not he had registered, since no proof of such registration is required to vote. While the measure provides stringent penalties for fraud, there are no means whatsoever to detect fraud.

There is some doubt as to whether or not anyone can be prosecuted under this law:

> I question the ability of government to prosecute anyone for fraudulent information which has been supplied on a postcard due to the fact that the signature of the new registrant was not witnessed by either a notary public, employee of a local canvassing board or a member of the general public. (Rhode Island)

S. 352 removes even the most minimal safeguards against fraud:

> In our opinion S. 352 eliminated the most vital safeguard of all and that is proof of identification and proof of residence. In order to register in our State a person must present to our registrars the above two (2) proofs. This does not create a hardship on anyone except those persons who are trying to fraudulently register. (Delaware)

It is also impossible to check these registrations to find out if they are genuine:

> Proponents of the Senate measure say post card registration can be checked and authenticated by state registration officials, but if it's too much trouble for a person to appear once before a registry official to sign the oath of qualification to get his name on a permanent registry list, how then can anyone sincerely believe that election officials can authenticate thousands of registrations that come to them through the mail. Practically speaking it's impossible. (Wyoming)

A fourth major objection was that post card registration would represent an unwarranted intrusion by the Federal Government into areas reserved to the States and would result in dual registration systems:

> I am opposed to S. 352, the McGee bill. It is an unwarranted and completely unnecessary intrusion by the Federal Congress and a Federal agency into an area of state responsibility. The intrusion is not necessary since Ohio and most other states of the Union recognize their responsibility in this area. Ohio's General Assembly shows evidence that it will respond to Ohio's needs by passing legislation which has been proposed to facilitate voter registration.
>
> State governments are not sitting on their hands in this important area, and my conversations with other Secretaries of State in the various states leads me to believe that there is great sentiment for action and improvement on the state level. Can there be a valid reason, therefore, for Federal intrusion into a state's area of responsibility and for a Federal regulation which must be applied only to Federal elections and not to state and local elections? I think not.
>
> I think that government should be kept as close to the people as possible and the local Supervisor of Elections office is the proper place for the registration and elections processes. (Florida)
>
> My view is that the idea of the Federal government getting into the area of mandating registration procedures for states is a mistake in any form. This is a responsibility of the states. The method which S. 352 proposes for registration of voters, in my judgment, represents the worst type of legislation that could be enacted in connection with the registration process. (Rhode Island)

There was a good deal of concern about possible disruptions of the local processes of registration:

> If enacted, S. 352 would establish a voter registration program for federal elections. Such a program would, in all probability, force the state to scrap its recently implemented card registration system, and adopt federal registration procedures for all Title 34, Idaho Code, elections. The alternative would be to maintain separate registration lists, special ballots, and special absent ballot voting procedures for federal voting. An unnecessary major revamping of our state election code would ensue.

Several of the secretaries thought that the poor quality of the Postal Service would make implementation of post card registration almost impossible:

> Until some action is taken to unravel the confusion in the postal service, I do not favor this type of voter registration. Certainly, the money problem incentive is appealing and needed and the intent of the proposed legislation is admirable; but we have had numerous problems with the postal service especially in mailing absent voter ballots. The confusion that we and the county clerks go through on election day because of the mail situation is unbelievable. (New Mexico)

Concern was also expressed about the high cost of post card registration:

> I do not want to seem cynical, but I feel strongly about the following statement: if the one hundred thirty five million dollars were used in some way to lower federal income tax and the burden of tax on the population was reduced I suspect more voters would go to the polls. (Nebraska)
>
> Why set up another huge federal program costing millions which will create alternate problems, confusion and opportunity for fraud? If thousands of faceless signatures are to replace sworn oaths before registry officials, why have registration at all? Why not instead have any person offering to vote on election day sign an affidavit that he is entitled to vote in that jurisdiction? (Wyoming)

There were several miscellaneous concerns and complaints. Several secretaries thought that the States were already doing a good job and that little could be done to increase voter turnout:

> Here in the State of Nebraska we have passed laws assisting registration and voters in every way possible. We have stopped just short of imposing criminal sanction for failure to cast a ballot. I am not convinced that our efforts should totally be directed toward more voter registration. For example, here in Nebraska we have approximately eight hundred fifty thousand voters registered. However, our turnout on election day at the polls, including absentee and disabled was slightly over five hundred thousand so you see more than one third of our registered voters did not get to the polls. In fact, nearly half, I do not see much point in getting more voters on the registration rolls when those who are registered did not care to cast a ballot.
>
> Here in Nebraska we have a voter registration deadline of ten days before the election—not thirty. We provide for registration with the absentee and disabled ballot. Our absentee and disabled ballots are ready for distribution thirty-five days before the election. We have provided hundreds of additional places of registration.
>
> In Nebraska during the last week of registration, the various registration officials maintain office hours each evening in addition to the regular hours. We have ruled that the students can register within their home town or college town. We have substantially liberalized the disabled voter situation. For example, the ballots can be removed from the polling place and taken to a wheelchair patient parked outside of the polling place. We provide that any other voter can attest to the disability of a person applying for a disabled ballot. Our law provides for transportation of disabled voters to the polling place. We also have special laws to help the blind and paraplegic voters in that they may be assisted in the voting booth by a member of the immediate family.
>
> Now, the net result of all of this legislation to help voters cast ballots and to register: A lower percentage of turnout of voters at the polls. So you see, all of these state laws that were designed to assist voters and to ease the registration problems had a net result of fewer people going to the polls. Therefore, I am not convinced that we should spend one hundred thirty-five million dollars every three years to help other governmental subdivisions attempt to register more people. In Nebraska we have gone about as far as we can go.

Several secretaries had experienced difficulties with the Federal assistance post card registration system:

> We have problems with the post card forms for servicemen and women and dependents, such as incomplete information received too

> late to obtain the rest in time to complete registration and receiving forms too late. (Montana)

Some of the secretaries seemed to feel that the local officials concur with their opinion of post card registration:

> Most of the election officials throughout the State, to whom I have spoken on this problem, are opposed to the post card registration inasmuch as it may open the practice of fraudulent and duplicate registrations. We all feel that the system works very well in Colorado and are strongly opposed to the method of post card registration.

Issue was taken with some of the arguments proponents of post card registration use to support their case:

> We must take specific exception to one statistic repeated several times during the Senate debate on S. 352. The proponents asserted that "9 out of 10 registered Americans voted" (S. 7044), basing this statement on figures from the Freedom to Vote Task Force Report, where the number of votes cast in all fifty states plus the District of Columbia was compared to the number of voter registrations in the forty states plus the District of Columbia which have statewide voter registration. Based on the voter turnout figures cited by Senator Kennedy in the Congressional Record (S. 7030), in the 40 states which have registration, 73% of the voters turned out in the 1972 presidential election. (Washington)

There were several suggestions for alternative strategies. Among them:

> With the registration substantially above the national average—and on a permanent registration basis—I would again strongly recommend to the Federal Government and the states the consideration of our deputy registrar system in Oregon, avoiding the limited number of Post Offices and opportunity for fraud on a post card system.

Finally, the secretary of state of Minnesota stated:

> Minnesota has instituted a post card registration system. Hopefully, the Congress will study and review ours and similar systems before adopting a like plan nation-wide.

There were several interesting comments from other State and local officials. Local Delaware officials made several insightful remarks about S. 352 and H.R. 8053:

> These Bills seem to be based upon good intentions, in that they purport to make it easier for a citizen to register to vote. With that intention we all agree, but we are opposed to their method—"Post card Registration". This system has been suggested several times for Delaware, and it has always been discarded as being too conducive to fraud.
>
> The two most important factors in Voter Registration are 1) proof of identity and 2) proof of residence. Once a voter has satisfied these two simple requirements under Delaware law, said voter is then eligible for registration and then will be registered. It is provided in the Delaware law that the applicant for registration can be challenged on either or both of the grounds mentioned above. This protection is insured, to some degree, by the fact that Delaware law requires that the two registration officers be from different political parties. In addition, on in-district registration days, the political parties may have a person in the registration room act as a challenger. Said challenger may challenge the applicant on either or both of the above mentioned grounds. All of these safeguards will be lost in a "Postcard Registration" system.
>
> The thing that concerns me the most in connection with the proposed legislation, more than the fact that the postcard registration system would promote "tombstone" registrations, multiple registrations by the same individuals, and the mountainous problems of trying to decipher thousands or millions of handwritten postcards, is the fact that another citizen, by a postcard, may effectively disenfranchise me. This could easily be accomplished by another citizen filling out a postcard form which would have the effect of changing my residence, changing my name, changing my party affiliation, or even indicating that I have moved out of the state and wish to be dropped from the voter polls. It is possible that I would become aware of this fact only when I went to the polls to vote. By then, it would be too late. My right to vote and your right to vote, I assume, are precious aspects of liberty and freedom. I do not want someone else taking this right away from me.

The attorney general of the State of Wisconsin had several pertinent comments:

> There is little in the way of convincing evidence to justify the conclusion that passage of this particular bill would, in fact, achieve its purported objective, which is an increase in voter participation. For example, in states where no preregistration is required or where voting coupons have been used in the past, voter participation percentages for federal elections do not differ significantly from those of other states.
>
> Since the postcard registration bill does not make the use of postcards mandatory for state and local elections, the bill would lead to the need to maintain dual registration lists at the local level. One list would have to be maintained for postcard registered individuals eligible to vote only in federal elections and the other for those who registered in person and were, therefore, eligible for all elections. Localities would be forced to provide two sets of ballots or voting machines on election day.
>
> Furthermore, the bill raises the likelihood of numerous postcard registrants facing frustration on election day upon discovery that they were ineligible to vote in any but a federal election. The possibility for confusion would seem to be especially likely in cases of voters seeking to record a change of address who might be tempted to use the postcard as a convenient means of registering again.

Finally, the Florida State Association of Supervisors of Elections states:

> We are of the opinion that Senate Bill 352 or similar legislation, H.R. 4846 would result in dual registration and voting systems; would require additional voting equipment, additional personnel and office space on the local level and would certainly be a tremendous cost to the taxpayers who are already overburdened with taxes from the national through the local level.
>
> We believe if this bill becomes a law it would encourage the most collossal election fraud in the history of this country. Any person could register anyone else under the provisions of this bill; could register under a different name in every precinct of the county; could produce the registration of people who do not even exist, and there would be no way for the Supervisor of Elections to determine if these registrations were legal or fraudulent.
>
> Registration does not appear to be the cause of the low percentage of voter turnout. For the 1972 primary elections in Florida, 2,982,076 voters were registered and qualified to vote. Only 22 percent of this number voted in the First Primary and 18 percent in the Second Primary. In the November General Elections with a registration of 3,487,458 voters, only 73 percent went to the polls . . . the lowest percentage since 1948.
>
> We, as Supervisors of Elections, believe a more appropriate step would be an in-depth study to find out why those who are registered do not vote—why the apathy?

HANOI HILTON FLY-BY

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. BOB WILSON. Mr. Speaker, each new contact with our returned POW's increases my already high esteem for these fine and courageous men. They are indeed men of caliber, cut from the grain of cloth which made this country great. In their hours of isolation and torture, they had to grasp for any straw of hope. It is hard for us to imagine the encouragement they received from the continued presence of U.S. reconnaissance flights over North Vietnam. I would like to share with my House colleagues the following article from the summer 1973 Teledyne Ryan Aeronautical Reporter, in which former POW Navy Comdr. Edward H. Martin relates some of his recollections at the Hanoi Hilton:

HANOI HILTON FLY-BY

> Shot down and taken captive by the North Vietnamese July 9, 1967, U.S. Navy Commander Edward H. Martin lay on the floor of the New Guy Village interrogation cell, a fresh victim of the "ropes." He'd been "worked over" by the "goon squad," tied in ropes from head to toe, his right arm cracked and left arm parayzed.
>
> "I was a poor specimen of humanity, lying there on the floor. They wanted me to make a statement against my country, a statement condemning my President and all we were fighting for—something which is morally repulsive to me to start with.
>
> "I refused to make the statement, and the interrogator got very angry.
>
> "I was in no condition to recall any alert prior to that, and I think the date was some days after I arrived. And there was a raid. You could hear the bombs going off—a tremendous amount of anti-aircraft activity. The raid lasted about 15 minutes, then the all clear sounded.
>
> "I heard a single, high-speed aircraft . . . as best I recall, a small engine than would be heard from something like an F-4, A-4 or (fighter-attack aircraft) . . . and it seemed at fairly low altitude."
>
> This recollection, offered by the one-time resident of North Vietnam's infamous "Hanoi Hilton," would be remembered in a talk before a Teledyne Ryan Aeronautical audience as, "both the gloomiest and proudest" experience in his near-six year period of captivity.
>
> "We were absolutely elated" The sound of the "high-speed" aircraft—he would later determine by visual contact—was a drone reconnaissance aircraft of the kind credited with taking some of the aerial photos displayed with this article.
>
> Again, the recollection of other bombing raids later the same year: "Every single day that we had raids—and this was nearly every day—(between July and the end of September 1967), they were preceded or followed by reconnaissance flights. In many cases, I was to learn later, they were pilotless airplanes . . . because I eventually saw them."

Moved to the "Zoo," located about 1000 meters from the Bac Mai airfield, near the Bac Mai hospital—the Navy officer recalled his first sighting of an unmanned reconnaissance vehicle.

"We were able to see—from several vantage points that we had made ourselves . . . cracks in doors that we enlarged . . . sometimes the windows would blow open—on numerous occasions F–105s, F–4s, A–4s, various and sundry reconnaissance aircraft—the RA5C, F–4C. And then I was out in the yard one beautiful April morning.

"Without warning, we heard a very high-speed aircraft—in my estimation, somewhere around Mach .9 and about 45 to 60 degrees elevation angle."

Martin recalls that the aircraft appeared to be "jinking" and had sustained hits from anti-aircraft fire. He recalls seeing part of the wing come off, "but the airplane continued on."

Humorously, a wide grin splitting his now-tanned face, he told how a prison guard was "absolutely horrified" at the sight.

"I remember that we were elated, elated to the point that they (the guards) dragged me out to scold me for my 'bad attitude.' This was the first time I had a good view of (these) aircraft. Certainly, it was not the last. From that period—about April—through November 1968, reconnaissance aircraft were evident after all bombing raids."

Martin told how the bombing halt on November 1, 1968, and the desolation that followed, were used by the captors to intensify their propaganda efforts, claiming the North Vietnamese had forced the U.S. to suspend its military activities.

"The faith in our country, in our government and in our military leadership never waived. In fact, if anything, it increased during the time I was in Hanoi." He attributes the constant overflights of Hanoi by U.S. unmanned reconnaissance vehicles during the bombing halt period as "morale lifting."

"Perhaps not daily, but several times a week, we had aircraft overhead—highspeed, low profile unmanned reconnaissance aircraft. We talked about these aircraft constantly. Some of us had a little knowledge about them. Others had none. We wondered many things . . . were they being inertially guided? . . . program guided? . . . or directed from other ships off the coast?

"The mere fact that they were there—that anytime anyone was outside and one would come over—that was important.

'We were absolutely elated on the 16th of April (1972) when the bombing was resumed. We showed it to the point that a young LT(jg) who worked for me was taken out of the room and brutally beaten right outside of our door, then hauled over to old Heartbreak Hotel for about a week. He had several cracked ribs and multiple contusions.

"The beatings were primarily for our benefit in hopes that we'd not display an incorrect attitude. But, in my opinion, he was beaten for several reasons."

One of these reasons, according to Martin, was a handmade American flag sewn on the inside of the man's black skivvy shirt. Each night the U.S. captives in his cell would pledge allegience to a flag that was now turned right-side out. And the captors discovered this clandestine patriotism.

A low-level unmanned reconnaissance vehicle that passed over Wallo Prison in May 1972 introduced a hint of humor that perhaps traced a new attitude of optimism in Martin's POW contingent.

"It was an unmanned vehicle and couldn't have been more than 50 feet off dead center as it swept in overhead.

"We gave our usual cheer—by now, we'd come to know our guards pretty well and know what we could get away with. One in particular, whom we called 'Boris,' watched the overflight in total fascination. We told him he'd better smile so we'd know what he looked like later on."

Concluding his presentation—offered from unprepared remarks and recollections—Martin noted that in six years as an internee he developed renewed "pride in being American, in our military organizations and background. And, we have pride in the American industrial community—all of those loyal Americans who allowed us to come home with our heads high and with honor, not on our knees as some would have had us."

HEALTH CUTS UNREALISTIC, HEW PLANNERS ADMIT

HON. PETER N. KYROS

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. KYROS. Mr. Speaker, I was interested to note in the Washington Post this morning the front-page article concerning the in-house HEW planning memorandum which candidly admits that the most drastic cost-saving proposals put forth by the administration in its 1974 budget are not realistic. High-ranking policymakers in the Department of HEW and in the Office of Management and Budget should take a good look and learn something from this rather realistic appraisal of the realities involved in the world of health. Congress is not about to mortgage the health of the American people, by making medicare patients pay greater portions of their hospitalization charges or by terminating good, workable programs, such as our community mental health centers system, for example. It is time that the policymakers wake up to this fact, and I commend the Washington Post article to the attention of my colleagues:

HEALTH CUTS UNREALISTIC, HEW PLANNERS ADMIT

(By Stuart Auerbach)

Nixon administration health planners have admitted that the most controversial, cost-saving parts of the 1974 budget—including increases in medicare cost for the aged and the termination of key programs—"are no longer realistic."

As a result, cost savings of more than $1.8 billion are not possible, the planners told HEW Secretary Caspar W. Weinberger last week in a preliminary memorandum leading to the development of next year's health budget.

The HEW admissions, released yesterday on the Senate floor by Chairman Edward M. Kennedy (D-Mass.) of the Senate Health Subcommittee, are important now because the Senate has not yet passed the HEW budget for this fiscal year, which started July 1.

The House-passed version increased the President's budget by $333.7 million in a Labor-HEW appropriations bill that added a total of $1.3 billion. The White House's chief domestic aide, Melvin Laird, has said he will recommend a presidential veto. Mr. Nixon twice vetoed HEW appropriations last year.

In the preliminary planning memo, HEW officials foresee the 1975 health budget, which takes effect next July, as totaling almost $5 billion—an increase of $672.6 million over the 1974 request.

The memo sets forth a $150 million health revenue sharing program for the states to replace current grants for programs to fight alcoholism and narcotics addiction.

It does not say, however, whether programs eliminated from the 1974 budget—community mental health centers, Hill-Burton Hospital construction and regional medical programs—will be included in the 1975 budget. Congress has continued the authorizations for those programs for another year, and will likely appropriate money to fund them.

Lead-based paint and rat control programs, costing $19 million, are slated for elimination.

The Food and Drug Administration, which the memo called "constantly underfunded," will receive an additional $31.4 million—an increase of 19 per cent. "But even that increase will provide only a fraction of the funds which could profitably be used."

The biggest chunk of the health budget—$21.6 billion—is allocated for the Medicare and Medicaid programs to provide health care to the aging, the disabled and the poor.

HEW planners estimate in this memo that Medicare payments will double in the next five years—from $12.4 billion to $24.5 billion. Medicaid will almost double—from $5.7 billion to $9.2 billion.

"Yet in 1972," the memo continued, "Medicare accounted for only 42 per cent of personal health care expenditures for the over-65 population . . . The aged spent as much out of pocket for personal health services in 1972 as they did before Medicare was enacted (in 1966)."

"The major challenge to the Medicare program during 1975–1979, therefore, will be to control costs while maintaining acceptable levels of coverage."

In the 1974 budget, the Nixon administration attempted to do this by making Medicare patients pay a large share of their hospital bills— adding between $700 million and $1 billion to the cost of medical care for the 23 million persons covered by Medicare.

"No legislation has been submitted for cost-sharing under Medicare, and even if submitted (it) is unlikely to be passed," the HEW planners admitted.

"Congress has widely criticized the administration for seeking to reduce program benefits."

To meet the congressional criticisms, the planners recommended to Weinberger that HEW combine the cost-sharing proposal with a liberalization of Medicare to include possible coverage of drugs prescribed by doctors; patients with costly illnesses such as kidney disease, which was included this year, and a reduction in the waiting period needed for the disabled to become eligible for Medicare.

The Medicaid program to provide health care to the poor has jumped 77 per cent since 1970—mainly because more people are being served. In fact, the cost per patient has dropped from $335 to $238.

Nevertheless, an estimated $700 million in cost savings passed by Congress last year have not materialized because HEW failed to issue regulations implementing them, the memo said.

As a result, Medicaid expenditures will exceed the budget by an estimated $395 million.

The proposed budget for biomedical research foresees an increase of $104 million even though the total budget for the National Institutes of Health goes down by $840 million. The decrease, the memo explained, is due to funding the last years of community mental health centers in the 1974 budget. However, the memo points out elsewhere, Congress is "unlikely" to approve that provision.

The President's two favorite programs—heart and cancer—get most of the increase ($50 million for heart disease, $25 million for cancer and $74 million divided among all the other institutes).

Health officials indicated in the memo that they are worried that the heart and cancer programs are receiving too large a share of the total research budget.

Even so, cancer is getting far less than Congress authorized when it approved a national war on the disease. In its 1975 budget request, the National Cancer Institute said it needed at least $610 million and could spend as much as $720 million. It would be getting only $550 million if the President follows recommendations in the preliminary planning memo.

PROPOSED WELFARE LEGISLATION

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. HARRINGTON. Mr. Speaker, in the Federal Register of April 20, 1973, the Department of Health, Education, and Welfare published its proposed new regulations for the administration of the public assistance program. Combined with the "quality control" monitoring system and stiff fiscal penalties on States for overpayments but not underpayments, these regulations are an abrupt reversal of HEW policy in this area. Secretary Weinberger has indicated that the regulations are responsive to the comments of State welfare agencies on the quality control sanctions regulations of April 6, and are designed to promote "flexibility" in the determination of eligibility requirements. But a closer look reveals the adminstration's welfare package to be a deliberate and calculated attempt to make things difficult for all recipients.

Granted, there is a real need for administrative reform and a reduction in the number of errors. But in its attempt to be responsive to State welfare agencies, this set of regulations goes too far in compromising the rights of recipients.

I have introduced a bill, H.R. 9452, to delay the effective date of these regulations until December 1 so that hearings might be held and the impact on the public assistance program adequately reviewed. This bill is similar to the measure adopted for the social services regulations and successfully attached to the Renegotiation Act, and would be consistent with previous congressional action.

The following are particular provisions of the new regulations which appear to be unwarranted:

First. Although stiff fiscal penalties will be imposed on States for overpayment errors beginning within 18 months after the adoption of the new regulations, underpayments are not to be considered as errors. On April 1, 1973, HEW removed terminations and denials of aid from consideration in the quality control monitoring system.

Second. The requirement that applicants be assisted by the agency in providing necessary information for application is deleted—45 CFR section 206.10 (a)(12)(ii).

Third. Current regulations provide that the methods used by States to determine eligibility must be "consistent with the objectives of the programs," must "respect the rights of individuals under Federal, State, and local laws," and must not "result in practices that violate the individual's privacy or personal dignity, or harass him"—45 CFR Sec. 206.10(a)(10). The proposed regulations would delete all references to violations of privacy or personal dignity, and would delete the prohibition against harassment.

Fourth. The proposed regulations eliminate virtually all current Federal standards and guidelines pertaining to investigative procedures and methods used by States to determine eligibility. More specifically, the proposed regulations would delete a current provision requiring that consent must be obtained before third parties can be consulted regarding an application. And if information furnished by the applicant is not sufficient or raises further questions, the applicant will no longer be entitled, by law, to an opportunity to help resolve those questions before third parties are consulted. The import of the present requirements is that applicants and recipients are to be treated as responsible adults whose cooperation will be useful in making the eligibility determination. These current regulations are to be repealed in their entirety—45 CFR Sec. 206.10(a)(12).

Fifth. Local agencies would be allowed to terminate, reduce, or suspend assistance after a local hearing. Presently, assistance cannot be cut off until after a State hearing since fully a third of all local decisions are reversed. In addition, the regulations would increase from 30 to 90 days the maximum time limit allowable for final administrative action—thereby creating undue hardship for those who have had assistance cut off pending State review.

Sixth. An agency would be allowed to terminate assistance without notice when there has been "indication of fraud and the case has been referred to local law enforcement officials."

In first threatening severe fiscal penalties for overpayment and then responding to the State agencies' request for greater powers, the administration has created a climate in which these regulations might be accepted. And it appears that in the controversy over the social services regulations, this aspect of HEW administrative policy has been largely overlooked. It seems to me that Congress should act to prevent implementation of these regulations.

The extra costs of duplicative investigations, the inevitable abuses of an increasingly unwieldy bureaucracy, and the undue hardship created by needlessly punitive regulations are avoidable. One method would be passage of the bill I have introduced.

MULTINATIONAL BUSINESS IN JEOPARDY

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. FRENZEL. Mr. Speaker, recently Mr. W. C. Norris, chairman of the board of Control Data Corp., a multinational company with headquarters in my district, commented in response to questions asked of him concerning trade bills pending before the Congress by the publication Government Executive. Mr. Norris' responses point out the threat to our country by protectionist groups whose well-intentioned proposals attempt to restrict trade between the United States and its trading partners.

The restrictive measures of the Burke-Hartke bill and similar legislation have special impact in my own district but are applicable throughout the United States. Therefore, I include the Government Executive article's questions and Mr. Norris' responses at this point in the RECORD:

MULTINATIONAL BUSINESS IN JEOPARDY: A LOOK AT THE PRINCIPAL ISSUES

Approximately how many of your employees owe all or a major part of their jobs to your company's investment overesas?

Nearly one in every three of our 22,000 domestic computer business employees derives his job totally from our operations in other countries. In addition to these approximately 7,000 U.S. employees, we have 8,000 Control Data employees located in other countries. Thus, nearly one-half of our worldwide computer business employees owe their jobs to Control Data's overseas business activities.

If the U.S. imposed restrictions on imports how would it affect your competitive situation in your overseas markets?

Import restrictions would adversely affect Control Data's overseas business activities.

Imports will be increasing rapidly under our plans to maintain rapid expansion of our business both in the U.S. and overseas. Expansion of imports is required for the following reasons:

(a) Socialist Countries, being short of hard currency, have to offer materials and products in payment for most of the products they buy from Western countries. Therefore, in order to sell to such countries, Control Data must accept their materials and products and then in turn sell them for hard currency in other parts of the world, including the U.S.

(b) A number of components for our computer systems can no longer be manufactured economically in the U.S. Some of these components will be obtained from joint venture manufacturing companies established by Control Data with Socialist and underdeveloped countries.

(c) Our cooperative programs with other governments and overseas companies share the costs to develop and manufacture a wide range of new components, including computers, peripheral equipment, software and semi-conductor memories. These items are needed in Control Data computer systems manufactured in the U.S. and sold in the U.S. or overseas markets.

What can multinational corporations do that single-country based corporations cannot?

The multinational corporation can gain much more effective access to many overseas markets. By having people and other resources under direct control in the local area, the multinational can be much more responsive to customers' needs. This is particularly true for complex, high technology products, such as computers, which require a large amount of customer training and assistance.

A willingness to invest in the local economy opens up opportunities for selling other products and services, thus providing diversification to avoid severe fluctuations in profits. Also, a willingness to invest locally will often bring R & D support, which is desperately needed in the highly technological industries developing new products. For instance, Control Data established a manufacturing plant in Canada. In return Canada has provided research grants of $25 million to help develop a new computer line. One model will be manufactured in Canada and other models manufactured in the U.S. for sale here and for export.

Do you think the Hartke-Burke proposal to tax earnings and profits of controlled foreign corporations is a punitive measure?

Without doubt it is a punitive measure and would be very damaging to our efforts to expand both here and outside the U.S., and will adversely affect our ability to maintain current domestic employment levels.

What would be its impact on your company?

The Hartke-Burke proposals to tax undistributed profits of overseas subsidiaries immediately and to disallow offsets for taxes paid to foreign governments will result in an effective tax rate of approximately 75 percent on overseas earnings. This would obviously severely limit Control Data's capability to expand anywhere, including the U.S. The potential impact of Hartke-Burke covers a wide range of other possibilities, depending on which provisions survive legislative consideration. In the extreme—if Hartke-Burke were passed in its entirety—Control Data would suffer a terrific setback both in the U.S. and overseas. The two parts are intimately dependent on each other. Among other actions, we would have to find other sources (higher cost) for many of the components that make up our computer systems. This would make our computer systems less competitive in the U.S. as well as in other parts of the world.

Restrictions on overseas investments would reduce our capability to further develop those markets which would mean a leveling off or decrease in exports to those markets.

Also, our exports would fall off because we would not be able to accept as many imports with which to generate foreign exchange to pay for the exports.

It is very difficult to envision all of the adverse results which would occur, but they are far-reaching, and would net down to a substantial reduction in employment, both in the U.S. and overseas.

Do the wages, presumably lower, paid your overseas employees tend to pull down the wages you have to pay your U.S. based workers?

In our administration of wages and salaries there is no interrelationship between wages paid overseas and those paid to U.S.-based employees. Actual wages are set by local labor market conditions, however, we find our non-U.S. wages, when coupled with government imposed benefit programs to be comparable, in many cases to the U.S., particularly for the highly technical people we require. For example, an Applications Analyst in Germany or Sweden receives salary and other forms of compensation comparable to that received by his U.S. counterpart.

Is your corporation, through its overseas affiliates, a job exporter?

Control Data is not an exporter of jobs as is apparent in our answer to the first question. Our activities outside the U.S. have actually created jobs in the U.S.; approximately 7,000 U.S. employees owe their jobs directly to overseas business.

If you are prevented from investing and/or manufacturing abroad, would that necessarily force you to expand U.S. operations?

We would not be able to expand U.S. operations materially for many years even if there was adequate market. Actually, the computer systems market is growing much faster overseas than it is in the U.S. This will continue to be the case for at least five years so there would not be the market in the U.S. to support expansion. Even if there were a market in the U.S., it would take Control Data at least five years to bring about expansion because of the long lead times (3–5 years) to repair the tremendous disruption of the presently highly-integrated operation between domestic and overseas activities.

Are you "exporting technology which is helping non-U.S. firms to compete with you"?

It is necessary for us to share technologies with other countries in order to stay ahead of aggressive development efforts being conducted by other companies, much of which is subsidized by local governments. By entering into cooperative programs with these companies, Control Data is able to get some of the benefit of the R. & D. monies invested by the overseas governments. While the early stages of a cooperative program may constitute a net technology outflow from the U.S., our policy is to insist on a two-way street, so that eventually the cooperative program will return a net technology inflow into Control Data and the U.S.

Do you invest overseas to avoid paying U.S. taxes? If not, why do you invest overseas?

We locate Control Data operations in accord with marketing considerations. As it turns out, we do not do significant business in so-called "tax haven" countries because the computer markets are elsewhere, e.g., in Western Europe and Canada where the tax rates are generally comparable to or higher than the U.S. rate of 48 percent.

Our reason for investing overseas is to build a healthy worldwide company by obtaining access to markets overseas that otherwise would remain closed to us. It is this access that is the key to creating U.S. jobs.

Do you have a systematic program to educate employees, local governments, and the Federal government on how Hartke-Burke could hurt your company and industry generally?

At the outset it is essential to note that Control Data does not have a distinctly separate international division or subsidiary; the key people in various phases of our enterprise have *both* U.S. and other country responsibilities. In general, then, we are confident that our management population has a better knowledge of multinational economics than is the case in many other corporations. Nevertheless, for several months now we have been conducting a program to educate all employees on the nature and importance of our international business. We feel it would be irresponsible of us not to inform our employees and stockholders of the ominous threat posed by the proposed Hartke-Burke (and related) legislation.

BRANDEIS ON WIRETAPPING

HON. JAMES W. SYMINGTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. SYMINGTON. Mr. Speaker, recent disclosures and bland defenses of official wiretapping and burglarizing under the authority and control of the highest office in the land reminded me of the response prepared as assistant city counselor to a request for similar authority by the St. Louis chief of police 18 years ago. The law was still in a fairly rudimentary state at the time. But the governing principles had been enunciated the year I was born by Justice Brandeis in his titanic dissenting opinion in *Olmstead* v. *United States*, 277 U.S. 485. The following paragraphs of that dissent roll with majestic finality to the one and only conclusion that befits the heirs of our constitutional legacy:

> As a means of espionage writs of assistance and general warrants are but puny instruments of tyranny and oppression when compared with wire tapping.
>
> It is also immaterial that the instrusion was in aid of law enforcement. Experience should teach us to be most on our guard to protect liberty when the Government's purposes are beneficent. Men born to freedom are naturally alert to repel invasion of their liberty by evil minded rulers. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding . . .
>
> Decency, security and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperilled if it fails to observe the law scrupulously. Our Government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the Government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means—to declare that the Government may commit crimes in order to secure the conviction of a private criminal—would bring terrible retribution. Against that pernicious doctrine this Court should resolutely set its face.

And, Mr. Speaker, I might add, this Congress.

The letter follows:

July 11, 1955.

Col. Jeremiah O'Connell,
Chief of Police,
Department of Police,
St. Louis, Mo.

Dear Chief O'Connell: Your request of July 5, for an opinion with respect to the legality of "wire tapping" has been referred to me.

The Missouri Legislature has been considering this question since 1953, when two bills were introduced, one to permit the practice with certain safeguards, S.B. 198, 67th General Assembly, 1953, and the other to prohibit it entirely, S.B. 393, 67th General Assembly, 1953.

Action of these Bills not having been completed, a bill was introduced January 4, 1955, somewhat similar to S.B. 198 above cited, and was referred to the Committee on Criminal Jurisprudence, January 5, 1955, but did not emerge prior to adjournment.

From the above-cited indications of legislative interest, and with the currency of "wire tapping" regulations in other states, (citations hereinbelow) there is every reason to believe legislative action to be forthcoming in Missouri in the near future. It may be well to note here that the Missouri Bar Association has endorsed the absolute prohibition of "wire tapping". QJ Mo. Bar 64.

In the meantime, there is no precise indication as to how the Missouri Courts would treat the question if presented. There are no Missouri cases bearing directly on the subject. However, the Missouri Supreme Court has held:

(1) Evidence obtained from information secured through "unreasonable search and seizure (in violation of Art. I, Sec. 15, Mo. Const. 1945) is not admissible against the person whose rights were so violated. *State v. Wilkerson*, 349 Mo. 205, 159 SW 2d, 794,

(2) There is a right of privacy, the violation of which is actionable. *Barber v. Time, Inc.*, 348 Mo. 1199, 159 SW 2d. 291. (In this case the Court, in condemning the invasion of claimant's privacy, quotes per dictum an early apprehension of Justice Brandeis that certain "mechanical devices" might eventually be utilized to invade that right).

It may not then, be unlikely that the Court would invoke either or both of the above decisions to condemn the practice of "wire tapping" in Missouri. Wash. Univ. Law Quarterly Review 1954, 348, 16 Mo. Law Review 185.

In this connection, an examination of decisions of other jurisdictions reveals, with some divergence of construction and policy, the practice of "wire tapping" to have been considered in the light of the applicability to it of:

(1) Constitutional provisions relating to search and seizure and self-incrimination. *Olmstead v. U.S.*, 277 US 438, 31 CJS 907, 41 Am. Jur. 946, 8 Wigmore 46, 138 ALR 94, 168 ALR 463, 14 ALR 2d 771, 32 Cornell Law Quarterly Review 514, 33 Cornell Law Quarterly Review 73.

(2) Section 605 of the Federal Communications Act which bars "wire tapping" generally where it affects interstate commerce. *People v. Trieber*, 28 Cal. 2d 657; *Kelley v. State*, 22 Cal. 2d, 169; *Com. v. Chaitt*, 107 A 2d 214, *U.S. v. Coplon*, 185 Fed. 2d 629; *McGuire v. Amrein*, 101 FS 414.

(3) State laws pertaining to the right of privacy and/or eavesdropping. *Rhodes v. Graham*, 238 Ky. 225, 69 LRA 101, 18 Am. Jur. I.

(4) State Statutes regulating "wire tapping", 813 A Code of Criminal Procedure of New York, Section 13402, Ohio Gen. Code Ann.

(5) Rules of evidence relating to the admissability of evidence obtained directly or indirectly from an illegal source. *Goldstein v. U.S.*, 316 US 114, *U.S. v. Stephenson*, 121 FS 274, *Irvine v. California*, 347 US 128.

(6) State laws regarding damage to or molestation of telephone wires (Chapter 560.310 Mo. R.S. 1949). *State v. Nordskog*, 76 Wash. 472.

In view of these considerations, the possibility that the Courts of this State would invoke one or more of the above concepts so as to condemn the practice of "wire tapping" in Missouri, and further, in view of the possibility imminent legislative guidance in this field, it would, in the opinion of this office be unwise for "wire tapping" to be undertaken under the authority of the Board of Police Commissioners until such guidance is manifest.

Respectfully submitted.

JAMES W. SYMINGTON,
Assistant City Counselor.

Approved:

SAMUEL LIBERMAN,
City Counselor.

POSTAL SERVICE

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. McKINNEY. Mr. Speaker, among our most precious liberties is the freedom of the press, or, as it might better be described, the freedom of the people to read and be informed. Indeed, it is the touchstone of our way of government. For it has long been recognized that only an informed and critical public opinion can protect the values of a democratic government. Whether the written transmission of news and opinion is through private correspondence or through the use of magazines and newspapers, the important role which the Postal Service plays is obvious.

This important function has not diminished over the years, for, as our country has grown and become more complex, magazines and newspapers have become increasingly important to an informed citizenry. To those who live in smaller towns and cities, they provide national coverage which local newspapers, radio and television may not provide. To all of us, they serve as an excellent balance against the news reporting of radio and television and provide an indepth analysis which the latter media, by necessity, often cannot do.

It is with these thoughts in mind that I must speak out against the failure of this body to consider H.R. 8929 last Monday. This bill, the Educational and Cultural Postal Amendments, while being quite a controversial one, dealt with an issue which greatly affects the dissemination of information in this country.

Mr. Speaker, as it is written, H.R. 8929 was quite an expensive bill. In essence, I thoroughly agreed with those who found it unnecessary to include fourth class materials in the areas which were to receive the subsidies. But, as an original cosponsor of H.R. 4129, I think that these subsidies were quite necessary for second class matter—magazines and newspapers.

Overall, the basic issue which brought about this legislation in the first place stands unresolved. In getting bogged down in a discussion of the financial implications of H.R. 8929, I think this body overlooked the fact that proponents of this measure were also seeking a time extension of an extra 5 years in which to cope with the postal increases. Since this bill was not considered at all, the magazine and newspaper publishers are still forced to meet the Postal Rate Commission deadline of 5 years instead of 10.

I am fully aware of the fact that in creating the U.S. Postal Service in 1970, Congress attached the requirement that it reach a break even point by 1984. It is thus Congress doing that this whole problem came about in the first place. Personally, I think it is ludicrous for us to even consider that the Postal Service should eventually pay for itself. The U.S. Post Office operated in the red since the early 19th century and I think that this should come to be an accepted fact when discussing postal service in 1973.

The dissemination of information is so important to this country that we are eventually going to end up subsidizing the mail service. The question of whether this will be a direct subsidy will have to be resolved. The recent announcement by the Postal Service that the price of a regular 8-cent stamp will rise to 10 cents in January makes one ask the question: When will it reach a saturation point?

Mr. Speaker, I am hopeful that this Congress will have the opportunity to take this topic up in the near future. Perhaps at that time the Members will have the chance to address the issue of the future of the magazine industry. Inaction on our part may well make that future shortlived.

PREMIUM PROFITS

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. OBEY. Mr. Speaker, the profits of the oil companies are booming.

Two days ago my colleague from Wisconsin (Mr. KASTENMEIER) pointed out that Cities Service, Gulf Oil, and Exxon had reported sizable earnings gains for the second quarter of this year. Now five other oil companies have joined their premium profits group.

Today's Wall Street Journal reports that estimated earnings for the Mobil Oil Corp.—which sponsored that recent "open letter" advertisement on the gasoline shortage in all of our hometown newspapers—soared more than 41 percent in the second quarter, while the pretax earnings of Standard Oil Co.—Ohio—jumped 61 percent in the same period. At the same time, the digest of company earnings reports in the Journal shows whopping second-quarter profit increases for the Getty Oil Co. and Murphy Oil Corp.

Also, today's Milwaukee Sentinel reports that the Clark Oil & Refining Corp.'s earnings for the first half of this year are $13,259,000, or $1.87 a share, up from $1,769,000 or 25 cents a share, a year earlier.

Mr. Speaker, I should like to insert here the Wall Street Journal story on the Mobil and Sohio earnings reports, as well as the digest items on all four companies:

MOBIL OIL ESTIMATES QUARTER'S NET ROSE 41 PERCENT AND OVER 25 PERCENT IN HALF

Estimated earnings for Mobil Oil Corp. soared more than 41% in the second quarter and slightly over 25% in the first half.

Standard Oil Co. (Ohio) earnings in the second quarter and first half also climbed sharply, but they were ballooned by major royalty payments from Mainland China and from Taiwan.

The increases, of Mobil at least, are in line with earlier reports from some of the other major oil companies which indicated that the oil industry enjoyed a highly profitable second quarter.

In Mobil's case, Rawleigh Warner Jr., chairman, cited world-wide gains in operating volumes, recovery of petroleum product prices in the U.S. and abroad from last year's lower levels and continued improvement in chemical operations.

For the second quarter, Mobil estimated net income at $184.2 million, or $1.81 a share, up from $130.3 million, or $1.29 a share, a year earlier. Revenue, including excise and state gasoline taxes, rose 14% to $2.88 billion in the quarter from $2.52 billion a year earlier.

For the half, Mobil estimated earnings at $340 million, or $3.34 a share, up from $271.8 million, or $2.68 a share, a year before. Revenue climbed nearly 14% to $5.68 billion from $5 billion.

Mr. Warner said Mobil's overseas earnings, as expressed in U.S. dollars, were higher, in part, because of currency revaluations abroad. He said, however, that gains which resulted in the increased first half results were partially offset by added taxes and operating expenses, particularly the higher cost of crude oil.

Mobil's automotive gasoline sales volumes in the U.S. were up 8.6% in the first half, Mr. Warner said. Production of crude oil and natural gas liquids, together with quantities received under long-term arrangements, rose 5.8% to an average 2.5 million barrels daily, Mr. Warner said.

He added that production of natural gas rose 2.7% to 3.7 billion cubic feet a day; refinery operations increased 9.5% to a record 2.4 million barrels a day, and petroleum product sales also were up 4.5% to 2.5 million barrels daily.

Sohio reported a 61% jump in pretax profit from its operations for the second quarter from a weak year-earlier period. A major factor was that royalty income more than tripled because of transactions with China and Taiwan, resulting in a more than doubling of after-tax income before extraordinary items.

Income before extraordinary items, but including a large payment resulting from the transactions with China and Taiwan, totaled $27 million, or $1.48 a share, up from $12.8 million, or 70 cents a share, a year earlier. After gains on sales of assets and other extraordinary items, net income for the quarter was $42.3 million, or $2.32 a share. Extraordinary items in the 1972 period didn't change final net because income was offset by charges and taxes.

First half net before extraordinary items was $44.5 million, or $2.43 a share, up from $24.6 million, or $1.34 a share, a year earlier. After extraordinary items, net was $59.8 million, or $3.27 a share. Again for the half, year-earlier extraordinary income was offset by charges and taxes.

Sales in the quarter climbed about 16% to $394.9 million from $341.9 million a year earlier. First half sales rose about 13% to $774.6 million from $688.5 million.

Pretax income from operations for the second quarter were $25.7 million, up from $16 million a year earlier. For the first half, pretax income from operations surged to $48.5 million from $32.2 million. Charles E. Spahr, chairman, said the results are "reassuring, but it should be borne in mind that the first half of 1972 was a particularly poor period."

GETTY OIL CO. (N)

Quarter June 30	1973	1972
Share earns [1]	$1.25	$.55
Sales	406,943,000	381,935,000
Income	23,589,000	10,716,000
Special charge	[2] 317,000	[3] 17,656,000
Net income [4]	23,272,000	28,372,000
6 month share [1]	2.67	1.72
Sales	806,966,000	767,161,000
Income	50,595,000	33,103,000
Special credit [4]	5,769,000	18,756,000
Net income [4]	56,364,000	51,859,000
Average shares	18,669,000	18,708,571

[1] Based on income before special items.

[2] Loss; from reduction in tax-timing benefits overestimated in the first quarter.

[3] Credit; in the 6 month period of 1973, represents gains resulting from sale of marketing subsidiaries. In Europe and from tax-timing benefits; and in the quarter and 6 months of 1972, gains on sale of 2 properties, restatement of amounts of certain currencies revalued in 1971 and tax-timing benefits.

[4] Equal to $1.23 a share in the quarter and $2.98 a share in the 6 months of 1973, compared with $1.49 and $2.72, respectively, in like 1972 periods.

MOBIL OIL CORP. (N)

Quarter June 30	1973	1972
Share earns	$1.81	$1.29
Revenue[1]	2,880,000,000	2,520,000,000
Net income	184,200,000	130,300,000
6-month share	3.34	2.68
Revenue[1]	5,680,000,000	5,000,000,000
Net income	34,000,000	271,800,000

[1] Includes excise and State gasoline taxes.

MURPHY OIL CORP. (N)

Quarter June 30:	1973	1972
Share earns[1]	$1.57	$.18
Sales	114,402,000	87,909,000
Net income	[2] 9,191,000	1,234,000
6 month share [1]	2.68	.89
Sales	222,281,000	182,357,000
Net income	15,643,000	5,325,000
Average shares[1]	5,798,336	5,350,251

[1] Based on average common and common equivalent shares.

[2] Reflects a charge to earnings of $2,500,000 for an addition the company's provision for foreign losses.

STANDARD OIL CO. OHIO (N)

	Quarter June 30	
	1973	1972
Share earns [1]	[2] $1.48	$.70
Sales	394,900,000	341,900,000
Income	27,000,000	12,800,000
Special credit [3]	15,300,000	
Net income	[4] 42,300,000	12,800,000
6 mo share	[2] 2.43	1.34
Sales	774,600,000	688,500,000
Income	44,500,000	24,600,000
Special credit [3]	15,300,000	
Net income	[4] 59,800,000	24,600,000

[1] Fully diluted.

[2] Based on income before special credit.

[3] In 1973; from gains on sale of real estate and interests in an oil producing property and an Uranium property, less losses on sale of properties to American Petrofina Inc., planned withdrawal from certain unprofitable marketing operations and disposal of a plastics operations; in 1972, gains on sale of investment in CanDel Oil Ltd. and partnership liquidation, less losses on planned withdrawal from certain unprofitable marketing operations were offsetting.

[4] Equal to $2.32 a share in the quarter and $3.27 a share in the six months.

Note: (N) New York Stock Exchange; (A) American Exchange; (O) Over-the-Counter; (Pa) Pacific; (M) Midwest) (P) PBW; (Na) National; (B) Boston; (D) Detroit; (Y) Toronto; (Mo) Montreal; (F) Foreign.

A "p" or "b' following exchange designation indicates company has only preferred shares, or bonds or debentures in public hands.

STEEL WIRE ROD SHORTAGE

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. HOGAN. Mr. Speaker, steel wire rods are a simple looking item, but this simple looking item is part of a complex controversy. Users, those who turn the rods into fences and clothes hangers, allege there is a shortage of the rods of crisis proportions. The State Department tends to agree with them.

The House Ways and Means Committee is currently working on the Trade Reform Act of 1973 and foreign produced steel wire rods are a major factor in the issue. Those independent wire producers consider wire rods to be a raw material and say they should be exempt from duty as is iron ore.

At this point, Mr. Speaker, I would like to have inserted into the RECORD, a letter by Mr. Clyde A. Long, chairman of the National Fence Manufacturing Co. Mr. Long's letter expresses the thrust of the crisis and will be of great benefit to all of my colleagues:

NATIONAL FENCE
MANUFACTURING CO., INC.,
Bladensburg, Md., July 17, 1973.

Mr. ROBERT L. BARTLEY,
Editorial Page Editor, The Wall Street Journal, New York, N.Y.

DEAR MR. BARTLEY: We need some public attention immediately.

The Independent American Wire Producers of U.S.A. (IWDA), those companies who do not have their own steel making facilities and are forced to buy their raw material, carbon steel wire rods, from integrated mills both domestically and abroad are facing a dilema which is nearing the terminal stage.

Caught in one direction by severe price competition from integrated steel mills, both domestic and abroad, on the finished goods which we produce, we are now facing a global shortage of our raw materials necessary for us to stay in business, carbon steel wire rods.

Our Association, as well as individual companies, has begged the State Department, Congressmen and Senators for years to allow steel wire rods to trade freely without duty and outside the voluntary quota agreements because of the vertical position of the integrated steel mills throughout the world. To us wire rods are a raw material just as iron ore is to an integrated steel producer.

All we have received are platitudes, promises, implied action, and sympathy; while penetration of wire products continues unabated into the U.S.A. by foreign countries.

Japan and the EEC promised the State Department they would not alter the product mix or geographical distribution of their steel exports to the U.S.A. that existed in prior years during the tenure of the voluntary quota agreement. This was a spurious promise.

Domestic steel producers publicly state on propitious occasions that they had unused capacity and could supply the needs of all of the independent wire producers in the U.S.A. if the need arose. Their statements have also proven to be incorrect thus misleading our State Department and our representatives in government.

Most all independents are operating under limited production capacity and others, particularly in the Southwest and Southeast States, are facing the possibility of shutdown in the next six months. 1974 and the subsequent years up to 1980 indicates no improvement but only more of the problems as those now facing us. Still, few listen; and no one acts on our behalf.

Countries outside the voluntary quota agreement, i.e., Mexico, India, Canada, Korea, etc., are being inundated with wire mills under joint ventures with the Japanese and European mills for the purpose of further exploiting the wire industry of the U.S. Some of these joint ventures are financed by U.S. banks, such as in the Mason Free Trade Zone in Korea.

The U.S. wire industry, a vital need to America in war and peace, faces virtual extinction with the resultant loss of thousands of jobs from Maine to Florida and from New York to California.

Father William Hogan, the renowned Jesuit Priest from Fordham University, who has studied the economics of heavy industries on a global basis for over 25 years, has stated that due to the lack of melting capacity both here and abroad, coupled with the huge demand for steel in the 70's that a severe shortage lasting into 1980's is upon us unless something is done now! Nothing more than molehills are planned when mountains are needed.

The Japan Iron and Steel Institute, the International Iron and Steel Institutes and other knowledgeable persons and associations are convinced that the world steel shortage is not likely to be temporary or a passing phenomena. And further that current expansion projects will only have a temporary impact and will not ease the worldwide imbalance of demand and supply in the long run.

The estimates vary, but not by much. The total world ingot capacity in 1975 will be 815,912,000 metric tons with consumption at 800,000,000 metric tons. At an operating efficiency of 90%, the shortage in 1975 will be 65,272,960 metric tons.

As this demand continues, production of low carbon steel (low priced steel) is being further and further reduced by the integrated mills because of their low profitability. Our raw steel wire rods, falls in this category.

The billions of dollars spent by U.S. integrated mills in the 70's were used to modernize outdated facilities and did not add any capacity to speak of for the marketplace. Their low net returns on sales, added to their debt ratio positions, put them in a poor perspective for the investment capital needed to begin to increase the capacity of their mills.

In capsule form, we are faced with:

1. A domestic industry incapable of supplying our raw material.
2. An onslaught of our market place with foreign goods to compete with our finished products.
3. A voluntary restraint quota system which discourages the export of our raw steel requirements from abroad.
4. A duty on our raw steel from abroad which is inconsistent with the non-duty status of iron ore used by integrated mills.
5. The entry of "third country" nations with finished wire products carrying little or no duty and with no restriction on the quantities they may export to the U.S. along with tax incentives and government subsidies to encourage such exports.
6. A steel industry in U.S. with profit margins so low over the recent years that it restricts them obtaining the huge capital requirements necessary to correct a shortage of steel required in the immediate future.
7. A wage price board pending a phase IV program likely to retard the steel industries profitability in the years to come.
8. No government agency or anyone else to whom our story can be told so that some positive reactions can occur.

I would hope that an industry as vital to our consumer market and the defense systems of the United States would be recognized as such now. The entire infrastructure of the U.S. is in need of rebuilding and it will require thousands upon thousands of tons of additional steel capacity for areas such as elevated clover-leafs through our cities, outdated bridges, a second rate merchant fleet, urban redevelopment, air and water pollution control equipment, additional housing and many other basic industries.

Perhaps when women's hair pins are not available and wire clothes hangers are not available to keep men's suits neatly hung or when a chain link fence is not available to house their pet dog, our legislators may react to correct a national disaster.

The House Ways and Means Committee is meeting now to consider the World Trade Act of 1973. I would hope that deliberations of these problems are not reduced to meet a prearranged time table and a draft approved which could have deliterious consequences for another ten years. If so, there may likely not be a domestic wire industry around in 1983 for them to consider.

I certainly hope that you would write an article on this subject with the hope that government, business, public leaders can come together for a common interest to preserve this vital segment of our economy.

Very truly yours,

Clyde A. Long,
Chairman of the Board.

MARILYN KAHALEWAI DEVELOPS BIKE SAFETY CODE FOR HAWAII

HON. SPARK M. MATSUNAGA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. MATSUNAGA. Mr. Speaker, bicycling is one of the fastest growing modes of transportation in the country today, and in these days when economy and the environment mean so much, bicycles have much to offer. Bicycles are economical—they are inexpensive both to buy and especially to operate. Bicycles are good for the environment. They do not pollute. They require few natural resources to construct, and they require very little precious urban land either for parking or for riding.

Furthermore, bicycles can provide both a means of exercise and a pleasurable way to relax.

Given the tremendous increase in bike usage, bicycle safety becomes more important. Mr. Speaker, because the problem of bicycle safety is growing all over the country, I am pleased at this time to insert into the Record an article which narrates how one woman in my State, Mrs. Marilyn Kahalewai, did a very impressive and successful job of promoting bicycle safety. I trust that other communities will take note of this article so that safety will be associated with the other advantages of bicycle riding.

The article follows:

[From Traffic Safety, July 1973]

Happy Biking in Hawaii

(Hawaii has a new bicycle rules-of-the-road booklet, thanks to the efforts of one woman with an idea, talent, and enthusiasm. The woman is Mrs. Marilyn Kahalewai, who wrote a letter to Charlotte Montgomery, a member of the National Safety Countil's board of directors, telling her about the project. Mrs. Montgomery passed the letter along to Traffic Safety so that readers could profit from Mrs. Kahalewai's experience. The letter appears below.)

Bicycle safety is a problem in most communities in the United States, and sometimes it just takes one person to actually do something—and that starts the rest. In Honolulu, which in effect means the State of Haiwaii, it was I. I am passing the story on to you because I think it may be useful to other communities. Here is the story.

Every so often someone would write to one of the newspapers and ask just what bicycle laws were in effect in this state. Always the answer was the same: "They are contained in the motor vehicle code book, if you can find them and understand them and want to pay the $3 for the book."

Then we had a biker's Sunday on which one of the major streets was closed and given over to cyclists. The newspaper reports the next day called it quite a success, but also quoted a policeman as saying, "Nobody seemed to know what the laws are."

I learned then that the president of the biker's club was Bob Krauss, one of our most popular newspaper columnists. I am a freelance artist, and I decided that this had gone on long enough I wrote to Bob Krauss and told him that if his club would get financial backing to pay for printing, I would like to write and illustrate a pamphlet on the rules as a small contribution to the people of this state.

I sent him a sample of the format I wanted to use. First the rule as it is in the book, but simplified where desirable, followed by which means in a more direct, simplified, and entertaining form—and where possible, a cartoon. (I sketched the three kids on one bike as an example.) Bob Krauss was ecstatic; the police were delighted; the state highway commission was relieved; the bike club members were pleased; and I was happy because I got to do it as I wanted to.

Immediately we set up a meeting with the traffic education people in the police department, and they helped me locate the rules. I went home, wrote a rough draft, and we had a second meeting. My first draft was almost the final copy. I was very happy that they did not get stuffy and insist on formal wording, but allowed me to use my sense of humor.

It was I who suggested that it be made to fit in a No. 10 envelope and that it be free. Because of my knowledge of printing requirements, I designed a 20-page booklet (the number of pages must be divisible by four). First Insurance agreed to pay for it as a public service, and we had 10,000 printed. They were snatched up right away.

I don't know what printing we're on now, but I frequently see announcements in the newspapers that the police are going to hold a bicycle safety clinic and that their cartoon-illustrated booklet will be given away free. The police also distribute the booklet at schools. In addition large numbers of them have been given out by military posts; they are also provided to members of the Biker's Hawaii; and they are available to the public at First Insurance and the public libraries.

HAND SIGNAL AND TURNS

No person shall turn except from the proper lane, or turn or stop without the proper hand signals. Hand signals shall be given by the left hand in the following manner:

Left turn—Hand and arm extended horizontally.

Right turn—Hand and arm extended upward.

Stop or slow down—Hand and arm extended downward, palm to the rear.

RIDING ON BICYCLES

a. person riding a bicycle shall not ride other than upon a permanent and regular seat attached thereto.

Which means: You have to ride on the regular seat. (Well, you can stand up to pump up a hill.)

b. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

Which means: No packing! Unless you have a tandem bike with two seats, handlebars and sets of pedals, don't give rides to your friends. The handlebars, cross bar, banana seat and rear fender are *not* meant to carry extra persons.

CLINGING TO MOVING VEHICLES

No person riding upon any bicycle, motorcycle, motor scooter, coaster, roller skates or skateboard, or any toy vehicle shall attach the same or himself to any moving vehicle upon a roadway.

Which means: Hitching a ride on a car or any other moving vehicle is illegal, dangerous, and boy is it dumb!

BIKEWAYS

a. In the Traffic Code, "bikeways" refers to all bicycle lanes on roadways or separate bicycle paths.

b. Bikeways provided for by pavement markings will be painted green in color.

1. When a solid white and a solid green line are used to designate a bikeway, all other vehicles are prohibited from using the bikeway, except to make way for emergency vehicles.

Which means: Bikeways are for bikes only, except for emergency vehicles, and then bikes as well as cars must pull over to the right and stop.

2. Any other vehicles intending to turn right or left across a bikeway, shall yield right-of-way to bicycles using the bikeway.

Which means: Bikes have the right-of-way over cars and other vehicles crossing the bikeway, but don't push it. They are usually bigger than you are.

3. Where there is no paved sidewalk provided, pedestrians may use the bikeway and shall have right-of-way over bicycles.

Which means: If there is no sidewalk, bike riders have to let pedestrians use the bikeway.

4. Every person operating a bicycle on a roadway or bikeway shall stay as near to the right side as possible, exercising due care when passing a standing vehicle or one proceeding in the same direction.

Which means: Stay on the right. When you have to pass a parked car or something, look out for cars behind you, wait if necessary, and pass with great care.

5. Persons operating a bicycle on a roadway or bikeway shall ride single file.

6. Wherever a bikeway has been provided bicycle riders shall use such paths and not the part of the roadway reserved for motor vehicles.

Which means: Of course we'd rather use the bikeways! All we need are more of them!

WATERGATE ON MAIN STREET

HON. LESLIE C. ARENDS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. ARENDS. Mr. Speaker, an associate professor of history at Lake Forest College in Illinois, Ronald Grossman, recently conducted a survey of Watergate's impact on the citizens of middle America. His final report in the series appeared in today's edition of the Chicago Tribune. Under leave to extend my remarks in the RECORD, I include Mr. Grossman's article herewith and recommend that my colleagues in the Congress take time to read it.

This particular report was filed from Bloomington, in McLean County, Ill., which I was privileged to represent for many years until the redistricting last year. My home is in the adjacent county of Ford. I know these people. I am one of them.

While the author mentions few names, his analysis I believe is a true appraisal of the basic thinking of the good, rugged Americans who live in this section of Illinois in the Nation's heartland. They possess an ingrained commonsense—an ability to cooly assess and analyze situations. I am convinced they are typical of citizens in many other congressional districts across the country.

Like most of us, they do not like what has happened. But like many of us, too, they can understand the demands and pressures of the Presidency. They are also not a vindictive people. They do not wish to "get Nixon," regardless of the consequences. And as the article concludes, they want to be understanding and forgiving wherever possible. Their concern is for the future of our Nation.

Official Washington has been mesmerized by Watergate for many months now. As we continue to ponder this question, perhaps we need to remember that Washington is not the Nation—and the Nation is not Washington. As the following article reminds us:

This is still the greatest country on the face of the earth—and we should never lose sight of that fact.

The article follows:

WATERGATE ON MAIN STREET

(By Ronald Grossman)

BLOOMINGTON, ILL.—"You know, Washington's an impressive place," a young school teacher, who recently had taken her class for a visit there, told me. "Even with Watergate, it's still a pretty impressive place."

That simple statement, it seems to me, nicely sums up the way many of the people of Main Street feel about their country and its government. Time and again, as we talked they expressed their concern that somehow we must find a way out of the mess that will make us better for the experience.

In their eyes this is still the greatest country on the face of the earth; and even in the midst of this present scandal, they repeatedly urged me, we should never lose sight of that fact. Indeed, so strong does this feeling seem to be that I found it in some highly unlikely places.

For instance, a fundamentalist preacher said, on the one hand, that he was not at all dismayed by Watergate. It was, he assured me, just another sign that the end of this world is at hand, and that we have entered what the Bible calls the "Latter Days." Yet only a moment afterwards he hastened to add: "But, I guess I'm just like every other American. I've got to hope that this all turns out for the best!"

Above all else, the people of Main Street do not want to see political capital made out of the situation.

In fact, it is the suspicion that something like that might just be taking place which seems to inspire their more cynical moments. One day, for example, I took a little survey down at the Bloomington Post Office. Of the 20 or 30 guys at work on the sorting floor scarcely a single one doubted that the President must have been involved in the affair, in one way or another.

Yet a considerable number of them thought that the Senate Watergate committee's hearings were just a big waste of time and money. At first I was puzzled by that, but then I began to realize what it was they were trying to say. Their fear was that after all the cameras have been put away, and all of the senators have had their opportunity to show off for the voters back home, it will be politics as usual; and no one will go to jail for their misdeeds.

Yet the people of Main Street do not, on the other hand, want the President to be made a scapegoat for the affair. Few of those with whom I talked would like to see him impeached; and only a few more would like him to step down of his own accord. What then do they want of him? That is a curious thing: In a way what the people of McLean County want more than anything else is an apology. An apology?

Yes, just that. And not so much for the Watergate incident itself; nor even for the attempted coverup of the affair. What they really want is for the President to apologize to them for not having trusted them. For not having trusted them in the first place, to return him to office simply thru the force of their votes.

And for not having trusted them, afterwards, by coming right out with a simple and direct statement about what had gone wrong.

The more I talked to the people of Bloomington and McLean County, the more I was struck by how much they are willing to pardon in their President. Whatever may turn out to be the case about Richard Nixon's involvement in the Watergate affair, the citizens of this part of the country seem ready to forgive him, as a human being, for almost anything.

Except for his refusal to level with them about it. I met one man, for example, who they tell me contributed a king's ransom to the President's reelection campaign; and I asked him what he felt was the real problem of Watergate.

"Well," he said "it's like in a family. When something goes wrong, you've just all got to sit down, and holler and scream at each other, and get it over with!"

The President's greatest failing, many of that man's neighbors would agree, has been in not sitting down and talking it over with the American people. That is just what they are saying over at the Sunday School where Mrs. June Kirkton, a young farm wife, sends her children. "It's just so stupid," she told me. "Why didn't the man just have more trust in the American public?"

Now it would be, of course, an easy thing to make fun of the people of Main Street. Their straightforward adherence to a system of ethics right out of the "Boy Scout Handbook," their unabashed patriotism, their readiness to pardon almost all sins in their President—all these qualities of theirs are rich in the potential for parody. If the cynicism of the Big City's streets has been bred into you, it is easy to mock their naive trust in the nation's leaders.

If a liberal political persuasion has made you long uneasy about Richard Nixon, it is easy to now say: What took these people so long to wake up?

But to do so would be to miss some of the most essential things about them, and, by extension, about the people of all the Main Streets in America. Americans simply are, by nature, slow to anger, quick to forgive, and almost desperate to believe the best about their fellow man. Especially about the one whom they choose to lead them.

There is, for instance, an old black woman in Bloomington who is a relative newcomer to the community. Because she lived most of her life in the Deep South, until she came to Bloomington she had never voted. But a few years ago her daughter brought her North, and last year she finally got a chance to exercise this most fundamental of democratic privileges.

The woman is by now in her seventies and thus not too agile any more. So on election day someone came around with a car and saw to it that she got to the polls. Now in some parts of the country, had this happened, they would have seen to it that the woman had a list of the right candidates in her hand when she stepped into the booth. And in some places I can think of they would have even saved her the effort of making her own ballot.

But they do not do too much of that sort of thing around here. The Republicans do not because they hardly need any more votes than they already get. The Democrats do not because they could drive all over McLean County from one election day to the next, they still are not going to find enough votes to even make a horse race out of it.

No, they drove this old woman to the polls because that is the kind of place it is. When people hear that there is someone who wants to vote, and has never had the chance before, well, then they just see to it that she has a ride.

But on the way over the people who had picked her up just could not resist asking her who she was going to vote for. Because of where and when she had grown up, the old woman never had the chance to go to school. She cannot afford a TV, and had to confess that she really did not know too much about the candidates.

"But," she said to them, "I do know that I want to vote for a good man. For just once in my life I want to vote for a good man." Did they perhaps know, she asked her new friends, of a good man?

Soon now the work of the Senate Watergate committee will be done. And soon also Archibald Cox's grand jury will be handing up its indictments. A number of former high officials of our government are going to be facing some very serious charges. Those indictments, no doubt, will accuse them of things like wiretapping and perjury, obstruction of justice, violating the laws on the proper use of campaign funds.

But their gravest crime will not even be mentioned in the court's documents. For in reality their worst offense was to have so little respect for the simple desire of that old woman—and with her, that of all the other people of Main Street—to vote for a Good Man to be her President.

BENEFIT OF THE HANDICAPPED

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. EILBERG. Mr. Speaker, for too long we have ignored the fact that handicapped persons have special problems in dealing with such obstacles as revolving doors, stairs, and narrow doorways.

I am happy to announce that the city of Philadelphia's Licenses and Inspections Department will require commercial buildings to install the Nation's most advanced equipment for the benefit of the handicapped.

These new regulations will go into effect in 30 days.

At this time, I enter into the RECORD an article released by the city of Philadelphia on this matter:

BENEFIT OF THE HANDICAPPED

New regulations requiring special facilities for the handicapped have been completed, and will become part of the Philadelphia building code in 30 days, it was announced today by Joseph A. Verica, Commissioner of Licenses and Inspections.

Verica hailed the new regulations, the result of six months' effort by his department, as the most comprehensive in the nation for the benefit of the physically handicapped.

Among the requirements for all commercial buildings including hotels, motels and apartment houses, industrial plants and institutions are:

At least one entrance with ramp and graded approach, with immediate access to elevators;

Doorways wide enough for a wheel chair, with doors that pull open easily or open automatically and remain open for several seconds;

Toilet facilities with wide stalls and handrails. At least one such toilet for each sex on each floor of multi-storied buildings;

At buildings with parking lots, a number of spaces that are larger than usual and designated for use by the handicapped;

Lower lights switches and lower water fountains.

Legal notice regarding the new regulations was published today under the Philadelphia Home Rule Charter, Sections 8-407 and 7-400.

NATO COUNTRIES GRANT RECOGNITION TO NORTH VIETNAM: A DIPLOMATIC DOUBLE STANDARD

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. RARICK. Mr. Speaker, while the hue and cry is heard in Europe to keep U.S. fightingmen there as protection against possible Communist aggression, our NATO allies are busy granting formal diplomatic recognition to the Communist aggressors who were killing U.S. soldiers in Vietnam as recently as a few short months ago—and are still killing our allies.

Britain has already announced recognition of the Communist regime in North Vietnam and West Germany is expected to follow suit. Other NATO allies that have recognized Hanoi include Canada, France, Belgium, Holland, Italy, Luxembourg, Iceland, and Denmark.

The U.S. Government estimates that to maintain the presence of 300,000 American troops in Europe costs the taxpayer some $1.5 billion a year. This money leaving our treasury seriously worsens the already burdened balance of payment deficit to this country.

Our European allies are concerned about their own safety from possible attack by the heavily armed Warsaw Pact, so it is understandable that they seek to maintain NATO's 44–52 ready military divisions. However, their lack of concern about Communist aggression and the direct threat it poses to the people of South Vietnam is clearly evidenced by their eagerness to open diplomatic channels, and the trade dealings that inevitably follows, with Communist North Vietnam.

This affinity is also understandable, especially in light of the considerable political influence that the Communist Party has in many NATO countries. Three of our NATO allies, France, Iceland, and Italy recorded a total vote for the Communist Party in excess of 20 percent. In Italy and Iceland, the party commands a 28 and 25 percent voting bloc in their national legislatures, respectively.

While this may not appear to be a large enough majority to control national policy, it should be remembered that the present administration of this country represents a political party with a mere 27 percent of the registered voters.

Interestingly enough, those four NATO countries that have not recognized North Vietnam, that is, Greece, Norway, Portugal, and Turkey, have no elected Communist legislators. In fact, in three of these countries the Communist Party has been outlawed.

I insert a table showing the strength of Communist Parties in NATO countries following my remarks.

It is a diplomatic double standard on the part of most NATO members to demand U.S. protection from communism on one hand, and expand ties with them on the other.

Surely the billions of dollars we have spent to protect the lives and property of Europeans through NATO could have been better spent in this country to directly benefit our people, rather than bolster the economies of countries that engage in diplomatic ties with our enemies in North Vietnam.

I insert the related information to follow at this point:

STRENGTH OF COMMUNIST PARTIES IN NATO COUNTRIES

Country	Estimated membership	Votes cast for Communist Party in last election	Percent of Communist Party vote to total vote	Seats	Percent of seats
Belgium	12,500	162,463	3.1	5	2.4
Canada	[1] 2,000	4,344	.1	0	0
Denmark	5,000	39,344	1.4	0	0
France	295,000	4,435,357	20.03	34	6.98
West Germany	>7,000	[2] 197,570	.6	0	0
Greece [3]	28,000				
Iceland	1,000-2,000	27,500	26.08	15	25.0
Italy	[1] 1,521,000	8,555,477	26.9	[4] 177	28.0
Luxembourg	500	402,610	15.5	6	10.7
Netherlands	10,000	246,328	3.9	6	4.0
Norway	2,000-2,500	22,520	1.0	0	0
Portugal [3]	2,000				
Turkey	3,000				
United Kingdom	29,000	37,966	.1	0	0

[1] Claimed.

[2] The Communist Party in West Germany is outlawed. These figures are for the front organization for the German Communist Party, Action for Democratic Progress.

[3] The Communist Party has been outlawed.

[4] In 1969 5 deputies of the so-called Manifesto Current were expelled from the PCI.

Source: Department of State. World Strength of the Communist Party Organizations, 24th Annual Report, 1972 edition, Washington Bureau of Intelligence and Research.

[From the Washington Star-News, July 7, 1973]

NORTH VIETNAM RECOGNIZED BY GREAT BRITAIN

LONDON.—Britain has announced formal recognition of the Communist government of North Vietnam and offered early negotiations for the establishment of full diplomatic relations.

If the Hanoi authorities agree, talks on exchanging ambassadors and other aspects of a diplomatic relationship will begin in Peking within the next month or so.

The British action is likely to be followed soon by West Germany, which will mean that most member nations of the North Atlantic Treaty Organization are recognizing the Hanoi regime.

Other NATO countries that have recognized Hanoi include Canada, France, Belgium, Holland, Italy, Luxembourg, Iceland and Denmark.

There is no British recognition of any sort for the Viet Cong or its Provisional Revolutionary Government in South Vietnam.

[From the Washington Star, July 17, 1973]

NATO TROOP CUTS

The heavy artillery rolled out by the administration to shoot down congressional moves toward a pullout of American forces from NATO is a measure of the concern over growing sentiment in the Congress and the country in favor of a troop cut. Last week, the House Foreign Affairs Committee heard from Deputy Secretary of State Kenneth Rush; Defense Secretary James R. Schlesinger; Admiral Thomas Moorer, chairman of the Joint Chiefs; the Supreme Allied Commander in Europe, Gen. Andrew J. Goodpaster, and others.

The message of all of them was substantially the same: A unilateral American troop withdrawal from NATO of any size would be a disaster that would cripple negotiations with the Soviet Union on possible mutual reductions, seriously weaken NATO's array of conventional forces and lead inevitably to an "unraveling" of the Atlantic Alliance.

There is good reason for the administration's concern. The message it is trying to get across is meeting with increased resistance as time goes by. The dangers they point to are being weighed against a growing preoccupation with purely domestic affairs, an unfavorable balance of payments and trade, resentment toward all things military and a general conviction that, in an era of detente, there is no real threat to Western Europe.

In the past, the real threat on troop withdrawals has come from the Senate, where Majority Leader Mike Mansfield's amendment calling for "substantial" reductions in NATO forces has been gaining substantial support. Until now, the more hawkish House has provided insurance against any drastic congressional action. But today, no fewer than 54 congressmen have sponsored resolutions similar to Senator Mansfield's and the momentum is growing.

In our own view, the clamor for troop cuts in Europe is very seriously misguided. If there is a genuine detente in Europe today—and that still remains to be seen—it depends very much upon a stable balance of power which NATO—including the American contribution to it—represents. A unilateral American pullout would seriously upset that balance, both militarily and psychologically, producing instabilities the consequences of which no one can accurately foresee.

NONSMOKERS RELIEF ACT IS STILL NEEDED

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. YOUNG of Florida. Mr. Speaker, recently the Civil Aeronautics Board amended its regulations so that domestic airlines are now required to provide designated "no smoking" areas aboard their aircraft.

The Board justified this action, which took effect on July 10, 1973, on the grounds that exposure to tobacco smoke is annoying and discomforting to those passengers who do not smoke.

I praised the Board on its announcement when it first appeared, and at that time, I again called to our colleagues' attention my bill, H.R. 1309, which would require all modes of interstate transportation to provide areas for nonsmokers. I might add that this legislation was first introduced on February 22, 1971.

Unfortunately, no action has been taken by the Congress on my bill. Despite reports indicating the damaging effects of smoke in confined areas and the widespread support in favor of this legislation which has continued to arrive in my office, the Congress again allowed administrative agencies to do the job by adopting regulations to protect the rights of nonsmoking Americans.

Nevertheless, the need to protect the rights of nonsmokers cannot be disputed. Even though the Civil Aeronautics Board's order is now in effect and because the Interstate Commerce Commission has ordered separate seating on buses—a proposal which is now held up by court appeals—the Congress should still exert its authority in this area by approving H.R. 1309 without any further delay.

NIXON AND WELFARE FOR THE RICH

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Ms. ABZUG. Mr. Speaker, it was my great pleasure to be asked to address the National Welfare Rights Organization Convention held in Washington last week. NWRO has long been in the forefront of the struggle to insure a decent living to all Americans. But under Mr. Nixon, welfare has been considered degrading, except when it is given to the rich. I would like to insert my remarks given Thursday, July 12 before the NMRO.

NIXON AND WELFARE FOR THE RICH

I'm very happy to be here with you tonight, but I suspect that you may have invited the wrong speaker. If you wanted to hear an authority on welfare, you should have invited the nation's foremost welfare recipient, Richard Nixon.

You may have heard comedian David Frye's comment on Watergate that the President took crime off the streets and brought it right into the White House. We might also add that the President is taking welfare away from the poor and giving it to the rich, including himself.

Of course, the President *has* been speaking to you—indirectly.

Last year, before he went into hiding, he was going around the country lecturing about the glories of hard work for the poor. I will leave it to you to judge whether you or he has more personal experience with working hard, but one of the things Mr. Nixon kept referring to was the dignity of such work as emptying bedpans. Apparently, at one time his mother did that, and he feels that's a good enough job—for women.

For himself, Mr. Nixon has other standards. He also has an uncanny talent for developing friendships with rich people who are so deeply concerned with his welfare that they insist on giving him loans and favors.

From the early days when he launched his political career by using witchhunts, smears, deception and other dirty tactics to win office, Mr. Nixon has had wealthy businessmen looking after his interests, presumably because they had reason to believe he would look after their interests. And so he has.

There was the private slush fund set up for him by California businessmen in his 1952 campaign. There was the prestigious Wall Street firm that quickly gave him a job after he lost the governorship in California, enabling him to get what he has called economic security and what we call wealth.

There were the corporations and businessmen who stuffed up to $60 million into his reelection campaign. There was his millionaire friend Robert Abplanalp, who gave him money to buy a million and a half dollar estate at San Clemente. And there's his rich pal Bebe Rebozo, who just happened to buy a $100,000 house in the Washington suburbs which he says he is renting to the President's daughter, thus saving Julie and David from worrying about finding a rent controlled apartment or getting into public housing.

And there was the $2 million paid for by the American taxpayers for home improvements at Mr. Nixon's property in San Clemente. We're told that these items were needed to protect the President—items like heating his swimming pool and building a wall around his property.

Some of you may wonder why the President needs an estate in California and an estate in Florida, in addition to the White House and the mountain retreat at Camp David and the Presidential yacht.

You may wonder why a man who wanted so desperately to get into the White House should leave it so often. Well, we found out from the Watergate hearings what the problem is at the House. It has windows, and occasionally the President looks out of a window and he may see a demonstrator or even a whole bunch of demonstrators yelling about peace or welfare rights or high prices.

That upsets Mr. Nixon so he flies off to California or Florida where ordinary people can't see him, and vice versa. And, as you know, when the President goes off, he doesn't go alone. His family goes with him. His aides and lawyers and administrative staff go with him. The secret service and the press go too. And government helicopters and airplanes and $100 a day hotel accommodations and long-distance communications are all put to use.

Running away from the people is a very expensive Presidential habit—and who pays for it? The people.

For weeks now the American people have been learning the facts about Watergate—and when I say Watergate, I'm not just talking about the break-in at Democratic Party headquarters, but about a host of criminal acts: wiretapping, conspiracy, perjury, obstruction of justice, illegal campaign financing, mail fraud, interference with the electoral process, tax violations, and misuse of government resources.

This week we've seen John Mitchell on the hot seat, and I'm wondering why none of the members of the Ervin committee has questioned this former attorney general about his criminal action two years ago when he had more than 14,000 people arrested here in Washington during May Day demonstrations against the war in Indochina. The scale of those mass dragnet arrests was unprecedented in the history of our Nation.

John Mitchell boasted about them at the time while thousands of citizens, many of them just Washingtonians who were passing by and were not even demonstrating, were dragged off to detention centers and held under miserable conditions without formal charges or any semblance of legality.

I was an eye witness to those events, and I find it interesting that while thousands of these men, women, and even children were being held without food or shelter in an open stadium it was the black community of Washington that turned out to help them and threw food to them over the fences. And it was a couple of black Congressmen who joined me in protesting these arrests, and of course we're all on the official enemies list now.

I recall those mass arrests at this time because they typified the Nixon Administration's contempt for the law and its long record of illegal unconstitutional actions culminating in the Watergate break-in. Watergate was not an isolated incident. It was the ugly soul of this Administration.

We have seen over the years an alarming flow of power to the White House, aided by a Congress that too often abdicated its responsibilities under the Constitution. We are now witnessing the corruption that such unchecked power brings and, most dangerous of all, the use of power to maintain power by unlawful means.

We have to ask ourselves, Power for whom and to do what? Why was it so important to reelect President Nixon that men lied and deceived and broke the law over and over again to keep him in the White House?

The answer is that power under this Administration was and is used to make the rich richer and the poor poorer. Power in this government is used by and for special interests groups, the big corporations, the big agricultural interests, the polluters, the multinational corporations like ITT, and the profiteers.

Let's look at just one instance. In arranging the sale of wheat to the Soviet Union last year, the Nixon Administration used its inside information to cheat the taxpayers out of $300 million that was used to subsidize the big Midwestern grain dealers. The result was that poor people and ordinary Americans had to pay more for bread and eggs and meat. Under this Administration high profits for the few means intolerably high prices for the many.

The same Watergate mentality that brought us sabotage of our electoral system also brought us the Nixon Watergate budget—an attempt to sabotage efforts to use even a small portion of our country's resources for the needs of millions of Americans.

What does Nixon's Watergate budget propose? $5 billion more for military expenditures—up to a record amount of $f3.5 billion. More that $14 billion less for social programs. No more rent subsidies or money for housing. Title I education funds slashed. Neighborhood health centers closed down. Mental health programs abandoned. Basic medical research and health training cut back. Model cities, community action and poverty programs dumped. More money squeezed out of the elderly for Medicare.

And, of course, Mr. Nixon didn't just wait around for Congress to okay his budget cuts. He has started putting his program into effect, trying to destroy OEO, job training programs, housing programs, and social services.

He isn't getting away with—completely. Through a combination of Congressional actions and court action, he is being forced to back down on some of these program cuts. But let us not get over-optimistic. Congress certainly looks good in comparison to the President, but the Republican-Democratic bloc is still operating. Just recently in the House I saw these groups get together to gut the program of legal services for the poor.

You can get legal help, but if the House version passes, the Legal Services Corporation will be supervised completely by Nixon appointees, you won't be able to get a lawyer to help you in an abortion case or if your sons or brothers or husbands are having a dispute with Selective Service or if you're involved in a rent strike or welfare rights community action or any other action that lets you use your strength as a group instead of as weak, separate individuals.

Last year, as you know, Congress put a $2.5 billion ceiling on social service programs for child care, aid to the elderly, the handicapped, and others in need. That wasn't low enough for the Nixon Administration, and so the HEW Secretary, Caspar Weinberger, came up with a new set of regulations that would have cut spending even more, down to about $1.7 billions.

We organized a coalition of child care groups, women's groups, welfare and social service groups, and so far we have managed to stop those new regulations from going into effect. We've won a four-month delay from Congress, but remember, we're just trying to hold on to the little that was available for those in need. What we really need is an expansion of social services. What we really need is an expanded system of child care centers, such as I have proposed in my Child Care and Development Act.

Mr. Nixon doesn't approve of child care centers in which children from all walks of life learn together and play together. He only wants child care centers as dumping grounds for the children of welfare mothers so that they can be forced to work out their welfare checks. They are not even to have the dignity of getting decent jobs at decent pay, or the opportunity to get into educational and training programs that will give them some hope of emerging from desperate poverty into an adequate standard of living.

In talking about Mr. Nixon's political and social and economic Watergate schemes, we should keep in mind that women are the hidden heroines of Watergate. Why? Because aside from a couple of women who were used as patsies by their husbands or bosses, women were simply not involved in Watergate.

In a recent speech, Caroline Wilkins, the vice chair person of the Democratic National Committee said that more women should get into politics and capitalize on the fact that only men have been implicated so far in the Watergate scandal. Because of Watergate, she said, the credibility of all incumbents will be questioned and it will take women candidates to restore public confidence in the democratic system.

Ms. Wilkins also pointed out that the biggest waste of energy in America today is women's energy. Unemployment among women workers, she said, has risen more than 40 percent under this Republican administration. The gap between male and female pay for comparable work has widened. And, she also said, six million more people, 85 percent of them women and dependent children, have been forced onto welfare.

I think that it is an important message for you. I know at this convention you have been discussing ways to increase your strength and to reach out to all poor people, not just those on welfare. I hope that you will continue to work with us in the women's movement to advance our common goals. I urge you, too, to get into politics, not only as lobbyists but as candidates for political office.

I know you understand the significance of Watergate and that you will join with others in fighting for a society in which this abuse of power will no longer be allowed. It is too early to know what will be the final fate of the Nixon Administration and the man who leads it. Some of us have been urging that the House of Representatives fulfill its constitutional responsibility by starting an inquiry to decide whether there are grounds for impeaching the President and charging him with "high crimes and misdemeanors." I have urged such a course, and will continue to do so.

I do not know whether Mr. Nixon will be impeached and brought to trial. I do know that he has said he is willing to accept the responsibility for the misdeeds of some of his associates. He has said so, but he has yet to demonstrate it. I have an interim suggestion. I propose that Mr. Nixon do penace for Watergate by trying to support his family on a modest income of $6,500 a year an income that millions of Americans have yet to reach. I think he'd learn a lot, and who knows, he might stop being afraid to look out of the window at the people because then he would be one of them.

PUERTO RICO

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. BIAGGI. Mr. Speaker, today we celebrate the 21st anniversary of Puerto Rico's attainment of Commonwealth status within the United States. This 21-year period has been filled with remarkable progress and prosperity for this small Latin American country.

In an otherwise stormy era in Latin America, Puerto Rico has managed to avoid the bloodshed and governmental turbulence which has affected so many of her sister countries in this area of the world. It is only through responsible and effective leadership that Puerto Rico has been commonly referred to as the "workshop of democracy" in Latin America.

Let us also on this day pay tribute to the thousands of Puerto Ricans who have contributed so much to the welfare of the United States. In all fields of the society, the impact of the Puerto Rican community has been steadily emerging snce 1952.

Mr. Speaker, I wish to join with the rest of my colleagues in observing this significant event, and wishing to the citizens of Puerto Rico, and the Puerto Ricans living as citizens of the United States continued good fortune in the years to come.

I wish also on this day to pay special tribute to my distinguished colleague from Puerto Rico, Mr. BENITEZ, and congratulate him on his excellent representation of his constituents.

GUATEMALA, 1973

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. ROSENTHAL. Mr. Speaker, the Latin American Studies Association, in December 1971, expressed its concern over the political situation in Guatemala by establishing an ad hoc committee on Guatemala which it directed to report fully on the violence, terror and repression in the country and on American support, if any, for these activities. The ad hoc committee submitted a report in May 1973, extracts of which are reprinted below.

The United States bears a special responsibility for events today in Guatemala because, in the middle of the cold war, we supported an invasion against the legal Government of the country. We judged that Government, undoubtedly with accuracy, as opposed to American business interests in Guatemala. It was also a Government marked, in our 1954 judgment with distinctive, deepening, and dangerous leftist tendencies.

Twenty years of guerrilla revolution and counterrevolution have followed. Today the country is in a relatively quiescent period but no one believes that the deep social problems of the country have been solved. The United States has maintained a continued, and often, dubious involvement in Guatemala since 1954 but too often we have appeared to support a primacy of property rights over human and social values.

The LASA Committee report describes a tragedy of inter-American relations. It also recounts an era of terror and counterterror which has weakened a tragically weak country even further.

I would hope that the lessons of Guatemala, which are similar if not yet as extreme as those of Vietnam, will direct our country's attention in constructive ways to the true problems of Latin America which concern social justice and how the United States can make a contribution to its achievement.

I include the following:

EXTRACTS OF AD HOC COMMITTEE ON GUATEMALA

The charge of the Ad-Hoc Committee on Guatemala was to carry out the investigation described in the resolution, "On Terror in Guatemala," passed at the December, 1971, business meeting of LASA. The text of the resolution is as follows:

"Whereas the state of semi-official and official rightist terror in Guatemala has reached unprecedented proportions; and

"Whereas the brunt of this terror has fallen heavily on university professors and students; and

"Whereas, moreover, the Arana regime has implicitly and explicitly threatened the autonomy of the national university of San Carlos; and

"Whereas this continual violation of human rights in Guatemala has been condemned before the O.A.S.; and

"Whereas it is impossible to ignore the complicity of the U.S. in this repression, through its support of the Arana regime, and most particularly through its police and military assistance programs;

"*Therefore*, be it resolved that, as the principal organization of U.S. academics concerned with Latin America, LASA condemns this situation in Guatemala;

"And that LASA hereby instructs its Government Relations Committee to further investigate this situation and to keep its members informed;

"And that LASA calls for a full investigation of this situation, through public hearings by the relevant U.S. Senate and House Committees. These hearings should be open, should include nongovernment witnesses, and should place special emphasis on the role of the U.S. in Guatemala since 1954;

"And that LASA calls for a cut-off of all U.S. military aid and police assistance to Guatemala."

THE SITUATION IN 1971

There is no doubt that 1971 was Guatemala's worst year in recent history, in terms of semi-official and official rightist terror. According to the Guatemalan daily newspaper, *El Gráfico*, during 1971, under the government of Col. Carlos Arana Osorio, there were 959 political assassinations, 171 kidnappings, and 194 "disappearances." (A "disapparance" in Guatemala is generally equivalent to a death; most of those who disappear are found dead, weeks or months later, their bodies often bearing marks of torture.) Articles in U.S. newspapers estimated that a total of 2000 had been assassinated from November, 1970, to May, 1971, incdluding 500 during May alone. The above are conservative figures, since they cover only those cases reported in the newspapers.

It is no less clear that most of the incidents of political violence were committed by the Right. According to the *Annual of Power and Conflict, 1971*, published by London's Institute for the Study of Conflict, which generally emphasizes Communist political violence,

"By the end of March (January–March, 1971), political killings totalled over 700, but many more people were believed to have disappeared without trace. Most of the killings have been attributed to officially supported right-wing terrorist organizations, *Ojo por Ojo* ("An Eye for an Eye") and *Mano Blanca* ("White Hand").

The predominance of rightist terror was also confirmed by *Le Monde Weekly*: "Foreign diplomats in Guatemala City believe that for every political assassination by left-wing revolutionaries, fifteen murders are committed by right-wing fanatics." In addition to operating freely, with no visible attempt by the government to control them, these rightist groups are generally known to have their base in the official military and police forces. The only major action undertaken by the leftist guerrillas during 1971 was the August kidnapping of Robert Alejos, a large landowner and banker, a close associate of ex-President Ydígoras (1958–1963), and a key figure in planning the 1961 Bay of Pigs invasion of Cuba; Alejos was released unharmed, five months later.

The context for this situation of rightist violence was a year-long state of siege imposed by the Arana government, suspending all constitutional guarantees and prohibiting all political activities. (As chief of the 1966–1968 counterinsurgency campaign in Izabal and Zacapa provinces, Arana had gained an international reputation for his brutal tactics for enforcing "law and order.") In general, the victims of this violence—although it was committed in the name of "counterinsurgency" against revolutionary guerillas—were moderate leaders of the political opposition, progressive intellectuals, students, professionals, and even a few businessmen as well as uncounted numbers of peasants and workers.

A prime target during this period was the National University of San Carlos. One indication that much of the terror was directed against university professors and students is that *Ojo por Ojo* is acknowledged to be "mainly active in the University of San Carlos." A number of students and student leaders were openly assassinated or "disappeared," never to be seen again. In late 1970 and 1971, prominent professors Julio Camey Herrera, Adolfo Mijangos, and Juan Manuel Cordero Quezada were assassinated outright. (Many of the victims were progressives who had participated in the pre-1954 governments of Arévalo and Arbenz—see chronology.) In addition to these killings, numerous university students and professors, and even the University treasurer, were arrested and held in prison for days or weeks. Other University officials were kidnapped by rightist groups, and the Rector of the University of San Carlos received threats on his life from *Ojo por Ojo*.

In addition to these acts directed against professors and students, the University itself has been threatened. On November 27, 1971, in a clear violation of the University's traditional autonomy, the University of San Carlos campus was occupied by the army, using 800 soldiers, several tanks, helicopters, armored cars, and other military equipment. The objective of this raid was to search for "subversive" literature and arms; but a room-by-room search revealed nothing. Then, following a January, 1971, statement by the University governing council, protesting the state of siege and the violence, the government continued its attack on the University by proposing that it submit its budget to the executive branch of the government for approval, rather than to the University's own governing council, if carried out, this measure would have completely ended university autonomy.

When the 12,000 students of the University of San Carlos went on general strike in October, 1971, to protest the violence against students and professors and to demand an end to the state of seige, the government responded with a warning that it would forbid any public demonstrations at the University, and a hint or military intervention and termination of the University's autonomy. The continual threat to the University of San Carlos led the prestigious CSUCA (the governing council of the five Central American national universities), in its monthly publication, *Jornada*, to publish two supplements documenting the situation: "No Muere la Intelligencia: la Situación Universitaria de Guatemala," in February, 1971, and "Guatemala: la Universidad Amenazada," in October, 1971.

THE ROLE OF THE UNITED STATES

This situation is of special concern to North Americans because of the role of the United States. Although U.S. involvement in Guatemala dates back to the mid-19th century, it assumed major proportions at the turn of the century, coinciding with the generally expansionist U.S. foreign policy under Presidents McKinley and Theodore Roosevelt. More recently, U.S. involvement in Guatemala became more direct and increased dramatically in 1954, after the U.S.-engineered overthrow of the Arbenz government; it has remained on a high level to the present (see chronology).

U.S. complicity in the semi-official and official rightist terror of 1971 took several forms. Most important was U.S. military and police assistance. The full extent of U.S. expenditures on training and equipping the Guatemalan military and police is impossible to determine without access to classified information. Even according to conservative official figures, the U.S. spent $4.2 million in public safety assistance from the late 1950's through 1971, and an average of $1.5 million (but up to $3 million) a year in military assistance, not counting arms sales. The fact that these figures hide the full amount of U.S. assistance came out in a House Foreign Affairs Committee hearing, in response to a question about military assistance to Guatemala:

"In the past Guatemala has received $17 million since 1950 in grant aid from the United States . . . In supporting assistance Guatemala has received $34 million since 1950, and is scheduled for $59,000 for fiscal year 1971."

In fiscal year 1970, Guatemala received $1,129,000 in public safety funds, the highest of any Latin American country. In fiscal year 1971, Guatemala received the third highest amount, and in fiscal year 1972, the second highest. A new police academy was constructed in 1970–72 with $410,000 of AID funds; an additional $378,000 a year approximately has gone for police vehicles and equipment. AID-donated paddy wagons have been used to patrol the streets constantly, providing a psychological deterrent to crime and to all political activity. U.S. advisers train Guatemalan soldiers and police, and provide them with arms, communications equipment, etc. The ratio of U.S. military advisers to local army forces has been higher for Guatemala than for any other Latin American country.

U.S. officials have consistently denied any direct role in "pacifying" Guatemala. Nevertheless, according to one 1971 *Washington Post* report,

"Twenty-five U.S. military men and seven former U.S. policemen, carrying sidearms, and accompanied by Guatemalan bodyguards, are known to live and work in Guatemala. Most of these men are Vietnam veterans. The number of other Americans who may be involved in covert work with the local military is not known. . . . Military mission members assist the Guatemalan air force in flying and maintaining its 45 airplanes, and advise the army on administration, intelligence, logistics, operations, and its civic action program."

A Senate Foreign Relations Committee staff study of 1971 reported that U.S. public safety advisers were accompanying Guatemalan police on anti-hippie patrols. These reports follow those of several years ago, regarding the active role of U.S. Green Berets in the Izabal-Zacapa counterinsurgency campaign (see chronology). Although U.S. officials insist that their programs are designed to "modernize" and "professionalize" the police and military, nevertheless, the U.S. has not withheld its assistance from

Guatemalan security forces which are known to serve as a base of operations for the rightist terrorist groups. Some allege and claim to have documentation that "the U.S. military advisory team in Guatemala urged the formation of these (rightist) groups." In evaluating U.S. aid programs to Guatemala, the Senate Foreign Relations Committee study concluded:

"The argument in favor of the public safety program in Guatemala is that if we don't teach the cops to be good, who will? The argument against is that after 14 years, on all evidence, the teaching hasn't been absorbed. Furthermore, the U.S. is politically identified with police terrorism. Related to all this is the fact that the Guatemalan police operate without any effective political or judicial restraints, and how they use the equipment and techniques which are given them through the public safety program is quite beyond U.S. control. . . . On balance, it seems that AID public safety has cost the United States more in political terms than it has gained in improved Guatemalan police efficiency. . . . As is the case with AID public safety, the military asistance program carries a political price. It may be questioned whether we're getting our money's worth."

THE SITUATION IN 1972

In summing up the situation in Guatemala in 1972, one of the members of this Ad Hoc Committee, who visited the country three times in 1972, wrote:

"I am convinced that the situation in Guatemala, despite the placid exterior, is a dark one. The Arana government has employed a variety of tactics to get rid of its opposition. The year 1971 was by all accounts the bloodiest in Guatemala's recent history. . . . The year 1972 was in comparison a much more peaceful year; yet the government effort to get rid of opponents continued with much of the effort in the hands of rightist terrorists, and much of it kept out of public consumption by a government that is increasingly skittish about press coverage and public opinion."

The continuation of rightist political violence was confirmed by other sources. According to documents sent to the presitigious London-based organization, Amnesty International (which defends political prisoners throughout the world, including those in Communist countries), there were at least 70 *reported* disappearances in 1972. Amnesty deplored the "continued and uncontrolled violation of the most fundamental human rights" in Guatemala.

The most notable examples of the continuing violence include the following:

In June 1972, the ultra conservative vice president of the Congress, Oliverio Castaneda, was assassinated. Despite hasty government attributions of the action to leftist guerrillas, it is widely believed that it was committed by official forces, in a dispute within the Right. Subsequently, in July, four other leaders of the rightist party, Movimiento de Liberacion Nacional (MLN), were killed again, according to many, as part of the power struggle within the Right.

On June 26, 1972, Jose Merida Mendoza, leader of a large union of bus drivers in Guatemala City, disappeared. At the times, Merida was leading a union protest against the bus company. Merida was only one of the many labor and peasant leaders who have been harrassed, arrested, disappeared, or killed outright.

Most dramatic was the "disappearance" in September, 1972, of eight top leaders and associates of the PGT, the Guatemalan Communist Party. The families of the eight claim that they were arrested by police; witnesses noted the license numbers of the official police vehicles involved in the arrest. The government claimed to have no knowledge of what happened to the eight. This denial was called into question two months later, when an official police detective, kidnapped, acknowledged his role and that of other police in the arrest and imprisonment of the PGT leaders; subsequently the same detective said that the victims had been arrested, tortured, and thrown into the Pacific Ocean. Since the eight have not been found or heard from since September, it is generally assumed that they were killed. Nearly all observers within Guatemala and internationally, including Amnesty International, hold the government responsible.

The violence continued into 1973, with a new wave of kidnappings of peasants and other actions attributed to rightist para-military organizations, especially in the countryside. The newest of these organizations is called "Buitre Justiciero"—"the Justice-giving Falcon".

CONCLUSION

To put this situation in perspective, we conclude with a few words about the general political situation in Guatemala, specifically, the institutionalization of the repression. One measure of the degree to which political violence and repression has become a system or way of life is that during the nine years from 1963 through 1971 (108 months), Guatemala spent 48 months, or nearly half, under state of siege. A state of siege has always meant the abrogation of constitutional guarantees and political rights, the prohibition of regular political activity even by legal parties, and strict censorship of the press and radio. Verbal and written protests against this situation have been silenced; in October, 1971, for example, the Episcopal Bishop in Guatemala, a U.S. citizen, Rt. Rev. William Frey, was expelled from the country, after signing a statement that deplored the violence and called for an end to the state of siege. The 1970–71 state of siege carried with it a strict curfew for the first three months, under which some curfew violators were shot in the streets and thousands more arrested.

In early 1972, shortly after the state of siege was lifted, the government proposed another means of institutionalizing the repression: the so-called "Ley de Peligrosidad Social," or "Law of Social Dangerousness." The Law would have given the government total license in preventive detention of the unemployed, lazy or rebellious, of homosexuals, prostitutes, the mentally ill, or anyone "acting disrespectfully"; these "social dangerous" persons would be imprisoned in rehabilitation camps or confined in other ways. The Law, which represented a legalization of *de facto* government practices, was finally defeated in Congress, because it had aroused almost universal opposition throughout the country. Nevertheless, the government was subsequently designing a substitute measure, which would accomplish the same objectives.

In short, it should be clear that the situation in Guatemala in 1971 was not a temporary aberration or excess in a generally democratic system. Rather, it was part of a system of official terror and repression, which has existed in Guatemala since 1954, and which has been intensified in recent years—a system which, in the words of one analyst, aims to "liquidate the political party structure that has developed since 1944." For tactical reasons (e.g., the Presidential election in 1974), the government may attempt to reduce the level of official violence in 1973. *If* this happens—and it is not yet clear whether or not it will,—this temporary and tactical reduction should not be mistaken for an end to the violence. That violence will end only when its root causes are faced and Guatemala's huge social and economic problems are resolved.

CHRONOLOGY (BACKGROUND)

In order properly to be understood, the phenomenon of official rightist terror in Guatemala, with U.S. complicity, must be placed in historical perspective. For this reason, we are including a brief and sketchy chronology of events since 1931.

1931–1944: Dictatorship of Gen. Jorge Ubico—absolute tyranny: no civil liberties, labor unions prohibited—Indians, constituting two third of the total population, subject to forced labor on the roads, and to military conscription—high illiteracy and no rural schools—national economy based on coffee and bananas—large coffee plantations in the hands of a few wealthy Guatemalans and Germans—economic, social, and political influence of the United Fruit Co., through its banana operations, its control of the International Railways of Central America and Puerto Barrios, and support from the U.S. Embassy—German coffee plantations had been confiscated by Ubico, under pressure from U.S.—military use of Guatemala by U.S. during World War II.

1944–1954: Guatemalan Revolution: Ubico forced to resign in June, 1944, in response to middle-class frustrations at the lack of political freedom and economic opportunity—Ubico's fall triggered by impending victory of the Allies in World War II, and the fall of Dictator Maximiliano Hernandez Martinez in neighboring El Salvador—provisional president Gen. Federico Ponce ousted on October 20, 1944, by coalition of students, professionals, workers, and young army officers—free election won by Juan Jose Arevalo (1945–51), with 85% of the votes—widespread democratic reforms: "universal" suffrage for all men and all literate women, right to organize political parties, labor legislation, school and hospital construction, campaign against illiteracy, regulation of foreign investments—27 aborted military coups—hostility of U.S. toward reforms, especially those affecting United Fruit Co.—U.S. Ambassador Richard C. Patterson declared *persona non grata* for meddling in Guatemala's internal affairs—moderate presidential candidate, Francisco Arana, assassinated in 1948—election of Col. Jacobo Arbenz in 1950 (1951–54)—agrarian reform measure in 1952, leading to expropriation of part of United Fruit Co. holdings—construction of Atlantic highway and port of Santo Tomas, to compete with the railroad and port controlled by United Fruit Co.—growing influence of Communists—increasing hostility of the U.S. during period of McCarthyism and Cold War—relations between Guatelama and U.S. further deteriorate, with U.S. laying groundwork for future actions aaginst Arbenz government.

1954–1973: Counterrevolution: (1) Carlos Castillo Armas (1954–1957): led CIA-sponsored invasion from Honduras, orchestrated by U.S. Ambassador John Peurifoy–Arbenz and high military officers, discouraged by CIA bombing of Guatemala City, refused to distribute arms to supporters to oppose the invasion—fall of Arbenz government—under new Castillo Armas government, most revolutionary reforms nullified—expropriated lands returned to United Fruit Co. and other former owners—pre-1871 privileges restored to Catholic Church—suspension of civil liberties, decimation of labor movement, and severe persecution of political opponents of new regime—foreign private investment encouraged and welcomed—$80 million of U.S. economic aid and military assistance between 1954 and 1959, in order to make Guatemala a Latin American anticommunist showcase—Castillo Armas assassinated in July, 1957, by one of his personal guards.

(2) Miguel Ydígoras Fuentes (1958–1963): relative easing of political repression—economy suffered from declining world price of coffee, unstable political conditions, and corruption in government—increased private U.S. investment—beginnings of "industrialization" and Central American Common Market—*finca* of close presidential adviser, Roberto Alejos, used by CIA as training camp for Bay of Pigs invasion of Cuba—November 13, 1960, abortive military revolt by dissatisfied younger officers, including Luis Tur-

cios Lima and Marco Antonio Yon Sosa, who by 1962 became radicalized leaders of rural guerrilla movement—beginnings of U.S.-sponsored civic action program, designed to teach Guatemalan military how to "win the hearts and minds of the people" by providing services while combatting subversion: this program, similar to U.S. programs in Vietnam, was the first of its kind in Latin America Ydígoras deposed by U.S.-instigated military coup, in order to prevent the 1963 election of Juan José Arévalo, who was clearly the leading candidate (*Miami Herald*, December 24, 1966).

(3) Enrique Peralta Azurdia (1963–1966): relatively moderate, somewhat anti-U.S. military junta which took power after overthrowing Ydígoras—increase in rural guerrilla activity: Fuerzas Armadas Rebeldes (FAR), led by Luis Augusto Turcios Lima and César Montes, and Movimiento 13 de Noviembre (MR-13), led by Marco Antonio Yon Sosa—revolutionary movement weakened by recurring differences among FAR, MR-13, and PGT (Communist Party)—Turcios Lima killed in automobile crash in 1966—consolidation of changes in economy (new agricultural exports, more "industry") and of Central American Common Market.

(4) Julio César Méndez Montenegro (1966–1970): increase in foreign investment (86% of it U.S. investment), which doubled between 1959 and 1969, largely due to Central American Common Market—under this government, intended as a "model" Alliance for Progress government, Guatemala lending agencies—internationally respected economist, Alberto Fuentes Möhr, Finance Minister, proposed higher taxes and was ousted in March, 1968, due to pressure from the Right and large property-owners—in order to remain in office, Méndez Montenegro was forced to abandon all plans for reform and to give the Army a free hand in combatting the guerrilla forces—in October, 1966, Col. Carlos Arana Osorio, commander of Zacapa military district, launched a counterinsurgency campaign, with support of: 1) U.S. Green Berets, as well as sophisticated U.S. equipment and arms similar to those used in Vietnam; and 2) vigilante groups (right-wing), financed by large property-owners and composed largely of off-duty army and police forces—estimates of those killed from 1966 to 1968 range from 3,000 to 8,000 (others cite 7,000, from 1966 to 1970): students, professors, labor leaders, journalists, and several thousand peasants among the victims—the two-year intensive counterinsurgency campaign coincided with escalation in Vietnam and employed some of the same counterinsurgency techniques—from 1968 on, urban guerrilla activities provoked massive retaliation by army and police and by right-wing terrorist groups such as *Mano Blanca* and *Ojo por Ojo*—kidnapping by rightist groups of Archbishop Casariego, accused of having leftist sympathies, in 1968—kidnapping of Foreign Minister Alberto Fuentes Möhr by FAR and release in March, 1970—U.S. Ambassador Mein (September, 1968) and German Ambassador Von Spreti (April, 1970) billed by revolutionary guerrillas.

5) Col. Carlos Arana Osorio (1970–): elected on platform of pacification and no new taxes economic growth, but no improvement in income distribution five-year rural development plan adopted, but no agrarian reform; increased export of coffee, cotton, sugar, and beef—February, 1971, contract with EXMIBAL, subsidiary of International Nickel Co.: $250 million investment planned, doubling all previous U.S. investment crisis in Central American Common Market, caused by withdrawal of Honduras in 1970 (following "soccer war" between Honduras and El Salvador in July, 1969)—between January, 1970, and June, 1971, 12–15 kidnappings netted FAR and MR–13 $1 million. Yon Sosa killed at Mexican border in May, 1970—state of siege from November, 1970, to November, 1971, and generalized situation of rightist terror and repression (see above) continued high level of U.S. economic and military aid to Arana government.

SOLAR ENERGY

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. TEAGUE of Texas. Mr. Speaker, the shortage of gasoline is only one aspect of the total energy crisis that is rapidly coming upon us. One of the solutions to a portion of this crisis is the harnessing of solar energy. Only a few years ago this would have been but a dream. A recent editorial in the Washington Post summarizes well both the energy crisis and the importance of solar energy. I commend the reading of this editorial to my colleagues.

[From the Washington Post, July 18, 1973]

SOLAR ENERGY

U.S. scientists, according to report by Claire Sterling which was published on this page the other day, told a recent UNESCO conference in Paris that harnessing sunshine to reduce man's dependence on scarce and polluting fuels is no longer a matter of wishful thinking of solar energy enthusiasts. Ten years from now, representatives of a NASA-National Foundation panel reported, one out of every 10 new homes built in this conutry could be heated and cooled by solar rays. In less than 15 years, sun rays could produce commercial electric power. In 20 years a satellite could be in synchronous orbit beaming power down to earth by microwave. In 50 years, solar energy could supply at least 20 per cent of all the United States' energy needs. And there is no limit to where technology might advance from there if you consider the abundance of solar radiation: it is so plentiful that the energy arriving on 0.5 per cent of the land area of the United States is more than the total energy needs of this country projected for the year 2000.

Harnessing this energy, however, will require "an effort comparable in spirit and commitment to the one we put into the space program in the 1960s," according to former Rep. George P. Miller (D.-Calif.), past chairman of the House Science and Astronautics Committee. So far, we have only made a hesitant beginning. The federal government, to be sure, has now at last recognized the potentials of solar energy and organized the NASA-National Science Foundation task force to explore it. Congress has appropriated $12 million for the purpose in the current fiscal year, an amount most experts consider totally insufficient. It is less than two per cent of the total amount of government research and development funds spent on conventional energy resources such as converting coal into gas and nuclear engineering.

What is needed, according to the NSF-NASA panel, is a federal investment of $3 billion in solar research and development over the next 15 years. And what is needed, most of all, as Mr. Miller has said, is a federal commitment that must be 1) focused, 2) integrated, 3) intense and 4) continuing. In other words, laboratory research grants and small scale experimentation are not sufficient to launch the "sun age." Before solar energy becomes a substantial source of clean energy, industrial ingenuity and productive know-how must be mobilized to produce the hardware and services necessary to make the conversion devices economical. Most companies look for short term projects for new enterprises that promise a return on their investment in two or three years. Long range projects present great risk and investment capital is scarce unless there is confidence that the government is really serious about it and ready to provide the direction and incentives. A firm assertion of a national priority for solar energy "R and D" is also needed to engender the public confidence essential to assure industry of public acceptance and a market.

There is little time to lose. Nuclear generating plants are as yet producing less than one per cent of our total energy needs and public apprehension about them seems to be mounting. Planning and construction of additional nuclear plants is years behind schedule. Uranium is in short supply. Liquid metal fast breeder reactors will not make a significant contribution for at least a decade. Fusion reactors seem even further off. Experts say that the first demonstration fusion reactor will probably not be built before the year 2000. Energy consumption and energy cost, meanwhile, keep increasing rapidly. In 1970, school districts across the nation, for instance, spent an average of $26.70 per pupil per year for energy. The projections of the U.S. Interior Department, which may be conservative, indicate a tripling of energy cost by 1985 and a quadrupling by 1992. In the year 2000, then, we can expect to pay $106.80 per pupil per year.

Compared to such cost, the $3 billion required to advance solar energy energetically is a bargain. It would be folly to wait for a real scare to produce the crash program that clearly has become necessary.

FORD TURNS TO THE JAPANESE

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. GAYDOS. Mr. Speaker, the Associated Press reported the other day, July 14, that Ford Motor has contracted with Japan's Honda Motor Co. to receive technical information on a new engine developed by that firm which will cut air pollution.

This news disturbs me despite the explanation by Ford officials that the Japanese design might afford them the best chance of meeting future Federal emission standards. We can welcome this hopeful prediction. But can we accept with comfort the fact that Japan and its engineers are making it possible?

What has happened to our own automotive engineering? Since shortly after the motoring age began, American engineers and tinkerers have led the way in this field. Virtually every breakthrough of any engineering importance has come through U.S. efforts. But now, prodded by Federal decrees on emission controls, Ford is turning to Japan and, in doing so, admitting a grave laxity here.

This, of course, brings up the question of whether our environmental people with their "crash" program thinking have set targets too high and for too quick attainment for American engineering to keep pace. This is the conclusion to be drawn from Ford President Lee A. Iacocca's statement to the Associated Press that none of his company's designs has been developed so far to the place where it could meet the coming Federal standards on a mass-production basis. He inferred that his engineers have not had sufficient time to accomplish this.

All thinking Americans, I am sure that these include the auto people, know the urgent need to reduce the carbon monoxides and hydrocarbons now being released into the air we breathe by growing numbers of cars and trucks on our streets and highways. Nevertheless, it seems to me, in view of Ford's contract with Honda, that we ought to have a reappraisal of the whole environmental matter now to determine whether, in pressing hard for rapid solutions, we might be getting ahead of ourselves for our own over-all national good.

There must be a point, certainly, where the genius of Americans can solve this American problem without having our manufacturers forced to turn elsewhere for help at additional cost to themselves and to the auto buyer here. This point could be somewhere along the path toward an eventual total solution and beyond the point where the danger and damage to the environment are serious. In other words, we should try at this time, and in light of what has been learned so far, to get the environmental cleanup goals in equitable balance with what actually is urgent and what really is possible technically and with what truly is the American interest in the long run.

WELFARE REFORM IN WEST VIRGINIA

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. CRANE. Mr. Speaker, welfare reform has been the subject of much debate before this body in recent years. During these debates I have repeatedly expressed my belief that welfare administration is properly a function of State governments and not the Federal Government. It is apparent that Federal involvement in such an area inevitably leads to inefficiency and unresponsiveness.

Gov. Arch Moore of West Virginia, who long served with distinction in this body, is an example of what imaginative leadership can accomplish in such a field as welfare reform. During his tenure as governor, program effectiveness has increased while program cost has decreased. This is an all too infrequent example of progress in government administration and Governor Moore deserves a hearty commendation for his efforts.

Mr. Speaker, Governor Moore outlined West Virginia's welfare system in Signature magazine recently and I ask that his comments be inserted at this time.

The comments follow:

WELFARE REFORM AND THE APPALACHIAN MYTH

(By Arch A. Moore, Jr.)

The notion that West Virginia—of all places—can serve as a model for solving America's welfare mess may seem far-fetched. Some of the nation's taxpayers may still cling to an image of my state as "poverty-stricken," or perhaps as "the epitome of Appalachian welfare cultures." This label was hung on us by the national press back when they were covering John F. Kennedy during the 1960 West Virginia primary—and it has been a difficult one to shake off.

In fairness it might have been an accurate assessment of conditions in 1960; because West Virginia, like most of Appalachia, had more than its share of unemployment, bad roads and poor housing.

Yesterday's fair assessment has become today's myth. People who still hang on to that Appalachian myth may be amazed to know that West Virginia leads the nation in welfare reform—by standards that the Federal government applies. We ended our 1972 fiscal year with a $10-million surplus in the welfare account; much of the welfare reform now pending before Congress is based on programs pioneered and tested in West Virginia during the past four years. For the first time in decades, more West Virginians are returning to the state than are leaving it.

America's major cities reel under the burden of supporting the jobless and the indigent; welfare reform is heatedly discussed across the nation. At a time when one out of seven New Yorkers is on welfare, the ratio in West Virginia is one out of 13. I believe that this country—*particularly* the major cities—would do well to profit from our experience. We don't pretend to have all the answers—our population is less than two million while our most burdened cities have populations four to six times larger. But keep in mind that in urban areas a case-worker can handle many more clients in a compact area; our field people often have to drive for an hour to help one client.

To untangle our own welfare mess, we were determined to apply sound, fundamental management principles that would both streamline the old bureaucracy and encourage innovative thinking. In 1969 I appointed a Management Task Force of volunteer businessmen to modernize the state government.

Within months they came up with a master plan that has saved the West Virginia taxpayer some $50 million by streamlining various state agencies. Our Department of Welfare was completely reorganized and is being operated on the same cost-effectiveness basis as any profitable large corporation.

What we've done is in direct opposition to most large urban centers; we've avoided constructing an ever-growing bureaucratic Frankenstein that not only breaks down but makes welfare applicants feel like second-class citizens. Instead, we've decentralized and simplified procedures to move people *through* welfare (and onto the payrolls) as rapidly as possible.

We combined 64 separate welfare and food stamp offices into 27 regional offices linked to our computer center in the state capitol. In one sweep, we eliminated a complete middle echelon of administrators—saving $3 million.

Our welfare applicants receive checks within 72 hours; it used to take six weeks. More important, a male head-of-household in West Virginia can now expect to be gainfully employed four months after he first applies for assistance; under the old method, the average wait was a year (we've led the nation in this vital statistic for 22 of the past 23 months).

Computers and a new organization chart are not a panacea. We've shifted personnel, sent administrators into the field to get a feel of the real tragedy of economic deprivation; where some of our field men have wanted to become involved in policy and administration, we've given them the chance. We've asked for fresh ideas and we've used them—in contrast to most rigid welfare departments in big cities where policy changes must come down from the top.

There is, of course, another vital aspect: We have had to create new jobs at a record rate. This is really the bedrock for our reform program. Only when you can offer real opportunities to the jobless can you say that people who simply won't work will not be supported by welfare—and make it stick. We've done it: a $1.5-billion highway construction program has opened our state to half the major U.S. markets (all within a 500-mile radius) and thereby attracted hundreds of new companies and 10,000 new jobs.

It seems to boil down to sound management principles, applied with compassion. That may seem simple, but West Virginia is the only state with a welfare account surplus. We've increased our welfare benefits by 32 percent and reduced people on welfare by 20 percent. We must be doing something right.

1913—THE YEAR OF GREAT FIRE IN HARLAN, KY.

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. CARTER. Mr. Speaker, it is my great pleasure to share with my colleagues in the House a story of the great fire which occurred in Harlan, Ky., in 1913. This account, written by Mabel Collins, appeared in the Harlan Kentucky Daily Enterprise for Sunday, June 10, 1973.

I feel that this article serves as an excellent example of how disaster will strike in even the most tranquil of settings. The courage and compassion shown in the face of adversity can still be found deep within the fiber of these mountain people. In an emergency, their traditional self-reliance gives way to a concern for the common good.

1913 WAS YEAR OF HARLAN'S MOST DESTRUCTIVE FIRE

(By Mabel Collins)

Harlan County's pioneer citizens suffered the bitter with the sweet. Many of them will remember perhaps the most destructive fire 60 years ago that wiped out 11 businesses and residences on Central Street.

The first alarm came when everyone who owned a gun blasted away at 1 a.m. giving the signal of the fire. In a few seconds the whole population was at the scene.

The bucket brigade was the only tools the townspeople had to combat the blaze. The few pumps were almost pumped dry. Like the great Chicago fire which started from a lamp or lantern, the Harlan fire did likewise.

It all began in the upstairs part of the Will Noe Store which was on the corner where the Margie Grand Theatre is today. Mattie Smith's Store, behind the Noe building, went up in flames and the bank building beside the Noe store was destroyed.

Flames shot out the upstairs windows and across the street to the W. Z. Gregory Hardware and Furniture Store. The two story frame building and the bakery building next door were destroyed.

Behind the buildings the residences of Will Blanton and Minerva Nolan were burned to the ground. Blanton was a shoe cobbler. Across the street on the corner opposite the Gregory building was the Hardware Store and hotel operated by Marion and Samuel Howard.

Blankets were soaked with water and placed on nearby buildings. The Jim Forester house at the corner of Third and Central was saved by wet blankets on the roof and sides.

Mattie Smith's Store was one of the favorite gathering places for the young people.

She was one of the first to bring stalks of bananas to Harlan. They were extra treats for the children.

In the hardware store, Mr. Gregory kept his dynamite caps locked in the safe. They were handled only by him. Before the fire gained headway some of the merchandise was carried out on the street.

When it became very hot the heat blew the safe open and shot off the caps. About $500 was also blown out of the safe and some thieves hid it in the wall of the old Masonic building. It was later found.

There was no insurance on any of the buildings, mainly because of the lack of water and fire fighting equipment. Mr. Gregory rebuilt a small music store on the corner of Main and Clover Streets. He sold phonographs and some string instruments.

In 1915 it was destroyed by fire. The small building was heated by a coal stove and some packing materials caught fire in the back room and the building went up in flames.

Virgil Eversole, who was nearby when the fire started, ran in and brought out a banjo. That was all that was salvaged.

The big Central Street fire happened the day Verna Noe Landrum came home from Williamsburg where she had graduated from college. Her mother, Margie Noe, had a big strawberry patch between their home and the store. She watched the water carriers trample it to the ground as they attempted to save the store.

Verna was worried about their home burning and her piano which was the first one in Harlan. Her father bought it in Hagan, Va., and brought it here on a "jolt wagon."

They also owned the first folding bed and people came from everywhere to see it fold up and down. Most of them were afraid of it.

The store had a big wide porch and the wagons coming in from Hagan drove up and emptied the merchandise on the porch, she said. "The porch floor had wide cracks in it," she said. Verna and her playmate, Lila Gregory, crawled under the porch and picked up pennies that would roll through the cracks.

One side of the store was for groceries and the other for dry goods. "Stick candy was the only kind of sweets we had until the wagons brought in some Hershey bars," Verna said. We thought that was the greatest thing, she added.

Sometimes men came to town and stayed all day. There were no restaurants so they would open up a can of peaches and eat from the can or get a "hunk of cheese and crackers from the barrel."

Verna, and her brother Guy's father was a stern but very kind man. He believed in "everybody working." He loved children and gave them a stick of candy when they came to the store.

"If a customer bought a pair of shoes, he always threw in a pair of gray sox," she said. The wooden benches on the porch served as a gathering place for whittlers and anyone who came to town.

One end of the porch was usually filled with watermelons. Alex Cloud would sit and fiddle while singing "Chicken Crowin' in Sour Wood Mountain."

The old jail was behind the court house. Sometime Verna ran errands for the inmates who "poked their money through the bars." They bought banjo strings and tobacco from the Noe Store and Verna made a few extra pennies.

On one side of the Noe Store the derby hats were stacked to the ceiling. One day a man came to buy a hat and Mr. Noe showed him one hat after another and nothing pleased him. His patience was getting a little thin.

"Let me see the one away up on top," he said.

"There's one up there alright but its going to stay up there," Noe said and turned away.

RARICK REPORTS TO HIS PEOPLE: THE GREAT RUSSIAN GRAIN SWINDLE

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. RARICK. Mr. Speaker, American farmers, consumers, and taxpayers were all shortchanged and are now paying higher prices for their food because of bureaucratic bumbling by the Department of Agriculture. These are some of the conclusions drawn in a recently released report by the Government Accounting Office.

A full year after the historic announcement of massive sales of U.S. grain, wheat, corn, and other feed grains, to the Soviet Union the American taxpayer now has a detailed report on how that trade swindle took place. The Government Accounting Office, the financial watchdog of the Federal Government, recently released an 84-page report on the Russian-United States wheat deal, detailing how much the transaction cost the American people and why. The official study was requested by Congress to give the taxpayer the facts behind the deal that cost him millions of dollars.

The largest profits in wheat trading went to the large multinational grain combines, who control upward to 90 percent of the world's grain produce, and to the Russians who made purchases at low subsidized prices.

The GAO study indicates that the failure to act on intelligence information resulted in unnecessary payments of more than $300 million in subsidies to U.S. exporters who sold the wheat to the Russians and others. As early as February last year, the Agriculture attaché in Moscow reported that—

> The Soviet wheat crop would be adversely affected by freeze damage.

Our two major competitors in the world wheat market—Canada and Australia—were pulling out of the export market as early as March. Agriculture officials early in the year recognized that the United States was the only major supplier of grain the Soviets could turn to.

The officials also knew that Russian leaders had made commitments to their people to increase the protein in their diets, and that they badly needed U.S. grain to meet that commitment. Yet the Agriculture Department decided against increasing the export target price. The GAO says that crucial decision was based not on detailed analysis of the situation, but on the intuitive judgments made by a few Department officials.

The U.S. grain exporters negotiated their sales to Russia at fixed prices below the $1.63 to $1.65 per bushel target price. Large quantities of grain were sold to the Soviets at these low prices, with the assurance that the Department of Agriculture would pay the difference between the negotiated price and the market price with taxpayer-financed subsidies. An original export goal of 650 million bushels with a subsidy of $67 million mushroomed to 1.1 billion bushels in export and over $300 million in subsidy, when the Russians realized what a wonderful deal they were getting.

Many of the big grain dealers registered their sales late in order to cash in on increased Government subsidies. As a result, in three cases, the big exporters pocketed a handsome profit more than $200,000 greater than the gross price of the entire sale. The taxpayers, through bureaucratic ineptitude, paid the exporter-middlemen 25 cents per bushel, when the reasonable profit goal in grain exports is in the range 1½ to 2 cents per bushel.

The GAO believes that the sales would have been made without the taxpayer's money being used to pay for them, or at least without such a heavy subsidy, because we had the only wheat the Russians could buy.

So the Russians got the protein they had promised their people, while the taxpayers paid for it. The grain wheeler-dealers cashed in on a handsome profit, also paid for by the U.S. taxpayer. And several Agriculture Department officials involved in the deal retired early to accept executive positions with grain companies.

In the official report to Congress, the GAO said it found no apparent corruption in the deal. But additional investigations are being conducted to determine whether five of the large U.S. exporters involved in the sales to Russia made excessive profits. A sixth company, reported to be the Dreyfus Corp. of New York, has thus far refused to cooperate in this review.

We are all too familiar with the results of the wheat deal on the American food market. The price of wheat rose nearly 50 percent in the first 2 months after the deal, and nearly doubled by this past May. Since livestock and poultry depend on feed grain for their food, the increase in the price of wheat caused a direct proportional increase in the cost of meat and poultry to the American consumer. Higher prices for bread and flour-based products, as well as increased costs of eggs, milk, and other animal byproducts are being experienced now as a result of fumbling by the USDA last year. The American consumer is paying dearly for bureaucratic ineptness.

The Agriculture Department claims some benefits as a result of the sales to Russia. They claim that farmers are receiving higher prices for their crops. This is true. But farmers lost on their crops that were sold to the Soviets. Farmers generally were not provided with the timely information from the Department that the sales were pending, so they marketed their crops in the same manner they had for years. Some even sold before their normal time because of the projected market conditions. As a result, the big dealers, the middlemen, the exporters realized the big profit, while the people who had produced the crops got no more than they normally get.

But there are other costly consequences of the deal. Shipping the grain from U.S. ports to Russian ports set the taxpayers back a bundle. The Russians are currently paying a fixed rate of $10.34 a ton for shipment of the commodities on U.S.-flag vessels. This price is well below the current transportation rate paid by other countries.

The U.S. Government paid an additional $11 a ton to bring that price up to the actual costs. The huge grain purchases alone had the effect of driving the world shipping prices up. The volume is considered to be the biggest logistic movement of all time. It has also succeeded in clogging our shipping ports with vessels bound for the Soviet Union.

It was only after an outraged public applied heat to the Washington bureaucrats that the subsidy was reduced last month. This month the Russians will have to increase the amount of shipping charges they are now paying in order to get their bargain-basement grain to Soviet ports. The taxpayers are still picking up some of the tab, but it has been reduced. Since much of the grain purchased last year has already been booked for passage on ships at the current rate, the impact of the recent decision will be slight.

The Russian wheat deal was one of the largest and most complex short-term commercial transactions in history. It was truly historic. The Soviets were allowed to corner one-quarter of the 1972 U.S. wheat crop while operating in almost total secrecy. If the Agriculture Department had not assured exporters that the Government would subsidize the difference between lower prices charged the Russians and higher domestic prices, the exporters would have had to charge the foreigners more. And they would have gotten more for their products. If the Department had used the information they had available about the world production and demand, and allowed prices to rise, we could have reduced subsidies and increased the balance-of-payments benefits. Instead of a trade arrangement that would benefit the American farmer, consumer, and taxpayer, we ended up with the "Great American Grain Robbery."

If a recent vote in Congress is any indication, the taxpayers can expect this kind of subsidized trade to continue. An amendment to the general farm bill to prevent government financing of private wheat and grain deals with the Soviets and Red China was soundly defeated. It would have prevented trade bumbling that cost $3 million in export subsidies and another $750 million in low-interest loans at rates below those available to Americans. I voted against giving the Russians and Red Chinese groceries on credit, paid for by the American taxpayer-consumer. The defeat of the amendment proved that many Congressmen have not learned from our expensive trading mistake last year.

Trade is trade, and gifts are obviously gifts. Our gifts of tax-financed grain and transportation, and the resulting higher prices paid for food in this country have been estimated to have cost the taxpayers a total of some $3.2 billion. That is too much generosity at American expense. Our national leaders are bending over backwards to provide food for the Russian tables at prices lower than those paid by the American housewife. And it does not make good economic sense.

In light of the millions of dollars the Department of Agriculture spent to subsidize the grain deal with Russia, it is almost unbelievable that the Secretary of Agriculture has announced his public opposition to the general farm bill. We are expected to believe that subsidies to American farmers are too expensive and that Mr. Butz does not believe in subsidies.

ENERGY CRISIS

HON. FRANK M. CLARK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. CLARK. Mr. Speaker, in recent weeks there have been more words written about the energy crisis than there have been barrels of oil produced or kilowatts of electricity generated. If, indeed, there is an energy crisis, it is because all the rhetoric is producing more heat than light.

I find myself totally out of patience with those who insist that no refineries be built, no powerplants, even if they are completed, should operate and then they return to their air-conditioned, electrically-heated homes in a gas-eating automobile from the hearings where they have testified.

I have talked to a number of people in my district and they are also completely out of patience with the so-called environmentalists. I describe them as "so-called environmentalists" because an accurate definition of an environmentalist is one who takes the entire environment into consideration.

A man sitting in his underheated living room unemployed because the EPA regulations shut down the factory in which he worked is hardly living in what I call a comfortable environment. The customer who cannot use his electric range or air-conditioning because wild-eyed small minorities insist that nuclear powerplants are not safe, despite all the operating experience and evidence to the contrary, is not living in a comfortable environment.

We all want clean air and water, but essentially what good are they to the man and his family who are living on unemployment because of irrational, disconnected, unrealistic EPA regulations?

Let us take for a moment the emission control devices required on automobiles. "Put them on," the EPA says. And when the auto manufacturer does as required he reduces the miles per gallon of the vehicle from 12 or 15 to 8. Great. Now we have cleaner air and add immeasurably to the gasoline shortage. What sort of madness is this?

It used to be said that what this country needs is a good 5-cent cigar. What we need now is a sensible approach to energy across the board. We cannot rationally consider just bureaucratic regulations that will add to the cost of the automobile, raise the price of gasoline and shut off the lights of the Nation. What we need is a reasonable balance between air, water and fuel and the needs, desires and practicality of the workingman. Ecology is a marvelous word but it has a closely related counterpart word in the English language called economics.

It is my belief that any bill presented to the Rules Committee of this House should come out of that committee, if it related to environmental improvement with a cost to the Federal Government, a cost to the consumer, a cost of number of jobs and unit cost for clearing each cubic inch of air or water. In effect, an air pollution emission device on an automobile can cost the Federal Government millions in regulation costs, cost the consumer $300 more for his car, cost thousands of jobs in the auto industry while retooling goes on and produces a negligible improvement in the air in Beaver Falls, Pa.

Enough is enough. At this stage I am more concerned with ear pollution than air pollution. By this I mean my own ear pollution listening to those who are devoting full time protecting the bald eagle, the wayward wren, the minnows around powerplants and cannot think for a moment about the people in my district who must work for a living in these plants to feed and educate their children. The energy crisis is here to stay—permanently—unless we come to our senses and relate practically to pollution and ecology to economics.

MURDER BY HANDGUN: A CASE FOR GUN CONTROL—NO. 8

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. HARRINGTON. Mr. Speaker, each year, handguns kill an ever increasing number of policemen in the performance of their duty. According to figures from the Federal Bureau of Investigation, 604 policemen were killed by guns—466 of those by handguns—from 1961 to 1970.

Today's victim of a handgun murder was Patrolman John W. Ruggiero, of Fall River, Mass. Ruggiero did not have his gun raised. He was in his cruiser making a license plate check on a car that was driving at night without lights when he was shot four times in the face and killed instantly by a .38-caliber revolver.

A passenger in the car was charged with the murder. He had apparently known Ruggiero when the officer was an undercover agent in the vice squad for the Fall River police.

Ruggiero, 27 years old and the father of two children, was described by his superiors as an "exceptional" police officer. He had been attending law enforcement classes four nights a week at Bristol Community College at the time of his death.

Law enforcement officials have recognized the need to control the sale and possession of handguns, and have become outspoken on the issue.

Peter J. Pitchess, sheriff of Los Angeles County, said before a House Committee on the Judiciary last year:

> I have done much soul searching on the issue of gun control. No longer can we afford the luxury of endorsing what has lately become a dangerous and untimely position—the fallacy that the safety of our populace is dependent upon an inalienable and largely indiscriminate right to bear arms.

It is time we heeded those words.

The article on the death of Patrolman Ruggiero which appeared in the July 24 Boston Globe follows:

FALL RIVER POLICEMAN SLAIN; TWO MEN ARRESTED

(By David S. Richwine)

A 27-year-old Fall River police officer was shot to death early yesterday morning as he sat in his cruiser making a routine license plate check on a car. Two men were arrested a short time later and charged with murder.

Patrolman John W. Ruggiero of 57 Eastern av., a Navy Vietnam veteran and father of two children, was killed instantly when police said he was shot in the face four times—apparently by someone he knew from his previous work as an undercover agent in the vice squad for the Fall River police.

Arraigned in Fall River District Court and charged with murder were Daniel K. Ferreira, 26, of 230 Flint st., and Joseph Silva, 34, of 552 Buffington st., both of Fall River.

Police said Ferreira was grieving from the death of his wife, Patricia, and his brother, Harold, in an automobile accident June 17 in Rehoboth.

Ferreira was ordered held without bail in New Bedford jail. Silva was ordered to Barnstable County House of Correction, after he told the judge he feared "ill will" from persons he did not disclose. Both pleaded innocent to the charges. Preliminary hearings will be held next Monday for Ferreira and Tuesday for Silva, court officials said.

Foot patrolman Robert Fortin, who witnessed the shooting, said Ruggiero was driving on Boutwell street about 3:30 a.m. when he stopped a vehicle driving without lights and asked headquarters for a license check by two-way radio.

Capt. James D. Crosson said that the passenger in the stopped car, alleged to be Ferreira, stepped out and walked over to the police cruiser and fired a handgun at close range several times. Police say that Ferreira then ran back to the car and the pair sped away.

Patrolman Fortin emptied his revolver at the car, hitting it several times, but he failed to stop the vehicle.

Ferreira was arrested more than a mile from the scene near Silva's house on Buffington street. The alleged murder weapon, a .38 caliber revolver and the bullet-riddle car were also found nearby, police said. Silva was arrested a short time afterward.

Fall River's acting police chief, Ralph S. Crudele, said Ruggiero had previously served in the vice and intelligence squad as an undercover agent. He said the slain patrolman was "an excellent police officer."

Capt. Charles Gregory, head of the police uniformed division, said Ruggiero was "an exceptional police officer who had received several commendations for his fine police work."

He had been attending law enforcement classes four nights a week at Bristol Community College.

Ruggiero lived at 57 Eastern av., Fall River, with his wife, Vivianne (Fortier), a son, John P., and a daughter, Suzanne D.

He was a Vietnam war veteran, serving in the Navy. He joined the police force in May, 1971, and was a member of the Fall River Police Relief Assn., Massachusetts Police Assn., International Brotherhood of Police Officers, and Immaculate Conception Church. He was also a ham radio operator.

Besides his wife and children, he leaves his parents, Mr. and Mrs. Anthony R. Ruggiero of Fall River; three sisters and a brother.

A military funeral will be held at 9 a.m. Thursday from Immaculate Conception Church. Burial will be in St. Patrick's Cemetery, Fall River.

THE NATIONAL URBAN LEAGUE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. RANGEL. Mr. Speaker, Sunday, July 22 marked the beginning of the 63d annual convention of the National Urban League being held here in Washington, D.C.

At a time when our national administration is retreating from the war on poverty and when a general purposelessness and apathy is exhibited by too many Americans, it is encouraging to note that the Urban League and its executive director, Vernon Jordan, are still moving forward with skill and determination in the fight for black civil rights and economic progress.

A large part of the present success of the organization is attributable to its director, Vernon Jordan. Following in the footprints left by the late, great Whitney Young, Jr., Jordan has done extraordinary work. A recent Washington Post column by William Raspberry entitled, "Optimism in the Urban League" sheds some light on Jordan's role in the League and in the civil rights movement. I submit the column for the attention of all CONGRESSIONAL RECORD readers:

OPTIMISM IN THE URBAN LEAGUE

(By William Raspberry)

There are several reasons why Vernon Jordan hasn't played tennis with John Ehrlichman recently. The one that matters is Ehrlichman no longer is in position to influence what happens to black people.

As executive director of the National Urban League, which is holding its 63rd annual conference here this week, Jordan's style is to rub shoulders, hob-nob and otherwise "deal with those who make policy and those who influence policymakers." Or, as he recently told Jet magazine. "I have learned that many, many things are accomplished on tennis courts, in restaurants and other such places. It's not important *where* you plead your case,"

He knows that his hob-nobbing gets him some raised eyebrows from black people (as it did for his predecessor, the late Whitney Young). But also (as with Young) it gets results. One example: At a time when black Americans are complaining about the drying up of federal funds for social programs, the Urban League has $22 million (out of its total special projects budget of $28 million) in federal grants.

Nor, according to Jordan, has it been at the cost of compromising Urban League principles.

But it isn't just the federal bankrolling that sets the Urban League apart from other civil rights groups. There is among the League's leadership an optimism about the organization's role that is almost startling by contrast to the NAACP and, especially, the Southern Christian Leadership Conference, whose director, Ralph Abernathy, recently resigned.

Jordan spoke of that optimism at a pre-conference press breakfast Friday morning. The 1960s, he said, were devoted to getting the rules changed, to getting rid of Jim Crow laws and "colored" water fountains. And while the Urban League was a part of that era, it was never in the limelight.

"But the '70s are the period of implementation," Jordan said, "and there is no better time for the Urban League. You look at the civil rights movement at this particular moment, and we have the greatest talent for delivering the promises of the '60s.

"In terms of local leadership, in terms of credibility across the board, in terms of resources financial and otherwise, we're in better shape than any other agency."

As Jordan would acknowledge, that isn't because the Urban League is smarter than other groups (although it clearly has avoided some of the more obvious tactical errors) but because of the nature of the struggle.

The legal battle, at which the NAACP excelled, is no longer stage center. The demonstrations and sit-ins and freedom rides, which were the tactic of CORE and SNCC and SCLC, are passe.

"We're not talking now about integrating lunch counters," Jordan says. "We're talking about things that were not even considered civil rights issues in the '60s: things like the delivery of comprehensive medical services, welfare reform, revenue sharing."

These are issues suited to the make-up of the Urban League (with its 3,000 professionally trained staffers) and to the style of Vernon Jordan, who knows he lacks the "charisma" to set people marching and singing and clapping hands. Jordan relies on subtler talents: his chameleon-like switch from shrewd lawyer to country boy from Georgia and back again as the situation requires; his willingness to pass up a chance to act "black" if acting "white" will get him what he wants; his penchant for candor.

He will risk unpopularity among black collegians by declaring black-studies to be "a lot of crap." He'll offend black-pride zealots by acknowledging, "to the extent that blacks have achieved in this country, we've not done it by ourselves." And he'll denigrate some of the things he has worked hard for by allowing that "except for the Voting Rights Act of 1965, the 1960s civil rights legislation helped only the middle-class blacks."

And whites. "That's the thing we've got to remember," he says. "The administration's budget cuts, its concept of revenue sharing are based on the notion that the programs of the 1960s were black programs. Maybe, so, but the vast majority of the beneficiaries of those programs are whites. It's tactically useful for us to remind white people of that fact."

I join with my colleagues in welcoming the members of the National Urban League to Washington, D.C., and wishing them much success at their conference.

SOME ADDITIONAL THOUGHTS ABOUT OUR FORMER POW'S

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. BROWN of California. Mr. Speaker, on several previous occasions I have taken the floor to comment and enter matter in the RECORD about those Americans who were held captive in Southeast Asia during the last several years by the people against whom we have been waging an undeclared war. On one such occasion, in February of this year, I entered in the RECORD some material by Dr. Bernard Sklar, a sociologist and assistant professor in the school of education of the University of Southern California.

Recently I came across an article in the June 1 issue of Commonweal magazine, also by Dr. Sklar, which contains some very interesting thoughts which he has developed since the return of our POW's. I would like to share some excerpts from that article with you, Mr. Speaker, and with our colleagues today. The excerpts, from the article entitled "America and the POW's," read as follows:

Excerpts From America and the POW's—Torn Between Two Emotions

(By Bernard Sklar)

The return of America's Prisoners of War from Indochina has brought a number of surprises—their relative good health, their tendency to celebrate the old virtues; to salute the flag, praise their commander-in-chief, etc.—but perhaps the most interesting of all is the way in which the nation as a whole responded to their ordeal. No matter what point of view one takes, there can be no question that the patriots, the zealots of Honor and Courage and Country have carried the day; and chief among those in the vanguard have been the members of the popular press. Beginning with the first official contact of American POW's with their American liaison teams, there has been a steady stream of heart-warming and human-interest stories, first about how proud and dignified and brave they were and then, at the first opportunity, how much they suffered in the way of "torture" and other cruelties in the hands of the enemy.

All of this had, to say the least, a kind of classical Kabuki quality. It is as if we were witnessing an ancient morality play with the characters all cast in unmistakable shades of black and white, their faces painted and their clothes appropriately arranged to reflect unmitigated good and evil. But that obviously is not the case. This was a disastrous war. It cost us over 50,000 lives and Vietnamese, North and South, over one and a half million if one counts the civilian population. It has devastated (and continues to devastate) a number of Southeast Asian countries and left a series of deep scars in our own land. And what is perhaps the cruelest joke of all—it has accomplished nothing. As one of the POW's has said:

"I don't think we won the war at all. . . . They asked for complete, total withdrawal of U.S. forces, a complete halt of air activity over Vietnam, the stopping of support of South Vietnam and for elections. Christ Almighty, in looking at the peace terms and everything, that's exactly what they got."

What then can we make of this most recent spectacle and what does it tell us of the future?

As in all complex sociopolitical affairs there are several levels of analysis that are appropriate to any understanding of this matter. From one point of view, it can be seen that the critics of the war have actually been more successful than they ever dreamed. They have won two victories. The first is that it is inconceivable that the U.S. will again allow itself to be drawn into the kind of adventure that led to the debacle in the first place. The American people and particularly the Congress, in spite of its many and apparent weaknesses, will not stand by and watch the President intrude our presence in some foreign land for any ostensible Communist-containing, democracy-protecting purpose however benign its original intention. We have learned, at too great a cost, to what this can lead. I am well aware that this *affaire d'honneur*, this incredibly egocentric war to sustain a nation's pride, is not over and that much remains to be done to stay our murderous weapons and prevent them from further destroying Laos and Cambodia. Nevertheless, and regardless of how long these death throes of cur passion for making failure disappear by further failure last, there cannot in my mind be another war of this kind for the U.S. in the foreseeable future. Clandestine encouragement or even support of such operations by foreign forces, yes; but the soverign use of uniformed troops and their supporting aircraft and ships, never. We have had it as the policeman of the world.

In this respect the nation has truly matured and from one point of view the entire antiwar movement is a living testament to the development of a people from a race of dependent, sheep-like and dutiful servitors of the sovereign will to a questioning, skeptical and truly democratic nation in which the people's will and the people's voice is heard. Needless to say, that voice is still weak and efforts are being made to suppress its freest expression (witness the current struggle over a journalist's right to protect his sources of information). Nevertheless, it would strain the imagination to believe that we could ever go back to a time like those prior to World War I or II, or as recently as the early 1950s, when the American people could be aroused to armed vengeance by the traditional slogans of "my country right or wrong" or for that matter, such silly ideas as a "war to end all wars."

* * * * *

The second victory for the antiwar movement is the fact that the nation's leaders have come to accept the realities of the current engagement—or at least not to suggest, as they have so strongly in the past, its irrealities. There is virtually no talk about the original ideals that motivated this war: the idea that we were in Indochina to protect the people there from the encroachments of Communism. In fact, many of the highest leaders of our country have been heard referring to the engagement as a civil war, something that the liberals had to scream at them only a short time ago.

* * * * *

At another level this may all seem quite hollow, for it is clear that we continue to bomb an innocent people in Laos and Cambodia, the Pentagon continues to enjoy one of the largest budgets of all time, and the President seems to be carrying the day in obscuring the true outcome of the war in Vietnam and our role in the destruction and debasement of that nation. Rallies against South Vietnam's Thieu were feeble during his recent tour of the country and it seems as if anyone raised his head to suggest, as Jane Fonda did, that the POW's were far from candid about their own situations and the war, they were mowed down in a barrage of villification and slander. In many respects this should not surprise us. Our war has ended in Vietnam and a large number of people, probably a majority of Americans, feel that the President did it—got us out of Vietnam, however imperfectly, and thus "ended the war." The subtlety of thinking that would be required for a true assessment of the capitulation that was involved in that process and the role that was played by the antiwar minority in bringing such an end to pass is something that the public is not ready to undertake. Just before the release of the first POW's in February I suggested in these pages [Jan. 5] that there would never be a better time to conduct such a debate. I also pointed out the propaganda potential for the Administration in the returning POW's and warned that they would be used to that end, which, of course, they were. But it would not have been possible for that to occur if there had not been active complicity in that respect on the part of an important segment of the press, a vast sector of the public and most of the POW's themselves.

* * * * *

Anyone who has followed the press coverage on the POW's in recent days must be impressed with the number of stories and the by-lines of those who have extolled the virtues of our men, their ingenuity in finding ways to communicate with each other, their courage in the face of often obscurely defined, as well as real, punishments, their endless imagination at devising ways to amuse and even educate themselves and the pains they took to remain steadfast to their nation and its principles. The wire services and the staffs of all the major papers seemed to explode with the output of what one can only surmise was the suppressed creativity of a number of journalists who had for so long wanted to say something good about this nation and its people. Even some better known journalists like Keyes Beech of the Chicago Daily News got into the act for it really was hard to resist.

And so it was for a great number of Americans. There had been such a long winter of ill tales of our servicemen, of our country and its government, its motives and objectives; so much black painted upon a canvas that many people felt was gold and green and blue that something like an explosion was bound to occur. It is to the credit of traditional journalism that newspapermen understood, as I think many liberals failed to understand and exploit this opportunity. What it implies is that and that alone. It was a moment for nostalgia; to celebrate old and worn-out sentiments and ideals. It was as if someone had put on a Civil War pageant or World War I parade. Except for the clashing, incongruously modern backdrop of jet age aircraft and sophisticated telecommunications systems which permitted us to share this experience instantaneously and intimately, what one saw was America at its bravest and best. "Don't tell us what we are," the press seemed to be saying, "let us remind you of what we were."

In many ways one can share that feeling. Regardless of one's position in regard to the war, it is clear that American fighting men retain a salty nature and a kind of pluck reminiscent of Bill Mauldin's World War II cartoon characters, Willy and Joe, that one can quite appreciate. Unfortunately, we cannot separate this aspect of their character from what they did in Vietnam and elsewhere. Our innocence ended with the first reports of saturation bombing and destrucion of a simple pastoral people in the face of a modern Juggernaut—America; on the rampage in Southeast Asia, escalating its revenge in tonnage of bombs and meaninglessness of devastation in geometric ratio to its frustration and anger at its self and its failure to achieve even one of its reconstituted purposes, civilian or military, in that hapless country. For America, insofar as this POW episode is concerned, is torn between two emotions, one born out of a past that many people wish to preserve but which obviously does not function for the world we live in and one the child of the terrible present. The former an emotion of simpler times, when men faced each other with guns and tanks rather than ultrasonic detectors and high-altitude bombing; the other a feeling that grows out of the realization that there are no heroes or devils in the world, only problems and men that are caught up in them.

Unfortunately it takes time for men to disgorge their old sentiments and take on the new, more useful ones that they need to adapt to their environment. Judging from everything we know from history, it is also among the more difficult things that human beings are asked to do; but do it we must or, again as history demonstrates, suffer devastation, decline or even extinction. In the twilight zone that separates one era from the next, there may be a moment when those men holding on to the ancient ideals make their last plea for dignity and respect and those representing the present and the future look on sullenly and with disdain. A stranger could very well have pity on them both, for there is much that is sad in the closing of the old world and the making of the new.

CAPT. EDDIE RICKENBACKER

HON. WM. JENNINGS BRYAN DORN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. DORN. Mr. Speaker, Capt. Eddie Rickenbacker was a great pioneer in the American tradition. He rivaled our Founding Fathers in promoting new ideas and concepts. Like them, he was a man of courage and indomitable will. He braved the unknown in the same fearless way that the early pioneers explored and conquered a wilderness land despite all the dangers and hardships.

Eddie Rickenbacker exemplified the American dream. Born in humble circumstances and without formal higher education, he nevertheless became one of the best-educated men of our time in aerodynamics, navigation, meteorology, and space.

Captain Rickenbacker was completely dedicated to the American system of private enterprise. He believed that human rights and property rights were one and inseparable, and he was convinced that if we lost one we would lose the other. He believed in rugged individualism and in the worth and dignity of the individual.

Through Eddie Rickenbacker's dynamic leadership Eastern Airlines became one of the truly great transportation systems in modern world history. He was in the airline business to perform a superior public service and also to make a profit in order to expand and improve that service. Eastern today employs over 35,000 men and women with an unsurpassed esprit de corps and dedication to serving the public.

Eddie Rickenbacker was a firm believer in God as the Creator and Ruler of the Universe. He believed in the destiny of the United States as a nation under God, and he felt that our Nation would prosper and grow as long as it remained a nation under God.

Capt. Eddie Rickenbacker was a patriot serving our country with heroic distinction in time of war. He became in World War I one of the world's greatest aces, destroying in aerial combat 26 enemy planes. He was a man of peace who believed that peace could only be achieved through maintaining our military strength and improving our science and technology. I only wish that America had heeded his warnings about air power in the 1920's and 1930's. Had we listened and acted, perhaps we could have avoided the world's most destructive and tragic world war.

During that war, Eddie Rickenbacker again served his country with superior dedication and incredible courage, calling upon his extensive knowledge of technology to aid our Nation. As an adviser to the President, he undertook with great skill special missions for the White House.

The United States is a greater nation today and the cause of freedom is more secure around the world because of the life and services of Capt. Eddie Rickenbacker, one of the most uncommon men of our century.

To Mrs. Rickenbacker, to his sons and the entire Rickenbacker family we extend our sympathy and our deepest respect to the memory of an outstanding American who made such invaluable contributions to the causes of freedom, national defense, and individual dignity.

REPORTS FROM WASHINGTON

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Ms. HOLTZMAN. Mr. Speaker, as Members of the House of Representatives we have been called upon to consider some very significant issues during these last 6 months. This week I am sending out my second newsletter to my constituents to report on these issues, on legislation I have introduced, and on federally related local issues in which I have been involved. I am also asking my constituents to complete a questionnaire on their views about Watergate.

At this time I would like to insert the full text of my newsletter:

LIZ HOLTZMAN—REPORTS FROM WASHINGTON

DEAR CONSTITUENT: There is much to report since my first newsletter. It has been particularly gratifying to me that so many of you really care about what is happening in Washington. Hundreds of you have telephoned, visited my District Office or written to let me know how you feel about matters before the Congress or problems in the District. This has been an exciting and fruitful four months, and I would like to report some of the most important news to you.

SPEEDING FEDERAL CRIME FIGHTING FUNDS TO NEW YORK CITY

The rising crime rate affects everyone in our District in a direct and personal way. For this reason I feel very strongly that the Federal Government must play a more effective role in helping police combat crime.

Last month, as a member of the Judiciary Committee, I introduced the "Crime Control Revenue Sharing Act of 1973" (H.R. 8021) to replace the existing Federal crime-fighting program. My bill concentrated federal funds in high crime areas like New York City and cut the red tape which has kept money from reaching cities quickly. For example, by the middle of 1972 New York State spent only 15% of the funds available for fiscal 1972 and 56% of the funds for fiscal 1971.

It was gratifying to me that the House and Senate adopted several of my reforms.

In the past it has taken as much as one year to get funds from Washington to New York City. Now under my plan states must approve city requests within 60 days. Washington must approve grants within 90 days. States will also be encouraged to seek improvements throughout the criminal justice system including court reform and better arrest procedures.

I believe these improvements will make the federal crime-fighting program more effective. For example, we will be able to look for ways to cut police paperwork so that police can spend more on-duty time patrolling the streets.

The House authorized $1 billion for this program. If spent wisely, this money can begin to make a difference in our fight against crime.

TAKING PRESIDENT TO COURT TO END CAMBODIA BOMBING

Few issues have evoked a stronger response from our community than the President's bombing of Cambodia.

Because I was so disturbed by the President's actions, which as a lawyer I believe to be unconstitutional, I filed suit in Brooklyn Federal Court to end the bombing. Three Air Force officers who had been flying missions over Cambodia joined the suit. This was the first anti-Cambodia bombing suit filed in the U.S.

On June 13, in a landmark decision, Federal Judge Orin Judd upheld my right to challenge the President's bombing operations. I am very proud that because of my action and the Court's decision, never again will a President be able to begin a war without having to answer to the courts and the Congress.

In my suit I argued that under the Constitution, Congress alone can declare war and raise armies. We have not declared war in Cambodia. In fact, Congress has repeatedly and specifically expressed its opposition to the bombing.

It is disheartening to report that on June 29, Congress passed a law to cut off funds for the Cambodia bombing after August 15. Although this vote would appear to be a victory for those of us opposed to the President's actions, I voted to end the bombing immediately. I believe there is no justification for continuing this war which wastes $4 million a day and places more American servicemen in danger.

I have continued with my lawsuit because I still believe the President's bombing is unconstitutional since a majority of Congress has clearly called for its immediate end.

ENDING ILLEGAL CIA ACTIVITIES

All of us are troubled by reports of CIA involvement in domestic law enforcement. For this reason, I am pleased to report that the House and Senate adopted my amendment barring certain domestic CIA activities. This was the first congressional action since the revelations concerning CIA involvement in the Watergate affair.

Such CIA action threatens our personal rights and the integrity of the CIA itself. In New York, for example, it was disturbing to learn that CIA employees have been training New York police on surveillance techniques and foreign intelligence analysis. My amendments puts an end to such activity.

SCHOOL MILK PROGRAM

A few weeks ago a mother told me that her child who goes to P.S. 92 was unable to buy milk in school and therefore went without milk all day.

My District Office found that the Federal government provides a subsidy which entitles all elementary school children, except those who participate in the free breakfast or lunch programs, to buy milk for 25 cents a week.

In the case of P.S. 92, I contacted Community Superintendent Charles Schonhaut who promised to make milk available to children who wish to buy it.

PROHIBITING A PRIVATE AIRFIELD AT FLOYD BENNETT FIELD

Many of my constituents have shared with me their opposition to building a civilian airport at Floyd Bennett Field. This airport would bring noise and air pollution and would be hazardous to air traffic and the surrounding area.

I am very pleased to report that on the floor of the House I was assured that no federal funds could be spent to develop such an airport.

You may also be interested to know that Congress has just appropriated $6.2 million for the operation of Gateway National Park, and that planning is already under way too for this park at the Floyd Bennett Field site—without an airport.

MORE POLICE FOR SHEEPSHEAD BAY

My office received a number of complaints about inadequate police coverage in the vicinity of P.S. 286, Shellbank Junior High School, and Sheepshead Bay High School. Working with the Parents Association of P.S. 286, I contacted Police Commissioner Cawley. Shortly thereafter the police assigned a special patrol car during school hours.

A NEW FIRE ENGINE FOR FLATBUSH

Until last May, Ladder Company 157 on Rogers Avenue had been operating with a 15-year-old hook-and-ladder. This fire engine broke down frequently and posed an unacceptable danger to the men of the Company and to Flatbush residents.

I joined with community groups to ask Fire Commissioner Robert Lowery to replace the engine. I am happy to report that Ladder Company 157 now has a new fire engine, which I had the privilege to inspect at the South Midwood Residents Association Block Party.

MAJOR VOTES IN CONGRESS

Increase Social Security benefits by 5.66%—Yes.

Roll back prices—Yes.

End seniority system for choosing committee chairmen—Yes.

Open all committee meetings to the public—Yes.

Increase services to older Americans—Yes.

Immediate end to Cambodia bombing—Yes.

Rollback rents and stabilize rents under federal controls—Yes.

Allow use of Highway Trust Fund for Mass Transit—Yes.

Require full funding of school child nutrition program—Yes.

Expand Federal Crime-Fighting Program—Yes.

Appropriate $475,000 for House Internal Security Committee—No.

Extend hospital construction and other health programs—Yes.

Increase and expand the coverage of minimum wage—Yes.

QUESTIONNAIRE ON WATERGATE

The Watergate revelations are of profound concern to me. The Constitution gives the power to begin impeachment proceedings to the House alone. For this reason, as your Congresswoman, I would welcome your views on President Nixon and the Watergate break-in.

[Answers provided for yes, no, undecided]

1. Do you feel that President Nixon—

a. Had prior knowledge of the Watergate break-in?

b. Participated in the Watergate cover-up?

2. Do you feel that President Nixon should be impeached—

a. If investigation reveals he had prior knowledge of the Watergate break-in?

b. If investigation reveals he participated in the Watergate cover-up?

c. Because of the alleged illegal spying, wiretapping and other activities of his staff?

3. Do you think President Nixon should resign?

4. Do you think that the Media is paying too much attention to the Watergate investigations?

I hope that you will continue to write to me about issues of concern to you and that you will get in touch with my office if we can be of help. I wish you and your family an enjoyable summer and look forward to reporting to you again in the early fall.

Sincerely,

ELIZABETH HOLTZMAN,
Member of Congress.

TRAINING DOGS FOR POLICE WORK

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. CARTER. Mr. Speaker, law enforcement has undergone a number of changes in recent years. Police academies are graduating increasing numbers of cadets, each well trained in the science of police work. These rookies have contributed greatly to the efficiency of local police departments through their great knowledge of sophisticated crime detection techniques.

I offer for the consideration of my colleagues in the House an article which recently appeared in the Adair County, Ky. News. This report deals with the method of "dog running" taught by Adair County Deputy Sheriff W. O. "Candy" Mann. While I feel Deputy Mann should be commended for his interest in scientific endeavors, I hesitate to endorse his method, since I once had a patient who lost an ear practicing Professor Mann's tactics. The article follows:

"CANDY" MANN DESCRIBES "DOG RUNNING"

(By Fred Lawrence)

Your're selling Girl Scout cookies door to door. You walk into a yard that looks about the same as any other. Then, suddenly, a three foot high, 100 pound German Shepherd that's all fangs and claws comes streaking around the corner with an I'm-going-to-have-you-for-dinner look in his eyes.

What do you do? Die of heart failure on the spot? Drops your cookies and run the mile in world record time? Or do you get down on all fours and charge the dog head on?

Well, if you're Adair County Deputy Sheriff Wilbur Orville "Candy" Mann, you meet the dog on all fours. And for him, anyway, this method always results in the dog turning tail and running away.

This method of defending ones self from dogs requires no technique, said "Candy" Mann, "The nerve to do it is the main thing."

"Candy" Mann described his method of "dog running," as he called it, by saying, "The only way I do it is, if I start toward a house and a dog starts toward me, never run. If you run you will always get bit. You let the dog get pretty close and take off your hat, then get down on all fours and start growling and waving the hat."

Every dog has run away so far, he said. He added, "I leave them under the house growling at me." That's why, he said, "they send me to serve papers when there is a mean dog at the house."

"Candy" Mann said he is currently training Sheriff Joe England to chase dogs and that England has run a couple. He said that Deputy Sheriff Bill Ballou was afraid to take the training because Ballou is afraid of dogs and snakes.

Any other police or law enforcement agent can receive training in dog running from "Candy" Mann. He will even go to a University or police academy and give instruction and advice on dog running.

The method of dog running "Candy" Mann uses was not an original idea of his. He said he had heard about it for a while before he tried it. "I did it the first time years ago in Dayton, Ohio, on a bet," he said. It worked and he has been doing it ever since.

He said he had no idea how many dogs he had run during his 7½ years as a deputy sheriff, but "I've never been bitten."

Also, he said he does not know why the method works, but it works on any kind of dog, he said. "I've run any kind of dog there is in Adair County," he said.

"Not being afraid of the dog is the main thing," he said. "If you run or even think of running, you'll get bitten. You've got to just keep going toward them."

But, Candy Mann said, "you feel kind of funny doing it." No doubt, though, most people would rather feel funny, then feel a dog's fangs in their leg.

So, the next time you are out selling Girl Scout cookies and you come to a house that looks about the same as any other, but has a big vicious dog that wants you for his lunch, you needn't have heart failure or try to set a world record for the mile. Just get down on all fours and charge the dog head on growling as mean as you can.

And if that doesn't work, start carrying a shot gun!

ENVIRONMENTAL BLACKMAIL

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Ms. ABZUG. Mr. Speaker, I wish to draw to the attention of my colleagues an article published in Steel Labor, the newspaper of the United Steelworkers of America. The American steel industry has been cited as the Nation's worst polluter, and often strict controls of this pollution pose the prospect of layoffs. Many times this possibility is exaggerated by the individual company, leading workers to believe that clean air or water necessarily means unemployment. Fortunately, steelworkers have withstood this empty threat. They have become increasingly aware of the quality of air and water and adamant in the enforcement of stricter pollution laws. The following article "Steelworkers Say 'No' to Environmental Blackmail," deals specifically with this situation: how the American steel industry lags far behind in controlling air and water pollution; how unions campaign to minimize or prevent the predicted job loss; how the workers themselves organize and actively participate in pollution control.

The article follows:

STEELWORKERS SAY "NO" TO ENVIRONMENTAL BLACKMAIL

MARIETTA: CLEAN AIR—AND JOBS

"What has taken place in Marietta is a lesson that all America should learn and not forget. Today, Marietta has cleaner air. Union Carbide has greatly reduced its air pollution. And not a single job was lost because of the air pollution control program!"

That's the essence of a recent feature article in "Focus," a publication of the Ohio AFL–CIO. It's a story of attempted "environmental blackmail" and what happened when workers stood firmly against the threat.

Some 1,400 workers at Union Carbide's plastics and ferroalloys plant, on the banks of the Ohio River in Marietta, Ohio, are represented by USWA Local 14976, whose president is Dale Hendershot, and Oil, Chemical & Atomic Workers Local 3–639. Both locals were deeply involved in the controversy which arose in January, 1971, when the federal Environmental Protection Agency ordered the company to clean up the air pollution from the power plant supplying energy for its huge ferroalloy furnaces.

Sulfur dioxide pollution, the government said, must be reduced by 40 per cent by Oct. 20 of that year and by 70 per cent no later than April of 1972. Deadlines of September, 1971, and March, 1973 were established to cut fly ash pollution by 25 per cent and 50 per cent.

"One of the most significant developments . . . in the last half decade has been the increased awareness and concern of working people about the quality of air and water," states the "Focus" article, adding, however, that it is when anti-pollution laws are implemented that "the squeeze" begins to be applied.

On Jan. 11, 1971, Union Carbide declared the deadlines were unrealistic. If the government insisted they be met, the company said, some operations would have to be shut down, laying off 625 workers. "Shock waves of the announcement," said "Focus," began in Marietta and traveled east and west to both coasts."

Ralph Nader called the company statement "unnecessary, unjustified, and unconscionable." Congressmen attacked it as "economic and environmental blackmail." Sen. Edmund Muskie ordered a Senate investigation. Just as importantly, in spite of some feeling that perhaps the company was right . . . maybe the standards were too rigid, the unions held firm.

"One union president in the plant," according to "Focus," said several approaches were made asking him to appeal to governmental agencies for an extension of the deadlines. 'We called a meeting of the members and laid it on the line for them,' said the local president. 'He had a vote that night and it was overwhelmingly in support of the local union to keep insisting the company accept its responsibility to clean up the air, layoffs or not.' "

"It's been over two years since that controversy surfaced," the article said, noting that no job layoffs occurred. Instead, the company reports that it spent more than $15 million on air pollution control equipment in recent years. It also began buying more low-sulfur coal for its power plant generators. Company charts show that fly ash emissions have been reduced more than 90 per cent since 1970 and that sulfur dioxide discharges are down almost 40 per cent.

Although the company is still spending large amounts of money for a continuing pollution control program, the plant manager said that the Marietta facility is once again operating at a profit. The crisis "brought about an increased awareness in this plant by both management and workers. And this increased awareness has resulted in more efficient operations here," he said, calling the current job outlook "at its highest level."

"Now," concludes the "Focus" article, "other polluters along the Ohio River—and throughout Ohio and the nation—should get down to a serious approach towards ending pollution. Then we'll all be able to breathe a little easier!"

The American steel industry "lags far behind what is legally required and technologically feasible" in controlling air and water pollution from its mills, the environmental impact of which ranges from "negligible to devastating," concludes a recent study by the Council on Economic Priorities, a New York-based group which describes itself as "a non-profit organization dedicated to analyzing the performance of U.S. corporations." The study found that "steel has only begun to make a dent on its environmental problems."

The 521-page report, released on May 21, covers 47 major plants of seven of the nation's largest steelmakers—U.S. Steel, Bethlehem, Republic National, Jones & Laughlin, Armco, and Inland. This mill-by-mill analysis, the report stated, "indicates that there is no steel mill operated by a major steel producer which will be closed in the next few years solely because pollution control costs have rendered it unprofitable."

It did find, however, that the lifespans of a few marginal plants might be shortened by the necessity of meeting pollution standards. Listed were an Armco plant in Hamilton, Ohio, a Republic mill in Youngstown, Ohio, and U.S. Steel properties in Youngstown, in Provo, Utah, and in Duluth, Minn.—some of which already have been partially phased out.

The Council, which found vast differences in the degree of pollution control at the 47 properties surveyed, noted that anti-pollution lawsuits or enforcement actions by government agencies are pending against 40 of them.

STEEL INDUSTRY, AIR, WATER POLLUTION "NEGLIGIBLE TO DEVASTATING" IN IMPACT

National Steel Corporation was cited as the worst polluter of the air; Republic, as the worst water polluter. At the same time, U.S. Steel, was described as "far and away the largest gross air polluter" and its Gary (Ind.) Works as the worst air polluting mill in the study, spewing out 22,000 pounds of emissions an hour, which are responsible for 40 per cent of the city's soot and dust pollution. U.S. Steel, of course, is the country's largest steel producer.

Compared on more than a score of specific pollutants, the seven companies were rated as follows in terms of particulate emissions per ton of steel produced: Armco, 4.2 lbs.; Bethlehem, 6.6 lbs.; Inland, 6.7 lbs.; Republic, 8.2 lbs.; J&L, 8.9 lbs.; U.S Steel, 19.8 lbs.; and National, 21.9 lbs.

Much of Armco's capacity, making extensive use of electric furnaces, is either new or recently rehabilitated. Its small Sand Springs, Okla., plant, which emits a total of 25 pounds of soot an hour—less than one per cent of the area's pollution—was cited as an example of cleanup possibilities. The company also was praised for extensive water recycling at some plants, although it was criticized for such things as oil discharges at others.

Besides U.S. Steel's Gary Works, the CEP study lists National Steel's Weirton (W. Va.) Works and U.S. Steel's plants in Birmingham, Ala., and Clairton, Pa., among the "most air-polluting mills." The Clairton Works was called "the second largest sulfur dioxide polluter in the study," topped only by National. "No major steel producer emerged with an overall good record in water pollution control," the research group stated, noting that Republic's "distinctively poor water pollution record" resulted largely from its " abysmal water pollution controls" at four mills in northeastern Ohio—in Canton, Massillon, Warren, and Youngstown.

Also listed among the worst water-polluting plants were those of Bethlehem Steel at Johnstown, Pa., and J&L at Aliquippa, Pa. The report found Bethlehem's Sparrows Point, Md. plant "a very heavy polluter, the worst in the study for arsenic (324 pounds a day) and cyanide (5,469 pounds a day)." The poisons have killed fish a mile out into Chesapeake Bay, the report notes. The CEP found that 11 plants, on the other hand, including seven of U.S. Steel's, discharge water freer of suspended solids than the water taken in.

While spokesmen for the industry admitted that the CEP report was impressive in its comprehensiveness, they complained that some of the data was outdated and not reflective of recent or pending pollution control improvements. The Council, which began its study in February, 1972, noted that steel was the only one of several industries studied which refused to cooperate in providing information. After being turned down by all the companies in its original request for data, the CEP turned to statistics from various government agencies and other published studies in compiling its report.

Accepting as accurate the estimate of the federal government's Council on Environmental Quality that pollution control measures still needed will cost the industry about $2.8 billion, the CEP study stated that the companies could meet the cost of compliance with price increases of about 1.1 per cent per year over a five-year period—an amount, it said, which would boost the cost of a large car by only about $5.

On May 10, U.S. Steel set off a round of price increases in the industry with its announcement of boosts averaging 4.8 per cent on sheet and strip products, which account for some 40 per cent of the industry's shipments. Slated to go into effect in mid-June, the price hikes were cancelled in the wake of the new Nixon 60-day price freeze, announced just prior to that time.

The industry, which estimates that it spent $201.8 million on environmental control in 1972, criticized as being too low the CEP estimate of price hikes needed to cover future pollution control costs. One steelmaker said its own estimate would be about double that of the Council. The CEP study did concede that the industry "might have cause to worry about its financial position" in the light of its low profitability in recent years. Last year, however, was a much better year than 1971 for steel. A USWA Research Department compilation of net profits for 23 major producers showed a gain of 37.4 per cent—from $521.1 million in 1971 to $715.9 million in 1972.

While President John P. Roche of the American Iron and Steel Institute has stated that the industry "is moving as rapidly as possible to meet its environmental quality goals, despite the enormous financial burden that the task imposes," lengthy legal battles brought by government agencies and other groups often seem to have been necessary to produce company action.

The city of Gary, for example, has long pressed for pollution control by U.S. Steel, which has claimed a lack of technology necessary to meet certain government deadlines. Over a year ago, a Superior Court judge sternly rebuked the company and, on April 18, 1973, the Environmental Protection Agency issued the Gary Works and the Universal Atlas Cement Division a notice of violation, citing "21 different sources emitting over 70,000 tons per year of particulate matter." The company also was recently charged by an Allegheny County judge with dragging its feet in cleaning up the Clairton Coke Works, failing to live up to a consent order it had agreed to almost a year ago.

The CEP study, which says that "commercially available technology could eliminate better than 90 per cent or the air and water pollution" coming from steel mills, notes that the industry also faces several major solid waste problems, including those associated with slag dumping and the disposal of taconite tailings. The industry has made only "token" efforts to encourage the recycling of the metals it produces, it adds.

JAMESTOWN: UNION TO SORT FACT, FICTION IN MOST RECENT JOB SCARE

JOHNSTOWN, PA.—Bethlehem Steel Corp.'s announced plans to replace its existing primary steelmaking facilities here with a new electric furnace shop, which project a gradual reduction in employment from 11,800 to 7,100 workers, will be thoroughly investigated by a Steering Committee of USWA local union presidents, under the direction of District 15 Director Joseph Odorcich. Liaison with the Congress, state legislature, and key government agencies also will be established early in the union's campaign to minimize or prevent job loss.

Similar scares have been occurring at the Johnstown Works, according to some unionists, "for as long as any of us can remember." The union sees the need, therefore, of delving deeply into the facts of the situation before taking action, so as to be able to deal most effectively with the problem.

The June 13 Bethlehem announcement, released to the news media prior to a meeting of local management with USWA local union officials and staffmen, call for the electric furnace shop to be operational by 1977, with 4,700 jobs at the plant being phased out between the latter part of 1974 and that time. The company projects an eventual decline of over 56 per cent in ingot capacity at the Johnstown facility, with the gradual phase out of three blast furnaces, eight open hearths, three coke batteries, one two-strand sinter plant, the plate mills, some of the bar facilities, and a portion of the rod operation.

While Bethlehem said that the timing of an intensive study of the Johnstown plant and the decision to close down certain operations were determined by pollution control requirements, it declared that "the study would have been undertaken in any event and the general conclusions, except for the timing, would have been similar because of other considerations."

"Even if Bethlehem equipped all existing plant production facilities with pollution control devices capable of meeting existing and proposed environmental standards," the company said, "there still would be problems of market opportunities, transportation, higher product quality requirements, and age, location and physical layout of the plant which would affect its future character."

The bulk of the Johnstown workers, at five divisions of the Bethlehem plant, are represented by USWA Locals 2635, 2632, 2644, 2633, and 2634. Locals 2734 and 3176 represent workers operating and servicing Bethlehem railroads, and the company's Coal Mines Accounting Department Office is under contract with USWA Local 7400. Johnstown operations of the Standard Slag Co., whose employes are members of USWA Local 4280, also could be affected by a large-scale cutback at Bethlehem, believes Subdistrict Director Andrew Koban.

The Steering Committee of local union representatives will attempt to sort out fact from fiction in the controversy, as a basis for appropriate action. Some workers see the company statement as a ploy to try to stimulate increased production, reported Mr. Koban, while others believe Bethlehem's present problems are due to its failure to update equipment over the years. Already, a few state officials have called for further delay in implementation of air quality standards, although Bethlehem earlier was given a two-year extension and despite company cost estimates which indicate that pollution control was not the overriding factor in its decision.

Praising the "excellent reputation of the area's work force," Bethlehem has pledged cooperation with the community in finding substitute job opportunities and "has instructed its industrial development personnel to seek out companies which might be persuaded to establish manufacturing facilities here."

In probing the current situation, the USWA committee undoubtedly will maintain a healthy skepticism. However, pledged to work with those parties and in those directions offering workers the best prospects for brightening a seemingly bleak picture, it will act on its most accurate reading of the facts in the case.

HOUSING NEEDN'T DESTROY ENVIRONMENT

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. FORSYTHE. Mr. Speaker, like many Americans I am becoming increasingly concerned about the so-called urban sprawl, the turning of farmland and woodlands into concrete pastures, the devastation of natural resources, the mad congestion, the pollution.

As Americans become more affluent they seek more room for themselves, they want better houses, they want peace and quiet, they want safety and tranquillity.

They move outside the city, engage in a daily rat race of commuting, live on small unshaded lots with little or no privacy from their next door neighbors.

They con themselves into saying they are happy; that they have found the answer; that their investment was a wise one.

Much of this could be avoided if developers made an effort to preserve woodlands, wildlife, trees; if subdivisions were planned with more than the profit margin in mind.

In my district in New Jersey, a new community is sprouting in the south Jersey pinelands where it will be more convenient to walk or ride a bike to the store, or the doctor's office, than to drive. There will be lakes, wild flowers, birds, outdoor recreation. A biologist marks wild plants and they are saved from the bulldozer's path, moved to another location where they will be enjoyed.

Every home and apartment building will touch the community's "environmental commons," and more than 650 acres of the 2,500 acres involved will be open ground, to preserve the natural resources and basic geology of the virgin land.

The new community, to be known as Kings Grant is already under construction. I have visited there, and I have been impressed with the care being taken to prevent the rape of this beautiful area simply for profit.

King's Grant takes its name from the fact that King James II of England made the grants to insure English settlement almost 300 years ago and ownership of the tracts have come down directly over the years.

Bill Seltzer, president of the firm which is creating King's Grant, should be commended for the imagination, thought and care that is going into this new community.

THE SUPREME COURT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. HAMILTON. Mr. Speaker, I insert my July 25, 1973, Washington Report entitled "The Supreme Court," in the RECORD, as follows:

THE SUPREME COURT

Not all the important news from Washington comes from the President or the Congress. Indeed, several recent and landmark decisions of the U.S. Supreme Court have more impact on our daily lives than many Presidential and Congressional actions.

In the history of the Nation only 100 men have sat on the Supreme Court, but these Justices, as these decisions remind us, influence the pattern of our lives in important ways. Presidents are aware that appointments to the Supreme Court are among their most important actions.

With controversial decisions, the Supreme Court in this recent term moved generally, but not invariably, toward a more conservative posture. The often divided Court set a course of "judicial conservatism," supported consistently by President Nixon's four appointees to the Court (Burger, Blackmun, Powell, and Rehnquist) who voted together on 70 percent of the cases heard. Justices Marshall, Douglas and Brennan, who also voted together 70 percent of the time, but often as dissenters, were the "liberal activists" of the Court. The swing Justices (Potter and White) in the center voted most of the time with the Nixon appointees.

The Court was reading the election returns, but, as with the abortion decision, it could be unpredictably independent. The Court often struck a theme of national unity, as in its insistence on one rule of law for both North and South in school desegregation, but its obscenity decision was a triumph for states' rights. A vast ideological gap between Justice Douglas on the left and Justice Rehnquist on the right splits the Court.

OBSCENITY

By a 5–4 decision the Supreme Court rewrote the definition of obscenity. Previously, material could be obscene only if: 1) its dominant theme considered as a whole appealed to prurient interests; 2) it was patently offensive because it went beyond community standards, which were national, not local or state standards; and 3) was utterly without redeeming social value. By the new ruling, the definition of obscenity covers any work "which appeals to the prurient interest in sex, which portrays sexual conduct in a patently offensive way, and which, taken as a whole, does not have serious literary, artistic, political, or scientific value." No longer must a work be "utterly without redeeming social value."

Juries applying this law will base their decisions on what is offensive by the local community viewpoint, a move which is likely to promote widely differing decisions in different parts of the country. The decision, which will almost certainly produce much new litigation, will permit states to restrict pornography to a greater degree.

ABORTION

The Court struck down anti-abortion laws in 46 states by ruling, 7–2, that a woman may have her pregnancy medically terminated without restriction during the first 13 weeks and under state health regulations for the next 16 weeks. Only during the final 10 weeks, when the fetus is judged capable of surviving if born, may state laws prohibit abortion.

The Justices rejected the view that the fetus becomes a person upon conception and thereafter enjoys "the right to live," and held instead that a pregnant woman has a constitutional right of privacy that extends to the termination of a pregnancy.

PRIVATE SCHOOLS

The Court by a 6–3 decision struck down state laws designed to provide direct and indirect financial assistance to private and parochial schools. The Court invalidated tax credits and reimbursements of a share of the tuition for parents and direct maintenance payments to private and parochial schools. The Court, in holding that such laws violated the constitutional barriers between church and state, reversed a 25-year trend which has allowed limited assistance like bus service and secular textbooks for parochial students. The result of this decision is to preclude the furnishing of any significant amount of government assistance to parochial schools.

In other important decisions, the Supreme Court upheld better school systems for richer communities, decided a number of cases which reflect a pattern in favor of stricter law enforcement, and strongly protected the environment.

SENATE—*Thursday, July 26, 1973*

The Senate met at 10 a.m. and was called to order by the Acting President pro tempore (Mr. METCALF).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal God, help us to do our work better every day, to add to our store of knowledge and to establish a warmer friendship with our colleagues. Each day may we learn more of self-mastery and self-control. Grant unto us a wiser use of pen and tongue and a stronger will for righteous judgment. Save us from demanding standards in others which we do not meet in ourselves or from being very easy with ourselves and very hard on others. O Lord, be to us an ever-present help, that in this place we may honor the Nation and faithfully serve Thee. At the end of every day may we be nearer to Thee than when the day began.

We pray in the Redeemer's name. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, July 25, 1973, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of John R. Ottina, of California.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nomination on the Executive Calendar, under Department of Health, Education, and Welfare, will be stated.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

The second assistant legislative clerk read the nomination of John R. Ottina, of California, to be Commissioner of Education.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified about this confirmation and others preceding it for which unanimous consent has not been given that he be notified.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 324, 325, and 326.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EURATOM COOPERATION ACT

The bill (S. 1993) to amend the Euratom Cooperation Act of 1958, as amended, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the Euratom Cooperation Act of 1958, as amended, is amended by deleting the words "two hundred fifteen thousand kilograms of contained uranium 235" and substituting therefor the words "an amount of contained uranium 235 which does not exceed that necessary to support the fuel cycle of power reactors located within the Community having a total installed capacity of thirty-five thousand megawatts of electric energy, together with twenty-five thousand kilograms of contained uranium 235 for other purposes".

McGEE CREEK RESERVOIR, OKLA.

The bill (S. 2075) to authorize the Secretary of the Interior to undertake a feasibility investigation of McGee Creek Reservoir, Okla., was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized to engage in feasibility studies of the water resource development potential of the McGee Creek Reservoir project in Atoka County, Oklahoma.

INTERVENTION IN POLITICAL AFFAIRS OF FOREIGN COUNTRIES

The bill (S. 2239) relating to intervening in and influencing the political affairs of foreign countries or political subdivisions thereof, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for purposes of this Act—

(1) "election" includes general elections, special elections, primary elections, political conventions, elections by public bodies (including elections by cabinets, parliaments, and congresses);

(2) "contribution" includes a gift, subscription, loan, advance, or deposit of money, or anything of value, and includes a contract, promise, or agreement to make a contribution whether or not legally enforceable;

(3) "expenditure" includes a payment, distribution, loan, advance, deposit, or gift of money, or anything of value, and includes a contract, promise, or agreement to make an expenditure whether or not legally enforceable;

(4) "public office" shall mean any office the salary for which is paid from public funds from any foreign government or political subdivision thereof;

(5) "political party" includes any committee, association, or organization which accepts contributions or makes expenditures for the purpose of influencing or attempting to influence the election of candidates to public office; and

(6) "agency of the United States" means any department, agency, wholly owned Government corporation, establishment, or instrumentality of the United States.

Sec. 2. It is unlawful for any citizen or resident of the United States to offer to make, or make, a contribution to any agency of the United States or officer, employee, or agent of the United States for the purpose of influencing the outcome of an election for public office in a foreign country.

Sec. 3. It is unlawful for any officer, employee, or agent of the United States (1) to solicit any citizen or resident of the United States to contribute to, or make an expenditure in support of, any candidate or political party, directly or indirectly, for the purpose of influencing the outcome of an election for public office in a foreign country, or (2) to accept a contribution from any citizen or resident of the United States for such purpose.

Sec. 4. Whoever violates any provision of this Act shall be fined not more than $10,000 or imprisoned not more than five years, or both.

LOOKING TOWARD ADJOURNMENT SINE DIE

Mr. SCOTT of Pennsylvania. Mr. President, we have a great deal of business to get done. I know of 35 measures pending before Congress on which the President has requested action. I know that there are more than that. We discussed 23 yesterday at the White House.

While the Senate has worked very hard, and so has the other body, and I know that we are engaged in doing the very best we can, I do hope that we can expedite the work of the Senate in every way and that Senators will all cooperate and recognize that if we have to have Saturday sessions, we have to have them, and that if we have to work very hard, it has to be done.

The key to adjournment this year is the appropriation bills, and the key to that is the Defense appropriation bill which, I am told, the other body will not bring up until September. But I have spoken to others in the joint leadership and we would all like to be able to get out of here by the end of October if we can.

Mr. President, as we now approach the August recess, it is natural that a certain dromomania begins to set in. Dromomania is defined as an excessive longing for travel.

I do not mean to imply that we are dromomaniacs, but I do believe that Members of Congress need a rest. They work long hours, and I think visitors who come here see that. Our interns, when asked what impresses them most about Congress, generally imply that they had no idea we work so hard.

Having stroked ourselves on the back with self-praise—we are not verecund—I think, nevertheless, that if more work remains, we must work harder before we can indulge our dromomania.

Mr. MANSFIELD. Mr. President, I was interested in the use of the Senator's word "stroked." I wonder whether, perhaps, the minority leader could not prepare his list and place in the RECORD the 35 requests of the President, so that together we can do our best to hasten the passage of the legislation in which he is so much interested.

Mr. SCOTT of Pennsylvania. Yes.

Mr. President, I ask unanimous consent to place in the RECORD at the end of my remarks a list of the 35 measures mentioned by the President, with the understanding that they will not be all-inclusive, but that they will represent the important legislation on which Congress can work its will. We may not agree in all things with the President, but I think the administration is entitled to up or down votes on them.

The ACTING PRESIDENT pro tempore. Without objection, the material will be included in the Senator's remarks.

The list is as follows:

Among many administration initiatives, the following were discussed in a recent Republican leadership meeting with the President. The list is not inclusive of all legislation pending in Congress and of interest to the administration:

1. Manpower Training.
2. LEAA.
3. Better Communities.
4. Better Schools.
5. Bicentennial Reorganization.
6. Election Reform Commission.
7. DENR.
8. Legal Services Corporation.
9. Gas Deregulation.
10. Alaska Pipeline.
11. Deep Water Ports.
12. Trade Reform.
13. Export Administration.
14. Foreign Assistance.
15. Pensions.
16. Heroin Trafficking Act.
17. Capital Punishment.
18. Criminal Code Reform.
19. Stockpile Disposal.
20. Reorganization Authority Extension.
21. CIEP Authority.
22. Unemployment Compensation.
23. Flood Disaster.
24. Toxic Substances.
25. Safe Drinking Water.
26. Vocational Rehabilitation.
27. Health Maintenance Organization.
28. Northeast Railroad.
29. Federal Aid Highways.
30. Urban Mass Transit.
31. Par Value.
32. POW Tax Relief.
33. Tax Reform.
34. Farm Bill.
35. Surface Mining.

TRANSACTION OF ROUTINE BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine business of not to exceed 30 minutes.

Mr. MANSFIELD. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT ON S. 1560

Mr. MANSFIELD. Mr. President, after talking with the distinguished Senator from Ohio (Mr. TAFT), who, I understand, can and does speak for the distinguished Senator from New York (Mr. JAVITS), and with the distinguished Senator from Wisconsin (Mr. NELSON), I ask unanimous consent that the Senate take up Calendar No. 287, S. 1560 on Tuesday morning next after the morning business and that at that time there be a time limitation of 1 hour on the bill, 2 hours on the Taft substitute, and one-half hour on other amendments, debatable motions, or appeals, and that this agreement be in the usual form.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

The text of the unanimous-consent agreement will be in the usual form.

Mr. TAFT. Mr. President, I did not object, and the agreement is entirely satisfactory to me. I would reiterate the general indications that I gave yesterday on the floor with regard to S. 1560—that I expect later today to introduce a substitute for S. 1560, trying to direct the emergency employment programs more in the direction of special areas that have unemployment rates historically and that immediately indicate the need for such programs, not to the exclusion of including manpower programs in the public sector in the revenue-sharing bill That bill will be introduced later and will, under this consent agreement, come up on Tuesday for consideration of the Senate.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. TAFT. I yield.

Mr. MANSFIELD. Did the Senator state when he would offer his substitute?

Mr. TAFT. I expect to file the substitute today, I will advise the majority leader, and to have it in the RECORD. I expect to have it submitted later today and put it in the RECORD.

Mr. MANSFIELD. Does the Senator anticipate calling it up on Tuesday?

Mr. TAFT. I expect to call it up on Tuesday next. I anticipate filing it later today.

Mr. MANSFIELD. I thank the Senator.

The text of the unanimous-consent agreement is as follows:

Ordered, That, effective on Tuesday, July 31, 1973, at the end of the morning business, the Senate proceed to the consideration of S. 1560, the Emergency Employment Amendments of 1973, and that debate on any amendment (except an amendment to be offered by the Senator from Ohio (Mr. TAFT), on which there shall be 2 hours), debatable motion or appeal shall be limited to ½ hour, to be equally divided and controlled by the mover of any such amendment or motion and the manager of the bill: Provided, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: Provided further, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the majority and minority leaders, or their designees: Provided, That the said leaders, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion or appeal.

Mr. JAVITS subsequently said: Mr. President, I am entirely satisfied with the unanimous-consent agreement which the majority leader has proposed. I wish to state for the RECORD that that fact remained uncertain at the moment the unanimous-consent request was made. And for the information of the Senate also I wish to repeat what was discussed in respect to the Manpower Training Act which the Senate passed by an overwhelming vote, S. 1559.

At that time, we said we would do our utmost and make every good-faith effort to work out a framework for this legislation—that is, the Emergency Employment Act and the Manpower Training Act—with the administration.

We are doing our utmost to do that. And I feel that the Labor Department is also doing its utmost to try to come to a reasonable meeting of the minds on this subject. And it will require also very important consideration on the merits that we have talked about—procedure and so forth—with the Members of the other body.

I assure the Senate that is the reason for setting this matter over until Tuesday for that effort to be made. I cannot give the Senate any information as to how it will come out except it is my assurance that there is a good faith effort in that regard, and there is the utmost cooperation on the part of the Senator from Wisconsin (Mr. NELSON), the Senator from Ohio (Mr. TAFT), and me in the hope that it can be accomplished. That is the reason for setting the matter over for a few days.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. METCALF) laid before the Senate the following communications and letters, which were referred as indicated:

PROPOSED AMENDMENTS TO THE BUDGET, 1974, FOR DEPARTMENT OF THE INTERIOR (S. DOC. NO.)

A communication from the President of the United States, transmitting proposed amendments to the request for appropriations transmitted in the budget for the fiscal year 1974, in the amount of $17,691,000, for the Department of the Interior (with an accompanying paper). Referred to the Committee on Appropriations, and ordered to be printed.

PROPOSED AMENDMENT TO THE BUDGET, 1974, FOR THE LEGISLATIVE BRANCH (S. DOC. NO.)

A communication from the President of the United States, transmitting proposed amendments to the request for appropriations transmitted in the budget for the fiscal year 1974, in the amount of $24,306,010, for the legislative branch (with an accompanying paper). Referred to the Committee on Appropriations, and ordered to be printed.

REPORT OF NATIONAL SOCIETY OF THE DAUGHTERS OF THE AMERICAN REVOLUTION

A letter from the Secretary, Smithsonian Institution, transmitting, pursuant to law, a report of the National Society of the Daughters of the American Revolution, for the fiscal year ended March 1, 1972 (with an accompanying report). Referred to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROBERT C. BYRD, from the Committee on Appropriations, with amendments:

H.R. 8760. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending June 30, 1974, and for other purposes (Rept. No. 93-346).

By Mr. PASTORE, from the Committee on Commerce, without amendment:

S. 1841. A bill to amend the Communications Act of 1934 for one year with respect to certain agreements relating to the broadcasting of home games of certain professional athletic teams (Rept. No. 93-347).

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, with an amendment:

S. 1341. A bill to provide for financing the economic development of Indians and Indian organizations, and for other purposes (Rept. No. 93-348).

By Mr. FULBRIGHT, from the Committee on Foreign Relations, without amendment:

S. 1887. A bill to provide for the appointment of alternates for the governors of the International Monetary Fund and of the International Bank for Reconstruction and Development (Rept. No. 93-350).

LAW ENFORCEMENT ASSISTANCE—CONFERENCE REPORT (S. REPT. NO. 93-349)

Mr. McCLELLAN. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8152) to amend the Omnibus Crime Control and Safe Streets Act of 1968 and for other purposes, and ask that it be printed.

I also ask that a summary of the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The summary is as follows:

SUMMARY OF H.R. 8152 "CRIME CONTROL ACT OF 1973"

The Omnibus Crime Control and Safe Streets Act of 1968, as amended, will be amended by the Crime Control Act of 1973. The following is a summary of sections of the Act which have been changed:

Part A—Section 101—The "troika" system of LEAA administration has been eliminated. All administrative and policy authority is now vested in the Administrator of LEAA. In lieu of two Associate Administrators, the amendment provides for two Deputy Administrators. One deputy will assist the Administrator in areas of policy and operations and would act for him in his absence or incapacity, and the second will be responsible for administrative management functions.

Part B—Section 203—The representative character requirement of State planning agencies and regional planning groups has been amended to include permissible representation of citizen, professional, and community organizations. It is now also a requirement that regional planning units be composed of a majority of locally elected officials.

A new provision has been added to subsection (d) of section 203 which now requires that all meetings of planning units at which any final action is taken on a State plan or application for funds be open to the public. This subsection also requires public access to all records except those required to be kept confidential by local, State or Federal law.

Section 204—Planning grants remain at 90 per centum of Federal funding, except that grants to regional planning units may be up to 100 per centum Federal funding. The "soft match" has been eliminated, and there is now a requirement that the State provide 50 per centum of the local share of "hard match." This match provision applies retroactively to previous year planning funds not obligated.

Section 205—The initial Part B planning allocation is increased from $100,000 to $200,000 per State and the remaining funds distributed according to relative population.

Part C—Section 301(b) (10) has been added to the Act to provide for the use of Part C funds (both block and discretionary) for planning grants to interstate metropolitan regional planning units.

Match requirements for discretionary and action funds have been decreased from 25 per centum to 10 per centum, except for construction which remains at 50 per centum. Match must be appropriated money in the aggregate. In the case of a grant to a private non-profit organization such an organization may provide the match. Soft match was also eliminated with regard to funds made available under Part C prior to July 1, 1973, which have not been obligated (or were obligated and later deobligated) by the States or units of *general* local government in making awards.

Buy-In—There have been changes to the "buy-in" requirements which began in fiscal year 1973. Certain factors must be noted.

(1) Buy-in is now applicable to Part B. However, since the buy-in only applies to local funds (40 percent pass through) and because all local funds which go to regional units can be awarded without match, the net dollar effect of the buy-in on Part B planning funds will be small (see section 204).

(2) In respect to Part C the buy-in previously applied to the required pass through funds to local units of government. In percentage terms this amounted to 6.25 percent of the overall match requirement. As currently amended, the buy-in will now amount to one-half of the 10 percent cash requirement. Assuming funding levels similar to fiscal year 1973 this is actually a net decrease in the overall requirement. However, it must be noted that to the extent local construction is funded from Part C sources the buy-in requirement would increase, since local construction must be a 50 percent match with the State providing one-half of that 50 percent.

(3) Buy-in is not applicable to Part E nor is it applicable to discretionary grants. The retroactive match provisions do not affect the fiscal year 1973 buy-in requirements. These requirements must still be met "in the aggregate" and apart from this retroactive provision (see section 523).

Additional Plan Requirements—A. Procedures for annual plan submission by units of local government over 250,000 population for approval by the State planning agency in whole or in part.

B. Maintenance and submission of reports and data as the Administration or National Institute for Law Enforcement and Criminal Justice may require to evaluate programs under this title.

C. Funding incentives to units of local government that coordinate or combine law enforcement activities.

D. Procedures so that applications by units of general local government shall be approved or disapproved in whole or in part within 90 days. It should be noted that this provision is limited to applications from units of local government and does *not* apply to other applicants.

E. Specific comprehensive requirements including a requirement that no plan be approved as comprehensive unless it includes a comprehensive program for the improvement of juvenile justice.

Discretionary Grants may now be made directly to private non-profit organizations. The 10 percent hard match will be provided by the non-profit.

State Plan Approval—The Act now mandates LEAA to approve or disapprove a State plan within 90 days after receipt of the plan. In addition, no plan is to be approved unless there is a finding by the Administration that the plan reflects a determined effort to improve the quality of law enforcement and criminal justice throughout the State.

Part D—Institute Authority—There is now statutory language which requires that the National Institute of Law Enforcement and Criminal Justice be headed by a Director appointed by the Administrator. The Institute now has the authority to assist in the development of and support of programs for the training of law enforcement and criminal justice personnel. Training to be performed under this authority (which is actually the former section 407 regional training authority) is not to be duplicative of the FBI training activities. The FBI continues, under section 404, to have authority to conduct its local and State training programs. However, this is now limited to training of police, highway patrol, sheriffs, and their deputies, but this authority is not intended to deprive the Institute of its training assistance. There is expected to be cooperation between the FBI and the Institute in regional training programs.

The Institute's authority to disseminate information has been expanded to include dissemination of information related to international law enforcement problems. The exercise of such authority, however, must come within the scope of international law enforcement problems such as skyjacking, drug abuse, and international terrorism.

The Institute must within three years undertake a detailed national survey of criminal justice personnel needs and relate the LEAA programs to those manpower and training requirements. Guidelines thereafter must be developed and issued by the Administration which would establish priorities for LEAA Law Enforcement Education and manpower programs.

Evaluation of programs and projects carried out under this Act also becomes a function of the Institute. Results of such evaluations are to be disseminated to SPA's and upon request to units of general local government.

The Institute must now also prepare an annual report to the President, Congress, SPA's and upon request to units of general local government regarding research and development activities and its own training activities.

LEEP Grants and Loans—In order to keep pace with the cost of living, the amount of funds that may be provided to LEEP students have been increased to $2,200 per year (loans); $250 per academic quarter or $400 per semester (tuition, books, fees); $65 per week (internship program). A LEEP recipient no longer has to remain with the *same* law enforcement agency for two years in order to be eligible for cancellation of the loan under section 406(c).

Prosecuting Attorney Training Programs—Authority to strengthen prosecutive capabilities against organized crime is now found in section 407 rather than section 408. There is no longer a section 408 and former section 407 is now merged in the Institute authority.

Part E has been amended to require that plans submitted by the States provide for the development and operation of narcotic and alcoholism treatment programs. The intent here is that although alcoholism programs may be funded, such funding should not be to the extent that it would interfere or reduce the funds to be used for drug treatment programs. The Administration must issue guidelines for drug treatment programs and coordinate in the development of such guidelines with SAODAP.

The State must now provide for complete monitoring of the progress the correctional system to include rate of prisoner rehabilitation and recidivism rates. Another subsection requires the State and local governments to submit annual reports "as the Administration may require."

The match requirement under Part E now is the same as under Part C and B—90 percent Federal funding, 10 percent hard match provided in the aggregate. There is no buy-in provision under Part E. The retroactive provision of section 523 applies to Part E funds as well.

Part E—Administrative Provisions—Title 5 of the U.S.C. has been amended so that the Associate Administrators are deleted and two Deputy Administrators added. Supergrades have been increased by two.

Section 508 has been amended so as to preclude the Administration from using services, equipment, personnel, or facilities of the CIA.

While the authorization for the Administration to transfer funds for functions related to bicentennial activities in law enforcement was not granted, the conference report indicates that individual States may transfer funds to support eligible bicentennial activities.

International Technical Assistance and Information Dissemination—An amendment to section 515(b) gives the Administrator authority to collect and disseminate information on law enforcement outside the United States, but the conference report shows that such involvement should not be extensive, but should be limited to matters in the nature of narcotics interdiction, skyjacking, and terrorism.

Technical assistance and cooperation to international agencies in matters relating to law enforcement and criminal justice is also authorized.

A *Non-Discrimination Provision* has been added to section 518. This provides that no person on the ground of race, color, national origin, or sex is to be excluded from the benefits of the Act or subject to discrimination. Provision is made for a governor to be advised of noncompliance. If within a reasonable time, there still is no compliance, the Administration is authorized certain enforcement remedies: Administrative and court remedies.

Authorization and Appropriation Authority is extended through FY 1976, with appropriation authorized for FY 1974 and 1975 at $1 billion each year; FY 1976 at $1.25 billion.

Comptroller General's Record Access—Specific language was adopted providing for access to records by the Comptroller General.

Security and Privacy of statistical and research information provisions have been added to the Act. There is a requirement that criminal history information shall contain disposition as well as arrest data to the maximum extent feasible. An individual who believes criminal history information concerning him in an automated system is inaccurate, incomplete and is entitled to review such information for the purpose of correction. Guidelines are to be issued to provide the safeguards necessary to assure security and privacy.

Surplus Property Authority—LEAA now has the authority to donate excess or surplus Federal property to LEAA grantees to fulfill property requirements of criminal justice programs. Title to such property will vest in the grantee.

Part G—Definitions—Section 601 has added definitions for:

A. Broadened definition of law enforcement to include prosecutorial and defender services.

B. The term "comprehensive."

C. The term "treatment" defined and the conference report makes it clear that the definition not only includes addictive drugs, but other drugs as well.

D. Criminal history information.

Part H—Criminal Penalty provisions have been expanded to include endeavors to defraud, embezzle, willfully misapply, or steal LEAA funds.

Part I—The Attorney General's Report on Federal Law Enforcement and Criminal Justice activities is now to be prepared every two years rather than annually.

Miscellaneous—The words "criminal justice" have been added after "law enforcement" wherever they appear throughout the Act.

Effective Date of Act—The Act is effective as of July 1, 1973. However, the elimination of the "troika" and creation of the Deputy Administrator positions becomes effective on the date of enactment.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. GOLDWATER, from the Committee on Armed Services:

J. William Middendorf II, of Connecticut, to be Under Secretary of the Navy.

The above nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

Mr. GOLDWATER. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the nomination of Maj. Gen. Elvy Benton Roberts to be lieutenant general in the Army; Lt. Gen. Patrick Cassidy, U.S. Army, to be retired in that grade; Maj. Gen. Allen Mitchell Burdett, Jr., to be lieutenant general in the Army; Brig. Gen. William McGilvery Buck and Brig. Gen. Evan Albert Turnage to become major generals in the Army National Guard; and Rear Adm. Oliver H. Perry, Jr., to be vice admiral as Chairman, Inter-American Defense Board. I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. SPARKMAN, from the Committee on Banking, Housing and Urban Affairs:

William E. Young, of Washington, to be a member of the National Credit Union Board;

David Olan Meeker, Jr., of Indiana, to be an Assistant Secretary of Housing and Urban Development;

A. A. Sommer, Jr., of Ohio, to be a member of the Securities and Exchange Commission; and

Ray Garrett, Jr., of Illinois, to be a member of the Securities and Exchange Commission.

The above nominations were reported with the recommendation that the nominations be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

By Mr. FULBRIGHT, from the Committee on Foreign Relations, without reservation:

Executive L, 93d Congress, first session, the amendment to article 61 of the Charter of the United Nations adopted by the General Assembly of the United Nations on December 20, 1971 (Exec. Rept. No. 93–9).

By Mr. HUGHES, from the Committee on Armed Services:

Gen. John D. Ryan (major general, Regular Air Force) U.S. Air Force, to be placed on the retired list in the grade of general.

By Mr. JACKSON, from the Committee on Armed Services:

William Egan Colby, of Maryland, to be Director of Central Intelligence.

The above nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BUCKLEY:

S. 2254. A bill to provide for the issuance of a special postage stamp in commemoration of the life and work of Dr. Elizabeth Blackwell. Referred to the Committee on Post Office and Civil Service.

By Mr. BEALL (for himself and Mr. MATHIAS):

S. 2255. A bill to amend the Washington Area Transit Authority Compact to require the inclusion of rail commuter service in the mass transit plan, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. HUMPHREY:

S. 2256. A bill for the relief of Mr. Sunday Alabi. Referred to the Committee on the Judiciary.

S. 2257. A bill to require the Secretary of the Interior to compile and keep current a mineral fuel reserves inventory. Referred to the Committee on Interior and Insular Affairs.

By Mr. RIBICOFF:

S. 2258. A bill to create and administer a children's trust fund. Referred to the Committee on Finance.

By Mr. BIBLE (for himself and Mr. CANNON):

S. 2259. A bill to provide for the disposal of certain Federal property on the Newlands Project, Nev., and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. HASKELL (for himself, Mr. HUMPHREY, Mr. METCALF, and Mr. NELSON):

S. 2260. A bill relating to the authority of the Secretary of the Interior to grant rights-of-way for pipelines under the Mineral Leasing Act, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. SAXBE:

S. 2261. A bill for the relief of George Krambousasnos. Referred to the Committee on the Judiciary.

By Mr. PROXMIRE:

S. 2262. A bill to amend the District of Columbia Minimum Wage Act so as to enable airline employees to exchange days at regular rates of compensation, and for other purposes. Referred to the Committee on the District of Columbia.

By Mr. TAFT:

S. 2263. A bill to provide public service employment opportunities for unemployed, underemployed and low-income persons residing in areas of high and persistent unemployment, and to thereby assist urban and rural areas in filling unmet needs for adequate public services. Referred to the Committee on Labor and Public Welfare.

By Mr. MANSFIELD (for himself and Mr. Scott of Pennsylvania):

S. 2264. A bill to provide civil service retirement credit for certain language instructors of the Foreign Service Institute, Department of State. Referred to the Committee on Post Office and Civil Service.

By Mr. SCHWEIKER:

S. 2265. A bill to establish a Civil Disaster Office in the Corps of Engineers, Department of the Army, to coordinate Federal disaster relief activities, and for other purposes. Referred to the Committee on Public Works.

By Mr. MOSS:

S. 2266. A bill to regulate commerce by assuring adequate supplies of energy resource products will be available at the lowest possible cost to the consumer, and for other purposes. Referred to the Committee on Commerce.

By Mr. MAGNUSON (for himself and Mr. Cotton) (by request):

S. 2267. A bill to amend section 303(b) of the Interstate Commerce Act to remove certain restrictions upon the application and scope of the exemption provided therein, and for other purposes. Referred to the Committee on Commerce.

By Mr. MAGNUSON (for himself and Mr. Cotton) (by request):

S. 2268. A bill to provide for the enlistment and commissioning of women in the Coast Guard Reserve, and for other purposes. Referred to the Committee on Commerce.

By Mr. McCLURE:

S. 2269. A bill to amend the Wild and Scenic Rivers Act so as to designate the Box Canyon Creek, Idaho, as a component of the national wild and scenic rivers system. Referred to the Committee on Interior and Insular Affairs.

By Mr. MOSS:

S. 2270. A bill to facilitate the exchange of school lands between the State of Utah and the Navajo Tribe. Referred to the Committee on Interior and Insular Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BUCKLEY:

S. 2254. A bill to provide for the issuance of a special postage stamp in commemoration of the life and work of Dr. Elizabeth Blackwell. Referred to the Committee on Post Office and Civil Service.

Mr. BUCKLEY. Mr. President, I introduce for appropriate reference a bill to provide for the issuance of a special postage stamp in commemoration of the life of Dr. Elizabeth Blackwell.

Dr. Blackwell was the first woman in the Western Hemisphere to earn the degree of doctor of medicine. Dr. Blackwell was born February 1821 and died June 1910; she was a remarkable person.

A deeply religious woman, Dr. Blackwell declared her faith as involving two principal beliefs. First, that doubt is to be experienced and overcome like the measles and, second, that she believed in God, in Christ, in immortality, and in infinite progress.

She once said:

> These are the truths I am founded on, that I live by, and that I am molded to.

She was convinced that her religious faith gave her the incentive to fight injustice.

Dr. Blackwell worked without flinching for women's rights, especially in medicine. That was the greatest mission in her long and productive life.

Despite great reservations, Dr. Blackwell was admitted to a medical school at Geneva, N.Y. Later she trained women to enter the medical profession at her hospital in New York City; she continued to do so until Cornell Medical School admitted women. That was a major victory for Dr. Blackwell; from that time forward men and women as equals prepared to enter the medical profession.

Dr. Blackwell was remarkable for her age or for any age; I believe that she is entitled to recognition for her dedication, her zeal, and her perseverance.

For these reasons, I am happy to introduce this bill which will grant her at least a measure of recognition for a lifetime of notable accomplishment.

Mr. President, I ask unanimous consent that the bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2254

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Postmaster General is authorized and directed to issue, during calendar year 1973, a special postage stamp in commemoration of the life and work of Doctor Elizabeth Blackwell, the first woman in the Western Hemisphere to earn the degree, doctor of medicine.

By Mr. BEALL (for himself and Mr. Mathias):

S. 2255. A bill to amend the Washington Area Transit Authority compact to require the inclusion of rail commuter service in the mass transit plan, and for other purposes. Referred to the Committee on the Judiciary.

Mr. BEALL. Mr. President, the recent announcement of the transportation control strategy for the District of Columbia underscores once again the serious pollution and transportation problem facing the National Capital area and the need for continued search for alternative means of moving our citizens in the area.

Mr. President, I introduce a bill designed to encourage the use of rail commuter services for the Washington-Baltimore metropolitan area. I believe the rails have the potential of helping us to solve the difficult pollution and transportation problems we are facing. This legislation would amend the Washington Metropolitan Area Transit Authority compact by requiring the inclusion of rail commuter service in the mass transit plans. Specifically, the bill directs that within 180 days after enactment, the Board of Directors of the Authority "shall adopt a program for the development of rail commuter service" as part of its mass transit plan.

> Upon adoption of such a program, the board shall immediately take appropriate steps to secure the implementation thereof including the securing of funds therefor as appropriated under the provisions of the Urban Mass Transit Act of 1964, as amended.

The Urban Mass Transit Act provides for capital grants for transportation facilities and equipment.

The compact is an agreement between Virginia, Maryland, and the District of Columbia for which Congress gave consent in Public Law 89–774. Congress, of course, cannot unilaterally amend this compact, but Congress as the "legislature" of the District of Columbia can adopt an amendment on behalf of the District of Columbia which subsequently must be concurred in by both the legislatures of the States of Maryland and Virginia.

The Washington Metropolitan Transit Authority has the authority to acquire or develop rail commuter service within the transit zone, but they have shown little interest or inclination to do so thus far. Paragraph 13 of the compact directs the Washington Metropolitan Transit Authority to develop a mass transit plan which shall designate the transit facility to be provided by the authority.

My bill would amend this paragraph to specifically direct the inclusion of rail commuter facilities in the transit plan and to require the authority board to carry out this aspect of the plan.

Mr. President, the Englund report of May 1971 concluded that potential for rail commuter operations exists in the Washington metropolitan area. It concluded that an estimated 12,000 to 14,200 trips per weekday could be achieved in the first year of rail commuter operations and that the future growth potential was good. It found that improved rail service would help "materially in reducing pressures on highways access routes from farther-out points, particularly at the most critical rush hour times," would "materially ease the rate of increase of automobile parking requirements within the central business district," and would be an "important element toward the creation of a balanced transit-transportation complex within the region."

There has been a considerable interest in realizing the potential of rail commuter service but as of this date, the necessary parts of a program to bring about improved rail commuter service have not been assembled.

No railroad possesses the capability of arranging the interline operation essential to an efficient rail commuter operation and to the development of the latent commuter potential.

Furthermore, railroads which are having difficulty in generating capital for equipment and facilities for profitable operations are both unlikely and unable to channel resources to improve commuter operations. That is Englund report found B. & O.'s net deficit for commuter service operations was $813,959 or a loss of approximately $2 for each dollar of revenue received. Thus, a major obstacle has been the establishment of an appropriate authority charged with the management of all rail commuter services. This bill would remove that impediment to improved rail commuter service.

Mr. President, the important value of mass transportation and the commuter train is becoming increasingly evident. Pollution, congested highways, not to mention the wear and tear on individuals as they crawl through traffic to their employment, all combine and cogently make the case for steps and for action now to help alleviate the present situation.

This summer the Washington area again has experienced a number of serious pollution alerts. Improving mass transportation to reduce automobile traffic is a fundamental part of the antipollution effort, and I view the region's extensive rail network as a valuable part of the solution.

At a time when it is important that all of the alternatives to the automobile be utilized to enable us to meet the air quality standards, it would be a tragedy to ignore the railroads that radiate from Washington and Baltimore into the surrounding countryside.

I am convinced that a healthy rail commuter service will complement our buses and the coming Metro system, and it will subsequently contribute to the establishment of a balanced transit-transportation complex within the region.

To make maximum use of rail service for commuters, an authority to oversee the operations, which will involve a number of jurisdictions, will be needed.

An authority is, thus, essential and passage of this act will provide that authority. If we do not act, we may see, as the Englund report warned, a complete disappearance of the rail commuter operations from this area.

I would point out that the State of Maryland is very interested in the potential of railways in helping us to solve our transportation and pollution problems. The State, for example, has expressed its willingness to help defray some of the cost of the Amtrak run to Cumberland. Unfortunately, the same forward-looking attitude has not existed at the Washington Metropolitan Transit Authority. Metro is on the way and I am sure that the citizens of this area look forward to its completion, but the urgency of the transportation and pollution problems make it essential that we move as quickly as we can, particularly when our actions will complement the Metro system when it becomes operational.

The Washington Metropolitan Transit Authority last year was authorized by the Congress to run the District of Columbia transit system. The Washington Transit Authority should also recognize and utilize the potential of rails. Indeed, the Senate report accompanying the legislation authorizing the public takeover of the bus system pointed out the importance and potential of the rail system.

The Washington Metropolitan Transit Authority should have been in the rail commuter business even prior to the urging by the D.C. Committee in its report. They certainly should have done so after the issuance of the report. The bill I am introducing today would require that they do so now. I urge enactment of the measure.

Mr. President, I ask unanimous consent that an article which appeared in the Baltimore Sun of May 15 with respect to the potential of rails for that city be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Baltimore Sun, May 15, 1973]

RAILS IN A YEAR PROPOSED FOR CITY

(By James D. Dilts)

Baltimore could have a system of modern commuter trains running along six existing rail lines into the center city in a year at a capital cost of about $15 million, according to a preliminary study prepared at the request of the Maryland Environmental Trust.

George S. Wills, the chairman of the trust, endorsed the plan as a quick and relatively inexpensive way to help solve the city's transportation problems and to meet the 1975 federal air quality standards. He also said the program would help to reduce the drain on energy sources.

Another consideration, according to Mr. Wills, is that four of the six railroad lines described in the study are either out of service or the subject of current abandonment proceedings before the Interstate Commerce Commission.

"It is essential that every effort be made to discourage railroads from bargaining away the public's access to railroad transportation at a time when it is most urgently needed," Mr. Wills said.

The Maryland Environmental Trust is an agency of the Maryland Department of Natural Resources. The railroad study was done with no charge, by Harry W. Miller, a transportation consultant and the president of one of the local rail commuter groups.

Mr. Miller, a frequent advocate of the use of existing rail lines, points out in his report that bus service in the city, the only other form of public transportation except cabs, is slow and infrequent. Trains could be run on the rail lines at a fraction of the cost of constructing new rapid transit lines, he said, and with less disruption to neighborhoods.

His system would make use of six existing routes on the Penn Central, Western Maryland, Baltimore and Ohio and Baltimore and Annapolis lines, and numerous existing but largely unused stations. New stations would be necessary as well.

The routes cover most of the approaches to the city with the exception of the northeast area, where Mr. Miller recommends that express buses be run.

They parallel for the most part the general alignments of the six legs of the proposed rapid transit system, which will cost $1 billion in its initial stage from Owings Mills to Marley.

The routes, beginning with the northern sector of the city and proceeding counterclockwise, are:

1. From Cockeysville to North and Mount Royal avenues and through the city to Harundale Mall and to Annapolis, using the Northern Central and Baltimore and Annapolis lines;
2. From Emory Grove (Glyndon) to Penn Station along the Western Maryland and Penn Central;
3. From Catonsville through the center of the city to Sparrows Point, on the Penn Central;
4. From Ellicott City downtown via the Baltimore and Ohio;
5. From Columbia through the city to Joppa on the Baltimore and Ohio;
6. From Bowie through the center of the city to Aberdeen along the Penn Central.

Each line would be equipped with two trains, providing a total of 5,670 seats. The equipment, consisting of diesel engines and coaches or self-propelled electric cars, operated in four-car trains would cost $15,130,000, according to the study.

Under Mr. Miller's plan, new stations would be added where the rail lines cross the Beltway.

According to 1943 train schedules included in the report, a rider could travel from Lutherville to Penn Station downtown in 22 minutes; from Glyndon to Penn Station in 50 minutes; and from Middle River to Penn Station in 19 minutes.

CHEAPER THAN HIGHWAYS

"Depending on the spacing of the stops and the condition of the track, substantial speed-ups in the 30-year-old running times could be accomplished," according to Mr. Miller.

Some of the railroads concerned have argued in the past that such commuter trains would interfere with freight operations. Mr. Miller maintains that they would not.

Mr. Wills, of the Environmental Trust, said that he did not see the rail commuter proposal as a substitute for the first phase of the rapid system, although as the study indicates, the northern half of the rapid transit route parallels the existing Western Maryland Railroad.

However, he does see the plan as reducing the need for some of the proposed expressways in the city. "Fifteen million dollars for 12 commuter trains is a better buy than $3 to $5 million for one mile of concrete highway," Mr. Wills said.

By Mr. HUMPHREY:

S. 2257. A bill to require the Secretary of the Interior to compile and keep current a mineral fuel reserves inventory. Referred to the Committee on Interior and Insular Affairs.

INDEPENDENT EVALUATION OF NATION'S FUEL RESERVES

Mr. HUMPHREY. Mr. President, I introduce for appropriate reference a bill to authorize and order the Interior Department to make independent, onsite investigations of oil, gas, and other mineral fuel reserves on public lands, including the Continental Shelf.

This bill is similar to the amendment I proposed on July 16 during debate on the Alaska pipeline bill.

Under the law, the Interior Department has major responsibility for administering the vast areas in the public domain.

Yet this Department has neither the money, nor the manpower, to ascertain the extent of the mineral fuel reserves in these areas.

For example, a recent inquiry to the Department elicited the remark that the Department's information on coal reserves was gathered in the 19th century, almost 100 years ago.

This is truly an absurd situation. The department of Government charged with administering these rich lands has no independent knowledge of the fuel reserves contained there.

Instead it sometimes must rely on questionable data supplied to it by corporations which exploit the minerals under lease.

My bill, the Mineral Fuel Reserves Inventory Act, would end this intolerable situation by authorizing additional funds for the Interior Department to carry out its own geological and engineering testing to determine the extent of mineral fuel reserves in the public domain.

It requires the Interior Department to report the results of these studies to the Congress and to the public on an annual basis.

I point out that, in the past, oil and gas companies drilled predominately in areas they owned privately.

But increasingly, as these areas have dried up, such companies have moved into and leased territories administered by the Federal Government, such as those in the Outer Continental Shelf.

At the present time, for example, one-third of all the natural gas in the United States comes from offshore Louisiana, an area in the public domain; one-fourth to one-half of future coal reserves are estimated to lie on public domain lands in Western States; and almost one-half of the present 273,000 tons of uranium ore is on public land.

With more and more of our mineral resources lying in lands belonging to the people, we need accurate, reliable information on the extent of these reserves.

I would remind Senators that in recent Senate hearings the Director of the Federal Trade Commission's Bureau of Competition declared that some oil companies are seriously underestimating proven reserves of natural gas.

And other hearings in Congress have raised real questions about whether there is a real petroleum shortage or whether it has been brought on by the big oil companies to squeeze out the independent sector of the industry and to raise prices.

For too long we have relied solely on figures supplied to us by the oil and gas industry. My bill would end this situation. It will provide us with basic information on which we can begin serious debate toward creating rational, long-term solutions to the energy problem.

Until this is done, we are left at the mercy of the big oil and mining corporations which have a vested interest in exploiting for their own profit energy resources that belong to every American.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2257

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Interior shall compile, maintain, and keep current on not less than an annual basis an inventory of all mineral fuel reserves containing hydrocarbons (oil, natural gas, coal) and uranium in the public domain lands of the United States (including the Outer Continental Shelf), together with other natural resources determined by the Secretary of the Interior to be an energy source or to have potential as such a source.

(b) Such inventory shall be compiled, maintained, and kept current on the basis of the Secretary's best estimates and, to the utmost extent practicable, on the basis of onsite geological and engineering testing conducted by personnel of the Department of the Interior. Such initial inventory shall be completed on or before the expiration of the eighteen-month period following the date of the enactment of this Act.

(c) On or before the expiration of the twenty-month period following the date of the enactment of this Act, the Secretary of the Interior shall submit a report to the Congress concerning the carrying out of his duties under this Act, together with a copy of such initial inventory so compiled, and shall thereafter, on not less than an annual basis, submit a report to the Congress concerning the carrying out of such duties and shall include as a part of each such report a copy of the current such inventory so compiled for the period covered by such report. All such reports and inventories shall be made available to the public by the Secretary of the Interior in accordance with rules and regulations prescribed by the Secretary.

SEC. 2. There are authorized to be appropriated to the Department of the Interior such sums as may be necessary to carry out the provisions of this Act.

By Mr. RIBICOFF:

S. 2258. A bill to create and administer a Children's Trust Fund. Referred to the Committee on Finance.

THE CHILDREN'S TRUST FUND

Mr. RIBICOFF. Mr. President, children are America's greatest asset. Their development and growth is synonymous with our country's progress. Yet tragically, their needs are often neglected. Rhetoric, public ignorance, apathy and an uncoordinated and fragmented governmental structure have all contributed to making millions of American youths victims of poverty, malnourishment, and disease.

In 1970 there were 70 million children under the age of 18.

Of these:

Inadequate diets are threatening at least 5 million to mental retardation and/or serious physical handicaps;

Five out of seven physically and mentally handicapped children receive no care at all;

Fifty percent of the Nation's children under the age of 15 and 90 percent under the age of 5 never have been examined by a dentist;

One million children are especially susceptible to disease and permanent injury because their mothers received no medical care during pregnancy;

Fifty percent of all children under the age of six have severe vitamin deficiencies;

Twelve million children need special care for eye conditions;

Two million children need special care for orthopedic hand;

Three million children need special care for speech impediments;

Five million school-aged children with emotional problems that could be solved, received no help;

There are 2.4 million mentally retarded children who could learn to feed and dress themselves who receive no special education;

The United States ranks only 13th among major developed nations in infant mortality rates; for every 1,000 babies born, 21 die. Sweden, which ranks first, has a mortality rate of 12 deaths for every 1,000 live births.

The rate of juvenile delinquency is rising faster than the rate of the juvenile population—by the end of 1973, 1 out of every 9 youngsters will appear in juvenile court before the age of 18;

Seven million children under the age of 18 live in families with absent fathers;

More than 10 million children—one-sixth of the Nation's children under the age of 16—live in families with incomes below the national poverty level. Sixty percent are white;

The rate of syphilis, gonorrhea, hepatitis, and tuberculosis are rising in crisis proportions among children under the age of 15;

The rise in the rate of battered children is growing alarmingly. The seriousness of this horrifying syndrome cannot be adequately measured because many children are not brought to doctors and hospitals while others have "accidents" which cannot be proved to be beatings or abuse.

Today there is no unified national policy for helping children. What does exist is a variety of underfunded public and private programs. The Federal and State governments pay lip service to the needs of children but have never committed the resources necessary to provide truly meaningful programs.

For that reason I am introducing legislation to create a Children's Trust Fund. This trust would clearly allocate a fair share of national revenues exclusively for children's programs. The legislation would protect existing programs through adequate funding and offer the States the flexibility they need to determine priorities within the various children's programs and create necessary additional services.

The Secretary of the Treasury would pay into the fund, from general revenues, 45 cents a week for all persons under 18 years of age. This compares with a present cost of 30–35 cents per child. It is important to establish the Trust Fund as a working concept. When it demonstrates its success the National Advisory Commission may recommend a higher level of funding.

The money would be placed in State accounts based on two factors:

First, 50 percent based on the number of children under age 18.

Second, 50 percent based on the number of children receiving aid to families with dependent children.

In Connecticut, which was allocated $4.2 million in fiscal 1973 for the programs which would be covered under this proposal, $33.4 million would be available in the first year to Connecticut to provide for children's programs.

The President would recommend and Congress would appropriate money from the Trust Fund for the following programs:

Headstart—a program for impoverished preschool children designed to meet their developmental needs through education, health, nutrition, social service, and parent activities.

Follow Through—a project grant program designed to continue special programs for Headstart children through the third grade.

Juvenile Delinquency Prevention Act—a project grant program to conduct community-based preventive treatment and control programs.

Maternal and Child Health—Title V of the Social Security Act—a series of programs designed to improve the health of children including maternal and child health services, crippled children services, maternity and infant care, comprehensive children and youth grants, and dental health.

Child and Youth Services—formerly title IV–B of the Social Security Act—which includes innovative State designated programs and day care and child development—including foster care, adoption, protective services, family counseling and others.

Handicapped Children's Early Education Assistance Act—a project grant program to public and private agencies for preschool programs for the mentally handicapped.

The amounts spent for these programs in each State would be deducted from that State's account.

To the extent that balances remain, a State would be able to use such funds to increase any of these programs. A state would be able to use 20 percent of its funds for innovative programs not authorized by any present Federal program. These could be open to children of all income levels and could incorporate private matching funds and sliding scales of fees for various services. Such a formula would provide all the States with the flexibility needed to meet the special circumstanecs of their population. Too often, categorical grant programs emanating from Washington force States to channel monies into programs which are not as urgently needed while other more crucial problems go unsolved. The Children's Trust Fund concept recognizes that problem and addresses itself to State needs through its flexibility.

Each State would be required to establish State and local commissions on children's programs with parents holding 50 percent of the seats. Each Commission would be required to hold public hearings on the distribution of the funds.

A National Advisory Commission, comprising the same proportion of parent-professional membership as the local and State Commissions, would monitor activities under the Trust Fund and recommend changes in the level of the weekly contributions to the Trust Fund for each child when required:

Why, it may be asked, is a Trust Fund being established, when there are already many children's programs in existence? The answer is relatively simple. While the well-intentioned Federal and State government has authorized many programs to aid children, these programs never make a dent in the problems of youth development because appropriations for the programs have been substantially less than the amounts authorized to be spent.

Headstart, for example, was authorized to spend $500 million in fiscal 1973 but only $385.9 million was requested in the budget. Seventy million dollars was authorized for Follow Through but only $57.7 million requested.

The Juvenile Delinquency Prevention Act authorization was $75 million with the provision that each State be granted $1 million to construct community based preventive treatment and control programs.

But the fiscal 1974 appropriation was only $10 million. And this is in the face of increased juvenile delinquency, suicides, drug addiction, shoplifting, and venereal diseases among the young.

During the past 2 years funds have also been reduced for the Handicapped Children's Early Assistance Act. In fact, funds for all of the major children's programs have been drastically reduced in the past few years.

If all these programs as well as innovative State programs are to work they must be assured of adequate funding. And if they are to be planned properly for long-term success they must be assured of a continuity of funding. The Children's Trust Fund would assure an adequacy and continuity of funds.

Children's appropriations would also no longer be victim to the impoundment of funds and the imposition of rules and regulations which make it impossible for states and localities to qualify for available moneys.

Jule Sugarman, the father of the Children's Trust Fund concept who formerly directed the National Headstart program, the U.S. Children's Bureau and the HEW Office of Child Development and is currently administrator of human resources for the city of New York, has worked diligently to bring the Children's Trust Fund to fruition. His efforts on behalf of America's children are unsurpassed and he deserves our gratitude. He pointed out very succinctly that the creation of a Children's Trust Fund—

> Offers in a very tangible manner this country's contention that it is a child-centered nation.

Mr. Sugarman has been working tirelessly on behalf of children and now we must all work to fulfill the promises we have made to America's children.

The years of youth are the years when a child develops his feelings of self-worth, his motivation, initiative, ability to learn, and physical development. While they can be years of most exciting development, for too many of our children they are years of permanent damage.

We have the opportunity now to eliminate that damage for millions and start millions of additional youngsters on the right track to healthy and solid moral development.

Every American child, as Mr. Sugarman correctly points out, is entitled to good health and care from conception, to minimum standards of food, shelter, and clothing, and to effective education, in an environment of economic and emotional security.

The choice is ours. The Children's Trust Fund can move us closer to our goal of fulfilling our promises to America's youth. In a very real sense it is a bill of rights for America's children.

I ask unanimous consent that the following description of the proposal and Mr. Sugarman's remarks be inserted at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

THE CHILDREN'S TRUST FUND

Q. What is the proposed Children's Trust Fund?

A. It is a fund administered by the Secretary of Health, Education and Welfare to finance programs for children and youth. The Secretary of the Treasury would deposit thirty-five cents a week for every child in the United States. The Congress would then appropriate monies for children and youth programs from this fund.

Q. What are the programs covered?

A. They are Head Start, Follow Through, Maternal and Child Health (which includes maternal and infant care, crippled children and children and youth projects), Juvenile Delinquency Prevention, a Child and Youth Services program (providing for innovative services developed by the states, for child development and day care services and for services formerly financed under Title IV-B of the Social Security Act-Child Welfare Services); and Early Education of the Handicapped. Congress may add other programs in the future.

Q. Why is the Act limited only to these children's program?

A. These six programs, including the new innovative state programs, cover virtually all types of services needed by children, youth and families, except for general education.

Q. What kinds of services would be financed through the Trust Fund?

A. These activities include, but are not limited to:

Adoptions, Foster Care, Child Protection, Parent Education, Preparation for Parenthood, Neglect & Abuse Prevention, Other innovative services developed by the state.

Child Dental Care, Special Education for Preschool Handicapped, Maternal Health, Homemakers, Infant, Child & Youth Health Care, Juvenile Delinquency Prevention & Correction.

Family Counseling, Day Care, Preschool Programs, Mentally Retarded Services, Child Development, Addiction Prevention Services, Physically and Mentally Handicapped Services.

Q. How much new bureaucracy is required?

A. No new agency is required at the federal or state levels.

Q. How would the act affect day care programs?

A. The proposed Act authorizes 75% financing for day care and child development services. Services would be available to families of all incomes. States may set fee schedules.

Q. Does the bill provide more money for day care?

A. Yes, by permitting states to use their uncommitted funds for this purpose under Title IV-B of the Social Security Act.

Q. Why is day care funding removed from Title IV-A?

A. Day Care (and child development) would now be financed through Title IV-B. This Title puts prime emphasis on the needs of the child and would open programs to families of all income levels. Day care would no longer be viewed as a "welfare" service.

Q. May funds be used for preschool programs?

A. Children and Youth Services funds may be used for preschool programs.

Q. To what degree will the State decide how to spend money?

A. States will decide on those amounts available after subtracting direct Federal grants for the six programs from the state's total allocation.

Q. How much money will each state receive?

A. The total Trust Fund will be funded among the states on two bases:

1. Fifty percent according to the number of children under eighteen.

2. Fifty percent according to the number of children receiving Aid to Dependent Children.

Part of the funds are administered by the

Secretary of HEW who makes direct grants under the six specified programs. The remainder are allocated by the states.

Q. Where will the money come from?

A. The Secretary of the Treasury will take the money from tax collections; that is, primarily from personal and corporate income taxes.

Q. Will the Trust Fund raise taxes?

A. No new taxes are imposed. The Fund simply earmarks a portion of tax receipts for children's programs.

Q. Would the powers of Congressional committees be affected?

A. No. Congress and its appropriate committee would continue to prescribe program policies. They would also determine the amounts available to the Secretary of HEW for a specific program. This amount could be exceeded for a particular state if the state decided to use the flexible features of the Act, but it would still have to follow the policies prescribed for each program. This includes approval by Federal agencies where current policy requires such approval. Thus no less than 80% of the funds are subject to Federal rules.

Q. Does Congress have to appropriate all the money in the Trust Fund?

A. No, but the money may not be used for any other purposes except those listed.

Q. Who decides how a state's money will be used?

A. For those funds not reserved to the Secretary, the Governor and legislature decide how they will be used. The Governor must appoint an advisory committee and hold public hearings before making a decision. Local advisory committees are also required and their recommendations are given priority.

Q. What does the national advisory committee do?

A. It advises the President and the Congress on how well funds are being used and whether the Federal contribution to the fund needs to be changed.

Q. What happens if a state does not use its money?

A. Money will remain in an account for 12 months and then, if unused, it will be reallocated. Priority goes to local governments and private non-profit agencies in that state. Remaining funds are allocated to other states using the original allocation formula. States may also voluntarily relinquish funds which they cannot use.

Q. Are there any states which would get less money than at present?

A. The legislation guarantees that each state will receive at least 110% of its 1973 spending level.

Q. Is it possible that as states increase spending for particular programs, they might exceed current statutory authorization on the six programs?

A. Yes, however, those limitations would be waived in such a case.

Q. Why is Title IV–8 renamed Child and Youth Services instead of Child Welfare Services?

A. To make absolutely clear that the program is for all children and youth who need services and that it need not be related to "welfare."

STATEMENT BY JULE SUGARMAN

The Children's Trust Fund represents a commitment by America to all of her children and her future. Senator Ribicoff's bill will ensure that commitment and prevent the broken promises that have occurred in the past. All of us who have worked long and hard with Senator Ribicoff and others for federally necessary funding on behalf of children who cannot lobby for themselves applaud the Senator's bill.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2258

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

THE CHILDREN'S TRUST FUND ACT

Whereas our children and youth are our most precious natural resources;

Whereas the Federal government has a fundamental obligation to assist state and local governments and private organizations in meeting the needs of children and youth; and

Whereas experience has shown that a fragmented approach to providing funding for children and youth programs makes it impossible for them to compete effectively with other priorities and results in an inadequate level of appropriations;

Therefore be it enacted that the Congress declares as its policy that a specific share of public revenues shall be reserved exclusively for use in the financing of such children's and youth programs as the Congress hereafter determines.

TITLE I—CREATION AND ADMINISTRATION OF TRUST FUND

SEC. 101—This Act may be cited as the Children's Trust Fund Act.

SEC. 102—There is hereby created a Children's Trust Fund to be administered by the Secretary of Health, Education, and Welfare (hereinafter called the Secretary).

SEC. 103—The Secretary of the Treasury is hereby authorized and directed to pay into the Trust Fund from general revenues the amount of forty-five cents a week for each child in the United States under the age of 18. The number of children shall be based on the latest figures available from the Bureau of the Census.

SEC. 104. Such funds shall remain a part of the Trust Fund without fiscal year limitation until such time as they are expended under the provisions of Titles II and III.

SEC. 105. The Secretary shall establish an allocation account for each State. For the purposes of this Act the term "State" shall also include the District of Columbia, Puerto Rico, Guam, the Virgin Islands, and the Trust Territories.

SEC. 106. Funds from the Trust Fund shall be available pursuant to appropriations to carry out programs authorized by Title IV–B of the Social Security Act as amended by Title V of this Act; Title V of the Social Security Act; the Early Education of the Handicapped Act; Secs. 221(a)(1) (Head Start) and 221(a)(2) (Follow Through) of the Economic Opportunity Act, and such other programs as the Congress may from time to time designate. The limitations on appropriations in such Acts shall not apply in those instances when a State has transferred funds from its allocation account in the Trust Fund.

SEC. 107. The Secretary, after consultation with the Secretary of the Treasury, shall invest such amounts of funds as are not currently needed, in interest bearing U.S. securities.

TITLE II—ALLOCATION AND USE OF TRUST FUND

SEC. 201. The Secretary shall annually make an estimated allocation of trust funds in accordance with the following procedures:

(a) He shall first declare surplus to a State's needs any funds which have remained in its State allocation amount for more than twelve months and return them to the general trust fund. Should a local government agency or a private nonprofit agency within the same State, which is otherwise eligible for assistance under one of the specified acts, wish to use such funds they shall be made available to such local public or private nonprofit agency.

(b) He shall also estimate the amount of funds to be received in the fund during the year by virtue of interest earned and per capita deposits by the Secretary of the Treasury from funds reserved to the Secretary in prior years which were not utilized for direct Federal grants. The Secretary shall deduct from these amounts any sums which the President's budget recommends not be appropriated for the succeeding fiscal year.

(c) He shall place in the allocation accounts established under section 105 the total funds estimated to be available under subsections (a) and (b) divided among the States as follows:

(i) Fifty per centum on the basis of the number of children under eighteen in the State to the total number of children in the Nation.

(ii) Fifty per centum on the basis of the number of children receiving Aid to Dependent Children in the State to the total number of children receiving Aid to Dependent Children in the Nation, provided that no State shall receive less than 10 per centum of the funds provided to it in fiscal year 1973 for the purposes specified in section 106, including those purposes formerly financed through title IV–A of the Social Security Act.

d. The Secretary shall publish his estimated allocations, not later than March 1 of each year for the fiscal year beginning the succeeding July 1.

e. The Secretary shall simultaneously advise each State of the maximum amount which he estimates will be expended in the State from appropriations to the Secretary's account for those programs listed in Sec. 106 or by the National Advisory Committee under Sec. 401.

f. The amounts determined under subsection (d) minus the amounts estimated under subsection (e) shall constitute the estimated amounts available to each State for expenditure under Title III.

g. The Secretary shall, subsequent to the enactment of appropriations, modify his estimates to take account of final Congressional action and shall notify the States of the amounts actually available to them in the allocation account.

TITLE III——STATE FUNCTIONS UNDER CHILD REVENUE SHARING

SEC. 301.—Each State shall within 90 days after receipt of the preliminary and final allotments submit to the Secretary a letter showing the distribution of funds which it wishes to make among the programs financed through this Act. The Secretary shall tentapropriation account at such time as they are within the State's preliminary allotment or finally approve such distribution if within the final allotment. The amounts so approved shall be transferred to the appropriate appropriation account at such time as they are required to finance grants approved in accordance with the provisions of Sec. 303.

SEC. 302. Each State shall establish local service areas for the purpose of allocating funds within the State. A city or county with a mutually exclusive population of at least 100,000 or a combination of local jurisdictions with an aggregate population of 100,000 voluntarily joining together to form a service area, shall constitute a separate service area. The State shall allocate funds including the flexible funds available under Sec. 427 of the Social Security Act, among service areas within the State in an equitable fashion, taking into account the total number of children in an area and number of children receiving Aid to Dependent Children;

SEC. 303. The State or other authorized agency shall secure approval of grants in the manner specified by law for the particular program, including where appropriate, approval by a Federal agency;

SEC. 304. The State must use the funds in a manner consistent with Federal law and regulations;

SEC. 305. The State shall submit such reports as are required by the Secretary;

Sec. 306. Each State shall establish an advisory committee which is broadly representative of parents whose children may be served by the programs; professionals knowledgeable in such fields as child development, child welfare services, maternal and child health, youth, juvenile delinquency and education; and private citizens interested in these areas. Parents chosen by parent organizations shall constitute at least one-half of such committees. The advisory committee shall have a right to evaluate the performance of all programs financed through the Trust Fund; to recommend future fund allocations within the State; and, to comment on recommendations by local advisory committees. State and local advisory committees shall conduct public hearings prior to making their recommendations.

There shall be local advisory committees of the same composition and powers as the state committees for each service area and their recommendations shall be incorporated in the report of the state advisory committee. Advisory committees in local service areas created under the second sentence of Sec. 302 shall be appointed by local public officials. In other areas appointments shall be made by state officials.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401—The Secretary shall appoint a national advisory committee which is broadly representative in the same fashion as state advisory committees. The national advisory committee shall conduct necessary evaluations; submit an annual report to the Secretary, the President and the Congress in which it shall evaluate programs financed under this Act; and recommend necessary adjustments in the level of Federal contributions to the Trust Fund. The Committee is authorized to employ essential staff without regard to the Civil Service laws and to fix their compensation. There is authorized to be appropriated to the Committee from the Trust Fund such amounts as are determined by the Congress.

Sec. 402—Such funds as are required for purposes of this Act shall be appropriated by the Congress. The appropriation shall be in the following form: "There is hereby appropriated to the Secretary from the Children's Trust Fund $——— for Title IV–A of the Social Security Act; $——— for Title IV–B of the Social Security Act; $——— for Title V of the Social Security Act; $——— for Head Start; $——— for Follow Through; $——— for the Juvenile Delinquency Prevention and Control Act; $——— for the Early Education of the Handicapped Act; $——— for such purposes as each state may determine within the amounts allotted to it under Title II of this Act; and $——— for expenses of the National Advisory Committee."

Sec. 403—A state's entitlement to funds under Title II shall be suspended in any year during which its expenditures in support of the programs listed in Sec. 106 fall below the level of its expenditures in FY 1973.

Sec. 404—(a) During fiscal year 1974 the Secretary of the Treasury shall pay into the Children's Trust Fund three cents for each child in the United States. The Secretary of Health, Education, and Welfare shall make available to any state so requesting such amounts as are authorized by subsection (b) for the purpose of planning the state's programs under the Trust Fund, including the expenses of establishing state and local advisory committees.

(b) The maximum amount payable to any state shall be in accordance with the following schedule:

(1) States with a population of less than 500,000 children: $15,000.

(2) States with a population of 500,000 but less than one million children: $25,000.

(3) States with a population of one million, but less than 1.6 million children: $40,000.

(4) States with a population of 1.6 million or more children: $60,000.

No matching funds shall be required. The Congress is hereby authorized to appropriate such funds as will be available to the Trust Fund in fiscal year 1974.

Sec. 405. This Act shall be effective beginning July 1, 1974.

TITLE V—AMENDMENTS TO TITLE IV–B OF THE SOCIAL SECURITY ACT

Sec. 501. Title IV–B of the Social Security Act is retitled Child and Youth Services. Sec. 421 is amended by adding the following sentence "It is the intent of the Congress that funds appropriated under the title shall be available to children in need of service without regard to family income; provided, that a state may, at its option, establish reasonable fees for service related to family income."

Sec. 502. Sec. 422 is amended so as to add the words "child development and" to "day care services" wherever such words appear. Sec. 422 is further amended by adding the following sentence. "States shall, wherever feasible, provide day care and child development programs through local public and private non-profit agencies."

Sec. 503. A new section is added after Sec. 426:

"Sec. 427. Each state shall be entitled to spend up to 20% of the funds available to it under the Children's Trust Fund for innovative programs designed by the state to meet the service needs of children, youth and families; for expenses of administration and planning; for expenses of advisory bodies and for training of staff in any of the programs financed through the Trust Fund. Not more than 10% of total funds available shall be used for state expenses of general administration and planning.

Sec. 504. Sec. 433(b) is amended to add the following sentence: "The Federal share with respect to child development and day care services authorized by Sec. 422 and other expenses authorized by Sec. 427 shall be 75%."

TITLE VI—AMENDMENT OF SOCIAL SERVICE LIMITATION AND DAY CARE AUTHORIZATION

Sec. 601. Sec. 402 of the Social Security Act is amended by adding the following: "No funds shall be available for child care under this section except as required to meet the needs of persons participating in the Work Incentive Program. Other care shall be financed through Title IV–B of the Social Security Act."

By Mr. BIBLE (for himself and Mr. Cannon):

S. 2259. A bill to provide for the disposal of certain Federal property on the Newlands project, Nevada, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. BIBLE. Mr. President, on behalf of myself and my distinguished colleague, Senator Cannon, I introduce for proper reference a bill to provide for the disposal of certain Federal property on the Newlands reclamation project, Nevada, and for other purposes.

The Newlands project is one of the oldest in the United States. It was authorized by an act of Congress in 1903 and was substantially completed by 1915.

In 1926, the United States entered into a contract with the Truckee-Carson Irrigation District, an entity of the State of Nevada comprised of the settlers for the operation, maintenance, and repayment of the project. Under the district's administration, the Newlands project—named for one of Nevada's distinguished Senators, Francis Newlands—has been, over the ensuing years, Nevada's largest and most productive agricultural area and an important part of the State's economy.

Among the facilities turned over to the district in 1926 was the office, maintenance yards, shops, and other facilities needed in the operation of an ongoing irrigation district.

These facilities over the past half century have become old and obsolete and are no longer adequate to serve the needs of the management of the district.

This year the irrigation district is constructing a new office and shop complex outside the city limits of Fallon, Nev., on custodial land of the Department of the Interior and as such they will automatically become Government property.

The purpose of this bill is to authorize the Secretary of the Interior to dispose to the highest bidder, at not less than its appraised value, the present district complex and make the revenue therefrom available to assist in the construction of the new facility.

There are no funds authorized for the new construction and there will be no cost to the Government therefor.

By Mr. HASKELL (for himself, Mr. Humphrey, Mr. Metcalf, and Mr. Nelson):

S. 2260. A bill relating to the authority of the Secretary of the Interior to grant rights-of-way for pipelines under the Mineral Leasing Act, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. HASKELL. Mr. President, I am introducing legislation today which I believe is vital to protect the American consumer from future energy shortages. The bill provides for much needed competition in the oil industry.

The legislation would make it unlawful for a producer or refiner of oil to own an oil pipeline. The prohibition would be applicable to oil pipelines which cross Federal lands or affect interstate commerce.

Those pipelines which are currently in operation and owned by oil companies would have to be divested within 5 years. Pipelines which are "in the works" and for which substantial financial and contractural commitments have been made would also be divested within 5 years.

The transportation of crude oil is at the very heart of the oil industry. Major integrated companies produce oil in the field, build pipelines to take it to their own refineries, refine it in accord with their wishes into products which will bring them the most profit, and then transport those products to their own marketing stations.

Control over oil pipelines gives the major oil companies a lock on our oil resources. It is estimated, for example, that nearly two-thirds of U.S. domestic production and vastly more of foreign production is by the major integrated oil companies.

When there is a shortage of crude production pipeline ownership enables the majors to cut off the supply of crude to independent refineries. Pipeline ownership also gives the majors effective control over exploration and development of new oil fields. The smaller exploration companies are hesitant to explore and make an investment in a new field because they are not certain they will be able to get their discoveries to market. Should they take the risk and explore they are vitally forced to sell the oil they discover to the pipeline owner in order to get it to market. This practice does not encourage a competitive free enterprise system.

The idea for this legislation is not new. In fact the Senate passed legislation to provide for independent oil pipeline companies 67 years ago when it passed the Hepburn Act. The House action at that time provided simply that oil pipelines would be "common carriers" and regulated by the Interstate Commerce Commission. They felt that common carrier status would be sufficient to provide for the necessary competition in the pipeline and oil industry. The House action prevailed in conference.

Unfortunately common carrier status for oil pipelines has not accomplished the desired results. The ICC has never filed suit to force an oil pipeline owner to accept an outsider's oil.

When the Hepburn Act was passed 67 years ago, in 1906, railroad companies were prohibited from having an interest in the goods they haul. The legislation I am introducing today would provide that same prohibition for oil companies.

The need for this legislation has been widely recognized. This month's report of the Federal Trade Commission which assessed the role of the petroleum industry in the development of the present fuel shortages called for independent ownership of oil pipelines. A report issued in 1959 by Attorney General William P. Rogers recognized the anticompetitive nature of oil company ownership of petroleum pipelines and recommended legislative action. So did a report issued in 1967 by Attorney General Ramsey Clark.

This legislation is necessary to protect the American consumer, necessary to help alleviate our energy shortages, and necessary to promote vigorous competition in developing our oil resources.

I ask unanimous consent that the text of the bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2260

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) on and after the date of the enactment of this Act, the Secretary of the Interior shall not grant, issue, or renew rights-of-way over, upon, or through the Federal lands, under the Mineral Leasing Act, as amended (30 U.S.C. 185), or under any other law, for pipelines and other systems for the transportation of oil, if the applicant for such right-of-way or an affiliate of such applicant owns or controls any asset which such applicant or affiliate would be prohibited from acquiring under section 2 of this Act by reason of his or his affiliate's ownership or control of a pipeline asset.

(b) The provisions of subsection (a) of this section shall not be applicable to any such applicant who, on the date of the enactment of this Act, has pending, with the Secretary of the Interior or any other appropriate head of a Federal agency, an application for such a right-of-way and has incurred contractual obligations and made substantial financial commitment, with respect thereto.

Sec. 2. (a) Except to the extent otherwise provided in section 4 of this Act, it shall be unlawful for any person engaged in the business of—

(1) transporting, by means of a pipeline asset, any crude oil or any product manufactured or refined from crude oil, which oil or product enters commerce or affects commerce, to acquire, on or after the date of the enactment of this Act, any crude oil producing asset or crude oil refining asset;

(2) manufacturing products from crude oil or refining crude oil, which product or refined oil enters commerce or affects commerce, to acquire, on or after the date of the enactment of this Act, any crude oil producing asset or any pipeline or other transportation system; or

(3) extracting crude oil, which crude oil so extracted enters commerce or affects commerce, to acquire, on or after the date of the enactment of this Act, any pipeline asset or crude oil refining asset.

(b) Notwithstanding the provisions of subsection (a) of this section, it shall not be unlawful, for the five-year period following the date of the enactment of this Act, for any person described in such subsection to acquire any asset, the acquisition of which by such person would otherwise be prohibited under such subsection, if such person, on or before the date of the enactment of this Act, has incurred, with respect to such asset, contractual obligations and has made substantial financial commitments with respect thereto. The continuance of any such ownership or control after the expiration of such five-year period shall constitute a violation of this Act.

Sec. 3. It shall be unlawful for any person described in section 2 of this Act to own or control, more than five years after the date of the enactment of this Act, any asset, the acquisition of which by him is prohibited under such section 2, and which was acquired by such person prior to the date of the enactment of this Act held by him on such date of enactment. The continuance of such ownership or control after the expiration of such five-year period shall constitute a violation of this Act.

Sec. 4. Any person owning or controlling an asset within the purview of section 3 of this Act, or acquires an asset within the purview of section 2(b) of this Act, shall, within ninety days following the date of the enactment of this Act, submit to the Attorney General such reports relating to those assets as he may prescribe, and shall file such additional reports relating to such assets as the Attorney General may prescribe.

Sec. 5. That the several district courts of the United States are hereby vested with jurisdiction to prevent and restrain violations of this Act, and it shall be the duty of the several district attorneys of the United States, in their respective districts, under the direction of the Attorney General, to institute proceedings in equity to prevent and restrain such violations. Such proceedings may be by way of petition setting forth the case and praying that such violation shall be enjoined or otherwise prohibited. When the parties complained of shall have been duly notified of such petition, the court shall proceed, as soon as may be, to the hearing and determination of the case; and pending such petition, and before final decree, the court may at any time make such temporary restraining order or prohibition as shall be deemed just in the premises. Whenever it shall appear to the court before which any such proceeding may be pending that the ends of justice require that other parties should be brought before the court, the court may cause them to be summoned whether they reside in the district in which the the court is held or not, and subpoenas to that end may be served in any district by the marshal thereof.

Sec. 6. (a) Any person who knowingly violates any provision of section 2 or 3 of this Act shall be punished by a fine of not more than $100,000 or by imprisonment not exceeding ten years, or both.

(b) Any such violation by a corporation or other entity shall be considered to be also a violation by the individual director, officer, receiver, trustee, or agent of such corporation or entity, if such director, officer, receiver, trustee, or agent authorized, ordered, or did (in whole or in part) any of the acts constituting such violation.

Sec. 7. Any person suffering damages because of a violation of the provisions of section 2 or 3 of this Act by another person may bring a civil action against that person in accordance with the provisions of section 1332 of title 28, United States Code, in any district court of the United States for any judicial district in which the defendant resides, does business, or may be found, and may recover threefold the damages by him sustained, and the cost of suit, including a reasonable attorney's fee.

Sec. 8. As used in this Act, the term—

(1) "pipeline asset" means any oil pipeline or other system (including tankers) (A) used for the transportation of crude oil from the site of its extraction to a refinery; (B) used for the transportation of products manufactured or refined from crude oil from a refinery to another place; or (C) utilized as a storage or terminal facility in connection with any such transportation;

(2) "crude oil producing asset" means any asset used for the exploration, development, or extraction of crude oil deposits, including oil shale;

(3) "crude oil refining asset" means any asset used in the refining of crude oil into refined petroleum or petroleum products;

(4) "asset" means any property (real or personal), including stock in any corporation or other entity which is engaged (directly or through a subsidiary or affiliate) in the business of extracting or refining crude oil, or transporting crude oil or products manufactured or refined from crude oil by pipeline or other system;

(5) "person" means any individual, partnership, association, corporation, or other entity;

(6) "commerce" means trade, traffic, commerce, or transportation among the several States, or between a place in a State and any place outside thereof, or within the District of Columbia or a possession of the United States, or between points in the same State but through a point outside thereof; and

(7) "State" includes a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

By Mr. PROXMIRE:

S. 2262. A bill to amend the District of Columbia Minimum Wage Act so as to enable airline employees to exchange days at regular rates of compensation and for other purposes. Referred to the Committee on the District of Columbia.

AMENDMENT TO DISTRICT OF COLUMBIA MINIMUM WAGE ACT

Mr. PROXMIRE. Mr. President, I am introducing today legislation which would amend the District of Columbia Minimum Wage Act. This legislation will enable airline employees stationed in the District of Columbia to enjoy rights now enjoyed by railroad employees. It will also enable them to enjoy rights now enjoyed by airline employees outside the District of Columbia.

In 1966, Congress made substantial revisions in the District of Columbia Minimum Wage Act. Among other things, it eliminated archaic provisions which treated women employees differently from their male colleagues; under the old law, women employees who worked more than 48 hours in any 1 week were required to be paid overtime. The new code eliminates the distinction based on sex, but provides that overtime be paid for any workweek in excess of 40 hours.

Congress adopted certain exceptions to this rule. It exempted executive, administrative, or professional employees. It exempted seamen. It exempted automobile salesmen and mechanics. And it exempted railroad employees, because railroad employees are covered by the provisions of the Railway Labor Act.

The bill I am introducing today would extend the exemption to airline employees. Airline employees are also covered by the Railway Labor Act. There is no reason for them not to be treated in the same manner as railroad employees.

Mr. President, the change in the law is important to airline employees in order to permit them to engage in the practice of "day-trading." "Day-trading" allows an employee to accumulate a number of successive days off, in addition to the two regular days off each week, by working more than 5 days in succession. This permits the employee to take full advantage of the right of free air travel, which most airlines grant their employees. Airlines have always permitted their employees to day-trade with the understanding that time worked in excess of 40 hours in a given week will not result in overtime pay as long as the average over the course of a year does not exceed 40 hours.

The District of Columbia is the only jurisdiction in the country which now restricts this practice. Until this spring, California had a statute on its books similar to the old pre-1966 District of Columbia provisions—that is, it applied the overtime requirement to women only. That statute was declared void in April by the U.S. District Court for the Northern District of California, since the statute was found to be in conflict with title VII of the 1964 Civil Rights Act. *Homemakers Inc.* v. *Division of Industrial Welfare,* 356 F. Supp. 1111. Since then, only the District of Columbia code stands in the way of this practice.

Mr. President, this change in the law is long overdue. Airline employees in the District have sought for years, without success, to have the Minimum Wage Board relax the rule. It is apparent now that the only way to correct this inequity is through the legislative process.

The proposal has the strong endorsement of airline employees who work here. And my understanding is that this would also be welcomed by airlines doing business here since this will simply make legal here a practice which is now in effect in all 50 States. Accordingly, there should be no opposition to this change, and I hope Congress can act on it without delay.

Mr. President, I ask unanimous consent that my proposed legislation, together with the provisions of section 36-404 which this legislation would demand, be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD as follows:

S. 2262

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That paragraph (2) of section 4(b) of the District of Columbia Minimum Wage Act (D.C. Code, sec. 36-404(b)) is amended by inserting, after the word "railroad", the words "or by a carrier by air".

SECTION 36-404. EXEMPTIONS OF CERTAIN EMPLOYEES FROM MINIMUM WAGE AND OVERTIME PROVISIONS OF SECTION 36-403

(a) The minimum wage and overtime provisions of section 36-403 shall not apply with respect to—

(1) any employee employed in a bona fide executive, administrative, or professional capacity, or in the capacity of outside salesman (as such terms are defined by the Secretary of Labor under the Fair Labor Standards Act of 1938); or

(2) any employee engaged in the delivery of newspapers to the home of the consumer.

(b) The overtime provisions of section 36-403(b)(1) shall not apply with respect to—

(1) any employee employed as a seaman;

(2) any employee employed by a railroad;

(3) any salesman, partsman, or mechanic primarily engaged in selling or servicing automobiles, trailers or trucks if employed by a nonmanufacturing establishment primarily engaged in the business of selling such vehicles to ultimate purchasers;

(4) any employee employed primarily to wash automobiles by an employer, more than 50 percent of whose annual dollar volume of sales is derived from washing automobiles, if for such employee's employment in excess of one hundred and sixty hours in a period of four consecutive workweeks, such employee receives compensation at a rate not less than one and one-half times the regular rate at which he is employed; or

(5) any employee employed as an attending at a parking lot or parking garage.

(Sept. 19, 1918, 40 Stat. 961, ch. 174, title I, § 4; June 25, 1936, 49 Stat. 1921, ch. 804; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; Oct. 15, 1966, 80 Stat. 964, Pub. L. 89-684, § 1.)

By Mr. TAFT:

S. 2263. A bill to provide public service employment opportunities for unemployed, underemployed, and low-income persons residing in areas of high and persistent unemployment, and to thereby assist urban and rural areas in filling unmet needs for adequate public services. Referred to the Committee on Labor and Public Welfare.

Mr. TAFT. Mr. President, I am introducing today a bill entitled the "Public Employment Act of 1973". As I have indicated, next Tuesday I expect to call it up as an amendment in the nature of a substitute to S. 1560.

I therefore ask that it be printed in full at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2263

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Public Employment Act of 1973."

STATEMENT OF FINDINGS AND PURPOSES

SEC. 2. The Congress finds and declares that—

(1) the incidence of unemployment and poverty still persists at high levels in some of the Nation's cities and rural areas, notwithstanding the current high state of the general economy;

(2) the Nation has failed to fulfill the goal set twenty-five years ago in the Employment Act of 1946 to assure maximum levels of employment through public policy;

(3) continued high unemployment in some areas severely limits the work opportunities available to low-income persons, and migrants, persons of limited English-speaking ability, and others from socio-economic backgrounds generally associated with substantial unemployment and underemployment;

(4) work opportunities must be made available for the increased number of persons in the labor force, including the many young persons who are entering the labor force, persons who have recently been separated from military service, and older persons who desire to remain in, enter, or reenter the labor force;

(5) there still exist unmet needs for public services in urban and rural areas in such fields as environmental quality, health care and public health, housing and neighborhood improvements, recreation, education, public safety, maintenance of streets, parks, and other public facilities, rural development, transportation, beautification, conservation, crime and fire prevention and control, prison rehabilitation, and other fields of human betterment and public improvement.

It is therefore the purpose of this Act to utilize unused and underused manpower resources by providing such unemployed, underemployed and disadvantaged persons with employment in jobs providing needed public services so as to provide them with appropriate training and related services to enable them to move into permanent employment.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "Secretary" means the Secretary of Labor.

(2) "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(3) "public service" includes, but is not limited to, work in such fields as environmental quality, health care, education, public safety, crime prevention and control, prison rehabilitation, transportation, recreation, maintenance of parks, streets, and other public facilities, solid waste removal, pollution control, housing and neighborhood improvements, rural development, conservation, beautification, and other fields of human betterment and community improvement.

(4) "health care" includes, but is not limited to, preventative and clinical medical treatment, voluntary family planning services, nutrition services, and appropriate psychiatric, psychological, and prosthetic services.

(5) "unemployed persons" means—

(a) persons who are without jobs and who want and are available for work; and

(b) adults who or whose families receive money payments pursuant to a State plan approved under title I, IV, X, or XVI of the Social Security Act (1) who are determined by the Secretary of Labor, in consultation with the Secretary of Health, Education, and Welfare, to be available for work, and (2) who are either (i) persons without jobs, or (ii) persons working in jobs providing insufficient income to enable such persons and their families to be self-supporting without such public assistance;

and the determination of whether persons are without jobs shall be made in accordance with the criteria used by the Bureau of Labor Statistics of the Department of Labor in defining persons as unemployed;

(6) "underemployed persons" means—

(a) persons who are working part-time but seeking full-time work;

(b) persons who are working full-time but receiving wages below the poverty level determined in accordance with criteria as established by the Director of the Office of Management and Budget.

FINANCIAL ASSISTANCE

SEC. 4. (a) The Secretary of Labor shall enter into arrangements with eligible applicants in accordance with the provisions of this act in order to make financial assistance available in areas of persistent high unemployment for the purposes of providing transitional employment for unemployed and underemployed persons in jobs providing needed public services and training and manpower services related to such employment which are otherwise unavailable and enabling such persons to move into employment or training not supported under this Act.

(b) Not less than 85 per centum of the funds authorized to be appropriated pursuant to this Act shall be expended for wages and employment benefits to persons employed in public service jobs pursuant to this Act.

ELIGIBLE AREAS AND APPLICANTS

SEC. 5. (a) The Secretary shall designate as areas of persistent unemployment those areas within the United States in which he determines, upon the basis of standards generally comparable with those set forth in paragraphs (1) and (2), that there has existed substantial and persistent unemployment for an extended period of time. There shall be included among the areas so designated any area—

(1) where the Secretary of Labor finds that the rate of unemployment, excluding unemployment due primarily to temporary or seasonal factors, is currently 6 per centum or more and has averaged at least 6 per centum for the qualifying time periods specified in paragraph (2); and

(2) where the Secretary of Labor finds that the annual average rate of unemployment has been at least—

(A) 50 per centum above the national average for three of the preceding four calendar years, or

(B) 75 per centum above the national average for two of the preceding three calendar years, or

(C) 100 per centum above the national average for one of the preceding two calendar years.

(b) An area as defined in subsection (a) shall continue to be deemed an area of persistent high unemployment until the rate of unemployment has been less than 6 per centum, on the average, for the succeeding twelve months.

(c) In determining the rate of unemployment for the purposes of subsection (a), persons who were, at the time of their employment under this Act, being counted as unemployed in determining such rate of unemployment shall continue to be so counted if they continue in such employment.

(d) Whenever the Secretary makes any determination required by subsection (a) of this section, he shall promptly notify the Congress and shall publish such determination in the Federal Register.

(e) Financial assistance under this Act may be provided by the Secretary only pursuant to applications submitted by eligible applicants which shall be—

(1) units of State, and general local government; or

(2) Indian tribes on Federal or State reservations.

ELIGIBLE PARTICIPANTS

SEC. 6 (a) Financial assistance under Section 4 of this Act may be provided by the Secretary pursuant to an application submitted by an eligible applicant and approved by the Secretary which will provide transitional public service employment to unemployed, underemployed and low income persons as defined in Section 3(5) and (6) of this Act.

(b) Notwithstanding the provisions of subsection (a) above, the Secretary may provide financial assistance to such other unemployed or underemployed persons or groups of persons as he may designate when deemed by the Secretary to be in the public interest.

APPLICATIONS

SEC. 7. (a) Financial assistance under this Act may be provided by the Secretary for any fiscal year only pursuant to an application which is submitted by an eligible applicant and which is approved by the Secretary in accordance with the provisions of this Act. Any such application shall set forth a public service employment program designed, in areas of persistent high unemployment, to provide transitional employment for unemployed and underemployed persons in jobs providing needed public services and, where appropriate, training and manpower services related to such employment which are otherwise unavailable, and to enable such persons to move into employment or training not supported under this Act.

(b) Programs assisted under this Act shall, to the extent feasible, be designed with a view toward—

(1) developing new careers, or

(2) providing opportunities for career advancement, or

(3) providing opportunities for continued training, including on-the-job training, or

(4) providing transitional public service employment which will enable the individuals so employed to move into public or private employment or training not supported under this Act.

(c) An application for financial assistance for a public service employment program under this Act shall include provisions setting forth—

(1) assurances that the activities and services for which assistance is sought under this Act will be administered by or under the supervision of the applicant, identifying any agency or institution designated to carry out such activities or services under such supervision;

(2) a description of the area to be served by such programs, and a plan for effectively serving on an equitable basis the significant segments of the population to be served, including data indicating the number of potential eligible participants and their income and employment status;

(3) assurances that special consideration will be given to the filling of jobs which provide sufficient prospects for advancement or suitable continued employment by providing complementary training and manpower services designed to (A) promote the advancement of participants to employment or training opportunities suitable to the individuals involved, whether in the public or private sector of the economy, (B) provide participants with skills for which there is an anticipated high demand, or (C) provide participants with self-development skills, but nothing contained in this paragraph shall be construed to preclude persons or programs for whom the foregoing goals are not feasible or appropriate;

(4) assurances that special consideration in filling public service jobs will be given to unemployed and underemployed persons who served in the Armed Forces in Indochina or Korea on or after August 5, 1964, in accordance with criteria established by the Secretary (and who have received other than dishonorable discharges); and that the applicant shall (A) make a special effort to acquaint such individuals with the program, and (B) coordinate efforts on behalf of such persons with those authorized by chapter 41 of title 38, United States Code (relating to Job Counseling and Employment Services for Veterans) or carried out by other public or private organizations or agencies;

(5) assurances that, to the extent feasible, public service jobs shall be provided in occupational fields which are most likely to expand within the public or private sector as the unemployment rate recedes;

(6) assurances that due consideration be given to persons who have participated in manpower training programs for whom employment opportunities would not be otherwise immediately available;

(7) a description of the methods to be used to recruit, select, and orient participants, including specific eligibility criteria, and programs to prepare the participants for their job responsibilities;

(8) a description of unmet public service needs and a statement of priorities among such needs;

(9) a description of jobs to be filled, a listing of the major kinds of work to be performed and skills to be acquired, and the approximate duration for which participants would be assigned to such jobs;

(10) the wages or salaries to be paid persons employed in public service jobs under this Act and a comparison with the wages paid for similar public occupations by the same employer;

(11) where appropriate, the education, training, and supportive services (including counseling and health care services) which complement the work performed;

(12) the planning for and training of supervisory personnel in working with participants;

(13) a description of career opportunities and job advancement potentialities for participants;

(14) assurances that procedures established pursuant to section 11(a) will be complied with;

(15) assurances that agencies and institutions to whom financial assistance will be made available under this Act will undertake analysis of job descriptions and a reevaluation of skill requirements at all levels of employment, including civil service requirements and practices relating thereto, in accordance with regulations promulgated by the Secretary;

(16) assurances that the applicant will, where appropriate, maintain or provide linkages with upgrading and other manpower programs for the purpose of (A) providing those persons employed in public service jobs under this Act who want to pursue work with the employer, in the same or similar work, with opportunities to do so and to find permanent, upwardly mobile careers in that field, and (B) providing those persons so employed, who do not wish to pursue permanent careers in such field, with opportunities to seek, prepare for, and obtain work in other fields;

(17) assurances that all persons employed under any such program, other than necessary technical, supervisory, and administrative personnel, will be selected from among unemployed and underemployed persons;

(18) assurances that the program will, to the maximum extent feasible, contribute to the elimination of artificial barriers to employment and occupational advancement, including civil service or other employment requirements which restrict employment opportunities for the disadvantaged;

(19) assurances that not more than one-third of the participants in the program will be employed in a bona fide professional capacity (as such term is used in section 13(a)(1) of the Fair Labor Standards Act of 1938), except that this paragraph shall not be applicable in the case of participants employed as classroom teachers, and the

Secretary may waive this limitation in exceptional circumstances; and

(20) such other assurances, arrangements, and conditions, consistent with the provisions of this Act, as the Secretary deems necessary, in accordance with such regulations as he shall prescribe.

APPROVAL OF APPLICATIONS

SEC. 8. An application, or modification or amendment thereof, for financial assistance under this Act may be approved only if the Secretary determines that—

(1) the application meets the requirements set forth in this Act;

(2) the approvable request for funds does not exceed 90 per centum of the cost of carrying out the program proposed in such application, unless the Secretary determines that special circumstances or other provisions of law warrant the waiver of this requirement;

(3) an opportunity has been provided to officials of the appropriate units of general local government to submit comments with respect to the application to the applicant and to the Secretary; and

(4) an opportunity has been provided to the Governor of the State to submit comments with respect to the application to the applicant and to the secretary.

Non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment, or services.

TRAINING AND RELATED SERVICES

SEC. 9. For the purpose of providing training and related services, and the acquisition or the rental or leasing of supplies, equipment, materials, and real property necessary to enable persons to be employed in public service employment programs assisted under this Act, the Secretary shall utilize, in addition to any funds otherwise available under federally supported manpower programs, not to exceed 15 per centum of the amounts appropriated under this Act for each fiscal year.

SPECIAL RESPONSIBILITIES OF THE SECRETARY

SEC. 10. (a) The Secretary shall establish procedures for periodic reviews by an appropriate agency of the status of each person employed in a public service job under this Act to assure that—

(1) in the event that any person employed in a public service job under this Act and the reviewing agency finds that such job will not provide sufficient prospects for advancement or suitable continued employment, maximum efforts shall be made to locate employment or training opportunities providing such prospects, and such person shall be offered appropriate assistance in securing placement in the opportunity which he chooses after appropriate counseling.

(b) The Secretary shall review the implementation of the procedures established under subsection (a) of this section six months after funds are first obligated under this Act and at six-month intervals thereafter.

(c) From funds appropriated pursuant to section 12, the Secretary may reserve such amount, not to exceed 1 per centum, as he deems necessary to provide for a continuing evaluation of programs assisted under this Act and their impact on related programs.

SPECIAL PROVISIONS

SEC. 11. (a) The Secretary shall not provide financial assistance for any program or activity under this Act unless he determines, in accordance with such regulations as he shall prescribe, that—

(1) the program (A) will result in an increase in employment opportunities over those which would otherwise be available, (B) will not result in the displacement of currently employed workers (including partial displacement such as a reduction in the hours of nonovertime work or wages or employment benefits), (C) will not impair existing contracts for services or result in the substitution of Federal for other funds in connection with work that would otherwise be performed, and (D) will not substitute public service jobs for existing federally assisted jobs;

(2) persons employed in public service jobs under this Act shall be paid wages which shall not be lower than whichever is the highest of (A) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the participant and if he were not exempt under section 13 thereof, (B) the State or local minimum wage for the most nearly comparable covered employment, or (C) the prevailing rates of pay for persons employed in similar public occupations by the same employer;

(3) funds under this Act will not be used to pay persons employed in public service jobs under this Act at a rate in excess of $12,000 per year;

(4) all persons employed in public service jobs under this Act will be assured of workmen's compensation, health insurance, unemployment insurance, and other benefits at the same levels and to the same extent, if any, as other employees of the employer and to working conditions and promotional opportunities neither more nor less favorable than such other employees enjoy;

(5) the provisions of section 2(a)(3) of Public Law 89–286 (relating to health and safety conditions) shall apply to such program or activity;

(6) the program will, to the maximum extent feasible, contribute to the occupational development or upward mobility of individual participants;

(7) every participant shall be advised, prior to entering upon employment, of his rights and benefits in connection with such employment.

(b) Where a labor organization represents employees who are engaged in similar work in the same area to that proposed to be performed under any program for which an application is being developed for submission under this Act, such organization shall be notified and afforded a reasonable period of time in which to make comments to the applicant and to the Secretary.

(c) The Secretary shall prescribe regulations to assure that programs under this Act have adequate internal administrative controls, accounting requirements, personnel standards, evaluation procedures, and other policies as may be necessary to promote the effective use of funds.

(d) The Secretary may make such grants, contracts, or agreements, establish such procedures, policies, rules, and regulations, and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend funds made available under this Act, as he may deem necessary to carry out the provisions of this Act, including necessary adjustments in payments on account of overpayments or underpayments. The Secretary may also withhold funds otherwise payable under this Act in order to recover any amounts expended in the current or immediately prior fiscal year in violation of any provision of this Act or any term or condition of assistance under this Act.

(e) The Secretary shall not provide financial assistance for any program under this Act unless he determines, in accordance with regulations which he shall prescribe, that periodic reports will be submitted to him containing data designed to enable the Secretary and the Congress to measure the relative and, where programs can be compared appropriately, comparative effectiveness of the programs authorized under this Act and other federally supported manpower programs. Such data shall include information on—

(1) characteristics of participants including age, sex, race, health, education level, and previous wage and employment experience;

(2) duration in employment situations, including information on the duration of employment of program participants for at least a year following the termination of participation in federally assisted programs and comparable information on other employees or trainees of participating employers; and

(3) total dollar cost per participant, including breakdown between wages, training, and supportive services, all fringe benefits, and administrative costs.

(f) The Secretary shall not provide financial assistance for any program under this Act unless the grant, contract, or agreement with respect thereto specifically provides that no person with responsibilities in the operation of such program will discriminate with respect to any program participant or any applicant for participation in such program because of race, creed, color, national origin, sex, political affiliation, or beliefs.

(g) The Secretary shall not provide financial assistance for any program under this Act which involves political activities; and neither the program, the funds provided therefor, nor personnel employed in the administration thereof, shall be, in any way or to any extent, engaged in the conduct of political activities in contravention of chapter 15 of title 5, United States Code.

(h) The Secretary shall not provide financial assistance for any program under this Act unless he determines that participants in the program will not be employed on the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship.

AUTHORIZED APPROPRIATIONS

SEC. 12(a). There are authorized to be appropriated to carry out this Act $500,000,000 for each fiscal year ending prior to July 1, 1977. In addition to the sums authorized under the first sentence of this subsection there are authorized to be appropriated $100,000,000 each fiscal year for each increment of one-half of 1 per centum by which the Secretary determines that the average rate of national unemployment (seasonally adjusted) for three consecutive months exceeds 6 per centum.

(b) Notwithstanding any other provision of law, any funds appropriated to carry out this Act which are not obligated and expended prior to the end of the fiscal year for which such funds were appropriated shall remain available for obligation and expenditure until expended.

(c) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation. In order to effect a transition to the advance funding method of timing appropriation action, this subsection shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

EFFECTIVE DATE

SEC. 13. This Act shall be effective upon enactment.

By Mr. MANSFIELD (for himself and Mr. SCOTT of Pennsylvania):

S. 2264. A bill to provide civil service retirement credit for certain language instructors of the Foreign Service Institute, Department of State. Referred to the Committee on Post Office and Civil Service.

Mr. MANSFIELD. Mr. President, the Republican leader (Mr. SCOTT) and I are introducing, today, a bill which provides credit toward retirement for certain language instructors of the Foreign Service Institute of the Department of State. The bill is designed to correct an injustice which involves 28 employees of the Institute. These men and women formed a critical nucleus of high skill in the early days of systematic language training of U.S. foreign service officers, especially in the more exotic tongues.

The employees who would be affected by this legislation were hired on a so-called nonpersonal service contract basis prior to July 1, 1960. The reason for the Institute's use of this system of employment for these specialists is obscured in the passing of time; the fact is that on June 30, 1960, 13 years ago, the General Accounting Office criticized the practice as "unauthorized." It insisted that the Institute desist from using nonpersonal service contracts and the Institute complied immediately. Thereafter the contract employees were shifted to a regular service basis.

Nevertheless, the injustice of the Institute's original practice remained, for varying periods of time prior to July 1, 1960, the language instructors had not been permitted—as contract employees—to participate in the Federal civil service retirement system although in every significant respect they were functioning as regular employees of the U.S. Government. The effort to right this injustice by administrative remedies was bogged down for 5 years in Civil Service Commission delays and, finally, was rejected.

At this late date, it seems most unfair to require this small group of loyal and highly useful employees to go to the courts in an attempt to secure equitable treatment. This legislation would merely credit toward retirement the years in which they served as contract employees of the Foreign Service Institute if they pay into the fund for those years.

The number of persons involved is small. All are longtime employees who were employed by contract before July 1, 1960. The inequity which they have experienced is patent. We hope that the Senate will try to remedy it by acting favorably and promptly on this measure.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2264

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8332 (b) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (8);

(2) by striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon and the word "and";

(3) by inserting immediately below paragraph (9) the following new paragraph:

"(10) subject to making a deposit provided for under section 8334(c) of this title, service performed after June 30, 1948, but prior to July 1, 1960, as a language instructor in the Foreign Service Institute, Department of State, under a nonpersonal services contract, only if he later becomes subject to this subchapter."; and

(4) by inserting immediately after the fifth sentence thereof the following new sentence: "The Commission shall accept the certification of the Secretary of State concerning service for the purpose of this subchapter of the type described in paragraph (10) of this subsection and performed by an employee."

SEC. 2. The amendments made by the first section of this Act shall apply to individuals separated from Government service prior to, on, or after, the date of enactment of this Act, and their survivors; but no annuity or survivor annuity, or increase in any such annuity, shall be payable by reason of such amendments for any period prior to the first day of the first month which begins after the date of the enactment of this Act.

By Mr. SCHWEIKER:

S. 2265. A bill to establish a Civil Disaster Office in the Corps of Engineers, Department of the Army, to coordinate Federal disaster relief activities, and for other purposes. Referred to the Committee on Public Works.

Mr. SCHWEIKER. Mr. President, I introduce today a bill to establish a Civil Disaster Division in the Army Corps of Engineers and ask that it be properly referred.

This bill would create a Civil Disaster Division within the Army Corps of Engineers which will have the responsibility for preparing and maintaining natural disaster contingency plans on a nationwide basis. The office would be required to map all disaster-prone areas and to submit proposals for revised land use to eliminate disasters. The contingency plans must be updated regularly and put into effect on a standby basis as soon as the disaster threat exists.

The new division must also designate an officer to be the Disaster Relief Coordinator and empower him to take full charge of all disaster recovery programs. The coordinator will have authority to waive statutory waiting periods, to modify formal application procedures, and to coordinate procedures and activities of FHA, SBA, and similar agencies.

As you know, Mr. President by Executive order all disaster relief authority invested in the Office of Emergency Preparedness has now been moved into the Department of Housing and Urban Development. It has been my experience in working with flood disaster victims that HUD is simply too tied up with red tape to handle these emergencies on an expedited basis, despite the best efforts of many HUD employees.

It is absolutely clear that a recurrence of the Agnes catastrophe can only be prevented if we take decisive action. We must have coherent plans, in advance, to cope with these natural disasters, and we must be able to execute these plans with military efficiency. For this reason, I believe the Army Corps of Engineers, and not HUD, is the appropriate agency to assume this task.

In addition to this bill, I have introduced S. 1144, the national catastrophic disaster insurance bill and S. 390, the National Flood Insurance Act amendments, both dealing with disasters. Also, I looked into the possibility of providing Federal minimum standards applicable to all work done in disaster areas. Penalties must be imposed on those who do not adhere to basic standards of business ethics, such as contractors charging excessive prices. However, I think our first priority must be to concentrate on getting the mechanism for delivery of disaster relief under control. I believe the entire field of disaster relief is an area of great importance, and I am hopeful the Senate will take quick action on this much needed legislation.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2265

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

ESTABLISHMENT OF CIVIL DISASTER OFFICE IN THE CORPS OF ENGINEERS

SECTION 1. There is established in the Corps of Engineers, Department of the Army, a Civil Disaster Office (hereinafter referred to as the "Office") which shall carry out the provisions of this Act and the functions transferred to the Office by this Act.

DISASTER AND LAND USE PLANNING

SEC. 2. The Office shall—

(1) establish and maintain detailed, comprehensive, and current national natural disaster contingency plans which shall be implemented on a standby basis whenever the head of the Office determines that a natural disaster may occur; and

(2) map flood- or other disaster-prone areas and submit proposals for revised land use in such areas to appropriate State and local officials.

TRANSFER OF FUNCTIONS

SEC. 3. All authority transferred to the Secretary of Housing and Urban Development by section 1 of Executive Order 11725, June 27, 1973, is hereby transferred to the Civil Disaster Office, Corps of Engineers, Department of the Army.

COORDINATION OF DISASTER RELIEF

SEC. 4. Section 201(b) of the Disaster Relief Act of 1970 is amended—

(1) by striking out "and" at the end of clause (3);

(2) by redesignating clause (4) as clause (5); and

(3) by inserting after clause (3) the following new clause:

"(4) coordinate and supervise the procedures and activities of all Federal agencies in connection with the disaster, and, when necessary or appropriate, modify formal application procedures in order to expedite the furnishing of disaster relief assistance;".

MODIFICATION OR WAIVER OF GRANT REQUIREMENTS

SEC. 5. Section 205 of the Disaster Relief Act of 1970 is amended—

(1) by striking out "Any Federal agency charged with the administration of a Federal grant-in-aid program" and inserting in lieu thereof "The Civil Disaster Office, Corps of Engineers, Department of the Army,"; and

(2) by striking out "such program" and inserting in lieu thereof "any Federal grant-in-aid program".

By Mr. MOSS:

S. 2266. A bill to regulate commerce by assuring adequate supplies of energy resource products will be available at the lowest possible cost to the consumer, and for other purposes. Referred to the Committee on Commerce.

ENERGY INDUSTRY COMPETITION ACT

Mr. MOSS. Mr. President, I introduce for appropriate reference the Energy Industry Competition Act. Mr. President, this bill, which I introduce today, is similar to an amendment which I called up during the debate on the Alaska pipeline bill. The Energy Industry Competition Act would bring about the separation of the marketing, production, refining, and transportation of petroleum and petroleum products. The old axiom of whoever controls the crude, controls the industry, has been borne out over the past year. Unfortunately, those who have controlled the crude have, due to their total vertical integration, left in their wake bankrupt independent businessmen, abandoned service stations, and frightened motorists.

Mergers and acquisitions in the energy resources industry among the dominant companies have increased the concentration of power to a relative handful. In almost a divide and conquer fashion, major oil companies have split up the retail market of this country along with several strong regional companies, and thus pose a significant impact on competition. The elimination of price competition has a severe effect on consumer costs and the potential for misallocation of refined products has been demonstrated with the price increases and shortages that have developed during the spring and summer months.

The ramifications of the current gasoline shortage of the consumer had an immense impact on the public. It has been estimated that for each 1-cent increase in the price at the retail level, consumers nationally pay an additional $1 billion per year.

While numerous efforts have been made to control the marketplace and reduce the burdens of the current crisis, in the long run the only way to restore competition is not by regulating the market, rather it is by enhancing the free-enterprise system through decontrolling market restrictions. But no single decontrol step can take place unless competition is effective and viable companies operate in a free and unburdened environment. Competition and concentration are the antithesis of each other. In order to restore competition, it is necessary to lessen the concentration which exists in the vertically integrated energy industry.

If we continue to permit a few giant corporations to abuse their market power, then the end of the free market economy is in sight. The report of the Federal Trade Commission has specifically noted that the imbalance in our energy industry is a result of the vertical integration of that industry. I am hopeful that the appropriate committees can begin their consideration of this legislation as soon as possible.

I am happy to note that Congressman DINGELL, of Michigan, is simultaneously introducing this bill in the House of Representatives.

Mr. President, I ask unanimous consent that the text of the Energy Industry Competition Act be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2266

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Energy Industry Competition Act."

DECLARATION OF POLICY

SEC. 2(a). Congress hereby declares and reiterates the continuing commitment of the United States to the goal of a free enterprise and free market economy which functions fairly and efficiently with a minimum of Government interference. (b) The Congress finds and further declares that the Nation needs to develop new and expanded energy resource products. The United States needs adequate and available supplies of energy resource products at the lowest possible cost to meet the present and future needs of commerce and national security and the requirements for energy resource products of businessmen, communities, and consumers in activities in interstate commerce and affecting interstate commerce.

(c) The Congress further finds and declares that the foregoing needs wil' not be met consistent with such commitment to a free enterprise economy unless—

(1) barriers to competition presently existing in the energy industry are removed;

(2) restrictions are imposed on further expansion of persons engaged in commerce in the business of producing, transporting, refining, or marketing energy resource products;

(3) competition, equal access to supplies for all, and nondiscriminatory practices become the rule in the energy industry; and

(4) divestiture of assets is directed to promote the public interest in competition and freedom of enterprise, and to protect the consuming public from monopoly oligopoly, and bigness.

DEFINITIONS

SEC. 3. As used in this Act—

(1) "Affiliate" means a person controlled by or controlling or under or subject to common control with respect to any other person.

(2) "Asset" means any property (tangible or intangible, real, personal, or mixed) and includes stock in any corporation which is engaged (directly or through a subsidiary or affiliate) in the business of producing, transporting, refining, or marketing energy resource products.

(3) "Commerce" means commerce among the several States or with foreign nations or in any State or between any State or between any State and foreign nation.

(4) "Control" means actual or legal power or influence over another person, directly or indirectly, arising through direct, indirect, or interlocking ownership of capital stock, interlocking directorates or officers, contractual relations, agency agreements, or leasing arrangements where the result or consequence is used to affect or influence persons engaged in the marketing of energy resource products.

(5) "Energy resource product extraction asset" means—

(A) an asset used for the exploration or development of petroleum or coal deposits or used for the extraction of coal or crude petroleum, including oil and gas wells; and

(B) with respect to oil shale, any asset used in extracting such shale from the ground, crushing and loading it into a retort and retorting such shale, except that the term does not include any asset used in processes subsequent to retorting.

(6) "Energy resource product" means petroleum, natural gas, coal, or products refined therefrom.

(7) "Marketing" means the sale and distribution of energy resource products, other than the initial sale with transfer of ownership to customers at the refinery, if any.

(8) "Person" means an individual or a corporation, partnership, joint-stock company, business trust, trustee in bankruptcy, receiver in reorganization, association, or any organized group whether or not incorporated.

(9) "Energy marketing asset" means any asset used in the marketing or retail distribution of energy resource products including but not limited to, retail outlets for the sale of gasoline, motor oil, number 2 fuel oil, home heating oil, or coal.

(10) "Energy pipeline asset" means any asset used in the transportation by pipeline of energy resource products from the site of its extraction to a refinery or in the transportation by pipeline of energy resource products from the refinery to any other place.

(11) "Energy refinery asset" means any asset used in the refining of energy resource products.

(12) "Production" means the development of oil lands or oil shale lands within any State, the extraction of crude petroleum, coal, oil shale, or natural gas thereon, and the storage of crude petroleum or natural gas thereon.

(13) "Refining" means the refining, processing, or converting of crude petroleum, coal, kerogen, fuel oil, or natural gas into finished or semifinished products. The term includes the initial sale with transfer of ownership of such finished or semifinished products to customers at the refinery.

(14) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands.

(15) "Transportation" means the transportation of energy resource products by means of pipelines, railroads, or tankers.

UNLAWFUL ACQUISITION

SEC. 4. It shall be unlawful after the date of enactment of this Act for any person engaged in commerce in the business of—

(a) extracting energy resource products to acquire, directly or through an affiliate, any energy pipeline asset, energy refinery asset, or energy marketing asset;

(b) transporting energy resource products by pipeline to acquire directly or through an affiliate, any energy resource product extraction asset, energy refinery asset, or energy marketing asset;

(c) refining energy resource products to acquire, directly or through an affiliate, any energy resource product extraction asset, energy pipeline asset, or energy marketing asset; or

(d) marketing energy resource products to acquire, directly or through an affiliate, any energy resource product extraction asset, energy pipeline asset, or energy refinery asset.

UNLAWFUL RETENTION

SEC. 5. It shall be unlawful for any person engaged in commerce to own or control, more than three years after the date of enactment of this Act, any asset which such person is prohibited from acquiring under subsection (a), (b), (c), or (d) of section 4 of this Act.

REPORTS

SEC. 6. Each person engaged in commerce owning or controlling, on the date of enactment of this Act, any asset which such person is prohibited from acquiring under subsection (a), (b), (c), or (d) of section 4 of this Act shall, within one hundred and twenty days after such date, file with the Attorney General of the United States and the Federal Trade Commission such reports relating to such assets and, from time to time, such additional reports relating to such assets, as the Attorney General or the Federal Trade Commission may require.

ENFORCEMENT

SEC. 7. (a) The Attorney General of the United States and the Federal Trade Commission shall simultaneously and independently, examine the relationship of persons now engaged in one or more branches of the energy industry. The Attorney General shall, and the Federal Trade Commission shall, institute suits in the district courts of the United States requesting the issuance of such relief as is appropriate under this Act, including orders of divestiture, declaratory judgments, mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

(b) The Attorney General of the United States and the Federal Trade Commission shall take all steps necessary to effect appropriate divestiture of asserts of persons engaged in commerce. An order of divestiture is appropriate if such divesture.

(1) will remedy, through termination, any conduct which is unlawful under section 4 or 5 of this Act; or

(2) may, as a natural and probable consequence of an increase in the number of competitors, increase the amount of real competition with respect to the production, refining, transportation, or marketing of energy resource products in commerce in each section of the country.

PENALTIES

SEC. 8. Any person who knowingly violates any provision of this Act shall upon conviction, be punished, in the case of an individual, by a fine of not to exceed $500,000 or by imprisonment for a period not to exceed ten years, or both, or in the case of a corporation, by a fine of not to exceed $5,000,000 or by suspension of the right to do business in interstate commerce for a period not to exceed ten years, or both. A violation by a corporation shall be deemed to be also a violation by the individual directors, officers, receivers, trustees, or agents of such corporation who shall have authorized, ordered, or done any of the acts constituting the violation in whole or in part, or who shall have omitted to authorize, order, or do any acts which would terminate, prevent, or correct conduct violative of this Act. Failure to obey any order of the court pursuant to this Act shall be punishable by such court as a contempt of court.

By Mr. MAGNUSON (for himself and Mr. COTTON) (by request):

S. 2267. A bill to amend section 303(b) of the Interstate Commerce Act to remove certain restrictions upon the application and scope of the exemption provided therein, and for other purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to amend section 303(b) of the Interstate Commerce Act to remove certain restrictions upon the application and scope of the exemption provided therein, and for other purposes, and ask unanimous consent that the letter of transmittal and section-by-section analysis be printed in the RECORD with the text of the bill.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2267

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 303(b) of the Interstate Commerce Act, as amended (49 U.S.C. 903(b)), is amended to read as follows:

"(b) Nothing in this part shall apply to the transportation by a water carrier of commodities in bulk. This subsection shall apply only in the case of commodities in bulk which are (in accordance with the existing custom of the trade in the handling and transportation of such commodities as of June 1, 1939) loaded and carried without wrappers or containers and received and delivered by the carrier without transportation mark or count. This subsection shall not apply to transportation subject, at the time this part takes effect, to the provisions of the Intercoastal Shipping Act, 1933, as amended."

SEC. 2. Sections 2 and 3 of the Act of December 28, 1970, (84 Stat. 1587) are hereby repealed.

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., July 17, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: The Department of Transportation has prepared and submits herewith, as part of its legislative program for the 93d Congress, a draft and section-by-section analysis of a proposed bill.

"To amend section 303(b) of the Interstate Commerce Act to remove certain restrictions upon the application and scope of the exemption provided therein, and for other purposes."

The proposed bill would make several significant changes in section 303(b) of the IC Act which are designed to implement the recommendations contained in the Secretary of Transportation's Report to the Congress of March 1973, entitled *The Barge Mixing Rule Problem*. The Secretary's report was in response to P.L. 91–950, enacted December 28, 1970, which directed the Department to undertake a comprehensive study of the present system of economic regulation of dry bulk commodity transportation and to transmit the results of such study to the Congress.

In the course of deliberations in the 91st Congress on proposed mixing rule legislation, which in varying degrees would have removed certain stautory, judicial, and regulatory restrictions on the dry bulk commodity exemption, concern eventually came to be focused on four primary issues:

(1) *The Custom-of-the-Trade Provision*. All dry bulk commodities transported by water are exempt from economic regulation provided they were moved in bulk by water on or prior to June 1, 1939;

(2) *The Three-Commodity Restriction*. Dry bulk commodity transportation by water is exempt from economic regulation only if no more than three exempt dry bulk commodities are carried in one tow;

(3) *The No-Mixing Rule*. Dry bulk commodity transportation by water is exempt from economic regulation only if no regulated commodities are moved in the same tow with the exempt dry bulk commodities; and

(4) *Rate Publication*. Dry bulk exempt commodities may be carried for-hire in interstate commerce without any publication of applicable rates either before or after the fact.

These issues were the subject of extended debate, from which it became apparent that a study of dry bulk commodity transportation should be undertaken before formulation of any permanent legislative solution to the problem. Consequently, P.L. 91–590 nullified the No-Mixing Rule for a period of three years, and required the Secretary of Transportation to conduct a dry bulk commodity study.

The Department's study discusses in depth each of the four issues above, and includes recommendations with respect to each of them. Succinctly, we recommend that the Custom-of-the-Trade Provision not be altered at this time. We also recommend that the Three-Commodity Restriction and the No-Mixing Rule be repealed, and that there not be any requirement for rate publication for commodities exempt from regulation by section 303(b).

Our recommendations are based on our study conclusions to the effect that the Three-Commodity Restriction and the No-Mixing Rule no longer serve any relevant or beneficial purpose for the water carrier industry or the shipping and consuming public. These past restrictions on dry bulk commodity transportation by water have caused much confusion for carrier operators, and the restrictions have never been actively enforced by the Interstate Commerce Commission. Effective application and enforcement of the restrictions on the exemption at this late date would severely hamper transportation flexibility, raise economic costs, and create operational difficulties in water transportation of dry bulk commodities. This would be counter to the Administration's desire to hold down prices and promote the most efficient use of all transportation facilities. Active enforcement of the current ICC interpretation of the provisions of section 303(b) would aggravate present difficulties in the transportation of export grains and other commodities.

The proposed bill transmitted herewith would retain the Custom-of-the-Trade Provision, repeal the Three-Commodity Restriction and the No-Mixing Rule, and make certain conforming amendments to both section 303(b) of the IC Act and P.L. 91–590.

The Office of Management and Budget has advised that there would be no objection to enactment of this legislation.

Sincerely,

CLAUDE S. BRINEGAR.

SECTION-BY-SECTION ANALYSIS

Section 1.—Amends section 303(b) of the Interstate Commerce Act by omitting language requiring that vessel cargo space be used for carrying not more than three bulk commodities, and by omitting language defining vessels and language relating to the concurrent transportation of commodities in bulk in the same vessel with other commodities. The intended effect of the foregoing omissions is to eliminate the Three-Commodity Restriction and the No-Mixing Rule.

Section 2.—Repeals section 2 of P.L. 91–590, the Act of December 28, 1970 (84 Stat. 1587), which provides that the amendments therein which apply to section 303(b) of the Interstate Commerce Act shall expire after three years, and which includes the requirement that the Secretary of Transportation conduct the now completed study. It further repeals section 3 of P.L. 91–590 which required water carriers operating under the section 303(b) exemption to file such reports containing such information as the Secretary of Transportation may prescribe in the conduct of the now completed study.

By Mr. MAGNUSON (for himself and Mr. COTTON) (by request):

S. 2268. A bill to provide for the enlistment and commissioning of women in the Coast Guard Reserve, and for other purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to provide for the enlistment and commissioning of women in the Coast Guard Reserve, and for other purposes, and ask unanimous consent that the letter of transmittal and changes in existing law be printed in the RECORD with the text of the bill.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2268

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 31 of title 10, United States Code, is amended as follows:

Subsection (c) of section 510 is amended by changing the period at the end of the second sentence to a semicolon, and by inserting immediately thereafter the words "except for the Coast Guard, in which women are enlisted in the grades and ratings prescribed by the Secretary of the department in which the Coast Guard is operating."

SEC. 2. Chapter 35 of title 10, United States Code, is amended as follows:

Subsection (c) of section 591 is amended by changing the period at the end of the third sentence to a semicolon, and by inserting immediately thereafter the words "except for the Coast Guard, in which women are appointed in grades prescribed by the Secretary of the department in which the Coast Guard is operating."

SEC. 3. Chapter 3 of title 14, United States Code, is amended as follows:

(1) Subsection (a) of section 41a is amended:

(a) by striking the comma in the second sentence following the words "Retired officers" and inserting in lieu thereof the word "and"

(b) by striking from the second sentence the following phrase ", and officers of the Women's Reserve".

(2) Subsection (e) of section 42 is amended:

(a) by striking the comma in the second sentence following the words "Coast Guard Academy" and inserting in lieu thereof the word "and".

(b) by striking from the second sentence the phrase ", and of the Women's Reserve."

SEC. 4. Chapter 21 of title 14, United States Code, is amended as follows:

(1) Subsection (e) of section 755 is amended by striking in the first sentence the words "of the Treasury to be exercised with respect to the Coast Guard when the Coast Guard is operating under the Treasury Department."; and inserting in lieu thereof the words "of Transportation to be exercised with respect to the Coast Guard when the Coast Guard is not operating as a service in the Navy.".

(2) Section 762 is repealed.

(3) Subsection (a) of section 771 is amended to read as follows:

"(a) This subchapter applies only to the Coast Guard Reserve."

(4) Subsection (f) of section 775 is repealed.

(5) Subsection (c) of section 780 is amended as follows:

(a) in the first sentence by striking the word "high" and inserting in lieu thereof the word "higher".

(b) in clause (1), by striking the word "male", and by adding the word "and" following the semicolon.

(c) in clause (2), by striking the word "male", and by changing the semicolon to a period.

(d) by repealing clauses (3) and (4).

(6) Subsection (i) of section 780 is repealed.

(7) Subsection (a) of section 787 is amended by striking at the beginning thereof the words "Officers of the Women's Reserve in the grades of lieutenant (junior grade) and lieutenant failing of selection for promotion to the next higher grade, and all other".

(8) Subsection (c) of section 796 is repealed.

SEC. 5. Effective upon enactment of this Act, all members of the women's branch of the Coast Guard Reserve who were serving on active or inactive duty on the day before enactment, shall become members of the Coast Guard Reserve without loss of grade, rate, date of rank or other benefits earned by their prior service.

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., July 9, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a comparative type showing changes made in the existing law, and a draft of a proposed bill "To provide for the enlistment and commissioning of women in the Coast Guard Reserve, and for other purposes."

The purpose of the proposed legislation is to amend titles 10 and 14, United States Code to provide for the full integration of women into the Coast Guard Reserve.

The Coast Guard Reserve was initially authorized in 1941, with membership limited to male citizens. In 1942, the Women's Reserve was established as a branch of the Coast Guard Reserve, essentially to utilize women at shore facilities thereby making males available for assignment to sea duty. In 1947, the Act which authorized establishment of the Women's Reserve was repealed, and all of the women then in the Coast Guard Reserve were separated from the service.

When title 14, United States Code was codified in 1949, section 762 therein reestablished the Women's Reserve as a branch of the Coast Guard Reserve. This section was contained specified limitations on the functions and authority of members of the Women's Reserve. The proposed legislation would amend titles 10 and 14, United States Code to provide for appointment and enlistment of women in the Coast Guard Reserve, and to eliminate the concept of Women's Reserve as a separate branch within the Coast Guard Reserve. After enactment of the proposed legislation there would only be one Coast Guard Reserve, which would be composed of both male and female members.

The draft bill is premised on the concept that the Coast Guard no longer requires a separate and distinct Women's Reserve Corps operating apart from the mainstream of the Coast Guard. Rather, the times and needs of the service clearly call for the full integration of women into the Coast Guard Reserve. This integration would allow women to train and serve on both active and inactive duty as an integral part of the whole Coast Guard team in those mission areas dictated by the needs of the service.

It is not contemplated that a significant number of additional billets would be created as a result of this proposal. Rather, women members would merely occupy billets formerly held by male members where appropriate. Therefore, the cost implications of this proposal are negligible.

It would be appreciated if you would lay this proposed bill before the Senate. A similar bill has been transmitted to the Speaker of the House of Representatives.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this proposed legislation to the Congress.

Sincerely,

CLAUDE S. BRINEGAR.

COMPARATIVE TYPE SHOWING CHANGES IN EXISTING LAW MADE BY THE PROPOSED LEGISLATION

(Matter proposed to be omitted is enclosed in brackets, new matter is in italics)

TITLE 10

§510. Reserve components: qualifications.

* * * * *

(c) Women may be enlisted as Reserves of the armed forces. Women are enlisted in the grades and ratings authorized for enlisted women of the regular component of the armed force concerned [.]; *except for the Coast Guard, in which women are enlisted in the grades and ratings prescribed by the Secretary of the department in which the Coast Guard is operating.* Any female former enlisted member of an armed force may, if otherwise qualified, be enlisted as a Reserve of that armed force in the highest grade of rating in which she previously served satisfactorily on active duty (other than for training).

* * * * *

§591. Reserve components: qualifications

* * * * *

(c) Women may be appointed as Reserves of the armed forces for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, and Coast Guard Reserve. Women who are otherwise qualified may be appointed as Reserves of the armed forces with a view to serving in the Army National Guard of the United States or the Air National Guard of the United States. Women are appointed in grades corresponding to the grades authorized for female officers of the regular component of the armed force concerned [.]; *except for the Coast Guard, in which women are appointed in grades prescribed by the Secretary of the department in which the Coast Guard is operating.* Any female former officer of an armed force may, if otherwise qualified, be appointed as a Reserve of that armed force in the highest grade in which she previously served satisfactorily on active duty (other than for training).

* * * * *

TITLE 14

§41a. Active duty promotion list

(a) The Secretary shall maintain a single active duty promotion list of officers of the Coast Guard on active duty in the grades of ensign and above. Retired officers [,] *and* officers of the permanent commissioned teaching staff of the Coast Guard Academy [, and officers of the Women's Reserve] shall not be included on the active duty promotion list. Reserve officers on extended active duty, other than those serving in connection with organizing, administering, recruiting, instructing, or training the Reserve components or assigned to the Selective Service System, shall be included on the active duty promotion list.

§ 42. Number and distribution of commissioned officers.

* * * * *

(e) Officers who are not included on the active duty promotion list, officers serving as extra numbers in grade under sections 432 and 433 of this title, and officers serving with other departments or agencies on a reimbursable basis shall not be counted in determining authorized strengths under subsection (c) and shall not count against those strengths. The number of officers authorized to be serving on active duty in each grade of the permanent commissioned teaching staff of the Coast Guard Academy [,] *and* of the Reserve serving in connection with organizing, administering, recruiting, instructing, or training the reserve components [, and of the Womens Reserve] shall be prescribed by the Secretary.

§ 755. Benefits.

* * * * *

(e) Members of the Coast Guard Reserve, except enlisted members retiring on the basis of years of active service, shall be entitled to the same retirement benefits as prescribed by law for personnel of the Naval Reserve, and wherever any such law confers authority upon the Secretary of the Navy, similar authority shall be deemed given to the Secretary [of the Treasury to be exercised with respect to the Coast Guard when the Coast Guard is operating under the Treasury to be exercised with respect to the Coast Guard when the Coast Guard is operating under the Treasury Department.] *of Transportation to be exercised with respect to the Coast Guard when the Coast Guard is not operating as a service in the Navy.* Enlisted members of the Coast Guard Reserve requesting retirement on the basis of years of active service shall be entitled to the same retirement rights, benefits, and privileges as prescribed by law for enlisted members of the Regular Coast Guard.

* * * * *

[§762. Women's Reserve]

[(a) The Women's Reserve shall be a branch of the Coast Guard Reserve and shall be administered in the same manner as provided for the Reserve in all respects, except as may be necessary to adapt such provisions to the Women's Reserve, or as may be otherwise provided by Act of Congress.]

[(b) Members of the Women's Reserve may be commisisoned, appointed, or enlisted in grades and ratings as prescribed by the Secretary.]

[(c) Military authority of members of the Women's Reserve may be exercised over other members of the Women's Reserve only.]

[(d) Members of the Women's Reserve shall not be assigned duty on board combat vessels, or in combat aircraft, nor shall they be otherwise assigned to combat duty. They shall not be assigned to duty other than in the United States, its territories and possessions, and shall not be assigned to duty outside the continental limits of the United States, unless they have requested such duty.]

[(e) The husband of a member of the Women's Reserve of the Coast Guard may not be considered a dependent unless he is in fact dependent on her for over half of his support; and a child of such a member may not be considered a dependent unless he is in fact dependent on her for over half of his support.]

§ 771. Applicability of this subchapter

(a) This subchapter applies [———]

[(1)] only to the Coast Guard Reserve [;].

[(2) equally to women members of the Reserve except where the context indicates otherwise.]

* * * * *

§ 775. Selection boards; appointment.

* * * * *

[(f) Whenever a selection board is convened to consider officers of the Women's Reserve not serving on active duty, membership of the board shall include, when reasonably available, not less than two members of the Women's Reserve not serving on active duty.]

§ 780. Promotion; recommendations of selection boards

* * * * *

(c) Each selection board, from among those officers whose names are submitted to it as determined by section 783 of this title, shall recommend for promotion to the next [high] *higher* grade:

(1) those [male] officers serving in the grade of lieutenant (junior grade) or above whom it considers to be best qualified; *and*

(2) those [male] officers serving in the grade of ensign whom it considers to be fully qualified[;].

[(3) those officers of the Women's Reserve serving in the grade of lieutenant or below whom it considers to be fully qualified; and]

[(4) those officers of the Women's Reserve serving in the grade of lieutenant commander or above whom it considers to be best qualified. The recommendation of a selection board shall be based on comparative fitness for the duties to which officers of the Women's Reserve are normally assigned.]

* * * * *

[(i) Vacancies in all grades shall be filled by the combined total of those officers, male and female, who have been selected for promotion. Selection opportunity for officers of the Women's Reserve to grades about lieutenant commander shall be equivalent to that prescribed for male officers of the same grades. Officers of the Women's Reserve being considered for promotion to the grades of lieutenant commander or below shall be considered and selected in their order of precedence up to the number designated to be selected.]

§ 787. Failure of selection and elimination.

(a) [Officers of the Women's Reserve in the grades of lieutenant (junior grade) and lieutenant failing of selection for promotion to the next higher grade, and all other] Reserve officers after failing of selection for promotion to the next higher grade for a second time, may be retained in or eliminated from an active status in the discretion of the Secretary. Those Reserve officers who are not retained in an active status shall be given an opportunity to apply for transfer to the Retired Reserve, if qualified, but unless so transferred shall be discharged on June 30 of the fiscal year in which they have completed the following periods of total commissioned service for the grades specified:

* * * * *

§ 796. Failure of selection for promotion.

* * * * *

[(c) Those officers of the Women's Reserve in the grades of lieutenant and lieutenant (junior grade) who are junior to the last officer selected by a board pursuant to subsection (i) of section 780 of this title shall not be considered to have failed of selection, and the names of such officers shall be submitted to the next ensuing selection board.]

By Mr. MOSS:

S. 2270. A bill to facilitate the exchange of school lands between the State of Utah and the Navajo Tribe. Referred to the Committee on Interior and Insular Affairs.

NAVAJO-UTAH LAND EXCHANGE

Mr. MOSS. Mr. President, I am today introducing a bill which will help facilitate an exchange of lands between the Navajo Indian Tribe and the State of Utah.

In 1933, Congress enacted legislation which provided that certain land in the State of Utah be added to the Navajo Indian Reservation, which straddles the Utah-Arizona border. The act authorized the State of Utah to relinquish to the Navajo Tribe certain school lands owned by the State within the area to be added to the reservation, and allowed the State, in turn, to make in lieu selections of other unreserved and "nonmineral" public land located elsewhere in Utah to compensate for the land given the Navajos.

The bill I am introducing today would amend the act to allow the State to make an acre-for-acre trade of land; that is to trade an acre of nonmineral land for another acre of nonmineral land, and to trade an acre of land containing minerals for another acre of mineral land. This would mean that land equal in area would be traded on a basis of equal value. Payments of fees and commissions would be waived.

I am told that the Navajo tribal leaders are in agreement that a land exchange would be in the best interests of both parties, and are anxious that the bill be passed quickly and the matter cleared so that the land exchange can be facilitated.

I ask that a copy of the bill be printed in the Record at the close of this statement. I feel that the bill is reasonable and fair, and will ask that it be given early consideration by the Senate Interior and Insular Affairs Committee.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2270

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Act entitled "An Act to permanently set aside certain lands in Utah as an addition to the Navajo Indian Reservation, and for other purposes", approved March 1, 1933 (47 Stat. 1418), is amended to read as follows:

"Sec. 2. The State of Utah may relinquish such tracts of school land, including mineral rights, within the areas added to the Navajo Reservation by section 1 of this Act as it may see fit to the United States in trust for the Navajo Tribe, whereupon the State of Utah shall have the right to select other unreserved public lands contiguously or noncontiguously located within the State of Utah, equal in area to that relinquished, said lieu selections to be made in the same manner as is provided for in the Enabling Act of July 16, 1894 (28 Stat. L. 107), except as to the payment of fees or commissions which are hereby waived.".

ADDITIONAL COSPONSORS OF BILLS

S. 1098

At the request of Mr. Bible, the Senator from Arizona (Mr. Goldwater) was added as a cosponsor of S. 1098, to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business.

S. 1687

At the request of Mr. Proxmire, the Senator from Maine (Mr. Muskie), the Senator from Illinois (Mr. Percy), the Senator from Oklahoma (Mr. Bartlett), the Senator from Washington (Mr. Jackson), the Senator from Arizona (Mr. Goldwater), the Senator from Wyoming (Mr. Hansen), the Senator from Oregon (Mr. Hatfield), the Senator from Arizona (Mr. Fannin), the Senator from Idaho (Mr. McClure), and the Senator from New York (Mr. Buckley) were added as cosponsors of S. 1687, to repeal the act terminating Federal supervision over the property and members of the Menominee Indian Tribe of Wisconsin as a federally recognized, sovereign Indian tribe.

S. 2135

At the request of Mr. Robert C. Byrd (for Mr. Jackson), the Senator from Florida (Mr. Gurney) was added as a cosponsor of S. 2135, to promote more effective management of certain related functions of the executive branch by reorganizing and consolidating those functions in a new Department of Energy and Natural Resources, by reorganizing and consolidating others in a new Energy Research and Development Administration, and for other purposes.

S. 2167

At the request of Mr. Cook, the Senator from Utah (Mr. Moss), and the Senator from West Virginia (Mr. Randolph) were added as cosponsors of S. 2167, to establish a Federal Energy Research and Development Trust Fund.

S. 2241

At the request of Mr. HUMPHREY, the Senator from Massachusetts (Mr. BROOKE) was added as a cosponsor of S. 2241, to provide famine and disaster relief to the countries of the African Sahel.

S. 2253

At the request of Mr. DOMENICI, the Senator from New Mexico (Mr. MONTOYA) was added as a cosponsor of S. 2253, relating to lands in the Middle Rio Grande Conservancy District, N. Mex.

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE RESOLUTION 144

At the request of Mr. HANSEN, the Senator from North Carolina (Mr. ERVIN) was added as a cosponsor of Senate Resolution 144, expressing the sense of the Senate that pay increases for Members of Congress, the judiciary, and top-level employees of the executive branch should not be recommended during fiscal year 1974, and if recommended by the President, should be disapproved by the Senate.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1973—AMENDMENTS

AMENDMENT NO. 423

(Ordered to be printed, and to lie on the table.)

Mr. ROBERT C. BYRD submitted an amendment, intended to be proposed by him, to the bill (S. 372) to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of section 315 with respect to Presidential and Vice-Presidential candidates and to amend the Campaign Communications Reform Act to provide a further limitation on expenditures in election campaigns for Federal elective office.

AMENDMENT NO. 424

(Ordered to be printed, and to lie on the table.)

Mr. HART. Mr. President, yesterday I introduced amendment No. 419 to S. 372, the Campaign Reform Act.

Through an inadvertent clerical error in my office, the amendment was misprinted. As it appears in the RECORD, it indicates a limit on total giving by a family to all candidates and committees of $30,000. That figure should be $15,000.

I send to the desk a new amendment and ask that it be printed. It should be understood, however, that this amendment is exactly the same, word for word, with amendment 419 inserted yesterday, except that in section 615(b) (2), the last word is changed from $30,000 to $15,000.

AMENDMENT NO. 425

(Ordered to be printed, and to lie on the table.)

Mr. HUDDLESTON submitted an amendment, intended to be proposed by him, to Senate bill 372, supra.

AMENDMENT NO. 426

(Ordered to be printed, and to lie on the table.)

Mr. MONDALE. Mr. President, the amendment I submit would broaden the jurisdiction of the Federal Election Commission in S. 372 to enable it to investigate and prosecute all Federal crimes occurring "in connection with" any Federal election.

We cannot rely on a politically-controlled Justice Department to police elections.

The extraordinary testimony of John Ehrlichman yesterday makes it clear that—at least in this administration—there is no limit to what can and will be done in the name of "national security."

Reelection of an incumbent President could be deemed vital to "national security," and no one could challenge that determination or question the actions taken to guarantee it.

As Mr. Ehrlichman's lawyer put it, "it is the President's discretion which is to be the guide."

Ehrlichman refused to put any limit on the President's "inherent powers" under the Constitution. When Senator TALMADGE said "you do not think it could include murder or other crimes beyond covert break-ins, do you?" Ehrlichman replied "I do not know where the line is, Senator."

A Justice Department in the hands of men such as this ought not to be entrusted with the task of maintaining the integrity of our election process.

The responsibility should be placed in the hands of the of the Federal Election Commission established by this bill. This Commission—made up of seven members jointly appointed by the President and Congress for staggered 7-year terms—will be insulated from partisan political control.

It will receive and analyze all campaign spending reports—the starting point for any investigation of illegal campaign activities. It will develop great expertise in overseeing the election process, and ferreting out questionable practices. It should be able to build on this to establish itself as a guardian of the integrity of our political process.

We need a permanent independent prosecutor to restore the faith and confidence of the American people in American politics and Government. With additional power, the Federal Election Commission could play that role.

The Rules Committee has already taken a commendable step in broadening the Commission's jurisdiction. In addition to its authority over the campaign reporting and disclosure laws, the Commission has also been given authority to prosecute violations of a number of election-related provisions of the Federal criminal code:

First. Section 602—prohibiting the solicitation of political contributions from public employees;

Second. Section 608—limiting campaign expenditures from a candidate's own funds;

Third. Section 610—banning contributions from corporations, national banks, and labor unions;

Fourth. Section 611—banning contribution from Government contractors;

Fifth. Section 612—prohibiting publication or distribution of anonymous political statements;

Sixth. Section 613—banning contributions from foreign principals and their agents;

Seventh. Section 614 (new in S. 372)—imposing overall campaign expenditure limits;

Eighth. Section 615 (also new)—limiting individual campaign contributions; and

Ninth. Section 616 (also new)—banning cash contributions of over $100.

But what about burglary of the headquarters of the opposition party? What about wiretapping, perjury, subornation of perjury, obstruction of justice, and all the other sordid Watergate crimes?

These, too, should be investigated and prosecuted by the Federal Election Commission if they occur "in connection with" a Federal election campaign or any attempt to influence the outcome of a Federal election.

The bill which I proposed earlier this year to establish an independent Office of Federal Elections (S. 1883) gave the new Office the same broad authority contained in this amendment. I made the case for this broader authority in a statement before the Rules Committee on June 6, and I am pleased that in reporting out S. 372, the Rules Committee did broaden the jurisdiction of the Federal Election Commission. I believe we should now take the next logical step of giving that Commission authority over all election-rated Federal crimes.

I note that the committee also, on pages 34–35 of S. 372, makes the Commission "the primary civil and criminal enforcement agency" for violations of the campaign reporting and disclosure laws and the specific election-related criminal code provisions I mentioned earlier, and requires that the Attorney General or the Justice Department prosecute violations of these laws "only after consultation with, and the consent of, the Commission."

I believe this is a very commendable provision, but since it may arouse some opposition from the administration, I do not wish to over-burden it by expanding this "primary" jurisdiction to all other election-related Federal crimes. Therefore the amendment I propose would leave this provision unchanged.

Mr. President, I urge that my amendment be adopted.

AMENDMENTS NOS. 427 AND 428

(Ordered to lie on the table, and to be printed.)

Mr. BARTLETT submitted two amendments, intended to be proposed by him, to Senate bill 372, supra.

AMENDMENT NO. 429

(Ordered to be printed, and to lie on the table.)

Mr. TAFT submitted an amendment, intended to be proposed by him, to Senate bill 372, supra.

NOTICE OF HEARING ON NOMINATIONS

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Thursday, August 2, 1973, at 10:30 a.m., in room 2228 Dirksen Office Building, on the following nominations:

Leonard I. Garth, of New Jersey, to be U.S. circuit judge for the third circuit, vice James Rosen, deceased.

Joseph T. Sneed, of California, to be U.S. circuit judge for the ninth circuit, vice Frederick G. Hamley, retired.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Mississippi (Mr. EASTLAND), chairman, the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Nebraska (Mr. HRUSKA).

NOTICE OF HEARING ON A NOMINATION

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Thursday, August 2, 1973, at 10:30 a.m., in room 2228 Dirksen Office Building, on the following nomination:

William D. Ruckelshaus, of Indiana, to be Deputy Attorney General, vice Joseph T. Sneed.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent before the full Judiciary Committee.

ADDITIONAL STATEMENTS

OUR NATIONAL FORESTS

Mr. MANSFIELD. Mr. President, as my colleagues here in the Senate know, I am greatly concerned about the attitude of the administration in the funding and administration of the activities of the U.S. Forest Service. This agency has the responsibility of administering one of the Nation's valuable renewable resources. Unfortunately, their reduction in personnel levels and reduced operating budget will merely bring this agency to a crisis. I have just received a report responding to a constituent's question about conditions in our national forest campgrounds and I am concerned with this report. The Chief of the Forest Service states—

> It is a fact that Forest Service manpower will soon be reduced to the level that existed in 1962. Since 1962, we have constructed 1200 additional camp and picnic grounds that now must be administered and maintained. We are confident that our field people are, in most instances, doing the best they can under these circumstances.

Turning now to another major role of the Forest Service, I find that in 1962 this agency offered for sale 10.3 billion board feet of timber. The contractors actively cut 9 billion board feet of timber. In 1973, the projection was 10.4 billion board feet and the actively cut was 12.5 billion board feet. In the current fiscal year, the Secretary of Agriculture has increased the projected cut to 11.8 billion board feet. During this 10- to 12-year period, the allowable cut has increased approximately a billion and a half. The proper management of this cut requires sufficient personnel. We find that this administration is hoping to reduce Forest Service personnel by 1,000 to 1,200 positions. The question I wish to pose to my colleagues is, How is the Forest Service planning to fulfill its multipurpose management responsibilities with such drastic reductions in personnel levels and budgets at a time when there is a greater demand for public campgrounds, wilderness management, research, and timber cutting? All of these aspects of the program deserve support and I do not want to see any one aspect given more due than the other. A valuable resource needs a balanced program.

MIDDLE EASTERN OIL

Mr. SAXBE. Mr. President, I recently received a copy of a speech given by Newsweek's Arnaud de Borchgrave. It was given on June 8 and presents a detailed analysis of the world oil shortage and its effect on Western nations. It is a timely forecast, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

MIDDLE EASTERN OIL AND EUROPEAN SECURITY

(By Arnaud de Borchgrave)

A little over a year ago, Herman Kahn, America's distinguished futurologist published a book entitled "Things To Come." Thinking about the 70s and 80s, Kahn listed 24 "sources of instability," eleven "relatively unlikely events but almost certainly turning points" and eleven "relatively possible events but less likely to be decisive."

Not one of his scenarios mentioned oil, or the Persian Gulf, or the energy crisis, or the de-stabilizing effect on $40 to $50 billion a year in the hands of Arab oil producers on the international monetary system.

The conventional wisdom—at least in some circles—when Kahn wrote his book was that the Arabs couldn't drink their oil and, therefore, would have to go on selling it to the West. And that was all Kahn had to say about oil.

What now amounts to three dollar devaluations in less than two years. Watergate, the growing power of the Arabs in money politics, a genuine distrust of paper money of any shape or color in many parts of the world, gold at $130 an ounce, all have happened—and none was foreseen in the works of geopolitical futurologists written a couple years ago.

The oil equation has changed completely in a few months. Oil has come of age as a political weapon and in recent weeks I have personally witnessed off-the-record discussions among Arab statesmen and ministers on how they could use their new weapon most effectively in the struggle against Israel.

President Khaddafi has already warned that oil will be part of the battle. And his principal difference with President Sadat is over the objective of the battle. Sadat says the principal objective should be a change in Washington's policy while Khaddafi says it should be nothing less than the liberation of Palestine.

King Feisal of Saudi Arabia, on a recent visit to Cairo, formally pledged in a secret session with Sadat that oil would be part of the military mix this time but first he insisted there should be a concrete plan of action coordinated between Egypt, Saudi Arabia and Libya. And no sooner had the King left for Paris than his minister of state for foreign affairs, Omar Sakkaf, and his private advisor, Kamal Adham, sat down with Egyptian officials to work out the details.

One of the Arab world's most important petroleum ministers told me at dinner in Lausanne last week, "whether we like it or not oil has become a political weapon. The only difference between King Feisal and Sadat is one of timing. Sadat thinks the oil card should be brought into play very quickly. The longer we wait, he argues, the more organized the consumer countries will become. I don't think that's right, added the minister, because a year or two from now we will be in a still stronger position. You in the West cannot afford to run the risk of a stoppage while we could keep our oil underground and live off our reserves for many months.

Stoppage, he said, would mean hundreds of plants closing in the western countries and Japan and widespread unemployment—or a major recession, if not economic collapse. By the same token, he said, a Western boycott of Arab oil would hardly be a credible threat. The growing geopolitical power of oil will mean that America's Middle Eastern policy will change of its own volition. As your Mr. Rush said recently, the minister concluded, the U.S. won't bend to pressure but it will adjust to changing circumstances. Well, he smiled, circumstances are beginning to change."

The Arabs now have the potential for creating a vast crisis in the West and talk about it freely in private conversations. They are only just becoming cognizant of their immense power of leverage against the U.S. (via Western Europe). And the Arab conservatives of the Gulf know they cannot sit on their hands this time without running the risk of internal explosions that could trigger the demise of their regimes.

King Feisal can even scent the opportunity of emerging as the Arab leader who broke the Middle Eastern deadlock and hastened a final settlement between Arabs and Israelis.

A warning shot was fired across Europe's bow a few weeks ago that was really intended for Washington's ears. Arab oil producers stopped pumping oil for an hour—Libya for 24 hours—in a token protest against U.S. Policy in the Mideast. The warning, said the Cairo press, should induce the U.S. to think more carefully. Either it chooses to continue its support for Israel's conquests or to safeguard its interests in the Arab-world and guarantee the flow of its oil supplies. It cannot have both at the same time.

"This new threat," added Mohamed Heikal, Egypt's gray eminence "gains more forces as the U.S. simultaneously faces steadily accumulating crisis—such as energy and the dollar."

Europe and Japan have already made clear they are not interested in the U.S. idea for a countervaling group of oil consuming countries to bargain with the cartel of producers (OPEC). The European Community—goaded by France—is opposed to a users bloc or cartel. Europeans believe this would have the same disastrous repercussions as John Foster Dulles' idea for a Suez Canal Users Association which was designed to checkmate Nasser's nationalization of the waterway in 1956. It would merely force still greater solidarity among the oil producers vis a vis the consumers.

West Europeans, understandably, would like to disentangle their oil supply problems from the Arab-Israeli conflict. But surely the best way to bring this about is to agree to close ranks with the U.S. provided, the U.S., in turn, agrees to a more even-handed policy in the Middle East.

But that's not the way things are now going. Recently we have watched the nine in Brussels bicker for 20 hours about the energy crisis without coming to grips with the real dimensions of the crisis now threatening the industrialized countries of the West.

As the Arab discover that a barrel of oil kept underground is worth more than a barrel of oil's current income on deposit in a friendly neighborhood bank, the scramble for special privileges is already underway in the Persian Gulf. Washington sees it as the beginning of a dangerous three-way competition between Japan, West Europe and the U.S. for Arab oil.

Japan is negotiating special access to Abu Dhami in return for economic development assistance. There are many other examples of muscling in to squeeze the other fellow out. And this is what led Senator Fulbright to warn the other day that America's growing dependence on Persian Gulf oil in the years ahead might eventually lead Washington to secure its interests by military action, either directly or through its proxies, Israel and Iran.

The Arabs can limit production today without any slowdown in their own development plans—and this at a time when the advanced countries need an annual eight or nine percent boost in oil supplies to slake industry's thirst.

Today, the seven Middle Eastern producers can theoretically control the destinies of the industrialized world. Saudi Arabia, Iran, Kuwait and Abu Dhabi together make up over half the world's known reserves of 86.5 billion tons.

A frenetic arms race is in full swing in the area with hardware that even NATO countries would envy. Moscow is backing Iraq who in turn, is sending subversive agents to all the sheikhdoms to promote the downfall of conservative regimes and the victory of anti-Western radicals.

Countries like Kuwait and Abu Dhabi are terribly vulnerable to leftwing coups. PFLOAG, that is the Popular Front for the Liberation of the Occupied Arab Gulf, a Soviet and Chinese-supported rebellion once believed to be confined to the remote province of Dhofar in Oman, bordering on South Yemen, has spread its subversive tentacles to most of the Arab sheikdoms.

The U.S. has put nearly all its military chips on Iran and its Shah—with a few chips on Saudi Arabia to hedge the bet. Iran is now engaged in the biggest military buildup the world has seen since Vietnam in the mid-60s. It has become the paramount power in the Gulf and effectively controls the straits of Hormuz, the oil jugular of the Western world, through which pass an oil tanker every ten minutes—or 85% of Japan's oil, 60% of West Europe's and in a few years almost half of America's oil imports. But Iran is not Arab and whether its military clout will be a deterrent to would-be revolutionaries on the Arab side of the Gulf remains to be seen.

The oil Sheikhs are reluctant to join an Iranian-sponsored NATO-type Defense Pact because they feel it could precipitate the very events they are trying to avoid—namely attempted leftist coups. The Shah's military partnership with the U.S.—and close friendly relations with Israel, incidentally—can also provoke a clash between the Shah and the Arabs. If the Shah took on an Arab radical who had overthrown a Sheikh, he would automatically be pitting his country against the entire Arab world. Because while other Sheikhs might secretly wish the emperor luck, publicly they would have to denounce him.

European security is at stake in the Persian Gulf just as much as it's even been in Berlin. There is little question that the next area of tension and crisis will be the Gulf. The Soviets, via Iraq and South Yemen and their support for the Dhofar rebellion in Oman, are working patiently to establish leverage in the Gulf. Moscow already has a military foothold at both ends of it—with an Indian Ocean fleet of 20 ships (we don't have an Indian Ocean Fleet) and a naval base in Iraq.

Moscow is in a much better position to exert pressure, both political and military, in the Gulf than in southeast Asia. The Soviets are close to home. And if they ever managed to establish a degree of control over the oil—through radical changes in some of the sheikhdoms—Western Europe de facto would be neutralized.

Moscow has made an important tactical shift in Western Europe and with the U.S. But in the Gulf it's the same bagful of dirty tricks. And Iraq is Russia's chosen instrument—far more important than Egypt ever was at the height of the Soviet involvement there.

When one sees the Middle East and the Persian Gulf in the perspective of European Security, one quickly realizes the insanity of our trans-Atlantic quarrels.

It is always useful to remind ourselves about the objectives that Moscow has pursued in its protracted European strategy since the early 50s.

1) achieve military superiority over the U.S. and its allies;

2) gain recognition of the political and territorial status quo in East and Central Europe;

3) bring about the withdrawal of U.S. forces from Europe;

4) enlist the productive capacity of the West in the service of the global strategic aims of the Soviet Union.

The Russians have consolidated their grip on East Europe, which a European Security Conference was supposed to loosen; they have increased politico-economic pressure on West Europe; and, despite setbacks in Egypt, have never been so involved in the Middle East.

Soviet domination of West Europe, even if limited to economic association and political neutralization, would bring about a decisive change in the global distribution of power.

For all practical purposes, the first two of Moscow's four principal objectives have been achieved. The withdrawal of U.S. forces and the collapses of Nato—next on the hit parade—are to flow from internal pressure in the U.S. and from the increasing skepticism of the Europeans regarding the reliability of the U.S. alliance and the growing European conviction that there is nothing to fear.

Basic Soviet assumptions for the 1970s are still on track. The U.S. will not try to regain the nuclear advantage and West Europe will not try to reduce its vulnerability to Soviet pressures. At least I see no signs of it. The power equation will, therefore, become increasingly favorable to the Soviet Union.

I sincerely hope I'm wrong. But of one thing, I'm sure: Moscow is making the most of an opportunity in the Persian Gulf and in Western Europe to widen the trans-Atlantic gap and promote neutralism among the European allies.

West Germany was apparently astonished over the warmth and scope of Soviet offers of economic cooperation. But if one accepts the premise that Moscow has been trying to insert itself as a regular participant in West European affairs, there is little to be astonished by.

An analysis of the results of the Brezhnev-Brandt talks will show that the Soviets got the better part of the bargain. The political concessions made by Moscow in return for the economic favors are minimal. Moreover, Mr. Brandt's preoccupation with the East and Germany's strenghtening economic ties with Russia will delay and hinder the consolidation of the European Community. There is now a special relationship between West Germany and Russia, that does not exist or apply to the rest of EEC. If real detente is upon us, perhaps someone would be kind enough to explain to me why the Warsaw Pact forces have seen fit to increase their already overwhelmingly superior tank force from 14,000 to 20,000 in the last two years. The number of Soviet tanks alone, in East Germany alone, has increased by 1,500 units. They now have four times more tanks than the NATO forces. And NATO intelligence services have detected similar increases in artillery, combat aircraft and missiles. And all this at a time when we have been talking about Mutual and Balanced Force Reductions and a new era in East-West relations. While we Westerns have been mesmerized by these new vistas, we have allowed our forces to run down by 25%. This has been encouraged by the mistaken notion that there are detente-minded doves and expansion-minded hawks in the Kremlin. Very few people realize that Brezhnev won his arguments for a "New Look" Foreign Policy by convincing his colleagues that it would be the most effective way to break up NATO and neutralize Western Europe.

You may have noticed that the Chinese are backing Dr. Kissinger's Atlantic Charter idea. Perhaps they understand Soviet strategy in West Europe better than the Europeans themselves.

Why should some Europeans be so upset about Dr. Kissinger's now famous speech of April 23rd? Most of it was a statement of the obvious.

In many fields, he said, "Atlantic solutions, to be viable, must include Japan.

"Ensuring energy supplies for industrialized nations," he said, requires new types of cooperative action."

"If we permit the Atlantic partnership to atrophy, or to erode through neglect, carelessness, or mistrust, we risk what has been achieved, and we shall miss our historic opportunity for even greater achievement."

"We cannot hold together if each country or region asserts its autonomy whenever it is to its benefit and invokes unity to curtail the independence of others."

"All governments of the Western alliance face a major challenge in educating their peoples to the realities of security in the 70s."

"No element of American post-war policy has been more consistent than our support for European unity. We encouraged it at every turn . . . we expected that political unity would follow economic integration . . . and that a unified Europe working comparatively with us in an Atlantic partnership would ease many of our international burdens."

"The President has asked me to state that America remains committed to doing its fair share in Atlantic defense. He is adamantly opposed to unilateral withdrawal of U.S. forces from Europe. But we owe to our peoples a rational defense posture, at the safest minimum size and cost, with burdens equitably shared. This is what the President believes must result from the dialogue with our allies in 1973."

Well, the sad fact today is that Europe still does not exist, except as a geographical expression. And Europeans are seemingly indifferent to the deterioration of their relations with the U.S. The search for accommodation is so difficult and time-consuming in its quest for common positions among nine countries that at times it seems easier to let things drift.

Until Europe can come up with a viable political and defense entity, we have no other choice than to close ranks. The penalty for acting otherwise will be the acceptance of the Soviet Union as the paramount supervisory military power on the European continent and the political emasculation and neutralization of Western Europe. The Europeans must decide. We can't do it for them.

It is absolutely preposterous to think that today two neighboring countries like Holland and Belgium have six ongoing and quite separate military procurement programs for their armies, navies and air forces. It is high time to abandon the silly notion that unless a nation has a full range of armaments it is not a nation. The smaller European countries are more Atlantic-minded than the larger ones. But individually they are weak. Integrated, however, they could be a very potent force indeed. And this is how Belgium and Holland could play a major role in the Atlantic world.

The lack of specialization and standardization is presently costing Europe well over $1 billion a year. Europe needs a credible conventional deterrent—and it won't cost more than the $28 billion the European members of NATO are now spending on defense every year for conventional forces that have little if any credibility.

A few weeks before his speech, Kissinger asked me whether I thought we had gone too far, too fast, with detente. I replied that I thought the problem was that we had given our friends the impression that we were more interested in placating our former enemies than in conciliating our friends. And what do you think can be done, he said, to correct this unfortunate and erroneous impression. I said "by removing the element of confrontation from what has become a trans-atlantic shouting match." How? asked Kissinger. "That's what you get paid for," I said.

Seriously though, that was the real purpose of his Atlantic Charter speech—remove the element of confrontation. But for some Europeans—and I have the unreconstructed Gaullists in the French establishment in mind—trans-Atlantic confrontation seems to be their principal raison d'etre. One French headline recently trumpeted. "The Kissinger Plan for Perpetuating U.S. Hegemony in Europe Dies Stilborn."

That strikes me as a borderline case of paranoia. Atlanticism, in these circles, is tantamount to leprosy. Their conception of a united Europe speaking with one voice is to thumb their nose at the United States.

By way of conclusion, let me just say that we must elevate the debate and give it a solid political framework. Otherwise experts will lose sight of the overall objectives as they argue about 800 NTBs—800 non-tariff barriers—and protectionist and isolationist and Gaullist forces will scuttle what's left of the partnership. We cannot settle for the lowest common denominator of agreement. That would do more harm than good.

Unless the Atlantic concept is revived and strengthened, unless we see our problems in perspective again, I'm afraid that differences over trade and monetary affairs will produce neo-isolationism in the U.S. and neutralism in Western Europe. This, in turn, can only mean the Finlandization of the Continent—and a decisive shift in the world balance of power.

THE CONGRESSIONAL FELLOWSHIP PROGRAM

Mr. STEVENSON. Mr. President, I am delighted to join with my colleagues in the Senate and the House to express my appreciation to the American Political Science Association for its congressional fellowship program. During my brief tenure in the Senate, I have been assisted by six fellows—Ed Walsh, William Shinn, Louise Wireman, Anne Zill, Gary Foster, and Stan Bach. Individually and collectively, these fine men and women have been of inestimable value to me and my staff. If my experience with the program is anything close to typical, as I believe it is, the congressional fellowship program has been a unique and unqualified success.

Congressional fellows are drawn from political science, journalism, and the Federal service. Their backgrounds and interests are diverse, but they are all united by their intelligence, enthusiasm, and commitment to service. The fellows who have served on my staff have represented the three sources from which fellows are selected. They have undertaken a variety of responsibilities and have always acquitted themselves admirably. Indeed, there is no doubt that each of the fellows I have known would be in great demand as permanent staff members of the legislative branch, if only we could convince them to remain on the Hill. I know that some of my colleagues have successfully enticed their fellows to remain with them permanently. That this does not happen more often can only be a tribute to the fellows' dedication to their chosen professions.

I am sure we can all recall our first months on the Hill and the difficulties we encountered in making sense of this complex and often confusing institution. With these memories still fresh in my mind, I am continually impressed by the ease with which my fellows have become active, independent, and innovative members of my staff. Their contributions have been undiminished by their all too brief tenure and by the difficult conditions under which they must sometimes work. Their adaptability, efficiency, and imagination is the best possible evidence of the successful screening process by which the fellows are selected from among many hundreds of qualified applicants.

When the congressional fellowship program began 20 years ago, it was a unique innovation. During the past two decades, its rank have included a generation of political scientists whose scholarship and teaching have contributed to a more acute public understanding of the Congress—its successes, its failures, and its prospects for the future. If imitation is the sincerest form of flattery, then the congressional fellowship program may take pride in being the model and stimulus for the growing number of newer programs which are now building on its consistent record of service and success.

The American Political Science Association deserves our congratulations and appreciation for the congressional fellowship program and the more than 500 fellows who have participated in the program since its inception in 1953. Our thanks are also due to the foundations, organizations, and individuals whose contributions and continuing support have made the program possible. It is no exaggeration to say that many of us have come to depend on the congressional fellowship program and the fellows who volunteer to serve with us each year. I sincerely hope that we shall be able to continue depending on our fellows for many more years to come.

AWARD TO SENATOR PELL BY SLOVAK WORLD CONGRESS

Mr. TAFT. Mr. President, in my State of Ohio there are many Americans of various ethnic backgrounds, especially Slovaks, who have become the most outstanding citizens while showing pride in their origin or that of their parents.

Recently, many of my constituents participated in the third biannual meetings of the Slovak World Congress which assembled in Chicago.

One of the main speakers at the grand banquet was the distinguished Senator from Rhode Island (Mr. PELL), who was also honored with a citation for his outstanding record in foreign affairs concerning Eastern Europe.

Mr. President, I ask unanimous consent that the citation and Senator PELL's remarks, be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

CITATION TO SENATOR CLAIBORNE PELL

Among the statesmen and politicians of great powers who have influenced the destinies of peoples in that part of the world—called Central and Eastern Europe—there have not been many who displayed genuine interest in securing freedom and justice for that area. And, there are still only a few who with insight and objectivity seek to find a solution to the intricate political and social problems which have accumulated there after the Second World War.

In the United States of America among the distinguished group of Senators who have been at the forefront helping the oppressed peoples free themselves from tyranny, a place of honor belongs to Claiborne Deborda Pell, the distinguished United States Senator from Rhode Island.

Senator Pell has long been at the forefront helping the oppressed fend off tyranny—from 1948 during the height of Communist oppression when he first established the United States Consulate General in Bratislava, Czechoslovakia, to his present work in the United States as a member of the prestigious Senate Foreign Relations Committee.

His contributions to freedom's progress have been many: from his pronouncements and actions in the halls of the United States Congress, to his writings on significant issues, to membership on councils of schools of learning such Princeton University's School of International Affairs.

He has pursued his ideals, the ideals that were inculcated by his family with a long heritage of public service, not fearing even the arresting hand of a dictator's secret police.

He has shown vision and perception for the realities of political and social relationships between nations in Eastern Europe, as each of them struggle to overcome dehumanizing aspects of communism—striving to promote their civilized identities.

It is of particular importance that, at this juncture in our foreign relations between East and West, Senator Pell is not just a scholarly observer of policies and circumstances affecting Eastern Europe, but is an active participant in helping to formulate them in the United States Senate.

Let it be now recorded for posterity, that, Clairborne Deborda Pell, the honorable United States Senator from Rhode Island, is hereby honored by this assembly of the Slovak World Congress for his positive interest in the welfare of the Slovak people in their homeland, and for his long-term concern and dedication to the cause of freedom and self-determination for all nations.

Therefore, we, members of the Slovak World Congress assembled here from many countries of the Free World, deem it a singular privilege to honor Senator Claiborne Deborda Pell as a humanitarian and a bright hope for the attainment of peace and freedom for oppressed nations, with this Slovak World Congress National Award.

SLOVAK WORLD CONGRESS,
STEPHEN B. ROMAN, *President.*

CHICAGO, ILL., Pick-Congress Hotel, *June 30, 1973.*

REMARKS BY SENATOR CLAIBORNE PELL AT THE SLOVAK WORLD CONGRESS

Dakujen Velmy Pekne, Mr. Roman, spiritual and temporal leaders of the Slovak people, yes, and fellow lovers of Slovakia.

I am hugely honored to be your guest again. I say this because I am the only member of the United States Senate who has lived in Slovakia. I have always admired your country and respected its people. In fact, I guess I am a Slovak Nationalist at heart.

I well remember when I first visited Slovakia. It was in August 1939, just prior to World War II. I came across the Polish border north of Presov, although then I must say that I was a bit taken aback by the soldiers and guardists who were marching about at that time. I then drove around through that wonderful section of the country between Kosice and Michalovce, then under Magyar rule, and that was when I *first* fell in love with your beautiful land.

A couple of years went by and my father was appointed the last American Minister to Hungary prior to World War II. He, too, then had the opportunity to travel and enjoy Slovakia in the course of his tours of the then overly swollen Hungary. Then, right after World War II, I was greatly honored to establish the American Consulate General at Bratislava. In fact, I enjoyed that year as a young Foreign Service Officer carrying out my mission there *more* than any other Foreign Service job I ever had. Actually, I had striven hard to get this assignment and found it fully up to expectations. I remember at the time writing a dispatch to my Government that it was obvious that since the Communists would fare badly in the coming election of 1948, I believe that the Communists would take extra legal steps such as organizing a putsch in order to retain the Czech and Slovak people in the Soviet orbit. Nobody believed me at that time. However, I am sad to say the events that followed bore out my views.

I remember formally opening our American Consulate General a couple of days after the Communist Putsch of 1948. Our building was a lovely four-story one on Hviezdoslavovo namesti. It was a great site. I took particular pride in flying our American flag there, particularly at the time of the massed so-called demonstrations that took place in front of our building. And now I am glad to say plans are in being to once again open that Consulate as well as one by Czechoslovak Gov't right here in Chicago.

During my year in Slovakia, I began to understand more and more the intrinsic beauty of your lovely country. I remember so well shooting boar in the mountains of eastern Slovakia, climbing the high Tatra, walking in the woods above Phestany and along the Var, and enjoying the heady vines of Modra.

It was a wonderful year marred principally by the communist takeover and the cruel practices of the communist Secret Police. Many of my friends were among those jailed and tortured.

One of those arrested was a young American of Slovak background who had come to work for us at the consulate in early 1948. I think many of you here know of him—his name is John Havasta. He's sitting right here. Like the nation of Slovaks, John withstood the ordeal of his imprisonment and came out of it matured and tempered by his cruel experience, more vibrant and ever more dedicated to fighting for his beliefs and to the cause of freedom.

I guess, though, cruel political experiences are part of the heritage of Slovakia and of Central and Eastern Europe in general.

I remember one time going down to Karol Smidke, President of the Slovenska Norodna Rada, and protesting the abuses suffered in jail by one of my employees. I am afraid that I got quite excited which resulted in his tearing open his shirt and showing me the scars he had suffered from the Hungarian political police. In any case, after many months of increasing friction with the local government authorities, I was transferred. I remember my sense of sadness when my wife and I crossed the Danube leaving Slovakia. Many of my friends had fled—in fact, I left wearing Fedor Hodza's winter overcoat in order that I might afterwards return it to him in America—but many of my friends were also left behind.

However, since that, year, I have had the opportunity to pay few visits to Slovakia. In fact, just a couple of years ago, I went once again on that wonderful drive from Kosice to Michalovce and Sobrance to Snina and Humenne, then to Presov and back to Kosice. The beauty of that country, combined with the knowledge of its very early Christian origin have always had an immense effect on me.

Without any exaggeration, I can honestly say that I consider that area the most beautiful in the world. I look forward to visiting it again someday when conditions and life there are better.

Anyone who knows anything about Slovak history, too, will recall the indomitable spirit of a people who could not be reduced to conformity and could not be forced to forget their culture and their heritage. It was not for nothing that the capital of Slovakia, once Pozong, then Pressburg now Bratislava, became the focal point of the Panslav movement. Josef Dobrovsky (1753-1829) is rightly recognized as the founder of Slav scholarship, and the Evangelical College at Pressburg was one of the centers of Slav learning and literature, not only for the Czechs and Slovaks, but also for the Southern Slavs at the beginning of the 19th century. Thus after centuries of oppression, when the region of Slovakia was subjected to a process of Magyarization, which the privileged classes of Hungary regarded as the best means of protecting their prerogatives and to which a large part of the gentry and nobility as well as even a part of the bourgeoisie, even though of Slovak origin, had succombed, Slav language and culture was revived and disseminated.

For all these reasons, I have followed developments in Slovakia with close interest. The role of the Slovak leader Dubcek in the establishment of a liberal Czechoslovak government in the Spring of 1968 excited my profound admiration. I was also pleased to see the development of a greater degree of self-government reflecting a new federalist element in Czech and Slovak affairs. These reforms gave the Slovaks an increased chance to express their own character and culture and to manage their own affairs both at the governmental and party levels.

That all this should prove to be a false down caused me personal sorrow which had remained undiminished. The Soviet invasion of August 1968 snuffed out the accomplishments of this brief exciting period as of the Czechoslovak example sent out shock waves throughout the entire Communist world and thoroughly alarmed old-line Communist leaders. Actually, this invasion showed the failure of Communism. Why? When the Communists first took over, they did so with decimated Czech and Slovak leadership and no Russian soldiers and only one dead. After 20 years exposure to its blessings, it took ½ million Russian and their allied soldiers and many casualties.

The depth of the reactions of the Soviet leaders is attested by the fact that they jeopardized a policy of detente with the West, which they were energetically pursuing at the time, in order to put down what they considered a grave threat to their own internal security.

Sad as these experiences were, I was able to take some comfort from history which has attested again and again to the toughness and resilience of the Slovak spirit. And also I derived comfort from the fact that some of the federal elements of the 1968 period remained so that there was a greater degree of Slovak self-government within the repressive limits imposed by the Soviet Union that had existed in the pre-Dubcek days.

Such a spirit of independence and loyalty to a cultural tradition still remains and can be counted on to preserve the values which have been so loyally honored in the past.

Indeed in these present days hope reasserts itself. The start towards a relaxation of tensions between Eastern and Western Europe gives promise of a freer and more tolerant world. The negotiations which are scheduled to begin in the fall at a Conference of European Security and Cooperation will include discussions about greater exchange of persons and ideas between Eastern and Western Europe.

The recent visit of Soviet General Secretary Brezhnev, to the United States has made an additional contribution to the relaxation of tensions between the United States and the Soviet Union. The increased commercial relations between the two countries, which formed one of the topics of discussions during this visit, must also contribute over the long run to increased understanding and tolerance.

In this connection, however, it is necessary to warn against false hopes. Unrealistic expectations can only lead to disillusion and pessimism at a time when longer-range opportunities require confidence and perseverance for their fulfillment. One must not overlook the signs that Communist leaders—particularly in the Soviet Union—are fearful of the results of the contacts with the West which will result from the increasing commercial and scientific ties with Western countries which they consider necessary if the Soviet Union is to modernize its economic system. They are deeply worried about the influence of the Western example upon the beliefs and behavior patterns of their own peoples. These anxieties are probably based on a dread that the autocratic control by the Communist leadership of the machinery of government through the bureaucracy and the Communist Parties may be undermined. Thus at least up to the present, increased contacts with the West have often been accompanied by increased repression at home. An example is Romania. The most blatant example, of course, has been the invasion of Czechoslovakia and the enunciation of the Brezhnev Doctrine, which proclaimed the right of the Soviet Government to intervene throughout the Socialist commonwelath (i.e., the Soviet Union and its associated Communist allies) to preserve and protect Communist institutions.

Thus the short-range effects of greater East-West contacts may have repressive consequences in the Soviet Union and Eastern Europe. But it seems difficult to deny that the longer-range effect of such cross-fertilization of ideas will lead to a weakening of Communist orthodoxies and a relaxation of internal repression.

It is for this reason that I believe that I can with confidence salute the steadfastness of the Slovak spirit and prophesy that the Slovak people will eventually emerge into the atmosphere of freedom of which the Spring of 1968 gave us all such a brief and tantalizing foretaste.

It is my hope that I will live to see a free and strong Slovak people living in peace and fraternity with Czechs and Moravians in a single federated Czechoslovak state. And here I congratulate those leaders, like Steve Roman (of both Slovak and Czech blood) who, like many of his counterparts in Czechoslovakia and abroad advocates moderation and who recognize that, when it comes to the Eastern Europe of the future, Slovaks and Czechs should hang together or they will hang separately.

I look forward to continuing to hear and see Slovakians sing, "Hej Slovaci Este Nasa Slovenska Rec Zije."

LET US CEASE DIPLOMATIC WRIST SLAPPING

Mr. HUMPHREY. Mr. President, I would like to bring to the attention of my colleagues an editorial which appeared in the St. Paul Dispatch on July 24, 1973.

Entitled "Nixon's Feud With Sweden," the editorial supports Senate Resolution 149, which calls for the normalization on U.S. relations with Sweden.

As I stated when I introduced this resolution, the time is long overdue for us to send our Ambassador to Stockholm and welcome a Swedish Ambassador in Washington.

In giving Sweden the diplomatic cold shoulder, we are establishing a very serious precedent. We are saying to the international community that if a nation is critical of American policies, it runs the risk of diplomatic retaliation from Washington.

I might add that while we vent our frustration on the Swedes, the Russians and Chinese have been far more critical on numerous occasions and we ignore their statements and continue our proper endeavors to ease relations with these great powers. But with the Swedes, we engage in this infantile game of diplomatic wrist slapping because of a statement made by Mr. Palme in December 1972 critical of U.S. policy in Indochina.

Mr. President, I ask unanimous consent that the St. Paul Dispatch's editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the St. Paul Dispatch, July 24, 1973]

Nixon's Feud With Sweden

Sen. Hubert Humphrey of Minnesota is backing a Senate resolution calling on President Nixon to restore normal diplomatic relations with Sweden. The White House, says Humphrey, has shown "infantile petulance" in its reactions to criticisms of American war policies in Indochina voiced by Swedish officials.

The Nixon Administration has earned this expression of disapproval. It has shown marked tolerance and broad-mindedness in dealing with Communist Russia and China, but has been vindictive and petty toward peaceful little Sweden, a stronghold of democracy.

Officials of the Stockholm government and much of the Swedish population disapproved of America's course in the Vietnam war, which they had a perfect right to do. A large part of the American people felt the same way, and still do. Sweden also permitted entry of draft resisters and deserters from the U.S. armed forces, an attitude perhaps questionable but nevertheless fully within its sovereign rights. American history has many instances of welcoming European war resisters into the U.S.

President Nixon recalled the U.S. ambassador from Stockholm last year to emphasize his resentment of the war criticisms. Sweden then brought its Washington ambassador back home last January, in response. The strained relations have continued since.

As Humphrey says, the Nixon attitude has been childish and vindictive. Sweden is smaller than the state of Texas and has a population of only about 8 million. It is one of the most democratic countries in Europe, with a high degree of individual freedom. Swedish immigrants have contributed significantly to the development of America, a contribution especially familiar in Minnesota and Wisconsin.

Against this background, it is unworthy of the United States to continue the Nixon feud with Sweden. The Senate should approve the Humphrey resolution for normalization of relations, and the White House should act accordingly.

THE GAS SHORTAGE—IS IT FOR REAL?

Mr. HANSEN. Mr. President, it was most timely that while the National Petroleum Council was meeting in Washington, the National Press Club should have John E. Swearingen as its speaker on the energy dilemma.

The petroleum industry has been accused of contriving a fuel shortage to increase prices and of a conspiracy in suppressing competition.

The pros and cons of the causes of U.S. fuel shortages were aired in the perspective section of the Chicago Tribune last Sunday by Swearingen, chairman of the board of Standard Oil Co. of Indiana and Senator Henry M. Jackson, chairman of the Senate Interior Committee.

In my opinion, all Senators could benefit from reading what both Swearingen and Jackson had to say about whether or not the real dimensions of the gasoline shortage have been distorted by the major oil firms to serve their own competitive interests.

Perspective has published the answers it got to that question from these two leading spokesmen.

I ask unanimous consent that the perspective article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Are Oil Giants Distorting Gasoline Shortage?

STATEMENT OF JOHN E. SWEARINGEN

With half the summer gone, two questions about the gasoline shortage still seem to require answers: Is it real? What caused it?

The first can be answered with one word; the second will take a few more.

Yes. The shortage is real. However convenient for anyone to believe that it is a hoax, or that it was contrived by the oil companies, this is simply not true. The federal government's allocation program, and the voluntary plan put into effect May 1, by Standard Oil to insure fair distribution of available supplies, have been necessary. Allocation has worked remarkably well so far, but it will continue to be necessary if we are to get thru the summer travel season without encountering serious runouts.

As for the false charges that the shortage resulted from collusion in the oil industry, I hope they can be quickly laid to rest. Meanwhile, every repetition of these accusations helps make a solution of the problem more difficult. The key issue is fuel conservation, and there's no reason to expect that people will conserve gasoline unless they realize the shortage is genuine.

Searching for a scapegoat can be a popular pastime. Unfortunately, it does nothing to increase the country's fuel supply, and that, along with conserving what we have, is what must be done.

It is true that the shortage took many people by surprise, and its causes may still not be clear to those who aren't familiar with what has been happening recently, both in the oil producing and refining business and in the motorist marketplace.

In a short sentence, the basic cause is this: Gasoline demand has grown much faster than supply.

Normally, the U.S. demand for gasoline increases about 3 to 4 per cent each year. Over the past several months, however, it has been growing at about twice the normal rate.

One reason is that people are buying new cars in record numbers. Another is that they've been driving these cars farther. Still another is that the gasoline mileage obtainable in new-model cars is substantially lower, partly because of added weight, power accessories, and air conditioning, and partly because of the effects of emission control systems.

On the supply side of the equation, a number of things have combined to make it unusually difficult to meet this greatly increased demand.

Standard Oil's refineries, for example, were concentrating last winter on supplying distillate fuel, which itself was in great demand at the time. Both home owners and industrial plants need this type of oil. More significantly, the electric utilities of the nation had made a massive and unexpected switch from coal to distillate fuels, nearly tripling their demand in only two years.

With the oil industry called upon to keep the lights of the country burning, in addition to the traditional demands made upon it, the remarkable thing is that a critical shortage did not develop.

Concentrating on making distillate fuels meant that refineries were unable to build up their stocks of gasoline as fast as they usually do, in preparation for the summer peak driving season. As a result, Standard—and the industry generally—approached summer with inventories substantially below normal.

Had all the refineries in the country been able to run at full capacity, it's possible that we could have regained enough lost ground to make gasoline allocation unnecessary. They could not, however, principally because of a scarcity of domestic crude oil and a lack of foreign crude of the low-sulfur type that many U.S. refineries need.

Even so, the industry has been operating refineries at near capacity and setting all-time records for production. In Standard's case, we were able to get enough crude to run our system at 98 per cent of rated capacity during the first quarter of this year, and we're now operating at 100 per cent.

Inventories are once again building up, slowly but surely. That in itself is unprecedented; never before have we been able to increase supply during the season of peak consumption.

Much of the credit for the progress made in the past two or three months must go to motorists who have voluntarily cut back on their use of gasoline—driven more slowly, taken shorter trips, formed car pools, and the like. Credit, too, should go to the many independent service-station dealers for the major brand companies, who have used such means as shorter operating hours and limitations on gasoline sales to give all their customers a fair chance at the available supplies.

What, then, is the outlook for the rest of the summer?

I am cautiously optimistic. With motorist cooperation, the voluntary allocation program seems to be accomplishing its objective: to keep demand within limits which refiners can meet. If it continues to work as well—and if consumers aren't hoodwinked into believing the problem never existed or has been fully solved—then we should be able to get thru Labor Day without really serious inconvenience.

We will certainly not have quantities of gasoline to spare. Those marketers who have traditionally depended on refinery surpluses for their supplies will not suddenly find that these surpluses are again available. But I believe the possibility of a widespread dry-up of gasoline supplies can be avoided—with care.

As to the outlook for fuel oil this fall, it is relatively better. Prolonged severe weather could cause serious problems, of course, but inventories are now near normal for this time of year, and expected improvement in the world supply of crude oil should make it possible to increase output.

I wish I could be equally optimistic about the long-term picture with regard to U.S. energy supplies in general. The gasoline shortage itself is little more than a symptom of a deeper, basic problem—that of meeting national needs for all types of energy for the rest of this century and beyond.

It is to the solution of this problem that the country—with leadership from government—must address itself.

In the broadest of outlines, the difficulty involves using our finite resources—oil, gas, coal, nuclear fuel—in the wisest possible way to meet near-term energy requirements, while pressing ahead with research and development of alternate sources.

It is essential, in this long-term effort, that we be guided by a comprehensive national policy which, at this point, we do not have. Besides making possible greater access to our potential domestic reserves of oil and gas, such a policy should include encouragement for the development of synthetic fuels from coal and oil shale.

It should also provide funding for research to discover what other sources of energy can be made practical, against the day when, eventually, our conventional sources are used up.

This larger challenge of energy supply is more significant than the present shortage of gasoline. It will be difficult to meet, but I believe it can be met if we're willing to act wisely—and soon.

STATEMENT OF HENRY M. JACKSON

One does not need a long memory to recall that motorists' delight, the "gas war." Not so long ago, gas station price signs were often changed in a downward direction.

Today, the signs are still being changed, but the direction is upward.

Now, all of a sudden, we have a gas shortage. The independents are being cut off from their sources of supply and many are being driven out of business. Prices are rising and people are getting worried. Farmers need adequate supplies to plant and harvest. City officials need large amounts at reasonable prices to carry on vital public services: police, fire, ambulance, and municipal transportation.

Over the last six months every section of the nation has experienced serious shortages of heating oil, gasoline, diesel fuel, and propane.

Shortages of fuel oil next fall and winter are certain with refineries now turning out gasoline instead of laying in a supply of heating oil for the winter. It may be the most serious ever experienced in this country.

I recognize that the origins of the current fuels shortages are complex. They involve, among other things, stringent environmental regulations, a lack of refining capacity, and an incentive system that is not producing desired results, the need for deepwater port facilities, and many other factors.

There is also an increasingly widespread conviction that the fuel shortage is a deliberate, conscious contrivance of the major integrated petroleum companies to destroy the independent refiners and marketers, to capture new markets, to increase gasoline prices, and to obtain the repeal of environmental protection legislation.

My own view is that a major cause of the shortage which should not be overlooked or minimized is the present administration's incomprehensible and foolish reliance last summer on the clearly incorrect and self-serving recommendations of major oil companies that import controls should be maintained; that refined products should not be imported; and the assurance that refinery capacity would be adequate to meet all demands for petroleum products over the next year.

Whatever the ultimate cause or causes of the shortages, it is indisputable that they threaten to extinguish the independent refining and marketing sectors as a viable competitive force in the petroleum industry.

It is, furthermore, a fact that retail gasoline and fuel prices—the price consumers pay—have risen drastically and without intervention by the government could continue to rise. At the same time, the earnings of the five biggest oil companies jumped by 26 per cent between the first quarters of 1972 and 1973.

On the basis of available evidence I do not charge conspiracy; I do, however, charge that corporate self-interest, acting in response to friendly, timid, and often incompetent administration policy, has led at least to a situation in which oil industry corporate managers—without meeting, without collusion, without conspiracy—are led, invited, and encouraged to squeeze out the independents and force up the price of gasoline.

For that reason I introduced and the Senate passed a mandatory fuel allocation measure to assure that independents receive the same percentage of available petroleum products they received in the past, that vital public services are maintained, and that regions of the country "at the end of the pipeline" continue to receive a fair share of the nation's total supply.

In addition, I authored legislation and successfully led the fight in the Senate to get the vast oil supplies in Alaska moving to market in the lower 49 states.

I have introduced other bills to revamp the entire energy system. We need a 90-day strategic reserve of petroleum in case supplies should be cut off from abroad; we need new terminal facilities to handle the supertankers bringing in increasing amounts of oil from abroad; we need legislation to speed up the construction of energy facilities—refineries, pipelines, power plants, and transmission lines; we need to set a target of self-sufficiency in energy resources by 1983 and launch a massive energy research and development program—$20 billion over the next 10 years—to accomplish that.

And finally, the time has come for Americans to begin questioning the legitimacy of many energy uses and set about the task of reducing the enormous waste of this increasingly costly resource. The long-term energy crisis is very real.

A number of the major name-brand marketers are withdrawing from certain areas of the country, thereby reducing competition. Many suspect that they are in the process of dividing up the territory.

On the basis of this evidence I asked the Federal Trade Commission on May 31 to provide me with a quick 30-day study so that Congress and the nation could get an independent appraisal of what's going on.

The following week I launched—as chairman of the Senate Permanent Investigating Committee—a full-scale investigation to follow up on the FTC report. In my view the public interest demands impartial facts to determine if the shortage is real and what portions, if any, are contrived.

I received that report on July 6 and released its major findings on July 9.

The central conclusion of this important document was that the time-honored and, until now, almost sacrosanct federal oil policies have benefitted the major oil companies while working hardship on the average American and the independent small businessman.

The FTC report does not say that the present gasoline shortage was deliberately contrived by the major oil companies. It does not blame the shortage entirely upon the anticompetitive structure and behavior of the industry.

It does, however, indicate clearly that vertical integration, concentration, and market control had an important role in creating the shortage.

The report also says that the major oil companies are indeed using the shortage to eliminate competition and to increase their relative shares in all three sectors of the industry—production, refining, and marketing.

What clearly emerges from the report is that Congress must provide the leadership in the form of the nation's fuel and energy policies.

Based on the FTC report the subcommittee will initiate investigations into the following general charges and allegations:

That there is "cooperative" rather than "competitive" conduct at all levels at which the major oil companies operate.

That the present tax structure does not create incentives for new production, but instead puts independents at a disadvantage and creates barriers to potential new competitors.

That the oil import quota system and other federal energy policies have worked to the disadvantage of the independent refiner.

That the lack of new starts on refinery construction may be due to factors other than "environmental constraints" in view of the recent rash of announcements of new starts.

Our investigation will, of course vigorously pursue any concrete evidence or indication that actions or activities associated with the current fuel crisis constitute violations of federal law. I intend to get the truth.

S. 59, VETERANS HEALTH CARE EXPANSION ACT OF 1973

Mr. HARTKE. Mr. President, the Veterans Health Care Expansion Act of 1973, as amended by the House of Representatives on Tuesday, July 17, and returned to this body, was passed by the Senate. It is a magnificent step forward on behalf of the health care of all veterans. Members will recall that on March 6, 1973, by an overwhelming vote of 86 to 2, the Senate considered and passed S. 59, which had been unanimously reported from the Committee on Veterans' Affairs, which I am privileged to chair. S. 59, as passed on March 6, was with some modifications very similar to H.R. 10880, which had been passed by Congress last fall, only to have it pocket vetoed by the President following the adjournment of Congress.

The administration's objections to S. 59 continued to be voiced following Senate action in March. As a result, intensive negotiations occurred by and between the House and Senate Veterans' Affairs Committees and representatives of the administration in an effort to produce a bill which is acceptable to the administration, and at the same time retains the basic objectives of producing the finest medical care possible for our Nation's veterans. I wish to emphasize that this objective is a bipartisan one shared by every member of the Committee on Veterans' Affairs and, I believe, by every Member of Congress.

There have been three key amendments made to S. 59, but I am confident that the basic objectives of the legislation have been retained.

I want to pay particular tribute to the distinguished chairman of the House Committee on Veterans' Affairs (Mr. DORN), and the distinguished chairman of the Subcommittee on Hospitals (Mr. SATTERFIELD), and all the members and staff of that committee whose cooperation, dedication, and persistence have produced the finished product which is before you today.

I particularly want to commend the outstanding work on this measure by the distinguished and very able chairman of the Veterans' Affairs Subcommittee on Health and Hospitals (Mr. CRANSTON), the senior Senator from California. His tireless and arduous work on this measure, both this year and last, has been largely responsible for moving the bill through the legislative process to the point of final passage today. Finally, I cannot express in adequate terms my appreciation to all the minority members of the committee, particularly the ranking minority member of the Subcommittee on Health and Hospitals (Mr. THURMOND), and the ranking minority member of the full committee (Mr. HANSEN), as well as the minority committee staff for their full and complete cooperation and contribution in working out the bill that is before us today.

Because of the bipartisan support and because of the negotiations with the administration I am hopeful we now have a bill acceptable to all which will be signed by the President. It is further my hope that the Veterans' Administration will then set about to immediately implement these provisions.

Mr. President, I would now like to turn to the three key amendments which have been made to S. 59 which I believe now make the bill acceptable to the administration. These amendments concern dependents' care, minimum hospital census, and staff-to-patient ratios.

With regard to dependents' care, the House amendment retains the basic objective of S. 59, which is to provide medical care to wives and children of totally and permanently disabled service-connected veterans and to surviving widows and children of veterans who have died as a result of a service-connected disability. The chief vehicle for accomplishing this objective has been modified however, and the Veterans' Administration will now render medical care to such wives and widows and dependents either by contacting on a reimbursable basis with the Secretary of Defense for CHAMPUS care identical to that currently authorized by chapter 55 of title 10 United States Code or by entering into an independent CHAMPUS-type contract with a private insurer. Finally the Administrator does have the authority to provide care to such dependents in VA facilities specially equipped to provide the most effective care and treatment in a particular case provided such VA facilities are not being fully utilized for the care of eligible veterans.

With respect to minimum hospital census, the House amendments to S. 59 eliminate and mandatory numerical average daily patient census—ADPC—requirements and in lieu thereof provide that "the Administrator shall staff and maintain, in such a manner as to insure the immediate acceptance and timely and complete care of patients, sufficient beds and other treatment capacities to accommodate, and provide such care to eligible veterans applying for admission and found to be in need of hospital care or medical services." Further, the chief medical director is required to periodically analyze agencywide admission policies including full rejection data and the Administrator is required to advise the respective Committees on Veterans' Affairs of the results of these analyses and the number of additional beds, treatment capacities and appropriate staffing and funds necessary to meet the needs of such veterans for care and service.

I want to emphasize that the committee has never believed that the establishment of mandatory patient census is the desirable way to approach the problem of patient care.

It was an approach, however, which was forced by a similar policy dictated by certain officials within the Office of Management and Budget who themselves established rigid average daily patient census levels which were unrealistically low that the Veterans' Administration was expected to observe. While such average daily patient census estimates are valuable and necessary for budgetary planning purposes they were not intended to become rigid ceilings which force the Veterans' Administration to alter its admission policies or delay treatment contrary to good medical practice and the judgments of its physicians solely to insure that the ADPC limit was not exceeded.

Mr. President, I want to make the point as forcefully as I can that the average daily patient census should be determined by the number of veterans who need health care not by budgetary figures arrived at by someone in the Office of Management and Budget. To propose an arbitrary number as the average ADPC and expect veterans to become sick or disabled at no greater rate is inverted reasoning at best and is a classic case of the tail wagging the dog. Only medical professionals can make the judgments of who should and should not be admitted. Only those on the spot at the admissions area can make that judgment. To suppose that it can be done from Washington by bureaucrats is absurd. This bill recognizes that they cannot, and I hope that when funds are requested and appropriated that everyone will remain cognizant of the philosophy that the best medical judgment should be the only criteria for admission or nonadmission to a VA hospital.

The third and final major amendment concerns staff-to-patient ratios. The problem of an appropriate staff-to-patient ratio has been a controversial one for many years and there is great variance of opinion as to what the appropriate staff-to-patient ratio at a VA hospital should be. What members of this committee are fully aware of is that the staff-to-patient ratio in VA hospitals is significantly below that of community hospitals. The substitute provision in S. 59 provides that instead of requiring a specific staff-to-patient ratio at VA hospitals on a regional basis as provided in S. 59, as passed in March, the VA is directed to enter into a contract with the Institute of Medicine and the National Academy of Sciences to conduct a study as to what adequate staff-to-patient ratios in VA hospitals should be. Following completion of the study by the Academy of Sciences, the Administrator shall, within 90 days, submit to the Veterans' Affairs Committees a detailed report of his views on the findings and recommendations of the study and the steps and timetable he proposes for implementing those recommendations. The Academy of Sciences will be issuing interim reports prior to the completion of the final report and I would hope that with regard to certain specialized units such as spinal cord injuries such recommendations for the upgrading of these units could be transmitted earlier and acted upon by the Veterans' Administration prior to the submission of the final report.

In addition to three provisions previously discussed, there are a number of important provisions contained in the Veterans' Health Care Expansion Act of 1973, which I would like to briefly discuss. The bill:

First. Permits the furnishing of medical services on an outpatient or ambulatory basis to any veteran eligible for hospital care under veteran laws, where such care is reasonably necessary to obviate the need for hospital admission. These services include, in addition to medical examination and treatment, optometrists' services, dental and surgical services, as are now available in the case of non-service-connected disabilities, for treatment after the veteran has been scheduled for admission for hospital treatment or, following hospitalization, or connection with treatment he received while hospitalized. The bill also extends mental health services, consultation, professional counseling and training of members of the immediate family of a disabled veteran and such home health services as may be necessary or appropriate for the effective and economical treatment of VA beneficiaries. It also places peacetime veterans on same basis as wartime for hospital and medical benefits. In the case of veterans who are disabled to a degree of 80 percent or more for a service-connected cause, provides for outpatient care for any disability from which he suffers.

Second. Provides for pay differentials for nurses performing duty between the hours of 6 p.m. and 6 a.m.; from midnight Saturday to midnight Sunday; or on Federal holidays. Provides for overtime pay for hours of service in excess of 40 hours during nurses' administrative work week, or in excess of 8 hours a day; and for additional pay for nurses who are "on call" outside regular work hours.

Third. Directs VA, to the extent feasible without interfering wtih medical care and treatment of veterans, to develop and carry out a program of training and education of health service personnel, acting in cooperation with schools of medicine and other institutions, and stressing the recruiting, training, and hiring of former military medics.

Fourth. Authorizes the appointment of two additional Assistant Chief Medical Directors, who may be individuals qualified in the administration of health services, but who are not doctors of medicine, dental surgery or dental medicine. Also reflects the new designations of Director of the Pharmacy Service and Director of the Dietetic Service to correspond to the other Director of Services titles, such as Chaplain and Nursing. It also establishes the position of Director of Optometry and prescribes compensation to be paid to such personnel.

Fifth. Prescribes the circumstances under which physicians, dentists or nurses may perform professional services other than those performed as full-time employees of the Veterans' Administration, and prohibits payments for certain services.

Sixth. Permits the furnishing of nursing home care in the case of service-connected veterans requiring such care for their service-connected disabilities upon determination of need therefor by a Veterans' Administration doctor, this removing the requirement that these persons be first hospitalized under VA auspices. Authorizes direct transfer of military personnel from military hospitals to nursing home care facilities.

Seventh. Clarifies current law with regard to contracts with clinics and other groups or individuals—in addition to medical schools and clinics as now permitted—for securing certain specialized medical resources.

Eighth. Provides additional authority for temporary full-time appointments of various types of medical personnel for a period of time not to exceed 1 year. Such appointments were previously authorized for a period of not more than 90 days.

Ninth. Clarifies and extends protection in malpractice or negligence suits brought against VA medical personnel.

Tenth. Permits reimbursement of veterans in VA hospitals and domiciliaries for loss of personal effects sustained by fire, earthquake, or natural disaster, while such effects were stored in those VA facilities. Previous law permitted reimbursement only in case of loss by fire.

Eleventh. Permit VA to lease buildings or lands to public or nonprofit organizations without advertising, and to consider maintenance, protection, or restoration, by the lessee, as all or part of payment received under the lease. Prior to execution of any such lease, the Administrator must give public notice of intention in the press of the community in which the lands or buildings to be leased are located.

Twelfth. Authorizes reimbursement of certain veterans who have service-connected disabilities, under limited circumstances, for reasonable value of hospital care or medical services, including necessary travel expense, when services are furnished from sources other than the VA. Eligible veterans are those receiving treatment for a service-connected disability, or a non-service-connected disability associated with a service-connected disability—or veterans in need of vocational rehabilitation because of a service-connected disability whose training would be interrupted or delayed because of the illness. Services must be rendered in a medical emergency and VA or other Federal facilities must not be feasibly available. In lieu of payment to the veteran, payment may be made directly to the medical facility providing medical services, or to a person or organization making payments in behalf of the veteran.

Thirteenth. Authorizes installation of telephones in personal residences of nonmedical directors of VA hospitals, domiciliaries, centers and independent clinics. Present law permits this only in the case of medical doctors.

Fourteenth. Clarifies the term "Veterans' Administration facilities" as it relates to provision of care in private facilities for VA beneficiaries.

Fifteenth. Extends VA authority—until June 30, 1978—to continue grants for hospital and medical care of veterans in the Republic of the Philippines. No more than $2 million is authorized to be expended for this purpose in any one fiscal year—including not more than $250,000 for nursing home care. Authority is also provided for expenditures in the amounts and for the purposes which follow, in each fiscal year during the 5-year period beginning July 1, 1973, and ending June 30, 1978: Authorizes grants to VA Memorial Hospital, Manila, for education and training of health service personnel assigned to that hospital, $50,000; and for replacement and upgrading of equipment and rehabilitation of the physical plant $50,000. Also extends authority to operate the VA Regional Office in Republic of the Philippines through June 30, 1978. Authority is provided to assist the Republic of the Philippines in furnishing medical care—including nursing home care—for Commonwealth Army veterans and new Philippine Scouts who enlisted before July 4, 1946, under certain conditions.

Sixteenth. Provides specific authority for a VA program of screening, counseling, and treatment of sickle cell anemia.

Seventeenth. Provides for relinquishment to States in which VA facilities are located of such legislative jurisdiction as is necessary to establish concurrent jurisdiction between the Federal Government and the State concerned, of lands over which VA has jurisdiction.

Eighteenth. Provides for contracts with one or more hospitals, medical schools, or medical installations having hospital facilities and participating with VA in training interns and residents, to provide for central administration of stipend payments, provision of fringe benefits and maintenance of records, by designating one such institution to serve as central administrative agency for this purpose.

Nineteenth. Directs the Administrator to staff and maintain sufficient beds and other facilities to insure immediate care of patients found to be in need of hospital care and medical services, and makes provision for rendering of an annual report on admission policies, as well as need for additional funds and facilities to meet the needs of veterans for necessary care and services, from the Chief Medical Director to the Administrator and to the House and Senate Committees on Veterans' Affairs. The Administrator is directed, with the approval of the President, to operate not less than 8,000 nursing care beds in the fiscal year ending June 30, 1974, and in each fiscal year thereafter.

Twentieth. Provides for appointment by the Administrator of an Advisory Committee on Structural Safety of Veterans' Administration Facilities, to include at least one architect and one structural engineer who is an expert on fire, earthquake, and other natural disasters, and who are not employees of the Federal Government, to advise him on matters relative to structural safety and remodeling of VA hospital and medical facilities.

Twenty-first. Provides for VA's contribution to local authorities for construction of traffic controls and road improvements in locations adjacent to VA medical facilities when deemed necessary for safety purposes.

Twenty-second. Increases the per diem rate for reimbursements of State soldiers' homes which provide care for veterans who are eligible for admission to VA medical and domiciliary facilities, from $3.50 per veteran per day to $4.50 where domiciliary care is provided; $5 to $6 where nursing home care is provided; and from $7.50 to $10 where hospital care is provided. Authority is also provided for reimbursement of such State home facilities where care is furnished veterans whose service occurred after January 31, 1955.

Twenty-third. Increases the percentage of the Federal Government's allowable contribution under the program of grants to States for construction, alteration, and renovation of State veterans' homes, from the present 50-percent maximum to 65 percent of the estimated cost of such projects.

Twenty-four. In connection with VA assistance to States in constructing nursing home facilities for veterans, appropriation authority is extended for an additional 5 years; that is, to June 30, 1979. The formula for determining adequate State nursing home beds is increased from a maximum of 1½ beds per 1,000 veterans in any State to 2½ beds.

The committee is particularly indebted to the Senators from Rhode Island (Mr. PASTORE) and (Mr. PELL) and the Senators from Vermont (Mr. AIKEN) and (Mr. STAFFORD) for bringing the need for increasing the bed limits to the attention of the committee.

I ask unanimous consent that the report which the committee received to S. 1118 dealing with this provision be inserted in the RECORD.

There being no objection, the report was ordered printed in the RECORD, as follows:

VETERANS' ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR
OF VETERANS' AFFAIRS,
Washington, D.C., July 10, 1973.
Hon. VANCE HARTKE,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This will respond to your request for a report by the Veterans Administration on S. 1118, 93d Congress, a bill "To amend section 5034 of title 38, United States Code, to increase the number of nursing home beds in each State for war veterans in need of nursing home care."

Originally, the number of beds to be supported by VA grants was limited to .5 beds per thousand war veteran population in the case of any one State. In October 1965 this was increased to 1.5 by Public Law 89-311. The subject bill would increase this to 2.5.

Sixteen States have received VA assistance in 25 construction projects involving 2,909 nursing care beds at a total cost of over $46 million with the Veterans Administration contributing about 46 per cent or about $21 million. Only two States (Rhode Island and Vermont) have approached the maximum limit. Both have expressed interest in constructing more beds which would exceed the 1.5 bed limit.

Since other States have not raised the maximum number of beds as a problem, it is realistic to assume that a limited number of States would be affected if S. 1118 is enacted; for example—

State	Number of beds constructed	Current maximum (1½)	Proposed maximum (2½)
Rhode Island	165	195	325
Vermont	62	81	135

The proposed maximum beds projected here are based on Bureau of Census data published December 31, 1971.

Should these two States construct the maximum number of beds permitted under this proposed change—an additional 184 beds—the cost to the Federal Government at the present cost sharing provisions would be $1.3 million or 50% of the estimated total cost of construction and $335,800 for annual operating costs. This is in contrast to a $2.6 million cost for direct Federal construction of the same number of beds, and VA operating costs of $2.1 million, or $1.4 million to contract for 184 nursing home beds in the private sector.

Some of the best physical nursing care facilities for veterans in the nation have been provided under the revenue sharing arrangement and, therefore, the Veterans Administration continues to encourage States to enter into such construction. The Veterans Administration favors S. 1118, 93d Congress.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

DONALD E. JOHNSON,
Administrator.

Mr. HARTKE. Mr. President, in conclusion I strongly urge my colleagues to accept the amendments to S. 59 and to send the bill on to the President for signature. This is an important bill which goes one step further to fulfilling the obligation that all of us owe to our Nation's veterans.

FOREIGN SALES FOR F-14'S?

Mr. PROXMIRE. Mr. President, it appears that the Shah of Iran will be treated today with an aerial demonstration of the F-14 advanced fighter at Andrews Air Force Base. The Shah has expressed an interest in either the F-14 or F-15 as a counter to the Mig-25 Foxbat that the Soviet Union occasionally flys over Iranian airspace.

The Navy is interested in the Shahs interest because it must drive the price down on the F-14 before Congress will accept it. A small purchase of F-14's by Iran will help the unit price of the full program and hold out prospects of future international sales.

Mr. President, a few words of warning are in order. First, it is highly unusual to take the most sophisticated aircraft in the U.S. inventory, according to Navy claims, and make it available to a foreign power even though that nation be an old and trusted friend. There are risks in doing so.

By selling F-14's to Iran we are increasing the chances that the Soviet Union will be able to acquire the technical knowledge and characteristics of this aircraft. Iran is a long way from the United States and the security problems in the Middle East are enormous. It is not unlikely that Soviet agents in Iran or other Middle East countries could acquire a sound working knowledge of the F-14 radar and Phoenix missile system—the very heart of the F-14. And if that occurs, it is a small step to developing countermeasures, based on an awareness of the aircraft's electronic design, that could effectively neutralize the effectiveness of the F-14.

Mr. President, everyone in this Chamber knows that I have been a staunch critic of the F-14 mainly due to its cost and its disastrous effect on the force level. Therefore my comments could be mistaken as just more criticism of that plane. I have something more serious in mind.

We already have 313 F-14's on order at a program unit cost of over $25 million each. It would be an even greater disaster if we allow the F-14 to be compromised to the Soviet Union by immediately selling it to other countries. I do not know how to measure that risk but I suspect that it is considerable.

The Pentagon probably will be telling us that the F-14 is necessary to protect smaller allies from the intrusions of Soviet Mig-25's. They probably will not state collaterally that the United States has been doing exactly the same—overflying certain nations—for many years using the SR-71 Blackbird. All of a sudden the shoe is on the other foot.

Mr. President, I urge the Pentagon to seriously consider the security implication of any sale of F-14's or F-15's to Iran or any other country. Will we sacrifice our own technology in order to squeeze more money out of Congress?

THE CONGRESSIONAL FELLOWSHIP PROGRAM

Mr. BROCK. Mr. President, I am happy to join the Senator from Minnesota in honoring the 20th anniversary of the congressional fellowship program of the American Political Science Association. This program has played an extremely important role in bringing to the Congress fresh perspectives and insights, and both Democratic and Republican offices have benefited greatly from the work of these highly skilled fellows.

The enormous success of this program over the past two decades is due in part to those factors that have made it distinctive from other programs in Washington. First of all, the participants are very well qualified, having obtained advanced academic degrees and substantial work experience. The selection process is highly competitive, and the intensive series of screenings and personal interviews insure that fellows will be able to function effectively in the congressional setting.

Second, congressional offices are receptive to having fellows and the demand for fellows greatly exceeds the supply. Once on Capitol Hill, congressional fellows have little difficulty in arranging choice assignments in congressional offices in which their services are highly valued. This market situation provides incentives to congressional offices to entrust fellows with important and responsible tasks and to make available the widest possible educational experience.

Third, fellows have demonstrated their capacity for performing work of a high caliber, typically involving duties comparable to those of legislative assistant. Fellows have been given major responsibility for drafting legislation, arranging congressional hearings, and briefing Members for committee deliberations and floor debate. Whatever the specific mix of responsibilities, the work of congressional fellows is professional and highly valued in the Congress.

Finally, the congressional fellowship program has an excellent reputation among participants in the congressional process, including Congressmen, executive agency officials, lobbyists, and the press. This reputation helps recruit highly qualified individuals into the program and insures that fellows can function effectively with various individuals and groups on behalf of the Member for whom he or she serves.

Mr. President, over the past two decades the congressional fellowship program has set a fine example of how the Congress can benefit from outside expertise and of how the public can profit by having academies and reporters and bureaucrats learn the inner workings of the Congress.

I have been proud to associate myself with this program, both by having fellows work in my office and by sitting on the program's advisory committee.

The American Political Science Association has my full support in continuing the program into its third decade.

INTERSTATE TAXATION PROPOSALS

Mr. MONDALE. Mr. President, when the Committee on Finance was organized this year, a new Subcommittee on State Taxation of Interstate Commerce was established. The purpose of this subcommittee, of which I am chairman, is to examine the problems posed for interstate businesses by the multifarious corporate income and sales and use taxes imposed by the different States. These problems have already been considered by the House, which in two previous Congresses passed bills which subsequently died in the Senate. There will probably be no House action unless the Senate acts first, and in the effort to begin Senate action, the subcommittee will hold hearings and hopefully will be able to recommend legislation to the full Finance Committee.

Staff work in preparation for subcommittee action, however, has made clear that the reason for the failure of Congress to act has been the almost total lack of agreement among the interested parties—the States, their tax administrators and the principal business interests involved. Coordination of State taxation now appears to be essentially a State problem, requiring agreement among the States if congressional action is to become a reality. If, therefore, the subcommittees' hearings are to be productive, and if these hearings are to lead to a legislative proposal, there should, if possible, be agreement among the interested parties on the principal points of that proposal.

In the last few years, serious efforts have been made to reach agreement on the major controversial issues, and there now appears to be a reasonable possibility of a proposal which is acceptable to the principal interests that would be affected. More recently, the National Association of Tax Administrators has formed a special subcommittee charged with the responsibility for preparing a proposal which would be agreeable to all State tax administrators. Mr. Owen L. Clarke, deputy commissioner of corporations and taxations for Massachusetts, is chairman of that subcommittee. Their work is important and difficult, and I am greatly encouraged that it may produce the kind of solution this area of dispute has needed for so long.

Mr. Clarke recently reported to the association's convention that the subcommittee has made real progress, although important disagreements still remain. In that light, the association approved a resolution requesting that the Senate Subcommittee defer formal action until the committee's draft is completed. Scheduling of hearings is now being considered, and we hope that the date set will provide enough time for NATA to complete its proposal and present it for full discussion. In the meantime, we will naturally make every effort to support and cooperate with the work of the association and its drafting subcommittee.

Mr. President, I ask unanimous consent that the text of Mr. Clarke's report to the association and the association's resolution be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Report of Owen L. Clarke

Consistent with the filing of Congressional bills since 1966, the 93rd session of Congress has witnessed the same dreary parade of interstate taxation measures, introduced by the same interests, and, in some cases, unchanged from prior years' bills.

And just as consistently, our national forums have provided time for discussion of the several bills with an attempt made each year to line analyze the differences between the bills.

The problem now, of course, is increasing in complexity by geometric progression since such analysis must now be made not only between the bills as they are submitted this year, but each bill must be analyzed for changes made this year over its counterpart filed last year.

There have been some actions taken in the subject matter of interstate taxation and, I believe, some discussion of this activity may be helpful at this time. Whether or not these actions are important or significant only time will tell.

The following bills have been introduced, or will be introduced during the current session of Congress.

I. H.R. 977 (By Mr. Rodino). This bill has been reintroduced without change from last year.

II. S. 1245 (By Senators Mathias and Ribicoff). This bill—also called the COST bill—has been reintroduced but with some changes over last year's bill.

III. S. 282 (By Senators Tunney and Cranston). This bill, which relates to sales/use taxes only, is also unchanged from last year.

IV. S. 2092 (By Senator Magnuson). This bill is the "ad hoc" bill. The 1973 bill does not have some changes in it as compared to last year's bill.

V. H.R. ——. Multistate Tax Commission bill. This bill, which has been introduced for several consecutive years, is unchanged. It has not yet been introduced this year although several of the MTC officials have indicated that it will be submitted soon.

VI. NATA committee draft bill. The Executive Committee of NATA has appointed a special subcommittee under the standing Federal-State Legislation and Administration Committee to study, report, and if possible, draft a multistate taxation bill which can receive more than just limited support by state administrators. Whether this is possible or not only time will tell. The significance of this NATA committee is that it is composed of state tax administrators who are thoroughly familiar with the problems facing the business community as well as those relating to departmental operations.

The special committee will hold its first meeting at this convention.

The chairman of the standing committee is Daniel Smith (Wisconsin), and the special committee has the following members:

Owen L. Clarke, Massachusetts, Chairman
Theodore W. deLocze, Oregon
James Hamilton, California
Robert Kane, Pennsylvania
James McDonald, Kansas
Bruce Hughes, Texas
Arthur C. Roemer, Minnesota
Joseph Traigle, Louisiana

The representatives of a large number of states, convened as "The Committee of the Whole," in 1970 and 1971 developed an interstate taxation bill for income, sales/use, capital stock, capital account and gross receipts taxes. That bill in fact contained concepts acceptable to more states than those in any proposal yet made. In its most recent form it became known as the "PLAN ANNOTATED." Thereafter, there was appended to the PLAN administrative procedures set forth in the Multistate Tax Compact, as it currently exists, and a proposed future Compact which sought to correct the errors of the existing Compact.

Whether because the PLAN was sandwiched between the Compacts or because there was no evident expansion in state support after publication of the PLAN, or for other unknown reasons—the fact is that the PLAN has remained moribund for too long a time.

It is the intention of the NATA special committee to use the PLAN—without the Compact provisions—as the initial draft of an acceptable bill. If the committee should arrive at the conclusion that they are unable to draft a bill acceptable to a substantial number of states they will issue a report on their efforts and state the basis of their inability to draft a bill.

In such an event, I think that those states which can agree on a revised PLAN would submit it for consideration by the Congress. Submission by states will be the appropriate procedure anyway, since NATA, as an organization, will not sponsor any interstate taxation bill. The committee hopes to persuade more states than before to support its draft.

TREATMENT OF ISSUES IN EACH BILL

It appears probable that there will be at least six major bills presented to the Congress. To some extent, there have already been efforts to reconcile basic issues and to arrive at a common approach to some of the important problems. I think it might be helpful to state first the areas of agreement before discussing the areas of disagreement.

(1) All distinctions between business and non-business income should be eliminated. Even the remaining advocates of the old Massachusetts allocation law would drastically restrict non-business allocation by adopting regulations which expand the definition of business income to include more of what has been considered to be non-business income. Four of the five income tax bills, either directly or indirectly, support the concept that all income is business income subject to apportionment. The treatment of dividends is the principal exception to that development.

The treatment of dividends from subsidiaries or controlled corporations continues to cause disagreement. Most of these dividends are paid by corporations subject to the 80 percent rule—where the parent corporation owns at least 80 percent of the stock of the subsidiary. There are, however, dividends from "Controlled Corporations" where, because of the laws of other nations, ownership by the parent corporation cannot exceed 50 percent of the subsidiary corporation's stock, or less.

The treatment of dividends from a "controlled corporation" ranges from complete exemption to 100% allocation, usually to the state of commercial domicile. The taxation of those dividends must always be related directly to the method used to tax corporations on a consolidated comingled basis, since, by the filing of a consolidated return, the taxation of an inter-company dividend can be eliminated. If the only reason for filing a consolidated return is to eliminate a dividend which would otherwise be taxed, it would be better to resolve the dividend question without impelling an unwarranted increase in the filing of consolidated returns. I believe the states must move more affirmatively in the area of consolidated return filing, but it should be for reasons much more rewarding to them than avoiding the tax on controlled dividends.

I think that the PLAN contains the most acceptable method for the taxation of controlled dividends, although it does require refinement in the taxation of dividends from corporations, the stock ownership of which is limited by law.

The treatment of dividends from investment portfolios also runs the whole gamut of inconsistency—from "total exemption under state law" to 100% allocation, usually to the state of commercial domicile. These dividends, when paid, do not reduce the taxable income of the payor corporation, as, for example, would the payment of interest. Taxing intercorporate dividends in the hands of the recipient is, to a degree, double taxation. For that reason, the federal government allows the 85% dividends received deduction, and some states exempt a substantial portion of dividends from state income taxation.

The PLAN would preserve the right of any state to include portfolio dividends in the apportionable base or to exempt any or all of such dividends. I consider the dividend provisions of the PLAN for both controlled and portfolio dividends to be the best of any of the five proposals.

(2) Apportionment Formula. With the exception of the Rodino bill, existing proposals agree that the three factors of the traditional Massachusetts formula, wages, property and sales should be retained for the apportionment of income. There are, however, wide variations among the bills as to the manner of determining the numerators and denominators of the three factors.

A significant disagreement exists as to the application of a throw-back rule for all factors, but particularly for sales. The number of tax-haven states which do not have a corporate income tax is decreasing each year and, therefore, the throw back rule has less application. Nevertheless, two types of corporate tax havens will remain—namely, those protected by P.L. 86–272, and low tax rate states vs. high tax rate states. Even if all states enacted a corporation income tax, and, as a result of more efficient tax compliance procedures, all corporations were being taxed as they should be. nevertheless, P.L. 86–272 would still exempt many corporations otherwise doing taxable business within a state.

P.L. 86–272 should not insulate from taxation profits derived from multimillion dollars of sales simply because the accident of geography allows the profit from a sale in one state to be taxed while a similar sale in another state escapes tax. There is a substantial question whether a corporation should be taxed on all of its income—at least all of its United States income—for Federal tax purposes, but not for state tax purposes. On the other hand, if the profit of every sale is made subject to tax in the exact place of the sale, the problem of complying with the different state laws becomes oppressive. Which of these two problems is the greater?

S. 1245 answers this problem by using a full destination rule without any throwback.

The Ad Hoc and MTC bills propose a destination rule but with a throwback rule for sales made in states, where, because of the application of P.L. 86-272, the destination state cannot assert a tax. Such sales would be allocated to the origin state.

The PLAN attempts to bridge the gap created by P.L. 86–272 when substantial income is derived through sales activity within a state but cannot be reached because of the drummers' concept employed by P.L. 86–272. It adheres to P.L. 86–272, unless a state administrator can demonstrate that the method used to conduct business within that state is dictated solely by tax avoidance.

When P.L. 86–272 was enacted, there was never any intent to permit a corporation to make as much as 20% of its total sales in a state and yet deny that state the right to tax a portion of that corporation's income. A large number of "medium-sized" corporations engaged in interstate operations are taking advantage of the tax haven. With the existence of a throwback rule, giving market states the power to tax income derived from in-state sales merely means shifting revenue from one state to another. Yet corporate income is not properly treated unless all sales are allocated to states having the jurisdiction to tax them.

The PLAN, uniquely among all the bills, employs a quantitative test. The $300,000–$2,000,000 standard, which has been suggested, is realistic and effectively exempts small corporations, which should not be dragged into multiple compliance problems.

At first glance, it may appear that we are confusing jurisdictional standards with apportionment formulae. However, the method for apportioning sales—i.e. a destination test—must be directly related to the jurisdictional rule of P.L. 86–272.

(3) Combined/consolidated returns. I think that the title of this subject matter is indicative of its problems. There is a serious question whether there is more than a semantic difference between a "combined return" and "a consolidated return." At this late date I think we ought to settle on one word or the other to describe the filing of a single return by related multiple entities.

Neither the Rodino bill nor the MTC bill have any provisions relating to consolidated returns.

S. 1245 allows a state to require consolidation only upon a showing by the tax administrator that there has been a diversion of income which is material, and then only the parties involved in the non-arm's length transactions can be required to file consolidated returns. This approach is similar to the rules employed for Federal tax purposes under section 482 of the Internal Revenue Code. I know of no issue on which the state administrators are more unanimous than on their opposition to that rule. I think that COST has strengthened their opposition by proposing to limit consolidation to just those entities involved in the income diversion.

The provisions of the Ad Hoc bill dealing with consolidation have undergone substantial change. In last year's version, the filing of combined returns depends on whether there were non-arm's length transactions which "materially distorted" the taxpayers state income. This years version incorporates the PLAN provisions. The plan would require the filing of a consolidated return for corporations which are members of an affiliated group, without the need for finding "distortion, either when required by the tax administrator or elected by the taxpayer. Affiliated corporations are those with 80 percent common ownership.

Foreign source income, as defined in section 951 of the Internal Revenue Code, would be excluded from the apportionable base. In addition, certain corporations involved in foreign operations would be excused from filing consolidated returns:

(i) Western Hemisphere Corporations, China Trade Act Corporations and similar corporations which are specially treated under Federal tax law;

(ii) Other affiliated corporations, at least 90 percent of whose income is from foreign sources. These corporations would still be taxed as single corporations subject to apportionment rules.

The plan, I think, provides the best two-way rule for consolidation. At one point in the debates on consolidation, the three important states of California, Massachusetts and New York appeared to have taken irreconcilable positions, yet despite appearances, agreement on the plan provisions was reached and now forms the basis which all administrators accept. I know of no state—although there may be one—which opposes the consolidation provisions of the plan.

Yet this is a complex problem and the revenue impact of various ideas is still undetermined. The states have much research and analysis to do in the area, just to keep abreast of the taxation of conglomerates, most of which have been formed in recent years. While most state tax laws contain some references to combination/consolidation, seldom is the statutory law more than one or two short paragraphs—and most tax administrators avoid coming to grips with such laws or the tax cases which would be generated by application of their provisions.

I expect the special committee will substantially expand the sections on consolidation to provide better guidelines for both taxpayer and tax administrator.

(4) Foreign Source Income. Neither the Rodino bill or the MTC bill contain any provisions relating to foreign source income.

S. 1245 excludes all income from sources outside the United States, including expenses and losses properly attributable to such income.

The provisions of the Ad Hoc bill, exempting foreign source income as defined for Federal tax purposes, and excusing affiliated corporations with foreign source income from consolidated reporting, have been previously discussed. It is also expected that the PLAN will be expanded to provide a more adequate definition of foreign source income and define the application of the apportionment factors, particularly in the sales factor.

(5) Jurisdictional Standards. Since most of the bills have retained the jurisdictional standards applicable in prior years, and I have previously discussed the adjustment to PL 86–272 which the PLAN proposes, I would like to concentrate on S. 1245, which has introduced a new concept in the jurisdictional definitions for sales and use tax purposes.

Section 101(3)(c) of S. 1245 appears to retain unchanged the codification of the solicitation rule set forth in the Supreme Court's *General Trading* and *Scripto* decisions. However, sections 101(4) and 304 require any person with a business location in a state who purchases property in interstate commerce to obtain a registration number from that state. A vendor without a business location in the registering state is not required to collect that state's sales or use tax on an interstate sale to a registered vendee. The vendee's interstate purchasing registration justifies the vendor not to charge, collect or remit the sales/use tax.

This new registration technique apparently would apply to all businesses presently registered or permitted to be retailers or who are "direct-pay" purchasers. The business buyer, rather than the seller, would be responsible for paying the tax.

Cost advocates this change on the ground that it benefits small business.

In an information bulletin issued by Charles F. Conlon, the following analysis is made: "Any business buyer not presently registered as a retailer would have to obtain a registration number, for example, service businesses, professions and all non-retailing entities such as manufacturers, processors, wholesalers, etc. Also, while this result may not be intended, any purchaser of tangible personal property, in interstate commerce, appears to be subject to the registration number requirement because under the definition in the bill a person (any person) is considered to have a business location in a state if that person owns or leases real property in the state. (Section 513). Thus, unless the registration number provisions are more carefully defined, they could be interpreted to relive solicitation-only vendors from collecting sales or use taxes on interstate sales to individual (nonbusiness) buyers.

Under S. 1245, a limited class of vendors (solicitation only) is relieved from collecting the tax on interstate sales to a potentially much larger class of registered buyers, *i.e.*, any buyer with a business location in the state. Under existing laws (*General Trading* and *Scripto*), both classes of vendors must collect the tax on interstate sales to all buyers whether or not registered."

NEW DEVELOPMENTS

At the outset I made reference to the fact that some new actions have taken place in the interstate taxation field which may be important to tax administrators and which should be watched carefully by all interested persons.

Senator Long, Chairman of the Finance Committee has set up a special sub-committee under the chairmanship of Senator Mondale (Minnesota) to study the area and recommend legislation to the full Finance Committee. The subcommittee is expected to hold hearings on the various bills, although no time schedule has yet been announced.

No one can gainsay that those who claim that Congress will never act on this subject have thus far been right. Yet, the formation of the Senate Subcommittee, which complements the House Judiciary Committee, seriously increases the probability of affirmative action, at least in the judgment of many who have followed the problem over the years.

I think that the states will err badly if they appear before Congress as mere obstructors, without a substantive measure of their own to support. The old adage, "You can't beat something with nothing," is apropos here. If business with its some 2,000,000 members can appear before Congress with the semblance of unanimity in support of S. 1245, then it seems to me that the 50 states should be able to do no less. Thus, it would be risky for the state administrators to be unprepared for the Senate hearings and to be faced with the prospect of merely opposing bills submitted by industry.

For this very important reason, I appeal to all state administrators to support the efforts of the Special NATA tax administrators' committee, and to the bill which I have every confidence they will be able to draft.

Resolution

Whereas, some of the interstate taxation bills now before Congress contain certain features which have caused great concern to state tax administrators because of their potentially adverse impact on effective state tax administration and the unfair competition which would be created against locally based businesses, and

Whereas, the Executive Committee of the National Association of Tax Administrators has established a special committee to draft an Interstate Taxation Act generally representative of the views of state tax administrators, and

Whereas, the special committee is now engaged in drafting such a bill and will submit its report shortly, now, therefore, be it

Resolved, that the National Association of Tax Administrators respectfully requests Congress to take no action on any interstate taxation bill until the special NATA committee draft is prepared and made available to the Senate Subcommittee on Interstate Taxation.

BASIC RESEARCH PROGRAMS PAY OFF

Mr. DOMENICI. Mr. President, I ask unanimous consent to have printed in the Record the comments of Prof. Alan Van Huevelen, Department of Physics, New Mexico State University with regard to the urgent need for continued basic research assistance programs.

The financial benefits or the contributions to society are not always obvious when exploring new arenas in scientific research. Professor Van Huevelen uses for an example the unsuspected final "payoff" of microwave research when compared to the initial outlay in Federal moneys. I felt his comments to be most relevant in view of the recent debate in this chamber regarding the need for further Federal assistance to all kinds of scientific endeavors, and I want to bring his remarks to the attention of my colleagues.

There being no objection, the statement was ordered to be printed in the Record, as follows:

The Problem of Justifying Basic Research

There is an accelerating tendency by federal and state agencies and by universities to encourage applied research and development with a subsequent reduction in funds for basic research. This tendency seems to have evolved out of a need to justify to taxpayers the use of their dollars in research. It is very difficult and perhaps impossible to explain to a taxpayer the future value to him of a present research grant for basic research. The researcher in such a project is trying to understand a facet of nature which is at present not well understood by himself and certainly not well understood by the average taxpayer. It is then difficult to show how that particular basic research project can "pay off." However, if history is any lesson, then it is easy to show (but seldom done) that basic research is probably the best investment of government money that can be made. Much of it is done at universities and should be encouraged at universities.

As one example, let us look at a dollar and cents analysis of basic research in microwaves which was started in the late 30's. At that time microwaves were known to be a part of the electromagnetic spectrum, but little else about their properties was known. There were not even devices available for generating microwaves. Research was begun in the late 30's by a small number of physicists, and it is obvious that the vast majority would have been utter failures at indicating any useful result of microwave research. It was mainly their curiosity and desire for understanding which led them to explore this otherwise barren field. As a first major step in their studies they were able to develop microwave generators called klystrons. Microwave research accelerated in the early 40's and during World War II considerable effort was spent in applying microwave understanding gained by the early basic research. Microwave radar used during the war was credited by one prominent general as being second only to the atomic bomb in our success at winning World War II.

Whereas for many years following the war, microwave technology was used primarily for military purposes, it now has entered the free enterprise sector of our society with full force. Some of its uses are: WATS System, data transmission by time sharing computers, remote supervisory control in industry, cooking industrial drying processes, Penn Central Railroad remote reservations, Datafax for testing and control by U.S. Steel, signature approved systems by NY branch banks, Tokyo newspaper reproduction in other localities, communications satellites, closed circuit TV, etc.

The total market for microwave equipment in 1970 was 9 billion dollars. This is 1000 times the cost of all basic research in 1940, about the time of the development of microwaves. Thus, it seems clear that just the taxes collected from microwave sales in 1970 would more than have paid for our support of basic research in all fields during the several years in the late 30's when basic research in microwaves was started. A 5% tax on the microwave industry sales would easily support the entire budget of the National Science Foundation on a year for year basis at the present time.

The microwave industry is not an isolated example of the dollar and cents success of learning about unknown areas of our environment. It is, however, one area which is easily observed at this point in time.

In summary, one might conclude:

(1) Basic research more than supports itself if one allows a certain lag time.

(2) Our whole standard of living depends on a better understanding of nature and products developed to control our environment as a result of this understanding.

(3) A particular university cannot always show that basic research done there is especially useful to the citizens of that state. But then e.g. N.M. has benefitted greatly by basic microwave research done at Stanford and MIT in the late 30's and early 40's. New Mexicans paid no special fee for this except a few federal tax dollars (certainly no state taxes supported those universities.) There are, however, a great many New Mexico engineers whose salary is a consequence of microwave technology and of similar technology Each of us in New Mexico receive added convenience and enjoyment because of microwave communications and devises.

EHRLICHMAN: POWER AND ARROGANCE

Mr. MONDALE. Mr. President, for many of us, the testimony of John Ehrlichman over the past few days has revealed the extent to which the Presidency has become an institution apart, detached from the Congress and the people. Mr. Ehrlichman typifies this attitude of arrogance, what Joseph Kraft in a most perceptive column in this morning's Washington Post terms "maniacal arrogance."

I believe this is not overstating the case. The testimony of Mr. Ehrlichman has revealed the corruption which unfettered power has brought to the Presidency and those who surround the institution. It has revealed the lack of respect for our Constitution, for those institutions which were designed to represent the people, and indeed for the basic intelligence of the American people.

Mr. President, I commend Mr. Kraft's article and urge that it be read both as a perceptive study in the misuse of power, and as a warning that we in Congress must assess our role in contributing to the dangerous constitutional crisis which looms on the horizon and attempt to right the imbalance between the branches of government which threatens us all.

Mr. President, I ask unanimous consent that the text of Mr. Kraft's article be printed at the conclusion of my remarks.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Washington Post, July 26, 1973]

Ehrlichman: Power and Arrogance

(By Joseph Kraft)

John Ehrlichman, the former No. 2 man in the Nixon White House who has been starring in the Senate hearings this week, is the quintessential witness to Watergate. As nobody else in the drama, he expresses the corruption of power.

For he entered office, four years ago, as probably the most sensible and reasonable man in the Nixon entourage. He comes on now, at a moment of terrible personal difficulty, as a man of maniacal arrogance.

Mr. Ehrlichman first became well-known in the 1968 campaign in connection with a remark he made about now-forgotten action by Mr. Nixon. "It'll play in Peoria," Ehrlichman said.

That comment showed a lot of qualities. There was first a measure of detachment. Ehrlichman was not on the offensive but the defensive. He was not self-involved. He was looking at an action and making a coolish appraisal.

There was next a measure of judgment. Ehrlichman was not claiming that everything the boss did was great or terrific. It was good enough to get by.

Finally, there was a degree of intelligent articulation. Ehrlichman said what he meant in a spare way. He made his point with originality and effectiveness, even humor.

I used to see something of Ehrlichman in the first years of the administration, and I consistently found the qualities of detachment, judgment and intelligence. He could talk well and easily about such abstractions as the decision-making process. He understood the inner structure of an argument and the range of possible alternatives in a given situation.

He seemed particularly interesting in the matter of civil rights. Certainly he was no bigot. My strong impression is that he tried to hold the line against a position of total opposition to busing. Prof. Alexander Bickel of Yale, who often went to see him on civil rights issues, found him highly responsible.

Now, if ever, these qualities should be showing. Mr. Ehrlichman is in very deep trouble. Unlike H. R. Haldeman, who was his friend and mentor in the Nixon entourage, he has no great family resources. He has a wife to support and school-age children to educate.

He is under investigation by an eager district attorney in Los Angeles county for directing the burglary of Daniel Ellsberg's psychiatrist—a common crime which carries a sentence of five years as a felony. He may well be indicted by Special Prosecutor Archibald Cox for much deeper Watergate offenses including perjury and conspiracy to obstruct justice.

Apart from his family, moreover, Ehrlichman is naked and alone. He is not part of the Haldeman gang anymore. Indeed, Haldeman and his former assistant, Dwight Chapin, were badmouthing Ehrlichman even as he prepared to take the stand. Only last weekend they were saying that he was not tough enough. In particular they attacked him for expressing a belief that tapes of the President's conversations and phone calls should be released.

So how did Ehrlichman behave in these circumstances? Well, his opening statement knocked the Senate Watergate committee, the "news media" and the "gallery." The questioning was barely under way when he made a sneering reference to committee counsel Samuel Dash as "the professor."

A little later he was tangling with Chairman Sam Ervin about points of constitutional law. Then Ehrlichman indulged himself in a long calculated slur on the memory of J. Edgar Hoover.

I do not feel sorry for Ehrlichman in any way. I think he is deep into the cover-up. I think he is lying about his own role and that of the President. Moreover, it is clear that he did despicable actions and is still without a sense of contrition.

But I am puzzled. It is not clear to me how a man of such intelligence and detachment could have been so horribly deformed. I suspect that many of us in Washington are to blame.

The climate of exaggerated respect paid the President and his agents had something to do with the development of Ehrlichman's arrogance. The disposition of the Congress to lie down before any challenge probably contributed to his cynicism. Those of us in the press did give him reason to think that we asked what he once called "dumb questions."

Whatever the importance of these elements, there is one cardinal point. The story that the President was corrupted and fooled by his aides does not pass muster. It was not the likes of John Erhlichman who made Richard Nixon defiant and suspicious and contemptuous. The flow went the other way.

OFFICIAL DECEPTIONS RULE THE PENTAGON

Mr. PROXMIRE. Mr. President, within the past several weeks we have stressed a series of deception and outright calculated lies that defy the imagination. Unfortunately they have come from one of the most powerful departments of government—the Pentagon.

First came the deliberate withholding of information from the Senate Armed Services Committee about the B–52 bombing in Cambodia. Somewhere in the vast reaches of that five-sided building, a decision was made to lie to Congress. It was decided to alter official data to cover up the B–52 missions. It was decided that Congress had no right to know; that Congress should not be told these military secrets.

We do not know who did this or why but we can expect the normal series of disclaimers and stammering professions of innocence. Cover-ups have become a way of life in Washington and the Pentagon is no exception.

The second example deals with the secret intelligence gathering forays into Laos and Cambodia since 1965. Although 81 Americans died during these secret raids, they were officially reported to have died in South Vietnam. These false statistics again were given to Congress.

THE B–1 COVERUP

The third example concerns the expensive and controversial B–1 program. Apparently the Senate Armed Services Committee has been given rosy reports about progress the Air Force is making on the B–1. Gen. Douglas Nelson, head of the B–1 program, testified that the recent schedule slippages only became known in May of this year, after his original testimony that the program was going well.

According to a series of 10 Air Force memorandums made available to me, however, the Air Force and General Nelson in particular, were well aware of these problems. They knew about the cost increases and schedule slippages as early as January of 1972. And yet the Air Force has continued to testify that the program was in great shape.

This was a calculated false statement designed to get the B–1 money out of Congress at all costs. But as with all lies, eventually they return to haunt their masters.

Mr. President, I have recently heard an editorial of personal opinion by Edward P. Morgan on the ABC News. No one could have put the problem in better perspective.

I recommend it to anyone who is concerned about the tendency in this country to accept half-truths and official lies as business as usual. We cannot afford to lose that basic American sense of critical judgment. A government that does not represent the people and their ideals is not fit to govern.

Mr. President, I ask unanimous consent that the recent remarks of Edward P. Morgan be printed in the RECORD.

REMARKS OF EDWARD P. MORGAN

This is Edward P. Morgan, ABC News Washington, with the Shape of One Man's Opinion. A look at lies from the Pentagon after this word.

Deception seems to be just as much an accepted way of life at the Pentagon as Watergate reveals it has been at the Nixon White House. So what we have been getting in large measure out of the two most powerful establishments in the executive branch is government by the big lie.

Now it comes out, officially, that thousands of B52 raids were "secretly" made on "neutralist" Cambodia in 1969 and 1970, the missions falsified as strikes in South Vietnam and the actual records of the original sorties destroyed as the Defense Department's own method of "cover-up." Similar deception was practiced with B52 raids over Laos. The Pentagon brass were even brazen enough last month to dispatch to the Senate Armed Services Committee, which is supposed to control the multibillion-dollar defense budget, a distorted copy of the Indochina bombing. In one of the understatements of the season, Pentagon spokesman Jerry Friedheim says "in retrospect, that probably was not the wisest thing to do."

No wonder, in such an atmosphere of arrogance and deceit, that an Air Force general received a mere rap on the wrist when it came out that in direct violation of declared administration policy, he had repeatedly ordered offensive air action against North Vietnam during the bombing halt and disguised it on the record as "protective reaction strikes." No wonder that such sharp-nosed Wisconsin bird dogs as Senator Proxmire and Representative Les Aspin have consistently flushed out staggering cost overruns on weapons systems and shocking hanky panky in manipulating such trifles as Army budget figures.

What do such sinister charades gain the nation outside of concealed spending of taxpayers' dollars and involvement in potentially explosive policies that even key committees of Congress, not to mention the public, are lied to about? Yesterday, I asked a reliable government source, in a position to know, how or whether he would justify such official behavior. He replied that insofar as Laos was concerned, the secret bombing was requested by Prince Souvanna Phouma, head of the so-called neutralist Laotian government. But in hindsight, he thought it was a mistake because under our system we cannot (or should not) conduct ourselves the way the Communists do. Instead of covert response to North Vietnamese violation of the Laotian "truce" he thought it would have been better to have responded openly with a great fuss over the other side's infractions.

This strikes me as sound if belated wisdom. We have waited too long to blow the whistle on government by the big lie, whether fabricated in the classified cloisters of the Pentagon or wherever. With the public being slowly but steadily aroused by the Watergate nightmare to how Nixon administration officials attempted at top levels to subvert the democratic process, there's no time like the present to blow that whistle.

I'll have a footnote in 30 seconds.

The highly respected Brookings Institution has released a study suggesting the defense budget could be cut by $25 billion a year through a shift in military strategy. The Pentagon must regret that Brookings was scrubbed as a target for a break-in by the White House "plumbers" seeking to trace security leaks.

This is Edward P. Morgan ABC news Washington with the shape of one man's opinion.

BASIC OPPORTUNITY GRANT PROGRAM

Mr. MONTOYA. Mr. President, the Office of Education has recently distributed to Congressmen and Senators information concerning the basic opportunity grant program as it will operate in 1973–74, along with the forms to be used for application. They requested assistance in dissemination of this material to students and their families in order to expedite matters, as it is quite late in the year for young people to be making plans for the coming school year.

This is a new kind of student assistance, and must be applied for in a new manner, with the cooperation of the parents in filling out the application. It will be available only to students who will be attending post-secondary institutions for the first time, and therefore are inexperienced in methods of obtaining student aid.

I am most happy to cooperate with the Office of Education in this matter, and have made efforts through my newsletter, radio notices, and other means, to see that students in my State are alerted to the opportunity this new Federal educational grant system offers.

However, Mr. President, in looking over the material supplied for students I became aware of a possible misunderstanding as to the amount of money a student could possibly receive this year.

The basic opportunity grant program is designed with the premise that a maximum award of $1,400 could be made to the student, less the amount the student and his family were expected to contribute. Presumably if the family and student were destitute the total award would be for $1,400. However, the actual grant would not be in that amount in any case this year.

Because this program was funded at $122 million for this year, the money will be divided among the number of expected applicants, and Office of Education informs me that in no case will the amount of money per student be more than $452 for the school year 1973–1974.

The difference between an "award" and a "grant" might be difficult for an inexperienced student or parent to understand. However, if a needy student is alerted in time to the fact that he will need other forms of assistance in addition to the BOG he can still make good use of this program.

For that reason I have attached a notice to the applications which will be distributed through my office notifying students and parents that it would be wise for them to investigate not only this form of student assistance but other methods such as the educational opportunity grant program, student loans, the college work-study program, State or institutional grants, and so forth.

I would like to suggest, Mr. President, that others of my colleagues who have decided to assist the Office of Education in distributing this material to constituents consider supplying the same kind of information to young people in their States.

ALL CHANNEL RADIO

Mr. MOSS. Mr. President, for several years now I have introduced legislation which would bring to the public the excellence of FM quality broadcasting by requiring all radio receivers to be equipped to receive both AM and FM stations. The cost of including FM reception in radios should be minimal. Over the years, the average price of radio receivers has dropped substantially and today AM/FM receivers can be purchased for as little as $15.

Both the National Association of FM Broadcasters and the Corporation for Public Broadcasting Joint Committee for Radio All-Channel Legislation have endorsed this legislative proposal. If we are ever to develop our FM resources to the level at which they can truly serve the public, then we must encourage the production of all channel radio receivers.

Recently the CBS Radio Division announced its endorsement of this legislation. I welcome CBS to the list of supporters and hope that with the added support which we have gathered in the past year, we will be able to see action by the Congress on all channel radio legislation before the end of the 93d Congress.

Mr. President, I ask unanimous consent that the statement of CBS radio be printed in the record at the conclusion of my remarks.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

CBS OWNED FM RADIO STATIONS SUPPORT PROPOSED CONGRESSIONAL "ALL-CHANNEL" LEGISLATION

The CBS Owned FM radio stations endorse the legislation now pending in the U.S. Congress regarding the development of All-Channel receivers for radio, it was announced today by J. Robert Cole, Vice President, CBS Radio Division, for CBS Owned FM stations.

Bills proposed in the Senate by Senator Frank Moss (Utah) and in the House of Representatives by Congressmen Clarence J. Brown (Ohio) and Lionel Van Deerlin (Calif.) on May 31, 1973, would require all radio sets of good quality to be equipped with FM as well as AM capability.

CBS Radio joins the National Association of FM Broadcasters and the Corporation for Public Broadcasting's Joint Committee for Radio All-Channel Legislation in endorsing these proposals.

Said Cole:

"We are endorsing the currently proposed All-Channel legislation for radio receivers because we believe it is essential if radio is to continue to enlarge its service to the public. Our position is based upon the assumption that a current study by the Arthur D. Little Company, and an inquiry by the CBS Radio Engineering Department, will demonstrate that the cost to the consumer of All-Channel sets of good quality is not unreasonable.

"From 1967 to 1973, according to national RADAR studies of all radio listening, the average adult has increased the time spent with radio each week by 37 percent. Most of that increase is accounted for by greater FM listening, which indicates that FM is offering programming which the public wants.

"During the last four years, more than half of all 'home' sets (table, clock and portable units) have had FM capability. In 1972, of all home radio sets, 57 percent were of this type. With auto radios, however, where a sizeable additional charge is made for an FM receiver, FM's share of all sets has been growing annually, but it had run to only 24 percent last year.

"Just as All-Channel television legislation has made UHF available to all set buyers in recent years at minimal additional cost, so we believe comparable radio legislation will serve the public interest.

"One important consideration is the obvious need for both good quality and reasonable cost. Several manufacturers have proved it can be done. We hope they will join us in supporting this legislation."

THE GENOCIDE CONVENTION AND FREEDOM OF SPEECH

Mr. PROXMIRE. Mr. President, one of the major arguments raised against the Genocide Convention is that it infringes upon the first amendment guarantee of free speech.

Article III of the treaty provides for mandatory punishment for acts of "direct and public incitement to commit genocide." Those who oppose the convention argue that such an agreement by the United States would diminish the right of free speech, guaranteed by the Bill of Rights in our Constitution.

But the first amendment protects the right of advocacy, not incitement. It would be impossible for us to ratify the Genocide Convention if it conflicted with the Constitution; the Constitution is the highest law in our country, and no treaty may supersede it. However, in reality, there is no such conflict. If we replace the word "genocide" with any other crime; for example, murder, it is clear that incitement toward criminal action is already illegal and not within the jurisdiction of the first amendment.

The Bill of Rights stands as a safeguard for the individual against the problems created in a changing society, for society against the malice of an individual. The Genocide Convention also protects both the individual and society, but not at the expense of free speech.

Mr. President, I urge the Senate to ratify the Genocide Convention without further delay.

S. 335—COMMUNITY SCHOOL CENTER DEVELOPMENT ACT

Mr. CHURCH. Mr. Presdent, the Subcommittee on Education of the Labor and Public Welfare Committee recently held a hearing on my bill, S. 335, the Community School Center Development Act. S. 335 would provide Federal grants for the establishment of new community school programs and allow public schools to keep their doors open during evenings, weekends, and summers for educational and other activities which will build better communities. Testimony presented during the 2 days of hearings gave further evidence to the value and need for a community education program throughout the country.

Tom Richards, director of Community Schools in Boise, Idaho, testified with me before the subcommittee and described the benefits the Boise community is gaining from their community school program. Mr. Richard's statement was of extreme interest to me and I would like to share it with other Members of Congress. I ask unanimous consent that the statement of Mr. Richards be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

COMMUNITY EDUCATION IN BOISE, IDAHO

Boise, Idaho is a community of some 80 thousand residents. In June, 1971, Boise's schools were open to some 22,000 students between the ages of 6 to 18, open 165 days a year.

Community Schools became a reality in June, 1971, and three school buildings initiated programs on that date. From June, 1971, to present, Boise's schools are open to persons of all ages regardless of age, education or economic level on a year round basis.

Originally funded through Model Cities, Boise's Community Schools, in two years' time, have grown from a program in three schools and 200 people to one that includes

11 schools, various public agencies, and several private business facilities. Over 2,000 persons registered and participated this Spring and several hundred more were on waiting lists for full classes.

Figures and statistics are not however the story of Community Schools.

The total of Community Education is the family who attends their school as a family. The first grade boy, who on his first day of school displayed no fear while many of his classmates were in tears, upon being asked his source of calm, told his teacher; "This is my school, my Mom and Dad and brothers and I have been here a lot." The intangible benefits that are hard to put on paper are endless.

The term "seniors" in schools no longer connotates just a 17–18 year old youth, in Boise; it also refers to a student who is 60 years or older.

Witness the 91 year old lady who enrolled in the Community Schools' Adult Media Learning Center. When asked if we might know of her motivation, as finding a person of her experience in school is rare, she quickly responded; "In the last couple of years, I've noticed my memory is slipping a bit and I'm here to work on it."

Seated alongside is a tall trim 25 year old divorcee, mother of two, who appeared before the Boise Independent School District Board of Trustees to testify that, "Community Schools gives me the chance to improve myself educationally to get a good job, and off of welfare."

The Adult Media Learning Center is open to any person 14 or older and offers an individualized self-learning program which allows a person to progress as rapidly as he chooses. The 15 year old whose ability is superior can complete his preparation for his high school equivalency diploma and go on to college ahead of his age group. An employer called Community Schools relating, "I've got a 19 year old boy who is an excellent employee but has no chance for future improvement because he can't read well enough." He attended Community School's Adult Media Center and now enjoys a bright future with the electrical contracting company.

Spring 1973 found over 120 activities a week being offered through Community Schools. At East Junior High Community School, the weekly night time Community Schools enrollment surpassed the day time enrollment. Who attends?—an eye doctor in welding class; an insurance broker near retirement who with his wife is taking a Spanish class as they prepare for a trip to Spain; the director of a state department whose love of antiques finds him "front and center" for every antique class. One Spanish class is taught by a 70 year old Spanish-American lady who first learned of Community Schools when she rode on Community School's seniors—treasured "Blue Lady". Her fellow teacher, in a second Spanish class, is a 19 year old college Sophomore who teaches two nights a week for Community Schools and also is a student a third night.

The generation gap evaporates with the advance of Comuntiy Education; witnessed by a young man with shoulder-length hair, a full-flowing beard, leather head band, garbed always in clean levis and sandals. In the basement of an ancient elementary school you'll find this young man, representative of the "relaxed generation", surrounded by men and women from the "establishment" segment of our society; ladies from high income levels mixing freely with this teacher; and fellow students of his philosophy. Prior to this class those "groups" would rarely exchange greetings; through Comunity Schools they've found a basis for admiration and respect and friendship. What generation gap? Community Schools typing class finds a grandmother and her granddaughter sharing the challenge of typing skills. Grandmother to "brush up" as she considers returning to employment and granddaughter to "help me with my school work." Gentlemen, it is not the typing that is paramount, it is the sharing of these two ladies—a family experience.

Historically, those who have given a lifetime of support to our schools have been excluded from their use. Community Schools ends this unacceptable condition. In January, 1972, Boise's Community Schools initiated a program for senior citizens. Senior participants suggested names. A panel of judges selected XYZ—standing for Extra Years of Zest. The senior lady who submitted the winning title received $25.00 worth of free shopping donated by a local supermarket. In March 1972, mini-bus rides began for seniors; during June 1973, 700 rides were provided. "Blue Lady" in Boise means a blue Volkswagen, nine passenger van. Community Schools' first Blue Lady was purchased with funds through the Idaho Office on Aging, under the direction of Mr. Wil Overgaard. Gentlemen, another point as to how federal monies plant a seed and local citizens nourish the plant. In May of this year, seniors' need for transportation had outgrown Blue Lady I and Blue Lady II joined Community Schools. Local seniors are raising funds for her purchase. Doctors, supermarkets, seniors' groups, public service agencies are all now readily available with "The Blue Ladies."

Prior to Community Schools, only youngsters benefited from public school cafeteria facilities. Today in Boise, at North Junior High School, for example, you will find youngsters over 60 joining those 13–14–15 in cafeteria lines. Nutrition! A definite problem for seniors. Now for 50c a hot meal and equally as important—fellowship—the sharing of a meal with others! Young people listening to the tales of those with long years of living and seniors gaining zip and laughter from the enthusiasm of the young; each gaining tolerance and understanding of one another. No longer do seniors face the grim prospect of a lonely, cold meal nor the cross-town trial of transportation to a public restaurant. Rather *their* neighborhood school is a meeting place for them and their friends to share a hot meal. For seniors who physically are unable to leave their residence, Community Schools provides "Hot Wheels"—Meals on Wheels—prepared through June of 1973 by a local restaurant who charged only for the food and donated their overhead costs. Now a local rest home with professional nutritionist and dieticians prepares the meals and gives Community Schools the capability of providing any type of special diet needed. Local physicians can list the diets needed by their patients who are recuperating from illnesses or who are permanently immobilized. By calling Community Schools they know their patients will receive the proper diet.

Thanksgiving and Christmas holidays, to most of us, are days of love for many of Community Schools' staff and volunteers. Staff members, their children and friends pitch in with the "frontier spirit" to deliver special Thanksgiving and Christmas dinners to home bound seniors.

Weekly daytime hours find Lowell Community School full of first through sixth graders in their classes and in the basement open area while seniors enjoy the learning and fellowship of ceramics classes. A Saturday at Whittier Community School finds, in the morning; little people roller skating in the gym; early afternoon, Retirement Jobs Inc., for seniors, meeting in the gym. Then Saturday night 80 to 100 seniors show their years haven't slowed their step as a live band of seniors sends forth strains of long-remembered favorite dance tunes. Mr. Claude Almandinger, an active volunteer senior in Community Schools' XYZ, told me one Saturday night at a senior dance: "Tom, I don't know which one it is, but one of these boards is mine! I've been paying for it all my life; and now I intend to use it!" Smiling, he danced away with his partner.

Our Chairman of XYZ Advisory Council is a retired federal employee and freely states, "I used to be opposed to use of the schools, but I guess you can see my change of attitude. I'm chairman of Community Schools' XYZ Advisory Council now."

Another intangible benefit of Community Education, seniors in Boise and our nation have not supported school bond issues due to limited incomes and no longer deriving any direct returns. Today, Boise seniors support their schools and have personally joined school board meetings to state their support and enthusiasm. Increased support means necessary funds for all school programs resulting in more and improved learning materials and conditions for all ages.

Community Schools' XYZ has a weekly calendar in the city's major daily paper, The Idaho Statesman, listing all the coming week's activities of interest to seniors. The calendar reflecting the community part of Community Education in that the *Statesman* donates the space for the column which has grown to one half a page or more in size. In addition, the *Statesman* prints the column in bold large type to ease the strain on tired eyes.

Mrs. Annie Jones originally joined Community Schools' XYZ as a member of a quilting group. Upon overhearing Community Schools' staff comment on their failure to find a person to teach knitting, she stated, "Maybe you're asking the wrong people"—another Community Schools' teacher was born again. I talked to Annie last week and her story is the story of Community Schools. "Tom, you'll never know what Community Schools means to me. I knitted each of my class a memento, something special, and you know on the last night of class, they had a surprise dinner for me and gave me a gift. I'll teach for Community Schools always; I've made so many new friends." Senators, this is Community Education, no longer just facts and knowledge, but an opportunity for a community to once again become neighbors and friends who give to and share with one another. In the case of so many seniors—once again becoming a contributing member of our community—being somebody.

Community Education: From the preschool child of 3 to the senior of 93; from the uneducated 40 year old man who could not read and now can take home the 2% milk his wife requests, instead of buttermilk, to the Vietnamese girl who can speak English and prepare American dishes; from the wealthy real estate broker who teaches his specialty, to the VW dealer who allows a mechanic to teach in C.S.; from the high school junior who volunteers as teacher two nights a week, to the professional Modern Math for parents; to origami for all and Shorthand, French, German and Swahili; all these you can find in Boise's C.S. But perhaps none says what Community Education is like the Mormon Bishop who year-around teaches Hebrew on Friday nights in Boise, Idaho.

THE FOURTH OF JULY IN DENMARK

Mr. HART. Mr. President, as we, in this country, celebrated our Independence Day, a Michigan choral group joined a Danish-American observance of our Independence holiday.

A 34-member chorale from the nationally known and respected Interlochen Arts Academy performed at the American Independence Day Festival in Rebild, Denmark. And we, in Michigan, are especially proud of their appearance for it confirms the international pride in the United States and the products of her cultural heritage.

The festival, which is sponsored by the Rebild National Park Society, is celebrated to commemorate the warm friendship between Denmark and the United States. Since its inception in 1912, the festival has been presented in Rebild, a small village in northern Jutland, Denmark, and currently draws between 20,000 and 40,000 visitors each year. In addition, it is completely televised and radio coverage reaches many European countries.

Although three Interlochen conductors have presided over European podiums in the past, the invitation to the chorale marks the first overseas trip for any Interlochen student group. The chorale, under the direction of Dr. Kenneth W. Jewell, is the elite vocal ensemble of the larger Interlochen Arts Academy choir.

Dr. Jewell, also conductor of the academy choir and director of choral music at Interlochen has been a music educator and conductor in Michigan for more than 30 years. He also conducts the highly respected professional singing group, the Kenneth Jewell Chorale of Detroit, which has earned a prominent national reputation for its work with the Detroit Symphony.

Indeed, the academy has put real meaning into their philosophy of artistic involvement. For they are, assuredly, "dedicated to world friendship through the universal language of the arts"—and we can all take pride in their representation of the United States.

WILLIAM L. WHITE

Mr. DOLE. Mr. President, I have learned with great personal sadness of the death, today, of William L. White, former editor of the Emporia, Kans., Gazette.

Mr. White was one of our State's most distinguished citizens. His accomplishments in journalism earned him well-deserved measures of respect and admiration from his colleagues in Kansas and throughout the country. But his concern for his fellow citizens of Emporia, his tireless efforts on behalf of the entire community, and his deep interest and involvement in statewide and worldwide events marked him as an individual of unique compassion, perception, and human kindness who will be sincerely missed by individuals from every walk and station of life.

I felt myself extremely fortunate to count William L. White as a friend, adviser, and gentle critic. He was a warm and good man who enriched Kansas and the Nation through his life of dedication to his profession and those around him.

I have called the White House to notify President Nixon of Mr. White's death, for he knew and valued the personal and professional qualities of this outstanding Kansas citizen.

COMPREHENSIVE NUCLEAR TEST BAN TREATY

Mr. MUSKIE. Mr. President, 10 years ago the United States, the Soviet Union, and Great Britain agreed to a limited nuclear test ban. In the preamble to the Limited Test Ban Treaty, the signatories explicitly agreed to seek "to achieve the discontinuance of all test explosions of nuclear weapons for all time." This commitment to work toward a comprehensive test ban was restated in 1968 in the preamble to the Nonproliferation Treaty. And President Nixon explicitly reaffirmed America's commitment to this goal in March 1969, when, in a message to Ambassador Gerard Smith of the Arms Control and Disarmament Agency, he stated:

> The United States supports the conclusion of a comprehensive test ban adequately verified. In view of the fact that differences regarding verification have not permitted achievement of this key arms control measure, efforts must be made toward greater understanding of the verification issue.

For the last 3 years, as chairman of the Subcommittee on Arms Control of the Foreign Relations Committee, I have held hearings on a comprehensive test ban treaty. For 3 years, administration witnesses have testified in support of such a treaty, but have insisted that before concluding a CTB Treaty, this country must receive assurances about inspecting the site of unidentified seismic events.

In the last decade there have been sufficient seismological advances to achieve the necessary verification of nuclear tests through available national means of inspection. At the present time our national seismological capabilities have advanced to a point where the nuclear tests that might escape detection and identification would be quite small and strategically insignificant. It is clear that those who continue to insist on verification through onsite inspection are really those who oppose concluding a treaty to end all nuclear testing.

Mr. President, the necessity of concluding a comprehensive nuclear test treaty in order to prevent the spread of nuclear weapons to nonnuclear nations is increasingly urgent. Recent French and Chinese nuclear tests sorely underscore this point. Because of the SALT treaty limiting ABM deployment, there is no longer a need for more advanced strategic defensive weapons. Improvement can be made in nonnuclear technology as national security needs dictate. And there is no prospect now of a dramatic breakthrough in nuclear technology that would give either this country or the Soviet Union a dramatic and decisive advantage over the other.

In late June of this year, the Foreign Relations Committee passed by 14 to 1, Senate Resolution 67, of which I am a cosponsor. This legislation proposes an immediate suspension of underground nuclear testing to remain in effect so long as the Soviet Union abstains and urges our Government to set forth promptly a new proposal to the Soviet Government for a permanent treaty to ban all nuclear testing. This resolution should be coming to the floor shortly. It merits the full support of the Senate.

Mr. President, the time for talking about the conclusion of a comprehensive test ban treaty has long passed. Now is the time for action.

I ask unanimous consent at this time to have printed in the RECORD an editorial on this subject from yesterday's New York Times.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

AN END TO NUCLEAR TESTS?

> Exactly ten years ago today, representatives of the United States, the Soviet Union and Britain initialed the Treaty of Moscow, the partial atomic test-ban accord that took the first giant step toward taming the threat of massive nuclear death and destruction. The widespread hope then was that the two defects of the Moscow Treaty would soon be rectified.
>
> The first of these defects was that the treaty banned only nuclear explosions in the atmosphere, on the surface of the ground and under water, thus implicitly legitimizing underground test blasts. The second defect was that only three states originally subscribed to the treaty. Even then, a decade ago, it was evident that the need was for universal agreement to prohibit nuclear tests of every type in every conceivable environment.
>
> These past two months have given vivid evidence that the original weaknesses in the Treaty of Moscow have not yet been cured, although most nations have by this time become signatories.
>
> Last Sunday the Atomic Energy Commission detected a Soviet nuclear blast in Kazakhstan, apparently the third such explosion this year. A few weeks earlier, the United States held its sixth nuclear test of 1973. These were underground tests that spewed a minimum or even zero amount of radioactivity into the air; and they were, at least, not forbidden by treaty. However, the Chinese detonated a hydrogen bomb in the atmosphere above Sinkiang on June 27, and France—in defiance of the International Court of Justice—carried out an atmospheric nuclear test at Mururoa in the South Pacific only last Saturday.
>
> Even underground nuclear tests no longer have real justification. Both the United States and the Soviet Union have more than enough nuclear weapons to devastate the world, and they have been testing so long that at most they can be gaining only marginal increases of knowledge. At this late date the old arguments about the need for on-site inspection seem irrelevant as barriers to a universal halt. If Moscow and Washington want really to demonstrate that the proclaimed Soviet-American détente is genuine, they have no simpler or more effective means than to announce they are amending the 1963 Moscow Treaty to ban all nuclear tests.
>
> France and China are even more offensive to the world sense of decency and the growing world concern for the environment by their unique and stubborn persistence in radioactive defilement of the atmosphere. France is now receiving the bulk of articulated world protests, but it should not be overlooked that the Chinese People's Republic is at least as guilty as France in putting nationalistic egotism ahead of a sense of world responsibility. Chinese-originated radioactivity is no more welcome in the lungs and bloodstreams of the mass of humanity than French-originated radioactivity.
>
> In the case of Peking and Paris, too, it is difficult to agree that there is any legitimate self-defense case for continued nuclear testing. So far as the weapons themselves go, both China and France already have substantial enough nuclear armories to give any potential attackers serious pause, and certainly fear of nuclear retaliation for an atomic or hydrogen first strike.
>
> There is probably less imminently serious international tension now than at any time since the partial nuclear test-ban treaty was accepted. It could even be the moment to try to make the incomplete Treaty of Moscow whole, to end all nuclear tests by all nations for all time.

THE FTC AND GASOLINE SHORTAGES

Mr. HANSEN. Mr. President, the Federal Trade Commission charges against eight of the largest oil companies is another example of the irresponsibility of Federal bureaucracy.

I have no doubt that the petroleum industry is fully capable of taking care of itself and, in fact, might welcome the opportunity of clearing itself of the ridiculous charges of monopoly that have been brought against eight of the larger oil companies.

It is unfortunate that an agency of the Federal Government should be adding to present misunderstanding of the causes of fuel shortages and actually proposing to penalize an industry for efficiency and thereby further boost the price all of us would pay for gasoline, heating oil, diesel, and aviation fuel.

There obviously is widespread public misunderstanding of the energy problem and the FTC complaint added to the political cries of a conspiracy and contrived shortage certainly helps confuse the issue, but does nothing to solve it.

A Wall Street Journal editorial today said the FTC's complaint against the eight largest oil companies must be one of the most novel monopoly suits of recent years.

Many will agree with the editorial conclusion that the FTC is playing games with us, that it has taken 2 years to discover there is really no conspiracy among the major oil companies, but that it hates to admit it.

Here we have an industry in which, measured by gasoline sales, the editorial continues, the largest competitor controls 8 percent of the market and the eight companies and others as well have been engaged in anticompetitive practices for at least 23 years which suddenly caused a gasoline shortage in the summer of 1973.

Mr. President, I have not been here that long, but as long ago as 1952, the Paley Commission report warned of an impending fuel and energy crisis and there are those still here including the distinguished senior Senator from West Virginia (Mr. Randolph) who have been warning of the impending crisis almost as long.

These instant energy experts who come up with the ready solution of dismantling the oil companies apparently have little knowledge of the actual workings of the industry or the real nature of the energy dilemma.

I would highly recommend the Wall Street editorial. "The FTC's Loaded Rhetoric," to all Senators for the true nature of the monopoly charges that have been brought against the eight companies and I ask unanimous consent that it be printed in the Record, as follows:

There being no objection, it was ordered to be printed in the Record.

The FTC's Loaded Rhetoric

The FTC's complaint against the eight largest oil companies must be one of the most novel monopoly suits of recent years.

Here we have an industry in which, measured by gasoline sales, the largest competitor controls 8% of the market. Neither the FTC complaint nor the two-year staff study that underlies it makes any allegation of collusion among the eight largest firms. Yet it asks us to believe that while Texaco, Shell, Standard Oil and so on do not consider each other as competitors, they are jointly consumed by a desire to do in Uncle Fred's cut-rate corner gas station. And the eight companies and others as well have been engaged in anti-competitive practices for at least 23 years which suddenly caused a gasoline shortage in the summer of 1973.

The FTC talks a lot about "the structure of the industry" resulting in a "common course of action." Translated, all this means the FTC is against vertical integration, regardless of intense competition in the ultimate marketplace. The major oil companies do everything from production to transportation to refining to marketing. Would-be competitors are at a disadvantage if they do not have the resources to compete in the whole range of these activities. In particular, when there are shortages the lack of production facilities makes life tough for independent refiners and retailers.

The FTC has decided, however, that "the pivotal point" in the industry is refining, and it alleges that the eight companies "have exercised monopoly power in the refining of petroleum products." They have, it alleges, "behaved in a similar fashion as would a classical monopolist: They have attempted to increase profits by restricting output."

Again, there is no allegation of collusion on this course of action. The allegation simply means that the major oil companies have not found it profitable to build refineries, at $250 million each, fast enough to insure the independent jobbers and refiners all the cut-rate gasoline they could use.

In the past, independent marketers made the entry because the spot market assured them an ample supply of gasoline, which they could often buy at rates lower than those charged on standing contracts. Potential investors veered away from refining because the biggest share of profits in the industry came from production. The majors themselves only expanded refinery capacity in order to insure themselves a market for their crude oil.

The FTC staff contends, again without the least allegation of collusion, that the major companies juggled their books to keep profits high on production and low on refining. But it never explains how this is possible when their refining subsidiaries pay the same price for crude they get from their parents' production subsidiary that they pay for the substantial amounts of crude they typically get from outside the company.

In fact, the present bartering between subsidiaries of different companies itself looks fishy to the FTC. As it is, Mobil might have more than enough product to meet its contract needs in New York, but not in California. Shell might be in the reverse situation. They exchange, and Mobil avoids having to send a fleet of tankers from New York to California at the same time Shell is going in the opposite direction. The process goes on among the independent producers and refiners as well, but is obviously limited to those who have something to barter.

This may look like monopoly to the FTC, but to us it looks like efficiency. It is the consumer, after all, who would ultimately pay for both Shell's tankers steaming East and Mobil's tankers steaming West. More generally, it is the consumer that anti-monopoly laws are intended to protect; they are not designed for the benefit of competitors who aren't quite big enough to play in the game they have chosen. And poring over all of the practices cited in the FTC complaint and staff study, it's hard to discern anything that increases the prices the consumer pays for gasoline or fuel oil.

When prices for the end products are already set in highly competitive markets, indeed, the consumer stands to lose if the efficiencies of vertical integration are lost. The logical remedy for the FTC's concerns is to force major companies out of the refining business, adding another middle-man. Perhaps recognition that this is unlikely to lower ultimate costs is the reason the FTC has yet to spell out the remedy it seeks. Indeed, the very threat of divestiture action is a disincentive for the companies to start building refinery capacity that is needed.

Our own reading of the whole matter is that the FTC is playing games with us, that it has taken two years to discover there is really no conspiracy among the major oil companies, but that it hates to admit it. Pressed by Congress and others to find a scapegoat for the present shortages, it has come up with a report and complaint in which loaded rhetoric is used to describe inexorable economic forces at work.

TRIBUTE TO THE LATE ZEB V. WHELCHEL OF GAFFNEY, S.C.

Mr. THURMOND. Mr. President, the people of Cherokee County were saddened recently by the death of one of their most prominent and respected citizens, Mr. Zeb. V. Whelchel. I feel truly honored to have known Zeb Whelchel for many years, and I am one of countless many who experienced his warmth and friendship.

It is difficult, if not impossible, to adequately describe his contribution to his community, his State, and his Nation. Difficult though it is, Mr. President, I would like to take a few moments before this august body to try.

Zeb V. Whelchel lived his entire life in Cherokee County. He, like most of his contemporaries, was a product of the farm and country life. Zeb Whelchel was very fortunate because his formative years were spent in this healthy and wholesome country environment. It was on the farm where he learned invaluable lessons which would sustain him throughout his productive life. He learned that hard work, dedication, and a solid spiritual foundation are the keys to life. He also was taught a deep and abiding love for his country, community, and associates. He gave of himself freely without asking for anything in return.

Zeb Whelchel's life in the business world is a matter of record. In his capacity as sheriff of Cherokee County, he displayed a sincere and honest faith in our law enforcement system. At the same time, he was constantly attempting to rehabilitate offenders while carrying out the law. His administration was both judicious and compassionate.

He was also a trustee of North Greenville Academy, president of the chamber of commerce, director of the board of public works, director of First Piedmont Federal Savings and Loan Association, president of the Gaffney Lions Club, and a retired Gulf Oil distributor.

Mr. President, the true worth of a man cannot be measured solely on his success in the business world. His true worth, if it can be measured at all, has to be gaged on such qualities as character and integrity. In this regrd, Zeb Whelchel's true worth was immeasurable. His neighbors in Cherokee County will attest to this fact. So will the many youngsters who were nurtured in their youth by his wise counsel. Many are now prominent civic and business leaders, and they do not hesitate to credit Zeb Whelchel for playing a key role in their success.

It would be an injustice to discuss his life without giving due credit to the dear lady whose influence pervaded the Whelchel household. Nora Hammett Whelchel, or Miss Nora, devoted her life to her husband of 51 years. Zeb's successes were her successes; Zeb's loves were her loves; Zeb's disappointments were her disappointments; Zeb's life was her life. Theirs was the kind of marriage that made success and happiness inevitable.

Mr. President, those of us who knew Zeb Whelchel will miss him dearly. But through his kindness, love, and generosity, he has left a legacy for his family and friends.

Mr. President, I include several editorials and articles regarding Zeb V. Whelchel in the RECORD at the conclusion of my remarks. They are as follows: "Gaffney Leader Zeb V. Whelchel Dies Wednesday," the Gaffney Ledger, Gaffney, S.C., July 19, 1973; "Zeb V. Whelchel," the Gaffney Ledger, Gaffney, S.C., July 19, 1973; "Viewpoint," broadcast on Radio Station WEAC and WAGI-FM, Gaffney, S.C., July 19, 1973; "In Memory of Zeb V. Whelchel," broadcast on Radio Station WEAC and WAGI-FM, Gaffney, S.C., July 19, 1973:

There being no objection, they were ordered to be printed in the RECORD, as follows:

[From the Gaffney (S.C.) Ledger, July 19, 1973]

GAFFNEY LEADER—ZEB V. WHELCHEL DIES WEDNESDAY

Zeb V. Whelchel, 73, noted Gaffney business and civic leader, died Wednesday at 11:30 a.m. in Charlotte Memorial Hospital after two weeks of serious illness. He and his wife, Mrs. Vernon Hammett Whelchel, lived at 308 Vernon Street and had been married for fifty-one years.

A son of the late Sam J. and Catherine Spencer Whelchel, he was a lifelong resident of Cherokee County and a member and life deacon of the First Baptist Church.

Mr. Whelchel was a trustee of North Greenville Academy; former Cherokee County Sheriff; past president of the Chamber of Commerce; director of Board of Public Works; director of First Piedmont Federal Savings and Loan Association; past president of Gaffney Lions Club; and a retired Gulf Oil Distributor.

Surviving in addition to his wife are four sisters—Mrs. Sally Phillips, Mrs. Pearl Kirby, Mrs. Carrie Barnhill and Mrs. Daisy Owensby, all of Gaffney; and three brothers—Loyd and M. B. Whelchel, both of Gaffney, and Carl Whelchel of Jacksonville Beach, Fla.

Services will be held today at 4 p.m. at First Baptist Church conducted by Rev. Jack Causey and Dr. Frank E. Morris with burial in Frederick Memorial Gardens. Shuford-Hatcher Funeral Home is in charge of arrangements.

Active pallbearers will be Jack and Billy Phillips, Kenneth and Don Whelchel, Bobby Barnhill, Sammy Owensby, Bill Fulmer and Rev. Alton Martin.

Honorary pallbearers will be deacons of First Baptist Church; directors of First Piedmont Federal; retired members of the Men's Club; directors, managers and department heads of Board of Public Works; and Wade Weatherford, Russ McCoy Jr., Strom Thurmond, Joe Turner, Julian Wright, R. C. Carroll, Wayne Whiteside, George Seabron, Roland Barnhill, Johnny Gibson, Howard Darby, David Corry, Hoyt Seigler, Monroe Painter, Billy Camp, and J. M. Smith.

[From the Gaffney (S.C.) Ledger, July 19, 1973]

ZEB V. WHELCHEL

Once again this community has been saddened by the death of one of its leading citizens. Zeb V. Whelchel, civic and church leader, successful businessman and public servant, passed from this life Wednesday.

To those of us who remember Zeb, his death brings regret, even in spite of the fact that we realize sooner or later we all give up the chase of life.

Will Rogers once said, "I never met a man I didn't like." Neither did Zeb Whelchel, and everyone he met liked him. He was that sort of man. Zeb was a jovial fellow with a sparkle in his eye, a smile on his lips, and more often than not, had a cigar nearby. This man was a solid citizen in every respect and was the kind of person you like to do business with.

For many years a gasoline and oil distributor, he contributed his talents as chairman of the Board of Public Works after his retirement. His leadership with the Board helped to provide the industrial growth Cherokee County has experienced in recent years. He was interested in the political current of our county and worked for better government.

Have you ever known a man who dressed immaculately, always looked fresh and clean, and reflected the image of being a straight shooter in every way . . . this was the portrait of Zeb V. Whelchel. Gaffney and Cherokee County need more like him.

[From Gaffney (S.C.) Broadcasting, Inc., July 19, 1973]

VIEWPOINT

This is a personal tribute to a truly outstanding individual.

Zeb V. Whelchel was a gentleman in the truest sense of the word.

Mr. Whelchel died Wednesday at the Charlotte Memorial Hospital after a two-week valiant fight for life. He was 72.

Zeb Whelchel had lived a full 72 years. There had been no wasted time in the life of this man . . . our friend.

He had served his community to the fullest. In part, Mr. Zeb—the jovial man with the ever present smile and the ever present cigar—had served for many years as a member and as chairman of the Gaffney board of public works. He served as director of the first Piedmont Federal Savings and Loan Association, past president of the Chamber of Commerce, and was a former sheriff of Cherokee County.

Mr. Whelchel had also served his God not only as an official of the First Baptist Church but in the manner in which he lived his life each day

Mr. Zeb will be missed by his family, his community and his many, many friends.

Zeb Whelchel was a good man . . . but most of all, he was a friend to all.

We join all those who knew this truly gentle man in mourning him today. Truly, our lives are better for having known him.

That's today's viewpoint.

This is Jim Holland.

CAROLINA IN THE MORNING

(WEAC and WAGI-FM in Gaffney, S.C.; Raymond Parker along with Ron Owenby)

At the close of today's July 19, 1973, program, the following tribute was given in memory of Mr. Zeb V. Whelchel by Raymond.

Today's program has been difficult for me. I have lost a friend and you have lost one. Mr. Zeb was a true friend, loved by all who knew him. Mr. Zeb passed away yesterday morning after two weeks of serious illness.

Growing up on the farm, Mr. Zeb came to Gaffney as a young man and was associated with the late Mr. Drayton Clary and Mr. Claude Hammett. Being such a popular man, he was encouraged by friends to run for sheriff, was elected and served his county well. Mr. Zeb later was the Gulf Oil Distributor with stations on about every corner and scattered throughout the county.

He was a handsome man, immaculate dresser and always with a big smile . . .that cigar as his trade mark . . . he enjoyed life, enjoyed his work in his yard and with his flowers. Always an early riser, we've heard him so many times talk about "Miss" Nora fixing him ham, steak or chicken for breakfast with those good hot biscuits. He enjoyed so much being around young people; every week or so going to the fish camp or just an outing with Margaret and Joe Turner or other friends. He once told Craig Turner if he ever smoked, never inhale. He thought of Craig as his son and loved all young people.

I had the pleasure of serving on three boards with "Mr. Zeb"; serving on the Board of Deacons at First Baptist Church with him, also on the Board of Public Works and First Piedmont Federal Savings and Loan. Mr. Whelchel, the late Mr. Claude Vassy and the late Mr. Boyd Salmon could see in the future for Gaffney's water supply and when you drive by the reservoir, Mr. Zeb will always be remembered as he was honored by having Lake Whelchel named for him.

Yes, we've lost a friend, one that we never heard complain, but always something good to say about someone. To "Miss Nora" and family, we are thinking of you.

We feel that Emily Dickinson was writing about Mr. Zeb as she writes about Success. It does fit him so well. We close out our program this morning with these lines and with one of his favorite songs, How Great Thou Art.

SUCCESS?

He has achieved success who has lived well, laughed often, and loved much; who has gained the respect of intelligent men and the love of little children; who has filled his niche and accomplished his task; who has left the world better than he found it, whether by an improved poppy, a perfect poem, or a rescued soul; who has never lacked appreciation of earth's beauty or failed to express it; who has always looked for the best in others and given the best he had; whose life was an inspiration; whose memory a benediction.

> If I can stop one heart from breaking,
> I shall not live in vain;
> If I can ease one life the aching,
> Or cool one pain,
> Or help one fainting robin
> Unto his nest again,
> I shall not live in vain;

TAXES AND THE MULTINATIONALS

Mr. HARTKE. Mr. President, recently there has been much discussion about the tax advantages available to American companies for investing overseas. U.S.-based multinational companies, generally backed by the administration, maintain that these tax loopholes are necessary if the United States is to remain competitive, and that the tax saving is not that great anyway. There has been so much written on the subject that the relevant facts have been buried under mounds of rhetoric. Just what exactly are the legal tax breaks that American companies receive for overseas investment?

Prof. Peggy Musgrave of Northeastern University has written an article that answers that very question. Her paper was published in the compendium of papers submitted to the Joint Economic Committee in June 1972. Portions of the article deserve to be emphasized at this time; they will serve as a factual base or which reasonable discussion about tax reform in the area of foreign investment can be based.

There are four basic ways by which the U.S. Government could treat the overseas profits of U.S. corporations. Suppose the foreign subsidiary earns

$100 in profits and this in turn taxed at the rate of 30 percent by the foreign government. The question that naturally follows is how this $30 paid in foreign taxes is to be treated for the purposes of U.S. taxation. First, these taxes could be treated in the same manner as State and local taxes. That is, they would be considered deductions from taxable income. In this case, taxable income would be $70, and at a corporate income tax rate of 48 percent, $33.60 in taxes would be due the United States. Second, this $30 in foreign income taxes paid could be treated as a tax credit. Here, total Federal taxes owed would be $18; $48 at the 48-percent rate, minus $30 in foreign taxes paid. The third alternative would be to ignore the foreign tax completely and tax foreign profits at the domestic rate of 48 percent. A fourth and final possibility would be to void foreign profits from any Federal taxation whatsoever.

As it turns out, the U.S. Government uses a combination of the second and the last alternatives. No Federal taxes are due on profits earned through a foreign subsidiary of a U.S. corporation until they are repatriated to the United States. When they are returned, foreign taxes paid are given a tax credit. Thus, in the case described above, the $100 in profits earned is not taxed at all until it is brought back to the United States and when it is, only $18 is due.

There are, then, two tax preferences promoting foreign investment: the foreign tax credit and the tax deferral on overseas profits until repatriation to the United States.

The Federal Government allows for one of two possible methods to be used to calculate the maximum amount of foreign tax credit permissible. The per-country limitation calls for the U.S. corporation to estimate the amount of tax credit due for each country, and any "excess" credit arising from operations in one country may not be set off against U.S. tax due on profits earned in other countries. The overall limitation permits U.S. corporations to combine all foreign taxes paid to determine the total credit. By using the second method, excess credits in one country may be used to decrease the overall tax burden. It is not surprising that the second method is preferred by American multinational companies. The total foreign tax credit may not exceed the U.S. tax on combined income; that is, no refunds are given.

The foreign tax credit was adopted in 1918 in response to high wartime tax rates in the United States and abroad.

The tax deferral for foreign income is a distinct departure from the general U.S. income tax principle of taxing the income of American citizens and corporations from all sources. Sections 881–883 of the Internal Revenue Code provide that foreign-source income is exempt from U.S. taxation unless distributed to U.S. shareholders, either individual citizens or U.S. corporations. And as a result, because profits earned by a foreign incorporated subsidiary and held or reinvested abroad are subject only to foreign taxes, U.S. investment is particularly promoted in those areas of the world with low taxes.

In 1961 the U.S. Treasury proposed that U.S.-controlled subsidiaries be taxed as profits are earned abroad, and not waiting until they are remitted to the United States. The proposal was actively opposed by U.S.-based multinational corporations. Certain provisions of the Revenue Act of 1962, however, were meant to curtail the exploitation of the tax deferral. It seems that many U.S. companies were using low-tax countries as tax shelters from Federal taxes. Subsidiaries in these countries could serve as clearinghouses to which profits earned from other countries could be shifted to avoid taxation. Subpart F of the Revenue Act was intended to curb this activity, but has largely failed in this purpose. The following forms of foreign income are still eligible for deferral:

First. Income earned by a controlled foreign corporation that is engaged in the manufacture of goods or some other form of production and has no tax-saving branches outside its country of incorporation.

Second. Income earned by a controlled foreign sales or service corporation engaged only in selling goods or services for use in its country of incorporation.

Third. Income earned by a controlled foreign sales or service corporation that neither buys from nor sells goods or services to a related person and has no tax-saving branches outside its country of incorporation.

Fourth. All income earned by a noncontrolled foreign corporation.

A foreign corporation is considered noncontrolled under any of the circumstances described below:

First. When 50 percent or more of its voting stock is owned by persons who each own less than 10 percent of the voting stock.

Second. When 50 percent or more of its voting stock is owned by persons who are not U.S. citizens or corporations.

Third. When 50 percent or more of its voting stock is owned by any combination of persons who are not U.S. citizens or who each own less than 10 percent of voting stock.

This is not the end of the story. Many other tax preferences are offered to American firms for investing overseas.

Special deductions from taxable income are given to U.S. corporations operating in the Western Hemisphere. The net effect is a 14-percent reduction in the U.S. corporate income tax rate. To qualify as a Western Hemisphere trade corporation—WHTC—the following requirements must be met: the corporation must be a domestic corporation; do all of its business in the countries of the Western Hemisphere; at least 95 percent of its gross income for the preceding 3-year period must be derived from sources outside the United States; and 90 percent of its gross income in that same period must be derived from the active conduct of a trade or business. A WHTC is not eligible for the tax deferral, but does receive the foreign tax credit. The aim of this preference was to stimulate investment in the Western Hemisphere during World War II.

The Revenue Act of 1962 also excluded less developed countries from the new restrictions on the tax deferral. Specifically subpart F restrictions do not apply for U.S. investment in less developed countries. The intricate set of rules that apply only create further loopholes and offer no real incentive for productive investment in the less developed world. Less developed countries remain tax havens for U.S.-based multinational corporations.

Section 931 of the Internal Revenue Code provides that American corporations investing in U.S. possessions be treated as foreign corporations for Federal tax purposes. The corporation must derive 80 percent of its income in the preceding 3-year period from within the U.S. possession, and derive 50 percent of such income from doing active business within the possession. If these qualifications are met, the corporation is subject to U.S. tax only on income earned within the United States. Puerto Rico is the largest source of this exempt income.

Sections 941 to 943 of the code also provide for what are known as China Trade Act corporations established in 1922. Such U.S. corporations operating in Taiwan and Hong Kong are exempt from U.S. taxation.

The whole area of U.S. tax treatment of investment abroad needs to be reexamined. U.S.-based multinational corporations receive far too many benefits for investing overseas. Not the least alarming aspect of the problem is the lack of available information. Exactly how much Federal revenue is lost as a result of these numerous tax preferences? No one knows, or at least, no one is telling. Professor Musgrave reports that comprehensive material was not available from the Department of Commerce. I know, too, that this information is not being provided by the Department of the Treasury, for I have repeatedly requested it in letters and telephone calls. What we do know is that Federal policy on foreign investment is a complicated maze of misguided and outdated policy.

The Hartke-Burke trade proposal meets the problem head on in two ways. First, a deduction would be allowed for foreign taxes paid rather than the foreign tax credit. Second, a tax deferral on unrepatriated profits from overseas operations would no longer be permitted. Instead, the profits of foreign subsidiaries would be taxed in the same manner as profits of domestic companies.

I urge my colleagues in the Senate to carefully consider all the tax advantages for investing abroad as described by Professor Musgrave, so that we may move forward in this vital area of tax reform. Attention should also be directed to public opinion.

Mr. President, I ask unanimous consent that the results of a nationwide public opinion survey conducted by the Opinion Research Corp. for businessmen be printed in the RECORD as an important source of information for my colleagues. Forty-two percent of total public opinion is strongly opposed to the expansion of U.S. companies abroad. Even a majority of the managers are opposed to expansion—37 percent opposed against only 30 percent in favor of expansion. Perhaps most surprising are the results when broken down by party affiliation.

This issue is truly a bipartisan one. Even the majority of Republican voters are on our side in this controversy. Republicans strongly oppose expansion of 40 percent opposed to 30 percent in favor. Let us not disappoint them.

The Foreign Trade and Investment Act of 1973 is designed to put our industry on an even footing with foreign competition and make domestic investment just as attractive as investment abroad. By controlling predatory trade practices and regulating the American based transnational firm, the Hartke-Burke approach to trade policy will put America back on the path to a world of free and fair trade.

There being no objection, the survey was ordered to be printed in the RECORD, as follows:

OVERALL, THE PUBLIC FAVORS CURTAILMENT OF U.S. COMPANIES' EXPANSION ABROAD BY ALMOST A 2-TO-1 MARGIN

"In your opinion, do you think the federal government should encourage the expansion of U.S. companies abroad, or discourage their expansion?"[1]

[In percent]

ENCOURAGE FOREIGN EXPANSION	
Total public	22
By occupation:	
Blue collar	19
Clerical, sales	26
Professional, managerial	30
By party preference:	
Democrat	16
Independent	25
Republican	30
DISCOURAGE FOREIGN EXPANSION	
Total public	42
By occupation:	
Blue collar	47
Clerical, sales	45
Professional, managerial	37
By party preference:	
Democrat	43
Independent	42
Republican	40

[1] "Take no action," "No opinion" omitted.

Source: Opinion Research Corp., Princeton, N.J.

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed the bill (S. 373) to insure the separation of Federal powers and to protect the legislative function by requiring the President to notify the Congress whenever he, the Director of the Office of Management and Budget, the head of any department or agency of the United States, or any officer or employee of the United States, impounds, orders the impounding, or permits the impounding of budget authority, and to provide a procedure under which the Senate and the House of Representatives may approve the impounding action, in whole or in part, or require the President, the Director of the Office of Management and Budget, the department or agency of the United States, to cease such action, in whole or in part, as directed by Congress, and to establish a ceiling on fiscal year 1974 expenditures, with amendments, in which it requested the concurrence of the Senate.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1973

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the agreement under which calendar No. 287 (S. 1560) was laid before the Senate and made the pending business be vitiated, in view of the unanimous-consent agreement, and that the Senate turn to the consideration of S. 372; that it be laid before the Senate and made the pending business.

The ACTING PRESIDENT pro tempore. The clerk will read the bill by title.

The assistant legislative clerk read the bill by title, as follows:

A bill (S. 372) to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of section 315 with respect to Presidential and Vice Presidential candidates and to amend the Campaign Communications Reform Act to provide further limitation on expenditures in election campaigns for Federal elective office.

There being no objection, the Senate proceeded to consider the bill.

Mr. SCOTT of Pennsylvania. Mr. President, the Public Affairs Council, the professional organization of public affairs and Government relations officers of over 200 major U.S. corporations, yesterday issued a 10-point resolution calling for reforms in political campaign laws to bring about tighter control and to eliminate abuses.

I ask unanimous consent to have this statement printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

A STATEMENT BY THE BOARD OF DIRECTORS OF THE PUBLIC AFFAIRS COUNCIL, WASHINGTON, D.C., JULY 25, 1973

The Public Affairs Council, national professional organization of public affairs officers of more than 200 major corporations, today issued the following statement:

Integrity, openness and public confidence in this nation's election processes are fundamental to the success of our government and country, in enacting the disclosure and other segments of the Federal Election Campaign Act of 1971, the Congress recognized this fundamental requirement. But subsequent events and recent federal and congressional investigations of them have demonstrated the need for further legislative improvements, including the need for new mechanisms to insure vigorous and even-handed enforcement of the election laws.

The Board of Directors of the Public Affairs Council has addressed itself to these needs, studied the assortment of reform proposals now pending in Congress, and resolved to endorse a comprehensive program designed to limit abuses of our political processes.

In doing so, the Board fully recognizes the dangers inherent in what is commonly referred to as reform. First, many proposals add to the already significant advantages of incumbency. Second, efforts to regulate campaigns and campaign finance raise some thorny constitutional problems. Finally, the history of reform demonstrates that there are no simple answers to such problems, and that the risk is that one set of problems may be traded for another. But the status quo is not satisfactory; and change itself may help to restore confidence in the system.

Members of the Council's Board are professional participants in the nation's political and legislative processes. Neither they, the corporations they represent, nor any responsible segment of society have a stake in a secret system or one that the unscrupulous can corrupt. Their dedication is to working within a system that is open, honest and deserving of the confidence and respect of the American people.

The Council's Board of Directors has therefore resolved to support campaign and campaign finance reform measures which would:

1. CREATE A SINGLE, STRONG AND INDEPENDENT FEDERAL ELECTIONS COMMISSION WITH ENFORCEMENT POWERS

The enforcement powers under the 1971 Federal Elections Campaign Act are presently shared by the Clerk of the House, Secretary of the Senate, the General Accounting Office, and the Justice Department, a division of responsibility which militates against uniform administration and complicates both reporting and meaningful disclosure. A number of bills have been introduced to create a Federal Elections Commission. These bills vary most significantly in whether they would empower that body to initiate and prosecute court actions.

We strongly support the creation of a Federal Elections Commission to centralize all reporting and enforcement activities, such commission to have the power of subpoena and authority to initiate actions against alleged violators.

2. LIMIT USE OF CASH IN ELECTION CAMPAIGNS

The utilization and accounting of campaign finance should measure up to the highest standards of accepted business practice and propriety. Abolishing large cash contributions—which evoke suspicion in the public's mind—would be one useful step in restoring credibility to campaign politics.

We strongly associate ourselves with efforts to legislate a ceiling of cash contributions. We are prepared to support a ceiling of $100, the figure often mentioned, or even a lower limit, provided it is not so restrictive as to prohibit small, out-of-pocket contributions by interested citizens. In addition, cash disbursements by and for candidates—perhaps all those over $100—should be fully reported as to source and purpose.

3. REQUIRE FEDERAL CANDIDATES TO ESTABLISH A SINGLE CENTRAL COMMITTEE FOR REPORTING OF ALL CAMPAIGN CONTRIBUTIONS AND EXPENDITURES

For a variety of tax, legal and political reasons, a profusion of committees to collect and disburse political funds has been a traditional part of many congressional, senatorial and presidential campaigns. Multiple committees *per se* are not objectionable, but the usual practice of separate reports by each committee on its contributions and/or expenditures, complicates one key objective in campaign finance reform—full, clear, readily available information.

Each candidate for federal office should be required by law to designate a single "official" committee which would be held accountable for rendering full and complete disclosure of all contributions in support of, and expenditures by, committees supporting a single candidate.

4. LIMIT CONTRIBUTIONS WHICH ANY INDIVIDUAL IS PERMITTED TO MAKE TO A SINGLE CANDIDATE

While many large contributors to a single campaign give for entirely selfless reasons, large contributions are subject to misinterpretation, and our political process will be best served by the broadest possible base of small private contributions.

We, therefore, support efforts to impose a reasonable dollar limit on the amount any person can contribute to or expend on behalf of any federal candidate. These limits should be lower for a candidate for U.S. Representative or Senator than for a candidate for President or Vice President.

5. RAISE EXISTING LIMITS ON TAX DEDUCTION OR TAX CREDIT WHICH TAXPAYERS WHO MAKE POLITICAL CONTRIBUTIONS MAY CLAIM

The present law provides that individuals may claim a federal tax deduction of up to $50 (100 in the case of a joint return), or a tax credit of up to $12.50 ($25 for a joint return) against their political contributions. In the interest of encouraging a broad base of giving, these provisions should be liberalized.

We recommend that the allowable tax deductions be increased to $100 ($200 for joint returns), and the tax credit be raised to $50 ($100 for joint returns).

6. CONSIDER MEASURES TO ESTABLISH LIMITS ON CAMPAIGN EXPENDITURES

Although some believe the aggregate expenditures for political campaigning are modest (an estimated 400 million dollars or less than four one-hundredths of one percent of our Gross National Product, for *all* campaigns in the U.S. in 1972), questions have been raised regarding the large amounts expended in a number of congressional, senatorial, and particularly the presidential campaigns in 1972. Some have called for ceilings on campaign expenditures by candidates for federal office, and the 1971 Federal Election Campaign Act did, in fact, impose limitations on expenditures for the use of communications media in federal elections.

The imposition of ceilings on total campaign expenditures, however, raises many practical—and constitutional—problems. Because it is important to re-establish the credibility and openness of our political system and to broaden the access to public office by restricting the financial burden of campaigning, we support the principle of reasonable limitations on amounts which candidates for federal office may expend in any primary, special or general election campaign, provided that such limitations: (a) do not restrict candidates' right to free speech; (b) do not assure incumbent office holders of permanent advantages over challengers; and (c) are structured to offer a reasonable certainty that the controls can be enforced.

7. LIMIT THE LENGTH OF POLITICAL CAMPAIGNS

Politician and citizen alike concede public concern about the length of our political campaigns. A number of other democracies have imposed time limitations on political campaigns without apparent violence to the chief object of campaigns—to inform the public. Yet any time limitation could work to the advantage of incumbents, raise constitutional issues and present difficult questions of interpretation.

While recognizing that no legislative remedy proposed to date would entirely resolve such dilemmas, we nevertheless urge that means be sought to impose reasonable time limitations on the allowable period for both primary and general election campaigning.

8. CLARIFY CONTRADICTORY SECTIONS IN THE 1971 FEDERAL ELECTION CAMPAIGN ACT

Section 610 of the 1971 Act authorizes unions and corporations to establish "separate segregated funds" supported by individual contributions. In an apparent oversight, the Congress contradicted this provision in Section 611 by outlawing "government contractors"— which includes many corporations—from direct or indirect political actions, including the establishment of such funds.

Since a careful reading of the floor debate when 611 was enacted makes it clear that it was the intent of Congress to permit separate segregated funds, and since the present law obviously discriminates against some unions and corporations, we urge Congressional action to clarify the contradiction and thus to provide equal opportunity for all unions and corporations. We believe these funds to be an excellent and fully accountable means of broadening individual participation in the electoral process.

In this connection, in that we have recommended specific limitations on contributions to a candidate by an individual, it should also be stated that we favor a limitation on contributions to a candidate by any separate segregated fund. The maximum amounts could be higher than those specified for individuals, but there should be a considered relationship between the two. Also, restraints would be necessary to prevent either a company or a union from avoiding the ceilings by establishing multiple separate segregated funds. No change is recommended in the long-standing prohibition on the contribution of corporate or union funds to candidates for federal office.

9. REPEAL "EQUAL TIME" PROVISIONS OF SECTION 315 OF THE COMMUNICATIONS ACT AS IT APPLIES TO CANDIDATES FOR THE OFFICE OF PRESIDENT AND VICE PRESIDENT

The "equal time" section obliges broadcasters to provide equal time for all presidential and vice presidential candidates, no matter how spurious. Therefore, broadcasters have been inhibited in offering substantial amounts of free time to significant candidates.

Free access to radio and television by significant presidential and vice presidential candidates is in the public interest: we support repeal of the equal opportunity requirements of Section 315 with respect to candidates for the office of President and Vice President.

10. SUPPORT BROAD-BASED PRIVATE FINANCING OF POLITICAL CAMPAIGNS, BUT ACCEPT ADDITIONAL STUDY OF PUBLIC SUBSIDIES

It is our present judgment that the public interest will best be served if political campaigns continue to be financed primarily by private individual contributions, rather than from government sources. We believe the impact of the Federal Election Campaign Act of 1971, plus the adoption of proposals along the lines of those embodied in previous sections of this statement, can remedy a majority of the problems existing in political finance. We believe the system can be strengthened further by expanding efforts to encourage more people to participate in selecting candidates and financing political campaigns.

We recognize there are many serious proponents and proposals for some sort of public financial support of political campaigns and that the one dollar tax checkoff for presidential campaign financing—a form of public subsidy—is already in effect. Although we encourage additional study of the pro's and con's of some degree of public financial support, we are presently convinced that a system based on private contributions is preferable.

Mr. COOK. Mr. President, I ask unanimous consent that the pending business, the Proxmire amendment, No. 389, be temporarily set aside.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. COOK. Mr. President, I send an amendment to the desk.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The assistant legislative clerk proceeded to state the amendment.

Mr. COOK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 47, line 5, strike out "section:" and insert "sections:".

On page 47, after line 23, insert the following:

"APPROVAL OF PRESIDENTIAL CAMPAIGN EXPENDITURES BY NATIONAL COMMITTEE

"SEC. 316. (a) No expenditure in excess of $100 shall be made by or on behalf of any candidate who has received the nomination of his political party for President or Vice President unless such expenditure has been specifically approved by the chairman or treasurer of that political party's national committee or the designated representative of that national committee in the State where the funds are to be expended.

"(b) Each national committee approving expenditures under subsection (a) shall register under section 303 as a political committee and report each expenditure it approves as if it had made that expenditure, together with the name and address of the person seeking approval and making the expenditure.

"(c) No political party shall have more than one national committee.".

On page 48, line 2, strike "316." and insert "317.".

Mr. COOK. Mr. President, is my assumption correct that amendment No. 385 to S. 372 is now the pending question?

The ACTING PRESIDENT pro tempore. The Senator's amendment that was just reported is the pending question.

Mr. COOK. May I ask, Mr. President, it is a printed amendment. I just happen to have submitted it in unprinted form.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. On whose time?

Mr. COOK. The time to be divided equally between the proponent and the opponent.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. COOK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. COOK. Mr. President, I ask that I be permitted to modify my pending amendment No. 385.

The ACTING PRESIDENT pro tempore. The Senator is permitted to modify his amendment. The Senator will state the modification.

Mr. COOK. On page 1, line 6, by striking the figure "100" and inserting in lieu thereof the figure "1000".

The ACTING PRESIDENT pro tempore. The amendment is so modified.

The amendment (No. 385), as modified, is as follows:

On page 47, line 5, strike out "section:" and insert "sections:".

On page 47, after line 23, insert the following:

"APPROVAL OF PRESIDENTIAL CAMPAIGN EXPENDITURES BY NATIONAL COMMITTEE

"SEC. 316.(a) No expenditure in excess of $1,000 shall be made by or on behalf of any candidate who has received the nomination of his political party for President or Vice President unless such expenditure has been specifically approved by the chairman or treasurer of that political party's national committee or the designated representative of that national committee in the State where the funds are to be expended.

"(b) Each national committee approving

expenditures under subsection (a) shall register under section 303 as a political committee and report each expenditure it approves as if it had made that expenditure, together with the name and address of the person seeking approval and making the expenditure.

"(c) No political party shall have more than one national committee.".

On page 48, line 2, strike "316." and insert "317.".

Mr. COOK. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. Under the previous conditions, without objection, it is so ordered, and the clerk will call the roll.

Mr. COOK. Mr. President, I ask unanimous consent that the time be equally divided and taken from the time on the bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

A CORRECTED EXPLANATION

Mr. MONDALE. Mr. President, I ask unanimous consent that a corrected version of the detailed explanation of the Mondale-Schweiker Presidential Campaign Financing Act of 1973 (S. 2238) which originally appeared on page 25603 of the July 24 RECORD, be printed in the RECORD at this point, and that the final bound version of the July 24 RECORD be corrected to conform with it.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess, awaiting the call of the Chair.

The motion was agreed to; and, at 11:12 a.m., the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 11:25 a.m., when called to order by the Presiding Officer (Mr. CLARK).

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending amendment by the Senator from Kentucky (Mr. COOK) be laid aside temporarily and that the Chair recognize the distinguished Senator from Minnesota (Mr. MONDALE) for the purpose of offering an amendment in lieu of the Cook amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The Chair recognizes the Senator from Minnesota.

Mr. MONDALE. Mr. President, I thank the majority leader for his courtesy.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. MONDALE. Mr. President, I ask unanimous consent that the further reading of the amendment be dispensed with, and that the amendment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 16, after line 18, insert the following new paragraph:

"(3) Section 302(c) of such Act is further amended by striking the semicolon at the end of paragraph (2) and inserting 'and, if a person's contributions aggregate more than $100, the account shall include occupation, and the principal place of business (if any);'."

On page 21, line 1, strike out "paragraphs (2), (9), and (10)" and insert in lieu thereof "paragraphs (9) and (10)".

On page 21, strike out lines 4 through 8, and insert in lieu thereof:

"(2) Subsection (b) (5) of such section 304 is amended by striking out 'lender and endorsers' and inserting in lieu thereof 'lender, endorsers, and guarantors'."

Mr. MONDALE. Mr. President, I ask unanimous consent that the distinguished Senator from Illinois (Mr. STEVENSON) and the distinguished Senator from Maryland (Mr. MATHIAS) be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONDALE. Mr. President, S. 372 contains many useful reforms, but there is one provision in the bill which I think represents an unfortunate retreat from the full disclosure requirements of the Federal Election Campaign Act of 1971. The bill eliminates the requirement that the occupation and place of business of those persons who contribute more than $100 be reported and publicly disclosed.

Our amendment restores this requirement for contributions of over $100.

S. 372 also eliminates the requirement that occupation and place of business be recorded for contributions of between $10 and $100. This part of the committee's action is reasonable, since contributions of $100 or less need not be reported, and our amendment would leave this modification intact.

The value of full disclosure for large contributions of over $100 far outweighs any moderate inconvenience candidates and contributors may suffer.

Mr. President, I have just completed my own campaign for reelection. The present law requiring disclosure of this information was in effect during my campaign and I complied fully with that requirement. It did involve some additional cost and in some cases some inconvenience, but I think it was well worth it because the public needs to know the relevant information about the source of campaign contributions. If campaign disclosure laws mean anything this information is essential so that the public may decide, among other thing, on the wisdom and advisability of such contributions. The amount and the source should be made available in a way that the news media may quickly and efficiently report such information to the American public. If this information is made difficult to obtain because it is not disclosed in the official reports required of us when we run for election the news media will be put to an inconvenience and difficulty which is virtually insurmountable. For that reason I feel that the current provisions of the law which applied to contributors of over $100 in the last campaign should be continued, and my amendment seeks to do so.

The news is filled every day with stories of corporations and their employees being pressured into contributing to campaigns. It has been alleged, for example, that this administration compiled a list of corporations in trouble with the Government, seeking favors from it, or regulated by it. These corporations, the allegations state, were then assigned "quotas" of $50,000 or $100,000 to be contributed to the campaign. In many cases, apparently, these quotas were filled by contributions from corporate executives, but in at least one case, that of American Airlines, and now a second case, that of the Ashland Oil Co., corporate funds were contributed in violation of the law. Even when executives make contributions with their own funds, it sometimes happens that they are reimbursed with bonuses, salary increases, or padded expense accounts—which the corporation can then deduct on its tax return.

Furthermore, as American Airlines board chairman George A. Spater pointed out in acknowledging American's illegal $55,000 contribution to the Nixon campaign:

> The corporation . . . is usually the target of the solicitation and usually receives the political credit for the contributions that are made.

Mr. Spater has well described the atmosphere of this activity:

> Under the existing laws [he said], a large part of the money raised from the business community for political purposes is given in fear of what would happen if it were not given.

We often talk in terms of how Government is compromised in this way by huge corporate contributors, and I think that is a very, very serious problem, but I think it is also true that increasingly the business community is getting sick of being shaken down in this way. Indeed, Mr. Spater, chairman of the board of American Airlines, in making disclosure of the illegal corporate contributions, went on to say, "We have got to stop the present system." I do not have his exact language at the present time, but he made it very clear that the time has come to get rid of the present system, which not only involves the potential for shakedown but also, if they are any kind of responsible business leaders, they do resent this process and they too have a deep concern for the best interests of our country, and I do not think they like the system any better than the rest of us.

So, under the growing, corrupting influence of the present system of private funding of campaigns, we have seen in almost hideous form the abuses that can occur, and we now see the business community concerned about the future of this country itself speaking out and pleading for campaign funding reform because they, too, are victimized by the current system.

In light of all of this, it is difficult to contend that the occupation and place of business of those making large contributions is irrelevant and need not be reported.

The other day, H. L. Mencken was quoted as saying conscience is often aroused by the knowledge that what you are doing may become known, and I think public disclosure of all contributions made in a way that the public will quickly and easily understand by whom and why they were made will have a very sobering impact on the conscience of those giving and those taking contributions for political purposes.

If 20 executives of a large corporation all contribute on the same day to a candidate, is not their corporation affiliation important? If a corporation gets a favorable government decision in a controversial case, is not the public entitled to know how much its executives contributed and to whom?

There is much in S. 372 that I think bears strong support, and I support the general thrust of the campaign reform provisions that the committee has developed, and I commend it for its work, but this one particular step I think was unwise, and it has been so viewed among independent commentators.

The editorial reaction to this provision of S. 372 has been uniformly negative.

The Wall Street Journal—which I think we can concede is a source of probity and responsibility in America—said this on July 11:

> We now learn that the Senate Rules Committee has moved to water down [the disclosure requirements of the 1971 Act], a prospect that could scarcely seem less appropriate. If anything, the requirements should be strengthened.

We know the Wall Street Journal speaks for the American business community.

On the same day, the New York Times called the committee action "astounding," saying:

> Undoubtedly, the existing requirement is now somewhat burdensome to campaign treasurers, but once it is widely known, it will become a matter of simple routine. It is no more onerous for the contributor than providing identification to get a check cashed. If addresses and occupations are not listed, the reports on contributions become much less meaningful.

An editorial in the July 13 Washington Post referred to the weakening of the disclosure laws as "astonishing" in the light of the American Airlines revelations.

Mr. President, this amendment, as I pointed out earlier, is cosponsored by the Senator from Illinois (Mr. STEVENSON) and the Senator from Maryland (Mr. MATHIAS). They, too, have pointed out that this amendment is essential if the American public is to be given the information they need to illuminate them as to the sources and the amounts of campaign contributions accepted by politicians seeking public office.

I note that the floor manager is not on the floor at this time. I understand he is testifying before a committee. I wonder if it is the wish of the leadership that we withhold further action on this amendment until the floor manager returns.

Mr. MANSFIELD. Yes, indeed. May I say to the Senator that the distinguished manager of the bill and the ranking Republican member are both absent because of official commitments before committees and in committees in which they have to be at the present time. So the leadership would appreciate the Senator's withhold any action at this time until the manager of the bill and his associate on the other side can be given a chance to answer.

Mr. MONDALE. Very well. Mr. President, I ask unanimous consent that Mr. James Verdier, of my staff, have the privileges of the floor during the course of this bill.

Mr. ROBERT C. BYRD. Not including rollcalls?

Mr. MONDALE. Not including rollcalls.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess, subject to the call of the Chair.

The motion was agreed to; and at 11:39 a.m. the Senate took a recess subject to the call of the Chair; whereupon, at 11:54 a.m. the Senate reassembled when called to order by the Presiding Officer (Mr. CLARK).

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1973

The Senate continued with the consideration of the bill (S. 372) to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of sec. 315 with respect to Presidential and Vice Presidential candidates and to amend the Campaign Communications Reform Act to provide further limitation on expenditures in election campaigns for Federal elective office.

AMENDMENT NO. 423

Mr. ROBERT C. BYRD. Mr. President, I have an amendment which I send to the desk for printing.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table.

Mr. ROBERT C. BYRD. Having discussed this amendment with the distinguished ranking Republican Member (Mr. COOK), I ask unanimous consent that tomorrow morning, immediately upon the resumption of the unfinished business by the Senate, my amendment be called up, and that there be a 30-minute time limitation thereon, to be equally divided in accordance with the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. COOK. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. COOK. Mr. President, I move that the Senate stand in recess subject to the call of the Chair.

The motion was agreed to; and at 11:55 a.m. the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 11:58 a.m., when called to order by the Presiding Officer (Mr. CLARK).

DEPARTMENT OF TRANSPORTATION APPROPRIATIONS—UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Saturday next, immediately following the recognition of the two leaders or their designees under the standing order, the Senate proceed to the consideration of the Department of Transportation appropriation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that upon the disposition of that bill on Saturday, the Senate resume its consideration of the unfinished business (S. 372), if that business has not been disposed of prior to that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. COOK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. COOK. The time to be equally divided, on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STEVENSON). Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate go into executive session for not to exceed 2 minutes.

The motion was agreed to, and the Senate proceeded to the consideration of executive business.

Mr. GOLDWATER. Mr. President, from the Committee on Armed Services, I report favorably the following nominations:

Major General Elvy Benton Roberts to be lieutenant general in the Army.

Lieutenant General Patrick Cassidy, USA, to be retired in that grade.

Major General Allen Mitchell Burdett, Jr., to be lieutenant general in the Army.

Brigadier General William McGilvery Buck and Brigadier General Evan Albert Turnage to become major generals in the Army National Guard.

Rear Admiral Oliver H. Perry, Jr., to be vice admiral as Chairman, Inter-American Defense Board.

J. William Middendorf II, of Connecticut, to be Under Secretary of the Navy.

Mr. President, the Armed Services Committee unanimously reported these nominations, and I ask for their immediate consideration.

Mr. ROBERT C. BYRD. Mr. President, is it my understanding that the distinguished chairman of the committee, the senior Senator from Missouri (Mr. SYMINGTON), approves the immediate consideration and approval of these nominations?

Mr. GOLDWATER. That is correct. The committee is still sitting in session, and I broke away to put these in so that we could get the nominations confirmed at a time proper.

Mr. ROBERT C. BYRD. Yes. I believe I understood the Senator from Arizona (Mr. GOLDWATER) to say that all these nominations have been unanimously reported by the committee.

Mr. GOLDWATER. That is correct. They are routine.

Mr. ROBERT C. BYRD. I have no objection to the immediate consideration of these nominations.

The PRESIDING OFFICER. The nominations which the Senator from Arizona has just reported will be stated.

The second assistant legislative clerk proceeded to read the nominations.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM FRIDAY, JULY 27, 1973, TO 9 A.M. ON SATURDAY, JULY 28, 1973

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business on Friday next, it stand in adjournment until 9 a.m. on Saturday, July 28, 1973.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it may be in order to order the yeas and nays on my amendment No. 423 at any time.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE SENATE TO CONVENE AT 10 A.M. ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate meets on Monday next, it meet at the hour of 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow, following the recognition of the two leaders or their designees under the standing order, there be a period for the transaction of routine morning business of not to exceed 10 minutes, with statements therein limited to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

REHABILITATION ACT OF 1973

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 8070.

The PRESIDING OFFICER (Mr. STEVENSON) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 8070) to authorize grants for vocational rehabilitation services, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ROBERT C. BYRD. I move that the Senate insist upon its amendments and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Messrs. RANDOLPH, CRANSTON, WILLIAMS, PELL, KENNEDY, MONDALE, HATHAWAY, STAFFORD, TAFT, SCHWEIKER, and BEALL conferees on the part of the Senate.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1973

The Senate continued with the consideration of the bill (S. 372) to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of section 315 with respect to presidential and vice presidential candidates and to amend the Campaign Communications Reform Act to provide further limitation on expenditures in election campaigns for Federal elective office.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COOK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COOK. Mr. President, I ask unanimous consent that the Mondale amendment, which is the pending business, be temporarily laid aside. I ask unanimous consent that my amendment, No. 385, be placed in order.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

AMENDMENT NO. 385

Mr. COOK. Mr. President, one of the major problems in recent national elections has been the proliferation of committees to raise campaign funds on behalf of Presidential and Vice Presidential nominees of the respective political parties.

The establishment of such an infinite number of campaign committees has made the enforcement of our existing campaign laws virtually impossible.

It was for this reason that I offered in the Commerce Committee an amendment to S. 372, the Federal Election Campaign Act of 1973, which provided that all expenditures of more than $100 made on behalf of a candidate for President or Vice President must be approved by the national committee of the candidate's respective political party. I was very much pleased that the amendment was approved unanimously by the Commerce Committee and was included as section 314 of the bill S. 372 which was referred by the Commerce Committee to the Rules Committee.

During the deliberation of the Rules Committee, this crucial provision was deleted. The amendment as modified which we are now considering would return the provision to the bill except that the amount has been changed from $100 to $1,000.

This amendment will require that regardless of how many political committees are set up to influence the election of a nominee for President or Vice President, the party's national committee must approve all expenditures in excess of $1,000 regardless of which campaign committee seeks to make the expenditure.

Mr. President, I believe that the final responsibility for how the campaign funds are spent must rest with one national committee rather than the many obscure campaign committees that are now created to receive and expend funds. It is my opinion that if the campaign spending restrictions and reporting requirements are ever to be truly effective there must be one and only one committee which is ultimately responsible for campaign expenditures. All of us have been living with a situation which was created last year when a requirement of this nature was nonexistent. It is hoped that by adopting this amendment we can preclude the reoccurrence of such activities as those which evolved last year with regard to the Committee To Reelect the President.

I might suggest that on my own motion I made a modification of my amendment to increase the figure of $100 to a figure of $1,000. This was done in consultation with a number of Senators, including the distinguished Senator from Rhode Island.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. COOK. I yield.

Mr. PASTORE. Mr. President, I want the record to show that when the amendment was advanced to our committee—that is, the Committee on Commerce—it was exhaustively discussed, and we felt that it was a good idea. I hope that the amendment will be accepted. The amendment actually, in essence, will make the national committee responsible for the money once a candidate receives the nomination of his convention or of his national party for the office of President or Vice President.

It is as simple as that, Mr. President. I think it concentrates it, and the experience we had with the so-called Committee to Reelect the President of the United States has embarrassed everyone in Washington and everyone else in the country.

I think it is a fine amendment, and I hope that it will be accepted.

Mr. COOK. Mr. President, I thank the distinguished senior Senator from Rhode Island. I would like to make an explanation as to why we increased the figure from $100 to $1,000.

It was felt in discussion that there are daily, weekly, and monthly operating expenses of a Presidential campaign in each of the 50 States—the payment of rent on the headquarters, the payment of telephone bills, the payment of ordinary operating expenses, electricity, and so forth.

So, we found ourselves in a position where we were placing a tremendous burden on each State Presidential campaign headquarters to receive, really, an agency agreement from the national committee that those expenses could be obligated and paid for. And it was decided that this figure would meet these requirements. And when we go above this figure, we then go into many fields—the purchase of time, the purchase of ads, and so forth—which really ought to be approval of the national committee.

Mr. President, I have no further comments to make on the amendment. I hope that the amendment will be accepted in its present form.

Mr. CANNON. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER (Mr. STEVENSON). The Senator from Nevada is recognized for 2 minutes.

Mr. CANNON. Mr. President, when this amendment was originally considered in the Committee on Rules and Administration, I opposed it, because the figure was limited to total expenditures in excess of $100.

I felt that it was not reasonable to assume that the national committee should be involved in having to approve every expenditure in excess of $100 all over the country during a campaign.

Now that the amendment has been modified to use the figure $1,000, I think it is a realistic amendment. I am completely in support of the objective of the amendment, which is to eliminate, as the distinguished senior Senator from Rhode Island has said, the sort of situations which we have had develop in the Watergate situation hearings.

I think it would be a very good amendment, and with the $1,000 limitation now contained in the amendment, it is realistic so that it will not involve the committees in more administrative details other than the conduct of the campaign.

I am willing to accept the amendment.

Mr. COOK. Mr. President, I yield back the remainder of my time.

Mr. CANNON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Kentucky. (Putting the question.)

The amendment was agreed to.

Mr. COOK. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PASTORE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on the Mondale amendment No. 382.

Mr. MONDALE. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. ROBERT C. BYRD. Mr. President, for the information of the Senate, is it the intention of the distinguished Senator from Minnesota to ask for the yeas and nays?

Mr. MONDALE. It is. I would like to have the yeas and nays. And I think that we might have them in 10 or 15 minutes. However, I am not sure of that as I do not know whether the Senator from Illinois (Mr. PERCY) wishes to discuss the matter more fully or might have amendments to the amendment.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator.

Mr. MONDALE. Mr. President, as pointed out earlier in the discussion today, the amendment is cosponsored by the distinguished Senator from Illinois (Mr. STEVENSON) and the distinguished Senator from Maryland (Mr. MATHIAS).

The amendment is designed, in effect, to restore the existing law which requires that the candidate must list in his official public record the name of the donor, his business address, and his business occupation with respect to all contributions in excess of $100.

The committee in recommending what I think is essentially the very strong bill which is now pending before the Senate repealed that provision of the law which requires the listing of business occupation. I believe that is a mistake. The key element we are all seeking to achieve here is public disclosure so that the public might know the essential elements involved and who is giving to a candidate and how much he is giving to a candidate so that the public might know something about the purpose and source of such contributions.

Our whole objective ought to be—and I think is—to make that information not only publicly available, but also to make it available in such form that anyone who wishes to look at it may do so and so that the news media who might wish to report upon it can quickly and in the most meaningful way provide the information to the American public so that the American public and the voters can base a responsible judgment upon the campaign fund sources.

Mr. President, I recently completed my own campaign for reelection, during which time the existing provisions of the law requiring such disclosures were in effect. To some degree it was onerous. However, it was not too difficult to comply with the requirement and supply this information and report it publicly.

Mr. COOK. Mr. President, if the Senator will yield, might I say that I am sorry that we on the committee did not have the foresight of the Senator from Minnesota. The reason that we got into the discussion was the fact that under the present law, as the Senator knows, it is $10 or more. This would cause a great deal of paperwork and a great deal of reporting and research to meet this requirement. On that basis, our debate on this matter was based on the $10 limitation.

I might suggest, at least, from that viewpoint, that I have no objection to the amendment on the basis of $100 or more, because I think that then we are getting into the realm of understandability and the fact that the public really does have the right to know.

If we get to the point where the amount is in excess of $100, then I find no objection at all to the Senator's amendment.

Mr. MONDALE. Mr. President, I am greatly encouraged by the Senator's remarks. I support the committee's effort which seeks to do away with that requirement on contributions of $100 or less. Obviously, if we are talking about running down this information and disclosing contributions of $5, $10, or $20, it is very difficult and very expensive. We are not worried about the $10 contributors. However, we are worried about the contributions in an amount which raise some suspicion about the donor and what one expects if the candidate is reelected.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. PASTORE. Mr. President, if the Senator would yield, I think that the Senator from Minnesota has put his finger on the crux of the problem, and that is that we did not want to interfere in a case in which an individual citizen makes a contribution anonymously. Anyone who makes a contribution of $100, anyone could bet his bottom dollar that that person wants the world to know that he made that contribution.

Mr. MONDALE. Mr. President, he wants the candidate to know. However, he does not always want the world to know.

Mr. PASTORE. Mr. President, from now on, after the Watergate situation, he wants the world to know it, or he should.

Mr. MONDALE. The Senator makes a good point. I pointed out earlier today that when the chairman of the board of the American Airlines publicly disclosed an illegal contribution, he pointed out, in effect, that he was almost shaken down. They had a merger pending.

He said:

> Not only do I regret this, but as a business man, I think it is time for the business world to demand that something be done, because we are being victimized, along with everyone else.

There is a growing consensus in America that this is needed to protect the country.

Mr. CANNON. Mr. President, if the Senator from Minnesota will yield, I would agree with the Senator from Minnesota if he would eliminate the word "almost." The Senator said that this was almost a shakedown of the American Air Lines. I think that it was a shakedown.

I think this is the sort of thing we want to avoid. The reason the committee took the language out, as the distinguished Senator from Kentucky pointed out, was that we had had some experience with the law, and we found a lot of difficulties, as reported by a number of candidates, where for $10 or more—with a $20 contribution, for example—you had to get the occupation and business address of a man.

Well, a $10, $20, or $100 contribution are not the ones that really should be looked at with suspicion, if any of them should.

But if you have a fundraising dinner, and you are trying to sell tickets, the candidate is trying to sell tickets to his dinner, maybe it is a $50 fundraiser dinner, and the person trying to sell the tickets says, "I cannot sell you this ticket unless I have your occupation and your principal place of business," it really serves no useful purpose. It does accumulate a lot of useless information that we have stored in rooms downstairs, and as chairman of the Rules Committee I am trying to find room right now to store a lot of this information that no one in the world will ever look at in the future.

I agree that there should be a cutoff date. This was not suggested in the committee. As long as the Senator has proposed his amendment now to make it over $100, I would be willing to accept that amendment. I think it is a good one. I think those are the types of contributions we ought to be concerned about, and have the necessary information on. But as I say, unfortunately no one presented such a suggestion to us in the hearings before the committee.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. MONDALE. I am delighted to yield to the Senator from Rhode Island.

Mr. PASTORE. This whole thing boils down to the matter of identity, so that in the future it can be determined whether or not the candidate is being influenced in any way. That is the purpose of this bill to begin with. Anyone who is contributing less than $100 is not apt to do it because he wants to influence anyone. But when they collect over $100, I think the public ought to be entitled to know who gave it, with his name, his address, his business location, if he has one, and his occupation if it can be determined.

Mr. MONDALE. And under this amendment we require that the public records disclose the business occupation, because we want the information presented in such a way that newsmen covering the story or anyone in the public wishing to check it quickly and find out the source of the contribution, the address of the donor, and his business occupation can do so, so that if there is some connection between a donation and one's performance in public office, or there is suspicion about it, the public would be free to obtain that information, and it would be presented in a way so that the public would know immediately.

Mr. PASTORE. To go a step further—and I think the Senator is correct—he mentioned the case of American Airlines. Of course, what they did was absolutely wrong, and was in violation of the law, because that was a contribution made by the corporation, which is prohibited by law.

But let us assume that the President of American Airlines, whoever he happens to be, John Doe, lives at such and such an address. I do not think that is sufficient identification, but if you see John Doe, who is president of American Airlines, and his office address is such and so and his home address is such and so, you know pretty much that the president of American Airlines is making the contribution, and not John Doe, period.

Mr. MONDALE. We keep referring to American Airlines; perhaps we are being a little unfair. Let us take another situation. Suppose we take the president of Corporation A. He calls in his 100 top executives, and says, "I would like each of you to give $100 to this candidate, Candidate B." We are going to have this, obviously, and as the distinguished floor manager has pointed out—and the ranking minority member also agrees with it—it would be possible for those hundred executives simply to file their name and address; and if you looked at the public record, unless you were very familiar with that corporation, you would not know that all of them worked for the same company.

Under my amendment, each of them would have to list their name and address and their business occupation, so that it would be very clear to anyone reading the record that on such and such a date, or within the same period, 100 people, top executives of the same corporation, made these contributions.

Those are hot facts. In other words, there are cold facts and there are hot facts. The hot facts are the meaningful questions: how much is coming from whom, and when?

Mr. CANNON. Mr. President, will the Senator yield?

Mr. MONDALE. I yield.

Mr. CANNON. I also point out to the Senator that in the bill we give the commission which we established here—which the Senate approved before and the House did not go along with—the authority to establish such additional rules and regulations with respect to reporting as they may deem advisable, because this will be their responsibility, to be able to determine where these funds came from. So it is not even precluded by the Senator's amendment, that that is all that has to be done, because we do give the commission additional authority in that area.

Mr. MONDALE. And by centralizing all this information in one spot, and putting it into an independent commission, together with this amendment, we have a much stronger institutional and legal framework for assuring the American public that they will know precisely who gave how much, and from what source.

Mr. President, I observe the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. CANNON. If the Senator is ready to vote, I am willing to yield back the remainder of my time.

Mr. MONDALE. I believe the Presiding Officer (Mr. STEVENSON) would like to speak on this amendment.

Mr. PASTORE. No, he does not want to.

Mr. CANNON. Mr. President, I suggest the absence of a quorum on my time.

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MONDALE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONDALE. Mr. President, I ask unanimous consent that the name of the distinguished Senator from Illinois (Mr. PERCY) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONDALE. And I yield back the remainder of my time.

Mr. CANNON. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Minnesota (Mr. MONDALE). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Louisiana (Mr. JOHNSTON), the Senator from New Hampshire (Mr. McINTYRE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I furthur announce that, if present and voting, the Senator from New Hampshire (Mr. McINTYRE) would vote "yea".

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON) is absent because of illness.

The Senator from Nebraska (Mr. CURTIS) is necessarily absent.

The Senator from Arizona (Mr. GOLDWATER) is detained on official business.

If present and voting, the Senator from Nebraksa (Mr. CURTIS) would vote "yea."

The result was announced—yeas 88, nays 2, as follows:

[No. 335 Leg.]

YEAS—88

Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bentsen
Bible
Biden
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cranston
Dole
Domenici
Dominick
Eagleton
Ervin
Fannin
Fong
Gravel
Griffin
Gurney
Hansen
Hart
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott, Pa.
Scott, Va.
Stafford
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—2

Bellmon
Bennett

NOT VOTING—10

Abourezk
Cotton
Curtis
Eastland
Fulbright
Goldwater
Johnston
McIntyre
Sparkman
Stennis

So Mr. MONDALE's amendment was agreed to.

Mr. INOUYE. Mr. President, as a member of the Senate Select Committee on Presidential Campaign Activities, as a former chairman of the Senate Democratic Campaign Committee, and as a candidate for public office many times in the past and facing a reelection campaign next year, I have a professional, partisan and personal interest in the legislation that is presently before us.

Even before the Watergate revelations, it was clear that something was wrong with our country's electoral system. The fact that many potential voters stay away from the polls is one sign of popular disaffection. So, too, is the continual rise of public lack of confidence and trust in our governmental and political institutions expressed in opinion surveys. The widespread concern—of voter and politician alike—with the rising costs of campaigns and the growing dependence on large campaign contributions, suggests to some people that politics is an exclusive preserve of the rich and that it is a cynical and dirty business.

The admitted activities and the allegations surrounding Watergate can only exacerbate public disaffection with politics and politicians. The response of our system to this tragic series of events may well determine the future of this country as a free and democratic society.

The legislation that we are voting on today will be viewed as a first congressional response to Watergate and the problems of campaign financing. Therefore, each of us must feel sure that every vote we cast on amendments to this bill and that the final vote for passage meets the highest standard of good judgment and legislative design.

The goal of any campaign finance reform legislation is simple: First, that candidates have access to adequate resources to wage a competitive campaign and; second, that campaigns should be financed in a way that will build support for our political system and rebuild respect for the political process.

There is much in the Rules Committee version of S. 372 which deserves broad support. For example: The establishment of an independent Federal Elections Commission, the strong criminal and civil penalties for violations of election laws, the ceilings on individual and family contributions, the repeal of the equal time provision, the limit on cash contributions, and the centralization of responsibility for spending reports.

I am sure, however, that this is not perfect legislation. The number of amendments being offered manifest the range of opinion as to what might constitute more perfect legislation. The Federal Election Campaign Act of 1971 unfortunately has proven to be less than perfect. Indeed, it is possible that perfect legislation in this area will and can never be conceived. But we must try.

This fall the select committee will investigate the entire area of campaign finance and the allegations of improper financial activities during the 1972 Presidential campaign—so that the full truth will be known. Upon the conclusion of that segment of hearings, the committee will consider legislative remedies to prevent future occurrences of such activities. I would assume that some legislative recommendations will be forthcoming from the committee in the area of campaign finance. I know that I will do my best to perfect any such recommendations. If and when those legislative provisions are offered before the Congress, I am confident they will receive serious consideration.

I wish to put my colleagues on notice today that I do not believe we will solve all of our problems in the area of campaign financing today. I believe that we need more information in a number of areas before we can be confident of our actions, especially concerning the potential of public financing of campaigns. I do not mean to suggest that solutions can be forestalled indefinitely. Our political system cannot afford any more Watergates. Although I intend to support final passage of this bill, I also intend to continue working in the Select Committee and as an individual Senator to try to design additional legislative measures which will insure fair and competitive elections for every seat in the U.S. Congress.

The PRESIDING OFFICER. The question occurs on the amendment of the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I understand that the yeas and nays have been ordered on my amendment. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

A $100 CAMPAIGN CONTRIBUTION LIMIT NEEDED

Mr. PROXMIRE. Mr. President, this amendment would amend the bill to provide that the limit on the amount that could be contributed to any candidate in any calendar year by any one contributor would be $100, not $5,000. It also provides that the amount which could be contributed by an individual to all campaigns would be $1,000, not $100,000.

Mr. President, there is one fundamental argument for this amendment. By confining contributions to political campaigns to less than $100, it would virtually remove the most corrupting element in American life.

CAMPAIGN CONTRIBUTION—THE NEW BRIBERY

Political power in America today is not significantly influenced by outright bribes. Occasional bribes are offered and accepted, but they are rare; and I doubt that any significant *legislation* in this body has been affected this year, last year, or even in the past 5 years by an outright bought and paid for vote.

The people with money who want to buy political power—those, for example, who want to secure legislation protecting or advancing their special interest—do not have to resort to the criminal, dangerous risk of offering a bribe. They can influence legislation in a perfectly legal, widely practiced way and in a way that gets results.

If there have been few if any outright bribes of Members of the Senate in recent years, if it is unlikely that any significant legislation has been affected by bribery over the past year. This is emphatically not the case for campaign contributions.

Mr. President, every year since I have been in this body—and that is 16 years—a great deal of vital legislation has been passed or defeated because large political contributions have influenced Senators to vote for it or against it, or to water it down or soften its impact to serve a particular heavily contributing interest.

HOW IT WORKS

Every Senator sees it regularly in committee action on legislation. We see it on the floor of the Senate.

To deny that the man who represents a particular interest and contributes $5,000 or $1,000, or even $500 to a Senator's campaign often has a sympathetic ear for his problems, to deny that when we receive contributions of this kind we have a tendency to be at least a little more sensitive to the interests of that contributor, to claim that it will have no influence on our consideration of legislation affecting our benefactor, is simply not being honest with ourselves.

HIGH CHARACTER OF MEMBERS OF CONGRESS

Mr. President, I have great respect for the character of the Members of this body. I have said many times that the moral quality of Members of Congress is higher—and I honestly think much higher—than that of most men and women. There are reasons for this. Character, honesty, and dedication to the public interest are qualities the electorate approves and seeks and rewards in candidates for office. And the public is more perceptive than it is given credit for.

Men who are interested in money as such and as their principal aim in life are less likely to turn to public service than to business and the professions where the material rewards with commensurate effort and ability are undoubtedly greater.

But, Mr. President, we are human. We are subject to all the frailties of human nature, including self-deception, and especially the self-deception that we can look a thousand-dollar contributor in the eye and tell him to get lost if we think his proposal is self-serving.

For all these reasons, Mr. President, this amendment should be adopted. It would free all of us from the reliance on the fat cat, on the big contributor, on those who seek to buy laws that will favor their interests.

REASONS FOR OPPOSITION TO AMENDMENT

Mr. President, I know that there are legitimate and sincerely held reasons for opposing this amendment. The big one is that that the $100 is just too low a limit to be practical, that you could not raise enough money to finance an effective campaign, that it would be impossible for a candidate to bring his message to the people through the media with the kind of peanuts a $100 limitation would permit.

Mr. President, as one who has run for statewide office in a State that has a vigorous two-party system and more than 4 million people, as one who has run seven times and who knows from three defeats as well as from four victories what it is to finance a winning and a losing campaign, I think I know something about how much it takes to wage an effective campaign and how much can be raised in small contributions.

There is no question in my mind that with a little resourcefulness, and a lot of volunteer help of the kind that any good candidate can organize, several hundred thousand dollars can be raised in a State like Wisconsin, a couple of million in California or New York, and tens of millions for the Presidency, without tapping any single contributor for more than $100.

Mr. President, any Senator who does not believe this has only to look at three examples I shall cite.

Each of these examples, incidentally, refutes the argument that this an incumbent amendment, because in each case the candidate who raised much of his campaign money by small contributions was not an incumbent. He was a nonincumbent.

These examples also refute the argument that this amendment would handicap the candidate who has to run against odds, because people will not contribute to a long-shot candidate. Mr. President, in each case the example I give is of a candidate who was considered a long shot, a very likely loser. And incidentally it is the likely winner—usually the incumbent who can count on the big contributions. The boys with the special interest to serve and the boodle to give out don't like to waste their money on losers. They often contribute—not so their candidate can win, but so that the sure-winner—usually the incumbent will feel obligated. So this amendment is definitely not an incumbent's "fence me in" amendment.

Now for the examples.

Senator McGOVERN, who ran for the Presidency as a nonincumbent, testified before the Commerce Committee when discussing campaign financing legislation that:

> We may have left many points unproved to the voters in the presidential campaign last year. But one thing we did demonstrate is that it is possible to finance even a campaign of that kind almost entirely from small contributions. Roughly 80 percent of our funds were raised from direct mail solicitations, with average contributions of about $30.

The Senator from South Dakota (Mr. McGOVERN) told me a few moments ago that 80 percent of his contributions were for amounts of less than $100. I did not know that when I prepared my speech, because he did not have his contributions broken down to be able to tell the percentage of gifts that were $100 or under. But his testimony is very clear on the face that he raised a substantial portion of the $25 million spent in the primaries and general election from small contributors.

My second example is the Republican candidate in 1964, Senator GOLDWATER, again, a nonincumbent. The Goldwater campaign received 651,000 contributions of less than $100. A mere 28 percent of the dollar total of Republican contributions came from donations of $500 or more according to an article entitled "Financing Federal Elections," by Herbert E. Alexander, who is probably the outstanding authority in the Nation on campaign spending.

It is more difficult to analyze non-Presidential races because material is simply not available. However, as a third example, I would point to the Senate race of the Senator from Iowa (Mr. CLARK), who ran as a nonincumbent. Senator CLARK ran against a popular candidate, Senator Miller, who had won previous elections by winning every county in his State. Of $80,000, he raised from personal contributions by the citizens of Iowa, approximately 56 percent was in amounts of $100 or less. I am sure that increased research on congressional races would uncover other examples of that sort.

As I have indicated, my amendment sharply reduced the limits on campaign spending contained in S. 372. Those limits, as they apply to the individual, are presently $5,000 in the case of earmarked contributions to congressional candidates, $15,000 for contributions earmarked for Presidential candidates and $100,000 for total contributions by an individual and members of his family.

The New York Times, in a November 5, 1972 article, pointed out that surprisingly few citizens provide the money to make the electoral process work. The Times estimated that a very small percentage of the eligible voters provided the bulk of the support in the 1972 Presidential campaign. S. 372 as reported would continue that trend with its high limits on individual spending, particularly in view of the "party committee" loophole.

What do I mean by the "party committee" loophole? I refer to language in section 18 of the bill which provides that the limitation on campaign contributions does not apply to the national or State committees of a political party or even to political committees controlled by a State committee.

This loophole makes it possible for an individual to contribute as much as $100,000 to a State or local party committee with the committee in turn contributing the entire sum to a single candidate. The individual contribution ceiling of $5,000 would not apply because the contribution would not be to an individual but to a party committee.

My amendment would not eliminate the loophole entirely, but it would close it down to the size of a peephole by placing a ceiling on total individual contributions to all candidates and committees of $1,000.

As the New York Times article I mentioned earlier points out, the present system of allowing huge individual contributions enhances the power of the rich. S. 372 takes only a small step away from this approach. After all, how many contributors provide more than the ceiling set by the bill—$5,000—to an individual congressional candidate?

I ran seven times and typically the financing was with large contributions, but I cannot think of anyone who contributed more than $5,000. That ceiling is not very meaningful with regard to congressional candidates. I think we all can agree it is far too big.

A ceiling this large amounts to an enshrinement of the status quo. If we are truly interested in involving more citizens in the electoral process through enhancing grassroots funding of campaigns then a ceiling of $100 makes a great deal more sense.

Recently, I sent out a questionnaire to my constituents discussing a number of campaign spending reform proposals and asking for their counsel on the wisdom of these proposals. They were asked to respond to the proposition that no person should be allowed to contribute more than $100 to any one candidate. Over 10,000 of these Wisconsin constituents answered and they supported a $100 limitation by a 4-to-1 margin.

Now Wisconsin is really a cross-section of the United States. It has many farmers, much heavy industry, an excellent university system. It is a typical State in many ways. I'm sure that Wisconsin's response to the $100 ceiling proposal is also typical of the response my colleagues would receive from their constituents on the issue. I challenge Senators to explain to their constituents their opposition to a proposal that not only makes eminent good sense but has overwhelming popular support.

Mr. President, I recognize that the principal opposition to this amendment is that it does represent a drastic, and I might say here radical, departure from past practices. All of us recognize we have had to rely on large contributions. It requires careful examination and thought on our part. However, we must recognize that it would be fair to everyone and it is something every candidate could do and finance his campaign amply.

I think the fundamental argument for the amendment is that it is one way that we can eliminate much of the corruption in American life that has been brought about by big campaign contributions. This is one way we can go on record against it.

Mr. President, I reserve the remainder of my time.

Mr. CANNON. Mr. President, I am opposed to the amendment. I think it is completely unrealistic. It fails to recognize the actual facts involved in running a campaign.

If the distinguished author of this amendment is desirous of resorting to public financing and requiring us to go to public financing, that is one thing. We have many Senators in the Chamber who would support public financing. A considerable discussion was held on that matter last night. I, myself, am not opposed to public financing, but I am opposed to being forced into it without hearings, without having support for it, and on a determination made in a committee atmosphere.

Mr. LONG. Mr. President, will the Senator yield?

Mr. CANNON. I am happy to yield to the Senator from Louisiana.

Mr. LONG. Mr. President, I am reminded of the man who preceded me in the Senate. His name was Bill Feazel. He served here with distinction and honor. He was appointed by the Governor of Louisiana. He was a wealthy man. His picture has been in my office from the time I took my oath of office until this day.

He looked upon political contributions almost as his way of contributing to charity. While he was a generous contributor to churches, he felt he could do more for humanity by making contributions to people worthy of serving in public office. He was my best contributor in the years when I ran for office. I cannot recall a time that he ever asked me to do anything other than what he thought in his conscience was right.

He may have told him what he thought about something, but he never made it a condition of his help or support.

I can recall an instance when he thought a Member of Congress had lied and had acted deceitfully in his conduct in public life, and he spent quite a bit of money trying to defeat him. He said:

> I know I can't defeat him, but I know he will be a better Congressman after knowing of my feeling of what I think about his deceitful way to do business.

So one had better not tell somebody something that was going to work out other than what he said.

I do not see anything wrong with a man making a large contribution as long as we have the private system of financing campaigns, nor can I see, when we have a limitation on what a candidate can spend, that there is anything wrong about letting a man run representing the fat cats, just as a man can run to represent the rank and file.

Let us put it in its worst possible light. It may be that those with great wealth, it may very well be the most reactionary and self-serving people in the country, are very voracious in what they would expect a man elected to public office to do; but, in fairness, in a democracy, one would think they would be entitled to support a man in office, and that man would be entitled to explain his side of the argument, and if all had an equal opportunity to try to get votes and get the greater support, in the last analysis it would be a question not of which side a man came from, but, rather, whose arguments made better sense to the public.

So, in the last analysis, when we try to move toward a system where both sides will have the same amount of money to spend and the same opportunity to be heard, and hopefully we can work it out in such a fashion that both would have an equal opportunity to present their case to the public, why should it make a real difference whether one man was supported by people who made large contributions and the other was supported by people who made small contributions, or, indeed, whether he put up his own money? In the last analysis, it should be a question of what the public thinks about the matter.

Mr. CANNON. There is much merit in what the Senator has to say. I must say the committee found itself in this sort of dilemma: We did not want the situation to continue to exist as it was under the law that was in effect at the last election, because we have no limitations at all, and we have seen the results of that. We see the results of that every day in the Watergate hearings and in the press.

We wanted to get away from the sort of situation in which—and I mentioned him before—Mr. Stone contributed, according to his statement, in excess of $4 million to the President's campaign. In the newspapers it was stated that Mr. Stone said the President said to him on at least two occasions that he was responsible for the President's election.

Obviously, if one person can be responsible for any man's election, then that would constitute a bad situation, a situation certainly of undue influence.

So in the case of presidential campaigns, we reduced it to a $15,000 limitation, so one could not contribute more than $15,000 to a presidential election. We said that in the case of congressional candidates there would be a limitation of the sum of $5,000. We felt we have to draw the line somewhere and say one cannot go beyond this point.

A few years ago we had a limitation on contributions of $5,000, but they were made through different committees. We have eliminated that. We have gone far beyond what the law was at that time. We have gone far beyond what the law was in the last election. We have said that no more than $100,000—on which there is no limitation now—can be made to all candidates, so that several candidates could not be bought by the expenditure of large amounts of money.

For example, Mr. Stone, whom I mentioned a moment ago, I see by the newspapers, contributed $15,000 to my opponent in the last election. I would not believe that to be undue influence. Had I been defeated, I would not have thought anything about it. That, to me, would have been all right. But I do think we have to have some sort of limit, and we certainly cannot object to a realistic limit of $100,000 unless we are going the route of public financing. At the proper time, I would expect to support a public financing law that is properly drafted after consideration by the committees involved, and after having a good, solid foundation for it, rather than trying to legislate it on the floor of the Senate.

Mr. LONG. It seems to me that the Senator did support the public financing. I suppose the public is willing to accept that at this time. We have set up the checkoff for the President; but if we go beyond that, we will go to the point where the public may not approve.

I think the committee has done a good job. We have to look upon these things in their overall perspective. We do have the continuing economic groups. Organized labor, on balance, is a very good thing. But organized labor has tremendous power in many respects. Organized labor is able to mobilize large numbers of people and to help people in ways that do not involve monetary expenditure. They can certainly deliver a lot of votes, insofar as the most effective voter group is concerned. On the other hand, the business group is better able to raise money. In some respects, the power of one group, in one way, offsets the power of the other group.

The committee has done a good job in many ways. I compliment the chairman of the full committee for the fine work he has done in preparing the bill. He is entitled to the plaudits and gratitude of the Senate.

Mr. CANNON. I thank the Senator for his kind remarks. The Senator recalls the checkoff words that are on the form. Incidentally, that happened in the last election. Anyway, I did support it and also supported the tax credit.

I testified before the Senator's committee several years ago and tried to get action on public financing. We discussed the subject of a candidate for the U.S. Congress who, if he did not receive contributions of more than $100 from any individual, would be spending all his time in campaigning, trying to raise contributions rather than trying to get his message across to the people. It would be a continuous fund-raising event to try to raise enough money to run a campaign rather than to express his views to the public in order that they might make a considered judgment.

Mr. LONG. In a great many States, a Senator's principal source of financial support comes from industries that are located in that particular State. If he comes from a State where automobile manufacturing is predominant, he might get help from the people in the automobile business. If he comes from a State that is engaged in tobacco raising, he might get help from the tobacco people. If he comes from a State that is engaged in the oil business, he might get help from the oil people. I see nothing wrong with that. Whether one likes it or does not like it, those people are our constituents, and they are entitled to be represented in the Senate.

Mr. CANNON. I agree with that. The people in the dairy business have made contributions.

Mr. LONG. I see nothing wrong with that. It seems to me that if we want to go all the way to public financing, the public at this time, I am confident, would not accept it. But if a Senator wants to offer such an amendment, he is free to do so.

It has been suggested that it is premature to offer such an amendment, and I think that is right. But unless one wants to go all the way to that, it is going to be difficult to raise enough money for the overwhelming majority of candidates, anyway.

Mr. CANNON. Some have said the limits are too high. Others have said that they are too low. I am not wedded to the particular limitation we have here. I want to hear what people have to say on the floor. When we get to the precise amendments, I may be willing to accept a lesser amount.

I have no particular ax to grind or particular feeling in this area. However, certainly we have to place a limitation on it. There always have to be limits so that people are not trying to avoid those limits.

Mr. LONG. Mr. President, the Senator from Nevada is absolutely correct. It is quite possible that we will have a lot of good candidates who will be required to spend a lot more time finding money with which to make a campaign than they will have to explain to the public what they will do if they are reelected.

Mr. CANNON. If we agree to an amendment like this, this could well be called an incumbent's amendment, because a man in office is well known and has his name known and can, without getting around, collect contributions.

It seems to me that it might well be called an incumbent's amendment because it would make it so difficult for a nonofficeholder to raise money.

Mr. COOK. Mr. President, if the Senator will yield, this almost constitutes rank discrimination because the individual seeks public office. Under the Internal Revenue Code today, one can make a gift to any individual of $3,000 and is entitled to do so. And it does not count against his exclusivity on his State tax. He can give that to anybody he wants to by filing an information return.

I think there is one thing that the Senator said that is very true, that one cannot give it to a politician.

Another thing that bothers me—and I am trying to find an answer to it—is that we provide in this act for how much money a politician can give to himself. It seems to me that figure is $35,000.

I want to tell the Senator that this candidate for reelection has no way in which he could give himself $35,000, because he has not got it. However, many candidates on this floor could give themselves $35,000 to get their candidacies off the ground. Certainly, many of them could get quite a primary off the ground with $35,000. And the fellow who does not have a dime, can only solicit up to $100 from any one individual.

Second, if a person wanted to, he could give everybody in his family $3,000 under the Internal Revenue Code and file an information return and pay no tax on it. However, if his son happened to be running for office that year, he could not under the Internal Revenue Code give that son money if he decided to run for public office. He could only give him $100.

When we look at things, and perhaps these amendments, we ought to look at what the rest of the law is in respect to every individual.

I do not mind politicians taking a whale of a licking every day in the week. However, I do not see why we legally discriminate against them in anything they do. I do not think it would constitute a legal act in the long run.

These amendments are not good, and they pretend to be good. However, we ought to examine them against what the law is today in regard to what one can give not only to a candidate for public office, but also to an individual.

Let us suppose that some individual decides to dispose of his estate during his lifetime and he has five children. He has a legal right to give to each of his children $3,000 a year under the law. If he has a son or a daughter who decides to run for public office, out the window goes the rights of that son and daughter because we now have a different statute for that individual because he has gotten himself into politics.

I would hope that we would consider politics as a profession and not as a game and that we would not have to treat him in a different way. However, obviously this amendment does.

Again, I think it is rank discrimination under the present law. Obviously many candidates for the Presidency, the Senate, or the House of Representatives have made $3,000 gifts and have filed information returns under the law and have complied with the law and with the regulations of the Internal Revenue Code.

It seems to me that if we are really going to do this, we ought to have behind this an amendment to the Internal Revenue Code saying that this exclusion applies except if one is a politician and if one is a politician, then the amount can only be $100.

Mr. CANNON. Mr. President, I withhold the remainder of my time.

Mr. PROXMIRE. Mr. President, the arguments against this amendment are, first, that it is unrealistic. However, not one single bit of evidence has been presented that it is unrealistic. And I have provided an abundance of evidence that it is in fact realistic.

I understand that the Senator from Iowa (Mr. CLARK) in his campaign, as I have pointed out in my speech, raised a substantial amount of money from contributions of less than $100.

The Senator from Iowa ran against an incumbent, and the incumbent got much of his money from large contributions. The point is that the incumbent gets the big contributions because the people who are making contributions want to make them to the winners and not to the losers. They do not always give to the Dick Clarks, the George McGoverns, or for that matter, to the Barry Goldwaters when they are running against odds.

If a man is an incumbent, he is able to raise a large amount of money.

The Senator from South Dakota (Mr. McGOVERN) raised 80 percent of his money from contributions of less than $100.

The amendment is called unrealistic. However, there has been no evidence that one cannot raise money that way. It has been done. It is realistic.

Not one word was said in refutation of my amendment that big political contributions are corrupting. We all know that they are.

When people contribute $1,000, $5,000, or $10,000 to a political campaign, they all too often have a vested interest in legislation. They want to make sure that when the candidate has won and is considering certain legislation which would make the contributors benefactors, the officeholder knows that they contributed that money and remembers it.

I am perfectly human. When I get contributions of this kind, I recognize it, and when a man who has made that kind of a contribution to my campaign wants to see me, I am human and I will listen to him.

There may be paragons of virtue in the Senate who do not have that attitude.

Mr. LONG. Mr. President, will the Senator yield?

Mr. PROXMIRE. Mr. President, I will yield in a minute to the Senator from Louisiana. I have a couple of other points I would like to make.

It has been argued that the amendments discriminates against wealthy persons. How is it discriminatory against a wealthy person? He can contribute $100 to any one individual and can contribute a total of $1,000 to be spent by major candidates. However, he cannot make the huge contributions that he can make at the present time, when he alone can afford to contribute $5,000 to $10,000 to a particular candidate. Under my amendment this discrimination is greatly reduced.

The argument is made that nonincumbents would have to spend all their time raising money. I ran for office four times as a nonincumbent. I lost three times and won once. I did not spend excessive time raising money, although many of my contributions were in the amount of less than $100.

The Senator from Rhode Island (Mr. PASTORE) told me that he raised all his money in his last campaign from modest contributions at one large dinner. He did not have to spend much time raising money.

The Senator from Kentucky raised the very interesting point that if a person had a son who was getting into politics and running for office, he could not give him $3,000 without violating the law and having it tax free. I think that is absurd. It is possible to give $3,000 to a son or daughter who is running for office and give it to him so that it would be a part of the child's estate.

If it is a question of whether it is a subterfuge, whether or not it is actually a contribution to a campaign, it would have to be decided in court. After all, we cannot amend every law in the country that is affected when we propose an amendment of this kind.

It is a simple, straightforward amendment, that I think can be easily understood, with a limitation of $100 for any candidate, or $1,000 to be given to all candidates in any one year.

I yield to the Senator from Illinois.

Mr. STEVENSON. Mr. President, I am very sympathetic to the amendment of the Senator from Wisconsin. I am concerned, however, that it might have the reverse effect of that intended by the Senator from Wisconsin. Therefore, I have several questions.

For example, how could a newspaper endorse a candidate? How could a newspaper, for example, in Milwaukee support a candidate on its editorial page, when the value of the space exceeds $100?

Mr. PROXMIRE. I think the Senator knows that neither the basic bill nor any State limitation—and there are limitations in our State and other States—has ever been construed as affecting the editorial policy a newspaper takes. There is no way to evaluate the worth of an editorial. By the same token, one could argue that an influential citizen of the State, perhaps the Governor, could speak out in favor of a candidate, and that would be worth more than a hundred dollars.

Mr. STEVENSON. I am saying that it could have that effect. The language of section 615 prohibits expenditures during any calendar year on behalf of any candidate in excess of a specified amount. Broadly considered, that would include the time, for example, of a TV station.

I am trying to point out some difficulties which the amendment might involve. That is just the beginning.

If the limitation were high enough, it would have no effect on that television station or that newspaper.

Mr. PROXMIRE. May I ask the Senator, is the Senator opposed to the bill itself on the same ground?

Mr. STEVENSON. I am opposed to many features of the bill, and I may end up, if we get that far, voting against it.

Mr. PROXMIRE. Well, if the Senator is opposed to all limitations, he would, of course, vote against my amendment, and be right in doing so. But if he favors a limitation——

Mr. STEVENSON. I do favor a limitation.

Mr. PROXMIRE. From the standpoint of principle it would make as much sense to favor a $100 limitation as a $5,000 limitation.

Mr. STEVENSON. I shall have an amendment of my own to provide realistic, perhaps constitutional limits.

Let me ask the Senator further: There are many organizations in his State, as in Illinois, where we have nonpartisan citizen groups, such as the Independent Voters of Illinois, the Better Government Association—associations which are committed to public interest and endorse candidates, and they spend more than $100 supporting Federal candidates whom they endorse.

Mr. PROXMIRE. I might say to the Senator that he might argue this amendment is weak in that respect. It does not touch what the committees can do. Any committee that raises $1,000, as I pointed out in my speech, a thousand dollars from a contributor, and any contributor is allowed to contribute that much, can support a candidate just as much as it wishes to do.

All this amendment does is limit the amount any individual can contribute to a candidate or all candidates. As I pointed out, the committee could contribute $100,000 to a candidate. But the limitation that my amendment provides, as contrasted with the committee bill, is that no individual would be allowed to contribute more than $1,000 to all committees or to any one committee.

Mr. STEVENSON. The Senator may be answering my question. Does this amendment apply to organizations?

Mr. PROXMIRE. No, it is to an individual person. We do not amend that particular language, which is language of art, I take it, in the bill; and I understand the bill's purpose is not to limit committees. It does not say, for example, that the Democratic Senatorial Campaign Committee cannot contribute more than $5,000.

Mr. STEVENSON. That was my concern. It makes express exemptions for major party political committees, but seems to permit continued large contributions from special interests through the exempt party political committees. All it does is knock out the people.

Mr. PROXMIRE. That is the heart of it. That is exactly the point.

Mr. STEVENSON. So rich people can put their organizations together and contribute all they want.

Mr. PROXMIRE. No, they cannot give all they want to. They are limited to $1,000. Under the bill, they can give $100,000, and under my proposal they can give $1,000.

Mr. STEVENSON. If those organizations are covered, and I believe they are, by the Senator's amendment, this would include such groups as the——

Mr. PROXMIRE. I may be wrong, but it is my understanding that State party committees are exempted by this bill, and therefore would not be affected by the amendment, which simply changes the figure in the bill.

Mr. STEVENSON. That is my point. State parties are expressly exempted; they can give anything they want. So can the national parties and the congressional campaign committees.

Mr. PROXMIRE. Yes; and my point is that under the language and figures of the bill, a wealthy individual could contribute $100,000 to a committee. That committee, in turn, could give $100,000 to a candidate.

Under the Proxmire amendment, however, the wealthy individual is limited to $1,000 that he could give, in total, to all candidates in that calendar year, so that there is a very effective difference in the situations. With my amendment he can only give $1,000, not $100,000. So it would limit the power of the very wealthy person drastically.

Mr. STEVENSON. I certainly am in favor of doing that, and hope to offer an amendment, as I have indicated, that would effectively do it. I am trying to suggest some serious questions here.

Mr. PROXMIRE. The Senator may well be correct. These things are always difficult to interpret. But as I say, my amendment goes to the figure in the bill, not to whether the bill would be effective in respect to the Constitution.

Does the Senator from California wish me to yield to him?

Mr. CRANSTON. Not at this time.

Mr. PROXMIRE. I reserve the remainder of my time.

Mr. CANNON. I yield such time as he may require to the Senator from California.

Mr. CRANSTON. Mr. President, I would like to state briefly why I do not support and can not vote for the amendment offered by the Senator from Wisconsin. I do agree with the Senator's contention that we must eliminate the effects big money has on politics. I share his desire to reform campaign finances to get down to a very low limit on individual contributions.

I spoke at length on this question on this floor yesterday.

In fact, I advanced a suggestion which included a $250 ceiling on individual campaign contributions—only a little above what the Senator has proposed.

Our intent is to reach the same point, to reform what is now happening in politics in our country. But the key element in such a limitation must be public financing, as the distinguished chairman of the committee (Mr. CANNON) made plain in his remarks a few moments ago. Public financing is not the issue before us today, and there is no provision for public financing in the Senator from Wisconsin's amendment.

Without public financing, the $100 limit would place an impossible obstacle on most nonincumbents. I think we must refrain from writing laws that serve the self-interest of incumbents, as we fulfill our responsibility to write the laws of this land, in this field and in all others.

I know, of course, that that is not the purpose of the Senator from Wisconsin. But even an incumbent, in most cases, would be required to put so much time and effort into fund raising that it could become the principal activity of their campaigns—rather than meeting the voters, talking about the issues, or developing positions on matters other than raising money.

In California, under the bill before us as presently drafted, a Senate candidate would be allowed to spend $4.9 million. Under the amendment offered by Senator PROXMIRE, a candidate running for the Senate would be forced to find 49,000 people willing to contribute $100 each. That is a staggering project, clearly beyond the capacity of individual candidates.

Mr. PROXMIRE. Mr. President, will the Senator from California yield at that point?

Mr. CRANSTON. I yield.

Mr. PROXMIRE. How does the Senator explain the fact that in the last presidential campaign, Senator MCGOVERN was able to raise 80 percent of the $25 million raised by small contributions of less than $100?

Mr. CRANSTON. I was going to get to that point.

Mr. PROXMIRE. And that Senator GOLDWATER was able to do it in the same way and that he spent more than the other candidates?

Mr. CRANSTON. I was going to get to that point. I heard the Senator mention the McGovern campaign. The figure of 80 percent coming from small contributions is correct. I have some familiarity with the fund raising that went on during the McGovern campaign.

Mr. PROXMIRE. Senator MCGOVERN just told me that personally on the floor, within the last half hour.

Mr. CRANSTON. I do not dispute that statement one bit. I am positive that if he said it, that something like 80 percent did come from small contributions. But the seed money was needed in order to finance his mailings and TV programs which brought in the money. This seed money included very large contributions. I know about much of this from the people who contributed far in excess of $1,000, $10,000, $25,000 in order that the McGovern campaign could launch the mail, radio, and TV program which brought in the small contributions. There were sizable loans also made to the McGovern campaign. He could not have launched that drive which brought in the small contributions without raising the seed money first, which meant that his first dependence was on large contributions.

Mr. PROXMIRE. Well, on the basis of my own experience in seven campaigns, you can raise money by small contributions if you are determined to do it. It does not take the time of the candidate because he should not be a fund raiser—in some States it is not even legal to do so—the candidate has to rely on volunteers doing it for him. Candidates would not have to spend their time passing the hat to get small contributions.

Senator CLARK of Iowa raised most of his money from small contributions without any big seed money coming in in advance.

The PRESIDING OFFICER (Mr. HELMS). The time of the Senator has expired.

Mr. CRANSTON. Mr. President, may I have 1 more minute?

Mr. CANNON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Nevada has 8 minutes remaining.

Mr. CANNON. I yield 2 additional minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized for 2 additional minutes.

Mr. CRANSTON. Mr. President, the Senator from Wisconsin cited examples where individuals have raised money in small denominations for many people. Those are, I think, exceptions to the general rule because the general experience is that it is very difficult to do that, especially without seed money in advance.

One other point, and it is one that was raised by the Senator from Illinois. There is no limit on contributions from political parties to a candidate. The Senator's amendment could force a greater dependence on political parties by candidates, which could be a step toward bossism. I know that it is our desire to reduce bossism over candidates and people in public office. But if this amendment were adopted, a candidate would, I think, be apt to go to his party to raise money for his campaign. The party in his State could proceed to negotiate with him, saying, "We will support you if you will do this, that, and the other thing. If the candidate did not want to give up his independence, the party might turn to another candidate whom they could control, and provide him with a lush campaign chest. Bossism would develop and our candidates would grow weaker, not stronger.

I know that that is not the intent of the Senator from Wisconsin but I believe that would be the result of adopting his amendment.

Mr. CANNON. Mr. President, I yield back the remainder of my time.

Mr. PROXMIRE. Mr. President, I yield back the remainder of my time.

Mr. BENTSEN. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 1, line 2, insert the following: strike "$100" and insert in lieu thereof "$3,000".

Mr. BENTSEN. Mr. President, I strongly support the Rules and Administration Committee's action on placing limitations on contributions to candidates for Federal elective office. We are all aware of the abuses to which campaign contributions have been subjected and I do not intend to go further into the matter here. I do believe, however, that the liimtations of $5,000 to congressional candidates and $15,000 to a Presidential candidate are excessively high.

At the same time, I think the amendment of the distinguished Senator from Wisconsin imposes limitations which are excessively low. While I understand the motivation behind the amendment, I do not believe that the Senator's amendment will serve the purpose of this legislation—which is to place feasible, realistic limits on campaign contributions. A $100 limitation on individual contributions is just too low and would severely limit the ability of many candidataes, particularly nonincumbents, to wage effective races.

Now Mr. President, there is no absolute, indisputable figure on contribution levels, but we do have to be realistic about the limitations that we do impose.

My amendment imposes a limitation of $3,000 per election on contributions.

The goal of limiting campaign contributions is to find that line between contributions that are so high that a candidate feels beholden to the donor and contribution levels that are so low that a nonincumbent candidate has little hope for making an effective race. I feel that the $5,000 contribution limit of the Committee bill falls into the category of a contribution that is too large and which may be aimed at influencing a candidate's decisions as an office holder rather than at merely supporting his election effort.

On the other hand the amendment of the Senator from Wisconsin sets an unrealistic low contribution level which would favor incumbents, many of whom have spent far in excess of the limits in this bill to gain their offices, and would be heavily favored to retain their seats under the terms of the Senator from Wisconsin's amendment.

I believe my $3,000 limit walks that fine line between controlling the pollution of our political system by favor seekers with money to spend and overly limiting campaign contributions to the point that a new man simply does not have a chance.

Let me add one additional comment on the subject of earmarking contributions through political party committees. As chairman of the Senate Democratic Campaign Committee I feel bound by the language of the committee bill to consider any contribution received by our committee which is indicated in any way for a particular candidate to be a direct, individual contribution to that candidate, and we will so report it. The political committee I chair will have no part of subterfuge contributions aimed at circumventing the individual limits placed by the bill.

Mr. President, I think the time has come when we should make voting a good thing again. We should take elections off the auction block. When a man can contribute $1 million or $2 million to one candidate's campaign, how does the individual small contributor think he measures up to that?

I know it is not fashionable in this day and time to wear one's patriotism on his sleeve. But, by the same token, I do not think it should be measured by one's pocketbook and what contribution he has made to a political campaign. Even though a man may have the purest motives in contributing $1 million or $2 million, or $200,000, to a campaign and even though he may say that there is no quid pro quo either explicit or implicit, it is a little difficult for the small contributor to totally buy that. He has a tendency to back off from the election and not participate in it.

What we are asking is that everyone have a piece of the action in political campaigns. I believe my amendment would help do that.

I think the Rules Committee has made a very major contribution in election reform in the bill it has presented to this body, and I commend the members for it, and I strongly support it. Obviously, I think some modifications and some improvements can be made in it, and I believe this amendment does that.

Mr. President, I reserve the remainder of my time.

Mr. MANSFIELD. Mr. President, will the Senator yield me 1 minute?

Mr. CANNON. I yield.

Mr. MANSFIELD. Mr. President, I have been requested by the Chairman of the Democratic National Committee, the Honorable Robert Strauss, to insert the following resolutions in the RECORD during the debate on S. 372, the Federal Elections Campaign Act, as indicating the position of the Democratic National Committee on the basis of resolutions covering the several matters.

I ask unanimous consent to have the resolutions printed in the RECORD.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

Campaign Reform

Once again, the Democratic Party, through the Advisory Council, exhorts the Congress and the President to eliminate the private financing of presidential elections, and to place a spending limitation on national campaigns. The trauma of corruption and crime in the 1972 campaign, through which the country is now passing, is directly traceable to these fatal flaws in our present system. The Council sees no substitute which can so completely eliminate the evil, as a law providing for the total and exclusive financing of presidential elections through public funds. The Council further endorses the type of spending limitation program adopted by Democratic presidential candidates in the 1972 nominating campaign. The Council urges its leadership to sponsor, hopefully with bipartisan support, legislation to achieve these ends, with all due regard for the protection of the rights of minority parties. The Council also expresses the hope that the President will cooperate with these efforts, to achieve his own newly expressed goal of eliminating corruption from the political process of election to the highest office in our land.

Be it further resolved that the Council recognizes the need for campaign financing reform on all levels, and the Council will address that question in detail in the future.

Resolution—Election Reform Legislation

Be it resolved by the Executive Committee of the Democratic National Committee on behalf of the Democratic National Committee and the Democratic Party that the following recommendations of the DNC Ad Hoc Committee on Campaign Financing Reform concerning campaign and election reform legislation are hereby recommended to the Congress of the United States for consideration, deliberation and positive action, and

Be it further resolved that the Executive Committee commends to the Congress for approval S. 372—The Federal Elections Campaign Act of 1973—as reported by the Senate Commerce Committee and the Senate Rules and Administration Committee as the most immediate legislation for seeing these recommendations enacted into law.

RECOMMENDATIONS

A. Future Financing of Presidential General Elections:

1. The Congress should amend the existing checkoff law to authorize appropriation of additional funds to cover deficit between checkoff and spending ceiling to be established.

2. A campaign spending limitation for all federal offices be established, the consensus being that the 20¢ per voter provision in S. 372 be provided.

B. Presidential Primaries:

1. The Congress should establish a matching formula whereby the Federal Government would match each dollar contributed up to $100 for contributions from individuals.

C. Contribution Limitations:

1. The following limits should apply:

a. To a Presidential candidate—$5,000.

b. To a Senatorial candidate—$2,500.

c. To a Congressional candidate—$1,000.

2. Under these limitations, so-called "multiple committee contributions" to a number of committees representing a single candidate should be outlawed. The Committee also strongly endorses the provision of S. 372 calling for a centralized, coordinating campaign committee for all federal elections, to avoid the plethora of specialized committees devised principally to bypass current constraints on campaign contributors.

3. Elimination of all cash contributions over $200.

D. Reduction of Media Costs:

1. An absolute limitation on expenditures for media for Federal elections should be established. (The Democratic Party's voluntary limitation in 1971–1972 of 5¢ per registered voter for any primary election should be considered but may be too high.)

2. 10, 20, and 30 second spot commercials should be outlawed.

3. Section 315 of the Federal Communications Act of 1934 should be repealed.

4. TV stations should provide either substantial free time, or time on a reduced cost basis, for five minute or half hour presentations by a candidate live or on film in Presidential primaries and elections.

5. TV advertising should be restricted to a period no more than three weeks prior to an election in an effort to shorten campaigns and reduce campaign spending.

6. The lowest possible non-subsidy postal rates should be authorized for political mailings, specifically the 2.5 rate recommended jointly by the Democratic National Committee and the Republican National Committee.

E. Election Law Enforcement:

In Presidential elections, enforcement of campaign election law violations should be removed from the Justice Department and placed in an agency outside the control of the Executive Branch. This could be done by either providing the Government Accounting Office with the appropriate enforcement tools or by creating a Federal Elections Commission, as suggested in S. 372, but whose members should be appointed by the Congress rather than by the Executive Branch. The GAO should retain their investigative authority, but should report violations to a Federal Elections Commission as recommended in S. 372.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, will the Senator yield me 5 minutes?

Mr. CANNON. I yield.

Mr. PROXMIRE. I should like to ask the distinguished Senator from Texas a question in connection with his amendment.

As I understand, this amendment provides a $3,000 limitation on any campaign contribution for any individual in any calendar year to any candidate for office. Is that correct?

Mr. BENTSEN. Not a calendar year. It would provide a $3,000 limitation per election. There could be a $3,000 limitation in the primary, a $3,000 limitation in the runoff, and another in the general election.

Mr. PROXMIRE. So that it would be possible to contribute $9,000, under those circumstances?

Mr. BENTSEN. $9,000; that is correct.

Mr. PROXMIRE. I say to the Senator that I greatly admire and respect him, and I am delighted that he is chairman of the Senatorial Campaign Committee this year. I know he will do very well.

I think this proposal simply negates my amendment. $100 is one thing; $3,000 or $9,000 is something else. It is not much of a compromise, so far as I am concerned. I respect the Senator's intention. It is a limitation below the $5,000, although I do not think it is very significant.

Does the Senator's amendment apply to the contributions of a committee?

Mr. BENTSEN. To a committee that is identified with a political party—that would be excluded.

Mr. PROXMIRE. Then, I think the Senator's amendment is like mine. What the Senator's amendment would do, of course, would be to continue the weakness of the bill and would make it possible for a wealthy individual to make a very large contribution. What does the Senator do to the $100,000 contribution that the bill provides?

Mr. BENTSEN. I did not touch the other limitations.

Mr. PROXMIRE. The wealthy individual could contribute $100,000 to a political committee, which would accept it, and then the political committee, under the bill, could give the $100,000, in effect, to a candidate. That is the loophole in the committee's bill.

Mr. BENTSEN. It is my understanding, in talking to the staff of the committee, that, in effect, earmarked funds would be charged to the individual contributor.

Mr. PROXMIRE. Yes, and I am sure the Senator will keep his word; and I am delighted that he gave his word on the floor of the Senate about how he would handle earmarked funds. But this would not bind anybody else. It would be possible for any political committee, in any State—Texas, Wisconsin, or any other State—to accept contributions, with perhaps an oral earmarking, an understanding, and make the money available to a candidate, and there would be no way that the intent could be forced. Is that not correct?

Mr. BENTSEN. It is my understanding that that would be a violation of the spirit of the law, as interpreted by the staff of the committee.

I say to the distinguished Senator from Wisconsin, for whom I have a high regard—I appreciate his interest in this field of legislation and that I would be in favor of any legislation that would further strengthen the safeguards to assure that earmarking of funds would be charged to these quotas.

Mr. PROXMIRE. On the basis of the record I have tried to make here, I think it is feasible and possible to raise substantial amounts—hundreds of thousands of dollars in a State campaign, tens of millions of dollars in a presidential campaign—without relying on contributions of more than $100. There is a legitimate, understandable difference of opinion on that, but that is my position.

Finally, I say to the Senator from Texas that my amendment is really not an incumbent amendment. On the basis of the record, it is clear that nonincumbents are in a position to raise money as easily from small contributions as incumbents; but incumbents are in a far better position to receive big contributions. Why? Because incumbents very likely will be the winners, and many of the people interested in particular legislation who want a Senator or a Representative to be obligated to them are trying to bet on the winner. The people who are interested in getting a sympathetic ear are not going to contribute to the unlikely candidate. They will pick the winner. They may not even support the winner's views or principles but will support him because they think he is going to win.

Mr. BENTSEN. Mr. President, I send a modification to the desk. There was a misunderstanding on the amendment.

The PRESIDING OFFICER. The modification will be stated.

The assistant legislative clerk read as follows:

On page 1, line 2, of amendment numbered 389 strike "$100" and insert in lieu thereof "$3,000." On page 1, line 1, strike "$100"' and insert in lieu thereof "$3,000."

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CANNON. Do I correctly understand that the amendment as modified is an amendment to No. 389, the Proxmire amendment, which would change the figure $100 in line 1 to $300, and the figure $100 in line 2 to $3,000?

The PRESIDING OFFICER. The Senator is correct.

Mr. CANNON. If this amendment were adopted, it would have no effect on the basic bill, on this particular vote of adoption?

Mr. BENTSEN. Would the Senator restate the question?

The PRESIDING OFFICER. The question then would be on the amendment of the Senator from Wisconsin, as amended. If that were agreed to, that would affect the committee proposal.

Mr. CANNON. Mr. President, while I oppose the figures of the Senator from Texas, at this point I would be constrained to accept the amendment of the Senator from Texas.

Mr. PROXMIRE. I would not accept it. May I ask the Senator from Texas to explain his modification?

Mr. BENTSEN. The modification resulted in the amendment actually doing what I said it did in the beginning. There was a misunderstanding at the desk as to what the amendment did.

Mr. PROXMIRE. So the amendmnet simply knocks out my $100 limitation on the contributions and makes it $3,000. Is that correct?

Mr. BENTSEN. It puts a limitation of $3,000 on the contribution of an individual.

Mr. PROXMIRE. And he knocks out the $15,000 on a presidential contribution and makes it $3,000, also?

Mr. BENTSEN. That is correct. My theory there is this: Why should we differentiate between a presidential race and a congressional race? There are that many more contributors to it.

Mr. PROXMIRE. The Senator leaves intact the $100,000 which any individual can contribute to all races?

Mr. BENTSEN. My amendment does not in any way affect the committee's aggregate sum of $100,000. That is correct.

Mr. CANNON. I point out to the Senator that in light of the fact that his amendment does not affect the $100,000, he would then be modifying the Proxmire amendment, which would then have, instead of $100,000, the sum of $1,000, limit.

Mr. COOK. Mr. President, will the Senator yield 30 seconds?

Mr. CANNON. I yield.

Mr. COOK. What the Senator from Nevada is saying is that the Senator's amendment changes the $100 on line 1 of the Proxmire amendment to $3,000; on line 2 it changes $100 to $3,000; but it does not say anything with respect to lines 3 and 4—which means that the Proxmire amendment, as amended, would read: And insert $3,000 and then on page 57, line 7, insert $1,000 That would be the amendment we would be voting on, in substance; the Proxmire amendment as amended.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. That is not the intent of the amendment. I think we have a parliamentary problem here.

Mr. President, I suggest the absence of a quorum.

Mr. CANNON. On my time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CANNON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, I ask unanimous consent that the following staff personnel, Jim George and Steve Steinhauser, be permitted on the floor during the continuation of this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Chair is advised the Senator has 10 minutes.

Mr. CANNON. Mr. President, may I respectfully request that the time be rechecked because there has been a modification to an amendment and I have not used more than 1 or 2 minutes since the modification was presented.

The PRESIDING OFFICER. The Chair will recheck.

The Senator is advised that when an amendment is modified there is no additional time.

Mr. CANNON. Very well. Will the Chair advise the time remaining on each side at this point?

The PRESIDING OFFICER. Five minutes to a side.

Mr. CANNON. I reserve the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Texas modify his amendment?

Mr. BENTSEN. Yes. The amendment is further modified.

The PRESIDING OFFICER. The modification will be stated.

The assistant legislative clerk read as follows:

Strike lines 3 and 4 of Amendment 389.

Mr. CANNON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CANNON. Do I understand that the amendment, as now modified, is an amendment to the Proxmire amendment No. 389 and strikes the figure $100 and inserts $3,000 on line 1; strikes the figure $100 and inserts $3,000 on line 2; and strikes lines 3 and 4 completely?

The PRESIDING OFFICER. The Senator is correct.

Mr. CANNON. Do I further understand that if that amendment is agreed to it would then be pending as an amendment to the bill, S. 372? I am willing to accept this amendment as the lesser of two evils at this point.

Mr. PROXMIRE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PROXMIRE. Mr. President, as author of the amendment, do I have a voice in this at all? Can the manager of the bill simply accept an amendment to my amendment without my having an opportunity to oppose it, or at least get the yeas and nays on it?

The PRESIDING OFFICER. The Senator can ask for the yeas and nays, but under the agreement, the mover of the amendment and the manager of the bill control time.

Mr. PROXMIRE. Yes.

The PRESIDING OFFICER. The Senator has the right to ask for the yeas and nays.

Mr. PROXMIRE. Do I understand the Senator from Nevada is simply saying he is going to vote for the amendment to my amendment and then perhaps vote against the whole thing?

Mr. CANNON. The Senator is correct.

Mr. BENTSEN. Mr. President, with that understanding, I say to the distinguished manager of the bill, if he is willing to yield back his time, I am ready to yield back my time.

Mr. CANNON. I yield back my time.

Mr. BENTSEN. I yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

Those in favor say "aye."

Those opposed say "no."

The "ayes" appear to have it. The "ayes" have it.

Mr. PROXMIRE. Mr. President, the yeas and nays.

The PRESIDING OFFICER. The Chair rules that the request for the yeas and nays came too late inasmuch as the Chair had ruled.

Mr. PROXMIRE. Mr. President——

Mr. CANNON. Mr. President, I ask that it be in order for the Senator to request the yeas and nays.

The PRESIDING OFFICER. Without objection, it is is ordered.

Mr. CANNON. Mr. President, the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. Eastland), the Senator from Louisiana (Mr. Johnston), and the Senator from New Hampshire (Mr. McIntyre) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. Abourezk) is absent on official business.

I also announce that the Senator from Mississippi (Mr. Stennis) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. Cotton) is absent because of illness.

The Senator from Nebraska (Mr. Curtis) is necessarily absent.

If present and voting, the Senator from Nebraska (Mr. Curtis) would vote "nay."

The result was announced—yeas 72, nays 21, as follows:

[No. 336 Leg.]

YEAS—72

Aiken
Baker
Bartlett
Bayh
Beall
Bellmon
Bennett
Bentsen
Bible
Biden
Brock
Brooke
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Cook
Cranston
Dole
Domenici
Dominick
Eagleton
Ervin
Fong
Fulbright
Goldwater
Gravel
Griffin
Gurney
Haskell
Hatfield
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Long
Magnuson
Mathias
McClellan
McClure
McGee
Metcalf
Mondale
Montoya
Moss
Nunn
Packwood
Pastore
Pearson
Pell
Randolph
Ribicoff
Roth
Schweiker
Scott, Va.
Sparkman
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—21

Allen
Buckley
Burdick
Clark
Fannin
Hansen
Hart
Hartke
Hathaway
Hruska
Hughes
Kennedy
Mansfield
McGovern
Muskie
Nelson
Percy
Proxmire
Saxbe
Scott, Pa.
Stafford

NOT VOTING—7

Abourezk
Cotton
Curtis
Eastland
Johnston
McIntyre
Stennis

So Mr. Bentsen's amendment to Mr. Proxmire's amendment was agreed to.

Mr. CANNON. Mr. President, I yield myself 1 minute on the bill.

The PRESIDING OFFICER. The Senator from Nevada is recognized for 1 minute.

Mr. CANNON. Mr. President, I would like to explain the parliamentary situation. The Proxmire amendment has now been amended, and the vote will immediately occur on the Proxmire amendment as amended.

This is what it would do. The committee bill provides a limit of $5,000 contribution to a congressional candidate, $15,000 contribution to a Presidential candidate, and $100,000 overall limit on contributions to all candidates and all political committees from an individual.

If this amendment as amended is agreed to, it would restrict the contributions to congressional candidates to $3,000 rather than $5,000. It would restrict the contributions to Presidential candidates to $3,000 rather than $15,000. And it would leave the overall limitation unchanged under the bill.

For that reason, Mr. President, I am opposed to the amendment as amended.

The PRESIDING OFFICER. The question is on agreeing to the Proxmire amendment as amended. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. Eastland), the Senator from Louisiana (Mr. Johnston), and the Senator from New Hampshire (Mr. McIntyre) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. Abourezk) is absent on official business.

I also announce that the Senator from Mississippi (Mr. Stennis) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. Cotton) is absent because of illness.

The Senator from Nebraska (Mr. Curtis) is necessarily absent.

If present and voting, the Senator from Nebraska (Mr. Curtis) would vote "nay."

The result was announced—yeas 54, nays 39, as follows:

[No. 337 Leg.]

YEAS—54

Aiken
Allen
Bartlett
Beall
Bellmon
Bentsen
Biden
Brooke
Burdick
Byrd, Robert C.
Case
Chiles
Church
Clark
Cranston
Domenici
Eagleton
Fulbright
Gurney
Hart
Hathaway
Hollings
Huddleston
Hughes
Humphrey
Jackson
Javits
Kennedy
Magnuson
Mansfield
Mathias
McClellan
McGovern
Mondale
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Va.
Stafford
Stevenson
Symington
Taft
Tunney
Weicker
Williams

NAYS—39

Baker
Bayh
Bennett
Bible
Brock
Buckley
Byrd, Harry F., Jr.
Cannon
Cook
Dole
Dominick
Ervin
Fannin
Fong
Goldwater
Gravel
Griffin
Hansen
Hartke
Haskell
Hatfield
Helms
Hruska
Inouye
Long
McClure
McGee
Metcalf
Montoya
Moss
Percy
Saxbe
Scott, Pa.
Sparkman
Stevens
Talmadge
Thurmond
Tower
Young

NOT VOTING—7

Abourezk
Cotton
Curtis
Eastland
Johnston
McIntyre
Stennis

So Mr. Proxmire's amendment, as amended, was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PASTORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States, submitting nominations, were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. Haskell) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations received today, see the end of Senate proceedings.)

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1973

The Senate continued with the consideration of the bill (S. 372) to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of section 315 with respect to presidential and vice presidential candidates and to amend the Campaign Communications Reform Act to provide further limitation on expenditures in election campaigns for Federal elective office.

Mr. PASTORE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 2, strike out lines 1 through 6 and insert in lieu thereof the following:
>
> Sec. 2. (a) Section 315(a) of the Communications Act of 1934 (47 U.S.C. 315(a)) is amended by inserting after "public office" in the first sentence thereof the following: ", other than the office of President or Vice President,".

Mr. PASTORE. Mr. President, if we may have order——

The PRESIDING OFFICER. The Senate will be in order. Will the Senator use his microphone?

Mr. PASTORE. This amendment has to do with section 315, which is the equal time section of the Communications Act of 1934. Members of the Senate will recall that in 1960 I reported from the Committee on Commerce a joint resolution which relieves the networks from the equal time provisions of section 315 insofar as the office of President and Vice President is concerned. As a result of that resolution, free time was given to President Kennedy, who was the candidate at that time, and to candidate Nixon who is the President today, the opportunity to hold the famous presidential debates of 1960.

Since that time, we have been trying to get as much free time as possible for the candidates for the office of President and Vice President, and for that reason, of course, we had hearings before the Commerce Committee and we had the Presidents of NBC, CBS, and ABC before the committee, all of whom agreed that if we would relieve them of the responsibility of the equal time provisions, insofar as the office of President and Vice President were concerned—and those are the only two offices that run on a national level—they would grant free time to the candidates.

Now, in view of this, we on the Commerce Committee reported a bill which provided not only for the office of President and Vice President, but we had the feeling that here was a chance to extend it to Senators and Congressmen as well, because previously President Nixon had vetoed that provision on the ground that if it would apply to him alone it should also apply to Members of the Senate and Members of Congress. For that reason, we inserted it in the bill and that is the way the bill was passed by the Senate.

Then we went over to the House and we met in conference. We were told in very explicit terms that had we confined it alone to the office of President and Vice President, they would have accepted it, but that because we had added Senators and Congressmen, they would not agree to anything.

At that time, during the course of the conversations in the conference, I said, "All right, let us delete it for Senators and Congressmen." Well, HARLEY STAGGERS said "No, no, no, we do not like the idea that you did it this way." So we ended up with nothing.

Now, Mr. President, politics being the art of the possible, we on the Commerce Committee, when we reported the bill, confined it to the office of President and Vice President. When it went over to the Committee on Rules and Administration, they again added Senators and Congressmen.

So, that is what is in the bill before us now.

All I am saying is, I have no objection to including Senators and Congressmen, although a different case can be made in that regard, because a Senator and a Congressman are subject to the whims of the local broadcasters, whereas the office of the President and Vice President is a national campaign and they have to deal with the networks.

Our purpose was to confine it alone to the networks, hopefully as a starter to get free time, which is expensive time. There are gentlemen on this floor now who have run for the office of President and they know how much it costs for a national hookup.

This was done, but not to accommodate the networks. This was done just to give some free time, because Mr. Golden, the president of NBC, promised us that he would give us 8 half-hours of free time, which would be an aggregate of 4 hours, to the candidates on a national hookup.

Well now, Mr. President, the purpose of my amendment is to delete that part that has to do with Senators and Congressmen, not in any criticism of the Committee on Rules and Administration, because I know what their intent was, and what their motive was, and it was a good intent and a good motive, but if we want to get anything at all and do something for the candidates for the office of President and Vice President, whether Republican, Democratic, or an independent, the only way to achieve it, from my past experience, is to confine it alone to the office of President and Vice President.

I hope that this amendment of mine will either be accepted, or will be enacted by the Senate, for the very simple reason that if we leave it the way it is, I have every confidence—and now I speak from experience—that we will again come back with an empty pocket.

For that reason, Mr. President, I would hope that the Senator from Nevada (Mr. CANNON) would accept my amendment, or at least, in the final analysis, agree that unless we do something in this regard, I am afraid we will come back with nothing at all.

Mr. HUDDLESTON. Mr. President, will the Senator from Rhode Island yield?

Mr. PASTORE. I yield.

Mr. HUDDLESTON. The Senator from Rhode Island has made a valid point regarding the history of this effort. I have the feeling that this amendment is important in races for Congress.

I am wondering, in light of present conditions and the fact that we will be imposing new spending limitations not before imposed on candidates and on campaigns, might it not cause the gentlemen on the other side of this building to take a different view? We have got to do everything we can to make sure that candidates have the opportunity to get before the people as inexpensively as possible, since we are imposing total campaign limitations that might restrict the public—the ability of the public—to know about the candidates for the various offices.

This is a real concern of mine and I have an amendment ready to introduce that would affect this provision of the bill.

I am wondering whether it is wise, at this time, to cut back on this effort—an effort which might allow the candidates for Congress, both House and Senate, to receive more exposure.

Mr. PASTORE. I would say to my colleague that I have no personal interest in this. My experience, in my State, is that the local broadcasters have been very generous in giving free time. As a matter of fact, they encourage it. The Senator knows that very well.

I think it would be necessary, the way it is in the bill, as reported by the Committee on Rules and Administration, but I must say, in full honesty, that I do not think it will make any difference.

If, somehow, the Senator could be a fly on my back when I go to that conference, I am telling him right now that he will find them very hard to deal with because they are a strong-minded group of people over there. We were told in very explicit terms that had we confined this alone to the office of President and Vice President, they would have gone along, but because we added these two, Senators and Congressmen, they would not do anything. They told us that very clearly.

I therefore felt that I owed it to the Senate to say that. I say to my good friend from Kentucky that should we not be successful in this, I intend immediately to offer a separate bill to include Senators and Congressmen. So I am not opposed to including Senators and Congressmen. The only trouble here is that I am being pragmatic——

Mr. HUDDLESTON. I recognize that. I make the point that, with passage of this legislation, we will be operating under a different set of campaign rules and those rules will in effect limit what a candidate can do. It will limit the resources available to him to present his views.

Mr. PASTORE. It does not make any difference. The House has not even held hearings on the bill. It will be quite a struggle when we go to conference. What the destiny of the bill or the prospects of the bill will be, I do not know, but what we are trying to do is to do the things necessary in order to get a strong bill, an overall ceiling and, also, on disclosure, where the money comes from and where the money is being spent.

One reason why I am advancing the amendment is not that I am being influenced by anyone, but because I am talking out of personal experience and I thought I owed it to the Senate to give it an explanation. Whether we vote it up or down will make little difference to me, but I do not want the disappointment to be too great when I come back with nothing.

Mr. RIBICOFF. Mr. President, will the Senator from Rhode Island yield for a question?

Mr. PASTORE. I yield.

Mr. RIBICOFF. Suppose, since the House objects, that we just exclude Members of the House of Representatives and include the President, the Vice President, and Members of the Senate?

Mr. PASTORE. The only trouble with that is, it would be a little lopsided.

Mr. RIBICOFF. That is true. But if the Members of the Senate are willing to have such a doctrine prevail concerning themselves and the Members of the House want to be excluded, as a practical position, let us exclude the Members of the House of Representatives and include the Senators. If the House Members want to be covered, then they themselves can pass a bill.

Mr. PASTORE. There is a great deal of merit to that argument, but I would prefer to go the other way, to introduce a separate bill, and if they want to compromise it in conference, to leave it alone.

For the time being, the important thing is that national campaigns on television have become extraordinarily expensive. The networks now are in a frame of mind, through the urgings of the Senator from Rhode Island, privately in my office, where I have talked them deaf, dumb, and blind, to do something about free time.

They finally have come around to agreeing to 4 hours, on eight half-hour sections, which I think is a boon for a candidate running on a national level. I do not want to lose that, if possible.

Mr. RIBICOFF. What the Senator says is true. But in a statewide race, the main expense of a candidate is television. If we could compromise it to cover the candidates for the Senate, it would seem to me that we have taken the practical way.

Mr. PASTORE. The Senator is talking about bargaining with a different group of people. What the Senator is talking about is bargaining with people who own the stations in Connecticut, as I would have to bargain with the people who own the stations in Rhode Island. Here we are bargaining with the networks.

Mr. RIBICOFF. In the State of Connecticut, we do not have to bargain with the television stations. They always have been very generous.

Mr. PASTORE. That is exactly the point. We have never had any trouble on the local level. We have never had any trouble with Senators and Representatives. We have had the trouble on the national level, and that is why we started that way.

I have been in public life continuously for 38 years. I have run for public office eight times. I have never had any trouble getting the networks to suggest a debate.

Mr. HUDDLESTON. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. HUDDLESTON. That is precisely the point I was trying to make. The Senator does not have the trouble, and neither will I, and neither will the Senator from Connecticut. I am thinking about the little fellow who is obscure, who is, by all political standards, considered a minor candidate.

Mr. PASTORE. That is just the point. The networks and the broadcasters have been unwilling to give any time at all because of the obscure candidates. They have a better chance under this law, because they can demand equal time on the local level.

Mr. HUDDLESTON. I have an amendment that I think will give us the best of both possible worlds.

Mr. PASTORE. I will have to wait for it.

Mr. COOK. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. COOK. I should like to interject myself in the discussion between the Senator from Rhode Island and the Senator from Connecticut.

The Senator from Rhode Island knows that I was on the conference committee last year, and he knows the attitude taken by the members of the conference committee. But we have to look at it in terms of the fact that there are probably a number of Representatives who would like to be included and who are being left out as a result of this language.

I would be very fearful, if we even thought about the language of the Senator from Connecticut, to include the Senate and not the House, that we would get ourselves in a horrible legal tangle with those Members of the House who are not on the conference committee and who would vote to open it up, as both the Commerce Committee and the Rules Committee would like to do. Therefore, I think it would cause tremendous problems.

Mr. PASTORE. The Senator from Connecticut merely made a suggestion, in view of what I had said. I do not think he is pushing that point too much.

Mr. COOK. I do not think so.

Mr. PASTORE. I repeat: I think I owe it to Senators to tell them of the experience we had and the reasons given to us. I think we are going up against the same proposition if we go back with the amendment the way it is now. If the Senate feels we should do it and take another try at it and take the risk of coming back with nothing at all, that is up to the Senate. I have no personal interest, other than the responsibility I carry as chairman of the subcommittee.

Mr. COOK. I yield myself 2 minutes.

Mr. President, in all fairness to the Senator from Rhode Island, section 315 deals basically with the public, and we are talking about the public's ability to know candidates, the public's ability to utilize the facilities that are available for that purpose.

I know the position we got into last year. I find myself in the odd position that I almost apologize to the Senator from Rhode Island, because the Senator not only finds himself on the Commerce Committee and the Communications Committee but also on the Rules Committee. It is the attitude of the Rules Committee that the expansion of this matter basically is not for the Representatives and the Senators and for the President and for the Vice President but, as my junior colleague from Kentucky indicates, for the benefit of the public, for the public's ability to hear the candidates and for the candidates to have the ability to use the facilities so they might be heard in the public arena.

This is the discussion we have had in this framework. This is certainly the discussion we tried to convey to our colleagues in the House. I might suggest, for the record, that there are some serious problems in this matter, and we have discussed these before in the Commerce Committee and in the Rules Committee. I think it is only fair to give both sides of this argument. If we do open this up to Members of the House and Members of the Senate, whatever formula is arrived at becomes very difficult and becomes very sticky, in the last analysis.

For example, how does one share television time in markets that are not a majority or totally within the framework of his constituency? I cite as an example the State of New Jersey, which has no television stations at all. It would seem that the two Senators involved, or whatever number of candidates there were, would be utilizing the time in the cities of Philadelphia and New York City.

In our State, as my colleague knows, we utilize television in four or five other States with which I am familiar. We even use tri-cities in West Virginia; we use Ohio, Indiana, Missouri.

It is particularly difficult to make a determination as to what kind of formula should be established because you are utilizing public service time within the framework of a private enterprise. They also have candidates in their own State, and they also have congressional candidates in their own State.

Frankly, within the framework of the Rules Committee, we felt that it was the public's interest that was at stake and not the interests particularly of candidates—namely, the specific candidate for the Presidency.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. COOK. I yield.

Mr. PASTORE. I am familiar with all the arguments. I was the first one in the Senate to introduce a bill not only including Senators and Representatives but Governors as well. I made the argument that I thought the industry had reached a maturity whereby it could be held responsible and that it would do the fair thing if it were relieved of the compulsory equal time provision, which would subject them to giving equal time.

We had the situation of Mayor Daley in Chicago, when Mayor Daley met a distinguished personality who arrived at O'Hare Airport. At that time, Mayor Daley was a candidate for reelection, and this person dressed in a uniform or as Uncle Sam wanted equal time. As a result, he got equal time. That is how ridiculous it really became.

I submitted the amendment that included not only the Presidency and the Vice-Presidency but also Governors and Lieutenant Governors. But the fact remains that, as a pragmatic problem, we did not get very far.

Last year, realizing that, we did it again. We did it because the President, on a previous occasion, had vetoed the bill that was confined to the President and the Vice President; because he said, "If it is good enough for you, it is good enough for me." At that time he did not want it because he was a candidate for reelection. He was the incumbent, and he did not want to be subject to a debate. In 1976, we are going to meet an entirely different situation.

Both of the candidates will be nonencumbents and in all probability they might want to debate. The networks realize that and they are perfectly willing to give free time. I think we should give them free time if we can. If we could provide free time for Senators and Representatives I would go along with it, but I know it cannot be done. That is why I advance this amendment in the hope that at least we would come out with the most important feature, and that is the Presidential campaign, because that is where the real expense is.

With respect to local campaigns, I have not heard too many complaints on the part of anyone that the local stations are not willing to cooperate, usually under the provision of rendering a public service. I know that my friend from Kentucky, who has been in the broadcasting industry, knows there has never been any trouble on that level. The trouble has been on the Presidential level because you have to go from New York to California and from Montana to Louisiana. That is where the trouble has been. I understand that for one-half hour it sometimes costs as much as a quarter of a million dollars. That has been the trouble all along.

Mr. HUDDLESTON. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. HUDDLESTON. I have an amendment that I intend to offer regardless of the outcome of the Senator's amendment. I wonder if I might explain the amendment now. It might have some bearing on what happens.

Mr. PASTORE. The Senator might do that now. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 10 minutes remaining.

Mr. PASTORE. The Senator may have all the time up to the 10 minutes. I have said all I want to say.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. HUDDLESTON. Briefly, my amendment would require that before a licensed radio or television station could suspend the equal time provision of section 315(a) of the Communications Act of 1934 for House and Senate races, it would have to offer all legally qualified candidates for the offices in question 15 minutes of free time to explain their views and position.

The amendment in and of itself does not require licensees to do anything. It simply says that if a station is going to seek exemption from the equal time provisions in order to give leading candidates in a specific race additional time, then it must first offer all legally qualified candidates in that race 15 minutes of free time. This time could be either in the form of an interview or for the presentation of tapes provided by the candidate.

The amendment would work as follows: Within 10 days after the filing deadline, each station which wished to suspend the equal time provision for a particular congressional race would notify all legally qualified candidates in that race of their right to 15 minutes of free time. The candidate would have to respond to the offer within 10 days of receiving it.

It would be up to the individual stations to determine whether or not they were going to seek exemptions and whether or not they were going to seek them for all the Federal offices under contention. A station might, for example, decide to seek suspension of the requirement for a Senate race, but not for a House race. If, however, a station were going to broadcast in an area where there was an election, it could not seek exemption from the equal time provision for a particular race until it had provided 15 minutes to each and every legally qualified candidate in the race.

The purpose of the amendment is quite simple: to insure that every legally qualified candidate has an opportunity to present his views. The spending limitations in the existing bill and the proposed outright suspension of the equal time provision both work against the little-known and nonestablished candidate. They, in effect, limit access to our electoral process.

Several Members of this body and at least one Governor began campaigns with low recognition factors, and with low budgets. A number of potentially fine public servants in our Nation might also. But, studies indicate that the success stories in such campaigns are more the exception than the rule. S. 372, as written, could certainly work against these candidates and they would have no recourse.

Furthermore, I do not believe that we should take action which could, in effect, categorically exclude third party candidates from the Nation's airways. That is no way to insure open elections.

My amendment would, consequently, require 15 minutes of free time for all candidates in a race, before the equal time provision could be suspended. That would afford all candidates at least some exposure to the public and at least some opportunity to make their views known. After provision of that time to the various candidates, the equal time provision could be suspended.

As I stated, the little-known candidate operates at a disadvantage no matter how responsible or how fine a candidate he might be. We have placed limits on the amount that a candidate may spend to make himself and his views known. That is, I believe, reasonable in order to preclude efforts to buy elections through media advertising. On the other hand, I do not believe that we should go to the other extreme and make it, perhaps, impossible for a little-known candidate to obtain the exposure which might result in his election.

Mr. President, I would also like to comment on the question of whether or not a problem is arising with the station. There have been developments within the broadcasting industry that caused a problem to arise. First, we have more broadcasting stations now. There are stations within a congressional district that are confronted with a problem of whether or not they can provide debate time or whatever for major candidates.

What we are trying to do in this entire campaign reform bill is, first of all, to establish the kind of machinery that would eliminate some of the excesses and abuses that have occurred in campaigns because of the need to raise money and to expend money.

There are two other considerations we should also keep in mind. I have referred to one of those considerations—that we not so restrict the ability of the public to learn about the candidates that they cannot make informative and intelligent judgments as to which candidate they prefer and which one would better represent them in a particular office.

Mr. PASTORE. That was exactly the purpose behind the amendment.

Mr. HUDDLESTON. I recognize that. I am coming to that in a moment. The other consideration is that we must not preclude any candidate, however he may dress, however slight his chance may be considered by the political experts, from presenting his views to the people.

Now, with campaign spending limitations being imposed, it becomes more necessary than ever that the mass media—and I can say without apology that radio and television are most effective, that they are the best way to reach the masses of people—be utilized to the fullest extent and to the least expensive extent for all candidates.

Whether it is a race for the Senate or for the House of Representatives, in nearly every instance there are dominant candidates. Usually, in a general election, there are two candidates, representing the major parties. If it is a primary election, generally there are one or two candidates who are still considered to be the principal candidates. Stations would like to present those candidates in a face off debate or in a round table discussion, or whatever, recognizing that four or five minor candidates on the same program would be difficult to handle. They are almost precluded from such presentations if they have to include the entire group of candidates. So it is to the benefit of the public and to the benefit of these particular candidates that the station be able to carry such programs.

But, at the same time to allow the stations to do this to the complete exclusion of other candidates would be grossly unfair in my judgment.

Therefore, I am introducing an amendment, and I ask unanimous consent that it be printed in the RECORD.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

Amendment to S. 372, a bill to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of section 315 with respect to presidential and vice presidential candidates and to amend the Campaign Communications Reform Act to provide a further limitation on expenditures in election campaigns for Federal elective office

On page 2, strike out lines 1 through 6, and insert in lieu thereof the following:

SEC. 2. (a) Section 315(a) of the Communications Act of 1934 (47 U.S.C. 315(a)) is amended by—

(1) inserting "(1)" immediately after "(a)"; and

(2) adding at the end thereof the following new paragraphs:

"(2) The obligation imposed by the first sentence of paragraph (1) upon a licensee with respect to legally qualified candidates for Federal elective office (other than the offices of President and Vice President) shall have been met by such licensee with respect to such candidates if—

"(A) the licensee makes available to such candidates not less than 15 minutes of broadcast time without charge during the period beginning 10 days after the last date, under applicable State law, on which such candidates may file with the appropriate State officer as candidates, and ending on the day before the date of the election, and

"(B) the licensee notifies such candidates during the period beginning on the day after the filing date and ending ten days thereafter

"(C) such broadcast will cover, in whole or in part, the geographical area in which such election is held.

"(3) No candidate shall be entitled to the use of broadcast facilities pursuant to an offer made by a licensee under paragraph (2) unless such candidate notifies the licensee in writing of his acceptance of the offer within 10 days after receipt of the offer."

Mr. HUDDLESTON. Mr. President, my amendment addresses itself only to congressional races, races for the House of Representatives and the Senate. It would provide that section 315 may be exempted by the station only after all candidates in that particular race have been offered 15 minutes of free time. Most stations do this anyway. There are very few cases where this would not happen, but this assures that no candidate, however obscure he might be, would be completely precluded from going on the broadcast facilities and presenting his views to the people. We are not forcing the station to do anything. It does not have to seek exemption from section 315 and it does not have to present a roundtable or debate, but if it determines it is in the best interest of the listening public that two or three candidates, to the exclusion of others, be permitted to debate or face a panel of questioners, it can do that, but only after it has given all other candidates an opportunity to present their views.

Mr. PASTORE. I think the Senator's suggestion has a tremendous amount of merit, but I would make this suggestion. If the Senator would introduce his proposal as a separate bill, it would be referred to our committee. I promise him we would have hearings on it and call in the broadcasting people. We might have Mr. Wazlawski come in and we might have other broadcasters come in.

But I would not like to see it incorporated into this bill at this time. I repeat that it has a tremendous amount of merit, but I hope it could be treated as a separate item. I would not want to do anything to diminish the prospect of getting free time on the national hookup for Presidential candidates.

Mr. HUDDLESTON. The reason I covered congressional races is that section 315 applies to individual stations. They are the licensees, and not a network, except as a network may own various stations. To make this requirement on a national basis would require stations, for instance, in Paducah, to permit those candidates to use his facility for 15 minutes. That is unreasonable.

But, in the congressional districts, there is more and more use of the mass media of broadcast to encourage the head-on confrontation. That is good, but that should not be used as an excuse to allow a system to deny a candidate the opportunity to present his views to the public.

Mr. CANNON. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. CANNON. Mr. President, I find myself in this situation. I am a member of the Committee on Commerce and the Subcommittee on Communications, and I am a member of the Committee on Rules and Administration that reported the change the Senator is discussing, and I was also a member of the conference on the bill which the Senator from Rhode Island (Mr. PASTORE) led in trying to get agreement with the House on this issue. The Senator from Kentucky pointed out a moment ago one of the factors that influenced me in the Committee on Rules and Administration, and that is that this is in the interest of the public. That is not to take advantage of anyone, but to try to help make known the views of the respective candidates who are to be the main contenders for some of these very high offices—that is, the House and the Senate and the presidential races. While I would hate to see the loss or waiver of 315 with respect to the presidential candidate, if we were to leave the others in, I sort of have a feeling, myself, that we might find a little more receptive attitude in the House this year due to the various factors that have been raised.

I feel I would have to support the position of the Committee on Rules and Administration inasmuch as we did take that into consideration and after due deliberation, did report out the section waiving 315 with respect to all Federal office holders.

Mr. President, I reserve the remainder of my time.

Mr. President, I suggest the absence of a quorum on my time.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PASTORE. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. CANNON. Mr. President, I yield back my time.

Mr. PASTORE. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the amendment having been yielded back, the question is on agreeing to the amendment of the Senator from Rhode Island (Mr. PASTORE). The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mr. JOHNSTON) and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON) is absent because of illness.

The Senator from Nebraska (Mr. CURTIS) is necessarily absent.

If present and voting, the Senator from Nebraska (Mr. CURTIS) would vote "nay."

The result was announced—yeas 43, nays 50, as follows:

[No. 338 Leg.]

YEAS—43

Baker
Bartlett
Beall
Bellmon
Bentsen
Brooke
Buckley
Burdick
Byrd,
  Harry F., Jr.
Dominick
Fannin
Fulbright
Goldwater
Gravel
Hansen
Hart
Hartke
Haskell
Hathaway
Hollings
Inouye
Long
Magnuson
Mansfield
McClure
McGee
McGovern
Montoya
Muskie
Nunn
Pastore
Pearson
Pell
Percy
Randolph
Scott, Va.
Symington
Taft
Talmadge
Thurmond
Tunney
Weicker
Young

NAYS—50

Aiken
Allen
Bayh
Bennett
Bible
Biden
Brock
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cranston
Dole
Domenici
Eagleton
Ervin
Fong
Griffin
Gurney
Hatfield
Helms
Hruska
Huddleston
Hughes
Humphrey
Jackson
Javits
Kennedy
Mathias
McClellan
Metcalf
Mondale
Moss
Nelson
Packwood
Proxmire
Ribicoff
Roth
Saxbe
Schweiker
Scott, Pa.
Sparkman
Stafford
Stevens
Stevenson
Tower
Williams

NOT VOTING—7

Abourezk
Cotton
Curtis
Eastland
Johnston
McIntyre
Stennis

So Mr. PASTORE's amendment was rejected.

Mr. KENNEDY. Mr. President, I call up amendment No. 406, which I have introduced jointly with the distinguished minority leader, Mr. SCOTT.

The PRESIDING OFFICER (Mr. DOMENICI). The clerk will report the amendment.

The legislative clerk proceeded to state the amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY's amendment (No. 406) is as follows:

On page 49, between lines 3 and 4, insert the following:

"SEC. 16. The Federal Election Campaign Act of 1971 is amended by inserting at the end thereof the following new title:

" 'TITLE V—PUBLIC FINANCING OF CONGRESSIONAL ELECTION CAMPAIGNS

" 'Sec.
" '501. Short title.
" '502. Definitions.
" '503. Condition for eligibility for payments.
" '504. Entitlement of eligible candidates to payments.
" '505. Certifications by Federal Election Commission.
" '506. Payments to eligible candidates.
" '507. Examinations and audits; repayments.
" '508. Information on proposed expenses.
" '509. Reports to Congress; regulations.
" '510. Participation by Comptroller General in judicial proceedings.
" '511. Judicial review.
" '512. Criminal penalties.
" '513. Congressional Election Campaign Fund Advisory Board.
" '514. Authorization of appropriations.
" '515. Effective date of title.

" 'SHORT TITLE

" 'SEC. 501. This title may be cited as the "Congressional Election Campaign Fund Act".

" 'DEFINITIONS

" 'SEC. 502. For purposes of this title—

" '(1) The term "congressional office" means the office of Senator or Representative in, or Resident Commissioner or Delegate to, the Congress of the United States.

"'(2) The term "congressional election" means a general or special election for congressional office.

"'(3) The term "Commission" means the Federal Election Commission established under section 308.

"'(4) The term "authorized committee" means, with respect to a candidate of a political party for congressional office, any political committee which is authorized in writing by such candidate to incur expenses to further the election of such candidate. Such authorization shall be addressed to the chairman of such political committee, and a copy of such authorization shall be filed by such candidate with the Commission. Any withdrawal of any authorization shall also be in writing and shall be addressed and filed in the same manner as the authorization.

"'(5) The term "candidate" means, with respect to any congressional election, an individual who (A) has been nominated for election to congressional office by a major party, or (B) has qualified to have his name on the election ballot in the area in which the election is to be held. For purposes of paragraphs (8) and (9) of this section and purposes of section 504(a)(2), the term "candidate" means, with respect to any preceding congressional election, an individual who received popular votes for congressional office in such election.

"'(6) The term "eligible candidate" means a candidate of a political party for congressional office who has met all applicable conditions for eligibility to receive payments under this title set forth in section 503.

"'(7) The term "fund" means the Congressional Election Campaign Fund established by section 506(a).

"'(8) The term "major party" means, with respect to any congressional election, a political party whose candidate for congressional office in the preceding election for such office received, as the candidate of such party, 25 per centum or more of the total number of popular votes received by all candidates for such office.

"'(9) The term "minor party" means, with respect to any congressional election, a political party whose candidate for congressional office in the preceding election for such office received, as the candidate of such party, 5 per centum or more but less than 25 per centum of the total number of popular votes received by all candidates for such office.

"'(10) The term "new party" means, with respect to any congressional election, a political party which is neither a major party nor a minor party.

"'(11) The term "political committee" means any individual, committee, association, or organization (whether or not incorporated) which accepts contributions or makes expenditures for the purpose of influencing, or attempting to influence, the nomination or election of one or more individuals to congressional office.

"'(12) The term "qualified campaign expense" means an expense—

"'(A) incurred (i) by the candidate of a political party for congressional office to further his election to such office, or (ii) by an authorized committee of a candidate of a political party for congressional office to further the election of one or more such candidates to such office;

"'(B) incurred within the expenditure report period (as defined in paragraph (13)), or incurred before the beginning of such period to the extent such expense is for property, services, or facilities used during such period; and

"'(C) neither the incurring nor payment of which constitutes a violation of any law of the United States or of the State in which such expense is incurred or paid.

An expense shall be considered as incurred by a candidate or an authorized committee if it is incurred by a person authorized by such candidate or such committee, as the case may be, to incur such expense on behalf of such candidate or such committee. If an authorized committee of a candidate of a political party for congressional office also incurs expenses to further the election of one or more other individuals to Federal, State, or local elective public office, expenses incurred by such committee which are not specifically to further the election of such other individual or individuals shall be considered as incurred to further the election of such candidate for congressional office in such proportion as the Commission prescribes by rules or regulations.

"'(13) The term "expenditure report period" with respect to any congressional election means—

"'(A) in the case of a major party, the period beginning with the first day of September before the election, or, if earlier, with the date on which such major party nominated its candidate for election to congressional office, and ending thirty days after the date of the election; and

"'(B) in the case of a party which is not a major party, the same period as the expenditure report period of the major party which has the shortest expenditure report period for such election under subparagraph (A).

"'CONDITION FOR ELIGIBILITY FOR PAYMENTS

"'Sec. 503. (a) In General.—In order to be eligible to receive any payments under section 506, a candidate of a political party in a congressional election shall, in writing—

"'(1) agree to obtain and furnish to the Commission such evidence as it may request of the qualified campaign expenses with respect to which payment is sought;

"'(2) agree to keep and furnish to the Commission such records, books, and other information as it may request;

"'(3) agree to an audit and examination by the Commission under section 507 and to pay any amounts required under section 508.

"'(b) Major Parties.—In order to be eligible to receive any payments under section 506, a candidate of a major party in a congressional election shall certify to the Commission, under penalty of perjury, that—

"'(1) such candidate and his authorized committees will not incur qualified campaign expenses in excess of the aggregate payment to which he is entitled under section 504; and

"'(2) no contributions to defray qualified campaign expenses have been or will be accepted except to the extent necessary to make up any deficiency in payments received out of the fund on account of the application of section 506(d), and no contributions to defray expenses which would be qualified campaign expenses but for subparagraph (C) of section 502(12) have been or will be accepted by such candidate or any of his authorized committees.

Such certification shall be made within such time prior to the day of the congressional election as the Commission shall prescribe by rules or regulations.

"'(c) Minor and New Parties.—In order to be eligible to receive any payments under section 506, a candidate of a minor or new party in a congressional election shall certify to the Commission, under penalty of perjury, that—

"'(1) such candidate and his authorized committees will not incur qualified campaign expenses in excess of the aggregate payments to which the eligible candidate of a major party in such election is entitled under section 504; and

"'(2) such candidate and his authorized committees will accept and expend or retain contributions to defray qualified campaign expenses only to the extent that the qualified campaign expenses incurred by such candidate and his authorized committees certified to under paragraph (1) exceed the aggregate payments received by such candidate out of the fund pursuant to section 506. Such certification shall be made within such time prior to the day of the congressional election as the Commission shall prescribe by rules or regulations.

"'(d) Except as provided in subsections (b)(2) and (c)(2) of this section, no candidate of a major party, minor party, or new party, or any of the authorized committees of such candidate shall accept contributions to defray qualified campaign expenses.

"'(e) Except as specifically provided by law, no candidate for election to the office of President of the United States or the office of Vice President of the United States who is or may be eligible to receive payments of public funds to defray qualified expenses of his campaign shall accept contributions to defray such expenses.

"'ENTITLEMENT OF ELIGIBLE CANDIDATES TO PAYMENTS

"Sec. 504. (a) In General.—Subject to the provisions of this title—

"'(1) An eligible candidate of a major party in a congressional election shall be entitled to payments under section 506 equal in the aggregate to the greater of—

"'(A) 20 cents multiplied by the voting age population of the geographical area in which the election for such office is held, as determined by the Secretary of Commerce under the Federal Election Campaign Act of 1971 as amended; or

"'(B) (i) $175,000, if the congressional office sought is that of Senator, Delegate, Resident Commissioner, or Representative from a State which is entitled to only one Representative, or (ii) $90,000, if the congressional office sought is that of Representative from a State entitled to more than one Representative.

"'(2)(A) An eligible candidate of a minor party in a congressional election shall be entitled to payments under section 506 equal in the aggregate to an amount which bears the same ratio to the amount computed under paragraph (1) for a major party as the number of popular votes received by the candidate for such office of the minor party, as such candidate, in the preceding election for such office bears to the average number of popular votes received by the candidates for such office in the major parties in the preceding election for such office.

"'(B) If the candidate of one or more political parties (not including a major party) for congressional office was a candidate for such office in the preceding election for such office and received 5 per centum or more but less than 25 per centum of the total number of popular votes received by all candidates for such office, such candidate, upon compliance with the provisions of section 503 (a) and (c), shall be treated as an eligible candidate entitled to payments under section 506 in an amount computed as provided in subparagraph (A) by taking into account all the popular votes received by such candidate for such office in the preceding election for such office. If the eligible candidates of a minor party are entitled to payments under this subparagraph, such entitlement shall be reduced by the amount of the entitlement allowed under subparagraph (A).

"'(3) An eligible candidate of a minor party or a new party in a congressional election whose candidate in such election receives, as such candidate, 5 per centum or more of the total number of popular votes cast for such office in such election shall be entitled to payments under section 506 equal in the aggregate to an amount which bears the same ratio to the amount computed under paragraph (1) for a major party as the number of popular votes received by such candidate in such election bears to the average number of popular votes received in such election by the candidate for such office of the major parties. In the case of an eligible candidate entitled to payments under paragraph (2), the amount allowable under this paragraph shall be limited to the amount, if any, by which the entitlement under the preceding sentence exceeds the amount of the entitlement under paragraph (2).

"'(b) Limitations.—The aggregate payments to which an eligible candidate of a political party shall be entitled under subsections (a) (2) and (3) with respect to a congressional election shall not exceed an amount equal to the lower of—

"'(1) the amount of qualified campaign expenses incurred by such eligible candidate and his authorized committees, reduced by the amount of contributions to defray qualified campaign expenses received and expended or retained by such eligible candidate and such committees, or

"'(2) the aggregate payments to which the eligible candidate of a major party is entitled under subsection (a)(1), reduced by the amount of contributions described in paragraph (1) of this subsection.

"'(c) Restrictions.—An eligible candidate of a political party shall be entitled to payments under subsection (a) only—

"'(1) to defray qualified campaign expenses incurred by such eligible candidate or his authorized committees, or

"'(2) to repay loans the proceeds of which were used to defray such qualified campaign expenses, or otherwise to restore funds (other than contributions to defray qualified campaign expenses received and expended by such candidate or such committees) used to defray such qualified campaign expenses.

"'CERTIFICATIONS BY COMMISSION

"'Sec. 505. (a) Initial Certifications.—On the basis of the evidence, books, records, and information furnished by the eligible candidates of a political party and prior to examination and audit under section 507, the Commission shall certify from time to time to the Secretary for payment to such candidates under section 506 the payments to which such candidates are entitled under section 504.

"'(b) Finality of Certifications and Determinations.—Initial certifications by the Commission under subsection (a), and all determinations made by it under this title, shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 507 and judicial review under section 511.

"'PAYMENTS TO ELIGIBLE CANDIDATES

"'Sec. 506. (a) Establishment of Campaign Fund.—There is hereby established on the books of the Treasury of the United States a special fund to be known as the Congressional Election Campaign Fund. The Secretary shall, as provided by appropriation Acts, transfer to the fund such amounts as Congress may appropriate to insure that moneys in the fund will be adequate to meet the entitlements of eligible candidates.

"'(b) Transfer to the General Fund.—The Secretary is authorized to transfer to the general fund of the Treasury such amounts of moneys in the fund as he determines from time to time are in excess of the amounts which eligible candidates are or will be entitled to receive.

"'(c) Payments From the Fund.—Upon receipt of a certification from the Commission under section 505 for payment to the eligible candidates of a political party, the Secretary shall pay to such candidates out of the fund the amount certified by the Commission. Amounts paid to any such candidates shall be under the control of such candidates.

"'(d) Insufficient Amounts in Fund.—If at the time of a certification by the Commission under section 505 for payment to the eligible candidates of a political party, the Secretary or his delegate determines that the moneys in the fund are not, or may not be sufficient to satisfy the full entitlements of the eligible candidates of all political parties, he shall withhold from such payment such amount as he determines to be necessary to assure that the eligible candidates of each political party will receive their pro rata share of their full entitlement. Amounts withheld by reason of the preceding sentence shall be paid when the Secretary or his delegate determines that there are sufficient moneys in the fund to pay such amounts, or portions thereof, to all eligible candidates from whom amounts have been withheld, but if there are not sufficient moneys in the fund to satisfy the full entitlement of the eligible candidates of all political parties, the amounts so withheld shall be paid in such manner that the eligible candidates of each political party receive their pro rata share of their full entitlement.

"'EXAMINATIONS AND AUDITS; REPAYMENTS

"'Sec. 507. (a) Examinations and Audits.—After each congressional election, the Commission shall conduct a thorough examination and audit of the qualified campaign expenses of the candidates of each political party for congressional office.

"'(b) Repayments.—

"'(1) If the Commission determines that any portion of the payments made to an eligible candidate of a political party under section 506 was in excess of the aggregate payments to which the candidate was entitled under section 504, it shall so notify such candidate, and such candidate shall pay to the Secretary an amount equal to such portion.

"'(2) If the Commission determines that an eligible candidate of a political party and his authorized committees incurred qualified campaign expenses in excess of the aggregate payments to which an eligible candidate of a major party was entitled under section 504, it shall notify such candidate of the amount of such excess and such candidate shall pay to the Secretary an amount equal to such amount.

"'(3) If the Commission determines that an eligible candidate of a major party or any authorized committee of such candidate accepted contributions (other than contributions to make up deficiencies in payments out of the fund on account of the application of section 506(d)) to defray qualified campaign expenses (other than qualified campaign expenses with respect to which payment is required under paragraph (2)), it shall notify such candidate of the amount of the contributions so accepted, and such candidate shall pay to the Secretary an amount equal to such amount.

"'(4) If the Commission determines that any amount of any payment made to an eligible candidate of a political party under section 506 was used for any purpose other than—

"'(A) to defray the qualified campaign expenses with respect to which such payment was made, or

"'(B) to repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions to defray qualified campaign expenses which were received and expended) which were used, to defray such qualified campaign expenses,

it shall notify such candidate of the amount so used, and such candidate shall pay to the Secretary an amount equal to such amount.

"'(5) No payment shall be required from an eligible candidate of a political party under this subsection to the extent that such payment, when added to other payments required from such candidate under this subsection, exceeds the amount of payments received by such candidate under section 506.

"'(c) Notification.—No notification shall be made by the Commission under subsection (b) with respect to a congressional election more than three years after the day of such election.

"'(d) Deposit of Repayments.—All payments received by the Secretary under subsection (b) shall be deposited by him in the general fund of the Treasury.

"INFORMATION ON PROPOSED EXPENSES

"Sec. 508. (a) Reports by Candidates.—A candidate of a political party for congressional office in a congressional election shall, from time to time as the Commission may require, furnish to the Commission a detailed statement, in such form as the Commission may prescribe, of—

"'(1) the qualified campaign expenses incurred by him and his authorized committees prior to the date of such statement (whether or not evidence of such expenses has been furnished for purposes of section 505), and

"'(2) the qualified campaign expenses which he and his authorized committees propose to incur on or after the date of such statement.

The Commission shall require a statement under this subsection from such candidates of each political party at least once each week during the second, third, and fourth weeks preceding the day of the congressional election and at least twice during the week preceding such day.

"'(b) Publication.—The Commission shall, as soon as possible after it receives each statement under subsection (a), prepare and publish a summary of such statement, together with any other data or information which it deems advisable, in the Federal Register.

"'REPORTS TO CONGRESS; REGULATIONS

"'Sec. 509. (a) Reports.—The Commission shall, as soon as practicable after each congressional election, submit a full report to the Senate and House of Representatives setting forth—

"'(1) the qualified campaign expenses (shown in such detail as the Commission determines necessary) incurred by the candidates of each political party and their authorized committees;

"'(2) the amounts certified by it under section 505 for payment to the eligible candidates of each political party; and

"'(3) the amount of payments, if any, required from such candidates under section 507, and the reasons for each payment required.

Each report submitted pursuant to this section shall be printed as a Senate document.

"'(b) Regulations, Etc.—The Commission is authorized to prescribe such rules and regulations, to conduct such examinations and audits (in addition to the examinations and audits required by section 507(a)), to conduct such investigations, and to require the keeping and submission of such books, records, and information, as it deems necessary to carry out the functions and duties imposed on it by this title, including the coordination of this title with other titles of this Act.

"'PARTICIPATION BY COMMISSION IN JUDICAL PROCEEDINGS

"'Sec. 510. (a) Appearance by Counsel.—The Commission is authorized to appear in and defend against any action filed under section 511, either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of each title.

"'(b) Recovery of Certain Payments.—The Commission is authorized through attorneys and counsel described in subsection (a) to appear in the district courts of the United States to seek recovery of any amounts determined to be payable to the Secretary as a result of examination and audit made pursuant to section 507.

"'(c) DECLARATORY AND INJUNCTIVE RELIEF.—The Commission is authorized through attorneys and counsel described in subsection (a) to petition the courts of the United States for declaratory or injunctive relief concerning any civil matter covered by the provisions of this title. Upon application of the Commission, an action brought pursuant to this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28, United States Code, and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited.

"'(d) APPEAL.—The Commission is authorized on behalf of the United States to appeal from, and to petition the Supreme Court for certiorari to review judgments or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

"'JUDICIAL REVIEW

"'SEC. 511. (a) REVIEW OF CERTIFICATION, DETERMINATION, OR OTHER ACTION BY THE COMMISSION.—Any certification, determination, or other action by the Commission made or taken pursuant to the provisions of this title shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court by any interested person. Any petition filed pursuant to this section shall be filed within thirty days after the certification, determination, or other action by the Commission for which review is sought.

"'(b) SUITS TO IMPLEMENT TITLE.—

"'(1) The Commission, the national committee of any political party, and individuals eligible to vote in an election for congressional office, are authorized to institute such actions, including actions for declaratory judgment or injunctive relief, as may be appropriate to implement or construe any provision of this title.

"'(2) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this subsection and shall exercise the same without regard to whether a person asserting rights under provisions of this subsection shall have exhausted any administrative or other remedies that may be provided at law. Such proceedings shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28, United States Code, and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing at the earliest practicable date, to participate in the hearing, and determination thereof, and to cause the case to be in every way expedited.

"'CRIMINAL PENALTIES

"'SEC. 512. (a) EXCESS CAMPAIGN EXPENSES.—

"'(1) It shall be unlawful for an eligible candidate of a political party for congressional office in a congressional election or any of his authorized committees knowingly and willingly and willfully to incur qualified campaign expenses in excess of the aggregate payments to which the eligible candidates of a major party are entitled under section 504 with respect to such election.

"'(2) Any person who violates paragraph (1) shall be fined not more than $5,000 or imprisoned not more than one year, or both. In the case of a violation by an authorized committee, any officer or member of such committee who knowingly and willfully consents to such violation shall be fined not more than $5,000 or imprisoned not more than one year, or both.

"'(b) CONTRIBUTIONS.—

"'(1) It shall be unlawful for an eligible candidate of a major party in a congressional election or any of his authorized committees knowingly and willfully to accept any contribution to defray qualified campaign expenses, except to the extent necessary to make up any deficiency in payments received out of the fund on account of the application of section 506(d), or to defray expenses which would be qualified campaign expenses but for subparagraph (C) of section 502(12).

"'(2) It shall be unlawful for an eligible candidate of a political party (other than a major party) in a congressional election or any of his authorized committees knowingly and willfully to accept and expend or retain contributions to defray qualified campaign expenses in an amount which exceeds the qualified campaign expenses incurred with respect to such election by such eligible candidate and his authorized committees.

"'(3) Any person who violates paragraph (1) or (2) shall be fined not more than $5,000, or imprisoned not more than one year, or both. In the case of a violation by an authorized committee, any officer or member of such committee who knowingly and willfully consents to such violation shall be fined not more than $5,000, or imprisoned not more than one year, or both.

"'(c) UNLAWFUL USE OF PAYMENTS.—

"'(1) It shall be unlawful for any person who receives any payment received under section 506, or to whom any portion of any payment received under such section is transferred, knowingly and willfully to use, or authorize the use of, such payment or such portion for any purpose other than—

"'(A) to defray the qualified campaign expenses with respect to which such payment was made, or

"'(B) to repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions to defray qualified campaign expenses which were received and expended) which were used, to defray such qualified campaign expenses.

"'(2) Any person who violates paragraph (1) shall be fined not more than $10,000, or imprisoned not more than five years, or both.

"'(d) FALSE STATEMENTS, ETC.—

"'(1) It shall be unlawful for any person knowingly and willfully—

"'(A) to furnish any false, fictitious, or fraudulent evidence, books, or information to the Commission under this title, or to include in any evidence, books, or information so furnished any misrepresentation of a material fact, or to falsify or conceal any evidence, books, or information relevant to a certification by the Commission or an examination and audit by the Commission under this title; or

"'(B) to fail to furnish to the Commission any records, books, or information requested by it for purposes of this title.

"'(2) Any person who violates paragraph (1) shall be fined not more than $10,000, or imprisoned not more than five years, or both.

"'(e) KICKBACKS AND ILLEGAL PAYMENTS.—

"'(1) It shall be unlawful for any person knowingly and willfully to give or accept any kickback or any illegal payment in connection with any qualified campaign expense of an eligible candidate or his authorized committees.

"'(2) Any person who violates paragraph (1) shall be fined not more than $10,000, or imprisoned not more than five years, or both.

"'(3) In addition to the penalty provided by paragraph (2), any person who accepts any kickback or illegal payment in connection with any qualified campaign expense of an eligible candidate or his authorized committees shall pay to the Secretary, for deposit in the general fund of the Treasury, an amount equal to 125 per centum of the kickback or payment received.

"'(f) UNAUTHORIZED EXPENDITURES AND CONTRIBUTIONS.—

"'(1) Except as provided in paragraph (2), it shall be unlawful for any political committee which is not an authorized committee with respect to an eligible candidate of a political party for congressional office in a congressional election knowingly and willfully to incur expenditures to further the election of such candidate, which would constitute qualified campaign expenses, if incurred by an authorized committee of such candidate, in an aggregate amount exceeding $1,000.

"'(2) This subsection shall not apply to (A) expenditures by a broadcaster regulated by the Federal Communications Commission, or by a periodical publication, in reporting the news or in taking editorial positions, or (B) expenditures by any organization described in section 501(c), which is exempt from tax under section 501(a) in communicating to its members the views of the organization.

"'(3) Any political committee which violates paragraph (1) shall be fined not more than $5,000, and any officer or member of such committee who knowingly and willfully consents to such violation and any other individual who knowingly and willfully violates paragraph (1) shall be fined not more than $5,000, or imprisoned not more than one year, or both.

"'(g) UNAUTHORIZED DISCLOSURE OF INFORMATION.—

"'(1) It shall be unlawful for any individual to disclose any information obtained under the provisions of this title except as may be required by law.

"'(2) Any person who violates paragraph (1) shall be fined not more than $5,000, or imprisoned not more than one year, or both.

"'CONGRESSIONAL ELECTION CAMPAIGN FUND ADVISORY BOARD

"'SEC. 513. (a) ESTABLISHMENT OF BOARD.—There is hereby established an advisory board to be known as the Congressional Election Campaign Fund Advisory Board (hereinafter referred to in this section as the "Board"). It shall be the duty and function of the Board to counsel and assist the Federal Election Commission in the performance of the duties and functions imposed on it under this title.

"'(b) COMPOSITION OF BOARD.—The Board shall be composed of the following members:

"'(1) the majority leader and minority leader of the Senate and the Speaker and minority leader of the House of Representatives, who shall serve ex officio;

"'(2) two members representing each political party which is a major party (as defined in section 502(8)), which members shall be appointed by the Commission from recommendations submitted by such political party; and

"'(3) three members representing the general public, which members shall be selected by the members described in paragraphs (1) and (2).

The terms of the first members of the Board described in paragraphs (2) and (3) shall expire on the sixtieth days after the date of the first biennial congressional election following January 1, 1975, and the terms of subsequent members described in paragraphs (2) and (3) shall begin on the sixty-first day after the date of a biennial congressional election and expire on the sixtieth day following the date of the subsequent biennial congressional election. The Board shall elect a Chairman from its members.

"'(c) COMPENSATION.—Members of the Board (other than members described in subsection (b)(1)) shall receive compensation at the rate of $75 a day for each day they are engaged in performing duties and functions as such members, including traveltime, and, while away from their homes or regular places of business, shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons in the Government service employed intermittently.

"'(d) STATUS.—Service by an individual as a member of the Board shall not, for purposes of any other law of the United States, be considered as service as an officer or employee of the United States

"'AUTHORIZATION OF APPROPRIATIONS

"'SEC. 514. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

"'EFFECTIVE DATE OF TITLE

"'SEC. 515. The provisions of this title shall take effect on January 1, 1975.'."

On page 49, line 4, strike "SEC. 16." and insert in lieu thereof "SEC. 17.".

On page 50, line 8, strike "SEC. 17." and insert in lieu thereof "SEC. 18.".

On page 50, line 19, strike "SEC. 18." and insert in lieu thereof "SEC 19.".

Mr. KENNEDY. Mr. President, I understand there is a time limitation on this amendment of 2 hours.

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. I want to indicate to the Senate that I have talked with the Senator from Pennsylvania (Mr. SCOTT), and we do not intend to use the full time on this amendment. I think we can dispose of it in perhaps an hour's time.

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, would the Senator from Massachusetts like to request that the time be reduced to 1 hour?

Mr. KENNEDY. Mr. President, I intend to confine it to an hour or less, as does Senator SCOTT of Pennsylvania, and we would plan to yield back the time at the end, but for the moment I would prefer to reserve the time.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me to ask for the yeas and nays on my amendment, No. 423?

Mr. KENNEDY. Yes.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on amendment 423.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I yield to the Senator from Michigan for a unanimous-consent request.

Mr. HART. Mr. President, I ask unanimous consent that during the consideration of this measure a staff man, Mr. Burton Wides, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senate will be in order.

Mr. KENNEDY. Mr. President, I yield myself 10 minutes on the amendment.

May we have order?

The PRESIDING OFFICER (Mr. HELMS). The Senate will be in order. The Senator will suspend until order is restored. Senators will take their seats. Conversations will be conducted in the cloakrooms.

The Senator from Massachusetts may proceed.

Mr. KENNEDY. Mr. President, the purpose of our amendment is twofold—first, to provide public financing for Senate and House elections and, second, to ban the option of private financing for major party candidates in all Federal elections, Presidential as well as congressional.

At the outset, let me say that I understand—although I do not accept—the view of my colleagues who urge delay, who feel the time is not ripe for the Senate to deal with public financing as a floor amendment on the pending legislation.

As a letter currently being circulated by Common Cause to all Senators makes clear:

> S. 372 presently does not deal with public financing, which is the single most important step needed for eliminating the corrupting role of money in politics.

I agree with that view, and for that reason I believe that the Senate should have the opportunity to act now on public financing. To me, an omnibus election reform bill without public financing is like Hamlet without the Prince of Denmark, and I hope the Senate will embrace the opportunity we now have.

Let me also make clear that the amendment Senator SCOTT and I are proposing is not the whole answer to the many complex questions that inevitably arise in any consideration of public financing.

For example, the amendment deals only with general elections; it does not provide public financing for primaries. Yet, the high cost of primaries must be an area of major concern if we are to achieve comprehensive reform of campaign financing and ease the immense financial burden of running for public office.

Another major area our amendment does not touch is the question of the need for various additional incentives for private contributions, such as the use of indirect subsidies like tax credits and tax deductions, or other proposals that have been widely discussed in recent years, like matching grant plans and voucher plans.

The amendment we are offering does not deal with these areas for the simple reason that they have so far proved intractable to congressional action. There is no broad or bipartisan consensus in the Senate or House on the approach we should adopt.

Therefore, as a number of Senators have suggested, it is entirely appropriate for the Senate to defer action in these areas, until appropriate hearings are held. I welcome the commitments already made for such hearings, and I am hopeful that effective legislation will be forthcoming.

But to use the present difficulty of dealing with such areas as an excuse for inaction in other important areas of public financing is to ignore the public will and to misjudge the magnificent opportunity we now have for a significant step forward in the important area of public financing.

In fact, this is an area in which the people are far ahead of Congress. A Gallup poll released last month showed broad public support for financing political campaigns with public funds instead of private contributions. Fifty-eight percent of persons polled—a margin of 2 to 1, consisting of a majority of each category, Democrats, Republicans, and Independents alike—believes that the Federal Government should provide public funds to all candidates for President and Congress, and that private contributions should be prohibited.

What Senator SCOTT from Pennsylvania and I propose is not the final answer to all the intricate problems of public financing. But it is a partial answer, and it is also a significant step forward—the extension to Senate and House elections of the principle of public financing that has already been overwhelmingly approved by Congress and written into law for financing Presidential elections—the dollar checkoff.

Barely 4 weeks ago, on a rollcall vote of 62 to 30, a margin of better than 2 to 1, with broad bipartisan support, the Senate soundly defeated a move to repeal the dollar checkoff.

It is safe to say, therefore, that the principle of public financing in the dollar checkoff is now solidly cemented in the public laws of the United States.

What Senator SCOTT from Pennsylsylvania and I propose to do is to extend the fundamental principles of the dollar checkoff to Senate and House elections. Surely, if the principle of the checkoff is good enough for the public financing of Presidential elections, it is also good enough for Senate and House elections.

And if in the future, as a result of hearings to come later this year and beyond, Congress decides to adopt a different or modified version of public financing, then changes will obviously be required in the dollar checkoff. In that event, it will be no more difficult to amend the checkoff, whether it applies only to Presidential elections, or to Senate and House elections, too.

In general, the provisions of our amendment are essentially identical to the provisions of the dollar checkoff enacted into law in December 1971, and amended by Congress last June. Our amendment simply transposes the provisions of the checkoff for Presidential elections to Senate and House elections.

Mr. President, how much time has been consumed?

The PRESIDING OFFICER. The Senator has used 7 minutes. One hour is allotted to each side on the amendment.

Mr. KENNEDY. I intend to describe briefly the various provisions of the amendment. I shall wait until the Senator from Pennsylvania (Mr. SCOTT) has made his statement, and then I shall continue.

I yield to the Senator from Pennsylvania.

Mr. SCOTT of Pennsylvania. Mr. President, I thank the Senator from Massachusetts.

This is not a new idea. It is, at the same time, a clean break with the past. It is a move to get, truly and really, a clean elections bill. The idea goes back at least as far as President Theodore Roosevelt, who proposed a $3 per capita fund to finance Federal elections. It is possible that he had in mind only Presidential elections.

In any event, the idea has been floated from time to time, and the Senate has declared its will by proposing a checkoff on the income tax form, the amount to be used for financing Presidential elections.

The law and subsequent regulations of the Internal Revenue Service now provide that the checkoff shall appear on the front page of form 1040. That has been done to encourage more people to make contributions. In the past, the public thought that it was their dollar that was being taken. Actually, the dollar has passed to the Federal Government. The public was simply asking whether the dollar they had to pay was for the Federal Government.

The formula was later changed to provide for a sum total of the allocations to be made, and fairly, to the two major parties and the minor parties. This amendment, then, is an attempt to take the curse of money out of Federal elections. All of us have suffered from that burden. No member of this body could be honest with himself if he did not admit that in running for reelection, he had found it necessary to accept contributions, often large contributions, certainly large contributions, from those contributors who were willing to support his cause. I would have said I believed in his cause, but I do not know. I only know they supported him, but those contributions have inevitably raised a sense of obligation. Deny it how we will, the sense of obligation persists, and all of us have been involved in the exercise. I have used it myself. When someone offers to do something for me and make a contribution to me, I have to ask myself, what is the obligation involved. I wonder, when someone comes back later and asks me to do something—hopefully they ask me to do something I can do—would he embarrass me by asking me to do something that I should not do. He knows that, and I know that.

When there is too much money in a campaign, and we have just seen the deplorable evidence of it, and it is not confined to either party, when too much money is in a campaign—$100,000, $500,000, or $1 million—it is not surprising that such a person feels he has a proprietary interest in the outcome.

We would like to get rid of that and provide that the money be made available from appropriated funds. We would like to avoid the evasions which are used in political contributions. We would like to implement the Long proposal of the original dollar checkoff, which is meritorious, and I supported it then, although I opposed a later checkoff proposal, because I thought it would be used simply to pay past debts; but now this is a prospective amendment and, therefore, I can do what I did with the original Long proposal and take the position that it is a good thing.

The Senator from Massachusetts (Mr. KENNEDY) will, in a few moments, outline the separate provisions; but I would like merely to highlight some of the things we would like to do through this amendment, and can do if the amendment is adopted.

First. General revenues would be used to finance general and special elections for Congress. Primary and runoff elections would be excluded, for many reasons, one of which is the pragmatic difficulty of securing enough votes for the amendment. Another is the difficulty of interfering within the States in every primary election.

Second. The amendment bars the option of private financing generally and in every case where the public funds donated are adequate within the formula provided—and that is for all Federal elections, congressional and Presidential.

Third. Candidates would be granted an entitlement from the Treasury in the amount set by the pending bill—currently 20 cents per eligible voter.

Fourth. The proposed Federal Election Commission would administer and enforce the disbursement of public funds from the Treasury.

Here, Mr. President, I will have to be sufficiently immodest to take some credit for creation of the Federal Election Commission, because it was my amendment in the 92d Congress to the bill, which failed in conference, due to the opposition of Members of the Congress from the other body, although we argued for hours in an attempt to retain it. It is now in the Rules Committee and Commerce Committee versions of the bill.

Had it been in the law during the 1972 elections, much of the deplorable misuse of funds could well have been prevented or, if not prevented, could have been punished by the use of the power given to that independent, nonpartisan Federal Election Commission.

Fifth. The amendment would take effect January 1, 1975, in time for the 1976 elections.

Mr. President, the provisions which the Senator from Massachusetts will undoubtedly explain, can protect the interests of a new party. It can also protect the interests of minor parties. To make sure that all persons seeking the popular franchise are fairly dealt with, our proposal meshes in with the dollar checkoff for the Presidential election, but our proposal does not involve the checkoff system. Here we do not use the tax form. Here we rely on appropriated funds from the Federal Treasury and we do it, because we believe that the best bargain the people of this country can get, the best bargain the taxpayers can get, is a free, honest, and clean election.

If we could take off the burden from the incumbents and the opponents, in this business of spending most of their time kowtowing and virtually begging for support, from frantically trying to meet television headlines, from desperately seeking to overcome the enormous and unbelieveable cost of modern day-to-day political campaigning, if we could also, by so doing, say to the public, "All of us candidates of whatever party are campaigning for the same opportunity in the election, and they are campaigning under a fair treatment proposal, and they are campaigning under a circumstance where everyone knows how much they get," then we do not have to worry about the proliferation of committees or the problems of District of Columbia committees, which everyone uses and I have used myself in the past, you do not have to have every one of the technically lawful, but at the same time unfortunate devices by which we are able to funnel enough money into our campaign and into the maw of those who would spend the money, or into the maw of insatiable television and hungry radio and the available press, we would not have to demean ourselves or demean the office, because everyone would know what everyone else knows. There is no need, then, for reporting that at certain times, in last-minute reporting, for example, where someone receives a $50,000 contribution, whether it be from one group or another, in order to defeat the incumbent or to elect the opponent.

I know it is a temptation among Senators to say, "This gives my opponent an even break." If we believe that, then vote for the amendment.

If we believe that the other fellow is entitled to an equal break, then vote for the amendment.

But if we do not believe that the other fellow is entitled to an equal break, then we have another choice.

I know that this is difficult and can cause people to think twice and say, "Well, I am an incumbent, I can get more money than he can—or we can." I have to say "we can" because I have had opponents of both sexes running against me, but not at the same time.

Therefore, I think that here we can make a clean break with the past. We can make a clean path toward the future. We can say to the whole people of this country, "We really mean what we are talking about here in the Senate"—unlike some of the things that happened yesterday. We can convince the people of this country that we want a clean election. We can convince them that everyone starts out equally at the starting gate. We can convince them that the money is being used for proper purposes in an honestly run election, under circumstances which everyone understands, and under the rules of a game which are inherently fair to everyone.

Mr. President, I reserve the remainder of my time.

Mr. KENNEDY. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER (Mr. HELMS). The Senator from Massachusetts is recognized for 5 minutes.

Mr. KENNEDY. Mr. President, the distinguished Senator from Pennsylvania has stated very ably to the Senate the philosophy and the spirit with which this amendment is being put forth. He has identified the most significant aspects of it.

However, I should like now to describe the particular provisions of it and then I intend to yield to the distinguished Senator from Minnesota (Mr. HUMPHREY) to make the comments he wishes.

The major provisions of the amendment are as follows:

First, the amendment adds a new title, the "Congressional Election Campaign Fund Act," to the Federal Election Code. The new act provides public funds for general and special elections for the Senate and House. However, as the Senator from Pennsylvania has noted, it does not apply to primaries or runoff elections.

This tracks the proposal of the distinguished Senator from Louisiana in not allocating the funds for the primaries in the case of Presidential campaigns. That raises many difficult questions, and it is going to be the subject of extensive hearings about how to proceed with public financing in this area. But we do not address ourselves to that problem in this amendment. We are just taking a small step forward here today.

Second, the amendment makes public financing mandatory for Senate and House elections. Thus, it bars the option of private financing by major candidates. However, a candidate of a major party may use private funds to make up a deficit in his entitlement of public funds. A candidate of a minor party or a new party may use private funds only to reach the level of entitlement of major party candidate So if a minor party candidate receives, under this formula, his portion of public funds and he still wants to expend more, he will be able to accept contributions up to the level of entitlement of the major party candidates.

Third, the amendment also bars the option of private financing for Presidential elections. This is the only change made by the amendment in the operation of the dollar checkoff in existing law, which offers public financing as an alternative to private financing for Presidential elections.

Fourth, the amendment establishes a congressional election campaign fund on the books of the Treasury, to be funded out of general appropriation acts of Congress, and from which public funds will be made available to eligible candidates. Unlike the dollar checkoff, the fund for congressional elections does not involve the tax form. However, amendments to the checkoff on the Debt Ceiling Act of July 1, 1973, have now eliminated the so-called "special" accounts, and have left only a "general" account to be allocated by formula among Presidential candidates. As a result, the Presidential election campaign fund in present law is now closely similar to the congressional election campaign fund to be established by the amendment.

Fifth, the amendment follows the basic formula in the dollar checkoff for allocating public funds among candidates of major and minor parties, but changes the entitlement to 20 cents a voter, in accord with the spending ceilings in S. 372.

Sixth, a candidate of a "major party"—a party that received 25 percent or more of the total number of popular votes received by all candidates for the office in the preceding election—is entitled to receive public funds in the amount of 20 cents per eligible voter.

Seventh, a candidate of a "major party"—a party that received more than 5 percent but less than 25 percent of the popular vote in the preceding election—is entitled to receive public funds in proportion to his share of the vote in the preceding election. A candidate of a minor party may increase his entitlement on the basis of his performance in the election.

Eighth, a candidate of a "new party"—a party that is not a major party or a minor party—is entitled to receive public funds in proportion to his share of the popular vote in the current election, if he receives more than 5 percent of the vote in the election. So 5 percent of the vote is really the cutoff in terms of entitlement to receive any public funds at all. If they move beyond that level, their percentage of the fund will depend on the percentage of the vote they actually receive.

Ninth, public funds will be available for expenditures made by a candidate of a major party during the period beginning with the date on which the party nominates its candidates and ending 30 days after the election. Public funds will be available for candidates of other parties during the shortest period in which they are available to a candidate of a major party.

Tenth, individuals or committees not authorized by a candidate may not spend more than $1,000 during the campaign on behalf of the candidate of a party eligible for public funds.

Eleventh, the program will be administered by the new Federal Election Commission, to be established by S. 372. A Congressional Election Campaign Fund Advisory Board is created to advise the Commission in the performance of its duties.

Mr. President, Congress stands today at a significant crossroad in the movement for real reform in the financing of American political campaigns. We have the chance today to move political financing of Senate and House elections out of the shadows of the special interests and into the sunlight of public responsibilty.

By voting for the Congressional Election Campaign Fund Act, we will establish the principle that public funds should be used to support the campaigns of candidates for the Senate and the House. It will be a new departure in American public life, full of promise for the future, full of potential, at last, for making the legislative branch of our Government truly responsive to the people.

For generations, we have blindly accepted the principle of private financing, long after the principle had become twisted and distorted in a way that no democracy worthy of the name could tolerate. For years, we have talked of campaign slogans in phrases like the politics of peace, the politics of hope, and the politics of reconciliation, but behind it all was a much more cynical form of politics—the politics of money.

No one denies that the most serious problem in the American political process today is the problem of campaign financing. The skyrocketing cost of election campaigns has produced a situation in which all but the wealthy—or their friends—are prohibited from running for public office.

The potential political candidate of modest means is being driven from the field. Unless he is a person of wealth himself, he faces the choice of either running a shoestrong campaign or relying on a few large contributors. If he takes the shoestring route, he faces the prospect of almost certain defeat. If he goes the route of the large contributors, he inevitably creates the sort of ambiguous relationship in which he is obligated—or appears to be obligated—to his wealthy supporters.

Today, at a time when all our institutions are under question over Watergate, the millions of private dollars now pouring into election campaigns are giving politics the air of dirty business. The abuses breed cynicism among our citizens and dropouts from our democracy.

Indeed, it has been well said that in America today, we have the best Congress money can buy, and it is a disgrace to every basic principle on which the Nation stands.

Many distinguished Americans have recognized the problem. President Eisenhower was among those who have stated it most eloquently. As he said in an article in 1968:

> We have put a dollar sign on public service, and today many capable men who would like to run for office simply can't afford to do so. Many believe that politics in our country is already a game exclusively for the affluent. This is not strictly true; yet, the fact that we may be approaching that state of affairs is a sad reflection on our election system.

The time has come to recognize the stranglehold that private financing has placed on our political system. If we have the courage of our convictions, we will vote for the pending amendment, and thereby establish the long-overdue principle of public financing for congressional campaigns.

We need more hearings on many aspects of public financing, but the last thing we need is more hearings on whether to adopt this amendment applying the simple basic principle of the dollar checkoff to Senate and House elections.

The idea of the dollar checkoff first saw the light of day in Congress 7 years ago. In October 1966, under the brilliant leadership or Senator RUSSELL LONG of Louisiana, the chairman of the Senate Finance Committee, Congress enacted the Presidential Election Campaign Fund Act of 1966, Public Law 89-809. By that act, individual taxpayers were authorized to designate $1 of their income tax to be placed in a special fund to be used for financing Presidential election campaigns. Because the tax checkoff provision was based on the principle of direct public financing of political campaigns, the act was highly controversial. One of its principal virtues, however, was that it served the extremely useful purpose of stimulating a far-reaching national debate on a variety of possible methods of reforming the financing of political campaigns.

In his message to Congress on the "Political Process in America" in May 1967, President Johnson took up the call. He emphasized his support for direct public financing of political campaigns, and suggested a series of basic amendments to the original 1966 act. In addition, President Johnson recommended that Congress undertake an extensive review of other methods of financing election campaigns by methods such as direct appropriations, tax credits or deductions, treasury vouchers, and various matching grant plans. In June 1967, after extensive controversy, Congress enacted legislation prohibiting implementation of the 1966 act until statutory guidelines under the act were enacted.

Then, in November 1967, after comprehensive public hearings comprising a final printed volume of 513 pages, the reported H.R. 4890, the "Honest Elections Act of 1967." As reported by the committee, the bill retained the basic principle of the checkoff, but made a thorough revision of the 1966 act, and extended its coverage to elections to the Senate. In authorizing public financing for both Presidential and senatorial election campaigns, Senator LONG's committee bill answered virtually every objection of the opponents of the original act in 1966. Unfortunately however, no further action was taken on the measure in that Congress.

In fact, 4 more years went by before Congress, in 1971, finally enacted the checkoff into law, to become effective for the 1976 Presidential elections.

We know that the problems of campaign financing are, if anything, even more serious in Senate and House elections than they are in Presidential elections. Today, we have the chance to meet the need. We can end the corrosive power of private money and vested interests in Senate and House elections. We can shut off the underground rivers of influence money that pollute our politics. We can clean the stables of our Government and tell America we are beginning to learn the lesson of Watergate.

In sum, I believe that the provision of public funds for Senate and House elections is the best investment the American taxpayer can make today to end the most flagrant single abuse in our democracy, the unconscionable power of money. Rarely have we had the opportunity to act to meet so great a need, or to vote on a measure so full of potential for keeping our political system running and responsive. I hope that the amendment will be accepted by the Senate.

Mr. President, let me emphasize again that this amendment is really building on the brainchild of the distinguished Senator from Louisiana (Mr. LONG), who has been in the forefront of reform in campaign financing. He brought the measure with regard to presidential elections to the floor in 1966, and he has stood in the well of the Senate for many hours, awakening this body to the importance of supporting his concept.

Thus, the amendment which has been offered by Senator SCOTT and myself builds upon what I think has been one of the monumental and outstanding legislative achievements of the distinguished Senator from Louisiana, in trying to make sure that the way we elect candidates to the offices of the presidency will be beyond reproach with respect to the financing of their campaigns.

Mr. President, I yield 5 minutes to the Senator from Minnesota.

Mr. HUMPHREY. Mr. President, I rise, first, to support this amendment; second, to commend the distinguished Senator from Massachusetts and the distinguished minority leader, the Senator from Pennsylvania (Mr. SCOTT), for offering this amendment.

The substance of this amendment has been talked about in the cloakrooms of Congress and the caucuses of our parties. It has been written about in newspapers and professional journals. The substance of the amendment has a history of support by four Presidents. The substance of this amendment has its counterpart, in some of the democratic countries of Western Europe.

However, having said all this, this is why we need the amendment: In politics, regrettably, what is true is not always as important as what some people perceive to be true. Those of us who run for office can profess that the campaign contributions we receive do not in any way control our votes.

But I venture to say that not many people believe it. It is what people believe to be true in areas of public opinion and public affairs that turns out to be more important than what may really be true—the perception that people have. I regret this, but that is the way it is.

I have been in a number of campaigns, and I enjoy the campaigns I like them. But the most demeaning, disgusting, depressing, and disenchanting part of politics is related to campaign financing. There may be those who can get up here and say, "It has never been difficult for me." There are those fortunate ones who have not had to ask for too much help. They may be in a situation where in their State or in their district they are not faced by tough competition, and therefore a very modest expenditure may be all that is needed. In such circumstances, it may be that an individual can take care of his campaign expenses out of his or her own income. But those are exceptions, not the rule.

Most of us, when we campaign, are on the telephone, calling up our friends, calling up committees, meeting with people, often times begging for help.

Searching for campaign money is a disgusting, degrading, demeaning experience. It is about time we cleaned it up. The public expects this body, the Congress of the United States, not to be just the critic of the President or the President's reelection committee, but have some self-analysis, self-criticism, stand up, and do what is right.

The bill before us is going to do much to help, even without the Kennedy-Scott amendment. I think there are many wonderful features in the proposed legislation. I commend the chairman of the Committee on Rules and Administration, I commend the chairman of the Committee on Commerce, and other Senators who have done so much, such as the Senator from Louisiana (Mr. LONG) and the Senator from Rhode Island (Mr. PASTORE), and others who have done so much to elevate politics and bring about campaign reform.

We have said we are going to have funding for the office of President and Vice President. We have the dollar checkoff. I vigorously supported that.

The PRESIDING OFFICER (Mr. HELMS). The time of the Senator has expired.

Mr. KENNEDY. I yield 5 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. HUMPHREY. Thank God, it is now a matter of law and it will be on the tax form. That will provide the income taxpayer the opportunity to designate one dollar out of his income tax and put it in a general fund which will be distributed to Presidential campaigns on the basis of a formula that this Congress has devised.

Mr. President, that is a victory for decency and integrity in politics, but it is only one-half of the cause. The currency is counterfeit until we take the other step. I want the currency of American politics not to be devalued by deception. I want the currency of American politics to be on a standard higher than gold itself.

Therefore, the Congress of the United States must come to grips with the fundamental issue of the financing of campaigns for Federal office.

I know that many a voter is going to say, "All they are doing is taking care of themselves." Mr. President, let me tell you it is better that the public take care of us than some private interest.

What we are proposing here is a fund to be administered by an impartial, objective election commission. We are not going to have our bookkeepers come around and say that they forgot to record it or, "I do not remember the name of the contributor," and many times that happens in the crazy mixup of a campaign.

This amendment gives us a chance to clean up campaign financing. It gives us a chance to do what needs to be done in American politics. I want to say to the American people it will be the best investment they ever made, the very best. It will lift American politics out of the quagmire, out of suspicion, doubt, fear, degradation, and corruption.

Senators should make up their minds: Do they want to do it or not. I think this amendment offers us a great chance. This amendment will help American politics and the American people and give the people a free voice in whom they want for their public representatives.

Mr. President, I yield to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, I wish to merely say that no one can disagree with what the Senator from Minnesota has said. He is a man very much experienced in the politics of the country, not only as a mayor, but also as a Senator, as Vice President, and as a candidate for President of the United States.

I think the day will come and the day must come when we must find a solution. There is no question about it. No man in public life should be beholden to anyone, least of all the President of the United States.

I think one of the most disgusting experiences we have are these thousand-dollar dinners. As I have said a hundred times, these donors cannot be confined to a son or a mother. He must have an ante. There is no question about it.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KENNEDY. Mr. President, I am glad to yield to the Senator whatever time he requires.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PASTORE. The thing that concerns many of us is the practicality of the administration of a program such as this. I do not think we have defined it clearly enough to make sense. Let me give an example. In my State of Rhode Island a person gets the nomination, either as a Democrat or a Republican, or whatever it may be. But then, under our laws, he can become an Independent candidate on the ballot if he can get 1,000 signatures. Now, in Rhode Island, it is not difficult to get 1,000 signatures if a person belongs to the Knights of Columbus, or he can go and stand in front of the church on Sunday morning and collect 100 signatures and in a couple of Sundays he will have 1,000 signatures. Then, he is on the ballot. Suppose he is a student of Brown University and he has the right to run for Congress or the Senate. In Rhode Island it takes $150,000 to run for office. According to the sheets we have before us, if we take the formula prepared on the part of the committee, in New York a candidate is entitled to $2.525 million.

My question is this. Let us assume that New York has a law such as we have in Rhode Island where by collecting 1,000 signatures a person can get on the ballot. That means if you have 50 or 20 candidates running for office, each one is entitled to $2 million out of the Treasury.

Mr. HUMPHREY. It is my understanding it does not mean that.

Mr. KENNEDY. As I understand the example, he would be eligible for public funds only if he received at least 5 percent of the vote in the election. Candidates of minor parties or new parties do not qualify for public funds unless they obtain 5 percent of the votes in the current election, or if they obtained 5 percent of the vote in the previous election. They do not receive any public funds just because they get on the ballot.

Of course, the student would have to be 25 years old to run for the House and 30 to run for the Senate.

Mr. PASTORE. I understand that. Assume the person is 25 years or 30 years of age, and he is a poor man. He has never run for public office before but he wants to take a chance on it. The laws of Rhode Island welcome that. I have always believed in a broad spectrum of participation. I do not think anyone should be prohibited from running.

Now, JOHN PASTORE gets the nomination as the Democrat. I have never had too much trouble in getting the nomination.

Mr. HUMPHREY. Or in getting elected.

Mr. PASTORE. Under the formula we have here, I would be entitled to $175,000. My opponent who has the Republican nomination is entitled to $175,000. We have a number of individuals who have never tried for public life before, they have a perfect right to do so, so they go out and get 1,000 signatures. Now they are on the ballot. Now the Senator is telling me that they have to go out and raise the money, poor as they are, and hopefully, if they get a certain percentage of the votes, they will be paid for that. Is not that individual being put at a gross disadvantage as against me?

Mr. HUMPHREY. Not much more than the facts of life today——

Mr. PASTORE. No; the Senator is too fast with that. I am not trying to be facetious.

Mr. HUMPHREY. I am not, either. I am very pragmatic.

Mr. PASTORE. The Senator is very pragmatic. I know he is. It is always a pleasure to discuss matters—not debate, but to discuss—with the Senator from Minnesota and the Senator from Massachusetts, whom I very much respect. I have deep affection for both of them, and they know it better than anyone else. But what we are doing here is making it pretty easy for the candidates who run on the major party political tickets and we are making it very difficult for independent candidates, and somehow this ought to be studied. I tell you, eventually something has got to give.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SCOTT of Pennsylvania. Mr. President, I yield 2 minutes.

Mr. PASTORE. This country cannot stand another Watergate. We all admit that. But somehow I think we have to reach some kind of solution whereby we spread out the participation and at the same time we do not give an advantage to the incumbent, we do not give an advantage to the two major parties, and we take care of the independent candidates. I do not think we have solved that particular problem.

Mr. KENNEDY. Mr. President, I yield myself 1 minute. The Senator from Rhode Island has raised the same question we dealt with in the case of presidential elections on the dollar checkoff. We are not saying here that this amendment is going to solve all the different kinds of problems, but the problem he has identified here exists just as rightly for someone who wants to run for President of the United States, which is just as important. We have recognized that in the dollar checkoff and provided a formula to strike a balance for minor party candidates.

The Senator from Louisiana (Mr. LONG) understands the problem. He has debated time after time on the Senate floor. Our amendment provides exactly the same answer for Senate and House elections. It is not an answer to all the problems, but it addresses the most grievous and most important needs with regard to House and Senate elections.

All we are doing is taking the same logic—really, the same language—and applying it to Congress.

Mr. PASTORE. I was the one who introduced the checkoff. I was quite proud of it. We had quite a to-do here on the floor about it, together with the Senator from Pennsylvania. I understand that. What I am trying to do here is refine it——

The PRESIDING OFFICER. The time has expired.

Mr. SCOTT of Pennsylvania. Mr. President, I yield 1 minute.

Mr. PASTORE. What I am trying to do is refine it so we can understand it. I referred to the limitation to independent candidates, because I do not want to do something to shut them off. If we want the purity of the ballot, we have to have wide participation. I am not worried about people who run for the presidency. Today a poor man can forget it before he gets started. I think the Senator from Minnesota will agree with that.

Mr. HUMPHREY. Mr. President, let me say "amen" to that.

Mr. PASTORE. We are not talking about running for Congress and for the Senate.

Mr. KENNEDY. Obviously what we are trying to do is strike a proper balance between the need to provide public financing for serious candidates for the House and the Senate as well as for the President, and not provide public funds across the countryside for every Tom, Dick, and Harry who fancies himself as a Senator or Congressman. Obviously, we do not want to freeze out minor party candidates. But we also do not want to spend public funds for political joyrides at the taxpayers' expense. That is the issue, and the formula in the amendment is the same formula we wrote into law in 1971 to try to strike a balance. We recognize the problem the Senator from Rhode Island has identified, and we have tried to deal with it.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. KENNEDY. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 14 minutes remaining.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield to me?

Mr. KENNEDY. Mr. President, I yield 2 minutes to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. I want to ask a series of questions. I cannot ask a series of questions on a complicated bill like this in 2 minutes.

Mr. KENNEDY. Mr. President, how much time have I used up?

Mr. HARRY F. BYRD, JR. There is time on the bill.

Mr. KENNEDY. That is right, but I do not have control of it.

Mr. CANNON. Mr. President, I will yield 10 minutes to the Senator from Virginia.

Mr. SCOTT of Pennsylvania. Mr. President, will the Senator from Virginia yield long enough to allow me to reply very briefly in the context of what the Senator has just said? I yield myself 2 minutes to respond to the Senator from Rhode Island.

Mr. HARRY F. BYRD, JR. I yield for that purpose.

Mr. SCOTT of Pennsylvania. Mr. President, I have the greatest respect for the Senator, who is chairman of the Communications Subcommittee, but there are 2 answers to make to his comments. First, that the time for the bill has not come; that this is a good idea, but we ought to wait, season it, look into it. We have been looking for this kind of legislation for 69 years, since 1904, and 69 years is long enough to consider it.

Second, why should we consider the situation of a person who gets 1,000 votes? We have to start somewhere. This is a self-starter. Why should we include a man who can come in and get 1,000 votes or 2,000 votes? If anybody can get the Government to finance him and he can get a free ride and free publicity and all expenses paid in order to get 1,000 votes, it is worth the excitement; it is worth the publicity.

We have to stop somewhere. That is why there is the 5 percent arbitrary cutoff. Anyone who get 5 percent ought to be reimbursed, but we ought to think long and hard about reimbursing him if he has gotten only 1 percent, because he is not going to have ——

Mr. PASTORE. Will the Senator yield?

Mr. SCOTT of Pennsylvania. Yes.

Mr PASTORE I think the Senator misunderstood my hypothetical question I am not talking about 1,000 votes. I said in Rhode Island in order to encourage broad participation we have made it possible to run as independents——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SCOTT of Pennsylvania. Mr. President, I yield 1 minute.

Mr. PASTORE. To become candidates, all they need is 1,000 signatures. I did not say anything about 1,000 votes.

I ask the Senator a question. Take a new man who is a bright young man and who has a wonderful reputation in the community. He wants to make a try. He cannot get the Republican nomination or the Democratic nomination. He wants to run as an independent, as the Senator from Virginia did. I am asking the question, "Where does he fit into the picture?" He has no past record as to the number of votes he received. He is a brandnew man in his first venture. What do we do for him?

Mr. SCOTT of Pennsylvania. In other words, if he is that good, 5 percent of the people will vote for him, so he gets reimbursed.

Mr. PASTORE. To what extent?

Mr. SCOTT of Pennsylvania. For his expenses

Mr. PASTORE. Where does he get the money to run for his campaign before the 5 percent vote? He gets 5 percent on election day. The campaign is before election day. Where does he get the money to campaign? I get the money from the Government. Where does he get it?

Mr. SCOTT of Pennsylvania. It costs 20 cents a vote. If he could not support that under the surety of being reimbursed, then it seems to me he is running for the sake of seeing his name in the papers.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. SCOTT of Pennsylvania. One more minute.

Mr. HUMPHREY. I merely want to say this. Under the present system, if a person is nominated under the party label, he obviously has a financial advantage starting out. And if he is powerful figure, such as the distinguished Senator from Virginia is, he already has a following and a constituency second to none.

We are not changing the rules. A new person comes in on a petition, as is done in a number of States. So it does pose a problem. The Senator from Rhode Island is posing some of the difficulties we have here. The question must be answered. As a partial answer, at least, the independent can get on that ballot, and if he has enough votes to be able to get 5 percent of the total votes cast—which is not an awful lot—he will be fully reimbursed.

In the meantime, he can, if he really is not the kind of man who has a great deal to offer, go out and raise money privately for that period of time to carry on a campaign. It is not the best of all worlds. It has loopholes in it.

I think that the senior Senator from Rhode Island has made a powerful argument here. We should take cognizance of it and be aware of it. However, even if the amendment is agreed to, it is only a beginning.

Mr. HARRY F. BYRD, JR. Mr. President, I doubt the wisdom of dipping into the Federal Treasury to finance campaigns for Members of the Congress of the United States. The taxpayers are hard enough hit already.

However, that is not my reason for rising at this time.

I want to cite three examples to the distinguished Senator from Massachusetts to try to get an answer to the questions raised by the questions asked by the Senator from Rhode Island.

I want to get back to the 1966 campaign in Virginia. I was the Democratic nominee. There was a Republican nominee. And the Conservative Party, saying that I was too liberal, put up a candidate against me. I was not too happy about that because all of those votes were coming away from me. Nevertheless, he had a right to run, and the Conservative Party had a right to put up a candidate against me.

If the provision of the Senator from Massachusetts had been in effect at that time, I ask the Senator from Massachusetts what would have been the amount of money that I would have received from the Treasury? How much would the Republican nominee have received from the Treasury? And how much would the Conservative nominee have received from the Treasury?

Mr. KENNEDY. Mr. President, if this provision had been applicable, with the 20-cent limitation, the candidates for the two major parties would have been able to receive up to 20 cents a vote.

Mr. HARRY F. BYRD, JR. What about the nominee of the third party?

Mr. KENNEDY. If he won at least 5 percent of the vote, he would have been able to receive compensation after the election on a pro rata basis, based on his proportion of the vote.

Mr. HARRY F. BYRD, JR. How would he have gotten his money in the meantime? He cannot charge his airplane tickets. He cannot charge all of his transportation and hotel facilities and all the other expenses—billboards, advertising, newspaper ads, and television. How does he get his money to run against me?

Mr. KENNEDY. This amendment requires an independent candidate to go out and borrow private funds and obtain private contributions to make the race, which is exactly what he has to do now. But he can expect to be reimbursed after the election if he is able to get at least 5 percent of the vote. He would then be reimbursed.

Mr. HARRY F. BYRD, JR. What the Senator is saying is that I would receive almost a half a million dollars from the Federal Treasury as the nominee for the Democratic Party. Also, the Republican nominee would receive almost half a million dollars from the Treasury. Then the candidate of the Conservative Party, who is trying to defeat me, would not get anything, but would have to go out and raise a half a million dollars to run against me. I ask the Senator if that is fair.

Mr. KENNEDY. The Senator states that situation fairly and accurately. That is the way the law strikes the balance for Presidential elections, and that is the way our amendment would apply.

Mr. LONG. Mr. President, will the Senator yield?

Mr. KENNEDY. Mr. President, I yield to the Senator from Louisiana for the purpose of answering the question.

Mr. LONG. Mr. President, the Campaign Financing Act was in effect at that time.

Mr. HARRY F. BYRD, JR. I am talking about another campaign.

Mr. LONG. I thought the Senator was talking about what happened in Virginia the last time.

Mr. HARRY F. BYRD, JR. I am talking about another campaign. Under this proposal, in 1966 I would have received almost a half a million dollars. The Republican nominee would have received almost half a million dollars. The nominee of the third party, the Conservative Party—who also has a right to run—would have received nothing. And I might say that I was not happy to have him running against me, but he should receive fair treatment.

Mr. HUMPHREY. Mr. President, was the Conservative Party a viable party prior to 1966? It was created in 1966 as a new entity.

Mr. HARRY F. BYRD, JR. The Senator is correct.

Mr. HUMPHREY. But the whole purpose of this bill is not to exclude that new entity, but not to invite frivolity and an extraordinary super duper conservative.

Mr. HARRY F. BYRD, JR. The Conservative Party had a candidate in the previous gubernatorial election, in 1965.

Mr. HUMPHREY. Mr. President, what was the vote?

Mr. HARRY F. BYRD, JR. He got 15 percent of the vote.

Mr. HUMPHREY. Then he would have been eligible to be reimbursed.

Mr. HARRY F. BYRD, JR. He would have been eligible for the half a million dollars.

Mr. KENNEDY. Mr. President, if he had been running for Federal office, he would have been eligible for an entitlement based upon the number of votes he received. He would have met the 5-percent cutoff in the preceding election.

Mr. HARRY F. BYRD, JR. Mr. President, let us get this straight. He would receive a great deal less than the Republican nominee and a great deal less than the Democratic nominee. Is that a correct statement?

Mr. KENNEDY. The Senator is correct. However, even if he meets the 5-percent provision, the eligibility provision, he can also use private financing up to the total amount expended by one of the major candidates.

Mr. HARRY F. BYRD, JR. The point I am making is that we are saying to one candidate: "You are at liberty to get contributions, if you can, from other people; solicit them, and do what the Senator from Minnesota says is a degrading thing. However, those of us who are candidates of the major parties do not have to do that. We can come to Washington and get a check for a half a million dollars and go ahead with our campaigns." That is not a very fair proposition.

Mr. KENNEDY. Mr. President, obviously we have to strike some kind of a balance here. We are not trying to go out and offer Federal funds to tempt candidates to run. We cannot give everybody $500,000 who says he want to be a Senator from the Commonwealth of Massachusetts or the Commonwealth of Virginia.

The Senator from Virginia knows that I would not support it if we had such a formula. And I know that he would not support it either.

We are trying to strike a balance here. The Senator was addressing a question to me earlier about the Virginia situation. We have accepted a formula that was devised as a result of 531 pages of hearings in 1967 on the effect of the dollar check-off or minor party candidates. We have provided public funds for a candidate who runs and gets 5 percent or more of the votes cast. He will get an entitlement on the basis of that vote.

We are trying to provide a legislative proposal that is sound enough to deal with the most critical aspects of the financing of campaigns, without impeding the legitimate role of minor party candidates.

Mr. HARRY F. BYRD, JR. Mr. President, I want to move on to another example. This is an important piece of legislation, and I think that we ought to understand it before we vote on it.

We come now to the campaign of 1970 in Virginia. The Democratic State Central Committee on February 21, 1970, changed its rules and said to me, as the incumbent: "Senator, if you want to seek the Democratic nomination, you must take an oath to support whoever the Democratic Party nominates for President in 1972."

I thought about that a little bit, and I decided that I would not take an oath to support some unnamed candidate 2 years hence when no one knew at that time who he would be or what he would stand for or what his philosophy might be.

So I did not file in the Democratic Primary. Then the Republican Party in Virginia said they would nominate me provided I would take an oath to them.

I decided I was not going to take an oath to anybody except the 4.9 million people of the State of Virginia. I concluded I would take my Senate record directly to the people of Virginia as an independent.

The Democratic Party nominated someone against me, and the Republican Party nominated someone against me. Each of those candidates, under the Kennedy proposal, would have gotten $500,000 out of the Federal Treasury under this legislation. I ask the Senator from Massachusetts, "what would I have gotten?"

Mr. KENNEDY. The Senator would have received an equal amount, the same amount as a major party candidate, by just tracking the Russell Long formula enacted into law in the 1971 checkoff. I think it's a tribute to Senator Long's insight that all the questions being raised today were raised in 1971 when we voted for the dollar checkoff for Presidential elections. We dealt with dozens of examples, based on how George Wallace would fare as a major party candidate. He had run on one label in one State and another in another State, but based upon his total popular vote, he would have been eligible for public funds if he had run in 1972 and if the law had been in effect.

The PRESIDING OFFICER. The time of the Senator from Virginia has expired.

Mr. HARRY F. BYRD, JR. I would like a little more time to discuss this matter.

Mr. INOUYE. I yield the Senator 5 minutes more.

Mr. HARRY F. BYRD, JR. Where does the legislation say this?

Mr. KENNEDY. The provision in our amendment is identical to the provision in the Presidential checkoff, which dealt with the same problem and allows a candidate to receive public funds based on his personal showing in the previous election, regardless of party label. That's the way the dollar checkoff applies, as I understand it, and that's the way our amendment applies.

It is written into the language of the amendment, in section 504(a) (2) (B), on pages 10 and 11 of the amendment.

The Senator from Virginia would have received public funds as if he were a major party candidate. Democratic Party, as well as the Republican Party.

Mr. HARRY F. BYRD, JR. How would the Senator from Virginia have received it?

Mr. KENNEDY. On the basis of his personal showing as a candidate in the preceding election, he would have received all the public funds to which a major party candidate would be entitled.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. I yield.

Mr. PASTORE. I think the Senator is giving the classic example of my dilemma.

Take the Senator's situation. Because he is Harry Byrd, running in Virginia, he won as an Independent. But let us assume he had not won as an Independent, that instead of getting the majority of the votes, he had received only 10 percent of the votes. That would have meant the man who was a member of the U.S. Senate, but was forced to run as an Independent, would have to confine his campaign to only $50,000, because he would only get 10 percent of the $500,000.

So the Senator might say, "Well, I have spent a half million dollars, like the others did." He would have to pay for that out of his own pocket, under this amendment. He would have to pay for it out of his own pocket. Yet the Democratic candidate who lost to him, and the Republican candidate who lost to him, even if they got only 30 percent of the vote, would still get a half million dollars.

Mr. HARRY F. BYRD, JR. The Republican nominee got 15 percent of the vote.

Mr. PASTORE. Fifteen percent of the vote; but under this amendment, he would still get the half million dollars.

Mr. HARRY F. BYRD, JR. The Democratic candidate got 30 percent of the vote. I got 55 percent of the vote, and would not get anything. Incidentally, Time magazine on March 30, 1970, said I would run third in a three-way race.

Mr. KENNEDY. Mr. President, if the Senator will read through the amendment, he will see, at the bottom of page 10, under subparagraph (B), the following language:

> By taking into account all the popular votes received by such candidate for such office in the preceding election for such office.

That would take into consideration the special circumstances of the candidacy of the Senator from Virginia. Let me emphasize again that this provision is modeled exactly on the dollar checkoff. That is the way we handled this problem in 1971, and it is a tribute to Russell Long's genius on this issue that the problem was so clearly anticipated and so clearly dealt with.

Our amendment holds water, and it clearly responds to the very type of situation that the Senator from Virginia has identified and addressed himself to.

Mr. HARRY F. BYRD, JR. I am not clear as to how it does, I might say to the Senator.

Mr. LONG. Mr. President, will the Senator yield?

Mr. KENNEDY. Mr. President, my side is down to 8 or 9 minutes.

The PRESIDING OFFICER. The Senator from Massachusets has 8 minutes remaining. The Senator from Virginia has 4 minutes.

Mr. KENNEDY. So I am reluctant to be yielding a great deal of time. I yield 3 minutes to the Senator from Louisiana.

Mr. LONG. Just give me 1 minute.

If I understand the way that the Presidential formula would apply to the senatorial race that would involve the Senator from Virginia, if he had no track record at all, that is, no party record, and so was entitled to no Federal funds to start with, the polls being what they are, with the kind of showing he was making in the polls at that time, he would have had no difficulty in obtaining loans to raise the half million dollars, if need be.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. LONG. And after the election he would be entitled to be reimbursed for the same half million dollars that the other people would be reimbursed for.

Mr. HARRY F. BYRD, JR. Why should the Senator from Virginia have to go out and raise his own money, when his opponents are being paid out of the Federal Treasury?

Mr. LONG. Because the Senator decided to depart from one party and run under a different label. But if the Senator would prefer, I know that, if it would persuade him to support this amendment, and he wanted to offer an amendment to apply to the situation that exists in Virginia, to say that if you are an incumbent running for election to the same office you hold, you could be reimbursed on the same basis as other major party candidates, I am sure it would be favorably considered.

Mr. HARRY F. BYRD, JR. No, I am not seeking any special favors for myself at all. I just want to find out how this thing works. The amendment of the Senator from Massachusetts——

Mr. LONG. My attention has been called by the Senator from Massachusetts to the fact that the Senator's situation is already taken care of by the language on pages 10 and 11 of the amendment, where the language is used "by taking into account all the popular votes received by such candidate for such office in the preceding election for such office."

Mr. HARRY F. BYRD, JR. There was another independent candidate in the previous election. It was a third party candidate, and he got 15 percent of the vote.

Mr. LONG. But according to that language, the Senator, having run for the same office before and having received the percentage that he had and been elected to it, and then decided to run as an independent next time, or decided to change parties, he would be entitled to the same reimbursement under this amendment.

Mr. HARRY F. BYRD, JR. Let me ask this, then: Who are the major candidates under this last situation? I got 55 percent of the vote, the Democrat got 30 percent of the vote, and the Republican got 15 percent of the vote. Who are the major party candidates under that situation?

The PRESIDING OFFICER. The 3 minutes of the Senator from Louisiana have expired.

Mr. KENNEDY. One more minute. The Republican Party would be the minor party in the next election for the purpose of this amendment. It is all based on the results of the previous election. The Democratic Party and Senator BYRD's party would be the major parties, but the Republican Party would be a minor party.

Mr. HARRY F. BYRD, JR. So they would not, then, be entitled to the full Federal funding?

Mr. KENNEDY. The Senator is correct.

Mr. HARRY F. BYRD, JR. That is very interesting. I think that is a very significant point.

Mr. KENNEDY. The same, I would add, would be true about the Democrats, if it turned out the same way.

Mr. HARRY F. BYRD, JR. That is a very significant point also. I have another example I want to state.

Mr. KENNEDY. That is why we have bipartisan support on this amendment.

Mr. HARRY F. BYRD, JR. I have another example I would like to put. I would like to have a little time.

The PRESIDING OFFICER. The Senator from Virginia has 3 minutes remaining.

Mr. HARRY F. BYRD, JR. We have another election in Virginia this year. It is a State election for the governorship. But let us assume it were a Federal election. Let us assume, for the sake of this argument, that it is an election to the Senate.

No one filed for the Democratic nomination. Not a single person in the great big State of Virginia, out of 5 million persons, none filed for the Democratic nomination for Governor. No one filed for the Republican nomination. Both candidates filed as Independents, and then one Independent was made the nominee of the Republican Party, and the other is running as an Independent.

Let us assume that situation arose in the race for the U.S. Senate. How does this amendment work under those conditions?

Mr. KENNEDY. If the Senator will fill us in a little more on the factual situation, I will apply the formula. If the Senator wants to give me the hypothetical situation, I will spell out how the formula would apply.

Mr. HARRY F. BYRD, JR. I will give the Senator the exact situation. When the filing deadline passed in Virginia, the nominee, a candidate——

Mr. KENNEDY. Perhaps the Senator could use an example with respect to the House, or the Senate. Does the Senator want to give me a hypothetical situation to apply to the House or the Senate? Then I would be able to respond.

Mr. HARRY F. BYRD, JR. I am applying now what happened in the governorship race, and I am assuming that the same thing would happen in the race for the U.S. Senate.

I am giving the Senator an exact example in the race for Governor, but we will apply that example in the race for the Senate. A man named Henry Howell, the present Lieutenant Governor, filed for Governor as an independent. A man named Mills Godwin, a former Governor, announced as an independent for Governor. Leave out the governorship and bring it to the Senate. Assume both men, Howell and Godwin, filed as independents for the Senate.

The Democrats nominated no one. Not a single person filed for the Democratic nomination. There is no Democratic nominee. Former Governor Godwin has become the Republican nominee, having been nominated by the Republican Convention.

So we have two candidates and let us assume that those two candidates are running for the Senate, one a candidate of a major party and the other an Independent; the other major party, the Democratic Party, having no candidate. How would the money be divided?

Mr. KENNEDY. The application of the formula is rather simple. The Democratic funds would not be used. The Republican candidate could receive public funds as a major party. The Independent would receive no public funds in advance, but he could be reimbursed after the election, if he made the 5 percent cutoff.

Mr. HARRY F. BYRD, JR. Although I am not——

Mr. KENNEDY. Back to the other example——

Mr. HARRY F. BYRD, JR. Although I was not a supporter of Mr. Howell, I would not want to put him in that fix. He is entitled to be treated fairly—which would not be the case under the proposal of the Senator from Massachusetts.

We have got to think this proposal of the Senator from Massachusetts through more carefully than has been done. It seems to me that is very unfair to many people who may want to run for public office. If that is what Congress wants to do, it has the right to do it. But the more this amendment is considered, the more dangerous it becomes—and the more costly it will be to the taxpayers if we begin tapping the Federal Treasury to finance congressional campaigns.

Mr. CANNON. Mr. President, I yield myself 1 minute to say that it should be quite evident now, from the colloquy, the folly of trying to legislate on this very important subject on the floor of the Senate, when such legislation has not had any consideration by committees that have jurisdiction over the matter on such a very important subject, which needs to be thought out in greater detail—in fact, in minute detail.

To try to legislate it on the floor of the Senate, as the Senator has so well brought out, will get us into a can of worms when we are trying to get a campaign reform bill that will be meaningful. I hope and I think that some Senator will move to table this very unwise exercise here before we go home tonight.

Mr. MAGNUSON. Mr. President, will the Senator yield me 1 minute?

Mr. CANNON. I had promised to yield to the Senator from California (Mr. CRANSTON) some time ago. Will the Senator from California yield some time?

Mr. CRANSTON. I yield half a minute to the Senator from Washington.

Mr. MAGNUSON. Mr. President, I ask the Senator from Massachusetts, How would this formula apply—I wish the Senator from Louisiana (Mr. LONG) were here to hear this—where we just have a nomination down there and once they are nominated and they are elected, as sometimes in the congressional races no one files, they have collected the money to get nominated, and they may have lots of primary fights, could they come in and pick up the amount of money?

Mr. KENNEDY. The amendment is quite specific. It would have to be used for legitimate campaign purposes. If they were legitimate campaign purposes, then they would be compensated and they would be able to receive the money. But if they were not legitimate purposes, they would not be eligible for the money. Presumably, a candidate who had no opposition would not need much in the way of public funds in his campaign.

Mr. MAGNUSON. Who would define that?

Mr. KENNEDY. The Federal Election Commission, which will be administering the program. It will apply the same criteria used in relation to presidential campaign expenses. They are exactly the same criteria and formula and the same kinds of expenses that will be recognized as legitimate expenses in a national campaign. Obviously, they will be recognized as legitimate for Senators and Representatives.

Mr. MAGNUSON. Most Congressmen, particularly down South, and in other places, after the night of the election, start the next day to run again, and they may want to spend that money to build themselves up for a campaign that they know they will file for the next time.

This proposal does not take effect until 1976; is that correct?

Mr. KENNEDY. That is correct for the 1976 elections.

Mr. MAGNUSON. I thank the Senator from Massachusetts very much.

Mr. CRANSTON. Mr. President, with great reluctance I shall oppose this amendment. I have the greatest admiration for the Senators from Massachusetts and Pennsylvania. When they combine on a measure of this kind, it should receive our careful consideration.

However, the principal reason for opposing it is my belief that, despite my deep commitment to public financing and the fact that I am convinced we need it—and that is the other reason for my reluctance to oppose this amendment—despite those factors, the debate we have just had indicates how complex the matter is. I agree with the chairman of the committee that this is not the place, with the limited time we have, to try to write a bill that would cover public financing, much as we need it. The subject is far too complicated. There should be hearings and consideration by the appropriate committees. A group of us who believe in this principle have been assured by the Senator from Nevada (Mr. CANNON), the chairman of the committee, and the Senator from Rhode Island (Mr. PELL), who is chairman of the relevant subcommittee, that there will be hearings at which these other approaches can be considered following our action on this bill.

The debate we have had on one aspect of the bill, the definition of major and minor parties, and the entitlements to them under the amendment are a good demonstration of the fact that this is a complicated subject.

I believe that, despite the preceding session, the fact is that the senatorial candidate of the Conservative Party in Virginia would not be entitled to 15 percent of the money available under the formula, because the bill provides that one is entitled according to the vote for congressional office in the preceding election, so whatever the Conservative candidate for Governor had would have no effect on the candidate running for the Senate.

In West Virginia, another Senator BYRD usually gets somewhere between 70 and 80 percent of the vote in his elections. That means that the Republican Party would be transformed into a minor party in the Senate race without much funding, which I suspect is not the intent of the Senator from Pennsylvania. I believe we would have to explore this particular aspect of the bill with great care. We cannot do that adequately on the floor of the Senate.

The second problem, which is a major fault in the amendment, is that it provides no funding for candidates for the primaries. There should be public funding in the primaries. Large contributions can still play a major and corrupting role in the primaries. We must consider that problem of funding primaries in the committee hearings.

Third, the amendment provides that if a candidate receives full entitlement to the fund, he can accept no private funds at all. I question that on the ground of constitutionality; I question it on the ground of enforcement; and I question it on the ground of wisdom. But again, that is something that should be considered in committee, not in the hasty way we would have to consider it on the floor of the Senate.

One other reason for opposing the amendment: We need reform of the present system as S. 322 does. To jeopardize the reforms in the bill by tacking onto them a proposal that we cannot get passed would accomplish nothing.

Mr. PACKWOOD. Mr. President, it is with some reluctance that I shall oppose the amendment. It does not do the real job that we are trying to achieve. Most of the fatcats who get $10,000, and accept the money for running, would be happy to have public financing.

We are trying to get a sense of public participation. Nobody is going to get any sense of public participation by taking money out of the public treasury and giving it to us to run for reelection. Every time the Government taxes somebody or something, they get less of a sense of participation.

If we want to achieve campaign funding that is financed by small donations, what we ought to be talking about is a limitation on campaign contributions of no more than $1,000 or $2,000, a prohibition against the aggregation of money so that the bankers cannot have a BANK PAC and the doctors an AMPAC and the AFL–CIO a COPE and the Teamsters a DRIVE, and make every candidate go out and knock on doors and ask for money. And it is there.

I would wager that any of us who have gone into campaigns can knock on doors and say, "Can you give me $5 for a campaign?" That is not demeaning; that is a sense of participation. But once we become incumbents, it is too easy. It is easier to find one contributor for $5,000 than 1,000 who will give $5.

If you want to fund this out of public funding, do not do it by a Treasury appropriation. Allow every person who gives $1 or $5 or $50 to take a tax credit—a credit, not a deduction. Let him have a straight-out credit, and that is going to be public financing. But the candidates are still going to have to ask and talk to those people, door to door to door.

The good candidates, those who have volunteers, those who have followers who believe in them, will be able to raise the money; and the ne'er-do-wells, who under this amendment are going to get a half million dollars in Virginia, who have no deserving reason to have the nomination and only run for it perhaps because they can get a half million dollars, are not going to be able to raise that money door to door.

That is where we ought to be putting the emphasis—small donations, participation, tax credit—not some lump sum given to undeserving and deserving candidates alike, so that they can have a 6-month fling at the electorate, at the expense of the electorate.

Mr. KENNEDY. Mr. President, let me respond to some of the arguments that have been made by the Senator from California. He may not recall this because he was not here in 1967 when the Senate so vigorously debated all the issues he raised. We spent months debating this concept on the Senate floor. The Committee on Finance held exhaustive hearings. All these matters were debated on the floor of the Senate for 2 months. This is not a new idea at all. We dealt with all these issues on the dollar checkoff. There is no serious constitutional objection to the constitutionality of this amendment. The dollar checkoff was challenged in the U.S. District Court for the Southern District of New York, and the court dismissed the complaint out of hand. The question of constitutionality has no place in this argument. The constitutionality of the checkoff has been principal—the power of Congress to regulate private spending in Federal elections—has been sustained in a long line of Supreme Court decisions going all the way back into the 19th century. How can the Senator from California say that he has constitutional doubts on this amendment, as the power to vote for other amendments limiting the amount of private contributions?

Moreover, the Committee on Finance has had days of public hearings on this concept—more than 500 pages of printed hearings. It considered all the different concepts which have been talked about here, such as whether to have tax deductions for elections, or matching plans, or voucher plans. Congress decided long ago that the dollar checkoff was the right answer for Presidential elections, and I believe it is the right answer for Senate and House elections.

There has been talk about providing tax exemptions and deductions, and getting people to participate. Let us not fool ourselves with the examples given here this afternoon. All we have to do is to pick up yesterday morning's Washington Post and see the headline that Senators and Congressmen received $75,000 in contributions from private sources with an interest in the committee business handled by those Senators and Representatives. I never want to see a headline like that again.

The proposals of this amendment are tracking Senator LONG's original idea, which has had days of hearings and days and weeks of debate on the floor of the Senate. It does not handle all the questions. We do not handle what ought to be done in primaries. I agree with the Senator from California that we have to think about what we are going to do with regard to primaries, how we are going to make sure that people who want to participate can participate. This should be studied in future hearings, but it should not become an excuse for inaction in other areas now. Nor is it any answer to suggest that the Republican Party in West Virginia might fail to qualify as a major party. It would have to drop below 25 percent of the vote in an election, and the cases will be few and far between when a smart major party candidate captures more than 75 percent of the vote. And if it ever happens, the losing party can bounce right back in the next election, and in retroactive reimbursement as a major party in the basis of its showing in that election.

The idea has been advanced that we are trying to exclude all people from participating in the system. There are a lot of other ways people can participate in elections. Why do they have to give money in order to participate? We know who participates when money has to be given. It is the large and special interests. People can still knock on doors and go down to the campaign headquarters and make out envelopes and talk about issues and do the things which are essential and important and perhaps a good deal more effective, in trying to enlighten the electorate in terms of issues, than just making contributions. We are not excluding people from participation.

Finally, let me mention that there are provisions for individuals, if they wish, to spend up to a thousand dollars on behalf of a candidate. That is outside the limitations we have included here. This is an attempt to be sensitive to situations in which people want to expend their own funds and want to go down to the local newspaper and take out an advertisement. They ought to be able to do it so long as they do it for themselves.

We have been sensitive to the points that have been raised here this afternoon. The Senator from Virginia has given us the example of what will happen in Virginia, and we responded to that. If there are other problems, we would like to hear about them.

On the question of constitutionality, on the question of adequate understanding and consideration of general issues that have been raised, they have been talked about in the Finance Committee and in debate in the Senate.

I want to point out that the real issue is that which has been eloquently stated by Senator HUMPHREY and Senator SCOTT of Pennsylvania, and it has been stated by Senator PASTORE, Senator LONG, and many Senators on both sides of the aisle.

It has been said about our system of government that we have the best Congress that money can buy. That is a tragic indictment of our system. We want to reverse it, and we believe this amendment is an important means to do so.

The PRESIDING OFFICER. The time of the Senator from Massachusetts has expired.

The Senator from Nevada has 34 minutes.

Mr. SCOTT of Pennsylvania. I yield myself 2 minutes on the bill.

Mr. President, I congratulate the distinguished Senator from Massachusetts and the distinguished Senator from Minnesota and all the other distinguished Senators on both sides of this argument. I think it has been a good argument. It has brought out the various points of view involved, and that is what the debate is all about.

However, we are all aware of the fact that argument No. 1, which is always advanced on the floor by anyone in opposition, is that there have not been hearings. If that argument were effective and valid in these instances, no amendment would be entitled to passage on the floor of the Senate unless it had been heard in some session, possibly closed, of a committee.

The Senator from Massachusetts outlined his views before the Rules Committee. There was no separate bill there, as I recall. But he testified to it, and I spoke in support of it, as a member of the committee. The Rules Committee was aware of the fact that this was a proposal that we were considering, or the Senator from Massachusetts was considering, at that time.

The issue is simply this: We have all been wondering about what to do in order to get a clean election. Everybody in the country, I think, is pretty well aware of the fact that money is the root of political evil. We want to sweep away this miasma of money influence which hangs over every election. We are doing it by a formula which says to the Senate, "If you really want a straight election, if you really want to get rid of this money curse which hangs over all of us because we cannot be elected without it up to this point, then you can support the Kennedy-Scott amendment." If Senators think we ought to have hearings, then they are saying, in effect, that they do not want the amendment; because we feel that, in the state of this bill, it will not come up again in this session.

We know that this is a proceeding carried out by the pallbearers with regard to an amendment. They are polite and dignified gentlemen who wish to give it honest burial. We, however, believe that it is entitled to the support of the Senate and to the franchise of the Senate.

We respect the differences of opinion, but again I say that money, money, money is what has gotten us into this "picklement" now; and money, money, money is what has gotten the people of this country disgusted with politics and politicians; and it is money, money, money that causes people not to give due regard to the art of politics and practicing politicians within it.

Here is our chance to do something about it. You will not have a better chance in this session. There will be no other opportunity, in all probability in this session. This is an idea whose time has come. I believe the quotation is that no army is so powerful as an idea whose time has come. It is more often attributed to Disraeli. I recall that the late Senator Dirksen used to attribute it to anyone he could think of at the time. That was fun, too. Whatever it is, this is an idea whose time has come.

Mr. LONG. Mr. President, will the Senator yield?

Mr. SCOTT of Pennsylvania. I yield to the Senator from Louisiana.

Mr. LONG. Mr. President, I congratulate the sponsors of the amendment for their efforts in putting this amendment together and for the eloquent remarks they have made in behalf of the amendment.

The amendment was discussed in the Democratic caucus some time ago. At that time the Senator from Louisiana urged that for the time being we should content ourselves with a financing arrangement for the Presidential election. It was my feeling at that time that the public was not ready, and frankly I did not think there would be support on the Republican side of the aisle to go further than that.

Whether the amendment is agreed to or not, this amendment will one day be agreed to in this Republic. It is just a matter of time. Perhaps that might be today, and if Congress understands it, and I am sure eventually the public will understand it, we will avoid all the criticism that has been heaped on Congress and the Government generally because of the influence of money from private contributions.

I commend both Senators for sponsoring the amendment. Speaking for the majority, I am particularly happy to see the day when a Senator so eminent as the distinguished minority leader supports an amendment of this sort, giving it the prestige and the help that is needed on that side of the aisle.

It is appropriate that that should be the case. The suggestion for the approach was made by Theodore Roosevelt. I refer to the suggestion for public financing, which is the way this should be done if we have a Government that is going to live up to public expectations. I am certain this is what will happen, if not today it will happen another day.

Mr. SCOTT of Pennsylvania. I thank the Senator from Louisiana, who was responsible for the original checkoff. The Senator from Rhode Island was responsible for the measure on another occasion.

Mr. President, now is the time. The hour has arrived. Senators either want public financing or they do not.

Mr. CANNON. Mr. President, if no one else desires time, I am prepared to yield back.

I intend to move to table the amendment.

Mr. SCOTT of Pennsylvania. I yield back my time.

Mr. CANNON. Mr. President, I move to lay the amendment on the table.

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion to lay on the table the amendment. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS), is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON) is absent because of illness.

The Senator from Nebraska (Mr. CURTIS) and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

The Senator from Tennessee (Mr. BAKER) is detained on official business.

If present and voting, the Senator from Tennessee (Mr. BAKER) and the Senator from Nebraska (Mr. CURTIS) would each vote "yea."

The result was announced—yeas 53, nays 38, as follows:

[No. 339 Leg.]

YEAS—53

Aiken
Allen
Bartlett
Beall
Bellmon
Bennett
Bentsen
Bible
Brock
Buckley
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Clark
Cranston
Dole
Dominick
Ervin
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Hart
Haskell
Hatfield
Helms
Hruska
Huddleston
Inouye
McClellan
McClure
McGee
Montoya
Nunn
Packwood
Pastore
Pearson
Pell
Randolph
Roth
Scott, Va.
Sparkman
Stafford
Stevens
Stevenson
Taft
Talmadge
Thurmond
Tower
Weicker
Williams

NAYS—38

Bayh
Biden
Brooke
Burdick
Case
Chiles
Church
Cook
Domenici
Eagleton
Fulbright
Gravel
Hartke
Hathaway
Hollings
Hughes
Humphrey
Jackson
Javits
Kennedy
Long
Magnuson
Mansfield
Mathias
McGovern
Metcalf
Mondale
Moss
Muskie
Nelson
Percy
Proxmire
Ribicoff
Schweiker
Scott, Pa.
Symington
Tunney
Young

NOT VOTING—9

Abourezk
Baker
Cotton
Curtis
Eastland
Johnston
McIntyre
Saxbe
Stennis

So the motion to lay on the table the Kennedy-Scott amendment was agreed to.

Mr. PERCY. Mr. President, I have amendment No. 413 at the desk, and I ask that the amendment be called up and stated at this time.

The PRESIDING OFFICER (Mr. HATHAWAY). The clerk will report the amendment.

The legislative clerk read as follows:

On page 60, before the matter relating to the amendment of the title of the bill insert the following:

SEC. 19. (a) (1) Section 41(b) (1) of the Internal Revenue Code of 1954 (relating to maximum credit for contributions to candidates for public office) is amended by striking out "$12.50 ($25" and inserting in lieu thereof "$25 ($50".

(2) Section 218(b) (1) of such Code (relating to limitations on amount of deduction for contributions to candidates for public office) is amended by striking out "$50 ($100" and inserting in lieu thereof "$100 ($200".

(b) The amendments made by this section shall apply with respect to any political contribution the payment of which is made after December 31, 1973.

Mr. MANSFIELD. Mr. President, if the Senator would yield at this point, the majority leadership has previously announced that there would be no more rollcall votes tonight.

Mr. PERCY. Mr. President, I have indicated to the floor manager of the bill that I would be happy to have a 10-minute limitation on each side. It is a very short amendment. However, if there has been a commitment already made that there would be no more rollcall votes, I would be glad to withhold it until tomorrow.

Mr. MANSFIELD. The Senator is correct. We have a commitment that there will be no more rollcall votes tonight.

Incidentally, when the Senate convenes on tomorrow, the pending business will be on the Byrd amendment, on which there will be a unanimous-consent agreement to a time limitation of 30 minutes. 15 minutes to the side. And on that amendment there will be a rollcall vote.

Mr. President, I suggest most respectfully to the senior Senator from Illinois that he might wish to have the Senate consider his amendment tonight. I believe that the previous order is that the Senator has 30 minutes to his amendment. If he would like to reduce the time, I would be glad to have him do so. We can have a vote on the Percy amendment following the amendment of the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) on tomorrow.

Mr. PERCY. That would be quite agreeable.

Mr. COOK. Mr. President, is it the desire of the Senator from Illinois to ask for the yeas and nays?

Mr. PERCY. The Senator is correct.

Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. PERCY. Mr. President, I would be happy to limit the debate to 20 minutes, 10 minutes to the side.

The PRESIDING OFFICER. The Senator will suspend. The Senate will be in order.

Mr. PERCY. Mr. President, I withdraw that request.

Mr. MANSFIELD. Mr. President, as I understand the unanimous-consent agreement made earlier this week, on the two Percy amendments there will be a time limitation of 30 minutes each.

The PRESIDING OFFICER. The Senator is correct.

Mr. MANSFIELD. Mr. President, I thank the Chair.

Mr. JAVITS. Mr. President——

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. PERCY. Mr. President, for the information of the majority leader, the Senator from Illinois is not going to offer his second amendment. That amendment has already been covered in the Mondale amendment, to which I was a cosponsor.

ORDER FOR A VOTE ON PERCY AMENDMENT TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Percy amendment, which has now been read, be voted upon after the vote on the Byrd amendment on tomorrow, so that we will be sure to have two rollcall votes in sequence.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. PERCY. Mr. President, I yield to the distinguished Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, the Senate is still not in order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, if I can have the attention of the Senator from Indiana (Mr. HARTKE) and the Senator from Virginia (Mr. HARRY F. BYRD, JR.), I would like to propound a unanimous consent request.

The PRESIDING OFFICER. The Senate will be in order.

ORDER FOR TIME LIMITATION ON S. 2060

Mr. ROBERT C. BYRD. Mr. President, I have been authorized by the distinguished majority leader to make this request.

I ask unanimous consent that at such time as S. 2060, a bill to authorize the Secretary of Transportation to act to assure the continuance of rail services in the Northeastern United States, and for other purposes, is called up and made the pending business before the Senate, there be a time limitation of 30 minutes, 20 minutes to be allotted to the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) and 10 mintues allotted to the distinguished author of the bill, the Senator from Indiana (Mr. HARTKE), and that the bill be called up immediately after the vote on the Percy amendment.

Mr. GRIFFIN. Mr. President, reserving the right to object, may I inquire as to whether this has been checked out on the minority side?

Mr. ROBERT C. BYRD. Mr. President, may I say to the distinguished assistant minority leader that this matter was cleared for unanimous-consent passage today until the distinguished Senator from Virginia asked that it be delayed. He has now agreed to have a time limitation thereon and a yea and nay vote.

Mr. GRIFFIN. This is not the controversial bill involving the Northeastern section?

Mr. HARTKE. No, it is not.

Mr. JAVITS. Mr. President, reserving the right to object, may we know what it is and why it is not controversial? The title would seem to so indicate.

Mr. HARTKE. Mr. President, the measure is an interim financing measure which would authorize the Secretary to proceed with $210 million in the event of a cessation of service.

Mr. JAVITS. Could we know what the unanimous-consent agreement is?

Mr. ROBERT C. BYRD. Mr. President, the unanimous-consent request is that at such time as this measure is called up and made the pending business before the Senate, there be a 30-minute time limitation thereon, with 20 minutes allotted to the Senator from Virginia (Mr. BYRD) and 10 minutes allotted to the Senator from Indiana (Mr. HARTKE), and that the bill be called up immediately after the vote on the Percy amendment.

Mr. JAVITS. Mr. President, what about amendments?

Mr. ROBERT C. BYRD. I ask that any amendments have 20 minutes, to be equally divided in accordance with the usual form.

Mr. JAVITS. Including amendments to amendments and motions?

Mr. ROBERT C. BYRD. The Senator is correct. I ask for such, to be divided in accordance with the usual form.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

The text of the unanimous-consent agreement is as follows:

Ordered, That, during the consideration of S. 2060, a bill to authorize the Secretary of Transportation to act to assure the continuance of rail services in the northeastern United States, and for other purposes, debate on any amendment, debatable motion or appeal shall be limited to 20 minutes, to be equally divided and controlled by the mover of any such amendment or motion and the manager of the bill: Provided, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill, debate shall be limited to 30 minutes, to be divided and controlled in the following manner: 20 minutes to the Senator from Virginia (Mr. Harry F. Byrd), and 10 minutes to the Senator from Indiana (Mr. HARTKE): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion or appeal.

ORDER FOR THE YEAS AND NAYS ON S. 2060 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order at this time to order the yeas and nays on the passage of S. 2060.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the passage of S. 2060.

The yeas and nays were ordered.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1973

The Senate continued with the consideration of the bill (S. 372) to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of section 315 with respect to Presidential and Vice Presidential candidates and to amend the Campaign Communications Reform Act to provide further limitation on expenditures in election campaigns for Federal elective office.

Mr. PERCY. Mr. President, I first ask unanimous consent that the names of the distinguished Senator from New York (Mr. JAVITS) and the distinguished Senator from Arizona (Mr. GOLDWATER) be added as cosponsors of amendment No. 413.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, it is quite logical that this amendment now follow the debate that has been carried on with respect to the public financing of congressional campaigns.

I think it is a good idea for there to be hearings on that whole subject. In fact, such distinguished organizations as Common Cause have withheld the distribution of literature, position papers, or whatever they might be called, because they had anticipated that hearings would be held and probably held prior to any vote on that issue.

There is a very strong body of opinion, however, that we should find a method of improving on the present procedures with respect to the financing of political campaigns.

Amendment No. 413 is not a new principle. It builds on a tax credit principle that has already been established and is in the law, and the gradual process of the education of the American people with respect to the tax credit procedure outlined has been undertaken.

I know that a great deal more public education is needed in this regard. However, this amendment will accomplish the purpose of substantially encouraging a great many more voluntary contributions. It will not take away the necessity of politicians finding a way to present their viewpoints in such a way that they can secure not only votes, but also modest contributions to their campaigns.

Mr. President, I approve of the major thrust of S. 372 which is to limit large individual political contributions to political candidates. However, I think there is a step that we can take to provide and encourage more contributions from a larger number of people.

Therefore, Mr. President, this amendment would double the allowable tax credit or tax deduction for political contributions. The amendment would double the allowable tax credit for political contributions from $12.50 to $25 in the case of an individual, and from $25 to $50 in the case of a couple.

If people choose to take a tax deduction, the allowable tax deduction would be increased from $50 to $100 in the case of an individual, and from $100 to $200 in the case of a couple.

I feel that enactment of this amendment would encourage a broader range of people to participate in the political process, and I urge the enactment of this amendment.

I regretfully did not have an opportunity to discuss the amendment in detail with the distinguished chairman of the Rules Committee or the distinguished ranking minority member. I have submitted this proposal in the form of an amendment and as legislation previously. As I say, it is not a new principle. It is not a new idea. It is an idea that has been thoroughly and adequately debated in Congress, has been accepted and written into law, has been accepted and signed into law by the President, and has, to the best of my knowledge, encountered no serious objection on the part of the American people.

What the American people need now is time to learn how to use this procedure, how to take into account the complexity of it for those who fill out their income tax returns, and to educate them as to how it can be used as a means of making a modest contribution, at little or no cost to the individual, and enables the individual to designate the party and the candidate of his choice.

It removes entirely the problem of the two-party system as independent candidates can be just as effectively supported with this amendment. It simply provides now, under a principle we have already established, a means of doubling the incentive; and also, in an indirect way, it is a means of public financing of campaigns and giving a greater incentive for candidates to go out and seek a broad base of support. It would help politicians to not depend for financing upon a relatively few large contributions, with all of the implications and problems that they bring forth.

Mr. LONG. Mr. President, will the Senator yield?

Mr. PERCY. I yield to the Senator from Louisiana.

Mr. LONG. I think I would be for the amendment the Senator is offering, but this amendment is a revenue amendment, and belongs on a revenue bill. It seems to me that the Senator ought to offer his amendment on one of these House-passed revenue bills, and give the Senate a chance to vote on it on a bill on which the House could act.

If this amendment were agreed to on this bill, all the House will do is send the bill back to us with a blue slip, saying that the Constitution requires that revenue bills originate in the House of Representatives.

I am sure that there are enough good things in this bill that the Senator from Illinois would like to see the bill enacted, just as I would, and there is no point in having it make a round trip back and forth to the House of Representatives and having to start all over again. Why not offer it on a revenue bill? I might even vote for it.

Mr. PERCY. With all due respect to my colleague, first, let me say I am delighted to have the implication of support from the distinguished chairman of the Finance Committee.

Second, I feel we are a separate body and should not be encumbered on this floor simply by the procedures followed by the House of Representatives. Let them bend a little bit themselves.

Third, in this particular case, it is perfectly clear from the record that it is a nongermane amendment—and I admit that automatically, by a certain amount of logic, it would go on a finance bill—but we made it clear at the outset that an exception would be made in the case of this particular amendment, and that was clear in the record and everyone was on notice of it.

I think as far as the public is concerned, they could not care less what bill this goes on. This is a campaign financing bill, and that, to me, is where it belongs, rather than on a social security bill or a welfare bill, for example, though this measure does involve the welfare of the Nation.

Mr. LONG. But the Senator is proposing an amendment to cut someone's taxes, to increase tax deductions and tax credits. That is a revenue amendment; it would make a revenue bill out of a bill that is not otherwise a revenue bill.

When the Senator does that, he is flying in the face of the Constitution, which requires that revenue bills originate in the House of Representatives.

The House is very proud of the fact that, although theoretically we are coequal bodies, at least that is one respect in which the Senate is an inferior body to the House of Representatives. Sometimes House Members feel that they are inferior because there are more of them in number than we are over here. So when they have an opportunity to remind us that the Constitution makes them more than a coequal body in that respect, they remind us of it every chance they get; and if that amendment goes on this bill, they will send it back promptly with that blue slip which they proudly add to a bill every time we put a revenue amendment on a bill that is not a revenue bill.

Maybe the Senator could argue about that construction, but the difficulty is that there is no way that we can get into court about the matter. because they will not pass a bill that would give us a chance to expand on the meaning of the Constitution in that way. They even say an appropriation bill is a revenue bill. The Senate has historically said it is not, but they will not give us a chance to go to court. They will not pass an appropriation bill that started in the Senate.

So what the Senator is seeking to do is amend a bill that is a hostage to his amendment until such time as it comes back off, if it goes on this bill. I invite the Senator to offer his amendment on an appropriate revenue bill and see what the Senate does about it. As I say, I think I might vote for it.

Mr. PERCY. Mr. President, I would hope that the distinguished Senator would vote on the basis of the merits, whatever they happen to be. I know that the Constitution does provide certain prerogatives on behalf of the Senate as well, in the case of foreign affairs—we call them foreign relations—but that does not stop the House from initiating any kind of action it wishes. We have just finished an hour's debate, with no germaneness question about that, on an amendment to take right out of the Treasury many millions of dollars to finance campaigns.

What we are talking about here is taking out of the Treasury, in a slightly different way, a possibly lesser amount of money, and giving the individual taxpayer some discretion as to whom he wants that money to go to. One way or another, it is coming out of the Treasury. The only difference is, it may be a lot less and there is discretion by the taxpayer.

For that reason, I believe that in the broadest sense of the term, if the average American citizen would look at it, this amendment would seem to him to belong on this bill, and we ought to enact it just as quickly as we possibly can, so that we can be in the public education job that is going to be necessary.

Mr. LONG. Mr. President, will the Senator yield further?

Mr. PERCY. I am happy to yield.

Mr. LONG. The Senator went up there and swore that he was going to uphold the Constitution of the United States when he became a U.S. Senator, and so did I. I am a lawyer; I know what the Constitution says.

Mr. PERCY. Unfortunately, I am not a lawyer.

Mr. LONG. The Constitution says—the Senator has the manual right there on his desk—that revenue bills must originate in the House of Representatives. We voted on the Kennedy amendment, but that was not an appropriation amendment; it was not a tax amendment. It was a mere authorization amendment. It would be appropriate for it to be added to this bill, if the Senate wanted to do that.

But the Senator is asking the Senate to violate the Constitution. He is trying to initiate a revenue measure in the U.S. Senate, and the House of Representatives will not go along with him if he does. They are going to respect the Constitution, even if the Senate will not.

So I would urge the Senator to offer his amendment on a revenue bill. When he does, he might succeed with it and actually make it law.

The PRESIDING OFFICER. All time of the Senator from Illinois has expired.

Mr. PERCY. Mr. President, I ask for 2 minutes from the other side or from the bill itself.

Mr. CANNON. Mr. President, I yield the Senator 2 minutes.

Mr. PERCY. The distinguished chairman of the Finance Committee is absolutely correct. He is a lawyer, and the Senator from Illinois is not a lawyer. I did promise to uphold the Constitution of the United States, but I also reserved the right to interpret that Constitution; and I apply to it, not just the lawyer's knowledge, but the knowledge that I have available, the knowledge of a reasonable man or a prudent man. I say, a prudent man, in this case, hangs his idea on the first bill he can put it on, particularly, as I read the bill, it says "Campaign Practices Act." If this is not campaign practices financing, then I do not know what is. Fortunately, I am not encumbered, as a Senator from Illinois, with the fact that there are so many things I cannot do. I have accomplished more in my life by not being willing to accept the fact that one cannot do something, and I would urge my colleagues: Let us get at the heart of the issue and how we finance it. I am trying to save the Federal Treasury money compared to the amendment we have just been considering, and to give the choice back to individuals, and to individual choice. If politicians know that choice of a contribution has been made by an individual on his tax return, politicians have to go out and seek that support rather than getting that support automatically from the Government. That is such an overwhelmingly good idea to me that I must not yield to the fine points of the law and say that I would like to have the yeas and nays on this amendment.

Mr. CANNON. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER (Mr. HATHAWAY). The Senator from Nevada is recognized for 5 minutes.

Mr. CANNON. First, I should like to respond to the Senator from Illinois that the bill does not say what he said it did a few moments ago. I am sure, if he will read it, he will find that to be the case and he will realize that he made a mistake.

Second, a number of years ago, I raised this very same issue on the Senate floor. I had an amendment to take a tax credit, and after having testified in support of it for several years I tried to put it on such a bill, and a point of order was raised by the then Senator from Virginia, Harry F. Byrd, the father of the Senator from Virginia (HARRY F. BYRD, JR.) who is here today. Former Senator Harry F. Byrd pointed out very carefully that this would be subject to a point of order in the House, if it went to the House, and that they would not even consider it in conference, and not even go to conference with it.

So, reluctantly, I agreed at that time to accept the point of order that was raised, and that point was stricken from the bill in order to be able to go to the House and try to get a bill at that time.

I assure the Senator from Illinois that the distinguished chairman of the Finance Committee knows whereof he speaks. If this proposal is put in here—and I support the proposal, and I testified in favor of the proposal long before the Senator from Illinois ever came to the Senate, and I have been a consistent supporter of it ever since, and I support it right today—but I know that if it is put in this bill, we will not get to conference on this bill.

So I should like to suggest, respectfully, that if the Senator from Illinois will put it on an appropriation bill, I will vote for it and I will support him on it, because I have been supporting it for some 8 or 9 years already, and I would propose to continue to do so.

Mr. PERCY. Mr. President, I do accept the facts as just stated by the Senator from Nevada, but what I have said is still pertinent. The Senator says he has supported this proposal for 8 or 9 years but that he has not been successful in putting it on a bill. So why sit around here and not have a vote on it?

Mr. COOK. Mr. President, the arguments of the Senator from Illinois are valid except for the argument that we cannot have a revenue measure originate in the Senate. I remember when the Senator first came to the Senate and his first act relative to the black lung bill which was introduced in the Senate and was not introduced in the House. We debated the issue for many hours. It was debated on the premise that it was a revenue-raising measure and, therefore, it had to originate in the House. That position was sustained.

I would suggest to the Senator that all the criteria he is talking about are met with the exception of one thing, and that is the Constitution which provides that revenue measures must originate in the House of Representatives.

We can be as impassioned as we please. We can implore, and we can talk about its absolute necessity and its need, but I see no reason why we should fly in the face of the Constitution and jeopardize the passage of this bill and its consideration by the House of Representatives.

May I say one other thing; that I feel very affirmatively that the Finance Committee should have the opportunity to look at such a measure.

For instance, I should like to know—and I would be delighted to vote for this amendment, but I am also entrusted in my position here with the distribution of the tax funds of the U.S. Government—how much money we are talking about.

If this measure is presented on the floor, it would be very helpful to every Member of the Senate to know if we are doubling the $12.50 to $25, doubling the $25 to $50, doubling the $50 to $100, or doubling the $100 to $200.

What are we talking about?

I think it is fair to say that every Member of the Senate should know approximately, in dollars and cents, what we are discussing in terms of revenue.

Apparently, the figures are not available, and I would like for them to be available. When we do these things, we feel that they are fine and we feel that they are correct. I also think that we should feel we owe it to the taxpayers of the United States, and to ourselves as the distributors of the tax funds, to make a determination of how much we are depriving the U.S. Treasury as a result of such action. We can then weigh that action in regard to the necessity for the action that we take, because it is this Senator's belief that this is a good amendment, that this amendment is a more practical amendment than the figures we now have. But before this Senator takes action, I feel that we should make a determination of the constitutionality to be able to originate in this body and, second, I feel that it is our responsibility to make the determination of how much we are talking about in dollars and cents.

Now, I know that we put the Parliamentarian in a very unfortunate position, because we are in the position that we have to rule on the constitutionality of whether the amendment fits within the framework of the Constitution, or whether it should originate in the House.

It is my understanding that that decision is not a matter to be decided by the Parliamentarian, but is a matter to be decided by the Senate itself. So, therefore, I should like to if we cannot resolve this matter—and those of us who have worked on the bill through the Commerce Committee and through the Committee on Rules and Administration, rather than jeopardize the bill when it gets to the House, if we have no other alternative, if the amendment is not to be withdrawn—seriously to consider asking the Senate to consider it tomorrow, because there are apparently not enough Senators here now because they were told there would be no votes tonight, to consider the constitutionality of the origination of this amendment.

Mr. LONG. Mr. President, one thing we should do, and I should like to direct this to the chairman of the Committee on Rules and Administration, is to amend the rules of the Senate so that the Chair will have the responsibility and, indeed, would be required to rule, whenever a revenue amendment is presented on a bill that is not a revenue bill.

Repeatedly we go through this exercise and pass a bill and invariably it comes back to us with that blue slip on it. So that those who are thinking of passing the bill as it is now, although not opposed to the amendment, would be happy to have it in conference, if they could get it to conference, do not even have this bill considered in the House, and it comes back to us.

So if they pass the bill, it is a frustrating experience for the bill to be sent back to them without having been referred to the committee.

So I would hope that one of these days the distinguished Senator, with his chairmen, would seek to offer an amendment to the rules requiring the Chair to rule, if someone offered an amendment to a bill that is not a revenue bill, and that would save the Senate a great deal of time. We are taking so much time now in debate when we know that the House will not go along with us.

Mr. ROBERT C. BYRD. Mr. President, what assurance would the Senate have, once the Chair ruled that an amendment was constitutional under the Constitution with respect to revenue measures, that the House would accept the ruling of the Senate's Presiding Officer.

Mr. LONG. I cannot guarantee it. But at least if it is clearly a revenue amendment, a clear-cut case of a revenue amendment, such as this, clearly a tax amendment offered on a bill that is not a tax bill, we are saved all the time of going through voting on an amendment which for a certainty is going to bring the bill back to us, if that happens, because we will send it there and it will not even get to a committee. It comes right back and is sent back to the desk. The Parliamentarian puts a slip on it and sends it back to us.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. COOK. I yield.

Mr PERCY. It may be possible to resolve this matter very quickly. I should like to answer the question of cost.

We do not know what the cost is. I have asked the Treasury Department what the cost would be, and we cannot quickly get an answer, because it depends upon how many people would fill this out. Perhaps doubling it would increase the incentive four times. The 1972 tax returns may give us some idea. But we do not know, and I would like to know also as closely as possible.

Second, I should like to ask the distinguished chairman of the Committee on Finance this question: Taking into account that I am very sympathetic with the distinguished Senator from Nevada's problem of waiting 8 years for this idea to come to flower, is there within sight—next week, possibly—a Finance Committee bill on which the Senator from Illinois could put this amendment? If there would be something within sight, then I would certainly want to follow the recommended procedure, particularly if we would have the support, rather than the opposition, of the chairman on the merits of the case, rather than have his opposition on a technicality.

Mr. LONG. The Senator certainly will have an opportunity to offer such an amendment on a revenue bill in September. After the recess, he will have that opportunity. We will have revenue bills in September.

Mr. CANNON. The revenue bills are more likely to get through quicker than this bill.

Mr. PERCY. There is no bill, though, before the recess?

Mr. LONG. I am not aware of any measure There might be some little, noncontroversial measure on the calendar which was reported awhile back, but I am not aware of any at the moment.

But what the Senator is seeking to do is not that urgent, anyway, is it? The congressional elections occur next year. We have far more time than needed. We have time with 6 months to spare in which to vote on the Senator's position, and time for people to make the contributions in the congressional elections next year.

Mr. PERCY. Does it appear to the Senator from Louisiana that, without any question, say, by the end of September, there would be a revenue bill to which this amendment could be attached and voted on?

Mr. LONG. I should think so; and if not then, in October we could do it.

Mr. PERCY. We are slipping. I think the distinguished Senator will recall the Percy welfare amendment that kept slipping back in time.

Mr. LONG. This will not be that way.

Mr. CANNON. I yield myself 1 minute on the bill to respond to the Senator from Illinois.

I am sure that this proposal, attached to a revenue measure, would get consideration at a far earlier time than if it were put on this bill, because the House has not acted on a campaign reform bill. So it is going to be a long time before we get to conference. However, a revenue measure has to originate in the House, and the House will have acted when the measure is over here and it is tacked on a bill that has already gone through a part of the process.

Mr. COOK. May I add to the Senator from Illinois that it is my understanding—and I think it is the understanding of the Senator from Nevada—that the House is not even going to start hearings on a campaign expenditure bill until September. Therefore, the companion to this measure, it is hard to believe, would even get through the House this year.

Mr. PERCY. Mr. President, with the combined judgment of the distinguished Senators from Nevada, Kentucky, Louisiana, and West Virginia, we could not lose. Therefore, I withdraw my amendment, and I ask unanimous consent that the order for the yeas and nays be vacated.

The PRESIDING OFFICER. Does the Senator ask unanimous consent that he may withdraw his amendment?

Mr. PERCY. Mr. President, I ask unanimous consent that the pending amendment be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is withdrawn.

Mr. LONG. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. LONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 49, strike out lines 4 through 10, and insert in lieu thereof the following:

"SEC. 16. (a) Subsection (a)(1) of section 608 of title 18, United States Code, is amended to read as follows:

"(a)(1) No candidate may make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for nomination for election, and for election, to Federal office in excess, in the aggregate during any calendar year, of—

"(A) $100,000, in the case of a candidate for the office of President or Vice President;

"(B) $70,000, in the case of a candidate for the office of Senator; or

"(C) $50,000 in the case of a candidate for the office of Representative, or Delegate or Resident Commissioner to the Congress."

Mr. LONG. Mr. President, I have explained the amendment to the distinguished chairman and to the ranking member of the committee. The amendment seeks simply to permit a candidate for the Senate to spend all of the money he is privileged to spend—which is $35,000 in a primary election and $35,000 in a general election—in a primary election or all in a general election, as the case may be. That is because in some cases a candidate may not have opposition in a primary but might have a very heated contested race in the general election; or he might have very determined opposition in the primary campaign but no opposition in the general election.

I really see no harm, and apparently there is no harm, in permitting someone to spend $70,000 to bring about his election to the Senate. It seems to me that it makes no difference whether the candidate spends it all in a primary or all in a general election.

I really think that this proposal tends to promote the cause of good government. If a man thinks that he can afford to spend $70,000 in seeking office, rather than obtaining some money by going out hustling some contributions, I hope that he would be permitted to do that.

I have had the language of the amendment prepared for me by the legislative counsel, if there is any question about it.

Mr. NUNN. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. NUNN. I agree with the Senator's logic. In many primaries there are runoffs. But I should like to ask the Senator a question. My understanding is that the present law is very vague; in fact, we have had rulings—contrary rulings—from the Attorney General's office.

Does the Senator's amendment make it clear that the $70,000 is for an entire year? Or does the Senator provide $70,000 for the primary and another $70,000 for the general election?

Mr. LONG. No; it is $70,000 for the entire year; but the candidate would have the privilege of spending the $75,000 for the primary or spending it for the general election. But it is entirely possible, as in Louisiana, that a candidate would concentrate it in the one election where he was having the race of his life, in either the primary or the general election.

If one of the races was a less controversial race, then the person should be permitted to spend all of the money in the race where he had the fight of his life, rather than to have to spend half of what was available to him on one race and the rest on the general election. This amendment would allow him to spend all of it in the race where he had a serious contest.

Mr. NUNN. Does the Senator agree that this amendment would clear up the present law, which is very vague?

Mr. LONG. Well, I think so, and I think it is far better in other words, if one takes the view that he is only going to spend $70,000 to seek election, he should be able to spend it in the primary or the general election, whichever one he thought presented the most severe test. It may be, and I hope it is true, that will not be the case. I hope that both I and my opponent, and every other Senator and his opponent have the good fortune to find someone to contribute to pay for all the campaign expenses. But if we had the sad experience where we were not able to do that and had to spend our own money and go into debt, that is a different situation.

Mr. NUNN. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. NUNN. If a candidate does not win the primary, he does not have any need in the general election.

Mr. LONG. The Senator is correct. If he loses the primary election, then the right that he had to spend $35,000 in the general election would do him no good.

Mr. CANNON. Mr. President, if I have a correct copy of the amendment, the Senator has taken twice the amount in the present law and made that the yearly total for President and Vice President, and the office of Senator, but has left the office of Representative, Delegate, Resident Commissioner in the same amount.

Mr. LONG. The amendment was prepared by the legislative service. I hope they did what I asked for, which is that the $35,000 permitted in the primary election could be spent either all in the primary election or all in the general election.

Mr. CANNON. Apparently what has been done in this language is to say that under the present law a Presidential or Vice Presidential candidate could spend of his own funds $50,000 in each election; a candidate for the Senate could spend $35,000, and a candidate for the office of Representative, Delegate, or Resident Commissioner could spend $25,000.

What the Senator desires to do is not to restrict the candidate to one election—no more than $100,000 in the case of the President or $75,000 in a Senate race, of his own funds in a year. But the Senator left Delegate, Representative, and Resident Commissioner the same, so he, in effect, reduced by 50 percent the amount they could spend in a year. I think a technical amendment to make it conform would have a subsection (c) to read:

$50,000 in the case of a candidate for the office of Representative or Delegate or Resident Commissioner to Congress.

Mr. LONG. Mr. President, I so modify my amendment, and I appreciate the Senator's suggestion. I did not realize that in drafting this matter with the help of legislative counsel that that error had been made.

The Senator has improved the amendment.

Mr. CANNON. Mr. President, will the Senator yield further?

Mr. LONG. I yield.

Mr. CANNON. I want to make it absolutely clear in the legislative history that this does not increase the amount the person could spend of his own funds in an election campaign, but just says that he could use his own judgment as to whether he spends all that amount in the primary or whether it is not spent in the primary but in the general election.

Mr. LONG. That is correct.

Mr. CANNON. And the overall limit is not increased in any fashion.

Mr. LONG. That is correct.

Mr. NUNN. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. NUNN. As I stated earlier, I think it would depend on the interpretation of the present law and how it is interpreted as to whether the present $35,000 limitation is for the entire year or the general election or the primary. So it depends on how the present law is interpreted. I cannot find anyone to interpret the present law. It would be hard then to completely agree with the Senator from Nevada.

Mr. CANNON. Mr. President, if the Senator will yield, in the bill as we have written it we have said precisely what the Senator is concerned about; that is, the limitation of expenditures imposed by this subsection shall apply for each campaign in which a candidate participates.

Mr. NUNN. That clarifies it.

Mr. CANNON. That part would not be stricken by the Senator's amendment so it would be clear this is an annual amount that could be spent.

Based on that we would be willing to accept the amendment.

Mr. COOK. We have no objection.

Mr. CANNON. The minority agrees. We have no objection.

Mr. LONG. I yield back my time.

Mr. CANNON. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment as modified.

The amendment was agreed to.

Mr. LONG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. NUNN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. LONG). Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

On page 19, strike out lines 13 through 17 and insert in lieu thereof the following:

(3) striking out the second sentence of subsection (a) and inserting in lieu thereof the following: "Such reports shall be filed on the tenth day of April, July, and October of each year, on the tenth day preceding an election, and on the last day of January following an election. Notwithstanding the preceding sentence, the reports required by that sentence to be filed during April, July, and October by or relating to a candidate during a year in which no Federal election is held in which he is a candidate, may be filed on the 20th day of each such month.";

Mr. NUNN. Mr. President, we have discussed this matter with the Senator from Nevada and the Senator from Kentucky. This is a technical amendment but it has some degree of importance to those who are candidates. Having just been through an election and continuing to have a campaign committee, I can speak to this amendment.

I am in agreement with the disclosure requirements contained in the Federal Elections Campaign Act of 1971. I do, however, feel that a distinction can be made between those reports being filed during an election campaign, where the information they contain can be of use and benefit to prospective voters, and those reports required to be filed periodically in nonelection years.

This amendment relates only to the reports being filed in nonelection years.

Under the present law periodic reports are required to be filed on the 31st day of January and the 10th day of March, June and September. The cutoff date covered by such reports is set by the appropriate supervisory officer. All supervisory officers have set as the appropriate cutoff date the last day of the preceeding month respectively. This is creating a hardship in regard to the second, third, and fourth reports where only 10 days separate the cutoff date from the filing date. "By late June the Clerk of the House had forwarded to the Justice Department 4,893 cases involving late filing and nonfiling by candidates for the House in 1972. The secretary of the Senate had forwarded 565 cases"—Volume XXXI, No. 28, Congressional Quarterly, July 14, 1973, page 1884.

My campaign committee has advised me that this time problem has created many headaches: many times bank statements for the preceding month arrive with only a day or two to spare before the filing date. On occasion the statement may not arrive until after the reporting date has passed.

Because of this situation I have prepared an amendment that does just one thing—it lengthens by 10 days the time between the cutoff date and the filing date on the last three periodic reports in nonelection years.

This amendment provides that:

"Notwithstanding the preceding sentence, the reports required by that sentence to be filed during April, July, and October by or relating to a candidate during a year in which no Federal election is held in which he is a candidate, may be filed on the 20th day of each such month.";

This would extend by 10 days the time for the reports to be filed in April, July, and October of election years. It has no effect whatever on the right of the public with respect to who files in an election year.

I hope the Senator from Nevada and the Senator from Kentucky are in favor of the amendment.

Mr. CANNON. Mr. President, I yield myself 1 minute. I understand the only effect would be to change the reporting dates in a nonelection year.

Mr. NUNN. The Senator is correct.

Mr. CANNON. It would be a change to the 20th day rather than the 10th day.

Mr. NUNN. That is correct. The 20th day of each session.

Mr. CANNON. Based on that, I am willing to accept it.

Mr. COOK. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator is recognized.

Mr. COOK. I think we ought to thank the Senator from Georgia for this amendment. We all understand the necessity and the reason for filing in election years. We understand the necessity for public understanding and realizing the source of contributions and the amount near, around, and subsequent to a general election that is forthcoming. But I think the capacity of the campaign to function in election years is far more significant than in off years.

Consequently, he has given our small skeleton staff 20 more days to comply with the law, where now it creates and causes and extensive hardship.

To that extent, I have no objection to the amendment. As a matter of fact, I think it improves the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment (putting the question).

The amendment was agreed to.

Mr. NUNN. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

Mr. CANNON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that no further time be charged against the bill during the remainder of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF TRANSPORTATION APPROPRIATIONS — UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—and this matter has been cleared with the distinguished senior Senator from North Dakota (Mr. YOUNG), the distinguished Senator from New Jersey (Mr. CASE), ranking Republican member of the Subcommittee on the Department of Transportation of the Committee on Appropriations, and the distinguished Senator from Alaska (Mr. STEVENS), who conducted practically all of the hearings on the appropriations bill this year—that at such time as H.R. 8760, the Department of Transportation appropriation bill, is called up and made the pending business before the Senate, there be a time limitation thereon of 30 minutes, and that there be a limitation on amendments, debatable motions, and appeals in relation thereto of 20 minutes, and that the agreement be in the usual form.

Mr. HARRY F. BYRD, JR. Mr. President, I wish to reserve the right to object for a moment.

I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the Senator from Virginia.

Mr. President, I ask unanimous consent that it be in order to order the yeas and nays at any time on the appropriations bill for the Department of Transportation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO CONSIDER S. 2060 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, immediately after the disposition of the Byrd amendement No. 423 to the unfinished business, the Senate proceed to the consideration of S. 2060, which is the bill to be handled by the Senator from Indiana (Mr. HARTKE), and under which the Senator from Virginia will have 20 minutes.

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object, would it be satisfactory to increase my time to 30 minutes? I may not need it all.

Mr. ROBERT C. BYRD. Mr. President,

I ask unanimous consent that the time on S. 2060 be limited to 40 minutes, with 30 minutes instead of 20 minutes to be under the control of the distinguished senior Senator from Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR McGOVERN AND SENATOR HUGHES TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, the distinguished Senator from South Dakota (Mr. McGovern) be recognized for not to exceed 15 minutes, and that he be followed by the distinguished Senator from Iowa (Mr. Hughes) for not to exceed 15 minutes, after which the Senate resume the consideration of the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

FINANCING FOR PENN CENTRAL

Mr. HARRY F. BYRD, JR. Mr. President, to expedite the work of the Senate, I want to speak very briefly on legislation which will be before the Senate tomorrow. It is S. 2060, the Emergency Rail Services Act Amendments of 1973.

There is a time limitation on that legislation. For that reason, I wanted to put into the Record tonight some comments on that legislation.

Mr. President, on the 30th of December 1970, the Senate passed legislation which provided for a $125 million loan guarantee for the Penn Central Railroad. During the course of that debate I stated this on page S 21540: That the legislation then pending—

> Is only one step in a possible long-range solution to the problem. The Senator from Indiana has made it clear that far more—at least I understood him to say—far more public funds will be sought by Penn Central or by the trustees of Penn Central in the coming months.

Then I stated:

> That is the part that disturbs me more than does the particular bill. As I understand it, we are getting into what we might call a bottomless pit of tax funds.

So I opposed and voted against that legislation for a $125 million Federal loan guarantee for the Penn Central.

Now we come to today and on the calendar we have S. 2060, which will be taken up tomorrow. What does it do? Up to this point we have been involved in loan guarantees. This bill would authorize the appropriation of $210 million from the Federal Treasury for the Penn Central Railroad. I am just windering where this is going to stop.

I recognize the importance of the Penn Central tracks. I recognize the importance of having a good railroad transportation, but, after all, this is a private company. It has been through the years. And what concerns me about the pending legislation is that it does not solve anything. There are various plans floating around, but this in itself is not a plan. All the Congress will be doing is authorize the expenditure of $210 million out of the Federal Treasury as a continued bailout for a failing business enterprise.

I recall also it was just last week that the Senate, after a 12-minute consideration, passed legislation authorizing loan guarantees of between $2 and $3 billion to the railroads for the acquisition or rolling stock. Then we come to this week and we have legislation which will be voted on tomorrow for $210 million out of the Federal Treasury for the Penn Central Railroad.

I have considerable concern as to the amounts of money which the Congress is appropriating to private business enterprises. I am hopeful that some consideration will be given to a feasible plan to take care of the Penn Central without calling on the taxpayers every year or so for more and more funds.

The particularly undesirable aspect of this is that no plan has been agreed upon by the various parties. This is just pumping $210 million more into failing business enterprises. Many corporations all over this country go into bankruptcy every year. There are many thousands of them. The last time I checked, it was 11,000.

How much more money are we going to pour into these failing corporations and these bankrupt corporations? How many more corporations is this Congress going to undertake to bail out?

ORDER FOR ADJOURNMENT TO 9:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at the hour of 9:30 a.m. After the two leaders or their designees have been recognized under the standing order, the distinguished Senator from South Dakota (Mr. McGovern) will be recognized for not to exceed 15 minutes, after which the distinguished Senator from Iowa (Mr. Hughes) will be recognized for not to exceed 15 minutes, after which there will be no morning business. The Senate will immediately resume the consideration of the unfinished business, the so-called campaign reform bill, S. 372.

The pending question at that time will be on adoption of amendment No. 423 by Robert C. Byrd of West Virginia. There is a time limitation on the amendment of not to exceed 30 minutes. The yeas and nays have already been ordered thereon. Consequently, a yea-and-nay vote can be expected to occur possibly as early as 10:15 a.m. or 10:30 a.m.

Following disposition of amendment No. 423 by Mr. Robert C. Byrd, the Senate will take up S. 2060, on which there is a time limitation of 40 minutes. The yeas and nays have already been ordered thereon. Consequently, there will be a yea-and-nay vote on that bill possibly by 11 o'clock or 11:30, or somewhere along there.

After that bill is disposed of, the Senate will resume consideration of the unfinished business, with yea-and-nay votes to occur on amendments thereto throughout the day.

May I say, with respect to a Saturday session, a Saturday session is expected, especially—I repeat, especially—if action is not completed tomorrow on the campaign reform bill.

ADJOURNMENT TO 9:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the previous order that the Senate stand in adjournment until the hour of 9:30 a.m. tomorrow.

The motion was agreed to; and, at 6:41 p.m., the Senate adjourned until tomorrow, Friday, July 27, 1973, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 26, 1973:

ENVIRONMENTAL PROTECTION AGENCY

Russell E. Train, of the District of Columbia, to be Administrator of the Environmental Protection Agency, vice William D. Ruckelshaus.

DEPARTMENT OF JUSTICE

William D. Ruckelshaus, of Indiana, to be Deputy Attorney General, vice Joseph T. Sneed.

FARMERS HOME ADMINISTRATION

Frank B. Elliott, of Virginia, to be Administrator of the Farmers Home Administration, vice James V. Smith.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 26, 1973:

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

John R. Ottina, of California, to be Commissioner of Education.

DEPARTMENT OF DEFENSE

J. William Middendorf II, of Connecticut, to be Under Secretary of the Navy.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066 in grade as follows:

To be lieutenant general

Maj. Gen. Elvy Benton Roberts, [redacted] Army of the United States (brigadier general, U.S. Army).

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Patrick Francis Cassidy, [redacted] Army of the United States (major general, U.S. Army).

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Allen Mitchell Burdett, Jr., [redacted] U.S. Army.

The Army National Guard of the United States officers named herein for promotion as Reserve commissioned officers of the Army under the provisions of title 10, United States Code, section 593a and 3392:

To be major general

Brig. Gen. William McGilvery Buck, SSN, [redacted].

Brig. Gen. Evan Albert Turnage, SSN, [redacted]

IN THE NAVY

Rear Adm. Oliver H. Perry, Jr., U.S. Navy, having been designated for commands and other duties determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

HOUSE OF REPRESENTATIVES—*Thursday, July 26, 1973*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

May the God of hope fill you with all joy and peace in believing.—Romans 15: 13.

Most Gracious God, grant that during the hours of this day we may walk in the way of Thy word and live by the light of Thy love that the minutes may be radiant with the glory of Thy presence and resplendent with devoted service to our beloved country.

Deliver us from prejudice and pride and lead us to the higher plane of humility and hope that in all our endeavors we may keep in mind the welfare of our Nation and the well-being of all mankind.

Guide these leaders of our people that they may make wise decisions and plan sound programs which will issue in a greater spirit of unity and peace in our world.

In the spirit of the Prince of Peace we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate disagrees to the amendment of the House to the bill (S. 1672) entitled "An act to amend the Small Business Act," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. SPARKMAN, Mr. PROXMIRE, Mr. STEVENSON, Mr. CRANSTON, Mr. TOWER, Mr. TAFT, and Mr. WEICKER to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1559. An act to provide financial assistance to enable State and local governments to assume responsibilities for job training and community services, and for other purposes.

S. 1828. An act to require that certain Federal offices be filled by appointment by the President by and with the advice and consent of the Senate; and

S. 1983. An act to provide for the conservation, protection, restoration, and propagation of threatened and endangered species of fish, wildlife, and plants, and for other purposes.

PERMISSION TO FILE CONFERENCE REPORT ON S. 502, FEDERAL AID HIGHWAY ACT OF 1973, UNTIL MIDNIGHT TOMORROW

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tomorrow night to file the conference report on the bill S. 502, the Federal Aid Highway Act of 1973.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

MAJORITY LEADER THOMAS P. O'NEILL, JR., COMPLIMENTS THE HOUSE UPON PASSAGE OF IMPOUNDMENT CONTROL AND WAR POWERS BILLS

(Mr. O'NEILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'NEILL. Mr. Speaker, I think congratulations are in order to the House for its historic action yesterday in passing the impoundment control legislation.

That bill, together with the war powers resolution passed last week, go far toward reasserting two of the most important congressional powers: the responsibility to be guardian of the purse, and the responsibility to declare—or not to declare—war.

Both bills now must go into conference with the other body. But I think we have here a clear expression of congressional intention in both bodies to reclaim the power usurped by the executive branch.

I understand that both bills, in whatever form they may emerge from conference, face vetoes.

This would mean that although Congress has done much, it must do still more to reestablish—firmly and beyond dispute—its control of the powers and responsibilities imposed upon it by the Constitution.

CALL OF THE HOUSE

Mr. BROOMFIELD. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 387]

Addabbo
Andrews, N.C.
Arends
Ashley
Badillo
Blackburn
Blatnik
Bolling
Burke, Calif.
Camp
Carey, N.Y.
Chisholm
Clark
Collins, Ill.
Crane
Eckhardt
Edwards, Calif.
Evans, Colo.
Evins, Tenn.
Fisher
Frenzel
Gettys
Giaimo
Goldwater
Gray
Griffiths
Gubser
Gunter
Hanna
Hansen, Wash.
Harsha
Hawkins
Hébert
Heckler, Mass.
Holtzman
Jones, Okla.
Landgrebe
Landrum
Lott
Madigan
McDade
Milford
Mills, Ark.
Mitchell, Md.
Moorhead, Calif.
Murphy, Ill.
Murphy, N.Y.
Nelsen
Nix
Powell, Ohio
Rangel
Regula
Reid
Roe
Rooney, N.Y.
Rosenthal
Rousselot
Ryan
Sarasin
Stephens
Stokes
Stuckey
Thompson, N.J.
Vander Jagt
Veysey
Wilson, Charles, Tex.
Winn
Wolff
Young, Ga.

The SPEAKER. On this rollcall 364 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON H.R. 8152, LAW ENFORCEMENT ASSISTANCE AMENDMENTS

Mr. RODINO submitted the following conference report and statement on the bill (H.R. 8152) to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to improve law enforcement and criminal justice, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 93–401)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8152) to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to improve law enforcement and criminal justice, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Crime Control Act of 1973".

SEC. 2. Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"TITLE I—LAW ENFORCEMENT ASSISTANCE

"DECLARATION AND PURPOSE

"Congress finds, that the high incidence of crime in the United States threatens the peace, security, and general welfare of the Nation and its citizens. To reduce and prevent crime and juvenile delinquency, and to insure the greater safety of the people, law enforcement and criminal justice efforts must be better coordinated, intensified, and made more effective at all levels of government.

"Congress finds further that crime is essentially a local problem that must be dealt with by State and local governments if it is to be controlled effectively.

"It is therefore the declared policy of the

Congress to assist State and local governments in strengthening and improving law enforcement and criminal justice at every level by national assistance. It is the purpose of this title to (1) encourage States and units of general local government to develop and adopt comprehensive plans based upon their evaluation of State and local problems of law enforcement and criminal justice; (2) authorize grants to States and units of local government in order to improve and strengthen law enforcement and criminal justice; and (3) encourage research and development directed toward the improvement of law enforcement and criminal justice and the development of new methods for the prevention and reduction of crime and the detection, apprehension, and rehabilitation of criminals.

"PART A—LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

"SEC. 101. (a) There is hereby established within the Department of Justice, under the general authority of the Attorney General, a Law Enforcement Assistance Administration (hereinafter referred to in this title as 'Administration') composed of an Administrator of Law Enforcement Assistance and two Deputy Administrators of Law Enforcement Assistance, who shall be appointed by the President, by and with the advice and consent of the Senate.

"(b) The Administrator shall be the head of the agency. One Deputy Administrator shall be designated the Deputy Administrator for Policy Development. The second Deputy Administrator shall be designated the Deputy Administrator for Administration.

"PART B—PLANNING GRANTS

"SEC. 201. It is the purpose of this part to encourage States and units of general local government to develop and adopt comprehensive law enforcement and criminal justice plans based on their evaluation of State and local problems of law enforcement and criminal justice.

"SEC. 202. The Administration shall make grants to the States for the establishment and operation of State law enforcement and criminal justice planning agencies (hereinafter referred to in this title as 'State planning agencies') for the preparation, development, and revision of the State plan required under section 303 of this title. Any State may make application to the Administration for such grants within six months of the date of enactment of this Act.

"SEC. 203. (a) A grant made under this part to a State shall be utilized by the State to establish and maintain a State planning agency. Such agency shall be created or designated by the chief executive of the State and shall be subject to his jurisdiction. The State planning agency and any regional planning units within the State shall, within their respective jurisdictions, be representative of the law enforcement and criminal justice agencies, units of general local government, and public agencies maintaining programs to reduce and control crime and may include representatives of citizen, professional, and community organizations. The regional planning units within the State shall be comprised of a majority of local elected officials.

"(b) The State planning agency shall—

"(1) develop, in accordance with part C, a comprehensive statewide plan for the improvement of law enforcement and criminal justice throughout the State;

"(2) define, develop, and correlate programs and projects for the State and the units of general local government in the State or combinations of States or units for improvement in law enforcement and criminal justice; and

"(3) establish priorities for the improvement in law enforcement and criminal justice throughout the State.

"(c) The State planning agency shall make such arrangements as such agency deems necessary to provide that at least 40 per centum of all Federal funds granted to such agency under this part for any fiscal year will be available to units of general local government or combinations of such units to enable such units and combinations of such units to participate in the formulation of the comprehensive State plan required under this part. The Administration may waive this requirement, in whole or in part, upon a finding that the requirement is inappropriate in view of the respective law enforcement and criminal justice planning responsibilities exercised by the State and its units of general local government and that adherence to the requirement would not contribute to the efficient development of the State plan required under this part. In allocating funds under this subsection, the State planning agency shall assure that major cities and counties within the State receive planning funds to develop comprehensive plans and coordinate functions at the local level. Any portion of such 40 per centum in any State for any fiscal year not required for the purpose set forth in this subsection shall be available for expenditure by such State agency from time to time on dates during such year as the Administration may fix, for the development by it of the State plan required under this part.

"(d) The State planning agency and any other planning organization for the purposes of the title shall hold each meeting open to the public, giving public notice of the time and place of such meeting, and the nature of the business to be transacted, if final action is taken at that meeting on (A) the State plan, or (B) any application for funds under this title. The State planning agency and any other planning organization for the purposes of the title shall provide for public access to all records relating to its functions under this Act, except such records as are required to be kept confidential by any other provisions of local, State, or Federal law.

'SEC. 204. A Federal grant authorized under this part shall not exceed 90 per centum of the expenses incurred by the State and units of general local government under this part, and may be up to 100 per centum of the expenses incurred by regional planning units under this part. The non-Federal funding of such expenses, shall be of money appropriated in the aggregate by the State or units of general local government, except that the State shall provide in the aggregate not less than one-half of the non-Federal funding required of units of general local government under this part.

"SEC. 205. Funds appropriated to make grants under this part for a fiscal year shall be allocated by the Administration among the States for use therein by the State planning agency or units of general local government, as the case may be. The Administration shall allocate $200,000 to each of the States; and it shall then allocate the remainder of such funds available among the taStes according to their relative populations.

"PART C—GRANTS FOR LAW ENFORCEMENT PURPOSES

"SEC. 301. (a) It is the purpose of this part to encourage States and units of general local government to carry out programs and projects to improve and strengthen law enforcement and criminal justice.

"(b) The Administration is authorized to make grants to States having comprehensive State plans approved by it under this part, for:

"(1) Public protection, including the development, demonstration, evaluation, implementation, and purchase of methods, devices, facilities, and equipment designed to improve and strengthen law enforcement and criminal justice and reduce crime in public and private places.

"(2) The recruiting of law enforcement and criminal justice personnel and the training of personnel in law enforcement and criminal justice.

"(3) Public education relating to crime prevention and encouraging respect for law and order, including education programs in schools and programs to improve public understanding of and cooperation with law enforcement and criminal justice agencies.

"(4) Constructing buildings or other physical facilities which would fulfill or implement the purpose of this section, including local correctional facilities, centers for the treatment of narcotic addicts, and temporary courtroom facilities in areas of high crime incidence.

"(5) The organization, education, and training of special law enforcement and criminal justice units to combat organized crime, including the establishment and development of State organized crime prevention councils, the recruiting and training of special investigative and prosecuting personnel, and the development of systems for collecting, storing, and disseminating information relating to the control of organized crime.

"(6) The organization, education, and training of regular law enforcement and criminal justice officers, special law enforcement and criminal justice units, and law enforcement reserve units for the prevention, detection, and control of riots and other violent civil disorders, including the acquisition of riot control equipment.

"(7) The recruiting, organization, training, and education of community service officers to serve with and assist local and State law enforcement and criminal justice agencies in the discharge of their duties through such activities as recruiting; improvement of police-community relations and grievance resolution mechanisms; community patrol activities; encouragement of neighborhood participation in crime prevention and public safety efforts; and other activities designed to improve police capabilities, public safety and the objectives of this section: *Provided*, That in no case shall a grant be made under this subcategory without the approval of the local government or local law enforcement and criminal justice agency.

"(8) The establishment of a Criminal Justice Coordinating Council for any unit of general local government or any combination of such units within the State, having a population of two hundred and fifty thousand or more, to assure improved planning and coordination of all law enforcement and criminal justice activities.

"(9) The development and operation of community-based delinquent prevention and correctional programs, emphasizing halfway houses and other community-based rehabilitation centers for initial preconviction or post-conviction referral of offenders; expanded probationary programs, including paraprofessional and volunteer participation; and community service centers for the guidance and supervision of potential repeat youthful offenders.

"(10) The establishment of interstate metropolitan regional planning units to prepare and coordinate plans of State and local governments and agencies concerned with regional planning for metropolitan areas.

"(c) The portion of any Federal grant made under this section for the purposes of paragraph (4) of subsection (b) of this section may be up to 50 per centum of the cost of the program or project specified in the application for such grant. The portion of any Federal grant made under this section to be used for any other purpose set forth in this section may be up to 90 per centum of the cost of the program or project specified in the application for such grant. No part of any grant made under this section for the purpose of renting, leasing, or constructing buildings or other physical facilities shall be used for land acquisition. In the case of a grant under this section to an Indian tribe or other aboriginal group, if the Administration determines that the tribe or group does not have sufficient funds available to meet the local share of the cost of any program or project to be funded under the grant, the Administration may increase the Federal share of the cost thereof to the extent it deems necessary. The non-Federal funding of the cost of any program or project to be funded by a grant under this section shall be of money appropriated in the aggregate, by State or individual units of government, for the purpose of the shared funding of such programs or projects.

"(d) Not more than one-third of any grant made under this section may be expended for the compensation of police and other regular law enforcement and criminal justice personnel. The amount of any such grant expended for the compensation of such personnel shall not exceed the amount of State or local funds made available to increase such compensation. The limitations contained in this subsection shall not apply to the compensation of personnel for time engaged in conducting or undergoing training programs or to the compensation of personnel engaged in research, development, demonstration or other short-term programs.

"SEC. 302. Any State desiring to participate in the grant program under this part shall establish a State planning agency as described in part B of this title and shall within six months after approval of a planning grant under part B submit to the Administration through such State planning agency a comprehensive State plan developed pursuant to part B of this title.

"SEC. 303. (a) The Administration shall make grants under this title to a State planning agency if such agency has on file with the Administration an approved comprehensive State plan (not more than one year in age) which conforms with the purposes and requirements of this title. No State plan shall be approved as comprehensive unless the Administration finds that the plan provides for the allocation of adequate assistance to deal with law enforcement and criminal justice problems in areas characterized by both high crime incidence and high law enforcement and criminal justice activity. No State plan shall be approved as comprehensive, unless it includes a comprehensive program, whether or not funded under this title, for the improvement of juvenile justice. Each such plan shall—

"(1) provide for the administration of such grants by the State planning agency;

"(2) provide that at least the per centum of Federal assistance granted to the State planning agency under this part for any fiscal year which corresponds to the per centum of the State and local law enforcement expenditures funded and expended in the immediately preceding fiscal year by units of general local government will be made available to such units as combinations of such units in the immediately following fiscal year for the development and implementation of programs and projects for the improvement of law enforcement and criminal justice, and that with respect to such programs or projects the State will provide in the aggregate not less than one-half of the non-Federal funding. Per centum determinations under this paragraph for law enforcement funding and expenditures for such immediately preceding fiscal year shall be based upon the most accurate and complete data available for such fiscal year or for the last fiscal year for which such data are available. The Administration shall have the authority to approve such determinations and to review the accuracy and completeness of such data;

"(3) adequately take into account the needs and requests of the units of general local government in the State and encourage local initiative in the development of programs and projects for improvements in law enforcement and criminal justice, and provide for an appropriately balanced allocation of funds between the State and the units of general local government in the State and among such units;

"(4) provide for procedures under which plans may be submitted to the State planning agency for approval or disapproval, in whole or in part, annually from units of general local government or combinations thereof having a population of at least two hundred and fifty thousand persons to use funds received under this part to carry out a comprehensive plan consistent with the State comprehensive plan for the improvement of law enforcement and criminal justice in the jurisdiction covered by the plan;

"(5) incorporate innovations and advanced techniques and contain a comprehensive outline of priorities for the improvement and coordination of all aspects of law enforcement and criminal justice, dealt with in the plan, including descriptions of: (A) general needs and problems; (B) existing systems; (C) available resources; (D) organizational systems and administrative machinery for implementing the plan; (E) the direction, scope, and general types of improvements to be made in the future; and (F) to the extent appropriate, the relationship of the plan to other relevant State or local law enforcement and criminal justice, plans and systems;

"(6) provide for effective utilization of existing facilities and permit and encourage units of general local government to combine or provide for cooperative arrangements with respect to services, facilities, and equipment;

"(7) provide for research and development;

"(8) provide for appropriate review of procedures of actions taken by the State planning agency disapproving an application for which funds are available or terminating or refusing to continue financial assistance to units of general local government or combinations of such units;

"(9) demonstrate the willingness of the State and units of general local government to assume the costs of improvements funded under this part after a reasonable period of Federal assistance;

"(10) demonstrate the willingness of the State to contribute technical assistance or services for programs and projects contemplated by the statewide comprehensive plan and the programs and projects contemplated by units of general local government or combinations of such units;

"(11) set forth policies and procedures designed to assure that Federal funds made available under this title will be so used as not to supplant State or local funds, but to increase the amounts of such funds that would in the absence of such Federal funds be made available for law enforcement and criminal justice;

"(12) provide for such fund accounting, audit, monitoring, and evaluation procedures as may be necessary to assure fiscal control, proper management, and disbursement of funds received under this title;

"(13) provide for the maintenance of such data and information, and for the submission of such reports in such form, at such times, and containing such data and information as the National Institute for Law Enforcement and Criminal Justice may reasonably require to evaluate pursuant to section 402(c) programs and projects carried out under this title and as the Administration may reasonably require to administer other provisions of this title;

"(14) provide funding incentives to those units of general local government that coordinate or combine law enforcement and criminal justice functions or activities with other such units within the State for the purpose of improving law enforcement and criminal justice; and

"(15) provide for procedures that will insure that (A) all applications by units of general local government or combinations thereof to the State planning agency for assistance shall be approved or disapproved, in whole or in part, no later than ninety days after receipt by the State planning agency, (B) if not disapproved (and returned with the reasons for such disapproval, including the reasons for the disapproval of each fairly severable part of such application which is disapproved within ninety days of such application, any part of such application which is not so disapproved shall be deemed approved for the purposes of this title, and the State planning agency shall disburse the approved funds to the applicant in accordance with procedures established by the Administration, (C) the reasons for disapproval of such application or any part thereof, in order to be effective for the purposes of this section, shall contain a detailed explanation of the reasons for which such application or any part thereof was disapproved, or an explanation of what supporting material is necessary for the State planning agency to evaluate such application, and (D) disapproval of any application or part thereof shall not preclude the resubmission of such application or part thereof to the State planning agency at a later date.

Any portion of the per centum to be made available pursuant to paragraph (2) of this section in any State in any fiscal year not required for the purposes set forth in such paragraph (2) shall be available for expenditure by such State agency from time to time on dates during such year as the Administration may fix, for the development and implementation of programs and projects for the improvement of law enforcement and criminal justice and in conformity with the State plan.

"(b) No approval shall be given to any State plan unless and until the Administration finds that such plan reflects a determined effort to improve the quality of law enforcement and criminal justice throughout the State. No award of funds which are allocated to the States under this title on the basis of population shall be made with respect to a program or project other than a program or project contained in an approved plan.

"(c) No plan shall be approved as comprehensive unless it establishes statewide priorities for the improvement and coordination of all aspects of law enforcement and criminal justice, and considers the relationships of activities carried out under this title to related activities being carried out under other Federal programs, the general types of improvements to be made in the future, the effective utilization of existing facilities, the encouragement of cooperative arrangements between units of general local government, innovations and advanced techniques in the design of institutions and facilities, and advanced practices in the recruitment, organization, training, and education of law enforcement and criminal justice personnel. It shall thoroughly address improved court and correctional programs and practices throughout the State.

"SEC. 304. State planning agencies shall receive applications for financial assistance from units of general local government and combinations of such units. When a State planning agency determines that such an application is in accordance with the purposes stated in section 301 and is in conformance with any existing statewide comprehensive law enforcement plan, the State planning agency is authorized to disburse funds to the applicant.

"SEC. 305. Where a State has failed to have a comprehensive State plan approved under this title within the period specified by the Administration for such purpose, the funds allocated for such State under paragraph (1) of section 306(a) of this title shall be available for reallocation by the Administration under paragraph (2) of section 306(a).

"SEC. 306. (a) The funds appropriated each fiscal year to make grants under this part shall be allocated by the Administration as follows:

"(1) Eighty-five per centum of such funds shall be allocated among the States according to their respective populations for grants to State planning agencies.

"(2) Fifteen per centum of such funds, plus any additional amounts made available by virtue of the application of the provisions of sections 305 and 509 of this title to the grant of any State, may, in the discretion of the Administration, be allocated among the States for grants to State planning agencies, units of general local government, combinations of such units, or private nonprofit organizations, according to the criteria and on the terms and conditions the Administration determines consistent with this title.

Any grant made from funds available under paragraph (2) of this subsection may be up to 90 per centum of the cost of the program or project for which such grant is made. No part of any grant under such paragraph for the purpose of renting, leasing, or constructing buildings or other physical facilities shall be used for land acquisition. In the case of a grant under such paragraph to an Indian tribe or other aboriginal group, if the Administration determines that the tribe or group does not have sufficient funds available to meet the local share of the costs of any program or project to be funded under the grant, the Administration may increase the Federal share of the cost thereof to the extent it deems necessary. The limitations on the expenditure of portions of grants for the compensation of personnel in subsection (d) of section 301 of this title shall apply to a grant under such paragraph. The non-Federal share of the cost of any program or project to be funded under this section shall be of money appropriated in the aggregate by the State or units of general local government, or provided in the aggregate by a private nonprofit organization. The Administration shall make grants in its discretion under paragraph (2) of this subsection in such a manner as to accord funding incentives to those States or units of general local government that coordinate law enforcement and criminal justice functions and activities with other such States or units of general local government thereof for the purpose of improving law enforcement and criminal justice.

"(b) If the Administration determines, on the basis of information available to it during any fiscal year, that a portion of the funds allocated to a State for that fiscal year for grants to the State planning agency of the State will not be required by the State, or that the State will be unable to qualify to receive any portion of the funds under the requirements of this part, that portion shall be available for reallocation to other States under paragraph (1) of subsection (a) of this section.

"SEC. 307. In making grants under this part, the Administration and each State planning agency, as the case may be, shall give special emphasis, where appropriate or feasible, to programs and projects dealing with the prevention, detection, and control of organized crime and of riots and other violent civil disorders.

"SEC. 308. Each State plan submitted to the Administration for approval under section 302 shall be either approved or disapproved, in whole or in part, by the Administration no later than ninety days after the date of submission. If not disapproved (and returned with the reasons for such disapproval) within such ninety days of such application, such plan shall be deemed approved for the purposes of this title. The reasons for disapproval of such plan, in order to be effective for the purposes of this section, shall contain an explanation of which requirements enumerated in section 302(b) such plan fails to comply with, or an explanation of what supporting material is necessary for the Administration to evaluate such plan. For the purposes of this section, the term 'date of submission' means the date on which a State plan which the State has designated as the 'final State plan application' for the appropriate fiscal year is delivered to the Administration.

"PART D—TRAINING, EDUCATION, RESEARCH, DEMONSTRATION, AND SPECIAL GRANTS

SEC. 401. It is the purpose of this part to provide for and encourage training, education, research, and development for the purpose of improving law enforcement and criminal justice, and developing new methods for the prevention and reduction of crime, and the detection and apprehension of criminals.

"SEC. 402. (a) There is established within the Department of Justice a National Institute of Law Enforcement and Criminal Justice (hereafter referred to in this part as 'Institute'). The Institute shall be under the general authority of the Administration. The chief administrative officer of the Institute shall be a Director appointed by the Administrator. It shall be the purpose of the Institute to encourage research and development to improve and strengthen law enforcement and criminal justice, to disseminate the results of such efforts to State and local governments, and to assist in the development and support of programs for the training of law enforcement and criminal justice personnel.

"(b) The Institute is authorized—

"(1) to make grants to, or enter into contracts with, public agencies, institutions of higher education, or private organizations to conduct research, demonstrations, or special projects pertaining to the purposes described in this title, including the development of new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen law enforcement and criminal justice;

"(2) to make continuing studies and undertake programs of research to develop new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen law enforcement and criminal justice, including, but not limited to, the effectiveness of projects or programs carried out under this title;

"(3) to carry out programs of behavioral research designed to provide more accurate information on the causes of crime and the effectiveness of various means of preventing crime, and to evaluate the success of correctional procedures;

"(4) to make recommendations for action which can be taken by Federal, State, and local governments and by private persons and organizations to improve and strengthen law enforcement and criminal justice;

"(5) to carry out programs of instructional assistance consisting of research fellowships for the programs provided under this section, and special workshops for the presentation and dissemination of information resulting from research, demonstrations, and special projects authorized by this title;

"(6) to assist in conducting, at the request of a State or a unit of general local government or a combination thereof, local or regional training programs for the training of State and local law enforcement and criminal justice personnel, including but not limited to those engaged in the investigation of crime and apprehension of criminals, community relations, the prosecution or defense of those charged with crime, corrections, rehabilitation, probation and parole of offenders. Such training activities shall be designed to supplement and improve rather than supplant the training activities of the State and units of general local government and shall not duplicate the training activities of the Federal Bureau of Investigation under section 404 of this title. While participating in the training program or traveling in connection with participation in the training program, State and local personnel shall be allowed travel expenses and a per diem allowance in the same manner as prescribed under section 5703(b) of title 5, United States Code, for persons employed intermittently in the Government service;

"(7) to carry out a program of collection and dissemination of information obtained by the Institute or other Federal agencies, public agencies, institutions of higher education, or private organizations engaged in projects under this title, including information relating to new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen law enforcement; and

"(8) to establish a research center to carry out the programs described in this section.

"(c) The Institute shall serve as a national and international clearinghouse for the exchange of information with respect to the improvement of law enforcement and criminal justice, including but not limited to police, courts, prosecutors, public defenders, and corrections.

"The Institute shall undertake, where possible, to evaluate various programs and projects carried out under this title to determine their impact upon the quality of law enforcement and criminal justice and the extent to which they have met or failed to meet the purposes and policies of this title, and shall disseminate such information to State planning agencies and, upon request, to units of general local government.

"The Institute shall, before the end of the fiscal year ending June 30, 1976, survey existing and future personnel needs of the Nation in the field of law enforcement and criminal justice and the adequacy of Federal, State and local programs to meet such needs. Such survey shall specifically determine the effectiveness and sufficiency of the training and academic assistance programs carried out under this title and relate such programs to actual manpower and training requirements in the law enforcement and criminal justice field. In carrying out the provisions of this section, the Director of the Institute shall consult with and make maximum use of statistical and other related information of the Department of Labor, Department of Health, Education, and Welfare, Federal, State and local criminal justice agencies and other appropriate public and private agencies. The Administration shall thereafter, within a reasonable time develop and issue guidelines, based upon the need priorities established by the survey, pursuant to which project grants for training and academic assistance programs shall be made.

"The Institute shall report annually to the President, the Congress, the State planning agencies, and, upon request, to units of general local government, on the research and development activities undertaken pursuant to paragraphs (1), (2), and (3) of subsection (b), and shall describe in such report the potential benefits of such activities of law enforcement and criminal justice and the results of the evaluations made pursuant to the second paragraph of this subsection. Such report shall also describe the programs of instructional assistance, the special workshops, and the training programs undertaken pursuant to paragraphs (5) and (6) of subsection (b).

"Sec. 403. A grant authorized under this part may be up to 100 per centum of the total cost of each project for which such grant is made. The Administration or the Institute shall require, whenever feasible, as a condition of approval of a grant under this part, that the recipient contribute money, facilities, or services to carry out the purposes for which the grant is sought.

"Sec. 404. (a) The Director of the Federal Bureau of Investigation is authorized to—

"(1) establish and conduct training programs at the Federal Bureau of Investigation National Academy at Quantico, Virginia, to provide at the request of a State or unit of local government, training for State and local law enforcement and criminal justice personnel;

"(2) develop new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen law enforcement and criminal justice.

"(3) assist in conducting, at the request of a State or unit of local government, local and regional training programs for the training of State and local law enforcement and criminal justice personnel engaged in the investigation of crime and the apprehension of criminals. Such training shall be provided only for persons actually employed as State police or highway patrol, police of a unit of local government, sheriffs and their deputies, and other persons as the State or unit may nominate for police training while such persons are actually employed as officers of such State or unit; and

"(4) cooperate with the Institute in the exercise of its responsibilities under section 402(b)(6) of this title.

"(b) In the exercise of the functions, powers, and duties established under this section the Director of the Federal Bureau of Investigation shall be under the general authority of the Attorney General.

"Sec. 405. (a) Subject to the provisions of this section, the Law Enforcement Assistance Act of 1965 (79 Stat. 828) is repealed: *Provided*, That—

"(1) The Administration, or the Attorney General until such time as the members of the Administration are appointed, is authorized to obligate funds for the continuation of projects approved under the Law Enforcement Assistance Act of 1965 prior to the date of enactment of this Act to the extent that such approval provided for continuation.

"(2) Any funds obligated under subsection (1) of this section and all activities necessary or appropriate for the review under subsection (3) of this section may be carried out with funds previously appropriated and funds appropriated pursuant to this title.

"(3) Immediately upon establishment of the Administration, it shall be its duty to study, review, and evaluate projects and programs funded under the Law Enforcement Assistance Act of 1965. Continuation of projects and programs under subsections (1) and (2) of this section shall be in the discretion of the Administration.

"Sec. 406. (a) Pursuant to the provisions of subsections (b) and (c) of this section, the Administration is authorized, after appropriate consultation with the Commissioner of Education, to carry out programs of academic educational assistance to improve and strengthen law enforcement and criminal justice.

"(b) The Administration is authorized to enter into contracts to make, and make payments to institutions of higher education for loans, not exceeding $2,200 per academic year to any person, to persons enrolled on a full-time basis in undergraduate or graduate programs approved by the Administration and leading to degrees or certificates in areas directly related to law enforcement and criminal justice or suitable for persons employed in law enforcement and criminal justice, with special consideration to police or correctional personnel of States or units of general local government on academic leave to earn such degrees or certificates. Loans to persons assisted under this subsection shall be made on such terms and conditions as the Administration and the institution offering such programs may determine, except that the total amount of any such loan, plus interest, shall be canceled for service as a full-time officer or employee of a law enforcement and criminal justice agency at the rate of 25 per centum of the total amount of such loans plus interest for each complete year of such service or its equivalent of such service, as determined under regulations of the Administration.

"(c) The Administration is authorized to enter into contracts to make, and make, payments to institutions of higher education for tuition, books and fees, not exceeding $250 per academic quarter or $400 per semester for any person, for officers of any publicly funded law enforcement agency enrolled on a full-time or part-time basis in courses included in an undergraduate or graduate program which is approved by the Administration and which leads to a degree or certificate in an area related to law enforcement and criminal justice or an area suitable for persons employed in law enforcement and criminal justice. Assistance under this subsection may be granted only on behalf of an applicant who enters into an agreement to remain in the service of a law enforcement and criminal justice agency employing such applicant for a period of two years following completion of any course for which payments are provided under this subsection, and in the event such service is not completed, to repay the full amount of such payments on such terms and in such manner as the Administration may prescribe.

"(d) Full-time teachers or persons preparing for careers as full-time teachers of courses related to law enforcement and criminal justice or suitable for persons employed in law enforcement, in institutions of higher education which are eligible to receive funds under this section, shall be eligible to receive assistance under subsections (b) and (c) of this section as determined under regulations of the Administration.

"(e) The Administration is authorized to make grants to or enter into contracts with institutions of higher education, or combinations of such institutions, to assist them in planning, developing, strengthening, improving, or carrying out programs or projects for the development or demonstration of improved methods of law enforcement and criminal justice education, including—

"(1) planning for the development or expansion of undergraduate or graduate programs in law enforcement and criminal justice;

"(2) education and training of faculty members;

"(3) strengthening the law enforcement and criminal justice aspects of courses leading to an undergraduate, graduate, or professional degree; and

"(4) research into, and development of, methods of educating students or faculty, including the preparation of teaching materials and the planning of curriculums.

The amount of a grant or contract may be up to 75 per centum of the total cost of programs and projects for which a grant or contract is made.

"(f) The Administration is authorized to enter into contracts to make, and make payments to institutions of higher education for grants not exceeding $65 per week to persons enrolled on a full-time basis in undergraduate or graduate degree programs who are accepted for and serve in full-time internships in law enforcement and criminal justice agencies for not less than eight weeks during any summer recess or for any entire quarter or semester on leave from the degree program.

"Sec. 407. (a) The Administration is authorized to establish and support a training program for prosecuting attorneys from State and local offices engaged in the prosecution of organized crime. The program shall be designed to develop new or improved approaches, techniques, systems, manuals, and devices to strengthen prosecutive capabilities against organized crime.

"(b) While participating in the training program or traveling in connection with participation in the training program. State and local personnel shall be allowed travel expenses and a per diem allowance in the same manner as prescribed under section 5703(b) of title 5, United States Code, for persons employed intermittently in the Government service.

"(c) The cost of training State and local personnel under this section shall be provided out of funds appropriated to the Administration for the purpose of such training.

"PART E—GRANTS FOR CORRECTIONAL INSTITUTIONS AND FACILITIES

"Sec. 451. It is the purpose of this part to encourage States and units of general local government to develop and implement programs and projects for the construction, acquisition, and renovation of correctional institutions and facilities, and for the improvement of correctional programs and practices.

"Sec. 452. A State desiring to receive a grant under this part for any fiscal year shall, consistent with the basic criteria which the Administration establishes under section 454 of this title, incorporate its application for such grant in the comprehensive State plan submitted to the Administration for that fiscal year in accordance with section 302 of this title.

"Sec. 453. The Administration is authorized to make a grant under this part to a State planning agency if the application incorporated in the comprehensive State plan—

"(1) sets forth a comprehensive statewide program for the construction, acquisition, or renovation of correctional institutions and facilities in the State and the improvement of correctional programs and practices throughout the State;

"(2) provides satisfactory assurances that the control of the funds and title to property derived therefrom shall be in a public agency for the uses and purposes provided in this part and that a public agency will administer those funds and that property;

"(3) provides satisfactory assurances that the availability of funds under this part shall not reduce the amount of funds under part C of this title which a State would, in the absence of funds under this part, allocate for purposes of this part;

"(4) provides satisfactory emphasis on the development and operation of community-based correctional facilities and programs, including diagnostic services, halfway houses, probation, and other supervisory release programs for preadjudication and postadjudication referral of delinquents, youthful offenders, and first offenders, and community-oriented programs for the supervision of parolees;

"(5) provides for advanced techniques in the design of institutions and facilities;

"(6) provides, where feasible and desirable, for the sharing of correctional institutions and facilities on a regional basis;

"(7) provides satisfactory assurances that the personnel standards and programs of the institutions and facilities will reflect advanced practices;

"(8) provides satisfactory assurances that the State is engaging in projects and programs to improve the recruiting, organization, training, and education of personnel employed in correctional activities, including those of probation, parole, and rehabilitation;

"(9) provides necessary arrangements for the development and operation of narcotic and alcoholism treatment programs in correctional institutions and facilities and in connection with probation or other supervisory, release programs for all persons, incarcerated or on parole, who are drug addicts, drug abusers, alcoholics or alcohol abusers;

"(10) complies with the same requirements established for comprehensive State plans under paragraphs (1), (3), (5), (6), (8) (9), (10), (11), (12), (13), (14), and (15) of section 303(a) of this title;

"(11) provides for accurate and complete monitoring of the progress and improvement of the correctional system. Such monitoring shall include rate of prisoner rehabilitation and rates of recidivism in comparison with previous performance of the State or local correctional systems and current performance of other State and local prison systems not included in this program; and

"(12) provides that State and local governments shall submit such annual reports as the Administrator may require.

"SEC. 454. The Administration shall after consultation with the Federal Bureau of Prisons, by regulation prescribe basic criteria for applicants and grantees under this part.

"In addition, the Administration shall issue guidelines for drug treatment programs in State and local prisons and for those to which persons on parole are assigned. The Administrator shall coordinate or assure coordination of the development of such guidelines with the Special Action Office for Drug Abuse Prevention.

"SEC. 455. (a) The funds appropriated each fiscal year to make grants under this part shall be allocated by the Administration as follows:

"(1) Fifty per centum of the funds shall be available for grants to State planning agencies.

"(2) The remaining 50 per centum of the funds may be made available, as the Administration may determine, to State planning agencies, units of general local government, or combinations of such units, according to the criteria and on the terms and conditions the Administration determines consistent with this part.

Any grant made from funds available under this part may be up to 90 per centum of the cost of the program or project for which such grant is made. The non-Federal funding of the cost of any program or project to be funded by a grant under this section shall be of money appropriated in the aggregate by the State or units of general local government. No funds awarded under this part may be used for land acquisition.

"(b) If the Administration determines, on the basis of information available to it during any fiscal year, that a portion of the funds granted to an applicant for that fiscal year will not be required by the applicant or will become available by virtue of the application of the provisions of section 509 of this title, that portion shall be available for reallocation under paragraph (2) of subsection (a) of this section.

"PART F—ADMINISTRATIVE PROVISIONS

"SEC. 501. The Administration is authorized, after appropriate consultation with representatives of States and units of general local government, to establish such rules, regulations, and procedures as are necessary to the exercise of its functions, and are consistent with the stated purpose of this title.

"SEC. 502. The Administration may delegate to any officer or official of the Administration, or, with the approval of the Attorney General, to any officer of the Department of Justice such functions as it deems appropriate.

"SEC. 503. The functions, powers, and duties specified in this title to be carried out by the Administration shall not be transferred elsewhere in the Department of Justice unless specifically hereafter authorized by the Congress.

"SEC. 504. In carrying out its functions, the Administration, or upon authorization of the Administration, any member thereof or any hearing examiner assigned to or employed by the Administration, shall have the power to hold hearings, sign and issue subpenas, administer oaths, examine witnesses, and receive evidence, at any place in the United States it may designate.

"SEC. 505. Section 5314 of title 5, United States Code, is amended by adding at the end thereof—

"'(55) Administrator of Law Enforcement Assistance.'

"SEC. 506. Title 5, United States Code, is amended as follows:

"(a) Section 5315(90) is amended by deleting 'Associate Administrator of Law Enforcement Assistance (2)' and inserting in lieu thereof 'Deputy Administrator for Policy Development of the Law Enforcement Assistance Administration'.

"(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following:

"'(133) Deputy Administrator for Administration of the Law Enforcement Assistance Administration.'

"(c) Section 5108(c)(10) is amended by deleting the word 'twenty' and inserting in lieu thereof the word 'twenty-two'.

"SEC. 507. Subject to the civil service and classification laws, the Administration is authorized to select, appoint, employ, and fix compensation of such officers and employees, including hearing examiners, as shall be necessary to carry out its powers and duties under this title.

"SEC. 508. The Administration is authorized, on a reimbursable basis when appropriate, to use the available services, equipment, personnel, and facilities of the Department of Justice and of other civilian or military agencies and instrumentalities of the Federal Government (not including the Central Intelligence Agency), and to cooperate with the Department of Justice and such other agencies and instrumentalities in the establishment and use of services, equipment, personnel, and facilities of the Administration. The Administration is further authorized to confer with and avail itself of the cooperation, services, records, and facilities of State, municipal, or other local agencies, and to receive and utilize, for the purposes of this title, property donated or transferred for the purposes of testing by any other Federal agencies, States, units of general local government, public or private agencies or organizations, institutions of higher education, or individuals.

"SEC. 509. Whenever the Administration, after reasonable notice and opportunity for hearing to an applicant or a grantee under this title, finds that, with respect to any payments made or to be made under this title, there is a substantial failure to comply with—

"(a) the provisions of this title;

"(b) regulations promulgated by the Administration under this title; or

"(c) a plan or application submitted in accordance with the provisions of this title; the Administration shall notify such applicant or grantee that further payments shall not be made (or in its discretion that further payments shall not be made for activities in which there is such failure), until there is no longer such failure.

"SEC. 510. (a) In carrying out the functions vested by this title in the Administration, the determinations, findings, and conclusions of the Administration shall be final and conclusive upon all applicants, except as hereafter provided.

"(b) If the application has been rejected or an applicant has been denied a grant or has had a grant, or any portion of a grant, discontinued, or has been given a grant in a lesser amount than such applicant believes appropriate under the provisions of this title, the Administration shall notify the applicant or grantee of its action and set forth the reason for the action taken. Whenever an applicant or grantee requests a hearing on action taken by the Administration on an application or a grant, the Administration, or any authorized officer thereof, is authorized and directed to hold such hearings or investigations at such times and places as the Administration deems necessary, following appropriate and adequate notice to such applicant; and the findings of fact and determinations made by the Administration with respect thereto shall be final and conclusive, except as otherwise provided herein.

"(c) If such applicant is still dissatisfied with the findings and determinations of the Administration, following the notice and hearing provided for in subsection (b) of this section, a request may be made for rehearing, under such regulations and procedures as the Administration may establish, and such applicant shall be afforded an opportunity to present such additional information as may be deemed appropriate and pertinent to the matter involved. The findings and determinations of the Administration, following such rehearing, shall be final and conclusive upon all parties concerned, except as hereafter provided.

"SEC. 511 (a) If any applicant or grantee is dissatisfied with the Administration's final action with respect to the approval of its application or plan submitted under this title, or any applicant or grantee is dissatisfied with the Administration's final action under section 509 or section 510, such applicant or grantee may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such applicant or grantee is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administration. The Administration shall thereupon file in the court the record of the proceedings on which the action of the Administration was based, as provided in section 2112 of title 28, United States Code.

"(b) The determination and the findings of fact by the Administration, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Administration to take further evidence. The Administration may thereupon make new or modified findings of fact and may modify its previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact or determinations shall likewise be conclusive if supported by substantial evidence.

"(c) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Administration or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"SEC. 512. Unless otherwise specified in this title, the Administration shall carry out the programs provided for in this title during the fiscal year ending June 30, 1974, and the two succeeding fiscal years.

"SEC. 513. To insure that all Federal assistance to State and local programs under this title is carried out in a coordinated manner, the Administration is authorized to request any Federal department or agency to supply such statistics, data, program reports, and other material as the Administration deems necessary to carry out its functions under this title. Each such department or agency is authorized to cooperate with the Administration and, to the extent permitted by law, to furnish such materials to the Administration. Any Federal department or agency engaged in administering programs related to this title shall, to the maximum extent practicable consult with and seek advice from the Administration to insure fully coordinated efforts, and the Administration shall undertake to coordinate such efforts.

"Sec. 514. The Administration may arrange with and reimburse the heads of other Federal departments and agencies for the performance of any of its functions under this title.

"Sec. 515. The Administration is authorized—

"(a) to conduct evaluation studies of the programs and activities assisted under this title;

"(b) to collect, evaluate, publish, and disseminate statistics and other information on the condition and progress of law enforcement within and without the United States; and

"(c) to cooperate with and render technical assistance to States, units of general local government, combinations of such States or units, or other public or private agencies, organizations, institutions, or international agencies in matters relating to law enforcement and criminal justice.

Funds appropriated for the purposes of this section may be expended by grant or contract, as the Administration may determine to be appropriate.

"Sec. 516. (a) Payments under this title may be made in installments, and in advance or by way of reimbursement, as may be determined by the Administration, and may be used to pay the transportation and subsistence expenses of persons attending conferences or other assemblages notwithstanding the provisions of the joint resolution entitled 'Joint resolution to prohibit expenditure of any moneys for housing, feeding, or transporting conventions or meetings', approved February 2, 1935 (31 U.S.C. sec. 551).

"(b) Not more than 12 per centum of the sums appropriated for any fiscal year to carry out the provisions of this title may be used within any one State except that this limitation shall not apply to grants made pursuant to part D.

"Sec. 517. (a) The Administration may procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, at rates of compensation for individuals not to exceed the daily equivalent of the rate authorized for GS-18 by section 5332 of title 5, United States Code.

"(b) The Administration is authorized to appoint, without regard to the civil service laws, technical or other advisory committees to advise the Administration with respect to the administration of this title as it deems necessary. Members of those committees not otherwise in the employ of the United States, while engaged in advising the Administration or attending meetings of the committees, shall be compensated at rates to be fixed by the Administration but not to exceed the daily equivalent of the rate authorized for GS-18 by section 5332 of title 5 of the United States Code and while away from home or regular place of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such title 5 for persons in the Government service employed intermittently.

"Sec. 518. (a) Nothing contained in this title or any other Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over any police force or any other law enforcement and criminal justice agency of any State or any political subdivision thereof.

"(b) Notwithstanding any other provision of law nothing contained in this title shall be construed to authorize the Administration (1) to require, or condition the availability or amount of a grant upon, the adoption by an applicant or grantee under this title of a percentage ratio, quota system, or other program to achieve racial balance or to eliminate racial imbalance in any law enforcement agency, or (2) to deny or discontinue a grant because of the refusal of an applicant or grantee under this title to adopt such a ratio, system, or other program.

"(c)(1) No person in any State shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

"(2) Whenever the Administration determines that a State government or any unit of general local government has failed to comply with subsection (c)(1) or an applicable regulation, it shall notify the chief executive of the State of the noncompliance and shall request the chief executive to secure compliance. If within a reasonable time after such notification the chief executive fails or refuses to secure compliance, the Administration shall exercise the powers and functions provided in section 509 of this title, and is authorized concurrently with such exercise—

"(A) to institute an appropriate civil action;

"(B) to exercise the powers and functions pursuant to title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d); or

"(C) to take such other action as may be provided by law.

"(3) Whenever the Attorney General has reason to believe that a State government or unit of local government is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

"Sec. 519. On or before December 31 of each year, the Administration shall report to the President and to the Congress on activities pursuant to the provisions of this title during the preceding fiscal year.

"Sec. 520. There are authorized to be appropriated such sums as are necessary for the purposes of each part of this title, but such sums in the aggregate shall not exceed, $1,000,000,000 for the fiscal year ending June 30, 1974, $1,000,000,000 for the fiscal year ending June 30, 1975, and $1,250,000,000 for the fiscal year ending June 30, 1976. Funds appropriated for any fiscal year may remain available for obligation until expended. Beginning in the fiscal year ending June 30, 1972, and in each fiscal year thereafter there shall be allocated for the purposes of part E an amount equal to not less than 20 per centum of the amount allocated for the purposes of part C.

"Sec. 521. (a) Each recipient of assistance under this Act shall keep such records as the Administration shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) The Administration or any of its duly authorized representatives, shall have access for purpose of audit and examinations to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this title.

"(c) The Comptroller General of the United States, or any of his duly authorized representatives, shall, until the expiration of three years after the completion of the program or project with which the assistance is used, have access for the purpose of audit and examination to any books, documents, papers and records of recipients of Federal assistance under this title which in the opinion of the Comptroller General may be related or pertinent to the grants, contracts, subcontracts, subgrants, or other arrangements referred to under this title.

"(d) The provisions of this section shall apply to all recipients of assistance under this Act, whether by direct grant or contract from the Administration or by subgrant or subcontract from primary grantees or contractors of the Administration.

"Sec. 522. Section 204(a) of the Demonstration Cities and Metropolitan Development Act of 1966 is amended by inserting 'law enforcement facilities,' immediately after 'transportation facilities.'

"Sec. 523. Any funds made available under parts B, C, and E prior to July 1, 1973, which are not obligated by a State or unit of general local government may be used to provide up to 90 percent of the cost of any program or project. The non-Federal share of the cost of any such program or project shall be of money appropriated in the aggregate by the State or units of general local government.

"Sec. 524. (a) Except as provided by Federal law other than this title, no officer or employee of the Federal Government, nor any recipient of assistance under the provisions of this title shall use or reveal any research or statistical information furnished under this title by any person and identifiable to any specific private person for any purpose other than the purpose for which it was obtained in accordance with this title. Copies of such information shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceedings.

"(b) All criminal history information collected, stored, or disseminated through support under this title shall contain, to the maximum extent feasible, disposition as well as arrest data where arrest data is included therein. The collection, storage, and dissemination of such information shall take place under procedures reasonably designed to insure that all such information is kept current therein; the Administration shall assure that the security and privacy of all information is adequately provided for and that information shall only be used for law enforcement and criminal justice and other lawful purposes. In addition, an individual who believes that criminal history information concerning him contained in an automated system is inaccurate, incomplete, or maintained in violation of this title, shall, upon satisfactory verification of his identity, be entitled to review such information and to obtain a copy of it for the purpose of challenge or correction.

"(c) Any person violating the provisions of this section, or of any rule, regulation, or order issued thereunder, shall be fined not to exceed $10,000, in addition to any other penalty imposed by law.

"Sec. 525. The last two sentences of section 203(n) of the Federal Property and Administrative Services Act of 1949 are amended to read as follows: 'In addition, under such cooperative agreements, and subject to such other conditions as may be imposed by the Secretary of Health, Education, and Welfare, or the Director, Office of Civil and Defense Mobilization, or the Administrator, Law Enforcement Assistance Administration, surplus property which the Administrator may approve for donation for use in any State for purposes of law enforcement programs, education, public health, or civil defense, or for research for any such purposes, pursuant to subsection (j)(3) or (j)(4), may with the approval of the Administrator be made available to the State agency after a determination by the Secretary or the Director or the Administrator, Law Enforcement Assistance Administration that such property is necessary to, or would facilitate, the effective operation of the State agency in performing its functions in connection with such program. Upon a determination by the Secretary or the Director or Administrator, Law Enforcement Assistance Administration, that such action is necessary to, or would facilitate, the effective use of such surplus property made available under the terms of a cooperative agreement, title thereto may with the approval of the Administrator be vested in the State agency.'

"PART G—DEFINITIONS

"SEC. 601. As used in this title—

"(a) 'Law enforcement and criminal justice' means any activity pertaining to crime prevention, control or reduction or the enforcement of the criminal law, including, but not limited to police efforts to prevent, control, or reduce crime or to apprehend criminals, activities of courts having criminal jurisdiction and related agencies (including prosecutorial and defender services), activities of corrections, probation, or parole authorities, and programs relating to the prevention, control, or reduction of juvenile delinquency or narcotic addiction.

"(b) 'Organized crime' means the unlawful activities of the members of a highly organized, disciplined association engaged in supplying illegal goods and services, including but not limited to gambling, prostitution, loan sharking, narcotics, labor racketeering, and other unlawful activities of members of such organizations.

"(c) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

"(d) 'Unit of general local government' means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior, or, for the purpose of assistance eligibility, any agency of the District of Columbia government or the United States Government performing law enforcement functions in and for the District of Columbia and funds appropriated by the Congress for the activities of such agencies may be used to provide the non-Federal share of the cost of programs or projects funded under this title; provided, however, that such assistance eligibility of any agency of the United States Government shall be for the sole purpose of facilitating the transfer of criminal jurisdiction from the United States District Court for the District of Columbia to the Superior Court of the District of Columbia pursuant to the District of Columbia Court Reform and Criminal Procedure Act of 1970.

"(e) 'Combination' as applied to States or units of general local government means any grouping or joining together of such States or units for the purpose of preparing, developing, or implementing a law enforcement plan.

"(f) 'Construction' means the erection, acquisition, expansion, or repair (but not including minor remodeling or minor repairs) of new or existing buildings or other physical facilities, and the acquisition or installation of initial equipment therefor.

"(g) 'State organized crime prevention council' means a council composed of not more than seven persons established pursuant to State law or established by the chief executive of the State for the purpose of this title, or an existing agency so designated, which council shall be broadly representative of law enforcement officials within such State and whose members by virtue of their training or experience shall be knowledgeable in the prevention and control of organized crime.

"(h) 'Metropolitan area' means a standard metropolitan statistical area as established by the Bureau of the Budget, subject, however, to such modifications and extensions as the Administration may determine to be appropriate.

"(i) 'Public agency' means any State, unit of local government, combination of such States or units, or any department, agency, or instrumentality of any of the foregoing.

"(j) 'Institution of higher education' means any such institution as defined by section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)) subject, however, to such modifications and extensions as the Administration may determine to be appropriate.

"(k) 'Community service officer' means any citizen with the capacity, motivation, integrity, and stability to assist in or perform police work but who may not meet ordinary standards for employment as a regular police officer selected from the immediate locality of the police department of which he is to be a part and meeting such other qualifications promulgated in regulations pursuant to section 501 as the Administration may determine to be appropriate to further the purposes of section 301(b)(7) and this Act.

"(l) The term 'correctional institution or facility' means any place for the confinement or rehabilitation of juvenile offenders or individuals charged with or convicted of criminal offenses.

"(m) The term 'comprehensive' means that the plan must be a total and integrated analysis of the problems regarding the law enforcement and criminal justice system within the State; goals, priorities, and standards must be established in the plan and the plan must address methods, organization, and operation performance, physical and human resources necessary to accomplish crime prevention, identification, detection, and apprehension of suspects; adjudication; custodial treatment of suspects and offenders, and institutional and noninstitutional rehabilitative measures.

"(n) The term 'treatment' includes but is not limited to, medical, educational, social, psychological and vocational services, corrective and preventive guidance and training, and other rehabilitative services designed to protect the public and benefit the addict or other user by eliminating his dependence on addicting or other drugs or by controlling his dependence, and his susceptibility to addiction or use.

"(o) 'Criminal history information' includes records and related data, contained in an automated criminal justice informational system, compiled by law enforcement agencies for purposes of identifying criminal offenders and alleged offenders and maintaining as to such persons summaries of arrests, the nature and disposition of criminal charges, sentencing, confinement, rehabilitation and release.

"PART H—CRIMINAL PENALTIES

"SEC. 651. Whoever embezzles, willfully misapplies, steals, or obtains by fraud or endeavors to embezzle, willfully misapply, steal or obtain by fraud any funds, assets, or property which are the subject of a grant or contract or other form of assistance pursuant to this title, whether received directly or indirectly from the Administration, or whoever receives, conceals, or retains such funds, assets, or property with intent to convert such funds, assets, or property to his use or gain, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

"SEC. 652. Whoever knowingly and willfully falsifies, conceals, or covers up by trick, scheme, or device, any material fact in any application for assistance submitted pursuant to this title or in any records required to be maintained pursuant to this title shall be subject to prosecution under the provisions of section 1001 of title 18, United States Code.

"SEC. 653. Any law enforcement and criminal justice program or project underwritten, in whole or in part, by any grant, or contract or other form of assistance pursuant to this title, whether received directly or indirectly from the Administration, shall be subject to the provisions of section 371 of title 18, United States Code.

"PART I—ATTORNEY GENERAL'S BIENNIAL REPORT OF FEDERAL LAW ENFORCEMENT AND CRIMINAL JUSTICE ACTIVITIES

"SEC. 670. The Attorney General, in consultation with the appropriate officials in the agencies involved, within 90 days of the end of each second fiscal year shall submit to the President and to the Congress a Report of Federal Law Enforcement and Criminal Justice Assistance Activities setting forth the programs conducted, expenditures made, results achieved, plans developed, and problems discovered in the operations and coordination of the various Federal assistance programs relating to crime prevention and control, including, but not limited to, the Juvenile Delinquency Prevention and Control Act of 1968, the Narcotics Addict Rehabilitation Act of 1968, the Gun Control Act 1968, the Criminal Justice Act of 1964, title XI of the Organized Crime Control Act of 1970 (relating to the regulation of explosives), and title III of the Omnibus Crime Control and Safe Streets Act of 1968 (relating to wiretapping and electronic surveillance)."

SEC. 3. The amendments made by this Act shall take effect on and after July 1, 1973, except that the offices and salaries modified under sections 101, 505, and 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 as amended by this Act shall be modified prospectively only, effective on and after the date of the enactment of this Act.

And the Senate agree to the same.

PETER RODINO,
JOHN CONYERS,
WALTER FLOWERS,
JOHN F. SEIBERLING,
BARBARA JORDAN,
EDWARD MEZVINSKY,
EDWARD HUTCHINSON,
ROBERT MCCLORY,
CHARLES W. SANDMAN, Jr.,
DAVID W. DENNIS,
HAMILTON FISH, Jr.,
Managers on the Part of the House.
JOHN L. MCCLELLAN,
ROMAN HRUSKA,
P. A. HART,
HUGH SCOTT,
SAM J. ERVIN, Jr.
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8152) to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to improve law enforcement and criminal justice, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

SHORT TITLE

The House bill provided no short title. The Senate amendment proposed the short title "Crime Control Act of 1973." The conference substitute adopts the Senate amendment.

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

The House bill provided for the abolition of the two positions of Associate Administrator and vested all administrative and policy authority in the Administrator of LEAA. The bill created a position of Deputy Administrator to assist the Administrator by delegation and to serve as Administrator in the absence or incapacity of the Administrator. The Senate amendment also provided for all authority to be vested in the Administrator, but provided for two Deputy Administrators to be appointed by the President by and with the advice and consent of the Senate. One deputy would assist the Administrator in the areas of policy and operations and would act for him in his absence or incapacity, and the second deputy would be responsible for administrative management functions.[1] The conference substitute adopts the Senate amendment.

STATE PLANNING AGENCIES AND REGIONAL PLANNING UNITS

The House bill provided that State planning agencies and regional planning units may include citizen, community, and professional organization representatives. The Senate amendment did not so provide, but provided that the majority of the members of any regional planning unit must be elected executive and legislative officials. The conference substitute adopts both the House and Senate approaches and provides permission for representation of citizen, community and professional organizations, and provides that the majority of the members of any regional planning unit must be elected officials.

VICTIMS OF VIOLENT CRIME

The Senate amendment contained provisions not in the House bill authorizing LEAA funds to be used for State programs to compensate victims of violent crimes. The conference substitute does not include these provisions. The conferees took this action because of the parallel processing of legislation introduced by three distinguished Senators, Mr. McClellan, Mr. Mansfield and Mr. Mondale, that would provide a comprehensive program at the Federal level to compensate innocent victims of violent crime and authorize a similar use of LEAA funds. The bill, S. 300, has already passed the Senate and is now pending before the House Committee on the Judiciary. Congressman Rodino, Chairman of the House Committee on the Judiciary, has also introduced a similar proposal, and as a member of the conference has indicated strong interest in this proposed program as a separate bill. Concern was also expressed that the District of Columbia was not included in the program as proposed in the Senate amendment. However, some members of the conference indicated less than whole hearted support of the program and some voiced firm opposition.

INTERSTATE METROPOLITAN REGIONAL PLANNING UNITS

The Senate amendment contained a provision not in the House bill expressly authorizing the use of both Part C discretionary funds and Part C block grant funds for planning grants to interstate metropolitan regional planning units. The conference substitute adopts this provision.

JUVENILE JUSTICE

The Senate amendment contained provisions not in the House bill which would have required each State to develop, as a part of its overall criminal justice State plan, a comprehensive plan for the improvement of juvenile justice and to allocate for juvenile delinquency prevention and control at least 20 percent of his Part C and Part E funds in fiscal year 1974 and 30 percent in fiscal year 1975 and each succeeding fiscal year.

The conference substitute retains the requirement that each State plan must include a program for the improvement of juvenile justice, funded under title I of this Act or other Federal, State, or local programs, but does not include the rest of the Senate amendment. The conferees recognized the pressing need for additional funding in the area of juvenile delinquency prevention and control, but noted that some authority for additional funding does exist in other programs, that separate bills on these matters are currently pending in both Houses and that these bills should be given priority in the near future. Moreover, since no plan may be approved unless it is comprehensive and since no plan is comprehensive unless it takes into account a juvenile justice program and since the bill otherwise requires that LEAA give greater scrutiny to State plans to ascertain whether they reflect a determined effort to improve the quality of law enforcement and criminal justice, it is expected that greater emphasis will be given to the problems of juvenile justice in the future. The failure to require specified minimums reflects more a general concern for the continued flexibility of the State and local planning process than any policy that juvenile delinquency should not be a primary concern in the fight to control crime. The fact that the Federal Government currently expends substantial funds and energies on programs relating to juvenile delinquency did not go unnoticed by the conferees.

ASSUMPTION OF COSTS

The House bill deleted the provision which requires the States to show a willingness to take over the funding of programs and projects under this title. The Senate amendment retained the provision, as does the conference substitute.

INFORMATION AND DATA REQUIREMENTS IN STATE PLANS

The House bill required that State plans provide for the submission of data and information as the National Institute might require for its evaluation function and as LEAA might require to carry out its functions. The Senate amendment tracked this requirement but made no reference to the National Institute and its evaluation function. The conference substitute adopts the language of the House bill.

APPLICATION APPROVAL

The House bill provided that the States must approve or disapprove, in whole or in part, applications for assistance by units of general local government within 60 days after their submission. The Senate amendment was identical in this respect except that it allowed 90 days. The conference substitute adopts the Senate language.

TEMPORARY BUY-IN WAIVER

The House bill provided for no waiver of the increased State "buy-in" requirement, but the Senate amendment allowed such a waiver until a date certain or the next session of the State legislature, whichever occurred first. The conference substitute contains no provision for such a waiver.

GRANTS FOR LOCAL PLANS

The Senate amendment contained a provision not in the House bill requiring State plans to include procedures which make units of local government, or combinations thereof, with populations of 100,000 or more eligible to apply for grants from the State on the basis of a local comprehensive plan consistent with the State comprehensive plan. The conference substitute adopts this provision, but increases the minimum population requirement to 250,000 and provides that the State may approve, in whole or in part, grant applications from such units which qualify. The intent of the conferees is that the key planning decisions as between the States and units of general local government remain with the State planning agencies.

LEEP SURVEY

The Senate amendment added a provision that a survey of the needs of law enforcement and criminal justice personnel be made within three years by the National Institute. The House bill contained no such provision. The conference substitute adopts the Senate provision.

TRAINING

Present law authorize the Federal Bureau of Investigation to assist in conducting regional and local training programs for police. The House bill authorized the National Institute to assist in conducting regional and local training programs for all law enforcement and criminal justice personnel, not only for police, and eliminated the FBI training program for police as duplicative. The Senate amendment deleted the National Institute's training role and restated present law with regard to the FBI training role. In order to retain the FBI program of long experience yet provide training for all law enforcement and criminal justice personnel, the conference substitute retains the FBI training program for police and provides that the National Institute may assist State and local governments in developing and conducting regional and local training programs for all law enforcement and criminal justice personnel but may not duplicate the activities of the FBI in its police training role. It is intended that the training functions of these two agencies complement rather than duplicate each other.

Thus, the retention of authority in the FBI to continue its local and State training programs is not intended to deprive the National Institute of assisting in the development and conduct of any of its training functions. Furthermore, it is intended that the FBI will co-operate with the National Institute in the regional training programs which the Institute may develop—particularly with respect to the investigation of crime and the apprehension of criminals and other anti-crime activities in which the FBI has special expertise.

NATIONAL AND INTERNATIONAL CLEARINGHOUSE INFORMATION EXCHANGE

The Senate amendment authorized the Institute to serve as an international clearinghouse for the expansion of law enforcement and criminal justice information. The House bill continued LEAA's current authority to act only within the confines of the U.S. The conferees agreed to the Senate provision.

This agreement expands the scope of the Institute's authority to disseminate information related to international law enforcement problems.

IN-SERVICE LEEP GRANTS

The Senate amendment would remove the requirement that a LEEP recipient remain with the law enforcement agency where he was employed during his LEEP studies in order to be eligible for cancellation of certain LEEP obligations. The House bill continued the current requirement that a LEEP recipient must remain with his employing law enforcement agency only. The conference substitute adopted the Senate provision which will permit a recipient to earn cancellation so long as he remains in a law enforcement agency.

DRUG AND ALCOHOLISM TREATMENT AMENDMENTS

The Senate amendment included a requirement that one of the criteria for the receipt of Part E funds would be the development of narcotic and alcoholism treatment and control programs. The House bill did not include alcoholism treatment programs.

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[1] It is important to note that the substitute bill does not create a new position of Administrator of LEAA, and it is contemplated that the present Administrator of LEAA is authorized to continue to serve without the necessity for reconfirmation by the Senate. Similarly, the committee of conference contemplates that incumbent Associate Administrators of LEAA are authorized to fill the positions of Deputy Administrator without the necessity for reconfirmation by the Senate of either of those officials. Congress may devolve upon one already in office different duties which are germane to his office without thereby rendering it necessary that the incumbent should again be nominated, appointed, or confirmed. *Cf. Shoemaker v. United States*, 147 U.S. 282, 301 (1893).

The conferees agreed to accept the language of the Senate amendment. This amendment provides for the development of narcotic and alcoholism treatment programs under Part E correction funds. However, the conferees also agreed that although alcoholism programs may be funded, such funding should not be to the extent that it would interfere with or reduce the funds to be used for drug treatment programs. The conference substitute expands the definition of treatment to include non-addictive drug problems and, by inference, alcoholism. Additionally, the definition of treatment is expanded to authorize measures intended to control as well as eliminate drug dependency. The conference substitute also adopts Senate language requiring the coordination of drug treatment program guidelines with the Special Action Office for Drug Abuse Prevention.

RECIDIVISM RATES

The Senate amendment added a requirement which provided for the monitoring of recidivism rates and progress of prisoner rehabilitation. The House bill contained no comparable provision.

The conference substitute adopted the Senate version. The adoption of this language is consistent with the previously expressed interest of the Congress in upgrading and improving the Nation's correctional systems through Part E corrections funds awarded by LEAA.

HARD MATCH

The Senate amendment provides express authority, which the House bill did not, for non-profit organizations to provide funds to be used as hard match by States and local units of government. The omission of this language in the conference substitute carries with it no negative or positive inference and is not intended to prevent any current practices of LEAA to the extent that such practices may be within the ambit of the purposes and provisions of the law.

RETROACTIVE SOFT MATCH ELIMINATIONS

The House bill provided for the retroactive elimination of soft match requirements with respect to both States and units of local government. The Senate amendment provides this elimination with respect to States alone. The conference substitute adopts the House provision.[2]

SUPERGRADES

The House bill provided for no additional supergrade positions at LEAA. The Senate amendment provided for four additional supergrade positions. The conference substitute provides for two.

BICENTENNIAL AUTHORITY

The Senate amendment provided authority to LEAA to assist law enforcement activities connected with the American Revolution Bicentennial Commission by transferring funds to federal agencies dealing with the activities of the Bicentennial. The House bill contained no such provision. The conference substitute does not provide such authority. But this omission is not intended to restrict any authority LEAA might have to support otherwise fundable law enforcement projects arising out of activities related to the Bicentennial.

INFORMATION DISSEMINATION AND TECHNICAL ASSISTANCE

The Senate amendment granted authority to LEAA for the collection and dissemination of information on law enforcement and criminal justice both within and outside of the United States. Other authority was also provided for the interchange of assistance with respect to international activities. The House bill contained the current LEAA authority which was limited to activities within the "several States."

The conference substitute adopts the Senate amendment which provides authority to LEAA to collect and disseminate information on law enforcement within and without the United States.

The conference substitute also accepts the Senate version which adds authority to provide technical assistance to international law enforcement agencies as well as national law enforcement agencies. In recognition of the international scope of many law enforcement and criminal justice problems the conferees agreed to give LEAA authority to provide technical assistance in such areas as narcotics interdiction, skyjacking, and terrorism. The conferees felt that LEAA's international operations should be limited to providing technical assistance in cases of this character.

DISCRIMINATION

The House bill provided that, upon complaint of discrimination in programs assisted under title I, the Governor has sixty days to respond, and that the LEAA must initiate proceedings to cut off funds to any recipient who continues to discriminate after that period, and may concurrently with that initiation take other actions, including instituting a law suit.

The Senate amendment permitted the Governor to act in a "reasonable time," and authorized the same remedies as did the House bill, including proceedings to cut off funds, but made none of them mandatory. The conference substitute uses the Senate's "reasonable time" standard and adopts the House bill language on remedial proceedings but makes it clear that the various proceedings may be concurrently instituted.

COMPTROLLER GENERAL'S ACCESS TO RECORDS

Although the House bill provided for access to records by the Comptroller General, it did not do so in language consistent with the Records Retention Act. The Senate amendment did incorporoate such language. The conference substitute adopts the Senate version.

SECURITY AND PRIVACY PROVISIONS

The House bill provided for the security and privacy of statistical and research information. The Senate amendment added language to the House bill giving access to criminal history records information maintained by State and local governments with LEAA funds to individuals who had reason to believe that their own records were inaccurate. In addition, it required that an individual's criminal history records include not only any arrests but, where possible, the disposition of the case subsequent to arrest and that a definition for criminal history information be added to title I.

The Senate amendment also provided that identified individuals have access to their own automated records and criminal history information, which such individuals might believe to be inaccurate or irrelevant. Dissemination of such information was permitted in limited cases and with certain safeguards.

The conferees accepted the Senate version but only as an interim measure. It should not be viewed as dispositive of the unsettled and sensitive issues of the right of privacy and other individual rights affecting the maintenance and dissemination of criminal justice information. More comprehensive legislation in the future is contemplated.

AUTHORIZATION—AMOUNT AND LENGTH

The House bill provided for a two year grant-making authorization and that the funds authorized for each of the two years would be $1 billion per year. The Senate amendment provided for a five-year authorization of from $1 billion in fiscal year 1974 to $2 billion in fiscal year 1978.

The conference substitute agreed to a compromise of three years on the length of LEAA's grant-making authorization and to appropriation authority of $1 billion FY 1974, $1 billion FY 1975, and $1.25 billion for FY 1976.

EXCESS OR SURPLUS PROPERTY AUTHORITY

The Senate amendment provided LEAA with authority to donate excess or surplus federal property to State agencies thereby vesting in the grantee title to such property. The House bill did not contain comparable language. The conference substitute accepted the Senate provision.

CRIMINAL PENALTIES

The House bill added "attempts" to current provisions relating to the criminal misuse of LEAA funds. The Senate amendment substituted the word "endeavors" for the word "attempts." The conference substitute agreed to the Senate language. This change was adopted as the word "endeavors" does not have the common law gloss as does the word "attempts." See *Osborn v. United States,* 385 U.S. 323 (1966). The conference substitute accepts the "endeavors" formulation in this context since it creates a higher standard for the use of LEAA funds and does not intend to set a precedent for a general change in the criminal law with respect to attempts.

ATTORNEY GENERAL'S REPORT

The Senate amendment provided for the Attorney General's report on Federal criminal justice activities to be published every four years. The House bill provided for annual publication. The conference substitute contains a compromise providing for the publication of the Attorney General's report every two years.

TITLE—PART C

The Senate amendment would have entitled Part C of title I "Law Enforcement Revenue Sharing." The House bill provided for a designation of "Grants for Law Enforcement Purposes." The conference substitute adopts the House bill with conforming language to read: "Grants for Law Enforcement and Criminal Justice Purposes" which is consistent with other language throughout the bill.

MISCELLANEOUS AND TECHNICAL ISSUES

The Senate amendment contained a severability clause not found in the House bill, and not accepted in the conference substitute. A few other technical and conforming changes have been made in the conference substitute.

EFFECTIVE DATE

The House bill provided that the revision of title I become effective on July 1, 1973.

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[2] An explanation of the House provision was given by Mr. Hutchinson in floor debate (Congressional Record; June 14, 1973; 19703–19704) as follows:

"So desirable did it seem to eliminate soft match and transfer to a hard match requirement that H.R. 8152 would make this change with regard to unobligated funds made available prior to July 1, 1973. It should be made clear that funds 'not obligated' are those not awarded or committed by the State or local governments. If the State or local government has contracted for a project or has effectively awarded the funds to one of its agencies, the funds are, for purposes of section 523, considered as 'obligated.'

"If a program or project is in operation but not completed, it is not intended that the new matching requirements be applied to the remainder, even though under accounting practices the governmental unit may not be as yet obligated to pay. Likewise, it should be clear that if a State has awarded funds to a unit of local government and the unit has not, in turn, further obligated the funds by award or contract, the funds are not obligated and the new matching requirements would apply. In other words, the fact that the funds in the hands of a unit of local government came through the State does not of itself change the result that would otherwise obtain."

The Senate amendment provided that the revision be effective on enactment. The conference substitute contains a compromise providing that the changes be effective as of July 1, 1973, the beginning of the fiscal year, except for provisions relating to the Administrator, the Deputy Administrators, and their salaries which become effective upon enactment.

P. W. Rodino,
John Conyers, Jr.,
Walter Flowers,
Barbara Jordan,
Edward Mezvinsky,
Edward Hutchinson,
Robert McClory,
Charles W. Sandman, Jr.,
David W. Dennis,
Hamilton Fish, Jr.,
Managers on the Part of the House.
J. L. McClellan,
Roman Hruska,
P. A. Hart,
Hugh Scott,
Sam J. Ervin, Jr.,
Managers on the Part of the Senate.

PERMISSION TO FILE A CONFERENCE REPORT ON H.R. 7935, AMENDMENTS TO THE FAIR LABOR STANDARDS ACT, UNTIL MIDNIGHT TOMORROW

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that the managers have until midnight tomorrow to file a conference report on the amendments to the Fair Labor Standards Act (H.R. 7935).

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

MUTUAL DEVELOPMENT AND COOPERATION ACT OF 1973

Mr. MORGAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9360) to amend the Foreign Assistance Act of 1961, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 9360, with Mr. Price of Illinois in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule the gentleman from Pennsylvania (Mr. Morgan) will be recognized for 1 hour, and the gentleman from California (Mr. Mailliard) will be recognized for 1 hour.

The Chair recognizes the gentleman from Pennsylvania.

Mr. MORGAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 9360, the Mutual Development and Cooperation Act of 1973, is one of the most important measures to come before the House this year.

It is a measure vital to the American national interest.

It is a measure which will give the taxpayer more for his dollar now and in the future.

It is a congressional initiative for a far-reaching overhaul of our foreign economic assistance program—the first such reform in more than a decade.

It is a bill which is supported by the administration and by a large and bipartisan majority of the Committee on Foreign Affairs.

PURPOSES OF BILL

Basically, H.R. 9360 does two things:

First, it would provide the first fundamental revision of our bilateral economic assistance program since the present foreign aid law was enacted in 1961.

These reforms are designed to meet the realities of a changing world. They aim at making our aid to the developing countries more effective.

At the same time, they reflect America's financial difficulties at home and abroad by seeking to streamline the system and to put it on a more businesslike basis.

After the reforms take effect, they are expected to reduce the need for "traditional" aid which we have known for so many years.

Second, the bill authorizes foreign security assistance for fiscal 1974 and economic assistance for fiscal 1974 and 1975.

The total authorization for appropriations for fiscal 1974 is $2,834,000,000. This is a cut of $103 million below the executive request. It compares with $2,630,000,000 appropriated by Congress for these purposes last year.

Included in the fiscal 1974 total is $632 million for Indochina postwar reconstruction. None of this is for North Vietnam. No request for aid to North Vietnam has been received from the Executive to date.

REASONS FOR AID

Mr. Chairman, before describing the provisions of H.R. 9360, I wish to speak briefly to the reasons why assistance to others is in our highest national interest.

I will not dwell on the humanitarian reason—why it is morally right, as the President has said, for an affluent nation to help others less fortunate.

Let me, rather, mention some very practical matters:

We have a huge stake in peace throughout the world. The gap between the rich and the poor nations, and between the rich and poor within nations, is an invitation to conflict.

Our security assistance to friends and allies abroad not only provides a critical margin for their security; it does so also for our own security—at a fraction of what it would cost us to have an effective forward defense by ourselves.

We have an increasing need for raw materials and energy from abroad. We consume 40 percent of the world's output. It is, therefore, in our self-interest to be on good terms with the developing countries, who hold 60 percent of the world's land surface and control resources to which we must have access for our own economic growth.

We also need the cooperation of the developing countries to solve problems that increasingly cross national boundaries—narcotics control, terrorism, environmental pollution, and many others.

Finally, we need the markets of the developing countries. Our exports to them last year were nearly as large as our sales to Western Europe and Japan combined. The better off the developing countries are, the more they can buy from us.

BALANCE OF PAYMENTS AND PIPELINE

While I am on the subject of trade, I want to dispel the notion that our foreign assistance programs are responsible for our balance-of-trade difficulties.

The great bulk of our so-called aid dollars are spent for goods and services right here in the United States. The Foreign Affairs Committee looked into this. According to the latest complete figures, as shown on page 12 of our report, the net result of economic and military assistance programs is a balance-of-payments plus to us when you include loan repayments.

In fiscal year 1972, development assistance brought us a net inflow of $32 million, security and supporting assistance—when you count cash and credit military sales—brought a net return of $3.2 billion.

Another argument one hears is that we do not need a new aid authorization because huge amounts from past appropriations are still unspent.

The fact is that any program using loans is bound to have a large pipeline.

It is also a fact that while the unexpended balances of U.S. Government agencies generally have climbed nearly threefold over the past decade, AID's unexpended balance has gone down by a third.

To those who oppose foreign aid, I would add this:

AID over the years has registered some failures—but also many successes. It has helped to put a war-torn Europe back on its feet. It has strengthened the West's defense against Communist expansion. It has spurred economic growth in many poor lands.

No program is perfect. But the answer is not to kill it.

The answer is to improve it.

That is what H.R. 9360 seeks to do.

In turning to the provisions of the bill, Mr. Chairman, I will group them by subject matter for orderly presentation rather than in the exact order in which they appear in the text. I will address the reform proposals last because of the great interest in them.

SECURITY ASSISTANCE

To start with the more "traditional" provisions of the bill, I will describe first the authorizations for security assistance to friends and allies to help meet U.S. foreign policy aims.

The first category is military grant assistance. Most of this is programed to seven countries: South Korea, Cambodia, Thailand, Indonesia, the Philippines, Jordan, and Turkey.

The proposed $550 million authorization in the bill for fiscal 1974 represents a cut of $102 million below the Executive request.

You will note the objection on page 101 of the report that the committee has cut too deeply; that our cut will hurt Korea's modernization program.

We would not want that to happen—and I believe that it will not happen.

The committee is of the opinion that the proposed 15 percent reduction in military aid can be sustained because $50 million additional will be available from recoupments, reimbursements, and reappropriations—and $185 million in excess defense articles.

The second category is security support assistance, for which H.R. 9360 authorizes $125 million in fiscal 1974. This is a sharp drop from the $660 million Congress appropriated last year. However, funds for Indochina, which were formerly included in supporting assistance, are proposed separatey in the new bill.

Most of this economic aid for security purposes would go to Israel and Jordan. Of the $125 million, the committee has earmarked $50 million for Israel.

A new section of the bill would create an international military education and training program, as requested by the Executive. This activity has been funded previously from military grant assistance.

The committee has rejected the Executive request for an open-ended authorization for this program. Instead, it has limited the authorization for fiscal 1974 to $30 million, $3 million below the Executive request.

A $760 million ceiling is set on total military sales, credits, and guarantees during the year.

Of this, $300 million is earmarked for Israel.

INDOCHINA POSTWAR RECONSTRUCTION

A new section in the bill contains the $632 million authorization requested by the Executive for Indochina postwar reconstruction in 1974.

Most of these funds—$475 million—would be for South Vietnam. Seventy-five million dollars is programed for Cambodia and $55 million for Laos.

As I mentioned earlier, nothing has been sought or authorized for North Vietnam.

While full peace has not yet returned to these war-ravaged countries, the committee believes that continued economic assistance is needed to help bring about a successful transition.

The committee rewrote the policy statement proposed by the Executive for this section. The new language emphasizes immediate humanitarian relief assistance and aid to the people of these countries in returning to a normal peacetime existence.

Mr. GROSS. Mr. Chairman, the gentleman is making a profound statement on how to promote inflation.

Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Fifty-one Members are present, not a quorum. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 388]

Addabbo
Archer
Arends
Ashley
Badillo
Blackburn
Blatnik
Brademas
Burke, Calif.
Camp
Carney, Ohio
Clark
Crane
Dennis
Diggs
Drinan
Edwards, Calif.
Evans, Colo.
Evins, Tenn.
Fisher
Fuqua
Gettys
Gray
Griffiths
Gunter
Hanna
Hawkins
Hébert
Holifield
Horton
Jarman
Jones, Okla.
Landgrebe
Lott
Madigan
Milford
Mills, Ark.
Mink
Mitchell, Md.
Moorhead, Calif.
Murphy, N.Y.
Patman
Peyser
Regula
Reid
Roe
Rooney, N.Y.
Ruth
Steele
Stephens
Thompson, N.J.
Vander Jagt
Winn
Young, Ga.
Zion

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. PRICE of Illinois, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill, H.R. 9360, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, when 378 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

Mr. MORGAN. Mr. Chairman, when we were interrupted on the quorum call, we were talking about other principal provisions of the bill.

Mr. Chairman, there are a number of other substantive provisions in H.R. 9360 which I will address only briefly at this point.

The bill will strengthen the drive against illegal international traffic in narcotics by authorizing $50 million for this purpose, $7½ million more than the Executive request.

It will repeal penalty provisions in the foreign aid law which have proved ineffective over the years, including the so-called Hickenlooper amendment and provisions against seizure of U.S. fishing boats; and

It will authorize $30 million for famine and disaster relief for the drought-stricken Sahelian nations of Africa.

Detailed explanations of these and other provisions are available in the committee report.

REFORMS

I turn now to the outstanding feature of H.R. 9360—the far-reaching reforms proposed in our basic economic aid law.

Much has changed since the last major restructuring of our foreign assistance legislation 12 years ago.

While most developing countries assisted by us have scored notable economic gains, large masses of people within these countries have not shared in those gains.

In some instances, government-to-government aid has resulted in oversized bureaucracies, and discouraged local initiative.

The United States has run into severe budgetary and balance of payments difficulties.

In the meantime, other advanced, prospering nations have been capturing an increasing share of the markets of the poorer countries.

Clearly the time has come for a new approach to meet these new realities. Consequently, the committee has proposed reforms in bilateral economic assistance to the developing countries which would:

First, focus our aid on solving acute problems common to most of the developing countries—problems such as food, health, population, and education—where the benefits will reach the poorest masses of people in these countries.

Second, stress the use of private rather than government channels, leaving the responsibility for development planning in the hands of the aid-receiving countries. The U.S. role would be only to support their self-help efforts.

Third, in order to fill a void in our present governmental policy process, Development Coordination Committee, H.R. 9360 would create an interagency chaired by the administrator of foreign aid, to improve coordination of all U.S. activities that bear on development aid;

Fourth, create a new Export Development Credit Fund to promote sales of U.S. goods needed by the developing countries, while reducing the need for conventional development loans; and

Finally, to emphasize and symbolize the new approach, the bill provides for two name changes: The Foreign Assistance Act of 1961 would be renamed the "Mutual Development and Cooperation Act," and the Agency for International Development would be named the "Mutual Development and Cooperation Agency."

EXPORT DEVELOPMENT CREDIT FUND

I would like to take a minute or two to explain the proposed Export Development Credit Fund, and how it would work.

Basically, the Fund's operation would be similar to that of the Export-Import Bank. It would extend lines of credit to the poorest developing countries to purchase American goods and services on concessional terms—terms which would be appropriate to the goods and services being sold, but which in no case could be "softer" than those which apply to development loans.

The Fund would not increase U.S. budgetary outlays. It would operate at about $1 billion a year for 5 years through public borrowing authority.

This is precisely what the Export-Import Bank does.

The big difference between the Bank and the Fund is that the Fund—being restricted to financing development goods and services purchased by the poorest developing countries—would make its credit available on more concessional terms.

It would probably borrow funds in the private capital market at 6 to 7 percent, and relend it at 3 or more percent.

The interest differential would be covered by repayments of past foreign aid loans, as appropriated each year by the Congress.

In this way, the Fund would serve three main purposes:

It would enable the poorest countries to obtain American goods and services which they need for development on terms that they can afford;

It would, over a period of time, reduce the need for appropriations for bilateral development loans; and

Finally, it would increase markets, in the developing countries, for our exports.

Since U.S. exports financed by the Fund would be in addition to those financed by other U.S. agencies, or by commercial institutions, it is estimated that the Fund could help to create as many as 80,000 new jobs for Americans, right here in this country.

Now I have heard some complaint that the Fund would use "back door" financing. I am not sure just what "back door" means, except that it is supposed to be a naughty word.

Well, let me assure my good friends on the Appropriations Committee that they and all Members of Congress will have an annual opportunity to pass on the Fund's borrowing and on the availability of repayments of past aid loans.

Under this bill, both of these are subject to the annual appropriations process.

Since the Fund would operate like the Eximbank, it makes sense to put it on a similar footing. Those who want more use of private channels and a business-like basis for our development aid, should favor the fund.

CONCLUSION

In conclusion, Mr. Chairman, let me say that the Foreign Affairs Committee, in adopting these reforms, drew on a quarter century of experience starting with the Marshall plan and the Point Four Program.

We have held extensive hearings. We have received widespread favorable response to our bill from industry and labor, from the voluntary agencies and from other organizations and individuals.

We have approved H.R. 9560 by a bipartisan vote of 31 to 9.

We believe it to be in the highest national interest.

I urge its wholehearted support by the House.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. MORGAN. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Chairman, I rise to pay compliment to our able chairman, Dr. MORGAN, the chairman of the Committee on Foreign Affairs, for his very excellent leadership in the handling of this bill before our committee and also for the very fine statement he has made on the importance of the bill before us today.

Ms. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. MORGAN. I yield to the gentlewoman from New York.

Ms. ABZUG. I realize the committee has made great efforts in or effort to construct a viable foreign assistance program, a Mutual Development and Cooperation Act, and I favor many aspects of the bill. I am however, somewhat, concerned, Mr. Chairman, by the fact that under the current grant military assistance program there are funds for countries which generally have not been known for their great democracy and in fact have governments which are repressive of the democratic right of their peoples.

However, what concerns me specifically is the amount of money that is provided for Cambodia in this bill. The committee when it drafted this legislation was not as aware as it could have been of the problems in Cambodia, although the House and the Senate had acted and indicated that they opposed activity in Cambodia. Certainly in the last days the revelations of our overall policy they have shown our activities to have been thoroughly illegal. There has been no participation by either House in the decisions made there. A civil war is going on there.

Why should we continue through this bill to give assistance under those circumstances?

Mr. MORGAN. Of course, Cambodia is a part of the grant military assistance program, as the gentlewoman knows. South Korea, Cambodia, Thailand, Indonesia, the Philippines, Jordan and Turkey are all recipients. Most of the Members of the committee who went over this program felt that a number of these countries certainly contribute significantly to the security of our own country.

So long as present conditions persist in the Indochina Peninsula, with control in Cambodia being exercised by the present government, we believe that the money programed here is needed to help bring peace to that area of the world.

Ms. ABZUG. Mr. Chairman, it has been quite evident that we have no business being in Cambodia. Our activity is totally illegal; it is totally unjustifiable to the American taxpayer and to our constituents. Although the committee proposes this grant military assistance program in Cambodia, it is totally without any authority and has no rhyme nor reason. It has nothing to do with a viable foreign policy.

I believe the effort in this bill to create a meaningful program is seriously marred by this kind of commitment.

Mr. FRELINGHUYSEN. Mr. Chairman, will the gentleman yield?

Mr. MORGAN. I yield to the gentleman from New Jersey.

Mr. FRELINGHUYSEN. Mr. Chairman, I would like to join with the gentleman from Michigan in complimenting the chairman of the full committee on his leadership in the very difficult assignment and task of developing a viable foreign aid program. I hope that he is successful in his efforts.

I would also like to comment on the advisability of giving assistance to Cambodia. The gentlewoman from New York (Ms. ABZUG) has said that we have no business being in Cambodia By that I assume she is saying that the United States has no responsibilities of any kind, and I hope that she represents a minority view.

Mr. Chairman, I suppose most of us—and perhaps the gentlewoman from New York should not be included in this group—recognize that if we are to get peace in Southeast Asia, we need peace not only in Vietnam and Laos, but also in Cambodia, and if there should be adverse developments because we refuse to recognize any responsibility to help these people, we could pull down a structure which we have been trying to develop for a period of more than a decade under Democratic Presidents as well as a Republican President.

So I would say that the assistance to be provided to Cambodia is a very essential and valuable part of what we are proposing to try to promote—peace and the effort to limit the nature of the hostilities which have been going on. I believe that the United States should not only recognize but welcome its responsibilities to try to bring peace to that area of the world.

Mr. MORGAN. Mr. Chairman, I thank the gentleman.

Mr. MAILLIARD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I fully support the foreign assistance legislation as we are considering here today. Our distinguished chairman, who has done, as others have said, such a splendid job of bringing this bill through the committee process under very considerable difficulties, has already explained fully most of the specific provisions of the bill. I agree with what he has said, so I see no reason to go over the same ground.

This legislation, which received very strong support within the committee, does give us a new approach to the economic assistance aspect. New language is in this bill which places the emphasis on solving specific problem areas affecting the lives of the people in the underdeveloped world, basic problems such as food production, nutrition, population planning, health, and education.

To accomplish these assistance objectives, the bill would concentrate bilateral development aid on the sharing of American technical capabilities and those agricultural and industrial materials which meet the most basic development needs.

This new approach calls for the U.S. effort to be carried out wherever possible through private institutions such as universities and colleges, cooperatives, credit unions, and voluntary agencies. These institutions have in the past made a significant contribution and under this legislation will have an even greater opportunity to do so in the future.

In addition to the general economic assistance provisions of the bill, the committee recommended the authorization of funds for postwar reconstruction in South Vietnam, Cambodia, and Laos.

These funds are to be used primarily for humanitarian relief and to help the people of these countries to return to some kind of normal peacetime existence. As in the new economic assistance, this program will largely focus on food, education, health, population planning, and human resource development.

The committee also recommended in this bill funds for grant military assistance, security supporting assistance, foreign military credit sales, and international military education and training.

I support these provisions. I believe that if this country is to continue to reduce its overseas troop levels, we must help our friends and allies obtain the equipment and supplies necessary to provide for their own security. This is a basic item in the so-called Nixon doctrine, and I believe it is in the interest of our own national security.

I also support the new international military education and training program, which we have had in the past, but here we separate it out as an identifiable and specific item which will authorize the President to continue to provide education and training at U.S. and foreign military facilities for selected foreign military personnel and related civilians.

Mr. Chairman, in my opinion, this is a good bill even though I may have taken issue in the committee with certain specific provisions that have gone into it. The economic provisions should lead to more effective development. The military security provisions reflect our best judgment of what the U.S. security interests require in conjunction with the interests of our friends and allies.

I urge approval of the bill.

Mr. MAILLIARD. Mr. Chairman, I yield 5 minutes to the gentleman from Alabama (Mr. BUCHANAN).

Mr. HAMILTON. Mr. Chairman, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman.

Mr. HAMILTON. Mr. Chairman, the Mutual Development and Cooperation Act of 1973 supports four important aspects of U.S. policy in the Near East and South Asia: First, the U.S. overriding interest in and commitment to peace in the Arab-Israeli conflict and in the South Asian subcontinent; Second, the U.S. desire to promote development and stability in one of the poorest areas of the world, South Asia, by providing technical assistance, especially in the agricultural and population control areas, and by supporting self-help efforts of the countries in the region; Third, making the Near East and South Asia conform to certain general foreign policies objectives including the Nixon doctrine; and Fourth, the U.S. general interest in being able, given our limited resources available, to cope importantly and effectively with the development of the less developed nations.

TECHNICAL ASSISTANCE

The most significant portion of this bill as it relates to the Middle East and South Asia covers technical assistance and the training of skilled manpower.

The Foreign Affairs Committee bill recommends that the United States expand its modest technical assistance to the Near East and South Asia regions particularly by extending more help, especially loans, to countries which want American technical expertise in specific fields where they lack technology and trained manpower. Six countries in this region—India, Pakistan, Nepal, Bangladesh, Afghanistan, and the Yemen Arab Republic—are scheduled to receive roughly $230 million in development assistance, of which about $200 million are development loans. The programs to these countries are divided among five sectors in the following approximate percentages: Food and nutrition, 31 percent; population and health, 5 percent; human resources, 3 percent; selected development problems, 18 percent; selected countries and organizations, 37 percent; and other small programs, including narcotics, 6 percent.

These country programs are complemented by on going special projects like the Indus River Basin project and technical assistance programs channeled in regional manpower and health educational programs, some involving CENTO countries and others involving the American University in Beirut.

A new section to the bill, section 495 of chapter 10, "Cooperative Economic Expansion," adds another dimension to the Mutual Development and Cooperation Act of 1973 which could have beneficial effects for the United States in the important Persian Gulf area. This new section will increase our ability to offer technical assistance on competitive terms to developing countries that are not recipients of aid. The extension of technical assistance, on a partially reimbursable basis, to such countries serves the economic interests of the United States.

The United States should not be compelled to withhold assistance from countries that need our expertise simply because they no longer need our capital on concessional terms.

Indeed, the United States today is the only major trading nation whose policies ignore the connection between technical advisers and commercial opportunities. If we are able to subsidize or "top off" the salaries of some U.S. experts, as this bill proposes, we could develop an important tie of technical cooperation which would contribute to the protection, at a comparatively low cost, of vital U.S. economic interests, particularly in Iran, Kuwait, Saudi Arabia, the gulf states, and Algeria, the very countries whose cooperation we will need in dealing with our medium-term future oil and gas shortages.

TRAINING AND EDUCATION

Two other specific items in the Mutual Development and Cooperation Act of 1973 serve important educational and training purposes in this region. They involve Palestinian refugees and the American schools and hospitals abroad program.

PALESTINIAN REFUGEES

The Foreign Affairs Committee continues to support the humanitarian welfare and educational needs of Palestinians still living in refugee camps. The regular budget support we provide through dollar appropriation and Public Law 480 contributions, while a declining percentage of the overall budget of UNRWA, the administering agency, will likely be around 34 percent of the total international effort in 1974. Over the last 16 years, our annual contribution to UNRWA has remained practically the same—between $22 million and $24 million—but in the same period UNRWA's expenditures have risen from $32.7 million in 1958 to roughly $61.3 million in 1973.

It is the belief of the committee that our humanitarian and welfare aid can be best served only if there is a good followthrough which gives the refugees meaningful skills to seek jobs. The committee, therefore, asks for an expansion of the important vocational training efforts of UNRWA in order to help refugees acquire skills to fill manpower needs throughout the region. Section 302(e), which helps serve this purpose, was originally introduced in 1970 by the late Congressman James G. Fulton who took a special interest in vocational training of Palestinians.

The $2 million requested in section 302(e) for fiscal year 1974 promotes, in the committee's view, one of the most valuable activities of UNRWA because vocational training builds for the future by giving people greater hope for a rewarding life outside the camps and lesser attraction to the councils of despair which see the Palestinian right of self-determination only by military and violent means. There is no evidence today of guerrilla activities in any of the existing vocational training centers.

The committee further believes that this special program supplements important bilateral U.S. policy considerations notably on support of Jordan, Israel, and Lebanon. Today, only 4,258 places in vocational training centers can be provided for the more than 300,000 Palestinians who end their 9-year, UNRWA basic education each year. Six of the eight existing vocational training centers are in Jordan and the Israeli-occupied territories of the West Bank and Gaza.

AMERICAN SCHOOLS AND HOSPITALS ABROAD

This year, as in the past, a substantial portion of U.S. support for the American schools and hospitals abroad program—section 214 of the act—will be used for institutions in Israel, Lebanon, and Egypt. Two important features of this section are worth mentioning. First, the committee believes that this program needs sufficient funds to continue to support institutions of excellence which demonstrate important American achievements in the fields of education and health. Several such institutions in Israel, Lebanon, Greece, and Turkey will be supported by the funds requested. The committee authorizes for this program approximately the same level of funds appropriated last year.

Second, a proposed new section of the bill—section 214(e)—would seek to help distribute the small funds appropriated by limiting to four the number of institutions in any country that can be supported in any fiscal year. As the committee report for the Foreign Assistance Act of 1971 stated,

> The primary purpose . . . (of this provision) is not to help take care of the educational and health needs of foreign countries, but to demonstrate to their people, on

a selected basis, American ideas, practices, and advances in the fields of education and medicine.

This new section is designed to help this program achieve its stated goals and purposes. The committee further believes that other qualifying institutions should be able to receive assistance under other sections of this bill.

SECURITY SUPPORTING ASSISTANCE

Most of the funds requested for security supporting assistance are designated for Near East countries—$65 million for Jordan and $50 million for Israel. These programs support important foreign policy goals of the United States in the Near East and they seek to promote the climate of stability and peace in two countries with close ties with the United States.

Jordan continues to need substantial support to enable its poor country to rebuild and strengthen itself in the aftermath of the September 1970 civil war between the Jordanian army and certain Palestinian guerrilla groups. Jordan is a moderate Arab state and remains committed to implementing the U.N. Security Council Resolution 242 and to bringing peace to the area through a negotiated political settlement. It is expected that security assistance to Jordan will decrease in the coming few years as this country develops and reaches self-sufficiency. This request is deemed necessary because of the cutoff of subsidy payments by Libya and Kuwait in 1970, Jordan's heavy defense expenditures and the need for substantial infrastructure investments.

Israel also continues to need some additional support because of its heavy defense expenditures to maintain its deterrent capacities and because of its substantial foreign debt servicing burdens. While Israel may well not need grant security assistance in future years in changed circumstances, the committee believes that Israel should be supported in its efforts to create a stable and peaceful environment in which the parties to the Arab-Israeli conflict will hopefully seek to negotiate their differences and bring lasting peace to the area.

MILITARY ASSISTANCE

The moderate amounts of military assistance, recommended for Near Eastern and South Asian countries, are essential to strengthen the capacities of countries friendly to the United States to defend themselves. It is imperative to remember that once the military relationships in the Near East or South Asia shift perceptibly to one side or another, the danger of war can greatly increase. Our policies seek to maintain relationships that we believe can best discourage aggressive tendencies on the part of any party. U.S. military training programs will involve over 10 countries in this area but Jordan is the only country in this area which will receive grant military assistance.

DRUG ABUSE

Several countries in the Near East and South Asia—Turkey, Iran, Afghanistan, India, Pakistan, and Bangladesh—have had involvement in the growing and/or trafficking of illicit and licit drugs. Several of these countries also recognize the seriousness of illicit international trafficking and of the United States concerns about this problem. And some states are taking the appropriate initial steps to consult with international authorities in the drug control area and to curb illicit growth and trafficking. Some of the money authorized by this act for control of international growth and trafficking of dangerous drugs will be spent in this region. The committee hopes that more progress is made in all Near Eastern and South Asian countries involved to control drugs.

Mr. Chairman, the Mutual Development and Cooperation Act of 1973 represents, in several fundamental respects, a new and pragmatic approach to helping others help themselves. It recognizes the limits of our resources to extend aid and the need for whatever aid we extend to dovetail with the planning mechanisms and development priorities of each State receiving assistance.

In the Near East and South Asia area, this bill promotes several important foreign policy objectives, the most important of which are the building of peace on solid foundations and the extension of a helping hand to all peoples who want and desire our help.

Mr. CULVER. Mr. Chairman, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from Iowa.

Mr. CULVER. Mr. Chairman, I rise in support of this legislation.

I think we would be guilty of benign hypocrisy if we were to say that the support of foreign assistance by this Congress and by our country is based solely on any narrow interpretation of the American national interest, for, while it serves that national interest—and I am confident of that—I think it also reflects what the American people are in a very important way, and it is an expression of the goodness and the compassion which lie at the very heart of America.

You know, one of our great friends said of us a long time ago that America is great because she is good and when she is no longer good she will no longer be great.

I think it is recognized here at home and in many places around the world that the Americans are a generous and compassionate people who care about the world's ills, who care that there are children who may not be fed except for our help, and there are basic human needs that may not be met without this foreign assistance program.

Therefore, I think this is an expression of what is truest and best in the American people themselves.

Mr. Chairman, it is also quite clear that this does serve our national interest. It serves our national interest in that as one looks across the Atlantic Ocean and sees the thriving, dynamic, healthy Western democracies of Europe and remembers how Europe was after World War II and before the Marshall plan, then one realizes that Europe in strength and prosperity is much more in our national interest than a Europe that is prostrate or under the heel of totalitarianism.

As one looks across the world to the nations of Asia, Africa, and Latin America, and sees the real and great human poverty that is still there, one must recognize that America would be stronger and safer in a world made better by better conditions for these people, made more stable, more conducive to bringing a generation of peace by their growing prosperity and growing social justice in those countries. We are simply safer in such a world.

Mr. Chairman, foreign assistance also serves our immediate as well as our long-range interests here at home. In the long run we are building markets for our goods and jobs for our people by the foreign assistance program to developing countries. It is slower than the results we saw in Europe. It is more painful, more uncertain, but we are surely making more secure the future of our people our economy, and our Nation through this assistance program.

Right now we are helping to support research in our great universities and to provide jobs for Americans and contracts for American companies here at home because most of this money goes to pay for sales from or contracts with American institutions.

So, Mr. Chairman, I would urge support for this bill, not only because it represents that which is the best in the American people and that which bespeaks their noblest ambitions and highest aspirations, but also because concretely it is in our national interest now, and in the future.

I urge support of the legislation.

Mr. FRELINGHUYSEN. Mr. Chairman, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from New Jersey.

Mr. FRELINGHUYSEN. Mr. Chairman, I should like to congratulate the gentleman from Alabama on his eloquent statement, and to associate myself with his remarks.

I think his statement is a very timely reminder of the importance of the foreign aid program, and the fact that this is a burden which benefits us.

I think there is a certain amount of impatience at contributions over a period of years which do not always seem to bear immediate fruit, and there is restlessness about the value of the foreign aid program, but I do think that over the years it has proven its value. This reminder that the job is not yet completed is a most appropriate one, and it is worth being heeded by the membership of the House today.

Mr. BUCHANAN. I thank the gentleman for his contribution.

Mr. Chairman, I would say only two things more.

If we are to fulfill the Nixon doctrine of avoiding such conflicts as those which we participated in in Korea and Vietnam in the future, then we must fulfill the rest of it, which means providing military and economic assistance to countries so they can defend themselves.

Second and finally, Mr. Chairman, I would say that there are many in the Congress and my congressional district who, if you asked them the question, would say they oppose foreign aid, but, Mr. Chairman, those same people would say yes to a hungry child, and have themselves shown concern for humanity's ills at home and abroad. And I do not believe that many here or at home would passby on the other side someone wounded and bleeding that they could help. Hence, my support of this legislation is an expression of my faith in the American people themselves.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MAILLIARD. Mr. Chairman, I yield 2 additional minutes to the gentleman from Alabama.

Mr. NIX. Mr. Chairman, would the gentleman yield?

Mr. BUCHANAN. I yield to my distinguished colleague from Pennsylvania.

Mr. NIX. Mr. Chairman, I thank the gentleman from Alabama for yielding to me. I wish to compliment the gentleman on the remarks the gentleman has made on foreign aid, and it represents the essense of my conviction that I must support this legislation. I wholeheartedly support it because it represents a new approach, and I think it represents the magnanimity of the people in this country.

However, this program is definitely not a "giveaway" to foreigners for which we shall receive nothing in return.

Nor does this assistance to poor masses abroad for their self-help—including emergency relief to starving millions in Africa—take money that otherwise would be spent for schools and hospitals that we need at home.

Having just voted against the President on the issue of his impoundment of funds needed for the welfare of the people of the United States, I could not vote for H.R. 9360 if it deprived us too.

But the real effect of this reform bill, in my opinion, will be quite the opposite.

It will be to give the American taxpayer more for his foreign aid dollar, to shift a significant amount of our assistance to developing countries into the private sector, and to help our own economic growth.

One hears it said that at a time when the United States has severe balance-of-payments difficulties, we should be clamping down on our overseas assistance.

The Foreign Affairs Committee looked into this before approving this reform bill, the Mutual Cooperation and Development Act of 1973. We examined the most recent complete figures available, which are for fiscal 1972.

We found that 80 percent of AID spending for development assistance that year was for goods and services bought right here in the United States. Some of the remainder was spent overseas in the form of excess foreign currencies, not in dollars. Meanwhile we were getting repayments on past aid loans in dollar amounts greater than what we were spending abroad.

So the net impact of this economic assistance was a balance of payments-plus for us. We got back $32 million more in fiscal 1972, on balance of payments, than we paid out.

In the case of supporting assistance, our total balance-of-payments drain in fiscal 1972 came to a net $142 million.

For the military part of the program, cash and credit sales during the year brought in a net plus to us in balance of payments of nearly $3.4 billion.

One of the ways in which I expect this reform bill will help our own economy is through our relationships with the developing countries.

These countries cover some 60 percent of the world's land surface. We consume 40 percent of the world's output of raw materials and energy.

We need what they can supply. And we also need improved access to their markets.

Already we sell to the developing countries nearly as much as we do to the advanced nations of West Europe and Japan combined. The more the economies of the developing countries improve the more they can buy from us.

A notable feature of the reform bill is its proposal to set up an export development credit fund. This fund would operate like the Export-Import Bank, using public borrowing authority.

The purpose of this fund would be to promote sales of U.S. goods needed by the developing countries. It would do so by offering easy-term credits to allow American products to compete more successfully in the markets of the poorest nations, where our exports have been declining.

The fund would operate at about a $1 billion-a-year level. Using the same yardstick as the Eximbank does, that would mean the creation of an estimated 80,000 additional jobs for Americans here at home, because of our increased exports.

Also the fund would not involve any new budgetary outlay. Its subsidy costs would be covered by repayments from past aid loans.

The use by the fund of public borrowing authority would mean that the private sector—such as banking institutions—would be participating in the development lending process. The fund would be borrowing in the private capital market.

Under the present development loan system, the money comes directly from appropriations supplied by the U.S. taxpayer.

Over a period of time, therefore, I anticipate that the operations of the fund would reduce the need for appropriations for the bilateral economic development loans abroad which have been a traditional form of foreign aid.

There are a number of other provisions in H.R. 9360 which merit the strong support the bill has received in the Foreign Affairs Committee and elsewhere.

I wish to call the attention of the House to a special provision voted by the committee for American assistance in one of the most tragic situations in the memory of man.

I refer to the drought that has seared the Sahel region of Africa for the last 5 years. About 25 million people live in the 6 countries of this region: Chad, Mali, Mauritania, Niger, Upper Volta, and Senegal.

You all know of the terrible famine that has descended on these people. An estimated one-third of them are suffering from hunger and malnutrition. Starvation and thirst are taking a hideous toll, particularly among the children and the elderly.

An international relief effort is underway in which, I am glad to say, the United States is a major participant.

This bill authorizes the appropriation of $30 million for famine and disaster relief to these sub-Sahara countries.

The measure also would authorize the start of a program for medium- and long-term reconstruction and development of the stricken area. While the current effort is focusing on immediate emergency aid, the committee believes the time also is appropriate for the United States to join with others in beginning to plan for longer range reconstruction.

Mr. Chairman, I have mentioned but a few provisions of this forward-looking and innovative reform bill.

Others may wish to stress different aspects.

Overall, I believe H.R. 9360 adds up as one of the finest measures produced by the Foreign Affairs Committee in the decade and a half that I have been a Member of Congress.

I urge your support.

Mr. BUCHANAN. Mr. Chairman, I thank the gentleman for his contribution.

I would only say, in conclusion, Mr. Chairman, that Americans when they are confronted with human need typically and traditionally do not pass by on the other side, and neither should the Congress or this Government.

Mr. Chairman, I urge support of this legislation.

Mr. MAILLIARD. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. WHALEN).

Mr. WHALEN. Mr. Chairman, I would like to direct my remarks to section 824 of H.R. 9360.

My colleagues, I am sure, will recall the poignant photograph that appeared in the New York Times 2 years ago. It showed a little 10-year-old Vietnamese girl, Kim Phuc, as she left her burning clothes behind in her flight from falling napalm bombs. This famous picture captured dramatically the agony and suffering of the most innocent victims of the war, the Vietnamese children.

South Vietnam has a young population, with nearly 50 percent of its inhabitants under the age of 15. Of these, nearly 700,000 are orphans as a result of the intense fighting during the conflict. The children, as marginal numbers of the society, have been the most helpless victims of the war's devastation. Thousands of these stray youngsters have been forced to migrate from their former homes in the countryside to the cities, where they join bands of urchins roaming the streets and scavenging for food. Their tragic plight was graphically recorded by the National Broadcasting Co. in its recent television documentary: "The Sins of thy Fathers."

We in the United States undoubtedly are most concerned about those who were fathered by American citizens. It is estimated that there may be 50,000 of these children of mixed parentage in Vietnam. As outcasts in their own culture, these half-American children are a pathetic legacy of American involvement in Vietnam.

In view of the predicament of the thousands of war-disadvantaged children in South Vietnam, I am pleased that the House Foreign Affairs Committee unanimously adopted by amendment to the Mutual Development and Cooperation Act of 1973. As approved section 824 earmarks $5 million for the specific purpose of providing assistance to children in South Vietnam. The funds can be used for two purposes:

First, they can provide for the establishment, expansion, and improvement of day-care centers, orphanages, hostels, school feeding programs, health and welfare programs, and training programs related to such articles.

Second, the funds may be used to facilitate the adoption by American citizens of orphaned and abandoned children in South Vietnam, especially those fathered by Americans. Of the funds available under this section, however, not more than 10 percent may be used for adoption assistance.

In the past, our Nation has assisted the people of Europe and Korea in recovering from war's devastations. In keeping with our humanitarian tradition, I believe that the assistance provided under section 824 of the Mutual Development and Cooperation Act of 1973 is a particularly appropriate expression of our Nation's compassion and concern for the young victims of the war in Vietnam.

We can make no more significant beginning our rebuilding assistance to South Vietnam than by providing for that nation's children. Hopefully, through our compassion and humanitarian leadership in aiding these war-disadvantaged children, we can help to build the foundation of an era of cooperation and peace in that worn-torn part of the world.

Mr. MORGAN. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. Anderson).

Mr. ANDERSON of California. Mr. Chairman, I am offering two amendments to the Mutual Development and Cooperation Act which are designed to provide a degree of protection for U.S. fishermen.

Under current law—the Foreign Assistance Act—the President is urged to deny aid to those countries which violate international law by seizing U.S. fishing vessels on the high seas.

As you know, Ecuador and Peru claim jurisdiction over the waters 200 miles from their shores. The United States, in accord with international practice, claims only 12 miles from shore.

First, as a maritime Nation, the free and open seas are extremely important to our well-being—both economically and for national security purposes. If other nations joined in the arbitrary extension of the limits of jurisdiction, then we would witness a practical closure of the seas—a move that could be disastrous to our naval ship movements, to our merchant fleet, and to our fishing industry.

In order to resolve the disputes over the limits of jurisdiction, the Law of the Sea Conference, under the auspices of the United Nations, has been formed and is currently underway. Our position at that conference is that no nation should extend its territorial jurisdiction more than 12 miles from its shores. And, we feel that international commissioners should regulate the conservation and the fishing of migratory fish, such as the tuna.

I have no quarrel with our position, but I do feel that the committee bill undercuts our goals, and signals other countries that we no longer favor the 12-mile limit.

And, second, why should we pay foreign aid to nations which violate international law and seize our vessels?

Why should we pay a foreign government ransom with one hand, and foreign aid with the other?

It seems to me that one way to protect our fishing fleet—to discourage piracy—is to deny foreign aid to those countries which violate international sanctions. Rather than reward them with aid, rather than attempt to pay for protection, we should cut off aid.

Some say that the current law urging the President to deny foreign aid to pirate nations has not worked, and thus should be abandoned.

I say the current law has not worked, because the administration has ignored it. By granting aid and assistance—often, only days after an illegal seizure—the foreign countries know that we are not serious—they know that we have no intention of doing anything to protect our fleet.

As a result, the pirate nations continue to exact tribute from our fishermen and also collect American tax dollars in the form of foreign aid.

Rather than repeal the law urging the President to withhold aid, we should be strengthening that law to prohibit aid to those who violate international law by seizing our ships on the high seas.

The second amendment that I will offer would retain that section of the military sales act which directs the administration to prohibit military aid to pirate countries, unless it is "important to the security of the United States."

Again, why should we give military equipment and weapons to a country which turns around and uses them against us?

And that is what has happened in some of the nations which seize our ships—often with ships on loan from the United States.

At least, this part of the law—which directs the administration to cut off military aid to those who illegally seize our vessels—was put into effect in 1971. And we do have some progress, as we have seen the number of vessels seized by Ecuador drop from 51 in 1971 to 4 in 1973.

Let us retain that language and, therefore, inform the administration that military aid, which in turn is used against us, should not flow to these nations.

At the proper time, I will offer these two amendments which are designed to retain the language which, if used effectively, could provide protection for our fishing fleet. I hope that my colleagues will join with me in adopting these two measures.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from Iowa (Mr. Gross).

Mr. GROSS. Mr. Chairman, I want to commend the gentleman for his statement, and his stated purpose to offering amendments to try to take care of this disgraceful situation in which American taxpayers are gouged for millions of dollars to pay what amounts to bribes to those governments which seize our fishing vessels.

Mr. ANDERSON of California. Mr. Chairman, I thank the gentleman from Iowa very much, and I appreciate his remarks.

Mr. MAILLIARD. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. Derwinski).

Mr. DERWINSKI. Mr. Chairman, I will not take more than 3 minutes, since there are many amendments and such spirited interest in a number of them. I think we should proceed to the important work of amending the bill.

I do wish at this point to commend the chairman, Mr. Morgan, for producing this bill. Even though I voted against it and I do oppose the program, it takes a great deal of skill to move any legislation through a committee of 40 complex individuals, every one of them presuming he is as great a statesman as the Secretary of State. Dr. Morgan does a great, diplomatic job in keeping the committee functioning.

Actually, Mr. Chairman, I would like to point out that there are major inconsistencies in this bill. I hope we can clean it up as we go through the amendment stage, but I think the most important inconsistencies are the ones a few of us referred to in producing the minority views. I would recommend to the Members that they take a look at those views.

The Foreign Aid Administration having reached a low ebb, it is that time in its history when a new title is slapped onto an old program. That is one of the basic defects of this bill. It is changed, supposedly, by an adjustment of terminology, but does not cure the administrative difficulties that are inherent in the program.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Louisiana.

Mr. PASSMAN. I thank the distinguished gentleman for yielding.

I shall have something to say later today, for the first time in 27 years, on a foreign aid authorization bill.

I want to say also that for the first time in 27 years I shall make a point of order against a quorum not being present. Therefore, Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The gentleman from Louisiana makes the point of order that a quorum is not present.

Mr. PASSMAN. Mr. Chairman, I withdraw the point of order.

Mr. DERWINSKI. I thank the gentleman from Louisiana, who in his own way is also a great statesman.

I do wish to return to one point which I feel must be made at this time. This bill has a few fine features, but it has far, far more defects, many of which will not be cleared up in the process of the deliberations this afternoon. Perhaps the best treatment for this program would be the shock treatment of the House in rejecting the bill. I add that to the consideration of Members, when we reach the point much later in the day in voting on final passage, regardless of the condition of the bill. I believe that by the time we finish working through the 5-minute rule the sponsors will not recognize this bill. It will be much more chaotic than the farm bill and some of the bills that come from the Committee on Banking and Currency.

Mr. MORGAN. Mr. Chairman, I yield 5 minutes to the gentleman from Florida (Mr. Sikes).

Mr. SIKES. Mr. Chairman, I requested this time so that I may ask some questions about the bill. I appreciate the courtesy of the distinguished gentleman from Pennsylvania, the chairman of the committee, for whom I have a great personal regard, in yielding time.

It has been a policy for some years in this country to restrict or even to prohibit the sale of weapons to certain friendly nations, notably in Latin America, on the basis that they cannot afford them, that they should be spending their resources for domestic development. Of course, this point is well taken, but those nations simply do not pay any attention to American moralizing on what they should or should not buy. When they want modern weapons, if they cannot buy from us they go elsewhere to obtain them. They prefer to buy from America.

That means other countries enjoy the trade. Their industries and their workmen benefit. America's balance-of-trade suffers. Other nations are able to have personnel in the buying countries as training and maintenance teams, and that helps to insure good will for the countries which supply the weapons.

I know it is the policy of the present administration to ask for relaxation of that prohibition on the sale of weapons. I should like to ask the distinguished chairman whether this bill does relax the prohibition on the sale of weapons to friendly nations?

Mr. MORGAN. In Latin America?

Mr. SIKES. Yes.

Mr. MORGAN. Yes, it does.

Mr. SIKES. So that there are no restrictions in this bill on the sale of weapons?

Mr. MORGAN. It increases the ceiling and meets the request from the Executive.

Mr. SIKES. Mr. Chairman, the distinguished gentleman from Florida (Mr. Fascell) has been active in this field, and I yield to him for a comment.

Mr. FASCELL. I appreciate my colleague from Florida yielding.

As the chairman has pointed out, the ceiling was increased, as the administration requested, and also cash sales were taken out from under the ceiling. That is a tremendous improvement with respect to the administration meeting the legitimate requests from Latin America.

The distinguished gentleman from Florida, of course, has been very active and a leader on this issue. He realizes that what happens is the United States has lost those markets, despite the best intentions to hold down military expenditures. It seems ridiculous for the United States to have only a very small percent of the market, because the Latins insist on buying elsewhere.

Mr. SIKES. I appreciate the statement of my distinguished colleague.

Mr. Chairman, I have been quite concerned about a situation in the Sudan, where Americans and other foreign diplomats were murdered by guerrillas several months ago.

Mr. Chairman, as far as I have been able to determine, they have not been tried. There has been no punishment. The President of the Sudan stated immediately after the terrorists were apprehended that justice would be done, and he left the clear impression that justice would be done speedily. Since these guerrillas presumably are part of a widespread terrorist movement, I am informed the Sudanese have been under very considerable pressure to take no responsible action against those who committed the crimes.

I find that there are large sums included in this bill for Sudan.

If I am not mistaken, there is $5 million for developmental loans; $400,000 for technical assistance; and $3 million in wheat sales under Public Law 480.

Mr. Chairman, it would appear to me that when so little has been done to punish those who murdered in cold blood American and other diplomats, we are entitled to more assurance from the Sudanese that justice will be meted out.

I will ask if the distinguished chairman or any other member of the committee cares to make a comment on this point?

Mr. MORGAN. Mr. Chairman, will the gentleman yield?

Mr. SIKES. I yield to the chairman of the committee.

Mr. MORGAN. Mr. Chairman, of course, the committee is familiar with what the gentleman has stated. I want to point out that these murders occurred in March of this year.

Mr. SIKES. That is enough time to convict a killer in most nations.

Mr. Chairman, in further answer to the question, the Palestinian Black September organization has claimed credit for these murders. As we know, they also attacked the Saudi Arabians.

The Government of Sudan has said that they are going ahead and are going to be serious about trying these murderers. The date of the trial, I admit, has not been set yet, but as far as we can find out from our own State Department, there has been no indication that the Government of Sudan is not going to try them.

As the gentleman knows, many times in this country, through various legal tactics, trials of murder cases are delayed. I know of cases in my own district where there have been murders years ago and they are still trying those cases.

So I would feel, with the time limitation we have, unless there is some official statement from the Government of Sudan that they are not going to try them, I would have to take their word that they are serious and are going to try these individuals.

There are other areas in which I have concern. I note that the committee bill proposes to put an end to the policy of cutting off foreign aid to countries which seize American fishing vessels. To me this is incomprehensible. However much we want the friendship of other countries, we must protect the interest of American citizens. We require a policy that has teeth in it and we should have the courage to stand by such a policy. I can see no justification for terminating the present law which deals with the reprehensible policy engaged in by those Latin American countries which seize American vessels.

Mr. MAILLIARD. Mr. Chairman, I have no requests for time.

Mr. MORGAN. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin (Mr. Zablocki).

Mr. ZABLOCKI. Mr. Chairman, I rise in support of H.R. 9360—the Mutual Development and Cooperation Act of 1973—as reported from the Committee on Foreign Affairs.

At the outset, I wish to commend the chairman of the committee, Dr. Morgan, for the excellent leadership he has provided to the members in guiding this legislation to the floor.

It was through his diligent efforts that the major reforms in foreign assistance which are included in this bill were brought to fruition.

To be commended as well the many members of the Committee on Foreign Affairs the ranking minority member our distinguished colleague from California (Mr. Mailliard) who labored over, supported, and voted for the restructuring of bilateral economic assistance which is included in the Mutual Development and Cooperation Act.

This legislation represents a true congressional initiative at a time when the American public is looking to the Congress for leadership and decisive action.

A group of committee members wrote the President in mid-April asking him to put an end to foreign aid programs as they have been known in the past.

In that letter, we outlined the principles on which we believed future such programs should be based.

We never received an answer to that letter, and when the administration's requested bill arrived, it did not contain the suggested reforms.

At that point, a group of committee members—from both sides of the aisle—worked together in a series of informal meetings to formulate new foreign assistance legislation.

That legislation was introduced in late May, with the cosponsorship of 26 members of the Committee on Foreign Affairs.

Subsequently, the reform proposals received the endorsement of several administration officials including:

Secretary of State William Rogers;

Dr. John Hannah, director of the Agency for International Development; and

Mr. Peter Flanigan, chairman of the Council on International Economic Policy.

In addition, testimony in favor of the legislation was received from a number of prominent Americans, including:

The Honorable Orville Freeman, president of Business International and former Secretary of Agriculture;

Mr. Tony Dechant, president of the National Farmer's Union and chairman of the Advisory Committee on Overseas Cooperative Development;

Mr. James Grant, chairman of the Overseas Development Council.

In addition, the committee received letters endorsing the proposal from:

Former Secretary of the Treasury Douglas Dillon;

Mr. Edward E. Hood, Jr., vice president of the General Electric Co.; and

Mr. David Rockefeller, chairman of the Chase Manhattan Bank.

The proposal was unanimously endorsed recently by a bipartisan group of 20 members of two former advisory groups on foreign aid.

The group met in Washington in late June. It was composed of members of President Johnson's General Advisory Committee on Foreign Assistance Programs which was chaired by James A. Perkins, and President Nixon's Task Force on International Development headed by Mr. Rudolph Peterson.

Mr. Perkins was then president of Cornell University and is now chairman of the International Council for Educational Development. Mr. Peterson was then president of the Bank of America and is now director of the United Nations Development Program.

A number of prominent newspapers have endorsed the proposal or commented favorably on it, including the Journal of Commerce, the Washington Post, and the New York Times.

There are good reasons for the broad acceptance for the reform program represented in this bill.

First, there is widespread dissatisfaction both in Congress and among the public in the way in which our foreign assistance funds have been expended.

Second, conditions in the developing countries have changed significantly since the last major overhaul of foreign assistance in 1962.

Third, the new proposals meet the requirements of those changed circumstances.

The changes basically are three:

First, future U.S. bilateral economic assistance programs are to concentrate on acute problems common to developing countries.

Among those problems are insufficient nutritious food, lack of elementary health care, rampant disease, poor sanitation, excessive population growth, illiteracy, and lack of essential job skills.

In the past our foreign assistance concentrated on the industrial sectors of the recipient nations. The theory was that the benefits of industrialization would "trickle down" to the majority of the population which is poor.

As a result of United States and their efforts, many developing countries have managed to increase their gross national products substantially.

Unfortunately, however, those benefits in many cases have not been distributed generally through the population but have been enjoyed principally by those involved in the urban, industrialized sector.

As a result, the gap between the rich and the poor in the developing countries has itself widened in the past decade.

The reforms envisioned in H.R. 9360 would reverse the emphasis of the past and attempt to aid the poorest majority in the recipient countries meet their most urgent problems.

Under this bill, it is contemplated that the large foreign aid bureaucracy would be significantly reduced.

No longer would large missions be required in recipient countries. No longer would a large bureaucracy be necessary here in Washington.

Instead, the emphasis would be on using the private sector—voluntary organizations, cooperatives, credit unions, univesrities, and similar groups—to carry out programs of assistance to meet urgent needs.

Moreover, the responsibility for development planning would be assigned to the recipient countries themselves, with the United States being in the role of collaborator rather than initiator.

For too many years our foreign assistance attempted to impose "made in America" solutions to the problems of the poor countries, through the concept of "country planning."

Many of the problems of our foreign assistance resulted from the tendency to impose American solutions on foreign problems.

Mr. Chairman I submit the recipient countries themselves are capable of doing their own planning. The U.S. role must be a secondary one—a willingness to help, but not to be the boss.

The second major reform in the legislation before the House is the creation of a new Export Development Credit Fund.

This Fund would provide the means for shifting our programs away from development lending and toward export promotion.

It would create a facility for the purpose of increasing U.S. exports while at the same time advancing the development of the more than 1 billion people who live in the low-income countries of Asia, Africa, and Latin America.

The proposed fund would utilize repayments from past foreign assistance loans to subsidize the interest rates on export credits to the developing countries which have a per capita income of $375 or less.

The bill would authorize about $1 billion of exports per year, which could create as many as 80,000 new jobs for American workers.

At the same time, budgetary outlays would not be increased.

The interest differential between the cost of borrowing money by the Fund, and the exporter credits extended by it, would be covered by the receipts from past foreign aid loans.

The Fund would operate much like the Export-Import Bank and would put our relationships with the recipient countries on a much more businesslike and realistic basis than has been possible under the present development lending programs.

The third major reform proposal would establish a Development Coordination Committee to advise the President with respect to U.S.-supported policies and programs—both bilateral and multilateral—which affect development in the low income countries.

In the past, such a coordinated effort has been lacking. Departments and agencies whose programs affect the developing nations have often worked at cross-purposes.

Furthermore, the two bodies the National Advisory Committee on International Monetary and Financial Policies—NAC— and the Council on International Economic Policy—CIEP—which are charged with coordinating U.S. international economic policy at present have no representation by the agency administering economic assistance. AID is represented on neither.

The new coordinating committee would be a statutory body, chaired by the administrator of the Mutual Development and Coordination Agency.

Its membership would include officials of the Departments of State, Treasury, Commerce, Labor, Agriculture, the Executive Office of the President, and others as designated by the President.

The committee would operate under

the foreign policy guidance of the Secretary of State.

Recent nationwide polls conducted by Peter D. Hart Research Associates indicate that the American people basically favor the idea of responsible, mutually beneficial foreign assistance.

The polls showed that Americans approve tangible forms of U.S. assistance—such as food and health aid—rather than nebulous transfers of funds in the form of loans or grants.

The American people have always responded with generosity and sympathy to foreign peoples who, for no fault of their own, are sick, hungry, or homeless.

Those are the very problems which this legislation seeks to target, and I believe the American people support it.

In that context, let me address the question which has been raised comparing the impoundment of funds for domestic welfare purposes with the request in this legislation for assistance abroad.

No one in this Congress is more adamantly opposed than I to the capricious impoundment of funds for domestic programs which has been practiced by this administration.

At the same time, I do not know why the Congress should take out its anger and frustration on the poor and unfortunate of other lands.

Let me point out, for example, that the amount which is provided in this legislation for health and family planning is but 1.6 percent of the local Federal expenditures for the same purposes in the United States per fiscal year.

We are not spending money abroad building modern new hospitals filled with the latest diagnostic equipment—as we would in the United States.

Far from it. The funds which are being expended in this category are intended to bring the most elementary kinds of health care to people who are ravaged by diseases virtually unknown in this country because of our higher standards of sanitation and health care. Permit me to mention that disease and epidemics respect no national boundaries.

Another category of authorization in this legislation is education and human resource development.

The amount involved is about 2 percent of the amount of annual Federal outlays in this Nation for a similar purpose.

Again, we are not talking here about building new universities which will benefit the few. We are interested in teaching masses of people to read and write—the basics—in order to prepare them to contribute to the development of their countries.

I believe that the people of these low-income countries—if given a chance—can increase their productivity and improve their way of life. We have examples of such success in countries such as Taiwan, South Korea, and Singapore.

Impoundment is a problem of today. But in this legislation we are attempting to look beyond immediate problems to the dire consequences which may lie ahead unless something is done to cure the "disease" of extreme poverty which now scourges our planet.

I urge the Members of this body to read carefully the committee report, to listen to the debate and then to cast their votes—not on the basis of the expediencies of the day—but on the basis of the long-term best interests of the American people and of all the world's people.

Mr. DIGGS. Mr. Chairman, these sections would amend the Foreign Assistance Act of 1961 in connection with the drought disaster in the Sahelian nations of West and Central Africa:

First. Section (a) of section 639A is a statement of policy, affirming the support of the Congress for the response by the U.S. Government to alleviate the suffering of some 25 million people, the decimation of their livestock, and the desertification of their countries—an area the size of continental United States.

Second. Section (b) of 639A authorizes a special no-year appropriations, in addition to funds otherwise available, of $30 million to be available to the President for famine and disaster relief and rehabilitation assistance, to be used as the President determines, for the emergency needs caused by the crisis as well as for the recovery period which is expected to take about 3 years.

Third. Section 639B affirms congressional support for the initiative of the U.S. Government in undertaking discussions and international conferences, and otherwise, with the other donors concerned, with the international organizations and regional organizations involved and with the Sahelian nations themselves toward the development of a comprehensive long-term African Sahel development program.

Thirty-million-dollar special authorization: It is clear that exact needs have not been identified. Thus no clear documentation can be given. As was said on pages 3–4 in the August 1, 1972, report on the Foreign Assistance Act of 1972, regarding the authorization for an appropriation of $100 million to Bangladesh, additional to the existing $267.5 million already pledged by the United States:

> It is still too early to attempt to estimate the total cost of relief and rehabilitation in Bangladesh. There is no doubt, however, that the need is great and substantial assistance will be necessary to help the people of Bangladesh recover from the effects of war and rehabilitate their economy.

In the Sahel many nomad communities are remaining in the desert, and it is not known how many people there are, how many are dying, and where they can be located. In many cases the only means of supplying food is by airlift by small aircraft to the poor landing strips in remote areas, or by airdrop with special equipment. Observers have stated that only the United States has the resources for such an operation. Many have already died, either from starvation or from endemic diseases such as cholera in Senegal, measles in Mali and Niger, and meningitis in Chad.

In the case of the drought-stricken Sahelian nations, as is said in the President's letter of June 20 to the U.N. Secretary General, there is a great deal more to be done. Although the total amount of the shortfall this year in food is not clear, it is indisputable that the margins of available food are thin and that we must stand prepared to do more.

Countries stricken by the drought: Six countries are principally affected: Mauritania, Mali, Chad, Senegal, Upper Volta, and Niger.

However, many others have been affected by drought, including Ethiopia, Sudan, Central African Republic, Nigeria, and the other countries to the south of the Sahel zone. In addition to their own crop failures, they are faced with a massive influx of refugees from the north.

The population of the 6 countries is at least 25 million. There may be many more, but no census has been taken. The people are mainly nomads reliant on their herds for survival; there are also settled farmers and fishermen in areas near water.

United Nations officials estimate that at least 6 million people are in danger of starvation this year.

The six countries are among the poorest in the world, with per capita incomes of under $100 a year.

Normal rainfall in the area is between 4 and 12 inches a year; in the last 5 years there has been very much less. Crops have failed, or been greatly reduced over several years, leaving no reserves of grain at all in the area. Nearly all the cattle, sheep, goats, and even camels have died, leaving many of the people destitute, and with no means of survival for the future. Rivers and lakes have dried up or are at very low levels, and the water table has dropped about 25 feet, leaving many of the communities with dry wells and no access to water.

AID advises that it has no objection to this amendment. AID further states "the $30 million which would be authorized by this amendment is the initial estimate of the needs for relief, rehabilitation and related assistance. The executive branch would seek additional appropriations as needed for these purposes over the open-ended authorization for disaster relief provided by section 451(a). The use of funds hereunder would be consistent with the President's budget proposals for fiscal year 1974."

Some $22 million has been committed by the United States both for the provision of foodstuffs, for its transportation and other related assistance. U.S. Government emergency food aid to the Sahel in fiscal year 1973 was 107,000 metric tons of grain. Although it is impossible at this point to identify precise needs, there is an AID projection for the period October 1973 to September 1974 of a need of 800,000 metric tons of grain of which the United States proposes to provide some 300,000 metric tons "a figure which would maintain the proportion of concessional food aid supplied by the United States at approximately current levels." This quote is taken from an AID document. One problem here with respect to a hard definition of what is needed arises because we are dealing with an immense geography. Our task here is to make available to the President for his use, as he may need a reasonable amount.

Although needs have not been identified, it is clear that needs will have to be met with respect to:

The development of ground water;

The digging of wells;

The resettlement of the peoples;

Reforestation;

The health of the people in the affected countries;

The protection of livestock herds;

Provision of seed grain;

Inoculation against diseases;

Internal transportation of foodstuffs;

Effort to help balance payment problems being causes; to the budgets of these countries where the tax revenues; and foreign exchange earnings were so drastically affected by the drought.

This amendment makes it clear that the Congress supports the initiative of the President in his undertaking to the Secretary General: "The U.S. stands prepared to commit further resources as identified." I would like the text of the President's letter included in the RECORD, as well as the AID comment. The United States should do its part and be in the forefront of the international action to alleviate the suffering to the millions of persons and to the six countries of the Sahelian area: Mauritania, Chad, Senegal, Upper Volta, Mali, and Niger.

I would like to submit for the RECORD a basic fact sheet on the Sahel.

African Sahel development program: Section 639B registers congressional support for the U.S. Government to cooperate and take the initiative with the Sahelian nations, other donors, and regional organizations to develop a long-term comprehensive program for the Sahelian nations of Africa.

Even before 1968 and the drought, the rate of agricultural production of these countries increased negatively. To reclaim the desert, the effort in this area must be given the planning and international support provided by the international community with the substantial support of the United States for the Indus Basin in the Mekong Delta.

A massive multilateral effort—coordinated by the countries themselves—must be undertaken now. And I am speaking of an effort on the scale of:

The Marshall plan, where the United States spent some $13 billion in 4 years alone on the reconstruction of Europe and provided $28 million in economic assistance to Europe—developed not developing countries—from 1946 to 1972;

On the scale of the Indus Basin where the United States alone committed $651 million and the international community $15 billion;

On the scale of the Mekong Delta project where the United States committed $237 million and the international community $410 million.

I have attached charts, which I request become part of the report to show the scope of the U.S. effort in the Asian subcontinent in Southeast Asia and for the Port War reconstruction of Europe. There is also a chart showing total U.S. economic assistance to the countries concerned.

I would also like to insert a chart showing U.S. assistance and other data for the countries of the Sahel.

The need for the proposed regional program for the Sahel is only aggravated by the drought.

When we realize one-seventh of the Earth's surface is covered by desert, it is clear that the international community must systematically plan to meet the problem of desertification. In the Sahel, 250,000 square miles of arable land was forfeited for the Sahara in the past 50 years.

In addition to the drought, the process of desertification—the desert is advancing southward at 30 miles a year in some parts—is exacerbated by uneven attempts at development projects by uncoordinated aid programs by bilateral as well as multilateral channels. For example, the provision of wells may cause overgrazing; so many programs of disease control for cattle. The need for a comprehensive, tightly coordinated and long-term program of rehabilitation of the whole area is becoming widely, if belatedly recognized.

The U.S. Southwest demonstrates that the desert can be contained. For the developing countries, and particularly those of the Sahel which rank among the least developed countries, a multilateral program must be undertaken in cooperation with and following the lead of the countries concerned. And in the Sahel economic assistance must be coordinated to avoid desertification caused by poorly planned development.

There must be concurrent effort regarding: livestock and range lands; crops, agriculture lands and applied agricultural resources; reforestation; development of water resources; restocking of fish resources of the lakes and rivers of the area; and massive work programs.

In conclusion, our concern here is humanitarian. But there are other factors. The area holds deposits of iron ore, copper and possibly oil. In fact, U.S. oil companies are exploring in this area. Further, in a time of threatened world food shortages, the international community cannot afford to let arable land become desert. Nor can it afford not to commit the resources needed to rehabilitate semiarid areas and stabilize and contain the desert.

During the past 5 years a drought has become increasingly severe in the Sahel region. The United States and other international donors have focused on immediate short-term assistance to the affected region over the past year. At this time, it is appropriate that the United States and other donors join with the affected countries to begin to plan for the medium- and long-term relief, reconstruction and development of the affected areas.

AID concurs with congressional endorsement of cooperative long-term planning for the preservation and development of the Sahel region.

What we are seeking for the long-term is a multinational and international effort with the countries concerned, with the U.S. Government indicating now that it is prepared to cooperate in an African Sahel development program.

I include the following:

THE WHITE HOUSE,
Washington, D.C., June 20, 1973.

His Excellency Dr. KURT WALDHEIM,
Secretary General of the United Nations,
United Nations, N.Y.

DEAR MR. SECRETARY GENERAL: I fully share the concerns which you have expressed to Ambassador Scali for the millions of persons who are suffering from the terrible drought in the Sahelian nations of West and Central Africa. For many months reports from United States and United Nations representatives and from the governments themselves have related graphically the growing effects of the worst drought of this century in the African Sahel. Those of us who have been spared this scourge have been responding to the crisis, but more must be done, as you have said. The United States stands prepared to commit further resources as needs are identified.

As you know, the United States response has been carried out on several fronts. We have increased the amounts of foodgrains destined for these nations through both American programs and the World Food Programs. By mid-summer, 156,000 tons of grain valued at nearly $19 million will have arrived in West African ports or in the interior states of Mali, Upper Volta, Niger and Chad. Two million dollars in disaster relief funds have also been made available. United States Air Force aircraft, and those of other donors, are airlifting grain to stricken nomads and farmers in remote districts of Mali and Chad. Animal feed and vaccines are being distributed to save as much livestock as possible. Medicines are being provided to combat malnutrition and potential epidemics. In response to a request from Director General Boerma, the Agency for International Development has provided a logistical planning expert to the Food and Agriculture Organization of the United Nations and our staffs in West Africa are being augmented to improve our ability to deliver what is needed to the right place at the right time.

We share your concern that the problems of dealing with the immediate emergency will become even more difficult as the rains begin and road transport problems increase. We therefore stand ready to provide further support for internal transport, as specified needs are identified.

As you have recognized, this region is faced not only with the immediate needs of feeding the hungry but also of rehabilitating water and forage resources, livestock herds and grain producing facilities to permit a long range recovery from the devastating effects of the drought. This effort will require close collaboration among African leaders and the donor community. As specific rehabilitation needs are more clearly identified, and as it becomes clearer what others are ready to do, the United States will be prepared to provide additional assistance for the Sahel to help overcome the profound effects of this tragedy.

In order to coordinate more effectively our emergency relief efforts and to plan our part in a rehabilitation program, I intend to designate Mr. Maurice J. Williams as a Special United States Coordinator. He will cooperate closely in his work with Director General Boerma and with other governments—so that the work of relief and rehabilitation can go forward as expeditiously as possible.

Sincerely,

RICHARD NIXON.

AID Comments—Amendment to H.R. 7484

AFRICA SAHEL ASSISTANCE

(Page 20, line 9)

JULY 17, 1973.

This amendment would add a new section 659 and section 660 to the Foreign Assistance Act. Section 659 would authorize the appropriation of at least $30 million for famine and disaster relief and rehabilitation assistance for the drought stricken Sahel nations in Africa. Section 660 is a Congressional endorsement of planning for long-term needs of the area in connection with the UN and other organizations.

A.I.D. Position

A.I.D. has no objection to this amendment.

Discussion

During the past five years a drought has become increasingly severe in the Sahel region. The U.S. and other international donors have focused on immediate short-term assistance to the affected region over the past year. At this time, it is appropriate that the U.S. and other donors join with the affected countries to begin to plan for the medium and long-term relief, reconstruction and development of the affected areas.

The $30 million which would be authorized by this amendment is the initial estimate of the needs for relief, rehabilitation and related assistance. The Executive Branch would seek additional appropriations as needed for these purposes over the open-ended authorization for disaster relief provided by section 451(a). The use of funds hereunder would be consistent with the President's budget proposals for FY 1974.

A.I.D. concurs with the Congressional endorsement of cooperative long-term planning for the preservation and development of the Sahel region.

Basic facts on the Sahel

Countries stricken by the drought: Six countries are principally affected: Mauritania, Mali, Chad, Senegal, Upper Volta and Niger.

However, many others have been affected by drought, including Ethiopia, Sudan, Central African Republic, Nigeria and the other countries to the south of the Sahel zone. In addition to their own crop failures, they are faced with a massive influx of refugees from the north.

Population

The population of the six countries is at least 25 million. There may be many more, but no census has been taken. The people are mainly nomads reliant on their herds for survival; there are also settled farmers and fishermen in areas near water.

United Nations officials estimate that at least 6 million people are in danger of starvation this year.

The six countries are among the poorest in the world, with per capita incomes of under $100 a year.

Environment

Normal rainfall in the area is between 4 and 12 inches a year; in the last five years there has been very much less. Crops have failed, or been greatly reduced over several years, leaving no reserves of grain at all in the area. Nearly all the cattle, sheep, goats and even camels have died, leaving many of the people destitute, and with no means of survival for the future. Rivers and lakes have dried up or are at very low levels, and the water table has dropped about 25 feet, leaving many of the communities with dry wells and no access to water.

In addition to the drought, the process of desertification (the desert is advancing southwards at 30 miles a year in some parts) is exacerbated by uneven attempts at "development" projects by uncoordinated aid programs by bilateral as well as multilateral channels. For example, the provision of wells may cause overgrazing; so may programs of disease control for cattle. The need for a comprehensive, tightly coordinated and long-term program of rehabilitation of the whole area is becoming widely, if belatedly recognized.

Social effects of the disaster

Many nomad communities are remaining in the desert, and it is not known how many people there are, how many are dying, and where they can be located. In many cases the only means of supplying food is by airlift by small aircraft to the poor landing strips in remote areas, or by airdrop with special equipment. Observers have stated that only the United States has the resources for such an operation. Many have already died, either from starvation or from endemic diseases such as cholera in Senegal, measles in Mali and Niger, and meningitis in Chad.

The vast numbers of people moving south to escape the desert are causing the largest social dislocation the area has known this century. Towns and cities have swelled to three or four times their former size; pastoralists moving into farming areas are resulting in violent clashes as their animals compete for any available pasture; and millions of camps are being swamped, and the administrative and other services are stretched beyond their capacity.

Short-term relief

In the six countries most affected, there have been efforts by the tiny minority of salary-earners to raise funds for relief; in Niger $2 million was raised in this way, in addition to assistance through the extended family social network.

Neighboring African countries, especially those with seaports, have made special arrangements to transport relief supplies to the landlocked countries as a matter of priority over their own imports. Many African and Arab countries have contributed money, aircraft and additional transportation (e.g. Algeria sent a convoy of trucks across the Sahara with relief supplies; the Ghana Air Force supplied an aircraft, Saudi Arabia made a contribution). The Organization of African Unity and the United Nations have suspended the dues from the six countries, and the O.A.U. has made the drought a priority issue.

Nigeria has suffered badly from the drought in its northern, grain-producing provinces, but has met the crisis entirely from its own resources; in addition, it is supporting many refugees from the other countries, and has made special arrangements for them. All the countries due south of the sahel are supporting refugees from their own resources, or with the help of the United Nations High Commissioner for Refugees.

The UN Food and Agriculture Organization (FAO) is responsible for coordinating relief measures, and has organized a Sahelian zone Trust Fund. There have been severe problems with the inadequate transportation network and unwillingness of the US and other donor governments to act without precise definition of needs. However, the relief efforts made in the last few months have prevented the disaster from becoming a holocaust, and kept many people alive who would otherwise have died. The major problem now is the fact that the annual rains have started, making the dirt roads impassable; the camels and donkeys normally used for transportation have died; this makes the need for short-haul airlifts and airdrops all the more urgent.

France, the European Economic Community's Development Fund, Canada, the Soviet Union and many other developed countries have contributed to the relief efforts. The United States has committed $22 million so far, from AID's Contingency Fund. $2 million of this has been a financial contribution to the FAO's Trust Fund, and the rest has been spent on the airlift by three USAF C-130's ($4 million so far) and purchase and shipping of grain, mainly sorghum and millet, as well as dried milk. The U.S. so far contributed nearly 40% of the total 410,000 tons of grain supplied in the last six months. Following pressure from Black groups and churches in the U.S. and forecasts of a record U.S. harvest, approval has been given for another 100,000 tons of grain for the Sahel. With the immediate problem of getting grain distributed during the rainy season, however, and the continuing problem of sharply reduced harvest locally due to the lack of seed grain, there is no room for complacency. Many millions of people continue to be threatened with death from starvation and resultant disease. Malnutrition causes permanent damage, especially to children.

One constant problem, which is a feature of all disaster situations whether abroad or in the U.S., is the high cost to the relief budget of emergency airlifts and military assistance of various kinds. It is the practice of the Defense Department to charge the agency involved in relief efforts for the cost of maintaining and operating Air Force planes, including the salaries and expenses of Air Force personnel. This problem may need special legislation, to make disaster relief one of the responsibilities of the U.S. Military, as it is in some other countries.

Long-term reconstruction

The economies of the six-countries have been almost entirely destroyed, and are now at the point where they are without the resources to support themselves. Such exports as they had have been virtually wiped out—for example, peanuts from Senegal, and animal products from the other countries. Cash revenue from tax payments on cattle has disappeared. The struggle for greater financial and economic independence from France, the former colonial power, has been set back indefinitely.

Reconstruction of the areas will depend on careful management of the environment, including conservation and use of water resources, resettlement projects, massive public works and to provide employment and subsistence, as well as stop the encroachment of the desert, tree-planting, pasture management, and careful planning of herd improvement and enlargement. Since the Governments involved are without even the meager income from domestic taxes, the reconstruction can be effected only by a major international program, with much closer coordination of donors and multilateral agencies than has often been the case. A plan along the lines of the Indus Basin or Mekong Delta projects will be required, and a major and sustained contribution from the United States will be an essential element.

The six governments most concerned have formed a Committee to coordinate planning for the region, pointing out that the drought disaster has been aggravated already by competition and duplication among donors more interested in their own prestige than the welfare of the people involved. A summit meeting of this Committee is to be held on Ouagadougou, Upper Volta, in July. It is important that the United States give priority to the decisions of this body, and supply technical and other assistance to it as needed. The United Nations itself is to take over responsibility for coordinating the multilateral agencies in the long-term reconstruction program.

African Sahel development program

The Sahel region, and other countries to the South which are threatened by the encroachment of the Sahara Desert, can be restored to self-reliance only by a major international program of reconstruction, on a scale approaching that of the other regional development schemes in which the United

States has participated, beginning with the massive program of Marshall Aid for Europe, and including the huge Indus Basin and Mekong Delta schemes. A substantial U.S. contribution would boost the involvement of other countries and multilateral agencies in the reconstruction program, and by setting an example of close cooperation with a local regional planning authority, such a program could help to improve the efficiency of the international development agencies.

President Nixon has already made a commitment to U.S. participation in a long-range recovery program. In a latter to the United Nations Secretary-General of June 20, he stated:

"This effort will require close collaboration among African leaders and the donor community. As specific rehabilitation needs are more clearly identified, and as it becomes clearer what others are ready to do, the United States will be prepared to provide additional assistance for the Sahel to help overcome the profound effects of this tragedy."

In line with that commitment, the Foreign Affairs Committee has voted unanimously to insert a new Section 639A and 639B in the Foreign Assistance Act, which would read:

SEC. 639A. *"Famine and Disaster Relief to the African Sahel.*—(a) The Congress affirms the response of the United States Government in providing famine and disaster relief and related assistance in connection with the drought in the Sahelian nations of Africa. (b) Notwithstanding any prohibitions or restrictions contained in this or any other Act, there is authorized to be appropriated to the Presid, in addition to funds otherwise available for such purposes, $30,000,000 to remain available until expended, for use by the President, under such terms and conditions as he may determine, for emergency and recovery needs, including drought, famine, disaster, relief, and rehabilitation and related assistance, for the drought-stricken Sahelian nations of Africa."

SEC. 639B. *"African Sahel Development Program.*—The Congress supports the initiative of the United States Government in undertaking consultations and planning with the countries concerned, with other nations providing assistance, with the United Nations, and with other concerned international and regional organizations, towards the development and support of a comprehensive, long-term African Sahel Development Program."

Other regional development programs have involved the following U.S. commitments:

[In millions of dollars]

Project	Total cost	U.S. contributions	Other U.S. aid in region since 1946
Mekong Delta	410	237	7,606
Indus Basin	15,000	651	8,900
Marshall Plan	13,400	15,400	28,400

The importance to the United States of the Sahel region

Deposits of iron ore, copper and possibly oil are of immediate interest to the United States, together with the potential for supplies of protein (in the form of peanuts, grown in Senegal, and beef from all the countries) of which there is emerging a world shortage. In addition to the area immediately threatened, the other countries threatened with the advance of the arid zone, comprising an area with perhaps 60 million people, contain important sources of oil as well as other minerals and agricultural products reuired by the US and other Western countries.

Oil

US companies exploring for oil in the six countries of the Sahel include: Continental Oil (in Chad and Niger), Texaco, Texas Gulf Sulphur (in Senegal, Exxon, Oceanic, American Oil Co., Oceanic and Seneca (in Mauritania).

Minerals and other US investment

Mauritania has very large deposits of iron ore and copper, and some potash, within reasonable distance from a small but efficient seaport. There is some US investment in the iron ore mines, and 72,000 tons of and the possibility of other mineral de- iron ore are imported annually into the US. Total imports from Mauritania are worth $40 million. There is some titanium in Mali, posits in the region, according to NASA's ERTS satellite surveys. In Senegal, ESSO is participating in an oil refinery, and there is US investment in the airport facilities at Dakar. Senegal also produces peanuts, an important source of protein: most of the exports go to the European Economic Community.

CHARACTERISTICS OF THE 6 COUNTRIES [1]

Population (mid-1970 millions)	Average annual population growth 1960–70 (percent)	GNP per capita at market prices 1970 U.S. dollars	Average annual growth rate per capita 1960–70
Upper Volta: 5.4	2.1	60	−0.6
Mali: 5.0	2.1	70	4.4
Senegal: 3.9	2.1	230	0
Chad: 3.6	1.8	80	.4
Niger: 4.0	2.9	90	2.0
Mauritania: 1.2	1.9	140	4.5

[1] All statistics are rough estimates only.

THE MEKONG DELTA PROJECT

Countries	Size of area (square miles)	Population (millions)	Donors	Amount involved	Comparative aid picture,[1] total 1946–72 U.S. aid
Cambodia (Khmer Republic)	70,000	7.3	Australia, Austria, Belgium, Canada, Denmark, Finland, France, Egypt, Federal Republic of Germany, Hong Kong, India, Indonesia, Iran, Israel, Italy, Japan, Netherlands, New Zealand, Norway, Pakistan, Philippines, Sweden, Switzerland, and United Kingdom; and the 4 riparians: Thailand, Laos, Cambodia, and Vietnam; plus 12 international organizations and others; United States.	Total: $211,000,000 with U.S. assistance; $37,000,000 plus $200,000,000 U.S. participation in Asian Development Bank.	Cambodia: Loans $19,900,000; grant $368,500,000. Laos: Loans —; grants $792,600,000. Thailand: Loans $80,100,000; grants $530,800,000. South Vietnam: Loans $151,600,000; grants $5,659,700,000 (this figure excludes aid to Indochina prior to partition).
Laos	91,000	3.1			
Thailand	198,000	38.0			
South Vietnam	173,000	19.0			

[1] Figures are the same for total development assistance and total economic programs.

Note: Total U.S. economic assistance: Loans: $254,600,000; grants: $7,351,600,000 (or $7,300,000,000). Total economic programs: U.S. assistance: $7,606,200,000 (or $7.600,000,000).

INDUS BASIN DEVELOPMENT

Countries	Size of area (square miles)	Population (millions)	Donors to Indus basin project [1]	Amount involved (total including United States)	Comparative aid picture (United States) 1946–72
India	1,200,000	550.4	Australia, Canada, New Zealand, Germany, United Kingdom, United States. World Bank plus India and Pakistan.	1,500,000,000 in foreign exchange and rupees. U.S. assistance: $295,000,000 ing grants	Total U.S. development assistance: 8,700,000,000 loan: 6,700,000,000; grants: 2,000,000,000. Total U.S. economic program: [2] 9,200,000,000 loan: 7,200,000,000; grants: 2,000,000,000.
Pakistan	310,403	130.2	Chaired by World Bank	$121,200,000 in loans	Total U.S. development assistance: 4,000,000,000. Loan: 2,300,000,000; grants: 1,700,000,000.
				$235,000,000 equivalent in Public Law 480. Guaranteed Pakistan rupees.	Total U.S. economic program: [3] 4,100,000,000. Loan: 2,400,000,000; grants: 1,700,000,000.
				Total, $652,700,000 U.S. assistance	Total, U.S. economic programs: 13,300,000,000.

[1] The contributors make payments to the fund according to a fixed apportionment upon semiannual call from the World Bank and on the basis of the expected rate of construction and expansion.

[2] The difference between total Development Assistance andtotal economic program of $500,000,000 is equal to amount of "Other Loans".

[3] The difference between total development assistance and total economic program of $100,000,000 is equal to amount of "Other Loans".

U.S. AID TO MARSHALL PLAN COUNTRIES, 1949–52

[U.S. fiscal years in millions of dollars]

Marshall plan countries	Total official economic assistance		Total economic programs	
	Amount	Total	Amount	Total
Austria:				
Loans		679.8		679.8
Grants	679.8		679.8	
Belgium-Luxumbourg:				
Loans	68.7	560.0	75.5	[1] 566.8
Grants	491.3		491.3	
Germany (Federal Republic):				
Loans	617.9	2,491.8	6.7.9	2,491.8
Grants	1,873.9		1,873.9	
Denmark:				
Loans	33.3	273.0	33.3	273.0
Grants	239.7		239.7	
France				
Loans	225.6	2,714.6	225.6	2,714.6
Grants	2,489.0		2,489.0	
Greece:				
Loans		733.4		733.4
Grants	733.4		733.4	
Iceland:				
Loans	5.4	29.4	5.4	29.4
Grants	24.0		24.0	
Ireland:				
Loans	128.2	147.5	128.2	147.5
Grants	19.3		19.3	
Italy:				
Loans	95.6	1,516.9	99.1	[2] 1,520.4
Grants	1,421.3		1,421.3	
Netherlands:				
Loans	149.5	982.1	149.5	982.1
Grants	832.6		832.6	
Norway:				
Loans	39.2	255.3	39.2	255.3
Grants	216.1		216.1	
Portugal:				
Loans	36.1	51.2	36.1	51.2
Grants	15.1		15.1	
Sweden:				
Loans		0.5		0.5
Grants	0.5		0.5	
Turkey:				
Loans	85.0	225.1	85.0	225.1
Grants	140.1		140.1	
United Kingdom:				
Loans	384.8	3,190.0	384.8	3,290.0
Grants	2,805.2		2,805.2	
Trieste:				
Loans		31.8		31.8
Grants	31.8		31.8	

[1] Difference of 6,800,000 equal to amount of "total other official loans."

[2] Difference of 3,500,000 equal to amount of "total other official loans."

U.S. ASSISTANCE TO EUROPE[1]

Program	Postwar relief period	Marshall plan period	Mutual Security Act period	Total loans and grants 1946–72
Economic program:				
Loans	7,055.5	1,826.6	509.5	11,395.7
Grants	3,092.2	11,601.0	2,175.9	17,016.1
Total	10,147.7	13,427.6	2,685.4	28,411.7

[1] Data from p. 141 of "U.S. Overseas Loan and Grants: Obligations and Loan Authorizations," (May 1973).

SAHELIAN COUNTRIES AFFECTED BY THE DROUGHT

Countries	Size of area (square miles)	Population (millions)	U.S. aid 1946–72 total development assistance (millions)	Total economic programs (millions)
Chad	496,000	3.8		10.2
Grants			10.2	
Mauritania	419,000	1.2		6.3
Loans			1.4	
Grants			4.9	
Mali	464,000	5.1		28.7
Loans			3.6	
Grants			25.1	
Niger	489,000	4.1		20.5
Loans			3.1	
Grants			17.4	
Senegal	76,000	4.0		[1] 42.8
Loans			1.6	
Grants			36.3	
Upper Volta	106,000	5.5		21.9
Loans				
Grants			21.9	
Total	1,461,000	[2] 24		130.4
Loans			9.7	
Grants			115.8	

[1] Including $4,900,000 Export-Import Bank loans.

[2] Approximately.

Mr. KASTENMEIER. Mr. Chairman, as sponsor of the Vietnam Children's Care Agency legislation. I want to compliment the members of the House Foreign Affairs Committee for including section 824, Assistance to South Vietnamese Children in the Mutual Development and Cooperation Act of 1973.

It is estimated that there are about 700,000 children in South Vietnam who are orphaned or abandoned as a result of the war. These children have suffered terribly during the course of the conflict, and many of these young people have been victims of our operations in South Vietnam. The problem of caring for these youngsters is immense, far beyond the capabilities of the South Vietnamese Government. To ignore their plight or to abandon these young victims of the war would be cruel and inhumane. It is both necessary and appropriate that our Government begin to assume the moral obligation to help care for these children.

Section 824 of the Mutual Development and Cooperation Act of 1973 authorizes $5 million, most of which will be allocated for the establishment, improvement and expansion of South Vietnamese day care centers, orphanages, hostels, school feeding programs and related programs in health and welfare for South Vietnamese children. A second purpose of section 824 is directed toward those South Vietnamese children who have no family or guardians, and are, therefore, eligible for adoption, and for whom an acceptable home can be found in the United States. While emphasis will be focused on facilitating the adoption of the thousands of orphaned or abandoned children of American fathers, this provision is extended to all Vietnamese children who are orphaned or abandoned.

Mr. Chairman, section 824 represents the beginning of the commitment that the United States must make in acknowledging the problem of the South Vietnamese children, and in assuming our responsibility to help these innocent youngsters.

Mr. Chairman, on June 19, 1973, NBC Reports presented a moving documentary, "The Sins of the Fathers," which described the plight of the Vietnamese children, and I am including the transcript of that program for the benefit of my colleagues:

"THE SINS OF THE FATHERS"

NORTHSHIELD. This place, Viet Nam, is like most of the world. It is more involved in surviving than in living, more committed to mere existence than to enjoyment. Like most of the people of the world, those who live here have black hair, black eyes and terrible hungers. But Viet Nam is special too. It's a scar on the conscience of all men. It's a junk pile where old weapons rust and new little people rot. Among all the debris the very worst thing to be is one of these.

(Over back toddler).

NORTHSHIELD. She is a citizen of Viet Nam because she was born here, in the place her mother lives. Her father has gone home . . . to the United States.

She is healthy and altogether normal.

She is in very big trouble.

(Over meat market).

NORTHSHIELD. The mothers and potential mothers have been here for centuries. From time to time, armies of fathers and potential fathers have invaded or visited. Those here most recently were Americans.

They were friendly to the friendly natives.

The friends could get together at this gate to the world's largest Army base, a place called Long Binh. It had an *American* name, too.

It was called The Meat Market.

(Over Long Binh).

NORTHSHIELD. Now the Americans are gone. They have left the world's largest Army base and tons of debris. There are no friends here now, just relics and remembrances of past triumphs, of mistakes and expenditures.

(Over wreckage).

NORTHSHIELD. There were billions of dollars worth of goods, hundreds of thousands of people sent here. What is left behind is wrecked and used and dead.

(Baby in crib).

NORTHSHIELD. Except for this—also left behind—but doomed to live.

(Over freeze of birth).

NORTHSHIELD. All babies are born naked, soiled, protesting, shocked.

(Action begins).

NORTHSHIELD. Most of them get over it.

(Before dissolve to Quang Tri).

NORTHSHIELD. But to be born in Viet Nam is to begin where the apocalypse has just ended. This is what remains of Quang Tri city, the way it was when we filmed there in February 1973.

This is the place where the four horsemen rode.

They were called Plague, War, Famine and Death.

(Over cemetery).

NORTHSHIELD. To live in the presence of death is common and even necessary here. This place, in the heart of Saigon, is a cemetery. But refugees began living among the tombstones 20 years ago. Now the grave markers are houseposts and lamposts and playground toys.

Few in Viet Nam can remember a time when there was no war.

(Just before incubator).

NORTHSHIELD. It is not a promising place to begin living.

(On incubator).

NORTHSHIELD. For those who survive the apocalypse, who get to breathe of the cleansed air . . . *more* trouble may lay ahead.

It has been written that "the sins of the fathers shall be laid upon the sons."

It matters very much who the fathers are.

It is important to know that the Vietnamese are racists.

They have always been.

NORTHSHIELD. All these people are refugees from the war in Viet Nam but they are segregated by an old Vietnamese concept. Over in the solid buildings are Vietnamese refugees. On this side of the road are people of a different color. They live in hot filthy tents far from home. They are a very subjugated minority.

(On Montagnards).

NORTHSHIELD. These people are called Montagnards. That's a French word that supposedly pertains to people from the mountains. But it doesn't. As part of the language of the Vietnamese majority, it is applied to any of the 33 aboriginal tribes, those who look different and live differently.

A Montagnard is as Vietnamese as a Navaho is American.

In Vietnamese—Montagnard is a very dirty word. About like "nigger."

(Montagnard Camp, just before dissolve to mixed children).

NORTHSHIELD. So Viet Nam had a special feeling for different-looking people before they ever were born. And if your mother is Vietnamese and your father American . . . any color American . . . you are aware of that feeling. It is almost certain that you have no father around. It is likely that you will be segregated from the rest of the community, possibly in an orphanage.

(In orphanage).

NORTHSHIELD. In the whole population of Viet Nam, there aren't very many of them.

GARDNER MUNRO. U.S. aid mission. The Minister of Social Welfare has reached a determined figure of ten to fifteen thousand racially-mixed children, most of them living in the extended community or with their families with a few hundred living in orphanages. We certainly support this figure.

NORTHSHIELD. And when you speak of ten to fifteen thousand racially-mixed, are most of those by American fathers?

MUNRO. Well, there's no way of knowing, of course, how many are by American fathers or fathered by any other foreign nationals, but we would assume that the large increase in the number over the last six or seven years has been as a result of American troops being here. But I have to make the point that there have been many other troops here also, and many civilians.

PHAN NGOC QUOI. Ministry of Social Welfare. Up to this time we consider the mixed blood children in Viet Nam Vietnamese children. I do realize their needs might be different sometimes but as a whole, the majority of the Vietnamese people think they belong to this country.

NORTHSHIELD. What problems will a mixed blood child, particularly a half-black child, face in later years?

PHAN NGOC QUOI. Well, if their families are needy families, if their mothers and relatives cannot take care of them—by taking care of them I mean providing a good education for them—loving them and so on—they might have problems, as in the neighborhood, in school, because they don't have the necessary help they need at home.

MICHELLE WENTZELL, volunteer social worker. The mothers who have these children are discriminated against. They cannot get jobs in the normal Vietnamese society. Now when there were large concentration of foreigners here, especially American troops, they were employing thousands of these women.

You didn't ask a woman when you employed her if she had any mixed kids. You employed her. Vietnamese will not hire a woman who has mixed children to work for them in any capacity except the very, the most menial imaginable: part-time fill-in for their maid when she goes on vacation—that sort of thing. If the mother has not stashed away some money, she's in trouble. She can't even feed the child, let alone give it the extras that she would like to.

QUOI. If the families love them enough I think they have a chance to grow up in this country like other children. Probably sometimes people might see that they are different.

(Over black child walking.) They might have difficulties like other people who have some kind of a handicap of those who are underprivileged.

WENTZELL. Now picture a child, all right going to school. A little boy, a little girl, and everybody saying to him "you're an American child, you're an American child you're this or that," and, from the time he can understand his language, he's being told that he isn't what his mother is and what his friends are and there's something wrong with him and he doesn't know why.

NORTHSHIELD. What's wrong with him is that he's just a small statistic.

MUNRO. The position that the United States government has taken, and particularly my office, is that the best way to help the racially-mixed child is to strengthen the services across the board in Viet Nam for all children because after all, the Vietnamese government sees these children as Vietnamese children and there are many other children besides racially-mixed kids that have special needs.

(Over babies in cribs.) So we have focused more on what it is we can do to help children in Viet Nam, and within this, the racially-mixed children may be one group of kids with special problems.

NORTHSHIELD. Viet Nam has many problems. Those of the racially-mixed children are far down the list of priorities. That's understandable. Unless you are one of them.

NORTHSHIELD. A zoo that's well-stocked offers a spectator a wide array of representative species. This is the Go Vap orphanage in Saigon. It's a zoo. A visitor can see starving children, maimed and crippled children, dying children, far too many children.

(Go Vap portraits).

NORTHSHIELD. They got here the hard way. Most of their fathers were killed in the war that has destroyed nearly a generation of Viet Nam's young men. Many of their mothers were killed, too. But an appalling number of them got here by being lost from their mothers, abandoned by them. It was the easiest way for the mothers to handle the shame of their motherhood. There are 700,000 orphans or half-orphans in the Republic of Viet Nam. If the United States had the same percentage of its population in that condition, there would be 10 million American children without parents, without homes, without hope. Go Vap is the largest orphanage of more than 130 here. It's neither the best nor the worst. There are about 12 hundred little people here and only 12 nuns to take care of them. Taking care has come to mean keeping alive.

Success is limited.

If they survive, most of these people will remain penned here until they are adults.

They are symbols of the apocalypse, especially of an awful famine. They are starving for love.

(Eating.)

NORTHSHIELD. Much of the stuff of life comes from the United States aid program, through the Ministry of Social Welfare of the government of Viet Nam. It amounts to five cents worth a day for each child.

(Dying area.)

NORTHSHIELD. Every day, new babies are born and abandoned to places like this. Many of them die here . . . 70 per cent of those who come here, usually in the first few weeks, sometimes more slowly. Most of them die of malnutrition. They are undernourished in every way.

The opposite of love is not hate; it's indifference, is a cause of death.

QUOI. I understand and I realize that our abandoned and orphaned children don't have a family or a home of their own. That is why voluntary agencies as well as the government try to do our best to provide them a home. It can be an orphanage but we try to help them.

WENTZELL. An orphanage in Viet Nam is not physically equipped to handle all of the orphans that exist here. It isn't financially equipped, it isn't equipped with sufficient personnel and it isn't equipped with the emotional stability that the average family has, not even an exceptional family. The average family can give a child so much more than the most fantastic institution.

(Slums.)

NORTHSHIELD. Maybe. The average family here is not only hungry but large. There are about 15 million people in the country and half of them have been refugees at one time or another. One of seven still is. That's nearly a million.

NORTHSHIELD. The city is where most Vietnamese people huddle now, trying to hide from a war that hasn't ended, trying to find work and food and some spirit of survival.

QUOI. Our country has borne the greatest responsibility and damage and we have allies who come here and help us. If we consider the orphans and the abandoned children are victims of the war and if we say this war is not our war alone, I feel our allies would have some responsibility to help us in helping these children.

(Doctor Wertz).

NORTHSHIELD. They use to help a lot. Doctor Wertz used to come to an orphanage on his time off from patching up helicopter pilots. Now he's home and so are most of his patients. But the little ones he helped are still in DaNang, still needing him and not getting him.

(GI's).

NORTHSHIELD. A couple of million Americans came here on a military mission. 46 thousand of them were killed here. It changed American history, and spread tragedy through American society. It changed this society, too.

There were other things these giants brought along with their guns and tanks and bombs.

Now all the Americans are gone. They took with them much of the compassion and caring these children ever knew.

They took with them a show of charity and wealth the children never will know again.

They cared but they had to leave.

There is a generosity gap that cannot be filled.

QUOI. We woud be grateful to any help given to us to help these children. But I do not want them to be singled out because we never know who is their father and we don't want to feel that they are different or they are better or they are worse than other children.

(Blind).

NORTHSHIELD. To be blind, black and orphaned in this place is to be very special. A disproportionate number of the children here are half-black. That's because they are the ones most apt to be abandoned, to be left in orphanages. The Vietnamese feel that it's not as bad to be half-white so children of white fathers often are kept by their mothers. There aren't more black children, just more of them in orphanages.

That's where they wait, grateful for tiny favors, hopeful and doomed.

(Hudson at Sacred Heart).

NORTHSHIELD. Captain Hudson used to be a helicopter pilot based at DaNang. At Sacred Heart Orphanage he met a little girl and chose her to be his daughter. From among the many, he selected this one and she is part of an American family. Captain Hudson is home in the state of Washington now and so is she.

(Over orphanage scenes).

NORTHSHIELD. When you sit in an American living room and watch a television program, it is likely that you feel that adoption of these abandoned children is the clear solution to a simple problem.

It seems apparent that almost any American home is better than an orphanage or an alley or a jungle. But while the problem is simple, the solution is not. Antiquated, complicated laws govern adoptions in Viet Nam. The American laws are not much more helpful. The orphanages are generally reluctant to put themselves out of business by giving up their children. And many of the orphanages are operated by religious groups that insist on very sectarian placements.

Vigorous attempts within the Congress of the United States to make adoptions more simple and American responsibility more obvious haven't worked. In large numbers, the children wait and grow. In much smaller numbers, people work to make adoption the answer.

WENTZELL. I don't think the orphanage

should be the last stop, I think it should go beyond that. I think it should go to a family. I think every child has a right to a family and there are families, there are families in the United States and Europe who want these children and I think that's where they should be going.

(Over N.Y. adoption).

Northshield. A few get out. Now there are international organizations beginning their work with the government of South Viet Nam to make successful adoptions more likely. But the laws and ideas are old and cumbersome. For each baby brought happily to a waiting American family, there are dozens unhappily growing up in orphanages far away.

(Over black baby Cu).

Northshield. And there is another question: where does each child belong?

Quoi. Adoption is a very good solution for abandoned and homeless children, but overseas adoption is a very difficult process. I think a few of our children need overseas adoption and among these I think many of the mixed blood children might benefit from overseas adoption but I don't think that if a child is mixed he necessarily needs overseas adoption.

I feel people who want to adopt children should be people who feel that they are able to provide a loving home, a good home for the child. At the present time many people feel compelled to adopt Vietnamese children because they feel that they have some responsibility for that. So you might consider, call it a guilty complex, and I feel that in adopting children these things should be ruled out.

(On trucking shot of cribs).

Northshield. Miss Quoi must question motivations because she has a single-minded motivation herself. She must be concerned with nothing but the welfare of each child.

(On walk).

Northshield. Most of the adoptions come from orphanages but sometimes Miss Wentzell must search further.

(Over walking shot).

Wentzell. I've found that there are many different types of orphanages and many different types of mothers, of children with problems in this country. There are many different situations, and each one has to be looked at for what it is.

Wentzell. Its' too big a problem for the country to handle alone. It's our responsibility, too, and we want to help them. I want to help them, there are a lot of people who want to help them. The people who are trying to adopt want to help them. They want to take a life and bring it into their home and make something beautiful out of a child's life that would have been very sad here despite the most desperate efforts of orphanages and mothers and even the government. They just can't handle the problem. One has to help them.

(On weeping woman).

Northshield. This woman has had four children by American fathers. One has been adopted. She is pregnant with a fifth.

(French children).

Northshield. France used to own this place. In its last years here, the French Army fathered a great many children, lost a war and got out.

Those remaining children, under French law, were afforded French citizenship and a free education in France, if their mothers chose to send them.

There is no precedent for this in the American experience. Indo-China never was a colony of the United States, the Vietnamese never were connected to America through citizenship or occupation.

The mothers of these children of French fathers still send their children off to France to school and a different life. They gather at Tan Son Nhut airport to say "adieu."

Literally.

Of nearly 7 thousand children sent to Europe, only 10 ever have returned to Viet Nam.

(Pullback to Victor).

Northshield. The United States, through aid programs, with much food and money and effort, supports all the social welfare programs of the Republic of Viet Nam. The Pearl Buck Foundation specifically helps the racially-mixed children. And so does a tiny, new organization called the Vietnamese-American Children's Fund. It aids in adoptions and orphan care from an apartment in Saigon.

Victor Srinivasan, Vietnamese-American Children's Fund. I have more or less about sixteen kids under my personal care at the moment. Three of them are totally abandoned. The parentage could not be established, but I think one of my little girls is half-Cambodian and another girl is fathered by a black American and the boy also, I believe, a boy, the features I'm talking about, was fathered by a black American. These three children are staying with me right under my, under our roof, and we are taking care of them, me and my wife. Apart from them, I have a few more children who stay with the mothers, but I help these children go to school, to a boarding school, and I pay the school fees. They stay in the school where they have their education, food and everything, and on weekends, every Saturday, the mothers go to the school, take the child to her home and bring the child back to the school on Sunday evening.

(Mother and children in market).

Northshield. However many half-American children there are in Viet Nam, most are with their mothers. Each lives the same fatherless difficult life as any other half-orphan. But they are young and so is the incipient feeling here of anti-Americanism. Both the children and the feeling of hostility can be expected to mature.

Misfortune takes many forms, more here than in most places. This woman, for instance, was married to an American soldier. Their three children have U.S. passports. But they can't use them because they don't know where to go to join their father. He left a year and a half ago and sent money to his family here for nine months. For the last nine months, he has sent none. He's a black man in America and no doubt has problems of his own.

Srinivasan. I do definitely recognize a special problem with these mixed-blood children because of their parentage. When they grow, they're definitely going to encounter some kind of embarrassing situations in the society, especially the black ones. I'm quite sure they'll be the odd-balls in the society and the white ones . . . they're liked by most of the Vietnamese people.

But even then, sometimes or other a crude remark can be passed about how the child was born, you know, somebody can call them a bastard or something like that.

Robert G. Trott, Regional Director, Care. In terms of the black child in particular, I think that patrimony might be one way of assisting these children. In other words, these children have been fostered by American soldiers so therefore they should be given the opportunity at some point in life to opt for an American citizenship. Now this would given them the opportunity to either stay in Viet Nam or at some point in their life opt to leave for the United States where there's a possibility the conditions would be much better for their acceptance in the society. Because I believe in Viet Nam this: it's going to be a very, very difficult thing for them to become fully integrated in the society.

Srinivasan. I was separated from my father when I was about two years old, I believe, I didn't know that, and I lost my mother when I was ten years old. That means I became a totally abandoned child when I was ten years old. And I know what I missed, and I know what these children are missing: the love, the care and the personal attention. So it's a sort of personal thing for me that I want to give to these children what I missed when I was young.

Trott. I know myself in terms of my life, you find yourself ostracized. You find yourselves being referred to so, say, as "nigger." But here it probably would be a much stronger term. Your mother would be called a prostitute, and you'd be referred to in various derogatory terms and these are the sorts of things that really get home to you.

(Over orphanage scenes).

Trott. One must always think in terms of "where do I fit, where do you belong and how do I fit into any particular setting or situation?" So the individual must be able to, in his own terms, evaluate his own situation and be able to figure out how he fits in what particular setting and, but the conditions are such that we're not always able to be free.

. Northshield. Freedom's just another word for nothin' left to lose, according to a song still popular. Freedom also has been defined as the possession of choices. There are very few choices if you're the wrong color in a place where color matters.

It's critically important for everyone to determine where he belongs.

It's somewhat more simple to know where he doesn't belong.

It's even more difficult to know where you belong if you're not sure what you are: half-black, half-brown; or half-brown, half-white: if you've brutally been told and shown how different you are.

To know where you don't belong is difficult.
To know where you do belong is essential.
Not to know is not to live.

(China beach family).

Northshield. One day, a year ago, the man went home. The woman thought he had promised to arrange for her to follow and become his wife. She still waits near the empty Marine Corps base where she worked and lived. She waits and the three children wait and the community shuns them.

It's beautiful here. And lonely.
For the children, there are few friends.
But they do have a mother.
And love.

(In Hamlets).

Northshield. This is another fortunate child. She has a mother. Her father is an unknown soldier, somewhere else. Her mother used to have eight children and a husband. The husband has been dead for seven years and so are three sons who were killed in the war. This daughter was born after the woman worked at a U.S. Army Base. This one is lucky, too. She has a mother and a grandfather. Her father probably doesn't know she exists. Surely she doesn't know that he ever did. These people are in hamlets in the scarred countryside of South Viet Nam. In years past, many of the young girls went to the cities, where the Americans were, where the jobs were. They worked as maids or bargirls or prostitutes. Now they are back. Most of them with babies have kept them and kept hope and trust.

(Birth).

Northshield. From now on, almost every new person born in Viet Nam can enter his country, sure of his race. He, like each of us, will begin naked, soiled, protesting and shocked. But he will not be racially-mixed in a place where that's important.

(Orphanages).

Northshield. Soon there will be no more half-American children born here. But there still will be at least 25,000 of them resting unwanted, waiting.

The governments of the United States and of the Republic of Viet Nam agree that there are fewer than 25,000. Responsible social workers know there are more. Whatever the number, each small person is unique and each is in trouble.

The two governments also agree that the racially-mixed children must not be separated, must not be helped in special ways that accentuate their differences.

The two governments agree that something must be done about speeding up the adoption process. They agree but there has been no acceleration.

The war is over—for everybody else.

(Singer).

Northshield. The most popular songwriter in South Viet Nam writes only about war. He's against it. So the government and the Viet Cong—equally—consider him dangerous. Only the people love him.

This is what Trinh Cong Son has written:

I pass to you a mother's gift
A sad Viet Nam, a mother's gift
A thousand years of Chinese reign
A hundred years of French domain
Full twenty years of civil war,
A mother's gift: a heap of bones
A mother's gift: a hill of tombs

Full 20 years of civil war,
A mother's gift is barren land
A mother's gift is burning hands
A mother's gift is half-breed men.
A mother's gift is two-faced men.

(Over black child freeze frame).

Northshield. An Ernest Hemingway short story begins with this sentence:

"In the fall, the war was always there but we did not go to it any more."

The title of the story is "In Another Country."

Mr. BIESTER. Mr. Chairman, I rise in support of H.R. 9360, the Mutual Development and Cooperation Act of 1973.

As a member of the Foreign Affairs Committee, it is a privilege to be associated with legislation which brings such a significant new perspective to a vital concern of the American people.

The successes of our foreign assistance programs in the past have sometimes been uneven. Large outlays of money and effort have not always produced large-scale visible accomplishments, and it has too often been made evident that successes are more difficult to measure than are failures. The magnitude of the challenges facing developing nations are so immense that their resources—financial and otherwise—which we commit to these efforts do not always materialize in the kinds of rapid and decisive results we expect.

In the legislation before us we find an emphasis on helping to resolve those specific problems which most directly affect a majority of people in developing nations. Emphasis in our assistance programs will be redirected away from large-scale transfers of capital to meeting the most basic "people" problems involving food and nutrition, health, population growth, and rural and educational resource development.

Although a basic intent of our foreign aid program over the years has been to advance the well-being of the poor in these nations, the financial resources we have committed have not always reached down to where they are needed most. This has been a major criticism of our aid program, and this objection has not been without justification. The restructuring of our aid programs to focus on specific problem areas, as envisioned in this legislation, would seek the more direct involvement and participation of those most immediately concerned. In other words, money and technical assistance will be channeled to where the actual problems are and will be done in cooperation with the people faced with those problems. To accomplish this, more use will be made of private and volunteer agencies beyond the traditional reliance on governmental structures.

Assistance programs in previous years have relied heavily on American technical expertise, and this should be utilized as an invaluable resource. Nevertheless, many recipient countries have developed talent which can and should be used to a greater degree in such decisionmaking and planning affecting their countries. Not only do these individuals have indispensable inputs to offer in such policy-making, they have a tremendous stake in the success of our participation and involvement. While we most definitely will want to maintain close oversight regarding the use of American capital and other resources, it is time to acknowledge the capability of recipient nations to play more prominent roles in devising their own development policies with American guidance serving an integral support function. This legislation recognizes the cooperative and collaborative spirit which is essential for more adequately responding to essential human needs.

An important feature of this legislation is the establishment of an Export Development Credit Fund. The purpose of this Fund is to extend credit to the lowest income countries for the purchase of goods and services most fundamental to their developmental efforts. At the same time it expands the opportunities for American firms to provide these goods and services for export. There are mutual advantages to be realized through such an arrangement. The importance of increased markets abroad means the creation of new jobs here at home, and the significance of this in light of our monetary and balance-of-trade difficulties cannot be stressed enough.

This foreign assistance bill, more than those which have preceded it, is geared to the proposition of helping developing nations help themselves. The virtue of this philosophy of self-help is shared by most Americans, I believe, and it is appropriate that it is at the heart of this legislation. Beyond the moral rationale and the desire to promote social stability in the world which correctly motivates many to support foreign assistance efforts, I do not believe we should overlook that developing nations offer us the potential of new markets for American business and export trade.

So long as strong arguments can be made for the benefit of foreign assistance in providing for the well-being of the people of developing nations as well as for the achievement of our own national policies, the foreign assistance program should warrant congressional support and that of the public.

Mr. Chairman, this legislation is a timely and most appropriate response for effectively assisting developing nations and doing so in a manner favorable to our own interests. I urge its adoption.

Mr. FRENZEL. Mr. Chairman, I rise in support of H.R. 9360, the Mutual Development and Cooperation Act of 1973. I wish to congratulate the Foreign Affairs Committee on the excellent job they have done in drafting this legislation and especially in asserting congressional oversight insofar as program development is concerned.

The committee took a long, hard look at our foreign assistance programs since World War II, and used our experience as a basis for formulating this new approach in aid to developing nations. This new approach was developed because the committee took the initiative to build the program from scratch, not because an executive agency requested a new approach to this problem.

With the passage of this act, Congress will prove that it is not passive in program development, but instead can take strong, effective action to solve problems. For this reason, I believe that the performance of the committee is significant in itself. It sets an example that other committees in the House might well emulate and, more importantly, it sets an example in responsible program development and oversight to the other body, whose record is dismal in this field.

This new approach to foreign assistance can be best summed up by the statement that we ought to help the mass of people of a country rather than an elite. Instead of building a steel mill for every country, this bill emphasizes the economic well-being of the masses of people. Instead of funding large, costly universities in every developing nation, this bill emphasizes new techniques in educating the masses in the fundamental skills of reading and writing.

It is important to note, as the committee does, that the vast sum of our resources in the past has been spent on programs which were designed by the United States for implementation in other countries. Under this bill, the burden on development will rest with the recipient country.

This bill eliminates the old functional categories and institutes more people-oriented categories and $300,000,000 is authorized for food and nutrition programs. This includes programs dealing with agriculture, rural development, and nutrition.

A fact often overlooked in our country is that, in emerging countries, large numbers of people, sometimes over 50 percent, live in rural areas. These people have been largely neglected in our past assistance programs. Priority will now be given to countries which develop programs designed to help the largest group of the poorest people in their country. With a great number of the very poor living in rural areas, this program category dealing with food and nutrition may be the most significant program included in the Mutual Development Act.

I also wish to draw attention to the new export development credit fund. The purpose of this new fund is to expand U.S. exports to developing nations with the goal of providing additional resources for development without increasing U.S. costs. Under this new fund, credit will be made available for exports relating to development related goods and services.

The Foreign Affairs Committee wisely placed a $1 billion ceiling on the amount of credit this fund can extend each year.

This will increase private involvement in mutual assistance while, at the same time, create an estimated 80,000 new jobs at home.

The concept of getting our private sector involved in aid is not new. It has been used before to the great benefit of the recipient country and to the private sector. The idea of creating a credit fund to increase the private involvement is a good one.

However, we should be fully aware that this loan program is not competitive to or contradictory to programs of the international development agencies. Our efforts in EDCF are different. We need EDCF and we also need IDA, IADA, the Asian Development Bank and, hopefully, the African Development Bank. When replenishments are needed for these institutions, we should respond with contributions in full.

The committee bill gives the Secretary of State and the President a great deal of flexibility in administering the mutual assistance program. Section 109 permits up to 15 percent of the funds made available in any of the five functional assistance categories may be transferred to any of the other four, provided that the category to which the funds are transferred is not increased by that transfer by more than 25 percent. We should not be locked into specific aid categories too closely.

It is quite probable that certain categories will be more popular with recipient nations, and certain others, not quite as attractive. This provision allows a transferability based upon actual proposals, and will tend to encourage creativity and the use of programs for the masses. I strongly support giving the President this limited transfer power under the five functional aid categories.

Another change is the consolidation of all assistance programs into the Mutual Development and Cooperation Agency. We need a coordinated and rational aid program. Therefore all U.S. activities, including trade, financial policy, and development aid should be brought under one agency. Theoretically, the old Agency for International Development was to do that. The reaffirmation of that principle backed up with the creation of the Development Coordinating Committee in the new agency may help assure that this desirable policy is put into action.

There are other noteworthy provisions in the bill. These include first, a quarterly and semiannual report from the President to the Congress on all aspects of the narcotics control program and its activities; second, the requirement that beginning in fiscal year 1975 all military assistance at Laos and Cambodia be authorized under the Mutual Development and Cooperation Act of 1973 rather than by the Department of Defense budget and; and third, the requirement that the President actively seek the creation of independent audit groups within the U.N. and other multinational organizations. I favor these provisions and I trust that the President will faithfully execute the Congresses will in these matters.

I wish to further congratulate the committee in not only redirecting the thrust of our assistance programs, but doing this under the administration's budget request. This bill authorizes over $100,000,000 less than the administration requested for fiscal year 1974. I am pleased that the committee was able to find the fat to cut out of the program, and hope that further cuts inevitable in conference committee, will be judiciously applied.

No bill, even this one, cannot be improved. Section 106, costing $93 million, was unenthusiastically described in the committee report. I am similarly unenthusiastic, and will support an amendment to delete it.

Mr. Chairman, this is a fine bill which exemplifies the best in congressional responsibility and creativity. I strongly support it and urge my colleagues to vote for it.

Mr. PODELL. Mr. Chairman, today, more than ever before, the State of Israel remains a bulwark of freedom, democracy, and stability in the Middle East. We in the United States can take great pride in the fact that we have played a key role in the development of this young, but prospering nation. H.R. 9360, the "Mutual Development and Cooperation Act of 1973, recognizes the unique relationship of cooperation and friendship which the United States enjoys with Israel. It will insure the continuation of this relationship for many years to come.

The Israeli nation represents the best hope for peace and prosperity in the Middle East. Although repeatedly provoked by guerrilla attacks and terrorist activities, the Government of Israel has demonstrated a sincere desire to negotiate a settlement which will be acceptable to all parties. While the Arab nations have persisted in aggressive actions against Israel's borders, Israel has limited itself to purely defensive responses.

As long as other nations continue to pour arms into the Arab nations, it is essential that the United States make a similar supply of weaponry available to Israel. This aid is not given in the interest of war, but in the interest of peace. For, it is acknowledged Arab policy to attempt another violent confrontation with the State of Israel, and the only factor which is preventing such a confrontation is the maintenance of a balance of power. Thus, while it is imperative that the United States continue to do everything in its power to bring about a negotiated peace in the Middle East, it is equally important for our Government to continue maximum assistant to Israel.

Of the $760 million of military sales being authorized for fiscal year 1974, $300 million if this amount is earmarked for Israel. This large allocation is necessary because of the massive arms buildup by the Arab nations. Unlike some of our other allies, Israel insists on paying for all the military assistance we provide. The government of Israel does not want charity, just an opportunity to be able to defend itself.

I look forward to the day when all arms sales may come to an end and the world can join hands in peace. The State of Israel is a trusted friend and ally who can help us to bring that moment a little bit closer. But, until that time, we must take actions to meet the needs of the present world situation. H.R. 9360, will reaffirm our deep commitment to Israel's continued survival and success.

Mrs. SCHROEDER. Mr. Chairman, I support Mr. BINGHAM's amendment to reduce the sum proposed in this bill for Indochina postwar reconstruction aid from $632 million, the full amount requested by the executive branch, to $441 million. Almost 6 months have passed since the signing of the cease-fire agreements which were to bring peace to Indochina. In reality the war is far from over, and the administration has shown no indication—in its proposals for reconstruction aid or in its other actions—of changing the bankrupt policies of the past that are making it so difficult for us to extricate ourselves from this war.

We have an overriding responsibility to provide humanitarian relief to the victims of this war, and I believe the $441 million provided by this amendment is ample for that purpose. But we also have a responsibility to overcome the almost total dependence of our "client" countries on U.S. support—and the direct involvement in the political affairs of these countries that is a necessary result of this type of bilateral assistance.

All too clear has been the order of the GVN's priorities, and our unquestioning support of them. Ninety percent of South Vietnam's total budget is supplied by the United States. Since the mid-1960's, we have contributed at least $6.5 million to keep political prisoners incarcerated in the now notorious South Vietnam prisons. Through the commodity import program we have underwritten the Thieu regime's budget. Although Robert Nooter of AID in his testimony before the Senate Subcommittee on Refugees claimed that about one-fourth of all the goods and services which the South Vietnamese population consumes comes through existing U.S. economic programs, he neglected to mention that much of this economic aid consists in part of TV's, "Hondas," and other "necessities" used to garner political support for the Thieu government.

In comparison to the generous concern for economic and military stabilization in Indochina, the administration's lack of response and attention to humanitarian needs is appalling. Unless Congress insists that these funds go for humanitarian purposes, they will continue to be siphoned off to higher priority areas.

I was especially pleased, therefore, that the committee has earmarked $5 million for the benefit of South Vietnamese children, who comprise half the population. The insufferable conditions in which the children of Indochina, most especially South Vietnam, are forced to live, have been graphically brought to the attention of the public by a series of newspaper and magazine articles as well as by the NBC television program, "The Sins of the Fathers."

There have been at least two recent special missions to Indochina to review the conditions of refugees and other disadvantaged persons. Both returned with painful insight and understanding of the potential complexities inherent in our efforts to help; both also offered invaluable recommendations for action.

Reports by the International Rescue

Committee and the Senate Subcommittee on Refugees' Special Mission to Vietnam describe the squalid and dangerously crowded conditions in which children try to survive as normally as possible. Half of the more than 750,000 persons crowded into approximately 128 refugee camps are children, some suffering from malnutrition, some with scrawny, diseased bodies, some with only mangled remnants of a body.

There are some 700,000 to 800,000 known, and possibly as many as 1.5 million children who have lost one or both of their parents to the war. Some 23,000 of these orphans are known to be in approved orphanages in which the mortality rate is said to range between 50 to 70 percent due to pitifully inadequate conditions.

Despite these hellish realities, the Saigon government allocates only 1 percent of its national budget for the welfare of its disabled and orphaned children. The callous disregard in South Vietnam official quarters toward these children is reflected by Maj. Gen. Pham Van Dong, Minister of Veteran Affairs, quoted in Newsweek as explaining that:

> Orphans are not producers. They are spenders at a time when we need productive returns on our investment.

The children who have drawn particular attention from the media are the 25,000 children of mixed parentage, specifically those fathered by Americans. And we have a special responsibility for these children. In addition to bearing the inhumane conditions of refugee camps and orphanages, these children are subjected to constant racial discrimination.

I am pleased that the committee has set aside 10 percent of the total $5 million earmarked for children for the facilitation of adoption by U.S. citizens of Vietnamese orphans. This action recognizes two important facts. One is that the bulk of the $5 million should be allocated to aid the children in Vietnam—to establish and expand day care centers, orphanages, and facilities for indigenous adoption, and for the necessary training of personnel to carry out these child health and welfare programs. However, the present ability of the South Vietnamese to care for all the children in need is simply not adequate. There are many American families who wish to adopt these children, particularly those fathered by Americans or who are handicapped. Every attempt should be made to relax the frustrating and deadly delays involved in the present adoption procedures.

These responsible steps in dealing with the problems we have been so instrumental in creating for the children of Vietnam are long overdue. I fully support the committee's initiatives in this area, but wish to add one more thought. To focus attention only on the children of South Vietnam is to deny that the war has expanded throughout Indochina. It is my hope that this constructive action by the committee will soon lead to similar sensitivity and action for all Indochinese children.

Mr. BADILLO. Mr. Chairman, for several years I have been deeply troubled over a number of aspects of this country's foreign assistance effort. I have been concerned over certain policies on which our furnishing technical assistance and financial aid has been based and the fact that, all too frequently, such help has not reached the people and institutions most in need but, through mismanagement and outright corruption, has ended up benefiting only a very small percentage of the establishment and official hierarchy of various countries. Particularly troublesome is the fact that in many instances our aid has been extended only to achieve some short term political gain rather than to develop some economic and technical infrastructure upon which the recipient nations could build for future growth and development.

Equally bothersome has been the level of assistance which the United States has made available for, in large part, American bilateral assistance has declined significantly in recent years. All too often it appears that the United States has deliberately chosen to ignore the U.N. development decade target of 1 percent of GNP for resource transfer through development assistance and private foreign investment. This goal was made even more specific by the U.N. General Assembly in 1971 when it declared that a minimum proportion of this 1 percent of GNP—0.7 percent—should represent official development assistance. According to the World Bank the United States is expected to share only 0.24 percent of its GNP with developing countries by 1975. This is even less than the United States gives today—estimated at only 0.3 percent of GNP—and is far short of the 0.7 percent goal. It seems incredible that, once the world leader in aiding the poor and developing nations of the globe, the United States now ranks 12th in the share of national wealth devoted to such assistance. This situation has been most aptly summed up in recent weeks by members of the Peterson and Perkins Committees who concluded that—

> At a time when America's need for the cooperation and resources of the developing countries is growing, the United States by its recent actions has indicated less interest in them and their needs, a situation which they sense increasingly.

It seems quite clear, therefore, that there not only needs to be a major reordering in the direction and priorities of our foreign assistance effort but a new commitment to sharing our wealth and technical progress with those people in other countries who are struggling to break the shackles of poverty, ignorance, disease, malnutrition and are earnestly attempting to undertake economic and social growth in order to fully participate in the 20th century world.

Although there have been significant increases in the rates of growth as well as unprecedented increases in output during the last decade in Latin America, Asia, and Africa, the problems of growing unemployment, widening income disparities, unprecedented population growth, and rural to urban migration are worsening in the majority of developing nations. It is important to consider the observations of World Bank President Robert S. McNamara who stated last September that:

> The largest, most pervasive and most persistent poverty of all in the world is the poverty of the low-income strata—roughly the poorest 40 percent—of the total population in all developing countries. It is they who—despite their country's gross economic growth—remain entrapped in conditions of deprivation which fall below any rational definition of human decency.

Not only is accelerated economic growth—aided by the more developed nations—required but there is a great need for a broader and more meaningful participation of these poor in the development process as well as a better distribution of goods and services to all.

I believe the Mutual Development and Cooperation Act which we are considering today represents several important and essential reforms of our foreign economic assistance programs. This measure redirects U.S. bilateral assistance so that it is focused on the problems of the poor majority in the developing nations and will hopefully enable them to participate more effectively in the development process. This legislation gives priority to those problems which most urgently must be tackled—nutrition, rural development, health, population, education, and human resources development. A very welcome feature of H.R. 9360 is that it removes certain legislative sanctions—particularly the so-called Hickenlooper and Pelly amendments—which have accomplished nothing more than offending numerous countries and seriously exacerbating already difficult relations in various areas, especially in Latin America.

What is particularly encouraging, Mr. Chairman, is that the Congress has taken the initiative in reexamining and reforming our foreign assistance program. The bipartisan majority of the House Foreign Affairs Committee who studied the problem and developed this new, innovative program and long-overdue reforms is certainly to be commended. The task of redirecting and restructuring the foreign aid program was certainly a difficult and challenging task but one which was essential if this country is to fulfill its moral and legal international obligations.

Although I am generally pleased with this legislation and intend to support it, I continue to be bothered by certain programs which the Mutual Development and Cooperation Act continues. I remain concerned, for example, over the foreign military sales program which has had a direct bearing on several armed hostilities between neighboring States in various areas and has led to both sides fighting with weapons and materiel made in the U.S. I believe the foreign arms sales program must be much more carefully monitored and I support the amendment to be offered by our colleague from New York (Mr. BINGHAM). Another highly questionable feature of the foreign aid program has been the public safety program, particularly the manner in which local police forces have used American money, equipment and training to stifle free expression and responsible dissent as well as to commit acts of brutality and administer inhumane prisons. For months we have been receiving well-documented reports that, contrary to the terms of the Paris cease-fire agreement, the Thieu regime in Saigon continues to hold political prisoners and has subjected many of them to inhumane treatment and unspeakable conditions. Although there is language in this bill which addresses itself to the issue of the use of Indochina reconstruction funds not being used for South Vietnamese police or prison support, I, for one, simply refuse to accept assurances of any kind from Mr. Thieu or his officials. Thus, I urge our colleagues to support the amendment to be offered by our colleague from Massachusetts (Mr. HARRINGTON) which specifically prohibits the use of U.S. funds for public safety, police support, prison construction or prison administration within South Vietnam.

Mr. Chairman, in the main, the Mutual Development and Cooperation Act is a welcome measure. It corrects many weaknesses and inadequacies of the aid program, adjusts much of the focus of our worldwide assistance effort and furnishes improved tools and programs for this Nation to effectively meet the many and varied problems of poverty throughout the globe.

Mr. OWENS. Mr. Chairman, last year I was elected to this body after having openly and repeatedly advocated increased Federal spending for programs aimed at solving this country's domestic problems, but I also stated that I thought the economic situation to be such that this coming fiscal year we must strive to achieve a balanced budget. The continuing inflationary spiral makes that course of action more imperative all the time. I suggested that these twin goals could be brought about by sizable spending cuts in the areas of military spending, foreign assistance, and space, all of which would allow us to approach a balance of national income and outgo.

I have voted today to cut various foreign assistance programs with my major criticisms directed toward military assistance. These so-called aid programs which have been used to effect political ends, have lead us into disastrous political and military entanglements.

I am also voting to cut funds because I am distressed at the spending priorities of this administration which opposes funds for low-cost housing, health care, pollution control, education, and rural development, yet proposes vast new sums for defense and foreign assistance.

I would like to see the foreign aid program stopped in its tracks, then restarted on a purely humanitarian basis. My vote today against this bill is meant to express not only disagreement with the past history of foreign assistance, but also my disgust at the administration's spending priorities and my determination to strive for a balanced budget in 1974.

Mr. DRINAN. Mr. Chairman, when the gentleman from Massachusetts (Mr. HARRINGTON) and the gentleman from Maryland (Mr. MITCHELL) offer an amendment I will vote for it. This amendment calls for the immediate withholding of funds from the South Vietnamese Government until such time as that Government releases all political prisoners as a step on the road toward democratic government.

Those who argued most cogently on behalf of what they took to be our effort to help defend the Republic of Vietnam did so by presenting as the issue the defeat of an attempt to impose on the people of South Vietnam another government, not of their own choice, but by force, and under outside sponsorship. The amendment before us today tests the honesty and good intentions of those who were persuaded by those arguments. While I was not so persuaded, those who were persuaded must necessarily have taken the position that there was at least some legitimacy to the Government in Saigon. U.S. Government complicity in programs, such as the Phoenix program, designed to destroy even the possibility of political opposition of President Thieu, characterized by the imprisonment of hundreds of thousands of political prisoners, must, in the minds of those men and women, put into serious doubt the correctness of that belief.

Although observers, attempting accuracy while laboring under the disadvantages war imposes, estimate that in free elections the National Liberation Front would win at most 20 percent of the vote, do not believe that this means 80 percent would support President Thieu. On the contrary, there exists a reservoir of non-Communist political opposition to the Thieu administration and to the NLF as well, which would come forward if ever the bullet gave way to the ballot. President Thieu knows this. So does the NLF. Both sides have tried to eliminate it.

The United States has no influence with the NLF. Our influence over President Thieu extends at least as far as his dependence on American financial and military support, even if gratitude for past support, essential to his survival, has no current value.

Postwar U.S. Government aid to Indochina must be contingent upon the carrying out of the Paris accords. The refusal of the Saigon government so far to release the hundreds of thousands of political prisoners is a major stumbling block to full implementation of the Paris accords. Facilitating the free expression of political opinion in South Vietnam was one of the most important of the provisions of those accords. President Thieu has so far failed to carry out that provision.

An amendment before us asks, Shall we finance that failure? Shall we continue to provide more financial and military support to a policy which has lead many to believe that the United States, as much as North Vietnam, is engaged in an attempt to impose on the people of South Vietnam a government, not of their choice, by force, and with outside—that is, our—sponsorship?

I say no. I believe that "no" cuts across party lines. It bears no relation to one's support or opposition to our Government's policy in Indochina. For those who have opposed that policy, support for the amendment before us is simply a consistent application of our belief that this Government has been wrong in supporting a corrupt, dictatorial regime in Saigon. For those who supported the U.S. policy in Indochina, support for this amendment is a tangible sign of their earnestness in saying that what this war was about was freedom of choice for the people of South Vietnam.

The amendment before us should not be a cause of controversy. It deserves our united support. We should not permit the Saigon government to act inconsistent with the democratic principles of the United States, the democratic principles present in the South Vietnamese Constitution, and the democratic principles outlined in the Paris accords. The United States funds 90 percent of the Saigon government's cost. The United States continues to provide the bombs, ammunition and other material used by the Saigon army. We must not condone the imprisonment of political opposition to the Saigon regime by our failure to insist that those democratic liberties be guaranteed.

Ms. ABZUG. Mr. Chairman, I intend to support Mr. HARRINGTON's amendment prohibiting the use of U.S. funds for "public safety," police support, prison construction and prison administration within South Vietnam, when it is offered.

The bill we are considering, H.R. 9360, requires only that the President receive assurances satisfactory to him, that no funds authorized under the Indochina reconstruction section of the bill are being used for police or prison support. Considering the relationship between the Thieu regime and the present administration, there is little doubt that such assurances would be asked and given, no matter what the true situation was. The money for Thieu's barbarous police and prison system has been carefully hidden and distributed under innocuous names—especially after the peace agreement of January 1973 required an end to U.S. funding of police programs.

Who would have thought that the "Agency for International Development" would actually be in charge of the infamous "tiger cages" at Con Son, exposed in 1971 by two Members of this body? Subsequently funds were labeled for "Public Works General Support."

Now, in response to the criticism that has ensued, AID itself is to disappear under this new act, to be replaced by the Mutual Development and Cooperation Agency.

Even such humane programs as food for peace have been subverted: $137 of food-for-peace funds were earmarked for South Vietnamese military spending. We must be sure that this deceit is not practiced again in any form; that when we send aid for humane purposes it is immune to tampering.

We must be particularly careful that we do not condone the treatment meted out to his political enemies by Dictator Thieu. Repeatedly, in testimony before both Senate and House Committees, medical teams and agencies such as the Quakers' relief missions have corroborated stories of mass arrests on suspicion only, of detention without trial, and of torture.

Madam Ngo Ba Thanh, who studied law in Paris, in Barcelona and at my own alma mater, Columbia University, was imprisoned 3 months before the one-man election in 1971. She is a leader of the women's movement and the protests against police-state methods; that is, she was a leader: when last seen, in March 1972, she was brought before a military court on a stretcher, too ill to stand trial. Recent rumors of her whereabouts are conflicting: She may have been moved to a prison for "common criminals." This is one of Mr. Thieu's evasions: He simply labels his political enemies "criminals" and therefore claims to have only a few thousand "Communists" and no political prisoners jailed. The most reliable first-hand sources have estimated that some 200,000 people are being held—women and children, monks, Buddhists, nonpolitical persons who just happened to be present when a raid was made, or who have relatives suspected of opposing the regime. It is worth noting that the Saigon government's food allotments for prisoners are based on 400,000 persons.

It is sad indeed to contemplate the undeniable fact that the United States supplies about 90 percent of the funds that keep the Thieu government in power. Senator KENNEDY has indicated that the Nixon administration hopes to spend, in all, some $15 million on "public safety" programs in South Vietnam this year.

It is a cruel deception to underwrite detention and torture in the name of foreign aid or mutual development. Let us call this program by its right name—a vicious prison system—and eliminate it entirely from the bill, through Mr. HARRINGTON's amendment.

Mr. VANIK. Mr. Chairman, I rise in support of the amendment by the distinguished gentleman from Louisiana to strike the provisions relating to the export development credit fund.

I have been deeply concerned about recent activities of the Export-Import Bank. That Bank has been making 6 percent loans—and it has authority to make up to $20 billion worth of such loans—while our own businesses and industries are borrowing in the money markets at 10 to 12 percent. For example, the Export-Import Bank recently made a loan to Scandinavian Airlines for the purchase of aircraft—aircraft which will fly over some of the same routes as are flown by U.S. airlines which have to buy their aircraft at 10 to 12 percent interest rates.

The Export Development Credit Fund is a new Export-Import Bank. Its loans are even more "liberal" and there is little clear language as to the types of goods which can be purchased with these subsidized loans. As presently worded, this program may soon be financing the purchase of goods which may not be in the best interests of the developing nations.

The Export Development Credit Fund provided by this bill is limited, of course, to countries with an annual per capita income of $375 or less. This is a worthy change. In fact, I would hope that the Export-Import Bank Act would be amended to limit its loans to those countries which are dollar-deficit countries and which most need our assistance and manufacturing goods.

This bill proposes a new $5 billion authority for export soft loans. Our Nation already offers soft loans for agricultural purposes such as the Commodity Credit Corporation and section 480. This bill would increase this soft-loan authority in new areas. The Treasury would have to sell securities to raise $5 billion while the interest subsidy would become another $5 billion in the passing years.

But my major objection to this provision is that it does not belong in this bill. It belongs in the trade legislation currently being considered by the Ways and Means Committee.

The committee is presently in markup session on H.R. 6767, the administration's Trade Reform Act of 1973.

This bill contains a title 6 which provides for special trade preferences to developing nations. This section of the trade bill would give developing nations certain advantages for selling in the American market. This, in turn, would give them the dollar currency needed to buy American goods and produce. It would involve a minimum of subsidy by American taxpayers.

In addition, this provision of the trade bill would deny these preferences to any developing nation which gives a special preference to the exports of a third country. At the present time, there are some 80 nations, most of whom would be eligible for participation in the export development credit fund, who provide special preferences to third-party countries. Many of these are former colonies of European countries and they have established special trade deals with each other—deals which often block out any chance for American exports.

Why should we provide extremely low interest credits to these countries when many of them discriminate against our exports and normal trade?

The export development credit provision should be stricken. Exports and new trade agreement legislation should be concentrated in the trade bill and included in trade discussions.

I am for helping these lowest-income nations. But such help should be coordinated and administered in the best manner possible.

Bringing up this new subsidy program in this bill simply confuses the picture.

I urge the adoption of the amendment of the gentleman from Louisiana.

Mr. RANDALL. Mr. Chairman, I oppose H.R. 9360, the 1973 foreign aid bill.

Many of the reasons for opposition of former years remain as valid as ever. All we have to do this year is to take a close look to try to find out whether the committee has in truth and in fact reformed and restructured economic assistance, or is the situation just about the same as the bills of other years except for some very pleasant phraseology?

Whatever else the House Foreign Affairs Committee may be criticized for in relation to H.R. 9360, they deserve a compliment as excellent wordsmiths for dreaming up such an attractive title for the new bill. When they called it the "Mutual Development and Cooperation Act of 1973," it sounds right good. That is quite a far cry from just a plain old garden variety foreign aid bill.

I'm sure serious questions could be raised as to how the developing countries can be of very much help in the development of the United States, but that is the word "mutual" would seem to imply. Also it is interesting to see how cooperation can flow more than one way, unless it is hunted the recipients are now going to cooperate by coming after the funds rather than have the money delivered as in former years.

The committee does deserve praise for getting rid of the old Agency for International Development Aid, even if they did have to put in its place the sweet-sounding Mutual Development and Cooperation Agency. Whoever in the committee or the administration figured out this wordage should have no difficulty finding a job with just about any Madison Avenue advertising firm.

Now Mr. Chairman, with all of this emphasis on restructuring and reform the committee does deserve some thanks for focusing its attention on such problems in the developing countries as food, health, and education. But who can deny that in this country our own Office of Economic Opportunity, OEO, that once administered the poverty program, has been dismantled and may very soon cease to exist as an entity? Who can deny that legislation for medical research and public health for our own people here in America has been vetoed because the expenditure was too much? Who can challenge the fact that in the field of education the administration has threatened vetoes against all HEW appropriations and has moreover impounded funds for student loans, with full knowledge that our young people will have to have some assistance if they expect to finish their education?

Yes, all of the so-called restructured and reformed provisions of this new foreign aid bill seem very praiseworthy when we speak of such lofty goals as food, health, and education. But a closer look will reveal we are right back where we were to the old giveaway programs of foreign aid of former years. By the foregoing I am suggesting that we should oppose and vote against a bill of this kind until we reach the time there is less hunger and better nutrition in America. We should not fund programs for health in other countries until more of our own health problems have been solved. We should not try to educate the world until there is at least some reasonable or more adequate funding for our own schools and institutions of higher learning. There might be those who would charge that our country should never be selfish or self-centered and that we should share our bounty with all of the so-called developing countries. True, a philosophy of sharing is well and good. But it should be embraced only after we have solved more of the problems in our own country. After we solve more of our own problems there will be time enough to help the developing countries. Somewhere in the back of my mind I remember that charity is a virtue unless it goes so far as to make the giver a potential recipient of charity himself.

Finally, Mr. Chairman, the strongest argument against this and all other kinds of foreign aid is an argument for which there is no rebuttal. It is the argument that we must stop and cease sending American dollars abroad unless we expect to suffer from another devaluation with the dire consequences of international monetary instability. For the foregoing reasons, I have no recourse but to oppose H.R. 9360.

Mrs. HOLT. Mr. Chairman, it is with mixed emotions that I rise to express my opposition to H.R. 9360, the Mutual Development and Cooperation Act of 1973.

I fully recognize the granting of foreign aid to be a legitimate function of our Government; a function which during the post World War II period has contributed to a more stable and harmonious world situation. However, it is my contention that this undertaking must be secondary to our domestic needs.

We have been asked to make many difficult decisions during the formulation of this year's budget. Many domestic programs have been cut or curtailed in an attempt to moderate Government spending and avoid a tax increase which cannot be afforded by the American people. While I am in general agreement with this budgetary philosophy, I feel that it should be equally applied to our foreign aid program.

Mr. Chairman, there is no way that I can justify to myself or my constituents voting for this bill at a time when the dollar is fluctuating violently; at a time when inflation is eliminating or surpassing wage gains; and at a time when the American taxpayer is struggling just to make ends meet.

In addition, our balance-of-payments situation has been steadily deteriorating during recent years. Restoration of balanced trade will require more cooperation from our international neighbors and less blind generosity on the part of the United States.

I must place the welfare of the citizens of our country above that of the recipients of American foreign aid.

Mr. BURKE of Massachusetts. Mr. Chairman, for the first time in my 15 years in service as a Member of Congress I voted for cuts in, and finally altogether against, the Mutual Development and Cooperation Act. This vote was cast in a very reluctant manner on my part, done after a great deal of soul searching and examination of the who, what, where, when, why, and hows of the overseas policies of our Government. In the past 18 months we have had two official devaluations and one unofficial devaluation of the dollar as a result of foreign countries raising the value of their currencies. This has had a most disturbing effect on our economy, the result of which has been the extreme disruption of our monetary policies, the skyrocketing of prices, and an almost uncontrollable increase in our interest rates. This administration seems to have placed itself in a hopeless position, unable to cope with these inflationary problems whose conditions appear to worsen instead of improve with each passing day. In light of this untenable situation, I was compelled to register my vote of opposition to this legislation as a mark of protest. I am not against foreign assistance per se, in fact, I feel there is a great deal we can do in this area if properly administered. In fact, had I felt that the aid and assistance we were voting on was reaching down to the impoverished peoples of the world I would have had no reluctance whatsoever in voting to approve that act. Every shred of evidence we have in our possession, however, points to the contrary.

With monstrous national deficits, with the dollar dwindling away in its value, with high rates of unemployment and the high cost of welfare, and with the staggering burdens facing those on fixed incomes, I make specific reference here to the elderly of our Nation who are being forced to live in real misery and deprivation, with these concerns in mind I could not in good conscience vote for this bill. There comes a time when we must stop, look, and listen and that time is here.

There is great debate ongoing about the abuse of power in the executive department of Government and this bill embodies further extensions of authority to the Executive which I do not believe the President is entitled to have. Last year the Congress passed a law establishing a Joint Study Committee on Budget Control. I am a member of that committee and in that capacity I feel that I have a responsibility in this area. I regret having to oppose my good friend and esteemed colleague, the honorable Dr. THOMAS E. MORGAN, chairman of the Foreign Affairs Committee, on this bill.

In Massachusetts and Rhode Island, where we have the highest unemployment rates in the Nation, we have recently witnessed Department of Defense decisions to exercise sharp meat-ax cutbacks which will result in the loss of 35,000 jobs. Other indiscriminate national policies have contributed to excessively high and unjustified rates of unemployment not only in Massachusetts but in the neighboring State of Rhode Island as well. Thousands of people have swollen the unemployment roles and they can attribute their predicament directly to these policies. Great hardships have resulted in the 11th District of Massachusetts, indeed in the entire Northeast section of the country, because of these policies. In the face of meat-ax cuts like these taking place in America without the national administration stopping even one moment to consider the economic impact of their decisions, then I say there is but one alternative for us, the duly elected Representatives of the people, and that is to question each and every spending policy of this Government. As I stated at the outset, I was reluctant to cast this vote; however, I shall continue to do a lot of soul searching and I shall continue to investigate, examine, and scrutinize all questions on future spending policies of this country particularly where they seem to run counterclockwise to the spending policies in selective areas of the Nation. I refer specifically and unequivocally to the administration's unfair attitude toward the Commonwealth of Massachusetts. I hope and trust that I will be able to vote for foreign aid and assistance programs in the future because I feel that there exists such a need; however, the loosely drawn policies of this administration make it very difficult to do so.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, on March 6, 1973, I wrote to Dr. John A. Hannah, Administrator of the Agency for International Development, and requested a copy of the 1973 country field submission for AID's East Asia regional program. The Foreign Operations and Government Information Subcommittee, which I chair, began a study of the economy and efficiency of this program over a year ago. In connection with our study, we had previously asked for and received copies of the 1971 and 1972 country field submissions. Actually, over the years, the subcommittee has requested many, many country field submissions needed for the economy and efficiency studies made by our subcommittee. Prior to last year, the subcommittee had never been refused a copy of any country field submission requested.

As you may recall, however, in early 1972, when we asked for a copy of the country field submission for Cambodia, President Nixon personally directed the Secretary of State not to make the document available. At that time, we in Congress could only surmise what it was that the executive branch was trying to hide which it was either ashamed of or unable to defend. As each day goes by, however, we learn more and more what it is that the executive branch was trying to hide—nonexistent Cambodian troops which the U.S. taxpayers were paying for, secretive bombing of the Cambodian people, and unauthorized dying of American troops.

In response to my March 6, 1973, letter, Dr. Hannah wrote me on March 22 that the country field submission could not be provided to the subcommittee. Subsequently, on March 28, I invited Dr. Hannah to testify before the subcommittee on the subject of executive privilege. On April 3, Dr. Hannah wrote me again and advised that it was not his intent to withhold the document under the claim of executive privilege and that—due to previous commitments—he would be unable to appear before the subcommittee. I reiterated my request for the document on April 4, 1973, and was informally advised that the matter has been referred to the President for a decision.

Mr. Chairman, we are still awaiting the President's decision as to whether the subcommittee can have the document. The 35 days allowed under section 634(c) of the Foreign Assistance Act has already expired. A vote by the House Committee on Government Operations could result in the immediate termination of the foreign aid program. I sincerely hope the President will see fit to provide the country field submission requested.

Currently, we have before the House a bill to authorize continued foreign assistance in the amount of $2.8 billion. Are we in the Congress expected to blindly authorize the appropriation of billions of dollars of the taxpayers' money without full and complete access to all information needed to assure ourselves—and our constituents—that their money is being spent with the utmost of economy and efficiency?

Mr. Chairman, I insert my comments on this subject of March 16, 1972, and March 14, 1973, and the correspondence previously referred at this point in the RECORD:

[From the CONGRESSIONAL RECORD, Mar. 16, 1972]

U.S. ASSISTANCE PROGRAM IN CAMBODIA

Mr. MOORHEAD. Mr. Speaker, at 11:30 last night there was knock at the door of my house in Washington.

A State Department official entered from the dark of night bearing a photocopy of an extraordinary document signed Richard M. Nixon.

The timing of my midnight visitor's visit was not coincidental.

On February 9, 1972, I wrote a letter, as chairman of the Foreign Operations and Government Information Subcommittee, requesting the country field submissions for Cambodia for the fiscal years 1972 and 1973 and mentioned the section of the Foreign Assistance Act which provides that in the event of denial of information to the Congress money for that foreign aid program will cease 35 days after such request unless the President himself invokes the doctrine of Executive privilege.

That 35-day period expired at midnight last night.

Thirty minutes before the deadline, my midnight visitor delivered to me a photocopy of the document whereby Mr. Nixon asserted this doctrine.

The Committee on Government Operations, through its duly-constituted subcommittee with jurisdiction over U.S. economic assistance programs abroad, is now unable to comply with our mandate from the House of Representatives to study the economy and efficiency of such government activities at all levels.

On March 3, I advised Secretary of State Rogers of the possible implications of withholding information from Congress on the Cambodian aid program. I said at that time:

"This position can only raise questions in the minds of Members of Congress and the public that the Executive Branch is trying to hide something it is either ashamed of or unable to defend."

Now that this action to deny Congress this information actually has been taken, I feel impelled to raise a question.

"Could it be that the administration is trying to cover up the possible diversion of economic assistance funds for military uses when these funds were specifically appropriated by Congress to support the civilian economy with essential commodity imports?"

Others might logically ask whether there is any connection between this refusal and the new dictatorship which has been established in Cambodia.

I think the American public and Congress have a right to know the answers.

We have never been refused this document—the Country Field Submission—under the past three administrations until now. We always have respected the proper security classifications. Since 1964 we have examined at least nine Country Field Submissions for East Asia and numerous others for other nations in other parts of the world.

So what is so special about the documents for Cambodia? What is it that the White House cannot share with the Congress—the duly-elected representatives of the American people?

JOINT STATEMENT BY REPRESENTATIVES WILLIAM S. MOORHEAD, D-PA., CHAIRMAN OF THE HOUSE FOREIGN OPERATIONS AND GOVERNMENT INFORMATION SUBCOMMITTEE, AND JOHN E. MOSS, D-CALIF., AUTHOR OF THE FREEDOM OF INFORMATION ACT, MARCH 14, 1973

A few days ago, the President of the United States unilaterally assumed extraordinary powers well beyond those enumerated in the Constitution which he swore to "preserve, protect, and defend." He announced he would invoke the claim of executive privilege to prevent the officials of his administration from appearing before committees of the Congress of the United States in cases where he felt they should not testify.

The President by this action is not threatening to exercise the claim of executive privilege. In reality, he would be invoking some imagined form of immunity.

We call upon the President of this great nation to be a "strict constructionist" of the Constitution.

We demand, as two duly-elected representatives of the people, that he adhere to Article II, section 3 of the Constitution requiring him to communicate to Congress and faithfully execute the laws of the United States.

The President's March 12th statement on executive privilege is so far-reaching in its effect upon the traditional structure of the Government of the United States that it should have been submitted to the Congress in the form of a resolution to amend the Constitution.

The President obviously is operating under the illusion—which has become increasingly clear in recent months—that he has the sole power to govern this nation and that the Congress may intrude only to the extent that he is willing to tolerate and only so long as he regards its actions as wise.

In any case of disagreement, the President appears to assert a self-assumed privilege to make the final and binding determination. This must be rejected by the Congress and by the American people.

Executive privilege, a privilege analogous to the other claims made by chief executives of the United States over the many years of so-called inherent powers, has never been fully tested in the courts except to the extent of the test before the Supreme Court in the Youngstown Sheet and Tube case when the late President Truman seized the steel mills under a claim of inherent powers. The court in that case severely limited the President's inherent powers and struck down the seizure. What the court said of inherent powers is equally true of any claim of executive privilege.

President Kennedy on March 7, 1962, agreed to limit his claim of those powers by judging each case on its merits and permitting so-called executive privilege to be invoked only by the President. The late President Johnson, in a similar declaration on April 2, 1965, agreed to continue the same policy.

In a letter to the House Foreign Operations and Government Information Subcommittee on April 7, 1969, President Nixon appeared to concur. He used more language; he was not as precise as a few days ago; nevertheless, he did not then assert the kind of privilege broadening the claim of privilege which has occurred in his most recent statement.

If the Congress must join this issue with the President—then let this Congress enter upon that battle with a full understanding of both its powers to act and its responsibility to act to preserve our Constitutional form of government.

Through a lack of understanding and because of a Presidential arrogance which outpaces Congressional understanding, the Congress must not permit the creation of an executive larger than life. The Congress does not find itself at this moment powerless in challenging this unprecedented and most arrogant form of claim of executive privilege made by any Chief Executive in the history of this nation.

If witnesses decline to appear, then the body of Congress faced with this challenge to its powers should promptly cite that witness for contempt of Congress and should directly act to take him into custody if the person fails to comply with the Congressional demand for appearance and the giving of testimony. A writ of habeas corpus could then be sought, and the issue would be before the courts for the first time in American history.

Any President who bases privilege claims upon a continuing tradition demonstrates an amazing lack of knowledge with the detailed history of the confrontation between the Congress and the Executive.

President Nixon states that executive privilege was first invoked by President Washington. Presumably, he referred to a House investigation of the defeat of Gen. James St. Clair by the Indians. Every scrap of information on the whole disastrous affair was disclosed by President Washington to Congress. So there was no executive privilege in this case. The contention that there was is a myth.

In regard to witnesses, there is no trace of this privilege claim in American history until President Eisenhower's administration. So it is patently false that President Nixon's advance assertion of executive privilege in refusing to allow White House aides to testify before Congress is deep-rooted for "almost 200 years."

The President obviously wants to erect a barrier so that Congress cannot carry out its functions to legislate with the fullest understanding of details of conduct within the executive departments and agencies. But the Congress cannot determine whether there is fidelity to the mandates it has given the executive without compelling the appearance of executive department personnel and requiring them, if necessary, to testify under oath.

In doing so, the President picks a most inopportune moment; his motives must be brought sharply into focus in view of the revelations of his nominee for FBI Director before the Senate.

We charge that the President also has added another new element to the claim of executive privilege and that is the assertion that administration officials need not answer the call of Congressional committees if the performance of their duties would be "seriously impaired." This new alibi could be voiced by "every official." If this is allowed to stand, there will be no need for Congressional hearings because there will be no witnesses to inform the Congress and the American people what their government is doing and why.

The President is trying to recast us into a mold of government with a dominant executive, but Congress is dominant under our Constitution. Congress makes the laws and can impeach and question activities of the President and every other Federal official. God forbid that this ever change because then our Constitution will be nothing but a scrap of paper.

We invite—yea, urge—even demand if we must—that President Nixon reexamine his blanket claim of privilege in the light of the strict constructionist doctrine he believes the Justices of the Supreme Court should adhere to in their decisions.

We also remind him of his own words in the U.S. House of Representatives on April 22, 1948, when he, as a Member of Congress, was attacking the claim of executive privilege—

". . . The point has been made that the President of the United States has issued an order that none of this information can be released to the Congress and that therefore the Congress has no right to question the judgment of the President in making that decision.

"I say that that proposition cannot stand from a constitutional standpoint or on the basis of the merits for this very good reason: That would mean that the President could have arbitrarily issued an Executive order in the Meyers case, the Teapot Dome case, or any other case denying the Congress of the United States information it needed to conduct an investigation of the executive department and the Congress would have no right to question his decision."

House of Representatives, Foreign Operations and Government Information Subcommittee,
Washington, D.C., March 6, 1973.
Hon. John A. Hannah,
Administrator, Agency for International Development, Washington, D.C.

Dear Dr. Hannah: In previous years, as you may recall, our subcommittee requested and received copies of many of AID's country field submissions. You will also recall that when the Subcommittee requested the Country Field Submission for Cambodia, President Nixon exercised what he considered as "Executive Privilege" and ordered the document withheld from the Subcommittee on the basis that it contained proposals for future years' programs which were under consideration within the Executive Branch.

Subsequently, on May 31, 1972, the Assistant Secretary of State for Congressional Relations testified that "the President's invocation of executive privilege . . . did not constitute a blanket delegation of the authority to his subordinates to claim this privilege. Its exercise remains personal and, therefore, restricted to the most essential issues."

In connection with the Subcommittee's continuing study of AID's East Asia Regional Program, I would like, at this time, to request a copy of the FY 1973 Country Field Submission prepared by the Office of Regional Development in Bangkok. The country field submissions for FY 1971 and 1972 contain nothing which I can see to be a "most essential issue." Further, I have delayed making this request until final Congressional action on AID's FY 1973 funding request to preclude the withholding of the document on the basis that it contains proposals for future years' programs which are under current consideration within the Executive Branch.

I would appreciate your prompt and favorable response to this request.

Sincerely,

William S. Moorhead,
Chairman.

Agency for International Development,
Washington, D.C., March 22, 1973.
Hon. William S. Moorhead,
Chairman, Subcommittee on Foreign Operations and Government Information, Committee on Government Operations, House of Representatives, Washington, D.C.

Dear Mr. Chairman: This responds to your letter of March 6, 1973 requesting a copy of the FY 73 Country Field Submission prepared by the Office of Regional Development in Bangkok.

As you know, the President, in a memorandum dated March 15, 1972, directed the Secretary of State not to make available to the Congress Country Field Submissions because they are basic planning documents which set forth intermediate staff level recommendations which are not approved Executive Branch decisions.

You refer in your letter to the President's directive but imply that you believe the document in question is no longer within the scope of the decision in that there is now an approved Executive Branch position with respect to the program to which the document refers.

We believe that such an interpretation overlooks the principal basis of the President's decision, ". . . that unless privacy of preliminary exchange of views between personnel of the Executive Branch can be maintained, the full frank and healthy expression of opinion which is essential for the successful administration of Government would be muted." Country Field Submissions, at the time of their preparation, contain recommendations and opinions from officials in the field which are but one step in the decision-making process leading to an Executive Branch position. It is important that the candor and independence of judgment of the authors of CFS documents be insured because of the important role played by these internal documents in this decision-making process. The release of a Country Field Submission after the Executive Branch has arrived at an approved position would have the same undesirable impact upon the internal process as would be disclosure of the contents prior to a final Executive Branch decision. Full and frank expression of ideas would be discouraged in the same manner.

As you know, the President also directed that, in lieu of the Country Field Submission document, Congress be provided with "all information relating to the foreign assistance program and international information activities" not inconsistent with his decision. Accordingly, we are prepared to furnish the Subcommittee with the substantive information contained in the Country Field Submission of the Office of Regional Development and to provide the Subcommittee with all information relative thereto which is appropriate in light of the President's directive. According to your wishes, we will make such information available in either a detailed written presentation or in a full oral briefing.

Sincerely,

John A. Hannah.

House of Representatives, Foreign Operations and Government Information Subcommittee,
Washington, D.C., March 28, 1973.
Hon. John A. Hannah,
Administrator, Agency for International Development, Washington, D.C.

Dear Dr. Hannah: Your March 22nd response to my letter of March 6, denying our request for a copy of the FY 1973 Country Field Submission prepared by the Office of Regional Development in Bangkok, raises serious questions which need to be answered.

As I explained in my letter, testimony before our subcommittee on May 31, 1972, by the Assistant Secretary of State for Congressional Relations made it clear that the President's March 15, 1972, memorandum regarding Country Field Submissions and their availability to the Congress "did not constitute a blanket delegation of the authority to his subordinates to claim this privilege." Such interpretation was also given the Subcommittee in testimony that same day by the Department's Deputy Legal Adviser.

The Subcommittee is holding hearings next week on the subject of "Executive privilege" and desires to explore what appears to be a contradictory opinion to that of previous Department witnesses on this subject. We suggest either Wednesday, April 4, or Thursday, April 5, as optional dates. Since hearings will be in both the mornings and afternoons of those days, we will make our schedule flexible enough to accommodate you. If additional details on the desired scope of your testimony are required, please contact the Subcommittee office: 225-3741.

In accord with the rules of the Committee, it would be appreciated if 50 copies of your prepared statement are delivered to Mr. William G. Phillips, Subcommittee Staff Director, Room B-371B, Rayburn House Office Building, 24 hours in advance of your appearance.

We will look forward to hearing from you so that this most serious problem can be fully discussed and, hopefully, resolved in an expeditious manner.

Sincerely,

William S. Moorhead,
Chairman.

Agency for International Development,
Washington, D.C., April 3, 1973.
Hon. William S. Moorhead,
Chairman, Subcommittee on Foreign Operations and Government Information, Committee on Government Operations, House of Representatives, Washington, D.C.

Dear Mr. Chairman: This acknowledges receipt of your letter of March 28, 1973, and the invitation to attend hearings of the Subcommittee on the subject of Executive Privilege.

I regret that my letter of March 22 with respect to the release of the Country Field Submission for the Office of Regional Development in Bangkok may have led to a misunderstanding over A.I.D.'s interpretation of the President's memorandum of March 15, 1972. I trust that a statement of A.I.D.'s position on this subject will resolve the problems to which you refer to the satisfaction of all concerned.

The guiding policy of the Administration on the subject of Executive Privilege was set forth in the President's memorandum of March 24, 1969 to heads of Executive Departments. In that directive, the President announced that the Administration would invoke the authority to withhold information from the Congress "only in the most compelling circumstances and after a rigorous inquiry into the actual need for its exercise." The authority was to be exercised only with "specific Presidential approval".

The President's invocation of Executive Privilege on March 15, 1972 has not been interpreted by A.I.D. as either a blanket exercise of the privilege or as a delegation of the authority of the President to subordinates in the Executive Branch. Such would be contrary to the clear meaning of the March 24, 1969 directive. Instead, the memorandum indicates that requests for Country Field Submissions and other comparable planning documents raise issues of particular importance which require careful review on a case-by-case basis. We have established a procedure to assure that such a review takes place.

Turning to my letter of March 22, it was not my intent in offering to the committee substantive factual information in lieu of the CFS document itself, to deny the report requested by the invocation of Executive Privilege authority, which is reserved to the President alone. It was my hope that a full oral briefing or written presentation regarding the contents of the document would fulfill the requirements of the Subcommittee. I have instructed my staff to work with yours to establish a mutually acceptable solution to the problem along these lines.

If I can be of further assistance please advise me. I regret that I shall be unable to accept your invitation to appear before the Subcommittee on either April 4 or April 5 due to previous commitments.

Sincerely,

John A. Hannah.

House of Representatives, Foreign Operations and Government Information Subcommittee,
Washington, D.C., April 4, 1973.
Hon. John A. Hannah,
Administrator, Agency for International Development, Washington, D.C.

Dear Dr. Hannah: Your letter of April 3, 1973, advising that it was not your intent to deny the Subcommittee a copy of the FY 1973 Country Field Submission for the East Asia Regional Program by the invocation of executive privilege, has been received. Also, your offer to provide the Subcommittee substantive factual information in lieu of the document itself has been carefully considered. However, as previously noted by the Subcommittee, it is esesntial that we have access to the document itself.

I had hoped that my letter of March 6, 1973, would have made it clear that the Subcommittee has a current need for the document itself and that I did not believe—under any stretch of the imagination—the document could be refused under the so-called doctrine of "Executive Privilege". Further, the Presidential memorandums which you mention as providing the guiding policy of the Administration do not appear to provide a basis for withholding the document requested.

The President's memorandum of March 24, 1969, as you acknowledge, stated that the Administration would withhold information from the Congress "only in the most compelling circumstances." Further, the President's invocation of "Executive Privilege" of March 15, 1972, directs agencies "not to make available to the Congress any internal working documents concerning the foreign assistance program or international information activities, which would disclose tentative planning data, such as is found in the Country Program Memoranda and the Country Field Submissions, and which are not approved positions."

I am convinced that the CFS requested does not fall within the foregoing guidelines. Further, your view that full and frank expression of ideas would be discouraged in the event that the country field submissions are released to the duly constituted committees of Congress seems equally without merit. The contents of the country field submissions are simply not that full of novel ideas. Furthermore, the identity of the originators of the materials contained in the country field submissions are not shown. In fact, the submissions are not actually printed until after complete review by both the mission involved and AID/Washington; thus, the published country field submissions actually represent the Agency's views, rather than any identifiable individual or group of individuals.

Therefore, I must again request that a copy of the FY 1973 Country Field Submission for your East Asia Regional Program be provided to this subcommittee. You must realize that without free and unrestricted access to all personnel and records of AID, this subcommittee is seriously handicapped in carrying out its oversight responsibilties over the vast amounts of taxpayers' monies which are appropriated to and expended by the Agency for International Development.

I sincerely hope that you will see fit to provide the document requested to this subcommittee at an early date.

With kind regards,

Sincerely,

William S. Moorhead,
Chairman.

Mr. MORGAN. Mr. Chairman, I have no further requests for time.

Mr. MAILLIARD. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

Mr. SYMMS. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 389]

Arends
Ashley
Badillo
Blackburn
Blatnik
Bolling
Burke, Calif.
Camp
Chisholm
Clark
Coughlin
Crane
Diggs
Esch
Eshleman
Evans, Colo.
Fish
Fisher
Fraser
Fuqua
Gettys
Gray
Griffiths
Gubser
Gunter
Hanna
Hawkins
Hébert
Heckler, Mass.
Jarman
Jones, Okla.
Landgrebe
Landrum
Leggett
Lott
Melcher
Milford
Mills, Ark.
Mitchell, Md.
Murphy, N.Y.
Patman
Regula
Reid
Roe
Rooney, N.Y.
Sandman
Seiberling
Steed
Stephens
Thompson, N.J.
Walsh
Winn

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. Price of Illinois, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee, having had under consideration the bill H.R. 9360, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 381 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Mutual Development and Cooperation Act of 1973".

Mr. GROSS. Mr. Chairman, I move to strike the necessary number of words.

(By unanimous consent, Mr. Gross was allowed to proceed for 3 additional minutes.)

Mr. GROSS. Mr. Chairman, we are back once more in the bargain basement of the store operated for foreigners by the House Foreign Affairs Committee.

And the clerks, as represented by a majority of the members of the committee, are just as adept and carefree as ever at handing out the store's merchandise.

It makes no difference that the store is hopelessly in debt and facing bankruptcy. Other people's money is invested in the merchandise, say the clerks, so let us get rid of it. And what better place than the outstretched, upturned palms of assorted foreigners.

It makes no difference that when the bargain basement was first opened to foreigners about 1947, it was supposed to hand out about $25 billion in the following 5 years and then close its doors. Instead, the doors are still open and some $225 billion have been sluiced down the drain of so-called foreign aid—a mighty contribution to the deficits, debt, and inflation that is driving this country ever nearer to financial collapse.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Louisiana.

Mr. PASSMAN. The amount is $249.9 billion, over a quarter of a trillion dollars net on foreign aid since its inception.

Mr. GROSS. I thank my friend from Louisiana. I simply wanted to be conservative in my statement.

The foreign handout programs of the past and present are living and breathing proof that in this little world of make-believe known as Washington, D.C., there is nothing so permanent as a temporary program, especially if it involves the spending of billions.

But putting first things first, the distinguished chairman of the House Foreign Affairs Committee, our good Dr. Morgan, returned from his journey to China and promptly issued a publicity release in which he extolled the virtues of the pending bill.

Whether it was the result of 10-course dinners, a demonstration of acupuncture or the warmth of our new-found Communist friends I do not know. But he said, among other things, that—

> The bipartisan Committee action offers this new approach in the foreign assistance authorization with a far-reaching overhaul of our system for helping developing countries.

As we say in the minority report, the most "far reaching change" made by this bill is to change the title from "Foreign Assistance Act" to "Mutual Development and Cooperation Act of 1973."

It is an old and shopworn gimmick in Congress to change and sugar-coat the title of a program that has fallen into disrepute to the point that it just might be scuttled.

It would have been more meaningful if this had been labeled the "Foreign Assistance Subsidy Act of 1973 and the Years to Come." There is something for everybody in the bill. If any group is omitted from the subsidy list it is simply an oversight. The omission was not deliberate.

Yes, there is something for almost everybody from Ouagadougou to Timbuktu in this bill with the possible exception of India. There, after spending $10 billion on assorted handout programs, the Indian Government has invited Uncle Sucker to pack his foreign aid money bags and get out.

Included in the loss will be a multimillion dollar complex of apartments and offices built in New Delhi only 3 or 4 years ago to house the 300 or more foreign-aiders whose mission it was to dispense the billions. What the Indian Government will do with the modern apartments and offices is not known. Perhaps the apartments will be converted to sanctuaries for sacred monkeys. In any event they stand as a testimonial to the stupidity of U.S. officials who have long been on notice that they would be tolerated only as long as they picked the pockets of American taxpayers to grease Indian palms.

But the $10 billion failure in India is only one in the long list of failures around the world that have left U.S. checkbook diplomacy a shambles. It would be interesting to know how much the State Department and White House have spent on brooms in the last 20 years to sweep foreign aid failures under the rug.

A typical example is the regional West African poultry project set up in Mali, Senegal, and Mauritania. Instead of fulfilling its purpose of providing low-cost poultry to the natives of those countries it became a textbook on how to squander money.

The General Accounting Office reports it had considerable difficulty in its investigation because AID records were scanty at best and often simply did not exist. It found, however, that in Mali, thousands of chicks had to be deliberately destroyed because there was no feed for them.

In Mauritania the GAO found band saws, planers, and lathes that had been shipped there in connection with the poultry project even though there was no need for them. Moreover there was no electricity at the site. Even though local power had been brought in, it would have been 50 cycle and the tools required 60-cycle current. GAO also said it found welders and accessories at the hatcheries that had never been used because there was nothing to weld.

Also, in Mauritania, there was a feed mixer and hammermill that had never been used and a variety of other imported equipment, all having the wrong specifications for the project.

In Mali, the GAO found a 50-ton platform scale still in its crate after having been shipped in a year and a half previously. Also, in Mali the GAO found the AID's experts had purchased and imported a substantial amount of 3-foot fence when nothing less than 6-foot fencing was required.

From the GAO report it develops that Tuskegee Institute obtained from AID a sole-source contract to supervise this hatchery-poultry project, and it further develops that having catered to Tuskegee, AID was doing little more than providing a gravy train for a number of Tuskegee personnel who proceeded to take junkets back and forth across the Atlantic—junkets that AID itself said served no useful purpose. And the GAO agreed.

But the congressional advocates of more and better foreign giveaway programs may be of good cheer. Flush with success in having fouled up the chicken project, AID officials have teamed up with Robert Strange McNamara's polished giveaway outfit, the World Bank, in a handout of $17 million for a road building project in Mali. Some use may yet be found for that 50-ton platform scale that has rested in its crate in Mali for at least a year and a half.

Meanwhile, around the world the value of the once mighty dollar is steadily being shredded and foreigners, watching us trying to police and finance the rest of the world, are becoming convinced that we are self-anointed dupes.

Loaded with more debt than the rest of the world combined and with inflation, spawned out of governmental mismanagement and spending beyond means, eating into the very vitals of the Nation, they can only view with disbelief the softheadedness that makes possible even the consideration of this $3 billion foreign handout.

Congress has already taken the citizens of this country on too many foreign aid joyrides. It is time to take the blank checks away from the White House and State Department. Instead of more failures at trying to buy our way around the world it is time for the poobahs on Pennsylvania Avenue and in Foggy Bottom to return to hard nosed diplomacy in foreign affairs.

This bill should be drastically reduced. Failing in that it should be defeated.

AMENDMENT OFFERED BY MR. SYMMS

Mr. SYMMS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SYMMS: Page 1, line 3, insert "(a)" after "That".

Page 1, after line 4, insert the following:

(b) Notwithstanding any other provision of this Act or any other law, each authorization of appropriations contained in this Act (including each authorization of appropriations which is extended, renewed, or otherwise effectuated by any amendment to other law contained in this Act) is hereby reduced by an amount equal to 2 percent of the amount which, but for this subsection, would be so authorized to be appropriated.

Mr. SYMMS. Mr. Chairman, as we well all know, the saying goes "everybody needs milk." My amendment simply means that they will still be able to have 2-percent milk, but we will just cut out some of the fat in this bill.

I would like to share with my colleagues this morning an article that came from the Cottonwood Chronicle in Cottonwood, Idaho:

> PRICE OF GOVERNMENT IS UP, TOO
>
> What would you guess, if someone asked you to name the single category of goods or services that Americans spend the most on? Food? That would be a popular guess, right now. Or perhaps housing?
>
> Well, get ready for a shock. In 1971, we spent a total of $332.6 billion to purchase food, clothing, housing and automobiles. The same year, we spent $338.5 billion on local, state and federal government.
>
> For some reason, only the Federal Government shows up in debate over "national priorities." We discuss the federal budget as though it accurately reflects the way all public funds are allocated. We watch the growth of the federal government as if it were the only government in the country.
>
> You can overlook a lot with that kind of fixation.
>
> WHERE THE ACTION IS
>
> Consider growth, for example. From 1954 to the present, our Gross National Product—the value of all the goods and services we produce in a year—has grown 24 percent. Over that same period, the federal budget has grown 280 percent. And the state and local budgets have soared 569 percent!

I will not belabor the point, and simply say that my amendment offers the Members of the House the chance to chop out $60 million from the authorization in this bill, to reduce the bill from what it is now. And then, depending on what amendments may be offered and adopted, this would then affect them with a cut of 2 percent.

I believe the amendment deserves the consideration of the House. I think the taxpayers of our country will appreciate such an opportunity to chop out $60 million.

Mr. Chairman, I would like to associate myself also with the remarks made by the gentleman from Iowa (Mr. GROSS) who preceded me in the well.

Mr. HUBER. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Michigan.

Mr. HUBER. Mr. Chairman, I wish to associate myself with the remarks made by the gentleman from Idaho (Mr. SYMMS). I appreciate the fact that someone is trying to put in some constructive reductions in the operation of our foreign giveaway program. I am delighted that the gentleman from Idaho is showing initiative in this area.

Mr. SYMMS. Mr. Chairman, I thank the gentleman from Michigan for his remarks.

Mr. Chairman, I would just like to repeat again to the Members of the Committee of the Whole that my amendment offers the oportunity for a 2-percent cut in this program so that they could still have milk, but just low-fat milk.

I would appreciate the support of the Members on my amendment.

Mr. MORGAN. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Idaho (Mr. SYMMS).

Mr. Chairman, as the gentleman from Idaho stated, this is a 2-percent cut across the board.

The gentleman offered a similar amendment yesterday to the impoundment bill to affect the total budget. I think that amendment had a lot more merit to it than this amendment. In my opinion, this amendment does not make very much sense. It would cut indiscriminately such programs as the U.N. Children's Fund, the Narcotics Fund, and other vital programs.

If the gentleman from Idaho has any specific information concerning any particular, individual program, and could make a case to cut that program 2 percent or more, then I believe he should offer such information and an amendment at the proper time. But I do not believe that a meat ax approach of cutting everything across the board is the correct method. I think this kind of amendment really wipes out the function of each congressional committee. If we are going to legislate like this then we might as well abolish all the committees, including the Committee on Appropriations, and come in here and make cuts by percentages.

Because I have sat through hearings on these programs I am sure that a case could be made that some individual items could be cut by 2 percent. The committee in its wisdom cut the Military Grant program by 15 percent, and cut the Military Sales program by almost 12 percent. But I do not believe we should approve a 2-percent across-the-board cut, such as this amendment would require, and cut all of the programs across the board.

I think that is the wrong way to legislate.

If we were to adopt such a shotgun approach, I think it would be a serious mistake.

Mr. GERALD R. FORD. Mr Chairman, will the gentleman yield?

Mr MORGAN I will be glad to yield to the gentleman from Michigan.

Mr. GERALD R. FORD. Mr. Chairman, I would ask the gentleman from Pennsylvania what the committee recommended for a reduction between what the administration proposed and what the committee has submitted?

Mr. MORGAN. In reply to the inquiry of the gentleman from Michigan, let me say that the total reductions from the executive branch request was $177 million. However, there was some additional money added by the committee as we went along. Funding was increased for narcotics control, for example, so that the total net reduction is around $103 million.

Mr. GERALD R. FORD. About $103 million?

Mr. MORGAN. Yes, $103 million, below the executive request.

Mr. GERALD R. FORD. Those cuts

were made specifically in programs where the committee, after hearings, decided cuts should be made?

Mr. MORGAN. That is correct.

Mr. HALEY. Mr. Chairman, will the gentleman yield?

Mr. MORGAN. I yield to the gentleman from Florida.

Mr. HALEY. Mr. Chairman, I was startled to learn from the newspapers this morning as we prepared to move into our annual debate about how many billions of our taxpayers' dollars we will give away in the name of foreign aid that the Agency for International Development is giving away to India a $6 million U.S.-owned luxury building complex known as the USAID-India "southside staff department."

In cabling the State Department that it must stick by the AID agreement made last April to give this building to India, Ambassador Daniel P. Moynihan said, "I quite understand that it might appear that we are off our rocker" in going through with the deal, but that "the United States keeps its word."

I find myself in agreement with the Ambassador on both counts. It does seem to me that AID is off its rocker on this transaction—as it has been off its rocker in countless other transactions through the years. But I also feel that our Government must keep its word.

What puzzles me is why we ever promised to give this costly and luxurious building away. What also puzzles me is why we ever allowed AID to build the structure.

To illustrate the reason for my doubts about the building, I will take the liberty of quoting verbatim from Ambassador Moynihan's cable to the State Department his description of the structure, and its uselessness to our Government:

> I am sorry about the South Building. Once every two weeks or so I take the family down there, drop $5 (my limit) in the stately row of silent slot machines, drink a few cold beers in the Paul Revere Cocktail Lounge and then dine (best Chinese cuisine in town) in the Williamsburg Dining Room. The place is marvelous except that we are the only people there and the waiters and the kids say it is kind of spooky.
>
> If we could turn it over to the Smithsonian it would make a marvelous memorial to a certain kind of mentality, along with say, Camranh Bay [in South Vietnam]. But that really is not practical, is it?
>
> If anybody wants to get upset it should be the people who built the damn place in the first instance. Nothing anywhere quite so brilliantly embodies Parkinson's Law to the effect that institutions build their great buildings at just the moment their decline sets in.
>
> By the end of the year we will only have eight AID people in the whole of the AID mission. I do not need it [the building complex] and so I have got rid of it like we agreed to do. Let this sad ending be a lesson to the next U.S. administration tempted by an edifice complex.

The Ambassador's last point is well taken. But it should be addressed to the Congress rather than the State Department, because so long as we have a foreign aid administration, by whatever name it may be called, the taxpayers will have to pay for this sort of asinine operation.

Mr. PASSMAN. Mr. Chairman, will the distinguished gentleman yield?

Mr. MORGAN. I yield to the gentleman from Louisiana.

Mr. PASSMAN. For the benefit of the committee, the Members must understand that what we are considering today is the economic and military assistance program only under the Foreign Assistance Act. There are 28 different items in the foreign aid and assistance program, and the total request in the budget for foreign aid and assistance amounts to $18,003,191,000. Of course, that is not taking into account another section of this bill that is a new spigot, where the total is $1,250,000,000 a year for the next 4 years; so really, if that total is added to the total requests for foreign aid and assistance, the aggregate total is $19,253,000,000. I wanted to bring that out so the Members could understand it.

Mr. MORGAN. Mr. Chairman, I fail to yield further. The gentleman is not stating the facts. Those amounts are not in this bill.

Mr. PASSMAN. I will tell the gentleman one thing: I am telling the truth.

Mr. MORGAN. Mr. Chairman, the gentleman is talking about his own bill which comprises the Export-Import Bank and a lot of other agencies not considered in this bill.

Mr. PASSMAN. Mr. Chairman, if the gentleman will yield further, I qualified my statement by saying that under this bill we are considering only the economic and military assistance program, which is one of 28 spigots contained in the various bills that are presented to the Congress.

Mr. MORGAN. Title I of the gentleman's appropriations bill, but title I of this bill is a lot different.

Mr. PASSMAN. I qualified it, so admit it, my good friend; do not be afraid to admit what the total amount of the total foreign aid request is.

Mr. MORGAN. The total amount of the request is not $19 billion; it is $2.8 billion.

Mr. Chairman, I fail to yield further.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Idaho (Mr. SYMMS).

The question was taken; and on a division (demanded by Mr. SYMMS) there were—ayes 23, noes 33.

RECORDED VOTE

Mr. SYMMS. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

CHANGE OF TITLE OF ACT AND NAME OF AGENCY

SEC. 2. The Foreign Assistance Act of 1961 is amended as follows:

(a) In the first section, strike out "this Act may be cited as 'The Foreign Assistance Act of 1961' " and insert in lieu thereof "this Act may be cited as the 'Mutual Development and Cooperation Act' ". The amendment made by this subsection shall take effect on the day after the date of the enactment of this Act.

(b) Strike out "Agency for International Development" each place it appears in such Act and insert in lieu thereof in each such place "Mutual Development and Cooperation Agency".

POLICY; DEVELOPMENT ASSISTANCE AUTHORIZATION

SEC. 3. Chapter 1 of part I of the Foreign Assistance Act of 1961 is amended as follows:

(a) In the chapter heading, immediately after "CHAPTER 1—POLICY" insert "; DEVELOPMENT ASSISTANCE AUTHORIZATIONS".

(b) In section 102, relating to statement of policy, insert "(a)" immediately after "STATEMENT OF POLICY.—", and at the end thereof add the following:

"(b) The Congress further finds and declares that, with the help of United States economic assistance, progress has been made in creating a base for the peaceful advance of the less developed countries. At the same time, the conditions which shaped the United States foreign assistance program in the past have changed. While the United States must continue to seek increased cooperation and mutually beneficial relations, with other nations, our relations with the less developed countries must be revised to reflect the new realities. In restructuring our relationships with those countries, the President should place appropriate emphasis on the following criteria:

"(1) Bilateral development aid should concentrate increasingly on sharing American technical expertise, farm commodities, and industrial goods to meet critical development problems, and less on large-scale capital transfers, which when made should be in association with contributions from other industrialized countries working together in a multilateral framework.

"(2) Future United States bilateral support for development should focus on critical problems in those functional sectors which affect the lives of the majority of the people in the developing countries: food production, rural development, and nutrition; population planning and health; education, public administration, and human resource development.

"(3) United States cooperation in development should be carried out to the maximum extent possible through the private sector, particularly those institutions which already have ties in the developing areas, such as educational institutions, cooperatives, credit unions, and voluntary agencies.

"(4) Development planning must be the responsibility of each sovereign country. United States assistance should be administered in a collaborative style to support the development goals chosen by each country receiving assistance.

"(5) United States bilateral development assistance should give the highest priority to undertakings submitted by host governments which directly improve the lives of the poorest majority of people and their capacity to participate in the development of their countries.

"(6) United States development assistance should continue to be available through bilateral channels until it is clear that multilateral channels exist which can do the job with no loss of development momentum.

"(7) Under the policy guidance of the Secretary of State, the Mutual Development and Cooperation Agency should have the responsibility for coordinating all United States development-related activities.".

(c) At the end thereof, add the following new sections:

"SEC. 103. FOOD AND NUTRITION.—In order to prevent starvation, hunger, and malnutrition, and to provide basic services to the people living in rural areas and enhance their capacity for self-help, the President is authorized to furnish assistance, on such terms and conditions as he may determine, for agriculture, rural development, and nutrition. There are authorized to be appropriated to the President for the purposes of this section, in addition to funds otherwise available for such purposes, $300,000,000 for each of the fiscal years 1974 and 1975, which amounts are authorized to remain available until expended.

"SEC. 104. POPULATION PLANNING AND HEALTH.—In order to increase the opportunities and motivation for family planning, to reduce the rate of population growth, to prevent and combat disease, and to help provide health services for the great majority, the President is authorized to furnish assistance on such terms and conditions as he may determine, for population planning and health. There are authorized to be appropriated to the President for the purposes of this section, in addition to funds otherwise available for such purposes, $150,000,000 for each of the fiscal years 1974 and 1975, which amounts are authorized to remain available until expended.

"SEC. 105. EDUCATION AND HUMAN RESOURCE DEVELOPMENT.—In order to reduce illiteracy, to extend basic education, and to increase manpower training in skills related to development, the President is authorized to furnish assistance on such terms and conditions as he may determine, for education, public administration, and human resource development. There are authorized to be appropriated to the President for the purposes of this section, in addition to funds otherwise available for such purposes, $115,000,000 for each of the fiscal years 1974 and 1975, which amounts are authorized to remain available until expended.

"SEC. 106. SELECTED DEVELOPMENT PROBLEMS.—The President is authorized to furnish assistance on such terms and conditions as he may determine, to help solve economic and social development problems in fields such as transportation and power, industry, urban development, and export development. There are authorized to be appropriated to the President for the purposes of this section, in addition to funds otherwise available for such purposes, $93,000,000 for each of the fiscal years 1974 and 1975, which amounts are authorized to remain available until expended.

"SEC. 107. SELECTED COUNTRIES AND ORGANIZATIONS.—The President is authorized to furnish assistance on such terms and conditions as he may determine, in support of the general economy of recipient countries or for development programs conducted by private or international organizations. There are authorized to be appropriated to the President for the purposes of this section, in addition to funds otherwise available for such purposes, $60,000,000 for each of the fiscal years 1974 and 1975, which amounts are authorized to remain available until expended.

"SEC. 108. APPLICATION OF EXISTING PROVISIONS.—Assistance under this chapter shall be furnished in accordance with the provisions of title I, II, VI, or X of chapter 2 of this part, and nothing in this chapter shall be construed to make inapplicable the restrictions, criteria, authorities, or other provisions of this or any other Act in accordance with which assistance furnished under this chapter would otherwise have been provided.

"SEC. 109. TRANSFER OF FUNDS.—Notwithstanding the preceding section, whenever the President determines it to be necessary for the purposes of this chapter, not to exceed 15 per centum of the funds made available for any provision of this chapter may be transferred to, and consolidated with, the funds made available for any other provision of this chapter, and may be used for any of the purposes for which such funds may be used, except that the total in the provision for the benefit of which the transfer is made shall not be increased by more than 25 per centum of the amount of funds made available for such provision.".

Mr. MORGAN (during the reading). Mr. Chairman, I ask unanimous consent that section 3, which extends from line 9 on page 2 to line 16 on page 7, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

PARLIAMENTARY INQUIRY

Mr. GROSS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GROSS. Mr. Chairman, is that page 7 or page 4?

Mr. MORGAN. That is page 7, section 3.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

AMENDMENT OFFERED BY MR. GROSS

Mr. GROSS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. GROSS:
>
> On page 4 strike all of lines 17 through 25, and on page 5 all of lines 1 and 2 and insert the following:
>
> FOOD AND NUTRITION
>
> Sec. 103. In order to prevent starvation, hunger and malnutrition, and to provide basic services to the people living in rural areas and enhance their capacity for self-help, there are authorized to be appropriated for the purposes of this section, in addition to funds otherwise available for such purposes, $150,000,000 for the fiscal year 1974."

Mr. GROSS. Mr. Chairman, on yesterday the House approved a bill dealing with the impoundment of funds, and there was much discussion at the same time about the erosion of the powers of Congress, in particular the delegated powers given to the President by Congress.

My amendment seeks to do two things. First, it strikes out the delegated power to the President. Let me read the pertinent provision in the bill on page 4 beginning on line 17, which provides—

> The President is authorized to furnish assistance, on such terms and conditions as he may determine, for agriculture, rural development, and nutrition. There are authorized to be appropriated to the President for the purposes of this section, in addition to funds otherwise available for such purposes, $300,000,000 for each of the fiscal years 1974 and 1975, which amounts are authorized to remain available until expended.

The President can impound the $300 million if he wants to do so in the absence of the anti-impoundment bill, and if ever there was a delegation to a President on the part of Congress; delegation of authority to spend as he sees fit, this is it. This is the first of several such provisions in this bill, and I intend to offer amendments to several of them to give the Members in the House of Representatives, who have been moaning, groaning, and bellyaching about delegated powers to the President and his opportunity for the impoundment of funds, to get on the record and prove that they mean what they say.

Mr. Chairman, I do one other thing with my amendment. I cut this $300 million exactly in half, to $150 million. I would like to cut it out altogether, but let this be the start of phasing out foreign handouts and quit this sad and sorry business of trying to bankroll the rest of the world.

This section deals with the subject of food and nutrition. The Members had better believe that more and more they are going to hear from the people of this country with respect to food and nutrition; the ability to buy food, to feed their children. It is about time we cut items of this kind and dedicated the savings, if necessary, to our own people.

Mr. Chairman, I urge the adoption of my amendment.

Mr. ZABLOCKI. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, as the gentleman from Iowa has stated, there are two purposes to this amendment. We would strike the reference of the authorization to the President. I might say that the gentleman from Wisconsin also is concerned about some of the delegation of authority of the Congress to the executive branch, but I submit that the gentleman's amendment does not indicate to whom the authorization of money in this act is made and how it is going to be administered.

The gentleman from Iowa full well knows that this reference in the committee bill are "words of art" of legislation, that the authorization is made to the President, for his direction, to channel it to an agency for administration. That is the only reason why we have the reference in the authorization to the President.

As I said earlier, the amendment of the gentleman from Iowa does not make clear who will administer even the money he has admitted is necessary, although he would cut it in half. That is the other half of his amendment.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Iowa.

Mr. GROSS. We are wasting an awful lot of money on the administration of this AID agency if there is no one over there competent to administer the money.

Mr. ZABLOCKI. The responsible way to legislate is not to delegate the authority to no one but to authorize it to the President and the executive branch. The gentleman does not say to whom he would authorize the funds.

Let me deal with the second half of the gentleman's amendment. What he would do, in fact, with respect to starvation and the need for nutrition, is he would prolong the need for assistance for a longer period of time. There is no question that the amount the committee bill provides may not be adequate. It is indeed inadequate to meet the need. But what the gentleman from Iowa would do is deprive the poor people from meeting their own needs as soon as possible by an indiscriminate cutting and slashing.

As our chairman says, this is the "meat ax approach," to cut the amount in half. This is an irresponsible way to try to obtain what the gentleman and we all want; that is, for the countries in the developing areas, with the very poorest people, to have the ways and means some day to become viable and feed themselves. The gentleman's amendment would postpone that day and promote starvation today.

Mr. FRELINGHUYSEN. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from New Jersey.

Mr. FRELINGHUYSEN. I should like to suggest that we should keep the $300 million in the area of food and nutrition. I believe that would be a minimum amount we should be authorizing in this bill.

With respect to where the money should go, I would suppose, if we are authorizing it, we are authorizing it for use by the executive branch of our Government. And I would suppose the best place and the most responsible individual in the executive branch is the President. So I believe our language, to authorize this money to the President, is entirely appropriate. Dropping that language might add confusion. It certainly would not clarify anything.

That certainly would not give the Congress a greater control, if we want the executive branch to utilize the money for these purposes.

I hope we will defeat this amendment and other amendments similar to it.

Mr. ZABLOCKI. I thank the gentleman for his contribution.

Mr. MORGAN. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Pennsylvania.

Mr. MORGAN. The gentleman from Iowa spoke about a shortage of food in this country. The language in the bill is aimed at greater agricultural development and productivity in the recipient countries, so world needs will not cause a shortage here.

Mr. ZABLOCKI. We can cite the success we have had in this area, with the miracle rice and wheat production, which increased productivity because of the U.S. support for fertilizers and irrigation. This section is the last place the gentleman should suggest cutting the amount. The amount the committee suggests, $300 million, is really a fair amount.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Iowa.

Mr. GROSS. I did not say anything about a shortage of food in this country. I was talking about a shortage of money to buy food on the part of the heads of households in this country if inflation continues. And this is the kind of bill that generates more and more inflation, as the gentleman from Wisconsin well knows.

Mr. ZABLOCKI. I am sure if the gentleman from Iowa will read the committee report and the statements beginning on page 19 and continuing through 20 and 21, he will have second thoughts about presenting the amendment.

I hope the amendment will be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. GROSS).

The question was taken; and on a division (demanded by Mr. GROSS) there were—ayes 17, noes 36.

So the amendment was rejected.

Mr. ASHBROOK. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Eighty Members are present, not a quorum. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 390]

Arends
Bergland
Blackburn
Blatnik
Brown, Mich.
Camp
Clark
Cleveland
Conlan
Coughlin
Crane
Dellenback
Diggs
Fisher
Fraser
Frey
Fuqua
Gettys
Gibbons
Green, Pa.
Gunter
Hanna
Hansen, Wash.
Hastings
Hawkins
Hébert
Hogan
Jarman
Landgrebe
Lott
Martin, Nebr.
Meeds
Melcher
Milford
Mills
Montgomery
Murphy, N.Y.
O'Hara
Railsback
Rees
Regula
Reid
Roe
Sandman
Schneebeli
Stanton, James V.
Steiger, Wis.
Stephens
Wilson, Charles H., Calif.
Winn
Zion

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. PRICE of Illinois, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 9360, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 382 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

AMENDMENT OFFERED BY MR. GROSS

Mr. GROSS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GROSS: On page 5, strike all of lines 3 through 14 and insert the following:

POPULATION PLANNING AND HEALTH

"SEC. 104. In order to increase the opportunities and motivation for family planning, and to reduce the rate of population growth, there are authorized to be appropriated for the purposes of this section, in addition to funds otherwise available for such purposes, $75,000,000 for fiscal year 1974."

Mr. GROSS. Mr. Chairman, this is another opportunity for the Members to make known their positions on the business of impoundment of funds and delegations of power to the President. My amendment would strike out his language:

The President is authorized to furnish assistance on such terms and conditions as he may determine, for population planning and health. There are authorized to be appropriated to the President for the purposes of this section, in addition to funds otherwise available for such purposes.

This simply means that if we leave this language in the bill, he can impound or spend the money as he sees fit.

I wish every taxpayer in the country could read this yellow book, entitled "Current Technical Service Contracts" which has been issued by the foreign aid outfit. The book contains 1,217 contracts of one kind or another involving study contracts in 59 countries, and the contracts amount to $764,114,803. Sixty-five of the contracts, totaling more than $127 million, have been dispensed around the globe for studies involving family planning; for family limitation procedures and motivations, and there is research on once-a-month birth control pills and other contraceptive devices. It is for these purposes that most of this money is to be expended.

Witness the contract to the Westinghouse Electric Corp. in the amount of $440,343 for conducting, and I quote:

Global survey in connection with commercial distribution of contraceptives and make recommendations for a formal marketing program.

Those Members who have any interest in family planning might like to take a further look at this before they vote. As I said before, the amendment would cut to $75 million the $150 million proposed in this bill, and limit it to fiscal year 1974 instead of $300 million for this purpose over the next 2 years.

Mr. Chairman, I urge the adoption of my amendment.

Mr. MORGAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the gentleman's amendment takes this section, which is on population growth programs, cuts out the President's authority and reduces it to $75 million. The gentleman speaks about impoundment, but he is really interested in the reduction of the $75 million.

Mr. Chairman, this is one of the most urgent parts of the program. I want to tell the Members that a week ago Monday I returned from a very overpopulated country with Congressmen MAILLIARD, MCFALL and PETTIS, when we visited the People's Republic of China. I was in a country of 850 million people. If anyone wants to live in a country like that where the streets are so crowded people cannot even walk down the street, but must walk in the middle of the road, population control is very, very important.

If we come to zero population in the United States by the year 2000, zero population growth, that is, and the world comes to zero population growth by the year 2040, there are going to be 15 billion people on this earth. But just think, what will happen if we do not move ahead with some kind of population control?

We are a country which spends about $9.7 billion on our own health and population programs. If we do not move and help in the world with population control, I would hate to be around in the year 2000 or 2040 when this earth bogs down with 15 billion people. Therefore, this is a very important part of foreign assistance. It amounts to $150 million and it is vitally needed. Let us get this program moving forward.

Mr. Chairman, I hope this House will move along and defeat the gentleman's amendment.

The CHAIRMAN. The question is on

the amendment offered by the gentleman from Iowa (Mr. GROSS).

The question was taken; and on a division (demanded by Mr. GROSS) there were—ayes 27, noes 41.

RECORDED VOTE

Mr. GROSS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 131, noes 271, not voting 31, as follows:

[Roll No. 391]

AYES—131

Alexander
Andrews, N.C.
Andrews, N. Dak.
Archer
Ashbrook
Bafalis
Baker
Beard
Bell
Bennett
Bevill
Biaggi
Bray
Brinkley
Broyhill, Va.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Byron
Carney, Ohio
Clancy
Clausen, Don H.
Clawson, Del
Cochran
Collier
Collins, Tex.
Conlan
Cotter
Cronin
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Ga.
Davis, S.C.
Denholm
Dent
Devine
Dickinson
Dorn
Downing
Duncan
Eshleman
Flowers
Flynt
Gaydos
Ginn
Gonzalez
Goodling
Grasso
Gross
Grover
Haley
Hammerschmidt
Hanrahan
Harsha
Hechler, W. Va.
Helstoski
Hinshaw
Hogan
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kazen
Keating
King
Kuykendall
Landrum
Long, La.
Lujan
McCollister
McKay
Maraziti
Martin, Nebr.
Martin, N.C.
Mathis, Ga.
Mayne
Miller
Minish
Minshall, Ohio
Mizell
Natcher
Nichols
Nix
O'Brien
Parris
Pickle
Powell, Ohio
Price, Tex.
Quillen
Rarick
Rinaldo
Roberts
Robinson, Va.
Roncallo, N.Y.
Rose
Rousselot
Runnels
Ruth
St Germain
Satterfield
Scherle
Shoup
Shuster
Skubitz
Slack
Snyder
Spence
Stanton, J. William
Steelman
Steiger, Ariz.
Stuckey
Symms
Taylor, Mo.
Taylor, N.C.
Teague, Tex.
Thornton
Waggonner
Ware
Whitten
Wiggins
Wylie
Young, Fla.
Young, S.C.
Zablocki
Zion
Zwach

NOES—271

Abdnor
Abzug
Adams
Addabbo
Anderson, Calif.
Anderson, Ill.
Annunzio
Armstrong
Aspin
Badillo
Barrett
Bergland
Biester
Bingham
Boggs
Boland
Bolling
Bowen
Brademas
Brasco
Breaux
Breckinridge
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burton
Butler
Carey, N.Y.
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Chisholm
Clark
Clay
Cleveland
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Coughlin
Culver
Daniels, Dominick V.
Danielson
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Dennis
Derwinski
Diggs
Dingell
Drinan
Dulski
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Foley
Ford, Gerald R.
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Giaimo
Gibbons
Gilman
Goldwater
Gray
Green, Oreg.
Green, Pa.
Griffiths
Gubser
Gude
Guyer
Hamilton
Hanley
Hansen, Idaho
Harrington
Harvey
Hays
Heckler, Mass.
Heinz
Henderson
Hicks
Hillis
Holt
Holtzman
Horton
Hosmer
Howard
Jarman
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, Okla.
Jordan
Karth
Kastenmeier
Kemp
Ketchum
Kluczynski
Koch
Kyros
Latta
Leggett
Lehman
Lent
Litton
Long, Md.
McClory
McCloskey
McCormack
McDade
McEwen
McKinney
McSpadden
Macdonald
Madden
Madigan
Mahon
Mailliard
Mallary
Mann
Mathias, Calif.
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Nedzi
Nelsen
Obey
O'Hara
O'Neill
Owens
Passman
Patten
Pepper
Perkins
Pettis
Peyser
Pike
Poage
Podell
Preyer
Price, Ill.
Pritchard
Quie
Railsback
Randall
Rangel
Rees
Reid
Reuss
Rhodes
Riegle
Robison, N.Y.
Rodino
Rogers
Roncalio, Wyo.
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ruppe
Ryan
Sarasin
Sarbanes
Saylor
Schneebeli
Schroeder
Sebelius
Seiberling
Shipley
Shriver
Sikes
Sisk
Smith, Iowa
Smith, N.Y.
Staggers
Stark
Steed
Steele
Steiger, Wis.
Stokes
Stratton
Stubblefield
Studds
Sullivan
Symington
Talcott
Teague, Calif.
Thompson, N.J.
Thomson, Wis.
Thone
Tiernan
Towell, Nev.
Treen
Udall
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waldie
Walsh
Wampler
Whalen
White
Whitehurst
Widnall
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Wright
Wyatt
Wydler
Wyman
Yates
Yatron
Young, Alaska
Young, Ga.
Young, Ill.
Young, Tex.

NOT VOTING—31

Arends
Ashley
Blackburn
Blatnik
Camp
Crane
Donohue
Fisher
Fuqua
Gettys
Gunter
Hanna
Hansen, Wash.
Hastings
Hawkins
Hébert
Holifield
Landgrebe
Lott
McFall
Michel
Milford
Mills, Ark.
Patman
Regula
Roe
Sandman
Stanton, James V.
Stephens
Ullman
Winn

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. GROSS

Mr. GROSS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GROSS: On page 5, strike all of lines 15 through 25 and insert the following:

"EDUCATION AND HUMAN RESOURCE DEVELOPMENT

"SEC. 105. In order to reduce illiteracy and increase manpower training skills, there are authorized to be appropriated for the purposes of this section, in addition to funds otherwise available for such purposes, $75,000,000 for fiscal year 1974."

Mr. GROSS. Mr. Chairman, section 105 of the bill to which this amendment is directed deals with so-called education and human resource development. This amendment would, as did the previous amendment, strike the proviso in the language of the bill which would give the President the power to impound the money or spend it on his terms and conditions. It would cut $40 million off of the $115 million for this purpose, and it would limit the authorization to 1 year, which would be another prospective saving.

We have need in this country for educational funds and for human resource development.

Mr. Chairman, I offer the House this additional opportunity to restore a modicum of fiscal sanity to this foreign giveaway bill.

Mr. ZABLOCKI. Mr. Chairman, I rise in opposition to the amendment of the gentleman from Iowa. The same reason that was given earlier to the first amendment offered by the gentleman from Iowa applies to this amendment as far as striking the proviso for the authority given to the President. This amendment, I may say to the gentleman, shows that he may be having second thoughts. He did not choose to cut the amount in half as he did with the other amendments he has proposed.

In this particular authorization we must realize that because of the population growth, the need for education has increased. The need for stamping out illiteracy and providing job skills requires the amount that the committee bill provides, $115 million in 1974 and fiscal 1975.

The gentleman from Iowa has given some examples of failures in the AID programs in the past. Let me cite some of the programs we can brag about in this area of education and human resource development.

For example, in Guatemala, as is stated in our committee report on page 26, the children in four rural pilot schools are planting vegetable gardens and selling the produce while learning to read and write at the same time.

In Korea an elementary middle school program, supported by a U.S. loan—not a grant but a loan—started with an analysis organized and conducted by the Korean Ministry of Education with the help of Florida State University, using advanced systems techniques.

I might say some of the techniques are radio and television networks so that the Koreans can use fewer teachers and get to more pupils with this new type of teaching. I have seen such programs in Brazil and Colombia, and they do pay off. Education is given to more children with these programs of assistance.

To go on with another success story, in Kenya, for example, 200 printers are being trained in modern printing methods through cooperation of local labor unions.

Work in the general field of public administration can also help provide skills which are in very short supply in the developing countries.

AID-supported programs have strengthened business schools in Nicaragua, Korea, Nigeria, Peru, Colombia, Brazil, and the Philippines.

During the past 10 years some 10,000 persons from developing countries have come to the United States or gone to other countries for training in business and public administration. And when they returned to their countries, they have implemented their learning and improved their school systems, public administration, and business management.

I trust and hope that the amendment offered by the gentleman from Iowa will be defeated.

Mr. WHALEN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, as the gentleman from Wisconsin has noted, due to population increases there are today 100 million more illiterate people than there were 20 years ago. Further, although the low-income countries have doubled the size of their school systems in the past 10 years, it is believed that there are more children for whom even elementary education is unavailable than there were a decade ago.

It has become clear that these countries cannot afford universal education as known in the West, and that the academic patterns of the developed countries are inappropriate in the developing countries.

Those nations must develop low-cost, innovative systems of education to roll back illiteracy and provide their people with the requisite skills to participate in the process of development.

The United States can assist the developing nations with designing and testing new educational systems and concepts aimed at reaching larger numbers of people at lower cost.

Specifically, what do we have in mind for the forthcoming fiscal year? The 1974 AID program will focus on four areas: First, selective technical assistance to improve institutions and curricula; second, education systems programs based on broad involvement in the educational sector as a whole and including provision for both loans and grants.

Third, the support for education and other features, such as in the area of population.

Fourth, research and innovation to design new educational technologies and test innovative programs.

In addition to this category of education, there are funds provided in this section for human resources. These funds will be used for assistance in the area of public administration, providing critical skills which are in short supply in a great number of countries; programs are planned in such areas as taxation, business administration, and public administration.

These efforts to accelerate human resources development are critical in the overall development program. The projects funded in this category are deeply important to the recipient countries and represent an investment in their future and the future of the world.

The level of funds proposed in the House bill would permit continuation of this joint effort. These are the reasons, Mr. Chairman, that I urge defeat of the amendment.

Mr. HAYS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have observed that nobody is paying very much attention to this great debate, and there are not very many people here listening to it, but it is almost impossible to make any sense out of this legislation and the way people vote on it.

My dear friend from Wisconsin (Mr. Zablocki)—and he is my friend—just voted for the amendment to cut the funds in half for population control. Then, he gets up and speaks against this amendment on the grounds that we have got to have it, because of the rapidly increasing population in the world. I do not know whether that seems to be any anomaly to the rest of the Members or not, but it is an anomaly to me.

It would seem to me that if we really are worried about the burgeoning population, about the so-called population explosion, that we would support the amendment or support the amount in the bill. I am not for the bill, but if there is going to be a bill, I want it to be as good as possible. I voted against the amendment offered by Mr. Gross to cut the population control funds, because I think probably, in view of the population explosion, that is one of the most important sections in the bill. However, here is one of the leading members of the committee voting to cut that and then saying, "Do not cut this because we need it."

Heavenly days, what money is in here for education is like putting a band-aid on a cancer; that is about what it amounts to. It really does not make any difference much, and I am sincere about it, whether there is any money for education, because it is such a drop in the bucket it does not amount to anything.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to my friend from Wisconsin (Mr. Zablocki).

Mr. ZABLOCKI. Mr. Chairman, the gentleman from Wisconsin would like to advise the gentleman from Ohio that I voted for the amendment to cut funds in the population control section, because I have some reservations about some of the methods they promote. This is one way of my expressing my displeasure.

Yet, I believe that there is need for some U.S. assistance in this area. The gentleman does know, however, that statistics confirm, whenever education is improved, population problems are lessened. That is why I am opposed to the $40 million cut proposed by the gentleman from Iowa.

Mr. HAYS. Mr. Chairman, let me say that I do not mean to be critical of the gentleman or of his motives. I know his motives are the best on his vote on population control, and I know he has some reservations on others. And I share his reservations about how to spend the money.

However, yet me say to my dear friend that I have a lot of reservations about how the bureaucracy spends all the money in this bill. If the gentleman could go out in the field, as I have done, and see some of the ways that it is spent—and as the day wears on, I may give a few illustrations—his reservations surely will not be confined to the population section of the bill; I feel sure of that.

Mr. ZABLOCKI. I hope they are not. Mr. Chairman, if the gentleman will yield further, I believe the gentleman from Ohio has made an excellent point why the cut should not be made in the education program. The gentleman stated the amount of money in the bill would be like putting a band-aid on a cancer, but I submit we better have that band-aid.

Mr. HAYS. Is the gentleman in favor of any cuts except the cut in population control? I mean, he is for that; is he for any other cuts at all?

Mr. ZABLOCKI. If the gentleman had attended the committee meetings, he would know that the gentleman from Wisconsin sponsored a cut and voted for certain other cuts.

Mr. HAYS. I will be very frank to say that when I am not for something I do not spend a lot of time trying to get it through. I was not at the meeting, and I do not apologize for it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. Gross).

The question was taken; and on a division (demanded by Mr. Gross) there were—ayes 48, noes 57.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. GROSS

Mr. GROSS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Gross: On page 6, strike all of lines 1 through 11.

Mr. GROSS. Mr. Chairman, this is a very simple amendment. It strikes out $93 million and takes with it the power delegated to the President to impound the money or spend it as he sees fit. That is all the amendment does.

This section is entitled "Selected Development Problems." Let me say that we have selected problems in this country to which we can devote every dollar of this $93 million rather than ship it abroad to be spent on various questionable projects in foreign countries. Mr. Chairman, I urge the adoption of the amendment.

Mr. FASCELL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the $93 million which the gentleman seeks to strike out, as he says, is only $93 million, but the technical purpose of it is to provide assistance on those special economic projects of transportation, power, industry and other development projects which were the focal point of ongoing development loan programs and development grant programs under the previous assistance programs. As Members know, that has all been restructured. We have just been through a discussion of several amendments which identify clearly the new thrust of this bill, of directing our assistance toward trying to help masses of people on basic problems of food, nutrition, family planning, and community development.

We would hope all that kind of financing of the infrastructure for economic development would ultimately be carried on by the multilateral institutions, but in this transition period this small amount is left in order to take care of those which the administration feels are particularly important during the period of transition.

But more is involved than that technical point. The question is: Can we afford to close our eyes to the rest of the world?

I wish it were that easy. I wish we could say, as some have suggested, that we ought not to have a Mutual Development and Cooperation Act. But we cannot.

Mr. Chairman, I wish it were just as easy to close our eyes to the reality that exists in the world that makes it necessary for us to maintain the largest Military Establishment in the history of the world. I wish we could turn that effort all to more constructive and productive values that would be meaningful to us.

We cannot; we cannot do that, and we all know it. We cannot now turn our backs on the rest of the people in the world, any more than we could ignore our own security in this Nation. And that is what this is all about.

If the greatest number of the people of the world have major problems in securing the bare necessities of life are ignored and we as a minority group in this world, both as to affluence and otherwise, would indicate to the world in any way that we do not even have a modicum or a small amount of interest in their problems, those problems will come back to haunt us and perhaps consume us.

Mr. Chairman, we cannot deny in our own interest the small amount of money, based on one of the greatest sources of national product that the world has ever seen, spent for our own security. That is the philosophy that is involved here.

Mr. Chairman, I hope that this amendment is not agreed to, because I believe it is important that the selected development programs that are still left under the old system are maintained, so that we can make a fairly and reasonable transition to the programs under the pending bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. GROSS).

The question was taken; and on a division (demanded by Mr. GROSS) there were—ayes 55, noes 52.

RECORDED VOTE

Mr. WHALEN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 203, noes 204, not voting 27, as follows:

[Roll No. 392]

AYES—203

Abdnor
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Ashbrook
Bafalis
Baker
Beard
Bell
Bennett
Bevill
Bowen
Bray
Breaux
Brinkley
Brown, Mich.
Broyhill, N.C.
Broyhill, Va.
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carney, Ohio
Carter
Casey, Tex.
Chappell
Clancy
Clawson, Del
Cleveland
Cochran
Collier
Collins, Tex.
Conlan
Cotter
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Ga.
Davis, S.C.
Davis, Wis.
Delaney
Denholm
Dennis
Dent
Derwinski
Devine
Dickinson
Dingell
Dorn
Downing
Dulski
Duncan
du Pont
Edwards, Ala.
Eshleman
Evins, Tenn.
Fish
Flowers
Flynt
Fountain
Frenzel
Frey
Froehlich
Gaydos
Ginn
Goldwater
Gonzalez
Goodling
Grasso
Green, Oreg.
Gross
Grover
Haley
Hammerschmidt
Hanrahan
Harsha
Hastings
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Henderson
Hicks
Hinshaw
Hogan
Holt
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kazen
Keating
Kemp
Ketchum
King
Kuykendall
Kyros
Latta
Litton
Long, La.
Long, Md.
Lujan
McCormack
McDade
McSpadden
Madigan
Mann
Martin, Nebr.
Martin, N.C.
Mathis, Ga.
Mayne
Mazzoli
Melcher
Miller
Minshall, Ohio
Mizell
Montgomery
Moorhead, Calif.
Myers
Nichols
O'Brien
Parris
Passman
Pettis
Pike
Poage
Powell, Ohio
Price, Tex.
Randall
Rarick
Roberts
Robinson, Va.
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rose
Roush
Rousselot
Roy
Runnels
Ruth
St Germain
Sandman
Sarasin
Satterfield
Saylor
Scherle
Schneebeli
Sebelius
Shoup
Shriver
Shuster
Sikes
Skubitz
Slack
Snyder
Spence
Steele
Steelman
Steiger, Ariz.
Stubblefield
Stuckey
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague, Tex.
Thone
Thornton
Tiernan
Towell, Nev.
Treen
Veysey
Waggonner
Wampler
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Charles H., Calif.
Wyatt
Wylie
Wyman
Young, Alaska
Young, Fla.
Young, S.C.
Young, Tex.
Zion
Zwach

NOES—204

Abzug
Adams
Addabbo
Albert
Alexander
Anderson, Ill.
Armstrong
Ashley
Aspin
Badillo
Barrett
Bergland
Biaggi
Biester
Bingham
Blatnik
Boggs
Boland
Bolling
Brademas
Brasco
Breckinridge
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Ohio
Buchanan
Burke, Calif.
Burton
Carey, N.Y.
Cederberg
Chamberlain
Chisholm
Clark
Clausen, Don H.
Clay
Cohen
Conable
Conte
Conyers
Corman
Coughlin
Cronin
Culver
Daniels, Dominick V.
Danielson
de la Garza
Dellenback
Dellums
Diggs
Donohue
Drinan
Eckhardt
Edwards, Calif.
Eilberg
Erlenborn
Evans, Colo.
Fascell
Findley
Flood
Foley
Ford, Gerald R.
Ford, William D.
Forsythe
Fraser
Frelinghuysen
Fulton
Giaimo
Gibbons
Gilman
Gray
Green, Pa.
Griffiths
Gubser
Gude
Guyer
Hamilton
Hanley
Hansen, Idaho
Harrington
Harvey
Helstoski
Hillis
Holifield
Holtzman
Horton
Hosmer
Howard
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Kastenmeier
Kluczynski
Koch
Leggett
Lehman
Lent
McClory
McCloskey
McCollister
McEwen
McFall
McKay
McKinney
Macdonald
Madden
Mahon
Mailliard
Mallary
Maraziti
Mathias, Calif.
Matsunaga
Meeds
Metcalfe
Mezvinsky
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nelsen
Nix
Obey
O'Hara
O'Neill
Owens
Patman
Patten
Perkins
Peyser
Pickle
Podell
Preyer
Price, Ill.
Pritchard
Quie
Quillen
Railsback
Rangel
Rees
Reid
Reuss
Rhodes
Riegle
Rinaldo
Robison, N.Y.
Rodino
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roybal
Ruppe
Ryan
Sarbanes
Schroeder
Seiberling
Shipley
Sisk
Smith, Iowa
Smith, N.Y.
Staggers
Stanton, J. William
Stark
Steed
Steiger, Wis.
Stokes
Stratton
Studds
Sullivan
Symington
Teague, Calif.
Thompson, N.J.
Thomson, Wis.
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waldie
Walsh
Ware
Whalen
Wilson, Bob
Wilson, Charles, Tex.
Wolff
Wright
Wydler
Yates
Yatron
Young, Ga.
Young, Ill.
Zablocki

NOT VOTING—27

Arends
Blackburn
Camp
Collins, Ill.
Crane
Esch
Fisher
Fuqua
Gettys
Gunter
Hanna
Hansen, Wash.
Hawkins
Hébert
Jones, N.C.
Landgrebe
Landrum
Lott
Michel
Milford
Mills, Ark.
Pepper
Regula
Roe
Stanton, James V.
Stephens
Winn

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. GROSS

Mr. GROSS. Mr. Chairman, I offer an amendment.

The clerk read as follows:

> Amendment offered by Mr. GROSS: On page 6, strike all of lines 12 through 21.

Mr. GROSS. Mr. Chairman, this amendment is on all fours with the previous amendment except that it would save $60 million. It deals with so-called selected countries and organizations, none of which are specified, and the language of the bill reads in part as follows:

> The President is authorized to furnish assistance on such terms and conditions as he may determine . . .

That means he could spend $60 million in each of the next 2 fiscal years of 1974 and 1975. In other words, $120 million would be authorized under the terms of this bill.

For those Members who voted for the anti-impoundment bill yesterday, let me remind you that it is not necessary that the President expend this money. He can impound it. And to those who have been screaming and moaning and crying about delegated power to the President, here is your opportunity to do something about it, and the last opportunity today, as far as I am concerned.

I was surprised by my friend from Florida (Mr. FASCELL) who a few moments ago apparently was minimizing—minimizing the $3 billion to be authorized under this bill for foreign aid. I say to the Members that if this foreign aid program was submitted to a vote of the people of this country, it would be sunk like the well known pollution in the cistern, and everyone in this room here today knows it.

Mr. Chairman, I urge that the Members vote to save at least $60 million.

Mr. MORGAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment is offered to a different section than the amendments offered previously by the gentleman from Iowa. This is a section devoted mostly to program loans. Also funded by this $60 million are projects such as the volunteer organization headed by Frank Pace, whom many Members know—the International Executive Service Corps. That organization is composed of many businessmen who have retired and who now work for a dollar a year, or who work free, giving advice to developing countries.

This also is a section which is aimed at helping us get out of the lending business in the foreign assistance bill. This is the transition section to move us over to private capital financing.

This is a very important section, and I hope the House is opposed to the amendment.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. MORGAN. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. I just wonder whether this private capital financing is covered under the guarantees of OPIC?

Mr. MORGAN. No, they are not.

Mr. LONG of Maryland. They are not covered under the guarantees?

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. MORGAN. I yield to the gentleman from Indiana.

Mr. DENNIS. I should like to say to the chairman that I opposed the gentleman from Iowa on his first three amendments because I liked the approach of this bill, focusing on the subject matters of food, population, and education. I supported the gentleman from Iowa on his last amendment, but I regarded that one as somewhat debatable.

Here I just wonder what we need this $60 million for. It seems to me, particularly since the last amendment of the gentleman from Iowa failed, that they have got all the flexibility and discretion they need in this bill. Here they are going to have another $60 million, at Executive discretion, for general economy and development programs without any further definition, of what this may mean or include.

Is that not to some degree undoing the thrust attempted in the earlier sections? Why do they need additional leeway?

Mr. MORGAN. No; this will keep the program going during the period of transition. This is a very vital section. Under the old legislation many of these programs have been authorized—as development loans, especially for India, Indonesia, Pakistan, and other countries. This is the transition section to the new concept of carrying out foreign assistance.

Mr. MAILLIARD. Mr. Chairman, will the gentleman yield?

Mr. MORGAN. I yield to the gentleman from California.

Mr. MAILLIARD. I thank the chairman for yielding.

It seems to me that some of the best programs which have been supported in the past will be supported under this particular section. That is one of the problems of coming in with a new bill with categories Members are not familiar with.

The gentleman mentioned an organization headed by Mr. Pace. One I am familiar with, because the headquarters is in San Francisco, is the Asia Foundation. I would say the support given by the Government, the rather modest support, over the years to the Asia Foundation has probably produced more for the dollar than almost anything else we have expended.

There are a number of private organizations that are put together, sometimes by corporations, sometimes by labor unions, sometimes by charitable organizations, to aid in the development process.

In some cases we provide help with their administrative expenses, and they raise their own funds for operations. In some cases we do have a little Government help on their operations.

We are getting more back for the buck in this section than in almost any other section of the bill.

Mr. MORGAN. Of course, credit union, cooperatives, the voluntary agencies, and other private-sector groups are funded from this section. When we sweep out this section, we sweep out a very important section.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. MORGAN. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Could the chairman tell me what the terms will be? Will there be any terms the President wants, no matter how low the interest rate, how long the grace period, or how long the period of repayment? Will it all be in the direction of the President?

Mr. MORGAN. The gentleman from Maryland has served with distinction as a member of the subcommittee of the Committee on Appropriations for years. I am sure he is familiar with the old development loan section. The terms in this section would follow the pattern of the old development loan section.

Mr. LONG of Maryland. In other words, these will be very low interest rates.

Mr. MORGAN. These will be low rates, such as 3 percent.

Mr. LONG of Maryland. I support the amendment offered by the gentleman from Iowa.

Mr. MAILLIARD. Mr. Chairman, I rise in opposition to the amendment.

Partially in answer to the question of the gentleman from Maryland, there is a provision a little later in this section which makes all of these sections subject to the general rules. We have also put in a provision here limiting the amounts that can go in grants. All these are subject to the limitations of basic law, which we have not altered in this bill.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. MAILLIARD. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. I have had some opportunity to look at these situations. Many of the interest rates are very low. The grace periods are very long. The periods of repayments are very long.

We have received back from most of these countries only very small percentages of the amounts loaned on similar types of loans. What has happened, as even the professors have recognized, is that the money is wasted.

Mr. Chairman, money is wasted because the terms of credit have been so generous that they are regarded by many as almost free money. All of our small business firms would love to get terms like this.

Mr. MAILLIARD. Well, I do not think that is a proper basis for comparison. We have programs for our own small business organizations, and perhaps they should be more generous.

Mr. Chairman, if the gentleman feels we ought to change the basic ground rules, all right, but I do not think the way to do it is to strike an entire section and completely take away support for some very important worldwide organizations, many of them voluntary agencies and private groups that are putting their own money in as well.

Mr. FRELINGHUYSEN. Mr. Chairman, will the gentleman yield.

Mr. MAILLIARD. I yield to the gentleman from New Jersey.

Mr. FRELINGHUYSEN. Mr. Chairman, I thank the gentleman for yielding.

I believe we also should point out that the money to be provided under this section is to be provided for a limited number of program loans, such as to Indonesia. That is the country that comes to my mind. Those loans are made only after careful scrutiny of the extent to which the country is prepared to improve its own position. I believe that the post-Sukarno government certainly meets these qualifications, and there is a need.

It should also be pointed out that the assistance provided under the program loan is coupled with assistance from other countries. So what we are talking about is assistance which is well thought through and which in some cases helps private organizations. In the case of program loans there is multilateral assistance as well.

So this is not simply a reduction in the amount that would be available. This amendment would mean funds would not be available at all, this would have a disastrous effect on programs which are of real need in countries like Ghana, post-Nkrumah Ghana, and the post-Sukarno government in Indonesia.

Mr. MAILLIARD. Mr. Chairman, I quite agree with the gentleman, because if there is any section in the bill where the U.S. dollar produces more of other people's dollars, private, public, and international, for development, it is in this section of the bill. My judgment of it is that this would be about the most foolish thing we could do, because here we are generating other funds, and at a high multiple, as compared with any other section.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. MAILLIARD. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Chairman, I ask the gentleman, if that would be true in Ghana into which this Government poured millions of dollars, and when Nkrumah left, he walked away with the whole bag?

Mr. MAILLIARD. Well, I would simply say to the gentleman that that is all the more reason that sensible, reasonable governments should receive some support.

Mr. GROSS. Mr. Chairman, does the gentleman know of any small business loans in this country which can be obtained these days at 2- or 3-percent interest?

Mr. MAILLIARD. I am not sure that I do, but I know that we do have preferential terms in this country. I have had the advantage in my own district for flood relief.

Mr. GROSS. Well, that is what it is all about.

Mr. MORGAN. Mr. Chairman, will the gentleman yield?

Mr. MAILLIARD. I yield to the gentleman from Pennsylvania.

Mr. MORGAN. Mr. Chairman, I thank the gentleman for yielding.

I believe the gentleman from Iowa is overlooking the fact that these are programs which are geared to export of American business methods, American products, and American technology.

Mr. MAILLIARD. The gentleman is correct.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. MAILLIARD. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Chairman, it does not do any good, I might point out, to sell goods to other countries unless we are paid for them. The terms under which these loans are given are so generous that they amount to about a three-quarters gift.

Consequently, I believe we will find it difficult to show how this has been advantageous in any way to profitability of American business or to our balance of payments. It does not do us any good to sell goods and get I.O.U.'s.

Mr. DERWINSKI. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, first I want it to be made clear to everyone that, even though I am speaking from the minority leader's chair at the moment, I do not think he shares my sentiment right at this point.

I feel that the gentleman from Iowa (Mr. GROSS) deserves to be commended. He has had a very frustrating and difficult day so far.

He has yet to have one of his amendments carried, although he has very effectively presented a case.

If there is any consolation I may give to the gentleman from Iowa, it is that he should feel flattered that the heaviest guns on the committee have been brought forth to fire away at the gentleman's amendments, which is a tribute to the effectiveness of the gentleman from Iowa.

But, Mr. Chairman, I do think we ought to keep in mind exactly what this section does. The gentleman from Iowa very properly pointed out that one of his motives in offering the amendment was to suggest to those Members who have spent the last 6 months complaining of the need to control the President, that in this section the President has an open hand in the handling of the funds. For those who feel there must be more control by Congress over the Executive branch, the gentleman from Iowa properly makes the point that by striking the provision giving the President very close to a blank check in the authorizing funds in that section we are controlling the Executive.

Mr. Chairman, I yield back the balance of my time.

Mr. FASCELL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, to strike out this section it would literally stop programing loans which have now been in the mill which are generally made in the multilateral context of donors, usually led by the World Bank, in which the economic objectives are set and the country is required to meet certain criteria, and improvements in order to get the multiple group of donors to make the program loans. The amendment would strike all of the U.S. participation in that effort.

It would also strike all the money made available now for the U.S. participation in three regional organizations, the Organization of American States, Central, and the Southeast Asia Advisory Group. In addition to that, it would strike out all the money which the AID program makes to voluntary agencies such as the National Rural Electric Cooperative Association, the Credit Union National Association, the Cooperative League of the U.S.A., and many others who have worked and cooperated with the AID in attempting to instill in many of these countries some of the concepts which have been so valuable in this country. It would move all of that out of the proposal to save the money as the gentleman from Ohio wants to do.

Mr. HAYS. Mr. Chairman, if the gentleman will yield, every once in a while the gentleman from Florida suggests something that the gentleman should not. The gentleman said that it would knock out money for CENTO. I would ask the gentleman from Florida who is left in CENTO today?

Mr. FASCELL. I just made the statement.

Mr. HAYS. I know, but who is in it? We are knocking out money for something that does not really exist except on paper.

Mr. FASCELL. The gentleman from Ohio can take his own time. Let me answer the gentleman.

Let me say this: To the extent that I was at the meeting the other day attended by the Secretary of State in which he said that one of the most promising things now was the revitalization of CENTO.

The CHAIRMAN. The time of the gentleman from Florida has expired.

Mr. HAYS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there is nothing personal in what I have said. I have the highest regard for the gentleman from Florida. I asked the gentleman a simple question, and he resorted to rhetoric, and did not answer it. I asked the gentleman who was left in CENTO? Who is paying anything besides us? New Zealand is not in it any more, Australia is not in it any more. Who is in it? Thailand and the United States, that is it. That is all.

You know, I just made an observation, and the gentleman brought CENTO in.

Mr. MORGAN. If the gentleman will yield, I think the gentleman has some confusion here as to SEATO and CENTO.

Mr. HAYS. Can the gentleman tell me who is in CENTO?

Mr. LONG of Maryland. Mr. Chairman, if the gentleman will yield, the gentleman from Florida quoted Secretary of State Rogers as saying that CENTO is one of the most promising organizations that we have in the world.

Is this the same Secretary of State Rogers who told several years ago that we were not bombing in Cambodia, that Congress would be given notice if we planned any move into Cambodia? And then 2 days later the invasion of Cambodia took place. Either Mr. Rogers was not telling the truth or he did not know. Either way, his forecasts for the future are scarcely worthwhile when he does not even know what has been going on in the past.

Mr. MORGAN. If the gentleman will yield, I can name the countries.

Mr. HAYS. Let me say first about Secretary of State Rogers. I think he is about the most likeable man in the whole Cabinet. He never told me that we were not bombing in Cambodia.

He must have made that statement; I do not know. But if he said that, I suspect he did not know, himself. The Secretary of the Air Force, Mr. Seamans, today said he did not know. So I do not really fault the Secretary of State for this. I am sure he hopes that whatever organization they are talking about, SEATO, or CENTO, or whatever, it is a promising organization. I do not know, but to hear them tell it downtown in the State Department, they are all promising organizations. I do not know what they are promising, but they are long on promises and short on delivery. However, one thing I do know and that is, Bill Rogers would not deliberately mislead anyone.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Take your choice, he either told Congress a fib or he did not know what was going on. Either way, he is a poor source for a forecast of the future.

Mr. MORGAN. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from Pennsylvania.

Mr. MORGAN. Mr. Chairman, to clarify the difference between SEATO and CENTO, CENTO is United Kingdom, Pakistan, Turkey, and Iran. We are not a member.

The gentleman was at a little meeting we had yesterday with the Shah of Iran.

Mr. HAYS. Yes, I was, and I was very impressed.

Mr. MORGAN. I do not know whether he was in the room when this was brought up, but the Shah expressed how important CENTO is.

Mr. HAYS. How much of this $60 million is for Iran, or any of the other nations?

Mr. MORGAN. I am saying it has funds here.

Mr. HAYS. How much is funded out of here?

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. HAYS was allowed to proceed for 2 additional minutes.)

Mr. HAYS. I did not intend to get into all of this, but the Chairman himself mentioned Mr. Frank Pace's organization. There is no nicer fellow around than Frank Pace. I think he is a very decent guy, and he wants to do the right thing, but he had the most dismal record in private industry of anybody who ever headed up a big corporation. He was president of General Dynamics and it almost died on the vine. It went from a worth of about $100 million down to almost zero, and they had to ease him out. So now he is heading up an international organization which gets funded by the taxpayers. There is no way on God's earth that he can go bankrupt because we keep giving him an injection of cash every year.

I do not want Mr. FASCELL to think I am getting personal with him, or Mr. Pace, or anybody else. I defended the Secretary of State, and I will defend Mr. Pace as an individual, but as a performer, he leaves a lot to be desired. Yet people bring his name in, and that is supposed to be the Gospel. What are the facts?

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from Florida.

Mr. FASCELL. I will be very happy to admit on the record that the gentleman from Ohio is a better performer than is Mr. Pace.

Mr. HAYS. I thank the gentleman. I never really had control of a big organization, but we did put the restaurants in the black, and that is more than Mr. Pace did.

Mr. FRASER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think this debate between the Members on this side is of some interest, but what I should like to make clear is that we are not just cutting money out; we are cutting out the whole section. We are not reducing the $60 million by $20 million or $25 million; we are taking out the underlying authority itself. When we restructured this AID program under a bipartisan effort, working with the administration, we set out three major emphases: health, education, and rural development.

There were two categories left over; one, selected projects and the other, selected countries, that just did not fit into these three main categories at this time. The problem with this amendment is that it wipes out one of those five categories. It does not reduce the money; it wipes it out.

This is what is so devastating about this amendment. It is not a question of cutting back support of the International Executive Corporation, retired businessmen who are trying to help; it is wiping out support. It is not a question of reducing money to the credit union movement in its efforts to encourage the growth of credit unions abroad; it is a wipe-out. This is the seriousness of this amendment.

I urge the Members not to look at this as a money cut, but as taking out one of the five major categories in this bill.

We are trying to refocus this money where it needs to go, on health or education or on rural development, but we just cannot, in the first year, fit everything into those three categories.

We do have private voluntary organizations doing extremely effective work, and this particular section enables us to continue working through them. Therefore, I would plead with the Members not to look at this just as a money cut, but as a wipe out of one of the five categories of aid.

I hope our committee in years to come will be able to come back with a bill which pinpoints even more specifically where this money is going. This is our first effort. It takes time to get these programs redirected, but if the Members start taking out major categories, the whole thing starts coming apart.

That is why I would strongly urge a vote against this amendment. It is not a money cut.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Chairman, for the benefit of the gentleman, this section which he admittedly helped write, provides that the President can impound the money or spend it wherever he wants to. Is that not true?

Mr. FRASER. As the gentleman knows——

Mr. GROSS. The gentleman has not the vaguest idea today about where a dime of the $60 million will be expended.

Mr. FRASER. The gentleman knows, because he is a member of the committee and can compare the legislation of last year with the legislation of this year. We are beginning to direct the money, beginning to categorize it and aim it. That is the process we are involved in, so that if we compare it with earlier bills, this bill is a big improvement.

Maybe it is not pinpointed enough. I would agree it is not pinpointed as well as we could, but it takes time to take an old program and work it into something more understandable, more targeted, more effective.

Mr. GROSS. Then the question is why does the gentleman help write a bill that provides all of this Presidential determination.

Mr. FRASER. As the gentleman may know, I tried to put the President under much more constraint than he is today in the field of foreign affairs. It is a very difficult thing to do.

Mr. GROSS. The gentleman knows that we have here today the same old body dressed in a new kimono.

Mr. FRASER. I do not agree with the gentleman. What we are attempting to do is make development effective.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Chairman, the gentleman has spent much time and effort to correct the shortcomings of the aid program. Our committee is familiar with those shortcomings and is attempting to correct the situation. The gentleman from Minnesota is trying to improve the bill. The amendment proposed by the gentleman from Iowa would torpedo this effort. The gentleman's amendment would do just that, would it not?

Mr. FRASER. It would.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. Mr. Chairman, I have heard so much about delegation of authority to the President that I would like to ask, if we did not appropriate to the President, who would we appropriate to? Undoubtedly, we would appropriate to the AID Administrator, or someone else. Would that be good management or would it be different?

OMB would still coordinate for the President and the President would still have responsibility for any action. He could spend or not and he could tell the AID Administrator what to do. Therefore, the argument that we are delegating authority to the President who has the ultimate authority anyway as Chief Executive is a distinction without a difference.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, is it not true that last year the equivalent amount, which gave the President the same sort of broad authority under the heading of development loans, amounted to $250 million? Now, we are asking for only $60 million for the same general purpose.

Mr. FRASER. The gentleman is right.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

(At the request of Mr. BURKE of Massachusetts and by unanimous consent, Mr. FRASER was allowed to proceed for 1 additional minute.)

Mr. BURKE of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Massachusetts (Mr. BURKE).

Mr. BURKE of Massachusetts. Mr. Chairman, is it not true that the provisions of this section give the President the same power which he exercised up in New England when he wiped out all the defense installations in Massachusetts and Rhode Island?

Mr. FRASER. Well, I will tell the gentleman that if we had an amendment to forbid any interference with those bases in Massachusetts, I would vote for it.

Mr. BURKE of Massachusetts. Mr. Chairman, that is why I am going to vote for the amendment of the gentleman from Iowa, because I am afraid of giving the President any further power.

Mr. FRASER. This does not affect the bases.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Idaho (Mr. SYMMS).

Mr. SYMMS. Mr. Chairman, if this amendment is not carried, does the President have any authority to spend any of this $60 million in North Vietnam?

Mr. FRASER. No.

Mr. SYMMS. How can the gentleman be sure of that?

Mr. FRASER. I think there is a general prohibition.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from New York (Mr. WOLFF).

Mr. WOLFF. Mr. Chairman, it seems

strange that this side of the aisle seems to be defending the President of the United States while it seems the gentlemen on the other side, who are with his party, are opposed to it.

Naturally, there are a number of people here who are seeking to limit the authority of the President, but we do not want to tie him hand and foot. I think the President must have authority to be able to continue his job.

The CHAIRMAN. The time of the gentleman from Minnesota has again expired.

The question was taken; and on a division (demanded by Mr. Gross) there were—ayes 56, noes 76.

RECORDED VOTE

Mr. GROSS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 173, noes 232, not voting 28, as follows:

[Roll No. 393]

AYES—173

Abdnor
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Baker
Beard
Bennett
Bevill
Biaggi
Bowen
Bray
Breaux
Brinkley
Brotzman
Broyhill, N.C.
Broyhill, Va.
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carney, Ohio
Carter
Casey, Tex.
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cochran
Collier
Collins, Tex.
Conlan
Cotter
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Ga.
Denholm
Dennis
Derwinski
Devine
Dingell
Donohue
Dorn
Downing
Dulski
Duncan
Edwards, Ala.
Evins, Tenn.
Flynt
Fountain
Frey
Froehlich
Fulton
Ginn
Goldwater
Goodling
Gross
Grover
Haley
Hammerschmidt
Hanrahan
Harsha
Hastings
Hays
Hechler, W. Va.
Heckler, Mass.
Henderson
Hicks
Hinshaw
Holt
Huber
Hudnut
Hungate
Hunt
Hutchinson
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Karth
Kemp
Ketchum
King
Kuykendall
Landrum
Litton
Long, Md.
Lujan
McCollister
Maraziti
Martin, Nebr.
Martin, N.C.
Mathis, Ga.
Mayne
Mazzoli
Melcher
Miller
Minshall, Ohio
Mizell
Montgomery
Moorhead, Calif.
Moss
Myers
Nichols
Owens
Parris
Passman
Pettis
Pike
Poage
Powell, Ohio
Price, Tex.
Randall
Rinaldo
Roberts
Robinson, Va.
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rose
Roush
Rousselot
Runnels
Ruppe
Ruth
Sandman
Satterfield
Saylor
Scherle
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Thone
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Brasco
Brooks
Broomfield
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Burke, Calif.
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Mann
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Teague, Calif.
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Hébert
Hogan
Landgrebe
Lott
Milford
Mills, Ark.
Patman
Rarick
Regula
Roe
Stephens
Winn

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. DERWINSKI

Mr. DERWINSKI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Derwinski: On page 4 after line 11 insert a new paragraph reading as follows: "(7) The economic and social development programs to which the United States lends support should reflect, to the maximum extent practicable, the role of United States private investment in such economic and social development programs, and arrangements should be continually sought to provide stability and protection for such private investment.

Page 4, line 12, strike out "(7)" and insert in lieu thereof "(8)".

Mr. DERWINSKI. Mr. Chairman, I point out to the Members that we are dealing with the policy section of the development assistance authorizations. In other paragraphs it calls for the sharing of American tactical expertise, the U.S. cooperation in development, and emphasizing the program to the maximum extent possible is to be carried out through the private sector.

I believe there is a gap in these policy provisions, a gap which I am attempting to fill with this amendment.

My amendment basically emphasizes the sense of Congress that arrangements should be continually sought to provide stability and protection for such private investment. I believe this is a very necessary amendment in this world where we do have investments in countries that go through periods of governmental instability. I believe congressional emphasis on the need to protect the American private investor is absolutely essential.

Mr. MORGAN. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I will yield to the chairman of the committee.

Mr. MORGAN. Mr. Chairman, as the gentleman has pointed out, the amendment deals with an approach to protection of investment of private funds, and to that extent I believe the gentleman's amendment fulfills that purpose. It is consistent with the purposes of this bill, and personally I have no objection to the gentleman's amendment.

Mr. MAILLIARD. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. Yes, I will yield to the gentleman from California.

Mr. MAILLIARD. Mr. Chairman, although I have not been able to consult with other members of the committee, I can see no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. Derwinski).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

DEVELOPMENT LOAN FUND

Sec. 4. Section 203 of chapter 2 of part I of the Foreign Assistance Act of 1961, relating to fiscal provisions, is amended as follows:

(a) Strike out "the Mutual Security Act of 1954, as amended," and insert in lieu thereof "predecessor foreign assistance legislation".

(b) Strike out "for fiscal year 1970, for the fiscal year 1971, for the fiscal year 1972, and for the fiscal year 1973 for use for the purposes of this title, for loans under title VI, and for the purposes of section 232" and insert in lieu thereof "for the fiscal years 1974 and 1975 for use for the purposes of chapter 1 of this part and part VI of this Act".

AMENDMENT OFFERED BY MR. DERWINSKI

Mr. DERWINSKI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Derwinski. Page 7, immediately before line 17, insert the following:

Sec. 4. Section 201(d) of chapter 2 of part I of the Foreign Assistance Act of 1961, relating to interest rates on development loans, is amended by striking out "3 per centum per annum commencing not later than ten years following the date on which the funds are initially made available under the loan, during which ten-year period the rate shall not be lower than 2 per centum per annum, nor higher than the applicable legal rate of interest of the country in which the loan is made" and inserting in lieu thereof "6 per centum per annum".

And renumber the following sections accordingly.

Mr. DERWINSKI. Mr. Chairman, I have no illusions that this amendment will be accepted as readily as the one I just offered, but hope springs eternal, and if there is a sudden capitulation, I will be pleased to accept it.

Basically, my amendment sets the annual interest rate on the loans to be made under this section at 6 percent.

In the bill it calls for 3 percent per annum after the first 10-year period at a rate of 2 percent. When I offered this amendment in committee, if I recall correctly, the vote against it was something like 16 to 4, but I felt that here on the floor of the House there might be a slightly different attitude, if for no other reason, that interest rates across the country are rising. I am sure this is a fact known to the Members.

As a matter of fact, I read from one of our Nation's most distinguished newspapers, this morning's Washington Post, an article which has a blazing headline "9–9.5% Mortgages, Drastic Cut in Housing Starts Seen."

I recently checked the figures from HUD sources, and I am told that the present national average on home interest rates is 7.89 percent and rising. There are some other figures the Members might be interested in, just to have this picture of the rising world interest rate in the commercial and bank loans, for example.

In the United Kingdom the present prime interest rate is 9.1 percent; Canada, 7¾ percent; France, 8.2 percent; Japan, 6.5 percent; and these are rising. There are a number of alternatives to people seeking soft loans. The World Bank has a soft loan window at 2 percent. There is a special fund under the Asian Development Bank at 2½ percent. But I would think that with the funds that are intended to be made available under this section, given the rising interest rates that face the American consumer, the obvious cost in money to anyone seeking to finance a home purchase or a small business, I would think that calling for a 6-percent return for funds under this loan section is not unreasonable. As a matter of fact, I think the 3-percent rate is unconscionable.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding. In other words, all the gentleman is trying to do is to provide equity in this bill as it relates to loans made under this foreign aid program, so that foreigners will at least be just slightly below what Americans are paying for normal interest charges on loans.

Mr. DERWINSKI. That is one motive. Another motive is revenue that will obviously accrue. At the 6 percent rate there is more revenue coming back, more funds to offset costs of this AID program, or other governmental programs. As a matter of fact, if my figures which are obtained from the AID agency are correct, $8.2 billion AID repayable loans outstanding in 1971 have been placed at the 6 percent rate, which my amendment directs itself to. AID receipts would be $492 million annually. But this does not apply retroactively. I am speaking now about the rate that would apply to loans made under this new section. I do not think that the 6 percent figure is at all out of line.

Mr. ROUSSELOT. Will the gentleman yield further?

Mr. DERWINSKI. I yield to the gentleman from California.

Mr. ROUSSELOT. In other words, those of our colleagues in this Congress, who have been concerned about the high interest rates and wish equity for our American citizens, will want to be sure to vote for this?

Mr. DERWINSKI. I should think that this logic might prevail.

Mr. Chairman, I yield back the remainder of my time.

Mr. MORGAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I will recall to the House, if my memory is correct, that every time a foreign assistance bill has been on the floor, there has been a special amendment offered by my distinguished friend, the gentleman from Illinois. He has been trying for years to increase the interest rates on development loans.

There is not much use in having a foreign aid bill if poor nations are able to go anywhere in the world and buy money at commercial rates. The reason we have a foreign aid bill with a development loan section is, of course, because they are unable to do so: they need capital at low interest rates.

Many other countries around the world, like France, Western Germany, and Japan, have development loan programs where they loan money at low rates. Canada even charges no interest whotsoever on development loans.

If we are ever going to make our goods available in markets around the world, in the underdeveloped countries, we are going to have to get in on a low-interest system. Therefore, I believe that as we move into the new export credit program recommended in the bill, and try to get out of the development loan business, we should not increase our loan terms. If we are successful in moving forward under that new emphasis in foreign aid, the Development Loan Fund will go out and higher interest rates will be possible for our export credits.

How long this process may take I cannot say.

Again, I want to say this amendment has been voted on in this House every year for the last 4 or 5 or 6 years and has been offered by the gentleman from Illinois. The House has stood fast in opposition to it. I hope the House again will oppose the amendment offered by the gentleman from Illinois.

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. MORGAN. I yield to the gentleman from California (Mr. KETCHUM).

Mr. KETCHUM. Mr. Chairman, I wonder if the gentleman might answer for the body what interest rates the U.S. Government must pay for the money to fund our deficit programs?

Mr. MORGAN. Mr. Chairman, of course we are paying rates of 6 percent or more depending on the condition of the market. However, this is a foreign aid program, and if we are going to worry about what interest rate we are paying for the money, we should worry about the dollar amounts themselves.

If we are going to have a foreign aid program and attempt to help undeveloped countries around the world, we are not going to do it with hard loans and high interest rates.

Mr. KETCHUM. Mr. Chairman, will the gentleman yield further?

Mr. MORGAN. Yes, I yield.

Mr. KETCHUM. Mr. Chairman, it would seem to me that the American people would be most interested in realizing that their Government is borrowing at high interest rates, giving it away at low interest rates, and hoping to pick it up on the volume.

Mr. MORGAN. These Government loans, as the gentleman knows, have been made over a period of years. In 1972, we collected $276 million in repayments which helped lower our balance-of-payments deficits. They are good loans that are repaid with interest and last year brought in $276 million to the credit of the United States.

Mr. GROSS. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I had not intended to take any time, but I would like to ask the gentleman from Pennsylvania where I could go in the State of Pennsylvania to borrow 2- or 3-percent money.

Mr. MORGAN. Mr. Chairman, I am sure the gentleman comes from a rural area in Iowa, and over a period of years the rural electrification companies went out and borrowed money of this type at even lower rates.

Mr. GROSS. I am talking about individuals borrowing money.

Mr. MORGAN. There are no individuals here. These are nations.

Mr. GROSS. Who puts up the money you are now going to loan to foreigners at 2 and 3 percent if it is not individuals? Where does it come from?

Mr. MORGAN. From the Treasury of the United States.

Mr. GROSS. Yes, through taxes put up by the individual taxpayers of this country. Is there any place in California where I can borrow money for 2 or 3 percent?

Mr. MORGAN. I do not know if California has any program of rural electrification.

Mr. GROSS. I am sure money cannot be borrowed in Pennsylvania for 2 and 3 percent, and I am sure it cannot be borrowed even in Florida at those rates.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. Mr. Chairman, I have come to the conclusion that 18 years in Congress——

Mr. GROSS. For the edification of the chairman, Mr. MORGAN, I have been voting against 2-percent money for the REA for a good many years. I do not know how he has been voting, but I have been voting against it because there is no such thing as 2-percent money when the cost of borrowing to the Federal Government is far above that rate. It takes a lot of gall to come here today and ask the taxpayers of this country, when the U.S. Treasury is paying 7 percent for money, to provide $3 billion, or any part of it, to be loaned to foreigners at 2 and 3 percent. There must be those who have lost their cotton pickin' minds.

Mr. FRASER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I believe this question of interest rates has to be looked at in connection with what we are trying to do.

The U.S. aid program started with the Marshall plan. We gave the money away. I have forgotten the exact figure, but between $25 billion and $30 billion went to the industrialized nations of Western Europe.

When President Truman began the point 4 program the emphasis was on grant aid money. The money or the services or the technical assistance was given away with no repayment, none at all.

What we have been trying to do in the aid program since that time is to wean countries off grant aid onto a loan basis. One cannot move from grant aid to a 6-percent, hard-commercial interest rate. It will not wash.

These countries have per capita incomes of $200 per year. They do not have anything.

We are trying to provide an assistance program to them to help them with development, to help with rural development, with food production and with education. To the extent we can get them to make a commitment to repay we are ahead of where we were when we started the grant program first to Western Europe and then under the point 4 program of President Truman in 1950.

I would urge the Members to think about these interest rates in terms of where we have been and where we wish to go. I hope, before too many years go by, all the countries in the world will be able to meet the hard terms of the commercial world. But that kind of money just will not wash with these very poor countries.

It will not be counted as aid by the international organizations which try to figure out how much aid each country has given.

While we might talk about interest rates going up, Canada is now providing loans at an interest rate of zero. This reflects our understanding that if we are going to move away from grant aid and ask that the money be paid back we cannot at the same time impose a substantial interest charge on it, which may double the expense to that country for the goods manufactured in the United States or the services rendered from the United States.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from New York.

Mr. BINGHAM. Is it not true that the International Bank is available to make loans on hard-loan terms? The Bank has found it can go only so far with such loans, and has had to make loans on concessional terms through the IDA. There would be no need for this type of program if these countries could meet the hard-term loans, is that not right?

Mr. FRASER. The gentleman is exactly right.

Mr. FRELINGHUYSEN. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from New Jersey.

Mr. FRELINGHUYSEN. I thank the gentleman for yielding.

I believe the discussion with respect to the high commercial rates indicates quite clearly the nature of the problem in some of these poor countries. It makes it more difficult for them to get the assistance needed if the rates are higher.

If we are going to increase our own rates and in effect not make concessional loans, obviously this will dry up this source of the funds.

As our chairman has said, if we want to provide assistance we have to do it on terms which are possible for them to meet. Because interest rates are higher is not an argument against what we are proposing, but in fact strengthens the advisability and necessity of providing concessional loans.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Illinois.

Mr. DERWINSKI. I should think that one of the positive arguments for what the gentleman calls the high interest rates is that they produce twice as much revenue, as between 6 and 3 percent, under the rate provided in the bill. Since there is a revolving fund for this program, there would then be more funds flowing back to reinvest for this program.

Quite frankly, if they can get the money at 2 or 3 percent they can afford to pour it down rat holes, for bad projects. If they have to pay 6 percent, perhaps more thought will go into the practicality of the investment project.

Mr. FRASER. Let me make the observation that 3 percent is the minimum rate. Some rates go higher, and some terms are shorter, depending upon the ability to pay.

Let us not force a choice between grant aid or the commercial terms. That is what is unreasonable. We need an intermediate type of credit, where we do get the money back.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. DERWINSKI).

The question was taken; and on a division (demanded by Mr. DERWINSKI) there were—ayes 22, noes 63.

Mr. DERWINSKI. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TECHNICAL COOPERATION AND DEVELOPMENT GRANTS

SEC. 5. Title II of chapter 2 of part I of the Foreign Assistance Act of 1961, relating to technical cooperation and development grants, is amended as follows:

(a) In section 211(a), relating to general authority, in the last sentence immediately after the word "assistance" insert the word "directly".

(b) In section 214, relating to authorization for American schools and hospitals abroad, strike out subsections (c) and (d) and insert in lieu thereof the following:

"(c) To carry out the purpose of this section, there are authorized to be appropriated to the President for the fiscal year 1974, $20,000,000, and for the fiscal year 1975, $20,000,000, which amounts are authorized to remain available until expended.

"(d) There are authorized to be appropriated to the President to carry out the purposes of this section, in addition to funds otherwise available for such purposes, for the fiscal year 1974, $7,000,000, and for the fiscal year 1975, $7,000,000, in foreign currencies which the Secretary of the Treasury determines to be excess to the normal requirements of the United States.

"(e) Amounts appropriated under this section shall not be used to furnish assistance under this section in any fiscal year to more than four institutions in the same country, and not more than one such institution shall be a university and not more than one such institution shall be a hospital.".

Mr. REID. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in order to have a brief colloquy with the gentleman from Indiana (Mr. HAMILTON) who is the author of the amendment to section 214 of the act, specifically paragraph (e) on page 9 of the bill.

Specifically, Mr. Chairman, the committee report points out that this is a new subsection added to section 214 of the act "to limit assistance under this section to not more than four institutions in any one country in any fiscal year." This amendment also provides that not more than one university and one hospital in any one country may receive section 214 aid in any fiscal year. By "university" is meant "any institution of higher learning."

Mr. Chairman, that is a quote from the committee report. I am somewhat in sympathy with the thrust of this amendment, because I think overseas we have sometimes tended to proliferate our assistance in certain areas or to some institutions where results might have been more beneficial.

However, I am troubled, Mr. Chairman, that here we are going a little beyond principles and constraints as far as the administration of the U.S. Ambassador or of this House or of the subcommittee of the Foreign Affairs Committee might be concerned. We appear not to be using very much flexibility in here; the provision not only limits aid to four institutions in the same country, but also specifically enumerates that not more than one such institution shall be a university or a hospital.

Specifically I would like to call the attention of the gentleman from Indiana to the fact that if we take the definition in the report literally, that is to say that a university is meant to be an "institution of higher learning," we could end up in a situation in Israel, for example, where we might preclude aid to the Hebrew University and the Weizmann Institute, both of which are among the ablest institutions of higher learning, in my judgment, in the world.

The Hebrew University is considered, I think, one of the finest universities in the East, and indeed the Weizmann Institute has been in the forefront of some of our research in biomedicine and in cancer and indeed in the whole field of nuclear physics and in areas of applied mathematics, to mention a few.

My concern is that the institute might be considered somewhat similar to the Institute of Advanced Studies in Princeton, which is clearly an institution of higher learning. I would hate to make judgments, were I charged with so doing, as between the Hebrew University and the Hadassah Medical Center, for example, and the Weizmann Institute. I think all three would be eminently worthy of funding purely on the merits of their creative applied and pure research.

Accordingly, I would like to ask the gentleman, the chairman of the Subcommittee on the Near East (Mr. HAMILTON), whether it would be his intention through the device of this mechanism to preclude in any way funding of these two or three institutions I have mentioned.

Mr. HAMILTON. Will the gentleman yield?

Mr. REID. I am happy to yield to the gentleman.

Mr. HAMILTON. I think the gentleman from New York accurately states the primary purpose of section 214. We have only a limited amount of funds available here, $20 million, under past appropriations. The whole concept here is not to provide for the educational and the health needs of the country but to concentrate those funds on institutions of excellence which will demonstrate American ideas and practices and the American technology. The constraints of the amendment apply to one university and one hospital in a given country.

I am not familiar in great detail, as I am sure the gentleman from New York is, with each of those institutions. My understanding is, for example, the Weizmann Institute would not, in my view anyway, be considered a university; rather it is a research institute. It would seem to me the institutions that the gentleman named could be covered under the limitation.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. REID was allowed to proceed for 1 additional minute.)

Mr. REID. Might I ask the gentleman from Indiana whether therefore the definition of a university, meaning an institution of higher learning, should be construed as not to include a research institute, if that is indeed what the Weizmann Institute might be classified as? Personally I think it is an institute of the finest character, which indeed contributes enormously to higher learning. It gets into a number of areas that I think would fall in that definition, but the subcommittee chairman would be prepared not to include that under the definition on page 29 of the report, I take it.

Mr. HAMILTON. That is correct.

Mr. REID. I thank the gentleman.

I merely add I think this amendment may be looked at in the other body and in conference, and I hope we will leave requisite flexibility for funding of institutions of superlative merit and not be too restrictive so as to deny merit simply in the interests of arbitrary categories.

(By unanimous consent, Mr. REID was allowed to proceed for 1 additional minute.)

Mr. REID. Mr. Chairman, I have requested this additional time so that I might yield to the distinguished chairman of the Foreign Operations Subcommittee of the Appropriations Committee, the gentleman from Louisiana (Mr. PASSMAN).

Mr. PASSMAN. Mr. Chairman, I thank the gentleman from New York for yielding me this time.

I want to thank the gentleman from New York for clearing this up. I think the Weitzman Institute is one of the finest institutions we have in the world, and that we should establish now whether it is a university or whether it is a hospital, because if we do not clear up the language then in all probability the Weitzman Institute would be deprived of funds that are badly needed with great loss, and this is one that I can very easily vote for.

Mr. REID. I thank the distinguished gentleman from Louisiana for his contribution.

Mr. Chairman, I hope this colloquy will guide the conferees in precisely understanding what is meant by this language because we do not wish to preclude support for any one of the three institutions I mentioned, and they all might fall within the definition.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

HOUSING GUARANTIES

SEC. 6. Title III of chapter 2 of part I of the Foreign Assistance Act of 1961, relating to housing guaranties, is amended as follows:

(a) In section 221, relating to worldwide housing guarantees, strike out "$205,000,000" and insert in lieu thereof "$305,000,000".

(b) In section 223(i), relating to general provisions, strike out "June 30, 1974" and insert in lieu thereof "June 30, 1976".

OVERSEAS PRIVATE INVESTMENT CORPORATION

SEC. 7. Title IV of chapter 2 of part I of the Foreign Assistance Act of 1961, relating to the Overseas Private Investment Corporation, is amended as follows:

(a) In section 235(a)(4), relating to issuing authority of the Overseas Private Investment Corporation, strike out "June 30, 1974" and insert in lieu thereof "June 30, 1975".

(b) In section 240(h), relating to agricultural credit and self-help community development projects, strike out "June 30, 1973" and insert in lieu thereof "June 30, 1975".

ALLIANCE FOR PROGRESS

SEC. 8. Section 252(b) of title VI of chapter 2 of part I of the Foreign Assistance Act of 1961, relating to authorization of appropriations, is amended to read as follows:

"(b) There are hereby authorized to be appropriated to the President for the fiscal year 1974, $968,000, and for the fiscal year 1975, $968,000, for grants to the National Association of the Partners of the Alliance, Inc. in accordance with the purposes of this title.".

PROGRAMS RELATING TO POPULATION GROWTH

SEC. 9. Section 292 of title X of chapter 2 of part I of the Foreign Assistance Act of 1961, relating to authorization, is amended by striking out "1972 and 1973" and inserting in lieu thereof "1974 and 1975".

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 10. Chapter 3 of part I of the Foreign Assistance Act of 1961, relating to international organizations and programs, is amended as follows:

(a) At the end of section 301, relating to general authority, add the following new subsection:

"(e)(1) In the case of the United Nations and its affiliated organizations, including the International Atomic Energy Agency, the President shall, acting through the United States representative to such organizations, propose and actively seek the establishment by the governing authorities of such organizations a single professionally qualified group of appropriate size for the purpose of providing an independent and continuous program of selective examination, review, and evaluation of the program and activities of such organizations. Such proposal shall provide that such group shall be established in accordance with such terms of reference as such governing authority may prescribe and that the reports of such group on each examination, review, and evaluation shall be submitted directly to such governing authority for transmittal to the representative of each individual member nation. Such proposal shall further include a statement of auditing and reporting standards, as prepared by the Comptroller General of the United States, for the consideration of the governing authority of the international organization concerned to assist in formulating terms of reference for such review and evaluation group.

"(2) In the case of the International Bank for Reconstruction and Development and the Asian Development Bank, the President shall, acting through the United States representative to such organizations, propose and actively seek the establishment by the governing authorities of such organizations professionally qualified groups of appropriate size for the purpose of providing independent and continuous program of selective examination, review, and evaluation of the program and activities of such organizations. Such proposal shall provide that such groups shall be established in accordance with such terms of reference as such governing authorities may prescribe and that the reports of such groups on each examination, review, and evaluation shall be submitted directly to such governing authority for transmittal to the representative of each individual member nation. Such proposal shall further include a statement of auditing and reporting standards, as prepared by the Comptroller General of the United States, for the consideration of the governing authority of the international organization concerned to assist in formulating terms of reference for such review and evaluation groups.

"(3) Reports received by the United States representatives to these international organizations under this subsection and related information on actions taken as a result of recommendations made therein shall be submitted promptly to the President for transmittal to the Congress and to the Comptroller General. The Comproller General shall periodically review such reports and related information and shall report simultaneously to the Congress and to the President any suggestions the Comptroller General may deem appropriate concerning auditing and reporting standards followed by such groups, the recommendations made and actions taken as a result of such recommendations.".

(b) In section 302(a), strike out "for the fiscal year 1972, $138,000,000 and for the fiscal year 1973, $138,000,000" and insert in lieu thereof, "for the fiscal year 1974, $127,000,000 and for the fiscal year 1975, such sums as may be necessary".

(c) In section 302(b,(2), strike out "for use in fiscal year 1972, $15,000,000, and for use in fiscal year 1973, $15,000,000" and insert in lieu thereof "for use in the fiscal year 1974, $15,000,000, and for use in the fiscal year 1975, $15,000,000,".

(d) Section 302(d) is amended to read as follows:

"(d) Of the funds provided to carry out the provisions of this chapter for each of the fiscal years 1974 and 1975, $18,000,000 shall be available in each such fiscal year only for contributions to the United Nations Children's Fund.".

(e) in section 302(e), strike out "$1,000,000 for the fiscal year 1972 and $1,000,000 for the fiscal year 1973" and insert in lieu thereof "$2,000,000 for the fiscal year 1974 and $2,000,000 for the fiscal year 1975".

CONTINGENCY FUND

Sec. 11. Subsection (a) of section 451 of chapter 5 of part I of the Foreign Assistance Act of 1961, relating to the contingency fund, is amended as follows:

(a) Strike out "for the fiscal year 1972 not to exceed $30,000,000, and for the fiscal year 1973 not to exceed $30,000,000" and insert in lieu thereof "for the fiscal year 1974 not to exceed $30,000,000, and for the fiscal year 1975 not to exceed $30,000,000".

(b) Strike out the proviso contained in the first sentence of such subsection and at the end of such subsection add the following: "In addition to the amounts authorized to be appropriated by this subsection, there are authorized to be appropriated such additional amounts as may be required from time to time to provide relief, rehabilitation, and related assistance in the case of extraordinary disaster situations. Amounts appropriated under this subsection are authorized to remain available until expended.".

INTERNATIONAL NARCOTICS CONTROL

Sec. 12. (a) Section 481 of chapter 8 of part I of the Foreign Assistance Act of 1961, relating to international narcotics control, is amended by inserting "(a)" immediately after "International Narcotics Control.—" and by adding at the end thereof the following new subsection:

"(b) (1) Not later than forty-five days after the date on which each calendar quarter of each year ends, the President shall transmit to the Speaker of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a report on the programing and obligation, per calendar quarter, of funds under this chapter prior to such date.

"(2) Not later than forty-five days after the date on which the second calendar quarter of each year ends and not later than forty-five days after the date on which the fourth calendar quarter of each year ends, the President shall transmit to the Speaker of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a complete and detailed semiannual report on the activities and operations carried out under this chapter prior to such date. Such semiannual report shall include, but shall not be limited to—

"(A) the status of each agreement concluded prior to such date with other countries to carry out the purposes of this chapter; and

"(B) the aggregate of obligations and expenditures made, and the types and quantity of equipment provided, per calendar quarter, prior to such date—

"(i) to carry out the purposes of this chapter with respect to each country and each international organization receiving assistance under this chapter, including the cost of United States personnel engaged in carrying out such purposes in each such country and with each such international organization;

"(ii) to carry out each program conducted under this chapter in each country and by each international organization, including the cost of United States personnel engaged in carrying out each such program; and

"(iii) for administrative support services within the United States to carry out the purposes of this chapter, including the cost of United States personnel engaged in carrying out such purposes in the United States.".

(b) Section 482 of chapter 8 of part I of the Foreign Assistance Act of 1961, relating to authorization, is amended by striking out "$42,500,000" and all that follows down through the period at the end of such action and inserting in lieu thereof "$50,000,000 for each of the fiscal years 1974 and 1975. Amounts appropriated under this section are authorized to remain available until expended.".

COOPERATIVE ECONOMIC EXPANSION

Sec. 13. Part I of the Foreign Assistance Act is amended by adding at the end thereof the following new chapter:

"Chapter 10—Cooperative Economic Expansion

"Sec. 495. Cooperative Economic Expansion.—The President is authorized to use up to $2,000,000 of the funds made available for the purposes of this part in each of the fiscal years 1974 and 1975 to assist friendly countries, especially those in which United States development programs have been concluded or those not receiving assistance under section 211, in the procurement of technical assistance from United States public or private agencies or individuals. Assistance under this chapter shall be for the purpose of (1) encouraging development of natural resources of interest to the United States, (2) encouragement of a climate favorable to mutually profitable trade and development, and (3) stimulation of markets for United States exports. Any funds used for purposes of this section may be provided on a loan or grant basis and may be used notwithstanding any other provision of this Act."

Mr. MORGAN (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, starting on page 10, line 21, and over to page 17, line 22, and printed in the Record and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Are there amendments to be proposed to sections 10, 11, 12 and 13? If not, the Clerk will read.

The Clerk read as follows:

MILITARY ASSISTANCE

Sec. 14. Chapter 2 of part II of the Foreign Assistance Act of 1961, relating to military assistance, is amended as follows:

(a) In section 504(a), relating to authorization, strike out "$500,000,000 for the fiscal year 1972" and insert in lieu thereof "$550,000,000 for the fiscal year 1974".

(b) In section 506(a), relating to special authority, strike out the words "the fiscal year 1972" wherever they appear and insert in lieu thereof "the fiscal year 1974".

(c) Section 513 is amended—

(1) by striking out "Thailand.—" in the section heading and inserting in lieu thereof "Thailand, Laos, and Vietnam.—(a)"; and

(2) by adding at the end thereof the following new subsection:

"(b) After June 30, 1974, no military assistance shall be furnished by the United States to Laos or Vietnam directly or through any other foreign country unless that assistance is authorized under this Act or the Foreign Military Sales Act.".

(d) Section 514 is repealed.

AMENDMENT OFFERED BY MR. BROOMFIELD

Mr. BROOMFIELD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Broomfield: Page 18, in line 3, strike out "$550,000,000" and insert in lieu thereof "$600,000,000".

(Mr. BROOMFIELD asked and was given permission to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Chairman, my amendment would raise the authorization for grant military assistance to $600 million, an increase of $50 million over the amount authorized by the Foreign Affairs Committee. It would reduce by 7½ percent the amount requested by the administration. But, if adopted, it will still give us a program which will maintain the momentum we have generated in the past few years in moving allied and friendly governments from total reliance on grant American military assistance toward defense self-sufficiency.

I do not believe it is prudent to cut this program by 15 percent. A deep cut of this nature would impede progress toward the creation of stable free world defense establishments which are the essential foundation upon which to build an era of negotiations.

The bulk of our grant military assistance in fiscal year 1974 is designed to assist countries in crucial areas of the world. Turkey, for example, is vital to the southern flank of NATO, is one of the two NATO countries which borders the Soviet Union, and is an important element for stability in the Middle East. If we are unable to fund grant military assistance to Turkey at approximately the levels requested by the executive branch, Turkish armed forces and particularly the ground forces will not be in a position to meet Turkey's NATO requirements. The same is true of Turkish air capabilities.

It makes no sense to desert a NATO ally in this fashion. It costs approximately $30,000 a year to keep an American man in uniform but only around $1,000 a year to keep a Turkish man in uniform. The Turks have done a superb job of maintaining in operational condition equipment that we would long ago have stricken as obsolete.

But there is a limit to how far they can go this way. The Turks are fully aware of this problem and have undertaken to spend increasingly more of their own resources for modernization. They have recently for the first time begun to utilize foreign military sales credits—the first step from grant aid toward a self-financed Military Establishment. Given the increased cost of new weapons, however, they will need our help.

Our assistance to Turkey is a good investment for us. It enables a loyal ally to make a substantial contribution to

NATO's common defense burden. The strength and success of NATO has been a key factor leading us to an era of détente and negotiations with the Soviet Union and its Warsaw Pact allies. If we do not maintain NATO's strength we cannot expect to achieve satisfactory results from these negotiations. We must not forget that Warsaw Pact countries, especially the Soviet Union, have shown no signs of cutting back on their defense expenditures even in what is hailed as an era of détente.

Our military assistance to the Republic of Korea is equally important. We are now entering the fourth year for a 5-year Korean modernization designed to move the Korean military toward self-sufficiency. As a result of prior-year cuts in military assistance levels this program has fallen behind schedule. And yet some progress has been made. Korean forces now man the line across the DMZ and their increased capability has enabled us to withdraw over 20,000 American troops from Korea. Korea has also begun the transition from grant military assistance to credit sales to meet her defense needs.

As a result of these programs, the Republic of Korea is in a position to negotiate from strength and has entered into discussions with her Communist neighbor. These talks show real promise of progress toward a period of improved relations on a Peninsula which has been an international flash point for 25 years. Let us not jeopardize this progress now.

Military assistance to Jordan at the levels requested by the Administration is also essential if that nation is to continue to play a constructive role in the Middle East. Our assistance enabled Jordan's Government to take forthright action against the Arab guerrillas. The situation in the Middle East would be far more turbulent today if the Jordanian Government had not been in this position. For all these reasons, I urge that this modest $50 million amendment be adopted.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Chairman, I should like to commend the gentleman for his amendment and associate myself with his remarks.

If the Nixon doctrine is to work, then we must provide for our friends and to those countries important to our security interests the necessary funds to maintain their own defense. Certainly Korea is a prime example, as the gentleman has mentioned, as are some of these other countries, and I hope that this amendment will be adopted.

Mr. BROOMFIELD. I thank the gentleman for his comments.

Mr. FRASER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, members of the committee, the gentleman from Michigan wants to increase grant military assistance by $50 million, and he uses as his justification his desire to see that a substantial amount be provided to South Korea. I think a case could be made for continued substantial grant aid to South Korea, but let me make the point that what we are talking about in this bill is a quarter of a billion dollars of grant aid to Korea. It is not loan money, not money to be repaid some day, but grant military aid to that country.

It is difficult to make an assessment of the military threat facing South Korea when one recognizes that the South Korean army is twice as large as the army in North Korea—twice as large. If we stay with the committee amount of $550 million, there will still be an additional $119 million available in transfers and other availabilities.

Therefore, we are talking about a program that will be about $670 million. If we stay with the committee amount, the reduction in the Korean program is very small, only about 10 percent. It will still leave Korea with somewhere in the neighborhood of $230 million of grant military aid.

I think that grant military aid is not one of the wiser efforts in our international affairs. I think the gentleman from Michigan is right, that we should move away from grant aid as we are able to do so. We accept the fact that Korea still needs substantial grant aid, but a reduction of 10 percent from the administration's initial request is not too much, particularly when it is recognized that the amount the committee provides is the same amount as was provided last year. In other words, the committee figure is roughly the amount available last year under the continuing authorization.

Therefore, I would strongly urge the Members to stay with the committee figure, which represents a cut in the military grant aid which is a very modest cut and brings it to last year's level. It is a program we do want to move out of as rapidly as we are able to.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Chairman, as I read the amendment offered by the gentleman from Michigan, it gives no assurance that any of the extra $50 million would go to Turkey, Korea, or Jordan. It would simply be added to the bill and might possibly go in its entirety to other countries. Am I correct?

Mr. FRASER. The gentleman is perfectly right. Some of the money may go to Cambodia, but for some reason Cambodia has got problems.

Mr. Chairman, I would urge support of the committee position and a vote again against this amendment.

Mr. BUCHANAN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I want to reiterate that this is a small price compared with the price we had to pay in the Korean conflict and the price we had to pay in the Vietnamese conflict, along with many thousands of precious lives which were lost.

The whole idea, as I understand the Nixon doctrine, is that we will substitute economic and military assistance to such nations as Korea for their own military, and in an effort to avoid such involvements as we had in Korea and Vietnam before.

I hope the committee would agree and adopt this amendment.

Mr. GERALD R. FORD. Mr. Chairman, will the gentleman from Alabama yield?

Mr. BUCHANAN. I am glad to yield to the distinguished minority leader (Mr. GERALD R. FORD).

Mr. GERALD R. FORD. Mr. Chairman, I subscribe to the comments made by the gentleman from Alabama (Mr. BUCHANAN) and support the gentleman from Michigan in his amendment.

I would like to point out that I am told the comparable figure in the other body's bill is substantially less.

With that circumstance, the net result in a conference will be not the House figure but a compromise, and a compromise only downward. So the consequence is that if we believe in helping a country such as Korea—and I happen to believe it should be even broader—then we ought to increase the House figure so that in conference we will end up with a higher figure. As we debate here we should bear in mind the end or final conclusion in the conference report.

We poured literally millions and millions, in fact billions, of dollars into a war in Korea, and we have peace there at present. They are holding the line virtually on their own, with continuous reductions in our own military commitment in South Korea. If we want that U.S. military manpower commitment to go down further, I believe we have to invest more in military hardware for them so that they can defend themselves.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. BUCHANAN. I yield to the distinguished gentleman from Louisiana.

Mr. PASSMAN. I am somewhat out of character when I start defending any part of a foreign aid bill.

I believe this observation should be made, however. When the Nixon doctrine was followed we reduced the troop level in Korea from 60,000 to 40,000. That reduction saved $1.1 billion. The total military modernization program cost only $1.5 billion over 5 years. So if we put it on another basis, the military assistance program for Korea only cost about $400 million over 5 years and some of that will be provided under the military credit sales program.

Mr. MAILLIARD. Mr. Chairman, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from California.

Mr. MAILLIARD. I should like to add, in support of what the gentleman from Michigan (Mr. GERALD R. FORD) said, that we are faced with the fact that the Senate bill has been passed and is here, and their figure is $420 million compared to the figure in the House bill of $550 million, which we thought was adequate but minimum. If this amendment is accepted then we will have some prayer of coming out with a figure that will continue the modernization of equipment for the Korean forces, and hopefully at some point in the future will allow us to remove the remaining 40,000 U.S. troops there.

Mr. BUCHANAN. Mr. Chairman, I urge the adoption of the amendment.

Mr. MORGAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have been very close to the military grant assistance program for the past 20 years. I know the story of South Korea and its military requirements as well as anybody in this House.

It is the farthest thing from my mind to weaken the military position of South Korea.

I have studied this authorization. I went over all the program books furnished to us by the executive branch.

I want to tell the Members that this $550 million we recommended in grant assistance is not just for planes and tanks. A lot of the money will go into packing and crating, and program operations. Some definite savings can be made in these programs. We are not just talking about military hardware here.

The committee went over this whole program. I can assure the Members that South Korea will not sustain a great cutback. If we use a 10 percent across-the-board figure, it would be a reduction of only $23 million out of $230 million. Surely some of the savings I have outlined can be made in the program.

If we want to play with numbers, as the minority leader said, because of the low figure in the Senate bill and the figure of $550 million in the House, we have the assurance of the chairman of the subcommittee of the Committee on Appropriations in this regard. I must say that the gentleman from Louisiana has been more than alert about military needs. His subcommittee has always come forward with every dime it felt was justified in the military authorization for foreign aid over the years. The gentleman from Louisiana has been very acute as to the actual military needs, giving every dime necessary.

I know this from my consultations with him on this.

Our committee did a careful study of this authorization, and I can give assurance to the House that we are not going to buy anything in the conference with the other body that is going to do one bit of harm to the military assistance program. I can assure the Members that, with the figure now in the House bill and the figure in the Senate bill, I believe we can come out with an amount sufficient to meet the needs which have been justified for these programs.

Mr. SIKES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not propose to take time on this amendment. I know that the House is ready to vote.

I do feel strongly that the amendment is justified. I believe it should be adopted, and I strongly support it.

Let me take my time to discuss an amendment which will be offered later by the distinguished gentleman from Alabama (Mr. BUCHANAN) to increase military credit sales to friendly countries.

Mr. Chairman, one of the important features of this bill is the relaxation of the prohibition on sale of weapons to friendly nations. There should also be relaxation of the limitations on foreign military sales credits. It is undeniably true that a majority of friendly countries which seek to purchase weapons want to buy them from the United States. They have confidence in our weapons and in their performance. They like to do business with Americans. Each time that we make sales to foreign countries, whether for cash or credit, we can anticipate follow-on orders for spare parts and replacements. We will find that American teams for training in operation and maintenance will accompany the weapons. These can serve as goodwill ambassadors to the foreign nation.

Nations which want weapons are going to buy them somewhere. I prefer to see American industry and American workmen benefit. I know we need a better balance of trade. The program strengthens Free World forces.

Mr. Chairman, the foreign military sales credit appropriation requested for fiscal year 1974 totals $525 million. With a $525 million appropriation, a $760 million program can be achieved. This is possible because of the guarantee authority of the act. The $52 million proposed by the administration to meet FMS credit multiyear commitments to Greece, Turkey, Malaysia, Korea, China, Brazil, and Israel. This $52 million is needed to pay U.S. contractors for items already procured by these countries.

If the Congress were to reduce the credit appropriation of $535 million to a lower amount, we would not be able to offer credit to some and perhaps many of our friendly allies such as Philippines, Lebanon, Morocco, Tunisia, Colombia, Mexico, and Venezuela. The security of these latter countries is important to the United States and they would be unable to acquire equipment essential to their defense and they might find themselves insufficiently prepared in the midst of hostile or potentially hostile neighbors. These countries want to acquire U.S. equipment, but in the absence of credit, they undoubtedly will turn to other sources whose interests and influence may be inimicable to the United States. In addition, most of these countries are recipients of past U.S. grant military assistance and for lack of credit there might be an inability to maintain and protect, often substantial, past investments.

Providing credit assists less developed countries to make the transition from grant aid to self-sufficiency. Any reduction in the FMS credit program means that American companies will lose orders; and for every $100 million in orders lost, there is a corresponding loss of 10,000 man years of work in the U.S. labor market. The lack of credit will result in the inability of countries, who cannot pay cash on the barrelhead to acquire defense materiel needed in their own defense to replace aged and worn out World War II vintage equipment. I repeat any reduction in the credit program means a corresponding loss of U.S. dollar receipts to help offset a serious balance-of-payments deficit. Any increase provides a corresponding benefit.

Therefore, Mr. Chairman, I shall support the gentleman from Alabama when he requests approval of an amendment to increase on military credit sales.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. BROOMFIELD).

The question was taken; and on a division (demanded by Mr. BROOMFIELD) there were—ayes 21, noes 49.

Mr. BROOMFIELD. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MS. ABZUG

Ms. ABZUG. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. ABZUG: Page 18, line 3, strike out "$550,000,000 for the fiscal year 1974" and insert in lieu thereof the following "$450,000,000 for the fiscal year 1974:"

Ms. ABZUG. Mr. Chairman, the purpose of this amendment is to strike out roughly $100 million, and is intended to eliminate military assistance for Cambodia.

In keeping with the history-making events of the past month, I believe that this section of the bill contains an anachronism which should be removed. We are asked to provide grant military assistance to Cambodia. Since the committee began its discussion of this bill, many things have happened.

The House and the Senate have voted to cut off all bombing as of August 15. Although the President, through his aides, has indicated that he may defy the expressed opinion of the Congress and the people, it is inconceivable that he would actually do so. If he did, the constitutional crisis of Cambodia would loom much larger than Watergate.

Mr. Chairman, a few days ago we learned that 3,600 raids were conducted in 1969 and 1970 without even the knowledge of the Air Force Secretary, who unknowingly transmitted false reports.

Even death is not honored: The death reports of some 81 Americans killed in Cambodia were falsified to make it appear that they had died in South Vietnam.

U.S. District Court Judge Oren Judd just ruled that the U.S. bombing in Cambodia is and has been unconstitutional. Many of us in both Houses have insisted for some time that that is the case. How can we then continue to dole out funds with one hand, funds which we have so decisively cut off with the other? How can we say that we deplore these acts which are in defiance of Constitution and that we vigorously object to being deceived and lied to and then continue authorizing more millions for military assistance?

I believe it is very essential that we not continue this deception and not commit the tax dollars of the American people and not pervert our own constitutional responsibility by continuing to grant any kind of military aid by giving these funds to Cambodia in this section of the bill.

This amendment is intended to make clear that this Congress acted to say that we have no legal, constitutional, moral, or other responsibility to continue military activity in Cambodia with the use of American funds. The American people have rejected it and the Congress has rejected it. To continue to do this via the Foreign Assistance Act or what is now called the Mutual Development and Cooperation Act is in direct opposition to everything this House has already done. The incorrectness of giving military assistance to Cambodia is I believe untenable in view of the fact that there is a civil war in Cambodia. To whom do we give this military assistance? If we give it to one side as against the other are we not participating illegally in an unauthorized war?

Mr. WOLFF. Will the gentlewoman yield?

Ms. ABZUG. I yield to the gentleman.

Mr. WOLFF. I think the gentlewoman makes the point that this amendment would specifically eliminate funds for Cambodia. I can support it if it would do that. But unfortunately this is a general cut. We do not know that it will cut funds for Cambodia. How do you specifically insure we will cut funds for Cambodia?

Ms. ABZUG. The intention and the purpose of this amendment is to cut this amount of money for military assistance to Cambodia.

Mr. MORGAN. Mr. Chairman, I rise in opposition to the amendment.

This amendment cuts $100 million out of the military grant assistance program. If you listened to my remarks when I spoke a few minutes ago about the justification for the $550 million in military assistance for the 8 countries that are involved, you will know that we have been over this program very thoroughly.

The gentlewoman did state in her remarks that she wants to cut out all of the money for Cambodia. Most of this money is for small arms and ammunition. If there is a successful cease-fire, of course, we will not spend the money. But as long as that government is operating, we are committed. Even the U.S. Senate in its program put in a separate item for Cambodia.

The majority leader said that the Senate's total for grant military assistance is $420 million. The Senate spelled out several items specifically for Cambodia.

I hope you will defeat the amendment offered by the gentlewoman from New York and live up to our commitment.

Mr. KEMP. Will the gentleman yield?

Mr. MORGAN. I yield to the gentleman from New York.

Mr. KEMP. I appreciate the gentleman yielding.

I would like to associate myself with his remarks.

I rise in opposition to the amendment offered by the gentlewoman from New York and suggest very briefly to my colleagues that I just returned from Phom Penh, and I can say that the effect of this amendment would not stop military activity in Cambodia, it would increase military activity, it would deny the Cambodian people the only means after August 15 by which they will have to defend themselves. It will absolutely in my opinion lead to a Communist takeover.

The only thing that is keeping Phnom Penh free today is the fact that there is American assistance in keeping the supply routes open in the Mekong River, and along Highway 4 into the city. But if we shut off assistance we will be telling them we are turning our backs on them after August 15. Without military and economic aid, it will choke off the city, and it will choke off the only hope that exists for nearly 2 million people in and around Phnom Penh to remain free.

I strongly urge my colleagues in a humanitarian sense not to turn our backs on this tragic part of the world in their desire to remain non-Communist.

Mr. MORGAN. Mr. Chairman, I thank the gentleman from New York (Mr. Kemp) for his firsthand information. I know that the gentleman has just returned from visiting Southeast Asia, and he can give the House the assurances that we are furnishing the Cambodians with some means to carry on their own fight. We do not have any Americans fighting for them, we are just giving them the military assistance which this bill provides.

Mr. KEMP. Mr. Chairman, if the gentleman will yield further, it is interesting that on August 15 by action of the House we are cutting off any attempt by the administration to continue combat activities in or over Cambodia, but by this act we are going even further, and saying that after August 15 that they will not have American military assistance in their desire to defend themselves this would indeed be tragic.

Eighty-five percent of the Cambodian population are of Buddhist persuasion. Admittedly, they are having a difficult time defending themselves, but this would absolutely shut off any opportunity that they have to defend themselves.

I think the amendment offered by the gentlewoman from New York (Ms. Abzug) should be overwhelmingly defeated by my colleagues.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Ms. Abzug).

The amendment was rejected.

Ms. ABZUG. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Ninety-two Members are present, not a quorum. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 394]

Arends
Ashley
Barrett
Blackburn
Boland
Camp
Clark
Clay
Cochran
Crane
Dickinson
Diggs
Eilberg
Evins, Tenn.
Fish
Fisher
Flowers
Fuqua
Gettys
Goldwater
Gunter
Hanna
Hansen, Wash.
Harsha
Hawkins
Hébert
Jarman
Kastenmeier
King
Landgrebe
Landrum
Lehman
Lott
Mathis, Ga.
Melcher
Michel
Milford
Mills, Ark.
Mosher
Murphy, N.Y.
Patman
Rees
Regula
Roe
Rosenthal
Slack
Stanton, James V.
Stephens
Teague, Tex.
Thompson, N.J.
Veysey
Winn

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Price of Illinois, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 9360, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 381 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

Mr. HAYS. Mr. Chairman, I move to strike the last word.

(By unanimous consent, Mr. Hays was allowed to speak out of order.)

ANNOUNCEMENT REGARDING BUFFET IN DINING ROOM TONIGHT

Mr. HAYS. Mr. Chairman, I take this time, which will amount to about 30 seconds, to announce to the Members that since it appears we are going to be here late, there will be a buffet in the dining room tonight at the regular price, $4, and all you can eat.

AMENDMENT OFFERED BY MS. ABZUG

Ms. ABZUG. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. Abzug: Page 18, line 3, following the figure 1974, insert the following: "*Provided*, That none of the funds appropriated pursuant to this subsection shall be used to furnish assistance to Cambodia."

Ms. ABZUG. Mr. Chairman, the provision of this section to which I propose this amendment concerns appropriations for military assistance for Cambodia.

As I said before, I believe that it is inconsistent for us to give military assistance to Cambodia, when we have acted in this House to cut off funds from our Government's illegal and unconstitutional activity in that country. At a time when it has become clear that the entire military operation in Cambodia on the part of this Government has been conducted without the knowledge of the Congress, through falsified reports, through concealment of even the loss of lives of 81 Americans, it would be wrong to provide military assistance to that country. The recent court decision which holds that our military activity in Cambodia is unconstitutional should give us pause. Do we want to perpetuate this by becoming involved in authorizing military aid to one side as against another in a civil war in that country?

I believe that we cannot continue to dole out with one hand the funds that we have decisively cut off with the other. I believe that to be consistent, to protect the interests of our Constitution, the taxpayers' money, and the overwhelming expression of the American people who have said they do not want us to participate in Cambodia, it is necessary for us to amend this subsection, and I urge the Members of this body to support it.

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentlewoman yield?

Ms. ABZUG. Yes, I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Chairman, I thank the gentlewoman for yielding. I rise in support of this amendment.

One of the most stirring moments that I have had in this House was when the gentleman from Georgia (Mr. Flynt) spoke about the insanity of our involvement in South Vietnam. He pricked the conscience and the heart of every Member of this House, and now the gentlewoman's amendment should cause each Member of this House to raise these questions:

How many more killings unnecessarily?

How many more maimings unnecessarily?

How much more straining of the credibility of this system of Government unnecessarily, because of our involvement in Cambodia?

Mr. Chairman, I, too, urge and plead with the Members to support this amendment.

Mr. HAYS. Mr. Chairman, I rise in opposition to the amendment as I understand it.

Mr. Chairman, I ask unanimous consent that the amendment be reread.

The **CHAIRMAN.** Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the amendment.

Mr. HAYS. As I read the amendment, this just takes out all assistance, supporting assistance, Public Law 480, and the whole ball of wax. Now, I do not know who the gentlewoman wants to win in Cambodia. I do not want to get into that. However, whoever it is, if this amendment passes, they are out of the ball game. I think this is one of the dangers of trying to legislate hastily with a handwritten amendment. I do not know whether the gentlewoman wants to go that far or not.

Ms. ABZUG. Will the gentleman yield?

Mr. HAYS. I will be glad to yield.

Ms. ABZUG. As I read this section of the act, we are dealing with military grants. We are talking about military grant assistance. My amendment says assistance pursuant to this subsection, and this is the subsection which deals with the question of military grant assistance. It does not deal with any other kind of assistance. Pursuant to this subsection, I believe it would be inappropriate for us to continue to give military assistance to Cambodia. It is in contradiction to the actions by this House and entirely in contradiction to what I think our objectives are in Cambodia.

Mr. HAYS. I yield to the gentlewoman to try to clarify it, but let me say that there is $75 million in supporting assistance which will be used primarily for humanitarian aid to refugees and for reconstruction and things like that and a multilateral support fund which is supporting assistance to help the Cambodian economy survive.

I am not a great supporter of this bill. In fact, there is so much in it that I cannot stomach that I am probably going to vote—in fact, not probably but undoubtedly—against the whole ball of wax.

But if it does happen to pass and you do want to do any of the things this bill stands for, such as humanitarian aid and reconstruction and refugee aid, then you ought not to strike this section out. That is the whole sum and substance of what my argument is.

Ms. ABZUG. Will the gentleman yield?

Mr. HAYS. I have yielded the gentlewoman most of my time.

Ms. ABZUG. The other items you refer to are in other subsections of this bill. This amendment confines itself specifically to the military assistance subsection of this program, and the amendment so states.

Mr. HAYS. I refuse to yield further.

What you should have said, if you want to strike out military aid, is you should have written your amendment so that it was definitive and would have said "shall not be used to support military assistance to Cambodia." However, you did not. You said none of this money to be appropriated by this section shall be used to furnish assistance to Cambodia, and I think the amendment ought to be defeated.

Ms. ABZUG. It says under this subsection.

Mr. PEYSER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I find it difficult to understand just what the gentlewoman from New York (Ms. ABZUG) really wants to do in her amendment other than to take whatever possible chance for survival that Cambodia might possibly have.

She speaks of action that the House took recently, we took an action that terminated all bombing by American planes in Cambodia as of August 15. I supported that. However, I do not see any reason why we should lay this country open to the obvious threat of Communist forces and to the obvious invasion by North Vietnam and simply say to them that we have stopped the bombing and we are pulling out all support. The effect would simply be to turn Cambodia over to the Communists. I do not think that is the intent of the Congress or the American people.

Mr. Chairman, many of us present listened yesterday to the former Secretary of State and the Secretary of State. We learned of the importance of the situation in Cambodia. There was no attempt on the part of the Secretary and in fact he very distinctly said he would not make any recommendation for the continuation of bombing in Cambodia after August 15.

To me it would be criminal to lay that country open to the outright violations of the so-called peace agreement in Paris, and to let the North Vietnamese have this country, in effect, on a silver platter.

I hope the amendment will be strongly defeated.

Mr. GIAIMO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am not going to suggest to anyone in the Chamber whether they should vote for or against the proposition offered by the gentlewoman from New York. I think each Member can make up his own mind on whether or not we should continue to give military assistance to Cambodia, or to any other nation.

But I do want to stress one point. I believe that the Congress, come August 15, will have regained much of its constitutional prerogatives and powers which it has heretofore lost or given away, as a result of the recent courageous action by the Congress in compelling the cessation of U.S. combat activities in Cambodia.

I want to make it clear that the pending amendment is not a related matter or a similar matter, but that it is something absolutely different. It should not be interpreted by the American people or the press or radio and TV that whatever action we take here today on this amendment will have anything to do with the very firm decision of the Congress, taken last month, that we cease U.S. combat activities in Cambodia.

This amendment, as I understand it, addresses itself to a totally different principle, and that is, should the United States assist other countries, including Cambodia, by furnishing them military equipment. The Members can make up their own minds on that.

I absolutely am certain that there are other countries, Communist countries, which will continue to furnish military supplies to other factions in Cambodia. Whether the United States should continue to furnish supplies to the factions it supports in Cambodia is a proposition which the Members can determine and judge. But it should not be related in any way, and the results of the vote on this amendment should not be related or connected in any way with the very firm position which the Congress took several weeks ago in demanding that the U.S. combat activities cease in Cambodia.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. GIAIMO. I yield to the gentleman from Ohio.

Mr. HAYS. Mr. Chairman, the gentleman from Connecticut is exactly right. He has made it explicitly clear that there is no connection between the two. The fact that the August 15 date, which we accepted in conference in another bill, and it is in several bills, has been set, is a firm date that the United States shall cease military activities on its own.

The gentleman from Connecticut also made perfectly clear that the Communists will most surely continue to help their factions who are Communist in Cambodia in trying to take over there. And the House has a clear choice as to whether we should support this amendment and say yes, the Communists can take it over, or whether they should not. That is just about how it comes out.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. GIAIMO. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I would like to find out if what the gentleman is saying is correct; does that mean if this amendment fails that an amendment might be more appropriate such as that suggested by the gentleman from Ohio (Mr. HAYS) that we strike the entire section?

Mr. GIAIMO. The gentleman from Michigan will have to make his own interpretation on that. I think what I have said is quite clear, that I do not want anyone to leave this Chamber today, and I do not want the American people to infer from any action that we take on this amendment that we are in any way changing our congressional position on the very firm position we took several weeks ago that we must stop combat activity in Cambodia by August 15.

Mr. CONYERS. I thank the gentleman.

Mr. MORGAN. Mr. Chairman, if the gentleman will yield, I want to say that if we strike the entire section we strike military assistance all over the world. There are $550 million in this section. If we strike the entire section then we strike it out for all the other AID countries.

Ms. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. GIAIMO. I yield to the gentlewoman from New York.

Ms. ABZUG. Mr. Chairman, I think that the gentleman from Connecticut misstates the argument. What I am suggesting is that our military assistance and our military activity in Cambodia has been very succinctly rejected in this House and in the other body. The other activities that have been carried out by our Government without the knowledge of this Congress have made it clear that we should not be involved militarily in Cambodia. We may express our opposition to involvement in Cambodia in many ways. One of the ways is that we moved to terminate funds for military action by August 15. I am suggesting that another way to make that policy clear is not to grant military assistance in that country, in view of the entire picture, which I do not want to take the time of this body to go into. It does not mean that we are negating any previous action. I believe this would be consistent with our previous action, and not to support this amendment would be indecent.

MOTION OFFERED BY MR. MORGAN

Mr. MORGAN. Mr. Chairman, I rise to move for a time limitation on this amendment. I do not think it is that important.

Mr. Chairman, I move that all debate on this amendment and any amendments thereto close in 10 minutes.

The CHAIRMAN. The question is on the motion offered by the gentleman from Pennsylvania.

The motion was agreed to.

The CHAIRMAN. Members standing at the time of the limitation on debate will be recognized for approximately 3⅓ minutes each.

The Chair recognizes the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Chairman, when I listened to the argument for the amendment introduced by the gentlewoman from New York, I was persuaded that it was a valid amendment. Then when I listened to the arguments against the amendment by the gentleman from Ohio, I thought there was some logic in the point that he was making. He suggested, among other things, what I thought was a capital idea: that we strike the entire section.

Now, my friend, from Connecticut, a distinguished member of this committee, now explains to me that that would be more disastrous. What I am trying to find out is, can we establish the facts surrounding the consideration of this amendment so I will know how to vote on it? Are we in point of fact merely limiting as the gentlewoman intended through her amendment, or are we doing something more disastrous that will be misconstrued by the media and the American public and maybe even the Congress? Can someone help me before we run out of the 10 minutes that remain for debate on this amendment?

Mr. MORGAN. In my opinion, the gentlewoman's amendment is limited solely to military grant assistance.

Mr. CONYERS. What about the amendment of the gentleman from Ohio to strike the entire section, which appeals to me even more than the amendment of the gentlewoman from New York, to be perfectly honest with you.

I will yield further to the chairman for an answer.

Mr. MORGAN. The amendment would cover military aid to Cambodia. The gentlewoman's amendment reads: shall not be used to furnish assistance to Cambodia. Of course, the gentleman from Ohio's proposal, I assume, would stop all assistance. All assistance would be $75 million for supporting assistance, and $180 million for military grant assistance, plus some support from Public Law 80.

Mr. CONYERS. If the gentlewoman's amendment does not succeed—and I hope it does—I will be waiting anxiously to support the gentleman from Ohio's amendment, if he chooses to implement his suggestion.

I yield back the balance of my time.

Mr. KEMP. Mr. Chairman, I rise very briefly in opposition to the amendment offered by the gentlewoman from New York and I should like to correct what I think was a mistake in her argument. She said that this Congress has overwhelmingly rejected the idea of military assistance to nations attempting to defend themselves. I would suggest that the concept of military assistance has not been rejected by the Congress. In fact, I would suggest, that it is a major part of the essence of President Nixon's Guam doctrine, and has been supported by this Congress. I believe it is the only viable alternative to isolationism, especially as it relates to this issue, the defense needs of millions of people in Cambodia and other parts of Indochina attempting to defend themselves against Communist aggression with the help of American military assistance.

The issue here is not American bombing or American involvement. It is whether or not we intend to turn our backs on these Hanoi threatened people and say, "After August 15 we are not going to give you any assistance, military or otherwise, to help yourselves in the defense of your country."

I think that would be a tragic mistake. Having just returned from Cambodia I would suggest that the Congress ought to stop whipping American foreign policy in Southeast Asia. I can say, first hand, that there would be no semblance of freedom or neutrality or independence or chances for a non-Communist takeover in Southeast Asia if it were not for American assistance.

Frankly, after this, my third trip to Southeast Asia, I've observed much progress, sure there have been mistakes and tragedies in that area over the last 10 years.

There are many good things this country has accomplished in that part of the world. I think the fact that Laos today is still free and has a cease-fire, South Vietnam has a cease-fire and is non-Communist, and I still hope that Cambodia can be kept free. I would suggest that to turn our backs on this beleaguered part of the world at this time would be a tragedy beyond comprehension with implications that go far beyond just the borders of Cambodia.

Someone said earlier that it is an insane policy. What is insane about helping people defend themselves? I would suggest the insanity would be if we should turn our backs on Cambodia by cutting off all hopes of these people to defend themselves. Mr. Chairman, I urge my colleagues to overwhelmingly defeat this amendment.

Mr. FRELINGHUYSEN. Mr. Chairman, will the gentleman yield?

Mr. KEMP. I yield to the gentleman from New Jersey (Mr. FRELINGHUYSEN).

Mr. FRELINGHUYSEN. Mr. Chairman, I want to congratulate the gentleman on his statement. I hope the amendment will be overwhelmingly defeated.

Virtually everyone in Congress and in the country wants to see peace in Southeast Asia. Quite obviously, Cambodia is the weakest link if there is to be peace, so commonsense dictates, if for no other reason, that we do have an opportunity to provide military assistance to that beleaguered country.

Mr. Chairman, I congratulate the gentleman from New York on his statement.

Mr. KEMP. Mr. Chairman, I appreciate the gentleman's remarks.

I would only make the further mention of the fact that there are 40,000 North Vietnamese troops in Cambodia, 10,000 of which are in direct support of the Communist insurgents. This insurgency in Cambodia is exported and supported by Hanoi. There are 40,000 North Vietnamese troops in Cambodia in total violation of article 20 of Paris Peace Agreement. Cambodia needs our support in their defense efforts not just for Cambodia alone but for what it means to all Indochina and the Nixon doctrine around the world.

Mr. MORGAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is a fallback position for the gentlewoman from New York. For those Members who were not here before the quorum call, she offered an amendment to cut $100 million out of this program. Now, her fallback position is that she does not want to give a single dime to Cambodia.

We are not going to have any troops over there in Cambodia. We are not going to be involved in bombing after August 15. I voted for the deadline of August 15 to stop the bombing. But we cannot possibly say to the Cambodian people in this bill, "We are not going to furnish you one single bullet to defend yourselves."

It would be the most cruel shock, and

I agree with both the gentlemen from New York who stood in the well and with Mr. KEMP, of New York, that it would be an impossible position for both the Cambodians and our Nation.

We are not going to be sending soldiers in to shoot or man these guns. If we are going to cut off Cambodia, why not cut off aid to other countries where we have military assistance programs such as Jordan, the Philippines, Vietnam, or South Korea?

Ms. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. MORGAN. I yield to the gentlewoman from New York (Ms. ABZUG).

Ms. ABZUG. Mr. Chairman, in recent days there is evidence that there are Americans in Cambodia in violation of the actions of this Congress and the Constitution. The Members who have spoken suggest that our policy of rejecting our military participation in Cambodia should be considered only in connection with a military appropriations bill or in connection with other bills of this House, but not this bill for military assistance. The fact is that if we are not consistent in our actions, what we are doing is not helping the Cambodian people nor carrying out our own expressed policies. I believe we ought to help the Cambodians, peacefully, not with military assistance.

Mr. MORGAN. Mr. Chairman, I did not yield to the gentlewoman from New York for a speech.

I just want to say that I happen to know that the only Americans in Cambodia are those who have been authorized by this House and by this Congress to help in the grant military assistance program, and that is all. There are no combat troops in Cambodia. We heard the Secretary of State just yesterday on that subject. Let us not let these people down by stopping their grant military assistance.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. MORGAN. I yield to the gentleman from New York.

Mr. KEMP. I certainly agree with the gentleman's remarks. By law, that is the Foreign Assistance Act of 1971, as amended by the Cooper-Church amendment, there is no authority for any U.S. ground troops or advisers to be involved in Cambodia. There are only 200 advisers and to suggest that there are American troops in Cambodia is a complete misrepresentation of the facts.

Mr. MORGAN. The gentleman is absolutely right. It has been wrapped up tight. There cannot be American troops over there. Let us not deny these people what they need to defend themselves.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Ms. ABZUG).

The question was taken; and on a division (demanded by Ms. ABZUG) there were—ayes 26, noes 105.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. ROUSH

Mr. ROUSH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. ROUSH: On page 18, strike out line 18.

Mr. ROUSH. Mr. Chairman, I would call the attention of the Members to the committee report, page 41, which gives an explanation of the committee action with reference to this particular amendment. What the bill does is to repeal section 514 of the Foreign Assistance Act of 1971. Section 514 of that act requires recipients of grant military assistance, including excess defense articles, to deposit in local currency an amount equal to 10 percent of the value of such assistance for use by the United States to pay its official local currency costs in that country.

This has been in existence only since we passed the Foreign Assistance Act of 1971. I see nothing wrong with that provision of the law. It should remain in the law.

I sit on the Foreign Operations Subcommittee of the Committee on Appropriations. I heard testimony with regard to the insistence that this particular section of the law be repealed, and I could not have been convinced by the testimony I heard.

Members will note in the report the example which is given refers to Korea, and that Korea is required to set aside $20 million out of its total defense budget of $360 million. But if they are required to set aside $20 million I would assume that means they are receiving $200 million in military grant assistance or in excess U.S. property. It does not seem too much to me to require that the law be complied with.

This was not mentioned in the testimony before my own committee. We were told that this was an affront to certain of these countries, that it was demeaning to them for us to require that they set aside 10 percent, for example, of the cost of sending an officer to the United States for training. It seems to me they should be willing to make such a contribution.

I hope the committee will agree with me, and adopt my amendment.

Mr. Chairman, it is both frightening and depressing to know that the June 30 estimates of the Bureau of Narcotics and Dangerous Drugs figure heroin users now at 626,000 with an estimated cost of $18 million daily to support their addiction. Obviously this must and does lead to crime to support their habit. A special task force report this year submitted to the criminal law section of the American Bar Association and the Drug Abuse Council further concluded.

> The United States has the greatest concentration of heroin addicts in the world and represents the world's most lucrative market for all kinds of opiates.

Two years ago, the Foreign Affairs Committee, responsive as always to congressional concern, provided authority for the President to make the decision to cut off foreign assistance when recipient countries were found remiss in efforts to prevent the unlawful disposal of drugs produced in their country from reaching the United States. Under that amendment the President can cut off foreign aid when he determines that a country has failed to take adequate steps to prevent narcotic drugs and other controlled substances—as defined by the Comprehensive Drug Abuse Prevention and Control Act of 1970—produced or processed, in whole or in part, in such country, or transported through such country, from being sold illegally within the jurisdiction of such country to U.S. Government personnel or their dependents, or from entering the United States unlawfully.

Despite the intensity of our drug problem the President has never used this provision, which I believe is an important weapon in the fight to control drug abuse in the United States.

Perhaps some of you saw the newspaper article of a few weeks ago about the Afghan farmers who are harvesting a bumper crop of opium poppies on land newly developed, irrigated, with U.S. foreign aid. No, the money was not intended for that purpose, but that is where it went. The same article mentioned the lack of enthusiasm on the part of the Afghan Government in curbing the growth of opium poppy or in pushing farmers, traffickers, and smugglers to cease this activity. Supposedly, a "threat" of the removal of foreign aid was transmitted. I do not think that a threat is enough and I think it is time we take decisive action. There are those in this country urging strong penalties for drug traffickers in the United States. I do not see how we can consider such action if we do not deal firmly with those countries which produce the basic ingredient, opium poppies, and then allow trafficking internationally.

The committee bill does offer a large dose of persuasion in the form of financial assistance to countries to help them combat the drug problem; we will help them isolate the disease and eliminate the crop that causes it in the amount of $50 million for international narcotics control in each of the fiscal years 1974 and 1975.

But I do not believe that this is enough, it has not proven to be so far, and I believe that those Members of Congress whose constituents are daily victims of drug traffic will recognize the need for and support this amendment. What we have is a national problem, even though some areas of the country may escape the epidemic quality that drug abuse reaches in our large cities.

It seems to me that it is time for straight talking and straight thinking. We have offered these countries a large carrot in assistance and I believe we must back that up with an equally obvious stick. I would hope the President would act more forcefully.

For example, two-thirds of the "Golden Triangle," namely, Thailand and Laos both do receive foreign assistance and the Golden Triangle is a major source of opium.

I would ask why we should condone with foreign assistance funds the inability of countries to police illicit drug production, when the results of that failure are felt so severely here in the United States? Do we not encourage such apathy and inefficiency, not to say as we should also, corruption, by our accepting attitude?

Two years ago a gentleman from the U.S. Bureau of Narcotics and Dangerous Drugs, Department of Justice, made a statement I have not forgotten. He told the chairman of that subcommittee on Europe of the House Foreign Affairs Committee that—

> The United States is a victim Nation in the heroin traffic. With all the determination and resources of the Government, with all the support of the American people and our State and local police and courts, the problem can never be solved on a completely domestic basis.

And he was so right; we are still a victim nation and only decisive action will change that fact.

A staff survey team of the Committee on Foreign Affairs in January of this year issued a report dealing with United States and Southeast Asian countries efforts against the international drug trafficking. They recommended that the United States continue to "apply diplomatic and economic pressures at the highest levels of government in Southeast Asia to insure that there is no weakening of narcotics suppression efforts which have been started." They also recommended that where conclusive evidence showed high ranking of influential figures involved in narcotics, the U.S. Government should strongly urge those governments to prosecute such individuals more vigorously than has been the case in the past. And then they concluded:

> If these efforts are unsuccessful, the United States should terminate all economic and military assistance to that country.

That is exactly the stand I take today. If these countries do not stem the production and transportation of narcotic drugs, then foreign economic and military aid should be removed. Somehow we must quarantine the American people from further infection with a drug culture which destroys and wastes lives, ravages families, produces crime and corruption, and weakens our society.

Mr. MORGAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment was put in the other body first by Senator Fulbright, who wanted the deposit as high as 25 percent. Of course, it is a method of seeking to kill grant military assistance.

If we are going to help these countries, there is no use penalizing them by requiring that they deposit 25 percent, or 15 percent, or 10 percent, in local currency, because it makes it difficult for them to afford to take grant military assistance.

What do we want to use these special local currency funds for?

One Senator in the other body thought that they should be used for cultural purposes, and so forth.

Mr. Chairman, I just cannot see how military assistance can succeed in this fashion. I specifically want to state for the benefit of the gentleman from Indiana that South Korea is a country to which we can point here. There is $263 million of grant military assistance here for Korea. A 10-percent deposit would amount to $26.3 million in their own local currency which must be paid out of their defense budget.

I just cannot see that we can agree to require such a deposit and live up to our agreement under the program set up for South Korea.

I have no reason to support such an amendment here in the House. As I said, it originated over in the other body 2 years ago. It has never worked. It has been ineffective. And as I said, for those who wish to squeeze out grant military assistance entirely, this is a step in that direction.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. Roush).

The amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SECURITY SUPPORTING ASSISTANCE

Sec. 15. Section 532 of chapter 4 of part II of the Foreign Assistance Act of 1961, relating to authorization, is amended by striking out "for the fiscal year 1972 not to exceed $618,000,000, of which not less than $50,000,000 shall be available solely for Israel" and inserting in lieu thereof "for the fiscal year 1974 not to exceed $125,000,000 of which not less than $50,000,000 shall be available solely for Israel".

INTERNATIONAL MILITARY EDUCATION AND TRAINING

Sec. 16. (a) Part II of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new chapter:

"Chapter 5—International Military Education and Training

"Sec. 541. Statement of Purpose.—The purpose of this chapter is to establish an international military education and training program which will—

"(1) improve the ability of friendly foreign countries, through effective military education and training programs relating particularly to United States military methods, procedures, and techniques, to utilize their own resources and equipment and systems of United States origin with maximum effectiveness for the maintenance of their defensive strength and internal security, thereby contributing to enhanced professional military capability and to greater self-reliance by the armed forces of such countries;

"(2) encourage effective and mutually beneficial relationships and enhance understanding between the United States and friendly foreign countries in order to maintain and foster the environment of international peace and security essential to social, economic, and political progress; and

"(3) promote increased understanding by friendly foreign countries of the policies and objectives of the United States in pursuit of the goals of world peace and security.

"Sec. 542. General Authority.—The President is authorized in furtherance of the purposes of this chapter, to provide military education and training by grant, contract, or otherwise, including—

"(1) attendance by military and related civilian personnel of friendly foreign countries at military educational and training facilities in the United States (other than the Service Academies) and abroad;

"(2) attendance by military and related civilian personnel of friendly foreign countries in special courses of instruction at schools and institutions of learning or research in the United States and abroad;

"(3) observation and orientation visits by foreign military and related civilian personnel to military facilities and related activities in the United States and abroad; and

"(4) activities that will otherwise assist and encourage the development and improvement of the military education and training of members of the armed forces and related civilian personnel of friendly foreign countries so as to further the purposes of this chapter, including but not limited to the assignment of noncombatant military training instructors, and the furnishing of training aids, technical, educational and informational publications and media of all kinds.

"Sec. 543. Authorization.—To carry out the purposes of this chapter, there are authorized to be appropriated to the President $30,000,000 for the fiscal year 1974. Amounts appropriated under this section are authorized to remain available until expended.

"Sec. 544. Annual Reports.—The President shall submit no later than December 31 each year a report to the Congress of activities carried on and obligations incurred during the immediately preceding fiscal year in furtherance of the purposes of this chapter. Each such report shall contain a full description of the program and the funds obligated with respect to each country concerning which activities have been carried on in furtherance of the purposes of this chapter.".

(b) The Foreign Assistance Act of 1961 is amended as follows:

(1) Section 503(d), relating to general authority, is amended by striking out the comma and the words "including those relating to training or advice".

(2) Section 504(a), relating to authorization, is amended by striking out "(other than training in the United States)".

(3) Section 510, relating to restrictions on training foreign military students, is repealed.

(4) Section 622, relating to coordination with foreign policy, is amended as follows:

(A) In subsection (b) immediately after the phrase "(including civic action)" insert the words "and military education and training".

(B) Subsection (c) is amended to read as follows:

"(c) Under the direction of the President, the Secretary of State shall be responsible for the continuous supervision and general direction of economic assistance, military assistance and military education and training programs, including but not limited to determining whether there shall be a military assistance (including civic action) or a military education and training program for a country and the value thereof, to the end that such programs are effectively integrated both at home and abroad and the foreign policy of the United States is best served thereby.".

(5) Section 623, relating to the Secretary of Defense, is amended as follows:

(A) In subsection (a)(4), immediately after the word "military", insert the words "and related civilian".

(B) In subsection (a)(6), immediately after the word "assistance", insert a comma and the words "education and training".

(6) Section 632, relating to allocation and reimbursement among agencies, is amended by inserting in subsections (a), (b), and (e) immediately after the word "articles", wherever it appears, a comma and the words "military education and training".

(7) Section 636, relating to provisions on uses of funds, is amended as follows:

(A) In subsection (g)(1), immediately after the word "articles", insert a comma and the words "military education and training,".

(B) In subsection (g)(2), strike out the word "personnel" and insert in lieu thereof the words "and related civilian personnel".

(8) Section 644, relating to definitions, is amended as follows:

(A) Subsection (f) is amended to read as follows:

"(f) 'Defensive service' includes any service, test, inspection, repair, publication, or technical or other assistance or defense information used for the purposes of furnishing military assistance, but shall not include military educational and training activities under chapter 5 of part II.".

(B) There is added at the end thereof the following new subsection:

"(n) 'Military education and training' includes formal or informal instruction of foreign students in the United States or overseas by officers or employees of the United States, contract technicians, contractors (including instruction at civilian institutions), or by correspondence courses, technical, educational, or information publications and media of all kinds, training aids, orientation, and military advice to foreign military units and forces.".

(c) Except as may be expressly provided to the contrary in this Act, all determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued, undertaken or entered into under authority of any provision of law amended or repealed by this section shall continue in full force and effect until modified by appropriate authority.

(d) Funds made available pursuant to other provisions of law for foreign military educational and training activities shall remain available for obligation and expenditure for their original purposes in accordance with the provisions of law originally applicable thereto, or in accordance with the provisions of law currently applicable to those purposes.

Mr. MORGAN (during the reading). Mr. Chairman, I ask unanimous consent that section 16, extending from line 4 on page 19 through line 25 on page 24, be considered as read and printed in the RECORD.

Mr. Chairman, I know of no amendments to this section.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

PROHIBITIONS

SEC. 17. (a) Section 620(e) of chapter 1 of part III of the Foreign Assistance Act of 1961, relating to expropriation, is amended by striking out paragraph (1), by striking out "(2)" at the beginning of paragraph (2), and by striking out "subsection: *Provided*, That this subparagraph" and inserting in lieu thereof "section (as in effect before the date of the enactment of the Mutual Development and Cooperation Act of 1973): *Provided*, That this subsection".

(b) Section 620(n) of such chapter, relating to equipment materials or commodities furnished to North Vietnam, is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "unless the President finds and reports, within thirty days of such finding, to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House that such assistance is in the national interest of the United States.".

(c) Section 620(o) of such chapter, relating to seizure of fishing vessels, is repealed.

AMENDMENT OFFERED BY MR. ANDERSON OF CALIFORNIA

Mr. ANDERSON of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ANDERSON of California: Page 25, strike out lines 19 and 20.

Mr. ANDERSON of California. Mr. Chairman, this amendment would strike that section of the committee bill which nullifies a part of the current law expressing Congress' objection to foreign aid to countries which violate international law by seizing our fishing vessels that are in international waters.

First, let me read the provision which the committee bill deletes. If you want to find it, it is on page 45 of the report of the bill. The current law says:

In determining whether or not to furnish assistance under this Act, consideration shall be given to excluding from such assistance any country which hereafter seizes, or imposes any penalty or sanction against any United States fishing vessel on account of its fishing activities in international waters.

Very simply, the present law urges the administration to deny aid to those countries which violate international law by seizing our fishing vessels. It does not require them to withhold aid.

If anything, this language is too weak, because it has not stopped the Department of State from doling out foreign aid to pirate nations which arbitrarily extend their jurisdiction out into international waters.

In fiscal year 1971 Ecuador collected $5.6 million in U.S. foreign aid while collecting $2.5 million in ransom from the 51 ships she seized. Peru collected $32.7 million in foreign aid in fiscal year 1972, but they also received $742,620 from the 23 ships they seized.

But, rather than strike out the law which expresses our disapproval and, thus, invite the State Department to grant even more aid—rather than delete the law and encourage other nations to join the international pirates, it seems to me we should direct the State Department to withhold aid.

However, we are all aware that the Law of the Sea Conference is underway, seeking answers to the question of sovereignty off coastal shores. Perhaps, before we have tough mandatory sanctions against piracy, and before we eliminate the current, permissive law, let us see what the conference comes up with. But, let us at least keep the current law in effect which urges the President to withhold aid to pirate nations.

Let us keep the seas open, and let us discourage arbitrary actions by other nations in violation of international law.

I ask for an "aye" vote on this amendment, at least expressing our disapproval of giving aid to nations who violate international law.

Mr. STUDDS. Will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from Massachusetts.

Mr. STUDDS. I thank the gentleman for yielding. I want to associate myself with his remarks.

Those of us who serve on the Committee on Merchant Marine and Fisheries and who have been trying to make a case for this Nation standing firmly in defense of its own fisheries have, as the gentleman knows, become increasingly opposed to this. It would appear to us to be the tendency of our Department of State to bend over backward to accommodate the claims of other countries in the protection of their resources.

The Brazilian shrimp agreement to which the committee report refers is now before our committee.

As the gentleman in the well knows, the Government of Brazil has exercised claims to rights 200 miles out to sea for their fisheries and have actually asked to be reimbursed for costs incurred by the Brazilian Navy in seizing our fishing vessels.

I have no objection to supporting the shrimp fishermen on the Gulf Coast of this country, but I will be darned if I will accede to the claims on the part of Brazil before we are prepared to have similar claims exercised on behalf of our own fishermen, particularly those of New England.

Mr. ANDERSON of California. I thank the gentleman from Massachusetts for his comments.

Actually, what this portion of the committee report says is, with regard to the Law of the Sea Agreement is, that the committee believes fishery disputes can and should be resolved through interim arrangements, and it suggested that the agreement with Brazil on shrimp is a good one. When we read it for the first time, it shocked me when I found that our country had entered into such an agreement. First, this agreement sanctions and recognizes the Brazilian claim that she has jurisdiction 200 miles from her shores. It thus establishes a precedent by which other nations could claim 200 miles and expect U.S. recognition and obedience to their laws.

Secondly, this agreement subjects our fishing vessels to Brazilian regulations while in international waters. As a result, a Brazilian national could board a U.S. vessel, examine the log, inspect the ship, and enforce Brazilian regulations.

Third, and perhaps most shocking, we are asked to pay the Brazilians $200,000 a year so that they can enforce their own rules.

We pay $200,000 a year to have the Brazilian Government enforce the treaty, and for every day that they take one of our ships into a Brazilian port we pay $100 in additional fines.

When that was brought before us I said that this may be what the shrimp people would like, but I am not sure that any tuna fishermen are going to like the thought of it.

Mr. MAILLIARD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, when the committee added this paragraph I considered it very unwise to do what the committee did, but I did not have the votes to support that position. And while I do not necessarily concur in all of the arguments that are being made, it does seem to me that with the Law of the Sea Conference imminent, that this is not exactly the time for the Congress of the United States to take an action which might lead people to believe we are not concerned about the seizure of our vessels, which has been going on for a long time.

I do agree with the committee that this provision of law has not amounted to a heck of a lot. Nevertheless, I think we would be sending up the wrong signals while we are in negotiations, if we repeal the section at this point.

Mr. BELL. Mr. Chairman, will the gentleman yield?

Mr. MAILLIARD. I yield to the gentleman from California.

Mr. BELL. Mr. Chairman, does not the gentleman believe that an attitude of turning the other check and letting this happen to us, is to invite other actions on the part of other small nations? I am sure the gentleman realizes that in the early history of our country we took on the Barbary pirates for something we felt we could stand up against. And I think now that we are the largest nation on Earth that if we just simply allow every little small nation to take advantage of us then I think that we are inviting further trouble. I certainly do not think we should go too far, but we should stand firm and let them know very distinctly where we will not be robbed of the fishing rights of our citizens.

Mr. MAILLIARD. I think that is right. I am afraid that we have done precisely that. But the reason I object, although generally speaking I think these limiting provisions in the Foreign Aid Act have not been useful, because it has been on the books for some time. I believe that to repeal this legislation would convey a message that is not the correct message, or sentiment of the Congress.

Mr. CULVER. Mr. Chairman, will the gentleman yield?

Mr. MAILLIARD. I yield to the gentleman from Iowa.

Mr. CULVER. Mr. Chairman, I think, as the gentleman I am sure knows, that one of the most serious reasons for the action of the committee was the fact that there is a strong feeling that these legislative sanctions have proven to be completely counterproductive in bringing about the desired results, and have not brought a climate of cooperation in these negotiations that we must have on these questions.

In the case of Equador, for example, when these sanctions were applied the result was not good-faith negotiations that resulted in a mutually acceptable settlement of the fishing dispute; rather, what actually took place was a very dangerous erosion in terms of our general foreign policy interests. They actually forced out of their country the U.S. military mission there. They expressly refused to go into any other fishing negotiations, and they actually went ahead and seized even more ships.

No one is going to contest the desirability, certainly, of bringing about a settlement or a far more satisfactory arrangement and effective prohibitions against these illegal seizures. But the committee recognized after a consideration of all the reports and conversations we have had with U.S. representatives in the field that rather than bringing about this desirable result, the existence of these particular legislative sanctions have encouraged seizures and made such negotiations virtually impossible. We certainly would have the freedom to discontinue aids which we feel are appropriate and reasonable for the particular fact situation that might exist, and that would be the appropriate course to take to effectuate a satisfactory resolution of the dispute.

So it seems to me that it would be desirable for the committee to support this approach when we are entering into the Law of the Sea Conference, without these inhibitions and I urge the defeat of the amendment.

Mr. MAILLIARD. As the gentleman well knows, I am in agreement with his basic statement that these kinds of provisions have not proved to be productive. They have not achieved the result. But I still think that while we are in some very delicate negotiations, it is no time to convey to the world that we no longer are concerned about this. I think that is the impact it might have if we were to repeal the section, so I support the amendment of the gentleman from California.

Mr. CULVER. Mr. Chairman, I rise in opposition to the amendment.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. CULVER. I yield to the gentleman from Massachusetts.

Mr. STUDDS. I should like to ask my good friend, the gentleman from Iowa, if he is aware of the situation with respect to the Law of the Sea Conference for which the State Department is continually asking for great patience and, which, if it is on schedule, will complete its deliberations in mid-1975. Then, by the Department of State's own admission—at the most, optimistic—a sufficient number of nations would have ratified that treaty and it would have then come into effect by 1980—much more likely later than that, but at the earliest by 1980. By 1980, if this Nation has not taken action to protect its own fisheries, we will simply have no fish left to protect and all these discussions will be moot.

I think what a great many of us, particularly those of us from the Atlantic coast and more particularly those of us from New England, have been trying to point out is that, while we seem to be bending over backward to accommodate the nations of South America, we will not do a thing to protect our own fisheries. The State Department told us in committee this week that we negotiated this agreement in Brazil in order to avoid confrontation. We are acting like the little guys in the world. We are being pushed around by these nations. We seem to lack backbone to stand up and fight for our own interests.

Mr. CULVER. I wish to assure the gentleman that the sympathies he has expressed are certainly well understood and appreciated by the committee. This committee is as anxious and as desirous of seeing a termination of illegal seizures as is the gentleman from Massachusetts.

Mr. STUDDS. But we keep negotiating treaties acknowledging them.

Mr. CULVER. If I might just respond to the gentleman's inquiry.

Mr. STUDDS. Certainly.

Mr. CULVER. So, therefore, the question is not whether or not we want to see this desirous result brought about, but the issue is to see how best to achieve that. We have had some experience under these legislative sanctions. We have had experience which I think clearly establishes that, rather than bring about a greater degree of cooperation in terms of the likelihood of political settlement, it has had just the reverse consequence.

I recently returned from a trip to Latin America and visited the country of Peru. Certainly I can assure the gentleman that those representatives with the United States interests there, officially charged with the responsibility of trying to bring about more satisfactory settlements in cases of expropriation and nationalization seizures of fishing vessels; such as we are addressing ourselves to in this instance, are totally convinced that the mere existence of this type of language and of this type of threat has had a very adverse impact in terms of negotiating climate.

I think Ecuador is a classic example. When we suspended military sales, we did not bring about any diminution in the determination of that nation to seize U.S. fishing ships. The number of seizures immediately increased dramatically.

The Ecuadorian Government kicked the U.S. military mission out of the country, and they finally even went on record saying they would not engage in a serious vein on the fishing question.

So it is not a question of whether we be tough; it is a question of whether or not this legislative sanction is worth the paper it is written on in terms of positive value. It has a very, very adverse effect to the real interests we are speaking to. I think if our negotiators were free of the straitjacketing limitations of this language, then they could enter into political negotiations with the particular country involved and join in employing flexibility and discrimination on remedies that could apply, including the termination of aid, including the termination of military sales, but not having to do it on an arbitrary unilateral basis, which is going to have the understandable political effect of making a negotiated settlement absolutely impossible.

Mr. STUDDS. I appreciate what the gentleman is saying, but if we are to take what the committee report says, presumably the idea would be to get more treaties with Ecuador and other nations just like the Brazilian treaty. Then we would have acceded, in fact, if not in theory, to the claims of these nations.

Mr. CULVER. There is a time limitation.

Mr. STUDDS. Five or 10 years.

Mr. CULVER. Certainly I think the timetable is much more optimistic.

Mr. STUDDS. Not for ratification.

Mr. CULVER. Furthermore, we certainly are left with a statement of a mutually acceptable interim agreement which permits us the opportunity to fish those waters.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. HAYS).

Mr. HAYS. Mr. Chairman——

Mr. MORGAN. Mr. Chairman, I think this amendment could be well defeated.

POINT OF ORDER

Mr. HAYS. Mr. Chairman, a point of order.

The CHAIRMAN. The Chair recognized the gentleman from Ohio.

Mr. MORGAN. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from Pennsylvania.

MOTION OFFERED BY MR. MORGAN

Mr. MORGAN. Mr. Chairman, I move that all debate on this amendment end at 5:05.

Mr. DINGELL. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. HAYS. Mr. Chairman, I did not intend to get into this debate, but I just have to disagree pretty fundamentally with my colleague and friend from Iowa about how to handle this.

I have been chairman of the State Department Subcommittee of the Committee on Foreign Affairs for—I do not know—15 or 16 years, something like that. If we are going to let those people negotiate a fishing treaty, we are never going to get one. Whenever they get up to Ecuador, and whenever they are there for 6 months, they are more interested in pleasing the Ecuadorians than making them upset by saying, "Look, we have to do certain things."

This Government's left hand does not know what its right hand is doing. The gentleman says we ought not to get tough with them; in effect, what he said is that we ought to negotiate, take our time, not be counter productive. Well, they are seizing these fishing boats with destroyers we gave them.

Maybe it would not be too bad if we sent a couple of our own destroyers sometime when they are messing around with our fishing boats. It is all our property anyway, either gifts or on lease.

They kicked our military mission out. Well, now, isn't that too bad. We never should have sent one there in the first place. Who is Ecuador going to fight? How many of the Latin American missions came to our aid in World War II? We have built up these big military missions for what? So they can fight each other, that is all it amounts to.

Oh, they say it is for internal security. Well, internal security down there in all but 4 or 5 cases has been to secure the office of some dictator who has imposed himself on the people and used our military aid and our military mission and our destroyers and our airplanes and our arms to do it.

I would like to see good relations with every country in Latin America, but I just fundamentally disagree that by disarming ourselves altogether of any potential negotiating weapon, is the way to do the job.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from Texas (Mr. ROBERTS).

Mr. ROBERTS. Mr. Chairman, I just want to commend the statement of the gentleman from Ohio, and say that it is time somebody got up and spoke for this country instead of letting these little, dog eaten countries run all over us.

We need to send some destroyers down there to get them straight. That is what we pay them for.

Mr. CULVER. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from Iowa (Mr. CULVER).

Mr. CULVER. Mr. Chairman, I think we ought to have it further understood here that we are talking about what is the most effective way to advance U.S. interests in light of these illegal seizures of U.S. fishing vessels in these international waters, or what we argue are international waters. That is the issue.

Mr. HAYS. That is right, and the gentleman has made a very clear and concise statement of his position. I am sure I understand it, and I am sure he is sincere about it. My position is just the opposite.

Mr. CULVER. Mr. Chairman, will the gentleman yield further?

Mr. HAYS. I will yield.

Mr. CULVER. Let us look at the record. Since we have put these legislative sanctions on the statute books of this country, has that helped in any way whatsoever to bring about satisfactory negotiations?

Mr. HAYS. No.

Mr. CULVER. Involving any fishing vessel whatsoever?

Mr. HAYS. No, but because we did not protect our fishing fleet when they are in international waters.

If I were President and some Ecuadorian destroyer, which this country had loaned to them, came out 198 miles and took over a fishing vessel, I would sink the destroyer. Then, they would sit down and talk a little bit, but as long as we keep backing away from them, you know what they will do. They will keep pushing us back.

Mr. CULVER. If the gentleman will yield further, I wonder why this has not had any desirable effect whatsoever and had adverse, counterproductive consequences. The reason is very clear, and the gentleman as a politician should be the first one to acknowledge it.

The reason is that these new countries, feeling their nationalistic oats, are not about to bow to political pressures of this kind. It is going to result in every one of those governments taking an even harder line toward the United States of America, and they are in fact now doing just that.

Mr. HAYS. Just let me have a minute of my time back.

In the first place, Ecuador is not a new country, by a long stretch of the imagination. They have sponged off of us for a long time, in one way or another.

I do not really care if we cut off all the military missions, just to protect our fishing boats, and let them go hang.

Mr. CULVER. That may be the gentleman's position, but I submit it is not in the interest of the U.S. Government to take such an attitude.

Mr. SMITH of New York. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment of the gentleman from California (Mr. ANDERSON). After all, this section of the present law which is proposed to be repealed is, as he pointed out, a pretty gentle section. It says merely that—

> In determining whether or not to furnish assistance under this Act, consideration shall be given to excluding from such assistance any country which hereafter seizes—

This, as the gentleman said, does not require the Administrator or the President to cut out any assistance, but says that this is one thing to be considered. It is a part of our flexibility and a part of our options, and I do not believe we ought to repeal it.

Mr. DINGELL. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, this is not the amendment that I had intended to offer and will offer later.

I rise as chairman of the subcommittee which has to do with the affairs of our American commercial fishermen to tell this House that in the last 1 year's time the South Americans have seized some 44 of our fishing vessels, not within their territorial waters but while fishing upon the high seas.

As the gentleman from Ohio pointed out, they have used destroyers, that we have loaned them or that we have given them outright. The crews are trained by our people. They are paid in part by our military assistance. In many instances assistance is provided to the shipyards and to the maintenance people so that these vessels can go out and seize our fishermen.

Our fishermen have been shot at. They have been harassed. Their vessels have been seized, not within the territorial waters of the nation in question but upon the high seas, where our State Department maintains that our people may properly and lawfully fish.

In some instances the seizures have taken place as far from the land in question as 140 or 150 miles. These nations claim 200 miles of the sea and seize our vessels within such area.

Our fishermen have been shot at. They have been harassed. There have been personal injuries inflicted upon them. They have been imprisoned. They have had their property stolen. They have been locked up in prison. They have been informed if they were caught fishing upon the high seas again that they would be jailed. They have been informed that their vessels will be seized if they are caught a second time.

The gentleman from New York read the language of the amendment. This is the language that the amendment presented by the committee would strike. The committee bill would strike these words:

> In determining whether or not to furnish assistance under this Act consideration shall be given to excluding from such assistance any country which hereafter seizes or imposes any penalty or sanction against a United States fishing vessel on account of its fishing activities in international waters.

What is wrong with that language? What has happened to this country when the State Department says that is bad language?

What has happened to this Congress when a committee of this Congress says we ought to remove language like that?

Is it the position of the committee that we should generously continue to supply military and economic and technical assistance to countries which seize our vessels fishing upon the high seas? Is that how low this Congress has sunk?

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to my friend from Maryland.

Mr. LONG of Maryland. In support of the gentleman's general drift of argument I might point out that not only do we reward these countries like Peru that have been seizing our fishing vessels, and now say they will not repay $100 million that they owe us, but also we have been giving them more than we have neighboring countries that have been friendly to us.

For example, we are proposing to give more military credit sales to both Peru and Chile than to neighboring countries like Bolivia and a number of others which have been good friends of ours.

Mr. DINGELL. Mr. Chairman, the gentleman is correct.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Ohio.

Mr. HAYS. Mr. Chairman, I would like to give the House a little history. This amendment was considered in the committee when I was not there. It would have been a slightly closer vote. The vote was 13 to 10, and I believe, if I am not mistaken, both the chairman and the ranking member voted against putting it in there.

It opened up a can of worms, and it just puts us in a position of kowtowing to those who have conducted illegal seizure of our property.

Mr. DINGELL. The gentleman from Ohio is correct.

Mr. Chairman, the committee language which the amendment would strike says in effect: "Kick us, fellows. The more you kick us, the nicer we are going to be."

It is an invitation to further trouble. The committee bill takes a weapon from the hands of our negotiators. We are taking away one of the negotiating weapons which a good, intelligent, hard negotiator would use to help our fishermen.

Maybe our problem is that we need a different State Department; maybe we need different negotiators. This certainly does not appear to be the kind of language which the Congress of the United States should be considering.

Mr. SIKES. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Florida.

Mr. SIKES. Mr. Chairman, I find myself very strongly in accord with the gentleman from Michigan. He certainly is expert in this field. He knows the serious problems of the American fishing industry.

This is no time for the Government of the United States to add to those problems by saying we shall abandon them to the whims of the rulers of any foreign country. America needs a stronger—a bolder—not a weaker policy in representing the interests of our own nationals.

Mr. HILLIS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wish to commend the position of the gentleman from Michigan (Mr. DINGELL). I commend the gentleman on both his statement and his amendment, and I rise in support of his amendment.

Mr. PRITCHARD. Mr. Chairman, will the gentleman yield?

Mr. HILLIS. Yes, I yield to the gentleman from Washington.

Mr. PRITCHARD. Mr. Chairman, I thank the gentleman for yielding.

First, I wish to associate myself with the remarks made by the gentleman from Michigan. I think the key point here is not the fact that this has not worked so well, but I think what psychological effect will it have upon the fishermen. We all realize that the fishing industry is on its backside. It is in terrible shape, and the fishing people feel that Congress and the people of the country have given it a poor shake. It is not high on the list of priorities in the concerns of the administration and the Congress.

Mr. Chairman, I believe the key point here is that it would be a slap in the face of our fishermen right now if we would reach in and pull this law out like this.

Mr. CULVER. Mr. Chairman, will the gentleman yield?

Mr. HILLIS. I yield to the gentleman from Iowa.

Mr. CULVER. Mr. Chairman, I will say to the gentleman that I do not believe that is in the interest of the fishermen to meet the problem this way. The gentleman says it is an aggravation, but rather than help them, this is actually accelerating the illegal seizures. Are we interested in their psychological frame of mind or providing effective relief?

We are dealing with the problems of the United States. It is the interest of the United States that is at issue. If we are really interested in good faith and trying to work out a sensible policy approach, we should really work toward bringing about a suitable negotiation in our real interests, not just engaging in political rhetoric aimed at the American fishing interests of this country. I would submit we should support the committee's position.

Mr. PRITCHARD. Mr. Chairman, I appreciate the gentleman's position. I believe it is wrong. I believe the heart of the problem is since they would not implement the bill there is no way it can work.

Mr. Chairman, under a law passed in 1954, the Federal Government reimbursed fines paid to free boats seized while fishing in waters claimed by other nations but considered open sea by the United States. The United States has consistently recognized a 12-mile limit on territorial waters, but other nations—notably Ecuador and Peru—have unilaterally claimed more extensive limits and have frequently seized U.S. boats operating within those waters. To date, 10 Latin American countries claim sovereignty or exclusive jurisdiction over the water or resources off their coast to a distance of 200 miles in contravention to existing international law.

Less than a year ago, Congress completed action on a bill—H.R. 7117, later Public Law 92-569—to expedite Federal reimbursements to fishing boat owners for fines incurred by unlawful seizure of U.S.-flag vessels by other nations. The conference report on H.R. 7117 included a Senate amendment allowing the President to waive a provision requiring that the amount of any fine or damages reimbursed by the Federal Government be deducted from foreign assistance payments to the country that had seized a U.S. boat and refused to pay for damages or refund the fine.

A 1968 law had mandated such deductions from foreign aid, but the State Department had interpreted the law as giving the Secretary of State discretion to decide whether or not to withhold the money. As passed by the House, H.R. 7117 would have required that foreign aid be withheld if the offending nation refused repayment within 120 days, but the Senate amendment allowed the President—not the Secretary of State—to waive the requirement if he thought the national security required continued aid.

Since the passage of H.R. 7117, the countries of Ecuador and Peru have illegally seized 44 American tuna vessels. Claims for reimbursement by the vessel owners—amounting to $2.3 million—are now awaiting payment by the Secretary of the Treasury. Upon payment of these claims, the Secretary of State is required to seek reimbursement from the offending countries for amounts paid out from the Federal Treasury. Should the offending country fail or refuse to make payment in full within 120 days after notification, then the Secretary of State is required to transfer an amount equal to such unpaid claims from available funds programed to that country under the Foreign Assistance Act to the fishermen's protective fund established by the Fishermen's Protective Act of 1967.

Section 28 of the bill—H.R. 9360—under consideration today would nullify H.R. 7117 as passed by Congress last year. This section repeals section 5 of the Fishermen's Protective Act of 1967 which authorizes the Secretary of State to collect claims from foreign nations and to transfer an amount equal to the unpaid portion of such claim from foreign assistance funds to the fishermen's protective fund.

Section 17(c) of the bill before us today—H.R. 9360—would repeal section 620(o) of the Foreign Assistance Act which requires that—

> In determining whether or not to furnish assistance under this Act, consideration shall be given to excluding from such assistance any country which hereafter seizes, or imposes any penalty or sanction against any United States fishing vessel on account of its fishing activities in international waters.

The Committee on Foreign Affairs also repealed the restrictive provisions relating to the seizure of U.S. fishing vessels in the Foreign Military Sales Act.

The actions of the committee in drafting sections 17(c) and 28 have been accurately characterized as a "tragic mistake." Considerable time was spent in the Committee on Merchant Marine and Fisheries drafting amendments which would put an end to the extensive illegal seizures that have been taking place lately. Yet, the repeal of section 5 of the Fishermen's Protective Act at this time will prevent the "transfer procedure" from proving its effectiveness and make the Fishermen's Protective Act meaningless.

The law of the Sea Conference, scheduled by the U.N. General Assembly for 1974, may indeed resolve the current territorial jurisdictional dispute. But, the repeal of section 5 of the Fishermen's Protective Act will not enhance the bargaining position of the United States—

and may even prejudice our bargaining position. Previously, the United States has consistently opposed the unilateral extension of international boundaries. Now, the repealers contained in H.R. 9360, which is before us, reveal that the United States is willing to capitulate to such actions, to the detriment of our domestic distant-water fishing industry.

For these reasons, I would urge my colleagues to support the amendments offered today which would strike sections 17(c), 27(a)(1), and 28 from the bill before us—H.R. 9360—and preserve section 5 of the Fishermen's Protective Act of 1967 and related sections of other acts.

Mr. FRASER. Mr. Chairman, I rise in opposition to the amendment.

I just wish to make one or two statements about the factual situation. First, there is no recognized international agreement on how far the territorial sea of a country extends. We sought to achieve agreement on this back in the 1950's but no agreement was reached. The United States claims 3 miles; some countries claim 12 miles; some claim 50 miles; some claim 200 miles.

We enlarged our claim for fishing purposes to 12 miles unilaterally, and most recently the State of Massachusetts has extended its claim to 200 miles.

I assume the Massachusetts government is putting together a navy to enforce that new 200-mile limit.

The problem here is to reach agreement in the law of the sea conference which opens this fall in New York and in Santiago next April. We do have to get agreement on the extent of the territorial sea and on the ocean resources and on how we can protect and conserve the fishing stocks of this world.

I just want to join in the views of my friend from Iowa in saying that these kinds of provisions do not work; they may make people feel good, but they do not contribute anything to sound international relations or even the achievement of international agreements.

Mr. FASCELL. Will the gentleman yield?

Mr. FRASER. I yield to the gentleman.

Mr. FASCELL. I thank the gentleman for yielding and wish to state that I am anxious to get this settled too because I come from a fishing territory.

The provisions seeking to apply economic sanctions by withholding aid, have not worked, but we know the Chief Executive will take into consideration, actions of other countries hostile to our fishermen.

This is an issue on which we get extremely emotional. But let me draw your attention, if I may, to this fact. Tuna is a $74 million industry in the United States and is extremely important particularly to those who are directly involved. We have $11–$14 billion of U.S. investments in Latin America. That is just on the other side of the scale.

For example, in Ecuador alone right now United States companies have over a $350 million investment in oil, hopefully bringing it back to this country as fast as we can. There are a great many more things at stake in the relationship between the two countries than just the argument over who has the right to the resources of the sea.

That is an important argument, and I happen to believe it is one of the most vital. If this world does not settle the issue in the next law of the sea conference, it could be one of the tinder boxes which sets the whole world aflame. But we will certainly not solve it by making emotional speeches on the House floor saying "Let us get them" and "Let us sink the boats."

Those kinds of arguments do not solve the problem, admittedly. It is not as easy as that. There are other things at stake in the relationship between the United States and all of these other countries.

Mr. BINGHAM. Will the gentleman yield?

Mr. FRASER. I yield to the gentleman from New York.

Mr. BINGHAM. I would like to compliment the gentleman from Florida on what he has just said and associate myself with the remarks of the gentleman from Iowa and the gentleman from Minnesota.

I particularly want to compliment the gentleman from Florida, because he does have fishermen in his district.

I suppose it is easy for me to be against this amendment because I do not, as far as I know, have any fishing industry in my district.

What we are likely to forget in debating this type of restriction is that the aid programs we are talking about are in the interest of the United States. We are not giving aid because we want to be good guys in Ecuador or to buy friends and influence people elsewhere. That is a lot of malarkey. It is not the business of a development program or a military program. We are doing it in the interest of the United States. Let us not cut off our nose to spite our face.

Mr. GROSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in all the discussion on this subject I have heard not one word about the cost to the American taxpayer of the seizures of fishing vessels. I am going to support the amendment for one reason and that is the hope that it will bring some pressure to get this thing settled.

I am sick and tired of the taxpayers of the Third District of Iowa—I cannot speak for the Second District—being made to contribute to pay bribes to the countries that are seizing American fishing vessels on the high seas.

I would think that some attention would be given to what it is costing the people of this country, for any payment is an outright crime.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Ohio.

Mr. HAYS. Mr. Chairman, I was a little bit amused to hear the gentleman from Florida talk about our big investment in Latin America. Sure, it is down there, but whenever they want to get it they will do just as they did in Chile.

What is an investment worth? We have a $10 billion investment in India, given to them free, and there is no outfit in the world that would rather do us in than Mrs. Ghandi's government.

Mr. GROSS. They are already doing us in.

Mr. HAYS. That Boy Scout we have got over there for an Ambassador, that is the way I class him in my judgment, he is about as smart as a 12-year-old Boy Scout. I have nothing against the Boy Scouts, but that is about his ability.

He said if we cannot give them a $6-million building he is going to quit. I sure would have latched on to that one if I had been the President. That is the best way in the world to get rid of him.

Then the State Department comes to me and to our subcommittee, and says that our people need buildings in India. But we are going to give a $6-million building to India, and we will then, I suppose, appropriate some more money here to build some air-conditioned buildings for our own people to work in and live in.

You know, there ought to be some end, it seems to me, to the stupidity of the left hand of our Government not knowing what the right hand is doing.

I want to have good relations with Latin America, but not at the expense of having our collective brains kicked in by giving them aid and boats on the one hand, and then letting them confiscate our fishing vessels on the other, and at a time, as the chairman reminded me, that when they do take them we pay the fines to get them loose.

So the American taxpayer is getting it from every direction, up and down, crosswise, sideways, and in the middle.

Mr. GROSS. I thank the gentleman from Ohio.

I wish someone who is opposed to this amendment would tell the House how many millions of dollars have gone out of the U.S. Treasury by way of bribing the Peruvians and others for having confiscated our fishing vessels. I will be glad to hear from anyone.

Mr. CULVER. Does the gentleman ask me that question as one from a neighboring district in his State?

Mr. GROSS. The neighboring district that wants to pay the price for bribery of the Peruvians.

Mr. CULVER. Mr. Chairman, I think the people in our neighboring districts, after so many years, are very familiar, in view of the fact that we share some of the same media, with our respective views on foreign assistance. I think that it is very important in our national interest to have a program of this nature. They know that. And I think their judgment has been registered rather dramatically on that point over the years in the elections that I have participated in.

Mr. GROSS. I do not know that we are represented by the same media. I try to tell my people in Iowa how lousy this foreign giveaway program is.

Mr. CULVER. That is right, the gentleman does.

Mr. GROSS. The gentleman takes the opposite side. I do it by way of——

Mr. CULVER. I try to suggest to the people that some of these programs in spite of admitted shortcomings conform to our national interest, and that we have to continue as best we can to improve this effort. They seem to agree with that assessment.

Mr. GROSS. I hope that the gentleman does not bet a plugged nickel on a poll in his district that would support foreign aid.

Mr. DINGELL. Mr. Chairman, if the gentleman will yield, since last year the countries involved have seized vessels and crews for which this Nation has paid $2,305,416. And over the life of the period that I can ascertain more than 100 U.S. vessels have been seized with a total cost in fines and fees of $4 million. Also that in the past year they have seized about 44 vessels, and the cost of the fines per vessel has gone up strikingly.

Mr. WHALEN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, one of the responsibilities of this body is to exercise oversight over the legislation which it has enacted in previous sessions. This is what the Foreign Affairs Committee has done in connection with the functioning of the Fishermen's Protective Amendments. In looking at congressional sections against fishing vessels seizures, we have to answer three questions. First, has this sanction worked? Second, has it advanced the international interests of the United States? Third, what are the economic ramifications of this amendment? Let me analyze each of these.

First, I think it is very clear that the fishing vessel seizure sanctions have not worked.

On June 5 of this year Secretary Rogers appeared before the Foreign Affairs Committee. I asked him specifically, Has this legislation worked? His answer was, and I quote:

> It is not working. We have serious problems with Peru and Ecuador and Chile because of fishing.

A diplomat representing our country in a Latin-American nation recently made this statement before one of the subcommittees of the House Committee on Foreign Affairs:

> These sanctions have not worked. In fact, they have made the situation worse, to be honest with you.

This conclusion is clearly substantiated in the letter which was sent by the gentleman from California (Mr. ANDERSON), and seven of his colleagues, to the Members of this body.

> Since last year and early this year the countries of Ecuador and Peru have illegally seized 44 American tuna vessels.

Thus it is clear that congressional restrictions not only have failed to stop ship seizures, they have invited retaliation.

Second, have these sanctions advanced our international interests throughout the world? The answer here clearly is "no." Along with the gentleman from Iowa (Mr. CULVER) I had the opportunity of visiting South America several months ago. It was made very clear to me by American businessmen there, as well as our foreign service personnel, that their operations have been seriously hampered by this and other sanctions which have been enacted by previous Congresses. It is quite obvious that the Pelley and other amendments have impaired our relations with Peru and Ecuador, which are directly involved in the tuna war. We must also remember that there are eight other nations in Latin America which recognize the 200-mile territorial limit.

Certainly our relations with these other eight countries have degenerated. In fact, our retaliatory laws stand out as a symbol throughout Latin America as still another example of United States imperialism and Yankee gunboat diplomacy.

Third, the question was raised with respect to the economic effects of our fishing boat amendments. It is clear that these amendments have cost the U.S. Treasury more than their absence would have.

I would point out to the Members of this body that the provisions retained in the law continue the reimbursement to the owners of fishing vessels. But the fact that the amendments debated by the Foreign Affairs Committee have invited retaliation has resulted in an increase in cost to the U.S. Treasury. Further, it has cost American business firms sales in Latin America.

I know of one large firm in the United States which has lost a contract, a $50 million motor contract, as a result of this particular sanction.

So I say this sanction not only has not worked; it has invited retaliation. It has done irreparable harm to the image of the United States throughout Latin America, and it has certainly cost the United States Treasury and American business firms money.

Mr. COHEN. Mr. Chairman, will the gentleman yield?

Mr. WHALEN. I yield to the gentleman from Maine.

Mr. COHEN. I thank the gentleman for yielding.

As I understand, the thrust of the argument in support of the gentleman's amendment is that Peru and Ecuador are acting illegally because we do not recognize the 200-mile limit; is that correct?

Mr. WHALEN. This is the thrust of those supporting the amendment.

Mr. COHEN. Is the gentleman aware that recently this country entered into a treaty with Brazil, who also has declared a 200-mile limit, and we also have signed a treaty recognizing that in essence? And we will be asked to appropriate money to help defray the cost of supervising that 200-mile limit? I think that is totally inconsistent and an intolerable situation.

This country on one hand generally opposes the 200-mile limit and yet recognizes it for Brazil.

Mr. WHALEN. I do not think in signing a treaty with Brazil that the U.S. Government has recognized the 200-mile territorial claim.

Mr. COHEN. They may not have done so explicitly, but it seems to me that when Brazil is claiming a 200-mile limit and we agree in treaty to limit the number of fishing boats we send there, we recognize it implicitly.

Mr. GONZALEZ. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I rise at this time because some things that I think I have to say have quite a hearing, which are not generally apparently revealed here to this body.

I have an amendment to this section—not the fishing section but the general expropriation section—which I hope to present later for the very serious consideration of the Members, and which will address itself to what I consider to be a long time, historical need for a congressional policy with respect to expropriation.

However, with respect to this specific subject matter, I think I can sympathize with both views expressed here today, except for the fact that this country has got to face up to the reality of a situation. To those Members who expect good will and good faith and who crave and seek, as I think we all do, the good neighbor policy, I should remind them that being a good neighbor does not necessarily mean we have to give the family jewels away.

Even as we are deliberating here this afternoon, as late as last weekend there has been a flotilla of Cuban fishing boats ranging from 40 to 60 in number that have been fishing for weeks off the Texas gulf coast. At night, according to good, faithful sources that I am in touch with, they have slipped illegally in beyond the 12-mile limit and have fished illegally in American waters, and our country has done nothing about it.

We are talking about Cuba; we are not talking about Ecuador, not talking about Brazil; we are talking about Cuba, a nation with whom we have no established relations.

Somewhere down the line, and I hope during this international conference, I hope that our negotiators will defend and establish an American policy. It is just absolutely asinine that a nation, for whatever reason, would abdicate its responsibility to the proper defense of its legitimate interests, no matter what the hope is, no matter what the goal is. Any nation, little or big, which turns its back on its solemn responsibility to safeguard its own interests is lost, and it is just a matter of time.

I am addressing the attention of this body to a practical situation that has not received recent publicity, whereby at this time on the Texas coast we have the illegal fishing. Some of these nations wish to establish the 200-mile limit. Our fishermen on the Texas coast would be arrested and fined $200 instantly if they were to try to catch and fish the same shrimp size that the Cubans are fishing illegally during the night, and with apparently no resistance from our authorities. Apparently, the attention of the Coast Guard has been directed to this, and yet, as far as I know, nothing has been done.

I think, without going into the merits of this amendment pending, that we should keep in mind one reason we might have trouble is that we have failed to establish a policy and to have adhered to that policy. We have reacted hastily in such amendments as the Hickenlooper amendment. That is one reason I am offering an amendment later on. However, with respect to fishing, I think a firm policy must be established by this country.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Chairman,

the situation with respect to illegal intrusions by foreign fishing vessels inside the 12-mile limit, as described by my friend from Texas (Mr. GONZALEZ) is nearly identical to reports of incidents that have occurred in my district off the coast of northern California.

While I regret to hear of the problem, I am pleased that he has brought this matter to the attention of the House and you, individually, as members of the House.

Of the 435 Members of the House, there are comparatively few that are affected by or immediately concerned with the "fishery zone" problem. As a result, we have been literally "crying in the wilderness" in our efforts to focus attention on this increasing problem.

As the gentleman from Texas suggests, there is a crying need for a new policy as it relates to the marine resources that are adjacent to our coastal States.

The basic point I want to make is directed toward the extended territorial sea limits that are unilaterally being declared by some countries.

In my view, there is a great deal of confusion and misunderstanding about the so-called 200-mile limit.

What is needed is for the United States to work in concert with other countries to establish fishery and marine resources conservation zones contiguous to the established and accepted territorial sea limits of the coastal countries. This is needed to provide protection for the coastal States, the fishermen and communities dependent upon these resources for their economic stability and protection for the domestic fishery and marine resources conservation programs of the coastal States.

We need to clearly define the differences between a conservation zone and the unilaterally declared extended territorial sea.

The extended territorial sea must be submitted to and accepted by the upcoming International Law of the Sea Conference and subsequently ratified by the nations of the world if it is to be enforceable. The official U.S. position, as submitted to the International Law of the Sea Conference, would establish a 12-mile territorial sea in contrast to the now existing 3-mile territorial sea.

Also, the so-called three-species approach with resource management control retained by the coastal States is a part of the official U.S. position.

The central point I wish to make is the need in my view to separate the territorial sea and security question from the conservation question.

The 12-mile territorial sea position of the United States is realistic when considering the security requirements of our Nation.

I would like to see us work toward a 50- or 200-mile fishery and marine resources conservation zone, hopefully, in concert with the countries of the Western Hemisphere and possibly through the OAS.

I believe we can look for more cooperation here in the Americas if there is greater understanding and acceptance of this concept.

We should mutually agree to adhere to the 12-mile territorial sea extension and move toward the acceptance of an extended fishery and marine resources conservation zone.

While I realize the "three species approach" is the official U.S. position and has the potential of providing us with some relief from illegal foreign fishing vessel intrusion of our traditional fishing grounds, I believe we should continue to pursue the extended fish and marine conservation zone concept.

I hope the gentleman from Texas will join me in pursuit of this objective. I will look forward to a detailed discussion on the subject.

Mr. COHEN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, for years, South American countries have been harassing and seizing U.S. fishing vessels in international waters and extorting millions of dollars from this Government before the boats are returned. The crux of the matter is that Peru, Ecuador, and other South American nations claim that their national waters extend 200 miles out to sea. The United States, on the other hand, currently recognizes a 3-mile territorial sea—a vestige of the Revolutionary War era—and a 12-mile fishing limit.

The difference between our claim and the claims of South American nations could be easily settled if they would simply recognize our right to preserve and safeguard the marine resources off our shores. However, these foreign nations have not chosen to observe this right. They have constantly violated and overfished our shores and depleted our coastal resources.

I find it inconsistent, indeed ridiculous, that while we do not recognize foreign claims of a 200-mile limit, we are willing to pay these countries millions of dollars for the supposed violation of their 200-mile limits by U.S. ships.

On the other hand we are not willing to extend our fishing territorial waters to 200 miles to safeguard our fishing interests. And we are not willing to demand payment from other nations, or seize their ships, when they violate our waters. Why are we willing to give this differential treatment to other nations in spite of the fact that we do not acknowledge their right to control fishing resources in international waters.

Recently, we concluded a treaty with Brazil which restricts the number of U.S. vessels fishing within 200 miles of the Brazilian coast. Indeed, we even pay for the enforcement of this treaty in the event that the number of U.S. ships in these waters exceeds the limit provided by the treaty. Again, we are bending over backward to accommodate the fishing of Brazil for the purpose of assisting them in the conservation of shrimp. The supporting arguments for this bifurcated approach to international relations may never appeal to the metaphysicians, but they fall well beyond the pale of acceptability to the fishermen and the taxpayers of this country.

I do not believe that we should have concluded such a treaty with Brazil if we are to be at all consistent with the policies our State Department has expressed.

The State Department frequently affirms that our fishing ships would suffer retaliatory action if we extended our fishing waters to 200 miles. It is merely a subterfuge and face-saving maneuver for our State Department's failure to produce meaningful and effective treaties with nations fishing off our own shore.

Within the last several weeks, we learned that the Soviet Union declared the scallop a creature of their shelf. Yet we did not retaliate, nor did any other nation. And here, several South American nations have extended their fishing limits far out to sea and how have we retaliated? We have retaliated by signing a treaty with Brazil and propose to pay them to enforce it. And we have retaliated with Peru and Ecuador by reimbursing them when it is found that U.S. ships have fished within 200 miles of their coast. I find this deplorable and lacking of any real concern for the interests of our fishermen and the fishing resources in our coastal waters.

Mr. MEEDS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I shall not take 5 minutes. I would like to point out that I have a fishing district with some tuna fishermen. I have in the past honestly supported this amendment in the hope that it would have a beneficial effect; that it would alleviate a difficult situation.

Rather it has, I believe, exacerbated a bad situation, and made it worse. In view of that, and particularly in view of the fact that the Law of the Sea Conference is now pending and this issue will be very much discussed and hopefully resolved at that time I will vote against the amendment at this time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. ANDERSON).

The question was taken; and on a division (demanded by Mr. CULVER) there were—ayes 98, noes 29.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. GONZALEZ

Mr. GONZALEZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GONZALEZ:

Page 25, after line 20, insert the following:

(d) Section 620 of such chapter is amended by adding at the end thereof the following new subsection:

"(x) No assistance shall be furnished under this or any other Act to any country which has—

"(1) nationalized or expropriated or seized ownership or control of property owned by any United States citizen or by any corporation, partnership, or association not less than 50 per centum of which is beneficially owned by United States citizens;

"(2) taken steps to repudiate or nullify existing contracts or agreements with any United States citizen or any corporation, partnership, or association not less than 50 per centum of which is beneficially owned by United States citizens; or

"(3) imposed or enforced discriminatory taxes or other exactions, or restrictive maintenance or operational conditions, or has taken other actions, which have the effect of nationalizing, expropriating, or otherwise seizing ownership or control of property so owned;

unless the President determines that (A) an arrangement for prompt, adequate, and effective compensation has been made, (B) the parties have submitted the dispute to arbitration under the rules of the Convention for the Settlement of Investment Disputes, or (C) good faith negotiations are in progress aimed at providing prompt, adequate, and effective compensation under the applicable principles of international law."

Mr. GONZALEZ. Mr. Chairman, this is the amendment I referred to awhile ago. It is already a part of the law with respect to the multilateral financial institutions, which the Congress adopted 2 years ago.

Let me tell the Members the course of history with respect to this amendment. It has already enabled American citizens to save themselves from at least $500 million worth of losses they otherwise would have suffered, even though the amendment has not been invoked.

Mr. Chairman, this amendment permits legitimate defense of legitimate interests. This is the first statutory announcement by the Congress that enacts a viable policy recognizing international law, recognizing the inherent rights of any sovereign nation to expropriate, to nationalize, but within the law.

Heretofore we have been vulnerable because the Congress has never expressed a specific procedure whereby legitimate American interests would be defended. I take considerable pride in this, because it was the result of the distilled effect of about 6 years of effort and survey in this field.

Now, the reason I am offering it as an amendment in this bill is because in this particular section the committee has deleted the Hickenlooper amendment. It may be that the history of the Hickenlooper amendment proves that it is questionable in its effect since it seems to be unilateral. But the history of my amendment in the last 2 years, with respect to the multinational financial institutions, clearly indicates that it is feasible, that it has worked successfully, and that it has established a clear American policy which our administration can call forth, by which it can defend American interests and do it in the framework of international law.

Mr. Chairman, I submit to the Members that their serious consideration and acceptance of this amendment will go a long way in establishing a permanent and a successful policy.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield for a question?

Mr. GONZALEZ. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman for yielding.

I must say that in the gentleman's description of his amendment, I did not understand the difference between his proposal and the so-called Hickenlooper amendment language which has been in operation and which has been such a signal failure.

What is the difference between the two?

Mr. GONZALEZ. The difference is considerable. I assume the gentleman has read my amendment?

Mr. BINGHAM. Well, I heard it. I have not had a chance to look at it.

Mr. GONZALEZ. I am sorry that the gentleman has not read my amendment.

Mr. BINGHAM. Mr. Chairman, I listened to the amendment with care, and I did not distinguish any difference between it and the Hickenlooper amendment.

Mr. GONZALEZ. Mr. Chairman, my amendment clearly sets forth the policy which the President can, in his judgment, invoke where there has been a political expropriation, an unjust expropriation, an unjust seizure of property.

Then there is a triggering impulse which the President can invoke, and we have preemptions including good faith negotiations. The parties in dispute in the convention have the option of settlement of investment abuse in international tribunals.

The President must determine that an arrangement for prompt, adequate, and effective compensation has been made. In the absence of that, then there is no aid. Just as in the case of the international institutions, our representatives are instructed not to give aid.

The Hickenlooper amendment is unilateral and does not provide for these three conditions which the President can define and determine.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield further?

Mr. GONZALEZ. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, may I ask, does it permit the President, if he finds that appropriate steps are taken, to suspend the application of the amendment?

Mr. GONZALEZ. That is right.

Mr. BINGHAM. Mr. Chairman, I do not see the effective difference between this amendment and the Hickenlooper amendment.

Mr. GONZALEZ. Mr. Chairman, if the gentleman will ponder this for a while, for one thing, our country is accepted in equality within the law with any other nation no matter how small. It is willing to arbitrate, but it is willing to fall only within the framework of equal recognition, not under a unilateral policy expression which leaves the Nation helpless to defend its own citizens and its own legitimate interests.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I will ask the gentleman this:

This amendment is similar to the language we put in the law for the International Development Association, the Inter-American Development Bank, and the Inter-Asian Development Bank?

Mr. GONZALEZ. Exactly.

Mr. FRENZEL. And it does not threaten any nation's right to expropriate within its boundaries.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, at the request of Mr. FRENZEL, Mr. GONZALEZ was allowed to proceed for 1 additional minute.)

Mr. FRENZEL. Will the gentleman yield further?

Mr. GONZALEZ. I yield to the gentleman.

Mr. FRENZEL. It does not have anything to do with any necessary right to expropriate. They may do so. It says only that we may deny aid under this section if they expropriate and make no attempt to negotiate or pay for what they have taken.

Mr. GONZALEZ. That is right.

Mr. FRENZEL. And to pay American citizens and interests for their legitimate interests. Is that correct?

Mr. GONZALEZ. The gentleman is absolutely correct.

Mr. FRENZEL. I think since the Congress approved this amendment with respect to the multinational lending agencies——

Mr. GONZALEZ. That is right.

Mr. FRENZEL (continuing). That it ought to be a part of the system under which we give 100 percent for the dollar.

I commend the gentleman for his amendment and intend to support it.

Mr. GONZALEZ. I thank the gentleman.

Mr. CULVER. Mr. Chairman, I rise in opposition to the amendment.

Mr. MORGAN. Will the gentleman yield?

Mr. CULVER. I yield to the distinguished chairman.

Mr. MORGAN. Mr. Chairman, I ask unanimous consent that all debate on section 17 and amendments to section 17 close at 10 minutes to 6.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. FRELINGHUYSEN. Mr. Chairman, reserving the right to object, would it not be possible, may I ask, to limit debate on the whole bill and all amendments to the bill to a certain hour so that we have a fixed time when we might be able to expect a final vote?

Mr. MORGAN. Mr. Chairman, I ask unanimous consent that the bill be considered as read and printed at this point in the RECORD. The Chair would not want to set any particular time limit on the debate. I do not know how many more amendments are at the desk. The committee can fix a time to end debate at 7:30. That would be all right with the Chair.

Mr. FRELINGHUYSEN. I would like to ask the gentleman if he might be willing to ask for an earlier termination.

Mr. MORGAN. What time?

Mr. FRELINGHUYSEN. Six thirty. Why not try?

Mr. MORGAN. Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed at this point in the RECORD, and that all debate on the bill end at 6:30.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. MITCHELL of Maryland. Mr. Chairman, I object.

Mr. DINGELL. Mr. Chairman, I object.

The CHAIRMAN. Will the gentleman restate his request?

Mr. MORGAN. Mr. Chairman, I make a unanimous-consent request that the bill be considered as read, printed at this point in the RECORD, and that all debate on the bill and amendments thereto end at 6:30.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. DINGELL. Mr. Chairman, I object.

Mr. PASSMAN. Mr. Chairman, I object.

The CHAIRMAN. The gentleman's first request was that the bill be considered as read and open to amendment at any point.

Mr. MITCHELL of Maryland. Mr. Chairman, I object.

MOTION OFFERED BY MR. MORGAN

Mr. MORGAN. Mr. Chairman, I move that all debate on section 17 end at 10 minutes to 6.

The CHAIRMAN. Is that a motion or a unanimous-consent request?

Mr. MORGAN. Mr. Chairman, I move that all debate on section 17 end at 6 o'clock.

The CHAIRMAN. The question is on the motion offered by the gentleman from Pennsylvania (Mr. MORGAN).

The motion was agreed to.

The CHAIRMAN. The gentleman from Iowa (Mr. CULVER) is recognized for 5 minutes.

Mr. CULVER. Mr. Chairman, I rise in opposition to this amendment. What we really are talking about in this amendment is the whole issue of the most effective way for the U.S. Government in those cases involving expropriation of American business interests in an underdeveloped country or elsewhere in the world to make sure that we do whatever is most appropriate in order to bring about a satisfactory settlement by way of just and prompt and fair compensation.

The language of this amendment is essentially the language of the Hickenlooper amendment. The Hickenlooper amendment was adopted by the Congress in 1962. It has been operating on the statute books now for 10 years. The Hickenlooper amendment has only been employed on one occasion in 1963 in the case of Ceylon. We have not seen as the result of the adoption of the Hickenlooper amendment or, indeed, its operation, any decrease in the underdeveloped world in the number of expropriations that have illegally taken place. In fact, during the period of the Hickenlooper amendment's existence we have seen a dramatic increase in the number of expropriations that have actually taken place.

The Presidents of the United States in various administrations have commonly found that the Hickenlooper amendment has straitjacketed their negotiating flexibility in dealing with a host country, and a particular corporation seeking just compensation for illegal expropriation.

I think that what we should ask ourselves here in this House, when we wipe away all of the political emotion and all of the rhetoric on these issues which are of understandable concern, frustration and irritation to American national interests, is simply what actions can we properly take either diplomatically or by way of congressional action, by way of policy, which will in fact create a climate which is more favorable to the just and prompt resolution of the disputes rather than by legislative action, create a climate which creates a greater degree of hostility and misunderstanding in these parts of the world where these expropriations have taken place.

It seems to me that the best evidence on that point must be the testimony of U.S. business investors who currently are investing overseas, and how they view, after 10 years' experience under the Hickenlooper amendment, their interests.

The fact is that the Council of Americas, a group of the 200 leading U.S. businessmen, representing 90 percent—and I repeat, 200 of the leading American corportions composing the Council of Americas, as representing 90 percent of the direct investment in Latin America, have spelled out strongly and repeated their opposition to the Hickenlooper amendment.

Every single ambassador and leading U.S. diplomat in Latin America, and every witness who came before the House Committee on Foreign Affairs, and its Subcommittee on Foreign Economic Policy, have expressed their strong voice, and that is if you genuinely want to help us reach a satisfactory solution in the case of expropriation proceedings, do not do the demagogic, irresistible political thing of writing in this arbitrary language where you are going to straitjacket us, and create inflexibility for our negotiators in bringing about a desirable settlement and solution, and create a climate that is going to stimulate rather than discourage expropriation but, rather, resist that temptation, let us have some statesmanship and some responsibility in the national interest, and give us maximum flexibility in these negotiations.

If in a particular situation it is appropriate in the national interest to cut off aid, we can cut off aid. If in the national interest it proves to be appropriate to discontinue military sales to a particular country, we can discontinue military sales to a particular country, we can discontinue military sales. But do not arbitrarily prejudge these situations until we have been afforded the appropriate opportunities to utilize and employ all of the various medleys of responses available to us in a foreign policy situation to bring about a just and a fair settlement. This is what those interests most directly affected say to us. Are we going to listen? Are we going to do what they, themselves, have determined, after 10 years' experience under the Hickenlooper amendment, to be in their own self-interest in terms of creating a private investment climate in which future profit opportunities remain for the American investor and for the American public in terms of balance of payments and general foreign policy relationships? Or, are we once again going to demonstrate the incapability of this body to overcome superficial political appeals and consider such matters of this kind in terms of sensible approaches which would bring about a greater likelihood of a fair and just settlement that otherwise would not be possible between the parties and the countries in dispute?

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I rise to speak in favor of the amendment.

Mr. Chairman, the distinguished gentleman from Iowa has told us a vote for this amendment is demagogic and illogical. Yet he has spent his whole time telling us how bad the Hickenlooper amendment was. I logically and undemagogically agree with him it was a bad amendment. But, what he did not say is that the Gonzalez amendment is a far cry from the Hickenlooper amendment. The Hickenlooper amendment merely said we would not give aid to anyone who expropriated. The Gonzalez amendment does not prohibit aid to expropriating countries. It merely says that we will not give aid to somebody who has expropriated and who has neither first paid for it; second, made arrangements to pay for it; third, is negotiating in good faith, or, fourth, agreed to arbitration.

The Gonzalez amendment would make our aid payments—which are 100-percent taxpayers' dollars—and our loans through international development agencies, only part of which come from U.S. taxpayers—subject to the same conditions.

We ought to offer some measure of protection to U.S. interests abroad. This is a small, but useful, measure of protection the Treasury Department has supported. I support it and I urge all Members to vote logically for the Gonzalez amendment.

Mr. MAYNE. Mr. Chairman, I rise in support of the amendment proposed by the distinguished Member from Texas (Mr. GONZALEZ), and urge its adoption. I was shocked that the bill as reported by the House Foreign Affairs Committee would, in subsection 17(a), repeal the Hickenlooper amendment, paragraph 1 of section 620(e) of the Foreign Assistance Act of 1961. I had prepared an amendment to the bill which would have struck subsection 17(a), thereby retaining the Hickenlooper amendment providing for suspension of all assistance provided by this Government to any country which expropriates American property without providing adequate compensation as required by international law.

However, the Gonzalez amendment goes an extra step, it in effect restores the Hickenlooper amendment language to the Foreign Assistance Act and restores it in a form very close to the language first proposed by the distinguished Iowa statesman and long-time ranking minority member of the Senate Foreign Relations Committee, the late Senator Bourke B. Hickenlooper. I commend the Congressman from Texas (Mr. GONZALEZ) for his amendment. It makes it clear that Congress meant what it said when it enacted the Hickenlooper amendment by overwhelming votes in 1962, that the Congress will not allow taxpayer funds to be thrown away on countries which in effect commit acts of piracy.

I must disagree with my friend, the gentleman from Minnesota, as to the Hickenlooper amendment being a poor amendment. It was, and is, a good provision. The trouble with it, as is the trouble with any law, is the failure to use it and to enforce it. When the Hickenlooper amendment has been asserted and used, when the Congress stood up and fought for its enforcement, it proved to be a very useful deterrent to expropriation without compensation. Recently, we in the Congress have failed to insist on its enforcement, to put backbone into our policymakers and administrators by insisting that the Hickenlooper amendments be carried out by suspending all assistance to malefactors.

I commend the Gonzalez amendment

for its dotting the i's and crossing the t's, eliminating all possible doubt that Congress once again insists that its mandate against assistance to pirates be carried out to the letter. If the Members think that they had observed an increased incidence of expropriation recently, wait until they see what happens with the Hickenlooper amendment gone, if the Gonzalez amendment is not adopted.

I would remind the Members of this body that the Congress overwhelmingly approved the Hickenlooper-Adair amendment against expropriation in 1962 in order to head off the wave of expropriations threatening American investments in the wake of the Castro takeovers. There was strong bipartisan support for the amendment, with firm support by Senators HUMPHREY and MANSFIELD and by others from the other side of the aisle in the floor discussion. The majority report of the House Foreign Affairs Committee on the present bill points out that the amendment was used only once.

This is true, but that was the strength and purpose of the amendment—the imposition of the ultimate sanction of the Hickenlooper amendment, the suspension of all assistance to Ceylon because of that nation's seizure of American properties without providing compensation, showed all the world that Congress meant what it said, and that the administration had no choice but to carry out the suspension. The fact is, the Hickenlooper amendment worked. Ceylon, smarting under the suspension of our aid, came back into our good graces and that of the international community by taking steps to compensate the owners of expropriated property, thus satisfying the conditions of the Hickenlooper amendment.

President Kennedy sent his own brother, Bobby Kennedy, to Brazil, when that country was on the brink of making massive expropriations of American-owned properties. The Attorney General was able to point to the example of the suspension of aid to Ceylon, reinforcing his argument that Brazil would be automatically cut off from any kind of U.S. assistance if it pirated American properties, because Congress insisted on enforcement of the Hickenlooper amendment. The Government of Brazil backed down. In turn, almost every one of the other governments throughout Latin America, Africa, Asia, and the Pacific that were on the verge of trying the Castro formula of getting rich quick by robbing Americans, several already having issued expropriation decrees, very quickly backed down.

The flight of both domestic and foreign investment from the underdeveloped and developing countries because of the fear of spreading Castro-like expropriations consequently slowed to a trickle, and then reversed as Americans and others regained confidence in their ability to invest and to obtain reasonable return on their investment without being subjected to the constant threat of expropriation.

Before the Hickenlooper amendment, the fear of undergoing expropriation or arbitrary cancellation of contracts had virtually dried up investment and capital formation in most of the lesser developed countries. Far too many of our diplomats and representatives, both in the State Department itself and in our AID and diplomatic missions abroad, tended to shelf any pretext of carrying out their appointed duty of protecting American citizens in their life and property abroad, for fear of offending real or imagined sensibilities of the new countries or their leaders—and some in effect encouraged expropriation rather than discouraged it.

Governments receiving our assistance were amazed at our stupidity in continuing to insist on their receiving our assistance when they were robbing Americans with little or no pretense of making any form of compensation. "Why make any land reforms or increase taxes against local barons, when they can instead rob the Americans and fill our coffers, build our palaces and even throw some bread or provide circuses to the masses."

In view of this prevalent attitude and the failure of the State Department and our diplomats to do their utmost to protect American properties abroad, was it any wonder that the general public in the United States was about ready to discard the foreign assistance program in the early 1960s? Senator Hickenlooper's amendment may indeed have saved the foreign assistance program from being scuttled. Because Congress insisted that it be enforced, the Hickenlooper amendment worked.

The fact that Congress stood behind the amendment was brought home to foreign governments, expropriations sharply curved off, the climate for international private investment improved as the fear of expropriation eased off, and gradually foreign private investment again supplied the capital needed by the new nations to bring them to the stages of development so many of them enjoy today. Our foreign assistance funds no longer were just replacing the dollars that new nations lost through capital flight, they instead provided the extra spark that lesser developed countries needed to develop and achieve real progress.

It is not the fault of the Hickenlooper amendment that we have witnessed a recent increase in expropriations and in the unilateral breaking of contracts by various countries. It is instead the fault of this Congress, in failing to carry through on insisting on the rigorous enforcement of the highly useful tool provided us by the wisdom of Senator Hickenlooper, Congressman Adair, and the other Congressional leaders in 1962. In recent years we have failed to hold the feet of State Department, AID, and the various international agencies to the fire, to make it clear that we would not stand for any vacillation in suspending this Nation's assistance when the terms of the Hickenlooper amendment so required. Using one excuse or another, recent confiscations of American property have been ignored by those charged with administration of the foreign assistance program including the Hickenlooper amendment, and I am afraid Congress has let the administrators get away with it.

As a result, the credibility of recent administrations, the belief of foreign nations that expropriations of American property would immediately result in loss of our aid, rapidly eroded away. The fault lies not in the Hickenlooper amendment, which was and is good law, the fault lies instead in the failure of our insisting that the amendment be enforced. The solution is not to abandon or repeal the Hickenlooper amendment, it is rather to insist that it be carried out, and to strengthen and reinforce the amendment.

It should not be the policy of the Government of the United States or of the Congress to encourage expropriation, and it certainly should not be our policy to reward international piracy by continuing to give the pirate our blessings and continue foreign assistance. The government assistance we could extend to a country could never make up for what the country loses in the long run by scaring away potential foreign investors. Repeal of the Hickenlooper amendment would cause immediate deterioration in this Nation's prestige and standing in the world community, for who can respect any nation which weakly refuses to protect its own citizens from discriminatory actions in outrageous violation of international law? Repeal of the Hickenlooper amendment would in effect be the same as issuing a license to steal, in fact an invitation to commit piracy.

We, in Congress, must act to make it clear to all that the Congress will not tolerate any indifference to the rights of American citizens or any discrimination against them, and that the Congress will insist on rigorous enforcement of the Hickenlooper amendment and its sanction of suspending all assistance provided any country which confiscates American property without compensation. The Gonzalez amendment restores the Hickenlooper amendment to the Foreign Assistance Act, with revisions making its intent even more clear. I urge its adoption.

Mr. FRASER. Mr. Chairman, I rise in opposition to this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. GONZALEZ).

The question was taken; and on a division (demanded by Mr. GONZALEZ) there were—ayes 43, noes 39.

RECORDED VOTE

Mr. CULVER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 278, noes 102, not voting 53, as follows:

[Roll No. 395]

AYES—278

Addabbo
Anderson, Calif.
Andrews, N.C.
Annunzio
Archer
Armstrong
Ashbrook
Bafalis
Baker
Beard
Bell
Bennett
Bevill
Biaggi
Blackburn
Blatnik
Boggs
Boland
Bowen
Brasco
Bray
Breaux
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clark
Clausen, Don H.

Clawson, Del
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Collins, Tex.
Conlan
Conte
Cotter
Coughlin
Crane
Cronin
Daniel, Dan
Daniel, Robert W., Jr.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Denholm
Dennis
Dent
Derwinski
Diggs
Dingell
Dorn
Downing
Dulski
Duncan
du Pont
Esch
Eshleman
Evins, Tenn.
Flynt
Forsythe
Fountain
Frenzel
Frey
Froehlich
Fulton
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Grasso
Gray
Green, Oreg.
Gross
Grover
Gubser
Guyer
Haley
Hammerschmidt
Hanley
Hanrahan
Hansen, Idaho
Harsha
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holt
Horton
Hosmer
Huber
Hudnut
Hungate

Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Karth
Kazen
Keating
Kemp
Ketchum
Kuykendall
Kyros
Latta
Leggett
Lent
Litton
Long, La.
Long, Md.
Lujan
McClory
McCloskey
McCollister
McDade
McEwen
McSpadden
Macdonald
Madigan
Mahon
Mallary
Mann
Maraziti
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Melcher
Michel
Miller
Minish
Minshall, Ohio
Mitchell, N.Y.
Mizell
Moakley
Montgomery
Moorhead, Calif.
Mosher
Moss
Murphy, N.Y.
Myers
Nelsen
Nichols
O'Brien
Parris
Passman
Patman
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Powell, Ohio
Preyer
Quillen
Railsback
Randall
Rarick
Rinaldo
Roberts
Robison, N.Y.
Rogers
Roncallo, N.Y.

Rooney, Pa.
Rose
Roush
Rousselot
Roy
Roybal
Runnels
Ruppe
Ruth
St Germain
Sandman
Sarasin
Satterfield
Saylor
Scherle
Schneebeli
Sebelius
Shipley
Shoup
Shuster
Sikes
Sisk
Slack
Smith, N.Y.
Snyder
Spence
Staggers
Steed
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Talcott
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Thone
Thornton
Tiernan
Towell, Nev.
Treen
Ullman
Van Deerlin
Vander Jagt
Veysey
Vigorito
Waggonner
Walsh
Wampler
White
Whitehurst
Whitten
Widnall
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yatron
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Young, Tex.
Zion

NOES—102

Abzug
Adams
Alexander
Ashley
Aspin
Badillo
Barrett
Bergland
Biester
Bingham
Bolling
Brademas
Breckinridge
Brown, Calif.
Burke, Calif.
Burton
Carey, N.Y.
Chisholm
Clay
Conyers
Corman
Culver
Daniels, Dominick V.
Dellums

Donohue
Drinan
Eckhardt
Edwards, Calif.
Eilberg
Evans, Colo.
Fascell
Findley
Flood
Foley
Ford, William D.
Fraser
Frelinghuysen
Green, Pa.
Gude
Hamilton
Hansen, Wash.
Harrington
Helstoski
Holifield
Holtzman
Howard
Jones, Ala.
Jordan

Kastenmeier
Koch
Lehman
McCormack
McFall
McKay
Mailliard
Meeds
Mezvinsky
Mink
Mitchell, Md.
Mollohan
Moorhead, Pa.
Morgan
Murphy, Ill.
Natcher
Nedzi
Nix
Obey
O'Hara
O'Neill
Owens
Patten
Pepper
Podell

Price, Ill.
Pritchard
Rangel
Rees
Reid
Reuss
Riegle
Rodino
Roncalio, Wyo.
Rooney, N.Y.
Rosenthal
Rostenkowski

Ryan
Sarbanes
Seiberling
Smith, Iowa
Stanton, J. William
Stanton, James V.
Stokes
Symington
Teague, Tex.
Thomson, Wis.

Udall
Vanik
Ware
Whalen
Yates
Young, Ga.
Zablocki

NOT VOTING—53

Abdnor
Anderson, Ill.
Andrews, N. Dak.
Arends
Broyhill, N.C.
Camp
Conable
Dellenback
Devine
Dickinson
Edwards, Ala.
Erlenborn
Fish
Fisher
Flowers
Ford, Gerald R.
Fuqua

Gettys
Griffiths
Gunter
Hanna
Harvey
Hastings
Hawkins
Hébert
King
Kluczynski
Landgrebe
Landrum
Lott
McKinney
Madden
Martin, Nebr.
Metcalfe
Milford

Mills, Ark.
Price, Tex.
Quie
Regula
Rhodes
Robinson, Va.
Roe
Schroeder
Shriver
Skubitz
Stark
Stephens
Symms
Thompson, N.J.
Waldie
Wiggins
Winn
Zwach

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there any further amendments to be proposed to section 17? If not, the Clerk will read.

The Clerk read as follows:

EMPLOYMENT OF PERSONNEL

SEC. 18. Section 625 of chapter 2 of part III of the Foreign Assistance Act of 1961, relating to employment of personnel, is amended by adding at the end thereof the following new subsection:

"(k)(1) In accordance with such regulations as the President may prescribe, the following categories of personnel who serve in the Agency for International Development shall become participants in the Foreign Service Retirement and Disability System:

"(A) Persons serving under unlimited appointments in employment subject to section 625(d)(2) of this Act as Foreign Service Reserve officers and as Foreign Service staff officers and employees; and

"(B) A person serving in a position to which he was appointed by the President, whether with or without the advice and consent of the Senate, provided that (1) such person shall have served previously under an unlimited appointment pursuant to said 625(d)(2) or a comparable provision of predecessor legislation to this Act, and (2) following service specified in proviso (1) such person shall have served continuously with the Agency for International Development or its predecessor agencies only in positions established under the authority of sections 624(a) and 631(b) or comparable provisions of predecessor legislation to this Act.

"(2) Upon becoming a participant in the Foreign Service Retirement and Disability System, any such officer or employee shall make a special contribution to the Foreign Service Retirement and Disability Fund in accordance with the provisions of section 852 of the Foreign Service Act of 1946, as amended. Thereafter, compulsory contributions will be made with respect to each such participating officer or employee in accordance with the provisions of section 811 of the Foreign Service Act of 1946, as amended.

"(3) The provisions of section 636 and title VIII of the Foreign Service Act of 1946, as amended, shall apply to participation in the Foreign Service Retirement and Disability System by any such officer or employee.

"(4) If an officer who became a participant in the Foreign Service Retirement and Disability System under paragraph (1) of this subsection is appointed by the President, by and with the advice and consent of the Senate, or by the President alone, to a position in any Government agency, any United States delegation or mission to any international organization, in any international commission, or in any international body, such officer shall not, by virtue of the acceptance of such an appointment, lose his status as a participant in the system.

"(5) Any such officer or employee who becomes a participant in the Foreign Service Retirement and Disability System under paragraph (1) of this subsection shall be mandatorily retired (a) at the end of the month in which he reaches age seventy or (b) earlier if, during the third year after the effective date of this subsection, he attains age sixty-four or if he is over age sixty-four; during the fourth year at age sixty-three; during the fifth year at age sixty-two; during the sixth year at age sixty-one; and thereafter at the end of the month in which he reaches age sixty: *Provided*, That no participant shall be mandatorily retired under this paragraph while serving in a position to which appointed by the President, by and with the advice and consent of the Senate. Any participant who completes a period of authorized service after reaching the mandatory retirement age specified in this paragraph shall be retired at the end of the month in which such service is completed.

"(6) Wherever the President deems it to be in the public interest, he may extend any participant's service for a period not to exceed five years after the mandatory retirement date of such officer or employee.

"(7) This subsection shall become effective on the first day of the first month which begins more than one year after the date of its enactment, except that any officer or employee who, before such effective date, meets the requirements for participation in the Foreign Service Retirement and Disability System under paragraph (1) of this subsection may elect to become a participant before the effective date of this subsection. Such officer or employee shall become a participant on the first day of the second month following the date of his application for earlier participation. Any officer or employee who becomes a participant in the system under the provisions of paragraph (1) of this subsection, who is age fifty-seven or over on the effective date of this subsection, may retire voluntarily at any time before mandatory retirement under paragraph (5) of this subsection and receive retirement benefits under section 821 of the Foreign Service Act of 1946, as amended.

"(8) Any officer or employee who is separated for cause while a participant in the Foreign Service Retirement and Disability System pursuant to this subsection, shall be entitled to benefits in accordance with subsections 637 (b) and (d) of the Foreign Service Act of 1946, as amended. The provisions of section 625(e) of this Act shall apply to participants in lieu of the provisions of sections 633 and 634 of the Foreign Service Act of 1946, as amended.".

Mr. MORGAN (during the reading). Mr. Chairman, I know of no amendments to this section, so I ask unanimous consent that section 18 be considered as read and printed in the RECORD at this point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Are there any amendments to section 18?

Mr. BIAGGI. Mr. Chairman, I offer an amendment.

PARLIAMENTARY INQUIRY

Mr. FASCELL. Mr. Chairman, a parliamentary inquiry. Is the gentleman offering an amendment to section 18?

The CHAIRMAN. The Chair asked

whether or not there were any amendments to section 18.

Mr. BIAGGI. A parliamentary inquiry, Mr. Chairman. I have an amendment at the desk relating to section 17. I inquired of the Chair, and the Chair assured me I would be given an opportunity.

The CHAIRMAN. The Chair understands the gentleman. The Chair put the question as to whether there were additional amendments to section 17. The Chair does not know whether the gentleman was in the Chamber at the time.

Mr. MORGAN (during the reading). Mr. Chairman, I know of no objections to section 18, and I ask unanimous consent that section 18 may be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Are there any amendments to section 18?

Mr. BIAGGI. Mr. Chairman, I was on my feet and seeking recognition at the time section 17 was considered as read.

The CHAIRMAN. The Chair will state to the gentleman from New York that the Chair looked for and did not see the gentleman. The gentleman from New York, however, can ask unanimous consent to return to section 17 for the purpose of offering the gentleman's amendment to that section.

Mr. BIAGGI. Mr. Chairman, I ask unanimous consent to return to section 17 of the bill so that I may offer my amendment to that section.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. MORGAN. Mr. Chairman, reserving the right to object—and I shall not object—I merely wish to state that I want to preserve the right of the gentleman from New York (Mr. Biaggi) to offer his amendment. The gentleman had consulted with me on his amendment, and the gentleman waited when I made the request for a time limitation. Therefore, I hope that the House will accede to the unanimous-consent request of the gentleman from New York so that we can return to section 17 so that the gentleman may offer his amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. BUCHANAN. Further reserving the right to object, I believe that there were two amendments relating to this section. Am I correct in that?

The CHAIRMAN. The Chair will state to the gentleman from Alabama that after the recorded vote was taken on the last amendment, the Chair put the question to the House as to whether there were further amendments to section 17, and the Chair received no response from any Member in the Chamber, and as the Chair stated previously, he did not see the gentleman from New York (Mr. Biaggi). However, the gentleman from New York (Mr. Biaggi) has requested unanimous consent that we return to section 17 so that he might offer his amendment. The gentleman from New York, however, does not have the right to debate his amendment. He may simply offer the amendment.

Mr. BUCHANAN. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. BIAGGI

Mr. BIAGGI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Biaggi: Page 25, line 18, after the words "United States", add the following sentence: "The President's report shall contain assurances that the Government of North Vietnam are cooperating fully in providing for a full accounting of any remaining prisoners of war and all missing in action."

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Biaggi).

The question was taken; and the Chair announced that the noes appeared to have it.

PARLIAMENTARY INQUIRY

Mr. BIAGGI. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. BIAGGI. Mr. Chairman, did the Chairman state that the ayes had it?

The CHAIRMAN. The Chair will state that the Chair announced that the noes appeared to have it.

Mr. BIAGGI. Mr. Chairman, I was under the misinformation that I had heard the Chair announce that the ayes appeared to have it.

Had I heard the Chair announce that the noes appeared to have it, I would have demanded a division.

Therefore, Mr. Chairman, on that I demand a division.

The question was taken by a division (demanded by Mr. Biaggi) and there were—ayes 58, noes 8.

So the amendment was agreed to.

The CHAIRMAN. Are there any amendments to section 18? If not, the Clerk will read.

The Clerk read as follows:

REPORTS AND INFORMATION

Sec. 19. Section 634 of chapter 2 of part III of the Foreign Assistance Act of 1961, relating to reports and information, is amended by striking out subsection (f) and inserting in lieu thereof the following new subsections:

"(f) The President shall transmit to the Speaker of the House of Representatives and to the Committee on Foreign Relations of Senate, a comprehensive report showing, as of June 30 and December 31 of each year, the status of each loan, and each contract of guarantee or insurance, theretofore made under this Act, with respect to which there remains outstanding any unpaid obligation or potential liability; the status of each sale of defense articles or defense services on credit terms, and each contract of guarantee in connection with any such sale, theretofore made under the Foreign Military Sales Act, with respect to which there remains outstanding any unpaid obligation or potential liability; the status of each sale of agriculture commodities on credit terms theretofore made under the Agricultural Trade Development and Assistance Act of 1954, with respect to which there remains outstanding any unpaid obligation; and the status of each transaction in which a loan, contract of guarantee or insurance, or extension of credit (or participation therein) was theretofore made under the Export-Import Bank Act of 1945, with respect to which there remains outstanding any unpaid obligation or potential liability: *Provided, however*, That this report shall report individually only those loans, contracts, sales, extensions of credit, cr other transactions listed above in excess of $1,000,000.

"(g) The President shall transmit to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate, not later than January 31 of each year, a comprehensive report, based upon the latest data available, showing—

"(1) a summary of the worldwide dimensions of debt-servicing problems among such countries, together with a detailed statement of the debt-servicing problems of each such country;

"(2) a summary of all forms of debt relief granted by the United States with respect to such countries, together with a detailed statement of the specific debt relief granted with respect to each such country and the purpose for which it was granted;

"(3) a summary of the worldwide effect of the debt relief granted by the United States on the availability of funds, authority, or other resources of the United States to make any such loan, sale, contract of guarantee or insurance, or extension of credit, together with a detailed statement of the effect of such debt relief with respect to each such country; and

"(4) a summary of the net aid flow from the United States to such countries, taking into consideration the debt relief granted by the United States, together with a detailed analysis of such net aid flow with respect to each such country.".

Mr. MORGAN (during the reading). Mr. Chairman, I know of no amendments to section 19. I therefore ask unanimous consent that section 19 may be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. BUCHANAN. Mr. Chairman, reserving the right to object, if the unanimous-consent request of the gentleman from Pennsylvania is granted, this section will then be open to amendments at that time?

The CHAIRMAN. The Chair will state to the gentleman from Alabama that the section 19 will be open to amendment at any point.

Mr. BUCHANAN. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Are there any amendments to be proposed to section 19?

AMENDMENT OFFERED BY MR. YOUNG OF GEORGIA

Mr. YOUNG of Georgia. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Young of Georgia: Page 29, line 18, insert "(a)" after "Sec. 19.".

Page 31, after line 21, insert the following:

(b) (1) The Comptroller General of the United States shall, as soon as possible following the date of the enactment of this Act and at quarterly intervals thereafter, make a determination and report to Congress with respect to the use by Portugal in direct or indirect support of its military activities in its African colonies of:

(A) assistance furnished under Foreign Assistance Act of 1961 after the date of the enactment of the Mutual Development and Cooperation Act of 1973,

(B) defense articles or services furnished after such date under the Foreign Military Sales Act (whether for cash or by credit, guarantee or any other means), or

(C) agricultural commodities furnished after such date under the Agricultural Trade Development and Assistance Act of 1954.

"(2) Any assistance or sales referred to in the preceding paragraph shall be suspended upon the submission to Congress of a report by the Comptroller General containing his determination that any such assistance or item so furnished after such date has been used in direct or indirect support of Portugal's military activities in its African colonies. Such suspension shall continue until such time as the Comptroller General submits a report to Congress containing his determination that appropriate corrective action has been taken by the Government of Portugal.

Mr. MORGAN. Mr. Chairman, I just wonder if this section is the proper place for this amendment. I would like to reserve a point of order until we find out whether this is the proper location.

The CHAIRMAN. The gentleman from Georgia has already been recognized.

Mr. YOUNG of Georgia. Mr. Chairman, I should like to take just a little time to see if we cannot call the attention of this body to Portugal's use of our funds potentially in their struggle in southern Africa. I think we never would have entered into a war in Vietnam had we realized how gradual involvement would escalate to a $100 billion war. Yet most of us knew nothing about Vietnam until we were deeply into it.

I was part of a little group in Sunday school that started studying about a mission station sponsored by our church in Angola, and I have had an abiding interest in that part of the world for a long, long time. So it disturbed me the first of the week when I read of reported massacres and intense military activity between the government of Portugal and the people in the colonies of Angola and Mozambique. I do not want to argue the issues involved there. The main point of my amendment is that this body be kept closely informed so that our funds not seek to get us continually involved here. We send funds and then equipment; then gradually we begin to go into training; next we are sending advisers; before we know it, there are troops, and there is a full-scale commitment.

My amendment simply calls for an oversight of Portugal's use of funds that are in this bill, and that those funds not be used to in any way drag this country into any kind of war in southern Africa.

Most of the colonial powers have long since abandoned their groundless claims to sovereignty over foreign lands and peoples. But not Portugal. Instead of ceding to the vast majority of the people of Mozambique, Angola, and Guinea-Bissau their legitimate rights to control of those African lands, the Portuguese colonialist government to this day pursues a policy of terror, massacre, torture, and violence.

For too long, the United States has given direct and indirect assistance to that policy. From 1946 through 1972, American military aid to Portugal was worth $344 million; economic assistance amounted to $227.8 million. The total of $571.8 million was a significant contribution to the maintenance of colonial rule in Africa.

Today we are asked to approve continuation of aid to Portugal, at a time when new reports of violence and destruction are reaching us from the Portuguese colonies: Massacres of hundreds of African people by Portuguese armed forces, corroborated by the testimony of eyewitnesses and priests, nuns, and bishops; destruction of crops in liberated areas of Mozambique; napalm attacks in Angola and the other colonies. It is the same old continuing pattern of violence against the African population.

If my colleagues think, as I do, that this is all too reminiscent of the American experience in Vietnam, you may also share my view that Portugal should draw upon our example and withdraw her troops from Africa. Certainly the colonies there pose no threat to the security of the distant shores of Portugal.

The reality, however, is that the Portuguese Government remains unyielding on the issue, so today I propose that this House take a very simple step to indicate that we will no longer participate, directly or indirectly, in the Portuguese crimes against the African people of Angola, Guinea-Bissau, and Mozambique.

Mr. Chairman, I consider it my duty to speak out against the repression of human rights, wherever it is found. I am glad that an overwhelming majority of both bodies of this Congress have spoken with a voice of conscience against the persecution of Jewish citizens in the Soviet Union. I am grateful that, at long last, both houses have spoken with a voice of conscience in repudiating the American bombing of Cambodia and Laos.

I urge the House today to continue this healthy new trend of congressional leadership in foreign affairs, to lead our country on a consistent and healthy new course against injustice in the world, to put the Portuguese Government on notice that this is the year 1973 and the days of violent colonialist rule are over.

Mr. Chairman, some may say that the assistance to Portugal is moderate, although I note the irony of a 1972 agreement which could make available to one country, Portugal, $30 million worth of grain—the same amount provided in this bill for six countries of the Sahel in Africa which are confronting massive starvation.

However modest U.S. foreign aid to Portugal may seem, it is vastly significant if the people of the United States contribute any amount to a government which fosters the sordid crimes against humanity that have been taking place in Africa. Once again, I say that we should say plainly and emphatically here today that we will not participate in it, in any fashion.

I urge support of my amendment.

AMENDMENT OFFERED BY MR. BUCHANAN TO THE AMENDMENT OFFERED BY MR. YOUNG OF GEORGIA

Mr. BUCHANAN. Mr. Chairman, I offer an amendment to the amendment offered by the gentleman from Georgia (Mr. YOUNG).

The Clerk read as follows:

Amendment offered by Mr. BUCHANAN to the amendment offered by Mr. YOUNG of Georgia: Strike out "Comptroller General" each place it appears and insert in lieu thereof "President".

Strike out "direct or indirect" each place it appears.

Strike out "as soon as possible following" and insert in lieu thereof "as soon as practicable following".

Strike out "and at quarterly intervals thereafter".

Mr. BUCHANAN. Mr. Chairman, there may be many Members who share the concern of the gentleman from Georgia over the situation which he has described. My amendment would simply hopefully make it acceptable to those who might have questions about the effect of his amendment. The amendment as written provides the Comptroller General of the United States shall make these determinations about a foreign country, and that the action of cutting off the assistance shall be triggered on his report. My amendment would insert in lieu thereof "the President," and it would be a matter of a single Presidential determination as to the situation with Portugal and as to whether or not the assistance should be cut off. The report would be from the President; the decision would be by the President.

It would be as soon as practicable following this act, rather than as soon as possible. I think this is more reasonable language, but I think the purpose of the gentleman from Georgia may be one that other Members would endorse. I hope they will support my amendment to his amendment.

Mr. MAILLIARD. Mr. Chairman, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from California (Mr. MAILLIARD).

Mr. MAILLIARD. Mr. Chairman, I share the sentiments of the gentleman from Georgia, but I agree with the gentleman from Alabama that in asking the Comptroller General to make a finding, when the only means of getting information is through a foreign country, we would be asking him to do something he might not be able to do. To put this requirement on the President I think will achieve the purpose without the complications that would be involved if the Comptroller General were to attempt it.

Mr. BIESTER. Mr. Chairman, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from Pennsylvania (Mr. BIESTER).

Mr. BIESTER. Mr. Chairman, I support the amendment to the amendment offered by the gentleman from Georgia.

Am I correct that in the event the committee should support the amendment to the amendment, the gentleman from Alabama would also support the amendment of the gentleman from Georgia?

Mr. BUCHANAN. That is precisely correct. I urge the adoption of my amendment.

Mr. YOUNG of Georgia. Mr. Chairman, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from Georgia.

Mr. YOUNG of Georgia. Mr. Chairman, I would certainly recommend the amendment offered by the gentleman from Alabama to the amendment, and I will support it. My main intention is to put a close watch on this body on any funds we sent to Portugal.

Mr. MORGAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think there is more to this amendment than is apparent. We must remember that amendments affecting Portugal have been on this floor many, many times.

I want to say that we have a very important base in the Atlantic, the Azores. We used to pay Portugal a considerable amount for that base, but today we pay Portugal through Public Law 480 sales, Export-Import Bank credit and educational funds. We may also give them up to $5 million in excess military equipment.

I cannot assure anyone that Public Law 480 food is not going to filter down to the African colonies of Portugal. But I am worried that amendment gives the President an extra heavy duty to make a determination which he may not be able to make.

I agree with the gentleman from California (Mr. MAILLIARD) about the original amendment offered by the gentleman from Georgia which gave that determination to the Comptroller General. It would be impossible for him to get into Portugal or its colonies to determine what goes on. I also think the President would have a very difficult time making such a determination, so I am reluctant to support either the amendment to the amendment or the amendment offered by the gentleman from Georgia.

Mr. SIKES. Mr. Chairman, will the gentleman yield?

Mr. MORGAN. I yield to the gentleman from Florida (Mr. SIKES).

Mr. SIKES. Mr. Chairman, the distinguished gentleman from Pennsylvania is exactly right. We are asked to embark upon a very dangerous procedure.

We have in the Azores one of the most important military bases which is available to the United States. It has other very significant defense connotations to our own forces. It is necessary to the NATO defense structure. The use of the base costs us virtually nothing. We are there by sufferance of the Portuguese Government. These people are our friends. We need friends not enemies.

The amendment of the gentleman from Georgia is insulting to a friendly nation. It could cost us the use of one of our most valuable bases. The language of the amendment to the substitute offered by the gentleman from Alabama certainly is preferable. It makes much more sense although I think we are on dangerous ground with either of them. Both the amendment and the substitute should be rejected.

Mr. YOUNG of Georgia. Mr. Chairman, will the gentleman yield?

Mr. MORGAN. I yield to the gentleman from Georgia.

Mr. YOUNG of Georgia. Mr. Chairman, there is nothing in this bill that would in any way interfere with our relationship in the Azores. Portugal needs us more than we need them. They are desperately depending on their relationship to NATO, and the base in the Azores directly relates to our NATO agreements.

We talk about food under Public Law 480 going to Portugal. Fine, I support that totally, but when they begin to send some $31 million of food to feed cattle in Angola to build up a competitive cattle industry to our industries here at home, especially in view of the grain shortage we have here, I say this is a situation that is well worth watching.

I hope that the committee will support my amendment and authorize the President to watch these appropriations.

Mr. MORGAN. Mr. Chairman, I just want to say to the gentleman from Georgia that if the amendment was offered to Public Law 480, and limited, as he says, to $30 million in Public Law 480 sales, I would be glad to consider it. I think on its present broad basis, the amendment would jeopardize our great airbase in the Atlantic.

I think the amendment should be rejected.

Mr. REID. Mr. Chairman, I rise in support of the amendment. I commend the gentleman from Georgia for offering it.

I would point out that Jack Kennedy once said that unfortunately U.S. policy in Southern Africa was determined by a strip of concrete in the Atlantic. This comment still bears far too much validity, as we have seen in our own Government's actions in the United Nations, let alone our supplying of Portugal with Boeing aircraft or our doctoring of munitions lists and definitions to create loopholes to enable the selling of herbicides to Portugal.

The United States has been in a tiny minority in its policy of obstructionism, at best, and of implied assistance of Portugal in its efforts to retain control of its African territories.

Now, even in the face of numerous allegations of violent massacres in the Tete district of Mozambique of up to 400 persons, the U.S. Government remains silent. We in the Congress must broaden our horizons to inform ourselves and to act, when necessary, in support of peoples seeking independence and liberation from colonial rule. The amendment offered by the gentleman from Georgia does much to assist us in that role.

Quite frankly, I believe it is already late, but we still have time to recognize that the United States can and must exercise leverage on Portugal, in order to work toward the process of independence and majority rule for Angola, Mozambique, and Guinea-Bissau.

For the future, one thing is certain. Change in what is now Portuguese Africa will occur. No nation or allied nations can prevent this. The only question is whether there will be peaceful change or violent change. I believe that it is up to the statesmen of the world, and indeed to the Congress of the United States, to give diplomacy a chance, and to bring about peaceful change rather than violent change.

Again I commend the gentleman from Georgia and urge support of the amendment.

Mr. DENNIS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am not too enamoured with foreign aid at all. I sympathize with the objectives of the gentleman from Georgia, but I feel, and I feel very seriously, which is why I take the time to say so at this point, that if foreign aid has any basis or point at all it is to get something done not for someone else but for us, as an instrument of foreign policy, insofar as it has any merit.

When we get into the business of trying to use it to tell other countries how they should manage their internal affairs, regardless of what we may think about how they manage them, we are getting into very dangerous ground. And when we do it in a manner which might jeopardize one of the few useful, concrete things we really need, that we get out of this; namely, the base referred to, I believe we are making a serious mistake.

Of course, the amendment of my friend from Alabama is preferable in its language.

Although the thrust of both amendments is good at heart, as a practical matter they are both bad from the point of view of what this Nation should be doing in its own practical self-interest in this type of field.

Mr. GROSS. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I wonder what we are getting with resolution of this kind.

This Government has been giving aid, for instance, to Burundi where the governing tribe of Houtoos—I believe that is the way it is pronounced—is doing a pretty good job of slaughtering another tribe, the Tutsis.

At any rate, a good many thousands of people are being massacred in Burundi. If we are going to follow up where this aid goes and adopt resolutions of one kind or another such as this resolution, I wonder where the end will come to this sort of business.

Mr. FRASER. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Minnesota.

Mr. FRASER. Does the gentleman agree with the provision or understanding we have with Portugal that this assistance should not be used in Africa? Does the gentleman agree with that provision we have, or understanding, with Portugal?

Mr. GROSS. I do not know about any "agreement." The gentleman says, "agreement," and in another breath he says, "understanding." I do not know what he is talking about.

Mr. FRASER. The condition of assistance would not be used in Africa. Will the gentleman agree with that?

Mr. GROSS. Mr. Chairman, what does the gentleman mean by "condition"? Whose condition and with whom?

Mr. FRASER. We say to them, "We will make this stuff, but you are not to use it in Africa."

Mr. GROSS. Are we going to say to the minority, which happens to be the ruling tribe in Burundi, that "You get no aid except on the condition that you quit slaughtering the Tutsis?"

Mr. FRASER. Frankly, I wish we would cut off any aid to any government that sanctions that kind of massacre, and I think we ought to be consistent in that agreed.

Mr. GROSS. We have given aid to Uganda in the past. What about Amin, the ruthless dictator of that country?

Mr. FRASER. Our Ambassador is out of Uganda now. I think we have stopped our aid there, and it is long overdue.

Mr. GROSS. I do not know anything about that. I am just asking how long we are going to go along with proposals of this kind, meddling in the internal affairs of other nations. If we are going to meddle in the affairs of the Portugal why not every other country under similar circumstances?

Mr. FRASER. If people are being killed on a widespread scale, that is not "meddling."

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Chairman, when we get into an area like this where emotions are involved and we run into precedents such as this, the amendment offered by the gentleman from Georgia is nonproductive. I think it would be preferable if we accepted the amendment offered by the gentleman from Alabama.

Mr. GROSS. Mr. Chairman, I oppose both the amendment and the amendment to the amendment.

Mr. YOUNG of Georgia. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Georgia.

Mr. YOUNG of Georgia. Mr. Chairman, I would certainly say that with regard to any nation which is still slaughtering people within their own borders with weapons supplied to their own government, we ought not to supply them with the weapons to slaughter people. This is the thing I am saying here.

Mr. Chairman, this just prevents us from being involved gradually in a conflict, as we became dragged into the war in Vietnam.

Mr. TREEN. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Louisiana.

Mr. TREEN. Mr. Chairman, I will direct my question to the gentleman from Georgia (Mr. YOUNG).

I want to understand this amendment. I am in favor of cutting off any funds directed toward military actions of Portugal and the colonies, but is the gentleman's amendment directed to that, or is it the intent of the gentleman to prohibit any sort of aid in those colonies?

Is it just in regard to military matters, the use of Portugese military forces?

Mr. YOUNG of Georgia. Mr. Chairman, if the gentleman will yield, the amendment merely asks for the control and allow the President to keep a close watch on this situation to see that American funds are not used to perpetuate other nations' wars.

Mr. TREEN. Is it the intent of that amendment that if any funds were used for any purpose whatsoever in the colonies, we would then take action, or is it for military purposes?

Mr. YOUNG of Georgia. It is not for military purposes.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, as I understand the gentleman from Minnesota, we have gotten an agreement which says the Portuguese should not use the money for this purpose. Now, if they are violating an agreement—I do not know whether they are or not—if they are, we ought to just cut it off. But to assume they are violating it and say we are going to keep a watch on a supposedly friendly nation, that strikes me as a very unfriendly thing to do. If they are violating it, let us cut it off; let us cut off their capacity for war.

Mr. PASSMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this is the most painful act in my 27-year career in Congress. It has been my privilege to chair the Appropriations Subcommittee on Foreign Operations for 19 years. I have never interfered with the foreign assistance authorization bill but I do not think I could live with my conscience if I did not bring one matter to the attention of the Members.

I ask the Members, if they will look at the committee bill on page 41. The committee report indicates that the bill presently before us authorizes $2,833 million for foreign aid, but there is also an additional $5 billion unintentional boobytrap in this bill.

Let me explain it to you if I may. On page 41 you find a program known as the U.S. Export Development Credit Fund. Nothing is mentioned about the amount involved in dollars, it is just plain, simple, innocent-sounding language. It says:

> In the interest of increasing United States exports to the lowest income countries, thereby contributing to high levels of employment and income in the United States and to the establishment and maintenance of long-range, growing export markets, while promoting development of such countries, the President shall establish a fund to be known as the United States Export Development Credit Fund . . .

That is a part of it. Now, if you go over to page 42, you find the following language in section 902:

> As may hereafter be provided in annual appropriation Acts, the President is authorized to borrow from whatever source he deems appropriate, during the period beginning on the date of enactment of this part and ending on December 31, 1977, and to issue and sell such obligations as he determines necessary to carry out the purposes of this part. The aggregate amount of such obligations outstanding at any one time shall not exceed one-fourth of the amount specified in section 7 of the Export-Import Bank Act of 1945 on July 1, 1973.

That sounds awfully innocent, but what amount of funds will be involved? It is $5 billion. Under this language, you are just passing another foreign aid spigot which calls for an annual program of about $1.25 billion.

Please read the bill, and you will know why I am compelled to offer this amendment. You already have in the foreign aid bill 28 different spigots. Please give the American taxpayer some sympathy whether you give it to me or not.

Now, what are the facts about foreign aid? You have 28 different spigots of foreign aid and assistance. What you are considering today is only one program. The total request for foreign aid and assistance for 1974 is $18,003,191,000. If you do not adopt my amendment, you must add to that an additional $1.25 billion.

This is an unintentional booby trap. It is not known what agency will administer this program. It may be AID or the Export-Import Bank. Keep in mind that you have a pipeline from these 28 different spigots of $26.8 billion of previously appropriated and authorized funds which have not been expended. Of the programs contained in this bill, there are $4.5 billion in unexpended funds. This creates another lending agency. How many lending agencies do you already have on the books? The answer is 15. Let me read them to you:

1. A.I.D.—Development Loan Fund.
2. International Bank for Reconstruction and Development.
3. International Development Association.
4. International Finance Corporation.
5. International Monetary Fund.
6. Inter-American Development Bank.
7. Asian Development Bank.
8. Foreign Military Credit Sales Program.
9. Export-Import Bank, Long-Term Credits.
10. Export-Import Bank, Regular Operations.
11. Export-Import Bank, Export Expansion Program.
12. P.L. 480—Economic Development Loans.
13. P.L. 480—Cooley Loans.
14. Overseas Private Investment Corporation.
15. Inter-American Foundation.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. PASSMAN was allowed to proceed for 2 additional minutes.)

Mr. MORGAN. Is the gentleman for or against this amendment?

Mr. PASSMAN. Mr. Chairman, if the gentleman from Pennsylvania would listen, the gentleman would know that I have an amendment pending that is going to be offered subsequently to knock out this Export Development Credit Fund. I am sure my dear friend knows that this innocent language will cost $5 billion.

Mr. Chairman, I am only pointing this out at this time, because I did not know if there would be a move to cut off debate later, and I wanted an opportunity to explain to the Members this aspect of the bill.

Mr. Chairman, we had a public debt of $159 billion when Mr. Truman was President, and then in the subsequent 25 years the public debt went up to $455 billion. We increased the public debt by $296 billion and most of this increase can be attributed to foreign aid. I should also mention that there are a great many loans outstanding with terms of 50 years at no interest.

When I offer my amendment I shall go a bit more into detail on it, but if I should be deprived of the right to speak on my amendment, because of a limitation of debate, then I ask the Members to please, if they will, support my amendment and save the American taxpayers $5 billion.

Mr. de la GARZA. Mr. Chairman, I rise in opposition to the amendments offered by the gentlemen from Alabama and Georgia. This seems a simple enough request for oversight over Public Law 480. I do not agree, it is intended as a vehicle to have this House be on record questioning the actions of the friendly country of Portugal, our steadfast friend for many years. We cannot forget the contribution which Portugal made in past centuries to the civilized world, the brave Portugese sailors brought, yes, brought civilization to many areas of the world, and for us by this type of amendment to challenge their honesty and integrity in abiding by international or bilateral agreements would be a direct insult.

We have diplomatic relations with Portugal, we have friendly relations, we are on speaking terms, there are better ways, more proper ways and avenues to pursue the subject which interest the gentleman from Georgia than this manner before us. This is no way to treat a friendly, sovereign nation who has remained by our side during this Nation's hour of need. We should not forget.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama (Mr. Buchanan) to the amendment offered by the gentleman from Georgia (Mr. Young).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. Young) as amended.

The question was taken; and on a division (demanded by Mr. Young of Georgia) there were—ayes 69, noes 57.

So the amendment, as amended, was agreed to.

The CHARIMAN. Are there further amendments to be proposed to section 19? If not, the Clerk will read.

The Clerk read as follows:

ADMINISTRATIVE EXPENSES

Sec. 20. Section 637(a) of chapter 2 of part III of the Foreign Assistance Act of 1961, relating to authorizations for administrative expenses, is amended by striking out "for the fiscal year 1972, $50,000,000, and for the fiscal year 1973, $50,000,000," and inserting in lieu thereof "for the fiscal year 1974, $53,100,000 and for the fiscal year 1975, $53,100,000".

FAMINE AND DISASTER RELIEF AND AFRICAN SAHEL DEVELOPMENT PROGRAM

Sec. 21. Chapter 2 of part III of the Foreign Assistance Act of 1961 is amended by striking out section 639 and inserting in lieu thereof the following new sections:

"Sec. 639. Famine and Disaster Relief.—Notwithstanding the provisions of this or any other Act, the President is authorized to furnish famine or disaster relief or rehabilitation or related assistance abroad on such terms and conditions as he may determine.

"Sec. 639A. Famine and Disaster Relief to the African Sahel.—(a) The Congress affirms the response of the United States Government in providing famine and disaster relief and related assistance in connection with the drought in the Sahelian nations of Africa.

"(b) Notwithstanding any prohibitions or restrictions contained in this or any other Act, there is authorized to be appropriated to the President, in addition to funds otherwise available for such purposes, $30,000,000 to remain available until expended, for use by the President, under such terms and conditions as he may determine, for emergency and recovery needs, including drought, famine, and disaster relief, and rehabilitation and related assistance, for the drought-stricken Sahelian nations of Africa.

"Sec. 639B. African Sahel Development Program.—The Congress supports the initiative of the United States Government in undertaking consultations and planning with the countries concerned, with other nations providing assistance, with the United Nations, and with other concerned international and regional organizations, toward the development and support of a comprehensive long-term African Sahel development program.".

Mr. MORGAN (during the reading). Mr. Chairman, I know of no amendments to sections 20 and 21, and I therefore ask that sections 20 and 21 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Are there any amendments to be proposed to sections 20 and 21? If not, the Clerk will read.

The Clerk read as follows:

ADMINISTRATIVE PROVISIONS

Sec. 22. Chapter 2 of part III of the Foreign Assistance Act of 1961, relating to administrative provisions, is amended by adding at the end thereof the following new sections:

"Sec. 640B. Coordination.—(a) The President shall establish a system for coordination of United States policies and programs which affect United States interests in the development of low-income countries. To that end, the President shall establish a Development Coordination Committee which shall advise him with respect to coordination of United States policies and programs affecting the development of the developing countries, including programs of bilateral and multilateral development assistance. The Committee shall include the Administrator, Mutual Development and Cooperation Agency, Chairman; and representatives of the Departments of State, Treasury, Commerce, Agriculture, and Labor, the Executive Office of the President, and other executive departments and agencies, as the President shall designate.

"(b) The President shall prescribe appropriate procedure to assure coordination among the various departments and agencies of the United States Government having representatives in diplomatic missions abroad.

"(c) Programs authorized by this Act shall be undertaken with the foreign policy guidance of the Secretary of State.

"(d) The President shall report to the Congress during the first quarter of each calendar year on United States actions affecting the development of the low-income countries and on the impact of those undertakings upon the national income, employment, wages and working conditions in the United States.

"Sec. 640C. Shipping Differential.—For the purpose of facilitating implementation of section 901(b) of the Merchant Marine Act, 1936 (49 Stat. 1985; 46 U.S.C. 1241(b)), funds made available for the purposes of chapter 1 of part I or for purposes of part VI may be used to make grants to recipients under this part to pay all or any portion of such differential as is determined by the Secretary of Commerce to exist between United States and foreign-flag vessel charter or freight rates. Grants made under this section shall be paid with United State-owned foreign currencies wherever feasible.".

Mr. MORGAN (during the reading). Mr. Chairman, I ask unanimous consent that section 22 be considered as read and printed in the Record. I know of no amendments to section 22.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Are there any amendments to be proposed to section 22? If not, the Clerk will read.

The Clerk read as follows:

MISCELLANEOUS PROVISIONS

Sec. 23. Chapter 3 of part III of the Foreign Assistance Act of 1961, relating to miscellaneous provisions, is amended by adding at the end thereof the following new sections:

"Sec. 659. Annual North Atlantic Treaty Military Organization Report.—(a) The Secretary of Defense and the Secretary of State shall submit to the Speaker of the House of Representatives and to the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate, on or before January 15 of each year a report of—

"(1) the direct, indirect, and unallocated costs to the United States of participation in the North Atlantic Treaty Organization (hereinafter in this section referred to as the 'Organization') for the last fiscal year preceding the fiscal year in which the report is submitted;

"(2) the estimated direct, indirect, and unallocated costs to the United States of participation in the Organization for the fiscal year in which the report is submitted;

"(3) the amounts requested from Congress (or estimated to be requested) for the direct, indirect, and unallocated costs to the United States of participation in the Organization for the first fiscal year following the fiscal year in which the report is submitted;

"(4) the estimated impact of expenditures related to United States participation in the Organization on the United States balance of payments including a detailed description of the offsets to such United States expenditures.

For each such direct, indirect, and unallocated cost, the Acts of Congress authorizing such cost and appropriating funds for such cost shall be listed next to such cost in the report.

"(b) For the purposes of this section—

"(1) the term 'direct costs' includes funds the United States contributes directly to any budget of the Organization (including the infrastructure program);

"(2) the term 'indirect costs' includes funds the United States spends to assign and maintain United States civilian employees for the Organization, funds spent for Government research and development attributable to the Organization, contributions to the Organization sponsored organizations, and military assistance furnished under part II of this Act, and sales of defense articles or defense services under the Foreign Military Sales Act, to member nations of the Organization; and

"(3) the term 'unallocated costs' includes (i) funds the United States spends to maintain United States Armed Forces committed exclusively or primarily for the Organization in Europe, the United States, or on the open seas, or to remove such Armed Forces from such commitment, and (ii) funds the United States spends on facilities constructed and maintained for such forces.

"(c) All information contained in any report transmitted under this section shall be public information, except information that the Secretary of Defense or the Secretary of

State designates in such report as information required to be kept secret in the interest of the national defense or foreign policy.

Mr. MORGAN (during the reading). Mr. Chairman, I ask unanimous consent that section 23 be considered as read and printed in the Record. I know of no amendment to this section.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Are there any amendments to be proposed to Section 23?

AMENDMENT OFFERED BY MR. MILLER

Mr. MILLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Miller: On page 37 after line 22 insert the following new section:

"Sec. 660. Exchanges.—(a) Nothwithstanding any authority to furnish assistance under the Mutual Development and Cooperation Act or under the Foreign Military Sales Act, whenever it is in the national interest, the President shall endeavor to insure that, to the maximum extent practicable, such assistance shall be furnished only pursuant to agreements which provide for the exchange of necessary strategic or critical raw materials for such assistance. For purposes of this section, the term 'necessary strategic or critical raw materials' means raw materials, including petroleum or other fossil fuels, which (1) are in short supply in the United States or (2) the United States requirements of which are not produced in the United States.

"(b) Any necessary strategic or critical raw materials transferred to the United States in exchange for assistance may be disposed of or transferred to any agency of the United States Government for stockpiling, sale, transfer, disposal, or for other purposes.

"(c) Amounts received from the sale, transfer, or disposal of materials transferred to the United States in exchange for assistance shall be deposited as miscellaneous receipts in the United States Treasury."

Mr. MILLER. Mr. Chairman, the purpose of my amendment is designed to see that American taxpayers and consumers get something more in return for their money we spend under this bill than just a new name for an old program. My amendment will help achieve what the new title of this bill says—"mutual development." If we are going to reform foreign aid and give it a new acceptability, let us not half step by calling it something it is not. Why, with our critical balance of payments and energy problems, should foreign aid remain a narrow one-way street? The "mutual" in this bill means two, but there are little direct, tangible benefits to the American taxpayers. What I propose is to truly make this program a two-way street whereby both the United States and the recipients of its generosity can satisfy their separate needs at the same time.

My amendment grants the President authority to exchange, when he determines it to be in the national interest, the assistance furnished under this bill for strategic materials and fossil fuels which are either in short supply or which cannot be produced in this country to meet our requirements.

Upon acquiring exchanged materials under this amendment the Government would stockpile them or sell them with the proceeds remitted to the U.S. Treasury.

Let me quote the committee report on this point:

> As a nation which consumes 40 percent of the world's annual output of raw materials and energy the United States needs access to the resources of the developing nations which occupy 60 percent of the land surface and control large untapped resources.

Through exchanges, my amendment would provide us this access, help our balance-of-payments account, and preserve domestic raw materials. Over 100 countries need our aid or at least receive it, while we could use the raw materials and energy many of them possess. What I am proposing then are fair exchanges of mutual benefit.

When I think of the countries receiving a bundle of U.S. foreign aid while sitting on top of vast treasures of fossil fuels and strategic minerals that we could put to good use, it is time to start thinking of a new approach based on exchange.

Mr. COLLIER. Mr. Chairman, will the gentleman yield?

Mr. MILLER. I yield to the gentleman from Illinois (Mr. Collier).

Mr. COLLIER. Mr. Chairman, I say to the gentleman from Ohio that on the face of it, the amendment is sound and certainly has a reasonable, nationalistic flavor. However, the fact of the matter is that with the present situation, particularly in the Middle East, and the fact, that the fossil fuels are controlled by an international cartel with which the gentleman is familiar, I suspect that any action we might take on this amendment would merely result in an increase in the price we are obliged to pay OPIC for crude oil.

Therefore, the net result, I fear, would be nil. But I support the gentlemen's amendment in principle, inasmuch as we are at the present time, until we get the Alaskan pipeline, very much at the mercy of the international crude oil people.

Mr. MILLER. We are not only discussing petroleum, and I assure the gentleman that the President would be in a better position to help the U.S. taxpayer if he had the authority to barter with nations for the strategic materials they have in return for assistance from the United States.

Mr. MORGAN. Mr. Chairman, I rise in opposition to the amendment. I think the amendment has some merit, but I think, however, it is so worded that it would go too far at this time.

I hope the gentleman from Ohio is listening, because I would assure him that I think the Committee should look into the thrust of this amendment. It might have some merit, but I think right now, by pinning it on this bill without any hearings, we would be buying much more than we thought we would buy.

I think at this time the amendment should be voted down.

Mr. MAILLIARD. Mr. Chairman, will the gentleman yield?

Mr. MORGAN. I yield to the gentleman from California (Mr. Mailliard).

Mr. MAILLIARD. Mr. Chairman, I agree with the chairman. I think the concept the gentleman from Ohio has in this amendment is one very worthy of taking a careful look at. However, as the gentleman from Illinois suggested, this matter should be looked into to find out what the impact might be. We might find that we had some adverse result that the gentleman from Ohio might not want.

I would hope the gentleman would not press the amendment. I, for one, would be willing to say that the Committee would look into the prospects of looking at some proper authority for some barter arrangements in the future.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. Miller).

The question was taken; and on a division (demanded by Mr. Miller) there were—ayes 30, noes 50.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

INDOCHINA POSTWAR RECONSTRUCTION

Sec. 24. The Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new part:

"PART V

"Chapter 1. Policy

"Sec. 801. Statement of Policy.—It is the purpose of this part to (1) authorize immediate high-priority humanitarian relief assistance to the people of South Vietnam, Cambodia, and Laos, particularly to refugees, orphans, widows, disabled persons, and other war victims, and (2) to assist the people of those countries to return to a normal peacetime existence in conformity with the Agreement on Ending the War and Restoring the Peace in Vietnam, the cease-fire agreement for Laos, and any cease-fire agreement that may be reached in Cambodia. In this effort United States bilateral assistance should focus on critical problems in those sectors which affect the lives of the majority of the people in Indochina: food, nutrition, health, population planning, education, and human resource development. United States assistance should be carried out to the maximum extent possible through the private sector, particularly those voluntary organizations which already have ties in that region.

"Chapter 2.—General Authority and Authorization

"Sec. 821. General Authority.—The President is authorized to furnish, on such terms and conditions as he may determine, assistance for relief and reconstruction of South Vietnam, Cambodia, and Laos, including especially humanitarian assistance to refugees, civilian war casualties, and other persons disadvantaged by hostilities or conditions related to those hostilities in South Vietnam, Cambodia, and Laos. No assistance shall be furnished under this section to South Vietnam unless the President receives assurances satisfactory to him that no assistance furnished under this part, and no local currencies generated as a result of assistance furnished under this part, will be used for support of police, or prison construction and administration, within South Vietnam.

"Sec. 822. Authorization.—There are authorized to be appropriated to the President to carry out the purposes of this chapter, in addition to funds otherwise available for such purposes, for the fiscal year 1974 not to exceed $632,000,000, which amount is authorized to remain available until expended.

"Sec. 823. Center for Plastic and Reconstructive Surgery in Saigon.—Of the funds propriated pursuant to section 822 for fiscal fiscal year 1974, not less than $712,000 shall be available solely for furnishing assistance to the Center for Plastic and Reconstructive Surgery in Saigon.

"Sec. 824. Assistance To South Vietnamese Children.—(a) It is the sense of the Congress that inadequate provision has been made (1) for the establishment, expansion, and improvement of day care centers, orphanages, hostels, school feeding programs, health and welfare programs, and training related to these programs which are designed for the benefit of South Vietnamese children, disadvantaged by hostilities in Vietnam or conditions related to those hostilities, and (2) for the adoption by United States citizens of South Vietnamese children who are orphaned or abandoned, or whose parents or sole surviving parent, as the case may be, has irrevocably relinquished all parental rights, particularly children fathered by United States citizens.

"(b) The President is, therefore, authorized to provide assistance, on terms and conditions he considers appropriate, for the purposes described in clauses (1) and (2) of subsection (a) of this section. Of the fund appropriated puruant to section 822 for fiscal year 1974, $5,000,000, or its equivalent in local currency, shall be available until expended solely to carry out this section. Not more than 10 percent of the funds made available to carry out this section may be expended for the purposes referred to in clause (2) of subsection (a). Assistance provided under this section shall be furnished, to the maximum extent practicable, under the auspices of and by international agencies or private voluntary agencies.

"Chapter 3.—Construction With Other Laws

"Sec. 831. Authority.—All references to part I, whether heretofore or hereafter enacted, shall be deemed to be references also to this part unless other specifically provided. The authorities available to administer part I of this Act chall be available to administer programs authorized in this part.".

Mr. MORGAN (during the reading). Mr. Chairman, I ask unanimous consent that section 24 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

AMENDMENT OFFERED BY MR. BINGHAM

Mr. BINGHAM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Bingham: Page 39, beginning in line 20, strike out "$632,000,000" and insert in lieu thereof "$441,000,000".

Mr. BINGHAM. Mr. Chairman, this amendment would constitute a cut of about one-third in the amount the committee has recommended for assistance to Indochina.

I would call the attention of Members to the fact that assistance to Indochina, the purpose of it, is outlined in section 801, a statement of policy. I is for the people of Indochina primarily, but it will also, of course, serve to assist the governments of South Vietnam, Cambodia and Laos.

I propose, as I did in the committee, what I believe is a relatively moderate reduction. This is a very large sum which is recommended for these three countries, $632 million. I propose a reduction to $441 million.

The Senate Committee on Foreign Relations has recommended a further reduction to $376 million.

The fact of the matter is that the recommended sum which was requested by the administration and was approved by the committee on a very narrow vote represents an estimate of the amount that would be needed before the cease-fire agreement was entered into. It is reasonable to suppose some reduction should be made in the amounts needed, in Indochina and particularly South Vietnam for that reason.

There is a more profound reason why I suggest the sum should be reduced. The Government of South Vietnam has been operating on the basis that 4 percent of its expenditures are raised by taxes. This is a situation that simply cannot continue. We cannot go on supporting the economy of South Vietnam to that extent.

If we put pressure on the government there by reducing the amount of aid that is proposed, some changes may be made. If we approve the recommended amount, I believe the government in Saigon will continue on the way it has become accustomed to, of being virtually totally dependent on the taxpayers of the United States for its survival.

I know there are some who would cut out all assistance to Indochina and South Vietnam. I am not of that view. I am not an admirer of the Thieu Government, to say the least, but I believe we have a great obligation to help the reconstruction of Indochina, for the people there, and this aid is intended for the benefit of the people primarily.

I believe this is an intermediate, reasonable position. As I say, the full amount requested by the administration was approved in committee by a very narrow margin over a somewhat smaller cut than I have recommended.

Mr. Chairman, I urge the adoption of this cut of about one-third.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, I wish to commend the gentleman for the moderation of this proposal. I am proudly one of those who would go for a much larger cut in the amount we are spending in aid for Indochina. I believe one of these days—it probably will not be too far from now—we are going to recognize that our intervention in the affairs of Indochina through the support we are giving to governments which have no real support to the people of that country is just as serious a matter as our military intervention over there.

I believe the gentleman's amendment, the gentleman's very reasonable proposal to reduce the amount of aid by about one-third, is a constructive step in the way of straightening out our relationships over there.

Mr. Chairman, I thank the gentleman for yielding.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman from California for his comments, and I would like to direct the gentleman's attention to the statement of policy which the committee has recommended which emphasizes aid to the people of Indochina.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I am happy to yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Chairman, I certainly would not want to pull all of our aid out of Vietnam. I believe we must stay there and we must help the South Vietnamese, but my feeling is that there is a tremendous amount of water there that needs to be squeezed out.

Mr. Chairman, I support the gentleman's amendment.

Mr. MORGAN. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Pennsylvania.

Mr. MORGAN. Mr. Chairman, I understand the gentleman's amendment cuts $191 million out of a total of $632 million; is that correct?

Mr. BINGHAM. That is correct.

Mr. MORGAN. Then does the gentleman have any instruction with regard to this $191 million that he is going to cut out? For example, about $75 million of that $632 million is earmarked for Cambodia, and $55 million is for Loas.

Does the gentleman's cut apply across the board, or does it pertain just to Vietnam?

The CHAIRMAN. The time of the gentleman from New York (Mr. Bingham) has expired.

(On request of Mr. Morgan, and by unanimous consent, Mr. Bingham was allowed to proceed for 1 additional minute.)

Mr. BINGHAM. Mr. Chairman, if I understand the situation correctly, in its programing the administration has submitted certain figures, but these are not binding upon it.

Mr. MORGAN. Mr. Chairman, I am sure the gentleman is familiar with the program book, and the program book stated the program is $75 million for Cambodia and $55 million for Laos.

Mr. BINGHAM. The reduction I proposed would be approximately proportionate. I would not suggest there be a fixed amount for any particular country.

Mr. MORGAN. Then the gentleman's reduction would go to all three countries and would not be confined to Vietnam?

Mr. BINGHAM. It would, in the proportion the administration might determine.

Mr. HARRINGTON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think that some of the ironies attendant with this ought to be brought out. I do not think that in the time that I have spent in the House I have developed any sympathy for the government of President Thieu and I do not think there is any question at all, to paraphrase the statement of the gentleman from Maryland that there is some water to be squeezed out.

However, I suggest in general that it is somewhat ironic to have the very people who have been most vocal in their objections to our continued involvement in a military situation in that entire area who would be the ones to come on the heels of that involvement. It is long overdue, and I think that would be the basic moving group of Members when it comes to attempting to cut back perhaps the only hope whereby we can redeem some of the problems we have created by managing the policies of half a generation.

Mr. Chairman, I suggest that if there is enthusiasm to do something about the Thieu government and our ability to keep it in power directly or indirectly, there is a very good target involving the military procurement bill which will come up on Monday and Tuesday of next week, when about $1.5 billion is considered in military assistance to those two countries, which, in my opinion, properly belongs in the bill before us today, but because of deference to the executive branch and, I suppose, acquiescence on our part, remains in the Department of Defense areas or in the Armed Services jurisdiction. It seems to me if we really want to do something about attempting to put pressure on that, that is certainly a far more desirable target which we can recognize if there is some basic obligation.

Whatever our feeling about the inherent virtue of the existing government of South Vietnam and the countries to be affected by this economic assistance, we have to try to make some redress for the problems we created there, whatever our intentions.

It is for that reason that I necessarily find myself in opposition to the gentleman from New York, whom I generally agree with on the concerns he has expressed long and eloquently to end our involvement in Southeast Asia.

I think it is unfortunate that we picked a target of the only area in which we might do some good if we yield the money to be used, with appropriate pressure placed on the military budget side next week. I hope we can leave this intact and do something the first of next week to demonstrate our concern as to how the Thieu government operates.

Mr. DENNIS. Will the gentleman yield?

Mr. HARRINGTON. I yield to the gentleman.

Mr. DENNIS. I would like to associate myself with the gentleman's opening remarks about the irony of the situation but not with his latter remarks about what happens in other legislation.

Mr. HARRINGTON. I will accept the selectivity.

Mr. DENNIS. But I will commend the gentleman, also, on his honesty. It is really a surprising thing to me personally to find these liberal gentlemen and these humanitarians trying to take money away from refugees and orphans and widows and disabled persons and other war victims for food, nutrition, health, and population planning, education and human resource development because they do not like the politics of the victim's government. I am surprised, and I hope that my conservative friends who want to save money like I do will not increase that irony by joining with this strange effort.

Mr. BROWN of California. Will the gentleman yield to me?

Mr. HARRINGTON. I yield to the gentleman from California.

Mr. BROWN of California. I hope my conservative friends will not completely have lost sight of the purposes for which we hope this money will be used. I am as softhearted when it comes to supporting orphans and widows and children as anybody in this House, but over the 10 years that I have had experience with the program we find most of the money in this program goes into either General Thieu's pocket or somebody else over there. It does not get to the people it should get to but goes into Swiss banks. If you are as conservative as you claim to be, you would want to help some of this money stay in American banks rather than in Swiss banks.

Mr. LONG of Maryland. Will the gentleman yield?

Mr. HARRINGTON. I yield to the gentleman.

Mr. LONG of Maryland. I would be inclined to reverse my judgment if the gentleman can give me any assurance at all that this money that is in the bill would go for humanitarian purposes and reconstruction. What is the basis for the gentleman's feeling that that would be so?

Mr. HARRINGTON. All I can give you is a hope and a feeling. Frankly, if there is a target to worry about, it is Monday and Tuesday of next week and not this particular situation. It is not with any particular feeling for the irony of the situation that I say this, but it is just a feeling of my own.

Mr. MORGAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would like to discuss this section.

I voted for this in the committee, but after I went back and took a good look at the program, I really believe the $630 million may be too low. Really another $100 million could be used here very well.

I am going to yield to the gentleman from Louisiana, who will be able to give us some information on this program.

I can give the gentleman from Maryland some assurance that this money is going for reconstruction and for humanitarian development and not going into anybody's pocket.

I yield to the gentleman from Louisiana.

Mr. PASSMAN. Mr. Chairman, I was withholding this information until we brought out the appropriation bill, but I am going to reveal it at this time.

The Cambodian Government, the Laotian Government, and the South Vietnamese Government have indicated that subsequent aid for development and the various import programs will be on a loan basis. They are making a commitment that this will go into effect.

This agreement was reached with President Thieu and the leaders of Cambodia and Laos. The AID agency and the President of the United States are familiar with it. Also, beginning on or about September 1 the South Vietnamese Government is opening a full-time procurement office here in Washington, D.C., so that any commodities that they desire will be processed for bids in the United States on a business basis. I am going to repeat this: Most of the programs for these countries will be on a loan basis.

Mr. STUDDS. Mr. Chairman, I move to strike the requisite number of words.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman from Massachusetts for yielding to me. I will not comment at length on the statements I just heard, but I am not sure how valuable the commitments would be for a loan to be repaid by the current government in Cambodia. But that is not the reason that I have again gotten to my feet. I simply wanted to read to the Members of the Committee the breakdown of the proposed program submitted by the administration.

Now, it is true we have written a provision as to purposes in there, but the administration is not going to be bound by that any more than they have in the past.

This is the breakdown of the administration program.

There is $475 million proposed for South Vietnam in their program, $85 million for humanitarian purposes, $50 million for reconstruction and rehabilitation, $48 million for development, $17 million for technical support, and—listen to this one—$275 million, or over half, for the commercial import program.

Do the Members know what that means? That means commodities coming in and being sold so that the government will have money to operate with.

I wish there were some way we could guarantee this money going to the people, and going for humanitarian purposes.

Mr. MORGAN. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I will in just one moment.

The Saigon government has no way of operating except with American assistance, that is, the assistance that we are giving them so that the Government of South Vietnam can continue to operate.

Mr. MORGAN. Will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Pennsylvania.

Mr. MORGAN. I did not hear the gentleman from New York read the figure of $77 million for refugees. Did the gentleman leave that out?

Mr. BINGHAM. If the gentleman will yield further, I was reading the program for South Vietnam, and the figures that I have do not include that.

Mr. MORGAN. My figures are $85 million for humanitarian assistance, $77 million for refugees, including $30 million for resettlement of 400,000 refugees in Laos, $20 million for resettlement of refugees in Cambodia. It goes on and on. The full amount is needed.

Mr. BINGHAM. Mr. Chairman, if the gentleman will yield still further, does the gentleman from Pennsylvania deny that there is a very large commodity import allowed in this program, probably over half of the program is for commercial commodities imports?

Mr. MORGAN. Commodity import programs are for the purpose of supporting national economies. That is a worthy purpose.

Mr. BINGHAM. By their government.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Ohio.

Mr. HAYS. Mr. Chairman, I would like to say that I am against the amendment. I think everything that the gentleman from Pennsylvania (Dr. MORGAN) said is correct. Of course I am in sympathy with my good friend, the gentleman from Louisiana (Mr. PASSMAN) who is often regarded as the grandfather of foreign aid. Without him, there would not be any foreign aid. The gentleman from Louisiana appropriates some money every year. If we cut too much out of this bill there would not be anything for the gentleman to do. So we ought to defeat the amendment.

I am sure when the gentleman from Louisiana comes up with his figure it will be the right one.

Mr. PASSMAN. Mr. Chairman, if the gentleman will yield. I appreciate the gentleman calling me a grandpa and the grandpa thanks him.

Mr. BINGHAM. Mr. Chairman, if the gentleman will yield further, may I ask the gentleman from Ohio whether if the amendment is defeated and the amount that is provided is then kept in the bill, will the gentleman from Ohio support the bill?

Mr. HAYS. If the gentleman will yield—no, I am not going to vote for the bill, but I am for trying to get the best kind of a bill that we can get in case the bill should pass.

I have been here 25 years, and this will be the first time in 25 years that I have voted against the bill. As I stated the other day, I am a slow learner, but I sure found out about this one.

Mr. STUDDS. Mr. Chairman, I yield back the balance of my time.

Mr. FRELINGHUYSEN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I do not expect to take the 5 minutes. This discussion should prove, and I hope it is self-evident to most of us, the danger of a cut of this size in a program that is needed to help Vietnam. As we move from a nonmilitary phase in Southeast Asia, it is quite obvious that a reasonable degree of stability is needed in South Vietnam. The commodity import program is a major way to provide that stability, and a drastic cut at the level proposed would wreak havoc in an area where we do have continuing obligations.

Mr. Chairman, I hope the amendment is defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BINGHAM).

The question was taken; and on a division (demanded by Mr. BINGHAM) there were—ayes 10, noes 79.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. HARRINGTON

Mr. HARRINGTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARRINGTON: Page 39, line 10, after the period, strike out "No assistance shall be furnished under this section unless the President receives assurances satisfactory to him that no assistance furnished under this part, and no local currencies generated as a result of assistance furnished under this part, will be used for support of police, or prison construction and administration, within South Vietnam."

And insert: "No part of any appropriation made available to carry out this or any other act or local currency generated through commodity sales programs shall be used for public safety programs, police training, support, or advisory programs, prison construction, or prison administration within South Vietnam."

Mr. HARRINGTON. Mr. Chairman, I think it might be appropriate to briefly describe the difference in the language once again in somewhat less formalistic terms. We adopted in committee the language which was first read, which was largely discretionary on the part of the President and deals only with the substance of this legislation before us as far as the ability to withhold from South Vietnam any of those moneys in this bill for the purpose of using them for public safety programs.

My amendment needs no presidential discretion. It involves any piece of legislation in which any sums of money may be found for the purpose of carrying out public safety programs and, in general, is aimed only at attempting to deal with the problem of our allies in the use of American funds for the suppression of political activities in South Vietnam. The amendment in the committee was decisively defeated. I am not under any particular illusion that that is going to be any different in debate this afternoon.

I do feel, though, that if we look at the figures and attempt at least to see again the problem presented, those who are even remotely concerned about the problem might think it makes good sense.

The total amount for public safety that is in our own legislation is about $1.3 million. The Department of Defense, however, in legislation which will be forthcoming later this year, has requested a total of $10.6 million for the purpose of carrying out public safety activities on the part of the South Vietnamese. I suspect that if the events of the last few days are any indication of our awareness in general of other programs, there are other sums of money which we in general are not aware of and other pieces of legislation which are being used for analogous or similar purposes.

I do not know that we can establish for the benefit of those who want it to say that we, in general, would not support someone who is more responsive to civil liberties, but I think there has been enough documentation; documentation in such variety so that there should be some appropriate concern that we not use the funds from any source to provide ability on the part of the Thieu government to maintain any kind of public safety apparatus which is directed to political pressure.

I do not think there is any particular reason to try to embellish on this fund. There are a variety of ways of dealing with the situation in which we find ourselves, historically and somewhat strangely applied. I think it is useful in some stage, that we are attempting to give some help to broaden the restrictions already in the bill.

It is for that reason that I offer the amendment, and I hope it might be favorably considered.

Mr. MITCHELL of Maryland. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman and colleagues, there is something very abhorrent to me about the idea of this Nation supporting and undergirding a government which has suppressed all forms of democracy under the guise of providing police assistance.

My colleague from Indiana (Mr. DENNIS) earlier stated his concern about our meddling into the internal affairs of countries, apropos of the amendment offered earlier by my colleague from Georgia.

My feeling is that the more we involve ourselves in trying to shore up unpopular governments through the means of supporting and sustaining police operations, the more we run into danger of once again being sucked into a kind of terrible situation. The facts are very, very clear.

Under the public safety program of the U.S. Agency for International Development, the Vietnamese police force was converted from a modest civil agency of 19,000 men—Mr. ABOUREZK uses 10,000—in 1963 to a hugh paramilitary organization of 120,000 men in 1973. U.S. spending on this effort amounted to $155 million between 1967 and 1972—$85.7 million in U.S. Agency for International Development funds and $69.6 million in defense funds.

Under Central Intelligence Agency organized, and U.S.-financed, Operation Phoenix—purportedly designed to eliminate the Vietcong infrastructure—20,587 Vietnamese civilians were assassinated between January 1968 and May 1971. Another 28,978—other sources say 46,695—were imprisoned without trial. Source of figures is William E. Colby, former head of Civil Operations and Revolutionary Development Support—

the U.S. pacification program—and Director-designate of the Central Intelligence Agency.

Let me cite one other thing here. The first vice speaker of the House of Representatives recently contacted one of our colleagues, Congressman STARK, asking him for support for the Government of South Vietnam. I think Congressman STARK's reply was very meaningful, and I would like to read it:

> The HONORABLE D. B. XUAN MINH: I regret that I cannot accept the spirit or substance of your recent letter. You speak of "freedom" when your country has been a stage for the world showing kidnapping, imprisonment, and torture. The leaders of the opposition parties are nowhere visible. Your "democracy" seems to have no more credibility than its paper claims of civil rights and liberties for all.
>
> Can you dispute that in January, 1973, deputy Ho Ngoc Nhuan of your national assembly disclosed a new version of what we knew previously as "Operation Phoenix"? Is it not true that under this plan anyone with allegiances to the opposition is subject to arrest and indefinite imprisonment?
>
> There is widespread belief in this country that our own civilian advisors are now serving as counsel to the national police special branch in Saigon and the provincial interrogation centers. Can you deny the truth of this rumor?
>
> This prevailing philosophy that denies all civil liberties is only one aspect of your government that I distrust. Far more serious, I believe, is your utter disregard for the humane priorities of all other "free societies." War orphans in South Vietnam number in the hundreds of thousands and adequate care is visibly lacking. Your population is now one of refugees and yet little viable planning has been developed for their support.
>
> The vast amount of American foreign aid you receive does not go to the support of these people so critically in need of assistance. We subsidize, instead, your military needs and the social habits of government officials. Such a blatant disregard for basic humanitarianism is totally unacceptable to me.
>
> You may be certain that I will do all within my power to see that all future American aid to your country is suspended. I cannot, under any circumstances, see the justification for such misuse of desperately needed dollars. This money must be used for the support of oppressed people in our own country and Vietnam who must depend on their fellowman for assistance. You do not provide this assistance.
>
> American dollars should be spent abroad for the good of people most sorely in need. I believe that many thousands of the people of your country fit this category. Until all the world can witness that they are truly being rehabilitated, you should not be permitted the luxury of misappropriating and abusing our aid.
>
> FORTNEY H. STARK, Jr.,
> *Member of Congress.*
>
> JUNE 28, 1973.

Under the terms of the January 1973 agreement on the ending of the war and restoring peace in Vietnam, we pledged:

Not to "impose any political tendency or personality on the South Vietnamese people" (article 9).

To remove "personnel associated with the pacification program" (article 5).

To prohibit "all acts of reprisal and discrimination against individuals or organizations that have collaborated with one side or the other" (article 11).

While the Agency for International Development claims that they have discontinued aid to South Vietnamese prisons and police, we find the following items in the Agency for International Development fiscal year 1974 budget:

A. INDOCHINA POSTWAR RECONSTRUCTION ASSISTANCE PROGRAM

One, $869,000—for computer training of 200 national police command personnel.

Two, $1,505,000—for police telecommunications system—U.S. Agency for International Development project 730-11-995-380. Of this, $985,000 will be for 24 U.S. civilian advisors.

Three, $256,000—for training of 64 police commanders—U.S. Agency for International Development project 730-11-799-372.

B. UNLIQUIDATED OBLIGATIONS ACCOUNT

One, $1,285,000—for public safety communications—project 730-11-710-299.

Two, $2,472,000—for National police support—project 730-11-710-352.

Three, $30,000 for corrections centers—project 730-11-710-353.

Other—no Agency for International Development Fund.

C. MILITARY ASSISTANCE, SERVICE FUNDED PROGRAM

Expenditure of $8.8 million by Department of Defense to replenish police ammunition and supplies—permissible under peace agreement as "piece-by-piece" supply transactions.

D. PIASTER BUDGET SUPPORT PROGRAM

United States will transfer $50 million from U.S. accounts to the GVN budget. Senator KENNEDY testified on June 4, 1973, that on February 21, 1973, the United States obligated $100,000 in piasters for support of the prison system. Many of the piasters in this account came from sale of agricultural products under the Public Law 480 food for peace program.

Total: Except D, $15.2 milion designated for fiscal year 1974 support of Vietnamese police and prisons.

From press conference, January 2, 1973:

> Chi Hoa (Prison) is like South Vietnamese society in miniature. There is everything from former presidential candidates, Buddhist monks, women and children who have never committed any offense, to the most hardened criminals and drug addicts. There are countless children in South Vietnamese prisons. Often a mother is arrested too quickly to find anyone to care for her children, so the children are arrested and imprisoned too.

On November 11, 1973, Thieu's nephew, Hoang Duc Nha, claimed that the Saigon government arrested 50,000 political opponents and killed 5,000. Source: CBS Evening News.

The Saigon ministry of information reported that the police made 7,200 raids against political critics between November 8 and 15, 1972.

On June 11, 1973, Dr. John Champlin, a former U.S. Air Force medical officer with several years experience in Vietnam told the House Foreign Affairs Committee that a group of 124 Vietnamese citizens suffering from permanent physical injuries sustained as a result of their confinement in gun prisons reported that they "had all been examined more than once by American military physicians while in prison but they denied having received so much as an aspirin during their confinement." None had seen evidence of U.S. efforts to "develop better health facilities" in GVN prisons.

A fact sheet on the prisons in South Vietnam follows:

A FACT SHEET ON THE PRISONS OF SOUTH VIETNAM

MAIN NATIONAL PRISONS

(1) Chi Hoa—10,000 prisoners.
(2) Phu Quoc—40,000 prisoners.
(3) Thu Duc—8,000 prisoners.
(4) Tan Hiep—10,000 prisoners.
(5) Con Son—15,000 prisoners.

OTHER NATIONAL PRISONS

(1) 10 Police prisons—3,000 prisoners.
(2) Central Intelligence Office prisons—300 prisoners.
(3) Cho Quan—500 prisoners.
(4) American Prison.
(5) Dalat—for youth under 20—2,000 (strictly political prisoners).

Military Prisons—opponents may claim these have been shut down.

(1) Go Vap—15,000 prisoners.
(2) Military Secret Service Prison—1,000 prisoners.
(3) Army Intelligence Officer—500 prisoners.

PROVINCIAL PRISONS

(1) 11 Saigon District Prisons—5,000 prisoners.
(2) 50 Provincial Prisons—60,000 prisoners.
(3) 48 Provincial Police Prisons.
(4) 48 Office of Military Security Prisons.
(5) 48 Regional Headquarters Prisons.
(6) 48 American Intelligence Centers.
(7) 260 District Prisons.

Source: Vietnam News and Reports (April-May 1973).

By: Mr. Ngo Cong Duc, former Deputy of the Saigon Assembly and former President of a Saigon Newspaper Association.

Mr. MORGAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the language the gentleman would strike out is:

> No assistance shall be furnished under this section unless the President receives assurances satisfactory to him that no assistance furnished under this part, and no local currencies generated as a result of assistance furnished under this part, will be used for support of police, or prison construction and administration, within South Vietnam.

The committee put that in. Of course, the gentleman now comes along to strike that out, and he would insert:

> No part of any appropriation made available to carry out this or any other act or local currency generated through commodity sales programs shall be used for public safety programs, police training, support, or advisory programs, prison construction, or prison administration within South Vietnam.

This makes it pretty plain. Let us look at what happened in South Vietnam. AID has withdrawn its public safety advisors in South Vietnam, in accordance with the cease-fire agreement of January 22, 1973, and has terminated its program of assistance to South Vietnam prisons. Therefore, I see no reason for the amendment.

I understand that DOD has some plans from its appropriations to supply some replacement equipment and commodities to the National Police Force. These are supplies that are vitally needed.

I believe the language of the present bill will give flexibility to the President to make the determination about what is needed to be supported and I ask that the amendment be rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. Harrington).

The question was taken; and on a division (demanded by Mr. Harrington) there were—ayes 23, noes 57.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

U.S. EXPORT DEVELOPMENT CREDIT FUND

Sec. 25. (a) The Foreign Assistance Act of 1961, as amended by section 24 of this Act, is amended by adding at the end thereof the following new part:

"Part VI

"Sec. 901. General Authority.—(a) In the interest of increasing United States exports to the lowest income countries, thereby contributing to high levels of employment and income in the United States and to the establishment and maintenance of long-range, growing export markets, while promoting development of such countries, the President shall establish a fund, to be known as the 'United States Export Development Credit Fund', to be used by the President to carry out the authority contained in this part.

"(b) The President is authorized to provide extensions of credit, upon reasonable assurances of repayment, for the purpose of facilitating the sale to the lowest income countries of United States goods and services which advance mutual development. The provisions of section 201(d) of this Act shall apply to extensions of credit under this part. The authority contained in this part shall be used to extend credit in connection with the sale of goods and services which are of developmental character, with due regard for the objectives stated in section 102(b) of this Act.

"(c) The receipts and disbursements of the Fund in the discharge of its functions shall be treated for purposes of the budget of the United States Government in the same fashion as the receipts and disbursements of the Export-Import Bank of the United States under section 2(a)(2) of the Export-Import Bank Act of 1945.

"Sec. 902. Financing.—(a) As may hereafter be provided in annual appropriation Acts, the President is authorized to borrow from whatever source he deems appropriate, during the period beginning on the date of enactment of this part and ending on December 31, 1977, and to issue and sell such obligations as he determines necessary to carry out the purposes of this part. The aggregate amount of such obligations outstanding at any one time shall not exceed one-fourth of the amount specified in section 7 of the Export-Import Bank Act of 1945 on July 1, 1973. The dates of issuance, the maximum rates of interest, and other terms and conditions of the obligations issued under this subsection will be determined by the Secretary of the Treasury with the approval of the President. Obligations issued under the authority of this section shall be obligations of the Government of the United States of America, and the full faith and credit of the United States of America is hereby pledged to the full payment of principal and interest thereon. For the purpose of any purchase of the obligations issued under this part, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchases of the obligations issued under this part. The Secretary of the Treasury may, at any time, sell any of the obligations acquired by him under this section. All redemptions, purchases and sales by the Secretary of such obligations shall be treated as public debt transactions of the United States.

"(b) Except as otherwise provided in section 906, the amounts borrowed under subsection (a) of this section shall be paid into the Fund and used to carry out the purposes of this part. Any difference between the interest paid by the Fund on obligations incurred under subsection (a) of this section shall be paid into the Fund out of receipts specified in section 203 of this Act.

"(c) Receipts from loans made pursuant to this part are authorized to be made available for the purposes of this part. Such receipts and other funds made available for the purposes of this part shall remain available until expended.

"Sec. 903. Lending Ceiling and Termination.—(a) The United States Export Development Credit Fund shall not have outstanding at any one time loans in an aggregate amount in excess of one-fourth of the amount specified in section 7 of the Export-Import Bank Act of 1945 on July 1, 1973.

"(b) The United States Export Development Credit Fund shall continue to exercise its functions in connection with and in furtherance of its objects and purposes until the close of business on December 31, 1977, but the provisions of this section shall not be construed as preventing the Fund from acquiring obligations prior to such date which mature subsequent to such date or from assuming prior to such date liability as acceptor of obligations which mature subsequent to such date, or from issuing either prior or subsequent to such date, for purchase by the Secretary of the Treasury or any other purchasers, its obligations which mature subsequent to such date or from continuing as an agency of the United States and exercising any of its functions subsequent to such date for purposes of orderly liquidation, including the administration of its assets and the collection of any obligations held by the Fund.

"Sec. 904. Reports to the Congress.—The President shall transmit to the Congress semiannually a complete and detailed report of the operations of the United States Export Development Credit Fund. The report shall be as of the close of business on June 30 and December 31 of each year and shall be submitted not later than ninety days thereafter.

"Sec. 905. Administration of Fund.—(a) The President shall establish a committee to advise him on the exercise of the functions conferred upon him by this part. The committee shall include the Secretary of Commerce, the Secretary of the Treasury, the Secretary of State, the President of the Export-Import Bank, and the Administrator of the Mutual Development and Cooperation Agency.

"(b) The authorities available to administer part I of this Act or any portion thereof, shall be available to administer this part.

"Sec. 906. Provision for Losses.—Ten per centum of the amount authorized to be borrowed under subsection 902(a) shall be reserved and may be used to cover any losses incurred on loans extended under this part. Receipts specified in section 203 of this Act may also be paid into the Fund for the purpose of compensating the Fund for any such losses.

"Sec. 907. Export-Import Bank Powers.—Nothing in this part shall be construed as a limitation on the powers of the Export-Import Bank of the United States.

"Sec. 908. Prohibition on Loans for Defense Articles or Services.—The authority contained in this part shall not be used to extend credit in connection with the sale of defense articles or defense services. This provision may not be waived pursuant to section 614 of this Act or pursuant to any other provision of this or any other Act.

"Sec. 909. Definitions.—As used in this part, 'lowest-income countries' are those countries which need concessional foreign exchange financing from the United States or other international donors to finance goods and services on terms they can reasonably afford, with particular emphasis on countries in which per capita national product is less than $375 a year.".

(b)(1) Section 624(d)(5) of chapter 2 of part III of the Foreign Assistance Act of 1961, relating to audits by the Inspector General, Foreign Assistance, is amended by inserting "The United States Export Development Credit Fund under part VI of this Act," immediately before "and part IV of the Foreign Assistance Act of 1969".

(2) Section 638 of chapter 2 of part III of the Foreign Assistance Act of 1961, relating to assistance under other legislation, is amended by inserting "; or under part VI of this Act" immediately before the period at the end thereof.

Mr. MORGAN (during the reading). Mr. Chairman, I ask unanimous consent that section 25 be considered as read, printed in the Record, and open to amendment at any point. This is the section the gentleman from Louisiana (Mr. Passman) is waiting on. I am sure he has an amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

AMENDMENT OFFERED BY MR. PASSMAN

Mr. PASSMAN. Mr. Chairman, I offer an amendment.

Mr. LONG of Maryland. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

One hundred twenty-five Members are present, a quorum.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. Passman: Strike out everything after line 13, page 41, through line 7, page 47.

Mr. PASSMAN. Mr. Chairman and Members of the Committee, as I mentioned earlier, this item was not requested in the budget; it was not submitted to the Committee on Appropriations; and we have not had hearings on it.

I doubt if 50 Members of Congress knew that this booby trap was going to be in this bill. I say that respectfully because I have my good friends on the committee.

Now, I mentioned earlier that if the Members would read the language on page 41 and continue through pages 42 and 43, they would find that this calls for an additional $5 billion above and beyond the other 28 spigots we have for foreign aid. It means that this bill is not just authorizing $2,833,000,000 for foreign aid. It means that unless my amendment is adopted, it will authorize $4 billion in fiscal year 1974, because this proposition calls for borrowing authority of $1,250 million annually for the next 4 years. Now, Mr. Chairman, we have 15 of these agencies already making loans.

Mr. Chairman, as I mentioned earlier, we have 28 different spigots in these foreign aid and assistance programs. We are only considering one part of the total, which is for $2,833 million, but the aggregate request of the 28 spigots is $18,003,191,000.

Now, if my amendment is defeated, we will have to add to that another $1,250 million.

What are we getting into, Mr. Chairman, with these different types of organizations? Let us take the three multilateral organizations, the Inter-American Development Bank, the Asian Development Bank, and the International Development Association. These three agencies alone are asking for $1,929 million in fiscal year 1974.

These multilateral organizations are pyramiding these funds, they are not spending them. Now, with regard to the previous $5.6 billion we have given to them, they have said the money now will not buy what it would buy at the time we gave it to them. So they say, "We want you to give us a maintenance of value increase of $2,250,000,000 so the dollars will purchase the same amount of commodities as they would have when the dollars were provided."

This new proposal in the bill although there is no money mentioned will provide another loan fund which could run at a level of $5 billion.

You are just placing another program upon the top of 15 others to make loans. They do not even know what agency will administer it, because according to the report the Export-Import Bank may administer it or the Department of Commerce may administer it or the AID agency may administer the program. Nobody knows what the money is going to go for.

I hope you can support the amendment, keeping in mind that there will still be available out of the pipeline from prior years' appropriations $26 billion. If you add $18 billion in fiscal year 1974 request to it, that gives you $44 billion that will be available for the different spigots of foreign aid.

I have not misled you in the past and I shall not mislead you in the future.

I hope you will support this amendment.

Mr. LONG of Maryland, Mr. Chairman, I rise in support of the amendment. I support the amendment to strike the U.S. Export Development Credit Fund.

The underdeveloped countries are already up to their ears in debt—$72 billion by 1972, that is, last year—with $7 billion a year of annual interest and repayment. This would put another $1.25 billion a year millstone around the necks of the underdeveloped countries. It is unlikely ever to be repaid.

Even the professors are beginning to learn this. To quote Enos and Griffin of Oxford University: "It is unlikely that these loans will ever be repaid. Loans were made in the past, but repayments occupy the future. They would generate funds for repayment if they were productive, but since they were unproductive the debtors feel no obligation was created." Eight less developed countries who had been given these loans have had 17 multilateral debt reschedulings in recent years. In 1971–73 the debt relief for the lesser developed countries was $2.97 billion. The interest rates and repayment terms on these loans are so soft that they are almost entirely a gift. The result is that the countries do not respect the money, and instead of putting it into important, worthwhile, and productive uses, they put it into all sorts of insignificant projects which do nothing for their development. The loans of the credit fund would release still more resources for poor countries to spend on arms. They would not spend the money on arms directly, but this would release money indirectly to spend on arms to be used in economic projects, and this would take its place.

At a time when most students of foreign aid recognize that foreign aid, the way it is being conducted, is defeating its own purpose, this provision is moving in exactly the wrong direction.

Finally, Mr. Chairman, this makes this bill a far greater foreign aid bill than anyone on this floor recognizes. This is supposed to be a $2.8 billion foreign aid bill, but this provision would transform it into a $4 billion a year foreign aid bill.

It would, I think, be transforming the whole idea of foreign aid at a time when everybody wants to reduce it. Finally, the interest rates, the repayment terms and the development terms are so vague that it would be a calamity if this part of the bill survived. I urge that the amendment offered by the gentleman from Louisiana (Mr. PASSMAN) be supported.

Mr. SIKES. Mr. Chairman, will the gentleman yield?

Mr. LONG of Maryland. I will be glad to yield to the gentleman from Florida.

Mr. SIKES. Mr. Chairman, it appears to me that when the distinguished gentleman from Louisiana (Mr. PASSMAN) and the distinguished gentleman from Maryland (Mr. LONG) stand together four-square on an important amendment of this nature, it is time to say "amen" and vote for it.

Mr. LONG of Maryland. I thank the gentleman from Florida.

Mr. FINDLEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Members of the House are aware, I am sure, that the bill before us is labeled the Mutual Development Bill, instead of being the Foreign Assistance Bill, as it has been called in prior years, and the prime reason for the new name on the bill is this section which the gentleman from Louisiana seeks to strike from the bill.

This is the part of the bill which would present the opportunity for the most direct benefits to the American people, and I think it would be a very serious mistake to strike it from the bill.

This provision in the bill is a bipartisan recommendation. It comes with the cosponsorship and support of a number of Republicans on the committee, as well as Democrats. It was just recently endorsed as one of the important, innovative provisions of the bill by Secretary of State Rogers. I call it the trade expansion part of the Mutual Development Bill because it would provide a means through which American business firms can hope for the first time effectively to compete with other major trading countries for trade in low-income countries. We have been effectively foreclosed from this business up until now because other countries offer attractive credit terms that our business firms cannot match. We can of course continue to be foreclosed, but it seems to me to be good business to be competitive. It has the further advantage of being through the private enterprise sector instead of being direct government to government aid. It is a form of subsidy, but all subsidy means expansion of American business. It means jobs for the American people. It means business for American business firms. I think that this innovative proposal which has been put into the Mutual Development Act deserves our support.

Mr. MAILLIARD. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from California.

Mr. MAILLIARD. Mr. Chairman, I thank the gentleman for yielding. In case there be any question about this, I noticed that the gentleman from Louisiana made a big point of the fact that this was not in the budget that was proposed to the Congress. Well, here is a case where the Congress originated an idea which is now embraced by the executive branch of the Government, and they are fully in support of it, even though they did not think of it. I believe that is quite an accomplishment. So it does have administrative support.

I join in the remarks the gentleman from Illinois (Mr. FINDLEY) has made. This is innovative. This probably provides the greatest chance for real mutuality in this program to help our own people as well as the people abroad.

I think the Members of the Congress on both sides of the aisle who conceived this idea ought to be congratulated. I certainly am fully in support of the program, and I am opposed to the amendment.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. First I want to assure the gentleman that it is my belief that the Committee on Appropriations has complete annual oversight on this program, and if it does not, I will certainly support language effectively to bring the program under the annual oversight of the gentleman from Louisiana, and his committee.

Mr. PASSMAN. Will the gentleman yield?

Mr. FINDLEY. Yes, of course I yield to the gentleman from Louisiana.

Mr. PASSMAN. Mr. Chairman, I want to set the record straight. When you include all of the spigots of the foreign aid program, and there are 28 of them, the requests for fiscal year 1974 amount to $18 billion. This is just another program which would be added to the other 28, and it calls for $5 billion.

The gentleman does not know what agency will administer it. This is one of those sneakers unintentionally included in the bill. Of course, the Congressmen knew nothing about it until yesterday morning. The executive branch did not request it. This is something put in by the Committee on Foreign Affairs; is that correct?

Mr. FINDLEY. It is my belief there is no sneaker in this at all.

Mr. PASSMAN. What are the terms of the loans?

Mr. FINDLEY. If the gentleman would like to be informed about the extent to which Congress seems to be going in extending concessional sales terms to some countries, he might take a look at the UPI report on what the farm conferees today approved. They approved extending long term credit at 2 percent and 3 percent to all countries including Communist China and Cuba—excluding only North Vietnam.

Mr. PASSMAN. If the gentleman will yield further, what are the terms of their loans?

The CHAIRMAN. The time of the gentleman has expired.

PERFECTING AMENDMENT OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Chairman, I offer a perfecting amendment.

The Clerk read as follows:

Perfecting Amendment offered by Mr. FASCELL: On page 42, strike out lines 13 through 18 and insert in lieu thereof the following:

"(c) The totals of the budget of the United States Government shall include the funds appropriated to the Fund and the net effect of the receipts and the disbursements of the Fund."

Mr. FASCELL. Mr. Chairman, this perfecting amendment carries out an understanding arrived at by both sides of this committee with the Office of Management and Budget to clear up the question of whether the funding under this proposal would be within the budget, and eliminating the question. We agreed to this language which has been supplied to the committee by the Office of Management and Budget, agreed to on both sides. Therefore, to eliminate that question of whether the receipts and disbursements and net effect would be in the budget, I offer this amendment.

Mr. PASSMAN. Mr. Chairman, will the gentleman from Florida yield?

Mr. FASCELL. I am going to get some time later to talk, I will say to the gentleman, but I should like to dispose of this perfecting amendment first.

Mr. PASSMAN. The gentleman has the time if he wants to yield.

Mr. FASCELL. The gentleman has had ample time.

Mr. PASSMAN. I know the gentleman is embarrassed, but I will not press the point.

Mr. FASCELL. I am not embarrassed at all, and I am still standing.

Mr. PASSMAN. Why does the gentleman not yield?

Mr. FASCELL. I yield.

Mr. PASSMAN. If I understand correctly, this calls for borrowing authority of $5 billion in the next 4 years at the rate of $1,250 million a year.

Mr. FASCELL. Only if the administration agrees, and the Congress, in appropriation agrees to it likewise.

Mr. PASSMAN. But this amendment calls for $5 billion in borrowing authority does it not, within the next 4 years?

Mr. FASCELL. It authorizes authority up until 1977 for the President to borrow, subject to the appropriation process and the right of the Congress——

Mr. PASSMAN. Up to $5 billion?

Mr. FASCELL. Up to $5 billion.

Mr. PASSMAN. I thank the gentleman very kindly.

Mr. FASCELL. Obviously, the insinuation the gentleman makes is totally erroneous. It is within the budget, subject to the administration——

Mr. PASSMAN. It is not in the budget. I say that categorically and factually.

Mr. FASCELL. The gentleman from Louisiana is always, as usual, putting apples and oranges together. It is not in the budget now which was sent down. It was never included. The proposal was originated in the committee and agreed to by the administration. The question is whether it was included in the budget which was sent down by this administration. Obviously, it could not have been included. Whether the administration wants to submit a supplemental is entirely up to it. Whether it will be in the next budget is entirely up to them, and the Committee on Appropriations and the Congress. This is the authorizing bill.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Of course, all of the funds in all of this bill are subject to appropriation.

Mr. FASCELL. I thank the gentleman. I am glad we got that straight.

Mr. LONG of Maryland. Would the gentleman deny that this feature in here makes this bill not a $2.8 billion foreign aid bill but a $4 billion foreign aid bill?

Mr. FASCELL. It makes it whatever bill the budget and the appropriation process make it. As far as the authorization is concerned, the answer is that if the full amount is appropriated up to the amount authorized, it will be that much over and above the actual figures that are in the bill, obviously.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the distinguished chairman, the gentleman from Texas (Mr. MAHON).

Mr. MAHON. I thank the gentleman.

Mr. Chairman, I think there is some confusion. Of course, this is not contained in the budget which was presented to Congress and no one has claimed that this is part of the President's budget.

The reason the perfecting amendment is offered is that the bill as reported would have exempted the receipts and disbursements of the fund from the budget once the program became operative and for the next 4 years. So the perfecting amendment is a good amendment and keeps this in the budget totals which otherwise would not have been done.

Mr. FASCELL. The chairman is absolutely right. That is the reason we offered the perfecting amendment.

Mr. FRASER. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, despite the fact that there is very little controversy over the perfecting amendment, I think that it is important that the committee understand what is involved in this proposal.

What is proposed in this part of the bill is a way to help American exporters get access into a part of the world market which we have been losing. The bottom half of the third world has been a shrinking market to the U.S. exporters in comparison to the exports from Western Europe and Japan. In other words, what is happening is that the United States is losing world trade markets to other countries. Why? Because we lack a way of providing credit to the American exporter to sell to these countries which will be competitive with the credit offered by other exporting countries. That is the basic issue in this section.

Do we want to enable the manufacturers of tractors or machinery, or the suppliers of fertilizer or other goods and services to have access to that market in that part of the world? This can be described as a sort of soft-loan window of Ex-Im Bank. The Ex-Im Bank provides hard-credit terms for the benefit of American exporters.

If we, in effect, put a self-loan credit device at the disposal of American businessmen and American suppliers of goods and services, then we can begin to compete with other countries in reaching a very important part of the world market. That is what this measure is about, and the people who have gotten up here and argued against this do not seem to even understand the purpose of this part of the bill.

I heard one gentleman get up and argue that American exporters should not sell to a poor country, because they could not afford to buy it. The only conclusion I can reach from that, is that his idea is to stop all trade with a poor country, because it cannot afford it. That is an astonishing conclusion from a distinguished economist.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield to a distinguished economist?

Mr. FRASER. I shall yield in a moment.

The point is, we are trying to help American businessmen in a one to one relationship with prospective buyers so that the American businessmen can develop a market in their goods and services to countries having less than a $375 per capita income. We provide the credit to help them make their sale.

It comes within the budget; it is subject to annual authorization by the Appropriations Committee; the control of the Congress is complete, on an annual basis. If we throw this out, we are throwing out 80,000 jobs, an important market for the American exporter, and set this country back in its efforts to build a better trade balance.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Alabama (Mr. BUCHANAN).

Mr. BUCHANAN. Mr. Chairman, I would like to commend the gentleman from Minnesota. I think he has precisely put his finger on this, except that I would like to clarify one point.

This will not necessarily be part of the Eximbank, but it will be like a soft loan window. His eloquence, plus the eloquence of the distinguished economist from Maryland in making clear that this will go to the Appropriations Committee year by year, plus the perfecting amendment offered by the gentleman from Florida which makes it clear that this is within the budget, makes me feel that we should keep this provision and defeat the Passman amendment.

Mr. GROSS. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, the astonishing thing about this is that no one mentions where the money is to come from to provide for this addition to be made to the river of easy credit that is already flowing all over the world.

I wonder if the gentleman from Minnesota (Mr. FRASER), who is astonished that people do not understand this proposal, could tell the House where it is proposed to get the billions of dollars to start this new foreign aid program?

Mr. FRASER. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Minnesota.

Mr. FRASER. It is going to work precisely the way the Export-Import Bank works. They borrow money in the private market, and then the subsidy required for concessional terms is picked up through the repayment of old loans currently coming in, between $200 million and $300 million a year.

Mr. GROSS. Is that not money which is supposed to go back to the U.S. Treasury?

Mr. FRASER. That is right.

Mr. GROSS. The returns from the present so-called loans?

Mr. FRASER. That is right.

Mr. GROSS. But the gentleman is not going to let it go back to and remain in the Treasury?

Mr. FRASER. That is wrong. It requires an annual appropriation by the Appropriations Committee.

Mr. GROSS. Which way is it? Are you going to take the returns plus the so-called loans back, or are you going to appropriate directly from the Treasury?

Mr. FRASER. The money will come back to the Treasury and be reappropriated. It will go back to the Appropriations Committee.

Mr. GROSS. That is a kind of sleight-of-hand operation?

Mr. FRASER. I believe it very open.

Mr. GROSS. It comes back and then goes out again?

Mr. FRASER. If the Appropriations Committee agrees.

Mr. GROSS. And we are already in trouble. We are subsidizing interest payments on loans already made to a number of foreign countries, because they cannot pay the interest without causing financial trouble. Now it is proposed we add to that.

Mr. FRASER. I believe the gentleman should be aware that we are getting in $200 million or $300 million on loan repayments. This idea that these countries are not able to pay back their debts is not justified. Some have had to roll them over.

Mr. GROSS. The gentleman might take a look at this report from the General Accounting Office of May 11, 1973, and then I believe he would change his mind about the fact that we are not paying a subsidy to these countries, because they cannot make the interest payments on their loans without disturbing their economies.

Mr. FRASER. We are getting a very healthy flow of return money.

Mr. GROSS. I do not believe that is what the GAO says.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. The gentleman from Minnesota seems mystified as to why an economist would want to oppose this.

Let me point out that one can always get business if one wants to give his goods away.

This is not like the Export-Import Bank. These loans are at tiny interest rates, 2 or 3 percent, with terms of grace of 10 years and 30 years for repayment.

I might point out that a very small trickle will come back, very small, if it is paid at all. But we have no real guarantee that this money will ever come back.

I might also point out that we can do the same business here. If we are so anxious to get sales, we can sell these goods to the American consumer, give him the same credit terms, and we will create the same amount of employment and really accomplish something.

Somehow there is the idea that the gentleman from Minnesota seems to hold that we can do more business, sell more goods, and create more employment by giving our money and goods away to some foreign country than we can by helping our own poor people. I do not understand that kind of economics.

Mr. GROSS. I thank the gentleman for his contribution, and I urge the adoption of the amendment by the gentleman from Louisiana (Mr. PASSMAN). Let us stop here and now the attempt to launch still another foreign handout program at an initial cost of $5 billion.

Mr. HAYS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think it is probably time that we clear up some of the terminology that has been bandied about here.

The gentleman from Minnesota talks about the "soft loan window." Now, the soft loan window, translated into English, means that you do not pay it back.

I used to play a little poker when I was in the university with a boy that did not have much money, and he began playing on credit, and he owed everybody in the house and nobody would play with him any more.

He wanted to get up a game one night, and I said, "Do you have any money?"

He said, "No. Let us play for cash credit tonight."

I said, "What is cash credit?"

He said, "Well, cash credit is what I pay when I get the cash."

Previously he had credit, and he did not pay whether he got the cash or at any other time.

That is what a soft loan is. It is credit credit that the borrower knows he is not going to pay back and the lender knows he is not going to pay back. That is what it amounts to.

Mr. Chairman, this is $5 billion worth of it.

Let me tell the Members what has happened. I have got some bad news for them. I was just handed a sheet of paper by the manager of the restaurant. In 1 week bacon has gone from $1.02 to $1.32 where we have to buy it downstairs. Liverwurst has gone from 79 cents to 84 cents, and bologna—which this bill is full of—has gone from 79 to 94 cents.

Why? Because we are giving so much money away and giving so many soft loans and so many credit credits.

Some of you ought to take a trip abroad. You will find that any good restaurant on the continent of Europe is featuring fresh American steaks flown in daily, because they can buy them with deflated dollars. A German housewife can buy with two marks what it took her four marks to buy a year and a half ago.

Mr. McNamara and Mr. Volcker over in the Treasury Department said:

> Why, this deflation, this devaluation of the dollar is going to be great. We are going to sell more goods abroad.

Sure, we are going to sell more goods abroad. The dollar is going to go down at home and the American people are going to pay more than they have been paying now.

If you think we can give away another $5 billion in soft loans, forget it, because it is going to come right home to roost and it will come out of the pockets of the American taxpayers.

Mr. Chairman, I am not going to speak any more on this bill, and I know that will make the Members feel good. I want to tell the Members why I am going to vote against it, and I think the Members had better be thinking it over, because an election is going to be coming up one of these days.

If you can go home and explain to your people why there is no money for hospitals—and the President has said there is not—and why there is no money for housing for the elderly—and the President says there is not—and why there is no money to build the highways the people need—and the President says there is not—but we have got $3 billion, plus $5 billion in this bill over the next 5 years to give away to foreign countries, if you can explain that to your constituents and at the same time explain why bacon has gone from $1.02 to $1.32 in 1 week, good luck. I do not think I can do it with my constituents.

The CHAIRMAN. The question is on the perfecting amendment offered by the gentleman from Florida (Mr. FASCELL).

The perfecting amendment was agreed to.

Mr. FASCELL. Mr. Chairman, I rise in opposition to the amendment to strike.

Mr. Chairman, a vote for this amendment will knock out the one provision in this bill that will do more for American industry and business than perhaps any other section of the bill. A vote for this amendment to strike this out will make it more difficult, if not impossible, for U.S. business to compete in world markets.

This is not a subsidy to another government; it is not a subsidy to the buyer. The only thing that is being subsidized here which is subject to the appropriation process is the differential in the interest rate of what it takes the U.S. Government to borrow the money and what it will be lent at as export credits.

Let me read you one statement which comes out of Business International with respect to this particular proposal:

> The new export credit proposal would clearly put US exporters in a competitive position in the poorest markets. For example, France's Caisse Centrale de Cooperation Economique (CCCE) lends to host-country development banks at 3.5–6% interest per annum and 10–20 year maturities. Another French institution, the Fonds d'Aide et de Cooperation, offers development loans for up to 20 years at an interest rate of between 1–4%, with a grace period of up to nine years. In the UK, the Commonwealth Development Corp. (CDC) has been able to supply long-term loans for development purposes that are interest free for up to seven years. Japan's Overseas Cooperation Fund grants credits at interest rates ranging down to 3.5% per annum over a five to 15 years period.
>
> EDCF, with its easy terms, has been well received by US companies. "We've been waiting for something like this for a long time. Too often companies have lost projects, even when their bids were lowest, due to an inability to provide financing on realistic terms to these poorest countries," one electronics executive commented. "This kind of concessionary financing with easy terms and high risk coverage is just what is needed to compete with our counterparts in countries where development assistance is integrated with credit financing on easy terms," another executive maintained.

What we are doing is, instead of going with the old development loan program, we are tapping the private market and with the funds thus borrowed we can subsidize our exporters.

With our deficit in the balance of trade, we need to help the sale of U.S. products. Industries which would be assisted are electrical equipment, heavy machinery, farm equipment, chemical equipment, tools, and pharmaceuticals.

We are going from the old development loan programs, from the big projects and trying to help our own exporters.

A vote to strike this section is a vote to cut the heart out of the effort to help U.S. businessmen be competitive abroad.

Mr. MORGAN. Will the gentleman yield?

Mr. FASCELL. I yield to the gentleman.

Mr. MORGAN. I want to clear up something the gentleman from Ohio said. There are not any real soft loans here. There are only low-interest loans, but they are in hard dollars at low interest.

PARLIAMENTARY INQUIRY

Mr. PASSMAN. Mr. Chairman, I do not wish to belabor this discussion any longer. What will the vote be on? Will it be on my own amendment?

The CHAIRMAN. The gentleman's amendment is the pending amendment.

The question is on the amendment offered by the gentleman from Louisiana (Mr. PASSMAN).

RECORDED VOTE

Mr. PASSMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 240, noes 137, not voting 56, as follows:

[Roll No. 396]

AYES—240

Addabbo
Andrews, N.C.
Annunzio
Archer
Armstrong
Ashbrook
Bafalis
Baker
Barrett
Beard
Bennett
Bevill
Biaggi
Blackburn
Boggs
Boland
Brasco
Bray
Breaux
Brinkley
Brooks
Broomfield
Brown, Mich.
Broyhill, N.C.
Broyhill, Va.
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carney, Ohio
Carter
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clark
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Collins, Tex.
Conlan
Conte
Cotter
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Denholm
Dennis
Dent
Derwinski
Devine
Donohue
Dorn
Downing
Dulski
Duncan
Eilberg
Eshleman
Evins, Tenn.
Flood
Flynt
Frey
Froehlich
Gaydos
Giaimo
Gilman
Ginn
Goldwater
Goodling
Grasso
Green, Oreg.
Gross
Grover
Guyer
Haley
Hammerschmidt
Hanley
Hanrahan
Hansen, Wash.
Harsha
Harvey
Hays
Hébert
Hechler, W. Va.
Henderson
Hillis
Hinshaw
Hogan
Holifield
Holt
Hosmer
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Keating
Kemp
Ketchum
Kuykendall
Kyros
Latta
Leggett
Litton
Long, La.
Long, Md.
Lujan
McCollister
McCormack
McDade
McEwen
McKay
McSpadden
Macdonald
Mahon
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathis, Ga.
Mazzoli
Melcher
Michel
Miller
Minish
Mitchell, N.Y.
Mizell
Mollohan
Montgomery
Moorhead, Calif.
Myers
Natcher
Nichols
O'Brien
Owens
Parris
Passman
Perkins
Peyser
Pickle
Pike
Poage
Powell, Ohio
Price, Tex.
Quillen
Randall
Rarick
Rhodes
Rinaldo
Roberts
Robinson, Va.
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rose
Roush
Rousselot
Roy
Runnels
Ruth
Ryan
St Germain
Sandman
Sarasin
Satterfield
Saylor
Scherle
Sebelius
Shipley
Shoup
Shuster
Sikes
Skubitz
Slack
Snyder
Spence
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Stokes
Stubblefield
Stuckey
Sullivan
Talcott
Taylor, Mo.
Taylor, N.C.
Thomson, Wis.
Thornton
Tiernan
Towell, Nev.
Treen
Vander Jagt
Vanik
Veysey
Waggonner
Walsh
Wampler
White
Whitehurst
Whitten
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wright
Wyatt
Wylie
Wyman
Yates
Young, Alaska
Young, Fla.
Young, S.C.
Young, Tex.
Zion
Zwach

NOES—137

Abzug
Adams
Alexander
Anderson, Calif.
Ashley
Aspin
Badillo
Bergland
Biester
Bingham
Blatnik
Bolling
Brademas
Breckinridge
Brown, Calif.
Brown, Ohio
Buchanan
Burton
Carey, N.Y.
Casey, Tex.
Clay
Conable
Corman
Coughlin
Cronin
Culver
Davis, Ga.
Dellenback
Dellums
Dingell
Drinan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Esch
Evans, Colo.
Fascell
Findley
Foley
Ford, William D.
Forsythe
Fraser
Frelinghuysen
Frenzel
Fulton
Gonzalez
Green, Pa.
Gubser
Gude
Hamilton
Hansen, Idaho
Harrington
Hastings
Heckler, Mass.
Heinz
Helstoski
Hicks
Holtzman
Howard
Johnson, Pa.
Kastenmeier
Kazen
Koch
Lehman
Lent
McClory
McCloskey
McFall
McKinney
Madden
Mailliard
Mathias, Calif.
Matsunaga
Mayne
Meeds
Mezvinsky
Mink
Mitchell, Md.
Moakley
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nelsen
Nix
Obey
O'Hara
O'Neill
Patten
Podell
Preyer
Price, Ill.
Pritchard
Quie
Railsback
Rangel
Rees
Reid
Reuss
Robison, N.Y.
Rodino
Rooney, Pa.
Rosenthal
Rostenkowski
Ruppe
Sarbanes
Schneebeli
Seiberling
Sisk
Smith, Iowa
Smith, N.Y.
Staggers
Stanton, J. William
Steele
Steiger, Wis.
Stratton
Studds
Symington
Teague, Calif.
Teague, Tex.
Thone
Udall
Van Deerlin
Vigorito
Ware
Whalen
Wilson, Bob
Wolff
Wydler
Yatron
Young, Ga.
Young, Ill.
Zablocki

NOT VOTING—56

Abdnor
Anderson, Ill.
Andrews, N. Dak.
Arends
Bell
Bowen
Brotzman
Camp
Conyers
Dickinson
Diggs
Erlenborn
Fish
Fisher
Flowers
Ford, Gerald R.
Fountain
Fuqua
Gettys
Gibbons
Gray
Griffiths
Gunter
Hanna
Hawkins
Horton
King
Kluczynski
Landgrebe
Landrum
Lott
Madigan
Metcalfe
Milford
Mills, Ark.
Minshall, Ohio
Patman
Pepper
Pettis
Regula
Riegle
Roe
Rooney, N.Y.
Roybal
Schroeder
Shriver
Stark
Stephens
Symms
Thompson, N.J.
Ullman
Waldie
Widnall
Wiggins
Williams
Winn

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL ANNOUNCEMENT

Mr. FOUNTAIN. Mr. Chairman, on the vote just taken, I voted "aye," but the light did not light up by my name.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

MEANING OF REFERENCES

SEC. 26. All references to the Foreign Assistance Act of 1961 and to the Agency for International Development shall be deemed to be references also to the Mutual Development and Cooperation Act and to the Mutual Development and Cooperation Agency, respectively. All references in the Mutual Development and Cooperation Act to "the agency primarily responsible for administering part I" shall be deemed references also to the Agency for International Development. All references to the Mutual Development and Cooperation Act and to the Mutual Development and Cooperation Agency shall, where appropriate, be deemed references also to the Foreign Assistance Act of 1961 and to the Agency for International Development, respectively.

Miss **HOLTZMAN**. Mr. Chairman, I move to strike the requisite number of words.

I should like to ask the distinguished chairman of the committee a question concerning the construction of the bill. I have been disturbed by reports, which I hope are not true, that previous foreign aid bills have authorized funds that have been used to train foreign police forces in techniques of torture, and in some military units in antidemocratic activities. I should like to be certain we will not be associated with such methods.

I should like to ask the distinguished chairman of the committee if there is any provision in this bill which would in any way authorize the training of foreign police in torture tactics, or foreign military officers or personnel in antidemocratic activities?

Mr. **MORGAN**. I will assure the gentlewoman from New York that, so far as I know—and I am certain of this—there are no funds in this bill for any foreign officers to be trained in torture techniques in this country or in the recipient countries where the technical assistance funds are spent.

Miss **HOLTZMAN**. I thank the gentleman.

The **CHAIRMAN**. The Clerk will read.

The Clerk read as follows:

FOREIGN MILITARY SALES

SEC. 27. The Foreign Military Sales Act is amended as follows:

(a)(1) In section 3 of chapter 1, relating to eligibility, strike out subsection (b).

(2) Add the following new subsection at the end of such section 3:

"(b) No sophisticated weapons, including sophisticated jet aircraft or spare parts and associated ground equipment for such aircraft, shall be furnished under this or any other Act to any foreign country on or after the date that the President determines that such country has violated any agreement it has made in accordance with paragraph (2) of subsection (a) of this section or section 505(a) of the Mutual Development and Cooperation Act or any other provision of law requiring similar agreements. The prohibition contained in the preceding sentence shall not apply on or after the date that the President determines that such violation has been corrected and such agreement complied with. Such country shall remain ineligible in accordance with this subsection until such time as the President determines that such violation has ceased, that the country concerned has given assurances satisfactory to the President that such violation will not reoccur, and that, if such violation involved the transfer of sophisticated weapons without the consent of the President, such weapons have been returned to the country concerned.".

(b) In section 23 of chapter 2, relating to credit sales, strike out "ten" and insert in lieu thereof "twenty".

(c) In section 24(a) of chapter 2, relating to guaranties, strike out "doing business in the United States".

(d) In section 24(c) of chapter 2, relating to guaranties:

(1) strike out "pursuant to section 31" and insert in lieu thereof "to carry out this Act"; and

(2) insert "principal amount of" immediately before the words "contractual liability" wherever they appear.

(e) In section 31(a) of chapter 3, relating to authorization, strike out "$400,000,000 for the fiscal year 1972" and insert in lieu thereof "$450,000,000 for the fiscal year 1974".

(f) In section 31(b) of chapter 3, relating to authorization, strike out "(excluding credits covered by guaranties issued pursuant to section 24(b)) and of the face amount of guaranties issued pursuant to sections 24 (a) and (b) shall not exceed $550,000,000 for the fiscal year 1972, of which amount not less than $300,000,000 shall be available to Israel only" and insert in lieu thereof "and of the principal amount of loans guaranteed pursuant to section 24(a) shall not exceed $760,000,000 for the fiscal year 1974, of which amount not less than $300,000,000 shall be available to Israel only".

(g) In section 33(a) of chapter 3, relating to aggregate regional ceilings:

(1) strike out "of cash sales pursuant to sections 21 and 22,";

(2) strike out "(excluding credits covered by guaranties issued pursuant to section 24(b)), of the face amount of contracts of guaranty issued pursuant to sections 24 (a) and (b)" and insert in lieu thereof "of the principal amount of loans guaranteed pursuant to section 24(a)"; and

(3) strike out "$100,000,000" and insert in lieu thereof "$150,000,000".

(h) In section 33(b) of chapter 3, relating to aggregate regional ceilings:

(1) strike out "of cash sales pursuant to sections 21 and 22,";

(2) strike out "(excluding credits covered by guaranties issued pursuant to section 24(b)), of the face amount of contracts of guaranty issued pursuant to sections 24 (a) and (b)" and insert in lieu thereof "of the principal amount of loans guaranteed pursuant to section 24(a)".

(i) In section 33(c) of chapter 3, relating to aggregate regional ceilings:

(1) strike out "expenditures" and insert in lieu thereof "amounts of assistance, credits, guaranties, and ship loans";

(2) strike out "of cash sales pursuant to sections 21 and 22,"; and

(3) strike out "(excluding credits covered by guaranties issued pursuant to section 24(b)), of the face amount of contracts of guaranty issued pursuant to sections 24 (a) and (b)" and insert in lieu thereof "of the principal amount of loans guaranteed pursuant to section 24(a)".

(j) In section 36 of chapter 3, relating to reports on commercial and governmental military exports, strike out subsection (a) and redesignate subsections (b) and (c) as subsections (a) and (b), respectively.

(k) In section 37(b) of chapter 3, relating to fiscal provisions, insert after "indebtedness" the following: "under section 24(b) (excluding such portion of the sales proceeds as may be required at the time of disposition to be obligated as a reserve for payment of claims under guaranties issued pursuant to section 24(b), which sums are hereby made available for such obligations)".

Mr. **MORGAN** (during the reading). Mr. Chairman, I ask unanimous consent that section 27 be considered as read, printed in the RECORD, and open to amendment at any point.

The **CHAIRMAN**. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

AMENDMENT OFFERED BY MR. BUCHANAN

Mr. **BUCHANAN**. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BUCHANAN: Page 49, line 14, strike out "$450,000,000" and insert in lieu thereof "$525,000,000".

Mr. **BUCHANAN**. Mr. Chairman, I do not want to take too much time of the House, because I know the Members are tired.

Although I did not agree with the action, some Members believe they have just knocked $5 billion out of this bill. What I want to ask them to do is to put $75 million back into it, which the administration did request for foreign military credit sales.

This is not giveaway money. It is money we lend to be paid back at the interest rate the Treasury has to pay for it. It helps our people sell to these countries what they feel they need for their defense. It provides jobs for Americans. It helps our balance of payments.

It also means that instead of having some nation which shows no restraint meeting these needs, our Nation, which does sell with responsibility and restraint, will meet them, so that the countries involved will rely on us rather than on someone else.

Mr. Chairman, I feel that this is an amendment which helps Americans. It is an amendment that is in our national defense interest. It also can be vital to some of our friends. This $75 million will provide $120 million of credit, and this can help such nations as Israel and some other nations which are important to us. I urge its adoption.

Mr. **STRATTON**. Mr. Chairman, will the gentleman yield?

Mr. **BUCHANAN**. Yes, I will gladly yield to the gentleman from New York.

Mr. **STRATTON**. Mr. Chairman, I wish to support the amendment of the gentleman. I think this is a sound amendment.

We have been calling on our friends and allies to do more for themselves, and this program provides them the equipment to use to protect themselves.

Mr. Chairman, here are some of the countries involved: Israel, Korea, Turkey, and the Republic of China on Taiwan.

We are saying to all these countries, "We are not going to send in our troops. We are not going to come in and help you. You will just have to do more for yourselves."

This is a credit program.

I was in Israel 3 years ago, and they were crying then for credit sales of military equipment and we provided it to them. Here is the money to back up those sales for the coming year.

Mr. Chairman, I believe this is a good amendment.

Mr. **KEMP**. Mr. Chairman, will the gentleman yield?

Mr. **BUCHANAN**. I yield to the gentleman from New York.

Mr. **KEMP**. Mr. Chairman, I rise in support of the gentleman's amendment, and I wish to associate myself with the remarks of my colleague, the gentleman from New York.

I suggest that this is an extension of the doctrine enunciated by our President that we are going to help people to defend themselves, and I urge my colleagues to support the gentleman's amendment.

Mr. DU PONT. Mr. Chairman, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from Delaware.

Mr. DU PONT. Mr. Chairman, am I correct that the gentleman's amendment would authorize money in addition to the $300 or $400 million available to Israel for various programs?

Mr. BUCHANAN. The gentleman is not correct.

This makes the full amount that the administration authorized for this purpose available on a worldwide basis. It simply helps to protect the amount designated for Israel in the bill. The committee in the other body has passed a bill for only $200 million for the entire credit program.

Mr. DU PONT. But Israel would be eligible for the additional funds under the gentleman's amendment?

Mr. BUCHANAN. Yes, it would, and it would help make certain what they need is provided.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. BUCHANAN. If I have time, I will yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, is it not true that the amount earmarked for Israel for credit sales of $300 million is still in the bill as recommended by the committee, and that the gentleman's amendment is not necessary to protect that amount?

Mr. BUCHANAN. No, that is not correct. The gentleman is correct in his first statement, but the other body has such a small amount of credit sales in its bill that I do not know what might happen to the total amount on compromise.

Although we do provide the $300 million for Israel, I do not know how much private credit can be generated without this Government credit and, therefore, I believe such nations as Israel will stand on much firmer ground when we get out of conference if such an amendment is adopted.

We have set aside at least $300 million for Israel of the $760 million total our bill provides for credit sales and guarantees, and the $450 million credit sales authority included therein. I do not know whether there will be $300 million in it after the conferees get through with it.

Mr. BINGHAM. Mr. Chairman, I think the point the gentleman made is debatable, and I would like to make a point on which I think he will surely agree: That the amount that is in this bill for this purpose, which includes the amount for Israel, makes this entire bill a very essential item, among other reasons, for passage.

Mr. BUCHANAN. I could not agree more.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr BUCHANAN. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Chairman, how much does the gentleman propose to increase this?

Mr. BUCHANAN. $75 million, the amount requested by the administration.

Mr. GROSS. Where does the gentleman plan to get the money?

Mr. BUCHANAN. I plan to go to the distinguished chairman of the Committee on Appropriations, and I hope that he can provide it.

Mr. MORGAN. Mr. Chairman, I rise in opposition to the amendment.

I am glad that I am able to stand shoulder to shoulder at least once today with the gentleman from Iowa.

This amendment is not necessary. The Department of Defense is authorized under this bill to make credit sales of $760 million in the fiscal year 1974.

The committee, of course, reduced the amount of new obligational authority from $525 million to $450 million, but this cut is not going, in any way, to harm the program.

There is, for example, $20 million programed in fiscal year 1974 for Saudi Arabia.

But Saudi Arabia says it will not buy $20 million worth of military assistance from us next year. So there is plenty of flexibility in this program with $450 million for military sales to run this program through fiscal year 1974.

I am for those programs in the Middle East. I am not against Saudi Arabia buying for cash or credit, because their credit is good, as is the credit of many other countries of the Middle East. But I do not think some nations are ready to buy now. I believe $450 million of new obligational authority is sufficient.

Mr. MAILLIARD. Mr. Chairman, I move to strike the last word.

I will take only 1 minute to say that I would normally be in total support of what the chairman said. I think the figure in the committee bill is a good figure, but I would like to reiterate what the gentleman from Alabama said when he offered this amendment.

We will go into conference with a Senate bill that is so low that even though in our bill we guaranteed at least $300 million of this is supposed to be available for Israel, still the Senate bill has only $300 million in it total worldwide. So, in order to protect the House position, this amendment ought to be supported.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama (Mr. BUCHANAN).

The question was taken; and on a division (demanded by Mr. BUCHANAN) there were—ayes 50, noes 107.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. BINGHAM

Mr. BINGHAM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BINGHAM: Page 51, strike out line 14 and all that follows down through line 17, and insert in lieu thereof the following:

(j) In section 36 of chapter 3, relating to reports on commercial and governmental military exports, amend subsection (a) to read as follows:

"(a) (1) Prior to making any sale, credit sale, or guaranty to any country under this Act exceeding $25,000,000, and prior to making any sale, credit sale, or guaranty to any country under this Act in any fiscal year, the amount of which, when added to all other such sales, credit sales, and guaranties made during such year to that country will exceed estimates of the aggregate of such sales provided pursuant to subsection (b) for that fiscal year, the President shall transmit at the earliest possible time a written report to the Senate and the House of Representatives on the same day giving a complete explanation with respect to such proposed sale, credit sale, or guaranty. Any such report shall not include an explanation relating to more than one proposed sale, credit sale, or guaranty.

"(2) (A) The President may make such sale, credit sale, or guaranty thirty days after the report has been so transmitted unless, before the end of the first period of thirty calendar days of continuous session of Congress after the date on which the report is transmitted, either House adopts a resolution disapproving the sale, credit sale, or guaranty with respect to which the report is made.

"(B) For purposes of subparagraph (A) of this paragraph—

"(i) the continuity of a session is broken only by an adjournment of the Congress sine die; and

"(ii) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the thirty-day period.

"(3) Paragraphs (4) through (11) of this subsection are enacted by Congress—

"(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by this section; and they supersede other rules only to the extent that they are inconsistent therewith; and

"(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"(4) For purposes of paragraphs (2) through (11) of this subsection, 'resolution' means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: 'That the ——— does not approve the (sale, credit sale, guaranty) for ——— and explained in the report transmitted to Congress by the President on ———, 19—.', the appropriate phrase within the parentheses being selected, the first blank space therein being filled with the name of the resolving House, the second blank space therein being filled with the name of the foreign country on whose behalf the sale, credit sale, or guaranty is made, and the other blank spaces therein being appropriately filled with the date of the transmittal of the report; but does not include a resolution specifying more than one sale, credit sale, or guaranty.

"(5) If the committee, to which has been referred a resolution disapproving a sale, credit sale, or guaranty, has not reported the resolution at the end of ten calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the same sale, credit sale, or guaranty which has been referred to the committee.

"(6) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same sale, credit sale, or guaranty), and debate thereon is limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(7) If the motion to discharge is agreed to, or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same sale, credit sale, or guaranty.

"(8) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to a sale, credit sale, or guaranty, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(9) Debate on the resolution is limited to not more than two hours, to be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

"(10) Motions to postpone, made with respect to the discharge from committee, or the consideration of, a resolution with respect to a sale, credit sale, or guaranty and motions to proceed to the consideration of other business, are decided without debate.

"(11) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a sale, credit sale, or guaranty are decided without debate."

Mr. BINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that the reading of the amendment be dispensed with, and that it be printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BINGHAM. Mr. Chairman, the purpose of this amendment, the text of which has appeared in the Congressional Record, is to provide some form of congressional control over very large arms sale transactions, particularly those transactions which have not been previously announced to the Congress.

This amendment does two things. It would require a report to be made to the Congress on any arms sale to a foreign government, either for cash or for credit—and the majority of sales are for cash—in an amount in excess of $25,000,000 for any one sale. That is one provision.

The second provision would require that, if aggregate sales made to a foreign government are in excess of the amount submitted to the Congress in advance in the form of an estimate, as is required to be done now by the administration, with regard to both cash and credit sales, the administration must let us know they are going over.

Those are the two provisions with regard to reports.

What would happen following those reports? If the Congress does nothing, then the administration could proceed with the sales, after 30 days. If either House disapproved of the sale, the sale could not be executed.

That is the same kind of a provision, almost exactly, that we adopted yesterday in the anti-impoundment bill. It is the same kind of provision for a one-House veto, if you will, that applies in the Reorganization Act. So that there is nothing new about the proposal.

The amendment contains boiler-plate language providing for that procedure, of a veto by one House, for either of these types of sales.

Some of the Members may have received objections from the Department of Defense to a similar amendment, proposed by Senator Nelson of Wisconsin, that was passed by the Senate. His amendment called for many more reports than my amendment does, because his amendment called for reports on sales in the amount of more than $50 million to any country, regardless of whether prior estimates had been furnished to the Congress. This would have called for a great many reports. All I am calling for is reports on sales in excess of the estimates that have previously been submitted to the Congress, and approved by the requisite committees, or for very large sale in an amount of over $25 million.

Mr. Chairman and Members of the Committee, I did not submit this amendment in the committee and I apologize for that. I regret that we did not have a chance to discuss this in the committee. But the reason is that the need for this amendment has been brought home to me since the committee finished its deliberations. The need is illustrated by the announcements that have been made of the huge proposals for contemplated sale of arms to Saudi Arabia, Iran, and other countries in the Persian Gulf. Under present legislation the administration can proceed with cash sales or credit sales, but cash sales can take place without any further check or any opportunity for the Congress to say no. And this, I believe, is a dangerous situation. I think the Congress should be kept informed on such sales, particularly when they exceed what we have been told before was contemplated, and be given an opportunity to say no. That is the essence of the amendment. I hope very much that the members of the committee and the chairman will see fit to accept it.

Mr. MORGAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is a five-page amendment. At this late hour, I did not even have time to read the full text of the amendment, even though the gentleman has discussed it with me. It might have some merit, and we might be able in the committee to consider it. I promise the gentleman from New York I will take a look at the amendment at some future hearing.

I understand this amendment was triggered in the other body by the announced sale of defense articles to Iran and potential sales to Saudi Arabia and Iraq. My rough reading of the amendment indicates to me that it is of doubtful constitutionality because it involves both Houses separately participating in the execution of the law, and the delegation to each House separately of the legislative authority that the Constitution vests in the Congress as a whole. This is a very complicated constitutional question. I do not feel at this late hour that the House should adopt an amendment of this length and of this magnitude.

I promise the gentleman from New York the committee will take another look at his proposal, and if there is any way we can work this in future legislation, we will be glad to do so.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. MORGAN. I yield to the gentleman from New York.

Mr. BINGHAM. Can the chairman give us some indication that he would at least view this with sympathy in conference? This is a matter of some immediate urgency. We did take action yesterday on precisely the same kind of congressional procedure. I would hope the chairman will indicate that he could look, at least with some sympathetic consideration on this amendment in conference.

Mr. MORGAN. Of course, the gentleman's amendment is different from the Nelson amendment in the other body. As far as the chairman is concerned, in my own personal opinion, and not speaking as one of the conferees, the amendment is just impossible administratively.

It is just impossible. The Executive would be making reports every minute on the minute. I do not see that the Nelson amendment could be sustained under the Constitution. I do not believe the gentleman's amendment can be supported, so I hope we will not have to go to conference between the two amendments. The gentleman's amendment and the amendment offered by Senator Nelson are different, but I cannot offer any sympathy for either.

Mr. DERWINSKI. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, there have been times during the day when I have not agreed with the chairman of the Foreign Affairs Committee, but, frankly, at this point I think he has understated the objection to this amendment. It would introduce nothing but chaos to certain practical adjustments that we would be making. I would suggest the amendment be resoundingly defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Bingham).

The amendment was rejected.

AMENDMENT OFFERED BY MR. ANDERSON OF CALIFORNIA

Mr. ANDERSON of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Anderson of California: Page 48, strike out line 1 and all that follows down through line 5 and insert in lieu thereof the following:

(a) Add the following new subsection at the end of section 3 of chapter 1, relating to eligibility:

"(c) No sophisticated weapons, including sophisticated——

Mr. MORGAN. Mr. Chairman, will the gentleman yield for a unanimous consent request?

Mr. ANDERSON of California. I yield to the gentleman from Pennsylvania.

Mr. MORGAN. Mr. Chairman, we are almost at the end of the debate, and it is not the chairman's intention to actively oppose the gentleman's amendment. I feel, with the other amendment in, this one has a right to be in.

Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read and printed in the RECORD, and that all debate on the bill and all amendments thereto close at 9:15 o'clock.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The remainder of the bill is as follows:

FISHERMEN'S PROTECTIVE ACT OF 1967

SEC. 28. Section 5 of the Fishermen's Protective Act of 1967 is repealed.

REVISION OF SOCIAL PROGRESS TRUST FUND AGREEMENT

SEC. 29. (a) The President or his delegate shall seek, as soon as possible, a revision of the Social Progress Trust Fund Agreement (dated June 19, 1961) between the United States and the Inter-American Development Bank. Such revision should provide for the—

(1) periodic transfer of unencumbered capital resources of such trust fund, and of any future repayments or other accruals otherwise payable to such trust fund, to—

(A) the Inter-American Foundation, to be administered by the Foundation for purposes of part IV of the Foreign Assistance Act of 1969 (22 U.S.C. 290f and following);

(B) the United States Department of State to be administered by the Mutual Development and Cooperation Agency for purposes of sections 1 and 2 of the Latin American Development Act; and/or

(C) subject to the approval of the Department of State, to the United States Treasury for general uses of the Government; and/or

(2) utilization of such unencumbered capital resources, future repayments, and other accruals by the Inter-American Development Bank for purposes of sections 1 and 2 of the Latin American Development Act (22 U.S.C. 1942 and 1943) in such a way that the resources received in the currencies of the more developed member countries are utilized to the extent possible for the benefit of the lesser developed member countries.

(b) Any transfer of utilization under this section shall be in such proportions as may be agreed to between the United States and the Inter-American Development Bank.

(c) Any transfer under subparagraph (A) of subsection (a) (1) shall be in the amounts, and in available currencies, determined in consultation with the Inter-American Foundation, to be required for its program purposes.

(d) The revision of the Social Progress Trust Fund Agreement pursuant to this section shall provide that the President or his designee shall specify, from time to time, after consultation with the Inter-American Development Bank, the particular currencies to be used in making the transfer or utilization described in this section.

(e) Not later than January 1, 1974, the President shall report to Congress on his action taken pursuant to this section.

Mr. ANDERSON of California. Mr. Chairman, this amendment would strike that section of the bill which nullified the current law barring military sales to countries which seize our vessels in international waters—unless the President finds that such sales are "important to the security of the United States, or he receives reasonable assurances—that future violations will not occur."

Again, I believe that we must retain those laws on the books which express our disapproval of piracy. We must let these nations know that arbitrary actions in violation of international law will not be condoned.

Being a fisherman is not an easy life, and the administration does not make it any easier by signaling the intention to abandon them all together.

We should support them, but even more important to our Nation, is the importance of a free and open sea. We simply cannot condone arbitrary actions which threaten to close the seas, not only to our fishermen, but to our Navy and our merchant fleet.

As you know, the State Department did use its authority under this section of the law to withhold military sales to Ecuador in 1971. As a result, we saw seizures by Ecuador cut in half—reduced by 50 percent.

This should be an indication to the State Department that more sanctions—not less—may have an effect in stopping international piracy.

What is particularly disturbing is the fact that U.S. naval vessels—which are not loaned under this law, by the way—are loaned to a country and then used against our fishermen.

Roughly one-third of the entire Ecuadorian Navy is former U.S. naval vessels. Four of these loaned ships have been involved in the seizure of U.S. vessels.

I believe that we should retain the law which gives the administration authority to withhold military aid to countries violating international sanctions.

To do otherwise is to abandon our claim to a free and open sea, and to invite other nations to take part in collecting this type of "backdoor" foreign aid and assistance.

I ask for an "aye" vote to keep the law which authorizes a prohibition of military assistance to those who violate international law by seizing our vessels on the high seas.

Mr. MORGAN. Mr. Chairman, I have no objection to this amendment. However, I wish that the gentleman would clear it with the ranking minority member of the committee.

Mr. MAILLIARD. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from California (Mr. MAILLIARD).

Mr. MAILLIARD. Mr. Chairman, I have not really had a chance to look at the amendment.

Mr. ANDERSON of California. All this amendment does is put the present law back into the section which was taken out as it pertains to foreign military sales. The amendment simply adds the earlier foreign assistance, and this is foreign military sales.

There is no difference in the effect of the amendment.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. Mr. Chairman, is the gentleman telling us the language is exactly the same as it is in the present law?

Mr. ANDERSON of California. Yes.

Mr. MORGAN. Mr. Chairman, we have no objection.

Mr. BOB WILSON. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from California (Mr. BOB WILSON).

Mr. BOB WILSON. Mr. Chairman, the foreign aid bill before us today carries three provisions that are certain to cripple the American tuna fishing industry and eventually lead to price increases of tuna in the marketplace.

I refer specifically to sections 17, 27, and 28 which combined would repeal existing U.S. statutes that require a reduction in aid and a cutoff of military sales to countries that seize or harass U.S. fishing vessels in international waters. Passage of these repealing sections would be a tragic mistake by the House.

The House Foreign Affairs Committee, in its report on this bill, says these are punitive laws which should be repealed because foreign nations affected by them do not want to appear to be "bowing" to U.S. pressures and, therefore, continue making seizures.

Frankly, I think we should be concerned more with the safety and rights of our own citizens than with the hurt feelings of those countries whose actions border on outright piracy.

Most of these tuna fishermen are my constituents from San Diego. They have had to work in fear of their lives while fishing in international waters of Peru and Ecuador. Their boats have been rammed, shot at and commandeered by Peruvian and Ecuadorian patrol boats, often far beyond any legally recognized national limit. Ironically, these patrol boats belonged to the United States before being sold or loaned to these nations. In other words, these countries gladly accept our aid with one hand and slap our American fishermen with the other. If anyone should have hurt feelings, it is the United States. Are we to "bow" and they not? Indeed not. Neither side should bow but both should bend toward reaching a peaceful settlement of this issue. Meaningful negotiation has been the goal of all of us who have followed this controversy closely through the years. Our State Department has tried for the past 20 years to take this fight off the high seas and put it on the negotiation table only to have its various proposals fall on deaf ears from the other side. It was only after many years of blatant depredations by Peru and Ecuador and their adamant refusal to negotiate a settlement that Congress enacted the Fisherman's Protective Act amendments that require reduced aid to these offending nations. These amendments must be preserved so long as seizures continue. I urge that the House eliminate the repealing sections of the foreign aid bill and show that we intend to stand by our fishermen and their rights on the high seas.

I cannot agree with the committee's thinking that these repeal actions are necessary to demonstrate U.S. desire to reach accord on settling the 200-mile fishing zone controversy now being discussed at the planning sessions of the

Law of the Sea Conference in Geneva. Contrarily, I think such action by Congress could mislead nations advocating the 200-mile limit to think the United States is weakening and about to capitulate from its position.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. ANDERSON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. DANIELSON

Mr. DANIELSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. DANIELSON: On page 53, after line 23, insert the following new section:
>
> EQUITABLE EXPENDITURE OF FUNDS
>
> SEC. 30. (a) Unless the Congress shall provide otherwise in language expressly made applicable to this section, at any time during the fiscal year 1974, the amount obligated or expended pursuant to this Act for any program or activity authorized by this Act, expressed as a percentage of the amount appropriated by law for purposes of such program or activity, shall not be more than 10 percentage points greater than the amount obligated or expended at that time for any other program or activity authorized by Act of Congress, expressed as a percentage of the amount appropriated by law for purposes of such other program or activity for the fiscal year 1974.
>
> (b) For purposes of this section, the term "other program or activity" shall include any program or activity administered by or under the direction of the Department of Agriculture, the Department of Commerce, the Department of Labor, the Department of Housing and Urban Development, the Department of Health, Education, and Welfare, the Department of Transportation, the Environmental Protection Agency, and the Veterans' Administration.

Mr. MORGAN. Mr. Chairman, I was on my feet when the amendment was read. I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Pennsylvania reserves a point of order against the amendment.

(By unanimous consent, Mr. HAYS yielded his time to Mr. DANIELSON.)

Mr. DANIELSON. Mr. Chairman and my colleagues, the amendment which I offer would not change any of the provisions of this bill, it is intended only to improve this legislation. We are all familiar with the old saying—"charity begins at home"—a saying which accurately reflects the feelings of many Members of the Congress, and tens of millions of American citizens and taxpayers. My amendment would give effect to that saying—would give it meaning—and make it a part of national policy.

While we debate foreign aid we must remember that we have many urgent and unmet needs right here at home. These are suffered by a broad segment of our society and our economy. They affect farmers and agriculture, the unemployed and wage earners, youth searching for jobs, medical care, hospitalization, housing, the elderly, education, our environment, veterans, and a host of other groups, interests, and activities. While the desire to help the unfortunate in other lands is commendable, I submit that our first duty is to the people of the United States, our fellow citizens, and to our own country; we should commit our resources to solving our own problems before we send our substance abroad.

To those of you who strongly favor foreign aid I say that this amendment will not prevent the President from fully executing the provisions of this foreign aid bill. It would only require that he likewise execute those laws which are intended to solve domestic problems—to meet domestic needs.

To my colleagues who favor domestic programs, who believe, as I do, that "charity begins at home"—I point out that my amendment would insure that domestic programs receive a share of our funding and that if we are to send our substance abroad, then the needs of our own citizens and taxpayers will receive, at least, some attention.

The bill before us—section 3–103—page 4—contains $300 million per year for 2 years, $600 million, for agriculture, rural development and nutrition. Yet hundreds of millions of dollars which have already been appropriated for domestic agricultural programs, have not been put to use.

The bill at hand—section 3–107—page 6—contains $60 million for economic development programs, yet many domestic economic development programs, already a part of the law of the land, have not been implemented. For example, $17.8 million for minority business development has been withheld.

This bill—section 3–105—would appropriate $115 million for each of 2 years, $230 million for human resources development—which on the domestic side our funding for manpower training and development has been held up to the extent of $283,800,000.

The bill—section 6—page 9—provides $305 million for each of 2 years—$610 million—for housing. Yet nearly a billion dollars worth of already-appropriated domestic housing programs have been nullified by failure to execute those laws.

And in the field of health and education—this bill—sections 104 and 105—calls for $265,000,000 for 2 years a total of $530 million for health services, education and the like. At the same time more than $55 million of such domestic programs remain unexecuted, including millions appropriated for health facilities and education for American Indians.

In the field of transportation—section 106, page 6—the bill would provide $93 million for each of 2 years, $186 million, for transportation. Meanwhile U.S. domestic transportation programs, totaling nearly $2½ billion, are being nullified.

I respectfully submit that if we can afford a foreign aid program, the least we should do is take care of some of our needs here at home.

Recognizing that all Government programs do not and can not move at exactly the same pace, it is necessary to build flexibility into the section proposed by my amendment. That flexibility is provided by the language which permits a 10 percent variance in the rate of obligation and expenditure of funds appropriated for the several different programs and activities. I add that this provision for 10 percent flexibility is compatible with the 10 percent figure which we included in the spending ceiling bill we proposed yesterday.

The proposed language also recognizes that circumstances can change and that it may be necessary or desirable to change the variance formula to accommodate those changes. The first clause of the section provides:

> Unless the Congress shall provide otherwise in language expressly made applicable to this section.

Thus, the Executive and the Congress, working together—as they should—can quickly and easily vary the formula to adjust to changing needs resulting from changing circumstances. Whenever the Executive, in the management of the Government's business, might determine that money could be saved, all he would have to do is notify the Congress, and by resolution the Congress could provide for an appropriate change in the rate of expenditure—or could terminate it altogether. The Congress and the Executive could economize whenever a need is lessened or removed, or could accelerate expenditure whenever a need is increased. All the Executive has to do, if he finds a need to change the formula, is to send a message to the Congress asking for a variance in the formula and the Congress, by resolution, can quickly provide it.

POINT OF ORDER

Mr. MORGAN. Mr. Chairman, I insist on a point of order, and I should like to be heard.

The CHAIRMAN. The Chair will hear the gentleman.

Mr. MORGAN. Mr. Chairman, this bill deals solely with authorizations for appropriations for foreign aid. The amendment of the gentleman covers many programs of agencies: The Department of Agriculture, the Department of Commerce, the Department of Labor, the Department of Housing and Urban Development, the Department of Health, Education, and Welfare, the Environmental Protection Agency, and the Veterans' Administration. It goes far afield from the present legislation, and therefore I insist on my point of order.

The CHAIRMAN (Mr. PRICE of Illinois). The Chair is ready to rule.

The Chair has examined the amendment, and observes that the amendment does not directly affect the obligation or expenditure of funds under other Government programs. Rather, the percentages obligated or expended under other programs merely serve as a measure or limit of percentages which can be obligated or expended under programs in the pending bill. For this reason, the Chair feels that the amendment is a germane restriction on the availability of funds authorized in the pending bill, and the Chair overrules the point of order.

The question is on the amendment offered by the gentleman from California (Mr. DANIELSON).

The amendment was rejected.

The CHAIRMAN. The Chair recognizes the gentleman from Louisiana (Mr. RARICK).

AMENDMENT OFFERED BY MR. RARICK

Mr. RARICK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RARICK: Page 53, after line 23, add a new section:

"SEC. 30. Notwithstanding any other provision of law, no funds authorized by this Act shall be expended to aid or assist in the reconstruction of the Democratic Republic of Vietnam (North Vietnam), unless by an Act of Congress assistance to North Vietnam is specifically authorized."

(By unanimous consent, Mr. SIKES yielded his time to Mr. RARICK.)

Mr. RARICK. Mr. Chairman, the amendment I propose is self-explanatory. The committee report on the bill indicates at page 54 that there is no money in this bill specifically for North Vietnam. However, there is no prohibition set forth in the legislation.

The amendment provides a prohibition against any funds under this act going to aid in the reconstruction of the Democratic Republic of Vietnam, North Vietnam, unless specifically authorized by Congress.

I believe it is a good amendment, and I urge its adoption.

Mr. SIKES. Mr. Chairman, I support the amendment of the distinguished gentleman from Louisiana. I realize that the committee does not intend to open the door to foreign aid for North Vietnam. Nevertheless, there are passages in the bill and in the report which make reference to Indochina, and Indochina includes North Vietnam. I think we must be doubly sure of what H.R. 9360 accomplishes.

If there is anything that I feel the American people strongly resent, it is the prospect of using American taxpayers' dollars to rebuild the Nation which has for more than a decade wreaked havoc throughout Indochina. A nation which has brought death and suffering to thousands upon thousands of American families. A nation which has required us to spend billions upon billions of dollars in the defense of freedom and a nation which continues aggression even today despite their signature to a ceasefire.

No, Mr. Chairman, I do not think the American people would accept action by the Congress to open the gates by whatever means for aid for North Vietnam. We can not even get enough money to satisfy the recognized needs of our own people. We are far, far in debt. We do not have money to give away to an enemy to our people, an enemy to world people. This is where the chips are down. This is where we close the gate or open

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. RARICK).

it.

The amendment was agreed to.

The CHAIRMAN. The Chair recognizes the gentleman from Alabama (Mr. BUCHANAN).

Mr. BUCHANAN. Mr. Chairman, during the course of this debate there have been those who have expressed doubts about the credibility of our foreign assistance programs, doubts similar to those which I myself have expressed, for example, to friends who have come to me from time to time with stories about the giant fish that got away.

But I would like to take a few moments today to tell my doubting colleagues a fish story about several million pounds of fish that did not get away and that are feeding Americans and thousands of persons in underdeveloped countries around the world.

The line used to snare these whoppers was Auburn University at Auburn, Ala., and the bait was some $460,000 in AID contracts to that school.

Of course, as every fisherman knows, it takes time to reel in the big fish and so it has taken some time to conduct the research which has produced these significant results.

In 1969, AID implemented a program at Auburn entitled Increasing Fish Production by Improved Fishcultures and a year later the International Center for Aquaculture was established there under authority of the Foreign Assistance Act of 1961.

With this support, officials at Auburn began a program to add experts in selected fields to the faculty; develop a library of world wide literature on aquaculture and more effective methods for dissemination of this information; provide educational opportunities in aquaculture for personnel of AID and other U.S. governmental agencies and private foundations, for students interested in international development and for foreign participant training; and to develop worldwide collection of data on food fisheries and other aquatic organism that appear suitable for culture.

The center is conducting research into fish breeding and genetics and methods for increased production—research which has resulted in what AID Director Dr. John Hannah calls "a true revolution in fish production, getting almost a pound of fish flesh per pound of feed."

This research was conducted in the United States, by American scientists with funds from our foreign assistance AID programs.

One experiment, for example, produced more rapid growth in channel catfish and doubled the production from 2,500 pounds to 5,000 pounds per acre.

In a second project, Auburn researchers increased production of fish raised in cage cultures, which is a popular production method in the Orient.

In East Pakistan the water hyacinth is abundant and is seen solely as an interference with water management. Through research, scientists at the Auburn Center were able to create from this plant a fish food supplement which produced higher weight gains and higher survival in food fish.

Armed with the results of these and many other studies, including a number dealing with small pond production, scientists from Auburn have traveled to Thailand, Brazil, Peru, Panama, the Philippines and elsewhere to help improve the production of fish in these countries.

Their studies, of course, are also being utilized in our own country to increase fish production and reduce noxious plants in waterways.

Mr. Chairman, the Auburn fish story represents a relatively small investment of our foreign assistance dollars, but it has produced tremendous results through money spent in the United States.

The benefits of this program, however, are not limited to fish production. These funds have helped to develop and expand the International Center for Aquaculture, they have helped to strengthen the curriculum at Auburn University, and provide more opportunities for American young people to study. They are also providing jobs for Americans.

In a second AID project in Alabama, Tuskegee Institute is using a $500,000 grant received last year to improve its capability and competence to execute its livestock development programs. This is a grant under our foreign assistance program which will help strengthen an American University. Tuskegee is working on an informal consortium arrangement with Purdue University, Texas A. & M. and Florida State University, all which have similar AID grants to work on different phases of the livestock production problem.

While there is a need throughout the world to increase livestock production to feed starving millions, any American housewife will tell you that there is a very real need today in this country for the benefits of increased livestock production that this grant will provide.

While the Auburn and Tuskegee projects are only two of the contracts administered under our foreign assistance program, they are symbolic of what this program represents.

In fiscal 1972, for example, over 4,000 American manufacturers and suppliers from 48 States received a $792 million payment for commodities shipped to the less developed countries under AID economic assistance programs.

More than 1,300 AID contracts for technical services with U.S. institutions, private companies, and individual technical experts, valued at $840 million were underway in fiscal 1972. Of this amount 395 contracts, like those at Auburn and Tuskegee valued at $273 million were held by 137 American colleges and universities in 43 different States.

In addition, American carriers earned about $70 million in fiscal 1972 for transporting AID financed exports to the underdeveloped countries.

Mr. Chairman, our foreign assistance program has proven itself to be in the best interest of the American people in terms of jobs, creating foreign markets for American products, strengthening U.S. institutions and companies and creating a better world for all people in which there can be hope for stability and peace. Through contracts like that with Auburn University in Alabama, AID is waging war on such ancient enemies of man as hunger, poverty, and disease. Mr. Chairman, this program merits our continued support.

Mr. CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. Dennis).

Mr. DENNIS. Mr. Chairman, I yield back my time.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. Findley).

Mr. FINDLEY. Mr. Chairman, I yield back my time.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. Van Deerlin).

AMENDMENT OFFERED BY MR. VAN DEERLIN

Mr. VAN DEERLIN. Mr. Chairman, I offer an amendment.

Mr. Chairman, I ask unanimous consent that the reading of the amendment be waived and it be printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The amendment is as follows:

Amendment offered by Mr. Van Deerlin: Page 53, after line 23, add the following new section:

TRANSFERS OF MILITARY VESSELS AND BOATS

Sec. 30. (a) Notwithstanding any other provision of law, a vessel or boat of the United States Government (including, but not limited to, any battleship, aircraft carrier, cruiser, destroyer, or submarine) may be sold, loaned, leased, given, or transferred by any other means to a foreign country or international organization only in accordance with the provisions of this section and, in the case of any battleship, aircraft carrier, cruiser, destroyer, or submarine, only if such transfer is specifically authorized by law.

(b) (1) Any such sale, loan, lease, gift, or transfer of a noncombatant type vessel or boat may be made only—

(A) if, after the terms, price, and conditions of any proposed offer to dispose have been published in the Federal Register, members of the United States fishing industry, States and political subdivisions thereof, and United States educational and scientific institutions are given an opportunity to acquire the vessel or boat on the same terms, prices, and conditions, and no qualified bid is received within a reasonable period of time determined by the head of the agency; and

(B) if no qualified bid is received, only if the head of the agency of the United States Government making the disposition obtains satisfactory assurances that the vessel or boat will not be used in any way in competition with the United States fishing industry in fishing, fishing related, or fishing support activities.

(2) The appropriate agencies of the United States Government are authorized and directed to carry out the provisions of paragraph (1) (A) of this subsection and to issue the necessary rules and regulations. They shall also require that bids be received within a set time period.

(3) No lease, loan, or other agreement previously entered into between the United States and any foreign country or international agency for any noncombatant type vessel or boat shall be renewed or extended except in conformity with paragraph (1) (B) of this subsection unless the lease, loan, or other agreement provides for its renewal or extension upon the same terms as the original lease, loan, or other agreement.

(c) No vessel or boat may be sold, loaned, leased, given or transferred by any other means to any foreign country or international organization unless that country or organization agrees prior to any such transfer that—

(1) the vessel or boat will not be used to interfere in any way with the normal fishing operations of any United States fishing vessel that is operating in any area claimed as territorial seas or fishery management zone which is not recognized as such or on the high seas; and

(2) if any such transferred vessel or boat is so used, the vessel or boat will be returned to the United States Government.

In the event any such transferred vessel or boat is used by a foreign country or international organization to interfere in any way with the normal fishing operations of any United States fishing vessel that is operating in any area claimed as territorial seas or fishery management zone which is not recognized as such or on the high seas, no other vessel or boat shall thereafter be transferred by any means to that country or organization unless the Secretary of State is satisfied that such country or organization will no longer so use any such vessel or boat.

Mr. VAN DEERLIN. Mr. Chairman, this amendment deals with the disposition of surplus naval vessels for foreign nations. It establishes the principle that these vessels should be made available only if they have been first offered on the same terms to American universities or scientific organizations or to American industries; secondly, that the nations receiving those vessels shall agree in advance that they shall not be used on the high seas against American citizens; and, thirdly, that if the vessels are so used, they shall be returned forthwith to the United States.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania.

Mr. MORGAN. Mr. Chairman, I rise in opposition to the amendment.

It is a very far-reaching amendment. There is no basis for this amendment in this bill. It really belongs in the Military Procurement bill, which is scheduled for debate on Monday.

Mr. Chairman, I hope the gentleman offers his amendment on Monday in that bill, and that we defeat the amendment today.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Van Deerlin).

The amendment was rejected.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. Long).

Mr. LONG of Maryland. Mr. Chairman, I yield back my time.

The CHAIRMAN. The Chair recognizes the gentlewoman from Missouri (Mrs. Sullivan).

(By unanimous consent, Mrs. Sullivan yielded her time to Mr. Dingell.)

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. Reid).

Mr. REID. Mr. Chairman, I yield back my time.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. de la Garza).

Mr. de la GARZA. Mr. Chairman, I rise in support of all the amendments that reinstate the present law with regards to the protection of our fishermen on the high seas.

This is a very difficult and hazardous endeavor for the men who go out to the sea in ships. They look to us here in the Congress to afford them, and not only them, but the American flag which they fly and sail under the necessary protection from illegal search and seizure.

These are good people, they are honest hardworking people and we must do everything possible to protect them.

We must and shall respect the sovereign right of all nations based on justice and law, but some of the unilateral actions taken by some nations with regard to their fisheries zone are not based on recognized precepts of international law, nor on any recognized concept of territorial acquisition.

We should and will of course participate in the Law of the Sea Conference and we hope that the participating nations enter into this conference with a spirit of friendship, understanding, and a mutual desire for the common good. We wish them well. In the meantime we must afford our fishermen some degree of protection.

I cannot agree with the actions of the committee to strike out the only source of assistance we give the industry. Again, Mr. Chairman, I stand with my friends in the fishing and shrimping industry.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. Mailliard).

Mr. MAILLIARD. Mr. Chairman, I yield back my time.

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin (Mr. Zablocki).

Mr. ZABLOCKI. Mr. Chairman, I yield back my time.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. Bingham).

Mr. BINGHAM. Mr. Chairman, let me just say two things: First, to those Members primarily on this side who voted against my amendment to cut the funds for reconstruction of Vietnam, those Members had a very sound reason for doing so. Perhaps their judgment was correct, but they should vote for the bill if they feel that this money is important.

To the Members on this side primarily, I will say that there is wonderful stuff in this bill, particularly in the first part of the bill: the humanitarian assistance and the development program which has been developed by the committee.

Mr. Chairman, I hope that the Members will all vote for the bill.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. Fraser).

PARLIAMENTARY INQUIRY

Mr. **FRASER.** Mr. Chairman, a parliamentary inquiry.

The **CHAIRMAN.** The gentleman will state his parliamentary inquiry.

The **FRASER.** Mr. Chairman, are there any further amendments at the desk?

The **CHAIRMAN.** There is an amendment.

Mr. **FRASER.** Mr. Chairman, I wish the Chair would call for the amendment so that we might have an opportunity to discuss it.

The **CHAIRMAN.** The Chair recognizes the gentleman from Michigan (Mr. DINGELL).

AMENDMENT OFFERED BY MR. DINGELL

Mr. **DINGELL.** Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DINGELL: Page 52, strike out lines 1, 2, and 3.

Renumber the succeeding section accordingly.

Mr. **DINGELL.** Mr. Chairman, section 28 of the bill would repeal section 5 of the Fishermen's Protective Act.

Mr. Chairman, briefly explained, the Fishermen's Protective Act directs the Secretary of State to attend to the welfare of the crew of any vesesl of the United States seized by a foreign country on the basis of rights or claims not recognized by this country in territorial waters or on the high seas. In this regard the United States recognizes only a 12-mile fisheries zone off the shores of any country. If the vessel owner is required to pay a fine, fee, or other direct charge to secure release of his vessel, the act directs the Secretary of the Treasury to reimburse the owner for the amount of such charges. Also, the act provides for the reimbursement of such vessel owner for other losses incurred during the period of illegal detention of the vessel.

Mr. Chairman, section 5 of the act, which H.R. 9360 would repeal, is the heart of the act. Without section 5, the act in effect becomes meaningless insofar as trying to prevent these acts of piracy that have been carried out over the years by certain Latin American countries, namely, Ecuador and Peru.

During the past 20 years, the countries of Ecuador and Peru—which claim a 200-mile exclusive fisheries zone—have illegally seized more than 100 U.S. tuna vessels. These seizures have resulted in the payment of fines and fees by U.S. fishermen in the amount of nearly $4 million. Since late last year, these countries have seized 44 American tuna vessels. Total payments made by vessel owners to obtain release of their vessels and crews amounted to $2,305,416. Pursuant to section 9 of the act, which established the Fishermen's Protective Fund, $3 million was appropriated to that fund earlier this year. Funds are now available with which to pay the claims resulting from the 44 seizures, but as of this date none of the claims has been paid.

Mr. Chairman, I think I know why none of these claims has been paid. Section 5 of the Fishermen's Protective Act sets forth procedures to be followed when American vessels have been illegally seized, which is as follows: Immediately upon reimbursement of the fines and fees to a vessel owner, the Secretary of State is required to notify the offending country of any reimbursement made to the vessel owner and to try to collect the claim from such country. If the offending country fails to pay the claim within 120 days after being notified, the Secretary of State is required to transfer an amount equal to such unpaid claim from any funds programed to that country for assistance under the Foreign Assistance Act to a revolving fund created by the Fishermen's Protective Act. A transfer in no way satisfies the claim and the Secretary of State is required to continue his efforts to collect such claim. The President could prevent such transfer from taking place if he certifies to the Congress it is in the national interest not to do so.

Mr. Chairman, once any or all of these claims amounting to $2,305,416, are reimbursed to the vessel owners, then naturally this requires the Secretary of State to notify the offending country of such payment or payments, which in turn starts the 120-day waiting period.

Mr. Chairman, this is the position I have been trying to get the Secretary of State in ever since I have been chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment. For years, although I felt the language of section 5 of the act sufficiently made it clear it was mandatory, the Secretary of State has always interpreted this section as giving him some discretion as to whether he has to make and collect such a claim against an offending foreign country. After lengthy hearings and untiring efforts by members of my subcommittee, late last year we rewrote section 5 of the act to make it crystal clear that whatever discretionary authority the Secretary thought he had did not exist any longer. Section 5 now mandates him to notify the foreign country—which he has never done in the past since the inception of the act in 1954—and, if reimbursement is not received from the foreign country within 120 days, then to deduct the amount of the claim from any foreign assistance programed to that country under the Foreign Assistance Act.

Mr. Chairman, this is the first test case we have had under this act since it came into effect in October 1972. This is the first time we have had an opportunity to see how effective the act will be in preventing illegal seizures of American fishing vessels. To repeal section 5 of the act at this time—which will strip the heart out of the act—will in effect eliminate any bargaining power we have gained as a result of rewriting this section, thereby further weakening the ability of the U.S. Government to effectively resolve the complex and increasing problem of illegal seizures. Also, it will eliminate the requirement in the section that mandates the Secretary of State to continue his efforts to try to collect any unreimbursed claim for the benefit of the American taxpayer.

Mr. Chairman, I think it would be a tragedy for section 28 to remain in the bill and I urge the passage of my amendment.

Mr. **FRASER.** Mr. Chairman, will the gentleman yield?

Mr. **DINGELL.** I yield to the gentleman.

Mr. **FRASER.** I will say that I do not have any objection to the gentleman's amendment, and I think the sentiment of the body is in favor of having it adopted.

Mr. **DINGELL.** I thank the gentleman.

Mr. **MORGAN.** Mr. Chairman, will the gentleman yield?

Mr. **DINGELL.** I yield to the gentleman.

Mr. **MORGAN.** I want to say, also, as chairman of the committee, I have no objection to restoration of this language in the bill.

Mr. **DINGELL.** I thank the chairman for that statement.

Mrs. **SULLIVAN.** Mr. Chairman, will the gentleman yield?

Mr. **DINGELL.** I yield to the gentlewoman.

Mrs. **SULLIVAN.** Mr. Chairman, as pointed out by the gentleman from Michigan, to repeal section 5 of the Fishermen's Protective Act—an act under the jurisdiction of the Merchant Marine and Fisheries Committee—would in effect make the act meaningless insofar as its usefulness in trying to put an end to seizure of American fishing vessels by certain Latin American countries.

Mr. Chairman, I cannot help but think if section 5 of the Fishermen's Protective Act is repealed that our State Department would be very happy. In fact, I sincerely feel that the $2,305,416 owed to American fishermen, as a result of the 44 seizures of their vessels by the countries of Ecuador and Peru, would have already been paid if the State Department were not holding up these funds in the hope that section 5 of the act will be repealed. The money with which to reimburse the owners of these illegally seized vessels was deposited in the revolving fund weeks ago. Yet, to date, not a single one has been reimbursed. I know of no other reason for any or all of these claims not having been paid as of this date, except for the requirement—which the State Department violently opposes—that, for the first time since the inception of the act in 1954, the Secretary of State is going to have to notify the countries of Ecuador and Peru that the American fishermen have been reimbursed for the ransom money they paid to get their vessels and crews released. And, for the first time, the Secretary of State is going to have to continue his efforts to collect such claims against such foreign countries, irrespective of whether the amount of such claims is ever deducted from any foreign assistance, programed to such countries under the Foreign Assistance Act.

Mr. Chairman, the requirement in section 5, that funds spent to reimburse fishermen be replaced by money deducted from foreign assistance programed for the country involved, should cause the Members no worry regarding its effect on foreign policy. Forseeing such a possibility, my committee included in this section discretionary authority for the President of the United States to certify to the Congress that it is not in the national interest to deduct such funds, whenever he considers such action necessary.

Mr. Chairman, finally I would like to briefly comment on the inconsistency of the positions recently taken by the State Department. Ever since the passage of the Fishermen's Protective Act in 1954, the State Department has always advised our tuna fishermen not to voluntarily buy licenses to fish within the 200-mile fisheries zone of such countries, as Ecuador and Peru. To do so, the State Department says, would in essence recognize the sovereignty of those countries over their excessive fisheries claims, and defeat the principle to which we adhere—"the freedom of the seas."

Just last Friday, July 20, representatives of the State Department testified at hearings held by our Subcommittee on Fisheries and Wildlife Conservation and the Environment on legislation I introduced as a result of an executive communication from the State Department, H.R. 8529, to implement the shrimp fishing agreement with Brazil. The country of Brazil, like Ecuador and Peru, claims a 200-mile exclusive fisheries zone.

Early last year, the State Department worked out an agreement with Brazil whereby we agreed to pay that country $200,000 per year in consideration of its allowing up to 325 American shrimp vessels to freely fish within 200 miles of its shores without fear of being seized. The implementing legislation for this agreement would set up a licensing system whereby each American vessel desiring to fish in those waters would be assessed an annual fee of approximately $700.

Now, Mr. Chairman, without prejudicing the legislation I introduced at the request of the State Department, I want to bring out the fact, that at the same time this Department is advising our tuna fishermen to refuse to buy a license to fish within the 200-mile fisheries zone of Ecuador and Peru, the same State Department is participating in a scheme that will supposedly temporarily resolve the excessive fisheries claim of the country of Brazil as it relates to the United States, if our fishermen will voluntarily buy licenses to fish for shrimp within the coastal waters of Brazil.

Mr. Chairman, as I previously stated, I do not want to prejudice the legislation that would implement the Brazilian shrimp fishing agreement; however, I do wish to make it clear that I like the Fishermen's Protective Act as it was finally worked out by my committee last year. I think section 5 of that act is essential to its effectiveness in trying to reach a solution to the problem of illegal seizures of American fishing vessels, and I am of the firm conviction that since we are finally faced with a test case, we should give section 5 of the act a chance to prove its worth.

Mr. Chairman, I wholeheartedly support the amendment offered by the gentleman from Michigan to strike section 28 of the bill which would repeal section 5 of the Fishermen's Protective Act, and I urge its prompt passage.

Mr. VAN DEERLIN. Will the gentleman yield?

Mr. DINGELL. I yield to the gentleman.

Mr. VAN DEERLIN. Mr. Chairman, the Committee on Foreign Affairs is asking Congress to retract words uttered, and to reverse actions we felt compelled to take just 2 short years ago—in effect, to apologize for those words and actions.

Over the past 20 years, Peru and Ecuador, to enforce their claim on exclusive fishing rights out to 200 miles, have levied fines totaling nearly $4 million against American boat owners whose property they took into custody on the high seas.

When protests availed nothing, Congress finally rewrote section 5 of the Fishermen's Protective Act, requiring the Secretary of State to take certain actions against nations illegally seizing our fishing vessels. This action was to consist primarily in deducting, from foreign aid to such nations, the amount of fines levied.

Hardly menacing, that—particularly in the hands of State Department officials who showed no stomach for a tough stance in defense of our fishing interests. But the intent of Congress was made clear. It was that the eagle should not submit forever to having his tail feathers plucked.

Now even this show of indignation is to be withdrawn, if we follow the committee's lead in section 28 of the bill under consideration.

The committee, in attempting to justify this reversal of a policy so clearly set forth by another Congress, explains meekly that Latin American nations "object to such sanctions."

And so we retreat from a stand which, though never very firm, at least offered some small sign of determination. We tell any and all nations they are free to seize our boats on the high seas—and that we ourselves will continue repaying boat owners the full amount of any sums these nations see fit to extort—that they need not fear our retaliation by so much as a dime of foreign aid withheld.

Long ago, in dealing with other pirates, Robert Goodloe Harper, a Member of Congress from South Carolina, spoke the ringing words:

> Millions for defense, but not one cent for tribute!

Our new motto, if the Committee on Foreign Affairs has its way, apparently must be:

> Millions for tribute, and keep the change.

Meanwhile, those modern-day pirates to the south, gleefully counting our dollars for conversion to pesos, may come to look upon the American eagle as the chicken of the sea.

Mr. ANDERSON of California. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman.

Mr. ANDERSON of California. Mr. Chairman, I rise in support of the amendment offered by Mr. DINGELL which would retain the provisions of the Fishermen's Protective Act.

The bill before us today would repeal the current law that is designed to deter those nations which seize our fishing vessels while in international waters. The Fisherman's Protective Act directs the Secretary of State to contact those countries in violation of international sanctions, and collect from them the amount they fined our fishermen. If the offending nation refuses to reimburse our Government, then the Secretary is required—except in the "national interest"—to deduct an amount equal to the fines from any foreign aid authorized to the pirate nation.

This, it seems to me, is extremely fair:

If a country chooses to violate international procedures and seize our vessels on the high seas, then why should we—the American taxpayer—reward them with foreign aid?

We must deter pirate nations.

We must keep the seas open for commerce and fishing.

And, we must protect our fishermen from unlawful seizures by those nations which violate accepted international regulations.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. DINGELL).

The amendment was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. PRICE of Illinois, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 9360) to amend the Foreign Assistance Act of 1961, and for other purposes, pursuant to House Resolution 506, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. BROOMFIELD

Mr. BROOMFIELD. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. BROOMFIELD. I am in its present form, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. BROOMFIELD moves to recommit the bill (H.R. 9360) to the Committee on Foreign Affairs with instructions to report the same back to the House forthwith with the following amendments: Page 5, in line 23, strike out "$115,000,000" and insert in lieu thereof "$90,000,000".

Page 6, in line 9, strike out "$93,000,000" and insert in lieu thereof "$60,000,000".

Page 6, in line 19, strike out "$60,000,000" and insert in lieu thereof "$50,000,000".

The **SPEAKER.** The gentleman from Michigan (Mr. BROOMFIELD) is recognized for 5 minutes in support of his motion to recommit.

Mr. **BROOMFIELD.** Mr. Speaker, the motion to recommit I believe provides a very modest economy vote here of $68 million. These affect just three programs under the reform provisions. My motion to recommit does not affect food, nutrition or population planning and health, but it does reduce the education and human resources by $25 million.

As to the selected development program, if Members recall, this was the amendment sponsored by the gentleman from Iowa (Mr. GROSS) and which lost by one vote, where the gentleman from Iowa moved to strike the entire $93 million. My amendment still provides $60 million, so there is a $33 million cut there.

The final one is the one on selected countries and organizations, a reduction from $60 to $50 million, for a total of $10 million.

This provides less than 10 percent of the $718 million provided in this particular area of the bill.

The **SPEAKER.** The gentleman from Pennsylvania (Mr. MORGAN) is recognized.

Mr. **MORGAN.** Mr. Speaker, I rise in opposition to the motion to recommit offered by the gentleman from Michigan (Mr. BROOMFIELD).

Mr. Speaker, we have had a long and tedious debate on each one of these sections.

The motion to recommit offered by the gentleman from Michigan seeks to cut $25 million for education, $33 million for selected projects, $10 million for selected countries and volunteer agencies, for a total of $68 million.

I realize that the cut is not a major one, but I still feel that this bill offers a new direction in foreign aid, and I believe that we should stand by the amounts voted by the Committee of the Whole during our debate here.

Therefore, Mr. Speaker, I move the previous question on the motion to recommit.

The previous question was ordered.

The **SPEAKER.** The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

RECORDED VOTE

Mr. **BROOMFIELD.** Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 232, noes 139, not voting 62, as follows:

[Roll No. 397]

AYES—232

Alexander
Andrews, N.C.
Archer
Armstrong
Ashbrook
Bafalis
Baker
Beard
Bennett
Bevill
Biaggi
Blackburn
Bray
Brinkley
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clark
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Collier
Collins, Tex.
Conable
Conlan
Conte
Coughlin
Crane
Cronin
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Denholm
Dennis
Dent
Derwinski
Donohue
Dorn
Downing
Duncan
du Pont
Edwards, Ala.
Eshleman
Evins, Tenn.
Flynt
Forsythe
Fountain
Frey
Froehlich
Fulton
Gaydos
Gilman
Ginn
Goldwater
Goodling
Green, Oreg.
Gross
Gubser
Guyer
Haley
Hammerschmidt
Hanley
Hanrahan
Harsha
Harvey
Hastings
Hays
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holt
Hosmer
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Karth
Kazen
Keating
Kemp
Ketchum
Kuykendall
Latta
Lent
Litton
Long, La.
Long, Md.
Lujan
McClory
McCloskey
McCollister
McDade
McEwen
McKay
McSpadden
Macdonald
Madden
Mahon
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathis, Ga.
Mayne
Mazzoli
Melcher
Michel
Miller
Mitchell, N.Y.
Mizell
Mollohan
Montgomery
Moorhead, Calif.
Natcher
Nichols
O'Brien
Owens
Parris
Perkins
Peyser
Pike
Poage
Powell, Ohio
Preyer
Price, Tex.
Quie
Quillen
Randall
Rarick
Rhodes
Rinaldo
Roberts
Robinson, Va.
Rogers
Roncalio, Wyo.
Rose
Roush
Rousselot
Roy
Runnels
Ruppe
Ruth
Sandman
Sarasin
Satterfield
Saylor
Scherle
Schneebeli
Sebelius
Shipley
Shoup
Shuster
Sikes
Slack
Smith, Iowa
Snyder
Spence
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stubblefield
Stuckey
Sullivan
Talcott
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Thomson, Wis.
Thone
Thornton
Towell, Nev.
Treen
Van Deerlin
Vander Jagt
Veysey
Vigorito
Waggonner
Walsh
Wampler
White
Whitehurst
Whitten
Wilson, Bob
Wilson, Charles H., Calif.
Wyatt
Wydler
Wylie
Wyman
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Young, Tex.
Zion
Zwach

NOES—139

Abzug
Adams
Addabbo
Anderson, Calif.
Annunzio
Ashley
Aspin
Badillo
Barrett
Bergland
Biester
Bingham
Blatnik
Boggs
Boland
Bolling
Brademas
Breaux
Breckinridge
Brown, Calif.
Buchanan
Burke, Calif.
Burton
Carey, N.Y.
Chisholm
Clay
Cohen
Collins, Ill.
Corman
Cotter
Culver
Daniels, Dominick V.
Danielson
Dellenback
Dellums
Diggs
Dingell
Drinan
Dulski
Eckhardt
Edwards, Calif.
Eilberg
Esch
Evans, Colo.
Fascell
Findley
Flood
Foley
Ford, William D.
Fraser
Frelinghuysen
Giaimo
Gonzalez
Grasso
Gray
Green, Pa.
Gude
Hamilton
Hansen, Idaho
Hansen, Wash.
Harrington
Helstoski
Holifield
Holtzman
Howard
Johnson, Calif.
Jordan
Kastenmeier
Koch
Kyros
Lehman
McCormack
McFall
McKinney
Mailliard
Mallary
Mathias, Calif.
Matsunaga
Meeds
Mezvinsky
Minish
Mink
Mitchell, Md.
Moakley
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nelsen
Nix
Obey
O'Hara
O'Neill
Passman
Patten
Pepper
Pickle
Price, Ill.
Pritchard
Railsback
Rangel
Rees
Reid
Reuss
Robison, N.Y.
Rodino
Rooney, Pa.
Rosenthal
Rostenkowski
Ryan
St Germain
Sarbanes
Seiberling
Sisk
Smith, N.Y.
Staggers
Stanton, J. William
Steele
Stokes
Stratton
Studds
Symington
Teague, Tex.
Tiernan
Udall
Ullman
Vanik
Ware
Whalen
Wilson, Charles, Tex.
Wolff
Wright
Yates
Yatron
Young, Ga.
Zablocki

NOT VOTING—62

Abdnor
Anderson, Ill.
Andrews, N. Dak.
Arends
Bell
Bowen
Brasco
Brotzman
Camp
Carney, Ohio
Clancy
Conyers
Devine
Dickinson
Erlenborn
Fish
Fisher
Flowers
Ford, Gerald R.
Frenzel
Fuqua
Gettys
Gibbons
Griffiths
Grover
Gunter
Hanna
Hawkins
Horton
King
Kluczynski
Landgrebe
Landrum
Leggett
Lott
Madigan
Metcalfe
Milford
Mills, Ark.
Minshall, Ohio
Myers
Patman
Pettis
Podell
Regula
Riegle
Roe
Roncallo, N.Y.
Rooney, N.Y.
Roybal
Schroeder
Shriver
Skubitz
Stark
Stephens
Symms
Thompson, N.J.
Waldie
Widnall
Wiggins
Williams
Winn

So the motion to recommit was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Roe for, with Mr. Thompson of New Jersey against.

Mr. Gunter for, with Mr. Rooney of New York against.

Mr. Landrum for, with Mr. Hanna against.

Mr. Fisher for, with Mr. Kluczynski against.

Mr. Stark for, with Mr. Podell against.

Mr. Flowers for, with Mr. Brasco against.

Mr. Carney of Ohio for, with Mr. Hawkins against.

Mr. Gerald R. Ford for, with Mr. Metcalfe against.

Mr. Fuqua for, with Mr. Conyers against.

Mr. Gettys for, with Mrs. Griffiths against.

Mr. Arends for, with Mr. Leggett against.

Mr. Grover for, with Mr. Patman against.

Mr. Horton for, with Mr. Roybal against.

Mr. Bell for, with Mrs. Schroeder against.

Mr. Devine for, with Mr. Waldie against.

Mr. Myers for, with Mr. Riegle against.

Until further notice:

Mr. Mills of Arkansas with Mr. Anderson of Illinois.

Mr. Milford with Mr. Abdnor.

Mr. Bowen with Mr. Andrews of North Dakota.

Mr. Gibbons with Mr. Brotzman.

Mr. Stephens with Mr. Camp.

Mr. Clancy with Mr. King.

Mr. Dickinson with Mr. Lott.

Mr. Roncallo of New York with Mr. Erlenborn.

Mr. Fish with Mr. Madigan.

Mr. Frenzel with Mr. Minshall of Ohio.

Mr. Pettis with Mr. Shriver.

Mr. Skubitz with Mr. Widnall.

Mr. Symms with Mr. Wiggins.

Mr. Williams with Mr. Winn.

The result of the vote was announced as above recorded.

Mr. **MORGAN.** Mr. Speaker, pursuant to the instructions of the House in the motion to recommit, I report back the bill H.R. 9360 with amendments.

The **SPEAKER.** The Clerk will report the amendments.

The Clerk read as follows:

Amendments: Page 5, in line 23, strike out "$115,000,000" and insert in lieu thereof "$90,000,000".

Page 6, in line 9, strike out "$93,000,000" and insert in lieu thereof "$60,000,000".

Page 6, in line 19, strike out "$60,000,000" and insert in lieu thereof "$50,000,000".

The SPEAKER. The question is on the amendments.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. **GROSS**. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 188, nays 183, present 1, not voting 61, as follows:

[Roll No. 398]

YEAS—188

Abzug
Addabbo
Anderson, Calif.
Annunzio
Armstrong
Ashley
Badillo
Barrett
Bergland
Biaggi
Biester
Bingham
Blackburn
Blatnik
Boggs
Boland
Bolling
Brademas
Breckinridge
Brooks
Broomfield
Brown, Mich.
Buchanan
Burke, Calif.
Burton
Carey, N.Y.
Cederberg
Chamberlain
Chisholm
Clay
Cohen
Collins, Ill.
Conable
Conte
Corman
Cotter
Coughlin
Cronin
Culver
Daniels, Dominick V.
Danielson
Dellenback
Dellums
Diggs
Dingell
Donohue
Drinan
du Pont
Eckhardt
Eilberg
Erlenborn
Esch
Evans, Colo.
Fascell
Findley
Flood
Foley
Forsythe
Fraser
Frelinghuysen
Giaimo
Gilman
Gonzalez
Grasso
Green, Pa.
Gubser
Gude
Guyer
Hamilton
Hanley
Hansen, Idaho
Harrington
Harvey
Hébert
Heckler, Mass.
Heinz
Helstoski
Holifield
Holtzman
Hosmer
Howard
Johnson, Calif.
Johnson, Pa.
Jordan
Karth
Keating
Kemp
Koch
Kuykendall
Kyros
Leggett
Lehman
Lent
Long, Md.
McClory
McCloskey
McDade
McEwen
McFall
McKay
McKinney
Madden
Mahon
Mailliard
Mallary
Mann
Mathias, Calif.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Mezvinsky
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moorhead, Pa.
Morgan
Mosher
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nelsen
Nix
O'Brien
O'Hara
O'Neill
Patten
Pepper
Perkins
Peyser
Preyer
Price, Ill.
Pritchard
Quie
Railsback
Rangel
Rees
Reid
Reuss
Rhodes
Rinaldo
Robison, N.Y.
Rodino
Rooney, Pa.
Rosenthal
Rostenkowski
Ruppe
Ryan
St Germain
Sarasin
Sarbanes
Schneebeli
Sebelius
Seiberling
Sisk
Smith, Iowa
Smith, N.Y.
Stanton, J. William
Steele
Steiger, Wis.
Stokes
Stratton
Sullivan
Symington
Teague, Tex.
Tiernan
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Walsh
Ware
Whalen
Wilson, Bob
Wilson, Charles, Tex.
Wolff
Wright
Wydler
Yates
Yatron
Young, Ga.
Young, Ill.
Zablocki

NAYS—183

Adams
Alexander
Andrews, N.C.
Archer
Ashbrook
Aspin
Bafalis
Baker
Beard
Bennett
Bevill
Bray
Breaux
Brinkley
Brown, Calif.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carter
Casey, Tex.
Chappell
Clark
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Collins, Tex.
Conlan
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Denholm
Dennis
Dent
Derwinski
Dorn
Downing
Dulski
Duncan
Edwards, Ala.
Edwards, Calif.
Eshleman
Evins, Tenn.
Flynt
Ford, William D.
Fountain
Frey
Froehlich
Fulton
Gaydos
Ginn
Goldwater
Goodling
Gray
Green, Oreg.
Gross
Haley
Hammerschmidt
Hanrahan
Hansen, Wash.
Harsha
Hastings
Hays
Hechler, W. Va.
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holt
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Ketchum
Latta
Litton
Long, La.
Lujan
McCollister
McCormack
McSpadden
Macdonald
Maraziti
Martin, Nebr.
Martin, N.C.
Mathis, Ga.
Miller
Mizell
Mollohan
Montgomery
Moorhead, Calif.
Moss
Natcher
Nichols
Obey
Owens
Parris
Passman
Pickle
Pike
Poage
Powell, Ohio
Price, Tex.
Quillen
Randall
Rarick
Roberts
Robinson, Va.
Rogers
Roncalio, Wyo.
Rose
Roush
Rousselot
Roy
Runnels
Ruth
Sandman
Satterfield
Saylor
Scherle
Shipley
Shoup
Shuster
Sikes
Slack
Snyder
Spence
Staggers
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Stubblefield
Stuckey
Studds
Talcott
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Thomson, Wis.
Thone
Thornton
Towell, Nev.
Treen
Veysey
Waggonner
Wampler
White
Whitehurst
Whitten
Wilson, Charles H., Calif.
Wyatt
Wylie
Wyman
Young, Alaska
Young, Fla.
Young, S.C.
Young, Tex.
Zion
Zwach

PRESENT—1

Michel

NOT VOTING—61

Abdnor
Anderson, Ill.
Andrews, N. Dak.
Arends
Bell
Bowen
Brasco
Brotzman
Camp
Carney, Ohio
Clancy
Collier
Conyers
Devine
Dickinson
Fish
Fisher
Flowers
Ford, Gerald R.
Frenzel
Fuqua
Gettys
Gibbons
Griffiths
Grover
Gunter
Hanna
Hawkins
Horton
King
Kluczynski
Landgrebe
Landrum
Lott
Madigan
Metcalfe
Milford
Mills, Ark.
Minshall, Ohio
Myers
Patman
Pettis
Podell
Regula
Riegle
Roe
Roncalio, N.Y.
Rooney, N.Y.
Roybal
Schroeder
Shriver
Skubitz
Stark
Stephens
Symms
Thompson, N.J.
Waldie
Widnall
Wiggins
Williams
Winn

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Gerald R. Ford for, with Mr. Michel against.

Mr. Thompson of New Jersey for, with Mr. Gunter against.

Mr. Rooney of New York for, with Mr. Landrum against.

Mr. Hanna for, with Mr. Fisher against.

Mr. Kluczynski for, with Mr. Roe against.

Mr. Podell for, with Mr. Stark against.

Mr. Brasco for, with Mr. Flowers against.

Mr. Hawkins for, with Mr. Carney of Ohio against.

Mr. Metcalfe for, with Mr. Gettys against.

Mr. Conyers for, with Mr. Fuqua against.

Mrs. Griffiths for, with Mr. Andrews of North Dakota against.

Mr. Patman for, with Mr. Devine against.

Mr. Roybal for, with Mr. Dickinson against.

Mrs. Schroeder for, with Mr. Pettis against.

Mr. Waldie for, with Mr. Shriver against.

Mr. Riegle for, with Mr. Skubitz against.

Mr. Arends for, with Mr. Abdnor against.

Mr. Horton for, with Mr. Clancy against.

Mr. Bell for, with Mr. Roncalio of New York against.

Mr. Anderson of Illinois for, with Mr. Grover against.

Mr. Widnall for, with Mr. Myers against.

Mr. Brotzman for, with Mr. Symms against.

Mr. Fish for, with Mr. Camp against.

Mr. Frenzel for, with Mr. King against.

Until further notice:

Mr. Bowen with Mr. Minshall of Ohio.

Mr. Gibbons with Mr. Collier.

Mr. Milford with Mr. Landgrebe.

Mr. Mills of Arkansas with Mr. Lott.

Mr. Stephens with Mr. Madigan.

Mr. Williams with Mr. Winn.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. Pursuant to the provisions of House Resolution 506, the Committee on Foreign Affairs is discharged from the further consideration of the bill S. 1443.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. MORGAN

Mr. MORGAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Morgan moves to strike out all after the enacting clause of the bill S. 1443 and to insert in lieu thereof the provisions of H.R. 9360, as passed, as follows:

That this Act may be cited as the "Mutual Development and Cooperation Act of 1973".

CHANGE OF TITLE OF ACT AND NAME OF AGENCY

Sec. 2. The Foreign Assistance Act of 1961 is amended as follows:

(a) In the first section, strike out "this Act may be cited as 'The Foreign Assistance Act of 1961'" and insert in lieu thereof "this Act may be cited as the 'Mutual Development and Cooperation Act'". The amendment made by this subsection shall take effect on the day after the date of the enactment of this Act.

(b) Strike out "Agency for International Development" each place it appears in such Act and insert in lieu thereof in each such place "Mutual Development and Cooperation Agency".

POLICY; DEVELOPMENT ASSISTANCE AUTHORIZATIONS

Sec. 3. Chapter 1 of part I of the Foreign Assistance Act of 1961 is amended as follows:

(a) In the chapter heading, immediately after "Chapter 1—Policy" insert "; Development Assistance Authorizations".

(b) In section 102, relating to statement of policy, insert "(a)" immediately after

"STATEMENT OF POLICY.—", and at the end thereof add the following:

"(b) The Congress further finds and declares that, with the help of United States economic assistance, progress has been made in creating a base for the peaceful advance of the less developed countries. At the same time, the conditions which shaped the United States foreign assistance program in the past have changed. While the United States must continue to seek increased cooperation and mutually beneficial relations with other nations, our relations with the less developed countries must be revised to reflect the new realities. In restructuring our relationships with those countries, the President should place appropriate emphasis on the following criteria:

"(1) Bilateral development aid should concentrate increasingly on sharing American technical expertise, farm commodities, and industrial goods to meet critical development problems, and less on large-scale capital transfers, which when made should be in association with contributions from other industralized countries working together in a multilateral framework.

"(2) Future United States bilateral support for development should focus on critical problems in those functional sectors which affect the lives of the majority of the people in the developing countries: food production, rural development, and nutrition; population planing and health; education, public administration, and human resource development.

"(3) United States cooperation in development should be carried out to the maximum extent possible through the private sector, particularly those institutions which already have ties in the developing areas, such as educational institutions, cooperatives, credit unions, and voluntary agencies.

"(4) Development planning must be the responsibility of each sovereign country. United States assistance should be administered in a collaborative style to support the development goals chosen by each country receiving assistance.

"(5) United States bilateral development assistance should give the highest priority to undertakings submitted by host governments which directly improve the lives of the poorest majority of people and their capacity to participate in the development of their countries.

"(6) United States development assistance should continue to be available through bilateral channels until it is clear that multilateral chanels exist which can do the job with no loss of development momentum.

"(7) The economic and social development programs to which the United States lends support should reflect, to the maximum extent practicable, the role of United States private investment in such economic and social development programs, and arrangements should be continually sought to provide stability and protection for such private investment.

"(8) Under the policy guidance of the Secretary of State, the Mutual Development and Cooperation Agency should have the responsibility for coordinating all United States development-related activities.".

(c) At the end thereof, add the following new sections:

"SEC. 103. FOOD AND NUTRITION.—In order to prevent starvation, hunger, and malnutrition, and to provide basic services to the people living in rural areas and enhance their capacity for self-help, the President is authorized to furnish assistance, on such terms and conditions as he may determine, for agriculture, rural development, and nutrition. There are authorized to be appropriated to the President for the purposes of this section, in addition to funds otherwise available for such purposes, $300,000,000 for each of the fiscal years 1974 and 1975, which amounts are authorized to remain available until expended.

"SEC. 104. POPULATION PLANNING AND HEALTH.—In order to increase the opportunities and motivation for family planning, to reduce the rate of population growth, to prevent and combat disease, and to help provide health services for the great majority, the President is authorized to furnish assistance on such terms and conditions as he may determine, for population planning and health. There are authorized to be appropriated to the President for the purposes of this section, in addition to funds otherwise available for such purposes, $150,000,000 for each of the fiscal years 1974 and 1975, which amounts are authorized to remain available until expended.

"SEC. 105. EDUCATION AND HUMAN RESOURCE DEVELOPMENT.—In order to reduce illiteracy, to extend basic education, and to increase manpower training in skills related to development, the President is authorized to furnish assistance on such terms and conditions as he may determine, for education, public administration, and human resource development. There are authorized to be appropriated to the President for the purposes of this section, in addition to funds otherwise available for such purposes, $90,000,000 for each of the fiscal years 1974 and 1975, which amounts are authorized to remain available until expended.

"SEC. 106. SELECTED DEVELOPMENT PROBLEMS.—The President is authorized to furnish assistance on such terms and conditions as he may determine, to help solve economic and social development problems in fields such as transportation and power, industry, urban development, and export development. There are authorized to be appropriated to the President for the purposes of this section, in addition to funds otherwise available for such purposes, $60,000,000 for each of the fiscal years 1974 and 1975, which amounts are authorized to remain available until expended.

SEC. 107. SELECTED COUNTRIES AND ORGANIZATIONS.—The President is authorized to furnish assistance on such terms and conditions as he may determine, in support of the general economy of recipient countries or for development programs conducted by private or international organizations. There are authorized to be appropriated to the President for the purposes of this section, in addition to funds otherwise available for such purposes, $50,000,000 for each of the fiscal years 1974 and 1975, which amounts are authorized to remain available until expended.

"SEC. 108. APPLICATION OF EXISTING PROVISIONS.—Assistance under this chapter shall be furnished in accordance with the provisions of title I, II, VI, or X of chapter 2 of this part, and nothing in this chapter shall be construed to make inapplicable the restrictions, criteria, authorities, or other provisions of this or any other Act in accordance with which assistance furnished under this chapter would otherwise have been provided.

"SEC. 109. TRANSFER OF FUNDS.—Notwithstanding the preceding section, whenever the President determines it to be necessary for the purposes of this chapter, not to exceed 15 per centum of the funds made available for any provision of this chapter may be transferred to, and consolidated with, the funds made available for any other provision of this chapter, and may be used for any of the purposes for which such funds may be used, except that the total in the provision for the benefit of which the transfer is made shall not be increased by more than 25 per centum of the amount of funds made available for such provision."

DEVELOPMENT LOAN FUND

SEC. 4. Section 203 of chapter 2 of part I of the Foreign Assistance Act of 1961, relating to fiscal provisions, is amended as follows:

(a) Strike out "the Mutual Security Act of 1954, as amended," and insert in lieu thereof "predecessor foreign assistance legislation".

(b) Strike out "for the fiscal year 1970, for the fiscal year 1971, for the fiscal year 1972, and for the fiscal year 1973 for use for the purposes of this title, for loans under title VI, and for the purposes of section 232" and insert in lieu thereof "for the fiscal years 1974 and 1975 for use for the purposes of chapter 1 of this part and part VI of this Act."

TECHNICAL COOPERATION AND DEVELOPMENT GRANTS

SEC. 5. Title II of chapter 2 of part I of the Foreign Assistance Act of 1961, relating to technical cooperation and development grants, is amended as follows:

(a) In section 211(a), relating to general authority, in the last sentence immediately after the word "assistance" insert the word "directly".

(b) In section 214, relating to authorization for American schools and hospitals abroad, strike out subsections (c) and (d) and insert in lieu thereof the following:

"(c) To carry out the purposes of this section, there are authorized to be appropriated to the President for the fiscal year 1974, $20,000,000, and for the fiscal year 1975, $20,000,000, which amounts are authorized to remain available until expended.

"(d) There are authorized to be appropriated to the President to carry out the purposes of this section, in addition to funds otherwise available for such purposes, for the fiscal year 1974, $7,000,000, and for the fiscal year 1975, $7,000,000, in foreign currencies which the Secretary of the Treasury determines to be excess to the normal requirements of the United States.

"(e) Amounts appropriated under this section shall not be used to furnish assistance under this section in any fiscal year to more than four institutions in the same country, and not more than one such institution shall be a university and not more than one such institution shall be a hospital.".

HOUSING GUARANTIES

SEC. 6. Title III of chapter 2 of part I of the Foreign Assistance Act of 1961, relating to housing guaranties, is amended as follows:

(a) In section 221, relating to worldwide housing guarantees, strike out "$205,000,000" and insert in lieu thereof "$305,000,000".

(b) In section 223(i), relating to general provisions, strike out "June 30, 1974" and insert in lieu thereof "June 30, 1976".

OVERSEAS PRIVATE INVESTMENT CORPORATION

SEC. 7. Title IV of chapter 2 of part I of the the Foreign Assistance Act of 1961, relating to the Overseas Private Investment Corporation, is amended as follows:

(a) In section 235(a)(4), relating to issuing authority of the Overseas Private Investment Corporation, strike out "June 30, 1974" and insert in lieu thereof "June 30, 1975".

(b) In section 240(h), relating to agricultural credit and self-help community development projects, strike out "June 30, 1973" and insert in lieu thereof "June 30, 1975".

ALLIANCE FOR PROGRESS

SEC. 8. Section 252(b) of title VI of chapter 2 of part I of the Foreign Assistance Act of 1961, relating to authorization of appropriations, is amended to read as follows:

"(b) There are hereby authorized to be appropriated to the President for the fiscal year 1974, $968,000, and for the fiscal year 1975, $968,000, for grants to the National Association of the Partners of the Alliance, Inc. in accordance with the purposes of this title.".

PROGRAMS RELATING TO POPULATION GROWTH

Sec. 9. Section 292 of title X of chapter 2 of part I of the Foreign Assistance Act of 1961, relating to authorization, is amended by striking out "1972 and 1973" and inserting in lieu thereof "1974 and 1975".

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

Sec. 10. Chapter 3 of part I of the Foreign Assistance Act of 1961, relating to international organizations and programs, is amended as follows:

(a) At the end of section 301, relating to general authority, add the following new subsection:

"(e)(1) In the case of the United Nations and its affiliated organizations, including the International Atomic Energy Agency, the President shall, acting through the United States representative to such organizations, propose and actively seek the establishment by the governing authorities of such organizations a single professionally qualified group of appropriate size for the purpose of providing an independent and continuous program of selective examination, review, and evaluation of the program and activities of such organizations. Such proposal shall provide that such group shall be established in accordance with such terms of reference as such governing authority may prescribe and that the reports of such group on each examination, review, and evaluation shall be submitted directly to such governing authority for transmittal to the representative of each individual member nation. Such proposal shall further include a statement of auditing and reporting standards, as prepared by the Comptroller General of the United States, for the consideration of the governing authority of the international organization concerned to assist in formulating terms of reference for such review and evaluation group.

"(2) In the case of the International Bank for Reconstruction and Development and the Asian Development Bank, the President shall, acting through the United States representative to such organizations, propose and actively seek the establishment by the governing authorities of such organizations professionally qualified groups of appropriate size for the purpose of providing independent and continuous program of selective examination, review, and evaluation of the program and activities of such organizations. Such proposal shall provide that such groups shall be established in accordance with such terms of reference as such governing authorities may prescribe and that the reports of such groups on each examination, review, and evaluation shall be submitted directly to such governing authority for transmittal to the representative of each individual member nation. Such proposal shall further include a statement of auditing and reporting standards, as prepared by the Comptroller General of the United States, for the consideration of the governing authority of the international organization concerned to assist in formulating terms of reference for such review and evaluation groups.

"(3) Reports received by the United States representatives to these international organizations under this subsection and related information on actions taken as a result of recommendations made therein shall be submitted promptly to the President for transmittal to the Congress and to the Comptroller General. The Comptroller General shall periodically review such reports and related information and shall report simultaneously to the Congress and to the President any suggestions the Comptroller General may deem appropriate concerning auditing and reporting standards followed by such groups, the recommendations made and actions taken as a result of such recommendations."

(b) In section 302(a), strike out "for the fiscal year 1972, $138,000,000 and for the fiscal year 1973, $138,000,000" and insert in lieu thereof, "for the fiscal year 1974, $127,800,000 and for the fiscal year 1975, such sums as may be necessary".

(c) In section 302(b)(2), strike out "for use in the fiscal year 1972, $15,000,000, and for use in the fiscal year 1973, $15,000,000" and insert in lieu thereof "for use in the fiscal year 1974, $15,000,000, and for use in the fiscal year 1975, $15,000,000,".

(d) Section 302(d) is amended to read as follows:

"(d) Of the funds provided to carry out the provisions of this chapter for each of the fiscal years 1974 and 1975, $18,000,000 shall be available in each such fiscal year only for contributions to the United Nations Children's Fund.".

(e) In section 302(e), strike out "$1,000,000 for the fiscal year 1972 and $1,000,000 for the fiscal year 1973" and insert in lieu thereof "$2,000,000 for the fiscal year 1974 and $2,000,000 for the fiscal year 1975".

CONTINGENCY FUND

Sec. 11. Subsection (a) of section 451 of chapter 5 of part I of the Foreign Assistance Act of 1961, relating to the contingency fund, is amended as follows:

(a) Strike out "for the fiscal year 1972 not to exceed $30,000,000, and for the fiscal year 1973 not to exceed $30,000,000" and insert in lieu thereof "for the fiscal year 1974 not to exceed $30,000,000, and for the fiscal year 1975 not to exceed $30,000,000".

(b) Strike out the proviso contained in the first sentence of such subsection and at the end of such subsection add the following: "In addition to the amounts authorized to be appropriated by this subsection, there are authorized to be appropriated such additional amounts as may be required from time to time to provide relief, rehabilitation, and related assistance in the case of extraordinary disaster situations. Amounts appropriated under this subsection are authorized to remain available until expended.".

INTERNATIONAL NARCOTICS CONTROL

Sec. 12. (a) Section 481 of chapter 8 of part I of the Foreign Assistance Act of 1961, relating to international narcotics control, is amended by inserting "(a)" immediately after "International Narcotics Control.—" and by adding at the end thereof the following new subsection:

"(b)(1) Not later than forty-five days after the date on which each calendar quarter of each year ends, the President shall transmit to the Speaker of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a report on the programing and obligation, per calendar quarter, of funds under this chapter prior to such date.

"(2) Not later than forty-five days after the date on which the second calendar quarter of each year ends and not later than forty-five days after the date on which the fourth calendar quarter of each year ends, the President shall transmit to the Speaker of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a complete and detailed semiannual report on the activities and operations carried out under this chapter prior to such date. Such semiannual report shall include, but shall not be limited to—

"(A) the status of each agreement concluded prior to such date with other countries to carry out the purposes of this chapter; and

"(B) the aggregate of obligations and expenditures made, and the types and quantity of equipment provided, per calendar quarter, prior to such date—

"(i) to carry out the purposes of this chapter with respect to each country and each international organization receiving assistance under this chapter, including the cost of United States personnel engaged in carrying out such purposes in each such country and with each such international organization;

"(ii) to carry out each program conducted under this chapter in each country and by each international organization, including the cost of United States personnel engaged in carrying out each such program; and

"(iii) for administrative support services within the United States to carry out the purposes of this chapter, including the cost of United States personnel engaged in carrying out such purposes in the United States.".

(b) Section 482 of chapter 8 of part I of the Foreign Assistance Act of 1961, relating to authorization, is amended by striking out "$42,500,000" and all that follows down through the period at the end of such section and inserting in lieu thereof "$50,000,000 for each of the fiscal years 1974 and 1975. Amounts appropriated under this section are authorized to remain available until expended.".

COOPERATIVE ECONOMIC EXPANSION

Sec. 13. Part I of the Foreign Assistance Act is amended by adding at the end thereof the following new chapter:

"CHAPTER 10—COOPERATIVE ECONOMIC EXPANSION

"Sec. 495. Cooperative Economic Expansion.—The President is authorized to use up to $2,000,000 of the funds made available for the purposes of this part in each of the fiscal years 1974 and 1975 to assist friendly countries, especially those in which United States development programs have been concluded or those not receiving assistance under section 211, in the procurement of technical assistance from United States public or private agencies or individuals. Assistance under this chapter shall be for the purpose of (1) encouraging development of natural resources of interest to the United States, (2) encouragement of a climate favorable to mutually profitable trade and development, and (3) stimulation of markets for United States exports. Any funds used for purposes of this section may be provided on a loan or grant basis and may be used notwithstanding any other provision of this Act."

MILITARY ASSISTANCE

Sec. 14. Chapter 2 of part II of the Foreign Assistance Act of 1961, relating to military assistance, is amended as follows:

(a) In section 504(a), relating to authorization, strike out "$500,000,000 for the fiscal year 1972" and insert in lieu thereof "$550,000,000 for the fiscal year 1974".

(b) In section 506(a), relating to special authority, strike out the words "the fiscal year 1972" wherever they appear and insert in lieu thereof "the fiscal year 1974".

(c) Section 513 is amended—

(1) by striking out "Thailand.—" in the section heading and inserting in lieu thereof "Thailand, Laos, and Vietnam.—(a)"; and

(2) by adding at the end thereof the following new subsection:

"(b) After June 30, 1974, no military assistance shall be furnished by the United States to Laos or Vietnam directly or through any other foreign country unless that assistance is authorized under this Act or the Foreign Military Sales Act.".

(d) Section 514 is repealed.

SECURITY SUPPORTING ASSISTANCE

Sec. 15. Section 532 of chapter 4 of part II of the Foreign Assistance Act of 1961, relating to authorization, is amended by striking out "for the fiscal year 1972 not to exceed $618,000,000, of which not less than $50,000,000 shall be available solely for Israel" and inserting in lieu thereof "for the fiscal year 1974 not to exceed $125,000,000 of which not less than $50,000,000 shall be available solely for Israel".

INTERNATIONAL MILITARY EDUCATION AND TRAINING

SEC. 16. (a) Part II of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new chapter:

"CHAPTER 5—INTERNATIONAL MILITARY EDUCATION AND TRAINING

"SEC. 541. STATEMENT OF PURPOSE.—The purpose of this chapter is to establish an international military education and training program which will—

"(1) improve the ability of friendly foreign countries, through effective military education and training programs relating particularly to United States military methods, procedures, and techniques, to utilize their own resources and equipment and systems of United States origin with maximum effectiveness for the maintenance of their defensive strength and internal security, thereby contributing to enhanced professional military capability and to greater self-reliance by the armed forces of such countries;

"(2) encourage effective and mutually beneficial relationships and enhance understanding between the United States and friendly foreign countries in order to maintain and foster the environment of international peace and security essential to social, economic, and political progress; and

"(3) promote increased understanding by friendly foreign countries of the policies and objectives of the United States in pursuit of the goals of world peace and security.

"SEC. 542. GENERAL AUTHORITY.—The President is authorized in furtherance of the purposes of this chapter, to provide military education and training by grant, contract, or otherwise, including—

"(1) attendance by military and related civilian personnel of friendly foreign countries at military educational and training facilities in the United States (other than the Service Academies) and abroad;

"(2) attendance by military and related civilian personnel of friendly foreign countries in special courses of instruction at schools and institutions of learning or research in the United States and abroad;

"(3) observation and orientation visits by foreign military and related civilian personnel to military facilities and related activities in the United States and abroad; and

"(4) activities that will otherwise assist and encourage the development and improvement of the military education and training of members of the armed forces and related civilian personnel of friendly foreign countries so as to further the purposes of this chapter, including but not limited to the assignment of noncombatant military training instructors, and the furnishing of training aids, technical, educational and informational publications and media of all kinds.

"SEC. 543. AUTHORIZATION.—To carry out the purposes of this chapter, there are authorized to be appropriated to the President $30,000,000 for the fiscal year 1974. Amounts appropriated under this section are authorized to remain available until expended.

"SEC. 544. ANNUAL REPORTS.—The President shall submit no later than December 31 each year a report to the Congress of activities carried on and obligations incurred during the immediately preceding fiscal year in furtherance of the purposes of this chapter. Each such report shall contain a full description of the program and the funds obligated with respect to each country concerning which activities have been carried on in furtherance of the purposes of this chapter.".

(b) The Foreign Assistance Act of 1961 is amended as follows:

(1) Section 503(d), relating to general authority, is amended by striking out the comma and the words "including those relating to training or advice".

(2) Section 504(a), relating to authorization, is amended by striking out "(other than training in the United States)".

(3) Section 510, relating to restrictions on training foreign military students, is repealed.

(4) Section 622, relating to coordination with foreign policy, is amended as follows:

(A) In subsection (b) immediately after the phrase "(including civic action)" insert the words "and military education and training".

(B) Subsection (c) is amended to read as follows:

"(c) Under the direction of the President, the Secretary of State shall be responsible for the continuous supervision and general direction of economic assistance, military assistance and military education and training programs, including but not limited to determining whether there shall be a military assistance (including civic action) or a military education and training program for a country and the value thereof, to the end that such programs are effectively integrated both at home and abroad and the foreign policy of the United States is best served thereby.".

(5) Section 623, relating to the Secretary of Defense, is amended as follows:

(A) In subsection (a)(4), immediately after the word "military", insert the words "and related civilian".

(B) In subsection (a)(6), immediately after the word "assistance", insert a comma and the words "education and training".

(6) Section 632, relating to allocation and reimbursement among agencies, is amended by inserting in subsections (a), (b), and (e) immediately after the word "articles", wherever it appears, a comma and the words "military education and training".

(7) Section 636, relating to provisions on uses of funds, is amended as follows:

(A) In subsection (g)(1), immediately after the word "articles", insert a comma and the words "military education and training,".

(B) In subsection (g)(2), strike out the word "personnel" and insert in lieu thereof the words "and related civilian personnel".

(8) Section 644, relating to definitions, is amended as follows:

(A) Subsection (f) is amended to read as follows:

"(f) 'Defense service' includes any service, test, inspection, repair, publication, or technical or other assistance or defense information used for the purposes of furnishing military assistance, but shall not include military educational and training activities under chapter 5 of part II.".

(B) In subsection (g)(2), strike out the following new subsection:

"(n) 'Military education and training' includes formal or informal instruction of foreign students in the United States or overseas by officers or employees of the United States, contract technicians, contractors (including instruction at civilian institutions), or by correspondence courses, technical, educational, or information publications and media of all kinds, training aids, orientation, and military advice to foreign military units and forces.".

(c) Except as may be expressly provided to the contrary in this Act, all determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued, undertaken or entered into under authority of any provision of law amended or repealed by this section shall continue in full force and effect until modified by appropriate authority.

(d) Funds made available pursuant to other provisions of law for foreign military educational and training activities shall remain available for obligation and expenditure for their original purposes in accordance with the provisions of law originally applicable thereto, or in accordance with the provisions of law currently applicable to those purposes.

PROHIBITIONS

SEC. 17. (a) Section 620(e) of chapter 1 of part III of the Foreign Assistance Act of 1961, relating to expropriation, is amended by striking out paragraph (1), by striking out "(2)" at the beginning of paragraph (2), and by striking out "subsection: *Provided*, That this subparagraph" and inserting in lieu thereof "section (as in effect before the date of the enactment of the Mutual Development and Cooperation Act of 1973): *Provided*, That this subsection".

(b) Section 620(n) of such chapter, relating to equipment materials or commodities furnished to North Vietnam, is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "unless the President finds and reports, within thirty days of such finding, to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House that such assistance is in the national interest of the United States.

"The President's report shall contain assurances that the Government of North Vietnam is cooperating fully in providing for a full accounting of any remaining prisoners of war and all missing in action.".

(c) Section 620 of such chapter is amended by adding at the end thereof the following new subsection:

"(x) No assistance shall be furnished under this or any other Act to any country which has—

"(1) nationalized or expropriated or seized ownership or control of property owned by any United States citizen or by any corporation, partnership, or association not less than 50 per centum of which is beneficially owned by United States citizens;

"(2) taken steps to repudiate or nullify existing contracts or agreements with any United States citizen or any corporation, partnership, or association not less than 50 per centum of which is beneficially owned by United States citizens; or

"(3) imposed or enforced discriminatory taxes or other exactions, or restrictive maintenance or operational conditions, or has taken other actions, which have the effect of nationalizing, expropriating, or otherwise seizing ownership or control of property so owned;

unless the President determines that (A) an arrangement for prompt, adequate, and effective compensation has been made, (B) the parties have submitted the dispute to arbitration under the rules of the Convention for the Settlement of Investment Disputes, or (C) good faith negotiations are in progress aimed at providing prompt, adequate, and effective compensation under the applicable principles of international law."

EMPLOYMENT OF PERSONNEL

SEC. 18. Section 625 of chapter 2 of part III of the Foreign Assistance Act of 1961, relating to employment of personnel, is amended by adding at the end thereof the following new subsection:

"(k)(1) In accordance with such regulations as the President may prescribe, the following categories of personnel who serve in the Agency for International Development shall become participants in the Foreign Service Retirement and Disability System:

"(A) Persons serving under unlimited appointments in employment subject to section 625(d)(2) of this Act as Foreign Service Reserve officers and as Foreign Service staff officers and employees; and

"(B) A person serving in a position to which he was appointed by the President, whether with or without the advice and consent of the Senate, provided that (1) such person shall have served previously under an unlimited appointment pursuant to said section 625(d)(2) or a comparable provision of predecessor legislation to this Act, and (2) following service specified in proviso (1) such person shall have served continuously with the Agency for International Development or its predecessor agencies only in positions established under the authority of sections 624(a) and 631(b) or comparable provisions of predecessor legislation to this Act.

"(2) Upon becoming a participant in the Foreign Service Retirement and Disability System, any such officer or employee shall make a special contribution to the Foreign Service Retirement and Disability Fund in accordance with the provisions of section 852 of the Foreign Service Act of 1946, as amended. Thereafter, compulsory contributions will be made with respect to each such participating officer or employee in accordance with the provisions of section 811 of the Foreign Service Act of 1946, as amended.

"(3) The provisions of section 636 and title VIII of the Foreign Service Act of 1946, as amended, shall apply to participation in the Foreign Service Retirement and Disability System by any such officer or employee.

"(4) If an officer who became a participant in the Foreign Service Retirement and Disability System under paragraph (1) of this subsection is appointed by the President, by and with the advice and consent of the Senate, or by the President alone to a position in any Government agency any United States delegation or mission to any international organization, in any international commission, or in any international body, such officer shall not, by virtue of the acceptance of such an appointment, lose his status as a participant in the system.

"(5) Any such officer or employee who becomes a participant in the Foreign Service Retirement and Disability System under paragraph (1) of this subsection shall be mandatorily retired (a) at the end of the month in which he reaches age seventy or (b) earlier if, during the third year after the effective date of this subsection, he attains age sixty-four or if he is over age sixty-four; during the fourth year at age sixty-three; during the fifth year at age sixty-two; during the sixth year at age sixty-one; and thereafter at the end of the month in which he reaches age sixty: *Provided*, That no participant shall be mandatorily retired under this paragraph while serving in a position to which appointed by the President, by and with the advice and consent of the Senate. Any participant who completes a period of authorized service after reaching the mandatory retirement age specified in this paragraph shall be retired at the end of the month in which such service is completed.

"(6) Whenever the President deems it to be in the public interest, he may extend any participant's service for a period not to exceed five years after the mandatory retirement date of such officer or employee.

"(7) This subsection shall become effective on the first day of the first month which begins more than one year after the date of its enactment, except that any officer or employee who, before such effective date, meets the requirements for participation in the Foreign Service Retirement and Disability System under paragraph (1) of this subsection may elect to become a participant before the effective date of this subsection. Such officer or employee shall become a participant on the first day of the second month following the date of his application for earlier participation. Any officer or employee who becomes a participant in the system under the provisions of paragraph (1) of this subsection, who is age fifty-seven or over on the effective date of this subsection, may retire voluntarily at any time before mandatory retirement under paragraph (5) of this subsection and receive retirement benefits under section 821 of the Foreign Service Act of 1946, as amended.

"(8) Any officer or employee who is separated for cause while a participant in the Foreign Service Retirement and Disability System pursuant to this subsection, shall be entitled to benefits in accordance with subsections 637 (b) and (d) of the Foreign Service Act of 1946, as amended. The provisions of section 625(e) of this Act shall apply to participants in lieu of the provisions of sections 633 and 634 of the Foreign Service Act of 1946, as amended.".

REPORTS AND INFORMATION

SEC. 19. (a) **Section 634 of chapter 2 of** part III of the Foreign Assistance Act of 1961, relating to reports and information, is amended by striking out subsection (f) and inserting in lieu thereof the following new subsections:

"(f) The President shall transmit to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate, a comprehensive report showing, as of June 30 and December 31 of each year, the status of each loan, and each contract of guarantee or insurance, theretofore made under this Act, with respect to which there remains outstanding any unpaid obligation or potential liability; the status of each sale of defense articles or defense services on credit terms, and each contract of guarantee in connection with any such sale, theretofore made under the Foreign Military Sales Act, with respect to which there remains outstanding any unpaid obligation or potential liability; the status of each sale of agriculture commodities on credit terms theretofore made under the Agricultural Trade Development and Assistance Act of 1954, with respect to which there remains outstanding any unpaid obligation; and the status of each transaction in which a loan, contract of guarantee or insurance, or extension of credit (or participation therein) was therefore made under the Export-Import Bank Act of 1945, with respect to which there remains outstanding any unpaid obligation or potential liability: *Provided, however*, That this report shall report individually only those loans, contracts, sales, extensions of credit, or other transactions listed above in excess of $1,000,000.

"(g) The President shall transmit to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate, not later than January 31 of each year, a comprehensive report, based upon the latest data available, showing—

"(1) a summary of the worldwide dimensions of debt-servicing problems among such countries, together with a detailed statement of the debt-servicing problems of each such country;

"(2) a summary of all forms of debt relief granted by the United States with respect to such countries, together with a detailed statement of the specific debt relief granted with respect to each such country and the purpose for which it was granted;

"(3) a summary of the worldwide effect of the debt relief granted by the United States on the availability of funds, authority, or other resources of the United States to make any such loan, sale, contract of guarantee or insurance, or extension of credit, together with a detailed statement of the effect of such debt relief with respect to each such country; and

"(4) a summary of the net aid flow from the United States to such countries, taking into consideration the debt relief granted by the United States, together with a detailed analysis of such net aid flow with respect to each such country.".

(b) (1) The President of the United States shall, as soon as practicable following the date of the enactment of this Act, make a determination and report to Congress with respect to the use by Portugal in support of its military activities in its African colonies of—

(A) assistance furnished under the Foreign Assistance Act of 1961 after the date of the enactment of the Mutual Development and Cooperation Act of 1973,

(B) defense articles or services furnished after such date under the Foreign Military Sales Act (whether for cash or by credit, guarantee or any other means), or

(C) agricultural commodities furnished after such date under the Agricultural Trade Development and Assistance Act of 1954.

(2) Any assistance or sales referred to in the preceding paragraph shall be suspended upon the submission to Congress of a report by the President containing his determination that any such assistance or item so furnished after such date has been used in support of Portugal's military activities in its African colonies. Such suspension shall continue until such time as the President submits a report to Congress containing his determination that appropriate corrective action has been taken by the Government of Portugal.

ADMINISTRATIVE EXPENSES

SEC. 20. Section 637(a) of chapter 2 of part III of the Foreign Assistance Act of 1961, relating to authorizations for administrative expenses, is amended by striking out "for the fiscal year 1972, $50,000,000, and for the fiscal year 1973, $50,000,000," and inserting in lieu thereof "for the fiscal year 1974, $53,100,000 and for the fiscal year 1975, $53,100,000".

FAMINE AND DISASTER RELIEF AND AFRICAN SAHEL DEVELOPMENT PROGRAM

SEC. 21. Chapter 2 of part III of the Foreign Assistance Act of 1961 is amended by striking out section 639 and inserting in lieu thereof the following new sections:

"SEC. 639. FAMINE AND DISASTER RELIEF.—Notwithstanding the provisions of this or any other Act, the President is authorized to furnish famine or disaster relief or rehabilitation or related assistance abroad on such terms and conditions as he may determine.

"SEC. 639A. FAMINE AND DISASTER RELIEF TO THE AFRICAN SAHEL.—(a) The Congress affirms the response of the United States Government in providing famine and disaster relief and related assistance in connection with the drought in the Sahelian nations of Africa.

"(b) Notwithstanding any prohibitions or restrictions contained in this or any other Act, there is authorized to be appropriated to the President, in addition to funds otherwise available for such purposes, $30,000,000 to remain available until expended, for use by the President, under such terms and conditions as he may determine, for emergency and recovery needs, including drought, famine, and disaster relief, and rehabilitation and related assistance, for the drought-stricken Sahelian nations of Africa.

"SEC. 639B. AFRICAN SAHEL DEVELOPMENT PROGRAM.—The Congress supports the initiative of the United States Government in undertaking consultations and planning with the countries concerned, with other nations providing assistance, with the United Nations, and with other concerned international and regional organizations, toward the development and support of a comprehensive long-term African Sahel development program.".

ADMINISTRATIVE PROVISIONS

SEC. 22. Chapter 2 of part III of the Foreign Assistance Act of 1961, relating to administrative provisions, is amended by adding at the end thereof the following new sections:

"SEC. 640B. COORDINATION.—(a) The President shall establish a system for coordination of United States policies and programs which affect United States interests in the development of low-income countries. To that end, the President shall establish a Development Coordination Committee which shall advise him with respect to coordination of United States policies and programs affecting the development of the developing countries, including programs of bilateral and multilateral development assistance. The Committee shall include the Administrator, Mutual Development and Cooperation Agency, Chairman; and representatives of the Departments of State, Treasury, Commerce, Agriculture, and Labor, the Executive Office of the President, and other executive departments and agencies, as the President shall designate.

"(b) The President shall prescribe appropriate procedures to assure coordination among the various departments and agencies of the United States Government having representatives in diplomatic missions abroad.

"(c) Programs authorized by this Act shall be undertaken with the foreign policy guidance of the Secretary of State.

"(d) The President shall report to the Congress during the first quarter of each calendar year on United States actions affecting the development of the low-income countries and on the impact of those undertakings upon the national income, employment, wages and working conditions in the United States.

"SEC. 640C. SHIPPING DIFFERENTIAL.—For the purpose of facilitating implementation of section 901(b) of the Merchant Marine Act, 1936 (49 Stat. 1985; 46 U.S.C. 1241(b)), funds made available for the purposes of chapter 1 of part I or for purposes of part VI may be used to make grants to recipients under this part to pay all or any portion of such differential as is determined by the Secretary of Commerce to exist between United States and foreign-flag vessel charter or freight rates. Grants made under this section shall be paid with United States-owned foreign currencies wherever feasible.".

MISCELLANEOUS PROVISIONS

SEC. 23. Chapter 3 of part III of the Foreign Assistance Act of 1961, relating to miscellaneous provisions, is amended by adding at the end thereof the following new sections:

"SEC. 659. ANNUAL NORTH ATLANTIC TREATY MILITARY ORGANIZATION REPORT.—(a) The Secretary of Defense and the Secretary of State shall submit to the Speaker of the House of Representatives and to the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate, on or before January 15 of each year a report of—

"(1) the direct, indirect, and unallocated costs to the United States of participation in the North Atlantic Treaty Organization (hereinafter in this section referred to as the 'Organization') for the last fiscal year preceding the fiscal year in which the report is submitted;

"(2) the estimated direct, indirect, and unallocated costs to the United States of participation in the Organization for the fiscal year in which the report is submitted;

"(3) the amounts requested from Congress (or estimated to be requested) for the direct, indirect, and unallocated costs to the United States of participation in the Organization for the first fiscal year following the fiscal year in which the report is submitted;

"(4) the estimated impact of expenditures related to United States participation in the Organization on the United States balance of payments including a detailed description of the offsets to such United States expenditures.

For each such direct, indirect, and unallocated cost, the Acts of Congress authorizing such cost and appropriating funds for such cost shall be listed next to such cost in the report.

"(b) For the purposes of this section—

"(1) the term 'direct costs' includes funds the United States contributes directly to any budget of the Organization (including the infrastructure program);

"(2) the term 'indirect costs' includes funds the United States spends to assign and maintain United States civilian employees for the Organization, funds spent for Government research and development attributable to the Organization, contributions to the Organization sponsored organizations, and military assistance furnished under part II of this Act, and sales of defense articles or defense services under the Foreign Military Sales Act, to member nations of the Organization; and

"(3) the term 'unallocated costs' includes (i) funds the United States spends to maintain United States Armed Forces committed exclusively or primarily for the Organization in Europe, the United States, or on the open seas, or to remove such Armed Forces from such commitment, and (ii) funds the United States spends on facilities constructed and maintained for such forces.

"(c) All information contained in any report transmitted under this section shall be public information, except information that the Secretary of Defense or the Secretary of State designates in such report as information required to be kept secret in the interest of the national defense or foreign policy."

INDOCHINA POSTWAR RECONSTRUCTION

SEC. 24. The Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new part:

"PART V

"CHAPTER 1. POLICY

"SEC. 801. STATEMENT OF POLICY.—It is the purpose of this part to (1) authorize immediate high-priority humanitarian relief assistance to the people of South Vietnam, Cambodia, and Laos, particularly to refugees, orphans, widows, disabled persons, and other war victims, and (2) to assist the people of those countries to return to a normal peacetime existence in conformity with the Agreement on Ending the War and Restoring the Peace in Vietnam, the cease-fire agreement for Laos, and any cease-fire agreement that may be reached in Cambodia. In this effort United States bilateral assistance should focus on critical problems in those sectors which affect the lives of the majority of the people in Indochina: food, nutrition, health, population planning, education, and human resource development. United States assistance should be carried out to the maximum extent possible through the private sector, particularly those voluntary organizations which already have ties in that region.

"CHAPTER 2.—GENERAL AUTHORITY AND AUTHORIZATION

"SEC. 821. GENERAL AUTHORITY.—The President is authorized to furnish, on such terms and conditions as he may determine, assistance for relief and reconstruction of South Vietnam, Cambodia, and Laos, including especially humanitarian assistance to refugees, civilian war casualties, and other persons disadvantaged by hostilities or conditions related to those hostilities in South Vietnam, Cambodia, and Laos. No assistance shall be furnished under this section to South Vietnam unless the President receives assurances satisfactory to him that no assistance furnished under this part, and no local currencies generated as a result of assistance furnished under this part, will be used for support of police, or prison construction and administration, within South Vietnam.

"SEC. 822. AUTHORIZATION.—There are authorized to be appropriated to the President to carry out the purposes of this chapter, in addition to funds otherwise available for such purposes, for the fiscal year 1974 not to exceed $632,000,000, which amount is authorized to remain available until expended.

"SEC. 823. CENTER FOR PLASTIC AND RECONSTRUCTIVE SURGERY IN SAIGON.—Of the funds appropriated pursuant to section 822 for the fiscal year 1974, not less than $712,000 shall be available solely for furnishing assistance to the Center for Plastic and Reconstructive Surgery in Saigon.

"SEC. 824. ASSISTANCE TO SOUTH VIETNAMESE CHILDREN.—(a) It is the sense of the Congress that inadequate provision has been made (1) for the establishment, expansion, and improvement of day care centers, orphanages, hostels, school feeding programs, health and welfare programs, and training related to these programs which are designed for the benefit of South Vietnamese children, disadvantaged by hostilities in Vietnam or conditions related to those hostilities, and (2) for the adoption by United States citizens of South Vietnamese children who are orphaned or abandoned, or whose parents or sole surviving parent, as the case may be, has irrevocably relinquished all parental rights, particularly children fathered by United States citizens.

"(b) The President is, therefore, authorized to provide assistance, on terms and conditions he considers appropriate, for the purposes described in clauses (1) and (2) of subsection (a) of this section. Of the funds appropriated pursuant to section 822 for fiscal year 1974, $5,000,000, or its equivalent in local currency, shall be available until expended solely to carry out this section. Not more than 10 percent of the funds made available to carry out this section may be expended for the purposes referred to in clause (2) of subsection (a). Assistance provided under this section shall be furnished, to the maximum extent practicable, under the auspices of and by international agencies or private voluntary agencies.

"CHAPTER 3.—CONSTRUCTION WITH OTHER LAWS

"SEC. 831. AUTHORITY.—All references to part I, whether heretofore or hereafter enacted, shall be deemed to be references also to this part unless otherwise specifically provided. The authorities available to administer part I of this Act shall be available to administer programs authorized in this part.".

MEANING OF REFERENCES

SEC. 25. All references to the Foreign Assistance Act of 1961 and to the Agency for International Development shall be deemed to be references also to the Mutual Development and Cooperation Act and to the Mutual Development and Cooperation Agency, respectively. All references in the Mutual Development and Cooperation Act to "the agency primarily responsible for administering part I" shall be deemed references also to the Agency for International Development. All references to the Mutual Development and Cooperation Act and to the Mutual Development and Cooperation Agency shall, where appropriate, be deemed references also to the Agency for International Development, respectively.

FOREIGN MILITARY SALES

SEC. 26. The Foreign Military Sales Act is amended as follows:

(a) Add the following new subsection at the end of section 3 of chapter 1, relating to eligibility:

"(c) No sophisticated weapons, including sophisticated jet aircraft or spare parts and associated ground equipment for such aircraft, shall be furnished under this or any other Act to any foreign country on or after the date that the President determines that such country has violated any agreement it has made in accordance with paragraph (2) of subsection (a) of this subsection or section 505(a) of the Mutual Development and Cooperation Act or any other provision of law requiring similiar agreements. The prohibition contained in the preceding sentence shall not apply on or after the date that the President determines that such violation has been corrected and such agreement complied with. Such country shall remain ineligible in accordance with this subsection until such time as the President determines that such violation has ceased, that the country concerned has given assurances satisfactory to the President that such violation will not reoccur, and that, if such violation involved the transfer of sophisticated weapons without the consent of the President, such weapons have been returned to the country concerned.".

(b) In section 23 of chapter 2, relating to credit sales, strike out "ten" and insert in lieu thereof "twenty".

(c) In section 24(a) of chapter 2, relating to guaranties, strike out "doing business in the United States".

(d) In section 24(c) of chapter 2, relating to guaranties:

(1) strike out "pursuant to section 31" and insert in lieu thereof "to carry out this Act"; and

(2) insert "principal amount of" immediately before the words "contractual liability" wherever they appear.

(e) In section 31(a) of chapter 3, relating to authorization, strike out "$400,000,000 for the fiscal year 1972" and insert in lieu thereof "$450,000,000 for the fiscal year 1974".

(f) In section 31(b) of chapter 3, relating to authorization, strike out "(excluding credits covered by guaranties issued pursuant to section 24(b)) and of the face amount of guaranties issued pursuant to sections 24 (a) and (b) shall not exceed $550,000,000 for the fiscal year 1972, of which amount not less than $300,000,000 shall be available to Israel only" and insert in lieu thereof "and of the principal amount of loans guaranteed pursuant to section 24(a) shall not exceed $760,000,000 for the fiscal year 1974, of which amount not less than $300,000,000 shall be available to Israel only".

(g) In section 33(a) of chapter 3, relating to aggregate regional ceilings:

(1) strike out "of cash sales pursuant to sections 21 and 22,";

(2) strike out "(excluding credits covered (b)), of the face amount of contracts of (b)), of the face amount of contracts of guaranty issued pursuant to sections 24(a) and (b)" and insert in lieu thereof "of the principal amount of loans guaranteed pursuant to section 24(a)"; and

(3) strike out "$100,000,000" and insert in lieu thereof "$150,000,000".

(h) In section 33(b) of chapter 3, relating to aggregate regional ceilings:

(1) strike out "of cash sales pursuant to sections 21 and 22,";

(2) strike out "(excluding credits covered by guaranties issued pursuant to section 24 (b)), of the fact amount of contracts of guaranty issued pursuant to sections 24 (a) and (b)" and insert in lieu thereof "of the principal amount of loans guaranteed pursuant to section 24(a)".

(i) In section 33(c) of chapter 3, relating to aggregate regional ceilings:

(1) strike out "expenditures" and insert in lieu thereof "amounts of assistance, credits, guaranties, and ship loans";

(2) strike out "of cash sales pursuant to sections 21 and 22," and

(3) strike out "(excluding credits covered by guaranties issued pursuant to section 24 (b)), of the face amount of contracts of guaranty issued pursuant to sections 24(a) and (b)" and insert in lieu thereof "of the principal amount of loans guaranteed pursuant to section 24(a)".

(j) In section 36 of chapter 3, relating to reports on commercial and governmental military exports, strike out subsection (a) and redesignate subsections (b) and (c) as subsections (a) and (b), respectively.

(k) In section 37(b) of chapter 3, relating to fiscal provisions, insert after "indebtedness" the following: "under section 24(b) (excluding such portion of the sales proceeds as may be required at the time of disposition to be obligated as a reserve for payment of claims under guaranties issued pursuant to section 24(b), which sums are hereby made available for such obligations)".

REVISION OF SOCIAL PROGRESS TRUST FUND AGREEMENT

SEC. 27. (a) The President or his delegate shall seek, as soon as possible, a revision of the Social Progress Trust Fund Agreement (dated June 19, 1961) between the United States and the Inter-American Development Bank.

Such provision should provide for the—

(1) periodic transfer of unencumbered capital resources of such trust fund, and of any future repayments or other accruals otherwise payable to such trust fund, to—

(A) the Inter-American Foundation, to be administered by the Foundation for purposes of part IV of the Foreign Assistance Act of 1969 (22 U.S.C. 290f and following);

(B) the United States Department of State to be administered by the Mutual Development and Cooperation Agency for purposes of sections 1 and 2 of the Latin American Development Act; and or

(C) subject to the approval of the Department of State, to the United States Treasury for general uses of the Government; and or

(2) utilization of such unencumbered capital resources, future repayments, and other accruals by the Inter-American Development Bank for purposes of sections 1 and 2 of the Latin American Development Act (22 U.S.C. 1942 and 1943) in such a way that the resources received in the currencies of the more developed member countries are utilized to the extent possible for the benefit of the lesser developed member countries.

(b) Any transfer of utilization under this section shall be in such proportions as may be agreed to between the United States and the Inter-American Development Bank.

(c) Any transfer under subparagraph (A) of subsection (a)(1) shall be in the amounts, and in available currencies, determined in consultation with the Inter-American Foundation, to be required for its program purposes.

(d) The revision of the Social Progress Trust Fund Agreement pursuant to this section shall provide that the President or his designee shall specify, from time to time, after consultation with the Inter-American Development Bank, the particular currencies to be used in making the transfer or utilization described in this section.

(e) Not later than January 1, 1974, the President shall report to Congress on his action taken pursuant to this section.

SEC. 28. Notwithstanding any other provision of law, no funds authorized by this Act shall be expended to aid or assist in the reconstruction of the Democratic Republic of Vietnam (North Vietnam), unless by an Act of Congress assistance to North Vietnam is specifically authorized.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To amend the Foreign Assistance Act of 1961, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 9360) was laid on the table.

AUTHORIZING CLERK TO CORRECT SECTION NUMBERS AND PUNCTUATION IN ENGROSSMENT

Mr. MORGAN. Mr. Speaker, I ask unanimous consent that in the engrossment of the House amendment to S. 1443, the Clerk be authorized to correct section numbers, punctuation, and cross-references.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

GENERAL LEAVE

Mr. MORGAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PROVIDING FOR THE CONSIDERATION OF S. 1989

Mr. MADDEN, from the Committee on Rules, reported the following privileged resolution (H. Res. 512, Rept. No. 93–407) which was referred to the House Calendar and ordered to be printed:

H. RES. 512

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 1989) to amend section 225 of the Federal Salary Act of 1967 with respect to certain executive, legislative, and judicial salaries. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

PROVIDING FOR THE CONSIDERATION OF S. 1697

Mr. MADDEN, from the Committee on Rules, reported the following privileged resolution (H. Res. 511, Rept. No. 93–406) which was referred to the House Calendar and ordered to be printed:

H. RES. 511

Resolved, That upon the adoption of this resolution it shall be in order to move, clause 27(d)(4), Rule XI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 1697) to require the President to furnish predisaster assistance in order to avert or lessen the effects of a major disaster in the counties of Alameda and Contra Costa in California. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 8825, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT APPROPRIATIONS, 1974, UNTIL MIDNIGHT FRIDAY

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that the managers may have until midnight Friday to file a conference report on the bill (H.R. 8825) making appropriations for the Department of Housing and Urban Development; for space, science, veterans, and certain other independent executive agencies, boards, commissions, and corporations for the fiscal year ending June 30, 1974, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 8947, PUBLIC WORKS AND ATOMIC ENERGY COMMISSION APPROPRIATIONS, 1974

Mr. EVINS of Tennessee. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 8947) making appropriations for public works for water and power development, including the Corps of Engineers—Civil, the Bureau of Reclamation, the Bonneville Power Administration and other power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Atomic Energy Commission, and related independent agencies and commissions for the fiscal year ending June 30, 1974, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Conference Report (H. Rept. No. 93–409)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8947) "making appropriations for public works for water and power development, including the Corps of Engineers—Civil, the Bureau of Reclamation, the Bonneville Power Administration and other power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Atomic Energy Commission, and related independent agencies and commissions for the fiscal year ending June 30, 1974, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 1.

That the House recede from its disagreement to the amendments of the Senate numbered 5, 7, 9, and 14; and agree to the same.

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,714,263,000"; and the Senate agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$622,275,000"; and the Senate agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$56,142,000"; and the Senate agree to the same.

Amendment numbered 6: That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$873,589,000"; and the Senate agree to the same.

Amendment numbered 8: That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$409,125,000"; and the Senate agree to the same.

Amendment numbered 10: That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert "$16,850,000"; and the Senate agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert "$194,275,000"; and the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert "$25,026,000"; and the Senate agree to the same.

Amendment numbered 13: That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$24,426,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numberec 15 and 16.

Joe L. Evins,
Edward P. Boland,
Jamie L. Whitten,
John M. Slack,
Otto E. Passman,
George Mahon,
John J. Rhodes,
Glenn R. Davis,
Howard W. Robison,
Elford A. Cederberg,
Managers on the Part of the House.

Alan Bible,
John L. McClellan,
Warren G. Magnuson,
Robert C. Byrd,
John O. Pastore,
Gale W. McGee,
Joseph M. Montoya,
Mark O. Hatfield,
Milton R. Young,
Roman L. Hruska,
Clifford P. Case,
Ted Stevens,
Richard S. Schweiker,
Henry Bellmon,
Jennings Randolph,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8947) making appropriations for Public Works for water and power development, including the Corps of Engineers—Civil, the Bureau of Reclamation, the Bonneville Power Administration and other power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Atomic Energy Commission, and related independent agencies and commissions for the fiscal year ending June 30, 1974, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

Amendment No. 1. The following provision in the opening paragraph of the Senate bill, "and shall be made available for expenditure except as specifically provided by law" was not agreed to by the conferees because it was deemed to be an unnecessary restatement of existing provisions of law. It was therefore deleted without prejudice.

TITLE I—ATOMIC ENERGY COMMISSION

OPERATING EXPENSES

Amendment No. 2: Appropriates $1,714,263,000 instead of $1,681,263,000 as proposed by the House and $1,722,563,000 as proposed by the Senate. The increase over the House bill amount includes $15,100,000 for the Weapons Program to be applied specifically to the testing program; $200,000 for the recovery of highly enriched uranium scrap by chemical methods; $500,000 for the high temperature gas reactor; $500,000 for the thorium utilization program; $2,000,000 for the Molten Salt Breeder Reactor technology; $600,000 for Space Nuclear Systems; $3,800,000 for Controlled Thermonuclear Research; $850,000 for Isotopes Development; and $9,450,000 for changes in selected resources.

The Conferees agree that within available funds $1,000,000 be allocated for conceptual design studies on the second Liquid Metal Fast Breeder Reactor demonstration plant.

PLANT AND CAPITAL EQUIPMENT

Amendment No. 3: Appropriates $622,275,000 instead of $621,125,000 as proposed by the House and $625,775,000 as proposed by the Senate. The increase over the House bill amount includes $800,000 for procurement of long lead time items for the high energy laser facility at Lawrence Livermore Laboratory and $350,000 for architect/engineering for a National security and resources study center.

TITLE II—DEPARTMENT OF DEFENSE—CIVIL

Department of the Army, Corps of Engineers—Civil

GENERAL INVESTIGATIONS

Amendment No. 4: Appropriates $56,142,000 instead of $53,939,000 as proposed by the House and $57,356,000 as proposed by the Senate. The changes from the House bill are allocated to the following studies:

Alaska:	
(N) Yukon-Kuskokwin River Basins	+$40, 000
(N) Kenai Harbor	+20, 000
Arkansas:	
(FC) White River, Piney Creek	+$20, 000
(FC) Saline River	−75, 000
(FC) White River, Polk Bayou	+20, 000
Florida:	
(BE) Nassau County (Amelia Island)	+10, 000
Idaho:	
(FC) Metropolitan Spokane and Spokane River and Tributaries, Idaho and Washington	[1] +207, 000
Illinois:	
(FC) Silver Creek	[1] +145, 000
Kentucky:	
(FC) Beargrass Creek Basin	[1] +40, 000
Mississippi:	
(N) Pascagoula Harbor	[1] +26, 000
Missouri:	
(FC) St. Genevieve	+15, 000
New Jersey:	
(FC) Camden Metropolitan Area	+75, 000
North Dakota:	
(FC) Forest River	+25, 000
Ohio:	
(N) Cleveland Harbor	[1] +189, 000
Oregon:	
(N) Chetco River	+5, 000
(FC) Luckiamute River	+40, 000
(N) Umpqua River, mouth to Reedsport	[1] +25, 000
South Carolina:	
(N) Charleston Harbor	[1] +55, 000
(N) Georgetown Harbor	[1] +20, 000

South Dakota:	
(FC) Missouri River, S. Dak., Neb., N. Dak., & Mont.	[1]+90,000
Texas:	
(FC) Lower Rio Grande Valley	+55,000
Washington:	
(FC) Columbia River and Tributaries, Wash., Oreg., Idaho, Mont., and Wyo.	[1]+176,000
(FC) Colville River Basin	+15,000
(FC) East Wenatchee	+25,000
West Virginia:	
(FC) Metropolitan Region of Wheeling, W. Va., and Ohio	+100,000
Wisconsin:	
(BE) Milwaukee County, Lake Michigan shoreline	+59,000
Budget items not listed under States:	
Fish and Wildlife Studies	[1]+175,000
Coastal Engineering Research and Development Studies	[1]+370,000
Civil Works Investigations	[1]+236,000

[1] Increase in House bill figure.

The committee on conference directs the Corps to complete the Umpqua River navigation study in fiscal year 1974 if sufficient unused funds are available from appropriated funds for other navigation studies in Oregon.

Amendment No. 5: Provides limitation of $1,175,000 as proposed by the Senate instead of $1,000,000 as proposed by the House for studies, investigations, and reports as required by the Fish and Wildlife Coordination Act of 1958.

	Construction, general, State and project (1)	Budget estimate for fiscal year 1974		Reserve available for use in fiscal year 1974 (4)	Conference allowance	
		Construction (2)	Planning (3)		Construction (5)	Planning (6)
	Alabama:					
(R)	John Hollis Bankhead lock and dam	$15,900,000			$15,900,000	
(MP)	Jones Bluff lock and dam	14,500,000		$260,000	14,500,000	
(N)	Mobile Harbor, Theodore Channel			50,000		
(FC)	Montgomery			165,000		
(N)	Tennessee-Tombigbee Waterway, Ala. and Miss	14,500,000		630,000	18,000,000	
	Tombigbee River and tributaries, Mississippi and Alabama. (See Mississippi.)					
	West Point Lake, Ala. and Ga. (See Georgia.)					
	Alaska:					
(FC)	Chena River Lakes, Fairbanks	8,000,000			8,000,000	
(N)	Hoonah Harbor		75,000			75,000
(N)	Humboldt Harbor	$400,000		79,000	400,000	
(N)	Kake Harbor			92,000		
(N)	Metlakatla Harbor		60,000			$60,000
(MP)	Snettisham power project	2,000,000			2,000,000	
	Arizona:					
(FC)	Gila River and tributaties, downstream from Painted Rock			83,000		
(FC)	Indian Bend Wash		50,000	175,000		50,000
(FC)	Phoenix and vicinity, including New River (Stage 1)	450,000			450,000	
(FC)	Phoenix and vicinity, including New River (Stage 2)			100,000		
(FC)	Santa Rosa Wash (Tat Momolikot Dam)	2,424,000			2,424,000	
	Arkansas:					
(FC)	Bell Foley Lake		50,000	60,000		130,000
(MP)	De Gray Lake	500,000			500,000	
(FC)	De Queen Lake	1,850,000		691,000	1,850,000	
(FC)	Dierks Lake	900,000			900,000	
(FC)	Gillham Lake	2,200,000			2,200,000	
(N)	McClellan-Kerr Arkansas River navigation system, Arkansas and Oklahoma:					
	(a) Bank stabilization and channel rectification	570,000			570,000	
	(b) Navigation locks and dams	9,500,000			9,500,000	
(N)	Ouachita and Black Rivers, Ark. and La	4,800,000			4,800,000	
(MP)	Ozark lock and dam	2,280,000			2,280,000	
(FC)	Pine Mountain Lake			56,000		
(FC)	Red River levees and bank stabilization below Denison Dam, Ark., La., and Tex	1,300,000			2,800,000	
(FC)	Village Creek, Jackson and Lawrence Counties			175,000		
	California:					
(FC)	Alameda Creek, Del Valle Reservoir	490,000			490,000	
(N)	Bodega Bay			40,000		50,000
(FC)	Buchanan Lake	7,000,000			7,000,000	
(FC)	Butler Valley Dam-Blue Lake		492,000	200,000		492,000
(FC)	Chester, North Fork of Feather River		75,000			75,000
(FC)	Corte Madera Creek			[1] 53,000		
(FC)	Cucamonga Creek		398,000			398,000
(FC)	Dry Creek (Warm Springs) Lake and Channel	3,850,000			[1] 2,650,000	
(FC)	Fairfield vicinity streams		50,000	50,000		50,000
(FC)	Hidden Lake	8,000,000			8,000,000	
(N)	Humboldt Harbor and Bay			50,000		
(BE)	Imperial Beach	240,000			240,000	
(FC)	Lakeport Lake			80,000		
(FC)	Los Angeles County drainage area	100,000			100,000	
(FC)	Lytle and Warm Creeks	3,370,000			3,370,000	
(MP)	Marysville Lake			550,000		
(FC)	Merced County streams			150,000		
(FC)	Napa River			149,000		
(MP)	New Melones Lake	18,000,000			[1] 15,000,000	
(FC)	Oroville Reservoir			100,000		
(FC)	Pajaro River			210,000		
(FC)	Pine Flat Lake			73,000		
(N)	Port Hueneme Harbor	250,000		400,000	250,000	
(FC)	Russian River Basin, Coyote Valley Dam and Russian River Channel			60,000		
(FC)	Sacramento River and major and minor tributaries			192,000		
(FC)	Sacramento River bank protection	1,400,000			1,400,000	
(FC)	Sacramento River Chico Landing to Red Bluff	420,000			420,000	
(N)	San Diego Harbor	400,000			400,000	
(FC)	San Diego River, Mission Valley			282,000		
(N)	San Francisco Bay to Stockton (John F. Baldwin and Stockton ship channels)	1,305,000			1,305,000	
(FC)	Santa Paula Creek channel			575,000		
(FC)	Sonoma Creek			170,000		
(FC)	Sweetwater River	2,300,000			2,300,000	
(FC)	Tahquitz Creek	300,000		265,000	(1)	
(FC)	University Wash and Spring Brook		20,000	100,000		20,000
(BE)	Ventura-Pierpont area	135,000				
(FC)	Walnut Creek			915,000		
	Colorado:					
(FC)	Bear Creek Lake	3,000,000			3,000,000	
(FC)	Boulder			133,000		
(FC)	Chatfield Lake	7,500,000			7,500,000	
(FC)	Las Animas	700,000		158,000	700,000	
(FC)	Trinidad Lake	6,400,000			6,400,000	
	Connecticut:					
(FC)	Danbury				700,000	
(FC)	Park River		50,000	480,000		50,000
(FC)	Trumbull Lake			(1)		
	Delaware:					
(N)	Delaware Bay—Chesapeake Bay Waterway in Del., Md., and Va		75,000	180,000		75,000
(FC)	Delaware coast protection			217,000		
(N)	Inland waterway, Delaware River to Chesapeake Bay (Chesapeake and Delaware Canal), pt. II, Del., and Md			3,186,000		

Footnotes at end of table.

	Construction, general, State and project	Budget estimate for fiscal year 1974		Reserve available for use in fiscal year 1974	Conference allowance	
		Construction	Planning		Construction	Planning
	(1)	(2)	(3)	(4)	(5)	(6)
	Florida:					
(BE)	Brevard County	$400,000		$200,000	$400,000	
(N)	Canaveral Harbor				125,000	
(FC)	Central and Southern Florida	2,600,000		1,745,000	855,000	
(FC)	Dade County		$50,000	100,000		$50,000
(BE)	Duval County			90,000		30,000
(FC)	Four Rivers Basins	1,500,000		861,000	1,500,000	
(N)	Gulf Intracoastal Waterway, St. Marks to Tampa Bay (ecological study and economic restudy)			148,000		
(N)	Jacksonville Harbor (1965 act)	3,000,000			3,000,000	
(N)	Miami Harbor	6,500,000			6,500,000	
(N)	Panama City Harbor			50,000		75,000
(BE)	Pinellas County	200,000		16,000	200,000	
(N)	Tampa Harbor (main channel only)		506,000	80,000		506,000
	Georgia:					
(MP)	Carters Lake	14,500,000			14,500,000	
(MP)	Lazer Creek Lake			360,000		
(N)	Savannah Harbor, 40 feet (widening and deepening)	1,150,000			1,150,000	
(N)	Savannah Harbor (sediment basin)	1,200,000		1,188,000	1,200,000	
(MP)	Spewrell Bluff Lake			1,496,000		
(MP)	Trotters Shoals Lake, Georgia and South Carolina (land acquisition)			800,000		
(BE)	Tybee Island	536,000		80,000	536,000	
(MP)	West Point Lake, Ala. and Ga	14,990,000			14,990,000	
	Hawaii:					
(FC)	Iao Stream			165,000		
(FC)	Kancohe-Kailua area		150,000	15,000		197,000
(N)	Waianae small boat harbor			120,000		
(BE)	Waikiki Beach	200,000			200,000	
	Idaho:					
(MP)	Dworshak Dam and Reservoir	8,400,000		5,944,000	8,400,000	
(FC)	Ririe Lake	7,200,000		945,000	7,200,000	
(FC)	Weiser River (restudy)			19,000		
	Illinois:					
(FC)	East Moline		50,000	50,000		50,000
(FC)	East St. Louis and vicinity—Cahokia Creek Low Dam	900,000			900,000	
(FC)	East St. Louis and vicinity (interior flood control)		600,000			1,200,000
(FC)	Fulton			70,000		
(FC)	Harrisonville and Ivy Landing Drainage and Levee District No. 2 (interior flood control)				75,000	
(FC)	Helm Lake			75,000		
(N)	Illinois Waterway, Calumet-Sag modification, pt. I, Illinois and Indiana	1,400,000		1,000,000	1,400,000	
(N)	Illinois Waterway, Calumet-Sag modification, pt. II, Illinois and Indiana			8,000		
(N)	Illinois Waterway, duplicate locks		249,000			249,000
(N)	Kaskaskia River navigation	8,700,000		1,200,000	8,700,000	
(BE)	Lake Bluff shore of Lake Michigan (reimbursement)	93,000			93,000	
(FC)	Lake Shelbyville	3,460,000			3,460,000	
(FC)	Levee District 23 (Dively), Kaskaskia River			200,000		
(FC)	Lincoln Lake	300,000		267,000	300,000	
(N)	Lock and dam 26, Mississippi River, Alton, Ill., and Mo		746,000	795,000	100,000	1,400,000
(N)	Lock and dam 53 (temporary lock), Illinois and Kentucky			650,000	1,000,000	
(FC)	Louisville Lake		50,000	108,000		50,000
(N)	Mississippi River between Ohio and Missouri Rivers, Ill. and Mo.:					
	a) Chain of Rocks	4,100,000			4,100,000	
	(b) Regulating works	2,600,000			3,500,000	
(FC)	Milan			15,000		
(FC)	Moline		50,000	20,000		50,000
(FC)	Peoria (inactive)			8,000		
(FC)	Rend Lake	2,430,000			2,430,000	
(FC)	Rock Island	1,500,000			1,500,000	
(FC)	Russell and Allison Levee (restudy)			15,000		
(FC)	Saline River and tributaries	1,340,000		272,000	1,340,000	
(N)	Smithland locks and dam, Illinois and Kentucky	25,500,000		1,000,000	25,500,000	
(FC)	William L. Springer Lake (formerly Oakley Lake) (land acquisition)	1,500,000			1,500,000	
	Indiana:					
(FC)	Big Pine Lake (land acquisition)	200,000		64,000		
(FC)	Big Walnut Lake			78,000		100,000
(FC)	Brookville Lake	4,700,000			4,700,000	
(N)	Cannelton locks and dam, Indiana and Kentucky	2,800,000			2,800,000	
(FC)	Clifty Creek Lake (land acquisition)	200,000		70,000	200,000	
(FC)	Evansville	1,300,000		330,000	[1] 1,000,000	
(FC)	Greenfield Bayou Levee	200,000		300,000	200,000	
(FC)	Highland Lake (not authorized)		25,000			(4)
	Illinois Waterway, Calumet-Sag modification, pts. I and II, Illinois and Indiana. (See Illinois.)					
(FC)	Island levee			444,000		
(FC)	Lafayette Lake			183,000		
(FC)	Levee Unit No. 5	500,000		180,000	500,000	
(FC)	Marion			30,000		
(FC)	Mason J. Niblack levee (pumping facilities)	160,000		235,000	160,000	
(FC)	Newburgh			60,000		
(N)	Newburgh locks and dam, Indiana and Kentucky	9,300,000			9,300,000	
(FC)	Patoka Lake	2,200,000			2,200,000	
(N)	Uniontown locks and dam, Indiana and Kentucky	14,700,000			14,700,000	
	Iowa:					
(FC)	Bettendorf			80,000		
(FC)	Big Sioux River at Sioux City, Iowa and S. Dak			83,000		
(FC)	Clinton	300,000		15,000	300,000	
(N)	Clinton small boat harbor					10,000
(FC)	Davenport		90,000	50,000		90,000
(FC)	Marshalltown	1,300,000		210,000	1,300,000	
(N)	Missouri River, Sioux City to mouth, Iowa, Kansas, Missouri, and Nebraska	1,650,000			3,000,000	
(FC)	Saylorville Lake	12,400,000			12,400,000	
(FC)	Waterloo	1,300,000		850,000	1,300,000	
	Kansas:					
	Arkansas—Red River basins chloride control, Texas, Oklahoma, and Kansas. (See Oklahoma.)					
(FC)	Big Hill Lake	500,000			500,000	
(FC)	Cedar Point Lake			140,000		80,000
(FC)	Clinton Lake	7,200,000			7,800,000	
(FC)	Dodge City	1,200,000		57,000	1,200,000	
(FC)	El Dorado Lake	2,000,000			2,000,000	
(FC)	El Dorado					50,000
(FC)	Great Bend			186,000		
(FC)	Grove Lake		227,000	137,000		227,000
(FC)	Hays, Big Creek	900,000			900,000	
(FC)	Hillsdale Lake	1,000,000		516,000	1,000,000	
(FC)	Kansas City, Kansas River, Kans. (1962 mod)	2,500,000			2,500,000	
(FC)	Lawrence	900,000			900,000	
(FC)	Marion		70,000			70,000

Footnotes at end of table.

	Construction, general, State and project	Budget estimate for fiscal year 1974		Reserve available for use in fiscal year 1974	Conference allowance	
		Construction	Planning		Construction	Planning
	(1)	(2)	(3)	(4)	(5)	(6)
	Kansas—Continued					
(FC)	Melvern Lake	$2,977,000			$2,977,000	
	Missouri River, Sioux City to mouth, Iowa, Kansas, Missouri, and Nebraska. (See Iowa.)					
(FC)	Onaga Lake		$90,000	$95,000		$200,000
(FC)	Perry Lake Area (road improvements)			100,000		
(FC)	Winfield			40,000		
(FC)	Wolf—Coffee Lake		120,000	53,000		120,000
	Kentucky:					
(FC)	Bonneville Lake		120,000	55,000		120,000
	Cannelton locks and dam, Indiana and Kentucky. (See Indiana.)					
(FC)	Carr Fork Lake	2,700,000			2,700,000	
(FC)	Cave Run Lake	7,400,000		300,000	7,400,000	
(FC)	Dayton			59,000		
(FC)	Eagle Creek Lake		100,000	30,000		100,000
(FC)	Falmouth Lake		40,000	50,000		100,000
(FC)	Kehoe Lake		100,000	160,000		198,000
(MP)	Laurel River Lake	3,100,000			3,100,000	
	Lock and dam 53 (temporary lock). (See Illinois.)					
(FC)	Martin			880,000		
(FC)	Martins Fork Lake	1,700,000			2,400,000	
	Newburgh locks and dam, Indiana and Kentucky. (See Indiana.)					
(FC)	Newport-Wilder			50,000		
(FC)	Paintsville Lake	1,720,000		300,000	1,720,000	
(FC)	Red River Lake	300,000		390,000	300,000	
	Smithland lock and dam, Illinois and Kentucky. (See Illinois.)					
(FC)	Southwestern Jefferson County	500,000		181,000	500,000	
(FC)	Taylorsville Lake	700,000		531,000	700,000	
	Uniontown locks and dam, Indiana and Kentucky. (See Indiana.)					
(FC)	Yatesville	600,000		300,000	600,000	
	Louisiana:					
(N)	Atchafalaya River, Bayous Chene, Bouef and Black	2,200,000			2,200,000	
(FC)	Bayou Bodeau and tributaries			820,000		
(N)	Bayou Lafourche and Lafourche Jump Waterway	950,000			950,000	
(FC)	Grand Isle and vicinity Larose to Golden Meadow	800,000			800,000	
(FC)	Lake Pontchartrain, and vicinity	6,400,000		2,600,000	6,400,000	
(N)	Mermentau River (channel improvement)	600,000			600,000	
(N)	Michoud Canal	750,000		630,000	750,000	
(N)	Mississippi River, gulf outlet	1,600,000			1,600,000	
(N)	Mississippi River outlets, Venice				250,000	
(FC)	Morgan City and vicinity			650,000		
(FC)	New Orleans to Venice hurricane protection	4,100,000		100,000	8,000,000	
	Ouachita and Black Rivers, Ark. and La. (See Arkansas.)					
(FC)	Ouachita River levees	400,000			400,000	
(N)	Overton-Red River Waterway (lower 31 miles only)	720,000			720,000	
(N)	Red River emergency bank protection	1,400,000			1,400,000	
(N)	Red River Waterway, Mississippi River to Shreveport, La	4,500,000		600,000	4,500,000	
(N)	Red River Waterway, Shreveport, La. to Daingerfield, Tex. (economic restudy only)		45,000	25,000		$45,000
	Red River levees and bank stabilization below Denison Dam, Ark., La., and Tex. (See Arkansas.).					
(N)	Vermilion lock (replacement)		100,000	100,000		100,000
	Maine:					
(N)	Frenchboro Harbor		25,000	60,000		25,000
	Maryland:					
(FC)	Bloomington Lake, Md. and W. Va	13,600,000			13,600,000	
	Inland waterway, Delaware River to Chesapeake Bay, Del. and Md. (C. & D. Canal), pt. II. (See Delaware.)					
(N)	Tred Avon River	395,000			395,000	
	Massachusetts:					
(FC)	Charles River Dam	6,900,000			6,900,000	
(N)	Fall River Harbor, Mass. and R.I	2,000,000		1,490,000	2,000,000	
(FC)	Nookagee Lake			90,000		
(BE)	Revere Beach		50,000	30,000		50,000
(FC)	Saxonville		68,000	100,000		68,000
(N)	Weymouth Fore and Town Rivers	2,700,000			3,700,000	
	Michigan:					
(N)	Cedar River Harbor			8,000		
(N)	Great Lakes Connecting Channels	850,000			850,000	
(N)	Lexington Harbor	200,000		75,000	200,000	
(N)	Ludington Harbor		60,000	40,000		60,000
(FC)	River Rouge	4,200,000		550,000	4,200,000	
(FC)	Saginaw River (flood control)	1,700,000			1,700,000	
(N)	Tawas Bay Harbor		20,000	40,000		20,000
	Minnesota:					
(N)	Beaver Bay Harbor			50,000		
(FC)	Big Stone Lake-Whetstone River, Minn. and S. Dak	1,500,000			1,500,000	
(N)	Lutsen Harbor			50,000		
(FC)	Mankato and North Mankato	3,250,000			3,250,000	
(FC)	Warroad River Bull Dog Creek			20,000		
(FC)	Wild Rice River-South Branch and Felton Ditch		30,000	30,000		30,000
(FC)	Winona		50,000	40,000		70,000
	Mississippi:					
(FC)	Edinburg Dam and Lake (not authorized)		25,000	75,000		(2)
(FC)	Tallahala Creek Lake			350,000		
	Tennessee-Tombigbee Waterway, Ala. and Miss. (See Alabama.)					
(FC)	Tombigbee River and tributaries, Mississippi and Alabama	1,700,000		200,000	700,000	
	Missouri:					
(FC)	Blue River Channel, Kansas City, Mo		15,000	40,000		15,000
(FC)	Brookfield Lake			125,000		
(MP)	Clarence Cannon Dam and Reservoir	16,400,000			16,400,000	
(MP)	Harry S. Truman Dam and Reservoir	27,500,000			27,500,000	
(FC)	Little Blue River Channel	700,000		100,000	845,000	
(FC)	Little Blue River Lakes (land acquisition)	2,500,000			2,500,000	
	Lock and dam 26, Alton, Ill. and Mo. (See Illinois.)					
(FC)	Long Branch Lake	1,000,000		425,000	1,200,000	
(FC)	Meramec Park Lake	3,000,000		200,000	3,000,000	
(FC)	Mercer Lake		50,000	115,000		50,000
(FC)	Mississippi River Agricultural Area No. 8 (Elsberry drainage district)			50,000		100,000
	Mississippi River between Ohio and Missouri Rivers, Ill. and Mo. (See Illinois.)					
	Missouri River, Sioux City to mouth, Iowa, Kansas, Missouri, and Nebraska. (See Iowa.)					
(FC)	Pattonsburg Lake—Highway I-35 Crossing	500,000			500,000	
(FC)	Pattonsburg Lake (town relocation only)			49,000		
(FC)	Perry County Drainage Districts Nos. 1, 2, and 3					80,000
(FC)	St. Louis	1,170,000			1,170,000	
(FC)	Smithville Lake	1,700,000		430,000	4,000,000	
(FC)	Union Lake State Highway 185 Bridge Relocation (advance participation)	700,000		190,000	700,000	

Footnotes at end of table.

	Construction, general, State and project	Budget estimate for fiscal year 1974		Reserve available for use in fiscal year 1974	Conference allowance	
		Construction	Planning		Construction	Planning
	(1)	(2)	(3)	(4)	(5)	(6)
	Montana:					
(FC)	Frazer-Wolf Point bank stabilization					$25,000
(MP)	Libby Dam-Lake Koocanusa	$30,400,000			$30,400,000	
(MP)	Libby Dam-Lake Koocanusa (additional units and reregulating dam)		$400,000	$290,000		400,000
	Nebraska:					
(MP)	Gavins Point Dam Lewis and Clark Lake (relocation of Niobrara, Nebr.), Nebr. and S. Dak	1,200,000			1,200,000	
	Missouri River, Sioux City to mouth, Iowa, Kansas, Missouri, and Nebraska. (See Iowa.)					
(FC)	Papillion Creek and tributaries	3,500,000			5,200,000	
	Nevada:					
(FC)	Gleason Creek Dam		40,000			40,000
(FC)	Humboldt River and tributaries			100,000		
	New Hampshire:					
(FC)	Beaver Brook Lake	100,000		(1)	(1)	
	New Jersey:					
(N)	Corsons Inlet and Ludlam Beach					65,000
(FC)	Elizabeth	1,550,000			1,550,000	
(N)	Great Egg Harbor Inlet and Peek Beach		75,000	50,000		75,000
(N)	Newark Bay, Hackensack, and Passaic Rivers	1,940,000			1,940,000	
(N)	Shrewsbury River			4,000		
(FC)	South Orange, Rahway River	1,700,000			1,700,000	
	Tocks Island Lake, Pa., N.J., and N.Y. (See Pennsylvania.)					
	New Mexico:					
(FC)	Alamogordo Diversion Channel		75,000			75,000
(FC)	Cochiti Lake	16,400,000			16,400,000	
(FC)	Las Cruces	1,400,000			1,400,000	
	New York:					
(FC)	Allegany			30,000		
(N)	Cattaraugus Harbor		50,000	60,000		50,000
(N)	East River Spur Channel			30,000	100,000	
(FC)	East Rockaway Inlet to Rockaway Inlet and Jamaica Bay		175,000	50,000		175,000
(N)	Hamlin Beach Harbor			85,000		
(N)	Moriches Inlet			55,000		
(N)	New York Harbor (anchorages)	2,800,000			2,800,000	
(FC)	Red Creek			27,000		
(FC)	Seajaquada Creek		40,000	20,000		40,000
	Tocks Island Lake, Pa., N.J., and N.Y. (See Pennsylvania.)					
(FC)	Yonkers			50,000	200,000	
	North Carolina:					
(N)	Atlantic Intracoastal Waterway, bridges		150,000		150,000	150,000
(FC)	Brunswick County beaches	335,000		50,000	335,000	
(N)	Chowan River, N.C., and Blackwater River, Va	412,000			442,000	
(FC)	Falls Lake			3,459,000		
(FC)	Howards Mill Lake		47,000	55,000		47,000
(N)	Manteo (Shallowbag) Bay					60,000
(N)	Morehead City Harbor (1970 act)			27,000		
(FC)	New Hope Lake	7,150,000			[1] 3,200,000	
(FC)	Ocracoke Island			55,000		
(FC)	Pembroke Creek					35,000
(FC)	Randleman Lake			460,000		
(FC)	Reddies River Lake		130,000	25,000		258,000
	North Dakota:					
(FC)	Burlington Dam		50,000	140,000		150,000
(MP)	Eagle Bay and Fort Yates Highway bridges		192,000	34,000		192,000
(MP)	Garrison Dam—Lake Sakakawea	100,000			100,000	
(FC)	Minot	2,000,000			2,000,000	
(FC)	Missouri River, Garrison Dam to Lake Oahe	380,000			380,000	
	Oahe Dam-Lake Oahe, S. Dak. and N. Dak. (See South Dakota.)					
(FC)	Pipestem Lake	2,300,000			2,400,000	
	Ohio:					
(FC)	Alum Creek Lake	6,000,000			6,000,000	
(FC)	Caesar Creek Lake	9,000,000			9,000,000	
(FC)	Chillicothe		77,000			150,000
(FC)	Clarence J. Brown Dam and Reservoir	2,400,000		422,000	2,400,000	
(FC)	Cuyahoga River Basin	100,000		65,000	100,000	
(FC)	East Fork Lake	3,200,000			3,200,000	
(FC)	Eastlake, Chagrin River			10,000		130,000
(N)	Hannibal locks and dam, Ohio and West Virginia	8,450,000			8,450,000	
(N)	Huron Harbor (channel deepening only)		40,000	50,000		40,000
(BE)	Lakeview Park, Lorain			90,000		
(N)	Lorain Harbor	1,067,000			1,067,000	
(FC)	Mill Creek		100,000	100,000		200,000
(FC)	Mill Creek Lake			30,000		
(FC)	Newark			80,000		
(FC)	Paint Creek Lake	1,200,000			1,200,000	
(FC)	Point Place		30,000			30,000
(FC)	Salt Creek Lake (land acquisition)	50,000		100,000	(1)	
(FC)	Utica Lake		40,000	180,000		
(N)	Willow Island locks and dam, Ohio and West Virginia	10,900,000			10,900,000	
	Oklahoma:					
(FC)	Arcadia Lake		93,000	10,000		170,000
(FC)	Arkansas-Red Basins chloride control, Oklahoma, Texas, and Kansas		300,000	400,000		800,000
(FC)	Arkansas-Red Basins chloride control, supplemental studies, Oklahoma, Texas, and Kansas			30,000		
(FC)	Birch Lake	1,050,000			1,050,000	
(FC)	Candy Lake		139,000			139,000
(FC)	Clayton Lake	600,000		350,000	1,000,000	
(FC)	Copan Lake	1,560,000		466,000	1,560,000	
(FC)	Hugo Lake	2,800,000			4,000,000	
(FC)	Kaw Lake	20,700,000			20,700,000	
(FC)	Lukfata Lake			450,000		
	McClellan-Kerr Arkansas River navigation system, Arkansas and Oklahoma. (See Arkansas.)					
(FC)	Optima Lake	2,480,000			2,480,000	
(FC)	Skiatook Lake	1,000,000		275,000	1,500,000	
(FC)	Waurika Lake	7,400,000			7,400,000	
(MP)	Webbers Falls lock and dam	600,000		408,000	600,000	
	Oregon:					
(FC)	Applegate Lake (land acquisition)			(2)		
(MP)	Bonneville lock and dam (mod. for peaking), Oregon and Washington	7,400,000		2,142,000	7,400,000	
(MP)	Bonneville lock and dam (2d powerhouse)				3,000,000	
(FC)	Catherine Creek Lake	700,000		400,000	700,000	
(N)	Columbia River and lower Willamette River, 35- and 40-foot projects, Oregon and Washington	1,800,000			1,800,000	
(N)	Coos Bay			50,000		150,000

Footnotes at end of table.

	Construction, general, State and project	Budget estimate for fiscal year 1974		Reserve available for use in fiscal year 1974	Conference allowance	
		Construction	Planning		Construction	Planning
	(1)	(2)	(3)	(4)	(5)	(6)
	Oregon—Continued					
(MP)	Cougar Lake	$1,400,000			$1,400,000	
(FC)	Elk Creek Lake	1,100,000			1,100,000	
(MP)	John Day lock and dam, Oregon and Washington	7,475,000		$1,445,000	7,475,000	
(MP)	Lost Creek Lake	35,600,000			35,600,000	
(FC)	Lower Columbia River bank protection, Oregon	700,000			700,000	
(MP)	McNary lock and dam, Oregon and Washington	2,500,000			2,500,000	
(FC)	Scappose Drainage District	100,000		100,000	100,000	
	The Dalles lock and dam, Washington and Oregon (additional power units). (See Washington.)					
(N)	Tillamook Bay and Bar (South Jetty)	2,400,000			2,400,000	
(FC)	Willamette River Basin bank protection	450,000			700,000	
(FC)	Willow Creek Lake			220,000	450,000	
	Pennsylvania:					
(FC)	Blue Marsh Lake	3,600,000			3,600,000	
(FC)	Chartiers Creek	2,900,000			2,900,000	
(FC)	Cowanesque Lake	2,700,000			2,700,000	
(FC)	DuBois	1,800,000			1,800,000	
(FC)	Raystown Lake	4,900,000			4,900,000	
(FC)	Tioga-Hammond Lakes	16,730,000			16,730,000	
(MP)	Tocks Island Lake, Pa., N.J., and N.Y	5,100,000		3,000,000	5,100,000	
(FC)	Tyrone	800,000			800,000	
(FC)	Union City Lake	500,000			500,000	
(FC)	Woodcock Creek Lake	1,468,000			1,468,000	
	Puerto Rico:					
(FC)	Portugues and Bucana Rivers (Lago de Cerrillos; Lago de Portugues and Ponce)	800,000				
	Rhode Island:					
	Fall River Harbor, Mass. and R.I. (See Mass.)					
(N)	Providence River and Harbor	1,300,000			1,300,000	
	South Carolina:					
(N)	Cooper River-Charleston Harbor		450,000	45,000		$352,000
(BE)	Hunting Island Creek	610,000			610,000	
(N)	Little River Inlet, S.C., and N.C		75,000			75,000
(N)	Murrells Inlet			70,000		80,000
(FC)	Reedy River			60,000		
	Trotters Shoals Lake, Georgia and South Carolina. (See Georgia.)					
	South Dakota:					
(MP)	Big Bend Dam-Lake Sharpe	650,000		70,000	650,000	
	Big Sioux River at Sioux City, Iowa and S. Dak. (See Iowa.)					
	Big Stone Lake-Whetstone River, Minn. and S. Dak. (See Minnesota.)					
	Gavins Point Dam-Lewis and Clark Lake (relocation of Niobrara Nebraska) Nebr. and S. Dak. (See Nebraska.)					
(MP)	Oahe Dam-Lake Oahe, S. Dak. and N. Dak	500,000			500,000	
	Tennessee:					
(MP)	Cordell Hull Dam and Reservoir	2,200,000			3,700,000	
	Texas:					
(FC)	Aquilla Lake		100,000			250,000
	Arkansas Red Basins chloride control, Tex., Okla., and Kans. (See Oklahoma.)					
(FC)	Aubrey Lake		150,000			277,000
(FC)	Big Pine Lake		100,000			100,000
(FC)	Buffalo Bayou and tributaries	500,000		357,000	500,000	
(FC)	Carl L. Estes Dam and Lake (Mineola)		100,000	100,000		200,000
(FC)	Clear Creek		50,000	75,000		50,000
(FC)	Cooper Lake and channels	1,800,000			1,800,000	
(BE)	Corpus Christi Beach					64,000
(N)	Corpus Christi ship channel	3,100,000			3,550,000	
(FC)	Duck Creek channel improvement	700,000		430,000	[1] 450,000	
(FC)	El Paso	1,600,000			1,600,000	
(FC)	Freeport and vicinity, hurricane flood protection	700,000		170,000	1,200,000	
(N)	Freeport Harbor (1970 act)		50,000	100,000		100,000
(N)	Galveston Channel, 40 feet (1971 act)	920,000		230,000	920,000	
(FC)	Guadalupe River (remove log jams)				100,000	
(FC)	Highland Bayou	1,240,000			1,240,000	
(FC)	Lake Brownwood modification		40,000	80,000		40,000
(FC)	Lavon Lake modification and East Fork Channel improvement	8,800,000			8,800,000	
(FC)	Millican Lake, Navasota River		200,000	150,000		200,000
(N)	Mouth of Colorado River			100,000		
(FC)	Pecos and vicinity			140,000		
(FC)	Peyton Creek		50,000			50,000
(FC)	Port Arthur and vicinity, hurricane flood protection	2,100,000		1,028,000	2,100,000	
	Red River levees and bank stabilization, below Denison Dam, Ark., La., and Tex. (See Arkansas.)					
(FC)	San Antonio Channel improvement	1,000,000			1,000,000	
(FC)	San Gabriel River	3,800,000		197,000	6,800,000	
(FC)	Taylors Bayou	500,000			[1] 200,000	
(FC)	Texas City and vicinity, hurricane flood protection	2,000,000		240,000	2,000,000	
(N)	Texas City Channel (industrial canal)					40,000
(N)	Trinity River and tributaries, advance participation on high level bridges	740,000		200,000	740,000	
(N)	Trinity River project		634,000	452,000		634,000
(N)	Wallisville Lake	3,100,000		500,000	3,100,000	
	Utah:					
(FC)	Little Dell Lake		497,000	150,000		497,000
(FC)	Weber River and tributaries			26,000		
	Virginia:					
(FC)	Four Mile Run, City of Alexandria, and Arlington County	2,250,000			2,250,000	
(FC)	Gathright Lake	3,690,000			3,690,000	
(MP)	Salem Church Lake		400,000	400,000		400,000
(BE)	Virginia Beach (reimbursement)	450,000			450,000	
(FC)	Virginia Beach (not authorized)		75,000			(2)
	Washington:					
	Bonneville lock and dam, Oregon and Washington (See Oregon.)					
(MP)	Chief Joseph Dam, Rufus Woods Lake (additional units)	10,000,000		356,000	10,000,000	
	Columbia River and lower Willamette River, 35-40-foot projects, Oregon and Washington. (See Oregon.)					
(MP)	Ice Harbor lock and dam, Lake Sacajawea (additional generating units)	11,500,000		1,377,000	11,500,000	
	John Day lock and dam, Oregon and Washington. (See Oregon.)					
(MP)	Little Goose lock and dam—Lake Bryan (additional units)			10,000	450,000	
	Lower Columbia River bank protection, Oregon and Washington. (See Oregon.)					
(MP)	Lower Granite lock and dam	55,000,000		7,011,000	55,000,000	
(MP)	Lower Granite lock and dam (additional units)			320,000	450,000	
(MP)	Lower Monumental lock and dam	1,231,000		1,690,000	3,156,000	
	McNary lock and dam, Oregon and Washington. (See Oregon.)					
(MP)	The Dalles lock and dam, Washington and Oregon (additional power units)	2,200,000			2,200,000	
(FC)	Vancouver Lake			(1)		
(FC)	Wahkaikum County Consolidated Diking District No. 1			200,000		
(FC)	Wenatchee, Canyons 1 and 2		76,000	15,000		76,000
(FC)	Zintel Canyon			80,000		

Footnotes at end of table.

	Construction, general, State and project	Budget estimate for fiscal year 1974		Reserve available for use in fiscal year 1974	Conference allowance	
		Construction	Planning		Construction	Planning
	(1)	(2)	(3)	(4)	(5)	(6)
	West Virginia:					
(FC)	Beech Fork Lake	$3,700,000			$4,200,000	
	Bloomington Lake, Md. and W. Va. (See Maryland.)					
(FC)	Burnsville Lake	3,700,000		$300,000	3,700,000	
(FC)	East Lynn Lake	250,000			250,000	
	Hannibal locks and dam, Ohio and West Virginia. (See Ohio.)					
(FC)	Leading Creek Lake		$70,000	60,000		$70,000
(FC)	Panther Creek Lake			100,000		
(FC)	R. D. Bailey Lake	15,400,000			15,400,000	
(FC)	Rowlesburg Lake			140,000		
(FC)	Stonewall Jackson Lake			1,900,000		
(FC)	West Fork Lake			150,000		
(FC)	Williamson Matewan (conditionally authorized)			150,000		
	Willow Island lock and dam, Ohio and West Virginia. (See Ohio.)					
	Wisconsin:					
(FC)	La Farge Lake and Channel Improvement	2,800,000			2,800,000	
(FC)	State Road and Ebner Coulees					60,000
	Wyoming:					
(FC)	Sheridan	139,000			139,000	
	Miscellaneous:					
(FC)	Small projects for flood control and related purposes not requiring specific legislation costing up to $1,000,000 (sec. 205).			4,301,000		
(FC)	Emergency bank protection	650,000			650,000	
(FC)	Snagging and clearing	250,000			250,000	
	Recreation facilities, at completed projects	8,800,000			12,400,000	
	Fish and wildlife studies (U.S. Fish and Wildlife Service)	1,100,000			1,100,000	
	Aquatic plant control (1965 act)	1,500,000			1,500,000	
	Employees compensation	1,608,000			1,608,000	
	Reduction for anticipated savings and slippages	−45,759,000	−500,000		−45,759,000	−500,000
	General reduction based on anticipated delays and carryover balances				−14,863,000	
	Undistributed O.M.B. reserve			152,000		
	Grand total, construction, general	848,591,000 (858,517,000)	9,926,000	90,499,000	859,268,000 (873,589,000)	14,321,000

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[1] Reduction reflects revised capability of Corps based on unanticipated delays.

[2] Reduction reflects lack of project authorization.

[3] Reduction reflects requirement for additional authorization prior to initiation of land acquisition.

CONSTRUCTION, GENERAL

Amendment No. 6: Appropriates $873,589,000 instead of $864,569,000 as proposed by the House and $874,487,000 as proposed by the Senate.

The funds appropriated under this heading are to be allocated as shown in the following tabulation:

Lukfata Lake, Oklahoma—The managers agree that, within available funds, the Corps should proceed with the planning for the construction of the Lukfata Lake, Oklahoma project at the alternative site.

General—The managers direct the Corps of Engineers to participate with the Environmental Protection Agency and the Council on Environmental Quality to work on potential problem areas to avoid unnecessary delays on projects.

Lower Monumental lock and dam (additional units) Washington—The managers agree that funds may be allocated to planning for the Lower Monumental lock and dam (additional units) in the state of Washington if funds are available from savings in other projects in that state.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES

Amendment No. 7: Appropriates $150,000,000 as proposed by the Senate instead of $139,000,000 as proposed by the House. The changes provided from the House bill are allocated as follows:

1. General investigation:	
Yazoo Basin (reports review)	+$100,000
2. Construction and planning:	
Mississippi River Levees	+5,150,000
St. Francis Basin	+1,500,000
Reelfoot Lake—Lake No. 9	+100,000
West Tennessee Tributaries	−1,050,000
Tensas Basin-Red River Backwater	+2,700,000
Yazoo Basin:	
Enid Lake	+20,000
Grenada Lake	+40,000
Sardis Lake	+50,000
Tributaries	+590,000
Big Sunflower River (including Steele Bayou)	+475,000
Yazoo Backwater	+1,325,000
Subtotal, planning and construction	10,900,000
Total increase	+11,000,000

The Managers are agreed that funds for the St. Francis Basin Project should be allocated in accordance with current construction priorities.

The Managers again direct the Corps to proceed with the Upper Auxiliary Channel, or alternative means of drainage, and the Ascalmore-Tippo and Opposum Bayou Projects. It is noted that this year's flood waters would have been approximately six feet lower had these projects been completed.

OPERATION AND MAINTENANCE, GENERAL

Amendment No. 8: Appropriates $409,125,000 instead of $403,625,000 as proposed by the House and $414,625,000 as proposed by the Senate. The increase over the House bill provides $2,500,000 for the Diked Disposal Program; $600,000 for the Dredged Material Disposal study and $2,400,000 for the general reduction for slippage.

FLOOD CONTROL AND COASTAL EMERGENCIES

The managers direct the Corps to use currently available funds for repair and restoration of flood control works damaged in the recent Mississippi River floods. The Committee further directs the Corps and other appropriate agencies of the Executive Branch to prepare and submit, on an urgent basis, an estimate of the 1974 fund requirements related to the damage caused by the floods.

SPECIAL RECREATION USE FEES

Amendment No. 9: Appropriates $700,000 as proposed by the Senate instead of $1,000,000 as proposed by the House. It is estimated that the Corps collected $700,000 in user fees in fiscal year 1973.

REVOLVING FUND

The managers agree that the moratorium placed on all proposed plans for replacement or modification of dredges which are not presently under contract, including hopper dredges, pending a comprehensive study, should continue except for the dredge Pacific. The managers concur in the Senate position on the dredge Pacific.

TITLE III—DEPARTMENT OF INTERIOR

GENERAL INVESTIGATIONS

Amendment No. 10: Appropriates $16,850,000 instead of $15,880,000 as proposed by the House and $17,350,000 as proposed by the Senate. The increase provided over the House bill amount includes the following:

Nebraska, Highland Unit	$130,000
New Mexico, Elephant Butte Irrigation District	40,000
Oregon, Rouge River Basin, Grants Pass Division	25,000
Washington, Central Washington, East Bank Area	100,000
Wyoming, Sublette	100,000
Atmospheric Water Resources management Program	250,000
Water Resources Planning and Engineering Research	75,000
Regional Planning Service	250,000

CONSTRUCTION AND REHABILITATION

Amendment No. 11: Appropriates $194,275,000 instead of $184,360,000 as proposed by the House and $196,065,000 as proposed by the Senate. The increase provided over the House bill amount is allocated as follows:

California:		
Central Valley project:		
Sacramento River Division		$1,000,000
San Luis unit:		
Westlands distribution and drainage system	$1,500,000	
All other San Luis unit facilities	1,000,000	
Auburn-Folsom South unit—Folsom South Canal		100,000
Idaho:		
Teton Basin Project—Lower Teton Division		300,000
New Mexico:		
Brantley Dam project		325,000
Oregon:		
Tualatin project		200,000

Washington:	
Columbia Basin Project—third powerplant	4,000,000
Recreation facilities at existing reservoirs	100,000
Pick-Sloan Missouri Basin Program:	
Colorado—Narrows Unit	1,000,000
North Dakota—Garrison diversion unit	390,000

UPPER COLORADO RIVER STORAGE PROJECT

Amendment No. 12: Appropriates $25,026,000 instead of $24,526,000 as proposed by the House and $26,903,000 as proposed by the Senate. The increase of $500,000 provided over the House bill amount is applied to the Central Utah project—Bonneville Unit.

Amendment No. 13. Approves limitation of $24,426,000 instead of $23,926,000 as provided by the House and $26,303,000 as provided by the Senate for the Upper Colorado River Basin Fund.

LOAN PROGRAM

Amendment No. 14: Appropriates $18,422,000 as proposed by the Senate instead of $18,372,000 as proposed by the House. The increase of $50,000 provided over the House bill is for the Pond Poso Improvement District, California.

EMERGENCY FUND

Amendment No. 15: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which will enable the Post Falls Irrigation District, Rathdrum Prairie Project, Idaho to receive emergency funds.

TITLE V—GENERAL PROVISIONS

Amendment No. 16: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which will permit appropriations contained in the Second Supplemental Appropriations Act, 1973 (Public Law 92-50) to remain available for obligation for a period of 20 days following enactment of this Act. This will allow the appropriations to be used only for those purposes originally contemplated in that legislation and is needed because it was not signed into law until July 1, 1973.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1974 recommended by the committee of conference, with comparisons to fiscal year 1973 amount, to the 1974 budget estimate and to the House and Senate bills for 1974 follows:

	Amounts
New budget (obligational) authority, fiscal year 1973	$5,658,156,000
Budget estitmates of new (obligational) authority, fiscal year 1974	4,757,469,000
House bill, fiscal year 1974	4,676,395,000
Senate bill, fiscal year 1974	4,772,982,000
Conference agreement, fiscal year 1974	4,749,403,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1973	−908,753,000
Budget estimate of new (obligational) authority, fiscal year 1974	−8,066,000
House bill, fiscal year 1974	+73,008,000
Senate bill, fiscal year 1974	−23,579,000

JOE L. EVINS,
EDWARD P. BOLAND,
JAMIE L. WHITTEN,
JOHN M. SLACK,
OTTO E. PASSMAN,
GEORGE MAHON,
JOHN J. RHODES,
GLENN R. DAVIS,
HOWARD W. ROBISON,
ELFORD A. CEDERBERG,
Managers on the Part of the House.
ALAN BIBLE,
JOHN L. MCCLELLAN,
WARREN G. MAGNUSON,
ROBERT C. BYRD,
JOHN O. PASTORE,
GALE W. MCGEE,
JOSEPH M. MONTOYA,
MARK O. HATFIELD,
MILTON R. YOUNG,
ROMAN L. HRUSKA,
CLIFFORD P. CASE,
TED STEVENS,
RICHARD S. SCHWEIKER,
HENRY BELLMON,
JENNINGS RANDOLPH,
Managers on the Part of the Senate.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO FILE REPORTS, UNTIL MIDNIGHT SATURDAY

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries may have until midnight Saturday, July 28, to file certain reports on H.R. 37, to provide for the conservation, protection, and propagation of species or subspecies of fish and wildlife that are threatened with extinction or likely with the foreseeable future to become threatened with extinction, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. RHODES. Mr. Speaker, reserving the right to object, was there a unanimous vote in committee?

Mr. DINGELL. Mr. Speaker, the bill was reported unanimously by the subcommittee; unanimously by the full committee, and the unanimous-consent request is being made at this time and has been cleared with the senior member of the committee.

Mr. RHODES. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

PERSONAL EXPLANATION

Mr. RANGEL. Mr. Speaker, on rollcall No. 386 today, I am recorded as not voting. I was present and voted "aye."

AUTHORIZING SPEAKER TO RECOGNIZE FOR A MOTION TO SUSPEND RULES ON H.R. 9474, NEXT WEEK

Mr. TEAGUE of Texas. Mr. Speaker, I ask unanimous consent that it may be in order at any time next week for the Speaker to recognize for a motion to suspend the rules and pass the bill H.R. 9474, as amended.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONFERENCE REPORT ON H.R. 8510, A NATIONAL SCIENCE FOUNDATION AUTHORIZATION

Mr. TEAGUE of Texas submitted the following conference report and statement on the bill (H.R. 8510) to authorize appropriations for activities of the National Science Foundation, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 93-408)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8510) to authorize appropriations for activities of the National Science Foundation, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That there is hereby authorized to be appropriated to the National Science Foundation for the fiscal year ending June 30, 1974, for the following categories:

(1) Scientific Research Project Support, $285,000,000.

(2) National and Special Research Programs, $105,600,000.

(3) National Research Centers, $46,000,000.

(4) Computing Activities in Education and Research, $8,200,000.

(5) Science Information Activities, $8,300,000.

(6) International Cooperative Scientific Activities, $6,200,000.

(7) Research Applied to National Needs, $91,000,000.

(8) Intergovernmental Science Program, $1,000,000.

(9) Institutional Improvement for Science, $2,000,000.

(10) Graduate Student Support, $11,500,000.

(11) Science Education Improvement, $35,200,000.

(12) Planning and Policy Studies, $2,600,000.

(13) Program Development and Management, $30,000,000.

SEC. 2. (a) Any amounts which were authorized and appropriated to the National Science Foundation for the fiscal year ending June 30, 1973, or any prior fiscal year, but which remained unobligated as of the close of the fiscal year ending June 30, 1973, shall be merged with and added to the amounts authorized by section 1 of this Act.

(b) Notwithstanding any other provision of this or any other Act—

(1) of the total amount authorized for the purpose of "National and Special Research Programs" under category (2) of section 1 and subsection (a) of this section, not less than $6,000,000 shall be available for oceanography-related programs, including ship construction/conversion;

(2) of the total amount authorized for the purpose of "Research Applied to National Needs" under category (7) of section 1 and subsection (a) of this section, not less than $25,000,000 shall be available for energy research and technology programs, including but not limited to solar, geothermal, and other nonconventional energy sources, and not less than $8,000,000 shall be available for earthquake engineering programs;

(3) of the total amount authorized under section 1 and subsection (a) of this section, not less than $10,000,000 shall be available for the purpose of "Institutional Improvement for Science";

(4) of the total amount authorized under section 1 and subsection (a) of this section, not less than $13,000,000 shall be available for the purpose of "Graduate Student Support"; and

(5) of the total amount authorized under section 1 and subsection (a) of this section, not less than $67,500,000 shall be available for the purpose of "Science Education Improvement".

SEC. 3. Appropriations made pursuant to this Act may be used, but not to exceed $5,000, for official consultation, representation, or other extraordinary expenses upon the approval or authority of the Director of the National Science Foundation, and his determination shall be final and conclusive upon the accounting officers of the Government.

SEC. 4. In addition to such sums as are authorized by the preceding provisions of this Act, not to exceed $3,000,000 is authorized to be appropriated for the fiscal year ending June 30, 1974, for expenses of the National Science Foundation incurred outside the United States to be paid in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States.

SEC. 5. Appropriations made pursuant to authority provided in sections 1, 3, and 4, shall remain available for obligation, for expenditure, or for obligation and expenditure, for such period or periods as may be specified in Acts making such appropriations.

SEC. 6. No funds may be transferred from any particular category listed in section 1 to any other category or categories listed in such section if the total of the funds so transferred from that particular category would exceed 10 per centum thereof, and no funds may be transferred to any particular category listed in section 1 from any other category or categories listed in such section if the total of the funds so transferred to that particular category would exceed 10 per centum thereof, unless—

(A) a period of thirty legislative days (or forty-five calendar days, when Congress is in adjournment sine die) has passed after the Director or his designee has transmitted to the Speaker of the House of Representatives and the President of the Senate and to the Committee on Science and Astronautics of the House of Representatives and to the Committee on Labor and Public Welfare of the Senate a written report containing a full and complete statement concerning the nature of the transfer and the reason therefor, or

(B) each such committee before the expiration of such period has transmitted to the Director written notice to the effect that such committee has no objection to the proposed action.

SEC. 7. (a) If an institution of higher education determines, after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has been convicted by any court of record of any crime which was committed after the date of enactment of this Act and which involved the use of (or assistance to others in the use of) force, disruption, or the seizure of property under control of any institution of higher education to prevent officials or students in such institutions from engaging in their duties or pursuing their studies, and that such crime was of a serious nature and contributed to a substantial disruption of the administration of the institution with respect to which such crime was committed, then the institution which such individual attends, or is employed by, shall deny for a period of two years any further payment to, for the direct benefit of, such individual under way of the programs specified in subsection (c). If an institution denies an individual assistance under the authority of the preceding sentence of this subsection, then any institution which such individual subsequently attends shall deny for the remainder of the two-year period any further payment to, or for the direct benefit, of such individual under any of the programs specified in subsection (c).

(b) If an institution of higher education determines, after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has willfully refused to obey a lawful regulation or order of such institution after the date of enactment of this Act, and that such refusal was of a serious nature and contributed to a substantial disruption of the administration of such institution, then such institution shall deny, for a period of two years, any further payment to, or for the direct benefit of, such individual under any of the programs specified in subsection (c).

(c) The programs referred to in subsections (a) and (b) are as follows:

(1) The programs authorized by the National Science Foundation Act of 1950; and

(2) The programs authorized under title IX of the National Defense Education Act of 1958 relating to establishing the Science Information Service.

(d) (1) Nothing in this Act, or any Act amended by this Act, shall be construed to prohibit any institution of higher education from refusing to award, continue, or extend any financial assistance under any such Act to any individual because of any misconduct which in its judgment bears adversely on his fitness for such assistance.

(2) Nothing in this section shall be construed as limiting or prejudicing the rights and prerogatives of any institution of higher education to institute and carry out an independent, disciplinary proceeding pursuant to existing authority, practice, and law.

(3) Nothing in this section shall be construed to limit the freedom of any student to verbal expression of individual views or opinions.

SEC. 8. The amount available for the oceanographic ship construction conversion program from the sum stipulated (for the purpose of "National and Special Research Programs") in category (2) of section 1 of Public Law 92-372 shall, after the date of the enactment of this Act, be determined without regard to section 2(a) of such Public Law.

SEC. 9. Notwithstanding any other provision of this or any other Act, the Director of the National Science Foundation shall keep the Committee on Science and Astronautics of the House of Representatives and the Committee on Labor and Public Welfare of the Senate fully and currently informed with respect to all the activities of the National Science Foundation.

SEC. 10. No funds—

(1) authorized to be appropriated under this Act to the National Science Foundation for fiscal year ending June 30, 1974, or

(2) heretofore appropriated to the National Science Foundation and remaining available to it for obligation and expenditure,

may be used to conduct or support research in the United States or abroad on a human fetus which is outside the womb of its mother and which has a beating heart.

SEC. 11. This Act may be cited as the "National Science Foundation Authorization Act, 1974".

And the Senate agree to the same.

OLIN E. TEAGUE,
JOHN W. DAVIS,
JAMES W. SYMINGTON,
RICHARD T. HANNA,
CHARLES A. MOSHER,
ALPHONZO BELL,
JOHN W. WYDLER,
Managers on the Part of the House.
EDWARD M. KENNEDY,
CLAIBORNE PELL,
THOMAS F. EAGLETON,
ALAN CRANSTON,
WALTER F. MONDALE,
PETER H. DOMINICK,
ROBERT T. STAFFORD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8510) to authorize appropriations for activities of the National Science Foundation, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The amendment of the Senate struck out all after the enacting clause in the House bill and substituted new language. The committee of conference agreed to accept the Senate amendment with certain amendments and stipulations proposed by the conferees.

The National Science Foundation requested authorization in the amount of $579.6 million for fiscal year 1974, plus $3 million in excess foreign currencies. The House authorized $609.9 million plus $3 million in excess foreign currencies. The respective Senate figures were $643.1 million and $3 million in excess foreign currencies.

The committee of conference recommends $632.6 million, plus $3 million in excess foreign currencies. This figure is $22.7 million more than authorized by the House and $10.5 million less than authorized by the Senate for fiscal year 1974.

The specific actions taken by the conference are as follows:

SECTION 1—FUNDS

1. For Scientific Research Project Support, the budget request of the National Science Foundation was $275,000,000. The House authorized $285,000,000 and the Senate authorized $275,000,000. The Senate concurred in the higher House figure in order to assure more adequate support for the vital basic research activities of the nation.

2. For National and Special Research Programs, the Foundation requested $99,600,000. The House authorized $102,600,000 and the Senate authorized $108,600,000. A compromise of $105,600,000 was approved by the conferees, which includes an additional $6,000,000 for oceanography-related programs, with emphasis on ship construction/conversion.

3. For National Research Centers, the House, the Senate, and the conferees approved the Foundation request for $46,000,000.

4. For Computing Activities, the Foundation requested $9,100,000. The House authorized $8,200,000 and the Senate authorized $10,000,000. The Senate concurred in the lower House figure which would enable the Foundation to carry out this activity at substantially the same level as last year.

5. For Science Information Activities, the House, the Senate, and the conferees approved the Foundation request for $8,300,000.

6. For International Cooperative Scientific Activities, the House, the Senate, and the conferees approved the Foundation request for $6,200,000.

7. For Research Applied to National Needs, the Foundation requested $70,500,000. The House authorized $71,300,000, and the Senate authorized $111,700,000. A compromise of $91,000,000 was approved by the conferees.

8. For Intergovernmental Science Programs, the House, the Senate, and the conferees approved the Foundation request of $1,000,000.

9. For Institutional Improvement for Science, the Foundation requested no funds. The House, the Senate, and the conferees approved $2,000,000 in order to maintain institutional grants at the same level as last year.

10. For Graduate Student Support, the Foundation requested $6,700,000. The House authorized $11,500,000 and the Senate authorized $11,000,000. The Senate concurred with the slightly higher House figure in order to enable the Nation to maintain an adequate supply of highly trained scientific personnel.

11. For Science Education Improvement, the Foundation requested $26,200,000. The House authorized $35,200,000. The Senate authorized $28,700,000. The Senate concurred in the higher House figure, with the agreement of the conferees that the $9,000,000 increase above the NSF request be allocated

between the following activities: Ethnic Minority College Program; Technician/Technologist Science Education Projects; Science Faculty Fellowships and Research Participation; Undergraduate Student Projects; and, Undergraduate Scientific Instructional Equipment Program.

12. For Planning and Policy Studies, the Foundation requested $2,000,000. The House authorized $2,600,000 and the Senate authorized $4,600,000. The Senate concurred in the lower House figure.

13. For Program Development and Management, the Foundation requested $29,000,000. The House, the Senate, and the conferees approved $30,000,000 because of the anticipated additional costs related to the assumption by the Director of the National Science Foundation of many of the functions of the President's Science Adviser under Reorganization Plan No. 1 of 1973.

SECTION 2

The bill as passed by the Senate put floors under 3 budget categories, but the bill as passed by the House did not include floors under any budget categories.

The Senate bill had a floor of $3,000,000 under oceanographic ship construction/conversion; $25,000,000 under energy research and technology; and $8,000,000 under earthquake engineering.

The conferees agreed to keep floors under these three items and to add floors under three other items as well. In addition, the applicability of these minimum levels was clarified to include carryover funds from previous years, as well as the new obligational authority provided in this legislation.

The specific minimum levels agreed to by the conferees are as follows: $6,000,000 for oceanography-related programs, including ship construction/conversion; $25,000,000 for energy research and technology; $8,000,000 for earthquake engineering; $10,000,000 for Institutional Improvement for Science; $13,000,000 for Graduate Student Support; and $67,500,000 for Science Education Improvement.

Of the $6,000,000 minimum for oceanography related programs, the committee of conference expects the Foundation to make every effort to obligate not less than $3,000,000 for ship construction/conversion, for the Nation's oceanographic fleet is woefully inadequate for the needs in this field. The Foundation is expected to include evidence of its compliance with this requirement in its first quarterly report to its authorizing committees.

The committee of conference considers the programs covered by these specific budget items to be extremely important for the scientific well-being of the Nation. The fact that in some cases these minimum levels are lower than the total amount authorized for the particular program in no way reduces the importance of carrying out the program at the higher authorized level, if sufficient appropriations are provided.

SECTION 3

Section 3 is identical to Section 3 in both House and Senate bills.

SECTION 4

Section 4 is identical to Section 5 in both House and Senate bills.

SECTION 5

Section 5 is identical to Section 6 in both House and Senate bills, except for minor technical adjustments.

SECTION 6

Section 6 is identical to the transfer provision in the fiscal year 1973 NSF Authorization Act, Public Law 92-372. It is similar to the provisions in the Senate bill, although it provides that the NSF shall give prior notification of transfers and that such transfers shall take effect without approval from Congress after 45 calendar days when Congress is in adjournment to sine die.

The conferees gave careful consideration to the Proportional Obligation Requirement, Section 2 of the House bill. The committee of conference applauds this innovative concept incorporated by the House as a means of assuring compliance with priorities developed by the Congress. It was not included in the final bill because of desire to make certain that such a requirement is compatible with any general anti-impoundment legislation which may be passed by Congress.

The committee of conference agreed to request the responsible legislative Committees in both Houses to give further consideration to further developing legislation for a Proportional Obligation Requirement for inclusion in next year's authorization action. Should there be significant deviation by NSF from a spending pattern that would have been dictated by such a requirement in this year's bill, such a requirement will be given serious consideration for passage next year.

SECTION 7

Section 7 is identical to Section 7 of the House bill and Section 8 of the Senate bill.

SECTION 8

Section 8 is identical to Section 8 of the House bill. It is a technical provision to permit funds which had been impounded for the oceanographic ship construction/conversion program under National and Special Research Programs in fiscal year 1973, to be released for obligation in fiscal year 1974 without regard to the specific restrictions contained in the fiscal year 1973 Authorization Act.

SECTION 9

The Senate bill included a provision that the Foundation keep its authorizing committees fully and currently informed on all its activities. The House bill did not include such a provision. The House concurred in this provision in order to facilitate the committees' oversight function over the National Science Foundation.

As partial fulfillment of this requirement, the committee of conference expects the Foundation to provide the authorizing committees with full and complete reports on all its activities at the end of each quarter of the year. It is expected that the first such report, due September 30, 1973, will include a detailed account of the steps the Foundation is taking to meet the requirements set forth in the Authorization Act and in the related conference and committee reports.

SECTION 10

Section 10 is identical to Section 9 of the House bill. It provides that no funds authorized under this act or by previous acts may be used to conduct or support research in this country or abroad on a living human fetus outside the mother's womb.

SECTION 11

Section 11 is identical to Section 10 of the House bill and virtually identical to Section 11 of the Senate bill.

AUTHORIZATION FOR PAY INCREASES

The Senate bill had included as Section 4 which "authorized to be appropriated to the National Science Foundation for the fiscal year ending June 30, 1974, such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law, or other nondiscretionary costs."

The House bill had no similar section. The conferees agreed to omit this section in the belief that specific legislation authorizing such increases are adequate authorization for the Foundation to increase the fund in the Program Development and Management category in order to accommodate the increases.

DIVISION OF ENERGY RESEARCH AND TECHNOLOGY

The Senate bill had included as Section 9 a provision that "the National Science Foundation shall establish a Division of Energy Research and Technology which shall carry out the Foundation's energy research and technology programs."

The House bill had no similar provision. The conferees agreed to omit it on the grounds that it was not necessary to specify such a division in legislation in order for the division to be established.

The committee of conference believes that the Foundation should increase its emphasis on energy research and technology. With the $40,000,000 authorized for energy research and technology in fiscal year 1974, through this Act and the carryover of prior year funds, the Foundation is enabled to mount a much more comprehensive energy program in critical areas like solar and geothermal energy.

The committee of conference expects the Foundation to establish a specific Division of Energy, Research and Technology as soon as practicable, and to report to its authorizing committees on the status of its compliance with this requirement.

Olin E. Teague,
John W. Davis,
James W. Symington,
Richard T. Hanna,
Charles A. Mosher,
Alphonzo Bell,
John W. Wydler,
Managers on the Part of the House.
Edward M. Kennedy,
Claiborne Pell,
Thomas F. Eagleton,
Alan Cranston,
Walter F. Mondale,
Peter H. Dominick,
Robert T. Stafford,
Managers on the Part of the Senate.

PERSONAL STATEMENT

Mr. DULSKI. Mr. Speaker, on several rollcalls on Monday, July 23, 1973, I was not present.

Had I been present, I would have voted "aye" on rollcall Nos. 367, 368, 371, and 373. On rollcall No. 369, I would have voted "no."

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute.)

Mr. RHODES. Mr. Speaker, I take this time to ask the acting majority leader if he would like to inform the House of the program for next week.

Mr. McFALL. Mr. Speaker, will the gentleman yield for the purposes of replying to him?

Mr. RHODES. I yield to the gentleman from California.

Mr. McFALL. Mr. Speaker, there is no further legislative business for today. Upon announcement of the program for next week, I will ask unanimous consent to go over to Monday.

The program for the House of Representatives for the week of July 30, 1973, is as follows:

On Monday we will consider the following bills:

S. 1989, Federal Salary Act Amendments, with an open rule and 1 hour of debate; and

H.R. 9286, military procurement authorization, with an open rule and 3 hours of debate—general debate only.

On Tuesday we will conclude consideration of H.R. 9286, military procurement authorization.

On Wednesday we will consider the following:

H.R. 9590, Treasury-Postal Service appropriations for fiscal year 1974; and

S. 1697, Emergency eucalyptus assistance, with an open rule and 1 hour of debate.

For Thursday and Friday we will consider the following:

H.R. 9130, Trans-Alaskan Pipeline Authorization, subject to a rule being granted.

H.R. 8351, Amtrak financial assistance, subject to a rule being granted; and

S. 1264, Eisenhower College and Rayburn Library grants, subject to a rule being granted.

I should like to emphasize the usual statement that conference reports may be brought up at any time, and we may have several major ones to be considered.

Any further program will be announced later.

ADJOURNMENT OVER TO MONDAY, JULY 30, 1973

Mr. McFALL. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. McFALL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule may be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

HOUSES PASSES ANTI-IMPOUNDMENT LEGISLATION 225 TO 164

(Mr. MADDEN asked and was given permission to address the House for 1 minute to revise and extend his remarks and include extraneous matter.)

Mr. MADDEN. Mr. Speaker, yesterday was an historical day for the House of Representatives when, after a 2-day debate, it passed the first anti-impoundment bill challenging the constitutional right to the President to usurp the powers of Congress by impounding funds on Federal programs which were enacted into law by both Houses of the Congress. The enactment of this anti-impoundment legislation records for the 1st time in our Nation's history this type of legislation has been passed by Congress.

This anti-impoundment legislation was sponsored by the House Rules Committee. The committee held hearings, off and on, over a period of 2 months, and heard the testimony of approximately 21 Members of the House and several Senators, including Senator SAM ERVIN, who was one of the sponsors of the impoundment bill enacted several months ago in the Senate. The Rules Committee also heard the testimony of several economic experts and professors of law and political science from the University of Michigan, Harvard University, Rice University, and Yale University; Roy L. Ash, Director of the Office of Management and Budget; Stan Ebner, general counsel of OMB; Samuel Cohen, Assistant Director for Budget Review; and Harold Eberle, congressional liaison, representative of the executive department.

The opponents of the congressional legislation which successfully passed the House yesterday presented a number of amendments on the floor of the House for the purpose of emasculating and undermining the effectiveness of the bill, all of the challenges were defeated. Two minor amendments were accepted by the proponents of the legislation.

Mr. Speaker, in yesterday's July 25, edition of the Washington Evening-Star, on page 10, a news item by Judith Randal recorded a few of the unfortunate, major impoundments made by President Nixon during the last year. I include with my remarks the news report by Miss Randal and, also on the same page, a news item entitled "House Weighs Impoundment," which gives a brief report of the opposition's attack against this long delayed and necessary anti-impoundment legislation:

HEALTH FUNDS CUT PUT AT $1.1 BILLION

(By Judith Randal)

Figures released today by the House Commerce Committee reveal that the Nixon administration failed to spend $1.1 billion—or about 23 percent—of funds Congress authorized last year for the National Institutes of Health and the programs of the Health Services and Mental Health Administration.

Among programs that suffered the most, according to the figures, were some that President Nixon has indicated are most important to the administration. The Conquest of Cancer program, for example, was not allowed to spend $58.9 million of the money released by the Office of Management and Budget.

The National Heart and Lung Institute reportedly was deprived of $44.2 million for the fiscal year that ended June 30.

The largest loser was the National Institute of Mental Health, which was prevented from spending $199.2 million. The Hill-Burton program for hospital and health faciilties construction and renovation did not get $195.2 million Congress had intended it to have.

Almost as much—$189 million—also was withheld from training programs for doctors, osteopaths and dentists. The nurse training program suffered a $69.7 million loss while service programs such as family planning and maternal and child health projects were cut to smaller amounts.

Because of the President's veto of the HEW appropriations bill last year NIH and the Health Services and Mental Health Administration were funded under a continuing resolution which would have permitted them to spend up to the levels of the year before. However, when the Office of Management and Budget released the funds to HEW, the agency failed to spend as much as was available.

In making the figures public, the committee released correspondence between its chairman, Rep. Harley O. Staggers, D-W. Va., and HEW Secretary Caspar Weinberger, in which Staggers said that he was "not convinced" the impoundments were either in the public interest or legal. They "must be considered a sad failure of our government's commitment to serve its people," he said.

Weinberger was not available for comment, but he had indicated to Staggers that it was the opinion of the Justice Department that the impoundments were constitutionally within the rights of the executive branch of the government.

HOUSE WEIGHS IMPOUNDMENT

The House today is expected to conclude its consideration of a bill designed to sharply curtail the President's authority to impound funds for government programs authorized and appropriated by Congress.

Floor debate in the House began yesterday, with Democrats barely able to hold off Republican attempts to water down a bill, already considerably weaker than a companion measure approved 70–24 earlier this year by the Senate.

And they agreed to a Republican amendment which limits the duration of the bill to one year.

President Nixon already has indicated that he will veto either version, and the House Republican Policy Committee opposes the pending bill on the grounds that it "constitutes an unprecedented, unwarranted and possibly unconstitutional intrusion by the Congress into the Executive (branch) function."

The House bill would permit either house of Congress to disapprove a presidential impoundment within 60 days, and thereby nullify it. In the absence of disapproval the impoundment would stand. The Senate bill would automatically terminate any impoundment after 60 days unless both houses took action to approve or disapprove it.

Rep. John B. Anderson, R-Ill., chairman of the House Republican Conference and leader of the GOP floor fight against the pending bill, lost his first vote yesterday when his colleagues rejected, 229–180, an amendment which would have exempted from the provisions of the bill those impoundments which the comptroller general ruled were covered by the Anti-Deficiency Act.

The GOP amendment limiting the anti-impoundment plan to the current fiscal year, rather than the indefinite period imposed in the bill, was proposed by Rep. John Heinz, R-Pa.

The day's closest vote came on an Anderson amendment to require that both houses of Congress disapprove an impoundment. That proposal was turned back, 206–205, with House Speaker Carl Albert of Oklahoma casting a vote.

The amendment would have lost on a tie vote, but Albert's participation was seen as an indicator of the Democrat's commitment to preserve the bill and beat back other Republican amendments expected today.

Nixon impounded approximately $18 billion last year, an action the White House says was necessary to maintain the government fiscal integrity. The Democrats claim, however, that it was designed to thwart the implementation of domestic social programs disliked by the President.

RATIONING OF FUEL FOR ESSENTIAL FARM AND PUBLIC USES

The SPEAKER pro tempore (Mr. McFALL). Under a previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 5 minutes.

Mr. FINDLEY. Mr. Speaker, today, I am introducing legislation that will direct the President to implement a fuel rationing program based on priorities that reflect the essential needs of our country.

Rationing is not a pleasant thought in our land of plenty and not an action I recommend lightly. But we must face the fact that our fuel supplies are unable to keep up with the growing demand. Reports reach me daily from farmers, independent fuel dealers, even community governments, that they are unable to obtain fuel from their traditional suppliers for essential farming and public service uses.

Thus far, alternate sources have been found in almost every case. But how long can this continue? As the harvest season and colder weather approach, fuel needs will increase, and it will become more difficult to find alternative sources. With no increase in fuel supplies evident, it is only commonsense that someone will have to do without or everyone will have to do with less. We cannot allow this to happen in the food production and processing industries. Nor can public safety, health, and vital community services do without.

This fall we will have a record crop being harvested, a crop desperately needed for both domestic consumption and foreign markets, and especially to combat accelerating food costs for consumers. If there is not adequate fuel for harvesting and drying grain, heating pig farrowing and poultry houses, and carrying out other essential activities in food production, a serious food shortage could result. And consumers would face not only higher food prices but empty supermarket counters as well.

In Illinois this situation was made more grim this spring and summer when valuable fuel allocated for farm work was needed to pump water that swamped the countryside as the Illinois and Mississippi Rivers flooded, reaching their highest peak in history. In terms of fuel, farmers have not been able to recoup from the diversion needed to combat flood waters.

Several communities have reported to me that they are having difficulty obtaining fuel for public safety and public service uses. Police cars, municipal buses, hospitals, and other public services must have sufficient fuel. That is the purpose of this bill.

My bill would direct the President to immediately establish a rationing system to insure that available fuels are allocated to farm and public services users on a priority basis. Vital needs of society would have to be met first.

For many years, we have squandered fuel as if all our wells were bottomless. Now we must face the fact that fuel supplies are limited and the bottom of the well is in sight. Until additional supplies are obtained or alternative power sources are developed, we have to realize that when it comes to fuel, our days of plenty have ended.

REPRESENTATIVE KEMP REPORTS ON HIS TRIP TO THE REPUBLIC OF CHINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP), is recognized for 15 minutes.

Mr. KEMP. Mr. Speaker, I have just returned from a visit to Taiwan, the Republic of China, where I had the honor of being the principal speaker at a rally in observance of Captive Nations Week under the auspices of the World Anti-Communist League of which Dr. Ku Cheng-kang, is honorary chairman.

The Republic of China is one of the most important and inspiring symbols of freedom in the world today. Just as the Berlin Wall is a symbol of communism's fear of freedom, the Republic of China is a symbol of man's indominable will and desire for freedom. The real revolution in Asia is taking place on Taiwan where free people are accomplishing miracles despite recent adversity.

The Republic of China represents perhaps the most outstanding example of our foreign aid program's highest goals; for example, the fostering of economic independence and democratic principles plus friendship for the United States. Over a span of 20 years the people of the United States gave the Republic of China $1.5 billion in economic aid and $2.5 billion in military aid, both of which helped spark the rapid growth of Taiwan from an agricultural to an industrial economy and for which they are deeply grateful. Once regarded as dependent on American assistance for its survival, Taiwan has succeeded without U.S. foreign aid since 1965 and is now prosperous enough to conduct a foreign aid program of its own.

During my stay in Taiwan I was fortunate to have the opportunity of meeting and exchanging views with Premier Chiang Ching-kuo. By improving the structure of the Taiwan Government, increasing representation of native Taiwanese, fostering measures to increase social welfare, and of course facilitating domestic and foreign investment, the Premier is helping to further the goals envisaged by his father, President Chiang Kai-shek: A stable, free and prosperous Republic of China participating freely in the world market as a sovereign state and as a strong ally of the United States and the free world.

I also had the honor and privilege of meeting with Vice President C. K. Yen; the Honorable H. E. Nieh Wen-ya, President of the Legislative Yuan; Secretary-General Chen Chien-chung of the National Assembly; Minister Sun Yun-suan of Economic Affairs; the Honorable Liou Jieh Jow, member of the National Assembly; Dr. Frederick F. Chien, Director General of the Government Information Office; and many other distinguished officials of the Republic of China whose helpfulness and courtesy made my visit a productive and enjoyable experience but more importantly manifested to me a friendship for the United States unequalled.

Culturally, the Republic of China has accomplished the formidable task of respecting and honoring the past while keeping abreast of present developments. To any foreign visitor like myself, a respect for human dignity and a reverence for family ties are apparent everywhere. The best of traditional Chinese culture is being maintained, while at the same time, new traditions are being formed and outside influences are not discouraged. The true principles of Sun Yat-sen are being preserved in the Republic of China.

Economically, there is no one who will dispute the fact that one of the most impressive success stories for free market economics in Asia over the past two decades has been that of the Republic of China.

Only 25 percent of Taiwan is arable. There is little in the way of natural resources. Yet, the Republic of China has achieved a standard of living second only to Japan and Singapore in Asia. Per capita income on Taiwan is roughly four times as high as on the mainland, according to the best independent estimates. Mainland Chinese, for example, must work 25 to 50 days to buy a radio, while a Chinese Nationalist works 7 to 8 days for a radio; a mainland Chinese works 1,200 days for a small car, while a Republic of China citizen works 466 days for a car; a mainland Chinese works one-half day to a whole day for a bar of soap; and so on. From the war-ravaged, agriculturally-oriented system of 1950, Taiwan has risen to a position of industrially advanced leadership among the nations of Asia.

It is the security treaty with the United States, plus their own resilience, that has permitted the 15 million people of "Free China" not only to survive, but thrive. A closeup look at Taiwan such as I had during my visit shows this:

Downtown Taipei, the capital and dominant city, is experiencing a face-lifting and construction boom as new office buildings and hotels go up.

Construction of housing in Taiwan has led all other industries in growth for the last several years and government and private industry are cooperating to catch up with the demand for houses and apartments. Apartments, unsalable a year ago, now are moving so fast that developers are chastised by friends and relatives for not saving some for them.

Life, for most on Taiwan, is visibly easier. Close to half a million people have powered transportation of their own, mostly motorcycles, and ownership of cars is soaring. Air-conditioned taxis are appearing and stores are crowded with shoppers.

The people travel freely and air, rail, and bus services have encouraged tourism.

Perhaps the most remarkable economic accomplishment is the land reform program initiated in the early 1950's, which has resulted in the people of Taiwan tilling and owning their own land. As a result the farmers of Taiwan enjoy an almost unmatched prosperity in Asia.

Public free education is assured for all youngsters through nine grades. Admission to public high school and colleges is available through competitive examinations.

Literature thrives in wide diversity, as does drama. The classics of China opera almost banned on the mainland are freely performed. The movie industry is one of the world's most productive.

Television came to Taipei in 1962 and now one of every three families owns a television set. There are three all-island commercial networks and programing is more than 75 percent in color.

Taiwan has 78 radio stations, 31 daily newspapers, and some 1,500 magazines. There is no censorship, either before or after publication.

In Taipei and elsewhere on the island, new factories are being built and existing ones expanded to broaden the industrial base. More than 100 American firms, including such "blue chips" as Eli Lilly, Gulf Oil, Singer, General Instruments, RCA, Ford Motor Co., and International Business Machines have committed over $400 million—40 percent of all foreign investment approvals. None is pulling out. Many are expanding. And others are coming in.

The push is on in everything from tableware to steel and nuclear power, with heavy play in electronics, petro-chemicals and motor vehicles.

These economic successes and continuing patterns of increased foreign involvement represent a confidence in the future of the Republic of China—a confidence on the part of shrewd businessmen who are often in the best position to make realistic assessments of political situations.

Republic of China exports and imports are expected to approach $5.5 billion this year, easily surpassing the level of the mainland, which has 50 times as many people. Real economic growth may match the 11.4 percent increase of 1971, one of the highest in history.

Our very able Ambassador to the Republic of China, Walter P. McConaughy, has predicted that Taiwan's trade with the United States will be $1 billion or more within another year or two. Ambassador McConaughy has also predicted that in 1973 Taiwan will rank in the first 10 among America's trading partners in the world, and by 1976 could be sixth or seventh.

I, and many of my colleagues, were most impressed by a recent Republic of China trade mission to the United States which signed a number of agreements calculated to reduce the imbalance of trade between their country and ours—an imbalance in their favor. History has rarely if ever recorded that a small nation has stepped forward to assist a far larger and more prosperous nation in time of need. I feel sure that this unusual act of friendship will not be forgotten.

It was indeed tragic and a blow to the free world that the Republic of China was deprived of representation in the United Nations, which it had served so faithfully and responsibly since its inception.

The Republic of China, post United Nations, has presented a picture of calm, resolute and determined self-confidence in the face of the injustice it has suffered. In contrast with the Republic of China, the United Nations has lost the confidence of millions of supporters both in the United States and around the world.

It would add greatly to the tragedy of the Republic of China's ouster from the UN if the act were considered by any party to be a precedent for future action. It would be equally harmful if anyone were to interpret the events of the past few years as indicating a slackening of American support for Taiwan. On the contrary, the most significant document is still very much in force: the Mutual Defense Treaty of March 1955 which commits the United States to the defense of the Republic of China and the Pescadores; and which has been reaffirmed by President Nixon in his foreign policy reports to Congress, most recently in April and May of this year when he stressed our Nation's policy of friendship for 15½ million people of the Republic of China. The Formosa resolution, passed into law by the 84th Congress, also continues to authorize the President to take actions necessary to protect the Republic of China and the Pescadores against attack. These are not just words but the solemn commitment of American honor by our President, the U.S. Congress and, most importantly, the American people.

I believe that the United States has work to do and a place to fill in the Pacific and that we must remain steadfast in our commitments to our allies.

From Southeast Asia to Taiwan, to the Middle East, credibility is the first line of defense against potential aggression. If no one believes in our word or in our agreements, we will have ushered in an era not of negotiations but of trepidation and self-doubt not worthy of a world leader and dangerous to the world.

During my trip to Taiwan I inspected military installations on Kimmen, that is Quemoy and my visit to this small outpost of freedom—barely 1 mile from mainland China—vividly demonstrated to me how incalculable the strategic importance of Taiwan is to the stability of the East Asian and Pacific region—a region for which the United States has made such great sacrifice.

In 1945, General Douglas MacArthur stated that in his opinion the island of Taiwan was key to control of the Phillippines, Japan and Korea. Admiral John McCain, who recently retired as commander of U.S. Pacific forces, has said that the Repblic of China plus the other island nations on the edge of Asia form a defense perimeter which is of vital importance to the interests and defense of the United States.

I would like to make my own position clear concerning the Republic of China. I totally reject the idea that the Republic of China can be used as a bargaining counter in any negotiations between major powers. The status of the Republic of China is not negotiable because the freedom of the people of the Republic of China is not negotiable.

We in the United States must not for one moment allow ourselves to forget that the Republic of China has always been among our most trustworthy and loyal allies. During World War II the Republic of China saved our Nation tremendous numbers of casualties and helped shorten the war—even though this meant considerable sacrifice on the part of Chinese forces. I believe we in the United States must have an equal commitment now to the Republic of China.

This commitment is being reaffirmed by a resolution introduced in Congress of which I am honored to be cosponsor and which at last notice is being supported by more and more of the Republic of China's many friends and allies in the Congress.

The resolution provides "that it is the sense of the Congress that the U.S. Government, while engaged in a lessening of tensions with the People's Republic of China, do nothing to compromise the freedom of our friend and ally the Republic of China and its people."

I strongly urge my colleagues to lend their support to this resolution.

I have read many glowing reports written by those who have gone to mainland China—without being disrespectful it seems to me they praise what they see to be achievements while neglecting to consider the terrible human cost of these accomplishments in terms of both physical suffering and in the stifling of the individual creative spirit.

No one can really understand what has taken place on the mainland and present conditions there unless they also visit Taiwan and personally talk with some of those who risked their lives to leave the mainland and hear their stories as I did. More than 2.5 million Chinese people have fled the Communist mainland during the past 23 years. Noticeably, there does not seem to be much traffic in the other direction—except for enthusiastic—and brief—trips by western visitors.

Mr. Speaker, I include at this time a firsthand account of the life on mainland China which visitors never see—a report by Mr. Li Min, a student who early this year risked his life to escape to Taiwan and freedom and whom I had the honor to hear give this speech.

REPORT BY MR. LI MIN, A FREEDOM-FIGHTER REPRESENTATIVE, AT "CAPTIVE NATIONS WEEK" RALLY IN TAIPEI, JULY 17, 1973

Mr. Chairman, Mr. Vice President, Distinguished Guests, Senior Officials, Representatives, Ladies and Gentlemen: As a graduate of the Wuhan Medical College on the Communist-occupied mainland, I escaped to freedom on January 4 this year and, with assistance from the Free China Relief Association, reached this free fatherland of ours on June 24. My escape at the risk of my life was, in a narrow sense, to gain freedom for myself and, in a broader sense, to expose the true face of the Chinese Communist regime to the whole free world.

The concentration camp-type rule perpetrated by the Communists on the mainland is ever more cruel today. People have no political freedom whatsoever. Whatever they say must be in praise of the Communist Party and Mao Tse-tung. Any wrongly-made statement, no matter how minor in nature it may be, is certain to bring one the label of "anti-revolutionary."

The end of school life is the beginning of vagrancy. Young people are sent either to the countryside for farming or to frontier areas for reclamation work. In the ancient times, criminals were often banished to border areas as soldiers. The fate of young people on the mainland today is exactly the same.

As regards residence, people are kept as immobile as neglected tombs. Millions of married couples have been torn apart and told to stay put at points widely separated across the mainland, just like the legendary cowherd and weaving maid (who, according to Chinese folklore, meet once a year on the seventh day of the seventh moon over a bridge across the Milky Way formed by sympathetic magpies).

Religious freedom is unheard of. Protestants and Catholics have been branded as "running dogs of Western slave-masters." Buddhists have been labeled as "residual elements of feudal society." All have been criticized and struggled against. In the whole Canton City today only six monks at a Buddhist temple and two preachers at a church are maintaining their show-window-like existence for external propaganda purposes.

People are constantly exposed to extreme fear and agony. No one knows when he or she will be subjected to cruel struggle and ruthless political blow. None can predict when, why and how he will be sent away under the "down-assignment program," imprisoned or simply made to disappear forever.

Under the so-called theory of class struggle that is forced upon the people, mutual trust has been wickedly wiped out at home and in society. Parents and children, brothers and sisters, husbands and wives do not trust each other. New contradictions are constantly created. Everyone is busy accusing others lest he should get accused. Human love and harmonious togetherness are utterly non-existent.

Life is an endless series of struggles against hunger and cold. People lack clothes and eat little. There are dozens of ration tickets for cloth, grain, edible oil, soap, kerosene, and so on. No one knows just how many different tickets, coupons and certificates there are in use. And yet, what the people get in exchange for these tickets is pitiably limited in quantity. Edible oil is issued in terms of *ch'ien* (1/10th of a tael or roughly 1/10th of an ounce). Cloth ration is in terms of inches.

The people's working methods are primitive. There is no time limit and no end to work, and yet pay is always very scanty. People are often supposed to forget themselves and contribute their labor without asking for reward. As a physician with college training, I had to work and attend meetings for altogether at least 10 hours a day. There was no overtime pay when overtime duties had to be performed. There was no Sunday. And my monthly pay was only 47 JMP ("jen-min-pi" or "people's money"). Even so, I was among the better-paid on the mainland.

The Communists have gone to all extremes in attempts to destroy Chinese culture and suppress intellectuals. The so-called new-type colleges and universities have virtually deprived the people of the benefit of science. Entrance examinations have been abolished and college enrollment is effected through recommendation, but the screening process is such that only a limited number of parrot-like political followers from the privileged class can hope to have so-called advanced education.

Atrocities committed by the Communists are indescribable. The people resent their rule so much that the whole mainland is like a volcano that may erupt at any time. In order to extricate themselves from the serious distresses and contradictions at home, the Communists are now stepping up their totalitarian rule on the mainland and at the same time pushing their diplomacy of hypocritical smiles abroad. The objective is to shift the people's attention from the mess on the mainland, hypnotize the free world, erode the morale of free people, and reach the goal of world communization.

Very unfortunately, however, certain free world leaders have permitted themselves to fall into the Communist trap and some selfish politicians have even decided to go with the stream of Communism. By doing so, they have abandoned the lofty goals of freedom and peace for mankind. Furthermore, they are knowingly or unknowingly acting as accomplices of the Communists who are bent on enslaving people and pepetuating tyranny. Such mistaken politicians cannot be pardoned by the suffering 750 million people on the mainland. History will condemn them as guilty. It is high time that they examine themselves and correct their course.

However, this unfortunate phenomenon is temporary in nature and guilty individuals are limited in number. We say so because freedom and democracy are the goals of the flow of time and social development. An absolute majority of the people and their leaders in the world support freedom and democracy. They abhor slavery and tyranny. We belong to the majority and our task is fully in line with the cause of justice. We are invincible because we are on the side of the ultimate good.

Taiwan today shines as a lighthouse of freedom, democracy, prosperity and growth for all the people of Chinese blood. Our compatriots on the mainland are all longing for a place in the sun under freedom and democracy. The sooner the success of our mainland recovery mission, the less longer the suffering of the mainland compatriots will be, and the more energy the Chinese as a whole will preserve for valuable contribution to the future of mankind.

IMPACT BRASS AND SINGERS PERFORM AT CAPITOL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. TAYLOR) is recognized for 5 minutes.

Mr. TAYLOR of Missouri. Mr. Speaker, this morning the Impact Brass and Singers from Ozark Bible College, located in Joplin, Mo., performed on the steps of our Nation's Capitol. This group of young Americans who spread the gospel, with what they term a "Contemporary Christian Sound" are on a 65-day tour that will take them to 18 States over a 10,000-mile route.

The Impact Brass and Singers have appeared at the North American Christian Convention in Dallas, Tex., where they opened each evening's session before an audience of some 20,000 people. They were picked as the select group featured each evening during the International Youth Conference sponsored by Christ in Youth in Tulsa, Okla., and were chosen as the musical group to open the evening sessions of the National Missionary Convention in Phoenix, Ariz.

Mr. Speaker, I consider it a very great privilege to be able to serve as a Representative of a district which numbers among its many fine schools and colleges an institution such as Ozark Bible College. I am pleased to report, that their performance of Christian and patriotic music on the Capitol steps this morning thrilled not only the many passers-by and visitors to this historic place, but many Members of the Congress who paused to listen and paid many compliments to their poise, and their music. I am certain, that those of us who were permitted to enjoy their program are better Americans for having shared their testimony in song.

I would like to commend the conductor of the Impact Brass and Singers, Mr. Meredith Williams and his assistant Mr. Willis Harris, as well as the president of Ozark Bible College, Mr. Don Earl Boatman for their efforts in putting this fine group together.

CAPTIVE NATIONS: A NEW LOOK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Hampshire (Mr. CLEVELAND) is recognized for 5 minutes.

Mr. CLEVELAND. Mr. Speaker, during more than 10 years in Congress, I repeatedly have called attention to the plight of peoples under Soviet domination. Those years have seen significant changes in our relationship with the Soviet Union, though what many have viewed as progress has often proven more apparent than real. Despite these changes—and I do feel we have at least set the stage for continuing improvements—it is fitting that we again pause to observe Captive Nations Week at this point in our history.

In view of all too many, the cold war's significance is limited to the Soviet expansionism in the post-World War II years and our response to it. Thus it has been proclaimed at an end repeatedly, only to be recognized anew with a Hungary, a Berlin crisis, a Cuba, a Czechoslovakia or Communist aggression in Korea and Southeast Asia. We have heard theories of convergence, a mellowing of the Soviet Union and the preposterous notion that the cold war somehow was made in the United States. But we who observe Captive Nations Week and those peoples whose plight we commemorate know the true history. We recall the new Soviet imperialism that absorbed the Baltic States in the early 1940's and, during World War II, set the stage for postwar takeovers elsewhere in Eastern Europe.

Why do I recite this history at a time when the President has launched a period of negotiations, of apparent detente, with international negotiations now begun in Helsinki and to resume in the fall? It is not to question prospects for peace or the President's policies for its pursuit. I repeat: I am convinced that after so many false starts and false hopes we have set the stage for improvement in our relationships.

But I do not delude myself that the milennium is at hand. The grim record of the past indicates both how far we have come and how far we yet have to go.

The lessons of recent history show that for agreements to mean anything they must reflect the genuine interests of the parties. Pledges of cooperation must be followed by a cumulative series of concrete steps to ease tensions. Agreements attained through strength cannot be maintained through weakness.

Any negotiations worthy of this great nation must assure that those victimized by the hostilities we seek to end must share in the benefits. We must insist on real, measurable and irreversible expansion of freedom in any long-range settlement.

We have legitimate leverage and must use it. The Soviet Union is being forced to look outwards. It is grudgingly responsive to world opinion if strong and sustained, and channeled into the process of determining public policy. The decreased restrictions on emigration of Jews from the Soviet Union represent one hopeful example. In the same vein, our task is to maintain and increase pressure for a genuine opening of freedom of thought, movement and expression in Captive Nations which hopefully in time will lead to the evolution of full freedoms in those countries whose loss of liberties we have mourned so long.

We launched our negotiations in Helsinki on this basis. Predictably, the long-range negotiating process will be arduous. Our best prospects for success will lie in guidance by the same sense of history shared by those who grasp the full meaning of Captive Nations.

The same realities should be kept in

mind, too, as we continue to make judgments in the areas of troop strength, overseas deployment, weapons systems and war powers.

STATEMENT BY THE PRESIDENT ON THE ECONOMY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. GERALD R. FORD) is recognized for 10 minutes.

Mr. GERALD R. FORD. Mr. Speaker, the President has just announced some good economic news—that Federal expenditures for fiscal year 1973, which ended last June 30, were held to $246.6 billion, well below the $250 billion spending ceiling which this House approved last session. Moreover, Federal receipts for fiscal 1973 totaled $232.2 billion, so that the deficit was held to $14.4 billion instead of the $24.8 billion deficit which the President anticipated in his budget message last January. The text of President Nixon's announcement follows:

STATEMENT BY THE PRESIDENT

The best way to hold down the cost of living is to hold down the cost of Government. Today there is new and encouraging evidence that we can win that battle.

The latest Monthly Statement of Receipts and Outlays shows that Federal outlays for fiscal year 1973 were held to $246.6 billion—a figure well below the $250 billion ceiling on spending that I had recommended to the Congress. Since overall receipts totaled $232.2 billion, the deficit for fiscal year 1973 was $14.4 billion. This was a much smaller deficit than the $24.8 billion deficit projected in my Budget Message last January. Moreover, the budget was within $2 billion of being in balance during the period from January to June of this year—a period when it was especially important to hold down Government spending.

During the debates on budget policy last fall and last winter, it was widely assumed and frequently asserted that we could not hold spending to the $250 billion level and that the only way to produce an anti-inflationary budget was by increasing taxes. I rejected that contention then—and I reject it now, as we look to a new fiscal year. We held the budget line in the year just past without raising taxes. I believe we can do so again—and, in fact, achieve a balanced budget—in fiscal year 1974.

In earlier years, budget deficits have sometimes helped take the slack out of the economy and increase employment. However, we recognized in the summer of 1972 that a major problem was developing as the economic boom got well underway. We could foresee that the pressures from existing Federal porgrams and new legislation could push spending for fiscal year 1973 to $260 billion or more—much more than we thought an already strong economy could tolerate without greater inflation. I therefore called upon the Congress to hold the line on spending at $250 billion.

The Congress has acted responsibly on that request. There have been many differences between the Congress and the Administration over the level of Federal spending on many specific programs, but the important point is that our overall spending goal has been achieved.

I recall how both Houses of the Congress approved legislation last fall to set a ceiling in Federal spending at the $250 million level. While technical differences prevented the two Houses from agreeing on a common version of that ceiling, and while overall Congressional action for the last fiscal year eventually contemplated much higher expenditures, it was clear nevertheless that a majority of both Houses of the Congress accepted in principle the advisability of holding spending to a lower level. When the chips were down, it was that spirit of restraint which prevailed.

I trust that the two branches can forge an effective partnership on behalf of budgetary responsibility again in the new fiscal year—and that one year from now the figures will show that the budget for fiscal year 1974 was in balance. The fact that we nearly achieved a balance in the second half of fiscal year 1973 encourages us to believe this a realistic objective.

It should not be overlooked, however, that the veto of certain bills and the reserving of certain funds was essential in achieving our budgetary goals for the past twelve months. Inflation continues to be our most important economic problem—and budget and monetary restraint continue to be our most important tools for fighting it. Our Phase IV controls will help to moderate inflation, but a balanced budget and monetary restraint must be our major weapons against rising prices.

With the economy now operating at a high level, revenues in fiscal year 1974 should approximate, without any tax increases, the overall level of expenditures I proposed last January—about $269 billion. Balancing the budget therefore means that we must hold expenditures to that level in the coming year, despite the fact that higher prices, higher interest rates and new legislation will all be working to drive spending higher. I am confident that with the continuing cooperation of the Congress we can meet that goal and thus help protect the American people against the twin dangers of higher prices and higher taxes.

THE THREAT OF NERVE GAS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. OWENS) is recognized for 5 minutes.

Mr. OWENS. Mr. Speaker, the Department of the Army is preparing to transport vast quantities of deadly nerve gas from Colorado to Utah. I rise to report to my colleagues that I have tried without success to arrange for a briefing with anyone involved in national defense policy who might explain why we continue with this unintelligible and outdated decision to stockpile chemical nerve agents. I hope that Members and Senators from the States of Alabama, Kentucky, Colorado, Oregon, Indiana, and Arkansas, where nerve gas is now stored, might join in demanding a public review of this policy.

It has been evident for sometime that the Army would be required to remove these nerve gases from the center of the city of Denver or to detoxify them, to alleviate the serious threat their placement now poses. Two days ago I learned that the Army has recommended that stockpiles of the nerve agent GB be removed from Denver to Tooele, Utah. This indefensible suggestion, if accepted by the Secretary of Defense, will now require that the vast store of deadly gases be transported, with all the attendant hazards, approximately 550 miles through highly populated areas.

I have also asked that oversight hearings be held by the House Armed Services Committee so that whoever it is who insists upon the policy of nerve gas storage be given the opportunity to explain that policy publicly, and to defend it before a committee of Congress and the American public.

The presence of noxious nerve agents constitutes an intolerable threat to the safety of millions of Americans, most of whom are completely unaware of the danger. And for what? Who can argue that nerve gas is an effective deterrent in this nuclear age? Several years ago the American ban on biological warfare agents led to a bilateral agreement with Russia. What about chemical warfare? Now is the time to consider, openly, taking that courageous, foresighted step again.

MONETARY REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, the Subcommittee on International Finance, of which I am chairman, has met at my direction this month to review the progress toward monetary reform. Last year I held similar hearings to assess the world monetary situation and to urge greater speed toward basic monetary reforms. The subcommittee has taken testimony from leading experts in international monetary affairs and from administration spokesmen. Today, as last year, the world is in a state of monetary crisis. In fact, we seem to be in a state of perpetual crisis. Last year when we reviewed the progress toward monetary reform, we found that very little had been accomplished. Much has happened since then. A renewed and unprecedented monetary crisis, a second dollar devaluation and a continued decline of the dollar against other currencies. The dollar is now said to be grossly undervalued; and yet it continues to depreciate against virtually every other currency in the industrial world. But not only do we find that there is a sad lack of confidence in the dollar, all over the industrial world inflation is rampant and there is increasingly a lack of confidence in any kind of currency.

The continued decline of the dollar might lead to imposition of trade and capital barriers which would have grave consequences for everyone concerned. I said at the outset of this year's hearings, that it seemed to me, time that action was taken to defend the dollar. I am glad to say that the Federal Reserve has increased its swap lines by 50 percent, which should discourage speculation and make available large amounts of resources that could be used to control market flows of dollars. Also, the Federal Reserve has intervened in the foreign exchange markets to buck up the sagging value of the dollar.

I believe that we should press harder for monetary reform, and that the time might well have come when it will be in our best interest to halt speculation in the currency markets. We should encourage not only monetary reform, but encourage international arrangements for the sale of gold to dampen speculation in that metal.

The administration continues to push for monetary reform and Under Secretary of the Treasury Volcker advised the Subcommittee that the United States and oher countries have reached more or less unanimous conclusions on certain aspects of international monetary reform, but a lot of work still has to be done on reaching an agreement on specifics. Under Secretary Volcker feels that the International Monetary Fund Committee of Twenty is tackling the challenge of monetary reform in a workmanlike way.

I have been concerned for some time about the amount and frequency of disruptive, speculative capital flows, so I was pleased that Secretary Volcker reported that the IMF Committee of Twenty has agreed that more effective means are needed to deal with the problem of short-term capital flows.

Progress must be made on international monetary reform. I am genuinely concerned and I believe that the time has passed for academic discussions. I believe that the time has arrived for realistic action and I do not believe we are helpless in all of this; I believe, on the contrary, that many of the troubles stem from a simple unwillingness to grasp the nettle and get on with the necessary task of trade and monetary reform. I feel that our subcommittee hearings will help to promote this realistic action.

In order to obtain a more realistic appraisal of the problems and the potential practical solutions, the subcommittee staff is investigating the following topics:

First. What to do about the enormous foreign holdings of U.S. dollars;

Second. What can be done about the speculative and short-term capital flows of major U.S. banks incorporations;

Third. The potential influence on the strength of the dollar and on foreign dollar ownership of major factors such as the forecasted increase in oil imports;

Fourth. The participants in the foreign dollar markets.

LET US END THE EROSION OF OUR RIGHT TO PRIVACY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. PODELL) is recognized for 10 minutes.

Mr. PODELL. Mr. Speaker, on October 3, 1969, a number of State and local narcotics agents in Whittier, Calif., drank beer and highballs for 2 hours in a local bar as the awaited completion of search warrants for a drug raid on apartments B and D at 8033 South Comstock. When they finally got to work, they burst into the apartment of Mrs. Florence Mehan at 8031 South Comstock. Realizing their mistake, but without a word of explanation or identification, the agents went upstairs to the correct address. Drawn by the commotion, Mrs. Mehan's son-in-law went to her apartment to see what was wrong. As he was standing in Mrs. Mehan's apartment, a bullet crashed the ceiling, piercing his skull and killing him instantly.

This is not just an isolated incident in a vast array of tragedies. It is one of a long series of events in which innocent Americans have been subject to mistaken, violent, and often illegal raids by local, State, and Federal narcotics agents in search of illicit drugs and drug pushers.

If a society is to be guided by a set of principles—guaranteeing to its members legal protections against the power of the state—it cannot suspend these principles when faced with a drug problem. Rather, it is at these times that the Government should reaffirm those principles. It should demand that the problems be met without the destruction of fundamental human rights. To paraphrase the words of Senator SAM ERVIN, the fight against the dangers of drug abuse do not justify suspension of the fourth amendment.

In our efforts to rid our Nation of drug abuse—what President Nixon has called Public Enemy No. 1—we have on too many occasions cavalierly disregarded the due process requirement accorded to our citizens under the Constitution and the Bill of Rights.

These raids were made under the guise of the present "no knock" laws included in the Omnibus Drug Abuse Control Act of 1970. Numerous cases of high-handed raids by narcotics officers similar to the one depicted here have been reported. In most of them, the officers involved either had no search or arrest warrant, or raided a different address from the one to which they had been assigned. "No knock" searches are bad enough, especially where the search takes place at the wrong house. But "no knock" search without a warrant, or one based on an uncorroborated or anonymous tip, is unjustifiable, and is illegal under the current statute. It is precisely such incidents which we were warned against in 1970, when we were considering the inclusion of "no knock" in the omnibus bill. Now we see that we should perhaps have given greater heed to those warnings.

John R. Bartels, Jr., the Acting Director of the Drug Enforcement Administration, has responded to this problem by tightening the administrative controls on Federal narcotics agents acting under "no knock" procedures. I commend him on his awareness of the problem, and the speed of his response. But I feel his administrative efforts omit essential provisions for compensating innocent victims, and disciplining the law enforcement officials involved in making illegal raids. The legislation I am introducing today will provide further protection against the recurrence of such illegal activities, and to compensate those whose homes and persons received damage during these raids.

My bill provides that the United States shall be liable for treble damages for damage to either person or property in cases of erroneous entry to dwellings by U.S. officers or employees engaged in searching for illicit drugs, and that any officer or employee responsible for such an entry shall be barred from continuing in, or holding in the future, any office or employment with the United States.

I know drug abuse is a menace to our society. But equally menacing are criminal violations of our fourth amendment right to be free from unreasonable search and seizure, particularly when such violations are perpetrated by law enforcement personnel. As Miles J. Ambrose, former Director of the Office of Drug Abuse Law Enforcement, has said:

> People who use their badges for illegal purposes are worse than the criminals they seek.

One evil cannot and should not be used to justify the ending of another. These illegal police activities must cease immediately, and we must do everything possible to make sure that such Gestapo-like tactics will never recur.

I would like to conclude with a quote from Justice Louis D. Brandeis' eloquent dissent in the landmark wiretapping case of Olmstead against United States. These are words whose meaning has become almost poignant in light of recent developments, and which we who have a healthy respect for the Constitution and the law should take to heart:

> If the Government becomes a lawbreaker it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means—to declare that the Government may commit crimes in order to secure the conviction of a private criminal—would bring terrible retribution. Against that pernicious doctrine this court should resolutely set its face.

ELIMINATION OF CATEGORIZATION OF MILITARY DISCHARGES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STOKES) is recognized for 5 minutes.

Mr. STOKES. Mr. Speaker, today I am introducing legislation which would reform our military system, as part of the transition to an all-volunteer armed service. My bill would eliminate the practice of categorizing the military discharge which a man or woman receives. Under my bill, there would be no honorable, dishonorable, or bad conduct discharges. A man's military papers would state simply that he had been discharged—that he had fulfilled his obligation to the Armed Forces.

The need for legislation of this type has become apparent to me in the course of my congressional duties. There is not a week that goes by that I do not receive a letter from a veteran who states that—because his dishonorable discharge has branded him permanently—he cannot find work, he cannot obtain financial assistance to complete his education, and he may not receive compensation from the VA for a disability he may have incurred while in the service. In short, under the present system, a man may have to pay for the rest of his life for a mistake which he made at the age of 18 or 19.

As one young veteran—who had gotten an undesirable discharge—related to hearings on the military:

> If I was good enough for you to draft me, good enough for you to ask me to give my life, then I am good enough to work when I come back.
>
> I am the same man that left Chicago, Illinois in 1968 and the same one that came back in 1970. But my record, as far as the military goes, is like I am a hardened criminal.
>
> If I go out to a job, I got to lie. I am tired of lying to people. I should be able to be hired on the merit that I am qualified.

Having done a great deal of research into this problem, I am convinced that it is important and widespread enough to warrant legislative action.

Under my bill, a man would receive an early discharge under only six conditions:

First, if his record revealed a preponderance of misconduct charges or if he were considered a threat to national security;

Second, if he had been court-martialed or had requested a discharge in lieu of a court-martial;

Third, if he had been AWOL for over a year;

Fourth, if he had been sentenced to more than a year in prison or to death by a civilian court;

Fifth, if he had been convicted three or more times in 3 years by courts-martial, civilian courts or both; and

Sixth, in wartime, by order of the President.

If a serviceman were considered for discharge under one of these six conditions, the case would automatically be referred to a review panel, including no fewer than three officers. The serviceman would be represented by legal counsel and he would be fully informed of the charges against him. He would be allowed to present witnesses in his own behalf and to examine the witnesses and the evidence of the opposition.

My bill would also affect men and women who have been discharged under less than honorable conditions in the past. At least 10 regional boards would be set up across the country. Up to 15 years after dismissal, a veteran could bring his or her military discharge up to the board for review. If he had died in the interim period, his family could make the request posthumously. The board could provide counsel if the veteran could not afford an attorney.

In closing, I want to say that the transition to an all-volunteer army is a welcome and needed innovation in this country. But this modernization will be meaningless so long as men and women are made to pay with their futures for mistakes which they made in their youth.

RUSSIA AND MOST-FAVORED-NATION STATUS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois, (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, most-favored-nation—MFN—treatment is the policy of nondiscrimination in international commercial relations—particularly tariffs—which accords a third nation the same customs and import treatment that is currently being given to any other trading partner. This U.S. policy of extending MFN treatment automatically and unconditionally to all its trading partners has been in operation since August 1923 in accordance with the Tariff Act of 1922—section 317. Although the nondiscrimination provisions of the 1922 forerunner were merely reiterated in the Tariff Act of 1930 it was not until 1934 that an express statutory statement on MFN treatment on imports from all nations was included in the Reciprocal Trade Agreements Act. The enactment read:

> The proclaimed duties and other import restrictions shall apply to articles the growth, produce, or manufacture of all foreign countries, whether imported directly, or indirectly". (Section 350(a).)

This MFN principle was reaffirmed in 1947 when the United States became a signatory of the General Agreement on Tariffs and Trade—GATT—article I of which required the immediate and unconditional extension of all privileges, granted by a contracting party to any other country; namely, to all contracting parties.

During the Korean war feeling ran high against the Communist help given Korea and as a result during the passage of the Trade Agreement Extension Act of 1951, in section 5, Congress directed the President to withdraw or suspend the MFN status of all countries under the control of international communism. Since the United States had bilateral agreements with most Communist countries, and these provided for termination notices, it was not until November 1951 that the MFN status of all Communist countries was abrogated.

The Trade Expansion Act of 1962—sections 231 and 251—reiterated the MFN principle and the denial of the MFN status to Communist entities.

With the major exceptions of Poland and Yugoslavia, this suspension of MFN status is still in effect today.

In the light of the détente between Soviet Russia and the United States during the last years as evidenced by the Nixon visit to Moscow, the Brezhnev visit to Washington, the Russian grain deal, the lend-lease settlement, prospective large-scale energy and plant-building programs in Russia, as well as the intense desire for greater trade intercourse between the two countries, the renewed question of MFN treatment for Russia is much to the fore. Furthermore, under the Brezhnev-Nixon agreement of May 29, 1972, MFN treatment with accompanying tariff benefits, has been promised by our administration. How can this be done?

First. The President cannot extend MFN treatment on his own. This can only be done by Congress under authority of TEA 1962. Should the nonextension of MFN to Communist countries be deleted by vote of Congress then MFN treatment will be extended to them without any necessity on their part of reciprocal concessions to us.

Second. Should Russia ask to join GATT, conceivably she could demand equal MFN treatment as a signatory from all other members. Yet most members are already giving her MFN treatment. There is a safeguard for us, however; namely, article 35, whereby we have the option of denying MFN treatment to any member, at our discretion. Similarly, we could do this to a new member under article 2. This we have done in the case of Romania, and presumably could do in the case of Russia. But Russia has taken no steps whatever to join GATT.

Third. Under the Brezhnev-Nixon agreement of May 29, 1972, and the trade and lend-lease agreements of October 18, 1972, the mutual exchange of MFN treatment between the United States and U.S.S.R. was envisioned. To implement this exchange the administration has proposed the Trade Reform Act of 1973, H.R. 6767, and under title B, sections 501+ has asked for the extension of MFN treatment to those countries not currently enjoying MFN status. The proviso is that such MFN recognition will only follow on the definite arrangement of a bilateral trade agreement ensuring mutual reciprocal concessions. It is this consideration which is before us in the prospective debate on the trade bill.

In the forthcoming debate much will be said on either side about MFN status for Russia. As I said in my previous speech here on the trade bill H.R. 6767—CONGRESSIONAL RECORD, July 16, 1973, pages 24013–24014—I have taken up the cudgels on behalf of the American laboring man and will oppose the inclusion of certain provisions inimical to the best interests of that workingman.

I am opposed to giving MFN status to Russia as part of our new trade posture for the 1970's. I am opposed to giving it to her conditionally for even a 1-year trial period. As part of this denial let me quote a statement issued by the executive council of the AFL–CIO issued here in Washington, D.C. on May 9, 1973:

> Under the Brezhnev-Nixon agreement of May 29, 1972 the Administration has promised the Soviet Union most-favored-nation (MFN) treatment with accompanying tariff benefits. MFN treatment would be a political and economic triumph for Moscow. It would also open the American market to Russian commodities produced under slave-labor conditions.
>
> The Executive Council of the AFL–CIO, therefore, urges Congress to reject the proposed trade package which provides for most-favored-nation status for Soviet exports to the U.S. and for the extension of large-scale credits for Russian purchase of American goods and technological know-how.

Allow me also to give you the words of Mr. I. W. Abel, a leader of the AFL–CIO and president of the United Steelworkers of America, in the latest hearings on H.R. 6767 before the House Ways and Means Committee:

> The bill authorizes the President to change most-favored-nation status and to make commercial agreements with Communist countries.
>
> (a) Most-favored-nation treatment (extending to imports from a country the lowest tariff-rates that have been negotiated with other countries) could be granted to Communist countries which do not now receive it. The bill gives the President authority to negotiate three-year commercial agreements with Communist countries. No safeguards are required for these agreements but many are stated. The President may act to remove the MFN treatment either by product or by country for the Communist or non-Communist countries under other provisions of this bill.
>
> This provision would lower tariffs on imports from countries with slave labor camps, countries which do not provide the right of workers to have unions, countries which have completely different systems of production and pricing from that of the United States. Thus a massive rise of imports from these countries could be expected.
>
> The equal treatment for tariffs from these countries will not mean equal treatment for

U.S. producers or for U.S. trading partners, because these countries do not engage in "business as usual" normal commercial trade relations.

(b) There is a market disruption provision in this section of the bill which does not require any action, but allows the President to impose special quotas on imports from these countries if the U.S. market is disrupted under new tests in the escape clause section of the bill.

(c) Commercial agreements with countries that will use the trade for political, military and other purposes, controlled by state monopoly do not make sense.

(d) U.S. firms, which have already shipped some of the newest U.S. technology to these countries, will be encouraged to transfer even faster out of the U.S. In these cases, the transfers are to countries who use trade for political purposes and whose goals are against the objectives of the United States. Thus, the newest technology will be available, often from U.S. firms, to produce goods with cheap, oppressed labor, behind state-controlled walls, with special rights into the United States markets for their exports.

At present, the U.S. has more imports than exports in its trade with almost every part of the world. The largest surplus of U.S. exports with any country last year was with the Soviet Union. But the subsidized exports and transfers of U.S. technology with special entry rights will make that surplus vanish too.

(e) Preferences (zero tariffs for 10 years) would be available to some Eastern European countries as developing countries if the President so decided. The oppressed labor of any Communist country could be used by U.S. firms who locate there by foreign state controlled industry to ship duty free to the U.S.

Mr. Speaker, I submit that in most of our trade and financial arrangements with her Russia has received the utmost benefits:

We cut her lend-lease repayments to the barest minimum.

When she needed our grain the most, we lost $300 million on the deal.

In gas and other energy exploitation we have to underwrite the capital plant expansion with no assurances that we will control the management or investment.

In the huge Kama truck plant she is getting our machine tools and know-how. This is a one-time deal.

Russia will need our food and feed grains in the future. For these she wants credits, long-term credits. Must we supply the credits and goods to expand her industrial capacity and ultimately her warmaking capacity at the expense of our own taxpayers?

Suppose we give her MFN status—what goods can she supply—consumer goods when she needs these desperately for her own people? Or scientific instrumentation produced at sweat shop labor cost? If we forbid such produced goods in interstate trade here, surely we should do the same with Russian goods so produced.

Or are we going to get the chance to set up factories in Russia to produce for our home markets. No state-controlled system can allow this to the detriment of their own people. Surely this also means the export of U.S. jobs?

Is the MFN status not merely a political ploy to give the world the idea of economic coexistence so as to build up her own industrial, and ultimately, war potential?

Most of the raw materials we import from Russia are already on the free list or under such low restrictions that the benefits accruing from MFN status will be one sided.

I know our labor organizations are against importing industrial goods from countries where there is no semblance of unionization, representation, or other labor privileges.

The promise or actual relaxation of exit visas of Jews to Israel is not enough for all we offer. Let them also give promises of self-determination of peoples, political justice and freedom, real wages, et cetera, and we can talk of reciprocal concessions which is really what MFN is all about.

No, Mr. Speaker, I will vote against giving Russia MFN status, and hope that my colleagues will also vote on behalf of our own national interest. For too long our interest has taken second place for those to whom we have extended our friendship, the benefit of our products and our know-how.

COST OF SAFEGUARD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. ASPIN), is recognized for 5 minutes.

Mr. ASPIN. Mr. Speaker, I have learned that a one-site ABM system will cost nearly $1.5 billion more than the original estimate for a two-site ABM system. In May 1969, the Army estimated that a two-site ABM system would cost $4.185 billion, according to official Army reports which I publicly released on Monday. The latest estimate for a one-site ABM system is $5.67 billion.

Apparently, either the Army's original estimate of the cost of Safeguard was fraudulently low or the military is so botched up in its management of the program that costs have risen billions of dollars.

According to the information provided to me by the Army, the increased costs are the result of the following changes: $790 million increase for inflation since 1969; $697 million increase cost caused by delays in the actual deployment of the ABM system; $362 million cost increase resulting from increased support costs and buying additional spare parts and electronic gear; $34 million resulting from changes in the ABM design; $159 million increase needed to pay for ABM development and construction after 1975; $49.7 million held in reserve for the planned termination ABM site at Malmstrom Air Force Base; $163 million resulting from so-called estimating changes; and a decrease in cost of $722 million resulting from the decision to build one ABM site instead of two.

Frankly, Mr. Speaker, I am suspicious that the Army's explanations of cost increases may be an attempt to cover up serious cost overrun problems. Undoubtedly, some of the $1.5 billion increases are probably legitimate and unavoidable because they were caused by either the restrictions imposed by the SALT treaty or specific orders from Congress. But, much of the increase is probably the result of the Army's mismanagement.

Mr. Speaker, my suspicions in part arose due to the contract data on the Safeguard program which I publicly released on Monday. The contract costs are a part of Safeguard's total cost of $5.6 billion and all contract costs are included in the total Safeguard estimate. The contract data indicates that numerous cost overruns have been incurred undoubtedly resulting in increases of hundreds of millions of dollars.

For instance, one contract with Western Electric was originally worth $202.3 million but today it is worth $1.9 billion. While some of the cost increases are automatic, many appear to be the result of the Army's mismanagement of the program. Some of the increases on the contract were caused by, in the Army's words, the need to "resolve problems arising during assembly, installation, and testing of hardware." This is an admission by the Army of serious overruns although the exact amount has not been disclosed. In view of my suspicions concerning the extent of cost overruns, I am asking the General Accounting Office to investigate the cost increases on the Safegaurd contract. Specifically, I am asking GAO to determine how much of the $1.5 billion increase was "unavoidable" and how much was the result of the Army's mismanagement and waste.

DISPOSAL OF COPPER FROM STOCKPILES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. TIERNAN) is recognized for 5 minutes.

Mr. TIERNAN. Mr. Speaker, today I am introducing a measure which would authorize the immediate disposal of copper from the national and supplemental stockpiles and limit the exports of copper and copper scrap during years when sales are made from the national stockpiles or during any period when price controls are in effect and the U.S. prices for copper are lower than those in other world markets.

Mr. Speaker, this measure is urgently needed for immediate relief of a serious copper shortage from which the United States is now suffering but which the consuming American public will not be aware for many months. I have received numerous telegrams from manufacturers in my district which relate that their operations will have to be cut back and planned plant expansions curtailed unless something is done immediately to increase the domestic supply of copper.

The Wall Street Journal of July 23 has an article which explains the seriousness of the shortage. Wednesday's New York Times business section carries a lead article which relates how Anaconda Copper plans to cut its August deliveries because of the copper shortage. The articles state that because of the difference between the regulated 60 cents per pound for copper in the United States and the nearly $1 paid on the London metal market, there is a shortage of copper at home. This problem is aggravated by the export of copper scrap.

Mr. Speaker, it makes absolutely no sense for the U.S. Government to freeze the price of copper at 60 percent of the word market price and allow the export of copper scrap. Plants will be forced to shut down in the United States if the situation is not corrected immediately. What good does it do us to freeze prices of basic metals if we are forced to close our factories as a result. We are headed for a depression unless someone at the Cost of Living Council, or the Department of Commerce, or the White House begins to realize what is happening to the American economy.

What is happening is difficult to understand because it has not happened before. The United States has for the past hundred years been an importer of raw materials and an exporter of manufactured goods. Now, suddenly, other countries throughout the world are developing manufacturing industries. And as we all know their labor costs are lower than our own. Furthermore, much of their plant capacity is new while much of ours is over 20 years old. This gives them the competitive edge in the world markets. The only advantage that we in the United States have is our tremendously large capital base, our advanced marketing techniques, fine information systems, advanced technology and the educational levels of our people. If we do not use these tools to our advantage, those new developing countries will outbid us for raw material and foreign factories will continue to displace our own. Mr. Speaker, I do not want that to happen. Its time for all of us to realize that the vacation is over. Its time to go to work again, America. And we in the Congress should be ready to lead the way.

We must realize that we are not in a cost-push inflationary period. Today's higher prices which we see posted daily are not due to higher wage demands by workers. They are due to increased demand for the agricultural goods and raw materials which our economy is dependent upon. We are now experiencing a period of demand-pull inflation.

And since the devaluation of the dollar, that demand is very strong. Foreign buyers now find American agricultural products relatively cheap. They are able to take the dollars which they earned by selling us television sets, automobiles, and furniture and use them to bid against the housewife for the wheat we use to make our bread, and the soybeans which we use to feed our cattle, as well as against the copper refiner for scrap copper.

There are many short-term solutions to today's economic problems. These include manipulating imports and exports of capital, raw materials, and manufactured goods. But they are only short-term solutions. We must begin to think in terms of deregulating prices and rebuilding much of our industrial base.

The bill I am introducing today is only a short-term solution. But it is needed now if we are to avert a major crisis in one of our basic industries.

COLLAPSE OF FPC AS DEFENDER OF CONSUMER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BROWN) is recognized for 10 minutes.

Mr. BROWN of California. Mr. Speaker, I would like to bring to the attention of the House recent events which indicate some hope in the midst of the serious decline, if not a total collapse, of the Federal Power Commission as an independent and vigorous defender of the American energy consumer.

I have been following in detail the actions of the FPC for some time and I have discussed these actions before the Senate Antitrust and Monopoly Subcommittee and the Senate Commerce Committee earlier this year.

As is widely known, the FPC has gone along with the petroleum industry and permitted the well-head price of new natural gas to triple in the last 3 years, without any evidence to indicate that such a price rise will benefit the American public. These escalating prices have only resulted in massive windfall profits to the oil and gas producers and have not increased the supply of natural gas by a single MCF.

What is even more shocking is the fact that these price increases have been approved by a Commission dominated by men whose careers are closely tied to the oil industry and who must return to that industry after their terms at the FPC expire.

Now, in a refreshing series of decisions, two courageous administrative law judges have taken on their superiors on the Commission. In two unpublished decisions made last week, Administrative Law Judges Fribourg and Litt turned down industry applications for still another natural gas price increase.

These decisions, however, go beyond a mere denial of the oil and gas industry's request for higher prices. They acknowledge that the FPC has been bowing to a strategy of blackmail devised by the oil and gas producers, whereby those producers threaten to withhold their gas from the market, unless the price for the gas is increased. As Judge Fribourg puts it:

> In the present economic situation . . . the producer of natural gas has the consumer by the throat except for such protection as regulation may offer.

But he notes that previous orders of the Commission may have reduced regulation "to the state of a slightly inconvenient formality."

Judge Litt, in his opinion in the C. & K. Petroleum case courageously acknowledges that it is the FPC's own actions over the past several months that has provided the incentive to the industry to keep gas off the market and the pipelines in a curtailment situation. As Judge Litt notes:

> The problem, therefore, is . . . the climate of increased expectation for higher prices fostered by the standards set under the very orders designed to alleviate the emergency (shortage of natural gas).

I would like permission to submit the full texts of these decisions into the RECORD.

The House should carefully watch how the full Commission decides these two cases. Here we have two objective professionals, close to the facts, deciding that these price increases are not only unwarranted, but that they in effect constitute blackmail encouraged by the recent FPC decisions permitting huge gas price increases.

If the Commission reverses these decisions, the congresssional intent to have vigorous regulation of the gas producers will have been thwarted and will create yet another clear challenge to congressional authority.

The texts of the decisions follows:

[Docket No. CI73–691]

UNITED STATES OF AMERICA, FEDERAL POWER COMMISSION V. ATLANTIC RICHFIELD COMPANY

PRESIDING JUDGE'S DECISION ON CERTIFICATE APPLICATION

[July 23, 1973]

APPEARANCES

Edward J. Kremer, Charles E. McGee, John T. Ketchum and Robert J. Haggerty for Atlantic Richfield Company.

Raymond N. Shibley, James J. Flood and John T. Townsend for Trunkline Gas Company.

Glenn W. Letham for the Staff of the Federal Power Commission.

Fribourg, Presiding Administrative Law Judge:

I. The Application and the Evidence

Atlantic Richfield Company (Arco) has applied under Section 7(c) of the Natural Gas Act[1] and Commission Order No. 431[2] for authority to sell 75,000 Mcf of gas per day at 50¢ per Mcf for six months with pregranted abandonment. The buyer is Trunkline Gas Company (Trunkline).

The gas is from the Pledger Field in Brazoria County, Texas, where the current area rate is 24¢ per Mcf. The field is served by and is accessible to numerous pipeline companies, both interstate and intrastate. Arco sold gas from it on December 6, 1972 at 35¢ per Mcf under a 60-day contract with Florida Gas Transmission Company, followed by another 60-day sale beginning February 11, 1973, at 50¢ to Texas Gas Transmission and still another 60-day sale beginning April 12, 1973 at 50¢ to Trunkline. The gas is currently being sold to Pennzoil Pipeline Company, an intrastate carrier, at 50¢ per Mcf on a day-to-day basis.

The present application is considerably larger than most of the recent ones of its kind. The contract is cancellable by the buyer or the seller if approval is not granted by September 1. The application was filed on April 12, 1973, but was not set for hearing until July 2.

Arco seeks to justify the price on the ground that it is the going price in the area. Its witness testified that negotiations with prospective purchasers developed bids ranging from 45¢ to 55¢.

Trunkline presented a witness who testified as to the pipeline's difficulty in buying enough gas to maintain its reserve position, which has shown a steady decline in recent years. Its reserves have dropped from 6,069 billion cubic feet (Bcf) at the end of 1967 to 4,830 Bcf at the end of last year.[3] It is currently in a curtailment position and expects to curtail its customers by amounts ranging from 422 to 531 MMcf per day during the period from July, 1973, through March, 1974. It foresees no likelihood of any other short-term purchases in any significant amounts. Its longer-term project, Stingray Pipeline Company, formed by Trunkline with Natural Gas Pipeline Company, is not expected to begin deliveries until late 1974 at the earliest.

The staff has moved that the application be dismissed on the ground that it has not been shown that the proposed price is required by the public convenience and necessity, or that Trunkline is in an emergency situation.

Footnotes at end of article.

II. The Price

Both Arco and Trunkline argue for approval of the price on the ground that it is the prevailing market price. Neither had prepared any cost study and no witness proffered any cost evidence, or was able to testify on costs. Nor is there any evidence as to any other economic factors related to the financial interests and needs of either the buyer or seller except the claim that the 50c price represents the current market. There is, for instance, nothing as to the return or profits the producer has been earning under the 24c area rate or what the return or profit would be at the 50c rate, or whether 50c is necessary to maintain credit or attract capital, if capital be needed.

It is not an unreasonable assumption that the omission was purposeful. The area rate decision[4] can hardly be so out-of-date as to require a price rise from 24c to 50c if the same approach is to be taken. Costs have been ignored because it cannot be thought that they would justify the proposed price. Its proponents obviously do not think anything would justify it except a statement of what the traffic will bear. The threat that Commission disapproval will deprive the interstate market of this gas is no idle one.

In November or December of 1972 Arco decided to sell the gas to an interstate rather than an intrastate pipeline, "other things being equal." Its witness first testified that consideration would be given to the curtailment problems of the various prospective purchasers, and then modified this to say that interstate purchasers on the whole were having larger volumes of curtailment than intrastate.

Also, he added, it desired to support the procedure set up by this Commission in Order 431, under which this hearing was held. It was Arco's feeling that the 431 procedures should continue until natural gas is deregulated. In the event of deregulation, Arco's witness testified, Order No. 431 would no longer be needed.

It may also be true that if Order No. 431 operates as Arco would have it operated there would be no need for deregulation. If the seller can obtain the full free-market price, regulation is reduced to the status of a slightly inconvenient formality.

The Congressional intent was otherwise. The purpose of the Natural Gas Act was to underwrite reasonable rates to the *consumer* of natural gas. *Federal Power Commission* v. *Hope Natural Gas Co.*, 320 U.S. 591 (1944). There is nothing new about the present situation, including the threat. It is the same threat to which the Commission bowed in 1957, resulting in a reversal by the Supreme Court in a case involving the predecessor of the present applicant. *Atlantic Refining Co.* v. *Public Service Commission of New York*, 360 U.S. 378 (1959). There, too, the producers announced that unless their price was accepted, the contracts would be terminated, with the consequent loss of natural gas supplies which the Commission found were greatly needed in the interstate market. *Id.*, at p. 386.

It will doubtless be argued that the industry's situation has changed since then, that the public is in dire need of the gas and that disaster will follow if the certificate is refused. The question of emergency is discussed in the following section.

Whatever the emergency, the question of price is still material, as the Commission is well aware. Its order of July 2, 1973 setting the matter for hearing contained the following language:

> It is of critical importance that interstate pipelines procure emergency supplies of gas to avoid disruption of service to consumers; nevertheless, we must determine whether the rate to be paid serves the public convenience and necessity.

Thus the Commission recognized, as it recognized long ago, that

> * * * The fact that contracts have been entered into in good faith and in arms-length bargaining does not make them immune from the regulation in the public interest prescribed by Congress, nor are producer contract terms per se an indication that the prices agreed upon are just and reasonable * * * *Bels Oil Corp.* v. *Federal Power Commission*, 255 F. 2d 548, 550, (C.A. 5, 1958), cert. den. 358 U.S. 804.

Approval of the present contract terms on this record would mean not regulation but an abdication of the powers with which the Commission is charged. Some indication of how ardently this result is desired is shown by the evidence.

Arco's witness testified that Texas Eastern Transmission Company bid 55¢ per Mcf for this gas. When asked why that bid was not preferred to the one that was accepted, he answered that Arco believed that the Commission would approve a 50¢ price without a hearing. The following colloquy ensued:

PRESIDING JUDGE. You mean a hearing such as the one we are going through now?

THE WITNESS. Yes, sir, unfortunately we did not expect a hearing on this one either. Obviously we were wrong, but we have been wrong before.

PRESIDING JUDGE. It was worth a nickel an Mcf not to go through a hearing, is that it?

THE WITNESS. At the time, yes, sir.

PRESIDING JUDGE. How about right now?

THE WITNESS. Right now, I am not sure I would go interstate.

The above passage exemplifies some, but not all, of Arco's desire to avoid regulation that this record shows. It shows that United Gas Pipe Line, which was in a far more severe curtailment situation than Trunkline, made a bid identical to Trunkline's. The bid was refused because Arco learned that United expected its customers to intervene before the Commission in opposition to such a sale. Trunkline indicated that there would be no opposition and in fact there was none.

It is of course quite proper for Arco to accept the bid that would cause it less trouble. The point is that its action emphasizes the need for the most searching examination by the Commission.

Even on Arco's own criterion of field price, the present price is unjustified. Staff's Exhibit No. 7 shows the limited-term contracts filed so far in 1973 in connection with applications for certificates having pre-granted abandonment clauses. The vast majority are at prices below 50¢. That is true of most of the contracts dated even as late as April or May. Furthermore, virtually all of them are for longer periods than the present contract.

In the present economic situation, where the producer of natural gas has the consumer by the throat except for such protection as regulation may offer, the best protection may lie not in the Natural Gas Act at all but in the Economic Stabilization Act. Application of that act would eliminate much of the threat of shifting gas to the intrastate market, because its price limitations would presumably be equally forceful as to any sale, interstate or intrastate. The regulations, however, are so new that there has been no time to consider their effect. No certificate should be granted until this is done.

It may be noted incidentally that Trunkline's Zone 1 Tariff, applicable to Panhandle Eastern among others, calls for the sale of gas at 33.78¢ per Mcf as the commodity portion of a two-part rate, and at 46.66¢ on a straight one-part rate. In Zone 2 (Consumers Power among others) the corresponding rates are 35.89¢ and 51.62¢. Most of Panhandle's industrial sales are at rates below 50¢, with the 1972 average for its 50 Bcf of industrial sales being 44¢ per Mcf.

On consideration of all the foregoing, this certificate should be denied for failure to prove that the proposed price is required by the public convenience and necessity. No basis exists in the record for offering a conditioned certificate.

III. The Emergency

Order No. 431, as embodied in Section 2.70 of the Commission's Rules of Practice and Procedure, provides that the Commission will consider limited-term certificates with pre-granted abandonment (i.e., the type here requested), if the pipeline demonstrates emergency needs after complying with certain requirements. Among these are (1) the submission of a curtailment plan and (2) consideration of curtailment of volumes equivalent to all interruptible sales and of large boiler fuel sales where alternate fuels are available.

Trunkline has indeed submitted a curtailment plan and put it into effect. It is not, however, an end-use curtailment plan. Curtailment is applied first to its interruptible customers, which constitute a very small percentage of its sales, and then to its firm customers.

Those firm customers include its parent company, Panhandle Eastern Pipe Line Company, which accounted for 43% of its 1972 sales. An approximately similar amount went to Consumers Power Company. The remainder went to such companies as Northern Indiana Public Service Company, Mississippi River Transmission Company, Central Illinois Public Service Company and possibly 35 or 40 small general service customers.

Both Panhandle and Consumers have large industrial sales. In 1972, for instance, Panhandle sold 50 Bcf to industrials.[5] Trunkline supplied 27% of all the gas that Panhandle produced or purchased.[6] It would appear that 13.5 Bcf of Panhandle's industrial sales were sales of Trunkline's gas.

Even if we accept as true the estimates of Trunkline's witness that without purchase of the Arco gas Trunkline's curtailments would rise to 550 MMcf daily, there is still no showing that Panhandle's or Consumers Power's interruptible and boiler-fuel customers would be off the line, and that as a consequence none of Trunkline's gas would go to such uses. The record shows that at present the interruptible load on the systems is being pinched, but not wholly eliminated.

There is furthermore no showing of whether alternate fuels are available for the use of Trunkline's customers under curtailment. Thus the record is silent as to the effect of the purchase on ultimate consumers, particularly residential consumers. In *Nueces Industrial Gas Company*, 45 F.P.C. 1224 (June 30, 1971), the Commission said (at p. 1228):

> * * * our criterion in this case is that the record shows that residential gas sales by distributing companies may be curtailed without the Nueces gas.

Such a situation would constitute an emergency. There is no such showing here.

IV. Additional Findings and Conclusions

The application was filed April 12, 1973 and the order setting it for hearing was not issued until July 2. Hearings were held July 16 and 17. The delay in the issuance of the order, combined with the September 1 deadline (after which either party can cancel the contract), caused the participants to agree to a shortened time for exceptions and answers thereto. Briefs to the Presiding Judge were waived.

Exceptions to this decision will be due to be filed with the Commission and served upon counsel for the parties on the eighth day after issuance of the decision, i.e., if the issue date is on a Monday, filing and service will be due a week from the following Tuesday. Answers to exceptions will follow a like eight-day schedule from the day exceptions are due.

The Staff moved to dismiss the proceedings for lack of proof. It seems probable that the motion is well taken, but in view of

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Footnotes at end of article.

what has been said herein the better course appears to be a denial of the application.

It is further found that Atlantic Richfield is a natural-gas company subject to the jurisdiction of this Commission. The same is true of Trunkline.

V. Order

Wherefore, it is

Ordered, that the application be, and it hereby is, denied.

ARTHUR H. FRIBOURG,
Presiding Administrative Law Judge.

FOOTNOTES

[1] 15 U.S.C. 717f(c).

[2] Section 2.70, General Policy and Interpretations, 36 F.R. 7505, April 21, 1971, as amended by Order 431-A, 37 F.R. 15857, August 5, 1972.

[3] It is perhaps worth noting that of the 660 Bcf decline in 1972, 178 Bcf is accounted for by a re-evaluation of the amount of reserves. There have been other downward re-evaluations in recent years. The actual drop, however, is still sufficiently severe.

[4] Area Rate Proceeding, et. al., (Texas Gulf Coast Area), Opinion No. 595, May 6, 1971, 45 F.P.C. 674, Opinion No. 595-A, October 18, 1971, 46 F.P.C. 827.

[5] Panhandle Form 2, 1972, pp 519, 519A, 520, 520A.

[6] Id., p. 568.

UNITED STATES OF AMERICA, FEDERAL POWER COMMISSION, v. C. & K PETROLEUM, INC.

[Docket No. C173-697]

PRESIDING ADMINISTRATIVE LAW JUDGE'S INITIAL DECISION DENYING APPLICATION

[July 19, 1973]

APPEARANCES

Martin Allday for C & K Petroleum, Inc.

Albert S. Tabor, Jr., James W. McCartney and Jack D. Head for Transwestern Pipeline Company

Gregory Letterman for the Federal Power Commission Staff

Litt, Presiding Administrative Law Judge:

By application filed April 16, 1973, C & K Petroleum, Inc. (C & K), seeks a certificate of public convenience and necessity (pursuant to Section 7(c) of the Natural Gas Act (15 USC 717f) and Section 2.70 of the Commission's General Rules (18 CFR 2.70)),[1] authorizing the sale for resale and delivery of natural gas in interstate commerce to Transwestern Pipeline Company (Transwestern) from its No. 1 Vandiver COM Well in Eddy County, New Mexico (Permian Basin). Specifically, C & K seeks authorization to sell Transwestern up to 12,000 Mcf/d of gas at 14.65 Psia for 54.25 cents per Mcf for one year commencing on June 25, 1973.[2] The application seeks pre-granted abandonment.

A hearing was held on July 13, 1973, and all parties and the Commission's Staff have waived filing of briefs.[3]

C & K and Transwestern argue that they have met their burden of proof under Section 2.70 of the Rules showing that (1) Transwestern needs the additional gas supply on an emergency basis to meet firm contract commitments, and (2) the price was arrived at through arms-length bargaining and, consequently, represents the true market price of the gas. While Transwestern relies initially on the Commission's finding in Docket No. C173-658, *Gulf Oil Corporation* (decided May 21, 1973), that an emergency exists on its system, it also tendered a witness who testified as to continuing demand and decreased supply. Staff opposes granting the application, arguing that applicant has not demonstrated that the price sought is the ". . . requisite payment that an interstate pipeline must pay to take the gas away from an intrastate pipeline and no more" and that no emergency has been shown to exist on this record in the Transwestern system (Tr. 103). Staff admits that without this and other similar short-term "emergency" purchases Transwestern "will have to curtail below their contract requirements" but avers that this does not "justify the existence of an emergency as we would construe that term."

Section 2.70 of the Commission's Rules provides that "the Commission will consider limited-term certificates with pre-granted abandonment, if the pipeline demonstrates emergency need, . . .", after undertaking, among other things, to fill all storage fields, and report on it to the Commission, with curtailment plans if necessary. Specific criteria for pricing emergency purchases are not mentioned in Section 2.70.[4] The Commission, however, in *Nueces Industrial Gas Company*, Docket No. CP71-267, 45 FPC 1224 (1971), indicated that the price should be "no higher than necessary to elicit the supply of gas offered, which Nueces would otherwise sell to intrastate customers. . . ."

There is substantial evidence of record that an "emergency" exists on the Transwestern system as that term has been used in Commission orders entered pursuant to Section 2.70 of the rules. See *Nueces, supra*. Absent the emergency purchase involved here and other similar purchases, Transwestern will be unable to meet its firm contract commitments to its customers (Exhibits 4, 5, and 6). Thus, while Transwestern has not adduced evidence as to end use of its customers or of its customers' customers, it has met the standard of showing that its existing supply is insufficient to meet its firm certificated sales. No case has been referred to by Staff showing that more proof is necessary and the Commission's discussion in *Nueces* is predicated solely on firm contract commitments. Additionally, while the *Gulf* case does not render the issue *res judicata* in that that proceeding was uncontested, not formally heard, and limited to a prior period of time, the Commission did make a finding that an emergency did exist on the Transwestern system during May 1973 and weight must be accorded that finding.

Turning to price, the facts in this case are that C & K has made a significant discovery of gas (8–10 Bcf) in an area of interest to, but not presently served by, intrastate pipelines. While there is little question that if, in the future, additional gas reserves are discovered in proximity to its No. 1 Vandiver COM Well or in nearby gas fields, intrastate pipelines could bid for C & K's gas, they cannot, and have not, effectively done so at this time. This situation could change almost overnight according to C & K's and Transwestern's witnesses if other wells now being drilled, or to be drilled, in the same field are successful. Nevertheless, the record shows that the only realistic competition as of now is from another interstate pipeline, Natural Gas Pipeline, and that the price is higher than that necessary to compete with the intrastate market. Since the primary underlying rationale upon which limited-term certificates are to be granted at higher than area rates is predicated upon intrastate competition, absent such immediate competition the application must be denied.

Intrastate pipeline competition, however, is not the only reason why a producer may not choose to sell his gas to an interstate pipeline. The fact of the matter is that the seller is in a preeminent market position and may be able to refuse an offer of an interstate pipeline where there is no extant intrastate purchaser. This is so because there is a strong possibility that the carrying costs for holding gas off the market are so low compared to future possible benefits—whether waiting for intrastate pipelines to penetrate the market or for the Commission to raise rates—that the producer may shut in the well if the application is denied even if he has no other immediate market. See *Apache Exploration Corporation*, Docket No. CI73-677, Initial Decision issued July 10, 1973. Here, for example, the investment in the No. 1 Vandiver COM Well is $185,000 with a possible gross revenue of $2,160,000 (8 Bcf x 27 cents/Mcf) at the current ceiling rate as against $4,340,000 (8 Bcf x 54.25 cents/Mcf) at the proposed rate. Assuming no pressure from its royalty owners, field drainage problems, etc., preventing C & K from shutting in the well, the carrying costs at even 20% interest is less than $40,000 annually against a possible gain of over $2 million. If there are 10 Bcf of reserves, the high side of C & K's reserve estimate, the comparison is the same $40,000 compared to approximately $3 million additional gross revenues.

The problem, therefore, is not only the competitive pressure from the intrastate market but also the climate of increased expectation for higher prices fostered by the standards set under the very orders designed to alleviate the emergency—Orders Nos. 431 and 431-A. The extent of this expectation of future price rises is that for all intents and purposes Transwestern has not entered into any significant long-term purchases recently and that no price can be offered by Transwestern for new gas in the Permian Basin at less than the highest price offered by it to other producers. In these circumstances, the negotiated price will be, if it is not already, the highest price in the area recently negotiated with either the regulated or unregulated market. Stated differently, the lowest possible price will be close or identical to the highest market price.

One other matter requires consideration here. It is by no means clear that the public interest is best served by having interstate pipeline supply reduced to dependency on short-term emergency purchases at ever increasing prices. It may be that producer incentive for exploration and development can only be realistic at rates in excess of 54¢ an Mcf in the Permian Basin. But, in view of the Commission's discussion in Belco Petroleum Corp., Dockets No. CI73-293, decided May 30, 1973, it is more likely that a price substantially less than 54¢ would be adequate to motivate requisite producer activity. As long as an unregulated intrastate market exists, or the constant carrot of increased wellhead prices is held out to producers, this concept will never be tested. As already indicated, producers will not make long-term commitments to the interstate market in this climate, and price consideration under Section 2.70 can only be considered as a temporary constriction on the most rapid escalation of price obtained by those producers in the best bargaining position.

In sum, under the standards applicable in Section 2.70 proceedings for testing proposed prices, it is difficult to see how any price less than market price could be turned down by this Commission except in isolated cases, such as here, where the intrastate pipeline has not yet penetrated the area. Perhaps, as a suggestion, a limitation on price based upon either area rates or Optional Pricing considerations pursuant to Order No. 455 should be imposed as the upper limit on so-called "limited-term" sales. Regulation of the intrastate market would be a better course, but, absent such regulation, the standard applicable in Section 2.70 cases should be construed so as to preclude what could become an almost automatic granting of these applications.

In view of the conclusions and findings made above, upon review of the record as a whole, it is found that applicant has failed to prove that the public convenience and necessity require a grant of the proposed certificate.

ORDER

Wherefore, it is ordered, that the application be, and it is hereby, denied.

NAHUM LITT,
Presiding Administrative Law Judge.

FOOTNOTES

[1] Section 2.70 provides for, among other things, the certification of emergency purchases of natural gas under "Measures for

the Protection of Reliable and Adequate Gas Service." This rule was promulgated in Orders Nos. 431 and 431-A.

[2] Pursuant to Section 157.29 of the Regulations, sixty-day emergency deliveries to Transwestern commenced on April 26, 1973, and are continuing under a sixty-day extension.

[3] The parties stipulated to an accelerated schedule of 11 days from the date of entry of the Initial Decision for exceptions and 11 days thereafter for replies thereto.

[4] Cost is not at issue and no effort was made to demonstrate that the 54.25 cents/Mcf was based on cost.

FRANK M. BRANDSTETTER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. ROONEY) is recognized for 5 minutes.

Mr. ROONEY of Pennsylvania. Mr. Speaker, it is with great pleasure that I bring to the attention of my colleagues the recipient of a Religious Heritage of America award, Frank M. Brandstetter, my friend and an outstanding American.

A native of Hungary, Frank has served his adopted country well, both during World War II as a staff aide to General Ridgway, and later in a variety of humanitarian efforts. He is currently the vice president and managing director of the Las Brisas Hotel in Acapulco and has truly used his position for the benefit of the community there. Among other things, he has heavily supported the nearby orphanage of La Casa Hogar Del Nino and has employed these children at his hotel, thereby not only helping them with their own support but also teaching them about the hotel business.

Frank was recently honored with the presentation of the "Business and Professional Leader of the Year Award" at the 23d national awards program of the Religious Heritage of America held at the Washington Hilton Hotel. Because of the timely significance of his acceptance speech, I would like to share it with you at this time:

SPEECH BY FRANK M. BRANDSTETTER,

Thank you, Mr. Stone, for your kind remarks.

Dear Fellow Americans: I am profoundly grateful for the Religious Heritage of America Award; and I express my thanks to the committee which chose me.

The essence of religion is to worship God, to follow moral guidelines in our lives; and thus to perfect ourselves by seeking goodness in everything. But the seeking cannot be a passive philosophy. We must reach out to grasp perfection in our own actions, in our relationships with others, in our work, in our mental attitudes.

It is a ceaseless striving. We cannot attain the best unless we work at it. We must be aware of the principles of justice and integrity. More—we must commit ourselves with our whole heart to their realization: Justice and integrity. This awareness and this commitment are the rocks upon which all religious faiths inspire their followers to be good citizens of our "beautiful, yes—beautiful" United States of America! Only a religious faith as solidly based as this, can be a vital force in our lives.

The bicentennial of this Nation is 1976. Two hundred years of democracy—a government by and for the people. But some do not believe this and they see signs of decadence; for them there is a loss of self-confidence and self-assurance.

We, as a nation and a people, are faced with many problems. Only strong religious faith is our weapon to overcome them. There is nothing so desperately needed at the present time as a renewal of religious faith; and a renewal of hope in our democracy!

Our Founding Fathers demanded justice and integrity, truth and individual dignity. Let every American be brave and valiant and personally overcome the challenge against our Nation. How? This question is answered by a constant striving for perfection in his or her responsibilities; and thus they will exemplify a loyal leadership! And this collectively is the life of our Nation as a free Democracy dedicated to justice and integrity. My dear fellow Americans, there is a solemn obligation upon each citizen to give this Nation "a vote of confidence and loyalty"; and to have a personal renewal of hope in this great nation! Proudly speak the words: "Beautiful America", because we have a Constitution and laws to protect and strengthen this Nation, United States of America, and may God bless our Country! Thank you!

DR. BOORSTIN ON WATERGATE

(Mr. YATES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. YATES. Mr. Speaker, Dr. Daniel J. Boorstin, who is on the verge of leaving his post as director of the Smithsonian Institution's National Museum of History and Technology, during which he served with great distinction, is one of our nation's most eminent historians. The author of many valuable and already authoritative books on American history, Dr. Boorstin's thoughtful views on the thrust of current happenings into the history of our country rightly deserve our serious consideration. He had occasion recently in an interview given to Congressional Quarterly to review the Watergate fiasco and the operations of the executive branch leading thereto. I believe his incisive views on the tremendous growth of the Executive Office of the President and its potential for abusive power as is now being demonstrated in the Senate hearings deserve the attention of every Member of Congress. The interview follows:

[From the Congressional Quarterly, July 7, 1973]

HISTORIAN DECRIES WATERGATE AS "CULT OF PERSONALITY"

Historian Daniel J. Boorstin sees the Watergate scandal as different—and more dangerous—than other typically American political misconduct because it suggests a rise in "the cult of personality." Boorstin, whose generally conservative views once found favor with Nixon administration officials, made this and other provocative statements about Watergate in an exclusive interview with Congressional Quarterly.

Although taking issue with those who see Watergate as the obituary of American civilization, Dr. Boorstin warned of the growth of presidential power and of executive branch power in general.

"In a practical way," he told CQ Editor William B. Dickinson Jr., "one of the questions which should arise immediately is the question of the nature of the Executive Office of the President. I think that should be subject to investigation and scrutiny. . . . The Executive Office of the President has expanded beyond all bounds and has tended to supersede the executive branch of the government."

Dr. Boorstin, who presently is director of the Smithsonian Institution's National Museum of History and Technology and will become its senior historian this fall, said he could not believe that the responsibility of the office of the President is served by its proliferation.

"How many of these people and how many of these White House positions were simply superfluous?" Boorstein asked, "As I watched some of the Watergate hearings I kept asking myself what all these people—Dean and others—were doing there in the first place. Was there really an honest job there that needed doing?"

The interview follows:

DEMOCRACY AND DISCONTENTS

CQ. Dr. Boorstin, your newly published book bears the title, *The Americans: The Democratic Experience*. Knowing what you now know about the Watergate scandals, would you describe Watergate as typical or atypical of the American experience?

BOORSTIN. Well, I would rather say that it's a parable of "Democracy and its Discontents." With apologies to Sigmund Freud, I think the Watergate drama really is a symbol of many of the problems of democracy in a country like ours where we have the technology and the power to give everything to nearly everybody. What I mean by that is that democracy, like civilization itself, depends on the repression of many things. That is, it depends on self-denying ordinances, on people who have the power to do something refusing to do that thing. And I think there has not been another example, in recent history at least, of so vivid a drama of this aspect of the problem of democracy.

There's something to be noted, however, in view of all the self-flagellation and crying of woe of those who say that this is the obituary of American civilization, which, of course, it is not. We have to recognize that one of the distinctions between democracy and other forms of government is that while democracy is messy on the surface, other forms of government are messy underneath. In fact, in most countries in the world (I have recently visited Greece, for example) the sorts of things that are reported with such horror in the Watergate episode wouldn't even make the newspapers.

Now this, of course, is not to justify them at all. But it is simply to remind us that one of the characteristics of our society and one of the things in which we can take satisfaction is that violations of the rights of individuals, when they come to public attention, reach the whole community.

CQ. Many Americans seem to feel that Watergate is just politics as usual. Others see the series of scandals as unprecedented in American political history, profoundly different and more serious than previous misconduct. What do you think?

MISUSE OF POWER

BOORSTIN. Well, if we consider the problem of democracy to be essentially that of people in power refusing to use the power in ways that are not authorized and not decent and not constitutional, I would say that what makes this different from earlier problems in our society is that today the opportunities for the misuse of power are greater. Just stop to think for a moment about some of the central implements in the Watergate scandal. The most conspicuous was the Executive Office of the President. Why there are hundreds of people who write on White House stationery. This is a new phenomenon. In fact, it's a phenomenon which has astonished, and properly astonished, some senators who asked the counsellor of the President if he ever saw the President and he said he didn't. And I think there are something like 40 persons who bear some title such as counsellor to the President or assistant to the President or something of that sort. Now this is a relatively new phenomenon; the opportunity for the President to get out of touch with the people who speak in his name.

The growth of presidential power, and of executive power in general, is symbolized in welfare legislation and in the increased activities of the federal government. Just think of some of the peripheral questions that have been raised. The SEC (Securities and Exchange Commission), for example, is an institution of recent creation. And, in fact, look at two of the main organizations that have figured so largely in the problem of the cover up. The Federal Bureau of Investigation, for example, didn't begin to come into existence until 1908. It was then reformed under Attorney General Harlan Stone in 1924 and didn't get its present title until 1935, I believe. The Central Intelligence Agency—the CIA—is another example of an organization that didn't come into being really until 1947 under the National Security Act.

And then, the techniques of electronic bugging. And here there is a rather interesting irony in that the crime and the punishment use the same technology. The crime of bugging is punished by a universal diffusion of the information about the people to everybody in the United States—also by electronic techniques. The opportunities to misuse power have increased. That means that for a functioning democracy the demand for self-control is greater than ever. Yet in Watergate we see the failure to repress primitive desires—the desire to kill off the enemy, the desire to follow the leader wherever he leads, the refusal to compromise with others, the lack of liberal charity toward your electoral opponent. All these things are dramatized. But it takes more self-control now because the opportunities to misuse power are greater and the opportunity for the leader to be separated from those who exercise it—from those who can speak in his name.

CONSCIENCE OF DEMOCRACY

CQ. The public seems to express its cynicism about the question of self-control with the phrase "everybody is doing it in politics." Is that a dangerous state of public mind?

Boorstin: Well, of course. This again is one of the curious problems of democracy. And it is the result of the development of the electronic media to a large extent. We used to think of the conscience as being a private, intimate, still, small voice within. Now the conscience of democracy becomes the whole community sitting in the living room watching what has been done. Now I think it is very important when we think of this as the conscience of democracy, which indeed it is, that we separate two things which can easily be confused. On the one hand there is what could be called the *conscience of the marketplace*—the people's feeling of outrage at the violation of common decency, of legal and constitutional rules.

And on the other hand, what might be called *the judgment of the marketplace*. The judgment of the marketplace is lynch law, and that is something we must beware of. So that while it is wholesome that the community should have an opportunity to be outraged at the spectacle of certain facts, and of certain crimes that have been committed, the judgment of the community and the force of law must still be scrupulously hedged around by technicality. And that's why the Founding Fathers, the people who wrote the Constitution, were so circumspect, for example, in describing the process of impeachment. They thought that it was not to be undertaken lightly.

CQ. A number of past historical incidents are cited as resembling Watergate: The Hayes election of 1868, the Teapot Dome are examples. What's the closest parallel you see between Watergate and other typically American political scandals?

"LAWLESS SHERIFFS"

Boorstin. Well, I don't think there is really a specific parallel. I think that there has been a continuing tendency in American life, which I describe in *The Americans: The Democratic Experience* in a chapter entitled "Lawless Sheriffs and Honest Desperadoes." The circumstances of the United States being so vast a country with so many diffused agencies of law enforcement has tended to confuse the law enforcer with the violator of the law. It is an old American tradition (and *not* a good one!) for the sheriff to shoot first and investigate afterwards, on the assumption that if the man he shot was a suspicious character and not liked in the community he probably deserved it anyway. This is an ancient and traditional American procedure in the West, in old mining camps and frontier communities.

CQ. Now transferred to the White House?

Boorstin. Well, I think the earlier scandals have been distinct in at least one way—in that they tended to be connected with greed and with the desire of people to make something out of it—the Teapot Dome, something of that sort. But one of the frightening aspects of this is that so far, at least, none of those high in the government stood to make any substantial sums of money out of what was done.

This suggests the danger of what, in the Soviet Union, they call the cult of personality, which I think is not too far from one of the problems we've been discerning. Where loyalty to the leader seemed to override everything else. And it should be recalled that the committee that was involved was not the Republican National Committee but the Committee to Re-elect the President. And it was focused on the particular man, and this is one of the most disturbing aspects of it.

SEPARATION OF POWERS

CQ. One of the obvious effects of Watergate has been to undermine the effectiveness of the President very early in his second term. Are there any historical precedents for this and, if so, what are the implications for the balance of power between the Congress and the President?

Boorstin. One of the things that we've witnessed which has not been sufficiently pointed out is the great advantage that the nation has at the moment in having a fixed-term election. If this had been a parliamentary system the government would have fallen, there would have been, perhaps, another party put in power and then there would have been criminal prosecutions. The problem would not have been dramatized as a political problem. The members of Congress or Parliament as it might have been, who were in the party of the President, would have been interested to minimize the episode so that it wouldn't affect their re-election. They would have to go to the people to be re-elected. It would be in their interest to minimize.

Now, in the present situation, where we see such an even-handed concern among Republican and Democrats over this problem, this is to no small extent due to the fact that they're in there and that they are re-elected for a fixed term, especially the Senators—for a senatorial term—and that when they expose the misdeeds of the leader of their party in the White House, they are not thereby requiring themselves to go to the people and stand for election. So that there's a kind of antisepsis.

The separation of powers is proving itself in some interesting new ways, and I would say that one of the consequences of this, in public opinion, has been that whatever effect this may have had on the prestige of the presidency, the respect of the American people for the Congress has been increased. They can see the Congress as a vigilant Congress. The virtue of vigilance is certainly dramatized and the integrity of the courts is dramatized so that in quite a new way we have seen the wisdom—in almost an unsuspected way—the wisdom of the writers of the Constitution in separating the powers this way.

Another interesting point also which comes up, which is something the political scientists always debate about, is the special problem in our kind of government where you can have a President of one party and a majority in both houses of Congress of another party. Recent American history should at least give political scientists some pause in this regard and, in this case, we see certain advantages in having this disparity without a paralysis of government. I think in several recent administrations we've seen that it is possible to get legislation. Under President Eisenhower we had a similar situation—with a President of one party and majorities of the other party in the Congress. There are even some advantages in having that division. In that way you have some scrutiny of the executive power and yet it remains possible for the executive to do some fairly dramatic and important things in foreign policy.

CQ. On the other hand, under the parliamentary system, the President or party leader would have been removed. And we may face the possibility of living with a President, who the public may decide has been discredited, for more than three years before a change. Does this bother you in any way? Is it fatal to our system of government to live with a President as powerful as he is in this kind of condition if it lasts for three more years?

Boorstin. Well, it certainly doesn't cheer me up. It's a discouraging thought, but in our society it is not disastrous. One of the great things about our form of government is that the nation doesn't stand or fall with the President. It was remarked during one presidential election that Divine Providence must watch over the United States, attested by the fact that we have survived the Presidents that we have had. That was said at the time of the election of President Lincoln. But this nation can survive all sorts of Presidents and its existence, fortunately, does not depend on the President.

22ND AMENDMENT

CQ. Watergate, then, to you, doesn't reveal any fundamental weaknesses in the present system that require change by Constitution or by law?

Boorstin. I think the passage of the 22nd Amendment in the Constitution (limiting Presidents to two terms) was a mistake. I think that the proposal for a six-year term for the President is also misguided. I think one of the points in having a representative government is to have the elected person in power always subject to the possibility of being re-elected or not being re-elected. It's just conceivable that the President might have been more vigilant if he had known that he was going to be a candidate in another election or at least might be a candidate in another election.

That was a very short-sighted and, I think, malicious constitutional amendment. It doesn't belong in the Constitution. And I think that the notion that it is desirable to have a President who can give his full attention to the "presidency" and not worry about re-election is quite a mistake. What we want is a President who will be thinking about the prospects of re-election and will wonder what reaction the public will have to what he's doing as President. That's what we mean by representative government.

CQ. David Broder of the *Washington Post* has raised the same point in several of his columns. But it's not likely, is it, that this amendment will be repealed during the presidency of Richard Nixon or, at least, in a way that would enable him to seek re-election?

Boorstin. It's very unlikely that it will be repealed. The important thing is to realize that the President must consider himself to be subject to the public approval or disapproval. If he's a lame duck President and not subject to re-election, and also if there is as little concern for the party as a whole as there seems to have been recently, then that removes one of the main incentives of the President to keep in touch with the public will.

CQ. There seems to be an impression that the quality of the men and women going into politics for elective office and into places like the White House or the Cabinet is lower today than in our past history. Is this a valid belief?

QUALITY OF POLITICIANS

Boorstin. No. The quality of people in politics today is as high as it ever was. You know the old quip that a statesman is a dead politician. It's our tendency to think that way but we have as high a quality of intelligence and integrity in the Congress, in the judiciary and in the executive branch, on the whole, as we've ever had. The demands are greater and many of the tasks are almost undo-able. And obviously, the needs for people with a broad vision of the economic problems and the other problems are so much greater with the increase of the powers of government.

CQ. Are people getting the kind of government they deserve? In other words, to what extent do the people themselves bear responsibility for a Watergate and its offshoots?

Boorstin. There are two questions here. One is the question of public morals in general, and I don't think there's any dividing line. If we condone the violation of the rules of confidence—of confidentiality—and the laws by newspapermen—condone it and recognize it and admire it—then we are on the way to condoning similar acts among others, including government officials.

CREDIBILITY VERSUS TRUTH

CQ. We've seen over recent years a breakdown of credibility of almost all institutions—the church, the press, the military, the educational system—and even now the spectre of the final collapse of faith in government. How do we restore that faith in government, particularly among the young people whose cynicism and distrust of government may already be near a breakdown?

Boorstin. Well, may I suggest that part of the problem is contained in the way we are now accustomed to put the question. We talk about "credibility" and the "credibility" gap. From ancient times, the critics of democracy beginning with Plato have always said that democracy was apt to be too much concerned with appearances—the way things looked to people. Part of our problem is that we've become concerned with credibility rather than truth. People talk about the credibility gap. They should talk about the truth gap. And I think that the development of the public media, the development of the public relations profession and of advertising, and of all the things that we like to look at, enjoy looking at or can't help looking at, tends to put a premium on the believable rather than the true.

This is something that we must remind ourselves of, and I think that Watergate serves as an example of this too, in the sense that the concern of the cover-up was to produce a credible story. The impact of the hearings will depend on the credibility of the witnesses. But that's a different question. We will eventually reach the point—I hope—it's important to be sure that the government agencies do reach the point—not of talking about credibility but talking about truth. What were the facts of the case? Not what sounds good, or looks good enough for people to believe if they don't know any more than they do.

CQ. And you see that then as the key to restoration of the public faith in government—the return to truth?

Boorstin. Oh, I believe in truth and motherhood and all that. Don't quote me. But, seriously, what I'm trying to describe as an historian is the large developments in our society that have led us to put a premium on what's credible rather than on what's true, and what looks good rather than what are the facts of the case.

The rise of advertising is a very good example of this, which I would call the rhetoric of democracy. If we define democracy as the effort to give everything to everybody, then in order to get things to people you have to persuade them that the things are worth having. You have to put the best light on things that you want to sell them. You then become preoccupied with appearances—with what looks good, with what sounds good. And you're going down that road of credibility. We have been led almost to assume by implication that it's good to be concerned with credibility—that it's good to be credible. That's the wrong way to put it. It's good to state the truth, but the ability to be credible is a dangerous ability—not a virtue.

ERVIN HEARINGS

CQ. In your new book, you use the phrase "mass producing the moment." Looking at the Ervin hearings in the Senate, how much of this is mass production of the moment? How much is image and how much is reality?

Boorstin. Well, I don't know. There are really two opposite problems. One is the problem of a flood of miscellaneous sensations brought to us day after day with the Ervin hearings. And, on the other hand, the power of the reporter to select—which is the case at a national convention when we have a reporter who can direct the camera to certain objects and ignore others. All this is bewildering to the citizen who doesn't know what to make out of it.

It's that bewilderment which is probably the curse of our situation, the fact that the citizen receives a flood of sensations which are "undeniable facts." This, of course, is something new. The assumption seems to be—which is, of course, an old American assumption—that if *some* of a thing is good then more of it is always better. If it's good for people to have some information about Watergate, then the more they have the better. But the question, of course, is what we mean by information. Information is not knowledge. Information is a flood of miscellaneous facts which reach a person before he or anybody else has had a chance to know what they might mean.

In the past, the great problems of political theory were the nature of sovereignty, the nature of property, the nature of equality and similar related questions. But, it seems to me, the essential problem of modern political theory is knowledge. Who knows what and why—and that has been dramatized in the Watergate. The crimes were committed to gain information and the additional crimes were committed to prevent information about the information-getting people. And finally, public conscience will be aroused by the exposure to information, by people seeing what's what. Although we take all this for granted, this is new. In the past, the question was who commanded the Army or what kind of property ownership there was or something of this sort. But now the overriding question is: who knows what and who can get that information and when?

CQ. How long will it take the public to assimilate and sort out all this information and come to some kind of conclusion in its own mind about what is involved?

Boorstin. Well, I don't know. You personify the public. I don't think there is any answer to your question. I can't think of the public as being a single entity as you describe it.

ELECTRONIC MEDIA

CQ. Would you try to report the Watergate story in a different fashion than you now see?

Boorstin. I have thought that the basic problem that electronic media have brought to news reporting is: "Too much too soon." We are flooded with stuff before we know what it's about. And to expect a citizen to sort all this out is to expect the impossible. But it would be a public service if, as a self-denying ordinance, the networks would agree not to publish news until a week after it is reported. Give them a chance to sort it out, and the citizen too. There are not very many cases where the public interest requires that everybody in the nation should know something this week or today or this morning. The information gets to us because the networks are there. They have to fill up their time. And, of course, Watergate has been a godsend to the networks.

CQ. In a sense, Watergate did come to public attention somewhat through the mechanism you're describing. Certain events occurred a year or more ago and yet it took a lot of piecemeal reporting and assimilation before the whole scandal burst into public consciousness.

Boorstin. That's right. And that would be a confirmation of the special usefulness of what I would call the "*delayed* media." By contrast with the electronic media, the print media are delayed. That is, they don't reach everybody instantaneously, simply because it takes time to set up the type. It has to be edited and delivered to each person and so on. So that I would say that one of the many things about the Watergate episode is that it reveals a special role for the press in American life—especially after the coming of TV. This is an investigative role. And it is interesting to note how this came about. TV has actually increased the responsibility of the press in this direction. For the press can print information without having to show the picture of the person who gave the information and without our having to hear his voice. It's possible for them to go out and investigate it and present the thing at length with a lot of background.

Of course, there's another aspect to the hearings. While they are, on the whole in the public interest, they somehow exemplify one of the very problems which they are investigating. The cry of public interest—that the "national interest" (sometimes loosely called "national security") overrides the rights of individuals—is exactly the cry that was raised by those people in and around the White House. In trying to justify what they did in committing their crimes, they have talked about their worry over the public interest. But one of the things we mean by a constitutional government is a government in which the public interest is always subordinated to the private interests—the rights of individuals. And there is the danger in our enthusiasm, our eagerness, to uncover these particular criminal acts—that we may be tempted into the same vice ourselves. Although the hearings have been conducted with remarkable restraint, admirable nonpartisanship, there's no way of conducting public hearings of the kind that the Ervin committee has been holding without infringing upon the privacy of individuals. I think that we must just watch our step. We must not let ourselves be led into the belief that the "public interest" always overrides. In that direction lies totalitarian disregard of the citizen. The so-called "public interest" is what was used to defend concentration camps and lynchings.

INSTITUTIONAL CONTINUITY

CQ. A final question. What do you see as the ultimate result of Watergate? Will it change our political institutions in any profound manner? Where is this episode going to lead us as a nation or as a people?

Boorstin. As a historian I am inclined to be impressed by the continuity of our institutions, and I am extremely skeptical when I read the obituaries for our nation. There has probably never been a scandal in American history which was not decried as the end of American civilization and the destruction of all public and private morality. I think this episode has probably had the effect abroad of dramatizing our concern with certain standards of public morality. And in that sense it's probably been a good thing. And it has dramatized the power of Congress. It has dramatized the integrity of our courts and it will probably have the effect of making anybody who sits in the presidential chair be more scrupulous of his use of the government—of the powers of the presidency.

In a practical way, one of the questions which should arise immediately is the question of the nature of the Executive Office of the President. I think that should be subject to investigation and scrutiny. Perhaps there should be some committee investigating that. The Executive Office of the President has expanded beyond all bounds and has tended to supersede the executive branch of the government. Some drastic reconsideration of that is in order. American citizens in general do not realize the extent of the Executive Office.

The dangers of that growth have been dramatized in Watergate and in several ways. First, by making it possible for people to use or seem to use the authority of the President without his knowledge. And, then, by making it possible for a President to say (with some credibility) that he didn't know what was going on. That is an equally disastrous fact and one which should give us pause. The Executive Office of the President ought to be scrutinized. I cannot believe that the responsibility of the office is served by its proliferation. How many of these people and how many of these White House "positions" were simply superfluous? As I watched some of the Watergate hearings I kept asking myself what all those people—Dean and others—were doing there in the first place. Was there really an honest job there that needed doing?

ARMY NOT TO BLAME

(Mr. DORN asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. DORN. Mr. Speaker, in my remarks to the House on Monday by inference I indicated the Army may have had responsibility for the military records lost in the St. Louis fire. Mr. Speaker, this was an error on my part for which I humbly apologize to the U.S. Army. As a matter of fact the military records in St. Louis at the time of the fire were completely in the custody of the General Services Administration.

Mr. Speaker, we do wish to urge again that the Veterans' Administration automatically acquire the medical records of all military personnel upon discharge so that a duplicate could be maintained in the Veterans' Administration files.

Perhaps it would be feasible for these critical records to be either duplicated or transmitted to the VA while the records are still under the control of the Armed Forces. If this is not feasible, then consultation should begin with GSA, which operates and controls the buildings in which the inactive records are stored.

THE GAS BUBBLE—III

(Mr. GONZALEZ asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. GONZALEZ. Mr. Speaker, all during the spring and summer months, the city of San Antonio and almost 400 other customers served by the Coastal States Gas Co. have endured severe shortages of natural gas. Because San Antonio and other cities rely on natural gas to generate electricity, the gas shortage has created a very severe problem. San Antonio has been asked to cut back on electrical consumption by 30 percent—a task of enormous difficulty under any circumstances. Yet, if this is not done, we face in San Antonio the prospect of periodic blackouts that could last indefinitely.

Industries depending on gas, or on electricity, have been severely depressed by the failure of Coastal States to deliver the gas it contracted for. Cement plants depending on Coastal for furnace fuel have been forced out of business altogether—and along with them, contractors who have been unable to obtain adequate quantities of cement. Government installations have been forced to conserve electric power, to the point of making working conditions difficult at best. City street lights have been placed on short hours—this at the risk of increasing crime potential. Businesses have been forced to lower the amount of lighting in their offices, and to reduce the use of air conditioning—and homes have been subject to similar reductions. And no end of the emergency is in sight.

This happened, not because San Antonio was shortsighted enough to take on an interruptible gas supply contract, but because Coastal States is unable or unwilling to live up to its 20-year gas supply contract. The Coastal gas bubble has burst.

Yet what has happened to Coastal?

The Texas Railroad Commission is mulling the case over. It has forced Coastal to deliver enough gas to San Antonio to enable the city to avoid catastrophe—but very little more than that bare minimum. And the Railroad Commission has more or less politely asked Coastal to let it know how bad the trouble really is.

To compensate Coastal for this trouble, the Texas Railroad Commission has ruled that Coastal's intrastate subsidiary—which in fact is the part of the company responsible for the crisis—is a utility, entitled to a certain rate of return on its investment. In other words, the Commission has ruled that no matter how badly Coastal was mismanaged, no matter how huge its fraud has been, no matter how dishonest its deals were, is not to be penalized. No, indeed—the penalty is to be paid by the people of San Antonio and other cities affected by the huge fraud that Coastal has perpetrated.

Has Coastal made contracts at prices that it knew it could never honor? Then declare it a utility, so it can raise its prices regardless of its contracts.

Has Coastal made dishonest bids in order to eliminate honest competition? Then keep it in business by making it entitled to a certain and sure profit—a nice guarantee that other companies would have liked to enjoy, had they known how things really work.

Has Coastal lied about is gas reserves? Let it raise its prices to the sky's outermost limits, so it can buy now to furnish the gas it never owned, but sold anyway.

It seems strange that Coastal has done so well by the Railroad Commission.

You have to ask: Is this because the Commission is more interested in keeping Coastal alive than it is in protecting the people it has defrauded?

Is the Commission more interested in smoothing over bad management and illegal operations than it is in preventing similar scandals in the future?

Historically the Railroad Commission has been the friend of industry—restricting production so as to keep prices up, closely regulating how many wells might be drilled, encouraging the strict control of imports—and generally honoring whatever industry requested of it.

Has Coastal asked for salvation, and seen its prayers granted? The Texas Railroad Commission orders of the past few days indicate that the answer is "yes." Yes, Coastal has asked the good old Railroad Commission to save it—so that the people it has served so badly will pay for its mistakes and crimes—not the company.

Meanwhile, on another front, Coastal has engaged counsel to see what can be done to free it of any effective Federal action.

The Securities and Exchange Commission has had Coastal's stock suspended from trading since June 6. It has been investigating the company to see whether it has defrauded its stockholders the same way it has its customers. Coastal would like to get the SEC off its back. What better way to do this than hire as its attorney a former chairman of the SEC? Who might better know what strings to pull in the SEC to get the heat off, and quietly restore the company's stock to good graces? It is not that Manny Cohen is dishonest—just that he has influence, and Coastal has hired him in the hope that he has enough influence to end this embarrassing investigation into Coastal's tangled affairs.

The public has no powerful and well paid advocate to influence the SEC. The public has no close and long connections with the Railroad Commission. Who is to protect its interests? I wonder. In this great explosion of the Coastal gas bubble, it looks as if the public alone is going to get burned.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Winn (at the request of Mr. Gerald R. Ford), for July 30 and 31, 1973, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Mitchell of New York) and to revise and extend their remarks and include extraneous matter:)

Mr. Findley, for 5 minutes, today.

Mr. Kemp, for 15 minutes, today.

Mr. Conte, for 60 minutes, on August 2.

Mr. Taylor of Missouri, for 5 minutes, today.

Mr. Gerald R. Ford, for 10 minutes, today.

(The following Members (at the request of Mr. Ginn) to revise and extend their remarks and include extraneous material:)

Mr. Owens, for 5 minutes, today.
Mr. Gonzalez, for 5 minutes, today.
Mr. Podell, for 10 minutes, today.
Mr. Stokes, for 5 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Aspin, for 5 minutes, today.
Mr. Tiernan, for 5 minutes, today.
Mr. Melcher, for 5 minutes, today.
Mr. Brown of California, for 10 minutes, today.
Mr. Rooney of Pennsylvania, for 5 minutes, today.
Miss Holtzman, for 30 minutes, today.
Mr. Gaydos, for 30 minutes, July 30.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Zablocki in three instances and to include extraneous matter.

Mr. Yates and to include extraneous matter, notwithstanding the fact that it exceeds 3 pages of the Congressional Record and is estimated by the Public Printer to cost $627.

(The following Members (at the request of Mr. Mitchell of New York) and to include extraneous matter:)

Mr. Nelsen.
Mr. Treen in three instances.
Mr. Wyman.
Mr. Schneebeli.
Mr. Eshleman.
Mr. Frey.
Mr. McKinney.
Mr. Widnall.
Mr. Archer.
Mr. Armstrong.
Mr. Smith of New York.
Mr. Broyhill of Virginia.
Mr. du Pont.
Mr. Spence.
Mr. Mitchell of New York in two instances.
Mr. Symms.
Mr. Kemp in two instances.
Mr. Anderson of Illinois in two instances.
Mr. Collins of Texas in three instances.
Mr. Hastings.
Mr. Carter.
Mr. Frenzel.
Mr. Bob Wilson in two instances.
Mr. Ashbrook in three instances.
Mr. Roncallo of New York in two instances.
Mr. Scherle in two instances.
Mr. Steele.
Mr. Michel in five instances.
Mr. Derwinski in three instances.
Mr. Martin of North Carolina.
Mr. Lujan.
Mr. Abdnor.
Mr. Ruppe in two instances.

(The following Members (at the request of Mr. Ginn) and to include extraneous material:)

Mr. Rodino.
Mr. Gonzalez in three instances.
Mr. Rarick in three instances.
Mr. Hungate.
Mr. Biaggi in five instances.
Mrs. Schroeder.
Mr. Adams in two instances.
Mr. Fraser in five instances.
Mr. Dingell.
Mr. Brasco in five instances.
Mr. Meeds.
Mr. Waldie in two instances.
Mr. Symington.
Mr. Harrington in four instances.
Mr. Obey in three instances.
Mr. Tiernan in two instances.
Mr. Johnson of California.
Mr. Moorhead of Pennsylvania.
Mr. Mazzoli.
Mr. Chappell.
Mr. Nedzi.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1559. An act to provide financial assistance to enable State and local governments to assume responsibilities for job training and community services, and for other purposes; to the Committee on Education and Labor; and

S. 1828. An act to require that certain Federal offices be filled by appointment by the President by and with the advice and consent of the Senate; to the Committee on Post Office and Civil Service.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1423. An act to amend the Labor Management Relations Act, 1947, to permit employer contributions to jointly administered trust funds established by labor organizations to defray costs of legal services.

ADJOURNMENT

Mr. GINN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 4 minutes p.m.) under its previous order, the House adjourned until Monday, July 30, 1973, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1178. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on deliveries of excess defense articles during the third quarter of fiscal year 1973, pursuant to section 8(d) of Public Law 91–672, as amended; to the Committee on Foreign Affairs.

1179. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a Presidential determination waiving the regional ceiling on military assistance and sales to Latin American countries, pursuant to section 33(c) of the Foreign Military Sales Act, as amended; to the Committee on Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. RODINO: Committee of conference. Conference report on H.R. 8152 (Rept. No. 93–401). Ordered to be printed.

Mr. PERKINS: Committee on Education and Labor. H.R. 3927. A bill to extend the Environmental Education Act for 3 years; with amendment (Rept. No. 93–402). Referred to the Committee of the Whole House on the State of the Union.

Mr. PATMAN: Committee on Banking and and Currency. S. 1264. An act to authorize and direct the Secretary of the Treasury to make grants to Eisenhower College, in Seneca Falls, N.Y., out of proceeds from the sale of silver dollar coins bearing the likeness of the late President of the United States, Dwight David Eisenhower (Rept. No. 93–403). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. H.R. 7949. A bill to extend the Emergency Employment Act of 1971 for an additional year; with amendment (Rept. No. 93–404). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAWKINS: Committee on Education and Labor. H.R. 7265. A bill to provide for the operaton of programs by the ACTION Agency, to establish certain new such programs, and for other purposes; with amendment (Rept. No. 93–405). Referred to the Committee of the Whole House on the State of the Union.

Mr. SISK: Committee on Rules. House Resolution 511. Resolution to provide for the consideration of S. 1697. An act to require the President to furnish predisaster assistance in order to avert or lessen the effects of a major disaster in the counties of Alameda and Contra Costa in California. (Rept. No. 93–406). Referred to the House Calendar.

Mr. MATSUNAGA: Committee on Rules. House Resolution 512. Resolution providing for the consideration of S. 1989. An act to amend section 225 of the Federal Salary Act of 1967 with respect to certain executive, legislative, and judicial salaries. (Rept. No. 93–407). Referred to the House Calendar.

Mr. TEAGUE of Texas: Committee of Conference. Conference report on H.R. 8510. (Rept. No. 93–408). Ordered to be printed.

Mr. EVINS of Tennessee: Committee of Conference. Conference report on H.R. 8947; with amendment (Rept. No. 93–409). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDREWS of North Carolina:

H.R. 9591. A bill to further the purposes of the Wilderness Act of 1964 by designating certain lands for inclusion in the National Wilderness Preservation System, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. BRINKLEY:

H.R. 9592. A bill to provide for computation of disability retirement pay for members of the uniformed services; to the Committee on Armed Services.

H.R. 9593. A bill to amend title 10 of the United States Code in order to permit the partial attachment of retired or retainer pay to satisfy judicially decreed family support contributions; to the Committee on Armed Services.

H.R. 9594. A bill to provide for the equalization of the retired pay of members of the uniformed services of equal grade and years of service; to the Committee on Armed Services.

H.R. 9595. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. BROOMFIELD:

H.R. 9596. A bill to authorize the release of 1,553,500 pounds of cadmium from the national stockpile and the supplemental stockpile; to the Committee on Armed Services.

H.R. 9597. A bill to insure the separation of Federal powers by amending the National Labor Relations Act transferring jurisdiction over unfair labor practice and representation cases to the U.S. Labor Court, and for other purposes; to the Committee on the Judiciary.

By Mr. BROYHILL of Virginia:

H.R. 9598. A bill to reorganize the governmental structure of the District of Columbia by its separation into two entities, the city of Washington, Federal District, and the District of Columbia; to provide a charter for local government in the new District of Columbia subject to acceptance by a majority of registered qualified electors in the District of Columbia; to delegate certain legislative powers to the local government; to implement certain recommendations of the Commission on the Organization of the Government of the District of Columbia; and for other purposes; to the Committee on the District of Columbia.

By Mr. BURKE of Florida:

H.R. 9599. A bill to amend title 38 of the United States Code to increase the monthly rates of disability and death pensions, and dependency and indemnity compensation, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. COLLINS of Texas:

H.R. 9600. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to prohibit the Secretary of Transportation from imposing certain safety standards, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. DORN (for himself and Mr. Kemp):

H.R. 9601. A bill to amend title 38 of the United States Code to increase the monthly rates of disability and death pensions, and dependency and indemnity compensation, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. DORN (for himself, Mr. Zablocki, Mr. Dent, Mr. Gaydos, Mr. Clay, Mr. Whalen, Mr. Meeds, and Mr. Kemp):

H.R. 9602. A bill to amend title 38 of the United States Code to increase the monthly rates of disability and death pensions, and dependency and indemnity compensation, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. DUNCAN:

H.R. 9603. A bill to amend title 38 of the United States Code so as to make presumptions relating to certain diseases applicable to veterans who served during the period between the end of World War II and the beginning of the Korean conflict; to the Committee on Veterans' Affairs.

By Mr. DUNCAN (for himself, Mr. Clark, Mr. Saylor, and Mr. Shuster):

H.R. 9604. A bill to amend the Internal Revenue Code to encourage development of processes to convert coal to low pollutant synthetic fuels; to the Committee on Ways and Means.

H.R. 9605. A bill to amend the Internal Revenue Code to encourage an increase in production of coal; to the Committee on Ways and Means.

By Mr. FRASER:

H.R. 9606. A bill to strengthen and improve the protections and interests of participants and beneficiaries of employee pension and welfare benefit plans; to the Committee on Education and Labor.

By Mr. FROEHLICH:

H.R. 9607. A bill to provide for payments in lieu of real property taxes, with respect to certain real property owned by the Federal Government; to the Committee on Interior and Insular Affairs.

By Mr. GONZALEZ:

H.R. 9608. A bill to make it a Federal crime to kill or assault a fireman or law enforcement officer engaged in the performance of his duties when the offender travels in interstate commerce or uses any facility of interstate commerce for such purpose; to the Committee on the Judiciary.

By Mr. GUDE (for himself, Ms. Abzug, Ms. Boggs, Ms. Chisholm, Ms. Grasso, Ms. Green of Oregon, Ms. Griffiths, Ms. Heckler of Massachusetts, Ms. Mink, and Ms. Sullivan):

H.R. 9609. A bill to provide for the establishment of the Clara Barton House National Historic Site in the State of Maryland, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. HARSHA:

H.R. 9610. A bill to improve the conduct and regulation of Federal election campaign activities and to provide public financing for such campaigns; to the Committee on House Administration.

By Mr. HENDERSON (for himself, Mr. Andrews of North Carolina, Mr. Fountain, Mr. Jones of North Carolina, Mr. Preyer, Mr. Rose, and Mr. Taylor of North Carolina):

H.R. 9611. A bill to change the name of the New Hope dam and lake, N.C., to the B. Everett Jordan dam and lake; to the Committee on Public Works.

By Mr. HOSMER:

H.R. 9612. A bill to amend title 38 of the United States Code to increase the monthly rates of disability and death pensions, and dependency and indemnity compensation, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. LUJAN:

H.R. 9613. A bill to encourage States to establish motor vehicle disposal programs and to provide for federally guaranteed loans and tax incentives for the acquisition of automobile scrap-processing equipment; to the Committee on Ways and Means.

By Mr. McFALL:

H.R. 9614. A bill to establish a national program of Federal insurance against catastrophic disasters; to the Committee on Banking and Currency.

By Mr. MIZELL:

H.R. 9615. A bill relating to the income tax treatment of charitable contributions of inventory and certain other ordinary income property; to the Committee on Ways and Means.

H.R. 9616. A bill to amend title 38 of the United States Code to make certain that recipients of veterans' pension and compensation will not have the amount of such pension or compensation reduced because of increases in monthly social security benefits; to the Committee on Veterans' Affairs.

By Mr. NELSEN (for himself and Mr. Fuqua):

H.R. 9617. A bill to establish a uniform system of personnel administration for the Government of the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. OWENS (for himself, Mr. Breaux, Mr. Breckinridge, Mr. de Lugo, Mr. Gunter, Ms. Holtzman, Mr. Moakley, Mr. Stark, Mr. Studds, Mr. Thornton, Mr. Won Pat, Mr. Young of Georgia, Mr. Alexander, Mr. Bingham, Mr. Carney of Ohio, Mr. Fraser, Mr. Green of Pennsylvania, Mr. Podell, Mr. Reuss, Mr. Metcalfe, and Mr. Wolff):

H.R. 9618. A bill to amend the Legislative Reorganization Act of 1970 to establish an Office of Congressional Ombudsman to investigate, at the request of Members of Congress, actions and operations of the various agencies of the U.S. Government; to the Committee on House Administration.

By Mr. PARRIS (for himself, Ms. Abzug, Mr. Ashley, Mr. Aspin, Mr. Badillo, Mr. Bafalis, Mr. Baker, Mr. Biester, Mr. Bingham, Mr. Brown of Ohio, Mr. Broyhill of Virginia, Mr. Buchanan, Mr. Burgener, Mr. Dan Daniel, Mr. Dominick V. Daniels, Mr. Davis of Georgia, Mr. Eilberg, Mr. Fauntroy, Mr. Fish, Mr. Frey, Mr. Goldwater, Mr. Gude, Mr. Harrington, Mr. Hogan, and Mrs. Holt):

H.R. 9619. A bill to amend the Communications Act of 1934 for 1 year with respect to certain agreements relating to the broadcasting of home games of certain professional athletic teams; to the Committee on Interstate and Foreign Commerce.

By Mr. PARRIS (for himself, Mr. Hinshaw, Mr. Johnson of Colorado, Mr. Ketchum, Mr. Kuykendall, Mr. Lott, Mr. McKinney, Mr. Mollohan, Mr. Nelsen, Mr. Obey, Mr. O'Brien, Mr. Pepper, Mr. Podell, Mr. Railsback, Mr. Riegle, Mr. Roncallo of New York, Mr. Sikes, Mr. Snyder, Mr. Stark, Mr. Stuckey, Mr. Veysey, Mr. Whitehurst, Mr. Widnall, Mr. Won Pat, and Mr. Yatron):

H.R. 9620. A bill to amend the Communications Act of 1934 for 1 year with respect to certain agreements relating to the broadcasting of home games of certain professional athletic teams; to the Committee on Interstate and Foreign Commerce.

By Mr. PARRIS (for himself, Mr Zwach, and Mr. Hanley):

H.R. 9621. A bill to amend the Communications Act of 1934 for 1 year with respect to certain agreements relating to the broadcasting of home games of certain professional athletic teams; to the Committee on Interstate and Foreign Commerce.

By Mr. PATTEN:

H.R. 9622. A bill to amend the Natural Gas Act to require that notices of an application for a certificate of convenience and necessity be published in the newspaper; to the Committee on Interstate and Foreign Commerce.

By Mr. PODELL:

H.R. 9623. A bill to provide that the United States shall be liable for treble damages in causes of erroneous entry to dwellings by its officers or employees for the purposes of searching for illicit drugs, and that any officer or employee who is responsible for such an entry shall be immediately discharged from his position as officer or employee; to the Committee on the Judiciary.

By Mr. RAILSBACK:

H.R. 9624. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for grants to interstate metropolitan organizations; to the Committee on the Judiciary.

By Mr. RHODES (for himself, Mr. Camp, Mr. Hansen of Idaho, Mr. Melcher, Mr. Steiger of Arizona, and Mr. Conlan):

H.R. 9625. A bill defining and limiting the application of certain acts of Congress to Indians and Indian tribes; to the Committee on Interior and Insular Affairs.

By Mr. SAYLOR:

H.R. 9626. A bill to revise the authorized boundary of the Biscayne National Monument in the State of Florida, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. STEED:

H.R. 9627. A bill to establish the Chickasaw National Recreation Area in the State of Oklahoma, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. STEELMAN (for himself, Mr. Wylie, and Mr. Alexander):

H.R. 9628. A bill to provide that appointments to the Offices of Director and Deputy Director of the Office of Management and Budget shall be subject to confirmation by the Senate; to the Committee on Government Operations.

By Mr. TIERNAN:

H.R. 9629. A bill to authorize the disposal of approximately 258,700 short tons of copper from the national stockpile and the supplemental stockpile and limit exports of copper and copper scrap; to the Committee on Armed Services.

By Mr. WALDIE:

H.R. 9630. A bill to amend title 5, United States Code, to provide for the payment by the Government of all costs of the Federal employees basic group life and accidental health and dismemberment insurance program; to the Committee on Post Office and Civil Service.

By Mr. BOWEN (for himself, Mr. Breaux, and Mr. Waggonner):

H.R. 9631. A bill to amend Public Law 92-181 (85 Stat. 383) relating to credit eligibility for public utility cooperatives serving producers of food, fiber, and other agricultural products; to the Committee on Agriculture.

By Mr. DINGELL:

H.R. 9632. A bill to regulate commerce by assuring adequate supplies of energy resource products will be available at the lowest possible cost to the consumer, and for other purposes; to the Committee on the Judiciary.

By Mr. DOWNING:

H.R. 9633. A bill to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. FRASER (for himself, Mr. Adams, Mr. Conte, Mr. Badillo, Mr. Brown of California, Mr. Conyers, Mr. Corman, Mr. Dellums, Mr. Edwards of California, Mr. Gude, Mr. Harrington, Mr. Helstoski, Ms. Holtzman, Mr. Kastenmeier, Mrs. Mink, Mr. Mitchell of Maryland, Mr. Moakley, Mr. Moss, Mr. Podell, Mr. Rosenthal, and Mr. Seiberling):

H.R. 9634. A bill to amend the Interstate Commerce Act to provide that no pipeline company engaged in the transportation of oil may transport oil through its pipelines if that company has an interest in such oil; to the Committee on Interstate and Foreign Commerce.

By Mrs. GRIFFITHS (for herself, Mr. Corman, and Mr. Barrett):

H.R. 9635. A bill to create a national system of health security; to the Committee on Ways and Means.

By Miss JORDAN:

H.R. 9636. A bill to amend titles 39 and 5, United States Code, to eliminate certain restrictions on the rights of officers and employees of the Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. MARTIN of North Carolina:

H.R. 9637. A bill to amend title 38 of the United States Code to increase the monthly rates of disability and death pensions, and dependency and indemnity compensation, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. MOLLOHAN:

H.R. 9638. A bill to amend title II of the Social Security Act so as to liberalize the conditions governing eligibility of blind persons to receive disability insurance benefits thereunder; to the Committee on Ways and Means.

By Mr. PERKINS:

H.R. 9639. A bill to amend the National School Lunch and Child Nutrition Acts for the purpose of providing additional Federal financial assistance to the school lunch and school breakfast programs; to the Committee on Education and Labor.

By Mr. PERKINS (for himself, Mr. Beard, Mr. Carter, Mrs. Chisholm, Mr. Cohen, Mr. Diggs, Mr. Dingell, Mr. Gettys, Mr. Kyros, Mr. Kuykendall, Mr. Landrum, Mr. Long of Louisiana, Mr. Matsunaga, Mr. Mitchell of Maryland, Mr. Owens, Mr. Quie, Mr. Riegle, Mr. Rosenthal, Mr. Sebelius, Mr. Sisk, Mr. Stubblefield, Mr. Taylor of North Carolina, Mr. Thone, Mr. Widnall, and Mr. Charles H. Wilson of California):

H.R. 9640. A bill to provide for the establishment of an American Folklife Center in the Library of Congress, and for other purposes; to the Committee on House Administration.

By Mr. RANGEL:

H.R. 9641. A bill to add a new title XX to the Social Security Act to provide for a minimum annual income of $3,850 in the case of single individuals and $5,200 in the case of married couples; to the Committee on Ways and Means.

By Mr. RANGEL (for himself, Ms. Abzug, Mrs. Burke of California, Mrs. Chisholm, Mr. Clay, Mr. Conyers, Mr. Diggs, Mr. Drinan, Mr. Edwards of California, Mr. Fauntroy, Mr. Fraser, Mr. Harrington, Ms. Holtzman, Mr. Leggett, Mr. Moakley, Mrs. Mink, Mr. Mitchell of Maryland, Mr. Pepper, Mr. Podell, Mr. Rosenthal, Mr. Roybal, Mr. Stark, Mr. Stokes, Mr. Waldie, and Mr. Charles H. Wilson of California):

H.R. 9642. A bill to amend title 13, United States Code, to establish within the Bureau of the Census a Voter Registration Administration for the purpose of administering a voter registration program through the Postal Service; to the Committee on House Administration.

By Mrs. SCHROEDER (for herself, Mr. Brasco, Mr. Carney of Ohio, Mrs. Collins of Illinois, Mr. Conyers, Mr. Corman, Mr. Cronin, Mr. Howard, Ms. Jordan, Mr. Koch, Mr. Nix, Mr. Price of Illinois, Mr. Rees, Mr. Riegle, Mr. Sarbanes, Mr. Studds, and Mr. Tiernan):

H.R. 9643. A bill to provide for the establishment within the Department of Health, Education, and Welfare of a National Center on Child Development and Abuse Prevention, to provide financial assistance for a demonstration program, and for other purposes; to the Committee on Education and Labor.

By Mr. STAGGERS:

H.R. 9644. A bill to amend the Communications Act of 1934 with respect to certain agreements relating to the broadcasting of home games of certain professional athletic teams; to the Committee on Interstate and Foreign Commerce.

By Mr. STEELE (for himself, Mr. Hastings, and Mr. Hudnut):

H.R. 9645. A bill to authorize the disposal of approximately 258,700 short tons of copper from the national stockpile and the supplemental stockpile; to the Committee on Armed Services.

By Mr. STOKES:

H.R. 9646. A bill to require that discharge certificates issued to members of the Armed Forces not indicate the condition or reasons for discharge, to limit the separation of enlisted members under conditions other than honorable, and to improve the procedures for the review of discharges and dismissals; to the Committee on Armed Services.

By Mr. YOUNG of Illinois:

H.R. 9647. A bill to provide double credit for retirement purposes, and certain pay and allowances, to members of the Armed Forces who were in a missing status for any period during the Vietnam conflict, and to provide such members certain additional medical benefits; to the Committee on Armed Services.

H.R. 9648. A bill to provide double credit for retirement purposes, and certain pay and allowances, to Federal employees who are in missing status for any period of time during the Vietnam conflict; to the Committee on Post Office and Civil Service.

H.R. 9649. A bill to provide for a temporary period of time for the duty-free entry of the personal and household effects of members of the Armed Forces who were in missing status during the Vietnam conflict; to the Committee on Ways and Means.

H.R. 9650. A bill to amend the State and Local Fiscal Assistance Act of 1972 to make it clear that local governments may use amounts freed by revenue sharing for real property tax reduction; to the Committee on Ways and Means.

By Mr. FINDLEY:

H.R. 9651. A bill to establish a system to ration refined petroleum products, natural gas, and natural gas liquids among civilian users in order to provide sufficient fuel for essential agricultural operations, and public health, safety, and essential public services in areas of shortage; to the Committee on Banking and Currency.

By Mr. PRICE of Texas:

H.R. 9652. A bill to amend section 70f of the Bankruptcy Act to provide that all sales of a bankrupt's property made by auction shall be made by an auctioneer selected through competitive bidding; to the Committee on the Judiciary.

H.R. 9653. A bill to amend the Internal Revenue Code of 1954 to extend certain transitional rules for allowing a charitable contribution deduction for purposes of the estate tax in the case of certain charitable remainder trusts; to the Committee on Ways and Means.

By Mr. du PONT (for himself, Mr. Cleveland, Mr. Coughlin, Mr. Fish, and Mr. Charles H. Wilson of California):

H.J. Res. 687. Joint resolution authorizing the President to proclaim January 17 of each year as "National Volunteer Firemen Day"; to the Committee on the Judiciary.

By Mr. FULTON:

H.J. Res. 688. Joint resolution authorizing the President to proclaim 1973-83 as "A Decade for Action to Combat Racism and Racial Discrimination"; to the Committee on the Judiciary.

By Mr. WIDNALL:

H.J. Res. 689. Joint resolution to provide for extension of flexible authority relating to payment of interest on time and savings deposits; to the Committee on Banking and Currency.

By Mr. STOKES:

H. J. Res. 690. Joint resolution; a national education policy; to the Committee on Education and Labor.

By Mr. MARTIN of North Carolina:

H. Con. Res. 277. Resolution relative to the recommendations of the Federal Commission on Executive Legislative, and Judicial Salaries, expressing the sense of Congress in opposition to increases in the salaries of Members and in favor of limiting other salary increases to the rate of 5.5 percent per annum; to the Committee on Post Office and Civil Service.

By Mr. RODINO:

H. Res. 510. Resolution to provide funds for the Committee on the Judiciary; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CRONIN:

H.R. 9654. A bill for the relief of Mr. Aldo Massara; to the Committee on the Judiciary.

By Mr. HEINZ:

H.R. 9655. A bill for the relief of Stanley Bialowas, Jr.: to the Committee on the Judiciary.

By Mr. McFALL:

H.R. 9656. A bill for the relief of Edmundo Alfredo Oreiro Espinueva; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

256. The SPEAKER presented a petition of the city council, New York, N.Y., relative to social security benefits; to the Committee on Ways and Means.

EXTENSIONS OF REMARKS

TO SAVE THE WILDERNESS

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Thursday, July 26, 1973

Mr. HARRY F. BYRD, JR. Mr. President, the July 24 edition of the Northern Virginia Daily of Strasburg, Va., included an excellent editorial recommending establishment of a wilderness area in the Shenandoah National Park.

On the day the editorial was published, I testified before the Parks and Recreation Subcommittee of the Committee on Interior and Insular Affairs, urging that approximately one-third of the acreage in the Shenandoah Park be set aside as a wilderness area.

Located within reach of the Washington and Richmond Metropolitan areas, Shenandoah National Park is attracting an increasing number of visitors each year. In view of the growth in popularity of the park, I think that now is the appropriate time to assure conservation of a portion of the park in its natural state.

I ask unanimous consent that the editorial, "To Save the Wilderness," be printed in the Extensions of Remarks.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

To Save the Wilderness

Sen. Harry F. Byrd Jr. is the sponsor of legislation which is of immense importance to Virginia and to the nation. Sen. Byrd's bill provides for setting aside 72,280 acres of the Shenandoah National Park as a wilderness area.

Why is a wilderness area classification desirable since Shenandoah has been a national park for years and as such has been enjoyed by the public? The reason, of course, is the realization on the part of millions of Americans that if we are to preserve the few remaining areas of this great land in the natural state with which nature endowed them we must act without delay.

National parks, as such, are for public enjoyment but because of the manner in which they must be developed in order to make them accessible and usable for great numbers of people their preservation in their original pristine state is difficult.

The establishment of wilderness areas within parks on the other hand will make possible the process of legally sealing off and maintaining the natural state uncorrupted by any of the man-made additions such as highways, commercial buildings, picnic areas, etc., which dot national parks.

As Sen. Byrd correctly points out there are relatively few areas in the nation in which wilderness conditions still exist to be preserved. Virginia is fortunate to have within its borders one of the few still left in the eastern United States, and the desirability of preserving it is enhanced by the fact that the newly designated wilderness acreage will be within 90 miles of Washington and about 100 miles of Richmond.

The strongest argument in favor of wilderness areas lies in the fact that if we permit the few remaining to be destroyed by the approach of steadily increasing urbanization it will be too late. When they are gone there will be no more.

Thus, we urge Congress to give early consideration to Sen. Byrd's bill to set aside what amounts to just slightly over a third of the present park for this purpose.

In years to come the benefits to the people will be incalculable.

CYRUS EATON SEES SWING BACK TO INDIVIDUAL FREEDOM, ENTERPRISE

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Thursday, July 26, 1973

Mr. RANDOLPH. Mr. President, there is much commentary today on the uses and abuses of governmental power, and I am confident that such introspective discussions will lead to a stronger, better-balanced distribution of constitutional prerogatives. Power abhors a vacuum, and when there is a failure on the part of one branch of government to exert its constitutional authority, its role is preempted by another.

One of the experienced and astute observers of this power phenomenon in America today is Cyrus Eaton, chairman of the board of the Chesapeake & Ohio Railway. He addressed stockholders at the annual shareholders meeting at the Greenbrier, White Sulphur Springs, W. Va., recently. Mr. Eaton departed from remarks involving railroad operations to provide some keen insight on his intimate observations of changing government structure over a period of many years.

He recalled to the audience the statement of President Eisenhower, after retirement from office, that it would be "sheer stupidity to send American troops to fight in Indochina." The warning by the late President, a qualified man to make that judgment at the time, was ignored. President Eisenhower and Mr. Eaton were longtime friends. Mr. Eisenhower was a frequent visitor to the Greenbrier, in our beautiful hill country, and they shared a mutual admiration for shorthorn cattle. I feel that Mr. Eaton's recollection of the statement by the General has a particular pertinence at this time of congressional action to end American bombing in Cambodia. I ask unanimous consent that the remarks by Chairman Eaton pertaining to the evolvement of governmental power and the examples of its misuse be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Address By Cyrus S. Eaton

All of us are mindful of the unhappy day-to-day disclosures in Washington of the fallibility of government. They are a distressing but timely reminder that those who hold public office, elective and appointive, are ordinary human beings, with the same frailties and foibles as private citizens like us.

I wonder if you realize that, in addition to the office of the President and the 11 executive departments, with their countless subordinate agencies, bureaus and councils, there are 73 so-called independent federal agencies. These regulatory bodies, all of which have been created in my lifetime, affect every aspect of our lives.

The political involvement of two (other) agencies, the Federal Bureau of Investigation and the Central Intelligence Agency, has newly shocked the public. As a result, serious questions are being raised about the legality and the morality of their activities, not to overlook the expense which, in the case of the CIA, has never been disclosed to the public.

The wars in which the United States has become involved in my lifetime have gotten us into the habit of placing almost dictatorial power in the hands of one man, the President. The result has been an erosion of the authority of the Congress, to the point where it has practically abdicated. As we learn the bitter lesson of present events, the trend should be toward a return of freedom to the private individual, with less faith in government officials and agencies.

The time has probably come for some revisions in our Constitution. Take the position of the President as Commander-in-Chief, for instance. It may well have been highly proper for General George Washington to become Commander-in-Chief as well as President, and also for Dwight D. Eisenhower, with his long and brilliant military experience. In no other nation on earth is a layman without significant military knowledge made Commander-in-Chief, however. After his retirement from office, President Eisenhower told me that, as a military man, he had all along realized that it would be "sheer stupidity" to send American troops to fight in Indo-China. History records that subsequent Presidents nevertheless sent ground, air, and naval troops, and the "sheer stupidity" of so doing, as Eisenhower termed it, all but tore the American nation apart.

As the aftermath of that unwanted war and the subsequent political scandals, I think the Senate and House must resume greater responsibility for government. In time I also believe there will be an end to the creation of new regulatory agencies and a marked reduction in the now arbitrary powers of existing ones. If we are going to continue to have private enterprise, certainly we must have less regulation, less taxation and less spending of money all over the world. The time has come for us to let the rest of the world make its own mistakes.

In contrast to the plight of the United States, look at the flourishing condition of Japan and Germany, defeated in World War II and largely free of military expenditures, while we have been squandering our substance on wars and armaments, until our taxes have reached back-breaking proportions.

Mr. RANDOLPH. Mr. President, one of the myths of American foreign policy is the belief that we can continue to export our material and ideological resources throughout the world, and, in so doing, make every nation like America. We know that there is not enough energy or natural resources to do this, yet we persist. Our profligate policies have unleashed rising expectations of affluence which are fed by electronic images and fueled by rising rebellions. Mr. Eaton has said:

> The time has come for us to let the rest of the world make its own mistakes.

Mr. President, should we continue our humanitarian efforts abroad and share our technologies, we should not do so at the ever-increasing expense of the American taxpayer.

REPRESENTATIVE HENRY P. SMITH III ANNOUNCES RESULTS OF 1973 QUESTIONNAIRE

HON. HENRY P. SMITH III

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. SMITH of New York. Mr. Speaker, in mid-May, I submitted by annual questionnaire to the residents of the 36th Congressional District of New York State.

I am sure that my questionnaire results will be of great interest to the Members of this House. The bulk of the responses were received in late May and early June. The tabulated results of my 1973 questionnaire are as follows:

1. If the United States shall extend aid for reconstruction of North Vietnam, should we do it:

Alone, 4 percent.
With other nations, 74 percent.
No response, 22 percent.
Should the aid be:
Much, three responses.
Some, 43 percent.
None, 56 percent.
No response, 1 percent.

2. If any national health insurance program will be expensive to the individual, what is your position regarding the establishment of such a program?

For, 21 percent.
Against, 73 percent.
No response, 6 percent.

3. Panama wants U.S. withdrawal from the Canal by 1994. We want to share the defense of the Canal with Panama for at least 50 years (2023). Do you favor the U.S. proposal?

For, 75 percent.
Against, 18 percent.
No response, 7 percent.

4. Should the draft law be extended by the Congress on a stand-by basis?

Yes, 64 percent.
No, 31 percent.
No response, 5 percent.

5. President Nixon is cutting down spending across the board instead of increasing taxes. Do you approve?

Yes, 84 percent.
No, 11 percent.
No response, 5 percent.

6. Do you feel that cities should be allowed to use part of the highway trust funds allocated to them to finance mass transit programs?

Yes, 65 percent.
No, 29 percent.
No response, 6 percent.

7. Do you favor increased Federal spending to curb pollution if it means higher taxes?

Yes, 48 percent.
No, 48 percent.
No response, 4 percent.

8. Do you think that some sort of newsmen's privilege law should be enacted?

Yes, 52 percent.
No, 41 percent.
No response, 7 percent.

9. Can we beat inflation without strict government controls of wages, prices, profits?

Yes, 22 percent.
No, 71 percent.
No response, 7 percent.

CONGRESSIONAL FELLOWSHIP PROGRAM

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. OWENS. Mr. Speaker, I would like to join my colleagues in commending the American Political Science Association and the U.S. Civil Service Commission for their sponsorship of the congressional fellowship program. Although I am in my first term as the Congressman from the Second District in Utah I have been acquainted with the program and impressed with the quality of fellows during my previous staff assignments with Senator KENNEDY and Senator Moss.

I had the good fortune to become acquainted with one of this year's fellows during the month of December while waiting for office space to be assigned. At the time, my good friend, Senator Moss of Utah had graciously offered desk space in his office to me and I met Jim Russell, the congressional fellow assigned to the Senator's office. Jim seemed interested in the matters that concerned Utah and felt that his experience with the Senator was everything he had expected from the program. I managed to persuade Jim to join me on the House side in April when all the fellows changed assignments.

Jim has been a big help in the brief 3 months of his assignment in my office particularly as my work with the House Interior Committee is concerned. As many of my colleagues know, I have considerable interest in the development of natural resources in environmentally sound ways and Jim's background with the Environmental Protection Agency has been uniquely compatible with that interest. I only wish that the program was sufficiently flexible to allow extended assignments for fellows who felt that additional experience with the legislative branch would make their careers with the executive branch much more valuable. I support the program wholeheartedly and intend to make my office available to fellows seeking assignments on a continuing basis. In fact, any of the fellows selected for next year's program that have access to the RECORD can take this statement as an invitation to drop by my office to chat a while. I also intend to alert the American Political Science Association of my desire to have fellows assigned to my office and hope that I will have the opportunity to talk with those selected for next year's program sometime during the orientation period before office assignment.

STATEMENT OF HEAVY DUTY TRUCK MANUFACTURERS ASSOCIATION

HON. LLOYD MEEDS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. MEEDS. The Ways and Means Committee is presently considering major changes in trade and tariff laws. One of the most thought provoking statements was submitted by the Heavy Duty Truck Manufacturers Association. The heavy duty truck manufacturers have long been in the forefront of U.S. firms selling American-made goods abroad.

Of particular significance to me was the association's emphasis on the removal of nontariff barriers in other countries in which American manufacturers do business. It appears that the most common form of nontariff barrier is the license requirement of many of our trading partners. The statement notes specifically that:

> Many other nations which buy from U.S. truck manufacturers require the American concerns to have a license. The licenses are very limited in number per country and give the holders in effect an exclusive advantage over other American producers which are not licensed. It would be in the best interest of the purchasing country and the American producers if such license requirements were removed and the competitive forces of the free market were to determine whose product was bought.

STATEMENT OF HEAVY DUTY TRUCK MANUFACTURERS ASSOCIATION RELATING TO HEARINGS ON TRADE REFORM

This Association is pleased to have an opportunity to comment on the matter of Trade Reform.

Legislative history does not support the contention that the tax laws are obsolete. In 1962, when Congress reviewed the tax treatment of foreign subsidiaries of U.S. companies, it exhaustively considered major legislation with respect to controlled foreign corporations operated by U.S. companies abroad. The conclusion was reached that foreign tax credit and deferral of income of foreign subsidiaries were essential to avoid penalizing American-owned businesses by placing them at a disadvantage vis-a-vis foreign competitors, which are not subject to double taxation. Recognized, also, was the necessity for retaining earnings abroad to meet the needs for working capital and improved facilities. The Revenue Act of 1962 embodies these concepts. This legislative action was taken not during a period of isolationism but when America was beginning to experience the growing competitive power of nations recovering from war ravaged economies.

The same Congress also enacted the Trade Expansion Act of 1962 which authorized the Export-Import Bank to expand billions of dollars, if necessary, to insure American exporters against defaults by customers. Business was urged to sell to world markets and the wartime system of "E" Awards (this time meaning exports) was re-established for outstanding export activity.

The program succeeded for a number of years with a resulting favorable trade balance. Unfortunately, several years ago that balance tipped against the United States.

The reason for this reversal was not the U.S. Tax Law but the changing nature of the world's political economy and the rise of discriminatory trading areas and trade agreements.

This change began at the end of World War II and the United States played a major role in bringing it about. Initially, the General Agreement on Tariffs and Trade (GATT) signed by 24 nations in 1947, provided for the gradual bargaining down of tariffs in multilateral tariff negotiations on an unconditional, most favored nation basis. This evinced interest in an ultimate goal of nondiscrimination in international trade.

However, subsequent developments, with United States acquiescence, resulted in the rise of discriminatory tariff practices. Thus, in 1973, we find that the effective merger of the European Economic Community (Common Market) and the European Free Trade Association (EFTA) combines 16 nations into an enormous preferential trading bloc which discriminates against non-members. In addition, members of this bloc have entered into treaties with countries of Africa and Asia which are also discriminatory in terms. A six nation preferential trading bloc (LAFTA) exists in South America. As nations with the help or U.S. economic aid, began developing domestic industry, they imposed import controls, licensing regulations, "local content" requirements and other non-tariff restrictions designed to favor business activities situated within their own borders.

Thus, in the early 1960's, while the United States Government was exhorting American businessmen to go abroad, the manufacturer found himself faced with growing and formidable barriers to the traditional form of export; i.e. manufacture in the United States and ship abroad. He did, and still does, run into the discriminatory practices mentioned above. To help surmount these difficulties, it became necessary for him to affiliate with or re-establish foréign based facilities as an adjunct to direct export from the U.S.

The most common form of non-tariff barrier is the license requirement of many countries. Many other nations which buy from U.S. truck manufacturers require the American concerns to have a license. The licenses are very limited in number per country and give the holders in effect an exclusive advantage over other American producers which are not licensed. It would be in the best interest of the purchasing country and the American producers if such license requirements were removed and the competitive forces of the free market were to determine whose product was bought. Another non-tariff barrier is the requirement of many purchasing nations that a certain percentage of the finished product be locally produced. These and all other artificial trade barriers should be removed. This Committee could render invaluable assistance to our export program by finding the means through which these trade barriers can be eliminated in bilateral or multilateral negotiations.

There is no objective proof that foreign based production costs American jobs. On the contrary, the President's Trade Reform message to Congress of April 10th, 1973, states that on balance, American investment abroad has meant "more and better jobs for American workers, has improved our balance of trade and our overall balance of payments, and has generally strengthened our economy."

The magazine *Nation's Business* reported this month that employment in United States multinational companies has increased 2½ times as fast as employment in the average U.S. domestic concern. A U.S. truck manufacturer recently said that if it did not export over 3,000 trucks a year where would those engaged in the manufacture of such vehicles find comparable, profitable employment.

Even assuming that the studies referred to by the President are optimistic the cause for any peripheral problems, if they exist, does not lie with the tax laws but with the fact that the United States is not in the dominant position it occupied at the close of World War II. The development of stronger economies abroad, increasing foreign competitive power, has produced an attitude more analagous to that of a free agent in world trade than that of a dependent on U.S. aid. The competitor will compete.

IMPORT CONTROLS

The non-tax provisions of certain proposed legislation treat the international trade problem as one which can be solved unilaterally by the imposition of restrictions tied to an historical base, supplemented by specific quotas where found necessary.

The proponents of H.R. 62 find such controls necessary because "the torrent of imports that has already wiped out whole industries will gradually erode our industrial base." In short, by reducing our level of imports we would solve our deficit trade balance and protect our domestic industry.

Some industry spokesmen have contended that there have been what they call import surges. But we question that it is necessary to advocate a policy restrictive of imports.

Certain imports are unquestionably necessary for domestic production and a reduction could hurt us. The U.S. Department of Commerce has estimated for example, that under the H.R. 62 formula, the import of capital goods needed by American manufacturers to keep up with foreign competition would be reduced about 31 from 1971 levels.

Other imports also play an important part across-the-board reduction of imports fails to take into account the effect of such a cut on various segments of our industry geared to such imports and dependent thereon. Oil is one commodity which comes readily to mind as requiring special treatment in the light of the energy crises, but there are many others.

The Department of Commerce further estimates that on an average the major exporters to the United States would lose an average of nearly 30% of such exports if H.R. 62 was enacted. A reduction on this scale is bound to adversely affect various elements of the American economy.

Another predictable result from the dropping of imports is that removal or lessening of competitive factors would spur price increases in the United States, further fueling inflation at a time when that too is a major problem.

From the other side of the water, it is obvious that a 30% drop in shipments to the United States could and would provoke retaliatory action. In 1971, the export of American manufactured goods totalled $43,497,000,000. Retaliatory tariffs or quotas could reduce this substantially, also with adverse results to the American Industry.

If it be argued that retaliation is not important because the reduction in imports will bring about a trade balance and increase domestic employment even if exports are reduced, such a position would be difficult to sustain. U.S. studies demonstrate that the job content of the domestic production that would replace imports is less than the job content of our exported goods. Confirming this is the Leontief Paradox named after Professor W. Leontief of Harvard who studied the subject exhaustively over twenty years ago.

But over and above the foregoing considerations, it must be concluded that H.R. 62 would represent a turning back of the clock, a negating of the efforts which our government has initiated or supported since World War II ended, in the interest of international peace and stability. Foreign trade is one, if not the most, potent mechanism for achieving peace and economic security among nations. Unilateral protectionism, on the other hand, is totally out of phase with the fact of an increasingly interdependent world.

The new legislation proposed by the Administration in the "Trade Reform Act of 1973" represents a much more realistic approach to the problem. This legislation would give the President broad powers to negotiate a reduction or removal of tariffs and of non-tariff barriers to free trade, with appropriate provision for Congessional review. This would permit him to open up foreign markets to U.S. goods and to establish a system of safeguards to protect domestic industry from the disruption of import floods or surges.

Despite the President's June 13th statement on possible short term food export controls, the Administration's announced goal is to open up world agricultural markets to make them truly responsive to market influences; to reduce the high tariffs that continue; and to eliminate the numerous non-tariff barriers which have been discussed above.

In essence, the new legislation proposes flexibility and a course of action based on multilateral negotiations instead of unilateral restriction. Such an approach is geared to the realities of today's economic world.

H.R. 62 would, no doubt, accomplish its announced goal of discouraging American investments abroad and of limiting the flow of imports into this country. The effect, however, in our opinion would be disastrous to our exports and would hurt rather than help our domestic economy.

CAPTIVE NATIONS WEEK

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. DERWINSKI. Mr. Speaker, last week we commemorated Captive Nations Week. I was impressed by the continuing strong public support for the goal of restitution of freedom for all people held captive under communism.

A very pertinent commentary regarding Captive Nations Week was broadcast on Chicago's station WGN on July 15:

CAPTIVE NATIONS WEEK

Earlier this month, we commented on a meeting of foreign ministers from 35 countries . . . communist and non-communist, in Helsinki, Finland. We looked at that conference as the beginning of the end of the cold war in Europe. And, even though the real business of these diplomats was postponed until September, when experts from these 35 countries will meet in Geneva and decide how to put their dialog into effect, it WAS a beginning, if only because these countries MET . . . to discuss their differences.

One thing, however, has not changed. The Soviet Union says it will not relinquish control of ten eastern European countries. It also reserved the right to invade these countries, should they wander from the path of Soviet communism, as it invaded Czechoslovakia in 1968.

This immovable stand dims the hopes of the free peoples of the world . . . hopes that the Soviet Union was loosening its iron-hand hold. And, as we in America observe this week as "Captive Nations Week," we are reminded . . . sadly . . . of those who do not know, who have never known freedom. President Eisenhower designated the first Captive Nations Week 14 years ago. He said it was to be observed, as he put it, "until such time as freedom and independence shall have been achieved for ALL the captive nations." Not much has changed . . . for them.

With the Soviet Union's increasing dependence on American agriculture, the United States has a strong position from which to bargain for freedom in these nations. It should use this position . . . so that what comes out of the Geneva talks in September is not just more rhetoric.

TRIBUTE TO NICHOLAS JOHNSON

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. HARRINGTON. Mr. Speaker, I rise today to recognize the achievements of Nicholas Johnson, whose term as Commissioner to the Federal Communications Commission expired on June 30, 1973. Appointed by the late President Johnson, in 1966, Mr. Johnson brought new energy and focus to the FCC and worked effectively and creatively to encourage citizen participation in FCC proceedings. He has been instrumental in pressuring broadcasters to make changes which would improve the quality of television and radio programs broadcast over the airwaves.

On July 20, 1973, the Wall Street Journal carried an article about Mr. Johnson's accomplishments while a Commissioner which I think well worth calling to the attention of my colleagues:

Adding Up Nick Johnson's Score

(By Kenneth H. Bacon)

WASHINGTON.—To the general public, the federal regulatory agencies are the invisible branch of government.

The decisions of the Civil Aeronautics Board or the Federal Power Commission, for instance, set rates paid and service received by millions of people. Yet most of them have only a vague idea of how the agencies work and what they regulate.

Tirelessly and often flamboyantly, Nicholas Johnson spent seven years trying to change that. As a member of the Federal Communications Commission, the outspoken Democrat worked to focus public attention on the seven-member panel that regulates the nation's broadcasters and cable TV industry, as well as the American Telephone & Telegraph Co.

Nick Johnson's term ended June 30, an event he commemorated with a "people's picnic" attended by FCC staffers, media activists, a guitar-playing group of followers of Yogi Bhajan, an Indian guru who helped interest Mr. Johnson in yoga. But Mr. Johnson plans to stick around the commission until his successor, as yet unnamed, takes over, and his influence is likely to linger for a long while to come.

For one thing, he plans to continue advocating changes in the communications industry and the way it's regulated. But in a broader sense, he already has used his FCC post to gain a visibility and create a movement of sorts—the kind of achievements rarely attained by most gray and anonymous federal regulators.

"He has been, with the possible exception of Ralph Nader, America's foremost publicist" for consumer involvement, says Richard W. Jencks, a vice president of Columbia Broadcasting System Inc.

Indeed, through a steady stream of speeches, magazine and law review articles, books and strident dissents from FCC rulings, Mr. Johnson has tried to encourage citizens to intervene in FCC proceedings or to pressure broadcasters to make programming changes. In turn, the citizen groups that rallied around him have "added a whole new dimension to the picture," one that "means a whole lot of trouble" for broadcasters, in the view of an officer of the National Association of Broadcasters.

This official explains that in broadcast license renewal proceedings "you used to only have the government versus the station. Now you have a third party in cases where groups challenge a station's right to have its license renewed." Citizen involvement which forces the FCC to regulate more tightly could "become synonymous with government control" of the content and format of TV programs, he fears.

Mr. Johnson, of course, sees things differently. He believes the airwaves are public property and that the public ought to have a say about what goes out over them. He has urged viewers to monitor programming and demand changes of both the broadcasters and the FCC.

He has castigated the television networks for broadcasting "tasteless gruel," called them "child molesters" for carrying violent programs and assailed them as "pushers to a junkie nation" for running advertisements from drug companies. He also has charged that American broadcasting is controlled by a relatively few "media barons" more interested in profits than programming.

And he didn't save his invective for the industry alone. Last year when the FCC issued a set of rules governing the growth of cable TV, Mr. Johnson called the decision "a classic case study" of "the decision-making process at its worst," "industry domination of government," and "presidential interference in the operation of an agency responsible to Congress."

He also charged FCC Chairman Dean Burch with meeting with White House and industry officials "in secret bargaining sessions" to hammer out a compromise "designed to foster the interests of vested economic institutions at the expense of the public."

Such language and such views weren't calculated to win friends on the commission or within the industry, and they didn't. Conspicuously absent from the farewell picnic were industry representatives and the other six FCC commissioners. This was symbolic in a way, for Mr. Johnson was frequently on the losing end of 6-to-1 commission decisions.

"He's been more effective at grabbing headlines than at influencing policy around here," one top FCC staffer asserts.

On the other hand, one Washington attorney calls Mr. Johnson's departure "a loss to the commission and a loss to the industry. Just having a cop on the beat keeps people honest."

Mr. Johnson himself says that shortly after he joined the commission in 1966 (at age 31), he decided he had three choices: "Pack my bags and go home," treat the post "like a sinecure and take up roses or golf as a hobby" or "dig in" and fight.

He says he found the agency then, as now, without any clear regulatory goals. It didn't know if it wanted "to build an outhouse or a cathedral," but feared he'd be left with an outhouse if he worked quietly and conventionally to influence FCC decision-making from within.

His detractors claim he's done far more yelling than building. Mr. Johnson thinks he made the right decision. Either way, he has publicized the FCC and the job it tries to do. The agency is no longer invisible and for this reason, if no other, its probably come out ahead in the bargain.

EUROPE'S NIGHTMARE DREAM

HON. DAVID C. TREEN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. TREEN. Mr. Speaker, an effort is currently underway in Congress to produce a unilateral reduction of American troops in Europe. And I note that some of the strongest critics of recent American foreign policy are at the forefront of this effort. In the past they have criticized the administration for its lack of consultation with our allies, notably with respect to Europe and Japan pertaining to our international monetary and economic policies.

Similarly, our neighbor Canada and our allies, Europe and Japan, have criticized us for being like a slumbering elephant; that is, we roll over like an elephant, without warning and concern, and squash lesser entities below us in the process.

Mr. Speaker, while it is clear that we cannot allow our allies to dictate American foreign policy, it is equally clear that we cannot ignore them. We cannot undercut the administration's effort to negotiate troop reductions in Europe if the credibility of our commitments are not to be destroyed.

In a recent New York Times column, C. L. Sulzberger discusses "Europe's Nightmare Dream"; it is a fear which, if we believe in the Atlantic Orbis Terrarum, must concern us.

[From the New York Times, July 25, 1973]

Europe's Nightmare-Dream

(By C. L. Sulzberger)

DENVER.—"Finlandization" has been a code word for years in West Europe. It implies gradual neutralization, largely precipitated by bilateral superpower dealings, that would reduce American defense strength on Europe's side of the Atlantic and implicitly weaken the degree of United States commitment to protect that area.

For West Europeans, "Finlandization" means that it would ultimately expose them to pressures from the nearby Soviet Union while the United States inched back toward neoisolationism.

Finland is chosen as a symbol: a democratic country over whose politics, nevertheless, Moscow brandishes some kind of veto; a country with a free market system, capital and labor unions; nevertheless, a country tied to the Soviet Union on all crucial international matters.

This is a status no West European land wants, whether it is allied to the United States or whether it is neutral. "Finlandization" is an unacceptable formula. But such is not at all the case in East Europe. Indeed, for East Europe "Finlandization" is the only logical goal.

The most important political movement in that region is a quiet search for more and more independence from the Soviet Union. This is even somewhat true of Yugoslavia, which opted out of satellite status in 1948 and started a nonaligned political position envied by the rest of East Europe ever since.

The Yugoslavs know that when their 82-year-old hero, Marshal Tito, dies they may face difficulties resulting from centrifugal forces inside the country and Soviet pressures outside it. They are therefore trying to prepare for a stable continuation of Tito's policy and administration but this is far from easy to accomplish.

Today all governments in the outright pro-Soviet part of East Europe joined in the Warsaw Pact are headed by a postwar generation. The leaders are nationalists and were not brought to power by Russian tanks in 1945.

They have in common an urge to move in any field where it is possible to gain more economic, social and military independence so they can speak with their own voices, not as echoes. But they have no intention of provoking Moscow by any dramatic actions.

There has been a long sequence of lessons teaching what can happen when any one of them goes too far or too fast—Poland, Hungary, Czechoslovakia. Despite all the East-West détente, the famous Brezhnev doctrine asserting Moscow's "right" to intervene in any "socialistic state" has never been officially abandoned.

Thus East Europe knows it must progress slowly, patiently and if possible invisibly if it is to approach any semblance of independence. And for East Europe the very best example to ape is that of Finland. For these reasons, "Finlandization" means a quite different and more hopeful thing for East Europeans than it does to West Europeans. It means reducing rather than increasing the degree of Soviet influence.

It took a long time before the word "Finlandization" was coined among Westerners, a time during which Finland itself pushed hard on Moscow's behalf for the European security negotiations that have now been started, the first round having significantly met in Helsinki. And the word "Finlandization" has not yet even been coined among Easterners, although they know what it implies to them.

What is a nightmare in the West is a dream in the East. But in each case the concept, whether geographically detested or geographically coveted, has assumed more life as a result of the series of Nixon-Brezhnev negotiations.

In West Europe there is a dislike for the fact that Washington and Moscow have discussed—if not agreed on—issues affecting European security without consulting West Europe in advance, although informing it afterward. In East Europe there was no ambition for consultation but there is a craving for information. In each case there is somewhat of a feeling that Europe is being shunted aside on crucial matters—although the East is used to that.

The big fear in the West is that Washington will eventually reduce its forces there and water down its commitments. The big hope in the East is that there will be sufficient mutuality of accord on this between the super powers to insure that the Russians will also pare their troops and lower their profile.

All Europe is now gaining increased interest in the mirage of "Finlandization," which means two contrasting things politically, a fear and a hope. This could never prove a basis for true continental unity. Mixing nightmares and dreams produces schizophrenia.

WHAT WILL THE UNITED NATIONS USE FOR MONEY?

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. CRANE. Mr. Speaker, Kurt Waldheim, general secretary of the United Nations, told a news conference in Geneva, Switzerland, recently that the organization may have to quit using the U.S. dollar as its base for financial accounting. Mr. Waldheim said:

> The question is whether we should stick to the dollar as our guiding currency.

The United States has been the chief financial supporter of the United Nations since its founding in 1945. It is presently being assessed 31.52 percent, almost one-third of the total.

Will it use Russian rubles? The Soviet Union, which is assessed 16.55 percent, is delinquent by $105,797,002 on the regular budget, the United Nations Emergency Force, and the United Nations Congo Account.

Will it use French francs? France, which is assessed 6 percent, is $22,249,314 in arrears on those three items.

Will it use Polish zlotys? Poland, which is assessed 1.41 percent, is $6,423,195 behind on its obligations.

Will it use Czech korunas? Czechoslovakia, which is assessed .90 percent, is delinquent to the tune of $5,591,080.

Perhaps the organization will use Communist China's money, but that would be a case of "Heads I win, tails you lose."

Altogether, 87 of the 131 members were in arrears as of January 1, 1973, owing a total of $167,721,158.

Mr. Speaker, I almost forgot to mention that the United States owed $1,188,096 on the United Nations Emergency Force account. Attempting to collect this money would be like having a small-town librarian try to collect a fine from Andrew Carnegie for an overdue book.

SPECIAL REVENUE SHARING

HON. PIERRE S. (PETE) du PONT

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. DU PONT. Mr. Speaker, special revenue sharing is one of the most complex and important issues facing our country today. Because of the tremendous importance of this issue, the Delaware State Senate has requested that I enter their thoughts in the Congressional Record as outlined in the following resolution:

> S. Con. Res. 20, in Reference to Federal Revenue Sharing
>
> In harmony with the policy adopted by the Intergovernmental Relations Committee of the National Legislative Conference following its meeting with the President on March 30, 1973, the Senate of the State of Delaware, the House of Representatives concurring therein, hereby adopts the following resolution:
>
> Whereas, each and every one of the fifty sovereign States has, through the years, by design and by tradition, adopted certain methods of funding programs; and
>
> Whereas, the Congress of the United States and the National Administration should recognize and make allowance for the unique variations in funding programs existing within the States.
>
> Now, therefore, be it resolved that the Congress of the United States and the National Administration be urged to continue administering grants-in-aid programs in their present form until such time as Special Revenue Sharing programs have been enacted. Since States are in the process of adopting their budgets—some for one year, others for two—an appropriate amount of time must be available to the States in order to plan for a transition from categorical grants-in-aid to a Special Revenue Sharing approach.
>
> Be it further resolved that the Congress of the United States and the National Administration also be urged:
>
> 1. to provide for reasonable procedures such as hold-harmless clauses and flexible timetables,
> 2. to insure a greater degree of certainty in the amount of Federal funding which can be expected by the States by providing that appropriations be consonant with authorizations, and
> 3. to insure adequate and meaningful planning of the State level by making annual appropriations prior to the beginning of the fiscal year.
>
> Be it further resolved that the Congress of the United States and the National Administration enter into a meaningful dialogue with the States so that Special Revenue Sharing legislation will be drawn in a fashion that will enable each State to benefit equitably under such laws.
>
> Be it further resolved that copies of this resolution be sent to the President of the United States and to each member of Delaware's Congressional Delegation, and that they be hereby requested to jointly arrange for its insertion in the Congressional Record.

THE 20TH ANNIVERSARY OF THE CONGRESSIONAL FELLOWSHIP PROGRAM

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1973

Mr. BRADEMAS. Mr. Speaker, like many Members of the House of Representatives, I have had the good fortune to have had serve on my staff several participants in the congressional fellowship program sponsored by the American Political Science Association.

As this year marks the 20th year anniversary of this program, I want to join others in the House of Representatives and the Senate in paying tribute both to the leadership of the American Political Science Association and to the outstanding young political scientists, journalists, and executives of Federal agencies who have served in congressional offices since 1953.

As one whose own educational background has been in the field of political science, I have felt a particular interest in this program and I have been most impressed by the high caliber of the persons whom I have met who have taken part in it.

Mr. Speaker, I am pleased to have at the present time an especially able person serving in my office as one of the APSA congressional fellows.

She is Mrs. Anne Zill, of Washington, D.C., who, before coming to my staff, worked as an intern for Senator Adlai E. Stevenson, of Illinois, where she served as coordinator of the Senator's work on campaign reform legislation.

As a member of my staff, she has worked in the office of the chief deputy majority whip, preparing memorandums on a variety of matters, including the role of the House leadership, the work of the Committee on Rules, the work of the Committee on Committees, and the coverage by the media of the House of Representatives, to cite only several of the assignments which Mrs. Zill has completed with great skill.

Mr. Speaker, I believe that the congressional fellowship program has made significant contributions to the greater understanding of the legislative process on the part of many gifted young Americans. At the same time, the congressional fellows have made their own contribution to the life of the House of Representatives and the Senate, and I hope that this program will continue in the years ahead.

PUERTO RICO CONSTITUTION DAY—JULY 25, 1973

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. ROONEY of New York. Mr. Speaker, on every July 25 since 1952 thousands of Puerto Ricans living in this country celebrate Puerto Rico's Constitution Day. The Puerto Ricans living in my congressional district in Brooklyn are particularly active in this celebration. It is a day of great significance to them as it is to me. For them it marks the beginning of a new and unique political era in their lives and in the lives of their countrymen. For me it is a vivid reminder of the satisfying role I was privileged to play in bringing Commonwealth status to Puerto Rico.

I shall always take great satisfaction in having been permitted to preside over the House deliberations in which the legislation to give the people of Puerto Rico expanded independence was debated and favorably voted upon. This benign gesture on the part of the late Speaker of the House, the Honorable Sam Rayburn of Texas, was the most gracious of the many acts of friendship which our beloved Speaker extended to me in our long association here in the House.

The observance of this day serves to remind me of the host of warm and distinguished Puerto Rican friends with whom I had worked to attain our mutual objective—the bringing of Commonwealth status to these fine island people.

Mr. Speaker, no legislative labors have been more rewarding to those of us who struggled with the problems of designing and creating a Constitution for Puerto Rico than the act of July 25, 1952. No legislative efforts have been so deeply appreciated by the people involved in its benefits to them than this one.

We can all take great pride in the magnificent progress of these freedom-loving people. They have fought for and won a standard of living which reaches new goals of achievement each year. Their social and economic progress has placed the Commonwealth in the front ranks of the Spanish-speaking peoples of this entire hemisphere. Each year we have shared their pride in the attainment of more social welfare gains, such as greatly expanded health and medical benefits, broadened worker benefits, and higher levels of education.

Yes, Mr. Speaker, we can all take pride today in the results of our efforts 21 years ago today. We can share with our Puerto Rican friends the satisfaction of real achievement and the promise of even greater attainments.

In a few short years we will be joining these Puerto Rican friends in the celebration of their 25th Constitution Day. It is not too soon to start planning now for such a celebration. Special efforts should be made by the Congress to properly commemorate this anniversary, special commemorative stamps should be issued, special efforts to have broad media coverage should be planned and special efforts should be made to encourage the visit of a maximum number of visitors to Puerto Rico to see firsthand the achievements which have been accomplished over a brief quarter of a century. I shall do everything in my power to help the Puerto Rican people here and at home to obtain the recognition which they so richly deserve.

PUBLIC AFFAIRS COUNCIL

HON. DONALD J. MITCHELL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. MITCHELL of New York. Mr. Speaker, it is with great interest I note today that the Public Affairs Council—an organization comprised of public affairs and government relations officers of some 200 major corporations—has issued a 10-point resolution calling for reform in campaign laws. As one who has long advocated the need for meaningful changes in this area, I am pleased that this distinguished organization has addressed itself to this vital subject.

Obviously, none of us will automatically agree with every item which the council has proposed, but it is refreshing to know that they have made their thoughts known to us and it is definitely our responsibility as Members of Congress to review these points, comment upon them, and take appropriate action.

I hope that in the next few weeks, other interested groups and organizations will make their views known to Congress so that when the House holds hearings on this subject, we will have the benefit of their viewpoints.

Mr. Speaker, in order to give you and my colleagues today's statement by the council, I wish to insert it in the RECORD at this time:

STATEMENT BY THE BOARD OF DIRECTORS OF THE PUBLIC AFFAIRS COUNCIL

The Public Affairs Council, national professional organization of public affairs officers of more than 200 major corporations, today issued the following statement:

Integrity, openness and public confidence in this nation's election processes are fundamental to the success of our government and country. In enacting the disclosure and other segments of the Federal Election Campaign Act of 1971, the Congress recognized this fundamental requirement. But subsequent events and recent federal and congressional investigations of them have demonstrated the need for further legislative improvements, including the need for new mechanisms to insure vigorous and even-handed enforcement of the election laws.

The Board of Directors of the Public Affairs Council has addressed itself to these needs, studied the assortment of reform proposals now pending in Congress, and resolved to endorse a comprehensive program designed to limit abuses of our political processes.

In doing so, the Board fully recognizes the dangers inherent in what is commonly referred to as reform. First, many proposals add to the already significant advantages of incumbency. Second, efforts to regulate campaigns and campaign finance raise some thorny constitutional problems. Finally, the history of reform demonstrates that there are no simple answers to such problems, and that the risk is that one set of problems may be traded for another. But the status quo is not satisfactory; and change itself may help to restore confidence in the system.

Members of the Council's Board are professional participants in the nation's political and legislative processes. Neither they, the corporations they represent, nor any responsible segment of society have a stake in a secret system or one that the unscrupulous can corrupt. Their dedication is to working within a system that is open, honest and deserving of the confidence and respect of the American people.

The Council's Board of Directors has therefore resolved to support campaign and campaign finance reform measures which would:

1. CREATE A SINGLE, STRONG AND INDEPENDENT FEDERAL ELECTIONS COMMISSION WITH ENFORCEMENT POWERS

The enforcement powers under the 1971 Federal Elections Campaign Act are presently shared by the Clerk of the House, Secretary of the Senate, the General Accounting Office, and the Justice Department, a division of responsibility which militates against uniform administration and complicates both reporting and meaningful disclosure. A number of bills have been introduced to create a Federal Elections Commission. These bills vary most significantly in whether they would empower that body to initiate and prosecute court actions.

We strongly support the creation of a Federal Elections Commission to centralize all reporting and enforcement activities, such commission to have the power of subpoena and authority to initiate actions against alleged violators.

2. LIMIT USE OF CASH IN ELECTION CAMPAIGNS

The utilization and accounting of campaign finance should measure up to the highest standards of accepted business practice and propriety. Abolishing large cash contributions—which evoke suspicion in the public's mind—would be one useful step in restoring credibility to campaign politics.

We strongly associate ourselves with efforts to legislate a ceiling of cash contributions. We are prepared to support a ceiling of $100, the figure often mentioned, or even a lower limit, provided it is not so restrictive as to prohibit small, out-of-pocket contributions by interested citizens. In addition, cash disbursements by and for candidates—perhaps all those *over $100*—should be fully reported as to source and purpose.

3. REQUIRE FEDERAL CANDIDATES TO ESTABLISH A SINGLE CENTRAL COMMITTEE FOR REPORTING OF ALL CAMPAIGN CONTRIBUTIONS AND EXPENDITURES

For a variety of tax, legal and political reasons, a profusion of committees to collect and disburse political funds has been a traditional part of many congressional, senatorial and presidential campaigns. Multiple committees *per se* are not objectionable, but the usual practice of separate reports by each committee on its contributions and/or expenditures, complicates one key objective in campaign finance reform—full, clear, readily available information.

Each candidate for federal office should be required by law to designate a single "official" committee which would be held accountable for rendering full and complete disclosure of all contributions in support of, and expenditures by, committees supporting a single candidate.

4. LIMIT CONTRIBUTIONS WHICH ANY INDIVIDUAL IS PERMITTED TO MAKE TO A SINGLE CANDIDATE

While many large contributors to a single campaign give for entirely selfless reasons, large contributions are subject to misinterpretation, and our political process will be best served by the broadest possible base of small private contributions.

We, therefore, support efforts to impose a reasonable dollar limit on the amount any person can contribute to or expend on behalf of any federal candidate. These limits should be lower for a candidate for U.S. Representative or Senator than for a candidate for President or Vice President.

5. RAISE EXISTING LIMITS ON TAX DEDUCTION OR TAX CREDIT WHICH TAXPAYERS WHO MAKE POLITICAL CONTRIBUTIONS MAY CLAIM

The present law provides that individuals may claim a federal tax deduction of up to $50 ($100 in the case of a joint return), or a tax credit of up to $12.50 ($25 for a joint return) against their political contributions. In the interest of encouraging a broad base of giving, these provisions should be liberalized.

We recommend that the allowable tax deduction be increased to $100 ($200 for joint returns), and the tax credit be raised to $50 ($100 for joint returns).

6. CONSIDER MEASURES TO ESTABLISH LIMITS ON CAMPAIGN EXPENDITURES

Although some believe the aggregate expenditures for political campaigning are modest (an estimated 400 million dollars or less than four one-hundredths of one percent of our Gross National Product, for *all* campaigns in the U.S. in 1972), questions have been raised regarding the large amounts expended in a number of congressional, senatorial, and particularly the presidential campaigns in 1972. Some have called for ceilings on campaign expenditures by candidates for federal office, and the 1971 Federal Election Campaign Act did, in fact, impose limitations on expenditures for the use of communications media in federal elections.

The imposition of ceilings on total campaign expenditures, however, raises many practical—and constitutional—problems. Because it is important to re-establish the credibility and openness of our political system and to broaden the access to public office by restricting the financial burden of campaigning, we support the principle of reasonable limitations on amounts which candidates for federal office may expend in any primary, special or general election campaign, provided that such limitations: (a) do not restrict candidates' right to free speech; (b) do not assure incumbent office holders of permanent advantages over challengers; and (c) are structured to offer a reasonable certainty that the controls can be enforced.

7. LIMIT THE LENGTH OF POLITICAL CAMPAIGNS

Politician and citizen alike concede public concern about the length of our political campaigns. A number of other democracies have imposed time limitations on political campaigns without apparent violence to the chief object of campaigns—to inform the public. Yet any time limitation could work to the advantage of incumbents, raise constitutional issues and present difficult questions of interpretation.

While recognizing that no legislative remedy proposed to date would entirely resolve such dilemmas, we nevertheless urge that means be sought to impose reasonable time limitations on the allowable period for both primary and general election campaigning.

8. CLARIFY CONTRADICTORY SECTIONS IN THE 1971 FEDERAL ELECTION CAMPAIGN ACT

Section 610 of the 1971 Act authorizes unions and corporations to establish "separate segregated funds" supported by individual contributions. In an apparent oversight, the Congress contradicted this provision in Section 611 by outlawing "government contractors"—which includes many corporations—from direct or indirect political actions, including the establishment of such funds.

Since a careful reading of the floor debate when 611 was enacted makes it clear that it was the intent of Congress to permit separate segregated funds, and since the present law obviously discriminates against some unions and corporations, we urge Congressional action to clarify the contradiction and thus to provide equal opportunity for all unions and corporations. We believe these funds to be an excellent and fully accountable means of broadening individual participation in the electoral process.

In this connection, in that we have recommended specific limitations on contributions to a candidate by an individual, it should also be stated that we favor a limitation on contributions to a candidate by any separate segregated fund. The maximum amounts could be higher than those specified for individuals, but there should be a considered relationship between the two. Also, restraints would be necessary to prevent either a company or a union from avoiding the ceilings by establishing multiple separate segregated funds. No change is recommended in the long-standing prohibition on the contribution of corporate or union funds to candidates for federal office.

9. REPEAL "EQUAL TIME" PROVISIONS OF SECTION 315 OF THE COMMUNICATIONS ACT AS IT APPLIES TO CANDIDATES FOR THE OFFICE OF PRESIDENT AND VICE PRESIDENT

The "equal time" section obliges broadcasters to provide equal time for all presidential and vice presidential candidates, no matter how spurious. Therefore, broadcasters have been inhibited in offering substantial amounts of free time to significant candidates.

Free access to radio and television by significant presidential and vice presidential candidates is in the public interest: we support repeal of the equal opportunity requirements of Section 315 with respect to candidates for the office of President and Vice President.

10. SUPPORT BROAD-BASED PRIVATE FINANCING OF POLITICAL CAMPAIGNS, BUT ACCEPT ADDITIONAL STUDY OF PUBLIC SUBSIDIES

It is our present judgment that the public interest will best be served if political campaigns continue to be financed primarily by private individual contributions, rather than from government sources. We believe the impact of the Federal Election Campaign Act of 1971, plus the adoption of proposals along the lines of those embodied in previous sections of this statement, can remedy a majority of the problems existing in political finance. We believe the system can be strengthened further by expanded efforts to encourage more people to participate in selecting candidates and financing political campaigns.

We recognize there are many serious proponents and proposals for some sort of public financial support of political campaigns and that the one dollar tax checkoff for presidential campaign financing—a form of public subsidy—is already in effect. Although we encourage additional study of the pros and cons of some degree of public financial support, we are presently convinced that a system based on private contributions is preferable.

MEANING OF WATERGATE TO MINORITIES

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. RANGEL. Mr. Speaker, Bayard Rustin, in a recent column, articulately and accurately described the meaning of the Watergate crimes as it relates to minority America.

I now submit the article for the attention of my colleagues in Congress.

MEANING OF WATERGATE TO MINORITIES

(By Bayard Rustin)

Black Americans view the expanding Watergate scandal with a certain amount of irony. Like most Americans, they are thoroughly disillusioned by the deceit of the Nixon Administration and find everything surrounding the Watergate incident totally reprehensible.

But blacks do not find it surprising that this administration would resort to bugging, spying and fabrication—and then lie to the American people about it. They do not feel—like Senator Goldwater—that the trust placed in Mr. Nixon has been betrayed. Nor would blacks agree with those liberals who proclaim that the fault is not so much with Mr. Nixon as it is with all-too-powerful office of the Presidency.

LIES AN OLD STORY

The truth is that blacks have heard a stream of lies and misrepresentations during the four-and-a-half years that this administration has been in office. While the President was assuring the nation that all was well with the economy, the number of unemployed blacks rose from 600,000 to nearly one million. As the President was boasting of having spent more money for human needs than ever spent before, the number of blacks living in poverty increased for the first time in a dozen years. The President has preached of the "work ethic" in one breath and sought the curtailment of job programs in the next; distorted the busing issue and unilaterally declared that the urban crisis is over as an absurd justification for the dismantlement of essential housing programs.

Thus it should amaze no one that blacks do not feel that their trust was betrayed; they had no reason to trust the President in the first place.

Blacks also find it ironic that many people—particularly the President's supporters—say that the blame rests with Nixon's having isolated himself from the country. For the President has gone beyond the point of merely isolating himself from blacks; he sees minorities as faceless entities to be manipulated and set apart from the rest of society for political gain.

ELECTION TAMPERING

Blacks do have a special and personal concern, however, with the grand design of the President's political staff to sabotage the election campaigns of his opponents. It is not mere coincidence that the Democrats who were the victims of this strategy were those candidates with broad support among minority groups.

For when public officials consider themselves above the law—when fraud and coercion are introduced into politics—it is always the most powerless who suffer. The poor have certainly never benefited from the favors the administration has granted ITT, the milk industry and other corporate interests.

Thus we have a profound stake in whatever good comes out of Watergate. We should be pressing for a broad reform of campaign spending laws, so that never again will the forces of privilege exert the seemingly limitless influence as they did in 1972.

And rather than wallowing in the details of the scandal, or engaging in excessive moralizing, or initiating premature efforts at impeachment, we should be mobilizing all progressive forces against the budget cuts and domestic retrenchment the President so confidentially proposed just a few months ago. What I am suggesting is not just exploiting the weakness of the President; it is rather that we should begin to take the initiative from an administration that can no more be believed about inflation, unemployment, busing and welfare than it can be believed about its conduct in the political arena.

CONFERENCE ON VIETNAM VETERANS

HON. ANDREW YOUNG

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. YOUNG of Georgia. Mr. Speaker, and my fellow colleagues, I am sure that you have become aware through your mail, as I have, of the deplorable way many veterans of our tragic involvement in Vietnam are treated by present programs.

At a time when their problems are increasing, we need to do more than merely provide Band-Aid relief, bill by bill, as we pass on other programs, adding a concern for veterans only as an afterthought. What we need is a full-scale, broad-based review that will allow this Congress to effectively bring together, augment, and make more effective, the programs and services available to Vietnam veterans. We need a coordinated, not a piecemeal, effort.

In June of this year, a large group of Americans — veterans and nonveterans alike—from across the country met in Atlanta to discuss these problems. The following resolution, written in part by Mr. Max Cleland, a Georgia State legislator and Vietnam veteran, was overwhelmingly endorsed by that conference:

RESOLUTION

A national traversity against the Vietnam Era Veteran is occurring within America as literally hundreds of thousands of returned soldiers are unable to obtain their basic rights. The situation is tragic. The enormity of the task mandates that the most imaginative and vigorous national leadership *reverse* this nationwide loss in human capital and resource destruction. This destruction reaches beyond the lives of nearly seven million Vietnam Veterans and their families. It touches us all.

Therefore, we concerned citizens involved with Vietnam Veterans and their problems on a day to day basis urgently resolve and request that:

The President of the U.S. establish a blue-ribbon national commission on the Vietnam-era veteran to identify and prepare recommendations for national legislation and executive decision.

The Commission should have a reporting deadline of no more than four (4) months, with membership drawn one-third from the relevant Federal executive agencies, the U.S. Senate and House; one-third from the most influential and broadly based representatives of the community sector; and, one-third from Vietnam era veterans.

Be it further resolved that: an extraordinary joint committee composed of Members of the U.S. Senate and House of Representatives be convened immediately to create a second generation GI Bill with an absolute requirement to resolve the unconscionable tangle of existing national legislation and the overlapping and frequently conflicting jurisdiction both in the Federal executive agencies and in legislative committees of the U.S. Congress.

Be it further resolved that: the Veterans Administration should be called on to perform critical self-evaluation of their services and resource commitments, similar to the study done by General Omar Bradley following World War II.

Be it also resolved that: Every American should support efforts to move courageously and boldly to reclaim and save our most precious national resources reflected in the lives of nearly seven million Vietnam era veterans and their families.

I trust that legislation bringing about the goals of this resolution will be passed by this Congress in the not too distant future.

GETTY OIL EXPORTS 188,000 BARRELS OF OIL TO JAPAN IN SPITE OF FUEL SHORTAGE

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. ASPIN. Mr. Speaker, despite the major oil companies' assertion that the United States is running low on crude oil, at least one major company—Getty Oil Co.—has exported a total of 188,000 barrels of crude oil to Japan during May and June.

Apparently, the major companies care so little about solving the current gasoline shortage they are shipping crude oil to the Japanese. These crude shipments to Getty's Japanese subsidiaries is just another one of big oil's dirty tricks. Obviously Getty is more interested in supplying its Japanese refineries than serving millions of American consumers and farmers who desperately need petroleum products. While this crude oil would not solve the entire shortage it could provide tens of thousands of consumers with much needed products.

Apparently, the major oil companies have already begun shipping oil to Japan even without the Alaska pipeline. As many of my colleagues know, there have been statements from major oil company executives subsequently denied that a substantial amount of Alaska oil would be exported to Japan.

A spokesmen of Getty acknowledged to a member of my staff that on May 28 and June 8 a total of 188,000 barrels of heavy crude oil was loaded in San Francisco for shipment to Japan. The Getty spokesman claimed that the oil was so heavy that only 1 percent of gasoline, 12 percent of No. 2 fuel oil could be "topped" from the crude.

It is my understanding, however, that the use of sophisticated refining equipment available to major companies and some independent refiners could dramatically increase the amount of gasoline and fuel oil produced. In addition, there is no reason that this crude oil could not be mixed with other crude to produce substantial amounts of gasoline.

I fear that one of the reasons that Getty shipped the oil to Japan was to keep it out of the hands of independent refiners in California who desperately need crude oil.

It is all part of big oil's grand strategy to destroy independent refiners and eliminate what little competition now exists in the petroleum industry.

As some of my colleagues may know, I have introduced legislation prohibiting the export of diesel fuel, gasoline, propane during the current shortage. In view of Getty's exports, I plan to revise this legislation to include a prohibition on crude exports.

MURDER BY HANDGUN: A CASE FOR GUN CONTROL—NO. 9

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. HARRINGTON. Mr. Speaker, today's description of a handgun death is one of the most disturbing accounts we have published thus far in the CONGRESSIONAL RECORD. The victim is a 12-year-old boy. The man who shot him is a person empowered by law to carry a gun—a policeman.

According to a report in the Washington Post, the boy, Santos Rodriquez, of Dallas, Tex., was handcuffed and seated next to the policeman in the front seat of a squad car. The boy was being questioned about a burglary but refused to answer the questions. The policeman, Darryl L. Cain, pulled his pistol and pointed it at the back of Santos Rodriquez's head. Cain leaned forward and the gun, a .359 magnum, went off, killing a 12-year-old boy.

Cain has been charged with murder and the Dallas police chief has called the shooting "illegal and unjustified."

This tragic, completely unnecessary death raises a great many questions about an area that has been little explored even when we discuss gun control legislation—the use of guns by police. Under what circumstances should the police use guns? What safeguards should there be to protect the public from the indiscriminate use of weapons by police officers?

In Britain, policemen do not carry guns at all. Even though there has been a sharp rise in violent crime throughout Britain since 1965, and even though more criminals seem to carry guns, the police are still opposed to carrying weapons. Reginald Gale, chairman of the Police Federation, has said that most policemen would refuse to carry guns if requested. He has said:

> No one wants to be associated with the first policeman who draws a gun and kills an innocent member of the public.

But Britain also has strict gun control laws and severe penalties for violating those laws. Prison terms of 10–14 years are regularly given to persons carrying real or even imitation guns during a crime.

I am not suggesting that the police in this country be unarmed. As long as guns are so readily available to a civilian population, a policeman would justly fear for his life if he did not carry a gun. I cannot begin to discuss disarming our law enforcement officials until we have disarmed the public, and we are still a very long way from doing that.

But I am suggesting that standards be set and strictly enforced for the use of guns by the police. Many police forces, particularly in large cities, already have stiff regulations. In Boston, for example, regulations state that a policeman may use his gun only under certain circumstances: to protect himself or another person from death or serious injury; to prevent the escape of a convicted felon or to prevent the commission of a dangerous crime; or to call for assistance when no other method is available.

Yet police forces in many areas have no such standards, and even in cities where standards exist, it is perhaps the time to reexamine them, and to open a dialog between the police and the public on the use of guns.

At the same time, police academies should establish very careful procedures to identify, and weed out, those policemen who are too precipitous in their use of guns. Patrolman Cain, who shot Santos Rodriquez, had been charged 2 years ago with the murder of an 18-year-old boy. The grand jury returned no indictment, but the Dallas police force still had the responsibility to examine the case, and to determine whether Patrolman Cain was fit to carry a weapon.

We must remember, too, that policemen carry guns in order to protect the public. The public would be protected if policemen were able to stop violence without having to kill a human being in the process. We should encourage the development of weapons which do not fire lethal bullets, but which temporarily paralyze a criminal and prevent him from commiting an act of violence. We should put our technology to positive uses, always remembering that our goal is to save human lives, not to waste them.

The article from the July 25 Washington Post follows:

> POLICEMAN KILLS BOY DURING QUESTIONING
>
> DALLAS, TEX., July 24.—A 12-year-old schoolboy, handcuffed and seated next to a policeman in the front seat of a squad car, was shot to death Tuesday by an officer seated behind him, police said.
>
> A police spokesman said Santos Rodriquez and his brother, David, 13, were being questioned about a gas station burglary when the shooting occurred.
>
> Police said patrolman Darryl L. Cain, 30, was leaning forward when the .357 magnum went off, striking the boy in the head.
>
> Police Chief Frank Dyson told a news conference he will "push" for a murder indictment against Cain. Dyson said the killing was "uncalled for, illegal and unjustified" and that the boy made no attempt to escape from the officer.
>
> Cain was arrested, charged with murder, arraigned and released on $5,000 bond. Dyson suspended Cain indefinitely and stripped him of his credentials. He said Cain was in shock after the shooting.
>
> Two years ago Cain was charged in another killing.
>
> But a grand jury did not return an indictment against Cain and Patrolman J. L. Kirksey after the April 1970 shooting death of Michael Moorehead, 18. Moorehead, police said, along with his brother, was surprised by police outside a grill following a burglary.
>
> Santos Rodriguez, a pupil at Travis Elementary School, was dead on arrival at Parkland Hospital with a bullet wound in the head. A police spokesman said Cain, who has been with the department since 1968, was holding a gun to Rodriguez's head when it discharged.
>
> Officers said Patrolman Roy Arnold spotted a burglary at a north Dallas gas station shortly before 3 a.m. Police said Arnold saw several youths run from behind the station. Two other patrolmen, identified as Cain and J. W. Foster, responded to Arnold's call for assistance
>
> Police said Arnold recognized the youths but lost them in a foot race in the darkness. Police said Foster and another patrolman went to the Rodriguez boys' home and received permission from their grandfather with whom they lived to return them to the gas station for questioning.
>
> Police said the boys refused to answer questions regarding the burglary and Cain pulled his pistol and pointed it at the back of Santos' head.

OIL PIPELINE REGULATION

HON. BROCK ADAMS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. ADAMS. Mr. Speaker, as we all know, the country is suffering a fuel shortage. We have witnessed the closings of many independent gasoline stations during the past few months, have seen limitations on amounts of gas we can purchase and have experienced a reduction in the number of hours that service stations are open. This fuel shortage is aggravated by the ever increasing power of the large integrated oil companies who control such a large percentage of the oil industry from exploration through refining, transportation, distribution and retailing. These companies can and do use their vertical integration to determine, in large measure, who gets the oil and at what price. The resulting lack of competition is felt by the consumer in higher fuel prices.

Today I am introducing a bill to amend the Interstate Commerce Act to make it unlawful, after 1976, for any oil pipeline company to ship its own oil or that of an affiliated company.

Making the pipeline companies common carriers in fact by prohibiting them from carrying their own oil will provide independents a greater ability to obtain and transport oil thereby breaking the virtual stranglehold the large integrated oil companies have developed on the industry.

Although this is by no means a new problem, it has been brought into public focus because of the real oil shortage that we are presently experiencing. In fact Congress as early as 1906 in the Hepburn Act required pipelines to be common carriers equally accessible to all shippers. However, the Congress failed to prohibit them from carrying any commodity in which they had an interest and it is this flaw that my bill seeks to correct.

At this point I would like to commend the FTC staff report on its investigation of the petroleum industry to my colleagues. This study graphically lays bare the various means available to the integrated oil companies to control the market.

For instance, in commenting on the barriers to entering the refining part of the industry the study points to pipeline control. The owner can seek a noncompetitively high rate for the transmission of oil and through a bookkeeping transaction transfer funds from the refinery department to the pipeline department and not be hurt. However, the nonintegrated independent refiner must pay the excessive pipeline charge. In addition, owners of the pipeline can exclude or limit the flow of crude oil to independent refiners by requiring shipments of minimum size, granting irregular shipping dates, limiting available storage and by engaging in other harassing tactics.

Historically regulatory action by the ICC and the FTC has been insufficient to control the practices of the oligopolies. In their recent report to the Select Committee on Small Business which addressed itself to anticompetitive practices in the petroleum industry, FTC officials stated:

> The history of the FTC's activity in the petroleum industry has been characterized by a case-by-case attack on specific anticompetitive marketing practices. This approach has, in general, been of limited success in controlling—lack of competition in the petroleum industry.

In addition, the ICC which has broad regulatory powers under the Elkins Act, the Clayton Act, and the Interstate Commerce Act, has compiled a poor track record in bringing enforcement proceedings. While legal authorities have pointed out in the past that joint venture lines do violate section 7 of the Clayton Act the ICC has never conducted an investigation.

Finally, the Justice Department has been unsuccessful in its attempts to bring antitrust action against the integrated companies. In his testimony last year before the Subcommittee on Special Small Business Problems, Deputy Assistant Attorney General Bruce B. Wilson acknowledged the difficulty they have had with such actions:

> Anti-trust doubts concerning pipelines have been a constant part of anti-trust history. The oil industry, almost from its very beginning, has been able to control the layout and operation of its own transportation system.
>
> Throughout its history frequent allegations have been made that the ownership and control of pipelines by dominant units in the industry seriously restrained competition by smaller companies and independents.

The FTC's and ICC's failure to enforce existing regulations and the Justice Department's failure to litigate against the trusts, coupled with the failure of Congress to strengthen the laws, has resulted in the oligopolies assuming control of their transportation system to the resulting detriment of the independents and the ultimate harm of the consumer.

According to the FTC report 75 percent of the domestic crude oil is presently carried by pipeline. Elimination of this control will undoubtedly go a long way in bringing competitiveness back into the industry.

While I applaud the FTC action against the eight major integrated firms and recognize it as a major step in returning competitive practices to the petroleum industry, I feel that Congress must take a firmer stand to eliminate the unfair business practices that have existed in the oil industry for so long. I think that assuring the pipelines of a "common carrier" status is a much needed step in this direction.

REFLECTIONS ON WATERGATE

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. ARCHER. Mr. Speaker, we are all aware of the fact that the Senate Watergate hearings are having a tremendous impact on the American public. There is growing concern, reflected in much of the constituent mail that I have received, that the hearings may have become overshadowed by partisan actions and self-serving behavior. An editorial on this subject recently appeared in the Baytown, Tex., Sun, and I commend the article to the attention of my colleagues:

BRITISH WRITER HITS WATERGATE

Soap opera fans and unquenchable Nixon Republicans aren't the only ones who are not completely enchanted with the Senate Watergate Hearings.

A relatively disinterested observer, columnist Bernard Levin of the Times of London, wrote recently that the inquiry "is just about the most scandalous violation of every standard of justice to take place in a free society since the Southern gentry abandoned lynching as their favourite outdoor sport."

Overstated though it may be, Levin's observation comes at an appropriate time. For as he points out, tinges of McCarthyist inquisition have crept into the hearings and they threaten at times to become a more than acceptable substitute for reruns of the old Perry Mason series.

Inevitably, the Select Committee chairman, Sen. Sam Ervin, D–N.C. and its vice chairman, Sen. Howard Baker, R–Tenn., have been thrust into the starring roles, without any noticeable kicking and screaming on their parts.

Ervin gives the impression of wallowing in the spotlight, playing the kindly but stern grandfather with a folksy anecdote for all occasions (and some anecdotes that do not fit any occasion but are too good not to use.) Baker, cool and suave, visions of 1976 nominations no doubt dancing in his head, is the picture of fairness, Thomas Jefferson unwigged, asking so many questions about morality that one begins to look for a halo lurking around his head.

The situation is high drama, of course, and ripe for this sort of thing. A playwright's touch is needed in the hearings—minor witnesses coming first to lay down a structure that the Big Boys will have to cope with later.

The question is, after all, the extent of involvement of President Nixon in a stupid, unmitigated scandal.

Do we need, as Levin comments, Ervin and Baker going through saccharine post-testimony ceremonies of congratulations to cooperative witnesses? Can we take seriously the self-righteousness of committee members who solemnly compliment men like Hugh Sloan, Herbert Porter, Jeb Magruder (whose middle name, "Stuart," is always mentioned, as if to damn him indelibly as a rebel) and John Dean for their honesty?

How are we to interpret Ervin's badgering of Maurice Stans, who may well have been involved in the Watergate business but could hardly be held responsible for every ethical shortcoming of the American political system?

The nature of the case demands a skeptical attitude toward everybody involved. There are so many self-interests running around like headless chickens that nothing anybody says at the hearings can really be taken for granted.

But that attitude should be applied equally to everyone.

For to all practical purposes, President Nixon and his associates are being tried in absentia in these hearings, without benefit of the legal protections usually offered.

That is not to say that the hearings should not have been held. It appears that they may succeed in revealing the depths of truth that might otherwise have remained suspicion. And whatever that truth is, it must be found and studied and understood.

So the imperative importance of maintaining a scrupulous fairness in the hearings should be stressed to the committee members and staff.

It is imperative because it is the right and fair thing. It is imperative because the committee's findings must not be clouded by suspicions of partisanship or hedged by hints that the facts become lost in the show business trappings.

AMENDMENT TO BE OFFERED

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mrs. SCHROEDER. Mr. Speaker, pursuant to paragraph 6 of rule XXIII of the Rules of the House of Representatives, I wish to notify the House that I intend to offer the following amendment at the appropriate time during consideration of H.R. 9286, as reported by the House Armed Services Committee:

Amendment to H.R. 9286, as reported. Offered by Mrs. SCHROEDER:

Page 2, in line 15, strike out "$3,788,200,000.00", and insert in lieu thereof "$3,131,200,000.00".

ESTABLISHMENT OF A UNIFORM SYSTEM OF PERSONNEL ADMINISTRATION FOR THE GOVERNMENT OF THE DISTRICT OF COLUMBIA

HON. ANCHER NELSEN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. NELESN. Mr. Speaker, I have introduced today, with Congressman DON FUQUA of Florida as cosponsor, a bill that would establish a uniform system of personnel administration for the government of the District of Columbia and that would serve other purposes. This bill is as drafted for the Commission on the Organization of the Government of the District of Columbia with a substantial amount of assistance by the Civil Service Commission. It is a comprehensive document that has obviously been given a great deal of attention by the Civil Service Commission. I should add that it does not contain title VII as prepared by the Civil Service Commission, which related to labor-management relations, because of the large amount of controversy that exists over that subject not only at the national level but at local levels.

What is provided in this bill as relates to labor-management relations is a provision that leaves to the Commissioner of the District of Columbia much of the same authority that he now has on the subject, which is consistent with the authority exercised by the President under Executive order as it relates to labor-management relations.

It was my judgment and that of Congressman FUQUA that while this draft legislation has been available to the Committee on the District of Columbia since October of 1972, it has not been introduced in bill form; and thus it should be at this time so as to more fully inform the Members of Congress as to what was contained in volume III of the Report of the Commission on the Organization of the Government of the District of Columbia on this matter. While this bill will not reflect that it has been introduced by request, in substance that is in effect the manner in which it is being introduced.

I hope that this bill will be given due consideration by the Members of the House.

PROPOSED EPA TRANSPORTATION CONTROL MEASURES

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. BROYHILL of Virginia. Mr. Speaker, the Environmental Protection Agency's proposed transportation control measures to lower air pollution levels in the Washington metropolitan area seem to me to have been hatched in a planner's vacuum. When this proposal is exposed to the open air of full public scrutiny, I predict it will stink like a rotten egg.

Moreover, when the average citizen, who works for a living and already pays stiff taxes, reads the fine print in this proposal giving the costs and restrictions on his getting to his job, I fully believe he is going to flip his lid, to use an old expression.

This proposal will eliminate regular parking spaces for thousands of employees near their places of employment; force tens of thousands of public and private workers to pay a $2-a-day parking surcharge, above their regular parking fees; force thousands to pay increased parking rates; require everyone in the area to pay higher taxes to double the number of buses in the area and construct exclusive bus lanes; and force countless others to carpool. If completely successful and provided EPA's and the Council of Government's estimates are correct, this proposal will only lower the total number of tons of hydrocarbons required to be reduced by 6.5 percent. It will not, however, reduce the total amount of hydrocarbons or all other pollutants in the air by this same percentage. On the other hand, 70 percent of the total reduction required will be effected by air pollution control devices placed on new cars at the factory. Therefore, the impact on many thousands affected by these plans must be regarded as most drastic for the results achieved.

EPA's proposal is a prime example of putting the cart before the horse. We are not working together in this plan to improve rapid transit or to provide good service and thus attract people to ride buses or Metro. To the contrary, we are regimenting and threatening our citizens; herding them like animals, if you please, by forcing them to give up their private cars or pay higher taxes and fees. This I find un-American.

Moreover, EPA's plan will not force the President, Congressmen, Cabinet officers, or high Government officials, nor, for that matter, the "fat cats" to give up their cars to ride in carpools or buses. The truth of the matter is, EPA's plan hits hardest at the person who cannot afford to pay parking taxes and increased parking fees and who, ironically, cannot hit back.

These proposals will also affect the businessmen of the greater Washington area. Zoning requirements of local governments throughout the area have forced businessmen to provide parking spaces when building any sort of a structure. Now the same local governments are saying—we are now going to tax these businessmen by either taxing those that use their establishment or by reducing the number of people who can use these facilities. The net effect is a confiscatory action against the property of area businessmen, and I question its constitutionality.

I am totally committed to clean air. I applaud EPA for seeking it. But you can not make progress in a vacuum. The Environmental Protection Agency would make more sense using its energy first to improve public transportation before it tries to eliminate the only means of transportation and parking now available to vital Federal and private industry employees.

The simple fact is that thousands of employees can not get to work if they can not afford to park their cars downtown. A few can use bicycles, a few can carpool but thousands of others without adequate public transportation presumably, with EPA approval, will either have to walk or stay home.

I will do everything I can to see that EPA does not impose impossible job restrictions and additional taxes on the work force of this area. As I see it, the least they can do is to stretch out these restrictions until the $3 billion Metro rapid-rail system becomes operational. Some controls may be necessary, but these proposals will put the wrong people in a straitjacket.

I am commencing an exhaustive study to determine the full economic and social impact of these drastic measures on area citizens. I have my doubts on some of the figures compiled by COG on this matter, and I certainly think insufficient attention was paid to the reduction on air pollution that will be realized when the Metro rapid-rail and the integrated bus system begins to come on line. After all, area citizens and the Federal Government are spending over $3 billion on this project. The Congress was assured previously, as well as area taxpayers, that this system would solve most of our air pollution problems. In this regard, area citizens should study this proposal with a jaundiced eye. I personally am tired of buying pigs in pokes.

AMENDMENTS OF FEDERAL SALARY ACT OF 1967

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. RHODES. Mr. Speaker, early next week the House of Representatives will consider S. 1989, a bill to amend the Federal Salary Act of 1967. This bill would require the Salary Commission to present its report to the President every 2 years, instead of every 4 years. When this bill comes to the floor, I will introduce an amendment practically identical to H.R. 970 and related bills which I have introduced this session with 82 cosponsors.

Under the present law, if the salary Commission and the President so determine, Congressmen, members of the Federal judiciary, and high executive officials receive pay increases automatically, unless either House passes a resolution of disapproval. The flaw in the system consists of the fact that there is no procedure whereby a resolution of disapproval may be forced to a vote. My amendment provides that during a 30-day period of continuous session of the Congress following the date of submission, a resolution of disapproval can be introduced and referred to the appropriate committee. If the committee fails to act within 10 days, any Member favoring the resolution may move to discharge the committee. If the committee has reported the resolution within 10 days, any Member may move to proceed to the consideration of the resolution. The motions, in both instances, would be highly privileged.

Salary increases are a congressional responsibility upon which we should be willing to take a stand. Since the Congress has asked business and labor to refrain from wage and price increases to hold down inflation, it is only fair that we should take a public stand on matters related to our congressional salaries. That is all my amendment would accomplish.

I submit that candor in this important matter is required in order that the institution of the Congress not lose more stature and respect in the eyes of the American people. The amendment follows:

AMENDMENT OFFERED BY MR. RHODES
TO S. 1989

On page 3, line 10, strike out line 10 and all that follows through the end of line 8 on page 4 and insert in lieu thereof the following:

(6) Subsection (i) is amended to read as follows:

"(i) EFFECTIVE DATE OF RECOMMENDATIONS OF THE PRESIDENT.—

"(1) Except as otherwise provided in paragraph (10) of this subsection, all or part (as the case may be) of the recommendations of the President transmitted to the Congress under subsection (h) of this section shall become effective at the beginning of the first pay period which begins after the first period of thirty calendar days of continuous session following the transmittal of such recommendations, unless between the date of transmittal and the end of the thirty-day period, there has been enacted into law a statute which establishes rates of pay other than those proposed by all or part of such recommendations, or unless between the date of transmittal and the end of the thirty-day period either House adopts a resolution disapproving all or part of such recommendations. For the purpose of this subsection the continuity of a session is broken only by adjournment of Congress sine die, and the days on which either House is not in session because of adjournment of more than three days to a day certain are excluded in the computation of the thirty-day period.

"(2) Paragraphs (3)-(9) of this subsection are enacted by Congress—

"(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by this section; and they supersede other rules only to the extent that they are inconsistent therewith; and

"(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"(3) If the committee, to which has been referred a resolution disapproving the recommendations of the President submitted under subsection (h) of this section, has not reported the resolution at the end of ten calendar days of continuous session after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the same recommendations which has been referred to the committee.

"(4) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same recommendations), and debate thereon is limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(5) If the motion to discharge is agreed to, or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same recommendations.

"(6) When the committee has reported,

or has been discharged from further consideration of, a resolution with respect to recommendations submitted under subsection (h), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(7) Debate on the resolution is limited to not more than two hours, to be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

"(8) Motions to postpone, made with respect to the discharge from committee, or the consideration of, a resolution with respect to recommendations under subsection (h), and motions to proceed to the consideration of other business, are decided without debate.

"(9) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to recommendations under subsection (h) are decided without debate.

"(10) Any part of the recommendations of the President, in accordance with express provisions of such recommendations, may be made operative on a date later than a date on which such recommendations otherwise are to take effect.".

AIDING DÉTENTE

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. McKINNEY. Mr. Speaker, the Senate seems on the verge of accepting a $50.3 million authorization for Radio Free Europe and Radio Liberty. This bill would also create a Board for International Broadcasting to supervise their activities. I strongly support this effort to remove these organizations from CIA control and openly establish their value as constructive channels of communication in the post-cold-war world.

This body will soon be considering the same bill, H.R. 8144. I reject the claims that Radio Free Europe and Radio Liberty are embarrassing relics of the cold war and will do all that I can to see that this bill is accepted.

I think the following editorial from the July 23 Stamford Advocate effectively counters these arguments against continued support of Radio Free Europe and Radio Liberty and provides a practical basis for maintaining these organizations. The editorial follows:

THERE IS A PRICE

The Senate Foreign Relations Committee approved a two-year federal subsidy recently for Radio Free Europe and Radio Liberty so that these voices of freedom can continue to beam news of the outside world to the Iron Curtain peoples of Eastern Europe and Russia.

In the process, the committee overrode the wishes of its chairman, Sen. J. William Fulbright, who for a couple of years now has sought to end federal funding and let these voices die.

The chairman and his committee do not disagree on ends, only on means. Both seek to foster détente with the Soviet Union.

Mr. Fulbright views the broadcasts of Radio Free Europe as unnecessarily provocative to the Kremlin because they counteract the orthodox Red propaganda that Moscow wants its citizens to believe.

The other view of détente is that Moscow, though indeed sensitive about its society's closeness, is anxious enough for new openings to the West to "give" a little in return.

In this other view, continued U.S. financing of the free world radio operations is a reminder of one of the simple deeds the Kremlin can undertake to back up its words about "normalizing" East-West relations.

If Russia continues to jam the broadcasts, the world knows. If Russia stops the jamming, the world knows, too.

If there is no radio to jam, no one knows anything—except that the U.S. gave up a bargaining counter without getting anything back.

TAXATION BY FRAUD

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. DERWINSKI. Mr. Speaker, the Press Publications, a respected newspaper serving west Cook County and DuPage County, Ill., area, carried in their issue of July 20, the record of tax matters by the Illinois State Legislature.

While Illinois Legislature was specifically a target of press criticism, the principle emphasized in the editorial could apply equally well to the U.S. Congress.

The editorial follows:

TAXATION BY FRAUD

In a democratic form of government it might seem that taxpayers should have a right to vote on projects to be financed by tax funds or, at least, limit the rate of taxation.

Why should taxpayers be saddled with a bunch of "pork barrel" projects they neither want or need and then have to pay for them without the opportunity of voting for either the project or the taxation?

Yet every state legislative session seems to bring more and more of these "under the table" tax bites that are not justified and can only be termed legal because the courts support the legislators instead of the taxpayers.

One example is the life safety code work in schools. Did the public ever vote for it, or ever have the opportunity to cast a ballot on the issue? Nor did the public ever have the right to vote on issuing bonds for life safety code work when it was found the tax was not sufficient in some instances.

Over the years the Illinois legislature has voted time and again to increase taxes, either through legislation or by voting to float bond issues without giving taxpayers the right to vote on the matter.

More and more frequently we find that as taxpayers resist efforts to increase the tax burden the legislators deal in subterfuge and deception to lard the tax bill.

It will not end until taxpayers tell legislators that we are getting mighty tired of this fraudulent denial of responsible government and unethical approach to increased taxation.

H.R. 8538, PUBLIC BROADCASTING

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Ms. ABZUG. Mr. Speaker, during last week's consideration of the bill H.R. 8538, authorizing funds for the Corporation of Public Broadcasting, I spoke of the discrimination against women by the CPB. I was concerned that the skills and capabilities of qualified women are being consciously ignored in all levels of Public Broadcasting—from the hiring of women as technicians, professionals, managers, and officials at television stations, to their appointment to the Board of Corporation. Even the content of television programs produced under the aegis of PBS, an agency supposedly serving the public interest, should be criticized for not doing enough to emphasize the changing role of women in American society.

As I pointed out in colloquy, there should be continuous oversight of this problem by the Federal Government; public broadcasting should be living up to its title by representing the heterogeneity in our society's diverse communities. Too often, programs directed toward women deal only with their traditional roles. But I believe an effort must be made to portray women in roles commensurate with their abilities, to speak to their needs and interests, by more accurately reflecting their increasing involvement in public life and politics, in the professions, and on all levels of the economic spectrum.

I was not convinced last week that sufficient action has been initiated by the Corporation for Public Broadcasting to remedy their regressive policies. I noted then the presence of only one woman on the Board of the CPB. While further investigating this matter, I found other statistics which give me greater cause for concern. For example, out of PBS's 25-member Initial Board of Governors, only three of those members are women. Of its 21-member Board of Managers, only two are women. Comparing these figures with the most elementary sociological fact that women comprise 53 percent of the U.S. population shows just how minimal is PBS's commitment to women's issues.

I have just read two studies, conducted by the Office of Communication of the United Church of Christ, which survey the status of minorities and women in public and commercial broadcasting. I would like to make available to my colleagues some of the conclusions of its investigations. I am disturbed about the glaring deficiency in CPB's hiring policies: We need increased Government oversight of this aspect of discrimination in our society.

Following are the relevant statistics:

MEMO: INFORMATION FROM UNITED CHURCH OF CHRIST SOCIAL ACTION BUREAU: DISCRIMINATION BY CPB

EMPLOYMENT OF WOMEN

I. By Public Broadcasting Stations:

Full-time:

1971, 1,379 women, 27% of total full-time employees, 5,043.

1972, 1,525 women, 28.1% of total full-time employees, 5,430.

Increase: 1%.

Part-time:

1971, 370 women, 25.3% of total part-time employees.

1972, 382 women, 25.8% of total part-time employees.

Increase: 0.5%.

Total full and part-time employees:

1971, 1,749 women, 26.8% of total combined employees.

1972, 1,907 women, 27.6% of total combined employees.

Increase: 0.8%.

II. By Commercial Television Stations:

22% of all full time positions were held by women in 1971 *and* 1972.

25% of all part time positions were held by women in 1971 *and* 1972.

22% of total full and part time positions were held by women in 1971 and 1972.

Increase in percentage of women employed: *Zero.*

III. Employment of women in upper job categories (officials and managers, professionals, technicians):

1971, 3,623 persons in upper levels of the 125 Public TV stations.

1972, 4,000 persons in upper levels of the 125 Public TV stations.

1971, 530 women in these categories, 14% of total employment.

1972, 614 women in these categories, 15% of total employment.

Increase: 1%.

In 23 stations (18% of total number) there were *no* women in these levels.

IV. The Boards of Directors of Public TV stations are required in order for a station to be licensed. More important, they are the only tangible link between the community and the station, and, as such, have an increasing amount of clout. Following are results of a survey of 31 PBS stations representing 50% of the nation's TV households:

31 stations had 644 directors (total number on boards):

46, or 7.14% are minority group persons.

597, or 92.7% are white.

88, or 13.66% were women.

6 stations have all-male boards.

V. Breakdown of Upper-level Categories:

Number and percent of stations reporting no women in upper 3 categories

(1972 Survey of 125 PBS stations—8 stations delinquent; not included)

Job category: [1]		*Number of Women*
Officials and managers	(5.6)	72
Professionals	(24.8)	31
Technicians	(83.2)	104

[1] Percent of stations in parentheses.

VETRANO FIGHTS TO STABILIZE RENTS IN WESTCHESTER

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. PEYSER. Mr. Speaker, I want my colleagues in the Congress to know of the very deep concern there is in Westchester County, N.Y., over uncontrolled rents which continue to rise. Edward Vetrano, the Westchester County clerk, has been most concerned about this problem, and has recently sent me a telegram which I want to read to my colleagues. It states:

WHITE PLAINS, N.Y.,
July 21, 1973.

Hon. PETER A. PEYSER,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN PEYSER: I ask that you use your good offices to support the request which I have made today by telegram to President Nixon urging that rent stabilization guidelines be added to phase IV of the President's Economic program.

A rent freeze is made necessary by the criticial threat to the family budgets of rent-paying tenants in Westchester County and elsewhere brought about by inflation and spiraling rent increases.

A Presidential freeze added to phase IV would be a means toward the ultimate goal of State legislation establishing home-rule control, allowing rents to be stabilized at the local level in Westchester and elsewhere throughout our State.

Yours sincerely,

EDWARD N. VETRANO.

WE ARE TO "CONSULT" WITH JAPAN

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. GAYDOS. Mr. Speaker, a statement by Secretary of State William P. Rogers to the Japanese press during his recent mission to Tokyo should not be let pass without proper attention to it by Congress and the public generally.

At a joint news conference with Japanese Foreign Minister Masayoshi Ohira, Mr. Rogers was asked about reports of planned cutbacks in U.S. military forces in the Pacific. The Secretary replied, according to the New York Times:

> We consider that the strength of our forces in the Pacific should be maintained.

And then added:

> If we get to the point of thinking about reducing our troops presence in Taiwan or Korea, we will certainly consult Japan.

I raise a question about Mr. Rogers' use of the word "consult." Does he mean by this to infer that the powerful United States has ceded to Japan, our World War II enemy, the right to pass a judgment on our present military commitments? Why else would we "consult" Japan on such matters as our Taiwan and Korean troop deployments?

We have an estimated 40,000 Americans now on standby military duty in South Korea. Some 9,000 others are on similar assignment in Taiwan. Are these not matters having to do with the United States and South Korea and Taiwan? What right has Japan to be consulted on whether these numbers should be lowered, or the troops withdrawn entirely?

I realize as the New York Times points out, that we are obligated by treaty to "confer" with Japan prior to any change in our military presence in Japan itself where 50,000 Americans now are stationed. But, surely, this is far from being an agreement to consult on the commitment of U.S. troops elsewhere.

The American people, I am certain, would oppose vigorously, if they were aware of it, the surrender of any bit of this Nation's full authority over its own troops overseas. And yet, it seems from Secretary Rogers' statement that this authority has been lessened to a point where the administration feels Japan must be consulted on any change by us in the Pacific. I protest this idea and urge that it be clarified fully. Did Mr. Rogers really mean what he told the Tokyo newsmen? This question needs an answer.

LIFE INSURANCE FOR FEDERAL EMPLOYEES

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. WALDIE. Mr. Speaker, I am today introducing legislation to provide for the payment by the Federal Government of the total cost of the Federal employees basic group life insurance and death and dismemberment insurance program, known to most Federal employees and others as FEGLI. At present, two-thirds of the cost of this insurance program is borne by the employees; one-third of the cost is borne by the Government as the employer. Under this bill, the entire cost would be shifted to the Government.

For many Federal employees, the premium for the basic group life insurance protection represents a substantial amount taken from their yearly pay. The cost to the employee every 2 weeks is 27½ cents for each $1,000 of insurance. Thus, an employee's annual premium for the minimum $10,000 policy is about $72; for a $20,000 policy, the annual premium is about $143; and for the maximum $45,000 policy, the annual premium is about $312.

The comparison to coverage available under life insurance programs offered by the Nation's private employers and other public employers taken as a whole, the Federal program comes out quite well. However, when compared with just those major private employers who have a large workforce, the Federal program is less than generous. For example, U.S. Steel, General Motors, and General Electric all have coverage that is much more generous than that of the Federal program.

What is more important in terms of the bill I am introducing today is that the basic life insurance programs offered by these employers, as well as other programs equal to or less generous than the Federal program, is available to the employees at no cost.

Most important, however, is that with respect to the Federal group life insurance program, this bill would put all Federal employees on a parity with their postal worker colleagues. Under an agreement recently negotiated with the U.S. Postal Service, the entire cost of this program for postal workers will be borne by the Postal Service, as the employer, beginning July 20, 1974. Why this one group of Federal employees should be treated more favorably than other employees in this regard is not evident to me.

At present, about 91 percent of Federal employees eligible to enroll in the Federal life insurance program have done so. In my view, it is now time for the Federal Government to do what other major employers in this country do for their employees in regard to life insurance premiums.

Mr. Speaker, the full text of the bill follows:

H.R. —

A bill to amend title 5, United States Code, to provide for the payment by the Government of all costs of the Federal employees basic group life and accidental death and dismemberment insurance program

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 8706(e), relating to insurance of certain employees on approved leave without pay, of title 5, United States Code, is amended to read as follows:

"(e) Notwithstanding subsections (a) through (c) of this section, an employee who enters on approved leave without pay to serve as a full-time officer or employee of an organization composed primarily of employees as defined by section 8701(a) of this title is entitled to have his insurance continued in that period. The employing agency of such employee shall continue to transmit the Government contribution on account of such employee to the Fund in that period.".

(b)(1) Section 8707 relating to employees insurance deductions, of title 5, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 87 of title 5, United States Code, is amended by striking out "8707. Employee deductions; withholding.".

(c) Section 8708(a), relating to Government insurance contributions, of title 5, United States Code, is amended to read as follows:

"(a) For each period in which an employee is insured under a policy of group life insurance and accidental death and dismemberment insurance under section 8709 of this title, a sum equal to the entire cost of such insurance attributable to the employee shall be contributed from the appropriation or fund which is used to pay him.".

(d) The first sentence of section 8714(a), relating to the Employees' Life Insurance Fund, of title 5, United States Code, is amended by striking out "amounts withheld from employees under section 8707 of this title and the".

SEC. 2. The amendments made by this Act shall become effective at the beginning of the first applicable pay period commencing on or after the sixtieth day following the date of enactment of this Act.

A HORSE OF A DIFFERENT COLOR

HON. HERMAN T. SCHNEEBELI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. SCHNEEBELI. Mr. Speaker, it can be difficult for a local television station to find the funds to take the initiative in providing indepth coverage of serious and controversial local issues. I am pleased to be able to inform my colleagues of the outstanding effort of station WTPA–TV in Harrisburg, Pa.

The locally produced and filmed story, "A Horse of a Different Color," has been receiving critical acclaim throughout central Pennsylvania. WTPA, channel 27, won first prize in the professional category in the Harrisburg Arts Festival's film contest, as well as the praise and gratitude of civic, community, and State officials.

"A Horse of a Different Color" is the story of a junkie and his trials and tribulations in the junk world. The story follows the junkie's frustrating search for inner peace.

Directed by Paul Baker, the story was 7 months in production and was filmed in the greater Harrisburg area. Dan Book is featured as Jesse Taylor—the junkie—Jack Staley as the probation officer, John Lounds as himself, and Dick Olsen as Johnny. Also included are the doctors, nurses, and staffs of the Harrisburg Polyclinic Hospital and Hershey Medical Center, as well as staff and residents of Gaudenzia, Inc.

In addition to its television airs, "A Horse of a Different Color" has been made available for showings before civic or fraternal organizations.

Mr. Speaker, it is a pleasure to offer my sincere congratulations to everyone at WTPA–TV or otherwise associated with this production. It is a dramatic presentation dealing with a very serious problem and is handled in good taste.

CIVILIAN CONTROL STILL AN ISSUE

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. BOB WILSON. Mr. Speaker, criticism of the Pentagon is particularly in vogue these days, and the military has often had to bear the brunt of public frustration over the protracted Vietnam conflict. We tend too quickly to lose sight of the fact that the military carries out the policies of the Government, policies determined by the civilian officials in the top echelons of authority. This antimilitary mania has become quite irrational in some quarters, and I would like to share with my House colleagues an excellent article by Brooke Nihart from the January issue of the Armed Forces Journal, entitled "Civilian Control Still an Issue." This commentary puts the question of civilian control into clearer perspective and I commend it to the attention of the Members of the House:

CIVILIAN CONTROL STILL AN ISSUE

(By Brooke Nihart)

"War is too important to be left to the generals," is how French Premier Georges Clemenceau phrased his view of civilian control as he exercised it over his failing generals on the Western Front. In exclusive interviews with the top civilian and top military leader, Secretary of Defense Melvin Laird and JCS Chairman Admiral Thomas H. Moorer, they, in effect agreed.

Civilian control has been virtually unquestioned in principle or practice in the 185 years since the Constitution was framed. Lincoln exercised it fully during the Civil War and the voters rejected an 1864 presidential bid by MGen George McClellan which smacked to them of possible militarization of government. When West Pointers such as Grant and Eisenhower were elected to the presidency their personal control over governmental matters often seemed less than their civilian predecessors and the military hardly could be said to have thrived during those regimes. President Harry S. Truman showed he was boss when he relieved a recalcitrant General MacArthur.

Admiral Moorer told AFJ recently, "I have never known anyone in uniform who did not clearly and fully support civilian control which is part and parcel of our whole system as set up by the Constitution."

In an October letter to Senator John C. Stennis, chairman of the Senate Armed Services Committee (concerning actions taken as a result of Hearings on the unauthorized air strikes against North Vietnam ordered by Maj. Gen. John D. Lavelle), Secretary of Defense Melvin R. Laird said, "There is no evidence of a breakdown in or a threat to civilian control of the military."

In answer to a question during an interview on the present status of civilian control, Laird said, "I've watched it for about 20 years as a Congressman and Secretary of Defense. I do not have the concern I once had in this area. I think we have been able to improve civilian control. It is up to the Secretary of Defense and the President. It is their responsibility under the Constitution and the National Security Act to exercise that control."

Despite such disclaimers, critics of the Pentagon show a lack of understanding of what civilian control is and how it is applied. The lack of understanding is compounded partly of misinformation and partly of frustration over a costly, unwon, and, to some, wrong war; to continued defense expenditures at what they feel is too high a level; and to intrusions into the civilian sector such as military investigations of civilians. The critics fail to realize that *civilian authority* insures neither liberty nor peace, viz., the *civilian* decision to oppose the invasion of North Vietnam; to continue high levels of defense spending to counteract the expansionist policies of Russia (meanwhile tasking the Army with aiding the surveillance of dissident activists); to pull the troops out of Vietnam; to cut defense spending in real dollars or purchasing power back to the 1950s $50-billion-level (even with a price tag reading $80-billion in inflated dollars); to order the Army to end surveillance of civilians. The critics' hang-up seems to be the nature of the military policy with which they disagree. They assume that it is made *by* the military *for* the military without reference to civilian authority. Such is not the case, according to Laird and Moorer.

WHO CONTROLS, WHO COMMANDS

Admiral Moorer brought out forcibly that, "the duties of the Joint Chiefs are to provide direction to the Armed Forces and advice to the Secretary of Defense and the President. The Joint Chiefs do not make policy, do not approve budgets, do not issue directives to the military forces without civilian approval. In fact, the law specifically states that the Joint Chiefs do not command and so you have, in that sense, civilian control, I think there is a distinction, too, between civilian control and civilian command. I think that command in the field should be by professionals . . . once one begins to execute a military operation today, when weapons are so complex and destructive, professionalism is required across the board."

"Since I have been Chairman," Moorer said, "and the same thing applied during General Wheeler's time and I'm sure before him, a directive has never left this building requiring combat action on the part of U.S. forces that was not initiated by the Secretary of Defense. I testified to this before the Congress and I can document it."

Emphasizing the close control he has over operations, Secretary Laird said he approves all ship movements himself. "I assign and word every operating authority," he said. Operating authorities are the orders to the field initiating operations and setting their limits. Laird feels that with the newly instituted Unified Command inspector general system he can quickly and accurately verify their execution.

The new, not-yet-appointed, Deputy Secretary of Defense (Operations) will be used to monitor these operational matters, Laird said. "Take the movement of ships, I approve those myself, now. I know and approve every ship on the line now and the changes that will be made tomorrow. I watch those things; that's what keeps you up at night getting night telephone calls. It would be helpful to have someone like the new Deputy Secretary to help in that area."

"We do not expect our civilian superiors to accept our advice," Admiral Moorer told AFJ, "but we do have a right to expect them to listen to it." And the civilians do listen, according to Secretary Laird. Asked what advice he would give to a new civilian subordinate in this regard, Laird said he would tell him that the best advice and best leadership is represented in the Joint Chiefs and the Chairman, and that their recommendations must be considered. Laird agreed that the Joint Chiefs accept decisions better when they have had an opportunity to present their case and make recommendations. "They know they can walk into this office any time," Laird emphasized. "They don't have to have an appointment or anything else; they know they always have free access to me and their Service Secretaries."

We asked Admiral Moorer what instructions he might give a senior officer on how to interact better with civilian leadership to make civilian control more effective and make military participation in the interaction more productive. He said he would tell them, "to communicate with the civilians and to give advice freely but when the decision was made, don't try to undercut it . . . you should either support it or get out, but don't you undercut it by slipping around to the back door and leaking the disagreement to somebody to publicize it."

Laird, who reversed the policies of his predecessors by listening more to military advice in what he calls "participatory management," said that one thing he would advise new civilian officials to do to continue the effectiveness of civilian control would be to give the military, "An understanding of what the fiscal restraints are so that they will try to assign some priorities on the basis of their best military judgment. That gives them a greater input into their programs than they have ever had before. Formerly, when they were told there were no restraints at all the impact of their recommendations becomes very small but if they are given various ranges of fiscal constraints within the department then the impact of their recommendations takes on greater significance but you are also able to have better military judgment and better military advice that way. And they feel they can see the significance of their recommendations and you don't have some other civilian shop such as Systems Analysis making the decision for them. I get the best kind of military advice that way."

The Blue Ribbon Defense Panel of two years back recommended a second Deputy Secretary of Defense be appointed to oversee operations. Congress, this past year, authorized the post. As a result of the Lavelle case, Laird set up an inspector general system within the unified commands to check on operations. Previously, only the Services had an inspector general system which was concerned with internal matters, mainly administration and discipline. We asked Laird about both the new deputy and the new IG.

Laird's answer to what sort of man he had recommended for the deputy's job suggested that he was a current insider with Pentagon experience. Laird said; "He has to be someone who understands how the Services operate because you have to be tough in that area and there can be no question in the minds of anyone that they are responsible to you all the way down the line." He said the decision would be made "within the next couple of weeks" which put it just before Christmas. However, he pointed out that his successor, Elliot Richardson, "may not divide the responsibility (one deputy for operations and one for administration and procurement) as I would."

Referring to the Lavelle case again, Laird said; "I believe that I was let down a bit and I want to make sure that there is an investigative machinery set up that is more adequate than the present (Service IG) investigative machinery." Laird's response has been to set up an IG on the staff of all unified commanders, "with responsibility to inspect Service component commands on military operational matters, particularly as they involve command and control, and to report to the Secretary of Defense through the Joint Chiefs of Staff," as he wrote to Senator Stennis. Laird said that reports are coming in to him now but that the new Secretary of Defense may do it differently. "Orders have gone out and it is in effect," Laird said of the new IG system. "I can quickly verify every operating authority and directive now," he added.

Asked how the new IG reporting system would work, Admiral Moorer said that reports would come into the JCS. ". . . if the problem is one of even the remotest interest to the Secretary of Defense, he'll know about it. The JCS will not only give him the report and our opinion as to its validity but we will give him our recommendation as to what corrective measures to take. That's the normal way we operate. If the Secretary wants an inspection made or a report on a certain subject, he instructs us and it gets done, that's all."

POLITICIAN OR MANAGER?

The phenomenon of the past four years has been the willing acceptance of Laird's leadership by the Services. A phenomenon because it has been an era of drastically reduced budgets and manpower which in the past has resulted in wails of anguish and "end runs" to Congress to get appropriations denied them by the Secretary. The stewardship of Laird, the warm, human, wise politician has been in marked contrast to the longer regime of his predecessor Robert S. McNamara, the cold, efficient manager. McNamara presided in an era of expanding defense budgets and manpower yet by his "overcontrol" of the Services and disregard for their professional advice managed to make them hate every minute of it.

Because of the difference between the two approaches to civilian control—one that misused it badly and the other that made it effective—we asked Secretary Laird whether he thought that a person with a political background was more fitted for the post than one with a managerial or academic career. He said that four years ago, "I did suggest that because of the problems this Department was going to have, not only as to public acceptability but also as to congressional concern, the President should have someone who had had a background in Congress. And that is why I suggested Scoop Jackson (Senator Henry Jackson). He backed out at the last minute and I kind of got trapped . . . that is not the right word," Laird laughed. "I got involved and left Congress to do this job. I do think my political background helped but what helped me the most was listening to Defense Budget hearings for 16 years on the Defense Appropriations Subcommittee."

We asked Admiral Moorer which type of Secretary he thought was best for the exercise of civilian control. He said the Secretary, "in a broad sense must understand the interplay between political and military actions; he must understand the goals set by the President as Commander in Chief. I think that it would be difficult for me to say that one individual by virtue of his background would be better in this role than another. I think it depends on an individual's basic intelligence, it depends a hell of a lot on his energy and his willingness to dig out the facts and keep abreast."

In concluding the interview Admiral Moorer pointed out that a vital corollary to civilian control is military professionalism. "We must rely on our Constitutional system and the good judgment of elected civilian officials to keep us free," he said. "If this democracy is to get the protection it expects from its military establishment it must receive sound and clear military advice and the execution of the most professional manner possible. The tremendous power of destruction of modern weapons allow no other course," he said.

"Without this professionalism, which I think we definitely have today," Moorer continued, "the military cannot effectively respond to civilian control." Admiral Moorer then pointed out that professionalism is not an automatic attribute granted to the Armed Forces. Among other factors, it depends on pride and discipline. And professionalism as well as pride and discipline can slip away if we, the American people, are not sufficiently concerned. They can only be maintained through the support of the American people."

Moorer said that the Services can and do instill pride in their men and maintain discipline. He emphasized in conclusion, however, "that pride will not long be an outstanding characteristic of our Armed Forces if service in them is not looked upon with pride and respect by our people. Discipline will not be maintained in our Armed Forces if our citizens encourage desertion and acts of disobedience on the part of our military men and women. All can't serve in uniform but those who do not desire to do so must consider their obligations as citizens to support those who do serve, even if it is only by passing a word of encouragement to the servicemen and women he meets."

"I'll say once again," he ended, "there is no question but that everyone in uniform completely supports the concept of civilian control. I've never heard anyone express otherwise and I think our system provides for complete civil control."

CLOSING THE ENERGY GAP, AN ACTION PLAN

HON. WILLIAM L. ARMSTRONG

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. ARMSTRONG. Mr. Speaker, America's energy gap is growing wider every day.

Consumption of energy, particularly gasoline, continues to increase at an explosive rate. But energy production is not keeping pace.

Unless Congress acts decisively, and with full cooperation of energy companies and consumers, the Nation will soon face a chronic shortage of gasoline, natural gas, and electricity.

Until now most Americans have not personally encountered effects of the so-called energy crisis. Last winter's fuel oil squeeze and the national shortage of gasoline and diesel fuel this summer have fallen hardest on a few areas of the country. In these States, especially Colorado, serious inconvenience and severe economic losses have been sustained.

But since the majority of Americans have not yet had the unnerving experience of being unable to buy gasoline at the neighborhood station or having their town's schools and factories closed for lack of fuel oil, many do not fully appreciate the problem. Possibly some Members of Congress are also still underestimating the magnitude of this concern.

In addition we are all aware of a distraction that has made it difficult to focus constructively on the energy crisis. I refer, of course, to the growing suspicion that energy companies have artificially created this shortage or are taking unfair advantage of the situation.

The companies contend the shortage is beyond their control and results from extraordinary increases in demand which have outrun large increases in production. Frankly, no convincing evidence has been called to my attention in support of claims of wrong-doing by the companies.

However, it is not my purpose to judge the accusations. Nor should this become the primary concern of Congress since the Federal Trade Commission and other appropriate agencies are investigating activities of the companies. We all agree, I am sure, that if the law has been broken, the guilty must be punished.

But Congress must deal with the indisputable fact that the shortage, however it may have been created, is real. It will soon affect every home in America.

Based on testimony presented at a hearing I recently conducted in Colorado Springs and on study of energy consumption and production data, I am convinced effects of the energy shortage will grow worse and spread throughout the entire country unless present trends are quickly reversed. If we permit this to happen, a crippling effect on our national economy and a lower standard of living are inevitable. Skyrocketing fuel prices, rationing, restrictions on travel and the ownership of automobiles and home appliances are very real possibilities.

And if we import a continually growing proportion of the Nation's oil, the United States will soon become hopelessly dependent on foreign sources. Our national welfare will become subject to the whim of Middle East oil interests.

With the possible exception of the economic crisis, there is no more urgent threat to the Nation's well-being than the widening gap between energy consumption and energy production. The need for immediate action is correspondingly urgent.

In my opinion, action to close the energy gap must be predicated on three fundamental considerations:

First, we need more energy. But we also must develop policies to conserve energy as well as to increase production.

Second, this Nation must again become largely self-sufficient for its energy needs. We are now too heavily dependent on imports for our most important energy source, oil. About one quarter of America's oil comes from abroad. At the present rate of increase, over half of U.S. oil consumption will depend on overseas sources within 12 years.

The purely financial consequences of such dependence are obvious. The net cost of imported fuels already results in a sizable dollar drain, approximately $2.1 billion in 1970. This deficit will range between $9 and $13 billion in 1975 and is projected to reach $32 billion in 1985.

This is intolerable especially since we already have the worst balance of trade in 70 years and our total annual export of all goods and services now amounts to only $65 billion.

The foreign policy implications are equally plain: If America's economy becomes hostage to the goodwill of rich, but weak, Middle East nations it will undermine American credibility throughout the world.

And the more dependent and, thus, more vulnerable we become, the greater the risk to nations who supply our oil. By becoming overly dependent, we will contribute greatly to instability in an area of the world that is already crisis-prone.

Third, we must not permit environmental concerns to become the scapegoat of the energy crisis.

Unquestionably, environmental considerations have an energy cost. The most striking instance of this cost is the increased fuel consumption of automobiles caused by air pollution control devices. There are many similar examples.

But preserving—indeed, recapturing—our environmental heritage is worth the cost—in energy as well as money. I support energy initiatives which are consistent with the utmost regard for environmental considerations.

I therefore recommend:

A NEW NATIONAL ENERGY POLICY

Fostering abundant and cheap energy has been the official policy of the U.S. Government for decades. And properly so.

But times and the needs of the Nation have changed. Congress must now reconsider this policy and direct that conservation of energy, as well as natural resources, be given equal consideration by Federal policymakers and regulatory agencies. In doing so, Congress should enact a National Energy Policy Act. Energy policy is now scattered throughout numerous statutory enactments, Presidential proclamations and regulatory decisions. By pulling together the fragments into a comprehensive act, Congress can sharpen the focus of issues and provide a framework for rational decisions.

THE TRANS-ALASKA PIPELINE

I favor immediate action on the trans-Alaska pipeline. In my judgment, the Canadian route is not a realistic possibility. Therefore, it is essential for the trans-Alaska pipeline to go forward as quickly as possible consistent with adequate environmental safeguards.

DEEP WATER PORTS

Although recovering a greater degree of energy self-sufficiency must be a prime goal of national policy, achieving this objective will require several years. In order to facilitate importation of foreign petroleum in the meantime, licensing of deepwater ports should be authorized by this session of Congress.

ACCELERATED DEVELOPMENT OF OFFSHORE OIL

The Atlantic Outer Continental Shelf is estimated to contain oil reserves of 46 billion barrels; Alaskan waters, an additional 56 billion barrels.

The President has announced plans for the Council on Environmental Quality to begin necessary environmental impact studies in preparation for oil exploration and development. But this is expected to take at least a year; other studies and approvals may take 5 years or more, under present timetables.

I believe this schedule can and should be improved.

At the same time, however, I want to be sure adequate funding is available for research to prevent ecological disasters such as the one which occurred in the Santa Barbara Channel.

As I understand it, none of the $872 million in research and development money or the $3 billion in pollution control and abatement funds provided in this year's Federal budget—and in the President's proposed increase—is specifically designated for such research.

Congress should earmark adequate funds or provide additional funds, if necessary.

TAX INCENTIVES

I concur with the President's recommendations for tax incentives to spur research, exploration, and development of energy sources.

In addition, I recommend consideration be given to tax incentives to encourage conservation of energy; for example, allowing homeowners to deduct the cost of upgrading home insulation. This improvement could save each homeowner 40 percent of annual fuel consumption.

INCREASED PRODUCTION OF NATURAL GAS

The rapidly growing demand for natural gas cannot be met unless production is dramatically increased. In the last 6 years, natural gas consumption has increased 37 percent. Proven reserves of gas have decreased 21 percent.

Moreover, the drilling rate and the finding rate—the volume of oil and gas found per unit of drilling effort—are declining. As the most accessible reserves have been depleted, it has become necessary to drill to deeper levels for gas. So the cost is rising.

The Government decreed wellhead price ceilings have discouraged new exploration and development to provide new supplies. At the same time, artificially low prices have encouraged many industrial firms and utilities to consume large quantities of gas when these users might better use other fuels. For these reasons, I support the deregulation of "new" natural gas.

It is important for consumers to understand, however, that wellhead increases will not have a corresponding effect on the cost of natural gas used in homes. Since the cost of producing gas at the wellhead amounts to only about 16 percent of the cost paid by consumers—transportation and other costs make up the balance—homeowners would scarcely feel even the largest projected increase in wellhead prices.

I also commend the creative new approach to financing a greatly expanded gas search effort by companies such as Colorado Interstate Corp.

CIC has been spending $2 to $3 million annually on exploration. But if FPC approval is obtained, and the company is optimistic it will be, this firm will undertake a 5-year $60 million exploration and development program to add new gas supplies to meet customer needs. Congress and regulatory agencies should encourage efforts of this kind which are essential to meet national energy needs.

EXPANDED RESEARCH AND DEVELOPMENT

The President has proposed a new 5-year $10 billion energy research and development program. But it does not begin until next fiscal year.

The budget proposed by the President recommends spending $872 million in 1973–74. Over 85 percent of this sum—$733 million—is devoted to nuclear power research and coal gasification-liquification programs. Such research is worthwhile.

However, I continue to believe oil shale is also a potential energy source of immense importance. So I recommend greater emphasis be given to research and development of this resource.

If we proceed at a measured pace now shale can be turned into oil on a basis consistent with environmental standards. But if we neglect oil shale development, there is real danger we may be pushed into panic development at some later time. If that happens, environmental concerns could be left in the lurch.

Although I am less optimistic about prospects for solar energy and geo-thermal power sources, both are technically feasible. To the extent they afford a sound alternative, these sources of energy should also be encouraged.

In order to stimulate research, Congress should consider an antitrust exemption for energy companies which create joint ventures for research and development. The cost of coal gasification and oil shale are so huge that such joint efforts may be necessary. A narrowly defined, and carefully regulated, antitrust exemption may be required.

MODERN TRUCK SIZE-WEIGHT LIMITS

Impressive fuel savings may be possible by adopting increased limits for the size and weight of trucks operating on the Interstate Highway System. Present Federal and State restrictions inhibit use of larger vehicles which could save as much as 31 percent in fuel consumed to provide a given volume of transportation service, I am advised.

An increase can be justified without adverse safety or highway maintenance consequences, a move endorsed by the American Association of State Highway Officials and the Federal Highway Administration.

CONSERVATION OF ELECTRIC ENERGY

I commend efforts utility companies are making to level peak load requirements for greater efficiency.

I also approve the reevaluation of electric rate discounts given to big users. I am pleased the utilities and State utility commissions are studying these discounts to assure that large users are not unintentionally being subsidized by other electric consumers.

RETURN TO FREE MARKET PRICING

Artificially low prices encourage the wasteful, and sometimes frivolous, use of energy. Current price ceilings and proposals for price rollbacks are contrary to sound energy policy. These measures encourage consumption and discourage production—the opposite of our goal.

I urge a return to free market pricing at the earliest possible date.

VOLUNTARY EFFORTS

I also want to point out the growing need for voluntary conservation efforts. Voluntary measures are important, particularly in the immediate future.

I commend those who are taking part in car pools, reducing their speed on the highways, making more prudent use of fuel-consuming accessories and appliances. They are making a very real contribution to solving this national problem.

REORGANIZING TO MEET THE ENERGY CRISIS

In conclusion, I would like to comment briefly on the need to develop a coordinated approach to energy policy. Energy policymaking is now diffused throughout the executive branch; and in Congress at least 94 committees and subcommittees have jurisdiction over energy legislation. The delays, confusion, and counterproductive efforts which result can no longer be tolerated.

It is time to reorganize. But reorganization is not a panacea. If reorganization facilitates substantive improvement, as I believe it will, then such reorganizajective, only a means to the end.

The energy shortage is growing more serious each day. Most proposed courses of action have a long leadtime. We cannot solve this problem overnight. But with energy consumption continuing to rise we cannot afford further delay in getting started.

PUERTO RICAN CONSTITUTION DAY

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. RODINO. Mr. Speaker, 21 years ago yesterday, a covenant was signed between 2 million men and women on an island 105 miles long and 35 miles wide and their copatriots on the U.S. mainland. For on July 25, 1952, the Commonwealth of Puerto Rico was born, proclaiming to all the nations of the world the creation of a "permanent union between the United States and Puerto Rico on the basis of common citizenship, common defense, common currency, a free market and a common value of democracy."

When Antonio Fernos Isern, Chairman of the Puerto Rican Constitutional Assembly, signed the proclamation binding this most special relationship, a surge of excitement spread quickly through both the island and its mainland. And today, as we look at the progress, growth and all the good that has come from this unique and dynamic association, our spirit and pride is reenforced and strengthened.

The policies governing the relationship between the United States and Puerto Rico are based on the principles of mutual consent and self-determination. The ideas and approaches of newly elected Gov. Hernandez Colón are filled with incentives to foster the highest rate of economic growth the island has ever experienced. From job training to urban planning to environmental control, the coming years for Puerto Rico appear indeed to be years of great development and change.

I am sure that the many Puerto Rican families who have chosen to settle on the mainland regard July 25 as a day of great celebration. When I look at my own State of New Jersey, I can easily discern the richness of Puerto Rican culture and traditions so prevalent and so much a part of our communities.

With each passing year, outstanding men and women of Puerto Rican heritage have contributed more and more to the life and fervor of our State. On Sunday, July 29, the Puerto Rican Day Parade will again take place in my hometown of Newark. I know that when our Puerto Rican citizens celebrate, they rejoice with heart and soul. And, as every year, I very much look forward to sharing in the spirit and pride of this most joyous occasion.

OPPOSITION TO SALARY INCREASES FOR CONGRESSMEN

HON. JAMES G. MARTIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. MARTIN of North Carolina. Mr. Speaker, I am today introducing a concurrent resolution expressing the sense of Congress in opposition to any increase in the salaries of Members of Congress and in favor of limiting other Federal officials' salary increases to 5.5 percent per year.

At a time when the average American citizen's budget is strained to the breaking point by rising prices and a never-decreasing tax burden, the Federal Commission on Executive, Legislative, and Judicial Salaries is reported ready to recommend a 29-percent increase for Members of Congress and other healthy increases for other high officials. Given the state of the economy and the temper of the times, I can think of nothing more cynical or irresponsible than to permit a huge raise for officials who should be setting an example for the rest of the country—even if the money were needed.

At least one other Representative has introduced a resolution similar in tone to the one I am introducing. Perhaps others have, or will. We all have compelling reasons for expressing opposition to this reported recommendation.

First, in all probability it is not needed.

Second, it is grossly violative of the spirit of the Economic Stabilization Act which this Congress has itself extended.

Third, it would be a slap in the face of the millions of Americans who live on fixed or low incomes.

Fourth, it would deny us standing to urge restraint on the part of others or to deny substantial increases to other federal employees and retirees.

Fifth, for the Congress alone it would cost $6,987,500 per year in salary alone, exclusive of eventual incremental increases in retirement benefits.

Sixth, it will cause many Members, I am afraid, to take advantage of retirement benefits earlier than they might wish.

Now, if this freshman Member is getting complaints about salary increases that went into effect 4 years before I became a Member, it would not be hard to imagine what the outcry will be if this reported recommendation becomes effective. And it would be hard to say the outcry would be unjustified.

I believe very strongly it would be in the best interest of this body, and of each Member of it, to express in advance opposition to substantial raises for high Federal officials, particularly ourselves.

ADVICE ON BLACKBERRY PICKING

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. CARTER. Mr. Speaker, during the hot and humid days of mid-summer, a time honored tradition in southern living is observed. In the sticky weather of mid-July, literally thousands of people climb fences and wade creeks, risking snake bite, skin infection, and attack by that most fearsome of varmits—the chigger—in search for the ever elusive blackberry.

At this time, I offer the information on those among my colleagues who would participate in this celebration a few words of advice from those who know. This counsel appeared on the pages of the Columbia Kentucky Statesman recently.

The authorities, Mr. W. K. Neat and Mr. O. A. "Cotton" Durham, know whereof they speak. Mr. Neat, tax commissioner of Adair County, also serves in the capacity of chairman and chief moderator of the Hoop Snake, Varmitology and Saucer-Sighting Society of Southern Kentucky. He and his band of truly believing root diggers have earned a splendid reputation for dedication to the quest for scientific knowledge. Among the ranks of the H.S.V. and S.S.S. of S.K. are found the leading authorities on the curative powers of buckeyes, copper bracelets, poke sallet, sulphur water, and poke root—when said tuber is in solution with certain strong liquids.

Mr. Durham, possessor of one of the keenest legal minds in the Commonwealth, continues his long association with the blackberry industry. From his days as a berry picker in Rock House Bottom, his sharp business sense has established him as a leading financier in the berry business. He is among the first persons to whom pickers come with the fruits of their labor.

Adair County, Ky., situated in the center of the Berry Belt of America, is responsible for many contributions to this thriving industry. It is there, along the shady banks of Russell Creek, where the champion berry picker of America resides. Mr. Leighton Symthe holds the record of picking 52 gallons of blackberries in a single 10-hour day. It has been reported that he accomplished this feat armed only with a "V-C" fertilizer hat, a 6-foot-long tobacco stick, half a big orange bottle of lamp oil, two jam biscuits, and a quart of buttermilk.

The article follows:

Blackberries—Cotton Durham Knows His Berries

O. A. Cotton Durham has no trouble keeping up with when blackberry season comes around. Durham, a Columbia businessman, is one of the first people blackberry pickers sell their berries to.

"There hasn't been anybody around selling blackberries yet," said Durham recently. "I'm usually about the first one they come to with their blackberries," he added. Durham said that he expected someone selling blackberries to be around within a week or so.

The price of blackberries, like the price of everything else, is expected to be higher this year. "Last year," said Durham, "Blackberries cost between a dollar and a dollar and a quarter a gallon. This year, I think, they will probably cost from a dollar and a quarter to a dollar and a half a gallon. It's worth that just to pick them."

Other persons familiar with blackberries and blackberry picking, including Adair County Tax Commissioner W. K. Neat, are predicting prices will be around $2 a gallon. Durham said he felt that "$2 is a little high."

Durham noted several differences in blackberries today and the ones he picked as a young boy at Rock House Bottom. He said "They are not as big as they used to be, and the berries are not as sweet as they used to be, on account of there not being enough shade. People are not letting their land grow up as much, they are keeping the weeds down. Blackberries get sweeter if they are in the shade."

Also, Durham said that he had not seen many dew berries in recent years.

While some people are planting blackberries now, said Durham, "most people are planting bozenberries. The bozenberries look a lot like a blackberry and it tastes about the same as a blackberry, but the bozenberry is bigger than the blackberry. Some of them are as big as your thumb. Bozenberries are sweeter than blackberries; they don't have as much acid as a blackberry."

Durham feels that a person could make a fair amount of money by picking blackberries. He said "if you could get $1.50 a gallon and if you could pick 10 gallons a day, which an average person should be able to do, then you could do alright."

He added that "with no strawberries this year, blackberries will be worth more. The rain got most of the strawberries."

The person selling berries will have his best sales going house to house, said Durham. "You usually can't sell them to stores," he said, "because they won't keep. You've got to put them in a cold place and use them in seven or eight hours or they will sour and mash down. Blackberries should be used the same day they are picked."

Durham noted a sad side effect of progress. "The more land is cleaned up," he said, "the fewer berries there are to pick."

Advice Is Given on Blackberry Picking

(By W. K. Neat)

Among other things, Adair County Tax Commissioner W. K. Neat, is something of an authority on blackberries.

"Blackberries are getting ripe about now. They will be in full swing in another week or two. We're going to have a big crop, it looks like, although they're not as plentiful as they used to be."

Neat said he was predicting that blackberries would be selling at about $2.00 a gallon this year.

Blackberries can be found along fence rows and deserted buildings among other places. Neat said that if there was some "pretty rich soil around an old house that's been deserted it will have berries around.

"Most folks today keep their farms and fence rows mowed pretty close and you don't find as many berries. I'll tell you what there is a bumber crop of—chiggers. There are plenty of them. Some of them as big as a matchhead."

Neat said that he would advise people to pick blackberries as soon as possible before the dog days get here.

There are other things to watch out for when picking blackberries, according to Neat. He said, "You've got to watch that you don't reach out and grab a handful of black snake. They will run you all over the field. They'll run you from one end of the field to the other. There seems to be more snakes at blackberry picking time and they seem to be more irritable at blackberry picking time. I don't know why."

"If anyone is going blackberry picking, I advise them to soak their feet, legs and hands in lamp oil to keep chiggers off. Another good idea is not to pick berries before the dew is off. Always wait till the dew is off."

Neat said that he had heard that a lot of old people say they will not pick blackberries around a cemetery. He said that he didn't know why that was.

"With prices as high as they are," said Neat, "if a fellow wanted to go out and pick them and if there were enough, that fellow could do alright. And if you are far enough back, you can always checkout and dig a little ginseng."

Some other stories about blackberry picking Neat told are these:

Old folks used to say that blackberries were better if they were picked during the dark of the moon rather than during the light of the moon.

The old folks also used to say that jam or anything made from the berries tasted better if they were cooked on a wood burning stove rather than gas or electric.

July 15 is Blackberry picking day in Adair County. He said this day was almost a holiday.

Leighton Smith is the champion blackberry picker of all time. Neat said that Smith picked 52 gallons in one day. He said that this was 10-hour day and that Smith was in a virgin blackberry patch. "The blackberries don't grow that thick anymore," said Neat.

Neat said that he had planted some blackberries this spring. Also, he said, Walter Paine has quit planting cucumbers and is planting blackberries. He mentioned that others are too.

GET WELL, EARL LANDGREBE

HON. WILLIAM G. BRAY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. BRAY. Mr. Speaker, we all wish our friend and colleague Earl Landgrebe a speedy recovery and return to the Congress. So do his constituents; the following editorial appeared in the Valparaiso, Ind., Vidette-Messenger of July 24, 1973:

For Landgrebe Recovery

Take a moment today or tomorrow to say a little prayer for the recovery of our Congressman Earl F. Landgrebe.

Our three-term Congressional solon has been stricken with a heart disturbance and general fatigue and is convalescing at Bethesda Naval Hospital. It's only indicative of the pace our representatives in Congress must follow in order to do a job for country and constituency.

Now that he is reported to be on the road to improvement, a little morale booster from his constituents and fellowmen in general, would be most appreciated. These things really help when a man is down and confined to the four walls of a hospital room.

We should appreciate Earl Landgrebe as much as he is appreciated by President Nixon. It was the President who took the time to spend 10 minutes with Landgrebe before leaving the hospital where he had been confined with viral pneumonia.

The President paid a visit to Landgrebe because our Congressman has deeply identified himself with problems of fiscal responsibility. Landgrebe's type of conservatism is vitally needed in government on all levels . . . a steadfast enemy against deficit spending. Landgrebe has, an many occasions voted against the President's appropriation bills: measures against sale of wheat to Russia . . . reparations to Red China . . . and others. He is a champion of fiscal responsibility—an asset necessary and considerably appreciated by his country and his constituency.

Earl Landgrebe has given much of his strength to public service—10 years in the State Senate, six years in Congress, Chamber of Commerce, Rotary, his church and his business.

Earl Landgrebe is a devoutly religious man. He knows that God in his providence will grant him strength to return to the duties for which he was elected, to return to his wife, Helen, and sons.

We all know that Earl Landgrebe prays to the Lord for a speedy return to health.

Let's all do the same—for Earl.

REPORT FROM YOUR CONGRESSMAN ED ESHLEMAN

HON. EDWIN D. ESHLEMAN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. ESHLEMAN. Mr. Speaker, I have sent my constituents a newsletter recently. I am including the contents of that newsletter in the RECORD at this point.

REPORT FROM YOUR CONGRESSMAN ED ESHLEMAN

LIGHTS OUT

For the first time, Congress is voting electronically. We have individual cards that, when inserted into special units on the House floor, plug us into an electronic vote tabulator. The system is a real time-saver for it has cut the time needed for each vote virtually in half.

However, as with any electronic marvel, there is always the threat of a breakdown. On two occasions we have had to go back to manual voting because the tabulator was said to be out-of-order.

But, there has been some suspicion of hanky-panky when the lights went out on the tabulator. Curiously it has happened in two instances when the issues were very controversial and the votes expected to be very close.

On the first "breakdown," the issue before the House was whether the minority party should be permitted adequate staffing on House committees. The minority lost by one vote after much "arm-twisting" and some vote switching during the manual procedure. This led to the suspicion that the House leadership had allowed themselves some extra time to get their own way by shutting down the tabulator.

The second time around the issue before the House was the farm bill with its provisions for agricultural subsidies and food stamps for strikers. On this occasion there was little suspicion that the electronic malfunction was deliberate, but one couldn't help a nagging feeling that the timing was particularly inconvenient.

SOCIAL SECURITY INFO

There was a time when you could walk into your local social security office, apply for a social security number and card, and walk out of the office with that card in your hand. But, no longer.

Now you can apply for a number at the local office, but you must wait for the card to be sent out from the main social security headquarters in Baltimore. It would take at least 30 days from the date you apply until the day you get the card. And sometimes that period of time can run to 45 days or more.

This little bit of information is passed along in hopes that it encourages people who are going to have need of a social security number at some point in the future to apply for it as early as possible.

POLITICIAN—A DEFINITION

A contemporary political leader gives us an excellent description of what a politician should be and what the vast majority of politicians are;

"A politician knows that his friends are not always his allies, and that his adversaries are not his enemies. A politician knows how to make the process of democracy work, and loves the intricate workings of the Democratic system . . .

"A politician knows that his words are his weapons, but that his word is his bond. A politician knows that only if he leaves room for discussion and room for concession can he gain room for maneuver.

"A politician knows that the best way to be a winner is to make the other side feel it does not have to be a loser. And a politician . . . knows both the name of the game and the rules of the game, and he seeks his ends through the time-honored democratic means."

Those are the words of Richard M. Nixon in his eulogy of the late Everett Dirksen. In light of the Watergate disclosures, it is too bad that some of the President's "friends" and staff did not pay more attention to that speech.

MOUTHFUL AFTER MOUTHFUL

Government bureaucrats seem to think that one of their missions in life is to create new words to describe basically simple things.

The *Wall Street Journal* recently reported a classic case. According to the Journal, Washington bureaucrats now speak of "dedatifying" their records. What it means is that they are no longer keeping track of certain statistics.

AVAILABLE IN AUGUST

Congress takes a month of recess in August, and for most of that month I'll be available to meet with you in my district office. My family and I will be taking a few days of vacation, but the rest of the time is for work in the 16th District. If you want to see me, just call for an appointment at 717/393-0666.

SOMEONE YOU KNOW?

There's a story going around Washington that makes a pretty good point.

It seems there were two men talking about a particular government official.

The comment was made, "I never met him. What's he like?"

"He's the kind of man," came the reply, "who when there is nothing more to be said will say it."

SIGN IN PLEASE

On June 30 the authority for the president to draft men into the armed services ran out. But the draft machinery stayed in place.

What this means is that young men are still required to sign up for the draft, but no calls will be made.

In some States as many as 30 percent of 18-year-old men are failing to register in accordance with the law. Every young man must do so during a period 30 days before or 30 days after his eighteenth birthday.

With all of the talk about the draft ending, it's understandable why there would be some confusion. But confusion, like ignorance, is no excuse for law-breaking, so all young men should be advised to get their names on the Selective Service rolls.

FOOD FOR THOUGHT

Several months ago when food prices were soaring upward, one solution proposed was a freeze on food prices. The pressure for this freeze did not come from agriculture and economic experts. Instead, they pointed out that such a freeze could lead to serious food shortages. But despite these warnings, the pressure continued and many politicians took the easy route of trying to put a lid on food prices rather than working to bring down the prices by increasing food supplies.

Now, with various foods disappearing from grocery store shelves, some of the same consumers who complained about prices are complaining even more bitterly about shortages. And who can blame them when it's apparent that the problem of food shortages could end up causing a blackmarket with drastically higher prices than ever paid before.

Congress and the administration were not unaware of these possibilities when they embraced freezes and controls. But rather than explain such possibilities to people advocating a Government clampdown on food prices, they let ill-founded pressure determino public policy.

An old Chinese proverb comes to mind in this regard, and is something those of us in Government should keep in mind in the future when our better judgment is in danger of getting clouded by unwise pressures. The proverb says, "A foolish opinion believed by thousands is still foolish."

BENEATH THE DOME

When the weather is nice, Congressmen seem to spend a lot of time meeting constituents on the Capitol steps. In the pictures on the left I'm shown meeting with the sixth grade from the Manehim Township Middle School and presenting a flag flown over the Capitol to Joyce Burkholder, a Lancaster Countian who has been named National Goodwill Worker of the Year.

PRESIDENTIAL POWER—HANDOUT OR STEAL

One of the myths developing out of the concern over increasing power in the hands of the President is that he has somehow taken it away from Congress. It is a myth because the facts show that in most instances Congress has willingly given the power away.

To some people's way of thinking the so-called police state tactics used against Daniel Ellsberg were the ultimate example of Presidential arrogance. But some investigation by ABC newsman Howard K. Smith turned up interesting information about the authorization for such an operation. Sure enough—the U.S. Senate, when it passed the Crime Control Act back in 1968, added an amendment that told the President he could "on his own, without safeguards, order the surveillance of any person" who "in the President's mere opinion" was a threat to Government.

At the time President Johnson said he did not want such authority, but the Senators went ahead and passed it on to him anyhow. And now some of those same Senators question whether President Nixon had any legal basis for the National Security Operation that included the Ellsberg incident. Of course, he did. The legal basis was derived from one more instance of Congress turning over to the President massive powers which were not even wanted but later could be used.

That's precisely what must be changed if Congress ever again is going to compete equally with the White House. And until those changes are made, Congress does not have much room for complaint when powers it authorizes actually get used.

OVERSEAS TROOP CUTS

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. DELLUMS. Mr. Speaker, next week the House will take up the Department of Defense authorization bill. At that time several amendments will be offered concerning the level of our overseas troop commitments. As a contribution to the debate on this issue, I am placing in the RECORD several recent news articles. These will throw light on the current situation and prospects of our overseas troops.

[From the Los Angeles Times, July 3, 1973]

NATO ADRIFT IN WORLD OF CHANGING RELATIONS: MANY EUROPEAN LEADERS FEEL U.S.-SOVIET RAPPORT IS ERODING BASIS OF ALLIANCE

(By Joe Alex Morris, Jr.)

BRUSSELS.—Outside the sprawling headquarters of the North Atlantic Treaty Organization here stands a huge bronze sculpture representing the four-pointed symbol of the alliance.

Birds are nesting in it.

They are neither doves of peace nor hawks of war. But their busy and aimless presence is wryly noted by NATO officials, who are increasingly looking at their own role as one of inconsequential fluttering in a world of changing relationships.

GROWING FEELING

This feeling has been growing for a long time, not only at NATO but throughout Europe. It was capped by the visit of Soviet leader Leonid I. Brezhnev to the United States, and the "agreement on the prevention of nuclear war" he signed with President Nixon.

Despite American assurances to the contrary, many European leaders are concerned that the growing American-Soviet rapport is eroding the basis of the Atlantic Alliance. French Foreign Minister Michel Jobert said the danger is "a condominium of superpowers."

As a senior NATO official put it: "Increased bilateral consultations cannot but add to the de-coupling effect within the alliance. Any decrease in the nuclear element of the defense alliance logically increases the temptation of the other side to engage in a conventional adventure."

NATO officials were caught by surprise by the nuclear agreement. They were not consulted beforehand, as the Americans were pledged to do, and were only informed of the impending agreement a mere six hours before it was announced.

This despite the fact that the so-called "nuclear umbrella" is the keystone of NATO defense strategy.

As one chief delegate here bitterly observed:

"Secretary of State Rogers appeals to us for NATO solidarity, then the Americans keep their negotiations with the Russians secret. It makes us wonder what else they agreed upon which was not made public."

NEW DOUBTS

This budding partnership of the United States and the Soviet Union has led to new doubts and questioning in Western Europe. An American here described it as a "tremendously volatile" situation, in which the European allies worry about American intent and doubt American credibility.

Lujo Toncic-Sorin, the Austrian general secretary of the Council on Europe in Strasbourg, warned that U.S.-Soviet cooperation could lead to "a new Yalta." This was a reference to the historic wartime meeting in the Crimea where Roosevelt, Stalin and Churchill settled the fate of postwar Europe.

Europeans are looking at the nuclear agreement in this light. They see the United States and the Soviet Union setting themselves ups as, to use Jobert's phrase, a superpower condominium exercising their paternal influence to keep the world in order.

The result they fear is increased pressures from within for a more neutralist policy to replace the Atlantic Alliance. The Danes already have cut back defense spending, and the new Dutch government is heading in the same direction.

UMBRELLA FOLDING

They see the nuclear umbrella provided by the Americans as disappearing, without an effective replacement in terms of a more powerful European conventional defense arrangement.

NATO officials are puzzled by the American role in two major efforts towards international detente now going on—the European security conference and the negotiations on troop reductions in Central Europe, which are scheduled to start on Oct. 30 in Vienna. In preparations for the security conference, one delegation head here said the Americans played the role of "friendly observers. They did not lead the West."

The same official said the Americans were so anxious to get troop reduction talks started before Congress orders a unilateral cutback in American forces in Europe that they were ready to give away the principle of a "balanced" reduction on both sides. This is sharply contested by Americans here, who say the intent of balance is still alive. But the word itself was dropped at Soviet insistence.

Other recent developments on the American side have added to this concern. Presidential advisor Henry A. Kissinger, in a recent speech, stressed that the United States has global interests as opposed to the regional interests of Europe.

To some Europeans, he seemed to be relegating Europe to the status of the Middle East or Vietnam, an important part of the world but only one of several insofar as American strategic interests were concerned.

Then there was the leak of a Pentagon study which indicated that European defenses were really in much better shape than anyone thought they were. The report met only disbelief here.

What the Europeans fear is the reaction at home to these signals, however cloudy, of big-power collusion and a decreasing credibility of American security guarantees. This concern focuses on West Germany, where the temptation to make a private deal with the Soviet Union at the expense of the alliance is growing with the expansion of Chancellor Willy Brandt's Ostpolitik, or growing friendship with the Communist world.

[From the Washington Star-News, July 17, 1973]

U.S. PRESENCE IN EUROPE

(By Orr Kelly)

Listening to the arguments over whether or not the United States should withdraw some of its forces from Europe is like watching water run out of the bathtub. Round and round it goes. And pretty soon, it's all down the drain.

Both sides have become so immersed in the argument that they cannot see—or choose to ignore—the realities of the U.S. presence in Europe.

The realities are these:

The number of Americans assigned to the defense of Europe (some 300,000) and the way in which they are deployed are both accidents of history that have little relationship to the military situation.

American ground forces in Germany are stationed in the picturesque hills of southern Germany—the scenery the United States was assigned when Germany was partitioned after World War II—rather than in the north German plain where a war with the East would be fought.

On the sea, a grossly disproportionate part of the American naval force committed to the defense of Europe is tied up in the 6th Fleet, cruising the sunny seas of the Mediterranean. Except for occasional exercises, American ships are rarely seen on NATO's northern flank, even though that area would be of at least equal importance to the southern flank in the case of general war.

Since the withdrawal of France from full participation in NATO, American and other allied forces in Central Europe have totally unacceptable lines of communications to the rear. If the Russians managed to reach the north German ports in the first day or two of war, they could well leave the American 7th Army stranded without access to supplies or reinforcements.

The American forces in Europe are hampered by the presence of nearly a quarter of a million dependents—wives and children who would tend to come first in the minds of American forces in the event of war.

Talks seeking a mutual and balanced force reduction are soon to begin and there are strong indications that they will achieve a small, symbolic reduction of forces on both sides. But it is totally unrealistic to think that these talks—perhaps the most complex in human history—will either move rapidly enough or produce results significant enough to satisfy those who say the number of American troops in Europe should be reduced drastically and soon.

These realities of the U.S. military presence in Europe make it obvious that arguments over troop levels, as such, are almost meaningless. It now seems most unlikely that the administration will be able to hold off for long, the congressional pressure for a reduction in the force level—and administration officials have been telling Congress in the last few days that unilateral reductions could prove fatal to the whole Western European defense structure.

No one, unfortunately, seems to have looked beyond the narrow arguments over numbers of men to see if there is any alternative solution to the problem—even though it now seems increasingly obvious that some alternative must be found if the unfortunate consequences of a unilateral withdrawal are to be avoided.

The obvious alternative is the painful effort to restructure the American—and European—force structures to provide the same, or even greater, defenseive strength at less cost.

This means bringing home the wives and kids, cutting out much of the garrison superstructure, keeping the troops in the field. It means putting a leaner American force in the area where a war probably would be fought and it means insisting that they have adequate lines of communication to the rear.

For the Europeans, it means longer, rather than shorter, periods of conscription, the formation of adequate reserve units and the stockpiling of munitions at the expense of new glamour weapons.

Until the Western nations, under U.S. leadership, begin a vigorous search for a new and more realistic strategy, it is hard for critics on the Hill to take seriously the doleful warnings of what might happen if even a few troops were to be brought home.

[From the New York Times, July 15, 1973]

EVEN TROOP CUTS ARE ON THE MENU

(By David Binder)

WASHINGTON.—The American dollar taking another dive on the European money marts, the American President sipping champagne with the Russian Communist leader and, above all, the pollen of suspicion toward all Administration activities spreading from Watergate.

In the atmosphere created by such developments, what is a United States Congressman to think about the continuing maintenance of 313,000 American troops in Europe, with a cumulative cost of $17 billion taxpayer dollars, so long after World War II?

An answer provided by three days of House Foreign Affairs Committee hearings last week was that a growing number of Representatives, especially younger ones, feel it is high time to start bringing at least some of the boys back home from Europe.

One might describe it as a proliferation of the Mansfield syndrome across the Capitol from the Senate, where Mike Mansfield of Montana has been preaching unilateral American troop reductions as long as anyone can remember.

According to House sources, however, the seven current resolutions asking some kind of trimming of the American military commitment in Europe also reflect a growing desire on the part of Congress to exercise more control over the conduct of foreign affairs.

The Nixon Administration's response to the House hearings was massive. The leadoff witness, Deputy Secretary of State Kenneth Rush, declared that the Administration "unequivocally opposed" a unilateral cut in United States troops, principally because it would tend to "unravel" the North Atlantic Treaty Organization and damage the Western negotiating position at the mutual-troop-reduction conference with the Soviet bloc to begin Oct. 30 in Vienna.

Parallel testimony by Defense Secretary James R. Schlesinger, an admiral, a general and other specialists followed, and, in the view of the Queens Democrat, Benjamin Rosenthal, it tended to strengthen the sentiment for a unilateral reduction among his colleagues. Mr. Rosenthal is author of the cutback, resolution that prompted the star-studded committee hearings.

The committee recessed pending a test of House sentiment on the issue in the larger forum of the Democratic caucus this week. But the hearings, with two days of television publicity, seemed likely to make the idea of limited American troop withdrawal more popular. At the very least they persuaded more Congressmen to join more Senators in demanding that the West European allies shoulder a much larger portion of the common defense burden than has been the case in the past.

The most powerful of these allies, West Germany, sent its Foreign Minister, Walter Scheel, to confer with President Nixon and his security adviser, Henry Kissinger last Friday, and it is understood that one of the topics on his agenda was the issue of troop cuts.

[From the Guardian, June 16, 1973]

YANKS GO HOME?

(By Peter Jenkins)

Alarm and despondency is gripping the Nixon administration on the subject of the 300,000 American troops who for 25 years have been the mainstay of the military balance in Europe. Officials who until quite recently remained confident that the President could make good his repeated assurances that the US would make no unilateral cut in its NATO force levels have in recent weeks given way to extreme pessimism. This may be a case partly of the Watergate blues but the enfeeblement of the presidency is only one factor contributing to their gloomy conclusion that the Congress with the bit between its teeth is heading for the adoption of the Mansfield policy for a large unilateral withdrawal of American forces from the central front.

This would be the European nightmare coming true. For years now the NATO leaders have lain awake at night trying not to think about that awful day. Their obsession with the question of the American force level has had a paralysing effect with the result that the steps taken to avoid the present situation were too little and too late.

Their dilemma has rested on a fundamental ambiguity. The ultimate guarantor of Western security is the US strategic nuclear deterrent but the credibility of that threat is weakened to the extent that there is an alternative to nuclear war in the form of a prolonged conventional war. To that extent NATO has a vested interest in the inferiority of her conventional capability vis-a-vis the Warsaw Pact. Yet the credibility of the nuclear deterrent (in the minds of the allies no less than the enemy) also depends upon the degree of American commitment to and involvement in the defence of Western Europe. The number of American troops has over the years become the measure of this.

Meanwhile, the NATO strategy of inferiority, the esoteric doctrine of "flexible response," the inequitable distribution of the burdens, and above all the supposed diminution of the Soviet threat have convinced a growing body of opinion in the US that the role of their troops in Europe is an expensive myth and a military nonsense.

The Administration must bear some of the blame for this state of affairs. It has provoked the Congress into confrontation on a broad front and the troop question is now caught up in the running battle over the constitutional control of foreign policy and the allocation of resources between social and military expenditure.

Until now, which may be too late, the Administration has scarcely condescended to argue its case for the troops on its military merits. For too long it fell back on simple cold war dogmas. In consequence a competing dogma gained strength.

Senator Mike Mansfield and his backers have very little interest in or understanding of the military arguments. They regard the NATO strategy of flexible response as a nonsense and assume that the only way of defending Western Europe is by early recourse to nuclear weapons. They believe that a token force presence would symbolise the nuclear guarantee just as effectively as a large one.

In any case they see no serious threat to the security of Western Europe and argue that the failure of the NATO allies to mount sufficient conventional defences of their own is the proof that the Europeans see no threat either. The United States, in their eyes, has been "played for a sucker," the Europeans are "hypocrites."

This school of thought is not strong enough to carry the Senate and still less the House. But it is being joined by a growing number of Senators and Congressmen who, while their minds are not closed to the serious military arguments which can be made for maintaining a substantial US troop presence in Europe (the Mansfield men would like at least to halve it), are increasingly preoccupied with the needs of their constituents, concerned about the US balance of payments and the weakness of the dollar, and fed up with the ungrateful importunings and complainings of the Europeans.

The situation in the Congress is not yet as hopeless as the Administration fears but a coalition is forming which could, before the end of this year, strike a formidable psychological blow at the US commitment in Europe.

In these circumstances the European members of NATO would be ill-advised to stand pat on their opposition to any troop reduction while investing their faith in the ability of the President to withstand the Congress.

Until there is some consensus in the Congress and among the public to once again underpin the Atlantic partnership the troop question will remain to Americans the symbol of an inequitable relationship and is going to bedevil Atlantic relationships in all their aspects.

For these reasons the time has come for the Europeans to consider seriously whether a gain in political and psychological confidence is not worth some loss in capability. They might invite the US to discuss an agreed reduction in the troop level in return for an assurance that there would be no further reduction for the duration of the MBFR negotiations. At least they should recognize that the US must be the chief and probably the sole beneficiary of whatever mutual reductions can be negotiated with the Warsaw Pact.

And it is no longer practical politics to insist that the troop question must be kept distinct from the other problems of money and trade which have to be hammered out with the US. Direct action by the Europeans to assist the US balance of payments could still have a powerful impact on the thinking of Congress on the troop question.

[From the Washington Post, July 19, 1973]

ROGERS INDICATES GIS TO STAY IN KOREA BEYOND JULY 1974

SEOUL, July 18.—Twenty years after the armistice which ended a bloody war on this peninsula, U.S. Secretary of State William P. Rogers flew here today to demonstrate continued support of South Korea and declare that American troops will remain on duty here for many months to come.

The changes in South Korea since the armistice of July 27, 1953, Rogers said at a formal dinner tonight, demonstrate the strength of a constant, steady policy and are accomplishments "not only you can be proud of, but all of us can be proud of."

The U.S. statesman made no reference to the substantial changes in the South Korean political system brought about in October by President Park Chung Hee with the backing of guns, tanks and police. When Park suddenly swept away the constitution, put his opponents under arrest and created a virtually unlimited one-man rule, the United States said nothing other than that it was not consulted.

Roger's presence here now for a three-day round of talks with government officials is by far the most tangible and important demonstration of U.S. acquiesence to the new situation in South Korea. Perhaps for this reason, the Park regime had strongly requested a Rogers visit here and welcomed the secretary of state today in nearly royal fashion.

In a press conference yesterday in Tokyo and conferences with leading government officials today, Rogers declared that the 40,000 U.S. troops will remain until it is clear that their removal will not be destabilizing to the power balance on the Korean peninsula.

Rogers avoided saying just how long that might be, but suggested that the answer depended importantly on the progress of the $1.5 billion South Korean armed forces modernization program begun by the United States three years ago. The program was scheduled to be finished in five years, by the summer of 1975, but is currently running well behind schedule

The United States had previously announced that American troops would remain at present strength in Korea through

July 1974. Roger's statements in the last two days suggest that the forces may be maintained here well beyond that time.

The cost of the U.S. troops in Korea was $584 million in fiscal year 1972, the latest year for which such statistics are available. The United States also contributed $155 million in aid to the military modernization program as well as $192 million in economic assistance.

The general mood of detente and the discussions between anti-Communist South Korea and Communist North Korea which began a year ago have reduced tensions here as in other parts of the world, Rogers said tonight. Nevertheless, he continued, "we have made it clear beyond any doubt that we are going to maintain our alliances, live up to our treaty obligations and to make certain that our friends, those who have been with us all these years, will not be harmed by the change in the world picture."

Beyond reassurance to the South Koreans, Rogers' major purpose here is discussion and coordination of the strategy which the two nations will follow in this fall's United Nations debate on Korean matters.

To this end, he conferred for 90 minutes today with Foreign Minister Kim Yong Shik and for more than an hour with Premier Kim Chong Pil.

American sources said Rogers and the South Korean leaders reached some decisions in their talks about the tactics to be pursued at New York this fall and appear close to agreement on remaining questions.

On June 23, South Korea dropped its long-standing opposition to the entry of North Korea to the United Nations and other international bodies. The aim of both the United States and South Korea is now to gain dual admission of the two Koreas as separate U.N. members.

Also on June 23, North Korea rejected the idea of dual admission and proposed admission of a single delegation representing both sides. It is not certain yet what attitude the Soviet Union and China are preparing to take this fall. Their stand will no doubt be influenced to a large degree by the posture of their North Korean allies.

Another serious question is the continuation of the symbolic U.N. auspices for the American and South Korean troops on duty here. The North Koreans and their allies bitterly oppose the U.N. Command as legalizing the continued presence of American forces here. But American and South Korean officials exude strong confidence that the U.N. flag will continue to fly over military posts here, at least for another year.

During his talks with Premier Kim, Rogers discussed the internal political situation in South Korea. Officials refused to give any details of this part of their discussion, however. Senior Americans have made it known that Rogers does not intend to undertake a deep discussion of principles and methods of rule employed by the Park regime since it overthrew the old constitution last October.

In the latest incident, announced here two weeks ago, the pastor of Seoul's First Presbyterian Church and 14 other persons were arrested on subversion charges for distributing leaflets at a sunrise service here on Easter morning. The leaflets called for "a revival of democracy" and declared "down with dictatorial government."

The minister, the Rev. Pak Hyong Kyu, and most of the others arrested had been active in social action among slum dwellers of Seoul. Church groups and laymen in the welfare field are reported to be organizing petitions demanding the release of those arrested.

American officials refused to say whether Rogers had discussed the incident of the churchmen and laymen in his talks with senior Korean officials here today.

ARE THE RUSSIANS SMARTER?

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. GAYDOS. Mr. Speaker, a year ago, in calling attention to the gypping received by the U.S. taxpayers in the now admittedly odious Russian wheat sale, I expressed hopes that further transactions with our former cold war enemy would be conducted on a strictly business, mutually beneficial basis.

I said at that time that no thinking American could oppose efforts to increase trade in a proper manner between this country and the Soviet Union on the grounds that such a developing relationship would tend toward keeping the global peace. But the matter had to be kept fair to both sides. No more bargain-basement offers on our part could be countenanced.

What, then, has been the experience of, roughly, the past 12 months? Forbes magazine in a recent issue—July 15—tells it tersely in an article bearing the disturbing title, "The Russians: Smarter Capitalists Than We Are":

> Without tipping their hand as to the vastness and severity of their wheat needs, they make a series of purchases at undercost prices, arrange transportation at bargain-basement prices—and we thank them for removing our "surplus."
>
> They want to buy lots of stuff from the West, and the world's banks, including some of our own biggest, are tumbling all over themselves to give them long-term loans at rates lower than those available to most Western businesses. As Gabriel Hauge, chairman of astutely run Manufacturers Hanover Trust Co., observed, Soviet loan business is being sought at terms that represent "dubious banking."
>
> In return for spending billions of dollars borrowed from us for plants, pipelines and our best technologies, we get promises that several years down the road they'll deliver raw materials such as oil and natural gas.
>
> Which, you know, may just depend on the state of tension or lack of it prevailing five or ten years hence when deliveries might or might not begin.
>
> We think we're capitalists, that we're the free enterprisers, that we're the profit-minded. We should be such capitalists as the Russians are developing into.

What conclusion can be drawn from this analysis by a highly regarded business publication? The obvious one is that our diplomats and businessmen, unlike our Military Establishment, appear so eager to court the favor of the aloof Soviet masters that they forget their responsibility at times to the American people. How else could that wheat deal be explained—that transaction which cost millions in tax-paid subsidies and created the grain shortages which have led to the present cost-of-living crisis? Or the other matters cited by Forbes magazine?

As I have said, I favor improving our contracts and ties with Russia in every field possible. We need also to encourage our private firms in their attempts to carry out this mission in the business area. But let us not be taken again. No business deal, or governmental detente, is worth anything unless it contains real advantages to both sides, and preferably advantages of mutual worth.

My fear is that we have let the "patsy" psychosis—the notion of Uncle Sam as the willing sucker—which arose from our super-generous giveaway programs, to move over into this new United States-Soviet situation. This must be stopped. We cannot afford any more of it.

ENERGY INDUSTRY COMPETITION ACT

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. DINGELL. Mr. Speaker, I am introducing legislation today along with Senator FRANK MOSS of the Senate Commerce Committee which would break the monopolistic grip that the vertically integrated major oil companies have on the energy industry.

This legislation, appropriately called the Energy Industry Competition Act, would make it unlawful for any company, after 1976, to be involved in more than one of the four major operational levels of the energy industry—production, transportation, refining or marketing of petroleum, coal, natural gas, and oil shale.

This bill would accomplish through legislation what the Federal Trade Commission is attempting to accomplish through litigation. On July 16, 1973 the FTC filed a complaint against the Nation's eight largest oil companies charging them with having combined or agreed to engage in anticompetitive practices at least since 1950.

This is a highly commendable first step on the part of the FTC toward the eventual break-up of these vertically integrated corporations. However, even if the FTC is successful, it would be 10 years before there could be a verdict and the American consumer be granted relief. The FTC not only has to prove monopoly power, but anticompetitive behavior.

The first step would be a hearing before an FTC administrative law judge. He would make an initial decision to be reviewed by the agency's five commissioners. A ruling against the companies would be appealed to the U.S. Court of Appeals. Whatever decision it makes, would be appealed to the Supreme Court. In the meantime, the companies would remain intact.

The Dingell-Moss divestiture bill would bypass this protracted litigation. Divestiture, under this bill, would be simply accomplished within a 3-year period. The bill would prohibit further acquisition after the date of enactment. Within 3 years after enactment, the energy conglomerates would be required to divest themselves of prohibited activities on an equitable basis through the courts. This, we believe, would lead to real competition in the industry and lower prices for the American consumer.

The strongest case to date for forcing the vertically integrated major companies to divest is the recent report of the FTC—"Investigation of the Petroleum Industry"—which was the result of a 2-year investigation and the complaint that the FTC filed on July 17, 1973, against the eight majors.

The FTC complaint said the majors have used various practices to control and limit the supply of crude oil to independent refineries and potential entrance into refining. This is the real bottleneck in the industry causing the current gasoline shortage and the impending severe home heating oil shortage expected for this winter.

One effect of this is that according to the FTC "the American consumers have been forced to pay substantially higher prices for petroleum and petroleum products than they would have had to pay in a competitively structured market." Price increases over the last 6 months have averaged 4 to 8 cents per gallon in various regions of the country. The president of one major oil company has predicted increases of 16 cents per gallon by the end of the summer. This has a tremendous impact on the consuming public. It has been estimated that for each 1 cent increase in price at the retail level, consumers nationally pay an additional $1 billion per year.

The FTC reported that as a result of the shortage, competition at all levels of the industry has been "hindered, lessened, eliminated, or foreclosed." The brunt of the shortage, of course, has fallen on the last vestige of competition in the industry—the independent refiners and marketers. While only 7 percent of the stations in the United States are independents, they sell about 25 percent of all retail gasoline.

However, the majors, by drying up the source of supply, be it crude or refined products, have effectively eliminated the competition of the independent. In the first 5 months of this year, about 2,000 independent stations have gone out of business.

The FTC study found that the industry operates much like a cartel of 15 to 20 major integrated firms. In restricting the supply of crude to independents, the FTC claims that the 8 majors "pursued a common course of action," for example, by transferring crude among themselves—their supposed competition—which led to an artificial price level for crude, the FTC charged the majors with meeting "the needs and goals of each other."

The FTC complaint also charged the 8 majors with "exercising monopoly power by refusing to sell gasoline and other refined petroleum products to independent marketers."

The following statistics give some indication of the enormous concentration of power in the oil industry. The top 20 firms control: 94 percent of our proven oil reserves; 86 percent of our refining capacity; 79 percent of all gasoline sales; the vast network of pipelines that carry both crude and refined products.

Also the FTC found: Three of the top four refiners are among the top four crude producers; the top 8 refiners are also the top 8 crude producers.

Further, 16 of the top 20 refiners are among the top 16 crude producers.

This level of control makes it virtually impossible for new companies to enter the industry.

Although gasoline consumption has increased 60 percent over the past 15 years, there has not been one new entrant into the refining business of any size since 1950. There has not been one new refinery built in the country in 12 years despite this increased demand for gasoline. Even those independent refineries already in business have been operating at less than capacity since February of this year, because of their inability to get crude oil from the major companies who control the industry.

When the majors stopped building refineries, they knew they were passing a death sentence on the independents.

The FTC also accused the 8 majors—who alone account for 64 percent of proved reserves, 58 percent of refining capacity and 55 percent of gasoline sold—of obtaining profits and return on investments substantially in excess of those they would have obtained in a competitively structured market. For example, the first quarter profits of Exxon were up 43.1 percent over the same period of 1972. ARCO's were up 52.2 percent, Texaco's 14.8 percent, Gulf's 18.7 percent, Mobil's 10.1 percent, California Standards 24.2 percent, Indiana Standard's 21.5 percent and Shell's 49.5 percent.

However, small businessmen are not finding this shortage profitable and are, in fact, being squeezed out of business.

Mr. Speaker, what this industry needs is a strong dose of competition if the American public is to escape manipulation of supplies and price fixing in the future. I am convinced that the only way we will achieve this competition is to prohibit vertical integration through legislation. The Dingell-Moss "Energy Industry Competition Act" will achieve that healthy competition in the most direct and timely manner possible.

Mr. Speaker, at this point I insert the text of the bill:

H.R. —

A bill to regulate commerce by assuring adequate supplies of energy resource products will be available at the lowest possible cost to the consumer, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Energy Industry Competition Act".

DECLARATION OF POLICY

SEC. 2. (a) Congress hereby declares and reiterates the continuing commitment of the United States to the goal of a free enterprise and free market economy which functions fairly and efficiently with a minimum of Government interference.

(b) The Congress finds and further declares that the Nation needs to develop new and expanded energy resource products. The United States needs adequate and available supplies of energy resource products at the lowest possible cost to meet the present and future needs of commerce and national security and the requirements for energy resource products of businessmen, communities, and consumers in activities in interstate commerce and affecting interstate commerce. (c) The Congress further finds and declares that the foregoing needs will not be met consistent with such commitment to a free enterprise economy unless—

(1) barriers to competition presently existing in the energy industry are removed;

(2) restrictions are imposed on further expansion of persons engaged in commerce in the business of producing, transporting, refining, or marketing energy resource products;

(3) competition, equal access to supplies for all, and nondiscriminatory practices are the rule in the energy industry; and

(4) divestiture of assets is directed to promote the public interest in competition and freedom of enterprise, and to protect the consuming public from monopoly, oligopoly, and bigness.

DEFINITIONS

SEC. 3. As used in this Act—

(1) "Affiliate" means a person controlled by or controlling or under or subject to common control with respect to any other person.

(2) "Asset" means any property (tangible or intangible, real, personal, or mixed) and includes stock in any corporation which is engaged (directly or through a subsidiary or affiliate) in the business of producing, transporting, refining, or marketing energy resource products.

(3) "Commerce" means commerce among the several States or with foreign nations or in any State or between any State and foreign nation.

(4) "Control" means actual or legal power or influence over another person, directly or indirectly, arising through direct, indirect, or interlocking ownership of capital stock, interlocking directorates or officers, contractual relations, agency agreements, or leasing arrangements where the result or consequence is used to affect or influence persons engaged in the marketing of energy resource products.

(5) "Energy resource product extraction asset" means—

(A) any asset used for the exploration or development of petroleum or coal deposits or used for the extraction of coal or crude petroleum, including oil and gas wells; and

(B) with respect to oil shale, any asset used in extracting such shale from the ground, crushing and loading it into a retort and retorting such shale, except that the term does not include any asset used in processes subsequent to retorting.

(6) "Energy resource product" means petroleum, natural gas, coal, or products refined therefrom.

(7) "Marketing" means the sale and distribution of energy resource products, other than the initial sale with transfer of ownership to customers at the refinery, if any.

(8) "Person" means an individual or a corporation, partnership, joint-stock company, business trust, trustee in bankruptcy, receiver in reorganization, association, or any organized group whether or not incorporated.

(9) "Energy marketing asset" means any asset used in the marketing or retail distribution of energy resource products including, but not limited to, retail outlets for the sale of gasoline, motor oil, number 2 fuel oil, home heating oil, or coal.

(10) "Energy pipeline asset" means any asset used in the transportation by pipeline of energy resource products from the site of its extraction to a refinery or in the transportation by pipeline of energy resource products from the refinery to any other place.

(11) "Energy refinery asset" means any asset used in the refining of energy resource products.

(12) "Production" means the development of oil lands or oil shale lands within any State, the extraction of crude petroleum, coal, oil shale, or natural gas thereon, and the storage of crude petroleum or natural gas thereon.

(13) "Refining" means the refining, processing, or converting of crude petroleum,

coal, kerogen, fuel oil, or natural gas into finished or semifinished products. The term includes the initial sale with transfer of ownership of such finished or semifinished products to customers at the refinery.

(14) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands.

(15) "Transportation" means the transportation of energy resource products by means of pipelines, railroads, or tankers.

UNLAWFUL ACQUISITION

Sec. 4. It shall be unlawful after the date of enactment of this Act for any person engaged in commerce in the business of—

(a) extracting energy resource products to acquire any energy pipeline asset, energy refinery asset, or energy marketing asset;

(b) transporting energy resource products by pipeline to acquire any energy resource product extraction asset, energy refinery asset, or energy marketing asset;

(c) refining energy resource products to acquire any energy resource product extraction asset, energy pipeline asset, or energy marketing asset; or

(d) marketing energy resource products to acquire any energy resource product extraction asset, energy pipeline asset, or energy refinery asset.

UNLAWFUL RETENTION

Sec. 5. It shall be unlawful for any person engaged in commerce to own or control, more than three years after the date of enactment of this Act, any asset which such person is prohibited from acquiring under subsection (a), (b), (c), or (d) of section 4 of this Act.

REPORTS

Sec. 6. Each person engaged in commerce owning or controlling, on the date of enactment of this Act, any asset which such person is prohibited from acquiring under subsection (a), (b), (c), or (d) of section 4 of this Act shall, within one hundred and twenty days after such date, file with the Attorney General of the United States and the Federal Trade Commission such reports relating to such assets and, from time to time, such additional reports relating to such assets, as the Attorney General or the Federal Trade Commission may require.

ENFORCEMENT

Sec. 7. (a) The Attorney General of the United States and the Federal Trade Commission shall simultaneously and independently, examine the relationship of persons now engaged in one or more branches of the energy industry. The Attorney General shall, and the Federal Trade Commission shall institute suits in the district courts of the United States requesting the issuance of such relief as is appropriate under this Act, including orders of divestiture declaratory judgments, mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

(b) The Attorney General of the United States and the Federal Trade Commission shall take all steps necessary to effect appropriate divestiture of assets of persons engaged in commerce. An order of divestiture is appropriate if such divestiture—

(1) will remedy, through termination, any conduct which is unlawful under section 4 or 5 of this Act; or

(2) may, as a natural and probable consequence of an increase in the number of competitors, increase the amount of real competition with respect to the production, refining, transportation, or marketing of energy resource products in commerce in each section of the country.

PENALTIES

Sec. 8. Any person who knowingly violates any provision of this Act shall, upon conviction, be punished, in the case of an individual, by a fine of not to exceed $500,000 or by imprisonment for a period not to exceed ten years, or both, or in the case of a corporation, by a fine of not to exceed $5,000,000 or by suspension of the right to do business in interstate commerce for a period not to exceed ten years, or both. A violation by a corporation shall be deemed to be also a violation by the individual directors, officers, receivers, trustees, or agents of such corporation who shall have authorized, ordered, or done any of the acts constituting the violation in whole or in part, or who shall have omitted to authorize, order, or do any acts which would terminate, prevent, or correct conduct violative of this Act. Failure to obey any order of the court pursuant to this Act shall be punishable by such court as a contempt of court.

PORNOGRAPHY AND THE BUREAUCRACY OF REPRESSION

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. DELLUMS. Mr. Speaker, in the hope of elucidating the actual meaning of the recent Supreme Court decision on obscenity, I would like to insert into the Record an article appearing in the Washington Post. As the article shows, the new standards which now control our looking and listening are not those of any vague, ill-defined "community" but the Philistine views of anonymous bureaucrats. As he informs us, Mr. Unknown is going to let us see "Last Tango in Paris," for which, I suppose, we should all be grateful.

It is sometimes difficult to predict people's reactions from their own description of their views. So-called conservatives tell us they stand for a free market, consumer sovereignty, and the least possible amount of Government interference. Yet many of them applaud a decision that is aimed directly against all three.

The use of sex in the attempt to sell goods is heavily emphasized by the mass media and brought into every American home by their means. Pornography, where sex is enjoyed for its own sake, is brought into no home where it is not desired. If, in the name of "community" standards, we want to impose the views of one part of the community concerning the trivialization and profanation of sex on everybody else, we will need much more substantial interference with the media than the mere repression of the marginal pornography industry. People who want to clean up the country have a much larger task than they seem to realize. Meanwhile, this following article shows who will actually make the relevant decisions:

[From the Washington Post, July 21, 1973]

JUSTICE AIDE RULING ON SMUT AWAITED

(By Sanford J. Ungar)

If the Justice Department has its way, "Deep Throat" will be declared obscene in the courts and banned from public exhibition throughout the country.

But no so far another currently controversial film, "Last Tango in Paris."

The man in Justice who sets federal policy on alleged pornography hasn't seen "Tango" yet.

He has no plans to do so.

But on the basis of what he knows about the movie, he offers this judgment: "I think it's a piece of garbage, and anybody who wants to waste their money seeing it is welcome to do so."

The views of this man—who insists on anonymity—are important.

Since June 21 the Federal Bureau of Investigation has been looking to him for advice on what obscenity complaints it should investigate seriously.

June 21 was the day the Supreme Court, in a series of 5-to-4 decisions, established a new definition of obscenity and, as the Nixon administration had long promised, made it easier to prosecute "hard-core pornography."

One major thrust of the high court opinion was to free states to apply "local" rather than "national" standards in obscenity cases, and the last month has seen, for example, Playboy magazine restricted in Albermarle County, Va., and the movie "Carnal Knowledge" banned in Georgia.

The ruling is also expected to have a significant impact on federal cases.

Many of the most important obscenity prosecutions are for alleged violations of federal laws, such as those prohibiting the interstate transportation or the importation of obsence material.

Those cases will be simpler for the government now, according to the Justice Department official, since the Supreme Court removed the requirement, which had been instituted by some federal appellate courts, that proof of obscenity be established through the testimony of "expert" government witnesses. The official, a section chief in the Justice Department's Criminal Division, asked not to be identified because his remarks on pornography invariably bring him nasty phone calls from those on all sides of the issue.

He predicted that the new standard will breathe new life into a memo sent to all U.S. attorneys earlier this year by Assistant Attorney General Henry E. Petersen.

Petersen told the regional prosecutors that FBI agents had been directed to look for any depiction of explicit sexual conduct, which appears to have been included in the production solely or primarily for the purpose of appealing to prurient interests.

Queried last week about the reasons for Petersen's memo, the section chief responsible for pornography cases said that "anyone with any perception would realize that things were getting out of hand. . . .The federal government had to step in and enforce the laws."

An FBI spokesman said there had been no noticeable increase thus far in the bureau's investigations of alleged pornography. Sources close to Attorney General Elliot L. Richardson insist that if there is any new, intensified crackdown on pornography, he had not initiated or necessarily endorsed it.

The obscenity policymaker said that his section now spends "three man years" annually on obscenity enforcement and that he sees no need for more manpower.

He also said that while he has not personally discussed the matter with Richardson, he is "absolutely confident" that the Attorney General "knows what we are doing, how we are going about it . . . and is satisfied that we are correct" in following a stringent policy.

The official, while expressing his views on "Deep Throat" and "Last Tango," insisted that "I'm not here to be a critic."

IMPOUNDMENT CONTROL

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. HARRINGTON. Mr. Speaker, yesterday I voted for H.R. 8480, the impoundment control bill, with the recognition that the mechanism it creates does not directly address the abuse of constitutional authority posed by recent impoundments.

I strongly favor impoundment controls, and fear that the bill passed yesterday by the House, even though it clearly represents a congressional rejection of unlimited impoundment, provides the President with a justification for his reckless impoundment of funds for important domestic programs. I voted for the bill nonetheless, because some congressional check on Executive impoundments, albeit a procedurally difficult one, is better today than no bill at all. But, in the long run, we must find a more lasting approach to the impoundment problem.

The Ervin bill, which the Senate has passed, establishes what I consider the most effective and workable anti-impoundment mechanism: requiring affirmative congressional approval of any impoundment which does not meet the provisions of the 1905 antideficiency Act. I hope that the conferees on this measure will see the wisdom of that approach, and incorporate the concept in any impoundment bill that reaches the President's desk. I wish to outline here for my colleagues exactly why I believe the procedures established by H.R. 8480 can only impede congressional assumption of effective fiscal responsibility.

The context of this issue is familiar to us all.

Traditionally, the responsibilities and prerogatives of the branches of our Government have been left vague, to be refined by experience. The founders trusted in the sense of tradition which they thought those who occupied high office should have. Thus, the question of impoundment—now asserted to be an inherent power of the Executive—was left without sharp contours, for development in the light of continuing experience with the operation of Government. Yet that lack of precision, which some have thought to be the strength of our Government, made possible the spurious claims to power with which we are all now familiar.

If anything, the experience of recent years should teach us that the proper bounds of authority can no longer be left in trust to the judgment of highly placed officials. The sense of history and tradition can no longer be taken for granted, and in its place definitive guidelines will have to be set. Thus, I vigorously support strong impoundment controls, prescribing what each branch may do to control spending. That legislation should clearly establish the Congress' responsibility for the exercise of its constitutionally mandated function—the setting of national priorities via the appropriations process and not through impoundment.

"Impoundment" has come to mean the doctrine by which the President can refuse to implement whatever congressionally mandated programs he chooses. Impoundment is not limited to establishing financial reserves or temporarily withholding funds in the interest of good management, as some have argued. As used by the President, it is the means by which he destroys the programs he does not like—the same programs enacted by a majority of the public's elected representatives.

Overspending and additional revenues are said to justify impoundment. They are certainly serious problems in their own right. But preliminary findings of a foundation-funded impoundment study at the University of Florida indicate that impoundment decisions are shrouded in secret justifications, political considerations, and special favors. In fact, their statistics indicate that impoundment has not reduced inflation but has increased unemployment and hindred administrative planning. Even the merest shred of justification for many of the $18 billion worth of impoundments is removed by that analysis.

The Nixon approach to impoundment also has another goal—it is a way of setting priorities for the Nation, and it is the wrong way. Obfuscation about the supposed impact of anti-impoundment legislation on the spending situation must not be allowed to conceal the stakes here. The President has asserted the right to reorder priorities by shutting off the flow of funds needed to put priorities into effect. Those priorities were determined when the Congress passed appropriations measures and they became law, with or without the approval of the President. That is the system under which we work. Now the President wants the second bite—a second chance to implement his programs at the expense of those approved by the Congress.

It is in this connection that the flaw of the anti-impoundment bill before us lies. That measure tinkers with the rules of the appropriations process, to make an Executive impoundment more accountable to the Congress. But it fails to address the underlying affront of impoundment to congressionally established priorities. In short, the bill makes a clear case for the legality of such actions by the Executive.

Some have tried to argue that procedural legislation like H.R. 8480 does not legitimize the impoundment practice. But the facts show the opposite: if Congress does not act on the impoundment, it is legal—by necessary implication. If I were a judge, I could reach no other conclusion. It will not do to act on the supposition that congressional action implies no judgment on the impoundment of funds from substantive programs.

What makes the legitimizing of impoundment even less desirable is the record of litigation on the President's exercise of that power. For the attention of my colleagues, I will review the administration's batting average in defending its impoundments against court challenges:

First. U.S. District Court Judge Joseph Waddy ordered $380 million in unspent Federal school aid funds set aside so they would not revert to the Treasury when the fiscal year ended June 30.

Second. A Federal judge in New Jersey ordered that $239 million in unspent Neighborhood Youth Corps funds be spent by June 30 so they would not revert to the Treasury.

Third. U.S. District Court Judge Gerhard Gesell ordered the Department of Health, Education, and Welfare to process applications for grants to community mental health centers, a process which had been stopped by impoundment.

Fourth. U.S. District Court Judge William Jones ordered the Office of Economic Opportunity to process 600 grant applications before June 30 to keep the funds from reverting to the Treasury.

Fifth. The U.S. Court of Appeals for the Eighth Circuit ruled that the Department of Transportation could not withhold Federal highway funds in Missouri.

Sixth. U.S. District Court Judge Oliver Gasch ruled that the Environmental Protection Agency could not impound Federal sewage treatment control funds.

Seventh. U.S. District Court Judge Charles Richey ruled yesterday that the administration's moratorium on $461 million in housing subsidy expenditures was unconstitutional because "it is not within the discretion of the Executive to refuse to execute laws passed by Congress but with which the Executive presently disagrees."

Six Federal district courts and one court of appeals have firmly ruled that impoundment, as practiced by the present administration, is illegal. While the Supreme Court has not made the ultimate determination of this question, these early decisions reveal the flimsy legal basis for the impoundments. With such a strong legal challenge currently posed through the courts, it is undesirable to legitimize this policy for the sake of token restricting of it.

The basic principle embodied by the impoundment bill—that an impoundment is presumed legal and proper unless Congress votes otherwise—permits what is tantamount to a Presidential veto of legislation that has already been approved and signed into law. What is more, program-by-program impoundment amounts to a line item veto—and that is unconstitutional.

In effect, the bill requires the House to pass legislation twice to prove that it really meant it the first time. Commonsense argues against such a procedure, which would effectively abrogate congressional responsibility for setting priorities.

That we must revise the budget process so that impoundment is not required to control inflation or preserve efficient Government operations is evident. The spending ceiling contained in H.R. 8480, however desirable, in no way amounts to fiscal responsibility in this regard. It will be a lengthy process to create new procedures to an efficient and responsive appropriation procedure. But we should not let that detract from the immediate need to answer Executive misuse of impoundment. And that answer must come in the form of legislation requiring affirmative congressional approval of impoundment, and its implicit presumption of the practice's illegality. We should be willing to have the Executive second guess our spending priorities, but he should never be allowed to preempt our constitutional power of the purse.

BOOK REVIEW

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. HUNGATE. Mr. Speaker, I am sure my colleagues will be interested in the book review done by our fellow Member, Clarence D. Long, the distinguished Representative from Maryland.

The book reviewed is the Ralph Nader-sponsored book, "Who Runs Congress?":

Book Review

Who Runs Congress? The President, Big Business, or You? By Mark J. Green, James M. Fallows, and David R. Zwick. Bantam Books: 1972. Pp. 307. $1.95 paper.

"Congress is the great American default. . . . [It] . . . has surrendered its enormous authority and resources to special interest groups, waste, insensitivity, ignorance and bureaucracy,"[1] states Ralph Nader in his introduction to Who Runs Congress? "Whatever its impact, Congress has shackled itself with inadequate political campaign laws, archaic rules, the seniority system, secrecy, understaffing, and grossly deficient ways to obtain crucial information."[2] Mr. Nader wrote only the five introductory pages of this book, but the indictment that follows makes this criticism read like praise.

In chapter one, the authors express the views that "[f]ew congressmen would admit that they can be 'bought,' but their protest is like that of a free-living woman who decides she might as well take money for what she enjoys, but insists she is not a prostitute."[3] Chapter three then declares that the committees, "Dim Dungeons of Silence," run Congress; these committees, in turn, are run by about forty chairmen and ranking members, chosen by seniority. In addition, seniority permits lobbies to zero in on chairmen and potential chairmen. "Once a chairman is theirs, he's probably theirs for life."[4]

Chapter four proceeds to tell us that the President overwhelms Congress, bypasses it with his White House staff and Executive Orders, starves it for information, initiates most of the legislation, buys votes from Congress by giving out small favors, outshines Congress in the press and on television, and refuses to spend money which Congress appropriates or spends the money on projects other than those for which Congress intended it. Throughout the book, as well as the chapter, the authors contend that Congress submits to this executive dominance because of a series of faults. Among these faults are: the failure of Congress to vote its membership adequately sized staffs; the dissipation of its energies on constituent case work; campaigning for reelection and junketing; and the fragmentation of its control over spending by failing to set up a legislative budget, a joint committee on the budget or a congressional budget office. "Incapable of creation . . . Congress has become a broken branch."[5]

The fifth chapter, "Lawmakers as Lawbreakers," begins with a quotation from Mark Twain that there is probably "no distinctly American criminal class except Congress."[6] Congressmen are guilty of bribery, visits to Hong Kong, failure to reveal campaign finances, drunken driving, misuse of the frank and of committee staffs and, above all, of conflicts of interest which range from stock ownership in firms affected by legislation to exhaustive efforts to get reelected. "[E]very single member of Congress is a walking, talking embodiment of conflict of interest. On the one hand, he has an interest in staying in office, in being reelected; on the other, he has, or ought to have, an interest in serving his constituents and the nation honorably, conscientiously, and well."[7] In the authors' opinion, "[i]t is distressing . . . that so few members of Congress are defeated when they run for reelection."[8]

Who Runs Congress? is not a serious study of Congress, of the kind made in recent years by scholars such as Richard F. Fenno[9] and Robert Lee Peabody.[10] Based on Jack Anderson-type gossip or resentful wisecracks of junior congressmen not accorded instant leadership, *Who Runs Congress?* lacks balance. Admissions that Congress as a whole may be something else than "rotten", "criminal" or in "conflict of interest" are so rare that I can recall only two. Hungry for some crumb of praise for Congress as an institution, I read that "[f]or all its flaws, Congress is still the most responsive and open branch of the government."[11] Did the author of these words read the later statement, probably written by a different writer, that "Congress is only rarely accountable to the people. . . . in part because congressmen . . . can cloud the issues and smother their opponents by virtue of the powers and privileges they grant themselves"?[12] Both statements could be true, of course. If they are, what, then, are we to think of the other two branches of our government? Later, a second crumb of praise: "Across the range of ideologies, from conservatives . . . to liberals . . ., fourteen-hour days are common."[13] Did this writer read the accusations throughout the book as to how "the proud lords of legislation . . . frolic in the pool, sleep quietly at their desks,"[14] ask for quorum calls so they can play paddle ball, go to embassy and Georgetown parties, leer and engage in horseplay like high school students, spend much of their time looking at exposed thighs in the gallery, divorce their wives to marry younger women, keep call girls on their payrolls, maintain well-stocked bars in their offices or get a colleague drunk in order to swing his vote?

Who Runs Congress? is undocumented. Names are mishandled. This reviewer is referred to twice as *former* [shiver!] Representative Long[15] and in one place Clarence became "Clem."[16] Facts are also distorted: one of the perquisites of office is said to be special elevators that are marked for "Members Only."[17] Actually, on the House side, this practice is true only for roll calls. Another perquisite is said to be meals in the House and Senate that are cheap and tax free.[18] The tax referred to is the District of Columbia sales tax, not the United States income tax, and although Senate meals are still cheap, House meals no longer are. Staff allowances are described here as perquisites, despite Mr. Nader's opening criticism of Congress for not voting itself adequate staffs to cope with the executive branch. Much is made of junketing trips abroad by congressmen. Some of this represents real abuse, but the total sum involved in 1971 for congressional foreign travel was 1.1 million dollars[19]—one-fifth of one cent for every dollar which the upkeep of Congress costs the taxpayer. This is for two bodies which supervise the spending of about 3,500 times that much in foreign aid, and many thousands of times more for military spending in foreign lands.

It takes a while to dawn upon the reader that *Who Runs Congress?* has nothing to do with the Nader profile studies[20] compiled by several hundred volunteers who gathered materials on the background, voting record, legislative performance and finances of each member of Congress. Congressmen and their staff members were interviewed personally (in my case, for many hours) as were newspapermen, political supporters and opponents from these congressmen's respective districts. These profile studies were published in mid-October, just before the November 7 election, timed to inform the voters and, hopefully, to affect the outcome of the election.

Do these 484 individual profiles support the sweeping condemnation of Congress and congressmen published earlier in *Who Runs Congress?* The *New York Times* reported that "[t]o the surprise of many persons who have followed Mr. Nader's numerous investigations of governmental and business conduct the profiles contained no sensational revelations or charges."[21] "Nader study lauds Maryland congressmen," said an Associated Press dispatch to the *Baltimore Sun*.[22] "Veteran Capitol Hill newsmen found little new information in the profiles," said the *National Observer*, "but project officials contend that's not the point . . . 'while this may not be news to the Washington media, it is news to most Americans.'"[23] What was the news? When it got down to specific cases, Nader's people could find nothing damaging about most individual congressmen.

But what about Congress as the "great American default," "incapable of creation . . . a broken branch"? Are Congress's arteries too hardened by seniority? Are congressmen too busy answering quorum calls and too interested in getting reelected to bring the budget under control, perform a creative role, exercise oversight against bureaucratic waste and stop presidents from taking us into undeclared wars and monopolizing foreign policy through executive appointments, orders and agreements?

Before one attempts to answer these questions, it should be noted that the liberal attitude on this question has turned right-about-face in recent years. Time was when liberals were clamoring to bypass Congress and (in the 1930's) to pack the Supreme Court, because the legislative and judicial branches were not moving fast enough toward domestic reform and foreign intervention as these liberals, President Roosevelt for example, were urging. Then, as the years passed there evolved President Johnson and Vietnam, followed by President Nixon and Cambodia. Suddenly, the liberal establishment developed a proper distrust of the high-flying presidential prerogative that many conservatives had been preaching against for generations. Now liberals want to build up Congress. As a congressman, I naturally hope they succeed.

Has there been a congressional default? I myself have often said so, but let's be even-handed about it. We are told it is "a Congress which does not lead, but is led . . ."[24] and that it is the executive that now initiates most legislation.[25] Yet, a legislative body is a debating and deliberative body, elected by vastly different constituencies to push diametrically opposed points of view. Congress is by its very nature a house divided; how can it be a consistent leader? Does it really matter who initiates legislation, as long as Congress can (and does) amend administration bills beyond recognition? We are told that Congress is incapable of creation, for example, that the Supreme Court has made the major human rights breakthroughs of the last twenty years.[26] What about the most important human rights milestones of all—the statutory voting-rights amendments passed by Congress in 1960, 1964, and 1965, to say nothing of the twenty-fourth constitutional amendment forbidding the poll tax in federal elections, the twenty-sixth amendment giving the vote to youths age eighteen through twenty, passed against the President's *sub rosa* opposition, and the equal rights amendment for women, passed over the opposition of Chairman Celler of the House Judiciary Committee.

All in all, I doubt if the congressional default looks quite that clear and present from the White House. The Ninety-second Congress has been accused of being the most compliant in recent years, a Congress in which President Nixon, by means of his control over the Republican minority and with the help of sympathetic southern Democratic conservatives (more Republican than Nixon), had a working majority. The fact is that the second session of the Ninety-second Congress was less compliant with the President's wishes than any other Congress in twelve years—since the second session of the Eighty-sixth Congress completed its deliberation of President Eisenhower's programs in 1960.[27] The Ninety-second Congress defeated Nixon's SST, rejected Nixon's multi-billion dollar guaranteed-income proposal. turned down his demand for what amounted to an item-veto over spending, overrode the President's veto of the 1972 Water Pollution Act Amendments and his veto of the twenty percent increase in railroad retirement benefits, re-

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Footnotes at end of article.

jected a foreign aid request loaded with military aid and enacted other measures distasteful to the President.[28] Many observers are predicting a growing revolt against President Nixon in the Ninety-third Congress. Some of the dire assessments of Congress abdication of power may turn out to be a bit premature.

Despite the weaknesses of *Who Runs Congress?*, it does contain proposals for increasing the effectiveness of Congress which should not be cast aside merely because they come from a sloppy book and are not new. Seniority should be modified. For example, chairmen might be limited to fixed terms. But liberals might think again before they insist on total elimination of seniority; more and more, progressives and moderates are getting to high committee posts. On the one hand, *appointment* of committee chairmen could take us back to the days of Speaker Cannon when the House was run with an iron hand by an arrogant czar who made his own deals with the president. On the other hand, *election* of chairmen in a party caucus made up of a majority of conservatives could make it impossible for blacks, liberals, religious minorities or independent-minded moderates to get power at all. One guess is that if chairmen were elected in caucus, there would be a leadership slate of candidates, in which the chairmen would, as in the days of Cannon, be largely handpicked by the Speaker, resulting in more, rather than less, concentration of power than we have now. Would the liberals like that?

Perhaps Congress should spend more money on itself. But on what? More computers and larger staffs? I have my doubts about the increased effectiveness from such a policy. My staff is double what it was ten years ago; yet, twice as big a staff seems to make more work for me rather than freeing more of my time for creative legislation as I had hoped.

Congress is in trouble. The United States is in trouble. Not so much because of where we are now, but because of where we are headed, because the government is constantly increasing in size.

Our national government—spending one dollar in every four of our gross national product—is too big and intricate to be run firmly by the people's representatives, however well organized or pure they may be. In the face of this hugeness, Congress has delegated (abdicated?) its power—as does any sensible body which finds itself with a big job to do. The initial recipient of the delegation of power is the President, but being only one person with a White House staff in the hundreds, he must in turn delegate (abdicate?) the power to the bureaucracy. So not only Congress, but also the President, cannot always get truthful information. Consequently, we have generals running their own wars, the FBI operating its own private empire, H.E.W. unable to keep welfare or health costs under control, and the Department of Housing and Urban Development using huge housing subsidies in ways that enrich building speculators instead of providing decent homes for the poor. Remember Truman's words on President Eisenhower's taking office: "He'll sit here, . . . and he'll say, 'Do this! Do that!' *And nothing will happen.* Poor Ike—it won't be a bit like the Army. He'll find it very frustrating." [29] Czar Nicholas I, an absolute monarch, is quoted in the present book as saying, "Not I, but ten thousand clerks, rule Russia." [30]

Congress is on a treadmill galloping along with the expansion of our national government. The basic reason for the frustrations of Congress is the bigness of government—something the liberal establishment is unwilling even to think about. The liberals naturally want government to keep on growing, because they have a long shopping list of areas in which they want the federal government to expand: guaranteed incomes for everybody, education for everybody, health care for everybody, improvements in all aspects of the environment, housing for the poor and elderly, expanded courts and better prisons, mass transit, consumer protection and revenue sharing. Moderates, like myself, include many of these items on their lists. Conservatives are generally for a larger national defense and more subsidies to business. But if the Congress buys all of these lists, the federal government could easily double in size.

People believe what they want to believe. Nader types, who want to remold the nation in their image, prefer to believe that the solution is not to slow down the intrusion of government into every nook and cranny of American life, but to remold Congress also in their image. Modify seniority—fine! Open up committee hearings—fine! Control campaign spending—fine! Limit conflicts of interest—fine! Defeat incumbent congressmen on a regular basis—well . . . doesn't this amount to turning over an ever more complex government to less and less experienced legislators?

Congress needs drastic reform, if only to keep up with the ever multiplying problems that descend upon it. Here and there small groups of real scholars are studying the deficiencies of Congress with understanding and respect. It is too bad that Mr. Nader did not go to these experts to ask them to write *Who Runs Congress?* If he had, this shallow book—which makes no use of the rich materials gathered at so much expense and at so much dedicated effort in the Nader profiles—would never have been written.

CLARENCE D. LONG.*

FOOTNOTES

[1] M. Green, J. Fallows & D. Zwick, Who Runs Congress? The President, Big Business, or You? 2, 1 (1972) [hereinafter cited as Who Runs Congress?].

[2] *Id.* at 2.

[3] *Id.* at 25.

[4] *Id.* at 61.

[5] *Id.* at 129.

[6] *Id.* at 131.

[7] *Id.* at 242.

[8] *Id.* at 228.

[9] *E.g.*, R. Fenno, *The Internal Distribution of Influence: The Horse*, in The Congress and America's Future 52 (D. Truman ed. 1965); R. Fenno, The Power of the Purse: Appropriations Politics in Congress (1966).

[10] *E.g.*, R. Huitt & R. Peabody, Congress: Two Decades of Analysis (1969); New Perspectives on the House of Representatives (R. Peabody & N. Polsby eds. 1963).

[11] Who Runs Congress? 95.

[12] *Id.* at 245.

[13] *Id.* at 197.

[14] *Id.* at 245.

[15] *Id.* at 233, 235.

[16] *Id.* at 235.

[17] *Id.* at 186.

[18] *Id.*

[19] 30 Cong. Q. 1931 (1972).

[20] These profiles are the product of the Nader Congress Project and consist of individual profiles of 93 senators and 391 representatives, ranging in length from twenty to forty pages each. Each profile includes, among other things, information about the individual's positions on important issues, floor votes, votes in committee, and personal and political history. 30 Cong. Q. 2924 (1972).

[21] Morris, *Nader Profiles Give Data for Evaluating Congress, N.Y. Times*, Oct. 22, 1972, at 66, col. 2.

[22] Baltimore Sun, Oct. 22, 1972, § A, at 1, col. 1.

[23] Arnold, *Raiders Rate Congress*, National Observer, Oct. 28, 1972, at 17, col. 1.

[24] Who Runs Congress? 2.

[25] *Id.* at 94.

[26] *Id.* at 224.

[27] 30 Cong. Q. 3033 (1972).

[28] *Id.* at 2707, 3137.

[29] R. Neustadt, Presidential Power: The Politics of Leadership 9 (1960).

[30] Who Runs Congress? 197.

[*] Congressman, United States House of Representatives; A.B., 1932, A.M., 1933, Washington and Jefferson College; A.M., 1935, Ph.D., 1938 Princeton University.

THE BURKE-HARTKE BILL

HON. ROBERT H. MOLLOHAN

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. MOLLOHAN. Mr. Speaker, there is little disagreement among my colleagues that the stabilization of this country's economy ranks among the top priorities for governmental action. There are recognizable differences among the best economic authorities as to the appropriate actions necessary to accomplish this objective, but most agree that full employment and the retention of job opportunities for our domestic work force are essential elements.

The Stone, Glass and Clay Coordinating Committee, representing workers in these allied industries has presented one of the best arguments I have seen in support of H.R. 62, and S. 151, the Burke-Hartke bill, that I have seen to date. This presentation merits the consideration of all of my colleagues who will be required to take a position on this legislation.

I quote that statement for the benefit of all concerned:

STATEMENT OF POSITION OF THE STONE, GLASS AND CLAY COORDINATING COMMITTEE ON H.R. 62, S. 151—THE BURKE-HARTKE BILL

Mr. George M. Parker, President: The American Flint Glass Workers Union of North America.

Mr. Newton W. Black, President: The Glass Bottle Blowers Association of the United States and Canada.

Mr. Lester Null, President: The International Brotherhood of Pottery and Allied Workers.

Mr. Thomas Miechur, President: The United Cement, Lime & Gypsum Workers International Union.

Mr. Ralph Reiser, President: The United Glass and Ceramic Workers of North America.

Mr. Arthur L. Markham, President: The Window Glass Cutters League of America.

STONE AND GLASS AND CLAY COORDINATING COMMITTEE

Lee W. Minton, Chairman.
Howard P. Chester, Executive Secretary.
Reuben Roe, Secretary-Treasurer.

Our Stone, Glass and Clay Coordinating Committee is composed of six International Unions, all affiliated with the AFL–CIO, which have joined together to cooperate on mutual problems that affect any one or all of our six affiliates. We have a combined membership of 230,000 workers, with active locals in almost all of the fifty states. The six Unions and the principal officer of each are listed on the cover page.

We fully support the testimony given in these hearings by the AFL–CIO, and we reaffirm our support for the Burke-Hartke bill, a bill that meets the realities of the seventies.

The impact of imports on the industries in which many of the members of our six Unions work has been devastating. The penetration of imports has been excessive and has caused considerable job loss. Over 25% of the work force has been lost in pottery, sheet glass, ceramic tile, T.V. tubes and glassware. In addition to these losses, dumping of cement has eroded employment in the cement industry.

The job losses of these industries, as well as many other adversely affected industries, must be stopped. With unemployment high and less purchasing power available, the entire economy is threatened. Our nation must have a trade policy geared to maximum employment and health industries instead of the present policy geared to "freer" trade and the foreign policy illusion that we can remake continents.

We would like to bring to your attention several of the long standing United States policies in Trade and Investment that have led our Country into very serious straits.

BALANCE OF TRADE

The official figures of U.S. trade deficits for 1971 and 1972 at $2.7 billion and $6.4 billion are serious enough to call for immediate action, but if we go further and look at the documented competitive trade figures, we find even more cause for alarm. These figures show that from 1967 through 1972, we have sustained a trade deficit of over 27 billion dollars.

To document this point we excerpted a table placed in the record of the hearings before the Ways and Means Committee by then Secretary of Commerce, Maurice H. Stans, May 12, 1970—and we have updated this table with statistics from the Department of Commerce.

The competitive trade table is based on two considerations that must be accounted for: (1) our imports figured on a c.i.f. basis instead of f.o.b., and (2) our exports must exclude U.S. Government subsidies on exports such as P.L. 480, Food for Peace, AID loans and grants, and military grant aid. These exports are not competitive exports. This enlightening table emphasizes that our trade statistics should truly show our position in trade, so that trade policy decisions can be based on accurate figures and not figures that undervalue imports and overvalue exports.

BALANCE OF PAYMENTS

Our U.S. balance of payments deficit exceeds 88 billion dollars. This overhang of dollars in foreign countries, together with U.S. multinationals huge liquid short term assets (est. by U.S. Tariff Commission $268 billion), has caused monetary speculation, crisis and two dollar devaluations in a 14 month period. The United States is entitled to bring about equilibrium by invoking Article XII of the G.A.T.T.

U.S. SHARE OF WORLD EXPORTS OF MANUFACTURES

The following table comparing 1962 with 1971 points up how the U.S. share of world exports of manufactures has long been slipping badly, with total manufactures in this ten year period decreasing by 19%, and many of the separate manufacturers included in the total have decreased their share more than the overall total—example, chemicals down 29%; electric machinery down 23%; other manufactures down 27%.

[In percent]

Commodity	U.S. share of world exports, 1962	1971	Percent change in share
Manufacturers, total	24.6	19.9	−19
Chemicals	27.9	19.9	−29
Nonelectric machinery	30.9	25.5	−17
Electric machinery	27.3	21.0	−23
Transport equipment	31.9	29.5	−8
Other manufactures	16.8	12.2	−27

This table serves to point out that we are losing out in world markets in high-technology industries as well as low-technology industries. This serious situation has been brought about by the *U.S. domination in exports of technology*—high, low, intermediate—exports eagerly solicited by foreign governments and corporations. Result—the American worker loses a job, the U.S. loses an export *product* and becomes an importer of that product.

This hemorrhage of U.S. technology was documented in a Report to the President by the Tariff Commission titled, "Competitiveness of U.S. Industries," released in April, 1972, page 203. The table referred to estimates U.S. receipts and payments of royalties and licensing fees with Canada, Japan and the World, 1960–69.

The figures in this chart bear out the astounding outflow of U.S. technology to all Countries. U.S. receipts were eleven billion, nine hundred forty-seven million, four hundred thousand dollars vs. payments of one billion, two hundred forty-three million with net receipts to the U.S. of almost 11 billion dollars ($10,704.4). This verifies and documents the massive outflow of U.S. technology over a ten year period and further shows how very little technology is being imported into the U.S.

U.S. MULTINATIONALS CREATE EMPLOYMENT—OVERSEAS

Along with the massive outflow of job creating U.S. technology, the actual operations of U.S. subsidiaries abroad have also created large increases in employment overseas.

Let's look at three studies that analyzed the question of the effect of U.S. multinationals on domestic vs. foreign employment.

I. Department of Commerce, "Special Survey of U.S. Multinational Companies 1970."

This study, though incomplete and with serious omissions, did reveal that of the 298 firms reporting; in manufacturing, more manufacturing jobs were created in the foreign operations of the reporting firms than in their U.S. facilities—both in percentage and absolute terms—between 1966 and 1970.

In their U.S. facilities, manufacturing jobs were up 7.6%; in their foreign affiliates, manufacturing jobs were up 26.5%. This was a rise of 450,000 jobs at home, 452,000 abroad.

II. Business International Corporation, "Effects of U.S. Corporate Foreign Investment."

This study covering 125 companies, including many of the more intensive foreign investors, reveals that in all industries between 1966 and 1970 more jobs were created in the foreign operations of the reporting firms than in their U.S. facilities, again both in percentage and absolute terms.

In their U.S. facilities, jobs were up 14.4%; in their foreign affiliates, jobs were up 57.9%. This was a rise of 357,952 jobs at home, 496,007 abroad.

III. Emergency Committee for American Trade, "The Role of the Multinational Corporation in the United States and World Economies."

This study covering 74 U.S. corporations, again many of the more intensive foreign investors, reveals that in all industries between 1960 and 1970, more jobs were created in the foreign operations of the reporting firms than in their U.S. facilities, both in percentage and absolute terms.

In their U.S. facilities, jobs were up 3.3%; in their foreign affiliates, jobs were up by 7.7%. This rise of "nearly 900 thousand jobs" at home, 906 thousand abroad.

Covering a small percentage of U.S. multinationals, these three studies, by the Commerce Department and two separate corporate groups, point out that in both percentage and absolute terms, the U.S. multinationals studied increased foreign employment, 146,000 more than domestic, and this has been happening at a time when U.S. employment needs are greater than before—from defense cutbacks, displacement by imports and a growing labor force plagued with a 5% unemployment rate.

U.S. PRIVATE FOREIGN INVESTMENT

Another important consideration affecting the export of U.S. jobs is the astounding growth of U.S. private foreign investment. U.S. private direct investment has risen from $11.8 billion in 1950, to $86 billion at the end of 1971, and no doubt has reached $100 billion by this date.

Manufacturing leads all other industry investment abroad with over 40% of the total, and this increased foreign capacity has served to decrease our exports and increase our imports, and since capital is mobile and labor is not, the result has been loss of American jobs.

This point was made with great clarity by former Deputy Under-Secretary of Labor, George Hildebrand in a speech to the National Foreign Trade Council's Labor Affairs Committee in September, 1969:

"It has often been assumed that high U.S. wages and better working conditions were largely offset by high U.S. productivity and a strong internal market. Increasingly, however, the spread of skills and technology, licensing arrangements and heavy investment in new and efficient facilities in foreign lands have all served to increase foreign productivity without comparable increases in wages. The problem we have is to assure that the social and economic gains of the American worker and the purchasing power that goes with it are not undermined by competitive goods produced and exported on the basis of much lower standards which some may view as an exploitation of human resources."

Many of these global corporations are engaged in undermining the standards of the American worker and are exploiting human resources in foreign countries. In a recent meeting of labor leaders from the United States, South Africa, Argentina, Germany, Colombia, Venezuela and Mexico, reports of the representatives from these nations verified the stories of discrimination and exploitation in their countries. One large U.S. based multinational that employs workers in all of these countries, pay wages as low as fifteen cents per hour, and if the employees object, they are threatened with all sorts of reprisal. It was also brought out at this meeting that the employees cannot afford to buy the product they are producing, such as a refrigerator—it would take all of an employee's yearly salary to buy a refrigerator. One of our affiliates, The American Flint Glass Workers, was represented at this meeting which took place in New York in March, 1973—a G.E./Westinghouse coordinated bargaining meeting—so the reports are quite current and do show exploitation.

The time has come for a re-evaluation of this expanded investment program in terms of the U.S. economy, employment, outflow of capital, loss of revenue to the United States and effect of imports on U.S. industry and labor.

ESCAPE CLAUSE

It is pretty generally agreed that petitioners for import relief face an almost impossible task to meet the present criteria of the Trade Expansion Act of 1962 for escape clause relief. To satisfy the Tariff Commission that increased imports are "in major part" the result of concessions granted under trade agreements has been almost impossible and has resulted in very few cases of relief under the law. The Commissioners have agonized over their interpretations—but in the main, it is generally agreed that the present language is too restrictive.

Under the President's proposal, the word "primary" is substituted, and the requirement that injury must result from a previous tariff concession would be dropped.

On the face of this proposal, it does seem like an improvement, but the word "primary" would create serious problems in interpretations. The requirement of "primary" to be the largest single cause would create problems, as illustrated by a case in point from the Tariff Commission. Report to the President on Eyeglass Frames, released in October, 1967, from an additional statement by former Commissioners Thunberg and Clubb. Their statement documented the history of the escape clause, including the TEA of 1962. Within this fine statement was a paragraph that is relevant to the proposed word "primary" and being the largest single clause. The paragraph follows.

"The interpretation of the phrase must also be practical. In this connection we note that any increase in imports is caused by a multitude of factors. The relative importance of each is almost impossible to ascertain, and can become especially blurred when long periods of time are involved (and Congress clearly realized they would be) during which dramatic changes in technology, tastes, and income distribution have occurred. *If the Commission were to attempt to rank each cause of increased imports in every case, it is doubtful that it could ever find that any one of them was the most important. Relief thus would have to be denied in virtually every case if this approach were adopted.* But Congress clearly did not intend such a result and, accordingly, an interpretation must be adopted which is more in accord with the purpose of the statute." (Emphasis supplied.)

The point of quoting from the statement is to emphasize how two able, conscientious, former Tariff Commissioners feel about ranking each cause of increased imports, which under the President's proposed "primary" would be necessary.

By far the best language is proposed in the Burke-Hartke bill to properly provide relief under the escape clause:

"Whether, an article is being imported into the United States in such increased quantities, either actual or relative as to contribute substantially (whether or not such increased imports are the major factor or the primary factor) toward causing or threatening to cause serious injury to the domestic industry producing an article which is like or directly competitive with the imported article."

The above language using the word "substantially" would provide some hope to petitioners for relief from damaging imports. The present language does not, nor would the proposed "primary" in the President's proposed bill. The above language quoted from the Burke-Hartke bill would truly provide the "effective instruments" the President called for in his trade message in referring to "Providing for Import Relief."

RECOMMENDATIONS

1. That the Burke-Hartke bill be passed without delay, so that over 1 million Americans can be put back to work.

2. That Article XII of the G.A.T.T. be invoked immediately to bring U.S. balance of payments into equilibrium. This is a legal remedy presently available to the U.S. and other G.A.T.T. signators to correct serious balance of payments problems.

3. That Congress retain control over foreign commerce as provided by the Constitution, and regain or expand authority previously relinquished.

In line with this recommendation, Congressman Vanik's remarks on May 8, 1973 are certainly relevant. "Congress can write a trade bill which meets the requirements of the Nation without providing wide-ranging and arbitrary authority to bypass the Congress."

Also in the process of retaining control over trade, we agree with the excellent proposal for a joint Congressional Committee on Foreign Trade, offered by the Chairman of the House Ways and Means and Senate Finance Committees.

4. Regulations be adopted to control U.S. multinationals from interfering in the affairs and sovereignty of other nations.

5. Accurate and realistic trade statistics on our imports and exports would make possible more responsible and responsive decisions on our Nation's foreign trade policy.

6. The U.S. demand compensatory relief from the EEC for preferential trade agreements, including their most recent agreements with EFTA countries.

7. Why have trade negotiations, when we need equity and our trading partners are demanding reciprocity?

CONCLUSION

We know there are many factors to consider in putting together a trade bill and we think they were considered in the Burke-Hartke bill. Some of the serious problems now facing our Country must be solved to ensure stability in the World.

We are faced with massive trade deficits; balance of payments deficits; overall private, corporate and government debt exceeding 2 trillion dollars; unemployment continuing at a high level; rapid and continuing growth of U.S. owned multinational companies in foreign countries, resulting in unemployment in the U.S.; export of U.S. technology, under-utilization of domestic capacity; decreasing share of world exports; EEC signing preference agreements—all point to the serious need for a remedy that is provided by the Burke-Hartke bill, "The Foreign Trade and Investment Act of 1973," reintroduced in the 93d Congress by Congressman Burke (H.R. 62) and Senator Hartke (S. 151).

We believe the United States is faced with a serious crisis in foreign trade and investment policies, that are hemorrhaging our economic vitality. The people of this Country are looking to, and depending on, Congress alone to produce solutions to restore this Country to a position of soundness and equilibrium. We believe, as does the AFL–CIO, that passage of the Burke-Hartke bill would be a giant step toward restoring America's economic health, and its passage is urgent.

SUMMARY

Over 1 million workers can be put back to work by passage of the Burke-Hartke bill (The Foreign Trade and Investment Act of 1973), H.R. 62 and S. 151.

Our Country's foreign trade and investment policies are and have been hemorrhaging our economic vitality:

(1) Balance of Trade:

The U.S. trade deficit in 1971—$2.7 billion—1972 over $6 billion.

Beneath the official figures, by excluding Government subsidy programs (AID loans and grants, P.L. 480, Military grant aid) from our competitive exports and valuing imports on a c.i.f. basis. The documented figures show that since 1967 through 1972, we have sustained a trade deficit of over 27 billion dollars. (See table 1).

(2) Balance of Payments: Our U.S. balance of payments deficit exceeds 88 billion dollars. This overhang of dollars in foreign countries, together with U.S. multinationals huge liquid short term assets (est. by U.S. Tariff Commission $268 billion), has caused recent monetary speculation and crisis.

(3) U.S. Share of World Exports—Manufactures: The U.S. share of world exports of manufactures has long been slipping badly, with total manufactures decreasing by 19%, comparing 1962 with 1971, and many of the separate manufactures included in the total have decreased their share more than the overall total—example, chemicals down 29%; electric machinery down 23%; other manufactures down 27%.

(4) U.S. Multinationals Create Employment—Overseas: Contrary to multinational corporation claims that their domestic employment has increased faster than their foreign employment * * *

TCP WILL NOT DELAY GAS DELIVERY

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. ANDERSON of Illinois. Mr. Speaker, proponents of the Alaskan pipeline have repeatedly alleged that construction of a trans-Canadian oil pipeline will substantially delay the delivery of arctic gas to the Midwest. The basic contention is that Canada will not allow the simultaneous construction of oil and gas pipelines for various reasons. Due to this restriction, the gas pipeline could not be built until the oil line was completed. This would constitute a very formidable argument against a MacKenzie Valley oil line if that pipeline were 7 to 10 years away, as claimed by industry, and if the gasline could only be constructed after the oil pipeline. However, recent timetables published by the Arctic Gas Consortium, which intends to build the Mackenzie Valley gas pipeline, illustrate quite clearly that no delay will be incurred in the delivery of gas if the trans-Canadian oil pipeline is built. Indeed, indications are that gas can be available to U.S. markets 2 years earlier if we route the Alaskan oil through Canada.

The natural gas that will be shipped through the Canadian gasline originates from two sources: free standing reserves in the Mackenzie River delta, and gas in solution with the North Slope oil. The Canadian gas can be produced as soon as a delivery system; that is, a pipeline, is available. By contrast, oil must be pumped for approximately 2 years before the Alaskan solution gas can be delivered.

If the Alaskan pipeline/tanker system is built, the gas pipeline will not begin operation until 1979. A brief look at the construction timetables for both projects indicates why this is so. Approval of any of the pro-Alaskan pipeline bills in Congress will result in some form of litigation which will probably require at least 1 year to resolve. Consequently, construction on the TAPS system could not commence until 1975. Utilizing the 3-year construction timetable projected by Alyeska, operation would begin in 1978. Simultaneous construction, during peak building activity, of the pipelines is ruled out, according to E. L. Patton, president of Alyeska, due to shortages of trained men and machinery. Construction of the gasline would begin sometime in 1977. Figuring on 2 to 3 years for construction, delivery would start in 1979 or 1980.

In contrast, roughly 50 percent of the arctic gas would be flowing to U.S. markets in 1977 if the MacKenzie Valley oil route were utilized. According to timetables recently published in oil industry publications, the gas consortium anticipates filing an application for their pipeline in Canada late this year. The approval process is expected to take 18 months, paving the way for construction beginning in 1975. However, construction would only take place on the MacKenzie delta to Alberta leg. When this portion is completed in 1977, gas from the free standing reserves in Canada will begin to flow. Hopefully, the approval process for the trans-Canadian oil line would have been completed during this gas line construction period, enabling oil line construction to commence in 1976–77. That operation would be finished in 1980, thereby providing for delivery of Alaskan oil to Puget Sound, the Midwest, and East.

Construction of the gas pipeline branch to service the North Slope would then begin in 1980. By the time it could be completed, oil production would have been underway long enough to allow production of the North Slope solution gas. Therefore, the remaining gas from Alaska could come to market by the end of 1981 or shortly thereafter.

The comparative timetables for the delivery of North Slope oil and arctic gas look like this:

Trans-Alaskan pipeline:

TAPS construction 1975–78 and oil available 1978.

Gas line construction (entire length) 1977–79 and gas available 1979.

Trans-Canadian pipeline:

Gas pipeline (MacKenzie leg), construction 1975–77, and 50 percent of gas available 1977.

TCP construction 1976–80 and oil available 1980.

Gas pipeline (North Slope spur), construction 1980–81, remaining 50 percent of gas, and available 1981.

In terms of the delivery of natural, there is little net difference between the impact of the different oil lines.

It is apparent that a trans-Canadian oil pipeline offers substantial advantages in regard to the development of the natural gas reserves in the North. For the consumer, precious natural gas can be available 2 years earlier than if we proceed with the Alaskan pipeline/tanker system. For the conservationists, damage to the environment is limited to a single corridor. Most important, utilization of a common corridor will allow the builder of the second pipeline, be it for oil or gas, to save approximately 10 to 15 percent on construction costs.

SCORE GETS BIG RESULTS IN MINNESOTA

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. FRENZEL. Mr. Speaker, it is a rarity when a program is launched by the Federal Government that costs little or nothing and yet delivers profound results. But this actually happened when a program called SCORE was started by the Small Business Administration about 9 years ago. Since that time, this volunteer program has grown and matured into a strong, viable, and extremely worthwhile program.

Today, SCORE—Service Corps of Retired Executives—has the wholehearted support of Congress as a nationwide program sponsored by the Small Business Administration.

I am particularly proud, Mr. Speaker, that the first chapter of SCORE organized outside of Washington, D.C., was the Minneapolis SCORE Chapter No. 2. This chapter has grown to a membership of 105 volunteers who have provided management counseling and advice to more than 2,200 small firms in the State of Minnesota. The results have been most impressive.

Today, I want to pay tribute to the retired businessmen in our Minnesota chapters who are using their God-given talents by helping the small businessman who, as we know, is the lifeblood and bulwark of our free enterprise system.

I want to personally salute Alvin Nordstrom, former Red Owl Co. executive, who has served as an outstanding chairman during this past year, and also to his successor, Lawrence S. Clark of Edina, who, before retirement, was executive vice president of the Twin City Hardwood Lumber Co.

Other officers and directors of the Minneapolis chapter recently elected are: Clarence J. Swalen, Arthur E. Reiter, F. Clifford Johnson, R. W. Dreher, Eugene Oredson, Richard Putnam, and Nelson S. Neuman.

On April 17, 1973, a new SCORE chapter was formed in Duluth. At that time the following officers were elected: Robert N. Brownlee, chairman; Richard G. Heinan, vice chairman; and L. L. McGladrey, secretary-treasurer. I would like to thank the news media, the Duluth Chamber of Commerce, and Mayor Ben Boo for their outstanding support and cooperation in the development of this new chapter.

ADM. JOHANSEN BECOMES CHIEF OF THE COAST GUARD RESERVES

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. SPENCE. Mr. Speaker, earlier this month a change of command took place at U.S. Coast Guard Headquarters and Rear Adm. Julian E. "Joe" Johansen took over as Chief of the Office of Reserves.

Admiral Johansen, a native of Charleston, S.C., has been Coast Guard from birth. He follows in the footsteps of his father who himself served as an officer in the Coast Guard. During World War II Admiral Johansen served in the Pacific campaigns. He became a Coast Guard aviator where his service included the international ice patrol. He has served in command positions at Coast Guard air stations in Puerto Rico, Port Angeles, Wash., and San Diego, Calif.

Admiral Johansen is no stranger to Coast Guard Headquarters having served previous tours of duty here in the Aviation Division, as Chief of the Coast Guard Auxiliary Division and as Deputy Chief of the Office of Boating Safety.

I welcome Admiral Johansen aboard his new and most important assignment. As Chief of the Coast Guard Reserves I know this all-important segment of our defense posture will be further strengthened and that its readiness will be second to none with regard to its basic responsibility and with its new peacetime missions the Reserves will be a strong back up to the regular organization in carrying out these new assignments. I know all of the friends of the Coast Guard here in the House join me in extending best wishes to Admiral Johansen and I am certain he can be assured of our continued interest and support.

DECREASING FOOD SUPPLIES

HON. RICHARD T. HANNA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. HANNA. Mr. Speaker, I have spoken out often on the need for long-range economic planning as this country enters a new economic era. For decades we have been a nation of surplus. Our fundamental domestic problem during the 1960's and the basic challenges which we undertook involved the equitable distribution of the wealth of goods and services which made up our national product.

To be sure, we have not yet attained the lofty goals which we set for ourselves as a nation during that turbulent period. Yet, as we proceed further into the 1970's, and as demands upon our national product increase with rising domestic and worldwide incomes, we have found that our Nation's store of basic commodities is not as plentiful as had been so recently assumed.

In short, Mr. Speaker, we have left behind the era of surplus and are now entering into a period of very real shortages in rather fundamental goods—food, energy, housing, and, certainly not least, money. To the problems of equitably distributing the wealth of this country, we now have added the very real difficulties of allocating our resources to areas of high priority and of gearing up to significantly increase the resources we have.

Such an undertaking—allocating scarce resources on the one hand, significantly increasing our resources of basic commodities on the other—requires the best of our long-range thinking. It requires nothing less than the mobilization of our economic intelligence and of the political courage of our national leaders to develop real long-term solutions to our economic problems, even at some short-term political costs.

I am afraid, however, that the administration's economic mode has not reflected these qualities. Rather than a commitment to long-term economic planning, it has put off important economic decisions until a crisis was upon it. Rather than bearing short-term political costs in favor of long-term solutions, it has reacted only upon a short-term basis. But such short-term reactions, going from one crisis to the next, may well only exacerbate our long-term economic difficulties.

An example of the way in which the absence of economic planning can exacerbate our short supply problems is well documented in a recent letter to me from the meat industry. It has become clear that at the very time we need policies to dramatically increase food supply, the administration's approach of waiting until crisis actions become necessary injures our supply situation. This point is well-documented in a recent letter to me from Mr. John Mohay, executive vice president of the National Independent Meat Packers Association. As can be seen from his remarks, without long-term policy, the actions dictated by waiting for a crisis bear a cost which we will have to pay in the future.

National Independent
Meat Packers Association,
Washington, D.C., July 11, 1973.
Hon. Richard T. Hanna,
U.S. House of Representatives,
Washington, D.C.

Dear Mr. Hanna: For more than 100 days meatpackers have been operating under a ceiling price freeze while their raw materials have remained free of federal intervention.

During 70 days of the freeze period, non-meat costs increased substantially, all of which had to be absorbed by the packers. Packaging materials, boxes, gas and other fuels, trucks and equipment have all increased substantially with no provisions for a pass through of these costs.

The demand for meat products is highly seasonal and under normal circumstances prices for wholesale and retail cuts vary substantially from season to season. (Prices for products not in demand are reduced in order to maintain an even flow of all cuts of beef and pork. Prices for other products are raised to offset the lower return from products with little demand.)

Since the advent of the freeze on meat prices on March 29, the meat industry has been prohibited from exercising its traditional pricing mechanism with the result that products in high demand are selling at abnormally low ceilings and other products, of necessity, are being sold below ceiling.

While the meat industry has been laboring under price ceilings and while their non-meat costs have skyrocketed, other factors have also been working to the detriment of the meat packer—and the consumer.

Feed, equipment and operating costs have also increased for the cattle and hog producer and feeder. Although technically there are no ceilings on the price of raw agricultural products (livestock) in practice, the producers and feeders realize meat packers are limited in the price that can be paid and still stay in business.

Consequently, the livestock and meat industry is going out of business at an ever increasing rate. Livestock producers and feeders cannot raise red meat animals to a marketable weight and sell at a profit. Small cattle feeders are not restocking their feed lots. Commercial feed lots are replacing feeder cattle at much lower rates. Hog producers are getting out of the business at an alarming rate.

While pork production is down as much as 14% from a year ago, sow slaughter is up 2–3%. From 40% to 80% of the sows coming to market have been bred. This means that next winter's pork supply will not be born. As a result an even greater burden will be placed on an already short supply of beef.

Presently, beef production has been reduced 20% because meat packers cannot continue to lose up to $11 per head on all cattle slaughtered and continue to stay in business. Additional cutbacks in production are occurring as packers' earlier earnings are depleted.

Pork production has been reduced more than 20% and is dwindling rapidly. Hog prices have increased an average of $9 cwt since the March 28 freeze began. This has forced pork packers into a substantial loss position after a mediocre year in 1972.

The reduction in the production of beef and pork has necessarily resulted in reduced supplies of meat for the processed meat industry. Many manufacturers of luncheon meats have indicated they have raw materials to last through midweek but have little or no hope for supplies beyond that period.

Plant closings are increasing almost geometrically in rate. A week ago, there were only about 5 known plants that had closed. Today we know of 40 meat plants that have closed because of the price freeze. There are undoubtedly many more that we are not aware of.

As long as the meat price freeze is in effect, livestock production will decrease and meat production will decrease. Livestock men and meat packers cannot be expected to stay in business and operate at a loss. We do not believe that the Economic Stabilization Act was passed with this intent nor do we believe that any industry should be *forced* to operate at a loss—for even a day, much less for weeks and months.

Notwithstanding the deplorable financial situation of the meat industry as a result of the price freeze, the American Consumer is the big loser. Her opportunity to choose among a selection of meat products is rapidly diminishing. Within a few short months, she will no longer be able to go to the market and decide whether she wants to buy meat or what meat product she prefers. Soon she will have to stand in a queue and hope that there is still some meat available when she gets to the head of the line. The price will be low enough but the supply will be low also.

Is all of the foregoing a fairy tale? No, not a bit. It's a recitation of the hard facts resulting from the price freeze imposed on meat, March 29. The meat supply is becoming critical. Fewer products will be in the meat cases beginning this week. Why? Because, the natural supply and demand economy of the livestock and meat industry was disrupted.

If the American Consumer is to have a choice of meat products in the future, the U.S. Government will have to get out of the price manipulation business. No producer nor packer will engage in the business if he does not have an opportunity to make a profit.

True, if price ceilings were removed today, meat prices would increase. But, the incentive to produce livestock would be encouraged and farmers who have gone out of the business would begin to produce again. Within two years, livestock supplies would be back to normal and on the increase. Meat prices would also seek a more reasonable level. And, equally as important, Consumers would have a choice of which products to buy or not buy.

The time has come to abandon ill-advised, short-term goals and strive for realistic long-range objectives. The core for meat prices may result in higher prices in the immediate future but will assure reasonable prices and adequate supplies in the years ahead.

We respectfully request you urge the President to remove price ceilings from all agricultural products, unprocessed and processed. You will be striking a blow for the consumer and the economy.

Very truly yours,
John G. Mohay,
Executive Vice President.

MUTUAL DEVELOPMENT AND COOPERATION ACT OF 1973

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. ABDNOR. Mr. Speaker, I found it impossible to be on the floor of the House to register my disapproval of the socalled Mutual Development and Cooperation Act of 1973, better known as the foreign assistance bill.

My desires were to be present for the final vote, but my duties and responsibilities took me home for the weekend and by being from South Dakota, very few flights can be arranged to take you there when you have to be there.

An important aspect of the bill which I found impossible to support was the meager 2 percent for development loans. I can see no reason why such an inadequate percentage should be allowed to stand when our Nation's people cannot even get a mortgage for a home without paying less than 7½ percent. When this Nation is faced with such a severe deficit in our balance of payments, such measures as this low interest rate on the development loans should not be supported.

If I would have been here the evening of July 26, 1973, I would have voted against this foreign hand-out. I see little reason to support such action when our poor, aged, and economic picture needs greater assistance and development support.

PRESIDENTIAL ELECTIONS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. DERWINSKI. Mr. Speaker, it is certainly necessary for Congress to objectively review proposals which are designed to enhance our Presidential election laws. In principle, I favor shortening the campaign year by establishing primary dates much closer to the general election.

Therefore, I was especially interested to note an editorial comment, presented on Chicago's radio and television station WGN, on Presidential elections. The editorial follows:

Presidential Elections

The United States Senate is reconsidering plans to shorten Presidential election campaigns. The amounts of money spent in 1968 and in 1972 make such a move desirable. Shortening the campaign is *one* way to limit the abuses which come from the need to raise money—in the multi-millions—to finance these campaigns.

The first plan proposed would have moved the election up one month—to the first Tuesday in October. The Senate sponsor of the bill—Robert Byrd of West Virginia—now wants to change this because it could disenfranchise college students who wouldn't be back on campus in time to register, and because a large segment of the Jewish population would find election day falling on their High Holidays with some frequency, thus disenfranchising them.

The October date also would take us back 40 years—when there was a four-month gap between an election and the transition from one Administration to the next. Perhaps we should consider closing this gap some more by leaving election day in November and moving inauguration day to the day after Congress convenes in the first week of January.

Finally, there is the length of the campaign. Senator Byrd proposes that nominating conventions take place in August. We'd take it a step farther, setting the second and fourth weeks in August, with the parties drawing lots for the more desirable week. Then, after the conventions—no campaigning until Labor Day, with the campaign concluding the Sunday before the election. Once more, the parties could draw lots for the last broadcast hour on national radio and television.

These are just *some* of the things which *can* be done to correct the flaws in the system we use to elect our president.

BUREAUCRATIC INEFFICIENCY

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. WYMAN. Mr. Speaker, despite the good intentions of thousands upon thousands of loyal Government employees, there are many Government programs that are overlapping, inefficient, ineffective, uncoordinated and nonproductive. Responsibility for their continuation lies with both the executive and legislative branches of the Government.

In the executive branch correction to a large extent is possible through executive order by the President. The Congress comes into play, however, when legislative policy dictates the continuation of a certain program or agency and conflicts with an executive order.

Similarly, the Congress ought to currently weed out and terminate many unnecessary Government functions. That these exist is undeniable. More importantly the public knows of the waste and inefficiency and looks askance on congressional enjoinders to run a tight ship when neither the Congress nor the Federal Government do this themselves.

Indicative of public concern over this matter is an Open Letter to Uncle Sam appearing in the July 1973 issue of Assembly Engineering edited by Bob Kelly.

AN OPEN LETTER TO UNCLE SAM

> DEAR UNCLE: Remember the anti-smoking television campaign that shows a well-intentioned father telling his young son that it isn't wise to smoke—that it can be injurious to the health? And then the father, seemingly unaware of his actions, casually flips a cigarette out of a pack, lights up, and deeply inhales a huge puff of smoke. By his *actions* this father makes mockery of his own words.
>
> I am sorry to admit, Uncle, that this TV pitch somehow reminds me of your Big Government actions. I listen to and understand your words, but your actions confuse me.
>
> You tell American industry that it must improve its efficiency and productivity if it is to survive in an ever-increasingly competitive world. By your words you tell us that industry *must* cut out all areas of waste and efficiency, to run a tight ship. Now, I look at Big Government, and what do I see? I see a huge cumbersome bureaucracy heavily laden with red tape, inefficiencies, and thousands of jobs that contribute little or nothing to the productivity of our nation.
>
> I see program after program conceived and administered by government go down the drain as unworkable. The facts are that these programs cost taxpayers millions upon millions of hard-earned dollars and represent tremendous waste. Uncle, this makes mockery of your words.
>
> You say that it is criminally wrong for business or industry to become anything that even resembles a monopoly—that this leads to too much power in the hands of a few. But then I look at the monopolistic power of Big Government. When you want to raise the prices of any of the services or products that you offer, you simply do so, and the public is expected to absorb the added burdens without asking questions. When your organizations operate with deficit spending you just cover up your inefficiencies by increasing taxes and fees.
>
> You tell us taxpayers and business corporations that we must be positively accountable for all of our income and expense deductions. Yet, you, on the other hand, can literally spend billions of *our* dollars in foreign lands and are *unable* to tell us to what good purpose this money is being used, or even where it is being spent.
>
> You say that we must clean up the alarming amount of crime in America's streets—and, oh, how right you are. And then, there's Watergate.
>
> Uncle, I *truly* want to believe you. I have always looked up to you for leadership and admired everything that you stand for—but I simply don't understand your actions.
>
> BOB KELLY,
> *Editor.*

REDUCTION OF U.S. TROOPS OVERSEAS

HON. DAVID C. TREEN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. TREEN. Mr. Speaker, the House Committee on Armed Services bill authorizing military appropriations for fiscal year 1974 will be coming before the Congress for consideration shortly. At that time some of my colleagues will introduce various amendments calling for the reduction of our troops overseas, and particularly for the reduction of U.S. troops in Europe.

Mr. Speaker, there are critics who charge that our troop presence in Europe is meaningless. They say that they fail to see how a meaningless military commitment to Europe can add up to a meaningful political commitment. The answer is that we do not have a meaningless military commitment and as a result we have a very real political commitment to Western Europe. But this commitment has value only insofar as it is perceived to be credible, by both our allies and our potential adversaries.

Because of the present military bipolar structure of international relations, the Soviet Union and the United States have not had the freedom of choice a military multipolar structure offers. The superpowers have not been free to select their responses to each others threats. To the contrary, because of the nature of modern technology the superpowers in their ongoing deterrence policy have largely had obligations and commitments thrust upon them. But the values of the United States which were challenged in this process, and the precedents which have been established in defending them, have produced expectations which in turn have established the credibility of our deterrence. Without this credibility we would not only lose the confidence of our allies, but perhaps even more far-reaching, we would lose the credibility needed to deter any would-be aggressors.

For those who charge that unilateral troop reductions would not have very farreaching implications in Europe—at a time when we have the opportunity to negotiate for a mutual balance of force reduction between East and West in Europe—I am enclosing some excerpts from the European media. And I would like to emphasize that the press viewpoints I am presenting go from left to right in the political spectrum; they present both liberal and conservative viewpoints and I think we should be impressed by the unanimity of their opinion.

In Germany the pro-Christian Democratic Frankfurter Neue Presse stated that:

> Suspicious observers interpreted the Nixon-Brezhnev nuclear accord as reflecting abandonment of NATO's defenes concept. . . .
>
> "The fact remains that the unrest in Europe was caused by Nixon and Brezhnev, even if for different reasons. This made it even more necessary that, following Kissinger's unsatisfactory initial assurances, Deputy Secretary of State Kenneth Rush issued distinct warnings and clarified the situation. . . .
>
> "It is true that his statement that the U.S. is unequivocally opposed to any unilateral reduction of American forces in Western Europe will not reassure the suspicious. But anyone who was alarmed—and rightly so—by Nixon and Brezhnev's dropping of the term 'balanced' in MBFR can now gain fresh hope that, in spite of dollar crisis and Watergate, they have not entirely forgotten in America how gravely the U.S. could be jeopardized in Western Europe."

The writer said that—

> In joining those who warn against false feelings of security, Mr. Rush grates on the nerves of his countrymen. To do so today requires considerable courage in risking unpopularity, particularly with Congress, which must deal time and again with resolutions on the Mansfield pattern calling for troop reductions. . . .
>
> Moscow probably will react oversensitively to these warnings since Rush also stressed the need to place emphasis on conventional deterrence—a need which stems from Soviet conventional superiority.
>
> With the MBFR negotiations coming up, military realities must not be obscured. Unilateral concessions would be abused.

Right-center Die Welt of Hamburg, questioning the "haste" of Mr. Scheel's visit, concluded that "surprises are part of diplomatic usage," and noting that the United States had not consulted its allies regarding its intention to sign a nuclear arms accord with the U.S.S.R., it asserted:

> This must be considered to be particularly detrimental at a time that Washington is seeking a "constructive Atlantic dialogue" and is calling for maximum Western solidarity for the next phase of CSCE. . . .

The political left Social Democratic weekly Vorwaerts remarked in a commentary on Mr. Leber's (West Germany's Defense Minister) visit to Washington that—

> As if the slate were not already full, the Defense Department has added another problem—"mini-nukes."

It expressed regret over Washington's "increasing use of the tactic of forcing NATO's hand with unilateral decisions."—

> That smaller A-weapons are cleaner is a home truth, and with that sugar coating the Americans are sweetening a bitter pill—"mini-nuke" strategy is incompatible with flexible response, which implies massive retaliation. That NATO's nuclear deterrent might diminish is one thing; that consultation is going out of style, however, is another. The U.S. nuclear umbrella shows another hole.

The independent Sueddeutsche Zeitung of Munich said Mr. Leber's—West Germany's Defense Minister—visit indicated that Bonn was "more concerned than it initially admitted about unclarified matters" between the United States and its European allies. The paper said these included Mr. Kissinger's "pretentious reference to a new Atlantic Charter." The editorial concluded:

> The question now is whether at the very beginning of the so-called multilateral age, bilateral relations with the USSR will have priority over vital questions of the Atlantic Community.
>
> Leber wants to prevent advance reductions of the U.S. or European defense from imperiling the MBFR result. His concern appears justified. What is required is a stock-taking—rather than a substitute for NATO—aimed at revising the defense doctrine and at including political, economic and monetary policy within the scope of the Alliance.

In looking at the French viewpoint we see the following:

A writer in Catholic La Croix of Paris judged that American public opinion favored withdrawal of U.S. troops from Europe but said—

> The White House is assuring its European allies that it holds the opposite view—while, however, letting doubt remain by implicitly linking together all the problems that stand between Europe and the U.S.

He inferred from Ambassador Irwin's Monday speech to the Paris diplomatic press association that "the threat to Europe is clear: pay or give up the troops." The writer said—

> American proponents of withdrawal have the initiative and that this may both help the White House in its negotiations with Western Europe and embarrass it considerably in its negotiations with USSR: After all, how can the Soviets be persuaded to agree to bilateral reductions when they are assured beforehand of a unilateral American withdrawal from Europe reasonably soon?

As perhaps a forewarning of what might happen if Europe's commitment to Europe loses credibility, and particularly for those who are concerned about the question of nuclear proliferation a Paris newspaper headline read:

Pro-NATO, moderate-right opposition Aurore of Paris headlined today:

> U.S. Pressures on Nixon for Sizable Withdrawal of Troops from Europe as France Prepares to Explode Bomb in Mururoa.

Military commentator General Andre Beaufre asserted Saturday in middle-of-the-road Figaro:

> The Nixon-Brezhnev accord does not appear to me to be the beginning of a condominium, but rather the establishment of a state of increasingly stable *mutual neutralization*. (Emphasis added.)

He reasoned that—

> The paralysis of the two superpowers gives others, including Europe, a greater degree of freedom. Europe can build itself up politically and strategically under the shelter of this *mutual neutralization*. (Emphasis added.)
>
> Europe not only can but must do this if it does not want to stay within the Soviet-American system. . . .
>
> To be sure, the big Soviet market, which some have coveted, will elude the Europeans. But Europe has other trump cards: its own internal market, Central Europe and the third world.
>
> The moment thus appears opportune for a bold European policy, if the nations of Europe have the wisdom to work together and pull in the same direction. This is an opportunity that should not be missed.

Il Tempo of Rome devoted a full page Saturday to a byliner's discussion of "Prospects of the Western defense system for the seventies." He said in part:

> U.S. policy . . . as defined by President Nixon and Mr. Kissinger, aims at obtaining a lasting peace and is based on the premise that a network of mutual economic interest, communication and financial relations between East and West can do more to prevent conflict than two armed encampments. . . .
>
> "If . . . the desire for peace to detente could be regarded as sincere and dependable . . . perhaps the military apparatus of the Atlantic Alliance would become useless.
>
> But . . . the road to hell is paved with good intentions and a real balance of forces guarantees peace better than a treaty . . .
>
> However, now that the U.S. is vulnerable in its own territory, it may not wish to use its nuclear guarantees for its allies . . .

Independent Kurier of Vienna declared today that congressional calls for reduction of American troops in Europe support Soviet aspirations.

> This is a paradox, but Congressional leaders who call for this are throwing away a trump card for the troop reduction talks here.
>
> One thing is certain. If the Americans show they want to get their troops back home from Europe, they cannot expect the Soviets to grant them concessions voluntarily.
>
> The real danger then would be that the force reductions would be unilateral and unbalanced. The USSR would be virtually given a dominating position in Europe both militarily and politically.
>
> We do not have any objection to U.S. withdrawal from Europe, but the withdrawal should come as the result of negotiations and compromises, and should take place only after the East has demonstrated its sincere interest in detente.

The independent Times of London speculated today on the "outcome of the pressure to which the President is being subjected." The paper said:

> Senator Mansfield's original demand . . . was for the American contingent in Europe to be halved. If this were carried through, the effect upon the North Atlantic Alliance would be disastrous. It would certainly mean a total restructuring of the Alliance's military posture, and would probably entail the withdrawal of the seven thousand tactical nuclear missiles which are under American command in Europe . . .
>
> Happily, this is the least likely outcome of the pressure to which the President is being subjected. The most likely is that he will win a reprieve for his policy, at least until the Vienna talks are under way. It is no doubt upon the progress and the promise of these talks that the next chapter of this disturbing tale will depend.

De Telegraaf of Amsterdam declared yesterday that the West should not be "disappointed at a bad start and possibly further disappointments" at the conference. It declared—There is no just alternative," to a continuing effort to create better relations.

> Considering the endless effort needed to obtain the smallest concessions, it would seem stupid to make concessions on one's own in whatever field. Such a weak policy would only reinforce the rigid attitudes of the Russian leaders.

What the Europeans fear, and what would represent the very destruction of our own defensibility is expressed by the Independent Kronen-Zeitung said yesterday that the symbolism of the choice of Helsinki for the conference was not lost on several critics of this diplomatic show because the conference could end in the "Finlandization" of Europe if it goes along the lines the U.S.S.R. desires—

> "Finlandization" of Europe would mean no basic changes in the social order, but there would be no American troops in Europe and NATO would be dissolved. Western European governments would be so weak as a result that they would be forced to coordinate their foreign policies with the Kremlin.
>
> This is not a very promising prospect. But the Western foreign ministers recognize this theoretical danger, and the Soviets, in the meantime, have also recognized that genuine detente cannot be achieved by pressing for superiority.

Another European fear is expressed by the independent London weekly Economist:

> William Rogers . . . deliberately tried to assauge any unspoken fears that America and Russia would try to settle everything over the heads of the others. It needed saying.

Mr. Speaker, while I do not agree with every thought which was heretofore expressed, based upon this reaction by our European allies I feel any unilateral initiative to reduce our troops at a time, as I pointed out earlier, when we have the opportunity to negotiate a mutual reduction of East-West forces, would further erode our allies confidence; it would take away any Soviet incentive to negotiate and it would seriously threaten the credibility of this Nation's international commitments.

SENATE—*Friday, July 27, 1973*

The Senate met at 9:30 a.m. and was called to order by Hon. WALTER D. HUDDLESTON, a Senator from the State of Kentucky.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal God, our Father, may all that we do this day be done in the pure light of Thy presence. Guide us through every difficult decision. Grant us the insight to distinguish between our will and Thy will and give us the grace to obey Thy will. Through times of crisis hold us to the highest and best we know. When tempted to do less than our best, brace us and make us strong in resisting temptation, remembering how the Master turned His back on the Tempter. In all our coming and going, in all the ardent contention of the day, and amid the collision of ideas and objectives, nourish us in the truth which comes from above, so that we may come to the day's end without mistakes and without regrets.

We pray through Him who came not to save His life but to give it for others. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 27, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. WALTER D. HUDDLESTON, a Senator from the State of Kentucky, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. HUDDLESTON thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, July 26, 1973, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LOOKING TOWARD SINE DIE ADJOURNMENT

Mr. MANSFIELD. Mr. President, the distinguished Republican leader (Mr. SCOTT) and I had a discussion relative to the administration proposals, which numbered 35, which were discussed in a recent Republican leadership meeting with the President. I believe that meeting was on Tuesday of this week.

Since that time, the distinguished Senator from Pennsylvania (Mr. SCOTT), the Republican leader, has furnished the Senate with a list of the 35 administration initiatives. We have gotten together and had our staffs make a survey as to just where each of these pieces of legislation is at the present time.

With regard to the 35 items which the Republican leader inserted in the RECORD on yesterday, 15 of these measures or 42 percent have already passed the Senate. Of the 20 bills which have not yet passed the Senate—

Two await House action first—tax reform and trade;

Two are on the calendar—pension reform and Election Commission;

One has been ordered reported—foreign assistance;

Two are in markup—Legal Services Corporation and stripmining;

Eight have already had hearings; and

Five have had no committee action yet.

In all, the Senate response to administration proposals has been good with only 5 on the list of 35 not yet acted on during the first 7 months of the 93d Congress.

I ask unanimous consent, on behalf of both the distinguished Republican leader and myself, that our findings be printed at this point in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Among many Administration initiatives, the following were discussed in recent Republican leadership meeting with the President. The list is not inclusive of all legislation pending in Congress and of interest to the Administration.

*1. Manpower Training—S. 1559; P/S July 24.

*2. LEAA—H.R. 8152; Conference report filed July 27.

3. Better Communities—S. 1743; hearings in progress.

4. Better Schools—S. 1319 (S1539); hearings in progress.

5. Bicentennial Reorganization—H.R. 7446; P/H; Senate hearings complete.

6. Election, Reform Commission—S.J. Res. 110; on calendar.

7. DENR—S. 2135 hearings scheduled for July 31. Labor Committee markup next week.

8. Legal Services Corporation—(amendment to S. 1815).

9. Gas Deregulation—S. 2048; tentative hearings in fall.

*10. Alaska Pipeline—S. 1081; P/S July 17.

11. Deep Water Ports—S. 1751; hearings in progress.

12. Trade Reform—H.R. 6767; executive markup in progress.

13. Export Administration—S. 2053; hearings held.

14. Foreign Assistance—S. 2026; ordered reported.

15. Pensions—S. 4 (S. 1557); on calendar.

16. Heroin Trafficking Act—S. 1300 pending; some provisions in conf. rept., S. 800.

17. Capital Punishment—S. 1401 hearings complete. Rept. late Sept.

18. Criminal Code Reform—S. 1400; hearings in progress.

19. Stockpile Disposal—S. 1849; no hearings planned.

20. Reorganization Authority Extension—S. 2003; no hearings yet.

*21. CIEP Authority—S. 1636; in conference.

*22. Unemployment Compensation—provision in Public Debt; PL93-53.

*23. Flood Disaster—S. 606; P/S February 1.

*24. Toxic Substances—S. 426; P/S July 18.

*25. Safe Drinking Water—S. 433; P/S June 22.

*26. Vocational Rehabilitation—H.R. 8070 in conference.

*27. Health Maintenance Organization—S. 14; P/S June 15.

*28. Northeast Railroad—S. 1925; P/S July 14.

*29. Federal Aid Highways—S. 502; conference report filed today.

*30. Urban Mass Transit—S. 502; retained in conf. rept. to be filed today.

*31. Par Value—H.R. 6912; in conference.

32. POW Tax Relief—H.R. 8214; reported in House July 24.

33. Tax Reform—House has finished hearings.

*34. Farm Bill—S. 1888; in conference.

35. Surface Mining—S. 425; exec. markup.

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* Passed Senate.

MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (S. 1423) to amend the Labor Management Relations Act, 1947, to permit employer contributions to jointly administered trust funds established by labor organizations to defray costs of legal services.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the Senator from Michigan desire to be heard?

Mr. GRIFFIN. No, Mr. President.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from South Dakota (Mr. MCGOVERN) is to be recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, if it is agreeable with the Senator from Iowa, that he be permitted to proceed with his order without prejudice to the Senator from South Dakota.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Iowa.

Mr. HUGHES. Mr. President, I thank the distinguished majority whip for allowing me to proceed.

DEADLINE FOR ENDING U.S. BOMBING IN CAMBODIA

Mr. HUGHES. Mr. President, in less than 3 weeks the deadline for ending U.S. bombing in Cambodia will be at hand.

After August 15, under provisions of law duly enacted by the Congress and signed by the President, U.S. air war activity over Cambodian territory will be prohibited by law.

In recent days, high representatives of the administration have assured congressional committees that the administration intends to abide by the law.

Nonetheless, considering the history of deepening involvement, of secret, large-scale military operations covered by falsified reports, and of deliberate violation of already existing laws, no thoughtful person can escape being apprehensive about whether or not our Government really means business about stopping the Cambodian bombing.

Even for the war-weary American people, the actuality of pulling out of Cambodia is going to require some adjustment.

It is one thing to set a future date for ending our involvement. It is another to clench our teeth and take the action that should have been taken long ago.

We have been involved in the Indochina war so long that it has become a part of us like a chronic disease.

We have been brainwashed with tidal waves of propaganda telling us that it is our duty to continue a detested war to protect the people of South Vietnam, Cambodia, and Laos from Communist aggression.

We have had it dinned into us that our support of corrupt, dictatorial regimes is necessary in order that the peoples of these countries could attain political self-determination.

We have been admonished to support continuing and extending involvement on the grounds that just a little more effort on our part would enable non-Communist regimes in these countries to survive on their own power.

We have been threatened from time to time that a complete pullout on our part would result in a monstrous bloodbath of innocent people.

We have heard about the light at the end of the tunnel so often that we can almost see this rhetorical beacon.

While our ground troops have been withdrawn, we have not been released by our own official propaganda from the guilty feeling that we still have a distance to go to attain peace with honor.

In the meantime, we have gone on inflicting our own bloodbath from the skies against innocent people.

The corrupt political regimes into which we have poured untold billions still show no real signs of being able to support themselves on their own. They never did. They lack one essential element—the support of their own people. Their dictatorial power is weakened now as it always has been by the dry rot of corruption.

We have sacrificed 55,000 lives of the flower of our youth; 300,000 others are maimed and disabled; we have killed and crippled hundreds of thousands of innocent people; we have desolated and terrified millions and displaced them from their homes; we have cratered and laid waste peaceful, peasant villages and countrysides; we have spent nearly $200 billion while neglecting the poor, the unemployed and other critical needs of the American community at home.

With this mighty effort we have won the venal alliance of corrupt dictators. The people hate us.

As the August 15 deadline approaches, the pressures will inevitably mount to bludgeon Congress and the American people to continue our military involvement.

Sacred and secret diplomatic commitments will be pled. The mythical light at the end of the tunnel will be cited again. Once again we will be reminded of the impending bloodbath, somehow strangely different and more deserving of our compassion than the blood-spilling of innocent people that is going on now under our own auspices.

It is a well-known fact that when a prisoner is in a correctional institution for many years, he is apt to get to a point where he fears liberation. He has become "institutionalized," as correctional officials put it.

For many tragic years we have been prisoners of the Vietnam war and the harsh propaganda of our own Government that has supported this unwanted war.

I hope that we have not become so institutionalized about the Indochina war that we cannot, despite our deepest desire and our clearest reason, cast off the incubus.

Through the years, the controversy over our involvement in Indochina has cut across political administrations and other traditional alinements. It has been unquestionably the most detested, divisive, and unwanted war in our history.

In the debate over this war, never has there been a clearer case of the triumph of bias over reason. Either you were for it or against it, and the bitterness ran deep on both sides. No nuances or reservations were allowed either side in the heat of the continuing debate. Honorable people on both sides suffered. Those who approved of the war came off as inhuman and militaristic; on the other hand even the patriotism of those who opposed the war policies was questioned, at times.

Now it is time to sort out what we really believe about this war and the course we should now take. Not what the peace movement thinks, not what the military-industrial group thinks, not what administration or antiadministration sectors think—but what the people think.

Today—3 weeks in advance of the August 15 deadline to end the bombing—I want to summarize what one American, HAROLD HUGHES, believes about where we are on this overriding matter and the direction in which I think we should move in the national interest.

As we all know—and whoever doubted that it would happen—the Lon Nol government in Cambodia now wants an extension of the bombing.

As of now, heavy fighting goes on in Cambodia; only a partial truce has been reached in Laos; and bloodshed continues in South Vietnam.

A recent news dispatch from the Mekong Delta in South Vietnam tells of three army trucks pulling up to a Province hospital and unloading a grisly cargo—150 bodies of South Vietnamese soldiers killed in a Vietcong ambush.

Since the cease-fire last January 22, government officials have been frequently assassinated or kidnaped. The Canadian truce supervisory team that recently withdrew from the multinational peace supervising commission in Vietnam has accused North Vietnam of "massive" and "unrelenting" infiltration of troops into the Mekong Delta since the cease-fire—in deliberate violation of the Paris truce agreement.

According to the Canadian report, thousands of fresh troops coming into the South had never heard of the Paris accord, the peacekeeping forces, or the withdrawal of U.S. troops.

It is not my purpose here to question or confirm this report, although I personally believe it to be true. The point I want to make is: What American with eyes in his head and in his right mind ever doubted that such things might happen?

Whoever doubted that the determination of the North Vietnamese to unite the two Vietnams and bring them under Communist domination would continue despite cease-fires and peace accords? Whoever doubted that they would use murder and subversion and torture or anything else to gain their ends.

In opposing this war over the long, difficult years, I never at any time imputed any benign motives or compassionate behavior to the North Vietnamese military dictatorship or its forces in the field.

These are harsh, ruthless people engaged in a struggle to which they are totally committed.

The torture of American prisoners of war by the Vietcong and North Vietnamese was not an isolated example of their conduct. The terrorist bombings and rocket attacks that killed innocent civilians were all in the day's work.

Whoever said that these were nice people and that once a truce was signed there would be a rose garden of peace? Rather, what we have is a dirty back-alley brawl.

Let us make no mistake about it—the North Vietnamese have disregarded or flagrantly violated numerous provisions of the agreement. They made a last-minute land grab; they are pouring political cadres and material into South Vietnam; they have stymied the effective functioning of the International Commission for Control and Supervision.

The violations by the Saigon regime would appear moderate by comparison.

The brutality of the North Vietnamese in some of their prison camps, as reported by our returned prisoners of war is fresh in our memory. We should think a long time before taking the risk of losing another American to one of those prisons.

What we have in plain words—now and from the beginning—is a civil war in which two harsh military dictatorships are locked in mortal combat. If the Thieu regime, non-Communist, but nonetheless a dictatorship, is preferable over the North Vietnamese regime, which it may well be in some respects, the fact is that General Thieu has never proved his ability to hold the voluntary allegiance of his people. The North Vietnamese, for good, bad, or worse, are unified and committed.

In any event, the overwhelming point to be made is that the United States, in its national interest, has no business being militarily involved in Indochina another week, another day, another hour beyond the legal deadline.

In retrospect, many Americans believe we never, at any time, had sufficient cause to be involved in Vietnam. But whether or not we should have intervened in the beginning is not the issue now. In point of fact, we did intervene in the most massive way. If we had an obligation, we discharged it; if we had an official commitment, we honored it; if our goal was to shore up the Thieu government so that it could stand alone, then we have done everything possible to achieve this end short of using nuclear weapons or remaining in military intervention in perpetuity.

Now the focus is on Cambodia.

We have dumped thousands of tons of bombs, clandestinely and openly, on that hapless country without convincingly bailing out its military dictatorship.

The war goes on in Cambodia with the issue in doubt, but the edge is apparently going to the Communists even with the American bombing. We do know who the losers are—the innocent civilians—whose casualties are no less dead and homes no less destroyed whether by Communist mortars and rockets or American bombing.

From the standpoints of what we have done to our own society and the countries we are trying to help, almost everybody now admits that we have made an incredible mess of our involvement in Southeast Asia.

Now we are approaching some semblance of unity. The Congress wants out. The American people want out. The other civilized countries of the world want us to get out.

The question is that as the hour of truth approaches, will we have the tough determination and horse sense to do what has to be done?

Or have we become so imprisoned, so institutionalized by the long years of ceaseless, dinning propaganda that some subliminal reflex will betray us into saying—"not yet—just a little while longer."

Considering our long involvement in Southeast Asia, advised or ill-advised as the individual may see it, and our participation in the peace negotiations, a credible case can be made that we have some responsibility to do what we realistically can to stabilize the situation between North Vietnam and its adversaries in Indochina and to use our influence on behalf of a genuine truce and a lasting peace.

I would agree that we should do what we can short of continuing what has already been discredited and disproved as an acceptable or effective means of shaping the political destinies of these countries.

There must be no, but no, resumption of American bombing or other military operations either secret or open, either illegal or within constitutional bounds, in Indochina. No more risk of American POW's or MIA's, no more wrong or more wrong or right-targeted civilian casualties, no more villages destroyed to save them.

It is time to bite the bullet and stop the senseless, ineffectual killing now.

Ruling out military intervention from August 15 on, what can we do as a nation to stabilize the situation in Indochina and further the fairest possible peace?

If expeditionary forces of over a half million plus the most awesome concentration of air, naval, and ground power in modern history plus untold billions in other military-related aids could not bring peace in Vietnam; perhaps it is time to use the carrot instead of the discredited stick.

In the past year, President Nixon's countrymen and the nations of the civilized world have praised the President for his historic initiatives in opening a new era of relations with the People's Republic of China and the Soviet Union. In connection with these new and encouraging developments, Mr. Nixon has stressed the importance of trade and economic détente. I think he is right in this. There are even some authorities who say that the Russian wheat deal which was negotiated at the cost of $160 million in public subsidy and immeasurable domestic sacrifice here in the United States in terms of soaring prices and glutted transportation routes will measure up in history as a great example of statesmanship.

Why not consider using this nation's awesome economic power to further peace and stabilization in Indochina?

Having said this I need quickly to make my position clear on a few related points.

We are given to understand, without details or officials confirmation, that the possibility of massive economic aid to North Vietnam is under consideration by the administration and undoubtedly was discussed in the peace negotiations between Dr. Kissinger and Le Duc Tho.

Under what I consider to be the right circumstances, I would favor such aid, in fact, would strongly support it.

However, I want it to be known that as things now stand, with our planes still bombing Indochina and the North Vietnamese infiltrating and otherwise violating the Paris peace accord, I would fight to my last breath on the floor of this Senate any proposal to give a nickel's worth of aid of any kind to the People's Democratic Republic of North Vietnam.

This is not hard-line doctrine; it is just commonsense.

On the other hand, if economic aid for peaceful, constructive purposes for the countries of Indochina, including North Vietnam, could be used as a lever to bring about stability in Southeast Asia and to provide a measure of protection to defenseless people from acts of harsh retribution and political retaliation, I think this would be an initiative well worth considering.

By this time, I believe it is obvious to all of us that we cannot dictate the political system that countries will have on the other side of the world. At the same time, I think it is a reasonable assumption that if we used a fraction of the vast billions that we sank in military intervention in Southeast Asia for peaceful economic investment in those same countries, we might have moved mountains instead of demolishing them.

We cannot enforce the peace ourselves but we may be able to encourage it by the following steps:

First, by the clearcut refusal to give one penny of economic aid to Hanoi until it demonstrably lives up to the Paris agreement—and that means no troop reinforcements or war materiel except for 1-for-1 replacements—and, of course, a full accounting of the MIA's.

Second, we should condition aid to South Vietnam on the same full compliance with the Paris accords.

Third, as the fighting subsides, we should consider providing moderate amounts of reconstruction assistance to all sides, so long as they are moving toward a general peace.

Fourth, we should also seek agreement with the Russians and Chinese on respective limits of aid to Indochina. Specifically, we should offer no more aid to South Vietnam than its own allies give to North Vietnam.

These steps, I believe, would serve to insulate Indochina from great power dependence and contribute to the achievement of a stable peace in Southeast Asia.

In summary, if the peoples of South Vietnam, Cambodia, and Laos remain under non-Communist rule; then we can feel that we did everything we could to help make this possible. If their governments ultimately come under Communist control; then it still stands on the record that we did all that could reasonably be expected and more to provide them a free choice.

But if the latter possibility comes to pass—and we must clearly recognize this possibility—it seems to me a little incongruous to consider this the end of the world. For at the very time we are giving up the ghost of hope, the President of the United States may be in friendly discourse with Chairman Brezhnev in Moscow or with Chairman Mao in Peking.

So far as extending the bombing in Cambodia or otherwise perpetuating American military intervention in Indochina, I will oppose it so long as there is a breath in my body or my voice can stir an echo in this Chamber.

Whatever persuasive objections may be raised, the senseless, futile killing by our forces in Indochina must now stop.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from South Dakota (Mr. McGovern) is recognized for not to exceed 15 minutes.

Mr. McGOVERN. Mr. President, I shall speak on a different subject than the Senator from Iowa, but I want to take just a moment to commend him on a superb statement on our challenge in Southeast Asia, and also to express my personal appreciation to the Members of the Senate for the excellent, valuable hearings that he has been conducing into the unauthorized and illegal bombing of Cambodia, which apparently began in 1969 and 1970. I think we are all indebted to the Senator from Iowa for bringing this information to the attention of Congress and the Nation. I wish him well in those continuing efforts.

THE WAY OUT OF THE WATERGATE WALLOW

Mr. McGOVERN. Mr. President, the first and final source of power in our society is the people. The Government belongs to them, not to political leaders. Elections should be determined by them, not by big money, manipulators, and influence peddlers.

But, as T. S. Eliot warns—

> Between the ideal and the reality, falls the shadow.

Last year, that shadow darkened our democratic process. This year, we must seek, as best we can, to dispel the darkness—by correcting the wrongs that were committed and by preventing a similar subversion of our freedom in the future.

The only way to restore public trust in our political process is for our politicians to trust the people. No candidate or official has a right to hide the truth about his campaign or conduct in office. And the people have the most solemn right to know what their representatives have done in the pursuit and exercise of power.

That right cannot be suspended by a former Attorney General's curious judgment that one President's reelection is more important than the laws of the whole Nation.

In that connection, Mr. President, I think one of the most startling exchanges in the entire Watergate hearing conducted by Senator ERVIN's committee has been the dialog between Mr. Mitchell and Senator TALMADGE on this very point, when the former Attorney General said, in effect, that considering the alternative being offered the American people on the other side, criminal behavior was justified to prevent that horrible possibility from becoming a reality.

But the right of the people to know cannot be suspended by citing an obscure and exaggerated concept of executive privilege to conceal evidence of an unprecedented abuse of executive power.

That right cannot be suspended in the name of a false view of national security that has left America more insecure than at any moment in our memory.

And the right of the people to know must now be defended from subversion at home with the same vigor that we would defend our territory from foreign attack.

What the executive branch must do is open up the record of the past to public view. Last May I expressed the hope that the President was not involved in the crimes and the coverup of Watergate. I said then that I wanted to believe him, and I still do. But it is hard to believe someone who demands to be taken on faith but declines to be forthcoming with the facts that would establish his innocence. If Mr. Nixon insists on a President's special prerogative to withhold evidence, how can he fairly invoke an ordinary citizen's presumption of innocence?

This President now has one responsibility above all others—to restore the credibility and capacity of Government. Some essential steps only he can take—such as releasing the tapes of his conversations about Watergate and the surrounding incidents. But the burden rests not only on the White House; it is also here on Capitol Hill. The Congress has a responsibility beyond the Watergate investigation to enact long overdue reform legislation, so that never again will the lowest standards of crime degrade the highest offices of government. That, I think, is what we must do for our country in this troubled hour.

We begin with the Campaign Reform Amendments of 1973. Let us resolve that we will end with real reform, without any element of shame. Let us resist any effort at retreat cloaked in the name of reform.

We must enact a campaign reform bill, not an incumbent's preservation bill; strict reporting requirements, not easy loopholes for those who think they can buy political influence and even Presidential elections; strong legislation which will encourage the confidence of Americans in the system, not weak legislation which will discourage the people even more, and lead still more of them to believe that this is a government of tricksters and fixers.

I feel certain no one in the Senate wants to increase the public cynicism, which is already one of the most alarming phenomena in this country. I am equally certain that it could happen here unless we are careful that every decision we make during this debate on campaign reform is above suspicion.

The Rules Committee, under Senator CANNON's leadership has worked hard and honestly on campaign reform. There are areas in which I think their work could and should be perfected. But as we do so, we must caution ourselves that any change which weakens the campaign laws further weakens our position in the eyes of the people of this country.

One major test is the disclosure section of the Rules Committee bill. The new provision stipulates that campaign committees need report only the name and address of a contributor who gives more than $100 instead of the 1971 requirement to report name, address, occupation, and principal place of business. I had personal experience with that very tough provision in the last election, and I would be the first to state that compliance is difficult and time consuming. But it is also essential. Without provisions for reporting occupation and principal place of business, corporations that are prohibited by law from making direct contributions could use a few cooperative employees as conduits to forward corporate funds to a candidate with very little fear of discovery. And complete identification guards against the possibility of someone using name variations to exceed legal limits on individual contributions.

A second measure of our commitment to campaign reform is the ceiling we set on the size of contributions. In S. 372, individuals and committees are limited to contributions of $5,000 to a congressional candidate with subsequent requirements on other contributions. The provision was modified by the amendment of Senator BENTSEN yesterday, but I think we are still permitting too large contributions to presidential campaigns.

I am aware that in my own campaign last year, while we were not entirely successful in achieving our objective, we did demonstrate certain things. We demonstrated that we could finance a national campaign, involving nearly $30 million, and could do it almost completely with small contributions. Roughly 80 percent of our funds came from direct mail solicitation, with average gifts of about $29. We had some large gifts, but the average of everything we received in that campaign was something less than $30 a contribution. We proved, in other words, that it is possible to finance even a major national campaign with the contributions of ordinary citizens. Therefore, I believe the limitations now in the bill are too high. More reasonably, as Senator HART suggests, we should set an annual limit of $1,000 for all contributions to a candidate by an individual, $3,000 on committee contributions, and $15,000 on total contributions by any single individual and his family to any and all candidates.

If a candidate cannot rely on large gifts, through contributors, he will have to seek small gifts from many contributors. Nothing should reduce the evil influence of big special interest money on public policy so dramatically as eliminating the large contributions which, either directly or in a subtle kind of way, do exert an influence on the recipients of those contributions. This should make elected officials more responsive to the average citizen and their own consciences, and less responsible to powerful special interests. A campaign for the support of the people should be financed by contributions from the people.

Finally, as the bill now stands, it is generally deficient in its favorable treatment of incumbent candidates. As Senators that may be in our interest—but it is not consistent with our duty. Of course, as incumbent Senators, that may be in our interest, but it is not consistent with our duties.

We must amend this legislation to insure that holding an office is not an insurance policy for keeping it. Incumbents have an understandable advantage. But we must not encourage a repetition of the situation in the 1972 campaign, where the power and auspices of an elected official were exploited almost without restraint to assure his reelection at all costs—an exercise which the commentator Sam Lubell has described as the first case in American history of total politics, by which he means the full and unrestrained use of power of an incumbent's office to secure reelection.

Mr. President, the provisions of this bill, with the amendments I envision, will be tough. They will inflict more than a little hardship on candidates and campaign organizations. But the last year has inflicted fearsome damage on our free system. It has painfully strained the already frayed bonds of trust between Government and the people. Now, in the wake of the Watergate scandal, every American politician is on trial. If that means imposing some restrictions on campaign funding that many of us could live quite conveniently without, then that is the price we must pay.

We must also look beyond reforms in private campaign contributions to public financing of campaigns, a practice which the British have used to good advantage for many, many years.

When I last testified on this bill during committee hearings last March, the sordid details of Watergate were not fully disclosed. But it was clear to me even then that it was imperative to enact a system of public financing in Federal elections. Senator KENNEDY and Senator SCOTT of Pennsylvania made that effort yesterday and I hope it will be revived again at some future date, because only that method will provide the strongest safeguard against corruption, conspiracy, and criminal misuse of campaign funds. It would also serve, quite obviously, to lessen the inherent advantages of an incumbent candidate. It would dispose of restrictive reporting procedures that are now necessary but always difficult and cumbersome to enforce.

Whether or not public financing becomes part of the current bill, it is a fundamental step forward which must become part of the law of the land.

The path out of the swamp will be hard to travel.

It will be hard for us to impose restrictions on many honest candidates in order to prevent the depredations at the earliest possible date. Senator CANNON has pledged prompt hearings on this question, and the Congress must follow with prompt action. A campaign should be an appeal for the support of the people on the basis of the issues, not an appeal for the support of special interests on the basis of special favors.

Last week President Nixon complained about those who "wallow in Watergate." But let us remember how this wallow was created. Let us remember as well who keeps us in this wallow by refusing to release the evidence that could open the way to a solid ground for final judgment of the few who abused the privilege of campaign financing.

It will be hard for the President to reveal facts that may be ambiguous or even incriminating.

It will be hard for the witnesses at the Watergate hearings to tell the truth when the truth is damaging to them.

But, as Mr. Nixon is fond of reminding us, the hard thing to do is frequently the right thing to do.

Whether we sit in the Senate or the west wing of the White House, we are not here to secure our own advantage. We are bound to an ideal beyond our own interests, to a principle beyond partisan victory, to a service beyond selfishness. And now more than ever, it is important that we fulfill the highest purpose of our power.

Mr. President, just a few days ago I received a letter from a young man named Danny Nolte. He wrote:

> I am 16 and live in a rural Nebraska county near Lincoln. This past June I was in Washington on a 4H trip. While there, we saw sessions of both the Senate and the House. I am very much interested in the political system of this country. Most of the people in this rural area, unfortunately, don't take an active interest in government. They believe the government is working against them, not for them.

As I read this letter, and I have read thousands of such letters from all over the country in the past few months, I asked myself: How have we reached the point where a young man and his neighbors in rural America think of Government as their enemy rather than their servant?

I thought, too, of the answer we must give to this young man and the American people. We must return the Government to them. We must restore their faith in the system that is supposed to stand for them, not against them. We must seek and settle for nothing less from ourselves—and from the President who was elected to lead us all, not into a dark night for our democracy, but to the brighter day of a free and open society.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1973

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume the consideration of the unfinished business, S. 372, which the clerk will state.

The second assistant legislative clerk read as follows:

> S. 372, to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of sec. 315 with respect to presidential and vice presidential candidates and to amend the Campaign Communications Reform Act to provide further limitation on expenditures in election campaigns for Federal elective office.

The Senate resumed the consideration of the bill.

The ACTING PRESIDENT pro tempore. The pending question is on the adoption of the amendment of the Senator from West Virginia (Mr. ROBERT C. BYRD) No. 423, on which time for debate is not to exceed 30 minutes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time not be charged against either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, on behalf of Senator FONG, that Dorothy Parker be permitted the privilege of the floor during the discussion of the pending amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I make the same request for Thomas Hart of the Committee on the Judiciary.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged against either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, the amendment I have offered would amend title 18 of the United States Code by adding a new section 617 at the end of chapter 29—Elections and Political Activities. The new section would make it a Federal crime for a candidate, or any officer, employee, or agent of a political committee, or anyone acting on their behalf, to embezzle or knowingly convert to his own use, or to any other noncampaign use, any contributions or campaign funds entrusted to him or under his possession, custody, or control. It would also make it a Federal offense to deposit such contributions in any place or in any manner except as authorized by law.

The new section would also make it a Federal crime for anyone to receive, conceal, or retain a contribution or campaign funds, with the intent to convert the money to his personal use or gain, knowing it to have been embezzled or converted.

The penalty for violating this section would be a fine of not more than $25,000 or imprisonment for not more than 10 years, or both. If the funds involved do not exceed the sum of $100, the violator shall be fined not more than $1,000 or imprisoned for not more than 1 year, or both.

The events of the past year have served to intensify efforts for campaign reform and legislative efforts to so structure the Federal law affecting campaign activities as to preclude any reoccurrence of the events that have had a chilling effect on the American political system.

This amendment would assure that any political contribution made to the party or candidate of one's choice would be used for the intended purpose for which it was given—lawful political activity.

The provisions of this amendment would prevent any person in the future from attempting to knowingly divert political contributions from their intended use without fear of possible violation of Federal law. Perhaps equally important, the spelling out of criminal penalties for these acts by the Congress indicates to the American people that Congress will not tolerate this type of subversion of our political process and will take whatever steps are necessary to insure that those who would engage in such activity in the future shall not escape punishment by possibly slipping through a loophole in the law.

Incidentally, it may come as a surprise to many that embezzlement, as here referred to, is not in itself a Federal crime. It is a purely statutory offense and, under present Federal law, the embezzlement of campaign contributions would not be a Federal crime under title 18, section 641, since that section requires that the money embezzled be property of the United States. Title 18, section 654, makes it a crime for a Federal officer or employee to embezzle money of another which comes into his possession in the execution of his office, so it would not apply to campaign employees.

This amendment fills the gaps in the statutory offense of embezzlement as it applies to contributions to a political campaign.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. TAFT. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. TAFT. I note in the language at the end of the Senator's amendment it refers to retaining funds from one campaign to another. I note that it also includes a provision under which the funds could be donated to a political party. I wonder if the Senator believes the language is broad enough so that, if a candidate had funds left over from a particular campaign, he might put them in the hands of the State campaign or the State party committee to hold against any future campaign in which such candidate might partake in the future.

I know that it has been done in Ohio at times. I wonder if as a matter of history the Senator has an opinion on that subject.

Mr. ROBERT C. BYRD. I think the Senator has raised a very pertinent question. I have a modification of my own amendment drawn which would provide on page 2, line 12, strike out all after "provided" and insert the following:

> That notwithstanding the provisions of this section, any surplus or unexpended cam-

paign funds may be contributed to a National or State political party for political purposes, or to educational or charitable organizations or may be preserved for use in future campaigns for elective office, or for any other lawful purpose.

Mr. TAFT. I believe the Senator has covered the point. I wanted to bring it up so that it is understood that that type arrangement which would be desirable could be provided for.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. President, I ask unanimous consent that I may be permitted to modify my amendment, in accordance with the language I have just read. I send the language to the desk to be read by the clerk.

The ACTING PRESIDENT pro tempore. The amendment is so modified. The clerk will read the modification.

The modification was stated as follows:

> On page 2, line 12, strike out all after "provided" and insert the following:
>
> That notwithstanding the provisions of this section, any surplus or unexpended campaign funds may be contributed to a National or State political party for political purposes, or to educational or charitable organizations, or may be preserved for use in future campaigns for elective office, or for any other lawful purpose.

Mr. ROBERT C. BYRD. Mr. President, I am ready to yield back the remainder of my time.

Mr. CANNON. Mr. President, I think this is a good amendment. I am willing to accept the amendment. If the minority has no objection, I am ready to yield back my time.

Mr. GRIFFIN. Mr. President, will the distinguished Senator from West Virginia yield?

Mr. ROBERT C. BYRD. I yield.

Mr. GRIFFIN. Mr. President, is there time available on this side?

The ACTING PRESIDENT pro tempore. There is 15 minutes remaining.

Mr. GRIFFIN. Mr. President, I yield myself 3 minutes.

The ACTING PRESIDENT pro tempore. The Senator is recognized.

Mr. GRIFFIN. I wish to address an inquiry of a technical nature to the author of the amendment, the distinguished Senator from West Virginia.

One of the staff members has raised a question as to whether this amendment as drafted would apply only to candidates for Federal offices or to candidates for all offices, including city commission, sheriff, and so forth? The question is asked because it appears that this amendment would add a new section to title 18 of the United States Code without a definition of the word "candidate."

I am confident that the Senator from West Virginia intends that his amendment should apply to candidates for Federal office. But the amendment may not be so drafted that it will achieve that purpose.

Mr. ROBERT C. BYRD. I am advised that section 608 of title 18 does not exist any longer except as it appears in the act before us, and in the act before us the Senator will note the reference to section 608 on page 6 of the Federal Election Campaign Act of 1971. In that act "legally qualified candidate" is defined on page 1 of the act. On page 5 of the act the word "candidate" appears and the text states that the definition is as follows:

> "Candidate" means an individual who seeks nomination for election, or election, to Federal office * * *.

The definition on page 5 is to title 18, United States Code.

On page 8, with reference to the disclosure of campaign funds it is stated:

> "Candidate" means an individual who seeks nomination for election, or election, † Federal office, * * *.

Mr. President, I think the definition is adequate to cover it, and, of course, may I say it is the intention of the author of the amendment to cover only candidates for Federal office—not to cover candidates for State, local, municipal, or county office.

Mr. GRIFFIN. I have before me a copy of Public Law 92–225, and on page 5 it says, "When used in sections 597, 599, 600, 602, 608, 610, and 611 of this title, 'election' means" this and "candidate" means that.

Mr. ROBERT C. BYRD. The sections to which the able Senator has referred refer to the present law. In the bill we are creating new sections and we are including them in title 18.

Mr. GRIFFIN. Let me thank the Senator for his clarification. Apparently, the technical point that concerned me has been considered and the amendment has been appropriately drafted. Perhaps this colloquy will be helpful in terms of providing legislative history to support the clear intent of the author of the amendment.

Mr. ROBERT C. BYRD. Yes. I thank the Senator for raising the question, because I think it is important that the legislative history show that it is the intent that the word "candidate" in my amendment cover only a candidate for Federal office.

Mr. GRIFFIN. Now, let me indicate my support for the amendment and I hope it will be adopted.

Mr. ROBERT C. BYRD. I thank the distinguished assistant Republican leader.

Mr. CANNON. Mr. President, I am prepared to yield back the remainder of my time, if no other Senator has any question.

The ACTING PRESIDENT pro tempore. All time on the amendment has been yielded back. The yeas and nays have been ordered. The question is on agreeing to the amendment of the Senator from West Virginia, as modified. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

(During the call of the roll, occupants of the galleries applauded.)

Mr. ROBERT C. BYRD. Mr. President, may we have order in the galleries? Will the Chair state the rule regarding order in the galleries?

The ACTING PRESIDENT pro tempore. The Chair would like to say for the benefit of the galleries that rule XIX of the U.S. Senate provides as follows:

> Whenever confusion arises in the Chamber or the galleries, or demonstrations of approval or disapproval are indulged in by the occupants of the galleries, it shall be the duty of the Chair to enforce order on his own initiative and without any point of order being made by a Senator.

I instruct the attendants in the galleries to see that order is maintained in the galleries.

The clerk will continue to call the roll.

The assistant legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. HART), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Louisiana (Mr. JOHNSTON) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON) is absent because of illness.

The Senator from Massachusetts (Mr. BROOKE) is absent on official business.

The Senator from Nebraska (Mr. CURTIS) and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

The Senator from South Carolina (Mr. THURMOND) is absent to attend the funeral of a friend.

If present and voting, the Senator from Massachusetts (Mr. BROOKE) the Senator from Nebraska (Mr. CURTIS) and the Senator from South Carolina (Mr. THURMOND) would each vote "yea."

The result was announced—yeas 88, nays 1, as follows:

[No. 340 Leg.]

YEAS—88

Burdick
Bayh
Bartlett
Allen
Aiken
Baker
Biden
Bellmon
Beall
Bennett
Bentsen
Bible
Brock
Buckley
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cranston
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin
Fannin
Fong
Fulbright
Goldwater
Griffin
Gurney
Hansen
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Hughes
Inouye
Jackson
Javits
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Pa.
Scott, Va.
Sparkman
Stafford
Stevens
Stevenson
Symington
Taft
Talmadge
Tower
Tunney
Weicker
Williams
Young

NAYS—1

Metcalf

NOT VOTING—11

Abourezk
Brooke
Cotton
Curtis
Gravel
Hart
Humphrey
Johnston
Saxbe
Stennis
Thurmond

So Mr. ROBERT C. BYRD's amendment, as modified, was agreed to.

Mr. ROBERT C. BYRD subsequently said: Mr. President, the amendment I offered earlier today, and which was adopted by the Senate, may or may not do one thing that I would like it to do.

Mr. PASTORE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. I understand, in talking with technical experts, that it is arguable as to whether or not my amendment does go to a point that I want it to reach. I therefore ask unanimous consent that my amendment No. 423, which was agreed to earlier today, be reconsidered, that I be permitted to modify it in the following way, and that it again be adopted and be reconsidered, and that the motion to reconsider be laid on the table.

I would modify it in the following fashion: On page 2, line 4, after the word "or", insert the following: "uses any campaign funds to pay or defray the cost of attorney fees for the defense of any person or persons charged with the commission of a crime".

I think it is self-evident as to what the amendment would do.

If it is accepted, then the paragraph will read as follows:

"Whoever, being a candidate, or an officer, employee, or agent of a political candidate, or a person acting on behalf of any candidate or political committee, embezzles, knowingly converts to his own use or the use of another, or deposits in any place or in any manner except as authorized by law, any contributions or campaign funds entrusted to him or under his possession, custody, or control, or uses any campaign funds to pay or defray the cost of attorney fees for the defense of any person or persons charged with the commission of a crime;

The PRESIDING OFFICER (Mr. Domenici). Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the resumption of the unfinished business today, the Senator from Wisconsin (Mr. Proxmire) be recognized to call up an amendment.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

REPORT ON ADMINISTRATION OF THE NATURAL GAS PIPELINE SAFETY ACT OF 1968—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. Ribicoff) laid before the Senate a message from the President of the United States, which, with the accompanying report, was referred to the Committee on Commerce. The message is as follows:

To the Congress of the United States:

I herewith transmit the Fifth Annual Report on the administration of the Natural Gas Pipeline Safety Act of 1968. This report has been prepared in accordance with section 14 of the act, and covers the period of January 1, 1972, through December 31, 1972.

Richard Nixon.

The White House, *July 27, 1973.*

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer (Mr. Ribicoff) laid before the Senate a message from the President of the United States submitting the nomination of Maj. John V. Brennan, U.S. Marine Corps, for permanent promotion to the grade of lieutenant colonel in the U.S. Marine Corps, which was referred to the Committee on Armed Services.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for not to exceed 2 minutes, for the purpose of considering the nomination of Gen. John B. Ryan.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senate will now proceed to the consideration of executive business, and the clerk will state the nomination.

U.S. AIR FORCE

The assistant legislative clerk read the nomination of Gen. John D. Ryan to be a general in the U.S. Air Force.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is confirmed.

Mr. ROBERT C. BYRD. Mr. President, the nomination has been cleared by the distinguished acting chairman of the Committee on Armed Services (Mr. Symington) and the ranking minority member of the Committee on Armed Services (Mr. Goldwater).

I ask unanimous consent that the President be immediately notified of the confirmation of the nomination.

The ACTING PRESIDENT pro tempore. Without objection, the President will be immediately notified of the confirmation of the nomination.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to.

CONTINUANCE OF RAIL SERVICES IN THE NORTHEASTERN UNITED STATES

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of Calendar No. 327, S. 2060, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2060) to authorize the Secretary of Transportation to act to assure the continuance of rail services in the Northeastern United States, and for other purposes, reported from the Committee on commerce with amendments on page 2, line 22, after the word "railroad", insert "in reorganization under section 77 of the Bankruptcy Act"; on page 3, after line 18, insert:

"(c) There is authorized to be appropriated to the Secretary such sums as may be necessary for the purposes of administering this section."

And, on page 4, line 6, after the word "exceed", strike out "$250,000,000" and insert "$210,000,000"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Rail Services Act Amendments of 1973".

Sec. 2. Section 1 of the Emergency Rail Services Act of 1970 (Public Law 91-663) is amended by striking out "1970" and inserting in lieu thereof "1973".

Sec. 3. Section 2 of the Emergency Rail Services Act of 1970 (45 U.S.C. 661) is amended by adding at the end thereof the following new paragraph:

"(5) Trustees means the person or persons appointed as trustees of the property of a railroad pursuant to section 77(c)(1) of the Bankruptcy Act, as amended (11 U.S.C. 205 (c)(1))".

Sec. 4. Paragraph (4) of subsection (b) of section 3 of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(b)) is amended to read as follows:

"(4) in the event of a default in the payment of principal or interest as provided by the certificates, the money paid or expenses incurred by the United States as a result thereof shall be deemed to have been applied to the contract price or the acquisition cost, if any, under section 4 of this Act.".

"Sec. 4. In case of an actual or anticipated cessation of U.S.C. 661 et seq.) is amended by—

(a) redesignating sections 4 through 10 (45 U.S.C. 663–669) of such Act as section 5 through 11 thereof; and

(b) inserting a new section 4 of such Act as follows:

"EMERGENCY OPERATIONS

"Sec. 4. In case of an actual or anticipated cessation of essential transportation services by any railroad in reorganization under sec-Rom. 77 of the Bankruptcy Act, the Secretary is authorized to—

"(a) contract with the trustees for the continued provision of such services; or

"(b) acquire by purchase, lease, or other transfer, any equipment and facilities of such railroad and any operating rights over the tracks of such railroad as in the judgment of the Secretary is required for the continued provision of such services by the Secretary, the trustees, or the Secretary's assignee or assignees. The terms of such contract or acquisition shall be subject to the approval of the reorganization court, and operations over the lines of such railroad pursuant to this section shall be subject to the approval of the Commission under section 5 of the Interstate Commerce Act (49 U.S.C. 5). In no event, however, shall the provision of essential transportation services by the Secretary, the trustees, or the Secretary's assignee or assignees pursuant to this section await the outcome of any proceedings before the reorganization court or the commission.".

(c) There is authorized to be appropriated to the Secretary such sums as may be necessary for the purposes of administering this section.

Sec. 6. Subsection (a) of section 6, as redesignated, of the Emergency Rail Services Act of 1970 (45 U.S.C. 664(a)) is amended—

(a) by inserting in the first sentence thereof after the words "section 3" the following: "and section 4"; and

(b) by striking out at the end thereof the period and inserting in lieu thereof the following: ", not to exceed $210,000,000.".

Sec. 7. Section 7, as redesignated, of the

Emergency Rail Services Act of 1970 (45 U.S.C. 665) is amended by adding the following new subsection at the end thereof:

"(c) For purposes of this section, the National Railroad Passenger Corporation is an instrumentality of the Federal Government.".

Mr. HARTKE. Mr. President, I ask unanimous consent that the Senator from Connecticut (Mr. RIBICOFF) be added as a cosponsor of S. 2060.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senate will be in order.

Mr. HARTKE. Mr. President, I do not intend to take long in discussing this measure. S. 2060 is a bill to authorize the Secretary of Transportation to act to assure the continuance of rail service in the Midwest and Northeastern part of the United States.

It is an interim financial measure, which has, at least as far as the committee is concerned, unanimous support.

Mr. ROBERT C. BYRD. Mr. President, the Senate is not in order. I know the Chair has laboriously tried to secure order. I hope he will persist until order is obtained.

The ACTING PRESIDENT pro tempore. It is necessary for the Senate to be in order. The Chair would suggest that Senators having conversations continue them in the cloakrooms, so that the Senator from Indiana may be heard.

The Senator may proceed.

Mr. HARTKE. The bill primarily deals with the interim situation we face, and the continuing financial difficulties of the railroads in the Midwestern and Northeastern part of the United States. What it really does is provide the authority for the Secretary of Transportation to enter into service contracts to continue that service which would be terminated by action of the courts or some precipitous action of a railroad which found itself unable to continue to operate, because of insufficient finances.

As I say, this is not a long-term solution, and is not intended to be.

The primary purpose of S. 2060 is to assure the continuance of essential rail service in the Northeast and Midwest by providing short-term emergency aid while a long-term solution to the rail transportation crisis is being formulated. The bill would enable the Secretary of Transportation to meet two immediate problems. Through the issuance of obligations, the Secretary could prevent the cessation of essential railroad operations caused by a cash shortage. The Secretary could also enter into a service contract with the railroad to provide sufficient funds, with appropriate conditions attached, to stop further erosion of the estate, and thereby avoid any cessation of essential rail service.

S. 2060 would amend the Emergency Rail Services Act of 1970 and authorize the Secretary of Transportation to contract with the trustees of any railroad in reorganization for the continued provision of essential services in the case of actual or threatened cessation of such services. The bill would also allow the Secretary to acquire by purchase, lease, or other transfer any equipment, facilities, or operating rights over the tracks of such a railroad. At the present time, the Emergency Rail Services Act of 1970 authorizes the Secretary to take action only with respect to those railroads which have accepted loans under authority of the act from the Federal Government; and the Secretary is not authorized to enter into service contracts. The amendment would authorize the Secretary to enter into service contracts or acquire by purchase, lease or other transfer any equipment, facilities, or operating rights over the tracks of any railroad in reorganization under section 77 of the Bankruptcy Act. The terms of any such service contract or acquisition would be subject to the approval of the reorganization court, and the operations over the railroad's lines would be subject to the approval of the Interstate Commerce Commission. The Emergency Rail Services Act of 1970 presently authorizes the Secretary of Transportation to issue obligations to pay for authorized acquisition. S. 2060, the bill before us, amends the present act, which authorizes such sums as may be necessary, by placing a ceiling of $210 million on the authorization to issue obligations to pay for service contracts or acquisitions.

Rail transportation problems in the Northeast and Midwest regions of the Nation are approaching crisis proportions. Trustees of the Penn Central Transportation Co. who are responsible for the Nation's largest railroad proposing to cease rail operations and sell the rail property if aid is not immediately forthcoming. Trustees of other railroads are proposing similar plans.

In order to avert the imminent prospect of a widespread shutdown in rail service routes in this populous region of the United States, with consequent disruption to the economy of the entire Nation and peril to the public health and welfare, this committee has been intensively studying the situation, holding public hearings, eliciting detailed information from railroads, and engaging in independent analysis of proposed long range plans for solving the crisis.

Reluctantly the committee has come to the conclusion that the availability of short term emergency aid is necessary in order to avoid the tragic consequences that a cessation of rail service in the Midwest and Northeast would produce. The cash forecast of the Penn Central Transportation Co. is particularly distressing. In May of this year the trustees informed the committee that by the end of August they projected a negative cash position of $9.9 million. By February 1974 a negative cash position of $27.2 million was projected. As of July 2, 1973, the cash forecast picture was even bleaker, with a projected negative cash position in February 1974 of $34.8 million.

Even if the negative cash position of the Penn Central Transportation Co. were corrected, the continued operation of the railroad would not be assured. The trustees have filed a plan of reorganization with the reorganization court and the Interstate Commerce Commission which sets forth the conditions of continued Penn Central rail service. First, the trustees condition continued rail service upon relief from erosion. On page 5 of the plan filed with the Interstate Commerce Commission the trustees state that—

> If the court shall, prior to October 1, 1973, have approved arrangements pursuant to which relief is forthcoming from the United States, other government authorities, or other sources to stop the erosion of the Debtors' estates, Penn Central shall continue to provide rail services in the manner approved by the Court for a period not to exceed 12 months from the date of such approval. Promptly after court approval, the trustees shall file any necessary amendments to sections II and III of this plan.

The trustees go on to explain that in the absence of such relief from erosion, the trustees plan to cease all freight and passenger service beginning October 1, 1973, on a schedule estimated at 10 weeks, in order to effect the "best interest of the overall preservation of the Debtors' estates and of an orderly liquidation of the Debtors' rail services."

As has been previously stated, cessation of Penn Central rail services would have drastic consequences not only in the Midwest and Northeast but throughout the United States. For example, it has been predicted that a shutdown of the Penn Central would produce a decrease in the rate of economic activity in the region of 5.2 percent, a decrease in the entire Nation of 4 percent and a decrease in the GNP for the Nation as a whole of 2.7 percent after the eighth week of such a shutdown.

A study by the Indiana Department of Commerce predicted that a shutdown of the Penn Central would produce unemployment of that State of 24 percent during the first month. A 60-day shutdown would cause the Indiana Industrial Economy to suffer a 25 percent reduction in its capacity. In addition, east coast marketing of corn and soybeans, two of Indiana's cash crops, would be hamstrung.

Given the present crisis in rail transportation there is a twofold need:

First, there is a need to develop and implement a long range solution; and

Second, there is need to provide short term aid to avert a shut down of a vital rail system.

S. 2060 addresses itself to this latter need. Without waiting for the cessation of essential rail services, the Secretary of Transportation is authorized to take steps to insure continuing service. The Secretary is given the authority to meet the cash shortage problem and the erosion problem. The bill specifically confers upon the Secretary authority to enter into a service contract with the trustees of a railroad about to cease rail service. The service contract arrangement authorized would enable the Secretary to secure the services of the present management. Another advantage of the service contract approach is that it would permit the Secretary to attach conditions in the service contract to assure employee protection—a result which I favor.

The committee has already reported favorably, and the Senate has passed, S. 1925, which would authorize the Interstate Commerce Commission to direct one carrier by railroad to operate over the lines of another carrier which is unable to transport the traffic offered it because:

First. Its cash position makes it continuing operation impossible; or

Second. It has been ordered to discontinue service by a court; or

Third. It has abandoned service without obtaining a required certificate from the Commission.

S. 1925 would serve as a backstop in case a railroad ceased operations prior to the passage of S. 2060 or in the event the administration refused to extend aid as authorized in S. 2060.

Let me repeat that S. 2060 is only an emergency measure designed to infuse into the ailing midwest and northeast rail system just enough blood to keep the system from dying while a cure is researched and then applied. It is an infusion belatedly supported by the administration.

I am pleased to report that the Senate Commerce Committee yesterday took the first step toward finding a cure for the ailing rail system by ordering reported a bill (S. 2188) to provide for the identification of a restructured rail system in the Midwest and Northeast regions of the Nation. Through a new quasi-independent Rail Emergency Planning Office in the Interstate Commerce Commission an intensive study of the present ailing patient would be undertaken and the identification of a vital and healthy rail system would be achieved. Following this study and identification the Department of Transportation and the Commission would recommend to Congress ways of restoring the health of the ailing patient and securing a strong, vigorous, up-to-date rail system. Congress, within 15 months, would then perform the final doctoring.

I urge my colleagues to take favorable action on S. 2060 so that the existing rail system in the Midwest and Northeast does not expire while a cure for it is being discovered.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. HARTKE. I am glad to yield to the Senator from Connecticut.

Mr. RIBICOFF. Mr. President, I want to take this opportunity to commend the distinguished Senator from Indiana for his outstanding leadership concerning rail transportation in America. The Senator from Indiana is well aware of the role played by the railroads in the economic life of our Nation. As a Senator from the State of Connecticut, deeply concerned with the implications of the difficulties of the Penn Central Railroad, I am well aware of what we need if Connecticut is to be able to continue to take care of the industrial, agricultural, and commuter life of the people of the State.

Whenever I have had occasion to talk with the distinguished Senator from Indiana, he has shown himself to be well aware of the problems affecting the entire Nation, and we in the Senate are indeed fortunate to have the advantage of his leadership. Again, my commendations to him for continuing to exercise this leadership for the sake of the economic life of our Nation.

Mr. HARTKE. Mr. President, I thank the Senator from Connecticut for those words of encouragement. I am hopeful that we can develop a solution which will not only continue our present service but upgrade it to the point where the Nation will have an outstanding rail service helpful to all our people.

Mr. RIBICOFF. And let me add, it would be my hope that the administration and the Secretary of Transportation would be equally as concerned as the Senator from Indiana. The times certainly require cooperation between the executive branch and the legislative branch to solve the sticky and knotty problems that plague the railroads of America. I know what the Senator from Indiana is doing, and I would hope that the administration would meet him half way.

Mr. HARTKE. On this measure the administration has done better than that. They have endorsed this particular measure. The Department of Transportation only disagreed as to how much money should be in the authorization. They asked for $85 million. We have gone to $210 million. The Department would make the final determination, however, so we are not at odds on this interim measure. But the Senator is correct, and I hope that the Department of Transportation changes its views concerning the much needed long-term solution.

Mr. RIBICOFF. I thank the Senator. I yield to the Senator from Rhode Island.

Mr. PELL. Mr. President, I also ask unanimous consent to be listed as a cosponsor of this measure.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PELL. I join with my colleague from neighboring State of Connecticut in congratulating the Senator from Indiana on his leadership in this field. I know that he shares the views of those Senators who believe in railroad transportation for people, that it is a disgrace that we do not provide our people with the kind of railroad service that the inhabitants of so many other nations around the world do enjoy, and that only by forward thinking, which he is seeking to do himself, and by joining hands with the administration, and with the administration thinking bravely and thinking ahead, can we do what we should, which is to drain some of the people from the skies onto the ground, so that instead of talking about new airports in New England, we could provide local travelers with adequate ground transportation.

A third of the flights from the Logan Airport go to other airports within the corridor. With decent ground transportation, we could remove that third of the flights from Logan, and would not have to talk about the immediate need for a new jet airport in that area. Without being faced with that emergency, eventually we can think about building new airports where they should be built, perhaps out in the oceans on pilings. But we need 20 years of time, and we could have that if the railroads were used to capacity.

So I congratulate the Senator on this measure, which is a temporary measure, as he says, but at least it helps the problem for the moment, and with his position of leadership and good will, I am sure we will arrive at some form of solution.

Mr. HARTKE. Mr. President, I want to thank the Senator from Rhode Island. He has not only worked in this field, but is the author of some worthwhile papers and books on the subject.

The ACTING PRESIDENT pro tempore. The time of the Senator from Indiana has expired.

The question is on agreeing to the first committee amendment.

Mr. HARTKE. Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered, and the committee amendments are considered and agreed to en bloc.

Mr. HARRY F. BYRD, JR. Mr. President, I yield myself 10 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Virginia is recognized for 10 minutes.

Mr. HARRY F. BYRD, JR. Mr. President, on December 30, 1970, the Senate passed legislation authorizing a loan guarantee for the Penn Central Railroad. It was a loan guarantee of $125 million. I opposed that because I said that if we do that, it would be merely the beginning of a bottomless pit for the use of tax funds.

Now, this legislation would materially change that act of 1970. This is not a loan guarantee of $210 million. This will authorize an appropriation out of the Federal Treasury of $210 million.

Now, Mr. President, no plan has been agreed upon for continuing the operations of Penn Central Railroad. The Senator from Indiana has a plan. The administration has a plan. The Interstate Commerce Commission has a plan. Other proposals have been advanced by Members of the House of Representatives. But there is no agreement, as yet; therefore, we do not really know to what use the funds authorized will be put. There is a very good chance that the sum authorized in S. 2060 is only a down payment on a massive bill which the taxpayers will be required to pay in order to keep a sick enterprise alive.

I say, Mr. President, that we are quite literally voting blind on this question. The administration presented a proposal. While I do not have the details of it in my mind, because this bill was brought to my attention only yesterday and I have not had a chance to check the administration's plan, but as I recall it, it had a plan for the handling of this problem without the use of tax funds. The committee, I understand, did not go along with that.

Mr. HARTKE. Mr. President, will the Senator from Virginia yield?

Mr. HARRY F. BYRD, JR. I yield.

Mr. HARTKE. Let me clarify that for the Senator. I am in no way disagreeing with your right to disagree with the merits of the bill. This measure is not in conflict, however, with the difference of opinion among the committee itself, Congress, and the Department of Transportation, as to what should ultimately be done to solve the Midwest and Northeast rail crisis.

It does not make any difference at this point if we adopted the Department of Transportation proposal, or any other proposal. These long-term solutions do not address the immediate problem, and that is the simple fact that the Penn Central Railroad will run out of cash and the end result will be a cessation of services. There is no plan—and I do not think this can be successfully contradicted—which could avoid the necessity of having this legislation. We are not trying to mislead anyone. Frankly, the $125 million loan guarantee was as much of a grant as anything we have done. Under the pending bill, that $125 million would be included in any service contract entered into with the Penn Central. I quite agree with the Senator from Virginia on that point. But this legislation deals directly with the immediate problem which, as I have said, is to continue service.

I just wanted to clarify that for the Senator.

Mr. HARRY F. BYRD, JR. I thank the distinguished Senator from Indiana.

As I mentioned earlier, the $125 million that the Senate approved on December 30, 1970, less than 3 years ago, was a loan guarantee. Now we come back today, less than 3 years later, to seek $210 million as an appropriation from the Federal Treasury to make available operating cash for the railroads. There is no long-range plan to solve the problem. There are a multitude of different plans.

I am convinced that the statement I made on December 30, 1970, was an accurate one. This bill shows it. The bill shows that it is a bottomless pit for tax funds. This is an attempt to bail out a private company which is in bankruptcy.

Mr. President, there are 11,000 bankruptcies in this country every year. If we in Congress undertake to use tax funds to bail out private companies which go into bankruptcy, I submit there will be no end to the use of tax moneys.

Now, Mr. President, I yield to the distinguished Senator from Wisconsin (Mr. PROXMIRE).

Mr. PROXMIRE. Mr. President, I objected to the original loan guarantee because, as the Senator from Virginia said, that was, in my view, a handout to a corporation. But, at least, it was a loan guarantee, that some opportunity would exist to get the funds back. In that case, it was clear that the Penn Central Railroad needed the funds and urgently. No showing has been made that they need the full $210 million. The indications are they need something like $38 million. We provide far more than that urgent need. If they need cash, here we are, coming in at this point to bail out a private enterprise which is bankrupt.

It seems to me that we should have some recourse, some opportunity, with our responsibilities to the taxpayers, to get that cash back. There should be some kind of claim by the Government, in the event the long-range plans for the railroads operation work out, so that we will have the opportunity to reclaim the amount provided to them.

One other point, the distinguished Senator from Virginia did point out that there are thousands and thousands of bankruptcies in this country every year.

How do we justify to the other companies which have gone bankrupt simply picking out one large corporation and bailing it out, and bailing it out without any real conditions under which we can reclaim the taxpayers' money when we bail them out? If we bail out Penn Central, why should we not do the same for a small company in my State which is going bankrupt?

I have great sympathy for the position of the Senator from Indiana. It is not easy. I know he has the responsibility in his position as chairman of the Transportation Subcommittee, but I do think we should have some basis for protecting the taxpayers' interests other than providing $210 million in an appropriation and under conditions in which there is no way, apparently, that the taxpayer will be protected.

I thank the distinguished Senator from Virginia.

Mr. HARRY F. BYRD, JR. I thank the able Senator from Wisconsin for his contribution to this debate. I think he makes very clear that from the point of view of the taxpayers, this is a very dubious arrangement, indeed.

Now, Mr. President, I yield to the distinguished Senator from Maine (Mr. HATHAWAY).

Mr. HATHAWAY. Mr. President, I would like to ask the Senator from Indiana as to what a service contract is?

Mr. HARTKE. A service contract?

Mr. HATHAWAY. Yes.

Mr. HARTKE. To continue service on the railroad. We are faced with an order of the court on a liquidation plan for which the railroad itself had asked. There are eight regional railroads now in bankruptcy in the Middle Western section of the country. When the order to liquidate is given, the service will stop. At that time the Department of Transportation is authorized by this bill to enter into a contract to continue essential service.

The difficulty, even with the present bill, is that it is an open-ended authorization up to $210 million. If anyone has a better solution to this situation, neither the Commerce Committee nor the Department of Transportation has heard it.

It is one of the remarkable situations in which I, as chairman of the Surface Transportation Subcommittee, have been able to agree almost totally with the Department of Transportation and the Interstate Commerce Commission. I do not think there is any question that this legislation is probably absolutely essential to the continuation of a healthy economy in the United States. Industrial employment in the United States, if we have a cessation of operations, will experience a greater decline than the depression of the 1930's. That is what we are faced with.

Mr. HATHAWAY. The service contract, in effect, is a gift from the Federal Government to the railroad to maintain service over a line where they could not maintain service on their own if they had to pay for it themselves. Is that not correct?

Mr. HARTKE. There are two problems. One is to continue service over the line itself. In other words, it is to provide service to the shippers. It is like a lease, but less complicated.

The second point is that, by virtue of the action of Congress taken last year, we forced the railroads to continue to operate. This, in effect, is a taking without compensation. There is no question in my mind that unless action of this kind is taken, the reorganization courts will proceed in a court of claims for compensation for taking without due process of law.

We are trying to prevent the actual cessation of services, to continue operating and at the same time avoid the necessity of seeing what ultimately would be a claim against the United States, if Congress forces these railroads to operate.

Permitting unemployment to go to 25 percent in 8 weeks is untenable. Many people say we are bailing out the railroad. We are bailing out the American economy.

Mr. HATHAWAY. Unlike the loan guarantee which we passed last year or the year before, this is not a loan guarantee; it is an outright subsidy.

Mr. HARTKE. This is an outright payment from the Treasury for the contracted services.

The court will not authorize further loan guarantees, because there is no hope of repayment. I agree with the Senator from Virginia that the $125 million probably could have been listed just as well a grant. We are in a very unhappy situation.

Mr. HATHAWAY. I was out of the Chamber for a while, and the Senator may have already answered this question. What is the long-range plan for this? Let us say this goes through. What is the next step?

Mr. HARTKE. The long-range plan, as adopted by the Committee on Commerce with only one dissenting vote, Senate bill 2188, was ordered to be reported. I have had conversations with practically everyone directly involved. The House has not agreed that this proposal should be followed, but is inclined to proceed in this fashion. The Department of Transportation at the present time is still opposed to that measure.

Mr. HATHAWAY. The long-range plan would take the Federal Government off the hook so far as further subsidies are concerned?

Mr. HARTKE. The long-range plan provides that the Interstate Commerce Commission will submit an economic restructuring, with the financing necessary to do that, within 1 year. It is the most massive economic reorganization ever proposed in the United States.

Mr. HATHAWAY. Which would put the railroad on a paying basis—presumably.

Mr. HARTKE. It would presumably put it on as close to a paying basis as we can. It would be wrong to mislead the Senate into thinking that we are going to restructure the system without financing. Down the road, we are faced with some very tough decisions on money—tougher than this one, by far.

Mr. COOK. Mr. President, will the Senator yield?

Mr. HARTKE. I yield.

Mr. COOK. I would add that no one should live under any great apprehension that regardless of which restructuring plan is ultimately selected—and we have seven or eight before the committee now—we can ever get what is commonly referred to as the northeast corridor of the United States on a paying basis.

Mr. HARTKE. That is our problem.

Mr. HATHAWAY. I take the same position as the Senator from Wisconsin and the Senator from Virginia. If we are going to do this for the Penn Central, should we not be doing it for various other enterprises throughout the United States?

Mr. COOK. This involves eight railroads.

Mr. HARTKE. It is not just the Penn Central. It deals with eight railroads.

Mr. HATHAWAY. There are other industries as well.

Mr. HARTKE. Fourteen went bankrupt last weekend—14 smaller lines.

Mr. BEALL. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. I have the floor. I am glad to yield to the Senator.

Mr. BEALL. My understanding of the proposed legislation is that it does not apply to all bankrupt railroads. It is designed to save essential service. If there is a cessation of operations, the Department of Transportation will determine what are essential services to help the economy in a particular area. The purpose of the proposal is to keep railroad service operating that is essential.

Mr. HARTKE. The Senator is 100 percent correct.

Mr. BROCK. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. I yield.

Mr. BROCK. How does one define essential services? Are we training to maintain uneconomic routes that simply are not essential? That is what I gather from the response to the question of the Senator from Maine—that $210 million would go to continue services that really should have been abandoned a long time ago were it not for the mandate of the ICC and the Federal Government.

Mr. HARTKE. That argument ultimately will have to be met. That is not the discussion or the debate on this bill. We are talking about, as the Senator from Maryland has indicated, a threatened cessation of essential services. The Department of Transportation will decide what services must be maintained and will provide the necessary money to maintain them. We are not going to give the money to the railroad. They will have to enter into a service contract to pay the bills and prevent erosion of the estate. We are not giving anybody anything.

Mr. BROCK. Where is the determination as to what routes should be served?

Mr. HARTKE. This determination will be made by the Department of Transportation, with the approval of the reorganization court involved and of the Interstate Commerce Commission. In the meantime, we do not have to wait for the court decision.

If the Penn Central ceased operating, let us assume, or even the Reading or the Erie-Lackawanna at the present time, we would have a complete stoppage of the whole movement of freight. The Department of Transportation would be authorized to enter into service contracts to keep the service going. Some of that authority is open ended now. This puts a limit on it of $210 million.

Mr. BROCK. I know what would happen if the Penn Central stopped operating. I also know that the Penn Central operates some ridiculous routes that should have ceased a long time ago.

Mr. HARTKE. That decision is in the hands of the Department of Transportation.

Mr. PEARSON. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. I yield.

Mr. PEARSON. Mr. President, the Senator from Tennessee is absolutely right. One of the great problems in the Northeast corridor is an enormous duplication of lines, and no one understands that better than the Department of Transportation.

As a matter of fact, one of their great objections to the plan that was sent to the Committee on Commerce was that they were too ruthless in specifying what are essential services. They did not take into consideration some of the social and economic needs of the rural communities. I do not think any agency of the Government today has a better understanding of what is essential and takes a more brutal view as to what the services are.

I say to the Senator from Tennessee and the Senator from Virginia and the Senator from Wisconsin that if they want to say this is a bad bill, I am ready to agree with them. But I have to ask them the same question we had to ask ourselves: What is the alternative? It is a shutdown of the rail system in the Northeast part of the United States.

Mr. HARRY F. BYRD, JR. That is not my understanding of what the Secretary of Transportation presented. I understand the Secretary of Transportation presented a program to Congress——

Mr. PEARSON. That is right.

Mr. HARRY F. BYRD, JR. (continuing). Which would not require tax funds.

Mr. PEARSON. If the Senator will check the record now he will find that the Secretary of Transportation changed his proposal to a very considerable extent and he does now recognize that an enormous amount of money is going to be put in. He was not trying to indicate ahead of time how much money will have to be laid out. I think he was wise to do that.

Mr. HARRY F. BYRD, JR. The Senator from Indiana said a while ago that the Department of Transportation did not request $210 million, but rather $85 million. Is that correct?

Mr. PEARSON. As a matter of fact, in 1970 the authorization was open-ended and it was $125 million. This is an additional $85 million, bringing it up to $210 million.

Mr. HARRY F. BYRD, JR. And the $125 million was loan guarantee; it was not an appropriation.

Mr. PEARSON. The $85 million here is the amount of money to be used if a service is to be discontinued by a bankrupt railroad. Then you come in with the money. It is not a good proposal. The Senator does not like it, and I do not like it.

Mr. HARRY F. BYRD, JR. The bill states $210 million. Also, I invite the attention of the Senator to page 3, line 19, where it is stated:

> There is authorized to be appropriated to the Secretary such sums as may be necessary for the purposes of administering this section.

Mr. HARTKE. Not to exceed $210 million. There is not as much disagreement as appears on the surface, even with the $85 million. The Department of Transportation voluntarily indicated they would not object to the enactment of S. 2060. They are talking about $85 million, which they think will carry these railroads through the next year. I personally have previously issued a statement based on information we were able to put together which shows that $62.5 million will do the job.

We are faced at this time with the problem of how to get through the interim period. The Department of Transportation will be in complete control of the money subject to a limit of $210 million.

Mr. HARRY F. BYRD, JR. It was also open-ended, as Senators will see on page 3.

Mr. HARTKE. It is not a loan. I said that in the beginning. First, it is not used to authorize a loan. The court would not accept it, because there is no way to repay it. This is a guarantee from the Federal Government because there is no legitimate way they can repay under the reorganization plan.

Mr. HARRY F. BYRD, JR. Will the $125 million be paid out of this $210 million?

Mr. HARTKE. I did not hear the Senator's question.

Mr. HARRY F. BYRD, JR. Will the $125 million loan guarantee be paid from the $210 million?

Mr. HARTKE. Yes.

Mr. HARRY F. BYRD, JR. It is correct, I gather from the Senator's assertion, that the Department sought only $85 million, yet we are giving them $210 million?

Mr. HARTKE. Yes. They had to pay off the loan. As I said, we came up with a figure of $62.5 million. I do not agree on the $85 million figure.

Mr. HARRY F. BYRD, JR. Why do we not change the legislation and make it $85 million?

Mr. HARTKE. We cannot because the railroads could not then pay the $125 million loan and still keep the trains running. I wish the problem were as simple as the Senator wants it to be. I would like to cut it back.

Mr. HARRY F. BYRD, JR. I do not think it is a simple problem because of what the Senator from Indiana said a while ago, if I heard him correctly. He did not use the words "drop in the bucket," but he said there will be many heavier demands—I think he used words along those lines—on the taxpayers as time goes by in regard to these loans.

Mr. HARTKE. I did not say that, or at least I did not want to leave that impression. I said that some hard decision will have to be made by Congress ultimately on the future of the railroad industry. Anyone who gives any other impression is misleading this body and the country.

The problem is, what are we going to do with the rail transportation system? It is the only transportation system which is not subsidized in America. The airports are subsidized. Some of them, like Dulles and Washington National, are owned by the Government; the air traffic controllers and navigation aids are federally paid; we pay 75 percent of the cost for runways.

I agree with the Senator from Kansas. We do not like this bill, but it is the best answer we have, including that from the Department of Transportation.

Mr. PEARSON. Mr. President, will the Senator from Virginia yield?

Mr. HARRY F. BYRD, JR. I yield.

Mr. PEARSON. Mr. President, some response should be made to the assertion that if we are going to do this sort of thing for bankrupt railroads, why not do it for everyone else? The answer is that wherever there is found an industry as essential as the railroad industry to the entire national economy, we are going to be here doing somewhat the same thing. But if you take the possibility a step further, if you have these roads failing and not running in northeast United States, you are going to have bankrupt manufacturers and bankrupt shippers failing by the dozens, by the scores, by the hundreds. We are trying not so much to maintain a railroad, but to maintain the economy in the given area we are considering.

The answer is that wherever an essential part of the National economy is involved, we will be here doing this sort of thing until we solve our problems.

Mr. HATHAWAY. Mr. President, will the Senator from Virginia yield?

Mr. HARRY F. BYRD, JR. I yield.

Mr. HATHAWAY. I wish to ask the Senator from Kansas why the reorganization plan contemplated in another bill was not made a part of this bill?

Mr. PEARSON. We are dealing now on a patch work basis. The other day we had a piece of legislation to provide authority for the ICC to let other railroads run across the bankrupt and failing railroad lines. That was patchwork and this is patchwork. We are trying to get to the point where we can have a reorganization of the railroads in northeastern United States. It takes years and it takes studies to come up with a proposal. The Senator from Indiana now has a bill; the ICC came in with a proposal; the Department of Transportation has a proposal. We move into the bankruptcy stage with six, seven, or eight railroads under reorganization. Bankruptcy will not work and we are at the point of total collapse. It is difficult to draft a new system to affect the entire rail system. It takes time. The great objection to the plan sponsored by the Senator from Indiana is that he does not do anything to call for another study for another 18 months. It is an enormous thing to do but it must be done.

Mr. HATHAWAY. We do not know at what time in the future reorganization will take place.

Mr. PEARSON. The Senator is correct.

Mr. HATHAWAY. We may be back in 6 months voting for more money.

Mr. PEARSON. The Senator is correct. The only alternative might be a worse situation.

Mr. BUCKLEY. Mr. President, I must vote against the Emergency Rail Service Act Amendments of 1973 for the following reasons:

First, it will merely prolong the emergency with a concomitant continuation of the deterioration of our railroads by further deferring the hard decisions. We need a permanent solution to a longstanding problem that the Congress ought to have faced up to by now.

Second, the $210,000,000 appropriation is an expenditure that would not have been necessary had the Congress adopted the Secretary of Transportation's proposal or the other comparable ones that would not have required large expenditures of public funds in order to reorganize our northeastern railroads in a more sensible, promising basis.

Third, given the nature of things, it is safe to predict that having set out on this course, we may consider this to be a $210,000,000 first installment on an endless series of subsidies as the Congress ducks the decisions.

I admit, Mr. President, that because of congressional inaction this payment is now made necessary. The bill will be passed. I hope, however, that a substantial negative vote will emphasize the urgent need to conduct a full set of hearings on the rail transportation problem with a serious discussion of alternatives.

I urge the Committee on Commerce to make the reporting out of definitive legislation to terminate the emergency its first order of business.

Mr. PEARSON. Mr. President, during hearings on the Northeast rail problem, it became apparent that at least some of the six bankrupt class I railroads serving the region will be forced into liquidation—absent direct Federal assistance—within the next 12-month period. The courts constitutionally cannot permit continued erosion of creditors' estates without the prospect of successful reorganization.

The Commerce Committee has directed its attention, in the short term, to the problems which would accompany precipitous cessation of essential rail services to shippers in communities served by the bankrupt carriers. The process of liquidation of a railroad could lead not only to severe financial problems for shippers, but also to food and fuel shortages which threaten human health and welfare. The committee has approved, and the Senate has passed, one bill designed to respond to short-term crises of this nature.

S. 1925, a measure requested by the Interstate Commerce Commission, permits the Commission to direct an operating carrier to perform—for a limited period of time—essential rail services over the lines of a defunct carrier. This authority, however, cannot be used to substantially impair the ability of the operating carrier to serve communities and shippers on its own lines. S. 1925 is pending consideration in the other body at this time.

The committee now seeks favorable Senate action on S. 2060, the Essential Rail Services Act Amendments of 1973. Before reporting this measure, the committee adopted all proposed administration amendments. The bill comes to the floor with administration support.

The purpose of S. 2060 is to assure the continuance of essential rail services in the Northeast and Midwestern States served by the bankrupt carriers. It provides emergency aid while the long-term solution to the problem is being developed. Regardless of the ultimate determination of the Congress in respect of a long-term solution, the assistance contemplated in S. 2060 will almost certainly be needed. The administration's plan for dealing with the crisis, for example, is a plan based upon reorganization of the bankrupt railroads wholly in the private sector. But the administration plan, if it were adopted, would require time to be implemented. And in the interim, the administration has requested authorization of an additional $85 million for emergency assistance to maintain essential rail services without interruption.

The pending bill provides the Secretary with the authority he seeks. It should, in my judgment, be approved promptly by Congress and enacted into law.

S. 2060 would amend the Emergency Rail Services Act of 1970 and authorize the Secretary of Transportation to contract with the trustees of any railroad in reorganization for the continued provision of essential services in the case of actual or threatened cessation of such services. The bill also would allow the Secretary to acquire by purchase, lease, or other transfer, any equipment, facilities, or operating rights over the tracks of any railroad in bankruptcy.

The bill amends the present act, which has an open-ended authorization, by placing a ceiling of $210 million on the authorization to issue obligations to pay for service contracts or acquisitions. The $210 million limit was recommended by the Secretary of Transportation, with the approval of the Office of Management and Budget. The bill as introduced had a limit of $50 million.

Under the bill as reported by the committee, the Secretary will have authority to accomplish two purposes: He will be able to prevent cessation of essential rail services caused by cash shortages while a final plan for the Northeast rail system is developed and implemented. He will also be able to provide a railroad with sufficient funds to prevent further erosion of estate and thus avert a court-ordered shutdown on constitutional grounds.

Mr. President, this legislation certainly does not contain sufficient authorization of appropriations to defer resolution of the Northeast rail crisis for any significant period of time. Even with the authority contained in this bill, it will be necessary for Congress to proceed with an ultimate solution at the earliest possible time. S. 2060 will provide at most a year before fundamental changes must be made to effect reorganization of the Northeast rail system along rational lines.

Mr. President, I urge favorable action on the Emergency Rail Service Act Amendments of 1973.

Mr. PELL. Mr. President, I am happy to support S. 2060, the Emergency Rail Services Act of 1973. This bill, reported by the Senator from Indiana (Mr. HARTKE), addresses itself to the immediate problem of continuing essential rail service in the Northeast and Midwest, until we find longer range solutions to the crisis facing our railroads, especially those confronted by bankruptcy proceedings.

The legislation we consider today has relevance to the desperate plight of the Penn Central, threatened by possible liquidation unless the Congress takes effective action.

As the committee report points out, cessation of Penn Central rail services would have drastic consequences not only in the midwest and northeast but also throughout the United States.

Latest figures supplied by the Penn Central employs 1,165 individuals, spends annually $8,493,381 in wages and salary payments, makes purchases of equipment in Rhode Island totaling $74,389, and invests on an annual basis $550,000 in its industrial development within the State.

Mr. President, my State has been stricken by what I continue to believe is the totally unwarranted loss of our traditional naval installations. Liquidation of the Penn Central could lead to additional serious hardships.

In terms of longer range solutions, I would like to take this opportunity of emphasizing that on June 26 of this year I introduced S. 2080 to provide for the establishment of improved rail passenger services in transportation corridors in the United States. This bill has applicability to both present and long-term needs in the areas prescribed in S. 2060, and I hope it will be favorably considered as we move forward from needed emergency solutions.

As I said on June 26, and as a Senator who has worked for more than 12 years for the betterment of our Nation's railroads, I am convinced that we can turn losses and deficits and bankruptcies into ultimately profitable enterprises, if we concentrate on providing our citizens with services that are sufficiently upgraded—fast, safe and clean, and on schedule.

As we think beyond the emergency needs of today, let us keep our eyes on this goal which in my judgment is well within attainment.

Mr. HARRY F. BYRD, JR. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 1 minute remaining.

Mr. HARRY F. BYRD, JR. I wish to point out that in the letter from the Secretary of Transportation on page 11 of the report he said:

> The Department would not object to the enactment of S. 2060 limited to an additional $85 million.

Note he says he would not object. He apparently does not express support.

The PRESIDING OFFICER (Mr. BENTSEN). All time having expired or been yielded back, the bill is open to further amendment.

If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. HART), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Louisiana (Mr. JOHNSTON) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON) is absent because of illness.

The Senator from Massachusetts (Mr. BROOKE) is absent on official business.

The Senator from Nebraska (Mr. CURTIS) and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

The Senator from South Carolina (Mr. THURMOND) is absent to attend the funeral of a friend.

If present and voting, the Senator from Massachusetts (Mr. BROOKE) would vote "yea."

On his vote, the Senator from South Carolina (Mr. THURMOND) is paired with the Senator from Nebraska (Mr. CURTIS). If present and voting, the Senator from South Carolina would vote "yea" and the Senator from Nebraska would vote "nay."

The result was announced—yeas 59, nays 30, as follows:

[No. 341 Leg.]

YEAS—59

Aiken
Baker
Bayh
Beall
Bennett
Bible
Biden
Brock
Cannon
Case
Cook
Cranston
Dole
Dominick
Eagleton
Eastland
Fong
Fulbright
Griffin
Gurney
Hartke
Haskell
Hatfield
Hollings
Huddleston
Inouye
Jackson
Javits
Kennedy
Long
Magnuson
Mathias
McGee
McGovern
McIntyre
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Randolph
Ribicoff
Roth
Schweiker
Scott, Pa.
Stafford
Stevens
Stevenson
Symington
Taft
Tower
Tunney
Weicker
Williams
Young

NAYS—30

Allen
Bartlett
Bellmon
Bentsen
Buckley
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Chiles
Church
Clark
Domenici
Ervin
Fannin
Goldwater
Hansen
Hathaway
Helms
Hruska
Hughes
Mansfield
McClellan
McClure
Metcalf
Mondale
Nunn
Proxmire
Scott, Va.
Sparkman
Talmadge

NOT VOTING—11

Abourezk
Brooke
Cotton
Curtis
Gravel
Hart
Humphrey
Johnston
Saxbe
Stennis
Thurmond

So the bill (S. 2060) was passed, as follows:

S. 2060

An act to authorize the Secretary of Transportation to act to assure the continuance of rail services in the northeastern United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "Emergency Rail Services Act Amendments of 1973".

SEC. 2. Section 1 of the Emergency Rail Services Act of 1970 (Public Law 91–663) is amended by striking out "1970" and inserting in lieu thereof "1973".

SEC. 3. Section 2 of the Emergency Rail Services Act of 1970 (45 U.S.C. 661) is amended by adding at the end thereof the following new paragraph:

"(5) Trustees means the person or persons appointed as trustees of the property of a railroad pursuant to section 77(c) (1) of the Bankruptcy Act, as amended (11 U.S.C. 205 (c) (1))".

SEC. 4. Paragraph (4) of subsection (b) of section 3 of the Emergency Rail Services Act of 1970 (45 U.S., 662(b)) is amended to read as follows:

"(4) in the event of a default in the payment of principal or interest as provided by the certificates, the money paid or expenses incured by the United States as a result thereof shall be deemed to have been applied to the contract price or the acquisition cost, if any, under section 4 of this Act.".

"SEC. 4. In case of an actual or anticipated cessation of U.S.C. 661 et seq.) is amended by—

(a) redesignating sections 4 through 10 (45 U.S.C. 663–669) of such Act as section 5 through 11 thereof; and

(b) inserting a new section 4 of such Act as follows:

"EMERGENCY OPERATIONS

"SEC. 4. In case of an actual or anticipated cessation of essential transportation services by any railroad *in reorganization under section 77 of the Bankruptcy Act,* the Secretary is authorized to—

"(a) contract with the trustees for the continued provision of such services; or

"(b) acquire by purchase, lease, or other transfer, any equipment and facilities of such railroad and any operating rights over the tracks of such railroad as in the judgment of the Secretary is required for the continued provision of such services by the Secretary, the trustees, or the Secretary's assignee or assignees. The terms of such contract or acquisition shall be subject to the approval of the reorganization court, and operations over the lines of such railroad pursuant to this section shall be subject to the approval of the Commission under section 5 of the Interstate Commerce Act (49 U.S.C. 5). In no event, however, shall the provision of essential transportation services by the Secretary the trustees, or the Secretary's assignee or assignees pursuant to this section await the outcome of any proceedings before the reorganization court or the Commission.".

(c) There is authorized to be appropriated to the Secretary such sums as may be necessary for the purposes of administering this section.

SEC. 6. Subsection (a) of section 6, as redesignated, of the Emergency Rail Services Act of 1970 (45 U.S.C. 664 (a)) is amended—

(a) by inserting in the first sentence thereof after the words "section 3" the following: "and section 4"; and

(b) by striking out at the end thereof the period and inserting in lieu thereof the following: ", not to exceed $210,000,000.".

SEC. 7. Section 7, as redesignated, of the Emergency Rail Services Act of 1970 (45 U.S.C. 665) is amended by adding the following new subsection at the end thereof:

"(e) For purposes of this section, the National Railroad Passenger Corporation is an instrumentality of the Federal Government.".

Mr. HARTKE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MOSS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1973

The PRESIDING OFFICER (Mr. BENTSEN). Under the previous order, the Senate will resume the consideration of the unfinished business which the clerk will report.

The legislative clerk read as follows:

A bill (S. 372) to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of sec. 315 with respect to Presidential and Vice Presidential candidates and to amend the Campaign Communications Reform Act to provide further limitation on expenditures in election campaigns for Federal elective office.

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I call up my amendment No. 342.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

On page 50, strike lines 8 through 18.

On page 50, line 19, strike "Sec. 18" and insert "SEC. 17".

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. PROXMIRE. Mr. President, the amendment strikes section 17 of the Federal Elections Campaign Act of 1973. In doing so it maintains in effect a law that has been on the books since July 19, 1940, prohibiting campaign contributions—directly or indirectly—by Government contractors.

If we leave section 17 intact then this 1940 law will be gutted. For section 17 permits separate segregated corporate or labor funds to be used for political contributions. Thus that part of the 1940 law prohibiting indirect contributions would be null and void. Since direct contributions by corporations or labor unions have long been proscribed by other legislation this indirect contribution prohibition has been the "teeth" of the 1940 law—section 611 of title 18 of the United States Code.

Why the sudden turnaround, one could well ask. Why has a law that has been on the books for so long finally been selected for virtual elimination? The answer is distressingly straightforward. Common Cause, the citizens lobby, went into the courts in 1972 to enforce the law for the first time since it was enacted 32 years ago. Before the Common Cause suit against TRW, Inc., a very large defense contractor, companies having Government contracts had simply been violating section 611 by making campaign contributions indirectly through segregated committees. Committees had been formed for the purpose of making campaign contributions by Crown Zellerbach, Quaker Oats, subsidiaries of General Telephone & Electronics Corp., and Hughes Aircraft, among others.

Common Cause filed their suit on May 15, 1972. TRW, the defendant, rather than contest the issue, simply dissolved the fund. But the fat was in the fire and Congress went quietly to work. On September 27 of last year H.R. 15276 was reported from the House Rules Committee without the benefit of hearings. The bill did pretty much what section 17 of the Federal Elections Campaign Act does. It permitted Federal corporate contractors to make campaign contributions indirectly through independent good government committees.

The bill was placed on the suspension calendar. Because of the lack of hearings and the way the bill was quietly, almost stealthily, reported Common Cause had less than 1 day to get the one-third plus one vote needed to block passage on the suspension calendar. They came very close—miraculously close considering the short time involved—but they failed to block a two-thirds vote approval by the razor thin margin of one vote. The bill was passed—249 to 124.

A mere 2 days after the legislation passed the House it was reported by the Senate Rules Committee. Speed was of the essence. The supporters of the legislation must have known that there would be strenuous objections from the man in the street if he caught on to what the Congress had up its sleeve. The Senate leadership realized this also and canceled out the Rules Committee's hasty action by refusing to schedule the repeal legislation.

But the supporters, undaunted, made one last desperate effort to tack the legislation on to a minor tariff bill. Senators STAFFORD and AIKEN, together with this Senator, were successful in beating back this last minute attempt to sneak the bill through in the waning hours of the 92d Congress.

This, then, is a brief history of last year's attempts to rush this proposal through the Halls of Congress before the people discovered what was afoot. Now we are confronted with another effort to accomplish the same end—buried in a generally progressive campaign reform proposal. It is worth noting that no testimony was given in support of this provision before the House Rules Committee whereas Common Cause spoke out against an amendment of this sort in their testimony. Thus we are once again confronted with a proposal that has more or less quietly been introduced without substantial hearing consideration.

The argument is made that we should put all corporations on a par, whether or not they have contracts with the Federal Government. Why, we are asked, should a corporation with a Federal contract not be on the same footing with a corporation without such interests? The answer is very obvious. A Federal contractor has a direct monetary interest in gaining favorable consideration by the U.S. Government as the contract is being carried out. This favorable consideration may evidence itself in a reluctance to make the contractor live up to all the terms of the contract. It may be shown in a failure to enforce the penalty clauses in the contract. Extensions may be given where they are simply not warranted. Future contracts may be given to the same firm despite poor performance on existing contracts. There are a million and one ways in which a contractor can benefit by staying on the good side of a Federal agency, and therefore there are many reasons why a Federal contractor should want to put himself in a position where he is in the good graces of those who have influence on the terms of the contract.

An obvious way to curry such governmental favor is to apply pressure on an agency through a Member of Congress. We all know that companies residing in our respective States often ask for help with the Federal Government. And as constituents they are entitled to receive from us all proper assistance. But it would be highly improper for a corporation to, in effect, buy congressional pressure or influence, by making very substantial contributions to, say, the chairmen of the House and Senate Appropriations Subcommittees handling the funding for the agency with which the company does business. This is the sort of situation that section 611 is meant to avoid—the sort of situation that section 17 of the Federal Elections Campaign Act would foster.

The PRESIDING OFFICER (Mr. BENTSEN). The Senator will withhold further remarks until the Senate is in order. The Senate will be in order. Senators desiring to confer will retire to the cloakroom.

The Senator from Wisconsin may proceed.

Mr. PROXMIRE. Some may protest that these separate political committees simply are expressing the wishes of the hundreds of company employees who are encouraged through the committee to participate in the electoral process through their donations. If this were truly the case—if the various employees earmarked the funds for their preferred candidate or candidates—then there would be no cause for alarm. The section 611 prohibition simply would not apply. For the law is very clear that the fund has to be controlled by the company through its agents for the contribution to be prohibited. Only if the good Government committee itself exercises discretion as to where the dollars contributed by company employees go does the section 611 prohibition apply.

It is quite clear that defense contractors, for example, are barred from making political contributions by section 611. But how far does the prohibition extend? Would recipients of Federal funds for cancer research, job training programs, Head Start activities or other public service programs be banned from making political contributions? The answer is emphatically no. The law is precise on this point. Section 611 refers to contracts for the provision of "personal services, or furnishing any material, supplies, or equipment or for selling any land or building to the United States." A job training contract, for United States. A consultant contract would.

Does the prohibition apply to nonprofit organizations? This is not entirely clear, but the legislative history of the act would seem to indicate that it does not. For example when the late Senator Byrd proposed this legislation on the floor of the Senate on March 18, 1940, he twice referred to it as applying to "those who make money out of Government contracts." He also pointed to the greatest source of corruption in American politics today as "those who make profit out of contracts with the Government."

Quite clearly, then, the original sponsor of the amendment considered it as a measure aimed exclusively at profit-making groups or individuals. And why should not this be the case? After all, nonprofit organizations have no reason to scurry after Government contracts. They do not make a red cent from Government work.

How does the public view this section 17 attempt to repeal the prohibition against campaign contributions by Federal contractors? Judging from the mail I have received over the past few days the man in the street thinks such a repeal would be outrageous. And the press reaction to last year's attempt to gut the law reflected this attitude. Here are a few comments on the effort to repeal the prohibition from some of the Nation's leading newspapers:

> Apparently when it comes to getting money, Congressional Democrats and Republicans stand together in defiance of public opinion and the canons of sound public policy.—Washington Post.
>
> Outrageous, sly and cynical raid on the law by loophole seekers.—New York Times.

That is the way the Times characterizes the provision in the bill that this amendment would knock out.

> The amendment has a great potential for evil and should be stamped out.—Cleveland Plain Dealer.
>
> Given the choice between reducing the possibilities of political influence-peddling and increasing the number of potential sources of campaign funds, Congress will choose the latter.—Greensboro (N.C.) Daily News.
>
> What disturbs us most about the loophole, however, is that it further expands a system of raising political contributions that we view as both corrupt and corrupting.—Dayton Journal Herald.
>
> The people are entitled to know what elements their elected representatives are representing. And they have every reason to expect restrictions against the ability of these most powerful interests.
>
> If there had been no other evidence of the influence that campaign money has had on public affairs, the handling of this bill would suffice.—Louisville Courier-Journal.
>
> The whole business smells. Worse, it shows that the wrong attitudes toward campaign spending control are still alive and kicking in Congress.—St. Petersburg (Fla.) Times.

To my mind anyone who votes against this amendment does so at his peril. The American people are absolutely fed up with big money politics. Recent revelations, all the way from the ITT and Vesco deals to the American Airlines and Ashland Oil violations, have made Americans more aware than ever of the fact that big money favoritism is still a potent force in American politics. If we turn back the clock to 1939 in the face of this public awareness, we will deserve what we get—a further cynicism on the part of the American people toward politics and politicians. If we repeal a good Government law that has been on the books since 1940, because a group of concerned citizens finally tried to enforce that law we will be taking more than a backward step—we will be repudiating the good intentions that produced S. 372.

As I have said, the late Senator Harry F. Byrd, of Virginia, the father of the present Senator HARRY F. BYRD, JR., was the author of this law. I am very happy to yield 3 minutes to the distinguished Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I support the position of the able senior Senator from Wisconsin (Mr. PROXMIRE).

I think it would be a mistake to change this law, which has been in effect since 1940. It was originally introduced in 1935 by the then Senator from New Mexico (Mr. HATCH), together with my immediate predecessor, the Senator from Virginia. It was referred to the Committee on Appropriations in 1935 but was not reported to the Senate.

It was in 1940 that my immediate predecessor, Mr. Byrd, introduced the amendment which became law at that time, in 1940. It has been a part of the law ever since.

It prohibits those who are doing business with the Government—firms doing business with the Federal Government and making a profit from the Federal Government—from making contributions, directly or indirectly, to political campaigns. It seems to me that that is an appropriate position.

I note that the Senate committee handling this matter feels—and I think correctly so—that it does discriminate against certain corporations. But it discriminates for one purpose; that is, it discriminates against those who are doing business with the Government and those who are making a profit from the Government. That being the case, it seems to me that such corporations are in a different category in regard to political contributions than the average corporation.

I support the position of the Senator from Wisconsin (Mr. PROXMIRE). I think it is better to leave the law as it is now, and as it has been since 1940, rather than to change it. To change it would be to change the entire intent of Congress over a long period of years; namely, that companies doing business with the Government and making a profit from the Government should not be permitted to make political contributions. Individual executives and individual employees can make contributions individually if and when they desire, but not in a collective way through either compensation or labor union.

Mr. PROXMIRE. Mr. President, I yield 7 minutes to the distinguished Senator from Vermont (Mr. STAFFORD).

The PRESIDING OFFICER (Mr. BENTSEN). The Senator from Vermont is recognized for 7 minutes.

Mr. STAFFORD. Mr. President, the bill before the Senate at present has been called a campaign reform bill. And, the measure does offer some reform, even though it is clear that many Members of this body are convinced that the times call out for even more reform than is proposed by the bill.

But, by no stretch of anyone's imagination can section 17 of this bill be seen as a reform measure. The effect of section 17 is clear and simple. It would give legal sanction to one of the most dangerous of all political campaign practices: It would permit those who make money out of Government contracts to use their money in an effort to influence Government policy and Government decisions.

When I joined with the Senator from Wisconsin (Mr. PROXMIRE) earlier this month in the introduction of this amendment to strike section 17 from the bill, I asked who favored the changes proposed by section 17.

I think by now that we all know who favors the change. Our simple effort to preserve a provision that has been in the law for more than 30 years has generated intense pressure from those interests who want to get rid of section 611 once and for all. By now, I am certain we all know who wants the Senate to lead the parade back into the dark age of politics when there were few legal barriers to interrupt the flow of political campaign money.

But, Mr. President, those days are over with. Every indicator we have makes it clear that the American public wants to tighten election campaign laws, not to loosen them. If events of recent times have told us anything, it is that the greatest potential source of corruption of the American political system is big money handed out by those interests seeking to buy special treatment from the Government.

What would the Proxmire-Stafford amendment do? Stated simply, it would preserve section 611 of the law as it is at present. That section makes it illegal for Government contractors to establish, administer, and solicit contributions to a separate, segregated fund to be utilized by that contractor for political purposes.

That law has been on the books for more than three decades as a monument to our good intentions. No one ever complained about it until last year when Common Cause began action to see that the law was enforced. Since then, efforts have grown to repeal section 611. The issue is squarely before us today.

Three of the arguments I have heard most often for repeal of section 611 are, first, it discriminates against Government contractors; second, it discourages public participation in our political process; and third, repeal would broaden the base of political contributors to the political system.

Let me respond to each of those arguments.

First of all, section 611 does discriminate against those who do business with the Government. That is the idea of section 611. Recent history reminds us once again of the need for the highest possible standards to avoid any kind of improper influence upon the Government by an organization that does business with the Government. Organizations that have a direct interest in Government decisions should not be permitted to send money to the decisionmakers in Government or to their bosses.

On the second argument that section 611 discourages public participation in our political process, the answer is that is simply not so. There is nothing in section 611, and our amendment would not add anything, that would prevent any employee of a corporation or member of a union from making campaign contributions to the political party or candiate of his or her choice. Indeed, section 611 permits a Government contractor to establish a separate fund—provided that the employees and union members who contribute to that fund also specify who is to receive their contribution. It is only when the decision on who gets the money is left in the hands of the corporate and union officials that the activity is illegal. And that, of course, is the idea of the section.

The third argument that repeal of section 611 would broaden the base of contributors to the political system by permitting Government contractors to get in on the action is a little like saying we could increase the vote totals of elections by letting rich people vote more often than poor people. Any Government contractor who wants to encourage his employees or members to contribute money to political activity can legally do so under the provisions of section 611. All the corporation or union has to do to remain within the law is to make certain that the money is contributed freely and to permit those who contribute the money to make the decision on which party or candidate will receive the money. Surely any corporation or union complaining that the political process will be damaged unless section 611 is repealed should be willing to permit their employees and members freedom of choice in such an important matter.

The truth is, of course, that the corporations and unions that are complaining so much about this amendment do not want to permit their employees and members this freedom of choice. All they want to do is to permit their employees and members the freedom to cough up the money. Officials of the corporations and unions, like big brothers everywhere, will then decide how the money should be handed out. The corporations and the unions will decide how to make the investment that will yield the best return.

The issue before us is a simple one. It is clear cut.

Section 611 is designed to reduce the chances for political corruption that are part of the hazards of the mixture of politics and big money.

I think the American public is sick and tired of the clear evidence that big money has been corrupting our political system. I think the American public is disillusioned with the clear evidence that big political contributors demand big dividends on their investments—and that the average American foots that bill. I think most Americans want a tougher campaign spending law. I think they want a law that will shut off the flow of big money that is designed to return even more money for the special interests.

This is not the time in our history to loosen the law governing campaign financing. Our amendment simply preserves the present law. It does not write new law, but simply protects the integrity of section 611.

Section 611 is designed to prevent those who have a business relationship with the Government from buying access and influence through political campaign contributions.

Judging from the source of all the pressure that has been exerted in favor of repeal of this section, section 611 must be doing the job it was intended to perform. Our amendment is designed to guarantee that it continues to do that job.

This is no time to legalize the type of political financing that has the smell and the look of corruption about it.

Cutting the heart out of section 611 is the kind of so-called campaign reform that can only lead to greater damage to our body politic and greater disillusionment on the part of the American public.

It is the kind of "reform" we can do without.

I urge the adoption of the Proxmire-Stafford amendment.

Mr. President, I yield back the remainder of my time.

Mr. BIDEN. Mr. President, will the Senator from Wisconsin yield for a question?

The PRESIDING OFFICER (Mr. RIBICOFF). Does the Senator from Wisconsin yield to the Senator from Delaware?

Mr. PROXMIRE. Mr. President, I would prefer not to use my time right now but would be happy to yield to the Senator a little bit later.

Mr. CANNON. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Nevada is recognized for 10 minutes.

Mr. CANNON. Mr. President, this amendment has been subject to more misinterpretation and more misstatement of fact as to what it would or would not do than any amendment that I have been acquainted with for some time.

Section 610 of title 15 of the United States Code was originally adopted as a bar against campaign contributions and expenditures by large banks, corporations, and labor organizations. Section 610 is still in effect.. There is nothing in the bill that would change any part of section 610.

Now, in 1971, the House of Representatives approved an amendment to section 610 to permit corporations and labor organizations to establish, administer and solicit contributions under a separate, segregated fund for political purposes.

Such contributions have to be voluntary donations from employees or members of corporations or labor organizations. That is in the law at the present time, and there is no attempt to change that provision of the law in this bill.

Section 611, which relates to Government contractors, prohibits any contribution to a political campaign by anyone who has a contract with the U.S. Government. This has been interpreted as prohibiting the voluntary organizations set up to solicit dues, if they have any type of Government contract, from among the members of labor organizations or of corporations. That is a legal interpretation that has been given, so that it is believed that it would now prohibit that type of voluntary contribution from employees of a corporation or members of a labor union.

The Senate accepted the House amendment to section 610 to which I referred earlier, and it thereafter became apparent that many of the corporate entities and many of the labor organizations in the United States are government contractors to some extent—perhaps only to 1 percent of their business in some instances. Government contractors are prohibited from making contributions or expenditures for political purposes under section 611, as I said, and this would not be affected. Government contractors still would be prohibited from making contributions. A corporation cannot make a contribution and a labor union cannot make a contribution to a political campaign.

The issue is not so much the difference between government contractors and nongovernment contractors but the discrimination between the employees and members of the former category of organizations and those of the latter category.

Employees and members of corporations and labor organizations are citizens of the United States and should be treated equally. It is not fair or just to prohibit those citizens who are employed by Government contractors from making contributions to a separate, segregated fund to be used for political purposes.

The committee's intent in amending the law was to treat all such citizen employees in the same manner, while allowing all corporations and labor organizations the same privilege to establish funds to solicit voluntary contributions.

Again, I say that this would not affect in any way the prohibition now in the law prohibiting a corporation and prohibiting a labor union from contributing to a political campaign. Those three are prohibited under section 610.

As I said, in 1971 this amendment was put into section 610, permitting this type of separate political fund which could be made up to take donations from individuals, to make contributions.

Representative HANSEN, the sponsor of the amendment to section 610, explained at that time that those types of political activities were proper, that they should be allowed, and that they should be codified and clarified into existing law and explained in the statutory language, and that is exactly what happened.

This would permit them to conduct get-out-the-vote campaigns on a truly nonpartisan basis, but certainly on a voluntary basis of the contributors—that is, employees or the members, whichever it happens to be.

It has been interpreted, as I said earlier, that the broad language of section 611 would raise the question as to whether or not this did actually constitute a prohibition in section 611 if they were actually a Government contractor.

Mr. PASTORE. Mr. President, will the Senator yield for a question?

Mr. CANNON. I yield.

Mr. PASTORE. Yesterday, the Senate adopted what is known as the Bentsen amendment, permitting contributions to any candidate up to $3,000. Could a fund which is raised by a solicitation of the employees of either a nondefense plant or a defense plant give more than $3,000 to any candidate?

Mr. CANNON. No.

Mr. PASTORE. In other words, there is a limitation. No matter what money is gathered, what amount, regardless of whether it comes from a defense plant or not, whether or not it comes from the employees or the members of a labor union, that organization cannot give more than $3,000 to either the candidate for the Presidency of the United States or to any other candidate.

Mr. CANNON. That is absolutely correct. And that is completely contrary to what the opponents of this provision in the law have stated on the floor here today. They simply do not understand it.

Mr. PASTORE. The reason why I raise that question is that we are here in the realm of corruptibility. I am very sensitive to that argument, because it has tremendous weight. I can understand that a great deal of money could corrupt. Here what is said is that we are not discriminating between a nondefense plant and a defense plant, but we are more or less in a limitation because of the Bentsen amendment, that insofar as giving any money to any candidate is concerned, that organization can give only $3,000, whether it be a candidate for the Presidency or any other Federal office.

Mr. CANNON. The Senator is correct. Under the law last year, there was no prohibition on the amount that could be given, but that could not be given if they were employees of the Government contractor. Under the Bentsen amendment limiting the amount to $3,000, the bill itself, on page 13, in the definition of a political committee, refers to any committee, association, or organization engaged in the administration of a separate, segregated fund described in section 610 of title 18, United States Code.

Mr. PASTORE. Under the law, before the Bentsen amendment, where contributions would be unlimited, there would be some cause for concern. But now that we have that limitation. I think much of anything that might be feared has been more or less taken care of by the distinguished Senator from Texas.

Mr. CANNON. I say to the Senator from Rhode Island that every nickel that has been contributed has to be reported. It is completely accountable and reportable under this bill, as we now have the law, and the maximum that could be given would be $3,000 to any one candidate, be he a candidate for the House of Representatives, for the Senate, or for the Presidency of the United States.

Mr. BENTSEN. Mr. President, will the Senator yield for a question?

Mr. CANNON. I yield.

Mr. BENTSEN. First, I thank the distinguished Senator from Rhode Island, because I think we have placed a very reasonable limitation on the maximum contributions that can be made, and I think it is a meaningful one.

Another phase concerns me, too. Suppose you had a conglomerate, a large corporation, and one of its subsidiaries did perhaps one-tenth of 1 percent of the total business volume of that corporation in defense work. Under the present law, does that mean that the employees of that corporation could not participate in a fund, if they wanted to contribute voluntarily, for political purposes?

Mr. CANNON. The answer is "Yes." Section 611 would prohibit the voluntary fund if they did one-tenth of 1 percent or any fraction of their business as a Government contractor.

We do not believe that was the intention of the law, because section 610 provides a specific exemption. All we are doing now is trying to write in here the same provision under section 611 that is under section 610 at the present time.

Mr. BENTSEN. Does it also mean that if you did one-tenth of 1 percent of the volume of your business in defense work, the employees and officers of the corporation and the labor union could not contribute even in nonpartisan political activities in any way, on a voluntary basis?

Mr. CANNON. The answer is "Yes." That is the legal interpretation that has been placed on section 611 as it now stands—that they could not create a voluntary organization for a separate, segregated fund to accept, on a voluntary basis, contributions from its members to be used in a get-out-the-vote drive, if it was a nonpartisan get-out-the-vote drive, or to contribute to a particular candidate or to do anything in any way in relation to an election.

Mr. BENTSEN. Does that mean someone like A.T. & T., which has over 100,000 employees; that because they have some lines leased to the Pentagon, all those employees would be precluded from voluntary participation?

Mr. CANNON. That is the legal interpretation if our proposed section 17 of the bill is adopted. This would give them the same right as any other corporation or labor union that is not a Government contractor.

Mr. BENTSEN. In effect, we have discriminated against those employees. The Senator and I know that attorneys, in counseling labor unions or the corporations, are going to lean over backword to put the most conservative interpretation they can on this provision to be certain their clients would not be considered as violating the law as it is.

Mr. CANNON. The Senator is correct.

Mr. BENTSEN. I thank the Senator.

Mr. BIDEN. Mr. President, will the Senator yield for a question?

Mr. CANNON. I yield.

Mr. BIDEN. I think the one concern I have is as to what constitutes a Government contractor. For instance, in the Senator's interpretation, if a corporation or a labor union has only one dealing with the Federal Government is that a Federal contract? Let us say that one dealing is the equivalent of a job training program or a manpower program whereby some of the unions and some of the corporations have an arrangement with the Federal Government to get moneys to train employees to work them into the labor force. Would that be considered a Government contract.

Mr. CANNON. There is no doubt about it. That is considered a Government contract and it is prohibited, even if they are negotiating for a Government contract.

Mr. BIDEN. As I understand it——

Mr. CANNON. I might add, if it is a nonprofit operation—one of the opponents of this section placed that interpretation on it, but that is not correct.

Mr. BIDEN. That is the point I wanted to get to; with respect to the elimination of people who could profit financially from having access to determine who is going to profit in terms of contributions.

What I do not understand is how can an interpretation be placed on it as the Senator just stated if, in fact, there is a clear showing of no possibility of profit?

For instance, in a job-training program, how does a labor union profit from the Government in that regard?

Mr. CANNON. Obviously, they do not profit if it is on a nonprofit basis, but it is still a contract and the law states that whoever enters into any contract with the United States or any department or agency thereof either for rendition of personal services or furnishing material or supplies or equipment to the United States or any department or agency thereof, or sells any land or buildings, and so forth. It is very broad and all-inclusive.

In 1971 when the amendment was offered to section 610 there was no thought at that time but that it would take care of all corporations and labor unions who were desirous of administering a separate segregated fund made up from voluntary corporations. It was after that amendment became part of the law that the question was raised as to whether or not they could do this if they were Government contractors, because of section 611.

What we are proposing now is to write that into law in section 611, to put them on the same footing with anyone else.

Mr. BIDEN. Could that be written into the law by just amending section 611, to run something like this: Organizations with contracts with the Government on a nonprofit basis, and so forth?

Do we have to eliminate the whole section? Can we just say on a nonprofit basis?

Mr. CANNON. It was the committee position that it should not be on a nonprofit basis. If it were made up of nonprofit contributions a person could make a contribution—in a separate, segregated fund. The union is prohibited from contributing union dues and union moneys to any candidate or political campaign, and the corporation is prohibited. That is not changed.

All we propose in section 17 is the following:

> "It shall not constitute a violation of the provisions of this section for a corporation or a labor organization to establish, administer, or solicit contributions to a separate segregated fund to be utilized for political purposes by that corporation or labor organization if the establishment and administration, and solicitation of contributions to, such fund do not constitute a violation of section 610.

Section 610 prohibits union dues or union moneys to a political campaign. and it prohibits a national bank from making such contributions.

Mr. BIDEN. I understand that. One of

the current concerns that I have and that I know some of my colleagues have is that we are going to be somewhere in the middle of both the Senator from Nevada and the Senator from Wisconsin. For example, I personally would think it wrong if a labor union has a contract with the Federal Government where they are going to profit; I think it would be a sham for them, under the guise of contributing individually, to make a fund and not as the labor organization contribute to JOE BIDEN, but to do so as an individual fund. That is the same as the labor union coming out and contributing the money.

I am referring to a situation where a union or a corporation has a manpower training program, where, in fact, they are not employees of the Government in any way; they are working hand in hand with the Government to provide jobs for business.

I am afraid that would be limited by the amendment of the Senator from Wisconsin. I have spoken with the strong proponents of this amendment, for example, Common Cause, and they interpret it the same as I. The Senator knows how Common Cause always comes to us and wants a commitment, "How are you going to go on such and such?"

I cornered them and I said, "Can I quote you on the floor of the Senate saying it is your opinion that if there is no profit involved and no profit relationship can be shown, that section 611, as it stands, does not apply?" They said, "Yes, you can quote us as saying that."

Mr. CANNON. It is interesting that the Senator can quote them, but corporations do not believe it and labor unions do not. I know that Common Cause does not put up candidates for election. I would like to see some of them run on a position they can substantiate.

Mr. TUNNEY. Mr. President, will the Senator yield?

Mr. PROXMIRE. Mr. President, I yield myself 3 minutes so I may respond to the Senator from California.

Mr. TUNNEY. Mr. President, this argument about whether 611 presently applies to contracts for profit or whether it also encompasses nonprofit contracts is interesting in light of the legislative history.

The distinguished Senator from Virginia had a very distinguished father who sat in this body for many years and he was one of the original proponents of section 611.

I wish to quote from the CONGRESSIONAL RECORD of March 18, 1940, from the remarks of the distinguished senior Senator from Virginia, Mr. Byrd. He said:

> Mr. BYRD. Mr. President, 5 years ago the distinguished Senator from New Mexico [Mr. HATCH] prepared a bill designed to prohibit contributions for political purposes from those who make money out of governmental contracts. The language just read by the clerk is identical with the bill that was prepared by the Senator from New Mexico 5 years ago and introduced jointly by the Senator from New Mexico and the Senator from Virginia.
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> * * * * *
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> Mr. President, it seems to me that if we propose to do that we ought to take the further step and prevent those who are making money out of governmental contracts from making contributions to any political party; to prevent them from making contributions which may be considered in some instances as briberies in order to secure governmental contracts for themselves.

Does the Senator from Wisconsin believe, based upon this legislative history, that section 611 encompasses only contracts for profit?

Mr. PROXMIRE. I think the legislative history could not be more clear. This was the statement of the author of the amendment. This was his position. This is what he said. I think the Senator from California documents it very clearly and emphatically. The record shows that hearings were held, and the only people who appeared at those hearings were representatives of Common Cause. They gave the same interpretation.

If there is a record on the other side, that is, that this does apply to nonprofit operations, there ought to be more than just an assertion by the manager of the bill. There ought to be some evidence. But there is none. For a final answer all we can do is await court interpretations of this aspect of the law, but on the basis of the only legislative history we have, this section of law does not affect nonprofit organizations. I think the Senator from California makes the point clearly.

Mr. TUNNEY. It is my further understanding that if this amendment is adopted——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PROXMIRE. Mr. President, I yield 1 minute.

Mr. TUNNEY (continuing). Funds would be permitted in which the employees could designate the candidate that they wanted their money to go to.

Mr. PROXMIRE. Absolutely. It would be perfectly proper for a union or corporation, no matter what kind of contract it had with the Government, to organize that kind of group and then earmark funds which the contributing employees wanted to go to a particular candidate. It would be perfectly proper. But they cannot use their organization as an agency to designate where the funds ought to go and ignore the particular preference of the contributor.

Mr. TUNNEY. And if a Government contractor is doing research or performing contracts which are not for profit, they would not be affected by the language of section 611?

Mr. PROXMIRE. That is my judgment. It is disputed by the manager of the bill, but that is my judgment. I think the record bears me out.

Mr. CANNON. Mr. President, I yield myself 2 minutes just to say to the Senator from California that the assertion in response to the question is absolutely not correct. The only amendment being proposed is an amendment to strike section 17 completely. It does not add any new language. That means it would revert to the law as it stands at the present time, which is section 611 of the code, and it says "contributions by government contractors," and is very precise and very explicit. It does not say one can set up a voluntary, segregated fund and make contributions to it and earmark it for political candidates.

Mr. TUNNEY. Does not section 610 allow funds to be set up and allow employees to contribute to those funds and designate the candidates?

Mr. CANNON. Section 610 does. We are trying to say government contractors can do the same thing.

Mr. TUNNEY. Cannot government contractors, under section 610, set up funds and designate candiates?

Mr. CANNON. No; that is the whole difficulty. The interpretation is that they cannot because of section 611. So what we are doing is simply writing the same language into section 611 that is now in section 610—exactly the same.

Mr. TUNNEY. In the TRW case which Common Cause brought, it was my understanding there were two funds involved: One was a fund into which money went on an unspecified basis and the board of trustees could make a designation of the candidates. There was another fund in which employees specified to which candidates they wanted the money to go. It was my understanding that in the settlement of that case, the only fund that was struck down was the unspecified fund, where the board of trustees would make the decision as to where the money would go; and the fund in which the employees would designate the candidates to whom the money would go was allowed to stand. The law, as a result of the TRW case, is that those funds in which the employees designate the candidate to whom this money shall go is valid.

Mr. CANNON. I am advised by counsel that what the Senator is talking about is a payroll deduction plan, and it was not a political committee established and set up under section 610. I do not know whether the question of government contractor was even raised in the case. That I am not certain of.

Mr. TUNNEY. It is my understanding that the TRW case involved two funds, one fund where the money was specified to go to certain candidates, and the other fund one in which money was paid into the fund and the board of trustees designated the candidates to receive the money. When the case was settled, the unspecified fund was eliminated, but the fund in which the employees designated the candidates to receive the money was allowed to stand, and that is the present law.

If my interpretation is correct—and I think it is, because I have had some research done on it—then I would assume that the fears that have been raised that there could not be employee funds, would be eliminated, because there could be employee funds if the employees designated the candidates to receive the money.

Mr. CANNON. The Senator refers to the case of a payroll fund where they permitted deductions from the funds and marked where it went to. That way it did not go to a political voluntary committee organized under section 610, for example. If it went to TRW, which was a government contractor, and it organized a separate committee and attempted to establish, administer, or solicit contributions in a segregated fund, whether they earmarked those moneys or did not earmark those moneys, it would not be permitted under section 611. That is the legal interpretation that has raised the problem.

Mr. TUNNEY. As I say, my research on the TRW case is somewhat different in its outcome and conclusions from the conclusions the Senator from Nevada derived from that case, because it is my understanding that the only fund that was eliminated was the one in which funds were put in on a nonspecified basis and the board of directors made the decision. The fund in which the employees would designate the candidates they wanted their money to go to was allowed to stand.

The point is simply that these good government funds oftentimes raise money that would not be raised in any other way, whether it would be from payroll deductions, solicitations at the plant gate, or whatever it might be. Many of the employees might not make a contribution because they would not know where to make it, and the amount of money was so little that they might not send a check to the campaign committee. They would, however, allow money to be deducted from the payroll for specified candidates.

That is what we are trying to protect. We are trying to protect that kind of fund. I think the law as it exists now does protect it.

I would hate to see a campaign reform bill pass the Congress in which it would appear that we are backtracking from our concept of the kinds and amounts of money that ought to be contributed to a campaign, and backtracking from the proposition stated by Senator Harry Byrd 23 years ago that: "the greatest source of corruption in American politics today is the use of money obtained from those who make profit out of contracts with the Government." I would hate to see that we were retreating from the position of Senator Harry Byrd so ably articulated 23 years ago. That is my problem.

I have had pressures from various groups who allege that unspecified funds ought to be allowed, but I cannot in my own mind justify allowing people to make a profit out of Government contracts and then using the money to help the political campaigns of Federal candidates.

Mr. CANNON. Again I point out to my colleague—and I have great respect for him—that I think he is misinterpreting what the law permits now. I would say that nearly every contractor supports this provision, as well as the labor unions, because they feel that they cannot establish a separate, segregated fund as is permitted under section 610.

Now, that provision under 610 was not written into the law at the time Senator Byrd had section 611 adopted. It was because of that very situation that in 1971 an amendment was offered in the House and was accepted in conference by the conference committee, and thereafter approved by the Senate, to permit corporations to establish these voluntary, separate, segregated funds, and to accept contributions, not dues and not corporate money. Dues and corporate money are still prohibited under section 610. This does not broaden one bit the provisions of section 610. It simply says:

> If you are a Government contractor, no matter what your contract may be, you can do the same thing in a voluntary, separate, segregated fund that you could if you were not a Government contractor.

I think we all recognize that most of them are Government contractors in one form or another. I have had communications from hundreds of them saying:

> We want to participate in the political process and set up a separate fund to let our employees contribute to it and let them participate in the election process.

Mr. TUNNEY. Mr. President, the thing that concerns me is that the employees cannot specify where the money is going to go, which candidate can receive the money. As the proposition is advanced by the Senator from Nevada, if these funds are to be set up on an undesignated basis, the money is paid by the employees, but a board of directors can specify which candidate will receive it.

This concerns me. Although we may have several thousand men contribute money, we may have five or seven men designate who shall ultimately receive the money.

It could very well be that people contributing to the fund may, by a large majority, favor one candidate and find that the money they have paid into the fund has gone to another candidate.

Mr. CANNON. Mr. President, I disagree with the Senator, and I think he is wrong in his interpretation. If this is permitted under the law, if our section is adopted, the employees can earmark funds for a certain candidate and: "We want the money to go to this certain candidate or to a certain political party, or to be used in a nonpartisan election or registration drive." They can do any of those things. They can designate when they make a contribution. However, the question is whether they can establish such a fund.

The PRESIDING OFFICER. All the time of the Senator has expired.

Mr. CANNON. Mr. President, I yield 5 minutes on the bill to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized for 5 minutes.

Mr. CRANSTON. Mr. President, I rise to support the committee position, as it has been so ably stated by the able chairman of the committee. I do so for the reason that I think the adoption of the amendment would discriminate against corporations and unions in an unfair way.

To cite one example, a number of unions and corporations conduct their business almost totally independent of the activities of the Government. However, if they may have one small Government contract—a job training contract—union or corporation would be prohibited from an employee plan. This would not seem to be fair.

I would like to go into a little bit of the history in California, and to some degree nationally.

Dan Kimball, president of Aero-Jet, of California, was very concerned about the abuses which we are trying to deal with in S. 372. He was one of the originators, and perhaps the first one, who advanced the idea of a fund in a corporation into which an employee could contribute small amounts of money that could be used in the campaign. Every employee could designate to which candidate he wanted the money to go, whether to a Democratic or a Republican candidate or to one party or the other. The fund was not at the disposal of any corporation or individual.

Every fund in California I know of is like this, and the money is used in this way. The employee designates where he wants the money to go, for the party or for a particular candidate.

I think that is a very sound practice. I think it is a sound reform. It tends to reduce the large contributions. I have no knowledge that this practice is being abused by large corporations.

I agree with the point made by the chairman of the committee that there is a constitutional question about prohibiting this practice.

Finally, it seems to me that the point made by the chairman of the committee respecting the right of individuals to make small contributions and thus to offset the large contributions by the wealthy is important.

It is true that we have in S. 372 an amendment limiting individual contributions to $3,000—that is still pretty large—as is the amount that an individual candidate could give.

I would point out that last night, the Senate adopted an amendment offered by the Senator from Louisiana—and some Senators may not know this—which has upped the amount that an individual could contribute to his own campaign to $50,000 for a congressional race, $70,000 for a senatorial race, and $100,000 for a Presidential race.

I have great reservations about that particular amendment. I think that we should reconsider that amendment. But the fact that individuals can make these vast contributions under the present law emphasizes the need of people making small contributions to offset them.

Mr. CANNON. Mr. President, I thank the Senator. We had a colloquy with the Senator from Texas on his amendment which was adopted and which establishes the limitation on the amount to $3,000 as a maximum that could be given to a particular candidate. It would be the sum of $3,000.

Mr. CRANSTON. Would that apply?

Mr. CANNON. Yes, it would apply to the committee set up to receive and handle the basic segregated funds in the contributions.

Mr. CRANSTON. Mr. President, I thank the Senator.

Mr. PROXMIRE. Mr. President, I disagree vigorously with almost all points made by the two preceding speakers. I do not think that a $3,000 limitation could apply effectively to a contractor. He could provide one hundred thousand dollars for political purposes. The loophole was admitted yesterday in the course of the debate.

Furthermore, in the Aero-Jet fund referred to by the Senator from California, the contribution is earmarked for a particular candidate. And that is the way it is set up. And that is perfectly proper. It would not be prohibited by my amendment.

I think that the junior Senator from California made that very clear on the basis of the judicial decision in the TRW case. I think that we have made it clear that nonprofit organizations, whether labor union or otherwise, which have job training contracts, or some kind of nonprofit corporation, would not be affected on the basis of the clear legislative record.

All that we have on the other side is no evidence, no history, no proof but assertion after assertion to the contrary.

Now, how do we decide on this issue? First, consider our choice. We are lobbied on two sides, on the one by the corporations and the labor unions that have a clear vested interest in political influence, and on the other side by Common Cause and the Citizens Lobby, and by every newspaper that has spoken out on this issue. They overwhelmingly oppose the provision of the bill and support my amendment.

I think that on this issue some Senators are puzzled as to how to vote. How should a Senator vote? Which way should he vote? Mr. President, I hope Senators still in doubt will decide that it is far better to err on the side of preventing political corruption than to err on the side of preventing big corporations and labor unions that have Government contracts from having as great political influence as they would like to have.

Mr. President, I ask unanimous consent that Tom van der Voort, of my staff, and Vic Maerki, of Senator Stafford's staff, be permitted the privilege of the floor during the consideration of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

All time of the Senator from Nevada has expired.

Mr. COOK. Mr. President, I yield myself 3 minutes on the bill.

I am sure that the distinguished chairman of the committee, the Senator from Nevada (Mr. Cannon), has gone through these points, but let me again go through the points the committee debated in placing this provision in the bill.

The law as it exists today is plainly discriminatory. It applies only to corporations and labor unions that do not have Government contracts. The committee has tried to remove this discrepancy by legislating that the employees of all corporations and labor unions should be treated equally. It goes further and requires that the separate segregated funds of all corporations and labor unions must follow the reporting procedures of the bill.

So they have to report their sources. They must be on file. They will be subject to scrutiny. They will be subject to the press, whose editorial writers seem to dislike this section. I am not quite sure what some of the editorial writers in the newspapers of the United States know about elections, anyway.

After all, why are we doing all this auditing? Why are we subjecting ourselves to hiring auditors and getting all these things together, and making them subject to the custody of secretaries here and there? Let us not fool ourselves. It is not so that the average citizen of the United States can pick up a copy if he wishes. It is so that the reporter can go get it and write his story, and interpret it to fit what he wants to write.

So it is there. But we have provided that in this expansion, all the procedures for corporations and labor unions will be followed, and they must comply with it.

By the adoption of section 17 we will broaden the base of the election process by including more individuals in the financing process. There has been much discussion in this chamber which indicates that it is most desirable to include as large a segment of the public as possible to support the political process.

The Senator from Wisconsin yesterday, in arguing for his amendment for a limitation of $100 instead of $5,000, and $1,000 instead of $15,000, said, "We want everyone to participate." He bragged about the fact that the Senator from South Dakota, who ran for the Presidency of the United States, got 80 percent of his contributions from contributors who contributed $100 or less.

That is what we are trying to accomplish. We are trying to broaden this process, and not eliminate anyone from making a contribution. If we do not adopt section 17 we narrow this base and deny many individuals the benefit of contribution to segregated funds.

May I say, Mr. President, that if this amendment prevails, this Senator will at a later date during this debate submit an amendment that will more seriously curtail this process, and not let one segment of this Nation have the privilege of creating tremendously large funds while saying to another segment of this Nation's viable ability that they cannot do it.

The argument is raised that corporations and labor unions which have Government contracts would use these funds to influence these contracts. I submit that this is nonsense. There is just as much if not more reason for the corporation or union not having a contract to use the segregated funds which it is authorized to attempt to gain a Government contract.

So it seems to me that what it is planned to do is continue with the discriminatory attitude that has prevailed through the course of the history of this law. Laws are made to be respected and to be subjected to, but they are also made to be changed.

Mr. PROXMIRE. Mr. President, all this amendment does is maintain the law. Nothing in the amendment would prevent any individual officer, employee, or labor union member from contributing to anyone he wants to contribute to individually, regardless of what contracts his corporation may have with the Government. That is absolutely clear. All this amendment would do would be to prevent a labor union or corporation that has a Government contract from using its agency to determine itself where political funds contributed by individuals who work for Government contractors would go. That is what the amendment strikes at, and that was what the late Senator Harry Byrd was striking at in 1940.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. Ribicoff). All time having expired, the question is on agreeing to the amendment of the Senator from Wisconsin (Mr. Proxmire). On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alaska (Mr. Gravel), the Senator from Michigan (Mr. Hart), the Senator from Minnesota (Mr. Humphrey), and the Senator from Colorado (Mr. Haskell) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. Abourezk) is absent on official business.

I also announce that the Senator from Mississippi (Mr. Stennis) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. Cotton) is absent because of illness.

The Senator from Massachusetts (Mr. Brooke) is absent on official business.

The Senator from Nebraska (Mr. Curtis) and the Senator from Ohio (Mr. Saxbe) are necessarily absent.

Also, the Senator from Connecticut (Mr. Weicker) is necessarily absent.

On this vote, the Senator from Massachusetts (Mr. Brooke) is paired with the Senator from Nebraska (Mr. Curtis). If present and voting, the Senator from Massachusetts would vote "yea" and the Senator from Nebraska would vote "nay".

The result was announced—yeas 38, nays 51, as follows:

[No. 342 Leg.]

YEAS—38

Aiken
Allen
Bartlett
Beall
Biden
Buckley
Byrd, Harry F., Jr.
Case
Chiles
Clark
Eagleton
Ervin
Fulbright
Gurney
Hatfield
Hathaway
Hollings
Huddleston
Hughes
Javits
Johnston
Mansfield
Mathias
McGovern
Muskie
Nelson
Nunn
Packwood
Percy
Proxmire
Ribicoff
Roth
Stafford
Stevenson
Symington
Taft
Talmadge
Tunney

NAYS—51

Baker
Bayh
Bellmon
Bennett
Bentsen
Bible
Brock
Burdick
Byrd, Robert C.
Cannon
Church
Cook
Cranston
Dole
Domenici
Dominick
Eastland
Fannin
Fong
Goldwater
Griffin
Hansen
Hartke
Helms
Hruska
Inouye
Jackson
Kennedy
Long
Magnuson
McClellan
McClure
McGee
McIntyre
Metcalf
Mondale
Montoya
Moss
Pastore
Pearson
Pell
Randolph
Schweiker
Scott, Pa.
Scott, Va.
Sparkman
Stevens
Thurmond
Tower
Williams
Young

NOT VOTING—11

Abourezk
Brooke
Cotton
Curtis
Gravel
Hart
Haskell
Humphrey
Saxbe
Stennis
Weicker

So Mr. Proxmire's amendment was rejected.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. COOK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PEARSON. Mr. President, the Senate in considering the Federal elections campaign reform legislation, this body will have the benefit of committee reports filed by the Committees on Commerce and Rules, the panels with jurisdiction over such matters. The Senate also will debate several important proposed amendments to the committee measure. This legislation is important public business, and the opportunity of the Senate this week is to lay the foundation for restoration of public confidence in Government.

In 1971 Congress enacted the first significant Federal election reform measure in half a century. It was my privilege to serve, along with the distinguished Senator from Alaska (Mr. GRAVEL), and others, as an original sponsor of S. 1 (92d Congress, first session), the Honest Elections Reform Act of 1971. This measure, after considerable debate and amendment, became the Federal Election Campaign Act of 1971. As signed into law by the President, the 1971 act placed limits on certain media and telephone spending by candidates for Federal office. It also required strict reporting and disclosure of campaign contributions and expenditures. The 1971 act, however, fell short of the expectations of many concerned Members.

As originally introduced in the last Congress, S. 1 contained language which would have established a Federal Elections Commission to enforce the campaign laws. This provision was deleted in committee, but the Senate on a rollcall vote of 89 to 2 approved an amendment which I offered in the course of floor debate to restore it. Unfortunately, authority for the Federal Elections Commission ultimately was deleted in conference, and the 1971 bill became law without this safeguard against undiscovered or suppressed violations of election laws.

Mr. President, I am gratified that the new bill, as reported by the committees, contains new authority to establish a Federal Elections Commission with power to bring civil and criminal actions in court to enforce campaign laws. The Commission, moreover, will have the power directly to impose civil penalties, consistent with the established principles of administrative due process, of up to $10,000 for each violation of these laws. Thus, the committees have embraced a measure which, in respect of an independent enforcing agency, conforms squarely with the predominant sentiment of Senators, as evidenced by the rollcall votes on my floor amendment in the last Congress.

It is apparent that campaign laws are of little value if violations are suppressed from public view or ignored. That has been the problem and practice for decades. The major purpose of Congress in considering the 1973 amendments to the act must be to secure effective enforcement of the laws.

Mr. President, the pending bill broadens the scope of campaign spending limitations enacted in 1971. It is a complex and detailed document which establishes a system of overall spending limits on individual campaigns for Federal office. It imposes limitations on campaign contributions by individuals and committees, both as to individual candidacies and in the aggregate. The bill distinguishes between primary and general elections. It imposes a floor on spending limitations for congressional office, but maintains a rational relationship between the size of the constituency and the maximum level of permissible expenditure. All of these features should be debated at length.

Regardless of the ultimate determination of Congress on spending limitations, the transcending elements of the pending measure involve full disclosures by candidates. The records of all candidacies for Federal office must be intelligible, and available for public scrutiny. And the full review of those records not only by the public and the press, but also by an independent Commission with enforcement powers is, in my judgment, a concomitant condition to achieving the goal of honest election practices.

The pending bill contains provisions which will promote full disclosure. These provisions are, in the aggregate, substantial improvements over the 1971 act. The bill, for example, requires all campaign contributions of more than $100 to be made by written instrument identifying the true donor. And candidates' reports must list the actual donor, not merely an intermediary conduit as donor. These measures will facilitate thorough review for noncompliance by the Commission, the press and the public at large.

Generally, the duty of the Congress is to fashion campaign reform legislation which is a balanced response to the documented abuses of the electoral process, promotes increased citizen participation in politics, and encourages the candidacies of qualified persons, regardless of personal financial condition, for Federal office. To their credit, the committees have submitted legislation which promotes these objectives.

Mr. President, it would be superficial to discuss Federal campaign reform without acknowledging the tragedy of Watergate. The committes have been spurred by the Watergate revelations in bringing this legislation in timely fashion to the Senate floor for action. The "brooding omnipresence" of Watergate pervades all thoughtful discussion of the electoral process.

There are those who say our economic problems are the only significant issues in mid-year 1973. But these problems can be dealt with as Congress and the administration work to fashion a responsible economic program. The Nation has had considerable experience in dealing with economic problems before—it can deal with them now.

The Watergate problem is something else. This Nation, to its credit, has had very little experience in eradicating that mentality, that perspective of political power, which conceived of Watergate, or the "White House Horrors" as former Attorney General John Mitchell has called them, in the first instance. But novices though we are, this is the true challenge before Congress and the American people today. History may judge our performance in these times by reviewing and assessing our response to Watergate. The Federal Elections Campaign Act of 1973 is part and parcel of that response.

Mr. President, I would submit finally that campaign reform laws, important though they are, cannot be considered the total response, or the ultimate responsibility of Congress and the people, in meeting the Watergate challenge.

Laws requiring full disclosure of campaign financing are little more effective than laws proscribing burglary, or laws prohibiting wiretaps without court order. Those who violate the laws run the risk of exposure and punishment. But persons determined to obtain the advantage which lawbreaking may provide, illusory and temporary though that advantage may actually be, will proceed despite the risk. The purpose of these campaign reform laws, in the final analysis, is to make the risk quite high, and to increase the probability of discovery and prosecution.

In order to eradicate the mentality which conceived of Watergate, it will be necessary for the people increasingly to become involved in the electoral process. The more informed the electorate, the less likely that the process will be compromised. The discovery of wrongdoing increases proportionally with the scrutiny of the public. The more determined the working press becomes in seeking to discover and report misconduct, the less likely it will be that an official who abuses his trust will be perpetuated in office. The system depends, in the final analysis, upon the workload which the citizenry is prepared to assume in protecting its democracy.

A WORD OF THANKS TO COMMON CAUSE

Mr. MONDALE. Mr. President, I would like to take a moment in the course of this debate on the Federal Election Campaign Act Amendments to say a word of thanks to Common Cause.

The work John Gardner and the Common Cause staff and members have done on S. 372 has been outstanding. If we end up with a strong bill—and I am confident that we will—much of the credit will go to Common Cause.

But—as many other Senators have pointed out in the course of this debate—S. 372 is only a partial step. The Federal Election Commission and the limits on contributions and overall spending will help, but we will never free our political system from the corrosive and corrupting influence of big money until we begin to finance campaigns for public office with public money.

I am therefore deeply grateful to Common Cause for the help they have given to me and the distinguished Senator from Pennsylvania (Mr. SCHWEIKER) in preparing our Presidential Campaign Financing Act (S. 2238). This bill to provide substantial public financing for Presidential elections—both primaries and the general election—owes a great deal to the experience, research, and good counsel of Common Cause.

Common Cause has been an extraordinary guardian of the integrity of our election process. By analyzing and publicizing campaign spending reports, by filing lawsuits that have uncovered the secret underworld of campaign financing and by skilled and diligent lobbying, they have helped to create the climate of reform that will make S. 372 a strong bill, and pave the way for public financing of political campaigns.

It is a record to be proud of.

AMENDMENT NO. 429

Mr. TAFT. Mr. President, I call up my amendment, No. 429.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. TAFT. Mr. President, I ask unanimous consent that further reading of the amendment to dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

> On page 50, line 3, strike "1972" and insert in lieu thereof, "1970 or 1972".

Mr. TAFT. Mr. President, I send to the desk a modification of the amendment.

The PRESIDING OFFICER. The clerk will state the modified amendment.

The legislative clerk read as follows:

> On page 50, line 3, insert before "1972" the word "during" and insert in lieu thereof "prior to January 1, 1973."

Mr. TAFT. Mr. President, I do not think the clerk read it correctly. Perhaps I heard wrong.

Mr. PASTORE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

The modified amendment reads as follows:

> On page 50, line 3, strike "during 1972" and insert in lieu thereof, "prior to January 1, 1973."

Mr. TAFT. Mr. President, the intent of this amendment is to strike, on page 50, the words "during 1972" and insert in lieu thereof "prior to January 1, 1973."

The committee bill in section 16(d), commencing at the bottom of page 49, contains this provision:

> (d) Notwithstanding the provisions of section 608 of title 18, United States Code, it shall not be unlawful for any individual who, as of the date of enactment of this Act, has outstanding any debt or obligation incurred on his behalf by any political committee in connection with his campaigns during 1972 for nomination for election, and for election, to Federal office, to satisfy or discharge any such debt or obligation out of his own personal funds or the personal funds of his immediate family.

All this amendment does is to change that particular provision to make it apply not merely to 1972 but also to prior years.

I have talked with the chairman and the ranking member of the Committee on Commerce, and they feel that this is a fair change to make in view of the change the committee already has made.

Mr. CANNON. Mr. President, this is a reasonable amendment, and I am prepared to accept it.

Mr. COOK. I am prepared to accept the amendment.

Mr. CANNON. I yield back the remainder of my time.

Mr. TAFT. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Ohio.

The amendment was agreed to.

Mr. BENTSEN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

> On page 27, strike lines 9 through 12, and insert in lieu thereof the following:
>
> "(2) The Commission shall be composed of the Comptroller General, ex officio, and six other members who shall be appointed by the President by and with the advice and consent of the Senate. Of the six other members—".
>
> On page 27 beginning on line 25 strike out "Of the members not appointed under such subparagrapas, not more than two shall be affiliated with the same political party." and insert in lieu thereof the following:
>
> "The two members not appointed under such subparagraphs shall not be affiliated with the same political party."
>
> On page 28, line 4, after Commission, insert the following: ", other than the Comptroller General.".
>
> On page 29, strike lines 4 through 6 and insert in lieu thereof the following:
>
> "(G) the Comptroller General shall serve during his term of office as Comptroller General."
>
> On page 40, strike lines 18 and 19, and insert in lieu therefore the following:
>
> "(60) Members (other than the Comptroller General), Federal Election Commission (6)."

Mr. BENTSEN. Mr. President, this amendment would say that the 7th member of that commission would be the Comptroller General. It is that simple. As it is now stated, there would be seven members of the committee: two would be appointed by the House leadership, one of each party; two would be appointed by the Senate leadership, and three by the President. Whether he be a Democrat or a Republican, one would then assume that two of those three would be of his particular party. In effect, it would be a commission that would be 4 to 3 on a political party count.

What I am doing here is asking that we have someone who is an independent, nonpartisan, to be the 7th member, and that that be the Comptroller General.

I think this gives continuity to the effort. This commission is going to have a real job on its hands in 1974, in trying to implement this law and being effective with it. There would be continuity to the effort from the Comptroller General, who is already charged with the responsibilities in the law we passed a couple of years ago. I think it is a contribution to the makeup of the commission.

Mr. LONG. I agree that the Comptroller General would be the ideal man to make the seventh person, but the Comptroller General is going to be very busy with the additional duties we are giving him. Would this permit him to have a designee serve in his place?

Mr. BENTSEN. I have checked on that, and I have been advised that he could have a designee for hearings and would probably establish examiners to conduct hearings. When it came to vote on a matter, he would have to be there.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. BENTSEN. I yield.

Mr. PASTORE. Would he be serving with compensation or without compensation?

Mr. COOK. Mr. President, will the Senator yield to me, to clear that up?

Mr. BENTSEN. The Senator has asked a very valid question.

Mr. PASTORE. I think we ought to stipulate in the amendment that he should serve with no compensation.

Mr. BENTSEN. No additional compensation was intended.

Mr. COOK. Two problems bother me, and I am asking this question of the Senate.

These members of the Commission must be appointed by the President, with the advice and consent of the Senate. Can we, as a body, advise and consent on one individual for two positions in the governmental process, first? Second, this bill provides that they shall be compensated—all the members of the Commission shall be compensated.

So we have two problems, one being the matter of compensation. The other question is that his name, apparently, would be submitted to Congress, along with the other six members, and be subject to the advice and consent of the Senate.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. COOK. I yield.

Mr. PASTORE. I think we can clarify that. The purpose of the Senator from Texas is merely to make the Comptroller General one of the members, as I understand it.

Mr. BENTSEN. That is correct.

Mr. PASTORE. And he would be serving ex officio, without compensation?

Mr. BENTSEN. That is correct.

Mr. PASTORE. He would not have to be appointed or confirmed?

Mr. BENTSEN. That is correct. As I further look at this amendment, we have excluded him from compensation under the bill.

Mr. PASTORE. I think it has to be spelled out in the bill.

Mr. BENTSEN. It is spelled out in my amendment.

Mr. PASTORE. But we already have seven members to be appointed by the President. That would have to be modified accordingly. There would have to be six members appointed by the President and one serving ex officio, the Comptroller General.

Mr. BENTSEN. The last line of the amendment provides specifically that he be excluded from the compensation provision.

Mr. COOK. Mr. President, will the Senator yield?

Mr. BENTSEN. I yield.

Mr. COOK. I still have the problem that even though he would serve without compensation, he would still be one of the seven members under the language of the bill, and he still would be subject to the advice and consent of the Senate.

I am very much in favor of accomplishing what the Senator seeks to accomplish. I wonder if he would leave the seven-member Commission alone and prepare an amendment that would make the Comptroller General an ex officio member of the Commission.

Mr. PASTORE. Making it eight?

Mr. COOK. Then it would be eight. That is all right with me.

Mr. PASTORE. Because he does not have the power to vote, anyway.

Mr. COOK. No.

Mr. BENTSEN. It specifically states that he is an ex officio member, as the seventh member.

Mr. PASTORE. As the eighth member. That is the point. He would have to be the eight member, without the power to vote.

Mr. BENTSEN. The amendment reads:

> The Commission shall be composed of the Comptroller General, ex officio, and six other members who shall be appointed by the President by and with the advice and consent of the Senate.

Mr. PASTORE. That is it.

Mr. COOK. That is fine.

Mr. BENTSEN. Let me get to one other point. I call attention to the statement of Phillip S. Hughes, Director of the Office of Federal Elections, in testifying before the committee. He said:

> If the Congress is to consider a single commission or an independent body to manage the campaign finance disclosures, we would prefer a structure somewhat along the lines that Congressman John Anderson proposed last year. His proposal was for a body with two members appointed by the Speaker of the House of two different parties, two similarly appointed by the President of the Senate, and two of different parties by the President of the United States with the Comptroller General a seventh member.

So this is in line with the comments made in the testimony.

Mr. PASTORE. Mr. President, will the Senator yield for a question?

Mr. BENTSEN. I yield.

Mr. PASTORE. The thing that concerns us is, Does this ex officio member have the right to vote? Does he have that right?

Mr. BENTSEN. I understand he would be a full member of the commission and have the right to vote.

The point is if he has the right to vote, he is a nonpartisan member. In effect, there would be three members of one party, three members of the other party, and a nonpartisan man casting the swing vote many times.

Mr. PASTORE. A question is raised as to whether or not an ex officio member would automatically have the right to vote. I think the Senator should modify the amendment and saythat the ex officio member has the right to vote. Give him that right so there would be no question about it.

Mr. BENTSEN. I am delighted to do that.

Mr. COOK. I wish to say to the Senator from Texas that I hope he will modify his amendment and give the right to vote. The reason I say that is that under normal circumstances the ex officio member does not have the right to vote.

Mr. BENTSEN. We can settle that by accepting the Senator's modification, and the suggestion of the Senator from Rhode Island, and give him the right to vote.

Mr. COOK. I do not think there should be an even number when there are the severe penalties that are involved here.

Mr. BENTSEN. I could not agree more with the Senator.

Mr. President, with that modification, I hope that committee sees fit to accept the amendment.

The PRESIDING OFFICER (Mr. BIDEN). Will the Senator send the modification to the desk?

Mr. COOK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. COOK. I stated as a matter of modification to the amendment of the Senator from Texas, that the language be amended to include that the ex officio member have the right to vote.

Is that to be considered in the final consideration of the amendment?

Mr. PASTORE. The Senator is correct.

Mr. BENTSEN. I so modify the amendment.

The PRESIDING OFFICER. The Chair is waiting for the modification.

The amendment is so modified.

The modified amendment is as follows:

> On page 27, strike lines 9 through 12, and insert in lieu thereof the following:
>
> "(2) The Commission shall be composed of the Comptroller General, ex officio with the right to vote, and six other members who shall be appointed by the President by and with the advice and consent of the Senate. Of the six other members—".
>
> On page 27 beginning on line 25 strike out "Of the members not appointed under such subparagraphs, not more than two shall be affiliated with the same political party." and insert in lieu thereof the following:
>
> "The two members not appointed under such subparagraphs shall not be affiliated with the same political party."
>
> On page 28, line 4, after Commission, insert the following: ", other than the Comptroller General,".
>
> On page 29, strike lines 4 through 6 and insert in lieu thereof the following:
>
> "(G) the Comptroller General shall serve during his term of office as Comptroller General."
>
> On page 40, strike lines 18 and 19, and insert in lieu therefore the following:
>
> "(60) Members (other than the Comptroller General), Federal Election Commission 6)."

Mr. BENTSEN. I withhold the remainder of my time, subject to the action of the distinguished manager of the bill.

Mr. CANNON. Mr. President, I have no objection to the amendment. The reason we did not consider having the Comptroller General made a member of the Commission was that we wanted an entirely separate and independent Commission, free from any control of the legislative branch in any way whatever.

There has been criticism in light of the people who have the responsibility under the present law, even though they have, in my opinion, done a very good job under the circumstances, because they do not have the full authority we grant to the Commission in this instance. The Comptroller generally is an arm of Congress—at least the General Accounting Office is an arm of the legislative branch—and, therefore, perhaps we might be criticized for having a person on the board who is considered a part of the arm of the legislative branch.

But that does not impress me strongly enough to oppose the amendment. If my colleagues are willing to accept it, I have no objection to it.

Mr. BENTSEN. Mr. President, with that, if the distinguished manager of the bill is yielding back his time, I am ready to yield back my time.

Mr. CANNON. I yield back my time on the amendment.

Mr. BENTSEN. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment, as modified.

The amendment was agreed to.

AMENDMENT NO. 425

Mr. HUDDLESTON. Mr. President, I call up my amendment No. 425.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

> On page 2, strike out lines 1 through 6, and insert in lieu thereof the following:
>
> SEC. 2. (a) Section 315(a) of the Communications Act of 1934 (47 U.S.C. 315 (a)) is amended by—
>
> (1) inserting "(1)" immediately after "(a)"; and
>
> (2) adding at the end thereof the following new paragraphs:
>
> "(2) The obligation imposed by the first sentence of paragraph (1) upon a licensee with respect to legally qualified candidates for Federal elective office (other than the offices of President and Vice President) shall have been met by such licensee with respect to such candidates if—
>
> "(A) the licensee makes available to such candidates not less than fifteen minutes of broadcast time without charge during the period beginning ten days after the last date, under applicable State law, on which such candidates may file with the appropriate State officer as candidates, and ending on the day before the date of the election, and
>
> "(B) the licensee notifies such candidates during the period beginning on the day after the filing date and ending ten days thereafter,
>
> "(C) such broadcast will cover, in whole or

in part, the geographical area in which such election is held.

"(3) No candidate shall be entitled to the use of broadcast facilities pursuant to an offer made by a licensee under paragraph (2) unless such candidate notifies the licensee in writing of his acceptance of the offer within ten days after receipt of the offer."

Mr. HUDDLESTON. Mr. President, briefly, this amendment would require that before a licensed radio or television station could suspend the equal-time provision of section 315 of the Communications Act of 1934 for House and Senate races, it would have to offer all legally qualified candidates for the offices in question 15 minutes of free time to explain their views and position.

The amendment in and of itself does not require licensees to do anything. It simply says that if a station is going to seek exemption from the equal-time provisions in order to give leading candidates in a specific race additional time, then it must first offer all legally qualified candidates in that race 15 minutes of free time. This time could be either in the form of an interview or for the presentation of tapes provided by the candidate.

The amendment would work as follows: Within 10 days after the filing deadline established by State laws, each station which wished to suspend the equal time provision for a particular congressional race would notify all legally qualified candidates in that race of their right to 15 minutes of free time. The candidate would have to respond to the offer within 10 days of receiving it.

It would be up to the individual stations to determine whether or not they were going to seek exemptions and whether or not they were going to seek them for all the congressional offices under contention in their areas. A station might, for example, decide to seek suspension of the requirement for a Senate race, but not for a House race, or vice versa. If, however, a station were going to broadcast in an area where there was an election, it could not seek exemption from the equal-time provision for a particular race until it had offered 15 minutes to each legally qualified candidate in that race.

The amendment is designed to guarantee accessibility and openness in our electoral system. Historically, we have taken pride in the fact that any citizen may seek electoral office, that the average person can aspire to public office, and, often, with diligence and work, obtain it.

In recent years, however, we have seen the average citizen's access to public office steadily diminish. Campaigns have come to cost more and more money. The result has been greater and greater dependence on big money, big contributions, which often only a well-known candidate can attract.

The desire to eliminate reliance upon large contributions is a laudable one which I fully support. And, certainly, limitations on individual and organizational contributions and limitations on overall campaign expenditures can help remove this reliance. In imposing such limitations, however, and suspending the equal time requirement, we are, in effect, placing the little-known and unestablished candidate at a severe disadvantage.

We have all heard the phrase the "incumbent's advantage." Usually, the incumbent is known; he has had exposure; he has had the opportunity to present his views and opinions over a period of years. Furthermore, the theory of such an advantage is substantiated by a recent study which indicated that since 1954, 9 of 10 House races and 4 of 5 Senate races had been won by incumbents. A similar advantage exists when one of the candidates in a race is particularly well known or has, perhaps, served in another prominent office.

I am certainly not against incumbents and well-established candidates. But, I am against building into our electoral system disadvantages to the non-incumbent and little-known candidates.

On July 25, I joined with six other freshmen Democratic Senators in offering a statement on electoral reform. We listed four principles which we believe should serve as guidelines for the enactment of reform legislation. Two of these principles are particularly important insofar as this amendment is concerned. One is that the law should be neutral in its effect on political parties, philosophies and candidates. Another is that it should preserve the ability of the "new face"—the independent and unorganized but responsible candidate—to enter races, to challenge the more established candidates and to have a shot at winning.

By passing the bill as reported, however, we are being neither neutral nor are we offering the little-known candidate a fair chance in the race. We are, in effect, asking him to run the 440 with us—but without his track shoes. My amendment would, at least, give him a better chance at the starting line.

I have been in the broadcasting industry for a number of years. I believe the large majority of stations try to be as fair as possible to candidates during campaigns. I believe that they make great efforts to program during those periods with the public interest and an understanding of the public service role they play in mind. But, I also believe that it would be useful to have minimum guidelines on provision of time and to guarantee those who are legally qualified to run that they will not be denied an opportunity to present their views, while some of their opponents may be given free time. This is, in my opinion, particularly important in view of the fact that the pending legislation contains limitations on campaign expenditures. While having the benefit of decreased reliance on large contributors, such limitations also have the drawback of restricting a little known candidate's efforts to become widely recognized and have his positions publicized through the use of mass media. And, if the public is not aware of the options, of the alternatives, it cannot make the informed judgments which it should and which our system so needs at this time.

Consequently, I hope that the Senate will adopt this amendment which simply provides that all candidates in a race must get a piece of the time-pie before extra slices are dished out.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. HUDDLESTON. I yield.

Mr. PASTORE. First, I wish to say that I applaud the Senator for bringing up the amendment. I think if we are going to include Members of Congress and the House in the exemption from section 315 it would be advisable to follow the plan as outlined by the distinguished Senator from Kentucky. As I said yesterday, I am a little weary about the whole business to begin with.

I have been trying for years to get an exemption so far as the Presidency and the Vice Presidency is concerned. We come pretty close to it at times. I am afraid that every time we include Congress it is as if we have waved a red flag at a bull because the entire matter comes out in the House, but that is something to be determined later. But if we are going to have it at all, I think the Senator's amendment is an improvement, and I shall support it.

Mr. HUDDLESTON. I thank the Senator from Rhode Island. We all know of his long experience in this very field.

It is my judgment that this amendment will make the suspension of section 315 more workable for the stations, more equitable for the candidates, and hopefully more acceptable for the Members of the House.

Mr. President, I reserve the remainder of my time.

Mr. CANNON. Mr. President, I yield myself 1 minute. The distinguished chairman of the Communications Subcommittee has stated he is willing to accept this amendment, and it certainly is acceptable to me. I am willing to yield back my time.

Mr. COOK. Mr. President, I merely ask for 1 minute.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. COOK. Mr. President, I yield myself 2 minutes, and yield those 2 minutes to the Senator from Texas (Mr. TOWER).

Mr. TOWER. Mr. President, I simply want a little clarification, if I may have the attention of the distinguished Senator from Kentucky.

Does his amendment make it mandatory that stations grant this time, or is it simply voluntary on their part?

Mr. HUDDLESTON. It would be voluntary. Section 315 now provides that it is voluntary on the part of the stations. A station does not have to grant any candidate the use of its facilities. My amendment simply says that if a station is going to ask for the suspension of section 315, which would mean it could provide time for some candidates in the race, and not others, then it would have to allow 15 minutes of time to other candidates.

Mr. TOWER. In other words, no matter how many candidates were running, they would all have access to that time?

Mr. HUDDLESTON. If they were legally qualified candidates.

Mr. TOWER. The reason for my asking that question is that when I ran for the Senate in 1961 there were 70 candidates. Everyone who had $50 in Texas ran for the U.S. Senate. If I worked that out, it would mean a total of 17½ hours that every station would have to give to the candidates.

Mr. COOK. Mr. President, if the Senator will yield, this is voluntary. If the Senator will read the language at the top of page 2 of the amendment, it reads:

> Shall have been met by such license with respect to such candidates if—the licensee makes available to such candidate not less than fifteen minutes.

So if there are 70 candidates, the licensee is not going to make the time available. He is not going to do it.

Mr. TOWER. I was just asking for clarification. I had no particular notions about the amendment.

Mr. HUDDLESTON. That would be an extreme case.

Mr. TOWER. I am the product of extreme cases, if anyone inquires.

Mr. HUDDLESTON. The point is that if the Senate does not adopt the amendment I am suggesting, the station itself would have the authority to determine which of those 70 candidates would have time, to the exclusion or others. We are talking about free time, because they will usually sell to anybody who wants to buy the time. But, the point is that without this amendment the station will have sole authority to select candidates to debate, and to exclude all others from any presentation of views. We want to allow the others to have time.

Mr. PASTORE. Mr. President, simply stated, is it not that if they give free time to any candidate, they have to give it to all?

Mr. HUDDLESTON. To a limited extent.

Mr. PASTORE. To a limited extent, but they have to give limited exposure to all the candidates.

Mr. HUDDLESTON. That is right. We are providing here for a situation in which stations can in fact offer the leading candidates an opportunity to use their facilities and to debate the issues. Sometimes those are not the only candidates. There may be 3 or 4 candidates—in the case the Senator from Texas referred to, 70 candidates. A station could not reasonably get them all in a debate at one time. They cannot all be treated equally under the provisions of section 315. So what I am suggesting is that where the stations do make their facilities available to some candidates, they do not exclude all the others. They have to give them an opportunity to appear during the campaign.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. HUDDLESTON. I yield.

Mr. DOLE. I do not have any quarrel with the Senator's amendment, but how must the time be used? Must it be used in 15-minute segments or a one-shot proposition?

Mr. HUDDLESTON. It could be used in a variety of ways in three 5-minute broadcasts or one 15-minute broadcast. They would have access to a total 15 minutes time.

Mr. DOLE. But the only limitation is a total of 15 minutes, and how it is to be divided is to be determined by the candidate and the licensee?

Mr. HUDDLESTON. That would be correct.

The PRESIDING OFFICER. Who yields time?

Mr. GRIFFIN. Mr. President, will the Senator yield to me for a question?

Mr. HUDDLESTON. The Senator yields.

Mr. GRIFFIN. Just to clarify how it would work or might work if there were a station where there were three or more candidates running, say, for a House seat—and I am thinking now of a situation like the one the Senator from Virginia (Mr. HARRY F. BYRD, JR.) faced, where he ended up running as an Independent for the Senate—now that this section 316 suspension has been applied to a Member of Congress I take it that the station would determine whether or not a candidate was a major candidate and would be accorded an opportunity to engage in a debate. Is that correct?

Mr. HUDDLESTON. That is correct. That is the situation now. That is why I want to make it so he cannot exclude a candidate considered to be a major candidate.

Mr. DOLE. So under the Senator's amendment, the station manager could decide that a third party candidate, even though he might be a very substantial candidate and might ultimately win the race, could be excluded from the debates, but would be given 15 minutes?

Mr. HUDDLESTON. That is correct.

Mr. PASTORE. Mr. President, if the Senator will yield, that is not it exactly. As a matter of fact, a licensee would have power under this amendment and under the amendment in the bill, the one that was reported out of the Rules Committee, as against the one that was reported out of the Commerce Committee. That is, the Rules Committee version included Members of the Senate and Members of the House, so we gave the broadcaster the exemption from section 315, and full discretion to make time available to the candidates as he sees fit. Subject, of course, to the fairness doctrine. All this amendment does is provide that if one gives any time at all to anyone, he has to give at least 15 minutes to each one. That is all it does. But this is giving a tremendous latitude to the local broadcaster. We must understand that. That is why we started out with section 315. This is called the equal time program. That is the reason why we started it. Now we are beginning to change it.

My argument is that, well, this is so much more beneficial than we had it, because under the bill we now have, the licensee has the power to do anything he wants. Except he must adhere to the fairness doctrine. That is the reason why the Senator from Rhode Island was very careful when he reported out the measure, in the Commerce Committee. But by a vote of 50 to 43, it was voted down yesterday. I repeat, the House will never buy it. They have never bought it. All we have done is made it impossible to give time to a Presidential candidate. That is what we have done. I am perfectly willing to accept this amendment because it is an improvement upon what we already have in the bill.

Mr. GRIFFIN. Mr. President, with the assurance of the distinguished Senator from Rhode Island that this will not become law anyway, I will not pursue the matter further.

Mr. CANNON. Mr. President, I yield back the remainder of my time.

Mr. HUDDLESTON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Kentucky (putting the question).

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PASTORE. Mr. President, I move at this time to reconsider the vote by which the last amendment, the Huddleston amendment, was agreed to.

Mr. CANNON. Mr. President, I yield back my time.

Mr. PASTORE. Mr. President, I yield back my time on the motion.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the motion to reconsider (putting the question).

The motion to reconsider was agreed to.

Mr. PASTORE. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CANNON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, I yield 1 minute on the bill to the Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, I send a modification of my amendment (No. 425) to the desk.

The PRESIDING OFFICER. The clerk will report the modification.

The legislative clerk proceeded to state the modification.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that further reading of the modification be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 2, after line 6, insert:

SEC. 2. (a) Section 315(a) of the Communications Act of 1934 (47 U.S.C. 315(a)) is amended by—

(1) inserting "(1)" immediately after "(a)"; and

(2) adding at the end thereof the following new paragraphs:

"(2) The obligation imposed by the first sentence of paragraph (1) upon a licensee with respect to legally qualified candidates for Federal elective office (other than the offices of President and Vice President) shall have been met by such licensee with respect to such candidates if—

"(A) the licensee makes available to such candidates not less than fifteen minutes of broadcast time without charge during the period beginning ten days after the last date, under applicable State law, on which such candidates may file with the appropriate State officer as candidates, and ending on the day before the date of the election, and

"(B) the licensee notifies such candidates during the period beginning on the day after the filing date and ending ten days thereafter,

"(C) such broadcast will cover, in whole or in part, the geographical area in which such election is held.

"(3) No candidate shall be entitled to the use of broadcast facilities pursuant to an offer made by a licensee under paragraph (2) unless such candidate notifies the licensee in writing of his acceptance of the offer within ten days after receipt of the offer."

The PRESIDING OFFICER. There is no time for debate on the amendment. All time has been yielded back.

Mr. CANNON. Mr. President, I yield 1 minute on the bill to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 1 minute.

Mr. HUDDLESTON. Mr. President, the modification simply clarifies the amendment to make sure that it does not apply to Presidential and Vice-Presidential candidates; that portion is kept in the act.

The PRESIDING OFFICER. The amendment is so modified.

The question is on agreeing to the amendment as modified—putting the question.

The amendment, as modified, was agreed to.

Mr. CHILES. Mr. President, I call up my amendment No. 417.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to state the amendment.

Mr. CHILES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 59, strike out lines 13 through 21 and insert in lieu thereof the following:

§ 616. Form of contributions

(a) No person shall make any contribution of money to or for the benefit of any candidate or political committee in excess of $50, in the aggregate during any calendar year, unless—

(1) such contribution is made by means of a check from a National or State bank, drawn on the account of the person making the contribution and identifying that person by name and bank account number; or

(2) the person making the contribution furnishes in writing to the recipient thereof his full name and address, and, in the case of an individual, his social security number.

(b) (1) Violation of the provisions of this section is punishable by a fine of not to exceed $1,000, imprisonment for not to exceed one year, or both.

(2) Willful and knowing violation of the provisions of this section is punishable by a fine of not to exceed $3,000, imprisonment for not to exceed five years, or both.

Mr. CHILES. Mr. President, prior to explaining the amendment, I ask unanimous consent that the distinguished Senator from Delaware (Mr. BIDEN) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, this amendment would provide that contributions in cash would only be allowed for contributions in the amount of $50 or less and that contributions in an amount greater than $50 would have to be by check.

The amendment is something that all of us have discussed at one time or another. Before the committee, I know that there were a number of bills introduced that would propose different cash limitations.

It seems to me that perhaps no one goes so far as to say that all contributions should have to be made by check because some people do not have a checking account and they would like to make token contributions or small contributions of $50 or smaller. This amendment would allow those to be made in cash.

But any amounts over that would have to be contributed by check, so that there would be a record of them.

I think it is clear enough, from all of the problems we see in connection with the Watergate hearings and the many other scandals we have had in regard to elections, that one of the greatest problems is cash money and the way it is dispensed and floats around. As long as we allow cash money to be used in election campaigns, then we are always going to have a tough time showing who actually gave the money, who was responsible for giving it, and who received the money.

If this amendment were adopted, there would be no occasion for people to have suitcases full of cash money floating around in connection with elections. It would require, as to those people getting the money, that there would be a record of the contribution. We have already tried to accomplish that under the law, to identify the people who gave the money, where they came from, and something about them. But there is nothing more tangible than a check, because it is microfilmed as it goes through the bank, so that there will be a permanent record of who made the contribution by the check itself, and we would get around the problem of having large amounts of cash floating around about election time.

I think this amendment would be a large step toward the kind of reform we are seeking.

Mr. President, I reserve the remainder of my time.

Mr. CANNON. Mr. President, I yield myself 5 minutes.

This general subject was considered in detail by the committee, and after holding hearings, receiving testimony, and considering it among the committee members, we determined that cash should be eliminated in amounts in excess of $100.

The situation that the Senator from Florida complains of, which we all complain of, the suitcases full of $100 bills, believe me, did not come from a thousand different contributors of $100 each. Those bills came from large contributors of money, which are prohibited now. They cannot make a contribution of over $100 unless it is by a written instrument—not by check, because some people do not even have checking accounts.

We considered the question of identification, and I think that is pretty well covered by the bill now. We required identification of contributors by name and address for contributions of less than $100, and if it is over $100, we require the occupation and principal place of business.

I think that is sufficient identification to meet the problem the Senator wishes to get at. We all wish to get at that problem. But we do not wish to encumber the election process to the extent that the candidate will get bogged down in the administrative requirements of the election law to the extent that he cannot have an opportunity to present his views and to really carry on a campaign.

So I would oppose this amendment. As I say, we have the limit already that only up to and including $100 can be given in cash. We require full identification on amounts over that amount. And the danger does not really come from persons who are going to give a $100 bill. That amount has to be recorded as well, and of course we have the maximum amount provision of $3,000 as a result of the amendment of the Senator from Texas yesterday, which changed the amount that the committee had recommended.

So I hope this amendment will not be agreed to.

Mr. COOK. Mr. President, will the Senator yield?

Mr. CANNON. I yield the Senator from Kentucky such time as he may require.

Mr. COOK. May I say to the Senator from Florida that we discussed this matter at great length in committee, and while it sounds rather strange for me to say this to the Senator from Florida, in rural America, believe it or not, there are many people who do not have checking accounts. That may sound strange, but it is true, and I think we all know it is true.

I am not trying to get around that situation, or find excuses for it; but we felt that a $100 limitation was sufficient. We now find ourselves in a position where we are talking about a maximum restriction of $3,000, and obviously anything over $100 has to be in writing.

There is something that goes against the grain for this Senator about requiring that the American individual who wants to sit down and write a check for $5, $10, or $100 has not only got to put his name on the check, but his address, and his social security number. As the Senator from Florida proposes in one section, in the case of an individual he shall put down his social security number.

We are looking to the candidate. We are not looking to the individual. I do not think that we should have to say to the individual, "We do not trust you unless you not only write out a check, but tell us what business you are in, and reach in your pocket, get out your social security card, and give us your social security number."

I think we will get to the point of being offensive, and I think to the extent that the bill limits cash contributions to $100, in all fairness, we have covered the subject fairly.

I would suggest to the Senator from Florida that I would find his amendment more palatable if he had taken the figure of $100 here and reduced it to $50, rather than adding all the additional restrictions and requirements that would be required for the individual who wants to do no more than make a contribution to a candidate whom he happens to like and agree with. I am afraid we are going to get to the point one of these days, after we amend the law three or four more times, where, if a citizen wants to make a contribution to a candidate of his choice, we will be like we are in our offices; he will have to make a green copy, a blue copy, and a pink copy, and send one to the Secretary of State and another to the Secretary of the Treasury. Then we will really dry up the ability of the individual to make a contribution to the candidate of his choice.

I am not saying that the proposal of the Senator from Florida is really that bad, because it is not. But I would really feel better, as a member of the Rules Committee, if his amendment had done no more than strike the $100 and change it to $50, rather than adding to the restrictions we place on an individual's ability to make a contribution, when as a matter of fact we have been discussing at great length the fact that we want more people to contribute to political campaigns.

Mr. CHILES. Mr. President, I think the Senator from Kentucky raises a valid point. Since the yeas and nays have not been ordered on the amendment, I would be happy to modify the amendment to do what the Senator from Kentucky is suggesting, which would be to strike the $100 set forth in the bill itself as a restriction on cash contributions, and change that language to read "$50."

The PRESIDING OFFICER. Is the Senator making that modification?

Mr. CHILES. I so modify the amendment.

Mr. COOK. Mr. President, may I say to the Senator that what he is doing——

Mr. CHILES. Let us make sure the modification is understood.

The PRESIDING OFFICER. Will the Senator send his modification to the desk?

Mr. COOK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. CHILES. On my time.

Mr. COOK. On the time of the Senator from Florida.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, I withdraw my amendment No. 417 and send to the desk another amendment which I ask for immediate consideration and to have stated.

The PRESIDING OFFICER. The amendment is withdrawn. For purposes of clarification, the number of that amendment is 417?

Mr. CHILES. 417 is correct. I also ask unanimous consent to add the name of the Senator from Delaware (Mr. BIDEN) as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection it is so ordered, and the amendment will be stated.

The assistant legislative clerk read as follows:

On page 59, line 17, insert the following: strike "$100" and insert in lieu thereof "$50".

Mr. CHILES. Mr. President, this amendment now actually conforms with the discussion the Senator from Florida was having with the Senator from Kentucky. It would simply strike the $100 prohibition against any contribution over that amount and makes it $50.

I think we are prepared to vote on it, but I would like to say that, generally, when we talk about the people of rural America, most of them do not have bank accounts and most do not have $100 bills, either. I think that the largest contribution they will want to give, where cash is concerned, will be $50 or below. In that instance, cash would be all right to be given. But when we get into the situation where we float around $100 bills, it would be better to have a check made out for that. So that where the contribution is over $50, I think it would be better if a check would be made out for it.

Mr. COOK. Mr. President, I agree with the Senator from Florida. I hope that he does not whipsaw me too much if it does not succeed. But, frankly, I am agreeable to accepting the amendment and I would hope it would be acceptable to the Senate and will not require a rollcall vote.

Mr. CANNON. Mr. President, I yield back my time.

Mr. CHILES. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on this amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Florida (Mr. CHILES).

The amendment was agreed to.

DEPARTMENT OF TRANSPORTATION APPROPRIATIONS, 1974—YEAS AND NAYS ORDERED

Mr. ROBERT C. BYRD. Mr. President, on tomorrow, the bill, H.R. 8760, making appropriations for the Department of Transportation, will be called up and made the pending business before the Senate.

I ask for the yeas and nays at this time on final passage of that appropriation bill tomorrow.

The yeas and nays were ordered.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1973

The Senate continued with the consideration of the bill (S. 372) to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of section 315 with respect to presidential and vice-presidential candidates and to amend the Campaign Communications Reform Act to provide further limitation on expenditures in election campaigns for Federal elective office.

AMENDMENT NO. 427

Mr. BARTLETT. Mr. President, I call up my amendment No. 427 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 36, between lines 23 and 24, insert the following new subsection:

(f) Upon written application made by any candidate or political committee, the Commission, through its General Counsel, shall provide within a reasonable period of time a written advisory opinion, with respect to any specific transaction or activity inquired of, as to whether such transaction or activity would constitute a violation of any provision of this title or of any provision of title 18 of which the Commission has primary jurisdiction under subsection (d). Notwithstanding any other provision of law, no candidate or political committee shall be held or considered to have violated any such provision by the omission or commission of any act with respect to which a written advisory opinion has been issued to that candidate or political committee under this subsection if the candidate or political committee has acted in compliance with such advisory opinion.

Mr. BARTLETT. Mr. President, I ask unanimous consent that Bud Scoggins of my office be accorded the privilege of the floor during the remainder of debate and the votes on the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, I ask unanimous consent that the name of the distinguished Senator from Ohio (Mr. TAFT) be added as a cosponsor of my amendment No. 427.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, I should like to read the amendment. It is quite simple and by reading it I think it will explain it very clearly:

(f) Upon written application made by any candidate or political committee, the Commission, through its General Counsel, shall provide within a reasonable period of time a written advisory opinion, with respect to any specfic transaction or activity inquired of, as to whether such transaction or activity would constitute a violation of any provision of this title or of any provision of title 18 of which the Commission has primary jurisdiction under subsection (d). Notwithstanding any other provision of law, no candidate or political committee shall be held or considered to have violated any such provision by the omission or commission of any act with respect to which a written advisory opinion has been issued to that candidate or political committee under the subsection if the candidate or poltical committee has acted in compliance with such advisory opinion.

Mr. President, this amendment is intended to eliminate a problem which I think confronted every candidate running for Federal office in 1972. Because the 1971 Campaign Act and the bill now under consideration make so many changes from previous law, and because there has been so little experience in actually operating a campaign under the new provisions, there was considerable confusion about what could or could not be done under different sections of the act.

At the present time, there is no provision for a candidate to obtain an authoritative ruling or opinion on whether or not a particular transaction or activity would be permitted under the provisions of the act. This amendment would provide that the Federal Election Commission, which is established by this act to have jurisdiction for enforcing the act, could furnish a written advisory opinion to a candidate, advising him whether or not any specific transaction or activity would constitute a violation of the act. It also provides that if a candidate did receive such a written advisory opinion and acted strictly in compilance with the opinion, he could not at some later time be held to have violated the act insofar as the particular transaction or activity which was the subject of the written advisory opinion.

As things now stand, a candidate might request an opinion but it would be nothing more than an informal opinion. If a candidate should in good faith act in reliance on such an opinion, and at some later time it was determined that the action or activity constituted a violation of the act, the candidate could be prosecuted under the penalty provisions of the act. This appears to me to be inequitable, especially in view of the way most campaigns are operated, normally a candidate is relying almost exclusively on volunteer, nonprofessional help, a candidate is concerning himself with contacting the voters and relying on untrained volunteers to handle the details of his campaign with regards to soliciting contributions, purchasing the media time and space, and acquiring all the other hundreds of items which have to be acquired during the course of a campaign. These untrained volunteers are certainly not capable of interpreting the sometimes complicated and complex provisions of the campaign act.

The Federal Election Commission established by this act will be devoting its entire effort to supervise and enforce this act. The Commission is charged with the primary jurisdiction for civil and criminal enforcement of this act and pertinent provisions of the criminal code, that is, title 18 United States Code, therefore, the Commission will ultimately have to determine whether or not a given activity or transaction constitutes a violation of the act, since it will have to make a determination whether or not to proceed with legal action against a candidate. Because of this, it seems only logical to me that the Commission is the proper agency to give advice to candidates concerning the conduct of their campaign under the act.

Mr. President, on several occasions during the last campaign, representatives of our campaign made several inquiries of various committees and groups charged with knowledge of the Campaign Act and were unable to obtain any information. Because of this, it made an interpretation of the laws, the new laws under which we were operating, most difficult. I think it is very clear that a candidate should be given, within a reasonable length of time, an opinion; and that opinion, if adhered to strictly, should not constitute a violation of the law.

I sincerely hope the managers of the bill will agree with me and will be willing to accept this amendment.

Mr. CANNON. Mr. President, I have discussed this amendment with the distinguished Senator, and I think it is a good amendment. I am prepared to accept it.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. BARTLETT. I yield back my time.

Mr. CANNON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 391

Mr. BROCK. Mr. President, I call up my amendment No. 391.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BROCK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 26, beginning in line 6, strike "sections 312 through 315, respectively," and insert in lieu thereof the following: "section 312,".

On page 44, line 15, after the semicolon insert "and".

On page 45, line 2, strike "; and" and insert in lieu thereof a period.

On page 45, strike lines 3 through 6.

On page 46, between lines 2 and 3, insert the following:

"SEC. 11. Title III of the Federal Election Campaign Act of 1971 is amended by inserting after section 312 (as redesignated by this Act) the following new section:

" 'SUSPENSION OF FRANK FOR MASS MAILINGS IMMEDIATELY BEFORE ELECTIONS

" 'SEC. 313. No Senator, Representative, Resident Commissioner, or Delegate shall make any mass mailing or mailing with a simplified form of address under the frank under chapter 32 of title 39, United States Code, during the sixty days immediately preceding the date on which any election is held in which he is a candidate.'."

On page 46, strike lines 3 through 9, and insert in lieu thereof the following:

"SEC. 12. Section 309 of the Federal Election Campaign Act of 1971 (relating to statements filed with State officers) is redesignated as section 314 of such Act and amended by—

"(1) striking out 'a supervisory officer' in subsection (a) and inserting in lieu thereof 'the Commission'; and

"(2) striking out 'in which an expenditure is made by him or on his behalf' in subsection (a)(1) and inserting in lieu thereof the following: 'in which he is a candidate or in which substantial expenditures are made by him or on his behalf'.".

On page 46, line 10, strike "SEC. 12. Section 314 (as redesignated by this Act)" and insert in lieu thereof "SEC. 13. Section 310".

On page 46, line 13, strike "amended" and insert in lieu thereof "redesignated as section 315 of such Act and amended".

On page 46, line 16, strike "SEC. 13. Section 315 (as redesignated by this Act)" and insert in lieu thereof the following: "SEC. 14. Section 311".

On page 46, line 20, strike "SEC. 315." and insert in lieu thereof "SEC. 316.".

On page 47, line 3, strike "SEC. 14." and insert in lieu thereof "SEC. 15.".

On page 48, line 2, strike "316" and insert in lieu thereof "317".

On page 48, line 21, strike "SEC. 15." and insert in lieu thereof "SEC. 16.".

On page 49, line 4, strike "SEC. 16." and insert in lieu thereof "SEC. 17.".

On page 50, line 8, strike "SEC. 17." and insert in lieu thereof "SEC. 18.".

On page 50, line 19, strike "SEC. 18." and insert in lieu thereof "SEC. 19.".

Mr. BROCK. Mr. President, the amendment presented at this time says very specifically the following:

> No Senator, Representative, Resident Commissioner, or Delegate shall make any mass mailing or mailing with a simplified form of address under the frank under chapter 32 of title 39, United States Code, during the 60 days immediately preceding the date on which any election is held in which he is a candidate.

Simply stated, this amendment is designed to deal with the potential for abuses that exist in mass mailing at taxpayer expense by incumbents to insure their reelection. In recent days, a number of people have expressed the valid concern that any bill passed by any Congress relating to election procedures and processes can be charged with being an incumbent protection bill.

Let us look at the history of election campaign laws. We passed the first major election reform bill back in 1925. That bill remained on the books as law, with specific penalties, specific standards, for some 45 years. During those 45 years, not one Member of Congress was ever prosecuted under the terms of the law.

If we are going to avoid the criticism that this bill has the same effect of being an incumbent protection act, one of the most important areas we need to deal with is the privilege by which the Members of this body and the other body communicate with their constituents. That privilege is fully warranted.

We must be responsive to the people we represent. We must deal with their problems effectively and efficiently and speedily. But to take that basic premise and pervert it to use the privilege of constituent response as a device by which a Member assures his own reelection is simply intolerable in this day and time.

I know of a situation in which a former Member of Congress sent out three mailings to every single household in his district 30 days preceding his reelection. I do not think that can be justified under any guise. But particularly at this time, when we are considering a fundamental reform of our election laws and election procedures, it seems to me, in the interest of restoring some confidence to the American people in the free processes of Government, that it is incumbent upon us to make certain that there shall be no abuse of the taxpayer's dollar, through the device of the taxpayer's grant of this privilege, by the abuse of the frank to affect the election of any incumbent Member of this body.

In so many words, I would urge that we in the Senate, and I would hope our colleagues in the House also, will take this action and simply say that we will not allow any use of mass mailings for the 60 days preceding an election, because that is the time when they have the greatest political impact.

May I also take this moment to express my deep appreciation to the Senator from California (Mr. Cranston), the Senator from New Mexico (Mr. Domenici), the Senator from Georgia (Mr. Nunn), the Senator from Delaware (Mr. Biden), and also to the Senator from Texas (Mr. Bentsen), who happens to be my counterpart as the chairman of the Democratic Senatorial Campaign Committee. These Senators have cosponsored the amendment, and I am grateful for their support.

Mr. President, I hope the amendment will be agreed to.

Mr. CRANSTON. Mr. President, the Senator from Tennessee has offered a sound and wise amendment. I am delighted to be a cosponsor and to support it.

Present laws, rules, and regulations actually prevent us from abusing the privilege of the frank for political purposes. We are required to restrict what we put into our newsletters and to report only on official matters. However, the fact that we have that privilege and can use it on the eve of an election can lead to the suspicion that the privilege is being abused for political purposes.

I therefore think it would be very wise to restrict the use of the frank in terms of mass mailings, before election.

I lean over backward in my own letters to avoid putting anything in them that is of a political nature. I try to restrict them to official business. But even so, I believe the amendment would be helpful in the reform of the political process. I therefore support the amendment.

Mr. CANNON. Mr. President, I yield myself 3 minutes.

I am not certain what technical changes the amendment refers to, other than that it relates to the prohibition of mass mailings.

I should say that the implication would raise a question as to whether mailings that are before that period are political mailings or not.

I point out that it is not lawful to make a franked political mailnig at present, whether it be 60 days before an election or at any other time.

We are at least raising an implication that this is the sort of thing that is being done. I get complaints occasionally of someone using the frank improperly, and we follow up and investigate those complaints. I think we have had two this year made to the Committee on Rules and Administration. We go into those to find out if there are improper uses of the frank.

It seems to me that unless we quite clearly spell out precisely what is meant, first with respect to mass mailings, and, second, quantity of mail, this would prohibit a Senator or Representative from carrying out his normal duties in communicating with his constituents.

I pose those questions, and I would like to have the response of the sponsor of the amendment.

Mr. BROCK. Mr. President, if the Senator will yield, I shall be glad to respond.

Mr. CANNON. I yield.

Mr. BROCK. As to the first question, there is no implication here that off-year mailings are done for political purposes. I think most of mailings that come out of the Senate are clearly of a nonpolitical nature. But that is not the question. When a Senator mails a newsletter or a questionnaire—and many Members do so in the other body—in January, February, or June, that is perfectly lawful and a legitimate exercise of the right to achieve responses from constituents in order to serve the function for which we have been employed.

But it seems to me that it becomes very difficult to justify a bulk mailing addressed to boxholders where not even the name appears, as occurs in the other body.

Mr. CANNON. That is not even permissible in the Senate.

Mr. BROCK. Not in the Senate. The Senate has a different process. But I wish to go on.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. BROCK. I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator is recognized.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. BROCK. I yield.

Mr. PASTORE. I dare say that in formulating the campaign practices bill of 1973, one of the first complaints made was on the matter of direct mailing. Everyone understands that the postage cost has gone so high that the cost has become almost prohibitive. As a result, one of the complaints that has been that an incumbent has an advantage because he has the right of the frank. I think it has done some harm and it has done some good. I am not saying that anyone has abused the right of the frank for political purposes, but I think in the spirit of the bill, if we want to do what is right, as was said by the Senator from Minnesota yesterday, in politics it is not so much what is as what appears to be that has the greatest effect on the people.

I would suggest to the Senator that if he would limit this to 30 days before the election I could support the amendment. I think 60 days is much too broad.

Mr. BROCK. I would be prepared to accept that suggestion. I think the principle is far more important than the actual time frame. I would join the Senator in expressing confidence about what has gone before, but the purpose of law is to protect from potential use in the future. That is all this is an effort to do.

If it is of significance to modify the amendment, if my cosponsors do not object, I amend the amendment to make it 30 days instead of 60 days.

The PRESIDING OFFICER. The Senator has the right to amend his amendment.

Mr. BROCK. I so modify the amendment.

The PRESIDING OFFICER. The amendment is so modified.

Mr. BROCK. Mr. President, I wish to continue to respond to the question of the chairman of the committee.

The PRESIDING OFFICER. The amendment is so modified.

Mr. BROCK. Mr. President, very precisely, in response to the question of the chairman of the committee and the manager of the bill, the mass mailing device, be it to a box holder or to a computer label address, such as the privilege of the Senate as we now operate, still has enormous political impact.

The mailing can have not one word related to Democrat, Republican, Liberal, or Conservative; it merely mentions the incumbent's name a half dozen times, and it has an enormous impact because he is writing his own literature in a very favorable fashion.

To say that we can allow the incumbent this leverage when he has every advantage over a nonincumbent does not make sense to me and in a sense of equity, so that the American peole will have full confidence, it is honestly and truly designed to correct previous inadequacies of the law. I think the amendment is of good intent and effect.

Mr. CANNON. I do not understand what the Senator means by "mass mailing." The Senator referred to computer labels. Many Senators use computer labels in mailing of general subjects, pulled from a computer stamp bearing the name and address of those people.

Is that sort of thing going to be covered in this mass mailing?

Mr. BROCK. As I understand my own language, that would not be permitted 30 days before the election, if you have the same letter going to a large quantity of individuals. That is what I call a mass mailing.

Mr. CANNON. As to a large quantity, can the Senator give a percentage?

Mr. BROCK. If Senators want a number on it, let us use the same number in the cash limitation of the bill; say more than 100.

Mr. CANNON. The Senator would consider more than 100 to be a mass mailing? I send more than 100 letters every day and I do not consider that to be a mass mailing.

Mr. BROCK. Let us say more than 1 percent of the households in the State. That is a mass mailing. You can mail to 1 percent of the households covering the key precincts and there is a tremendous political impact.

Mr. CANNON. I think the Senator is going to impinge on the ability of Senators to carry out their duties.

Mr. BROCK. I have no such intention.

Mr. CANNON. The Senator can conceive of a situation where a person has a primary election in July and, therefore, he could not send out any mailings to more than 1 percent of his constituency after the first week in June. Then he would have to have a runoff and it would come 30 days later, and so he could not send out anything in the latter part of June and he could not send anything the first of July. When he gets to August, some States have an election in September. So it is conceivable he could go for 6 months without being able to communicate with more than one percent of his constituency.

Mr. BROCK. No. In the first place, I do not know how many single letters go to constituents, but I would be surprised if it is more than 1 percent. We are not talking about personal letters; we are talking about bulk, mass mailings. All we would be doing would be to eliminate that opportunity for abuse 30 days prior to the election.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. BROCK. I yield.

Mr. ROBERT C. BYRD. Would the Senator consider the mailing of agriculture reports within the 60 days prior to election to be a mass mailing to be prohibited under the terms of his amendment?

Mr. BROCK. The amendment was modified to make it 30 days.

Mr. ROBERT C. BYRD. Would the Senator consider the mailing of agricultural reports—emanating from the Department of Agriculture—by Members of Congress——

Mr. BROCK. I would say if the agricultural reports were just that, if they were not stamped in five different places with the incumbent's name, that is not mass mailing.

Mr. ROBERT C. BYRD. If they were carried under the mailing frank of a Member of Congress, would it violate the law?

Mr. BROCK. Not if that is all that is in there.

Mr. ROBERT C. BYRD. In other words, the Senator's proposal would not prohibit the mass mailing——

Mr. BROCK. The Senator will have to tell me what he means——

Mr. ROBERT C. BYRD. No; it is the Senator's amendment.

Mr. BROCK. I am trying, if I may respond, to prevent any mass mailing which has a political effect, and that means any mass mailing per se for 30 days preceding the election. If the agricultural bulletin is a Senator's mass mailing, it would be prohibited for 30 days prior to the election.

Mr. ROBERT C. BYRD. The Senator would say that an agricultural report emanating from the Department of Agriculture and mailed under the frank of a Member of Congress in accordance with section 3213, chapter 32, of title 39 of the United States Code, would be in violation of the law, under his amendment?

Mr. BROCK. The Senator from Tennessee really cannot make that definitive statement without making a little more research. I am not quite competent to say.

Mr. PASTORE. Mr. President, will the Senator from West Virginia repeat that?

Mr. ROBERT C. BYRD. As I interpret the Senator's amendment—and I am asking if I am making a proper interpretation—his amendment would prohibit the mailing by a Member of Congress of agricultural reports within a period of 30 days prior to each election. Yet under section 3213 of chapter 32, title 39, United States Code, it is specifically set forth that agricultural reports may be mailed by Members of Congress as franked mail until the 30th day of June following the expiration of their terms of office. Would this not constitute mass mailing?

Mr. BROCK. I would like to ask the Senator a question or two for the purpose of clarifying it. Is the mailing to be stamped from the Senator's office?

Mr. ROBERT C. BYRD. For the purpose of argument, let's say that such mail is not stamped from the congressional office.

Mr. BROCK. I find it difficult to respond.

Mr. ROBERT C. BYRD. But it comes to the constituent under the frank of the Senator.

Mr. BROCK. I yield to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, I hope we do not become too picayune about this or get into nitpicking. I think what we have been trying to get at is what happens. There are complaints that newsletters are being used by Members of Congress during a campaign period, using the right of the frank as against an opponent. That charge has been made time and time again. Then when it comes to time for direct mailing, when we were discussing that subject before the committee, it became very difficult to determine then what direct mailing was.

Let us assume that 100, or 200, or 1,000 people in Rhode Island write to me opposing, let us say, the bombing in Cambodia, and I respond. I would not call that mass mailing if I said I agree that the bombing should be stopped. If they wrote me asking if Watergate was a reflection on integrity in Government in America, and I wrote back and said, "Indeed, it is," and I wrote that to 50,000 people after I received that letter, I would not call that mass mailing.

On the other hand, if 30 days before an election I began every week sending out a newsletter, telling how great I was and all the things I had accomplished during my administration in office, just because that might impress some people by election day, and I was a candidate, I would say that is mass mailing.

Mr. BROCK. That is what I am talking about.

Mr. PASTORE. It might be said that it is hard to reach a judgment on that. It is hard to define. It is something that has plagued us for a long time. Maybe we cannot explain what mass mailing is. Maybe we will never be able to explain what mass mailing is. But it strikes me that if I were going to send 50,000 pamphlets out, 30 days before an election, on how to take care of one's baby, frankly, that would not do me any good. I remember one time that such a pamphlet was mailed to a priest. It shows how one can get in trouble doing that kind of thing. When we get into mass mailing, we make mistakes like that. Sometimes we do ourselves more harm than good.

What we are trying to get at here is, somehow or other, doing something about the abuse of the right of the frank. The right of the frank should not be used for political purposes, I do not care whether the number is 5 or 10. That is where the difficulty is on the question of mass mailing. I tell you, something ought to be done about it. How are you going to do it, I am not prepared to answer. The Senator from Nevada is quite right when he says it is hard to define the problem.

Mr. ROBERT C. BYRD. Mr. President, if the Senator will yield temporarily, I think there is a certain amount of merit to the amendment of the Senator from Tennessee. I think Members of Congress who send out a half-dozen mailings in the last 6 weeks prior to election are certainly opening themselves to terrible criticism, and it may be counterproductive to them; but I think the Senate ought to give this amendment some further consideration. Possibly we can work it out so that we can make it clearer. I merely raised the question of the agricultural report in order to focus on the problem of what is to be considered "mass" mailing in terms of the language of the Senator's amendment. In West Virginia we have a May primary. It could come as early as the 2d day of May, the first Tuesday after the first Monday. Suppose I wanted to send out some agricultural bulletins to my farmers. It is in the springtime. I may want to send them 100,000 or 200,000 bulletins. It is for a legitimate and lawful purpose. I may send them out every year during the 6 years of my term. But is the Senator's amendment going to make the action of sending out these agricultural bulletins 30 days before the 2d day of May to my constituents in West Virginia a violation of the law, when section 3213 of chapter 32 of title 39 of the United States Code expressly allows me or any other Senator to send out a mass mailing, under my frank, of agricultural reports?

Mr. BROCK. Mr. President, if I may reply briefly, because I have very little time left, to the question of the Senator from West Virginia, I understand his concern, but as far as I am concerned, any Member of Congress could forego the mailing of agricultural bulletins or other mass mailings for 30 days before an election, and I think very few people would suffer.

There is no way one could call a response to a legitimate inquiry such as the Senator from Rhode Island pointed out—I do not care how many letters he sends—or a mailing of agricultural bulletins, as a mass mailing; but I think it is a matter of a Member of Congress jeopardizing himself when he sends out four or five mass mailings 30 days before an election. He is doing more than that. He is using taxpayers' money to try to win his own reelection, and that is wrong. It ought to be stopped.

Mr. COOK. Mr. President, will the Senator yield?

Mr. BROCK. Will the Senator use his own time?

Mr. COOK. Mr. President, I yield myself 2 minutes.

We have learned a great deal from the colloquy, and I would hope that, conceivably, the Senator might withdraw the amendment, if there are others that may be brought up, and we might have a chance to look into it.

There are several things we have learned. We have used the term "newsletter" in the debate. It seems to me we could use that knowledge of what we have learned with respect to newsletter. Second, we have used the phrase "mail which originates in the Member's office." We have talked about the problem of mailing agricultural reports, for example. So I think we have learned a great deal from this debate, and I think we can limit the amendment, and I think we can eliminate without question abuses that originate in the office and originate in the newsletter type of circumstance.

So, therefore it would seem to me that if the Senator and his cosponsor, the distinguished Senator from California, could get together and make the particular kind of change in phraseology that is acceptable, I think that we could get moving with it.

I agree with the Senator from Rhode Island when he says that we should not get picky about it. If we are picky about it, we might find ourselves in serious problems.

Mr. PASTORE. Mr. President, I agree with the Senator about that. If someone could interpret this matter, I think that we should make the RECORD clear. No one wants to circumscribe a Senator in the carrying out of his duties of office. However, we are talking about the kind of thing where, because one has the use of a frank, it is used for political purposes.

How weare going to explain this away, I do not know. However, that is one of the things that has always plagued us in these bills.

Mr. COOK. Mr. President, I have to agree with the Senator from Rhode Island that if one sends out 100,000 mailings from the Department of Agriculture within a 30-day period and has a big rubber stamp on it that says it is from the office of so-and-so, that comes within what the Senator from Tennessee is talking about. And I have to agree with the Senator from Tennessee on that.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BROCK. Mr. President, unless a Senator wants to say something else, I am prepared to withdraw the amendment in the hopes that we can write better language within the next 30 or 40 minutes. I will be back before the day is out with an amendment dealing with the frank. And I so inform my colleagues.

Mr. President, I withdraw the amendment.

The amendment was withdrawn.

Mr. HART. Mr. President, I call up my amendment No. 424.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

On pages 56–60, strike section 615, and insert in lieu thereof a new section 615, as follows:

§ 615. Limitations on contributions by individuals and on expenditures by certain other persons

(a) No individual shall make, and no candidate or political committee acting on behalf of a candidate shall accept, any contribution during any calendar year to or for the benefit of any candidate which is in excess of the amount which, when added to the total amount of all other contributions made by that individual during that calendar year to or for the benefit of a particular candidate, would equal $1,000.

(b) No individual shall make, and no candidate or political committee shall accept, any contribution during any calendar year to or for the benefit of any candidate or any political committee, including political committees specified in subsection (c)(3), which is in excess of the lesser of—

(1) the amount which, when added to the total amount of all contributions made by that individual to or for the benefit of all candidates and all political committees during the calendar year, would equal $15,000; or

(2) the amount which, when added to the total amount of contributions made by that individual and the members of his family to or for the benefit of all candidates and all political committees during that calendar year, would equal $15,000.

(c)(1) No person (other than an individual), but including any group of individuals formally or informally acting in combination or concert, shall make, and no candidate or political committee acting on behalf of a candidate shall accept, any expenditure during any calendar year for or on behalf of a particular candidate which is in excess of the amount which, when added to the total amount of all other expenditures made by that person for or on behalf of that candidate during that calendar year, would equal $3,000.

(2) No person shall make any independent expenditure on behalf of a candidate which, when added to the total amount of other independent expenditures made by that person on behalf of that candidate during that calendar year, would exceed $1,000. For purposes of this section, an expenditure shall not be deemed to be independent if it constitutes an expenditure on behalf of a candidate within the meaning of section 614(c)(3) of title 18, United States Code.

(3) This subsection shall not apply to the central campaign committee or the State campaign committee of a candidate; to the national committee of a political party, or any political committee which is controlled by that national committee; the State committee of a political party, or any political committee which is controlled by that State committee; or to the Democratic or Republican Campaign Committees of the Senate or House of Representatives.

(d) For purposes of the limitations contained in this section, all contributions made by any person directly or indirectly on behalf of a particular candidate, including contributions which are in any way earmarked, encumbered, or otherwise directed through an intermediary or conduit to that candidate, shall be treated as contributions from that person to that candidate.

(e) For purposes of the limitations contained in this section, as well as for purposes of all other sections of this Act, the terms "contribution" and "expenditure" shall not be construed to include communications by any organization to its members and their families on any subject; nor shall it include the costs of the establishment, administration, or solicitation of contributions to a separate segregated fund to be utilized for political purposes, if the establishment and administration of, and solicitation to such funds do not constitute a violation of section 610 of title 18, United States Code, or section 611 of title 18, United States Code, and communications (including advertisements) to any person on any subject by any organization which is organized solely as an issue-oriented organization which communications neither endorse nor oppose any candidate for Federal office.

(f) The limitations imposed by subsection (a) and by subsection (b) shall apply on an overall basis to all elections in a calendar year in which a given candidate participates, including all primary, primary runoff, and general elections. Such limitations shall apply separately, on an overall basis, to any special election in the same calendar year, including all primary and primary runoff elections therefor.

(g)(1) Any contribution made in connection with a campaign in a year other than the calendar year in which the election to which that campagin relates is held, shall, for the purposes of this section, be taken into consideration and counted toward the limitations imposed by this section for the calendar year in which that election is held.

(2) Contributions made to or for the benefit of a candidate nominated by a political party for election of the office of Vice President shall be held and considered for purposes of this section, to have been made to or for the benefit of the candidate nominated by that party for election to the office of President.

(h) For purposes of this section, the term—

(1) "family" means an individual and his spouse and any of his children who have not attained the age of eighteen years; and

(2) "political party" means a political party which in the next preceding Presidential election, nominated candidates for election to the offices of President and Vice President, and the electors of which party received in such election, in any or all of the States, an aggregate number of votes equal in number to at least 10 per centum of the total number of votes cast throughout the United States for all electors for candidates for President and Vice President in such election.

(i) Violation of the provisions of this section is punishable by a fine of not to exceed $25,000, imprisonment for not to exceed five years, or both.

Mr. HART. Mr. President, the able and distinguished senior Senator from Maine (Mr. MUSKIE) has indicated to me his desire that he be listed as a cosponsor. I, therefore, ask unanimous consent that the name of the Senator from Maine (Mr. MUSKIE) be listed as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, for the information of those Senators who are present on the floor, this is an amendment which, under the unanimous-consent order was allotted 3 hours for debate, the time to be equally divided.

I have advised the manager of the bill, the Senator from Nevada (Mr. CANNON) that in light of the thorough discussion in the last several days of this matter—which discussions have clarified virtually all areas affected by my amendment—I would anticipate that we could come to a vote within a matter of a relatively few minutes, perhaps 15 minutes.

I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. CANNON. Mr. President, in light of the Senator's statement, I wonder if we might change the unanimous-consent agreement.

Mr. HART. That will be agreeable. I would be willing to agree to a time limitation of 30 minutes, 15 minutes to a side.

Mr. CANNON. Mr. President, I ask unanimous consent that there be a time limitation of 30 minutes on the Hart amendment, 15 minutes to a side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, this is a corrected version of my original amendment, amendment No. 419, in which one figure was incorrectly printed. For those who have not yet seen the text of this amendment, it is exactly the same, word for word, as amendment No. 419, with the single exception that in section (b)(2), the last word on line 17 of page 2 should read $15,000 instead of $30,000. This is the amount which a family could give to all candidates and all committees in a single election year.

Since I introduced this amendment several days ago, my colleagues have had an opportunity to consider one issue in it; namely, the limits on individual contributions. This element has already been moved in the right direction by the Bentsen amendment under which individuals may now contribute only a total of $6,000 to a particular candidate's primary and general election campaigns combined.

Nevertheless, I will seek the yeas and nays on my amendment which is a complete substitute for the committee language of section 615 and changes its provisions in several important respects and adds other provisions to strengthen the limits on contributions.

When the amendment was introduced, I stated briefly its essential provisions. Let me explain their operation, and the reasons for making these changes in the committee bill, in a bit more detail.

First, let us look at the limitations on aggregate contributions contained in section 15(a)(2). This has been referred to generally as a limitation on the amount which a family could give for all campaigns and political committees in regard to a particular election. However, as the committee bill was written, there would be no limit whatsoever on the aggregate amount which a family could give to political committees alone if it made no contributions to any particular candidate.

The aggregate limit on giving in a given election year in subsection 2 is only triggered, under the prefatory language, for subsection (b) by a contribution to a particular candidate. Under the committee's language, it is a contribution to a candidate which cannot, when added to the moneys given by the family to other candidates and committees, exceed $100,000. Thus, if a wealthy family gave no money to a particular candidate but gave money instead to particular interest groups and political committees likely to help the kinds of candidates that family sought to aid, the family could spend many millions of dollars for campaign assistance in a given election year.

In my view, the bill should limit that kind of excessive influence on the Federal elections by any single family even when no contribution is made to or for the benefit of a particular candidate by that family.

Therefore, my amendment offers new language for section (a) and (b) on this point, in order to insure that the aggregate limitation on a family contributing to the Federal election process would apply even if all of the family's contributions were to political committees not affiliated with a particular candidate, and the amount for a family is lowered from $100,000 to $15,000.

I believe that in the wake of the Watergate scandal in all its ramifications, some of which may only be commencing to unfold, the public is looking to us in the U.S. Senate to sharply reduce the amount of contributions which can be made by any individual or family to particular candidates or parties or interest group committees.

My amendment limits individual contributions for a particular candidate to $1,000, and it reduces the amount which an interest group committee could give in both the general and primary runoff election, combined, to any single candidate to $3,000.

To put it briefly, Mr. President, that is enough, even for a group representing more than one individual or family.

This substitute section 615 makes other changes necessary for a workable limitation on political influence.

Although it retains the exemption on contribution limits for political party committees, my substitute provides an express provision dealing with earmarked funds.

The Comptroller General has just issued regulations indicating that under the 1971 act, earmarking must be disclosed. However, it is unclear from the committee bill whether earmarking must merely be disclosed or whether earmarked funds would also be treated as a contribution by the donor to the candidate. I understand that was the committee's intent and that the committee feels it is implicit in the structure of the bill.

This point should be spelled out more clearly so that the independent commission and private watchdog groups can more easily police the direct contribution limits. And, the provision for restricting earmarking and treating such funds as direct contributions must be couched in adequately broad terms to accomplish our purpose. Under my substitute, section 615, a new paragraph (d) states:

> (d) For purposes of the limitations contained in this section, all contributions made by any person directly or indirectly on behalf of a particular candidate, including contributions which are in any way earmarked, encumbered, or otherwise directed through an intermediary or conduit to that candidate, shall be treated as contributions from that person to that candidate.

Thus, if someone gives a State central committee $1,000 and says $500 of this is for PHIL HART's campaign, then that $500 counts as direct contribution from him to me and uses up half of the $1,000 he is allowed to contribute to me under subsection (a).

Of course there may still be some efforts to earmark funds in violation of this provision. And of course there will be factual patterns which will have to be dealt with by the Commission through implemented regulations. But such explicit broad earmarking provision as provided in my substitute would go a long way to aid successful enforcement and prosecution of violators sufficient to deter many from future efforts to evade the limits in this fashion.

Perhaps one of the biggest loopholes in the committee language is that there is no limitation placed on the amounts of independent activity which an individual or group can carry on for any benefit, provided that it is done independently and is not considered an expenditure by me or by my organization or done at my request within the meaning of section 614 of this bill.

It is all well and good to say that we should let people campaign independently on my behalf if they wish to without trying to regulate them. But what does this mean in practice? It means that a wealthy individual or interest group which backs my candidacy, for example, would not only be able to give me a few thousand dollars directly, but also could then take out hundreds of thousands of dollars' worth of radio and television advertising, newspaper and magazine ads, billboard space, and so forth.

This would, for all practical purposes, gut the limits on contributions. Congress has already recognized this problem in the 1971 act. Under existing law, expenditures on media are limited. No one can place an advertisement specifically endorsing my candidacy unless I sign off on it. So people cannot campaign independently for me as much as they want. Indeed, under existing law, by refusing to sign off, I can prevent them from campaigning at all, at least with regard to advertisements in the media covered by the act. And even if I do not choose to prevent their advertisements on my behalf, if I have already used my full allotment of media expenditures, I cannot sign off and they cannot have the ad accepted by the station or newspaper.

Under my substitute amendment, every person would be permitted to campaign on behalf of a specific candidate, or against his opponent to the tune of $1,000, but no more. Without such a provision, the individual contribution limits would lose very much of their meaning.

Mr. President, as I think I indicated in introducing the original text, this amendment is endorsed by a coalition of unusual breadth: Common Cause, United Automobile Workers, the AFL-CIO, the National Committee for an Effective Congress, the Center for Public Finance of Federal Elections, and Ralph Nader's Washington Congress Watch.

I think that coalition is unique in its agreement, on this occasion, on specifics as they bear on this amendment. I hope very much that Congress will move to improve a bill already stronger as it comes out of the committee than the existing law, but which could be made still stronger, I think, by the adoption of the amendment.

Mr. COOK. I yield myself 5 minutes.

Mr. President, I must say that as one reviews this amendment, because it provides in one instance where an individual could receive a contribution of $1,000 which includes primaries, runoffs, and general elections, what it really is is a kind of Proxmire amendment, which wanted to limit the total to $100, except that in this instance, if you are in a State where there is a runoff, instead of $1.000 per election, in this instance it is $333, because a man can give no more than a thousand dollars to any one candidate in a year. So if we take many of the States of the South, we are saying the largest contribution that can be made to a campaign by any one individual, group, or association, apparently, under the terms of the proposed amendment, would be $333 in the primary, $333 in the runoff, and $333 in the general election.

I think this is totally unrealistic, Mr. President. I might say that I know the Senator from Michigan is very enthusiastic about Treasury subsidizing of Federal elections. That has a great deal of merit. We debated that proposal, and this Senator voted not to table the amendment of the Senator from Michigan and the Senator from Pennsylvania yesterday.

But I would hope we would not rush into a position where we are compelled to have the Federal Treasury subsidize our elections by means of our own actions. If it is the wish of Congress to do that, because it is meritorious, let us do it on that basis. But I feel compelled to say that when we went to the figure of $3,000 yesterday, we amended the figures that came out of both committees, the Committee on Rules and the Committee on Commerce, from $5,000 to $3,000 that a candidate could receive from any source in 1 year, and under the circumstances what we are really doing here is limiting that further from 3 to 1; but we are including in the limitation all of the elections that one might have to go through during the course of a year, which means, in essence, exactly what I have said: That if you receive a contribution from an individual of $500 for the primary, he is restricted from giving and you are restricted from accepting or receiving any more than $500 from that individual in the general election, if he has contributed to your primary.

Maybe that is what we want to do. That is a decision that this body will have to make. But I think what we are doing, or could well be doing, is falling into a trap, at the urging of many wonderful and remarkable organizations that want to see election reform, where we will force ourselves, conceivably, to public financing, though we now know that a majority of the general public, as the Gallup poll has indicated, are against Treasury financing of political campaigns.

Therefore, if we continue to do this, and continue to put ourselves in a position where, by reason of our failure to be realistic, we force ourselves, against the will of the people of this Nation, into Federal financing of elections, I think we will do ourselves a disservice.

I think the amendment of the Senator from Texas yesterday, at least after reading many of the newspapers throughout the United States today, accomplished a great deal in limiting groups, committees, and organizations from contributing more than $3,000 to a candidate. This amendment would do it on the basis of $1,000, but include all elections that the candidate may have to go through during the course of the year.

So I think this would be a small improvement on the Proxmire amendment, but it does a great disservice to the Bentsen amendment.

Mr. President, I reserve the remainder of my time.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. COOK. I yield.

Mr. CLARK. Just for the record, it is my understanding that the Bentsen amendment would provide a total limitation of $9,000 in any given campaign, since it would be $3,000 for each of three possible elections.

Mr. COOK. That is correct.

Mr. CLARK. So the comparable difference would be between $9,000 with the Bentsen amendment, to which the Senate already has agreed, and $1,000 under the Hart amendment?

Mr. COOK. Total, that is correct.

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. Mr. President, I join with my distinguished colleague across the aisle in opposing the amendment. I think we have already acted on the issue of the amendment, although this is not subject to a point of order as it now stands.

But we have acted in each instance. We have had votes as to whether we are going to go for $100, $3,000, or $15,000. The Senate has made that determination, that the $3,000 is the limit that should be in.

Mr. CLARK. Mr. President, I support the amendment offered by the distinguished Senator from Michigan. More than 50 printed amendments have been proposed or suggested for consideration with this bill, but none of them can have a greater beneficial impact on the political process than the amendment before us now. At a time when people have become so suspicious and wary of the political process, at a time when individual citizens see their Government growing more and more remote, Senate HART's proposal makes emminent common sense.

When the Senate first took up this legislation only 2 days ago, I joined a number of my colleagues in suggesting that the present system of campaign financing in this country may be beyond reform. To give politics back to the people, it is necessary to put campaign financing back in the hands of the people though public financing. But until Congress considers public financing, we have an obligation to do the very best we can in reforming the present system. The amendment offered by Senator HART represents the very best reform.

As S. 372 stands now, an individual can contribute as much as $9,000 to the candidacy of a man or woman running for public office. That might be a worthwhile limit in a Presidential campaign but in any Senate or House race, $9,000 is a sizable contribution—too sizable.

The Hart amendment is a good beginning on the road to public financing. Besides placing stricter limitations on individual contributions—a total of $1,000—it lowers the ceiling for family contributions and contributions of political committees. The amendment also seeks to end the abuses caused by independent, unauthorized expenditures on a candidate's behalf.

Mr. President, I urge the adoption of the Hart amendment. It would put a stop to some of the most flagrant abuses of the political process, and in the process, it would help restore the failing public confidence in government.

The question is on agreeing to the amendment of the Senator from Michigan (Mr. HART) No. 424.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Iowa (Mr. HUGHES) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from South Dakota (Mr. ABOUREZK) would vote "yea."

Mr. SCOTT of Pennsylvania. I announce that the Senator from New Hampshire (Mr. COTTON) is absent because of illness.

The Senator from Massachusetts (Mr. BROOKE) is absent on official business.

The Senator from New York (Mr. BUCKLEY), the Senator from Nebraska (Mr. CURTIS), the Senator from Michigan (Mr. GRIFFIN) and the Senators from Ohio (Mr. SAXBE and Mr. TAFT) are necessarily absent.

If present and voting, the Senator from Massachusetts (Mr. BROOKE) and the Senator from Nebraska (Mr. CURTIS) would each vote "nay."

The result was announced—yeas 33, nays 55, as follows:

[No. 343 Leg.]

YEAS—33

Allen
Biden
Burdick
Case
Chiles
Clark
Cranston
Eagleton
Hart
Hathaway
Hollings
Kennedy
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Proxmire
Ribicoff
Schweiker
Stafford
Stevenson
Symington
Williams

NAYS—55

Aiken
Baker
Bartlett
Bayh
Beall
Bellmon
Bennett
Bentsen
Bible
Brock
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Church
Cook
Dole
Domenici
Dominick
Eastland
Ervin
Fannin
Fong
Fulbright
Goldwater
Gurney
Hansen

Hartke
Haskell
Hatfield
Helms
Hruska
Huddleston
Inouye
Jackson
Javits
Johnston
Long
Magnuson
McClellan
McClure
Montoya
Nunn
Percy
Randolph
Roth
Scott, Pa.
Scott, Va.
Sparkman
Stevens
Talmadge
Thurmond
Tower
Tunney
Weicker
Young

NOT VOTING—12

Abourezk
Brooke
Buckley
Cotton
Curtis
Gravel
Griffin
Hughes
Humphrey
Saxbe
Stennis
Taft

So, Mr. Hart's amendment, No. 424, was rejected.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. COOK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MODIFIED AMENDMENT NO. 391

Mr. BROCK. Mr. President, I send to the desk my modified amendment No. 391, cosponsored by Mr. Bentsen, Mr. Cranston, Mr. Domenici, Mr. Nunn, and Mr. Biden.

The PRESIDING OFFICER. The amendment, as modified, will be stated.

The legislative clerk read as follows:

On page 2, line 8, after the word "mailing," insert the words "of a newsletter."

On line 10, change "sixty" to "thirty."

Mr. BROCK. Mr. President, I have accepted the advice of my colleagues and tried to make this amendment consistent with the needs of a Senator's ability to respond to his constituents.

What the amendment would do, very clearly, would be to prohibit the use of a newsletter mailing and the use of mailing of a so-called simplified form of address, which deals with the so-called boxholder mailing, which is not available to the Senate——

The PRESIDING OFFICER. Will the Senator suspend, please?

The Senator deserves to be heard. Senators who desire to talk will please leave the Chamber. The Senator from Tennessee is explaining an amendment and deserves to be heard.

The Senator from Tennessee may resume.

Mr. BROCK. Mr. President, I modify my amendment to change the 30 days to 60 days.

The PRESIDING OFFICER. The amendment is so modified.

Mr. BROCK. As I was saying, the very simple explanation of the amendment is to prohibit any potential for abuse of the frank in the period of an election process. What we are dealing with is the elimination of the newsletter or the simplified form of address mailings which can be used for the benefit of the incumbent.

I urge that the amendment be agreed to.

Mr. COOK. Mr. President, I have no objection to the amendment.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. BROCK. Mr. President, I yield back the remainder of my time on this amendment.

Mr. CANNON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alaska (Mr. Gravel), the Senator from Iowa (Mr. Hughes), and the Senator from Minnesota (Mr. Humphrey), are necessarily absent.

I further announce that the Senator from South Dakota (Mr. Abourezk) is absent on official business.

I also announce that the Senator from Mississippi (Mr. Stennis) is absent because of illness.

I further announce that, if present and voting the Senator from Minnesota (Mr. Humphrey) would vote "yea."

Mr. SCOTT of Pennsylvania. I announce that the Senator from New Hampshire (Mr. Cotton) is absent because of illness.

The Senator from Massachusetts (Mr. Brooke) is absent on official business.

The Senator from New York (Mr. Buckley), the Senator from Nebraska (Mr. Curtis), the Senator from Michigan (Mr. Griffin) and the Senators from Ohio (Mr. Saxbe and Mr. Taft) are necessarily absent.

If present and voting, the Senator from Massachusetts (Mr. Brooke), and the Senator from Nebraska (Mr. Curtis) would each vote "yea."

The result was announced—yeas 81, nays 7, as follows:

[No. 344 Leg.]

YEAS—81

Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bennett
Bentsen
Bible
Biden
Brock
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cranston
Dole
Domenici
Dominick
Eagleton
Fannin
Fong
Fulbright
Goldwater
Gurney
Hansen
Hart
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Inouye
Jackson
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McClure
McGee
McGovern
McIntyre
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Pa.
Scott, Va.
Sparkman
Stafford
Stevens
Stevenson
Symington
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—7

Aiken
Eastland
Ervin
Javits
McClellan
Metcalf
Packwood

NOT VOTING—12

Abourezk
Brooke
Buckley
Cotton
Curtis
Gravel
Griffin
Hughes
Humphrey
Saxbe
Stennis
Taft

So Mr. Brock's amendment (No. 391), as modified, was agreed to.

Mr. BROCK. Mr. President, I call up my amendments No. 390, and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendments.

The legislative clerk read the amendments (No. 390) as follows:

On page 26, beginning in line 6, strike "sections 312 through 315, respectively," and insert in lieu thereof the following: "section 312,".

On page 44, line 15, after the semicolon insert "and".

On page 45, line 2, strike "; and" and insert in lieu thereof a period.

On page 45, strike lines 3 through 6.

On page 46, between lines 2 and 3, insert the following:

"Sec. 11. Title III of the Federal Election Campaign Act of 1971 is amended by inserting after section 312 (as redesignated by this Act) the following new section:

" 'VOTERS' INFORMATION PAMPHLETS

" 'Sec. 313. The Commission shall prepare and publish a voters' information pamphlet for each State and shall distribute the pamphlet to residential postal addressees within that State not earlier than thirty-five days nor later than twenty days before the date of any general or special election held in that State for the election of any candidate to Federal office. The pamphlet shall contain party platforms, pictures and brief biographies of the candidates for such office in that State, and statements by such candidates. The statements shall not exceed one thousand five hundred words, in the case of a candidate for election to the office of Vice President, Senator, Representative, Resident Commissioner, or Delegate, and shall not exceed three thousand words in the case of a candidate for election to the office of President.'."

On page 46, strike lines 3 through 9, and insert in lieu thereof the following:

"Sec. 12. Section 309 of the Federal Election Campaign Act of 1971 (relating to statements filed with State officers) is redesignated as section 314 of such Act and amended by—

"(1) striking out 'a supervisory officer' in subsection (a) and inserting in lieu thereof 'the Commission'; and

"(2) striking out 'in which an expenditure is made by him or on his behalf' in subsection (a) (1) and inserting in lieu thereof the following: 'in which he is a candidate or in which substantial expenditures are made by him or on his behalf'.".

On page 46, line 10, strike "Sec. 12. Section 314 (as redesignated by this Act)" and insert in lieu thereof "Sec. 13. Section 310".

On page 46, line 13, strike "amended" and insert in lieu thereof "redesignated as section 315 of such Act and amended".

On page 46, line 16, strike "Sec. 13. Section 315 (as redesignated by this Act)" and insert in lieu thereof the following: "Sec. 14. Section 311".

On page 46, line 20, strike "Sec. 315." and insert in lieu thereof "Sec. 316.".

On page 47, line 3, strike "Sec. 14." and insert in lieu thereof "Sec. 15.".

On page 48, line 2, strike out "316" and insert in lieu thereof "317".

On page 48, line 21, strike "Sec. 15." and insert in lieu thereof "Sec. 16.".

On page 49, line 4, strike "Sec. 16." and insert in lieu thereof "Sec. 17.".

On page 50, line 8, strike "Sec. 17." and insert in lieu thereof "Sec. 18.".

On page 50, line 19, strike "Sec. 18." and insert in lieu thereof "Sec. 19.".

Mr. BROCK. Mr. President, I yield myself such time as I might consume.

The last amendment dealt with the potential for incumbents' actions, at taxpayers' expense, which might help to insure their own election, and I am very grateful for the action of this body in removing this potential for abuse. I think

it is a remarkable step forward. But the problem remains for the nonincumbent that he simply does not have the same access to the media and to other methods of communication that an incumbent does.

My amendment would require the Federal Election Commission to prepare and publish at least 20 days and not more than 35 days preceding an election a voter's election pamphlet with information on party platform and information on the candidates for such offices as may be contested in that State.

The statements by the candidates shall not exceed 1,500 words in the case of a candidate for election to the Senate or House of Representatives and 3,000 words for the office of President.

It has been said that this amount of information is perhaps a drop in the bucket and that perhaps it will cost a good deal of money.

I will accept the fact that the cost will run somewhere in the order of $20,000 to $23,000 in the biennium.

Mr. President, in all candor it seems to me that if we are going to avoid a charge under the Candidate's Protection Act or Incumbent's Protection Act that some such device should be granted to facilitate the opportunity for a nonincumbent to have a fair chance to get his platform, his proposal, his background, and his record before all of the voters. This is not a particularly complex amendment.

I am fully prepared to try to limit the time to the very minimum so that we could proceed with the debate.

With that in mind, I reserve the remainder of my time.

Mr. COOK. Mr. President, I yield myself such time as may be necessary.

There is a great deal of merit in this. However, it is fraught, it seems to me, with a good many problems.

First, there is the commission that is going to prepare the pamphlet. The pamphlet is not going to be subject to review by the candidate. It is not going to be subject to review by the candidate for the House of Representatives or for the Senate. Apparently, it would not even be subject to review based upon accuracy.

When we talk about the cost of a vast mailing, on the basis only of the figures that we have, and we are talking about here either an 8-cent or 10-cent stamp—as we will find out—for each of 139,270 eligible voters.

We also have to remember that it has to be geared not only to the major candidates, but also to the independent candidates in the respective States.

So, we are talking about basically biographical sketches for one-third of the membership of the Senate times 2 and we will have to be talking about biographical sketches for 435 times 2, maybe less 20 of those who do not have opposition in general elections.

Mr. President, I would hope that before this amendment would be considered today—and I hope that the chairman of the committee would listen to this—that the Senator might consider submitting this proposal as a bill and submitting it to the Committee on Rules and Administration for a hearing so that we can make some determination of the cost and of the details involved. This is a commission that will be responsible for making a determination of the biographical sketches as such for one-third of the membership of the Senate times 2, 435 Members of the House of Representatives times 2, plus the Presidential and Vice Presidential candidates. And I have a notion that it will be a little more expensive than the Senator might think.

I am not afraid of the expense. However, I think that we ought to have a logical view of the expenses, because that is what we are responsible for.

The PRESIDING OFFICER. If the Senator would suspend, I must inform the Senator from Tennessee that his present amendment amends the same part of the bill and therefore would not be in order as the previous amendment has been agreed to.

Mr. BROCK. Mr. President, I ask unanimous consent that I may proceed for an additional three minutes to discuss the matter in response to the Senator from Kentucky because I had intended to withdraw the amendment, and I would like to do it at that time, if that is agreeable.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROCK. Mr. President, I am aware of the concern of the Senator from Kentucky. I would like to bring his attention to the fact that I had intended—and I think the language calls for this—for the statement to be made by the candidate. I am not sure that much checking needs to be done. However, if we do need clarification so as to guarantee protection to the candidate with respect to accuracy, that is not difficult to remedy.

I do accept the remarks of the Senator so far as the overall cost is concerned.

I simply want this to be presented at this time because I think it is important for us to recognize that it is becoming more and more difficult in this country for a person who is not in office to get in office.

I think it is terribly dangerous for us in a free society to place any inhibition on the opportunities for the voters and the people of this country to change their elected representatives.

We are very much concerned with the difficulty in unseating an incumbent today. And I think it is important to give every possible opportunity for a challenger to have his voice, his views, and his platform heard by the voters so that they can make up their minds.

That is what we all seek. If the committee would consider this as original legislation when I submit it later, I would be grateful for that.

Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. COOK. Mr. President, I could not agree more with the Senator from Tennessee. We as politicians are always criticized, or it seems that we always are. And yet somehow or other this Nation has never produced 70 percent of its eligible voters to vote in a general election. As a matter of fact, in the last general election, 64 percent of the registered voters in the United States went to the polls and cast their votes.

I think that the Senator from Tennessee would have to totally agree with me. I think that the politician would be far happier to win, and I know that he would be far happier to lose if he lost with 90 percent of the people voting.

It becomes discouraging in some States when 51, 53, or 54 percent of the people vote and one loses the election.

I think the problem we have in the electoral process involves the question of why people do not take this matter seriously and exercise their right of franchise.

I think this is a good step. The Senator from Tennessee is really offering a proposal to say to the people: "Here is your opportunity to read about the candidates that are running for public office, and not in a biased way."

I might say to the Senator—and this is in the amendment and is to be in the pamphlet—that he calls for party platforms, pictures, and complete biographies of the candidates for such office in that State, and statements by such candidates.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. COOK. Mr. President, I yield myself an additional 1 minute. We have to make sure that the biographical sketches are correct and that we would not find when we made a mass mailing in a State to one million or two million people, that the Government was responsible for making a very serious and grevio[illegible] error in it and perhaps cause the candidate to lose his office.

Mr. BROCK. Mr. President, I could not agree more with the Senator.

AMENDMENT NO. 395

Mr. BROCK. Mr. President, I call up my amendment No. 395 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. BROCK's amendment (No. 395) is as follows:

On page 38, beginning with line 22, strike out through line 14 on page 40 and insert in lieu thereof the following:

CAMPAIGN DEPOSITORIES

SEC. 311. (a) Each candidate shall designate one or more National or State banks as campaign depositories. No candidate, other than a candidate for nomination for election, or for election, to the office of President, may designate more than one such depository in each congressional district within his State in which he is a candidate. A candidate for nomination for election, or for election, to the office of President may not designate more than one campaign depository in each State in which he is a candidate. The campaign depositories of a candidate nominated by a political party for election to the office of Vice President shall be the campaign depositories designated by the candidate nominated by that party for election to the office of President.

(b) The candidate's campaign treasurer shall open a checking account at each depository designated by the candidate which shall be designated as the campaign account of that candidate.

(c) Whenever the contributions received by a candidate or by any political committee authorized by him to receive contributions exceed, in the aggregate, $100, they shall be forwarded immediately to one of his campaign depositories for deposit in such an account.

(d) The candidate shall furnish to the Commission, upon the designation of a campaign depository, the identification of that depository and the title and number of any account therein used in connection with his campaign.

(e) No expenditure may be made by the candidate or under the authority of any of his campaign treasurers except by check drawn on such an account in a campaign depository designated by the candidate. Notwithstanding the preceding sentence, each campaign treasurer may maintain a petty cash fund of not more than $1,000, out of which incidental cash expenditures of less than $100 may be made.

(f) (1) Each bank designated by a candidate as his campaign depository with which the candidate maintains a campaign checking account shall—

(A) beginning sixty days before the date of any election in which that candidate's name will appear on the ballot, file a report with the Commission on each Monday setting forth, in such form and detail as the Commission shall prescribe, each deposit item received during the preceding week for deposit into that account, together with the identification of the person to whom such item is attributable; and

(B) beginning thirty days before the date of any such election, file a report with the Commission on each Monday setting forth the date, amount, payee of, and the identification of the person authorizing, each check drawn on that account which it has received during the preceding week.

(2) The reports made under paragraph (1) shall be cumulative and shall be complete as of the last business day of the week to which they relate. The reports shall set forth separately the identification of, and aggregate amount of contributions made by, any person who has contributed more than $99 to such candidate, as may be determined by information taken from items deposited in such account. The Commission shall cause a copy of each such report to be published in a newspaper of general circulation within the State or district within which that depository is located.

Mr. BROCK. Mr. President, I yield myself such time as I may consume.

This is a more complex amendment, and perhaps more far-reaching. I certainly think it has a far greater effect than almost anything that has been debated to date on this floor in connection with this matter.

What I am trying to do is let the American people know, on a continuing and immediate basis, what is going on in every campaign in which they have an interest. It seems to me that these quarterly reports that come in—and the last quarterly report, incidentally, is filed 2 weeks after the election—do little good in terms of allowing the voter a total informational input on which to make an intelligent decision with regard to who contributes to a campaign, how much they contribute, and for what the money is spent.

This amendment would require each of us as candidates, and every challenger, to designate one campaign depository in his particular congressional district, and all receipts would have to be funneled into that depository, on a weekly basis—even those in very small amounts of cash would go into that depository to be identified as to their source and quantity, and every single campaign expense would have to be paid from that depository except for those, as I state in the amendment, which are less than $100 and which have to go for a very small petty cash fund.

The reason for this is that, because the burden of reporting under the current law is absolutely abominable, we drive candidates, managers, finance chairmen, and all of their help crazy with the burdensome requirements of the existing law, to no good effect. But if we use the facilities of this lending organization, this depository, this bank, if you will, all of those receipts will be put on the computer as they come in automatically, and all of the checks are recorded by computer automatically, and there is no problem of any great consequence in having that bank issue a weekly listing of all receipts and all expenditures made on that particular political account.

It seems to me that if we are going to have really effective campaign reform, the most fundamental part of the whole reform method must be in terms of allowing the American people full access to the information pertinent to a given race.

All I am trying to achieve here is a simplified method whereby the candidate, through the device of this particular bank, can let his constituency know from whence his money came and for what it is being used, on a continuing basis throughout the course of his campaign.

Unless we do that, then all the ceilings in the world on personal contributions, on total contributions, and on total spending do not amount to a hill of beans, because a cloud of suspicion still hangs over the political process in this country as a result of the recent events that are so discouraging to all of us.

Mr. President, I submit that if we are going to restore the confidence of the people of this country in their elective processes, the one way to do it and to be sure that it is done is to let the people know what is going on as it happens—not after the fact, but in time so that they can exercise their own judgment on whether or not they like where we get our money and what we spend it for.

Maybe it is a little bit idealistic, but I believe very much in the people of this country, and I think if they have the facts, they have the integrity, the character, and the ability to make the right choice.

I urge the adoption of this amendment, and I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time.

Mr. CANNON. Mr. President, I yield myself 3 minutes.

I think that in our zeal to get a campaign reform bill passed, we are going to get a bill out that no one can live with, and one that will be so complicated that we will have the Senate of the United States running every campaign for every Federal office in the country. I think that is completely unrealistic.

In the bill itself, Mr. President, we have required reports to be filed with the Commission, and we have required those on a periodic basis. They are made available for the public. I think we ought to give that proposal a chance to work. Let us see if it is going to be adequate.

Here, we would even be requiring the banks to file a report with the Commission. This is going really to the height of the ridiculous, I would say, in the minute details of trying to accomplish a clean campaign. I am sure that we will, if we continue along this line, have the process so complicated that a person cannot run for office at all. Maybe that is the objective of some of these moves, to make it so complicated that no one can be induced to get involved in a campaign.

So, Mr. President, I hope the amendment will be defeated. I reserve the remainder of my time.

Mr. BROCK. Mr. President, if I might respond, the problem with the bill as it is presently written, as was the case with the previous law, is that we require these reports to be filed by the candidate, his campaign treasurer, and his campaign manager, with all of the confusion that that entails.

What I think the Senator fails to understand is that by requiring all of your contributions and all of your expenditures to go through one source, one institution, and that institution having full access to its own data bank and its own computer, it becomes a matter of much simpler procedure to require weekly reporting and accounting than is the case by requiring the candidate, his finance manager, his chairman, his treasurer, and all the rest to go through the same process. So it seems to me that rather than complicating the procedure, this amendment would have the double-edged benefit of much simplifying it, and taking an enormous burden off the candidate and his organization and placing it on a machine in a bank, which would do it automatically, and do so in a way so that we would let the people know what is going on.

Again I say the crucial point is that we let them know when it happens—not after the fact, not after the election, but as the expenditures and the receipts come in and go out for that particular campaign.

I frankly think the process would be very well received by most of my constituents, and I think the same is true for most other Senators as well.

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. I am prepared to yield back the remainder of my time.

Mr. BROCK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. BROCK. The time to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The second assistant legislative clerk proceeded to call the roll.

Mr. BROCK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, I yield back the remainder of my time.

Mr. BROCK. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. DOMENICI). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Tennessee (Mr. BROCK).

The amendment was rejected.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. STEVENSON. Mr. President, I have an amendment at the desk offered on behalf of myself and the Senator from Maryland (Mr. MATHIAS) which I ask be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> Strike everything from line 22 on page 57 through line 3 on page 58 and insert the following in lieu thereof: "candidate.".

The PRESIDING OFFICER. Would the Senator kindly indicate for the Chair, is this the amendment on which there is a time limitation of 3 hours?

Mr. STEVENSON. Yes it is, but I do not expect to require that amount of time.

Mr. CANNON. Mr. President, I wonder whether the distinguished Senator would be willing to consent to a time limit of less than 3 hours; say 1 hour?

Mr. STEVENSON. That would be sufficient, yes.

Mr. CANNON. Mr. President, I thank the Senator.

Mr. President, I ask unanimous consent that the time on this amendment be limited to 1 hour, with one-half hour to each side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, yesterday the Senate acted to limit individual campaign contributions to $3,000 each. That was the apparent intent of the Senate. But it was not the effect of the amendment offered by the distinguished Senator from Texas (Mr. BENTSEN).

As section 615 now stands, the major party political committees and the congressional campaign committees are not limited in the amount they can expend on behalf of a particular candidate. Major party political committees have a special exemption which permits them to expend without limit for the benefit of a particular candidate. There is no limit on the amount that individuals or other political committees can give the exempt major party political committees.

Thus, a political action committee representing some special interest group could give $1 million to the State central committee of a major party, which in turn could give the $1 million to the Senate candidate running in that State. This means that no effective limit is imposed on a special interest group's giving, while on the other hand, expenditures on behalf of candidates by public interest or general interest groups are severely restricted.

In my State, we have such organizations as the Independent Voters of Illinois, the Better Government Association in Chicago, and nationally there is the Council for a Livable World. Their expenditures on behalf of political candidates would be severely restricted when they endorse candidates and spend money on their behalf. But the contributions of the wealthy individual would not be severely limited.

I hold in my hand an article published in the Washington Post of July 26 about a man from my State of Illinois who gave $2 million for the reelection of President Nixon in 1972. He would not be prevented in any way at all from giving a like or a larger amount in 1976 to the election of a Presidential candidate, so long as he gave through an exempt party political committee.

Mr. CANNON. Mr. President, will the Senator from Illinois yield at that point?

Mr. STEVENSON. I yield.

Mr. CANNON. I would say, apparently the Senator is not using the latest figures. The statement made by the individual concerned was that he gave over $4 million in that campaign. But the Senator said the same thing could be done in 1976. That is not correct under the law. Under this bill, if we pass it as proposed, we have a limit for the individual and his family in the bill now of $100,000 to all candidates and all committees. That is the limit on the individual contribution.

Mr. COOK. If I may add there, the contribution to a Presidential campaign is limited to $15,000—no, $3,000, in the amendment yesterday.

Mr. STEVENSON. I am glad to have that assurance from the distinguished chairman and the distinguished ranking member. If that is, indeed, the intent of the committee, then I believe it can be carried out through a technical amendment.

Section 615 says:

> No individual shall make any contribution during any calendar year to or for the benefit of any candidate.

In that section, there are rules and limitations on the amounts which can be given, including the aggregate $100,000 limit to which the chairman has referred.

But, under our reading of the bill, he can give the $100,000 to candidates, but there is nothing in the bill preventing him from giving the same or a far larger additional amount to the committees. In the case I have mentioned of Mr. Stone who gave perhaps $2 million or $4 million, in this article he said he was prepared to give as much as $10 million. All he would have to do the next time would be to give that money to the Republican National Committee or some committee——

Mr. CANNON. The Senator is entirely incorrect in his assumption. He is also incorrect on his legal position. The situation is this: The way the bill now reads, reading subsection (2) on page 57 of the bill:

> "(2) the amount which, when added to the total amount of all contributions made by that individual and the members of his family to or for the benefit of all candidates and all political committees during that calendar year, would equal $100,000.

That is the total aggregate amount the Senator has referred to.

The exemption the Senator has referred to in the bill does not apply to that section at all. It is referring to expenditures. The expenditures are covered in (b) (1), which states:

> "(b) (1) No person (other than an individual) shall make any expenditure during any calendar year for or on behalf of a particular candidate which is in excess of the amount which, when added to the total amount of all other expenditures made by that person for or on behalf of that candidate during that calendar year, would equal—
>
> "(A) $5,000, in the case of a candidate other than a candidate for nomination for election, or for election, to the office of President; or
>
> "(B) $15,000, in the case of a candidate for nomination for election, or for election, to the office of President.

Which simply says that they can spend—they are not limited to the $3,000 that they can spend. They have been the recipients of contributions.

Mr. STEVENSON. I can see the provision says that if a candidate gives with his family $100,000 to a committee he cannot then give to a candidate, but I still do not see the prohibition in here on the limit on giving to committees.

Mr. CANNON. Let me read from page 57 of the bill, subsection (2):

> "(2) the amount which, when added to the toal amount of all contributions made by that individual and the members of his family to or for the benefit of all candidates and all political committees during that calendar year, would equal $100,000.

So that is the limit. If the Senator does not agree with the limit, then he might——

Mr. STEVENSON. I can understand that, if that is the intent of the committee. But I still think that an amendment to change the language is required, but if that is the intent of the committee, that is something we can work out.

Mr. CANNON. That is the intent of the committee. If the Senator feels that language is required to make that clearer, we certainly would be agreeable to accepting that type of language, but I do not think the amendment the Senator has offered gets to the particular problem he was describing. The legislative history certainly will show that. As a matter of fact, I even covered that in my opening statement—that that was the maximum we wanted to get, and I used his example as the horrible example. I used the case of the gentleman from Illinois who had made a tremendous contribution to the last campaign. I said that should not be permitted, that that is undue influence and constitutes such. The gentleman to whom the Senator referred had a statement in the paper yesterday morning, in the Washington Post, in which he said he was told by the President in two instances that he was responsible for his election.

Mr. STEVENSON. That is the article to which I am referring.

Mr. CANNON. This is the sort of thing we want to get at. That is why we fixed the $100 limit for all candidates and all political committees from an individual and the members of his family in any 1 year.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. STEVENSON. I will yield in a moment.

If that is the intent, I think we can work something out on the language controlling the contributions by individuals to committees, leaving aside the question of whether the $100,000 is a reasonable figure. I have some reason to believe that amendments will be offered to reduce that figure.

Still remaining is the other part of the problem to which my amendment is addressed. I do not detect in this bill any limits on the amounts of money that the committees can get.

Mr. CANNON. There is no limit on what a party committee can spend on behalf of the candidate, except that it cannot exceed his authorized limit in the bill.

In other words, his own committee can spend all his money that is authorized to be spent within the limits of this bill on the candidate, or, if the National Committee wants to spend money on it, it is all chargeable to his overall limit. But they are not limited in the amount they can spend up to his overall limit as specified in the bill.

Mr. STEVENSON. Yet, the Better Government Association of Illinois, which endorsed candidates and spends money on their behalf, would be limited. The public interest groups would be severely limited by this bill, but the major party political committees would be unlimited. We carve out an exception for ourselves.

Mr. CANNON. But they are limited by the candidate's own money, the money that can be spent for the candidate in the election. They have to have the authorization to spend the money on his campaign. Nobody can spent it without complying with the provisions of the act.

Mr. STEVENSON. Would the Senator tell me what that is in the case of Presidential campaigns?

Mr. CANNON. In the case of Presidential campaigns, in the general election, it is 20 cents times the voting age population as determined by the Bureau of the Census on July 1 of the particular year involved. That would limit the amount of the Presidential spending in the general election based on the figures in the bill.

Mr. STEVENSON. The expenditures by a nonparty, general interest organization would be limited to what?

Mr. CANNON. On behalf of a candidate, $3,000, in accordance with the bill.

Mr. STEVENSON. I think that makes the point. I would not want to restrict the ability of a candidate to spend within reasonable limits for his own election.

When we get beyond the candidates and their own committees, we do get into what seems to me a rank discrimination against the general interest groups, the good government groups, on the one hand, and the party committees, on the other hand.

Mr. PROXMIRE. The Senator is saying that the party committee can spend $28.8 million on a candidate and good government people can spend $3,000. In other words, it is a difference of about 9,000 to 1. How is that for equity? This bill is 9,000 times more favorable for political committees than for nonpolitical committees.

Mr. STEVENSON. The Senator is correct, except that by 1976 it will be $40 million.

Mr. CANNON. If the amendment of the Senator from Wisconsin had been adopted yesterday, they could have spent only $100, instead of the $3,000 they can spend now.

Mr. PROXMIRE. If this Senator's amendment had been adopted, the party committee would have been restricted, too, by a subsequent amendment, I can assure the Senator.

Mr. MATHIAS. Mr. President, will the Senator yield?

Mr. STEVENSON. I promised the Senator from Rhode Island that I would yield to him.

Mr. PASTORE. The observation I should like to make is this: I am looking now at page 57, section (b), which we are talking about. That $100,000 is predicated upon the figures that have been stated in (A) and (B), whereby an individual could give $5,000 in the case of a candidate other than the candidate for the office of the Presidency, which has been made $3,000, and he could give $15,000 in the case of the President, which has been reduced to $3,000.

Therefore, I think the figure of $100,000 should be modified and that it should be not more than $60,000; because we have cut down the bottom but have left the top open, and we have a bigger spread now.

I do not want to make a major case out of this; it is not that important. But I think we ought to consider lowering the figure of $100,000, and that would bring it into proper context.

Mr. STEVENSON. I agree with the Senator, except that it should be made lower than $60,000.

I yield to the Senator from Maryland.

Mr. MATHIAS. I should like to address a question to the distinguished chairman of the committee, the manager of the bill. As I see the law in its present shape, we have controlled—thanks in large measure to the very successful efforts of the chairman—a number of the lines which relate to the candidate and the parties and political committees. We have controlled the line which runs from the individual to the candidate to a $3,000 limit. We have controlled or limited the flow from a political committee to a candidate to $5,000. We have limited or controlled the line which flows from an individual to a political party to $100,000.

But what this amendment really goes to is one of the areas which is not controlled, and that is from the party to the candidate. That, of course, is a wide open avenue. An additional who could contribute $100,000 to a party could well envision that that money, by some arrangement, would be directed to a candidate. Such arrangements are not unknown. They may be informal, but earmarking would be possible. This amendment would prevent that kind of indirect contribution of $100,000 to a single candidate by a single contributor. I think it is a loophole which needs to be looked at very carefully.

Mr. STEVENSON. I thank the Senator from Maryland. I know that he feels very strongly about this matter.

As it stands, section 615 exempts the following major party political committees from the limit on expenditures made on behalf of a candidate: National committees, political committees controlled by the national committees, State party committees, political committees controlled by the State party committees, and the Republican and Democratic Congressional Campaign Committees. They can spend without limit. At the same time, we are imposing in this bill limits on other groups.

Mr. CANNON. If the Senator will yield, I do not like him to keep using the term "they can spend without limit." That is not so. It is not correct. They cannot spend any more than the candidate's limit of the amount he can spend on his whole campaign. It is not in addition to other money. So if he is a candidate for the Senate—and the chart is available here—for example, a candidate from Illinois, based on the 20-cent figure, could spend $1,501,600 on the general election campaign. That is all he could spend. If the National Committee spends one half of it, that is the total that can be spent. Wherever it comes from we advisedly left that so that the national committees would be in a position to help a candidate. A candidate has to get money. If you are going to close out every source of revenue then let us do it and go to public financing. That is not what we are trying to do here.

Mr. STEVENSON. All I am suggesting is that we put them on the same footing.

Mr. CANNON. The Senator should offer an amendment to that effect.

Mr. STEVENSON. That is the effect of this amendment. If what the Senator said is correct, that there are limits on the amounts that can be contributed to committees by individuals, then my amendment would prevent an individual from giving his entire $100,000 to a single candidate through an exempt party political committee. It would also have the effect of equalizing the amount to party political committees and all other political committees and go toward closing what appears to me to be a glaring loophole, and will certainly be perceived a self-serving loophole.

Mr. MATHIAS. Mr. President, I wonder if the chairman of the committee agrees with me. I want to be sure I am correct that he does agree that there is a possibility of earmarking $100,000 contribution for an individual candidate notwithstanding any other restrictions in the bill.

That is what this amendment would limit. There is talk about $3,000 contribution limits and $5,000 contribution limits in the total effects of the bill, but when you have $100,000 for a candidate you like, those limits become somewhat meaningless. I wonder if the manager of the bill would tell me if that loophole does exist. We are talking about the kind of informal, casual earmarking that unhappily does take place on occasion.

Mr. BROCK. Perhaps the Senator would yield to me for a comment.

Mr. STEVENSON. I yield the floor.

Mr. CANNON. I yield 3 minutes to the Senator.

Mr. BROCK. Mr. President, I am awed by the argument made on this amendment. The Senator from Illinois spoke about the exemption for political parties. What is the process all about except political parties? What about a State where the party by its own organization raises funds to finance its candidates? What is wrong with that? How in the world can you limit party contributions to a candidate in Illinois or in any other State? My State does not, but I am not going to say you cannot do it in Ohio, Maryland, or Pennsylvania. That is ridiculous.

If the Senate wishes to assault the political process in this country, the Republican Party, the Democratic Party, put this amendment on and limit the ability of a party to support its own nominee. I do not understand the logic of that. The Senator would put a $3,000 ceiling on what the national committee could do for the President of the United States.

Mr. MATHIAS. That would not cost any candidate in Maryland 1 cent.

Mr. BROCK. I do not know about Maryland

Mr. MATHIAS. And I do not think any other place. But the opportunity exists. The managers of the bill have not replied to my question about this being a $100,000 loophole.

Mr. BROCK. I am not the manager of the bill, but I am going to respond to the statement. I do not accept it.

If this section is violated in connection with the earmarking, and a rose is a rose is a rose, there is no way to get around this bill. The Senator from Nevada will cite page 59, subsection (F), just as I will, which pertains to the violation provision of the statute. It states:

> Violation of the provisions of this section is punishable by fine of not to exceed $25,000, in prison for not to exceed 5 years, or both.

Mr. MATHIAS. The Senator from Tennessee has had wide political experience and he knows that in some States a party may decide that it has some winners and it has some losers, and it is going to support the winners and not invest in the losers. Someone who wants to get the money to a single candidate can put his $100,000 on the horse's nose and that is where it is going to end up. The only way to take care of it is to close this up.

Mr. BROCK. I would not hold too much hope for the candidate who did that because he could go to jail. I would not want to be the man who tried to get around the law because he could be fined that $25,000 and spend 5 years of his life in jail.

Mr. MATHIAS. The Senator does not need to break the law.

Mr. BROCK. The committee bill states you cannot give more than $3,000 to a candidate for any means.

Mr. MATHIAS. But the committee bill says that the party can give unlimited amounts to any candidate.

Mr. BROCK. That is right.

Mr. MATHIAS. And that is the invitation for the individual to give $100,000 to the party.

Mr. BROCK. But you do not invite your constituents to go in that direction because he would go to jail.

Mr. MATHIAS. I not only advise him, I also want to close the loophole.

Mr. BROCK. I think we have closed the loophole. I think that what the Senator is doing here, rather than plugging the loophole, is assaulting the political party itself.

Mr. STEVENSON. Mr. President, will the Senator yield? I share the Senator's solicitude.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CANNON. Mr. President, I yield 5 minutes.

Mr. STEVENSON. Mr. President, it varies a little—with the outlook of the party. The Democratic National Committee does not give money. But sharing the Senator's concern about the viability of political parties, what would the senator do about third and fourth parties? The only parties that qualify for this loophole are those whose Presidential candidates have received 10 percent or more of the vote in the most recent Presidential election. The candidate of the Conservative Party in New York won the Senate race in 1970. What does the Conservative Party get under this bill? Is the Senator not concerned about the Conservative Party? Is his concern only for the Republican Party?

Mr. PASTORE. Mr. President, will the Senator yield at that point?

Mr. STEVENSON. I am glad to yield, but I do not believe I have the time.

Mr. PASTORE. Mr. President, will the Senator yield to me 5 minutes on the bill?

Mr. CANNON. I yield.

Mr. PASTORE. Mr. President, I think we are getting a little confused here this afternoon as to where the real loophole is.

I invite the attention of colleagues to page 55, subsection (F) and suggest that that language be read very carefully. It states:

> No person shall make any charge for services or products knowingly furnished to, or for the benefit of, any candidate in connection with this campaign for nomination for election, in an amount in excess of $100—

Now, get this, and these are very important words—

> unless the candidate (or a person specifically authorized by the candidate in writing to do so) certifies in writing to the person making the charge that the payment of that charge will not exceed the expenditure limitations set forth in this section.

Particularly, when you consider that provision in connection with another provision on pages 53–54 which states that only expenditures made by an agent of the candidate or a person authorized by the candidate.

This is the loophole through which a truck can be driven. It means if you act independently of the candidate and you do not go and ask for the authorization, you can spend any amount of money over the limitation that is in the bill. This is where the loophole is. If Senators want to close up the loophole, this is the loophole. I say that because any group of people that does not go to the candidate to get a certification, or that is not authorized by the candidate, but that acts separate from the candidate, according to this section, can spend any amount of money over and above the ceiling.

There is the loophole. If we are talking about a loophole, there is the loophole.

Mr. MATHIAS. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. MATHIAS. I think the Senator is right. That is the loophole, and if the Senator will be patient we will take up these loopholes one at a time. Let us get this one loophole plugged first.

Mr. PASTORE. Yes, but the Senator had better get the big ones plugged before the small ones.

Mr. MATHIAS. I am after the $100,000 one now. Let us get at the $100,000 loophole. Then we will get to this one.

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. Mr. President, I am ready to yield back the remainder of my time.

Mr. STEVENSON. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MATHIAS. Mr. President, will the Senator from Illinois yield me 1 minute?

Mr. STEVENSON. I yield.

Mr. MATHIAS. I simply want to point out that I have stated repeatedly that I consider this to be a $100,000 loophole. I am interested that the managers of the bill have not refuted that. I must say I consider that as an assent.

Mr. CANNON. Mr. President, I would like to state utterly, flatly, and unequivocally that it is not a $100,000 loophole in any way, shape, or form. It permits a political party to receive to the extent of $100,000 from an individual, if he wants to make that contribution to a party, but it limits that individual and all members of his family to $100,000 in total contributions to all political candidates of the party he may want to contribute to. On top of that, it provides, in this exempted part, that he can spend an amount for a particular candidate, within his authorized limitation, and that limitation is in the bill. It requires his authority to spend it. He cannot spend one nickel more, and the amount is fixed at 20 cents per voter. That is the maximum figure per voter. So it does not allow the expenditure of one nickel more than the amount of the expenditure as limited in the bill. In no way would it be considered a loophole.

Mr. President, I am willing to yield back my time.

Mr. STEVENSON. Mr. President, I will yield myself only 1 minute to say it is not a $100,000 loophole; it is a $40 million loophole. It is limited to spending by nonparty political committees. I cannot see any limitation on the amount an individual may give to political committees, either.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. STEVENSON. I yield.

Mr. KENNEDY. I do not know who has the time.

Mr. CANNON. I have been trying to yield back my time, but apparently I am not able to. I will yield to the Senator.

Mr. KENNEDY. Would it be possible under the present proposal before us for an individual to give $100,000 to a national committee and just have it earmarked for a senatorial race?

Mr. CANNON. No, it would not be possible. It would not be possible for an individual to give $100,000 and for him to earmark it without its being a violation.

Mr. KENNEDY. It just takes the action of the executive committee of the national committee to allocate, say, $100,000?

Mr. CANNON. The Senator can better answer that than I.

Mr. KENNEDY. As the Senator knows, that is usually what happens. In many of these fund-raising affairs, people will make contributions to either congressional or senatorial committees or, in some instances, to national committees, and have them earmarked for a certain Senator or Congressman.

Mr. CANNON. That has been the practice.

Mr. KENNEDY. I am wondering, with that as a regular practice that has been going on for some period of time, how the legislation before us is going to preclude that possibility.

Mr. CANNON. Simply because it precludes the giving of more than $3,000 to a candidate, from any source, from any one individual or his family. If he does it in that fashion, he is in violation of the law.

Mr. KENNEDY. As I understand it, the individual could give $100,000. Clement Stone could give $100,000 to the Republican National Committee. The Republican National Committee could then take that $100,000 and assign it to any member who is running for election. Could they do that without violating the law?

Mr. CANNON. They could do that without violating the law.

Mr. KENNEDY. There is nothing in the matter before us that prohibits them from doing that?

Mr. CANNON. No, they are spending money on his behalf and are giving it to him, provided it does not exceed the limit within the bill.

Mr. KENNEDY. There is a $10,000 limit within the bill?

Mr. CANNON. That is correct. The contributor could not earmark it, because if he did he would be in violation of the $3,000 limit.

Mr. KENNEDY. How is earmarking defined?

Mr. CANNON. It is defined as the total amount a person may give directly or indirectly to the candidate, and the commission then has the authority to establish the rules and regulations they would follow.

Mr. KENNEDY. Then, as to the executive committee or the finance committee, who is going to get the $100,000?

Mr. CANNON. I could not tell the Senator that. I am not familiar with the workings of the committee.

Mr. KENNEDY. The Senator has become sufficiently familiar so that he knows what procedures are going to be followed and who is going to make the decision.

Mr. CANNON. The decision is made by the senatorial campaign committees, the House campaign committees, the national committee—whoever has the authority to make those decisions. I cannot tell the Senator who has the authority among the committees. I can tell him that a person can make a contribution of any amount that would not exceed the amount that the person can spend. This was done advisedly, because if we are going to have a source of contributions, we felt there had to be some way that the candidate could get adequate financing for his campaign if he could not get broad enough financing.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. CANNON. I yield.

Mr. PASTORE. As I understand the Bentsen amendment, no individual can give more than $3,000 to the campaign of a Member of Congress. But if an individual did not want to make a contribution directly, he could give, let us say, $100,000 to the State Democratic Committee for John Pastore. If he made it to me, he could give only $100,000. But he could give $300,000 if he made it through the State committee.

Mr. STEVENSON. He does not have to go through a State committee. 10 millionaires could get together to form their own committee and channel their contributions through the Senatorial Campaign Committee. They could give an unlimited amount.

Mr. CANNON. The Senator from Illinois is not correct when he says that they could form their own committee and do it. The Senator's own committee would be limited to stopping at $3,000.

Mr. STEVENSON. I said "their own committee" so long as it is theoretically controlled by an exempt party political committee. That is correct, is it not?

Mr. CANNON. No; if the Senator formed his own committee, that committee could receive a contribution of only $3,000 from any one person.

Mr. PASTORE. If an individual comes to me and says, "Pastore, I want to give you $50,000 for your campaign," and I say "You can't do that; you will have to go and see my State chairman. Tell him you want to give me $50,000, and that it is for me."

Mr. CANNON. I say that that could not occur, because it would be a violation of the law, I can assure the Senator from Rhode Island. I will read from the bill, page 56, line 10:

> No individual shall make any contribution during any calendar year to or for the benefit of any candidate which is in excess of the lesser of"—

And then the paragraph goes ahead with a figure, saying that if he makes any contribution for my benefit in excess of $3,000, he is in violation of the law.

Mr. PASTORE. Then, when the Senator from Massachusetts said that he could go over $3,000, he was incorrect?

Mr. CANNON. The Senator is correct.

Mr. PASTORE. If a person has given him $15,000; otherwise, he could not earmark any more.

Mr. CANNON. However, at the same time, this particular individual could give the candidate more than $3,000, provided they were told so.

Mr. PASTORE. The Senator is correct.

Mr. KENNEDY. Mr. President, I think that we are all familiar with the procedures which have been followed for so many years. As long as I have been active in national politics, this is how it is done. They do not make large contributions to either of the political committees. And in this instance, I think the Senator from Illinois and the Senator from Maryland have pointed out that as to the national committee, whether it earmarked how the checks are made out or whether it is in the control of the national committee, does not make any difference. We are all realistic enough to know how that is worked out, whether it is a check or whether it is a wink or whether it is a whisper or not, we can certainly circumvent the cost of this legislation.

Mr. MATHIAS. Mr. President, I think the Senator from Rhode Island has just given a perfect example of what would happen and there is something which would not violate the limitation or the earmarking. A wealthy contributor would come to the candidate and say: "I want to give you a lot of money this year."

The candidate tells him: "You can only give me $3,000. However, you can go to the party chairman."

Mr. PASTORE. But do not put it in writing.

Mr. MATHIAS. And the party chairman would take care of it for him, and what sort of unspoken and unwritten obligations does that place on a candidate?

Mr. KENNEDY. Mr. President, as I understand it, this is the way the language is developed. If they contribute to an individual and make contributions through the State of Rhode Island——

Mr. PASTORE. Mr. President, I am glad the Senator mentioned the name of my State. We need the publicity.

Mr. KENNEDY. If he gave his contribution to a member of the committee or the chairman of the committee and said that it was his desire that it be spent in this way, if he gave a sizable contribution, how would that wind up in the candidate's hands?

Mr. PASTORE. Mr. President, I would not do this, but this is how one would do it.

Mr. KENNEDY. Let the Senator from Rhode Island tell us how one would do it.

Mr. MATHIAS. Mr. President, will the Senator from Rhode Island speak up. I want to be sure to hear this.

Mr. PASTORE. I will speak up. The Senator from Maryland does not have to worry. First of all, I would have the $100,000 given by a friend of mine to the State committee. The State committee would give me $3,000. After a couple of weeks, I might be in trouble with my campaign. I would go to the chairman and say: "I can't pay my bills. Can you help me out?"

He would say: "Yes. I have $97,000

hanging around here. I will let you have it."

He has not violated the law and neither have I. The money was never allocated to me. He had it hanging around and he did not have any use for it.

So I go to him, and without asking for the money, I tell him that I am in trouble and cannot pay my bills.

He then says: "I have $97,000 hanging around here, and I do not know what to do with it."

Will someone explain to me what law I have violated except the law of morality. There is no answer, and I sit down.

Mr. CANNON. Mr. President, I have already said it is not a violation of the law for the national committee or the party committee or the senatorial or congressional committee to give money or spend it for the benefit of the candidate, just as in the Presidential race they spend great sums of money for the benefit of a candidate so long as it is within the overall limit.

If the Senate desires to limit the amount a person can give to a committee, it should make some proposal if it wants to vote to limit the amount that one can spend.

We had a lot of testimony on this bill before it came out. We tried to arrive at a workable bill. We recognize the fact that if we limit the size of the contributions from individuals—which is where we thought the real trouble had developed in the undue influence situation—there was less danger of permitting a party committee to help support a candidate in a campaign than going at it in some other way.

Mr. KENNEDY. Mr. President, could the Senator from Illinois explain very briefly how he would close that loophole?

Mr. STEVENSON. Mr. President, this bill as laid before the Senate permits congressional——

Mr. KENNEDY. Mr. President, how would the Senator close the loophole that the Senator from Rhode Island just identified?

Mr. STEVENSON. It would simply eliminate the exemption in the bill for party political committees. It is not only the party committees that have been referred to. That is what I was trying to say a moment ago. They want to get together and form a political committee. They can accept the money and get contributions of virtually an unlimited amount.

Mr. KENNEDY. Mr. President, as I understand it, it would not permit even the national committee to make a contribution to a person in excess of $3,000. Is that the effect of the amendment?

Mr. STEVENSON. Mr. President, the effect in this case would be a $15,000 limitation for Presidential candidates. In the case of congressional races, it would be a $5,000 limitation.

Mr. KENNEDY. The effect of the Senator's amendment would make national State committees conform to what an individual would be able to contribute to Presidential and congressional candidates.

Mr. STEVENSON. It eliminates the ability to make large contributions.

Mr. PASTORE. Mr. President, in other words, what the Senator from Illinois is saying is that he has no particular objection to the $100,000 given to a definite committee. However, that committee cannot give more than $3,000 to the candidate. Is that correct?

Mr. STEVENSON. Mr. President, I have not accepted the $100,000. That is a separate matter. We have to get at that separately.

I want to bring it down to $3,000 and thereby put political committees on the same footing as individuals.

Mr. PASTORE. Mr. President, would the Senator confine it to that? Let us say that people could make contributions up to $3,000 and we would allow them to raise whatever money they wanted to up to $100,000, provided that the beneficiaries of that fund or committee would not get more than $3,000?

Mr. STEVENSON. That is the way it would be.

Mr. PASTORE. Mr. President, I do not see any harm in that. If the amendment does not, it is fine.

Mr. CANNON. Mr. President, I yield myself 1 minute. We have a presidential candidate sitting here. We could make it so that the Democratic and Republican National Committees could not send out one solid mailing in a campaign. That could cost more than $3,000 that they could spend on behalf of a national candidate. They could not send out one mailing to raise funds for a presidential candidate for his race.

I want us to understand what we are doing on this.

Mr. PASTORE. Mr. President, could not an individual set up his own committee? Now that we have the Marlow Cook amendment, I suppose that we could not do this. However, could a person not set up his own committee and raise his own funds within the limits prescribed by the law?

One thing that has to be defined is why we make a distinction between a committee and a person.

Mr. CANNON. The only distinction set up for the purpose of this debate is between the national committee of a political party or any committee controlled by the national committee and a State committee of any political party or a committee which is controlled by that State committee, or a Democratic or a Republican campaign committee of the Senate or House of Representatives.

Mr. PASTORE. It is confined to that?

Mr. CANNON. It is confined to that. Those are the only committees that can spend more than the $3,000.

But they can spend more than the $3,000, and this would permit the national committees to operate and the senatorial and congressional committees to operate. If you restrict them to spending $3,000 on behalf of the candidate, you will put all of those committees out of business.

Mr. BROCK. How can the Senator say that the national committee is not to spend money, even on behalf of their presidential candidate, even if he has his own committee? What this amendment does is to throw the baby out with the bath water.

Mr. PASTORE. I know exactly what the Senator is trying to prove, but why do we say "any political committee controlled by that national committee"? What does that mean?

Mr. MATHIAS. That means you have a proliferation of committees.

Mr. PASTORE. I mean, why not leave it to the national committee, the State committee, or the Senate or House committees? Why say "any other committee"?

Mr. CANNON. I would have no objection to that.

Mr. PASTORE. Why say "or any other committee controlled by that national committee"? You could have a terrible proliferation.

Mr. McGOVERN. Mr. President, will the Senator from Nevada yield to me for a question?

Mr. CANNON. I yield.

Mr. McGOVERN. Do I correctly understand that, under the present terms of the legislation, a committee created on behalf of the presidential candidate could not, for example, invest $100,000 in a direct mail campaign, with the understanding that the proceeds of that campaign would go to the candidate? Most of those contributions might come in in the form of $10, $15, or $25 contributions; but if the committee that undertook that mailing on behalf of the candidate invests, let us say, $150,000 in the postage, printing, and handling of the mailing, would that be a violation of the spending limitation?

Mr. CANNON. It would under the proposal offered by the Senator from Illinois. It would not under ours, and that is the very reason we have this type of exemption.

Mr. McGOVERN. Has the Senator from Illinois considered the havoc that would result with that kind of restriction?

Mr. STEVENSON. Mr. President, the havoc would not result. I have to disagree with the distinguished chairman. The candidate and his own campaign committee can spend, up to the limitation in the bill, any amount he wants. The amount simply has to be spent by his own committee. In this case, the expenses of the mass mailings would have to go through his own committee. The money would come back to his own committee. There would no longer be a need for a multitude of committees.

Mr. McGOVERN. Does not the Senator think that would prevent that committee from making that kind of investment on behalf of the candidate?

Mr. STEVENSON. There is no limit at all, except the overall expenditure limits in the bill.

Mr. CANNON. The limitation in the bill, for a Presidential candidate, would be 20 cents times the number of eligible voters after July 1st of the Presidential year.

Mr. McGOVERN. So presumably the investment in the direct mail campaign would be picked up as a cost factor by the committee, rather than a contribution to the candidate.

Mr. CANNON. Yes, but it would be charged to his overall limit of expenditures.

Mr. McGOVERN. I understand that; but it does not come under the contribution limitation that a committee can make to that candidate?

Mr. CANNON. Yes, I think under that

amendment it would come under the cost limitation, if it is taken out. It would not in the form of our bill now. It would not, and it was considered that way because the national committee had to be able to operate, and the candidate's committee has to be able to operate, in a presidential race.

Mr. McGOVERN. The reason I am asking these questions is that I think it is fair to say that the financing of the Democratic Presidential campaign last year was as healthy and almost as close to an ideal situation as you can come. We did that of necessity, and did it voluntarily rather than because of all the laws, but about 80 percent of all the money we raised, or around $25 million, was raised in small contributions. But someone had to pay the initial cost of that direct mailing. In some cases, those mailings cost up to $200,000, to pay just the postage and the printing costs.

What I was trying to get at is whether we are considering language here that would make it impossible for anyone to undertake a direct mail campaign of that kind.

Mr. CANNON. I think that is exactly what we are doing. We are considering, with this proposal, a situation that would make that impossible. A loan is treated the same as a contribution, and you cannot borrow money from an individual in excess of $3,000.

So we exempted the provision there for the national committee and the senatorial and House campaign committees, so that they could spend more money within the candidate's overall spending limitation in connection with the election, because we realize that is a very real problem.

Mr. McGOVERN. But did the committee eliminate the possibility of a candidate creating his own committee for direct mailing?

Mr. CANNON. No; a candidate could create his own committee, and his own committee is exempted. They can spend up to his limit.

Mr. McGOVERN. Provided he stays within the cost limitations.

Mr. CANNON. Provided he stays within the cost limitations, and they can only receive a $3,000 contribution per person.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. CANNON. I yield.

Mr. PASTORE. Would the Senator have any objection—and I think this might cure the problem the Senator from Illinois is concerned with—looking at page 57, if we eliminated all of line 23, all of line 24, and all of line 25, and up to the word "committee" on line 1 on page 58? Then that section would read "to the national committee of a political party"—that is necessary because of the Cook amendment, which says that the Presidential campaign has to be run by the national committee. It would read, I repeat, "to the national committee of a political party, or to the Democratic or Republican Campaign Committees of the Senate or House of Representatives."

Then any candidate who runs for the office of Senator or Representative would have to form his own committee and be responsible according to the law. That would stop the proliferation of the committees.

Mr. BROCK. Mr. President, if I may question that, in one sense it seems to me it would be assaulting the State party structure, if we removed the State political committees.

Mr. PASTORE. I know, but this reporting is becoming so cumbersome that I do not know how any of the chairmen are going to account for this money, because he has to run not only the Senator's campaign, but the campaign of the Governor, State officers, and what have you. I think it has become so sensitive now that a candidate for Senator or Representative ought to form his own committee, to be absolutely responsible for everything that happens with that committee, without relying on the State chairman, over whom he has no control.

Mr. BROCK. I agree with that, but I think what you run into then is a situation where the State hires 15 fieldmen, and they are out working throughout the State, at a cost of $150,000 a year. Any way you do it, you divide it up, and that State committee will have spent more than $3,000 per candidate on his behalf, and anyone, any citizen, could then challenge that candidate and the State chairman for violation of the law.

Mr. PASTORE. Well, they are going to do that anyway, when you come down to take the money.

My point is that every candidate for the office of Senator or Representative ought to run his own campaign.

You have no control over that, because you have that provision on page 55 that I have already pointed out to you. If the State chairman does not come to you and ask for certification, he can spend all the money he wants.

Mr. BROCK. No; he cannot, because he is stopped by the provision on pages 56 and 57.

The PRESIDING OFFICER (Mr. Domenici). All time on the amendment has expired. The question is on agreeing to the amendment of the Senator from Illinois (Mr. Stevenson). On this question, the yeas and nays have been ordered.

Mr. CANNON. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time not be charged on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Haskell). Without objection, it is so ordered.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the yeas and nays be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PASTORE. Mr. President, I send to the desk an amendment and ask that it be read.

The PRESIDING OFFICER. The amendment of the Senator from Illinois is still pending.

Mr. PASTORE. Mr. President, I ask unanimous consent that the amendment of the Senator from Illinois be withdrawn.

Mr. STEVENSON. Mr. President, I have no objection.

The PRESIDING OFFICER. Without objection, the amendment of the Senator from Illinois is withdrawn.

Mr. PASTORE. Mr. President, I send an amendment to the desk on behalf of myself and the Senator from Illinois (Mr. Stevenson) and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> On page 57 strike out lines 23, 24, and 25.
> On page 58, line 1, strike "that state committee;"

Mr. PASTORE. Mr. President, if Senators will look at the bill, on page 57, this is the way it will read, on line 20:

> This subsection shall not apply to the national committee of a political party or to the Democratic or Republican Campaign Committees of the Senate or the House of Representatives.

Mr. STEVENSON. Mr. President, the effect of this amendment, as I understand it, and I want to be sure, is to eliminate the exemption which did exist in the bill for the State party committees, also for committees controlled by the State party committees, and also the committees controlled by the national committee parties; is that not correct?

Mr. PASTORE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PASTORE. Mr. President, I ask that my amendment at the desk be modified and that the name of the Senator from Maryland (Mr. Mathias) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, would the Chair obtain order in the Senate and ask Senators and their aides to take seats?

The PRESIDING OFFICER. The Senate will be in order. Senators and their aides will please take their seats.

The clerk will state the amendment as modified.

The legislative clerk read as follows:

> On page 57, strike out lines 23, 24, and 25.
> On page 58, line 1, strike the words "that State committee."

Mr. PASTORE. Mr. President, if Senators will look at page 57, this is the way it will read:

> This subsection shall not apply to the central campaign committee or the State campaign committee of a candidate;

That is his own committee.

> to the national committee of a political party,

That is for the presidential campaign.

> or to the Democratic or Republican campaign committees of the Senate or House of Representatives.

Mr. STEVENSON. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. STEVENSON. The effect of the Senator's amendment, then, is to limit the exemption just to the national committee of a political party and the congressional campaign committees and, of course, the candidate's own committee.

Mr. PASTORE. His own committee. That is correct.

Mr. STEVENSON. Mr. President, I am very reluctant to make an exception for the congressional campaign committees. The danger that they will act as a conduit and that earmarking will exist continues. It appears to be self-serving. But on the old theory that half a loaf is better than no loaf, I am not going to object to this amendment, though I do intend next to offer an amendment which will reduce the $100,000 aggregate limit on individual contributions and consequently diminish the risk that congressional campaign committees will be used as a conduit for large campaign contributions.

Mr. PASTORE. Mr. President, I am ready to vote. I yield back the remainder of my time.

I ask for the yeas and nays, Mr. President.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, has all time been yielded back on this amendment?

The PRESIDING OFFICER. All time has been yielded back.

PROGRAM FOR TOMORROW AND NEXT WEEK

Mr. MANSFIELD. Mr. President, if I may have the attention of the Senate, this will be the last rollcall vote tonight. It has been a long day. Tomorrow we will come in at 9 a.m.; and we will be in session, in my opinion, until 5 or 6 o'clock, and there will be three, four, five or six votes tomorrow. The reason we are coming in tomorrow is to complete this bill.

The first order of business, however, will be the transportation appropriation bill. It will operate on a time basis, and we ought to get to a vote on that bill about 20 minutes to 10.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished majority leader yield at that point?

Mr. MANSFIELD. I yield.

Mr. ROBERT C. BYRD. I find, since the whip notice went out, that some Senators would be inconvenienced, by virtue of their being out of town tonight and flying in tomorrow, if a vote were to occur as early as 9:30 tomorrow. Would the distinguished majority leader ask unanimous consent that if debate on the transportation appropriation bill is completed before, say, 10:15 or 10:30 tomorrow, that the vote on passage of that bill, nevertheless, occur at 10:30 tomorrow?

Mr. MANSFIELD. Does the Senator make that request?

Mr. ROBERT C. BYRD. I make that request.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Upon the completion of the consideration—not necessarily the vote—of the transportation appropriation bill, we will return to the campaign reform bill; and if it is not completed tomorrow, it will be the pending business on Monday.

Furthermore, next week we will have the Interior appropriation bill; the Treasury-Post Office appropriation bill; S. 1560, the Emergency Employment Act of 1971; Senate Joint Resolution 110, to establish a nonpartisan commission on Federal election reform; S. 5, a bill to promote the public welfare; S. 1880, a bill to protect hobbyists; S. 1033, to amend the Export Administration Act of 1969, to control the export of timber; and various conference reports.

We have a very, very heavy week ahead of us, because it is the joint leadership's intention to go out of session on a prolonged basis at the conclusion of business on Friday next.

So be prepared for a tough day tomorrow, with a number of votes.

With this, I will sit down, unless somebody has something to say.

Mr. JAVITS. Mr. President, will the majority leader yield?

Mr. MANSFIELD. I yield.

Mr. JAVITS. Are we to assume that the leadership will make adequate provision for international exigencies which may require that we meet sometime in August?

Mr. MANSFIELD. The Senator can be assured of that. I have discussed this matter with the distinguished minority leader, the Senator from Pennsylvania (Mr. SCOTT), and we are in agreement. We will be offering an adjournment resolution to that effect shortly.

Mr. JAVITS. I thank the Senator.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the bill (S. 1443) to authorize the furnishing of defense articles and services to foreign countries and international organizations, with amendments, in which it requested the concurrence of the Senate.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1973

The Senate continued with the consideration of the bill (S. 372) to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of section 315 with respect to Presidential and Vice Presidential candidates and to amend the Campaign Communications Reform Act to provide further limitation on expenditures in election campaigns for Federal elective office.

Mr. PASTORE. Mr. President, I have been told that this has been a long day and that Members are tired. There is no real reason for having a rollcall vote on this amendment. I am not pressing it too much.

I ask unanimous consent that the order for the yeas and nays be vacated and that we have a voice vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Rhode Island.

The amendment was agreed to.

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PASTORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, it is my understanding that there will be a Mathias-Stevenson amendment laid before the Senate so that it would be the pending business at the conclusion of the transportation appropriation bill tomorrow. Am I correct?

Mr. MATHIAS. The Senator from Illinois has one ready to go right now.

Mr. STEVENSON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. STEVENSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

On page 57, line 2, strike everything after $15,000 and insert the following in lieu thereof: ".".

On page 57, strike lines 3 through 7 and insert the following in lieu thereof:

"(b) No individual shall during any calendar year make, and no person shall accept, (i) any contribution to a political committee, or (ii) any contribution to or for the benefit of any candidate, which when added to all the other contributions enumerated in (i) and (ii) of this subsection which were mado in that calendar year, exceeds $25,000."

On pages 57–59, renumber subsequent subsections accordingly.

Mr. STEVENSON. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

NATIONAL SCIENCE FOUNDATION AUTHORIZATION — CONFERENCE REPORT

Mr. KENNEDY. Mr. President, I submit a report of the committee of conference on H.R. 8510, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8510) to authorize appropriations for activities of the National Science Foundation, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of July 26, 1973, at pp. 26230–26232.)

Mr. KENNEDY. Mr. President, I urge the Senate to approve the conference report on the National Science Foundation. This act would provide the Foundation with an authorization of $636 million in fiscal year 1974. This is $10 million less than was appropriated for the Foundation's programs in fiscal year 1973. The continuing inflation in research costs and the growing need for scientific contributions to the resolution of the Nation's problems justify an even higher amount than the $636 million provided in this act, but the conference committee recommends this amount as the maximum which can be realistically hoped for at this point in time.

The National Science Foundation requested authorization in the amount of $579.6 million for fiscal year 1974, plus $3 million in excess foreign currencies. The House authorized $609.9 million plus $3 million in excess foreign currencies. The respective Senate figures were $614.1 million and $3 million in excess foreign currencies.

The committee of conference recommends $632.6 million, plus $3 million in excess foreign currencies. This figure is $22.7 million more than authorized by the House and $10.5 million less than authorized by the Senate for fiscal year 1974.

Since its creation as an independent agency in 1950, the National Science Foundation has carried out the extremely important mission of maintaining the Nation's scientific strength. The Foundation operates no laboratories or scientific facilities of its own, but through grants and contracts supports programs of scientific research and education in thousands of universities, research institutes, and other organizations. These programs cover all fields of science and engineering, encompassing the mathematical and physical sciences, engineering, social sciences, biological and medical sciences, materials research, and the environmental sciences. They cover all levels of science education from elementary school through postdoctoral fellowships. And these programs are carried out in all of the 50 States to assure a strong, broadly based national scientific enterprise.

The impact of the Foundation's programs is both pervasive and profound on the Nation and on the future of mankind. For we live in an age of science—from the computers that increasingly manage our transactions to the transistors that power our electronic devices to the advanced medical technology which promises profoundly to affect the maintenance of man's health. Science has become essential to the Nation's military security, to the strength of its domestic economy and international economic position, and, indeed, to the resolution of the widespread social problems which beset our Nation.

But scientific research is not a spigot which can be turned on and off at will. Before scientific know-how can be effectively applied to particular problems in areas such as transportation, health care, housing, communication, energy resources, nutrition, and pollution control, the underlying foundation of basic research must be patiently and continuously built over the years, and the Nation's scientific and technical talent must be carefully nurtured and trained.

This is the key task to which the Foundation has directed its principal efforts over the years; but in recent years the Foundation has also expended its programs with respect to applied research which is relevant to the Nation's social problems. Although the various Federal agencies sponsor some applied research relevant to their particular missions, there remains a considerable amount of extremely important applied research which is too broad in scope or too fundamental in substance to fall within the mandate or resources of the mission agencies. The National Science Foundation is the only agency which can tackle these problems. So the role of the National Science Foundation is to keep the Nation strong in basic science, sponsor the applied research which cannot be effectively handled by other agencies, and assure the Nation an adequate supply of scientific talent.

The $636 million which this act provides is $53 million higher than the $583 million requested by the administration. The principal differences stem from increased funding in this act for research applied to national needs and for science education.

The conference committee insisted on the establishment of an Energy Research Division within the National Science Foundation, which will have $40 million in fiscal year 1974 available for energy research programs, with emphasis on solar, geothermal, and other nonconventional energy sources. The $40 million for nonconventional energy research programs is small by comparison with the $323 million requested for the liquid metal fast breeder reactor or the $120 million requested for coal research.

The energy needs of the Nation are too critical to be overly dependent on any particular form of energy. We need to explore all promising alternatives. Solar, geothermal, and other nonconventional energy sources being explored by the National Science Foundation are extremely promising alternatives for the future.

Thus the recent report of the solar energy panel—a joint effort by the National Science Foundation and the National Aeronautics and Space Administration—calls for $1.5 billion in solar energy R. & D. over the next 15 years. And the recent report on geothermal energy by former Secretary of Interior Hickel, calls for $680 million in geothermal research. The $40 million for such research in fiscal year 1974 represents the minimum level of funding which the Nation must devote to those areas.

In addition to providing a total of $40 million for energy research programs, the bill requires that not less than $25 million must be spent for energy research, and that not less than $8 million must be spent for earthquake engineering in fiscal year 1974.

The earthquake engineering program is of great importance to the lives and property of thousands of American citizens in all parts of the country. Contrary to the prevalent view, earthquakes in America are not limited to California and Alaska. There is no State in the Union which has not experienced earthquake damage at one time or another. Twenty States have been subjected to serious damage, and are likely to experience serious damage again. These include South Carolina, Nevada, Kentucky, Washington, Illinois, New York, Idaho, Massachusetts, New Hampshire, Tennessee, Mississippi, Montana, Wyoming, Utah, Maine, Indiana, Missouri, and Arkansas, as well as California and Alaska. Through the earthquake engineering program, the Nation can take steps to prepare for future earthquakes and to minimize their adverse consequences.

Another area of vital importance to the Nation's continuing efforts to improve environmental quality is the provision of modern research vessels needed for the conduct of advanced research in oceanography. Of the 32 research vessels supported by the National Science Foundation, 13, or more than 40 percent, were built 25 or more years ago. Close examination of the ship replacement requirements makes it clear that the Foundation should accelerate fleet modernization programs in fiscal year 1974. The act requires that not less than $6 million be obligated for oceanography programs, with emphasis on ship construction/conversion.

The act also provides a total of $49 million for science education programs, which is $16 million more than the administration request for science education. This includes an increase of $2 million for institutional improvement for science; $5 million for graduate student support; and $9 million for science education improvement. The totals for these areas under the bill are: $2 million for institutional improvement for science; $11.5 million for graduate student support; and $35.2 million for science education improvement. The latter category includes $7.5 million for the ethnic minority colleges program, to help such colleges upgrade their science education capabilities. This is a 50 percent or $2.5 million increase over the $5 million requested by the administration for this vitally important program.

In addition to providing these amounts in new obligational authority for science education programs in fiscal year 1974, the act imposes certain minimum spending levels which the Foundation must adhere to in fiscal year 1974. These levels refer both to the new funds providing under this act and to the funds for these programs which have been carried over from earlier fiscal years. The minimum levels required by this act are: $10 million for institutional improvement for science; $13 million for graduate student support; and $67.5 million for science education improvement.

The following is a brief summary of the programs, included in the National Science Foundation Authorization Act.

First. Scientific research project support, $285 million. The objective of this program is to provide support for individual scientists or groups of scientists in finding answers to unresolved scientific questions. Support is provided in the following areas: Atmospheric, Earth, biological, and social sciences, oceanography, physics, chemistry, astronomy, mathematics, engineering, and materials research.

Second. National and special research programs, $105,600,000. These are a variety of major programs which require special coordination and include the: international biological program; global atmospheric research program, experimental R. & D. assessment program; international decade of ocean exploration; ocean sediment coring program; Arctic research program; U.S. Antarctic research program; oceanographic facilities and support; and solar eclipse.

Third. National research centers, $46 million. These include the National Astronomy and Ionosphere Center at Arecibo; Kitt Peak National Observatory; Cerro Tololo Inter-American Observatory, National Center for Atmospheric Research; and National Radio Astronomy Observatory.

Fourth. Computing activities, $8,200,000. This program is designed to develop new knowledge in the computer sciences for application in the design of improved computer hardware, software, and integrated computer systems; and to seek new ways to couple the capabilities of computers to the conduct of research in all areas of science.

Fifth. Science information activities, $8,300,000. This program is designed to facilitate the flow of scientific and technical information and reduce unnecessary redundancy and overlap in the generation and dissemination of scientific information.

Sixth. International cooperative scientific activities, $6,200,000. This program is designed to promote U.S. access to, and appropriate participation in, international scientific activities.

Seventh. Research applied to national needs, $91 million. This program includes: advanced technology applications; energy research and technology programs; environmental systems and resources; social systems and human resources; and exploratory research and problem assessment.

Eighth. Intergovernmental science program, $1 million, to aid State, regional, and local governmental agencies in making the benefits of science and technology more widely available within their regions.

Ninth. Institutional improvement for science, $2 million. These funds will go to colleges and universities to improve their academic science programs and to increase the effectiveness of their research programs, through improved management.

Tenth. Graduate student support, $11,500,000. This includes graduate fellowships to assure an adequate flow of highly talented individuals into science careers; and postdoctoral fellowships to assist scientists and engineers in upgrading their professional skills and in making a transition into other technical areas.

Eleventh. Science education improvement, $35,200,000. This program is designed to help improve the effectiveness of science education at all academic levels. It focuses on such problems as: increasing the cost effectiveness of science education through improved programs, technology, and instructional strategies and methodologies; assuring the Nation of a large enough and flexible enough scientific and technical workforce; improving science education for the nonscientist and providing adequate science educational opportunities outside the formal structure of the educational system.

Twelfth. Planning and policy studies, $2,600,000. This program is designed to provide the factual data and analytical basis for sound national science policy decisions.

Thirteenth. Program development and management, $30 million. These funds are used to provide for the operation and management costs of carrying out the preceding 12 programs.

In addition to the above programs, the act authorizes the appropriation to the National Science Foundation of $3 million to be paid in excess foreign currencies, for expenses which the Foundation incurs in its activities abroad.

As can be readily seen from this summary, the programs of the National Science Foundation are extremely diverse, cut across innumerable fields, and are far reaching in their implications. In many cases their effects may not be felt for years, or even decades. But if the history of the 20th century can serve as a guide, then sooner or later these effects will surely be felt and will have a major impact on the shape of our civilization and the quality of our lives.

There is no doubt that science is the key to progress in our time. The vitality of our economy and the viability of our society depend on further scientific advance. This authorization for the National Science Foundation represents an essential investment in the future of the Nation. If we are unwilling to make the necessary investment today, we will reap a bitter harvest in polluted water and air, in congested roads and cities, in contaminated food and drugs, in inadequate energy supplies, and stagnant or even declining quality of life. And as we would suffer for our shortsightedness, so would our children, and our children's children for many years to come.

Mr. President, I urge the Senate to approve the conference committee's recommendations.

Mr. President, I ask unanimous consent that the conference report not be printed as a Senate report since it is being printed as a House report.

Mr. DOMINICK. Mr. President, the Senate will shortly consider the conference report on H.R. 8510, which authorizes $635.6 million for the National Science Foundation for the fiscal year 1974. I certainly urge favorable action on this report.

The conferees agreed upon 6 minimums in the areas of energy research—$25 million; oceanography related research—$6 million; earthquake engineering—$8 million; institutional improvement for science—$10 million; graduate student support—$13 million; science education improvement—$67.5 million.

Mr. President, solar energy is an inexhaustible source of clean energy; and testimony before the National Science Foundation on this subject served to redouble my determination in securing funds for research in this area. I was instrumental in having included in the Senate's bill and preserved through the conference the requirement that NSF spend at least $25 million on energy research—solar and geothermal—during the next fiscal year. Assuming just a 10-percent conversion efficiency from the energy contained in the sun's rays to usable electricity, in 1969, the total electric energy consumed in the United States could have been supplied by the solar energy which fell on 0.14 percent of the U.S. land area.

While I realize we may be some time away from technically being able to convert solar energy to electricity at an economic rate, I view that as an incentive for rather than an impediment to increased research in this area. My only concern is that the $25 million may be too small a figure.

Mr. President, as the ranking minority member of the National Science Foundation Subcommittee, I will be closely monitoring the research programs under this earmark, and evaluating the results in terms of increasing this figure in next year's authorization bill.

Mr. KENNEDY. Mr. President, I move that the conference report be agreed to.

The motion was agreed to.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with statements limited therein to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. HUDDLESTON) laid before the Senate the following letters, which were referred as indicated:

Proposed Legislation From Department of the Interior

A letter from the Acting Assistant Secretary of the Interior, transmitting a draft of proposed legislation to authorize the establishment of the Big Thicket National Biological Reserve in the State of Texas, and for other purposes (with an accompanying paper). Referred to the Committee on Interior and Insular Affairs.

Report on Department of Defense Procurement From Small and Other Business Firms

A letter from the Assistant Secretary of Defense (Installations and Logistics), transmitting, pursuant to law, a report on Department of Defense Procurement From Small and Other Business Firms, for July 1972–April 1973 (with an accompanying report.) Referred to the Committee on Banking, Housing and Urban Affairs.

Reports of Comptroller General

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Outlook for Production on the Navy's LHA and DD-963 Shipbuilding Programs," Department of the Navy, dated July 26, 1973 (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Examination of Financial Statements of the National Flood Insurance Program Fiscal Year 1972," Federal Insurance Administration, Department of Housing and Urban Development, dated July 25, 1973 (with an accompanying report). Referred to the Committee on Government Operations.

Report of Alaska Power Administration

A letter from the Secretary of the Interior, transmitting, pursuant to law, a report of the Alaska Power Administration, for the fiscal year ended June 30, 1972 (with an accompanying report). Referred to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McGEE, from the Committee on Post Office and Civil Service, without amendment:

S. 628. A bill to amend chapter 83 of title 5, United States Code, to eliminate the annuity reduction made, in order to provide a surviving spouse with an annuity, during periods when the annuitant is not married (Rept. No. 93-351); and

S. 871. A bill to amend title 5, United States Code, to correct certain inequities in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes (Rept. No. 93-352).

By Mr. McGEE, from the Committee on Post Office and Civil Service, with amendments:

S. 1866. A bill to provide increases in certain annuities payable under chapter 83 of title 5, United States Code, and for other purposes (Rept. No. 93-353).

By Mr. CANNON, from the Committee on Armed Services, without amendment:

S. 2166. A bill to authorize the disposal of opium from the national stockpile (Rept. No. 93-354).

By Mr. PERCY, from the Committe on Foreign Relations, with amendments:

S. 1914. A bill to provide for the establishment of the Board for International Broadcasting, to authorize the continuation of assistance to Radio Free Europe and Radio Liberty, and for other purposes (Rept. No. 93-356), together with supplemental views.

AUTHORIZATION OF APPROPRIATIONS FOR CONSTRUCTION OF CERTAIN HIGHWAYS—CONFERENCE REPORT (S. REPT. NO. 93-355)

Mr. BENTSEN. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 502) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes. I ask unanimous consent that the conference report and statement of managers be printed as a Senate report and printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

Conference Report (S. Rept. No. 93-355)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 502) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

TITLE I

SHORT TITLE

SEC. 101. This title may be cited as the "Federal-Aid Highway Act of 1973".

REVISION OF AUTHORIZATION FOR APPROPRIATIONS FOR THE INTERSTATE SYSTEM

SEC. 102. Subsection (b) of section 108 of the Federal-Aid Highway Act of 1956, as amended, is amended by striking out "the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1974, the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1975, and the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1976", and by inserting in lieu thereof the following: "the additional sum of $2,600,000,000 for the fiscal year ending June 30, 1974, the additional sum of $3,000,000,000 for the fiscal year ending June 30, 1975, the additional sum of $3,000,000,000 for the fiscal year ending June 30, 1976, the additional sum of $3,250 000,000 for the fiscal year ending June 30, 1977, the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1978, and the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1979."

AUTHORIZATION OF USE OF COST ESTIMATES FOR APPORTIONMENT OF INTERSTATE FUNDS

SEC. 103. The Secretary of Transportation shall apportion for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, the sums authorized to be appropriated for such years for expenditures on the National System of Interstate and Defense Highways, using the apportionment factors contained in table 5, of House Public Works Committee Print Numbered 92-29, as revised in House Report Numbered 92-1443.

HIGHWAY AUTHORIZATIONS

SEC. 104. (a) For the purpose of carrying out the provisions of title 23, United States Code, the following sums are hereby authorized to be appropriated:

(1) For the Federal-aid primary system in rural areas, out of the Highway Trust Fund, $680,000,000 for the fiscal year ending June 30, 1974, $700,000,000 for the fiscal year ending June 30, 1975, and $700,000,000 for the fiscal year ending June 30, 1976. For the Federal-aid secondary system in rural areas, out of Highway Trust Fund, $390,000,000 for the fiscal year ending June 30, 1974, $400,000,000 for the fiscal year ending June 30, 1975, and $400,000,000 for the fiscal year ending June 30, 1976.

(2) For the Federal-aid urban system, out of the Highway Trust Fund, $780,000,000 for the fiscal year ending June 30, 1974, $800,000,000 for the fiscal year ending June 30, 1975, and $800,000,000 for the fiscal year ending June 30, 1976. For the extensions of the Federal-aid primary and secondary systems in urban areas, out of the Highway Trust Fund $290,000,000 for the fiscal year ending June 30, 1974, $300,000,000 for the fiscal year ending June 30, 1975, and $300,000,000 for the fiscal year ending June 30, 1976.

(3) For forest highways, out of the Highway Trust Fund $33,000,000 for the fiscal year ending June 30, 1974, $33,000,000 for the fiscal year ending June 30, 1975, and $33,000,000 for the fiscal year ending June 30, 1976.

(4) For public lands highways, out of the Highway Trust Fund, $16,000,000 for the fiscal year ending June 30, 1974, $16,000,000 for the fiscal year ending June 30, 1975, and $16,000,000 for the fiscal year ending June 30, 1976.

(5) For forest development roads and trails $140,000,000 for the fiscal year ending June 30, 1974, $140,000,000 for the fiscal year ending June 30, 1975, and $140,000,000 for the fiscal year ending June 30, 1976.

(6) For public lands development roads and trails, $10,000,000 for the fiscal year ending June 30, 1974, $10,000,000 for the fiscal year ending June 30, 1975, and $10,000,000 for the fiscal year ending June 30, 1976.

(7) For park roads and trails, $30,000,000 for the fiscal year ending June 30, 1974, $30,000,000 for the fiscal year ending June 30, 1975, and $30,000,000 for the fiscal year ending June 30, 1976.

(8) For parkways, $60,000,000 for the fiscal year ending June 30, 1974, $75,000,000 for the fiscal year ending June 30, 1975, and $75,000,000 for the fiscal year ending June 30, 1976, except that the entire cost of any parkway project on any Federal-aid system paid under the authorization contained in this paragraph shall be paid from the Highway Trust Fund.

(9) For Indian reservation roads and bridges, $75,000,000 for the fiscal year ending June 30, 1974, $75,000,000 for the fiscal year ending June 30, 1975, and $75,000,000 for the fiscal year ending June 30, 1976.

(10) For economic growth center development highways under section 143 of title 23, United States Code, out of the Highway Trust Fund, $50,000,000 for the fiscal year ending June 30, 1974, $75,000,000 for the fiscal year ending June 30, 1975, and $100,000,000 for the fiscal year ending June 30, 1976.

(11) For necessary administrative expenses in carrying out section 131, section 136, and section 319(b) of title 23, United States Code, $1,500,000 for the fiscal year ending June 30, 1974, $1,500,000 for the fiscal year ending June 30, 1975, and $1,500,000 for the fiscal year ending June 30, 1976.

(12) For carrying out section 215(a) of title 23, United States Code—

(A) for the Virgin Islands, not to exceed $5,000,000 for the fiscal year ending June 30, 1974, not to exceed $5,000,000 for the fiscal year ending June 30, 1975, and not to exceed $5,000,000 for the fiscal year ending June 30, 1976.

(B) for Guam not to exceed $2,000,000 for the fiscal year ending June 30, 1974, not to exceed $2,000,000 for the fiscal year ending June 30, 1975, and not to exceed $2,000,000 for the fiscal year ending June 30, 1976.

(C) for American Samoa not to exceed $1,000,000 for the fiscal year ending June 30, 1974, not to exceed $1,000,000 for the fiscal year ending June 30, 1975, and not to exceed $1,000,000 for the fiscal year ending June 30, 1976.

Sums authorized by this paragraph shall be available for obligation at the beginning of the fiscal year for which authorized in the same manner and to the same extent as if such sums were apportioned under chapter 1 of title 23, United States Code.

(13) Nothing in the first ten paragraphs or in paragraph (12) of this section shall be construed to authorize the appropriation of any sums to carry out section 131, 136, 319 (b), or chapter 4 of title 23, United States Code.

(b) For each of the fiscal years 1974, 1975, and 1976, no State shall receive less than one-half of 1 per centum of the total apportionment for the Interstate System under paragraph (5) of subsection (b) of section 104 of title 23, United States Code. Whenever such amounts made available for the Interstate System in any State exceed the cost of completing that State's portion of the Interstate System, the excess amount shall be transferred to and added to the amounts apportioned to such State under paragraphs (1), (2), (3), and (6) of subsection (b) of section 104 of title 23, United States Code, in the ratio which these respective amounts bear to each other in that State. For the purpose of carrying out this subsection, there are authorized to be appropriated out of the Highway Trust Fund not to exceed $50,000,000 for the fiscal year ending June 30, 1974, $50.000.000 for the fiscal year ending June 30, 1975, and $50,000.000 for the fiscal year ending June 3, 1976. It is the sense of the Congress that this subsection is an interim provision to be reconsidered at the expiration of this authorization.

DEFINITIONS

SEC. 105. Subsection (a) of section 101 of title 23 of the United States Code is amended as follows:

(1) The definition of the term "construction" is amended to read as follows:

"The term 'construction' means the supervising, inspecting, actual building, and all expenses incidental to the construction or reconstruction of a highway, including locating, surveying, and mapping (including the establishment of temporary and permanent geodetic markers in accordance with specifications of the National Oceanic and Atmospheric Administration in the Department of Commerce), acquisition of rights-of-way, relocation assistance, elimination of hazards of railway grade crossings, acquisition of replacement housing, sites, acquisition and rehabilitation, relocation, and construction of replacement housing, and improvements which directly facilitate and control traffic flow, such as grade separation of intersections, widening of lanes, channelization of traffic, traffic control systems, and passenger loading and unloading areas."

(2) The definition of the term "urban area" is amended to read as follows:

"The term 'urban area' means an urbanized area or, in the case of an urbanized area encompassing more than one State, that part of the urbanized area in each such State, or an urban place as designated by the Bureau of the Census having a population of five thousand or more and not within any urbanized area, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Such boundaries shall, as a minimum, encompass the entire urban place designated by the Bureau of the Census."

(3) The definition of the term "Indian reservation roads and bridges" is amended to read as follows:

"The term 'Indian reservation roads and bridges' means roads and bridges that are located within or provide access to an Indian reservation or Indian trust land or restricted Indian land which is not subject to fee title alienation without the approval of the Federal Government, or Indian and Alaska Native villages, groups, or communities in which Indians and Alaska Natives reside, whom the Secretary of the Interior has determined are eligible for services generally available to Indians under Federal laws specifically applicable to Indians."

(4) The definition of "urbanized area" is amended to read as follows:

"The term 'urbanized area' means an area so designated by the Bureau of the Census, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Such boundaries shall, as a minimum, encompass the entire urbanized area within a State as designated by the Bureau of the Census."

EXTENSION OF TIME FOR COMPLETION OF SYSTEM

SEC. 106. (a) The second paragraph of section 101(b) of title 23, United States Code, is amended by striking out "twenty years" and inserting in lieu thereof "twenty-three years" and by striking out "June 30, 1976", and inserting in lieu thereof "June 30, 1979".

(b) (1) The introductory phrase and the second and third sentences of section 104 (b) (5) of title 23, United States Code, are amended by striking out "1976" each place it appears and inserting in lieu thereof at each such place "1979".

(2) The last four sentences of such section 104(b) (5) are amended to read as follows: "Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1975. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending June 30, 1977, and June 30, 1978. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1977. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal year ending June 30, 1979. Whenever the Secretary, pursuant to this subsection, requests and receives estimates of cost from the State highway departments, he shall furnish copies of such estimates at the same time to the Senate and the House of Representatives."

DECLARATION OF POLICY

SEC. 107. Subsection (b) of section 101 of title 23, United States Code, is amended by adding at the end thereof the following new paragraph:

"It is further declared that since the Interstate System is now in the final phase of completion it shall be the national policy that increased emphasis be placed on the construction and reconstruction of the other Federal-aid systems in accordance with the first paragraph of this subsection, in order to bring all of the Federal-aid systems up to standards and to increase the safety of these systems to the maximum extent."

MINIMIZATION OF REDTAPE

SEC. 108. Section 101 of title 23 of the United States Code is amended by adding at the end thereof the following new subsection:

"(e) It is the national policy that to the maximum extent possible the procedures to be utilized by the Secretary and all other affected heads of Federal departments, agencies, and instrumentalities for carrying out this title and any other provision of law relating to the Federal highway programs shall encourage the substantial minimization of paperwork and interagency decision procedures and the best use of available manpower and funds so as to prevent needless duplication and unnecessary delays at all levels of government."

FEDERAL-AID URBAN SYSTEM

SEC. 109. (a) Subsection (d) of section 103 of title 23, United States Code, is amended by striking the first, second, third, fourth, and fifth sentences and inserting in lieu thereof the following: "The Federal-aid urban system shall be established in each urbanized area, and in such other urban areas as the State highway department may designate. The system shall be so located as to serve the major centers of activity, and shall include high traffic volume arterial and collector routes, including access roads to airports and other transportation terminals. No route on the Federal-aid urban system shall also be a route on any other Federal-aid system. Each route of the system to the extent feasible shall connect with another route on a Federal-aid system. Routes on the Federal-aid urban system shall be selected by the appropriate local officials so as to serve the goals and objectives of the community, with the concurrence of the State highway departments, and, in urbanized areas, also in accordance with the planning process under section 134 of this title. Designation of the Federal-aid urban system shall be subject to the approval of the Secretary as provided in subsection (f) of this section."

(b) Subsection (d) of section 105 of title 23, United States Code, is amended to read as follows:

"(d) In approving programs for projects on the Federal-aid urban system, the Secretary shall require that such projects be selected by the appropriate local officials with the concurrence of the State highway department of each State and, in urbanized areas, also in accordance with the planning process required pursuant to section 134 of this title."

REMOVAL OF DESIGNATED SEGMENTS OF THE INTERSTATE SYSTEM

SEC. 110. (a) Section 103(g) of title 23, United States Code, is amended to read as follows:

"(g) The Secretary, on July 1, 1974, shall remove from designation as a part of the Interstate System each segment of such system for which a State has not notified the Secretary that such State intends to construct such segment, and which the Secretary finds is not essential to completion of a unified and connected Interstate System. Any segment of the Interstate System, with respect to which a State has not submitted by July 1, 1975, a schedule for the expenditure of funds for completion of construction of such segment or alternative segment within the period of availability of funds authorized to be appropriated for completion of the Interstate System, and with respect to which the State has not provided the Secretary with assurances satisfactory to him that such schedule will be met, shall be removed from designation as a part of the Interstate System. No segment of the Interstate system removed under the authority of the preceding sentence shall thereafter be designated as a part of the Interstate System except as the Secretary finds necessary in the interest of national defense or for other reasons of national interest. This subsection shall not be applicable to any segment of the Interstate System referred to in section 23(a) of the Federal-Aid Highway Act of 1968."

(b) Section 103 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) Notwithstanding subsections (e) (2) and (g) of this section, in any case where a segment of the Interstate System was a designated part of such System on June 1, 1973, and is entirely within the boundaries of an incorporated city and such city enters into an agreement with the Secretary to pay all non-Federal costs of construction of such segment, such segment shall be constructed."

(c) The amendments made by subsections (a) and (b) of this section shall take effect June 30, 1973.

APPORTIONMENT

SEC. 111. (a) Section 104 of title 23, United States Code, is amended as follows:

(1) Paragraphs (1) and (2) of subsection (b) are amended by striking the words "star routes" each time they appear and inserting in lieu thereof "intercity mail routes where service is performed by motor vehicle".

(2) Paragraph (1) of subsection (b) is amended by striking out, "one-third in the ratio which the population of each State bears to the total population of all the States" and inserting in lieu thereof the following: "one-third in the ratio which the population of rural areas of each State bears to the total population of rural areas of all the States". The last sentence of such paragraph is amended by inserting "(other than the District of Columbia)" immediately after "No State".

(3) Paragraph (2) of subsection (b) is amended by striking out "one-third in the ratio which the rural population of each State bears to the total rural population of all the States" and inserting in lieu thereof the following: "one-third in the ratio which the population of rural areas of each State bears to the total population of rural areas of all of the States". The last sentence of such paragraph is amended by inserting "(other than the District of Columbia)" immediately after "No State".

(4) Paragraph (6) of subsection (b) is amended by striking the word "urbanized" wherever it appears and inserting in lieu thereof "urban", and by adding at the end thereof the following: "No State shall receive less than one-half of 1 per centum of each year's apportionment."

(5) Subsection (c) is amended by striking out "20 per centum" in each of the two places it appears and inserting in lieu thereof in each such place the following: "40 per centum" and by striking out "paragraph (1), (2), or (3)" and inserting in lieu thereof "paragraph (1) or (2)".

(6) Subsection (d) is amended to read as follows:

"(d) Not more than 40 per centum of the amount apportioned in any fiscal year to each State in accordance with paragraph (3) or (6) of subsection (b) of this section may be transferred from the apportionment under one paragraph to the apportionment under the other paragraph if such transfer is requested by the State highway department and is approved by the Governor of such State and the Secretary as being in the public interest. Funds apportioned in accordance with paragraph (6) of subsection (b) of this section shall not be transferred from their allocation to any urbanized area of 200,000 population or more under section 150 of this title, without the approval of the local officials of such urbanized area. The total of such transfers shall not increase the original apportionment under either of such paragraphs by more than 40 per centum."

(7) The last sentence of subsection (c) is hereby repealed.

(b) Notwithstanding the amendments made by subsection (a) of this section, no State (other than the District of Columbia) shall receive an apportionment for the primary system which is less than the apportionment which such State received for such system for the fiscal year ending June 30, 1973. In order to carry out this subsection, there is authorized to be appropriated out of the Highway Trust Fund for the Federal-aid primary system, an additional $17,000,000 for the fiscal year ending June 30, 1974, and $15,000,000 per fiscal year for the fiscal years ending June 30, 1975, and Jun 30, 1976.

APPORTIONMENT OF PLANNING FUNDS

SEC. 112. Subsection (f) of section 104 of title 23, United States Code, is amended to read as follows:

"(f) (1) On or before January 1 next preceding the commencement of each fiscal year, the Secretary, after making the deduction authorized by subsection (a) of this section, shall set aside not to exceed one-half per centum of the remaining funds authorized to be appropriated for expenditure upon the Federal-aid systems, for the purpose of carrying out the requirements of section 134 of this title.

"(2) These funds shall be apportioned to the States in the ratio which the population in urbanized areas or parts thereof, in each State bears to the total population in such urbanized areas in all the States as shown by the latest available census, except that no State shall receive less than one-half per centum of the amount apportioned.

"(3) The funds apportioned to any State under paragraph (2) of this subsection shall be made available by the State to the metropolitan planning organizations designated by the State as being responsible for carrying out the provisions of section 134 of this title. These funds shall be matched in accordance with section 120 of this title unless the Secretary determines that the interests of the Federal-aid highway program would be best served without such matching.

"(4) The distribution within any State of the planning funds made available to agencies under paragraph (3) of this subsection shall be in accordance with a formula developed by each State and approved by the Secretary which shall consider but not necessarily be limited to, population, status of planning, and metroplitan area transportation needs."

ADVANCE ACQUISITIONS OF RIGHTS-OF-WAY

SEC. 113. (a) The last sentence of subsection (a) of section 108 of title 23, United States Code, is amended by striking out "seven years" and inserting in lieu thereof "ten years".

(b) The first sentence of paragraph (3) of subsection (c) of section 108 of title 23, United States Code, is amended by striking out "seven years" and inserting in lieu thereof "ten years".

NOISE LEVEL STANDARDS

SEC. 114. Subsection (1) of section 109 of title 23, United States Code, is amended by adding at the end thereof the following: "The Secretary, after consultation with the Administrator of the Environmental Protection Agency and appropriate Federal, State, and local officials, may promulgate standards for the control of highway noise levels for highways on any Federal-aid system for which project approval has been secured prior to July 1, 1972. The Secretary may approve any project on a Federal-aid system to which noise-level standards are made applicable under the preceding sentence for the purpose of carrying out such standards. Such project may include, but is not limited to, the acquisition of additional rights-of-way, the construction of physical barriers, and landscaping. Sums apportioned for the Federal-aid system on which such project will be located shall be available to finance the Federal share of such project. Such project shall be deemed a highway project for all purposes of this title."

SIGNS ON PROJECT SITE

SEC. 115. The last sentence of subsection (a) of section 114 of title 23, United States Code, is amended to read as follows: "After July 1, 1973, the State highway department shall not erect on any project where actual construction is in progress and visible to highway users any informational signs other than official traffic control devices conforming with standards developed by the Secretary of Transportation."

CERTIFICATION ACCEPTANCE

SEC. 116. (a) Section 117 of title 23 of the United States Code is amended to read as follows:

"§ 117. Certification acceptance

"(a) The Secretary may discharge any of his responsibilities under this title relative to projects on Federal-aid systems, except the Interstate System, upon the request of any State, by accepting a certification by the State highway department, or that department, commission, board, or official of any State charged by its laws with the responsibility for highway construction, of its performance of such responsibilities, if he finds such projects will be carried out in accordance with State laws, regulations, directives, and standards establishing requirements at least equivalent to those contained in, or issued pursuant to, this title.

"(b) The Secretary shall make a final inspection of each such project upon its completion and shall require an adequate report of the estimated, and actual, cost of construction as well as such other information as he determines necessary.

"(c) The procedure authorized by this section shall be an alternative to that otherwise prescribed in this title. The Secretary shall promulgate such guidelines and regulations as may be necessary to carry out this section.

"(d) Acceptance by the Secretary of a State's certification under this section may be rescinded by the Secretary at any time if, in his opinion, it is necessary to do.

"(e) Nothing in this section shall affect or discharge any responsibility or obligation of the Secretary under any Federal law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.), section 4(f) of the Department of Transportation Act (49 U.S.C. 1653f)), title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000(d), et seq.), title VIII of the Act of April 11, 1968 (Public Law 90-284, 42 U.S.C. 3601 et seq.), and the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 (42 U.S.C. 4601, et seq.), other than this title."

(b) The analysis of chapter 1, of title 23, United States Code, is amended by striking out

"117. Secondary road responsibilities."

and inserting in lieu thereof the following:

"117. Certification acceptance.".

MATERIALS AT OFF-SITE LOCATIONS

SEC. 117. Section 121(a) of title 23 of the United States Code is amended by inserting after the period at the end thereof the following: "Such payments may also be made in the case of any such materials not in the vicinity of such construction if the Secretary determines that because of required fabrication at an off-site location the materials cannot be stockpiled in such vicinity."

TOLL ROADS, BRIDGES, TUNNELS, AND FERRIES

SEC. 118. (a) After the second sentence of section 129(b) of title 23, United States Code, insert the following: "When any such toll road which the Secretary has approved as a part of the Interstate System is made a toll-free facility, Federal-aid highway funds apportioned under section 104(b) (5) of this title may be expended for the construction, reconstruction, or improvement of that road to meet the standards adopted for the improvement of projects located on the Interstate System."

(b) The first sentence of subsection (e) of section 129, title 23, United States Code, is amended by striking out "on the date of enactment of this subsection". The third sentence of subsection (e) of section 129, title 23, United States Code, is amended by striking out "1968" and inserting in lieu thereof "1973".

URBAN AREA TRAFFIC OPERATIONS IMPROVEMENT PROGRAMS

SEC. 119. Subsection (c) of section 135 of title 23, United States Code, is hereby repealed and existing subsection (d) is relettered as subsection (c), including any references thereto.

TRAINING PROGRAMS

SEC. 120. Subsection (b) of section 140 of title 23, United States Code, is amended by striking out in the second sentence "and 1973," and inserting in lieu thereof ", 1973, 1974, 1975, and 1976", and by striking out "$5,000,000 per fiscal year" and inserting in lieu thereof "$5,000,000 per fiscal year for the fiscal years 1972 and 1973, and $10,000,000 per fiscal year for the fiscal years 1974, 1975, and 1976,".

PUBLIC TRANSPORTATION

SEC. 121. (a) Section 142 of title 23, United States Code, is amended to read as follows:

"§ 142. Public Transportation

"(a)(1) To encourage the development, improvement, and use of public mass transportation systems operating motor vehicles (other than on rail) on Federal-aid highways for the transportation of passengers (hereafter in this section referred to as 'buses'), so as to increase the traffic capacity of the Federal-aid systems for the movement of persons, the Secretary may approve as a project on any Federal-aid system the construction of exclusive or preferential bus lanes, highway traffic control devices, bus passenger loading areas and facilities (including shelters), and fringe and transportation corridor parking facilities to serve bus and other public mass transportation passengers, and sums apportioned under section 104(b) of this title shall be available to finance the cost of projects under this paragraph.

"(2) In addition to the projects under paragraph (1), the Secretary may, beginning with the fiscal year ending June 30, 1975, approve as a project on the Federal-aid urban system, for payment from sums apportioned under section 104(b)(6) of this title, the purchase of buses, and, beginning with the fiscal year ending June 30, 1976, approve as a project on the Federal-aid urban system, for payment from sums apportioned under section 104(b)(6) of this title, the construction, reconstruction, and improvement of fixed rail facilities, including the purchase of rolling stock for fixed rail, except that not more than $200,000,000 of all sums apportioned for the fiscal year ending June 30, 1975, under section 104(b)(6) shall be available for the payment of the Federal share of projects for the purchase of buses.

"(b) Sums apportioned in accordance with paragraph (5) of subsection (b) of section 104 of this title shall be available to finance the Federal share of projects for exclusive or preferential bus, truck, and emergency vehicle routes or lanes. Routes constructed under this subsection shall not be subject to the third sentence of section 109(b) of this title.

"(c) Whenever responsible local officials of an urbanized area notify the State highway department that, in lieu of a highway project the Federal share of which is to be paid from funds apportioned under section 104(b)(6) of this title for the fiscal years ending June 30, 1974, and June 30, 1975, their needs require a nonhighway public mass transit project involving the construction of fixed rail facilities, or the purchase of passenger equipment, including rolling stock for any mode of mass transit, or both, and the State highway department determines that such public mass transit project is in accordance with the planning process under section 134 of this title and is entitled to priority under such planning process, such public mass transit project shall be submitted for approval to the Secretary. Approval of the plans, specifications, and estimates for such project by the Secretary shall be deemed a contractual obligation of the United States for payment out of the general funds of its proportional share of the cost of such project in an amount equal to the Federal share which would have been paid if such project were a highway project under section 120(a) of this title. Funds previously apportioned to such State under section 104(b)(6) of this title shall be reduced by an amount equal to such Federal share.

"(d) The establishment of routes and schedules of such public mass transportation systems in urbanized areas shall be based upon a continuing comprehensive transportation planning process carried on in accordance with section 134 of this title.

"(e)(1) For all purposes of this title, a project authorized by subsection (a)(1) of this section shall be deemed to be a highway project.

"(2) Notwithstanding section 209(f)(1) of the Highway Revenue Act of 1956, the Highway Trust Fund shall be available for making expenditures to meet obligations resulting from projects authorized by subsection (a)(2) of this section and such projects shall be subject to, and governed in accordance with, all provisions of this title applicable to projects on the Federal-aid urban system, except to the extent determined inconsistent by the Secretary.

"(3) The Federal share payable on account of projects authorized by subsection (a) of this section shall be that provided in section 120 of this section.

"(f) No project authorized by this section shall be approved unless the Secretary of Transportation has received assurances satisfactory to him from the State that public mass transportation systems will fully utilize the proposed project.

"(g) In any case where sufficient land exits within the publicly acquired rights-of-way of any Federal-aid highway to accommodate needed rail or nonhighway public mass transit facilities and where this can be accomplished without impairing automotive safety of future highway improvements, the Administrator may authorize a State to make such lands and rights-of-way available without charge to a publicly owned mass transit authority for such purposes wherever he may deem that the public interest will be served thereby.

"(h) The provision of assistance under subsection (a)(2) or subsection (c) of this section shall not be construed as bringing within the application of chapter 15 of title 5, United States Code, any nonsupervisory employee of an urban mass transportation system (or of any other agency or entity performing related functions) to whom such chapter is otherwise inapplicable.

"(i) Funds available for expenditure to carry out the purposes of subsection (a)(2) and subsection (c) of this section shall be supplementary to and not in substitution for funds authorized and available for obligation pursuant to the Urban Mass Transportation Act of 1964, as amended.

"(j) The provisions of section 3(e)(4) of the Urban Mass Transportation Act of 1964, as amended, shall apply in carrying out subsection (a)(2) and subsection (c) of this section.

"(k) The Secretary shall not approve any project under subsection (a)(2) of this section in any fiscal year when there has been enacted an Urban Transporation Trust Fund or similar assured funding for both highway and public transportation."

(b) The analysis of chapter 1 of title 23, United States Code, is amended by striking out

"142. Urban highway public transportation."

and inserting in lieu thereof the following:

"142. Public transportation,".

ECONOMIC GROWTH CENTER DEVELOPMENT HIGHWAYS

SEC. 122. (a) Section 143 of title 23, United States Code, is amended by striking out "demonstration projects" each place it appears and inserting in lieu thereof "projects", and by striking out "demonstration project" each place it appears and inserting in lieu thereof in each such place "project", by striking out "the Federal-aid primary system" in each place it appears and inserting in lieu thereof in each such place "a Federal-aid system (other than the Interstate System)", and in subsection (d) by striking out "Federal-aid primary highways" and inserting in lieu thereof "highways on the Federal-aid system on which such development highway is located".

(b) Section 143(e) of title 23, United States Code, is amended to read as follows:

"(e) Except as otherwise provided in subsection (c) of this section, the Federal share of the cost of any project for construction, reconstruction, or improvement of a development highway under this section shall be the same as that provided under this title for any other project on the Federal-aid system on which such development highway is located."

(c) Section 143(a) of title 23, United States Code, is amended by striking out "to demonstrate the role that highways can play".

FEDERAL-STATE RELATIONSHIP

SEC. 123. (a) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 145. Federal-State relationship

"The authorization of the appropriation of Federal funds or their availability for expenditure under this chapter shall in no way infringe on the sovereign rights of the States to determine which projects shall be federally financed. The provisions of this chapter provide for a federally assisted State program."

(b) The analysis of chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following:

"145. Federal-State relationship."

BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS

SEC. 124. (a) Chapter 2 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 217. Bicycle transportation and pedestrian walkways

"(a) To encourage the multiple use of highway rights-of-way, including the development, improvement, and use of bicycle transportation and the development and improvement of pedestrian walkways on or in conjunction with highway rights-of-way, the States may, on Federal-aid highway projects, include to the extent practicable, suitable, and feasible, the construction of separate or preferential bicycle lanes or paths, bicycle traffic control devices, shelters and parking facilities to serve bicycles and persons using bicycles, and pedestrian walkways in conjunction or connection with Federal-aid highways. Sums apportioned in accordance with paragraphs (1), (2), (3), and (6) of section 104(b) of this title shall be available for bicycle projects and pedestrian walkways authorized under this section and such projects shall be located and designated pursuant to an overall plan which will provide due consideration for safety and contiguous routes.

"(b) For all purposes of this title, a bicycle or pedestrian walkway project authorized by subsection (a) of this section shall be deemed to be a highway project, and the Federal share payable on account of such bicycle project or pedestrian walkway shall be that provided in section 120 of this title.

"(c) Funds authorized for forest highways, forest development roads and trails, public lands development roads and trails, park roads and trails, parkways, Indian reservation roads, and public lands highways shall be available, at the discretion of the department charged with the administration of such funds, for the construction of bicycle and pedestrian routes in conjunction with such trails, roads, highways, and parkways.

"(d) No motorized vehicles shall be permitted on trails and walkways authorized under this section except for maintenance purposes and, when snow conditions and State or local regulations permit, snowmobiles.

"(e) Not more than $40,000,000 of funds authorized to be appropriated in any fiscal year may be obligated for projects authorized by subsections (a) and (c) of this section, and no State shall obligate more than $2,-

000,000 for such projects in any fiscal year."

(b) The analysis of chapter 2, title 23, United States Code, is amended by inserting at the end thereof the following:

"217. Bicycle transportation and pedestrian walkways."

SPECIAL URBAN HIGH DENSITY TRAFFIC PROGRAM

SEC. 125. (a) Chapter 1 of title 23 of the United States Code is amended by adding at the end thereof the following new section:

"§ 146. Special urban high density traffic program

"(a) There is hereby authorized to be appropriated out of the Highway Trust Fund $50,000,000 for the fiscal year ending June 30, 1974, $50,000,000 for the fiscal year ending June 30, 1975, and $50,000,000 for the fiscal year ending June 30, 1976, for the construction of highways connected to the Interstate System in portions of urbanized areas with high traffic density. The Secretary shall develop guidelines and standards for the designation of routes and the allocation of funds for this purpose which include the following criteria:

"(1) Routes designated by the Secretary shall not be longer than ten miles.

"(2) Routes designated shall serve areas of concentrated population and heavy traffic congestion.

"(3) Routes designated shall serve the urgent needs of commercial, industrial, airport, or national defense installations.

"(4) Any routes shall connect with existing routes on the Interstate System.

"(5) Routes designated under this section shall have been approved through the planning process required under section 134 of this title and determined to be essential by responsible local officials.

"(6) A route shall be designated under this section only where the Secretary determines that no feasible or practicable alternative mode of transportation which could meet the needs of the area to be served is now available or could become available in the foreseeable future.

"(7) The designation of routes under this section shall comply with section 138 of this title, and no route shall be designated which substantially damages or infringes upon any residential area.

"(8) Routes shall be designated by the Secretary on the recommendation of the State and responsible local officials.

"(9) No more than one route in any one State shall be designated by the Secretary.

"(10) Any route designated by the Secretary under this section must be on a Federal-aid system.

"(b) The Federal share payable on account of any project authorized pursuant to this section shall not exceed 90 per centum of the cost of construction of such project."

(b) The table of contents of chapter 1 of title 23 of the United States Code is amended by adding at the end thereof the following:

"146. Special urban high density traffic program."

PRIORITY PRIMARY ROUTES

SEC. 126. (a) Chapter 1 of title 23 of the United States Code is amended by adding at the end thereof the following new section:

"§ 147. Priority primary routes

"(a) High traffic sections of highways on the Federal-aid primary system which connect to the Interstate System shall be selected by each State highway department, in consultation with appropriate local officials, subject to approval by the Secretary, for priority of improvement to supplement the service provided by the Interstate System by furnishing needed adequate traffic collector and distributor facilities. For the purpose of this section such highways shall hereafter in this section be referred to as 'priority primary routes'.

"(b) The Federal share of any project on a priority primary route shall be that provided in section 120(a) of this title. All provisions of this title applicable to the Federal-aid primary system shall be applicable to priority primary routes selected under this section except that one-half of such funds shall be apportioned among the States in accordance with section 104(b)(1) of this title, and one-half shall be apportioned among the States in accordance with section 104(b)(3) of this title. Funds authorized to carry out this section shall be deemed to be apportioned on January 1 next preceding the commencement of the fiscal year for which authorized.

"(c) The initial selection of the priority primary routes and the estimated cost of completing such routes shall be reported to Congress on or before July 1, 1974.

"(d) There is authorized to be appropriated out of the Highway Trust Fund to carry out this section not to exceed $100,000,000 for the fiscal year ending June 30, 1974, $200,000,000 for the fiscal year ending June 30, 1975, and $300,000,000 for the fiscal year ending June 30, 1976."

(b) The table of contents of chapter 1 of title 23 of the United States Code is amended by adding at the end thereof the following:

"147. Priority primary routes.".

ALASKA HIGHWAY

SEC. 127. (a)(1) Chapter 2 of title 23 of the United States Code is amended by inserting at the end thereof a new section as follows:

"§ 218. Alaska Highway

"(a) Recognizing the benefits that will accrue to the State of Alaska and to the United States from the reconstruction of the Alaska Highway from the Alaskan border to Haines Junction in Canada and the Haines Cutoff Highway from Haines Junction in Canada to the south Alaskan border, the Secretary is authorized out of the funds appropriated for the purpose of this section to provide for necessary reconstruction of such highway. Such appropriations shall remain available until expended. No expenditures shall be made for the construction of such highways until an agreement has been reached by the Government of Canada and the Government of the United States which shall provide, in part, that the Canadian Government—

"(1) will provide, without participation of funds authorized under this title all necessary right-of-way for the reconstruction of such highways, which right-of-way shall forever be held inviolate as a part of such highways for public use;

"(2) will not impose any highway toll, or permit any such toll to be charged for the use of such highways by vehicles or persons;

"(3) will not levy or assess, directly or indirectly, any fee, tax, or other charge for the use of such highways by vehicles or persons from the United States that does not apply equally to vehicles or persons of Canada;

"(4) will continue to grant reciprocal recognition of vehicle registration and drivers' licenses in accordance with agreements between the United States and Canada; and

"(5) will maintain such highways after their completion in proper condition adequately to serve the needs of present and future traffic.

"(b) The survey and construction work undertaken pursuant to this section shall be under the general supervision of the Secretary."

(2) The analysis of chapter 2 of title 23 of the United States Code is amended by adding at the end thereof the following:

(b) For the purpose of completing necessary reconstruction of the Alaska Highway from the Alaskan border to Haines Junction in Canada and the Haines Cutoff Highway from Haines Junction in Canada to the south Alaskan border there is authorized to be appropriated the sum of $58,670,000 to be expended in accordance with the provisions of section 218 of title 23 of the United States Code.

BRIDGES ON FEDERAL DAMS

SEC. 128. (a) Section 320(d) of title 23, United States Code, is amended by striking out "$16,761,000" and inserting in lieu thereof "$25,261,000".

(b) All sums appropriated under authority of the increased authorization of $8,500,000 established by the amendment made by subsection (a) of this section shall be available for expenditure only in connection with the construction of a bridge across lock and dam numbered 13 on the Arkansas River near Fort Smith, Arkansas, in the amount of $2,100,000 and in connection with reconstruction of a bridge across the Chickamauga Dam on the Tennessee River near Chattanooga, Tennessee, in the amount of $6,400,000. No such sums shall be appropriated until all applicable requirements of section 320 of title 23 of the United States Code have been complied with by the appropriate Federal agency, the Secretary of Transportation, and the State of Arkansas for the Fort Smith project, and the State of Tennessee for the Chattanooga project.

GREAT RIVER ROAD

SEC. 129. (a) Section 14 of the Federal-Aid Highway Act of 1954, as amended (68 Stat. 70; Public Law 83–350), is amended by striking out "$500,000" and inserting in lieu thereof "$600,000".

(b) Chapter 1 of title 23 of the United States Code is amended by inserting at the end thereof a new section as follows:

"§ 148. Development of a national scenic and recreational highway

"(a) As soon as possible after the date of enactment of this section, the Secretary shall establish criteria for the location and construction or reconstruction of the Great River Road by the ten States bordering the Mississippi River. Such criteria shall include requirements that—

"(1) priority be given in the location of the Great River Road near or easily accessible to the larger population centers of the State and further priority be given to the construction and improvement of the Great River Road in the proximity of the confluence of the Mississippi River and the Wisconsin River;

"(2) the Great River Road be connected with other Federal-aid highways and preferably with the Interstate System;

"(3) the Great River Road be marked with uniform identifying signs;

"(4) effective control, as defined in section 131 of this title, of signs, displays, and devices will be provided along the Great River Road;

"(5) the provisions of section 129(a) of this title shall not apply to any bridge or tunnel on the Great River Road and no fees shall be charged for the use of any facility constructed with assistance under this section.

"(b) For the purpose of this section, the term 'construction' includes the acquisition of areas of historical, archeological, or scientific interest, necessary easements for scenic purposes, and the construction or reconstruction of roadside rest areas (including appropriate recreational facilities), scenic viewing areas, and other appropriate facilities as determined by the Secretary.

"(c) Highways constructed or reconstructed pursuant to this section (except sbsection (f)) shall be part of the Federal-aid system.

"(d) Funds appropriated for each fiscal year pursuant to subsection (g) shall be apportioned among the ten States bordering the Mississippi River on the basis of their relative needs as determined by the Secretary for payments to carry out this section.

"(e) The Federal share of the cost of any project for any construction or reconstruction pursuant to the preceding subsections of this section shall be that provided in section 120 of this title for the Federal aid system on which such project is located, and if such project is not on such a system, such share shall be 70 per centum of such cost.

"(f) The Secretary is authorized to consult with the heads of other Federal departments and agencies having jurisdiction over Federal lands open to the public in order to enter into appropriate arrangements for necessary construction or reconstruction of highways on such lands to carry out this section. Highways constructed or reconstructed by a State pursuant to this section which are not on a Federal-aid system, and highways constructed or reconstructed under this subsection, shall be subject to the criteria applicable to highways constructed or reconstructed pursuant to subsection (c) of this section. Funds authorized pursuant to subsection (g) shall be used to pay the entire cost of construction or reconstruction pursuant to the first sentence of this subsection.

"(g) There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund, for construction or reconstruction of roads on a Federal-aid highway system, not to exceed $10,000,000 for the fiscal year ending June 30, 1974, $25 000,000 for the fiscal year ending June 30, 1975, and $25,000,000 for the fiscal year ending June 30, 1976, for allocations to the States pursuant to this section, and there is authorized to be appropriated to carry out this section out of any money in the Treasury not otherwise appropriated, not to exceed $10,000,000 for each of the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, for construction and reconstruction of roads not on a Federal-aid highway system."

(c) The table of contents of chapter 1 of title 23 of the United States Code is amended by inserting at the end thereof the following:

"148. Development of a national scenic and recreational highway.".

ALASKAN ASSISTANCE

Sec. 130. Subsection (b) of section 7 of the Federal-Aid Highway Act of 1966 is amended by striking out at the end of the last sentence "June 30, 1972 and June 30, 1973," and substituting "June 30. 1972, June 30, 1973, June 30, 1974, June 30, 1975, and June 30, 1976."

ROUTE 101 IN NEW HAMPSHIRE

Sec. 131. (a) The amount of all Federal-aid highway funds paid on account of those sections of Route 101 in the State of New Hampshire referred to in subsection (c) of this section shall, prior to the collection of any tolls thereon, be repaid to the Treasurer of the United States on or before October 1, 1977. The amount so repaid shall be deposited to the credit of the appropriation for "Federal-Aid Highways (Trust Fund)". At the time of such repayment, the Federal-aid projects with respect to which such funds have been repaid and any other Federal-aid project located on said sections of such toll road and programed for expenditure on any such project, shall be credited to the unprogramed balance of Federal-aid highways funds of the same class last apportioned to the State of New Hampshire. The amount so credited shall be in addition to all other funds then apportioned to said State and shall be available for expenditure in accordance with the provisions of title 23, United States Code, as amended or supplemented.

(b) Upon the repayment of Federal-aid highway funds and the cancellation and withdrawal from the Federal-aid highway program of the projects on said sections of Route 101 as provided in subsection (a) of this section, such sections of said route shall become and be free of any and all restrictions contained in title 23, United States Code, as amended or supplemented, or in any regulation thereunder, with respect to the imposition and collection of tolls or other charges thereon or for the use thereof.

(c) The provisions of this section shall apply to the following sections:

(1) That section of Route 101 from Route 125 in Epping to Brentwood Corners, a distance of approximately two and thirty one-hundredths centerline miles.

(2) That section of Route 101 in the vicinity of Sells Corner in Auburn, beginning approximately two and forty one-hundredths centerline miles east of the junction of Interstate Route 93 and running easterly approximately two miles.

FREEING INTERSTATE TOLL BRIDGES

Sec. 132. Section 129, title 23, United States Code, as amended by section 139 of this Act, is amended by adding at the end thereof the following new subsection:

"(h) Notwithstanding the provisions of section 301 of this title, in the case of each State which, before January 1, 1975, shall have constructed or acquired any interstate toll bridge (including approaches thereto), which before January 1, 1975, caused such toll bridge to be made free, which bridge is owned and maintained by such State or by a political subdivision thereof, and which bridge is on the Federal-aid primary system (other than the Interstate System), sums apportioned to such State in accordance with paragraphs (1) and (3) of subsection (b) of section 104 of this title shall be available to pay the Federal share of a project under this subsection of (1) such amount as the Secretary determines to be the reasonable value of such bridge after deducting therefrom that portion of such value attributable to any grant or contribution previously paid by the United States in connection with the construction or acquisition of such bridge, and exclusive of rights-of-way, or (2) the amount by which the principal amount of the outstanding unpaid bonds or other obligations created and issued for the construction or acquisition of such bridge exceeds the amount of any funds accumulated or provided for their amortization, on the date such bridge is made free, whichever is the lesser amount."

STUDY OF TOLL BRIDGE AUTHORITY

Sec. 133. (a) The Secretary of Transportation is authorized and directed to undertake a full and complete investigation and study of existing Federal statutes and regulations governing toll bridges over the navigable waters of the United States for the purpose of determining what action can and should be taken to assure just and reasonable tolls nationwide. The Secretary shall submit a report of the findings of such study and investigation to the Congress not later than July 1, 1974, together with his recommendations for modifications or additions to existing laws, regulations, and policies, except that in the case of the toll bridge at Chester, Illinois, the Secretary shall submit a report to the Congress not later than December 31, 1973.

(b) The Secretary of Transportation shall promulgate regulations establishing guidelines governing any increase in tolls for use of any bridge constructed pursuant to either the General Bridge Act of 1906 or the General Bridge Act of 1946.

NATIONAL SCENIC HIGHWAY SYSTEM STUDY

Sec. 134. (a) The Secretary of Transportation shall make a full and complete investigation and study to determine the feasibility of establishing a national system of scenic highways to link together and make more accessible to the American people recreational, historical, scientific, and other similar areas of scenic interest and importance. In the conduct of such investigation and study, the Secretary shall cooperate and consult with other agencies of the Federal Government, the Commission on Highway Beautification, the States and their political subdivisions, and other interested private organizations, groups, and individuals. The Secretary shall report his findings and recommendations to the Congress not later than July 1, 1974, including an estimate of the cost of implementing such a program. There is authorized to be appropriated $250,000 from the Highway Trust Fund to carry out this subsection.

(b) The Secretary of Transportation shall make a full and complete investigation and study to examine problems of user access to parks, recreation areas (including public recreation areas on Federal lakes), historic sites and wildlife refuges. Such study and investigation shall include, but not be limited to, an analysis of the desirability and feasibility of a national scenic road and parkways system referred to in subsection (a) including benefits to the user if any and the total long range environmental impact of such system on the Nation's recreation resources; alternatives to private automobile access to parks and recreation resources, including mass transit; and special problems of safe access to urban and metropolitan parks and recreation resources. In the conduct of such investigations and study, the Secretary shall cooperate and consult with other agencies of the Federal Government, the States and their political subdivisions, and interested private organizations, groups and individuals. The Secretary shall report his findings and recommendations to the Congress not later than January 1, 1975, including an estimate of the cost of implementing any suggested programs.

DISTRICT OF COLUMBIA

Sec. 135. None of the provisions of the Act entitled "An Act to provide a permanent system of highways in that part of the District of Columbia lying outside of cities", approved March 2, 1893 (27 Stat. 532), as amended, shall apply to any segment of the Interstate System within the District of Columbia.

CORRIDOR HEARINGS

Sec. 136. (a) The Secretary of Transportation shall permit no further action on Interstate Route I-287 between Montville and Mahwah, New Jersey, until new corridor hearings are held.

(b) The Secretary of Transportation shall permit no further action on the Corporation Freeway, Winston-Salem, North Carolina, until new corridor hearings are held.

(c) The new corridor hearings required by this section shall be held and the reports thereon shall be made no later than one year after the date of enactment of this section.

INTERSTATE SYSTEM

Sec. 137. (a) Paragraph (2) of subsection (e) of section 103 of title 23, United States Code, is amended as follows:

(1) The first sentence is amended by striking out "additional mileage for the Interstate System of two hundred miles, to be used in making modifications" and inserting in lieu thereof "additional mileage for the Interstate System of five hundred miles, to be used in making modifications".

(2) The fourth sentence is amended by striking out "the 1968 Interstate System cost estimate set forth in House Document Numbered 199, Ninetieth Congress, as revised," and inserting in lieu thereof the following: "the 1972 Interstate System cost estimate set forth in House Public Works Committee Print Numbered 92-29, as revised in House Report Numbered 92-1443."

(3) The fifth sentence is amended by striking out "due regard" and inserting in lieu thereof the following: "preference,

along with due regard for interstate highway type needs on a nationwide basis,".

(b) Subsection (e) of section 103 of title 23, United States Code, is amended by adding the following:

"(4) Upon the joint request of a State Governor and the local governments concerned, the Secretary may withdraw his approval of any route or portion thereof on the Interstate System within any urbanized area in that State selected and approved in accordance with this title prior to the enactment of this paragraph, if he determines that such route or portion thereof is not essential to completion of a unified and connected Interstate System or will no longer be essential by reason of the application of this paragraph and will not be construed as a part of the Interstate System, and if he receives assurances that the State does not intend to construct a toll road in the traffic corridor which would be served by such route or portion thereof. The mileage of the route or portion thereof approval of which is withdrawn under this paragraph shall be available for designation on the Interstate System in any other State in accordance with paragraph (1) of this subsection. After the Secretary has withdrawn his approval of any such route or portion thereof, whenever responsible local officials of such urbanized area, notify the State highway department that, in lieu of a route or portion thereof approval for which is withdrawn under this paragraph, their needs require a nonhighway public mass transit project involving the construction of fixed rail facilities, or the purchase of passenger equipment, including rolling stock for any mode of mass transit, or both, and the State highway department determines that such public mass transit project is in accordance with the planning process under section 134 of this title and is entitled to priority under such planning process, such public mass transit project shall be submitted for approval to the Secretary. Approval of the plans, specifications, and estimates for such project by the Secretary shall be deemed a contractual obligation of the United States for payment out of the general funds in the Treasury of its proportional share of the cost of such project in an amount equal to the Federal share which would be paid for such a project under the Urban Mass Transportation Act of 1964, except that the total Federal cost of all such projects under this paragraph with respect to such route or portion thereof approval of which is withdrawn under this paragraph, shall not exceed the Federal share of the cost which should have been paid for such route or portion thereof, as such cost is included in the 1972 Interstate System cost estimate set forth in table 5 of House Public Works Committee Print Numbered 92–29, as revised in House Report Numbered 92–1443. Funds apportioned to such State for the Interstate System, which apportionment is based upon an Interstate System cost estimate that includes a route or portion thereof approval of which is withdrawn under this paragraph, shall be reduced by an amount equal to the Federal share of such project as such share becomes a contractual obligation of the United States. No general funds shall be obligated under authority of this paragraph after June 30, 1981. No nonhighway public mass transit project shall be approved under this paragraph unless the Secretary has received assurances satisfactory to him from the State that public mass transportation systems will fully utilize the proposed project. The provision of assistance under this paragraph shall not be construed as bringing within the application of chapter 15 of title 5, United States Code, any nonsupervisory employee of an urban mass transportation system (or of any other agency or entity performing related functions) to whom such chapter is otherwise inapplicable. Funds available for expenditure to carry out the purposes of this paragraph shall be supplementary to and not in substitution for funds authorized and available for obligation pursuant to the Urban Mass Transportation Act of 1964, as amended. The provisions of section 3(e)(4) of the Urban Mass Transportation Act of 1964, as amended, shall apply in carrying out this paragraph."

PUBLIC MASS TRANSPORTATION STUDIES

SEC. 138. (a) The Secretary shall, in cooperation with the Governor of each State and appropriate local officials, make an evaluation of that portion of the 1972 National Transportation Report, pertaining to public mass transportation. Such evaluation shall include all urban areas. The evaluation shall include but not be limited to the following:

(1) Refining the public mass transportation needs contained in such report.

(2) Developing a program to accomplish the needs of each urban area for public mass transportation.

(3) Analyzing the existing funding capabilities of Federal, State, and local governments for meeting such needs.

(4) Analyzing other funding capabilities of Federal, State, and local government's for meeting such needs.

(5) Determining the operating and maintenance costs relating to the public mass transportation system.

(6) Determining and comparing fare structures of all public mass transportation systems.

The Secretary shall, not later than July 1, 1974, report to Congress the results of this evaluation together with his recommendations for necessary legislation.

(b) The Secretary shall conduct a study of revenue mechanisms, including a tax on fuels used in the provision of urban mass transportation service, and an additional gasoline tax imposed in urban areas, which could be used now or in the future to finance transportation activities receiving financial assistance from the Highway Trust Fund. Such study will include an analysis of the magnitude of the various potential sources of user tax revenues, the rates at which such taxes could be levied (including possible differential rates), the mechanisms for collection of such taxes, the incidence of such taxes, and the potential impact on transit usage caused by such taxes. The Secretary shall report to the Congress the findings of his study by no later than the 180th day after the date of enactment of this section.

(c) There is hereby authorized not to exceed $10,000,000 to carry out this section.

FERRY OPERATIONS

SEC. 139. (a) The last subsection of section 129 of title 23, United States Code, is hereby redesignated as subsection (g).

(b) Paragraph (5) of subsection (g) of section 129 of title 23, United States Code, as redesignated in subsection (a) of this section, is amended to read as follows:

"(5) Such ferry may be operated only within the State (including the islands which comprise the State of Hawaii) or between adjoining States. Except with respect to operations between the islands which comprise the State of Hawaii and operations between the States of Alaska and Washington, or between any two points within the State of Alaska, no part of such a ferry operation shall be in any foreign or international waters."

METRO ACCESSIBILITY TO THE HANDICAPPED

SEC. 140. The Secretary of Transportation is authorized to make payments to the Washington Metropolitan Area Transit Authority in amounts sufficient to finance 80 per centum of the cost of providing such facilities for the subway and rapid transit system authorized in the National Capital Transportation Act of 1969 (83 Stat. 320) as may be necessary to make such subway and system accessible by the handicapped through implementation of Public Laws 90–480 and 91–205. There is authorized to be appropriated, to carry out this section, not to exceed $65,000,000.

ENVIRONMENTAL IMPACT STATEMENTS

SEC. 141. (a) The Secretary of Transportation shall, not later than forty-five days after the date of enactment of this section, complete all necessary action on (1) the environmental impact statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, and (2) the application for approval under the General Bridge Act of 1946, with respect to the proposal for construction by the Department of Transportation of the State of New Jersey of a bridge over the Raritan River in such State for the purpose of such State's Highway Route 18.

(b) The Secretary of Transportation shall—

(1) by October 1, 1973—

(A) complete the draft environmental impact statement pursuant to section 102(2)(C) of the National Environmental Policy Act, and his determination under section 4(f) of the Department of Transportation Act and section 138 of title 23 of the United States Code, on the project for Interstate Route Numbered 66 in the State of Virginia from the National Capital Beltway to the Potomac River, which project is described in the 1972 estimate of the cost of completing the National System of Interstate and Defense Highways as estimate section termini E 10.4.2 at the Beltway to E 10.11.1 in Rosslyn.

(B) circulate such statement to all interested Federal, State, and local agencies and to the public for comment within forty-five days, and

(C) insure that notice of a public hearing on the design and location of such project is issued;

(2) insure that a public hearing is held within forty-five days after issuance of the notice pursuant to paragraph (1)(C) of this subsection; and

(3) not later than December 31, 1973, complete consideration of the information received at the hearing, review any comments on the statement received within the forty-five-day notice period referred to in paragraph (1)(B) of this subsection and any other information received by the end of such forty-five-day period and file the final version of such statement on the basis of such comments and information, together with any other final determination which he is required by law to make in order to permit the construction of such project to proceed. The determination of the Secretary shall be conclusive with respect to all issues of fact.

TRUCK LANES

SEC. 142. (a) Chapter 1 of title 23, United States Code, is amended by adding to the end thereof the following new section:

"§ 149. Truck lanes

The Secretary may approve as a project on any Federal-aid system the construction of exclusive or preferential truck lanes."

(b) The analysis of chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following:

"149. Truck lanes.".

HIGHWAY STUDIES

SEC. 143. The Secretary of Transportation shall report to Congress by January 1, 1975, on the feasibility and necessity for constructing to appropriate standards proposed highways along the following routes:

(1) A route from Brunswick, Georgia, or its vicinity, to Kansas City, Missouri, or its vicinity, so aligned to serve the following intermediate locations, or vicinities thereof:

Columbus, Georgia; Birmingham, Alabama; Tupelo, Mississippi; Memphis, Tennessee; Batesville or Jonesboro, Arkansas; and Springfield, Missouri.

(2) A route from Kansas City, Missouri, or its vicinity, to Chicago, Illinois, or its vicinity, so aligned as to cross the Mississippi River at a point between Nauvoo, Illinois, on the north, and Hannibal, Missouri, on the south.

(3) A route from Amarillo, Texas, or its vicinity to Las Cruces, New Mexico, or its vicinity, so aligned as to serve the following intermediate locations, or vicinities thereof; Hereford, Texas; Clovis, New Mexico; Portales, New Mexico; Roswell, New Mexico; Ruidoso, New Mexico; Tularosa, New Mexico; and Alamogordo, New Mexico; together with a branch route from Alamogordo, New Mexico, or its vicinity, to El Paso, Texas, or its vicinity, to connect with Interstate Route No. 10 and the port of entry with Mexico.

(4) A route from the Port of Catoosa, Catoosa, Oklahoma, or its vicinity, to Interstate Route No. 35 to Ponca City, Oklahoma, or its vicinity.

(5) Extension of Interstate Highway 70 from Cove Fort, Utah, or its vicinity, in a westerly direction, so aligned to serve the intermediate locations of Ely and Carson City, Nevada, or their vicinities.

(6) A route from Kansas City, Missouri, or its vicinity, to Baton Rouge, Louisiana, or its vicinity, so aligned to serve one or both of the following intermediate locations or vicinities thereof: Fayetteville, Fort Smith, and Texarkana, Arkansas; or Little Rock, Arkansas, or any other route through the State of Arkansas determined feasible by such State and the Secretary.

(7) A route from Interstate Highway 380 from Waterloo, Iowa, via Dubuque, Iowa, to Interstate Highway 90 at Rockford, Illinois; and an extension of Interstate Highway 74 from the Davenport, Iowa-Moline, Illinois, area through Dubuque, Iowa, to Interstate 90 at LaCrosse, Wisconsin.

(8) Extension of Interstate Highway 27 from Lubbock, Texas, or its vicinity in a southerly direction to intersect with Interstate 20 and, proceeding further, to intersect with Interstate 10.

(9) A route from Salina, Kansas, or its vicinity, in a northerly direction to intersect with Interstate 80 in the vicinity of York, Nebraska, and, proceeding further, to Interstate 29 in the vicinity of Watertown, South Dakota.

(10) A route from Wichita, Kansas, or its vicinity to Tucumcari, New Mexico, or its vicinity, so aligned to serve the following intermediate locations or vicinities thereof: Pratt, Kansas; Meade, Kansas; Liberal, Kansas; Guymon, Oklahoma; Stafford, Texas; Dalhart, Texas; and Logan, New Mexico; or any other route through the State of Kansas determined feasible by such State and the Secretary.

INTER-AMERICAN HIGHWAY

SEC. 144. Section 4 of the Federal-Aid Highway Act of 1962 (Public Law 87–866; 76 Stat. 1145) is amended by striking out "$32,000,000" and inserting in lieu thereof "$42,000,000".

DONATIONS

SEC. 145. (a) Chapter 3 of title 23 of the United States Code is amended by adding at the end thereof the following:

"§ 323. Donations

"Nothing in this title, or in any other provision of law, shall be construed to prevent a person whose real property is being acquired in connection with a project under this title, after he has been tendered the full amount of the estimated just compensation as established by an approved appraisal of the fair market value of the subject real property, from making a gift or donation of such property, or any part thereof, or of any of the compensation paid therefor, to a Federal agency, a State or a State agency, or a political subdivision of a State, as said person shall determine."

(b) The analysis of chapter 3 of title 23, United States Code, is amended by adding at the end thereof the following:

"323. Donations.".

HIGH-SPEED TRANSPORTATION DEMONSTRATION

SEC. 146. The Secretary is authorized to undertake a study and demonstration program for high-speed bus service from collection points in the Washington, District of Columbia area to Dulles International Airport, Virginia. Such study and demonstration shall utilize exclusive bus transportation lanes between points of origin and termination of such service, and include, where necessary, the construction of such exclusive bus transportation lanes as well as terminal and parking facilities. Such study and demonstration shall also include the purchase of high-speed buses. As necesary to implement this section, the Secretary shall undertake research into the development of buses designed to maintain high-speed, safe transportation. Not to exceed $10,000,000 of the amount authorized to be apportioned under section 104(b)(6) of title 23, United States Code, for the fiscal year ending June 30, 1975, shall be available to the Secretary to carry out this section and such sum shall be set aside for such purpose prior to the apportionment of such amount for such fiscal year.

RURAL HIGHWAY PUBLIC TRANSPORTATION DEMONSTRATION PROGRAM

SEC. 147. To encourage the development, improvement, and use of public mass transportation systems operating vehicles on highways for transportation of passengers within rural areas, in order to enhance access of rural populations to employment, health care, retail centers, education, and public services, there are authorized to be appropriated $30,000,000 for the two-fiscal-year period ending June 30, 1976, of which $20,000,000 shall be out of the Highway Trust Fund, to the Secretary of Transportation to carry out demonstration projects for public mass transportation on highways in rural areas. Projects eligible for Federal funds under this section shall include highway traffic control devices, the construction of passenger loading areas and facilities, including shelters, fringe and transportation corridor parking facilities to serve bus and other public mass transportation passengers, and the purchase of passenger equipment other than rolling stock for fixed rail.

FEDERAL-AID SYSTEMS REALIGNMENT

SEC. 148. (a) Section 103(b) of title 23, United States Code, is renumbered as section 103(b)(1) and a new section 103(b)(2) is added to read as follows:

"(2) After June 30, 1976, the Federal-aid primary system shall consist of an adequate system of connected main roads important to interstate, statewide, and regional travel, consisting of rural arterial routes and their extensions into or through urban areas. The Federal-aid primary system shall be designated by each State acting through its State highway department and where appropriate, shall be in accordance with the planning process pursuant to section 134 of this title, subject to the approval of the Secretary as provided by subsection (f) of this section."

(b) Section 103(c) of title 23, United States Code, is renumbered as section 103(c)(1) and a new subsection 103(c)(2) is added to read as follows:

"(2) After June 30, 1976, the Federal-aid secondary system shall consist of rural major collector routes. The Federal-aid secondary system shall be designated by each State through its State highway department and appropriate local officials in cooperation with each other, subject to the approval of the Secretary as provided in subsection (f) of this section."

(c) Section 103(d) of title 23, United States Code, is renumbered as section 103(d)(1) and a new subsection 103(d)(2) is added to read as follows:

"(2) After June 30, 1976, the Federal-aid urban system shall be located in each urbanized area and such other urban areas as the State highway departments may designate and shall consist of arterial routes and collector routes, exclusive of urban extensions of the Federal-aid primary system. The routes on the Federal-aid urban system shall be designated by appropriate local officials, with the concurrence of the State highway departments, subject to the approval of the Secretary as provided in subsection (f) of this section, and in the case of urbanized areas shall also be in accoradnce with the planning process required pursuant to the provisions of section 134 of this title."

(d) Federal-aid systems realignment shall be based upon anticipated functional usage in the year 1980 or a planned connected system.

(e) In addition to the foregoing amendments, the second sentence of section 103(c)(1) of title 23, United States Code, is amended to insert, after the words "local rural roads," the phrase, "access roads to airports,".

TOLL ROAD REIMBURSEMENT PROGRAM

SEC. 149. (a) Whenever the State of Louisiana has received its final apportionment of sums authorized to be appropriated for expenditure on the Interstate System, or on or after July 1, 1977, whichever first occurs, the Secretary shall, notwithstanding the provisions of subsection (b) of section 129 of title 23 of the United States Code, reimburse the Federal share of the actual cost of construction of new toll highways or improvements to existing toll highways in that State, construction of which highways or improvement is begun after July 1, 1973, but not including the cost of toll collection and service facilities, on the same basis and in the same manner as in the construction of free highways under chapter 1 of title 23 of the United States Code upon compliance with the conditions contained in this section.

(b) The Secretary shall reimburse the Federal share of the costs of construction as applicable to a project under section 120(a) of title 23 of the United States Code from funds apportioned to such State pursuant to paragraph (1) of subsection (b) of section 104 of title 23 of the United States Code whenever the State enters into an agreement with the Secretary whereby it undertakes performance of the following obligations:

(1) to provide for the construction of such highway in accordance with standards approved by the Secretary;

(2) all tolls received from the operation of such highway, less the actual cost of such operation and maintenance, shall be applied by the State to the repayment of the actual costs of construction, except for an amount equal to the Federal share payable of such actual costs of a project; and

(3) no tolls shall be charged for the use of such highway after the Federal share has been paid and the highway shall be maintained and operated as a free highway.

Upon the enactment of this section the Secretary shall, at the request of the State of Louisiana, enter into an agreement with that State if such agreement meets the requirements of this subsection. Reimbursements shall not be made until after the State receives its final apportionment of sums authorized to be appropriated for expenditure on the Interstate System or July 1, 1977, whichever first occurs.

(c) Such highway shall be designated as a part of the Federal-aid primary system, other than the Interstate System, before the payment of any Federal funds under this section, notwithstanding the mileage limitations in subsection (b) of section 103 of title 23 of the United States Code.

(d) The Federal share payable of such actual cost of the project shall be made in not more than fifteen equal annual installments, from the funds apportioned to the State pursuant to paragraph (1) of subsection (b) of section 104 of title 23 of the United States Code, with the first installment being made either (1) one year after the project agreement has ben entered into between the Secretary and the State highway department or (2) either one year after the State receives its final apportionment of sums authorized to be appropriated for expenditure, on the Interstate System, or July 1, 1977, whichever first occurs, whichever of such clause (1) or (2) is last to occur. Such payment shall be applied against the outstanding obligations of the project.

PARKWAYS

SEC. 150. (a) Subsection (a) of section 207 of title 23, United States Code, is amended to read as follows:

"(a) Funds available for parkways shall be used to pay for the cost of construction and improvement thereof, including the acquisition of rights-of-way and related scenic easements."

(b) Section 207 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) Any parkway project on a Federal-aid system shall be subject to all of the requirements of this title and of any other law applicable to highways on such system."

RESEARCH AND PLANNING

SEC. 151. Subsection (c)(1) of section 307 of title 23, United States Code, is amended to read as follows:

"(c)(1) Not to exceed 1½ per centum of the sums apportioned for each fiscal year beginning with fiscal year 1974 to any State under section 104 of this title shall be available for expenditure upon request of the State highway department, with the approval of the Secretary, with or without State funds, for engineering and economic surveys and investigations: for the planning of future highway programs and local public transportation systems and for planning for the financing thereof; for studies of the economy, safety, and convenience of highway usage and the desirable regulation and equitable taxation thereof; and for research and development, necessary in connection with the planning, design, construction, and maintenance of highways and highway systems, and the regulation and taxation of their use."

TECHNICAL AMENDMENTS

SEC. 152. Title 23, United States Code, is amended as follows:

(1) Section 101(a) is amended by striking out "Secretary of Commerce" and inserting in lieu thereof "Secretary of Transportation".

(2) Section 109(g) is amended by striking out "Rct" and inserting in lieu thereof "Act".

(3) Sections 126(a) and 310 are amended by striking out "Commerce" each place it appears and inserting in lieu thereof "Transportation".

(4) The heading of section 303 is amended to read:

"Administration organization."

(5) Sections 308(b), 309, 312, and 314 are amended by striking out "Bureau of Public Roads" each place it appears and inserting in lieu thereof "Federal Highway Administration".

(6) Sections 312 and 314 are amended by striking out "Commerce" each place it appears and inserting in lieu thereof "Transportation".

INCREASED FEDERAL SHARE—EFFECTIVE DATE

SEC. 153. Subsection (b) of section 108 of the Federal-Aid Highway Act of 1970 is amended to read as follows:

"(b) The amendments made by subsection (a) of this section shall take effect with respect to all obligations incurred after June 30, 1973."

TERMINATION OF FEDERAL-AID RELATIONSHIP

SEC. 154. (a) Notwithstanding any other provisions of Federal law or any court decision to the contrary, the contractual relationship between the Federal and State Governments shall be ended with respect to all portions of the San Antonio North Expressway between Interstate Highway 35 and Interstate Loop 410, and the expressway shall cease to be a Federal-aid project.

(b) The amount of all Federal-aid highway funds paid on account of sections of the San Antonio North Expressway in Baxer County, Texas (Federal-aid projects numbered U 244(7), U 244(10), UG 244(9), U 244(8), and U 244(11)), shall be repaid to the Treasurer of the United States and the amount so repaid shall be deposited to the credit of the appropriation for "Federal-Aid Highways (Trust Fund)". At the time of such repayment the Federal-aid projects with respect to which funds have been repaid and any other Federal-aid projects located on such expressway and programed for expenditure on such project, if any, shall be canceled and withdrawn from the Federal-aid highway program. Any amount so repaid, together with the unpaid balance of any amount programed for expenditure on any such project shall be credited to the unprogramed balance of Federal-aid highway funds of the same class last apportioned to the States, respectively. The amount so credited shall be available for expenditure in accordance with the provisions of title 23, United States Code, as amended.

HIGHWAY LITTER STUDY

SEC. 155. (a) The Secretary is directed to undertake a study of litter accumulation within the rights-of-way of the Federal-aid highway systems and recommend improved procedures to be used by the several States to prevent and clean up such highway litter on a regular basis. The Secretary shall report his findings and recommendations to the Congress by June 30, 1974.

(b) For the purposes of this section, the term "litter" means beverage and food containers, food wastes, paper products, smoking materials or packaging, and any other materials which the Secretary finds are commonly used and discarded by the traveling public and which, when discarded along highway rights-of-way, cause an unsightly appearance, a danger to public health or safety, or an unreasonable expenditure of public funds.

(c) Funds authorized to carry out section 307 of title 23, United States Code, are authorized to be used to carry out the investigation and study required by this section.

BRIDGE APPROACH STANDARDS

SEC. 156. Section 109 of title 23, United States Code, is amended by adding at the end thereof the following subsection:

"(k) The Secretary shall not approve any project involving approaches to a bridge under this title, if such project and bridge will significantly affect the traffic volume and the highway system of a contiguous State without first taking into full consideration the views of that State."

ALLOCATION OF URBAN SYSTEM FUNDS

SEC. 157. (a) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 150. Allocation of urban system funds

"The funds apportioned to any State under paragraph (6) of subsection (b) of section 104 of this title that are attributable to urbanized areas of 200,000 population or more shall be made available for expenditure in such urbanized areas for projects in programs approved under subsection (d) of section 105 of this title in accordance with a fair and equitable formula developed by the State which formula has been approved by the Secretary. Such formula shall provide for fair and equitable treatment of incorporated municipalities of 200,000 or more population. Whenever such a formula has not been developed and approved for a State, the funds apportioned to any State under paragraph (6) of subsection (b) of section 104 of this title which are attributable to urbanized areas having a population of 200,000 or more shall be allocated among such urbanized areas within such State for projects in programs approved under subsection (d) of section 105 of this title in the ratio that the population within each such urbanized area bears to the population of all such urbanized areas, or parts thereof, within such State. In the expenditure of funds allocated under the preceding sentence, fair and equitable treatment shall be accorded incorporated municipalities of 200,000 or more population."

(b) The table of contents of chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following:

"150. Allocation of urban system funds".

FRANCONIA NOTCH, NEW HAMPSHIRE

SEC. 158. Notwithstanding section 109(b) of title 23 of the United States Code, the Secretary of Transportation is authorized, upon application of the Governor of the State, to approve construction of that section of Interstate Route 93 from B20.6 an interchange with State route 3A in North Woodstock, New Hampshire, to B22.1 an interchange with U.S. Route 3 in Franconia, New Hampshire, approximately twelve miles in length, as a parkway type of highway to geometric and construction standards (whether or not in accordance with section 109(b)) which the Secretary determines are necessary for the safety of the traveling public, for the protection of the environment, and for the preservation of the park-like and historic character of the Franconia Notch area adjacent to the highway. The State of New Hampshire, with the concurrence of the Secretary, is authorized to permit the use of the above section of highway to specified types of vehicles during specified times of the day and of the year.

DWIGHT D. EISENHOWER HIGHWAY

SEC. 159. (a) The following segments of the National System of Interstate and Defense Highways which form a continuous interstate highway link from coast to coast are hereby designated as the "Dwight D. Eisenhower Highway":

(1) Interstate Route 70 between Washington, District of Columbia, and Denver, Colorado;

(2) Interstate Route 25 between Denver, Colorado, and Cheyenne, Wyoming; and

(3) Interstate Route 80 between Cheyenne, Wyoming, and San Francisco, California.

(b) Any law, regulation, map, document, record, or other paper of the United States in which such segments are designated or referred to shall be held to designate or refer to such segments as the "Dwight D. Eisenhower Highway."

CUMBERLAND GAP NATIONAL HISTORICAL PARK

SEC. 160. (a) Notwithstanding the definition of parkways in subsection (a) of section 101, funds available for parkways shall be available to finance the cost of reconstruction and relocation of Route 25E through the Cumberland Gap National Historical Park, including construction of a tunnel and the approaches thereto, so as to permit restoration of the Gap and provide adequate traffic capacity.

(b) Upon construction, such highway and

tunnel and all associated lands and rights-of-way shall be transferred to the National Park Service and managed as part of the Cumberland Gap National Historical Park.

HIGHLAND SCENIC HIGHWAY

Sec. 161. (a) The Secretary of Agriculture (acting through the Forest Service) is authorized to develop and construct as a parkway the Highland Scenic Highway from West Virginia State Route 39 to U.S. 250 near Barton Knob. Notwithstanding subsection (c) of section 103 of title 23, United States Code, such parkway shall be a route on the Federal-aid secondary system.

(b) The route from Richwood, West Virginia, to U.S. 250 near Barton Knob, via West Virginia State Route 39 and the parkway authorized by subsection (a) of this section shall be designated as the Highland Scenic Highway.

(c) The Secretary of Agriculture is authorized to acquire rights-of-way, land containing such rights-of-way, and interests in land, including scenic easements and mineral rights, necessary to carry out the purpose of a scenic highway. In addition to the acquisition of such lands and interests in lands, funds available for parkways shall be available for the reclamation of lands within the scenic corridor of the Highland Scenic Highway.

(d) Funds available for highways shall be available for signs on Interstate highways, Appalachian highways and other appropriate highways at natural points of access to such geographic area, indicating the direction and distance to the Highland Scenic Highway and to Richwood as "Gateway to the Highland Scenic Highway".

(e) Funds available for parkways shall be available for upgrading that portion of West Virginia State Route 39 designated as the Highland Scenic Highway to appropriate standards for a scenic and recreational highway, including the construction of vistas and other scenic improvements.

(f) The Highland Scienic Highway as authorized by subsection (a) of this section and all associated lands and rights-of-way shall be managed as part of the Monongahela National Forest, solely for scenic and recreational use and passenger car travel.

(g) The Highland Scenic Highway as authorized by subsection (a) of this section shall be designed and constructed in accordance with standards appropriate for a scenic highway, providing for moderate speeds and minimizing modification to topographic contours and natural drainage.

(h) Construction of the position of the Highland Scenic Highway as authorized by subsection (a) of this section which is proposed to be constructed through the upper Shavers Fork watershed shall not be initiated until—

(1) the Forest Service has acquired sufficient lands and interests in land (including mineral rights) in such watershed to assure an adequate scenic corridor for the Highland Scenic Highway and the control of water quality in Shavers Fork; and

(2) the completion of a geological and soil survey of any proposed route, conducted in cooperation with the Division of Water Resources of the West Virginia Department of Natural Resources.

(i) Any parkway authorized in the future to proceed southward in such area shall begin in the immediate vicinity of Richwood, West Virginia.

(j) Any connection of the Highland Scenic Highway as authorized by subsection (a) of this section with Corridor H of the Appalachian Development Highway System or any more northerly segment of the Highland Scenic Highway shall utilize existing routes and not involve construction through the Monongahela National Forest between U.S. 250 and Cunningham Knob.

PROHIBITION OF DISCRIMINATION ON THE BASIS OF SEX

Sec. 162. (a) Chapter 3 of title 23, United States Code is amended by adding at the end thereof the following new section:

"§ 324. Prohibition of discrimination on the basis of sex

"No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity received Federal assistance under this title or carried on under this title. This provision will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under title VI of the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a discriminatee."

(b) The analysis of chapter 3, title 23, United States Code, is amended by adding at the end thereof the following:

"324. Prohibition of discrimination on the basis of sex.".

DEMONSTRATION PROJECT—RAILROAD-HIGHWAY CROSSINGS

Sec. 163. (a) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out demonstration projects in Lincoln, Nebraska, Wheeling, West Virginia, and Elko, Nevada, for the relocation of railroad lines from the central area of the cities in conformance with the methodology developed under proposals submitted to the Secretary by the respective cities. The cities shall (1) have a local agency with legal authority to relocate railroad facilities, levy taxes for such purpose, and a record of prior accomplishment; and (2) have a current relocation plan for such lines which has a favorable benefit-cost ratio involving and having the unanimous approval of three or more class I railroads in Lincoln, Nebraska, and the two class I railroads in Wheeling, West Virginia, and Elko, Nevada, and multicivic, local, and State agencies, and which provides for the elimination of a substantial number of the existing railway-road conflict points within the city.

(b) The Secretary of Transportation shall carry out a demonstration project for the elimination or protection of certain public ground-level rail-highway crossings in, or in the vicinity of Springfield, Illinois.

(c) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out demonstration projects in Brownsville, Texas, and Matamoros, Mexico, for the relocation of railroad lines from the central area of the cities in conformance with the methodology developed under proposals submitted to the Secretary by the Brownsville Navigation District, providing for the construction of an international bridge and for the elimination of a substantial number of existing railway-road conflict points within the cities.

(d) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in East Saint Louis, Illinois, for the relocation of rail lines between Thirteenth and Forty-third Streets, in accordance with methodology approved by the Secretary. The Secretary of Transportation shall carry out a demonstration project for the relocation of rail lines in the vicinity of Carbondale, Illinois.

(e) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in New Albany, Indiana, for the elimination of the existing rail loop and relocation of rail lines to a location between Vincennes Street and East Eighth Street, in accordance with methodology approved by the Secretary.

(f) The Secretary of Transportation shall carry out demonstration projects for the construction of an overpass at the rail-highway grade crossing on Cottage Grove Avenue between One Hundred Forty-second Street and One Hundred Thirty-eighth Street in the village of Dolton, Illinois, and the construction of an overpass at the rail-highway grade crossing at Vermont Street and the Rock Island Railroad tracks in the city of Blue Island, Illinois.

(g) The Secretary of Transportation shall carry out a demonstration project for the elimination of the ground level railroad highway crossing on United States Route 69 in Greenville, Texas.

(h) The Secretary of Transportation shall carry out a demonstration project in Anoka, Minnesota, for the construction of an underpass at the Seventh Avenue and County Road 7 railroad-highway grade crossing.

(i) The Federal share payable on account of such projects shall be that provided in section 120 of this title.

(j) The Secretary shall make annual reports and a final report to the President and the Congress with respect to his activities pursuant to this section.

(k) There is authorized to be appropriated to carry out this section (other than subsection (1)) not to exceed $15,000,000 for the fiscal year ending June 30, 1974, $25,000,000 for the fiscal year ending June 30, 1975, and $50,000,000 for the fiscal year ending June 30, 1976, except that two-thirds of all funds authorized and expended under authority of this section in any fiscal year shall be appropriated out of the Highway Trust fund.

(l) The Secretary, in cooperation with State highway departments and local officials, shall conduct a full and complete investigation and study of the problem of providing increased highway safety by the relocation of railroad lines from the central area of cities on a nationwide basis, and report to the Congress his recommendations resulting from such investigation and study not later than July 1, 1975, including an estimate of the cost of such a program. Funds authorized to carry out section 307 of title 23, United States Code, are authorized to be used to carry out the investigation and study required by this subsection.

FINANCIAL ASSISTANCE AGREEMENTS

Sec. 164. (a) No Federal financial assistance shall be provided under (1) subsection (a) or (c) of section 142, title 23, United States Code, (2) paragraph (4) of subsection (e) of section 103, title 23, United States Code, or (3) the Urban Mass Transportation Act of 1964, for the purchase of buses to any applicant for such assistance unless such applicant and the Secretary of Transportation shall have first entered into an agreement that such applicant will not engage in charter bus operations in competition with private bus operators outside of the area within which such applicant provides reguarly scheduled mass transportation service. A violation of such agreement shall bar such applicant from receiving any other Federal financial assistance under those provisions of law referred to in clauses (1), (2), and (3) of this subsection.

(b) No Federal financial assistance shall be provided under (1) subsection (a) or (c) of section 142, title 23, United States Code, (2) paragraph (4) of subsection (e) of section 103, title 23, United States Code, or (3) the Urban Mass Transportation Act of 1934, for the purchase of buses to any applicant for such assistance unless such applicant and the Secretary of Transportation shall have first entered into an agreement that such applicant will not engage in school bus operations, exclusively for the transportation of students and school personnel, in competition with private school bus operators. This subsection shall not apply to an applicant with respect to operation of a school bus program if the applicant operates a school system in the area to be served and operates a separate and exclusive school bus program for this school system. This subsection shall not apply unless private school bus operators are able to provide adequate transportation, at reasonable rates, and in conformance with applicable safety standards, and this subsection shall not apply with respect to any State or local public body or agency thereof if it (or a direct predecessor in interest from which it acquired the function of so transporting school children and personnel along with facilities to be used therefor) was so engaged in school bus operations any time during the twelve-month period immediately prior to the date of the enactment of this subsection. A violation of a agreement under this subsection shall bar such applicant from receiving any other Federal financial assistance under those provisions of law referred to in clauses (1), (2), and (3) of this subsection.

BUS AND OTHER PROJECT STANDARDS

SEC. 165. (a) The Secretary of Transportation shall require that buses acquired with Federal financial assistance under (1) subsection (a) or (c) of section 142 of title 23, United States Code, (2) paragraph (4) of subsection (e) of section 103, title 23, United States Code, or (3) section 147 of the Federal-aid Highway Act of 1973 meet the standards prescribed by the Administrator of the Environmental Protection Agency under section 202 of the Clean Air Act, and under section 6 of the Noise Control Act of 1972, and shall authorize the acquisition, wherever practicable, of buses which meet the special criteria for low-emission vehicles set forth in section 212 of the Clean Air Act, and for low-noise-emission products set forth in section 15 of the Noise Control Act of 1972.

(b) The Secretary of Transportation shall assure that projects receiving Federal financial assistance under (1) subsection (a) or (c) of section 142 of title 23, United States Code, (2) paragraph (4) of subsection (e) of section 103, title 23, United States Code, or (3) section 147 of the Federal-aid Highway Act of 1973 shall be planned and designed so that mass transportation facilities and services can effectively be utilized by elderly and handicapped persons who, by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability are unable without special facilities or special planning or design to utilize such facilities and services as effectively as persons not so affected.

TITLE II

SHORT TITLE

SEC. 201. This title may be cited as the "Highway Safety Act of 1973".

HIGHWAY SAFETY

SEC. 202. The following sums are hereby authorized to be appropriated:

(1) For carrying out section 402 of title 23, United States Code (relating to highway safety programs), by the National Highway Traffic Safety Administration, out of the Highway Trust Fund, $100,000,000 for the fiscal year ending June 30, 1974, $125,000,000 for the fiscal year ending June 30, 1975, and $150,000,000 for the fiscal year ending June 30, 1976.

(2) For carrying out section 403 of title 23, United States Code (relating to highway safety research and development), by the National Highway Traffic Safety Administration, out of the Highway Trust Fund, $42,500,000 for the fiscal year ending June 30, 1974, $55,000,000 for the fiscal year ending June 30, 1975, and $65,000,000 for the fiscal year ending June 30, 1976.

(3) For carrying out section 402 of title 23, United States Code (relating to highway safety programs), by the Federal Highway Administration, out of the Highway Trust Fund $25,000,000 for the fiscal year ending June 30, 1974, $30,000,000 for the fiscal year ending June 30, 1975, and $35,000,000 for the fiscal year ending June 30, 1976.

(4) For carrying out sections 307(a) and 403 of title 23, United States Code (relating to highway safety research and development), by the Federal Highway Administration, out of the Highway Trust Fund, for each of the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, not to exceed $10,000,000 per fiscal year.

RAIL-HIGHWAY CROSSINGS

SEC. 203. (a) Each State shall conduct and systematically maintain a survey of all highways to identify those railroad crossings which may require separation, relocation, or protective devices, and establish and implement a schedule of projects for this purpose. At a minimum, such a schedule shall provide signs for all railroad-highway crossings.

(b) In addition to funds which may be otherwise available to carry out section 130 of title 23, United States Code, there is authorized to be appropriated out of the Highway Trust Fund for projects for the elimination of hazards of railway-highway crossings $25,000,000 for the fiscal year ending June 30, 1974, $75,000,000 for the fiscal year ending June 30, 1975, and $75,000,000 for the fiscal year ending June 30, 1976. At least half of the funds authorized and expended under this section shall be available for the installation of protective devices at railway-highway crossings. Such sums shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under this chapter.

(c) Funds authorized by this section shall be available solely for expenditure for projects on any Feredal-aid system (other than the Interstate System).

(d) 50 percent of the funds made available in accordance with subsection (c) shall be apportioned to the States in the same manner as sums authorized to be appropriated under subsection (a) (1) of section 104 of the Federal-Aid Highway Act of 1973 and 50 percent of the funds made available in accordance with subsection (c) shall be apportioned to the States in the same manner as sums authorized to be appropriated under subsection (a) (2) of section 104 of the Federal-Aid Highway Act of 1973. The Federal share payable on account of any such project shall be 90 per centum of the cost thereof.

(e) Each State shall report to the Secretary of Transportation not later than September 30, 1974, and not later than September 30 of each year thereafter, on the progress being made to implement the railroad-highway crossings program authorized by this section and the effectiveness of such improvements. Each State report shall contain an assessment of the costs of the various treatments employed and subsequent accident experience at improved locations. The Secretary of Transportation shall submit a report to the Congress not later than January 1, 1975, and not later than January 1, of each year thereafter, on the progress being made by the States in implementing projects to improve railroad-highway crossings. The report shall include, but not be limited to, the number of projects undertaken, their distribution by cost range, road system, nature of treatment, and subsequent accident, experience at improved locations. In addition, the Secretary's report shall analyze and evaluate each State program, identify any State found not to be in compliance with the schedule of improvements required by subsection (a), and include recommendations for future implementation of the railroad-highway crossings program.

(f) Funds authorized by this section may be used to provide local government with funds to be used on a matching basis when State funds are available which may only be spent when local government produces matching funds for the improvement of railroad crossings.

BRIDGE RECONSTRUCTION AND REPLACEMENT

SEC. 204. (a) Subsection (e) of section 144 of title 23, United States Code, is amended by striking out "1972; and" and inserting in lieu thereof "1972,"; by inserting immediately after "1973," the following: "$25,000,000 for the fiscal year ending June 30, 1974, $75,000,000 for the fiscal year ending June 30, 1975, and $75,000,000 for the fiscal year ending June 30, 1976.".

(b) Subsection (f) of section 144 of title 23, United States Code, is relettered as subsection (g) (including references thereto); and immediately after subsection (e) the following new subsection (f) is inserted:

"(f) Funds authorized by this section shall be available solely for expenditure for projects on any Federal-aid system."

(c) Existing subsection (g) of section 144 of title 23, United States Code, is relettered as subsection (h) (including references thereto).

PAVEMENT MARKING DEMONSTRATION PROGRAM

SEC. 205. (a) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 151. Pavement marking demonstration program

"(a) Congress hereby finds and declares it to be in the vital interest of the Nation that a pavement marking demonstration program be established to enable the several States to improve the pavement marking of all highways to provide for greater vehicle and pedestrian safety.

"(b) Notwithstanding the provisions of the last sentence of subsection (a) of section 105 of this title, the Secretary may approve under this section such pavement marking projects on any highway whether or not on any Federal-aid system, but not included in the Interstate System, as he may find necessary to bring such highway to the pavement marking standards issued or endorsed by the Federal Highway Administrator.

"(c) In approving projects under this section, the Secretary shall give priority to those propects which are located in rural areas and which are either on the Federal-aid secondary system or are not included on any Federal-aid system.

"(d) The entire cost of projects approved under subsections (b) and (f) of this section shall be paid from sums authorized to carry out this section.

"(e) For the purpose of carrying out the provisions of this section by the Federal Highway Administration, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1974, $25,000,000, and for each of the fiscal years ending June 30, 1975, and June 30, 1976, out of the Highway Trust Fund, the sum of $75,000,000. Such sums shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under this chapter.

"(f) Funds not required for pavement-marking projects authorized by this section may be released by the Secretary for expenditure for projects to eliminate or reduce the hazards to safety at specific locations or sections of highways which are not located on any Federal-aid system and which have high accident experiences or high accident potentials. Funds may be released by the Secretary under this subsection only if the Secretary has received satisfactory assurance from the State highway department that all nonurban area highways within the State are marked in accordance with the pavement-marking standards issued or endorsed by the Federal

Highway Administrator for carrying out this program.

"(g) Each State shall report to the Secretary of Transportation not later than September 30, 1974, and not later than September 30 of each year thereafter, on the progress being made in implementing the program and the effectiveness of the improvements made under it. Each report shall include an analysis and evaluation of the number, rate, and severity of accidents at improved locations and the cost-benefit ratio of such improvements, comparing an adequate time period before and after treatment in order to properly assess the benefits occurring from such pavement markings. The Secretary of Transportation shall submit a report to the Congress not later than January 1, 1975, and not later than January 1 of each year thereafter, on the progress being made in implementing the program and the safety benefits achieved under it."

(b) The analysis of chapter 1 of title 23, United States Code is amended by adding at the end thereof the following:

"151. Pavement marking demonstration program.".

PAVEMENT MARKING RESEARCH AND DEMONSTRATION PROGRAMS

SEC. 206. (a) In addition to the research authorized by section 307(a) of title 23, United States Code, the Secretary of Transportation is authorized to conduct research and demonstration programs to improve the effectiveness and durability of various types of pavement markings and related delineators, to develop improved equipment and techniques for applying, erecting, and maintaining such markings and delineators, and to develop new traffic control materials, devices, and related delineators to assist the traveling public during adverse weather and nighttime driving conditions.

(b) There is authorized to be appropriated to carry out this section by the Federal Highway Administration, out of the Highway Trust Fund, $10,000,000 for the fiscal year ending June 30, 1974, and $10,000,000 for the fiscal year ending June 30, 1975.

HIGHWAY SAFETY ON INDIAN RESERVATIONS

SEC. 207. Section 402 of title 23 of the United States Code is amended by adding a new subsection (i) as follows:

"(i) For the purpose of the application of this section on Indian reservations, 'State' and 'Governor of a State' includes the Secretary of the Interior and political subdivision of a 'State' includes an Indian tribe: *Provided*, That, notwithstanding the provisions of subparagraph (C) of subsection (b)(1) hereof, 95 per centum of the funds apportioned to the Secretary of the Interior after date of enactment, shall be expended by Indian tribes to carry out highway safety programs within their jurisdictions: *And provided further*, That the provisions of subparagraph (E) of subsection (b)(1) hereof shall be applicable except in those tribal jurisdictions in which the Secretary determines such programs would not be practicable."

(b) Subsection (d) of section 402 of title 23, United States Code, is amended by inserting before the period at the end of the first sentence thereof the following: "and except that, in the case of a local highway safety program carried out by an Indian tribe, if the Secretary is satisfied that an Indian tribe does not have sufficient funds available to meet the non-Federal share of the cost of such program, he may increase the Federal share of the cost thereof payable under this Act to the extent necessary."

DRUG USE AND DRIVER BEHAVIOR HIGHWAY SAFETY RESEARCH

SEC. 208. (a) Section 403 of title 23, United State Code, is amended by inserting "(a)" immediately before the first sentence thereof, and by striking out "this section" each place it appears and inserting in lieu thereof "this subsection", and by adding at the end thereof the following new subsections:

"(b) In addition to the research authorized by subsection (a) of this section, the Secretary, in consultation with such other Government and private agencies as may be necessary, is authorized to carry out safety research on the following:

"(1) The relationship between the consumption and use of drugs and their effect upon highway safety and drivers of motor vehicles; and

"(2) Driver behavior research, including the characteristics of driver performance, the relationships of mental and physical abilities or disabilities to the driving task, and the relationship of frequency of driver accident involvement to highway safety.

"(c) The research authorized by subsection (b) of this section may be conducted by the Secretary through grants and contracts with public and private agencies, institutions, and individuals."

(b) There is authorized to be appropriated to carry out the amendments made by this section by the National Highway Traffic Safety Administration, out of the Highway Trust Fund, the sum of $10,000,000 per fiscal year for each of the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976.

PROJECTS FOR HIGH-HAZARD LOCATIONS

SEC. 209. (a) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 152. Projects for high-hazard locations

"(a) Each State shall conduct and systemically maintain an engineering survey of all highways to identify high-hazard locations which may constitute a danger to vehicles and to pedestrians, assign priorities for the correction of such locations, and establish and implement a schedule of projects for their improvement.

"(b) For projects to eliminate or reduce the hazards at specific locations or sections of highways which have high accident experiences or high accident potentials, by the Federal Highway Administration, there is hereby authorized to be appropriated, out of the Highway Trust Fund, for the fiscal year ending June 30, 1974, $50,000,000, and for each of the fiscal years ending June 30, 1975, and June 30, 1976, the sum of $75,000,000 shall be appropriated out of the Highway Trust Fund. Such sums shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under this chapter.

"(c) Funds authorized by this section shall be available solely for expenditure for projects on any Federal-aid system (other than the Interstate System) except in the Virgin Islands, Guam, and American Samoa.

"(d) Funds made available in accordance with subsection (b) shall be apportioned to the States in the same manner as is provided in section 402(c) of this title, and the Federal share payable on account of any such project shall be 90 per centum of the cost thereof.

"(e) Each State shall report to the Secretary of Transportation not later than September 30, 1974, and not later than September 30 of each year threafter, on the progress being made to implement projects for high-hazard locations and the effectiveness of such improvements. Each State report shall contain an assessment of the cost of, and safety benefits derived from, the various means and methods used to mitigate or eliminate hazards and the previous and subsequent accident experience at these locations. The Secretary of Transportation shall submit a report to the Congress not later than January 1, 1975, and not later than January 1 of each year thereafter, on the progress being made by the States in implementing projects for improvements at high-hazard locations. The report shall include, but not be limited to, the number of projects undertaken, their distribution by cost range, road system, means and methods used, and the previous and subsequent accident experience at improved locations. In addition, the Secretary's report shall analyze and evaluate each State program, identify any State found not to be in compliance with the schedule of improvements required by subsection (a) and include recommendations for ftuure implementation of the spot improvements program."

(b) The analysis of chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following:

"152. Projects for high-hazard locations.".

PROGRAM FOR THE ELIMINATION OF ROADSIDE OBSTACLES

SEC. 210. (a) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 153. Program for the elimination of roadside obstacles

"(a) Each State shall conduct and systematically maintain an engineering survey of all highways to identify roadside obstacles which may constitute a hazard to vehicles and to pedestrians, assign priorities for the correction of such obstacles and establish and implement a schedule of projects for their elimination. Such a schedule shall provide for the replacement, to the extent necessary, of existing sign and light supports which are not designed to yield or break away upon impact. Yielding or breakaway sign and light supports shall be used, where appropriate, on all new construction or reconstruction of highways.

"(b) For projects to correct roadside hazards by the Federal Highway Administration, there is hereby authorized to be appropriated, out of the Highway Trust Fund, for the fiscal year ending June 30, 1974, $25,000,000, and for each of the fiscal years ending June 30, 1975, and June 30, 1976, the sum of $75,000,000. Such sums shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under this chapter.

"(c) Funds authorized by this section shall be available solely for expenditure for projects on any Federal-aid system (other than the Interstate System) except in the Virgin Islands, Guam, and American Samoa.

"(d) Funds made available in accordance with subsection (c) shall be apportioned to the States in the same manner as it provided in section 402(c) of this title, and the Federal share payable on account of any such project shall be 90 per centum of the cost thereof.

"(e) Each State shall report to the Secretary of Transportation not later than September 30, 1974, and not later than September 30 of each year thereafter, on the progress being made in implementing the program for the removal of roadside obstacles and the effectiveness of such improvements. Each report shall contain an asssessment of the costs and safety benefits of the various means and methods used to mitigate or eliminate roadside obstacles. The Secretary of Transportation shall submit a report to the Congress not later than January 1, 1975, and not later than January 1 of each year thereafter, on the progress being made by the States in eliminating roadside obstacles and the effectiveness of the improvements made under this program. The Secretary's report shall include, but not be limited to, an analysis and evaluation of each State program, identification of any State found not to be in compliance with the schedule of improvements required by subsection (a) and shall include recommendations for future implementation of the roadside obstacle removal program. In addition, to assess the safety benefits of varying roadside obstacle treatments, the report shall contain an assessment of the costs and safety benefits of the various means and methods used to mitigate or eliminate roadside obstacles."

(b) The analysis of chapter 1 of title 23, United States Code is amended by adding at the end thereof the following:

"153. Program for the elimination of roadside obstacles.".

HIGHWAY SAFETY EDUCATIONAL PROGRAMING AND STUDY

SEC. 211. (a) The Secretary of Transportation, in cooperation with interested government and nongovernment authorities, agencies, organizations, institutions, businesses, and individuals, shall conduct a full and complete investigation and study of the use of mass media for informing and educating the public of ways and means for reducing the number and severity of highway accidents. Such a study shall include, but not be limited to, ways and means for encouraging the participation and cooperation of television and radio station licensees, for measuring audience reactions to current educational programs, for evaluating the effectiveness of such programs, and for developing new programs for the promotion of highway safety. The Secretary shall report to the Congress his findings and recommendations by June 30, 1974.

(b) For the purpose of carrying out subsection (a) of this section, there is hereby authorized to be appropriated the sum of $1,000,000 out of the Highway Trust Fund.

(c) The Secretary of Transportation, in consultation with State and local highway safety officials, shall develop a series of highway safety television programs of varying length, up to and including five minutes, for use in accordance with the provisions of the Communications Act of 1934. At least 50 per centum of the funds authorized and expended under subsection (d) of this section shall be allocated to the States at the discretion of the Secretary for approved programing projects. To the maximum extent feasible, the services of private individuals shall be utilized in carrying out this subsection.

(d) For the purpose of carrying out subsection (c) of this section, there is hereby authorized to be appropriated the sum of $4,000,000 out of the Highway Trust Fund.

CITIZEN PARTICIPATION STUDY

SEC. 212. (a) The Secretary of Transportation, in cooperation with State and local highway safety authorities, shall conduct a full and complete investigation and study of ways and means for encouraging greater citizen participation and involvement in highway safety programs, with particular emphasis on traffic enforcement and accident detection, response, and reporting, including, but not limited to, the creation of citizen adjuncts to assist professional traffic enforcement agencies and highway rescue agencies in the performance of their duties. The Secretary shall report to the Congress his findings and recommendations by June 30, 1974.

(b) For the purposes of carrying out this section, there is authorized to be appropriated the sum of $1,000,000 out of the Highway Trust Fund.

FEASIBILITY STUDY—NATIONAL CENTER FOR STATISTICAL ANALYSIS OF HIGHWAY OPERATIONS

SEC. 213. (a) The Secretary of Transportation shall make a study of the feasibility of establishing a National Center for Statistical Analysis of Highway Operations designed to acquire, store, and retrieve highway accident data and standardize the information and procedures for reporting accidents on a nationwide basis. Such study should include, but not be limited to, an estimate of the cost of establishing and maintaining such a center, including the means of acquiring the accident information to be stored therein, the methods to be used for its evaluation and the criteria needed to assure its proper utilization by appropriate public and private agencies and groups. The Secretary shall report to the Congress his findings and recommendations not later than January 1, 1975.

(b) For the purpose of carrying out this section, there is authorized to be appropriated the sum of $5,000,000 out of the Highway Trust Fund.

PEDESTRIAN AND BICYCLE SAFETY STUDY

SEC. 214. (a) The Secretary of Transportation shall make a full and complete investigation and study of pedestrian and bicycle safety. Such an investigation and study shall include, but not be limited to, the following:

(1) A review and evaluation of State and local ordinances, regulations, and laws and the enforcement policies, procedures, methods, practices, and capabilities for enforcing them.

(2) The relationship between alcohol and pedestrian and bicycle safety, with special emphasis on problem drinkers, both drivers and pedestrians.

(3) An evaluation of way and means of improving pedestrian and bicycle safety programs.

(4) An analysis of present funding allocations for pedestrian and bicycle safety programs and an assessment of the capabilities of Federal, State, and local governments to fund such activities and programs.

In the conduct of such investigation and study, the Secretary shall cooperate and consult with other agencies of the Federal Government, the States, and their political subdivisions, and other interested private organizations, groups, and individuals.

(b) The Secretary shall, not later than January 31, 1975, report to the Congress the results of this investigation and study together with his conclusions and recommendations for appropriate legislation.

(c) There is hereby authorized not to exceed $5,000,000 from the Highway Trust Fund to carry out this section.

MANPOWER TRAINING AND DEMONSTRATION PROGRAMS

SEC. 215. (a) The first sentence of subsection (c) of section 402 of title 23, United States Code, is amended by inserting immediately after "approved in accordance with subsection (a)," the following: "including development and implementation of manpower training programs, and of demonstration programs that the Secretary determines will contribute directly to the reduction of accidents, and deaths and injuries resulting therefrom. Such funds".

PUBLIC ROAD MILEAGE

SEC. 216. Subsection (c) of section 402 of title 23, United States Code, is amended by inserting immediately after the third sentence the following: "Public road mileage as used in this subsection shall be determined as of the end of the calendar year preceding the year in which the funds are apportioned and shall be certified to by the Governor of the State and subject to approval by the Secretary."

MINIMUM APPORTIONMENT

SEC. 217. Subsection (c) of section 402 of title 23, United States Code, is amended by striking "one-third of 1 per centum" in the fifth sentence thereof, and inserting "one-half of 1 percentum".

HIGHWAY SAFETY PROGRAM APPLICABILITY

SEC. 218. Section 401, title 23, United States Code, is amended by adding at the end thereof the following: "For the purposes of this chapter, the term 'State' means any one of the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and American Samoa, except that all expenditures for carrying out this chapter in the Virgin Islands, Guam, and American Samoa shall be paid out of money in the Treasury not otherwise appropriated."

INCENTIVES FOR COMPLIANCE WITH HIGHWAY SAFETY PROGRAMS

SEC. 219. Section 402 of title 23, United States Code, is amended by adding the following new subsection:

"(j) (1) In addition to other grants authorized by this section, the Secretary may make incentive grants in each fiscal year to those States which have adopted legislation requiring the use of seatbelts in accordance with criteria which the Secretary shall establish and publish. Such grants may only be used by recipient States to further the purposes of this chapter. Such grants shall be in addition to other funds authorized by this section. There is hereby authorized to be appropriated to carry out this paragraph, out of the Highway Trust Fund, not to exceed $25,000,000 for the fiscal year ending June 30, 1974, not to exceed $32,000,000 for the fiscal year ending June 30, 1975, and not to exceed $37,500,000 for the fiscal year ending June 30, 1976.

"(2) In addition to other grants authorized by this section, the Secretary may make additional incentive grants to those States which have made the most significant progress in reducing traffic fatalities based on the reduction in the rate of such fatalities per one hundred million-vehicle miles during the calendar year immediately preceding the fiscal year for which such incentive funds are authorized compared with the average annual rate of such fatalities for the four calendar year period preceding such calendar year. Such incentive grants shall be made in accordance with criteria which the Secretary shall establish and publish. Such grants may only be used by recipient States to further the purposes of this chapter. Such grants shall be in addition to other funds authorized by this section. There is hereby authorized to be appropriated to carry out this paragraph, out of the Highway Trust Fund, not to exceed $12,500,000 for the fiscal year ending June 30, 1974, not to exceed $16,000,000 for the fiscal year ending June 30, 1975, and not to exceed $19,000,000 for the fiscal year ending June 30, 1976.

"(3) Incentive awards authorized by this section shall not exceed 25 per centum of each State's apportionment as authorized by this chapter."

HIGHWAY SAFETY RESEARCH AND DEVELOPMENT

SEC. 220. The second sentence of subsection (a) of section 403 of title 23, United States Code, is amended to read as follows: "In addition, the Secretary may use the funds appropriated to carry out this section, either independently or in cooperation with other Federal departments or agencies, for making grants to or contracting with State or local agencies, institutions, and individuals for (1) training or education of highway safety personnel, (2) research fellowships in highway safety, (3) development of improved accident investigation procedures, (4) emergency service plans, (5) demonstration projects, and (6) related activities which the Secretary deems will promote the purposes of this section. The Secretary shall assure that no fees are charged for any meetings or services attendant thereto or other activities relating to training and education of highway safety personnel."

TRANSFER OF DEMONSTRATION PROJECT EQUIPMENT

SEC. 221. Section 403 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) The Secretary may, where he deems it to be in furtherance of the purposes of section 402 of this title, vest in State or local agencies, on such terms and conditions as he deems appropriate, title to equipment purchased for demonstration projects with funds authorized by this section."

ADMINISTRATIVE ADJUDICATION OF TRAFFIC INFRACTIONS

SEC. 222. Section 403 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) In addition to the research authorized by subsection (a) of this section, the Secretary shall, either independently or in cooperation with other Federal departments or agencies, conduct research into, and make grants to or contracts with State or local agencies, institutions, and individuals for projects to demonstrate the administrative adjudication of traffic infractions. Such administrative adjudication demonstration projects shall be designed to improve highway safety by developing fair, efficient, and effective processes and procedures for traffic infraction adjudication, utilizing appropriate punishment, training, and rehabilitative measures for traffic offenders. The Secretary shall report to Congress by July 1, 1975, and each year thereafter during the continuance of the program, on the research and demonstration projects authorized by this subsection, and shall include in such report a comparison of the fairness, efficiency, and effectiveness of administrative adjudication of traffic infractions with other methods of handling such infractions."

NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE

SEC. 223. Subsection (a) (1) of section 404 of title 23, United States Code, is amended by inserting immediately after "Federal Highway Administrator," the following: "the National Highway Traffic Safety Administrator,".

DATE OF ANNUAL REPORT

SEC. 224. The first sentence of subsection (a) of section 202 of the Highway Safety Act of 1966 (80 Stat. 736) is amended by deleting "March 1" and substituting in lieu thereof the following: "July 1".

HIGHWAY SAFETY NEEDS STUDY

SEC. 225. In order to provide the basis for evaluating the continuing highway safety programs authorized in title 23, United States Code, and to furnish Congress with the information necessary for the authorization of appropriations for such programs, the Secretary of Transportation, in cooperation with the Governors and appropriate State and local highway officials, shall make a full and complete study of highway safety needs and shall prepare rcommendations and estimates of the costs for meeting such needs. Such estimates and recommendations shall identify the requirements to meet highway safety needs of the States, Puerto Rico, and the District of Columbia and would also consider those of Guam, American Samoa, the Virgin Islands and such other United States territories as the Secretary shall determine. The Secretary shall submit such detailed estimates and recommendations to the Congress not later than January 10, 1976.

DRIVER EDUCATION EVALUATION PROGRAM

SEC. 226. (a) Section 403 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) In addition to the research authorized by subsection (a) of this sction, the Secretary shall carry out research, development, and demonstration projects to improve and evaluate the effectiveness of various types of driver education programs in reducing traffic accidents and deaths, injuries, and property damage resulting therefrom. The research, development, and demonstration projects authorized by this subsection may be carried out by the Secretary through grants and contracts with public and private agencies, institutions, and individuals. The Secretary shall report to the Congress by July 1, 1975, and each year thereafter during the continuance of the program, on the research, development, and demonstration projects authorized by this subsection, and shall include in such report an evaluation of the effectiveness of driver education programs in reducing traffic accidents and deaths, injuries, and property damage resulting therefrom."

(b) For the purpose of carrying out the amendment made by subsection (a) of this section, there is authorized to be appropriated $10,000,000 out of the Highway Trust Fund.

TRANSFER OF FUNDS AMONG HIGHWAY SAFETY PROGRAMS

SEC. 227. Section 104 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Not more than 30 per centum of the amount apportioned in any fiscal year to each State in accordance with sections 144, 152, and 153 of this title, or section 203(d) of the Highway Safety Act of 1973, may be transferred from the apportionment under one section to the apportionment under any other of such sections if such a transfer is requested by the State highway department and is approved by the Secretary as being in the public interest. The Secretary may approve such transfer only if he has received satisfactory assurances from the State highway department that the purposes of the program from which such funds are to be transferred have been met."

CURB RAMPS FOR THE HANDICAPPED

SEC. 288. Paragraph (1) of subsection (b) of section 402 of title 23, United States Code, is amended by adding at the end thereof the following:

"(F) provide adequate and reasonable access for the safe and convenient movement of physically handicapped persons, including those in wheelchairs, across curbs constructed or replaced on or after July 1, 1976, at all pedestrian crosswalks throughout the State."

HIGHWAY SAFETY STANDARDS

SEC. 229. Subsection (h) of Section 402 of title 23, United States Code, is amended to read as follows:

"(h) Each uniform safety standard promulgated under this section on or before July 1, 1973, shall continue in effect unless otherwise specifically provided by law enacted after the date of enactment of the Federal-aid Highway Act of 1973. The Secretary shall not promulgate any other uniform safety standard under this section (including by revision of a standard continued in effect by the preceding sentence) unless otherwise specifically provided by law enacted after the date of enactment of the Federal-aid Highway Act of 1973."

FEDERAL-AID SAFER ROADS DEMONSTRATION PROGRAM

SEC. 230. (a) Chapter 4 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 405. Federal-aid safer roads **demonstration program**

"(a) The Federal-aid safer roads demonstration program shall consist of all public roads or segments thereof not on a Federal-air system needing improvements to correct safety hazards, selected or designated by each State subject to the approval of the Secretary.

"(b) Not later than June 30, 1974, each State shall identify projects for the Federal-aid safer roads demonstration program for all public roads in such State not on the Federal-aid system, including projects to improve highway marking and signing, to eliminate roadside obstacles, to eliminate hazards at railroad-highway grade crossings, and to correct high-hazard locations, identified by accident reporting, traffic records, and hazards analysis systems established in accordance with standards promulgated under subsection (a) of section 402 of this title. Each State shall assign priorities for and undertake the systematic correction of identified hazards, to provide for the most effective improvement in highway safety.

"(c) There is authorized to be appropriated for the Federal-aid safer roads demonstration program for projects on public roads not on the Federal-aid system for the removal of roadside obstacles, the elimination of hazards at railroad-highway grade crossings, and the proper marking and signing of highways in accordance with subsection (b) of this section, out of the Highway Trust Fund, $50,000,000 for the fiscal year ending June 30, 1974, and $100,000,000 per fiscal year for each of the fiscal years ending June 30, 1975, and June 30, 1976. Such sums shall be apportioned among the States in accordance with the formula established under subsection (c) of section 402 of this title. The Federal share payable on account of any such project shall be 90 per centum of the cost thereof. The provisions of chapter 1 of this title relating to the obligation, period of availability, and expenditure for Federal-aid primary highway funds shall apply to funds apportioned to carry out this subsection. Prior to June 30, 1974, funds shall be available for such projects as determined by the State, subject to the approval of the Secretary.

"(d) For the purposes of this section, the term 'public road' means any road under the jurisdiction of and maintained by a public authority and open to public travel and which is not on a Federal-aid system.

"(e) It shall be the responsibility of each State to maintain adequate pavement markings on any public road marked with funds available under this section in such State.

"(f) In any State wherein the State is without legal authority to construct or maintain a project under this section, such State shall enter into a formal agreement for such construction or maintenance with the appropriate local officials of the county or municipality in which such project is located.

"(g) In carrying out the Federal-aid safer roads demonstration program authorized by this section, the Secretary shall coordinate such program with the programs and projects authorized in sections 144, 152, and 153, of this title and section 203(d) of the Highway Safety Act of 1973.

"(h) The Secretary shall file an interim report with the Congress on January 1, 1975, concerning the progress being made under the demonstration program authorized by this section and its effectiveness. The Secretary shall report to Congress on or before January 1, 1976, a comprehensive report on the program authorized by this section. Such reports shall include, but not be limited to, the number of projects undertaken, their distribution by cost range, roads system, means and methods used, and previous and subsequent accident experience at improved locations. In addition such reports shall analyze and evaluate the program State by State, and shall include such recommendations as he determines necessary for the further implementation of this program."

(b) The table of contents of chapter 4 of title 23, United States Code, is amended by adding at the end thereof:

"405. Federal-aid safer roads demonstration program.".

BICYCLE SAFETY

SEC. 231. (a) The fourth sentence of subsection (a) of section 402 of title 23, United States Code, is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ", and bicycle safety."

(b) Paragraph (b)(1)(E) of section 402 of title 23, United States Code, is amended by striking out "and" before "(5)" and by striking out the period at the end of such paragraph and inserting in lieu thereof a comma and the following: "and (6) driver education programs, including research, that will assure greater safety for bicyclists using public roads in such State."

TITLE III

URBAN MASS TRANSPORTATION ACT OF 1964

SEC. 301. (a) The fifth sentence of section 4(a) of the Urban Mass Transportation Act of 1964 is amended to read as follows "The Federal grant for any such project to be assisted under section 3 shall be in an amount equal to 80 per centum of the net project cost."

(b) The amendment made by subsection (a) shall apply only with respect to projects which were not subject to administrative reservation on or before July 1, 1973.

(c) Section 4(c) of the Urban Mass Transportation Act of 1964 is amended by striking out "$3,100,000,000" in the first and third sentences and inserting in lieu thereof "$6,100,000,000".

(d) Section 9 of the Urban Mass Transportation Act of 1964 is amended—

(1) by striking out "to make grants" in the first sentence and inserting in lieu thereof "to contract for and make grants";

(2) by striking out "and designing" in the first sentence and inserting in lieu thereof "designing, and evaluation";

(3) by striking out "and (3)" in the second sentence and inserting in lieu thereof "(3) evaluation of previously funded projects; and (4)";

(4) by inserting "or contract" after "A grant" in the third sentence; and

(5) by striking out all that follows "Secretary" in the third sentence and inserting in lieu thereof a period.

(e) The provision of assistance under the amendments made by this section shall not be construed as bringing within the application of chapter 15 of title 5, United States Code, any nonsupervisory employee of an urban mass transportation system (or of any other agency or entity performing related functions) to whom such chapter is otherwise inapplicable.

(f) Section 12 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsection:

"(f) No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under this Act or carried on under this Act. This provision will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under title VI of the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a discriminate."

(g) Section 16(b) of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(b) In addition to the grants and loans otherwise provided for under this Act, the Secretary is authorized to make grants and loans—

"(1) to States and local public bodies and agencies thereof for the specific purpose of assisting them in providing mass transportation services which are planned, designed, and carried out so as to meet the special needs of elderly and handicapped persons, with such grants and loans being subject to all of the terms, conditions, requirements, and provisions applicable to grants and loans made under section 3(a) and being considered for the purposes of all other laws to have been made under such section; and

"(2) to private nonprofit corporations and associations for the specific purpose of assisting them in providing transportation services meeting the special needs of elderly and handicapped persons for whom mass transportation services planned, designed, and carried out under paragraph (1) are unavailable, insufficient, or inappropriate, with such grants and loans being subject to such terms, conditions, requirements, and provisions (similar insofar as may be appropriate to those applicable to grants and loans under paragraph (1)) as the Secretary may determine to be necessary or appropriate for purposes of this paragraph.

Of the total amount of the obligations which the Secretary is authorized to incur on behalf of the United States under the first sentence of section 4(c), 2 per centum may be set aside and used exclusively to finance the programs and activities authorized by this subsection (including administrative costs)."

TITLE IV

INAPPLICABILITY OF TIME REQUIREMENTS

SEC. 401. The time requirements in section 104(b) of title 23, United Sttaes Code, shall not be applicable to the apportionment of sums authorized for the fiscal year ending June 30, 1974, in any title of this Act, and the Secretary shall apportion such sums for such fiscal year as soon as practicable after the date of enactment of this Act.

CONFORMING ADJUSTMENTS

SEC. 402. All sums authorized in Public Law 93-61 are included within the authorizations contained in this Act for the fiscal year ending June 30, 1974, and the Secretary shall make such adjustments in apportionments made under Public Law 93-61 as may be necessary to conform such apportionments to this Act.

And the House agree to the same.

LLOYD BENTSEN,
JENNINGS RANDOLPH,
EDMUND S. MUSKIE,
JOSEPH M. MONTOYA,
HOWARD BAKER,
ROBERT T. STAFFORD,
JAMES BUCKLEY,
Managers on the Part of the Senate.

JIM WRIGHT,
JOHN A. BLATNIK,
JOHN C. KLUCZYNSKI,
HAROLD T. JOHNSON,
JAMES V. STANTON,
DON H. CLAUSEN,
Managers on the Part of the House.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 502) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute amendment.

The committee of conference has agreed to a substitute for both the Senate bill and the House amendment. Except for clarifying, clerical, and conforming changes, the differences are noted below:

TITLE I

Short title

Senate Bill

Provides that the Act may be cited as the "Federal-Aid Highway Act of 1973".

House Amendment

Provides that the Act may be cited as the "Federal-Aid Highway Act of 1973."

Conference Substitute

This is the same as both the Senate bill and the House amendment.

Revision of authorization for appropriations for Interstate System

Senate Bill

The section provides authorizations for the Interstate highway program through the fiscal year 1976. $3.25 billion would be authorized for each fiscal year from 1974 through 1976. It amends subsection (b) of section 108 of the Federal-Aid Highway Act of 1956 by reducing the authorization by $750 million for each of those fiscal years.

House Amendment

This section authorizes the appropriation of an additional $8 billion for completion of the Intersttae System. $3.5 billion per fiscal year for the fiscal years 1974 through 1978 and $2.5 billion for the fiscal year 1979.

Conference Substitute

This section authorizes the appropriation of $2.6 billion for fiscal year 1974, $3 billion per fiscal year for the fiscal years 1975 and 1976, and $3.25 billion per fiscal year for the fiscal years 1977, 1978, and 1979.

Authorization of use of cost estimates for apportionment of Interstate funds

Senate Bill

This section approves the use of apportionment factors contained in revised table 5 in the 1973 Interstate Cost Estimate (House Document 29, 92d Congress) for the apportionment of Interstate funds authorized to be appropriated for fiscal years 1974, 1975 and 1976.

House Amendment

This section approves the use of the apportionment factors contained in revised table 5 of the 1972 Interstate System Cost Estimate (House Public Works Committee Print No. 92-29, as revised in House Report Numbered 92-1443), for the apportionment of Interstate funds authorized to be appropriated for fiscal years 1974, 1975, and 1976.

Conference Substitute

This section is the same as the Senate bill and the House amendment with the exception that the Secretary of Transportation is required to make the apportionments rather than being authorized to do so.

Highway authorizations

Senate Bill

This section authorizes funds for the Federal-Aid and Federal domain roads programs for the fiscal years 1974, 1975, and 1976.

For the Federal-aid primary system in rural areas, $650,000,000; for the Federal-aid urban system, $850,000,000; for the Federal-aid secondary system in rural areas, $350,000,000; for the extensions of the Federal-aid primary and secondary systems in urban areas, $350,000,000.

Funds for parkways are authorized to be appropriated from the trust fund for the first time. Funds for forest highways and public lands highways are available from the trust fund in accordance with the practice established in the 1970 Federal-Air Highway Act. Authorizations for Indian reservation roads and bridges are from the trust fund also for the first time. The authorizations for these highways are as follows:

[In millions]

Category	1974	1975	1976
Forest highways	$33	$33	$33
Public lands highways	16	16	16
Forest development roads and trails	75	75	75
Public lands development roads and trails	10	10	10
Park roads and trails	30	30	30
Parkways	75	75	75
Indian reservation roads and bridges	75	75	75

This section also authorizes $15 million for fiscal 1974, 1975, and 1976 for landscaping and scenic enhancement; $1.5 million for each of those years for the administrative expenses of the beautification program; and continues the territorial highway program established in the 1970 act with authorization to the territories in the following amounts:

[In millions of dollars]

Category	1974	1975	1976
Virgin Islands	2.5	2.5	2.5
Guam	2.0	2.0	2.0
American Samoa	1.0	1.0	1.0

For fiscal years 1974, 1975, and 1976, each State will receive at least ½ of 1% of total apportionments for the Interstate System. Whenever such amount exceeds the cost of completing the system in any State, the excess amount will be added to primary, secondary, and urban apportionments for such State in the ratio which the respective amounts bear to each other. For those costs, an additional $50 million will be authorized for the 1974, 1975, and 1976 fiscal years. The funds made available by this provision are to be obligated at the Federal share applicable to projects on such systems.

House Amendment

This section authorizes the appropriation, out of the Highway Trust Fund, of the following sums for each of the fiscal years 1974, 1975, and 1976:

For the Federal-aid primary system in rural areas, $700,000,000; for the Federal-aid urban system, $700,000,000; for the Federal-aid secondary system in rural areas, $400,000,000; for the extensions of the Federal-aid primary and secondary systems in urban areas, $400,000,000; for economic growth center development highways, $150,000,000; for forest highways, $33,000,000; and for public lands highways, $16,000,000.

This section eliminates the present single authorization for appropriation for the Federal-aid primary and secondary systems and their urban extensions within urban areas and substitutes a separate authorization for appropriation for the rural and the urban portions of these systems.

It also provides authorizations of $50,000,000 for each of the fiscal years 1974, 1975, and 1976 in addition to all other authorizations for the Interstate System, be apportioned to each of the States which otherwise would receive less than one-half of one percent of the Interstate apportionment for fiscal year 1974, 1975, or 1976, so long as such State has not completed Federal funding of the Interstate System within its boundaries.

Use of any funds authorized by this section for highway beautification (sections 131, 136 and 319(b)) or Chapter 4 of title 23, United States Code, is prohibited.

It also provides authorizations for $3,000,000 for each of the fiscal years 1974, 1975, and 1976 for necessary administrative expenses in carrying out sections 131, 136, and 319(b).

Authorizations are provided for the Territorial Highway Program for each of the fiscal years 1974, 1975, and 1976, as follows: Virgin Islands, $5,000,000; Guam, $2,000,000; and American Samoa, $1,000,000.

Sums authorized for the fiscal years 1974, 1975, and 1976, for certain categories of roads administered by the Department of Transportation jointly with either the Department of the Interior or the Department of Agriculture, are as follows:

[In millions of dollars]

	1974	1975	1976
Forest development roads and trails	170	170	170
Public lands development roads and trails	10	10	100
Park roads and trails	30	30	30
Indian reservation roads and bridges	100	100	100
Parkways	75	75	75

Conference Substitute

This section is the same as the House amendment with the following revisions:

(1) The Federal-aid urban system is funded at $780,000,000 for fiscal 1974 and at $800,000,000 per fiscal year thereafter and extensions of the Federal-aid primary and secondary system in urban areas are funded at $290,000,000 for fiscal year 1974 and at $300,000,000 per fiscal year thereafter.

(2) The Federal-aid primary system in rural areas is funded at $680,000,000 for fiscal year 1974 and $700,000,000 per fiscal year thereafter. The Federal-aid secondary system in rural areas is funded at $390,000,000 and $400,000,000 per fiscal year thereafter.

(3) Forest development trials are funded at $140,000,000 per fiscal year.

(4) Parkways are funded at $60,000,000 for fiscal year 1974 and at $75,000,000 per fiscal year thereafter from the general fund except that all of the cost of any parkway project on a Federal-aid system paid under this authorization shall be paid from the Highway Trust Fund. The Conferees intend that vehicular use of parkways on the Federal-aid system shall be subject to regulation the same as on any other parkways.

(5) Indian reservation roads and bridges are funded at $75,000,000 per fiscal year.

(6) Economic growth center development highways are funded at $50,000,000 for fiscal year 1974, $75,000,000 for 1975, and $100,000,000 for 1976.

(7) Administrative expenses for carrying out sections 131, 136, and 319(b) of title 23, United States Code, are funded at $1,500,000 per fiscal year.

(8) Funds for section 319(b) of title 23, United States Code (relating to landscaping and scenic enhancement), are deleted.

Subsection (b) of this section is the same as that subsection in the Senate bill.

Submission of certain reports

Senate bill

No comparable provision.

House amendment

This section requires the Secretary of Transportation to forward to the Congress within 30 days of the enactment of this act those reports submitted by FHWA required under sections 105(b)(2), 121 and 144 of the Federal-aid Highway Act of 1970. Such submission shall contain the Secretary's recommendations to the Director of the Office of Management and Budget unless these recommendations have already been submitted to the Congress.

Conference substitute

No comparable provision.

Definitions

Senate bill

This section amends subsection (a) of Section 101 to include traffic operation improvement programs (TOPICS) under the definition of "construction."

The definition of "Indian roads and bridges" is modified so that the Indian and Alaskan native villages, otherwise eligible for Indian services in general, would be eligible for funding under chapter 2 of title 23.

The definitions of "urban area" and "urbanized area" are changed to allow State and local officials, in cooperation with the Secretary, to fix urban and urbanized area boundaries, including at least the area designated by the Bureau of the Census.

House Amendment

This section provides a conforming amendment to the definition of the term "construction" to change the reference to the "Coast and Geodetic Survey" to its current name "National Oceanic and Atmospheric Administration" and by adding traffic engineering and operational improvements to the definition. The term "urban area" is amended to require the participation of appropriate local officials in the establishment of the boundaries of an urban area. The definition of the term "Indian reservation roads and bridges" is amended to make Alaskan native villages, groups, or communities eligible for funding under chapter 2 of title 23.

Conference Substitute

This section redefines the term "construction" as defined in the Senate bill, the term "Indian reservation roads and bridges" as defined in the House bill, the term "urban area" as defined in the Senate bill with an amendment to include parts of a multistate urban area and the term "urbanized area" as defined in the Senate bill with a technical amendment.

Extension of time for completion of system

Senate Bill

This section directs the Secretary to submit to Congress a revised Interstate System cost estimate in January of 1975 rather than January 1974.

House Amendment

This section would extend the time for completion of the Interstate System until June 30, 1979, and would further direct the Secretary to submit to Congress a revised Interstate System Cost Estimate in January of 1975 for making apportionments for fiscal years 1977 and 1978 and another cost estimate in January of 1977 for apportionment of Interstate funds for fiscal year 1979.

Conference Substitute

This section is the same as the House amendment.

Declaration of policy

Senate Bill

This section declares it to be in the national interest and the intent of Congress that the Secretary should administer the Federal-aid highway program in such a manner as to give the highest priority in all instances to highway safety and to the saving of human lives.

House Amendment

This section adds a new paragraph to the present declaration of policy to the effect that, after the completion of the Interstate System, it shall be a national policy to increase emphasis on the acceleration of other Federal-aid systems in order to bring all such systems up to standards and to increase their safety to the maximum possible no later than the year 1990.

Conference Substitute

This section adds a new paragraph to the present declaration of policy to the effect that since the Interstate System is now in the final phase of completion, it shall be the national policy that increased emphasis be placed on construction and reconstruction of the other Federal-aid systems in order to bring all such systems up to standards and increase their safety to the maximum extent.

Minimization of redtape

Senate Bill

Section 108 states the national policy, that, to the maximum extent possible, the procedures followed by the Secretary and other affected heads of Federal departments, agencies and instrumentalities shall encourage the minimization of paperwork and interagency decision procedures and the best use of available manpower and funds so as to prevent needless duplication and unnecessary delays at all levels of government.

House amendment

This section states the national policy, that, to the maximum extent possible, the procedures followed by the Secretary and other affected heads of Federal departments, agencies and instrumentalities shall encourage the "drastic" minimization of paperwork and interagency decision procedures and the best use of available manpower and funds so as to prevent needless duplication and unnecessary delays at all levels of government.

Conference substitute

This section is the same as the House amendment except that the term "drastic" has been amended to read "substantial".

Federal-aid urban system

Senate bill

This section expands the urban system as presently, designated to encompass all urban areas and to include collector streets and access roads to airports and other transportation terminals. This section also amends section 103 of Title 23 to allow local officials to select the urban system routes after consultation with State highway departments and in accordance with section 134 planning process, subject to approval by the Secretary.

House amendment

This section expands the Federal-aid urban system to include the collection and distribution of traffic. It also provides that a State not having a designated urbanized area may designate routes on the Federal-aid urban system for its largest population center, based upon a continuing planning process developed cooperatively by State and local officials and the Secretary.

Conference Substitute

This section is the same as the Senate bill with the following changes:

(1) The Federal-aid urban ssytem shall be established in each urbanized area and in such other urban areas as the State highway department may designate.

(2) The routes are to be selected by local officials with the concurrence of the State highway departments.

(3) In approving programs for projects on the system, the Secretary shall require that projects be selected by local officials with the concurrence of the State highway department.

Removal of designated segments of the Interstate System

Senate Bill

This section amends section 103(g) of Title 23 and requires the States to notify the Secretary by July 1, 1974, of their intent to build any remaining Interstate segments; otherwise, such segments would be removed from Interstate designation. Substitute alternative segments, however, could be considered up to one year after that date. By July 1, 1975, States would be required to submit a schedule for completion of the system (including alternate segments).

House Amendment

The section changes the date for removing from designation as part of the Interstate System of those segments for which a State has not submitted a schedule for expenditure of funds to complete the system from July 1, 1973 to July 1, 1974, and for submitting plans, specifications and estimates for approval by the Secretary from July 1, 1975 to July 1, 1977. The District of Columbia is exempted from this provision.

Conference Substitute

The same as the Senate provision except for technical amendments and two added provisions, one of which excepts the District of Columbia from the provisions of the section and the second of which requires construction of any portion of a designated Interstate segment wholly within the borders of a city if such city provides matching funds from its own resources. The effective date of the provision is made June 30, 1973. Subsection (h) of section 103, title 23, United States Code, is intended to give urban areas the authority and responsibility to complete transportation systems necessary for mobility of urban residents and essential for the economic viability or urban areas. Local funds for such designated segments of the Interstate System are to be provided by one or more of the units of local government that will be served by the facility.

Apportionment

Senate Bill

Section 113 amends the Federal-aid primary formula to substitute the phrase "intercity mail routes where service is performed by motor vehicles" for the words "star routes" as a more accurate description. Provision would also be made to establish a minimum of one-half of one percent for each State's apportionment of funds for the Federal-aid urban system and changing the word "urbanized" to "urban". This assures the apportionment of urban system funds on the basis of population in urban areas of over 5,000 in population, as defined in 23 U.S.C. 101(a). The authority to transfer apportionments between the Federal-aid primary and secondary systems, is increased from 20 to 30 percent. Authorization to transfer up to 30 percent of urban extension funds to the urban highway system is also provided. A conforming amendment deleting the last sentence of section 104(c) would also be made.

In addition, in any State in which the Administrator of the Environmental Protection Agency has certified that one or more air quality regions would fail to achieve by July 1, 1975, specified standard air quality levels under the Clean Air Act, the Secretary is authorized to require the State to transfer all urban extension sums apportioned to such State to the account of urbanized areas within such designated air quality region for emergency assistance for transportation system improvements.

House Amendment

This section would amend the Federal-aid primary formula to substitute rural population for general population. Provision is also made to establish a minimum of one-half of one percent for each State's apportionment of funds for the Federal-aid urban system. The section would increase the authority of the Secretary to approve the transfer of apportionments from one system to another from 20 to 50 percent. Such transfers may be made, on the one hand, between the Federal-aid primary and secondary systems under sections 104(b) (1) and (2) and, on the other hand, between extensions of the Federal-aid primary and secondary systems within urban areas and the Federal-aid urban system. Conforming amendments deleting the last sentence of section 104(c) are also made.

Conference Substitute

This section would amend section 104 of title 23 of the United States Code as follows:

(1) by revising the concept of "star routes" to make it conform to the present law;

(2) to amend the Federal-aid primary and Federal-aid secondary formulas to substitute rural area population for general population and rural population respectively and to exclude the District of Columbia from apportionments;

(3) to establish a minimum of one-half of one percent of each State's apportionment of funds for the Federal-aid urban system and by changing the word "urbanized" to "urban". This assures the apportionment of urban system funds on the basis of population in urban areas as the term urban area is defined in 23 U.S.C. 101(a);

(4) by increasing the authority of the Secretary to transfer apportionments from 20 percent to 40 percent in accordance with the provisions of the House amendment. Funds apportioned under section 104(b)(6) are not to be transferred from their allocation to an urbanized area of 200,000 population without approval of the local officials;

(5) conforming amendments deleting the last sentence of section 104(c) are made.

A new subsection (b) which would insure that no State (other than the District of Columbia) would receive an apportionment for the primary system less than that which they received for fiscal year 1973 and an additional $17,000,000 for fiscal year 1974 and $15,000,000 per year for fiscal years 1975 and 1976 is authorized for this purpose.

Apportionment of planning funds

Senate Bill

This section makes available to metropolitan planning agencies ½ of 1% of funds apportioned to States for the Federal-aid systems to be used for the purpose of carrying out section 134 of title 23, relating to transportation planning. Funds would be apportioned to the States on the basis of urbanized area population and further apportioned to metropolitan agencies within each State in accordance with a formula developed by each State and approved by the Secretary. Funds would be matched in accordance with section 120 of title 23 unless the Secretary determines that the interests of the Federal-aid highway program would be best served without such matching.

House Amendment

This section would make available to metropolitan planning agencies ½ of 1% of funds apportioned for the Federal-aid systems for the purpose of carrying out section 134 of title 23, relating to transportation planning. Funds would be apportioned to the States on the basis of population and further apportioned to metropolitan agencies in accordance with a formula developed by each State and approved by the Secretary. Funds would be matched in accordance with section 120 of title 23 unless the Secretary determines that the interests of the Federal-aid highway program would be best served without such matching.

Conference Substitute

This section is the same as the Senate bill and the House amendment.

Advance acquisition

Senate Bill

This section extends from 7 years to 10 years the allowable time period within which actual highway construction should begin following the advance purchase of right-of-way.

House Amendment

This section extends from 7 years to 10 years the allowable time period within which actual highway construction should begin following the advance purchase of right-of-way.

Conference Substitute

This section is the same as the House amendment.

Noise level standards

Senate Bill

Subsection (a) of this section authorizes the Secretary to promulgate standards for the control of highway noise levels for Federal-aid projects approved prior to July 1, 1972. The Secretary would be authorized to approve projects on Federal-aid systems to help carry out noise-level standards.

Subsection (b) would also prohibit the initiation of any highway program or the construction of any highway project approved under title 23 after June 30, 1973, unless it is in conformity with guidelines promulgated by the Secretary to assure attainment of ambient air quality standards under the Clean Air Act, as amended, and consistent with implementation plans approved by the Administrator of the Environmental Protection Agency for air quality control regions requiring transportation controls.

House Amendment

Existing law requires that after July 1, 1972, plans, specifications and estimates for Federal-aid highways which are not compatible with noise level standards promulgated by the Secretary shall be disapproved. This provision would permit the Secretary to promulgate noise level standards for projects approved prior to July 1, 1972, and also permit the expenditure of Federal-aid funds to make these projects compatible with such standards.

Conference Substitute

This is the same as subsection (a) of this section in the Senate bill.

The omission of subsection (b) of the Senate bill in the Conference Report in no way lessens the Secretary's responsibilities under the Clean Air Act. The Conferees reaffirm his responsibilities in properly meeting the requirements of the Act. This is a reaffirmation of what the Conferees understand existing law to be.

The provision in the Senate bill requiring that after June 30, 1973, the Secretary must, before approval, find a highway program or project to be in conformity with the guidelines he has issued under section 109(j)(1) of title 23 is not contained in the conference substitute.

This provision was intended to assure that Federal-aid Highway programs and projects are not inconsistent with air quality control regulations for regions which under the Clean Air Act must impose transportation controls.

The Conferees agreed to delete this provision with the understanding that existing law, in section 109(j) of Title 23, section 110 of the Clean Air Act, and the National Environmental Policy Act, requires any proposed highway project to be consistent with the Clean Air Act implementation plan for the region in which it is located before such a project could be approved by the Secretary. The determination of consistency with such an implementation plan must be made by the Secretary of Transportation.

In view of the Conferees, it is critical that in affected urbanized areas the requirements of such transportation controls be considered when the priorities are established for projects through the metropolitan area comprehensive transportation planning process required by 23 U.S.C. 134. The Secretary should take all necessary steps to assure the consideration of Clean Air Act implementation plan requirements in the selection of projects and the planning processes of affected urbanized areas.

Signs on project site

Senate Bill

This amendment prohibits any informational signs, other than official traffic control devices, from being erected on any projects where actual construction is in progress.

House Amendment

This amendment would, after July 1, 1973, prohibit any informational signs, other than official traffic control devices, from being erected on any highway projects where actual construction is in progress and which would be visible to highway users.

Conference Substitute

This section is the same as the Senate bill and the House amendment.

Certification acceptance

Senate Bill

The authority of the Secretary pursuant to section 117 of Title 23 is amended to include all projects on Federal-aid systems except the Interstate. The Secretary is authorized to discharge his responsibilities relative to such projects by accepting a certification of the capability of the State to perform such responsibilities, if he finds that they will be carried out according to State regulations at least equivalent to those required by Title 23. The Secretary could rescind his acceptance of a State's certification at any time, but this alternative procedure would not lessen his responsibility under various environmental, civil rights, housing and relocation statutes.

House Amendment

This section amends section 117 of title 23, United States Code, by broadening its scope to include all Federal-aid systems except the Interstate System. Upon the request of a State, the Secretary may discharge his responsibilities under title 23 by accepting a certification of the State highway department if he finds that the State: (1) will carry out projects on such systems in accordance with State laws, regulations, directives and standards establishing requirements at least equivalent to those required under title 23; (2) the State meets the requirements of section 302 of title 23; and (3) the final decision by responsible State officials will be in the best overall public interest. The Secretary would be required to make a final inspection of such projects upon completion and require an adequate report of the estimated and actual cost of construction and such other information as he determines necessary. The acceptance of the State's certification by the Secretary may be rescinded by him at any time he determines it is necessary to do so. The procedure provided by this section is an alternative to that otherwise prescribed in title 23 and the Secretary is required to promulgate such guidelines and regulations as may be necessary to carry out the section.

This section does not affect or discharge the responsibility or obligation of the Secretary under any Federal law, including the National Environmental Policy Act of 1969, section 4(f) of the Department of Transportation Act and the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970, other than title 23.

Conference Substitute

This section is the same as the House amendment with the following changes:

(1) The certification is to be by the State highway department or that department, commission, board, or official of any State charged by its laws with the responsibility for highway construction.

(2) The requirements in clauses (2) and (3) that the State meet the requirements of section 302 and that final decisions be made by responsible State officials are eliminated.

(3) Subsection (e) is the same as the Senate bill.

Materials at off-site locations

Senate Bill

This amends 23 U.S.C. 121(a), which authorizes progress payments to a State for cost of construction, to permit payments to be made for materials which are not in the vicinity of the construction if the Secretary determines that, because of the required fabrication at an off-site location, the materials cannot be stockpiled in the vicinity of the construction.

House Amendment

This section amends 23 U.S.C. 121(a), relating to progress payments to a State for cost of construction, to permit payments to be made for materials which are not in the vicinity of the construction if the Secretary determines that because of the required fabrication at an off-site location the materials cannot be stockpiled in the vicinity of the construction.

Conference Substitute

This section is the same as the Senate bill and the House amendment.

Toll roads, bridges, tunnels, and ferries

Senate Bill

This section provides that any toll road designated as part of the Interstate System which becomes toll free would be eligible for Interstate funding for the construction, reconstruction or improvement of such road in order to bring it up to required standards.

House Amendment

This section would amend section 129(b) of title 23 to provide that when a toll road which the Secretary has approved as a part of the Interstate System becomes toll free, apportioned Federal-aid Interstate highway funds may be expended for construction, reconstruction or improvement of such road to standards adopted for the improvement of projects on the Interstate System.

In addition, this section makes an amendment to section 133 of the 1970 Federal-aid Highway Act, by changing the date therein from 1968 to 1973. This would permit Federal participation in the costs of the two additional lanes which are required under that legislation to bring any 2-lane section of the Interstate System up to the minimum of four lanes. The section is applicable only to any section of toll road which is now two lanes, and which was designated as a part of the Interstate System before July 1, 1973.

Conference Substitute

This section is the same as the House amendment.

Control of outdoor advertising and junkyards

Senate Bill

The section amends section 131, Title 23, to provide that after January 1, 1974, or the end of the next session of a State legislature, controls under the Highway Beautification Act are extended to include signs beyond 660 feet from the highway right of way of the Interstate or primary systems when such signs are erected with the purpose of their message being read from the main traveled way. Such signs would be permitted within zoned and unzoned industrial and commercial areas. Nonconforming signs would have to be removed within five years from the time they become nonconforming unless determined otherwise by the Secretary. The Secretary is authorized to issue standards for public informational signs within the rights of way for the primary system as now provided along the Interstate System. The Highway Beautification Act is further amended to provide that just compensation be paid for those signs required to be removed if they were lawfully erected under State law prior to the enactment of the Federal Aid Highway Act of 1973. For the purpose of carrying out Section 131, as amended, $50 million is authorized from the Highway Trust Fund for each of the fiscal years 1974, 1975 and 1976.

Section 136(j) of title 23 is amended to require that just compensation be paid for removing, relocating or disposing of junkyards which were lawful on the effective date of State compliance legislation.

$15,000,000 is authorized out of the Highway Trust Fund for purposes of junkyard control for each of the 1974, 1975 and 1976 fiscal years.

House Amendment

Subsection (a) amends 23 U.S.C. 131(a) relating to the control of outdoor advertising by eliminating the present 660 foot limitation on the control of signs along the Interstate and primary systems. After January 1, 1974, the 10% penalty could be imposed on States which do not remove signs beyond 660 feet away which are "visible from the main traveled way of the system" and are "erected with the purpose of their message being read from such main traveled way."

Subsection (b) amends the outdoor advertising effective control provisions and clarifies the present law with respect to signs for the information of the traveling public. It provides that on or after July 1, 1974, or after the expiration of the next regular session of State legislatures, whichever is later, effective control shall mean that signs located beyond 660 feet of the right-of-way and visible from the main traveled way of the system and erected with the purpose of their message being read from the main traveled way shall be limited to directional and official signs and notices including but not limited to signs and notices pertaining to information in the specific interest of the traveling public, such as, but not limited to, signs and notices pertaining to rest stops, camping grounds, food service, gas and automatic service, lodging, natural wonders, scenic and historic attractions. Not more than three such signs facing in the same direction of travel shall be permitted per mile of Interstate or primary highway.

Subsection (c) amends 23 U.S.C. 131(d) relating to signs in areas zoned industrial or commercial in unzoned commercial or industrial areas. Since the present 660 foot limitation would be removed, the authority for erecting approved signs in areas zoned industrial and commercial (now valid within the 660 foot zone) would be extended for the sake of consistency to areas beyond 660 feet.

Subsection (d) amends 23 U.S.C. 131(e) to privide that signs that are not in conformity with State law shall be removed not later than 5 years after they become nonconforming unless the Secretary determines otherwise. The original act provided that any signs which were lawfully in existence on September 1, 1965, but were not in conformity, cannot be required to be removed before July 1, 1970, and other lawfully erected signs that were nonconforming could not be required to be removed for 5 years.

Subsection (e) amends section 131(f) to expand the present authority of the Secretary to provide standards for the erection along the Interstate System of signs providing specific information for the traveling public to include the same authority with respect to the Federal-aid primary system. A proviso is added that such signs on the Interstate and primary shall not be erected in suburban or urban areas or in lieu of signs permitted under 23 U.S.C. 131(d). Also, such signs shall not be erected where adequate information is provided by signs permitted under 23 U.S.C. 131(c).

Subsection (f) amends 23 U.S.C. 131(g) to provide that just compensation be paid for the removal of all outdoor advertising signs which have been lawfully erected under State law.

Subsection (g) amends 23 U.S.C. 131(m) to provide authorizations of $50 million for each of the fiscal years 1974, 1975 and 1976, for outdoor advertising control.

Subsection (h) adds two new subsections to 23 U.S.C. 131. The first provides that no directional sign, display or device lawfully in existence on June 1, 1972, which gives specific information to travelers shall be required to be removed until December 31, 1974, or until the State in which the sign, display or device is located certifies that such information advertised thereon may reasonably be available to motorists by some other method or methods, whichever shall occur first. The second provides that the United States shall pay 100 percent of the just compensation for the removal (including all relocation costs) of any sign, display or device which is removed prior to the enactment of this Act which after its removal is lawfully relocated and which is required to be removed again as a result of this amendment. Just compensation would be paid pursuant to this amendment of 23 U.S.C. 136(j), for removing, relocating or disposing of junkyards which were lawfully established under State law.

Subsection (b) authorizes $15 million out of the Highway Trust Fund for each of the fiscal years 1974, 1975 and 1976, for junkyard control.

Conference Substitute

The conference substitute contains no provisions relating to control of outdoor advertising or junkyards.

The deletion of these provisions should not be construed as discontinuing the programs or affecting the existing law. The present programs remain in effect. It is the expectation of the conferees that the Congress will consider additional authorizations and possible modifications in separate legislation.

The conferees expect that the Secretary will not invoke the 10 percent penalties for failure of the State to comply with the requirements of sections 131 and 136 where such failure is the result of the lack of availability of Federal matching funds.

Urban area traffic operations improvement programs

Senate Bill

No comparable provision.

House Amendment

This section would repeal section 135(c) of title 23 which provides that sums authorized to carry out that section shall be apportioned in accordance with section 104(b)(3) of title 23.

Conference Substitute

This section is the same as the House amendment.

Training programs

Senate Bill

This section extends authorizations in section 140, title 23, for the highway construction training program for three years through fiscal year 1976, $5 million would be provided for each of the fiscal years 1974, 1975, and 1976.

House Amendment

This section extends authorization in section 140, title 23, for the highway construction training program for three years through fiscal year 1976. $10 million would be provided for each of the fiscal years 1974, 1975, and 1976.

Conference Substitute

This section is the same as the House amendment.

Public transportation

Senate Bill

This section amends the section 142 of title 23 to authorize the use of funds apportioned to each State for the Interstate system, extensions of the Federal-aid primary and secondary systems and the Federal-aid urban system to finance the Federal share of the costs of projects for public transportation purposes within urban areas. These funds could be used for the construction in urban areas of exclusive bus lanes, traffic control devices, passenger loading areas and facilities. Urban system funds could be used for the purchase of passenger equipment including fixed rail and for the construction of fixed rail facilities. Interstate funds would not be available for purchase of buses, but are available for exclusive or preferential bus, truck, and emergency vehicle routes or lanes.

Subsection (d) of section 142 of title 23 is repealed, thereby eliminating the requirement that exclusive bus lane projects must be less expensive and more feasible or prudent than additional automobile lanes.

The Federal share of the cost for public transportation projects would be the same as that provided for regular Federal-aid projects.

No bus acquired until this section could be used for charter, lease, sightseeing or other service in any area other than the area for which it was acquired. The Urban Mass Transportation Act of 1964, as amended would apply in carrying out the provisions of this section relating to the purchase of equipment and its use within urban areas unless the Secretary determines that provisions of Title 23 of the United States Code would be more appropriate.

Buses purchased under this section would have to meet emission standards prescribed by the Environmental Protection Agency under Section 202 of The Clean Air Act and Section 6 of the Noise Control Act and must meet, wherever practicable, special criteria for low emission vehicles set forth in Section 212 of the Clean Air Act and section 15 of the Noise Control Act. The Urban Mass Transportation Act of 1964, as amended, relating to planning and design of mass transit facilities to meet the special needs of the elderly and the handicapped and applying to the purchase and use of equipment within urban areas, would apply in carrying out this section.

Funds available under this section would be supplementary to and not in substitution for funds authorized and available for obligation pursuant to the Urban Mass Transportion Act of 1964, as amended.

The Secretary could authorize any State to make lands within the publicly acquired rights of way of any Federal-aid highway available without charge to a publicly owned mass transit authority.

House Amendment

This section would authorize the use of funds apportioned to each State for the Federal-aid systems to finance the Federal share of the costs of projects for highway public transportation purposes. Included within its scope would be construction of exclusive bus lanes, traffic control devices, passenger loading areas and facilities. Where sufficient land exists within any Federal-aid rights-of-way to accommodate needed rail or nonhighway public mass transit programs without impairing automotive safety or future highway improvements, the Administrator may, if he deems it in the public interest, authorize a State to make such lands available without charge to a publicly owned mass transit authority for such purposes.

Subsection (b) would permit the use of funds apportioned for the Interstate System to finance the Federal share of projects for exclusive or preferential bus, truck, and emergency vehicle routes or lanes. Projects under this section could be constructed to less than four lanes as now required by law.

Subsection (c) of this section would provide that if local officials of an urbanized area notify the State highway department that in lieu of a highway project paid from funds apportioned for the urban system they desire to fund a mass transit project involving construction of fixed rail facilities, or purchase of passenger equipment, including rolling stock for any mode of mass transit, and such project is in accordance with the planning process under section 134 of this title, plans may be submitted for approval to the Secretary. Approval of the plans, specifications, and estimates for such project would constitute a contractual obligation for payment of the Federal share of the cost of the project from general funds of the Treasury. Funds previously apportioned to the State for the urban system would be reduced by an amount equal to the Federal share of such mass transit projects. No assistance would be provided under this subsection for the purchase of buses to any State or local public body or agency thereof which engages in charter bus operations in competition with private operators outside the urbanized area within which the public body or agency provides mass transit service.

The establishment of routes and schedules of public mass transportation systems financed under this section shall be in accordance with the planning process under section 134 of this title. No project under this section would be approved unless the Secretary is assured that the mass transit systems would have adequate ridership to fully utilize the proposed project. The Federal share payable on account of any project under this section would be that provided in section 120 of this title.

No financial assistance would be provided under this section to any State or local public body or agency thereof which engages in the transporting of school children and school personnel to and from school and school related functions in competition with or supplementary to the service currently provided by a private transportation company, or other person, provided that such company or person provides adequate transportation at reasonable rates, and in conformance with applicable safety standards. This subsection would not apply if the State or local body was engaged in transporting school children or personnel during the 12-month period prior to the date of enactment of this subsection.

Subsection (i) would insure that a nonsupervisory employee of a publicly-owned mass transit system, not otherwise subject to the limitations on political activity of the Hatch Act, is not merely by virtue of assistance to transit systems under this section, restricted in his political activity at the Federal, State or local level.

Subsection (j) provides that funds made available under subsection (c) of this section would be supplementary to and not in substitution for funds authorized under the Urban Mass Transportation Act.

Subsection (k) would insure that the provisions of section 3(e)(4) of the Urban Mass Transportation Act would apply in carrying out subsection (c) of this section.

Conference Substitute

This section is an amalgam of the Senate and House provisions and would permit the Secretary to approve as a project on any Federal-aid system the construction of exclusive or preferential bus lanes, highway traffic control devices, bus passenger loading areas and facilities (including shelters) and fringe and transportation corridor parking facilities. In addition, beginning with funds authorized for fiscal year 1975, the Secretary may approve as a project on the urban system the purchase of buses, and beginning with funds authorized for fiscal year 1976 for the urban system, the Secretary may approve projects for the construction, reconstruction, and improvement of fixed rail facilities including the purchase of rolling stock for fixed rail. Not more than $200,000,000 of urban system funds for fiscal year 1975 are to be expended for the Federal share of projects for the purchase of buses.

Subsection (c) of the House amendment is retained, but its application is restricted to the fiscal years 1974 and 1975. Each State highway department shall submit to the Secretary each non-highway public mass transit project submitted to such department under this section by local officials, together with its determination with respect to such project under the section 134 planning process including its entitlement to priority.

In addition, the Secretary shall not approve any project for buses and rail facilities in any fiscal year when there has been enacted an urban transportation trust fund or similar assured funding for both highways and public transportation.

Provisions of the House amendment and the Senate bill relating to charter bus and school bus operations and the applicability of the Clean Air Act, Noise Control Act, and protections for the elderly and the handicapped are treated as separate provisions in the conference report.

Economic growth center development highways

Senate Bill

No comparable provision.

House Amendment

Subsection (a) would expand 23 U.S.C. 143 to allow the designation on any Federal-aid system other than the Interstate System of an economic growth center development highway. Present law now restricts such development highways to Federal-aid primary roads. The economic growth center development highways program is also made a permanent program rather than a demonstration project. The provisions applicable to highways of the Federal-aid system on which such development highway is located shall be applicable to development highways and to funds authorized for such highways except those which the Secretary determines are inconsistent with section 143.

Subsection (b) would amend 23 U.S.C. 143(e) to provide that the Federal share of the cost of construction of any development highway shall be the same as that provided for any other project on the Federal-aid system on which such development highway is located, thus converting the existing supplemental grant program to a basic grant program.

Subsection (c) contains a technical amendment to 23 U.S.C. 143(a) by eliminating language which states that the economic growth center development highway program is a demonstration program.

Conference Substitute

This section is the same as the House amendment.

Funds authorized for fiscal years 1972 and 1973 for the economic growth center development highway demonstration program which have not been obligated shall be available for obligation for the full Federal share of projects for which plans, specifications, and estimates are approved subsequent to enactment of this section.

Federal-State relationship

Senate Bill

No comparable provision.

House Amendment

This section adds a new section to chapter 1 of title 23 which declares that the authorization of Federal funds or their availability for expenditure under such chapter shall not infringe on the sovereign rights of the States to determine the projects to be federally financed, and that provisions of chapter 1 provide for a federally-assisted State program.

Conference Substitute

This section is the same as the House amendment.

Bicycle transportation and pedestrian walkways

Senate Bill

Under new section 145, Title 23, sums apportioned for the Federal-aid highway systems are made available for the development and improvement of bicycle transportation, equestrian trails and pedestrian walkways located on or in conjunctioin with highway rights-of-way.

Funds could be used to finance the Federal share of the cost of constructing separate or preferential bicycle lanes or paths, bicycle traffic control devices, bicycle shelters and parking facilities, pedestrian walkways, and equestrian trails. Projects to be authorized under this program would have to be located and designed according to an overall plan providing for safety and for contiguous routes.

Funds authorized and appropriated for forest highways, forest development roads and trails, parkways, Indian reservation roads and bridges and public lands highways would also be available for carrying out the provisions of this section at the discretion of the Department charged with the administration of such programs.

No motorized vehicle would be permitted on trails and walkways authorized under this section except for maintenance purposes.

House Amendment

This section would perimt the use of sums apportioned for the primary, secondary, urban extension, and urban systems to construct, in conjunction with Federal-aid highway projects, separate or preferential bicycle lanes, bicycle traffic control devices, shelters and parking facilities to serve bicycles and persons using bicycles.

This section would also permit the use of funds authorized for forest highways, forest development roads and trails, parkways, Indian reservation roads and bridges, public lands highways, and public lands development roads and trails, for constructing bicycle routes in conjunction with such trails, roads, highways, or parkways.

No motorized vehicles would be permitted on the trails except for maintenance purposes, and when snow conditions permit, snowmobiles.

Conference Substitute

This section is the same as the House amendment except as follows:

(1) Pedestrian walkways are included within the scope of the provision.

(2) The obligation level is set at not more than $40 million in any fiscal year with no State to obligate more than $2 million for any such projects in any fiscal year.

(3) Bikeways financed under this section may utilize available land not on the highway right-of-way so long as the bike route accommodates bicycle traffic which otherwise would have used the Federal-aid route. The locaton, design, and construction of bikeways shall take into consideration maximum safety of persons using such bikeways.

Special urban high density traffic program

Senate Bill

This section adds a new section 147 to title 23 authorizing $50 million for each of the fiscal years 1974 and 1975 for the construction of special highways connected to the Interstate System in portions of urbanized areas with high traffic density. The Federal share for any project under this section could not exceed 90% of the cost of construction.

The Secretary would develop guidelines for designation of routes and allocation of funds according to several criteria. Routes selected could be no more than 10 miles long, would have to serve areas of concentrated population and heavy traffic congestion, would have to meet the urgent needs of commercial, industrial, airport, or national defense installations, and would have to connect with existing routes on the Interstate System. Any route selected would have to be approved through the section 134 planning process and could be designated only if the Secretary determines that no other feasible or practicable alternative mode of transportation would be available. Designation of routes would have to comply with section 138 of title 23 regarding parkland preservation and no route could be approved which substantially damaged or infringed upon any residential area. The Secretary could designate no more than one route in each State and would base his designation upon the recommendation of State and responsible local officials.

House Amendment

This section adds a new section to chapter 1 of title 23 which would authorize $100 million for each of the fiscal years 1974, 1975 and 1976, for special highways connected to the Interstate System in portions of urbanized areas with high traffic density. The Federal share for any project under this section could not exceed 90 percent of the cost of construction.

The Secretary would develop guidelines for designation of routes and allocation of funds to include several criteria. Routes selected could be no more than 10 miles long, would have to serve areas of concentrated population and heavy traffic congestion, the urgent needs of commercial, industrial or national defense installations, and would have to connect with existing routes on the Interstate System. Any route selected would have to be approved through the section 134 planning process and could be designated only if the Secretary determines that no other feasible or practicable alternative mode of transportation would be available. Designation of routes would have to comply with section 138 of title 23 regarding parkland preservation and no route could be approved which substantially damaged or infringed upon any residential area. The Secretary could designate no more than one route in each State and would base his designation upon the recommendation of State and responsible local officials. Routes must be on the Federal-aid system prior to designation.

Conference Substitute

This section is the same as the House amendment except as follows:

(1) The authorization is established at $50 million per fiscal year, and

(2) The requirement that a route designated under this section must be on a Federal-aid system prior to such designation is revised to strike the words "prior to such designation.".

Priority primary routes

Senate Bill

No comparable provision.

House Amendment

This section adds a new section to chapter 1 of title 23 to provide for the selection of not more than 10,000 miles of high traffic sections of highway which are on the Federal-aid primary system and connect to the Interstate System. Such sections are to be selected for priority of improvement in consultation with appropriate local officials and subject to the Secretary's approval. The Federal share of such projects shall be the same as the Federal share on other primary routes as provided in 23 U.S.C. 120(a) and the provisions of title 23 which are applicable to the Federal-aid primary system shall be applicable to the priority primary routes. Funds authorized for such routes shall be deemed to be apportioned on January 1 next proceeding the commencement of the fiscal year for which authorized. A report to Congress on selection of routes and their estimated costs shall be made on or before July 1, 1974. Three hundred million dollars is authorized out of the Highway Trust Fund for each of the fiscal years 1974, 1975, and 1976, for carrying out the priority primary route program.

Conference Substitute

This is the same as the House amendment except that the 10,000 mile limitation on the system is eliminated and the authorization level is $100 million for fiscal 1974, $200 million for 1975 and $300 million for fiscal 1976. It is the expectation of the conferees that the event of this system will be about 10,000 miles.

Alaska Highway

Senate Bill

This section adds a new section 217 to title 23 and authorizes $58,670,000 for reconstructing the Alaska Highway from the Alaskan border to Haines Junction in Canada, and reconstructing the Haines Cutoff Highway from Haines Junction to the south Alaskan border.

House Amendment

This section adds a new section to chapter 2 of title 23 to authorize $58,670,000 for reconstructing the Alaska Highway from the Alaskan border to Haines Junction in Canada, and reconstructing the Haines Cutoff Highway from Haines Junction to the south Alaskan border.

Conference Substitute

This section is the same as the Senate bill and the House amendment.

Bridges on Federal dams

Senate Bill

This section provides increased authorization of $8.5 million to finance the construction of two bridges on Federal dams on the Arkansas and Tennessee Rivers located in the vicinities of Fort Smith, Arkansas, and Chattanooga, Tennessee, respectively.

House Amendment

This section would provide an increased authorization of $8.5 million to finance the construction of two bridges on Federal dams located in the vicinity of Fort Smith, Arkansas, and Chattanooga, Tennessee.

Conference Substitute

This section is the same as the Senate bill.

Great River Road

Senate Bill

No comparable provision.

House Amendment

This section provides construction funds of $20 million for each of the fiscal years 1974, 1975, and 1976, out of the Highway Trust Fund, to be matched on an 80% Federal and 20% State ratio. These funds will be applied on those portions of the Great River route on Federal-aid highways.

An additional $10 million for each of the fiscal years 1974, 1975, and 1976, is authorized out of the general fund. Those sections of the route on Federal lands will be entirely paid for by Federal funds.

One hundred thousand dollars will be apportioned to the 10 States bordering the Mississippi for planning.

Conference Substitute

This section is the same as the House amendment with the following changes:

(1) Subsection (a) relating to Congressional findings and purpose is eliminated.

(2) The Federal share of the cost of any project shall be that provided in section 120 of title 23 for the Federal-aid system on which the project is located and if the project is not on a system the Federal share shall be 70 percent.

(3) The authorization is provided at not to exceed $10,000,000 for fiscal year 1974, and $25,000,000 for each of the fiscal years 1975 and 1976.

Alaskan assistance

Senate Bill

This section amends the special Alaskan Highway authorization in the Federal-aid Highway Act of 1966 by providing $20 million from the Highway Trust Fund for each of the fiscal years 1974, 1975, and 1976. These funds are limited to Federal-aid highway projects.

House Amendment

The special Alaskan highway authorization in the Federal-aid Highway Act of 1956 is amended by providing $20 million from the Highway Trust Fund for each of the fiscal years 1974, 1975, and 1976. These funds are limited to Federal-aid highway projects.

Conference Substitute

This section is the same as the Senate bill and the House amendment.

Route 101 in New Hampshire

Senate Bill

No comparable provision.

House Amendment

The State of New Hampshire would be permitted to repay all Federal-aid highway funds paid on account of certain sections of Route 101 in the State of New Hampshire prior to the collection of any tolls on such sections. Upon such repayment, the Federal-aid projects for which such funds have been repaid and any other Federal-aid projects located on the sections involved and programed for expenditure on any such project, shall be credited to the unprogramed balance of Federal-aid highway funds of the same class which were last apportioned to the State of New Hampshire. Such amount shall be in addition to all other funds apportioned to the State and shall be available for expenditure in accordance with title 23. Upon repayment of Federal-aid highway funds and cancellation and withdrawal from the Federal-aid highway program of the projects on Route 101, such sections of said route shall become free of any and all restrictions contained in title 23 or any regulations thereunder with respect to the imposition and collection of tolls or other charges thereon or for the use thereof.

Conference Substitute

This section is the same as the House amendment except that the State of New Hampshire would be required to make these repayments on or before October 1, 1977 and failure to do so within this time would render this provision inoperative.

Freeing interstate toll bridges

Senate Bill

No comparable provision.

House Amendment

This section permits States which have constructed or acquired any interstate toll bridge on the Federal-aid primary system (other than the Interstate System) including approaches, before January 1, 1975, and which before that date, have caused the bridge to be made free, to use funds apportioned to it for the primary system and for extensions of the primary system within urban areas to pay the Federal share of a project of (1) such amount as the Secretary determines to be reasonable value of the bridge after deducting the portion of such value attributable to any previous grant or Federal contribution in connection with its construction or acquisition, exclusive of rights-of-way, or (2) the amount by which the principal amount of outstanding unpaid bonds or other obligations created and issued for the construction or acquisition of such bridge exceeds the amount of funds accumulated or provided for their amortization on the date the bridge is made free, whichever is the lesser amount.

Conference Substitute

This section is the same as the House amendment.

Study of toll bridge authority

Senate Bill

This provision requires the Secretary of Transportation to undertake a study of existing laws and regulations governing toll bridges over navigable waters of the United States for the purpose of determining what action can and should be taken to assure just and reasonable tolls nationwide.

The Secretary is required to establish regulations to implement his responsibilities regarding rates of tolls under the General Bridge Act of 1946.

House Amendment

This provision would require the Secretary to undertake a study of existing laws and regulations governing toll bridges over navigable waters of the United States for the purpose of determining what action can and should be taken to assure just and reasonable tolls nationwide. A report to Congress is required by July 1, 1974, except in the case of the toll bridge at Chester, Illinois, a report to Congress is required by December 31, 1973.

Conference Substitute

Subsection (a) of this section is the same as the House amendment. Subsection (b) requires the Secretary of Transportation to promulgate regulations establishing guidelines governing any increases in tolls for use of any bridge constructed pursuant to the General Bridge Act of 1906 or the General Bridge Act of 1946.

National scenic highway system study

Senate Bill

No comparable provision.

House Amendment

The Secretary is directed to make a full and complete investigation and study to determine the feasibility of establishing a national system of scenic highways to link together and make more accessible recreational, historical, scientific and other similar areas of scenic interest and importance. In such investigation and study, the Secretary shall cooperate and consult with other agencies of the Federal Government, the Commission on Highway Beautification, the States and their political subdivisions and other interested private organizations, groups, and individuals. The Secretary shall report his findings and recommendations to the Congress by July 1, 1974, including an estimate of the cost of such program. This section authorizes $250,000 from the Highway Trust Fund to carry out this program.

Conference Substitute

Subsection (a) of this section is the same as the House amendment. Subsection (b) of this section requires the Secretary of Transportation to make a full and complete investigation and study to examine problems of user access to parks, recreation areas, historic sites and wildlife refuges. The finding and recommendations is to be submitted to Congress not later than January 1, 1975, including estimated costs of implementing any suggested programs.

District of Columbia

Senate Bill

No comparable provision.

House Amendment

This section exempts any segment of the Interstate System within the District of Columbia from the coverage of an 1893 Act (27 Stat. 532), as amended, relating to highways in the District of Columbia.

Conference Substitute

This is the same as the House amendment.

Corridor hearings

Senate Bill

No comparable provision.

House Amendment

This section requires the Secretary of Transportation to withhold any further action on Interstate Route I-287 between Montville and Mahwah, New Jersey, and on the Corporation Freeway in Winston-Salem, North Carolina, until new corridor hearings are held.

Conference Substitute

This is the same as the House amendment except that the new corridor hearings shall be held and reports thereon be made no lated than one year after the date of enactment of this section.

Interstate System

Senate Bill

This section amends subsection (e) of section 103 of title 23 to provide that, at the joint request of a State Governor and the local government concerned, the Secretary can withdraw his approval of any Interstate segment, if he finds that a route is not essential to complete a unified and connected system within a State. Dollar-for-dollar substitution of the substitute essential connection would be permitted without restriction on length, and the existing 200 miles total limit for substitute routes would be repealed.

The cost of withdrawn Interstate mileage for any project would be the maximum Federal cost allowed for any substitute project. If no substitute essential connection is necessary, or if the cost of substitute mileage is less than the cost of the original route, the total amount or difference in amount would be available, in the urbanized area from which the non-essential route was withdrawn, for use on the urban system or for local public transportation purposes under section 142 of title 23 United States Code. Any costs incurred by reason of the development of the project withdrawn would be deducted from such amounts. Any mileage from a route or portion thereof which is withdrawn from designation and not replaced may be redesignated elsewhere as part of the Interstate System.

Costs would be that as of the date of withdrawal. In approving substitute mileage, the Secretary would be required to "assure", rather than "give due regard to", connectivity of Interstate routes and extensions of routes which terminate within municipalities served by a single Interstate route, so as to provide through traffic service.

House Amendment

Subsection (a)(1) of this section eliminates the 200-mile limitation on additions to the Interstate System contained in the Cramer-Howard amendment. The subsection would leave the mileage open-ended as necessary for making modifications to the System.

Subsection (a)(2) of this section further amends the Cramer-Howard amendment to provide that the costs to the United States of the aggregate of all substitute mileage and mileage for modifications shall not exceed the cost of the aggregate of all mileage which is not to be constructed and is withdrawn as nonessential, as such cost is reflected in the 1972 Interstate System cost estimate rather than the 1968 estimate.

Subsection (a)(3) amends the Cramer-Howard amendment to require the Secretary in considering substitute routes and modifications to give "preference, along with due regard for interstate highway type needs on a nationwide basis," to routes in States in which other routes were or hereafter are withdrawn and extension of routes which terminate within cities served by a single Interstate route, so as to provide traffic service entirely through such cities.

Subsection (b) provides that upon the joint request of a State Governor and the local governments concerned, the Secretary may withdraw his approval of an Interstate route if the route is not essential to completion of a connected system and if the State does not intend to construct a toll road in the corridor which would be served by such route. The mileage withdrawn shall be available for designation on the Interstate System in another State. After the Secretary has withdrawn his approval, whenever responsible local officials notify the highway department that, in lieu of a highway, their needs require a nonhighway public mass transit project involving fixed rail or purchase of rolling stock and such project is in accordance with section 134 of this title, plans shall be submitted to the Secretary for approval.

Approval of plans, specifications and estimates shall be deemed a contractual obligation of the United States for payment out of the general fund of its proportional share of the cost of the project in an amount equal to the federal share which would have been paid for the withdrawn route. Funds previously apportioned to the State for the Interstate System shall be reduced by an amount equal to such federal share. No project would be approved unless the Secretary receives assurances that the public mass transportation systems would have adequate capability to fully utilize the proposed project.

Conference Substitute

This is the same as the House amendment except that the 200-mile limit is raised to 500 miles rather than made open-ended, and clarifying changes are made in the proposed new subsection (e)(4) of section 103 of title 23, U.S. Code. In the administration of section 103(e)(2) and (4), the Secretary shall make sure all options under these provisions are considered.

Public mass transportation studies

Senate Bill

No comparable provision.

House Amendment

This section authorizes $75 million out of the General Fund to evaluate the public mass transportation portion of the 1972 National Transportation Report submitted by the Secretary. The evaluation would be submitted to the Congress not later than July 1, 1974 by the Secretary and would be conducted in cooperation with the governors and appropriate local officials. Items to be included in the evaluation are listed in the Act.

Conference Substitute

This section is the same as the House amendment except for the following changes:

(1) The authorization has been reduced to $10 million, and

(2) The mass transportation tax study contained in the Senate bill has been retained as a separate subsection in this section.

Mass transportation tax study

Senate Bill

This section requires the Secretary of Transportation to conduct a study of revenue mechanisms, including fuel taxes on urban mass transportation services, which could be used to finance the transportation activities receiving financial assistance from the Highway Trust Fund. The report on this study is to be submitted by July 1, 1974.

House Amendment

No comparable provision.

Conference Substitute

This provision of the Senate bill is contained as a separate subsection in the section dealing with the public mass transportation evaluation.

Ferry operations

Senate Bill

This section amends 23 U.S.C. 129(g)(5) to allow ferries financed under Title 23 to travel in international waters between the islands which comprise the State of Hawaii, between any two points in Alaska, or between the States of Alaska and Washington.

House Amendment

This section would permit federal assistance for the construction of ferry boats for operation in international waters between the islands in Hawaii, between any two points in Alaska, and from Alaska to the State of Washington.

Conference Substitute

This section is the same as the Senate bill and the House amendment.

Metro accessibility to the handicapped

Senate Bill

This authorizes Secretary of Transportation to make payments of $65 million to the Washington Metropolitan Area Transit Authority to finance the cost of providing necessary facilities so that the subway and transit system being constructed in Washington, D.C. and environs could be made accessible to the handicapped through the implementation of Public Laws 90-480 and 91-240.

House Amendment

This section authorizes $65 million to the Secretary of Transportation to make payments to the Washington Metropolitan Area Transit Authority to finance the cost of providing necessary facilities to make the subway and transit system being constructed in Washington, D.C. and environs accessible to the handicapped through the implementation of Public Laws 90–480 and 91–240.

Conference Substitute

This section is the same as the Senate bill and the House amendment except that the Federal share is to be 80 per centum of the costs of these facilities.

Environmental impact sttaements

Senate Bill

This section directs the Secretary to complete by October 1, 1973, the draft environmental impact statement on Interstate 66 in Virginia from the National Capital Beltway to the Potomac River. The statement would have to be circulated to all interested public agencies for comments within 45 days and a public hearing would have to be held within 45 days after issuances of the required notice.

The Secretary is further required by December 31, 1973, to have completed his consideration and review of all comments and the information resulting from the hearing, to file the final version of the environmental impact statement, and to make the final determination required by law before construction of the project could proceed. The Secretary's determination on all issues of fact would be conclusive.

House Amendment

This section would direct the Secretary to expedite necessary final action on a highway bridge project at the Raritan River on State Highway 18 in New Jersey and another project on I–66 in Arlington and Fairfax Counties in Virginia.

Conference Substitute

This section is the same as the House amendment, which incorporated the Senate provision.

Truck lanes

Senate Bill

No comparable provision.

House Amendment

This section would permit the Secretary to approve as a project on any federal-aid system the construction of exclusive or preferential truck lanes.

Conference Substitute

This is the same as the House amendment. The conferees intend that these lanes may be permitted to be used during non-peak traffic hours by autos.

Highway studies

Senate Bill

This section requires feasibility and necessity studies of five routes proposed for highways to be included in the Interstate System; (1) a route from Brunswick, Georgia, to Kansas City, Missouri; (2) extension of Interstate 70 from Cove Fort, Utah, in a westerly direction; (3) a route from Amarillo, Texas, to Las Cruces, New Mexico; (4) a route from Kansas City, Missouri, to Baton Rouge, Louisiana; (5) a route from Kansas City, Missouri, to Chicago, Illinois; (6) a route from Waterloo, Iowa, to Rockford, Illinois, and an extension of Interstate 74 to Interstate 90; (7) extension of Interstate 27 from Lubbock, Texas, to intersect with Interstate 20 and with Interstate 10.

House Amendment

This section would require a feasibility study for constructing to appropriate standards highways along (1) a route from Brunswick, Georgia, to Kansas City, Missouri, (2) a route from Kansas City, Missouri, to Chicago, Illinois, (3) a route from Amarillo, Texas to Las Cruces, New Mexico, to El Paso, Texas, and (4) a route from Catoosa, Oklahoma, to Interstate Route 35 to Ponca City, Oklahoma.

Conference Substitute

This section is the same as the House provision except that all route studies contained in the Senate bill which were not duplicative of those in the House amendment are included. The term "appropriate standards" includes the highest standards, which may be those of the Interstate System. These studies and reports shall be made in cooperation with the affected States.

Inter-American Highway

Senate Bill

No comparable provision.

House Amendment

This section would authorize an additional $10,000,000 to liquidate obligations incurred attributable to the construction of the Inter-American Highway.

Conference Substitute

This is the same as the House amendment.

Donations

Senate Bill

No comparable provision.

House Amendment

This section adds a new section to chapter 3 of title 23, U.S. Code, to provide that nothing in that title or any other law prevents a person whose real property is being acquired under that title, after he has been tendered just compensation, from making a gift or donation of such property to a Federal agency or a State or State agency as he determines.

Conference Substitute

This is the same as the provision of the House amendment except that, additionally, gifts or donations of property may be made to a political subdivision of a State.

High-speed transportation demonstration

Senate Bill

The Secretary is authorized by this section to undertake a demonstration program, with sums from the Highway Trust fund not exceeding $10 million, for a high-speed bus service from Washington, D.C. to Dulles International Airport. Funds under this program could be used for the purchase of high-speed buses, the construction of exclusive bus lanes, terminals and parking facility, the conduct of research, and, if necessary, the financing of a portion of operating expenses.

House Amendment

No comparable provision.

Conference Substitute

This is the same as the Senate bill except that this is made a study (to be undertaken with administrative funds during fiscal year 1974), as well as a demonstration project. All authority to pay operating subsidies has been deleted, and the authorization level of $10,000,000 is to come from the urban system funds for fiscal 1975, to be set aside for this purpose prior to apportionment of such funds.

Rural highway public transportation demonstration program

Senate Bill

This section authorizes $30 million during the next two fiscal years to encourage the development of public mass transportation systems on rural highways. Projects eligible for funding would include traffic control devices, passenger, loading facilities, fringe and corridor parking facilities to serve mass transportation passengers, and the purchase of passenger equipment other than railroad rolling stock. Equipment purchased under this section would have to meet applicable Federal standards with respect to air pollution, and facilities would have to meet the special needs of the elderly and the handicapped.

House Amendment

No comparable provision.

Conference Substitute

This is the same as the Senate bill, except that the program will begin with funds authorized for fiscal year 1975. This will permit proper project development.

Federal-aid systems realignment

Senate Bill

This section requires the realignment by June 30, 1975, of the Federal-aid primary, secondary and urban systems, based upon anticipated functional usage for the year 1980. The primary system would consist of rural arterial routes and their extensions into or through urban areas; the secondary system would consist of rural major collector routes; and the urban system would consist of urban arterial and collector routes, exclusive of extensions of rural arterial routes through urban areas. Access roads to airports would be made eligible for inclusion on the secondary system.

House Amendment

No comparable provision.

Conference Substitute

This section is the same as the Senate bill with the following changes:

(1) The designation of the primary system shall be by each State acting through its State highway department.

(2) The Federal-aid urban system will be located in each urbanized area and such other urban areas as the State highway departments may designate and the routes on this system shall be designated by appropriate local officials with the concurrence of the State highway department and subject to the approval of the Secretary.

(3) The effective date is set at June 30, 1976.

Toll road reimbursement program

Senate Bill

New section 146, title 23, authorizes the Secretary to reimburse States after they have received their final apportionment on the Interstate System, for 70% of the construction cost of new toll roads and improvements to existing toll roads. The Federal share would be drawn from funds apportioned to the State for its Federal-aid primary system.

Toll roads built under this program would have to comply with standards approved by the Secretary and would be subject to the same regulations now applicable to other Federal-aid systems. Except for costs of operation and maintenance, all tolls collected from users of these roads would be devoted to retiring obligations incurred by the State for its 30% share.

The Federal 70% share of the cost of toll roads would be payable in not more than 15 equal annual installments from funds apportioned to the State for its Federal-aid primary system. After the Federal share has been fully paid, the highway would be maintained and operated as a free highway as a part of the primary system (or the Interstate System in the case of certain improved toll highways).

House Amendment

No comparable provision.

Conference Substitute

This provision is essentially the same as the Senate bill except as follows:

(1) the provision is limited in its application to the State of Louisiana.

(2) It is not made a part of title 23 of the United States Code.

(3) Any such highway is to be designated as part of the Federal-aid primary system (other than the Interstate System) before payment of any Federal funds under this section.

Parkways

Senate Bill

Section 207 of title 23 is amended to permit the acquisition of rights-of-way and related scenic easements from funds available for parkways. The provisions of section 106 (a) of title 23 relating to the obligation of funds would apply to funds available for parkways.

House Amendment

No comparable provision.

Conference Substitute

Subsection (a) of this section is the same as the Senate bill.

Subsection (b) provides that any parkway project on a Federal-aid system shall be subject to all the requirement of title 23 and to any other law applicable to highways on that system.

Research and planning

Senate Bill

This section permits the financing of local public transportation planning in addition to the oter planning and research purposes indicated in section 307(c) (1) of title 23.

House Amendment

No comparable provision.

Conference Substitute

This section is the same as the Senate bill except for a clarifying amendment.

Technical amendments

Senate Bill

Several minor technical amendments are made to update existing language and correct typographical errors.

House Amendment

No comparable provision.

Conference Substitute

Same as Senate bill.

Increased Federal share—effective date

Senate Bill

The Federal share payable on account of any non-Interstate project is increased from 50% to 70% with respect to all obligations incurred after June 30, 1973, except for projects for which Federal funds were obligated on or before that date.

House Amendment

No comparable provision.

Conference Substitute

This section provides that the Federal share payable on account of any non-Interstate project is increased from 50 percent to 70 percent with respect to all obligations incurred after June 30, 1973.

Termination of Federal-aid relationship

Senate Bill

This terminates the San Antonio North Expressway as a Federal-aid project and provide for the return of any Federal funds paid to the State of Texas for that project to the United States for reapportionment.

House Amendment

No comparable provision.

Conference Substitute

This section is the same as the Senate bill. This provision does not constitute a precedent for similar future action.

Highway litter study

Senate Bill

The Secretary is directed to make a study of litter accumulation within the rights-of-way of Federal-aid highway systems outside of urban areas and to recommend to Congress by December 31, 1973, procedures which the States could use to prevent and clean up such highway litter on a regular basis.

House Amendment

No comparable provision.

Conference Substitute

This section is the same as the Senate bill except that the study would encompass all rights-of-way, not just those outside of urban areas, and the report date is June 30, 1974.

Bridge approach standards

Senate Bill

This would amend section 109 of title 23, U.S. Code, to prohibit the Secretary from approving any project which would significantly affect the highway system of a contiguous State without the concurrence of that State.

House Amendment

This section would amend section 106 of title 23, U.S. Code, to prohibit the Secretary from approving the plans, specifications, and estimates for any project to connect the Interstate System with a bridge over Long Island Sound unless the project has been approved by the State legislatures of New York and Connecticut.

Conference Substitute

This section would amend section 109 of title 23, United States Code, to provide that the Secretary shall not approve any project involving approaches to a bridge if such project and bridge will significantly affect the traffic volume and the highway system of a contiguous State without first taking into full consideration the views of that State.

Allocation of urban system funds

Senate Bill

Urban system funds apportioned under title 23 are to be made available to any urbanized area of 400,000 or more population within the State on the basis of population. These funds would be available for expenditure in another urbanized area within such State only where the responsible public officials in both such urbanized areas would agree to such a transfer.

This section would also allow urban system funds to be "passed through" to municipalities of 400,000 or more population, or combinations of municipalities in any urbanized area, where the Secretary finds that such municipality has sufficient authority to develop and implement a plan for expenditure of funds for the urban system and related highway public transportation purposes. Plans would be developed in accordance with the comprehensive, coordinated and continuing transportation planning process required by section 134 of title 23.

House Amendment

No comparable provision.

Conference Substitute

This section would add a new section to title 23, United States Code, to provide that funds apportioned to any State under section 104(b) (6) that are attributable to urbanized areas of 200,000 population or more shall be made available for expenditure in those areas for projects and programs approved under section 105(b) in accordance with a fair and equitable formula developed by the State and approved by the Secretary. This formula shall provide for fair and equitable treatment for incorporated municipalities of 200,000 or more population. If such a formula is not developed and approved, then such funds shall be allocated among such urbanized areas within such State in the ratio that the population within each such urbanized area bears to the population of all such urbanized areas or parts thereof within that State. In expending funds allocated under the preceding provision, fair and equitable treatment shall be accorded municipalities of 200,000 or more population.

Franconia Notch, New Hampshire

Senate Bill

This provides that for the purpose of facilitating the construction of the Interstate System in rural areas, where a segment not more than 12 miles in length is needed to develop a connected system, where this segment will increase safety and assist in the social and economic development of a rural it and the Secretary has postponed construction, then it is the sense of Congress that area, and where a State formally requests of the State to approve construction of the segment as a parkway.

House Amendment

No comparable provision.

Conference Substitute

This section would authorize the Secretary of Transportation upon application of the Governor of the State to approve construction of a specified portion of Interstate Route 93 North Woodstock to Franconia, New Hampshire, approximately twelve miles in length, as a parkway-type highway, to geometric and construction standards which the Secretary determines necessary for the safety of the traveling public, for the protection of the environment, and for the preservation of the park-like and historic character of the Franconia Notch area adjacent to the highway. The State is authorized to permit, with the concurrence of the Secretary, the use of this section of the highway by specified types of vehicles during specified times of the day and of the year.

Dwight D. Eisenhower Highway

Senate Bill

This would designate certain specified segments of the Interstate system forming a continuous interstate highway link from coast to coast as the "Dwight D. Eisenhower Highway".

House Amendment

No comparable provision.

Conference Substitute

This section is the same as the Senate bill.

Cumberland Gap National Historical Park

Senate Bill

This section makes parkway funds available for the relocation of Route 25E through a tunnel to be constructed in the Cumberland Gap National Historical Park so as to restore and preserve the Gap and provide adequate traffic capacity.

House Amendment

No comparable provision.

Conference Substitute

This section is the same as the Senate bill.

Highland Scenic Highway

Senate Bill

This section provides for the construction of the Highland Scenic Highway from West Virginia State Route 39 to U.S. 250 near Barton Knob, West Virginia, as a parkway.

House Amendment

No comparable provision.

Conference Substitute

Except for technical and qualifying amendments this is the same as the Senate bill.

Prohibition of discrimination on basis of sex

Senate Bill

No comparable provision.

House Amendment

This section prohibits discrimination on the ground of sex on any program or activity receiving federal assistance or carried on under title 23, United States Code.

Conference Substitute

Except for technical amendments this is the same as the House amendment.

Railroad relocation demonstration

Senate Bill

This section authorizes $13.55 million to carry out demonstration projects in Lincoln, Nebraska, Wheeling, West Virginia, Elko, Nevada, and Brownsville, Texas, for the relocation of railroad lines from the central city to eliminate a substantial number of railway-road grade crossings within those cities. A general study of the relocation of rail lines from the central area of cities on a nationwide basis is also authorized with a report by July 1, 1975.

House Amendment

This section authorizes the Secretary to carry out 10 rail-highway demonstration projects in the following cities throughout the nation: Springfield, Illinois; Lincoln, Nebraska; Brownsville, Texas; E. St. Louis, Illinois; Carbondale, Illinois; New Albany, Indiana; Dolton, Illinois; Blue Island, Illinois; Elko, Nevada; Greenville, Texas. The Secretary is required to report to the President and the Congress with respect to his activities under this section. A total of $36.3 million is provided out of the Highway Trust Fund and $54.8 million out of the general funds in the Treasury for these projects. A similar section authorizes a demonstration project for an underpass in Anoka, Minnesota.

Conference Substitute

This section authorizes all of the demonstration projects contained in both the Senate bill and the House amendment except that there is a general authorization for carrying out this section at not to exceed $15,000,000 for fiscal year 1974, $25,000,000 for fiscal year 1975, and $50,000,000 for fiscal year 1976 except that two-thirds of all funds authorized and expended under this section in any fiscal year are to be appropriated from the Highway Trust Fund. The study contained in the Senate bill is retained.

Financial assistance agreements

Senate Bill

The Senate bill revision of section 142 contains in subsection (e) a requirement that no equipment acquired with financial assistance under this section is to be available for use in charter, leased, sightseeing, or other service in any area other than the area for which it was acquired.

House Amendment

The House amendment contains in several sections prohibitions against financial assistance to an applicant for the purchase of buses if that applicant after the date of enactment of the subsection is engaged or proposes to engage, directly or indirectly, in charter bus operations in competition with private bus operators outside the urbanized area within which the applicant provides mass transportation service. In addition no financial assistance is to be provided to an applicant which engages, directly or indirectly, in transporting school children and personnel to and from school and school authorized functions or which proposes to expand present routes, schedules, or facilities for that purpose in competition with or supplementary to service criteria provided by a private transportation company or other person so engaged in so transporting such children and personnel. This is not to apply unless the private transportation company is able to provide adequate transportation at reasonable rates and safely and is not to apply to an applicant which was so engaged any time during the year preceding the date of enactment of the subsection.

Conference Substitute

The conference substitute provides that no Federal financial assistance shall be provided under (1) section 142 (a) or (c) of title 23, United States Code, (2) section 103(e)(4) of title 23, United States Code, or (3) the Urban Mass Transportation Act of 1964 for the purchase of buses to any applicant unless the applicant and the Secretary of Transportation have entered into an agreement that the applicant will not engage in charter bus operations in competition with private bus operators outside the area in which the applicant provides regularly scheduled mass transportation service. In addition, no Federal financial assistance is to be provided under those provisions of law for the purchase of buses to any applicant who has not first entered into an agreement with the Secretary of Transportation that the applicant will not engage in school bus operations in competition with private school bus operators. This subsection is made inapplicable to any applicant with respect to the operation of a school bus program if the applicant operates a school system in the area to be served and operates a separate and exclusive school bus program for this school system. The same requirements are made that private operators of school buses be able to provide adequate transportation at reasonable rates and safely and that it is inapplicable to a State, local body, or agency which was so engaged in school bus operations during the 12-month period immediately prior to the date of enactment of this subsection. This subsecion is not applicable to the transportation of school children along with other passengers by regularly scheduled bus service at either full or reduced fares.

A violation of these requirements shall bar the applicant from receiving any other Federal financial assistance under these provisions of law.

Bus and other project standards

Senate Bill

The Senate bill provides in its revision of section 142 of title 23 of the United States Code that equipment acquired under that section must meet EPA standards under section 202 of the Clean Air Act and section 6 of the Noise Control Act of 1972 and, wherever practicable, the equipment must meet special criteria for low-emission vehicles and for low-noise-emission products. This revision also required that the planning and design of mass transportation facilities must be such as to meet special needs of the elderly and handicapped. Equivalent provisions of this nature are contained in the section relating to the Rural Highway Public Transportation Demonstration Program.

House Amendment

No comparable provision.

Conference Substitute

This provision in the conference substitute is the same as the Senate bill except that it is a separate section and it has been made applicable to sections 142 (a) and (c) and 103(e)(4) of title 23, United States Code, and section 147 of the conference substitute (Rural Highway Public Transportation Demonstration Program).

Use of interstate system right-of-way

Senate Bill

No comparable provision.

House Amendment

This would amend section 111 of title 23, U.S. Code, to allow the State highway department to permit small food service establishments to operate at rest stop areas along the Interstate System right-of-way.

Conference Substitute

No comparable provision.

Participation in topics and fringe parking programs

Senate Bill

No comparable provision.

House Amendment

This section requires the Secretary of Transportation to take such action as he deems necessary to facilitate broad participation by States in TOPICS programs and fringe and corridor parking facility projects.

Conference Substitute

No comparable provision.

Application to urban system of certain controls

Senate Bill

No comparable provision.

House Amendment

This section amends the description of the Federal-aid urban system to make the provisions of chapters 1, 3 and 5 of title 23 that are applicable to Federal-aid primary highways applicable to the Federal-aid urban system unless the Secretary determines them to be inconsistent with this subsection. The provisions of title 23 relating to control of outdoor advertising, junkyard control and scenic enhancement are, however, made specifically applicable to the Federal-aid urban system and the Secretary may not determine such section to be inconsistent with subsection 103(d) of title 23, U.S.C.

Conference Substitute

No comparable provision. The conferees look to the Commission on Highway Beautification to advise the Congress on the application of the controls required under section 131 to the Federal-aid urban system.

Prohibition of impoundment

Senate Bill

This section would prohibit the impoundment of sums authorized to be apportioned by section 104 of title 23, U.S. Code, which have been appropriated by Congress except specific sums determined by the Secretary of the Treasury as necessary to meet future expenditures from the Highway Trust Fund.

House Amendment

No comparable provision.

Conference Substitute

No comparable provision. The fact that this section of the Senate bill is not contained in the conference substitute shall not be construed to indicate anything other than complete agreement with the decision of the United States Court of Appeals for the Eighth Circuit in the case of the State Highway Commission of Missouri v. John A. Volpe, Secretary of Transportation of the United States, et al.

Access highways to public recreation areas on Federal lakes

Senate Bill

The new section authorizes $15 million for each of the 1974, 1975, and 1976 fiscal years for the construction of access highways to public recreation areas on Federal lakes. Such routes could not be longer than 35 miles, must connect with a highway on a Federal-aid system, and would be designated by the Secretary on the recommendation of State and local officials.

House Amendment

No comparable provision.

Conference Substitute

No comparable provision.

Preservation of parklands

Senate Bill

This section amends section 138, title 23, regarding parkland preservation, to include publicly-owned water recreation areas and historic water areas of national, state or local significance, as well as public lands.

House Amendment

No comparable provision.

Conference Substitute

No comparable provision.

Public hearings

Senate Bill

This section requires that, when plans are submitted for a Federal-aid project, the State highway department must provide assurance that it has taken steps to ensure and foster public participation in the development of such project before and after the required public hearings.

House Amendment

No comparable provision.

Conference Substitute

No comparable provision.

Programs

Senate Bill

This section amends section 105 of title 23, United States Code, relating to programs for projects on the Federal-aid system to substitute the State Governor for the State highway department in subsections (a), (b), and (g).

House Amendment

No comparable provision.

Conference Substitute

No comparable provision.

Public transportation in National Forests and Parks

Senate Bill

By amendments to sections 204 and 206, title 23, funds authorized for forest highways and park roads and trails are made available for the purchase of buses as well as for the construction of passenger loading facilities and parking areas, in order to provide interpretive and shuttle transportation services in national parks and forests as an alternative to private automobile transportation.

House Amendment

No comparable provision.

Conference Substitute

No comparable provision.

Fringe and corridor parking facilities

Senate Bill

Section 137 of title 23 is amended to allow the construction of publicly owned parking facilities in the central business district and the imposition of parking fee rates necessary to finance the liquidation of bonds or other obligations incurred in financing the local share of constructing such facilities, as well as financing the costs of maintenance and operation now authorized by law.

House Amendment

No comparable provision.

Conference Substitute

No comparable provision.

Payment to States for bond retirement

Senate Bill

Under present law, any State which issues bonds and uses the proceeds to construct projects on the Federal-aid primary or Interstate Systems, or extensions of any of the Federal-aid highway systems in urban areas, may use any sums apportioned to it for expenditure on such system to aid in the retirement of the principal of such bonds at maturity. This section authorizes, in the case of the Interstate System, repayment to the States of an amount equal to the interest in addiion to the principal of such bonds.

House Amendment

No comparable provision.

Conference Substitute

No comparable provision.

Transportation planning in certain areas

Senate Bill

Section 134 of title 23 is amended to (1) require that States take reasonable measures to permit, encourage and assist public participation in the urban transportation planning process and (2) require the Secretary to develop minimum guidelines for such participation. These guidelines must include annual public hearings to review the planning process, plans and programs, and opportunity provided for consideration of alternative modes of transportation at such hearings. Noncompliance with these provisions by any urbanized area would result in the Secretary's disapproval of all Federal-aid highway projects within such urbanized area.

House Amendment

No comparable provision.

Conference Substitute

No comparable provision.

TITLE II

Introductory

The bill before the Conferees was S. 502, Title II of which, in the House bill, was the Highway Safety Act of 1973. The Senate also passed separate highway safety legislation, S. 893, which contained many provisions similar to those in the House passed bill, S. 502. The words "No provision" in various sections of the Statement of Managers relating to the Senate bill are not intended to convey the absence of Senate legislation, only that S. 893 was not technically in the Conference.

With respect to any apportionment of funds authorized in Title II, except as provided in section 401, if no time is prescribed for the making of such apportionment, then such apportionment shall be made in accordance with the time prescribed in section 104(b) of title 23, U.S. Code.

Short title

Senate Bill

No provision.

House Amendment

This section provides that this title may be cited as the "Highway Safety Act of 1973."

Conference Substitute

Same as House provision.

Highway safety

Senate Bill

No provision.

House Amendment

This section authorizes the appropriation out of the Highway Trust Fund of $200 million for fiscal year 1974, and $300 million for each of fiscal years 1975 and 1976, for carrying out section 402 of title 23 and $115 million for each of fiscal years 1974, 1975 and 1976 for carrying out section 403 programs by the National Highway Traffic Safety Administration.

It further authorizes the appropriation out of the Highway Trust Fund of $35 million for carrying out section 402 of title 23 for fiscal year 1974, and $45 million for each of fiscal years 1975, and 1976 and $10 million for each of fiscal years 1974, 1975, and 1976 for carrying out sections 307(a) and 403 of title 23 by the Federal Highway Administration.

Conference Substitute

This is the same as the House amendment except as follows:

(1) The authorization for section 402 to be carried out by the National Highway Traffic Safety Administration is reduced to $100,000,000 for fiscal year 1974, $125,000,000 for fiscal year 1975, and $150,000,000 for fiscal year 1976.

(2) The authorization for section 403 to be carried out by the National Highway Traffic Safety Administration is reduced to $42.5 million for fiscal year 1974, $55,000,000 for fiscal year 1975, and $65,000,000 for fiscal year 1976.

(3) The authorization for section 402 to be carried out by the Federal Highway Administration is reduced to $25,000,000 for fiscal year 1974, $30,000,000 for fiscal year 1975, and $35,000,000 for fiscal year 1976.

Rail-highway crossings

Senate Bill

No provision.

House Amendment

This section authorizes $150 million for fiscal year 1974, and $225 million for each of fiscal years 1975 and 1976 for elimination of hazards at rail highway crossings in addition to funds otherwise available to carry out section 130 of title 23, United States Code. Two-thirds of these funds in any fiscal year are to be appropriated out of the Highway Trust Fund; one-third out of the general fund. Funds authorized are to be available for expenditure: (1) two-thirds for projects on any Federal-aid system (other than the Interstate System) apportioned in the same manner as sums authorized to be appropriated under section 105 of the Federal-Aid Highway Act of 1970, and (2) one-third for projects on highways not included on any Federal-aid system to be apportioned in the same manner as provided in subsection (c) of section 402 of title 23, United States Code. States would be required to conduct and sytematically maintain a survey of all rail-highway crossings and establish and implement a schedule of projects for their separation, relocation or protection. At a minimum, such schedule shall insure that adequate signing is provided at all rail-highway crossings.

The Federal share payable on account of any such project is not to exceed 90 percent of the cost.

This section would further require each State to report yearly on the cost of treatments employed and the effectiveness of such improvements. The Secretary would report to Congress yearly on the progress being made by the States in implementing the program.

Conference Substitute

This is the same as the provision of the House amendment except that all funds are authorized from the Highway Trust Fund, projects must be on a Federal-aid system, 50 percent of the funds will be apportioned to the States in the same manner as sums authorized to be appropriated under paragraph (1) of section 104 of the Federal-Aid Highway Act of 1973 and 50 percent of such funds will be apportioned in the same manner as sums authorized to be appropriated under paragraph (2) of such section 104 and the authorization levels are reduced to $25,000,000 for fiscal year 1974 and $75,000,000 per fiscal year for 1975 and 1976. In addition to other moneys which may be available to the States for the conduct and maintenance of the surveys required by this section, funds provided under section 307(c) for research and planning may also be used.

Bridge reconstruction and replacement

Senate Bill

No provision.

House Amendment

This section authorizes the appropriation out of the Highway Trust Fund of $225 million for fiscal year 1974, and $450 million for each of fiscal years 1975 and 1976 to carry out the bridge replacement program established pursuant to section 144 of title 23, United States Code. Two thirds of the funds authorized and expended under the program would be from the Highway Trust Fund for projects on the Federal-aid system. One third would be from the General Fund for projects not included on any Federal-aid system

Conference Substitute

This is the same as the House amendment except that all of the funds would be paid from the Highway Trust Fund, all of the projects must be on the Federal-aid system, and the authorization is reduced to $25,000,000 for fiscal year 1974, and $75,000,000 per fiscal year for fiscal years 1975 and 1976. Pending bringing unsafe and dangerous bridges and their approaches up to a minimum standard of safety, it is intended that funds authorized under sections 152 (projects for high hazard locations), 153 (program for the elimination of roadside obstacles) and section 151 (pavement marking demonstration program) may be used, in appropriate cases, to make interim safety improvements on bridges on the Federal-aid system.

Pavement marking demonstration program

Senate Bill

No provision.

House Amendment

This section establishes a special pavement marking demonstration program. The Secretary is authorized to approve pavement marking demonstration projects on any two-lane rural highway other than the Interstate System, in order to bring such highway up to marking standards issued or endorsed by the Federal Highway Administrator. This section authorizes the appropriation out of the Highway Trust Fund, of $125 million for each of fiscal years 1974 and 1975, for such purposes. Funds not required in a State for pavement-marking projects may be used for the elimination or reduction of high hazard locations. The Secretary must submit a report to Congress which includes an analysis and evaluation of the number, rate, and severity of accidents at improved locations beginning January, 1975, and each January thereafter.

Conference Substitute

This is the same as the House amendment except the authorization is reduced to $25,000,000 for fiscal year 1974, and $75,000,000 per fiscal year for fiscal years 1975 and 1976. The purpose of such reports is to provide continuing evaluation of the results achieved under this demonstration program. It is not the intention of the Committee to create an on-going, Federally funded, pavement marking program.

Pavement marking research and demonstration programs

Senate Bill

No provision.

House Amendment

This section authorizes the appropriation out of the Highway Trust Fund of $15 million for fiscal year 1974, and $25 million for fiscal year 1975 to conduct research and demonstration programs to improve the effectiveness and durability of various types of pavement markings and related delineators and to develop improved equipment and techniques for applying, erecting and maintaining such markings and delineators during adverse weather and nighttime driving conditions.

Conference Substitute

This is the same as the House amendment with the authorization reduced to $10,000,000 per fiscal year for fiscal years 1974 and 1975.

Highway safety on Indian reservations

Senate Bill

No provision.

House Amendment

This section amends section 402 of title 23, United States Code, to add a new subsection (i) to define the terms "State" and "Governor of a State" as including the Secretary of the Interior and "political subdivision of a State" as including an Indian tribe, in administering these programs on Indian reservations. This section further provides that if an Indian tribe cannot pay the non-Federal share of the cost of a local highway safety program the Secretary may increase the Federal share to the extent necessary.

Conference Substitute

This is the same as the provisions of the House amendment.

Drug use and driver behavior highway safety research

Senate Bill

No provision.

House Amendment

This section authorizes the Secretary to carry out research on (1) the relationship between the consumption of drugs and highway safety, (2) driver behavior, including the characteristics and physical abilities to perform driving tasks, and (3) the relationship of the frequency of driver accident involvement to highway safety. Computer-aided means to identify graphically those highway deficiencies that contribute to aberrant driver behavior may also be studied. This research may be conducted through grants and contracts with public and private agencies, institutions, and individuals. To carry out this research by the National Highway Traffic Safety Administration there is authorized to be appropriated out of the Highway Trust Fund, $15 million for the fiscal year 1974 and $25 million for fiscal year 1975.

Conference Substitute

This is the same as the House amendment except the authorization level has been reduced to $10,000,000 per fiscal year for fiscal years 1974, 1975, and 1976.

Projects for high-hazard locations

Senate Bill

No provision.

House Amendment

This section establishes a program for the elimination or reduction of hazards at specific locations or sections of highways which have high accident experiences or high accident potentials. Each state shall be required to systematically conduct and maintain an engineering survey to identify critical accident locations, assign priorities and establish and implement a schedule for their correction. To carry out this section, there is authorized to be appropriated $100 million for each of the fiscal years 1974, 1975 and 1976. Two-thirds of all funds authorized and expended under this section in any fiscal year shall be appropriated out of the Highway Trust Fund. Two-thirds of the funds authorized by this section shall be available for expenditure on any Federal-aid system other than the Interstate System. One-third would be available for projects on highways not on any Federal aid system.

This section further requires each State to report yearly on the cost and the effectiveness of improvements under this section. The Secretary shall report to Congress yearly on the progress being made in implementing the program.

Conference Substitute

This is the same as the House amendment except that all funds will be out of the Highway Trust Fund, all projects must be on a Federal-aid system (other than the Interstate system) and the authorizations are reduced to $50,000,000 for fiscal year 1974 and $75,000,000 per fiscal year for fiscal years 1975 and 1976. In addition to other moneys which may be available to the States for the conduct and maintenance of the engineering surveys required by this section, funds provided under section 307(c) for research and planning may also be used.

Program for the elimination of roadside obstacles

Senate Bill

No provision.

House Amendment

This section authorizes a comprehensive program by the Federal Highway Administration for the elimination of roadside obstacles both on and off Federal-aid highway systems. It requires each State to conduct and systematically maintain a survey of all expressways, major streets and highways, and through streets for the identification of roadside obstacles which may constitute a hazard to vehicles, assign priorities and establish and implement a schedule for their correction.

Beginning in 1974, each State shall be required to report yearly on the progress being made in implementing this program and the effectiveness of such improvements. The Secretary is to report to Congress on the progress of the program. The report shall analyze and assess each state program, identify those not in compliance with improvement schedules and contain the Secretary's recommendations for future implementation of the program.

To carry out this section, there is authorized to be appropriated for each of the fiscal years 1974, 1975, and 1976, $75 million, except that two-thirds of all funds expended under the authority of this section in any fiscal year shall be appropriated out of the Highway Trust Fund.

Conference Substitute

This is the same as the House amendment except that all funds are from the Highway Trust Fund, all projects are to be on a Federal-aid system (other than the Interstate system) and the authorization is reduced to $25,000,000 for fiscal year 1974 and remains at $75,000,000 for fiscal years 1975 and 1976. In addition to other moneys which may be available to the States for the conduct and maintenance of the engineering surveys required by this section funds provided under section 307(c) for research and planning may also be used.

Highway safety educational programing and study

Senate Bill

No provision.

House Amendment

Subsection (a) of this section authorizes the Secretary of Transportation to conduct investigations and studies into the use of mass media and other techniques for informing the public of methods of reducing the number and severity of highway accidents. The study is to include ways and means for: (1) encouraging participation and cooperation of television and radio station licensees, (2) measuring audience reaction to current educational programs, (3) evaluating the effectiveness of such programs, and (4) developing new programs for the promotion of highway safety. The Secretary is to report to the Congress his findings and recommendations by June 30, 1974. To carry out this subsection there is authorized to be appropriated out of the Highway Trust Fund $1 million.

Subsection (b) authorizes the Secretary to develop a series of highway safety pilot television messages, each not more than five minutes duration, for use in accordance with the provisions of the Communications Act of 1934. To carry out this subsection there is authorized to be appropriated out of the Highway Trust Fund $4 million.

Conference Substitute

This is the same as the House amendment.

Citizen participation study

Senate Bill

No provision.

House Amendment

This section authorizes the Secretary to investigate the means for encouraging greater citizen participation and involvement in highway safety programs, with particular emphasis on traffic enforcement and accident detection, response and reporting, including the creation of citizen adjuncts to assist professional traffic enforcement and rescue agencies in the performance of their duties. The Secretary is to report to Congress his findings and recommendations by June 30, 1974. To carry out this section there is authorized to be appropriated out of the Highway Trust Fund $1 million.

Conference Substitute

This is the same as the House amendment.

Feasibility study—National Center for Statistical Analysis of Highway Operations

Senate Bill

No provision.

House Amendment

This section authorizes the Secretary to make a study of the feasibility of establishing a National Center for Statistical Analysis of Highway Operations designed to acquire, store, and retrieve highway accident data and standardize information and procedures for reporting accidents on a nationwide basis. The study is to include an estimate of the cost of establishing and maintaining such a center including the means for acquiring the accident information to be stored therein. The Secretary is to report to the Congress his findings and recommendations not later than January 1, 1975. To carry out this section there is authorized to be appropiated out of the Highway Trust Fund $5 million.

Conference Substitute

This is the same as the House amendment.

PEDESTRIAN AND BICYCLE SAFETY STUDY

Senate Bill

No provision.

House Amendment

This section directs the Secretary to make a full and complete investigation and study of pedestrian safety problems in consultation with other agencies of the Federal government, the States and their political subdivisions, and other interested groups and organizations, and report to Congress his findings and recommendations for legislation no later than January 31, 1976.

Conference Substitute

The same as the House amendment except that the study is broadened to include bicycle safety as well.

MANPOWER TRAINING AND DEMONSTRATION PROGRAMS

Senate Bill

No provision.

House Amendment

This section would authorize funds appropriated to States for their highway safety programs to be used for the development and implementation of manpower training and demonstration programs, which the Secretary determines might help reduce traffic accidents.

Conference Substitute

This is the same as the House amendment. It is the intention of this provision that self-instructional training programs and techniques may be authorized by the Secretary.

Public road mileage

Senate Bill

No provision.

House Amendment

For purposes of apportioning funds for highway safety among the States, the public road mileage in each State would be determined at the end of each calendar year.

Conference Substitute

This is the same as the House amendment.

Minimum apportionment

Senate Bill

No provision.

House Amendment

The minimum amount available to any State for highway safety programs would be increased from one-third of one percent to one-half of one percent.

Conference Substitute

This is the same as the House amendment.

Highway safety program applicability

Senate Bill

No provision.

House Amendment

The purpose of this section is to broaden the term "State" to include not only the 50 States and the District of Columbia, and Puerto Rico, but also the Virgin Islands, Guam, and American Samoa. The effect of this provision is to make the latter three jurisdictions eligible for apportionment of section 402 funds. Since none of these jurisdictions have any Federal-aid highways, expenditures resulting from the obligations of each year's apportionment will be paid out of the general funds in the Treasury.

Conference Substitute

This is the same as the House amendment.

Incentives for compliance with highway safety programs

Senate Bill

No provision.

House Amendment

This section authorizes the Secretary to make incentive grants of up to 25% of a State's section 402 apportionments in fiscal years 1974, 1975, and 1976 to those States which adopt legislation requiring the use of seatbelts in accordance with criteria established by the Secretary. Not to exceed $50 million is authorized to be appropriated for fiscal year 1974, and $75 million for each of fiscal years 1975 and 1976.

It also provides additional incentive grants, up to 25% of a State's section 402 apportionment, to those States making the most significant progress in reducing traffic fatality rates. Not to exceed $25 million is authorized to be appropriated for such purposes in fiscal year 1974 and not to exceed $35 million for each of fiscal years 1975 and 1976.

Conference Substitute

This is the same as the House amendment with the authorization for subsection (j) (1) reduced to $25,000,000 for fiscal year 1974, $32,000,000 for fiscal year 1975, $37.5 million for fiscal year 1976 and the authorizations for subsection (j) (2) reduced to $12.5 million for fiscal year 1974, $16,000,000 for fiscal year 1975 and $19,000,000 for fiscal year 1976.

Highway safety research and development

Senate Bill

No provision.

House Amendment

This section would amend section 403 of title 23, United States Code, to make it clear that research funds could be used for grants to or contracts with public agencies, institutions and individuals for all of the purposes listed in section 403. The Secretary would be required to provide assurances that no fees would be charged for training and education of highway safety personnel.

Conference Substitute

This is the same as the House amendment.

Transfer of demonstration project equipment

Senate Bill

No provision.

House Amendment

The Secretary would be authorized to transfer to State and local agencies the title to equipment purchased with research funds for demonstration projects.

Conference Substitute

This is the same as the House amendment.

Administrative adjudication of traffic infractions

Senate Bill

No provision.

House Amendment

This section would direct the Secretary to conduct research and make grants for projects to demonstrate the efficacy of administrative adjudication of traffic infractions. The Secretary would report his findings to Congress by July 1, 1975, and each year thereafter during the continuance of the program.

Conference Substitute

This is the same as the House amendment.

National Highway Safety Advisory Committee

Senate Bill

No provision.

House Amendment

The National Highway Traffic Safety Administrator would be added as an ex officio member of the National Highway Safety Advisory Committee.

Conference Substitute

This is the same as the House amendment.

Date of Annual Report

Senate Bill

No provision.

House Amendment

The date on which the Secretary is to make an annual report to Congress on the administration of the Highway Safety Act would be changed from March 1 to July 1.

Conference Substitute

This is the same as the House amendment.

Highway Safety Needs Study

Senate Bill

No provision.

House Amendment

This section directs the Secretary of Transportation, in cooperation with the governors and appropriate State and local highway safety officials, to make a full and complete study of highway safety needs related to programs in title 23, and prepare recommendations and estimates of the cost for meeting those needs. Such studies shall include the needs of the 50 States, Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands and such other territories as the Secretary shall determine. The Secretary shall submit detailed estimates and recommendations to the Congress not later than January 10, 1976.

Conference Substitute

Same as the House amendment. To the extent practicable, the highway safety needs study authorized by this section shall take into account the findings of the studies authorized by this title and such other safety studies as may be conducted by the Department of Transportation. It is intended that this study be financed by funds allocated to the National Highway Traffic Safety Administration under section 403 of title 23, United States Code.

Driver education evalation program

Senate Bill

No provision.

House Amendment

This section directs the Secretary of Transportation to carry out research, development and demonstration projects to improve and evaluate the effectiveness of various types of driver education programs and their effects in reducing traffic accidents, deaths, injuries, and property damage. Public and private agencies, institutions and individuals may be utilized to carry out such projects. Commencing July 1, 1975, and each year thereafter during the continuation of the program, the Secretary shall report to the Congress on the results of the projects funded under this program.

Conference Substitute

Same as the House amendment.

Transfer of funds among highway safety programs

Senate Bill

No provision.

House Amendment

This section authorizes the transfer of up to 30% of the funds apportioned in any fiscal year to a State in accordance with Section 144 (Bridge Reconstruction and Replacement), Section 152 (Projects for High Hazard Locations), and Section 153 (Program for the Removal of Roadside Obstacles) of the title 23, United States Code and section 203(d) of this Act (relating to rail-highway crossings) to any other of the above programs if such transfer is requested by the state highway department and is approved by the Secretary as being in the public interest.

Conference Substitute

Same as the House amendment.

Curb ramps for the handicapped

Senate Bill

No provision.

House Amendment

This provision adds a new requirement to paragraph 1 of subsection (b) of section 402 of title 23, United States Code by directing the Secretary of Transportation not to approve any State highway safety program authorized under section 402 which does not provide adequate and reasonable access for safe and convenient movement of the physically handicapped, including those in wheel chairs, across curbs constructed or replaced at all pedestrian crosswalks after July 1, 1976.

Conference Substitute

Same as the House amendment.

Highway safety standards

Senate Bill

No provision.

House Amendment

This section amends section 402(h) of title 23, United States Code, to provide that each uniform safety standard promulgated under that section on or before January 1, 1973, shall continue in effect unless otherwise specifically provided by law enacted after the date of enactment of the Federal-aid Highway Act of 1973. The Secretary shall not promulgate any other uniform safety standard under that section (including a revision of a standard continued in effect by the preceding sentence) unless otherwise specifically provided by law enacted after the date of enactment of the Federal-aid Highway Act of 1973.

Conference Substitute

Same as the House amendment.

Federal-aid safer roads demonstration program

Senate Bill

No provision.

House Amendment

No provision.

Conference Substitute

This section adds a new section 405 to title 23, a version of which was in the Senate passed safety bill, S. 893. This section authorizes $50 million for fiscal year 1974, and $100 million for each of the fiscal year 1975 and 1976 out of the Highway Trust Fund for a demonstration program for the correction of safety hazards on highways off the Federal-aid System. The Federal share for such projects would be 90%.

By June 30, 1974, each State should identify hazards which are to be corrected under this program and assign priorities for their correction. The hazards to be corrected must fall within three major categories: 1) projects to improve highway marking and signing; 2) to eliminate roadside obstacles; and 3) to eliminate hazards at railroad-highway grade crossings. Each State would designate the projects and priorities for correcting the hazards within these categories, subject to the approval of the Secretary.

In carrying out the Federal-Aid Safer Roads Demonstration Program authorized by this section, the Secretary shall coordinate such program with the programs and projects authorized in sections 144, 152, and 153 of this title and section 203(d) of the Highway Safety Act of 1973.

An interim report on the progress of this demonstration program shall be filed by January 1, 1975, and a final report shall be filed on January 1, 1976, with recommendations for the future implementation of the program.

Bicycle safety

Senate Bill

No provision.

House Amendment

No provision.

Conference Substitute

This section amends section 402 to include bicycle safety among the areas to be covered by highway safety standards, and adds bicycle safety to required driver education programs.

While recognizing that bikeways physically separated from highways provide the best protection against injuries resulting from accidents between bicycles and motorized vehicles, the Managers believe that other measures can also help to promote bicycle safety.

The Managers expect that the results of the Pedestrian and Bicycle Safety Study authorized by another section of the conference substitute will provide guidance to the Secretary and the States in implementing this section.

TITLE III

Senate Bill

This title amends the Urban Mass Transportation Act of 1964 by authorizing the Secretary of Transportation to make grants or loans to State and local public bodies for payment of operating expenses incurred by a mass transportation system. These grants would be obligated on a two-third Federal, one-third local matching basis and funded by the allocation of $800 million over the next two fiscal years.

This title also provides an additional $3 billion in contract authority to sustain the Urban Mass Transportation Act's capital grant program through fiscal year 1977. The cost-sharing formula for this program would be changed from two-thirds, one-third to 90 percent Federal, 10 percent local. This new ratio for funding mass transit capital improvements coincides with the present Federal interstate highway financing ratio.

House Amendment

This title would increase to 80 percent the Federal share of capital grants under the Urban Mass Transportation Act of 1964, as amended, and increase from $3.1 billion to $6.1 billion contract authority under the Act.

It would also permit the Urban Mass Transportation Administration to make grants to States and local public bodies or agencies thereof and enter into contracts with private and public agencies to carry out technical studies relating to planning, engineering, design and evaluation or urban mass transportation projects. The Federal share would be determined by the Secretary.

Subsection 301(e) would insure that nonsupervisory employees are not brought under the restrictive political provisions of the "Hatch Act" merely because a transit system may be a recipient of Federal assistance under this section.

Protective provisions are also included which would prevent discrimination in the program on the basis of sex and provide from funds authorized for capital grants under the Act additional funding on a permissive basis for providing mass transit services to meet the special needs of the elderly and the handicapped.

This title further provides that no funds authorized to be obligated, appropriated or expended pursuant to the Urban Mass Transportation Act of 1964, as amended, shall be impounded or withheld from obligation.

No assistance would be provided for the purchase of buses to any State or local public body or agency thereof which engages in charter bus operations in competition with private operators outside the urbanized area within which the public body or agency provides mass transit service.

No financial assistance would be provided to any State or local public body or agency thereof which engages in the transporting of school children and school personnel to and from school and school related functions in competition with or supplementary to the service currently provided by a private transportation company, or other person, provided that such company or person provides adequate transportation at reasonable rates, and in conformance with applicable safety standards. This would not apply if the State or local body was engaged in transporting school children or personnel during the 12-month period prior to the date of enactment of this title.

Conference Substitute

This title is the same as the House provision except that the prohibition against impoundment is deleted and the references to unfair competition are covered in a new section 164.

TITLE IV

Senate Bill

No comparable provision.

House Amendment

Title V of the House amendment provides that the time requirements in section 104(b) of title 23, United States Code, are not applicable to apportionment of sums authorized for that fiscal year in any title of this Act and requires the Secretary to apportion these sums as soon as practicable after the date of enactment of this Act.

Conference Substitute

This is the same as the provision of the House amendment with an additional section that all sums authorized in Public Law 93–61 are included within the authorizations contained in this Act for fiscal year 1974 and requiring the Secretary to make appropriate adjustments in apportionments made under Public Law 93–61 to conform them to this Act.

Lloyd Bentsen,
Jennings Randolph,
Edmund S. Muskie,
Joseph M. Montoya,
Howard Baker,
Robert T. Stafford,
James Buckley,
Managers on the Part of the Senate.

Jim Wright,
John A. Blatnik,
John C. Kluczynski,
Harold T. Johnson,
James V. Stanton,
Don H. Clausen,
Managers on the Part of the House.

REPORT OF SELECT COMMITTEE ON SMALL BUSINESS—REPORT OF A COMMITTEE (S. REPT. NO. 93–357)

Mr. BIBLE. Mr. President, I submit the 23d annual report of the Select Committee on Small Business. I ask unanimous consent that the report be printed, together with illustrations.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCOPE OF COMMITTEE'S ANNUAL REPORT

Mr. BIBLE. Mr. President, as we approach the 20th anniversary of the Small Business Administration on Monday next, may we observe that this annual report is probably one of the most complete in some few years in its examination into the many diversified economic facets of the 8½ million small businessmen and women of this country.

In the 14 chapters of this report, we believe particular attention should be called to the statistical sections dealing with Small Business Administration loans and small business' participation in Government procurement. These data provide some hard facts that both governmental agencies and the small business community itself can use advantageously.

The chapter dealing with "Helping Small Business Adjust to Environmental and Consumer Initiatives" is indicative of another interest area for Members of Congress, governmental agencies, and the small business community.

Another section provides replies to a committee questionnaire sent to all executive agencies and departments about their implementation efforts to comply with the preferential policy for small businesses spelled out in the Small Business Act and in the President's Executive Order 11518.

Just as the Congress this year has called on the Small Business Administration to submit hereafter a much fuller and more complete annual report to the Congress annually as a "State of Small Business" document, we believe our committee's annual report fulfills our comparable responsibilities to the Senate, to the Congress, to the Federal agencies, and to the small business community more effectively and capably. The areas of general lending, disaster and Government regulation relief, procurement and property disposal, research and development, technical assistance, dissemination of data and information, the small business advocacy role of the SBA, and other functions of that agency are covered. Other areas include the impact of crime against small business, corporate aspects of giantism, secrecy, and farming, small business taxation proposals, credit needs, economic controls, pharmaceutical competitive problems, the paperwork burden, and transportation-distribution subjects.

On this 20th anniversary year of the Small Business Administration, we sincerely believe that the small businesses nationwide should be recognized for their contribution and that Government should remain alert to their special problems and their inestimable importance to our economy in keeping it viable and strong.

PRINTING OF REVIEW OF REPORT ON COLUMBIA RIVER AND TRIBUTARIES, POWER INSTALLATION, LIBBY RE-REGULATING DAM, KOOTENAI RIVER, MONT. (S. DOC. NO. 93-29)

Mr. RANDOLPH. Mr. President, I present a letter from the Acting Secretary of the Army, transmitting a favorable report, dated October 3, 1972, from the Chief of Engineers, Department of the Army, together with accompanying papers and an illustration, on Columbia River and tributaries, power installation, Libby Re-Regulating Dam, Kootenai River, Mont., requested by a resolution of the Committee on Public Works, U.S. Senate, adopted July 27, 1962. I ask unanimous consent that the report be printed as a Senate document with illustrations, and referred to the Committee on Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOBILE HEALTH UNIT ACT OF 1973

Mr. WILLIAMS. Mr. President, on Wednesday, July 25, 1973, I introduced S. 2248, the Mobile Health Unit Act of 1973. Because of the widespread interest expressed in this bill, I ask unanimous consent that the text of S. 2248, be printed at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2248

A bill to amend Title VI of the Public Health Service Act to provide for adequate outpatient care in medically underserved areas

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Mobile Health Unit Act of 1973."

AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT

Sec. 2. Title VI of the Public Health Service Act (42 U.S.C. 201) is amended by adding at the end thereof the following new part:

"Part E—Purchase of Mobile Health Units for Medically Underserved Areas

"STATEMENT OF PURPOSE

"Sec. 651. It is the purpose of this part to assist in the provision of adequate health care through special project grants for the purchase of mobile health units to provide needed health services to individuals residing in medically underserved areas.

"DEFINITIONS

"Sec. 652. For the purposes of this part, the term—

"(1) 'mobile health unit' means a van, trailer, truck, bus, or other similar vehicle properly equipped to provide needed health services (including dental care) in a designated medically underserved area; and

"(2) 'medically underserved area' means an urban or rural area or population group designated by the Secretary as an area or population group with a shortage of personal health services. Such a designation may be made by the Secretary only after consideration of comments, if any, of (A) each State comprehensive health planning agency designated pursuant to section 314 (a) of this Act covering in whole or in part such area, or (B) each areawide comprehensive health planning agency designated pursuant to section 314(b) of this Act, covering in whole or in part such area.

"GRANTS FOR THE PURCHASE OF MOBILE HEALTH UNITS

"Sec. 653. (a) The Secretary shall make grants to qualified public and private nonprofit agencies, organizations, and institutions to assist them in meeting the cost of purchasing mobile health units. In no case shall a grant under this section be equal to more than 75 per centum of the cost of such mobile health units.

"(b) There are authorized to be appropriated to carry out the purposes of this section $10,000,000 for the fiscal year ending June 30, 1974; $15,000,000 for the fiscal year ending June 30, 1975; and $20,000,000 for the fiscal year ending June 30, 1976.

"(c) Funds appropriated by law to carry out the purposes of this section shall be obligated and expended in the manner provided for by law for their intended purposes; and no part of any such funds shall be impounded after the date of enactment of this part, whether by withholding or delaying their obligation or expenditure, by terminating projects, programs, or activities for which they were appropriated, or by taking any other kind of executive action which effectively precludes their obligation or expenditure.

"APPLICATION REQUIREMENTS

"Sec. 654. (a) For each project grant made under this section an application shall be submitted to the Secretary for approval in such form and containing such information as he may require. Such application shall set forth as a minimum—

"(1) a detailed description of the services to be provided;

"(2) a detailed description of the manner in which such services will be provided;

"(3) the source of the 25 per centum of the cost of the mobile health units to be provided by the applicant;

"(4) assurances that the personnel needed to properly staff such mobile health units shall be available;

"(5) a guarantee that such mobile units as are acquired in whole or in part with assistance under this part shall not be disposed of in any manner other than prescribed by the Secretary in regulations.

"(b) The Secretary shall not make a grant under this part until he has considered the comments, if any, of the planning agencies established under sections 314(a) or 314(b) covering in whole or in part the area to be served by the applicant.

"PAYMENTS

"Sec. 655. Grants under this part shall be paid in advance or by way of reimbursement in such installments and on such conditions as in the judgment of the Secretary will best carry out the purposes of this part."

ORDER OF REFERENCE—FOREIGN ASSISTANCE BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the foreign assistance bill is reported from the Committee on Foreign Relations, it be referred to the Committee on Finance for its advice on section 16, and that the Committee on Finance be authorized to report the bill back to the Senate not later than September 12, 1973.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. MATHIAS (by request):

S. 2271. A bill for the relief of Col. Elmer F. Smith, U.S. Air Force, retired. Referred to the Committee on Armed Services.

By Mr. TALMADGE:

S. 2272. A bill to authorize the Secretary of Commerce to transfer the N.S. *Savannah* to the city of Savannah, Ga. Referred to the Committee on Commerce.

By Mr. GOLDWATER:

S. 2273. A bill to repeal certain provisions of law allowing prospecting and mining within important components of the National Park System, to prohibit prospecting and mining activities within such areas, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. RIBICOFF (for himself and Mr. Weicker):

S. 2274. A bill to authorize the disposal of copper from the national stockpile. Referred to the Committee on Armed Services.

By Mr. McINTYRE:

S. 2275. A bill to provide for an extension of certain laws relating to the payment of interest on time and savings deposits, and for other purposes. Referred to the Committee on Banking, Housing, and Urban Affairs.

By Mr. JAVITS:

S. 2276. A bill to be cited as the "Neighborhood Conservation Act". Referred to the Committee on Banking, Housing, and Urban Affairs.

By Mr. FANNIN (for himself and Mr. Goldwater):

S. 2277. A bill to declare that certain federally-owned lands shall be held by the

United States in trust for the Hualapai Indian Tribe, of the Hualapai Reservation, Ariz., and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. TUNNEY (for himself and Mr. Brooke):

S. 2278. A bill to amend Section 611 of the Federal Aviation Act of 1958 to provide control and abatement of aircraft noise and sonic boom. Referred to the Committee on Commerce.

By Mr. HATFIELD:

S. 2279. A bill for the relief of certain Korean orphans. Referred to the Committee on the Judiciary.

By Mr. PERCY (for himself, Mr. Goldwater, Mr. Javits, Mr. Pearson, Mr. Cook, and Mr. Cannon):

S. 2280. A bill to amend the Internal Revenue Code of 1954 relating to maximum credit for contributions to candidates for public office. Referred to the Committee on Finance.

By Mr. McINTYRE (for himself and Mr. Brooke):

S.J. Res. 140. Joint resolution to provide for an extension of certain laws relating to the payment of interest on time and savings deposits. Referred to the Committee on Banking, Housing, and Urban Affairs.

By Mr. TOWER (for himself and Mr. Sparkman):

S.J. Res. 141. Joint resolution to provide for a temporary extension of the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GOLDWATER:

S. 2273. A bill to repeal certain provisions of law allowing prospecting and mining within important components of the National Park System, to prohibit prospecting and mining activities within such areas, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

A BILL PROHIBITING PROSPECTING AND MINING WITHIN CERTAIN IMPORTANT COMPONENTS OF THE NATIONAL PARK SYSTEM

Mr. GOLDWATER. Mr. President, the great National Parks and National and International Monuments of the United States are generally thought of as being closed to mining exploration and mineral removals. However, I was surprised to discover recently that this general rule is not applicable to all of the important units of our National Parks and Monuments System and that there are six special laws of Congress which have apparently been overlooked that open this many areas to prospecting and mining activities.

Mr. President, I am particularly concerned about the congressional oversight which allows mineral exploration and mining operations to occur on two of our great Monuments in Arizona, the Organ Pipe Cactus National Monument and the Coronado International Monument. These statutes, which date from World War II when Congress was looking for possible new mineral sources in the then all-out national military emergency, are now out-dated and unnecessary, but nevertheless allow bulldozers and drilling rigs and other facilities to move about throughout these Monuments with very little restriction and regardless of the location of a mining claim. In fact, under regulations which have been issued pursuant to the law applicable to the Organ Pipe Cactus National Monument, any locator of a mining claim within the Monument area is allowed to destroy and disturb vegetation within the boundaries of his claim to the extent that this is necessary for the proper development of his mining operations.

Mr. President, I believe Congress should repeal these laws and specifically prohibit prospecting and mining activities in these monuments and that also Congress should tackle the question of whether or not it wishes to allow mining activities to continue to go on within the other four parks and monuments where special laws now permit it. Therefore, I have included language in my bill which would not only repeal the provisions of law applicable to mining within the Arizona Monuments but, in order to focus on the principle involved, the other areas outside Arizona as well.

Mr. President, I should specifically indicate that my bill provides for the full compensation of any party's rights or interests, under any of the mining laws repealed by my proposal, which may exist as of the date of enactment of this bill and are terminated by it.

Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2273

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) (1) the Act entitled "An Act to permit mining within the Organ Pipe Cactus National Monument in Arizona," approved October 27, 1941 (55 Stat. 745; 16 U.S.C. 450 z); section 3(b) of the Act entitled "An Act to provide for the establishment of the Coronado International Memorial, in the State of Arizona," approved August 18, 1941 (55 Stat. 630, 631; 16 U.S.C. 450 y–2 (b)), relating to prospecting and mining within the Coronado Memorial area; the Act entitled "An Act to extend the mining laws of the United States to the Death Valley National Monument in California," approved June 13, 1933 (32 Stat. 202, 203; 16 U.S.C. 123); section 2 of the Act entitled "An Act to provide for uniform administration of the National Parks by the United States Department of the Interior, and for other purposes," approved January 26, 1931 (46 Stat. 1043; 16 U.S.C. 350 a), relating to prospecting and mining within the Mount McKinley National Park; the Act entitled "An Act to permit mining within the Glacier Bay National Monument," approved June 22, 1936 (49 Stat. 1817); and that portion of section 3 of the Act entitled "an Act reserving from the public lands in the State of Oregon, as a public park for the benefit of the people of the United States, and for the protection and preservation of the game, fish, timber, and all other natural objects therein, a tract of land herein described, and so forth," approved May 22, 1902, relating to the location of mining claims and the working of the same within the Crater Lake National Park, are hereby repealed; and (2) all prospecting and mining activities within the boundaries of any of the National Parks and National and International Monuments referred to above are hereby prohibited from and after the date of enactment of this Act.

(b) (1) Any party of parties possessing any rights or interests within any of the National Parks and National and International Monuments referred to in subsection (a) which (A) were acquired prior to the date of enactment of this Act and (B) are terminated by this Act, shall be entitled to receive compensation for such rights and interests in the manner hereinafter provided for in this subsection.

(2) Within the boundaries of the National Parks and National and International Monuments referred to in subsection (a), the Secretary is authorized and directed to acquire, by donation, purchase with donated or appropriated funds, or exchange, any existing rights or interests acquired prior to the date of enactment of this Act pursuant to any of the mining laws of the United States, including, for purposes of this Act, the provisions of law described in subsection (a).

(3) For the purpose of payment of compensation as provided for in this subsection, there are hereby authorized to be appropriated, from any funds in the Treasury not otherwise appropriated, such sums as may be necessary to defray the costs, as determined by the Secretary.

By Mr. JAVITS:

S. 2276. A bill to be cited as the "Neighborhood Conservation Act." Referred to the Committee on Banking, Housing and Urban Affairs.

NEIGHBORHOOD CONSERVATION ACT

Mr. JAVITS. Mr. President, I introduce for appropriate reference legislation to encourage the preservation of existing housing, to stimulate the conservation and upgrading of existing low- and moderate-income housing; and to generate private capital for housing repairs, maintenance, and rehabilitation.

In New York City approximately 180,000 units were abandoned between 1965 and 1970. In addition the existing housing shortages for low- and moderate-income families remain quite severe throughout New York State and the Nation. Heretofore, national housing efforts have focused mainly on the production of new housing while neglecting the existing housing stock. In New York City much energy and large resources have been poured into new housing for depressed communities, while housing in transitional or bordering neighborhoods have been deteriorating at an alarming rate. Transitional neighborhoods such as Washington Heights in Manhattan, Crown Heights, East Flatbush, and Bushwick in Brooklyn and Tremont in the Bronx can be the depressed communities of tomorrow. Therefore, at this time we need new initiatives to preserve and upgrade our existing housing while continuing production efforts.

Under the section 236 program, which involves a deep interest subsidy down to 1 percent, HUD has been unwilling as yet to permit the program to be used for large scale moderate rehabilitation. Also, because section 236 rehabilitation subsidies compete with subsidies for new housing, HUD has placed a limit on the 236 funds to be used for rehabilitation. Finally, under section 236, rehabilitation must be extensive with no provisions made for moderate rehabilitation. Thus, the existing programs are not adequate to cope with the crucial problem of abandonment and decay of housing in transitional neighborhoods.

The legislation I am introducing today provides for a three-pronged attack on the problem of conserving existing low- and moderate-income housing stock and generating private capital for repairs, maintenance, and rehabilitation.

First, the legislation provides for areas to be designated as "neighborhood conservation areas" by local governmental entities, which areas would then be eligible for grants by HUD to be used for repairs of streets, sidewalks, playgrounds, and schoolyards; improvements of private property to eliminate dangers to health and safety and other similar neighborhood-oriented activities and improvements calculated to aid in achieving the objectives of the legislation.

In order to receive grants, localities would have to submit a 5-year plan and demonstrate at the end of each year that significant progress was being made. It is hoped that this program along with the other parts of the bill will help localities make a coordinated attack on abandonment and decay of existing housing.

Second, the legislation would provide for a new mortgage insurance program covering residential property located in neighborhood conservation areas. All properties covered would be multifamily rental properties, or cooperative or condominium properties which are basically sound or capable of being placed in standard conditions without substantial rehabilitation.

In the case of a mortgagor who is an owner-occupier of a building containing two to seven units, or of a cooperative or condominium covering more than seven units, the mortgage could cover 97 percent of the value of the property. The mortgage could be upped to 100 percent of value for nonprofit organizations and would be for 90 percent of value in the case of limited dividend entities. However, only owners who lived on the premises would be allowed to secure mortgages under this legislation on property of less than seven units. This will serve to eliminate many of the abuses we have seen in existing insurance programs covering small dwelling units.

The mortgage program will allow for refinancing or sale of the property provided that repair and improvements are made to such property. HUD will have to take such steps as it deems necessary to insure that repairs and improvements have been or will be made.

Third, the legislation provides that rentals on properties which receive mortgage insurance shall not be increased for a period of at least 1 year from the date of final endorsement of the insurance or thereafter unless the increase can be justified on the basis of increased operating expenses. For the purpose of maintaining or reducing rentals the Secretary of HUD is authorized to make interest reduction payments on behalf of the owners of the properties—but for the benefit of the tenants which will reduce interest rates down to a minimum of 4 percent per annum. This "shallow subsidy" should enable rents to remain steady or perhaps decrease depending on the individual owner's mortgage terms.

Finally, the Secretary of HUD is authorized to take such steps as accelerated processing of applications under the program; implementing the Government National Mortgage Association's authority to purchase mortgages under this legislation and to coordinate with other Government departments to insure that manpower training funds and funds for small businesses and minority businesses are made available to neighborhood conservation areas.

Authorizations for neighborhood conservation area grants are $100 million for fiscal 1974, $150 million for fiscal 1975, and $200 million for fiscal 1976 and for mortgage interest reduction payments, $50 million for fiscal 1974, $100 million for fiscal 1975, and $150 million for fiscal 1976.

I believe that this legislation will provide the coordinated attack that is necessary to preserve many of the "transitional areas" in New York State and other States of the Nation. It is imperative that this new program be enacted as quickly as possible.

Mr. President, I ask unanimous consent that the bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2276

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Neighborhood Conservation Act".

PURPOSE

Sec. 2. The purpose of this Act is to encourage the preservation of older neighborhoods which are threatened with blight and housing abandonment and to stimulate the broad-scale conservation and upgrading of existing low- and moderate-income housing by establishing a program of neighborhood conservation grants and a new program of mortgage insurance designed to generate private capital for housing repairs, maintenance, and rehabilitation.

GRANTS OF NEIGHBORHOOD CONSERVATION AREAS

Sec. 3. For the purpose of this Act, the term "neighborhood conservation area" means any area in which (1) the predominant residential area is housing for low- and middle-income families, and (2) such housing, though basically sound, is threatened with decay and abandonment or is in need of repair, maintenance, rehabilitation or refinancing.

PROGRAM AUTHORITY

Sec. 4. (a) The Secretary of Housing and Urban Development (hereafter referred to as the "Secretary") is authorized to make, and to contract to make, grants under this section to cities, municipalities, counties, and other general purpose units of local government to assist them in carrying out designated neighborhood conservation area programs designed to improve basic community facilities and services and bring about such other changes as may be necessary or appropriate to eliminate the threat of housing abandonment or decay in such areas and to restore and maintain such areas as suitable and stable living environments.

(b) Grants under this section may cover a period of not to exceed five years and may provide 100 per centum of the cost of any of the following types of activities within the neighborhood conservation area:

(1) The repair of streets, sidewalks, playgrounds, schoolyards, paths, street lights, traffic signs and signals, publicly owned utilities, or public buildings which have an impact on the quality of life in the neighborhood.

(2) The improvement of private properties to eliminate dangers to the public health and safety.

(3) The demolition of structures determined to be structurally unsound or unfit for occupancy.

(4) The establishment of temporary or permanent public playgrounds or parks within the area to serve residents of the neighborhood.

(5) Other similar neighborhood-oriented activities and improvements calculated to aid significantly in achieving the objectives of this section.

(6) Assistance to qualified neighborhood-based nonprofit organizations in carrying out development activities under other provisions of this Act or in carrying out management training, maintenance, or tenant education programs.

(c) To be eligible for assistance under this section, a locality acting through its chief executive authority, shall designate a specific area and prepare and submit to the Secretary a plan specifying—

(1) the improvements in basic community facilities and services to be made in such area over the five-year period in which such improvements will be made;

(2) the programs to be introduced to improve the quality of housing in the area; and

(3) the public and private resources which will be marshaled to carry out such improvements and programs.

(d) Grants under this section shall be made, or shall continue to be in effect, with respect to any neighborhood conservation area if the Secretary finds that—

(1) the five-year plan submitted by the locality involved is workable and will provide an effective means of carrying out the purposes of this Act in such areas;

(2) the locality has the necessary resources to carry out in a timely fashion all of the improvements and programs set forth in the plan;

(3) the locality continues to make significant progress toward achieving its objectives it established for itself in the plan during the term of the grant; and

(4) the locality satisfies such other conditions and requirements as the Secretary may prescribe to insure that the purpose of this Act will be achieved.

(e) There are authorized to be appropriated for grants under this section not to exceed $100,000,000 for the fiscal year ending June 30, 1974, not to exceed $150,000,000 for the fiscal year ending June 30, 1975, and not to exceed $220,000,000 for the fiscal year ending June 30, 1976. Any amount so appropriated shall remain available until expended, and any amount authorized for any fiscal year under this subsection which is not appropriated may be appropriated for any succeeding fiscal year commencing prior to July 1, 1976.

(f) The Secretary is authorized to designate an area which meets the requirements of this section as a neighborhood conservation area notwithstanding the unavailability of funds for grants under this section. Upon such designation, the Secretary may furnish other assistance (including assistance under any mortgage insurance or related housing maintenance program) to such area.

FEDERAL MORTGAGE INSURANCE TO FACILITATE SALE OR REFINANCING OF HOUSING IN NEIGHBORHOOD CONSERVATION AREAS

Sec. 5. (a) Title II of the National Housing Act is amended by adding at the end thereof the following new section:

"MORTGAGE INSURANCE IN NEIGHBORHOOD CONSERVATION AREAS

"Sec. 244. (a) The purpose of this section is to help preserve and upgrade the quality of housing in designated neighborhood conservation areas by facilitating the rehabilitation refinancing of such housing or its transfer to tenant- or neighborhood-based corporate ownership.

"(b) The Secretary is authorized to insure any mortgage in accordance with the provisions of this section and to make commitments for such insurance prior to the date of the execution of the mortgage or disbursement thereon upon such terms and conditions as he may prescribe.

"(c) In order to carry out the purpose of this section, the Secretary is authorized to insure any mortgage which covers residential property located in a neighborhood conservation area approved for assistance under section 4 of the Neighborhood Conservation Act or any area designated as a neighborhood conservation area under section 4(e) of such Act, subject to the following conditions:

"(1) The mortgage shall cover a multifamily rental property, or a cooperative or condominium property which is basically sound or capable of being placed in standard condition without substantial rehabilitation and which contains—

"(A) more than one but less than seven dwelling units if the mortgagor is an individual or entity described in paragraph (2) of this subsection; or

"(B) seven or more dwelling units if the mortgagor is an organization described in paragraph (3) of this subsection.

"(2) The mortgage covering property referred to in paragraph (1)(A) of this subsection shall be executed by—

"(A) an individual who owns the property and occupies the property and is refinancing outstanding indebtedness related to the property, or who is purchasing the property and will occupy one or more of the units in the property after its purchase;

"(B) a cooperative or condominium organization which consists of a majority of the residential units on the property; or

"(C) a private nonprofit organization which is based in the neighborhood in which the property is located and which is approved by the Secretary.

"(3) The mortgage on a property referred to in paragraph (1)(B) of this subsection shall be executed by—

"(A) a cooperative or condominium organized which consists of or includes a majority of the occupants of the property;

"(B) a private nonprofit organization or association approved by the Secretary; or

"(C) a limited dividend ownership entity (as defined by the Secretary) including, but not limited to, corporations, general or limited partnerships, trusts, associations, and single proprietorships.

"(4) In the case of a mortgage involving a mortgagor referred to in paragraphs (2)(A), (2)(B), and (3)(A), the mortgage shall include a principal obligation, including such initial services charges, discounts, appraisal, inspection, and other fees, as the Secretary shall approve in an amount not to exceed the sum of 97 per centum of the Secretary's estimate of the value of the property before any repairs or improvements deemed necessary by the Secretary to help restore or maintain the area in which the property is situated as a stable and suitable living environment, except that in no case involving refinancing shall such principal amount exceed such estimated cost of repairs and improvements and the amount (as determined by the Secretary) required to refinance existing indebtedness secured on the property.

"(5) In the case of a mortgage involving a mortgagor referred to in paragraph (2)(C) or (3)(B), the mortgage shall include a principal obligation, including such initial services charges, discounts, appraisal, inspection, and other fees, as the Secretary shall approve in an amount not to exceed the sum of 100 per centum of the Secretary's estimate of the value of the property before any repairs or improvements deemed necessary by the Secretary to help restore or maintain the area in which the property is situated as a stable and suitable living environment, except that in no case involving refinancing shall such principal amount exceed such estimated cost of repairs and improvements and the amount (as determined by the Secretary) required to refinance existing indebtedness secured in the property.

"(6) In the case of a mortgage involving a mortgagor referred to in paragraph (3)(C), the mortgage shall include a principal obligation, including such initial services charges, discounts, appraisal, inspection, and other fees, as the Secretary shall approve in an amount not to exceed the sum of 90 per centum of the Secretary's estimate of the value of the property before any repairs or improvements deemed necessary by the Secretary to help restore or maintain the area in which the property is situated as a stable and suitable living environment, except that in no case involving refinancing shall such principal amount exceed such estimated cost of repairs and improvements and the amount (as determined by the Secretary) required to refinance existing indebtedness secured on the property.

"(7) The mortgage shall—

"(A) provide for complete amortization by periodic payments within such term (not exceeding forty years) as the Secretary shall prescribe, except that in the case of a property referred to in paragraph (1)(A) such term shall not exceed twenty years;

"(B) bear interest (exclusive of premium charges for insurance and service charges, if any) on the amount of the principal obligation outstanding at any time at not to exceed such per centum per annum as the Secretary finds necessary to meet the mortgage market.

"(8) The Secretary shall not insure any mortgage under this section unless he has received satisfactory and enforceable assurances from the mortgagor that the refinancing or sale of the property (and any improvements thereto) will not result, directly or indirectly, in any increase in the rentals or other charges for dwelling units in the property for a period of at least one year from the date of final endorsement for mortgage insurance, or in any increases in such rentals thereafter in excess of such increases as the Secretary finds justified and approves on the basis of increased operating expenses. In addition, the Secretary may place such further restrictions on the mortgagor as to sales, charges, capital structure, rate of return, and methods of operation as, in the opinion of the Secretary, will best effectuate the purpose of this section.

"(d)(1) For the purpose of maintaining or reducing rentals or other charges for properties insured under this section, the Secretary is authorized to make, and to contract to make periodic interest reduction payments on behalf of the owners of the properties but for the benefit of the residents, which shall be accomplished through payments to mortgagees holding mortgages meeting the special requirements of this subsection.

"(2) Interest reduction payments with respect to a property shall only be made during such time as the property is operated as a rental housing and is subject to a mortgage which meets the requirements of, and is insured under, this section.

"(3) The interest reduction payments to a mortgagee by the Secretary on behalf of a property shall be in an amount not exceeding the difference between the monthly payment for principal, interest, and mortgage insurance premium which the property owner as a mortgagor is obligated to pay under the mortgage and the monthly payment for principal and interest such property owner would be obligated to pay if the mortgage were to bear interest at the rate of 4 per centum per annum.

"(4) The Secretary may include in the payment to the mortgagee such amounts, in addition to the amount computed under this subsection as he deems appropriate to reimburse the mortgagee for its expenses in handling the mortgage.

"(5) As a condition for receiving the benefits of interest reduction payments, the owner shall operate the project in accordance with such requirements with respect to tenant eligibility and rents as the Secretary may prescribe.

"(e) The Secretary may consent to the release of a part or parts of the mortgage property from the lien of any mortgage insured under this section upon such terms and conditions as he may prescribe.

"(f) Prior to insuring any mortgage under this section, the Secretary shall obtain satisfactory and enforceable assurances from the mortgagor that all repairs and improvements necessary to place the underlying property in standard condition have been or will be made and that such property will be continuously maintained in standard condition.

"(g) The Secretary shall cooperate with the Secretary of Labor and the Secretary of Health, Education, and Welfare, to insure that, to the greatest extent feasible, funds appropriated under the Manpower Development and Training Act of 1962, as amended, shall be made available on a priority basis for training and employment support use in connection with improvements financed by mortgages insured under this section. The Secretary shall cooperate with the Director of the Office of Minority Business Enterprises, the Director of the Educational Development Agency, and the Administrator of the Small Business Administration, to insure maximum utilization of minority and small business contractors in connection with improvements financed by mortgages insured under this section.

"(h) In administering the program established by this section, the Secretary shall use his best efforts to enlist the support and actual cooperation of State and local governments in establishing State or local mortgage lending funds, in providing adequate municipal services in low- and moderate-income areas, particularly in areas threatened by building abandonment, and in insuring, to the maximum extent feasible, the administration of laws and ordinances relating to existing housing stock, including building codes, housing codes, health and safety codes, zoning laws, and property tax laws, in such manner as will encourage maximum utilization of this program in accordance with the purposes herein expressed.

"(1) The Secretary shall develop and maintain full information and statistics regarding the utilization of and experiences incurred under this program, which shall include, but not be limited to, information and statistics concerning—

"(1) financial market conditions, including the interest rates, payback periods and other terms and conditions affecting housing eligible to be financed hereunder;

"(2) the character, extent and actual costs of repairs, renovations and moderate housing rehabilitation undertaken hereunder;

"(3) factors affecting and statistics showing the extent of actual and potential utilization of this program;

"(4) factors affecting the processing time of applications submitted hereunder and statistics showing processing times actually experienced;

"(5) mortgage arrearages and defaults on mortgage loans insured hereunder;

"(6) abuses of the program, actual or potential, and remedial or punitive actions taken in connection therewith; and

"(7) the costs of administering this mortgage-insurance program, provided by this section.

The Secretary shall submit each year to the Congress and to the President an annual reports summarizing such information. Such reports shall include his analysis of the effectiveness and scope of the program and his recommendations for its improvement and greater utilization.

"(j) If the Secretary determines that the unavailability of property insurance coverage is hindering the widespread utilization of this program, he shall take all practicable steps to ensure that the protections and benefits of the Urban Property Protection and Reinsurance Act of 1968 are utilized to provide adequate property insurance coverage for mortgagors and mortgagees under this program.

"(k) If the Secretary determines that widespread utilization of this program is hindered by the charging of points or discounts by mortgagees, he shall take steps to implement the Government National Mortgage Association's authority under section 305(j) of this Act to purchase and make commitments to purchase mortgages insured under this section, at a price equal to the unpaid principal amount thereof at the time of purchase, with adjustments for interests and any comparable items, and to sell such mortgages at any time at a price within the range of market prices for the particular class of mortgages involved at the time of sale as determined by the Association.

"(l) If the Secretary determines that widespread utilization of this program is hindered by delays in processing and approval of projects, he shall establish procedures to ensure, to the maximum extent feasible, the expeditious processing and approval of applications for insurance hereunder, including, where necessary and appropriate, the use of procedures and practices similar to those under title I—Home Improvement Loans.

"(m) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, including such sums as may be necessary to make interest reduction payments under contracts entered into by the Secretary under this section. The aggregate amount of outstanding contracts to make such payments shall not exceed amounts approved in appropriation Acts and payments pursuant to such contracts shall not exceed $50,000,000 per annum prior to July 1, 1974, which maximum dollar amount shall be increased by $100,000,000 on July 1, 1975, by $150,000,000 on July 1, 1976."

By Mr. TUNNEY (for himself and Mr. Brooke):

S. 2278. A bill to amend Section 611 of the Federal Aviation Act of 1958 to provide control and abatement of aircraft noise and sonic boom. Referred to the Committee on Commerce.

Mr. TUNNEY. Mr. President, I introduce for myself and the Senator from Massachusetts (Mr. Brooke), for appropriate reference a bill to amend section 611(c)(1) of the Federal Aviation Act of 1958 to provide that not later than October 27, 1973, the Environmental Protection Agency shall submit to the Federal Aviation Administration proposed regulations to provide such control and abatement of aircraft noise and sonic boom as EPA determines is necessary to protect the public health and welfare.

Precisely 9 months ago today, the President signed the Noise Control Act of 1972 (Public Law 92-574), promising long overdue relief to residents around airports, under flightpaths, near highways, railroad tracks, as well as inside their own homes.

As sponsor, with Senator Muskie, of the Senate legislation, I remember vividly the long hours involved in arriving at provisions concerning the control and abatemnet of aircraft noise. The legislation underwent numerous changes on this point, and what were generally conceded to be very effective provisions passed the Senate last October 13 by an overwhelming vote of 75 to 5.

The House bill was far weaker, and the necessity to arrive at conforming amendments in the last days of the session resulted in a hybrid formula whereby, with respect to aircraft and airport noise, the Environmental Protection Agency was to make a 9 month study of the adequacy of present noise controls at the Federal, State and local levels, and the need for additional controls. EPA would then submit recommendations to the FAA which the latter must publish as its own notice of proposed rulemaking. Opportunity for public participation and review follows. While it is not as strong as the Senate version, the compromise affords an adequate regulatory framework if the administrators do their job.

At this juncture, EPA has completed its 9-month study, which is being submitted to the Congress today. In it, EPA indicates that it plans to make recommendations to the FAA on the following: First, flight and operational noise controls, second, amendments to the present FAR 36 standards to specify lower noise levels for future aircraft, third, regulations to control and reduce noise emissions from existing aircraft, and fourth, airport noise certification regulations to assure control over cumulative noise near airports.

This is a good list. The problem is that EPA fails to indicate when it will submit the recommendations. In an informal briefing yesterday, my office was told that an "optimistic" deadline was the first of next year for one set of recommendations, and that the others would follow in the 6 months thereafter. This is despite EPA's own indications earlier this year that it would be able to complete its recommendations by late October 1973.

Mr. President, I submit we cannot wait that long to take action on the problem. It has been studied for years, and, according to a recent Supreme Court decision, the FAA has had authority to do something about it since 1958.

Accordingly, my bill would amend the FAA Act to require that EPA submit its recommendations not later than October 27, 1973—3 months from now and the deadline EPA itself set earlier this year.

It seems to me that allowing EPA 1 full year from enactment of the Noise Control Act is sufficient time to get its facts in order. EPA's 9-month study, submitted today, reflects careful thought and months of input from and consultation with interested parties. Moreover, after EPA's recommendations, based on its study, are submitted to the FAA, there will be ample time for public comment on them—and, I would add, time for the Congress to reflect on whether additional legislation might be necessary.

The worst possible result is to wait another year and delay relief. Time has run out.

I ask unanimous consent to insert the text of the proposed legislation in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2278

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 611(c)(1) of the Federal Aviation Act of 1958 (relating to the control and abatement of aircraft noise and sonic boom) is amended by striking out "Not earlier than the date of submission of the report required by section 7(a) of the Noise Control Act of 1972" and inserting in lieu thereof "Not later than October 27, 1973".

By Mr. HATFIELD:

S. 2279. A bill for the relief of certain Korean orphans. Referred to the Committee on the Judiciary.

Mr. HATFIELD. Mr. President, I am today introducing private legislation whose purpose is to allow the admission to the United States of 25 young Korean orphans. I do so at the request of the Holt adoption program, of Eugene, Oreg., and because of my own abiding concern about the plight of these young people, the children of Korean women and American servicemen.

These orphans are now teenagers and in dire need of the guidance and foster home placement which the Holt adoption program, recognized internationally for its fine work, wishes to provide.

In the humanitarian interest of providing to these orphans—innocent victims of the Korean war—the assistance they need so urgently as they approach adulthood, I respectfully urge the favorable consideration of this worthy measure by my colleagues.

The 25 orphans were selected from among many others to whom the Holt agency has furnished a foster home in Korea for the past 2 years. They are being taught English and are being given American cultural training. Holt will assume financial responsibility and foster home placement, as well as vocational training, so they will not become public charges. Special care has been taken in their selection to assure that the young people will have language fluency, will be adaptable to American culture, and are capable of becoming productive American citizens.

By Mr. TOWER (for himself and Mr. Sparkman):

S.J. Res. 141. Joint resolution to provide for a temporary extension of the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. TOWER. Mr. President, quite a while back, the House passed House Joint Resolution 512. It contained basic extensions of FHA and VA mortgage insurance programs. This bill was referred to the Committee on Banking, Housing and Urban Affairs where we gave it due consideration.

This bill was reported by our committee containing several controversial additions. One of these was a provision which would make it mandatory that HUD spend all money that was appropriated or authorized for housing programs which had not yet been utilized. A similar provision relating to rural housing was attached. Additionally, a provision expanding the section 518(B) program to include its application to houses insured under section 203 and section 221(d)(2) was included.

It was thought that because of the controversial nature of these additions to a simple FHA-VA extension bill, it would be very difficult to bring this legislation to the floor in the closing days prior to the July 4 recess. In light of this, and because of our concern to continue the FHA and VA programs, on June 25, 1973, our committee reported Senate Joint Resolution 129. This bill would have extended the FHA and VA programs for 30 days, enough time to continue the housing programs while at the same time ironing out our differences with House Joint Resolution 512, as reported.

Unfortunately, neither bill was passed. Last Friday, House Joint Resolution 512 passed the Senate unanimously. I attempted to delete some of the controversial provisions in the bill, but my efforts failed. I did this primarily because I objected to the manner in which the provision which expanded the section 518 (B) program was written. I was also aware of the difficulty we would have in the conference with the House on this matter. They sent over a simple extension bill which was passed in the House under a suspension of the rules. We sent to them a bill which called for an ending of the housing moratorium and a whole new program which greatly affects the FHA.

Mr. President, my main concern now is to get FHA moving again. We have gone for almost a month with no FHA programs. Thousands of units have not been built because of this delay. This includes both multifamily projects and single family homes. Additionally, mortgage money is getting more difficult to obtain every day we delay. In Houston and Dallas, interest rates on a conventional mortgage is running at 9¼ percent to 9½ percent. Often times purchasers cannot find a lending institution which has any money to lend them, even at these rates. The only alternative for many of these prospective purchasers is the FHA and VA programs. That is why we cannot delay any longer.

Yesterday we held a conference on House Joint Resolution 512. Unfortunately we did not reach an agreement regarding a resolution of the differences between the House and Senate versions. We are to meet again on Monday to see if we can settle our differences. My concern at this point is that if we cannot settle those differences then it is going to be very difficult to get a bill passed which would reinstate the FHA programs prior to the August recess. And if we do not get a bill through, there will be no FHA assistance until mid-September. We cannot allow this to happen.

Mr. President, it is my hope that we can resolve our differences in conference. But, we have two or three other conferences with the House Banking Committee which have been going on for months now. It is possible that this might fall into that category.

It is for these reasons that I think it is imperative to act favorably on this joint resolution as soon as possible. The potential homeowners of this country cannot wait any longer.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 578

At the request of Mr. Case, the Senator from New Mexico (Mr. Montoya) was added as a cosponsor of S. 578, requiring congressional authorization for the reinvolvement of American forces in further hostilities in Indochina.

S. 1780

At the request of Mr. Pell, the Senator from Rhode Island (Mr. Pastore) was added as a cosponsor of S. 1780, to prohibit discriminatory employment practices with respect to physically handicapped persons.

S. 1868

At the request of Mr. McGee (for Mr. Humphrey), the Senator from Connecticut (Mr. Weicker) was added as a cosponsor of S. 1868, a bill to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law-abiding member of the international community.

S. 2060

At the request of Mr. Hartke, the Senator from Connecticut (Mr. Ribicoff), and the Senator from Rhode Island (Mr. Pell) were added as cosponsors of S. 2060, to authorize the Secretary of Transportation to act to assure the continuance of rail services in the northeastern United States, and for other purposes.

S. 2125

At the request of Mr. Domenici, the Senator from New Mexico (Mr. Montoya) was added as a cosponsor of S. 2125, to amend the act entilted "An Act granting land to the city of Albuquerque for public purposes," approved June 9, 1906.

S. 2134

At the request of Mr. Biden, the Senator from Oregon (Mr. Hatfield), the Senator from California (Mr. Cranston), the Senator from Idaho (Mr. Church), the Senator from Florida (Mr. Chiles), the Senator from South Dakota (Mr. Abourezk), and the Senator from Minnesota (Mr. Humphrey) were added as cosponsors of S. 2134, to provide for annual authorization of appropriations to the U.S. Postal Service.

S. 2200

At the request of Mr. Cranston, the Senator from Nevada (Mr. Bible), the Senator from North Dakota (Mr. Burdick), the Senator from Nevada (Mr. Cannon), the Senator from Oregon (Mr. Hatfield), the Senator from Maine (Mr. Hathaway), the Senator from Iowa (Mr. Hughes), the Senator from Washington (Mr. Magnuson), and the Senator from Utah (Mr. Moss) were added as cosponsors of S. 2200, the Right to Financial Privacy Act.

SENATE JOINT RESOLUTION 124

At the request of Mr. Nelson, the Senator from Maine (Mr. Hathaway) was added as a cosponsor of Senate Joint Resolution 124, to establish a Joint Committee on Individual Rights.

EXTENSION OF EMERGENCY EMPLOYMENT ACT OF 1971—AMENDMENT

AMENDMENT NO. 430

(Ordered to be printed, and to lie on the table.)

Mr. TAFT. Mr. President, I am submitting an amendment, in the nature of a substitute, which I intend to propose to the bill (S. 1560) to extend the Emergency Employment Act of 1971, to provide public service employment for disadvantaged and long-term unemployed persons, and for other purposes. I ask unanimous consent that the amendment and a section-by-section analysis be printed in the Record.

There being no objection, the amendment and analysis were ordered to be printed in the Record, as follows:

Amendment No. 430

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Public Employment Act of 1973".

STATEMENT OF FINDINGS AND PURPOSE

Sec. 2. (a) The Congress finds and declares that—

(1) the incidence of unemployment and poverty still persists at high levels in some of the Nation's cities and rural areas, notwithstanding the current high state of the general economy;

(2) the Nation has failed to fulfill the goal set twenty-five years ago in the Employment Act of 1946 to assure maximum levels of employment through public policy;

(3) continued high unemployment in some areas severely limits the work opportunities available to low-income persons, and migrants, persons of limited English-speaking ability, and others from socioeconomic backgrounds generally associated with substantial unemployment and underemployment;

(4) work opportunities must be made available for the increased number of persons in the labor force, including the many young persons who are entering the labor force, persons who have recently been separated from military service, and older persons who desire to remain in, enter, or reenter the labor force.

(5) there still exist unmet needs for publice services in urban and rural areas in such fields as environmental quality, health care and public health, housing and neighborhood improvements, recreation, education, public safety, maintenance of streets, parks, and other public facilities, rural development, transportation, beautification, conservation, crime and fire prevention and control, prison rehabilitation and other fields of human betterment and public involvement.

(b) It is therefore the purpose of this Act to utilize unused and underused manpower resources by providing such unemployed, underemployed and disadvantaged persons with employment in jobs providing needed public services so as to provide them with appropriate training and related services to enable them to move into permanent employment.

DEFINITIONS

Sec. 3. As used in this Act, the term—

(1) "Secretary" means the Secretary of Labor.

(2) "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(3) "public service" includes, but is not limited to, work in such fields as environmental quality, health care, education, public safety, crime prevention and control, prison rehabilitation, transportation, recreation, maintenance of parks, streets and other public facilities, solid waste removal, pollution control, housing and neighborhood improvements, rural development, conservation, beautification, and other fields of human betterment and community improvement.

(4) "health care" includes, but is not limited to, preventive and clinical medical treatment, voluntary family planning services, nutrition services, and appropriate psychiatric, psychological, and prosthetic services.

(5) "unemployed persons" means—

(a) persons who are without jobs and who want and are available for work; and

(b) adults who or whose families receive money payments pursuant to a State plan approved under title I, IV, X, or XVI of the Social Security Act (1) who are determined by the Secretary of Labor, in consultation with the Secretary of Health, Education, and Welfare, to be available for work, and (2) who are either (i) persons without jobs, or (ii) persons working in jobs providing insufficient income to enable such persons and their families to be self-supporting without such public assistance;

and the determination of whether persons are without jobs shall be made in accordance with the criteria used by the Bureau of Labor Statistics of the Department of Labor in defining persons as unemployed;

(6) "underemployed persons" means—

(a) persons who are working part-time but seeking full-time work;

(b) persons who are working full-time but receiving wages below the poverty level determined in accordance with criteria as established by the Director of the Office of Management and Budget.

FINANCIAL ASSISTANCE

SEC. 4. (a) The Secretary of Labor shall enter into arrangements with eligible applicants in accordance with the provisions of this Act in order to make financial assistance available in areas of persistent high unemployment for the purposes of providing transitional employment for unemployed and underemployed persons in jobs providing needed public services and training and manpower services related to such employment which are otherwise unavailable, and enabling such persons to move into employment or training not supported under this Act.

(b) Not less than 85 per centum of the funds authorized to be appropriated pursuant to this Act shall be expended for wages and employment benefits to persons employed in public service jobs pursuant to this Act.

ELIGIBLE AREAS AND APPLICANTS

SEC. 5. (a) The Secretary shall designate as areas of persistent unemployment those areas within the United States in which he determines, upon the basis of standards generally comparable with those set forth in paragraphs (1) and (2), that there has existed substantial and persistent unemployment for an extended period of time. There shall be included among the areas so designated any area—

(1) where the Secretary of Labor finds that the rate of unemployment, excluding unemployment due primarily to temporary or seasonal factors, is currently 6 per centum or more and has averaged at least 6 per centum for the qualifying time periods specified in paragraph (2); and

(2) where the Secretary of Labor finds that the annual average rate of unemployment has been at least—

(A) 50 per centum above the national average for three of the preceding four calendar years, or

(B) 75 per centum above the national average for two of the preceding three calendar years, or

(C) 100 per centum above the national average for one of the preceding two calendar years.

(b) An area as defined in subsection (a) shall continue to be deemed an area of persistent high unemployment until the rate of unemployment has been less than 6 per centum, on the average, for the succeeding twelve months.

(c) In determining the rate of unemployment for the purposes of subsection (a), persons who were, at the time of their employment under this Act, being counted as unemployed in determining such rate of unemployment shall continue to be so counted if they continue in such employment.

(d) Whenever the Secretary makes any determination required by subsection (a) of this section, he shall promptly notify the Congress and shall publish such determination in the Federal Register.

(e) Financial assistance under this Act may be provided by the Secretary only pursuant to applications submitted by eligible applicants which shall be—

(1) units of State, and general local government; or

(2) Indian tribes on Federal or State reservations.

ELIGIBLE PARTICIPANTS

SEC. 6. (a) Financial assistance under Section 4 of this Act may be provided by the Secretary pursuant to an application submitted by an eligible applicant and approved by the Secretary which will provide transitional public service employment to unemployed, underemployed and low income persons as defined in Section 3(5) and (6) of this Act.

(b) Notwithstanding the provisions of subsection (a) above, the Secretary may provide financial assistance to such other unemployed or underemployed persons or groups of persons as he may designate when deemed by the Secretary to be in the public interest.

APPLICATIONS

SEC. 7. (a) Financial assistance under this Act may be provided by the Secretary for any fiscal year only pursuant to an application which is submitted by an eligible applicant and which is approved by the Secretary in accordance with the provisions of this Act. Any such application shall set forth a public service employment program designed, in areas of persistent high unemployment, to provide transitional employment for unemployed and underemployed persons in jobs providing needed public services and, where appropriate, training and manpower services related to such employment which are otherwise available, and to enable such persons to move into employment or training not supported under this Act.

(b) Programs assisted under this Act shall, to the extent feasible, be designed with a view toward—

(1) developing new careers, or

(2) providing opportunities for career advancement, or

(3) providing opportunities for continued training, including on-the-job training, or

(4) providing transitional public service employment which will enable the individuals so employed to move into public or private employment or training not supported under this Act.

(c) An application for financial assistance for a public service employment program under this Act shall include provisions setting forth—

(1) assurances that the activities and services for which assistance is sought under this Act will be administered by or under the supervision of the applicant, identifying any agency or institution designated to carry out such activities or services under such supervision;

(2) a description of the area to be served by such programs, and a plan for effectively serving on an equitable basis the significant segments of the population to be served, including data indicating the number of potential eligible participants and their income and employment status;

(3) assurances that special consideration will be given to the filling of jobs which provide sufficient prospects for advancement or suitable continued employment by providing complementary training and manpower services designed to (A) promote the advancement of participants to employment or training opportunities suitable to the individuals involved, whether in the public or private sector of the economy, (B) provide participants with skills for which there is an anticipated high demand, or (C) provide participants with self-development skills, but nothing contained in this paragraph shall be construed to preclude persons or programs for whom the foregoing goals are not feasible or appropriate;

(4) assurances that special consideration in filling public service jobs will be given to unemployed and underemployed persons who served in the Armed Forces in Indochina or Korea on or after August 5, 1964 in accordance with criteria established by the Secretary (and who have received other than dishonorable discharges); and that the applicant shall (A) make a special effort to acquaint such individuals with the program, and (B) coordinate efforts on behalf of such persons with those authorized by chapter 41 of title 38, United States Code (relating to Job Counseling and Employment Services for Veterans) or carried out by other public or private organizations or agencies;

(5) assurances that, to the extent feasible, public service jobs shall be provided in occupational fields which are most likely to expand within the public or private sector as the unemployment rate recedes;

(6) assurances that due consideration be given to persons who have participated in manpower training programs for whom employment opportunities would not be otherwise immediately available;

(7) a description of the methods to be used to recruit, select, and orient participants, including specific eligibility criteria, and programs to prepare the participants for their job responsibilities;

(8) a description of unmet public service needs and a statement of priorities among such needs;

(9) a description of jobs to be filled, a listing of the major kinds of work to be performed and skills to be acquired, and the approximate duration for which participants would be assigned to such jobs;

(10) the wages or salaries to be paid persons employed in public service jobs under this Act and a comparison with the wages paid for similar public occupations by the same employer;

(11) where appropriate, the education, training, and supportive services (including counseling and health care services) which complement the work performed;

(12) the planning for and training of supervisory personnel in working with participants;

(13) a description of career opportunities and job advancement potentialities for participants;

(14) assurances that procedures established pursuant to section 11(a) will be complied with;

(15) assurances that agencies and institutions to whom financial assistance will be made available under this Act will undertake analysis of job descriptions and a reevaluation of skill requirements at all levels of employment, including civil service requirements and practices relating thereto, in accordance with regulations promulgated by the Secretary;

(16) assurances that the applicant will, where appropriate, maintain or provide linkages with upgrading and other manpower programs for the purpose of (A) providing those persons employed in public service jobs under this Act who want to pursue work with the employer, in the same or similar work, with opportunities to do so and to find permanent, upwardly mobile careers in that field, and (B) providing those persons so employed, who do not wish to pursue permanent careers in such field, with opportunities to seek, prepare for, and obtain work in other fields;

(17) assurances that all persons employed under any such program, other than necessary technical, supervisory, and administra-

tive personnel, will be selected from among unemployed and underemployed persons;

(18) assurances that the program will, to the maximum extent feasible, contribute to the elimination of artificial barriers to employment and occupational advancement, including civil service or other employment requirements which restrict employment opportunities for the disadvantaged;

(19) assurances that not more than one-third of the participants in the program will be employed in a bona fide professional capacity (as such term is used in section 13(a)(1) of the Fair Labor Standards Act of 1938), except that this paragraph shall not be applicable in the case of participants employed as classroom teachers, and the Secretary may waive this limitation in exceptional circumstances; and

(20) such other assurances, arrangements, and conditions, consistent with the provisions of this Act, as the Secretary deems necessary, in accordance with such regulations as he shall prescribe.

APPROVAL OF APPLICATIONS

SEC. 8. An application, or modification or amendment thereof, for financial assistance under this Act may be approved only if the Secretary determines that—

(1) the application meets the requirements set forth in this Act;

(2) the approvable request for funds does not exceed 90 per centum of the cost of carrying out the program proposed in such application, unless the Secretary determines that special circumstances or other provisions of law warrant the waiver of this requirement;

(3) an opportunity has been provided to officials of the appropriate units of general local government to submit comments with respect to the application to the applicant and to the Secretary; and

(4) an opportunity has been provided to the Governor of the State to submit comments with respect to the application to the applicant and to the Secretary.

Non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment, or services.

TRAINING AND RELATED SERVICES

SEC. 9. For the purpose of providing training and related services, and the acquisition or the rental or leasing of supplies, equipment, materials, and real property necessary to enable persons to be employed in public service employment programs assisted under this Act, the Secretary shall utilize, in addition to any funds otherwise available under federally supported manpower programs, not to exceed 15 per centum of the amounts appropriated under this Act for each fiscal year.

SPECIAL RESPONSIBILITIES OF THE SECRETARY

SEC. 10. (a) The Secretary shall establish procedures for periodic reviews by an appropriate agency of the status of each person employed in a public service job under this Act to assure that—

(1) in the event that any person employed in a public service job under this Act and the reviewing agency finds that such job will not provide sufficient prospects for advancement or suitable continued employment, maximum efforts shall be made to locate employment or training opportunities providing such prospects, and such person shall be offered appropriate assistance in securing placement in the opportunity which he chooses after appropriate counseling.

(b) The Secretary shall review the implementation of the procedures established under subsection (a) of this section six months after funds are first obligated under this Act and at six-month intervals thereafter.

(c) From funds appropriated pursuant to section 12, the Secretary may reserve such amount, not to exceed 1 per centum, as he deems necessary to provide for a continuing evaluation of programs assisted under this Act and their impact on related programs.

SPECIAL PROVISIONS

SEC. 11. (a) The Secretary shall not provide financial assistance for any program or activity under this Act unless he determines, in accordance with such regulations as he shall prescribe, that—

(1) the program (A) will result in an increase in employment opportunities over those which would otherwise be available, (B) will not result in the displacement of currently employed workers (including partial displacement such as reduction in the hours of nonovertime work or wages or employment benefits), (C) will not impair existing contracts for services or result in the substitition of Federal for other funds in connection with work that would otherwise be performed, and (D) will not substitute public service jobs for existing federally assisted jobs;

(2) persons employed in public service jobs under this Act shall be paid wages which shall not be lower than whichever is the highest of (A) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the participant and if he were not exempt under section 13 thereof, (B) the State or local minimum wage for the most nearly comparable covered employment, or (C) the prevailing rates of pay for persons employed in similar public occupations by the same employer;

(3) funds under this Act will not be used to pay persons employed in public service jobs under this Act at a rate in excess of $12,000 per year;

(4) all persons employed in public service jobs under this Act will be assured of workmen's compensation, health insurance, unemployment insurance, and other benefits at the same levels and to the same extent, if any, as other employees of the employer and to working conditions and promotional opportunities neither more nor less favorable than such other employees enjoy;

(5) the provisions of section 2(a)(3) of Public Law 89-286 (relating to health and safety conditions) shall apply to such program or activity;

(6) the program will, to the maximum extent feasible, contribute to the occupational development or upward mobility of individual participants;

(7) every participant shall be advised, prior to entering upon employment, of his rights and benefits in connection with such employment.

(b) Where a labor organization represents employees who are engaged in similar work in the same area to that proposed to be performed under any program for which an application is being developed for submission under this Act, such organization shall be notified and afforded a reasonable period of time in which to make comments to the applicant and to the Secretary.

(c) The Secretary shall prescribe regulations to assure that programs under this Act have adequate internal administrative controls, accounting requirements, personnel standards, evaluation procedures, and other policies as may be necessary to promote the effective use of funds.

(d) The Secretary may make such grants, contracts, or agreements, establish such procedures, policies, rules, and regulations, and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend funds made available under this Act, as he may deem necessary to carry out the provisions of this Act, including necessary adjustments in payments on account of overpayments or underpayments. The Secretary may also withhold funds otherwise payable under this Act in order to recover any amounts expended in the current or immediately prior fiscal year in violation of any provision of this Act or any term or condition of assistance under this Act.

(e) The Secretary shall not provide financial assistance for any program under this Act unless he determines, in accordance with regulations which he shall prescribe, that periodic reports will be submitted to him containing data designed to enable the Secretary and the Congress to measure the relative and, where programs can be compared appropriately, comparative effectiveness of the programs authorized under this Act and other federally supported manpower programs. Such data shall include information on—

(1) characteristics of participants including age, sex, race, health, education level, and previous wage and employment experience;

(2) duration in employment situations, including information on the duration of employment of program participants for at least a year following the termination of participation in federally assisted programs and comparable information on other employees or trainees of participating employers; and

(3) total dollar cost per participant, including breakdown between wages, training, and supportive services, all fringe benefits, and administrative costs.

(f) The Secretary shall not provide financial assistance for any program under this Act unless the grant, contract, or agreement with respect thereto specifically provides that no person with responsibilities in the operation of such program will discriminate with respect to any program participant or any applicant for participation in such program because of race, creed, color, national origin, sex, political affiliation, or beliefs.

(g) The Secretary shall not provide financial assistance for any program under this Act which involves political activities; and neither the program, the funds provided therefor, nor personnel employed in the administration thereof, shall be, in any way or to any extent, engaged in the conduct of political activities in contravention of chapter 15 of title 5, United States Code.

(h) The Secretary shall not provide financial assistance for any program under this Act unless he determines that participants in the program will not be employed on the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship.

AUTHORIZED APPROPRIATIONS

SEC. 12(a). There are authorized to be appropriated to carry out this Act $500,000,000 for each fiscal year ending prior to July 1, 1977. In addition to the sums authorized under the first sentence of this subsection there are authorized to be appropriated $100,000,000 each fiscal year for each increment of one-half of 1 per centum by which the Secretary determines that the average rate of national unemployment (seasonally adjusted) for three consecutive months exceeds 5 per centum.

(b) Notwithstanding any other provision of law, any funds appropriated to carry out this Act which are not obligated and expended prior to the end of the fiscal year for which such funds were appropriated shall remain available for obligation and expenditure until expended.

(c) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation. In order to effect a transition to the advance funding method of timing appropriation action, this subsection shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

Amend the title to read as follows: "A bill to provide public service employment opportunities for unemployed, underemployed and low income persons residing in areas of high and persistent unemployment, and to thereby assist urban and rural areas in filling unmet needs for adequate public services."

A SECTION-BY-SECTION ANALYSIS OF THE PUBLIC EMPLOYMENT ACT OF 1973

The intent of "The Public Employment Act of 1973" is to provide public service employment opportunities for unemployed, underemployed and low income persons residing in areas of high and persistent unemployment, and to thereby assist urban and rural areas in filling unmet needs for adequate public services.

Section 1 provides that the Act may be cited as the "Public Employment Act of 1973."

STATEMENT OF FINDINGS AND PURPOSE

Section 2 sets forth Congressional findings and declares that it is the Act's purpose to utilize unused and underused manpower resources by providing such unemployed, underemployed, and disadvantaged persons with employment in jobs providing needed public services so as to provide them with appropriate training and related services to enable them to move into permanent employment. It emphasizes that these jobs would contribute to providing public services in urban and rural areas in such fields as environmental quality, health care and public health, education, and public safety.

DEFINITIONS

Section 3 provides definitions of terms used in the Act. The term "State" means a State, and the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa and the Trust Territory of the Pacific; the term "Secretary" means the Secretary of Labor. In addition, the following terms are defined: public service, health care, unemployed persons, and underemployed persons.

FINANCIAL ASSISTANCE

Section 4 authorizes the Secretary of Labor to enter into arrangements with eligible applicants to make financial assistance available in areas of persistent high employment for the purposes of providing transitional employment for unemployed and underemployed persons in jobs providing needed public services and training and manpower services related to such employment which are otherwise unavailable.

It specifies that not less than 85 percent of funds authorized to be appropriated under the Act shall be expended for wages and employment benefits to persons employed in public service jobs pursuant to this Act.

ELIGIBLE AREAS AND APPLICANTS

Section 5 authorizes the Secretary to designate as areas of persistent unemployment those areas in which there has existed substantial and persistent unemployment for an extended period of time.

It specifies standards for making such determinations:

(1) where the Secretary finds that the rate of unemployment, excluding unemployment based on temporary or seasonal factors, is 6 percent or more and has averaged 6 percent for the qualifying time periods specified in (2); and

(2) where the Secretary finds that the annual average rate of unemployment has been at least—

(A) 50 percent above the national average for three of the preceding four calendar years, or

(B) 75 percent above the national average for two of the preceding three calendar years, or

(C) 100 percent above the national average for one of the preceding two calendar years.

It specifies that an area that has been designated as an area of persistent high unemployment shall continue to be so designated until the rate of unemployment has been less than 6 percent, on the average, for the succeeding 12 months. It further specifies that, for purposes of determining the rate of unemployment, persons who were being counted as unemployed at the time of their employment under this Act shall continue to be so counted if they continue in such employment. Additionally, when the Secretary makes a determination of an area of persistent unemployment, he is required to promptly notify the Congress and to publish such determination in the Federal Register.

The section states that financial assistance may be provided under this Act only pursuant to applications submitted by eligible applicants. Eligible applicants are:

(1) units of State and general local government, and

(2) Indian tribes on Federal or State reservations.

ELIGIBLE PARTICIPANTS

Section 6 states that financial assistance may be provided by the Secretary pursuant to an application submitted by an eligible applicant and approved by the Secretary which will provide transitional public service employment to unemployed, underemployed and low income persons. Additionally, the Secretary, notwithstanding the foregoing provisions, may provide financial assistance to such other unemployed or underemployed persons or groups of persons (such as displaced defense or aerospace workers) as he may designate when he deems it to be in the public interest.

APPLICATIONS

Section 7 sets out the details of what an application for financial assistance should consist of. Basically, it should provide a public service employment program to provide transitional public service employment in areas of persistent high unemployment for unemployed and underemployed persons in jobs providing needed public services and, where appropriate, training and manpower services related to such employment which are otherwise unavailable, and to enable such persons to move into employment or training not supported under this Act.

It states that, to the extent feasible, programs assisted under this Act should be designed to develop new careers, provide opportunities for career advancement, or provide opportunities for continued training.

Additionally, this section specifies that an application will contain certain administrative and programmative provisions consistent with the purposes of this Act, such as:

(1) special consideration for unemployed and underemployed Vietnam-era veterans who served in Indochina or Korea after August 5, 1964 (and who received other than dishonorable discharges);

(2) a geographic and economic description of the area to be served;

(3) assurances that, to the extent feasible, jobs will be provided in occupational fields which are most likely to expand within the public or private sector as the unemployment rate recedes;

(4) description of and statement of priorities among unmet public service needs;

(5) description of jobs to be filled and wages or salaries to be paid to those employed for those jobs; including a comparison with the wages paid for similar public occupations by the same employer.

APPROVAL OF APPLICATIONS

Section 8 sets forth conditions for approval of applications by the Secretary. Applications must meet the requirements set forth in the Act, must request not more than 90 percent of the cost of the program (this matching requirement may be waived by the Secretary under special circumstances), and an opportunity must have been given to officials of appropriate units of general local government and to the Governor of the State to submit comments to the applicant and to the Secretary.

Non-Federal "matching" contributions may be in cash or in kind.

TRAINING AND RELATED SERVICES

Section 9 authorizes the Secretary to utilize funds appropriated under this Act, not to exceed 15 percent of the total in any fiscal year, to provide training and related services and whatever administrative support—including supplies, equipment, materials, and real property—may be necessary to enable persons to be employed in public service employment programs under this Act.

SPECIAL RESPONSIBILITIES OF THE SECRETARY

Section 10 defines the review and evaluation responsibilities of the Secretary. This includes the assurance that persons employed under this Act shall be in public service jobs that afford sufficient opportunity for advancement or suitable continued employment. He shall establish procedures to do this and shall review the implementation of these procedures at six-month intervals.

This section authorizes the Secretary to reserve up to one percent of appropriated funds to provide for a continuing evaluation of programs assisted under this Act and their impact on related programs.

SPECIAL PROVISIONS

Section 11 sets forth general administrative standards for programs under this Act relating to: labor standards, wages, health and welfare benefits, political activities, civil rights, and reporting requirements.

AUTHORIZED APPROPRIATIONS

Section 12 authorizes $500 million to be appropriated for each fiscal year ending prior to July 1, 1977. In addition, $100 million is authorized for any fiscal year for each increment of one-half percent that the Secretary determines that the average rate of national unemployment (seasonably adjusted) exceeds 6 percent for three consecutive months.

It provides that any funds appropriated but not expended during a given fiscal year shall remain available for obligation and expenditure until expended. Additionally, it provides an advance appropriations mechanism whereby funds may be appropriated in the fiscal year prior to the one during which they are available for obligation. It also provides a transition phase to this system allowing two separate appropriations in the initial year.

ESTABLISHMENT OF THE BOARD FOR INTERNATIONAL BROADCASTING—AMENDMENT

AMENDMENT NO. 431 THE "FREEDOM RADIOS"

(Ordered to be printed, and to lie on the table.)

Mr. FULBRIGHT. Mr. President, I submit an amendment, intended to be proposed by me, to the bill (S. 1914) to provide for the establishment of the Board for International Broadcasting, to authorize the continuation of assistance to Radio Free Europe and Radio Liberty, and for other purposes.

Mr. President, the news that Russia had begun to sponsor an "American Liberation Radio," bent upon showing up our iniquities and stirring up our dissidents, would probably not be met with much favor in the United States today. It would be taken as a sign that while the Soviets talked détente, they were still set upon doing us in. It would also strengthen the hand of those among us who wish to stifle dissent in the name of national security and who believe that the only thing the Soviets really understand is the point end of a missile.

There is no ALR, I am grateful to report, but imagining one is nevertheless a useful exercise as we judge the implications of our own continuing sponsorship of radios which perform precisely such a role. Based in Europe, the so-called "freedom radios" began their broadcasts in the early 1950's, a period when ideological fervor on both sides of the East-West confrontation was reaching a near frenzy. Radio Liberty focused upon the Soviet Union, Radio Free Europe upon the Eastern European satellites. Each radio presented itself as a spontaneous creation, run by freedom-loving refugees financed by dimes from free world schoolchildren. Secretly, each was the organizational and financial instrument of the CIA, staffed by expatriates who sought the overthrow of Soviet rule. Their activities were a direct extension of the global anti-Communist crusade upon which we had embarked.

Two decades later, international conditions—and our own attitudes—had changed dramatically. On both sides, ideology had waned, and power had stabilized. Gone in the process was our belief that we could shape the world, but fading too was our compulsive fear that someone else might. Continuing unabated, however, were the "freedom" broadcasts—which by then had cost unknowing American taxpayers nearly one-half billion dollars. Discovering this anomaly, Congress last year enacted legislation which brought the radios' financing into the open: a logical first step toward a public examination of such activities in light of increasingly normalized Soviet-American relations.

But now a year has passed, and once again we have witnessed the ingenious capacity of our cold war institutions to perpetuate themselves. A Presidential study commission has been assembled to certify the radios' virtues, and now Congress has been sent legislation which would give the radios a cosmetic facelift and establish them as permanent dependencies of the American taxpayer—at a cost of more than $50 million a year.

Apart from their secret financing, what has always made the "freedom radios" different from other international radio activities is their concentration upon internal news and analysis. They criticize the domestic life and policies of the Communist countries to which they broadcast. Of course, a number of nations operate international networks which, from stations around the world transmit entertainment and general news as an act of national projection and self-advertisement. Examples of such radios are the BBC, Radio Japan, Radio Moscow, and our own Voice of America, upon which we expend $56 million a year. But these organizations, though self-interested, are purveyors of culture and information. The "freedom radios" view themselves as agencies of change.

We are told that the "freedom" broadcasts have evolved from their earlier zealotry and that their essential function today is simply to encourage dissident elements seeking to resist and peaceably alter the repressive tendencies of Communist bureaucracies. Taken in isolation, this sounds unexceptionable; we have seen enough of repressive tendencies in our own country to be sympathetic. But seen in context, the paramount question still stands: Is this interference in Communist societies within the legitimate range of American foreign policy? In a recent editorial—"Free Communication and Détente," July 11—the Post says it is, calling it—

> Interference of a perfectly legitimate sort—no less legitimate than, say Leonid Brezhnev's meeting with the Senate Foreign Relations Committee.

This, however, is an analogical leap of record proportions. There is no similarity at all—in fact, an almost total dissimilarity—between a Senate committee's effort to engage a foreign leader in productive discussions and the U.S. Government's sponsorship of the expatriates of another country in actions clearly objectionable to that country's recognized government. One activity is conducive to good relations between nations; the other is inimical. The Post editorialist does not tell us what exactly "legitimizes" our interference in Soviet and East European affairs. Which kinds of interference by other countries in our affairs do we find legitimate?

The assertion is almost made that to cease support for these broadcasts would be to condone injustice in the Communist countries. The Post goes so far as to say we would be joining with the Communist governments in an act of censorship. But this again is fallacious. The official Western-government stations, including the VOA, broadcast steadily a weekly total of over 800 program-hours to the Soviet Union and its satellites. If to avoid culpability, we must also operate a "freedom radio," then surely we are already guilty, for this planet is populated with politically repressive societies we are not trying to liberate—some far worse than Russia and Eastern Europe. Why not a Radio Free Greece? And a Radio Free Brazil? And a Radio Free South Africa? Indeed, why not a freedom radio for each of the scores of other countries exhibiting conditions we deem unjust?

Ending our sponsorship of these broadcasts is not an abandonment of our ideals. It is simply to recognize an order of priorities. There can be no more important world goal for the United States than to break down completely the overarching posture of hostility between the Soviet and American governments that has so poisoned international relations for 25 years and exacted such a terrible waste in lives and resources. If we can now dissolve the antagonistic habits of mind and institution spawned by that hostility, and open wide the channels of genuine communication, we will have released a process of change that should serve the best interests of people on both sides. Perhaps, by personal contact and by force of argument and right example, we can have an influence on life in the Communist countries. But continuing the "freedom radio" assault only perpetuates the structure of mutual distrust and delays our opportunity.

Mr. President, all of this, I believe, leads inexorably to a single conclusion: "freedom radio" broadcasting should no longer be performed as an extension of American foreign policy. Radio Free Europe and Radio Liberty have existed for more than 2 decades under the pretense of being independent institutions with diverse sources of financial support. If they are to continue their activities, the time has clearly come when they should fulfill the image they have lived behind.

It is clear also, however, that as creations and financial dependencies of the U.S. Government, the radios are at present almost totally ineffective in generating other sources of financial support. We have been told that the radios and the State Department intend to search for contributors among the governments of Europe and within the private sector in both Europe and the United States. But that effort, even if it is made, is clearly predestined for failure under current circumstances. Why should anyone else contribute so long as Congress is content to place the entire burden on the American taxpayer?

To force the radios' transition toward a broader base of support and away from the realm of direct American foreign policy, I now offer an amendment to S. 1914 which would require that, beginning next fiscal year, the U.S. Government contribution to the radios would at no time exceed 50 percent of the radios' expenses. The radios have large numbers of vocal supporters—both in the United States and in Europe, many of whom are members of governments or of organizations capable of coherent fund-raising activity. Many also have long wished to remove the radios from their cold war context. To paraphrase Samuel Johnson, it will concentrate their minds wonderfully, and also give them leverage, if the Congress acts now to make new sources of radio support a necessity. Whether the radios can negotiate such a transition remains, of course, to be seen. But if the "freedom radios" are to survive, it should not be as instruments of American foreign policy, but as a multinational endeavor with merits sufficient to summon broad support.

I ask unanimous consent that the amendment be printed in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

Amendment No. 431

At the end of section 8, add the following new subsection:

"(c) Commencing July 1, 1974, grants to Radio Free Europe and Radio Liberty shall not exceed at any time during any fiscal year 50 percent of the expenses incurred by that radio during that fiscal year as of the time any such grant is to be made to that radio."

AMENDMENT OF TITLE 38, UNITED STATES CODE—AMENDMENT

AMENDMENT NO. 432

(Ordered to be printed, and referred to the Committee on Veterans' Affairs.)

Mr. TALMADGE. Mr. President, today I submit, for myself and the chairman of the full Committee on Veterans' Affairs (Mr. HARTKE), an amendment to S. 275, a bill to protect and increase nonservice-connected pensions received by veterans and their survivors. The Subcommittee on Compensation and Pensions, which I am privileged to chair, held hearings on S. 275 on June 18th and the amendment offered today reflects consideration of testimony presented to us. S. 275 as introduced earlier this year is identical to S. 4006, the pension bill reported from my subcommittee and passed by the Senate in the closing days of the 92d Congress last year. S. 4006 would have provided for an 8-percent program increase in the rates of pension together with an increase in the maximum annual income limitations of $400 to adjust for the effects of last year's social security increase on veterans' pensions.

Unfortunately, the House was unable to consider S. 4006 and hence no final action was taken then. Following commencement of the 93d Congress, we have examined a number of approaches. The administration has asked us to delay any action on pensions pending a thorough examination and revision of the existing system which they feel is necessary. While there is considerable merit to some of the general propositions advanced by the administration, an actual legislative draft was submitted to the committee for the first time only 2 weeks ago.

The Veterans' Administration is currently unable to supply to the committee all the necessary information which it requested in order to evaluate the draft bill. Meanwhile, the urgency for congressional action on pensions mounts daily. While the Subcommittee on Compensation and Pensions, which I chair, will continue to go forward and evaluate the Veterans' Administration proposal and other alternatives for a thorough revision of the pension system, it is obvious that immediate temporary action is necessary. I am most pleased to note that the House Committee on Veterans' Affairs has just reported H.R. 9474, a veterans' pension bill similar to the amendment which I introduce today. As such, I am hopeful that we may proceed to quick consideration of this necessary, immediate adjustment of the pension system while we continue to consider alternative approaches.

The amendment which I introduce today for myself and Senator HARTKE is in the nature of a substitute and briefly would provide: First, a cost-of-living increase of not less than 10 percent in non-service-connected pension rates payable to approximately 2.3 million veterans of wartime service and their widows. Second, an increase in the maximum annual income limitations of approximately $400 for veterans and widows. Third, an increase in the annual income limitation of "old law" pensioners by $400. Fourth, a cost-of-living increase of not less than 10 percent for parents receiving dependency and indemnity compensation—DIC. Fifth, an increase in the annual income limitations by $400 for such parents and dependent children. Sixth, the amendment includes the provisions of S. 1915, which provides that the effective day of an award of disability pension to a veteran shall be the date of application or the date on which the veteran becomes permanently disabled—if an application therefor is received within 1 year from such date—whichever is to the advantage of the veteran. Currently the effective date is always the date of application for pension.

Finally, the amendment would increase the amount of pension which may be received by a veteran without dependents who is hospitalized. Under current law, he may only receive $30 per month. This limitation was placed in law in 1960 and since that time the cost of living has increased dramatically so that this sum is insufficient for personal commodities needed by bedridden veterans. Accordingly, the amendment provides an increase so that a veteran will be allotted $50 per month for his personal use.

Mr. President, I believe that the 10-percent increase in the pension program is fully justified. As Members are aware, the consumer price index has continued to increase at a rapid rate since last fall when the Senate passed S. 4006. And, as the mail of my colleagues will also attest, increased social security benefits last year as provided for in Public Law 92-336 reduced the amount of veteran's pension received by over 1 million veterans and their survivors. Many veterans have also dropped from the rolls altogether as a result of this social security increase. As the veterans of World War I noted in their testimony before the committee last fall:

> The 20 percent increase in Social Security payments by Congress were designed to be a cost-of-living increase. Unless a law is enacted to protect the veteran's pension everyone who draws Social Security will receive a cost-of-living increase except the veteran.

Mr. President, the amendment which I offer today which provides for a cost-of-living increase of not less than 10 percent together with an increase of $400 in the maximum annual income limitations will both insure that almost all pensioners will receive the full measure of social security benefit increases passed last year as well as adjust current pension rates to account for past and currently anticipated inflationary experience since pension rates were last increased in January 1972.

Mr. President, I ask unanimous consent that the text of the amendment and an accompanying section by section analysis, a detailed cost breakdown of the proposal and tables illustrating current rates payable and those proposed by the substitute amendment be printed in the RECORD at this point.

There being no objection, the amendment and material were ordered printed in the RECORD as follows:

AMENDMENT NO. 432

Strike out all after the enacting clause and insert in lieu thereof the following:

That (a) subsection (b) of section 521 of title 38, United States Code, is amended to read as follows:

"(b) If the veteran is unmarried (or married but not living with and not reasonably contributing to the support of his spouse) and has no child, pension shall be paid according to the following formula: If annual income is $300 or less, the monthly rate of pension shall be $143. For each $1 of annual income in excess of $300 up to and including $1,000, the monthly rate shall be reduced 3 cents; for each $1 of annual income in excess of $1,000 up to and including $1,500, the monthly rate shall be reduced 4 cents; for each $1 of annual income in excess of $1,500 up to and including $1,800, the monthly rate shall be reduced 5 cents; for each $1 of annual income in excess of $1,800 up to and including $2,200, the monthly rate shall be reduced 6 cents; and for each $1 of annual income in excess of $2,200 up to and including $3,000, the monthly rate shall be reduced 7 cents. No pension shall be paid if annual income exceeds $3,000."

(b) Subsection (c) of such section 521 is amended to read as follows:

"(c) If the veteran is married and living with or reasonably contributing to the support of his spouse, or has a child or children, pension shall be paid according to the following formula: If annual income is $500 or less, the monthly rate of pension shall be $154 for a veteran and one dependent, $159 for a veteran and two dependents, and $164 for three or more dependents. For each $1 of annual income in excess of $500 up to and including $900, the particular monthly rate shall be reduced 2 cents; for each $1 of annual income in excess of $900 up to and including $3,200, the monthly rate shall be reduced 3 cents; and for each $1 of annual income in excess of $3,200 up to and including $4,200, the monthly rate shall be reduced 5 cents. No pension shall be paid if annual income exceeds $4,200."

(c) Subsection (b) of section 541 of title 38, United States Code, is amended to read as follows:

"(b) If there is no child, pension shall be paid according to the following formula: If annual income is $300 or less, the monthly rate of pension shall be $96. For each $1 of annual income in excess of $300 up to and including $600, the monthly rate shall be reduced 1 cent; for each $1 of annual income in excess of $600 up to and including $1,900, the monthly rate shall be reduced 3 cents; and for each $1 of annual income in excess of $1,900 up to and including $3,000, the monthly rate shall be reduced 4 cents. No pension shall be paid if annual income exceeds $3,000."

(d) Subsection (c) of such section 541 is amended to read as follows:

"(c) If there is a widow and one child, pension shall be paid according to the following formula: If annual income is $600 or less, the monthly rate of pension shall be $114. For each $1 of annual income in excess of $600 up to and including $1,400, the monthly rate shall be reduced 1 cent; for each $1 of annual income in excess of $1,400 up to and including $2,700, the monthly rate shall be reduced 2 cents; and for each $1 of annual income in excess of $2,700 up to and including $4,200, the monthly rate shall be reduced 3 cents. Whenever the monthly rate payable to the widow under the foregoing formula is less than the amount which would be payable to the child under section 542 of this title if the widow were not entitled, the widow will be paid at the child's rate. No pension shall be paid if the annual income exceeds $4,200."

SEC. 2. Section 541(d) of title 38, United States Code, is amended by striking "17" and substituting in lieu thereof "18".

SEC. 3. (a) Section 542(a) of title 38, United States Code, is amended by striking the figures "42" and "17" respectively, and substituting in lieu thereof the figures "44" and "18", respectively.

(b) Section 542(c) of such title is amended by striking out "$2,000" and inserting in lieu thereof "$2,400".

SEC. 4. Section 4 of Public Law 90–275 (82 Stat. 68) is amended to read as follows:

"SEC. 4. The annual income limitations governing payment of pension under the first sentence of section 9(b) of the Veterans' Pension Act of 1959 hereafter shall be $2,600 and $3,900, instead of $2,200 and $3,500, respectively."

SEC. 5. (a) Subsection (b) of section 415 of title 38, United States Code, is amended to read as follows:

"(b)(1) Except as provided in paragraph (2) of this subsection, if there is only one parent, dependency and indemnity compensation shall be paid to him according to the following formula: If annual income is $800 or less, the monthly rate of dependency and indemnity compensation shall be $110. For each $1 of annual income in excess of $800 up to and including $1,200, the monthly rate shall be reduced 3 cents; for each $1 of annual income in excess of $1,200 up to and including $1,600, the monthly rate shall be reduced 4 cents; for each $1 of annual income in excess of $1,600 up to and including $1,900, the monthly rate shall be reduced 5 cents; for each $1 of annual income in excess of $1,900 up to and including $2,100, the monthly rate shall be reduced 6 cents; and for each $1 of annual income in excess of $2,100 up to and including $2,800, the monthly rate shall be reduced 7 cents. For annual income of $2,800 through $3,000, the rate will be $6.00. No dependency and indemnity compensation shall be paid if annual income exceeds $3,000.

"(2) If there is only one parent and he has remarried and is living with his spouse, dependency and indemnity compensation shall be paid to him under either the formula of paragraph (1) of this subsection or under the formula in subsection (d), whichever is the greater. In such a case of remarriage the total combined annual income of the parent and his spouse shall be counted in determining the monthly rate of dependency and indemnity compensation under the appropriate formula."

(b) Subsection (c) of such section 415 is amended to read as follows:

"(c) Except as provided in subsection (d), if there are two parents, but they are not living together, dependency and indemnity compensation shall be paid to each according to the following formula: If the annual income of each parent is $800 or less, the monthly rate of dependency and indemnity payable to each shall be $77. For each $1 of the monthly rate shall be reduced 3 cents; and for each $1 of annual income in excess of $1,700 up to and including $2,900, the monthly rate shall be reduced 4 cents. For annual income of $2,900 through $3,000, the rate will be $5.00. No dependency and indemnity compensation shall be paid to a parent whose annual income exceeds $3,000."

(c) Subsection (d) of such section 415 is amended to read as follows:

"(d) If there are two parents who are living together, or if a parent has remarried and is living with his spouse, dependency and indemnity compensation shall be paid to each such parent according to the following formula: If the total combined annual income is $1,000 or less, the monthly rate of dependency and indemnity compensation payable to each parent shall be $74. For each $1 of annual income in excess of $1,000 up to and including $1,300, the monthly rate shall be reduced 1 cent; for each $1 of annual income in excess of $1,300 up to and including $3,400, the monthly rate shall be reduced 2 cents; and for each $1 of annual income in excess of $3,400 up to and including $4,100, the monthly rate shall be reduced 3 cents. For annual income of $4,100 through $4,200 the rate shall be $5.00. No dependency and indemnity compensation shall be paid to either parent if the total combined annual income exceeds $4,200."

SEC. 6. Section 3203 (a)(1) of title 38, United States Code, is amended by striking out "30" and inserting in lieu thereof "50".

SEC. 7. (a) Subsection (b) of section 3010 of title 38, United States Code, is amended by inserting "(1)" immediately after "(b)", and by adding at the end of said subsection the following new paragraph:

"(2) The effective date of an award of disability pension to a veteran shall be the date of application or the date on which the veteran became permanently and totally disabled, if an application therefor is received within one year from such date, whichever is to the advantage of the veteran."

(b) Subsection (a) of this section shall apply to applications filed after its effective date, but in no event shall an award made thereunder be effective prior to such effective date.

SEC. 8. This Act shall take effect on the first day of the second calendar month which begins after the date of enactment.

SECTION-BY-SECTION ANALYSIS OF TALMADGE AMENDMENT TO S. 275

SECTION 1

Subsection (a) would increase the rates of pension and the annual income limitation for unmarried veterans under subsection 521(b). Currently, a veteran with no dependents receives a maximum monthly pension of $130 if his annual income is $300 or less, decreasing on a graduated basis to $22 with an annual income of $2,600. As amended, this subsection would provide a maximum monthly rate of $140 with an annual income of $300 or less, down to $7 for an annual income of $3,000.

Subsection (b) would increase the rates of pension and the annual income limitations for a married veteran under subsection 521 (c). Currently, the maximum monthly pension payable to a veteran with one dependent is $140, with two dependents $145, and with three or more dependents $150, based on an annual income of $500 or less. This decreases on a graduated basis down to $33, $38, or $43, respectively, with an annual income of $3,800. As amended, this subsection would provide a veteran with one dependent $154, with two dependents $159, and with three or more dependents $164, based on an annual income of $500 or less, ranging down to $27, $31, or $37 respectively, with an annual income of $4,200.

Subsection (c) would increase the rates of pension and the annual income limitation for the widow without child under subsection 541(b). Currently, a widow without child receives a maximum monthly pension of $87 if her annual income is $300 or less, decreasing on a graduated basis to $17 with an annual income of $2,600. As amended, this subsection would provide a maximum monthly rate of $96 with an annual income of $300 or less down to $10 with an annual income of $3,000.

Subsection (d) would increase the rates of pension and the annual income limitations for a widow with one child under subsection 541(c). Currently, a widow with one child receives a maximum monthly pension of $104 if her annual income is $600 or less, decreasing on a graduated basis to $42 with an annual income of $3,800. As amended, this subsection would provide a maximum monthly rate of $114 with an annual income of $600 or less, down to $44 with an annual income of $4,200.

SECTION 2

This section would increase the rates of pension payable to a widow with more than one child under subsection 541(d). Currently, a widow receives $17 per month for each additional child. As amended this subsection would provide a monthly rate of $18.

SECTION 3

Subsection (a) would increase the rates of pension for children alone receiving death pension under section 542(a). Currently, pension is paid at a rate of $42 per month for one child and $17 for each additional child. As amended this subsection would provide a monthly rate of $44 for the first child and $18 for each additional child.

Subsection (b) would increase the unearned income limitation for children alone receiving death pension under subsection 542(c). Currently the maximum unearned income is $2,000. As amended this subsection would provide an unearned income limitation of $2,400.

SECTION 4

This section would amend section 4 of Public Law 92–275 (82 Stat. 68) to increase by $400 the maximum annual income limitations applicable under the prior pension program in effect on June 30, 1960: From $2,200 to $2,600 for a veteran without a dependent, or widow without a dependent, or a child alone; and from $3,500 to $3,900 for a veteran with a dependent and for a widow with a child.

SECTION 5

Subsection (a) would increase the rates of dependency and indemnity compensation (DIC) and annual income limitations for a sole surviving parent under subsection 415 (b). Currently a sole surviving parent receives a maximum monthly DIC payment of $100 if his annual income is $800 or less, decreasing on a graduated basis to $10 with an annual income of $2,600. As amended, this subsection would provide for a maximum monthly rate of $110 with an annual income of $800 or less, down to $6 for an annual income of $3,000.

Subsection (b) would increase the rates of dependency and indemnity compensation and annual income limitations for two parents not living together under subsection 415(c). Currently, each of two parents who are not living together receives a maximum monthly DIC payment of $70 if annual income is $800 or less, decreasing on a graduated basis to $10 with an annual income of $2,600. As amended, this subsection would provide a maximum monthly rate of $77 with an annual income of $800 or less, down to $5 for an annual income of $3,000.

Subsection (c) would increase the rates of dependency and indemnity compensation and annual income limitations payable under subsection 415(d). Currently, if there are two parents who are living together, or if a parent is remarried and is living with his spouse, each parent receives a maximum monthly DIC payment of $67 if annual income is $1,000 or less, decreasing on a graduated basis to $10 with an annual income of $3,800. This subsection would provide a maximum monthly rate of $74 with an annual income of $1,000 or less, down to $5 for an annual income of $1,200.

SECTION 6

This section would increase the amount of pension paid to a veteran with neither wife nor child, who is being furnished hospital treatment, institutional or domiciliary care by the Veterans' Administration under section 3203(a)(1). Currently, such a veteran may receive $30 per month. As amended this subsection would provide a maximum of $50 per month.

SECTION 7

This section amends the law as to the effective dates for pension awards under subsection 3010(b). Currently, the effective date of pension awards is the date of application. As amended, this subsection would provide the effective date to be the date of application, or the date on which the veteran became totally and permanently disabled (if an application therefor is received within one year from the date of disability) whichever is to the advantage of the veteran.

SECTION 8

This section provides that the provisions of the bill shall be effective on the first day of the second calendar month after enactment.

COST OF TALMADGE AMENDMENT TO S. 275

Year	Cases	Cost (millions)
I. Current law, 10 percent increase $400 income limit increase:		
1974	1,917,000	$227.8
1975	2,020,000	293.7
1976	2,133,000	310.1
1977	2,250,000	327.8
1978	2,383,000	347.9
II. "Old Law" $400 income limit increase:		
1974	6,508	$5.1
1975	5,890	5.6
1976	5,331	5.0
1977	4,825	4.6
1978	4,367	4.1
III. DIC parents, 10 percent increase $400 income limit increase:		
1974	71,665	5.6
1975	71,457	5.6
1976	71,249	5.5
1977	71,042	5.5
1978	70,834	5.5
IV. Total cost:		
1974	1,995,173	238.5
1975	2,097,347	304.9
1976	2,209,580	320.6
1977	2,325,867	337.9
1978	2,458,201	357.5

Note: Sept. 1, 1973 effective date assumed for all provisions.

TALMADGE 10-PERCENT PENSION AMENDMENT

Income not over—	Veteran alone		Veteran and 1 dependent		Widow alone		Widow with 1 dependent	
	Current	10 percent	Current	10 percent	Current	10 percent	Current	10 percent
$300	130	143	140	154	87	96	104	114
$400	127	140	140	154	86	95	104	114
$500	124	137	140	154	85	94	104	114
$600	121	134	138	152	84	93	104	114
$700	118	131	136	150	81	90	103	113
$800	115	128	134	148	78	87	102	112
$900	112	125	132	146	75	84	101	111
$1,000	109	122	129	143	72	81	100	110
$1,100	105	118	126	140	69	78	99	109
$1,200	101	114	123	137	66	75	98	108
$1,300	97	110	120	134	63	72	97	107
$1,400	93	106	117	131	60	69	96	106
$1,500	89	102	114	128	57	66	94	104
$1,600	84	97	111	125	54	63	92	102
$1,700	79	92	108	122	51	60	90	100
$1,800	74	87	105	119	48	57	88	98
$1,900	68	81	102	116	45	54	86	96
$2,000	62	75	99	113	41	50	84	94
$2,100	56	69	96	110	37	46	82	92
$2,200	50	63	93	107	33	42	80	90
$2,300	43	56	90	104	29	38	78	88
$2,400	36	49	87	101	25	34	76	86
$2,500	29	42	84	98	21	30	74	84
$2,600	22	35	81	95	17	26	72	82
$2,700		28	78	92		22	70	80
$2,800		21	75	89		18	67	77
$2,900		14	72	86		14	64	74
$3,000		7	69	83		10	61	71
$3,100			66	80			58	68
$3,200			63	77			55	65
$3,300			58	72			52	62
$3,400			53	67			49	59
$3,500			48	62			46	56
$3,600			43	57			43	53
$3,700			38	52			42	50
$3,800			33	47			42	47
$3,900				42				44
$4,000				37				44
$4,100				32				44
$4,200				27				44

DIC PARENTS

Income not over—	1 parent		2 parents not together		2 parents together	
	Current	10 percent	Current	10 percent	Current	10 percent
$800	100	110	70	77	67	74
$900	97	107	68	75	67	74
$1,000	94	104	66	73	67	74
$1,100	91	101	64	71	66	73
$1,200	88	98	61	68	65	72
$1,300	84	94	58	65	64	71
$1,400	80	90	55	62	62	69
$1,500	76	86	52	59	60	67
$1,600	72	82	49	56	58	65
$1,700	67	77	46	53	56	63
$1,800	62	72	42	49	54	61
$1,900	57	67	38	45	52	59
$2,000	51	61	34	41	50	57
$2,100	45	55	30	37	48	55
$2,200	38	48	26	33	46	53
$2,300	31	41	22	29	44	51
$2,400	24	34	18	25	42	49
$2,500	17	27	14	21	40	47
$2,600	10	20	10	17	38	45
$2,700		13		13	36	43
$2,800		6		9	34	41
$2,900		6		5	32	39
$3,000		6		5	30	37
$3,100					28	35
$3,200					26	33
$3,300					24	31
$3,400					22	29
$3,500					19	26
$3,60					16	23
$3,700					13	20
$3,800					10	17
$3,900						14
$4,000						11
$4,100						8
$4,200						5

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1973—AMENDMENT

AMENDMENT NO. 433

(Ordered to be printed.)

Mr. STEVENSON (for himself and Mr. MATHIAS) proposed an amendment to the bill (S. 372) to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of section 315 with respect to Presidential and Vice-Presidential candidates and to amend the Campaign Communications Reform Act to provide a further limitation on expenditures in election campaign for Federal elective office.

AMENDMENT NO. 434

(Ordered to be printed and to lie on the table.)

Mr. JAVITS submitted an amendment intended to be proposed by him to the bill (S. 372), supra.

AMENDMENT NO. 435

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON (for himself and Mr. HATHAWAY) submitted an amendment intended to be proposed by them jointly to the bill (S. 372), supra.

AMENDMENT NO. 436

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON (for himself and Mr. STEVENS) submitted an amendment intended to be proposed by them jointly to the bill (S. 372), supra.

AMENDMENT NO. 437

(Ordered to be printed and to lie on the table.)

Mr. PACKWOOD submitted an amendment intended to be proposed by him to the bill (S. 372), supra.

AMENDMENT NO. 438

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS submitted an amendment intended to be proposed by him to the bill (S. 372), supra.

AMENDMENTS NOS. 439 AND 440

(Ordered to be printed and to lie on the table.)

Mr. BAYH submitted two amendments intended to be proposed by him to the bill (S. 372), supra.

AMENDMENT NO. 441

(Ordered to be printed and to lie on the table.)

Mr. CHURCH submitted amendments, intended to be proposed by him, to Senate bill 372 supra.

AMENDMENT NO. 442

(Ordered to be printed, and to lie on the table.)

Mr. JAVITS submitted an amendment, intended to be proposed by him, to Senate bill 372, supra.

AMENDMENT NO. 203, AS MODIFIED

(Ordered to be printed, and to lie on the table.)

Mr. KENNEDY, by unanimous consent, modified his amendment (No. 203), which was ordered to be printed, as modified.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Doroteo R. Baca, of New Mexico, to be U.S. marshal for the district of New Mexico for the term of 4 years, reappointment.

William F. Clayton, of South Dakota, to be U.S. attorney for the district of South Dakota for the term of 4 years, reappointment.

Harold M. Fong, of Hawaii, to be U.S. attorney for the district of Hawaii, for the term of 4 years, vice Robert K. Fukuda, resigned.

George K. McKinney, of Maryland, to be U.S. marshal for the District of Columbia for the term of 4 years, vice Anthony E. Papa, resigning.

Charles E. Robinson, of Washington, to be U.S. marshal for the western district of Washington for the term of 4 years, reappointment.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Friday, August 3, 1973, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ADDITIONAL STATEMENTS

COST OVERRUNS ON DD-963 LIKELY TO BE CONCEALED

Mr. PROXMIRE. Mr. President, the newest GAO report on Litton's Navy shipbuilding programs contains an unusual warning that Litton is likely to conceal cost overruns and other problems on the DD-963 program until it is too late for Congress or the Navy to act.

GAO REPORT

According to the report, the action by Congress last year when it declined to authorize more than 16 ships out of the planned 30-ship destroyer program produced "stress in Litton" and tended to "freeze the announced cost estimates for the 30-ship program and the delivery schedule."

The GAO report goes on to say:

> If variances arise, Litton is likely not to disclose them until after authorization or sometime in the future when the full program seems committed.

Congress and the Navy have been put on notice that Litton may be planning a coverup of DD-963 shipbuilding problems in order to obtain approval for the full 30-ship program.

Once the Navy is committed to purchase 30 ships the likelihood of multimillion dollar bailouts to Litton will be greatly enhanced.

PROBLEM ALREADY OCCURRING

Although the Navy has taken some steps to avoid cost overruns or schedule delays in the destroyer program, there are clear signs that problems are already occurring.

Construction of the destroyers is beginning to overlap with construction of the LHA in the Litton shipyard. GAO concludes—

> We believe some slippage in delivery of the destroyers must be anticipated, and some cost growth in this program probably can be expected.

Congress and the Navy will have no one but themselves to blame for yet another procurement fiasco if we continue to do nothing until we are surprised with the inevitable announcement of a huge cost overrun on the new destroyer program.

REQUESTS QUARTERLY AUDITS

I am formally recommending to Adm. Isaac C. Kidd, Chief of Naval Material, that the Navy initiate a series of quarterly audits of the Litton shipyard to determine physical progress of the destroyer program in a reliable, timely, and systematic manner.

I am also requesting that the Comptroller General review the Navy quarterly audits of the Litton shipyard and report its findings to Congress.

Congress should assure itself that adequate progress is being made on the destroyers already authorized before committing itself to any additional ships.

The full costs of the DD-963 program have already increased by $224 million from the original estimate of $2.58 billion to a current estimate of $2.8 billion.

COMMUNICATIONS WORKERS SUPPORT ASSISTANCE TO RADIO FREE EUROPE AND RADIO LIBERTY

Mr. PERCY. Mr. President, the Communications Workers of America, a union representing more than 550,000 working men and women in the United States and Canada under the leadership of Joseph A. Beirne, has adopted a resolution of support for legislation to provide continued funding of Radio Free Europe and Radio Liberty and to establish a Board of International Broadcasting.

The resolution was adopted at the annual convention of the Communications Workers of America in Miami Beach during the week of June 18. I bring it to the attention of my colleagues as another indication of a broad support in this Nation for Radio Free Europe and Radio Liberty. The authorization bill, S. 1914, will soon be on the floor after being approved by the Committee on Foreign Relations by a vote of 13 to 3.

I ask unanimous consent that the text of the resolution of the Communications Workers of America be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

In the tense years immediately after World War II, the rebuilding of a devastated Europe was underway. The United States organized and led the effort in the western nations. At the same time, the Union of Soviet Socialist Republics undertook both a physical and psychological rebuilding effort in eastern Europe.

Thus, in the late 1940's, the "cold war" began. Communist propaganda spread throughout Europe—beyond the "Iron Curtain"—into western Europe, by radio and other means.

To counter the Communist ideological thrusts, Radio Free Europe was founded in 1950, and Radio Liberty in 1953. Radio Free Europe's transmitters were beamed to send programs into Poland, Czechoslovakia, Hungary, Romania, and Bulgaria. Radio Liberty programs were prepared and transmitted in 19 languages in use in the USSR.

Each of these radio services was established as a "surrogate free press" for the six eastern European nations, to offer those millions of people facts about the real world. From their beginning days, the Central Intelligence Agency gave financial support to Radio Free Europe and Radio Liberty, because the private contributions were not enough to pay for the stations' services. In 1971, because the CIA funding support was loudly criticized all over the world, the Department of State began supplying the funds, but on a "stopgap" basis. In 1972, the Presidential Study Commission on International Radio Broadcasting, headed by Dr. Milton Eisenhower, was directed by President Nixon to learn whether Radio Free Europe and Radio Liberty still are needed, in light of the gradual reduction in international tensions of recent years, and then to recommend how to ensure that Radio Free Europe and Radio Liberty could continue to exist without their being propaganda outlets.

The Eisenhower Commission made its report in February 1973, recommending that Radio Free Europe and Radio Liberty continue, but under an entirely new structure and financing arrangement. The Commission recommended that Congress establish the "Board for International Broadcasting," with these important duties:

"To accept government appropriated funds and private contributions.

"To guarantee sufficient funds to accomplish the main job—informing the people of eastern Europe of current affairs.

"To serve as the 'buffer' between government and the stations, in order that they may remain private, non-government corporations exercising independent judgment in programming. The Board would be composed of five eminent citizens chosen by the President and the chief executives of Radio Free Europe and Radio Liberty, serving ex officio.

"To prepare the arrangements necessary for 'phase-out' or liquidation of the stations, should the international situation eventually permit. These arrangements would necessarily include employment-termination and accrued pension benefits for the staffs of the stations, as required under the laws of the European nations in which the transmitters are placed."

Be it resolved: That the Communications Workers of America support the thriving continuation of Radio Free Europe and Radio Liberty, to promote the traffic in ideas in eastern Europe; and

Be it further resolved: That this Union urge passage of legislation to establish the Board for International Broadcasting, to provide the necessary guidance to the stations, to assure that the stations will remain private and allowed to exercise independent judgment in programming, and to assure open financial support from private contributions and government appropriations.

NATIONAL ECONOMIC POLICY—THE TEETER PRINCIPLE

Mr. MONTOYA. Mr. President, I have become alarmed in recent days about developments in the national economic policy as expressed by the President and administration spokesmen in unveiling phase IV. It seems to me that in its attempt to control a wildfire inflation the administration may be once again without a well-thought-out plan.

We have had several years now of this kind of teeter-totter principle of economics, with various administration advisors disagreeing among themselves as to the best method of controlling the economic climate. In the past we have seen their reaction at the last minute to impending economic disaster and their ensuing dismay at unforeseen results.

This time I am fearful that in attempting to control inflation the administration may be creating unnecessary unemployment by acting to restrict the economy too severely. Apparently the administration plans to utilize highly restrictive fiscal and monetary policy to help regulate economic activity at a time when real economic growth may be leveling off or even coming to a halt.

There are strong signs that a slowdown is in the offing. First, real output as measured by gross national product grew at an annual rate of 2.5 percent during the second quarter of 1973, compared with an annual rate of 8.7 percent during the first quarter of this year. That is a marked drop in rate of growth, and should be at least considered as a possible warning signal.

Second, shortages of mortgage money and high interest rates are creating a "crunch" in the housing market. A sluggish housing market contributes to a general economic decline. The National Association of Homebuilders have given me estimates of units of housing starts which show a decline from 2.4 million in the first quarter of 1973 to 2.21 million in the second quarter, and further estimates of decline for the rest of the year and for the first two quarters of 1974 which end with 1.55 in the second quarter of next year. That estimate, if realized, means a major contraction in housing construction as serious or more serious than the four previous major contractions in recent years. Each of these previous cyclical contractions in housing occurred during an extended period of restrictive monetary policy and each was followed by rising unemployment. Certainly any decline in housing starts must be considered as a possible warning signal.

Third, the growth in consumer spending has dropped from $26.8 billion in the first quarter of 1973 to $15.7 billion in the second quarter, with reductions coming primarily in the purchase of durable goods. This is surely another warning signal of a teetering economy.

The administration's plans with regard to fiscal policy are reflected in Secretary Shultz' statement of a somewhat blind-faith return to "that old time religion: balance the budget."

In this phase IV statement the President outlined his monetary policy as of this date. The Federal Reserve is to mitigate economic growth by slowing down the expansion of money and credit. This tight monetary policy has already raised the Federal discount rate from 6½ to 7 percent, equaling a previous record set in 1921; at the same time it has increased member bank reserve requirements.

This new policy of restraint is also demonstrated in the administration's plan to maintain a surplus of $5.3 billion for fiscal year 1974 in the "full employment budget" and in the President's expressed desire to reduce total Federal civilian employment during fiscal year 1974. That kind of goal and proposed actions will serve to further dampen the economy.

This dose of monetary and fiscal restrictions at this time may be so severe that it will result in rates of unemployment like those suffered during the 1969–70 recession, when unemployment rose to an incredible 6.2 percent. Since there seem to be signs that at long last we are making some headway against unemployment, with a decrease to 4.8 percent just last month for the first time in 3 years, it would be particularly discouraging to see that progress reversed.

Are we once again at the point where the administration is willing to accept high unemployment rates in order to control the economy? Surely we should have learned by now that our economy is persistently prone to inflationary pressures and that we are in need of some type of long-term policy with consideration given to the current warning signals and to the economic history of the last few years.

No one can quarrel with the President's desire to control the runaway prices of phase III. Wholesale prices rose at an annual rate of 24.4 percent and are now 15 percent higher than a year ago. Wholesale prices for farm products and processed foods have risen at an almost unbelievable annual rate of 49.8 percent since January. These prices will certainly be felt by consumers in the months ahead, and it is probably too late for us to change that.

But consumers are already outraged. They have had enough of teetering economics. During the first half of this year the cost of living has risen at an annual rate of 8 percent. The price of food in grocery stores during the first 6 months of 1973 has shot up at an astronomical annual rate of 25 percent. Even the administration admits that phase IV will not change much of that picture.

Phase IV will call for further sacrifices by the consumer and the wage earner. The working people of America are the ones who ultimately pay for misadventures in economic policy. They are paying now for the administration's earlier mistakes: the premature lifting of phase II controls, followed by 6 months of indecision and inaction. They are paying in higher food prices, higher medical bills, higher interest rates, and higher rents.

Are they now to be asked to pay further in unemployment?

The wage earner has not caused this recent surge in prices. During phase I and phase II wage increases followed administration guidelines. The result is that the average citizen has lost real purchasing power in 1973.

Recent inflation is in large part the result of excessive fiscal and monetary stimulation of the economy in the election year of 1972, a year when the Federal budget showed a deficit of $23.2 billion, a year when the Federal Reserve allowed the money stock to grow at a rate of more than 8 percent, and a year when the administration was limiting agricultural output while shipping a quarter of our wheat crop to the Soviet Union. Those were the major causes of rising prices and declining food supplies.

The other end of the teeter-totter was up in 1972. With the beginning of 1973 we began phase III, a sudden and drastic freeing of the economy. Now apparently the administration recognizes that phase III was a major economic mistake, and they are ready to react again. They have not learned that the economy, with its inflationary bias, will require continued surveillance. Monetary and fiscal tools are not enough.

The use of those tools alone failed to curb inflation in 1957 and again in 1969. They succeeded only in creating unemployment. It would be most unfortunate if we did not learn from the lessons of the past and begin to lay the groundwork for a long-term wage and price policy and a Cost of Living Council with authority to maintain a watchful eye on economic indicators and warning signals.

The job ahead is not so much to control the economy as it is to assure that the economy does not get out of control. Reason and intelligent economic planning rather than "that old time religion" must set our economic course. Consumers should not have to pay the price for market imperfections and Government miscalculations. Workers must not be asked to accept unemployment in order to control inflation.

There are alternatives to the teetering from disaster to disaster.

The President says that he will not raise taxes to fight inflation. Yet social security taxes were raised in a most regressive tax. However, tax reform seems a much more acceptable way to use the tax money in control of inflation.

The administration has chosen as one

of its anti-inflationary policy plans a cutback on domestic programs, particularly those which serve the poorest segments of our population. The military budget on the other hand, he continues to allow to balloon. This policy, in my opinion, puts national priorities in reverse order.

A recent study of the 1974 Federal budget by the Brookings Institution points out that projected arms outlays could easily be cut back $10 to $25 billion per year for the next decade without endangering national security. The study argues that an across-the-board tax increase is not the only way to raise revenues. It suggests a long overdue tax reform as one alternative which would work.

A cut in military expenditures might mean economic shock to certain communities and certainly we should not expect any one area to bear the brunt of such an economic shock. Therefore, it is necessary if we are going to proceed along those lines to prepare for the dislocation and changeover which would occur. We have the tools now in operation to help with that kind of preparedness: the Economic Development Administration and seven regional action planning commissions. Yet the administration in their 1974 budget proposed the elimination of those very tools.

These programs will now be continued for an additional year, but there is a definite need to assure that they will receive adequate funding. These programs address themselves to the problems of short-term economic dislocation such as would occur in a changeover to a peace time economy. They also address themselves to the problems of long-term growth and development of this Nation. As a member of the Public Works Committee and as chairman of the Subcommittee on Economic Development, I know that the necessity exists now and will exist in the future for programs aimed at providing for domestic needs, at creating needed employment, and at providing the public facilities essential for social and economic well-being for all communities in this Nation.

I think we have had enough of unplanned and ineffective economic teetering from one policy to another. Overly restrictive monetary and fiscal policies aimed at curbing inflation may instead lead to unacceptable rates of unemployment, a housing recession, and to other problems which we could naturally expect as a result of those developments. It is painfully evident that we require a more complete and long-term economic plan, one which considers more than the immediate emergency response to a single problem. We must reexamine and reorder our priorities so that we can utilize our limited resources to meet our most pressing needs.

PERSONAL RAPID TRANSIT SYSTEM

Mr. DOMINICK. Mr. President, Colorado has drawn a battle plan for attacking transportation and environmental problems in its largest urban area—the six county region surrounding the city of Denver, through the legislative creation of a Regional Transportation District—RTD. An integral part of the plan is the development and deployment of a personal rapid transit system—PRT.

I was most gratified in reading the report (93–346) filed with H.R. 8760, the Department of Transportation's fiscal 1974 appropriations bill, to see the committee's recommendation of $40.8 million for application by the Urban Mass Transit Administration in research and development programs. Of this amount, $20.6 million would be focused on personal rapid transit systems.

Mr. President, the House had cut by $9.7 million, UMTA's request for research and development funds and Senator Haskell and I had urged the Senate Appropriations Committee to restore that amount in the Senate bill. We are indeed grateful that the committee recommended $11.2 million over the House figure.

This action is particularly timely in view of Colorado's reaffirmation of its commitment to the PRT concept. The Regional Transportation District's enabling legislation was very recently amended to change the method of financing from a property tax to a ½ percent sales tax. In a few months, this plan will be presented to Colorado's citizens by way of a referendum, and, if approved, would generate over $500 million for the project.

Mr. President, I am grateful for the Appropriation Committee's action recommending additional funds for PRT and I am confident that a PRT system in Denver can and will significantly alleviate Denver's transportation, environmental and energy problems.

NEW HAMPSHIRE RESIDENTS WIN CONSERVATION AWARD

Mr. McINTYRE. Mr. President, in this day of pollution alerts, strip mining, and general environmental problems, it is refreshing to hear of achievements in the field of conservation and environmental protection. I have just received word that the Rockingham County Conservation District of New Hampshire has been selected the first place district among the Northern New England districts in the 26th annual Goodyear Conservation Awards program, sponsored by Goodyear in association with the National Association of Conservation Districts. This distinction is the major result of the work of two New Hampshire residents, Richard Latham, chief of the Plaistow Fire Department, and John W. York, of Exeter. Both of these men deserve sincere congratulations for their fine work, and for the recognition accorded to them by this award.

Congratulations are also in order for the Coos County Conservation District of New Hampshire. The principals in this area were Mr. and Mrs. David K. Patrick of Colebrook. They too deserve the recognition brought upon them by this award. Their work, and that of others, is extremely important. Hopefully, the example of these people will encourage others to participate in this, and other conservation programs.

This kind of presentation is important because it enlightens the public to the urgent need for continued efforts in conservation. The preservation of our land and resources is important not only to the people of New Hampshire, but also to the people of the Nation. If we continue to allow man's destruction of wildlife, wilderness, and the countryside, if we continue to ignore the poisoning of the air and water, we consequently allow the destruction of the very essence of our existence. It is essential that the public be made aware of the efforts of others to counter the adverse effects of man's carelessness and apathy toward his environment.

FAA'S INTENTION TO CLOSE 30 FLIGHT SERVICE STATIONS A YEAR

Mr. DOMINICK. Mr. President, as a private pilot, I follow aviation legislation with more than a passing interest. I became alarmed and concerned when I learned of the Federal Aviation Administration's intention to close 30 flight service stations a year.

The flight service station—FSS—is the operations office for general aviation with about 4,000 air traffic control specialists rendering over 52 million flight services—including pilot weather briefs, in-flight emergency assists, IFR flight, plan filing, navigational aid monitoring, JFR flight plans, weather observations, and airport advisory service.

The Office of Management and Budget, the Department of Transportation, and the Federal Aviation Administration, after a joint study, decided to automate the FSS system—hence the decision to close 30 manned FSS's a year. The drawback to this strategy is that the system will not be automated until 1979 with 30 FSS closings a year in the meantime.

The uncertainty for general aviation between now and 1979 prompted a letter to the Appropriations Committee signed by myself and 19 other concerned Senators—Senators MANSFIELD, YOUNG, JAVITS, DOLE, MOSS, GRAVEL, HANSEN, BARTLETT, CURTIS, HASKELL, ABOUREZK, BURDICK, BIBLE, CANNON, METCALF, MCGEE, GRIFFIN, HUGHES, and HART.

Mr. President, I ask unanimous consent that a copy of that letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., July 19, 1973.

Senator ROBERT C. BYRD,
Chairman, Subcommittee on Transportation, Dirksen Office Building, Washington, D.C.

DEAR BOB: In 1967 the FAA established an evolutionary Flight Service Station (FSS) Modernization Plan which envisoned the hiring of over 10,000 air traffic control specialists to man the FSS's by 1980.

However, during 1971–72, OMB advised DOT/FAA that such plans were too labor intensive, and a policy was adopted to place only 2,000 personnel by 1980 in a system which should employ 10,000 and instead to automate the FSS system under a longer range plan.

There are at present over 4,000 air traffic control specialists serving in the 330 Flight Service Stations. The decision to automate has repercussions not only on the labor force, but well beyond. Most importantly, in the interests of safety, the new plan of decommissioning of existing FSS's at the proposed rate of 30 per year must not be implemented.

The FSS Evaluation Report relating to adopting the new plan states that under the proposed system "90% of the pilots can obtain a weather briefing and file flight plans without direct contact with a flight specialist." No indication is given, however, of how the other 10% are supposed to avail themselves of the information necessary for a safe flight. In addition, it is highly debatable that the 90% will enjoy the same quality of service as is presently available. Indeed, the equipment which is currently developed for replacing manned service stations is not capable of reporting the weather factors of ceiling, visibility and precipitation; recording of these vital statistics is beyond current technological capabilities according to FAA and the National Weather Service.

Most distressing is the fact that the automated system is scheduled to begin in 1979, but the implementation proposal for decommissioning existing FSS's would begin immediately, thus leaving unmanned stations around the nation at the accumulative rate of 30 per year.

It is reported by FAA that over 52 million flight services were rendered by the 4,000 air traffic control specialists in FY 1972, and it is estimated that the majority of the 5,000 yearly in-flight "saves" of pilots in distress are accomplished by air traffic control specialists at Flight Service Stations.

Thus one cannot help but question as highly irresponsible the portion of FAA's requested appropriations to be used for the transition from the manned to the automated FSS facilities. We urge you to disapprove this portion of the FAA request and to insure pilots continued access to the extremely valuable Flight Service Stations.

Sincerely,

Peter H. Dominick, Milton R. Young, Robert Dole, Clifford P. Hansen, Dewey F. Bartlett, Mike Mansfield, Jacob K. Javits, Mike Gravel, Frank E. Moss, Carl T. Curtis.

Floyd K. Haskell, James Abourezk, Quentin N. Burdick, Alan Bible, Howard W. Cannon, Lee Metcalf, Gale W. McGee, Robert P. Griffin, Harold E. Hughes, Philip A. Hart.

U.S. Senators.

Mr. DOMINICK. I am most grateful to Senators ROBERT C. BYRD, CASE, and other members of the Transportation Subcommittee who were sympathetic and responsive to the problem. I am gratified to see the language in the report on H.R. 8760, the Department of Transportation's appropriations bill which provides that—"FAA not decommission, or transfer airport traffic control specialists from any existing Flight Service Stations until such time as automated systems are in place and satisfactorily operational."

The 30 scheduled FSS closings would have occurred in 17 States with Colorado losing or having remoted four FSS in Akron, Eagle, La Junta, and Trinidad. Mr. President, because of the importance of the FSS's to general aviation, the lack of a real alternative to the present method of briefing private pilots and the consequent effect on flight safety, I would urge the conferees on this bill to include a similar prohibition in the conference report on FAA's ability to proceed with the planned FSS closings.

TEMPORARY LODGING FACILITIES

Mr. PROXMIRE. Mr. President, I have recently been engaged in an investigation of temporary lodging facilities which are constructed and operated by the Department of Defense. Since these facilities are financed essentially with non-appropriated funds, Congress has not been as fully informed in this area as it has in areas funded primarily with appropriated money. Consequently, I ask unanimous consent that the following correspondence be printed in the RECORD in order that everyone may be more aware of the cost, funding, occupancy, eligibility, and private sector implications of these facilities.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

OFFICE OF THE
ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., June 11, 1973.

Hon. WILLIAM PROXMIRE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PROXMIRE: Reference is made to our letter of May 10, 1973, which transmitted a copy of the Department of Defense Directive governing the temporary lodging facilities program. Our letter also indicated that we were developing answers to your questions concerning the temporary lodging facilities program and would respond to your inquiry shortly.

Specific information on the areas covered by your questions has been gathered and is attached as Enclosures 1 and 2. We trust these Enclosures are responsive to your inquiry.

Sincerely yours,

EDWARD J. SHERIDAN,
Deputy Assistant Secretary of Defense.

ANSWERS TO QUESTIONS CONCERNING THE TEMPORARY LODGING FACILITY PROGRAM AND NON-APPROPRIATED FUNDS POSED BY SENATOR PROXMIRE'S LETTER OF APRIL 11, 1973

PARAGRAPH 1

Question: How much money has been expended to date by service and facility under this program?

Answer: Capital costs for Department of the Army guest houses completed or under construction to date has been $6.8 million. Completion of two projects currently under construction is estimated to cost an additional $1.7 million. The Navy has expended approximately $10.3 million and the Marine Corps approximately $1.2 million for construction of temporary lodging facilities. The initial increment of construction of 760 temporary lodging units at 18 Air Force installations cost approximately $9.1 million. Award of a second contract for construction of 241 temporary lodging units at six installations is anticipated shortly. This is estimated to cost an additional $3.6 million. Lists of individual projects are attached as enclosure 2.

Question: What are your short and long-range plans for additional expenditures to provide temporary housing for military guests?

Answer: Department of the Army reports that $1.8 million has been projected to become available for financing construction of new guest house facilities by December 31, 1974. Thereafter, construction of guest house facilities will be limited to those which can be financed from amortization of outstanding loans, estimated at $650,000 annually. Department of the Navy proposes to expend approximately $2 million annually for temporary lodging construction until the needs of the Navy for short-term housing are met. The Marine Corps has no plans at present for future funding of temporary lodging facilities. No additional construction of temporary lodging facilities is planned by the Department of the Air Force.

The Military Departments must seek the approval of the Office of the Secretary of Defense for any additional temporary lodging facilities as outlined in DoD Directive 4165.55.

PARAGRAPH 2

Question: What is the origin and amount of the money contained in the Army's non-appropriated revolving fund from which the $10 million was borrowed to finance guest house construction?

Answer: The $10 million of non-appropriated funds represents assets of the Army Central Welfare Fund derived primarily as the Army share of dividends paid from the earnings of Army and Air Force exchanges. A minor portion was similarly derived from earnings of Army and Air Force Motion Picture Theater operations, and from interest earned on investments of the funds.

Question: Do such funds exist for the Navy and Air Force, and, if so, what are their respective origins and amounts?

Answer: Yes, funds exist for both Navy and Air Force. For Navy, the Bureau of Personnel Central Recreation Fund account which advanced funds for the construction of Navy temporary lodging accommodations is maintained through a pro rata distribution of Navy Exchange System profits and interest on short-term investment of funds. Current assets totalled $35 million on March 15, 1973. In contrast to the Army guest house program, the Air Force did not use a revolving fund to finance construction of their TLFs. A total of $12,995,000 was committed from the Air Force Central Welfare Fund, which has as its primary source of dollars the dividends it receives from the Army and Air Force Exchange Service.

Question: Are these funds to be repaid? Over how long a term? If the money is loaned, at what interest rate

Answer: Department of the Army funds are on a 15 year loan to be repaid at 3% per annum, simple interest on the unpaid balance. The monies being made available to Navy from the Bureau of Personnel Central Recreation Funds for Navy lodge construction are provided as an interest-free loan. The anticipated revenues from charges should make it possible to amortize the Bureau of Personnel investment in 14 years. The Marine Corps project at Camp Lejeune was funded by the activity's existing non-appropriated fund account. No funds were borrowed. There were no loans in the Air Force program; the funds were granted by the Air Force Central Welfare Fund.

PARAGRAPH 3

Question: To what extent are appropriated funds used for the direct or indirect support of these facilities, both initially and after construction?

Answer: All construction costs for temporary lodging facilities are non-appropriated funded. Appropriated funds have indirectly supported the construction of temporary lodging facilities insofar as programming, administration, and surveillance of the projects have generally been performed by appropriated fund employees. Service charges by occupants insure that the operation will be self-supporting in terms of; salaries for management, supervision, housekeeping, and grounds maintenance; daily operating expenses, such as laundry and cleaning; equipment replacement; and renovation. As with other morale, welfare, and recreation facilities, appropriated fund support is limited to providing utilities, preventive maintenance, and common services such as fire and security protection, trash removal, pest control, sewage disposal; snow removal, and medical inspection.

Question: Are guest houses built on government property?

Answer: All temporary lodging facilities constructed and those pending award of contract are sited on government property.

PARAGRAPH 4

Question: By what statutory authority are apppropriated and non-appropriated funds used to construct guest houses?

Answer: For appropriated funds, the construction of guest houses may be accomplished when specifically authorized in a Military Construction Authorization Act with funds provided for in a Military Construction Appropriation Act. With respect to non-appropriated funds, there is no requirement for statutory authority in order to fund and accomplish construction of guest houses.

Question: Do there exist any statutory or non-statutory controls over the use of this money?

Answer: Statutory controls applicable to the use of all appropriated funds, such as the Anti Deficiency Act, are applicable to the use of Military Construction appropriations. In addition, the provisions contained in the Military Construction Appropriation and Authorization Acts would be applicable to any guest House construction authorized or funded by those Acts.

There is no statutory authority governing the generation and use of non-appropriated funds within the Department of Defense. These matters are controlled by regulations of the Military Departments under the broad policy guidance of the Office of the Secretary of Defense. At the present time, this guidance is contained in DoD Directives or Instructions developed by Assistant Secretary of Defense (Comptroller) relating to audits; Assistant Secretary of Defense (Installations and Logistics) relating to construction criteria, construction reports and temporary lodging facilities; and, by Assistant Secretary of Defense (Manpower and Reserve Affairs) relating to the funding of morale, welfare and recreation facilities. The funding guidance contained in DoD Directives 1330.2 identifies the circumstances in which appropriated funds may be used in support of non-appropriated fund activities. The provisions of this directive constitute limited controls on the use of appropriated funds and the supplemental use of non-appropriated funds in connection with the construction, maintenance and operation of morale, welfare and recreation facilities.

A non-appropriated Fund Study Group organized at the direction of the Deputy Secretary of Defense is currently involved in a study designed to determine what additional controls are necessary in the overall management of non-appropriated fund activities and to develop action documents implementing required corrections. It is anticipated that this action will result in a clearer delineation of controls on the use of both appropriated and non-appropriated funds in support of morale, welfare and recreation facilities, including temporary lodging facilities.

Question: Are there any specific restrictions concerning housing construction?

Answer: The policy, procedures and restrictions concerning the construction of guest houses are contained in DoD Directives 4165.55, subject: "Temporary Lodging Facilities (TLFs)," dated December 1, 1972.

PARAGRAPH 5

Question: Who is eligible to stay in military guest houses? Is eligibility restricted to permanent change of station families? To military personnel? What is the priority of use for each service, by rank and status (i.e. permanent change of station families, temporary duty station families, DoD civilians, retired military personnel, etc.)?

Answer: Priority of occupancy of Army guest houses is as follows:

1. Active duty military personnel of all grades with or without dependents, departing or arriving on permanent change of station orders, while clearing quarters or awaiting occupancy of quarters either on-post or off-post.

2. Visiting relatives and guests of patients in military hospitals.

3. Active and retired military personnel receiving outpatient medical treatment who are required to stay overnight near the medical facility.

4. Guests visiting service personnel stationed at the installation.

5. Military and civilian personnel on temporary duty may occupy guest house facilities on a space-available basis if transient bachelor quarters are fully occupied.

6. Transient military personnel in a leave status and transient retired military personnel may occupy guest house facilities on a space-available basis.

For Department of the Navy the eligibility for utilization of temporary lodging facilities other than those located at naval hospitals is as follows:

1. Navy personnel accompanied by their dependents and Marine Corps personnel assigned to the regular personnel allowance of Navy ships, stations and staffs, accompanied by their dependents, arriving or departing area under PCS orders.

2. Wives and dependents of active duty Navy and Marine Corps personnel as defined above who are in the area for the specific purpose of locating a permanent residence in connection with a PCS move.

3. Wives and dependents of prisoners of war and personnel missing in action.

4. Marine Corps personnel not assigned to the regular personnel allowance of Navy ships, stations and staffs, accompanied by their dependents, arriving or departing area under PCS orders, or wives of these personnel who are in the area for the specific purpose of locating a permanent residence in connection with a PCS move.

5. Other personnel—

(a) Other active duty military personnel and their dependents.

(b) Retired military personnel and their dependents.

(c) Unremarried widows and dependents of military personnel who died while on active duty or while on the retired list with pay.

(d) DoD civilian employees assigned to overseas areas and their dependents.

(e) Official guests and visitors of the command as set forth below.

(1) contract surgeons (when under contract with the armed services).

(2) American Red Cross paid professional personnel (assigned to duty within naval activity).

(3) Foreign military personnel (when on duty with U.S. armed services) and their dependents.

(4) United services organizations (overseas only, and when recognized by DoD).

(5) 100% disabled veterans and their dependents.

(f) Visiting relatives and guests of assigned military personnel in overseas areas and at the Naval Air Station, Lemoore, California.

The priority established for use of temporary lodging facilities at naval hospitals is as follows:

1. Members of the immediate family of seriously or critically ill patients.

2. Members of the immediate family of Vietnam returnee patients.

3. Sponsors of children who are undergoing/convalescing from serious surgery.

4. Navy personnel with dependents and Marine Corps personnel with dependents assigned to the hospital staff arriving or departing the area under PCS orders.

5. Individuals not receiving per diem payments, being treated on an outpatient basis and treatment involves early morning appointments/tests or extensive therapy over a period of several days.

6. Members of the immediate family of patients who have been hospitalized for more than 30 days and who remain physically unable to depart on leave or liberty.

7. Other active duty military personnel and their dependents.

In the above answers we have been referring to temporary lodging facilities which are modern structures recently constructed. Additionally, the Air Force operates guest houses which generally are old barracks, officer quarters, or warehouses which have become excess to the needs of the base. The vast majority of the guest house units are one room without cooking facilities and occupants must utilize either a shared bath or community bath and latrine facilities. They are generally in such poor structural condition that it is not economically feasible to repair them. The only reason these guest houses remain in operation is because there are no other suitable facilities to be used. Air Force policy establishes first priority in guest houses for friends and relatives of patients in Air Force hospitals. In addition, friends and relatives of assigned military members are authorized to occupy these accommodations as well as military personnel and their families incident to permanent change of station. These latter members are accorded higher priority in oversea areas in order to save appropriated funds (temporary lodging allowance). Non-duty personnel such as retirees, members on leave, delay en route are authorized to occupy guest houses. Personnel on temporary duty may utilize guest houses but occupancy is very infrequent since most of these facilities are not suitable for these members.

The following is the Air Force priority for occupancy in Temporary Lodging Facilities:

Priority I. Air Force military members and their dependents incident to permanent change of station, inbound and outbound. Bachelor or unaccompanied Air Force military members incident to permanent change of station will also be authorized to occupy TLFs when normal transient quarters are fully utilized and when permanent party government quarters are not available for assignment to the member. Only members in this category are permitted to make advanced reservations.

Priority II. (Priority indicated within this group on a space-available basis).

(a) POW/MIA wives and dependents.

(b) Military members and dependents on leave/delay en route.

(c) Military members on temporray duty (utilization authorized when designated government transient quarters are fully occupied).

(d) Retired military members and dependents. Civilians will not be permitted to occupy TLFs except for retirees and dependents of military members indicated above. Accommodations will be relinquished by personnel in Priority II when occupancy is requested by Priority I members.

Question: What are the daily rental charges and how are such rates fixed?

Answer: For Army occupancy rates for each guest house are established by the installation commander at levels required to insure solvency and financial stability of the guest house. Rates vary depending on location of the guest house and generally range from $6.00 to $12.00 per day per room. Rates must be set at amounts sufficient to cover operation and maintenance costs plus an amount programmed to recover the cost of construction within a period of 15 years.

For Navy the current charge for units recently constructed is $8.00 per unit, regardless of family size. This rate was determined with the intent of providing the lowest possible cost to the serviceman while offsetting the costs of operation and realizing a pay-back of funds utilized for construction in a reasonable period of time. It is recognized that inflation or other extenuating circumstances may require increases in the uniform rental rate or period of amortization of the investment.

Air Force daily rates in guest houses vary from base to base since accommodations are dissimilar; these rates are based upon the type of accommodations and services provided. Daily rates in their new temporary lodging facilities are established as a maximum of $8.00 per unit. This service charge is established to maintain these facilities on a self-sustaining basis.

PARAGRAPH 6

Question: By what criteria is a particular post or base determined to require additional temporary accommodations?

Answer: The Army Guest House Replacement Program under the 10 Million Dollar non-appropriated revolving fund was initiated in 1967 to replace outmoded and obsolete guest house facilities which had been in operation since the World War II period, and most of which are located in temporary buildings constructed during World War II. Because the objective was to replace existing facilities and available funds for replacement were limited, major Army commanders were required to evaluate the urgency of their replacement needs and establish a priority therefor. The relative priorities of the major commands were subsequently weighed by the Army and the $10 million fund allocated to 14 installations. Subsequently the list was reduced to 12 installations. Factors considered include availability of suitable commercial facilities at rates which servicemen can afford, current and projected long-range personnel strength and condition and utilization of existing guest house facilities.

The following criteria are utilized to determine requirements for temporary lodging accommodations at a Naval installation: Average PCS moves in and out of the area, availability of adequate short-term community housing assets, shortage of permanent housing accommodations, and at naval hospitals, the projected number of families of seriously ill patients requiring short-term housing. The total projected number of persons eligible to participate in the program are not used as the basis for calculating requirements. Commercial hotel and motel availabilities within one-half hour commuting distance of the activity are surveyed and results submitted to OSD together with a statement as to why available or obtainable facilities cannot meet short-term family housing requirements for servicemen and their families.

The Air Force utilized the following criteria in determining where temporary lodging facilities would be built:

1. Actual permanent change of station family moves.
2. Availability of base transient quarters.
3. Availability of permanent housing—on and off base.
4. Motel/hotel costs and availability.
5. Tenure of installations and projected changes in missions.

Question: Is the projected number of permanent change of station families the sole criterion?

Answer: Except for temporary lodging facilities at military hospitals, all projects approved by the office of the Secretary of Defense have been justified solely on the need to temporarily house permanent change of station personnel.

Question: Is the total projected number of persons eligible to participate in the program used as the basis for this calculation?

Answer: No, only PCS families are used in the calculation.

Question: To what extent is the local capacity of private facilities examined?

Answer: A survey is made by personal contact with responsible managerial representatives of private hotel/motel facilities within one-half hour commuting time of the installation to determine the adequacy of accommodations including food service facilities, prevailing rates, and military discount rates that can be obtained. Also, the feasibility of use of private facilities by lease, service contract or other suitable arrangements as an alternative to on-post construction is explored.

Question: Are local motel or hotel owners required to commit rooms in the absence of guaranteed reservations or lease agreements?

Answer: There is no requirement that local motel or hotel owners commit rooms in the absence of guaranteed reservations or lease agreements for military personnel.

Question: Would a local owner be required to cancel the reservation or terminate the stay of a civilian guest in order to accommodate military personnel?

Answer: Only in case there is a firm and binding agreement under which the owner is obligated to accommodate the military personnel would an owner be requested to cancel a reservation or terminate the stay of a guest.

Question: What are the terms of arrangements reportedly proposed to private innkeepers in the vicinity of Fort Meade and Aberdeen Proving Ground in Maryland?

Answer: Surveys were made of motels within ten miles of each installation to determine if suitable facilities could be obtained by contract, lease, voluntary discount or other suitable agreement, to meet the Army's guest house needs in lieu of on-post construction. Contacts were made with the owners or responsible managerial personnel. The operators felt that the daily rates of $6.00 to $12.00 for a family of up to six people proposed by the Army was much too low. None of the operators would agree to provide suitable facilities at rates that can be afforded by servicemen, particularly those in the lower grades, whose circumstances require them to occupy temporary lodgings for extended periods of time while awaiting permanent quarters or clearing quarters.

Question: Are any agreements with private motel owners to provide temporary military guest housing currently in effect? If so, what are the terms?

Answer: The Army has an off-post guest house facility provided under a service contract on a year to year basis at Fort Carson, Colorado. The facility consists of 20 single and 20 double accommodations. Daily occupancy charges are $6.00 single and $8.00 double.

On March 1, 1973, a guaranteed rate agreement was negotiated by the Navy with Charter House Hotels, 6461 Edsall Road, Alexandria, Virginia, to provide temporary lodging units at $12.00 single/$14.00 for families, with a 25% reduction on food prices in the restaurant to military personnel and their families on permanent change of station or temporary additional duty orders.

The Air Force has entered into written agreements with private motel owners to provide temporary accommodations for their members. As an example, Headquarters Command, United States Air Force, located at Bolling Air Force Base, in the Washington, D.C. area, has signed a memorandum of agreement with the managing director, Presidential Gardens Motel Hotel, which provides that all families referred to this facility will be provided accommodations at the rates listed below, subject to available space. Accommodations and rates, excluding tax, will be guaranteed for at least ten days once the rooms are occupied. Rates are as follows: two persons—$10.00; three persons—persons—$16.00; seven persons—$17.00; eight persons—$16.00.

TEMPORARY LODGING FACILITY PROJECTS

Locations	Number of units	Cost
Department of the Army:		
Redstone Arsenal, Ala	27	$331,914
Fort Huachuca, Ariz	27	355,374
Fort Gordon, Ga	88	831,861
Fort Campbell, Ky	88	958,400
Fort Knox, Ky	88	899,778
Fort Meade, Md	54	[1] 6,500
Fort Ritchie, Md	21	409,049
Fort Dix, N.J	88	1,103,500
Fort Bragg, N.C	88	875,000
Fort Hood, Tex	76	[1] 335,030
Fort Lewis, Wash	88	1,067,000
Army total	733	7,173,406
Department of the Navy:		
NAS Alameda, Calif	75	785,000
NAS Lemoore, Calif	50	646,000
NAS Miramar (San Diego), Calif	100	1,055,000
NAS North Island (San Diego), Calif	100	1,075,000
NS San Diego, Calif	50	585,000
NSB New London, Conn	75	844,000
NAS Pensacola, Fla	25	370,000
NNMC Bethesda, Md	25	345,000
MCB Camp Lejeune, N.C	90	1,200,000
NS Newport, R.I	125	1,425,000
NS Charleston, S.C	50	615,000
NAS Memphis, Tenn	25	325,000
NAB Little Creek, Va	100	1,093,000
NS Norfolk (Sewell's Point), Va	100	1,155,000
Navy total	[2] 990	11,518,000
Department of the Air Force:		
Luke Air Force Base, Ariz	40	----------
Williams AFB, Ariz	40	----------
George AFB, Calif	40	----------
Mather AFB, Calif	40	----------
Norton AFB, Calif	40	----------
Travis AFB, Calif	40	----------
Lowry AFB, Colo	40	----------
Petersen Field, Colo	40	----------
Eglin Air Force Base, Fla	40	----------
Homestead AFB, Fla	40	----------
MacDill AFB, Fla	40	----------
Robins AFB, Ga	40	----------
Keesler AFB, Miss	40	----------
Malmstrom AFB, Mont	40	----------
Offutt AFB, Nebr	60	----------
Grand Forks AFB, N. Dak	40	----------
Minot AFB, N. Dak	40	----------
Lackland AFB, Tex	60	----------
Air Force total	[3] 760	[4] 9,050,000
Scott Air Force Base, Ill	36	----------
Andrews AFB, Md	60	----------
McGuire AFB, N.J	30	----------
Griffiss AFB, N.Y	35	----------
Wright-Patterson AFB, Ohio	40	----------
Langley AFB, Va	40	----------
Air Force total	[5] 241	[4] 3,620,000

[1] Under construction or programed. Total cost of these projects estimated at $1,700,000.

[2] Includes units or space for lobby, office, management and other services.

[3] Completed or under construction.

[4] Awarded as single contract; breakout of cost by location not available.

[5] Award of contract anticipated shortly.

THE 20TH ANNIVERSARY OF THE AMERICAN POLITICAL SCIENCE ASSOCIATION'S CONGRESSIONAL FELLOWSHIP PROGRAM

Mr. PERCY. Mr. President, I am very pleased with the colloquy that took place yesterday, July 25, on the occasion of the 20th anniversary of the American Political Science Association's Congressional Fellowship program. I would like to add my expression of strong support and encouragement for the highly successful program which APSA has under taken these past 20 years. The APSA program has particularly distinguished itself in the House and the Senate for the very high caliber of its participants who are a cross-section of academic scholars, lawyers, journalists, upper-grade civil service employees, plus a handful of specialists from abroad who are selected by rigorous nationwide competition. I understand that some 571 highly qualified fellows have participated in the program since its inception in 1953, providing over 125 Senators and Senate committees with the skills and fresh currents of thought available in the academic and professional worlds.

Ten fellows have served with distinction in my office since I entered the Senate. Four of them, Don Tice, Ed Stock, Werner Brandt, George Humphrey, and Tony Freeman, came to me from the State Department and the AID agency and have contributed the benefit of their varied foreign service experiences to my work in the Senate Foreign Relations Committee. Three others, Wes Pippert, Tom Daffron, and Ken Lamke, brought with them the highly valuable skills of the journalism profession, and Tom Vecino and Vern Goetcheus came from the academic world. Two of the fellows, Tom Daffron and Vern Goetcheus, have stayed on as permanent members of my staff.

The fellows who have served with me this year have commented to me on the great value which they see in the APSA program's improving their understanding and appreciation of the legislative process, and I know that they will be returning to their professional pursuits, convinced of the need for Congress to reassert its constitutional prerogatives and play a more vigorous role in the formulation of public and foreign policy.

I believe that a special word of commendation and encouragement should be said for the private foundations which have helped to make this program a reality. These include: the Edgar Sterm Family Fund of New Orleans, the Ford Foundation, the Courier-Journal and Louisville Times Foundation, the New York Times Foundation, the Shinner Foundation, the Poynter Fund, the Revlon Foundation, the Helen Dwight Reid Foundation, the Asia Foundation, the Commonwealth Fund, the American Friends of the Middle East, the Bush Foundation, and the Joseph E. Davies Foundation. I also understand that the Robert Wood Johnson Foundation has recently joined the program and soon will be funding a number of young medical doctors to participate in a special health policy section. I strongly endorse the American Political Science Association's sponsorship of this fine program and unhesitantly underwrite its efforts to obtain expanded support from a growing number of new foundations and participating agencies.

CHARLES R. HOWELL

Mr. WILLIAMS. Mr. President, I was most saddened by the death of former Congressman Charles R. Howell. I had known Charlie Howell for many years and had always felt very close to him; he was a man who always adhered to the highest values in life, and I know that he provided me and many others with a great inspiration.

Charlie Howell spent a quarter of a century in public life, beginning in 1944 when he was elected State assemblyman from Mercer County, N.J. He served 6 years in the U.S. House of Representatives representing the counties of Mercer and Burlington and sought election to the U.S. Senate in 1954. That campaign was marked by spirited but dignified exchanges between Charlie Howell and the current senior Senator from New Jersey, which ended in one of the closest statewide votes in New Jersey history.

After that election, Charlie was appointed State banking and insurance commissioner, a post he served in with vigor, independence, and distinction. Among his accomplishments during his tenure was development of the first high risk plan for providing insurance in urban neighborhoods threatened with violent unrest.

In 1969 Charlie Howell was forced by illness to resign his post, and end his career in public office. It was a measure of the man that he remarked to a reporter at the time: "I shudder at the thought of doing nothing." It was this same illness that finally claimed Charlie's life on July 5, at the age of 69.

Mr. President, I know that those Members of Congress who were privileged to have known Charlie Howell join me in expressing our most heartfelt condolences to his widow, Inez.

THE PLIGHT OF SENIOR CITIZENS

Mr. GURNEY. Mr. President, today's Washingtin Star-News has an article on the front page that certainly says something about the problems facing this country today. The article, with a Miami Beach dateline, is entitled "Rising Costs Squeeze the Proud Elderly." It outlines the hardships facing many of our elderly in making ends meet during these days of inflation, and describe the fact that many of them are now turning to shoplifting in order to put food in their mouths.

Max Friedson, chairman of Florida's Congress of Senior Citizens, has long been a highly respected and very outspoken critic of the shortsighted way Americans treat their elderly, and more specifically, of the way Congress responds—or fails to respond—to the needs of our elderly.

Mr. President, I submit that Max Friedson, as quoted in the article, is absolutely correct. We should not force our elderly to "steal or starve" as we seem to be dong in Miami Beach, rich in hotels but heavily populated with poor senior citizens. We recently passed legislation here in the Congress which will increase social security benefit beginning next January. That is a step in the right direction, but what about civil service retirees? When will they receive a substantial increase in benefits? While we increased social security benfits by over 25 percent, civil service retirees have seen their equally meager pensions rise by a "whopping" 6 percent. Many retired teachers, who must rely on State legislatures to increase pensions, are receiving pensions of $50 and $60 a month. How can we expect an 80-year-old retiree, who must spend for medicine what many of us spend for food, to live on such a paltry amount?

I do not condone, in any way, the shoplifting mentioned in the article. I must admit, however, that I am not very impressed by the attitude held by many that "once you get old you aren't any good any more." We have seen recently, by virtue of a CBS special report, "You'll Get Yours When You're 65," the contrasting attitude of European nations toward their elderly. In Germany, for instance, senior citizens receive retirement benefits although they may continue to work full time. Why not in the United States? In other nations, prescription drugs are free, yet here, a provision to cover prescription drugs under medicare was deleted in conference last year. We have spent millions in the war on cancer and heart disease, and in developing cures to countless other diseases, but how much good does it do if all a person has to look forward to is a penny-pinching, meager existence, totally lacking in dignity, when he hits the magic age of 65?

Mr. President, I commend the article to my colleagues, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star-News, July 27, 1973]

RISING COSTS SQUEEZE THE PROUD ELDERLY

MIAMI BEACH, FLA.—Rising food prices have forced many retired people living on fixed incomes to eat fewer meals and some have even resorted to shoplifting food and vitamins, officials report.

Social workers and store officials said the situation is particularly acute in Miami Beach, where 61 percent of the population of 85,000 is aged 65 and over.

Max Friedson, 74, chairman of the Congress of Senior Citizens, which has 100,000 members in Florida, estimated that 500 to 1,000 elderly people in Miami Beach "simply cannot make ends meet" and are too proud to go on welfare.

"They get $80 to $90 a month in Social Security, they can't get on welfare and apartments cost between $110 and $150 a month," Friedson said. "They simply can't do it. For a couple, food costs about $100 a month. Some are existing on two meals a day."

In a one-mile-square area of south Miami Beach, Friedson said, 37,000 old people are living on fixed incomes, many of them union pensions.

For many the bright spot of the day is a 50-cent meal at a Methodist church in Miami.

Flora Sherman, 79, formerly of Nashville, Tenn.; Herman Hurt, 85, and Anna C. Mendez, 75, lunched there yesterday on baked chicken, string beans, potato salad and fresh tomatoes and talked about their problems.

"There's nowhere else you can get a meal like this," beamed Mrs. Sherman. "This is my big outing of the day," said Hurt, a former elevator company employe from Yonkers, N.Y.

For Mrs. Mendez, the wife of a retired postal service employe from the Bronx, New York City, the lunch program helps ease an already tight budget—$400 a month from a pension fund.

"I've been cutting down on meat. We've been eating less and I make the coffee weaker now," she said. "We hardly use any sugar anymore and get the newspaper three times a week instead of every day."

The couple lives in a small $120-a-month apartment, but the rent will be increased to $170 a month in September. "That's too much. We're going to have to move," she said.

Friedson said his organization has had to help with the legal defense of some elderly people who have been caught shoplifting. "This is terrible. We should set an example to the young. We should be elder statesmen. There should be other ways to make ends meet than shoplifting," he asked.

"Some of the older women put little packages of meat in their bras. They steal what they need at the time—vitamins, cans of tuna fish," said Frank Curcio, security chief for Grand Union stores.

Hugh Fitzpatrick, southern division security manager of the Food Fair supermarket chain, said 90 percent of the shoplifters caught are not professional thieves and many are elderly.

"Before, they might try to put an item under their clothing. Now, they're coming in with shopping bags. They take small, expensive items—cans of shrimp, salmon and tuna. Things where they can get a lot in one bag," Fitzpatrick said.

He added that if an old person is a first offender he might get off with a lecture.

"We treat them like you would mom or dad. Some feel because they gave the store their business in better days they are entitled to whatever they want to take," he said.

Miami Beach police said that in the year ending June 30, 89 people were arrested for shoplifting in the city and "the great, great majority are very elderly people."

Other police officials pointed out that the majority of people picked up in stores for shoplifting are not prosecuted.

Three miles across Biscayne Bay in neighboring Miami, police also reported an increase in the number of shoplifting cases involving the elderly.

"One downtown store in Miami frequented mainly by elderly people turns in about three or four old people for shoplifting every day," a police spokesman said.

PHASE IV AND THE CEILING ON BEEF

Mr. CLARK. Mr. President, I wish to call to the attention of this body to the extremely serious situation which exists today among beef producers and processors.

The result of the continuation of the ceiling on beef prices is that cattlemen are holding their animals back from market until the end of the freeze on September 12. This has caused the closing or the serious curtailment of beef processing operations. And this in turn will mean that in a very short time there will be serious shortages of beef in the supermarkets and grocery stores.

My office has been deluged in the past few days by phone calls, letters, and telegrams describing the dire distress and alarm which phase IV has occasioned among beef producers and processors. Mr. President, this is not just a short-term problem of supply in the next few weeks—it encompasses the disillusionment and loss of confidence among the livestock feeders upon whom our future meat supply depends. Cattlemen are tired of bearing the brunt of the administration's anti-inflationary policy—remember, beef prices have been frozen since March, while costs have continued to rise abruptly. They are caught in an economic squeeze, and consequently they are cutting back their operations or phasing out livestock feeding completely. The farmers who write to me are saying they are tired of fighting the government, the weather, the misunderstanding of consumers and inflation—and they would rather sell their grain and make more money than continue to feed cattle.

The point, Mr. President, is this—the continuation of the price freeze is going to lead not only to a short-term squeeze in supply but also to a very serious long-term problem of a decline in the number of animals which simply cannot be cured quickly.

The message which I have received from dozens of Iowans is that we must remove this discriminatory burden from the beef industry or face serious shortages and severe economic losses among processors. I disagree with Secretary Schultz that this problem is "exaggerated." It is very serious indeed, and will not help anyone—particularly not the consumer who will be forced to pay ever higher prices as a result of this misguided policy.

I ask unanimous consent that these representative letters and telegrams from Iowans engaged in various aspects of beef production and processing be printed in the Record.

There being no objection, the letters and telegrams were ordered to be printed in the Record, as follows:

Fontanelle, Iowa, *July 2, 1973.*

Hon. Dick Clark.

Dear Sir: I am a 26 year old first year farmer (former Voc. Hg. teacher & ISU Graduate), who feels that the current price freeze on meat products is going to hurt future expansion.

In my own case, I'm not expanding as fast as I would if there was more profit potential in it. I just purchased 47 head of good choice 450 lbs. heifers for 50.50/cwt. or $233.00/head. I would like to buy more, as I have grass for 100 head or more, but not after using the Iowa State Cattle Feeding Worksheet. Using $1.70 corn, 15¢ for protein, 60 days of pasture, & 7 hrs of labor for 450 lb. of grain, I need $44.75 to cover my costs. The current February Futures price for choice 1100 lb. steers in Chicago is $48.60. This price will not give me but about $44.25 here at the farm for the good-choice 900 lb. heifers I will have.

This 50¢/100 lb. difference means that I will probably not get anything for my labor. How many men are willing to work for no pay?

As for the other cattle I have 16 fat steers & heifers, ready to sell, and 14 stock cows with calves. I would like to expand my cow herd, but question the economic value of buying $450–$500 replacement heifers & cows. My banker would like to see more profit potential or more signs that the current prices will hold steady for several years before expanding.

Sincerely,

J. G. McCall.

Maxwell, Iowa,
July 1, 1973.

Senator Dick Clark,
Washington, D.C.

Dear Senator Clark: This letter is in regard to what price freeze on meat, and not on the costs that go into a cattle feeding venture, is doing to the future supply of finished beef.

Buying 750 young yearlings at $52–$56 per hundred or calves at $60–$70 per hundred, with the price of corn at or near $2 a bushel and protein supplement at or near $400 per ton, and fat cattle frozen at present levels, just doesn't add up to any profit. It most likely will end up in a loss to the cattle feeder.

In the past I have been buying, in April or May, one or two loads of cattle to finish for the fall market. This summer my lots are empty. I haven't bought any cattle since last winter because of these factors.

I hope I can count on you to present the true facts to the right people.

Sincerely,

Melvin Kimberley.

Senator Dick Clark: By way of introduction, our company, Flavorland Industries, Inc., Sioux City, Iowa (formerly Needham Packing Company, Inc.) feeds, slaughters, and processes beef only.

We are completely dumbfounded that no relief on increased beef costs can be passed on according to your release of July 18, 1973.

This is a tremendous injustice to plants slaughtering beef only; it is a tremendous injustice to companies that process beef only; it is also a tremendous injustice to livestock feeders who at this time of year must make commitments for feeder cattle and grain to be received in the months of September, October, and November. These feeders are in limbo so to speak not knowing what to do prior to or after September 12, 1973.

It is also an injustice to feeders, packers, and processors of beef products who must make financial commitments with their banks or other financial institutions since they do not know what to do at this time.

Last but not least it is an injustice to the American consumer who must eventually bear the results of the chaotic conditions which have prevailed in the food industry during the past few months and the unknown conditions which will prevail in the future.

Lifting the ceilings on pork, lamb, poultry, and similar meat items will no doubt cause the housewife to buy more beef since the beef ceilings have not been lifted at this time; therefore, beef will be relatively cheap as compared to other meat items. This increased emphasis will accelerate and cause a beef shortage which I predict will occur from September through the end of the year.

Your announcement that beef ceilings will be lifted after September 12, 1973, will in my opinion bring the sale and offerings of fat and feeder cattle to a complete standstill approximately fifteen to twenty days prior to September 12.

In my opinion the American people are not immature in economics that relate to agriculture. They fully realize the only way to reduce prices is to increase production. They also realize to increase production of a product there must be an incentive to make money on such product.

We must have higher prices to increase production before any relief can be seen regarding lower prices.

I also predict that unless you rescind your order of July 18, 1973, pertaining to beef ceilings that many feedlots, beef slaughterers and processors will close their doors. This company which has the capacity to slaughter 16,000 head per week and which is now currently slaughtering approximately 10,000 head per week, could very well be in this category unless immediate relief is forthcoming.

During the last several months we have reduced our total work force of approximately 900 people by approximately 250. In closing, I cannot emphasize too strongly the need for immediate relief for the entire beef industry, I urgently implore your immediate consideration.

James R. McDonald,
Chairman of the Board and President, Flavorland Industries, Inc. (formerly Needham Packing Co., Inc.).

Spencer, Iowa,
Washington, D.C.

Senator Clark: Spencer Foods, Inc., as a major slaughter and fabricator of beef cattle in Iowa and Nebraska, expresses shock and disappointment in the continuation of the ceiling on the beef prices through September 12, 1973.

The continuation of the freeze as outlined in phase IV will necessitate the curtailment of operations at our beef slaughter and fabricating facilities. This will involve the laying off of 325 employees at Spencer, Iowa, and 170 employees at Hartley, Iowa, and 340 employees at Schuyler, Nebraska. Weekly beef slaughter capacities at these plants are 7,000 in Spencer and 10,000 in Schuyler. This is necessitated due to substantial losses incurred and anticipated losses under the new program.

We would strongly encourage that action be taken to immediately remove this ceiling of beef as this program will result in shortages of supplies of beef to the consumer. We also feel strongly that the discriminatory action taken on the beef industry has and will create unrecoverable inequities.

Spencer Foods, Inc.
Jerry P. Kozney.

Mr. Steak,
Coralville, Iowa, July 21, 1973.

Senator Richard Clark,
Old Senate Office Bldg., Washington, D.C.

Dear Senator Clark: My Mr. Steak restaurant employs over 30 people and our suppliers many, many more. Continuation of the current beef price freeze from the packing house to the consumer will eliminate our beef supply and close our doors almost immediately. Unemployment is not the answer to our current economic mess.

Please help us and the American economy in getting this freeze order lifted immediately.

Thank you.

Sincerely yours,
Robert D. Dotson,
Owner-manager.

SENATOR MUSKIE MAKES THE CASE FOR A LIMITED FEDERAL ROLE IN PROPERTY TAX REFORM

Mr. PERCY. Mr. President, I wish to call to the attention of my colleagues the remarks of Senator Edmund Muskie before the International Association of Assessing Officers in Washington on July 19, in which my distinguished colleague eloquently expresses the case for a limited Federal effort to encourage local property tax relief and reform.

The need for reform of local property taxation is in my view indisputably clear. As Senator Muskie points out there is ample evidence showing that the property tax burden falls very heavily on the poor and particularly the elderly poor. Second, there is a long, demonstrated record of inequitable, inefficient property tax administration throughout the country; a sad problem which results in very heavy tax burdens for some, and scandalously light or nonexistent taxes for others. Third, the property tax is demonstrated to be the country's most unpopular tax, little understood, subject to political manipulation, in need of being brought into the full sunlight of open government.

Senator Muskie makes a compelling case for a Federal role in property tax reform and I am in complete agreement with it. He delineates precisely the respective roles of the Federal versus the State and local governments in the property tax field. Property taxes have been, and should remain, the province of local governments. Local property tax administration should under no circumstances be assumed by the Federal Government.

But there is a compelling, even urgent, case for creating Federal Government incentives to State and local reform. This point is hotly disputed. There are those who argue that, no matter how shoddy, how inept, how unfair local property tax administration in all too many States and counties and municipalities has been shown to be, the Federal Government has no reason or cause to intervene.

Senator Muskie disagrees, as do I, and makes the case for a limited Federal role with complete persuasiveness:

> Where heavy property tax burdens on the poor and elderly undercut Federal programs to guarantee all citizens a measure of economic security, there is a national interest in adjusting those burdens. Where improper administration of the tax results in discrimination against certain classes of property owners, there is a national interest in enforcing justice under the law. And where the tax works against coherent urban growth and sound land use, there is a national interest in coordinating fiscal programs with those of development.

Senator Muskie and I are the coauthors of the Federal Property Tax Relief and Reform Act of 1973. The Intergovernmental Relations Subcommittee, of which the gentleman from Maine is the distinguished chairman, has held hearings in Washington on the bill, and is planning field hearings, tentatively including Chicago. Our bill provides Federal incentive to property tax reform by providing Federal payments to State programs of property tax relief for poor homeowners and renters, if States undertake certain reforms. Senator Muskie's and my conviction that this is the proper Federal approach to the serious property tax problem is shared by 12 cosponsors of the bill in the Senate. All the sponsors of the bill can derive satisfaction from the policy statement of the Executive Management and Fiscal Affairs Committee of the 1973–74 National Governors' Conference, which endorses the approach in S. 1255 with the statement that—

> We . . . believe that federal incentives which would promote better assessment administration, or encourage the States to assume greater responsibility for property tax matters are desirable.

Mr. President, I ask unanimous consent that Senator Muskie's speech and the policy statement of the Governors' Conference, both referred to above, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Remarks of Senator Edmund S. Muskie to Seminar on Property Tax Reform, International Association of Assessing Officers, Statler-Hilton Hotel, Washington, D.C., July 19, 1973

The last time George Romney and I had a chance to debate the question of the Federal role in property tax relief and reform, George won. He had the votes.

Bob Merriam was the moderator on that occasion, too, as Chairman of the Advisory Commission on Intergovernmental Relations. It voted last December, as you know, to reaffirm the policy that states must carry the burden alone of reforming the administration of the tax and relieving its excessive burdens. I was in the minority.

It may be that this morning I am still in the minority. But in three days of Senate hearings in May on my proposals for a limited Federal program in the field, I found that the long and often angry discussion of property tax has taken a new turning. The question is no longer whether to remove the inequities and inefficiencies in property taxation but how and by whom.

My answer is that *all* levels of government must be involved in reforming practices which all of us agree must be changed. No one in this room, I am certain, will argue that the property tax is administered as efficiently and fairly as it should be.

In seeking to remedy that situation, the Federal Government has a limited but essential role to play. Where heavy property tax burdens on the poor and the elderly undercut Federal programs to guarantee all citizens a measure of economic security, there is a national interest in adjusting those burdens. Where improper administration of the tax results in discrimination against certain classes of property owners, there is a national interest in enforcing justice under the law. And where the tax works against coherent urban growth and sound land use, there is a national interest in coordinating fiscal programs with those of development.

The program I advocate, however, would rely on the states to be the instruments of relief and reform. They would receive support—if they want it—from the Federal Treasury for measures which relieve excessive tax burdens. They would receive financial aid—if they want it—for efforts to improve and professionalize the quality of local assessment. They would receive encouragement—in the form of outside expertise and information—for programs of equal and uniform assessment and for projects to link land use planning to tax policy.

States which received help for relief plans would have to meet only two fundamental requirements. They would have to show convincing progress toward the difficult goal of equal and uniform assessment. And they would have to insure that their citizens could understand the workings of the tax and contest inequities where they arose.

The reasons for bringing the Federal Government into this field—one of traditionally local concern—are many. Let me present the ones I view as significant.

In the first place, there is substantial evidence to indicate that the property tax burden falls most heavily on those who are least able to pay it—the poor and the elderly. Statistics compiled by the ACIR demonstrate that in all regions of the country, persons at the low end of the income ladder pay a higher percentage of their income in property taxes than those at the upper income levels.

In the case of millions of taxpayers, this burden is not merely regressive, but confiscatory.

For example, there are approximately 1.3 million elderly homeowners with incomes under $2000 a year who pay an average of 15.8 percent of their support to property taxes. Every week, my office receives numerous letters from such persons who are finding that they simply cannot afford to live in their own homes any longer.

An elderly couple from Bethel Park, Pennsylvania, living on a total yearly income of $6000, is now paying 12.5 percent of that income in property taxes. Another elderly couple, from Lewisboro, New York, writes that property taxes consume 29 percent of their yearly income of just over $6000. And a widow from West Bridgewater, Massachusetts, living on a combined Social Security and pension income of $3100, pays a shocking 34 percent of her income in property taxes.

For the poor in general, the tax bite is even more painful. Over 400,000 Americans under the age of 65 and living on incomes of less than $2000 a year see property taxes consume nearly 19 percent of their meager subsistence.

It is true that a number of states—21 at last count—have acted to provide circuit-breaker relief for elderly homeowners. But the pattern of progress has been uneven, and these scattered initiatives are small consolation to the millions of nonelderly homeowners and renters who still face property tax payments far in excess of their ability to pay.

The problem is not an isolated local one, to be solved through piecemeal response. It involves the commitment of government at all levels, including the Federal Government, to the poor and the elderly, and so demands a response from all of us. Where states have not acted to deal with the situation, the Federal Government has an obligation to encourage them to do so. Where states have begun to come to grips with this form of inequity, the Federal Government has an interest in hurrying them along.

A second major reason for Federal involvement in the property tax field is that the states themselves have done so little to bring about effective reform of property tax administration. As long ago as 1963, the states received thoroughgoing, professional recommendations for assessment reform from the ACIR. Yet today, ten years later, the response to these recommendations has been most disappointing.

Last winter, my Subcommittee on Intergovernmental Relations conducted a survey of the states to determine the degree to which administrative reforms had been achieved.

We found that although the property tax is the single largest source of local tax revenue, states—on the average—spend only one-tenth of one percent of those revenues to supervise administration of the tax.

We found that only a handful of states have established any professional qualifications for persons holding the office of assessor or appraiser, with only five states providing bonuses to assessors who receive special training.

We found that by far the majority of the states continue to rely upon the exemption mechanism as a means of providing tax relief to various groups and individual interests, and that well over half the states make no attempt to determine the value of any revenue lost from such exempt property.

And finally, we found that very few states insure that taxpayers get the statistical information from which they can judge the fairness and quality of assessment practices.

At the same time, the Federal Government, through general revenue sharing, is shifting major spending decisions once taken at the Federal level to state and local officials. The quality of those decisions is certain to depend in large part on the degree to which state fiscal policies are uniform, integrated and professionalized. As long as administration of such a major revenue source as the property tax is slack, we cannot expect that our revenue sharing funds will be used for the maximum benefit of either the government or the taxpayer.

Further, a study recently released by the Arthur D. Little Company, based on property tax administration policies in ten of the nation's largest cities, provides substantial evidence that outmoded property tax structures are working at cross-purposes to Federal efforts to deal with the problems of our inner cities. The study concludes that poor property tax administration is an obstacle to the upgrading of poor quality housing, that it is a contributing factor to urban blight, and that in a number of the cities studied, existing property tax appeal structures do not offer any real remedy to the average taxpayer for inadequate assessment practices. In five of the ten cities studied, the median effective tax rate in blighted neighborhoods is many times higher than that in stable or upward transitional neighborhoods.

Finally, the neglect of property tax reform has resulted in the tax being both the least liked and least understood of all taxes. Fairly or not, it has come to be regarded as a symbol of the inflexibility and remoteness of government.

These consequences cannot be ignored for ever. Americans have developed a widespread mistrust of government—at all levels. They are profoundly cynical about government's ability to respond to their concerns. The polls tell us that public confidence in elected officials is at an all time low.

All of us have a stake in reversing that attitude. Tax reform is crucial to the process of restoring confidence. Without it, both taxpayers and government will suffer.

All of us stand to benefit from positive action. The taxpayer will have greater confidence that he is being taxed fairly in relation to his peers. The assessor will benefit from increased public understanding of his job and from greater technical and administrative assistance from the state level. And government at all levels will be strengthened by a more fair and workable revenue-raising structure.

Having outlined the reasons for a Federal role in property tax relief and reform, let me discuss what that role should and should not be.

Starting with the negative, I am convinced that the Administration proposal for a direct Federal circuit-breaker is a serious mistake. Such an intrusion of Federal power would actually work against the twin interests of relief and reform. While it might have some short-term political attraction, a direct Federal relief program would undercut local control and accountability, both of them necessary for a smoothly functioning revenue system.

And the Federal relief would work only as a shot of morphine for a patient with a serious and painful illness. Relief might kill the pain for a time, but it would in no way help to cure the disease which caused the pain to begin with.

My prescription is based on the conviction that relief and reform are inseparable goals of a sound Federal policy. First and foremost, it is necessary that the states—and not the Federal Government—serve as the agents for relief and reform. The property tax is the principal source of revenue for most units of local government, and local officials must remain accountable to those who pay the tax.

The role of the Federal Government should be one of encouraging and aiding the states—not coercing them—to undertake what is a very difficult task.

The Property Tax Relief and Reform Act of 1973, which I have introduced, is, first of all, a program for limited Federal involvement, but a plan that turns words of encouragement into tangible assistance. It is directed toward the goal of relieving both the inequities and the most severe burdens of existing property tax systems.

First, under its provisions, the states would remain the agents of relief and reform; and second, it would promote cooperative effort between Federal and state governments. No state would be compelled to participate if it did not choose to do so.

Under the relief provisions of the bill, the Federal Government would contribute to state programs compensating the poor and elderly, homeowners and renters, for that portion of their property tax payments which exceeds a reasonable level of their income.

Those states which qualify for Federal funding of their relief programs would be required to show progress toward reform of their property tax administration. But all states, whether or not they enact relief mechanisms, would be eligible to receive Federal assistance to modernize their tax-collecting machinery.

The reform provisions of the bill are directed at speeding those reforms which the ACIR agreed ten years ago were needed to strengthen the states' own financial structures. They are intended to assure taxpayers easy access to a system whose complexity alone now generates distrust, and to streamline and professionalize the information-gathering process.

I see this reform program as a finite task to which the Federal Government must contribute the initial financial impetus if reform is ever to get off the ground.

With this push from the Federal Government, states can at last begin the job of revising inefficient, unfair and unduly secretive systems of property taxation. Where the cost of reform is an obstacle to its achievement, the Federal contribution can help the states achieve sound administration and make it self-sustaining. And where the burden of the tax falls too heavily on those least able to pay. Federal assistance can help states meet the national goal of economic security.

We would not be engaged in this debate if we did not recognize that American taxpayers must have a fair, orderly and understandable system of property taxation. We will not profit from this debate if we do not recognize that both relief and administrative reform are tasks that can no longer be deferred. For the health of our Federal system, we must move now from debate to action.

NATIONAL GOVERNORS' CONFERENCE, 1973–74: POLICY STATEMENT OF EXECUTIVE MANAGEMENT AND FISCAL AFFAIRS COMMITTEE

PROPERTY TAX RELIEF AND REFORM

In 1963 the Advisory Commission on Intergovernmental Relations completed a major report on the status of property tax administration at state and local levels. The report included twenty-nine recommendations aimed at clearly identifying state responsibilities in the property tax field and providing a basis for improved state and local performance in administering this important tax.

Since August 1971, when the California Supreme Court rendered its landmark decision in *Serrano vs. Priest*, the propety tax as used to finance public education has been the subject of increasing attention and analysis. While the Serrano and Rodriquez school finance cases did not deal directly with the constitutionality of the property tax, they gave rise to increasing scrutiny of state and local administration of the tax.

During 1972 and 1973 major studies of the property tax have been carried out by the Advisory Commission on Intergovernmental Relations, the Education Commission of the States, and the Sub-Committee on Intergovernmental Relations of the U.S. Senate. All three reports deal with two major components of the tax—the manner in which it is administered, and relief from excessive burden created by the tax on certain categories of low income property owners.

The ACIR study was undertaken upon request of the President, and examined issues aimed at defining the appropriate federal role in achieving property tax relief, reform of property tax administration, and relieving intra-state fiscal disparities in financing education. The Commission concluded that federal role in any of the three areas was neither necessary nor desirable.

In reaching its conclusions, the Commission underscored its belief that these areas are state responsibilities and that federal entry into the field would be detrimental to the federal system. In evaluating the advisability of a federal role, two rigorous criteria were applied:

(1) The problem that precipitated the demand for federal intervention stems from a head-on conflict—a serious under cutting of a major federal program objective by policies of most states; and

(2) The intergovernmental conflict can be resolved only by Federal government action.

ACIR explicitly rejected proposals for even modest federal programs to assist States in providing limited property tax relief for low-income home owners and renters, and to encourage improved administration of the property tax.

The study carried out by the Education Commission of the States did not deal with the federal role, but did conclude that provisions for relief from excessive burden and current administrative practices are in need of major attention by the States.

Finally, a report prepared for the Senate Sub-Committee on Intergovernmental Relations found a need for major improvement in both assessment practices and relief mechanisms. The report, based upon a survey questionnaire mailed to each Governor, has resulted in the introduction of federal legislation which would offer assistance to States which make major strides in reforming their property tax systems.

The National Governors' Conference does not have policy in this important and controversial area. In view of increasing interest and debate surrounding the property tax, it is appropriate that the Conference consider the adoption of a new policy statement on property tax reform and relief.

PROPOSED POLICY POSITION

The National Governors' Conference notes increasing interest in the issue of property tax reform and relief. Studies and recommendations of the Advisory Commission on Intergovernmental Relations, the Education Commission of the States and the Sub-Committee of Intergovernmental Relations of the U.S. Senate underscore the importance of action aimed at strengthening and at the same time improving public acceptance of this important revenue device.

The Conference believes that the administration of the property tax is and should remain the responsibility of the States and their local governments.

However, the Conference recognizes the federal interest in limiting the adverse impact of the property tax on certain classes of excessively burdened taxpayers. But we believe that a federal effort in this area should avoid requirements for arbitrary national uniformity in use, impact and/or administration since such requirements would be an undesirable federal intrusion.

We further believe that federal incentives which would promote better assessment administration, or encourage the States to assume greater responsibility for property tax matters are desirable.

Therefore, the Conference supports a federal program to assist States in alleviating the regressivity of their property tax systems, and calls upon Congress to explore means by which the States may be encouraged to assume greater responsibility with respect to more equitable administration of property tax assessments and appeals.

The Conference further calls upon all States to review the policies and procedures which guide use of the property tax by all taxing jurisdictions within each State. Such a review should focus at a minimum upon:

(1) policies, practices, and standards of assessment and general administration.

(2) devices used to provide relief to certain classes of property taxpayers.

(3) identification of state and local programs financed by the property tax which would more equitably be financed by other sources of revenue.

(4) identification and measurement of the property tax base that has been eroded by exemption.

(5) alternate remedies for appealing assessments and adjustment of excessive assessments. Improvements in state and local policies and procedures surround use of the property tax are critical if administration of the tax is to be fair, equitable, and effective.

Improvements in state and local policies and procedures surrounding use of the property tax are critical if administration of the tax is to be fair, equitable, and effective.

DOES EDUCATION FOR ALL LEAD TO MEDIOCRITY?

Mr. CRANSTON. Mr. President, the July 25 edition of the Wall Street Journal carried an article of great importance to American education, entitled "Does Education for All Lead to Mediocrity?", by Grace Hechinger.

Ms. Hechinger reports on an international study just completed by the International Association for the Evaluation of Educational Achievement—IEA. It is the first such study of worldwide scope, and it puts the public schools of our country in a new perspective. The study says that universal education is not incompatible with quality education, and those countries with selective enrollment practices suffer more "lost talent and social dislocation" than do American schools.

I commend the article to the attention of every Member of Congress, and ask that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DOES EDUCATION FOR ALL LEAD TO MEDIOCRITY?

(By Grace Hechinger)

America as the land of opportunity has long been synonymous with its faith in universal education. Does such open access to school, without any prior sorting out of either the materially or intellectually less privileged youngsters, penalize the gifted? Does the American commitment to mass education in fact mean that the talented few are sacrificed to the concern of the mediocre many? As an old Tory expression puts it, does more mean worse?

American egalitarian ideology has always said no to these questions—largely on faith. But now this idealistic view has been confirmed, not by populist do-gooders, but by the conclusions of the most extensive worldwide survey of educational accomplishments ever undertaken. The recently released findings of the International Association for the Evaluation of Educational Achievement (IEA) provide unprecedented proof that the critics of the open door to learning are wrong in their insistence that universal education is incompatible with quality education.

The study is based on data from 9,700 schools in 19 countries. They include Australia, Belgium (the French-speaking and Flemish-speaking sectors were considered separately), Chile, England, Finland, France, Hungary, India, Iran, Israel, Italy, Japan, the Netherlands, New Zealand, Scotland, Sweden, Thailand, the U.S. and West Germany. The $5 million cost of the survey was met by a number of private foundations and governmental agencies from many of the countries involved.

One of the study's key findings shows that in reading comprehension, the top group of American high school seniors—the upper 9% or 10% in academic achievement—actually comes out ahead of all other nations, including the educationally highly restrictive ones. In science, the comparable American groups finished in seventh place, still a respectable showing.

Professor Torsten Husen of the University of Stockholm, director of the IEA study, said in answer to the educational elitists: "It is actually the selective system that pays a price in lost talent and social dislocation."

To underscore that claim, he offered statistics that show West Germany, which siphons off "nonacademic" children at age 10, suffers from the highest degree of "social bias," the major indicator of a stratified society. This means that the highest ranking students come almost exclusively from the most privileged social and economic classes. By age 18, only 1% of the lower class children, defined as coming from unskilled or semiskilled workers' families, were still attending school. As a result, only 1% of that group show up in the academic elite. In American schools, 14% of those who graduate from high school come from lower socioeconomic groups. This means a steady influx of "lower class" children into the potential leadership sector.

It is only when all American high school seniors are tested that the American performance slipped severely—to 12th place in reading comprehension. However, the U.S. keeps 75% of its young people in high school through graduation—the highest proportion of any country in the survey. In all the other participating countries great numbers of young people have by that time already dropped out or been pushed into nonacademic activities. Thus the low ranking of the American high school senior class on the international scale is not the sign of depressed academic quality that American critics see in it, particularly since it does not lower the achievements of the intellectually gifted. On the contrary, it is reasonable to support Professor Husen's conclusion that the American plan for keeping virtually everyone in school until high school graduation gives the U.S. a greater pool of educated citizens from which to draw its leaders. And it clearly aids the American people's social and economic mobility.

The relationship between children's education achievements and their adult careers and status is a subject of continuing controversy here and abroad. For instance, the Stockholm report challenges head-on the widely publicized study by a Harvard research team headed by Christopher Jencks, which claims that schools fail to reduce social and economic inequality. The IEA survey did not directly concern itself with pupils' future income; but by proving that open access is a significant factor in allowing children from disadvantaged homes to rise to the level of the academic elite; it offers persuasive evidence that education does improve chances for economic success, and has done so more effectively in the U.S. than anywhere else.

The study does uphold the claim, first published by sociologist James Coleman in 1966, that home background is more important to a child's scholastic success than anything the schools have so far been able to offer. But the Stockholm findings point more strongly than did the Coleman report to the fact that schools, nevertheless, make a substantial difference—a fact that has increasingly been denied by the New Left anti-school ideologists.

The debate over the effectiveness of public education in the United States thus will have to take account of these findings:

Hard work in school plus open access to count. "Get them and stretch them" is the way a member of Professor Husen's research team summarized the need for a combination of mass education and tough study requirements.

Women's Lib is right in charging that girls have traditionally been short-changed. They have lagged behind boys in interest and performance in science and the gap grows larger the longer girls attend all-girls' schools, where they are not being challenged. Significantly, the gap does narrow in coeducational schools.

An analysis of the schools' greater success in teaching science—called a "school-oriented subject" by the study—than in teaching reading—labeled "home-oriented"—suggests a puzzling discrepancy in the schools' relative skills and efforts. "The schools appear to do little to mobilize their resources for the improvement of reading beyond the early years," the report said—a serious indictment of neglect in so crucial an area.

The study itself, however, is not without its limitations. The basic problem with a survey of so many nations' schools is that educational systems do not exist in a social and historical vacuum. The way a nation interprets its educational responsibilities cannot be discussed independently from its political, social and economic priorities. There is no common denominator which can readily be extracted from such a study. To be valid, comparisons between countries cannot be made without great caution and qualifying explanations of cultural and sociopolitical differences.

Moreover, the process of statistical averaging dulls the sharp edges of the data and thereby tends to reduce the usefulness of such research for specific pedagogical reform planning. For example, the study concluded that class size makes little difference in the pupils' success. Yet that conclusion becomes of limited usefulness when the differences, which are typically between 30 and 35 pupils, are averaged out. What such statistics fail to provide is information on a real difference—between a class, say, of 10 and another of 30 students.

Moreover, in the science study, only the hours of science teaching are measured. This is of little help to potential policy makers in individual countries who are left in the dark about the relative value of laboratory work vs. classroom lectures in science.

In spite of these limitations, the international scope of the study does offer some much-needed perspectives and insights for a more rational approach to the American debate of the problems of public education. The increasingly vocal critics of our schools, in keeping with the current mood of American self-criticism, have assumed an isolationist or at least a provincial tone. It is, of course, true that American schools have discriminated against the poor and against minority groups. American education policy has not always made the climb up the ladder of success as easy or as equal as envisioned by the American dream. But a look at the schools of Germany, England and France, where stratification is still far more rigid puts the American achievement in a much brighter light, clearly at the head of the international parade.

The virtue of the IEA studies is precisely that they shatter the parochialism of both the conservative and radical critics who overanalyze and undervalue American education. Charles W. Eliot, president of Harvard at the end of the 19th Century and one of the leading public school reformers of his time, wrote almost 100 years ago that, in order to keep society fluid, "it is a supremely important function of the teacher throughout the entire school system to discover, recognize and give ample chance to the remarkable child." And he emphasized persistently that he saw no contradiction in the establishment of quality controls and the open democratic approach.

The message from Stockholm confirms President Eliot's earlier faith. The IEA findings, despite their limitations, are persuasive on two points central to forward-looking American public school doctrine: Schools *do* matter in keeping society fluid, and more *can* be better.

THE NADER PENSION REFORM PROPOSAL—IS IT IN THE PUBLIC INTEREST?

Mr. JAVITS. Mr. President, following a press conference on Saturday, the Senator from Michigan (Mr. HART) introduced on Monday a bill (S. 2235) to reform the Nation's private pension plans—a bill which I understand to be the product of Ralph Nader, Karen Ferguson, an attorney for the Public Interest Research Group, and the Yale Legislative Services. The concepts of that bill have been publicized by Mr. Nader for over the last year—most recently in the Nader and Blackwell book entitled "You and Your Pension."

As the Senator from Michigan himself states, his bill comes too late to have an immediate bearing on the type of pension reform legislation likely to be enacted by the Congress. Rather, it is his view that the Williams-Javits bill (S. 4) or its finance counterpart, is the beginning of pension reform but not the end. While the Senator from Michigan is a cosponsor of S. 4, he believes that the legislation presented by Mr. Nader and his associates may offer a more lasting and definitive solution to private pension problems, and he offers Mr. Nader's proposal to generate discussion as to the future course of private pension fund regulation.

I commend the Senator from Michigan for his interest on the subject and I also commend Mr. Nader and his associates for their devotion and effort in tackling this subject. They have raised certain aspects of private pension plans and public policy which deserve the fullest discussion—but without standing in the way of pension reform under S. 4 and the Finance Committee bill. Accordingly, I wish to take this opportunity to state briefly my own views concerning the bill Senator HART has introduced and why I feel it is not the solution to the future regulation of private pension funds.

The Nader bill would establish a large number of Government-insured investment funds, licensed and regulated by the Securities and Exchange Commission, to which employers and employees would make tax-deductible contributions. Pension benefits would be based on the amount of contributions and the share of fund earnings credited to the participant's account. The Nader bill would provide for immediate vesting; hence it would discourage the establishment of private pension plans by eliminating the inducement to the employee of a better pension if he stays on one job for more than 5 years and to the employer to establish such plans to induce more stable employment and higher morale.

Under the Nader proposal, the worker would have the right to move his account from one licensed fund to another if he became dissatisfied with the investment performance of any particular fund. Participating employees would elect fund directors and determine the investment policy of the fund. However, Nader would permit money managers and others with expertise to be licensed by the SEC for purposes of managing the funds.

All private pension plans would have to comply with this format, but existing plans would be provided with a transitional period of 30 years to phase out their nonconforming features.

The alleged purpose of the uprooting of private plans is twofold: First, to provide immediate 100-percent vesting for workers—which not even the Federal Civil Service retirement system provides; and second, to break up what is termed the concentration of pension fund moneys in "four New York banks."

As to the first, there is serious doubt that requiring across-the-board immediate vesting is necessary or desirable. For one it will discourage—not encourage—private pension plans. While I have been in the forefront of efforts to direct public attention to the increased labor mobility in our society—and to the failure of many pension plans to take adequate account of this development through earlier vesting provisions—the kind of job changing that takes place at the beginning of a worker's career is ordinarily not of a character that he requires such a drastic form of pension protection as Nader proposes. Such a worker will have ample opportunity under the Williams-Javits proposal to earn substantial pension credit as he settles in his career.

The price of such immediate vesting to the plans, however, is inordinately high. While the individual worker derives little in benefit amount from a few years of vested service, to pay the cumulative costs of such workers—of whom more than 90 percent "turnover"—the employer would need to divert funds earmarked to provide adequate pensions for his longer service workers. To avoid this problem, Nader is compelled to propose a singular benefit arrangement in which the amount of benefits is geared exclusively to the amount of contributions made by the employer and the employee, plus the beneficiary's share of the investment return. The employer can then cut his costs by making smaller contributions, and hopefully according to Nader, the investment experience of the funds will augment the contributions to provide an adequate pension benefit.

No doubt, in a stable economy over a span of 30- or 40-year working career, if there was always an effective investment return, the risk involved in such a scheme would be minimal. But experience shows that the economy will fluctuate, and how many workers would wish to assume this risk when under the Williams-Javits bill greater benefits for most of them would be guaranteed and the inducement to the employer is some stability of employment?

There are plans which incorporate elements similar to the Nader approach but they tend to reflect special occupational circumstances. To safeguard the average industrial worker, most progressive plans—including many of those which are negotiated—have turned away from the Nader-type formula to the fixed or defined-benefit formula. Indeed, in a recent article in Pension & Welfare News, the noted actuary Paul Jackson commented:

> When Nader suggests that blue-collar workers would be better off with money-purchase programs and with full vesting, he is trying to change the focus of private pensions from their present concentration on the benefits provided for today's retirees over to the potential benefits that the young people will get decades in the future. Only defined benefit plans can be changed to meet new conditions, and accumulation of past contributions can't.
>
> Mr. Nader would have us guarantee the inadequacy of current benefits in exchange for greater certainty of collection of a future benefit that may or may not prove sufficient. The money-purchase fully vested arrangement has been available for 50 plus years but its performance has been every bit as unsatisfactory as the old Series E savings bonds, which for $18.75 returned $25 having the purchasing power of $15 after a 10-year wait.

Mr. Nader also professes concern over the concentration of pension funds in certain New York banks. This happens to be a concern shared by a good number of people who fear that individual investors are put at a severe disadvantage by this financial concentration and that many firms are adversely affected in their ability to obtain needed capital. In fact, Senator BENTSEN of the Finance Committee has been holding hearings on this very subject July 24, 25, and 26.

There is no doubt that this is a legitimate area of inquiry and concern. What is in doubt is whether it is desirable to subject private pension plan design to a complete upheaval in order to diminish whatever adverse consequences flow from the concentration of investment authority in pension funds. There is no correlation whatsoever—and I emphasize this—between the large concentration of funds in four New York banks and whether the plan provides fixed benefits with early vesting or whether it provides money-purchase benefits with immediate vesting—which is what Mr. Nader advocates. If, as matter of public policy, it is found desirable to subject the private investment institutions to investment and performance criteria—and this may well be the case—there is no reason these guidelines must be contingent on private pension funds following a monolithic pattern of providing benefits.

If Mr. Nader wants to restrict every bank in the country from managing more than a stated percentage of pension fund money, why does not he come out and advocate it? We do not have to disembowel 90,000 pension plans covering over 35 million workers in order to accomplish that. Moreover, if this problem is of such great magnitude, then why wait 30 years to accomplish it—which is what the Nader bill proposes.

Another purpose of the Nader proposal is to assure employee participation in the control and management of pension funds. It is urged that only by transforming private pension funds into the models proposed by Mr. Nader can there be a restoration of democratic individual decisionmaking and diversification of control over pension funds. Here again the objective is laudable, but the question is whether the Nader model is the way to achieve that goal. I do not believe it is necessary to make every private pension plan into a fixed contribution, money-purchase type arrangement in order to give employees a greater voice in the management and investment of these funds. Nor do I believe that the Nader model is the model which would lead to a greater diversification of pension fund control.

In short, it seems to me that the biggest question mark in Senator HART's bill is the assumption that all private pension plans must be poured into a particular mold—and no other mold—in order to achieve certain additional reforms. I would prefer to maintain the organic characteristics of a diversified private pension system which I believe is the fundamental basis for its future growth and development.

Mr. President, we are on the road to substantial private pension reform in the Senate and that road is the Williams-Javits bill. After 3 years of prodigious efforts, backed by my original initiative over 7 years ago—when I introduced the first comprehensive private pension reform proposal—the Senate Committee on Labor and Public Welfare, under the leadership of its chairman, the Senator from New Jersey (Mr. WILLIAMS), has brought to the Senate a remarkably well-constructed bill whose basic principles have apparently withstood also the searching test of the Finance Committee.

I hope we shall have the opportunity to act on it soon and that any remaining committee problems are resolved intelligently and with a scrupulous regard for the true interests of American workers as they have been expressed in many hearings before the Labor Committee. The proximity of this legislation being enacted has brought about an irresistible urge on the part of some to "up the ante" but I hope we can resist these impulses and pass the fundamental reforms that the workers really need and want.

TWENTIETH ANNIVERSARY OF THE CONGRESSIONAL FELLOWSHIP PROGRAM

Mr. WILLIAMS. Mr. President, I would like to join my colleagues in recognizing the 20th anniversary of the congressional fellowship program of the American Political Science Association. Since 1953, this program has brought political scientists, reporters, law professors and executive agency personnel to work for individual members of the House and Senate providing them with the opportunity to gain actual and indepth knowledge of the way in which Congress works.

Perhaps the most unique part of this fellowship program is the forum it provides for the intermeshing of individual backgrounds and interests between the legislator and the fellow who is in one way or another a student of the Congress. Obviously, the perspectives are different, and the opportunity this diversity of background and approach provides to the legislator and the fellow is an experience which I believe to be unequaled by any other fellowship program. I believe that it is an extremely important educational experience on both sides, and one which greatly benefits public policy and the educational process.

CONFERENCE COMMITTEE DISAGREEMENT—LIMOUSINES MORE IMPORTANT TO FACELESS BUREAUCRATS THAN THE SUBSTANCE OF THEIR PROGRAMS

Mr. PROXMIRE. Mr. President, I am unhappy to report that in the conference committee meeting over the HUD, Space, Science, Veterans' Appropriations bill, the conference came to a disagreement over whether or not the heads of nine agencies were to lose their limousines. The Senate bill, which I am proud to have managed, tried to bring some sense to the issue of the excessive number of limousines, heavy and medium sedans which flood the streets of Washington.

FRENZIED LOBBYING

But the House conferees saw it differently. After some of the most extensive frenzied lobbying by the heads of these agencies, the House conferees voted to allow the bureaucrats to keep their big cars and are taking the issue back to the House in disagreement for a vote next week.

May I say that the Administrators and Directors seem to be far more concerned with keeping their limousines than they are in the substance of their programs. Their prequisites come first.

IRONIC SITUATION

And what an ironic situation this is. Here we have a $19 billion appropriation bill. Yet the major issue over which the Administrators, and unfortunately the House conferees, want to fight and die is whether or not the big shots can keep their high powered, chauffeur driven automobiles.

WHAT ARE THE FACTS?

Members of the House and Senate driving to work each day, pass Government limousine after Government limousine with a chauffeured driver and the occupant perusing his newspaper.

OFFICIALS BREAKING THE LAW

The fact is that this is illegal.

There is a law on the books, now, which forbids this. The Administrative Expenses Act of 1946 provides that no funds can be expended for any Government-owned vehicle except for use for "official purposes."

And that law states that—

> Official purposes shall not include the transportation of officers and employees between their domiciles and places of employment.

It is presently illegal to use these cars to transport most officials to and from their homes. There are two exceptions in the law, one dealing with Government doctors on outpatient duty, and the second dealing with those who are serving in remote areas hundreds of miles away from their agency offices, or on what is termed "field service."

HEARINGS DEVELOPED FACTS

During the hearings over this bill we developed certain facts. We determined the number of these big cars now used by the nine agencies under the bill, and we developed facts about their costs.

EXCESSIVE CHAUFFEUR SALARIES

One of the most startling items we found was the annual amounts paid to chauffeurs. Routinely, including overtime, they earned between $14,000 and $17,000 a year. In the case of the VA Administrator's chauffeur, we determined that he in fact had been paid for 60 hours of overtime while his boss was out of town. He earned $16,687 last year.

EXCUSES, EXCUSES

When we challenged each agency head on why he continued to break the law, we got excuse after excuse.

The VA head said that he needed his car to take him to and from home on grounds that he might be needed in an emergency. He said that—and I am quoting him—he had to be "available in the case of an earthquake."

The head of the FCC claimed he had to be driven to and from home because he too might be needed in a national emergency. We suggested that the phone in his limousine might be put in his private car instead and that he could then operate like the television star detective Cannon who drives while talking on the phone. That was objected to on grounds that he did not own a personal car. Of course virtually every other citizen in the country has to have a car to drive to work, but in the case of the head of the FCC, the taxpayers are, in his view, supposed to provide one for him.

FIELD WORK EXCUSE

The Administrator of NASA justified the use of his limousine and the $13,500 paid to his chauffeur to drive him to and from home on grounds that he was engaged in "field work."

It is, of course, a tortured reading of the exception for field work to claim that the trip from McLean, Va., or Potomac, Md., into headquarters in the District of Columbia means that the man is on "field work."

The NASA Administrator claimed, also, that this use was justified on grounds that he was "following the procedures of my predecessors."

The theme seemed to be throughout that if one man broke the law it was quite proper for others to break the law.

WHAT THE SENATE BILL DOES

In the Senate bill we did two things.

First, we wrote into the bill a provision which substitutes the GSA regular pool cars for the limousines and heavy and medium sedans now used by the heads of most agencies. However, we allowed Mr. Lynn to keep his limousines on grounds that limiting them to the Secretaries of the great departments—provided they could be limited in that way—would cut back on the proliferation of limousines.

We cut out about 16 limousines and substituted the smaller cars.

Second, we provided specifically in the bill the same language that is found in the 1946 act, namely, that the cars cannot be used to drive the heads of these agencies to and from their homes, except for outpatient duties of Government doctors and for those in very remote areas. Obviously, neither of these exceptions apply to the heads of the nine agencies covered in the bill.

All this second provision does is to make certain that the law already on the books gets carried out.

SCREAMS AND HOWLS

Then came the screams and howls. The head of the FCC addressed a letter to the chairman of the Senate Appropriations Committee complaining of the action. His argument was that we should not take his car away from him unless we did it for everyone in the Government.

THE PERFECT BECOMES THE ENEMY OF THE GOOD

To follow that line is to agree that the perfect is the enemy of the good and that we cannot do anything unless we do everything.

And since there is no opportunity to do everything—we cannot even get a definitive list from the OMB of who has limousines in the Government—because funds are appropriated bill by bill and agency by agency, there is no reason why we should not act on the limousines for the nine agencies in the bill.

In their routine inquiries, day by day, on what was happening to the bill or when it was going to happen, the legislative agents of HUD routinely inquired about the limousines amendment. In fact, it was the item most discussed and most inquired about of all the items in the bill.

That too shows the sense of priorities which bureaucrats have.

OTHER REASONS WHY LIMOUSINES SHOULD BE CUT

There are a host of reasons why what the Senate did is right. Congress is not itself entirely blameless. But if we did what the executive branch does, we would provide a limousine and chauffeur not only for every Member of the House and Senate but for our administrative assistants as well. That is how ridiculous it has become.

BUDGET CRISIS

We have a budget crisis in the Government, HUD has put a moratorium on more than a dozen programs. The Space Agency is crying for funds and has cut back on their scientific activities. The VA is having trouble from the OMB in getting funds to air-condition its hospitals in some of the hottest places in the country.

But the bureaucrats will fight for their limousines before they will fight for housing, VA hospitals, or scientific advancement.

ENERGY CRISIS

We have an energy crisis. These big cars guzzle gas. Their chauffeurs keep the motors running and the air-conditioning on, which wastes gas, while waiting for their superiors. The Government should set an example. These men should drive small cars and save gas. We are implored to do that every day by some of the same officials who are being driven around in big cars.

LEGAL CRISIS

And there is a crisis of law and order in the Government. Yet the heads of these agencies, day in and day out, are using these cars in violation of the law.

VOTE IT UP OR DOWN

I am pleased that this issue will be voted up or down in the other body and perhaps it will have to be voted in squarely in the Senate as well.

Let us have a vote on letting the $40,000 to $60,000 salaried officials keep their limousines while we find it difficult to get the funds for housing, health, schools, and other needs.

Let us have a vote on it during the energy crisis and during the credibility crisis over law and order.

For one, I intend to stand firm on this issue. If we can cut out or cut back in those frills at HUD, NASA, the VA, the National Science Foundation, Selective Service, the Home Loan Bank Board, the FCC, the SEC, and the Renegotiation Board, we may just start a movement to return Government to its senses and to start putting first things first in the bureaucracy.

CAMBODIA BOMBINGS

Mr. PELL. Mr. President, Watergate revelations are fast making the incredible seem commonplace. But the claim by the former Secretary of Defense, the former chairman of the Joint Chiefs of Staff, and the President's top national security adviser that they were unaware of the falsification of the record to cover up the Cambodian bombings, taxes even my overworked credulity and heightens the fears I recently expressed during the debate on the war powers bill—CONGRESSIONAL RECORD, July 20, page 25118.

In those remarks, I voiced my deep concern over where the unbridled Presidential exercise of war powers, abetted by an arrogant Pentagon, could lead the people of this country. The latest Cambodian disclosures chillingly compound those fears.

Into what a perilous state we have fallen when the Presidency can launch a secret war against a neutral state, when the record is deliberately falsified to hide this war from the people and their elected Representatives by the order of high authorities, and then when those authorities in turn profess ignorance of any such orders. Even if such ignorance is to be believed, how alarming it is that official misinformation on a scale and arrogance to boggle the imagination should have escaped the attention of the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, the national security adviser, and presumably the President of the United States.

I share in the indignation and the sense of insult my colleagues of the Armed Services Committee are experiencing for having been the recipients of highly classified false information calculated to thwart their congressional responsibility to monitor military activities and policies. I join in the public outcry that such a state of affairs could exist in the United States, even though I realize that we are only a few years from 1984. And I wonder if I am alone in fearing to accept at face value whatever statements the administration may make as to its compliance with the forthcoming cutoff date of August 15. The chief purpose, however, of this statement is to urge final passage of the war powers bill with minimum delay and its signature by the President. Surely, restoration of a proper balance in the exercise of war powers by the U.S. Government is of such vital concern as to demand unity of action if the national interest is to be served.

SOLAR ENERGY

Mr. McGOVERN. Mr. President, 40 years ago, America taught itself a cruel lesson in extravagance. For many years prior to the Depression we had imposed enormous burdens on the productivity of our farmland. We planted, harvested, and planted again the same crops on the same soil until we almost exhausted the finite capacity of the land to feed the Nation. In the process we turned the land to dust, the air to talcum, and very nearly turned the American promise into a wasted example of a country too obsessed with the need for immediate production and too indifferent to the needs of the future. We had lost our sense of balance.

Now, four decades later, we are reeducating ourselves to those same truths of the Earth. We are beset by an energy crisis stemming from our habit of overworking too few sources of fuel without regard to the needs of the future. Again, we appear to have lost our sense of balance.

We are confronted with a ravenous demand for energy. We need more oil, more gasoline, more coal, more of everything necessary to fire the engines that sustain our standard of living. But, in the process, we have discovered two more painful truths.

First, the extraction and consumption of these fossil fuels has dramatically altered our environment and made the struggle to improve our living standards as much a matter of preserving the Earth as it is a question of bettering our lives.

Second, we have discovered that our world supplies of fossil fuels are not infinite. A United Nations panel recently reported that in the year 2000, at current rates of utilization, we will have exhausted over 87 percent of the world's oil reserves and over 73 percent of its natural gas reserves. The same report indicates that over the same period, we will use only 2 percent of the world's coal reserves.

As a consequence of that fact, there is great movement in the direction of coal as the answer to our pressing energy needs. A dramatic illustration of the shift in energy attention is occurring in my own Great Plains area. Until 1964, leasing activities in North Dakota, Wyoming, and Montana were relatively dormant. But this region contains 40 percent of the Nation's coal reserves and 95 percent of its low sulfur coal. So in recent years leasing operations have shown a marked increase. Through May 18 of this year the following applications have been filed: 62 leases, 36 preference-right lease applications, 52 prospecting permits, 23 competitive lease applications, and 110 prospecting permit applications—5,000,000 acres.

The Interior Department reports that in this same region there are 29,000,000 acres of livestock forage, valued at $35 million annually and involving 1,960 ranching operations. In addition, the area provides 350,000 hunter days per year and 210,000 fishing days per year. The stage appears to be set for another of those historic showdowns between industry and environment. And the recent environmental carnage of the four corners area of the American Southwest suggests that we be concerned anew about our sense of balance.

The Federal Power Commission has reported that in 1969, in terms of fossil fuels used by steam electric generating plants, gas provided 28.4 percent of the energy and only 2.5 percent of the pollutant emissions to the atmosphere. Oil provided 13.1 percent of the energy and 7.7 percent of the pollutant emissions. But coal, while it supplied 58.5 percent of the thermal energy, accounted for 89.8 percent—almost 90 percent—of the emissions.

These figures demonstrate the obvious problems involved in developing those coal reserves. I am convinced that those obstacles can be surmounted and that we will achieve clean burning processes for coal. Research is underway; a great deal more is needed urgently.

Nevertheless, if we become so preoccupied with coal in the way we went overboard on atomic power, that we neglect any other potential energy resource we will be doing the country a great disservice. And I am concerned that we appear to be overlooking the richest source of energy in the world: the sun.

In Australia, Burma, Canada, Ceylon, Chile, China—both Nationalist and the People's Republic—Egypt, Germany, India, Italy, Lebanon, Spain, and Switzerland experiments in the uses of solar energy have ranged from refrigeration and solar-powered clocks to space heating and electrical power generation. The National Aeronautics and Space Administration has long been aware of the value of solar energy and they have used the sun's power to operate vehicles from the Navy's Vanguard in March of 1958 to the most recent Skylab. In World War II, the Navy used solar energy to desalinate sea water in small plastic stills as part of their survival kits.

Even here in the Washington, D.C., area Dr. Henry Thomason has built three solar heated and cooled homes. According to a publication of the Conservation Foundation, his first Washington winter in a three-bedroom solar-heated house built 12 years ago brought temperatures near zero and 25 inches of snow, yet he used only $4.65 worth of supplemental fuel to stay warm. The solar heating-cooling system costs about $2,500 to install, or about $1,000 more than conventionally fueled units. Since his fuel bill has been negligible since, one may guess that the system has proved its worth.

In the July 16 issue of Newsweek it was reported that some 900 scientists had recently attended a meeting sponsored by UNESCO in Paris to discuss the Sun's potential as an energy source. The article stated that, according to the French physicist Ivan Peyches:

> The speed at which solar energy will be put to use is a direct function of the world's fear of running out of conventional energy sources.

In recent testimony before the Subcommittee on Energy of the Committee on Science and Astronautics of the U.S. House of Representatives, George Lof, director of the solar energy application laboratory at Colorado State University, made an observation with particular relevance to our current situation. He noted that:

> Virtually all of our knowledge of solar heating and cooling has resulted from the work of a few forward looking, persistent university faculty members; ample support of their continuing research should receive high priority in order that the data needed by potential manufacturers can be available.

Although many voices in this country are advocating balanced energy planning, we have, as Dr. Lof suggests, shortchanged the solar energy field. Despite the fact that as far back as 1959 Senator Bible introduced a measure setting up a solar energy research fund, U.S. Government funding for solar energy study during the current fiscal year is still only $13 million.

Our neglect of this valuable energy source is especially sad when we consider some basic data. We know, for example, that with the sun straight over head only 1 acre of land is the recipient of more than 4,000 horsepower from the sun. On that basis, the earth in 3 days time theoretically collects energy equivalent to all the estimated fossil fuels on earth. This is, of course, an optimum description. But it serves to illustrate that we are seriously neglecting a source of awesome energy. We might also remind ourselves that, aside from nuclear materials, all the fossil fuel we have is really the energy of the sun collected and stored in our oil, our gas, and our coal.

In December of 1972, a booklet was prepared by the NSF/NASA Solar Energy Panel entitled, "An Assessment of Solar Energy as a National Energy Resource." It is a fascinating compendium of solar energy projects, and I recommend it to my colleagues and ask unanimous consent to have excerpts from it printed in the Record.

There being no objection, the excerpts were ordered to be printed in the Record, as follows:

RENEWABLE CLEAN FUEL SOURCES

The natural conversion of solar energy into plant materials by photosynthesis and the further conversion of this stored energy into more concentrated forms such as natural gas, petroleum and coal is the basis of the world's fossil fuel supply.

Because these fossil fuel reserves are being depleted rapidly, it is essential that consideration be given to means for providing large additional supplies of high quality, concentrated fuels by using forces similar to those which produced our fossil fuels. The managed production of plant tissue (e.g., trees, grasses, water plants, fresh water and marine algae) with more efficient use of solar energy and required nutrients carried out on suitable land and water areas could provide starting organic materials.

The plant materials which constitute the product of photosynthesis have a comparatively low heat content per unit weight. The conversion of this plant material into higher heat content fuels (gases, oils, solids) similar to those making up the fossil fuel reserves is therefore essential for effective storage and efficient use as clean, contemporary fuels.

This section considers methods for production of various forms of stored energy via photosynthesis and also considers a number of promising methods for conversion of organic materials produced by photosynthesis into commonly used fuels.

PHOTOSYNTHETIC PRODUCTION OF ORGANIC MATERIALS AND HYDROGEN: INTRODUCTION

The successful utilization of a moderate portion of the area (land and water) under the control of the United States for conversion of solar energy into stored chemical energy via photosynthesis could provide the entire electrical energy needs of the country.

The large scale photosynthetic production of plant material at solar energy conversion efficiencies, e.g., 3–5%, greater than usually observed in ordinary agricultural operations, 0.1%, would supply materials that could serve directly as fuels for production of part of man's energy needs or that could be subsequently converted into other forms of higher quality fuels. Concepts to be considered here are directed toward production of large amounts of land-grown products, e.g., trees or grasses, and also large amounts of water-grown products, e.g., algae or water plants. Because the ultimate purpose of growing the plant material is to provide a source of material that can be converted to heat energy by combustion or to enriched fuels by application of appropriate conversion processes, other available organic materials that can be converted in the above ways will also be examined. These latter materials comprise the large amounts of solid wastes—agricultural, animal, industrial, and urban—which are presently creating grave environmental problems and which actually represent a rich energy resource.

LAND PLANTS

In natural ecosystems, land plants such as trees and grasses show a net productivity ranging from about 4 to 26 tons of dry plant material per acre per year. Under intense cultivation the yields of certain crops have been reported to be about 40 tons of dry material per acre per year. Assuming an average yearly isolation of about 2.4×10^{10} BTU per acre per year and an average heat of combustion of the dried plant materials of 16×10^6 BTU/ton, the efficiency of solar energy conversion ranges between about 0.3% and 3.0%.

If, through advanced management practices including exploitation of modern developments in plant genetics, plantations were operated to produce continuous crops at greater than 3% solar energy conversion, less than 3% of the land area of the U.S. would produce stored solar energy equivalent to the anticipated U.S. electric energy requirements for 1985.

WATER PLANTS

The fixation of solar energy in the form of plant tissue grown in, or on the surface of, bodies of water can supply large amounts of organic material. Algae may be grown in shallow ponds and with management and some addition of nutrients to the water can produce large quantities of organic materials. Floating plants can be cultivated in a similar fashion.

If high levels of nutrients in the form of animal wastes are added to ponds containing appropriate bacterial populations, algae and floating water plants can produce heavy yields of plant tissue. In the process of growth, the plants remove soluble nutrients from the water. Removal of the plants by harvesting therefore requires continued addition of waste materials to the ponds.

STATUS—PRODUCTS OF PHOTOSYNTHESIS

Tree Farming

All aspects of tree farming in the sense of planting, cultivating, and harvesting trees on a large scale and as a continuing crop, are presently practiced for such industries as lumber and paper. Therefore, no new technology is needed to demonstrate the technical feasibility of that part of the concept. Tree farming for energy may be somewhat different because it will be total plant farming. The objectives will be to maximize the total pounds per acre produced, including trunks, limbs, and roots.

Grasses

The intensive farming of grasses, which have been reported to produce in the range of 13–15 tons per acre per year, would be expected to be similar in all respects to the cultivation and harvesting of hay.

Algae culture

Extensive studies have been carried out over many years relating to the culture of specific algae strains as a potential high protein food source. The growth of algae for the purpose of removing nutrients in sewage oxidation ponds is a common procedure. Recent reports have indicated continuing yields of 20–30 tons of dry material per acre per year with peak production at the rate of about 50 tons per acre per year.

The harvesting of this material is commonly carried out using flocculation and centrifugation procedures. Using these processes of harvesting, the reported costs of a dried product are about $.05/pound. A small scale pilot plant system has been operated at the University of California, Berkely, since 1959. Larger systems are operating in Asia.

Water plants

Floating water plants, such as water hyacinth, presently are pest plants in many rivers and lakes in tropical and semitropical areas. The rate of growth is rapid and in nutrient-rich ponds net productivity of up to 85 tons of dry product per acre per year has been reported. Present methods of harvesting these plants do not appear to be sophisticated but interest in the plants as a cattle feed is developing and improvements may be forthcoming.

ORGANIC WASTES

Agricultural plant wastes

The principal wastes in this category are the crop residues left in the field at the time of harvest. The main problem relating to utilization of most crop residues is that of material collection and transportation. Although it has been estimated that the annual amount of wasted straw is sufficient to satisfy all of the annual U.S. cellulose demand, it is not utilized for economic reasons.

Animal wastes

On the basis of 118×10^6 head of cattle in the U.S., the expected dry organic waste would amount to about 13×10^7 tons per year. Much of this waste is found on open range and is not recoverable. If it is assumed that 10–20% of the cattle are maintained in restricted area feed lots, the total waste from which energy recovery can be considered amounts to 13×10^6 to 26×10^6 tons of dry organic material per year.

Lesser amounts of wastes are also available from other types of animals raised in confined areas. It is therefore estimated that about 2×10^7 tons of dry waste per year would be available for use. Since local concentrations of these wastes may be very large, the cost as a raw material could be the cost of transportation to a processing site less some credit for accepting the waste.

Urban solid wastes

Urban waste generation may be assumed to approximate 5 pounds per person per day. Of this approximately one-half is dry organic material obtained from waste paper, kitchen wastes, and garden or lawn wastes. Although this amounts to about 10^8 tons of dry organics per year over the entire population, the portion generated in cities where severe disposal problems exist approximates 2 to 4×10^7 tons per year. As with the animal wastes the cost of this material as an energy source could be the transportation charges to the conversion site less a credit for accepting the waste.

Summary

It is considered that the total animal and urban solid wastes available under conditions not involving potentially prohibitive collection costs may amount to 4 to 6×10^7 tons of dry organic material per year. The average heat content of this material may be 16×10^6 BTU per ton. Therefore, an annual energy supply amounting to 0.6 to 1.0×10^{15} BTU is available. This represents approximately 6% of present energy requirements for electrical generating plants.

LIMITING FACTORS AND RECOMMENDED APPROACHES: PRODUCTS OF PHOTOSYNTHESIS

Tree farming

Considering a tree crop as a source of raw material for conversion to energy or to an upgraded fuel, the technical problems fall primarily in the area of cost reduction. At the present time, the cost of wood chips produced from lumbering wastes is reported to be about $20 a ton at a production site. Assuming a similar cost at the "forest plantation" site, an additional cost for transportation of the chips to the point of use must be considered.

If utilization of the tree crop is envisioned as fuel for a 1,000 MW power plant, the required fuel supply is assumed to be obtained from an area of 400–500 square miles and would require transportation over distances of 10 to 15 miles. Handling of the fuel during drying operations incurs additional costs. These processing charges suggest fuel costs at the power plant in the range of $1.50 to $2.00/$10^6$ BTU.

There appear to be no significant social problems associated with this concept. Environmental problems would involve particulate emissions and low-level sulphur dioxide emissions. These would be handled by adequate controls on the combustion unit.

In this concept, the main problems are to find cheap land, increase the solar conversion efficiency, and develop low cost methods of harvesting, processing, and transporting the material. Specifically the cost of dried wood fuel delivered to the power plant site must be competitive with alternate fuels at the time the plant goes on line. To accomplish this goal innovative procedures for harvesting, size reduction, drying, and transporting of the fuel may be required to develop commercial feasibility.

Similar costs of the wood chips would be associated with their conversion to fuels with higher energy content. The resulting fuel would obviously have a still higher cost.

Grasses

Reduction of costs attached to cultivation, harvesting and transportation appear to be the primary problem areas. There may also be significant problems connected with plant pests. No estimates of costs for this crop are immediately available but costs for hay should provide a guide.

Algae Culture

Some technical problems which have been recognized include development of unwanted algae predators and pathogens in algae cultures, accumulation of non-algae turbidity, and algae separation. Some problems of an economic nature are large land use and associated costs, cost of pond construction and maintenance, and harvesting costs. Estimates using present technologies indicate costs of of $0.05 a pound for dry algae mass. New harvesting techniques are needed to bring about large decreases in costs.

Water Plants

Technical problems associated with growth and harvesting of floating water plants include those of predation by animals; elimination of nuisance insects; and development of innovative harvesting procedures to minimize expenditure of energy for harvesting and transporting them.

Studies are required which will lead to improvements in the efficiency of conversion of solar energy to stored chemical energy in plant tissue for each of the several classes of plants considered suitable for use as fuels or as sources of new supplies of high quality fuels.

System studies are required to establish firmly the step or steps in the plant growth and harvesting which make the largest contributions to the total cost. Harvesting presently appears to be the highest cost item and primary effort should be directed towards innovative developments in this area.

Studies of optimum transportation methods for candidate plant materials should be carried out.

Organic wastes

Technical problems related to use of organic waste materials as energy sources are largely due to the variable composition and tendency toward degradation of the wastes. These properties make themselves apparent during storage and transport.

GOALS AND PROJECTED IMPACTS

The goals and R&D requirements for processes involving the production of organic materials by photosynthesis to serve as energy sources or as raw materials for enriched fuels production are described in Table 8. The potential impact of these materials on the energy supply system is presented in Table 9.

RECOMMENDATIONS FOR R. & D.

Continued improvements are needed in solar energy conversion to plant material and in harvesting and transportation processes.

Emphasis should be directed toward possible large scale utilization of marine areas for photosynthesis of new plant material and for conversion of plant material to high quality fuels. The funding level estimated for the entire 10 year program is $30 million.

Solar generation of electricity for use on earth holds the promise of an abundant clean source of power. Solar energy systems can be designed so that they have a minimal effect on the local heat balance.

Even though most of the present power generation plants cause a very significant amount of pollution, it is technologically possible, but costly, to reduce air and water pollution to acceptable levels. The question of utilizing solar radiation for central power generation thus becomes primarily a question of establishing its economy in comparison with conventional power systems considering future trends in fuel cost, energy conversion and the cost of environmental protection.

A variety of approaches have been suggested for the use of solar radiation in central power generation. Each approach involves clearly identifiable steps in a chain leading from solar radiation to power delivered to the consumer. Certain steps in different concepts correspond to the same generic function even though the specific implementations may be different.

At the start, a distinction is made between "natural" collection and "technological" collection of solar energy. Natural collection occurs in the atmosphere, giving rise to wind and rain, and on the earth's surface, resulting in the growing of plants, and the creation of temperature differences in the ocean.

In technological energy collection manmade structures collect the incoming solar radiation. The solar radiation may then be converted through the photovoltaic effect directly into electricity, or the heat generated by solar radiation, as one possibility, might be used directly to "fuel" a conventional power plant. In both cases there is power only while the sun shines.

In an alternate approach, an energy storage facility may be used from which heat is withdrawn at a constant rate, or on demand, for the operation of a power plant or from which electrical energy can be directly withdrawn. In a third possibility, the energy might be used to generate a chemical fuel such as hydrogen and oxygen.

Electric power which is only available while the sun shines could be used to generate chemical fuel, for example, hydrogen, by the electrolysis of water. Chemical fuel could be shipped as such and could be converted to electrical power deliverable to a consumer either through a conventional power plant or through a fuel cell.

If one provides energy storage then electric power can be available on demand from a power source which delivers power only while the sun shines. After transmission, this power is deliverable to the consumer.

Solar power plants are capital intensive, while the "fuel" is free. This implies that all electricity that the power plant can generate should be used. Particularly if the power has to be transmitted over a considerable distance, the electrical output should be constant throughout a 24-hour cycle to minimize transmission cost. In order to equalize the diurnal variation in solar energy input, energy storage systems will be required in most cases.

In terms of today's cost, a large central solar powered plant with energy storage that is capable of delivering electricity at a constant rate, or on demand, must compete with other sources of electricity costing about 9 mills per kWh. Smaller plants, located close to an end user may compete with power worth up to three times the value indicated, due to savings in distribution cost and the higher fuel cost of conventional "intermediate load" plants.

In special cases, solar power generation without storage might be used for "peaking" applications. In general, however, such power if delivered directly into a network requires conventional standby capacity of equal magnitude. Energy provided in this manner would be worth the cost of fuel saved in the conventional plant.

Typically its value would be a factor of two or three lower than energy produced in a plant with energy storage. Other possible uses of such interruptible power include delivery to other energy storage facilities, the production of chemical fuel (another method of energy storage), or the use in certain manufacturing facilities such as aluminum plants. In all cases solar power without storage must compete with "dump" power such as excess energy from a plant which normally is not fully utilized around the clock.

Clearly if low cost methods of storing electricity become available, the power generated by all types of power systems can be made available on demand and will have the same nominal value. A potentially important energy storage and transmission system involves the use of hydrogen which can be generated by electrolysis and can be converted back to electricity at the demand point by use of fuel cell technology. This system can not only provide storage but also permits very low energy transmission costs over long distances.

SOLAR THERMAL CONVERSION: CONCEPT DESCRIPTION

Thermal conversion systems consist of solar collectors and thermal storage devices delivering thermal energy to a turbine power plant. Through the use of high temperature selective solar absorber coatings recently developed for the space program, temperature in the range of standard steam turbogenerators can be achieved with relatively low solar concentration—on the order of 10. This makes possible the use of relatively low precision optics for concentrating the solar radiation.

One of the current concepts consists of five major elements: (1) a solar concentrator to concentrate the sun's energy; (2) a receiver to absorb the concentrated energy; (3) means to transfer the heat to the thermal storage facility or to the turbogenerator; (4) a thermal storage element to store thermal energy for use at night and on cloudy days; and (5) a turbo-generator to produce electrical energy.

Several variations of this basic approach have been proposed, and some are under active study. The most promising systems employ "linear" heat absorbers, e.g., absorbers extending primarily in one dimension thus permitting heat transfer through a pipe and concentrators with cylindrical symmetry. Estimates of conversion efficiencies (direct solar insolation to electrical power) in the range of 20 to 30% have been made. In the southwestern part of the U.S. approximately 10 square miles are needed for a 1,000 megawatt power plant capable of operating on the average at 70% of capacity.

STATUS

There are no technical limitations that would prevent a solar thermal power station from being built today. The question is whether it would be economically competitive with other methods of power generation. It is this question which has to be answered to make the approach a practical reality.

Early systems, remarkably similar to the linear absorber system, were considered long ago. The most notable was a steam driven water pump built in Meadi, Egypt, in 1913–1914. With a parabolic trough reflector with cylindrical symmetry and a pipe receiver in its focal line sufficient steam was generated to operate a 50 hp steam engine.

Major new developments in civilian and military aerospace and in nuclear technologies, when applied to the basic thermal conversion approach, make the systems look far more attractive. For example, long life and low cost parabolic trough reflectors may result from recently developed durable reflective nickel coatings on plastic substrates. A variety of reflector coatings were developed for the space program as well as high precision parabolic antennas made of fiberglass and reinforced plastic. Fresnel lenses represent today viable alternatives to reflectors.

The receiver located at the focus of the Fresnel lens or parabolic reflector is to be coated with selective solar absorber coatings which efficiently absorb solar energy and have low emissivity at longer wavelengths. Such coatings have been developed under government funding. With these coatings the design of efficient linear solar collectors with low precision optics operating at temperatures up to 1,000° F can be contemplated.

Considerable heat transfer technology has evolved as part of the reactor development and the space effort. Vast data exist on liquid metal heat transfer. Heat pipes* which can operate efficiently at steam turbo-generator temperatures have been developed and some of these heat pipes have been operated for over ten years.

Satisfactory schemes for storing thermal energy have been proposed, ranging from heat storage in large volumes of solids or liquids to heat of fusion of salts and salt mixtures. Liquid metal and molten salts containment techniques have been developed and heat storage using fused salts have been used in satellites. There is however a question of the applicability of the specific techniques from an economic point of view.

The present funding level of R&D directed specifically at solar thermal systems is approximately $500,000 per year.

LIMITING FACTORS AND RECOMMENDED APPROACH

The key problem in central electric power generation via solar thermal conversion is to find an engineering solution that is economically viable and that assures long-life operation with a minimum of maintenance. Specifically, the optical components, e.g., concentrator and absorber surfaces, have to maintain their performance for many years while exposed to the elements.

It is recommended that all promising alternatives of component elements be studied under various environmental and simulated operating conditions. Subassemblies should be prepared and tested for feasibility demonstrations.

All available data on direct (nondiffuse) solar insolation for various parts of the country should be compiled. Measurements should be made to supplement any missing data needed for system trade offs. Continued systems analysis should be carried out in parallel with the component studies to evaluate the potential performance and cost competitiveness of the subsystems under investigation. In addition, methods for best interfacing the solar-generated power with the existing electrical power grid should be studied.

When economic viability is indicated, a pilot plant of 10 to 25 megawatts should be constructed and operated. Based on the data from the pilot plant a size optimization study should be made and a full-scale demonstration plant should be considered. The size of the demonstration plant might be 100 to 1,000 MW as indicated by the optimization study.

A first attempt at estimating the cost of such a facility has been made, based on mass produced components. This pre-supposes a considerable amount of engineering and a successful solution to several unresolved problems. For the solar collection part including energy storage, a cost of $600/kw has been obtained. The turbine generator unit and other power plant peripherals add about $150/kw. Due to the summer-winter variation in average solar insolation such a plant can be expected to operate at a capacity factor of 70 percent. This gives an estimate of energy cost of about 20 mills/kWh assuming 15.5% cost of capital and 1 mill/kWh for operation and maintenance.

Although this number has a considerable amount of uncertainty it is sufficiently close to today's costs that a detailed evaluation leading to commercial readiness is warranted, since it is quite probable that this approach will be a viable alternative to electric power generation as fuel costs rise and environmental controls increase the capital cost of power plants.

GOALS AND PROJECTED IMPACT: GOALS

The first major goal of the solar thermal conversion program is to establish technical feasibility for a low cost design. This should be achieved within about five years. If the cost or cost trends indicate that the system may be cost competitive in the future, a pilot plant followed by a full-scale demonstration plant should be built and operated. The program should be designed to permit commercial availability by 1990.

IMPACT

If at the date of commercial availability the approach proves economical, maximum impact on our nation's electrical needs is expected to be limited to about ¼ of the new power plant starts after the year 2000 since the siting of such plants is restricted to areas with high direct (nondiffuse) solar radiation. Therefore, at best, about 15–20% of the total U.S. generating capacity in the year 2020 can be solar thermal. A more realistic estimate might be that 10% of the new starts after the year 2000 will be solar plants leading to 5% of the Nation's generating capacity in the year 2020.

No adverse environmental impact is expected except for the cooling problems similar to those of conventional power plants. Solar power plants will be principally located in remote areas where the effects of appearance will be minimal.

SHORT-RANGE R&D

The recommended short-range research and development program (18) is geared to satisfying the first program goal of establishing cost competitiveness within about five years. The expected total effort planned over a 7-year period is estimated to cost $25 million. A key feature of the program is to continue environmental life tests of the exposed optical elements and a system and heat storage analysis.

LONG-RANGE R&D

The recommended long-range research and development program (19) consists of a pilot plant and demonstration plant design, construction and operation. The estimated program costs for these plants are $100 million and as much as $1,000 million, respectively. Industry may share the cost of the demonstration plant. The overall R&D program is laid out to meet the second program goal of making the solar thermal conversion power plant commercially available by 1990.

PHASED PROGRAM PLAN

The long and short ranged R&D plans are phased into three phases as shown in Table 20. Milestones are indicated where information will be available for making key decisions before the next larger and most costly tasks are initiated. The estimated funding for the total 15 year program is $1130 million.

ELECTRIC POWER FROM SPACE: CONCEPT DESCRIPTION

A satellite in synchronous orbit around the earth's equator receives solar energy for 24 hours a day, except for brief periods around the equinoxes. In this orbit, a satellite receives six to ten times the amount of solar energy available in suitable terrestrial locations in the U.S. As illustrated in Figure 16 the dc power generated in space by such a satellite would be beamed via microwaves to the ground and there reconverted to high voltage dc or ac power to meet base or demand load needs. In addition such satellites could serve as communications or observation bases.

The use of microwaves at a frequency near 3GHz for power transmission from the satellite to earth provides minimum loss in the ionosphere and troposphere. This loss has been estimated to average 6 percent and to remain moderate even in severe rainstorms. To obtain adequate beam definition at this frequency, a transmitting antenna of approximately 1 km diameter is needed. The transmission efficiency is expected to be in the 55 to 75 percent range from dc in space to dc on earth.

The transmitting antenna diameter determines the economical system size, which ranges from 4,000 to 15,000 MW power output on earth. The system as initially conceived utilizes 2 mil thick silicon solar cells to form two solar collectors capable of providing about 10,000 Megawatts on earth. For economy, lightweight mirrors would reflect solar energy onto the solar cells to achieve a concentration ratio of approximately 3. The 25,000 ton station would be transported in parts to low earth orbit by 300 to 1,100 flights of a second generation space shuttle, and from there to synchronous orbit by ion propulsion.

STATUS

Since 1963, over 50 satellites of the U.S. have been placed in synchronous orbit. They have been powered by silicon solar cells, with a combined capacity of approximately 7 kW, and the power systems of some have functioned for more than 5 years. Through them, a considerable amount of information on photovoltaic power system performance and on attitude control in synchronous orbit is available. The Air Force has successfully flown a 1.5 kW rollout array of 22W/lb. [58], while designs of a 100 kW capacity system for the NASA Manned Space Station are being prepared. Present prices for space flight qualified solar arrays range from $1,000 to $8,000 per ft.^{2}.

A partially reusable space shuttle is under development, designed to provide transportation to low earth orbit for $100 per pound. Solar powered ion propulsion has been demonstrated in space through the NASA SERT program. Both of these systems can form the technology basis for the space power station transportation system.

Microwave generators with more than 5 kW output and 76 percent efficiency have been demonstrated. Highly directional, self-steering (retro-directive) antenna arrays have been developed by the Air Force for radar and communications purposes. For the receiving antenna system, rectifier diodes with 75 percent efficiency are available.

For the space power station system which will be 100,000 times larger than the Manned Space Station, only preliminary concept studies have been carried out.

LIMITATIONS AND KEY PROBLEMS

Demonstration of commercial readiness assumes availability of the presently planned space shuttle. Installation of the operational system would require a second generation shuttle, with an estimated development cost of $10 billion, which would be capable of providing transportation to low earth orbit at a cost of $50/lb. At an annual average introduction rate of 3.5 stations, up to 11 shuttle starts per day may be required, excluding flights for servicing. With a 2 to 3 day turn-around time, approximately 30 shuttles ($100 million each) would be needed with adequate service and launch facilities and noise buffer zone.

Chemical pollution could be minimized through use of hydrogen-oxygen fueled shuttles, but the influence of the additional water in the upper troposphere requires study. The microwave safety and radio frequency allocation/interference questions require answers, which are expected to be found in a planned Office of Telecommunications Policy Program.

At a projected cost for the commercial system of $20 billion per station ($2,000/kW), including transportation and ground station costs, the cost of the generated electric power would be near 38 mills/kWh. With 52 percent of the projected station cost attributable to the solar arrays, achievement of a solar array cost reduction to $32/ft.^{2} or less assumes special importance. Special engineering problems to be solved include the large weight reduction for the solar arrays of low weight, combined with the requirement for orientation and attitude control. The interaction of large flexible systems with the attitude control operation requires special investigation. Methods for assembly of large,

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* A high efficiency, isothermal heat transfer device.

> flexible systems, composed of many parts, by automated or man assisted methods in space would need to be developed, as well as low cost transportation to synchronous orbit. The microwave transmission system requires engineering development based on existing technology. This task is expected to be eased through repetitive use of few component types in benign operating modes. Demonstration of commercial readiness of the system would require a major national commitment, comparable to the "Peaceful Uses of Atomic Energy" and "Man on the Moon" programs. However, such a commitment is not required during the first 10 years of the project, during which technology development of general usefulness would be carried out.
>
> Development of the system depends on successful completion of most of these tasks. It would therefore be difficult to assign, at this time, a success probability higher than low to the entire system. Through component and subsystem technology development and systems studies in the first phase of the proposed program, this uncertainty would be stepwise decreased in the early years and should be essentially removed before a decision on commencing the second phase is made, which includes the major national commitment.

Mr. McGOVERN. Mr. President, at first reading these proposals might seem somewhat far fetched. Most of us are unfamiliar with the real potential of the Sun, so we might be skeptical.

But it is time we began to appreciate the possibilities of solar energy. We must never again make the mistake of placing too narrow a reliance on any single source of power. And we must not overlook or dismiss a power supply with such enormous potential.

We are now entering the aftermath of our longest foreign war. For many years I have been an advocate of responsible conversion of our resources from war time to peace time production without disrupting the growth of our economy. It is my view that with the end of this war we can now apply some of our finest technological talent to the task of developing effective uses of the Sun's energy. I hope that we will be able to broaden our understanding of solar power to develop ways of harnessing it for needs of our people now and in the years to come.

Mr. President, it is alleged that the fictional Russian philosopher, Kuzma Prukov, once remarked that the Moon was more useful than the Sun because the Moon gives light during the dark hours while the Sun shines only during the day when there is light anyway. Over the last decade of lunar adventure, it would seem that many of our best technical minds and most thoughtful policymakers have been victims of the same kind of thinking. Certainly, it is now time to turn our attentions to the needs of the Earth and to the promise of the Sun. It is time to prepare an agenda in which solar energy will assume a significant role in our planning for balanced energy needs.

THE GENOCIDE CONVENTION AND OUR ROLE IN THE INTERNATIONAL COMMUNITY

Mr. PROXMIRE. Mr. President, article I of the Genocide Convention states:

> The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.

If the United States were to become the 76th signatory of this treaty, it would mean that we, too, would pledge ourselves to the prevention and punishment of the crime of genocide.

This would be an important commitment, and yet there are those who feel that such a commitment is a dangerous one to make. These people believe that our experience in Vietnam have taught us to stay free and clear of involvement in affairs not within our borders. Mr. President, I feel that this is the wrong lesson to be learned from Viet Nam.

The United States should not suddenly become introverted and withdraw herself from world affairs. Rather, she should be selective and choose those involvements that are both fair and in our national interest. The Genocide Convention, in my opinion, is such an involvement.

By ratifying this treaty, we are committing ourselves to two things. First, we would commit ourselves to pass legislation which would make genocide a crime within the United States. And second, our commitment to prevent genocide abroad is spelled out in article VIII:

> Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide.

What this means, then, is that ratification of the convention does not make the United States unilaterally responsible for preventing genocide the world over. It means that we would join with other United Nations members in acting against genocide. And this is as it should be.

Therefore, Mr. President, I strongly recommend that the Senate move to ratify the Genocide Convention immediately.

RETIREMENT OF KEN BELIEU

Mr. JACKSON. Mr. President, Kenneth E. BeLieu, one of the Nation's foremost champions of a strong national defense, resigned as Under Secretary of the Army and retired from public service with full military honors on June 29. With characteristic humility, Ken remarked on that day:

> I can think of no higher honor than to have it said of me—"he was a soldier."

Ken was indeed a soldier, a brave and highly competent soldier. It was my high privilege to also know Ken as a skillful and devoted public servant. For nearly 33 years, as a soldier and in successive positions of high trust in both the legislative and executive branches of Government, Ken BeLieu devoted himself indefatigably to the welfare of America.

Born and raised in the Pacific Northwest, Ken attended Roosevelt High School—1933—in Portland, Oreg., where he was an excellent athlete and a standout on the football team. He attended the University of Oregon—1937—where he continued to participate in a variety of student activities; for example, he represented the school at the National Rifle Matches at Camp Perry, Ohio.

Ken volunteered for active duty as a second lieutenant of infantry in 1940. During World War II, he attained a brilliant combat record across the beaches of Normandy through the agony of the Bulge and in campaigns in Germany and Czechoslovakia. Again in Korea, Ken saw active combat until November 1950 when he lost his left leg below the knee as a result of wounds received in action. Ken's last years of service before he retired as a colonel in 1955 were spent as executive to two Secretaries of the Army. For valor in combat and for his exceptional record of service, Ken was awarded the Silver Star, Legion of Merit, Bronze Star, Purple Heart with cluster, and Croix de Guerre. Yes, Ken BeLieu was a soldier, one of the finest.

Fifteen years active duty, two wars, and a disabling wound would seem enough public service for any man. But Ken BeLieu is not any man and his is not an average dedication. Leaving the Army he had served so magnificently, Ken redirected his career first into the legislative, then the executive branch of Government. Ken became a professional staff member in the Senate and later was appointed staff director of two Senate committees. It was my privilege to know and to be associated with Ken both officially and personally when he was staff director for the Preparedness Investigating Subcommittee of the Senate Armed Services Committee. Seldom before or since that time in my nearly a third of a century in the Congress have I seen a more dedicated or capable public servant. Ken drew praise for his labors and his wise counsel from both sides of the aisle. His actions were of inestimable assistance to those of us involved with key decisions concerning the need for modernization of our Armed Forces. Many of the actions taken then laid the groundwork for stronger, more effective Armed Forces in the decade of the 1960's and beyond.

When Ken moved on to become Assistant Secretary of the Navy for Installations and Logistics in 1961, he implemented needed and timely innovations in Navy logistics programs. Named Under Secretary of the Navy in 1965, Ken continued to work successfully for programs to better man, equip, and train our Navy.

Along with my Senate colleagues 21 months ago, I wholeheartedly supported the President's appointment of Ken as Under Secretary of the Army. I was pleased because I knew the country would have in Ken BeLieu a man of integrity who was knowledgeable of the urgent needs of the Army and also a man who was preeminently qualified for this vital role of civilian leadership during a critical period in our Army's history. Ken's performance as Under Secretary has proven that assessment. Ken's vast experience together with his service from 1969 to 1971 as the Deputy Assistant to the President for Congressional Relations were invaluable to the Army during its rapid and necessary rearrangement of vital programs.

Ken's abiding concern for the well-being and morale of the individual soldier was instrumental in inspiring this concern in others. His top priority was to insist that above all the systems, the weapons, and technological advances, the Army is and always will be an organization of people and thus should always be people oriented. So concerned was he with this fundamental belief that he had an M-16 rifle with fixed bayonet mounted on the wall behind his desk with the inscription, "Our raison d'etre—to support the man who carries this rifle." Such emphasis and leadership was of inestimable benefit to the soldier and his family and hence the Army. Yet at the same time, Ken's long and diversified experience in government made him aware that the concerns of national defense affect not only the soldier and the military but the Congress and the American public as well. This sensitivity to all aspects of a strong national defense added a dimension rarely seen in public office. Ken was also well aware of the need for mutual respect between our Army and the society it was created to defend. He diligently sought to improve this respect by personal example and by talks with civilian leadership in the private sector of our Nation. His remarks at his honors review attest to his strong concern in this area:

> If our Army is to have its rightful place of trust and esteem, we must regain and keep public understanding and support. We cannot attract the high quality soldier America needs without it. The single greatest contribution all of us can make is to act as visible, vocal, and affirmative spokesmen for all ranks. The Army and all of our military forces have enough critics. They need more consistent advocates. They need men and women who are informed; who take obvious pride in what the Army has been, is, and ever will be. They need men and women who seize every opportunity to affirm this to soldiers and especially to the public.
>
> Most of us are not called on to shoulder a rifle, but we can shoulder the responsibility of supporting the man who does. Those of us who have had the opportunity to pass through their ranks, along with every American citizen, must take up the soldier's banner, evangelize his virtues, and support his cause. I emphasize the need for affirming the Army's quality and essentiality in positive rather than defensive terms. Like all segments of American society we have had and will have our share of those who choose the easier wrong rather than the harder right. But judged in perspective, the Army's record of competence and integrity compares most favorably with that of the society from which it is drawn. And it is axiomatic that soldiers must do their jobs under unique handicaps, pressures, and dangers. Our actions and our words should reflect this.
>
> We lose credibility if we are not candid as to our problems and our faults. But I think it is also equally axiomatic that we lose even more credibility, internally and externally, and do a great disservice to our nation if in an effort to be candid, we overstress shortcomings and fail to put them in context. Thus, the only honest and effective platform on which our spokesmen can stand is one which admits the problems and shortcomings but puts them in the context of a large organization which historically has been made up of dedicated Americans.
>
> To those who wear the Army green, I say we cannot wait for everybody to tell us. We must daily renew our own sense of purpose, pride, and confidence. We must always, as those who have gone before us, earn our country's respect. As a minimum, the result will be a retreat from emotional bias and stereotyped cheap shots at the military and inevitably a welling of support from those who want to have faith and pride in our military and are longing for strong, affirmative spokesmen.

The Army and our Nation will benefit for many years to come from Ken BeLieu's superb leadership. America has been the true beneficiary of Ken's selfless devotion to the cause of freedom and a strong national defense. His commitment to excellence and his selfless dedication serve as high standards for others in public office to emulate.

At the conclusion of the hearings on Ken's nomination to be Under Secretary of the Army, my distinguished colleagues on the Armed Services Committee noted how unusual it was that they could unanimously move a nomination approval in open session. Ken BeLieu is a remarkable man. His rare experience in all facets of government made his performance as Under Secretary of the Army so highly effective. I can only hope that his retirement is temporary and that at some time in the near future, our Government and our Nation will once again have the benefit of his magnificent talent.

I join with the Members of the Senate in extending to Ken BeLieu, his wife Marhy, and their family best wishes for good health and continuing success.

DEATH OF JOSEPH JEPTHA NORTON III

Mr. THURMOND. Mr. President, I was very sorry to learn recently of the death of a good and dear friend, Joseph Jeptha Norton III, of Gaffney, S.C. Joe Norton's death has ended a life which was completely devoted to helping his fellow man. His many friends and associates will certainly miss him.

If one were to draw a mental picture of the qualities necessary for success and excellence, Joe Norton would come to mind. He was president and treasurer of Pacolet Industries, director of Citizens and Southern National Bank of South Carolina, director of Liberty Mutual Insurance Co. and director of Southern Bank and Trust Co. of Walhalla. He was also associated with Deering Milliken Co. for 25 years.

His success in the business world was made possible by the same qualities and attributes which were responsible for his being loved and admired by his many friends. He was energetic, honest, forthright, and selfless. He maintained a set of principles and never hesitated to stand up for them. You could always count on him to do the right thing.

Even though Joe Norton is no longer with us, his influence is personified in countless young men and women through his work with the Thornwell Orphanage and Boy Scouts. He worked endlessly with young people, instilling in them the same wholesome ideals which distinguished his life.

Joe Norton was also a fine family man. He and his lovely wife, Virginia, enjoyed a happy and fulfilling life together. Their daughters, Martha and Sally, and their son, Joe, have inherited a great legacy from their parents.

It was perhaps symbolic of Joe Norton's life that he died on Sunday morning in the Limestone Presbyterian Church, the church he loved so dearly. He centered his life around the teachings of Jesus Christ and these principles were with him throughout his entire life.

Cherokee County will miss Joe Norton. But the grief we now feel in our hearts is made lighter by the promise of eternal life for those who serve the Lord.

Mr. President, I ask unanimous consent that an editorial entitled "Joseph Jeptha Norton III," and an article entitled "Local Leader J. J. Norton Dies Sunday," which appeared in the Gaffney Ledger of Gaffney, S.C., July 16, 1973, be printed in the Record.

There being no objection, they were ordered to be printed in the Record as follows:

Joseph Jeptha Norton III

Joseph Jeptha Norton III—Christian, family man, industrialist and community leader died Sunday morning while serving His Lord in the House of the Lord, Limestone Presbyterian Church.

Joe Norton had just excused himself from the Men's Bible Class and entered the pastor's study to greet the visiting minister of the morning when in the flickering of an eye, he had a heart attack.

How do you measure a man's life? This cannot be done for it is not meant that we judge. However, the fine attributes and contribution of Joe Norton are many! Some will remember him for his leadership at the Gaffney Manufacturing Company during the severe labor dispute. For many months he worked untiringly to put that industry back in operation without the union. His stand and his leadership during that most difficult time was responsible for a higher standard of living and a better community.

How do you measure a man's life? Don't try! It is not for man to do! Joe Norton put first things first and to those who knew him this was the order: 1) His God; 2) His family; 3) His community and his fellowman. He knew those who worked on various shifts by name and in going through the mill greeted the people employed by name. His quiet manner had an overwhelming influence. He touched so many people in many varied ways.

When a man such as Joseph Jeptha Norton III passes from this earth in the flickering of an eye, don't try to measure his life. Just be thankful that he touched yours. Tell his wife, Virginia, his two daughters Martha and Sally, and his son, Joe, that they were blessed to have had him and Cherokee County was blessed because of his leadership.

Local Leader J. J. Norton Dies Sunday

Joseph Jeptha Norton III, noted Gaffney business leader and manufacturer, died unexpectedly Sunday morning in Limestone Presbyterian Church at 10:50.

A native Georgian, he was born August 26, 1904, in Menlo and had spent the past 28 years in Cherokee County. He was a son of the late Joseph Jeptha II and Willie Lawrence Norton and a 1925 graduate of Clemson College.

Mr. Norton was a member of Limestone Presbyterian Church where he served as elder. He was twice moderator of Enoree Presbytery and trustee of Thornwell Orphanage; former president and treasurer of Pacolet Industries. Mr. Norton was associated with Deering Milliken Co. for 25 years; retired member of the Chairman of the Board of Pacolet Industries; he was director of Citizens and Southern National Bank of South Carolina, director of Liberty Mutual Insurance Co., and director of Southern Bank and Trust Co. of Walhalla; he worked with Boy Scout troop district level, council level and served as vice president of the Palmetto Council; he was a recipient of the Silver Beaver Award.

Surviving are his wife, Mrs. Virginia Isabel Norton; two daughters, Mrs. Eugene (Martha) Caldwell of Atlanta, Ga., and Mrs. Frank (Sallie) Wooten of Charlotte, N.C.; one son, Joseph Jeptha Norton IV of Atlanta, Ga.; two granddaughters, Mary Beth Wooten and Sallie Vee Wooten, both of Charlotte, N.C.; one grandson, Orman Norton Caldwell of Atlanta, Ga.; one brother, W. Lawrence Norton of Walhalla; stepmother, Mrs. Joseph Jeptha Norton II of Seneca.

Services will be held Tuesday at 11 a.m. at Limestone Presbyterian Church conducted by Revs. Charles Sides and Robert Blumer with burial in Oconee Memorial Park near Seneca.

Body will remain at Shuford-Hatcher Funeral Home. Family is at the home, 604 College Drive.

In lieu of flowers donations may be made to Thornwell Orphanage in Clinton.

CONGRESSIONAL SALARIES

Mr. BIDEN. Mr. President, on Wednesday of this week I made some impromptu remarks during a discussion in this Chamber on the subject of congressional salaries.

In the course of the discussion, as reported in the Congressional Record for July 25, 1973, I said on page 25964:

> I do not know about others, but I am worth a lot more than my salary of $42,500 a year in this body.

And, at another point, I said:

> It seems to me that we should flat out tell the American people we are worth our salt.

The newspapers and press associations reported this in their dispatches that were printed throughout the country.

I do wish, however, that the newspapers had published what else I said toward the conclusion of my remarks:

> First, by way of summary (of my remarks, that is), I do not think a raise is appropriate now for us, because we are telling the rest of the American people they cannot have a raise. I agree with that 100 percent.

If this had been reported, the full import of my remarks would have been clear and unmistakable: First, I think each of us deserve every penny we are paid—and more; second, but I oppose a pay increase at this time, because we in the Congress, 535 of us, should be subject to the same 5.5 percent pay increase guideline ceiling that the rest of working America is subject to.

However, I am obliged to refer to salaries drawn by other executives in the Federal Government. A Secretary of a department of the executive branch, such as the Secretary of Housing and Urban Development, draws a salary of $60,000 a year. A Justice of the Supreme Court receives an annual salary of $60,000, while the Chief Justice of the United States receives $2,500 more a year, or $62,500. A four-star general can receive a straight salary of $36,000 a year, not counting numerous housing and other allowances. And the President of the United States, $200,000 a year.

Moreover, Mr. President, I wish the press had reported another passage in my speech:

> Why do we really not want to talk about salaries and say, "Fine, we're going to raise our salaries to a particular amount but then make it a matter of law that we can make no outside income whatsoever"? Then, I would like to see those who are millionaires, those who have significant income from other areas, whether it be trust funds or whether it be from speaking engagements or whatever—stand right next to us, who have no money, and say, "You're right. We don't need it. We should cut our salary. We're a bunch of gluttonous people up here. We agree with the press that we have too much to begin with."

I have said repeatedly, Mr. President, that all "outside" income of Members of Congress should, as the situation now stands, be fully disclosed, detail by detail. But that eventually, congressional salaries would get to the point wherein all outside income could be fairly prohibited, such as income from practicing law or from farming.

These are my views, because, beyond the immediate dollars-and-cents of congressional salaries, there is a larger and more important issue—that of the entire financial climate in which a Member of Congress operates. And it is more constructive for the press to concern itself with this, than with specific dollar-amounts received by Members of Congress.

Crucial to this larger issue, I refer to, is that of campaign financing, as evidenced by the bill, S. 372, before us this week. There is a need to purge the system of campaign financing of its vulnerabilities to corruption. My preference is that we radically restructure the system by adopting public-financing of Federal elections.

Second, I repeat what I have said publicly in my State of Delaware. I believe that we should strive to reach the point where Members of Congress give up the right to all income but their annual salaries, and we can come to that point only when our annual salaries fully reflect the magnitude of our duties and responsibilities.

If they are given the facts, I don't believe the American people will fail to acknowledge the need for Congressional salaries commensurate with these duties and responsibilities.

JUVENILE DELINQUENCY AND CRIME

Mr. MATHIAS. Mr. President, the conference report on H.R. 8152, amending the Omnibus Crime Control and Safe Streets Act of 1968, has now been filed in the Senate.

I regret that the conferees did not retain the amendment offered by Senators Bayh, Cook, and myself and adopted by the Senate which would have established a floor on the percentage of LEAA funds that a State must spend on juvenile justice programs. It is my firm belief that we must concentrate more of our attention on the problems of juvenile delinquency if we are going to be successful in combating crime. Statistics show that today's juvenile offender has a high probability of becoming tomorrow's adult offender, with serious consequences to society.

I am pleased that the conferees, even while rejecting the juvenile justice amendment, gave recognition to the need for more effort to deal with juvenile delinquency. Noting that a State plan, in order to be comprehensive, must take into account a juvenile justice program and noting that LEAA must give greater scrutiny to State plans, the conference report states:

> It is expected that greater emphasis will be given to the problems of juvenile justice in the future.

I intend to vote for the adoption of the conference report in the hope that the continued flexibility of State planning which the report preserves will result in improvements in the area of juvenile justice. If they are not forthcoming in the near future, I would hope that the Congress will adopt the provisions of the Bayh-Cook-Mathias amendment to mandate the improvements anticipated by the conference report.

I would also like to address myself to one other aspect of the conference report. The conference report retains an amendment added to the bill in the Senate which provides that criminal history records founded by LEAA and maintained by State and local governments contain not only arrests but, to the maximum extent feasible, data on the disposition of those arrests. The Senate amendments also provide that an individual shall have access to his or her own records.

I urge the Attorney General to issue regulations implementing these provisions at the earliest possible date. As was noted at the time that the amendment was adopted by the Senate, the words "maximum extent feasible" were intended to be strictly construed and rigidly enforced. In addition to spelling out the procedures by which information on dispositions will be included, such regulations might specify a time beyond which arrest information will no longer be available and can no longer be disseminated. By this method, an incentive to keep such records current can be added to the expressed mandate of the Congress that this be done.

I am also anxious that regulations be issued to implement the provisions for individuals to obtain their own records. Such regulations must make this a meaningful right. At the current time, information in the overall criminal history network is considered the property of the local agency which stores it. I believe that an individual should be able to tap the information at any place within the system to obtain his entire record. The test should be—Can the individual obtain all of the same information about himself that a law enforcement officer can obtain? If not, his right of access is not complete. To the extent that this problem can be dealt with at this time by regulations, I believe we should do so. To the extent it cannot, it points up the need for further legislation.

The conference report notes that the provisions of H.R. 8152 on criminal information are only interim measures and "not dispositive of unsettled and sensitive issues of the right of privacy." The conference report contemplates more comprehensive legislation in the future. This reflects, in my judgment, not only an understanding of the significance of the issues involved but a further measure of the growing support in the Congress for a thorough study and sound solution to the preservation of individual rights in the face of technological change.

PAYING FOR ARAB OIL WITH INDUSTRY

Mr. McCLURE. Mr. President, yesterday the Senate Committee on Interior and Insular Affairs heard testimony from Governor John Love, the new Director of the President's Energy Policy Office, regarding the issue of oil imports and national security. Governor Love confirmed previous estimates concerning the need for increased oil imports from the member nations of the Organization of Petroleum Exporting Countries, particularly those of the Near East.

Projections for U.S. petroleum supply show that imports from the Near East will rise to 2,325,000 barrels per day in 1975—compared to 185,000 barrels per day in 1970—growing to 4,610,000 barrels per day in 1980, and 7,354,000 in 1985. Even taking into consideration the inherent uncertainties of such long-range estimates, it is obvious that the United States should continue to improve relations and understandings with these trading partners, especially Saudi Arabia. Saudi Arabia is today the third ranking producer of crude oil in the world—after the United States and the U.S.S.R.

It is the future, however, that dramatically illustrates the role of Saudi Arabia in the world economy. With reserves of 138 billion barrels, Saudi Arabia outranks the United States by almost 4 to 1—including Alaskan North Slope—and the U.S.S.R. by almost 2 to 1. Future energy policy decisions by our government require careful, thorough examination of the plans and aspirations of Arab leaders, particularly Saudi Arabian and other OPEC members.

A recent interview with Dr. Abderrahman Khene, Secretary General of OPEC, is of definite value in this regard. Dr. Khene's forthright, specific answers to questions involving possible courses of action for OPEC should be read, I believe, in order to gain a necessary understanding for future decisions involving energy and economic policy. With regard to OPEC investment in oil-consuming nations, Dr. Khene states:

> Personally, and as I have already mentioned, on principle I do not believe in investments of developing countries in Western industry.

As the Secretary General explains:

> Such investments could bring about criticism leading to economic and political abuse.

Dr. Khene also provided us with the rationale behind his conclusion, namely:

> I do not believe that . . . these investments will continue to enjoy security . . . due to the fact that such industrialized nations are continually in a process of evolution and "stockholding states" will not be regarded favorably, particularly if they have not at that time, power for *protecting their assets* (emphasis added).

Dr. Khene's statements do, however, provide us with a key to the problem of how the United States can purchase large quantities of OPEC oil without suffering unacceptable deficits in our balance-of-payments. As he stated, with regard to the future role that the OPEC nations might assume in international trade:

> A third way to undertake investment would be for these countries themselves to become "industrials," managing their revenues for the discovery of new oil reserves in their own territories as well as elsewhere, thereby taking their place among the traditional international oil companies. A good opportunity for such investment would also be in the field of petrochemicals, which appears to give assured access to high-level technology and a continuous income for the future.

I believe that U.S. technology would have a major advantage in providing this type of modern industrialization for developing OPEC nations.

Mr. President, so that this extremely interesting and worthwhile interview may receive wider recognition, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the interview was ordered to be printed in the RECORD, as follows:

OPEC—Dr. Abderrahman Khene, Secretary General, Interviewed the Energy Crisis, Disposition of Oil Revenues, Arabs and Israel

In recent months, against a background of oil and gas shortage in the United States, the increasing power of the Organization of Petroleum Exporting Countries—OPEC—has achieved an importance in western political and financial thinking as enormous as the oil revenues which are beginning to pour into the OPEC states. OPEC reaction to the United States fuel shortage, its plans to dispose of its vast oil revenues and OPEC thinking on world energy are of major international importance. In this interview with the new secretary general of OPEC, Dr. Abderrahman Khene of Algeria, these topics are explored.

Under Dr. Khene's secretaryship OPEC will undoubtedly devote itself to participation and production just as events led the secretaryship of his predecessor, Dr. Nadim Pachachi, to deal continuously and successfully with the vexed question of price. OPEC is now a major international force. Wherever the oil industry is, OPEC power will be felt.

Question. Would OPEC consider the line of thought recently advanced by prominent advisers of Western governments as intervention in the political and economic development of sovereign nations?

Answer. During the past months many people have been talking about the so-called "energy crisis" some denying its reality while at the same time blaming OPEC for the shortage of supply of oil, and others calling for a new crusade against the oil-exporting countries, most of which are Arab states.

I consider that by inciting people and trying to offset governments one against the other, is the worst way possible to try to solve a situation which could become very serious for the world. To adopt such a way can only be accredited to obsolete thinking concerning the developing countries and the subsequent colonialistic and imperialistic behaviour towards them.

The New World is different to that of the past and the best way in which to achieve a common goal is by means of cooperation and not of antagonization. It is, perhaps, the first time that the developing countries have been in such an advantageous position whereby they are able to share, to some extent, the well being of modern civilization with the developed world.

One thing is certain, it is an ideal opportunity for competent experts to set out on the road towards achieving the aimed for objectives, not only, as it would appear, in oil matters but in other spheres as well. We would like to believe that there is no other sentimental reason at stake, and by this I am referring to the Arab-Israeli dispute, behind such hostile attitudes and the ever-present press campaign surrounding this world problem. If, however, this should prove to be the case, we will not hesitate in denouncing the dangers of such irresponsibility, even if those persons involved are reputable experts or competent teachers from well-known universities.

Question. Would the foundation of an Organization of Oil Consuming Countries be considered by OPEC as intent to counteract OPEC policies?

Answer. I fail to see what can be added to the prevailing situation by the creation of such an organization. I would recall that until now a great deal of OPEC oil is directly handled by Western oil companies. Furthermore, I would also recall, in relation to government taxes—and, as you know, elsewhere government taxes are levied by decision of sovereignty, even in oilfields—OPEC has been negotiating with the oil companies regarding adjustments to compensation for losses due to the recent devaluation and I would stress that this level of taxation is still below that of 1958, i.e., before the irresponsible cut-off in oil posted prices by the oil companies, an act which led to the creation of OPEC. In such circumstances, the significance of a counter OPEC organization is clear and can be considered relevant to the mentality adopted by the more developed and powerful countries, namely that of despoiling the feeble and developing nations.

Question. Suggestions to counteract OPEC are motivated by the intended growth of oil demand needed for the further economic expansion of industrialized countries. Would OPEC consider the envisaged growth of demand as excessive in relation to OPEC oil reserves, and which volume of oil exports would be considered as compatible with the level of oil reserves?

Answer. I had the opportunity of stressing recently that the consumption of petroleum and gas, as sources of energy, is really fantastic and unacceptable in relation to proved oil and gas reserves, as well as to the uncertainty of the time factor for shifting to new sources of energy. This would eventually bring the world to a deadlock if adequate measures are not taken in time. I also stressed that in such a situation, the producing countries have to consider their interests in relation to the forthcoming generations, considering that oil is a depletable resource and that nobody has the right to waste it. With this in mind, each country is not biding by a definite policy of OPEC, but is conducting its policy as best suited to its interests. Personally, I believe it would be wise to stick closely to the reserves in order to assure at any time a production for at least some 75 to 100 years ahead.

Question. There is the fear that an increase in oil imports at rising prices will drain the monetary reserves of importing countries. Which alternatives would OPEC suggest to avoid payment complications, import or export restrictions and eventual energy shortages?

Answer. This question is really very complicated. In the first instance, however, the problem is not solely an OPEC problem. However, it can be seen that many OPEC countries, committed to development plans within their own territories, need every cent they can secure.

A few OPEC countries could not, even if they wished to do so, spend their revenue from oil in their own countries. One way in which they can invest their money, however, is to aid in the development of other OPEC countries, or in the development of the Third World.

Another method for investment is in the downstream operations of the oil industry, i.e., in the oil industry of the developed countries. However, I do not personally believe that when the energy crisis will be over, these investments will continue to enjoy security and rentability due to the fact that such industrialized nations are continually in a process of evolution and "stockholding states" will not be regarded favourably, particularly if they have not at that time, power for protecting their assets.

A third way to undertake investment would be for these countries themselves to become "industrials," managing their revenues for the discovery of new oil reserves in their own territories as well as elsewhere, thereby taking their place among the traditional international oil companies. A good opportunity for such investment would also be in the field of petrochemicals, which appears to give assured access to high-level technology and a continuous income for the future.

In the view of these different possibilities I can see nothing else unless it be that the consuming countries agree to reduce their oil consumption; this would be the best way for each one of the producing countries to keep, for a longer time, their oil reserves and likewise the consuming countries their reserves of money. However, if it is really the intention of the countries of the world to cooperate, then it means that inter-dependence is more or less a necessity.

Question. Oil revenues in many cases already exceed possible internal investments and are channelled back into Western bank deposits. Could you indicate OPEC policy on the future utilization of excess monetary reserves?

Answer. This question has already been answered by my previous reply. However, I would like to add that even now many voices are accusing OPEC Member Countries of disrupting the World Monetary System by means of speculation, knowing full well that the multi-national companies have at their disposal liquid financial reserves several times greater than those of some OPEC Member Countries. It is a well-known fact that it is these multi-national companies which are chiefly responsible for the monetary disturbances. Added to this, the U.S.A. has literally flooded the whole world with its dollars. You could reply, of course, that these very dollars have served the world to good purpose. This might well be, but may I be allowed to comment that they have certainly not gone towards serving such a purpose in the welfare of the developing countries, among which are the oil-exporting countries.

Question. Prominent Western economists are advocating restrictions for OPEC investments in Western key industries for fear of enhanced dependence. These opinions are the same as those of developing countries about Western investments and their political or economic abuse. Which ways would OPEC suggest to alleviate investment problems?

Answer. For the time being at least, I think that this is more a problem of the Western countries than those countries of OPEC. Personally, and as I have already mentioned, on principle I do not believe in investments of developing countries in Western industry. As you, yourself, have already pointed out, such investments could bring about criticism leading to economic and political abuse. In any case, such ideas deserve further consideration before they are either accepted or rejected.

Question. Closer ties of OPEC Members to the U.S.A. could make them dependent on the U.S.-energy market and U.S. policies. This could lead to a prevalent role of U.S. interests within OPEC, possibly to the detriment of other importing countries, or perhaps also oil-exporting countries. By which means would OPEC prevent such issues?

Answer. In view of the prevailing forecast, the problem of energy, namely that of oil and gas shortages, is not purely confined to the United States. Due to this, it seems to me that there is no particular reason for regarding the U.S. oil market as the sole existing market. Moreover, and as recently expressed in a statement made by the Saudi Minister of Oil, H. E. Yamani, the U.S.A. could not reckon with Middle East oil, if, at the same time and for political reasons, it continues to support and vigorously aid the foe of Arab countries.

Everyone understands indeed that no one can be expected to trade with the friends of his enemy—especially in such a strategic commodity—without jeopardizing his own position because of failing in his fundamental duty.

Question. If OPEC would be abolished or broken up, which would be the consequences for producing countries and for importing countries?

Answer. There is no reason to abolish or disband this organization. If certain people nurture such a secret hope that this might happen, then they will assuredly be disappointed.

Question. Another military conflict with Israel would eventually become the lever to replace governments by others more amenable to the world powers and their oil demand, a partition of zones of interest between the West and the Soviet Union not excluded. Would OPEC be in a position to forestall, avoid or prevent such an extreme but already discussed eventuality?

Answer. The world of today is not that of yesterday and the problem of energy is not purely the concern of the United States and USSR. In any case, OPEC countries are peaceful nations and are working at this time for a world cooperation in order to contribute towards reducing the gap between the developing and developed countries. In my opinion, the problem for the developed nations is not to have "amenable" governments in producing countries, but rather to have a just position vis-a-vis developing peoples.

(Petroleum Times, London, June 29, 1973)

PUBLIC AFFAIRS COUNCIL SUPPORTS CAMPAIGN REFORMS

Mr. MATHIAS. Mr. President, the Senate is now engaged in an effort to try to improve the way we conduct Federal election campaigns. This is a difficult, trying task, and we need the advice and support of a broad spectrum of thoughtful Americans. For this reason, I am extremely pleased to have received a copy of a statement by the Public Affairs Council which outlines and endorses a comprehensive program designed to limit abuses of our political processes.

The Public Affairs Council represents officers of more than 200 major corporations. It attempts to bring its impressive resources to bear on the major problems which face our country and to work with those of us in public life in solving the issues which hold the key to the future of the Nation. For this reason, I am especially pleased that the council has turned its attention to our Federal elections processes, and that the council has endorsed a wide ranging series of reform proposals. I believe these proposals merit our attention as we continue the important effort in which we find ourselves today.

I ask unanimous consent that the statement of the Public Affairs Council be printed in the Record for the benefit of my colleagues.

There being no objection, the statement was ordered to be printed in the Record, as follows:

A Statement by the Board of Directors of the Public Affairs Council

The Public Affairs Council, national professional organization of public affairs officers of more than 200 major corporations, today issued the following statement:

Integrity, openness and public confidence in this nation's election processes are fundamental to the success of our government and country. In enacting the disclosure and other segments of the Federal Election Campaign Act of 1971, the Congress recognized this funadmental requirement. But subsequent events and recent federal and congressional investigations of them have demonstrated the need for further legislative improvements, including the need for new mechanisms to insure vigorous and even-handed enforcement of the election laws.

The Board of Directors of the Public Affairs Council has addressed itself to these needs, studied the assortment of reform proposals now pending in Congress, and resolved to endorse a comprehensive program designed to limit abuses of our political processes.

In doing so, the Board fully recognizes the dangers inherent in what is commonly referred to as reform. First, many proposals add to the already significant advantages of incumbency. Second, efforts to regulate campaigns and campaign finance raise some thorny constitutional problems. Finally, the history of reform demonstrates that there are no simple answers to such problems, and that the risk is that one set of problems may be traded for another. But the status quo is not satisfactory; and change itself may help to restore confidence in the system.

Members of the Council's Board are professional participants in the nation's political and legislative processes. Neither they, the corporations they represent, nor any responsible segment of society have a stake in a secret system or one that the unscrupulous can corrupt. Their dedication is to working within a system that is open, honest and deserving of the confidence and respect of the American people.

The Council's Board of Directors has therefore resolved to support campaign and campaign finance reform measures which would:

1. CREATE A SINGLE, STRONG AND INDEPENDENT FEDERAL ELECTIONS COMMISSION WITH ENFORCEMENT POWERS

The enforcement powers under the 1971 Federal Elections Campaign Act are presently shared by the Clerk of the House, Secretary of the Senate, the General Accounting Office, and the Justice Department, a division of responsibility which militates against uniform administration and complicates both reporting and meaningful disclosure. A number of bills have been introduced to create a Federal Elections Commission. These bills vary most significantly in whether they would empower that body to initiate and prosecute court actions.

We strongly support the creation of a Federal Elections Commission to centralize all reporting and enforcement activities, such commission to have the power of subpoena and authority to initiate actions against alleged violators.

2. LIMIT USE OF CASH IN ELECTION CAMPAIGNS

The utilization and accounting of campaign finance should measure up to the highest standards of accepted business practice and propriety. Abolishing large cash contributions—which evoke suspicion in the public's mind—would be one useful step in restoring credibility to campaign politics.

We strongly associate ourselves with efforts to legislate a ceiling of cash contributions. We are prepared to support a ceiling of $100, the figure often mentioned, or even a lower limit, provided it is not so restrictive as to prohibit small, out-of-pocket contributions by interested citizens. In addition, cash disbursements by and for candidates—perhaps all those over $100—should be fully reported as to source and purpose.

3. REQUIRE FEDERAL CANDIDATES TO ESTABLISH A SINGLE CENTRAL COMMITTEE FOR REPORTING OF ALL CAMPAIGN CONTRIBUTIONS AND EXPENDITURES

For a variety of tax, legal and political reasons, a profusion of committees to collect and disburse political funds has been a traditional part of many congressional, senatorial and presidential campaigns. Multiple committees *per se* are not objectionable, but the usual practice of separate reports by each committee on its contributions and/or expenditures, complicates one key objective in campaign finance reform—full, clear, readily available information.

Each candidate for federal office should be required by law to designate a single "official" committee which would be held accountable for rendering full and complete disclosure of all contributions in support of, and expenditures by, committees supporting a single candidate.

4. LIMIT CONTRIBUTIONS WHICH ANY INDIVIDUAL IS PERMITTED TO MAKE TO A SINGLE CANDIDATE

While many large contributors to a single campaign give for entirely selfless reasons, large contributions are subject to misinterpretation, and our political process will be best served by the broadest possible base of small private contributions.

We, therefore, support efforts to impose a reasonable dollar limit on the amount any person can contribute to or expend on behalf of any federal candidate. These limits should be lower for a candidate for U.S. Representative or Senator than for a candidate for President or Vice President.

5. RAISE EXISTING LIMITS ON TAX DEDUCTION OR TAX CREDIT WHICH TAXPAYERS WHO MAKE POLITICAL CONTRIBUTIONS MAY CLAIM

The present law provides that individuals may claim a federal tax deduction of up to $50 ($100 in the case of a joint return), or a tax credit of up to $12.50 ($25 for a joint return) against their political contributions. In the interest of encouraging a broad base of giving, these provisions should be liberalized.

We recommend that the allowable tax deductions be increased to $100 ($200 for joint returns), and the tax credit be raised to $50 ($100 for joint returns).

6. CONSIDER MEASURES TO ESTABLISH LIMITS ON CAMPAIGN EXPENDITURES

Although some believe the aggregate expenditures for political campaigning are modest (an estimated 400 million dollars or less than four one-hundredths of one percent of our Gross National Product, for *all* campaigns in the U.S. in 1972), questions have been raised regarding the large amounts expended in a number of congressional, senatorial, and particularly the presidential campaigns in 1972. Some have called for ceilings on campaign expenditures by candidates for federal office, and the 1971 Federal Election Campaign Act did, in fact, impose limitations on expenditures for the use of communications media in federal elections.

The imposition of ceilings on total campaign expenditures, however, raises many practical—and constitutional—problems. Because it is important to re-establish the credibility and openness of our political system and to broaden the access to public office by restricting the financial burden of campaigning, we support the principle of reasonable limitations on amounts which candidates for federal office may expend in any primary, special or general election campaign, provided that such limitations: (a) do not restrict candidates' right to free speech; (b) do not assure incumbent office holders of permanent advantages over challengers; and (c) are structured to offer a reasonable certainty that the controls can be enforced.

7. LIMIT THE LENGTH OF POLITICAL CAMPAIGNS

Politician and citizen alike concede public concern about the length of our political campaigns. A number of other democracies have imposed time limitations on political campaigns without apparent violence to the chief object of campaigns—to inform the public. Yet any time limitation could work to the advantage of incumbents, raise constitutional issues and present difficult questions of interpretation.

While recognizing that no legislative remedy proposed to date would entirely resolve such dilemmas, we nevertheless urge that means be sought to impose reasonable time limitations on the allowable period for both primary and general election campaigning.

8. CLARIFY CONTRADICTORY SECTIONS IN THE 1971 FEDERAL ELECTION CAMPAIGN ACT

Section 610 of the 1971 Act authorizes unions and corporations to establish "separate segregated funds" supported by individual contributions. In an apparent oversight, the Congress contradicted this provision in Section 611 by outlawing "government contractors"—which includes many corporations—from direct or indirect political actions, including the establishment of such funds.

Since a careful reading of the floor debate when 611 was enacted makes it clear that it was the intent of Congress to permit separate segregated funds, and since the present law obviously discriminates against some unions and corporations, we urge Congressional action to clarify the contradiction and thus to provide equal opportunity for all unions and corporations. We believe these funds to be an excellent and fully accountable means of broadening individual participation in the electoral process.

In this connection, in that we have recommended specific limitations on contributions to a candidate by an individual, it should also be stated that we favor a limitation on contributions to a candidate by any separate segregated fund. The maximum amounts could be higher than those specified for individuals, but there shoud be a considered relationship between the two. Also, restraints would be necessary to prevent either a company or a union from avoiding the ceilings by establishing multiple separate segregated funds. No change is recommended in the long-standing prohibition on the contribution or corporate or union funds to candidates for federal office.

9. REPEAL "EQUAL TIME" PROVISIONS OF SECTION 315 OF THE COMMUNICATIONS ACT AS IT APPLIES TO CANDIDATES FOR THE OFFICE OF PRESIDENT AND VICE PRESIDENT

The "equal time" section obliges broadcasters to provide equal time for all presidential and vice presidential candidates, no matter how spurious. Therefore, broadcasters have been inhibited in offering substantial amounts of free time to significant candidates.

Free access to radio and television by significant presidential and vice presidential candidates is in the public interest: we support repeal of the equal opportunity requirements of Section 315 with respect to candidates for the office of President and Vice President.

10. SUPPORT BROAD-BASED PRIVATE FINANCING OF POLITICAL CAMPAIGNS, BUT ACCEPT ADDITIONAL STUDY OF PUBLIC SUBSIDIES

It is our present judgment that the public interest will best be served if political campaigns continue to be financed primarily by private individual contributions, rather than from government sources. We believe the impact of the Federal Election Campaign Act of 1971, plus the adoption of proposals along the lines of those embodied in previous sections of this statement, can remedy a majority of the problems existing in political finance. We believe the system can be strengthened further by expanded efforts to encourage more people to participate in selecting candidates and financing political campaigns.

We recognize there are many serious proponents and proposals for some sort of public financial support of political campaigns and that the one dollar tax checkoff for presidential campaign financing—a form of public subsidy—is already in effect. Although we encourage additional study of the pro's and con's of some degree of public financial support, we are presently convinced that a system based on private contributions is preferable.

NAVY F–14 JET FIGHTER-BOMBER FUNDS REDUCED BY 70 PERCENT

Mr. JAVITS. Mr. President, yesterday the Senate Armed Services Committee voted to slash money for the Navy's F–14 jet fighter-bomber by 70 percent and to cut $20 million for the development of the A–10 close-air-support plane.

These two planes are produced by New York firms of the highest proven technical capability, the Grumman Corp. and Fairchild Industries. These planes were designed to respond to very real military needs and in fact, the Department of Defense has certified the urgent need for them as well as the excellent performance of both the F–14 and the developmental stage A–10.

Mr. President, the action so far taken by the Armed Services Committee raises serious questions in my own mind as to whether all the factors which Senator BUCKLEY and I raised in a letter to the acting chairman of the Senate Armed Services Committee have been given sufficient consideration. When our own military advisers say that they need these planes to continue our forward progress in modernizing our military equipment, I feel their recommendations should be well-heeded.

Our letter emphasized the importance of full funding of these programs to our Nation and to Long Island. As Senator BUCKLEY and I advised Senator SYMINGTON, we believe that to force major cutbacks in these well advanced programs at this time would work a severe hardship on the workers and companies in Long Island, N.Y. In addition, these cutbacks raise the very real threat of destroying the retinue of skilled aerospace technical teams based in Long Island which must inevitably weaken our Nation's aerospace capability. I hope that upon review of our letter, my remarks today and other data which the committee has at its disposal, the Armed Services Committee will review its decision on this matter. I ask unanimous consent that our letter be printed at this point in my remarks.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., July 25, 1973.

Hon. Stuart Symington,
Armed Services Committee, Russell Senate Office Building, Washington, D.C.

Dear Senator Symington: It has come to our attention that the Tactical Air Power Subcommittee of the Senate Armed Services Committee has recommended substantial cutbacks in two major aircraft programs which could have an adverse impact on the prospects for the early modernization of our Navy and Air Force tactical aircraft inventory as well as on New York State.

The recommended reductions in the U.S. Air Force A-10 Close Air Support aircraft and the U.S. Navy's F-14 Tomcat could have a severe effect on employment in New York State. The reduction in procurement of the aircraft and long-lead-time items would directly affect the operations of Grumman Aerospace Corporation and Fairchild Industries whose labor force comes almost entirely from one county. This county, Suffolk, has experienced extraordinarily high unemployment during a period of time when the rest of the nation experienced a period of prosperity. To force major cutbacks in these well-advanced programs at this time would work a severe hardship on the workers and companies of Long Island, New York. Moreover, in a period of inflation such as we are now experiencing, stretch-outs of procurement activities invariably increase costs later on in the procurement cycle.

The planes involved are produced by companies which have virtually unparalleled experience in the field and a reputation for exceptional technical excellence.

We strongly urge that the recommendations of the Tactical Air Power Subcommittee be reconsidered, and full funding be restored to the A-10 and F-14 programs.

Sincerely,

Jacob K. Javits,
James L. Buckley.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM SATURDAY TO MONDAY, JULY 30, AT 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on tomorrow, it stand in adjournment until the hour of 10 a.m. on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR VOTE ON H.R. 8760, DEPARTMENT OF TRANSPORTATION APPROPRIATIONS, AT 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on the passage of the bill making appropriations for the Department of Transportation tomorrow, H.R. 8760, occur at 11 a.m., and that rule XII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered. Rule XII will be waived.

ORDER TO RESUME CONSIDERATION OF UNFINISHED BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume consideration of the unfinished business following the close of the debate on the transportation appropriation bill tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, am I correct in stating that the pending question at the time the Senate resumes debate on the campaign reform bill will be on amendment No. 443 by Mr. Stevenson and Mr. Mathias?

The PRESIDING OFFICER. The Senator is correct.

ORDER THAT NO VOTES OCCUR PRIOR TO 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, I also ask unanimous consent that if debate is finalized on that amendment or any other amendment prior to the hour of 11 a.m. tomorrow—amendments to the unfinished business or amendments to the appropriation bill—no yea-and-nay vote occur prior to the hour of 11 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, let me understand clearly what the situation will be. If there should be amendments to the appropriation bill tomorrow on which the yeas and nays were ordered, any such vote would not begin until the hour of 11 o'clock a.m. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. And the vote on final passage of the appropriation bill, the final vote insofar as anything having to do with the appropriation bill is concerned, would follow the votes on those amendments, and consequently would come sometime after the hour of 11 a.m.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Am I also correct in stating that if any yea-and-nay votes should be reached on the unfinished business, S. 372, prior to 11 a.m., those votes would not occur until after final passage of the transportation appropriation bill, which itself could not come before 11 a.m.?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, am I correct in stating that there is no provision for routine morning business in the morning?

The PRESIDING OFFICER. The Senator is correct.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I shall state the program for tomorrow:

The Senate will convene at 9 a.m. After the two leaders or their designees have been recognized under the standing order, the Senate will proceed to the consideration of H.R. 8760, a bill making appropriations for the Department of Transportation for the fiscal year 1974. There is a time limitation on that bill of 30 minutes, with a time limitation on any amendment, debatable motion, or appeal, of 10 minutes; and if a yea-and-nay vote is reached prior to 11 a.m., that vote will be delayed until 11 a.m. The yeas and nays have already been ordered on the Department of Transportation appropriation bill.

If the closure of debate on the appropriation bill should occur prior to 11 a.m., the Senate will immediately resume consideration of the unfinished business, S. 372, the so-called campaign reform bill. The pending question when the Senate resumes its consideration of the unfinished business tomorrow will be on adoption of Amendment No. 433, the authors of which are Mr. Stevenson and Mr. Mathias. The yeas and nays have been ordered on that amendment. Upon the disposition of that amendment, other amendments will be in order.

As the distinguished majority leader has already stated, we may expect a busy day on tomorrow. Several amendments are expected to be called up and voted on, and it is anticipated that the Senate will likely be in session tomorrow until 4:30 or 5 p.m. So, it is not likely to be a short Saturday session.

Hopefully, action on the campaign reform bill may be completed tomorrow.

ADJOURNMENT TO 9 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the previous order that the Senate stand in adjournment until the hour of 9 a.m. tomorrow.

The motion was agreed to; and at 5:40 p.m., the Senate adjourned until tomorrow, Saturday, July 28, 1973, at 9 a.m.

NOMINATION

Executive nomination received by the Senate July 27, 1973:

IN THE MARINE CORPS

Maj. John V. Brennan, U.S. Marine Corps, for permanent promotion to the grade of lieutenant colonel in the U.S. Marine Corps, in accordance with article II, section 2, clause 2, of the Constitution.

CONFIRMATION

Executive nomination confirmed by the Senate July 27, 1973:

U.S. AIR FORCE

The following officer to be placed on the retired list in the grade indicated under the provisions of section 8962, title 10, of the United States Code:

To be general

Gen. John D. Ryan, [redacted]FR (major general, Regular Air Force), U.S. Air Force.

EXTENSIONS OF REMARKS

AMERICA: IT IS NOT SICK, JUST BEWILDERED

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. BOB WILSON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following article from the Daily Californian of July 6, 1973:

AMERICA: IT'S NOT SICK, JUST BEWILDERED

(By Arpad Kadarkay)

(EDITOR'S NOTE.—The fireworks have been lit, the Fourth of July speeches given, the picnic baskets emptied, but what was it that we celebrated? The following article, written by Prof. Arpad Kadarkay, a Hungarian immigrant who teaches political science at Occidental College, gives one American's view of this country's meaning. It is reprinted with permission of the author and the Los Angeles Times.)

In his inaugural address, President Nixon noted that the time has come for all Americans to "renew our faith in ourselves, and in America." As a naturalized citizen, such renewal of faith is a privilege for me.

I am American, not by birth, but by heart, by choice. I am in debt to America. To repay my debt, partly in small coin, I would like to speak to those who find so very much wrong with America and so very little that is right.

Of late, America, Europe's child—her Cinderella brought to bloom by a kindly magic—has been declared ugly. The pathology of American society fills the pens of our best writers with paradox, irony, pathos, even poetry. They find the American illness so great that the most high-minded doctors have been called to diagnose and write the death certificate.

I want to speak on behalf of Cinderella.

Her mourners say that America is dead, her dream a patchwork of racial-urban strife, poisoned by self-interest, rotted by surfeit and indifference, maimed by violence. I am told that the great aspiration is spent; America is only another crowded nation, not even able to maintain order. America is only a power, not a society, not a culture. We have gone, I am advised, from primitiveness, from childhood and innocence, to decadence—a far poorer record than that of Rome.

These gloomy soothsayers are as old as the nation. They thundered in Jefferson's time, in Lincoln's time, in Roosevelt's time, in Truman's time. Every society has its share of doomsday prophets who convince themselves that they sit at the edge of Babylon and thus must cry that judgment day is at hand.

Well, this is not it. Not yet. Rather, this country is a vast experimental laboratory of human relations for the 20th century. We are, in a sense, defining and creating the 20th century for much of the world.

Unless seen in this light, America cannot be understood at all. It is not a sick society, but merely a bewildered society. And rightly so. For we are the first mass society where three revolutions have converged simultaneously, the industrial-scientific revolution, jamming us together and thus increasing the tension of daily living; the communication revolution bringing us face-to-face contact; and an educational revolution, raising our level of expectations and demand for freedom and mobility.

Just consider the impact of these revolutions. For generations Europe had sharpened its appreciation of beautiful things and trained itself to reflect on the meaning of human existence. The result? A thin layer of Europeans achieved a cultured leisure—the Old World "douceur de vivre." The American way is different.

We are not becoming less democratic, but more democratic. Perhaps there are too many people—too many untrained cooks in the kitchen. Yet Americans are the most natural workers-together in the world. We claim to live by the system of private enterprise, while in fact we are the supreme cooperative society. The Communist countries, founded on cooperation, have to coerce their people to work.

Our standards of expectancy have risen. But since Americans are perfectionists, dissatisfaction will continue, as well it should. We have lifted the massive center of ordinary people. Mass society, so often abused, and widespread affluence, so often mocked, are living examples of this. Yet no one pretends to be fully satisfied—a sure sign of health.

Our common health hinges on the complex chemistry of individual freedom. I am unable to understand the thrust of the sufferings and strivings of Western man over the last centuries save in terms of this kind of achievement. We have not managed to journey all this way for nearly three centuries—across oceans and continents and, more recently, through space—because we are made of sugar candy.

I am a teacher. Loudly and persistently I am told that American education is in crisis. What a compliment! To me this is the unique character of free education—not in the money sense but in the real sense. It enables us to measure progress by enumerating shortcomings and by drawing critical attention to failures.

Its very purpose and subject matter are crisis-prone. This is part of the creative process. Crisis in education is an unbroken Western tradition—the root of its strength. Since creativity proceeds from the known to the unknown, education will always be in crisis until the well runs dry.

Some say that America has pursued a tragic course, having tried in vain to realize the dream of a free society. But in so vast an undertaking, success cannot be measured in absolutes. We are only mortal, not gods.

As mortals, we are always shackled by our own failures. One glaring mistake has been Vietnam, but it was not typical of America—and now we have gotten out from under its yoke. Another failure has been racism—much more difficult to overcome. But I believe it will be, for the simple reason that whereas most of the older generation regarded racial equality as only logical, the younger one considers it perfectly natural.

The criticism of America, though loud enough at home, is even louder from abroad. One reason is that millions the world over judge America by different standards—higher standards—than they do other countries. They do not shout advice to Russia and China, whatever their misdeeds, for the same reason that the crowd in the bullring shouts advice to the bullfighter but not to the bull.

Here on my desk I have some weighty books by learned authors proving that America is like the Roman Empire—ripe with decline and fall. Perhaps. But Rome had lasted a thousand years.

OIL AND WATER MAY NOT MIX, BUT OIL AND PROFITS CERTAINLY DO

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. OBEY. Mr. Speaker, evidence continues to mount, says a Wall Street Journal story today, "that the June quarter was the most profitable ever for the oil industry."

The story continues:

Operating at capacity levels, 15 of the bigger oil companies have reported earnings gains for the period, many of them spectacular.

Among the latest to report, with earnings increasing 24% to 174%, were Standard Oil Co. (Indiana), Standard Oil Co. of California, Atlantic Richfield Co., Continental Oil Co., Phillips Petroleum Co., Marathon Oil Co., Ashland Oil Inc. and Commonwealth Oil Refining Co.

Mr. Speaker, I insert the entire story at this point, as well as a number of items from the Journal's digest of company earnings reports:

MORE OIL FIRMS LIST JUNE QUARTER SPURTS IN NET, SIGNALING RECORD PERIOD IN INDUSTRY

Evidence mounted that the June quarter was the most profitable ever for the oil industry.

Operating at capacity levels, 15 of the bigger oil companies have reported earnings gains for the period, many of them spectacular.

Among the latest to report, with earnings increasing 24% to 174%, were Standard Oil Co. (Indiana), Standard Oil Co. of California, Atlantic Richfield Co., Continental Oil Co., Phillips Petroleum Co., Marathon Oil Co., Ashland Oil Inc. and Commonwealth Oil Refining Co.

Indiana Standard's second quarter earnings spurted 37% to $121.3 million, or $1.74 a share, on an 11% gain in revenue to $1.53 billion.

For the six months, Indiana Standard's net rose 29% to $242.5 million, or $3.48 a share. Revenue gained 11% to nearly $3 billion.

Improved prices and increased sales volume for refined products, higher world-wide chemical sales and increased production of crude oil and natural gas liquids were chiefly responsible for the gains, John E. Swearingen, chairman, said. "Everything we have is running virtually at maximum levels, with all operations at record first half levels," he said.

Atlantic Richfield's earnings soared 50% to $68.4 million, or $1.20 a share, in the second quarter. Operating revenue rose 14% to $1.07 billion.

Its first half net was up 51% to $118.7 million, or $2.09 a share, on a 9.4% gain in revenue to $2.07 billion.

STRONGER PRICES, HIGHER SALES

Robert O. Anderson, Atlantic Richfield chairman also cited stronger product prices and higher sales volumes, which offset higher costs and increased taxes he said. First half net was the equivalent of about 1.5 cents per gallon of products sold, Mr. Anderson said. He said Atlantic Richfield expects continued improvement in the second half, but the rate of gain isn't expected to match the first six months.

Continental Oil's June quarter net increased nearly 24% to $51.7 million or $1.03 a share, on a 17% gain in revenue to $1.03 billion. Continental's six-month earnings rose nearly 18% to $99.2 million or $1.7 a share, while revenue gained 13% to $1.69 billion.

"The second quarter earnings gain was due to improved performances from the company's world-wide petroleum and chemicals activities" John G. McLean, Continental chairman said. "These improvements were partially offset, however by reduced earnings from coal operations, currency translation adjustments and higher interest charges."

Phillips Petroleum's second quarter earnings climbed 25% to $46.4 million, or 61 cents a share, and revenue rose more than 8% to $694.8 million. First half net was up nearly 24% to $89.8 million or $1.19 a share, while revenue increased 8% to $1.37 billion.

MARATHON LISTS RESULTS

Marathon's net June period earnings surged more than 65% to $27.6 million or 92 cents a share, while revenue rose more than 23% to $363 million. First half net jumped nearly 58% to $51.7 million or $1.73 a share, and revenue rose 20% to $717.9 million.

J. C. Donnell II Marathon's chairman, said the second half earnings improvement "cannot be expected to be as great," although the full-year's results should be "substantially improved" from 1972.

Ashland Oil's earnings for the fiscal third quarter, ended June 30 increased nearly 36% to $22.3 million, or 89 cents a share on a revenue rise of 16% to $517.6 million. For the nine months, Ashland's earnings rose more than 28% to $60.8 million or $2.40 a share, on a 12% increase in revenue to $1.44 billion.

Commonwealth Oil's second quarter net increased 174% to $7.1 million or 50 cents a share, on a 34% sales gain to $99.2 million. Its six-month earnings were up 95% to $9.9 million or 67 cents a share, on a 36% rise in revenue to $190.3 million. But Norman C. Keith, president, called Puerto Rico's new price controls on gasoline "discriminatory and confiscatory," and said they will substantially affect the company's profits if continued in their present form.

ATLANTIC RICHFIELD CO. (N)

Quarter June 30	1973	1972
Share earns	$1.20	$0.81
Sales and revenue	1,069,760,000	940,291,000
Net income	68,401,000	45,674,000
6 month share	2.09	1.39
Sales and revenue	2,067,319,000	1,891,246,000
Net income	118,704,000	78,716,000
CLARK OIL & REFINING (N)		
Share earns	$1.19	$0.14
Sales	96,369,000	68,445,000
Net income	8,413,000	964,000
6 month share	1.87	.25
Sales	180,243,000	138,513,000
Net income	13,259,000	1,769,000

COMMONWEALTH OIL (N)

Quarter June 30	1973	1972
Share earns	$0.05	[1] $0.16
Sales	99,154,492	[1] 73,844,275
Net income	7,062,725	[1] 2,576,264
6 month share	.67	[1] .31
Sales	190,270,888	[1] 139,665,584
Net income	9,868,775	[1] 5,050,584
CONTINENTAL OIL CO. (N)		
Share earns	$1.03	$0.83
Revenue	1,029,877,000	883,485,000
Net income	51,703,000	41,799,000
6 month share	1.97	1.68
Revenue	1,961,080,000	1,737,355,000
Net income	99,180,000	84,388,000
MARATHON OIL CO. (N)		
Share earns	$0.92	$0.56
Revenues	362,981,000	293,694,000
Net income	27,557,000	16,644,000
Average shares	29,905,790	29,930,014
6 months share	1.73	1.10
Revenues	717,857,000	595,961,000
Net income	51,722,000	32,796,000
PHILLIPS PETROLEUM (N)		
Share earns	$0.61	$0.49
Revenues	694,802,000	641,453,000
Net income	46,372,000	37,105,000
Average shares	75,495,024	75,017,252
6 months share	1.19	.97
Revenues	1,374,610,000	1,277,345,000
Net income	89,820,000	72,700,000
Average shares	75,453,930	74,922,103
STANDARD OIL CO. CALIF (N)		
Share earns	$2.14	$1.51
Sales and revenue	2,001,846,000	1,603,543,000
Net income	181,700,000	128,321,000
6 months share	3.94	2.96
Sales and revenue	3,776,463,000	3,114,856,000
Net income	334,500,000	251,310,000
STANDARD OIL CO. IND. (N)[2]		
Share earns	$1.74	$1.26
Revenues	1,527,242,000	1,379,774,000
Net income	121,349,000	88,273,000
Average shares	69,733,521	9,910,263
6 months share	3.48	2.70
Revenues	2,997,000,000	2,700,000,000
Net income	242,500,000	188,000,000
Average shares	69,747,696	69,582,144

[1] Adjusted for a 2 percent stock dividend in February 1973.

[2] On a fully diluted basis, per-share earnings in the 6 months were $3.36 in 1973 and $2.62 in 1972.

Note: (N) New York Stock Exchange (A) American Exchange (O) Over-the-Counter (Pa) Pacific (M) Midwest (P) PBW (Na) National (B) Boston (D) Detroit (T) Toronto (Mo) Montreal (F) Foreign.

A "p" or "b" following exchange designation indicates company has only preferred shares, or bonds or debentures in public hands.

STALLED FIRE FIGHT

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. SYMMS. Mr. Speaker, the environmental radicals are at it again. Recently, a fire destroyed over 1,000 acres of grazing land in Oregon because bureaucratic regulations prevented the local ranchers from using the necessary equipment to stop the fire. The following article appeared in the Idaho Statesman:

OREGON RANCHER COMPLAINS BLM RESTRICTION STALLED FIRE FIGHT

(By Betty Hopper)

DANNER, OREG.—Restrictions on the use of equipment in a fire which burned more than 1,000 acres of grazing land in the Danner area last weekend stirred a protest Tuesday.

The fire was west of Jordan Valley near Antelope Reservoir.

Oran (Shorty) Raburn complained Bureau of Land Management officials refused to let ranchers use equipment on the federal land to make trails to stop the fire.

He said the fire was first noted at about 6 p.m. Friday on his place. "We notified BLM and they arrived with a pumper at about the same time we arrived with our cats (Three, including neighbors).

"The fire boss said no cats would be allowed to fight this fire," Raburn said, "but on my own property I went ahead and with a neighbor, we put the fire out on the west side. Another cat was sent to the other side to make a trail to put it out over there.

"After this side was out, we stayed guard for awhile, but were wondering why the fire seemed to be growing on the other side. When we went over there, the cat and the pumper truck were parked in the roadway—the fire boss had prevented the cat from going in."

Raburn said more than 1,000 acres, (he estimated 1,500) were burned, but "if they had let us go ahead, only 200 or 300 acres at the most would have been burned."

George Gurr, manager of the Vale District of the BLM, said 1,050 acres were burned, including 419 deeded acres, 620 acres of federal land and one acre of state land.

He defended the BLM's position on fighting fires. "Our men have the authority to make the final decision on how a fire will be fought in federal lands. If he feels he cannot use certain equipment, he makes that decision. He is trained to know how and what to do."

Raburn said he objected to "environmentalists" saying the trails to prevent fires from spreading cannot be made. "Those trails grow right back into grass the next year," he said.

He said, "The big problem now is what do we do about the next fire? Everything here is bone dry and there will be more fires. We'd been better off this time if we hadn't called BLM. Some decisions will have to be reached shortly on how we are going to save the land when fire strikes."

He said his feed will be scarce this year because there is such a small amount of irrigation water that he will have only one cutting of hay and with the tinder dry land, the "cheatgrass will go."

He said the Malheur County Cattlemen's Association, Oregon Cattlemen's Association, Cattlefax and Rep. Al Ullman have been notified of the problem of fire fighting and are now investigating it.

"None of it makes sense," he said, "to stand by and let the grass burn when you have the equipment there to put it out, but are ordered not to use it. Nothing else can stop these fires except dozers and blades and they won't let us use them."

Gurr said that BLM contracts with ranchers prior to the fire season for rental of their equipment in case of fire. "If it has not been rented, we can't be responsible for equipment or the man in case of trouble."

He said in the fire last weekend, "the man in charge apparently felt there was a better way to fight the fire than to make more roads in the county nobody wants."

He said the issue in this instance is not the quality of the land (Raburn had said the grass was knee high) nor the amount of land, "but the fact that we are responsible on federal lands. We want cooperation from the ranchers. We do not say that cats can't be put into operation, but we do say they must be used under our direction and in this case other alternatives were selected."

Raburn said he had been on fire guard for many years and had lots of experience in fighting fires. Pumpers aren't any use unless they have a road to follow, he said.

Raburn who runs about 750 cows, said he was the loser in this fire although two neighbors lost 20 or 30 acres of grazing land, "but we don't know when or where the next one will be. The next fire is the problem now."

Mr. Speaker, the BLM and their allies in the Environmental Protection Agency have gone too far.

The EPA is destroying our environment, not protecting it. How many more acres of forest and grazing land will be destroyed by fire because Federal regulations are protecting it from the local residents. This kind of nonsense must stop; it is a perfect example of Government gone wild, fueled by environmental emotionalism.

CONYERS OPPOSES PHASE IV GUIDELINES

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. CONYERS. Mr. Speaker, the administration's recently announced phase IV guidelines will work a serious hardship on the service station owners of Michigan. Because of special circumstances in Michigan, the phase IV freeze on retail gasoline prices will be particularly inequitable and will force many service station owners to close their businesses. The price freeze plus the already limited supply of gasoline will constitute a severe inconvenience to the motorists of Michigan, a State which relies heavily on its automobile industry for its economic well-being. In recognition of the inequities imposed by the phase IV guidelines, the entire congressional delegation from Michigan has addressed a letter to the Director of the Cost of Living Council urging that the Council favorably consider a request from the Service Station Dealers Association of Michigan to enable owners to exercise a pricing option which would more accurately reflect market conditions. This is an important request which will benefit both service station owners and motorists in Michigan, and because of its importance I would like to enter our letter to the Cost of Living Council in the RECORD:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., July 23, 1973.

Dr. JOHN T. DUNLOP,
Director, Cost of Living Council,
Washington, D.C.

DEAR DR. DUNLOP: It has come to our attention that the Phase IV guidelines for the retail price of gasoline will cause a great economic hardship on the service station owners of Michigan. Prices will be frozen at August acquisition costs plus the average profit per gallon based on sales of January 10, 1973.

A temporary price war among Michigan service station owners drove January 10th profits down to 5.6 cents per gallon. This compares to an August 14, 1971 per gallon profit of 8.24 cents. In addition, due to the fuel shortage, gas allocations to dealers are limited to eighty percent of previous sales further reducing profits. Under these conditions, many service station owners will be forced to close which will only cause additional inconvenience to Michigan motorists.

It is our understanding that when price controls were first imposed under Phase I, those retailers engaged in price wars were granted an option date to compute Phase I prices which accurately reflected market conditions. We also understand that the Service Station Dealers Association of Michigan has petitioned for such an option date based on June 1 to June 12, 1973.

In view of these circumstances and the obvious hardships which would result from Phases IV controls as now written, we urge your favorable consideration of their request.

We look forward to receiving your earliest reply.

Sincerely,

ROBERT P. GRIFFIN,
PHILIP A. HART,
U.S. Senators.

William S. Broomfield. Elford A. Cederberg, John J. Conyers, John D. Dingell, Gerald R. Ford, William D. Ford, Garry Brown, Charles E. Chamberlain, Charles C. Diggs, Jr., Marvin L. Esch, Robert J. Huber, Martha Griffiths, James Harvey, Lucien N. Nedzi, Donald W. Riegle, Jr., Edward Hutchinson, James G. O'Hara, Philip E. Ruppe, Guy Vander Jagt, *Members of Congress.*

CONSTITUTIONAL PREROGATIVE AND THE "NIXON TAPES"

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Ms. ABZUG. Mr. Speaker, President Nixon's days of crying "separation of powers" are numbered. Special Watergate Prosecutor Archibald Cox has subpenaed the "Nixon tapes" and as Joseph Kraft points out in his column today, President Nixon's last line of defense is utterly without merit.

Although the President makes the case, that as Chief Executive he can deny Senator ERVIN's legislative committee access to these tapes on the theory of separation of powers, no such justification exists in regard to the Cox investigation. Mr. Cox was appointed by Attorney General Elliot Richardson, and Mr. Richardson was appointed by President Nixon and all are members of the executive branch of Government. Thus, there is no rationale for invoking the doctrine of separation of powers. In fact, Prosecutor Cox is merely fulfilling his duties as a Nixon appointee in thoroughly investigating the criminal charges he was hired to investigate.

Kraft concludes: Cox is in the best legal position to request the tapes, and should Nixon refuse to release them, Cox—

> Can dramatize what more and more people are coming to understand—that the fit place for dealing with the President's role in Watergate is an impeachment proceeding.

I am including at this time the full text of Mr. Kraft's column:

COX'S TAPE CASE

President Nixon might have half a leg to stand on if he were only battling the Senate Watergate Committee over access to the tapes of his phone and office conversations. But unfortunately for the President, special Watergate Prosecutor Archibald Cox is also after the tapes.

Cox has an overwhelming case. If he is forced to press it all the way, he is in a position to engage the Supreme Court, divide the Administration and push Congress further down the road to impeachment.

The Cox case for access to the tapes is more weighty than the case of the Watergate Committee for a variety of legal and political reasons. For one thing, there is the separation of powers issue.

Nixon is the head of the executive branch of government, and the Senate Committee is part of the legislative branch. Each branch is entitled to a certain confidentiality in its deliberations.

Thus there is at least the color of an argument for the proposition that Nixon can keep the inner deliberations of the White House away from the Senators. If nobody else, tendentious lawyers can confuse the issue by arguing that the doctrine of executive privilege entitles the President to withhold the tapes from the committee.

But Cox is part of the executive branch. He was appointed by Nixon's Attorney General, Elliot Richardson, with the assent of the President. To claim, as the White House is now doing that he would breach the separation of powers by using the tapes for proceedings in court is absurd.

It is like saying that if the President and Ron Ziegler decided to bump off Pat Nixon, a duly authorized special prosecutor would be denied access to the evidence because of executive privilege.

For apart from eliminating the phony constitutional issue, Cox's position heightens the true issue—the criminal issue. The basic fact in the fight for the tapes is that they contain evidence of criminal action. For example, the tape of the President's meeting with John Dean and H. R. Haldeman on Sept. 15, 1972, which Cox has specifically requested, will show one of three things.

Either Dean committed perjury in telling the Senate Watergate Committee he was congratulated by the President for his role in the cover-up. Or Dean and Haldeman participated in the cover-up (and the obstruction of justice) without the President's knowledge. Or all three were involved in the crime of obstructing justice.

There is no excuse in the common law or the Constitution for any person to withhold evidence of a crime. Indeed the present Supreme Court, in an opinion last June, cited Jeremy Bentham's dictum that not even the Prince of Wales or the Archbishop of Canterbury by the Lord High Chancellor could withhold evidence of a crime.

But Cox's mandate, as an official of the Justice Department, is precisely to investigate crime. His directive from Attorney General Richardson gives him "full authority for investigating and prosecuting . . . all offenses arising out of the 1972 presidential election." Thus, in resisting Cox's demand for the tapes, the President is standing on the weakest possible ground. He is refusing the most fundamental of his duties. He is refusing to execute the laws.

Finally there are the politics. Unlike at least some members of the Senate committee, Cox does not have an axe to grind. He has not aired grievances to the press or the public. Not even Nixon, in the fullness of his self-compassion, can argue that Cox has been trying to "get" him.

In these circumstances, Cox is in a strong position to go after the tapes. He is going to ask the courts to subpena the material. He will surely be able to take the case to the Supreme Court, perhaps convoked in extraordinary session this summer. It is hardly thinkable that his request will be denied even by the Nixon court.

In addition, Cox has some credit to draw on inside the Administration. Attorney General Richardson, in particular, is under pressure to stand up for his man. If he doesn't, he will show himself to be a complete White House fink. If he does, there will be additional pressure on the White House to give way.

Lastly, Cox can go public. Apart from the few documents he has already released, he has an abundant correspondence with J. Fred Buzhardt, the White House counsel on Watergate. It runs from the end of May to the present. It shows who has been careful, responsible and patient in an effort to discover what happened. It shows who has been uncooperative.

What all this means is that Cox not the Senate committee, should lead the battle of the tapes. He has by far that best case. He can give Nixon and his legal hirelings a taste of the truth that they will never forget.

If he does not finally acquire the tapes, he can dramatize what more and more people are coming to understand—that the fit place for dealing with the President's role in Watergate is an impeachment proceeding.

AMERICAN PROSPERITY?

HON. FRANK J. BRASCO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. BRASCO. Mr. Speaker, the other day we began to witness what may go down in history as the most disastrous rises in food prices in American history.

After 5 years of tinkering with a national economy they do not understand, the administration economic wizards have finally succeeded in creating the worst of all possible worlds.

We appear to be headed for a recession which will surpass those of past years. Lumber prices are out of sight and we are unable to construct adequate housing for millions of Americans. Yet logs cut in national forests are shipped to Japan.

Wool is skyrocketing in cost, causing clothing prices to rise, yet raw American wool is shipped abroad for fat profits.

We are paying much more for bread and related products because of the Russian grain deal, which it now seems involved windfall profits for a few major grain trading companies.

Most of all, we have watched as the most affluent society in the world has been confronted with shortages. Only this administration could have taken bulging warehouses and converted them to empty store shelves; hamburger at $1.25 per pound and eggs at almost $1 per dozen; pork products increasing by 25 percent over the weekend and chicken over the same period going up some 10 cents per pound, shooting the price of the average drumstick up to 50 cents.

Inflation is climbing at an alltime rate. Interest rates are at obscene levels, with a prime rate of 8½ percent leading the pack. Mortgages are virtually out of reach of practically every American family save a wealthy few.

Abroad, the dollar is losing value daily and becoming an object of financial questioning rather than a sought after currency.

Our troops in Europe have been reduced to penury and inability to compete for necessities of life because of this state of affairs.

Meanwhile, Earl Butz, that good friend of the consumer, admits that prices will rise and that meat will be seen less on the tables of working people. Of course, that will not affect him directly, because he is immune to the trials confronting the average working man and woman.

Wages lag far behind prices, as the largest corporations in the Nation announce the greatest profits in industrial and commercial history. Fine reading for majority stockholders. Sad news for the scores of millions of consumers and workers whose labor and deprivation has gone into guaranteeing coupon clippers continued luxury.

What do record profits mean to the workingman who cannot afford to buy his children decent shoes? Or to a wife who can only afford hamburger twice a week? Or to the harassed commuter working a second job to make ends meet?

Unenlightened tinkering with a healthy economy has brought about financial and economic catastrophe second only to the Great Depression of the thirties.

The American people are coming to understand fully that for the past 5 years we have had government of the few, by the few and for the few; who profit by the travail of the many.

The administration, safe within a cocoon of security, has not come into contact with the realities other Americans confront daily. They have no idea of what it is like to struggle to put bread on the table, clothe the family and better one's lot in life.

We must have a rollback of price hikes, strict controls on all prices, and a policy of raw materials and commodities for Americans before any are shipped abroad for foreign consumption.

SHORTSIGHTEDNESS OF SUDDEN EMBARGOES

HON. RICHARD T. HANNA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. HANNA. Mr. Speaker, the way in which export controls were recently imposed, particularly on agricultural commodities, represents a dramatic reversal in American export policy. Assurances were given to us and the world that existing export contracts would be honored and that we would consult with our trading partners before taking any action. Nevertheless, the administration's decision was to break contracts and move unilaterally to the still-reverberating shock of our trading partners.

These kinds of international jolts which have become the hallmark of the administration's economic style indicate that basic economic decisions are the outcome of short-term political considerations rather than long-term policy planning. Stumbling from one crisis to the next, from emergency to emergency, from constant denial to unexpected affirmation, can only exacerbate our long-range international economic difficulties. Short-term remedies are no solution to a long-range problem.

The international economic world is a delicately balanced environment. Unexpected jolts to one part of the system bring predictable reactions from others which will most assuredly impose long-term costs on ourselves. There is the cost to the international stability of our currency, to the American farm sector which received 16 percent of its receipts from exports last year, to our ability to expand our export markets so necessary to our balance of payments, and to our trading partners whose cooperation we so definitely need in a world of growing interdependence.

What makes this most recent chapter in our economic stumbling so tragic is that it might well have been prevented by a farsighted administration dedicated to the imperative of long-range economic planning. For at least the last 5 years, we have been aggressively pursuing an expansion in our agricultural exports; but, the surplus mentality of the administration's agricultural state of mind until most recently has stubbornly resisted any meaningful attempt to increase agricultural supplies.

We waited so long that all moderate options were foreclosed. It was certainly no secret that the world demand for protein had been dramatically increasing and that the stimulus of two dollar devaluations would make American commodities just that much more attractive. A farsighted administration would have been prepared for this increased demand, and even if it were not entirely prepared, it would at least have gone to our trading partners to seek their cooperation in helping us bear some short-term costs for the long-term benefit of all. Instead, we have had a policy leading to rising prices, broken contracts, and the slaughtering of baby chicks.

Mr. David J. Steinberg, executive director of the Committee for a National Trade Policy, understands well the economic interdependence of the modern world and the need for long-term economic planning. His recent testimony before the Senate Subcommittee on Foreign Agricultural Policy makes the basic point that we simply cannot afford to use our trade policy as the whipping boy for our domestic failings. His remarks are well worth our attention.

TESTIMONY OF DAVID J. STEINBERG

We impose export controls pretty much the way we impose import controls—poorly, meaning irresponsibly. We reduce the flow of imports and exports almost as if what is involved is plumbing, not the profound policy issues that demand astute analysis and meticulous management.

The recent controls on exports of scrap steel and various agricultural products should be made as equitable and as temporary as possible. This effort should receive the close, cooperating attention of the affected industries, the Administration and the Congress. But it is not too soon to ponder the serious trade policy implications of these controls, the shortcomings in our approach to these issues, and the need for reform. The major trade legislation now before Congress is called the Trade Reform Act of 1973. The trade reform to which we should be giving our attention is even more far-reaching than what seems intended in that important legislative proposal.

No aspect of national trade policy is more crucial to our image, our leverage and our overall ability to advance the total national interest than the standards we employ in restricting imports as an aid to domestic adjustment and in restricting exports as an aid to price stabilization. Waiting for crisis to arouse government attention to the impact of imports on our weaker industries, or to the adequacy of supply to meet marketing commitments at home and abroad, can hardly be called responsible policy. Nor can readiness to restrict imports or exports in response to overly permissive criteria for such extraordinary measures be called a responsible answer to these problems. Certainly recourse to import or export controls without a coherent, comprehensive, constructive attack on the real problems and real needs of the particular sectors of our economy cannot be said to meet the exacting test of responsible approaches to these issues.

IMPORT CONTROLS

The instances of irresponsibility in our recourse to import controls seem as many as the imports that have been restricted. A few recent examples are illustrative.

We restrict imports of textiles but have no coherent policy dealing with the real problems and needs of this large and important American industry. We restrict imports of steel, but have no coherent policy dealing with the real problems and needs of this large and important American industry. The fact that these import controls are through export-control arrangements with supplying countries does not alter the fact that these are import restrictions. Thus, we have a textile trade policy but no textile policy, and a steel trade policy but no steel policy—no policies that include and require a deliberate effort to phase-out these trade restrictions.

Imports of petroleum were restricted 14 years ago, but there was no coherent policy dealing with the basic problems and needs of the petroleum industry—with the national security issue (the need to establish a secure mobilization base) which officially motivated these import quotas. If a coherent petroleum policy, in the context of a coherent energy policy, had been adopted as the policy framework for such import controls, the present energy crisis might have been averted or at least ameliorated.

In the agriculture area, Congress established controls on meat imports in 1964, even though most of these imports—used for hamburger and luncheon meats—are complementary to, not competitive with, U.S. production. There was never a coherent cattle policy including a deliberate effort to terminate such restrictions. The quotas have now been suspended to help combat inflation. But repeal of this legislation is necessary to induce foreign suppliers to program adequate production for the U.S. market at a time of world-wide shortage. Suspension of the quotas is not enough. The interest of Congress in this issue is less than impressive.

Dairy imports were progressively restricted, but without a coherent dairly policy aimed at freedom for the American consumer no less than justice for American dairy farmers. Cheese import controls were recently eased by Executive Order as an anti-inflation measure. But the farm bill now before Congress would tighten the controls, and the version passed by the Senate would limit dairy imports to 2 percent of consumption. Is this any way to prepare for trade negotiations? Is this any way to fight inflation?

EXPORT CONTROLS

Our recourse to export controls is no more impressive than our recourse to import controls, doing comparable harm to our trade position and our trade policy objectives. In the case of agricultural products, we seem to have waited for a crisis, then to have employed crash answers which are the usual by-product of such mismanagement. Poor crops in various parts of the world contributed to the shortages that led to the controls. The sharp drop in Peruvian fishing was another factor. But mother nature is only partly to blame. Planning for the contingencies of a clearly inflationary American economy, and for exports so crucial to our balance of payments, appears to have been less than adequate. Our basic agricultural policy of the last four decades may be somewhat at fault. But, beyond that, more attention might have been paid to the indicators of a growing problem—the price trends in the problem commodities, and the rising foreign demand. The storm warnings were there to be read and heeded. If export controls had to be imposed, the controls could thus have been more orderly, and more equitable to all concerned, than the blockbuster edicts that shook much more than the contractual commitments that had been negotiated. They also shook world confidence in our economic management and ultimately our currency. The impact on the credibility of our demands for freer access to foreign markets for our agricultural commodities may be considerable.

Lack of confidence in our ability to manage these things in an orderly fashion—as well as past experience with our propensity for trade controls as an answer to import impact problems—many have induced stepped-up orders for certain products in anticipation of export controls. If so, the supply problem was thus compounded. The Russian grain deal also had an effect on the supply problem, the sharp rise in prices, and foreign expectations about the way the United States might react. The recent government requirement that exporters of various agricultural commodities report weekly on new foreign orders is a useful step. Better planning would have required this much sooner. Too many horses have departed through too many barn doors.

Putting aside the question of whether a scrap shortage actually exists, it is reasonable to suppose that, if we had a coherent steel policy as the framework for whatever help the steel industry needed from government, the scrap situation would have been one of the many things kept under continuing review. Better decision-making by industry and government might have resulted. Now that we have added controls over exports of scrap to controls on imports of steel, we ought to proceed with a coherent steel policy addressed constructively to the real needs of the steel industry and to phasing-out these trade controls, indeed doing our best to avoid future recourse to such restrictions.

Regarding the agricultural commodities, we should adopt coherent policies addressed, not only to the fairest administration and quickest removal of the recent export controls, but to preventing recurrence of the supply crises that led to such restrictions. I am not aware that our intentions and preparedness in this direction have been made crystal clear to all who are intimately concerned with this issue at home and abroad.

These shortcomings in U.S. import and export policy play havoc with investments in trade promotion. They also aggravate a widely held suspicion around the world that the United States exports its problems. The world may no longer catch pneumonia when Uncle Sam sneezes, but it sure shudders at any symptom of American discomfort, and at American action harmful to their own interests. Present injury, and uncertainty over future policy, tend to generate resistance to U.S. overtures in trade and other policy areas. They may induce even more protectionism as some of these countries decide to protect themselves against the unreliability of U.S. exports.

The time has come, it is long overdue, for an American initiative aimed, not only at greatly needed reforms in the world trade and monetary system, but at a grand strategy to program the dismantling of all trade barriers by the economically advanced countries and to eradicate hunger and poverty everywhere. The role of American agriculture needs no elaboration here. The American government should call upon the American economy to gear for this objective, and should facilitate the necessary adjustments. We should plan for abundance. The demands on sound policy management by government will be just as exciting as those on sound management by American industry and agriculture.

We have no such over-arching objective today. We are not ready for the effort. Nor are we preparing for it. Trade controls and other economic distortions will continue, and more will germinate, in this climate of uncertainty over goals to be sought and how fast to seek them.

THE ROLE OF CONGRESS

An agricultural emergency has now been added to a Southeast Asia crisis, a trade policy crisis, an international monetary crisis and other emergencies for American policy. For the United States to perform well in handling these emergencies, our system of government will have to work well. This means, among other things, adequate Executive accountability to Congress, meaning adequate Congressional surveillance of Executive performance in these policy areas. Adequate Executive accountability and Congressional oversight require something more than sporadic Administration appearances before Congressional committees. Certainly while an emergency lasts, the Agriculture committees of both houses should require the appearance of top echelon Agriculture department officials before these committees to report on progress being made in removing the export controls and in ensuring adequate supplies of these commodities for both the U.S. and foreign markets beyond the present crisis. (An appropriate committee in each house should require similar testimony from the Department of Commerce with respect to export controls on scrap iron and steel.) Although legislative responsibility for export control rests with another committee in each house, the Agriculture committees have a unique responsibility to concern themselves in a systematic way with the administration of agricultural export controls and with policy planning aimed, not only at the quickest removal of these restrictions, but at preventing such crises in the future.

The Agriculture committees with respect to agriculture, and other committees with respect to manufacturing, mining, fishing and labor, also have a special role to play in Congressional oversight regarding the forthcoming trade negotiations and the adjustment problems that may arise in the wake of dismantling tariff and nontariff barriers. The need for an adequate adjustment strategy to backstop the progress that must be made toward an increasingly open world economy is an issue for which the United States is not well prepared and with which the Congress has not adequately concerned itself.

OUR FLAG SPEAKS

HON. JAMES F. HASTINGS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. HASTINGS. Mr. Speaker, recently there has come to my attention a most

impressive sermon which was delivered by Dr. Wilton E. Bergstrand in Jamestown, N.Y., to his congregation.

Because I feel this is a very timely and worthwhile message deserving the attention of all Members of Congress, I am submitting it for the Record:

Our Flag Speaks

(By Pastor Wilton E. Bergstrand)

I am the flag of the United States of America. On June 14, 1973, I celebrated my 196th birthday.

I was conceived in dreams of liberty.

I wave proudly over a nation of two hundred and ten million diverse people—over a nation of nations.

There are some who still say that the sewing basket of Betsy Ross was my cradle; that with the help of a Lutheran Ladies' Aid Circle in Philadelphia I took shape according to the specifications of General George Washington.

I float in majestic silence from sea to shining sea—from California to New York Island—from the Gulf Stream waters to the 3,000-mile Canadian border where not a single hostile gun or bit of barbed wire is found.

I flutter over a favored land, furled with mighty rivers and dotted with inland seas, an empire of thundering mountain ranges and deep-shadowed forests and rolling prairies and fruitful farmlands and surging, throbbing cities—whose endless ribbons of concrete carry a hundred million trucks and campers and busses and cars.

I am the flag of a young nation which has become the richest and strongest nation in history.

I am the flowering of five thousand years of man's deepest yearnings and bloody struggles to be free.

I am the century plant of human hope in full bloom.

I am hated with a bitter pathological hatred by all who could enslave the human spirit.

I represent the only new thing in history—government *of* the people, *by* the people, and *for* the people.

I am unfurled over a land which has to a degree hitherto unknown in the story of man opened her heart and her doors to the distressed and persecuted of the world—"Give me your tired, your poor, your huddled masses yearning to breathe free."

I ripple in the breeze over a land which has in a measure utterly unheard of elsewhere in the chronicles of the human race given billions to nations shattered by war and tattered by earthquake and battered by hurricane.

There is woven into my fabric the blood, and the sweat, and the tears—and the prayers—of forty-million immigrants—young people and young at heart, who ventured over stormy seas in plague-infested and scurvy-ridden schooners and braved countless dangers and endured incredible hardships in mankind's greatest mass migration; turning their backs on age-old patterns of special privilege and repression, driven relentlessly forward by a dream of new beginnings—the glow of adventure in their eyes, the glory of hope in their hearts.

I climb skyward at camp in the early morning propelled briskly by the eager hands of hungry boys and girls—to the sometimes uncertain toot of the bugler playing "Reveille".

I am lowered at camp before sunset, guided respectfully by the hands of those same boys and girls now weary from happy hours on playground and trail.

I am carried in procession to the right of other flags.

I am draped over the casket at military funerals—but never buried.

I am folded as tenderly and as carefully as a grandmother folds a precious heirloom from her wedding day.

I was fashioned from the sky: the stars sparkling like diamonds in the azure robe of night, the white clouds streaked with the crimson of sunrise.

In my upper left-hand corner—my canton—I capture the blue of the heavens—blue, which is the color of *loyalty*, of reverence for God, of sincerity, of justice, and of truth.

In my canton I also cradle a shower of white stars whose number has multiplied from 13 to 50—and these bright stars symbolize high and noble *Aspiration*—as well as unity, dominion, and sovereignty.

My red stripes represent *Love* and *Sacrifice*—the valor, courage, zeal, and fervency of a million Americans who have poured out a libation of their heart's blood and of other tens of millions who have lived sacrificially to make and to keep men free.

My white ribbons represent *Purity*—the nobelest in our dreams as a nation, cleanliness in life, and rectitude in conduct.

I am Francis Scott Key writing "O Say Can You See by the Dawn's Early Light?" I am a hundred other patriotic songs from "Yankee Doodle" and "God Bless America" and "This Land Is My Land" to "My Country 'Tis of Thee" and "Mine Eyes Have Seen the Glory" and "America the Beautiful."

I am a thousand history books.

I am tens of thousands of Memorial Day and Flag and Fourth of July and Veterans' Day orations.

I am a hundred thousand heroes and heroines such as Jane Addams and Patrick Henry.

I remind boys and girls of their forefathers who did noble deeds and deserve praise—or who sometimes fell far short of their dreams and need God and man's forgiveness.

I have been raised on many a battlefield: at the Battle of the Bulge, at Chateau Thierry and the Argonne, at Ft. McHenry.

I am immortalized in bronze along with the six Marines who hoisted me on lava-strewn Mt. Suribachi on Iwo Jima.

I wintered with Washington at Valley Forge.

I rode westward with Daniel Boone and Davey Crockett.

I journeyed to Gettysburg with Abraham Lincoln. I was there when Lincoln signed the Emancipation Proclamation saying: "Those who deny freedom to others deserve it not for themselves and, under a just God, cannot long retain it."

I am heartache and heartbreak, adventure and ecstasy.

I point boys and girls to the land they love—a land that has many and great faults to be sure, but which is still the best country in the world.

I wave over a land of hope—a land that still worries about her sores and her problems and lets the light of searching publicity and intelligence and moral earnestness play upon them—a land that airs her problems in press and radio and T.V. for all the world to see—a land that instead of hiding my blots and stains behind an Iron or a Bamboo Curtain lets all the world scrutinize them through a huge picture window.

Am I unraveling? It is high time to check my stitches: to check the loose stitches of racism and to work for 100% brotherhood; to check the faulty stitches of injustice; to check the snarled stitches of a moral permissiveness that is leading millions to new slaveries; to check the air in which I fly that it remain breathable; to check the water beneath my feet that it remain drinkable.

I call upon youth to *fulfill*, and *not destroy* the American dream.

I fly over a land that though she is often wrong about many things, has been right on target when it really counts for the preservation of freedom in our world.

I embody the rule of the majority and the rights of minorities.

I stand for the right of honest dissent—but I repudiate disloyal subversion.

My peril is citizens who decide they have a right to do what they please. My strength is people who are pleased to do what is right.

Those who would make this the land of the spree and the home of the knave would destroy me; those who would make me the land of the free and the home of the brave will plant me on even greater heights.

I stand for the responsibility of privilege. In my bunting the twin strands of privilege and responsibility are forever interwoven.

I spark the lips of myriad millions of boys and girls to pledge earnestly as they stand at attention, "liberty and justice for all".

I epitomize liberty in law—for only as each American respects the rights of others can he have freedom for himself.

I offer each generation the possibility of freedom: freedom of speech, freedom of the ballot, freedom of the press, freedom of assembly, freedom of religion. Yes, only the possibility—for each generation must prove itself worthy. Freedom is never free. It is the costliest thing in the world. New installments come due in each generation. Eternal vigilance is the price of liberty.

I represent a free arena where each person can boldly speak his convictions without fear of reprisal, in the calm assurance that ultimately truth will prevail.

I stand firmly for law and order—but always, always coupled with justice and mercy. Then law and order are not code words for repression—they are code words for social survival.

Woe to him who seeks to drape me around his unbridled greed or his arrogant bigotry or his cruel mistreatment of his brother!

Woe also to him who in pathological hatred insults me, tramples upon me, spits upon me, desecrates me, burns me, tears me from my standard and unfurls thereon an alien and hostile banner!

Thrice woe to him who diabolically seeks to make me an instrument of division, of discord, of distrust!

Floating tirelessly day and night on the breezes that blow on the hilltop—winter and summer—spring and fall—on the front lawn at Holy Trinity—alongside the Wayside Cross—I have become a Holy Trinity and a Jamestown landmark.

I fly proudly in the blackest night atop a thirty-five-foot flagpole, on whose summit is perched a golden eagle—all a memorial to a good man who loved his country and his God and his home.

I fly all night as a reassuring reminder that I am there in difficult times, in times of thick gloom and stygian inky darkness—proclaiming that there is hope for the morrow—that surely the brightness of dawn will come again.

I fly as a reminder to every passerby to pray for our country—to pray a prayer of thanksgiving—to pray that the God who governs the affairs of men will give our leaders wisdom, courage, strength—and that since they, too, are mortal men tempted and tested sorely, capable of making great mistakes—so prone to fall into the trap that "the end justifies the means"—and since we ought to avoid the trap of the pot calling the kettle black—let us earnestly pray that they may be recipients of Christ's forgiving grace.

I fly in the brightness of the spotlights as a symbol that in a democracy every dark and hidden thing will sooner or later be revealed.

I ripple in the night breezes as a reminder that I have survived turncoats like Benedict Arnold, the rending of a Civil War in which brother fought brother, the lurid flames of riot and incendiary bomb, the oil spots of Teapot Dome, the bullets of assassins—and that I will continue to fly long, long, long after the splashings and bug spots from Watergate have been laundered out by the churning washing machine and the hot iron of a free people and have become only a sobering—and, I trust, useful—memory.

I am the sum of the dreams of millions of boys and girls who on T.V. saw me planted on the moon on July 20, 1969, at 4:18 p.m. E.D.T. by two Eagle Scouts and a First Class Scout now astronauts. (Neil Armstrong is an Eagle Scout; Buzz Aldrin, a Life Scout; Michael Collins, the back-up man, an Eagle.)

I call the youth of America not merely to a life of affluence and gadgets, not only to feature comforts and power—I call them to work in their generation ceaselessly, tirelessly for the liberation of the human spirit, for the release of human potential, for the enhancement of the dignity of every person.

My motto is not merely "Live and Let Live"; it is "Live and Help Live".

I am a symbol of revolution—not a revolution of violence and hate, but a revolution of compassion and love.

I represent a way of effecting change without violence.

I stand for one nation indivisible—not black, nor white; not rich, nor poor; not north, nor south; not educated, nor uneducated; not young, nor old; not male, nor female; not unanimous, but united.

I have given the youth of America so much. Were they content with the failures or even with the partial successes of previous generations, I would be disappointed.

I rejoice in the discontent that impels youth to seek to reduce the gap between the American dream and the American reality. I call them to a lover's quarrel with America.

I have been in the days of yore a symbol of encouragement to downtrodden people in all lands yearning to breathe free.

I can be respected around the world only as each generation of Americans earns that respect.

I have no other character than that which the American people give me in each new generation.

Wise and good young people mean more to the insuring of my future than riches or arms without character.

Though I symbolize yesterday's achievements, I speak supremely of America's tomorrow—of the future.

At the top of my standard you will often find the bald eagle—the bird that flies higher than any other living thing—from the dawn of history a symbol of freedom, of strength, of courage, of contact with God.

I am known as "The Stars and Stripes"—"The Red, White, and Blue"—"The Star-Spangled Banner." I am "Old Glory."

The vision of me dancing in the wind often brings a lump in the throat and mist in the eyes and a hard-to-define feeling deep down inside.

George Washington in his Farewell Address said that three things would be needed if I were to continue to wave: Education, Religion, and Public Good Faith—a people possessing virtue and intelligence and trust in one another—a people knowing what is right and then wanting to do what is right in a partnership of equals, together.

When laws are made wholly wise and obedience is wholly complete—only then are men wholly free.

Only two flags are permitted to fly higher:

One is the U.N. Flag over the United Nations Building—for above all nations is humanity.

Then the Christian Flag in a service at sea floats above me—for Jesus Christ is the King of Creation, the Lord of the nations.

Every church proclaiming the gospel is a lighthouse standing guard over me.

Yes, my base is anchored in faith in God—for freedom is a spiritual quality. Only men free in spirit set themselves free.

A nation cannot long have the fruits of freedom without the roots of freedom—faith in God.

The rights of man perish unless they are rooted deep in the righteousness of God.

"Ill fares that land, to hastening ills a prey; Where wealth accumulates and men decay."

True liberty is freedom to do the will of God.

The ageless truths still stand: "Righteousness exalteth a nation; but sin is a reproach to any people."

And—"If my people, which are called by my name will humble themselves and pray, and seek my face, and turn from their wicked ways, then will I hear from heaven and I will forgive their sin and I will heal their land."

A country that interprets freedom of worship as freedom from worship instead of freedom to worship is on its way to losing its freedoms.

My white stripes remind the Christian of the spotless life of the Son of God. His sinless life was lived for sinful men.

My red stripes remind the Christian of the sacrificial death of the Son of God. His death was died for sinful men.

My blue field reminds the Christian of the eternal life Christ gives to his followers—the living hope of heaven.

If I am to endure, I must be grounded on other stars and other stripes—the stars and stripes of the Son of God, by whose stars we are illumined and by whose stripes we are healed.

What a land! To glimpe the future of an America redeemed is to share a mission with the stars; to control her destiny is to stand within the grip of the right hand of the omnipotent God—

What then to occupy this land for Christ!—not fitfully as the wind sweeps over the prairie, not fragmentarily as the field has won upon the forest—but searchingly, engulfingly, as the waters cover the sea!

Then—illumined by freedom's holy light long shall I wave over one nation, under God—the land of the free and the home of the brave.

And then shall this heaven-rescued land reverberate with praise to the Power that hath made and preserved us a nation!

BILL FOR FIREFIGHTERS AND LAW ENFORCEMENT OFFICERS

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. GONZALEZ. Mr. Speaker, today I am introducing a bill which I have introduced in past sessions, and which I sincerely hope will be successfully considered in this Congress. This bill is for a special group. Special because they work for others—for all of us. Because of them we all feel a lot safer and much more secure. They work in every State and city throughout the country and they deserve at least the same protection as they in their jobs provide for others.

I am speaking of our firefighters and law-enforcement officers. They need and deserve more than words of praise from both Congress and the public. They need a written mandate to insure their safety during the performance of their duties. These men are not machines. When an officer of the law or a firefighter is injured or killed by a felonious assault, it must not simply be written off as "part of the job." He is entitled to the same protection under the law as is every citizen. As it is a Federal offense for someone to murder me, so it should be a Federal offense for someone to take the life of a law enforcement officer or firefighter while he is in the performance of his duty. How ironic that he should be stripped of this protection which is afforded every citizen while he is essentially serving and protecting them. He too needs this protection to deter attacks on his own person. My bill guarantees him this protection.

I urge Congress to remember that these public servants are men and women. Men and women with families and homes similar to our own. They have chosen to unselfishly serve their communities and they deserve all the help and consideration for their personal beings as is possible.

It is my opinion that this measure should not even have been necessary—that our firefighters and officers should always have had personal protection from felonious assaults, but, that this is not the case, I sincerely hope that this Congress will expediently grant them this legislation which they so desperately need and deserve.

OPPOSE FOREIGN AID PROGRAM

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. LUJAN. Mr. Speaker, I welcome this opportunity to explain to my fellow colleagues why I am opposed to the foreign aid program.

For over 25 years, we have managed to somehow lavish worldwide give-away programs of which we have achieved little results. In fact, some of the programs have achieved the very opposite of what was intended.

For over a quarter of a century, the United States, with the help of Congress, has poured billions of dollars into the European Community of Nations. Yet, in the past 2 years, we have had to devalue our dollar twice. So I ask the question, "Has our foreign aid brought international monetary stability?" Clearly, the answer is "No."

Has this outpouring of our taxpayers' money strengthened our home economy? Has our generosity to our wordly friends helped our trading position overseas? Has 25 years and billions of dollars spent to protect our friendly nations been met with the same commitment on their behalf? Very simply, Mr. Speaker, the answer is "No."

Almost 5 million Americans are out of work here at home—yes, we continue to give foreign aid.

Since 1949, our international payments have been running in the red—yet, we continue to give foreign aid.

Our gold reserves have foreign claims against them approximately five times their amount—yet, we continue to give foreign aid.

Our Federal budget is still soaring; $246 billion in fiscal year 1973 to $260 billion for fiscal year 1974—yet, we continue to give foreign aid.

Our deferral debt, which is approaching the half-trillion-dollar mark, is costing us $1 out of every $10 that the Government spends—yet, we continue to give foreign aid.

We have aided countries that have turned around and have nationalized American companies and interests—yet, we continue to give foreign aid.

Over the years, Americans have given of their money over $140 billion in foreign aid. Two-thirds of our entire foreign aid programs were lavished upon countries that have repeatedly voted against our position in the United Nations. In 1972, a total of 58 nations, receiving American aid, voted against the United States in the matter of seating the People's Republic of China.

Mr. Speaker, I say that the foreign aid program in its present form is not helping this country and I urge a resounding "no" vote on this legislation.

KILLER SMOG IS NOT GOING AWAY

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. BROWN of California. Mr. Speaker, I would like to call your attention to the critical air pollution emergency that is now occurring in the Los Angeles air basin. Here in Washington, where an alert is called when oxidant readings hit the 0.10 parts per million level, we really cannot appreciate just how bad it is in southern California. I suspect that we would close down all operations here in Congress and declare an emergency if the smog level in Washington ever approached the level which exists right now in my district and other parts of southern California. Back there we have an oxidant level higher than 0.10 almost half of the year; it is considered a nearly smogless day when the level does not exceed 0.10. The oxidant ozone level yesterday was 0.49 in Los Angeles County—not the highest we have had so far this year, but still nearly 5 times the smog alert level in the District of Columbia.

I would like to insert in the RECORD an article from this morning's Los Angeles Times which describes the situation in more detail, Mr. Speaker. The article follows:

SMOG EMERGENCY TO CLOSE U.S. AGENCIES HERE TODAY—AUTO TRAVEL WILL BE CURBED, MOST STAFFS REDUCED

(By Dick Main)

Federal agencies in five Southern California counties were asked to close their offices or curb activities today because of extremely high daytime smog levels expected at many inland cities.

It was the first time the recently formulated federal Emergency Air Episode Plan is to be put into effect.

Gordon Elliott, chairman of the Federal Executive Board at Los Angeles, said the action was taken Wednesday at the request of the regional office of the Environmental Protection Agency in San Francisco.

The plan actually calls only for curbing all unnecessary automobile travel, use of skeleton office forces, and urges essential personnel to use public transportation or car pools instead of their own vehicles to commute from home to work.

But its practical effect meant most federal offices will be closed today.

Elliott said there are more than 100,000 federal employees in the South Coast Air Basin which includes Los Angeles, Ventura, Orange, Riverside and San Bernardino counties.

NUMBER AFFECTED UNKNOWN

Elliott said he could not estimate how many federal employees would remain at home, explaning that office staffing requirements for today were left to the discretion of agency heads.

Many agencies subsequently announced offices would be closed today.

The Internal Revenue Service said all its offices in four counties—Los Angeles, San Bernardino, Riverside and Orange—will be closed today. Other IRS offices in Southern California will remain open.

Joseph Finnell, Social Security area director at Los Angeles, said all Social Security offices in the Los Angeles Basin will be closed.

Los Angeles city and county offices will remain open, however, spokesmen for those entities said.

State offices also will be open. However, in Sacramento, Gov. Reagan ordered an immediate halt to use of state vehicles except for emergencies in the smog-plagued parts of Southern California.

The governor's order covers downtown Los Angeles, eastern Los Angeles County and Riverside and San Bernardino Counties.

DRIVING CUTBACK URGED

Herb Campbell, director of the state Office of Emergency Services, also urged motorists in the Southland to cut back on nonessential driving.

The federal air episode order was issued on the second day of the worst smog siege of the year.

In Los Angeles County, the ozone count soared to .49 parts per million, just short of the .50 level for a first stage alert.

The .49 reading was recorded as the Air Pollution Control District's East San Gabriel Valley station.

It was the second highest ozone reading in Los Angeles County so far this year. The peak ozone count so far was .57 ppm recorded in Central Los Angeles on June 21.

Launche said extensive use should be made of car pools and rapid transit vehicles for essential trips.

"The desire for reduction in motor vehicle travel is especially important during the 6 to 9 o'clock morning rush hour," he said, "since it is during that period when motor vehicles, the major source of photochemical smog, contribute most of the smog problem experienced in the later afternoon."

OBJECTIVE TOLD

Elliott, who is regional director of the Veterans Administration at Los Angeles, said the Federal Executive Board, is comprised of representatives of all federal agencies in the area.

He said the decision to issue the Emergency Air Episode Plan for the entire coastal basin was made by the EPA because emissions from automobiles in areas where there is only minimal amounts of smog could drift farther inland, aggravating conditions where smog levels are much higher.

The order's purpose is aimed at reducing pollutant emissions from automobiles of both federal employes and persons planning business trips to federal agencies, he said.

He said the EPA hoped that similar plans would be established by other governmental bodies as well as private industry.

SECOND ADVISORY

Meanwhile, the National Weather Service issued its second air stagnation advisory within two days, but said a high-pressure ridge aloft which is creating the low temperature inversion is shifting northward. This may permit an onshore flow of sea air and lift the inversion slightly, the service said.

I am pleased to note, Mr. Speaker, that Federal Government agencies will not be worsening the smog situation in Los Angeles today, even though the administration and many of our colleagues have thus far not seen fit to support strong measures to improve the situation. I would particularly like to commend those individuals within the Environmental Protection Agency who are fighting against all manners of special interests to clean up our air.

If I may take just another moment, Mr. Speaker, I would like to read from an article which appeared in the San Bernardino Sun on July 11, which describes the smog levels recently in my own district. Smog is even worse there than it is in the city of Los Angeles, you will note:

FONTANA AND RIVERSIDE ARE SMOGGIEST IN AREA

(By Mary Ann Galante)

First stage smog alerts were called yesterday in the Central Valley and Riverside, as skies remained sunny and temperatures warmer.

A first stage smog alert was called at 2:40 p.m. in the Central Valley as the oxidant levels in Fontana reached a peak of .55 parts per million. Yesterday's smog alert, canceled at 4:20 p.m., was the second in two days for the Central Valley area.

The Central Valley smog alert was only the third since the smog alert criteria was established in 1970 by the San Bernardino County Air Pollution Control District. The first one was on June 6 of this year.

A first stage smog alert is called in San Bernardino County when the oxidant surpasses .50 parts per million for more than 15 minutes.

A first stage smog alert was called in Riverside at 1:35 p.m. yesterday when oxidant levels hit a peak of .32 parts per million. First stage alerts are called in Riverside when the oxidant reaches .27 parts per million for more than 15 minutes.

The APCD has predicted moderate smog tomorrow in the Central Valley.

Of course, "moderate smog" in the Central Valley refers to a level of air pollution that we would consider deadly were it to appear suddenly here in Washington. And we would be right. It is deadly.

As you know, Mr. Speaker, I have spoken of this situation many times before. And I will continue to speak about it, until such time as this body decides to ignore the pressure from special interest groups and consider the basic right to breathe clean air which is being denied my constituents.

S. L. A. MARSHALL: DOUBTS ABOUT THE VOLUNTEER ARMY

HON. LUCIEN N. NEDZI

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. NEDZI. Mr. Speaker, I have had reservations from the beginning about the wisdom of an all-volunteer force. These reservations continue.

A probing and challenging analysis of the weaknesses of an all-volunteer force recently appeared in the Norfolk Virginian Pilot, written by a respected military analyst, Brig. Gen. S. L. A. Marshall (retired).

Under leave to extend my remarks, the article follows:

[From the Norfolk Virginian Pilot, July 15, 1973]

COLD PROOF OF VOLUNTEER ARMY NEEDED

(By Brig. Gen. S. L. A. Marshall (retired))

The 91–0 confirmation vote by the Senate reflects an extraordinary confidence in the abilities of James R. Schlesinger to head the Department of Defense. He will merit it if he avoids the trap into which research scientists frequently fall—that of failing to distinguish between minor concerns and the all-important values.

The extent to which the game of make-believe enters into the preparation and presentation of military policy is hardly a value but rather a present and pressing danger. The hard realities get brushed aside out of the will to be pleasing and to put the best possible face on things. Not how things are but how they can be made to seem becomes the guideline.

There is no example of this practice that is more illuminating than the handling of the all-volunteer force undertaking over the past five years. All along the selling job, meaning the effort to persuade the Congress and the public that the program is both desirable and feasible, has been as expansive and possibly nigh as costly in dollars, as the recruiting drive, which is unprecedented.

This campaign got under way when President Nixon concluded, soon after his first election, that under the stresses of the Vietnam War the nation had wearied of selective service and therefore the alternative had to be proposed and studied. Little resistance to this departure was to be noted in the Congress, the draft being almost as obnoxious to the politician as is foreign aid.

So the Gates committee went to work and labored long before publishing a favorable report more noteworthy for its wishful thinking than for its common sense. It implied, not more clearly than mistakenly, that it would be as easy to recruit for the Army as for the Navy and Air Force, and for the combat arms as for the supporting services. It concluded that if pay could be made competitive with what civilian life offered, American youth would respond in the desired numbers and quality.

None of this squared with the lessons of our national experience. Moreover, a collateral study made by the Army, and done more realistically than the Gates survey, had reached quite opposite conclusions. It said the final 15 percent or so could not be procured whatever the monetary inducement.

Yet once the decision was made everyone in the military had to join step in full support of the program, professing or pretending that the aim was sound, that it would bring about a heightened professionalism and that the program was certain to go over, despite the manifest obstacles. When the recruiters' periodic reports did not support the cheerleading act, some reason was found to discount them, and the cheering went on.

Ironically, the military as a body was never polled on the issue, though service people do have a very special interest in what is best for the national defense. It is therefore simply a speculation that had there been such a referendum, it would have revealed that in the overwhelming majority, people in uniform believed that:

1. Ending the draft is a major blunder.

2. The all-voluntary force will fall short in numbers and quality.

3. The reform would impose a new barrier between the services and the people though their love affair already is chilled enough.

So where are we now? Some days ago at a symposium of researchers and military types. I heard a scientist describe the all-volunteer idea as a "national disaster," and though that was doubtless an exaggeration, no one arose to give him an argument. What seems clear enough is that the Pentagon's program managers radically underestimated the costs of the reform, including the extravagant bonuses, and that some of the force reductions, closings and other derailments now taking place are consequent to that miscalculation.

What seems still more clear is that the force levels, as set by the Congress, will not be forthcoming, and that the critical short fall will be in the Army. Even where the numbers are sufficient, many of them will be substandard in quality. The recruiters are caught between the devil and the sea. The all-American boy type that personnel policy demands isn't queuing up to enlist. If the recruiter doesn't get the numbers, he is washed out. If he cheats to get the numbers, he is investigated and may be charged.

Nothing more is suggested here than that it's time for Defense to take stock, look reality in the eye and cease duping itself and kidding the people. Either the positive proof should be present that the all-volunteer force is assured or there is no reason to believe that it will ever succeed.

PAUL WANZO PERSONIFIES PATRIOTISM

HON. CLARENCE E. MILLER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. MILLER. Mr. Speaker, it is with a great deal of personal pride and pleasure that I bring to the attention of my colleagues in the U.S. Congress, the record of a man whom I feel personifies love of country and devotion to service.

Though I am confident that my fellow Members of both the House of Representatives and the Senate could also readily cite records of men and women residing in their respective congressional district and States who, likewise, have devoted their energies to keeping America strong, I would like nevertheless to take this opportunity to ask my colleagues to join me in paying special tribute to Sgt. Maj. Paul E. Wanzo, retired, of Marietta, Ohio.

Though I have been aware of Paul's many community activities for some time now, it was not until we were recently contacted by the members of Veterans of Foreign Wars Post No. 5108, of Marietta, and Washington County Veterans Service Office, Fred Phelps, that I first learned the full extent of Paul's contributions to the city and his recent designation as a "Super Citizen" of Marietta.

Formally recognizing him as such, Marietta Mayor James F. Schweikert recently presented Paul with a Public Service Certificate of Appreciation which I feel summarizes my reasons for honoring Paul Wanzo here today. I would like to quote from that award:

Whereas Mr. Paul E. Wanzo, during many years has contributed greatly to the spirit of patriotism by participating in Veterans affairs such as 1,817 flag raising, 205 Veterans' parades and 389 Veterans' funerals in the county; and served his City, State, and Nation with distinction as a member of the United States Army during World War II, thereby setting an example for all patriotic citizens of this Country.

Now therefore, be it resolved that it be known into all men that by issuance of this Certificate of Appreciation we acknowledge this outstanding man and his many accomplishments in bringing recognition and attention to our area and do further express to him our sincere thanks for a job well done.

At the State level, State Senator Robert Secrest offered a resolution of praise and recognition which was subsequently approved by the full Ohio Senate appropriately on the eve of this Nation's 197th birthday.

Mr. Speaker, all too often in this day and age the patriotic people who reflect the admirable characteristics of our forefathers are not given due notice for their service by the news media or the government. I want to see that Paul Wanzo—and the millions of other Americans who exemplify the spirit of America—be afforded the recognition which they never request, but certainly deserve.

In so keeping, I have recently written the President, asking that an appropriate letter or certificate be given Paul Wanzo to underscore our gratitude for his service. Paul Wanzo was born at Jackson, Ohio, August 25, 1903. At the age of 3 his family moved to Marietta where he was raised and received his education. He is the father of six children of which four have followed in their father's military service footsteps. He also had three grandsons who served with honor in Southeast Asia. Paul served in the Army during World War II and was discharged on August 23, 1945. Upon his return to Marietta, he became very active in local veterans' groups. He is the past commander of the Disabled American Veterans, Post 52, past post commander of the American Legion, Post 714, and honarary commander of Veterans of Foreign Wars, Post 5108.

In 1949, he joined the Ohio Defense Guard where after 23 years of exemplary service he retired a sergeant major.

I commend all the local officials and Paul's many Washington County friends who have honored their fellow resident as they have and I hope that his example will serve to encourage others to serve America as honorably and adequately.

CREDIT CARD VICTIMS

HON. ROBERT O. TIERNAN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. TIERNAN. Mr. Speaker, it has come to my attention that many credit card users may have unsuspectingly been victimized by speculative practices of the major credit card firms.

By speculating on the weakening American currency these firms can increase the price their cardholders must pay for items purchased in foreign countries. The method used by these firms to overcharge their customers is slightly camouflaged but rather simple. For example, a tourist makes a purchase before the devaluation using his credit card in a foreign country. If the purchase is made in the middle of January for 100 marks, he calculates it at the existing exchange rate to be 31 U.S. dollars. But the credit card company may not bill the purchaser until long after the devaluation. Since the credit card firm does not set the exchange rate until it processes these foreign purchases, it can hold charges by its cardholders for months while the dollar continues to slip. Then, at the billing date the purchaser still owes 100 marks but calculated under the new exchange rate he is billed 43 U.S. dollars.

The delay in billing may be caused by two different factors. The foreign merchants may be holding the charge slips to take advantage of a rise in value of their currency versus the U.S. dollar. The other factor might be a delay in billing by the credit card firms.

If the credit card firm has promptly paid the foreign merchant the amount charge, the increased price because of the delay in billing comes right out of the pocket of the customer and into the coffers of the credit card firms. This increased cost can be quite astounding. If one had budgeted $1,000 to spend on a European vacation in Germany during January he would spend approximately 3,210 marks. But when his bill comes in July his purchases will cost $1,380, based on the exchange rate in that month, an increase in cost of 38 percent.

I have asked the Justice Department and the Federal Trade Commission to investigate this matter and would advise anyone who has been to Europe in the last 8 months to check their statement to see if they have been overcharged.

HENRY KLOSS—THE LAST OF HIS KIND

HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. JOHNSON of California. Mr. Speaker, I rise today to recognize an old friend, and a dedicated public servant, Henry Kloss, county supervisor from Sacramento County.

For more than 35 years I have known Henry and worked with him on matters relating specifically to the development of our water resources in the State of California and the Nation, and in other matters relative to local and State government.

Henry is an outstanding example of what our Nation needs in government at all levels—local, State, and Federal. I am proud to have known him and worked with him over the years.

The other day his leadership and service to his people was recognized in an article published in the Sunday, July 15 edition of the Sacramento Union. Staff writer Jim Lewis does an excellent job in capturing the spirit of Henry Kloss and his dedication to his people, his district, his county, and his Nation. At this point I insert in the RECORD the article entitled "Kloss the Last of His Kind," by Jim Lewis:

HENRY KLOSS—THE LAST OF HIS KIND

Henry Kloss is perhaps the last of the Sacramento County supervisors who can visit his district with his boots on, step in something and not worry about it.

Once, all county politicians looked a little like Henry Kloss, probably because most of them were in the same kind of business—farming or ranching.

But in this neck of the woods, Kloss is the last of his kind—a true country supervisor. He is in his late 50s, about 6 feet 2 and 220 pounds. When he shakes your hand you think you've latched onto the small end of a big ham.

Kloss can milk cows and swap crop stories with the best of 'em, but he also can use his pocket knife to cut through some of the maze of bureaucratic red tape for his constituents.

He displayed some of these talents during a recent trip through the south county half of his sprawling district that goes to the east county line and all the way to the Delta past Isleton.

"My district has a thousand miles of roads in it," he said. "I average hundreds of miles a month just covering it on county business."

Starting one morning last week and concentrating on the southern portion of the 5th Supervisorial District, Kloss went to the old Brown Cemetery north of Elk Grove where weeds are being cut, fences built and the 120-year-old graveyard restored to respectability.

"It took me six years, but we finally got the county to take this over," Kloss said as he looked at a stone which told of the demise of a settler in 1855.

"It won't take long for this to look good again. This cemetery is one of the last in my district that the county hasn't gotten into good shape yet. I had the whole history of it and gave it to the cemetery district secretary," Kloss said.

Kloss's family came to the Sacramento area about the time the cemetery got its first occupants. One of his grandfathers didn't make it to any California cemetery—Indians killed him on the way from Missouri.

We got into the car and drove to Galt, where Bill Spaans, the Galt Man of the Year, greeted Kloss in front of his cookie factory.

They talked about the wholesale cookie business and then the talk drifted to days when Spaans and his father followed the threshing crews in Michigan with their version of today's sandwich wagon.

Then over past the Eucalyptus groves jealously protected by the area residents, and on the county's newly greening park and lake near the Rancho Seco nuclear power plant.

Kloss got out of the car, his walk a combination of John Wayne and a guy walking behind a fast mule. "This Acacia tree's gonna live," he observed.

We looked at all the little fish in the new lake and Kloss told a story about bigger fish in one of the lakes near the Sacramento River, and his frequent talks with Ray Arnett, chief of the State Department of Fish and Game.

A reporter observed that Kloss also is on talking terms with a good number of state and federal officials, especially those who have anything to do with water.

"I'm on a first-name basis with every one of 'em. If you expect to get anything done, you have to know who to go to," Kloss replied.

Kloss's district is bearing a number of major issues in the county these days—the Rancho Seco plant is becoming more controversial, the possibility of a Hood-Clay connector for greater American River water flow is a continual concern, the expansion of the Central Sewage Treatment Plant raises tempers and discussions.

What do people in the south part of the county want from county government more than anything? a reporter asked Kloss. "They want to be left alone," Kloss answered.

Back across the rolling brown grasslands around Rancho Seco to the safflower fields on the east side of the Sacramento River and down to the pear orchards above Locke.

"Hello there, you ol' cow juicer, you," said one of Kloss's neighbors in Locke. He referred to the fact that Kloss oversees the milking of 70-odd cows a day.

There also were conversations with a creamery truck driver, a restaurant owner and a dozen tomato pickers assembled to have a bite or two of peanut butter and one of the steaks at Al's Place, better known as Al the Wop's.

Kloss told of being persuaded to run for supervisor in 1964 and of his practice of not carrying money from one campaign over to another.

"If you can't make it from one to the other without that, then the hell with it."

Back up to a pear orchard with Jack Molino, owner of several fair-sized chunks of property in that area. "Looks like it's gonna be a good crop, Jack," Kloss said.

Molino noted how the pears were in clusters of four, five and six this year—a good sign for orchard owners.

At Isleton, Kloss talked with John Golden, who works in the county agricultural commissioner's new office there.

On around the bend, across the river near the Spendrift Marina where the levee crumbled last year and flooded Isleton and Brannan-Andrus islands.

Kloss noted the need to import solid material to shore up the spongy levees and said he had discussed the problem with Corps of Engineers representatives.

It's mid-afternoon now and Kloss points to two marinas with several hundred thousand dollars worth of yachts, cabin cruisers and assorted fancy boats tied up.

County Assessor William Lynch noted that the boats added considerably to the valuation on the unsecured property tax roll this year.

Elk Grove Park is one of Kloss's best showcases. He pointed out that next year a national softball tournament will be held there on a newly lighted diamond.

"This is one of the facilities where people can actually see what their tax dollars went for," Kloss said. But he grumbled at rising costs of construction.

Back into downtown Elk Grove. Tired. "Just remember, this was only half of my district. One of these days we'll go to the other half."

The day of the next board meeting, Kloss was dressed in a blue suit, just like any other city slicker. He even talked like one a little bit, as sophisticated issues came before the board.

But he's never able to hide those hands or his sunburned bald head or to keep from getting enthused when someone talks about preserving the farms in Sacramento County.

RATS-DESERTING-THE-SINKING SHIP DEPARTMENT

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. BROWN of California. Mr. Speaker, it has been impossible to avoid noticing in recent months the steady stream of departing White House aides and advisors. As the evidence increasingly points toward direct involvement by the man in the oval office, and as Mr. Nixon shows himself unwilling—or unable—

to clear himself, people who used to lace their cocktail party conversations with references to their White House connections now talk about how they were really for Senator McGovern all along last year. And even distinguished Republican Members of the Congress who supported the President's positions, no matter how illogical or foolish, on any issue that came to the floor over the last 4 years—even a few of these loyalists are now exhibiting a certain degree of independence.

In spite of these signs, however, I must admit that it took me by surprise when I read recently that evangelist Billy Graham is now telling people that he has not been in close contact with President Nixon for 18 months, and that his relationship with the President has been exaggerated. Mr. Graham, who recently made headlines with his Christian suggestion that rapists be castrated, was interviewed by the Minneapolis Tribune during a crusade in St. Paul, Minn. The resulting article, published on July 15, quotes the Reverend as saying:

> I don't see the President as often as people think I do. I haven't seen President Nixon to have a talk with him privately in 18 months. But there are a lot of people who would get the idea that I'm there every week or two.

He went on to explain that he felt it was a "very good thing" for a President to turn to a pastor for occasional advice and counsel, and he said that such relationships are not unusual. Then he added:

> I think in my case it has been greatly overplayed. I was fairly close friends with President Nixon until the time of the election. But after that the President becomes so busy and so occupied with other things that you're no longer in the circle at all.

Mr. Speaker, it is becoming perfectly clear just what "other things" Mr. Nixon was occupied with during the election. I would not be surprised to see his circle of friends grow even smaller before we get to the bottom of the Watergate affair.

ST. AUGUSTINE HISTORICAL RESTORATION AND PRESERVATION

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. CHAPPELL. Mr. Speaker, on April 8, 1973, an article appeared in the Washington Post that was highly critical of the historical restoration and preservation activities in St. Augustine, Fla. While the author makes criticisms of "vague claims and half-truths," perhaps these same adjectives would be best applied to the insinuations made by the author, H. P. Koenig.

The people of St. Augustine have worked long and hard to restore and reconstruct the city to recreate a time in our history that should be of interest to every American.

According to John W. Griffin, director of the Historic St. Augustine Preservation Board, Division of Cultural Affairs for the Florida Department of State:

> There are over 30 historic houses, dating from colonial times which have survived in St. Augustine. Eleven of these, approximately one-third, are located on St. George street. Seven were standing in George Washington's lifetime and the other four were built very soon thereafter.

Yet the author would have us believe that most of the buildings on St. George street "go no further back than the White House Days of Lyndon B. Johnson."

Mr. Griffin further describes how carefully the historic St. Augustine preservation distinguishes between restored and reconstructed buildings:

> Restored buildings are original buildings from which later additions and modifications have been removed and the building placed as nearly back into its original condition as possible. Reconstructed buildings are those which have disappeared through time but on which considerable information from old maps and other accounts and the location of the original foundations by means of archeological research have provided the basis for rebuilding a building on its original site. There are only a few buildings which do not fall into either one of these categories. These might be called replica buildings or re-created buildings which are done in the style of an earlier period but are not positively located on an original site. Reconstruction is justified in returning an area to the appearance and atmosphere of an earlier time. This is widely done and is not done to "stretch the truth" or mislead the public.

The news story further states that a night spot "emerged" as a Spanish hospital and a neighborhood bar was "converted" into the Florida Heritage House. This is in error. The buildings housing the night spot and the neighborhood bar were removed and the Spanish hospital and Heritage House were reconstructed in their place.

The St. Augustine Preservation Board clearly points out that the government house stands on the site of earlier official buildings and that the site has been used over the centuries for governmental purpose—that while several old walls exist in the east wing, there is no attempt to deny the fact that the present building is basically new construction of the 1936–37 period in which the architect attempted to capture some of the feeling of the 1764 building.

Mr. Speaker, St. Augustine is a beautiful old city. It is a monument—not only to our heritage—but to the many fine citizens who work so tirelessly to preserve and re-create the atmosphere of the city during its early years. They are builders in the finest sense. We will leave to others, such as Mr. Koenig, the legacy of trying to tear down their work.

THE FARM LABOR RESEARCH COMMITTEE AND THE FARM LABOR PROBLEM

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. ASHBROOK. Mr. Speaker, I am pleased to learn of the recent formation of the Farm Labor Research Committee. This organization is designed to research and analyze farm labor-management relations with major emphasis on proposed legislation in this field.

Of particular concern to the FLRC are six bills before the House Subcommittee on Agricultural Labor dealing with the farm labor problems. These bills either extend current labor law—the National Labor Relations Act—to cover farm workers and farm employees, or establish a new regulatory system which would incorporate parts of the NLRA and the Railway Labor Act under a national farm labor relations board arrangement.

The FLRC contends that each of the bills would grant new powers and privileges to union organizers with which they could conceivably control production on America's farms and repeat the history of strikes, strife, and makework practices that have plagued other sectors of the Nation's economy since the enactment of the NLRA.

According to FLRC spokesman Dr. Sylvester Petro, a professor of law at Wake Forest University:

> All the bills now proposed will in fact bring big, specially privileged, monopolistic and coercive unionization to agriculture . . . they all endorse compulsory unionism, and they all grant special organizing and bargaining privileges to unions at the expense of the basic, natural, contract and property rights of employers and nonunion employees.

Dr. Petro advocates the following three principles in handling the farm labor problem:

First. Local, State, and Federal Government must do whatever is necessary to maintain the peace, protect property, and safeguard the person of all involved in organizing campaigns and collective-bargaining disputes.

Second. The right of unions to peacefully extend their organizations, and of employees to join unions if they wish, without fear of legal penalty, must be declared and enforced against any attempt to suppress them by violent means, by intimidation, by vandalism, or any other such unlawful method.

Third. In agriculture, unions should be confined to bargaining only on behalf of those employees who voluntarily authorize them to do so, and no agricultural union should be authorized to request, insist upon, or participate in any variety of agreement requiring either membership in or payments of any kind to the union as a condition of employment.

I strongly support the FLRC position on voluntary unionism in the field of agriculture. Compulsory unionism should be categorically opposed. Every agricultural worker should be free to accept or reject union membership in accordance with his freedom of choice and individual judgment.

NATIONAL LAND USE

HON. PHILIP E. RUPPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. RUPPE. Mr. Speaker, the distinguished Secretary of the Interior, our

former colleague, the Honorable Rogers C. B. Morton, recently spoke in Hot Springs, Ark., on the very important and timely subject of National Land Use Policy and Planning. His message is, I believe, a worthwhile one for all of us, and I commend it to the attention of my colleagues:

Remarks by Hon. Rogers C. B. Morton, Secretary of the Interior, Hot Springs, Ark., July 18, 1973

I am pleased to be here this morning with you. I am impressed that you have assembled to consider the elements of what I consider to be a most far-reaching piece of legislation: the National Land Use Policy and Planning Assistance Act.

As the bill moves through Congress, it is imperative that we begin to consider creating the land use planning program which is envisioned by the legislation.

Having served in Congress, I know the crucial role and special problems of the legislative process. And I know that it is well that you should be grappling with these elements now—for it will be your shoulders upon which a large measure of the success of this program will rest.

This morning, I would like to share with you my perspective on this legislation, and what I believe needs to be done if we are to accomplish its goals and purposes.

Just a few weeks ago, President Nixon announced a series of far-reaching proposals in the energy field. One of the keystones of his program is the creation of a Department of Energy and Natural Resources. An important new thrust of this particular proposal is the addition of new energy functions, in response to the so-called "energy crisis" which we are facing.

I would like to point out that this "crisis" might have been averted—if various governmental levels had engaged in more deliberate long-range planning for the use of our resources—specifically land resources—because that is where the basic problem lies.

Let me explain what I mean. We aren't short of SOURCES of energy. We have billions of tons of coal reserves; we have billions of barrels of oil. What we are short of are certain "instruments" to convert resources into work. I am talking about power plants, refineries, and the means to transport raw resources—pipelines and super-ports.

The reason we have been caught short in all these areas is that public agencies have not been able to reconcile conflicts in locating these facilities. They have only become aware of these conflicts after the fact—when public outcry demands their attention. They are then forced to respond by *reacting*. We have simply lacked the means to identify conflicting interests beforehand.

When a problem crops up, all too often it is viewed in a negative way—and then there is no rational forum to resolve issues.

I submit that the focal point for identifying and resolving these concern is the use of our land. And the long-distance perspective we need can come about when the states face up to the realities of the problem.

The energy issue, which is only one example, is certainly the most timely one. However, we could just as well be talking about housing or mass transportation or—and very important to the American spirit—open space.

We can't afford to live from crisis to crisis. We must address the broader problem—how can we combine our technical resources and political process into an effective planning and decision-making mechanism?

There are a number of bills before Congress right now which address certain critical problems of a regional nature—power plant siting, mined area protection, and others.

But there is only one piece of proposed legislation which will tie all these others together—the land use legislation. It will provide an incentive to the states to get about the job of land use planning. It will give them the political courage with federal backing to face the hard decisions.

This is not meant to degrade or brush over specific problems and solutions in the environment—they each deal with their own areas of concern. But the location of energy facilities, reclamation of mined land, siting of super-ports, transmission lines, highways or parks—all concern the use of our land. That use determines all the rest.

This is why the national land use legislation is so crucial to our future well-being. It is the key to achieving a quality environment. Until now, we've gone about it a little backwards—with the crisis/reaction syndrome. We discovered that our air was foul, so we clamped controls on air quality; our water was polluted, and we put controls on water quality.

But stop-gap solutions are no longer good enough.

We must seize the initiative. We must identify present and future conflicting demands on the use of our land resources. We must provide a forum for open public discussion of the pros and cons of various alternatives.

Most importantly, we must follow through on our decisions. I think you are aware of the importance of this requirement. Planning without legislative backing only produces a collection of pretty-colored brochures.

I don't claim that the answers lie in the federal administration. But I do claim that, working together, we can find them. And that is why we are here today.

This isn't a crash program I am talking about. We are dealing with a complexity of problems—division of labor, administrative machinery for regulatory authority, and strong emotions of taxpaying property-owners.

We at the Federal level and you at the State level are going to have to join forces. It simply is no longer productive to say "It's a Federal problem" or a "State problem" or a "local problem." Clear responsibility in the area of land use has become terribly muddied.

I must agree wholeheartedly with the observation of State Senator Bill Goodman of Prince George's County, Maryland, who I understand is here today.

Bill Goodman recently suggested that "Federal grant programs have inflamed the very abuses they were supposed to correct."

Some others have blamed the States for not having the machinery to make land-use decisions. The States, back in the 20's, passed the buck to local governments, with the zoning enabling acts, which are familiar to you.

Then, within the States, we have the urban-rural dichotomy. The urban legislators can't deal with the problem because their hands are tied by rural legislators. The rural legislators say it's an urban problem—and so on.

And yet our predicament is not entirely the fault of local governments, either. They do not possess the technical resources or the administrative machinery to deal effectively with the situation they are facing.

I would say, surveying the scene, it's a national problem—one that cuts across traditional boundaries. In rural areas, our agricultural land and our forests are threatened by housing developments and mass recreation facilities.

In urban areas, we expend huge sums of money, considerable mental anguish and human resources—and have only patchwork solutions to show for it.

If we don't come to grips with the problem now, land use, too, will become a problem of "crisis" proportions.

Mistakes in land use take generations to correct. We seldom get a second chance.

That's why the land use legislation is a powerful mandate for the States to manage those areas which are of more than local concern.

It specifically mandates that State legislatures create agencies to determine needs for land for various uses, and that they identify, plan and manage land areas of regional and statewide concern.

By providing the financial and technical resources of the Federal government, the act encourages States to inventory land resources, develop policies toward its use, and to designate and manage four primary areas of land use.

Number one deals with critical environmental areas. These include shorelands and coastal areas, historical sites, prime agricultural areas and scenic areas. These are unique and irreplaceable resources of regional, statewide and national significance.

Second is in areas surrounding facilities such as airports, highway interchanges and other public facilities which induce growth into communities. Often such areas do not have local governmental machinery to ensure that the facilities solve problems instead of creating new ones.

The third area deals with developments of regional benefit—such as location of energy facilities, waste disposal sites, or in urban areas especially, insuring that an adequate supply of housing exists in all price ranges, and that local governments do not exclude such developments.

Finally, there are areas of large-scale development including major housing subdivisions, and new communities. States must have broad discretion in defining the extent of these areas.

The critical problem of the legislation in my view, is that Federal projects and planning must be consistent with the State's planning program. No longer will the Federal agencies plan and execute their projects in a vacuum.

In order to accomplish this, we are going to have to conduct our business in an entirely different way, establishing new communication and coordination. There is important authority in the legislation to assist with this task. During the course of your discussions today, you will be considering these coordinating mechanisms more thoroughly.

I also want to mention to you some things the national land-use legislation will not do.

First—it will in no way impose federal planning or zoning on the States.

There is no provision for my approving or disapproving a specific decision on the use of land, or on the substance of any State or local plan—except when that use degrades or damages neighboring Federal lands, such as parks and wilderness areas.

Second—this legislation does not mandate State zoning. It does require that the State manage the use of land in the four general areas I mentioned earlier. They can do this either through local jurisdictions with State administrative review, or direct State implementation.

The national legislation specifies that the rights of individual property owners as provided by the Constitution of the United States and the constitution of a State is not diminished. It does not provide for land acquisition or compensation for state or local use of private lands. Compensatory arrangements—and other devices that do not infringe on individual property owners rights—must be determined by each state—and perhaps eventually by the courts.

This is just a sketch of what you will explore in the workshops today. I stress that this legislation not only permits innovation, it demands it. The magnitude and complexity of the problem requires our most creative efforts.

Our roles are interdependent. In Washington, the Department of Interior has acted as a resource to Congress, so that we can design the most flexible, yet challenging program that is possible.

Those same resources are available to the States, and I pledge a spirit of cooperation as you seek help or assistance.

But we won't be trying to tell you the sort of procedures you must use to meet the requirements of this legislation. Instead, we will tell you about successful examples, and point out milestones.

You must similarly join forces with your executive agencies. In this work, they will be a resource to you, pointing out new legislation which may be required.

But first, there must be a common base of understanding. Executive policies need the support of legislative initiative. And as one of my good friends in the Senate has pointed out, process without policy provides "no relief from bad decisions which are the product of good procedure."

And while we really can't legislate competence or cooperation, these are the keystones to achieving the goals of this legislation.

Cooperation is embodied in a statement made not too long ago by Gerald Horton, State Representative from Georgia, who said at the recent ASPO conference that he'd never been taken out for a drink by a planner. If that is the case, then the time has come for legislators to take the initiative.

Executive agencies and legislators are going to have to build some mutual trust and understanding. You need each other to build a successful program.

As you well know, legislators are in the business of selling. If you succeed in selling your package to the legislature, and haven't garnered public support, then you are politically liable.

In planning, perhaps the most massive failure has been the public relations aspect. Planners haven't bothered to sell the public on their planning. I think one of our toughest jobs is going to be gaining broad public acceptance and support for a strong planning program.

You can't legislate public acceptance, but you can formulate new public education programs. We have a tremendous education job ahead.

These are just some of the areas in which you have a major role, and a valuable contribution to make.

I have traveled this country widely. And I believe that this country, when it puts its mind to it, can do anything. I have great faith in the ability of Americans to cooperate when there is a need and that need is well understood.

I believe, here in the Southern states, you have a unique opportunity. Your land is under pressure for development—but the megalopolis has not yet become your symbol. Your landscape has not been irrevocably scarred.

Here in Arkansas, I understand that the Governor's Advisory Committee on Land Use is developing an approach to planning that will maintain the state's environmental quality, as well as permit expansion of its economy.

Your opportunity is now—before pressures turn to crises. If you take advantage of the powerful incentives of the national land use legislation, you will not only enhance our "quality of life"—but will leave a great legacy to our children. The way our generation uses the land can expand or restrict the choices and living styles of our children for decades.

So I urge that legislators, executive agencies and members of the public sit down and plan together for using our most valuable gift—the good earth. We shall all benefit.

OIL PIPELINE OWNERSHIP AND COMPETITION IN THE OIL INDUSTRY

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. FRASER. Mr. Speaker, I am today reintroducing a bill, along with my colleague from Washington (Mr. ADAMS), my colleague from Massachusetts (Mr. CONTE), and 18 additional cosponsors, which would amend the Interstate Commerce Act to separate the business of transporting oil and oil products through pipelines, from the business of producing, refining, and marketing this commodity. The bill would make it unlawful for an oil pipeline company to ship its own oil or that of an affiliated company.

Pipelines have long been recognized as a major trouble spot in oil industry competition. Of all the major industries only this one has its own transportation system devoted exclusively to hauling its bulk commodities.

In 1906, Senator Lodge of Massachusetts, proposed the same measure we are proposing today. In that year Congress broke up the railroads' monopoly over the coalfields of Pennsylvania and West Virginia by enacting the railroad commodities clause of the Interstate Commerce Act. This clause bars railroads from dealing in the commodities they carry. The Lodge amendment, which attempted to extend the same provision to oil pipelines, was narrowly defeated. Congress contented itself with declaring that pipelines were common carriers, to which, theoretically, all shippers should have equal access.

Without the commodities clause, the common carrier provision has proved ineffective. Misuse of pipelines was one of the major restraint-of-trade charges leveled at the Standard Oil trust in 1911. The Interstate Commerce Commission has been powerless to prevent anticompetitive practices by pipeline owners. Nor have efforts to handle pipeline problems under the antitrust laws been successful.

The small oil producer or distributor is at the mercy of the big companies. He must bring his oil to the shipping point established by the pipeline owner and hope that a connection will be available if he pays for it. And, of course, even if a connection is offered, there is no assurance that it will be continued.

In a report last year on the "Anticompetitive Impact of Oil Company Ownership of Petroleum Products Pipelines," the House Subcommittee on Special Small Business Problems found that owners generally operate pipelines "so as to dry up the surplus or spot market at the destination point." The evidence of Mr. Beverly Moore before the subcommittee is illuminating on this point:

> The critical competitive leverage in the oil industry is wielded by the independent refiners, terminal operators and retail dealers. The so-called private brand dealers are able to undercut the nationally advertised gasolines by 2 cents to 5 cents per gallon, primarily through more efficient operations and the avoidance of advertising and premiums. If consumers were aware that gasoline is a fungible product, with little difference in quality among competing brands, and if informed consumer demand forced the majors to switch to private brand type operations at 3 cents less per gallon, the annual consumer savings could exceed $2 billion. That figure is indicative of the potentially grave consequences to consumers of joint venture pipeline operations which dry up the source of supply for independent marketers.
>
> Moreover, the inflexible commitments generally required of pipeline shippers—in throughput guarantees, investment in facilities and minimum tender requirements—may foreclose their use of competing transport modes such as tankers and barges.

This month, in a preliminary review of competitive problems in the petroleum industry, the Federal Trade Commission has found that poorly conceived Government policies, imposed at the instance of the oil industry, along with the "cooperative" behavior of the major oil companies, have aggravated the current fuel crisis. These policies, namely the oil depletion allowance, the oil import quota system, and the State pro-rationing system, have contributed to a lack of refining capacity in this country. The report also found that ownership of oil pipelines by the major companies has effectively inhibited free competition in the industry.

Although demand for petroleum products has been growing spectacularly in the last 20 years, there have been virtually no new entries in the refining business. Because of tax benefits, crude is priced high and products are priced low. The low-profit margin at the refining level works to the advantage of the vertically integrated companies and means that there is little incentive to enter the refining field.

It is not necessary to subscribe to a conspiracy theory to agree that the tight control that the oil companies exercise over the production, refining, distribution, and marketing of oil has contributed substantially to the current shortage and at the same time has enabled that shortage to be manipulated to the advantage of the industry, at the expense of the consumer.

Corrective legislation is needed. The bill we are reintroducing today provides a simple and direct way of encouraging more competition in an industry that is, quite naturally, using the current energy crisis to further its own economic self-interests.

Listed below are those Members sponsoring the bill I am introducing today along with my colleague from Washington (Mr. ADAMS) and my colleague from Massachusetts (Mr. CONTE):

Herman Badillo, of New York.
George E. Brown, Jr., of California.
John Conyers, Jr., of Michigan.
James C. Corman, of California.
Ronald V. Dellums, of California.
Don Edwards, of California.
Gilbert Gude, of Maryland.
Michael Harrington, of Massachusetts.
Henry Helstoski, of New Jersey.
Elizabeth Holtzman, of New York.
Robert W. Kastenmeier, of Wisconsin.
Patsy T. Mink, of Hawaii.
Parren J. Mitchell, of Maryland.
John Moakley, of Massachusetts.
John E. Moss, of California.
Bertram L. Podell, of New York.
Benjamin S. Rosenthal, of New York.
John F. Seiberling, of Ohio.

The text of the bill follows:

H.R. 8975

A bill to amend the Interstate Commerce Act to provide that no pipeline company engaged in the transportation of oil may transport oil through its pipelines if that company has an interest in such oil

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (8) of section 1 of the Interstate Commerce Act (49 U.S.C. 1(8) is amended—

(1) by adding "(a)" immediately after "(8)" in such paragraph; and

(2) by adding at the end of such paragraph the following subparagraph to read as follows:

"(b)(1) It shall be unlawful for any pipeline company subject to the provisions of this chapter to transport to, from, or within any State, territory, or the District of Columbia, any crude oil, or any oil product manufactured from crude oil, which is produced or manufactured by such pipeline company or by any affiliate thereof.

"(2) For the purposes of this paragraph, the term 'affiliate' includes—

"(A) any person or corporation owned or controlled by such pipeline company;

"(B) any person or corporation which owns a substantial interest in or controls such pipeline company by—

"(i) stock interest,

"(ii) representation on a board of directors or similar body,

"(iii) contract or agreement with other stockholders, or

"(iv) otherwise; or

"(C) any person or corporation which is under common ownership or control with such pipeline company.".

SEC. 2. This Act shall take effect upon the expiration of the thirty-month period which begins on the date of the enactment of this Act.

A. SYDNEY HERLONG, JR.

HON. LOUIS FREY, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. FREY. Mr. Speaker, our former colleague and good friend, A. Sydney Herlong, Jr., has just retired from the Securities and Exchange Commission, terminating almost 40 years of public service.

Syd Herlong served in this House with distinction for 20 years, as a member of the Post Office and Civil Service Committee, the Agriculture Committee and, for the last seven terms of his congressional career, as a member of the Ways and Means Committee.

Even before coming to Congress in 1949, he had earned a well-deserved reputation in his home town of Leesburg, Fla., as well as throughout the State of Florida, for his devotion to his constituency.

He has been president of the University of Florida Alumni Association, and following his love of all sports, president of the Florida State Baseball League.

He also served for a short time as postmaster of the Leesburg, Fla., post office. Just prior to his election to Congress in 1948, he had served with distinction as Lake County judge for 11 years, and was president of the Florida County Judges Association.

Following his retirement from Congress, President Nixon called upon him once again to serve his country and appointed him to the Securities and Exchange Commission in 1969, to fill an unexpired term. He was reappointed for a full term in 1971.

In accepting Mr. Herlong's resignation from the SEC as of June 30, 1973, the President said:

> You have had a long and distinguished career in public service. As a member of the bar and the judiciary, as a distinguished member of the Congress, and finally, as Commissioner, you have worked for your country and your fellow citizens in the finest traditions of national service.

I join the President and my colleagues, as well as Syd's legion of other friends in saluting him for his outstanding record of public service and wishing him health and happiness in his retirement years.

FAMINE IN WEST AFRICAN SAHEL

HON. ROBERT O. TIERNAN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. TIERNAN. Mr. Speaker, a mighty war is raging in the West African Sahel. Mali, Mauritania, Niger, Chad, Upper Volta, Senegal, and Nigeria, supported by most of the nations of the developed world, stand arrayed on one side; on the other stands man's ancient and indomitable enemy, famine.

The West African Sahel is the region of plains and grasslands just below the Sahara. It is a land of nomads, herdsmen, and farmers, all of whom depend on rainfall to keep away the encroaching desert. The rainfall in this region has been below normal for at least 4 and possibly as long as 7 years. The drought's effect on the Sahel is catastrophic.

Hunger and disease are everywhere. Meningitis, cholera, and measles prey upon the hunger-weakened, carrying away at first the more vulnerable members of the society, the old and the very young. Later, the stronger will have their turn; some estimate that 6 million people will die before October.

The tragedy goes beyond the terrible human cost of the casualties. The whole economy of the region is ruined; its society is being torn apart. Range, pasture, and watering places have disappeared. The drought is decimating livestock; in some areas losses reach 90 percent. Herds built up over generations are wiped out, and with them goes an entire way of life. Ruined herdsmen and farmers flock to the cities, and there form a new lower class, jobless and poverty stricken. For example, the city of Agadez in Niger has a population in normal times of 7,000, but now the town has swollen to 15,000. This influx has overloaded facilities and raised social tension to the breaking point.

The developed world has rushed to the aid of the beleaguered Sahelian countries, but it remains to be seen if this aid will be enough to stem the tide of disaster; $410,555 tons of grain have been pledged to the relief effort, with the United States giving 156,000 tons. The nonfood relief effort has been prodigious, also, as the United States, the European Economic Community, the United Nations' Food and Agriculture Organizations, and several other nations and organizations have contributed approximately $29,739,000. In addition Belgium, France, Germany, Canada, Zaire, the U.S.S.R., and the United States have contributed aircraft and other means of transportation for distributing the aid.

This is primarily emergency aid. Even if we are successful in alleviating the effects of the drought, the tragedy is liable to be a recurring one unless we embark on a long range development assistance program which will rebuild the Sahel's shattered economy. It is up to the United States to join with the rest of the developed world to provide irrigation and dry farming techniques and the assistance, knowledge, and technology necessary to allow the people of the Sahel to return to their homelands and prosper there. I urge my colleagues to support efforts to relieve the plight of the Sahel.

THE FARM BILL FIGHT

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. MICHEL. Mr. Speaker, in the wake of our recent prolonged and often confused consideration of the farm bill, I believe my colleagues will be interested in the following editorial which appeared in Wednesday's Wall Street Journal:

THE FARM BILL FIGHT

The federal farm program long has been a prime example of government by subsidy, and this year seemed an opportune time to begin dismantling the costly and outmoded farm doles.

Economic conditions and public sentiment favored such a course. But the farm lobbies have managed to push four-year farm bills through both houses of Congress that not only preserve subsidies but actually increase the potential exposure of the federal Treasury to large outlays to farmers. Since it is unlikely that a Senate-House conference committee will reduce that exposure, the only hope of avoiding it would appear to be a presidential veto. We hope that the President's threat of doing exactly that is not an idle one.

The bills provide for direct subsidies to growers of wheat, feed grains and cotton when prices fall below specified target levels. The administration has particularly objected to an escalator clause which raises these targets as farm costs rise. In the administration view, the new subsidies could cost some $12 billion over the four-year period. But despite this objection it was only late in the bill's passage through the House, under the shepherding of Agriculture Committee Chairman Poage (D., Texas) that it began to encounter serious resistance.

Up until then, it was almost as if Congress was oblivious to the country's rebellious mood about farm subsidies. A Senate bill with even higher "target" levels than the House version had passed with surprising ease. Moreover, the Senate had refused to plug up a loophole that has thwarted attempts to impose an effective ceiling on how much subsidy money can be handed out to big farmers on any one crop.

But subsidy foes gradually chipped away at the House bill. Congressmen Paul Findley (R., Ill.) and Silvio Conte (R., Mass.) pushed through an amendment cutting the maximum subsidy payment to any farmer for any crop to $20,000 from $55,000. More importantly, they closed the loophole that allowed farmers to evade the ceilings by splitting up their acreage among members of their families or by leasing land. This was a particular blow to large cotton farmers, who were reluctant to see the bill pass in that form. Then, another blow was delivered to the cotton growers by an amendment to cut off a $10 million federal subsidy to Cotton Inc., which is supposed to promote cotton sales and technology but seems to spend a lot of its money on fancy office quarters and high-salaried executives.

Further erosion of the subsidy lobby's position came when Rep. Robert H. Michel (R., Ill.) got surprising support for an unsuccessful amendment that would have given the administration much of what it wanted, namely a three-year phase-out of direct income subsidies altogether.

The bill finally passed the House, but only by a 226 to 182 vote, which suggests that a presidential veto could be sustained. In that case, assuming no compromise by the President, the farm act of 1949, as amended in 1958, would come back into play when the present farm act expires at the end of this year. That wouldn't end subsidies in principle but administration experts feel the Treasury would be considerably less exposed to subsidy drains.

The administration has been emboldened to tackle the support lobby this year because of a combination of factors. Rising world demand has boosted farm prices and income and reduced farmer interest in federal support. Consumers are increasingly resentful of the combination of high food prices and continued farm subsidies. There is greater understanding in Congress of the inflationary effect of budget deficits. The $4 billion to $5 billion that goes to farmers offers a place to cut.

The complaints from consumers about food prices have overriden everything else, but also led to an attempt to control food costs, which has been highly damaging to farm productivity. The freeze, now lifted on all products except beef, ran counter to the administration's basic agricultural policy, which is aimed at improving production and efficiency. That basic policy would remove subsidies that tend to limit farmers' incentives to seek the most profitable ways of putting their land to work. The 1970 farm bill moved in that direction by permitting greater decision-making freedom. Some Southern farmers, for example, have switched from supported crops to soybeans, which are in heavy world demand. This sort of thing should be further encouraged.

It is indeed possible that continued heavy world demand will keep farm prices above the proposed target levels that would trigger direct subsidies. But that is by no means a certainty and the prospect of a $12 billion Treasury drain, even spread over four years, is not encouraging at a time when it is imperative for the administration to bring the federal budget back into balance to curb inflation. For that reason we hope the administration remains firm in its resolve when the farm bill finally lands on its doorstep.

KEMP URGES APPROVAL OF VETERANS PENSION LEGISLATION, PRAISES ENACTMENT OF GI HOME LOAN BILL

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. KEMP. Mr. Speaker, our country and its citizens, including all of us in Congress, have an immediate obligation to our veterans of Vietnam and other wars.

Continuing inflation, in such forms as higher prices and higher interest rates, is having a devastating effect on many of those who have served and sacrificed for our Nation.

Most adversely affected are those veterans and their wives, or their widows, who are dependent upon marginal incomes and monthly pension checks. They, who are most in need, are caught in a vise of low, annual income and the shrinking buying power of the dollars available to them.

With a deep awareness of this predicament, I urge all my colleagues to lend the strongest, bipartisan support to passage of H.R. 9474 when it comes to this body for consideration next week.

This critically required measure, which I have the privilege of cosponsoring with my colleague, Mr. Dorn, the distinguished chairman of the Veterans' Affairs Committee, would provide a 10-percent increase in the monthly, nonservice-connected disability checks of veterans and veterans' widows.

By law, the amounts of the monthly disability checks, upon which they depend, go down when a veteran's or his wife's annual income goes up. The 20-percent social security increase which became effective at the first of this year resulted in an average reduction of $7 a month in veterans' pensions.

The additional 5.6-percent social security increase which will become effective in June 1974, will further reduce these checks unless we approve this very modest, requested 10 percent increase in pension benefits.

Mr. Speaker, our veterans did not hesitate to serve our Nation when duty called. I believe our duty, in connection with the proposed increase of pensions, is a call which demands our unqualified and wholehearted approval.

It is fitting that we demonstrate our gratitude and concern for our veterans and their widows in the wake of today's signing by the President of the bill we passed which authorizes the Administrator of the Veterans' Administration to adjust the maximum interest rate on GI home loans.

I have had hundreds of telephone calls and have received a considerable volume of mail from my constituents in New York's 38th Congressional District complaining of the inability to obtain GI loans because of the statutory requirement of a maximum, 6 percent interest rate.

Because of that inflexible requirement, lifted today by the President's signing and enactment of amending legislation, the GI home loan program has come to a virtual halt.

Market conditions have made such a low yield unrealistic across the country.

The going interest rate of 8¾ percent here in the Washington area is not untypical. And it is frequently higher.

The amending legislation will not only have the overdue effect of making urgently required housing available to veterans but it is the harbinger of an immediate and continuing expansion of America's housing industry and greater job and wage opportunities for those workers in the construction trades.

ST. ALBANS HOSPITAL IS NEEDED

HON. ANGELO D. RONCALLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. RONCALLO of New York. Mr. Speaker, I am extremely pleased to note that the Veterans' Administration realizes the pressing need of our New York veterans. In the appropriation bill for fiscal year 1974 (H.R. 8825) $5.1 million has been appropriated for the first stage of reconstruction of the outmoded veterans' hospital in the Bronx.

However, I am even more gratified to note that in the report accompanying H.R. 8825, the Appropriations Committee directs that the Veterans' Administration carefully reexamine the possibility and feasibility of utilizing the St. Albans Naval Hospital as a veterans' medical facility.

This hospital is presently under the jurisdiction of the Department of the Navy and has recently been scheduled to close.

In these times of spiralling inflation, it certainly seems more prudent to invest our resources toward improving what we already have, rather than tearing down and building anew.

It is anticipated that replacing the Bronx VA Hospital would cost an estimated $86 million. However, an on-the-spot study already made by the Veterans' Administration has revealed that even if complete renovation were considered, the cost would be considerably less than the projected $86 million needed to build a new hospital.

Utilizing St. Albans Hospital as part of the VA medical program would certainly benefit the more than 2.6 million New York veterans at little or no additional capital investment of taxpayers dollars. It could provide some of the services planned for the Bronx unit, perhaps reducing the cost for renovation of that facility. St. Albans could also be utilized as a VA extended care nursing home facility. Next year, the New York metropolitan area will be 450 nursing home beds short of VA's actual need. St. Albans could wipe out this terrible deficit.

As you know, the VA medical system is one of the finest and largest in the world, encompassing 168 hospitals, 201 outpatient clinics, 18 domiciliaries, and 77 nursing home care units. The volume of patients has risen significantly—to over 944,000 in fiscal year 1972.

This is not new, however. The United States has a long history of extending medical benefits to our veterans. From 1755, when the Provincial Congress of Massachusetts ordered a hospital to be established in a camp near Boston for the treatment of soldiers stricken with smallpox, until 1973, when the volume of patients treated rose to record-breaking levels, Congress has continued its mission to provide the quality medical care that our veterans so justly deserve.

Mr. Speaker, it is for these reasons that I strongly urge the Veterans' Administration to consider making St. Albans Hospital part of the VA medical system. Our budget will benefit, the VA will benefit, and New York veterans will benefit. Thank you.

GRANT ASSISTANCE TO THAILAND

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, within a day or two, the foreign aid authorization bill is scheduled for floor action. Included in the bill is the sum of $73 million in grant aid for Thailand. I think that it is important for my colleagues to recall that 4½ years ago, the United States found it necessary to borrow $100 million from Thailand. It is especially interesting to note that while the United States was borrowing the $100 million from Thailand with one hand, it was using the other hand to give Thailand an additional $100 million in the form of a fiscal year 1969 military assistance service-funded grant. Repayment of the $100 million loan from Thailand was made on July 9, 1973, together with $29 million in interest.

Mr. Speaker, according to the Agency for International Development's Congressional Presentation, Thailand now has gold and foreign exchange reserves of over a billion dollars. To date, we have given Thailand more than $1.6 billion in grant aid. We have also provided direct military protection of Thailand for many years. Is it not time to reconsider the need for further grant aid to Thailand?

Aid to Thailand is reflected in the following table:

THAILAND

[U.S. fiscal years, in millions of dollars]

	U.S. overseas loans and grants, obligations and loan authorizations														
				Foreign assistance act period											
Program	Post-war relief period 1946–48	Marshall plan period 1949–52	Mutual security act period 1953–61	1962–65	1966	1967	1968	1969	1970	1971	1972	Total FAA period 1962–72	Total loans and grants 1946–72	Repayments and interest 1946–72	Total less repayments and interest
ECONOMIC PROGRAMS															
A. Official development assistance															
AID and predecessor agencies, total		16.1	253.2	106.9	43.4	53.3	46.7	35.5	26.5	22.4	17.5	352.3	[1] 563.5	31.3	532.2
Loans			45.6	31.6		3.5						35.1	56.3	31.3	25.0
Grants		16.1	207.6	75.3	43.4	49.8	46.7	35.5	26.5	22.4	17.5	317.2	507.2		507.2
Supporting Assistance	( )	(14.3)	(190.9)	(44.8)	(30.0)	(36.3)	(36.0)	(25.0)	(18.9)	(17.0)	(14.8)	(222.8)	(403.6)		
Food for peace, total		(2)	4.0	.4	.2	.3	.9	.6	1.2	.3	14.8	18.7	22.7	2.0	20.7
Title I, total			3.6								14.0	14.0	17.6	2.0	15.6
Repayable in U.S. dollars—loans											14.0	14.0	14.0		14.0
Payable in foreign currency—Planned for country use			3.6										3.6	2.0	1.6
Total sales agreements, including U.S. uses	( )	( )	(4.3)	( )	( )	( )	( )	( )	( )	( )	( )	( )	(4.3)	( )	(4.3)
Title II total			.4	.4	.2	.3	.9	.6	1.2	.3	.8	4.7	5.1		5.1
Emergency relief economic development and world food				(2)									(2)		(2)
Voluntary relief agencies			.4	.4	.2	.3	.9	.6	1.2	.3	.8	4.7	5.1		5.1
Other official development assistance	6.2			5.6	3.1	2.3	1.7	1.3	1.3	1.5	1.7	18.5	24.7	7.1	17.6
Peace Corps				5.6	3.1	2.3	1.7	1.3	1.3	1.5	1.7	18.5	18.5		18.5
Other	6.2												6.2	7.1	.9
Total	6.2	16.1	257.2	112.9	46.7	55.9	49.3	37.4	29.0	24.3	34.0	389.5	610.9	40.4	570.5
Loans	6.2		49.2	31.6		3.5					14.0	49.1	80.1	40.4	39.7
Grants		16.1	208.0	81.3	46.7	52.4	49.3	37.4	29.0	24.3	20.0	340.4	530.8		530.8
B. Other official economic programs															
Export-Import Bank loans		1.0	15.3	17.9	15.0	3.4	1.0	3.2	3.2		2.2	45.9	62.2	48.8	13.4
Other loans									.2	.5		.7	.7	.3	.4
Total other official loans		1.0	15.3	17.9	15.0	3.4	1.0	3.2	3.4	.5	2.2	46.6	62.9	49.1	13.8
Total economic programs	6.2	17.1	272.5	130.8	61.7	59.3	50.3	40.6	32.4	24.8	36.2	436.1	673.8	89.5	584.3
Loans	6.2	1.0	64.5	49.5	15.0	6.9	1.0	3.2	3.4	.5	16.2	95.7	143.0	89.5	53.5
Grants		16.1	208.0	81.3	46.7	52.4	49.3	37.4	29.0	24.3	20.0	340.4	530.8		530.8
MILITARY PROGRAMS															
Military assistance—(Charged to FAA appropriation)[3]		16.4	286.9	233.4	30.2	21.0	(4)					284.6	588.1		588.1
Credit sales (FMS)															
Grants		16.4	286.9	233.4	30.2	21.0						284.6	588.1		588.1
Military assistance service-funded grants						11.0	56.3	167.1	95.5	72.0	43.4	445.3	445.3		445.3
Transfers from excess stocks		.6	8.9	11.5	1.2	.2						12.9	22.5		22.5
Other grants			3.6	(2)		.9			1.3		11.6	13.8	17.4		17.4
Export-Import Bank military loans															
Total military programs		17.0	299.4	244.9	31.4	33.1	56.3	167.1	96.8	72.0	55.0	756.6	1,073.3		1,073.3
Total economic and military programs	6.2	34.1	571.9	375.7	93.1	92.3	106.6	207.7	129.2	96.8	91.2	1,192.7	1,747.1	89.5	1,657.6
Loans	6.2	1.0	64.5	49.5	15.0	6.9	1.0	3.2	3.4	.5	16.2	95.7	143.0	89.5	53.5
Grants		33.1	507.4	326.2	78.1	85.5	105.6	204.5	125.8	96.3	75.0	1,097.0	1,604.1		1,604.1

[1] The cumulative total reflects deobligations; annual data represent total new obligations in that year.

[2] Less than $50,000.

[3] Annual data through fiscal year 1963 are deliveries; subsequent years are annual program data. Totals for the entire period are cumulative program figures.

[4] Military assistance under the FAA was transfered to DOD service funding.

ASSISTANCE FROM INTERNATIONAL AGENCIES—COMMITMENTS

	Fiscal year 1971	Fiscal year 1972	Fiscal year 1946–72
Total	30.0	67.2	525.4
IBRD, World Bank	12.5	42.4	404.1
International Finance Corp	.2		22.8
Asian Dev. Bank	15.8	18.0	48.8
UNDP, SF	.5	3.8	23.6
UNDP, TA (CY)	.5	.6	13.1
Other UN (CY)	.5	2.4	13.0

D.A.C. COUNTRIES (EXCLUDING UNITED STATES)

Donor	Official bilateral gross expenditures		
	Calendar year 1790	Calendar year 1971	Calendar year 1960–71
Total	97.4	76.8	374.2
Japan	77.9	61.4	230.3
Germany	6.4	4.9	80.8
Other	13.1	10.3	63.1

ASSISTANCE FROM COMMUNIST COUNTRIES (LOANS AND GRANTS EXTENDED)

1971 (calendar year)
1972 (calendar year)
Cumulative through 1972

RUPPE PROPOSAL TO MEET THE ENERGY CRISIS

HON. PHILIP E. RUPPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. RUPPE. Mr. Speaker, energy research and development programs are presently spread across many agencies, departments, and offices of the Federal Government. There has been a total lack of coordination among the various research efforts; and there has been an obvious failure to formulate a rational plan to meet our present and future energy needs. Today, as a result of poor planning, we are experiencing critical shortages of environmentally acceptable forms of energy.

I have introduced a bill this week, H.R. 9535, that would establish within the Federal Government a National Energy Research and Development Board charged with the responsibility of coordinating and financially supplementing the Federal research effort in energy technologies and energy conservation. The Board's first order of business would be to conduct a thorough review and assessment of the current status of energy science. The Board's mandate would be to formulate an aggressive research and development strategy designed to provide the Nation with the capability of being domestically self-sufficient in environmentally clean energy.

The Board proposed in my bill could be implemented quickly without a major reorganization of the Federal energy agencies. The Board would be sufficiently independent to objectively assess, coordinate, and direct a national program of energy research and development.

H.R. 9535 would authorize the appropriation of $4 billion over a 5-year period beginning with $250 million in fiscal year 1974.

This bill does not purport to be the final answer to the Nation's energy problems. It does, however, propose a workable structure that could begin bringing our scientific and financial resources to bear upon a problem that is essential to the well-being of our Nation.

Mr. Speaker, I include the following table and the full text of H.R. 9535, "The National Energy Research and Development Act of 1973," in the RECORD at the conclusion of my remarks.

PROJECTED FEDERAL ENERGY R. & D. FUNDING UNDER H.R. 9535—5-YEAR PROGRAM

[In millions of dollars]

	Ongoing programs	Energy Board	Total
Year:			
1974	771	250	1,021
1975	925	500	1,425
1976	1,110	750	1,860
1977	1,340	1,000	2,340
1978	1,600	1,500	3,100
Total	5,746	4,000	9,746

Note: Increases in ongoing programs based on growth rate of funding levels over the past 5 years. Ongoing programs include current energy research and development activities conducted by the Atomic Energy Commission, the Department of the Interior, the National Science Foundation, NASA, the Department of Transportation, EPA, the Department of Defense, and the Department of Commerce.

H.R. 9535

A bill to establish a national program for research, development and demonstration in energy technologies and energy conservation and for the coordination and financial supplementation of federal energy research and development; to conduct a thorough review and assessment of the current status of research and development in energy technologies and energy conservation in both the public and the private sector; to increase efficiencies of energy production and utilization, reduce environmental impacts, develop new sources of clean energy, demonstrate specific technologies and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the "National Energy Research and Development Act of 1973".

TITLE I—NATIONAL ENERGY RESEARCH AND DEVELOPMENT PROGRAM

SECTION 101. The Congress hereby finds that—

(a) The Nation is currently suffering a critical shortage of environmentally acceptable forms of energy.

(b) A major reason for this energy shortage is our past and present failure to formulate an aggressive research and development strategy designed to promote the wise management and conservation of energy sources, and the development of environmentally sound sources of energy.

(c) The responsibilities of the Federal government for conducting and assisting energy research, developmenet and demonstration projects are fragmented among many agencies and departments of government and not being planned and managed in a rational and coordinated manner.

(d) Present inadequate organization arrangements and levels of funding for energy research, development, and demonstration have limited the Nation's current and future options for dealing with energy problems.

(e) The Nation's energy needs can be met if a national commitment is made now to dedicate the necessary financial resources, to enlist our scientific and technological capabilities, and to accord the proper priority to developing new options and new management systems to serve national needs, conserve vital resources and protect the environment.

STATEMENT OF POLICY

SEC. 102. In order to provide an adequate energy base to support the Nation's existing and future social goals and aspirations, it is hereby declared to be the policy of the Congress to establish and maintain a national program of research and development in energy technologies and energy conservation adequate to meet the following objectives—

(a) encourage the conservation of limited energy resources and maximize the efficiency of energy development, production, conversion, and use;

(b) insure adequate, reliable, economical, and environmentally acceptable energy systems to support the essential needs of modern society including the established social objectives of Federal, State and local government;

(c) discover the most desirable short-term solutions to those immediate energy problems which are having serious impacts upon society;

(d) develop the technology and information base necessary to support development of the widest possible range of options available for future energy policy decisions by aggressively pursuing research and development programs in a wide range of energy technologies;

(e) provide the option and the capability for self-sufficiency for the United States through the development of socially and environmentally acceptable methods of utilization of domestic energy sources;

(f) establish within the Federal Government central responsibility and institutional capability for maintaining continuing assessment, overview, and direction of the energy research and development activities of the Federal Government, private industry, and nonprofit organizations;

(g) supplement ongoing energy research and development programs.

NATIONAL ENERGY RESEARCH AND DEVELOPMENT BOARD

SEC. 103. (a) There is hereby established the National Energy Research and Development Board (hereinafter referred to as the "Board"). The Board shall consist of five members appointed by the President, and by and with the advice and consent of the Senate, one of whom shall be so appointed as Chairman of the Board. The members first appointed under this section, as amended, shall continue in office for terms of one, two, three, four and five years, respectively, from the date this section, as amended, takes effect, the term of each to be designated by the President at the time of nomination. Their successors shall be appointed each for a term of five years from the date of the expiration of the term for which his predecessor was appointed and until his successor is appointed and has qualified, except that he shall not so continue to serve beyond the expiration of the next session of Congress subsequent to the expiration of said fixed term of office. In the event that a person is appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, he shall be appointed only for the unexpired term. Not more than three of the members shall be appointed from the same political party.

(b) Each individual, upon selection to serve on the Board, shall cease affiliation with and relinquish any pecuniary interest in any person, firm, association, or corporation primarily engaged in the production, generation, transmission, distribution, or sale of energy.

Members of the Board shall be selected from among those individuals who have experience and competence regarding energy research and development, the environment and its protection and the conservation of natural resources.

(c) Said member shall not engage in any other business, vocation, or employment during his term of office.

(d) No vacancy in the Board shall impair the right of the remaining members to exercise all the powers of the Board. Three members of the Board shall constitute a quorum for the transaction of business, and the Board shall have an official seal of which judicial notice shall be taken. The Board shall annually elect a Vice Chairman to act in case of the absence or disability of the Chairman or in case of a vacancy in the office of Chairman.

DUTIES

SEC. 104. The Board shall—

(a) review the full range of Federal activities in and financial support for energy technologies and energy conservation, giving consideration to research and development being conducted by industry and other non-Federal entities, to determine the capability of ongoing research efforts to carry out the policies established by this Act and other relevant Federal policies, particularly the National Environmental Policy Act of 1969 (83 Stat. 852);

(b) formulate a comprehensive energy research and development strategy for the Federal government which will expeditiously advance the policies established by this Act, and insure that full consideration and adequate support is given to:

(1) improving the efficiency, conservation, and environmental effects of the conventional sources of energy including discovery, production, conversion, transportation, use and waste product disposal;

(2) advancing energy research, development and demonstration of unconventional energy sources and technologies including but not limited to—solar energy, geothermal energy, magnetohydrodynamics, fusion processes, fuel cells, low head hydroelectric power, use of agricultural products for energy, tidal power, ocean current and thermal gradient power, wind power, automated mining methods, in situ conversion of fuels, cryogenic transmission of electric power, electrical energy storage methods, alternatives to internal combustion engines, solvent refined coal, shale oil, utilization of waste products for fuel, direct conversion methods; and

(3) improving management techniques and the effectiveness of management of existing energy systems through quality control, application of systems analysis, communications, and computer techniques; and public information to improve the reliability and efficiency of energy supplies and encourage the conservation of energy resources.

(c) utilize the funds authorized by Section 110(b) of this Act to advance the energy research and development strategy by—

(1) supplementing by fund transfers the ongoing energy research and development programs of Federal agencies;

(2) initiating and maintaining, by fund transfers or grants, new energy research and development programs or activities utilizing the facilities, capabilities, expertise and experience of Federal agencies, national laboratories, universities, non-profit organizations, and industrial entities which are appropriate to each type of research and development;

(3) conducting through its own employees and facilities appropriate research and development; and

(4) establishing, in coordination with industry, demonstration projects in new energy technologies.

(d) in the exercise of its duties and responsibilities under this title, establish procedures for periodic consultation with representatives of science, industry, environmental organizations, and such other groups who have special expertise in the areas of energy research, development, conservation, technology, and environmental protection relating to the production, transportation, and use of energy.

(e) make an annual report to the Congress on the activities of the previous calendar year, the expenditure of funds, the new projects initiated, the projects which have been terminated, and new contractual relationships entered into, and the progress the Board has made during that year toward attaining the capability of domestic self-sufficiency for the United States. In each instance where delays in schedule accomplishments are reported, the reasons for the delays shall be set forth along with recommendations for actions, including specific estimates of additional funding, or requirements for such new legislative authority as the Board deems necessary to carry out the goals of this title.

(f) study the social, economic, and environmental impacts of existing and proposed energy and energy-related technologies.

DETERMINATION OF NEED FOR AND PRIORITIES OF FEDERAL PARTICIPATION IN RESEARCH AND DEVELOPMENT

SEC. 105. In evaluating proposed opportunities for particular research and development undertakings pursuant to this title, the Board shall assign priority to those undertakings in which—

(1) the urgency of public need for the potential results of the research, development, or demonstration effort is high, and there is little likelihood that similar results would be achieved in a timely manner in the absence of Federal assistance;

(2) the potential opportunities for non-Federal interests to recapture the investment in the undertaking through the normal commercial exploitation of proprietary knowledge appear inadequate to encourage timely results;

(3) the extent of the problems treated and the objectives sought by the undertaking are national or regional in scope as opposed to being of importance to localities or individual industries;

(4) there are limited opportunities for regulatory actions and incentives other than direct Federal financial assistance, including, but not limited to, end-use controls, tax and price incentives, and public education, to induce non-Federal support of the undertaking;

(5) the degree of risk of loss of investment inherent in the research is high, and the availability of risk capital to the non-Federal entities which might otherwise engage in the field of the research is limited;

(6) the magnitude of the investment appears to exceed the financial capabilities of potential non-Federal participants in the research to support effective efforts;

(7) effective use and conservation of energy are promoted;

(8) domestic renewable energy resources are utilized; or

(9) adverse social and environmental impacts are minimized.

PROPRIETARY INFORMATION AND PATENTS

SEC. 106. (a) All research contracted for, sponsored, or co-sponsored by the Board pursuant to this title shall require as a condition of Federal participation that all information, processes, or patents resulting from federally assisted research will be available to the general public.

(b) Where a participant in an energy research and development project holds background patents, trade secrets, or proprietary information which will be employed in and are requisite to the proposed research and development project, the Board shall enter into an agreement which will provide equitable protection to the participants' rights: *Provided*, That any such agreement must provide that when the energy research and development project reaches the stage of commercial application all previously developed patents, trade secrets, or proprietary information necessary to commercial application of the energy process or system developed under this title will be made available to any qualified applicant on reasonable license terms which shall take into account that the commercial viability of the total energy process or system was achieved with the assistance of public funds: *And provided further*, That where a commercial energy process or technology has been developed through the use of supplemental funds made available under subsection 104(c) of this Act to other Federal agencies, the provisions of law applicable to those agencies on patent rights or the disclosure of trade secrets or proprietary information shall govern. Where an agency using such supplemental funds does not have a specific legislative policy on patent rights or the disclosure of trade secrets or proprietary rights, the provisions of subsections (a) and (b) of this section shall control.

ADMINISTRATIVE PROVISIONS

SEC. 107. (a) The Chairman of the Board shall be compensated at the rate provided for level II of the Executive Schedule Pay Rates (5 U.S.C. 5313).

(b) The remaining members of the Board shall be compensated at the rate provided for level III of the Executive Schedule Pay Rates (5 U.S.C. 5314).

POWERS

SEC. 108. (a) The Board may employ such officers and employees as may be necessary to carry out the functions of the Board under this title and may employ and fix the compensation of such experts and consultants as may be necessary, in accordance with section 3109 of title 5, United States Code (but without regard to the last sentence thereof);

(b) The Board may—

(1) acquire, furnish, and equip such office space as is necessary;

(2) use the United States mails in the same manner and upon the same conditions as other agencies of the United States;

(3) purchase, hire, operate, and maintain passenger motor vehicles;

(4) enter into contracts or agreements for studies and surveys with non-Federal public and private organizations and transfer funds to Federal agencies to carry out aspects of the Board's duties; and

(5) incur such necessary expenses and exercise such other powers as are consistent with and reasonably required to perform its functions under this title.

(c) The Chairman shall have the authority and be responsible for—

(1) the supervision of personnel;

(2) the assignment of duties and responsibilities among personnel; and

(3) the use and expenditure of funds.

COOPERATION OF FEDERAL AGENCIES

SEC. 109. Upon request of the Chairman, the head of any Federal department or agency is authorized and directed—

(1) to furnish the Board within the limits of available funds such information as may be necessary for carrying out its functions; and

(2) to detail to temporary duty with the Board on a reimbursable basis such personnel as it may require for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

APPROPRIATIONS

SEC. 110. (a) There are authorized to be appropriated $10,000,000 annually for the administrative expenses of the Board including such amounts as may be expended for consulting services in connection with the duties of the Board and including funds transferred to other Federal agencies in compensation for personal services in assisting the Board with the administration of this title.

(b) There are authorized to be appropriated not to exceed $250,000,000 for the fiscal year ending June 30, 1974, and, subject to annual congressional authorizations, $500,000,000 for the fiscal year ending June 30, 1975, $750,000,000 for the fiscal year ending June 30, 1976, $1,000,000,000 for the fiscal year ending June 30, 1977, $1,500,000,000 for the fiscal year ending June 30, 1978, and thereafter amounts such as Congress shall determine to carry out the provisions of subsection 104(c) of this title.

TRANSFER OF RESPONSIBILITIES

SEC. 111. Nothing in this Act is to be construed to prevent the transfer of the responsibilities for some or all of the ongoing Federal energy research and development programs conducted by the Atomic Energy Commission, the Department of the Interior, the National Science Foundation, and other Federal agencies to the Board.

NEW ENGLAND VETERINARY COLLEGE

HON. ROBERT H. STEELE

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. STEELE. Mr. Speaker, I rise today to call attention to an impending national shortage of veterinarians, a deficiency reaching critical proportions in New England, and an emergency demanding prompt congressional action.

Roughly half of the Nation's households call upon the veterinarian to treat companion animals. Beyond pet treatment, though, veterinarians contribute to the medical sciences by investigating the animal model that can be found for almost every human disease. Veterinarians prevent and control the 175 known animal diseases communicable to man. They maintain the health of our livestock and poultry. They supervise meat inspection and food regulation services. They insure humane treatment of laboratory animals. And they participate in research efforts in such vital fields as ecology, aerospace, pharmacology, and the marine sciences. Further, the responsibilities and opportunities of the veterinary profession in each of these fields are expected to increase greatly in the coming years. There can be little doubt, then, of the importance of the veterinary profession as a national resource and of the need to insure an adequate supply of well-trained veterinarians in the coming decade.

Unless Congress takes prompt remedial action, however, the United States will suffer by 1980 from a projected shortage of 6,000 veterinarians, a deficiency of 15 percent from the anticipated need for 41,000 veterinarians. With existing classrooms filled to capacity, our 18 colleges of veterinary medicine matriculate less than 1,600 students annually.

Plans for expanding existing facilities are only modest, and limitations in State and Federal funding place their realization in doubt. Proposals for new veterinary colleges in several States appear to be postponed indefinitely, and the only veterinary school under development will enroll just 32 students when it opens next year. An early symptom of this developing national problem is the average of five job offerings awaiting each graduate of veterinary college.

New England faces an even greater shortage of veterinarians than does the rest of the Nation. If the New England States are to obtain the recommended national proportion of veterinarians to population, they must double their present supply of 1,500 veterinarians within the next 7 years. While every State with a population over 8 million possesses its own veterinary college, the New England States, with a combined population approaching 12 million, possess no such school. Unlike virtually all States without their own veterinary college, none of the States of New England have entered into contractual agreements with veterinary schools to assure higher admission priorities for their residents. Such agreements are now difficult to secure since veterinary schools must already turn away five qualified applicants for every one they accept.

While entering such contract agreements might provide short-term relief for New England residents, this method of interstate sharing of existing facilities contributes nothing toward the expansion of facilities necessary to avoid the impending national shortage of veterinarians. Without the advantages of a veterinary college in New England, or a special arrangement with colleges in other areas, only about 35 New England residents secure admission to veterinary schools each year. Hundreds of eager and qualified applicants from New England are rejected and hundreds more are discouraged from even applying to veterinary colleges—a ridiculous waste of talent.

William E. Brock, dean of the College of Veterinary Medicine at Oklahoma State University, cites this all-too-common testimony to the plight of New England students with veterinary aspirations in the recently published report of the New England Board of Higher Education:

> A much greater capacity to educating veterinarians is needed in the eastern part of the United States. We receive hundreds of inquiries concerning application to the veterinary school each year from residents of eastern seaboard states. Our admissions policies at the present time prevent our consideration for admission of these students.

As Dr. Jack J. Stockton, dean of the School of Veterinary Science and Medicine at Purdue University, is quoted in the same report:

> Each year we get many applications from what appear to be exceptionally fine students in the New England area. It's rather heartbreaking to have to turn down many of our out-of-state applicants and surely on the basis of need, the desire on the part of students, and the number of well trained and well qualified applicants available it should be perfectly obvious to those in positions making decisions that a school in the New England area would more than repay this investment.

Solving New England's severe shortage of trained veterinarians by recruitment from other areas will become increasingly difficult in view of the national deficiency of veterinarians, and again, this approach could only be a stopgap measure for the New England States since it ignores the clear need to increase the total number of veterinarians in all the United States.

The rational solution to New England's predicament, as well as a means of helping fill the entire Nation's growing need for veterinarians, lies in the establishment of a new regional college of veterinary, medicine in New England. Deans of veterinary medicine schools throughout the country have recognized the wisdom and recommended the creation of such a school in New England. The internationally recognized medical and scientific community of New England could provide the interdisciplinary links necessary for a truly modern college of veterinary medicine. The sharing of construction and operating costs by the six New England States and the Federal Government would keep the financial burden on each to a minimum.

Finally, a local veterinary school would provide many essential services beyond professional training that are currently denied New England residents. These include continuing education programs, referral and consultative services, and specialized facilities for the practicing veterinarian as well as extension activities for the dissemination of information on new developments in animal health care to the public.

In conclusion, Congress has the opportunity to prevent a national crisis, to avoid emergency measures later, and to realize considerable financial savings if we face squarely America's impending shortage of veterinarians, and if we act promptly to aid that region of the country with the greatest need for a regional college of veterinary medicine: New England.

Our first step must be to extend efforts by the House Appropriations Committee to counter administration obstruction of veterinary school construction. The administration withheld all of the $100 million appropriated last fiscal year for construction grants to schools in all the health professions, and it requested no such money for the upcoming fiscal year. The Appropriations Committee has recommended the expenditure of the previously appropriated funds and the appropriation of another $100 million for fiscal year 1974.

Even if all of this $200 million is expended, however, and even if veterinary schools receive their usual portion of roughly 5 percent of this amount, then three schools would still be left with almost $14 million less than what they need to complete projects already begun, and progress on a new veterinary school would not even reach the planning stage.

We cannot allow this to happen. We must appropriate the $23.9 million needed for completion of present projects, as well as allocate sufficient funds for the planning and construction of a new veterinary school for New England.

And we must insure that these funds are released by the administration if we are to avoid a critical, costly, and unnecessary shortage of veterinarians in all the United States and particularly in New England.

THE ONLY CURE FOR INFLATION

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. KEMP. Mr. Speaker, with the Nation in continuing debate over inflation, unemployment, wage-price controls, the international monetary situation, and all the attendant issues in our very volatile economy, it might serve us well to learn of the intensity of debate over these very issues in other parts of the Western World. Great Britain, in particular, is experiencing similar economic woes. The debate is equally intense. The economic correspondent for the English weekly, the Guardian, Frances Cairncross, recently interviewed Member of Parliament Enoch Powell on the issue of inflation. The interview might contribute to the economic debate in this country. The interview follows:

THE ONLY CURE FOR INFLATION

(By Enoch Powell)

FC: Inflation is on everyone's mind at the moment. Do you think that our Government's prices and incomes policy has been much of a success so far?

EP: I'm driven back to the old self-quote: "All prices and incomes policy is nonsense, silly nonsense, and what is more and worse, dangerous nonsense."

FC: Why do you call it "dangerous" nonsense?

EP: Policies which are inherently futile are not necessarily harmless. A drug which does not cure the disease may nevertheless kill the patient. Besides its obvious evils—besides involving direct intervention in prices and a vast bureaucratic structure—prices and incomes policy has a deeper, psychological effect. It conveys the message that prices and wages and relativities and all the other economic values are things which should be decided by compulsion. The differential between a dustman and a shorthand-typist, which without a prices and incomes policy neither the dustman nor the shorthand-typist would think particularly remarkable, is suddenly rendered unintelligible, objectionable, and a subject if not for agitation then at any rate for political action, through the underlying presumption of a wages and prices policy that values can be fixed by government.

Well, outside a slave camp, value can't be fixed by government.

FC: But I'm sure you'd agree that wages over the last few months have risen much more slowly than before we had an incomes policy.

EP: I've never disputed that for a short time you can have a freeze, but a freeze is not a prices and incomes policy. That's why a freeze is always represented as something that you do while you are looking for a prices and incomes policy. That's been the persistent refrain. The Conservative Government in 1961 had a pay pause while we were thinking out a prices and incomes policy. But when we had a White Paper in 1962, "Prices and Incomes: the next step," we discovered there was no next step. That's what we're going to discover wtih Stage Three. Then the Labour Party imposed a freeze while they were discovering the Eldorado of which George Brown had gone in search like so many others "whose bones lie scattered on the Alpine mountains cold." A freeze is not a prices and incomes policy. Nobody denies, if people obey the law—and they're mostly prone not merely to obey the law but to obey what isn't the law but what they are brainwashed into thinking so—that you can hold things for a very short time.

FC: The Government's own argument, I imagine, would be that one of the main difficulties with making the freeze and Phase Two watertight has been the fact that food prices and the prices of raw materials have been rising very rapidly.

EP: They are only saying that there are some prices which even for a short time you cannot freeze, I don't dispute that.

FC: Is there anything at all that you can see that one could do about the problem of rising food prices

EP: To concern yourself with one particular price, or set of prices, is to participate in the inherent fallacy of a prices and incomes policy. You should deal with the cause of all inflation, which is the excessive rate of growth of money compared with that of the contents of the opposite pan of the scale.

FC: Would you say the rate of growth of the money supply is the most important thing to deal with if one wants to slow inflation down?

EP: It's the only thing to deal with.

FC: There's no other way?

EP: There's no other way. Inflation in the present sense, that is to say, on-going inflation by 5% or 10% per annum, cannot happen unless there is a prior and conditioning increase in money.

FC: So if you want to slow inflation down at the moment, the only way to go about it is to take steps which will slow down the rate at which the money supply grows?

EP: No human being could slow down inflation "at the moment," because no return to fiscal policies which would prevent or limit the growth of the money supply would take instantaneous effect. And indeed, the rate at which they would take effect is not within precise limits predictable. So don't report me as offering an instant cure, I'm not a quack.

FC: How long would your cure take to work?

EP: Anything from six months to two years. But when we say "work," what do we mean? Start to work? Or work right through? My six months to two years is a rough stab, subject to what I've previously said, at those two extreme limits.

FC: If one were at this moment to try to slow down very drastically the rate at which the money supply is likely to expand, one would then presumably risk returning to a period of rather high unemployment. Would you agree with that?

EP: That's not because of restricting the rate of growth of the money supply. That's because of achieving the cure that everybody pretends to want to achieve, but few really do. It is not the way in which inflation is slowed down or ended but the fact that it is slowed down or ended which causes transitional unemployment. If it were ended by magic or prayer or lighting candles, it would still produce whatever transitional unemployment was specific to the previous rate of inflation and the sharpness with which that rate turned downwards. It is as logical as throwing a stone at one's opponent to say that his proposal for dealing with inflation will cause unemployment. All slowing down of inflation causes unemployment.

FC: Do you think people in this country are really prepared to accept the consequences of slowing down inflation?

EP: I do, but the Government doesn't. The Government ran away.

FC: But you think individual people would be prepared to accept another bout of severe unemployment?

EP. I do not believe that unemployment in contemporary terms has anything like the same political, psychological, social importance that the politicians, whose rules of thumb are generally about a generation out of date, suppose. I don't think there was any justification for the Government to panic when the turn-down in the rate of inflation from 10% to 5% was accompanied by what it is bound to be accompanied by. Instead, they broke ranks and deliberately speeded inflation up again. They called it "reflating." But when you have inflation, at 5% and reflate, that means you're going to inflate still faster. And sure enough they did. I've never seen a thing which worked so beautifully; I've never seen such a classic example of a Government adopting the correct methods for creating inflation, or rather creating more of it, and achieving its purpose. It worked beautifully. This of course is what we wanted; this is what we are determined to have; but it mustn't be understood that we are doing it. Otherwise we shall be blamed for something which people dislike more than they dislike unemployment. So they adopted a prices and incomes policy.

FC: Why do you think inflation matters? Don't you think we could learn to live with it?

EP: If by inflation you meant a constant annual depreciation of the value of money, which everybody assumed would be constant, then my answer to your question would be yes. But in fact we mean accelerating inflation. Indeed the results for which Governments cause inflation, for example, to produce and maintain a continuous full employment of labour are only obtainable by a constantly accelerating inflation.

FC: And you really feel that an accelerating rate of inflation is something that would cause political stresses and social distress which people would not be prepared to accept?

EP: The Germans worked this one out. God bless the Germans! If no one else would, they would always carry the chess game to the point where you take the king off the board . . . and they tried it out. They attempted to inflate ad infinitum. Trees don't grow to heaven. Just because we discover that we manage with 10% inflation when in 1957 we thought 3% was the end of the world, it doesn't prove we can manage with 20%.

FC: If one looks back we've had 3% and 5% and now 8 to 10%. If one draws the curve onwards it presents a pretty hair-raising spectacle.

All trends can go on; but they may not; and we know they won't forever. Life, the great game of politics itself, would be impossible if we could just draw exponentials.

FC: What do you think is going to happen next? We've got Stage Three coming up on the cards.

EP: Stage Three doesn't exist. There are two possibilities. One is that you drop the whole thing, with an infinite variety of pretenses and forms of humbug to cover the fact up. The other is to continue Stage Two, in other words, go on with the freeze. But, of course, in that case the contradiction between a freeze and real life becomes more apparent all the time. Those are the two broad directions in which you can go when confronted with the fact that there ain't no Phase Three, by which I mean there is no method whereby individual prices and wages can be so fixed that after the event they are found to have added up together to a certain rate of inflation. There is no such thing known to man.

FC: What about the American Stage Three?

EP: The Americans have made, on this

point, an interesting discovery, I mean an experience. (Isn't it a wonderful thing that in English unlike French you can distinguish between experience and experiment, though I must say in political practice we often mistake the one for the other?) At any rate the Americans have made an experience. When they had their bonfire of controls, they left the machinery. The result is two-fold. First of all the temptation is to resort to the same machinery when any pressures arise again. After all, if it is there, how can you possibly not use it again? You used it before, didn't you? Meanwhile everyone seeing "the grim two-handed engine at the door," says "We aren't in a free economy, are we? We'd better take our decisions, not as we would otherwise, but in the light of our calculation of the chance that those controls will be reimposed." Thus you get a tremendous distortion simply because the machinery is left in existence.

FC: Every major industrial country in the world is now suffering from inflation at a more rapid rate than they were in the late 50s and early 60s. Your view is that inflation in Britain is essentially the result of a too-rapid expansion of the money supply, and you'd presumably extend that to be true of the United States. . . .

EP: Obviously. Certainly.

FC: . . . and for the other major industrial countries?

EP: Here there is a rider. The increase in money demand, which Governments cause in order to satisfy their own spending requirements, has a special case. That is where the expenditure in which they wish to engage is that of buying other people's money. When a currency has a fixed parity which is too low, that parity can only be kept down by the country spending its own currency in order to buy such junk as other people's money, or gold. So you can sit on the sidelines and enjoy the spectacle of the Germans choking themselves with inflation by printing marks in order to buy dollars they don't want. Over and over again even the Germans, inclined as they are to carry a thing beyond its logical stopping-point, have done this. Our own huge balance of payments surplus in 1970 and 1971 was probably the main reason for the acceleration of our inflation in the early 70s.

FC: Isn't the way out of this going to be for a number of large industrial countries to embark on policies which involve them simultaneously in clamping down?

EP: Not necessarily. You can do it yourself. Sin is a worldwide phenomenon; but you wouldn't take that as an excuse, nor would you accept—confronted with the sinner—that it was really all part of a worldwide phenomenon and therefore if they had it in Brazil, you really couldn't complain. Of course they have it in Brazil, both sin and inflation; and no doubt they have it for the same reasons—in the case of sin, because that is how men were created by an all-wise Providence, and in the case of inflation, because that's what democratic governments are like in an age when money is flat money. But this doesn't enable us to sit back and treat it as a meteorological phenomenon. It is not like rain against which we have to raise an umbrella. It is like temptation which we have to resist, even though the Brazilians are being similarly tempted.

FC: But what if we all resisted at the same time?

EP: That's all right.

FC: Don't you end up with a situation where you have a number of countries at the same time introducing policies which are going to lead to recession?

EP: I'm prepared to take the extraordinarily remote risk of Brazil, Germany, Switzerland, the United States, and Britain, managing to have at exactly the same time the transitional consequences of regaining some degree of honesty about their money.

FC: Can we turn now to the international monetary system? What future do you think it has?

EP: System? Don't make me laugh. I said in the House of Commons that the international monetary system is an institutionalised idiocy. I've been laughing for the last two years. To pretend that governments can either fix supply and demand between their own currency and other currencies, or can foresee how that supply and demand is changing, or can foresee to what extent the changes are temporary or lasting—I don't think idiocy is too severe a description for that, do you?

FC: We have now a situation in which there's no system whatsoever!

EP: There's just as good a system as there is on the Stock Exchange. The only possible system is that of the market. The market is the best system there is for comparing and discovering the truth about value so far as it can be expressed in terms of money. So with a floating currency we have in fact put ourselves in the best system. When people talk about a system they seem to want a tyrant. A tyrant is the worst system, a free market is the best.

FC: And we have now got one which can last?

EP: Of course. The market can last forever.

FC: What about gold? What do you want to do about that?

EP: Let people buy it if they want to, let people sell it . . .

FC: And government?

EP: Well, there's not much good in a Government owning gold. That's terribly primitive. There are circumstances in which if you are going to be buying things from savages, it's not a bad idea to have a supply of beads. That is why before 1939 the British Government, very wisely, stored up the equivalent of beads to sell to savages—because if a war came we might need to get hold of some raw materials. But I can't really see any reason for any more storage of gold in this country. I think we're entitled to something a bit nearer to our heart's desire in return for our efforts.

WALLOWING IN WATERGATE

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. SCHERLE. Mr. Speaker, President Nixon emerged recently from a brief bout in the hospital in a fighting mood. Before he even reentered the White House, he declared: "Let others wallow in Watergate"—while he attends to the important business of governing the Nation.

We find the Chief Executive's aggressive attitude ominous, and we resent his aloofness. Nobody wants to wallow in Watergate; but the whole country has been plunged unwilling into the muck. The "plumbers" and their tools were not concocted on Capitol Hill; the whole smelly scandal originated at 1600 Pennsylvania Avenue. Republicans in Congress did not hire those two-bit kindergarten politicians, Haldeman and Ehrlichman, but we have to live with the consequences of their stupidity. As head of his party, the President should be more sympathetic to the problems his former staffers created. Far from showing concern, however, Mr. Nixon has not even completely cleaned house. Zieg-liar still reigns in the press room, and many of Haldeman and Ehrlichman's old cronies are salted away in key positions in the executive branch.

It is not only unfair, it is impossible, for the President to dissociate himself from Watergate. It is we who are suffering from his folly, and it is he who has abandoned us—not the other way around. Many of my colleagues may be dragged down to defeat because of their association with the GOP. One need only look at the Republican National Committee's finances to see how badly this fiasco is hurting the party.

Instead of ignoring the advice of Melvin Laird and John Connally, the President should consult more closely with politicians experienced in elective office. Too many people are impressed by tea and crumpets at the White House to speak plainly—and those who do are consigned to the category of undesirables. A distinguished journalist informed me that my name appeared on the enemies list because of my independence. If so, I wear my membership like a badge of honor. The President could not have better allies than those who tell the truth, and he needs them "now more than ever."

ALASKA PIPELINE QUESTIONS ANSWERED

HON. JOHN MELCHER

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. MELCHER. Mr. Speaker, our colleague, JOHN DINGELL, of Michigan, placed a letter in the CONGRESSIONAL RECORD on July 18, pages 24717–24718, in which he and nine other Members raised a series of points about the trans-Alaska pipeline legislation.

I have responded to these questions in a letter to all 10 cosigners dated July 20 which, for the information of my House colleagues, I am including at the conclusion of my remarks.

Since this letter was written, Mr. Speaker, the House Interior and Insular Affairs Committee has approved H.R. 9130 which is designed to authorize construction of the trans-Alaska pipeline.

However, in view of the fact that the House soon may be considering this important legislation I felt that this response should be available to all of the Members.

The letter follows:

JULY 20, 1973.

Hon. JOHN DINGELL,
U.S. House of Representatives,
Washington, D.C.

DEAR JOHN: Thanks for your July 16 letter concerning the pending legislation on the trans-Alaska pipeline. These comments on the points you raised are made as the Interior and Insular Affairs Committee now considers H.R. 9130 as amended by the Subcommittee on Public Lands. Your letter has been made a part of the Subcommittee hearing record.

The statement that H.R. 9130 is not limited to the Alaska pipeline is correct. The reason for this is as follows:

While the Court ruling applied directly only to the Alaska pipeline, its implications were much broader. That decision could, in fact, apply to all oil and gas pipeline applications issued under Section 28 of the Mineral Leasing Act now under construction in the lower 48 states as well as to many hundreds of lines that previously have been constructed under this authority where special land use permits have been issued by the various federal agencies that have gone beyond the Court announced width limitations. It appears that there are at least nine lines under construction that could be subject to injunctive action due to excessive widths granted by the agencies. While it is true that there is not a 48-inch line now under construction in the western United States, as is proposed in Alaska, there is no question that there are many pipelines under construction in the West that would be subject to the Court ruling. For this reason, it was the Subcommittee's conclusion that there was an urgency in taking care of not only the Alaska pipeline problem, but that which also existed in the lower 48 states.

The Administration had proposed a grandfather clause to bring in these lines but, in drafting the legislation for introduction, this approach was rejected because it was felt not to be justified. It was felt that the Secretary should examine these lines carefully if they are challenged and then reissue the permits under the provisions of the revised Section 28.

The statement is additionally made that Title I gives the Secretary of the Interior authority in Alaska and elsewhere in the United States to grant wide swaths of rights-of-way without meaningful guidelines. This is incorrect.

Section 1 of H.R. 9130 does not give the Secretary of the Interior the right to exceed the now existing rights-of-way width which consists of 25 feet on each side of the pipeline except in limited areas and upon a showing of need. The change that was made by the Subcommittee merely permits the pipeline to be placed at any location within a 50-foot right-of-way and except for the above indicated provision for wider rights-of-way in limited areas, it does not expand the statutory width of the right-of-way. It is true that the Secretary is given authority to include rights-of-way for related facilities and that is carefully outlined in the bill. In addition, the Secretary is given authority to issue temporary permits for the use of public lands during construction, operation and maintenance of the pipeline.

Numerous restrictions have been placed upon the Secretary's authority that were not previously present in the existing statute. These are the right of the Secretary to make the right-of-way and permits subject to such terms and conditions as he sees fit, and to give consideration to the National Environmental Policy Act.

The terms of the permits will be limited to the shortest practical time. The rights-of-way are non-exclusive and reserve to the Secretary the right to issue additional rights-of-way for compatible uses within the existing pipeline rights-of-way if he so desires. This should substantially reduce the acreage of public lands committed to all rights-of-way.

For the first time, the statute will require an applicant to pay for all administrative costs for processing and will require a grantee to reimburse the United States for the costs of monitoring construction and operation as well as the payment of the fair market rental value of the right-of-way.

In addition, the Secretary must now notify the House and Senate Interior Committees of any application for a right-of-way for an oil or gas pipeline exceeding 24 inches in diameter.

Another point raised in your letter concerns construction of pipelines under Section 28 across reserved public lands such as national forests, wildlife refuges, and game ranges. There is no change in the existing statute and H.R. 9130 neither expands nor restricts whatever rights now may exist for pipelines to cross reserved public lands.

Your letter also makes the point that the approved right-of-way may be supplemented by temporary permits for the use of public lands in the vicinity of the pipeline. This already has been touched upon above and the only additional comment to be made is that the Subcommittee expects that the acreage involved in temporary permits will be held to the minimum feasible for the construction of the pipeline and for the protection of the environment in the vicinity. It also should be pointed out that the temporary use of public lands is needed for construction of pipelines in the lower 48 states to the same extent that it is needed in Alaska.

Your letter notes that the Secretary shall consider the environmental impact of a pipeline application as required by NEPA but feels that this requirement may not be extended to the so-called related facilities or to "temporary rights-of-way" or "additional rights-of-way." It is certainly the Subcommittee's intention that the Secretary shall consider the environmental impact not only of the pipeline itself but also of the related facilities, all temporary rights-of-way, and any permit issued for the temporary use of public lands in the vicinity.

Another issue raised by your letter is that the notification of the House and the Senate Committees regarding pipeline applications of more than 24 inches in diameter does not cover related facilities. It certainly is the intention of the Subcommittee that any related facilities constructed in connection with the pipeline of more than 24 inches in diameter will be covered.

While it is recognized that this provision does not give the committees any veto authority, it does give them a 60-day period in which to review the application and express their opinion. Certainly if both Committees agreed that the application was not in order, further legislative action could be taken.

In commenting in general upon Title I of H.R. 9130, I am firmly of the opinion that it introduces many improvements in existing law and places numerous restrictions upon the Secretary's present broad authority to grant pipeline rights-of-way under Section 28 of the Mineral Leasing Act.

Regarding Title II and Section 203 and the use of the word "mitigate" rather than "prevent," this appears to be a matter of word choice and I would note that in Section 1(c) on Line 8 of the Committee print, the word "prevent" has been used in somewhat similar circumstances.

Another point you make regards the prohibition of exporting oil from Alaska's pipeline. The Subcommittee amendment now provides that the President would have to make a finding that it was in the national interest and permit Congress to review this action for 60 days with the exports to cease upon passage of a concurrent resolution of disapproval.

As we also are engaged in trading and exchanging oil with both Canada and Mexico, any outright prohibition on exportation could well invite retaliation from these neighboring countries. This we cannot afford.

Best regards.

Sincerely,

JOHN MELCHER,
Chairman,
Subcommittee on Public Lands.

AMENDMENT TO RESTRICT THE CENTRAL INTELLIGENCE AGENCY

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. REUSS. Mr. Speaker, when the military procurement authorization bill, H.R. 9286, comes before us for amendment on Tuesday, I shall offer the following amendment:

Page 8, after line 15, insert the following and renumber subsequent sections accordingly:

SEC. 603. None of the funds authorized for appropriation pursuant to this Act shall be obligated or expended by the Central Intelligence Agency for purposes other than the collection, evaluation, correlation, and dissemination of information pertinent to the internal security of the United States.

ARMED SERVICES COMMITTEE PROCEDURES

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. DELLUMS. Mr. Speaker, on Wednesday, July 18, the House Committee on Armed Services released its report on H.R. 9286, the military procurement authorization bill for fiscal year 1974. I would like to compliment my colleague from Colorado, the Honorable PATRICIA SCHROEDER on her additional views which accompanied the committee report and to lend my support to them.

Ms. SCHROEDER demonstrated by her comments a clear insight of committee procedures. She presents valuable criticism of those procedures and suggests possible reforms. Certainly her concern can only improve the currently inadequate method of conducting hearings.

One of the most severe inadequacies which I have experienced and which Ms. SCHROEDER also described is the amount of advance time available to read written testimony. On many occasions I have received written testimony only 24 hours before the hearing—the minimum time committee procedure requires testimony be made available to Members. This gives too little time to fully read and analyze many of the proposals and arguments presented. I believe Ms. SCHROEDER's suggestion to require written testimony at least 3 days in advance would help to provide the time needed.

Analysis of our national defense program is virtually impossible without the assistance of the committee staff. The staff, while small in comparison to the Pentagon, often provides assistance to Members generally favorable to the military. Those of us who have been critical of our defense program have found that the committee staff has often failed to provide necessary assistance to our office staffs. Criticism of our current defense program is not a disservice to the country. The failure to meet the responsibility to review programs thoroughly is a disservice.

Ms. SCHROEDER's criticisms of the actual hearing process, I believe, are extremely important. Questioning of witnesses should be sharp and debate should be open. It is obvious, though, that much of the responsibility for the lack of such sharp questioning and open debate lies with us, the Members. Instead of acquiescing to the military preoccupation with "more," "bigger," and "faster," the Members should begin to reassert their oversight responsibilities.

The committee's preoccupation with

technology, with "bigger" and "better," obscures the committee objective of legislating defense policy. As Ms. SCHROEDER states, the Armed Services Committee seems now to be not much more than the Pentagon's "lobby-on-the-Hill."

I urge my colleagues to read Ms. SCHROEDER's comments which I am pleased to insert into the RECORD:

ADDITIONAL VIEWS OF HONORABLE PATRICIA SCHROEDER, DEMOCRAT OF COLORADO

It was with extreme reluctance that I joined the majority of my colleagues on the House Armed Services Committee in voting out the Military Procurement Authorization bill for fiscal year 1974.

My primary objection, aside from specific weapons systems noted in my minority report, centers around what I believe was the deficient manner in which this legislation was prepared. Our national defense program requires more analysis than other aspects of the overall budget, not only because it consumes about 40 percent of our taxes, but because it is presented to our committee by military men rigidly disciplined in what opinions they are permitted to express. This kind of discipline is invaluable on the battlefield, but when it comes to determining national defense priorities and strategies, it can frustrate the work of the committee.

The situation is not helped by the fact that the relatively small staff of the House Armed Services Committee, no matter how good its intentions, cannot adequately cope with a multi-billion dollar weapons procurement program that, I understand, is prepared by some 30,000 Defense Department employees with a huge computer system at their command. Nevertheless, the committee made no effort to supplement its staff, to hire outside authorities or to seek its own computer services. Rarely during the long process of hearings which I attended did the committee, or the staff, make the kind of comprehensive effort to master the separate parts of the program, or even to challenge it as a whole (or in part), that I believe should have been made.

Unfortunately, the committee seemed to prefer spending its time in a cursory review of individual weapons systems—a "once over lightly" approach—simply deleting a bit here and adding a bit there. Some members gave the impression that doing the hard and tedious work of analysis and criticism of our complicated military program is somehow unseemingly, unmilitary—indeed, unpatriotic.

Rarely during all the hearings I attended were the basic assumptions behind many weapons systems ever questioned. Nor was there adequate discussion of basic national security questions which would allow committee members an opportunity to evaluate a particular weapons systems with any sense of perspective. The committee often seemed preoccupied with the technology of a particular weapons system—asking whether a weapon was "bigger" or "faster" than the previous model—rather than with the larger long-range prospective of whether or not the weapon was needed in the first place. We are all subject to this fixation with technology but must not let it become our sole area of inquiry.

To me this preoccupation with "more" and "bigger" and "faster" is dangerous thinking. Those with such a limited vision of our military requirements end up, I believe, doing more harm than good to this country. They are like those French politicians who thought a bigger Maginot Line would provide more defense. They are like our own nuclear strategists who argue that killing an enemy 15 times over makes us more secure than if we can kill him only five times over. They remind me, to use a non-military example, of those people who believe we would honor George Washington more if we increased the height of his monument.

The committee seemed annoyed, even frightened, of vigorous and open debate. The inordinate use of secrecy is a major weapon to suppress debate. In my brief tenure on the committee it became clear to me that the excessive use of executive sessions, from which the public is barred, and the Pentagon's heavy-handed use of classification stamps, is designed more to keep information from the American public than from any of the country's enemies.

Two examples come to mind of the trepidation with which the committee views the prospect of full and vigorous debate. First, the number of witnesses favorable to the Pentagon's point of view who came before the Seapower Subcommittee, for instance, numbered at least 30, while those critical of the program numbered only two. Generally, the 30 witnesses were seldom pressed and their judgment was rarely questioned. The two critical witnesses, on the other hand, were treated in an indifferent manner and their arguments dismissed by many committee members.

The other example concerns the showing during an open Seapower Subcommittee hearing of the NBC–TV documentary film on the CVN–70 nuclear carrier. Some members of the full committee, not just members of the Seapower Subcommittee, felt sufficient concern over the showing of this film that they put in an appearance to criticize it. By all measures it was a balanced presentation, but senior members castigated it as, and I quote, "a diatribe," "unfair," "snide," "destructive," "damnable" and "poisonous." These are strong words for men who should look at all sides of a question before they decide.

None of this is conducive to opening up the legislative process so that the committee can examine the proposals in a thorough and competent manner. As a freshman member of this committee, clearly I cannot presume to have mastered the intricacies of such a complicated multibillion dollar bill as this one. But I have observed the process and procedures of the committee sufficiently to believe that they should—indeed, must—be improved.

The committee must welcome open and vigorous debate. Such openness would soon result, I believe, in reestablishing the committee's independence of action and judgment over legislation for which it has responsibility. As it stands now, the committee is not much more than the Pentagon's lobby-on-the-hill.

The refusal to open up committee proceedings is, in fact, a serious mistake because it promotes many unhealthy trends. Some members, for instance, have all but abdicated their critical faculties to the so-called Pentagon "experts"; the vision of many committee members is obscured by the shine of military brass; and there are far too many others who take any criticism at all as a personal affront.

After attending all the hearings I could, after asking questions, listening intently and seeking answers, I confess that I am still somewhat in the dark regarding the weapons systems themselves, their costs, and the role they are and/or should (or should not) be playing in our national defense program. Part of the blame obviously lies with me, for in retrospect I could probably have dug even a little deeper, worked even longer hours, asked even more questions and demanded even more answers. But the bulk of the blame, in my opinion, lies with a hearing process and procedures that restrict debate, stifle criticism and leave unanswered important questions.

The result is a piece of legislation whose implications and true costs no one on the committee, I fear, fully understands.

It is not my purpose here to criticize the integrity and sincerity of individual members. Many spent long hours listening and reviewing the testimony that was presented. There are other members of the committee, both senior and junior, whose experience and judgment I respect and cherish. My criticism is directed solely to the procedures and practices of the committee, and the debilitating side effects, which I am convinced deter the committee from doing its job properly.

The ideal situation, in my opinion, would be one in which all hearings were adversary in nature. As I see it, the military should present its case, and the committee should receive it with considerable skepticism. The questioning should be sharp and the debate free and open. It should be permitted for written questions to be submitted for the military to answer. It would be healthy for the committee to hear differing opinions within the military establishment itself, as we witnessed briefly (and no doubt by accident) when factions within the Navy clashed openly in hearings on the 8th and 12th of June over a request for two additional DLGN's. Indeed, it should be the policy of the Pentagon to encourage open and public debate within its own ranks. Having its program accepted each year should be a trial by fire for the Pentagon rather than the cakewalk which it is today.

The ideal would include requiring all written testimony at least three days in advance so that our time is not wasted having the witness read it to us. Perhaps more hearings should be held so that we could spend more time understanding and examining the proposals. We would also benefit from the use of more staff, outside consultants and the use of computers. Instead of acquiescing to the military, the House Armed Services Committee should take the lead, as it did in the case of the nuclear Navy.

Reasonable men—and women—should be able to differ not only philosophically but on the means we seek to achieve a common goal. I believe that opening up the procedures and letting in the cleansing light of criticism and debate will not only enhance the committee's stature but even produce superior legislation. Indeed, the development and maintenance of a strong, flexible and healthy military defense program require that this be so.

MCPL REPORT ON CVN–70

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mrs. SCHROEDER. Mr. Speaker, I want to share with my colleagues the excellent report prepared by Congressman BINGHAM for Members of Congress for Peace Through Law on the proposed nuclear carrier CVN–70. I will be offering an amendment to delete the $657 million authorization for this carrier when the House considers H.R. 9286 next week. The report follows:

RESEARCH REPORT ON THE NUCLEAR-POWERED AIRCRAFT CARRIER (CVN–70)

SUMMARY CONCLUSION

At a cost conservatively estimated at one billion dollars, CVN–70 adds only a small fraction to the U.S. capacity for air power at sea. The U.S. capacity already dominates all the other navies of the world combined, and will continue to do so, even without new construction, into the 1980s.

When the cost of the nuclear-powered ships which are required to provide CVN–70 with a protective escort of comparable endurance and sea-keeping capability are included, and when the cost of CVN–70's air group is added to the total, the total initial cost of this program will reach about three billion dollars. This figure does not include the staggering cost of operation and maintenance and periodic replacement of aircraft. The marginal addition to national security provided by such a nuclear task force is incommensurate with its cost, especially in view of the existing and projected lead held by the U.S. in this type of military power.

RECOMMENDATION

It is recommended that the CVN–70 project be cancelled and that the $657 million dollars requested in the FY 1974 Department of Defense budget request be deleted. The Navy should make every effort to find alternative uses for the items already on order as long lead-time items.

Description of CVN–70

If built, CVN–70 would be the Navy's fourth nuclear-powered attack aircraft carrier. It would be the third Nimitz class carrier, the first two of which are still under construction. Current Navy planning calls for an Initial Operating Capability (IOC) date of 1981.

The specifications for CVN–70 are as follows:

Displacement: 94,400 tons;
Length: 1,092 feet;
Estimated Speed: 36 knots;
Crew (approximate): 5,000.

This new nuclear attack carrier is expected to support an air group of some 100 aircraft. This air group would consist of a number of different aircraft types: fighters (for combat air patrol [CAP] or protection of the carrier and its escorts against air attack); anti-submarine warfare aircraft (to protect the carrier task force against enemy submarines); fighter-bombers (for projecting air power inland from the seas); support aircraft (such as the carrier on-board delivery [COD] aircraft); rescue aircraft (principally helicopters); and reconnaissance aircraft for photographic or electronic surveillance missions.

The Development of Modern Attack Carriers

Originally designed to provide air cover for major battle fleets and to operate against the major surface forces of enemy powers, the attack carrier as it is known today developed during the naval war in the Pacific between 1941 and 1945. The first major use of carrier air power against land targets was the devastating Japanese attack on the U.S. naval complex at Pearl Harbor.

Subsequently, the United States employed its carrier fleet against the Japanese Navy and in assaults on Japanese-held islands. The carrier eclipsed the battleship as the capital ship of the Navy, functioning both as a strategic weapons system for the projection of power over great distance and as a tactical means of protecting the U.S. fleet.

After World War II, the carrier served briefly as the launching platform for America's nuclear deterrent, carrying medium-range bombers armed with atom bombs until long-range land-based bombers capable of reaching the Soviet Union entered the U.S. arsenal.

Early in the Korean War, aircraft carriers provided air power against enemy land targets when no airbases were available within flying range. Carriers were deployed during numerous East-West confrontations during the Cold War and figured prominently in the U.S. landing in Lebanon in 1958.

During the Vietnam War and in subsequent air operations over Laos and Cambodia, the U.S. attack carrier force was used to bomb land targets while operating in the Gulf of Tonkin. In this role, the carrier supplemented land-based fighter-bomber aircraft (which could be refueled in mid-air) and strategic bombers capable of flying thousands of miles and returning to base without refueling.

During this same period, the attack carrier was utilized by the U.S. to "show the flag" off foreign shores and to apply pressure on short notice in sensitive areas of the world. Deployment of the U.S.S. *Enterprise* in the Bay of Bengal during the Indo-Pakistan War in 1971 was an example of this.

With the passage of time, the carrier's function of providing fleet air cover has diminished as combat at sea between major surface forces has become less and less likely and the carrier's air defense capacity has been realigned to provide protection for the carrier itself, for escorts in its task force, and, less often, for amphibious assault operations.

Since the end of World War II, U.S. attack carriers have never operated against a nation which had any semblance of a navy. U.S. carriers have been able to launch tactical air power inland unopposed by any retaliatory air power or submarine threat.

Technology and time have overcome the primary roles which carriers once had. The strategic role of delivering fire power inland is now reserved for ICBMs, submarine-launched ballistic missiles, and land-based long-range bombers. The range and destructive power possessed by any one of these systems far surpass anything that the CVN–70 can offer, although certain fighter-bombers aboard existing attack carriers are armed with nuclear weapons for use in "theatre nuclear wars" which could develop in Europe or the Mid-East.

A trend is increasingly clear. Attack aircraft carriers are no longer intended primarily for use against the most-often-assumed opponents of the U.S.—the Soviet Union and the Peoples' Republic of China.

The attack aircraft carrier today is largely a potential instrument of intervention against non-naval powers, especially in the "Third World." In effect, it is a weapons system for projecting U.S. military power against militarily inferior countries, not for defending the territory of the U.S. or its ships at sea.

THE MISSION OF NUCLEAR-POWERED ATTACK CARRIERS

The Navy has assigned three basic missions to attack carriers:

1. "Sea Control." This mission implies action against enemy surface forces and merchant shipping in a manner reminiscent of World War II. It reveals a new U.S. strategy of "control" of the sealanes rather than the traditional U.S. strategy of protecting the international right of freedom of the seas. It is basically an updated version of historic "warfare at sea" concepts, and it suggests a refighting of the naval engagements of World War II and of the nineteenth century. Such a strategy assumes that a foreign navy will challenge the U.S. at sea, attempting to sink U.S. shipping by air, surface, or submarine attack. No navy possesses the capability of carrying out such an attack on U.S. naval forces, but, even if this were otherwise, such sea warfare is an improbable scenario in the modern era of ballistic missiles for a very simple reason: a power launching such a naval attack would have to assume that the conflict would escalate quickly to a catastrophic nuclear level.

2. "Projection of Power Ashore." This mission signifies the ability to bomb land targets. It can be accomplished with relative impunity wherever the U.S. is unopposed by naval or air retaliatory forces, as in Korea and Vietnam. Wherever the U.S. might encounter meaningful opposition from enemy fighter-bombers, surface vessels (such as cruise missile patrol craft), or submarines, attack carriers themselves become prime targets. Committing a carrier to contested waters to cover amphibious or other land operations is a high risk venture, for the loss or incapacitation of a carrier due to enemy attack is a huge loss of both firepower and capital investment.

3. "Peacetime Presence." Under friendly conditions, this mission involves "showing the flag." Under hostile conditions, it means "gunboat diplomacy." Peacetime presence is one of the main roles of the attack carrier task force in the Mediterranean, but the U.S. Navy has begun to wear its welcome a bit thin, even with allied powers on the Mediterranean. As a result, port calls in recent years have been increasingly difficult to schedule with the same duration and frequency as in the past. Many citizens of foreign countries find U.S. warships in their harbors an affront or a challenge to their national sovereignty. Even the most tolerant local authorities have difficulty in coping with the influx of sailors, despite the rewards in U.S. dollars for local economies, devalued dollars which now are becoming less of an incentive. In short, there can be too much of a good thing with Peacetime Presence; it may frustrate the friendly international relations which it seeks to promote.

As to the more ominous role of influencing regional politico-military events, the counterproductive deployment of a nuclear task force in the Bay of Bengal during the 1971 Indo-Pakistani War should provide an object lesson in the futility of strong arm diplomacy in today's world.

The Threat

CVN–70 is being built, in part, to meet the supposed challenge of a growing and changing Soviet navy. While the Soviet navy has indeed been in the process of a decade-long expansion and modernization program, it requires a certain distortion of the facts to perceive a threat to the U.S. from the Soviet fleet.

The Soviet development of a limited naval infantry and amphibious assault capability, the building of a series of anti-submarine warfare helicopter cruisers (of the *Moskva* type), and the more recent construction of a light aircraft carrier for fleet air cover do not constitute a credible offensive force or a serious challenge to U.S. naval supremacy. It is significant that the Soviets, along with their Eastern European allies, have concentrated on building various types of missile-carrying patrol craft for the purpose of inexpensive defense of home waters against capital ships such as the aircraft carrier.

Furthermore, the Soviet Union, unlike the U.S., is severely limited in its naval operations by restricted access to the open ocean and by an almost total lack of overseas logistics support bases, despite several years of attempting to establish a few regular port facilities for its modest forces. The forward bases which would be vital for offensive deployment of Soviet naval elements (which remain predominantly non-nuclear-powered) do not exist.

The Soviet navy's strategy, deployments, training, and fleet exercises continue to reflect a defensive orientation and posture aimed primarily against superior Western naval forces which have the capacity to attack Eastern Europe and the Soviet Union. Soviet naval surface forces do not have a similar capacity to launch meaningful attacks against the West.

This Soviet defensive alignment emphasizes nuclear submarines and nuclear-tipped weapons well equipped to counteract attack carrier forces in restricted waters where attack carrier task forces are especially vulnerable.

The Soviets could never assume that an attack on the forward-deployed U.S. fleet would not escalate quickly to a full scale nuclear confrontation involving domestic land targets. Naval blockade and attack on the warships of another nation have long been recognized as highly provocative military gestures. It is for this reason, in part, that the U.S. and the U.S.S.R. negotiated in 1972 the "Incidents at Sea Agreement" so as to avoid any confrontation arising out of a misunderstanding at sea.

In any confrontation following an actual attack on naval vessels, aircraft carriers (and CVN–70, if built, among them) would be irrelevant to the world wide outcome. In all probability, if they were not already sunk carriers would be withdrawn from the area of the immediate naval confrontation because of their vulnerability and high cost. Even during the Six-Day War of 1967, both

U.S. carriers in the Near East were ordered to withdraw to the Western Mediterranean. Despite numerous attempts by the U.S. Navy to hypothesize the conditions leading to continued conventional "warfare at sea" with another major power, which might rationalize construction of CVN–70, there is no credible justification for expending $3-billion for adding to an outmoded naval weapons system in a thermonuclear era.

Economics of CVN–70

The planned spending for CVN–70 is:

(In millions)

Appropriated in FY 1973	$299
Requested for FY 1974	657
Anticipated outfitting costs	16
	972

Although the bulk of the funds for building CVN–70 have been requested for fiscal years 1973 and 1974, the expenditures would be made during the entire seven-year period required for its construction. Of the $299-million appropriated in FY 1973, only nine million dollars had actually been expended as of May, 1973.

These figures do not make full allowance for the inflation and cost-growth which can be anticipated for CVN–70. All Navy ship construction programs in recent years have experienced extensive cost over-runs. During the period 1970–1972, the three *Nimitz*-class carriers have experienced cost increases. The *Nimitz* and the *Eisenhower* together showed a cost rise of $271-million, and the projected cost of CVN–70 alone rose by $300-million. By conservative estimate, the final cost of CVN–70 will be at least one billion dollars when the ship is ready for sea in 1981.

Cancellation of the CVN–70 program now would result in some financial penalties to the government for contract recissions, but such losses would be minimal as compared with the total one billion dollar cost of the ship alone.

The costs cited thus far are only for the ship. Aircraft and escort vessels entail large expenses as well. About 100 sophisticated aircraft for attack, antisubmarine warfare, and other missions will be required for CVN–70. Using a cost factor of $10-million per aircraft (less than the cost of the Navy's new F–14 but more than the cost of other aircraft types) and allowing for the seven-year impact of inflation, the initial carrier air group for CVN–70 will cost between 900 million and a billion dollars, and these aircraft will have to be replaced approximately every five years.

Aircraft carriers also require escort vessels. Since CVN–70 would theoretically possess unlimited range as a result of its nuclear propulsion system, it should be provided with four nuclear-powered escorts, if its operational advantage of range and speed is not to be diminished by conventional escorts. The price for these four nuclear-powered escorts would be at least one billion dollars.

Thus, if all the necessary basic hardware is purchased, a CVN–70 Task Force would cost about three billion dollars. Other costs, such as crews, training, operations and maintenance, and aircraft replacement will raise this total far higher over the projected thirty-year life of the ship. The Center for Defense Information estimates the total 30-year cost at $9-billion.

Critique

For an initial $3-billion, the U.S. would obtain one floating airfield with about 90 to 100 aircraft, many of which will be required to protect the carrier itself from air, submarine, or surface-to-surface missile attack. CVN-70's maximum effectiveness as an instrument of military power will thus be largely dependent on its ability to operate in uncontested waters. When operating in defended areas, the carrier's air group will be oriented to ship defense, and only about 37 per cent of the aircraft will be available for attack missions. The remainder would provide support (refueling, reconnaissance, rescue, electronic jamming, etc.) and a protective air umbrella for the carrier task force.

The main advantage which the Navy claims for the nuclear-powered CVN–70 is its unlimited range and high-speed endurance. Although an attack aircraft carrier cannot safely travel alone in combat, it now appears doubtful that CVN-70 will have escorts to match its vaunted range and speed, for the Navy has no plans to build the expensive, vital nuclear-powered escorts which would maximize the carrier's effectiveness. (A nuclear-powered escort costs nearly as much as a conventionally-powered aircraft carrier.) The Navy hopes that four nuclear-powered attack carriers will be in the fleet in 1981, but only two will have nuclear-powered escorts. Without these protective nuclear escorts of like range and endurance, the principal advantage of a nuclear carrier will be nullified.

CVN–70, if completed, will be only one ship in the 12-ship attack carrier force planned by the Navy for the early 1980's. *It will represent an incremental addition to U.S. sea-based striking power of only one-twelfth at a cost ranging into the billions.* There is no rational justification for the expenditure of such enormous sums for so small an addition to U.S. offensive power.

If CVN–70 is not built, the U.S. will continue to possess an eleven-ship attack carrier force in the early 1980's and, at projected retirement rates, a nine-carrier force level in 1987, three of which will be nuclear-powered. These carriers will be supplemented by the anti-submarine warfare carriers (CVSs) now in the fleet and any light carriers (Sea Control Ships) which may be built in the meantime.

A decision not to build CVN–70 will not affect meaningfully the Navy's carrier deployment plans which are based on technologically conservative and economically extravagant planning factors requiring a total of three attack carriers in the fleet for every carrier deployed at sea. CVN–70 only represents an addition to the excess capacity which the Navy claims is "required" to keep a force of four carriers deployed.

If CVN–70 is not built, the Navy could still maintain four carriers continually deployed with a back-up of only seven carriers instead of eight undergoing yard repairs, replenishment, or refresher training. Of the four carriers deployed for "quick reaction" (two in the Western Pacific and two in the Mediterranean), only three would be nuclear-powered. However, if the Navy carries out its plan not to provide adequate nuclear-powered escorts for two of the nuclear carriers, then cancellation of CVN–70 would be no disadvantage, for nuclear-powered carriers would be limited in range and speed by the inferior capabilities of conventional escorts.

At a level of nine or eleven carriers, the U.S. attack carrier force will still outweigh any challenger for the foreseeable future. In view of the decreasing utility of the attack carrier in all forms of modern warfare except unopposed intervention, any program to build more of these ships will be an investment in obsolescence.

Other Options

Basically a warship whose time has passed, CVN–70 is not the only "air capable" ship contemplated by the Navy. One alternative, a more austere platform for employing air power at sea, is the Sea Control Ship. Essentially, a light aircraft carrier with V/STOL (vertical/short takeoff and landing) aircraft and helicopters, this type of ship would be an economical protective ship. The Navy is now seeking funding for eight such ships at a total cost of about $800-million, substantially less than the cost of one CVN–70.

A second proposal, now in the research and development state, is the Surface Effect Ship. It would travel on an air bubble, skimming over the ocean surfaces at speeds up to 80 knots. It would be used primarily for anti-submarine warfare and would carry modern aircraft. Acceptance of this ship by the Navy would represent the beginning of the "100 Knot" Navy of the future, instead of the Navy of the past represented by CVN–70.

Conclusions

1. CVN–70, at a cost of one billion dollars for the ship alone, would add only a small incremental fraction to an already substantial U.S. capacity for airpower at sea that will continue to exist into the 1980's. If its construction is authorized, it will entail a subsequent purchase of about 100 aircraft at an initial cost of one billion dollars. For CVN–70 to operate with maximum effect, four new nuclear-powered escort vessels at an additional cost of a billion dollars would have to be built.

2. CVN–70 embodies obsolete "warfare at sea" concepts and is so vulnerable and costly that it can be employed effectively only in uncontested waters.

3. CVN–70 does not represent a valid reaction to the changing capabilities of a defense oriented Soviet navy.

4. In a confrontation with the Soviet Union, attack carriers would be vulnerable to nuclear weapons launched from surface vessels or submarines. It is likely that an attack involving a major warship such as a carrier would quickly escalate to an intercontinental nuclear level, at which carriers would be of negligible value.

5. Forward deployment of attack carriers for political reasons is a risky venture with dubious political payoffs.

6. Similarly, the use of fast carrier task forces for intervention in the so-called "third world" is a high-risk tactic of dubious value.

7. Whatever legitimate purposes attack carriers may have can readily be achieved with the eleven-carrier force the U.S. will possess in the 1980's even if CVN–70 is not built.

UP THE LADDER, BUT HOW FAST?

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. RANGEL. Mr. Speaker, a recent article in "Commentary magazine" by Richard Scammon and Ben Wattenberg contended that blacks were moving in relatively large numbers into the middle class. This contention was surprising to those of us who represent black communities and who are unable to perceive the dramatic gains claimed by the authors.

It was also an alarming contention, coming as it did at a time when the administration was seeking to cut back or eliminate the social programs initiated during the "Great Society" to provide an escape from poverty for those in this Nation suffering under its bondage. Many of us viewed the "Commentary" article as providing a convenient excuse for the disruption of programs still very much needed by poor and minority communities throughout the Nation.

Many distinguished black scholars have responded to the Scammon and Wattenberg article and although these responses have not received the publicity of the original article itself, they have effectively refuted the conclusions reached by Scammon and Wattenberg from their analysis of the census data.

Dr. Herrington J. Bryce, the research director for the Joint Center for Political Studies, recently published an analysis of Census Bureau data which shows that rather than improvement, there has been a significant downturn or leveling off of what black economic gains were made during the 1960's. His analysis deserves the attention of my colleagues. A summary was presented by columnist Tom Wicker of the New York Times in his column which appeared on Sunday, July 22. I submit the column for your careful attention.

The column follows:

Up the Ladder, But How Fast?

(By Tom Wicker)

In 1972, the median income of American families rose to $11,120—an increase of 8.1 per cent over 1971. In the same year, the median income of black families was $6,860, a substantial increase over the 1971 black median of $6,440.

But the black median in 1972 as in 1971 was about 59 per cent of the median income of white families, which in 1972 was $11,550. Relatively, therefore, black family income did not rise as against white family income. Moreover, the number of black poor increased from about 7.4 million to about 7.7 million in 1972, if being poor is defined as an income under $4,275 for a nonfarm family of four. Thirty-three per cent of all blacks could be so designated in 1972, as against 9 per cent of whites. And all of the 1.1 million who climbed past that poverty standard during the year were white.

The statistics are from the June, 1973, consumer income report of the U.S. Census Bureau. They by no means tell the whole economic story of 1972, and statistics have a way of proving what someone wants them to prove. But Dr. Herrington J. Bryce, the research director for the Joint Center for Political Studies in Washington, has pointed out that, also in 1972, the black/white unemployment ratio returned to its historic two-to-one spread, after having briefly improved, and remains at two to one in 1973.

All this raises the question whether there has been a significant downturn or a leveling off of what had been substantial black economic gains throughout the sixties. No one disputes that there were such gains, and their prime chroniclers, Richard Scammon and Ben Wattenberg, have called them "nothing short of revolutionary."

In a recent article in Commentary, they argued that available statistics showed black gains so impressive that "a slender majority, but a majority nevertheless" of blacks could be said to have reached the middle class. They defined this as "to have enough to eat, to have adequate, if not necessarily expensive clothes to wear, and to be able to afford housing that is safe and sanitary"; and they said blacks in this slender majority also were beginning "to make headway" toward traditional middle-class goals—good neighborhoods, schools and jobs.

One of the major Scammon-Wattenberg points, for example, was that black families with a male head under 35 years of age, living outside the South, had achieved income parity with comparable white families. When the wife was working, such black families even earned a bit more than similar white families.

Dr. Bryce, in arguing that Mr. Scammon and Mr. Wattenberg were overemphasizing such black gains, wrote that "black husband-wife families outside the South in which the male is under 35 years of age account for only 16 per cent of black husband-wife families in the country. It is only 10 per cent of all black families. The other 90 per cent of black families continues to be unequal."

Thus, it is not so much the facts that seem to be in question as what the facts mean. The Scammon-Wattenberg article is convincing enough that blacks really are marching "across the invisible line into the lower-middle and middle classes." Yet, Dr. Bryce is able to point out that the rate of high school completion is 50 per cent higher among white males than among black; and the rate of college completion among males under 35 is four times higher among whites than blacks. Moreover, he noted:

Unemployment among black teenagers is over 35 per cent. The percentage of housing with inadequate plumbing occupied by blacks remained at about 30 per cent during the sixties, despite economic gains. Black life expectancy (at age 25) is six years less than white; the black infant mortality rate far exceeds the white.

Given these exceptions, and the Census Bureau statistics on 1972 black income, blacks like Dr. Bryce may have reason to question whether black economic gains really have been "nothing short of revolutionary." Surely no one can deny his conclusion that "we also have tangible evidence that the task before us remains immense."

It was the purpose of the Scammon-Wattenberg article, however, to argue, as they put it succinctly in a recent letter to The New York Times: "Only if it is acknowledged that substantial progress [for blacks] has been made can we hope to convince America that we ought to continue our national efforts to make progress [for blacks]."

That makes political sense, but only as long as the gains are not exaggerated or the strength of the progressive trend overestimated. Blacks still get the short end of the economic stick in this country, which is the cardinal point on which Scammon-Wattenberg and Bryce agree.

TAKING A CLOSE LOOK AT THE ADMINISTRATION'S HEALTH POLICIES

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1973

Mr. OBEY. Mr. Speaker, the administration recently held a 2-day health seminar for medical writers, at which it claimed to have fashioned "a total health strategy." As two writers point out, however, there is a world of difference between what the administration has said it would do by way of health initiatives, and what it actually has done. The result is justifiable suspicion that any such health strategy exists, or, if it does, that it will last longer than a day or so.

At this point, I include the columns by Judith Randal from yesterday's Washington Star-News and by Stuart Auerbach from today's Washington Post.

The columns follow:

The Administration: Going Slow on Health Care

(By Stuart Auerbach)

"The main thing I would like as sincerely as I possibly can convey is our absolute and total commitment to assure that health care is constantly improved . . . and that it will not be denied to anyone by the irrelevant factor of their not having sufficient income." —HEW Secretary, Caspar W. Weinberger.

"The administration's health program has been a great big bust. The words and goals are shared by all of us. But the action has been a complete and unadulterated failure." —Sen. Edward M. Kennedy (D-Mass.).

For two days early this month the Nixon administration bombarded medical writers who came from around the country with the story of its health initiatives.

In glittering generalities, administration big guns such as HEW Secretary Caspar W. Weinberger and chief presidential domestic adviser Melvin Laird described the high priority that health has among the inner-circle at the White House.

"Its priority is so high, inherently so high, that proponents of sound health programs should have great confidence as to their ability to secure adequate funding," Weinberger told the health seminar for medical writers.

He said that for the first time the Nixon administration has fashioned "a total health strategy."

Yet a look at the administration's record on health programs over the past 4½ years shows something different. The Nixon administration in 1973 is not even matching the goals set by President Nixon in his health messages of 1971 and 1972.

The national health insurance plan that President Nixon announced in 1971 "to ensure that no American family will be prevented from obtaining basic medical care by ability to pay" has been scrapped and HEW planners are now drafting a new proposal. Not since 1971 has the President mentioned the national health "crisis." The 1972 drive to increase the number of doctors, dentists and paramedics has foundered in a budget that cuts federal aid to medical and dental schools. Even with increases for cancer and heart research, the National Institutes of Health budget is down $34 million.

Although it appears that the 1974 HEW health budget is greater than 1973's ($26.3 billion versus $20.3 billion), the difference dwindles to $71 million after one subtracts medicare and medicaid money for future years along with programs that have been transferred from other government agencies. The increase that remains is not enough to cover inflation.

The clearest example of the administration's failure to pursue its goals is in the area of health maintenance organizations (HMOs), those pre-paid group practice plans which appeared in 1971 to be a cornerstone of administration efforts to reform American medicine.

"Some 7 million Americans are now enrolled in HMOs and the number is growing," said President Nixon in his 1971 health message. "Studies show they are receiving high quality care at a significantly lower cost. Patients and practitioners are enthusiastic about this organization concept. So is this administration."

A year later, Mr. Nixon called HMOs "a central feature of my national health strategy." And then-Secretary Elliot L. Richardson, now serving as attorney general, talked about spreading the HMO concept across the country so that 90 percent of all Americans could be treated in an HMO by 1980.

Now, this has all changed. Instead of viewing HMOs as a proven method of delivering medical care—as President Nixon and Secretary Richardson did two years ago—Weinberger says they need further testing. Instead of moving HEW forward in a full program of encouraging prepaid group practice, he talks of them as an "experiment." And yet he denies that the administration has pulled back from its commitment to HMOs. "The attachment we have to the health maintenance organization experiment has not changed, has not weakened," he says.

The facts do not support that statement. The administration clearly has bought the go-slow line of the American Medical Association, which has consistently called HMOs an experiment. Indeed, the AMA's new president-elect, Dr. Malcolm Todd, a campaigner for President Nixon and head of the Physicians Committee for the Re-Election of the President, said in an interview last fall, with National Journal:

"We used all the force we could bring to bear against this (HMOs). As a result, there is no question that there has been some backtracking on the part of the White House. The White House has directed the (HEW) Secretary (Richardson) to slow down on this thing . . . The Secretary has called off the aggressiveness, and this is good."

Dr. Gordon M. MacLeod, who was brought in from Yale University to run the HMO program in HEW, said in a speech last week that, "The administration now has reversed its previous position. For the subordination of HMO activity from a national program of 100 persons to a desk function of 5 or 6 people is not consistent with the priority formerly given to HMOs by the administration," he said.

MacLeod quit his job over the downgrading of the HMO operation, but Weinberger dismissed his concern as merely having to do with "his status within the organization."

Other health programs, including the highly vaunted administration initiatives in cancer and heart disease, also can be examined to show where the reality fails to match the promise.

The administration failed to spend $50 million for cancer that was available in the 1973 fiscal year. And although the National Heart Institute received $18 million more in the 1974 budget, it was directed to start entirely new programs in lung diseases that will eat up the entire increase without allowing it to focus more resources on heart diseases—the nation's biggest killer.

In explaining the administration's total health strategy, Weinberger said existing health programs are put under a microscope to make sure they are not squandering the "finite" share of the national resources that can go for health.

That's the truth of it; only so much of the federal pie has been allotted to health. And contrary to Weinberger's prose, its priority is not that high. So why pretend? Why insist the administration's commitment to health in general and HMOs in particular hasn't changed when clearly it has?

CONSERVATIZING HEW'S "H"

(By Judith Randal)

Despite repeated impoundment of funds that Congress appropriated for health programs and the administration's determination to end many of them anyway, there always has been a degree of civility between legislators and the executive where these issues were concerned. But now—owing in part to Watergate, and even more to a change of leadership at the Department of Health, Education and Welfare—it is disappearing fast.

Never was this more apparent than when HEW Secretary Caspar W. Weinberger assembled some 200 medical writers at a two-day seminar here earlier this month.

Weinberger, whose informal alias of "The Knife" has followed him from his previous job as director of the federal Office of Management and Budget, portrayed congressional advocates of health programs as bleeding hearts who would bankrupt the Treasury, and those who have quit posts in his own department in disagreement over his policies as malcontents motivated only by "personal pique."

Not surprisingly, there were prompt rejoinders from the Hill. Remembering that the President in his first term made the "health crisis" the topic of a much-publicized address, for instance, Massachusetts Democrat Edward M. Kennedy, who as chairman of the Senate Health subcommittee keeps track of such rhetoric, described it as "overblown" and the administration's professed efforts to deal with the problem as "a great big bust."

A major source of the bitterness is that Congress has found that the administration changes its health stance with each new secretary for HEW, as if somehow each man were working for a different president than the man before. For example, Elliot L. Richardson, while at HEW, was deeply committed—as Nixon himself said he was then—to health maintenance organizations. And when Congress duly authorized a three-year $800 million program to establish HMOs in many parts of the country, it looked as if the movement might take hold.

But now Weinberger says that HMOs—which provide comprehensive health benefits on a targeted per capita expenditure basis rather than on the traditional piecework or fee-for-service basis—must be further studied because those in operation have catered only to the solvent middle class.

The argument is in itself specious, as several well-established HMOs have enrolled substantial numbers of the poor and near-poor without going broke. But it is Weinberger's combative manner in insistently overlooking this, to say nothing of the shift in policy, that has angered legislators. Indeed, where Congress once laid the blame for the administration's indifference to health issues on the religious beliefs of Christian Scientists John D. Ehrlichman and H. R. Haldeman at the White House, it is now Weinberger's weasel-wording and arrogance at the Cabinet level that they find insufferable.

Another irritant is that very little that HEW says it will do gets done on time. National health insurance is a case in point. The administration did, to be sure, offer an insurance proposal during Nixon's first term. But that proposal died with the 92nd Congress, and an alternate prepared after Richardson had replaced Robert H. Finch as HEW secretary was junked by Weinberger when he took office in February.

Meanwhile, although Weinberger promised Congress that still a third version would be ready, first in April and then in May, the completion date has now been deferred until September, with the distinct possibility that it may slip further still. It has not escaped notice that Rep. Wilbur Mills, D-Ark., chairman of this session of Congress, very likely won't do so because of the delay.

Other examples: documents promised Congress have a tendency to become long overdue. Although the Conquest of Cancer Act, for example, was passed in 1971, the plan to implement it is still in limbo. And the counterpart plan for the Heart and Lung Act which, was supposed to reach legislators by May 20 wasn't delivered until yesterday, although it was ready and printed on time.

In short, whereas the farmer, theoretically at least, can count on the Agriculture Department to represent his interests, the businessman on Commerce and the workingman (occasionally) on Labor, the only constituency now being served by the "H" in HEW would seem to be conservatively minded members of the American Medical Association. And they went on record at their annual June meeting as saying that some HEW policies are too conservative even for them.

SELECTED VOTES IN THE BOBBY BAKER INVESTIGATION

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. CRANE. Mr. Speaker, in making the following observation, I want to make it crystal clear that I in no way condone any illegal or unethical act connected with Watergate.

Further, I do not subscribe to the principle that in politics two wrongs make a right. In other words, if one administration uses illegal means in its political and governmental activities it does not justify a subsequent administration using the same means on grounds that "everybody does it." Having said that, Mr. Speaker, I think it is fair to state that the American people have been subjected to a great deal of moralizing by certain members of the Senate Watergate Committee in connection with their television show. Now, mind you, moralizing has its place. However, selective indignation has no place in the pulpit.

It is for that reason I am placing in the RECORD for the benefit of my colleagues on both sides of the Capitol, a study of the voting records of U.S. Senators presently serving in the Senate who were also serving in 1964 when the Bobby Baker investigation was in progress. Seven times Senators were given the opportunity to get to the bottom of that scandal, which, without a doubt more directly involved the then President of the United States, than apparently Watergate involves the present occupant of the White House.

The record is clear and speaks for itself. Several Senators who now sit as judge and jury on the Watergate panel had the opportunity to exercise their moral outrage once before and the results were very telling.

The study follows:

SELECTED VOTES IN THE BOBBY BAKER INVESTIGATION

MAY 14, 1964

1. S. Res. 330, a resolution to authorize the Senate Rules and Administrative Committee through September 1, 1964, to investigate Senators and all Senate employees with respect to "any financial or business interests or activities, including activities involving the giving or receiving of campaign funds under questionable circumstances," in order to uncover any conflict of interest or impropriety. (This was an extension and broadening of Williams' 1963 resolution that initiated the Rules Committee investigation of the activities of former Secretary to the Majority Robert G. Baker.) Curtis amendment to allow any three members of the Committee to call witnesses.

Total Vote: 36 to 33 (p. S10928).
Republican Vote: 24 to 0.
Democratic Vote: 12 to 33.

2. S. Res. 330, Mansfield motion to table (kill) the resolution. May 14, 1964.

Total Vote: 42 to 33 (p. S10931).
Republican Vote: 0 to 24.
Democratic Vote: 42 to 9.

SEPTEMBER 10, 1964

3. S. Res. 367. Authorize Senate Rules and Administration Committee to reopen its investigation into the financial or business interests of any officer, employee or former employee of the Senate, with emphasis on allegations raised in connection with construction of the D.C. Stadium. Substitute (S. Res. 368) directing the Senate Government Operations Committee to conduct the investigation and broadening it to include present or former Senators or officers or employees of the Government.

Total Vote: 37 to 50 (p. S21915).
Republican Vote: 32 to 0.
Democratic Vote: 5 to 50.

4. S. Res. 367. Amendment to turn the investigation over to the Select Committee on Standards and Conduct.

Total Vote: 38 to 45 (p. S21925).
Republican Vote: 31 to 0.
Democratic Vote: 7 to 45.

5. S. Res. 367. Curtis amendment to empower any three members of the Rules Committee to call witnesses.

Total Vote: 39 to 45 (p. S21926).
Republican Vote: 30 to 0.
Democratic Vote: 9 to 45.

6. S. Res. 367. Amendment to extend the investigation to matters relating to the construction of any Government building.

Total Vote: 38 to 48 (p. S21928).
Republican Vote: 31 to 0.
Democratic Vote: 7 to 48.

7. S. Res. 367. Amendment to direct the

Rules Committee to call as witnesses in public session all persons mentioned in the allegations concerning overpayment on the D.C. Stadium construction contract.

Total Vote: 31 to 47 (p. S21938).
Republican Vote: 26 to 3.
Democratic Vote: 5 to 44.

8. S. Res. 367. Adoption of the resolution.

Total Vote: 75 to 3 (p. S21939).
Republican Vote: 27 to 2.
Democratic Vote: 48 to 1.

VOTE BREAKDOWN[1]

[Symbol denote: Y=yea; N=nay; +=announced for; —=announced against; AB=absent, did not announce]

Senator	Vote No. 1	2	3	4	5	6	7
Aiken	Y	N	Y	Y	Y	Y	Y
Bayh	N	Y	N	N	N	N	N
Bennett	Y	N	Y	Y	Y	Y	Y
Bible	N	Y	N	N	N	N	N
Burdick	N	Y	N	N	N	N	N
Byrd, Robert	N	Y	N	N	N	N	N
Cannon	N	Y	N	N	N	N	N
Case	Y	N	Y	Y	Y	Y	Y
Church	N	N	N	N	N	N	N
Cotton	Y	N	Y	Y	Y	Y	Y
Curtis	Y	N	Y	Y	Y	Y	Y
Dominick	+	—	Y	Y	Y	Y	Y
Eastland	Y	Y	N	N	N	N	AB
Ervin	—	Y	N	N	N	N	N
Fong	Y	N	Y	Y	Y	Y	Y
Fulbright	N	Y	N	N	N	N	—
Goldwater	Y	N	AB	AB	AB	AB	AB
Hart	Y	N	N	N	N	N	N
Hartke	N	Y	N	AB	N	N	N
Hruska	Y	N	Y	Y	Y	Y	Y
Humphrey	N	Y	N	N	N	N	N
Inouye	N	Y	N	N	N	N	N
Jackson	+	—	—	+	+	+	+
Javits	Y	N	Y	Y	Y	Y	N
Kennedy	N	Y	—	—	—	—	—
Long	N	Y	N	—	—	—	—
McClellan	Y	Y	N	N	Y	N	N
McGovern	N	Y	N	N	N	N	N
McGee	N	Y	—	—	—	—	—
McIntyre	AB	Y	N	Y	Y	N	N
Magnuson	AB	+	N	N	N	N	N
Mansfield	N	Y	N	N	N	N	N
Metcalf	—	+	N	N	N	N	N
Moss	N	Y	N	N	N	N	N
Muskie	N	Y	N	N	N	N	N
Nelson	Y	N	N	N	Y	Y	Y
Pastore	N	Y	N	N	N	N	N
Pearson	+	—	Y	Y	Y	Y	Y
Pell	N	Y	N	N	N	N	N
Proxmire	Y	N	N	N	Y	Y	Y
Randolf	—	Y	N	N	N	N	N
Ribicoff	AB	AB	N	—	—	—	—
Scott, Hugh	Y	N	Y	Y	Y	Y	Y
Sparkman	—	Y	N	N	N	N	N
Stennis	Y	Y	N	N	N	N	N
Symington	+	—	N	Y	Y	Y	N
Talmadge	—	+	—	N	N	N	N
Thurmond	AB	AB	Y	Y	Y	Y	Y
Tower	+	—	Y	Y	Y	Y	Y
Williams	Y	N	N	Y	Y	Y	N
Young	+	—	Y	Y	+	Y	N

[1] If a Senator was in favor of extending the Bobby Baker Investigation, he would have voted as follows: Vote No. 1, yea; vote No. 2, nay; vote No. 3, yea; vote No. 4, yea; vote No. 5, yea; vote No. 6, yea; vote No. 7, yea.

WORLD FOOD SECURITY

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1973

Mr. FRASER. Mr. Speaker, a great deal of concern has been expressed by private and international agencies over the disastrous effects of the drought in the Sahelian area of West Africa.

I am deeply concerned that adequate immediate relief to the area is made available from private, bilateral, and multilateral sources. But, I also view the Sahelian disaster as one more piece of evidence of the need for an effective international arrangement to assure reliable supplies of food stocks. Flexible productive capacity of major exporters of food stuffs and adequate access to supplies for importers are necessary conditions for avoiding extreme supply and demand fluctuations. Without an international stock policy, supply uncertainties will continue to produce price instability in vital commodities and inhibit international response to disasters like the Sahel.

I have scheduled hearings before the Subcommittee on International Organizations and Movements for July 31. Future world food shortages and the capability of international organizations to deal with future increases in demand for basic food stocks will be reviewed by representatives from government and private agencies.

In the past, the United States has contributed substantial sums and a high level of technical expertise to the efforts of the FAO/World Food program, the U.N. Disaster Relief Organization, and the UNDP. The United States has also been party to various international commodity stabilization arrangements since 1946. However, the rapid succession of disaster situations in various parts of the world together with recent projections of an impending world food crisis should demonstrate the importance of developing a conscious international stock policy to meet world demand for vital food commodities.

In a statement before the U.N. Economic and Social Council, the Assistant Director-General for Economic and Social Policy of the FAO, Mr. E. M. Ojala, discussed present national stock policies:

> Many countries hold food stocks, for a variety of purposes. But current national stock policies were not designed to cope with the situation that has emerged in 1973. At present, there is no means of ensuring that national stock policies are consistent with each other, from the viewpoint of overall world security; there is no international machinery for keeping stock levels under review; and there are no orderly arrangements for taking action when supplies are in danger of being depleted below safe levels.

The issue of world food management has taken on new dimensions in this period of international inflation and scarcity. Improved productive capacity of developing countries, access to traditional sources of supplies, and financing to assure more stable prices can no longer be looked at in isolation. Product specialization among nations has led to increased interdependence of national economies. Tariff restrictions that lower international levels of vital food commodities are a concern of importing as well as exporting nations.

Future food shortage problems will not be the sole concern of developing economies. Rising affluence in moderately advanced nations has created additional demand for food imports. In addition, crop failures in several large foodgrowing areas has created a massive increase in trade in 1972 and 1973. Unless some degree of coordination of agricultural stocking and trade policies is reached among producers and consumers, shortages and rising prices may become a pervasive problem in more developed economies as well.

As a leading exporter of agricultural products, the United States will play a significant role in any international effort to cope with what is now being called "the politics of global scarcity." Increased world demand for grain and protein food resources has highlighted the importance of the United States as a reliable source of food supply.

As a major exporter, U.S. agricultural production, stocking, and trade policies must begin to take into account their effects upon the international distribution of food resources. In a State Department report to the Congress released in April, the world food situation and American assistance were discussed with particular emphasis on the impact of shortages on LDC's:

> Long term projections by the UN Food and Agriculture Organization and the US Department of Agriculture suggest that food production in the LDCs will gradually improve over the 1970's. However, cereal production in many developing countries will still not be adequate to feed their population, and emergency shortfalls caused by unfavorable weather will undoubtedly occur again.
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> Food assistance is a significant part of US development aid. Until more developing countries have achieved a balance between population growth and food production, our food aid will be vital to their continued progress and is needed to meet short-term emergency requirements. In view of these continued demands, an overall review of US food production policy in relation to its effect on our assistance to the LDCs would appear desirable.

Food supply problems of developing countries have been approached in the past through programs to: First, transform their economies from subsistence to modernized, commercial agriculture; second, support agronomic research for the improvement of agricultural plant varieties in quality and yield; and third, provide low-interest, long-term credit arrangements between LDC's and major producing countries to cover production shortfalls and emergency relief.

All of these aproaches depend upon the capacity and willingness of a few countries to provide the necessary capital, financial or commodity resources to meet the development requirements of the LDC's. But, in order to maximize the use of these resources, the structural capacity of the LDC's must also be developed. We see now in the Sahel that the delivery of vital supplies is hampered by the lack of adequate transport, storage, and communication facilities.

Congressional concern has been registered over the political as well as the economic impact of recent administration export policies on vital food commodities. Unilateral action by the United States to control exports of grain and protein commodities has weakened U.S. credibility in Japan and set back the process of agricultural trade liberalization with the EEC. The unprecedented size of the Soviet wheat sale may adversely affect our ability to respond fully to future emergency situations such as the Sahel. It is increasingly apparent, furthermore, that these export policies will not substantially contribute to the long-term solution of U.S. domestic food prices and supplies. Retaliatory action on the part of those hurt by recent U.S. actions may, in fact, work to offset any internal assurance of food supplies. We are, indeed, a major producer of food products, but we are by no means self-sufficient in other products.

At the 60th session of FAO in June of this year, the Director General, Dr. A. H. Boerma offered a proposal for international action to assure adequate basic food stocks. Dr. Boerma noted that the world is currently just one bad harvest away from widespread famine and critical shortages of foodstuffs. The Director General believes that a minimum level of world food security could be achieved through a limited degree of coordination of national stock policies. The three basic elements of his proposal include: First, the need for a consensus on the concept of minimum world food security; second, intergovernmental cooperation and consultation on national stock levels; and third, international assistance to developing countries in establishing basic food stocks.

I hope that our efforts to stimulate discussion on this important issue will lead to specific congressional and administrative action to assure adequate food resources through a system based on international cooperation.